

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

Service Appeal No. 864/2022

Mr. Wakil Khan S/o Rustam Khan District Officer On Farm Water Management District Mohmand

.....**Appellant**

**VERSUS**

1. Chief Secretary Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. Secretary Establishment Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
3. Secretary Law Civil Secretariat, Peshawar.
4. Secretary Agriculture, Livestock & Cooperative Department Govt. of Khyber Pakhtunkhwa Civil Secretariat, Peshawar.
5. Director General, On Farm Water Management Khyber Pakhtunkhwa, Peshawar.
6. Zahid Khaliq Water Management Officer OFWM & others.

.....**Respondents**

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DEPONENT

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.....Respondents

**PARA WISE COMMENTS ON BEHALF OF RESPONDENTS NO.1,2,3,4& 5**

Respectfully Sheweth:

**Preliminary objections**

1. That the appellant has no cause of action for filing the instant appeal.
2. That the appellant has no locus standi.
3. That the appeal is premature.
4. That due to concealment of material facts and misstatement, appeal is liable to be dismissed.
5. That the appeal is badly time barred and not maintainable in eyes of law.

**Comments**

1. Correct to extent that the appellant Mr. Wakil Khan along with others was appointed as Water Management Officer (BPS-17) in the Project titled "National Program for Improvement of Watercourses in Pakistan (Khyber Pakhtunkhwa Component) vide order dated 24/11/2004 as per terms and conditions specified for project posts.
2. Pertains to record hence need no comments.
3. Pertains to record hence need no comments.
4. That the CPLA filed by the Government of Khyber Pakhtunkhwa against the order dated 01/12/2009 of honourable Peshawar High Court Peshawar in Supreme Court of Pakistan was dismissed by the august court vide order dated 01/03/2011 and in pursuance to the judgment dated 01/03/2011 passed by the Supreme Court of Pakistan the services of appellant along with others were regularized vide Notification dated 07/06/2011 (copy of order dated 01.03.2011 and regularization notification attached as **Annex-A & B**).

2

Taking advantage of the above mentioned judgment, other "National Program for Improvement of Watercourses in Pakistan (NPIWCS)" project staff also filed different writ petitions for regularization of their services in Peshawar High Court which were clubbed and decided on 15-09-2011 in favour of the petitioners against which the department filed CPLA in august Supreme Court of Pakistan against the judgment dated 15-09-2011 of Peshawar High Court Peshawar. The august Supreme Court of Pakistan decided these cases vide judgment dated 22-03-2012 in favour of the Petitioners. Accordingly, the order dated 22-03-2012 of august Supreme Court of Pakistan was implemented and a surplus pool was created in office of the Secretary Agriculture due to non-availability of vacancies in the OFWM Department (Copy of regularization notification dated 10-01-2013 attached **Annex-C**).

Basing the above noted judgments of Supreme Court of Pakistan, some other employees of the NPIWCS project also filed different writ petitions in the Hon'able *Peshawar High Court Peshawar* which were decided in their favour. The department filed CPLAs in the august Supreme Court of Pakistan against the decision of *Peshawar High Court Peshawar*.

Later on vide order dated 13-06-2013 the august Supreme Court of Pakistan in C.P No. 302-P/2011 and others connected CPs referred the matter to the Hon'ble Chief Justice of Pakistan for constitution of Larger Bench to re-examine or revisit the judgments delivered by the High court as well as the august Supreme Court (Copy of order dated 13-06-2013 attached **Annex-D**).

*The Larger Bench of august Supreme Court of Pakistan decided all the cases vide judgment dated 24/02/2016 wherein Para -27 of the judgment clearly states that the Khyber Pakhtunkhwa (Regularization of Services ) Act, 2009 provides " for the regularization of the employees appointed either on contract basis or adhoc basis & were holding contract appointments on 31<sup>st</sup> December, 2008 or till the commencement of this Act, Admittedly , the respondents were appointed on one-year contract basis, which period of their appointments was extended from time to time and were holding their respective posts on the cut-of date provided in section 3(ibid)" (Annex-E).*

Accordingly, the order dated 24.02.2016 of Larger Bench of the august Supreme Court of Pakistan was implemented (Copy of regularization notification dated 30.11.2016 attached **Annex-EI**).

5. As explained in Para -4 above.
6. Pertains to record hence needs no comments.
7. Pertains to record hence needs no comments.
8. Pertains to record hence needs no comments.
9. Correct to the extent that after the decision dated 24/02/2016 of Larger Bench Supreme Court of Pakistan in the year 2017 some of the colleagues of the appellant filed different appeals in Khyber Pakhtunkhwa Service Tribunal,

Peshawar for their seniority by challenging the seniority list dated 02/03/2017.

The Khyber Pakhtunkhwa Service Tribunal Peshawar, on 06/04/2018, decided the cases with the direction that **"As a sequel to the above discussion, the impugned seniority list is set aside. The respondent –department is directed to prepare revised seniority list in accordance with the judgment of Larger Bench of Supreme Court of Pakistan dated 24/02/2016 and in the light of Section-4 of the Khyber Pakhtunkhwa Employees (Regulation of Service) Act, 2009. The present appeals are disposed of in the above terms (copy of order dated 06.04.2018 attached as Annex-F).**

The above noted order of Hon'able Khyber Pakhtunkhwa Service Tribunal was placed before the Scrutiny Committee Law department for opinion that either the department implement the same or file CPLA. The meeting of the Scrutiny Committee was held on 01/06/2018 wherein, the case was discussed "After discussion it was decided with consensus by the Scrutiny Committee that as the department was not adversely affected by the judgment, therefore, the subject case was returned to the department to decide it on their own level in accordance with law. Accordingly Seniority List was prepared in light of the decision of Khyber Pakhtunkhwa, Service Tribunal and promotion of certain employees were made.

Then the appellants filed appeal bearing CA No.1168 to 1173 of 2019 in august Supreme Court of Pakistan which were decided by the august court on 01/07/2021 with the direction that **"Learned counsel for the appellants states that the impugned judgment is based upon the judgment of this Court dated 24/02/2016, passed in Civil Appeal No.135-P of 2013, in respect of which Review Petition No.302 of 2016 has been filed and is pending adjudication before this Court. He further, states that the appeals may be disposed of with the observation that in case the judgment of this Court is reviewed, the appellants will have chance to resurrect these appeals by making of an appropriate application Order accordingly"(Annex -G ).**

10. As explained in para-09 above.

11. That after decision dated 01/07/2021 of august Supreme Court of Pakistan the case was submitted to the Administrative Agriculture Department for opinion. The Administrative Agriculture Department forwarded the case to the Establishment & Administration Department for advice in the matter. The Govt. of Khyber Pakhtunkhwa Establishment Department, vide letter No.SOR-III(E&AD)/1-13/2021 dated 01/11/2021, stated that **"as per judgment of Khyber Pakhtunkhwa Service Tribunal dated 06/04/2018, revised seniority list may be prepared in accordance with the judgment of Larger Bench of Supreme Court of Pakistan dated 24/02/2016 and in light of Section -4 of the Khyber Pakhtunkhwa Employees (Regularization of Services) Act,**

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10. As explained in para-09 above.
11. That after decision dated 01/07/2021 of august Supreme Court of Pakistan the case was submitted to the Administrative Agriculture Department for opinion. The Administrative Agriculture Department forwarded the case to the Establishment & Administration Department for advice in the matter. The Govt. of Khyber Pakhtunkhwa Establishment Department, vide letter No.SOR-III(E&AD)/1-13/2021 dated 01/11/2021, stated that **"as per judgment of Khyber Pakhtunkhwa Service Tribunal dated 06/04/2018, revised seniority list may be prepared in accordance with the judgment of Larger Bench of Supreme Court of Pakistan dated 24/02/2016 and in light of Section -4 of the Khyber Pakhtunkhwa Employees (Regularization of Services) Act,**

Therefore, the plea of the appellant that "Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2009" is not applicable to him is not based on facts and material on record.

- E. As explained in Para-D above.
- F. Incorrect, the plea of the appellant is not based on facts and material on record as explained in above Paras.
- G. The plea of the appellant is not based on facts.
- H. The plea of the appellant is incorrect, as the final seniority list was issued in accordance with decisions of the honourable Tribunal/Courts and opinion of Establishment department.
- I. The Seniority List dated 14/02/2022 was issued in accordance with the decision dated 24/02/2016 of Larger Bench of Supreme Court of Pakistan and judgment dated 06/04/2018 of Khyber Pakhtunkhwa Service Tribunal. Therefore, the plea of the appellant is out of place.
- J. The plea of the appellant is not based on facts as explained in above paras.
- K. The respondents seeks leave to raise additional grounds at the time of arguments.

Therefore, it is prayed that keeping in view the above noted facts the appeal of the appellant may kindly be dismissed.

**Chief Secretary**  
Govt. of Khyber Pakhtunkhwa  
(Respondent No. 1)

**Secretary**  
Govt. of Khyber Pakhtunkhwa  
Establishment Department,  
Peshawar  
(Respondent No. 2)

**Secretary**  
Govt. of Khyber Pakhtunkhwa  
Law Department, Peshawar  
(Respondent No.03)

**Secretary**  
Govt. of Khyber Pakhtunkhwa  
Agriculture, Livestock & Coop:  
Deptt: Peshawar.  
(Respondent No. 4)

**Director General**  
On Farm Water Management  
Khyber Pakhtunkhwa, Peshawar  
(Respondent No. 05)

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Mohmand

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4. Secretary Agriculture, Livestock & Cooperative Department Govt. of Khyber Pakhtunkhwa Civil Secretariat, Peshawar.
5. Director General, On Farm Water Management Khyber Pakhtunkhwa, Peshawar.
6. Zahid Khaliq Water Management Officer OFWM & others.

.....**Respondents**

**Affidavit**

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

DEPONENT

NIC No.

14202-73454247

GOVERNMENT OF KHYBER PAKHTUNKHWA  
AGRI: LIVESTOCK AND COOP: DEPTT:

Dated Peshawar, the 7/6/2011

**NOTIFICATION.**

**NO. SOE (AD) 17-131/2009.-**

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

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

2. Terms & Conditions of their regularization in service are as under:-

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



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

**SECRETARY AGRICULTURE.**

Endst. of even No. & Date.

Copy forwarded for information and necessary action to:-

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

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

8

IN THE SUPREME COURT OF PAKISTAN  
(Appellate Jurisdiction)

PRESENT:

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

Civil Appeals No. 834 to 837 of 2010

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

Government of North-West Frontier Province through  
Secretary, Agriculture, Live Stock and Cooperatives  
Department, Peshawar, etc.  
(in all cases) ...Appellants

versus

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

...Respondents

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

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

Date of hearing: 01.03.2011

JUDGMENT

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

~~ATTESTE~~ ATTESTE

Superintendent  
Supreme Court of Paki  
ISLAMABAD

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

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

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

ATTEST

Superintendent  
Supreme Court of P.  
ISLAMABAD

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



**ATTESTED**

Superintendent  
Supreme Court of Pakistan  
ISLAMABAD

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

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

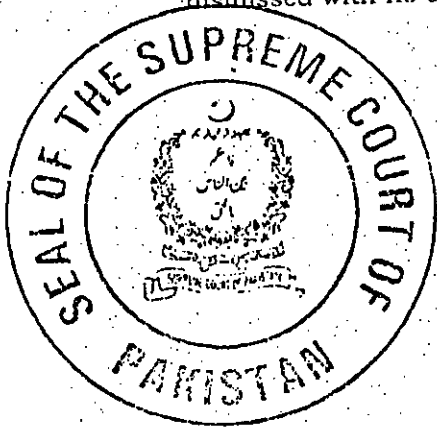
6. It is not disputed before us that the original consolidated judgment passed by the Peshawar High Court, Peshawar in the respondents' Writ Petitions had not been assailed by the appellants before this Court and they have now approached this Court challenging the consolidated judgment passed by the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

ATTEST

Superintendent  
Supreme Court of  
ISLAMABAD

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

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



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

Certified to be True Copy

*[Signature]*  
 Superintendent  
 Supreme Court of Pakistan  
 ISLAMABAD  
 7/3/11

ISLAMABAD  
 01.03.2011  
Not approved for reporting.

