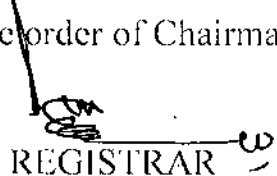


FORM OF ORDER SHEET

Court of _____

Case No.- _____ **33/2023**

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	4/1/2023	<p>The appeal of Mr. Amjad Khan presented today by Mr. Afrasiab Khan Wazir Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on_____. Parcha Peshi is given to appellant/counsel.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 33 /2022

AMJAD KHAN

VS

GOVT: OF KP
& OTHERS

INDEX

S. NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of Appeal	1-2
2.	Affidavit	3
3.	Appointment order dated 02.05.2013	A	4
4.	Service book and last Salary slip	B & C	5-11
5.	Bank statement	D	12
6.	Letter dated 13.06.2022	E	13
7.	Departmental Appeal	F	14
8.	Vakalatnama	15

APPELLANT

THROUGH:

AJ *siab*
AFRASIAB KHAN WAZIR
ADVOCATE HIGH COURT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 33 /2022

Mr. Amjad Khan,
Class-IV (Chowkidar) Tube Well, Bagzai
post office Alizai Tehsil Lower Kurram District Kurram.

.....APPELLANT.

VERSUS

- 1- The Executive Engineer, Public Health & Engineering Division Lower Kurram.
- 2- The Executive Engineer, Public Health & Engineering Division, Parachinar.
- 3- The Accountant General Khyber Pakhtunkhwa, Peshawar.
- 4- The District Account Officer Parachinar.

.....RESPONDENTS.

APPEAL U/S-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST ILLEGAL AND UNLAWFUL ACTION OF THE RESPONDENTS BY STOPPING AND NOT RELEASING THE SALARIES OF THE APPELLANT W.E.F DECEMBER 2018 TILL DATED WITHOUT ANY REASON AND AGAINST INACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD.

Prayer:

That on acceptance of this instant service appeal of the appellant the action of respondents of stoppage/non-payment of salaries of appellant w.e.f December 2018 till dated may very kindly be declared illegal and unlawful and the respondents may further please be directed to release/pay salaries of appellant since December 2018 till dated, with all back benefits. Any other remedy which this Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:
ON FACTS:

Brief facts of the appeal are as following:

1- That the appellant is appointed vide order dated 02.05.2013 in the respondents department as Class-IV (Chowkidar) on Tube Well and since his appointment the appellant is performing his duties till dated with whole heartedly. Copy of appointment order dated 02.05.2013 is attached as annexure.....A.

2- That after appointment of appellant the respondents also issued service book and after that appellant was taking his

salaries till November 2018. **Copy** of the service book and last salary slip are attached as annexure.....**B & C.**

3- **That** the respondents without presenting any reason via speaking order stopped the salaries of the appellant since December 2018.

Copy of the Bank statement are attached as annexure.....**D.**

4- **That** the respondents later on issued letter and asked for reason of stoppage/non-payment of salaries of the appellant vide letter dated 13.06.2022. **Copy** of the Letter dated 13.06.2022 is attached as annexure.....**E.**

5- **That** the appellant feeling aggrieved from action of the respondents of stoppage/none-payment of salaries w.e.f December 2018 till dated, moved departmental appeal to the appellate authority which is still pending & unanswered. **Copy** of the departmental appeal is attached as annexure.....**G.**

6- **That** the appellant further feeling aggrieved and having no other remedy but to file this instant appeal on following grounds inter alia.

ON GROUNDS:

A-**That** the action of the respondents of stoppage and non-payment of salaries w.e.f December 2018 is against law, rules and norms of natural justice and hence action of the respondents be declared illegal and unlawful and without lawful authority.

B- **That** the appellant has not been treated in accordance with law and violated article 4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973.

C-**That** the action of the respondents is arbitrary in nature by stopping and non-payment of salaries to the appellant w.e.f December 2018 is against the norms of natural.

D-**That** the action of respondents of stoppage and non-payment of salaries to the appellant is against S.17 of the Civil servant Act, 1973.

E- **That** the action of the respondents is against Article 38(e) of the constitution of Islamic Republic of Pakistan.

F- **That** it's a vested right of the appellant to be paid salaries in due time and its stoppage by the respondents is against law and rules.

G-That the apex in various judgments held that salary is not bounty that could be stopped at the wishes of the high up.

H-That that the respondents haven't served notice upon the appellant beforehand while stopping/non-payment of salaries of the appellant.

I- That the no opportunity of chance of personal hearing/defense has been granted to the appellant beforehand.

