

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 15577/2020

BEFORE: MR. KALIM ARSHAD KHAN ... CHAIRMAN
MISS. FAREEHA PAUL ... MEMBER(E)

Zuhran Ullah S/O Akhtar Zaman R/O Phase-II, Hayatabad,
Peshawar. Currently working as Naib Qasid FATA Division, Public
Health Engineering Division Kohat.

.... (Appellant)

Versus

1. Secretary Public Health Engineering Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. Chief Engineer Public Health Engineering North, Khyber Pakhtunkhwa, Peshawar.
3. XEN, Public Health Engineering Division, Kohat.

.... (Respondents)

Mr. Inayat Ullah Khan
Advocate

... For appellant

Mr. Muhammad Adeel Butt
Addl. Advocate General

... For respondents

Date of Institution.....03.12.2020

Date of Hearing.....05.10.2022

Date of Decision..... 05.10.2022

JUDGEMENT

FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, with the prayer that on acceptance of the instant service appeal, firstly to direct the respondents to release the salaries of the appellant alongwith arrears of pay w.e.f 1st January, 2018 till onwards; secondly, to declare the act of the respondents regarding stoppage of salaries of the appellant as null and void, without lawful



authority, and ineffective upon the accrued rights of the appellant; thirdly, to take action against the concerned officer for stopping the salary of the appellant in the light of the reported judgment in 1997 PLC(CS)666, and any other relief which this Hon'able Tribunal deems appropriate in the circumstances of the case and to whom the appellant was found entitled.

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was appointed as Naib Qasid vide order dated 29.03.2013, issued by the office of Executive Engineer, Public Health Engineering, FATA Division, Kohat. He submitted his arrival report on 30.03.2013. While regularly performing his duties, the respondents, without issuing reason or cause, stopped the salaries of the appellant. He submitted various applications to Respondent No. 1, with copies to other respondents seeking reason for stopping his salary for a period of almost two years i.e 2018 and 2019 but they were not responded. He also filed departmental appeal dated 31.08.2020 in continuation of those applications, but it was also not responded. Feeling aggrieved the appellant filed writ petition No. 5426-P/2019 before the Hon'ble Peshawar High Court, which was decided/dismissed on 19.11.2020 on the point of maintainability by invoking the provision of Article 212 of the Constitution; hence this service appeal.

3. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned Additional Advocate General and perused the case file with connected documents in detail.

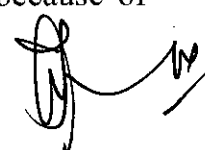
4. Learned counsel for the appellant presented the case in detail and contended that stoppage of salary was against the law and Constitution of Pakistan. He referred to a reported judgment 1997 PLC(CS)666, which clearly stated that strict action be taken against an officer who stopped the salary of an employee. He



further referred to a settled law according to which pendency of departmental inquiry, if any, was no good ground to stop the salary of the appellant as right to livelihood was a fundamental right which was part of right to life as embodied in Article 9 of the Constitution of Pakistan. He prayed for the release of salary alongwith arrears of pay w.e.f 1st January, 2018 onwards.

5. The learned Additional Advocate General, on the other hand, invited the attention to the appointment order of the appellant and contended that it was declared irregular and fake and that there was a clear difference between the signatures on office order and service book. He further contended that the appellant did not submit his arrival report to his immediate officer, that was the Sub-Divisional Officer concerned, which was then to be reported to the Executive Engineer. He further informed that the department conducted an inquiry regarding fake appointments of Class-IV employees made during period from August 2012 to December 2014, according to which the said recruitments were declared irregular and fake as they were made without observing codal formalities. He further informed that the salary of the appellant had been stopped on source inactive form duly signed by Executive Engineer and Divisional Accounts Officer.

6. In view of the arguments and record presented before us, it transpires that the appellant was appointed as Naib Qasid in the Public Health Engineering, FATA Division Kohat in the year 2013. He started performing his duties and getting salaries. In an inquiry conducted against Mr. Baharullah Khan, Ex-XEN FATA Division, Kohat, it was found that certain irregular appointments of Class-IV employees were made without observing codal formalities. Report of that inquiry has been provided with the reply in view of which salary of the appellant was stopped. It was strange to note that the source form available with the reply indicated stoppage of salary of the appellant from 1st January 2018 because of



absence from duty. As there is a controversy in the reply given by the department followed by the statement of Additional Advocate General and in the source form, we think that the matter needs to be looked into in detail. It is further evident from the record that the appointment order of the appellant is still in place. Neither the appointment order has been withdrawn, nor the appellant has been dismissed from service. Salary slips provided with the appeal indicate that the appellant was an employee in the office of the Executive Engineer PHE, FATA and indicated in the Ministry of Education. Moreover, deduction of G.P Fund, as indicated in his pay slips, was against the terms and conditions of his appointment as indicated in his appointment order dated 29.03.2013 which indicates that he will not contribute to G.P Fund and will not be entitled to pension, gratuity benefits etc.

7. In view of the above discussion, the appeal in hand is allowed with the direction to the department to proceed against the appellant, if they think that the appointment order was fake/bogus, in a way as provided under the law. In the light of the outcome of those proceedings, the department may further look into the extent of salary payable to the appellant. Costs shall follow the events. Consign.

8. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 5th day of October, 2022.*



(KALIM ARSHAD KHAN)
Chairman



(FAREEHA PAUL)
Member (E)

Service Appeal No. 15577/2020

1. Mr. Inayat Ullah Khan, Advocate for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for respondents present. Arguments heard and record perused.
2. Vide our detailed judgement containing 04 pages, we arrived at a conclusion that the appeal in hand the appeal in hand is allowed with the direction to the department to proceed against the appellant, if they think that the appointment order was fake/bogus, in a way as provided under the law. In the light of the outcome of those proceedings, the department may further look into the extent of salary payable to the appellant. Costs shall follow the events. Consign.
3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 5th day of October, 2022.*



(KALIM ARSHAD KHAN)
Chairman



(FAREEHA PAUL)
Member (E)

DFA
P. Paul

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 15577/2020

BEFORE: MR. KALIM ARSHAD KHAN ... CHAIRMAN
MISS. FAREEHA PAUL ... MEMBER(E)

Zuhran Ullah S/O Akhtar Zaman R/O Phase-II, Hayatabad,
Peshawar. Currently working as Naib Qasid FATA Division, Public
Health Engineering Division Kohat.

.... (Appellant)

Versus

1. Secretary Public Health Engineering Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. Chief Engineer Public Health Engineering North, Khyber Pakhtunkhwa, Peshawar.
3. XEN, Public Health Engineering Division, Kohat.

.... (Respondents)

Mr. Inayat Ullah
Advocate

... For appellant

Mr. Muhammad Adeel Butt
Addl. Advocate General

... For respondents

Date of Institution.....03.12.2020
Date of Hearing.....05.10.2022
Date of Decision..... 05.10.2022

JUDGEMENT

FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, with the prayer that on acceptance of the instant service appeal, firstly to direct the respondents to release the salaries of the appellant alongwith arrears of pay w.e.f 1st January, 2018 till onwards; secondly, to declare the act of the respondents regarding stoppage of salaries of the appellant as null and void, without lawful

authority, and ineffective upon the accrued rights of the appellant; thirdly, to take action against the concerned officer for stopping the salary of the appellant in the light of the reported judgment in 1997 PLC(CS)666, and any other relief which this Hon'able Tribunal deems appropriate in the circumstances of the case and to whom the appellant was found entitled.

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was appointed as Naib Qasid vide order dated 29.03.2013, issued by the office of Executive Engineer, Public Health Engineering, FATA Division, Kohat. He submitted his arrival report on 30.03.2013. While regularly performing his duties, the respondents, without issuing reason or cause, stopped the salaries of the appellant. He submitted various applications to Respondent No. 1, with copies to other respondents seeking reason for stopping his salary for a period of almost two years i.e 2018 and 2019 but they were not responded. He also filed departmental appeal dated 31.08.2020 in continuation of those applications, but it was also not responded. Feeling aggrieved the appellant filed writ petition No. 5426-P/2019 before the Hon'ble Peshawar High Court, which was decided/dismissed on 19.11.2020 on the point of maintainability by invoking the provision of Article 212 of the Constitution; hence this service appeal.

3. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned Additional Advocate General and perused the case file with connected documents in detail.

4. Learned counsel for the appellant presented the case in detail and contended that stoppage of salary was against the law and Constitution of Pakistan. He referred to a reported judgment 1997 PLC(CS)666, which clearly stated that strict action be taken against an officer who stopped the salary of an employee. He

further referred to a settled law according to which pendency of departmental inquiry, if any, was no good ground to stop the salary of the appellant as right to livelihood was a fundamental right which was part of right to life as embodied in Article 9 of the Constitution of Pakistan. He prayed for the release of salary alongwith arrears of pay w.e.f 1st January, 2018 onwards.

5. The learned Additional Advocate General, on the other hand, invited the attention to the appointment order of the appellant and contended that it was declared irregular and fake and that there was a clear difference between the signatures on office order and service book. He further contended that the appellant did not submit his arrival report to his immediate officer, that was the Sub-Divisional Officer concerned, which was then to be reported to the Executive Engineer. He further informed that the department conducted an inquiry regarding fake appointments of Class-IV employees made during period from August 2012 to December 2014, according to which the said recruitments were declared irregular and fake as they were made without observing codal formalities. He further informed that the salary of the appellant had been stopped on source inactive form duly signed by Executive Engineer and Divisional Accounts Officer.

6. In view of the arguments and record presented before us, it transpires that the appellant was appointed as Naib Qasid in the Public Health Engineering, FATA Division Kohat in the year 2013. He started performing his duties and getting salaries. In an inquiry conducted against Mr. Baharullah Khan, Ex-XEN FATA Division, Kohat, it was found that certain irregular appointment of Class-IV employees were made without observing codal formalities. Report of that inquiry has been provided with the reply in view of which salary of the appellant was stopped. It was strange to note that the source form available with the reply indicated stoppage of salary of the appellant from 1st January 2018 because of

absence from duty. As there is a controversy in the reply given by the department followed by the statement of Additional Advocate General and in the source form, we think that the matter needs to be looked into in detail. It is further evident from the record that the appointment order of the appellant is still in place. Neither the appointment order has been withdrawn, nor the appellant has been dismissed from service. Salary slips provided with the appeal indicate that the appellant was an employee in the office of ^{the} Executive Engineer PHE, FATA and indicated in the Ministry of Education. Moreover, deduction of G.P Fund, as indicated in his pay slips, was against the terms and conditions of his appointment as indicated in his appointment order dated 29.03.2013 which indicates that he will not contribute to G.P Fund and will not be entitled to pension, gratuity benefits etc.

7. In view of the above discussion, the appeal in hand is allowed with the direction to the department to proceed against the appellant, if they think that the appointment order was fake/bogus, in a way as provided under the law. In the light of the outcome of those proceedings, the department may further look into the extent of salary payable to the appellant. ^{Costs shall follow the events} ~~Parties are left to bear their own costs.~~

Consign.

8. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 5th day of October, 2022.*

(FAREEHA PAUL)
Member (E)

(KALIM ARSHAD KHAN)
Chairman



GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT

Dated Peshawar, the June 09, 2022

NOTIFICATION

NO.SO(E-I)/E&AD/9-232/2022. The following postings/transfers of officers are hereby ordered in the public interest, with immediate effect:-

S. #	NAMES OF OFFICERS	FROM	TO
1	Engr Irfan Rashid (BS-20) upon promotion	Superintending Engineer, Public Health Engineering Circle, Peshawar	Chief Engineer (South), Public Health Engineering Deptt., Peshawar (A.V.P)
2	Engr. Bahar Ullah (BS-19)	Director (Labs/Project), Public Health Engineering Deptt. Peshawar	Chief Engineer (North) Public Health Engineering Deptt. Peshawar (OPS), (A.V.P)
3	Mr Qasier Farooq (BS-19)	Superintending Engineering (HQ) o/o Chief Engineer (North), Public Health Engineering Department, Peshawar	Chief Engineer (East), Public Health Engineering Department Peshawar (OPS) (A V P)

**CHIEF SECRETARY
GOVERNMENT OF KHYBER PAKHTUNKHWA**

Endst Of even NO. & date

Copy forwarded to the:-

1. Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. Secretary to Govt of Khyber Pakhtunkhwa, Public Health Engineering Department.
4. Accountant General, Khyber Pakhtunkhwa.
5. Chief Engineer, Public Health Engineering Department, Peshawar.
6. Chief Engineer (Central) Public Health Engineering Department.
7. Chief Engineer (North) Public Health Engineering Department.
8. Superintending Engineer, PHE Circle, Peshawar.
9. Superintending Engineer (H.Q) office of the Chief Engineering (South) PHE Peshawar
10. Director Design, Office of the Chief Engineer (South) PHE, Peshawar.
11. PS to Chief Secretary, Khyber Pakhtunkhwa.
12. PS to Secretary Establishment, E&A Department/SO (Admn) E&AD
13. Officers concerned.
14. Controller, Govt. Printing Press, Peshawar.

(ZIA.U.L.HAQ) / 9/6/2022
SECTION OFFICER (ESTT-I)
PH: NO. 091-9210529

S#: 3

Bannu

Pers #: 50160906

Buckle:

Name: HAZAR ULLAH

NAIB GASID

CNIC No.1110106308287

JEP Interest Applied

CP Active Temporary

PAYS AND ALLOWANCES:

9001-Basic Pay	13,510.00
1901-House Rent Allowance 45%	2,120.00
111-Convey Allowance 2005	1,785.00
114 Medical Allowance	1,500.00
113 Extra Size Area Allow	1,000.00
115 Adhoc Relief All-2013	262.00
114 Adhoc Relief Allow @10%	189.00
111 Adhoc Relief All 2016 10%	967.00
2224-Adhoc Relief All 2017 10%	1,351.00
2247-Adhoc Relief All 2018 10%	1,351.00
2264-Adhoc Relief All 2019 10%	1,351.00
2399-Adhoc Relief All 2021 10%	1,351.00
2311-Dress Allowance - 2021	1,000.00
2312-Washing Allowance 2021	1,000.00
2313-Integrated Allowance 2021	600.00
2341-Dispr. Red All 15% 2022KP	2,026.00

Gross Pay and Allowances 31,363.00

DEDUCTIONS:

GPF Balance 86,156.00	Subtr:	770.00
3501-Benevolent Fund		600.00
4004 R. Benefit & Death Comp:		300.00

Total Deductions 1,670.00

29,693.00

D.O.B

06.04.1983

09 Years 06 Months 001 Days

LFP Quota: 4

NATIONAL BANK OF PAKN.B.P BANNU BOARD(TO

4133358111

P Sec:001 Month:June 2022

BU4610 -PHE Sub Division Wazir Ban

PHE Sub Division Wazir Ba

NTN:

GPF #:

Old #:

BU4610 -



Office of the
Accountant General
Khyber Pakhtunkhwa, Fort Road, Peshawar
Ph: 091-9711750-3

Date: 22.04.2022

CIRCULAR

In line of CGA office letter No. 162/CGA/Coord/118/2022 dated 21.06.2022 and Para "P" of O. M. of Finance Division order no. 9(7)R-1/2014-233/2022 dated 28.05.2022. The officials/officers in BPS-01 to BPS-16 of this office are hereby directed to submit irrevocable option if desires to continue new time scale policy within one day to Admn-I Section.

