

Form-A
FORM OF ORDERSHEET

Court of _____

Case No. 1121/2017

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	12/10/2017	<p>The appeal of Mr. Yousaf Khan 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;"><i>[Signature]</i> REGISTRAR 12/10/17</p>
2-	23/6/17	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>06/11/17</u>.</p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>

06.11.2017

Counsel for the appellant present. Preliminary arguments heard and case file perused. Initially the appellant was appointed as Chowkidar (BPS-01) in a project on contract basis on 03.01.2012. 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 20.10.2016 which was not responded within stipulated, hence, the instant service appeal. The appellant has not been treated according to law and rules.

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 18.12.2017 before S.B.


(AHMAD HASSAN)
MEMBER

18.12.2017


Clerk to counsel for the appellant present. Mr. Muhammad Jan, Learned Deputy District Attorney for the respondents present. Clerk to counsel for the appellant submitted application for the extension of date to deposit security and process fees. To come up for written reply/comments on 06.02.2018 before S.B


(Muhammad Hamid Mughal)
MEMBER

Appellant Deposited
Security & Process Fee

06.02.2018

Clerk to counsel for the appellant and Addl: AG for respondents present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on 21.02.2018 before S.B.


(Ahmad Hassan)
Member(E)

21.02.2018

Clerk of the counsel for appellant and Assistant AG alongwith Sagheer Musharraf, AD (Lit) & Zaki Ullah, Senior Auditor for official respondents present. Written reply submitted on behalf of official respondent 2 to 5. Learned Assistant AG relies on behalf of respondent no. 2 to 5 on the same respondent no. 1. The appeal is assigned to D.B for rejoinder, if any, and final hearing on 29.03.2018.


(Gul Zeb Khan)
Member

29.03.2018

Clerk of counsel for the appellant and Addl. AG for the respondents present. Rejoinder submitted. Counsel for the appellant is not in attendance. To come up for arguments on 31.05.2018 before D.B.


Member


Chairman

31.05.2018

Clerk to counsel for the appellant and Mr. Kabir Ullah Khattak, learned Additional Advocate General present. Clerk to counsel for the appellant seeks adjournment on the ground that Learned counsel for the appellant is busy before Hon'ble Peshawar High Court Peshawar. Learned AAG requested that the present service appeal be fixed alongwith connected appeals for 03.08.2018. Adjourned. To come up for arguments alongwith connected appeals on 03.08.2018 before D.B

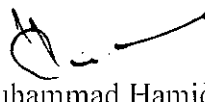

(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

03.08.2018

Appellant absent. Learned counsel for the appellant is also absent. However, clerk of counsel for the appellant present and requested for adjournment on the ground that learned counsel for the appellant is busy before the Hon'ble Peshawar High Court. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Sagheer Musharaf, Assistant Director for the respondents present. Adjourned. To come up for arguments on 27.09.2018 before D.B alongwith connected appeals.

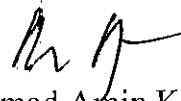

(Ahmad Hassan)
Member (E)


(Muhammad Hamid Mughal)
Member (J)

27.09.2018


Clerk of counsel for the appellant and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Masroor Khan, Junior Clerk and Mr. Zakiullah, Senior Auditor for the respondents present. Due to general strike of the bar, arguments could not be heard. Adjourned. To come up for arguments on 07.11.2018 before D.B alongwith connected appeals.


(Ahmad Hassan)
Member (E)


(Muhammad Amin Kundi)
Member (J)

20.12.2018

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments alongwith connected appeals on 14.02.2019 before D.B.


(Hussain Shah)
Member


(Muhammad Amin Khan Kundi)
Member

14.02.2019

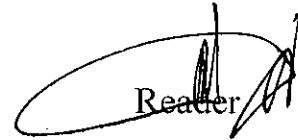
Clerk of counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Sagheer Musharraf, Assistant Director and Mr. Zakiullah, Senior Auditor for the respondents present. Due to strike of Khyber Pakhtunkhwa Bar Council, learned counsel for the appellant is not available today. Adjourned to 25.03.2019 for arguments alongwith connected appeals before D.B.


(HUSSAIN SHAH)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

25.03.2019

Due to non available of D.B the case is adjourned for the same on 16.05.2019 before D.B.


Reader

16.05.2019


Clerk to counsel for the appellant and Addl: AG for respondents present. Clerk to counsel for the appellant seeks adjournment as learned counsel for the appellant was busy before the Peshawar High Court, Peshawar. Adjourned to 03.07.2019 before D.B.



(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

03.07.2019

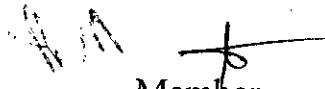
Counsel for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith Mr. Zakiullah, Senior Auditor for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 29.08.2019 for arguments before D.B.

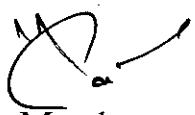

(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

29.08.2019

Junior to
Learned counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Zaki Ullah Senior Auditor present. Learned counsel for the appellant seeks 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 appellate 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

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 appellate 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

25.02.2020

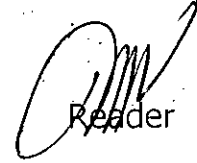
Clerk to counsel for the appellant present. Mr. Kabir Ullah Khattak learned Additional Advocate General present. Clerk to counsel for the appellant seeks adjournment as learned counsel for the appellant is not available. Adjourn. To come up for arguments on 03.04.2020 before D.B.


Member


Member

03.04.2020

Due to public holiday on account of COVID-19, the case is adjourned for the same on 30.06.2020 before D.B.

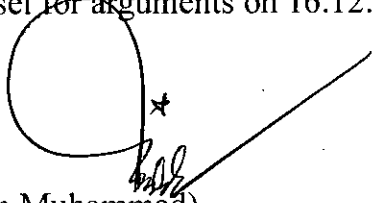

Reader

29.09.2020

Appellant present through counsel.

Mr. Kabirullah, Khattak, Additional Advocate General alongwith Mr. Ahmad Yar Khan, AD 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 for 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)

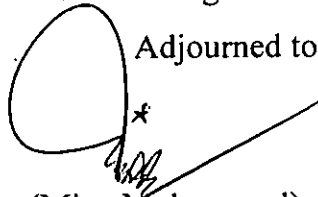

(Rozina Rehman)
Member (J)

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.

[Faint, illegible handwritten notes or signatures]

01.07.2021

Appellant present through counsel.

Muhammad Adeel Butt, 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)



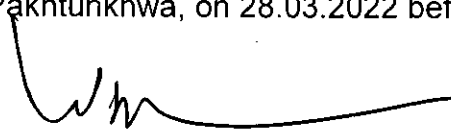
Chairman

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)

28.03.2022

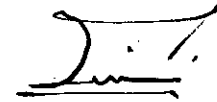
Learned counsel for the appellant present.

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)

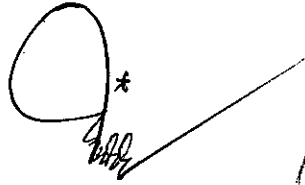


(Salah-Ud-Din)
Member (J)

23.06.2022

Learned counsel for the appellant present. Mr. Ahmad Yar Khan, Assistant Director (Litigation) alongwith Mr. Muhammad Adeel Butt, 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 03.10.2022 before D.B.



(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)

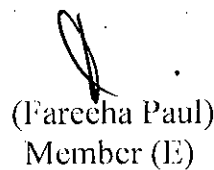


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

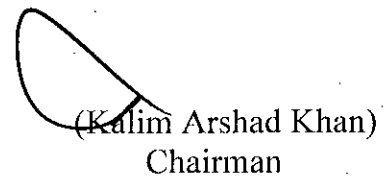
03.10.2022

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

File to come up alongwith connected Service Appeal No. 1119/2017 titled "Roveeda Begum Vs. Government of Khyber Pakhtunkhwa" on 04.10.2022 before D.B.



(Fareeha Paul)
Member (E)



(Kalim Arshad Khan)
Chairman

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

In Re S.A 1121 /2017

Mr. Yousaf Khan

VERSUS

Govt. of Khyber Pakhtunkhwa and others

INDEX

S#	Description of Documents	Annex	Pages
1.	Grounds of Appeal		1-8
2	Application for Condonation of delay		9-10
3	Affidavit.		11
4	Addresses of Parties.		12
5	Copy of appointment order	"A"	13
6	Copy of order dated 26/06/2014 in W.P No. 1730/2014	"B"	14-22
7	Copy of CPLA No. 496-P/2014	"C"	23-27
8	Copy of the impugned re-instatement order dated 05/10/2016 order order	"D" order	28
9	Copy of appeal	"E"	29-30
10	Copy of CPLA NO. 605-P/2015	"F"	31-34
11	Other documents	"G"	35-37
12	Wakalatnama		38

Dated: 03/10/2017

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

Khyber Pakhtunkhwa
Service Tribunal

In Re S.A. 1121 /2017

Darcy No. 1173

Dated 12-10-17

Mr. Yousaf Khan S/o Sabzali Khan R/o Village Dheri Katlang
Mardan.

-----*(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 Mardan.

-----*(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.

Filed to-day

[Signature]
Registrar

12/10/17

Respectfully Sheweth;

1. That the appellant was initially appointed as Chowkidar (BPS-1) 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.

7

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.


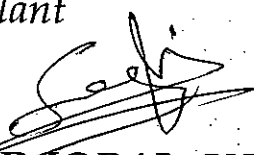
It is, therefore, most humbly prayed that on acceptance of the instant Appeal the impugned reinstatement order, dated 05/10/2017 may graciously be modified to the extent of "immediate effect" and the reinstatement of the appellant be given effect w.e.f 01/07/2014 date of regularization of the project 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: 03/10/2017.

Appellant

Through



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.


Advocate.

(9)

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

In Re S.A _____/2017

Mr. Yousaf Khan

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.

(10)

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: 03/10/2017

Petitioner/Appellant

Through

JAVED IQBAL GULBELA

&

SAGHIR IQBAL GULBELA

Advocate High Court

Peshawar.

11

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

In Re S.A _____/2017

Mr. Yousaf Khan

VERSUS

Govt. of Khyber Pakhtunkhwa and others

AFFIDAVIT

I, Mr. Yousaf Khan S/o Sabzali Khan R/o Village Dheri Katlang Mardan, 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.

Yousaf

DEPONENT

Identified By: *Javed Iqbal Gulbela*

Javed Iqbal Gulbela
Advocate High Court
Peshawar.



(12)

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

In Re S.A _____/2017

Mr. Yousaf Khan

VERSUS

Govt. of Khyber Pakhtunkhwa and others

ADDRESSES OF PARTIES

APPELLANT.

Mr. Yousaf Khan S/o Sabzali Khan R/o Village Dheri Katlang
Mardan.

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 Mardan.

Dated: 03/10/2017


Appellant

Through


JAVED IQBAL GULBELA

&


SAGHIR IQBAL GULBELA

Advocate High Court
Peshawar.

Office of the
District Population Welfare Officer Mardan,
Irram Colony Near Caltex Petrol Pump. Phone 0937 923003.

13

Am A
2

F.No. 2(5)/2012/Admn

Dated Mardan the 24/02/2012

OFFER OF APPOINTMENT.

Consequent upon the recommendation of the Departmental Selection Committee (DSC), you are offered of appointment as Chowkidar (BPS-1) on contract basis in Family Welfare Centre Project, (ADB-Project) Population Welfare Department Khyber Pakhtunkhwa to the Project 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 require, 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, concerned 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 misconduct 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 inefficiency and shall be recovered from you.
6. You will neither be entitled to any pension or gratuity for the service rendered by neither you nor you will contribute toward 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, Mardan within 15 days of the receipt of this offer failing which your appointment shall be considered as cancelled.
10. You will execute a surety band with the department.

Note: This offer of appointment is subject to verification of academic and experience certificates.

(ASGHAR KHAN)
DISTRICT POPULATION WELFARE OFFICER
MARDAN

Yousaf Khan
S/O Sabzali Khan
Village Dheri Katlang
Mardan.

