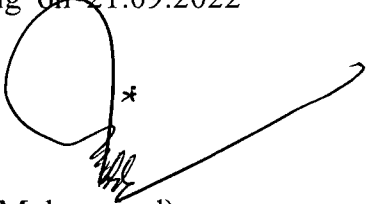


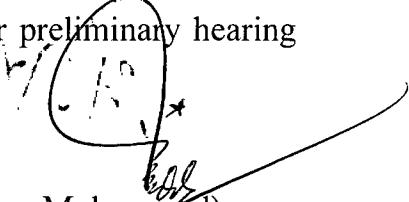
19.07.2022

Learned counsel for the appellant present and requested for adjournment on the ground that he has not prepared the brief. Adjourned. To come up for preliminary hearing on 21.09.2022 before S.B.


(Mian Muhammad)
Member (E)

21.09.2022

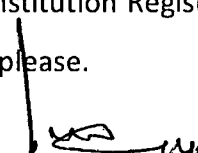


Learned counsel for the appellant present and requested for adjournment on the ground to further prepare the brief. Adjourned. To come up for preliminary hearing on 21.10.2022 before S.B.


(Mian Muhammad)
Member (E)

Form-A
FORM OF ORDER SHEET

Court of _____

Case No. 797/2022

| S.No. | Date of order Proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|--|
| 1 | 2 | 3 |
| 1 | 16/05/2022 | <p>The present appellant initially went in Writ Petition before the Hon'ble Peshawar High Court Peshawar and the Hon'ble High Court vide its order dated 26.04.2022 treated the Writ Petition into an appeal and sent the same to this Tribunal for decision in accordance with law. The same may be entered in the Institution Register and put up to the worthy Chairman for further order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put up there on <u>26-5-22</u>. Notices shall be issued to appellants and his counsel for the date fixed.</p> <p style="text-align: right;"> CHAIRMAN</p> |
| 2- | 23/5/22 | |
| | 26.05.2022 | <p>Clerk to counsel for the appellant present and requested for adjournment on the ground that learned counsel for the appellant is not available today. Adjourned. To come up for preliminary hearing on 19.07.2022 before S.B.</p> <p style="text-align: right;"> (Mian Muhammad) Member (E)</p> |



The
PESHAWAR HIGH COURT
Peshawar

Ph: No. 091-9210149-58




No. 52215 (1)/1182/2022/WP-MN

Dated. 13-May-2022

From

**Deputy Registrar (J),
Peshawar High Court,
Peshawar.**

To


The Khyber Pakhtunkhwa Service Tribunal, Peshawar.

Subject: Writ Petitions W.P 1828/2018 Title: Attaullah Shah VS Allama Iqbal Open University

Memo,

I am directed to send herewith the titled case in original alongwith all annexures and copy of order of this Honble Court dated 26.04.2022 for compliance.




Deputy Registrar (J)

Encl: As above.



PESHAWAR HIGH COURT, PESHAWAR.

FORM 'A'
FORM OF ORDER SHEET

| Date of order. | Order or other proceedings with the order of the Judge |
|----------------|--|
| 26.04.2022 | <p><u>W.P.No.1828-P of 2018.</u></p> <p>Present: Mr.Hassan Nasir, advocate for the petitioner.</p> <p>Mr.Muhammad Arshad Yousafzai, advocate for the respondent No.1.</p> <p>Mr.Arshad Ali Nowsheravi, AAG for the Federation.</p> <p>Mr.Khaled Rehman, AAG for the Provincial Government.</p> <p>-----</p> <p><u>LAL JAN KHATTAK, J.-</u> As the matter pertains to terms and conditions of service of the petitioner over which this court has no jurisdiction per Article 212 of the Constitution of Islamic Republic of Pakistan, 1973, therefore, we send the instant petition to the Khyber Pakhtunkhwa Service Tribunal, Peshawar for adjudication in accordance with law.</p> <p style="text-align: right;"> JUDGE</p> <p style="text-align: right;"> JUDGE</p> |

IN THE PESHAWAR HIGH COURT, PESHAWAR.

OBJECTION SLIP

No: 9526

Attaullah Shah V/S Allama Iqbal Open University

9 Copies of annexure Page no 10, 11, 12, 25, 31, 37, 38 are not legible/attested

as well as

7.
[Signature]
READER

Returned with above mentioned objections for removal to be re-submitted on or before

15/04/2018

[Signature]
Deputy Registrar
Peshawar High Court, Peshawa

Respected Sir,

Resubmitted after compliance.

[Signature]
Aad Jan Durranj
Advocate

Before the Peshawar High Court Peshawar

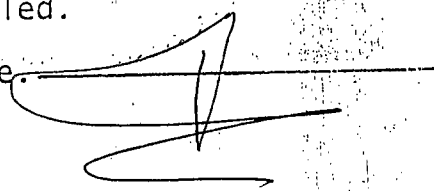
CHECK LIST.

| | | | |
|---|---|-----|----|
| Case Title: <u>Attullah shahVersus..... Fed Veatior of Pakistan</u> | | | |
| 1. | Case is duly signed. | YES | NO |
| 2. | The law under which the case is preferred has been mentioned. | YES | NO |
| 3. | Approved file cover is used. | YES | NO |
| 4. | Affidavit is duly attested and appended. | YES | NO |
| 5. | Case and annexure are properly paged/ numbered according to index. | YES | NO |
| 6. | Copies of annexure are legible and attested. If not, then better copies duly attested have been annexed. | YES | NO |
| 7. | Certified copies of all the requisite documents have been filed. | YES | NO |
| 8. | Certificate specifying that no case on similar grounds was earlier submitted in this court, filed. | YES | NO |
| 9. | Case is within time. | YES | NO |
| 10. | The value for the purpose of court fee and jurisdiction has been mentioned in the relevant column. | YES | NO |
| 11. | Court fee in shape of stamp paper is affixed. (for writ Rs.500, for other was required). | YES | NO |
| 12. | Power of attorney is in proper form. | YES | NO |
| 13. | Memo of addresses filed. | YES | NO |
| 14. | List of books mentioned in the petition. | YES | NO |
| 15. | The requisite number of spare copied attached. (writ Petition-3 Nos, Civil Appeal (SB-1, DB-2) Civil Revision (SB-1, DB-2). | YES | NO |
| 16. | Case (Revision/appeal/petition etc.) is filed on the prescribed form. | YES | NO |
| 17. | Power of attorney is attested by jail authority (for jail prisoner only). | YES | NO |

It is certified that formalities/documents as requires in column 2 to 18 above, have been fulfilled.

Received file copy

Signature _____



Advocate Peshawar.

Date: 27/04/2018

For office use only

Case No. 3167/2018

Case received. 31/4/18

Complete in all respects; Yes/No (if No the grounds) _____

Date in court. _____

Signature _____

(Reader)

Countersigned _____

Date _____
(Deputy Registrar)

4

BEFORE THE HON'BLE PESHAWAR HIGH COURT,
PESHAWAR.

In Re W.P. 1228 P /2018

service appeal no. 797/2022

Attaullah Shah

VERSUS

Allama Iqbal Open University & Others

INDEX

| <i>S#</i> | <i>Description of Documents</i> | <i>Annexure</i> | <i>Pages</i> |
|-----------|--|-----------------|--------------|
| 1. | Writ Petition. | | 1-5 |
| 2. | Affidavit. | | 6 |
| 3. | Addresses of Parties. | | 7 |
| 4. | Copy of the Order dated: <u>31-07-99</u> | "A" | 8 |
| 5. | Copy of Letter dated: <u>17-09-99</u> | "B" | 9 |
| 6. | Copies of the Order dated: <u>20-09-2001</u> | "C" | 10 |
| 7. | Copies of the Relevant Documents | "D" | 11-38 |
| 8. | Court Fee & Notice | | |
| 9. | Wakalat Nama | | |

Dated: 01/03/2018

PETITIONER

Through

Asad Jan Durrani
Advocate, High Court
Peshawar.