(Signature)

Kohat

S#: 1

P Sec:001 Month:June 2022

KT4471 -Executive Engineer PHE Koh

Pers #: 50158927

Buckle:

EXECUTIVE ENGINEER PHE KO

Name: HAYAT ULLAH

NTN:

BARKANDAZ

GPF #:

CNIC No.1430134154385

Old #:

GPF Interest Applied

03 Active Temporary

KT4471 -

DAYS AND ALLOWANCES:

0001-Basic Pay	13,120.00
0001-House Rent Allowance 45%	2,120.00
0001-Tourney Allowance 2005	1,785.00
0001-Medical Allowance	1,500.00
0001-Attractive Area Allow	1,000.00
0001-Adhoc Relief All 2016	262.00
0001-Adhoc Relief Allow #10%	183.00
0001-Adhoc Relief All 2016 10%	934.00
0001-Adhoc Relief All 2017 10%	1,312.00
0001-Adhoc Relief All 2018 10%	1,312.00
0001-Adhoc Relief All 2019 10%	1,312.00
0001-Adhoc Relief All 2021 10%	1,312.00
2311-Dress Allowance - 2021	1,000.00
2312-Washing Allowance 2021	1,000.00
2313-Integrated Allowance 2021	600.00
2341-Dispr. Red All 15% 2022KP	1,968.00
Gross Pay and Allowances	30,720.00

DEDUCTIONS:

GPF Balance	83,900.00	Subrc:	770.00
3501-Benevolent Fund			600.00
4004-R. Benefits & Death Comp:			300.00
Total Deductions			1,670.00
			29,050.00

E.O.R

LFP Quota:

25.03.1985

UNITED BANK LIMITED AHMED: BN

20 Years Of Months 013 Days

000225271786

Kohat

S#: 7

P Sec:001 Month:June 2022
KT4470 -Executive Engineer Publich
EXECUTIVE ENGINEER PUBLIC

Pers #: 50186131 Buckle:
Name: KAMRAN KHAN
VALVEMAN
CNIC No.1110107788443
GPF Interest Applied
03 Active Temporary

NTN:
GPF #:
Old #:

KT4470 -

PAYE AND ALLOWANCES:

0001-Basic Pay	13,120.00
105- House Rent Allowance 45%	2,120.00
110- Convey Allowance 2005	1,785.00
110 Medical Allowance	1,500.00
110- Non-Residential Area Allow	1,000.00
110- Agricultural Area Allow	262.00
110- Public Utility Allow 210-	175.00
111 Adhoc Relief All 2016 10%	934.00
114 Adhoc Relief All 2017 10%	1,312.00
117 Adhoc Relief All 2018 10%	1,312.00
126 Adhoc Relief All 2019 10%	1,312.00
1309-Adhoc Relief All 2021 10%	1,312.00
2311-Dress Allowance - 2021	1,000.00
2312-Washing Allowance 2021	1,000.00
2313-Integrated Allowance 2021	600.00
2341-Dispr. Red All 15% 2022KP	1,968.00
Gross Pay and Allowances	30,712.00

DEDUCTIONS:

GPF Balance 78,187.00	Subrc:	770.00
3501 Benevolent Fund		600.00
4004-R. Benefits & Death Comp:		300.00

Total Deductions 1,670.00

29,042.00

D.O.B 01.07.1981 LFP Quota: 4
 09 Years 01 Months 000 Days THE BANK OF KHYBER BANNU BRANCH BANNU
 11183



Office Of The

DISTRICT ACCOUNTS OFFICER

Bannu Cantt Bannu

Ph# 0928-920068 Fax# 0928-920030

No. DAO/BU/Pension/AG Correspd: /2021-22/

Dated. -06-2022

To

The Accounts Officer (HAD Section)
Accountant General, Khyber Pakhtunkhwa
Peshawar

S# : 5

Hangu

P Sec:001 Month:June 2022
HG4192 -Superintending Engineer PH
Superintending Engineer P

Pers #: 50174605 Buckle:
Name: HAFEEZ-ULLAH
CHOWKIDAR
CNIC No.1120104012499
GPF Interest Applied
03 Active Temporary

NTN:
GPF #:
Old #:

HG4192

PAYS AND ALLOWANCES:

0001-Basic Pay	13,120.00
1001-House Rent Allowance 45%	2,120.00
1210-Convey Allowance 2005	1,785.00
1300-Medical Allowance	1,500.00
1528-Unattractive Area Allow	1,700.00
2149-15% Adhoc Relief All-2013	255.00
2199-Adhoc Relief Allow @10%	183.00
2211 Adhoc Relief All 2016 10%	934.00
2224-Adhoc Relief All 2017 10%	1,312.00
2247-Adhoc Relief All 2018 10%	1,312.00
2264-Adhoc Relief All 2019 10%	1,312.00
2309-Adhoc Relief All 2021 10%	1,312.00
2311-Dress Allowance - 2021	1,000.00
2312-Washing Allowance 2021	1,000.00
2313-Integrated Allowance 2021	600.00
2341-Dispr: Red All 15% 2022KP	1,968.00
Gross Pay and Allowances	31,413.00

DEDUCTIONS:

GPF Balance	83,860.00	Subrc:	770.00
6505-GPF Loan Principal Instal	Bal: 0.00		3,000.00
3501-Benevolent Fund			600.00
4004-R. Benefits & Death Comp:			300.00

Total Deductions

4,670.00

26,743.00

D.O.B
13.04.1988
09 years 00 Months 004 Days

LFP Quota: 4
NATIONAL BANK OF PAKLAKKI MARWAT
10622-7

Subject: -

**GUIDANCE/OPINION ABOUT FAMILY PENSION CASE IN
RESPECT OF MST: BAHADARA EX: DAI.**

Reference to the above cited subject it is stated that the above named ^{Pensioner} has been retired from service on superannuation on 19-01-2022.

The position of the case is that the widow/pensioner drawing family pension of her husband w.e.f 01-12-1999 after the death of husband.

As per revised pension rules-2021 only one pension is allowed, this office need guidance weather the widow concerned is entitled for both pension or otherwise.


**District Comptroller of Accounts
Bannu**

4th October, 2022 Appellant alongwith his counsel present. Syed Naseer
Ud Din Shah, Asst: AG alongwith Mr. Osama Habib,
SDO, PHE Department Kohat for respondents present.

The reply of the department in this case shows that the
department has termed the very appointment order of the
appellant as fake. If the appointment order is fake, how
could the appellant get salaries for years and who had
submitted source form and signed as a DDO is to be
^{Q. the} trashed out. For the purpose we direct through Mr. Osama
Habib, SDO, PHE Department Kohat that all the
respondents shall appear in person. To come up for
arguments on 05.10.2022 before the D.B.



(Fareeha Paul)
Member(Executive)



(Kalim Arshad Khan)
Chairman

06.04.2022

Junior to counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG for respondents present.

Written reply/comments of respondents No. 2 & 4 have not been submitted. In violation of standing instructions of the Establishment Department, the officials holding lower rank are in attendance on behalf of the respondents and that too without power of attorney. This non-serious attitude of the respondents is taken seriously. Therefore, the respondents are directed to attend the Tribunal personally alongwith written reply/comments on 18.05.2022 before S.B.



Chairman

18.05.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG alongwith Mr. Usama Habib and Irfan, Assistant for the respondents present.

Representative of the respondent department produced an order bearing No. SO (O&M)E&AD/2-22-2006-Vol-IV dated 24.09.2009 whereby Communication & Works Department and Public Health Engineering Department have been reverted back to their separate entity/departments. Copy of the said order is placed on file. While referring to the said order, it was requested that official respondent No. 4 being not a relevant respondent, may be deleted from the panel of respondents. Office is directed to make necessary correction in the heading of appeal with red ink. To come up for arguments before the D.B on 22.07.2022.



(MIAN MUHAMMAD)
MEMBER (E)

22-7-22

The Bench is incomplete
therefor case is adjourned to

4-10-22




Reader

01.12.2021

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Suleman, Asst: Social Organizer for respondents present.


Written reply/comments on behalf of respondents not submitted. Representative of the respondents seeks time to submit written reply/comments. Adjourned. To come up for written reply/comments on 02.02.2022 before S.B.


(MIAN MUHAMMAD)
MEMBER (E)


02.02.2022

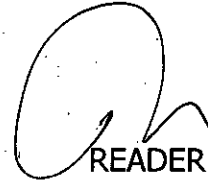
Appellant in person present. Mr. Muhammad Adeel Butt, Add: AG alongwith Mr. Irfan, Assistant for respondents present.

Representative of the respondents submitted written reply on behalf of respondents No. 1 and 3 which is placed on file. A copy of the same is also handed over to the learned counsel for the appellant. Notices be issued to respondents No. 2 and 4 for submission of written reply/comments. Adjourned. To come up for written reply/comments of respondents No.2 and 4 on 06.04.2022 before S.B.


(Attiq Ur Rehman Wazir)
Member(E)

06.04.2021

Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 13.07.2021 for the same as before.


READER

13.07.2021

Appellant in person and Mr. Kabirullah Khattak, Addl. AG alongwith Hamayun Khattak, SDO for the respondents present.

Respondents have not submitted reply/comments. They are directed to submit written reply/comments in office within 10 days, positively. If written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 01.12.2021 before the D.B.

Stipulated period has passed and reply has not been submitted.


Chairman

P.S

28.07.2021

Learned Addl. A.G be reminded about the omission and for submission of Reply/comments within extended time of 10 days.



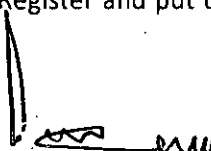

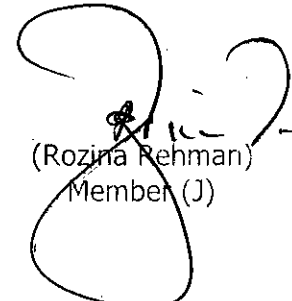

Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 15577 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	03/12/2020	<p>The appeal of Mr. Zuhranullah presented today by Mr. Inayatullah Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR,</p> <p>2-</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>18/01/2021</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>18.01.2021</p> <p>Appellant present through counsel. Preliminary arguments heard. File perused.</p> <p>Points raised need consideration. Admitted to regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to respondents for written reply/comments. To come up for written reply/comments on 06.04.2021 before S.B.</p> <p style="text-align: right;"> (Rozina Rehman) Member (J)</p>

 11/3/21
Appellant Deposited Security & Process Fee

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL, PESHAWAR

S.A. No. _____/2020

Zuhran Ullah..... Appellant

Versus

Secretary Public Health Engineering Department
Khyber Pakhtunkhwa and others..... Respondents

I N D E X

S.No.	Description of documents.	Annex	Pages.
1)	Memo of Service Appeal.		1-5
2)	Affidavit.		6
3)	Addresses of the parties.		7
4)	Copies of appointment order dated 29.03.2013 and arrival report	A-B	8-9
5)	Copies of medical certificate along with extract from service books	C-D	10-12
6)	Copies of salary slips	E-E/8	13-21
7)	Copies of applications along with postal receipts	F, F/1 F/2, F/3	22-25
8)	Copy of departmental appeal	G	26
9)	Copy of W.P.No.5426-P/2019 and order dated 19.11.2020	H-I	27-35
10)	Wakalatnama.		36

Appellant

Through

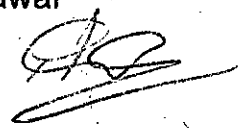


Inayat Ullah Khan
Advocate High Court
Peshawar.
LL. M (UK)
Cell: 0333-9227736

&

Muhammad Haris Sher
Advocate, Peshawar

Dated: 02.12.2020



BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL, PESHAWAR

15577

S.A.No. _____/2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 16060

Dated 03/12/2020

Zuhran Ullah son of Akhtar Zaman
R/o Phase-II, Hayatabad, Peshawar.

Currently working as Naib Qasid

FATA Division, Public Health Engineering Division Kohat..Appellant

Versus

- 1) Secretary Public Health Engineering Department Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
- 2) Chief Engineer Public Health Engineering North Khyber Pakhtunkhwa, Peshawar.
- 3) XEN, Public Health Engineering Division, Kohat
- ④ Chief Engineer, Works and Services Merged Areas, Civil Secretariat, Peshawar..... Respondents

Deleted vide order sheet dated 18.5.20

**SERVICE APPEAL UNDER SECTION 4 OF
THE SERVICES TRIBUNAL ACT, 1974
FOR RELEASE OF PAY OF THE
APPELLANT.**

Filed to-day
Prayer:
aw
Registrar
3/12/2020

It is, therefore, humbly prayed that on acceptance of this Service Appeal;

Firstly, to direct respondents No.1 to 4 to forthwith release the salaries of the appellant along with arrears of pay w.e.f. 1st January, 2018 till onwards;

Secondly, to declare the act of respondents regarding stoppage of salaries of the appellant as null and void, without lawful authority, and ineffective upon the accrued rights of appellant;

Thirdly, to take action against the concerned officer for stopping the salary of the appellant in the light of reported judgment in **1997 PLC (CS) 666**.

Any other relief which this Hon'ble Tribunal deems appropriate in the circumstances of case and to whom the appellant found entitled may kindly also be granted.

Respectfully Sheweth;

Brief facts giving rise to the instant appeal are as under:-

- 1) That the appellant was appointed as Naib Qasid vide order No.839/5-E dated 29.03.2013 issued by office of Executive Engineer Public Health Engineering FATA Division Kohat.

It is pertinent to mention that the appellant submitted his arrival report for resumption of his duty on 30.03.2013 on the post of Naib Qasid in view of the appointment order as referred to in the above paras.

(Copies of appointment order dated 29.03.2013 and arrival report are attached as Annex: "A & B")

- 2) That the appellant also submitted his medical certificate and accordingly service book was also issued showing his entry and arrival report in service.

(Copies of medical certificate along with extract from service books are Annex: "C and D")

- 3) That the appellant was regularly performing his duties to the entire satisfaction of his immediate superiors and in this regard he was regularly drawing his salaries since 2013 till December 2017.

(Copies of salary slips are Annex: "E to E/8")

- 4) That all of a sudden the respondents without assigning any reason or cause stopped the salaries of the appellant till date and in this regard various applications were filed before respondent No.1 with copies to the remaining respondents
-

seeking reasons for stopping his salaries for a period of almost two years i.e. for the year 2018 and 2019 but since then no response has been provided to him.

(Copies of applications along with postal receipts are Annex: "F, F/1, F/2 and F/3").

- 5) That appellant also filed Departmental Appeal dated 31.08.2020 in continuation of the applications mentioned in para-4 for release of pay, but since then no response has been provided.

(Copy of departmental appeal is Annex: "G").

- 6) That since no written orders with regard to stopping salaries of the appellant has been passed by the respondents, therefore, the appellant being aggrieved filed Writ Petition No.5426-P/ 2019 before the Hon'ble Peshawar High Court, Peshawar, which was decided/ dismissed on 19.11.2020 on the point of maintainability by invoking the provision of Article 212 of the Constitution.

(Copy of W.P.No.5426-P/2019 and order dated 19.11.2020 are Annex: "H and I")

- 7) That having no alternate and efficacious remedy, the appellant constrained to approach this Hon'ble Service Tribunal for redressal of his grievance on the following amongst other grounds:

GROUNDS

- a) That the act of respondents to stop the salary of the appellant is against the law, facts and material available on record.
- b) That the act of respondents is violative of **Article 4, 9, 11, 25** and various other Articles of the Constitution of Pakistan as well as judgments rendered by the august Supreme Court of

Pakistan that departmental authorities under law having no power to stop the salaries of their employees and that too without adhering/ adopting **due process of law**, which amounts to force labour, hence **violative of Article 11** of the Constitution of Pakistan.

- c) That the Hon'ble High Court categorically held in a **reported judgment 1997 PLC (CS) 666**

"that strict action be taken against an officer who stopped the salary of an employee".

Even otherwise it is also settled law that:

Pendency of departmental inquiry, if any, is no ground to stop the salary of the appellant as right to livelihood is a fundamental right which is part of right to life as embodied in Article 9 of the Constitution of Pakistan"

- d) That the Hon'ble Peshawar High Court, Peshawar categorically held in **2017 PLC (CS) note 14 p.14** that salary on pretext of irregular appointment order was declared to be held illegal. Department was directed to release the pay of appellant from the date of its stoppage.

It is pertinent to mention that no limitation runs in matters relating to pay and pension. (1991 SCMR 1041, 2005 PLC (CS) 1439, 2006 PLC (CS) 489, 2002 PLC (CS) 1388, 1990 PLC (CS) 95).

If case has merit limitation may not be a hurdle in the way of appellant. (PLD 2002 (SC) 84, 2004 SCMR 527, PLJ 2004 (SC) 306, PLD 2013 SC 724 (k)

- e) That the act of respondents has exposed not only the appellant but his ailing parents to risk of not getting proper care and treatment as the appellant was the only source of

income of his family, hence suffering since the month of December, 2017 till date by illegally stopping his salaries without assigning any reason or cause.

- f) That it is settled law that salary of an employee is no more a State bounty.

Keeping in view, what has been stated above it is, therefore, humbly prayed that on acceptance of this Service Appeal

Firstly, to direct respondents No.1 to 4 to forthwith release the salaries of the appellant along with arrears of pay w.e.f. 1st January, 2018 till onwards;


Secondly, to declare the act of respondents regarding stoppage of salaries of the appellant as null and void, without lawful authority, and ineffective upon the accrued rights of appellant;

Thirdly, to take action against the concerned officer for stopping the salary of the appellant in the light of reported judgment in 1997 PLC (CS) 666.

