FORM OF ORDER SHEET

Court of _____

Case No.- 1631/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	14/11/2022	The appeal of Mr. Muhammad Zakariya 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. By the order of Chairman REGISTRAR

The appeal of Mr. Muhammad Zakariya Deputy Electric Inspector Regional Electric Inspectorate district Swat received today i.e. on 10.10.2022 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 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- Annexure-D of the appeal is illegible which may be replaced by legible/better one.
4- Annexures are not in sequence which may be annexed serial wise as mentioned in the memo of appeal.

No. 2794 /S.T,

Dt. 11 / 10 /2022

REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

S. Noman Ali Bukhari Adv. Pesh.

(1) Seniority list Date mentioned 1-10-21 is clerical mistake which is corrected 10-1-22. already Annexed objection Removed.

(2) Application date mentioned as 14/10/22 is clerical mistake which is corrected as 14/6/22, which is already Annexed, objection Removed.

(3) objection Removed.

(4) objection Removed.

File re-submitted
11/10/21

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 1631 /2022

Muhammad Zakariya V/S Govt: of KP. etc.

INDEX

S.NO.	Documents	Annexure	Page No.
1.	Memo of Appeal	------	01-04
2.	Certificate	------	05
3.	Affidavit	-----	06
4.	Copy of appointment order	--A--	07-08
5.	Copy of joining report	--B--	09
6.	Copy of high court judgment	--C--	10-17
7.	Copy of supreme court judgment	--D--	18-19
8.	Copy of regularization order	--E--	20
9.	Copy of impugned seniority list	--F--	21
10.	Copy of departmental appeal	--G--	22
11.	Vakalat Nama	------	23

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.

(1)

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 1631 /2022

Muhammad Zakariya, Deputy Electric Inspector (BPS-18), Regional Electric Inspectorate District Swat.

(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 OF 10.01.2022 OF DEPUTY ELECTRIC INSPECTOR BPS-18, AND NOT EVEN CIRCULATED. WHEREIN THE NAME OF THE APPELLANT WAS NOT INCLUDED WITHOUT ANY JUSIFICATION TAKING NO 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 10-1-22 MAY 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:

1. That the appellant was performing his duty with the entire satisfaction of his senior and not giving any chance of the complainant.
2. That the appellant was appointed in BPS-18 vide order dated 13.12.2016 . Copy of the order **is attached as Annex-A & B.**

3. That the ...iled writ petition No. 3454-P/2019 in Peshawar High Court fo...rization of his service as Deputy Electric Inspector BPS-18 ...e writ petition was decided in favor of the appellant vide judg...1 05.03.2020. **Copies of the Judgments is attached as Annex**

4. That after ...on of High Court, the department issued notification dated 02.0... herein the appellant was regularized in BPS-18 as Deputy Ele...ector. **Copy of Notification is attached as Annex-E.**

5. That on dat...2022 department issued a final seniority list of Deputy Elect...ector BPS-18 without being circulated wherein the name of the ...nt was not included and he came to know when promotion to ... was made and appellant was deprived of his right to promotion E. **Copy of Seniority is attached as Annex-F.**

6. That the appe...on 14.06.2022 submitted an application to the respondent for ...lusion of his name in the final seniority list which was not respond the respondents. **Copy of inclusion application is attached as Anne-G.**

7. That the appellan...20.06.2022 give an application in continuation of the application ...2022 to the respondent for the non inclusion of his name in the final ...ority list.

GROUNDS:

A) That the impugne...seniority list dated 10-1-2022 ,and non inclusion of the name of the ...pellant in final seniority list of 2022 are against the law ,material on ...ecord norms of the justices , and violation of the seniority list and law .

B) That according to section 9 of the Civil Servant Act 1973 , that it is the 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 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 on 09th May 2022.

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.

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 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.

I) That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

APPELLANT

Muhammad Zakariya

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.

(4)

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. _____/2022

Muhammad Zakariya 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.

(5)

(6)

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. _____/2022

Muhammad Zakariya V/S Govt: of KP. etc.

AFFIDAVIT

I, Muhammad Zakariya, Deputy Electric Inspector,, District SWAT (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

GOVERNMENT OF KHYBER PAKHTUNKHWA
ENERGY & POWER DEPARTMENT

PHONE: 091-92223625, FAX: 091-9223624

A 07 31-8.

Dated Peshawar the 13-12-2016

Notification No. E&P/SO(Estt)/Electric Inspector/2016 :- Consequent upon the selection of Mr. Muhammad Zakariya s/o Gul Rahman, Regional Electric Inspector (BPS-18), Swat 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.

