

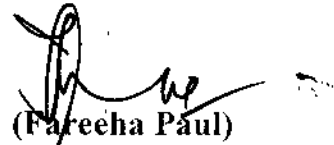
**ORDER**

28<sup>th</sup> Nov, 2022

1. Appellant alongwith his counsel present. Mr. Muhammad Riaz Khan Painsdakhel, Assistant Advocate General for respondents present.
2. Vide our detailed order of today placed in Service Appeal No. 76/2014 titled "Syed Shahin Shah-vs-Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Peshawar and others" (copy placed in this file), this appeal is also dismissed. Costs to follow the events. Consign.
3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 28<sup>th</sup> day of November, 2022.*



**(Kalim Arshad Khan)**  
**Chairman**



**(Fareeha Paul)**  
**Member(Executive)**

1405/1  
11/11

(1)

**BEFORE PESHAWAR HIGH COURT PESHAWAR**

Writ Petition No. 4867/P/2021



1. **Mr. Syed Shahin Shah**

(Deputy Director Finance /Accounts) O/O Directorate General  
LG&RD, Plot No.20, Phase-5 Hayatabad Peshawar,  
KP..... Petitioner.

**VERSUS**

1. The Chief Minister of Khyber Pakhtunkhwa,  
Civil Secretariate Peshawar, Khyber Road, Cantt, Peshawar, KP.
2. The Minister of Finance, Government of Khyber Pakhtunkhwa,  
Civil Secretariate Peshawar, Khyber Road, Cantt, Peshawar, KP.
3. The Chairman of SNE (Fresh) Committee, Finance Department,  
Civil Secretariate Peshawar, Khyber Road, Cantt, Peshawar, KP.
4. The Govt: of KPK Through The Chief Secretary KPK  
Civil Secretariate Peshawar, Khyber Road, Cantt, Peshawar, KP.
5. The Secretary to Government of Khyber Pakhtunkhwa, LG&RDD,  
Civil Secretariat, Khyber Road, Cantt, Peshawar, KP.
6. The Directorate General, LG&RD, Khyber Pakhtunkhwa,  
Plot No.20, Phase-5 Hayatabad Peshawar, KP.

**WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF**

**ISLAMIC REPUBLIC OF PAKISTAN 1973 AS AMENDED UP TO DATE**

**FACTS**

(2)

1. That the petitioner is the citizen of Pakistan and has every legal and Constitutional right duly protected under the Law of the land.
2. That petitioner was initially appointed as Training Manager, BPS-17 in the Worker Welfare Board, KP on 1-7-1991 after going through the written test and qualified the interviews.
3. That petitioner was also formally appointed through proper channel from statutory body to civil service. His whole service is regulated up to date of filing this petition.
4. That the petitioner was properly appointed as Accounts Officer in BPS-17 in the LG&RDD through KPK Public Service Commission vide order dated. 22-04-1996.
5. That the petitioner was adjusted due to restructuring of the LG&RDD in pursuant of the promulgation of LGO-2001 and posted in the office of the then DCO Peshawar and was posted in several other Departments.
6. That being a regular employee the petitioner was also posted as DDO(F) in Buner, DDO(F) Mardan and lastly the petitioner was again repatriated to his parent Deppt: and he is performing his duties as such in the office of D.G LG&RDD. The service of the petitioner from 1-7-1991 up to 2013 was totally ignored by the Establishment

FILED TODAY  
Deputy Registrar  
08 NOV 2021

3

petitioner because the post and service in department of the petitioner is always excluded from promotion chances.

The table given below is sufficient to show the prospects of other officers vis-e-vis the petitioner.

S.NO	YEAR	DESIGNATION	SCALE/STATUS	PROMOTIONAL SCALES	PROPOSED SCALE	COMMENTS
1.	2012	Assistant Director	17	18,19&20	20	In 2012 officers in BPS-17 was named as Deputy Director.
2.	2012	Planning officer	17 surplus	18,19&20	20	Promoted
3.	2012	Assistant Engineer	No Post	No Post	No Post	No post existed in 2012
4.	2014	Assistant Engineer	17	18	--	Creation made
5.	2016	Assistant Engineer	17	18 & 19	--	Scale 19 post created—Director Technical.
6.	2020-21	Assistant Engineer	17 FILED TODAY Deputy Registrar	18,19 & 20		Post of Chief Engineer is created for Engineers

08 NOV 2021

8. That the petitioner has also submitted an appeal to the DGLG, KP for providing proper service structure and channel of promotion up to the scale of BPS-19/20 in the service but no action has been taken on that application.
9. That having no other remedy the petitioner is constrained to file the instant Writ Petition on the following grounds amongst the others.

Grounds:

**ATTESTED**  
EXAMINER  
Peshawar High Court

- A. That not taking any action on the application/appeal of the petitioner by the respondents and not creating post of Director in BPS-19 & Special Director in BPS-20 with the channel of promotion to the

- C. That the petitioner has been discriminated because all other staff members of the LG&RDD have promotion chances and channel of promotion up to BPS-19/20 but the petitioner has been deprived from such promotion by not creating post in cadre and necessary amendments in the Departmental Rules for promotion.
- D. That all the ADs/Senior Ads/and Deputy Directors working as Drawing and Disbursing officers under Delegation of Financial Rules and carry out general duty but having post for their promotion. These DDOs are in fact the subordinate of the petitioners in this respect.
- E. That under Article-38 (d) &(e) it is the primary duty of the state and Govt: to provide the petitioner a progressive service structure with proper promotion chances.
- F. That the inaction of the respondents by not providing a proper progressive service structure to the petitioner is against the spirit of Article 2A,4,35 of the Constitution and exploitation of U/A3 of the Constitution.
- G. The petitioner has not last lien in the Department and worked hard for the assurance of Public Fund flown into the Provincial Exchequer.
- H. There are 79 TMAs in the settle and 25 TMAs in Merged District also come under the responsibilities under Financial Rules of the Petitioner.
- I. Performance Audit and Provincial constituted sanitation companies and their differences with the concerned TMAs also comes under the responsibilities.

J. That the petitioner seeks administration of the

ATTESTED  
 EXAMINER  
 Peshawar High Court

5

- (I) Inaction on the part of respondents by not creating post of Director in BPS-19 & Special Director in BPS-20 for proper progressive service structure to the petitioner is illegal, unconstitutional, discriminatory and violation of article-38(d)&(e) of the Constitution.
- (II) To direct the respondents to provide a proper progressive service structure to the petitioner with channel of promotion up to BPS-19/20 in the rules by creating the posts.
- (III) Any other remedy which is not specifically prayed for and deems proper and appropriate by the august Court may also be awarded in favor of petitioner.


**INTERIM RELIEF.**

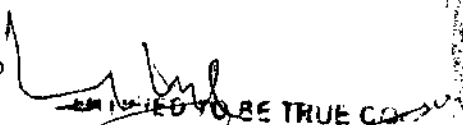
The respondents may be restrained from making promotion to BPS-19 and 20 till the required creation of posts in the rules OR at least reserve on post in BPS-19&20 till providing promotion channel to the petitioner.

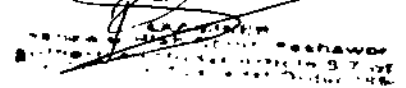
  
PETITIONER IN PERSON

**VERIFICATION**

It is verified that no other similar writ petition on the issue in dispute is pending between the parties.

  
PETITIONER

  
I hereby declare to be true and correct.