Any other relief which this Hon'ble Tribunal deems appropriate in the circumstances of case and to whom the appellant found entitled may kindly also be granted.


Appellant

Through


Inayat Ullah Khan
Advocate High Court
LL. M (U.K)

&
Muhammad Haris Sher
Advocate, Peshawar.

Dated: 02.12.2020



BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL, PESHAWAR

S.A. No. _____/2020

Zuhran Ullah..... Appellant

Versus

Secretary Public Health Engineering Department
Khyber Pakhtunkhwa and others..... Respondents

AFFIDAVIT

I, Zuhran Ullah son of Akhtar Zaman R/o Phase-II, Hayatabad, Peshawar currently working as Naib Qasid FATA Division, Public Health Engineering Division Kohat (appellant) do hereby affirm and declare on oath that the contents of accompanying Appeal are true and correct and nothing has been concealed from this Hon'ble Tribunal.

Zuhran Ullah
3-12-2020

MIAH SIDDIQAT ULLAH SHAH
ADVOCATE
Notary Public/Oath Commissioner
Peshawar High Court Peshawar

Zuhran Ullah

Deponent

CNIC No.11101-5042676-5
Cell: 0331-6798595

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL, PESHAWAR

S.A. No. _____/2020

Zuhran Ullah..... Appellant

Versus

Secretary Public Health Engineering Department
Khyber Pakhtunkhwa and others..... Respondents

ADDRESSES OF THE PARTIES

APPELLANT:

Zuhran Ullah son of Akhtar Zaman
R/o Phase-II, Hayatabad, Peshawar.
Currently working as Naib Qasid
FATA Division, Public Health Engineering Division Kohat

RESPONDENTS:

- 1) Secretary Public Health Engineering Department Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
- 2) Chief Engineer Public Health Engineering North Khyber Pakhtunkhwa, Peshawar.
- 3) XEN, Public Health Engineering Division, Kohat
- 4) Chief Engineer, Works and Services Merged Areas, Civil Secretariat, Peshawar

Appellant

Through



Inayat Ullah Khan
Advocate High Court
Peshawar.
LL. M (UK)

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 15577/2020

BEFORE: MR. KALIM ARSHAD KHAN ... CHAIRMAN
MISS. FAREEHA PAUL ... MEMBER(E)

Zuhran Ullah (*Appellant*)

Versus

1. The Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar.
2. The Secretary to Government of Khyber Pakhtunkhwa, Elementary & Secondary Education, Peshawar.
3. The Director, Elementary & Secondary Education, Peshawar.
4. Khalil Ur Rehman, Principal Government High School, Lowara Maina Jamrod, District Khyber.

.... (*Respondents*)

Mr. Inayat Ullah
Advocate

... For appellant

Mr. Naseer ud Din Shah
Addl. Advocate General

... For respondents

Date of Institution.....03.12.2020
Date of Hearing.....05.10.2022
Date of Decision..... 05.10.2022

JUDGEMENT

FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, on acceptance of the instant service appeal, firstly to direct the respondents to forthwith release the salaries of the appellant alongwith arrears of pay w.e.f 1st January, 2018 till onward; secondly to declare the act of the respondents regarding stoppage of salaries of the appellant as null and void, without lawful authority, and ineffective upon the accrued rights of appellant; thirdly to take action against the

authority, and ineffective upon the accrued rights of ^{the} appellant; thirdly, to take action against the concerned officer ^{or} for stopping the salary of the appellant in the light of the reported judgment in 1997 PLC(CS)666, and any other relief which this Hon'able Tribunal deems appropriate in the circumstances of the case and to whom the appellant ^{was} found entitled, ~~may kindly also be granted.~~

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was appointed as Naib Qasid vide order dated 29.03.2013, issued by the office of Executive Engineer, Public Health Engineering, FATA Division, Kohat. He submitted his arrival ^{report} on 30.03.2013. While regularly performing his duties, the respondents, without issuing reason or cause, stopped the salaries of the appellant. He submitted various applications to Respondent No. 1~~0~~, with copies to other respondents seeking reason for stopping his salary for a period of almost two years i.e 2018 ^{and 2019} but they were not responded. He also filed departmental appeal dated 31.08.2020 in continuation of those applications, but it was ^{also} not responded. Feeling aggrieved the appellant filed writ petition No. 5426-P/2019 before the Hon'ble Peshawar High Court, which was decided/dismissed on 19.11.2020 on the point of maintainability by invoking the provision of Article 212 of the Constitution; *hence this service appeal.*

3. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned Additional Advocate General and perused the case file with connected documents in detail.

4. Learned counsel for the appellant presented the case in detail and contended that stoppage of salary was against the law and Constitution of Pakistan. ^{referred to} He stated a reported judgment 1997 PLC(CS)666, ^{clearly stated that} according to which ^{strict} action be taken against an officer who stopped the salary of an employee. He further referred ^{to} ~~the~~ ^a settled law according to which ^{was} pendency of departmental inquiry, if any, ~~is~~ ^{is} no

a notice for personal hearing was also issued on 03.06.2013. Record shows that notices were issued through registered post on her home address. It further indicates that notices were issued in the daily Aaj dated 04.05.2013 and daily Express dated 08.12.2013 also. There is a statement dated 31.08.2013 present on the record, according to which the appellant admitted that she did not perform her duties and submitted her apology and request for a chance by stating that if in future she was not dutiful, she might be proceeded against under law and that she would not appeal against that. Despite all the notices and her statement in writing the appellant did not try to mend her ways and still absented herself from duty.

8. In view of the above discussion, we are satisfied that the department has acted in line with the given law and rules. The appeal is thus groundless, and therefore, dismissed. Parties are left to bear their own costs. Consign.

9. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 5th day of October, 2022.*

(KALIM ARSHAD KHAN)
Chairman

(FAREEHA PAUL)
Member (E)

good ground to stop the salary of the appellant as right to livelihood ^{was} is a fundamental right which ^{was} is part of right to life as embodied in Article 9 of ~~the~~ Constitution of Pakistan. He prayed for the release of salary alongwith arrears^s of pay w.e.f 1st January, 2018 onward.

5. The learned Additional Advocate General, on the other hand, invited the attention to the appointment order of the appellant and contended that it was declared irregular and fake and ~~on~~ ^{that} there was ^a clear difference between ~~to~~ ^{the} signatures on office order and service book. He further contended that the appellant did not submit ~~to~~ his arrival report to his immediate officer, ^{that} ^{was the} Sub-Divisional Officer concerned, which was then ^{to} be reported to the Executive Engineer. He further informed that the department conducted an inquiry regarding fake appointments of Class-IV employees made during period from August 2012 to December 2014, ^a according to which ^{the} said recruitments were declared irregular and fake as they were made without observing codal formalities. He further informed that the salary of the appellant had been stopped on source inactive form duly signed by Executive Engineer and Divisional Account^s Officer.

6. In view of the arguments and record presented before us, it ~~is clear~~ ^{transpires} that the appellant was appointed as Naib Qasid in the Public Health Engineering, FATA Division Kohat in the year 2013. He started performing ~~there~~ ^{his duties} and getting salaries.

~~In the light of inquiry~~ ^{an} ^{conducted against} copy of the report provided with the reply, it was found

that certain irregular appointment of Class-IV employees were made without observing codal formalities. ^{Report of that inquiry has been provided with the reply} in view of which salary of the appellant was stopped.

~~It~~ ^{that the} was strange to note ^{of the appellant} source form available with the reply indicated stoppage of salary ^{from} from 1st January 2018 because of absence ~~of~~ duty. As there is a controversy in the reply given by the department followed by the statement of

Additional Advocate General and in the source form, ^w we think that the matter

Mr Bahasullah Khan, Ex-XEn FATA Division, Kohat

needs to be look^{ed} into in detail. It is further evident from the record that the appointment order of the appellant is still in place. Neither the appointment order has been withdrawn^{a n} nor the appellant has been dismissed from service. Salary slips provided

7. In view of the above discussion, the appeal in hand is allowed with the direction to the department to see the extent of the salary payable to the appellant.

~~The department is free to proceed against~~ ^{the appellant} ~~him~~, if they think that the appointment order was fake/bogus, in a way as provided under the law. Parties are left to bear their own costs. Consign.

8. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 5th day of October, 2022.

(FARÉEHA PAUL)
Member (E)

(KALIM ARSHAD KHAN)
Chairman

① with the ~~the~~ appeal indicate that the appellant was an employee of in the office of Executive Engineer PHE, FATA ~~but was paid out of the~~ and indicated in the Ministry of Education. Moreover deduction of GP Fund, as indicated in his pay slip, was against the terms and conditions of his appointment as indicated in his appointment order dated 29-3-2013 which indicates that he will not contribute to GP fund and will not be entitled to pension, gratuity benefits etc.

(Faréha Paul)
Member (E)

12/10/2022
KALIM ARSHAD KHAN



Annexure "A" (8)

OFFICE OF THE
EXECUTIVE ENGINEER
PUBLIC HEALTH ENGG: FATA DIVISION KOHAT
HOUSE # 29, SECTOR # 5, PHASE # 1, KDA, KOHAT


No. 839/5.E

Dated Kohat the 29/3 /2013

OFFICE ORDER

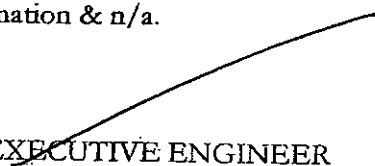
Mr. Zuhran Ullah S/O Akhtar Zaman R/O Sokri Karim Khan Tehsil & District Bannu, is hereby appointed as Naib Qasid on contract basis against the existing vacancy in PHE FATA Division Kohat in BPS-01(4800-150-9300) plus usual allowance as admissible under the rules subject to the following terms and conditions.

- 1- The appointment is made purely on contract basis and is liable to termination at any time without any notice or reason. If he wishes to resign from the post, he shall give one Month notice prior to resignation or one Month pay will be deposited in lieu thereof.
- 2- He shall produce his health and age certificate from the Medical Superintendent Divisional Head quarter Hospital Kohat.
- 3- He will not contribute to GPF and will not be entitled to pension, gratuity benefit, etc.
- 4- If he accepts the appointment on the terms and condition specified above, he shall report for duty to the Sub Divisional Officer PHE FATA Sub Division FR Kohat within 14-days of order, failing which the order shall be stood cancelled automatically.


EXECUTIVE ENGINEER

Copy to:-

- 1- The Medical Superintendent HQ Hospital Kohat for information please.
- 2- The District Accounts Officer Kohat.
- 3- The SDO PHE FATA Sub Division FR Kohat for information & n/a.
- 4- The DAO Local.
- 5- The Official concerned.


EXECUTIVE ENGINEER

ATTESTED

Annexure "B" (9)

To,

The Executive Engineer,
P. H. E. Fata Division,
Kohat.


Subject: ARRIVAL REPORT

Sir,

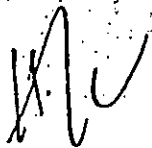
In compliance of Office Order No
dated 29-3-2013. I submit my arrival report
for duty today i.e. 30-3-2013 (F.N.).

Thanks.

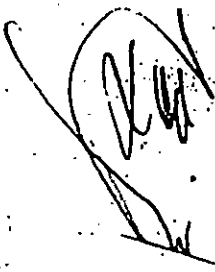
Yours obedient


Zuhraan Ullah
Naib Qasid

Dated 30/3/2013




ATTESTED



Annexure "C" (10)
MEDICAL CERTIFICATE

Name of official: Zuhayrullah
Caste or race: _____
Father's name: Akhtar Zaman
Residence: VII. Sakar, Tehsil and Distt. Bannu.
Date of birth: 2-1-1994 (11101-5042676-5)
Exact height by measurement: 5' 7"
Personal mark of identification: _____
Signature of the official: _____
Signature of head of office: _____

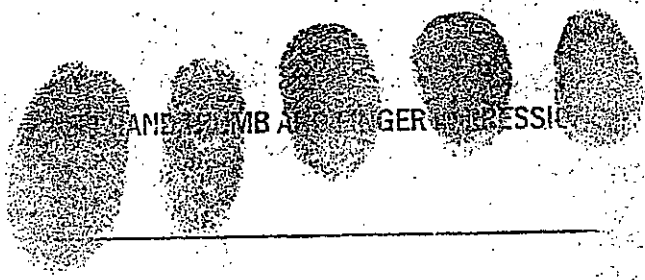
Seal of office _____

I do hereby certify that I have examined Mr. Zuhayrullah a candidate for employment in the Office of the Executive Engineer (PHE FATA) Kohat and cannot discover that he had any disease communicable or other constitutional affection or bodily infirmity except nil CAS Naib Qasid

I do not consider this as disqualification for employment in the office of the Executive Engineer (PHE FATA) Kohat His age according to his own statement 19 years year and by appearance about year Nineteen years CAS Naib Qasid

D. Habib Jan
MEDICAL SUPERINTENDENT
29/3/2017
CIVIL HOSPITAL MEDICAL SUPERINTENDENT
D.H.Q HOSPITAL
KOHAT

29/3/2013



ATTESTED

9 Signature and designation of the Head of the office or other attesting officer in attestation of column 7 to 8.	10 Date of termination or appointment	11 Reason of termination (such as promotion, transfer, dismissal)	12 Signature of the head of the office or other Attesting officer.	13 Nature and duration of leave taken	13 Allocation of period of leave of average pay up to four months (or earned leave not exceeding 120 days) to which leave salary is debitable to another Government.	14 Signature of the Head of the office or other attesting Officer.	15 Reference to any recorded punishment or censure, reprimand or praised of Government servants.				
					<table border="1"> <tr> <th data-bbox="901 592 997 743">Period</th> <th data-bbox="997 592 1157 743">Government to which debitable</th> </tr> <tr> <td></td> <td></td> </tr> </table>	Period	Government to which debitable				
Period	Government to which debitable										
<p>امیر میجاز</p>	<p>تاریخ انقطاع ملازمت</p>	<p>درجہ انتقال ملازمت ترقی برائے ملازمت</p>	<p>دستخط امیر میجاز</p>	<p>رضیت کی فوری دوبعد</p>	<p>مبارکت کی رضیت مبارکت کی رضیت</p>	<p>دستخط امیر میجاز</p>	<p>سزایا جزایا بیمرمان کارکردگی کا ریکارڈ</p>				
<p>When let on 19/11/13 & 19/11/13 on without leave against the Director's order vide no. 510-833/5-1-13 dated 19/11/13 and reported annual 30/3/2013</p>											
<p>Public Health & FATA Division Kohat</p>											
<p>From 30/3/2013 to 30/11/2013 From the office of the Director Bilal Q. Roll maintained in the office</p>											
<p>ATTESTED Executive Engineer Public Health & FATA Division Kohat</p>											

Annexure E (13)

S#: 1 Kohat
Pers #: 50171936 Buckle:
Name: ZUHRAN ULLAH
NAIB QASID
CNIC No. 1110150426765
GPF Interest Applied
01 Active Temporary

P Sec: 001 Month: January 2017
KT9001 - EXECUTIVE ENGINEER (PHS PA
Min. Of Education
MIN:
GPF #:
Old #:

PAYS AND ALLOWANCES:
0001-Basic Pay : 8,840.00
1000-House Rent Allowance 891.00
1210-Convey Allowance 2005 1,785.00
1300-Medical Allowance 1,500.00
1528-Unattractive Area Allow 1,000.00
1973-Adhoc Allowance 20100 50% 1,485.00
2148-1st Adhoc Relief All-2013 262.00
2199-Adhoc Relief Allow @10% 175.00
2211-Adhoc Relief All 2015 10% 884.00
Gross Pay and Allowances 16,822.00

DEDUCTIONS:
GPF Balance 12,211.00
3501-Benevolent Fund 337.00
3604-Group Insurance 120.00
3705-R. Ben & Death Comp (Exch) 58.00
300.00

Total Deductions 815.00
16,007.00

D.O.B: 02.01.1994 LFP Quota: 4
03 Years 10 Months 00 Days ALLIED BANK LIMITED GENERAL BUS STAND BA
10037452540019

ATTESTED

Annexure "E1"

(14)



S#: 1 Kohat

P Sec:001 Month:December 2017
KT9001 -EXECUTIVE ENGINNER (PHE FA
Min. Of Education

Pers #: 50171936 Buckle:
Name: ZUHRAN ULLAH
NAIB QASID

NTN:
GPF #:
Old #:

CNIC No.1110150426765
GPF Interest Applied
01 Active Temporary

KT9001

PAYS AND ALLOWANCES:

