

19th Sept 2022 Learned counsel for the appellant present and heard.

Let pre-admission notices be issued to the respondents for reply/comments. To come up for reply/comments as well as preliminary hearing on 14.11.2022 before S.B at camp court Abbottabad.



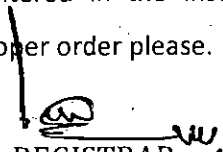


(Kalim Arshad Khan)
Chairman
Camp Court Abbottabad

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 927/2022 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	20/06/2022	<p>The appeal of Mr. Muhammad Shafique presented today by Mr. Muhammad Arshad Tanoli Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p>
2-	14-7-22	<p>This case is entrusted to touring Single Bench at A.Abad for preliminary hearing to be put there on <u>18-07-22</u> Notices be issued to appellants and his counsel for the date fixed.</p> <p> CHAIRMAN</p>
	18.07.2022	<p>Nemo for the appellants. Notice for prosecution of the appeal be issued to the appellants as well as his counsel through registered post and to come up for preliminary arguments on 19.09.2022 before the S.B at Camp Court Abbottabad.</p> <p> (Salah-Ud-Din) Member (J) Camp Court Abbottabad</p>

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
CHECK LIST**

Case Title: M. Shafiqe vs Govt of K.P. el

S.#	Contents	Yes	No
1.	This appeal has been presented by: <u>M. Arshad Ishaq Pms.</u>		
2.	Whether Counsel / Appellant / Respondent / Deponent have signed the requisite documents?	✓	
3.	Whether Appeal is within time?	✓	
4.	Whether the enactment under which the appeal is filed mentioned?	✓	
5.	Whether the enactment under which the appeal is filed is correct?	✓	
6.	Whether affidavit is appended?	✓	
7.	Whether affidavit is duly attested by competent oath commissioner?	✓	
8.	Whether appeal/annexures are properly paged?	✓	
9.	Whether certificate regarding filing any earlier appeal on the subject, furnished?	✓	
10.	Whether annexures are legible?	✓	
11.	Whether annexures are attested?	✓	
12.	Whether copies of annexures are readable/clear?	✓	
13.	Whether copy of appeal is delivered to A.G/D.A.G?	✓	
14.	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	✓	
15.	Whether numbers of referred cases given are correct?	✓	
16.	Whether appeal contains cuttings/overwriting?	✓	
17.	Whether list of books has been provided at the end of the appeal?	✓	
18.	Whether case relate to this Court?	✓	
19.	Whether requisite number of spare copies attached?	✓	
20.	Whether complete spare copy is filed in separate file cover?	✓	
21.	Whether addresses of parties given are complete?	✓	
22.	Whether index filed?	✓	
23.	Whether index is correct?	✓	
24.	Whether Security and Process Fee deposited? on		
25.	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? on		
26.	Whether copies of comments/reply/rejoinder submitted? on		
27.	Whether copies of comments/reply/rejoinder provided to opposite party? on		

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name:

M. Arshad Ishaq
Donal M.S. Pms.

Signature:

M.A.I.

Dated:

24/6/22

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHUWA, PESHAWAR

Service Appeal No. 927 /2022

Muhammad Shafique, Head Clerk, Public Health Engineering Department,
Mansehra.

...APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa, through Secretary Public Health Engineering
Department, Peshawar & others.

...RESPONDENTS

SERVICE APPEAL

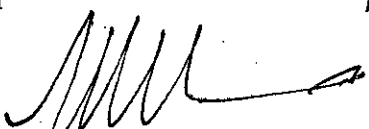
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S.#	Description	Page No.	Annexure
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3.	Copy of promotion letter dated 14/12/2015 and office order dated 29/12/2015	11-15	"A" & "B"
4.	Copy of the order dated 01/01/2016	16	"C"
5.	Copy of judgment of service tribunal	17-21	"D"
6.	Copy of the enquiry report dated 25/01/2018	22-24	"E"
7.	Copy of order dated 02/02/2018, service appeal No.170/19 and order dated 17/05/2022	25-35	"F", "G" & "H"
8.	Copy of departmental appeal dated 18/08/2018	36-38	"I"
9.	Copy of proof letter	39-40	"J"
10.	Copies of execution petition No.57/18 and order dated 27/06/2018	41-48	"K" & "L"
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...APPELLANT

Dated: 14/06 /2022

Through


(Muhammad Arshad Khan Tanoli)
Advocate High Court, Abbottabad

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHUWA, PESHAWAR

Service Appeal No. _____/2022

Muhammad Shafique, Head Clerk, Public Health Engineering Department,
Mansehra.

...APPELLANT

VERSUS

1. Govt. of Khyber Pakhtunkhwa, through Secretary Public Health Engineering Department, Peshawar.
2. Chief Engineer (North), Public Health Engineering Department Khyber Pakhtunkhwa, Peshawar.
3. Chief Engineer (South), Public Health Engineering Department, Khyber Pakhtunkhwa, Peshawar.
4. Executive Engineer, Public Health Engineering Division, Mansehra.
5. District Accounts Officer, Mansehra.

...RESPONDENTS

SERVICE APPEAL UNDER SECTION 4 OF
SERVICE TRIBUNAL ACT 1974 FOR
DECLARATION TO THE EFFECT THAT
RESPONDENT'S DEPARTMENT DID NOT PAY
SALARY TO THE APPELLANT W.E.F 01/01/2016 TO
31/07/2017. THE APPELLANT FILED SERVICE

APPEAL NO.170/19 DURING THE PENDENCY OF SERVICE APPEAL RESPONDENT NO.2 ISSUED ORDER NO.3/E-2/PHE DATED 02/02/2018 WHICH WAS RECEIVED BY THE APPELLANT ON 18/02/2021. THE HONOURABLE TRIBUNAL DIRECTED TO IMPUGNED THE FINAL ORDER DATED 02/02/2018 VIDE ORDER DATED 17/05/2022. THE APPELLANT IS ENTITLED FOR PAYMENT OF SALARY FOR THE SAID PERIOD AS THE APPELLANT WAS NOT AT FAULT, BUT THE RESPONDENT'S DEPARTMENT DID NOT ALLOW THE PETITIONER TO MARK PRESENT IN THE ATTENDANCE REGISTER.

PRAYER: ON ACCEPTANT OF THE INSTANT SERVICE APPEAL, THE RESPONDENT'S DEPARTMENT MAY GRACIOUSLY BE DIRECTED TO RELEASE SALARY OF THE PETITIONER W.E.F 01/01/2016 TO 31/07/2017 AFTER SETTING ASIDE OF IMPUGNED ORDER DATED 02/02/2018. ANY OTHER RELIEF WHICH THIS HONOURABLE TRIBUNAL DEEM APPROPRIATE IN THE CIRCUMSTANCES OF THE CASE MAY ALSO BE ALLOWED.

Respectfully Sheweth;-

That the facts forming the background of the instant service appeal are arrayed as under; -

1. That the appellant was promoted a Head Clerk and was posted at Public Health Engineering Division Mansehra. Copy of promotion letter dated 14/12/2015 and office order dated 29/12/2015 is annexed as Annexure "A" & "B".
2. That the appellant took over the change of the post on 31/12/2015 and after one day of assumption of change of the post, the appellant was posted from Mansehra to Public Health Engineering Division Kohistan, vide order dated 01/01/2016. Copy of the order dated 01/01/2016 is annexed as Annexure "C".
3. That the appellant filed service appeal No. 625/16 before his Honourable Tribunal, which was decided on 17/07/2017. Copy of judgment of service tribunal is annexed as Annexure "D".
4. That the Honourable Tribunal set-aside the impugned withdrawal order of appellant dated 01/01/2016 and left the issue of non compliance of

order dated 01/01/2016 to the departmental authority. Following this, the appellant was posted at Public Health Engineering Division Mansehra, but salary of the petitioner w.e.f 01/01/2016 to 17/07/2017 has not been paid. In this regard, an enquiry was ordered to look into the fact, that as to whether the appellant served the department w.e.f 01/01/2016 to 17/ 07/2017. The enquiry committee decided that the appellant did not joined duty at PHE Division Kohistan from 01/01/2016 to 31/07/2017. Copy of the enquiry report dated 25/01/2018 is attached as Annexure "E".

5. That during the inquiry and pendency of service appeal, respondent No.2 issued impugned order dated 02/02/2018, hence the Honourable Tribunal vide order dated 17/05/2022 issued direction to file / impugned the order dated 17/05/2022. Copy of order dated 02/02/2018, service appeal No.170/19 and order dated 17/05/2022 is attached as Annexure "F", "G" & "H".
6. That appellant filed the departmental appeal against the enquiry report on 18/08/2018 which is yet to be decided by the department. Copy of

departmental appeal dated 18/08/2018 is annexed as Annexure "I".

7. Hence, the instant service appeal is filed, inter-alia on the following grounds:-

GROUNDS:

- a) That the enquiry report is against the facts, arbitrary and one sided. The appellant has not been provided opportunities to defend his case. Therefore, enquiry report dated 09/08/2018 and impugned order dated 02/02/2018 are liable to be set-aside.

- b) That the appellant properly reported to Public Health Engineering Division Kohistan, for resumption of change of the post after 01/01/2016 but the appellant could not assume change of the post on the ground that there was no post of Head Clerk at Public Health Engineering Division Kohistan. Copy of proof letter is annexed as Annexure "J".

- c) That the appellant remained rolling stone between Kohistan Division and Mansehra Division. Therefore, both the division did not allow the appellant to mark him present in their attendance registers.
- d) That the appellant remained under political pressures as well as bureaucratic wrath. As a result, the poor and innocent appellant has been made a scapegoat due to no fault at his end.
- e) That when the appellant was not provided opportunities of serving either at PHE Kohistan or PHE Mansehra, he waited for decision of this Honourable Tribunal. Therefore, the appellant is entitled for release of salary w.e.f 01/01/2016 to 17/07/2017.
- f) That the department did not bother to conduct enquiry to the fact that as to whether the post of head clerk was available at PHE Kohistan or otherwise. But in a cursory manner, conducted arbitrary enquiry to give wrongful loss of service comes to the

appellant i.e monitory, seniority and length of service loss.

g) That the appellant filed execution petition before the Honourable Tribunal vide execution petition No.57/18 in service appeal No.625/2016 which was decided on 27/06/2018 wherein the appellant was directed to agitate the matter before the authority. Therefore, the appellant filed departmental appeal on 17/08/2018. Copies of execution petition No.57/18 and order dated 27/06/2018 are attached as Annexure "K" & "L".

h) That the matter relates to the terms and conditions of service. The question of salary of appellant is involved. Therefore, in such a case, the appellant has always a continuing cause of action.

i) That the Honourable Tribunal has jurisdiction to entertain the appeal of the appellant under article 212 of the

constitution of Islamic Republic of Pakistan
1973.

- j) That, other points shall be raised before the Honourable Tribunal at the time of arguments.

It is, therefore, humbly prayed that, on acceptant of the instant service appeal the respondent's department may graciously be directed to release salary of the petitioner w.e.f 01/01/2016 to 31/07/2017 after setting aside the impugned order dated 02/02/2018. Any other relief which this Honourable Tribunal deem, appropriate in the circumstances of the case may also be allowed

Dated: _____/2022

Through


...APPELLANT
(Muhammad Arshad Khan Tanoli)
Advocate High Court, Abbottabad

VERIFICATION:-

Verified on oath that the contents of foregoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.


...APPELLANT

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHUWA, PESHAWAR

Service Appeal No. _____/2022

Muhammad Shafique, Head Clerk, Public Health Engineering Department,
Mansehra.

...APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa, through Secretary Public Health Engineering
Department, Peshawar & others.

...RESPONDENTS

SERVICE APPEAL

AFFIDAVIT

I, Muhammad Shafique, Head Clerk, Public Health Engineering Department,
Mansehra, do hereby solemnly affirm and declare that the contents of foregoing
appeal are true and correct to the best of my knowledge and belief and nothing has
been concealed therein from this Honourable Court.



13/6/22

M. Shafique
DEPONENT

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHUWA, PESHAWAR

Service Appeal No. _____/2022

Muhammad Shafique, Head Clerk, Public Health Engineering Department,
Mansehra.

...APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa, through Secretary Public Health Engineering
Department, Peshawar & others.

...RESPONDENTS

SERVICE APPEAL

ADDRESSES OF THE PARTIES

Respectfully Sheweth:-

Addresses of the parties are as under:-

Muhammad Shafique, Head Clerk, Public Health Engineering Department,
Mansehra.

...APPELLANT

VERSUS

1. Govt. of Khyber Pakhtunkhwa, through Secretary Public Health Engineering
Department, Peshawar.
2. Chief Engineer (North), Public Health Engineering Department Khyber
Pakhtunkhwa, Peshawar.
3. Chief Engineer (South), Public Health Engineering Department, Khyber
Pakhtunkhwa, Peshawar.
4. Executive Engineer, Public Health Engineering Division, Mansehra.
5. District Accounts Officer, Mansehra

...RESPONDENTS

...PETITIONER

Through

Dated: _____/2022

(Muhammad Arshad Khan Tanoli)
Advocate High Court, Abbottabad

FORM PHE 3 NORTH PESHAWAR

FAX NO: 9952 91 5224874

13 Jul 2015 10:00 AM P1



Attested
 Muhammad Arshad Khan Jaroli
 Advocate High Court
 Office No 53 Adjacent to
 District Court

OFFICE OF THE CHIEF ENGINEER (SOUTH)
 PUBLIC HEALTH ENGG. DEPARTMENT
 KHYBER PAKHTUNKHWA, PESHAWAR

No. 08 / E-2 / PHE

Dated Peshawar, the 14/7/2015

... recommendation of the Departmental Promotion Committee (DPC) in its meeting held on 13.11.2015, under the Chairmanship of Secretary PHE Department, the competent authority is pleased to promote the following Accounts Clerks (BFS-2) to the rank of Head Clerk/Assistant BFS-16, in the best interest of public:

- 1) Hassan Gul, 2) Abdul Ghani, 3) Muhammad Pervez, 4) Davul Khan,
- 5) Saad Nawaz, 6) Rawail Khan, 7) Pto-ud-Din, 8) Saad Rehman,
- 9) Muhammad Ishaque, 10) Munir Khan, 11) Saqeer Ullah, 12) Sher Ali Baz,
- 13) Doctor Khan, 14) Muhammad Shafique, 15) Noor-ur-Rehman, 16) Aqab Karim,
- 17) Iqbal-ud-Din, 18) Pervez Khan, 19) Nowshad Khan, 20) Afsar Khan,
- 21) Khurshid Iqbal, 22) Sadre Alam, 23) Safi Sarder.

Consequent upon their promotion to the next rank, they will remain on probation for a period of one year, as per Civil Servants Act 1973, read with appointment/promotion and transfer rules 1989, as such, the following posting are hereby ordered, with immediate effect.

Chief Engineer (North)	
PHE Department	
Peshawar	
Group No	506
Grade	25/12
Level No	E-2
Category	
Rank	
Scale	
DO	
DA	
ADP/Local	
(Other Contingent)	

Sr. No.	Name	From	To	Remarks
1	Mr. Hassan Gul	Accounts Clerk PHE Division Mardan	Assistant PHE Circle Mardan	Against the existing vacancy
2	Mr. Abdul Ghani	Accounts Clerk PHE Division Buner	Head Clerk PHE Division Shangin	Against the existing vacancy
3	Mr. Sulaman	Head Clerk PHE Division Swat	Head Clerk PHE Division Buner	Against the existing vacancy
4	Mr. Muhammad Younus	Head Clerk PHE Division Abbottabad	Head Clerk PHE Division Battagram	Against the existing vacancy
5	Mr. Muhammad Pervez	Accounts Clerk PHE Division Abbottabad	Head Clerk PHE Division Haripur	Vice Item No.11
6	Mr. Davul Khan	Accounts Clerk PHE Division Tank	Head Clerk PHE Division Hangu	Against the existing vacancy
7	Mr. Saad Nawaz	Accounts Clerk PHE Division Karak	Head Clerk PHE Division Karak	Against the existing vacancy
8	Mr. Rawail Khan	Accounts Clerk PHE Division Nowshera	Assistant office of Chief Engineer South	Against the existing vacancy
9	Mr. Pao Din	Accounts Clerk PHE Division D.I.Khan	Assistant PHE Circle D.I.Khan	Against the existing vacancy
10	Mr. Saad Rehman	Accounts Clerk PHE Division Swat	Head Clerk PHE Division Swat	Vice Item No.3
11	Mr. Muhammad Ishaq	Head Clerk PHE Division Haripur	Assistant office of Chief Engineer North	Against the existing vacancy
12	Mr. Muhammad Ishaque	Accounts Clerk PHE Division D.I.Khan	Head Clerk PHE Division D.I.Khan	Against the existing vacancy
13	Mr. Munir Khan	Accounts Clerk PHE Division Abbottabad	Head Clerk PHE Division Abbottabad	Vice Item No.4
14	Mr. Saqeer Ullah	Accounts Clerk PHE Division Peshawar	Head Clerk PHE Division Peshawar	Against the existing vacancy
15	Mr. Sher Ali Baz	Accounts Clerk PHE Division Lakki Marwat	Assistant PHE Circle Hangu	Against the existing vacancy
16	Mr. Doctor Khan	Accounts Clerk (Head Clerk in OPS) PHE Division Karak	Head Clerk PHE Division Kohat	Vice Item No.30
17	Mr. Muhammad Shafique	Accounts Clerk PHE Division Haripur	Head Clerk PHE Division Kohistan	Against the existing vacancy
18	Mr. Noor-ur-Rehman	Accounts Clerk PHE Division Mardan	Head Clerk PHE Division Mardan	Against the existing vacancy

Mr. Sulaman promoted at PHE Circle Swat under PHE Division Buner

Attested

Muhammad Arshad Khan Jaroli
 Advocate High Court
 Office No 53 Adjacent to
 District Court

13/7/2015

12.	Mr. Aftab Kamal	Accounts Clerk office of C.B (South)	Assistant office of Chief Engineer South	Against the existing vacancy
20.	Mr. Iqbal-ud-Din	Accounts Clerk PHE Division Nowshera	Head Clerk PHE Division Nowshera	Against the existing vacancy
21.	Mr. Pervez Khan	Accounts Clerk PHE Division Mardan	Assistant PHE Circle Mardan	Against the existing vacancy
22.	Mr. Naushad Khan	Accounts Clerk PHE Division Peshawar	Assistant PHE Circle Peshawar	Against the existing vacancy
23.	Mr. Afsar Khan	Accounts Clerk PHE Division Kohat	Assistant PHE Circle Kohat	Against the existing vacancy
24.	Mr. Khurshid T. J. J. J.	Accounts Clerk office of C.E South	Assistant office of Chief Engineer South	Against the existing vacancy
25.	Mr. Sadr-e-Alam	Accounts Clerk PHE Division Charsadda	Head Clerk PHE Division Charsadda	Vice Item No.27
26.	Mr. Saif Sardar	Accounts Clerk PHE Division Hangu	Head Clerk PHE Division Tank	Against the existing vacancy
27.	Mr. S.Rashid Ali Shah	Head Clerk PHE Division Charsadda	Assistant PHE Circle Peshawar	Against the existing vacancy
28.	Mr. Zahir Shah	Assistant PHE Circle Mardan	Head Clerk PHE Division Mardan	Against the existing vacancy
29.	Mr. Asghar Ali	Head Clerk PHE Division Hangu	Head Clerk PHE Division Dir Upper	Against the existing vacancy
30.	Mr. Kaifur Khan	Head Clerk PHE Division Kohat	Head Clerk PHE Division Hangu	Vice Item No.25
31.	Mr. Abdullah	AI Clerk working against the post of Computer Operator PHE Division Hangu	Accounts Clerk PHE Division Hangu	Adjusted Vice Item No.26
32.	Mr. Abdul Saboor	Account Clerk PHE Division Hangu	Accounts PHE Division Karak	Vice Item No.7
33.	Mr. Muhammad Aslam	Accounts Clerk PHE Circle D.I. Khan	Accounts Clerk PHE Division D.I. Khan	Vice Item No.9
34.	Mr. Mansoor-ur-Rahman	Accounts Clerk PHE Division Torghar	Accounts Clerk PHE Division Mardan	Against the existing vacancy with additional charge of Head Clerk in addition to his own duty.

Attested
 Muhammad Arshad Khan Janoli
 Advocate High Court
 Office No. 33 Adjacent to
 District Bar, Abbottabad

Chief Engineer (South)

Dated Peshawar the 14 / 1 / 2015

Encl: No. 08 / E-2-B / PHE

Copy forwarded to:

1. The Secretary to Govt of Khyber Pakhtunkhwa PHED Peshawar
2. The Chief Engineer (North) Public Health Engg. Department Peshawar.
3. All Superintending Engineers (North/South) PHED.
4. PS to Minister for PHED Khyber Pakhtunkhwa Peshawar.
5. All Executive Engineers (North/South) PHED.
6. All District Accounts Officer concerned.
7. The official concerned/Master File.

Attested
 Muhammad Arshad Khan Janoli
 Advocate High Court
 Office No. 33 Adjacent to
 District Bar, Abbottabad

Attested
 Muhammad Arshad Khan Janoli
 Advocate High Court
 Office No. 33 Adjacent to
 District Bar, Abbottabad

Chief Engineer (South)

Attested
 Muhammad Arshad Khan Janoli
 Advocate High Court
 Office No. 33 Adjacent to
 District Bar, Abbottabad

Best copy



OFFICE OF THE CHIEF ENGINEER (SOUTH)
PUBLIC HEALTH ENGG. DEPARTMENT
KHYBER PAKHTUNKHWA, PESHAWAR

No: 08 / E-2 / PHE

P-13

Dated Peshawar, the 14 / 7 / 2015

OFFICE ORDER

On the recommendation of the Departmental Promotion Committee (DPC) in its meeting held on 18.11.2015, under the Chairmanship of Secretary PHE Department, the competent authority is pleased to promote the following Agents Clerks (BPS-9) to the rank of Head Clerk/Assistant BPS-16, in the best interest of public.

- 1) Hassan Gul, 2) Abdul Ghan, 3) Muhammad Pervez, 4) Daud Khan,
- 5) Siad Nawaz, 6) Rawail Khan, 7) Pio-ud-Din, 8) Siad Rehman,
- 9) Muhammad Ishaque, 10) Munir Khan, 11) Sareer Ullah, 12) Sher Ali Baz,
- 13) Doctor Khan, 14) Muhammad Shafique, 15) Noor-ur-Rehman, 16) Aftab Karnal,
- 17) Iqbal-ud-Din, 18) Perviz Khan, 19) Nowshad Khan, 20) Afsar Khan,
- 21) Khurshid Iqbal, 22) Sadre Alam, 23) Sufi Sardar.

Consequent upon their promotion to the next rank, they will remain on probation for a period of one year, as per Civil Servants act 1973, read with appointment/promotion and transfer rules 1989, as such, the following posting are hereby ordered, with immediate effect.

Chief Engineer (North) PHE Department Peshawar	
Sl. No.	606
Date	15/12/15
Page No.	E-2
REVISION	
Q.M.	
REVISION	
Q.M.	
REVISION	
Q.M.	
REVISION	
Q.M.	
ADE/Focal Person (Consultancy)	

#	Name	From	To	Remarks
	Mr. Hassan Gul	Accounts Clerk PHE Division Mardan	Assistant PHE Circle Mardan	Against the existing vacancy
	Mr. Abdul Ghan	Accounts Clerk PHE Division Buner	Head Clerk PHE Division Shangia	Against the existing vacancy
3.	Mr. Sulaiman	Head Clerk PHE Division Swat	Head Clerk PHE Division Buner	Against the existing vacancy
4.	Mr. Muhammad Younas	Head Clerk PHE Division Abbottabad	Head Clerk PHE Division Battagram	Against the existing vacancy
5.	Mr. Muhammad Pervez	Accounts Clerk PHE Division Abbottabad	Head Clerk PHE Division Haripur	Vice Item No.11
6.	Mr. Daud Khan	Accounts Clerk PHE Division Tank	Head Clerk PHE Division Hangu	Against the existing vacancy
7.	Mr. Siad Nawaz	Accounts Clerk PHE Division Karak	Head Clerk PHE Division Karak	Against the existing vacancy
8.	Mr. Rawail Khan	Accounts Clerk PHE Division Nowshera	Assistant office of Chief Engineer South	Against the existing vacancy
9.	Mr. Pio Dtn	Accounts Clerk PHE Division D.I.Khan	Assistant PHE Circle D.I.Khan	Against the existing vacancy
10.	Mr. Siad Rehman	Accounts Clerk PHE Division Swat	Head Clerk PHE Division Swat	Vice Item No.3
11.	Mr. Muhammad Irshad	Head Clerk PHE Division Haripur	Assistant office of Chief Engineer North	Against the existing vacancy
12.	Mr. Muhammad Ishaque	Accounts Clerk PHE Division D.I.Khan	Head Clerk PHE Division D.I.Khan	Against the existing vacancy
13.	Mr. Munir Khan	Accounts Clerk PHE Division Abbottabad	Head Clerk PHE Division Abbottabad	Vice Item No.4
14.	Mr. Sareer Ullah	Accounts Clerk PHE Division Peshawar	Head Clerk PHE Division Peshawar	Against the existing vacancy
15.	Mr. Sher Ali Baz	Accounts Clerk PHE Division Lakki Marwat	Assistant PHE Circle Bannu	Against the existing vacancy
16.	Mr. Doctor Khan	Accounts Clerk (Head Clerk in (OPS) PHE Division Karak	Head Clerk PHE Division Kohat	Vice Item No.30
17.	Mr. Muhammad Shafique	Accounts Clerk PHE Division Haripur	Head Clerk PHE Division Kohistan	Against the existing vacancy
18.	Mr. Noor-ur-Rehman	Accounts Clerk PHE Division Malakand	Head Clerk PHE Division Malakand	Against the existing vacancy

Mr. Sulaiman may be posted at PHE Circle Swat instead of P.H.E. Div. Buner

M. Arshad

Muhammad Arshad Khan Tanoli
Advocate High Court
Office No 33 Adjacent to
Distt 3rd Abbottabad

19.	Mr. Afab Kamal	Accounts Clerk office of C.E (South)	Assistant office of Chief Engineer South	Against the existing vacancy
20.	Mr. Iqbal-ud-Din	Accounts Clerk PHE Division Nowshera	Head Clerk PHE Division Nowshera	Against the existing vacancy
21.	Mr. Pervez Khan	Accounts Clerk PHE Division Mardan	Assistant PHE Circle Mardan	Against the existing vacancy
22.	Mr. Naushad Khan	Accounts Clerk PHE Division Peshawar	Assistant PHE Circle Peshawar	Against the existing vacancy
23.	Mr. Afsar Khan	Accounts Clerk PHE Division Kohat	Assistant PHE Circle Kohat	Against the existing vacancy
24.	Mr. Khurshid Iqbal	Accounts Clerk office of C.E South	Assistant office of Chief Engineer South	Against the existing vacancy
25.	Mr. Sadr-e-Alam	Accounts Clerk PHE Division Charsadda	Head Clerk PHE Division Charsadda	Vice Item No.27
26.	Mr. Sofi Sardar	Accounts Clerk PHE Division Hangu	Head Clerk PHE Division Tank	Against the existing vacancy
27.	Mr. S.Rashid Ali Shah	Head Clerk PHE Division Charsadda	Assistant PHE Circle Peshawar	Against the existing vacancy
28.	Mr. Zahir Shah	Assistant PHE Circle Mardan	Head Clerk PHE Division Mardan	Against the existing vacancy
29.	Mr. Asghar Ali	Head Clerk PHE Division Bannu	Head Clerk PHE Division Dir Upper	Against the existing vacancy
30.	Mr. Kalim Khan	Head Clerk PHE Division Kohat	Head Clerk PHE Division Bannu	Vice Item No.29
31.	Mr. Abdullah	AV Clerk working against the post of Computer Operator PHE Division Hangu	Accounts Clerk PHE Division Hangu	Adjusted Vice Item No.26
32.	Mr. Abdul Saboor	Account Clerk PHE Division Bannu	Accounts PHE Division Karak	Vice Item No.7
33.	Mr. Muhammad Aslam	Accounts Clerk PHE Circle D.J.Khan	Accounts Clerk PHE Division D.J.Khan	Vice Item No.9
34.	Mr. Maqsood-ur-Rehman	Accounts Clerk PHE Division Torghar	Accounts Clerk PHE Division Mansehra	Against the existing vacancy with additional charge of Head Clerk in addition to his own duty.


Chief Engineer (South)

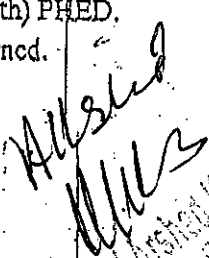
Endstt: No. 08/E-2-B/PHE,

Dated Peshawar the, 14 / 1 / 2015

Copy forwarded to:

1. The Secretary to Govt of Khyber Pakhtunkhwa PHED Peshawar
2. The Chief Engineer (North) Public Health Engg. Department Peshawar.
3. All Superintending Engineers (North/South) PHED.
4. PS to Minister for PHED Khyber Pakhtunkhwa Peshawar.
5. All Executive Engineers (North/South) PHED.
6. All District Accounts Officer concerned.
7. The official concerned/Master File.

Attested

 Muhammad Arshad Khan Tanoli
 Advocate High Court (S)
 Office No. 33 Adjacent to
 Dist. Bar Abbottabad

Attested

 Chief Engineer (South)
 Office No. 33 Jinnah Plaza Peshawar
 Distt Bar Abbottabad

P-14

7

Annex - B



OFFICE OF CHIEF ENGINEER
PUBLIC HEALTH ENGINEERING DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR
Ph#091-9211554, FAX#091-9211407, E-mail: northphed@gmail.com

P-15

No. 22 / E-2 / PHE
Dated Peshawar the, 29 / 12 / 2015

OFFICE ORDER

Mr. Muhammad Shafiq Assistant/Head Clerk, PHE Division Haripur (under transfer to PHE Division Kohistan) is hereby posted against the vacant post of Head Clerk PHE Division Mansehra, relieving Mr. Maqsood-ur-Rehman Accounts Clerk of the Additional Charge of the post of Head Clerk.

Moreover Mr. Shafiq Senior Clerk PHE Sub Division Balakot is transferred & posted against the vacant post of Accounts Clerk in PHE Division Torghar, in the public interest with immediate effect.

Attested
[Signature]

Chief Engineer (North)

Muhammad Arshad Khan Tanoli
Advocate High Court
Office No: 33 Adjacent to
Distt Bar Abbottabad

1. The Superintending Engineer Public Health Engineering Circle Abbottabad
2. The Executive Engineers Public Health Engineering Division Mansehra/Torghar
3. District Account Officer Mansehra/Torghar
4. Official concerned.

Attested
[Signature]

Chief Engineer (North)

Muhammad Arshad Khan Tanoli
Advocate High Court
Office No: 33 Adjacent to
Distt Bar Abbottabad

Attested
[Signature]

Muhammad Arshad Khan Tanoli
Advocate High Court
Office No: 33 Adjacent to
Distt Bar Abbottabad

Annex - C

P-16

13

Annex - C



**OFFICE OF CHIEF ENGINEER
PUBLIC HEALTH ENGINEERING DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR**

PH/091-9211354, FAX/091-9211407, E-mail: northphed@gmail.com

No. 04 / E-2 / PHE
Dated Peshawar the, 01 / 10 / 2015

OFFICE ORDER

The posting / transfer order of Muhammad Shafiq, Assistant issued vide this office No. 22/E-2/PHE dated 29.12.2015 is hereby cancelled / withdrawn in the public interest.

Chief Engineer (North)

Copy to:

1. PS to Secretary PHE Department Peshawar with reference to his letter No. SO(Estt)/PHED/24-58/2015 dated 29.12.2015 please.
2. PS to Minister Public Health Engineering Department Peshawar please.
3. The Superintending Engineer Public Health Engineering Circle Abbottabad
4. The Executive Engineers Public Health Engineering Division Manselhra/Torghar
5. District Account Officer Manselhra/Torghar
6. Official concerned.

Chief Engineer (North)

Attested

[Signature]
Muhammad Arshad Khan Janjani
Advocate (High Court)
Office No. 33 Adjacent to

[Signature]

Office No. 33
District: Abbottabad

Annex-D

5

Annexure A

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT, ABBOTTABAD



Service Appeal No. 625/2016

Date of Institution... 30.05.2016

Date of decision... 17.07.2017

Muhammad Shafique, Head Clerk, Public Health Engineering Department,
Manshra. (Appellant)

VERSUS

1. Govt. of Khyber Pakhtunkhwa, through Secretary Public health Engineering
Department, Peshawar and others. (Respondent's)

MUHAMMAD ARSHAD KHAN TANOLI,
Advocate

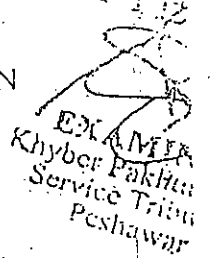
For appellant.

MR. MUHAMMAD BILAL,
Deputy District Attorney

For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. AHMAD HASSAN.

CHAIRMAN
MEMBER



JUDGMENT

NIAZ MUHAMMAD KHAN CHAIRMAN:

Arguments of the learned

counsel for the appellant heard and record perused.

Muhammad Arshad Khan Tanoli
Advocate High Court
Office No 33 Adjacent to
Distt

FACTS

2. The appellant is aggrieved from his transfer cancellation order dated 01.01.2016. He was promoted to the post of Head Clerk BPS-16 on 14.12.2015 and posted at Kohistan. After fifteen days he was transferred to Manshra on 29.12.2015 against a vacant post and when the appellant assumed the charge at Manshra on 31.12.2015, the said transfer order dated 29.12.2015 was withdrawn

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Stamp of the Khyber Pakhtunkhwa Service Tribunal, Abbottabad, with handwritten text: 'Office No. 33, Peshawar' and 'Distt Abbottabad'.

the said post at Manshera rather it was respondent No. 6 (BPS-9) to continue against the post of BPS-16. There appears no compulsion on the part of the department which resulted in such hasty withdrawal of transfer order. The Tribunal is also conscious of the fact that so long as the impugned withdrawal order was in force the discipline and rules demanded that the appellant should have followed that order and should have reported at Kohistan because there was no restraint order or stray order from any court of law. Though according to the appellant he reported at Kohistan on 01.01.2016 but he failed to produce a charge assumption report at Kohistan.

As a sequel to the above discussion this Tribunal set aside the impugned withdrawal order dated 01.01.2016 by leaving the issue of non-compliance of said order to the concerned departmental authority in accordance with law rules. Parties are left to bear their own costs. File be consigned to the record.

Alleged
MU

Announced
17.07.2017
Sh. Niaz Muhammad Khan
Chairman

Sh. Ahmad Hassan
Member

Office No. 33 Adjacent to District Court, Peshawar

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application: 24-7-17
Number of Words: 1200
Copying Fee: 8
Urgent: 2
Total: 10
Name of Copyist: [Signature]
Date of Completion of Copy: 24-7-17
Date of Delivery of Copy: 24-7-17

Filed
[Signature]
Muhammad Ayshad Khan
Advocate High Court
Office No. 33 Adjacent to
District Court Peshawar

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P-19

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

CAMP COURT, ABBOTTABAD

Service Appeal No. 625/2016

Date of Institution... 30.05.2016

Date of decision ... 17.07.2017



Muhammad Shafique, Head Clerk; Public Health Engineering Department,
Manshra. ... (Appellant)

VERSUS

1. Govt. of Khyber Pakhtunkhwa, through Secretary Public health Engineering
Department, Peshawar and others. ... (Respondents).

MUHAMMAD ARSHAD KHAN TANOLI,
Advocate ...

For appellant.

MR. MUHAMMAD BILAL,
Deputy District Attorney ...

For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. AHMAD HASSAN, ...

CHAIRMAN
MEMBER

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN:-

Arguments of the learned

counsel for the appellant heard and record perused.

FACTS

2. The appellant is aggrieved from his transfer cancellation order dated 01.01.2016. He was promoted to the post of Head Clerk BPS-16 on 14.12.2015 and posted at Kohistan. After fifteen days he was transferred to Manshra on 29.12.2015 against a vacant post and when the appellant assumed the charge at Manshra on 31.12.2015, the said transfer order dated 29.12.2015 was withdrawn

Office # 302
District of Abbottabad

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on 01.01.2016. The appellant then filed a departmental appeal against the withdrawal order on 27.01.2016 which was not responded to by the appellate authority and thereafter the appellant moved the present appeal on 30.05.2016.

ARGUMENTS

3. The learned counsel for the appellant argued that when the appellant was transferred against a vacant post on 29.12.2015 and he had to comply with the order and assumed the charge on 31.12.2015, then there was no reason for cancellation of the transfer order. That the appellant in compliance thereof reported at Kohistan but his arrival report at Kohistan was not accepted for the reason that there was no vacant post at Kohistan.

4. On the other hand the departmental representative argued that the order of withdrawal of the transfer order dated 01.01.2016 was made in the public interest. That private respondent No. 6 who was already working against this post and he continued on this position on additional charge basis. That the appellant did not submit arrival report at Kohistan as alleged by him. That the appellant is bound to have followed the withdrawal order passed by the competent authority.

CONCLUSION.

5. After hearing arguments of the learned counsel for the parties and perusing the record, this Tribunal reaches the conclusion that there is no reason shown by the competent authority in the impugned transfer/withdrawal order which was against the provisions of postings/transfers policy of 2009. Mere insertion of the words "public interest" is not sufficient because under the said policy the reasons are justifiable giving right to the aggrieved person to go into review to the proper forum. It is also on the record that there was no person in BPS-16 to work against

ATTESTED
Khyber Pakhtunkhwa
Service Commission

Attested
[Signature]
Chief Justice
Khyber Pakhtunkhwa

P-21

the said post at Manshra rather it was respondent No. 6 (BPS-9) to continue against the post of BPS-16. There appears no compulsion on the part of the department which resulted in such hasty withdrawal of transfer order. This Tribunal is also conscious of the fact that so long as the impugned withdrawal order was in force the discipline and rules demanded that the appellant should have followed that order and should have reported at Kohistan because there was no restraint order or stray order from any court of law. Though according to the appellant he reported at Kohistan on 01.01.2016 but he failed to produce any charge assumption report at Kohistan.

6. As a sequel to the above discussion this Tribunal set aside the impugned withdrawal order dated 01.01.2016 by leaving the issue of non-compliance of the said order to the concerned departmental authority in accordance with law and rules. Parties are left to bear their own costs. File be consigned to the record room.

Announced 17.07.2017 *Sh. Niaz Mahammad Khan,*
Chairman

Sh. Ahmad Hassan,
Member

Certified to be true copy
EX-100
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Accepted
[Signature]

Date of Presentation of Application 24-7-17
 Number of Words 1200
 Copying Fee 8-
 Urgent 2-
 Total 10-
 Name of Applicant [Signature]
 Date of Completion of Copy 24-7-17
 Date of Delivery of Copy 24-7-17

Office of the Chairman
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

A-22



**OFFICE OF THE SUPERINTENDING ENGINEER
PUBLIC HEALTH ENGINEERING CIRCLE ABBOTTABAD**
sophedabbottabad@gmail.com Phone & FAX No.0992-383211

No. 03/G-151

Dated Abbottabad the 25/10/2018

To

The Chief Engineer (North)
Public Health Engineering Department,
Peshawar.

Annex - E

Subject:- **OFFICE ORDER**

Reference:- Your office order No.06/E-2/PHE dated 09/08/2017.

As desired, detailed report/facts finding enquiry regarding absence of
Muhammad Shafique, Assistant/Head Clerk from Government duty since 01/01/2016
to 17/07/2017 is submitted herewith for favour of further necessary action please.

DA/ As above.

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SUPERINTENDING ENGINEER

Handwritten signature of Superintendent Engineer

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Office of the Superintendent Engineer
Public Health Engineering Circle Abbottabad

Attested
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Muhammad Qasim Khan Tanvir
Advocate High Court
Office No: 33 Adjacent to
Distt Bar Abbottabad

**ENQUIRY REGARDING ABSENCE PERIOD OF MUHAMMAD SHAFIQUE,
ASSISTANT/HEAD CLERK FROM GOVERNMENT DUTY SINCE
01/01/2016 TO 17/07/2017**

Authority:

Chief Engineer (North) Public Health Engineering
Department Peshawar Office order No.06/E-2/PHE dated
09/08/2017.

Introduction:-

Muhammad Shafique working as Accounts Clerk in the office of the Executive Engineer PHE Division Haripur was promoted to the post of Head Clerk and posted in the office of the Executive Engineer PHE Division Kohistan against the existing vacancy vide Chief Engineer (South) PHED Peshawar office order No.08/E-9/PHE dated 14/12/2015. Meanwhile Muhammad Shafique Head Clerk was under transfer to PHE Division Kohistan, he was posted against the vacant post of Head Clerk in PHE Division Mansehra vide Chief Engineer (North) PHED Peshawar office order No.22/E-2/PHE dated 29/12/2015, whereas after a few days the posting order at Mansehra District was withdrawn/cancelled by the Chief Engineer (North) PHED Peshawar vide office order No.04/E-2/PHE dated 01/01/2016. Seeing the order of cancellation, Muhammad Shafique, Head Clerk submitted an application/Departmental Appeal to the Chief Engineer (North) PHED Peshawar for restoration of his office order No.22/E-2/PHE dated 29/12/2015 in which the official was posted in PHE Division Mansehra. After submission of the application/Departmental Appeal to the Chief Engineer (North) PHED Peshawar, Muhammad Shafique, Head Clerk lodged a service Appeal No.625/2016 on 30/05/2016 before the Khyber Pakhtunkhwa Service Tribunal Camp Court, Abbottabad.

The Honourable Khyber Pakhtunkhwa Service Tribunal Camp Court Abbottabad decided the appeal on 17/07/2017 in favour of Muhammad Shafique Head Clerk and set aside the withdrawal/cancellation order No.04/E-2/PHE dated 01/01/2016 in which the official was again transferred to PHE Division Kohistan.

After decision of the Honourable Service Tribunal Camp Court Abbottabad, Muhammad Shafique Head Clerk was again posted as Head Clerk in PHE Division Mansehra vide Chief Engineer (North) PHED Peshawar office order No.06/E-2/PHE dated 09/08/2017 and the official assumed the charge of Head Clerk in PHE Division Mansehra on 27/07/2017.

As such Muhammad Shafique Head Clerk was absent from Government duty from 01/01/2016 to 17/07/2017.

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P-17

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Ullah
Advocate High Court
Office No. 3 Adjacent
District Court Abbottabad

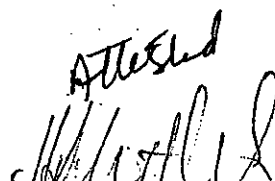
P-10


P-24


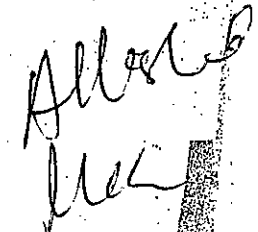
Muhammad Shafique Accounts Clerk PHE Division Haripur was promoted to the post of Head Clerk and posted in the office of the Executive Engineer PHE Division Kohistan vide Chief Engineer (South) PHED Peshawar office order No.08/E-9/PHE dated 14/12/2015 (copy attached as Annexure-I). Later on the order of posting in the office of the Executive Engineer PHE Division Kohistan was withdrawn/cancelled vide Chief Engineer (North) PHED Peshawar office order No.22/E-2/PHE (N) dated 29/12/2015 (copy attached as Annexure-II) and the official was posted in PHE Division Mansehra. Soon after the order of cancellation from PHE Division Kohistan to PHE Division Mansehra, the same order was also cancelled/withdrawn by the Chief Engineer (North) PHED Peshawar vide office order No.04/E-2/PHE dated 01/01/2016 and the official was again posted in the office of the Executive Engineer PHE Division Kohistan whereas, Muhammad Shafique, Head Clerk did not comply with the order for posting at PHE Division Kohistan and lodged a suit before the Khyber Pakhtunkhwa Service Tribunal Camp Court Abbottabad. Meanwhile, Muhammad Shafique Head Clerk did not attend the office of the Executive Engineer PHE Division Kohistan for duty and was absent from 01/01/2016 till decision of the Honourable Service Tribunal Camp Court Abbottabad i.e 17/07/2017.

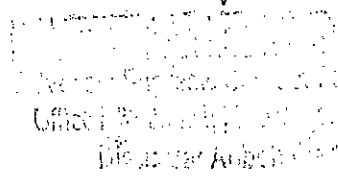
Recommendations:

In view of the above mentioned facts, Mr. Shafique Head Clerk did not join the duty at PHE Division Kohistan from 01/01/2016 to 17/07/2017. It is recommended that his absence from the service ranging upto one year six months and seventeen days (1 year, 6 months and 17 days) may be converted into Extraordinary leave (leave without pay).

Attested

Muhammad Arshad Khan Tanoli
Advocate High Court
Office No. 33 Adjacent to
Distt. Court Abbottabad


(ABDUL LATIF KHAN)
INQUIRY OFFICER/
SUPERINTENDING ENGINEER
PUBLIC HEALTH ENGINEERING
CIRCLE ABBOTTABAD





Annex F
OFFICE OF CHIEF ENGINEER (NORTH)
PUBLIC HEALTH ENGINEERING DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR
Ph#091-9211554, FAX#091-9211407, E-mail: northphed@gmail.com

P-25

No. 03 / E-2 / PHE
Dated Peshawar the, 02 / 10 / 2018

OFFICE ORDER

Whereas, Muhammad Shafiq Assistant has been posted as Head Clerk in PHE Division Mansehra as a consequent to Khyber Pakhtunkhwa, Service Tribunal judgment dated 17.07.2017 issued vide this office order No. 06/E-2/PHE dated 09.08.2017.

Whereas, regarding the issue of non compliance of the orders dated 14.12.2015. when posted as Head Clerk at PHE Division Kohistan, the Services Tribunal left the issue of non-compliance of the order dated 01.01.2016 to this department authority in accordance with Law & Rules. The Competent Authority, Chief Engineer PHED (North) appointed Mr. Abdul Latif Superintending Engineer PHE Circle Abbottabad as Inquiry Officer in the matter. The Inquiry Officer, after conducting the inquiry submitted his report, recommending converting his absence from duty with effect from 01.01.2016 to 17.07.2017 (i.e. one year 06 months and 17 days) into extra ordinary leave (leave without pay).

Therefore, the undersigned as Competent Authority, hereby agrees with the recommendations of the inquiry officer and decides to term the period of non-compliance by the said official i.e. from 01.01.2016 to 17.07.2017, as extra-ordinary leave (leave without pay).

Chief Engineer (North)

Copy to:

1. The Section Officer (Estt) Public Health Engineering Department Peshawar.
2. The Superintending Engineer Public Health Engineering Circle Abbottabad.
3. The Executive Engineer Public Health Engineering Division Kohistan / Mansehra.
4. The District Accounts Officer Kohistan / Mansehra.
5. The official concerned.

All set
MHA

Shah
Chief Engineer (North)

Office of Chief Engineer (North)
Public Health Engineering Department
Khyber Pakhtunkhwa Peshawar

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



P-26

Service Appeal No. 170 /2019

Muhammad Shafique, Head Clerk, Public Health Engineering Department, Mansehra.

APPELLANT
Khyber Pakhtunkhwa
Service Tribunal

Diary No. 37

Dated 08/01/2019

VERSUS

1. Govt. of Khyber Pakhtunkhwa, through Secretary Public Health Engineering Department, Peshawar.
2. Chief Engineer (North), Public Health Engineering Department Khyber Pakhtunkhwa, Peshawar.
3. Chief Engineer (South), Public Health Engineering Department, Khyber Pakhtunkhwa, Peshawar.
4. Executive Engineer, Public Health Engineering Division, Mansehra.
5. District Accounts Officer, Mansehra.

...RESPONDENTS

Filed to-day

[Signature]
Registrar
8/1/2019

**Re-submitted to -day
and filed.**

[Signature]
Registrar
4/2/19

SERVICE APPEAL UNDER SECTION 4 OF
SERVICE TRIBUNAL ACT 1974 FOR
DECLARATION TO THE EFFECT THAT
RESPONDENT'S DEPARTMENT DID NOT PAY
SALARY TO THE APPELLANT W.E.F 01/01/2016 TO

ATTESTED

[Signature]
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

P. 27


31/07/2017 DURING THE PENDENCY OF SERVICE APPEAL NO. 625 OF 2016. THE APPELLANT IS ENTITLED FOR PAYMENT OF SALARY FOR THE SAID PERIOD AS THE APPELLANT WAS NOT AT FAULT, BUT THE RESPONDENT'S DEPARTMENT DID NOT ALLOW THE PETITIONER TO MARK PRESENT IN THE ATTENDANCE REGISTER.

PRAYER: ON ACCEPTANT OF THE INSTANT SERVICE APPEAL, THE RESPONDENT'S DEPARTMENT MAY GRACIOUSLY BE DIRECTED TO RELEASE SALARY OF THE PETITIONER W.E.F 01/01/2016 TO 31/07/2017. ANY OTHER RELIEF WHICH THIS HONOURABLE TRIBUNAL DEEM APPROPRIATE IN THE CIRCUMSTANCES OF THE CASE MAY ALSO BE ALLOWED.

Respectfully Sheweth;-

That the facts forming the background of the instant service appeal are arrayed as under; -

1. That the appellant was promoted a Head Clerk and was posted at Public Health Engineering Division Mansehra. Copy of promotion letter dated 14/12/2015 and office order dated 29/12/2015 is annexed as Annexure "A" & "B".

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

2. That the appellant took over the change of the post on 31/12/2015 and after one day of assumption of change of the post, the appellant was posted from Mansehra to Public Health Engineering Division Kohistan, vide order dated 01/01/2016. Copy of the order dated 01/01/2016 is annexed as Annexure "C".
3. That the appellant filed service appeal No. 625/16 before his Honourable Tribunal, which was decided on 17/07/2017. Copy of judgment of service tribunal is annexed as Annexure "D".
4. That the Honourable Tribunal set-aside the impugned withdrawal order of appellant dated 01/01/2016 and left the issue of non compliance of order dated 01/01/2016 to the departmental authority. Following this, the appellant was posted at Public Health Engineering Division Mansehra, but salary of the petitioner w.e.f 01/01/2016 to 17/07/2017 has not been paid. In this regard, an enquiry was ordered to look into the fact, that as to whether the appellant served the department w.e.f 01/01/2016 to 17/07/2017. The enquiry committee decided that the appellant did not joined duty at

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

P-29

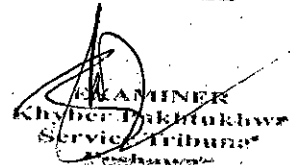
PHE Division Kohistan from 01/01/2016 to 31/07/2017. Copy of the enquiry report dated 25/01/2018 is attached as Annexure "E".

5. That appellant filed the departmental appeal against the enquiry report on 18/08/2018 which is yet to be decided by the department. Copy of departmental appeal dated 18/08/2018 is annexed as Annexure "F".
6. Hence, the instant service appeal is filed, inter-alia on the following grounds:-

GROUND:

- a) That the enquiry report is against the facts, arbitrary and one sided. The appellant has not been provided opportunities to defend his case. Therefore, enquiry report dated 09/08/2018 is liable to be set-aside.
- b) That the appellant properly reported to Public Health Engineering Division Kohistan, for resumption of change of the post after 01/01/2016 but the appellant could not assume change of the post on the ground

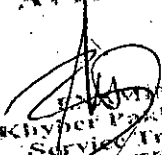
ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal

that there was no post of Head Clerk at Public Health Engineering Division Kohistan. Copy of proof letter is annexed as Annexure "G".

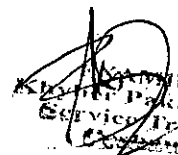
- c) That the appellant remained rolling stone between Kohistan Division and Mansehra Division. Therefore, both the division did not allow the appellant to mark him present in their attendance registers.
- d) That the appellant remained under political pressures as well as bureaucratic wrath. As a result, the poor and innocent appellant has been made a scapegoat due to no fault at his end.
- e) That when the appellant was not provided opportunities of serving either at PHE Kohistan or PHE Mansehra, he waited for decision of this Honourable Tribunal. Therefore, the appellant is entitled for release of salary w.e.f 01/01/2016 to 17/07/2017.

ATTESTED


MEMBER
Khyber Pakhtunkhwa
Service Tribunal

- f) That the department did not bother to conduct enquiry to the fact that as to whether the post of head clerk was available at PHE Kohistan or otherwise. But in a cursory manner, conducted arbitrary enquiry to give wrongful loss of service comes to the appellant i.e monitory, seniority and length of service loss.
- g) That the appellant filed execution petition before the Honourable Tribunal vide execution petition No.57/18 in service appeal No.625/2016 which was decided on 27/06/2018 wherein the appellant was directed to agitate the mater before the authority. Therefore, the appellant filed departmental appeal on 17/08/2018. Copies of execution petition No.57/18 and order dated 27/06/2018 are attached as Annexure "H" & "T".
- h) That the matter relates to the terms and conditions of service. The question of salary of appellant is involved. Therefore, in such a case, the appellant has always a continuing cause of action.

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal

17.05.2022


Learned counsel for the appellant present. Mr. Muhammad Riaz Khan, Assistant Advocate General for respondents present.

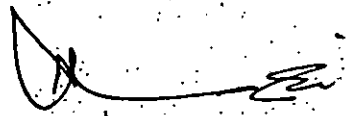
P-33



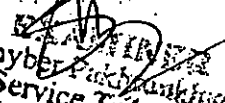
Learned counsel for the appellant arguing the case at some length when confronted whether the order No 03/E-2/PHE dated 02.02.2018 whereby the period from 01.01.2016 to 17.07.2017 was considered as Extra Ordinary Leave without pay, was challenged by appellant or not, to which learned counsel for the appellant was very fair and frank and said that he would file fresh appeal if the Tribunal allowed the appellant to challenge the above order. This appeal is disposed of with the observations that the appellant may assail the above order subject to all limitations and restrictions etc. Consign.

Pronounced in open court in Camp Court Abbottabad and given under our hands and seal of the Tribunal this 17th day of May, 2022.


(Farzha Paul)
Member(E)


(Kalim Arshad Khan)
Chairman
Camp Court Abbottabad



Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 10/6/22
Number of Words 4000
Copying Fee 400
Urgent 4/1
Total 460
Name of Copyist _____
Date of Completion of Copy 10/6/22
Date of Delivery of Copy 10/6/22

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

Service Appeal No. 170/2019

Muhammad Shafique, Head Clerk, Public Health Engineering Department,
Mansehra.

....APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa, through Secretary Public Health Engineering
Department, Peshawar. & others.

....RESPONDENTS

SERVICE APPEAL

**APPLICATION FOR GRANT OF PERMISSION TO
AMEND THE CAPTIONED APPEAL TO
IMPUGNED THE ORDER NO. 03/E-2/PHE DATED
02/02/2018 RECEIVED BY THE APPELLANT ON
18/02/2021.**

Respectfully Sheweth;-

1. That the appellant served the respondent Department with effect from 01/01/2016 to 17/07/2017. Copy of attendance sheets are attached as Annexure "A".
2. That the appellant challenged the inquiry report dated 25/01/2018 before this Honourable court but respondents produced the final order No. 03/E-2/PHE dated 02/02/2018 on 18/02/2021. Copy of final order dated 02/02/2018 is attached as Annexure "B".

ATTESTED
SECRETARY
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

It is, therefore, humbly prayed that in view of the above, it is submitted that the appellant may be permitted to impugned the final order dated 02/02/2018, after amending the service appeal No. 170/19 on court file.

M. Shafiq
~~... APPELLANT~~

Dated: _____/2021

Through

M. Arshad Khan Tanoli
~~(Muhammad Arshad Khan Tanoli)~~
Advocate High Court, Abbottabad

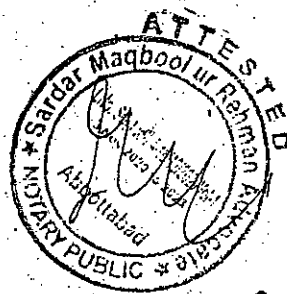
AFFIDAVIT:-

I, Muhammad Shafique, Head Clerk, Public Health Engineering Department, Mansehra, do hereby solemnly affirm and declare that the contents of forgoing application are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.

M. Shafique
~~DEPONENT~~

Identified by;

M. Arshad Khan Tanoli
~~(Muhammad Arshad Khan Tanoli)~~
Advocate High Court, Abbottabad



18/6/2021
Certified to be true copy

Date of Filing of Application 10/6/21
Number of Pages 600
Filing Fee 5/-
Total 14/-
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Date of Copy of Original Copy 10/6/21
Date of Delivery of Copy 16/6/21

M. Shafiq
CHIEF CLERK
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

بخدمت جناب سیکرٹری صاحب پبلک ہیلتھ انجینئرنگ ڈیپارٹمنٹ، خیبر پختونخوا، پشاور۔

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اپیل برائے منسوخی نام نہاد انکوائری/ادائیگی بقایا تنخواہ از مورخہ 01/01/2016 تا 31/07/2017

M. Arshad

M. Arshad

جناب عالی! اپیل سائل ذیل عرض ہے:-

1- یہ کہ سائل کو بذریعہ چٹھی نمبر 08/E-9/PHE مورخہ 14/12/2015 کو پروموٹ کر کے بذریعہ چٹھی ہذا ضلع ہری پور سے ضلع کوہستان تعینات کر دیا گیا۔

2- یہ کہ حسب ضابطہ ضلع کوہستان حاضری کرنے کیلئے چلا گیا مگر وہاں پر بوجہ پوسٹ خالی نہ ہونے کے سائل دوبارہ جناب چیف انجینئر صاحب پبلک ہیلتھ انجینئرنگ ڈیپارٹمنٹ کے دفتر پشاور کے دفتر پشاور گیا اور بتلایا کہ ضلع کوہستان میں پوسٹ خالی نہیں ہے جس پر چیف انجینئر (نارتھ) صاحب نے من سائل کو چٹھی نمبر 22/E-2/PHE مورخہ 29/12/2016 کے تحت ضلع مانسہرہ میں اسٹنٹ/ہیڈ کلرک کی پوسٹ پر چارج لینے حکم صادر کر دیا۔ مذکورہ چٹھی کے مطابق سائل نے مورخہ 31/12/2015 کو بطور ہیڈ اسٹنٹ/ہیڈ کلرک PHE ڈویژن مانسہرہ میں خالی پوسٹ پر چارج سنبھال لیا۔

3- یہ کہ چیف انجینئر (نارتھ) نے اپنے ہی جاری کردہ مذکورہ بالا آرڈر کو صرف تین بعد ہی Withdraw / Cancel کر دیا مگر سائل کو کسی دوسری جگہ پوسٹنگ کا آرڈر جاری نہیں کیا گیا۔

4- یہ کہ سائل نے مذکورہ بالا آرڈر کی منسوخی کے خلاف جناب سیکرٹری صاحب/چیف انجینئر (نارتھ) کو محکمانہ اپیل کی مگر اس پر بھی کوئی عمل درآمد نہ ہوا جبکہ سائل نے محکمانہ اپیل کے دوران ضلع مانسہرہ میں اپنی حاضری/ڈیوٹی جاری رکھی جو کہ سائل کا قانونی حق بنتا تھا۔

5- یہ کہ سائل کی مثال ”آسمان سے گرا اور کھجور میں اٹکا“ والی ہو گئی اور سائل کہیں کا بھی نہ رہا کیونکہ سائل کو کسی بھی دیگر جگہ پر تعینات کرنے کا باقاعدہ آرڈر جاری نہیں کیا گیا جبکہ سائل نے اس ضمن میں متعدد بار درخواست گزاری مگر سائل کی

درخواست پر کوئی عمل درآمد نہ ہوا۔

Muhammad Arshad Khan Janjani
Advocate High Court
Office No 33 Adjacent

6- یہ کہ سائل نے بعد ازاں مجبور ہو کر خیبر پختونخوا اسروس ٹریبونل پشاور میں اسروس اپیل دائر کی جس پر مجاز ٹریبونل نے مورخہ 17/07/2017 کو فیصلہ صادر فرماتے ہوئے چیف انجینئر (نارتھ) کے جاری کردہ مذکورہ بالا Withdrawal / Canclation آرڈر مورخہ 01/01/2016 کو Set-aside کرتے ہوئے سائل کو ضلع مانسہرہ میں اسٹنٹ / ہیڈ کلرک کی پوسٹ پر ملازمت جاری رکھنے کا حکم دیا جبکہ معزز اسروس ٹریبونل نے کسی انکوائری وغیرہ کا حکم صادر نہیں کیا۔

7- یہ کہ محکمہ نے از خود ایک نام نہاد انکوائری Conduct کی جس میں سائل کو ذاتی عناد کے تحت غیر قانونی طور پر مورخہ 17/07/2017 تا 01/01/2016 تک غیر حاضر ظاہر کیا گیا جبکہ سائل اس دوران اپنی ڈیوٹی پر باقاعدہ حاضر رہا ہے جس کا ثبوت محکمہ کے حاضری رجسٹر / بائیو میٹرک سٹم میں لازمی موجود ہوگا۔ نیز اگر سائل مذکورہ عرصہ کے دوران غیر حاضر تھا تو پھر محکمہ نے سائل کو کوئی شو کاز نوٹس وغیرہ جاری کیوں نہیں کیا اور اگر کیا گیا ہے تو اس کا ریکارڈ بمعہ اخباری اشتہار پیش کیا جائے۔

8- جناب عالی: یہ ایک مسلمہ حقیقت ہے کہ سائل نے از مورخہ 31/12/2015 سے اپنی ڈیوٹی مسلسل سرانجام دی ہے اور کوئی غیر حاضری وغیرہ نہیں کی جس کا ریکارڈ محکمہ کے حاضری رجسٹر اور بائیو میٹرک سٹم میں چیک کیا جاسکتا ہے۔

9- یہ کہ نام نہاد انکوائری رپورٹ سراسر خلاف قانونی، خلاف واقعات اور ذاتی عناد پر مبنی ہے جو کہ سائل کے حقوق پر کالعدم و باطل ہے۔ لہذا سائل اپنی تنخواہ از مورخہ 01/01/2016 تا 31/07/2017 کی وصولی کا حقدار ہے جو کہ محکمہ دینے سے انکاری ہے۔

لہذا اندر میں حالات استدعا ہے کہ محکمہ کی طرف سے کی گئی نام نہاد، خلاف حقائق اور جھوٹ پر مبنی انکوائری کو منسوخ فرمایا جا کر سائل کی بقایا تنخواہ از 01/01/2016 تا 31/07/2017 کی ادائیگی کے احکامات صادر فرمائے جاویں اور انصاف کے تقاضے پورے کئے جائیں۔ سائل تاحیات آپ کے لئے دعا گو رہے گا۔

المرقوم: 17/08/2018

سائل:

M. Shafiq

محمد شفیق ولد میاں داد خان (اسٹنٹ / ہیڈ کلرک)

پبلک ہیلتھ انجینئرنگ ڈویژن، مانسہرہ

M. Shafiq
Muhammad Shafiq Khan Jafar
Advocate High Court
Office No. 33 Adjacent to
Dist. Jail Mansherah

M. Shafiq

بخدمت جناب سیکرٹری صاحب پبلک ہیلتھ انجینئرنگ ڈیپارٹمنٹ خیبر پختونخوا پشاور۔

عنوان: اپیل برائے منسوخی/انظر ثانی بر آفس آرڈر نمبر 03/E-2/PHE مورخہ 02/02/2018 جسکی رو سے سائل کے غیر
حاضری پیریڈ از 01/01/2016 تا 17/07/2017 کو "Leave without pay" قرار دیا ہے جبکہ اس پیریڈ کے
دوران سائل نے کوئی غیر حاضری نہیں کی ہے اور اپنی ڈیوٹی بطریق احسن سرانجام دی ہے۔

جناب عالی! سائل ذیل رض گزار ہے:-

1- یہ کہ سائل محکمہ پبلک ہیلتھ ڈویژن مانسہرہ میں اپنے فرائض منصبی بطور "اسسٹنٹ/ہیڈ کلرک" بطریق احسن ادا کرتا رہا اور مورخہ
14/03/2020 کو ریٹائرمنٹ حاصل کر لی۔

2- یہ کہ سائل کو دوران سروس مذکورہ بالا پیریڈ کی تنخواہ بدینتی اور ذاتی عناد کی بنیاد پر ادا نہیں کی گئی تھی جسکی بابت سائل نے سروس کے
دوران ہی Back benefit کیلئے سروس ٹریبونل میں اپیل دائر کی جسکی مورخہ 18/02/2021 کو تاریخ پیشی مقرر تھی اور جب
سائل تاریخ پیشی پر گیا تو سائل کو سروس ٹریبونل میں کیس کی سماعت کے دوران محکمہ کا جاری کردہ مذکورہ آفس آرڈر نمبر
03/E-2/PHE مورخہ 02/02/2018 وصول ہوا جسکی رو سے سائل کے نام نہاد غیر حاضری پیریڈ از 01/01/2016 تا
17/07/2017 کو "Leave without pay" قرار دیا گیا ہے۔

3- یہ کہ مذکورہ بالا آفس آرڈر سراسر بدینتی اور ذاتی عناد کی بنیاد پر جاری کیا گیا ہے جسکا حقیقت سے کوئی تعلق واسطہ نہیں ہے اور
مذکورہ آرڈر کی کوئی قانونی حیثیت نہیں ہے۔ کیونکہ سائل نے اپنی تمام سروس کے دوران کبھی اتنی لمبی چھٹی لی ہے اور نہ ہی کبھی اپنی ڈیوٹی
سے غیر حاضر رہا جبکہ مذکورہ نوٹس میں جو مدت غیر حاضری تحریر کی گئی ہے سائل ان تاریخوں پر باقاعدہ حاضر رہا اور اپنے فرائض منصبی ادا کرتا رہا۔
4- یہ کہ اگر سائل مذکورہ بالا نوٹس میں درج کئے گئے پیریڈ میں غیر حاضر رہا تو پھر سائل کو دوران سروس کسی قسم کا کوئی شوکا ز نوٹس وغیرہ کیوں
جاری نہیں کیا گیا اور اگر سائل ایک سال اور تقریباً 7 ماہ مسلسل ڈیوٹی سے غیر حاضر رہا تو محکمہ نے کوئی قانونی کارروائی کیوں نہیں کی اور
اگر کی ہے تو اس بابت ریکارڈ فراہم کیا جائے۔

5- یہ کہ قانونی تقاضوں کے مطابق اگر کوئی گورنمنٹ ملازم 2/3 دن کیلئے بھی غیر حاضر ہو جائے تو اسکی بابت باقاعدہ شوکا ز نوٹس بھیجا
جاتا ہے اور اگر کوئی ملازم عرصہ ایک سال سے زائد غیر حاضر رہے تو اس کے خلاف تو باقاعدہ شوکا ز نوٹس، چارج شیٹ اور آخر میں
اخباری اشتہار دیا جاتا ہے مگر سائل کے کیس میں ایسا کچھ نہیں کیا گیا۔

لہذا استدعا ہے کہ سائل کے خلاف جاری کردہ مذکورہ بالا نام نہاد آفس آرڈر نمبر 03/E-2/PHE مورخہ 02/02/2018
منسوخ فرمایا جاوے اور سائل کو اپنی بقایا تنخواہ از 01/01/2016 تا 31/07/2017 کی ادائیگی کے احکامات صادر فرمائے

المرقوم: 02/03/2021

جاویں اور انصاف کے تقاضے پورے کئے جائیں۔ سائل آپ کیلئے تاحیات دعا گو رہیگا۔

سائل/اپیل کنندہ

سکنہ بانڈہ جلال خان پیوخیل تحصیل ضلع ایبٹ آباد۔

موبائل نمبر: 0321-9986251



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**OFFICE OF THE EXECUTIVE ENGINEER,
PUBLIC HEALTH ENGINEERING DIVISION MANSEHRA.**
Xenphemanshra@gmail.com Phone & Fax. No .0997-381246

No. 07 / E-02

To

/Dated Manshra the 01 / 11 /2017

The Chief Engineer (North),
Public Health Engg: Department,
Peshawar.

Annex J

Subject:-

**PROVISION OF FUNDS ON ACCOUNT OF SALARY FOR
THE FINANCIAL YEAR 2017-18.**

It is stated that Mr. Shafique Assistant / Head Clerk of this Office has been re-instead by Honourable Service Tribunal and pay of the Official with effect from 01-01-2016 to 07-2017, amounting to Rs.800778/- (detail attached) is laying pending due to non availability of funds in current budget 2017-18.

It is therefore requested that Finance Department may kindly be approached to include the said amount in the current budget 2017-18 or to release and place at the disposal of this Office the requested amount so as to clear the outstanding pay bill of the Official.

DA/As above.

[Signature]
**EXECUTIVE ENGINEER
PUBLIC HEALTH ENGG: DIVISION
MANSEHRA**

Copy to:-

1. The Superintending Engineer, PHE Circle Abbottabad.
2. The Divisional Account Officer (Local) for information.

[Signature]
**EXECUTIVE ENGINEER
PUBLIC HEALTH ENGG: DIVISION
MANSEHRA**

[Signature]
Advocate High Court
Office No- 33 Adjacent to
Distt Bar Abbottabad

[Signature]

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**OFFICE OF CHIEF ENGINEER (NORTH)
PUBLIC HEALTH ENGINEERING DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR**
Ph#091-9211554, FAX#091-9211407, E-mail: northphed@gmail.com

No. 06 / E-2 / PHE
Dated Peshawar the, 09 / 10 / 2017

OFFICE ORDER

In compliance of the Judgment of Service Tribunal, Khyber Pakhtunkhwa Peshawar dated 17.07.2017, in service appeal No. 625/2016, the posting / transfer order of Muhammad Shafiq, issued vide this office order No.04/E-2/PHE (N) dated 01.01.2016 is hereby withdrawn and posted as Head Clerk in PHE Division, Manshra relieving Mr. Magsood-ur-Rehman from additional charge of Head Clerk with immediate effect in the public interest.

Furthermore, Mr. Abdul Latif Superintending Engineer Public Health Engineering Circle Abbottabad is hereby appointed as inquiry officer to probe into the matter and furnish a detailed report regarding absence of Muhammad Shafiq Assistant / Head Clerk from Government duty since 01.01.2016 to 17.07.2017 and submit his recommendation to the competent authority within 15 days positively.

[Signature]
Chief Engineer (North)

Copy to:

1. The Registrar Khyber Pakhtunkhwa Services Tribunal Peshawar with reference to judgment of honorable Service Tribunal Abbottabad bench dated 17.07.2017 for information.
2. The Chief Engineer (South) Public Health Engineering Department Peshawar.
3. The Superintending Engineer PHE Circle Abbottabad alongwith a copy of case file.
4. The Executive Engineer PHE Division Kohistan / Manshra.
5. The Section Officer (Estt) PHE Department Peshawar.
6. The Section Officer (LIT) PHE Department Peshawar.
7. The District Accounts Officer, Kohistan / Manshra.
8. The official concerned.

[Signature]
Advocate High Court
Office No. 33 Adjacent to
Distt Bar Abbottabad

Chief Engineer (North)

[Signature]

ANNEX K

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Execution Petition No. 57 /2018

Service Appeal No. 625/2016

Muhammad Shafiq, Head Clerk Public Health Engineer Department, Mansehra.
(Petitioner)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Public Health Engineering Department, Peshawar.
2. Chief Engineer (North) Public Health Engineering Department, Peshawar.
3. Chief Engineer (South) Public Health Engineering Department, Peshawar.
4. Executive Engineer, Public Health Engineering Department, Mansehra.
5. District Accounts Officer, District, Mansehra. (Respondents)

EXECUTION PETITION FOR PROPER
IMPLEMENTATION OF JUDGMENT DATED
17.07.2017 IN SERVICE APPEAL NO. 625/2016.

Musaddad
Musaddad Khan Yaqub
Advocate High Court
Office No. 33 Adjacent to
Distt. Jail Abbottabad

RESPECTFULLY SHEWETH

1. That the petitioner while serving as Accounts Clerk in P.H.E Division, Haripur was promoted as Head Clerk and transferred to P.H.E Division, Kohistan vide order dated 14.12.2015.
6. That when the petitioner came to the P.H.E Division, Kohistan it was informed that there was no vacant post of Head Clerk there. The petitioner was then transferred to PHE Division, Mansehra on 29.12.2015 where the appellant took over charge on 31.12.2015.

Musaddad
Musaddad Khan Yaqub

7. That the order dated 29.12.2015 was cancelled on 01.01.2016 against which the petitioner filed service appeal No: 625/2016 before this Hon'ble Tribunal.
8. That after submission of written reply and detailed arguments, the appeal was accepted on 17.07.2017, the impugned order dated 01.01.2016 was set aside. (Copy of judgment is attached as annexure-A).
9. That on 27.7.2017, the petitioner assumed the charge at PHE Division, Mansehra in the light of the judgment of this Hon'ble Tribunal. (Annexure-B).
10. That so far as the intervening period from 01.01.2016 to 17.7.2017 is concerned the petitioner has not been paid salary for the said period despite the fact that he served the department in PHE Division, District Mansehra and the respondent No. 4 addressed a letter dated 01.11.2017 to respondent No. 2 for the release of funds so as to clear the outstanding pay bills of the petitioner for the period mentioned above. (Copy of letter dated 01.11.2017 is attached as annexure-C).
11. That a period of more than seven months elapsed but the appellant has not been paid arrears of monthly salaries.
12. That the petitioner cannot be suffered for the lapses not attributable to him because there was no vacant post of Head Clerk in P.H.E Division, Kohistan and his arrival report has not been accepted. Thereafter, he has been regularly serving in P.H.E Division, Mansehra.
13. That the petitioner is a poor person and pressing hard for the payment of salaries/arrears for the above mentioned period.

Attorney
[Signature]

[Signature]
Munir Ahmad
Advocate High Court
Office No 33 Adjacent to
Dist. Court Mansehra

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In view of the above, it is, most humbly prayed that on acceptance of this Execution Petition, the respondents may very kindly be directed to pay the petitioner salaries/arrears for the period from 01.01.2016 to 17.7.2017 to meet the ends of justice.

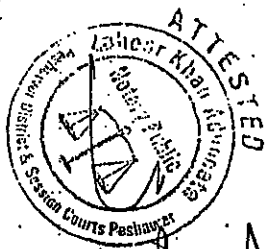
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M. Shafiq
(MUSTAFA SHAFIQUE)
Petitioner

AFFIDAVIT

I Muhammad Shafique, Head Clerk PHE Division Mansehra do hereby solemnly affirm and declare that the contents of the execution petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

M. Shafiq
DEPONENT



M. Shafiq

M. Shafiq
Muhammad Shafique Khan Tanoli
Advocate High Court
Office No. 33 Adjacent to
Dist. Court

M. Shafiq
M. Shafiq

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.



Execution Petition No. 57 /2018

In

Service Appeal No. 625/2016

Muhammad Shafiq, Head Clerk Public Health Engineer Department, Mansehra.
(Petitioner)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Public Health Engineering Department, Peshawar.
2. Chief Engineer (North) Public Health Engineering Department, Peshawar.
3. Chief Engineer (South) Public Health Engineering Department, Peshawar.
4. Executive Engineer, Public Health Engineering Department, Mansehra.
5. District Accounts Officer, District, Mansehra. (Respondents)

**EXECUTION PETITION FOR PROPER
IMPLEMENTATION OF JUDGMENT DATED
17.07.2017 IN SERVICE APPEAL NO. 625/2016.**

RESPECTFULLY SHEWETH

1. That the petitioner while serving as Accounts Clerk in P.H.E Division, Haripur was promoted as Head Clerk and transferred to P.H.E Division, Kohistan vide order dated 14.12.2015.
6. That when the petitioner came to the P.H.E Division, Kohistan it was informed that there was no vacant post of Head Clerk there. The petitioner was then transferred to PHE Division, Mansehra on 29.12.2015 where the appellant took over charge on 31.12.2015.

ATTESTED

[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

[Signature]
Advocate High Court
Office No 33 Adjacent to
Distt. Peshawar

[Signature]
Attested
[Signature]

Annex L
294
27/02/2018
P-44

Execution Petition No. 57/2018
M. Shafiq vs P.H.E Deptt

27.06.2018



Petitioner Muhammad Shafique in person present.
Mr. Shahid Saeed, SDO, PHE alongwith Mr. Usman Ghani
District Attorney for respondents present.

P-45

The above named representative of the respondents produced the posting order of the petitioner in the compliance of judgment of this Tribunal passed on 09.08.2017. The documents, on perusal, shows that the petitioner in the light of judgment of this Tribunal submitted arrival report to the department on 27.07.2017 whereas the respondents in compliance of the judgment of this Tribunal issued the posting order of the petitioner on 09.08.2017. In this way, the judgment of this Tribunal has been complied with by the respondents.

At this stage, it will be relevant to mention here that the petitioner agitated some matters which relate to his presence viz absence on duty but the same question has already been left open by this Tribunal in the same judgment. So the petitioner is advised to agitate his pleas before the authority whenever is is needed/asked.

In the light of above short discussion, the execution petition is filed. File be consigned to the record room.

SD/Chairman
27.6.2018
Chairman
Camp court, A/Abad
Muhammad Ali
Advocate High Court
Office No 33 Adjacent to
Distt Bar Office/Abad

ANNOUNCED
27.06.2018

Certified to be true copy

Alleged
M

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of App. 10-7-18
Number of Verba 800
Copying Fee 60
Urgent 200
Total 800
Name of Examiner M
Date of Completion 10-7-18
Date of Delivery 10-7-18

P-46

Daily Attendance Register of the P.H.E. Division

Page No. OF A

DATE AND HOURS

Sr. No.	Name	Rank	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
(A) Admin. Branch																				
1	Mr. Mohd. Shabbir	H/C																		
2	Mr. Muhammad Nadeem	J/C																		
3	Mr. Amir Shahzad	Steno																		
4	Mr. Bibar Khan	J/C																		
5	Mr. Mirza Mohd.	J/C																		
6	Mr. Khuram Shah	J/C																		
(B) Account Branch																				
1	Mr. Magsood-ur-Rahman	A/C																		
2	Mr. Azimullah Khan	J/C																		
3	Mr. Munir Ahmed	J/C																		
4	Mr. Raja Mohd. Ali	J/C																		
5	Mr. Gulshan Ali	J/C																		
(C) Drawing Branch																				
1	Mr. Sajid	DHD																		
2	Mr. Mohd. Saleem	Tracey																		
3	Mr. Mohd. Aziz	FK																		
4	Mr. Haroon	Driver																		
5	Class - IV																			
1	Mr. Dost Muhammad	N/O																		
2	Mr. Raza	N/O																		
3	Mr. Mohd. Kaper	BKZ																		
4	Mr. Mohd. Saleem	Act N/O																		
5	Mr. Mohd. Zaid	Act N/O																		
6	Mr. Faisal Dost	Act N/O																		
7	Mr. Kamran Pervez	Act N/O																		
8	Mr. Waheed	Matr																		
9	Mr. Malik Faisal	Act Comm																		
10	Mr. Mohd. Asif	Act N/O																		
11	Mr. Mohd. Shafi	J/C																		

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Daily Attendance Register of the

PHE, Division
DATE AND HOURS

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For the
OF ATTEN

Sr. No.	Name	Rank	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
A.	Admin. Branch																				
	Mr. Mohd Shafiqul Hc																				
	M. Nazem Hc																				
	Asim Shafiqul Hc																				
	Babar Khan Hc																				
	Munir Mahmood Hc																				
	Muhammad Shafiqul Hc																				
B.	Accounts Branch																				
	Majid Shafiqul Hc																				
	Azizul Hc																				
	Munir Ahmad Hc																				
	Raja Shafiqul Hc																				
	Muhammad Khan Hc																				
C.	Drawing Branch																				
	Mr. Sajid Hc																				
	M. Salim Hc																				
	M. Asif Hc																				
	M. Haris Hc																				
	CLASS - IV																				
	Dost Muhammad Hc																				
	M. Asif Hc																				
	M. Saleem Hc																				
	M. Imran Hc																				
	M. Asif Hc																				
	M. Asif Hc																				
	M. Asif Hc																				

Handwritten signature

کورٹ فیس

وکالت نامہ

Service Tribunal KPLP Peshawar بعدالت

m. Shafique نام Govt of KPLP عنوان

Appellant منجانب:

نوعیت مقدمہ:

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دی کل کاروائی متعلقہ آں مقام

ATD. M. Anshad Khan Tanoli Asc

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل

صاحب موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف و دینے اقبال دعویٰ اور بصورت دیگر ڈگری

کرانے اجراء وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت

ضرورت مقدمہ مذکور کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی

بجائے تقرر کا اختیار بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا

ساختہ پر داختمہ مجھ کو منظور قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے

مستحق وکیل صاحب ہوں گے۔ نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا

حد سے باہر ہو تو وکیل صاحب موصوف پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں

کوئی جزو بقایا ہو تو وکیل صاحب موصوف مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست بمراد

استجارت ناٹش بصیغہ مفلسی کے دائر کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کیا تاکہ سند رہے۔

المرقوم: 14 جون 2022

بمقام: M. Anshad Khan Tanoli Asc

السبب

السبب

"A"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

TR A/Abad.

No.

927

APPEAL No..... of 20 22

Mohammad Shafique

Appellant/Petitioner

Versus

Through Secy: PHE Pesh.

RESPONDENT(S)

RESP NO 1 Govt of KPK Through
Secretary Public Health Engineering
DEPTT Peshawar.

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 14-11-22 at 9:00 AM

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

at Camp Court.

ALABAD.

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

“A”

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

TR A/Abad.

No.

APPEAL No. 927 of 20 22

Mohammad Shafiqe

Appellant/Petitioner

Versus

Through Secy. PHE Pesh.

RESPONDENT(S)


Resp NO 1 Govt of KPK Through
Notice to ~~Appellant/Petitioner~~

Secretary Public Health Engineering
DEPTT Peshawar.

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at camp Court
A/Abad.


Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

"A"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

TB AIAbad

No.

APPEAL No. *927* of 20 *22*

Mohammad Shafique

Appellant/Petitioner

Versus

Govt. PHE Peshawar


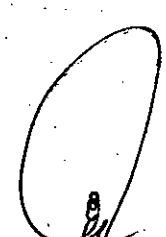
RESPONDENT(S)

Notice to Appellant/Petitioner *RESP NO* *Chief Engineer (North)*
Public Health Engineering Deptt
Peshawar

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on *14-11-22* at *9:00 AM*

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

at camp court
AIAbad



Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

"A"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

TB AIAbad

No.

APPEAL No. *927* of 20 *22*

Mohammad Shafique

Appellant/Petitioner

Versus

Sery: PHE Peshawar

RESPONDENT(S)

RESP NO chief Engineer (North)

Notice to Appellant/Petitioner

*Public Health Engineering Dept
Peshawar*

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on *14-11-22* at *9:00 AM*

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

*at CAMP COURT
AIAbad*



Registrar,

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

"A"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

TB A/Abad.

No.

927

APPEAL No..... of 2022.

Mohammad Shafique

Appellant/Petitioner

Versus

Through Secy: PHE Pesh

RESPONDENT(S)

Recd No 3 Chief Engineer (South)
Notice to Appellant/Petitioner

Public Health Engineering
Deptt Peshawar

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 14-11-22 at 9:00 AM

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

at comp Court
A/Abad

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

"A"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

TB A/Abad.

No.

APPEAL No. 927 of 2022

Muhammad Shafique

Appellant/Petitioner

Versus

Through Secy: PHE Pesh


RESPONDENT(S)

Notice to Appellant/Petitioner
P.O. No 3 Chief Engineer (South)
Public Health Engineering
DEPTT Peshawar

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 14-11-22 at 9:30 AM.

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

at camp Court
A/Abad.


Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.