No. 2(5)/2012/Admn
Copy forwarded to the:-

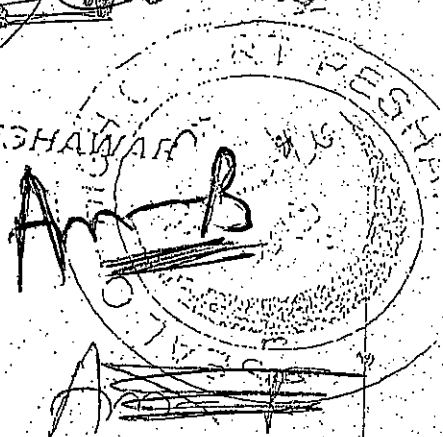
ATTESTED

Dated Mardan the 24/02/2012

1. PS to Director General, Government of Khyber Pakhtunkhwa, Population Welfare Department, Peshawar for information please.
2. District Accounts Officer, Mardan for information please.
3. Accountant/Office Assistant for information and necessary action.
4. Personal File.

DISTRICT POPULATION WELFARE OFFICER
MARDAN

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT



W.P. No. 1730 of 2014
CM 559-P/14 and 607/14

JUDGMENT

Date of hearing 26/06/2014

Appellant Employees of N.W.F.C. by Mr. I.B.S. Anwar Kharal

Respondent Govt. of NWFP by Mr. A.G. 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 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 reluctance to this effect on the part of respondents in

ATTESTED
ATTESTED

ATTESTED
ATTESTED

ATTESTED

ATTESTED
12 JUL

14

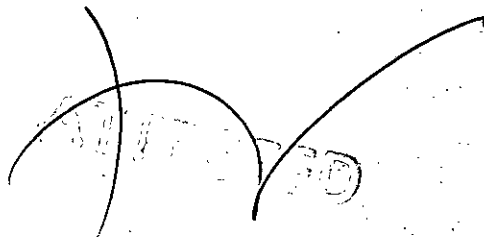
JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT

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



[Handwritten scribbles and a circled number '15']

regularization of the petitioners is illegal, mala fide 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.

[Handwritten signature]
ATTESTED

[Handwritten signature]

[Handwritten signature]
2014

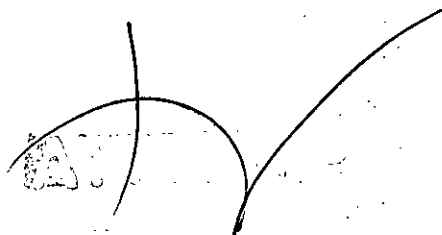
[Handwritten signature]
ATTESTED

[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 mode 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, same of the staff members have been regularized whereas the petitioners have been discriminated who are entitled to alike treatment.



~~Handwritten scribble~~

~~Handwritten scribble~~

16

3. Some of the applicants/interveners namely Ajmal and 76 others have filed C.M.No. 500-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

ATTESTED

ATTESTED

JUL 2014

3. Same of the applicants/intervenors 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/Intervenors 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

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 2014-15 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.

ATTESTED

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.

18

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 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

ATTESTED

ATTESTED

12 JUL 2014

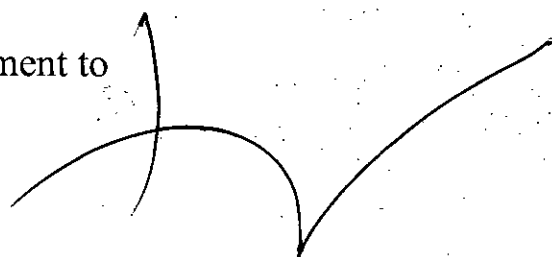
ATTESTED

ATTESTED

ATTESTED

Handwritten signatures and scribbles at the bottom left of the page.

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



Handwritten marks at the top of the page, including a circled '19' and several scribbled-out areas.

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 RWP, 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,

Handwritten mark resembling a dollar sign or similar symbol.

Handwritten scribble or mark on the right side of the page.

ATTESTED

ATTESTED

ATTESTED

ATTESTED
12 JUL 2014


Handwritten scribbles at the bottom left of the page.

Better Copy (2)

19

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,


ATTESTED

Handwritten marks and numbers at the top of the page, including a circled '20' and other scribbles.

Industrial Training Centre Khaishgi Bala Nowshera, Dar ul
Aman Mardan, Rehabilitation Centre for Drug Addicts
Peshawar and Swat and Industrial Training Centre Dajjal
Qadeem District Nowshera. These were the projects
brought to the Revenue side by converting from the ADP 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.

ATTESTED

ATTESTED

ATTESTED

REGISTERED
JUL 2014

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

ATTESTED

8. 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 aspects of the society in mind.

8. 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.

9. 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 titled Mst.Fozia Aziz Vs. Government of KPK, th's writ petition is allowed in the terms that the petitioners shall remain on the posts.

ATTESTED

EXAMINED
12 JUL 2014

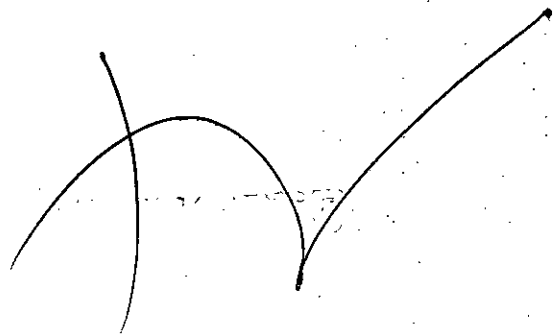
ATTESTED

ATTESTED

ATTESTED

& 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 employee'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

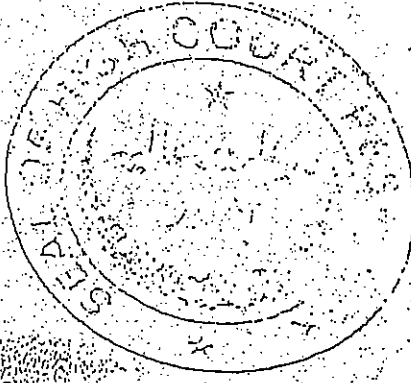


subject to the fate of CP No. 344-P/2012 as identical proposition of facts and law is involved therein.

Announced on 26th June, 2014.

Shri Nisar Hussain Khan vs. Shri Assada Ullah Khan

3/1/14
12/07/14



CERTIFIED TO BE TRUE COPY

For Registrar
Sindh High Court, Poohawot
Sindh, Pakistan. Article 87 of
the Constitution of Pakistan Order 1084

12 JUL 2014

51

of Presentation of at 17/2014

of Pages 3/1/14

.....

.....

62 - vs

12/7/2014

12/7/2014

12/7/2014

Muhammad Ayaz

ATTESTED

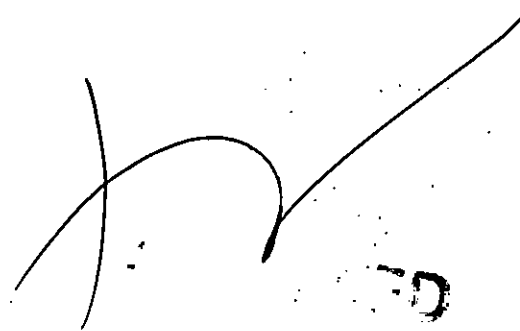
ATTESTED

Better Copy (24)

(22)

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

Announced on
26th June, 2014.

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

20

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:
MR. JUSTICE ANWAR ZAHEER JAMALI, H.C.J.
MR. JUSTICE MILAN SAQIB NISAR
MR. JUSTICE AMIR HANI MUSLIM
MR. JUSTICE IQBAL HAMEED UR RAHMAN
MR. JUSTICE KHITIJ 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. 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.

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. Ifikhar 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. Safdar Zaman and others.

ATTESTED

Court Associate
Supreme Court of Pakistan
Islamabad

ATTESTED

ATTESTED

CA 133-P/2013
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-496-P/2014
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-28-P/2014
For the Petitioner(s)

For the Respondent(s)

Handwritten marks and signatures at the top of the page, including a circled '24' and several scribbled-out areas.

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

Unrepresented.

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
Ms. Sadia Rehman (in person)

Mr. Waqar Ahmed Khan, Addl. AG KPK
Rouf 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. Ejaz Anwar, ASC

Mr. Waqar Ahmed Khan, Addl. AG KPK

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

ATTESTED

Joint Assistant
Registrar
Sindh High Court of Pakistan
Karachi

Large handwritten signature and the word 'ATTESTED' written diagonally across the bottom left of the page.

CIVIL PETITION NO.371-P OF 2014
Govt. of KPK through Chief Secy. Vs. Mat. 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

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 Mameen, SO. Litigation (Fin)
Muhammad Khalid, AD (Litigation)
Abdul-Hadi, SO (Litigation)

Mr. Ayub Khan, ASC

(CMA496-P/13)

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

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

For Respondents

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

For Respondents 5, 6 & 9

Mr. Waqar Ahmed Khan, Addl. AG KPK

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

In person (absent)

ATTESTED

Court Associate
Supreme Court of Pakistan
Islamabad

ATTESTED

ATTESTED

Handwritten marks: circled numbers 4 and 25, and some scribbled-out text.

CIVIL APPEAL NO. 232 OF 2015

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

CIVIL PETITION NO. 680-P OF 2013

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

CIVIL PETITION NO. 496-P OF 2014

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

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 Chishtii

CIVIL PETITION NO. 368-P OF 2014

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

ATTESTED

Court Associate
Supreme Court of Pakistan
Islamabad

ATTESTED

ATTESTED

26

CA 605/2015

C.P's 214-P/2014, 368-
371-P/2014 and 619-
P/2014 & 621-P/2015
For the Petitioner(s)

For the Respondent(s)

Date of hearing

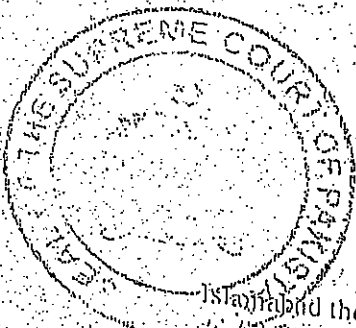
Mr. Waqar Ahmed Khan, Addl. A.G. K.P.C.

Not represented.

24-02-2016

ORDER

ANWAR ZAHEER 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.605 of 2015 is reserved.



Issued and the

24-02-2016

Not approved for reporting.

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

Chief Justice of Pakistan
Supreme Court of Pakistan
Islamabad

0.3.2016

4207/16

Date of Filing

No. of v/s

Case No.

Copy

Court Fee

Date of Call

Case No.

Case No.

Case No.

1-3-16

15

15

14/7/16

7-3-16

15

ATTESTED

ATTESTED

ATTESTED

ATTESTED

Handwritten signature and scribbles at the bottom left.



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

(23)
[Handwritten signature]

Dated Peshawar, the 05th 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. 49G-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

Endst: 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.

[Handwritten signature]
5/10/2016
SECTION OFFICER (ESTT)
PHONE: NO. 091-9223623

~~WITNESSED~~

~~ATTACHED~~

[Handwritten signature]

(29)

Am 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 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 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

~~ATTESTED~~

30

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 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



Yousaf khan
Chowkidar (BPS-1)
Population Welfare Department
Mardan.
Office of District Population
Welfare Officer,
Mardan.

Dated: 20.10.2016



ATTESTED

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

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

3/2
Amir Hani Muslim

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

ATTESTED

Court Associate
Supreme Court of Pakistan
Islamabad

ATTESTED

ATTESTED

- b. That as per the aforesaid Act, services of petitioner have been regularized automatically and has become regular servant of the department.
- c. That petitioner was not served with any notice what to speak of holding of regular inquiry in the matter.
- d. That petitioner served the department for about 3 years with devotion.
- e. That junior to petitioner were let free while services of seniors were terminated. Policy of last come first go was not appreciated/followed.
- f. That the impugned order is not based as per the mandate of law, so is of no legal effect and is based on malafide.

It is, therefore, most humbly prayed that on acceptance of the Writ Petition, in exercise of the extraordinary constitutional jurisdiction, this hon'ble Court may graciously be pleased to:-

- a. Declare order dated 01.07.2013 of R.No.1 to be illegal, improper, unjust, arbitrary, discriminatory, without lawful authority and of no legal effect;
- b. Direct the authority to reinstate and regularized his services with all back benefits; and/or
- c. Any other writ/order/direction deem proper and just in the circumstances of the case, be also issued/ordered/given.

