

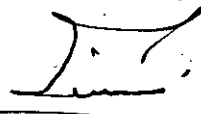
Appeal No. 1 - 1791 / 2019

27<sup>th</sup> July, 2022


This appeal was fixed for 25.07.2022 before camp court D.I.Khan but because of vacation tour to D.I.Khan was cancelled and the appellant submitted this application for withdrawal of the instant service appeal. The original file of the appeal was requisitioned.

2. In view of the request made by the appellant in his application, this appeal is dismissed as withdrawn. Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 27<sup>th</sup> day of July, 2022.*

  
(Salah Ud Din)  
Member(Judicial)



  
(Kalim Arshad Khan)  
Chairman

27.01.2022


Tour is Cancelled, therefore, case is adjourned to 26.05.2022 for the same as before.

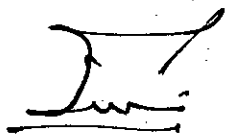
  
Reader.

26.05.2022

Appellant alongwith his counsel present. Mr. Farhaj Sikandar, District Attorney for the respondents present.

Learned counsel for the appellant sought time for preparation of arguments. Last opportunity given. To come up for arguments on 29.06.2022 before the D.B at Camp Court D.I.Khan.


  
(Rozina Rehman)  
Member (J)  
Camp Court D.I.Khan


  
(Salah-ud-Din)  
Member (J)  
Camp Court D.I.Khan

29<sup>th</sup> June 2022

Counsel for the appellant present. Mr. Farhaj Sikandar, District Attorney for respondents present.

Learned counsel for the appellant seeks adjournment. To come up for arguments on 25.07.2022 before D.B at camp court D.I.Khan.

  
(Mian Muhammad)  
Member(E)

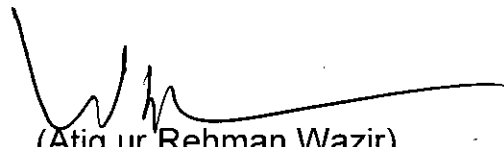
  
(Kalim Arshad Khan)  
Chairman  
Camp Court D.I.Khan

27.10.2021

Irfanullah Advocate present on behalf of Salimullah Ranazai Advocate learned counsel for appellant.

Asif Masood Ali Shah learned Deputy District Attorney for respondents present.

Former made a request for adjournment as learned counsel for appellant is busy in election. Adjourned. To come up for arguments on 13.12.2021 before D.B at Camp Court, D.I.Khan.



(Atiq ur Rehman Wazir)  
Member (E)  
Camp Court, D.I.Khan



(Rozina Rehman)  
Member(J)  
Camp Court, D.I.Khan

13.12.2021

Counsel for appellant and Mr. Muhammad Adeel Butt, learned Additional Advocate General for the respondents present.

Learned counsel for the appellant seeks time to prepare the brief. Request is granted. To come up for arguments on 27.01.2022 before the D.B at camp court, D.I.Khan.



(Rozina Rehman)  
Member (J)  
Camp Court, D.I.Khan

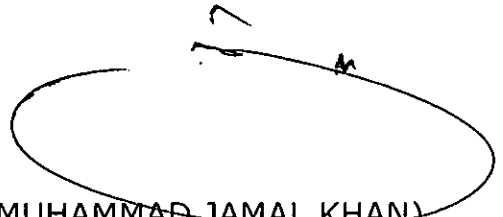


Chairman  
Camp Court, D.I.Khan

26.10.2020

Appellant is present in person. Mr. Usman Ghani, District Attorney alongwith Mr. Naseem Javed, Assistant Agriculture Officer, are also present.

Representative of the department submitted para-wise comments on behalf of respondents No. 1, 2, 3 & 5 which is placed on record. File to come up for rejoinder and arguments on 21.12.2020 before D.B at Camp Court, D.I.Khan.

  
(MUHAMMAD JAMAL KHAN)  
MEMBER  
CAMP COURT D.I.KHAN

21.12.2021

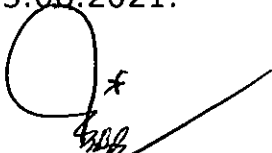
*due to COVID 19, the case is adjourned to 25.3.2021 for the same.*




25.03.2021

Appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Appellant requested for adjournment on the ground that his counsel is busy in the worthy High Court. Adjourned. To come up for rejoinder and arguments before D.B at Camp Court D.I.Khan on 23.06.2021.

  
(MIAN MUHAMMAD)  
MEMBER (EXECUTIVE)  
CAMP COURT D.I.KHAN

  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)  
CAMP COURT D.I.KHAN

*25.03.2021*

*[Faint, illegible text, possibly a stamp or additional notes]*

*[Faint, illegible text, possibly a stamp or additional notes]*

20.4.2020

Due to COVID19, the case is adjourned to

21/9/2020 for the same as before.


  
Reader

21.09.2020

Appellant present in person.

Mr. Usman Ghani learned District Attorney alongwith Naseem Javid Assistant Agriculture Engineer for respondents present.

Reply on behalf of respondents is still awaited. Representative of respondents requests for adjournment in order to submit reply/comments. Opportunity is granted. To come up for written reply/comments on 26.10.2020 before S.B at Camp Court, D.I.Khan.


  
(Rozina Rehman)  
Member (J)  
Camp Court, D.I Khan

27.02.2020

Counsel for the appellant Asmatullah present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was appointed as Crank Shaft Grinder (BPS-5) in Agriculture Department vide order dated 02.04.1996. It was further contended that the appellant was removed from service by the competent authority vide order dated 27.01.1997. It was further contended that the appellant filed Writ Petition which was allowed and the respondent-department was directed to reinstate the appellant vide judgment dated 04.07.2017, the appellant was reinstated by the department on the direction of the worthy High Court on 21.05.2019 on the same post. It was further contended that the appellant was removed from service in the year 1997 from the post of Crank Shaft Grinder (BPS-5) but the basis pay scale of the said post was increased/upgraded from BPS-5 to BPS-7 in the year 2000. It was further contended that the respondent-department was required to reinstate him on the post of Crank Shaft Grinder (BPS-7) instead of BPS-5 as the basis pay scale of the said post was also increased from BPS-5 to BPS-7 but the respondent-department has reinstated him on the said post in BPS-5 therefore, the appellant filed departmental appeal on 02.09.2019 but the same was not responded hence, the present service appeal. It was further contended that since the basis pay scale of the said post was increased/upgraded from BPS-5 to BPS-7 in the year 2000, therefore, the appellant was discriminated and the respondent-department are bound to increase/upgrade the basic pay scale of the appellant from BPS-5 to BPS-7 since his reinstatement.

The contentions raised by learned counsel for the appellant need consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 20.04.2020 before S.B at Camp Court D.I.Khan.

Appellant Deposited  
Security & Process Fee

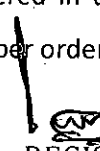


  
(M. Amin Khan Kundi)  
Member  
Camp Court D.I.Khan

Form- A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No.- 1791/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	16/12/2019	<p>The appeal of Mr. Asmatullah presented today by Mr. Saleem Ullah Khan Ranazai Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR <i>16/12/19</i></p>
2-	30.01.2020	<p>This case is entrusted to touring S. Bench at D.I.Khan for preliminary hearing to be put up there on <u>30-1-2020</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>None present on behalf of the appellant. Notices be issued to appellant and his counsel for attendance and preliminary hearing for 27.02.2020 before S.B at Camp Court D.I.Khan.</p> <p style="text-align: right;"> (M. Amin Khan Kundi) Member Camp Court D.I.Khan</p>

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

Service Appeal No.

1791

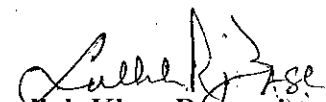
/2019.

**Asmatullah.****Versus****Government of Khyber Pakhtunkhwa, etc.****I n d e x****S.NO. PARTICULARS OF THE CASE. ANNEXURES. PAGE.**

1. Memo and grounds of Service Appeal.	_____	1-3
2. Copy of appointment order.	'A' —	4
3. Copy of removal order.	'B' —	5
4. Copy of the judgment dated 04.07.2017.	'C' —	6-9
5. Copy of reinstatement order.	'D' —	10-11
6. Copy of departmental appeal/representation.	'E' —	12-13
7. Vakalatnama.		

**Your Humble Appellant:  
Through counsel**

Dated: 16.12.2019

  
(Saleemullah Khan Ranazai)  
Advocate Supreme Court.



①

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

Service Appeal No. 1791 / 2019.

Asmatullah son of Inayatullah Crank shaft Grinder, Agriculture Engineer, Dera Ismail Khan.

(Petitioner)

**Khyber Pakhtunkhwa  
Service Tribunal**

Versus

Diary No. 1883

- Date 16/12/2019
1. Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar,
  2. Government of Khyber Pakhtunkhwa through Secretary Agriculture Lives Stock and Cooperative Department, Peshawar,
  3. Director Agriculture Department Peshawar Tarnab Farm, Peshawar,
  4. Agriculture Engineer, D.I.Khan Division, D.I.Khan,
  5. Assistant Agriculture Engineer, D.I.Khan Division, D.I.Khan

(Respondents)

**APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL ACT 1974 AGAINST THE NON-REPLY OF  
THE DEPARTMENTAL APPEAL DATED 02.09.2019 PREFERRED  
BY THE APPELLANT TO THE DIRECTOR AGRICULTURE FOR  
GRANTING HIM HIGHER SCALE, AFTER HIS  
REINSTATEMENT ON THE BASIS OF K.P SACKED  
EMPLOYEES ACT, 2012, AS THE SCALES HAVE BEEN  
REVISED, WHEREAS THE APPELLANT HAS BEEN  
REISNTATED IN BPS-05.**

**Respectfully Sheweth,**

The appellant prefers the instant appeal on the grounds hereinafter submitted apropos the following facts.

