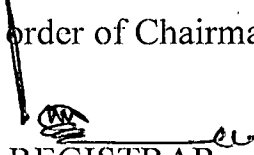


FORM OF ORDER SHEET

Court of _____

Case No.- 1630/2022


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	14/11/2022	<p>The appeal of Mr. Asim Khan resubmitted today by Syed Noman Ali Bukhari Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____. Notices be issued to appellant and his counsel for the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

The appeal of Mr. Asim Khan Deputy Electric Inspector Regional Electric Inspectorate district Nowshera received today i.e. on 10.10.2022 is incomplete on the following score which is returned to the counsel for the appellants for completion and resubmission within 15 days.

- 1- Copy of impugned seniority list dated 01.10.2021 mentioned in prayer of the memo of appeal is not attached with the appeal which may be placed on it.
- 2- Copy of application dated 14.10.2022 mentioned in para-7 of the memo of appeal is not attached with the appeal which may be placed on it.
- 3- Annexures are not in sequence which may be annexed serial wise as mentioned in the memo of appeal.

No. 2795 /S.T,

Dt. 11/10 /2022


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

S. No. Man Ali Bulechi Adv. Pesh.

① Seniority list date mented as 1-10-2021 is clerical mistake which is corrected as 10-1-2022. objection removed.

② Application date mented as 14-10-22 is clerical mistake which is corrected as 14-6-22, which copy is already annexed, objection removed.

③ objection removed.

File Resubmit
of
11/10/22

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 1630 /2022

Asim Khan

V/S


Govt. of KP. etc.

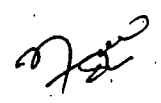
INDEX

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4.	Copy of appointment order	--A--	07-08
5.	Copy of joining report	--B--	09
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8.	Copy of regularization order	--E--	21
9.	Copy of impugned seniority list	--F--	22
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APPELLANT

THROUGH:


(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT,
OF PAKISTAN


a(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT,

(ASAD MEHMOOD)
ADVOCATE HIGH COURT,

&

(SHAHKAR KHAN YOUSAFZAI)
ADVOCATE PESHAWAR.

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 1630 /2022

(1)

Asim Khan, Deputy Electric Inspector (BPS-18),
Regional Electric Inspectorate District Nowshera.

(APPELLANT)

VERSUS

1. The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. The Secretary to Govt: of Khyber Pakhtunkhwa, Energy & Power Department Civil Secretariat, Peshawar.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KP SERVICE TRIBUNALS ACT, 1974, AGAINST THE IMPUGNED SENIORITY LIST DATED 10.01.2022 OF DEPUTY ELECTRIC INSPECTOR BPS-18, AND NOT EVEN CIRCULATED. WHEREIN THE NAME OF THE APPELLANT WAS NOT INCLUDED WITHOUT ANY JUSTIFICATION AND NOT TAKING ANY ACTION AGAINST AN APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF 90-DAYS.

PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL IMPUGNED SENIORITY LIST DATED 10.01.2022 MAY PLEASE BE SET ASIDE AND THE RESPONDENT MAY BE DIRECTED TO REDRAW, RECAST THE SENIORITY OF 2022, BY INCLUDING THE NAME OF THE APPELLANT AT HIS PROPER PLACE/SERIAL NO. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF THE APPELLANT.

RESPECTFULLY SHEWETH:

FACTS:

- (2)
1. That the appellant was performing his duty with the entire satisfaction of his senior and not giving any chance of complain to his superior.
 2. That the appellant was appointed on the contract basis in BPS-18 vide order dated 13.12.2016 and submitted arrival report on 13.12.2016. Copy of the order **is attached as Annex-A & B.**
 3. That the appellant filed writ petition No. 3516-P/2017 in Peshawar High Court for the regularization of his service as Regional Electric Inspector BPS-18 whereas the writ petition was decided in favor of the appellant vide judgment dated 24.04.2019 and the same was also maintained by the Supreme Court of Pakistan vide Judgment dated 25.11.2019. **Copies of the Judgments is attached as Annex-C & D.**
 4. That after the decision of High Court, the department issued notification dated 01.07.2020 wherein the appellant was regularized in BPS-18 as Regional Electric Inspector. **Copy of Notification is attached as Annex-E.**
 5. That on date 10.01.2022 department issued a final seniority list of Regional Electric Inspector BPS-18 without being circulated wherein the name of the appellant was not included and he came to know when promotion to BPS-19 was made and appellant was deprived of his right to promotion BPS-19. **Copy of notification is attached as Annex-F.**
 6. That the appellant on 14.06.2022 submitted an application to the respondent for the inclusion of his name in the final seniority list which was not responded by the respondents. **Copy of inclusion application is attached as Annexure-G.**
 7. That the appellant on 20.06.2022 and 19.07.2022 give an application in continuation of the application 14.06.2022 to the respondent for the non inclusion of his name in the final seniority list.

GROUND:

- A) That the impugned seniority list dated 10-1-2022, and non inclusion of the name of the appellant in final seniority list of 2022 are against the law, material on record norms of the justices, and violation of the seniority list and law.
- B) That according to section 8 of the Civil Servant Act 1973, that it is legal right of the appellant to have his name included in the seniority list at his proper place.
- C) That the final seniority list dated 10-1-2022 was not circulated for inviting objections as required under law and it came into knowledge

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of the appellant at the time of convening DPC/PSB, where after, the appellant forthwith appealed against the departmentally. Thus non circulation of seniority list is a malicious act on the part of respondents.

- D) That the malice of the respondent is also evident from the fact that the respondent wanted to give undue favour to blue eyed officials for just completing the panel of officers in which the one was already stood retired.
- E) That the acts and inaction of the respondents is in total violation of the section 8 of civil servant Act and Rules 17 of APT Rules, 1989 and it was the legal right of appellant to have his name in the seniority list and keeping secret the impugned seniority list is an act which is not sustainable and permissible under the law.
- F) That even in the opinion memo of the Law Department the appellant was held entitled for inclusion of his name in the seniority list which further strength the connection of appellant. Copy of Law Department memo is attached as Annex-H.
- G) That act of the respondents by not including the name of the appellant in impugned seniority list was for just depriving the appellant for having his name in the panel of 3 officers which is necessary for placing the promotion case before the DPC/PSB.
- H) That the impugned seniority list is against the norms of service law and principles of natural justice and dictums of the apex courts.
- I) That the impugned seniority list is the worst example of favoritism, nepotism and colorful exercise of powers which is not warranted under law.
- J) That according to Section-8 of the Civil Servant Act 1973 and section-17 of APT Rules 1989, it is the legal right of every civil servant to properly placed in seniority list according to his seniority position, but the same benefits was not extended to the appellant which is the violation of law and rules.
- K) That the appellant was not treated according to the law and rules and has been deprived from his legal right of seniority in arbitrary manner without fault on his part
- L) That the appellant has not been treated in accordance to rules, law of the seniority and non-inclusion of his name in the seniority list was an illegal and unlawful act on the part respondents.
- M) That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

APPELLANT


Asim Khan

THROUGH:


(M. ASIF YOUSAFZAI)

ADVOCATE SUPREME COURT,
OF PAKISTAN


(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT,

(ASAD MEHMOOD)
ADVOCATE HIGH COURT,

&

(SHAHKAR KHAN YOUSAFZAI)
ADVOCATE PESHAWAR.

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. _____/2022

Asim Khan

V/S

Govt: of KP. etc.

CERTIFICATE:


It is certified that no other service appeal earlier has been filed between the present parties in this Tribunal, except the present one.


DEPONENT

LIT OF BOOKS:

1. Constitution of the Islamic Republic of Pakistan, 1973.
2. The ESTA CODE
3. Any other case law as per need.

THROUGH:


(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT,
OF PAKISTAN


(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT,

(ASAD MEHMOOD)
ADVOCATE HIGH COURT,

&

(SHAHKAR KHAN YOUSAFZAI)
ADVOCATE PESHAWAR.

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BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. _____/2022


Asim Khan

V/S

Govt: of KP, etc.

AFFIDAVIT

I, Asim Khan, Deputy Electric Inspector,, District Nowshera (Appellant) do hereby affirm that the contents of this service appeal are true and correct, and nothing has been concealed from this Honorable Tribunal.


DEPONENT



A (07)

GOVERNMENT OF KHYBER PAKHTUNKHWA

ENERGY & POWER DEPARTMENT

PHONE: 091-92223625, FAX: 091-9223624

34-8

Dated Peshawar the 13-12-2016

Notification No. E&P/SO(Estt)/Electric Inspector/2016 :- Consequent upon the selection of Mr. Asim Khan s/o Sikandar Khan, Regional Electric Inspector (BPS-18), Nowshera Region in project "Restructuring / Strengthening of Electric Inspectorate of Energy & Power Department, Khyber Pakhtunkhwa" by the Departmental Selection Committee on fixed salary basis, initially for a period of One year (2016-2017) subject to verification of his antecedents. This contract will be extendable subject to satisfactory performance further till completion of the Project on yearly basis. The appointment with immediate effect, on the following terms and conditions:-

Terms & conditions:

- i) **Pay Package:** Rs. 85000/-P.M (Fixed Pay) with annual increment of 5% as per the project policy.
- ii) **Period of Contract:** One year (2016-2017) initially with immediate effect, extendable on yearly basis till project life. The extension will be granted on satisfactory performance of the employee.
- iii) A project employee shall work against that post for which he/she was recruited and shall not be transferred to any other post in the project.
- iv) The contract shall be liable to termination on 15 days notice (if the performance of the employee is found unsatisfactory) or payment of 15 days salary in lieu thereof by either side.
- v) On completion of the project, the services of the project employees shall stand terminated however, they shall be reappointed on need basis, if the project is extended over to any new phase or phases.
- vi) Staff appointed by initial recruitment in a project shall not be entitled to pension or CP fund. They shall not be treated as a "civil servant".
- vii) Project employees will receive medical allowance as per policy of the Provincial Government.
- viii) **Leave:** You will be entitled for leave admissible to the Civil servants under the Khyber Pakhtunkhwa Revised Leave Rules-1986, except maternity leave, extra ordinary leave without pay and study leave.
- ix) **Traveling Allowance:** Traveling Allowance for journey as admissible under the rules.



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GOVERNMENT OF KHYBER PAKHTUNKHWA
ENERGY & POWER DEPARTMENT

PHONE: 091-92223625, FAX: 091-9223624

- x) **Seniority:** Being a temporary post there shall exist no relative seniority in your case in relation to other regular or temporary employees of your category in the Energy & Power Department.
- xi) You will be governed by the Provincial Govt. rules as amended from time to time.
- xii) You will not be required to contribute towards General Provident Fund nor entitled to any benefit of the General Provident Fund.
- xiii) You will not divulge, either directly or indirectly, to any person any knowledge or information of a confidential nature which you may acquire concerning the affairs, property, enterprise and undertaking of the department during the course of your service.

Secretary to Govt: of Khyber Pakhtunkhwa
Energy & power Department

Endst: No & Date Even:

Copy to:-

1. The Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department, Peshawar.
2. The Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department, Peshawar.
3. The Secretary to Govt. of Khyber Pakhtunkhwa, P&D Department, Peshawar.
4. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
5. PD of the Project.
- ✓ 6. Officer concerned
7. P.S to Secretary Energy & Power Department.
8. Personal file.

Section Officer (Estt)
Section Officer (Estt)

B 9

To,

Date: 13th December, 2016

Electric Inspector / Project Director
Restructuring / Strengthening of Electric Inspectorate
Government of Khyber Pakhtunkhwa,
Energy & Power Department
Peshawar

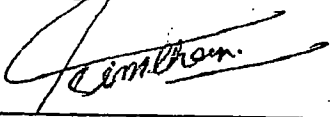
Subject: Joining / Reporting Letter

Dear Sir,

I **Asim Khan s/o Sikandar Khan** have the honour to inform you that I am joining today Dated: 13th December 2016, as "**Regional Electric Inspector (BPS-18)**" Posted at **Nowshera** District in respect to your appointment letter reference No. E&P/SO(Estt)/Electric Inspector/2016/34-8 dated 13-12-2016.


I kindly request you to accept my joining/reporting letter.

Kind Regards



Asim Khan

H#6, St#14, Sector K3,
Phase 3, Hayatabad, Peshawar
CNIC: 17301-9987359-9
Mob: 03477970009

Received
13/12/16


CC

1. Section Officer Establishment, Energy & Power Department, Peshawar
2. Personal File

JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT

10

Writ Petition No.3516-P/2017

Mehnaz Pari and others
Vs
Secretary to Government of Khyber Pakhtunkhwa
Energy & Power Department, Peshawar etc



JUDGMENT

Date of hearing: 24.4.2019

Petitioner(s) by: *Mr. Muneer Ahmad Advocate*

Respondent(s) by: *Mr. Muhammad Asif Yousofzai Adv.
Mr. Abdul Rahim Jadoon Advocate
Mr. Mujahid Ali Khan Adh.*

IKRAMULLAH KHAN, I. We intend to decide all
the followings Constitutional petitions through the
instant consolidated judgment as, similar
proposition of law is common to all the petitions.

- 1) W.P.No.4433-P/2017
*Rafi Ullah etc Vs Secretary to
Government of KPK Energy & Power
Department, Peshawar etc.*
- 2) W.P.No.3516-P/2017
*Mehnaz Pari etc Vs Secretary to
Government of KPK Energy & Power
Department, Peshawar etc.*
- 3) W.P.3416-P/2017
*Alif Sald etc Vs Government of KPK
through Chief Secretary etc.*
- 4) W.P.No.3430-P/2017
*Fawad Anwar etc Vs Government of
KPK through Chief Secretary etc.*
- 5) W.P.No.5978-P/2018
*Nagln Jalal Vs Government of KPK
through Chief Secretary etc.*

2. In W.P.No.3516-P/2017 & WP.
No.4433-P/2017, petitioners have prayed for as:

That by acceptance of this writ
petition:-
The respondents may kindly be
directed to adjust/regularize the

ATTESTED

EXAMINER
Peshawar High Court

petitioners on the said posts (as mentioned above) as per the Finance Notification and (regularization act promulgated from time to time in other departments regularizing employees of other departments) and in light of the Writ Petition already allowed in other cases with all back benefits instead of fresh appointments.

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

In W.P.3416-P/2017 &

W.P.No.3430-P/2017, petitioners seek the following relief:-

that on acceptance of this writ petition, the august Court may be pleased to declare:

The non-inclusion of the posts of petitioners in the impugned SNE by the respondents as illegal, unlawful, unconstitutional, discriminatory, violation of spirit & objectives of the PC and also against the principles of equity, equality, fair play, therefore, the impugned SNE for the year 2017-18 is liable to be set aside and ineffective upon the rights of the petitioners.

To direct the respondents to create the regular posts of petitioners as per spirit of PC-1 and being appointed on merit after observing all codal formalities, the petitioners are entitled to be regularized against those posts by treating them at par with the other regularized employees of other depts.

In W.P.No.5978-P/2018, petitioner

has prayed for the following relief:-

that on acceptance of this writ petition, the august Court may be pleased to declare:

The inaction/omission of respondents for not regularizing the petitioner against the post which is now converted onto non-developmental side/regularly created as illegal, unlawful, unconstitutional, discriminatory, violation of spirit of judgments of this and august Supreme Court of Pakistan judgments. Therefore, such inaction/omission is not legally sustainable.

To direct the respondents to regularize the petitioner against the post of Asstt: Electric Inspector after

ATTESTED

EXAMINER
Peshawar High Court

conversion of her post onto non-developmental side/regularized from the date of conversion with all back and consequential benefits.

3. In essence, petitioners were employed by the respondents on different posts, well mentioned in every independent writ petition on contract basis at different occasions, in accordance with the Project Policy (PC-1) in project launched by the Provincial Government of Khyber Pakhtunkhwa in the year 2008 known as "*Khyber Pakhtunkhwa Policy Regulating appointment to posts in Development Projects*" petitioners contract were extended time and again, where in the meanwhile the project under consideration was converted to regular budgetary side/non-development side vide Notification dated 25.4.2017. However, the contract employees including the petitioners were not regularized. Therefore, they have approached this Court for issuance of appropriate direction for regularization of their services.

4. Respondents have contested those petitions on the grounds that petitioners have no any vested right that their services are to be regularized only on the ground that as the project has been regularized their services will also be regularized. That not only it is clearly mentioned in

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EXAMINER
Peshawar High Court

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the project policy of the Provincial Government but also well mentioned in clause-V of appointment orders of petitioners that their services be terminated on expiry of their respective appointment contract and they would not claim any right of regularization; that the appointment on regular/permanent basis, falling within the definition of various BPS, well mentioned in Public Service Commission Regulation, such posts shall be filled up by the Public Service Commission.

5. We have heard learned counsel for the parties in light of available record and judgments of various jurisdictions of Hon'ble Courts including this court and gone through the available record.

6. It could not be denied rather an admitted fact that the project under consideration is converted into regular budgetary non-development side keeping in view its efficacy by the Provincial Government of Khyber Pakhtunkhwa.

7. The available record reveals that posts on which petitioners are serving had already been sanctioned by the Finance Department as regular Budgetary posts and in order to appoint regular employees on these posts, respondents had also

ATTESTED
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Peshawar High Court

invited applications for the purpose (copies of various advertisement in this regard are placed on record).

8. The record further reveals that respondents had already regularized various employees serving on different posts on contract basis, in pursuance to the judgment of this Court rendered in W.P.No.3516-P/2014 title "Amjad Ali and others Vs Government of Khyber Pakhtunkhwa through Chief Secretary etc." The Notification dated 03.03.2017 is available on record, whereby at least 18 employees from BPS-2 to 17 were regularized.

9. The Chief Minister, Khyber Pakhtunkhwa keeping in view the Government Policy of regularization of services of employees on contract basis has already issued directions to all departments to submit the formal summary in regard to all concerned employees which reads as:-

CHIEF MINISTER'S SECRETARIAT KHYBER
PAKHTUNKHWA.

No. So.(C)/CMS/KPK/2017
Dated Peshawar 13th August
2017/1115 1039

To

The Chief Secretary,
Government of Khyber
Pakhtunkhwa.

Subject: UPGRADATION / REGULARIZATION
OF VARIOUS POSTS IN ALL PROVINCIAL
GOVERNMENT DEPARTMENTS OF KHYBER
PAKHTUNKHWA.

Dear Sir,

I am directed to refer to the subject
noted above and to convey that Hon'ble Chief

ATTESTED

EXAMINER
Peshawar High Court

Minister, Khyber Pakhtunkhwa has been pleased to direct that a consolidated case regarding regularization of all posts filled hitherto through NTS/E/TEA etc in all Provincial Government Departments be submitted to this Secretariat in the first instance through a summary alongwith financial implications.

I am further directed to convey that case for all pending Up-gradation of various posts in all Departments, with financial implications, be also submitted alongside for consideration/ order of Hon'ble Chief Minister through a summary en-route to Finance & Establishment Department in light of earlier exercise which had been made in this context.

Necessary action may please be taken for compliance of above directive of Hon'ble Chief Minister, Khyber Pakhtunkhwa at the earliest please.

Your faithfully
Sd/-
Hina
Section Officer (Confidential).

10. Similar writ petition pertaining to regularization of contract employees who were serving in different departments on its conversion to regular budgetary side, were filed by contract employees for regularization of their services, which were accepted by this Court in the following cases:-

- i WP No.2722-P/2017
- ii WP No.686-P/2017
- iii WP No.2084-P/2016.
- iv WP No.320-D/2014.

11. The Provincial Government filed various appeals against the judgments of this Court rendered particularly against the Writ Petition No.2722-P/2017 before the apex Court wherein the judgment of this Court were upheld.

12. It is persistent view of this Court that whenever posts were sanctioned on regular side,

ATTESTED

EXAMINER
Peshawar High Court

in any project or department, by the concerned authorities or government, the contract employees were also regularized on those sanctioned posts against which contract employees were serving to the entire satisfaction of the concerned department/institution. For reference Judgment of this Court in W.P.No.320-D/2014, whereby at least 18 writ petitions were decided and all the contract employees who were appointed thereafter fulfillment of codal formalities and were eligible insofar as their qualification was concerned were regularized accordingly.

13. The judgment of this Court dated 18.4.2017 rendered in the above mentioned W.P.No.320-D/2014 is also upheld by the apex Court while deciding the Civil Petition No.1676, 1807 to 1819 decided on 23.11.2017.

14. As all contract employees who otherwise, fulfilled the threshold of eligibility to be appointed on regular posts, as per the rules made in that regard are already regularized by the Provincial Government and in this regard, Khyber Pakhtunkhwa Employees (Regulation of Services) Act, 2018, is also promulgated. The cases of petitioners are as per with all other employees

ATTESTED

EXAMINER
Peshawar High Court

whose services were regularized in pursuance to the Act ibid and judgments of the Apex Court as well as keeping in view the principle of law settled by the Apex Court in C.P. No.134-P of 2013 decided on 24.2.2016 wherein, it is held that:-

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

ATTESTED

EXAMINER
Peshawar High Court

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15. For what has been discussed above, all the above mentioned writ petitions are admitted and allowed. Respondents are directed to move the formal summary to the concerned quarters for the regularization of petitioners as soon as possible but not later than 60 days as a whole. The services of the petitioners would deem to be regularized, from the date of announcement of this judgment in order to not affect the seniority of already appointed regular employees of the respondents. The connected C.Ms are also disposed of in the above mentioned terms.

Announced.
24.04.2019

JUDGE

JUDGE

No. 6371
 Date of Presentation of Application 11/9/2020
 No of Pages 10-7
 Copying fee no
 Total no
 Date of Preparation of Copy 16/9/2020
 Date of Delivery of Copy 16/9/2020
 Received By Asim

EXAMINER
 Peshawar High Court, Peshawar
 Authorised Under Article 87 of
 The Constitution of Pakistan Order 1984
 CERTIFIED TO BE TRUE COPY
 16 SEP 2020

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT

Mr. Justice Gulzar Ahmed
Mr. Justice Maqbool Baqar

**Civil Petitions No. 137-P/17, 647-P/18, 825-P/18, 35-P/19,
278-P/19, 642-P/19, 651-P to 656-P & 579-P/2019**
(Against the judgments dated 26.01.2017, 31.05.2018, 30.10.2018, 29.11.2018,
13.02.2019, 30.05.2019, 21.05.2019, 24.04.2019, 13.06.2019 of the PHC,
Peshawar passed in WPs/RP No. 2668-P/13, 3678-P/17, 346-D/13, 209-P/18,
3333-P/17, 6071-P/18, 203-P/19, 3516-P/17, 3416-P/17, 3430-P/17, 4433-
P/17, 5978-P/18, 535-P/17)

Secretary, to Government of KPK thr.
Agricultural, Live Stock & Co-operative
Department, Peshawar and others

Petitioner(s)

Versus

Jamli Ahmad and others
Muhammad Afzal & another
Muhammad Luqman & others
Asif Hussain
Masood Khan
Syed Sohrab Ali Shah & others
Mehnaz Paril & others
Ahsan Said & others
Fawad Anwar & others
Rafullah & others
Nagin Jalal
Dr. Halder Ali & others

Respondent(s)

For the Petitioner(s) : Barrister Qasim Wadood, Addl. AG KP
(in all CPs)

For the Respondent(s) : Syed Wusat ul Hassan Taqvi, ASC
Syed Rifaqat Hussain Shah, AOR
(in CP 278-P/2019)

Not Represented (in all other CPs)

Date of Hearing : 25.11.2019

ORDER

Gulzar Ahmed, J. We have heard the learned
Additional Advocate General, KP. He contends that although
similar matters, as present one, have already been decided time
and again by the learned Peshawar High Court and its judgment,

ATTESTED

Senior Court Associate
Supreme Court of Pakistan
Islamabad

af

when come before this Court, has been upheld, in that, the directions were passed for regularization of the employees appointed on contract in GIS and other Projects. He however, contends that among the cases, which are fixed today, there are the cases where the projects are still on going and they have not been taken to the regular budget and that some of the Project have commenced after the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2009 was enacted, which was applicable to the employees who have already employed prior to promulgation of the said Act. Learned Addl. AG also contends that in Adnanullah's case (*supra*), which has been decided by this Court on the points as are raised in the present case, a review petition is pending. If that be so, merely due to pendency of a review petition, this Court cannot withhold its decision in deciding the present petitions for that the order under review squarely covers all the situations, as are contended by the learned Addl. AG. In the impugned judgment reference has been made to the judgment dated 24.03.2011, passed in CA Nos.150-P and 151-P/2009, which has made further reference to the judgment passed by this Court in CAs No. 834-P & 837-P/2010. Besides, the impugned judgment has also relied upon judgments of this Court passed in CA No. 134-P/2013 titled as Government of KP through Secretary Agriculture Livestock and others vs. Adnanullah (2016 SCMR 1375) & CA No.605/2015 titled as Rizwan Javed and others vs. Secretary Agriculture Livestock etc. [2017 PLC (CS) 712]. Thus, there is no merit in these petitions. Accordingly, the same are dismissed and leave refused.

Sd/-J

Sd/-J

Certified to be True Copy

Senior Court Associate
Supreme Court of Pakistan
Islamabad

21/11/17



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(Signature)

GOVERNMENT OF KHYBER PAKHTUNKHWA
Energy & Power Department
 1st Floor, Block-A, Abdul Wali Khan Multiplex Civil Secretariat Peshawar
 Tel. 091-9210916 - Fax 091-9223624

Dated Peshawar, the 01st July 2020

Notification

No. SO(E)PE&P/5-7/2019/Vol-III: In pursuance of the Judgments dated 24-04-2019 & 20-11-2019 of the Honble Peshawar High Court Peshawar Judgment in Writ Petition No. 4433-P-2017 and connected Writ Petitions & 3876-P/2019, litted "Rafi Ullah and others Vs Government of Khyber Pakhtunkhwa etc & Shahzad Khan & others Vs Government of Khyber Pakhtunkhwa & others", the Competent Authority is pleased to regularize the services of the following employees on provisional/conditional basis subject to final decision of the Supreme court of Pakistan

S.No.	W.P. No.	Name of Employee with BPS	Designation
1	3516-P/2017	Mehmaz Pari (BPS-17)	Legal Officer
2		Sultan Mehmood (BPS-17)	Accounts Officer
3		Asim Khan (BPS-18)	Regional Electric Inspector
4	4433-P/2017	Rafi Ullah (BPS-12)	Electric Sub Inspector
5		Fahim Ur Rehman (BPS-16)	Office Assistant
6		Syed Shafiq Ahmad (BPS-12)	Electric Sub Inspector
7	3416-P/2017	Alif Saif (BPS-17)	Legal Officer
8		Akhtaq Ahmad (BPS-17)	Legal Officer
9		Kifayat Ullah (BPS-17)	Legal Officer
10	3430-P/2017	Bilal Shah (BPS-17)	Assistant Electric Inspector
11		Hajera Afshan (BPS-17)	Assistant Electric Inspector
12	3876-P/2019	Shahzad Khan (BPS-03)	Naib Qasid
13		Abdul Rauf (BPS-03)	Naib Qasid

1. Consequent upon regularization, the above officers/officials shall remain with Electric Inspectorate Provincial, Energy & Power Department
2. The above officers/officials shall submit their arrival to Energy & Power Department
3. On arrival the incumbents shall produce medical fitness certificate/attested copies of their academics/credentials and clearance certificate from Project "Restructuring/Strengthening of Electric Inspectorate Energy & Power"
4. Any error occurred will be rectified

sd/-
Secretary
 Govt. of Khyber Pakhtunkhwa
 Energy & Power

(U)

F/22

GOVERNMENT OF KHYBER PAKHTUNKHWA
Energy and Power Department
 1st Floor, Block-A, Abdul Wali Khan Multiplex Civil Secretariat Peshawar
 Tel. 091-9210895 Fax 091-9223624

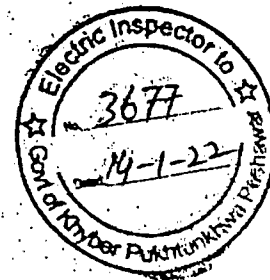
Dated Peshawar, the 10th January 2022

NOTIFICATION

NO.SO(E-I)/E&P/5-10/UPA/2021: In pursuance of section-8 of the Khyber Pakhtunkhwa Civil Servant Act 1973 read with Rule-17 of Civil Servant (Appointment, Promotion and Transfer) Rules 1989, the Competent Authority is pleased to notify and circulate the final seniority list of the Electric Inspectorate of the Energy and Power Department of the Deputy Electric Inspectors (BPS-18) to Government of Khyber Pakhtunkhwa for information of all concerned.

S.#	Name of Officer	Academic Qualification	Date of Birth and Domicile	Date of 1 st Entry into Govt. Service	Regular appointment/promotion to present post			Present Posting
					Date	BPS	Method of recruitment	
1	2	3	4	5	6	7	8	9
1	Muhammad Mumtaz Khan S/O Taj Muhammad	M.Sc. in Electrical Engineering, B-Tech. (Hon) & DAE	10-05-1962	23-10-1985	03-10-2018	18	By Promotion (Permanent)	Deputy Electric Inspector (Holding charge of Electric Inspector Provincial)
2	Engr. Ihsanullah S/O Hayat Khan	B.Sc Electrical Engineering Registered with PEC	20-04-1984	28-03-2009	25-05-2018	18	By Promotion (Permanent)	Deputy Electric Inspector Abbottabad Region
3	Engr. Arifullah S/O Salim Khan	M.Sc Electrical Engineering Registered with PEC	14-03-1985	26-03-2009	25-05-2018	18	By Promotion (Permanent)	Deputy Electric Inspector Bannu Region

Sd-
SECRETARY
 Energy & Power Department



E/2

Pl. Keep in Record Pt.

14/01/22. *Rahim* 10/1/22

To,

The Secretary,
Energy & Power Department,
Govt. of Khyber Pakhtunkhwa,
Peshawar.



Subject: Inclusion of the Applicants name in the final seniority list of Electric Inspectorate Energy Power Department for Promotion in upcoming PSB.

Dear sir,

With due respect that

- 1) The undersigned have been regularized vide honorable Peshawar High court judgment in WP-3454-P/19 dated 05-03-2020 & WP-3516-P/2017 dated 24/04/19 and notified by the Honorable Secretary Energy & Power vide notification No.SO (E.I)/(E&P)5-7/2021/Vol-VI dated 02/06/2021 & No.SO (E.I)/(E&P)5-7/2019/Vol-III Dated 01/07/2020 respectively.
- 2) That the Applicants now are Regular Employees of Electric Inspectorate Energy & Power Department but Vide seniority list issued Notification No. So(E-I)E&P/5-10/UPA/2021 dated, the 10th January,2022, the undersigned names/details have been omitted/dropped.
- 3) That the Applicants being regular employees, all rules of Civil Servant Act.1973 are applicable including Appointment, Promotion and Transfer Rules 1989.
- 4) That the undersigned have been working as Deputy Electric Inspector Since Dec 2016 in BPS 18 (about 7 years' experience and being the senior most) to till date, the undersigned names shall kindly be added and updated seniority list may be issued please

It is therefore requested that,

The undersigned being senior most, the names may also be forwarded for promotion to the vacant post of Electric Inspector provincial BPS-19 in the upcoming PSB.

Yours faithfully,



Engr. ASIM KHAN

DEPUTY ELECTRIC INSPECTOR, BPS-18 NOWSHERA

Dated: 14/06/22

PS/Secy
Diary No 2080
dated 14.6.22.



H 24
GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS &
HUMAN RIGHTS DEPARTMENT

No. SO(OP-1)/L/D/5-6/2022/KC
DATED: PESHAWAR THE 14th JULY, 2022 4776

To

The Secretary,
Government of Khyber Pakhtunkhwa,
Energy & Power Department.

Attention: Section Officer (E-1)

Subject: NON-INCLUSION OF THE APPLICANT NAME IN THE SENIORITY LIST FOR THE UP COMING PROVINCIAL SELECTION BOARD (PSB).

Dear Sir,

I am directed to refer to your Department's letter No. SO(E-1)/2-1/2022/Zakriya & Asim, dated 07.07.2022 on the subject noted above and to state that in pursuance of Order XX Rule 1 of Supreme Court Rules, 1980, the Judgment dated 24.04.2019 passed in Writ Petition No. 3516-P/2017 and the Judgment dated 05.03.2020 passed in Writ Petition No. 3454-P/2019 are worth implementation, subject to the final decision of Apex Court in the pending CPLA and Review Petition, conditionally, by not affecting the seniority of existing employees.

2. From the record it appears that the Seniority of Deputy Electric Inspector BPS-18 has been finalized vide notification dated 10.01.2022, which has not been challenged by the petitioners before the proper forum.

3. Hence in view of the above the names of appellants/petitioners may be included conditionally in the upcoming Seniority list subject to the final outcome of Supreme Court. However, the Seniority of existing Deputy Electric Inspector, BPS-18 (working on regular basis), prior to the conditional regularization of the appellants/petitioners shall not be effected.

Yours faithfully,

Section Officer (Opinion-1)

Endst: of even No. & date.

Copy forwarded for information to the:-

1. PS to Secretary, Law Department.
2. PA to Law Officer Law Department.

Section Officer (Opinion-1)

Received
13/07/2022
14/07/2022
o/c

VAKALAT NAMA

NO. _____/20

IN THE COURT OF 1st Service Tribunal, Peshawar

Asim Khan (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

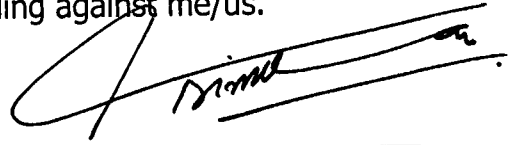
Govt of KP (Respondent)
(Defendant)

I/We, Asim Khan (Appellant)

Do hereby appoint and constitute **Mr. M. Asif Yousafzai, ASC** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20


(CLIENT)

ACCEPTED


M. ASIF YOUSAFZAI, ASC,


SYED NOMAN ALI BUKHARI
Advocate High Court Peshawar

SHAHKAR KHAN YOUSAFZAI
ADVOCATE.