FILED TODAY
Deputy Registrar

03 APR 2018

SC. FILED

RE-FILED TODAY

Deputy Registrar

09 APR 2018

IN THE PESHAWAR HIGH COURT, PESHAWAR
OPENING SHEET FOR WRIT BRANCH

Date of Filing 01-03-2018

District: Peshawar.

Case Type: **Writ Petition**

Nature of Original Proceeding:

| | | | | | | |
|--|------------------|---|-------------|---|-----------------|--|
| Category Code at | 5 | 0 | 7 | 5 | 4 | (Categories & Sub categories are given The back of the opening sheet) |
| Review/ Contempt of Court in respect of: | | | | | | |
| Writ of: | Heabus Corpus | | Prohibition | | Mandamus | |
| | | | | | Quo Warranto | |
| | | | | | | Certiorari |

If Certiorari:

| Forum | Date | (I)nterlocutory/ (F)inal Order | Case Pertains to |
|-------|------|--------------------------------------|--|
| | | | <input type="checkbox"/> |
| | | | SB |
| | | | DB <input checked="" type="checkbox"/> |

| | |
|-----------------|--|
| Petitioner Name | Attaullah Shah |
| Mobile No. | |
| Address | H.no.65,St-1, Sector- G, Shiekh Maltoon Town, Mardan |
| CNIC No. | 61101-1888483-3 |
| Email Address | |

| | |
|------------------------------|--|
| Counsel for Petitioner(s) | Asad Jan Durrani |
| Mobile No. | 0312-9181592 |
| Address | D-10, Haroon Mension, Khyber Bazar, Peshawar |
| CNIC No. | 17101-9814891-5 |
| Email Address | <u>durraniasadjan@gmail.com</u> |

| | |
|-------------|-------------------------|
| Respondents | AIOU Islamabad & Others |
| Address | AIOU Islamabad & Others |

Original Order/Action/Inaction Complained of: Contract expired & not regularized in service.

Prayer To: *It is, therefore, most respectfully prayed that on acceptance of this Writ Petition, the acts of the Respondents may kindly be declared, illegal, unlawful authority, unwarranted, unconstitutional, null and void in the eyes of law, and also direct the Respondents to release the proportionate share of pension of the Petitioner.*

Law/Rules/governing the original proceedings/action/Inaction Constitution of Pakistan.

Signature

Note: Any suggestion to improve the proforma will be appreciated.

FILED TODAY
Deputy Registrar

07 APR 2018

①

BEFORE THE HONOURABLE PESHAWAR HIGH COURT,
PESHAWAR

Writ Petition No 18287 of 2018
Service Appeal No. 797/2022

1. Attaullah Shah S/O Amanullah Shah R/O H.no.65, St-1, Sector- G, Shiekh
Maltoon Town, Mardan(Petitioner)

VERSUS

1. Allama Iqbal Open University , through its Registrar , Islamabad
2. Federation of Pakistan , Ministry of Education , Islamabad
3. Government of Khyber Pukhtunkhwa through Chief Secretary , Peshawar
4. Secretary Communication & Works (C&W) Department Khyber
Pukhtunkhwa , Peshawar
5. Accountant General , Khyber Pukhtunkhwa, Peshawar
6. Government of Khyber Pukhtunkhwa through Secretary, Finance
Department , Peshawar(Respondents)

Writ Petition under Article 199 Of
the Constitution of Islamic Republic
of Pakistan, 1973.

Respectfully Sheweth:-

The Petitioner humbly submits as under:-

1. That the Petitioner was appointed as Assistant Engineer (BPS-17) in
communication & works (C&W) department Govt of KP (earlier
N.W.F.P) through Public Service Commission in dated 17-08-1989,
and the petitioner performed his duties in the said department for a

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Deputy Registrar

03 APR 2018

2

period of 10 years to the entire satisfaction of his superiors with zeal and zest.

2. That thereafter the petitioner was appointed as Executive Engineer (BPS-18) at Allama Iqbal Open University dated 31-07-1999 (Copy of the order is attached as annexure 'A').
3. That petitioner was relieved from service by the C&W department, Govt of KP vide letter dated No. SO(E)/1-46/89 dated 13-1999 from secretary to Govt of KP communication & works department, to join my new job at Allama Iqbal Open University. But is also pertinent to mention here that the petitioner had lien with the C&W department for 2 years (Copy of the letter is attached as annexure 'B').
4. That petitioner on assuming charge at AIOU as Executive Engineer on 14-09-1999 and on completion of the probation period of 2 years, the service/job of the petitioner was confirmed by AIOU, then the petitioner requested the C&W department for termination of lien (Copy of the order is attached as annexure 'C').
5. That petitioner on successful completion of 25 years service, which is qualifying period for retirement, i-e 10 years at C&W department and 15 years and 10 months AIOU, the petitioner got the early retirement from AIOU and the petitioner proceeded on leave Preparatory to Retirement (LPR) on 31-01-2016.

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Deputy Registrar

03 APR 2016

6. That on retirement of the petitioner, the AIOU department approached the C&W department KP for transfer of the proportionate share of the pension of the petitioner , which was amounting to 47,20,667/-but the C&W department KP did not transfer the same to AIOU . But is pertinent to mention here that only AIOU release the share of the petitioner for service rendered by petitioner 15 years and 10 months .
7. That the petitioner approached the C&W department for the release of the proportionate share of pension of the petitioner but all in vain (Copy of the relevant documents are attached as Annexure 'D').
8. That the Petitioners feeling aggrieved from the said acts of Respondents and has no other adequate remedy but to approach this Honorable Court for directing the respondents for the release of the proportionate share of the petitioner as the service has already rendered by the petitioner to the C&W department KP on the following grounds inter-alia:-

GROUND:-

- A) That the impugned action/ inaction of the Respondents is illegal, unwarranted ,without jurisdiction, without lawful authority , against the law, facts and based on malafide and is in utter disregard of relevant provision of administration of natural justice.

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Deputy Registrar

03 APR 2018

(4)

- B) That the impugned action and inaction of Respondents are illegal, unwarranted, unjustified and unconstitutional and against the fundamental laws of the state.
- C) That the petitioner has not been treated by the Respondents in accordance with law and rules on the subject noted above and as such the Respondents have violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- D) That the action and inaction of the Respondents against the petitioner is illegal, unlawful, arbitrary and unconstitutional one and is clearly based on mala fide, therefore the action and inaction of the Respondents against the petitioner is not tenable
- E) That the impugned order dated 24-11-2017 has been issued malafidely, therefore, the impugned order is void ab initio in the eyes of law.
- F) That the petitioner has served the department for a length of 10 years but the respondents are reluctant to release the proportionate share of the petitioner, the said arbitrary action of the Respondents is against the settle service laws and rules.
- G) That the petitioner has been deprived from his due right in disregard of the constitution, law and rules.
- H) That the petitioner has neither been treated in accordance with law nor extended equal protection of law which is inalienable right of the petitioner.

FILED TODAY
Deputy Registrar

03 APR 2018

I) That any other grounds will be raised at the time of arguments with the permission of this Hon'ble Court.

PRAYER:-

It is, therefore, most respectfully prayed that on acceptance of this Writ Petition, the acts of the Respondents may kindly be declared, illegal, unlawful authority; unwarranted ,unconstitutional, null and void in the eyes of law, and also direct the Respondents to release the proportionate share of pension of the Petitioner.