0001-Basic Pay	10,870.00
1000-House Rent Allowance	891.00
1210-Convey Allowance 2005	1,785.00
1300-Medical Allowance	1,500.00
1528-Unattractive Area Allow	1,000.00
2148-15% Adhoc Relief All-2013	262.00
2199-Adhoc Relief Allow @10%	175.00
2211-Adhoc Relief All 2016 10%	884.00
2224-Adhoc Relief All 2017 10%	1,087.00
Gross Pay and Allowances	18,454.00

DEDUCTIONS:

GPF Balance	17,531.00	Subrc:	400.00
3701-Benevolent Fund(Exchange)			120.00
3705-R. Ben & Death Comp(Exch)			300.00
Total Deductions			820.00
			17,634.00

D.O.B 02.01.1994
04 Years 09 Months 003 Days

LFP Quota: 4
ALLIED BANK LIMITED GENERAL BUS STAND BA
10037452540019

ATTESTED

Amr "E2" (15)

S#: 1 Kohat

P Sec:001 Month:January 2016
KT9001 -EXECUTIVE ENGINEER (PHE PA
Min. Of Education

Pers #: 50171936 Buckle:
Name: ZUHRAN ULLAH
NAIB QASID
CNIC No.1110150426765
GPF Interest Applied

NTN:
GPF #:
Old #:

KT9001

PAYS AND ALLOWANCES:

0001-Basic Pay	6,990.00
1000-House Rent Allowance	891.00
1210-Convey Allowance 2005	1,785.00
1300-Medical Allowance	1,500.00
1528-Unattractive Area Allow	1,000.00
1973-Adhoc Allowance 2010@ 50%	1,485.00
2148-15% Adhoc Relief All-2013	707.00
2174-Adhoc Relief Allow-2014	525.00
2198-Adhoc Relief All: 7.5%	524.00
Gross Pay and Allowances	15,487.00

DEDUCTIONS:

GPF Balance	7,760.00	Subrc:	274.00
3501-Benevolent Fund			120.00
3604-Group Insurance			58.00
3711-Addl Group Insuranc (Exch)			3.00

Total Deductions 455.00
15,032.00

D.O.B 02.01.1994 LFF Quota: 4
Payment through DDO.
02 Years 10 Months 003 Days

ATTESTED

Amr "E3" (28)

S# : 1 Kohat P Sec:001 Month:December 2016
KT9001 -EXECUTIVE ENGINNER (PHE) FA
Min. Of Education
Pers #: 50171936 Buckle:
Name: ZUHRAN ULLAH NTN:
NAIB QASID GPF #:
CNIC No.1110150426765 Old #:
GPF Interest Applied

	KT9001	
PAYS AND ALLOWANCES:		
0001-Basic Pay		8,840.00
1000-House Rent Allowance		891.00
1210-Convey Allowance 2005		1,785.00
1300-Medical Allowance		1,500.00
1528-Unattractive Area Allow		1,000.00
1973-Adhoc Allowance 2010@ 50%		1,485.00
2148-15% Adhoc Relief All-2013		262.00
2199-Adhoc Relief Allow @10%		175.00
2211-Adhoc Relief All 2016 10%		884.00
Gross Pay and Allowances		16,822.00
DEDUCTIONS:		
GPF Balance 11,874.00	Subrc:	337.00
3501-Benevolent Fund		120.00
3604-Group Insurance		58.00
3711-Addl Group Insuranc(Exch)		3.00
Total Deductions		518.00
		16,304.00

D.O.B 02.01.1994 LFP Quota: 4
03 Years 09 Months 003 Days ALLIED BANK LIMITED GENERAL BUS STAND BA
10037452540019

ATTESTED

Ans "E4" (17)

S#: 1 Kohat
Pers #: 50171936 Buckle:
Name: ZUHRAN ULLAH
NAIB QASID
CNIC No.1110150426765
GPF Interest Applied
01 Active Temporary

P Sec:001 Month:January 2015
KT9001 -EXECUTIVE ENGINEER (PHE FA
Min. Of Education
NTN:
GPF #:
Old #:

KT9001

PAYS AND ALLOWANCES:	
0001-Basic Pay	5,250.00
1000-House Rent Allowance	891.00
1210-Convey Allowance 2005	1,785.00
1300-Medical Allowance	1,200.00
1528-Unattractive Area Allow	1,000.00
1971-Adhoc Allowance 2011@ 15%	445.00
1973-Adhoc Allowance 2010@ 50%	1,485.00
2118-Adhoc Relief Allow (2012)	1,050.00
2148-15% Adhoc Relief All-2013	787.00
2174-Adhoc Relief Allow-2014	525.00
Gross Pay and Allowances	14,418.00
DEDUCTIONS:	
GPF Balance 4,457.00	Subrc: 212.00
3501-Benevolent Fund	120.00
3511-Addl Group Insurance	3.00
3604-Group Insurance	58.00
Total Deductions	393.00
	14,025.00

D.O:B LFP Quota: 4
02.01.1994 Payment through DDO.
01 Years 10 Months 003 Days

ATTESTED

Ans "E5" (18)

S#: 1
Kohat
Pers #: 50171936 Buckle:
Name: ZUHRAN ULLAH
NAIB QASID
CNIC No.1110150426765
GPF Interest Applied
01 Active Temporary

P-Sec:001 Month:December 2015
KT9001 -EXECUTIVE ENGINEER (PHE PA
Min. Of Education
NTN:
GPF #:
Old #:

PAYS AND ALLOWANCES:		KT9001
0001-Basic Pay:		6,990.00
1000-House Rent Allowance		891.00
1210-Convey Allowance 2005		1,785.00
1300-Medical Allowance		1,500.00
1528-Unattractive Area Allow		1,000.00
1973-Adhoc Allowance 2010@ 50%		1,485.00
2148-15% Adhoc Relief All-2013		787.00
2174-Adhoc Relief Allow-2014		525.00
2198-Adhoc Relief All 7.5%		524.00
Gross Pay and Allowances		15,487.00
DEDUCTIONS:		
GPF Balance	7,486.00	Subrc: 274.00
3501-Benevolent Fund		120.00
3604-Group Insurance		58.00
3711-Addl Group Insuranc(Exch)		3.00
Total Deductions		455.00
		15,032.00

D.O.B 02.01.1994 LPP Quota: 4
02 Years 09 Months 003 Days Payment through DDO.

ATTESTED

S#: 1

Kohat

P Sec:001 Month:January 2014
KT9001 -EXECUTIVE ENGINEER (PHE PA
Min. Of Education

Ans "E6"

(19)

Pers #: 50171936 Buckle:
Name: ZUHRAN ULLAH
NAIB QASID
CNIC No.1110150426765
GPF Interest Applied

NIN:
GPF #:
Old #:

KT9001

PAYS AND ALLOWANCES:

0001-Basic Pay	4,950.00
1000-House Rent Allowance	891.00
1210-Convey Allowance 2005	1,700.00
1300-Medical Allowance	1,000.00
1528-Unattractive Area Allow	1,000.00
1971-Adhoc Allowance 2011@ 15%	445.00
1973-Adhoc Allowance 2010@ 50%	1,485.00
2118-Adhoc Relief Allow (2012)	990.00
2151-Adhoc Allowance 2013 @10%	495.00
Gross Pay and Allowances	12,956.00

DEDUCTIONS:

GPF Balance	1,698.00	Subrc:	212.00
3501-Benevolent Fund			120.00
3511-Addl Group Insurance			3.00
3604-Group Insurance			58.00

Total Deductions 393.00

12,563.00

D.O.B. LFP Quota: 4
02.01.1994 Payment through DDO.
00 Years 10 Months 003 Days

ATTESTED

Ans "E7"

(20)

S#: 1 Kohat

P Sec:001 Month:December 2014
KT9001 -EXECUTIVE ENGINEER (PHE) FA
Min. Of Education

Pers #: 50171936 Buckle:
Name: SUHRAN ULLAH
NAIB QASID
CNIC No.1110150426765
GPF Interest Applied

NTN:
GPF #:
Old #:

	KT9001	
PAYS AND ALLOWANCES:		
0001-Basic Pay		5,250.00
1000-House Rent Allowance		891.00
1210-Convey Allowance 2005		1,785.00
1300-Medical Allowance		1,200.00
1528-Unattractive Area Allow		1,000.00
1971-Adhoc Allowance 2011@ 15%		445.00
1973-Adhoc Allowance 2010@ 50%		1,485.00
2118-Adhoc Relief Allow (2012)		1,050.00
2148-15% Adhoc Relief All-2013		787.00
2174-Adhoc Relief Allow-2014		525.00
Gross Pay and Allowances		14,418.00
DEDUCTIONS:		
GPF Balance 4,245.00	Subrc:	212.00
3501-Benevolent Fund		120.00
3511-Addl Group Insurance		3.00
3604-Group Insurance		58.00
Total Deductions		393.00
		14,025.00

D.O.B 02.01.1994 LFP Quota: 4
01 Years 09 Months 003 Days Payment through DDO.

ATTESTED

Amo "E8" (22)

S#: 1 Kohat P Sec:001 Month:July 2013
KT9001 -EXECUTIVE ENGINEER (PHE FA
Min. Of Education
Pers #: 50171936 Buckle:
Name: ZUHRAN ULLAH NIN:
NAIB QASID GPF #:
CNIC No.1110150426765 Old #:
GPF Interest Applied

01 Active Temporary		KT9001	-
PAYS AND ALLOWANCES:			
0001-Basic Pay		4,800.00	
1000-House Rent Allowance		891.00	
1210-Convey Allowance 2005		1,700.00	
1300-Medical Allowance		1,000.00	
1528-Unattractive Area Allow		1,000.00	
1971-Adhoc Allowance 2011@ 15%		445.00	
1973-Adhoc Allowance 2010@ 50%		1,485.00	
2118-Adhoc Relief Allow (2012)		960.00	
2151-Adhoc Allowance 2013 @10%		480.00	
Gross Pay and Allowances		12,761.00	
DEDUCTIONS:			
GPF Balance	426.00	Subrc:	212.00
3501-Benevolent Fund			120.00
3511-Addl Group Insurance			3.00
3604-Group Insurance			58.00
Total Deductions			393.00
			12,368.00

D.O.B LFP Quota: 4
02.01.1994 Payment through DDO.
00 Years 04 Months 003 Days

ATTESTED

Answer

۳

23

خدمت جناب سیکرٹری صاحب پبلک ہیلتھ انجینئرنگ ڈیپارٹمنٹ خیبر پختون خواہ پشاور

عنوان: بند تنخواہ جاری کرنے کی درخواست

جناب عالی!

گزارش کہ کہ سائل محکمہ میں نائب قاصد ہے انتہائی غریب گھرانے سے تعلق ہے۔ صرف اسی تنخواہ پر سارا خاندان گزارہ کرتا ہے۔ اور سب گھروالے انتہائی خوش تھے۔ اس دوران محکمہ میں ایک انکوآری جاری تھی کہ اچانک میری تنخواہ بند ہو گئی۔ ایکسٹن آفس معلومات حاصل کرنے پہنچ گیا تو معلوم ہوا کہ میری تنخواہ بند کی گئی ہے۔ تو آفس میں وجہ معلوم کرنے کی کوشش کی تو معلوم ہوا کہ غیر حاضری کی وجہ سے آپ کی تنخواہ بند کی ہے۔ لیکن آفس میں کوئی ایسی لیٹر یا کوئی اور قانونی چارہ جوئی نہیں کی گئی ہے۔

بعد میں معلوم ہوا کہ انکوآری میں آپ کا نام بھی ہے۔ اس سے پہلے مجھ سے تنخواہ کے بہانے سروس بک مانگا تھا کہ آپ کی تنخواہ کم ہے۔ لہذا آپ سروس بک لائے۔ اب میری تنخواہ 14 ماہ سے بند ہے۔ گھر کے چولہے ٹھنڈا ہو گئے ہیں اور فاقہ کشی پر مجبور ہے۔

لہذا آپ صاحبان سے مودبانہ گزارش ہے کہ سائل کی فریاد سنیں اور انصاف دلائیں۔ ہم آپ صاحبان سے امید لے بیٹھے ہیں۔

العارض

آپ کا فرمان بردار

محمد اظہار الحق
قاصد
24/9/2019
پبلک ہیلتھ انجینئرنگ فائنا ڈویژن کوہاٹ

کاپی برائے اطلاع:

1۔ ایکسٹن پبلک ہیلتھ انجینئرنگ فائنا ڈویژن کوہاٹ

ATTESTED

Annexure "F1" (23)

308-002-73



CN: 4/63404453

6
CASH 14-23

UNIVERSITY
Staff: 101601 Figure: X26107
Name : ZUBRAN UTAM
Phone : 03361982747
Address : DARRU

Name : GRANT SIMAN
Phone : 01009009940
Address : SUIE PUBLIC HEALTH ENG DEPT PEW

STAFF

Service Cth	100
Other Amount	0
VAS	0
Insurance (HS)	0
GST	28
TOTAL	200

STAFF

STAFF

ATTESTED

خدمت جناب سیکرٹری صاحب (پبلک ہیلتھ انجینئرنگ ڈویژن ٹنٹ) خیبر پختونخوا۔

عنوان:- بندش سمواہ کی ادائیگی۔

جناب عالی۔

گزارش کی جاتی ہے۔ کہ سائل نے ایک لیٹر بذریعہ TCS ڈاک آپ صاحبان کو بمورخہ 24-04-2019 ارسال کیا تھا۔ جس میں ہمارے ساتھ تمام تر زیادتی کی وضاحت بیان کی گئی ہے۔ اور اسی سلسلے میں ہم کو اسی لیٹر کی کوئی جواب نہیں ملا ہے۔

لہذا آپ صاحبان مہربانی فرما کر ہم کو انصاف فراہم کیا جائے اور اس میں جس کی کردار ظالمانہ ہو ان کی خلاف قانونی کارروائی کی جائے۔ جس نے ہمارے ساتھ جان بوجھ کر زیادتی کی ہے اور قانون کو غلط استعمال کیا گیا ہے۔

مجھے یقین ہے کہ ہمارے ساتھ جو کچھ ہوا آپ صاحبان اس کی تدارک کریں گے۔

اور ہم جلد انصاف کی توقع رکھتے ہیں۔

العارض

لکھنای:

مورخہ: 25-09-2019

ظہران اللہ ناسر

فائنا ڈویژن پبلک ہیلتھ انجینئرنگ ڈویژن کوہاٹ۔

کاپی برائے ضروری اطلاع

1. ایسٹن پبلک ہیلتھ انجینئرنگ ڈویژن کوہاٹ
2. چیف انجینئر صاحب پبلک ہیلتھ انجینئرنگ ڈویژن خیبر پختونخواہ پشاور
3. صوبائی محتسب خیبر پختونخواہ پشاور
4. چیف منسٹر صاحب کپلیٹ سیل خیبر پختونخواہ۔

ATTESTED

Annercase "F3"

25

No. 549

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which an acknowledgement is due.

Received a registered* addressed to _____ Date Stamp _____

*Write here "letter", "postcard", "packet" with the word "insured" before initials of Receiving Officer (in figures) _____ (in words) _____

Insurance fee Rs. _____ Ps. _____ (in words) Weight _____ Kilo _____ Grams _____

Name and address of sender _____

No. 550

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Received a registered* addressed to _____ Date Stamp _____

*Write here "letter", "postcard", "packet" with the word "insured" before initials of Receiving Officer (in figures) _____ (in words) _____

Insurance fee Rs. _____ Ps. _____ (in words) Weight _____ Kilo _____ Grams _____

Name and address of sender _____

551

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Received a registered* addressed to _____ Date Stamp _____

*Write here "letter", "postcard", "packet" with the word "insured" before initials of Receiving Officer (in figures) _____ (in words) _____

Insurance fee Rs. _____ Ps. _____ (in words) Weight _____ Kilo _____ Grams _____

Name and address of sender _____

ATTESTED

Annexure G (26)

To

The,
Public Health Engineering,
FATA Division Kohat.

SUBJECT: DEPARTMENTAL APPEAL FOR RELEASE OF SALARIES
W.E.F 01.01.2018 TILL DATE

Sir,

1. That the undersigned was appointed as Naib Qasid vide order dated 29.03.2013 issued by the office of Executive Engineer Public Health Engineering FATA Division Kohat.
2. That the undersigned was regularly performing his duties to the entire satisfaction of my immediate superiors and I was regularly drawing my salaries since 29.03.2013 till December 2017.
3. That all of a sudden without assigning any reason or cause the salaries of the undersigned were stopped with effect from 01.01.2018 till date.
4. Various applications for release of salaries have already been made to the concern authorities but no response is provided to me so far.
5. It is pertinent to mention that no written order with regard to stopping of salaries of the undersigned has been passed by the respondents, therefore, this departmental appeal is presented to release my salaries forthwith.
6. It was time and again assure to the undersigned that there is some departmental inquiry pending against the then XEN Behrullah so after completion of the inquiry against him my salaries will be released immediately, hence I was kept-on promises and despite of the fact that I was serving my duties without getting paid.