M. Yasin

*[Signature]*  
 7/3/11

157-1/11

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Compared by: \_\_\_\_\_

Received by: \_\_\_\_\_



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13

GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
AGRICULTURE LIVESTOCK & COOPERATIVE  
DEPARTMENT

**Office Order**

Consequent upon the judgments of the Hon'able Supreme Court of Pakistan in Civil Appeal No. 562-P to 571-P of 2011, 588-P of 2012, 589-P of 2011, 605-P of 2011, 55-P of 2012, 60-P of 2012 and judgment of Hon'able Peshawar High Court, Peshawar in Writ Petition No. 736-p/2012 and summary approved by the Chief Minister, Khyber Pakhtunkhwa, the competent authority is pleased to place the services of the following officers and officials (In order of merit) appointed on contract basis in the project "National Programme for Improvement of Watercourses in Pakistan (Khyber Pakhtunkhwa Component) in Surplus Pool in the office of Secretary Agriculture, Khyber Pakhtunkhwa with immediate effect. These posts shall automatically stand abolished after adjustment of the concerned officers and officials in order of merit/seniority maintained from the date of their initial appointment in the department:-

S/No	Name of Officers & Officials	Designation	Pay Scale
1.	Rafiq Ur Rahman	Water Management Officer	BS-17
2.	Faisal Younas Khan	Water Management Officer	BS-17
3.	Azfar Hussain	Water Management Officer	BS-17
4.	Khalid Usman	Water Management Officer	BS-17
5.	Muhammad Tufail	Water Management Officer	BS-17
6.	Nisar Ahmad	Water Management Officer	BS-17
7.	Asma Ahmad	Water Management Officer	BS-17
8.	Muhammad Farooq	Water Management Officer	BS-17
9.	Wasimullah	Water Management Officer	BS-17
10.	Shahzain Iqbal	Water Management Officer	BS-17
11.	Muhammad Ud Din	Water Management Officer	BS-17
12.	Javed Akhtar	Water Management Officer	BS-17
13.	Faiz Khan	Water Management Officer	BS-17
14.	Qasim Ahmad	Water Management Officer	BS-17
15.	Khan Daraz	Water Management Officer	BS-17
16.	Muhammad Ahmad Khan	Water Management Officer	BS-17
17.	Muhammad Karimullah	Water Management Officer	BS-17
18.	Saeed Shah	Water Management Officer	BS-17
19.	Qazi Shifa Ur Rahman	Water Management Officer	BS-17
20.	Fazal Sattar	Water Management Officer	BS-17
21.	Zulfiqar Ali Khan	Water Management Officer	BS-17
22.	Aman Khan	Water Management Officer	BS-17
23.	Ihsan Ullah Khan	Water Management Officer	BS-17
24.	Atta Ullah	Water Management Officer	BS-17
25.	Muhammad Idrees	Water Management Officer	BS-17
26.	Zia Ul Haq	Water Management Officer	BS-17
27.	Ahmad Ali	Water Management Officer	BS-17
28.	Muhammad Yaseen	Water Management Officer	BS-17
29.	Fazal Hussain	Water Management Officer	BS-17
30.	Nauman Adil	Water Management Officer	BS-17
31.	Ahmad Saeed	Water Management Officer	BS-17
32.	Alifuzzullah	Water Management Officer	BS-17
33.	Farmanullah	Water Management Officer	BS-17
34.	Salim Javed	Water Management Officer	BS-17
35.	Adam Khan	Water Management Officer	BS-17
36.	Fazal Sher	Water Management Officer	BS-17
37.	Salman Khan	Water Management Officer	BS-17
38.	Ayaz Ali	Water Management Officer	BS-17
39.	Naseeb Gul	Water Management Officer	BS-17
40.	Gulzari Lal	Water Management Officer	BS-17
41.	Afsar Shah	Sub Engineer	BS-11

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42.	Ubaid-ur-Rehman	Sub Engineer	BS-11
43.	Muhammad Nawaz	Sub Engineer	BS-11
44.	Muhammad Riaz	Sub Engineer	BS-11
45.	Zameer Khan	Sub Engineer	BS-11
46.	Moini Shabir Ahmad	Sub Engineer	BS-11
47.	Shahzad Ali	Sub Engineer	BS-11
48.	Naveed Hilal	Sub Engineer	BS-11
49.	Anwar Ali	Sub Engineer	BS-11
50.	Abdullah	Sub Engineer	BS-11
51.	Ahmad Ali	Sub Engineer	BS-11
52.	Nasar Khan	Sub Engineer	BS-11
53.	Shujaat Ali Khan	Sub Engineer	BS-11
54.	Asif Khan	Sub Engineer	BS-11
55.	Farhad Ali	Sub Engineer	BS-11
56.	Azain Mehboob	Sub Engineer	BS-11
57.	Mazhar Iqbal	Sub Engineer	BS-11
58.	Jamil Ahmad	Sub Engineer	BS-11
59.	Nasir Hussain Shah	Sub Engineer	BS-11
60.	Akhtar Munir	Sub Engineer	BS-11
61.	Muhammad Tariq	Sub Engineer	BS-11
62.	Muhammad Nacem	Sub Engineer	BS-11
63.	Masood	Sub Engineer	BS-11
64.	Syed Asad Shah	Sub Engineer	BS-11
65.	Muhammad Asim	Sub Engineer	BS-11
66.	Mushtaq Ahmad	Sub Engineer	BS-11
67.	Abdul Salam	Sub Engineer	BS-11
68.	Mohammad Ashfaq	Sub Engineer	BS-11
69.	Gulistan Khan	Sub Engineer	BS-11
70.	Qazi Aziz-ur-Rehman	Sub Engineer	BS-11
71.	Farman Ali	Sub Engineer	BS-11
72.	Zahid Javed	Sub Engineer	BS-11
73.	Shahid Anjum	Sub Engineer	BS-11
74.	Shajid Ahmad	Sub Engineer	BS-11
75.	Zia Ullah	Sub Engineer	BS-11
76.	Harinder Kumar	Sub Engineer	BS-11
77.	Farman Ali Shah	Sub Engineer	BS-11
78.	Shahid	Sub Engineer	BS-11
79.	Muht Niaz Khan	Sub Engineer	BS-11
80.	Fawad Ali	Sub Engineer	BS-11
81.	Javid Ali Khan	Sub Engineer	BS-11
82.	Rahim Badshah	Sub Engineer	BS-11
83.	Naveed Ahmad	Sub Engineer	BS-11
84.	Akhtar Ali	Sub Engineer	BS-11
85.	Mr. Abdul Subhan	Sub Engineer	BS-11
86.	Sher Shah	Sub Engineer	BS-11
87.	Bacha Ali	Sub Engineer	BS-11
88.	Ibrar Zeb	Sub Engineer	BS-11
89.	Faisal Hayat	Sub Engineer	BS-11
90.	Muhammad Asad	Sub Engineer	BS-11
91.	Fazl-ur-Rehman	Sub Engineer	BS-11
92.	Aarif Khan	Sub Engineer	BS-11
93.	Shafiq-ur-Rehman	Sub Engineer	BS-11
94.	Muhammad Said	Sub Engineer	BS-11
95.	Muhammad Uzair	Sub Engineer	BS-11
96.	Khalid Mehmood	Sub Engineer	BS-11
97.	Liaqat Ali	Sub Engineer	BS-11
98.	Ifukhar Ahmad	Sub Engineer	BS-11
99.	*M. Farooq	Field Assistant	BS-6
100.	Naveed Akbar	Field Assistant	BS-6
101.	Niaz Muhammad	Field Assistant	BS-6
102.	Hukam Khan	Rodman	BS-1
		Rodman	BS-1



103.	Shoukat Ali	Rodman	BS-1
104.	Rafjullah	Rodman	BS-1
105.	Syed Mustafa Shah	Rodman	BS-1
106.	Babu Khan	Rodman	BS-1
107.	Khaista Gul	Rodman	BS-1
108.	Mattullah	Rodman	BS-1
109.	Abdul Hafeez	Rodman	BS-1
110.	Hamin	Rodman	BS-1
111.	Gul Shahzada	Rodman	BS-1
112.	Tal Muhammad	Rodman	BS-1
113.	Zal-eil-Haq	Rodman	BS-1
114.	Fazal Rehman	Rodman	BS-1
115.	Niaz Muhammad	Rodman	BS-1
116.	Shams Ur Rehman	Rodman	BS-1
117.	Muhammad Saleem	Rodman	BS-1
118.	Muhammad Sajid	Rodman	BS-1
119.	Khalid Khan	Rodman	BS-1
120.	Muhammad Khurshid	Rodman	BS-1
121.	Khalid Mahmood	Rodman	BS-1
122.	Javed Rehman	Rodman	BS-1
123.	Shabeer Ahmed	Rodman	BS-1
124.	Jehangir Khan	Rodman	BS-1
125.	Muhammad Yousaf	Rodman	BS-1
126.	Muhammad Zahoor	Rodman	BS-1
127.	Muhammad Yasir	Rodman	BS-1
128.	Khan Afsar	Rodman	BS-1
129.	Ali Akhtar	Rodman	BS-1
130.	Sajid Ali	Rodman	BS-1
131.	Muhammad Zarooof	Rodman	BS-1
132.	Gul Nawaz	Rodman	BS-1
133.	Azhar Aqeel	Rodman	BS-1
134.	Murad Khan	Rodman	BS-1
135.	Syed Maqsood Shah	Rodman	BS-1
136.	Muhammad Jamil	Rodman	BS-1
137.	Muhammad Zaki	Rodman	BS-1
138.	Lal Rashid	Rodman	BS-1
139.	Noor Wali Khan	Rodman	BS-1
140.	Sherbaz	Rodman	BS-1
141.	Muhammad Isma	Rodman	BS-1
142.	Muhammad Riaz	Rodman	BS-1
143.	Muhammad Naqab	Rodman	BS-1
144.	Ali Haider	Chowkidar	BS-1
145.	Shabeer Ahmed	Naib Qasid	BS-1
146.	Anjad Khan	Chowkidar	BS-1
147.	Haroon-ur-Rashid	Chowkidar	BS-1
148.	Muhammad Nawaz	Chowkidar	BS-1
149.	Muhammad Shoab	Naib Qasid	BS-1
150.	Pir Gulab	Naib Qasid	BS-1
151.	Banas Khan	Naib Qasid	BS-1
152.	Bibi Nasreen	Sweeper	BS-1
153.	Mushtaq Ahmed	Sweeper	BS-1
154.	Ibrahim	Sweeper	BS-1

Sd/-xxx

SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA  
 AGRIL, LIVE STOCK & COOP. DEPTT.

Endst. No. SOE(AD)/17-131/2004.

Dated the Peshawar 10<sup>th</sup> January, 2013

Copy forwarded for information and necessary action to:-

1. Registrar Hon'able Peshawar High Court, Peshawar.
2. The Director General, On Farm Water Management, Khyber Pakhtunkhwa, Peshawar.
3. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
4. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. The PS to Chief Secretary, Khyber Pakhtunkhwa.
6. The Budget Officer, Government of Khyber Pakhtunkhwa Finance Department w/r to his letter No. BOVII/FD/2-3/SNE/2012-13 dated 18.10.2012.
7. All District/Agency Accounts Officers in Khyber Pakhtunkhwa.
8. The Manager, Government Printing Press, Peshawar.
9. Officers/Officials Concerned.
10. PS to Minister, Agriculture, Khyber Pakhtunkhwa, Peshawar.
11. PS to Secretary to Government of Khyber Pakhtunkhwa, Establishment Department.
12. PS to Secretary Agriculture, Live Stock and Cooperative Department.
13. PS to Secretary to Government of Khyber Pakhtunkhwa, Law, Parliamentary Affairs and Human Rights Department.
14. Master file.