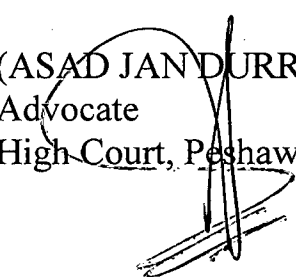
Any other relief which this Honourable Court deems just and appropriate in the circumstances of the case, not specifically asked for, may also be granted in favour of Petitioners against the Respondents

Petitioners

Through

(ASAD JAN DARRANI)
Advocate
High Court, Peshawar

Dated:- 01-03-2018



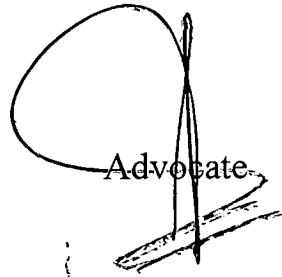
CERTIFICATE:-

No Writ Petition has earlier been filed on the subject between the parties is pending before this Honourable Court

LAW BOOKS:-

1. Constitution of Islamic Republic of Pakistan, 1973
2. Other relevant case laws will be submitted before your lordship at the time of arguments.

FILED TODAY
Deputy Registrar



Advocate

6

16

BEFORE THE HONOURABLE PESHAWAR HIGH COURT,
PESHAWAR.

Writ Petition No. 1323 F/2018

Attaullah Shah

VERSUS

Allama Iqbal Open University

I, Attaullah Shah S/o Amanullah Khann R/O H.No.65, St-1, Sector-G, Sheikh Maltoon Town, Mardan (petitioner) do hereby affirm and declare on oath that the contents of accompanying Writ Petition are true and correct and nothing has been concealed from this hon'ble Court.

Deponent

61101-1888483-3

Identified by

Asad Jan Durrani
Advocate

| | |
|---|----------------|
| No. | 17320 |
| Certified that the above was read on solemn affirmation and sworn to by | |
| day of | May 18 |
| at | Mardan |
| who was | Attaullah Shah |
| Who is present | Asad Jan |

01/03/2018

Nadra Verified

FILED TODAY
Deputy Registrar
03 APR 2018



National Database and Registration Authority
Research and Development

17

homepage verisys individual-record

ONLINE Verisys VERIFICATION SYSTEM

Verification Date: **March 1, 2018**
Identity Card Number:
61101-1888483-3
Issue Date: (YYYY-MM-DD)

PAKISTAN National Identity Card
ISLAMIC REPUBLIC OF PAKISTAN

Name: **Attaullah Shah**

Father's / Husband's Name: **Amanullah Khan**

Gender: **M** Country of Issue: **Pakistan**

Identity Number: **61101-1888483-3** Date of Birth: **05.01.1965**

Date of Issue: **30.10.2015** Date of Expiry: **30.10.2025**

Holder's Signature

61101-1888483-3

102231149333
128-65-002337

عنوان: اقبال ایجنس لوہڑی کالونی، بلاک 4، فلیٹ 25-B، سیکٹر 65، گلبرگ، اسلام آباد۔

عثمان یوسف مین
Registrar General of Pakistan

گورنمنٹ کارڈ ملز پرائیویٹ لمیٹڈ، سٹی ٹیڑھی، اسلام آباد۔

7

BEFORE THE HONOURABLE PESHAWAR HIGH COURT,

PESHAWAR

WP 18237/18

Attaullah Shah

VERSUS

Allama Iqbal Open University & Others

ADDRESSES OF PARTIES

PETITIONER

Attaullah Shah S/O Amanullah Shah R/O H.no.65, St-1, Sector- G, Shiekh Maltoon Town, Mardan.

RESPONDENTS

1. Allama Iqbal Open University , through its Registrar , Islamabad
2. Federation of Pakistan , Ministry of Education , Islamabad
3. Government of Khyber Pukhtunkhwa through Chief Secretary , Peshawar
4. Secretary Communication & Works (C&W) Department Khyber Pukhtunkhwa , Peshawar
5. Accountant General , Khyber Pukhtunkhwa, Peshawar
6. Government of Khyber Pukhtunkhwa through Secretary, Finance Department , Peshawar

Dated: 01/03/2018

PETITIONER

Through

Asad Jan Durrani
Advocate, High Court
Peshawar.

FILED TODAY
Deputy Registrar

03 APR 2018

ALLAMA IQBAL OPEN UNIVERSITY
(Registrar's Department)

No.F.2-12/99-Addl.Reg/1263

Dated: 31-7-99

Mr. Attaullah Shah,
CB-860, Javed Shaheed Road,
Mandian Jinnahabad,
Abbottabad.

Subject: **APPOINTMENT AS EXECUTIVE ENGINEER**
(BPS-18) (5085-366-8745)

You are hereby offered the appointment as Executive Engineer (BPS-18) in this University, on the following terms and conditions:

- i. The appointment shall be on probation for an initial period of two years';
- ii. You shall abide by the University Statutes, Rules and Regulations as exist at present and as may be notified from time to time;
- iii. The University can terminate your services by giving you one month's notice or paying you one month's pay in lieu thereof during the period of probation;
- iv. Your pay will be fixed in accordance with the rules;
- v. The post carries benefits of Medical Allowance, House Rent Allowance/Subsidy etc. as admissible under the University rules, regulations and service statutes;
- vi. The Offer is subject to being declared medically fit by the University Medical Consultant and verification of character/certificates/testimonials;

In case you accept the offer of appointment on the terms and conditions mentioned above you should submit your acceptance within 15 days of the issuance of this letter failing which the offer will be treated as cancelled.

Distribution:

1. Person Concerned
2. The Treasurer
3. University Auditor
4. Department Concerned
5. Dean Concerned
6. Personal file
7. Notification file

(Ilyas Ahmad)
Additional Registrar

(Additional Registrar)

*ATTACHED
Additional to be
true copy*



⑨ Ann "B"

Allama Iqbal Open University
(Registrar's Department)

17th

No.F.5-148/99-Admn/3425

Dated: September, 1999.

OFFICE ORDER

Reference appointment letter No:F.2-12/99-Addl.Reg/1263 dated 31.7.1999.


Having been relieved from his parent department i.e. Communication & Works Department, NWFP, Peshawar vide Notification No.S.O(E)C&W/1-46/89, dated 13.9.1999, Mr. Attaullah Shah assumed charge of the post of Executive Engineer (BPS-18) on probation for an initial period of two years in the Project Directorate, with effect from 14.9.1999(forenoon).



(Tariq Mahmood Khokhar)
Assistant Registrar-I

Copy to:

1. Mr. Attaullah Shah,
Executive Engineer.
2. ✓ Project Director (civil).
3. Acting Treasurer.
4. Audit Officer.
5. Mr. Abdus Samad,
Section Officer (Establishment),
Communication & Works (C&W) Department,
Government of NWFP, Peshawar.
6. Personal File.
7. Master File.

ATTACHED
Attested to be true
copy


**Allama Iqbal, Open University
(Registrar's Department)**

No.F.5-148/99-Admn/6101

Dated: 20th September, 2001

OFFICE ORDER

Upon Completion of probationary period successfully, the competent authority has been pleased to confirm the services of Mr. Attaullah Shah as Executive Engineer (BPS-18), Project Directorate with effect from 14.09.1999 (F.N).

Tariq Mahmood Kokhar
Assistant Registrar-I

Distribution:

1. Mr. Attaullah Shah.
Executive Engineer.
2. Head of Department.
3. Acting Treasure.
4. Audit Officer.
5. PS to VC.
6. Personal File.
7. Master File

No. 5612/2001/82
Dated: 19-11-2001

(11)

To,

The Section Officer (Establishment)
Deptt. of Works and Services (Formerly C&W Deptt.)
Peshawar.

Subject: Termination of Lien

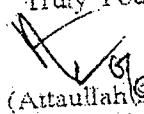
Dear Sir,

Subsequent to my confirmation as Executive Engineer at Allama Iqbal Open University, my lien with C&W Department may kindly be terminated w-e-f 14-09-2001, i.e. with the date of confirmation in the University service.

A copy of the lien notification and confirmation letter is attached for ready reference please.


With due regards.

Truly Yours,


(Attaullah Shah)
Executive Engineer
AIQU, Islamabad.