Keeping in view what has been stated above it is humbly requested to forthwith release my salaries with effect from 01.01.2018 till date.

Date: 31.08.2020

Appellant



Zuhran Ullah

Currently working as
Naib Qasid FATA Division,
Public Health Engineering
Division Kohat.

Annexure
"H"

①
②
27

[Handwritten signature]

BEFORE PESHAWAR HIGH COURT, PESHAWAR.



W.P.No. _____/2019

Zuhran Ullah son of Akhtar Zaman
R/o Phase-II, Hayatabad, Peshawar.
Currently working as Naib Qasid
FATA Division, Public Health Engineering Division Kohat..Petitioner

Versus

- 1) Secretary Public Health Engineering Department Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
- 2) Chief Engineer Public Health Engineering North Khyber Pakhtunkhwa, Peshawar.
- 3) XEN, Public Health Engineering Division, Kohat
- 4) Chief Engineer, Works and Services Merged Areas, Civil Secretariat, Peshawar..... Respondents

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

Prayer:

It is, therefore, humbly prayed that on acceptance of this Writ Petition to;

Firstly, direct respondents No.1 to 4 to forthwith release the salaries of the petitioner along with arrears of pay w.e.f. 1st January, 2018 till onwards;

Secondly, to declare the act of respondents regarding stoppage of salaries of the petitioner as null and void, without lawful authority, and ineffective upon the accrued rights of petitioner;

Thirdly, to take action against the concerned officer for stopping the salary of the petitioner in the light of reported judgment in 1997 PLC (CS) 666 rendered by the Hon'ble Supreme Court of Pakistan.

ATTESTED

**EXAMINER
Peshawar High Court**

(2)
(28)

Any other relief which this Hon'ble Court deems appropriate in the circumstances of case and to whom the petitioner found entitled may kindly also be granted.

INTERIM RELIEF:

In the meanwhile by way of interim relief, respondents No.1 to 4 may kindly be restrained from taking any adverse action against the petitioner with further direction to release his pay immediately till final disposal of instant writ petition.

Respectfully Sheweth;

Brief facts giving rise to the instant writ petition are as under:-

- 1) That the petitioner was appointed as Naib Qasid vide order No.839/5-E dated 29.03.2013 issued by office of Executive Engineer Public Health Engineering FATA Division Kohat.

It is pertinent to mention that the petitioner submitted his arrival report for resumption of his duty on 30.03.2013 on the post of Naib Qasid in view of the appointment order as referred to in the above paras.

(Copies of appointment order dated 29.03.2013 and arrival report are attached as Annex: "A & B").

- 2) That the petitioner also submitted his medical certificate and accordingly service book was also issued showing his entry and arrival report in service.

(Copies of medical certificate along with extract from service books are Annex: "C and D").

- 3) That the petitioner was regularly performing his duties to the entire satisfaction of his immediate superiors and in this regard he was regularly drawing his salaries since 2013 till December 2017.

(Copies of salary slips are Annex: "E to E/8")

ATTESTED
EXAMINER
Peshawar High Court

- 4) That all of a sudden the respondents without assigning any reason or cause stopped the salaries of the petitioner and as

3

28
29

such he was working till date without getting/ drawing his regular salaries and in this regard various applications were filed before respondent No.1 with copies to the remaining respondents seeking reasons for stopping his salaries for a period of almost two years i.e. for the year 2018 and 2019 but since then no response has been provided to him.

(Copies of applications along with postal receipts are Annex: "F, F/1, F/2 and F/3").

- 5) That since no written orders with regard to stopping salaries of the petitioner has been passed by the respondents, therefore, the petitioner feeling aggrieved having no alternate and efficacious remedy, hence constrained to approach this Hon'ble Court for redressal of his grievance on the following amongst other grounds:

GROUNDS

- a) That the act of respondents to stop the salary of the petitioner is against the law, facts and material available on record.
- b) That the act of respondents is violative of **Article 4, 9, 11, 25** and various other Articles of the Constitution of Pakistan as well as judgments rendered by the august Supreme Court of Pakistan that departmental authorities under law having no power to stop the salaries of their employees and that too without adhering/ adopting **due process of law**, which amounts to force labour, hence **violative of Article 11** of the Constitution of Pakistan.
- c) That the Hon'ble Supreme Court of Pakistan categorically held in a **reported judgment 1997 PLC (CS) 666**

"that strict action be taken against an officer who stopped the salary of an employee".

Even otherwise it is also settled law that

ATTESTED
EXAMINER
Peshawar High Court

4

30

Pendency of departmental inquiry, if any, is no ground to stop the salary of the petitioner as right to livelihood is a fundamental right which is part of right to life as embodied in Article 9 of the Constitution of Pakistan”

- d) That the act of respondents has exposed not only the petitioner but his ailing parents to risk of not getting proper care and treatment as the petitioner was the only source of income of his family, hence suffering since the month of December, 2017 till date by illegally stopping his salaries without assigning any reason or cause.
- e) That it is settled law that salary of an employee is no more a State bounty.

Keeping in view, what has been stated above it is, therefore, humbly prayed that on acceptance of this Writ Petition to;

Firstly, direct respondents No.1 to 4 to forthwith release the salaries of the petitioner along with arrears of pay w.e.f. 1st January, 2018 till onwards;

Secondly, to declare the act of respondents regarding stoppage of salaries of the petitioner as null and void, without lawful authority, and ineffective upon the accrued rights of petitioner;

Thirdly, to take action against the concerned officer for stopping the salary of the petitioner in the light of reported judgment in 1997 PLC (CS) 666 rendered by the Hon'ble Supreme Court of Pakistan.

ATTESTED

EXAMINER
Peshawar High Court

5

38

Any other relief which this Hon'ble Court deems appropriate in the circumstances of case and to whom the petitioner found entitled may kindly also be granted.

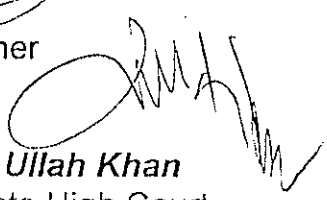
INTERIM RELIEF:

In the meanwhile by way of interim relief, respondents No.1 to 4 may kindly be restrained from taking any adverse action against the petitioner with further direction to release his pay immediately till final disposal of instant writ petition.



Petitioner

through



Inayat Ullah Khan
Advocate High Court
LL. M (U.K)

Dated: 08.10.2019

ATTESTED

EXAMINER
Peshawar High Court

**JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT**

W.P.No. 5426-P/2019

Zuhran Ullah

Vs

Secretary Public Health Engineering Department,
Khyber Pakhtunkhwa, Peshawar and others



Date of hearing _____ 19.11.2020 _____

Petitioner (by) _____ Mr. Inayat Ullah Khan, Advocate _____

Respondents (by) _____ Mr. Rab Nawaz Khan, AAG _____

JUDGMENT

MUHAMMAD NASIR MAHFOOZ, J. Through the instant petition filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, petitioner (Zuhran Ullah) seeks the following relief:-

“Keeping in view, what has been stated above, it is, therefore, humbly prayed that on acceptance of this Writ Petition to:

Firstly, direct respondents No.1 to 4 to forthwith release the salaries of the petitioner alongwith arrears of pay w.e.f. 1st January, 2018 till onwards;

Secondly, to declare the act of respondents regarding stoppage of salaries of

J. Qureshi

ATTESTED

EXAMINER

Peshawar High Court

the petitioner as null and void, without lawful authority, and ineffective upon the accrued rights of petitioner;

Thirdly, to take action against the concerned officer for stopping the salary of the petitioner in the light of reported judgment in 1997 PLC (CS) 666 rendered by the Hon'ble Supreme Court of Pakistan.

Any other relief which this Hon'ble Court deems appropriate in the circumstances of case and to whom the petitioner found entitled may kindly also be granted."

2. Brief facts of the case as per contents of the writ petition are that petitioner was appointed as Naib Qasid vide order dated 29.03.2013 and was regularly performing his duties, when all of a sudden, the respondents without assigning any reason and written order stopped his salary. Against that, petitioner submitted various applications to respondent No.1 with copies to remaining respondents seeking reason for stoppage of his salary but with no response. Feeling aggrieved therefrom, petitioner, having no other alternate,

P. Qasid

ATTESTED
EXAMINER
Peshawar High Court

adequate and efficacious remedy, has filed the instant constitutional petition for redressal of his grievance.

3. Respondents submitted their comments, wherein they have raised several legal and factual objections. The primary objection which was also raised by the learned AAG at the bar relates to maintainability of the instant petition on the touchstone of Article 212 of the Constitution as the subject matter relates to relief seeking release of salary/pay.

4. We have heard arguments of learned counsel for the parties and have perused the documents available on the file.

5. Admittedly, the petitioner is a civil servant and his grievance relate to the terms and conditions of service, so, the appropriate remedy for seeking his redressal would surely be the Services Tribunal, as there is a complete and absolute bar in considering any matter relating to the terms and conditions of service of a Government servant in a constitutional petition. The

S. J. A.

ATTESTED

EXAMINER
Peshawar High Court

Apex Court has laid down salutary principles relating to the 'terms and conditions' of service not to be entertained in its constitutional jurisdiction being barred under Article 212 of the Constitution.

6. In view of the above, the instant writ petition is dismissed being not maintainable. 2

[Signature]
JUDGE

[Signature]
JUDGE

Announced
19.11.2020

[Signature]
CERTIFIED TO BE TRUE

Essential
Sindh High Court, Pakistan
Authorized Under Article 83-B
The Qanun-e-shahadat Order 1988

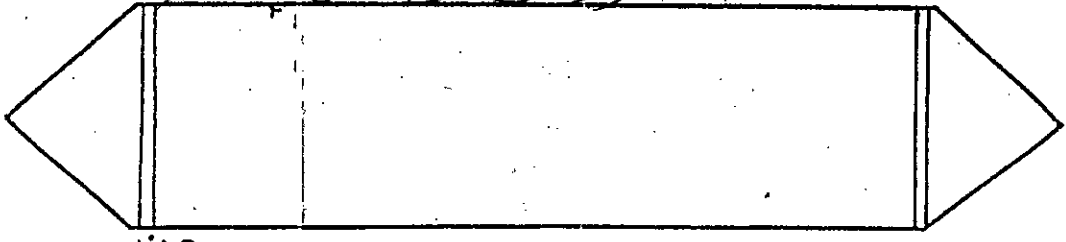
24 NOV 2020

No. 15903
Date of Presentation of Application 22/11/2020
No of Pages 9
Copying fee
Total 36/-
Date of Preparation of Copy 24/11/2020
Date of Delivery of Copy 24/11/2020
Received By *[Signature]*

(DB) Hon'ble Mr. Justice Rooh-ul-Amin Khan
Hon'ble Mr. Justice Muhammad Nasir Mahfooz

Noor Shah

بعدالت سرورس ٹریمبوئل بشاور



طیسن اللہ بیگم کو ریسٹ آف
2 جنوری

موزخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
 آن مقام بشاور کیلئے عنایتہ اللہ خان ایڈووکیٹ اور محمد حارث شہزاد ایڈووکیٹ
 مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
 وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور
 بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
 زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برادگی اور منسوخی
 نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
 کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لیا اپنے بجائے تقرر کا اختیار
 ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
 پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائنا التوائے مقدمہ کے سبب سے وہ ہوگا۔
 کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
 مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

المرقوم 02 ماہ 12 2020

Accepted

Accepted by

Inayatullah Khan

LLM

(UK)

M. Haris Sher Adv. مقام: بشاور

Signature

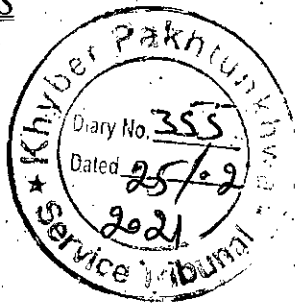
طیسن اللہ بیگم

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL, PESHAWAR

Put up to the Court with
relevant appeal.

25/2/2021

S.A. No. 15577 /2020



Zuhran Ullah.....Appellant

Versus

Secretary Public Health Engineering Department
Khyber Pakhtunkhwa and others..... Respondents

APPLICATION FOR GRANT OF PERMISSION
TO DEPOSIT SECURITY IN THIS HON'BLE
TRIBUNAL.

Respectfully Sheweth;

- 1) That the titled appeal is pending bending before this Hon'ble Tribunal and fixed for 06.04.2021.
- 2) That as per rule 10 days time is required for depositing security amount before the Tribunal, which has been expired.

It is, therefore, very humbly prayed that on acceptance of this application, the appellant be allowed to deposit security amount in the Hon'ble Tribunal.

Appellant/ petitioner

Through

Inayat Ullah Khan
Advocate High Court

Date 25-02-2021

The period for requisite
deposit is extended for
another 03 days.

25/2/21

BEFORE THE HONERABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

S.A.No.15577/2020

Zuhran Ullah s/o Akhtar Zuman R/O Phase-II, Hayatabad PeshawarPetitioners

VERSUS

1. Secretary Public Health Engineering Department Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
2. Chief Engineer Public Health Engineering (North) Khyber Pakhtunkhwa Peshawar.
3. XEN Public Health Engineering Division Kohat.
4. Chief Engineer Works & Services Merged Areas Civil Secretariat Peshawar.

.....Respondents

I N D E X

S.NO	Description of Documents	Annex	Page
1	Para wise comments of the Respondents	---	1-2
2	Affidavit	---	3
3	Authority letter	---	4
4	Inquiry Report	A,A-1	5-19
5	Source of salary inactiveness	B	20
6	Order sheet dismissed from Peshawar High Court of the same nature case	C	21-25


Deponent

BEFORE THE HONERABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No.15577/2020

Zuhran Ullah s/o Akhtar Zuman R/O Phase-II, Hayatabad Peshawar**Petitioners**

VERSUS

1. Secretary Public Health Engineering Department Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
2. Chief Engineer Public Health Engineering (North) Khyber Pakhtunkhwa Peshawar.
3. XEN Public Health Engineering Division Kohat.
4. Chief Engineer Works & Services Merged Areas Civil Secretariat Peshawar.

..... **Respondents**

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 1 & 3

PRELIMINARY OBJECTIONS: -

1. That the appellant has no locus standi to file the instant appeal.
2. That the appeal is not maintainable in its present form.
3. The appeal is bad for non-joinder and mis-joinder of necessary parties.
4. That the appellant is stopped by his own conduct to file the appeal.
5. That the appellant has not come to the Court with clean hands.
6. That the appeal of the appellant is badly time barred.
7. That the Chief Engineer (North) PHED has no concern with the case and unnecessarily made a party for pressurizing.
8. That the DAO Kohat is a necessary party, that he was not made party.

RESPECTFULLY SHEWETH:

ON FACTS:

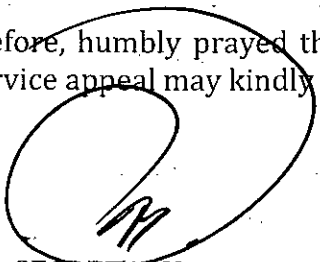
1. Para No.1 is incorrect. The mentioned appointment order is irregular/Fake and clear difference between two signatures on office order and service book, hence denied. Moreover, the appellant has not submitted his arrival report to his immediate officer (SDO concern) which was to be reported onward to the Executive Engineer.
2. As stated in para-1.