(MUHAMMAD SHERAZ)  
SECTION OFFICER-ESTT.

Annex  
17

IN THE SUPREME COURT OF PAKISTAN  
( Appellate Jurisdiction )

PRESENT:

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

CIVIL PETITION NO. 302-P OF 2011  
(on appeal from the judgment of the Peshawar High Court, Peshawar dated 24.03.2011, passed in Review Petition No. 103 of 2011 in W.P. No. 59 of 2009)

AND

C.M.A. NO. 17-P OF 2012 AND  
CIVIL PETITION NO. 572-P OF 2011  
(on appeal from the judgment of the Peshawar High Court, Peshawar dated 22.09.2011 in W.P. No. 2170 of 2011)

AND

C.M.A. NO. 267-P OF 2013 AND  
CIVIL PETITION NO. 221-P OF 2012  
(on appeal from the judgment of the Peshawar High Court, Peshawar dated 07.03.2012 in W.P. No. 1897 of 2011)

AND

C.M.A. NO. 264-P OF 2013 AND  
CIVIL PETITION NO. 222-P OF 2012  
(on appeal from the judgment of the Peshawar High Court, Abbottabad Bench dated 13.03.2012 in W.P. No. 200-A of 2012)

Government of KPK through  
Secretary Agriculture & others

...Petitioners/Applicants.

VERSUS

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

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

For the Petitioners:

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

For the Respondents:

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

Mr. Imtiaz Ali, ASC.

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

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

(CMA 267-P of 2013)

Nemo.

ATTESTED

Deputy Registrar,  
Supreme Court of Pakistan,  
Peshawar.

Date of Hearing: 13.06.2013

18

ORDER

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

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

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

ATTESTED



Secretary,  
the Court of Pakistan,  
Peshawar.

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

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

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

ATTESTED


*[Signature]*

Deputy Registrar,  
High Court of Pakistan,  
Peshawar.

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

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

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Deputy Registrar  
Supreme Court of Pakistan  
Peshawar

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

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

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

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Deputy Registrar,  
Supreme Court of Pakistan  
Peshawar.

their seniority position, would their appointments be reversed.

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

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

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

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

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

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

Sd/- Nasir-ul-Mulk, J.  
Sd/- Sarimad Talal Osmani,  
Sd/- Iqbal Hameedur Rahman,

Carried to be the copy

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

PESHAWAR  
13th June, 2013.  
Mudassar

"Not approved for reporting."



23

(S)

IN THE SUPREME COURT OF PAKISTAN  
(Appellate Jurisdiction)

PRESENT:

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

CIVIL APPEAL NO.134-P OF 2013

(On appeal against the judgment dated 24-03-2011 passed by the Peshawar High Court, Peshawar, in Review Petition No.103/2009 In WP. No.59/2009)

Govt. of KPK thr. Secy. Agriculture and others Vs. Adnanullah

CIVIL APPEAL NO.135-P OF 2013

(On appeal against the judgment dated 22-09-2011 passed by the Peshawar High Court, Peshawar, in Writ Petition No.2170/2011)

Chief Secy. Govt. of KPK & others Vs. Amir Hussain and others

CIVIL APPEAL NO.136-P OF 2013

(On appeal against the judgment dated 07-03-2012 passed by the Peshawar High Court, Peshawar, in Writ Petition No.1897/2011)

Govt. of KPK and others Vs. Muhammad Younas and others

CIVIL APPEAL NO.137-P OF 2013

(On appeal against the judgment dated 13-03-2012 passed by the Peshawar High Court, Abbottabad Bench, in Writ Petition No.200-A/2012)

Govt. of KPK and others Vs. Attaullah Khan and others

CIVIL APPEAL NO.138-P OF 2013

(On appeal against the judgment dated 20-06-2012 passed by the Peshawar High Court, Mingora Bench (Dar-ul-Qaza), Swat in W.P. No.189-M/2012)

Govt. of KPK thr. Secy. Agriculture Livestock Peshawar and others Vs. Muhammad Ayub Khan

CIVIL APPEAL NO.52-P OF 2015

(On appeal against the judgment dated 5-12-2012 passed by the Peshawar High Court, Peshawar in Writ Petition No.3087/2011)

Govt. of KPK thr. Chief Secretary and others Vs. Qa'be Abbas and another

CIVIL APPEAL NO.1-P/2013

(On appeal against the judgment dated 10-05-2012 passed by the Peshawar High Court, Mingora Bench (Dar-ul-Qaza), Swat in Writ Petition No.2474/2011)

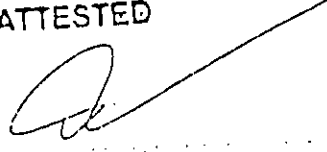
District Officer Community Development Department (Social Welfare) and others Vs. Ghani Rehman and others

CIVIL APPEAL NO.133-P OF 2013

(On appeal against the judgment dated 17-05-2012 passed by the Peshawar High Court, Mingora Bench (Dar-ul-Qaza), Swat, in Writ Petition No.101/2009)

Govt. of KPK thr. Secretary Vs. Ifrikhar Hussain and others

ATTESTED

  
Court Associate  
Supreme Court of Pakistan  
Islamabad

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Livestock and others

CIVIL APPEAL NO.113-P OF 2013

(On appeal against the judgment dated 17-05-2012 passed by the Peshawar High Court, Mingora Bench (Dar-ul-Qaza) Swat, in Writ Petition No.2380/2009)

Govt. of KPK thr. Secretary I.T, Peshawar and others Vs. Muhammad Azhar and others

CIVIL APPEAL NO.231 OF 2015

(On appeal against the judgment dated 24-04-2014 passed by the Peshawar High Court, D.I.Khan Bench, in Writ Petition No.37-D/2013)

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

CIVIL APPEAL NO.232 OF 2015

(On appeal against the judgment dated 24-04-2014 passed by the Peshawar High Court, D.I.Khan Bench, in Writ Petition No.97-D/2013)

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

CIVIL PETITION NO.600-P OF 2013

(On appeal against the judgment dated 06-06-2012 passed by the Peshawar High Court, Peshawar, in Writ Petition No.1818/2011)

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

CIVIL PETITION NO.496-P OF 2014

(On appeal against the judgment dated 26-06-2014 passed by the Peshawar High Court, Peshawar, in Writ Petition No.1730-P/2014)

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

CIVIL PETITION NO.34-P OF 2015

(On appeal against the judgment dated 23-09-2014 passed by the Peshawar High Court, Peshawar, in Writ Petition No.141-P/2014)

Dean, Pakistan Institute of Community Ophthalmology (PICO), HMC and another Vs. Muhammad Imran and others

CIVIL PETITION NO.526-P OF 2013

(On appeal against the judgment dated 12.3.2013 passed by the Peshawar High Court Peshawar, in Writ Petition No.376-P/12)

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

CIVIL PETITION NO.527-P OF 2013

(On appeal against the judgment dated 12.3.2013 passed by the Peshawar High Court Peshawar, in Writ Petition No.377-P/2012)

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

CIVIL PETITION NO.528-P OF 2013

(On appeal against the judgment dated 12-03-2013 passed by the Peshawar High Court Peshawar, in Writ Petition No.378-P/2012)

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

CIVIL PETITION NO.28-P OF 2014

(On appeal against the judgment dated 19-09-2013 passed by the Peshawar High Court Peshawar, in Writ Petition No.1818/2011)

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Supreme Court of Pakistan  
Islamabad

High Court, Mingora Bench (Dar-ul-Qaza) Swat, in Writ Petition No.4335-P/2010)  
Govt. of KPK through Chief Secy. Vs. Rahimullah and others  
Peshawar and others

**CIVIL PETITION NO.214-P OF 2014**

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

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

**CIVIL PETITION NO.621-P OF 2015**

(On appeal against the judgment dated 08-10-2015 passed by the Peshawar High Court, Abbottabad Bench, in Writ Petition No.55-A/2015)

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

**CIVIL PETITION NO.368-P OF 2014**

(On appeal against the judgment dated 01-04-2014 passed by the Peshawar High Court Peshawar, in Writ Petition No.351-P/2013)

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

**CIVIL PETITION NO.369-P OF 2014**

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

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

**CIVIL PETITION NO.370-P OF 2014**

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

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

**CIVIL PETITION NO.371-P OF 2014**

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

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

**CIVIL PETITION NO.619-P OF 2014**

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

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

**CA.134-P/2013**

For the appellants

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

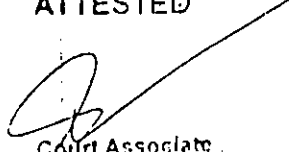
For the Respondent(s)

(Res. No.186, 188, 191)

(CMA.496-P/13)

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

ATTESTED

  
Court Associate  
Supreme Court of Pakistan

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CA.135-P/2013  
For the appellant(s) : Mr. Waqar Ahmed Khan, Addl. AG KPK

For the Respondent(s) : Hafiz S. A. Rehman, Sr. ASC  
Mr. Imtiaz Ali, ASC

CA.136-P/2013  
For the appellant(s) : Mr. Waqar Ahmed Khan, Addl. AG KPK

For the Respondent(s) : Hafiz S. A. Rehman, Sr. ASC  
Mr. Imtiaz Ali, ASC

CA.137-P/2013  
For the appellant(s) : Mr. Waqar Ahmed Khan, Addl. AG KPK

For Respondents (2 to 6) : Mr. Ijaz Anwar, ASC

CA.138-P/2013  
For the appellant(s) : Mr. Waqar Ahmed Khan, Addl. AG KPK

For the Respondent(s) : Not represented.

CA.52-P/2013  
For the appellant(s) : Mr. Waqar Ahmed Khan, Addl. AG KPK

For Respondent No.1 : In person (Absent)

For Respondent No.2 : Not represented.

CA.1-P/2013  
For the appellant(s) : Mr. Waqar Ahmed Khan, Addl. AG KPK

For Respondents (1-4, 7, 8, & 10-13) : Mr. Ghulam Nabi Khan, ASC  
Mr. Khushdil Khan, ASC

CA.133-P/2013  
For the appellant(s) : Mr. Waqar Ahmed Khan, Addl. AG KPK

For Respondents (1-3, 5 & 7) : Mr. Ghulam Nabi Khan, ASC

For respondents (4,8,9 & 10) : Not represented.

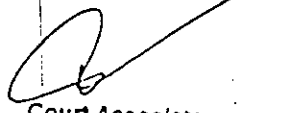
CA.113-P/2013  
For the appellant(s) : Mr. Waqar Ahmed Khan, Addl. AG KPK

For the Respondent(s) : Ghulam Nabi Khan, ASC

CA.231-P/2015  
For the appellant(s) : Mr. Waqar Ahmed Khan, Addl. AG KPK

For Respondents (1-3) : Mr. Shoaib Shaheen, ASC

ATTESTED

  
Court Associate  
Supreme Court of Pakistan  
Islamabad

(10)

CA:232-P/2015  
For the appellant(s) : Mr. Waqar Ahmed Khan, Addl. AG KPK

For Respondent No.1 : Mr. Shoaib Shaheen, ASC

CP.600-P/2014  
For the Petitioner(s) : Mr. Waqar Ahmed Khan, Addl. AG KPK

For the Respondent(s) : Mst. Sadia Rehim (in person)

CP.496-P/2014  
For the Petitioner(s) : Mr. Waqar Ahmed Khan, Addl. AG KPK  
Noor Afzal, Director, Population Welfare  
Department.