Encl: As above.

Attested to be
true copy



Abbotabad/Mansehra

Better Copy No.11

To,

The Section Officer (Establishment)
Deptt. of Works and Services (Formerly C&W Deptt.)
Peshawar.

Subject Termination of Lien

Dear Sir,

Subsequent to my confirmation as Executive Engineer at Allama Iqbal Open University, my lien with C & W Department may kindly be terminated w-e-f 14-09-2001, i-e. with the date of confirmation in the University service.

A copy of the lien notification and confirmation letter is attached for ready reference please.

With due regards,

Truly Yours

(Attaullah Shah)
Executive Engineer
AIOU, Islamabad

Encl: As above

ALLAMA IQBAL OPEN UNIVERSITY
(Registrar's Department)

12

~~12~~

No.F.2-65/2004-AR(R)/1041

Dated: 14th June, 2004

✓ Mr. Attaullah Shah,
S/o Amanullah,
Project Directorate,
Allama Iqbal Open University,
Islamabad.

Subject: **APPOINTMENT AS PROJECT DIRECTOR (BPS-19)**
(12400-615-24700)

You are hereby offered the appointment as Project Director (BPS-19) in this University with effect from 05.6.2004 on the following terms and conditions:

- (i) The appointment shall be on probation for an initial period of one year.
- (ii) You shall abide by the University Statutes, Rules and Regulations as exist at present and as may be amended from time to time;
- (iii) Your services are terminable on one month's notice or paying one month's pay in lieu thereof during the period of probation from either side;
- (iv) The University can dispense with your services during probation without calling upon to show cause;
- (v) The University will take the responsibility for pension only from the date of your joining at the AIQU, unless your parent department(s) agrees to pay proportionate share for the period of service rendered with them;
- (vi) Your pay will be fixed in accordance with the rules;
- (vii) The post carries benefits of Medical Allowance, House Rent Allowance/Subsidy etc. as admissible under the University rules, regulations and service statutes.

In case you accept the offer of appointment on the terms and conditions mentioned above, you should submit your joining report within one month of the issuance of this letter failing which the offer will be treated as cancelled.

*Attended to be
his copy*

Ilyas Ahmad

(Ilyas Ahmad)
Registrar

Distribution:

1. Person Concerned
2. The Treasurer
3. University Auditor
4. Departmental

Joining letter submitted

Better Copy No.12

ALLAMA IQBAL OPEN UNIVERSITY
(Registrar's Department)

No.F.2-65/2004-14(R)/1041

Dated: 14th June, 2004

Mr. Attaullah Shah,
S/o Amanullah,
Project Director,
Allama Iqbal Open University,
Islamabad.

Subject: **APPOINTMENT AS PROJECT DIRECTOR (BPS-19)**
(12400-615-24700)

You are hereby offered the appointment as Project Director (BPS-19) in this University with effect from 05.06.2004 on the following terms and conditions:

- (i) The appointment shall be on probation for an initial period of one year.
- (ii) You shall abide by the University Statutes, Rules and Regulations as exist at present and as may be amended from time to time;
- (iii) Your services are terminable on one month's notice or paying one month's pay in lieu thereof during the period of probation from either side;
- (iv) The University can dispense with your services during probation without calling upon to show cause;
- (v) The University will take the responsibility for pension only from the date of your joining at the AIOU, unless your parent department(s) agree to pay proportionate share for the period of service rendered with them;
- (vi) Your pay will be fixed in accordance with rules;
- (vii) The post carries benefits of Medical Allowances, House rent Allowance/Subsidy etc, as admissible under the University rules, regulation and service statutes.

In case you accept the offer of appointment on the terms and conditions mentioned above, you should submit your joining report within one month of the issuance of this letter failing which the offer will be treated as cancelled.

(Ilyas Ahmad)
Registrar

Distribution:

1. Person Concerned.
2. The Treasurer.
3. University Auditor

ALLAMA IQBAL OPEN UNIVERSITY
(Registrar's Department)

NO.F.4-110/2004-Admn/3414

Dated: 27 June, 2005

OFFICE ORDER

Upon completion of probationary period successfully, the competent authority has been pleased to confirm the services of Mr. Attaullah Shah as Project Director (BPS-19), Project Directorate with effect from 05.06.2004.

(Tariq Mehmood Khokhar)
Assistant Registrar-I

Distribution:

- 1. Mr. Attaullah Shah,
Project Director.
- 2. Acting Treasurer.
- 3. Audit Officer.
- 4. Personal File.
- 5. Master File.

Attested to be
true copy

ALLAMA IQBAL OPEN UNIVERSITY
(Establishment Section)

14

No.F.4-110/2004-Admn/ 3757

Dated 27 October, 2017

OFFICE ORDER

Reference Office Order No.F.4-110/2004-Admn/1131, Dated 29.01.2016.


The Vice-Chancellor has approved the payment of net/monthly pension of Rs.23,784/- (Rupees twenty three thousand seven hundred and eighty four only) per month alongwith value of commutation in lump-sum of Rs.26,13,323/- (Rupees twenty six lac thirteen thousand three hundred & twenty three only) in favour of Dr. Attaullah Shah, Ex-Project Director (BPS-19), who has been voluntarily retired from the University service on 13.10.2016 (afternoon).

2. The payment of pension/commutation will be made according to the No Demand Certificate issued vide Office Order No.F.4-110/2004-Admn/323, Dated 01.02.2017.


(Dr. Muhammad Zaigham Qadeer)
Additional Registrar

Copy to:

- ✓
1. Dr. Attaullah Shah,
Ex-Project Director.
 2. Treasurer.
 3. Audit Officer.
 4. Billing.
 5. Master file.
 6. Personal file.


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true copy



P D (15)

Allama Iqbal Open University

(Establishment Section)

No.F.4-110/2004-Admn/ 1002

Dated ^{ARR} 04 March, 2017

The Accounts Officer,
Communication & Works Department,
Khyber Pakhtunkhwa,
Peshawar.

Subject: PAYMENT OF PROPORTIONATE SHARE OF PENSION IN RESPECT OF DR. ATTAULLAH SHAH, EX, PROJECT DIRECTOR, AIU:

Dear Sir,

I am to inform you that Dr. Attaullah Shah, Ex-Project Director (BPS-19), Project Directorate has been early retired from the University service on 13.10.2016 (afternoon). Prior to joining the Allama Iqbal Open University on 14.09.1999, he had served as Assistant Engineer/SDO in the Communication and Works Department for the period from 17.08.1989 to 13.09.1999.

Accordingly, I am directed to request you to arrange payment of Rs.47,20,667/- (Rupees forty seven lac twenty thousand six hundred and sixty seven only) on account of proportionate share of pension in respect of Dr. Attaullah Shah, Ex-Project Director, Allama Iqbal Open University for the service period which he had rendered in the Communication and Works Department, Peshawar. The same payment may be sent through crossed cheque to the Treasurer, Allama Iqbal Open University, Islamabad at the earliest, under intimation to the undersigned so that his pension case could be processed. A copy of the pension calculation statement duly vetted by the Account and Audit Departments of the AIU is enclosed for record and reference.

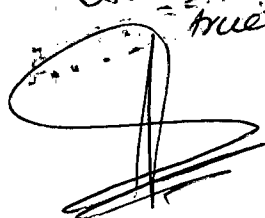
An urgent action in this regard is requested please.

Yours faithfully,

Zaigham
(Dr. Muhammad Zaigham Qadeer)
Additional Registrar

c.c.to: Dr. Attaullah Shah,
Ex-Project Director,
Project Directorate, AIU.