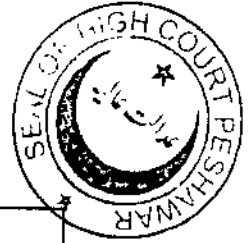
**LIST OF BOOKS**

- 1. The Constitution of Pakistan 1973

22 NOV 2022

PESHAWAR HIGH COURT, PESHAWAR

ORDER SHEET



Date of Order or Proceedings	Order or others Proceedings with Signature of Judge
1	2
<p>16.11.2022</p>	<p><b><u>W.P No.4867-P/2021.</u></b></p> <p>Present: Mr. Bilal-ud-Din Khattak, Advocate, for the petitioner.</p> <p>Mr. Rab Nawaz Khan, Addl. A.G, for the respondents.</p> <p>*****</p> <p><b><u>MUSARRAT HILALI, J.-</u></b> At the very outset, the learned Addl. A.G stated before the Court that the petitioner has retired from service on 14.11.2022 . When the learned counsel for the petitioner was confronted with the aforesaid fact, he conceded the same and does not press the instant petition anymore. Dismissed as such.</p> <p style="text-align: right;"><i>[Signature]</i> JUDGE</p>
<p>59716</p> <p>Date of Presentation of Application..... 22/11/2022</p> <p>No of Pages..... 6-7</p> <p>Copying fee..... 24/-</p> <p>Total..... 24/-</p> <p>Date of Preparation of Copy..... 22/11/2022</p> <p>Date of Delivery of Copy..... 22/11/2022</p> <p>Received By..... <i>[Signature]</i></p>	<p style="text-align: right;"><i>[Signature]</i> JUDGE</p> <p style="text-align: right;">RECEIVED TO DEPT. SECY. <i>[Signature]</i> 22 NOV 2022</p>

18.07.2022

Appellant alongwith his counsel present.

Muhammad Adeel Butt, learned Additional Advocate General alongwith Irshad Khan S.O for respondents present.

Former requested for adjournment in order to prepare the brief of the case. Adjourned. To come up for arguments on 12.09.2022 before D.B.



(Fareeha Paul)  
Member(E)



(Rozina Rehman)  
Member (J)

12.09.2022

Appellant in person present. Mr. Muhammad Riaz Khan, Paindakhel, Assistant Advocate General alongwith Mr. Riaz Khan, Superintendent for the respondents present.

Mr. Mian Muhammad, learned Member (Executive) is on leave, therefore, arguments could not be heard. Adjourned. To come up for arguments before the D.B on 28.11.2022




(Salah-Ud-Din)  
Member (J)

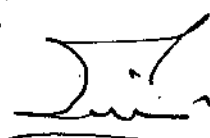


10.11.2021

Appellant alongwith his counsel Syed Noman Ali Bukhari, Advocate present. Mr. Naheed Gul, Assistant alongwith Mr. Javed Ullah, Assistant Advocate General for respondents present.

Learned counsel for the appellant requested for adjournment as he has not made preparation for arguments. Adjourned. To come up for arguments before the D.B on 03.12.2021.

  
(ATIQ UR REHMAN WAZIR)  
MEMBER (E)

  
(SALAH-UD-DIN)  
MEMBER (J)

3-12-21

*Proper D.B on Tour, therefore case is adjourned to 16-2-22 for hearing.*

*For hearing*


16-2-22

*Due To Retirement of the Hon'ble Chairman the case is adjourned to come up for hearing for the same as before on 11-5-22*

11<sup>th</sup> May, 2022

Appellant present in person. Mr. Muhammad Riaz Khan Paindakhel, Assistant A.G alongwith Muhammad Riaz Superintendent for the respondents present.

Learned counsel for the appellant is not in attendance. Last opportunity is granted to the appellant to produce his counsel on next date, otherwise, the case will be decided on the basis of available record. To come up for arguments on 18.07.2022 before the D.B.

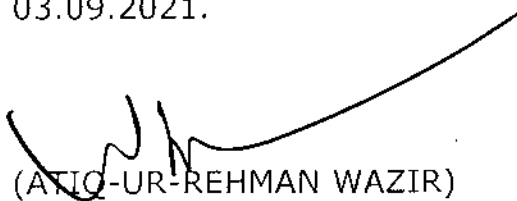
  
(Fareeha Paul)  
Member(E)

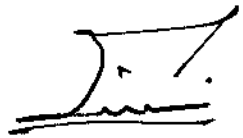
  
(Kalim Arshad Khan)  
Chairman

30.08.2021

Appellant alongwith his counsel Syed Noman Ali Bukhari, Advocate, present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Learned counsel for the appellant stated that as other appeal of the appellant is fixed on 03.09.2021, therefore, the appeal in hand also be fixed alongwith the said appeal. Adjourned. To come up for arguments before the D.B on 03.09.2021.

  
(ATIQ-UR-REHMAN WAZIR)  
MEMBER (EXECUTIVE)

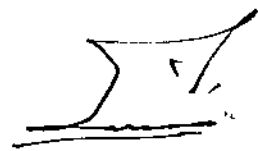
  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)


03.09.2021

Appellant alongwith his counsel Syed Noman Ali Bukhari, Advocate, present. Mr. Riaz, Superintendent and Mr. Rasheed Ahmed, Assistant (Litigation) alongwith Mr. Riaz Ahmed Paindakheil, Assistant Advocate General, for the respondents present.

Learned counsel for the appellant requested that as other Service Appeals of the appellant are also pending adjudication in this Tribunal and in this respect, the appellant is going to submit an application for fixing of all the service appeals on same date. Adjourned. To come up for arguments before the D.B on 01.10.2021.

  
(ATIQ-UR-REHMAN WAZIR)  
MEMBER (EXECUTIVE)

  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

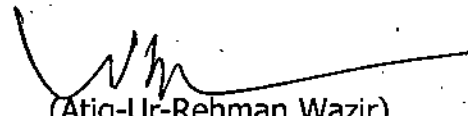
1-10-2021  DUE to non Availibility of the Concerned DB The case is Adjurned to 10-11-2021

  
Raza

25.03.2021

Junior to counsel for the appellant present. Mr. Riaz Khan Paindakhel learned Asst. AG for respondents present.

The Worthy Chairman is on leave, therefore, the case is adjourned to 23.06.2021 for arguments before D.B.




(Atiq-Ur-Rehman Wazir)  
Member (E)

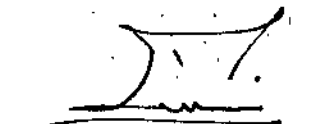
23.06.2021

Appellant in person present. Mr. Usman Ghani, learned District Attorney for the respondents present.

Appellant requested for adjournment on the ground that his counsel is not available today. Adjourned. To come up for arguments before the D.B on 30.08.2021



(ATIQ-UR-REHMAN WAZIR)  
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

20.08.2020

Due to summer vacation, the case is adjourned to 22.10.2020 before D.B.

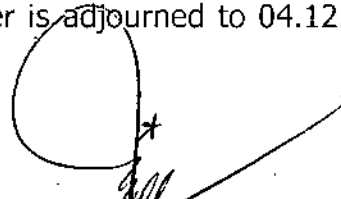


Reader

22.10.2020

Appellant in person and Zara Tajwar, DDA for the respondents present.

The Bar is observing general strike today, therefore, the matter is adjourned to 04.12.2020 for hearing before the D.B.



(Mian Muhammad)  
Member



Chairman

04.12.2020

Due to pandemic of Covid-19, the case is adjourned to 25.01.2021 for the same as before.