Note:- The addresses of respondents as given above are sufficient for the purpose of service.)

**BRIEF FACTS**

1. That the appellant was appointed as Crank Shaft Grinder with the respondents at Dera Ismail Khan in BPS-05 on 02.04.1996. Copy of appointment order is enclosed as **Annexure A.**
2. That appellant was then removed from service on 27.01.1997. Copy of removal order is enclosed as **Annexure B.**

3. That the Government of K.P then promulgated the Sacked employees (Appointment) Act in 2012 and the appellant applied as per law for his reinstatement but was not appointed, therefore, he filed a writ petition bearing No.667-D of 2016, which was ultimately allowed vide judgment dated 04.07.2017 by the Division Bench at Dera Ismail Khan. Copy of the judgment dated 04.07.2017 is enclosed herewith as Annexure-C.
4. That the appellant was not reinstated in service as per the judgment of the Hon'ble High Court, therefore, he filed a contempt of Court petition No.890-D of 2017 and ultimately the department reinstated the appellant on the post of Crank Shaft Grinder but in BPS-05 on 21.05.2019 and the Hon'ble High Court then disposed the C.O.C petition. Copy of reinstatement order is enclosed herewith as Annexure-D.
5. That the appellant then joined his duties and requested the department that by the time, he was removed from service, he was in BPS-05 and now the post of Crank Shaft Grinder and equivalent post are upgraded to BPS-07, therefore, the appellant may also be upgraded to BPS-07 or BPS-09 but as no response whatsoever was received, therefore, the appellant preferred department appeal/representation on 02.09.2019. Copy of departmental appeal/representation is enclosed herewith as Annexure-E.
6. That the departmental appeal has not been replied in the statutory period of 90 days, therefore, the appellant is left with no option but to file the present service appeal before this Hon'ble Tribunal on inter alia, the following grounds.

GROUND:

1. That admittedly, the appellant was appointed way back in 1996 in BPS-05 and he does come within the definition of Sacked Employees, as acknowledged by the Hon'ble High Court, therefore, the appellant was reinstated in service but in the same scale i.e. BPS-05 after the lapse of 22 years.
2. That the main grievance of the appellant is that of scale and nothing else, as neither he is asking for back benefits, service, seniority or upgradation/promotion but he is requesting for the scale of the post to be BPS-09 or BPS-07, as by now neither the post of Crank Shaft Grinder is in BPS-05 nor the equivalent posts in BPS-05 rather the same has been upgraded to BPS-09 or BPS-07 with the passage of time but the


appellant has been malafidely reinstated in the old scale, when he was removed from service.

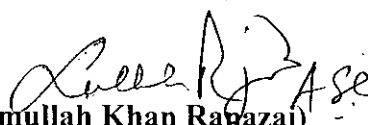
3. That even otherwise, by now the posts of Crank Shaft Grinder are equivalent in the entire department are in BPS-07 or BPS-09 then why and how the appellant was reinstated in BPS-05, meaning thereby that he has not equally been treated by the department and thereby his rights have been infringed, which comes within the definition of discrimination on the part of respondents.
4. That the counsel for the appellant may be allowed to raise additional grounds during the course of arguments.

In view of the above noted facts and grounds it is humbly prayed that the appellant may be treated at par with others and he may be given BPS-09 or BPS-07 in accordance with law from the date of his reinstatement.

Your Humble Appellant:


Dated: 16.12.2019


  
(Asmatullah)  
Through counsel,

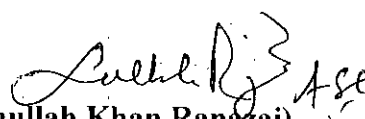
  
(Saleemullah Khan Ranazai)  
Advocate Supreme Court.

**AFFIDAVIT**

I, Asmatullah son of Inayatullah Crank shaft Grinder, Agriculture Engineer, Dera Ismail Khan, the appellant do hereby solemnly affirm on Oath that the contents of the appeal are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Tribunal.

  
ATTESTED  
KHALIDA RAHMAN  
C. ADVOCATE  
OATH COMMISSIONER  
PE. RAWALPINDI  
16/12/19

  
Deponent.  
(Identified by)

  
(Saleemullah Khan Ranazai)  
Advocate Supreme Court.

OFFICE ORDER.

(4)  
Page "A"  
2

Consequent upon the recommendation of Departmental Selection/Promotion Committee held on 2.4.1996 at 9.00 a.m. under the Chairmanship of undersigned. Whereas Mr. Asmatullah S/O Inayatullah of Karamat Abad DIKhan was appointed as Security Sargent in BPS-5 for six months and posted as Turner against vacant post by this office.

Therefore he is selected as Crank Shaft Grinder in BPS-5 (1400-66-2390) in DIKhan Workshop against the vacant post and his services been regularized appointment w.e. from 1.2.1996 from the date of first appointment on usual terms and conditions as mentioned in his appointment order.

Sd/- (Jehanzeb Khan),  
Agricultural Engineer,  
DIKhan Divn: D.I.Khan.

No: 1287-91/A.E.,  
Dated D.I.Khan, the 2/4 /1996.,  
Copy to: -

1. The above concerned;
2. ~~The Director, Civil Engineering, M.E.P. Formad,~~  
Peshawar; alongwith copy of minutes of the meeting and w.r. to his No: 752-54 dt: 21.1.1996. ||
3. The Supdt: Workshop, DIKhan;
4. The Distt: Accounts Officer, DIKhan;
5. The E/Asstt: of this office; for information and n/action.

ATTESTED

Saleem Ullah Khan Ranazai  
Advocate Supreme Court

\*K.Dad/\*

ATTESTED

Agricultural Engineer,  
DIKhan Divn: D.I.Khan.

Saleem Ullah Khan Ranazai  
Advocate Supreme Court

(5)

72 June 1997

OFFICE ORDER.

In compliance of the Director Agricultural Engineering  
N.W.F.P. Peshawar Office Order No. 363/DAE dated  
14.1.1997 regarding cancellation of un-authorized / illegal  
Departmental selection / promotion Committee constituted  
by this office previously the services of the following  
officers are hereby terminated with effect from 26.1.1997.

P-565  
P-569  
P-571

1. Masoom Khan S/O Amanullah of Mohallah (D.H.H.)  
Usman Khel Tehsil Kulachi Distt: D.Khan.

2. Asmatullah S/O Inayatullah C.S. Grinder  
of Maramat Abad D.T. Khan.

3. Saifur Rahman S/O Abdul Haq of Kulachi  
Skilled Coll. Distt: D.T. Khan.

SE/- MONTHLY (T. S. S. S. S.)  
AGRICULTURAL ENGINEER,  
DISTRICT DIVISION OF D.KHAN.

26-1-97 ... 27-1-1997.  
NO. / A.D. Dated D.Khan the.

Copy to:-

- 1. All Concerned.
- 2. The District Accounts Officer D.Khan.
- 3. The Director Agricultural Engineering N.W.F.P. Peshawar with reference to his No. 363/DAE dated 14.1.1997.
- 4. The Assistant Agril. Engineer (Drilling) D.Khan for information and necessary action.

*[Handwritten signature]*

*[Handwritten signature]*  
Agricultural Engineer,  
District Division D.Khan.  
26-1-97

**ATTESTED**  
*[Handwritten signature]*  
Saleem Ullah Khan Ranaza  
Advocate Supreme Court

**OFFICE ORDER**

In compliance of the Director Agricultural Engineering N.W.F.P. Tarnab Peshawar Office Order No. 363/DAE Dated 14.1.1997 regarding cancellation of un-authorized / illegal Departmental selection / Promotion Committee constituted by this office, previously the services of the following of declared hereby terminated with effect from 26.1.1997.

1. Tasvoor Khan S/O Amanullah of Mohallah (D.H.H) Usman Khel, Tehsil Kulachi District D.I.Khan.
2. Asmatullah S/O Inayatullah O.S (Iincer) of Karmat Abad D.I.Khan.
3. Saif Ur Rehman S/O Abdul Haj of Kulachi Shilled, District D.I.Khan.

SD/-  
Agricultural Engineer,  
D.I.Khan Division, D.I.Khan

No. 267-66/A-E Dated D.I.Khan the 27-01-1997

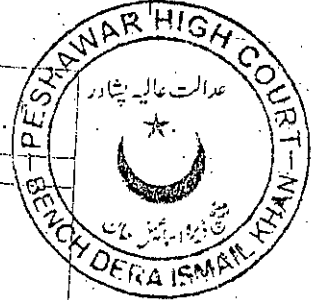
Copy to:-

1. All Concerned
2. The District Accountant Officer D.I.Khan.
3. The Director Agricultural Engineering N.W.F.P. Peshawar with concern to this No 363/DAE dated 14.1.1997.
4. The Assistant Agricultural Engineer (Drilling) D.I.Khan for Information and necessary action.