*Attested to be
true copy*



For record in my personal file
h 04/04/17

Allama Iqbal Open University
(Establishment Section)

PENSIONARY SHARE TO BE CONTRIBUTED BY THE COMMUNICATION & WORKS DEPARTMENT, GOVT. OF KHYBER PAKHTUNKHWA, PESHAWAR IN RESPECT OF DR. ATTULLAH SHAH, EX-PROJECT DIRECTOR (BPS-19)

Date of Birth 05.01.1965
Date of Appointment 17.08.1989 (Govt of KPK)
Date of Early Retirement 13.10.2016 (afternoon)

| <u>Qualifying service</u> | <u>Years</u> | <u>Months</u> | <u>Days</u> |
|---|--------------|---------------|-------------|
| Total service period (17.08.1989 to 13.10.2016) | 27 | 01 | 28 |
| Less EOL service period | <u>01</u> | <u>02</u> | <u>22</u> |
| Remaining Qualifying service | 25 | 11 | 06 |
| Communication & Works Department 10 (Govt. of KPK) (17.08.1989 to 13.09.1999) | | 00 | 28 |
| AIOU service (14.09.1999 to 13.10.2016) | 17 | 01 | 00 |
| Less EOL service period | <u>01</u> | <u>02</u> | <u>22</u> |
| Remaining Qualifying service | 15 | 10 | 08 |

EMOLUMENTS

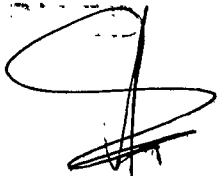
Last pay drawn Rs.95450 /-
Plus annual increment for 16 Rs.2560/-
Total: Rs.98010/-

Gross pension $\frac{98010 \times 182}{300} =$ Rs.59459/40

Net pension $\frac{59459.40 \times 65}{100} =$ Rs.38648/61

Commuted amount on pension @ 35% $\frac{59459.40 \times 35}{100} =$ Rs.20810/79

Continued next page-2

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from over-leaf

-2-

17

Commuted vale of net pension (in lump-sum) $38648.61 \times 12 \times 17.0050 = \text{Rs.}78,86,635/35$

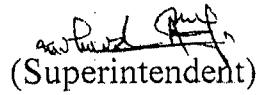
Commuted vale of pension (in lump-sum) $20810.79 \times 12 \times 17.0050 = \text{Rs.}42,46,649/80$

PROPORTIONATE SHARE OF THE COMMUNICATION & WORKS DEPARTMENT,
GOVT. OF K.P.K

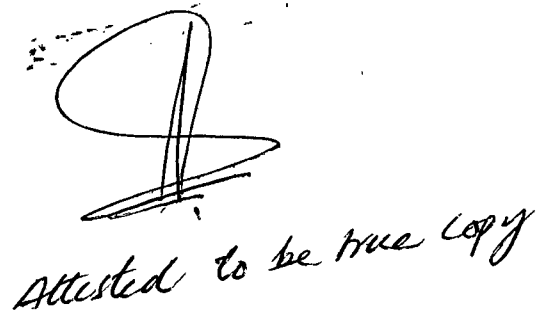
Commuted value of net pension $\frac{7886635.35 \times 121}{311} = \text{Rs.}30,68,433/68$

Commuted value of commutation (in lump-sum) $\frac{4246649.80 \times 121}{311} = \text{Rs.}16,52,233/52$

Total: = **Rs.47,20,667/20**
(say Rs.47,20,667/-)


(Superintendent)


(Additional Registrar)


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ALLAMA IQBAL OPEN UNIVERSITY
(Establishment Section)

18

No. F-4-110/2004-Admn/113

Dated: 29th January, 2016.

OFFICE ORDER

The Competent Authority has been pleased to accord sanction to the grant of (257) days Leave Preparatory to Retirement (LPR) on full pay with effect from **31.01.2016 to 13.10.2016** in favour of Dr. Atta Ullah Shah, Project Director (BPS-19), Project Directorate.

2. On the expiry of the Leave Preparatory to Retirement (LPR) so granted, Dr. Atta Ullah Shah, Project Director, shall retire from the University service with effect from 13.10.2016 (A.N) on completion of qualifying service (early retirement). The AIOU will not take any responsibility regarding payment of financial emoluments against the service rendered in C & W Department by Dr. Atta Ullah Shah on retirement.

3. The University puts on record its deep appreciation for the contribution made by Dr. Atta Ullah Shah during his long association with the Allama Iqbal Open University.

Zaheer
(Dr. Muhammad Zaigham Qadeer)
Additional Registrar-E

Distribution:

- ✓ 1. Dr. Atta Ullah Shah,
Project Director.
2. Acting Treasurer.
3. Additional Registrar (Meetings).
4. University Auditor.
5. Assistant Registrar (Recruitment).
6. PS to Vice Chancellor.

PI file
For records

M
29/1

Tunaf

[Signature]

*Attested to be
true copy*



19

Registrar City University <registrar@cusit.edu.pk>

Fwd: scan copy

Dr. Attaullah Shah <drshah965@gmail.com>
To: President CUSIT <president@cusit.edu.pk>
Cc: registrar@cusit.edu.pk

Fri, Jan 29, 2016 at 4:52 PM

Dear Sabur sb AoA

I am pleased to share with you that my Leave Preparatory to Retirement has been notified and I stand relieved from Allama Iqbal Open University from 31.01.2016 and Shall join City University w.e.f. 01.02.2016 as per plan Insha Allah. I pray that may Allah enable us to deliver our best to the welfare of our society through quality higher Education-Amen

Best Regards

———— Forwarded message ————

From: **Shahzad Khan** <saawaan.khan@gmail.com>
Date: Fri, Jan 29, 2016 at 4:24 PM
Subject: scan copy
To: drshah965@gmail.com, pd@aiou.edu.pk, pdaiou@yahoo.com



Prof. Dr. Attaullah Shah

PhD Civil Engineering, M Phil Eco, MS Civil Engg, MS Envir Design, MBA,
MA Eco, BS Civil Engg. (Gold Medal), Post Grad Diploma Comp Sc. (Gold Medal)

Approved PhD Supervisor (Civil Engineering)

Cell: 0333-5729809, 0315-5155077

Fellow Institute of Engineers Pakistan

Life Member Pakistan Engineering Council

Member editorial board of International journals of Engineering and Management

- Editor/Reviewer Structural Engineering Journal, American Concrete Institute ACI
 - International Journal of Business and Management Studies
 - International Scholar Journals USA
 - Journal of Civil Engineering and Architecture-USA (David Publishing) <http://www.davidpublisher.org/index.php/Home/Journal/detail?journalid=30&jx=jcea&cont=editorial>
 - International Journal of Sustainable Land Use and Urban Planning (IJSLUP)
 - Journal of Civil Engineering and Construction Technology
 - Reviewer/Editor American Journal of Environmental Protection
- - Member Asian Council of Science Editors (ACSE)
 - - Chair "First International Conference on Emerging Trends in Engineering, Management and Sciences (ICETEMS-2014)" held at Pak China Friendship Centre Islamabad on Dec 29-30, 2014.
 - - Member organizing Committee International Conference on Construction in Developing Countries (ICCIDC-II) held at Cairo Egypt Aug-2010

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20

Allama Iqbal Open University

(Registrar Department)

No.F.4-110/2004-Admn/ 4036

Dated 22 November, 2017

✓ Dr. Attaullah Shah,
Former, Project Director,
Project Directorate, AIOU,
Islamabad.

Subject: RELEASE OF PENSION BENEFITS

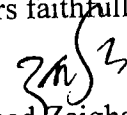
Dear Sir,

Please refer to your letter No.nil dated 03.11.2017 on the subject cited above.

It is informed you that the commuted value of pension and monthly pension pertaining to the period served in AIOU has been released as a special case, where as the balance amount of commutation/pension will be sanctioned after receiving the proportionate share from your parent department Communication & Works, Govt. of KPK. As per record, you served in this University for the period of 16 years and prior to joining the Allama Iqbal Open University, you had served 10 years service in the Communication & Works Department, Govt. of Khyber Pakhtunkhwa.