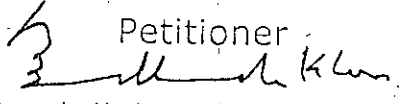
INTERIM RELIEF:


By keeping in view the aforesaid facts and circumstances of the case, operation of the impugned order be suspended till the decision of the case.

FILED TODAY
Deputy Registrar
26 JUL 2013

ATTESTED
EXAMINER
Peshawar High Court.
30-OCT 2014

32

Through ^{Petitioner} 
Saadullah Khan Marwat

& 
Robina Naz,
Advocates;


Dated: .07.2013

LIST OF BOOKS:


1. Constitution.

CERTIFICATE:

As per instructions of my client, no such like Writ Petition has earlier been filed by the petitioner before this Honourable Court.


Advocate

ATTESTED
EXAMINER
Peshawar High Court.
30 OCT 2014


Deputy Registrar
26 JUL 2013

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

W.P. No. 2146/2013

Abdullah Noor.....(Petitioner)

V E R S U S

Chief Engineer and others.....(Respondents)

AFFIDAVIT

I, **Abdullah Noor** S/o Haji Shalawzan R/o Hassu Khel, Tehsil Mir Ali, NWA, do hereby solemnly affirm and declare that the contents of the accompanying Writ Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Abdullah Noor

DEPONENT

CNIC: 21505-9402686-7

Identified by:

Saadullah Khan Marwat

Saadullah Khan Marwat
Advocate High Court,
Peshawar.

No. 868.....

Certified that the above was verified on solemnly affirmation before me in office, this 24/7/13 day of July 2013 by Abdullah Noor s/o Haji Shalawzan R/o Hassu Khel who was identified by Saadullah Khan Marwat who is personally known to me:

Ramin
Oath Commissioner
Peshawar High Court

24/7/13

FILED TODAY
Deputy Registrar
26 JUL 2013

ATTESTED
EXAMINER
Peshawar High Court
30 OCT 2014

IN THE PESHAWAR HIGH COURT PESHAWAR.

Annexure-IX

34

WRIT Petition No. 2146-P / 2013.

Mr. Abdullah Noor S/O Haji Shulozan R/O H.No.911, Street No.25,
Sector E-5, Phase-VII, Hayatabad, Peshawar

..... (Petitioners)

V E R S U S

1. Chief Engineer (South) Public Health Engineering Department
KPK, Peshawar.
2. Superintending Engineer Public Health Engineering Circle
Peshawar
3. Executive Engineer Public Health Engineering Division
4. Chief Engineer (FATA) Works & Services Department
Peshawar now Public Health Engineering Department Peshawar.
5. Secretary Govt. of KPK, Public Health Engineering Department
Peshawar (Respondents)

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

Respectfully stated

The Respondents No. 1 submit as under:-

PRELIMINARY OBJECTIONS.

- 1) That the Petitioner has got no cause of action.
- 2) That the writ petition filed by the Petitioner is not maintainable in its present form.
- 3) That the writ petition is bad for non-joinder & mis-joinder of necessary parties.
- 4) That the Petitioner have no locus standi.
- 5) That the Petitioner is stopped by his own conduct to bring the writ petition in hand.

ON FACTS.

1. In the Advertisement published on 22.09.2010 in daily Mashriq (copy attached), it has been clearly mentioned that the appointment of Sub Engineers will be made on Adhoc basis for a period of one year or till the arrival of the selectees of Public Service Commission, which ever is earlier. The Petitioner was illegally appointed by the then Chief Engineer PHED on contract basis. However, on arrival of the selectees of P.S.C, the services of the Petitioner were terminated. There has been executed no separate agreement with the Petitioner by the Department except the terms & conditions mentioned in the offer of his appointment. Moreover, the Petitioner has neither applied to PSC nor appeared in the test / interview conducted by the Commission for the post of Sub Engineer.

2. In-correct. As the Petitioner was appointed as Sub Engineer on contract and not on regular basis.

ATTESTED

EXAMINER
Peshawar High Court.

30 OCT 2014

24 SEP 2013


35

3. In-correct. The Act referred therein by the Petitioner in his Petition is not applicable to contract employees.
4. In-correct. The Department has since filled-in 35 vacant posts of Sub Engineers through Public Service Commission (i.e 18 Nos in 7/2013 & 17 Nos in 8/2013), whereas the rest of the 14 Nos (9+5) vacant posts shall be filled-in through Public Service Commission at due course of time.
5. Services of the Petitioner were terminated as per the terms & conditions of his appointment.
6. Representation made by the Petitioner has no weight-age hence could not be considered by the Competent Authority.


GROUND.

- a) He was appointed on contract basis with the condition that his services will be terminated on arrival of recommendees of the Public Service Commission. Hence termination of his services are in accordance to the terms & conditions of his appointment.
- b) As stated in the earlier Paras, the Act, referred therein is not applicable to contract employees.
- c) Issuance of notice in such termination cases, is not required under the Rules of Law. Hence the same was not issued. Also the Petitioner has not pin-pointed any Rule under which notice was required to be issued.
- d) Pertains to record.
- e) In-correct. No Sub Engineer junior to the Petitioner have been let free, except the 35 Nos Sub-Engineers appointed in 7 & 8/2013, on recommendation of Public Service Commission, on regular basis.
- f) The termination order of the Petitioner has been issued legally without any malafide what-so-ever. The same is strictly in accordance to the terms & conditions of his offer of appointment.

It is therefore, most humbly prayed that in view of the above explanation the Write Petition may kindly be dismissed with costs.


Chief Engineer (South)
PHED Peshawar
(Respondent No.1)

ATTESTED
EXAMINER
Peshawar High Court.
30 OCT 2014


24 SEP 2015

IN THE PESHAWAR HIGH COURT PESHAWAR.

(36)

WRIT Petition No. 2146-P / 2013.

Abdullah Noor (Petitioner)

VERSUS

Chief Engineer (South) & Others (Respondents)

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

AFFIDVIT.

I, Afsar Ali Qureshi, Administrative Officer (South) PHE Department Khyber Pakhtunkhwa Peshawar do hereby solemnly affirm that the contents of the accompanying Written Statement are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hounorable Court.

[Signature]
DEPONENT

2652
I affirmed that the above contents of the written statement are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.
day of SEP 13, 2013 at Peshawar
Afsar Ali Qureshi
Administrative Officer, PHE Department, Peshawar
who was identified to me by [Signature]
who is personally known to me.
[Signature]
Oath Commissioner
Peshawar

24/9/13

[Signature]
24/9/13

ATTESTED
EXAMINER
Peshawar High Court.
30 OCT 2014

IN THE PESHAWAR HIGH COURT PESHAWAR.

(36)

WRIT Petition No. 2146-P / 2013.

Abdullah Noor (Petitioner)

VERSUS

Chief Engineer (South) & Others (Respondents)

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

AFFIDVIT.

I, Afsar Ali Qureshi, Administrative Officer (South) PHE Department Khyber Pakhtunkhwa Peshawar do hereby solemnly affirm that the contents of the accompanying Written Statement are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hounorable Court.

[Signature]
DEPONENT

.....2632.....
I affirmed that the
affirmation before me on this
day of Sep. 13, 2013, at Peshawar, P.K.
in the presence of
who was identified to me as
and is personally known to me.
Oath Commissioner
Peshawar

[Signature]
24/9/13

[Signature]
24/9/13

ATTESTED
EXAMINER
Peshawar High Court.
30 OCT 2014

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

37

W.P No. 2145-P/2013

Abdullah Noor

Versus

Chief Engineer & others

REJOINDER

Respectfully Sheweth,

Answer to preliminary objections:-

1. Not correct. Petitioner has got cause of action as despite available vacancies, he was terminated from service.
2. Not correct. Writ is maintainable as petitioner was deprived of his right for no legal reason.
3. Not correct. All the necessary parties have been impleaded.
4. As above.
5. Not correct. No estoppel ever exists.

FILED TODAY
Deputy Registrar
27 NOV 2013

ON FACTS:-

1. In response to the para of reply, the department published advertisement on 22.04.2010 in daily "Aaj" wherein no condition of contract appointment was ever

EXAMINER
Peshawar High Court,
30 OCT 2014

made in the same. The authority was legally bound to appoint petitioner on adhoc basis and not on contract. (Copy as annex "R")

As far as terms and conditions of the appointment order are concerned, the same are:-

1. You will get at the minimum of BPS-11 (Rs. 4115-275-12365) including usual allowances as admissible under the rules. You will be also entitled to annual increment.
2. You shall be governed by the N.W.F.P Civil Servant Act, 1973 and all the laws applicable to the Civil Servants and Rules made there under.
3. You shall, for all intents and purposes, be Civil Servant accept for purpose of pension or gratuity.
4. Your employment in the PHE department is purely temporary and your services are liable to be terminated without assigning any reason at fourteen. One month notice. In case you wish to resign at any time, one month notice will be necessary or in lieu thereof one month pay will be forfeited.
5. You shall, initially, be on probation for a period of two years extendable up to three years.
6. You shall produce Medical Certificate -----
7. You have to join duty at your own expenses.
8. Your service on contract basis shall be regular under the terms and condition of contract appointment of the Provincial Government
9. You shall not claim -----
10. You shall be liable to serve any where -----
11. You shall not make any request for transfer -----
12. Your service shall be terminated on arrival of the recommendees of the Public Service Commission

FILED TODAY
27/10/14

ATTESTED
EXAMINER
Peshawar High Court,
30 OCT 2014

From the aforesaid conditions, it is quite clear that except Condition No. 12, all other conditions are of a regular Civil Servant and not of a contract employee.

Even the said advertisement no where bore word "contract".

2. Not correct. In the Service Book entry regarding appointment of petitioner as sub engineer is reproduced:-

"Appointed as Sub Engineer Rs. 4115/- PM in BPS-11 (4115-275-12365) and posted in the office of Executive Engineer PHE Shangla vide Chief Engineer PHE (South) office order No. 06/E-4/PHE, dated 23.02.2011 and reported arrival on 25.02.2011."

3. Not correct. The Act of 2013 is fully applicable to the case of petitioner. (Copy as annex "R2")
4. Not correct. Such fact regarding 44 posts of Sub Engineers is admitted correct by the department as 35 posts have been filed up through Public Service Commission wherein 14 posts are still lying vacant in the department.
5. Not correct. And as stated earlier, 11 conditions of appointment of a petitioner favour him as such.
6. Not correct. Representation having weightage or no weightage could be decided by the authority in one way or the other.

Deputy Registrar,

27 NOV 2013

ATTESTED
EXAMINER
Peshawar High Court.
30 OCT 2014

GROUNDS:

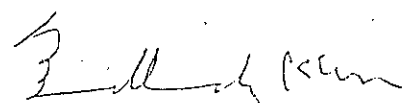
- a. Not correct. The advertisement no where bore word "contract" but appointment on adhoc basis and moreso, petitioner has successfully completed probationary period of two years and his service then became regularizes automatically as per the verdict of the apex Court.
- b. Not correct. The ground of the writ petition is correct.
- c. Totally false and absolutely incorrect. When terms and conditions bore notice to be issued to a servant before taking any adverse action, the same was become then mandatory
- d. Needs no comments.
- e. Not correct. The department has still 14 vacant posts.
- f. Not correct. The terms and conditions given in the appointment order are not followed in accordance with the same.

It is, therefore, most humbly requested that writ petition be accepted as prayed for.


 Deputy Registrar
 27 NOV 2013

Petitioner

Through



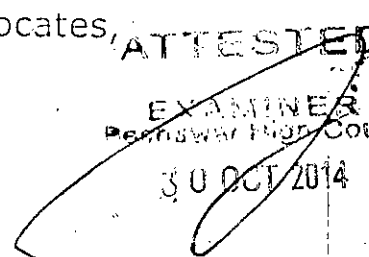
Dated: .11.2013

Saadullah Khan Marwat
Advocates,

ATTESTED

EXAMINER
Peshawar High Court

30 OCT 2014



41

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

W.P No. 2146-P/2013

Abdullah Noor Versus Chief Engineer & others

AFFIDAVIT

I, Abdullah Noor S/o Haji Shallaw Zan, R/o Hassu Khel, Mir Ali, NWA, do hereby solemnly affirm and declare that contents of Rejoinder are true and correct to the best of my knowledge and belief.