- 3. Correct to the extent that the appellant has drawn his salaries during the said period. However, as for as his performance is concerned, he was neither assigned any official duties nor has come to concern Sub Divisional Office mentioned in fake appointment order.
- 4. As explained in para-3 above. Moreover, the department has conducted a departmental inquiry regarding fake appointments of Class-IV made during the period from August 2012 to December 2014 wherein the said recruitments have been declared as irregular/fake and without observance of codal formalities (Departmental Selection Committee). Departmental inquiry has been conducted and the case was also fixed for hearing in NAB Court (Reference copies are Annex as "A, A/1").
- 5. No comments
- 6. Correct to the extent of appeal. However, the appellant's salary has been stopped on source inactive form duly signed by Executive Engineer and Divisional Account Officer.
(Copy Annex as "B")
- 7. As explained in paras 1 to 4, the appellant has not come to the Hon'ble Service Tribunal with clean hands on the following grounds:

G R O U N D S

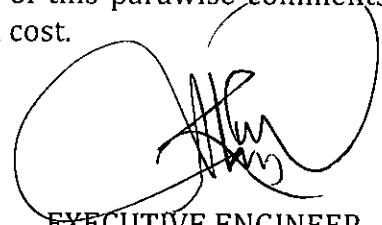
- a. Incorrect and not admitted. The department has treated the appellant according to the rules/policies of the Provincial/ Federal Government as he was not only unavailable nor assigned/performed any official duty. A same nature W.P.No.2791-P has been dismissed from Hon'ble Peshawar High Court dated 18.12.2019 **(W.P & Order sheet copies are Annex as "C")**
- b. Incorrect and not admitted, as explained in para 1 to 4 of the Facts.
- c. Pertains to record.
- d. The appellant's appointment is fake. He has neither performed any official duty nor present himself to the Department.
- e. Incorrect not admitted, as explained in paras 1 to 4 of the Facts.
- f. Incorrect and not admitted. The Government is paying salary to its servants for performing duties efficiently.

It is, therefore, humbly prayed that on acceptance of this parawise comments the instant service appeal may kindly be dismissed with cost.



SECRETARY

Public Health Engineering Department
Govt. of Khyber Pakhtunkhwa
(Respondent No.1)



EXECUTIVE ENGINEER

Public Health Engineering Division Kohat
(Respondent No.3)

3

BEFORE THE HONERABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

S.A.No.15577/2020

Zuhran Ullah s/o Akhtar Zuman R/O Phase-II, Hayatabad Peshawar **Petitioners**

VERSUS

1. Secretary Public Health Engineering Department Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
2. Chief Engineer Public Health Engineering (North) Khyber Pakhtunkhwa Peshawar.
3. XEN Public Health Engineering Division Kohat.
4. Chief Engineer Works & Services Merged Areas Civil Secretariat Peshawar.

..... **Respondents**

AFFIDAVIT

I, Usama Habib, Sub Divisional Officer PHE Sub Division Kohat, solemnly affirm and declare on oath that the content of parawise comments on behalf of Respondent No.1 and 2 are true and correct to the best of my knowledge and belief nothing has been concealed from this Hon'ble Service Tribunal Peshawar.



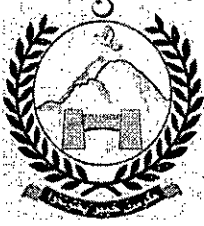
Deponent

CNIC# 14301-8703487-9

PH NO. 03429008225

Identified by

Advocate General,
Khyber Pakhtunkhwa



**GOVERNMENT OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG: DEPARTMENT**

(Civil Secretariat, Technical Block, Police Line Road, Peshawar)

Dated Peshawar, the December 23, 2021.

PHEDKPGovt

PHEDKPGovt

phed.lit@gmail.com

0919223432

0919213922

AUTHORITY LETTER

No.SO(LIT)PHED/S.T/40-65/ZuhranUllah/Kohat: Mr. Usama Habib, Sub Divisional Officer (BPS-17), PHE Sub Division Kohat is hereby authorized to submit the Joint Parawise Comments and attend the Khyber Pakhtunkhwa, Service Tribunal Peshawar in connection with the defense of Service Appeal No. 15577/2020, titled **"Zuhran Ullah VS Government of Khyber Pakhtunkhwa through Secretary PHED and others"** on behalf of the Secretary Public Health Engineering Department, to protect the Government interest.

SECRETARY

**Public Health Engineering
Department Peshawar**

Annex-A

5

ENQUIRY REPORT

INVESTIGATION AGAINST MR. BAHAR ULLAH KHAN, EX-XEN FATA DIVISION KOHAT,
NOW SUPERINTENDING ENGINEER, PUBLIC HEALTH ENGINEERING CIRCLE SWAT
REGARDING IRREGULAR APPOINTMENT OF 173 CLASS-IV EMPLOYEES WITHOUT
OBSERVING CODAL FORMALITIES.

1. The competent authority appointed the undersigned as Enquiry Officer in term of Rule-10 of the Khyber Pakhtunkhwa Government Servants Efficiency & Discipline Rules, 2011 vide Public Health Engineering Department letter No.SO(Estt:)/PHED/1-46/97/PF dated 30-07-2019 (Annex-I) to conduct a formal enquiry against Mr. Bahar Ullah Khan, Ex-XEN FATA Division Kohat. In light of the Charge Sheet / Statement of allegations duly signed by the Competent Authority (Chief Secretary, Khyber Pakhtunkhwa), the accused officer committed the following irregularities: -

"That you while posted as Executive Engineer Public Health Engg: FATA Division Kohat during the period from 15-08-2012 to 11-12-2014, made irregular appointments of 173-Class-IV employees without observing all codal formalities such as advertisement of the posts in leading newspapers, constitution of Departmental Selection Committee and recommendation of the competent forum".

2. The undersigned as an Inquiry Officer summoned the accused officer to appear on 08-08-2019 alongwith all relevant record / documents pertaining to allegation levelled against him vide letter No.PS/Secy Labour/1-1/2019 dated 01-08-2019 (Annex-II). He accordingly appeared before the undersigned. His attendance was recorded and next date for hearing was fixed on 22-08-2019. He submitted his written statement on 22-08-2019.

3. The next date of hearing was fixed on 27-08-2019. The said officer appeared alongwith Departmental Representative [Section Officer Establishment, Public Health Engineering Department] and a questionnaire, duly signed, was handed-over to the accused officer for reply alongwith documentary proof on 30-08-2019 (Annex-III).

Page 1/4

Attested


Sub Divisional Officer
Public Health Engg: Division
Kohat

6
3

4. The accused officer attended the office of the undersigned on 12-09-2019 and presented his response of the questionnaire vide dated nil (Annex-IV). The undersigned after perusal of the reply of the questionnaire, decided to forward it to the Departmental Representative (Section Officer Establishment, Public Health Engineering Department) for comments/views, if any, vide letter No.PS/Secy Labour/1-1/2019 dated 12-09-2019 (Annex-V).

5. In response, the Administrative Department vide letter No.SO(ESTT)/PHED/1-46/97/PF dated 18-09-2019 (Annex-VI) intimated that National Accountability Bureau had referred the case to them for taking disciplinary action against the accused officer. Consequently, Mr. Niamatullah Khan, Chief Engineer (South) Public Health Engineering Department was appointed as an Inquiry Officer to conduct a fact finding enquiry in the matter. The Administrative Department intimated that the then Inquiry Officer submitted with the following recommendations: -

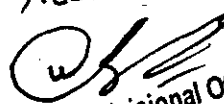
NAB
NO DSC

"From perusal of relevant record, it reveals that no Departmental Selection Committee (DSC) has been constituted by the appointing authority i.e. XEN PHE FATA Division Kohat (Mr. Bahar Ullah Khan). The responsibility in case of irregular appointments always rests with members of the recommending body i.e. DSC and Appointing Authority. In this case there is no DSC and as such sole responsibility lies on appointing authority against whom reference has already been filed in NAB Court."

6. The undersigned in the capacity as inquiry officer thoroughly examined the case based on relevant record, rules, policy / instructions viz-a-viz the reply of the accused officer and found that:

- 119 employees
NO Adv.
- i) He has appointed 119 employees instead of 173 in the Public Health Engineering FATA Division, Kohat during the period of his posting (i.e. 15-08-2012 to 11-12-2014).
 - ii) He admitted that no advertisement was made rather the posts were filled in on the recommendations of the political administration in accordance with "Nikkat Policy". In support of his statement, he has submitted a copy of Finance Department's letter bearing No.SO(FATA-I)FD/6-3/95 dated 25-10-2000 (Annex-VII).

Attested


Sub Divisional Officer
Public Health Engg. Division
Kohat.

- 1
- iii) The said appointments were made without advertising the posts, no Departmental Selection Committee was constituted rather all such appointments were made on the recommendations of the political administration.

7. Perusal of the FATA Secretariat Notification bearing No.FS/E/100-19(Vol-28)/6981-94 dated 03-08-2009 (Annex-VIII) reveals that the procedure for initial appointment to posts in BPS-1 to 15 is as under: -

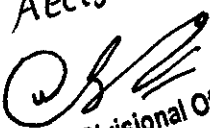
(A) Appointing Authority:

1	Posts in BPS 1 to 10	Agency officer incharge of concerned department in Agency / FR.
2	Posts in BPS 11 to 15	Political Agent Concerned.

(B) Departmental Selection Committee:

Under the Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, three member Departmental Selection / Promotion Committee shall be constituted for determining suitability for promotions and selection for initial recruitment to the posts in BS-15 or below borne on the agency cadre comprising of the following: -

S.#	Appointing Authority	Chairman / Members
1	Appointing Authority	Chairman
2	An officer nominated by Admn: & Coord. Department FATA Sectt:	Member
3	An officer nominated by appointing authority	Member


Attested

Sub Divisional Officer
Public Health Engg. Division
Kohat.


06/

8. Perusal of the record and written statement of Mr. Bahar Ullah Khan, Ex-XEN FATA Division Kohat reveals that the proceedings of appointment were not in line with the procedure contained in the Civil Servants (Appointment, Promotion & Transfer) Rules, 1989. However, the accused officer has relied on the prevailing customs and tradition of FATA which is commonly known as "Nikkat Policy" circulated vide Finance Department's letter No.SO(FATA-I)FD/6-3/95 dated 25-10-2000, referred to above.

9. FINDINGS / CONCLUSION:

From perusal of the whole case i.e. Charge Sheet / Statement of Allegations, reply thereon of the accused officer and all available record, it has been observed that instead of "Recruitment Policy" read with Rule-10 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, the accused officer has followed the "Nikkat Policy" in the appointment of 119 employees, during his tenure as XEN, Public Health Engineering FATA Division, Kohat. Hence, the charge pertaining to the irregular appointment stands established against the accused officer.


(Khayyam Hassan Khan)
Secretary to Govt. of Khyber Pakhtunkhwa
Labour Department /
Inquiry Officer

Attested

Sub Divisional Officer
Public Health Engg: Division
Kohat.

Annex-A(1)

9

Page No. ANNEX (1)

1

ENQUIRY REPORT INTO THE CASE
CASE REFERRAL - INVESTIGATION AGAINST BAHAR ULLAH KHAN EX-
XEN PHED FATA DIVISION KOHAT & OTHERS REGARDING
CORRUPTION AND CORRUPT PRACTICES IN SUPPLY OF SUBSTANDARD
STABILIZERS ILLEGAL APPOINTMENTS AND MISAPPROPRIATION IN
POL AND OM&R CHARGES (83808)

A) INTRODUCTION:

Investigation were carried out by National Accountability Bureau (NAB) Khyber Pakhtunkhwa against Engr. Bahar Ullah Ex- XEN PHE FATA Division Kohat on the following 4 allegations:

- a. Procurement of voltage stabilizers on exorbitant rates for various tube wells in PHED FATA Division Kohat
- b. Illegal appointment of Class-IV Employees
- c. Misappropriation in POL.
- d. Misappropriation in OM&R Charges

After completion of investigation NAB filed a reference against the accused Bahar Ullah Khan Ex-Xen in the Accountability Court with regard to the 1st two allegations i.e (a) Procurement of voltage stabilizers on exorbitant rates for various tube wells in PHED FATA Division Kohat & (b) Illegal appointment of Class-IV Employees. The same is under trial since 12.02.2018.

However the NAB authorities referred the case for conducting departmental enquiry on account of above referred c & d allegation. The NAB vide its letter No. 1/639/TW-II/NAB(KPK) 83808/388 dated 19-04-2018 (Annexure-A) further desired to conduct departmental proceedings against rest of the employees involved in illegal appointment (allegation "b") and for taking bribe as per contractor statement provided by the NAB, in connection with purchase of voltage stabilizer (connected with allegation "a").

Accordingly the Secretary PHED appointed the undersigned to enquire into the above allegations against the delinquents officer/officials & to fix responsibilities through the fact finding enquiry vide letter No. SO (ESTT)/PHED/1-46/97 dated 15.05.2018 received on 06.07.2018 (Annexure-B)

B) FINDINGS

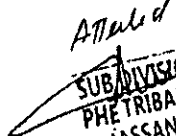
I. Allegation a. (Procurement of voltage stabilizers on exorbitant rates for various tube wells in PHED FATA Division Kohat)

Sub Head: Proceeding against the Officers/Officials to whom the suppliers have paid different amounts of bribe/illegal commissions.

(i) During the enquiry it was observed that 42 Nos. voltage stabilizers were supplied to the PHE department by M/S Ittehad Enterprises for operation of WSS and according to the supplier statement/list provided to the NAB authorities, Rs. 4123800/ were paid to various dealing hands of the Department i.e from XEN to Clerk as illegal commission/bribe. The owners of the firm Ittehad Enterprises, Mudassar Rai etc stated in his written statement recorded with NAB under section 164 of CPC (page-37-46 of the reference) that:

Attested


Sub Divisional Officer
Public Health Engg. Division
Kohat.

Attested

SUB-DIVISIONAL OFFICER
PHE TRIBAL SUB DIVISION
HASSAN KHEL/DARRA

23

"we never attended the bid opening session. After some time, Xen asked me to attend his office in Kohat for collection of work orders. I used to collect work orders by giving demanded commission amount in advance. The list of which has been handed over to investigation officer".

This very statement of the suppliers is suspicious from various angles especially with regard to the following points:

1. On one side they stated that they never attended the so important event of tender opening process and just went to Xen office Kohat on his call for collecting work orders and payment of demanded commission in advance and on the other hand they are providing list showing 70 payments to various officers/officials of various district in 22 days. They are showing payments to the officials of Kohat, Parachinar, Miran Shah, Orakzai Agency, Kurrum Agency, South Waziristan Agency, D.I.Khan (FR) etc. in a single day, which is not possible.
2. In the list at various places it is shown that " FATA Kohat tender form commission fee" which is not clear whether it is tender form official cost or bribe received by the Head Clerk.
3. In the list out of 70 alleged payments, only 15 payments have been shown by name while for a large number 55 payments they had just recorded payment to unknown persons.


ii) Similarly the concerned officers/officials i.e suspected recipients of bribe/ commission (except Bahar Ullah Ex-XEN whose case is in the NAB Court) were interviewed who all refused to get any commission /bribe from Ittehad Enterprises (R/O Shakhun Wala Pump near Waves customer center Multan Road Lahore) during supply of voltage stabilizers.


iii) Ittehad Enterprises were called on Phone as well as through registered letters No.02/DD/Inquiry/PHE dated 06.08.2018 and No.01/DD/Inquiry/PHE dated 16.08.2018 (Annexure-C-i) to come & record their statement before the inquiry officer and to clarify and substantiate their statement but they refused to do so. Later on NAB authorities were also requested vide letter No.01/DD/Inquiry/PHE dated 06/09/2018. (Annexure-C-ii) No.01/DD/Inquiry/PHE dated 24.09.2018 (Annexure-C-iii) & No.01/DD/Inquiry/PHE dated 03.10.2018 (Annexure-C-iv) to help in this regard as the suppliers reiterated that they would come for statement on the directions of NAB authorities only.

iv) Now when on one side the accused officers/officials have refused to accept the charges of receipt of any commission/bribe and on the other hand the suppliers are not providing any proof in support of their statement and allegation leveled in their statement given in NAB investigations, the charges cannot be established against the accused officers/ officials. Therefore no charges can be made against them on this account.

II-Allegation b:- Illegal Appointments of class-IV employees:

i) As per record provided by Chief Engineer W&S Department (Newly merged Tribal districts) Peshawar vide letter No. 7542/2/76-E(i) dated 03.08.2018 (Annexure-D) the criteria for appointment of Class-IV employee in FATA is as under:-

Attested

 Sub Divisional Officer
 Public Health Engg' Division
 Kohat.