2. As per pension rules, the twenty five years continued service is required for the benefit of early retirement. You may approach the Communication & Works Department, Govt. of Khyber Pakhtunkhwa for sanction and transfer the amount of proportionate share to AIOU. On receipt of Proportionate share from KPK Government, the balance amount of commutation/pension will be paid to you accordingly.

Yours faithfully,


(Dr. Muhammad Zaigham Qadeer)
Additional Registrar

Copy to:

Accounts Officer,
Communication & Works Department,
Govt. of Khyber Pakhtunkhwa,
Peshawar.


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GOVERNMENT OF NWFP
COMMUNICATION & WORKS DEPARTMENT

Dated Peshawar, the September 18, 1999

NOTIFICATION

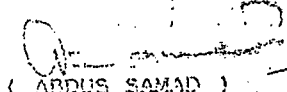
NO. EQW/2007/1-46/89. Consequent upon his selection as Executive Engineer (SBS-18) in Allama Iqbal Open University, Islamabad vide letter No. F.2-18/99-Addl.Req/1289, dated 01-7-1999, Mr. Aftabullah Shah, Assistant Engineer (SBS-17), C&W Department is hereby relieved from duty with immediate effect to enable him to join his new assignment.

The lien of the officer will be reserved in this department initially for 02 years, extendable for a further period of one year as admissible under the rules.

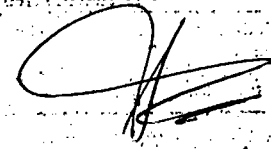
SECRETARY C&W DEPARTMENT
GOVERNMENT OF NWFP

Encl. No. EQW/2007/1-46/89

- 1. To the Secretary, Government of NWFP, Peshawar.
- 2. To the Executive Engineer, Allama Iqbal Open University, Islamabad for info.
- 3. To the Assistant Engineer (North), C&W Department.
- 4. Executive Engineer, Building Division, Mansehra.
- 5. District Accounts Officer, Mansehra.
- 6. Officer concerned.
- 7. Personal File/Office Order File.


(ABDUS SAMAD)

SECTION OFFICER (ESTABLISHMENT)


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**GOVERNMENT OF NWFP
COMMUNICATION & WORKS DEPARTMENT**

NOTIFICATION:

No. SO(E)C&W/1-46/89 consequent upon his selection as Executive Engineer (works) in Allama Iqbal Open University, Islamabad vide letter No.F.2-12/90-Addl.Reg/1263 dated 31.07.1999, Mr. Attaullah Shah, Assistant Engineer (BPS-17), C&W Department is hereby relieved from duty with immediate effect to enable him to join his new assignment.

The lien of the officer will be reserved in this department initially for 02 years, extendable for a further period of one year as admissible under the rules.

**SECRETARY C&W DEPARTMENT
GOVERNMENT OF NWFP**

Encl: No and date as above:

Copy to the:-

1. Accountant General NWFP Peshawar.
2. Additional Registrar, Allama Iqbal Open University, Islamabad w/r to above.
3. Chief Engineer (North), C&W Department.
4. Executive Engineer, Building Division, Mansehra.
5. District Accounts Officer, Mansehra.
6. Officer concerned.
7. Personal File / Office Order File.

**(ABDUS SAMAD)
SECTION OFFICER (ESTABLISHMENT)**

ATTACHED

No. 2699 /S-L, Dated Mansehra the 28/9/1999,
To,

The Section Officer (Establishment)
G&W Department A. S. P. Feshawar.

Subject:- NOTIFICATION

Reference:- Secretary to Govt of NWFP G&W Deptt:
Feshawar Notification No. NO(B)G&W/1-46/89
dated 13/3/99.

...

Consequent upon his selection in Allama
Iqbal Open University Islamabad Mr. Attaullah Shah has reported
departure on 13th Sep:1999 forenoon to join his new assignment.

EXECUTIVE ENGINEER
BUILDING DIVISION MANSEHRA.

Copy to:-

- 1. Chief Engineer (North) G&W Department NWFP Feshawar.
- 2. Adl: Registrar Allama Iqbal Open University Islamabad for information with reference to above.
- 3. D.A.O Mansehra.
- 4. Mr. Attaullah Shah KSW Allama Iqbal Open University Islamabad for information with reference to his No. 4124/1-S, dated 15/3/1999.

EXECUTIVE ENGINEER
BUILDING DIVISION MANSEHRA.

M. J. Jie
[Handwritten signature]

Attested to be true
Copy

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No. 2699

/3-E,

Dated Mansehra the 28/9/1999

To,

The Section Officer (Establishment)
C&W Department N.W.F.P. Peshawar

Subject: NOTIFICATION

Reference:- Secretary to Govt of NWFP C&W Deptt:
Peshawar Notification No. SO(E)C&W/1-46/89
dated 13/3/99.

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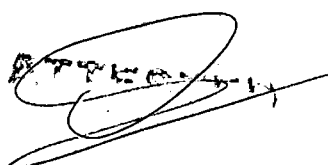
Consequent upon his selection in Allama Iqbal Open Universality, Islamabad, Mr. Attaullah Shah has reported departure on 13th Sep: 1999 forenoon to join his new assignment.

**EXECUTIVE ENGINEER
BUILDING DIVISION MANSEHRA**

Copy to the:-

1. Chief Engineer (North), C&W Department NWFP Peshawar.
2. Add; Registrar Allama Iqbal Open University Islamabad for information with reference to above.
3. D.A.O. Mansehra.
4. Mr. Attaullah Shah Allama Iqbal Open University Islamabad for information with reference to his No.1124/1-E, dated 15/9/1999.

**EXECUTIVE ENGINEER
BUILDING DIVISION MANSEHRA**





25

WRIT PETITION No. 1178 of 2009

Hidayat Ullah, Ex-Regional Director
Allama Iqbal Open University,
Regional Campus, Peshawar...

... Petitioner

VERSUS

1. Allama Iqbal Open University, through its Registrar, Islamabad.
2. Federation of Pakistan, Ministry of Education, Islamabad.
3. Province of NWFP, through Secretary of Education (E&S) Peshawar.
4. Director of Education (E&S), NWFP, Peshawar.
5. Accountant General, NWFP, Peshawar... Respondents

6. *Govt of NWFP through Secretary, Finance Department.*

739/2

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

Respectfully Sheweth:

FACTS OF THE CASE.

1. That the petitioner joined service in the Education Department of Govt of NWFP, as Junior Clerk on 1.2.1966 and gradually elevated to the post of Stenographer in NRE-12 with effect from 1.1.77 vide Adjustment Order dated 24.1.79. (Annex: 'A').
2. That the petitioner applied for the post of Superintendent in the Allama Iqbal Open University Islamabad through proper channel and his services were placed at the disposal of respondent No.2 after rendering 15 years service

ATTESTED
BY
DEPUTY REGISTRAR

FILED TODAY
DEPUTY REGISTRAR
19 MAY 2009

WRIT Petition No. 1178/ of 2009

Hidayat Ullah, Ex-regional Director
Allama Iqbal Open University,
Regional Campus, Peshawar....

.....Petitioner

VERSUS

1. Allama Iqbal Open University,
Through its Registrar, Islamabad.
2. Federation of Pakistan,
Ministry of Education, Islamabad.
3. Province of NWFP, through Secretary
Of Education (E&S) Peshawar.
4. Director of Education (E&S)
NWFP, Peshawar
5. Accountant General, NWFP Peshawar..... Respondents
6. Govt. of NWFP through Secretary, Finance Department

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

Respectfully Sheweth;

FACTS OF THE CASE

1. That the petitioner joined service in the Education Department of Govt. of NWFP, as Junior Clerk on 01.02.1966 and gradually elevated to the post to the post of stenographer in NBE-12 with effect from 1.7.....vide Adjustment order dated 24.1.79. (Annex; "A").
2. That the petitioner applied for the post of superintendent in the Allama Iqbal Open University Islamabad through proper channel and his services were placed at the disposal of respondent No.2 after rendering 15 years services

(2) (26)

Judgment Sheet

IN THE PESHAWAR HIGH COURT, PESHAWAR

JUDICIAL DEPARTMENT

W.P NO.1173/2009.