GOVERNMENT OF KHYBER PAKHTUNKHWA

ENERGY & POWER DEPARTMENT

PHONE: 091-92223625, FAX: 091-9223624

08

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)

To

The Electric Inspector/Project Director
Restructuring /Strengthening of Electric Inspectorate
Govt: of Khyber Pakhtunkhwa ,
Energy & Power Department Peshawar.

Subject : **JOINING/REPORTING LETTER**

Dear Sir,

I, Muhammad Zakariya S/O Gul Rahman, have the honour to inform you that I am joining today dated 20-12-2016, (F.N) as Regional Electric Inspector (BPS-18) posted at Swat Region in respect to Energy & Power appointment letter reference No. E&P/SO(Estt)/Electric Inspector/2016/31-8 dated 13-12-2016.

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

Kind Regards,

MUHAMMAD ZAKARIYA S/O GUL RAHMAN
MOH: Eid Gah Akora Khattak District Nowshera.
Cell# 0333-9131443

A.O

20/12/16

JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT

WP No. 3454-P/2019

"Muhammad Zakariya
Vs
The Govt. of KPK through Chief Secretary, Peshawar etc"

SEAL OF HIGH COURT PESHAWAR ★ عدالت عالیہ پشاور ★ VERIFIED HEAD COPYEST ★

JUDGMENT

Date of hearing	**05.03.2020**
Petitioner(s) by:	Mr. Muhammad Asif Yousfzai, Advocate
Respondent (s) by:	Mr. Rab Nawaz Khan, Addl: AG

*****

IKRAMULLAH KHAN, J.- We intend to decide all these connected three set of writ petitions, through this consolidated judgment. All the petitioners in all the three set of petitions bearing WP No.3454-P/2019, WP No.3552-P/2019 and WP No.3472-P/2019 have prayed for a common prayer, in order to issue an appropriate writ to respondents for regularization of their services.

2. In essence, petitioners are serving on contract basis in ADP Funded Project "Restructuring of Electric Inspectorate" Khyber

ATTESTED
EXAMINER
Peshawar High Court

(11)

Pakhtunkhwa, however, the said project is converted into regular/non-developmental and budgetary side by the government of Khyber Pakhtunkhwa, with approval of the Finance Department of the province through S.N.E dated 01.11.2017.

3. It is pertinent to mention herein that all the petitioners were selected and recommended by the Departmental Selection Committee on their respective posts, which were duly advertised in various newspapers. Not only the appointments of petitioners were carried upon under the prescribed manner, under the project policy, but petitioners were eligible and duly qualified corresponding to their respective posts, in which they were appointed.

4. Learned counsel for petitioners contended that the respective posts on which petitioners are serving, are regularized by the provincial government and the project is also converted into budgetary side, therefore, the petitioners are deserved to be regularized in view of the Khyber Pakhtunkhwa government Act, 2018, whereby not only projects were regularized but also the services of the project employees;

ATTESTED

EXAMINER
Peshawar High Court

(14)

that this Court while accepting writ petition No.3516-P/2017 has also made directions to the respondents, for regularization of the employees, who were serving on project posts, in the same project where, petitioners are serving.

5. On the other hand, learned counsel for respondents argued that the services of petitioners were hired by respondents purely on contract basis, for a specified period in the project, under the prevailing project policy of the Government of Khyber Pakhtunkhwa, whereas column No.4 of the project policy, petitioners could not claim regularization of their services; that the post on which petitioners in WP No.3454-P & WP No. 3552 carries BPS-18 and 17, on which appointments is the sole jurisdiction of Public Service Commission that the principle of law laid down in case of **GOVERNMENT OF PUNJAB, through Secretary Education, Civil Secretariat, Lahore and others Versus SAMEENA PARVEEN and others (2009 SCMR 1)** is not alternative to the given facts and circumstances of cases of petitioners, while the judgment of this Court rendered in the above mentioned writ petitions are assailed before the apex Court.

ATTESTED

EXAMINER
Peshawar High Court

6. We have heard learned counsel for the parties and have gone through their pleadings and documents available on record.

7. This fact could not be denied that Government of Khyber Pakhtunkhwa vide Regularization of Services Act, 2018 had already regularized the services of all project employees, which were converted into regular budgetary side. This Court in view of Regularization of Services Act, 2018 and, further in view of the notification of worthy Chief Minister Khyber Pakhtunkhwa dated 13.02.2017, accepted writ petition No.320-D/2014 on the sold ground that as the provincial government had already regularized services of the project employees, where, respective projects were converted to regular, non-developmental side, therefore, services of petitioners of writ petition No.320-D/2014 should also be regularized, on conversion of the project into regular side, where, the petitioners were serving accordingly. This Court in writ petition No.320-D/2014 has laid down the principle of law, that all project employees, who were appointed on prescribed manner and having requisite prescribed

ATTESTED

EXAMINER
Peshawar High Court

14

qualification for the respective posts, deserved to be regularized, where, the project itself is converted to regular side. The apex Court while deciding civil appeal No.134-P of 2013 also laid down the following principle of law, in regard to regularization of project employees.