For the Respondent(s) : Mr. Khushdil Khan, ASC

CP.34-P/2014  
For the Petitioner(s) : Mr. Shakeel Ahrmed, ASC

For the Respondent(s) : Syed Rifaqat Hussain Shuh, AOR

CPs.526 to 528-P/2013  
For the Petitioner(s) : Mr. Waqar Ahmed Khan, Addl. AG KPK

For the Respondent(s) : Mr. Ijaz Anwar, ASC

CP.28-P/2014  
For the Petitioner(s) : Mr. Waqar Ahmed Khan, Addl. AG KPK

For the Respondent(s) : Mr. Ghulam Nabi Khan, ASC  
Mr. Khushdil Khan, ASC

CPs.214-P/2014, 368-  
371-P/2014 and 619-  
P/2014 & 621-P/2015.  
For the Petitioner(s) : Mr. Waqar Ahmed Khan, Addl. AG KPK

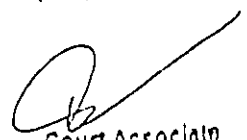
For the Respondent(s) : Not represented.

Date of hearing : 24-02-2016

### JUDGMENT

AMIR HANI MUSLIM, J.- Through this common judgment, we intend to decide the titled Appeals/Petitions, as common questions of law and facts are involved therein.

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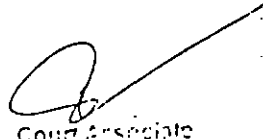
CA.134-P/2013  
On Farm Water Management Project, KPK.

2. On 27.10.2004, various posts in the "On Farm Water Management Project" were advertised. In response to the advertisement, the Respondent, Adnanullah, applied for the post of Accountant (BPS-11) for which he was selected and appointed for with effect from 31.12.2004. This appointment was initially for a period of one year and later was consistently extended from time to time on recommendation of the Petitioner. In the year 2006, a proposal was moved for creation of 302 regular vacancies to accommodate the contract employees working in different Projects. The Chief Minister KPK approved the proposal of 275 regular posts for this purpose with effect from 1.7.2007. During the interregnum, the Government of NWFP (now KPK) promulgated Amendment Act IX of 2009, thereby amending Section 19(2) of the NWFP Civil Servants Act, 1973 and NWFP Employees (Regularization of Services) Act, 2009. However, the newly created regular posts did not include the Respondent's post. Feeling aggrieved, he filed a Writ Petition which was allowed (on the conceding statement of Addl. Advocate General) with the direction that if the Respondent was eligible, his services should be regularized, subject to verification of his domicile. The Review Petition filed by the Govt. of KPK was dismissed being time barred. Thereafter, leave was granted in the Petition filed by the Government of KPK before this Court.

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


3. On 23.06.2004, the Secretary, Agriculture, got published an advertisement in the press, inviting Applications for filling up the posts of Water Management Officers (Engineering) and Water Management

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Officers (Agriculture) in BS-17, in the NWFP for the "On Farm Water Management Project" on contract basis. The Respondents applied for the said posts and in November, 2004 and February 2005 respectively, they were appointed for the aforementioned posts on contract basis, initially for a period of one year and later extendable to the remaining Project period, subject to their satisfactory performance and on the recommendations of the Departmental Promotion Committee after completion of requisite one month pre-service training. In the year 2006, a proposal for restructuring and establishment of Regular Offices for the "On Farm Water Management Department at District level was made. A summary was prepared for the Chief Minister, KPK, for creation of 302 regular vacancies with the recommendation that eligible temporary/contract employees working on different Projects may be accommodated against regular posts on the basis of their seniority. The Chief Minister approved the summary and accordingly, 275 regular posts were created in the "On Farm Water Management Department" at District level w.e.f 01.07.2007. During the interregnum, the Government of NWFP (now KPK) promulgated Amendment Act IX of 2009, thereby amending Section 19(2) of the NWFP Civil Servants Act, 1973 and NWFP Employees (Regularization of Services) Act, 2009. However, the services of the Respondents were not regularized. Feeling aggrieved, they filed Writ Petitions before the Peshawar High Court, praying that employees placed in similar posts had been granted relief, vide judgment dated 22.12.2008, therefore, they were also entitled to the same treatment. The Writ Petitions were disposed of, vide impugned orders dated 22.09.2011 and 06.06.2012, with the direction to consider the case of the Respondents in the light of the judgment dated

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

C.A.No.136-P of 2013 to 138-P of 2013  
On Farm Water Management Project, KPK

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

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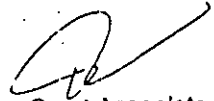
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20.06.2012, with the direction to consider the case of the Respondents in the light of the judgment dated 22.12.2008 and 03.12.2009. The Appellants filed Petition for leave to Appeal before this Court in which leave was granted; hence these Appeals.

Civil Petition No.619-P/2014  
Establishment of Database Development Based on Electronic Tools (Project)

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

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Civil Petitions No.368-P of 2014 to 371-P of 2014  
Industrial Training Centre Garhi Shehsdad and Industrial Training Centre Garha Tajak,  
Peshawar

6. In the year 2008, upon the recommendations of the Departmental Selection Committee, after fulfilling all the codal formalities, the Respondents were appointed on contract basis on various posts in Industrial Training Centre Garhi Shehsdad and Industrial Training Centre Garha Tajak, Peshawar. Their period of contract was extended from time to time. On 04.09.2012, the Scheme in which the Respondents were working was brought under the regular Provincial Budget, but the services of the Respondents despite regularization of the Scheme were terminated vide order dated 19.06.2012. The Respondents filed Writ Petitions No.351-P, 352, 353 and 2454-P of 2013, against the order of termination and for regularization of their services on the ground that the posts against which they were appointed stood regularized and had been converted to the regular Provincial Budget, with the approval of the Competent Authority. The learned Peshawar High Court, vide common judgment dated 01.04.2014, allowed the Writ Petitions, reinstating the Respondents in Service from the date of their termination with all consequential benefits. Hence these Petitions by the Petitioners.

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

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

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

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

8. On 17.03.2009, a post of Superintendent BS-17 was advertisement for "Darul Aman", Haripur. The Respondent applied for the said post and upon recommendations of the Departmental Selection Committee she was appointed w.e.f. 30.04.2010, initially on contract basis till 30.06.2011, beyond which her period of contract was extended from time to time. The post against which the Respondent was serving was brought under the regular Provincial Budget w.e.f 01.07.2012. However, the services of the Respondent were terminated, vide order dated 14.06.2012. Feeling aggrieved, the Respondent filed Writ Petition No.55-A of 2015, which was allowed, vide impugned judgment dated 08.10.2015, holding that "we accept this writ Petition and pass same order as has already been passed by this Court in W.P.No2131-P of 2013 decided on 30.01.2014 and direct the respondents to appoint the Petitioner on conditional basis subject to final decision of the Apex Court in Civil Petition No.344-P of 2012." Hence this Petition by the Govt. of KPK.

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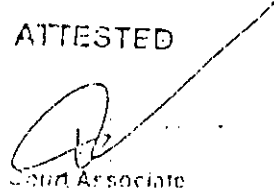
34Civil Petition No.28-P of 2014  
Darul Kafala, Swat.

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

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

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

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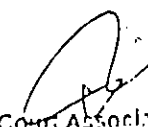
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Departmental Selection Committee in the Schemes titled "Centre for Mentally Retarded & Physically Handicapped (MR&HP)" and "Welfare Home for Orphan Female Children", Nowshera, vide order dated 23.08.2006 and 29.08.2006, respectively. Their initial period of contractual appointment was for one year till 30.06.2007, which was extended from time to time till 30.06.2011. By notification dated 08.01.2011, the above-titled Schemes were brought under the regular Provincial Budget of the N.W.F.P. (now KPK) with the approval of the Competent Authority. However, the services of the Respondents were terminated w.e.f 01.07.2011. Feeling aggrieved, the Respondents filed Writ Petitions No.376, 377 and 378-P of 2012, contending that their services were illegally dispensed with and that they were entitled to be regularized in view of the KPK Employees (Regularization of Services Act), 2009, whereby the services of the Project employees working on contract basis had been regularized. The learned High Court, while relying upon the judgment dated 22.03.2012, passed by this Court in Civil Petitions No.562-P to 578-P, 588-P to 589-P, 605-P to 608-P of 2011 and 55-P, 56-P and 60-P of 2012, allowed the Writ Petitions of the Respondents, directing the Petitioners to reinstate the Respondents in service from the date of their termination and regularize them from the date of their appointments. Hence these Petitions.

Civil Appeal No.52-P of 2015

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

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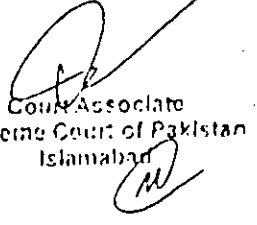
  
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Management Project" on contract basis. The Respondent applied for the said post and was appointed as such on contract basis, on the recommendations of the Departmental Promotion Committee after completion of a requisite one month pre-service training,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

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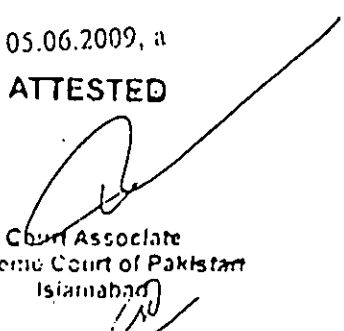
Civil Appeal No.01-P of 2013Welfare Home for Female Children, Malakand at Batkhela and Industrial Training Centre at Garhi Usman Khel, Dargal.

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

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

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

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notice was served upon them, intimating them that their services were no longer required after 30.06.2009. The Respondents invoked the constitutional jurisdiction of the Peshawar High Court, by filing Writ Petition No.2001 of 2009, against the order dated 05.06.2009. The Writ Petition of the Respondents was disposed of, by judgment dated 17.05.2012, directing the Appellants to treat the Respondents as regular employees from the date of their termination. Hence this Appeal by the Appellants.

Civil Appeal No.113-P of 2013  
*Establishment of One Science and One Computer Lab in Schools/Colleges of NWFP*

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

Civil Appeals No.231 and 232-P of 2015  
*National Program for Improvement of Water Courses in Pakistan*

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

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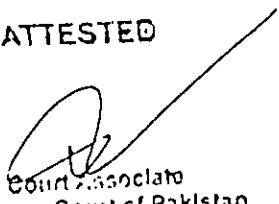
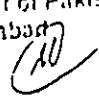
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from time to time. The Appellants terminated the service of the Respondents w.e.f 01.07.2011, therefore, the Respondents approached the Peshawar High Court, mainly on the ground that the employees placed in similar posts had approached the High Court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

Civil Petition No.496-P of 2014.  
Provision of Population Welfare Programme

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

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

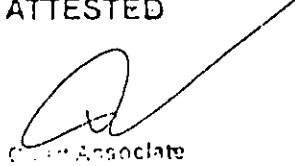
Civil Petition No.34-P of 2015

*Pakistan Institute of Community Ophthalmology Hayatabad Medical Complex, Peshawar*

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

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

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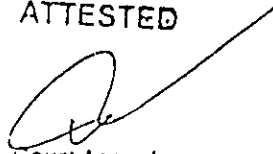
  
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claim any right of absorption in the Department against regular posts as per existing Project policy. He also referred to the office order dated 31.12.2004 regarding appointment of Mr. Adnanullah (Respondent in CA. No.134-P/2013) and submitted that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

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

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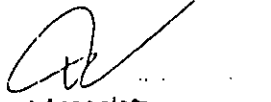
  
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were filled on seniority basis, 10 through promotion and 38 by way of Court orders passed by this Court and or the learned Peshawar High Court. He referred to the case of Govt. of NWFP vs. Abdullah Khan (2011 SCMR 898) whereby, the contention of the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

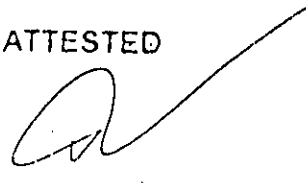

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employees appointed in 2005 and those in 1980 were not similarly placed and, therefore, there was no question of discrimination. According to him, they will have to come through fresh inductions to relevant posts if they wish to fall under the scheme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

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


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without intervention of this Court and without any Act or Statute of the Government. Many of the decisions of the Peshawar High Court were available, wherein the directions for regularization were issued on the basis of discrimination. All the present cases before this Court are related to the category in which the Project became part of the regular Provincial Budget and the posts were created. Thousands of employees were appointed against these posts. He referred to the case of Zulfiqar Ali Bhutto Vs. The State (PLD 1979 SC 741) and submitted that a review was not justifiable, notwithstanding error being apparent on face of record, if judgment or finding, although suffering from an erroneous assumption of facts, was sustainable on other grounds available on record.