JUDGMENT

Date of hearing. 24.09.2009.

Petitioner. (Hidayatullah) By Shahzada Shapur Jan, Advocate.

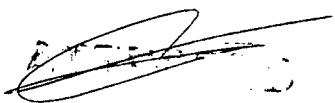
Respondents (Allama Iqbal Open University and others)
By Mr. Geiser Rashid, DAG, alongwith Muhammad Daud Shah,
Deputy Secretary, Finance Department,
Mr. Muhammad Iqbal Mokhammad, DAG, with Faiz Muhammad, Deputy
Accountant General, Sardar Shahid Hanif, Legal
Adviser, A.I.O.U.

DOST MUHAMMAD KEAN, J:- The petitioner through this constitutional petition has questioned the legality, vires and propriety of the orders dated 17.11.2008 and 28.3.2009 passed by respondents No.3 and 4 and has also alleged having been treated with discrimination in the matter of payment of pensionary benefits by the respondents both Allama Iqbal Open University and respondents No.3 to 5, the functionary of the Provincial Government.

2. In brief, the matter in controversy is that the petitioner joined the Education Department Government of NWFP as a junior clerk on

ATTESTED

EXAMINER
Peshawar High Court



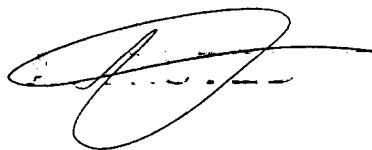
01.12.1966. He was ultimately placed in BPS-12 with effect from 1.1.1979 via order dated 24.6.1979.

3. He applied through proper channel for appointment as Superintendent in Allama Iqbal Open University (respondent No.1) thus, on his appointment there, he was completely relieved from service on 30.9.1980 by the Education Department, Government of NWFP, and his services were placed at the disposal of respondent No.1, where he served up to 30.4.2007, when he was retired while holding the post of Regional Director BPS-19.

4. On his retirement, he was not paid the due pensionary benefits, because when respondent No.1 put a claim with respondent No.4 to share its liability proportionately amounting to Rs.7,87,420/- the same was resisted by the latter.

5. The matter was referred to the Accountant General, NWFP (respondent No.5) for calculation of his pension contribution payable to Allama Iqbal

ATTESTED
EXAMINER
High Court



Open University, but instead of the claimed amount, it was calculated as Rs. 21,766/- to which sanction was accorded by respondent No.3 (Secretary Education E&S, Peshawar). The demand draft/cheque was returned back by respondent No.1 due to incorrect calculation as the amount was much less than the one calculated by respondent No.1.

6. The miseries of the petitioner did not end, because as usual with the administrative limb, it stuck to its old stand and relied on a notification issued by the NWFP, Finance Department dated 23.12.1984. The disagreement resulted into prolonged correspondence.

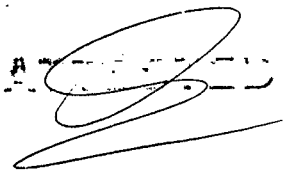
7. The petitioner has alleged that similarly placed employees were given different treatment and the amount of pension contribution was released to them on the basis of different yardstick calculated by respondent No.1, but in his case altogether a different view was taken. Three of such retired employees holding higher grade

ATTES
20-11-84
Secretary to Govt. of NWFP

posts have been mentioned in para-9 of the petition.

8. The shocking aspect of the matter is that it is not the first case, where payment of pension/pensionary benefits have been delayed, as numerous cases of the same kind have come up before the court in the recent past. The recent judgments delivered by the Apex Court in *Human Rights case No.5 of 2009 dated 7.4.2009*, in the case of *Haji Muhammad Ismail Mamoon, Advocate, (PLD 2007 S.C 35)*, in the case of *Abdul Majeed-VS-Government of Pakistan, Establishment Division and others (2006 SCMR 1415)*; and *Federation of Pakistan, Secretary Establishment Division, Government of Pakistan and others-VS-Said Afzal Muhammad Farooq and another (2005 PLC (C.S)1424)* held a firm view and commanded the Functionaries of the State that pension/pensionary benefits of retired

ATTEST Employee in no circumstances shall be delayed beyond the period of two weeks as envisaged by the Provision of West Pakistan Civil Servants Pension Rules,



(A)

29

1963, Chapter-V and that it is statutory obligation of the functionaries of the State to follow the dictate of law and make proper arrangements so that payment of pensionary benefits is not delayed to the retired employee beyond the prescribed limit of time fixed by the law. The Federal Government and the Chief Secretaries of the Provinces were directed to chanelize the process effectively and to fully implement the directions of the Apex Court in its true letters and spirits without any pause and stop. This court has taken drastic actions against the delinquent officiates.

9. Despite of such directions issued by the Supreme Court, in the above cases, which have got constitutionally binding effects for the State functionaries to comply therewith, but till date due to the deteriorating competency and capacity of the Institutions/Department charged with such obligations, majority of the retired employees/Government Servants

APPROVED
BY
SECRETARY
GOVERNMENT OF INDIA



(11)

(31)

are being made to shuttle between one office or the other and from one Department to the other with a begging bowl, which is not only against their dignity but also against the law and against the dignity of the retired employees at the last leg of their life. Such abominable and negative approach on the part of the concerned Departments/Institutions is absolutely intolerable and constitute contempt of Court being in violation of clear directions issued by Hon'ble Supreme Court.

10. In the instant case, comments of the respondents were sought. The respondent No.1 has admitted the entire claim of the petitioner and has fully reiterated its earlier stance in calculating the amount payable by the Provincial Government as is evident from para-9 of the comments. It has also cited the cases of four employees/Government Servants, who were treated with different yardsticks unlike the petitioner.

Better Copy No.31

are being made to shuttle between one office or the other and from one department to the other with a begging bowl, which is not only against their dignity but also against the law and against the dignity of the retired employees at the last leg of their life. Such abominable and negative approach on the part of the concerned Departments / Institutions is absolutely intolerable and constitute contempt of Court being in violation of clear direction issued by Hon'ble Supreme Court.

10. In the instant case, comments of the respondents were sought. The respondent No.1 has admitted the entire claim of the petitioner and has fully reiterated its earlier stance in calculation the amount payable by the Provincial Government as is evident from para-9 of the comments. It has also cited the case of four employees / Government Servants, who were treated with a different yardsticks unlike the petitioner

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11. Respondent No.5 has submitted written statement but has again fixed the amount of Rs.21,766/- by relying on the Provincial Finance Department letter NO.SOSR-III (FP)4-112/73 dated 12.4.1982. However, it has admitted in para-3 that in individual cases the capitalized value calculated by A.I.O.U was allowed, which was subsequently approved/sanctioned by the Finance Department.

12. On the previous date the Accountant General was summoned telephonically through the Registrar, however, Deputy Accountant General appeared, who was knowing nothing about the rules and the law on the subject and about the facts of the case, thus, he was given chance to submit reply and assist the court in a fair manner.

13. Today, when the Deputy Accountant General was asked as to what yardstick was applied in the case of the petitioner and to cite the law/rule to support the stand taken by it, but he was unable to make any plausible reply and ultimately he made an excuse

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Registrar High Court



that due to soar throat he could not properly address the court. On court query the Deputy, Secretary Finance Government of NWFP was frank and fair enough to concede that the Provincial Education Department has committed a serious illegality by not transferring the contributory fund of the petitioner to the respondent No.1 and the calculation made at present by respondent No.5 (A.G NWFP) appears to be based on misconception, because the Finance Department changed the rules in 1982 not applicable to the case of the petitioner and that the view of the court was perfectly right to the effect that amended rule can not be applied retrospectively to the case of the petitioner.