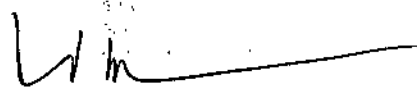


Reader

25.01.2021

Appellant in person and Addl. AG for the respondents present.

Former requests for adjournment as his learned counsel is engaged before the Apex Court at Islamabad today. Adjourned to 25.03.2021 for hearing before the D.B.



(Atiq-ur-Rehman Wazir)  
Member(E)



Chairman

17.04.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 17.07.2020 before D.B.



Reader

17.07.2020

Due to COVID-19, the case is adjourned for the same on 22.07.2020 before D.B.



Reader

22.07.2020

Appellant in person present.

Mr. Kabir Ullah Khattak learned Additional Advocate General for the respondents present.

Appellant requested for adjournment as his counsel is not available. Adjourned. To come up for arguments on 20.08.2020 before D.B.



(Mian Muhammad)  
Member (E)



(Rozina Rehman)  
Member (J)

30.10.2019

Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney alongwith Zar Muhammad Assistant present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 01.01.2020 before D.B.

  
Member

  
Member

01.01.2020

Learned counsel for the appellant present. Mr. Usman Ghani learned District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 28.02.2020 before D.B.

  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

28.02.2020

Junior to counsel for the appellant present. Mr. Riaz Paidakhel learned Assistant Advocate General for the respondents present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not available. Adjourn. To come up for arguments on 17.04.2020 before D.B.

  
Member

  
Member

11.04.2019 Petitioner in person and Hayatullah, Superintendent for respondents No. 3, 4 and 5 alongwith Addl. AG for the respondents present. Nemo for respondent No. 6.

Respondent No. 6 was required to be issued notice for hearing today. The record shows that the requisite notice was issued on 22.3.2019, however, no one is in attendance on behalf of the said respondent. Respondent No. 6 is, therefore, placed ex-parte. To come up for arguments before the D.B on 13.06.2019. The appellant may furnish rejoinder within a fortnight, if so advised.

  
Chairman

13.06.2019 Syed Noman Ali Bukhari, learned counsel for the appellant and Mr. Ziaullah, Deputy District Attorney for the respondents present. Learned counsel for the appellant submitted rejoinder and seeks adjournment for arguments. Adjourned to 06.08.2019 for arguments before D.B.

  
(AHMAD HASSAN)  
MEMBER

  
(M. AMIN KHAN KUNDI)  
MEMBER

06.08.2019 Appellant alongwith his counsel and Mr. Muhammad Jan, DDA for respondents present.

Learned counsel for the appellant requests for adjournment.

Adjourned to 30.10.2019 before D.B.

  
Member

  
Chairman

17.1.2019

Appellant alongwith counsel and Hayatullah, Superintendent for respondents No. 3, 4 and 5 alongwith Addl. AG for the respondents present.

Joint parawise comments have been submitted on behalf of respondents No. 3, 4 and 5. Notice be repeated to respondent No. 6 for 05.03.2019 on which date the remaining respondents shall submit their respective reply.

Chairman



05.03.2019

Appellant in person present. Written reply on behalf of respondents No. 3, 4, and 5 already submitted. No one present on behalf of respondent No.6 therefore, notices be repeated to respondent No.6 with the direction to direct the representative to attend the court and submit written reply on the next date positively. Adjourn. To come up for written reply/comments on 11.04.2019 before S.B.



(Muhammad Hamid Mughal)  
Member



16.10.2018

Counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG for respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. Case to come up for written reply/comments on 29.11.2018 before S.B.

  
(Ahmad Hassan)  
Member

29.11.2018


Junior to counsel for the appellant Mr. Kabirullah Khattak learned Additional Advocate General alongwith Mr. Hayat Ullah Superintendent present. Written reply not received. Representative of the respondents seeks adjournment. Adjourn. To come up for written reply/comments on 11.01.2019 before S.B.

  
Member

11.1.2019

Counsel for the appellant and Addl. AG alongwith Hayatullah, Superintendent for the respondents present.

Learned AAG states that the requisite reply has been prepared which is yet to be signed by respondents No. 2 & 3. Adjourned to 17.01.2019 before S.B.

  
Chairman

Service Appeal No. 153/2018

08.05.2018

The Tribunal is non-functional due to retirement of our Hon'ble Chairman. Therefore, the case is adjourned. To come up for same on 03.07.2018.

  
Reader

03.07.2018

Appellant in person and Mr. Sardar Shaukat Hayat, Addl: AG for the respondents present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on 17.08.2018 before S.B.

  
Member

17.08.2018

Mr. Asad Mehmood, Advocate counsel for the appellant present. Mr. Hayatullah, Supdt alongwith Mr. Kabirullah Khattak, Addl: AG for respondents present. Written reply not submitted. Learned AAG sought some time to submit the same. Granted. Case to come up for written reply/comments on 16.10.2018 before S.B.

  
Chairman


05.03.2018

Learned counsel for the appellant present. Preliminary arguments heard and case file perused.


Learned counsel for the appellant argued that the appellant was appointed as Account Officer in the DG LG&RDD vide order dated 22.04.1996, That the appellant was re-adjusted in the Devolution Plan vide order dated 18.08.2001. That the appellant was repatriated after 12 years to LG&RDD vide order dated 29.07.2013. That on return the appellant was not given proper place in the seniority list. That the appellant filed objection against the tentative seniority list dated 27.10.2015 and filed departmental appeal <sup>on final seniority list</sup> before respondent which was not responded within the statutory period.

Points raised need consideration. Admitted for regular hearing subject to all legal objections including limitation. The appellant is also directed to deposit security and process within (10) days, whereafter notice be issued to the respondents department for written reply/comments on 23.04.2018 before S.B.

Appellant Deposited  
Security & Process Fee

  
(Gul Zeb Khan)  
Member




23.04.2018 None present on behalf of appellant. Learned Addl. AG for the respondents present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on 08.05.2018 before S.B.

  
Member

Form-A  
FORM OF ORDERSHEET

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

Case No. 153/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	31/1/2018	<p>The appeal of Syed Shahinshah resubmitted today by Mr. Muhammad Asif Yousafzai Advocate may be entered in the Institution Register and put up to Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	06/02/18	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>12/02/18</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	12.02.2018	<p>Clerk of the counsel for appellant present and requested for adjournment on the ground that learned counsel for the appellant is not in attendance today due to strike of the Bar. Adjourned. To come up for preliminary hearing on 05.03.2018 before S.B.</p> <p style="text-align: right;"> (Muhammad Amin Khan Kundli) Member (J)</p>

The appeal of Syed Shahinshah Account Officert D.G, LG&RDD KP, Peshawar received today i.e. on 28.12.2017 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellatant.
- 2- Annexures of the appeal may be attested.
- 3- Annexures of the appeal may be flagged.
- 4- Copy of seniority list dated 27.10.2015 and departmental appeal against it mentioned in para-3&4 of the memo of appeal are not attached with the appeal which may be placed on it.
- 5- Copy of order dated 06.10.1991 and 22.4.1996 (Annexures-A&B) are not attached with the appeal which may be placed on it.
- 6- Nine more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 2777 /S.T,

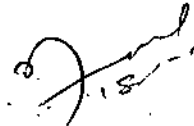
Dt. 29/12 /2017

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. M.Asif Yousafzai Adv. Pesh.

Sir

All the objections were removed and file re-submitted.