Identified By:

Saadullah Khan Marwat

Saadullah Khan Marwat

Advocate,

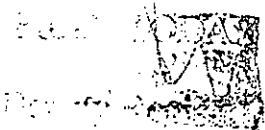
DEPONENT

Abdullah Noor

CNIC #: 21505-9402-686-7

4742
 Certified that the above was verified on solemnly affirmation before me in office, this 25th day of Nov 2013 by Abdullah Noor s/o Haji Shallaw Zan who was identified by Saadullah Khan Marwat who is personally known to me.

[Signature]
 Oath Commissioner
 Peshawar High Court



27 NOV 2013

ATTESTED

EXAMINER
Peshawar High Court

30 OCT 2014

FORM 'A'
FORM OF ORDER SHEET

Date of order.	Order or other proceedings with the order of Judge
11.9.2014..	<p data-bbox="612 414 927 458"><u>W.P. 2146-P of 2013.</u></p> <p data-bbox="612 499 1326 579">Present: Mr.Saadullah Khan Marwat Advocate for petitioner.</p> <p data-bbox="772 618 1385 698">Syed Qaisar Ali Shah, AAG for Provincial Government.</p> <p data-bbox="606 780 1394 1406"><u>MUSARRAT HILALI, J.-</u> This petition is with the prayer to declare the impugned order of respondent No.1 dated 1.7.2013 as illegal, improper, unjust, arbitrary, discriminatory, without lawful and of no legal effect with direction to the respondents to reinstate and regularize the services of the petitioner with all back benefits.</p> <p data-bbox="596 1470 1385 1998">2. According to the petitioner, he was appointed as Sub-Engineer (BPS-11) on contract basis, however, after serving for about three years, his services alongwith others were dispensed with vide order dated 1.7.2013. Feeling aggrieved, the petitioner alongwith others preferred</p>

ATTESTED

EXAMINER
Peshawar High Court.

30 OCT 2014

Representation/Departmental Appeal before the appellate authority but with no fruitful result, hence this petition.

3. The main plea of the petitioner is that after appointment on contract basis as Sub-Engineer (BPS-11) by respondent No.1, he served the department for about three years when all of a sudden his services alongwith others were terminated by the respondents vide the impugned order without serving any notice upon them or holding proper regular inquiry in the matter. He alleged that after promulgation of the Khyber Pakhtunkhwa Civil Servants (Amendment) Act, 2013 his services require to be automatically regularized, which has not been done, thus, the treatment meted out to him is against the spirit of the said Act.

man

4. Comments were asked from respondent No.1, which have been received, wherein, it is stated that the petitioner was appointed as Sub-Engineer on adhoc basis for a period of one year or till the arrival of

ATTESTED

EXAMINER
Peshawar High Court

30 OCT 2014

recommendees of the Public Service Commission whichever is earlier. It is further stated that the Act relied upon by the petitioner is not applicable to contract employees.

5. Heard. As the petitioner was appointed as Sub-Engineer on adhoc basis (BPS-11) for a period of one year or till the arrival of the recommendees of Public Service Commission whichever is earlier. The said terms and conditions were mentioned in the offer of appointment issued to the petitioner. Moreover, the petitioner is taking shelter behind the Act of 2013, however, the same is not applicable in the matter of contract employees. Moreover, the impugned action was taken by the respondents after arrival of recommendees of the Public Service Commission.

6. This court while dealing with similar plea raised by the petitioners in W.P.271-P of 2013 with interim relief has declined to interfere in the impugned action of respondents vide judgment dated 2.10.2013. The said view was affirmed by the august Supreme Court

Law

ATTESTED

EXAMINER
Peshawar High Court.

30 OCT 2014

while deciding Civil Petitions bearing No.2026 & 2029 of 2013 vide order dated 15.1.2014.

7. Thus, in the circumstances particularly the judgment of this court as well as the order of apex court in similar situation, we are firm in our view that the respondents have no committed no illegality while taking the impugned action of dispensing with the services of the petitioner, hence no case for issuance of a writ is made out.

Resultantly, instant petition being devoid of legal merits is dismissed in limine.

Sgt Yahya Akbari J. JUDGE
Sd/- Musabbat Hilali J. JUDGE

Sadiq Shah

CERTIFIED TO BE TRUE COPY

Examination of Petitioner's Affidavit in Peshawar High Court, Article 87 of the Constitution of Pakistan Order 1984

30 OCT 2014

No. 6118
Date of Presentation of Application 30-10-14
No of Pages 17 P
Copying fee _____
Urgent Fee _____
Total 34.00
Date of Preparation of Copy 30-10-14
Date Given For Delivery 30-10-14
Date of Delivery of Copy 30-10-14

20/10

Alam gsb

46

IN THE SUPREME COURT OF PAKISTAN
[APPELLATE JURISDICTION]

PRESENT:

MR. JUSTICE TASSADUQ HUSSAIN JILLANI, HCJ
MR. JUSTICE SH. AZMAT SAEED

CIVIL PETITION NO. 551 OF 2014
(On appeal from the judgment dated 26.2.2014 passed
by the Peshawar High Court, Peshawar in WP No. 615-
P/2014)

Tariq Nawaz Khan and others

... Petitioners

VERSUS

Government of KPK through Chief Secretary, Peshawar and others

... Respondents

For the Petitioners: Mir Aurangzeb, ASC

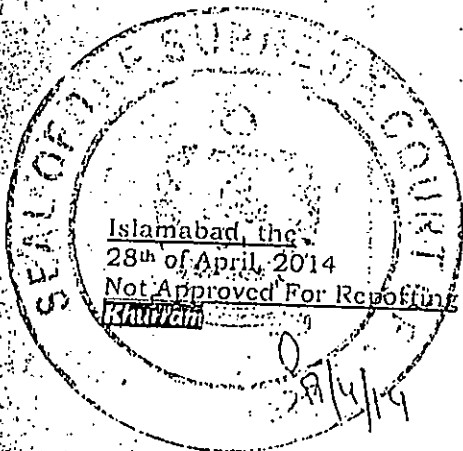
For the Respondents: N.R.

Date of Hearing: 28.04.2014

ORDER

TASSADUQ HUSSAIN JILLANI, CJ.- Petitioners are civil servants and they challenged the order terminating their services in a Constitution petition which stands dismissed vide the impugned order mainly on the ground that the said petition was not maintainable in view of Article 212 of the Constitution read with Section 4 of the Service Tribunal Act, 1973. The only ground being taken by the learned High Court to invoke Article 199 of the Constitution is that the competent authority in the department had passed the order of termination of petitioners' services pursuant to a judgment of this Court and the learned Service Tribunal may be diffident to decide the case independently and in accordance with law.

2. We are afraid, the apprehension of the petitioners is misconceived. In the event of filing the appeal, the Service Tribunal shall decide the appeal as mandated in law. Disposed of in terms noted above.



Certified to be True Copy

[Signature]
29/4/14
Superintendent
Supreme Court of Pakistan
Islamabad

46A

Case No: 10-1-11 Civil/Criminal
Date of Recd: 11-12-14
No. of Words: 100
Folio: 1
Folio Fee: 5-00
Copy Fee: 1-00
Copy Fee: 6-00
No. of Copies: 29/4/14
Date of delivery: 06/05/14
Received by: [Signature]
Received by: A. M. Pasha

IN THE PESHAWAR HIGH COURT PESHAWAR

WRIT PETITION No. 615-P/2014



1. Tariq Nawaz Khan S/o Ameer Nawaz Khan,
Sub Engineer, Office of
Public Health Engineering Division, Karak
2. Muhammad Sajad Khan S/o Banat Khan,
Sub Engineer, PHE Division Kohat.
3. Syed Muhammad Ihsan Shah S/o
Syed Muhammad Hasan Shah,
Sub Engineer, PHE Division Haripur.
4. Syed Muhammad Ali Sajjad
S/o Syed Abid Hussain Shah,
Sub Engineer, Office of the Chief Engineer
PHE, Peshawar
5. Abd-ul-samad S/o Abd-ul-Muced,
Sub Engineer PHE Division, But Khela.
6. Shaukat Ali S/o Ghulam Qadar,
Sub Engineer PHE Division, Karak.
7. Muhammad Ali Noor S/o Syed Noor Muhammad,
Sub Engineer, Office of the Chief Engineer
PHE, Peshawar.
8. Irshad Elahi S/o Shah Nawaz,
Sub Engineer, Office of the Chief Engineer
PHE, Peshawar
9. Saleem Nawaz,
Sub Engineer, PHE Division, DI Khan.
10. Syed Ishfaq Ahmad S/o Syed Jamil-ud-Din,
Sub Engineer, PHE Division, Mingora, Swat
11. Murtaza Ali S/o Abdul Haq,
Sub Engineer, Office of the Chief Engineer
PHE, Peshawar.
12. Kashif Raza S/o Abid Hussain,
Sub Engineer, PHE Division, DI Khan.
13. Waqas Ali S/o Farzand Ali,
Sub Engineer, PHE Division, Haripur.
14. Muslim Shah S/o Mahmood Shah,
Sub Engineer, PHE Division, Mardan.

FILED TODAY

Deputy Registrar

ATTESTED
BY
EXAMINER
Peshawar High Court

MAR 2014

48

15. Zohaib Khan S/o Jahanzeb Khan,
Sub Engineer, PHE Division, Mansehra.
16. Syed Hassan Ali S/o Syed Ajmal Shah,
Sub Engineer, PHE Division, Buner.
17. Mohsin Ali S/o Muhammad Parvez,
Sub Engineer, Office of the Chief Engineer
PHE, Peshawar.
18. Muhammad Qaisar Khan S/o Babu Jan,
Sub Engineer, PHE Division, Upper Dir.
19. Ishtiaq Ahmad S/o Tamhedullah,
Sub Engineer, PHE Division, Charsadda.
20. Hassan Zaman S/o Syed Zaman,
Sub Engineer, PHE Division, Temargara.
21. Abd-ul-Shahid S/o Abd-ul-Azeem,
Sub Engineer, PHE Division, Upper Dir.
22. Sameullah S/o Khuda Bakhsh,
Sub Engineer, PHE Division, DI Khan.
23. Ishfaq Ahmad S/o Muhammad Shoaib,
Sub Engineer, PHE Division, Charsadda.
24. Muqtada Qureshi S/o Afsar Ali Qureshi,
Sub Engineer, PHE Division, Sawabi.
25. Naumanullah S/o Amanullah,
Stenographer, Office of the Chief Engineer
PHE, Peshawar.
26. Shah Khalid S/o Wafadar Khan,
Stenographer/Stenotypist, Office of the
Chief Engineer PHE, Peshawar
27. Farman Ali S/o Juma Gul,
Data Entry Operator, Office of the
Chief Engineer PHE, Peshawar
28. Muhammad Ifikhar S/o Chinar Gul,
Stenotypist, Office of the Chief Engineer
PHE, Peshawar
29. Murtaza Qureshi,
Assistant, Office of the Chief Engineer
PHE, Peshawar.
30. Farhan Ullah S/o Aziz Ullah,
Stenotypist, Office of the
Executive Engineer
PHE Division, Bannu.....Petitioners

FILED TODAY

Versus

Deputy Registrar

25 FEB 2014

ATTESTED

EXAMINER
Peshawar High C

MAR 2014

49

1. Government of Khyber Pakhtunkhwa,
through Chief Secretary,
Civil Secretariat, Peshawar.
2. Secretary,
Govt. of Khyber Pakhtunkhwa,
Public Health Engineering
Department, Peshawar.
3. Chief Engineer (South)
Public Health Engineering Department,
Khyber Pakhtunkhwa, Peshawar.
4. Chief Engineer (North)
Public Health Engineering Department,
Khyber Pakhtunkhwa, Peshawar Respondents

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

Respectfully Sheweth,

The brief facts giving rise to the present
petition are as under:-

1. That petitioners had applied against the vacant posts of Sub Engineers, Stenotypists and Data Entry Operators in the office of respondent No.3. The petitioners were in possession of higher qualification in addition to prescribe qualification for their opted posts. After observing the codal formalities, on the recommendation of Departmental Selection Committee they were appointed against their opted posts on regular basis on different dates. Copy of the appointment orders are attached as *Annex: A1-A21*.
2. That after completing the requisite formalities including medical fitness certificate, the petitioners joined duties at their respective places of postings. The respondent department also maintained the service books of each petitioner and necessary entries have been made therein from time to time. The extracts of service book are attached as *Annex: B*.
3. That the petitioners are regular employees of the respondent department working against the permanent posts since their respective appointments having more than five years service at their credit with excellent service

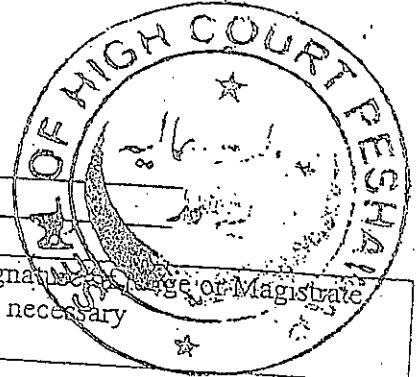
ATTEST!
EXAMINE
Peshawar
11 MAR 2011

1

(50)

PESHAWAR HIGH COURT, PESHAWAR
FORM "A"
FORM OF ORDER SHEET.