Agricultural Engineer,  
D.I.Khan Division, D.I.Khan

IN THE PESHAWAR HIGH COURT, D.I. KHAN BENCH

FORM OF ORDER SHEET



Date of order or proceedings (1)	Order or other proceedings with signature of Judge(s). (2)
04.7.2017	<p><u>W.P. No:667-D/2016.</u></p> <p><u>Present:-</u> Mr. Saleem Ullah Khan Ranazai, Advocate for the petitioner.</p> <p>Mr. Kamran Hayat Miankhel, Addl: A.G. for the respondents.</p> <p>***</p> <p><u>MUHAMMAD AYUB KHAN, J.-</u> Through the instant petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner Asmatullah Khan has prayed for issuance of writ directing the respondents to appoint him on the basis of Sacked Employees (Appointment), Act 2012 on his original post or on the basis of retired employees' sons as class IV employee in any of the wings of the Agriculture Department.</p> <p>2. Facts in brief as spelt out from the writ petition are that, after serving the Agriculture Engineering Department, D.I. Khan as Chowkidar, father of the petitioner retired on 01.11.1995. That vide order dated 29.01.1996, the petitioner was appointed as Security Sergeant in BPS-5 on</p>

*[Handwritten signature]*

ATTESTED  
23/8/17  
EXAMINER  
Peshawar High Court  
D.I. Khan Bench

**ATTESTED**  
*[Signature]*  
Saleem Ullah Khan Ranazai  
Advocate Supreme Court

Kifayat\*

temporary basis for a period of six months, whereafter his services were regularized against the vacant post of Crane Shaft Grinder BPS-5 vide letter/order bearing No.1287-9/AE dated 02.4.1996. That vide letter/order No.261-266/AE dated 27.01.1997, services of the petitioner were dispensed with without any reason. That pursuant to promulgation of Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012, the respondents appointed the employees who were dismissed, removed or terminated from service during the period from 01.11.1996 to 31.12.1998.

That since the petitioner falls within the category of sacked employees who have been appointed by the department, therefore, the petitioner requested the respondents to appoint him against on the basis of the Act *ibid*, but of no avail. Hence, the instant writ petition.

3. Respondents No.3 & 5, in their para-wise comments while answering Para 9 & 10 of the writ petition, admitted that petitioner was appointed as Crank Shaft Grinder BPS-5 and was terminated from service due to irregular appointment. They further admitted that as per requirement of Khyber Pakhtunkhwa Sacked

*[Handwritten signature]*

ANESIY  
23/8/10  
EXAMINOR  
Peshawar High Court  
D.I.Khan Baiton

**ATTESTED**

*[Handwritten signature]*  
Saleem Ullah Khan Rahazai  
Advocate Supreme Court



8

Employees (Appointment) Act, 2012, the petitioner submitted application for his reinstatement and that as per section 6 of the Act ibid, on accrual of vacancy in the respective cadre of the concerned department of the sacked employee against the 30% available share, preference is to be given to the sacked employee who is older in age.

4. For convenience, Section 2(g) of Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012, is reproduced as under:-

“Sacked employee” means a person who was appointed on regular basis to a civil post in the Province and who possessed the prescribed qualification and experience for the said post at that time, during the period from 1<sup>st</sup> day of November, 1993 to the 30<sup>th</sup> day of November, 1996 (both days inclusive) and was dismissed, removed, or terminated from service during the period from 1<sup>st</sup> day of November, 1996 to 31<sup>st</sup> day of December, 1998 on the ground of irregular appointments”.

5. Perusal of record would reveal that vide order dated 02.4.21996, services of the petitioner were regularized w.e.f. 01.2.1996 from the date of first appointment. Subsequently, vide office order dated 27.01.1997, the petitioner was terminated from service on the ground that he was irregularly appointed. After promulgation of

*[Handwritten signature]*

ATTESTED

EXAMINER  
Peshawar High Court  
D. Khan

ATTESTED

*[Handwritten signature]*  
Saleem Ullah Khan Ranazai  
Advocate Supreme Court

9

Khyber Pakhtunkhwa Sacked Employees

(Appointment) Act, 2012, the petitioner submitted application for his reinstatement with specific reference to Section 7 of the ibid Act.

6. Keeping in view the above, the learned Addl. A.G. was asked as to whether case of petitioner falls within definition of sacked employees, he unable to controvert the same and rightly so, because application of the petitioner for his reinstatement is available on file with specific reference to promulgation of Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012, therefore, refusal of the respondents to reinstate him in service was unjustifiable, rather discrimination.

7. In view of what has been discussed above, we admit and allow this petition; and consequently, direct the respondent No.2 to reinstate the petitioner in service according to law on his own turn.

Announced  
Dt: 04.7.2017.

*[Signature]*  
JUDGE

ATTESTED  
*[Signature]*  
EXAMINER

*[Signature]*  
JUDGE

Jeshwar High Court  
D.I. Khan Bench

ATTESTED  
*[Signature]*  
Saleem Ullah Khan Ranazai  
Advocate Supreme Court

Kifayat/\*

OFFICE ORDER

REGISTERED

10

Asst D

In light of the August Peshawar High Court, Dera Ismail Khan Bench judgment dated 04.07.2017 in Writ Petition No.667-D/2016 titled Asmat Ullah son of Inayat Ullah VS Government of Khyber Pakhtunkhwa etc. and order sheet dated 12.02.2019 and 22.04.2019 in C.O.C No.890-D/2017 in the said Writ Petition read with Government of Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012, the Competent Authority is pleased to conditionally appoint Mr. Asmat Ullah S/O Inayat Ullah (Sacked Employee in the cadre of Crank Shaft Grinder) residence of Karamat Abad, Tehsil and District Dera Ismail Khan as Crank Shaft Grinder BPS-05 (Rs.10260-500-25260), subject to the ultimate decision by the August Supreme Court of Pakistan in CPLA No.439-P/2017 as well as per Section 7(3)(4) of Government of Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012, and posted him in office of the Assistant Agricultural Engineer, Dera Ismail Khan against the newly created post of Crank Shaft Grinder (BPS-05) vide Government of Khyber Pakhtunkhwa, Finance Department letter No.BO-VII/FD/2-3/2018-19 dated 17.05.2019 received through Section Officer (Admn), Government of Khyber Pakhtunkhwa Agriculture, Livestock and Cooperative Department letter No. SOG(AD)/S.N.E/Engr./DIKhan/2018-19 dated 21.05.2019.

1. In case the final verdict of the apex Court is in favour of Government/this Department or the decision of the Departmental Selection Committee as per Government of Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 against the Petitioner / Sacked Employee, his services will stand terminated without claiming any right at any forum.
2. His appointment will be governed under the following terms and conditions:-

TERMS AND CONDITIONS:-

- i. He will receive salary and other allowances are admissible under the rules.
- ii. His services will be considered regular and are entitled to General Provident Fund in such a manner and at such rate as may be prescribed by the Govt. under Khyber Pakhtunkhwa Civil Servants (Amendments) Act, 2013.
- iii. His services will be liable for termination on one month's notice from either side. In case of resignation without notice, two month's pay and allowances shall be refunded to Government.
- iv. The appointee should join duty within 30-days of the issue of this order, or otherwise after one month of issue of this order, his candidature will expire automatically and no subsequent appeal etc. shall be entertained.
- v. He will be on probation for one year extendable for further one year.
- vi. He will be governed under such rules and regulations as may be issued from time to time by the Government.
- vii. His services can be terminated at any time, in case his performance is found unsatisfactory during probationary period. In case of misconduct, he will be proceeded against the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 and the Rules framed there under from time to time.
- viii. No TA/DA will be allowed to him for joining of duty.
- ix. He shall produce a medical certificate of fitness from Medical Superintendent Civil Hospital before reporting himself for duty as required under the rules.
- x. His services shall be transferable to anywhere in the province

If the above terms and conditions of conditionally appointment are acceptable to him, he should immediately communicate his acceptance in writing to the office of Assistant Agricultural Engineer, Dera Ismail Khan within 30 days of the issuance of this order.

SD/-(ENGR. MAHMOOD JAN)  
Director,  
Agricultural Engineering,  
Khyber Pakhtunkhwa Tarnab Peshawar

ATTESTED

Saleem Ullah Khan Ranar  
Advocate Supreme Co

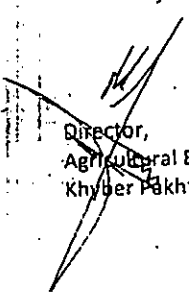
Endst: No. 5935-44 /DAE/Estt:3/2 dated Tarnab, the

21 / 05 / 2019


(11)

Copy of the above is forwarded to:-

1. The Additional Registrar, Peshawar High Court Bench, Dera Ismail Khan;
2. The Additional Advocate General, Dera-Ismail Khan;
3. The Secretary, Government of Khyber Pakhtunkhwa, Agriculture, Livestock and Cooperative Department Peshawar with reference to his office letter No. quoted above;
4. The Budget Officer-VII, Government of Khyber Pakhtunkhwa, Finance Department Peshawar with reference to his office letter No. quoted above;
5. The Assistant Agricultural Engineer, Dera Ismail Khan alongwith a copy of Section Officer (Admn) Agriculture Department letter No. quoted above and its enclosures for information and appropriate action. He is further directed to inform the August Peshawar High Court, Dera Ismail Khan, Bench accordingly.
6. The District Account Officer, Dera Ismail Khan;
7. Account Section of this Directorate alongwith a copy of Section Officer (Admn) Agriculture Department letter No. quoted above and its enclosures for information and appropriate action;
8. Engr. Nazeer Abbas, Focal Person/ Assistant Agricultural Engineer, Peshawar; for information.
9. Mr. Asmat Ullah S/O Inayat Ullah residence of Karamat Abad, Tehsil and District Dera Ismail Khan for information and necessary action.
10. File No. 9/62 of Estt: section of this office;

  
Director,  
Agricultural Engineering,  
Khyber Pakhtunkhwa Tarnab Peshawar

**ATTESTED**

  
Saleem Ullah Khan Ranazai  
Advocate Supreme Court

To,

The Director,  
Agriculture Engineering,  
Khyber Pakhtunkhwa, Tarnab  
Peshawar.

Through;

Proper Channel.

SUBJECT:-

DEPARTMENTAL APPEAL / REPRESENTATION  
AGAINST THE OFFICE ORDER DATED  
21/05/2019, VIDE WHICH THE APPELLANT WAS  
REINSTATED IN SERVICE BEING SACKED  
EMPLOYEE BY CREATING THE POST OF CRANK  
SHAFT GRINDER (BPS-05).