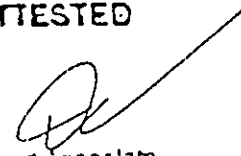
21. Hafiz S. A. Rehman, Sr. ASC, appeared on behalf of Respondent(s) in Civil Appeal Nos. 135-136-P/2013 and on behalf of all 174 persons who were issued notice vide leave granting order dated 13.06.2013. He submitted that various Regularization Acts i.e. KPK Adhoc Civil Servants (Regularization of Services)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

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(Regularization of Services) Act, 2009, was not applicable to present Respondents. He referred to Section 19(2) of the KPK Civil Servants Act 1973, which was substituted vide KPK Civil Servants (Amendment) Act, 2005, provides that "A person though selected for appointment in the prescribed manner to a service or post on or after the 1<sup>st</sup> day of July, 2001, till the commencement of the said Act, but appointment on contract basis, shall, with effect from the commencement of the said Act, be deemed to have been appointed on regular basis." Furthermore, vide Notification dated 11.10.1989 issued by the Government of NWFP, the Governor of KPK was pleased to declare the "On Farm Water Management Directorate" as an attached Department of Food, Agriculture, Livestock and Cooperation Department, Govt. of NWFP. Moreover, it was also evident from the Notification dated 03.07.2013 that 115 employees were regularized under section 19 (2) of the Khyber Pakhtunkhwa Civil Servants (Amendment) Act, 2005 and Regularization Act, 2009 from the date of their initial appointment. Therefore, it was a past and closed transaction. Regarding summaries submitted to the Chief Minister for creation of posts, he clarified that it was not one summary (as stated by the learned Addl. Advocate General KPK) but three summaries submitted on 11.06.2006, 04.01.2012 and 20.06.2012, respectively, whereby total 734 different posts of various categories were created for these employees from the regular budgetary allocation. Even through the third summary, the posts were created to regularize the employees in order to implement the judgments of Hon'ble Peshawar High Court dated 15.09.2011, 8.12.2011 and Supreme Court of Pakistan dated 22.3.2012. Approximately, 20-30% employees were

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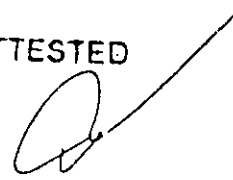
recruited through KPK Public Service Commission and the Public Service Commission is only meant to recommend the candidates on regular posts.

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

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

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

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

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

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

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

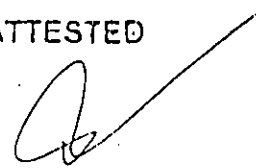
*"3. Regularization of Services of certain employees.—All employees including recommendees of the High Court appointed on contract, or adhoc basis and holding that post on 31<sup>st</sup> December, 2008, or till the commencement of this Act shall be deemed to have been validly appointed on regular basis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

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

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

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

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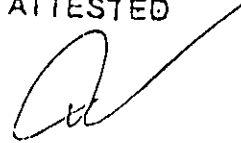
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*rule for the time being in force, the provisions of this Act shall have an overriding effect and the provisions of any such law or rule to the extent of inconsistency to this Act shall cease to have effect."*

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

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

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

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

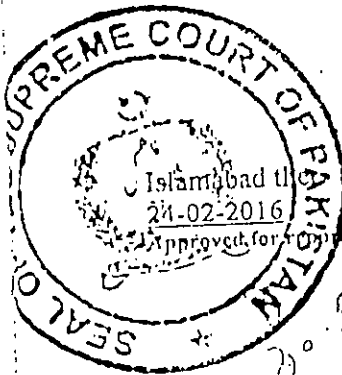
32. The above are the reasons of our short order dated 24.2.2016, which reads as under:-

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

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

Certified to be True Copy

*[Signature]*  
9/6/16  
Court Associate  
Supreme Court of Pakistan  
Islamabad



204.P/16  
Civil/Criminal  
Date of Court Order: 14-03-16  
No of Pages: 8400  
No of Folios: 84  
Requisition: 5-00  
Copy Fee: 52.08  
Court Fee Stamp: 57.08  
Date of Completion: 9-6-16  
Date of delivery of Copy: 22/6/16  
Compared by: *[Signature]*  
Received by: *[Signature]*



GOVERNMENT OF KHYBER PAKHTUNKHWA  
AGRICULTURE LIVESTOCK & COOPERATIVE  
DEPARTMENT

Dated the Peshawar the November 30, 2016

## NOTIFICATION

No.SOE(AD)/17-131/2004 Consequent upon the judgment of Peshawar High Court Peshawar in W.P.2-P Dated 9/8/2016 & COC No.351 of 2012 in WP No.1897/2011 and in light of judgment of Larger Bench of the Supreme Court of Pakistan dated 24.02.2016 passed in Civil Appeals No.134-P/2013 etc, the competent authority is pleased to accord approval for adjustment of the following officers/ officials of "National Program for Improvement of Watercourses (Khyber Pakhtunkhwa Component) (In order of merit) in the Surplus Pool in the office of Secretary Agriculture, Livestock and Cooperative Department from the date the law came into force i.e. the Khyber Pakhtunkhwa Civil Servant (Amendment) Act, 2005 and Regularization Act, 2009 as applicable, subject to final verdict of the Supreme Court of Pakistan in Review Petition. These posts shall automatically stand abolished after adjustment of the concerned officers and officials in order of merit/ seniority:-

S.No.	Official Name	Designation	Pay Scale	Date of Appointment
1	Sadia Rehman	Water Management Officer (WMO)	BS-17	24.11.2004
2	Mehreen Ghous	WMO	BS-17	4/2/2005
3	Qalbe Abbas	WMO	BS-17	12/03/2007
4	Muhammad Younas	Sub Engineer	BS-11	18/01/2005
5	Kamil Khan	Sub Engineer	BS-11	01/11/2005
6	Muhammad Riaz	Sub Engineer	BS-11	18/01/2005
7	Adnan Shah Khattak	Sub Engineer	BS-11	28.06.2005
8	Tahir Khan	Sub Engineer	BS-11	8/6/2005
9	Muhammad Idrees Khan	Sub Engineer	BS-11	23/6/2005
10	Shahid Khan	Sub Engineer	BS-11	5/1/2005
11	Muhammad Tufail	Sub Engineer	BS-11	16/6/2005
12	Umer Farooq	Sub Engineer	BS-11	4/1/2005
13	Asghar Ali	Sub Engineer	BS-11	4/1/2005
14	Shakil Ahmad	Sub Engineer	BS-11	18/4/2005
15	Muneeb Iqbal	Sub Engineer	BS-11	8/1/2005
16	Syed Amjad Ali Shah	Sub Engineer	BS-11	8/1/2005
17	Sardar Ali	Sub Engineer	BS-11	26/4/2005
18	Muhammad Shoaib	Sub Engineer	BS-11	8/1/2005
19	Farooq shah	Sub Engineer	BS-11	24/4/2005
20	Muhammad Tariq	Sub Engineer	BS-11	23/11/2005
21	Asad Ali	Sub Engineer	BS-11	12/1/2005

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22	Qaisar Alam	Sub Engineer	BS-11	1/3/2005
23	Zia-ur-Rehman	Sub Engineer	BS-11	8/1/2005
24	Muhammad Iqbal	Sub Engineer	BS-11	7/1/2005
25	Habibi Ullah	Sub Engineer	BS-11	7/1/2005
26	Shaukat Ali	Sub Engineer	BS-11	6/1/2005
27	Iqbal Muhammad	Sub Engineer	BS-11	7/1/2005
28	Bashir Ahmad	Sub Engineer	BS-11	14/5/2005
29	Asif Ahmad	Sub Engineer	BS-11	28/3/2005
30	Shaukat Ali S/o Sufi Muhammad	Sub Engineer	BS-11	26/3/2005
31	Hafiz-ul-Asad	Sub Engineer	BS-11	26/3/2005
32	Atiqullah	Sub Engineer	BS-11	1/6/2005
33	Irfan Mashal	Sub Engineer	BS-11	3/1/2005
34	Muhammad Tahir	Sub Engineer	BS-11	3/1/2005
35	Malak Naeem Iqbal	Sub Engineer	BS-11	1/1/2005
36	Abdur Rahsid	Sub Engineer	BS-11	1/1/2005
37	Mubashir Hussain	Sub Engineer	BS-11	1/1/2005
38	Munir Aslam	Sub Engineer	BS-11	28/6/2005
39	Mazhar Iqbal	Sub Engineer	BS-11	4/3/2005
40	Samullah	Sub Engineer	BS-11	25/1/2005
41	Saifullah	Sub Engineer	BS-11	26/1/2005
42	Shakir Ullah	Sub Engineer	BS-11	18/1/2005
43	Javed Khan	Sub Engineer	BS-11	18/1/2005
44	Haroor-ur-Rashid	Sub Engineer	BS-11	18/1/2005
45	Muhammad Sajid	Sub Engineer	BS-11	18/1/2005
46	Muhammad Khalid	Sub Engineer	BS-11	18/1/2005
47	Gohar Zaman	Sub Engineer	BS-11	18/01/2005
48	Sobail Qureshi	Sub Engineer	BS-11	7/1/2005
49	Abdul Manan	Sub Engineer	BS-11	1/10/2006
50	Ikrumullah	Sub Engineer	BS-11	18/1/2005
51	Waheed Ullah	Sub Engineer	BS-11	12/1/2005
52	Khan Bhadar	Sub Engineer	BS-11	12/1/2005
53	Parvez Khan	Sub Engineer	BS-11	20/6/2005
54	Kiflikhar Khan	Sub Engineer	BS-11	1/1/2005
55	Waheedullah S/o Habibuillah Khan	Sub Engineer	BS-11	1/1/2005
56	Masood Khan	Sub Engineer	BS-11	1/1/2005
57	Kifayatullah	Sub Engineer	BS-11	18/1/2005
58	Rifaqat Hussain	Sub Engineer	BS-11	4/1/2005
59	Zulfiqar Ahmad	Sub Engineer	BS-11	28/6/2005
60	Fazal Haider	Sub Engineer	BS-11	1/1/2005
61	Altaullah Khan	Sub Engineer	BS-11	10/1/2005
62	Sakdar Zaman	Sub Engineer	BS-11	17/1/2005
63	Kamran Nasim	Sub Engineer	BS-11	19/4/2005
64	Irfanullah	Sub Engineer	BS-11	22/4/2006
65	Nazir Jan	Sub Engineer	BS-11	1/9/2006
66	Nasir Iqbal	Sub Engineer	BS-11	1/11/2007
67	Nizam Hazrat	Sub Engineer	BS-11	14/10/2005
68	Aslam Khan	Sub Engineer	BS-11	31/10/2005
69	Rehmat Elahi	Sub Engineer	BS-11	1/9/2006