Attested

 SUB DIVISIONAL OFFICER
 PHE TRIBAL SUB DIVISION
 HASSAN KHEL/DARRA

a) Appointing Authority:

1.	Posts in BS-1 to BS-10	Agency Officer incharge of the concerned department in Agency/FR
2.	Posts in BS-11 to BS-15	Political Agency concerned

b) Selection Committee

Three member Departmental Selection/Promotion Committee shall be constituted for determining suitability for promotion and selection for initial appointment to the posts in BS-15 & below borne on the agency Cadre and comprised of the following:

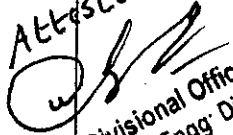
1	Appointing Authority	Chairman(XEN)
2	An officer nominated by Admin&Coord Dept FATA Secretariat	Member
3	An officer nominated by appointing authority	Member

c) The appointing authorities shall, however, ensure that all government rules, including advertisement of post etc, are strictly followed.

ii) The relevant appointment record has been perused. No departmental selection committee (DSC) has been constituted by the appointing authority i.e XEN FATA Division Kohat Mr. Baharullah Khan.

iii) The appointing authority in his statement before the NAB admitted that he did not know about the rules and references has been filed against him for irregular appointment of 173 Class-IV. This appointment can be split into following categories.

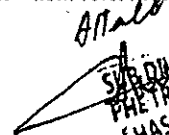
- (a) No. of employee appointed in General Quota: 149
 - (i) Recommended by PAs/APAs having recommendation letter : 47
 - (ii) Shown Recommended by PAs/APAs having no recommendation : 33
 - (iii) Not recommended by any authority: 31
 - (iv) No of employee having no available record (i.e no office orders): 38
- (b) No. of employee appointed in Retire Son Quota: 16
 - (i) No. of employee having Retired father Retirement Notification; 6
 - (ii) Only P.A Recommendation but no retirement detail 10
- (c) No. of employee appointed in Decease Son Quota: 8
 - (i) No. of employee having decease death Notification by concerned authority: 6
 - ((ii) Only P.A Recommendation but no decease detail 2

Attested

 Sub Divisional Officer
 Public Health Engg. Division
 Kohat.

iv) In case of category-"c" although there is no need of DSC but 3 numbers Class-IV appointed under category c(ii) are not deceased sons hence these seems irregularity.

v) The appointment of 6 employees (Annexure-E) i.e those mentioned against category c(i) are as per rules while rest are irregular appointments which need formal inquiry to decide the fate of their services.

vi) The responsibility in case of irregular appointment always rests with members of recommending body i.e DSC and Appointing Authority. In this case there is no DSC as such sole responsibility lies on appointing authority against whom reference has already been filed in NAB court.

Attested

 SUB-DIVISIONAL OFFICER
 THE TRIBAL SUB-DIVISION
 HASSAN KHEL/DARRA

III) Allegation c. Misappropriation in POL.

i) Since electricity has not been extended to the far flung areas of tribal districts, as such water supply schemes in those areas are run on diesel. 30 No. schemes are driven by diesel with detail as under.

S.No.	Agency/FR	No. of Schemes
1.	Orakzai Agency	3
2.	North Waziristan Agency	5
3.	South Waziristan Agency	5
4.	FR Bannu/Lakki	12
5.	FR DIKhan/Tank	5
Total:-		30

ii) NAB worked out an expenditure of Rs. 18928366/- but the department provided expenditure of Rs. 17642405/- on 30 No. schemes during the tenure of Mr. Bahar Ullah Xen with detail as under.

S.No.	Name of Agency/FR	No. of Schemes	Amount
1.	Orakzai Agency	3	503309
2.	North Waziristan Agency	5	2117469
3.	South Waziristan Agency	5	6122859
4.	FR Bannu/Lakki	12	4634249
5.	FR DIKhan/Tank	5	4264520
Total:-		30	17642406

iii) Logbook were maintained, SDO, S/Es and the operators were interviewed. All operators confirmed that they regularly received POL during Bahar Ullah Khan Xen tenure except Orakzai Agency operational staff who stated that they left the area due to terrorism. However in Orakzai Agency the department provided POL to the army authorities on their written request for operation of water supply schemes for remaining population or for their troops. Sanction to the expenditure on POL has been granted by the competent authority.

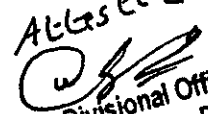
iv) No misappropriation has been observed.

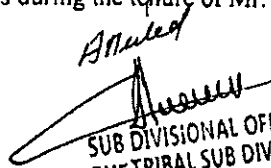
IV Allegation "d" Misappropriation in AOM&R Charges.

i) As per NAB detail following expenditure has been made on various schemes:-

S.No.	Name of Agency/FR	Total No. of schemes repaired	Amount in Rs.
1.	Kurram Agency	34	1030063
2.	Orakzai Agency	52	2509985
3.	North Waziristan Agency	54	1802378
4.	South Waziristan Agency	25	348426
5.	FR Kohat/ Peshawar	34	905126
6.	FR Bannu/Lakki	42	1142166
7.	FR DIKhan/Tank	74	2768038
Total:-		315	28821233

ii) Sum of the above expenditure actually comes out to Rs. 10506182/- are those seems to be some mistake in the figures. However the details provided by the department about the AOM&R expenditures during the tenure of Mr. Bahar Ullah Xen are as under:-

Attested

 Sub Divisional Officer
 Public Health Engg. Division
 Kohat.


 SUB DIVISIONAL OFFICER
 PHE TRIBAL SUB DIVISION
 HASSAN KHEL/DARRA



S.No.	Name of Agency/FR	Total No. of schemes repaired	Amount in Rs.
1.	Kurram Agency	28	3063641
2.	Orakzai Agency	43	4939476
3.	North Waziristan Agency	43	1671273
4.	South Waziristan Agency	54	4945329
5.	FR Kohat/ Peshawar	56	5381996
6.	FR Bannu/Lakki	31	1908057
7.	FR DIKhan/Tank	27	2693390
	Total:-	282	24603162

iii) The record further shows that the AOM&R works were properly advertized, work order issued and payments were made accordingly to the contractors for the work done against the releases made by the Govt.

iv) A huge No. of AOM&R schemes are maintained by the Xen PHE FATA Kohat spreading over a large jurisdiction comprising of 6 FRs & 4 Agencies controlled by 7 SDOs. It is very difficult to watch repair work to be carried out by various contractors specially machinery components as works are almost handled on emergency and the field staff try their best to restore drinking water to the inhabitants in the shortest possible time. In the instant case NAB has also admitted in para-33 of reference that:

"irregularities have also been observed in the heads of POL & OM&R charges, however, incriminating evidence is missing regarding these two allegations. Therefore, case to the extent of these two allegations may be referred to Chief Secretary, Khyber Pakhtunkhwa, for taking necessary action to streamline the procedure and implementation of rules/ regulations in this regard" (Annexure-G)

v) As per NAB recommendations Department is to lay down some procedure for regulating and monitoring of expenditure on POL as well as O&M. These recommendations in para-27

"Log Books of the schemes were collected and examined. The operators of the above said schemes were called and interviewed and they acknowledged the fact that they have received POL for the above said schemes. However, there are certain irregularities unearthed during inquiry/ investigation like proper record of POL procurement has not been maintained, Log Books of schemes are supposed to be maintained by the operators, are maintained in the sub divisional offices. However, no incriminating evidence has been found against the accused Baharullah Khan to support the above allegation"(Annexure-II)

vi) The above recommendations read with para-33 quoted in preceding para are fully endorsed.

vii) No misappropriation in OM&R charges has been observed.

Attest

 Sub Divisional Officer
 Public Health Engg. Division
 Kohat.

Attest

 SUB DIVISIONAL OFFICER
 PHE TRIBAL SUB DIVISION
 HASSAN KHEL/DARRA

NEMATULLAH KHAN
 ENQUIRY OFFICER/CHIEF ENGR:(S)
 PUBLIC HEALTH ENGG: DEPARTMENT
 PESHAWAR

Through Fax / Urgent

GOVERNMENT OF PAKISTAN
NATIONAL ACCOUNTABILITY BUREAU
BLOCK-III, PDA COMPLEX, PHASE-V HAYATABAD
PESHAWAR

SAY NO TO CORRUPTION

No. 1/639/IW-II /NAB(KPK)/83808/ 1064

17 Oct 2017

To: Dil Nawab,
Ex-Head Clerk,
PHED FATA Division Kohat.

Attested
[Signature]
Sub Divisional Officer
Public Health Engg. Division
Kohat.

Through: XEN, PHED FATA Division Kohat.

Subject: Call Up Notice u/s 19 of NAO, 1999 - Investigation against Bahar Ullah Khan, Ex-XEN PHED, FATA Division Kohat & Others regarding Corruption and Corrupt Practices in Supply of Substandard Stabilizer, Illegal Appointments and Misappropriation in POL and OM&R Charges(83808).

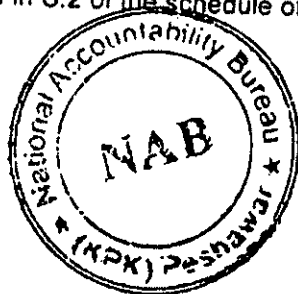
Whereas the Competent Authority has taken the cognizance of the offence committed by Bahar Ullah Khan & Others, under the provisions of NAO, 1999.

2. Whereas, the investigation has revealed that you are in possession of information / evidence, which relates to the commission of said offence(s).

3. In view, thereof, you are hereby called upon to appear on 20-10-2017 at 0900 Hrs before Mr. Naeem Ullah, Investigation officer at NAB(KPK) Block-III, PDA, Complex, Phase-V, Hayatabad, Peshawar to record your statement / plea.

4. You are advised that failing to comply with this notice, may entail penal consequences as provided in S.2 of the schedule of NAO 1999.

Attested
[Signature]
SUB DIVISIONAL OFFICER
PHETRIBAL SUB DIVISION
HASSAN KHEL/DARRA



Deputy Director(Coord)
For Director IW-II
(Sadiq Ullah Jan)
091-9217515
Fax 091-9217567

CC: Reception Officer, NAB KP) for information and necessary action as per SOP.

ACKNOWLEDGMENT

4. _____ has attended proceedings under the provision of NAO, 1999 on _____ at _____ and was relieved on _____

Investigation Officer



OFFICE OF THE
EXECUTIVE ENGINEER

Public Health Engineering (FATA) Division Kohat
HOUSE II 29, SECTOR II 5, PHASE II 1, KDA KOHAT (Contact and Fax II: 0922 513744)

[Handwritten signature]

15

No. 01/NAB/PHE

Kohat Dated the 26/10/2017

To

The Deputy Director (Coord)
For Director IW-II
National Accountability Bureau
Hayat Abad Peshawar

SUBJECT: PROV: OF INFORMATION/RECORD U/S 19 OF NAO, 1999 - INQUIRY AGAINST BAHAR ULLAH KHAN, EX-XEN PHED, FATA DIVN: KOHAT & OTHER REGARDING CORRUPTION AND CORRUPT PRACTICES IN SUPPLY OF SUBSTANDARD STABILIZER, ILLEGAL APPOINTMENTS AND MISAPPROPRIATION IN POL & OM&R CHARGES. (83808).

Reference: Your memo No. 1/639/IW-II/NAB (KPK)/(83808)/1544 dated 24.10.2017 / address to Superintending Engineer PHE (FATA) Circle Peshawar vide letter No. 04/G-4 dated 25.10.2017.

The requisite information as asked for as under:-

SR. #:	REQUIRED INFORMATION	REMARKS
1.	Please provide original appointment orders and service books of class - IV employees, appointed by Bahar Ullah Khan, Ex-XEN PHED FATA Division Kohat.	Original Appointment Orders & Original Service Books of the following Agencies submitted & detail is given as under:- 1- Kurram Agency (20 Nos.) 2- Orakzai Agency (12 Nos.) 3- N.W. Agency (20 Nos.) 4- S.W. Agency (14 Nos.) 5- FR Kohat/Peshawar (27 Nos.) 6- FR Bannu/Lakki (11 Nos.) 7- FR D.I. Khan/Lakki (2 Nos.)
	Please Provide POL MB's, incurred during Bahar Ullah Khan tenure.	Original MB's of the following Agencies submitted. 1) Orakzai Agency (1 No.) 2) N.W. Agency (1 No.) 3) S.W. Agency (6 Nos.)

Received
[Signature]
27/10/17

Attended
[Signature]
SUB-DIVISIONAL OFFICER
PHE TRIBAL SUB DIVISION
KASSAN KHEL/DARRA

The remaining information / shortcoming (if any) will be submitted after the concerned field offices, already directed them in this regard please.

Attested
[Signature]
Sub Divisional Officer
Public Health Engg. Division
Kohat

EXECUTIVE ENGINEER
PHE FATA Division Kohat

Copy to the Superintending Engineer PHE (FATA) Circle Peshawar with reference to his letter quoted above for information please.

EXECUTIVE ENGINEER
PHE FATA Division Kohat



GOVERNMENT OF PAKISTAN
NATIONAL ACCOUNTABILITY BUREAU
BLOCK-III, PDA COMPLEX, PHASE-V HAYATABAD
PESHAWAR

No.1/639/IW-II /NAB(KPK)(83808)/1544
24 Oct 2017

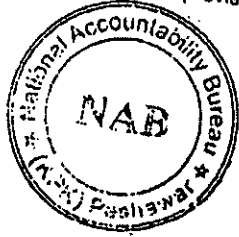
To
Superintending Engineer,
Public Health Engineering Department,
PHE FATA Circle,
Phase-5, Hayatabad Peshawar.

Subject: Provision of Information / record u/s 19 of NAO, 1999 - Investigation against Bahar Ullah Khan, Ex-XEN PHED, FATA Division Kohat & Others regarding Corruption and Corrupt Practices in Supply of Substandard Stabilizer, Illegal Appointments and Misappropriation in POL and OM&R Charges(83808).

National Accountability Bureau Khyber Pakhtunkhwa Peshawar is conducting the subject investigation under the provisions of National Accountability Ordinance 1999. The documents/ information useful or relevant to the inquiry are in your control or you are acquainted with facts and circumstances of the case.

2. Therefore, you are requested to provide the under mentioned record / information to Mr. Naeem Ullah, Investigation Officer of this Bureau for examination by 27-10-2017.

3. Further it is advised to ensure accuracy of the submitted information. Concealment of facts will attract penalties under the provisions of NAO 1999.



Sadiq Ullah
Deputy Director(Coord)
For Director IW-II
(Sadiq Ullah Jinn)
Ph - 091-9217515
Fax - 091-9217567

List of Record /Documents Required (Duly Attested)

Please provide original appointment orders and service books of class-IV employees, appointed by Bahar Ullah Khan, Ex-XEN, PHED FATA Division Kohat.
Please provide POL MB's, incurred during Bahar Ullah Khan tenure.

Copy To:
XEN, PHED, FATA Division, Kohat.

HC
For *needful*
mg
Kur

Attested
Asad
SUB DIVISIONAL OFFICER
PHE TRIBAL SUB DIVISION
HASSAN KHEL/DARRA

Attested
WJL
Sub Divisional Officer
Public Health Engg. Division
Kohat.



17/10



Attention yls

17

**OFFICE OF THE SUPERINTENDING ENGINEER
PUBLIC HEALTH ENGG: FATA CIRCLE PESHAWAR**
Plot No. 40, Sector: B-II Phase-V Hayatabad Peshawar

No: 04/19-4

Dated Peshawar the: 25/10/2017.

To,

The Executive Engineer
PIHE FATA Division
Kohat

Subject:

**PROVISION OF INFORMATION/RECORD U/S 19 OF NAO, 1999-
INQUIRY AGAINST BAHAR ULLAH KHAN, EX- XEN PIHE, FATA
DIVISION KOHAT & OTHERS REGARDING CORRUPTION AND
CORRUPT PRACTICES IN SUPPLY OF SUBSTANDARD STABILIZER,
ILLEGAL APPOINTMENTS AND MISAPPROPRIATION IN POL AND
OM&R CHARGES.**

Please refer to Dputy Director (Coord) NAB Khyber Pakhtunkhwa Peshawar self-explanatory No.1/639/IW-II/NAB (KPK) (83808)/1544 dt:24.10.2017 addressed to the under signed and copy to your office (photo copy attached).

You are directed to ensure compilation and submission of the desired record in original on emergent basis to the NAB authorities under intimation to this office.

DA/AS Above

[Signature]
SUPERINTENDING ENGINEER

Copy to the Deputy Director (Coord) for Director IW-II (Sadiqullah Jan) NAB Khyber Pakhtunkhwa Peshawar for favour of information please.

[Signature]
SUPERINTENDING ENGINEER

Attested
[Signature]

Sub Divisional Officer
Public Health Engg: Division
Kohat.