Respectfully stated;

1. That the applicant appointed as Security Sergeant (BPS-05) and then his services were regularized against the vacant post of Crank Shaft Grinder on 02/04/1996.
2. That he appellant was then removed from service on 27/01/1997 and then the Act of 2012 known as Khyber Pakhtunkhwa Sacked Employees (Appointment) Act was promulgated, so the appellant applied under the same to the Department for his reinstatement but when no positive response came out then the appellant filed Writ Petition No. 667-D of 2016 before the Peshawar High Court, Dera Ismail Khan Bench, which was ultimately allowed on 04/07/2017 by the Division Bench of Peshawar High Court, wherein the Department was directed to reinstate the appellant in accordance with law. Copy of judgment is enclosed herewith.
3. That as the judgment of Peshawar High Court was not being implemented, therefore, the appellant filed contempt of Court Petition No. 890-D of 2017 but the Department lingered on the matter for no good reasons and ultimately on the directions of Honourable High Court the appellant was reinstated in service by creating the post of Crank Shaft Grinder vide order dated 21/05/2019. Copy of office order is enclosed herewith.
4. That it is pertinent to mention here that as the post of Crank Shaft Grinder (BPS-05) was abolished by the Department way back and if the same would have been in existence that definitely the same should have been upgraded upto (BPS-09), as the other posts have

ATTESTED

Saleem Ullah Khan Ranazai  
Advocate Supreme Court

already been upgraded but as the same post was created for appellant again and the appellant has been reinstated on the same post but without up-gradation, whereas if the same post would have been in existence then definitely with the passage of time the same would have been upgraded to (BPS-09).

- 5. That the other aspect is that if the appellant is not reinstated from the date of his termination i.e on 27/01/1997 or from the date of the promulgation of the Act of 2012, then at-least he should have been reinstated from the date of the judgment of the High Court i.e 04/07/2017 and not later on.
- 6. That the equity and fair play demands that the appellant should be given the back benefits, as he has been removed from service without any fault on his part.

*In view of the submissions made above, it is very humbly requested that on gracious acceptance of the instant Departmental Appeal / representation, the appellant may be reinstated from the date of his termination i.e 27/01/1997 or from the date of the promulgation of the Act of 2012 or at-least from the date of the judgment of the Honourable Court i.e 04/07/2017 with all back benefits and the post of the appellant may also be upgraded in accordance with law and policy in vogue.*

*Thanking you in anticipation.*

Your Humble Appellant

Dated.02/09/2019

*Asmat Ullah*  
**Asmat Ullah**  
 S/o Inayat Ullah  
 At Present Crank Shaft  
 Grinder,  
 Agriculture Engineering,  
 Dera Ismail Khan.

*Received Reinstatement Documents on 4/9/2019*  
*Asmat Ullah*

**ATTESTED**

*Saleem Ullah Khan Ranaza*  
**Saleem Ullah Khan Ranaza**  
 Advocate Supreme Court

MR. SALEEM ULLAH KHAN RANA ZAI  
Advocate  
Supreme Court of Pakistan (ASC)  
Date of Issue: 19-4-2016



(Abul Foyaz)  
Chairman  
Executive Committee

(Muhammad Arshad)  
Secretary  
Pakistan Bar Council

Non Transferable  
In the event of death, disability, or any other profession, business, service or vocation, the holder will not be entitled to use this Card and shall forthwith surrender it to The Pakistan Bar Council.

MR. SALEEM ULLAH KHAN RANA ZAI  
Name: SALEEM ULLAH KHAN  
CNIC: 12110107418533  
Date of Enrolment: 19-4-2016  
Ref No: 10/PBC/Kpr/J.D.  
Address: KARACHI, Sindh

Tel: Off: 0092-965-714267 Fax: 0092-965-734484 Cell: 0333-9198103

If folded please return to:  
Pakistan Bar Council  
Supreme Court Building, Constitution Avenue, Islamabad.  
Tel No: 0092-51-406605 Fax No: 0092-51-406622

حسرت بخشو خواہ سرور کی سرینوں پر مشتمل  
ایمانی راجہ  
حسرت بخشو خواہ سرور کی سرینوں پر مشتمل  
حسرت بخشو خواہ سرور کی سرینوں پر مشتمل

سرور امیل

دوبی یا حرم  
تفصیل دوبی یا حرم

باوجود سرینوں پر مشتمل  
مقدمہ درج بالا عنوان میں اپنی طرف سے دوسری سرینوں کی درخواست کی ہے۔

سلیم اللہ خان رانا زئی  
ASC

میں نے سرور کی سرینوں پر مشتمل ایک درخواست دی تھی اور اس پر سرور نے جواب دیا کہ وہ اس کے لیے تیار نہیں ہے۔ میں نے اس پر دوبارہ درخواست دی اور اس پر سرور نے دوبارہ جواب دیا کہ وہ اس کے لیے تیار نہیں ہے۔ میں نے اس پر دوبارہ درخواست دی اور اس پر سرور نے دوبارہ جواب دیا کہ وہ اس کے لیے تیار نہیں ہے۔ میں نے اس پر دوبارہ درخواست دی اور اس پر سرور نے دوبارہ جواب دیا کہ وہ اس کے لیے تیار نہیں ہے۔ میں نے اس پر دوبارہ درخواست دی اور اس پر سرور نے دوبارہ جواب دیا کہ وہ اس کے لیے تیار نہیں ہے۔

2019

دوسری

18

Accepted of

Suleh Raza  
ASC

Signature

27/10



**GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT  
(REGULATION WING)**

Dated Peshawar, the 30-06-2015

**NOTIFICATION**

**NO.FD/SO(FR)7-20/2015** The competent authority has been pleased to accord approval to the upgradation of pay scales of the following provincial government employees with effect from 01-07-2015:

- a) Two pay scale upgradation will be allowed to all provincial government employees from BS-01 to BS-05.
  - b) One pay scale upgradation will be allowed to all provincial government employees from BS-06 to BS-15
  - c) Special Compensatory Allowance equal to difference of notional upgradation of BS-16 to BS-17 will be allowed to all provincial government employees in BS-16 in lieu of upgradation.
  - d) Upgradation will be applicable to both pay and allowances with freezing limits and other conditions currently in vogue unless revised by the government.
  - e) Pay fixation on upgradation will be applicable w.e.f. 01-07-2015 or 01-12-2015 on the option to be given by the concerned employee.
  - f) All provincial government employees who have been upgraded en-block or individually in last five years starting from 01-07-2010 or have been granted special allowance / pay equal to 40 % or more of their normal pay shall not be entitled for the instant upgradation.
2. Pay of existing incumbents of the posts shall be fixed in higher pay scales at a stage next above the pay in the lower pay scale.
  3. All the concerned Departments will amend their respective service rules to the same effect in the prescribed manner.
  4. The above upgradation scheme shall not be applicable to employees of Autonomous Bodies, Semi Autonomous Bodies and Public Sector Companies.
  5. Explanatory note and subsidiary instructions on the subject will be issued separately.

**SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT**



Endst No. & Date even.

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

- 1) PS to Additional Chief Secretary, FATA.
- 2) All Administrative Secretaries Government of Khyber Pakhtunkhwa.
- 3) Senior Member, Board of Revenue, Khyber Pakhtunkhwa Peshawar.
- 4) Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 5) Secretary to Governor, Khyber Pakhtunkhwa, Peshawar
- 6) Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
- 7) Secretary Provincial Assembly, Khyber Pakhtunkhwa.
- 8) All Heads of Attached Departments in Khyber Pakhtunkhwa.
- 9) Registrar, Peshawar High Court, Peshawar.
- 10) All Deputy Commissioners, Political Agents, District & Sessions Judges / Executive District Officers in Khyber Pakhtunkhwa.
- 11) Chairman, Khyber Pakhtunkhwa, Public Service Commission, Peshawar.
- 12) Registrar, Service Tribunal Khyber Pakhtunkhwa.
- 13) Secretary to Govt; of Punjab, Sindh and Baluchistan, Finance Department, Lahore, Karachi and Quetta.
- 14) The District Comptroller of Accounts, Peshawar, Mardan, Kohat, Bannu, Abbottabad, Swat and D.I. Khan.
- 15) The Senior District Accounts Officer Nowshera, Swabi, Charsadda, Haripur, Mansehra and Dir Lower.
- 16) The Treasury Officer, Peshawar.
- 17) All District/Agency Accounts Officers in Khyber Pakhtunkhwa / FATA.
- 18) PSO to Senior Minister for Finance, Khyber Pakhtunkhwa.
- 19) PSO to Chief Secretary, Khyber Pakhtunkhwa.
- 20) Director Local Fund Audit, Khyber Pakhtunkhwa Peshawar.
- 21) PS to Finance Secretary.
- 22) PAs to All Additional Secretaries/ Deputy Secretaries in Finance Department.
- 23) All Section Officers/Budget Officers in Finance Department.
- 24) Mr. Jabir Hussain Bangash, President, Class-IV Association, Civil Secretariat, Khyber Pakhtunkhwa, Peshawar.
- 25) Mr. Manzoor Khan, President, Civil Secretariat Driver Association Khyber Pakhtunkhwa, Peshawar.
- 26) Mr. Akbar Khan Mohmand, Provincial President, Class-IV Association, Khyber Pakhtunkhwa, Peshawar

  
(MURAD AHMED)  
SECTION OFFICER (FR)

**BEFORE ~~KPK~~ SERVICE TRIBUNAL, PESHAWAR**

Misc: Appl: No. \_\_\_\_\_/2022  
In Service Appeal No.1791/2019

Asmatullah Versus. Govt: KP etc.