**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 153 /2018

Syed Shahinshah

V/S

Govt: of KPK

**INDEX**

S.NO.	Documents	Annexure	Page No.
1.	Memo of appeal	-----	01-05
2.	Copy of order dated 06.10.1991	---A---	06
3.	Copy of order dated 22.04.1996	---B---	07
4.	Copy of order dated 27.08.2001	---C---	08
5.	Copy of adjustment order	---D---	09
6.	Copy of repatriation order	---E---	10
7.	Copy of amendment rules	---F---	11-14
8.	Copy of SNE fresh	---G---	15-17
9.	Copy of tentative seniority list	---H---	18-22
10.	Copy of objection on tentative seniority list	---I---	23-24
11.	Copy of final seniority list	---J---	25-28
12.	Copy of departmental appeal	---K---	29-30
13.	Copy of charge relinquishment report dated 11.3.1997	---L---	31
14.	Copy of relevant page of Apt rules, 1989	---M---	32
15.	Vakalat Nama	-----	33

**APPELLANT**

28/12/2017

THROUGH:

  
(M.ASIF YOUSAFZAI)

**ADVOCATE SUPREME COURT,**

(TAIMUR ALI KHAN)  
**ADVOCATE HIGH COURT,**

  
(S. NOMAN ALI BUKHARI)  
**ADVOCATE PESHAWAR**

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 153 /2018

Mr. Syed Shahinshah,  
Account Officer: DG LG&RDD KPK,  
Peshawar.

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 1464  
Dated 28/12/2017

(Appellant)

**VERSUS**

1. The Government of KPK through Chief Secretary KPK, Peshawar.
2. The Chief Secretary KPK, Civil Secretariat, Peshawar.
3. The Secretary to the Government of KPK, Establishment Department, Civil Secretariat, Peshawar.
4. The Secretary Local Government and Rural Development Department KPK, Civil Secretariat, Peshawar.
5. The DG Local Government & Rural Development Department, KPK, Hayatabad Phase-V Peshawar.
6. The Secretary Local Council Board, Peshawar.

(Respondents)

Filed to-day  
Registrar  
28/12/17

Re-submitted to -day  
and filed.

Registrar  
31/1/18

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE FINAL SENIORITY LIST DATED 22.08.2017 AS STOOD ON 30.12.2016 WHEREIN THE NAME OF THE APPELLANT WAS NOT MENTIONED IN SENIORITY LIST OF ( BPS-17 OFFICIALS) ASSISTANT DIRECTORS/PLANNING OFFICER OF LOCAL GOVERNMENT & RURAL DEVELOPMENT DEPARTMENT AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE RESPONDENTS MAY PLEASE BE DIRECTED TO INCLUDE THE NAME OF APPELLANT IN THE SENIORITY LIST OF BPS- 17 OFFICERS ASSISTANT DIRECTORS/PLANNING OFFICER OF LOCAL GOVERNMENT & RURAL DEVELOPMENT DEPARTMENT DATED 22.08.2017 AT PROPER PLACE AS PER LAW GOVERNING THE SENIORITY ISSUE. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEMS FIT AND APPORPRIATE THAT MAY ALSO BE AWARADED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant was appointed in the Worker Welfare Board on the post of Manager Training (BPS-17) Secretariat Training Centre Peshawar dated w.e.f 01.07.1991. (Copy of order dated 06.10.1991 is attached as Annexure-A).

2. That the post of Account Officer (BPS-17) was advertised by KPK Public Service Commission in the department of LG&RDD and the appellant applied through proper channel to the said post and was selected on the said post and posted as Account Officer Peshawar in the Directorate General Local Government & Rural Development Department vide order dated 22.04.1996 and since then he has been performing his duty to according to law. Copy of the order dated 22.04.1996 is attached as Annexure-B).

3. That during the devaluation power plan, 2001 and due to restructuring of LG&RDD, the office of the Director General LG&RDD, Khyber Pakhtunkhwa and its allied offices in seite districts were restructured w.e.f 30.06.2001. Copy of notification is attached as annexure-C.

That the appellant was adjusted in the new setup as per adjustment order of the Provincial Government vide order dated 18.08.2001. Copy of adjustment order is attached as annexure-D.

3. Copy of order is attached as annexure-E. The appellant was repatriated after 12 years in 2013 to Local Government and Rural Development Department vide order dated



6. That the Local Government and Rural Development Department in 1998 circulated the impugned service rules of Planning Officer and Assistant Directors, on 14.04.1998 but ignored the appellant. **Copy of rules is attached as annexure-F.**
7. That when the appellant was repatriated back to the office of Director General LG&RDD, the appellant was astonished to see that the seniority of Muhammad Zahoor and Muhammad Fahim were fixed with grave illegality, whose services were regularized w.e.f. 1989, where regular posts (SNE Fresh on current budget was created w.e.f. 01.01.1992 and ignore the appellant. **Copy of SNE and tentative seniority list is attached as Annexure G & H.**
8. That the appellant filed objection against the tentative seniority list dated 27.10.2015 of Assistant Director/Planning Officer (BPS-17) with the remarks that seniority list of Assistant Director/Planning Officer, LG&RDD that reservation on the said list, if any may be conveyed to this department. **(Copy of objection is attached as Annexure-I.**
9. That thereafter, the department issued final seniority list dated 22.08.2017 but without redressing the grievance of the appellant i.e without including his name in the seniority list. The appellant aggrieved from the said final seniority list preferred departmental appeal which was not responded within the statutory period of 90 days. **(Copy of final seniority list and appeal is attached as Annexure-J & K.**
10. That now the appellant comes to Hon'able service tribunal for his grievances on the following grounds amongst others.

**GROUND:**

- A) That not taking action on the departmental appeal of the appellant and not including the name of the appellant in seniority list dated 22.08.2017 of Assistant Director/Planning Officers, LG&RDD is against the law, rules, Constitution of Pakistan 1973, norms of justice and fair play.
- B) That the appellant has been serving in the respondent department since 1996 and joined the service through proper channel, but not including the name of the appellant in the seniority list shows the illegal exercise of power by the respondent department.

- C) That according to Section-8 of the Civil Servant Act 1973 and section-17 of APT Rules 1989, it is the legal right of every civil servant to be properly placed in seniority list according to his seniority position, but the same benefits was not extended to the appellant which is the violation of law and rules.
- D) It is further submitted that these Planning Officers mentioned in the impugned joint seniority list at S.No.1 & 2 were neither regular employees nor contract employees since September 1992, but the Department in 1998 amended the impugned Service Rules by incorporating the Planning Officers in the Service Rules in 1998 which badly affected the seniority of appellant.
- E) That the appellant is the regular employee of LG&RDD since 01.07.0991 after appointment through proper channel and it is the legal right of the appellant to properly place the name of the appellant in the seniority list of Assistant Director. **Copy of charge relinquishment report is attached as annexure-L.**
- F) That the appellant when repatriated to his parent deptt: the seniority of the appellant must be restored according to law and rules from his due date 1.7.1991 but the department did not include the name of appellant in final seniority list which is against the law and rules.
- G) That grave illegality was done with the appellant, because the advertisement of Planning Officers was carried out by an autonomous body; Local Council Board, Khyber Pakhtunkhwa through its Deputy Secretary Muhammad Sarwar as adhoc appointments. The adhoc appointment as per APT Rules 1989 (KP) needed the approval of the Chief Secretary, Government of Khyber Pakhtunkhwa after requisitions of the Civil posts are made to Public Service Commission, Khyber Pakhtunkhwa. **Copy of relevant page of APT rule is attached as Annexure-M.**
- H) That non-inclusion of the name of appellant in the final seniority of the Assistant Director (BPS-17)/ Planning Officers cause irreparable loss in the case of further promotion of the appellant which is the legal right of the appellant of promotion on the basis of seniority.
- I) That the appellant was not treated according to the law and rules and has been deprived from his legal right of seniority in arbitrary manner without fault on his part.

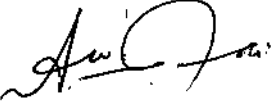
J) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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

  
APPELLANT  
Syed Shahinshah

28/12/2017

THROUGH:

  
(M. ASIF YOUSAFZAI)  
ADVOCATE SUPREME COURT,

(TAIMUR ALI KHAN)  
ADVOCATE HIGH COURT,

  
(S. NOMAN ALI BUKHARI)  
ADVOCATE PESHAWAR

AG

Exp 10/21

NWFP WORKERS WELFARE BOARD,  
3-A/2, SADDAR ROAD, PESHAWAR CANTT.

Dated: Peshawar the, 6-10-1991.

cy

detd 21/5/2011

OFFICE ORDER

Consequent upon his appointment vide this  
office No. WWB.1-1/603-09 dated 19-6-1991.

Syed Shahin Shah has assumed the charge of the  
office of Manager Training (3-17) Secretarial Training  
Centre Peshawar w.e.f. 1-7-1991 T/N.

sd/

( SECRETARY )  
NWFP, WORKERS WELFARE BOARD.

Andst: No. WWB:1-47/92 Dated Peshawar, the 6th October, 1991

Copy to :-

✓ 1.

Syed Shahin Shah Manager Secretarial Training  
Centre Industrial Estate, Peshawar.

2.

Personal file of the official concerned.

ATTESTED

*Abdul Hafeez*  
(ABDUL HAFEEZ) 6/10/91

ADMINISTRATIVE OFFICER,  
NWFP, WORKERS WELFARE BOARD.

ATTESTED

B (1)

GOVERNMENT OF N.W.F.P.  
LOCAL GOVERNMENT, ELECTIONS AND RURAL  
DEVELOPMENT DEPARTMENT

DATED PESHAWAR THE 22ND APRIL, 1996

N O T I F I C A T I O N

NO.SO(LG-I)2-204/96.- In pursuance of this Department Notification No.SO(LG-I)2-204/96, dated the 7th April, 1996, the Provincial Government in the Local Government Elections and Rural Development Department are pleased to post Syed Shahin Shah S/O Aftinosh of District Peshawar as Accounts Officer in Basic Pay Scale No.17 (3880-290-7360) in the Directorate General, Local Govt. and Rural Development Department, NWFP Peshawar against a vacant post.

SECRETARY TO GOVERNMENT OF NWFP,  
LOCAL GOVT. ELECTIONS AND RURAL  
DEVELOPMENT DEPARTMENT

Endst.No.SO(LG-I)2-204/96 Dated Pesh:the 22nd April, 1996

A copy forwarded to:-

1. The Accountant General, N.W.F.P., Peshawar.
2. The Director General, LG&RDD, NWFP, Peshawar.
3. Syed Shahin Shah S/O Aftinosh, T/o Jamal-ud-Din Afghani Road University Town Peshawar.
4. The Manager Govt. Printing Press Peshawar.
5. Personal file of the officer concerned.

H.M/

ALAM ZEB MALIK )  
SECTION OFFICER-I

ATTESTED

ATTESTED

8

C

GOVERNMENT OF N.W.F.P.,  
LOCAL GOVT. ELECTIONS AND RURAL  
DEVELOPMENT DEPARTMENT

DATED PESHAWAR THE 27th AUGUST, 2001

**ORDER**

No. SO(LG-I)4-116/DG/2001/KC.- Consequent upon the restructuring of the Local Government and Rural Development Department in NWFP as a result of devolution of power to District Governments, the competent authority is pleased to order the abolition of the office of Director General, Local Government and Rural Development Department, NWFP and its allied offices in the settled districts i.e. Assistant Directors, LG & RDD with effect from 30-6-2001 (A.N).

SECRETARY TO GOVT. OF NWFP,  
LOCAL GOVT. ELECTIONS & RURAL  
DEVELOPMENT DEPARTMENT

Endst. No. SO(LG-I)4-116/DG/2001  
CC.

Dated Peshawar 27th August, 2001

1. The Private Secretary to Chief Secretary NWFP.
2. All the Administrative Secretaries to Government of NWFP.
3. The Secretary to Governor, NWFP, Peshawar.
4. The Secretary Local Council Board, NWFP, Peshawar.
5. All the District Coordination Officers, in NWFP.
6. The Provincial Transition Wing (PTW), Civil Sectt: Peshawar.
7. The PS to Secretary LG & RDD, Peshawar.
8. The PAs Addl: Secretary/Deputy Secretary, LG & RDD.
9. The Director (FATA), LG & RDD, NWFP, Peshawar.
10. All Section Officers/Planning Officers in LG & RDD.
11. All Assistant Directors, LG & RDD in FATA.

9m  
12-55 SECTION OFFICER (ESTAB:)

(2870)  
27/8/2001

**ATTESTED**

(9) D

GOVERNMENT OF N.W.F.P.,  
LOCAL GOVT.ELECTIONS AND RURAL  
DEVELOPMENT DEPARTMENT

DATED PESHAWAR THE 18<sup>TH</sup> AUGUST, 2001

**NOTIFICATION.**

**No.SO(LG-I)4-116/DG/2001/KC.-** Consequent upon the restructuring of the Local Government and Rural Development Department in NWFP, the competent authority has been pleased to adjust the following Officers in the Office of DCO Peshawar with effect from 1-7-2001.

1. Syed Shahinshah,  
Accounts Officer (BPS-17),  
Dte: General, LG & RDD,  
NWFP, Peshawar.
2. Mr.Mubammad Salim,  
Computer Programmer Officer (B-17),  
Dte: General, LG & RDD, Peshawar.

SECRETARY TO GOVT. OF NWFP,  
LOCAL GOVT.ELECTIONS & RURAL  
DEVELOPMENT DEPARTMENT

Endst.No.SO(LG-I)4-116/DG/2001-  
CC.

Dated Peshawar 18<sup>th</sup> August, 2001

1. All the Administrative Secretaries to Government of NWFP.
2. The Accountant General, NWFP, Peshawar.
3. The District Coordination Officer, Peshawar.
4. The PS to Secretary LG & RDD, Peshawar.
5. The Director (FATA), LG & RDD, NWFP, Peshawar.
6. The Section Officer (Surplus Pool), Estn & Admn: Department.
7. The Officers concerned.

SECTION OFFICER (ESTAB:)

PC

**ATTESTED**



GOVERNMENT OF KHYBER PAKHTUNKHWA  
LOCAL GOVERNMENT, ELECTIONS AND RURAL DEVELOPMENT DEPARTMENT

**ORDER**

Dated Peshawar, the 29<sup>th</sup> July, 2013

**No.SO(LG-I)10-458/2008.-** Consequent upon his repatriation by the Government of Khyber Pakhtunkhwa, Establishment & Administration Department Notification No.SOE-II(ED)2(5)2012, dated 31-012-2012 and approval of the Competent Authority, Syed Shahin Shah, Accounts Officer (BS-17) is hereby adjusted against the vacant post of Accounts Officer (BS-17) in Directorate General, Local Government and Rural Development Department, Khyber Pakhtunkhwa, Peshawar from the date of his arrival i.e. with effect from 04-01-2013.

SECRETARY TO GOVT.OF KHYBER  
PAKHTUNKHWA, LG,E&RDD

Endst No.SO(LG-I)10-458/2008

Dated Peshawar, the 29<sup>th</sup> July, 2013

Copy is forwarded:-

1. The Secretary to Govt.of Khyber Pakhtunkhwa, Establishment Department.
2. The Secretary to Govt.of Khyber Pakhtunkhwa, Finance Department.
3. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
4. The Director General, Local Government and Rural Development Department, Khyber Pakhtunkhwa, Peshawar.
5. The Director Information, Khyber Pakhtunkhwa, Peshawar.
6. All Assistant Directors, LG&RDD in Khyber Pakhtunkhwa.
7. Syed Shahinshah, Accounts Officer, Dte:General, LG&RDD, Peshawar.
8. The Section Officer (E-II), Government of Khyber Pakhtunkhwa, Establishment Department.
9. The PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
10. The PS to Secretary, LG,E&RDD.
11. The PS to Special Secretary, LG,E&RDD.
12. The office order file.

(IZAZ ULLAH)  
SECTION OFFICER (ESTAB)

ATTESTED



11

GOVERNMENT OF NORTH-WEST FRONTIER PROVINCE  
LOCAL GOVERNMENT, ELECTIONS AND RURAL  
DEVELOPMENT  
DEPARTMENT.

NOTIFICATION

Peshawar, dated the 14th April, 1998.

No. SO(LG-I)2-188/93-Vol-II: In exercise of the powers conferred by sub-rule (2) of rule 3 of the North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Local Government and Rural Development Department, in consultation with the Services and General Administration Department and the Finance Department, hereby directs that in this Department Notification No. DG(RWP)7(2)/73, dated 26.1.1978, the following further amendments shall be made namely:

AMENDMENTS.

In the Appendix, -

(a) for the existing entries at serial No. 1, the following shall respectively be substituted, namely.

1.	2.	3.	4.	5.	6.
"1.	Director/ Chief Planning Officer.	-	-	-	i) Seventy five percent by promotion, on the basis of seniority-cum-fitness from amongst Assistant Directors/Planning Officers with five years service as such; and  ii) twenty five per cent by transfer."

(b) for the existing entries at serial No. 2, the following shall respectively be substituted, namely:

1	2	3.	4.	5.	6.
"2.	Assistant Director/ Planning Officer.	Master degree or equivalent qualification from a recognised University.	-	21 to 30 years	i) Fifty percent by initial recruitment; and ii) fifty percent by promotion, on the basis of seniority-cum-fitness from amongst

**ATTESTED**  
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Contd..page-2

the Progress Officers with three years service as such.”;

(c) for the existing entries in column 6 against serial No. 6, the following shall be substituted, namely:

“ By promotion, on the basis of seniority-cum-fitness, from amongst Assistants/Accountants and Senior Scale Stenographers with five years services as such.”

Note.- A joint seniority list of Assistants/Accountants and Senior Scale Stenographers shall be maintained, on the basis of their regular continuous appointments to the respective posts, for the purpose of promotion; provided that if the date of regular appointments is the same, the Assistant/Accounts shall rank senior to Senior Scale Stenographers.”;

d) for the existing entries in columns 3,5 and 6 against serial No. 7, the following shall respectively be substituted, namely:

3.	5.	6.
"Bachelor Degree or equivalent qualification from recognised University."	21 to 25 years	i) Seventy Five per cent by promotion, on the basis of seniority-cum fitness, from amongst the Senior Auditors and Senior Clerks with three years service as such; and ii) twenty five per cent by initial recruitment.

Note.- A joint seniority list of Senior auditors and Senior Clerks shall be maintained, on the basis of their regular continuous appointment to the respective posts, for the purpose of promotion; provided that if the date of regular appointment is the same the Senior Auditors shall rank senior to Senior Clerk.”;

(e) for the existing entries in columns 3,5 and 6 against serial No. 9, the following shall respectively be substituted, namely:

ATTESTED

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3.	5.	6.
"Bachelor Degree in Engineering or equivalent qualification in the relevant field from recognised University.	2/ to 30 years	i) Seventy per cent by initial recruitment; ii) ten per cent by promotion on the basis of seniority cum-fitness, from amongst Sub-Engineer who possess Bachelor Degree in Engineering or equivalent qualification from a recognised University; and iii) twenty per cent by promotion, on the basis of seniority-cum-fitness, from amongst diploma holder Sub-Engineers having ten years service as such and have passed the prescribed departmental examination."; and

(f) for the existing entries in columns 3,5 and 6 against serial No. 10, the following shall respectively be substituted, namely:

3.	4.	5.	6.
"Bachelor Degree from recognised University	-	21 to 25 years	(i). Seventy five per cent by promotion, on the basis of seniority-cum-fitness, from amongst Village Secretaries with five year service as such; and (ii) twenty-five per cent by initial recruitment."; and

(g) for the existing entries in columns 6 against serial No. 11, the following shall respectively be substituted, namely:

"By promotion, on the basis of seniority-cum-fitness, from amongst Junior Clerks with two years service as such."

Secretary to Government of  
 North-West Frontier Province,  
 Local Government, Elections and Rural  
 Development Department.

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**ATTESTED**

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Endst: No. SO(LG-I)2-188/89 Dated. the 14th April 1998.

Copy. of the above is forwarded to:

1. All Administrative Secretaries to Government of NWFP.
2. All Divisional Commissioners in NWFP.
3. Secretary to Governor, NWFP, Peshawar.
4. Secretary, NWFP, Public Service Commission, Peshawar.
5. Director General, LG&RDD, NWFP, Peshawar.
6. All Heads of Attached Departments in NWFP.
7. Secretary Local Council Board, NWFP, Peshawar.
8. Secretary Provincial Election Authority, Peshawar.
9. All Divisional Directors, LG&RDD in NWFP.
10. All Deputy Commissioners in NWFP.
11. All District & Session Judges in NWFP.
12. Registrar, Peshawar High Court Peshawar.
13. All Assistant Directors, LG&RDD in Peshawar.
14. Section Officer (Legis.), Govt: of NWFP, Law Deptt:
15. Section Officer (Urdu Cell) Govt: of NWFP, S&GAD with reference to his letter No. SOUC(S&GAD)6-22/90/Vol-III, dated 24-2-1998.
16. Manager Govt: Printing Press, Peshawar for publication in the next Government Gazettee Notification, 40 copies of the Notification may be sent to this Department.

*[Handwritten Signature]*

( ARBAB WAHEED ALAM )  
Section Officer-I.

HM/AQ.

*[Handwritten Signature]*  
16/4/98

ATTESTED

*[Handwritten Signature]*

15  
G

1. The Director General,  
Local Govt. & Rural Dev. Deptt.  
N.W.F.P., Peshawar.
2. All Divisional Directors  
Local Govt. & Rural Development  
Department in N.W.F.P.
3. All Assistant Directors  
Local Govt. & Rural Development  
Department in N.W.F.P.

No. HC-II (S. & R. D.)/15

Dated Pesh. the 15/1/1991

Subject: AUTHORIZATION OF EXPENDITURE ( BUDGET ESTIMATES )  
FOR THE YEAR 1991-92 UNDER DETAILED FUNCTION  
8-50000-ECONOMIC SERVICES 8-56000-RURAL DEVELOP-  
MENT 8-56100-ADMINISTRATION 03700-STRENGTHENING  
OF LOCAL GOVT. & RURAL DEVELOPMENT DEPARTMENT NWFP.

The Government of NWFP is pleased to accord sanction to the creation of following posts for the scheme " Strengthening of Local Government and Rural Development Department " during the Current financial year 1991-92 w.e.f.

**1.1.1992** total cost of Rs. 24,37,000/- ( Rupees Two Million Four Hundred thirty seven thousand only ) as per detail given below.

The scheme was approved in PDWP meeting held on

**1.1.1991**

8-56100-00000-Total Establishment Charges.	Rs. 23,44,384/-
8-56100-01000-Total Pay.	Rs. 17,17,482/-
8-56100-01100-Total Pay of Officers.	Rs. 4,79,400/-
8-56100-01101-Total Basic Pay of Officers.	Rs. 4,79,400/-

6 Divisional Engineers (B-18)	)	
15 Assistant Engineers (B-17)	)	
6 Statistical Officers (B-17)	)	
1 Chief Planning Officer (B-18)	)	Rs. 4,79,400/-
3 Programme Officers (B-17)	)	
15 Planning Officers (B-17)	)	
15 Progress Officers (B-16)	)	

8-56100-01200-Total Pay of other Staff.	Rs. 12,38,082/-
8-56100-01201-Total Basic Pay of other Staff	Rs. 12,38,082/-

55 Sub Engineers (B-11)	)
1 Stenographer (B-15)	)

( Contd:P/2 )

**ATTESTED**



17

To: Mr. (S. Singh) / 9 Dated Peshawar the 5 / / 1992

Copy of the above is forwarded to:

- 1. The Budget Officer-VIII, Govt. of NWFP, Finance Department, Peshawar.
- 2. The Section Officer (LG-03), Govt. of NWFP, Local Govt. Elec. and Rural Development Department Peshawar.
- 3. Accounts Officer-I, Directorate General, Local Govt. and Rural Development, Peshawar.

For information and record.

*M. S. Khan*  
 PLANNING OFFICER  
 LOCAL GOVT. ELEC. AND RURAL  
 DEV. DEPT. N.W.F.P. PESHAWAR.

**ATTESTED**  


Government Of Khyber Pakhtunkhwa  
Local Government Elections & Rural  
Development Department.

No. SO(LG-I)/4-118/B/2014/Vol-II  
Dated Peshawar, October 27, 2015

To,

1. Mrs. Tahira Yasmeen,  
Acting Director, LG&RDD
2. Mr. Zahoor, Assistant Director / Planning Officer, Directorate FATA,  
LG&RDD Warsak Road, Peshawar
3. Mr. Muhammad Fahim, Assistant Director / Planning Officers,  
Directorate FATA, LG&RDD Warsak Road, Peshawar
4. Mr. Faiz Muhammad Khan,  
Deputy Director, Directorate General, LG&RDD
5. Mr. Israrullah Khan, Assistant Director, LG&RDD Swabi
6. Mr. Shad Muhammad, Assistant Director, LG&RDD Mansehra
7. Mr. Sheraz Ahmad, Assistant Director, LG&RDD, Buniar
8. Mr. Abudur Rahsid, Assistant Director, LG&RDD, Haripur
9. Mr. Fazlullah, Assistant Director, LG&RDD, Mardan
10. Mr. Shibli Khan, Assistant Director, Directorate General, LG&RDD
11. Mr. Sardarul Mulk, Assistant Director, LG&RDD, Malakand
12. Mr. Akhtar Munir, Assistant Director, LG&RDD, Hangu
13. Mr. Riaz Ahmad, Deputy Director, (Village Council/Neighbourhood  
Council)
14. Mr. Syed Khalid Israr Shah, DD, Local Government Commission
15. Mr. Sajid Gul, Secretary Delimitation Authority.
16. Mr. Said Rahman, Assistant Director, LG&RDD (Now DS (Dev)
17. Mr. Syed Hasnain Kazmi, AD, LG&RDD (Now on Ex-Pakistan Leave)
18. Mr. Muhammad Jehangir, Assistant Director, Directorate FATA,  
LG&RDD, Warsak Road Peshawar
19. Mr. Qazi Noorul Wahab, Assistant Director, LG&RDD, (Now TMO,  
TMA, Nowshera)
20. Mr. Alam Zeb, Assistant Director, Directorate FATA, LG&RDD  
Warsak Road, Peshawar
21. Mr. Salim Raza, Assistant Director, LG&RDD, Charsadda
22. Mr. Asadullah, Assistant Director, LG&RDD, Swat

Subject: **TENTATIVE SENIORITY LIST OF ASSISTANT DIRECTORS, LG&RDD  
AS STOOD ON 30-09-2015.**

I am directed to refer to the subject cited above and to say that as a result of departmental appeals submitted by Abdur Rashid, Shad Muhammad, Sheraz Ahmed, Fazlullah, and Shibli Khan, Assistant Directors against the Final Seniority list of Assistant Directors, LG&RDD circulated vide this department letter of even number dated 14<sup>th</sup> March, 2014, and advice rendered by the Establishment Department, tentative seniority list of Assistant Directors/Planning Officers, LG&RDD is enclosed herewith with the remarks that reservation on the said list, if any, may be conveyed to this department on or before 30/11/2015 for

**ATTESTED**

consideration/settlement before final declaration thereof.

Continue page 2



**TENTATIVE SENIORITY LIST OF ASSISTANT DIRECTORS/PLANNING OFFICERS (BPS-17)  
AS STOOD ON 1.6.2015**

Total Sanctioned Posts of Assistant Directors (BPS-17):- 36

S #	Name of Officer	Educational Qualification	Date of Birth of Domicile	Date of 1 <sup>st</sup> Entry into Service	1 <sup>st</sup> regular appointment to service/cadre		Promotion to present BPS		Remarks if any
					Date	BPS	BPS	Date	
1	✓ Mrs. Tahira Yasmin	M.P.A	4 1-1-1957 D.I.K	5 25.5.1984	6 25.5.1984	7 17	8 Direct	9 10 17.12.2007	12 She has been re-instated in service in implementation of the judgement of the Khyber Pakhtunkhwa Service Tribunal, Peshawar and services regularized from the date of her initial appointment i.e. 25.5.1984
2	✓ Mr. M. Zahoor (PO)	M.A Eco:	9.5.1961 MKD	6.11.1988	6.11.1988	17	-do-	18 25-7-2013	
3	Mr. M. Fahim (PO)	M.B.A	14.2.1963 Swat	6.11.1988	6.11.1988	17	-do-	18 -do-	
4	Mr. Faiz Muhammad	M.A (PS) & Journalism	12.4.1962 N.W.A	8.3.1992	8.3.1992	17	-do-	18 -do-	
5	Mr. Israrullah Khan	M.A Eco:	19.4.1964 Swabi	3.3.1992	3.3.1992	17	Direct	18 -do-	



*Handwritten signature*

**ATTESTED**

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6	Mr. Shad Muhammad	M.Sc	03-04-1958 Mansehra	22-11-1988	22-11-1988	16	Direct	17	27-8-2012	Consequent upon acceptance of their departmental appeals/representations by the Chief Secretary, Khyber Pakhtunkhwa (Appellate Authority), and advice rendered by the Establishment Department vide letter No. SOR-IV(ED)/6-1/2013, dated 10-01-2014, the officers mentioned at Sl.No.6 to 10 have regained their seniority.
7	Mr. Sheraz Ahmad	M.A (P. Science)	15-09-1960 Swabi	22-11-1988	22-11-1988	16	-do-	17	16-5-2013	-do-
8	Mr. Abdul Rashid	M.A	01-01-1961 Haripur	22-11-1988	22-11-1988	16	-do-	17	27-8-2012	-do-
9	Mr. Fazlullah	M.A (Sociology)	0-8-10-1962 Swabi	22-11-1988	22-11-1988	16	-do-	17	16-5-2013	-do-
10	Mr. Shibli Khan	M.Sc (Hons: Agri)	01-05-1965 Swabi	22-11-1988	22-11-1988	16	-do-	17	16-5-2013	-do-
11	Mr. Sardarul Mulk	M.Sc (Hons)	1/1/1966 Malakand	7/9/1993	7/9/1993	17	Direct	18	25-7-2013	
12	Mr. Akhtar Munir Umerzai	M.Sc (Agri)	1/4/1961 Charsadda	9/9/1993	9/9/1993	17	-do-	18	25-7-2013	
13	Mr. Riaz Ahmad	M.Sc (Hons) A.C.R.I	16.5.1966 Swabi	7.9.1993	7.9.1993	17	-do-	18	25-7-2013	