J- That the appellant seeks permission to advance any other ground and proof at the time of regular hearing.

Dated:

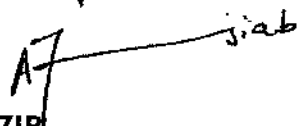


APPELLANT

AMJAD KHAN,

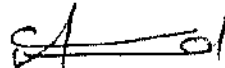
THROUGH:

AFRASIAB KHAN WAZIR
ADVOCATE HIGH COURT



Certificate:

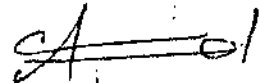
That no earlier appeal is preferred before this august tribunal.



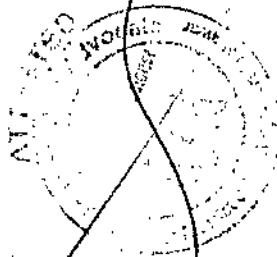
Deponent

Affidavit:

I Amjad Khan S/O Qadar Khan Bangash Bagzai post office Alizai Tehsil Lower Kurram District Kurram, solemnly affirm and declare that the contents of this Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this August Tribunal.



Deponent





OFFICE OF THE
EXECUTIVE ENGINEER
PUBLIC HEALTH ENGG. FATA DIVISION KOHAT
HOUSE # 29, SECTOR # 5, PHASE # 1, KDA, KOHAT

No. 1051 / S.E

Dated 2/5/2013

OFFICE ORDER

As recommended by the Political Agency Kurram Agency vide his letter No.281-82/AG/Nomination dated 28-1-2013 Mr. Amjad Khan S/O Qadar Khan Bangash resident of Village Baghzai is hereby appointed as Chowkidar on contract basis against the existing vacancy in PHE FATA Sub Division Kurram Agency in BPS-01(4800-150-9300) plus usual allowance as admissible under the rules on subject to the following terms and conditions.

- 1- The appointment is made purely on contract basis and is liable to termination at any time without any notice or reason. If he wishes to resign from the post, he shall give one Month notice prior to resignation or one Month pay will be deposited in lieu thereof.
- 2- He shall produce his health and age certificate from the Medical Superintendent Divisional Head quarter Hospital Kurram Agency.
- 3- He will not contribute to GPF and will not be entitled to pension, gratuity benefit, etc.
- 4- If he accepts the appointment on the terms and condition specified above, he shall report for duty to the Sub Divisional Officer PHE Sub Division Kurram Agency within 14-days of order, failing which the order shall be stood cancelled automatically.

EXECUTIVE ENGINEER

Copy to:-

- 1- The Medical Superintendent HQ Hospital Kurram Agency for information Please.
- 2- The District Accounts Officer Kohat.
- 3- The SDO PHE FATA Sub Division K/Agency for information & necessary action.
- 4- The DAO Local.
- 5- The Official concerned.

EXECUTIVE ENGINEER

~~ATTESTED~~

(For use in Police Department only)

Heirs:

1. Passed S.S. Exam: (A) 1995 from B.I.S.E Peshawar under Roll No. 176166, obtained 419 marks out of 850 marks and placed in Grade 'D'.

Verification Roll No. dated received back

Left Thumb Impression

Qualification	Date	Qualification	Date
English		First Arts	
Pushto		B.L. Or B.A.	
Urdu		Pleadership examination	
Plan-drawing		Training School Final examination	
Finger Print		Other qualification:--	
Drill Instructing			
Court Duties			
Reserve Duties			

~~ATTESTED~~

N.B. - Line to be drawn under the qualification possessed.

Note:- The entries in this page should be renewed or re-attested at least every five years and the signature to lines 9 and 10 should be dated.

1. Name: Mr. AMJAD KHAN

2. Race: BAGASH

3. Residence: VILL: BAGHZAI KURRAM AGENCY


4. Father's name and residence: QADAR KHAN As Above


5. Date of birth by Christian era as nearly as can be ascertained: 04-05-1976 (Fourth May N.H. Seventy Six)


6. Exact height by measurement: 5-6


7. Personal marks for identification: NIL

8. Left hand thumb and finger impression of (Non-Gazetted) officer:


Little Finger 

Ring Finger 

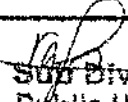
Middle Finger 

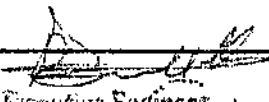
Fore Finger 

Thumb 

9. Signature of Government Servant: 

10. Signature and designation of the Head of the Office, or other Attesting Officer.


Sub Divisional Officer
Public Health Engg: Fata
Sub Division Parachinar


Executive Engineer
Public Health Engg: FATA Division
Kohat.

~~ATTESTED~~

1	2	3	4	5	6	7	8
Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Ari. 371 C.S.R.	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the term "PM"	Date of appointment	Signature of Government Servant
Chowkidar Post at PHE FATA Sub. Dir. Kurram Agency	Temp/off	BPS No. 1 (4800-150-9300)	Rs. 4800/- PM			07/05/2013	<i>[Signature]</i>
do			Rs. 4950/-			1-12-2013	
do			Rs. 5100/-			1.7.2014	
do			Rs. 5250/-			1.12.2014	

~~RECEIVED~~

11

ANNEX "C"

Sheet no. 1

Kohat
 P. Sec:001 Month:November 2018
 KY9000 - EXECUTIVE ENGINEER PHE PAF
 Min Of Water and Power
 PERS # 50186132 Buckle:
 Name: AMJAD KHAN
 CROWNIDAR
 CNIC No. 2130285395335
 CPF Interest Applied
 03 Active Temporary

Kohat
 P. Sec:001 Month:November 2018
 KY9000 - EXECUTIVE ENGINEER PHE PAF
 Min Of Water and Power
 PERS # 50186132 Buckle:
 Name: AMJAD KHAN
 CROWNIDAR
 CNIC No. 2130285395335
 CPF Interest Applied
 03 Active Temporary
 PAYS AND ALLOWANCES:
 2247-Adhoc Relief All 2018 104

Kohat
 P. Sec:001 Month:November 2018
 KY9000 - EXECUTIVE ENGINEER PHE PAF
 Min Of Water and Power
 PERS # 50186132 Buckle:
 Name: AMJAD KHAN
 CROWNIDAR
 CNIC No. 2130285395335
 CPF Interest Applied
 03 Active Temporary
 PAYS AND ALLOWANCES:
 2247-Adhoc Relief All 2018 104

KY9000
 11,560.00
 0001-Basic Pay 1,413.00
 1000-House Rent Allowance 1,785.00
 1210-Convey Allowance 2005 1,500.00
 1300-Medical Allowance 1,000.00
 1528-Unattractive Area Allow 240.00
 2148-15% Adhoc Relief All 2018 120.00
 2198-Adhoc Relief Allow 9101 934.00
 2211-Adhoc Relief All 2018 104 1,156.00
 2224-Adhoc Relief All 2017 104 20,864.00
 Gross Pay and Allowances 20,864.00

KY9000
 11,560.00
 0001-Basic Pay 1,413.00
 1000-House Rent Allowance 1,785.00
 1210-Convey Allowance 2005 1,500.00
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 2198-Adhoc Relief Allow 9101 934.00
 2211-Adhoc Relief All 2018 104 1,156.00
 2224-Adhoc Relief All 2017 104 20,864.00
 Gross Pay and Allowances 20,864.00

DEDUCTIONS:
 CPF Balance 28,232.00
 3701-Benevolent Fund(Exchange) 120.00
 3705-R. Ben & Death Comp (Koch) 368.00
 Subtot: 770.00
 Total Deductions 1,180.00

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 Subtot: 770.00
 Total Deductions 1,180.00

Total Deductions 1,180.00
 19,674.00
 D.O.B 04/05/1976
 05 Years 06 Months 025 Days
 LFP Quota
 NATIONAL BANK OF PAKISTAN
 4114486134

Total Deductions 1,180.00
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 D.O.B 04/05/1976
 05 Years 06 Months 025 Days
 LFP Quota
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 05 Years 06 Months 025 Days
 LFP Quota
 NATIONAL BANK OF PAKISTAN
 4114486134

TESTED

National Bank of Pakistan

ANNEX - D

Account Statement

Account Title(s) AMJAD KHAN

Address: BAGZAI KURRAM AGENCY

Town:

District: Khuram

City: KURRAM AGENCY

Province/State: FATA

Country: PAKISTAN

Product Name: PKR Current Account

Currency: PKR

CIF No: 10632122

Account No: 4114486134

IBAN: PK15NBPA1562004114486134

12

Postal Code:

Branch Code/Name: 1562 Bagan Branch (Ex-Manduri)

Region Name: Dera Ismail Khan

Statement Printing Date: 17-Mar-2022

User: 00015865

Branch: 1562

Terminal: VDI-BANNU

B/F Balance: 0.00

From: 01-Dec-2018

To: 28-Feb-2022

S. No.	Date	Particulars	Instrn	Memo	Debit	Credit	Balance
1	31-May-2019	CASH WITHDRAWAL	99991476		10,000.00	0.00	836.00
2	31-May-2019	CASH DEPOSIT		R	0.00	10,000.00	10,836.00
3	19-Apr-2021	E-REMITTANCE-GID#00711042100664			0.00	207,770.00	218,606.00
4	20-Apr-2021	CASH WITHDRAWAL	99991477		500.00	0.00	218,106.00
5	20-Apr-2021	E-REMITTANCE-GID#00711042100672			0.00	207,770.00	425,876.00
6	26-Apr-2021	CASH WITHDRAWAL	99991478		201,500.00	0.00	224,376.00
7	05-May-2021	CASH WITHDRAWAL	99991479		14,000.00	0.00	210,376.00
8	17-Jun-2021	CASH WITHDRAWAL	99991480		200,000.00	0.00	10,376.00

Total 3 Credit transactions of amount: 425,540.00

Total 5 Debit transactions of amount: 426,000.00

This is a computer generated statement and does not require any signature

Page 1 of 1

ATTESTED

ANNEX E



GOVERNMENT OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG: DEPARTMENT
(Civil Secretariat, Technical Block, Police Line Road, Peshawar)

13

No.SOG/PHED/General/1-36/2021-22
Dated Peshawar, the June 13, 2022

PHEDKPGovt PHEDKPGovt Msophed@gmail.com 0919223543 0919213922

To,

The Executive Engineer,
Public Health Division Lower Kurram.

Subject: **STOPPAGE/NON PAYMENT OF SALARY**

I am directed to refer to the subject noted above and to enclose herewith a copy of an application received from Amjid Khan s/o Haji Qadar Khan, who performed his duty regularly on the post of Class-IV in the Tube Well at Bagzal Lower Kurram alongwith enclosures, self-explanatory for further necessary action. The Deputy Secretary (Admn) PHED is nominated as inquiry officer in the subject case.

You are therefore directed to appear before the undersigned alongwith the A/O PHED Lower Kurram and all relevant record related to Mr. Amjad Khan Chowkidar regarding his salary, the reason of Stoppage/non payment etc., well in time at 11:00 am on 15.06.2022.

Encl: As Above:

Endst: Of Even No. & Date

Copy forwarded to:-

1. PS to Secretary PHED Peshawar.
2. PA to Additional Secretary PHED Peshawar.
3. Mr. Amjid Khan s/o Haji Qadar Khan Perform his duty regularly on the post of Class-IV in the Tube Well at Bagzal Lower Kurram.


Deputy Secretary (Admin)


Deputy Secretary (Admin)

ATTESTED

ANNEX 'F'

14

To

The Executive Engineer, Public Health & Engineering Division
Lower Kurram.

The Executive Engineer, Public Health & Engineering Division,
Parachinar.

**Sub: Departmental representation for release of salaries since
December 2018.**

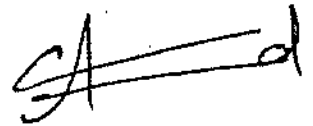
Respectfully sir,

With due respect it is stated that I am appointed as Class-IV Chowkidar Tube well and I am performing my duty since then. Sir. I am very poor and the sole bread winner for my family and I have no other source instead this job. I received my salaries till November 2018 and since December 2018 my salaries have been stopped without any reason. I requested the department that why my salaries are stopped but they are still silent on my salaries not mentioning the reason. Till dated I am performing my duties without any salary and have very clean service record since my appointment.

Sir it is requested looking into my poverty my salaries may very kindly be released since December 2018.

Dated: 13.09.2022.

APPLICANT



Amjad Khan
Class-IV Chowkidar Tube Well,
Bagzai post office Alizai Tehsil
Lower Kurram District Kurram

ATTESTED

VAKALATNAMA

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

_____ OF 2022

_____ Amjad khan _____
(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

_____ Public Health & Eng: DEPTT: _____
(RESPONDENT)
(DEFENDANT)

I/We _____ Amjad khan _____

Do hereby appoint and constitute, **Afrasiab Khan Wazir, Advocate High Court, Peshawar** 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 cost. 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.

Dated. _____ / _____ / 2022

CLIENT(S)

ACCEPTED
**AFRASIAB KHAN WAZIR
ADVOCATE HIGH COURT
PESHAWAR**

Office:
Room No.6 Ground Floor, Afridi Tower,
Government College Chowk, Peshawar.
Cell No.0312-9888752