Put up  
file today  
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27/7/22

**APPLICATION WITH THE REQUEST TO ALLOW THE APPELLANT TO WITHDRAW THE ABOVE TITLED SERVICE APPEAL**

Respectfully Sheweth: -

The appellant humbly submits as under:-

1. That the above titled service appeal is pending before this Honourable Tribunal, which is fixed for 25.07.2022.
2. That the department ensured the appellant that they will consider the departmental representation of the appellant strictly in accordance with law and will decide the same.
3. That in the above-mentioned situation the appellant wants to withdraw the above titled service appeal and will wait for the decision of the departmental representation.

It is, therefore, humbly prayed that the appeal of the appellant may be dismissed as withdrawn.

Your Humble appellant,

*Asmatullah*

Asmatullah  
Appellant

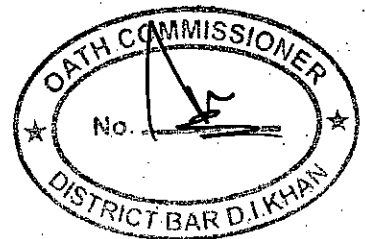
Dated:25.07.2022

**AFFIDAVIT:**

I, Asmatullah son of Inayatullah, Crank Shaft Grinder, Agricultural Engineering DIKhan, the appellant, do hereby solemnly affirm on oath that the contents of the above titled application are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Court.

*Asmatullah*  
Deponent

Dated: 25.07.2022



1

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

**Service Appeal No.1791/2019**

Asmat Ullah son of Inayat Ullah, Crank Shaft Grinder, Agricultural Engineering, Dera Ismail

**(Appellant)**

**Versus**

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. Government of Khyber Pakhtunkhwa through Secretary Agriculture, Livestock, Cooperative and Dairy Development Department, Peshawar.
3. Director Agricultural Department Peshawar Tarnab Farm, Peshawar.
4. Agricultural Engineer, D.I.Khan Division, D.I.Khan.
5. Assistant Agricultural Engineer, D.I.Khan Division, D.I.Khan.

**(Respondents)**

---

**Para-wise comments on behalf of respondents No.1,2,3 and 5**

---

**PRELIMINARY OBJECTIONS**

1. That the Appellant has got no locus standi to file this appeal therefore, the appeal is liable to be rejected.
2. That Appellant has got no cause of action.
3. That the appeal is pre-mature and not maintainable.
4. That Appellant is concealing facts from this Hon'ble Court.
5. That instant appeal is badly time barred.
6. The Appellant has not come to the court with clean hands.

**ON FACTS:-**

1. Correct.
2. Correct to the extent that the appellant Mr. Asmat Ullah S/o Inayat Ullah resident of Dera Ismail Khan was appointed on the post of Crank Shaft Grinder (BPS-05) vide Agricultural Engineer, Dera Ismail Khan Division D.I.Khan office order No. 1287-91/AE dated 02.04.1996 and later on he was terminated (**Annexure-A & B**) by the Competent Authority on the recommendation of the Inquiry Committee constituted for verification and scrutinizing the record of the appointments
3. Correct to the extent that the appellant filed a Writ Petition No.667-D/2016 titled Asmatullah S/o Inayat Ullah V/S Govt: of Khyber Pakhtunkhwa & others in Hon'ble Peshawar High Court, D.I.Khan Bench for appointment under Government of Khyber Pakhtunkhwa,

2

Sacked Employees (Appointment) Act, 2012. The Hon'ble Peshawar High Court Dera Ismail Khan, Bench announced its decision in the said Writ Petition on 04-07-2017. Abstract of the decision is reproduced below:-

**Para-7: "In view of what has been discussed above, we admit and allow this petition; and consequently, direct the respondent No.2 to reinstate the Petitioner in service according to law on his own turn."**

4. Correct to the extent that the Appellant filed COC in Hon'ble Peshawar High Court, DIKhan Bench and accordingly the appellant was appointed as Crank Shaft Grinder (BPS-05), the COC was accordingly disposed-off. However the department filed CPLA in the august Supreme Court of Pakistan against the judgment dated 04.07.2017 of Hon'ble Peshawar High Court, DIKhan Bench which is still pending (**Annexure-C**).
5. That as per judgment of the Hon'ble Peshawar High Court, DIKhan Bench the appellant has been appointed as Crank Shaft Grinder (BPS-05) as per Government of Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 as per following rules.

**3. Appointment of sacked employees.**--- Notwithstanding anything contained in any law or rule for the time being in force, on the commencement of this Act, all sacked employees subject to section 7, may be appointed in their respective cadre of their concerned Department, in which they occupied civil posts before their dismissal, removal and termination from service:

Provided that the sacked employees shall be appointed against thirty percent of the available vacancies in the said Department:

**5.Sacked employees shall not be entitled to claim seniority and other back benefits.**--- A sacked employee appointed under section 3, shall not be entitled to any claim of seniority, promotion or other back benefits and his appointment shall be considered as fresh appointment.

Furthermore, the post of Crank Shaft Grinder is in BPS-05 and accordingly the appellant was appointed in BPS-05. As there is no post (i.e. Crank Shaft Grinder) available in BPS-07 in the department. Furthermore the appellant has only rendered about 10 months in the department and was terminated on the report of the Committee.

6. The Appellant filed departmental appeal on 02.09.2019 which is badly time barred.

#### **GROUNDS**

1. Correct to the extent that the appellant is appointed against the newly created post of Crank Shaft Grinder (BPS-05) by the Government of Khyber Pakhtunkhwa, Finance Department as per directions/judgment of Hon'ble Peshawar High Court, DIKhan Bench
2. That on the judgment of the Hon'ble Peshawar High Court, DIKhan Bench the department submitted a detailed case to the Government of Khyber Pakhtunkhwa, Finance Department for creation of the post (being already abolished) (**Annexure-D**). The Government of Khyber Pakhtunkhwa, Finance Department vide letter No. BO VII/FD/2-3/2018-19 dated 17/05/2019

(Annexure-E) sanctioned the post of Crank Shaft Grinder in BPS-05 against which the appellant was appointed and the COC was accordingly disposed-off. Furthermore the appellant is misleading this Hon'ble Court by stating that malafide intention is involved. All the acts have been done according to the Government of Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 (Annexure-F) and the appellant was fully aware about the same.

- 3. That the post of the Crank Shaft Grinder was not available and had been abolished during 2001-02. Therefore the appellant was appointed in BPS-05 against the newly created post and thus the appellant has been treated as per rules/policy of the Provincial Government.
- 4. That the department may be allowed to raise and submit additional grounds during the course of arguments.

Note: - The post of Agricultural Engineer, DIKhan Division DIKhan (Respondent No.04) was abolished during 1998

In view of the above facts and grounds, it is humbly prayed that the appeal of the appellant may be dismissed with cost.

Chief Secretary,  
Government of Khyber Pakhtunkhwa  
(Respondent No.01)

Secretary, ✓  
Government of Khyber Pakhtunkhwa,  
Agriculture, Livestock, Cooperation and Dairy  
Development Department Peshawar  
(Respondent No.02)

Director,  
Agricultural Engineering,  
Khyber Pakhtunkhwa Tarnab Peshawar  
(Respondent No.03).

Assistant Agricultural Engineer  
D.I.Khan.  
(Respondent No. 05 )

BETTER COPY.

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OFFICE ORDER:-

Consequent upon the recommendation of Departmental Section/Promotion committee held on 02.04.1996 at 09:00 AM, under the Chairmanship of the undersigned, whereafter Asmatullah s/o Inayatullah of Karamat Abad D.I.Khan was appointed as Security Sergeant in BPS-5 for six months and posted as C.S.Grinder against vacant post by this office.

Therefore, he is selected as Cran Shaft Grinder in BPS-5 (1400-66-2370) in D.I.Khan Workshop against the vacant post and his services been regular in interest w.e. from 01.02.1996 from the date of first appointment on usual terms and conditions as mentioned in his appointment order.

-Sd/-

(Jehanzeb Khan)  
Agricultural Engineer  
D.I.Khan Divn: D.I.Khan.

No.1287-91/A.B dated D.I.Khan, the 02 /04/1996

Copy to:-

- 1-The above concerned.
- 2-The Director Agricultural Engineering, NWFP, Peshawar along with copy of minutes of the meeting and w.r. to his No:T52-54 dated 21.01.1996.
- 3-The Supdt:Workshop, D.I.Khan.
- 4-The District Accounts Officer, D.I.Khan.
- 5-The staff Assistant of this office for information and n/action.

-Sd/-

(Jehanzeb Khan)  
Agricultural Engineer  
D.I.Khan Divn: D.I.Khan.

(5)

(9)

Anne

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Consequent upon the recommendation of the selection/ promotion committee held on 12.12.1996 at 3.00 p.m. under the Chairmanship of Mr. M. S. Chaudhary, Assistant B/C In-charge of Accounts, Dikhan was appointed as Secretary in grade-5 for six months and posted as <sup>Secretary</sup> in vacant post by this office. C.S. Grawal

Therefore he is selected as Grant Sheet holder in grade-5 (1400-66-2300) in Dikhan for which against the vacant post of his services have been regularly continued from 1.2.1996 from the date of first appointment on usual terms and conditions as mentioned in his appointment order.

By/-(Jehanzeb Khan),  
Agricultural Engineer,  
Dikhan, Divn: D.I.Khan.