70	Muhammad Atif	Sub Engineer	BS-11	29/4/2005
71	Mohsin Ali	Sub Engineer	BS-11	1/1/2005
72	Muhammad Abid	Sub Engineer	BS-11	1/1/2005
73	Zakir Muhammad	Field Assistant	BS-06	5/9/2006
74	Khadim Hussain	Field Assistant	BS-06	17/1/2005
75	BAKht Baidar	Field Assistant	BS-06	1/1/2005
76	Muhammad Nawab Khan	Field Assistant	BS-06	8/1/2005
77	Shakir Ullah	Rodman	BS-01	3/1/2005
78	Iqtidar Ali	Rodman	BS-01	25/4/2005
79	Bakht Jamal	Rodman	BS-01	25/4/2005
80	Kishwar Khan	Rodman	BS-01	1/12/2005
81	Asif	Rodman	BS-01	13/1/2005
82	Haydar Ali	Rodman	BS-01	8/1/2005
83	RAidullah	Rodman	BS-01	29/4/2005
84	Tahir Ali	Rodman	BS-01	11/1/2005
85	Shoaib Khan	Rodman	BS-01	8/1/2005
86	Muhammad Irfan	Rodman	BS-01	13/1/2005
87	<del>Muhammad</del> Sohail	Rodman	BS-01	12/1/2005
88	Hanif Ullah Khan	Rodman	BS-01	12/1/2005
89	Syed Fazal Mabood Jan	Rodman	BS-01	17/1/2005
90	Mati Ullah	Rodman	BS-01	17/1/2005
91	Aslam Jan	Rodman	BS-01	1/6/2005
92	Anjad Ali	Rodman	BS-01	27/6/2005
93	Muhammad Islam	Rodman	BS-01	10/1/2005
94	Asif Raza	Rodman	BS-01	11/1/2005
95	Kashif Mehmood	Rodman	BS-01	16/6/2005
96	Khaista Jan	Rodman	BS-01	4/5/2005
97	Akbar Jan	Rodman	BS-01	4/1/2005
98	Ali Aqdas Abbas	Rodman	BS-01	2/1/2005
99	Muhammad Riaz	Rodman	BS-01	4/2/2005
100	M. Aslam Nawaz	Rodman	BS-01	4/2/2005
101	Naseer Khan	Rodman	BS-01	24/12/2004
102	Ravid Khan	Rodman	BS-01	17/9/2005
103	Ayaz Ali Shah	Rodman	BS-01	24/1/2005
104	Islam Badshah	Rodman	BS-01	1/1/2005
105	Khan Laiq	Rodman	BS-01	1/1/2005
106	Ayub Rehman	Rodman	BS-01	1/1/2005
107	Ghulam Sadique	Rodman	BS-01	1/1/2005
108	Anwar-ul-Haq	Rodman	BS-01	1/1/2005
109	Badar-e-Alam	Rodman	BS-01	1/12/2006
110	Muhammad Zarin	Rodman	BS-01	31/12/2004
111	Gul Paraz	Rodman	BS-01	1/12/2006
112	Abid Ali	Rodman	BS-01	1/12/2006
113	Muhammad Ayub Khan	Rodman	BS-01	30/9/2005
114	Inayat Ullah	Rodman	BS-01	21/11/2005
115	Rehmat Ullah	Rodman	BS-01	29/11/2005
116	Ghulam Abbas	Rodman	BS-01	24/3/2006
117	Sajidullah	Chowkidar	BS-01	15/7/2005

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Endst. of even No. & Date.

Copy forwarded for information and necessary action to:-

1. Registrar, Hon'ble Supreme Court of Pakistan.
2. Registrar Hon' able Peshawar High Court, Peshawar.
3. The Director General, On Farm Water Management, Khyber Pakhtunkhwa, Peshawar.
4. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
5. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
6. The PS to Chief Secretary, Khyber Pakhtunkhwa.
7. The Budget Officer, Government of Khyber Pakhtunkhwa Finance Department w/r to his letter No.BOVII/FD/2-3/SNE/2012-13 dated 18.10.2012.
8. All District/Agency Accounts Officers in Khyber Pakhtunkhwa.
9. The Manager, Government Printing Press, Peshawar.
10. The Chief Planning Officer, Planning Cell, Agriculture Department.
11. Officers/Officials Concerned.
12. PS to Minister Agriculture, Khyber Pakhtunkhwa, Peshawar.
13. PS to Secretary to Government of Khyber Pakhtunkhwa, Establishment Department.
14. PS to Secretary Agriculture, Live Stock and Cooperative Department.
15. PS to Secretary to Government of Khyber Pakhtunkhwa, Law, Parliamentary Affairs and Human Rights Department.
16. Master file.

(DR. MIR AHMAD KHAN)  
SECTION OFFICER ESTABLISHMENT

5



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

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Appeal No. 1326/17

Date of Institution ... 28.11.2017

Date of Decision ... 06.04.2018



Mr. Qayum Khan, Water Management Officer,  
Office of District Director On Farm Water Management, District Peshawar.  
... (Appellant)

VERSUS

1. The Govt: of Khyber Pakhtunkhwa through Chief Secretary Khyber  
Pakhtunkhwa, Peshawar and 14 others. ... (Respondents)

MR. MUHAMMAD ASIF YOUSAFZAI, ... For appellant.  
Advocate

MR. MUHAMMAD RIAZ PAINDAKHEL, ... For official respondents  
Assistant Advocate General

MR. BILAL AHMAD KAKAZAI, ... For private respondent no. 6  
Advocate to 11 and 13 to 15.

Appeal No. 842/2017

Date of Institution ... 28.07.2017

Date of Decision ... 06.04.2018

Mr. Rafiq ur Rehman S/O Kashmir Khan, Water Management Officer,  
Office of District Director On Farm Water Management, District Swat.  
... (Appellant)

VERSUS

2. The Chief Secretary to Govt: of Khyber Pakhtunkhwa Peshawar and 22  
others. ... (Respondents)


MR. MUHAMMAD AYUB KHAN SHINWARI, ... For appellant.  
Advocate

MR. MUHAMMAD RIAZ PAINDAKHEL, ... For official respondents  
Assistant Advocate General

MR. MUHAMMAD ASIF YOUSAFZAI, ... For private respondent  
Advocate no. 10, 12, 14 and 18.

MR. BILAL AHMAD KAKAZIA,

**ATTESTED**

  
Attesting Officer  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Advocate

For private respondents  
no.7,8,9 and 22MR. AHMAD HASSAN,  
MR. MUHAMMAD HAMID MUGHAL--- MEMBER(Executive)  
--- MEMBER(Judicial)JUDGMENTAHMAD HASSAN, MEMBER.-

This judgment shall dispose of the instant service appeal, as well as connected service appeal no. 1327/2017 titled Mr. Abdullah Khan and no. 843/17 titled Mr. Faisal Younas as similar question of law and facts are involved therein.

2. Arguments of the learned counsel for the parties heard and record perused.

FACTS

3. The brief facts are that the appellant has impugned seniority list dated 02.03.2017, which allegedly was not circulated amongst the affected officials. They got knowledge of the list in August, 2017. The appellant has been shown junior to the respondents no. 6 to 15. Feeling aggrieved he filed departmental appeal on 24.08.2017, which was not responded within the stipulated period, hence, the instant service appeal.

ARGUMENTS

4. Learned counsel for the appellants (Qayum Khan and Abdullah Khan) argued that after fulfillment of coeal formalities he was appointed as Water Management Officer (BPS-17) on contract basis in the Agriculture Department on 24.11.2004. That in 2006 a summary was moved to the Chief Minister, Khyber Pakhtunkhwa for creation of 302 regular posts so as to regularize/adjust employees working in various projects which was approved by the competent authority. Through order dated 31.07.2007 and 03.09.2007 some project employees were regularized, while remaining posts were left vacant. Feeling aggrieved the appellant and others filed writ petition in Peshawar High Court for regularization of their services which was allowed vide judgment dated 22.12.2008. An appeal was filed against the said judgment in the Supreme Court of Pakistan, which was

dismissed on 1.03.2011. That services of the appellant were regularized vide order dated 07.06.2011 from the date of initial appointment i.e 24.11.2004. Subsequently, 28 project employees filed Writ Petition before Peshawar High Court for regularization of their services which was allowed vide judgment dated 15.9.2011. Again the aforementioned judgment assailed before the Supreme Court of Pakistan was dismissed on 22.03.2012. The official respondents were directed to regularize the services of the appellant and others in the light of Amendment Act 2005 and Khyber Pakhtunkhwa Employees (Regularization of Services) Act 2009. Due to non-availability of posts they were sent to the surplus pool vide order dated 10.01.2013, while their services were regularized vide order dated 03.07.2013 but they were kept in the surplus pool. Eleven employees belonging to the group of 28 Water Management Officers, who were placed in the surplus pool filed 2<sup>nd</sup> writ petition in the Peshawar High Court challenging the seniority of the appellant and 15 other colleagues, who were regularized vide order dated 07.06.2011. The Peshawar High Court vide judgment dated 22.09.2012 gave a roadmap to the respondents for finalizing the issue. The respondent-department through civil petition challenged the judgment of Peshawar High Court dated 22.09.2012 in the Supreme Court of Pakistan and vide judgment dated 13.06.2013 certain directions were given to the respondents. The larger bench of Supreme Court of Pakistan in civil petition no. 134-PTO-38-P/13 reopened all the court cases decided by the High Court as well as Supreme Court of Pakistan and rendered an all encompassing judgment on 24.02.2016. The August Supreme Court of Pakistan held that the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2009 clearly provided for the regularization of employees. The non-obstante clause in Section 4-A of 2009 Act expressly excludes the application of any other law and declares that the provision of this Act will have overriding effect being a special enactment. The cases of the respondents squarely fall within the ambit of the act and their services were required to be regularized under the provisions of the Regularization Act 2009. The On Farm Water Management Project was brought on regular side in 2006 and the respondents were in service for several years and the project in which they were appointed had also been taken on regular budget of the provincial government. Therefore their status as project

ATTESTED  
 EXAMINED  
 Khyber Pakhtunkhwa  
 Revenue Tribunal

employees has ended once their services were regularized in terms of Section-3 of 2009. Act. That the government of Khyber Pakhtunkhwa was also obliged to treat the respondents at par as it cannot adopt a policy of cherry picking to regularize the employees of certain projects, while terminating the services of the similarly placed employees. The respondents issued impugned seniority list dated 02.03.2017 which was never circulated amongst the employees and they got knowledge of the same in August 2017. That they filed departmental appeal on 24.08.2017 which was not responded within stipulated period, hence, the instant service appeal. It was not prepared according to the spirit of the judgment of Supreme Court of Pakistan dated 24.02.2016. The Act of 2005 is basically an amendment in Section-19 of the civil servant Act 1973 which deals with pay and not regularization/seniority of employees. The question of seniority was decided in the Act of 2009. Section 4-A of the said Act gives overriding effect being special enactment so the respondents were required to resolve the issue of seniority in accordance with the provisions of this Act. Furthermore the aforementioned Act provides that if the date of continuous officiating appointment is the same in case of two or more employees, the employee older in age shall rank senior to the younger one. As the dates of appointment of the appellant and respondent no.6 to 15 are same i.e being older in age so they should be considered senior to those who are younger in age.

5. On the other hand learned counsel for private respondents no. 6 to 11 and 13 to 15 argued that the appellant and answering respondents were appointed in a project in 2004 in two different cadres i.e. Engineering cadre and Agriculture cadre. The appellant belongs to Engineering cadre, while respondents no. 7 to 11 belong to Agriculture cadre having different qualification. Judgment of the Supreme Court of Pakistan dated 24.02.2016 through which all pending appeals were dismissed but judgment of Peshawar High Court dated 22.09.211 was upheld. The impugned seniority list was issued in accordance with law and rules and judgment of Peshawar High Court and Supreme Court of Pakistan. Answering respondents were regularized under the Act of 2005 and as such the Act of

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2009 was not applicable to them. The relevant rules provide that seniority shall be assigned to a civil servant on the basis of merit and regular officiation in the service/ cadre.