Court of _____
Case No _____



Serial No of order or proceeding	Date of Order or Proceeding	Order or other proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3
	26.02.2014	<p><u>W.P No.615-P/2014.</u></p> <p><u>Present:-</u> Mr. Khushdil Khan, Advocate for petitioners. *****</p> <p><u>MALIK MANZOOR HUSSAIN, J:-</u> Through instant petition, the petitioners are invoking Constitutional jurisdiction of this Court and prays as follows:-</p> <ol style="list-style-type: none"> 1. <i>Declare the act of respondent No.3 against the fundamental rights as guaranteed under chapter 1 of part II of the Constitution, 1973.</i> 2. <i>Direct the respondent No.3 to act in accordance with law and rules on subject and also treat the petitioners in accordance with law and rules and their appointments be treated as legal and valid for all purposes.</i> 3. <i>Set aside the impugned order of termination issued on 14.02.2014 being malafide, unlawful, unjustified and violative of principle of</i>

REQUESTED
EXAMINER
Peshawar High Court.
13 MAR 2014

51

natural justice.

2. Briefly, the facts as per contents of instant petition are that the petitioners were appointed as sub-Engineers (BPS-11) in Public Health Engineer Department, Government of Khyber Pukhtunkhwa, Peshawar. While hearing Civil Petitions No.2016/2013 and No.2029/2013, the August Supreme Court of Pakistan take notice of illegal appointments in the petitioners Department, directed the Chief Engineer of the Department to finalize the action against illegal appointees. For convenience, it would be appropriate to reproduce the relevant para of Judgment dated 15.01.2014 of August Apex Court, which is as under:-

"So far as some other illegalities in the appointments brought to our notice is concerned, in response to our earlier order dated 09.01.2014, Mr. Sikandar Khan, chief Engineer, Public Health engineering, Department, KPK is present in Court, he states that although many other illegal appointees in his department have been removed from service, but against many others such action is in process at various stages and they are still in service.

TESTED

EXAMINER
Peshawar High Court.

1 MAR 2014

In view of the above statement, he is directed to finalize the action against such illegal appointees within one month from today and submit his report through Registrar of this Court. In case, he faces any difficulty in this regard, those difficulties may also be brought to our notice so that appropriate orders may be passed".

In pursuance thereof show cause notices were issued and ultimately through impugned order dated 18.02.2014 the services of petitioners were terminated.

3. At the very outset the learned counsel for the petitioners was confronted with the legal position with respect to the fact that the petitioners, who claims themselves to be civil servants under Civil Servant Act 1973, whether their termination orders does not come within ambit of *terms and condition of service*, and whether the petition is maintainable under barring Provision of Article 212 of the Constitution, 1973? There was no plausible explanation in this regard. The Provision of Article 199 of the Constitution through which the remedies are sought by the petitioners are subject to the Provision of Article 212(3) of the Constitution. It is

Q

TESTED

EXAMINER

Lawyer High Court

MAR 2014

well settled by now that even illegal orders, or order without jurisdiction, regarding Civil Servant, can only be challenged in the proper forum established under the law.

4. Admittedly termination orders of the petitioners related to terms and condition of their services, therefore, Constitutional petition under Article 199 is not maintainable by virtue of article 212 of the Constitution and Section 4 of Service Tribunal Act 1973.

In view of what has been observed above, this petitioner is dismissed being not entertainable, however petitioners are at liberty to seek their remedies before proper forum if so advised.

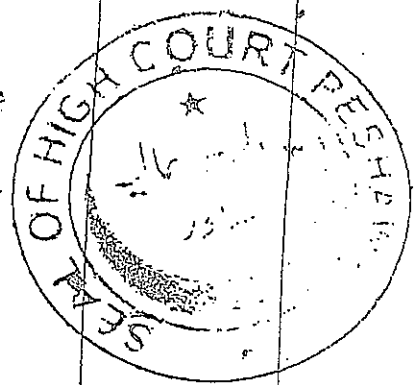
Announced.
26.02.2014

JUDGE

JUDGE

Justice Yahya Aizidi

Justice Malik Mangood Hussain



CERTIFIED TO BE TRUE COPY

Examination
Peshawar High Court Peshawar
Article 21
Order 10

11-03-14

14026 *Office*

Date of Presentation of Application *15-03-14*

No. of Pages *12P*

Printing Fee *1*

Registration Fee *1*

Total *24.00*

Date of Preparation of Copy *11-03-14*

Date Given For Delivery *11-03-14*

Date of Delivery of Copy *11-03-14*

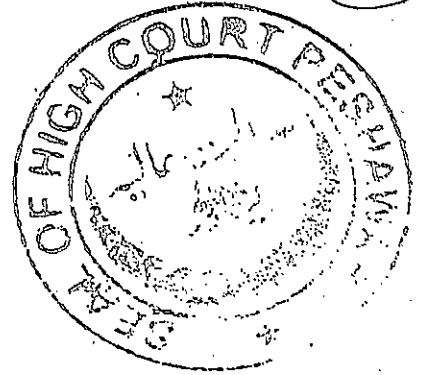
Mufaza

IN THE PESHAWAR HIGH COURT PESHAWAR

Annexure-¹XIV

(54)

WRIT PETITION No. 615-P/2014



1. Tariq Nawaz Khan S/o Ameer Nawaz Khan,
Sub Engineer, Office of
Public Health Engineering Division, Karak
2. Muhammad Sajad Khan S/o Banat Khan,
Sub Engineer, PHE Division Kohat.
3. Syed Muhammad Ihsan Shah S/o
Syed Muhammad Hasan Shah,
Sub Engineer, PHE Division Haripur.
4. Syed Muhammad Ali Sajjad
S/o Syed Abid Hussain Shah,
Sub Engineer, Office of the Chief Engineer
PHE, Peshawar
5. Abd-ul-samad S/o Abd-ul-Mueed,
Sub Engineer PHE Division, But Khela.
6. Shaukat Ali S/o Ghulam Qadar,
Sub Engineer PHE Division, Karak.
7. Muhammad Ali Noor S/o Syed Noor Muhammad,
Sub Engineer, Office of the Chief Engineer
PHE, Peshawar.
8. Irshad Elahi S/o Shah Nawaz,
Sub Engineer, Office of the Chief Engineer
PHE, Peshawar
9. Saleem Nawaz,
Sub Engineer, PHE Division, DI Khan.
10. Syed Ishfaq Ahmad S/o Syed Jamil-ud-Din,
Sub Engineer, PHE Division, Mingora, Swat
11. Murtaza Ali S/o Abdul Haq,
Sub Engineer, Office of the Chief Engineer
PHE, Peshawar.
12. Kashif Raza S/o Abid Hussain,
Sub Engineer, PHE Division, DI Khan.
13. Waqas Ali S/o Farzand Ali,
Sub Engineer, PHE Division, Haripur.
14. Muslim Shah S/o Mahmood Shah,
Sub Engineer, PHE Division, Mardan.

FILED TODAY

Deputy Registrar

ATTESTED
FOR
EXAMINER
Peshawar High Court

11 MAR 2014

SS

15. Zohaib Khan S/o Jahanzeb Khan,
Sub Engineer, PHE Division, Mansehra.
16. Syed Hassan Ali S/o Syed Ajmal Shah,
Sub Engineer, PHE Division, Buner.
17. Mohsin Ali S/o Muhammad Parvez,
Sub Engineer, Office of the Chief Engineer
PHE, Peshawar.
18. Muhammad Qaisar Khan S/o Babu Jan,
Sub Engineer, PHE Division, Upper Dir.
19. Ishtiaq Ahmad S/o Tamhedullah,
Sub Engineer, PHE Division, Charsadda.
20. Hassan Zaman S/o Syed Zaman,
Sub Engineer, PHE Division, Temargara.
21. Abd-ul-Shahid S/o Abd-ul-Azeem,
Sub Engineer, PHE Division, Upper Dir.
22. Sameullah S/o Khuda Bakhsh,
Sub Engineer, PHE Division, DI Khan.
23. Ishfaq Ahmad S/o Muhammad Shoaib,
Sub Engineer, PHE Division, Charsadda.
24. Muqtada Qureshi S/o Afsar Ali Qureshi,
Sub Engineer, PHE Division, Sawabi.
25. Naumanullah S/o Amanullah,
Stenographer, Office of the Chief Engineer
PHE, Peshawar.
26. Shah Khalid S/o Wafadar Khan,
Stenographer/Stenotypist, Office of the
Chief Engineer PHE, Peshawar
27. Farman Ali S/o Juma Gul,
Data Entry Operator, Office of the
Chief Engineer PHE, Peshawar
28. Muhammad Iftikhar S/o Chinar Gul,
Stenotypist, Office of the Chief Engineer
PHE, Peshawar
29. Murtaza Qureshi,
Assistant, Office of the Chief Engineer
PHE, Peshawar.
30. Farhan Ullah S/o Aziz Ullah,
Stenotypist, Office of the
Executive Engineer
PHE Division, Bannu.....Petitioners

FILED TODAY

Versus

Deputy Registrar

25 FEB 2014

ATTESTED

EXAMINER
Peshawar High C.

MAR 2014

(56)

1. Government of Khyber Pakhtunkhwa,
through Chief Secretary,
Civil Secretariat, Peshawar.
2. Secretary,
Govt: of Khyber Pakhtunkhwa,
Public Health Engineering
Department, Peshawar.
3. Chief Engineer (South)
Public Health Engineering Department,
Khyber Pakhtunkhwa, Peshawar.
4. Chief Engineer (North)
Public Health Engineering Department,
Khyber Pakhtunkhwa, Peshawar Respondents

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

Respectfully Sheweth,

The brief facts giving rise to the present
petition are as under:-

1. That petitioners had applied against the vacant posts of Sub Engineers, Stenotypists and Data Entry Operators in the office of respondent No.3. The petitioners were in possession of higher qualification in addition to prescribe qualification for their opted posts. After observing the codal formalities, on the recommendation of Departmental Selection Committee they were appointed against their opted posts on regular basis on different dates. Copy of the appointment orders are attached as *Annex: A1-A21*.
2. That after completing the requisite formalities including medical fitness certificate, the petitioners joined duties at their respective places of postings. The respondent department also maintained the service books of each petitioner and necessary entries have been made therein from time to time. The extracts of service book are attached as *Annex: B*.
3. That the petitioners are regular employees of the respondent department working against the permanent posts since their respective appointments having more than five years service at their credit with excellent service

RECEIVED
11 MAR 1974
PESHAWAR

ATTES
EXAMINER
Peshawar
11 MAR

57

record.