1287-91  
For A.P.,  
Dated D.I.Khan, the 2/4/1996.  
Copy to:-

1. The above concerned;
2. The Director, Agril. Engineering, S.A.P. Bannu, Peshawar; alongwith copy of minutes of the meeting and n.r. to his No: 752-94 dt: 21.1.1996.
3. The Supdt. Workshop, Dikhan;
4. The Supdt. Accounts Officer, Dikhan;
5. The Supdt. of this office,  
for information and n/acting.

Jehanzeb Khan  
Agricultural Engineer,  
Dikhan, Divn: D.I.Khan.  
2/4/96

38  
b  
BETTER COPY.

OFFICE ORDER:-

In compliance of the Director Agricultural Engineering NWFP, Tarnab Peshawar Office Order No: 363/DAE dated 14.01.1997 regarding cancellation of unauthorized /illegal departmental Selection/Promotion committee constituted by this office previously the service of the following officials are hereby terminated with effect from 26.01.1997:-

1. Taser Khan s/o Amanullah of Mohallah (D.H.Q) Usman Khel Tehsil Kulachi District D.I.Khan.
2. Asmatullah s/o Inayatullah C.S.Grinder of Kiramatabad D.I.Khan.
3. Saif-Ur-Rehman s/o Abdul Hai of Kulachi Skilled Quli, District D.I.Khan.

-Sd/-

(Mohib Ali Shah)  
Agricultural Engineer  
D.I.Khan Divn: D.I.Khan.

No.256-66/A.B dated D.I.Khan, the 27/01/1997

Copy to:-

- 1-The All concerned.
- 2- The District Accounts Officer, D.I.Khan.
- 3- The Director Agricultural Engineering, NWFP, Peshawar with reference to his No: 363/DAE dated 14.01.1997.
- 4-The Assistant Engineer (Drilling), D.I.Khan for information and necessary action.

-Sd/-

(Mohib Ali Shah)  
Agricultural Engineer  
D.I.Khan Divn: D.I.Khan.



387

Annex D

7

OFFICE ORDER.

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In compliance of the Director Agricultural Engineering N.W.F.P. Peshawar Office order No. 363/DAE dated 14.1.1997 regarding cancellation of un-authorized / illegal Departmental selection / promotion Committee constituted by this office previously the services of the following officers are hereby terminated with effect from 26.1.1997.

D-565  
D-569  
D-571

- 1. Tarsam Khan S/O Amanullah of Mchallah (D.H.R.)
- 2. Usman Khel Tehsil Kulachi Distt: D.Khan.
- 3. Asmaullah S/O Inayatullah S. Grinder of Karamat Abad D.T. Khan.
- 4. Saifur Rahman S/O Abdul Hai of Kulachi Skilled Dept. Distt: D.T. Khan.

27/1/1997  
AGRICULTURAL ENGINEER,  
PESHAWAR OFFICE, PESHAWAR.

27-1-1997  
/AE dated D.Khan the.

- 1. All Concerned.
- 2. The District Accounts Officer, D.Khan.
- 3. The District Agricultural Engineer, Peshawar with reference to his No. 363/DAE dated 14.1.1997.
- 4. The Assistant Agricultural Engineer (Drilling), D.Khan for information and necessary action.

*[Signature]*  
Agricultural Engineer,  
Peshawar Office, Peshawar.  
28.1.97

IN THE PESHAWAR HIGH COURT, D.I. KHAN BENCH

FORM OF ORDER SHEET

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Date of order or proceedings (1)	Order or other proceedings with signature of Judge(s) (2)
04.7.2017	<p><u>W.P. No. 667-D/2016.</u></p> <p><u>Present:-</u> Mr. Saleem Ullah Khan Ranazai, Advocate for the petitioner.</p> <p>Mr. Kamran Hayat Miankhel, Addl: A.G. for the respondents.</p> <p align="center">***</p> <p><u>MUHAMMAD AYUB KHAN, J.-</u> Through the instant petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner Asmatullah Khan has prayed for issuance of writ directing the respondents to appoint him on the basis of Sacked Employees (Appointment), Act 2012 on his original post or on the basis of retired employees' sons as class IV employee in any of the wings of the Agriculture Department.</p> <p>2. Facts in brief as spelt out from the writ petition are that, after serving the Agriculture Engineering Department, D.I. Khan as Chowkidar, father of the petitioner retired on 01.11.1995. That vide order dated 29.01.1996, the petitioner was appointed as Security Sergeant in BPS-5 on</p>

*[Handwritten signature]*

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temporary basis for a period of six months, whereafter his services were regularized against the vacant post of Crane Shaft Grinder BPS-5 vide letter/order bearing No.1287-9/AE dated 02.4.1996. That vide letter/order No.261-266/AE dated 27.01.1997, services of the petitioner were dispensed with without any reason. That pursuant to promulgation of Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012, the respondents appointed the employees who were dismissed, removed or terminated from service during the period from 01.11.1996 to 31.12.1998. That since the petitioner falls within the category of sacked employees who have been appointed by the department, therefore, the petitioner requested the respondents to appoint him against on the basis of the Act ibid, but of no avail. Hence, the instant writ petition.

*[Handwritten signature]*

3. Respondents No.3 & 5, in their para-wise comments while answering Para 9 & 10 of the writ petition, admitted that petitioner was appointed as Crank Shaft Grinder BPS-5 and was terminated from service due to irregular appointment. They further admitted that as per requirement of Khyber Pakhtunkhwa Sacked

Employees (Appointment) Act, 2012, the petitioner submitted application for his reinstatement and that as per section 6 of the Act ibid, on accrual of vacancy in the respective cadre of the concerned department of the sacked employee against the 30% available share, preference is to be given to the sacked employee who is older in age.

4. For convenience, Section 2(g) of Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012, is reproduced as under:-

“Sacked employee” means a person who was appointed on regular basis to a civil post in the Province and who possessed the prescribed qualification and experience for the said post at that time, during the period from 1<sup>st</sup> day of November, 1993 to the 30<sup>th</sup> day of November, 1996 (both days inclusive) and was dismissed, removed, or terminated from service during the period from 1<sup>st</sup> day of November, 1996 to 31<sup>st</sup> day of December, 1998 on the ground of irregular appointments”.

5. Perusal of record would reveal that vide order dated 02.4.21996, services of the petitioner were regularized w.c.f. 01.2.1996 from the date of first appointment. Subsequently, vide office order dated 27.01.1997, the petitioner was terminated from service on the ground that he was irregularly appointed. After promulgation of

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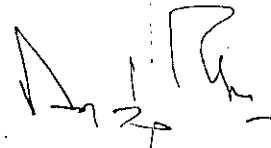
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Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012, the petitioner submitted application for his reinstatement with specific reference to Section 7 of the ibid Act.

6. Keeping in view the above, the learned Addl: A.G. was asked as to whether case of petitioner falls within definition of sacked employees, he unable to controvert the same and rightly so, because application of the petitioner for his reinstatement is available on file with specific reference to promulgation of Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012, therefore, refusal of the respondents to reinstate him in service was unjustifiable, rather discrimination.

7. In view of what has been discussed above, we admit and allow this petition; and consequently, direct the respondent No.2 to reinstate the petitioner in service according to law on his own turn.

Announced.  
Dt: 04.7.2017.

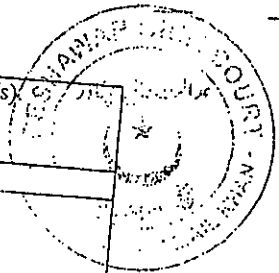
  
JUDGE

  
JUDGE



PESHAWAR HIGH COURT, D.I. KHAN BENCH

FORM OF ORDER SHEET



Date of Order or proceedings (1)	Order or other proceedings with signature of Judge(s) (2)
12.02.2019	<p><u>C.O.C.No.890-D/2017.</u></p> <p><u>Present:</u> Mr. Salimullah Khan Ranazai, Advocate for the petitioner.</p> <p>Asstt: A.G for respondents. ***</p> <p>The latter requests for a short adjournment in order to produce compliance report of the order of this Court dated 04.7.2017. Adjourned to 11.3.2019. He is directly to produce the same positively on the date fixed.</p> <p style="text-align: right;"><u>Hon'ble</u> <u>JUDGE</u></p> <p style="text-align: right;"><u>JUDGE</u></p> <p>G.R.No. <u>838</u></p> <p>Application Received on <u>15-02-19</u></p> <p>Copying Fee deposited Rs</p> <p>No. of Papers <u>04 page</u></p> <p>Copying Fee <u>all</u></p> <p>Urgent Fee <u>Flt</u></p> <p>Total Fee</p> <p>Copy read for trial on <u>16-02-19</u></p> <p>Copy delivered on <u>16-02-19</u></p> <p>Signature of Examiner <u>[Signature]</u></p> <p style="text-align: right;"><u>16-02-19</u></p> <p style="text-align: right;">Certified to Petitioner Copy Peshawar High Court Bench D.I. Khan Author of the Court [Signature]</p>

Unbuly

(DP)  
Hon'ble Mr. Justice S.M. Attique Shah  
Hon'ble Mr. Justice Shakeel Ahmad

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FORM OF ORDER SHEET

Date of order or proceedings	Order or other proceedings with signature of Judge(s).
(1)	(2)
22.4.2019	<p><u>C.O.C.No.890-D/2017.</u></p> <p><b>Present:-</b> Mr. Safimullah Khan Ranazai, Advocate for petitioner.</p> <p>Mr. Adnan Ali, Asstt: A.G. for respondent alongwith Assistant Engineer, Agriculture Engineering, D.I.Khan.</p> <p>***</p> <p>At the very outset, the latter produced copy of letter dated 17.4.2019, vide which the Secretary to Government of K.P.K Finance Department was requested for creation of one post of Crank Shaft Grinder (BPS-5) in the office of Assistant Agriculture Engineer, D.I.Khan in the light of judgment of this Court. Secretary to Government of K.P.K Finance Department is directed to finalize that very request within a period of 30 days positively under intimation to the office of Additional Registrar of this Court. Director Agriculture Department Tarnab Farm Peshawar is also directed to pursue the matter with the Secretary Finance Department. Adjourned to 17.6.2019.</p> <p style="text-align: right;"><i>[Signature]</i> <u>JUDGE</u></p> <p style="text-align: right;"><i>[Signature]</i> <u>JUDGE</u></p>

*[Handwritten initials]*  
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Imran/

(D.B)  
Hon'ble Mr. Justice S.M. Attique Shah  
Hon'ble Mr. Justice Shakaol Ahmad

Certified to be true Copy  
29-04-19  
Peshawar High Court  
D.I. Khan Bench

G.R.No. \_\_\_\_\_  
Applicant's Fee \_\_\_\_\_  
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Copy ready for delivery \_\_\_\_\_  
Copy delivered on \_\_\_\_\_  
Signature of Clerk \_\_\_\_\_  
29-04-19

14 (L) 5/1

BEFORE THE PESHAWAR HIGH COURT, DERA ISMAIL KHAN BENCH.  
Contempt of Court Petition No. 890 /2017.  
In Writ Petition No. 667-D of 2016.

Asmatullah Khan son of Inayatullah Khan resident of Karamat Abad, Tehsil and District Dera Ismail Khan. (Petitioner)

Versus

Muhammad Israr Secretary to Government of Khyber Pakhtunkhwa for Agriculture Lives Stock and Cooperative Department Peshawar. (Respondent)

PETITION WITH THE REQUEST TO INITIATE CONTEMPT OF COURT PROCEEDINGS AGAINST THE RESPONDENTS, WHO, DESPITE THE CLEAR CUT ORDERS OF THIS HON'BLE COURT DATED 04.07.2017 IS NOT IMPLEMENTING THE SAME BY REINSTATING THE PETITIONER IN SERVICE.

Respectfully Sheweth;

The petitioner humbly submits as under.

BRIEF FACTS:-

1. That the petitioners filed a writ petition bearing No.667-D of 2016 for his reinstatement in service of Agriculture Department on the basis of the act known as Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012. Copy of the writ petition is enclosed as Annexure A.
2. That the respondents filed their comments, wherein the status of the petitioner has been admitted in clear words. Copy of the comments is enclosed as Annexure B.
3. That the Hon'ble Court after hearing arguments from both sides allowed the writ petition vide judgment dated 04.07.2017 and directed the respondents to reinstate the petitioner in service according to law on his own turn. Copy of the judgment is enclosed herewith as Annexure-C.
4. That the petitioner then sent an application dated 16.08.2017 to the respondents for the implementation of the judgment but no fruitful result has come out as yet. Copy of application is enclosed herewith as Annexure-D.
5. That it is pertinent to mention here that the Additional Registrar of this Hon'ble Court also informed the respondent about the judgment of this Hon'ble Court and the Assistant Agriculture Engineer, D.I.Khan through a letter requested the Director, Agriculture Engineering, Khyber Pakhtunkhwa Peshawar by giving the history of the petitioner and also the judgment of this Hon'ble Court was annexed with the same. Copy of the letter is enclosed herewith as Annexure-E.
6. That the petitioner lay hands over an office order dated 01.08.2017, whereby sanction is accorded in favour of one Jehanzeb Khan Junior Store Keeper for LPR and retirement

Additional Registrar  
29/08/17  
4314



(2)

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with effect from 31.08.2017 and the same post will become vacant on the date mention above. Copy of office order is enclosed herewith as Annexure-F.

7. That feeling aggrieved, the petitioner seeks the indulgence of this Honourable Court for initiating contempt of court proceedings against the respondent for violating the orders of this Honourable Court on inter alia the following grounds.

GROUNDS:-

1. That once a clear cut order was passed by this Honourable Court then the respondent is legally bound to obey the order of this Honourable Court and by not doing so he exposed himself to the proceedings of contempt of court.
2. That the respondent is deliberately desisting from obeying the orders of this Honourable Court. therefore, he does not deserve any leniency, particularly when such like officers, who will not obey the orders of this Honourable Court or any other Court then how come an ordinary person can be expected to obey the orders of any Court, therefore, exemplary punishment should be given to the respondent.
3. That as mentioned above a seat is going to be vacant on 31.08.2017 and in the circumstances, when the Department is of the opinion that most of the posts have been abolished so that is why the Hon'ble Court directed the Secretary i.e. respondent to adjust the petitioner not in a particular wing but in the Department, wherever the seat is available, otherwise the concerned Director may have been directed for the compliance of the orders of the Hon'ble Court but the respondent is reluctant to adjust the petitioner on the post, which is going to be vacant on 31.08.2017 because he will adjust any other person of his own choice or under political pressure, despite the fact that this post has been pointed out by the petitioner to the respondent.
4. That the respondent, who is not obeying the orders of this Honourable Court for the reasons best known to him, which non-compliance/violation on the part of respondent definitely comes within the definition of contempt of court, for which he should be proceeded against and punished in accordance with law.
5. That the counsel for the petitioner may be allowed to raise additional grounds during the course of arguments.

It is, therefore, requested that contempt of Court proceedings may be initiated against the respondent for not obeying the orders of this Honourable Court and to penalize him to the maximum, so that the same may be an example for others, who disobey the orders of this Honourable Court or any other Court of the country.

INTERIM RELIEF.

To restrain the respondent from appointing/filling up the post of Junior Store Keeper, which is going to be vacant on 31.08.2017 till final disposal of the main petition.

43/14

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16 (3)

Humbly Petitioner;  
Through counsel;

*Salim Khan Ranazai*

(Salcmullah Khan Ranazai)  
Advocate Supreme Court.

Dated: 29.08.2017.

AFFIDAVIT

I, Asmatullah Khan son of Inayatullah Khan resident of Karamat Abad, Tehsil and District Dera Ismail Khan petitioner. do hereby affirm on Oath that the contents of the petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

Filed under 4314  
With Registrar,  
29/08/17

*Salim Khan Ranazai*

DEPONENT.

12101-09345;

Identified by

Dated: 29.08.2017.

*Salim Khan Ranazai*

(Salcmullah Khan Ranazai)  
Advocate Supreme Court.

Name Asmatullah Khan,  
S/O Inayatullah Khan,  
D/O Distr: D.I.Kh.

On the oath of

Salcmullah Khan Ranazai (Adv)

On this 29 day of Aug 17.

Verified the contents of the above  
affirmation as true on oath.

No 3864 Dated 29/08/17.

*[Signature]*  
Additional Registrar  
Joint Commissioner  
Peshawar High Court  
D.I.Khan Bench.

17

**BRIEF/JUSTIFICATION FOR CREATION OF ONE (1) POST OF CRANK SHAFT GRINDER (BPS-05) IN OFFICE OF THE ASSISTANT AGRICULTURAL ENGINEER, DERA ISMAIL KHAN.**

1. Mr. Asmat Ullah S/o Inayat Ullah of Dera Ismail Khan was appointed on the post of Crank Shaft Grinder (BPS-05) vide Agricultural Engineer, Dera Ismail Khan Division D.I.Khan office order No. 1287-91/AE dated 02.04.1996 and terminated on the same post due to irregular appointment vide Agricultural Engineer, Dera Ismail Khan Division D.I.Khan office order No. 256-66/AE dated 07.01.1997 (Annexure-A & B).

2. The above named applicant has filed a Writ Petition No. 687-D/2016 (Annexure-C) in the August Peshawar High Court, Dera Ismail Khan, Bench for appointment as per Government Pakhtunkhwa Sacked Employees Appointment Act, 2012 (Annexure-D). The judgment of the Peshawar High Court, Dera Ismail Khan, Bench (Annexure-E) in the said case which is reproduced below:-

*"In view of what has been discussed above, we admit and allow this petition; and consequently, direct the respondent No.2 to reinstate the petitioner in service according to law on his own turn."*

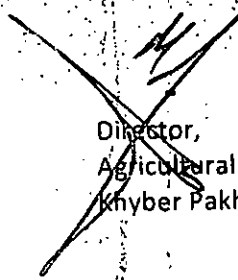
3. In the year 2001-02 the activities of Agriculture Engineering were curtailed from 12 to 2 districts by closing all workshops and the offices with exception of Peshawar and D.I.Khan. 1159 posts of different categories from BPS-1 to BPS-18 including the post of Crank Shaft Grinder (BPS-05) were abolished and 649 officials were placed in surplus pool. Seventy five bulldozers were handed over /shifted to Districts Government along with 194 Nos of staff, during course of downsizing/restructuring of Agricultural Engineering and the department was transformed from status of an attached department to a cell.

4. It is also mention herein the year 2005-06, that the then Government realizing the worth and importance of Agricultural Engineering Department and its existence as life line towards development of Agricultural Sector started phase-wise restoration of department by re-establishment of five sub offices one each at Swat, Bannu, Mansehra and Chitral. Later on an office of Agricultural Engineer, Mardan was also established. The department in view of pressing demand of farming community was also upgraded to the status of attached department as per Government of Khyber Pakhtunkhwa (the then NWFP), Establishment & Administration department (Regulation Wing) Notification dated 11/04/2007. In continuation of the phase-wise restoration process / expansion of the department and to make it more effective by expanding the developmental activities of the department to each corner of province, three new offices have been established from 1/07/2013 at district

18

Malakand at Batkhela, Haripur and Kohat. Thus currently total number of sub-offices stand at ten.