14. The legal adviser of the Education Department, NWFP, could not explain in any manner the queries made from him on the above legal position.

15. In view of the above stated facts well established on record and because of the default committed by the Provincial Education Department, it has

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to bear the liability and has to pay the penalty/interest/markup permissible under the rules at a specified ratio on the actual amount of contributory fund of the petitioner from the year 1980 up to 05.01.2009 when the petitioner stood retired while serving the A.I.O.U (respondent No.1) where after the demand draft/Bank Cheque was sent to the A.I.O.U (respondent No.1). Thus respondent No.5 is directed to recalculate the correct contributory fund/pensionary benefits of the petitioner ignoring the Finance Department letter of 1982 referred ibid being not applicable to this case and the permissible penalty/markup/interest be added to the recalculated amount of the petitioner and then the same be submitted within a period of one month at the most to the Finance Department, Government of NWFP, for sanctioning the fund. The Provincial Finance Department is equally directed to immediately release and transfer the fund through proper channel to the A.I.O.U (respondent No.1) within ten days of

APPENDIX

the most. Any further delay in the matter would not be tolerated in any manner, otherwise, the court would be constrained to take the matter into its own hand and interest/markup at the prevailing banking rate would be imposed, which shall be recoverable from the Provincial Government and from the salaries/emoluments of the official responsible for the delay payments.

16. The respondent No.1 (A.I.O.U) is also directed to recalculate the correct contributory fund/pensionary benefits of the petitioner, which on our view is much less than the due one and after adding the share of the Provincial Government to the one which it has to pay to the petitioner, the sum total be taken as the proper value/amount of the contributory fund for pension/pensionary benefits. If the respondent No.1 is under some misconception, it shall refer the case to the AGPR Islamabad, who shall give its final opinion, however, in no circumstances it shall be delayed beyond a fortnight.

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17. In the conclusion, we direct that all the dues in light of the above guide lines and directions be paid to the petitioner within a period of three months at the most, otherwise, all the respondents would be burdened with interest/markup on the prevailing bank rates notified by the State Bank of Pakistan, payable to the petitioner, which would be calculated on the entire amount due beside any other penalty to be imposed, which is permissible under the law. All the contesting respondents shall submit compliance report to the Registrar of this court within the given time otherwise the case would be reopened and the respondents would be proceeded against for contempt of court as well besides the above penal measures to be taken against them.

The petition is admitted and allowed in light of the above directions and observations.

sd/ Dost Muhammad Khan
sd/ Mian Farid ul Malik

Announced.
 24.9.2009.

TESTIMONIAL TO BE TRUE COPY

[Signature]
 29/9/09
 Registrar
 District Court

[Handwritten notes]

[Handwritten signature]

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

(37)

PRESENT: Mr. Justice Mian Shakirullah Jan.
Mr. Justice Mian Saqib Nisar.
Mr. Justice Amir Hani Muslim.

Civil Petition No. 2047/2009.

(On appeal against the judgment dated 24.09.2009
passed by Peshawar High Court, Peshawar,
in W. P. No. 1178/2009)

A.I.O.U. through its Registrar, Islamabad. Petitioner(s).

Versus

Hidayatullah, Ex-Regional Director, etc. Respondent(s).

For the Petitioner(s): Raja Muhammad Ibrahim Satti, Sr. ASC.
Mr. M. S. Khattak, AOR.
Mr. Faiz Muhammad Zahid, Dy. Director,
A.I.O.U.

For Respondent No. 1: In-person.

On Court's Notice: Syed Arshad Hussain Shah, Addl. AG, KPK
Mr. Mosam Khan, Assistant Director
(Litigation), Directorate of Elementary &
Secondary Education, Peshawar.
Mr. Ali Khitab, Accounts Officer, Office of
Accountant General, KPK.

Date of Hearing: 04.03.2011.

ORDER

Mian Shakirullah Jan, J: - The petitioner, in para-16 of the impugned judgment, has been directed to recalculate the correct contributory fund for pension/pensionary benefits of the respondent as the respondent has served both the Allama Iqbal Open University and Education Department of the Government of KPK. The learned counsel for the petitioner states that the petitioner has correctly calculated the contributory fund share and it is the Provincial Government who has not contributed its share correctly as required.

2. It is only a direction that recalculation with the assistance of the AGPR be done and nothing more than that and in these circumstances we see no substantial grievance of the petitioner which requires any indulgence of this Court, therefore, this petition is having no force and it is dismissed accordingly. CMAs are also disposed of.

ATTESTED

Superintendent
Supreme Court of Pakistan
ISLAMABAD



IN THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

PRESENT: Mr. Justice Mian Shakirullah Jan
Mr. Justice Mian Saqib Nisar
Mr. Justice Amir Hani Muslim

CIVIL Petition No.2047/2013

(On appeal against the judgment dated 24-09-2009 passed by the Peshawar High Court, Peshawar, in W.P. No.1178/2009)

A.I.O.U. through its Registrar, Islamabad Petitioner (s)

Versus

Hidayatullah, Ex-Regional Director, etc Respondent(s)

For the Petitioner (s) : Raja Muhammad Ibrahim Satti, Sr. ASC
Mr. M.S. Khattak, AOR.
Mr. Faiz Muhammad Zahid, Dy. Director
A.I.O.U

For Respondent No.1: In-person

On Court's Notice: Syed Arshad Hussain Shah, Addl. AG, KPK
Mr. Mosam Khan, Assistant Director
(Litigation), Directorate of Elementary &
Secondary Education, Peshawar
Mr. Ali Khitab, Accounts Officer, Office of
Accountant General, KPK.

Date of Hearing: 04.03.2011

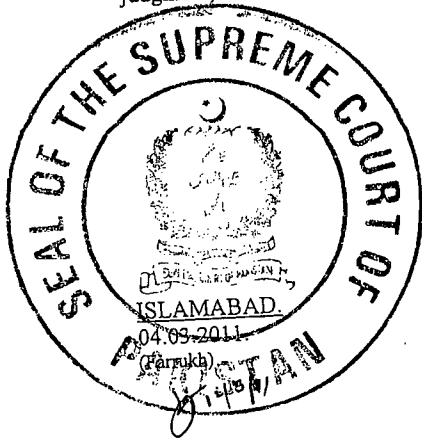
ORDER

Mian Shakirullah Jan, J: - The petitioner, in para-16 of the impugned judgment, has been directed to recalculate the correct contributory fund for pension benefits of the respondents as the respondent has served both the Allama Iqbal Open University and Education Department of the Government of KPK. The learned counsel for petitioner states that the petitioner has correctly calculated the contributory fund share and it is the Provincial Government who has not contributed its share correctly as required.

2. It is only director that recalculation with the assistance of the AGPR be done and nothing more than that and in these circumstances we see no substantial grievance of the petitioner which require any indulgence of this Court, therefore, the petition is having no force and it is dismissed accordingly. CMAs are also disposed of.

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3. The needful, as per the direction of the High Court in the impugned judgment, be done within a fortnight.



Sd/- Mian Shakirullah Jan, J
 Sd/- Mian Sagid Nisar, J
 Sd/- Amir Hani Muslim, J

Certified to be True Copy

[Signature]
 Superintendent
 Supreme Court of Pakistan
 ISLAMABAD

15/3/11

2656/11 CIVIL JUDICIAL
 Date of Presentation 15-3-11
 No. of Petitions 600
 No. of Petitions 6
 Registration Fee Rs. 5.50
 Copy Fee Rs. 3.72
 Court Fee stamp 8.72
 Date of Completion 15-3-11
 Copy: 15-3-11
 Date of delivery of
 Copy:
 Compared by: *[Signature]*
 received by: *[Signature]*

[Large Signature]

C.P. No.2047/2009

3. The needful, as per direction of the High Court in the impugned judgment, be done within a fortnight.

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