6. Counsel for appellants, Mr. Rafiq-ur-Rehman and Mr. Faisal Younas argued that after qualifying test and interview and by securing 91.5 marks, he was appointed as WMO Agriculture on 24.11.2004. After promulgation of Khyber Pakhtunkhwa Civil Servants (Amendment) Act, 2005 through which the services of all contract employees were regularized but the same benefits were denied to the appellant, so he filed writ petition in Peshawar High Court for regularization of his services. The Peshawar High Court vide judgment dated 15.9.2011 directed the respondents to regularize his services along with others. This judgment was assailed in appeal before the Supreme Court of Pakistan, which was dismissed on 22.03.2011 and judgment of the Peshawar High Court was upheld. Later on further petitions were filed in the Supreme Court of Pakistan, which were dismissed on 24.02.2016. In pursuance of Section-19(2) of the Khyber Pakhtunkhwa Civil Servants (Amendment) Act 2005 his services were regularized on 03.07.2013. The department issued impugned seniority list dated 02.03.2017, wherein the appellant has been shown junior to respondents no. 5 to 23 in violation of Rule-17 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1989. The appellant stood 2<sup>nd</sup> in the merit list, whereas respondent no. 5 to 19 were below in the merit list as they had secured less marks. Moreover, respondents no. 20 to 23 were promoted after appointment of the appellant. He filed departmental appeal on 31.03.2017, which was not responded within the stipulated period, hence, the instant service appeal.

7. Learned Assistant Advocate General relied on para-4 of the para-wise comments submitted by the official respondents.

### CONCLUSION


8. The present controversy for determination of seniority of Water Management Officers dates back to 2006, when upon approval of the Chief Minister, Khyber Pakhtunkhwa 302 regular vacancies were created in On Farm Water Management Department w.e.f 01.07.2007. It was also decided that eligible contract employees working

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against these posts would be regularized, according to invogue rules. Subsequently, services of certain project employees were regularized, while other posts were left vacant. That Services of sixteen Water Management Officers, who were initially appointed in NPIW project on contract basis on 24.11.2004 (at S.no. 7 to 22) of the impugned seniority list were regularized on 07.06.2011. It was done in pursuance of judgment dated 01.03.2011 of the Supreme Court of Pakistan rendered in Civil Appeal no. 834-837/10. Thereafter 28 WMOs, who were initially appointed in NPIW Project on contract basis on 24.11.2004 were also regularized through judgment of the Supreme Court of Pakistan dated 22.03.2012. As regular vacant posts were not available in the department so they were placed in the surplus pool of Secretary Agriculture. That their services were regularized vide notification dated 03.07.2013 under the Act of 2005 and 2009 but they continued to remain in surplus pool. That on 18.11.2013 three officers were posted/adjusted from the surplus pool to the On Farm Water Management Project. Eleven petitioners belonging to the batch of 28 Water Management Officers challenged the seniority position by filing 2<sup>nd</sup> Writ Petition no. 2170/2011 in Peshawar High Court. It was prayed that some of the WMOs regularized through order dated 07.06.2011 were junior to them on the merit list. The department informed the High Court that being project employees their names were not borne on any seniority list. The Peshawar High Court vide judgment dated 22.09.2012 directed the respondents to deal with the issue in accordance with law and rules. The department filed Civil Petition no. 572-P/11 in the Supreme Court of Pakistan against the aforementioned judgment of Peshawar High Court. The Supreme Court of Pakistan in its order dated 13.06.2013 referred the matter to the Chief Justice of Pakistan for constituting a larger bench. To fulfill legal requirement officers/officials involved in court cases were made party and notices were issued to them on 11.07.2013. The larger bench of Supreme Court of Pakistan decided the issue vide judgment dated 24.02.2016. This judgment have laid down certain parameters for resolving the issue of seniority. Section-3 of Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2009 provides that:

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*"3. Regularization of Services of certain employees.—All employees including recommendees of the High Court appointed on contract or adhoc basis and holding that post on 31.12.2008, or till the commencement of this Act shall be deemed to have been validly appointed on regular basis having the same qualification and experience."*

It is established beyond doubt that the appellant/respondents were holding posts on contract basis on the cutoff date i.e 31.12.2008. Moreover, Section-4 contains a non-obstante clause:-

*"4A. Overriding effect—Notwithstanding anything to the contrary contained in any other law or rules for the time being in force, the provisions of this Act shall have an overriding effect and the provisions of any such law or rule to the extent of inconsistency to this Act shall cease to have effect."*

As rightly observed by the Supreme Court of Pakistan in para-29 of the judgment the cases of respondents squarely fall within the ambit of the Act 2009 and their services were mandated to be regulated by the provisions of the said Act. The posts against which they were working on contract post for several years were later on regularized and as such they were no more project employees. Similarly Section-4 lays down criteria for determination of seniority of employees which is reproduced below:-

*(1) The employees whose services are regularized under this Act or in the process of attaining service at the commencement of this Act shall rank junior to all civil servants belonging to the same service or cadre, as the case may be, who are in service on regular basis on the commencement of this Act, and shall also rank junior to such other persons, if any, who, in pursuance of the recommendation of the commission made before the commencement of this Act, are to be appointed to the respective service or cadre, irrespective of their actual date of appointment.*

*(2) The seniority interse of the employees, whose services are regularized under this Act within the same service or cadre, shall be determined on the basis of their continuous officiation in such service or cadre: Provided that if the date of continuous officiation in the case of two or more employees is the same, the employee older in age shall rank senior to the younger on.*

The respondents have not firmed up the impugned seniority list dated 02.03.2017 in accordance with the judgment of the Supreme Court of Pakistan dated 24.02.2016.

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Lower**

and provisions of Act 2009 Act, which is illegal and unlawful in the eyes of-law.  
The seniority list is not maintainable in its present forum.

9. As a sequel to the above discussion, the impugned seniority list is set aside.  
The respondent-department is directed to prepare revised seniority list in accordance  
with the judgment of Larger Bench of Supreme Court of Pakistan dated 24.02.2016  
and in the light of Seciton-4 of the Khyber Pakhtunkhwa Employees (Regularization  
of Service) Act, 2009. The present appeals are disposed of in the above terms.  
Parties are left to bear their own costs. File be consigned to the record room.

*Sd/- Ahmad Hassan Akbar*  
*Sd/- M. Hamid Nigal, Akbar*

(MUHAI)

Certified to be true copy

*[Signature]*  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

ANNOUNCED  
06.04.2018

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**SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

Mr. Justice Gulzar Ahmed, CJ  
Mr. Justice Ijaz ul Ahsan  
Mr. Justice Sayyed Mazahar Ali Akbar Naqvi

**CIVIL APPEALS NO.1168 TO 1173 OF 2019**

[Against the judgment dated 06.04.2018, passed by the Khyber Pakhtunkhwa Service Tribunal, Peshawar in Appeals No.842, 843 and 1326-1327 of 2017]

- CA.1168 of 2019**     *Rafiq ur Rehman Vs. Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar and others*
- CA.1169 of 2019**     *Faisal Yunas Khan Vs. Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar and others*
- CA.1170 of 2019**     *Wajid Ali and others Vs. Qayum Khan and others*
- CA.1171 of 2019**     *Farmanullah Khan and others Vs. Faisal Yunas Khan and others*
- CA.1172 of 2019**     *Wajid Ali and others Vs. Abdullah Khan and others*
- CA.1173 of 2019**     *Farmanullah Khan and others Vs. Rafiq-ur-Rehman and others*

For the Appellant(s)                     : Mr. Mudassar Khalid Abbasi, ASC  
(in CAs No.1168-1169)

For the Appellant (s)                     : Mr. Abdul Rahim Bhatti, ASC  
(in CAs No.1170-1173)                     Syed Rifaqat Hussain Shah, AOR

For Respondent No.8                     : Mr. Zulfiqar Khalid Maluka, ASC  
(in CA No.1168)

For Respondents                             : Mr. Muhammad Asif  
No.10,12,14,16 and 19                     Yousafzai, ASC  
(in CA No.1168)

For Government of KP                     : Mr. Zahid Yousaf Qureshi,  
(in all cases)                                 Additional Advocate General, KP

ATTESTED

Senior Court Associate  
Supreme Court of Pakistan  
Islamabad

Other Respondent(s) : Nemo.  
(in remaining CAs)

Date of Hearing : 01.07.2021

**ORDER**

**GULZAR AHMED, CJ.-** Learned counsel for the appellants states that the impugned judgment is based upon the judgment of this Court dated 24.02.2016, passed in Civil Appeal No.135-P of 2013, in respect of which Review Petition No.302 of 2016 has been filed and is pending adjudication before this Court. He further, states that the appeals may be disposed of with the observation that in case the judgment of this Court is reviewed, the appellants will have chance to resurrect these appeals by making of an appropriate application. Order accordingly.

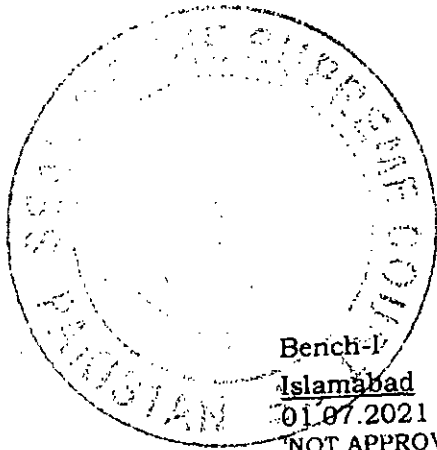
Sd/-HCJ

Sd/-J

Sd/-J

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Section 3, Associate  
Supreme Court of Pakistan  
Islamabad



Bench-1/  
Islamabad  
01.07.2021

**NOT APPROVED FOR REPORTING**  
Rabbani/\*

4758/21  
GR No. \_\_\_\_\_  
Date of \_\_\_\_\_ 10.7.21  
No. of \_\_\_\_\_  
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Date of \_\_\_\_\_ 14/7/21  
Date of Dec. \_\_\_\_\_ 23/8/2021  
Compar. \_\_\_\_\_  
Received by \_\_\_\_\_



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GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
AGRICULTURE LIVESTOCK FISHERIES & COOPERATIVE DEPARTMENT  
Dated Peshawar the 14<sup>th</sup> February, 2022

**NOTIFICATION**

**No. SOE(AD)3(2)291/Seniority/BS-17/OFWM/22: 222**

In pursuance of Section, 8(I) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with rule, 17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, Final Seniority List of Assistant Directors / Water Management Officers (BS-17) of On Farm Water Management wing of Agriculture Department as stood on 09.11.2021 is notified / circulated.