5. The department is unable to implement the judgment dated 04.07.2017 of the August Peshawar High Court Dera Ismail Khan, Bench due to non-availability of the post of Crank Shaft Grinder (BPS-05), while as per Sacked Employees Appointment Act, 2012, *all sacked employees subject to section-7 may be appointed in their respective cadre of their concerned department, in which they occupied civil posts before their dismissal, removal and termination from service: provided that the sacked employees shall be appointed against thirty percent of the available vacancies in the said department.*
6. The petitioner also filed a C.O.C No. 890-D/2017 for non-compliance/implementation of the judgment reply of the department. (Annexure-F & G). The Hon'able Court is repeatedly issuing directions for implementation of the court order dated 04.07.2017 in the C.O.C (Annexure-H). The department has also filed a CPLA No.439-P/2017 in the August Supreme Court of Pakistan against the judgment dated 04.07.2017 of the Hon'able Peshawar High Court Dera Ismail Khan, Bench (Annexure-J).
7. In view of the above fact, one (1) No post of Crank Shaft Grinder (BPS-05) may please be created in office of the Assistant Agricultural Engineer, Dera Ismail Khan to implement the judgment dated 04.07.2017 of the August Peshawar High Court Dera Ismail Khan, Bench so that the Petitioner can be appointed conditionally against the said post subject to the decision by the August Supreme Court of Pakistan in CPLA No. 439-P/2017 and the said post will be retained/abolished according to decision of the Court. The department was directed by worthy Secretary, Government of Khyber Pakhtunkhwa Agriculture, Livestock and Cooperative Department to submit the case for creation of the post vide his letter No. SO(Lit)AD/ 1-583/2017 dated 16.04.2019 (Annexure-K).

  
Director,  
Agricultural Engineering,  
Khyber Pakhtunkhwa, Tarnab, Peshawar.



GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT

Finance Department Civil Secretariat Peshawar

<http://www.finance.gkp.pk>

[facebook.com/GoKPPFD](https://www.facebook.com/GoKPPFD)

[twitter.com/GoKPED](https://www.twitter.com/GoKPED)

No. BO-VIII/FD/2-3/2018-19

Dated: 17-05-2019

To

The Secretary to  
Govt. of Khyber Pakhtunkhwa  
Agriculture, Livestock & Cooperation Department.

Subject:

COC NO. 890-D/2017 IN WRIT PETITION NO. 667-D/2016-TITLED-  
ASMATULLAH KHAN VERSUS MUHAMMAD ISRAR/SNE FOR THE  
PERIOD 16-04-2019 TO 30-06-2019 (YEAR 2018-19) AND 2019-20.

Dear Sir,

I am directed to refer to your letter No. SOG(AD)/S.N.E/Engr./D.I.KHAN /2018-19 dated: 17-04-2019 on the subject noted above and to state that in light of Judgment of Hon'ble Peshawar High Court (D.I.Khan Bench), Finance Department agrees to create one post of Crank Shaft Grinder (BPS-05) in the office of Assistant Agricultural Engineer, D.I.Khan (DDO Code DI4213) with immediate effect in lieu of abolition of one vacant post of Assistant Mechanic Borer (BS-05).

The expenditure involved will be debitable to the Functional Cum Object, Classification 04-Economic Affairs, 042-Agri, Food, Irrigation, Forestry and Fishing, 0421-Agriculture, 042103-Agriculture Research and Extension Services, DI4213-Assistant Agricultural Engineer, D.I.Khan NC(21023) and will be met out within the sanctioned budget grant 2018-19.

Yours faithfully,

Budget Officer-VII

Endst. No & Date even.

Copy forwarded to:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
- ✓ 2. Director FMIU, Finance Department.
- ✓ 3. Director Agriculture Engineering, Khyber Pakhtunkhwa Peshawar.
- ✓ 4. District Account Officer, D.I.Khan.

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17/5/19  
Budget Officer-VII

EXTRAORDINARY  
GOVERNMENT



REGISTERED NO. PIII  
GAZETTE

## KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, THURSDAY, 20TH SEPTEMBER, 2012.

PROVINCIAL ASSEMBLY SECRETARIAT,  
KHYBER PAKHTUNKHWA

### NOTIFICATION

Dated Peshawar, the 20th September, 2012.

No. PA/Khyber Pakhtunkhwa/Bills/2012/6077.--The Khyber Pakhtunkhwa Sacked Employees (Appointment) Bill, 2012 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 10th September, 2012 and assented to by the Governor of the Khyber Pakhtunkhwa on 17th September, 2012 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA SACKED EMPLOYEES (APPOINTMENT) ACT, 2012

(KHYBER PAKHTUNKHWA ACT NO. XVII OF 2012)

*(first published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa (Extraordinary), dated the 20th September, 2012).*

AN  
ACT

*to provide relief to those sacked employees in the Government service,  
who were dismissed, removed or terminated from service,  
by appointing them into the Government service*

WHEREAS it is expedient to provide relief to those sacked employees who were appointed on regular basis to a civil post in the Province of the Khyber Pakhtunkhwa and who possessed the prescribed qualification and experience required for the said post, during the period from 1<sup>st</sup> day of November, 1993 to the 30<sup>th</sup> day of November, 1996 (both days inclusive) and were dismissed, removed, or terminated from service during the period from 1<sup>st</sup> day of November, 1996 to 31<sup>st</sup> day of December, 1998 on various grounds;

WHEREAS the Federal Government has also given relief to the sacked employees by enactment;

AND WHEREAS the Government of the Khyber Pakhtunkhwa has also decided to appoint these sacked employees on regular basis in the public interest;

It is hereby enacted as follows:

1. Short title, extent and commencement---(1) This Act may be called the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012.

(2) It shall apply to all those sacked employees, who were holding various civil posts during the period from 1<sup>st</sup> day of November, 1993 to 30<sup>th</sup> day of November, 1996 (both days inclusive).

(3) It shall come into force at once.

2. Definitions--- In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them that is to say,-

- (a) "civil post" means a post created by the Finance Department of Government for the members of civil service of the Province;
- (b) "Department" means the Department and the Attached Department as defined in the Khyber Pakhtunkhwa Government Rules of Business, 1985, including the Divisional and District offices working thereunder;
- (c) "Government" means the Government of the Khyber Pakhtunkhwa;
- (d) "Prescribed" means prescribed by rules;
- (e) "Province" means the Province of the Khyber Pakhtunkhwa;
- (f) "rules" means the rules made under this Act; and
- (g) "sacked employee" means a person who was appointed on regular basis to a civil post in the Province and who possessed the prescribed qualification and experience for the said post at that time, during the period from 1<sup>st</sup> day of November, 1993 to the 30<sup>th</sup> day of November, 1996 (both days inclusive) and was dismissed, removed, or terminated from service during the period from 1<sup>st</sup> day of November, 1996 to 31<sup>st</sup> day of December, 1998 on the ground of irregular appointments.

3. Appointment of sacked employees---Notwithstanding anything contained in any law or rule for the time being in force, on the commencement of this Act, all sacked employees subject to section 7, may be appointed in their respective cadre of their concerned Department, in which they occupied civil posts before their dismissal, removal and termination from service:

Provided that the sacked employees shall be appointed against thirty percent of the available vacancies in the said Department:

Provided further that the appointment of sacked employees shall be subject to the medical fitness and verification of their character antecedents to the satisfaction of the concerned competent authority.

4. Age relaxation.--- The period during which a sacked employee remained dismissed, removed or terminated from service, till the date of their appointment shall be deemed to have been automatically relaxed and there shall be no further relaxation under any rules for the time being in force.

5. Sacked employees shall not be entitled to claim seniority and other back benefits.--- A sacked employee appointed under section 3, shall not be entitled to any claim of seniority, promotion or other back benefits and his appointment shall be considered as fresh appointment.

6. Preference on the basis of age.--- On the occurrence of a vacancy in the respective cadre of the concerned Department of the sacked employee against the thirty percent available share, preference shall be given to the sacked employee who is older in age.

7. Procedure for appointment.---(1) A sacked employee, may file an application, to the concerned Department within a period of thirty days from the date of commencement of this Act, for his appointment in the said Department:

Provided that no application for appointment received after the due date shall be entertained.

(2) The concerned Department shall maintain a list of all such sacked employees whose applications are received under sub-section (1) in the respective cadres in chronological order.

(3) If any vacancy occurs against the thirty percent available share of the sacked employee in any Department, the senior in age from such sacked employee shall be considered by the concerned Departmental Selection Committee or the District Selection Committee, as the case may be, to be constituted in the prescribed manner, for appointment.

Provided that no willingness or response is received within a period of thirty days, the next senior sacked employee shall be considered for appointment.

(4) The concerned Departmental Selection Committee or District Selection Committee, as the case may be, will determine the suitability or eligibility of the sacked employee.

(5) If no sacked employee is available against thirty percent vacancy reserved in respective cadre in a Department, then the post shall be filled through initial recruitment.

8. Removal of difficulties.--- If any difficulty arises in giving effect to any of the provisions of this Act, the Chief Minister Khyber Pakhtunkhwa may issue such order not inconsistent with the provision of this Act, as may appear to him to be necessary for the purpose of removing the difficulty:

Provided that no such power shall be exercised after the expiry of one year from coming into force of this Act.



22  
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148 KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 20th SEPTEMBER, 2012.

9. Act to override other laws.--- Notwithstanding anything to the contrary contained in any other law or rules for the time being in force, the provisions of this Act shall have overriding effect and the provisions of any other law or rules to the extent of inconsistency to this Act, shall cease to have effect.
10. Power to make rules.--- Government may make rules for carrying out the purpose of this Act.

BY ORDER OF MR. SPEAKER

PROVINCIAL ASSEMBLY OF KHYBER  
PAKHTUNKHWA

(AMRATULLAH)

Secretary

Provincial Assembly of Khyber Pakhtunkhwa