4. That some other employees whose appointments were made on adhoc basis so they agitated their regularisation under the **Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2009** before this Hon'ble Court through two separate writ petition NOs.271-P/2013 and 663-P/2013 which were dismissed by common judgment passed on 02.10.2013. Copy of the order/judgment is attached as *Annex: C*.
5. That the impugned judgment was challenged by the same employees before Hon'ble Supreme Court of Pakistan through C.P. No.2026 and 2029 of 2013 but same were also dismissed on 15.01.2014. However during the proceedings, Mr. Sikandar Khan Chief Engineer, Public Health Engineering Department, Khyber Pakhtunkhwa (Respondent No.3) orally brought into the notice of Hon'ble Supreme Court of Pakistan about the existence of illegal appointees in the department and accordingly he was directed to finalize the action against such illegal appointees within one month. Copy of the order dated 15.01.2014 as *Annex: D*.
6. That a joint show cause notice was issued to petitioners vide letter No.32/E-4/PHE dated 21.01.2014 by respondent No.3 therein he has unlawfully and malafidely shown the appointments of petitioners as illegal. Since the petitioners were posted and working in different offices in the province and the impugned show cause notice was also not properly addressed therefore the copy of the same could not be received by them within time and on coming to know about the said show cause notice they filed an application requesting therein for extension of time for the requisite apply and accordingly they filed their respective replies. Copy of show cause notice, application dated 06.02.2014 and reply to show cause notice as *Annex: E, F and G*.
7. That in the meanwhile, the petitioners have challenged the impugned show cause notice before this Hon'ble court through W.P. NO.513-P/2014 filed on 13.02.2014 but on the next day dated 14.02.2014 the Respondent No.3 issued separate orders whereby petitioners were terminated from the services. Then on the first hearing dated 18.02.2014 the counsel for petitioners requested for withdrawal of the above mentioned writ petition in view of the changed scenario and accordingly the same was allowed.

FILED TODAY
Deputy Registrar
25 FEB 2014

ATTESTE
EXAMINER
Dushanwe High C.
17 MAR 2014

58

such. Copy of the termination order dated 14.02.2014, writ petition No.513-P/2014 and order dated 18.02.2014 as Annex: H, I and J.

Hence Petitioners being aggrieved of unlawful act of the respondent No.3 and finding no adequate and efficacious remedy are constrained to file this petition on the following amongst other grounds:-

Grounds:

- A. That the appointments of petitioners were made by competent authority on regular basis on the recommendation of Departmental Selection Committee. They were within age limit, having prescribe qualifications thus in such circumstances the respondent No.3 has no legal justification to treat the valid appointments of petitioners as illegal.
- B. That it is pertinent to mention that by notification vide No.SO(O&N)E&AD/8-16/2000 dated 01.08.2001, the three departments namely Public Health Engineering, Physical Planning & Housing and Communication and Works Department were merged into Works and Services Department as mentioned in order dated 05.11.2001 and meanwhile the Khyber Pakhtunkhwa Local Government Ordinance, 2001 (Now r/o) was also promulgated and under section 14 thereof the administrative and financial authority for management of the offices of the government specified in Part-A of the first schedule was decentralized to district government. Similarly the posts in BPS-01 to 15 in the Works and Services Department were also declared as district cadre posts vide notification No.SO(Estt:)W&S/13-1/77 dated 22.03.2005 as referred in letter dated 08.04.2006 by the Establishment Department to W&S Department. The order dated 05.11.2001 and Letter dated 08.04.2006 as Annex: K & L.
- C. That when the posts in BPS-01 to 15 in W&S Department were declared District Cadre Posts including the posts of petitioners then a letter was written to Secretary Khyber Pakhtunkhwa Public Service Commission, Peshawar on 02.05.2007 therein requested for withdrawal the requisition for filling in the vacant posts of Sub Engineers (B-11) in the W&S Department and done accordingly. In such circumstances the plea of respondent No.3 regarding non fulfilling the requirements of

FILED
 DEPT. OF
 PESHAWAR

ATTES
 EXAMINER
 Peshawar HC
 11/1/2017

SA

recommendation of Public Service Commission, Khyber Pakhtunkhwa in the cases of petitioners are unjustified, unreasonable, malafide and without lawful authority and not sustainable under the law and rules. Copy of the letters dated 02.05.2007 as Annex: M.

- D. That the petitioners have not been treated in accordance with law and the impugned order has been passed in violation of fundamental rights as guaranteed under chapter 1 of part II of the Constitution, 1973.
- E. That in view of clause 5 of the appointment orders of each petitioner, their appointments were on probation for a period of two years extendable upto three years which the petitioners have completed satisfactory becoming confirmed employecs of the Respondent Department. At the time of passing of impugned order all of them have rendered more than five years service to the department efficiently, satisfactory and without any complaint. Therefore the Respondent No.3 has not acted in accordance with law and rules and unlawfully passed the impugned order without observing codal formalities as required in the case of a confirmed employee. Therefore the impugned order thereby; petitioners were terminated have no legal sanctity being without lawful authority.
- F. That clause 2 of appointment orders of petitioners provided that they will be governed by the Khyber Pakhtunkhwa Civil Servants Act, 1973 and all the laws applicable to the Civil Servants and Rules made thereunder and similarly in the impugned show cause notice mentioned that action would be taken under the Efficiency and Disciplinary Rules, 2011 but the Respondent No.3 has not followed any law in passing the impugned order which is arbitrary, unjust and unfair and not warranted, liable to be set aside.
- G. That in the impugned order, Respondent No.3 used the word of "termination" which neither applicable in the case of petitioners being confirmed employees of the department nor prescribed in the E&D Rules, 2011 therefore the impugned order is ambiguous, vague and illegal not sustainable under the law and rules.

FILED TODAY
Deputy Registrar
25 FEB 2014

ATTESTED

EXAMINER
Peshawar High Court

11 MAR 2014

60

- H. That Respondent No.3 has malafidely brought in the notice of the Hon'ble Supreme Court of Pakistan during the hearing of an other case. Neither he supplied any list of illegal appointments to Hon'ble Supreme Court of Pakistan at that very moment nor specified such illegal appointments but in general way he mentioned the existence of illegal appointments in the department which now he has exploited the situation and purposely held the appointments of petitioners as illegal and issued the impugned order of termination without legal justification.
- I. That the impugned order has been passed at the back of petitioners. Neither any regular enquiry has been conducted nor a fair opportunity was provided to them to defend their cases therefore the impugned order is illegal, without lawful authority being violative of principle of natural justice.
- J. That the petitioners were continuously serving the department having more than five years service at their credit without any complaint which accrued vested rights in their favour which could not be taken away or withdrawn by the authority under the principle of locus poenitentiae.
- K. That in case of any defect in the appointments of petitioners is existed for which only the respondent authority is responsible and not the petitioners therefore the action of the respondent No.3 is not warranted under the law and rules and the impugned order is illegal and of no legal effect.
- L. That the petitioners are permanent and confirmed employees of the department and performing their respective duties efficiently since their date of appointment during which they were provided all the benefits and privileges attached with their posts including annual increments. Now the petitioners have crossed the upper age limit, supporting a family with their children who are getting education in various schools and colleges thus in such circumstances, the Respondent No.3 has no legal justification to hold the appointments of petitioners as illegal. Therefore the act and action of the Respondent No.3 is tainted with malafide intention, unlawful and not operative against the vested rights of petitioners.

It is therefore humbly prayed that on acceptance of this petition this Hon'ble Court may be pleased to:-

FILED TODAY
11 MAR 2014
EXAMINER
Peshawar High Court

ATTESTED
EXAMINER
Peshawar High Court
11 MAR 2014


61

- (i) Declare the act of respondent No.3 against the fundamental rights as guaranteed under chapter 1 of part II of the Constitution, 1973.
- (ii) Direct the respondent No.3 to act in accordance with law and rules on subject and also treat the petitioners in accordance with law and rules and their appointments be treated as legal and valid for all purposes.
- (iii) Set aside the impugned order of termination issued on 14.02.2014 being malafide, unlawful, unjustified and violative of principle of natural justice.
- (iv) Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to petitioners.

Interim Relief

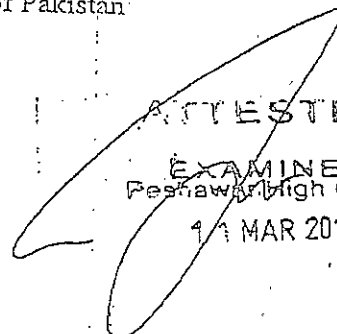
That the petitioners have good case prima facie all the three ingredients lie in their favour therefore the operation of impugned termination order may kindly be suspended till the disposal of this petition and meanwhile the Respondent No.3 may graciously be directed to take them on duties.

Through


Petitioners

Khush Din Khan
Advocate,
Supreme Court of Pakistan

Dated: 24 / 02 / 2014


ATTESTED
EXAMINER
Peshawar High Court.
17 MAR 2014

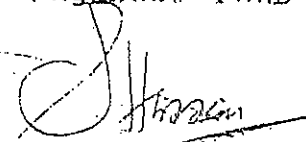
FILED TODAY
Deputy Registrar
25 FEB 2014

GOVERNMENT OF NWFP
WORKS & SERVICES DEPARTMENT

Dated Peshawar, the November 05, 2001.

ORDER

NO. SO(E)W&S(C&W)13-2/2000: Consequent upon the merger of defunct Public Health Engineering, Physical Planning and Housing and Communication & Works Departments into Works & Services Department vide Notification No. SO(C&W) E&AD/8-16/2000, Dated 01-08-2001, the Governor NWFP is pleased to approve the formation of its two establishments of Frontier Highways Authority and Chief Engineer Works & Services, and accordingly the offices of Chief Engineers North and South (C&W Department) and Chief Engineer PHED stand abolished with immediate effect.

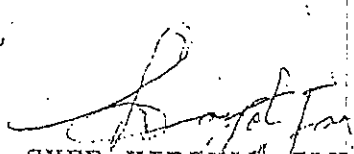

BRIGADIER (RETD)
SAYDAR HUSSAIN AWAN
SECRETARY

~~ENDST. NO. SO(E)W&S(C&W)13-2/2000 Dated Peshawar, the Nov 05, 2001.~~

Copy forwarded to the:-

- 1) All Administrative Secretaries in NWFP, Peshawar.
- 2) Secretary, NWFP, Public Service Commission, Peshawar.
- 3) Secretary to Governor, NWFP, Peshawar.
- 4) HQ PMCS C/O HQs Engineers 11 Corps Peshawar Cantt.
- 5) Accountant General, NWFP, Peshawar.
- 6) All Additional Secretaries/Deputy Secretaries and S.Os in Works & Services Department.
- 7) All DCOs in NWFP.
- 8) All heads of Attached Departments in NWFP.
- 9) All heads of Autonomous/Semi Autonomous Bodies in NWFP.
- 10) The Registrar, Peshawar High Court, Peshawar.
- 11) Director Information NWFP, Peshawar.
- 12) Manager, Government Printing Press, Peshawar.
- 13) All P.Ss to Provincial Ministers, NWFP, Peshawar.
- 14) P.S. to Secretary W&S Department.

(15) A.G.P.R. Peshawar


(SYED HIDAYAT JAN)
SECTION OFFICER (ESTABLISHMENT)

P.F.

S 08/11/01

Dated Peshawar, the March 22, 2005

NOTIFICATION

No. HO(E)W&S/13-1/77: The competent authority is pleased to order the declaration of provincial cadre posts of BPS-1 to BPS-15 of the Works & Services Department as district cadre posts with immediate effect on the following terms and conditions:-

- 1) Permanent transfer to the districts will be made on domicile and seniority basis.
- 2) In case the personnel of that particular district being more than the sanctioned strength, the deployment will be on the basis of seniority and the junior most over-flow will be posted temporarily to the other districts of the province till such time vacancies occur in the districts of their domicile.
- 3) All such employees of the above status working in FATA but belonging to settled districts will be adjusted as per their seniority in the relevant cadre and the over-flow will continue working in FATA till such time vacancies occur in their districts of domicile.
- 4) The domicile of the female officials will be counted under the wedlock policy and such employees will be given one time, irreversible choice to opt for the districts of their spouse or their own. In case of spouse being a government employee and his transfer to another district, inter-district transfer of the female officials will be allowed subject to availability of vacancy in the desired district.
- 5) Subsequent to the permanent transfer of all BPS-15 and below staff to the districts, further transfers and service matters including appointments, within the districts, shall be made by the District Government in light of the District Government Rules of Business, 2001.
- 6) All cases of transfers from one district to another will be decided and ordered upon by the Secretary W&S Department as per rules / policy.
- 7) Seniority for the purpose of promotion to the posts of provincial cadre will be maintained at Secretariat level.

It is further to mention here that the district governments will deal with the cases of these employees as per clause 6(B) of District Government Rules of Business. They (the District Govt.) will also adopt a mechanism in such a manner that their inter-se-seniority is not affected.

SECRETARY

Government of Bihar
District Govt. Patna
Their letter no. 1111

Handwritten signature and date: 25/12

SECTION OFFICER (SPT-II)
(SHAFOR SHAW)
Shafar Shaw

- 1) Accountant General MWFP Peshawar.
- 2) Secretary to Chief Minister MWFP, for information.
- 3) Chief Engineer, Works & Services Peshawar.
- 4) All District Coordination Officers in MWFP.
- 5) Chief Engineer (PWA), W&S Peshawar.
- 6) All Executive District Officers W&S in MWFP.
- 7) PS to Secretary, W&S Department.
- 8) O/O File.

Copy forwarded to the:-

No. SOR II (E&AD) I (20) 98, N. III
Provincial Cadre Posts in ES, IS and bel
District Cadres with immo
The Governor

No. SO (M) W&S/13-1/77

Dated

64

NWFP

Annexure-XVII

No.SOR-V(E&AD)1-368/2005(SE)

Dated Pesh: the 2nd May, 2007.

65

To

✓ The Secretary,
NWFP Public Service Commission,
Peshawar.

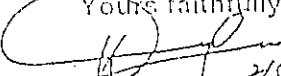
NWFP Public Service Commission
03 MAY 2007
DIARY NO. 2543

SUBJECT:- REQUISITION FOR FILLING IN THE 20 VACANT POSTS OF SUB-ENGINEERS (B-11) IN THE WORKS & SERVICES DEPARTMENT.

Dear Sir,

I am directed to refer to the letter of Works & Services Deptt: bearing No.SOMW&S/11-268/2005 dated 26-09-2005 (copy enclosed) on the above cited subject and to state that the requisition made by the Works & Services Department for filling in the above captioned 20 posts of Sub-Engineers (BS-11) may kindly be considered as withdrawn.

Yours faithfully,


(MUSHARAF KHAN)
SECTION OFFICER (Reg-V).

Encls: (As-above).

Endst: of even No & Date.

Copy for information is forwarded to:

1. Secretary to Govt. of NWFP Works & Services Department, Peshawar.
2. Addl: Secretary (Estt), Establishment Deptt: Government of NWFP.

pl. put up the requisition
D/R - 18/4/05
D/S
DS-18
SECTION OFFICER (Reg-V).

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. PIII

G A Z E T T E

Annexure XVIII

KHYBER PAKHTUNKHWA

(66)

Published by Authority

PESHAWAR, TUESDAY, 22ND JANUARY, 2013.

**PROVINCIAL ASSEMBLY SECRETARIAT KHYBER
PAKHTUNKHWA**

NOTIFICATION

Dated Peshawar, the 22nd January, 2013.

No. PA/Khyber Pakhtunkhwa/Bills/2013/2048.— The Khyber Pakhtunkhwa Civil Servants (Amendment) Bill, 2013 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 15th January, 2013 and assented to by the Governor of the Khyber Pakhtunkhwa on 17th January, 2013 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA CIVIL SERVANTS

(AMENDMENT) ACT, 2013

(KHYBER PAKHTUNKHWA ACT NO. III OF 2013)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa (Extraordinary), dated 22nd January, 2013).

AN
ACT

further to amend the Khyber Pakhtunkhwa Civil Servants Act, 1973.

Preamble: WHEREAS it is expedient further to amend the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973) for the purposes hereinafter appearing;

It is hereby enacted as follows:

1. **Short title and commencement.**— (1) This Act may be called the Khyber Pakhtunkhwa Civil Servants (Amendment) Act, 2013.

(2) It shall come into force at once and shall be deemed to have taken effect from 30th day of June, 2011.

(67)

2. Substitution of section 19 of Khyber Pakhtunkhwa Act No. XVIII of 1973.—In the Khyber Pakhtunkhwa Civil Servants Act (Khyber Pakhtunkhwa Act NO. XVIII of 1973), for section 19, the following shall be substituted, namely, -

"19. Pension and gratuity.— (1) On retirement from service, a civil servant shall be entitled to receive such pension or gratuity as may be prescribed.

(2) In the event of death of a civil servant, whether before or after retirement, his family shall be entitled to receive such pension or gratuity, or both, as may be prescribed.

(3) No pension shall be admissible to a civil servant who is dismissed or removed from service for reasons of discipline, but government may sanction compassionate allowance to such civil servant, not exceeding two-third of the pension or gratuity which would have been admissible to him had he been invalided from service on the date of such dismissal or removal.

(4) If the determination of the amount of Pension or gratuity admissible to a civil servant is delayed beyond one month of the date of his retirement or death, he or his family, as the case may be, shall be paid provisionally such anticipatory pension or gratuity as may be determined by the prescribed authority, according to the length of service of the civil servant which qualifies for pension or gratuity, and any over payment on such provisional payment shall be adjusted against the amount of pension or gratuity finally determined as payable to such civil servant or his family:

Provided that those who are appointed in the prescribed manner to a service or post on or after the 1st July, 2001 till 23rd July, 2005 on contract basis shall be deemed to have been appointed on regular basis.

Provided further that the amount of Contributory Provident Fund subscribed by the civil servant shall be transferred to his General Provident Fund.

(5) In case any difficulty arises in giving effect to any of the provisions of this section, the Secretary to Government, Establishment Department shall constitute a Committee comprising of the Secretary to Government, Finance Department, Secretary to Government Law Department and Accountant General, Khyber Pakhtunkhwa for removal of the difficulty."

BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER
PAKHTUNKHWA

(AMANULLAH)
Secretary,


Provincial Assembly of Khyber Pakhtunkhwa.

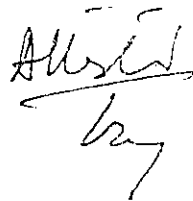
Amir
by

(68)

**DETAIL OF VACANT POSTS IN PUBLIC HEALTH
ENGINEERING DEPARTMENT KHYBER PAKHTUNKHWA
AS STOOD ON 20.06.2013.**

S#	BPS of Post	Nomenclature of Post	Total No. of Sanctioned Posts	No. of Vacant posts
1	BPS-20	Chief Engineer	02	--
2	BPS-19	Superintending Engineer	13	02
3	BPS-18	Executive/Design Engineer	33	--
4	BPS-17	SDO/ADE/Assistant Engineer	72	22
5	BPS-16	Administrative Officer	02	--
6	BPS-16	Budget Officer	02	02
7	BPS-11	Sub Engineer	175	44
8	BPS-16	Senior Scale Stenographer	12	04
9	BPS-16	Superintendent	12	04
10	BPS-12	Junior Scale Stenographer	25	02
11	BPS-14	Assistant	39	05
12	BPS-09	Accounts Clerk	62	06
13	BPS-09	Senior Clerk	92	04
14	BPS-07	Junior Clerk	250	03
15	BPS-17	Chief Draftsman	02	02
16	BPS-16	Circle Head Draftsman	08	--
17	BPS-13	Head Draftsman	25	04
18	BPS-11	Draftsman	33	06
19	BPS-05	Tracer	35	02

 20.6.2013.
 Administrative Officer
 O/O Chief Engineer (South)
 Public Health Engineering Department
 Khyber Pakhtunkhwa Peshawar.


 by



3
Annexure - XIX
(69)

GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

No. SOSR-III/ED/12-1/2005
Dated Peshawar, the 27/02/2013

1. All the Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
2. The Senior Member Board of Revenue, Khyber Pakhtunkhwa.
3. The Secretary to Governor Khyber Pakhtunkhwa.
4. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa.
6. All the Divisional Commissioners in Khyber Pakhtunkhwa.
7. All the Head of attached Departments in Khyber Pakhtunkhwa.
8. The Registrar, Khyber Pakhtunkhwa, Public Service Commission.
9. The Registrar, Khyber Pakhtunkhwa, Service Tribunal, Peshawar.
10. The Registrar, Peshawar High Court Peshawar.
11. All the Deputy Commissioners/Political Agents/District and Session Judges in Khyber Pakhtunkhwa.

Subject: DEDUCTION OF GENERAL PROVIDENT FUND FROM THE PROVINCIAL CIVIL SERVANTS REGULARIZED UNDER KHYBER PAKHTUNKHWA CIVIL SERVANTS (AMENDMENT) ACT-2013.

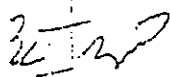
Dear Sir,

The Khyber Pakhtunkhwa Civil Servants (Amendment) Bill 2013 - passed by the Provincial Assembly on 15th January, 2013 and assented to by the Governor of Khyber Pakhtunkhwa on 17th January 2013 - has been published as an Act of the Provincial Assembly of Khyber Pakhtunkhwa. Under the said Act, all Civil Servants appointed to a service or post on or after 1st July 2001 shall be deemed to have been appointed on regular basis and will be eligible for pension/deduction of G.P.Fund. Accordingly the following instructions/guidelines are issued for compliance of all concerned Departments/Organizations.

- a) Deductions on account of General Provident Fund at prescribed rates from all the Civil Servants, who have become eligible for pension under the Khyber Pakhtunkhwa Civil Servants (Amendment) Act, 2013 should be started forthwith.
- b) All deductions/subscriptions in respect of Contributory Provident Fund made before the commencement of Khyber Pakhtunkhwa Civil Servants (Amendment) Act, 2013 from such Civil Servants, excluding Government counterpart share, shall immediately be transferred to their respective General Provident Fund Accounts. However, such Civil Servants will be entitled to markup on so declared G.P.Fund as announced on yearly basis from the date the C.P.Fund deductions / subscriptions were made.
- c) Markup on prescribed rates, as notified by the Provincial Government from time to time, may be added to the General Provident Fund Accounts of concerned Civil Servants/Subscribers as per prescribed mechanism for maintenance of such accounts.
- d) CNIC/Personal Numbers allotted to the subscribers will be used as General Provident Fund Account Numbers for such subscribers.
- e) Similar action / treatment may be afforded to all those Provincial Civil servants posted in FATA/PATA on deputation basis.

- f) Existing arrangements for deduction of C.P.Fund from employees of Autonomous Medical Institutions appointed under Medical and Health Institutions and Regulation of Health Care Services Ordinance as amended in 2006 shall continue.

Note: The above guidelines/instructions are not applicable to those employees who are not Civil Servants as defined in Section 2 (b) of the Khyber Pakhtunkhwa Civil Servants Act 1973, like those on deputation to the Provincial Government or working on contract / work charge / contingent basis.



(MUHAMMAD IMTIAZ AYUB)
Additional Secretary Regulation

Endst: No. & date even.

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

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director Finance, Lady Reading Hospital, Peshawar.
3. Director Finance, Khyber Teaching Hospital, Peshawar
4. Accountant General (PR) Sub office, Peshawar.
5. Director, Local Fund Audit Department, Khyber Pakhtunkhwa, Peshawar.
6. Director, Treasuries and Accounts, Khyber Pakhtunkhwa, Peshawar.
7. Director General, Provincial Disaster Management Authority, Khyber Pakhtunkhwa Peshawar.
8. Director, FMIU, Finance Department.
9. All Autonomous/Semi Autonomous Bodies in Khyber Pakhtunkhwa.
10. District Comptroller of Accounts Peshawar, Mardan, Kohat, Bannu, D I Khan, Abbottabad and Swat.
11. All the District/ Agency Accounts Officers in Khyber Pakhtunkhwa/ FATA.
12. Treasury Officer, Peshawar.


With reference to meeting held in Finance Deptt on 12/02/2013.


(RAEES KHAN AFRIDI)
Deputy Secretary (Reg-1)

Endst: No. & date even.

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

1. P.S to Minister for Finance Khyber Pakhtunkhwa.
2. P.S to Chief Secretary, Khyber Pakhtunkhwa.
3. P.S to Additional Chief Secretary, Khyber Pakhtunkhwa.
4. P.S to Finance Secretary Khyber Pakhtunkhwa.
5. P.A to Special Secretary Finance Khyber Pakhtunkhwa.
6. P.As to all Additional Secretaries and Deputy Secretaries in Finance Department.
7. All the Section Officers/Budget Officers in Finance Department.


(NAZMIA SHAHEEN)
Section Officer (CP III)



Annexure-XX

(71)

ORDER :-

In pursuance of Peshawar High Court Peshawar Judgement dated 14-05-2013 in Writ Petition No.82/2012 and in compliance to C.M.No.207/2013 dated 18-09-2013, the competent authority has been pleased to re-instate the following contract Officers/Officials in service with effect from 01-07-2012 and their services are also regularized in the light of Government of Pakistan Cabinet Secretariat Establishment Division Office Memorandum No.19/30/2008-R-II dated 29-08-2008 with effect from the date of the said O.M subject to the condition of final decision in the CPLA filed in the Supreme Court of Pakistan. All benefits received under the Impugned judgement in CPLA including the orders of regularization shall be recoverable from persons and assets of the petitioners if the department succeeded in undoing the judgement of the Peshawar High Court Peshawar.

S.No.	Name	Designation	BPS
1.	Muhammad Younas	Water Management Officer (S.M.O)	17
2.	Bakhtiar Ali	Water Management Officer (S.M.O)	17
3.	Shahid Khan	Water Management Officer (S.M.O)	17
4.	Nek Amal Khan	Water Management Officer (Engineer)	17
5.	Sadiqullah	Water Management Officer (S.M.O)	17
6.	Muhamraiz Khan	Water Management Officer (Engineer)	17
7.	Shah Dad Khan	Water Management Officer (Engineer)	17
8.	Rahmat Ghani	Sub Engineer	11
9.	Siraj Muhammad	Sub Engineer	11
10.	Jauhar Rahman	Sub Engineer	11
11.	Zafar Mehmood	Sub Engineer	11
12.	Muhammad Salsam	Sub Engineer	11
13.	Mutabar Khan	Sub Engineer	11
14.	Hasanullah	Sub Engineer	11
15.	Muhammad Ali	Sub Engineer	11
16.	Mashmat Ali	Sub Engineer	11
17.	Shahidullah	Sub Engineer	11
18.	Infanullah	Sub Engineer	11
19.	Zia-Ud-Din	Sub Engineer	11
20.	Tahir Afzal	Sub Engineer	11

Handwritten signature and initials

Contd...Page-2

72

S.No	Name	Designation	BPS
21.	Khalid Nawaz	Sub Engineer	11
22.	Haider Hayat	Sub Engineer	11
23.	Abdur Rahim Shah	Sub Engineer	11
24.	Saeed-ur-Rahman	Sub Engineer	11
25.	Umar Hanif	Sub Engineer	11
26.	Muhammad Kamal	Sub Engineer	11
27.	Ayaz Khan	Sub Engineer	11
28.	Weqar Ahmad	Sub Engineer	11
29.	Zahid Mahmood	Computer Operator	11
30.	Muhammad Ghulam	Field Assistant	6
31.	Muslim Shah	Field Assistant	6
32.	Muqadar Khan	Field Assistant	6
33.	Said Rahman	Field Assistant	6
34.	Anwarul Haq	Field Assistant	6
35.	Ahmad Zada	Naib Qasid	1
36.	Muhammad Zubair	Naib Qasid	1
37.	Nusrat Ali	Naib Qasid	1
38.	Nalik Rehman	Naib Qasid	1
39.	Abdur Rahim	Naib Qasid	1
40.	Khan Muhammad	Naib Qasid	1
41.	Tariq Khan	Naib Qasid	1
42.	Noor Zamir	Naib Qasid	1
43.	Muhammad Khalid Jan	Rod Man	1
44.	Abdul Subhan	Rod Man	1
45.	Khair Muhammad	Rod Man	1
46.	Muhammad Rafil	Rod Man	1
47.	Muhammad Ibrar	Rod Man	1
48.	Gul Shad	Rod Man	1
49.	Liaqat Ali	Rod Man	1
50.	Syed Naseer Hussain	Rod Man	1
51.	Firdos Khan	Rod Man	1
52.	Irfanullah	Rod Man	1
53.	Muhammad Siraj	Rod Man	1
54.	Fazal Qadir	Rod Man	1

File

ADDITIONAL CHIEF SECRETARY (FATA)

No.FS/E/100-35 (Vol-9)/1066-78
Dated 12/1/2014
Copy to:-

1. Secretary to Government of Pakistan, States & Frontier Region's Division Islamabad
2. Secretary Finance Department FATA Secretariat
3. Secretary P&D Department FATA Secretariat
4. Director Irrigation & Hydel Power (FATA)

Contd...Page-3

18 Jan. 2014 12:17PM P2

FRX NO.: 092932493

FROM: ROMANPHOTOSTATE

73

18 Jan. 2014 11:56AM P3

-3-

- 5. Additional Accountant General (PR) Sub Office Peshawar
- 6. Deputy Secretary (Admin) FATA Secretariat
- 7. All Executive Engineers Irrigation & Hydel Power Divisions
- 8. All Agency Accounts Officers
- 9. Section Officer (Legation) FATA Secretariat.
- 10. Public Relations Officer FATA Secretariat
- 11. PS to Additional Chief Secretary FATA Secretariat
- 12. PS to Secretary A, I & C Department FATA Secretariat
- 13. Officers/Officials concerned

[Signature]
 Section Officer (Etab)

18 Jan 2014 12:15PM P4

FAX NO. : 0915892558

FROM: RCMR/ST/INSTITUTE

74

Power of Attorney
BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

In Re: Service Appeal No. _____/2014

Abdullah Noor s/o Haji Shulozan

(Sub-Engineer, Public Health Engineering Department, Peshawar)

R/o House No. 911, Street No. 25, Section E-5,

Phase-VII, Hayatabad, Peshawar

.....*Appellant*

Versus

Government of Khyber Pakhtunkhwa & 2 Others

.....*Respondents*

By this, power-of-attorney I/we, the said Abdullah Noor s/o Haji Shulozan, Appellant, undersigned, do hereby nominate and appoint Mr. Isaac Ali Qazi, Advocate Supreme Court to be counsel/s in the above matter for me/us and on my/our behalf as agree to appear plead act and answer in the above Court/Authority/Tribunal or any appellate court or any other court to which the business in transferred in the above matter as and is agreed to sign the file Petitions, Appeals, Statement, Accounts, Exhibits, Compromises or other documents whatsoever, in connection with the said matter or any matter arising therefore and also to apply for receive all documents or copies of documents, depositions etc. and to apply for and issue summons and other writes or sub poena and to apply for and get issued any arrest attachments or other execution, warrants or order and to conduct any proceedings that may arise there out; and reply for and receive payment of any or all sums or submit for the above matter arbitration, and to employ and other legal practitioner, authorizing him to exercise the power and authorities hereby conferred on the Advocate whenever he may think fit to do so, any other lawyer may be appointed by may said counsel to conduct the case who shall have the same persons.

And to do all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may by proper and expedient.

And I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of these powers or as is the usual practice in such matters.

Provide always, that I/we under that at the time of calling case by the court if the case may be dismissed in default, if it be proceeded *ex-parte* the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right IN WITNESS WHEREOF I/WE has hereto signed at **Peshawar** ___ day of **November** in the year **2014**.



Signature

(Executant / Executants)

Accepted subject to the terms regarding fee.



Isaac Ali Qazi

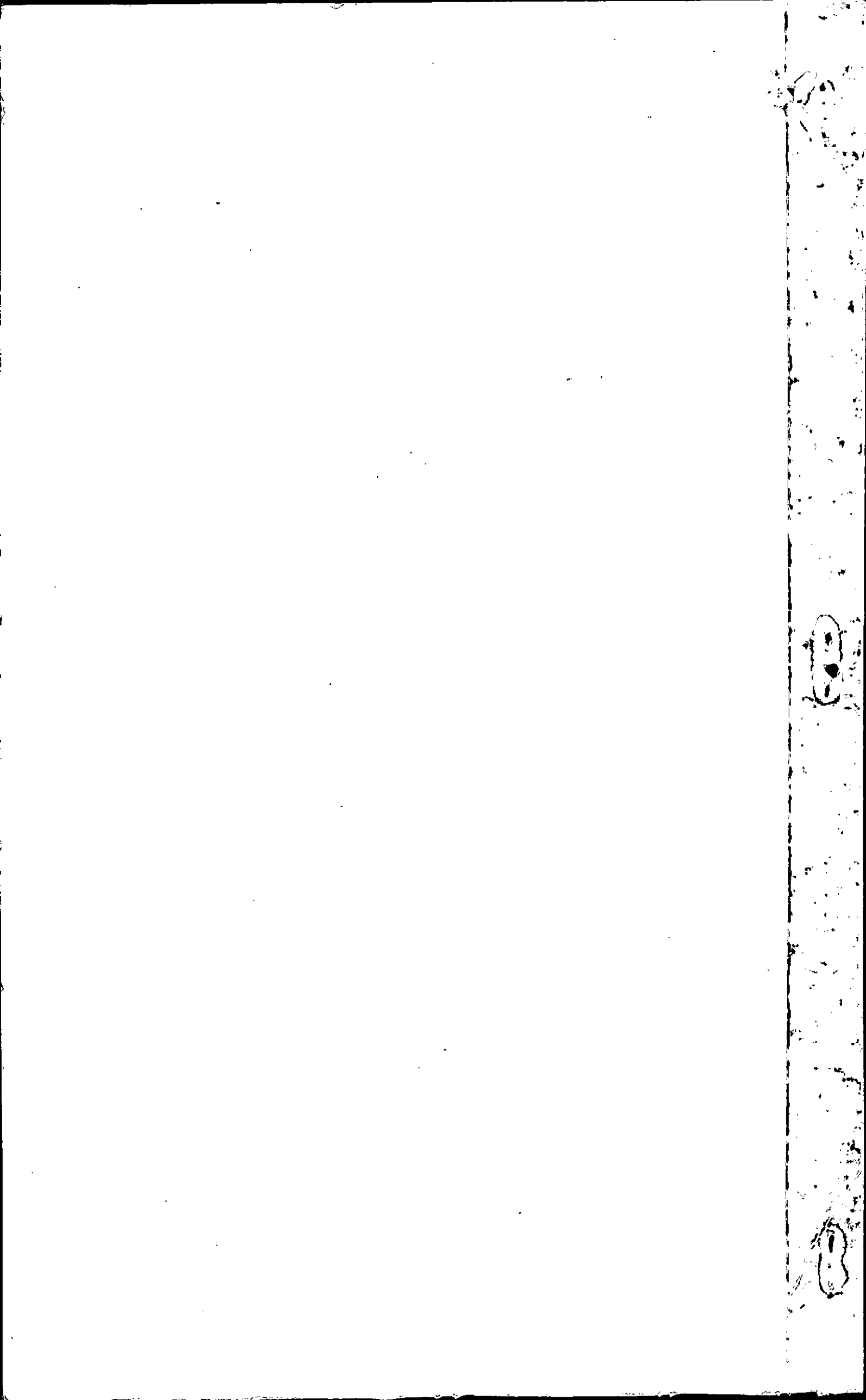
Advocate

12, K-3, Phase-III, Hayatabad, Peshawar

Phone 5817132, 5818446, Mobile: 0300 8594555

Email: isaac.ali.qazi@gmail.com

www.isaacalaw.org



04

29.01.2015

Mr. Jibran Gillani, Advocate on behalf of counsel for the appellant present. Counsel for the appellant is stated busy before the august Peshawar High Court. Adjourned for preliminary hearing to 12.02.2015.



Chairman

5.

12.02.2015

Appellant with counsel present. Argued that numerous other identical appeals have been admitted to regular hearing including Appeals No. 724/14 to 729/14.

In view of the above, the instant appeal is admitted to regular hearing. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply for 13.5.2015 before S.B to be heard alongwith the connected appeals.

*Appellant deposited
Process fee & Security.*



Chairman

6

13.05.2015

None present for appellant. Mr. Muhammad Yasin, Supdt. alongwith Addl: A.G for respondents present. Written reply not submitted. Requested for adjournment. To come up for written reply on 10.8.2015 before S.B.


Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 1313/2014

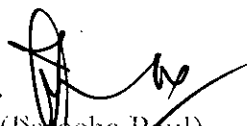
S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	10.11.2014	<p>The appeal of Mr. Abdullah Noor presented today by Isaac Ali Qazi Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p> <p>This case is entrusted to Bench <u>I</u> for preliminary hearing to be put up there on <u>16-01-2015</u>.</p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>
3	16.01.2015	<p>None present. The case be re-listed for preliminary hearing to 29.01.2015</p> <p style="text-align: right;"><i>[Signature]</i> Chairman</p>

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.*


(Narceha Paul)
Member (I)


(Kalim Arshad Khan)
Chairman