S.No	Name of officer / Official with academic qualification	Date of Birth and domicile	Date of 1st entry into Govt. Service	Regular appointment/promotion to the present post			Present appointment	Remarks
				Date	BPS	Methods of recruitment appointment		
1	2	3	4	5	6	7	8	9
1	Zahid Khaleeq B.Sc. Agriculture Engineering	01/05/1970 Bannu	24/11/2004	24/11/2004	17	By Initial Recruitment	Water Management Officer (BS-17) o/o the District Director On Farm Water Management Charsadda	-
2	Amir Hussain M.Sc (Hons) Agriculture (Water Management)	10/08/1970 Peshawar	24-11-2004	24/11/2004	17	By Initial Recruitment	Water Management Officer (BS-17) o/o the District Director On Farm Water Management Swat	-
3	Said Muhammad M.Sc. Agriculture Engineering	02/10/1970 Peshawar	24/11/2004	24/11/2004	17	By Initial Recruitment	Water Management Officer (BS-17) o/o the District Officer On Farm Water Management Nowshera	-

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4	Wajid Ali M.Sc.(Hons) Agriculture (Agronomy/R.D)	15/02/1971 Nowshera	24/11/2004	24/11/2004	17	By Initial Recruitment	Deputy Director Field Operation (BS-18) o/o the Director General On Farm Water Management Khyber Pakhtunkhwa Peshawar (in his own pay & scale)	-
5	Muhammad Idrees B.Sc Agriculture Engineering	01/07/1971 Dir Lower	24/11/2004	24/11/2004	17	By Initial Recruitment	District Officer On Farm Water Management Khyber (in his own pay & scale)	-
6	Muner Ahmad B.Sc Agriculture Engineering	10/02/1972 D.I.Khan	24/11/2004	24/11/2004	17	By Initial Recruitment	On deputation to Gomal zam Dam Command Area Development Project as M&E Officer (BS-18) (in his own pay & scale)	-
7	Waseemullah B.Sc Agriculture Engineering	10/05/1972 Bannu	24/11/2004	24/11/2004	17	By Initial Recruitment	Water Management Officer (BS-17) o/o the the District Officer On Farm Water Management Bannu	-
8	Atta-ul-Haq M.Sc.(Hons) Agriculture (Agronomy)	01/09/1972 Nowshera	24/11/2004	24/11/2004	17	By Initial Recruitment	Water Management Officer (BS-17) o/o the District Officer On Farm Water Management Nowshera	-
9	Muhammad Farooq B.Sc Agriculture Engineering	01/09/1972 Swabi	24/11/2004	24/11/2004	17	By Initial Recruitment	Water Management Officer (BS-17) o/o the Director PIO PHLCEP Project Swabi On deputation basis.	-
10	Saeed Shah B.Sc Agriculture Engineering	03/03/1973 Mardan	24/11/2004	24/11/2004	17	By Initial Recruitment	Water Management Officer (BS-17) o/o the the District Director On Farm Water Management Mardan	-

11	Mujeeb-ur-Rehman M.Sc.(Hons) Agriculture (Horticulture)	12/03/1973 D.I.Khan	24/11/2004	24/11/2004	17	By Initial Recruitment	District Officer (BS-18) On Farm Water Management Tank (in his own pay & scale)	-
12	Aman Khan B.Sc Agriculture Engineering	14/10/1973 Buner	24/11/2004	24/11/2004	17	By Initial Recruitment	Water Management Officer (BS-17) o/o the the District Officer On Farm Water Management Buner Look after Charge) DO BUNER	-
13	Ghulam Bilal B.Sc. Agriculture Engineering	05/01/1974 D.I.Khan	24/11/2004	24/11/2004	17	By Initial Recruitment	Water Management Officer (BS-17) o/o the District Director On Farm Water Management DIKhan	-
14	Muhammad Tufail B.Sc Agriculture Engineering	01/04/1974 Karak	24/11/2004	24/11/2004	17	By initial recruitment	District Officer (BS-18) On Farm Water Management Karak (in his own pay & scale)	-
15	Qaish Ahmad B.Sc Agriculture Engineering	29/04/1974 Swabi	24/11/2004	24/11/2004	17	By initial recruitment	Water Management Officer (BS-17) o/o the District Officer On Farm Water Management Swabi	-
16	Rafiq-ur-Rehman M.Sc (Hons) Agriculture (Soil sciences)	15/07/1974 Charsadda	24/11/2004	24/11/2004	17	By initial recruitment	District Officer (BS-18) On Farm Water Management Dir Upper (in his own pay & scale)	-
17	Mr. Aftab Ahmad B.Sc. Agriculture Engineering	15/09/1974 D.I.Khan	24/11/2004	24/11/2004	17	Initial Recruitment	Water Management Officer (BS- 17)o/o the District Director On Farm Water Management D.I.Khan	-

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18	Nisar Ahmad B.Sc Agriculture Engineering	21/09/1974 D.I. Khan	24/11/2004	24/11/2004	17	By initial recruitment	On deputation to Gomal zam Dam Command Area Development Project as Component Leader (BS- 18) (in his own pay & scale)	-
19	Muhammad Nadeem B.Sc. Agriculture Engineering	20/02/1975 D.I.Khan	24/11/2004	24/11/2004	17	By initial recruitment	District Officer (BS-18) On Farm Water Management South Waziristan (in his own pay & scale)	-
20	Muhammad Shoaib M.Sc.(Hons) Agriculture	15/06/1975 Battagram	24/11/2004	24/11/2004	17	By initial recruitment	Water Management Officer (BS-17) o/o the District Officer On Farm Water Management Abbottabad	-
21	Ihsanullah Khan B.Sc. Agriculture Engineering	12/08/1975 Bannu	24/11/2004	24/11/2004	17	By initial recruitment	District Officer (BS-18) On Farm Water Management Kurrum (in his own pay & scale)	-
22	Faisal Younis Khan M.Sc (Hons) Agriculture (Extension)	13/09/1975 Haripur	24/11/2004	24/11/2004	17	By initial recruitment	District Officer (BS-18) On Farm Water Management Battagram (in his own pay & scale)	-
23	Javed Akhtar M.Sc (Hons) Agriculture	01/01/1976 Battagram	24/11/2004	24/11/2004	17	By initial recruitment	Water Management Officer (BS-17) o/o the District Officer On Farm Water Management Torghar	-



24	Amjad Ali B.Sc Agriculture Engineering	02/03/1976 Malakand	24/11/2004	24/11/2004	17	By initial recruitment	Water Management Officer (BS-17) o/o the District Officer On Farm Water Management Malakand
25	Atta Ullah B.Sc Agriculture Engineering	10/04/1976 Shangla	24/11/2004	24/11/2004	17	By initial recruitment	Water Management Officer (BS-17) o/o the District Director On Farm Water Management Swat
26	Khan Daraz M.Sc (Hons) Agriculture (Rural Development)	10/04/1976 Mardan	24/11/2004	24/11/2004	17	By initial recruitment	Water Management Officer (BS-17) o/o the District Director On Farm Water Management Mardan
27	Shaheen Iqbal M.Sc Agriculture Engineering	12/04/1976 Charsadda	24/11/2004	24/11/2004	17	By initial recruitment	Water Management Officer (BS-17) o/o the District Director On Farm Water Management Peshawar
28	Qazi Shifa-ur-Rehman M.Sc (Hons) Agriculture	06/06/1976 Bannu	24/11/2004	24/11/2004	17	Initial Recruitment	Assistant Director Planning (BS-17) o/o the the Director General On Farm Water Management Khyber Pakhtunkhwa Peshawar
29	Fazal Sattar B.Sc Agriculture Engineering	30/11/1976 Dir Upper	24/11/2004	24/11/2004	17	Initial Recruitment	Water Management Officer (BS-17) o/o the the District Officer On Farm Water Management Dir Upper
30	Tahir Khan B.Sc Agriculture Engineering	1/1/1977 Shangla	24/11/2004	24/11/2004	17	Initial Recruitment	District Officer (BS-18) On Farm Water Management Shangla (in his own pay & scale)

31	Muhammad Shahid Nawaz M.Sc.(Hons) Agriculture (Soil Sciences)	2/3/1977 D.I.Khan	24/11/2004	24/11/2004	17	Initial Recruitment	Water Management Officer (BS-17) o/o the District Officer On Farm Water Management Tank	-
32	Asma Ahmad M.Sc (Hons) Agriculture (Entomology)	12/09/1977 Charsadda	24/11/2004	24/11/2004	17	Initial Recruitment	Water Management Officer (BS-17) o/o the the Director Merged Area Khyber Pakhtunkhwa, Peshawar	-
33	Wakil Khan M.Sc.(Hons) Agriculture (Agronomy)	01/03/1978 Lakki Marwat	24/11/2004	24/11/2004	17	Initial Recruitment	District Officer (BS-18) On Farm Water Management Mohmand (in his own pay & scale)	-
34	Sadia Rahman M.Sc (Hons) Agriculture	03/02/1979 Peshawar	24/11/2004	24/11/2004	17	Initial Recruitment	Water Management Officer (BS-17) o/o the the District Officer On Farm Water Management Khyber	-
35	Zia-ul-Haq B.Sc Agriculture Engineering	10/03/1979 Dir Lower	24/11/2004	24/11/2004	17	Initial Recruitment	Water Management Officer (BS-17) o/o the the District Officer On Farm Water Management Dir Lower	-
36	Mohammad Yaseen B.Sc Agriculture Engineering	19/04/1963 Karak	04/02/2005	04/02/2005	17	Initial Recruitment	District Officer (BS-18) On Farm Water Management Orakzai (in his own pay & scale)	-
37	Fazal Hussain B.Sc Agri: Engineering	15/01/1975 Dir Lower	04/02/2005	04/02/2005	17	Initial Recruitment	Water Management Officer (BS-17) o/o the the District Officer On Farm Water Management Chitral	-



38	Mehreen Ghous M.Sc (Hons) Agriculture	03/01/1977 Swabi	04/02/2005	04/02/2005	17	Initial Recruitment	Assistant Director Field Operation (BS-17) o/o the the Director General On Farm Water Management Khyber Pakhtunkhwa Pesahwar
39	Noman Adil B.Sc Agri: Engineering	18/02/1978 Peshawar	04/02/2005	04/02/2005	17	Initial Recruitment	Water Management Officer (BS-17) o/o the District Director On Farm Water Management Charsadda
40	Ahmad Saeed M.Sc (Hons) Agriculture	15/04/1979 Mansehra	03/03/2005	03/03/2005	17	Initial Recruitment	Water Management Officer (BS-17) o/o the District Director On Farm Water Management Haripur.
41	Gulzari Lal B.Sc Agriculture Engineering	27/12/1970 Buner	12/03/2007	12/03/2007	17	initial recruitment	Water Management Officer (BS-17) o/o the District Officer On Farm Water Management Swabi
42	Aleem-ur-Rehman DAE in Civil Technology	Dikhan 02/03/1962	11/21/1982 Sub Engineer	22/01/2019	17	By Promotion	Water Management Officer (BS-17) o/o the District Director On Farm Water Management Mansehra
43	Khalid Khan DAE in Mechanical Technology	Bannu 02/01/1962	01/04/1984 Sub Engineer	16/07/2021	17	By Promotion	Water Management Officer (BS-17) o/o the District Director On Farm Water Management Lakk Marwat

44	Azmat Ali Shah DAE in Civil Technology	Bannu 14/01/1963	01/04/1984 Sub Engineer	16/07/2021	17	By Promotion	Water Management Officer (BS-17) o/o the District Director On Farm Water Management Peshawar
45	Fazal Muhammad DAE in Civil Technology	Nowshera 06/04/1963	07/04/1984 Sub Engineer	16/07/2021	17	By Promotion	Water Management Officer (BS-17) o/o the District Officer On Farm Water Management Kohat
46	Hussain Gul DAE in Mechanical Technology	Nowshera 01/08/1963	01/08/1984 Sub Engineer	16/07/2021	17	By Promotion	Water Management Officer (BS-17) o/o the District Director On Farm Water Management Haripur

Certified that that Seniority List is circulated, undisputed & final.

**Endst. of Even No. & Date:**

Copy forwarded to the:

- i. Director General, On Farm Water Management, Khyber Pakhtunkhwa, Peshawar.
- ii. P.S to Chief Secretary Khyber Pakhtunkhwa, Peshawar.
- iii. P.S to Secretary Establishment Khyber Pakhtunkhwa, Peshawar.
- iv. P.S to Secretary Agriculture, Livestock, Fisheries & Cooperative Department Khyber Pakhtunkhwa, Peshawar.
- v. Officers Concerned.
- vi. Manager Government Printing Press, Peshawar.
- vii. Master File.

SD/-  
SECRETARY ESTABLISHMENT

SECTION OFFICER-ESTT: