



31st Oct., 2022

01. Nemo for the appellant. Mr Muhammad Addil But Additional Advocate General alongwith Khalid Gohar Deputy Director for the respondents present.

02. Called several times, till last hours of the court but nobody turned up on behalf of the appellant. The appeal is, therefore, dismissed in default. Consign.

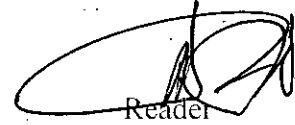
03. **Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 31st day of October, 2022.**


(Fareeha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman

25.02.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 23.05.2022 for the same as before.




Reader

23rd May, 2022

Counsel for the appellant present. Mr. Naseer ud Din Shah, Assistant AG for the respondents present.

Learned counsel for the appellant seeks adjournment in order to properly assist the court. Adjourned. To come up for argument on 02.08.2022 before D.B.




Fareeha Paul
Member (E)



(Kalim Arshad Khan)
Chairman

2-8-2022

Proper DB not available the case is adjourned to 31-10-2022

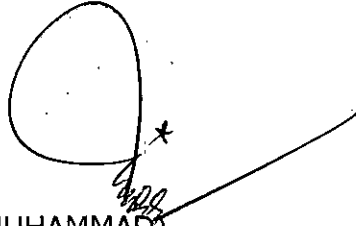


Reader

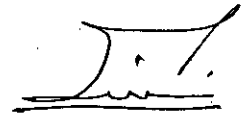
25.08.2021

Appellant alongwith clerk of learned counsel for the appellant present. Mr. Usman Ghani, District Attorney alongwith Syed Bilawal Shah, Stenographer for respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is out of station. Adjourned. To come up for arguments before the D.B on 27.10.2021.



(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)

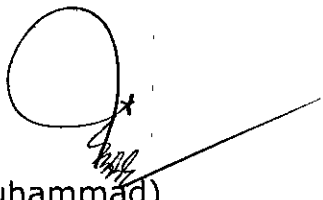


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

27.10.2021

Appellant in person present. Syed Dilawar Hussain Shah, Stenographer alongwith Mr. Javed Ullah, Assistant Advocate General for the respondents present.

Appellant requested for adjournment on the ground that his counsel is out of station today. Adjourned. To come up for arguments on 25.02.2022 before the D.B.



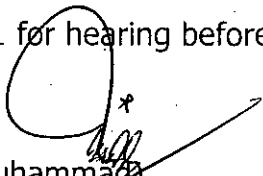
(Mian Muhammad)
Member (E)



(Salah-Ud-Din)
Member (J)

14.12.2020 Appellant in person and Muhammad Riaz Khan Paindakhel, Asstt. AG alongwith Syed Bilawal Shah, Stenographer for the respondents present.

Appellant has submitted an application for adjournment due to illness of his counsel. Adjourned to 08.02.2021 for hearing before the D.B.

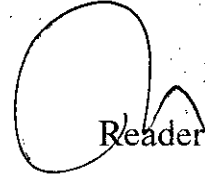

(Mian Muhammad)
Member(E)


Chairman

08.02.2021 Due to COVID-19, the case is adjourned for the same on 29.04.2021 before D.B.

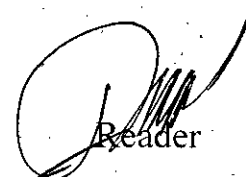

READER

28.04.2021 Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 25.08.2021 for the same as before.


Reader

25.03.2020

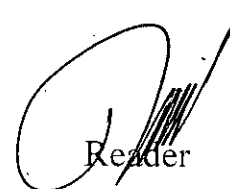
Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 09.06.2020 before D.B.



Reader

09.06.2020

Bench is incomplete as one learned Member (J) is on leave. Therefore, the case is adjourned. To come up for the same on 20.08.2020 before D.B.



Reader

20.08.2020

Due to summer vacation, the case is adjourned to 22.10.2020 before D.B.

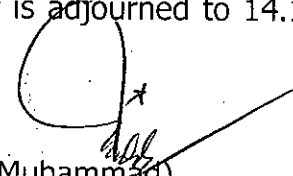


Reader

22.10.2020

Appellant in person and Addl. AG alongwith Muhammad Usman, Asstt. for the respondents present.

The Bar is observing general strike today, therefore, the matter is adjourned to 14.12.2020 for hearing before the D.B.



(Mian Muhammad)
Member



Chairman

24.07.2019

Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 09.10.2019 before D.B.



(Hussain Shah)
Member



(M. Amin Khan Kundi)
Member

9-10-2019

Due to tour of Honble
Member to Camp Court Swat
The case is adjourned to 19-12-19
J
Rendler

19.12.2019

Lawyers are on strike as per the decision of Peshawar Bar Association. Adjourn. To come up for further proceedings/arguments on 31.01.2020 before D.B. Appellant be put on notice for the date fixed.



Member



Member

31.01.2020

Appellant in person present. Mr. Zia Ullah learned Deputy District Attorney present. Appellant seeks adjournment as learned counsel is not available. Adjourn. To come up for arguments on 25.03.2020 before D.B.



Member



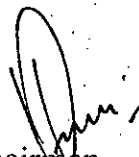
Member

28.12.2018

Appellant in person and Mr. Muhammad Jan, DDA alongwith Manzoor Hussain, Asstt. for the respondents present.

Appellant states that his learned counsel could not turn up due to demise of his relative and request for adjournment ~~has been~~^{is} made. Adjourned to 28.02.2019 for arguments before the D.B.


Member


Chairman

28.02.2019

Appellant in person and Addl. AG alongwith Khalid Gohar, Deputy Director for the respondents present.

Due to general strike on the call of Bar Association instant matter is adjourned to 17.05.2019 before the D.B.


Member


Chairman

17.05.2019

Appellant in person and Addl. AG alongwith Naveed Hasham, Soil Conservation Officer for the respondents present.

Due to demise of his father, learned Member of the Bench (Mr. Hussain Shah) is on leave. Adjourned to 24.07.2019 for arguments before the D.B.


Chairman

02.08.2018

Junior to counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Junior to counsel for the appellant requested for adjournment as senior is not in attendance. Adjourned. To come up for arguments on 13.09.2018 before D.B.

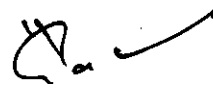

(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

13.09.2018

Learned counsel for the appellant and Mr. Kabirullah Khattak Learned Additional AG for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 05.11.2018 before D.B


(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

05.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 28.12.2018.


READER


20.02.2018

Clerk of the counsel for appellant present and Learned DDA alongwith Khalid Gohar, DD for the respondent present. Written reply not submitted despite last opportunities. Requested for further adjournment. Last opportunity further extended subject to payment of cost of Rs. 1000/- which shall be borne by respondent from their own pockets. To come up for written/comments and costs of Rs. 1000/- on 14.03.2018 before S.B.


(Gul Zeb Khan)
Member

14.03.2018

Appellant alongwith his counsel present. Mr. Riaz Paindakhel, Assistant AG alongwith Khalid Gohar, Deputy Director for the respondents present. Written reply submitted on behalf of respondent No. 1, 3 & 6. Written reply not submitted on behalf of respondent 2, 4 & 5 despite last opportunity and cost, hence proceeded ex-parte. Cost of Rs. 1000/- also paid and receipt thereof obtained from the learned counsel for the appellant. To come up for rejoinder and arguments on 22.05.2018 before **DB**.


(Muhammad Amin Khan Kundi)
Member


22.05.2018

Appellant in person and Mr. Zia Ullah, DDA for the respondents present. Arguments could not be heard due to incomplete bench. Adjourned. To come up for rejoinder and arguments on 02.08.2018 before D.B.


(Muhammad Amin Khan Kundi)
Member

28.12.2017

Clerk of the counsel for appellant present and Addl: AG Ghufuran ud din, Senior Clerk for the respondents present. Written reply not submitted on behalf of respondent department. Learned Addl: AG requested for further time adjournment. Adjourned. To come up for written reply/comments on 12.01.2018 before S.B.


(Gul Zeb Khan)
Member (E)

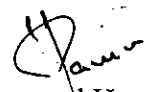
12.01.2018

Appellant with counsel present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Muhammad Nawaz, Assistant Agriculture Engineer and Mr. Kamran Khan, Head Clerk for the respondents also present. Written reply on behalf of respondents not submitted. Representative of the department requested for further adjournment. Adjourned. To come up for written reply/comments on 24.01.2018 before S.B.


(Muhammad Amin Khan Kundi)
Member

24.01.2018

Learned counsel for the appellant present and Mr. Kabir Ullah Khattak, Learned Additional Advocate General along with Khalid Gohar Deputy Director for the respondents present. Written reply not submitted. Representative of the respondents seeks time to file written reply/comments. Granted. To come up for written reply/comments on 20.02.2018 before S.B.


(Muhammad Hamid Mughal)
MEMBER

appeal on 31.03.2017 which was not responded in 90 days, hence the present service appeal in this Tribunal on 31.07.2017. Further argued that the appellant has not been treated as per law and rules as it was the responsibility of the respondents to decide his case in time instead of leaving the appellant at the mercy of various offices/Tribunal etc. That the respondents may be directed to release his pay of the impugned period.

Points raised need consideration. Admitted, for regular hearing. The appellant is also directed to deposit security and process within (07) days, whereafter notice be issued to the respondents department for written reply/comments on 28.12.2017 before S.B.

Appellant Deposited
Security & Process Fee


(Gul Zeb Khan)

Member

16.11.2017



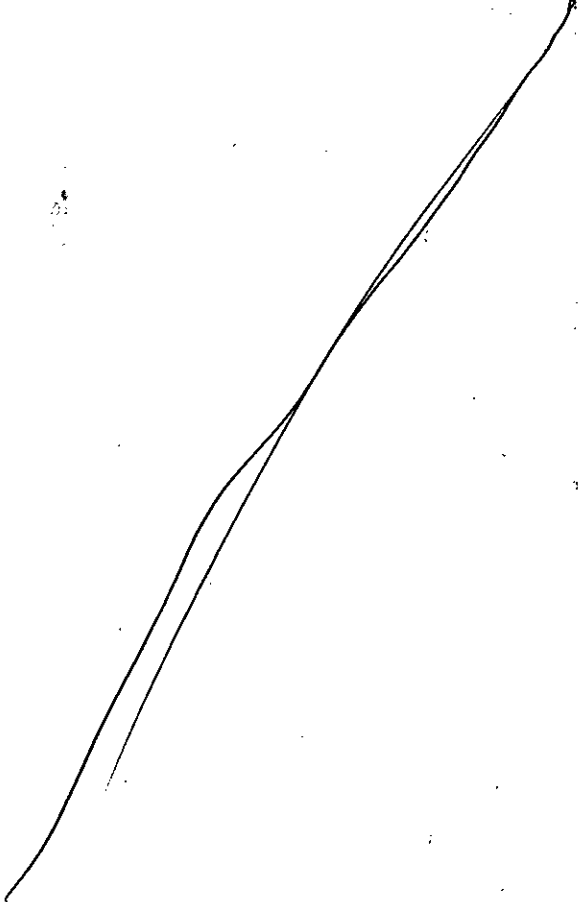
Learned counsel for the appellant present.

Preliminary arguments heard and file perused.

Learned counsel for the appellant argued that the appellant was initially appointed as Field Assistant in the On Farm Water Management Project at Paharpur District D.I.Khan on 19.07.1986. That on abolition of the post of Field Assistant the appellant was adjusted/posted as Junior Clerk in the Directorate of On Farm Water Management vide order dated 15.07.1987. That later the appellant was transferred by the office of Director Agriculture Engineering Tarnab, Peshawar vide order dated 03.11.2001 to the office of District Soil Conservation Officer Tank. That the appellant was promoted as Senior Clerk (BPS-09) in the office of District Soil Conservation officer Tank vide order dated 31.07.2008. That then an impugned order dated 31.10.2012 was issued by the officer of the Director Soil Conservation Khyber Pakhtunkhwa where under the appellant was repatriated to his parent department and wrongly shown as Junior Clerk. That while complying with the order dated 31.10.2012, the parent department refused to accepted arrival report for the reason that there was not vacant post of Senior Clerk for his re-adjustment. That subsequently the appellant filed Service Appeal No. 604/2013 against the impugned order and in the meanwhile continued to work in the office of District Soil Conservation officer, Tank upto 30.04.2013. That ultimately appellant was relieved from Tank on 30.04.2013 alongwith LPC. That later on the Khyber Pakhtunkhwa Service Tribunal decided the case on 11.02.2016 with the direction to the Secretary Agriculture to convene meeting of the stakeholders to decide the issue including the outstanding salary in accordance with law/rules. That the Department did not resolve the issue in 60 days, therefore Execution Petition was filed, whereafter the Department passed the impugned order dated 01.03.2017, submitted in the Tribunal on 10.03.2017, whereby appellant was adjusted as Senior Clerk in the office of District Soil Conservation Office, Bannu and the period from 01.11.2012 to arrival date was treated as leave without pay. That the appellant filed departmental

Form-A
FORM OF ORDERSHEET

Court of _____
Case No. 1200/2017

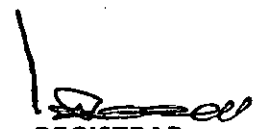
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	27/10/2017	<p>The appeal of Mr. Muhammad Ismail resubmitted today by Syed Nouman Ali Bukhari Advocate, may be entered in the Institution Register and put up to Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 27/10/17</p>
2-	02/11/17	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>16/11/17</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> 

The appeal of Mr. Muhammad Ismail Senior Clerk District Officer Soil Conservation, Bannu received today i.e. on 31.07.2017 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of appointment order dated 01.03.2017 mentioned in para-1 of the memo of appeal are not attached with the appeal which may be placed on it.
- 2- Copy of promotion order mentioned in para-3 of the memo of appeal (Annexure-C) is not attached with the appeal which may be placed on it.
- 3- Copies of reliving order and arrival report mentioned in para-4 of the memo of appeal are not attached with the appeal which may be placed on it.
- 4- Memorandum of appeal may be got signed by the appellant.
- 5- Annexures of the appeal are not in sequence which may be annexed serial wise as mentioned in the memo of appeal.
- 6- Annexures of the appeal may be page marked according to the index.
- 7- Annexures of the appeal may be flagged.
- 8- Annexures of the appeal may be attested.
- 9- Eight more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1804 /S.T,

Dt. 1/8 /2017


REGISTRAR - 1/8/17
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Syed Noman Ali Bukhari Adv. Pesh.

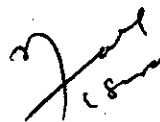
Sir,

Objections

were

Removal file

Re Submitted.



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

Appeal No. 1200 /2017

Muhammad Ismail

V/S

Agriculture Deptt:

.....

INDEX

S.NO	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of Appeal	-----	1-5
2.	Copy of adjustment order	A	6
3.	Copy and transfer order dated 03.11.2001	B	7
4.	Copy of promotion order	C	8
	Copy of order dated 31.10.2012	D	9
	Copy of arrival report	E	10
	Copy of complaint report	E1	11
	Copy of arrival report	F	12
	Copy of LPC & Pay slip	G	13-19
	Copy of arrival report/ application	H	20
	Copy of reminder	I	21
	Copy of judgment	J	22-26
	Copy of execution petition order	K	27
	Copy of impugned order	L	28
6.	Copy of departmental appeal	M	29-31
	Copy of shoukat khanam hospital document	M	32-33
9.	Vakalat Nama	-----	34

APPELLANT

THROUGH:


**(SYED NOMAN ALI BUKHARI)
ADVOCATE PESHAWAR**

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 1200 /2017

Khyber Pakhtunkhwa
Service Tribunal

Muhammad Ismail, Senior Clerk,
District Officer Soil Conservation, Bannu.

Diary No. 852

Dated 31-7-2017

(Appellant)

VERSUS

- Executed
② ③ ⑤
14-3-18
- ✓ 1. The Secretary Agriculture, Khyber Pakhtunkhwa, Peshawar.
 - ✓ 2. The Director Agriculture Engineering Department, Tarnab Farm KPK, Peshawar.
 - ✓ 3. The Director soil Conservation, Tarnab Farm KPK, Peshawar.
 - ✓ 4. Executive District officer, agriculture, tank.
 - ✓ 5. District officer Soil Conservation Tank.
 - ✓ 6. The Secretary Finance, KPK Peshawar.

(Respondents)

APPEAL UNDER SECTION-4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER 01.03.2017 COMMUNICATED TO APPELLANT ON 03.03.2017 WHEREBY THE APPELLANT WAS ADJUSTED AGAINST THE POST OF SENIOR CLERK AND PERIOD FROM 1.11.2012 TO ARRIVAL TREATED AS LEAVE WITHOUT PAY AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER 01.03.2017 COMMUNICATED TO APPELLANT ON 03.03.2017 MAY BE MODIFIED AND PERIOD WITH EFFECT FROM 01.11.2012 TILL ARRIVAL MAY BE TREATED AS PERIOD WITH FULL PAY OR LEAVE OF KIND DUE WITH ALL BACKS AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND PROPER THAT MAY ALSO BE GRANTED IN FAVOUR OF THE APPELLANT.

Filed to-day

Registrar

31/7/17

Re-submitted to -day
and filed.

Registrar

29/10/17

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant is a civil servant, and initially appointed as Field Assistant in the On Farm Water Management Project at Paharpur District D.I Khan on 19.7.1986 and presently post/adjusted in the office of the District Officer Soil Conservation, Bannu as Senior Clerk vide order dated 01.03.2017.
2. That on abolition of the Field Assistant Post, he appellant was adjusted/posted as junior clerk in the Directorate of On Farm Water Management vide order dated 15.07.1987 by the Director, Water Management, KPK Peshawar. Later on the appellant was transferred to the office of District Soil Conservation Officer Tank vide order dated 03.11.2001 of the Director Engineering Tarnab, Peshawar. **Copy of the adjustment order and transfer order is attached as Annexure-A & B.**
3. That the appellant was promoted as senior clerk BPS-9 in the Office of Soil Conservation Officer, Tank vide order dated 31.07.2008. Then on 31.10.2012 the impugned order was passed by Director Soil Conservation KPK, Tarnab, Peshawar wherein the appellant was repatriated to his parent Department and wrongly show junior clerk in order. **(Copy of promotion order and order dated 31.10.2012 is attached as Annexure-C &D).**
4. That the appellant compliance with order dated 31.10.2012, submitted his arrival report but the parent department refused to take arrival by given reason that there was no vacant post for appellant then the appellant was back to his office and start working. **(Copy of, arrival report and complaint report are attached as Annexure-E & E1).**
5. That the appellant also filled Service Appeal no 604/2013 against the impugned order dated 31.10.2012 in the KPK Service Tribunal Peshawar for adjustment and during pendency of Service Appeal the appellant worked in his office at Soil Conservation Officer Tank to 30.04.2013 which is evident from LPC. Then again the appellant was relived from his duty and LPC was issued. That after the appellant again submitted his arrival/application to his parent department but department refused to take arrival .Then the appellant regularly visited department and also submitted reminder to parent deptt: but in vain.

(Copy of arrival report, LPC, pay slips, arrival report/application and reminder is attached as Annexure- F, G, H & I).

6. That the Service Appeal No. 604/2013 was heard by the Service Tribunal Peshawar on 11.2.2016 and was kind enough to accept the appeal and remanded appeal to the Secretary Agriculture, KPK, Peshawar with direction to convene meeting of all the stake holders in which the issue including the outstanding salary if any may be properly discussed and resolved accordance with law and rules. **(Copy of the judgment is attached as Annexure-J).**
7. That according to the judgment appellant waited for 60 days for implementation of Judgment of Hon'ble Tribunal but the department was not decided the case within 60 days, then the appellant filed execution petition No.100/2016 for implementation of judgment, then during the execution petition the department passed the order dated 01.3.2017 communicated to the appellant on 3.3.2017 and submitted in the court on 10.03.2017 by the department Whereby the appellant was adjusted against the post of senior clerk and period from 1.11.2012 to arrival treated as leave without pay which is against the law and rules. The appellant was aggrieved from the said order therefore he filed departmental appeal on 31.03.2017 which was not responded within statutory period of ninety days. **Copy of execution petition order dated 10.03.2017, impugned order and departmental appeal is attached as Annexure-K, L & M).**
8. That now the appellant comes to this august Tribunal on the following grounds amongst the others.

GROUND:

- A) That the order dated 01.3.2017 communicated to the appellant on 3.3.2017 and not taking action on the departmental appeal of the appellant is against the law, fact, norm of justice and material on record. And need to be modification as period w.e.from 01.11.2012 to arrival may be treated as with full pay or Leave of Kind due with all back and consequential benefits.
- B) That the appellant was not adjusted by the department is not the fault of the appellant therefore, the appellant is fully entitled to salary.

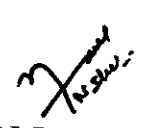
- C) That if the grievance of the appellant is not resolved then the appellant will face huge financial loss even it will affect the pension of the appellant.
- D) That the appellant performed duties more than 4 years in office of District Conservation officer tank and there is no complain against the appellant which is p[roved of that the appellant never remained absent and performed his duties quite efficiently.
- E) That the appellant cannot be held responsible for the lapse/irregularities committed by the department and in such case the Hon'able Supreme Court of Pakistan has held the department responsible not the appellants.
- F) That the appellant is legally entitled for is pay under section 17 of the Civil Servant Act 1973 of Khyber Pakhtunkhwa Peshawar. Being remained on the strength of the department throughout the period and not a again full employee during that period. Hence the impugned order is liable to be modified.
- G) That the relevant authorities restrain the appellant from performance of duty due there improper exercise of official power, therefore, the appellant cannot be deprived from his legal right of salary.
- H) That the appellant gave his arrival but the department didn't accept the arrival which is not the fault of the appellant so appellant is punished for the fault of department.
- I) That the appellant was not remained gainful employee during the period of not adjustment so the appellant is fully entitled to salaries for that period.
- J) That the son of the petitioner is suffering from cancer and is under treatment and if the petitioner salaries will not be paid then the treatment of his son also be affected and the petitioner facing great hardship in shape of financial crises due to which the whole family is suffering a lot. It is therefore requested that on the basis of the humanitarian ground, the appeal may please be give more intention.
(Copy of the Medical reports is attached as Annexure-N)

- K) That the appellant was not treated according to law and rules and deprived from legal right of promotion.
- L) That the appellant seeks permission to advance other grounds and proofs at the time hearing.

It is, therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.


APPELLANT
Muhammad Ismail

THROUGH:


(SYED NOMAN ALI BUKHARI)
ADVOCATE, PESHAWAR

ATTESTED

6 Annex A

OFFICE ORDER.

Consequent upon the abolition of 4 posts of Field Assistants in the On Farm Water Management Project Bahapur D.I.Khan, the following Field Assistants are hereby adjusted/posted in the office given against each.

The orders shall take effect w.e.f 1/6/1987.

S.No.	Name of officials.	From.	To.
1)	Mr. Amanullah Field Assistant.	D.I.Khan.	Posted as J/Clerk in the O/o the P.O. OFWM, Mardan Scarp., vice Mr. Mubarak Jan transferred.
2)	Mr. Mohammed Ismail Field Asstt.	D.I.Khan.	Posted as J/Clerk in the Directorate OFWM, Peshawar.
3)	Mr. Sher Baz Khan.	D.I.Khan.	Posted as J/C in the O/o the Asstt. Director Abbottabad vice Mr. Farooq Azam transferred.
4)	Mr. Muntaz Ahmed J/Clerk.	DIKhan.	Posted as J/C in the O/o the Asstt. Director Swat vice Mr. Mohammed Shreen transferred.
5)	Mr. Mohammed Arif Rodman.	DIKhan.	Posted as J/E/Keeper in the office of the PD. OFWM, Training Centre DIKhan vice Mr. Mohammad Yousaf transferred.
6)	Mr. Mohammed Yousof JSK.	DIKhan.	Posted as JSK in the office of Asstt. Dir. Kohat vice Mr. Iqbal (Liaqat Ali) transferred.
7)	Mr. Gul Roz.	Mardan.	Posted as JSK in the O/o the Asstt. Director Peshawar vice Mr. Mubarak Khan promoted.

AD (Admin) / Asstt. Dir. / 1877

Sd/- (Sheikh Dost Mohammad)
Director,
Water Management,
NWFP, Peshawar.

No. 1580-660 /DWM/dated Peshawar the, 15-7-1987.

- Copy of the above is forwarded to the:-
1. Project Director OFWM, D.I.Khan.
 2. Project Director OFWM, Mardan Scarp.
 3. Dy. Director (Field) OFWM, Peshawar.
 4. Project Director OFWM, Training Centre D.I.Khan.
 5. All Asstt. Directors Water Management in NWFP.
 6. Supt. of this office.
 7. All concerned.

for information and n/action.

*1584
12/1/87*

Attested

Director,
Water Management,
NWFP, Peshawar.

*Administrative Officer
to Ag. Instr. of Engineer,
D.I. Khan, Division D.I. Khan.*

INTER A

Attested

15/7

Ann (B)

Page 1

OFFICE ORDER.

The following Junior Clerks are hereby transferred/
posted/Adjusted from and to the offices as noted against each
in the interest of public service with immediate effect.

S.No.	Name & Designation.	From.	To.
1.	Mr. Amir Nawaz Junior Clerk.	Asstt: Agril: Engr. Tarnab (S/Pool)	Asstt: Agril: Engineer, DIKhan.
2.	Muhammad Ismail, Junior Clerk.	Asstt: Agril: Engr. DIKhan.	Soil Conservation Officer Tank vice No.3.
3.	Najeebullah Junior Clerk.	Soil Conservat- ion Officer Tank.	Transferred/Posted in office of the Asstt: Agril: Engineer, DIKhan and placed in surplus Pool against the vacant post of J/Clerk.

SD/- (BAHSHAN HOOR KHATTAK)
Director,
Agril: Engineering,
NWFP, Tarnab, Peshawar.

7866-75

Endst. No. DAE/Estt: ~~NAERD/TARNAB, PESH~~

Dated Tarnab, the 3/11/2001.

Copy to the

1. The official concerned;
2. Deputy Director, Soil Conservation, NWFP, Peshawar at Tarnab;
3. Asstt: Agril: Engineer (TA) Tank;
4. Soil Conservation Officer, Tank;
5. Asstt: Agril: Engineer, DIKhan;
6. Accountant General, NWFP, Peshawar;
7. Agency Accounts Officer, Tank;
8. District Accounts Officer, DIKhan;

for information and n/action.

9. Rule No. 5/53 of this office (Estt. Section).

Attested
[Signature]

[Signature]
Director,
Agril: Engineering,
NWFP, Tarnab, Peshawar.

Zahir Shah.

Zahir Shah
Director
ATTESTED

[Faint stamps and signatures]

Annex (C) (8)

OFFICE OF THE EXECUTIVE DISTRICT OFFICER, AGRICULTURE DISTRICT TANK.

OFFICE ORDER.

Consequent upon the recommendation and approval submitted by the selection/ promotion committee, the promotion of the following ministerial staff of Agriculture Department is hereby ordered. These orders shall take effect from 1st August 2008.

SNo.	Name & Designation of the official	Promoted to the post.
1	Mr. Muhammad Ismail Junior Clerk office of Distt: Soil Conservation Officer, Tank.	Promoted as Senior clerk BPS-09) in the office of SCO, Tank caused vacant by promotion of Mr. Saullah S/Clerk.
2	Mr. Imtaiz Hussain Junior Clerk office of EDO, Agriculture, Tank	Promoted as Senior Clerk in the office of EDO, Agri: Tank, against newly created vacant post.
3	Mr. Imran Khan Junior Clerk office of EDO, Agriculture, Tank	-do-

Muhammad

Scy
EXECUTIVE DISTRICT OFFICER
AGRICULTURE DISTRICT TANK.

No. *545-51* /EDO, Agri: Dated Tank the *31/07/2008*.

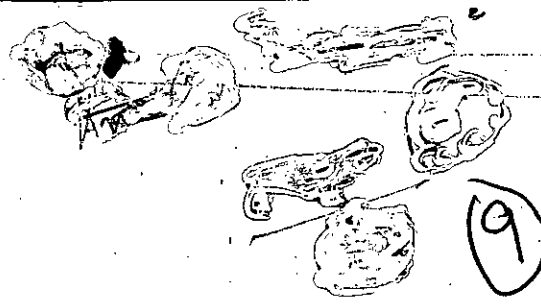
Copy to:-

1. The District Coordination Officer, District Tank.
2. The Executive District Officer, Finance & Planning Tank.
3. The District Accounts Officer, Tank.
4. The District Soil Conservation Officer, Tank.
5. All concerned for compliance.

am
EXECUTIVE DISTRICT OFFICER
AGRICULTURE DISTRICT TANK

A
ATTESTED

Amour -D



OFFICE ORDER

Mr. Mohammad Ismail, Junior Clerk of the office of District Officer Soil Conservation, Tank is hereby repatriated to his parent department i.e Agriculture Engineering due to his long absence and poor performance of official works which are not in the interest of this Department.

He is directed to report for duty in his parent department for further posting.

Mr. Mukhtiar-ul-Islam, Senior Clerk of District Officer Soil Conservation, DIKhan is directed to perform duties in addition to his own duties with District Officer Soil Conservation, Tank as and when required/demanded with immediate effect in the interest of public service.

Sd/-Director
Soil Conservation
Khyber Pakhtunkhwa
Tarnab Peshawar.

3249-52

Indst.No. /DSC, Dated at Pesh. the 31/10 /2012

Copy forwarded to:-

1. The District Officer Soil Conservation, Tank and DIKhan w/r to his No.259/DOSC, Tank dated 12-09-2012 and No. 01/DOSC, Tank dated 22/10/2012,
2. The District Accounts Officer, Tank,
3. The Director Agril. Engineering, Khyber Pakhtunkhwa, Tarnab Peshawar w/r to Distt. Officer Soil Conservation Tank No. 259/DOSC, dated 12/09/2012 and No. 01/DOSC, Camp at Tarnab dated 22/10/2012.
4. The official concerned for compliance.

for copy

Director
Soil Conservation
Khyber Pakhtunkhwa
Tarnab Peshawar

[Signature]

ATTESTED

خدمت خطاب ڈائریکٹر ایگریکلچرل انجینئرنگ خیبر پختونخواہ ایسٹ
جناب عالی!

گزارش ہے، یہ کم ڈائریکٹر جنرل سائنسز رویش خیبر پختونخواہ

پشاور کے آفس آرڈر نمبر 52-3249 / DGSC مورخہ 31/10/2012

کے تحت سائل آج مورخہ 2/11/2012 قبل از دوپہر اپنی ڈپوٹی
پر حاضر خدمت ہے۔

لہذا رپورٹ عرض خدمت ہے۔

عین نواز شی سولگی

مورخہ 2/11/2012

العارض

ایک فرمائیدار محمد امین سید ملک
Hamid

ATTESTED

محترم جناب ڈائریکٹر جنرل سائل کنٹریویشن خیبر پختونخواہ پشاور

جناب عالی!

گزارش ہے

۱۔ تاکہ بموجب آپ کے آرڈر نمبر 3249-52 DGSC/ مورخہ 31/12/2012

سائل نے مورخہ 2/11/2012 کو ڈائریکٹر ایگزیکٹو سائل کنٹریویشن KPK پشاور

کو حاضری/ چارج لینے حاضر ہوا۔

2۔ تاکہ متعلقہ آفس سے جواب ملا کہ آپ 11/2012 سے ہم سے

اسی وقت مکمل فارغ ہو گئے ہو۔ جب اسی آفس میں

کھے جو نیر ملک ڈسٹرکٹ ایگزیکٹو سائل کنٹریویشن ٹانک

بھیج دیا۔ اور تم نے وہاں چارج بھی لے لیا۔ ہم آپ

کو دوبارہ Adjust نہیں کر سکتے

لہذا سائل نہ ادھر کار یا نہ ادھر کار یا۔

لہذا رپورٹ عرض خدمت ہے

عین نوازش ہوگی۔

مورخہ 2/11/2012

الغالب

سائل محمد اسماعیل سیر ملک

محمد اسماعیل

ATTESTED

محرمات جناب ڈائریکٹر جنرل سائل کنٹروویشن خیر پختو خواہ پشاور

جناب عالی!

موردیہ گزارش ہے۔

1- یہ کہ سائل نے بموجب آپ کے زبانی حکم / ٹیلی فونک اطلاع

متعلقہ دفتر ڈسٹرکٹ ایئر سائل کنٹروویشن ٹانک 5/11/2012 کو

والیہ سینٹر کلرک پر ہاضمی دے دی۔

2- یہ کہ متعلقہ ایچارج آفیسر صاحب نے مجھے سینٹر کلرک کے

پوسٹ پر کام کرنے کی اجازت دے دی۔

لہذا رپورٹ عرض ہے اور مذکورہ بہمدردی کو مسئلہ کو

حل کرنے کیلئے سائل تازیت دعا گو رہے گا۔

عین نواز شاہی ہوگا۔

مورخہ 5/11/2012

الکھارنہ

ایکایک ممبر دار محمد امجد علی سینٹر کلرک

Husain

ATTESTED

LAST PAY CERTIFICATE.

Last pay certificate of M. Ismail Senior Clerk (BPS 9) Soil Conservation Tank.
 transferred to Director Agriculture Engineering Department.
 He has been paid to 30.04.2013. At on the following rates.

Amount - 24 - 13

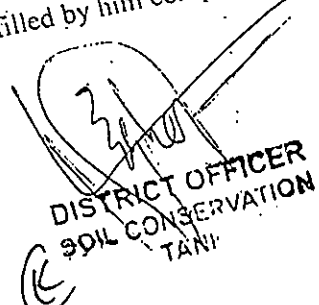
A-0001- Basic Pay	Rs.14940/-
A-1000- House Rent	Rs.1146/-
A-1210- Conveyance Allow	Rs.1840/-
A-1300- Medical Allow	Rs. 1000/-
A-1948- Adh: Allow 2010	Rs.4325/-
A- 1970- Adh: Relief 2011	Rs.1297
A-2118- Adh: Relief Allow	Rs.2988
Total	Rs.27536

Pay stopped w.e.f 01/13
 Contd. [Signature]

DEDUCTION.

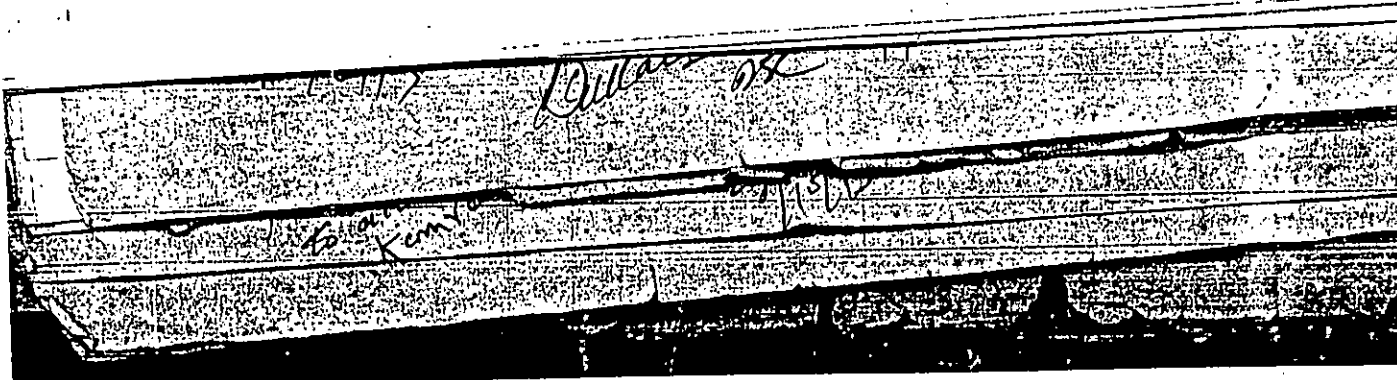
A-3009- GP - Fund	Rs.595/-	NO: Agri: D/K/001729
A-3501- Benevolent Fund	Rs. 180/-	
A-3511- Addl: Group Insurance	Rs. 7/-	
A-0604- Group Insurance	Rs. 67/-	

Note: He has been paid his pay up to 30/04/2013. while his pay w.e.f 01-07-2012 To 31-10-2012. (04 Months) has not been paid due to shortage of some store items in his charge of this Office and willful absence from duty.
 The same will be paid when the shortage is being fulfilled by him complete in all respect.


 DISTRICT OFFICER
 SOIL CONSERVATION
 TANK


ATTESTED

Assistant Agril: Er
 (Field Operation) D.



14

S#: 1

P Sec:001 Month:November 2012
TK6061 -SOIL CONSERVATION OFFICER
Agriculture, Live stock

Pers #: 00310875 Buckle:
Name: MUHAMMAD ISMAIL KHAN
SENIOR CLERK

NTN:
GPF #: AGRI/DK/001729
Old #:

CNIC No.15664112277
GPF Interest Applied
09 Active Permanent

TK6061

PAYS AND ALLOWANCES:

0001-Basic Pay	14,560.00
1000-House Rent Allowance	1,146.00
1210-Convey Allowance 2005	1,500.00
1300-Medical Allowance	1,000.00
1948-Adhoc Allowance 2010@ 50%	4,325.00
1970-Adhoc Relief Allow 2011	1,297.00
2118-Adhoc Relief Allow (2012)	2,912.00

Gross Pay and Allowances

26,740.00

DEDUCTIONS:

GPF Balance 140,215.00	Subroc: 595.00
3501-Benevolent Fund	180.00
3511-Addl Group Insurance	7.00
3604-Group Insurance	67.00

Total Deductions

849.00

25,891.00

D.O.B

LFP Quota: 4

06.06.1964

UNITED BANK LIMITED CIRCULAR ROAD

26 Years 04 Months 013 Days

921-9303-8

ATTESTED

15

S#:1

P Sec:001 Month:December 2012
TK6061 -SOIL CONSERVATION OFFICE
Agriculture, Live stock

Pers #: 00310875 Buckle:
Name: MUHAMMAD ISMAIL KHAN
SENIOR CLERK
CNIC No.15664112277
GPF Interest Applied
09 Active Permanent

NTN:
GPF #: AGRI/DK/001729
Old #:

TK6061

PAYS AND ALLOWANCES:	
0001-Basic Pay	14,940.00
1000-House Rent Allowance	1,146.00
1210-Convey Allowance 2005	1,500.00
1300-Medical Allowance	1,000.00
1948-Adhoc Allowance 2010@ 50%	4,325.00
1970-Adhoc Relief Allow 2011	1,297.00
2118-Adhoc Relief Allow (2012)	2,988.00

Gross Pay and Allowances 27,196.00
DEDUCTIONS:

GPF Balance - 140,810.00	Subrc:	595.00
3501-Benevolent Fund		180.00
3511-Addl Group Insurance		7.00
3604-Group Insurance		67.00

Total Deductions 849.00
26,347.00

D.O.B 06.06.1964 LFP Quota: 4
Payment through ODO.
26 Years 05 Months 014 Days

AS
ATTESTED

S#:1

P Sec:001 Month:January 2013
TK6061 -SOIL CONSERVATION OFFICE
Agriculture, Live stock

Pers #: 00310875 Buckle:
Name: MUHAMMAD ISMAIL KHAN
SENIOR CLERK
CNIC No.15664112277
GPF Interest Applied
09 Active Permanent

NTN:
GPF #: AGRI/DK/001729
Old #:

TK6061

PAYS AND ALLOWANCES:

0001-Basic Pay	14,940.00
1000-House Rent Allowance	1,146.00
1210-Convey Allowance 2005	1,840.00
1300-Medical Allowance	1,000.00
1948-Adhoc Allowance 2010@ 50%	4,325.00
1970-Adhoc Relief Allow 2011	1,297.00
2118-Adhoc Relief Allow (2012)	2,988.00

Gross Pay and Allowances

27,536.00

DEDUCTIONS:

GPF Balance 141,405.00	Subro:	595.00
3501-Benevolent Fund		180.00
3511-Addl Group Insurance		7.00
3604-Group Insurance		67.00

Total Deductions

849.00

26,687.00

D.O.B
06.06.1964
26 Years 06 Months 014 Days

LFP Quota: 4
UNITED BANK LIMITED CIRCULAR ROAD
0210303-6

ATTESTED

17

Pers #: 00310875 Buckle:
Name: MUHAMMAD ISMAIL KHAN
SENIOR CLERK
CNIC No. 15664112277
GPF Interest Applied
09 Active Permanent

TK6061 -SOIL CONSERVATION OFFICER
Agriculture, Live stock

NTN:
GPF #: AGRI/DK/001729
Old #:

TK6061

PAYS AND ALLOWANCES:

0001-Basic Pay	14,940.00
1000-House Rent Allowance	1,146.00
1210-Convey Allowance 2005	1,840.00
1300-Medical Allowance	1,000.00
1948-Adhoc Allowance 2010@ 50%	4,325.00
1970-Adhoc Relief Allow 2011	1,297.00
2118-Adhoc Relief Allow (2012)	2,988.00
Gross Pay and Allowances	27,536.00

DEDUCTIONS:

GPF Balance 142,000.00	Subrc:	595.00
3501-Benevolent Fund		180.00
3511-Addl Group Insurance		7.00
3604-Group Insurance		67.00

Total Deductions

849.00
26,687.00

D.O.B 06.06.1964 LFP Quota: 4
26 Years 07 Months 011 Days Payment through 000.

ATTESTED

18

S#:1
Pers #: 00310875 Buckle:
Name: MUHAMMAD ISMAIL KHAN
 SENIOR CLERK
CNIC No: 15664112277
GPF Interest Applied:
 09 Active Permanent

P Sec:001 Month:March 2013
TK6061 -SOIL CONSERVATION OFFICER
 Agriculture, Live stock
NTN:
GPF #: AGRI/DK/001729
Old #:
TK6061

PAYS AND ALLOWANCES:

0001-Basic Pay	14,940.00
1000-House Rent Allowance	1,146.00
1210-Convey Allowance 2005	1,840.00
1300-Medical Allowance	1,000.00
1948-Adhoc Allowance 2010@ 50%	4,325.00
1970-Adhoc Relief Allow 2011	1,297.00
2118-Adhoc Relief Allow (2012)	2,988.00
5011-Adj Conveyance Allowance	680.00

Gross Pay and Allowances 28,216.00

DEDUCTIONS:

GPF Balance 142,595.00	Subro:	595.00
3501-Benevolent Fund		180.00
3511-Addl Group Insurance		7.00
3604-Group Insurance		67.00

Total Deductions 849.00

27,367.00

D.O.B 06.06.1964 LFP Quota: 4
Payment through DDO.

26 Years 08 Months 014 Days

ATTESTED

(19)

S#:1

P Sec:001 Month:April 2013
TK0061 -SOIL CONSERVATION OFFICER
Agriculture, Live stock

Pers #: 00310875 Buckle:
Name: MUHAMMAD ISMAIL KHAN
SENIOR CLERK

NTN:
GPF #: AGRI/DK/001729
Old #:

CNIC No.15664112277
GPF Interest Applied
09 Active Permanent

TK0061

PAYS AND ALLOWANCES:

0001-Basic Pay	14,940.00
1000-House Rent Allowance	1,146.00
1210-Convey Allowance 2005	1,340.00
1300-Medical Allowance	1,000.00
1948-Adhoc Allowance 2010@ 50%	4,325.00
1970-Adhoc Relief Allow 2011	1,297.00
2118-Adhoc Relief Allow (2012)	2,988.00

Gross Pay and Allowances

27,536.00

DEDUCTIONS:

GPF Balance 143,190.00	Subre: 595.00
3501-Benevolent Fund	180.00
3511-Addl Group Insurance	7.00
3604-Group Insurance	67.00

Total Deductions

949.00

26,687.00

D.O.B
06.06.1964

LFP Quota: 4
UNITED BANK LIMITED CIRCULAR ROAD
0210303-8

26 Years 09 Months 013 Days

ATTESTED

محرمات جناب ڈائریکٹر جنرل سائل کنٹروولیشن خیبر پختونخواہ لیٹا اور

جناب عالی!

گزارش ہے۔
1- یہ کہ بموجب آپ کے زبانی حکم ٹیلی فونک اطلاع دفتر ڈسٹرکٹ

آفس سائل کنٹروولیشن ٹانک میں مورخہ 5/11/2012 کو حاضری دی۔
اور باقاعدہ کام شروع کیا تھا۔

2- یہ کہ سائل نے مذکورہ پوسٹ سینٹر ملک پر مورخہ 5/11/2012

3-4-2013 (5) ماہ کا آگیا۔ اور باقاعدہ تنخواہ بھی وصول کی (Pay Roll لفتی)

3- سائل کو اسی دوران معتبر ذرائع سے معلوم ہوا۔ کہ دفتر ہذا

ایک بار پھر مجھے سنجیدگی سے فارغ کرنے کے بارے غور و فکر کر رہے ہیں

4- یہ کہ مذکورہ حالات میں سائل کے پاس عداوت کا دروازہ

کھلنے کے علاوہ کوئی چارہ نہیں تھا۔ کیونکہ مجھے اپنے

کسی بھی دفتر سے انصاف کی امید نہیں تھی۔

5- یہ کہ سائل کا ہڈی سچ ہوا اور 1/5/2013 کو ڈسٹرکٹ آفس

سائل کنٹروولیشن ٹانک نے ایک بار پھر بغیر کسی تحریری وجوہ

کے صرف ہاتھ میں LPC تمہا کر زبانی کہا گیا۔ کہ آپ اس دفتر

سے فارغ ہیں۔ اور ڈائریکٹر انجینئرنگ KPK پشاور حاضری کرتے ہیں۔

لہذا جناب سے ہمدر دماغ اپیل کی جاتی ہے۔ کہ سائل

کے مسئلہ کو حل کیا جائے۔ تازیت دعا گو رہوں گا۔

عین نواز شاہ ہوگی۔

مورخہ 2/5/2013

الغافل

ایک فرما سید دار محمد اسماعیل سید سکر

محمد

ATTESTED

خدمت جناب ڈائریکٹر جنرل سائل کنسررویشن خیبر پختونخواہ ایسٹ اور

جناب عالی!

مودبانہ گزارش ہے بحوالہ تفصیلی درخواست مورخہ 2013/5/5ء سے نقل نسخے

1- یہ کہ سائل ابھی تک گم نہیں ہے۔ اور سائل کو اپنی طرف سے کوئی حکم

برائے ڈپوٹی نہیں دیا گیا ہے۔

2- یہ کہ سائل کوئی بار آپ صاحب کے دفتر کا حکم لگایا۔ کہ میری

تعمیناتی کی جائے۔ اور میری تنخواہ جاری کی جائے۔ مگر زبانی کہا

جاتا ہے کہ عدالت کے فیصلے تک انتظار کرو۔

3- یہ کہ سائل کا تنخواہ کے علاوہ اور کوئی ذریعہ معاش نہیں ہے

سائل کو سخت مالی مشکلات کا سامنا ہے۔

4- یہ کہ سائل کا اکلوتا بیٹا بھی کینسر کی بیماری ہے۔ اور

اس پر کافی اخراجات ہوتے ہیں۔

5- یہ کہ سائل مقروہن ہو گیا ہے اور فاقہ کشی پر مجبور ہے۔

لہذا میری یوسٹنگ کی جائے اور تنخواہ جاری کی جائے۔

ساری عمر دعا گو رہوں گا۔

عین نواز شیہوگی

مورخہ 7/6/2013

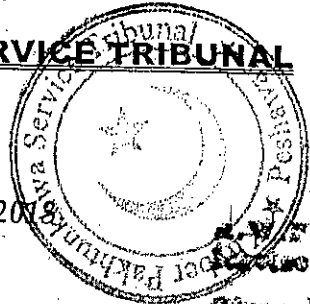
الکمار

ایک نواز شیہوگی

کھٹوا

ATTESTED

**BEFORE THE KHYBER PAKHTUNKWAW SERVICE TRIBUNAL
PESHAWAR**



Service Appeal No. 604 / 2008

Muhammad Ismail
Senior Clerk of the Office of
District Officer Soil Conservation, Tank.

Case No. 677
Dated 03/4/13

.....APPELLANT

VERSUS

*Respondents
No. 1, 2, 6, 8
are proceeded
against dispute 2.*

1. Government of Khyber Pakhtunkhwa through Secretary to Government of Khyber Pakhtunkhwa, Agriculture Department, Peshawar.

2. The Secretary to Government of Khyber Pakhtunkhwa, Agriculture Department, Peshawar.

3. Director Agriculture Engineering Department, Tarnab Farm Khyber Pakhtunkhwa, Peshawar. ✓

4. Director Soil Conservation, Khyber Pakhtunkhwa Tarnab Farm Peshawar. ✓

5. Executive District Officer, Agriculture, Tank / *Distt. Director Agriculture*

6. District Coordination Officer/Deputy Commissioner, Tank.

7. District Officer Soil Conservation, Tank. ✓

8. District Accounts Officer, Tank.

*Reply
3, 4, 7 only
5 left*

.....RESPONDENTS

SERVICE APPEAL

Respectfully Sheweth,

1. That the addresses of the parties as given above are sufficient for the purpose of service.

replied to-009

2. That the Appellant was appointed as Field Assistant in the On Farm Water Management Project at Paharpur District D.I.Khan on 19.07.1986.

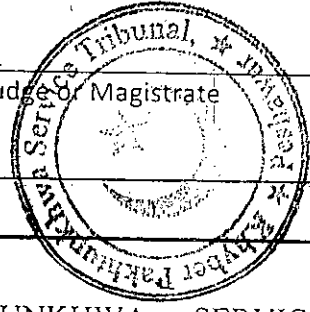
3/4/13

3. That after the abolition of 4 posts of Field Assistants in the ON Farm Water Management Project at Paharpur District D.I.Khan the Appellant was adjusted/posted was Junior Clerk in the Directorate of On Farm Water Management, Paharpur vide Office Order No.4580-4600 dated 15.07.1987 issued by the Director Water Management, NWFP, Peshawar. Copy of which is enclosed as **ANNEXURE "A"**.

ATTACHED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ATTACHED



S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
	<p>11.02.2016</p>	<p><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.</u></p> <p>Appeal No. 604/2013</p> <p>Muhammad Ismail Versus Government of KPK through Secretary Agriculture Department, Peshawar etc.</p> <p><u>JUDGMENT</u></p> <p><u>PIR BAKHSH SHAH, MEMBER.-</u> Counsel for the appellant (Mr. Rizwanullah, Advocate) and Addl. Advocate General (Mr. Muhammad Adeel Butt) with Bisimillah Jan, Soil Conservation Assistant for the respondents present.</p> <p>2. According to appeal, appellant Muhammad Ismail was appointed as Field Assistant in On-Farm Water Management Project vide order dated 19.7.1986 and on abolition of the said post, he was adjusted/posted as Junior Clerk in the Directorate of On-Farm Water Management vide order dated 15.07.1987 by the Director, Water Management, KPK Peshawar. Later on he was transferred to the office of District Soil Conservation Officer District Tank vide order dated 03.11.2001 of the Director Agriculture Engineering Tarnab, Peshawar. Vide order dated 31.07.2008 of the Executive District Officer Agriculture, District Tank, he was promoted as Senior Clerk BPS-9 in the office of Soil Conservation Officer, Tank. On 31.10.2012, the following</p>

ATTESTED

[Signature]

EXCHIEF CLERK
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ATTESTED

24



impugned order was passed by Director Soil Conservation, KPK, Tarnab Peshawar:-

“Mr. Muhammad Ismail, Junior Clerk of the office of District Officer Soil Conservation, Tank is hereby repatriated to his parent department i.e. Agriculture Engineering due to his long absence and poor performance of official work which are not in the interest of this Department.

He is directed to report for duty in his parent department for further posting.”

He is aggrieved from the said order against which he preferred departmental appeal dated 24.12.2012 but in vain, hence this service appeal before this Tribunal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974. In his appeal, he has made the following prayer:-

“It is respectfully prayed that on acceptance of this appeal, the impugned order dated 31.10.2012 issued by respondent No.4, may graciously be set aside and the respondent No.4 to 6 may please be directed to release the outstanding monthly salary of the appellant from June, 2012 to October, 2012 to him and after considering him Senior Clerk in BPS-09 be allowed him to perform his duties in the office of the respondent No.6 forthwith to meet the ends of justice.”

3. Arguments heard and record perused.

4. While referring a plethora of judgments, learned counsel for the appellant submitted that once promoted from the post of Junior Clerk (BPS-07) to the post of Senior Clerk

ATTESTED

EXAMINED
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ATTESTED

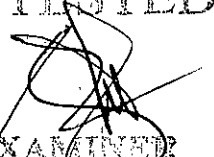



(BPS-09) by EDO Agriculture, District Tank, the appellant was wrongly demoted to the post of Junior Clerk and repatriated/punished without any charge sheet, proper enquiry, show cause notice, without any opportunity of defence and personal hearing, therefore, the impugned order is nullity in the eyes of law and appellant may be granted the relief he has prayed for.

5. The learned Addl. A.G, on the other hand, submitted that the appellant was a Junior Clerk who was never promoted by any competent authority, that he has never been demoted but repatriated to his parent department, therefore, this appeal is not maintainable, and may be dismissed.

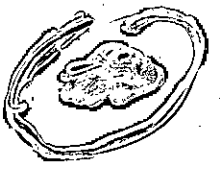
6. It is evident that the appellant was recruited as Field Assistant in the On-Farm Water Management, later on adjusted/transferred to the Soil Conservation where he was promoted as asserted by him. There is nothing on record as to whether he was adjusted/posted in the Soil Conservation Department as a surplus case and whether he was promoted from the post of Junior Clerk to the post of Senior Clerk by the competent authority? During the course of arguments it revealed that both On-Farm Water Management/Agriculture Department and Soil Conservation Department are being capped by Secretary Agriculture. Hence, the Tribunal, in the circumstances of the case, deems it proper to remit the case to Secretary Agriculture Department with the direction to convene meeting of all the stakeholders in which the issue including the outstanding salary, if any, may be

ATTESTED


 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar


 ATTESTED

26



4

properly discussed and resolved in accordance with law and rules within sixty days of the receipt of this judgment. The appeal is disposed off accordingly. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
11.02.2016.

*Self- Pir Bakhsh Shah,
Member*

*Self- Abdul Latif,
Member*

Certified to be true copy

[Signature]
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 19-02-2016
 Number of Words 2000
 Copying Fee 12-00
 Urgent _____
 Total 12-00
 Name of Copyist [Signature]
 Date of Completion of Copy 29-02-2016
 Date of Delivery of Copy 29-02-2016

ATTESTED
[Signature]

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K 27



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

**Execution Petition No. 100 /2016
In Service Appeal No.604/2013**

**N.W.F. Province
Service Tribunal
Diary No. 418
Dated 30-5-2016**

Muhammad Ismail
Senior Clerk of the Office of
District Officer Soil Conversion, Tank.

(PETITIONER/APPELLANT)

VERSUS

1. The Secretary to Government of Khyber Pakhtunkhwa, Agriculture Department Peshawar.
2. The Director Agriculture Engineering Department, Tarnab Farm, KPK, Peshawar.
3. Director Soil Conservation, Tarnab Farm, KPK, Peshawar.
4. Executive District officer, Agriculture, tank/District Director Agriculture Tank.
5. District Coordination Officer/Deputy Commissioner, Tank.
6. District Officer Soil Conversion, tank.
7. District Accounts Officer, Tank.

(RESPONDENTS)

**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE
JUDGMENT DATED 11.02.2016 OF THIS
HONOURABLE TRIBUNAL IN LETTER AND
SPIRIT.**

10.03.2017

Counsel for the petitioner and Mr. Bismillah Jan, Assistant alongwith Assistant AG for respondents present. Representative of the respondent-department submitted implementation/notification dated 01.03.2017 vide which the judgment of this court has been implemented. Since the grievances of the petitioner have been redressed, therefore, the instant execution petition is disposed of accordingly. File be consigned to the record room.

Certified to be true copy
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

SD/- Ahmad Hassan, Member

**ANNOUNCED:
10.03.2017**

AI TESTED



OFFICE ORDER

In compliance of the Khyber Pakhtunkhwa Service Tribunal Peshawar Appeal No.604/2013 dated 11-02-2016, Section Officer (Opinion-I) Government of Khyber Pakhtunkhwa Law, Parliamentary Affairs & Human Right Department No. SO (OP-I)/LD/ 5-7/2012-Vol-I 21488-89 dated 23-09-2016, Section Officer (Litigation) Government of Khyber Pakhtunkhwa Agriculture, Livestock & Cooperative Department No. SO (Lit) AD/3-80/2013 dated 01-02-2017 and the decision of Stake-holders meeting held on 16-07-2016 at 11.00 A.M in the office of the Director General Soil Conservation Khyber Pakhtunkhwa, Peshawar. The repatriation order of Muhammad Ismail, Senior Clerk office of the District Officer Soil Conservation, Tank to his parent Department (Agricultural Engineering) issued vide this office order No. 3249-52/DSC dated 31-10-2012 is hereby withdrawn and he is adjusted/posted against the vacant post of Senior Clerk BS-14 in the office of the District Officer Soil Conservation, Bannu with immediate effect.

The absence period of the above official concerned with effect from 01-11-2012 to his arrival in the concerned office may be considered as extra ordinary leave without pay.

Sd/-
Director
Soil Conservation
Khyber Pakhtunkhwa,
Peshawar


Endst.No. 659-608 /DGSC,

Dated at Peshawar, the 01/03/2017

Copy forwarded to:-

- 1) The Khyber Pakhtunkhwa Service Tribunal Peshawar, for information, please
- 2) The Section Officer (Opinion-I) Government of Khyber Pakhtunkhwa Law, Parliamentary Affairs & Human Right Department with reference to his office No. SO(OP-I)/LD/ 5-7/ 2012-Vol-I 21488-89 dated 23-09-2016
- 3) The Section Officer (Litigation) Government of Khyber Pakhtunkhwa Agriculture, Livestock & Cooperative Department with reference to his No. SO (Lit) AD/3-80/2013 dated 01-02-2017
- 4) The Section Officer (Estt.) Government of Khyber Pakhtunkhwa Agriculture, Livestock & Cooperative Department, Peshawar
- 5) The Director General Water Management Khyber Pakhtunkhwa Peshawar,
- 6) The Director Agricultural Engineering Khyber Pakhtunkhwa, Tarnab Peshawar
- 7) The District Officer Soil Conservation, Tank
- 8) The District Officer Soil Conservation, Bannu
- 9) The District Accounts Officer, Bannu
- 10) The official concerned,

ATTESTED


Director
Soil Conservation
Khyber Pakhtunkhwa
Peshawar

To

The Secretary Agriculture,
Khyber Pakhtunkhwa,
Peshawar.

Through proper channel

SUBJECT: **DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER DATED 01.03.2017 COMMUNICATED TO THE APPELLANT ON DATED 3.3.2017 WHEREBY BY THE APPELLANT WAS ADJUSTED AND PERIOD WITH EFFECT FROM 01.11.2012 TO HIS ARRIVAL CONSIDERED AS EXTRA ORDINARY LEAVE WITHOUT PAY.**

PRAYER:

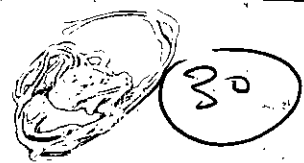
ON ACCEPTANCE OF THIS DEPARTMENTAL APPEAL THE IMPUGNED ORDER DATED 01.03.2017 COMMUNICATED TO THE APPELLANT ON DATED 03.03.2017 MAY BE MODIFIED AND PERIOD WITH EFFECT FROM 01.11.2012 till ARRIVAL MAY BE treated AS period WITH FULL PAY OR LEAVE OF KIND DUE WITH ALL BACK AND CONSEQUENTIAL BENEFITS..

Respected Sir,

For your kind consideration some facts are as under:

1. That the appellant is a civil servant, and initially appointed as Field Assistant in the On Farm Water Management Project at Pahiarpur District D.I.Khan on 19.07.1986 and presently posted/adjusted in the office of the District Officer Soil Conservation, Bannu as Senior Clerk vide order dated 01.03.2017.
2. That On abolition of the Field Assistant post, the appellant was adjusted/posted as Junior Clerk in the Directorate of On-Farm Water Management vide order dated 15.07.1987 by the Director, Water Management, KPK Peshawar. Later on the appellant was transferred to the office of District Soil Conservation Officer District Tank Vide

ATTESTED



order dated 03.11.2001 of the Director Agriculture Engineering Tarnab, Peshawar.

3. That the appellant was promoted as senior clerk BPS-9 in the office of Soil Conservation Officer, Tank vide order dated 31.07.2008. then on 31.10.2012 the impugned order was passed by Director Soil Conservation KPK, Tarnab, Peshawar wherein the appellant was repatriated to his parent department. (**copy of the orders is attached.**
4. That the appellant was aggrieved from the order and filed service Appeal NO. 604.2013 in the KPK Service Tribunal Peshawar for adjusting and salary. That the said appeal was heard by the Service Tribunal and was kind enough to accept the appeal and remanded appeal to the Secretary Agriculture, KPK, Peshawar with direction to convene meeting of all the stake holders in which the issue including the outstanding salary if any may be properly discussed and resolved accordance with law and rules. (**copy of the Tribunal judgment is attached.**
5. That according to the judgment waited for 60 days for implementation of judgment of Hon'able Tribunal but the respondents have not decided the case within 60 days, then the appellant filed execution petition NO 100/2016 for implementation of judgment, then during the execution petition the department passed the order dated 01.03.2017 communicated to appellant on 03.03.2017 whereby the appellant was posted/adjusted in the office of the District Officer Soil Conservation, Bannu as Senior Clerk but the period with effect from 01.11.2012 to his arrival may be considered as extra ordinary leave without pay which is against the law and rules and need to be modified as period with effect from 01.11.2012 to arrival may be considered as with full pay or leave of kind due. **Copy of the Execution and impugned order is attached.**

GROUND:

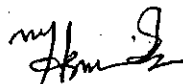
1. That the order dated 01.03.2017 communicated to appellant on 03.03.2017 is against the law, rules and norms of justice and material on record and need to be modification to the extent as period with effect from 01.11.2012 to arrival may be treated as with full pay or leave of kind due with all back and consequential benefits.
2. That the appellant was not adjusted by the department is not the fault of the appellant therefore, the appellant is fully entitled to salary.
3. That if the grievance of the appellant is not resolved then the appellant will face huge financial loss even it will affect the pension of the appellant.

ATTESTED

4. That the appellant cannot be held responsible for the lapse/irregularities committed by the department and in such case the Hon'ble Supreme Court of Pakistan has held the department responsible not the appellants.
5. That the appellant is legally entitled for his pay under section 17 of the Civil Servant Act 1973 of Khyber Pakhtunkhwa Peshawar. Being remained on the strength of the department throughout the period
6. That the relevant authorities restrain the appellant from performance of duty due there improper exercise of official power, therefore, the appellant cannot be deprived from his legal right of salary.
7. That the appellant gave his arrival but the department didn't accept the arrival which is not the fault of the appellant so appellant is punished for the fault of department.
8. That the son of the petitioner is suffering from cancer and is under treatment and if the petitioner salaries will not be paid then the treatment of his son also be affected and the petitioners facing great hardship in shape of financial crises due to which the whole family is suffering a a lot. It is therefore requested that on the basis of the humanitarian ground, the departmental may please be given more intention. **(Copy of the Medical reports is attached.)**

It is therefore, most humbly requested, on acceptance of this departmental appeal the impugned order dated 01.03.2017 communicated to the appellant on dated 03.03.2017 may be modified and period with effect from 01.11.2012 to arrival may be treated as with full pay or leave of kind due with all back and consequential benefits of service in order to the save the appellant from financial loss.

Appellant



Muhammad Ismail
Senior Clerk

District Officer Soil Conservation, Bannu
Cell No. 0345 9892022.

Date: 31/03/017

ATTESTED

شوکت خانم میموریل ہسپتال اور ریسرچ سنٹر لاہور پاکستان
کیموتھراپی ایوانٹ میمنٹ کارڈ



Shaukat Khanum Memorial Hospital
And Research Center, Lahore, Pakistan

CHEMOTHERAPY APPOINTMENT CARD

میڈیکل ریکارڈ نمبر _____ عمر جنس _____

ڈاکٹر _____

معلومات کیلئے

ایمرجنسی لینے فون: +92 (42) 35905000, 111 155 555 ٹاٹا ہسپتال

ایکسٹینشن نمبر لائیں

ایمرجنسی روم: 5136 - 5137 (سوسائزہ اتوار روزانہ 24 گھنٹے)

ان پیڈنٹ وارڈ ایکٹو: 2291 - 2292

کیو بی (ب) پیڈز ایگنڈ: 5014 - 5016 بالغان

انکالوجی ڈیپارٹمنٹ: 4032 - 4012

کیموتھراپی اکاؤنٹر: 5012 - 5013

او بی ڈی: 3436 - 3437

فیکس: +92 (42) 35945144

مریض کیلئے ضروری معلومات

- 1- براہ مہربانی ہسپتال میں داخلے اور ہسپتال کو چھوڑنے سے پہلے ریسپشن کو مطلع کریں۔
- 2- اگر آپ سمرہ وقت اور تاریخ پر نہ آسکیں تو متعلقہ شعبہ کو روشنی جلدی ممکن ہو مطلع کریں۔
- 3- مریض کو دینے کے وقت کے مطابق دیکھا جائے گا مگر تاگزیر حالات کے باعث تاخیر ہو سکتی ہے۔
- 4- براہ مہربانی ہر دفعہ یہ کارڈ اپنے ہمراہ لائیں۔

0-004

MR No: 45758 Age / Sex _____

Name: Muhammad Ali Akhmal

Primary Consultant: Dr. ...

Contact Information

For Emergency Dial 111 155 555, 2005000 then dial the following relevant Extension:
 Emergency Room: Ext: 5136, 5137 (Monday to Sunday Daily 24 Hours)
 Inpatient Ward: II-A: Ext: 2291 - 2292
 Chemo Bay (Adult): 5016, (Paeds): 5014
 Inpatients Wards: 2291 - 2292
 Oncology Department: 4032 - 4012
 Chemo Counter: 5012 - 5013
 OPD: 3433 - 3435 - 3436
 Fax: +92 (42) 35945144

Important Information for Patient

1. Please report to the Chemo Reception on arrival and on leaving the Hospital.
2. If you cannot reach the Hospital on the given appointment date or time, Please notify us on the above phone numbers as soon as possible.
3. Patients will be seen on the given time, but due to unavoidable circumstances, delays are inevitable.
4. Please bring this Appointment Card with you every time you come to the Hospital.

Medical Oncology - Paid in Service

SKM/OPDN/CHEMO/R/03

ATTESTED

10	 	96986
سکا		پشاور بار ایسوسی ایشن، خیبر پختونخواہ
	بار کونسل ایسوسی ایشن نمبر:	
	رابطہ نمبر:	

بعدالت جناب:

مخانب:	دعویٰ: اسل
محمد اسماعیل	علت نمبر: اسل 1200/2017/200
بنام	مورخہ:
محکمہ ذراست	جرم:
	تھانہ:

بامث تحریر آتکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ
 آن مقام سینا مور کیلئے سید سلمان گل جیلاری کو وکیل 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 ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز
 دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
 مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا
 دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے
 المرقوم:

مقام _____ کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی فونڈ کاپی ناقابل قبول ہوگی۔

Handwritten signature and name: Muhammad Ismail

Handwritten note: Affidavit Accepted

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 1200/2017

Muhammad Ismail.....Appellant

Versus

Government of Khyber Pakhtunkhwa through Secretary Agriculture Department and
OthersRespondents

WRITTEN REPLY ON BEHALF OF RESPONDENT NO.1,3 & 6.

Respectfully Sheweth,

Respondent humbly submit as under:-

PRELIMINARY OBJECTIONS

1. That the appeal is badly time barred.
2. That the appeal is not maintainable and incompetent in its present form.
3. That the appellant is estopped due to his own conduct.
4. That the appellant has got no cause of action and locus standi.
5. That the appellant has not come to the Tribunal with clean hands.
6. That the appeal is bad for misjoinder/non-joinder of necessary parties.
7. That the appellant has concealed the material facts from Honorable Tribunal.
8. That the Honorable Service Tribunal has no jurisdiction to entertain the instant appeal.
9. That the appeal is hit by Rule 23 of Khyber Pakhtunkhwa Service Tribunal Rules.

BRIEF FACTS

1. This Para needs no reply.
2. This Para needs no reply.
3. This Para is concerned with record.
4. This Para is incorrect hence denied. The appellant did not report to Director Agriculture Engineering for duty as Junior Clerk, he should have implemented order of the competent authority but he did not perform duty.
5. Incorrect hence denied, the District Officer, Soil Conservation, Tank relieved the appellant from duty on 30-04-2013 with the direction to report to the Director, Agricultural Engineering immediately and L.P.C duly verified from DAO, Tank was sent to the appellant by post. The appellant filed Service appeal in Service Tribunal, Khyber Pakhtunkhwa against the office order dated 31-10-2012, he did not report to Director, Agricultural Engineering for duty as Junior Clerk till date.
6. Correct and in compliance of the decision by Honorable Khyber Pakhtunkhwa Service Tribunal the appellant was adjusted as Senior Clerk against the vacant post in the office of District Officer Soil Conservation Bannu and the absence period w.e.f 1-05-2013 till his arrival was considered as extra ordinary leave without pay, as he failed to perform duty anywhere so as per judgment of Supreme Court "where there is no work there is no pay". Hence not entitled for pay.
7. This Para is also concerned with record. However detail reply has been given above.
8. This Para need no reply.

GROUNDS:


- A. Incorrect as the appellant has not performed his duties during the period. Hence not entitled for any pay or remuneration.
- B. Incorrect as the appellant did not report at the office of Director Agriculture Engineering Peshawar. Hence not entitled. *for pay.*
- C. The appellant will be responsible for financial loss as he has not performed his duties during the period.
- D. Incorrect hence denied.
- E. Incorrect. No illegality or irregularity has been committed by the department.
- F. As per para "A".

- G. Incorrect. There is no proof that the respondent has restrained the appellant from performing duties.
- H. Incorrect hence denied.
- I. Incorrect hence denied.
- J. Needs no comments.
- K. The appellant has been treated according to law and rules.
- L. Needs no reply.

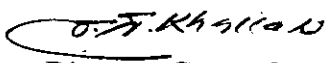
PRAYER:

It is, therefore, most humbly prayed that on acceptance of this Para-wise comments, the appeal being devoid of legal footings and merit graciously be dismissed with cost.

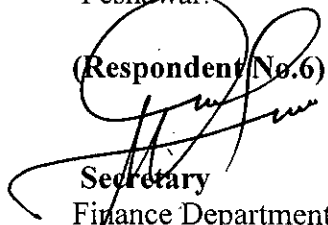
(Respondent No.1)


Secretary
Agriculture livestock and cooperative
department,
Government of Khyber Pakhtunkhwa,
Peshawar.

(Respondent No.3)

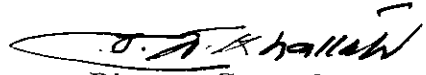

Director General
Soil and Water Conservation,
Khyber Pakhtunkhwa, Peshawar.

(Respondent No.6)


Secretary
Finance Department,
Government of Khyber Pakhtunkhwa,
Peshawar.

Affidavit

I do hereby declare and affirm on oath that contents of the above written reply are true and correct to the best of knowledge and belief and nothing has been kept concealed from this honorable tribunal.


Director General
Soil and Water Conservation
Khyber Pakhtunkhwa,
Peshawar.

Before The KPK Service Tribunal, Peshawar

Service Appeal 1200/17

M. Ismail

vs

Agri

Sir,

I received 1000 / cost in the
above mention case!

M. Ismail
14/3/08