> "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."

In case of **Rizwan Javed and others Vs. Secretary Agriculture Livestock and others (2016 SCMR 1443)**, wherein the apex Court has held that:

ATTESTED
EXAMINER
Peshawar High Court

(15)

> "5. We have heard the learned counsel for the appellants and the learned Additional Advocate General, KPK. The only distinction between the case of the present appellants and the case of the Respondents in Civil Appeals No.134-P of 2013 etc. is that the project in which the present Appellants were appointed was taken over by the KPK Government in the year 2011 whereas most of the projects in which the aforesaid Respondents were appointed, were regularized before the cut-off date provided in North West Frontier Province (now KPK) Employees (Regularization of Services) Act, 2009. The present Appellants were appointed in the year 2007 on contract basis in the project and after completion of all, the requisite codal formalities, the period of their contract appointments was extended from time to time upto 30.06.2011, when the project was taken over by the KPK Government. It appears that the Appellants were not allowed to continue after the change of hands of the project. Instead, the Government by cherry picking, had appointed different persons in place of the Appellants. The case of the present Appellants is covered by the principles laid down by this Court in the case of Civil Appeals No.134-Pof 2013 etc. (Government of KPK through Secretary, Agriculture V. Adnanullah and others) (2016 SCMR 1375), as the Appellants were discriminated against and were also similarly placed project employees."

In case titled **WAPDA through Chairman and others V. Abdul Ghaffar and others (2018 SCMR 380)**, the apex Court has held that:

> "Where such point of law covered not only the case of the civil servants who litigated, but also of other civil servants, who may have not taken any legal proceedings, the dictates of justice and rule of good governance demanded that the benefit of the point of law be extended to other civil servants, who may not be parties to the litigation instead of compelling them to approach the Tribunal or any other legal forum."

The Provincial Government filed various appeals against the judgments of this Court rendered

ATTESTED

EXAMINER
Peshawar High Court

particularly against the writ petition No.2772-P/2017 before the apex Court, wherein the judgment of this Court were upheld.

8. It is persistent view of this Court that whenever posts were sanctioned on regular side, 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 rendered in WP 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.

9. For the reasons mentioned hereinabove, the instant writ petition No.3454/2019 and the connected WP No.3552-/2019 and 3472-P/2019 are 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.

ATTESTED
EXAMINER
Peshawar High Court

The services of the petitioners would deem to be regularized, from the date of appointment of this judgment in order to not affect the seniority of already appointed regular employees of the respondents.

Announced.
05.03.2020

JUDGE

JUDGE

(DB) Hon'ble Mr. Justice Ikramullah Khan & Hon'ble Mr. Justice Muhammad Naeem Anwar

'Ihsan'

CERTIFIED TO BE TRUE COPY

Examiner
Peshawar High Court Peshawar
Authorized Under Article 87 of
the Qanun-e-Shahadat Order 1984

23 APR 2020

30271
of Presentation of Application 09/3/2020
f Pages 18-P
ing fee
l 72
of Preparation of Copy 23/4/2020
of Delivery of Copy 23/4/2020
ived By

D-12

Better Copy

IN THE SUPREME COURT OF PAKISTAN

(Appellate jurisdiction)

PRESENT

Mr. Justice Gulzar Ahmad

Mr. Justice Maqbool

Case petition No. 825-P/18, 35-P/19, 278-P/19, 861-P to 579-P/2019 against the judgment dated 26.01.2017, 31.05.2018,30/10/2018, 29/11/2018, 21/05/2019, 24/04/2019, of the PHC Peshawar passed in WPs/RP No. 2568-P/18, 3678-P/17, 209-P/18, 203-P/19, 3416-P/17, 3430-P/17, 4433-P/17,

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

Petitioner (s)

VERSUS

Jamil Ahmad & others
Muhammad Afzal & others
Muhammad Luqman & others
Asif Hussain
Masood Khan
Syed Sohrab Ali Shah & others
Mehnaz Pari & others
Fawad Anwar &others
Rafi Ullah & others
Nagin Jalal
Dr. Haider Ali & others

Respondents

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

Gulzar Ahmad 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

D (18)

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, 661-P to 666-P & 679-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-B/13, 209-P/18, 3333-P/17, 5071-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

Jamil Ahmad and others
Muhammad Afzal & another
Muhammad Luqman & others
Asif Hussain
Masood Khan
Syed Sohrab Ali Shah & others
Mehnaz Pari & others
Fawad Anwar & others
Raflullah & others
Nagin Jalal
Dr. Haider 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

Better Copy

When come before this court, has been upheld, in that, the directions were passed for regularization of the employees appointed on contract in OIS 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 Adnan Ullah'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 with hold its decision in deciding the present Petitions for that the order under review squarely covers all 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 CAs No. 150-P/2009, which was made further reference to the judgment passed by this Court in CAs No. 834-P &837-P/2010. Besides, the impugned Judgment, they also relied upon Judgment of this Court of this Court passed in CA No. 134-P/2013 titled **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

19

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 [illegible] review separately 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 [illegible] 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

SUPREME COURT OF PAKISTAN

Attested Copy Exh P-II

E 20

GOVERNMENT OF KHYBER PAKHTUNKHWA
Energy & Power Department
1st Floor, Block-A, Abdul Wali Khan Multiplex Civil Secretariat Peshawar
Tel. 091-9223626 Fax 091-9223624

Dated Peshawar, the 02nd June, 2021

NOTIFICATION

No. SO(E.I)/(E&P)/5-7/2021/Vol-V/ In pursuance of the judgment dated 24.04.2019 & 20.11.2019 of the Honourable Peshawar High Court Peshawar judgment in Writ Petition No. 3454-P/2019, 3552-P/2019 & 3472-2019, titled "Mr. Muhammad Zakria Vs Government of Khyber Pakhtunkhwa etc, Mr. Javed Iqbal and others Vs Government of Khyber Pakhtunkhwa etc and Mr. Wasim Jehangir & others Vs Government of Khyber Pakhtunkhwa and 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:-

Sr. No.	W.P No.	Name of Employees	Designation with BPS	Region
1	3454-P/2019	Mr.Muhammad Zakariya	Deputy Electric Inspector (BS-18)	Swat
2	3552-P/2019	Mr.Javed Iqbal	Assistant Electric Inspector (BS-17)	Swat
3	-do-	Mr.Tariq Saif Ullah	Electric Sub Inspector (BS-12)	Bannu
4	-do-	Mr.Umar Khan	Chowkidar (BS-03)	Bannu
5	-do-	Mr.Farid Khan	Naib Qasid (BS-03)	Bannu
6	-do-	Mr.Zahoor Ahmad	Naib Qasid (BS-03)	Bannu
7	3472-P/2019	Mr.Waseem Jehangir	Electric Sub Inspector (BS-12)	Abbottabad
8	-do-	Mr.Sohail Ahmad	Electric Sub Inspector (BS-12)	Abbottabad
9	-do-	Mr.Zakir Khan	Electric Sub Inspector (BS-12)	Abbottabad
10	-do-	Mr.Faiz Muhammad	Electric Sub Inspector (BS-12)	Swat
11	-do-	Mr.Abdul Khaliq	Computer Operator (BS-16)	Abbottabad
12	-do-	Mr.Muhammad Shahid	Chowkidar (BS-03)	Abbottabad
13	-do-	Mr.Imad ud Din	Naib Qasid (BS-03)	Swat
14	-do-	Mr.Mubeen Akhtar	Naib Qasid (BS-03)	Abbottabad
15	-do-	Mr.Sudheer Ahmad	Naib Qasid (BS-03)	Abbottabad

TERMS AND CONDITIONS

1. Consequent upon regularization, the above officers/officials shall remain employees of Electric Inspectorate Provincial, Energy and Power Department.
2. The above officers/officials shall submit their arrival to Energy and Power Department, Government of Khyber Pakhtunkhwa;
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 and Power Department".
4. Any error occurred will be rectified.

-sd-
Secretary
Energy & Power Department

Endst: No. & Date Even:

Copy of the above is forwarded for further necessary action to the:-

1. Registrar, Peshawar High Court Peshawar.
2. Accountant General, Khyber Pakhtunkhwa Peshawar.
3. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
4. Secretary to Government of Khyber Pakhtunkhwa, Establishment Department.

(Cont'.....P/2).

F (21)

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

NOTIFICATION

Dated Peshawar the 1st January 2022

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 Servants (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 1st 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. Anfullah 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

Electric Inspector to Govt. of Khyber Pakhtunkhwa Peshawar
3677
14-1-22

E/C
Pl. keep in Record pt.
14/01/22.

To,

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

G1 22 (22)

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 Secretory 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 [illegible]ed 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

Yours faithfully

ENGR: MUHAMMAD ZAKARIYA
DEPUTY ELECTRIC INSPECTOR.BPS-18 SWAT

Dated: 14/06/22

PSI Diary No 20 Dated 14.6.22

VAKALAT NAMA

NO._____/20 23

IN THE COURT OF KP Service Tribunal, Peshawar

Zakriya (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Govt of KP (Respondent)
(Defendant)

I/We, Zakriya (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.

Room # FR-8, 4th Floor,
Bilour Plaza, Peshawar,
Cantt: Peshawar
03129103240