Attested
[Signature]
SUB DIVISIONAL OFFICER
PHE TRIBAL SUB DIVISION
HASSAN KHEL/DARRA



GOVERNMENT OF PAKISTAN
NATIONAL ACCOUNTABILITY BUREAU
BLOCK-III, PDA COMPLEX, PHASE-V HAYATABAD
PESHAWAR

No.1/639/IW-II /NAB(KPK)(83808)/1584

30 Oct 2017

To Executive Engineer,
Public Health Engineering Department,
FATA Division, Kohat.

Subject: Provision of information / record u/s 19 of NAO, 1999 – Investigation against Bahar Ullah Khan, Ex-XEN PHED, FATA Division Kohat & Others regarding Corruption and Corrupt Practices in Supply of Substandard Stabilizer, Illegal Appointments and Misappropriation in POL and OM&R Charges(83808).

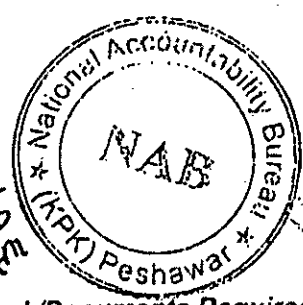
National Accountability Bureau Khyber Pakhtunkhwa Peshawar is conducting the subject investigation under the provisions of National Accountability Ordinance 1999. The documents/ information useful or relevant to the inquiry are in your control or you are acquainted with facts and circumstances of the case.

2. Therefore, you are requested to provide the under mentioned record / information to Mr. Naeem Ullah, Investigation Officer of this Bureau for examination by 01-11-2017.

3. Further it is advised to ensure accuracy of the submitted information. Concealment of facts will attract penalties under the provisions of NAO 1999.

HC
For M.A.

recd
01/11/17 10:55 AM



Deputy Director/Coord
For Director IW-II
(Sadig Ullah Jan)
PH - 091-9217515
Fax - 091-9217567

List of Record /Documents Required (Duly Attested)

Please provide attested copy of under mentioned record / letters issued by your office (Annex-A);

Attested
Sub Divisional Officer
Public Health Engg. Division
Kohat.

Attended
SUB DIVISIONAL OFFICER
PHE TRIBAL SUB DIVISION
HASSAN KHEL/DARRA



ANNEX-3

Sr.#	Letter Number	Dated
1	7612/13-E	29-09-2011
2	925/5-E	16-04-2013
3	340/E-4/FATA <i>OK</i>	11-11-2013
4	1474/S-E	09-07-2013
5	36/5-E	24-09-2012
6	1143/5-E <i>OK</i>	08-05-2013
7	686/S-E <i>OK</i>	26-02-2013
8	38/5-E <i>OK</i>	24-09-2012
9	1794/5-E	09-09-2013
10	1318/14-E	11-05-2012
11	341/E-5	26-12-2012
12	1350/14-E	17-05-2012
13	369/F-5 ✓ <i>OK</i>	04-02-2013
14	355/F-5 <i>OK</i>	02-01-2013
15	1158/5-E	03-09-2012
16	1156/5-E	03-09-2012
17	354/F-5 ✓ <i>OK</i>	02-01-2013
18	549/AF-5 ✓ <i>OK</i>	22-07-2013
19	321/F-5 ✓ <i>OK</i>	19-11-2012
20	339/H-4 <i>OK</i>	09-12-2012
21	1157/5/E	03-09-21012

Copy To:

Superintending Engineer, Public Health Engineering Department, PHE FATA Circle, Phase-5, Hayatabad Peshawar.

Handwritten signature
SUB DIVISIONAL OFFICER
PHE TRIBAL SUB DIVISION
HASSAN KHEL/DARRA

Handwritten signature
Attested
Sub Divisional Officer
Public Health Engg' Division
Kohat.



PAYROLL SYSTEM
AMENDMENT FORM
SINGLE EMPLOYEE ENTRY

FORM: PAY03

OFFICE OF THE XENS PHE FATA Division Kohat

Date: _____

FOR THE MONTH OF _____ / 200

Page No: _____

DDO Code (Cost Center) KT9000 Description

Employee Number	Employee Name	GENERAL DATE CHANGE			CHANGE IN PAYMENTS / DEDUCTIONS				Stop Sal.	Effective Date	REMARKS
		Info Type	Field ID	New Contents	Wage Type	AMOUNT					
						Rupees	Paisa	Adj			
158967	Mr. Jamil Khan N/O David				Pay on active				1 1/218	Absent for duty	
0323006	Rashid Khan N/O David				Pay on active				1 1/218	-	
0171936	Zubairullah N/O David				Pay on active				1 1/218	-	
0210556	Amjad Ali				Pay on active				1 1/218	-	

EXECUTIVE ENGINEER
PHE FATA DIVISION

Prepared By

ملنے کا ہدف: لیاقت آرٹ پرس میں ہزاروں 516009

SUB DIVISIONAL OFFICER
PHE TRIBAL SUB DIVISION
HASSAN KHEL/DARRA

Audit checked By

Entered / Verified By

Attested
Sub Divisional Officer
Public Health Engg. Division
Kohat.

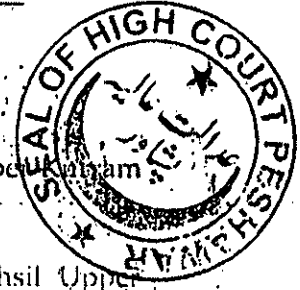
15/10/18

Answer

27

BEFORE, PESHAWAR HIGH COURT PESHAWAR

W.P No. _____/2019



1. Sarfaraz Ali S/o Dildar Ali R/o Parachinar Tehsil Upper Kurram Agency
2. Jamil Hussain S/o Qadeem Ali R/o Parachinar Tehsil Upper Kurram Agency
3. Mazhar Hussain S/o Jamal Hussain R/o Parachinar Tehsil Upper Kurram Agency
4. Qasir Hussain S/o Sabir Hussain Sarfaraz Ali R/o Parachinar Tehsil Upper Kurram Agency
5. Tahir Hussain S/o Tajjal Hussain R/o Parachinar Tehsil Upper Kurram Agency
6. Shahid Ali S/o Zulfiqar Ali R/o Parachinar Tehsil Upper Kurram Agency
7. Noor Hussain S/o Muhammad Hussain R/o Parachinar Tehsil Upper Kurram Agency
8. Iqbal Hussain S/o Najaf Ali R/o Parachinar Tehsil Upper Kurram Agency
9. Jamil Hussain S/o Sultan Jan R/o Parachinar Tehsil Upper Kurram Agency
10. Amjad Hussain S/o Sawab Ali R/o Parachinar Tehsil Upper Kurram Agency
11. Murtaza Hussain S/o Zameen Hussain R/o Parachinar Tehsil Upper Kurram Agency
12. Nasrat Ali S/o Ashraf Ali R/o Parachinar Tehsil Upper Kurram Agency
13. Riaz Hussain S/o Shaukat Ali R/o Parachinar Tehsil Upper Kurram Agency
14. Hilal Hussain S/o Rasheed Ali R/o Parachinar Tehsil Upper Kurram Agency

Attested

Sub Divisional Officer
Public Health Engg. Division
Kohat.

ATTESTED
EXAMINER
Peshawar High Court

(2)

Page (22)

15. Abid Hussain S/o Ahmad Jan R/o Parachinar Tehsil Upper Kurram Agency..... Petitioners

VERSUS

- 1. Executive Engineer Public Health Engineering Department Tribal Division Kohat.
- 2. Superintending Engineer Public Health Engineering Circle Tribal District at Peshawar.
- 3. District Accounts Officer Kohat..... Respondents

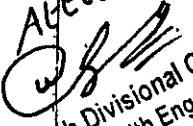
WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF
PAKISTAN, 1973.

Prayers

RELEASE OF SALARIES OF EMPLOYEES OF PUBLIC HEALTH ENGINEERING DEPARTMENT APPOINTED AT BPS-1 SINCE 1/2/2016 TILL DATE.

Respectfully Sheweth,

- 1. That all the Petitioners were appointed at BPS-1 in Public Health (FATA) Kohat Division in the year 2014 (Copies of appointment letters of petitioners are attached as Annexure-A to A-14)
- 2. That since then petitioner were performing with full zeal and devotion and were regularly receiving their monthly salaries till 30/01/2016.
- 3. That thereafter on 12/02/2016 Respondent No.1 without any good and plausible reason stopped the monthly salaries of the petitioners (Copy of impugned Order is attached as annexure "B")

Attested

 Sub Divisional Officer
 Public Health Engg. Division
 Kohat.

ATTESTED

EXAMINER
 Peshawar High Court

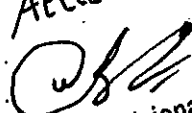
(3)

Page 23

- 4. That petitioners through their representative i.e Local MNA and Senator approached Respondent No.1 & 2 for release of their monthly salaries but till Respondent have not released salaries of the petitioners.
- 5. That the petitioners being aggrieved of the illegal, unlawful and unauthorized order of Respondent No.1 and having no other adequate, alternative and efficacious remedy prefer this Writ Petition under Article 199 of constitutional jurisdiction of this Hon'able Court on the following grounds:-

GROUNDS

- a. That the all the petitioners belong to poor families who are sole bread earner of their families and working in said department for last 3 years without salaries.
- b. That the Respondent No.1 has no authority to withheld the salaries of petitioners for over 3 years without any plausible reason.
- c. That due to illegal and unlawful act of Respondents the petitioners are unable to meet their daily expenses and support their family members.
- d. That due to illegal and unlawful act of Respondents the small children of petitioners have left school as they all are unable to get school uniform for children and pay school fees of children.
- e. That act and action of Respondents are illegal and unlawful and against the fundamental rights of petitioners as guaranteed by Constitution of Islamic Republic of Pakistan 1973.

Attested

 Sub Divisional Officer
 Public Health Engg. Divisi
 Kohat.

ATTESTED

EXAMINER
 Peshawar High Court

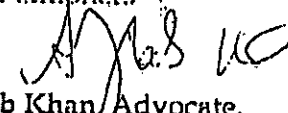


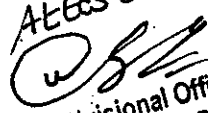
- f. That the act and action of the Respondents performing their duties within territorial jurisdiction of this Hon'able Court in connection with stoppage of salaries is malafide with ulterior motives, done without lawful authority and in unusual and an unlawful manner.
- g. That any other grounds will be raised at the time of arguments with prior permission of this Hon'able Court.

For the afore said reason, it is, therefore, prayed that on acceptance of this Writ Petition, this Hon'able Court may graciously be pleased to direct the concerned quarter to release the monthly salaries and other entitlement forthwith

OR

Any other remedy which deems fit by this Hon'able Court may also be granted in favour of petitioners.

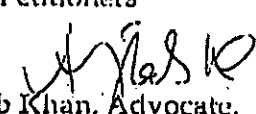
Petitioners
Through 
Aftab Khan, Advocate,
Supreme Court of Pakistan

Attested

Sub Divisional Officer
Public Health Engg. Division
Kohat.

INTERIM RELIEF

May it please your lordship,

By way of Interim Relief, pending final decision on Writ Petition Respondents may graciously be directed to release salaries of petitioners forthwith with all entitlement.

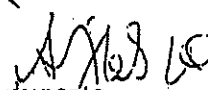
Petitioners
Through 
Aftab Khan, Advocate,
Supreme Court of Pakistan.

CERTIFICATE

Certified that no such Writ Petition has earlier been filed in this Hon'ble Court on behalf of the petitioners.

LIST OF BOOKS

- 1 Constitution of Islamic Republic Of Pakistan, 1973.
- 2 Any other law as per need.


Advocate

ATTESTEC

EXAMINER
Peshawar High Cour


CERTIFIED TO BE TRUE COPY

EXAMINER
Peshawar High Court, Peshawar
Authenticated Under Section 7 of
The General Clauses Act, 1930

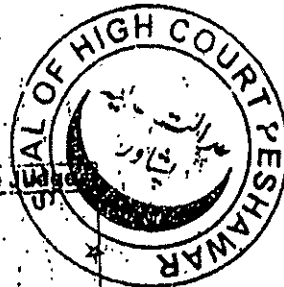
21 DEC 2019

25

Page 25

PESHAWAR HIGH COURT, PESHAWAR.

**FORM 'A'
FORM OF ORDER SHEET**



Date of order.	Order or other proceedings with the order of the Judge
18.12.2019	<p><u>W.P.No.2791-P of 2019 with interim relief.</u></p> <p>Present: Mr.Aftab Khan, advocate for the petitioners.</p> <p>Mr.Arshad Ahmad, AAG alongwith Engineer Irshad Khan XEN PHE PHED/respondent No.1 and Mr.Muhammad Irshadullah A.T.O. DAO Kohat representative of respondent No.3.</p> <p>-----</p> <p><u>LAL JAN KHATTAK, J.:</u> Petitioners have prayed to this court for issuance of a writ directing the respondents to pay them their monthly salaries.</p> <p>2. Arguments heard and record gone through.</p> <p>3. In the para-wise comments, the respondents have stated that neither the petitioners had submitted their arrival reports to the concerned Sub-Divisional Officer nor any official duties were assigned to them. It is also in the para-wise comments that the appointment orders of the petitioners were fake. In such like situation, no writ as prayed for could be issued as factual controversy is involved in the case.</p> <p>4. For what has been discussed above, this petition, being bereft of any merit, is hereby dismissed in limine.</p> <p style="text-align: right;"><i>[Signature]</i> JUDGE</p> <p style="text-align: right;">JUDGE</p>

Bodiq Shah, PS (DB) (Hon'ble Mr. Justice Lal Jan Khattak & Hon'ble Mr. Justice Ahmad Ali)

Attested
[Signature]
Sub Divisional Officer
Public Health Engg. Division
Kohat.

No. 1946

Date of Presentation of Application 21/11/2019

No of Pages 57

Copying fee 50

Total 50

Date of Preparation of Copy 21/11/2019

Date of Delivery of copy 21/11/2019

Received By [Signature]

CERTIFIED TO BE TRUE COPY

EXAMINER
Peshawar High Court, Peshawar
Pakistan Act under Article 107, 204
Pakistan Constitution Order 1974

21 DEC 2019



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 298-99/ST

Dated: 13-4-2022

All communications should be
addressed to the Registrar KPK Service
Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262


To

1. The XEN. Public Health Engineering North,
Government of Khyber Pakhtunkhwa,
Peshawar.
2. Chief Engineer Works & Services Merged Area,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: ORDER IN APPEAL NO. 15570/2020 MR. ZUHRAN ULLAH.

I am directed to forward herewith a certified copy of order dated
06.04.2022 passed by this Tribunal on the above subject for compliance please.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR



GOVERNMENT OF NWFP
ESTABLISHMENT & ADMN: DEPARTMENT
(Regulation Wing)

Dated Peshawar, the 24th November, 2009

ORDER

No. SO(O&M)E&AD/2-22/2006-Vol-IV. Consequent upon the bifurcation of Works and Services Department into Communication and Woks Department and Public Health Engineering Department, and in pursuance of the Establishment and Administration Department Notification No. SO(O&M)E&AD/2-22/2006-Vol-III dated 24-11-2009, the competent authority is pleased to order that the Engineers and staff working in their respective defunct departments before merger of Communication & Works Department and Public Health Engineering Department shall revert back to the re-established Communication & Works Department and Public Health Engineering Department as per terms & conditions of their initial recruitment.

CHIEF SECRETARY
GOVERNMENT OF NWFP

Endst: No. & Date Even

Copy to:-

1. The Additional Chief Secretary, NWFP, P&D Department.
2. The Additional Chief Secretary (Home), Home Department.
3. The Additional Chief Secretary (FATA), FATA Secretariat.
4. All Administrative Secretaries to Govt. of NWFP.
5. The Secretary to Governor, NWFP.
6. The Principal Secretary to Chief Minister, NWFP.
7. All Divisional Commissioners in NWFP.
8. All Heads of Attached Departments, NWFP.
9. Director Information, NWFP.
10. All District Coordination Officers/Political Agents in FATA.
11. Accountant General, NWFP.
12. Registrar Peshawar High Court, Peshawar.
13. Registrar Service Tribunal, NWFP Peshawar.
14. Secretary Public Service Commission, NWFP Peshawar.
15. Private Secretary to Governor, NWFP.
16. Private Secretary to Chief Minister, NWFP.
17. All PSs to Provincial Ministers in NWFP.
18. PS to Chief Secretary, NWFP.
19. Controller, Government Printing Press Peshawar.
20. The Section Officer (Secrete), Establishment Department, NWFP.

(JAN SAID)

SECTION OFFICER (O&M)

M. Saeed Khan