

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

EXECUTION PETITION No. 242/2022

IN SERVICE APPEAL NO. 1227-1233, 1244-1245 & 11125-11126/2020.

Hanif-ur-Rehamn & OthersAppellants

Versus

Chief Secretary, Khyber Pakhtunkhwa & Others Respondents

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Chief Secretary

Secretary Finance

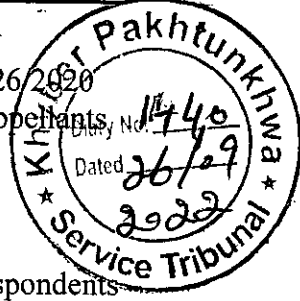
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BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

Execution Petition No. 242-252/2022 In S.A No. 1227-1233, 1244-1245 & 11125-11126/2020
Hanif -ur-Rehman & Others Appellants

Versus

Govt. of Khyber Pakhtunkhwa through Chief Secretary & Others Respondents



JOINT REPLY ON BEHALF OF RESPONDENTS NO. 1 & 2

PRAYER:

1. The petitioner in titled Execution Petition has prayed to Hon'ble Services Tribunal to direct the respondents to implement the Judgment dated 14.01.2022. In the said Judgment, the Hon'ble Tribunal set aside the impugned Order dated 25.06.2019 directed the Respondents to adjust the appellants in their respective department i.e Establishment & Administration Department, Govt. of Khyber Pakhtunkhwa against their respective posts and in case of non-availability of posts, the same shall be created for the appellants on the same manner as were created for other Administrative Departments vide Finance Department Notification dated 11.06.2020 and held entitled for all consequential benefits. The issue of their seniority / promotion shall be dealt with in accordance with the provisions contained in Civil Servant Act, 1973 and Khyber Pakhtunkhwa Government Servants (Appointment, Promotion & Transfer) Rules, 1989, particularly Section 17 (3) of Khyber Pakhtunkhwa Government Servants Appointment, Promotion & Transfer) Rules, 1989.
2. Now, the Appellant has filed Execution Petition for implementation of the Judgment dated 14.01.2022.

REPLY

1. The appellant / petitioner has misled this Hon'ble Services Tribunal that upon merger those employees who were working in erstwhile FATA Secretariat had been adjusted in Civil Secretariat, Peshawar vide Notification No. SOE.IV(E&AD)1-33/2020, dated 17.06.2020 and Finance Department created posts for their adjustment vide SNE dated 11.6.2020; Whereas, the appellants/petitioners were not only declared surplus but also illegally adjusted.

As a matter of fact, those employees who were performing duties in erstwhile FATA were not only appointed by Establishment Department, Civil Secretariat, Peshawar in various BPS but also for their seniority / promotion / retirement and in ancillary service matters Establishment Department, Civil Secretariat, Peshawar remained their parent Department.

Since at the eve of merger of erstwhile FATA those employees were posted in various departments in FATA Secretariat, therefore, upon merger and after creation of posts by Finance

Department vide letter dated 11.06.2020, Establishment Department posted them against their respective posts on 17.06.2020. Copies of Appointment / posting & transfer orders added. / 10


As far as, the matter of the appellant / petitioner is concerned they were rightly declared surplus as per provisions contained in Khyber Pakhtunkhwa Civil Servants Act, 1973 Section 11 (A) and adjusted in light of Surplus Policy, 2001 amended from time to time.

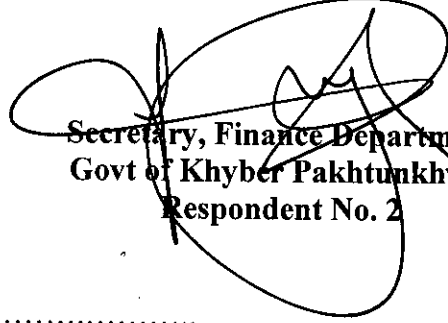
NOTE: From the above, it is categorically clear that those employees who were posted in the FATA Secretariat were not only appointed (by the then S&GAD now Establishment Department) but their entire service-related matters were also being dealt with by Establishment Department being their parent department.

So far as, the adjustment of appellant / petitioner at the strength of Establishment Department is concerned, he was a contract employee of erstwhile FATA, his services were regularized in light of Peshawar High Court, Peshawar Judgment dated 07.11.2013 in Writ Petition No. 969/2010 and COC No. 178-P/2014 dated 31.05.2014 by the then Additional Chief Secretary erstwhile FATA, FATA Secretariat and in pursuance of integration and merger of erstwhile FATA the appellant / petitioner was declared surplus.

2. Since the appellant / petitioner has concealed this vital information and misled this Hon'ble Tribunal regarding the service status of those employees who were posted in various administrative departments of erstwhile FATA and after merger, Finance Department created posts for the purpose of adjustment of those Civil Secretariat employees borne at the strength of Establishment Department who remained posted in FATA Secretariat for the purpose of performing duties.
3. It is worth to mention that implementation would result to infringe service rights of entire ministerial staff of Civil Secretariat, Khyber Pakhtunkhwa. Furthermore, the Department has also filed a CPLA No. 358-P/2022 in the Supreme Court of Pakistan which is still pending before the apex court.

It is, therefore, preciously requested that implementation of the Judgment dated 14.01.2022 in Service Appeals No. 1227-1233, 1244-1245 & 11125-11126/2020 may be stopped till final outcome of the CPLA filed by the Provincial Government before Supreme Court of Pakistan.


Chief Secretary,
Khyber Pakhtunkhwa
Respondent No. 1


Secretary, Finance Department
Govt of Khyber Pakhtunkhwa,
Respondent No. 2

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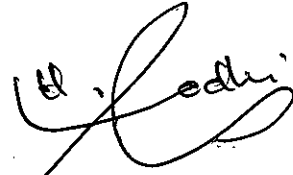
Versus

Chief Secretary, Khyber Pakhtunkhwa & Others Respondents

AFFIDAVIT

I, Majid Hannan Lodhi, Section Officer (Litigation) BPS-17, Judicial Wing, Establishment Department, Govt. of Khyber Pakhtunkhwa do hereby solemnly declare that contents of the reply are correct to the best of my knowledge and record and nothing has been concealed from this Hon'ble Court.

DEPONENT



CNIC No. 13503-8092069-1

Contact No. 0333-6253335

Identified by

Advocate General
Peshawar High Court Peshawar



Muhammad Arshad Iqbal
Advocate
Joint Commissioner

26.09.2022



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

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AUTHORITY LETTER

Mr. Majid Hanan Lodhi, Section Officer (BPS-17) (Litigation-II Section), Establishment Department, is hereby authorized to submit Execution reply in the Hon'ble Service Tribunal, in Execution Petition No. 242/2022 titled as "Hanif-Ur-Rehman & Others VS Government of Khyber Pakhtunkhwa & Others" on behalf of the undersigned.


Chief Secretary,
Khyber Pakhtunkhwa