21

Muhammad Mulk

ATTESTED



14	Mr. Khalid Israr Shah	M.A(P.S)	13.10.1966 Bannu	1.9.1993	5.9.1993	17	-do-	18	25-7-2013
15	Mr. Sajid Gul	M.Sc(Agri)	9.9.1965 Dir Lower	5.9.1993	5.9.1993	17	-do-	18	25-7-2013
16	Mr. Said Rehman	M.A (PS)	25.6.1965 Mohmand	13.9.1993	13.9.1993	17	-do-	18	25-7-2013
17	Syed Hussain Kazmi	M.Sc (AGRI)	10.4.1966 Manshra	7.9.1993	9.9.1993	17	-do-	18	25-7-2013
18	Mr. Muhammad Jehangir	M.Sc	17.9.1965 Peshawar	25.5.1993	25/5/1993 Progress Officer	16	Promotee	18	26/12/1996
19	Qazi Noor ul Wahab	M.Sc	16.3.1966 Nowshera	26.5.1993	26.5.1993 Progress Officer	16	Promotee	18	26.12.1996
20	Mr. Alam Zeb	M.A	15.9.1958 Swabi	23.12.1980	23.12.1980	16	Promotee	18	26.12.1996
21	Mr. Salim Raza	M.A	15-12-1964 Charsadda	28-02-2990 (Supervisor BS-9)	28-02-1990	B-9	Promotee	17	27-8-2012
22	Mr. Asadullah	B.A	28-09-1966 Charsadda	-do-	-do-	B-9	Promotee	-do-	27-8-2012

Attested  
[Signature]

23

ATTESTED

[Signature]

SYED SHAHINSHAH  
ACCOUNTS OFFICER  
DIRECTORATE GENERAL  
LG&RDD, GOVT. OF  
KHYBER PAKHTUNKHWA  
Dated Peshawar, 21/12//2016

23  
1

To

The Chief Secretary to Government of Khyber Pakhtunkhwa  
Civil Secretariat Peshawar.

Through: Proper Channel from Directorate General LG&RD, Khyber Pakhtunkhwa

Subject: **OBJECTIONS ON TENTATIVE JOINT SENIORITY OF ASSISTANT DIRECTORS/PLANNING OFFICERS TO CAUSE A FRESH JOINT SENIORITY LIST AS PER SECTION 8 OF CIVIL SERVANT ACT, VIII, 1973**

Dear Sir,

It is submitted with great respect and to invite your attention to the regularization of the above employees due to the omission and commission of Local Government Department who did not bring the question of regular posts before the relevant fora and the question of Adhoc appointment on such regular posts. In case the absorption and seniority the advice on regular budget was not taken into account while causing seniority list.

Perusal of official record reveals some strange and disquieting facts when it comes to the seniority of the Undersigned due to perjury fraud. Since 1996 the Provincial Government in attached Department and in a District Government, the seniority of the Undersigned was ignored both by Local Government and Establishment Department.

The cause of action accrued to the Undersigned when the Provincial Government in Local Government created 17 new posts including Directors in BPS-19 and Deputy Directors BPS-18 awarding consciousness regarding promotion.

In 1998 the Service Rules of the office of Director General Local Government & Rural Development were amended by the contract employees incorporating the nomenclature of Planning Officers by these employees whose contract were coming to an end in September 1992. Afterward these employees became laymen and occupies Civil Posts with all benefits.

It is further submitted that the joint seniority list issued by Local Government vide No. SO(LG-I)/4-118/B/2014/Vol-II dated 27.10.2016 includes Assistant Directors, Assistant Director Woman Cell and Planning Officers but does not include the name of the Undersigned. It contains the 1<sup>st</sup> three names whose services were regularized by the Learned Service Tribunal and Supreme Court of Pakistan when the Directorate General LG&RDD was abolished.

One of the 1<sup>st</sup> person Tahira Yasmeen, whose service was regularized by Service Tribunal in S.A 926/2003, was working on a Federal Government Funded scheme whose regular post was created in 07.07.1994 but she got the benefit of seniority w.e.f in 1984. This fact was not produced to the Learned Service Tribunal by Local Government Department in 2003.

The parent department was abolished and her adjustment was not made as per adjustment policy. When the department is abolished there were no questions of seniority list etc because there is no Provincial Government fund Post (SNEs) etc. Adjustment in other departments was only legal solution in 2003. Representation was made to the Competent Authority regarding her posting in the office of Director General LG&RDD, Khyber Pakhtunkhwa with no response.

Similar is the vague and fake seniority of Muhammad Zahoor and Muhammad Faheem whose services were regularized in Civil Appeal 47/2005 and Civil Appeal 69/2005 at the time when Directorate General was abolished. It may please be noted that advertisement of posts and letter of offer of appointments to these employees were issued by the Deputy Secretary, Sarwar Khan of Local Council Board: an autonomous body. The adhoc appointments and its advertisement were supposed to be made by the appointing authority as per Section 13 of APT Rules 1989 which in the instant case is the Chief Secretary, Khyber Pakhtunkhwa but these were made by the Deputy Secretary Local Council Board.

ATTACHED

(04)


It may please be noted that the posts of these Planning Officers were created in regular budget vide circular No. AOII(Strengthening)/91 w.e.f 01.01.1992 but they got benefit of posting seniority from 1989. No seniority can accrue unless and until there are regular posts.

It may please be further noted that the Adhoc appointments and its advertisement are made when posts are regularly created and requisition to the commission are communicated with approval of the appointing authority as per Section 13 of APT Rules 1989. In this instant case regular posts were created on 01.01.1992 and its advertisement on Adhoc basis were made in 1989 which is unlawful.

It is therefore, requested that the impugned joint tentative seniority list vide No. SO(LG-D)4-118/B/2014/ Vol-II dated 27.10.2016 mentioned may be corrected from the date of creation of regular posts on a current budget through Standing Service Rules Committee by incorporating the name of Undersigned in the seniority list w.e.f 01.07.1991 by modifying the seniority list of officers of the Directorate General LG&RDD, Khyber Pakhtunkhwa.

Thanking You

Faithfully Yours'

  
(Syed Shahinshah)  
Accounts Officer  
Dte: Gen: LG&RDD

ATTESTED

Government Of Khyber Pakhtunkhwa,  
Local Government, Elections & Rural Development Department

**NOTIFICATION**

Dated Peshawar, the 22<sup>nd</sup> August, 2017

No. SO(LG-D)4-118/ADS/S.LIST/2017/VOL-II/-1945-65 In pursuance of Section-8 of the Khyber Pakhtunkhwa, Civil Servants Act, 1973 and approval of the Competent Authority, final seniority list of Assistant Directors, Local Government, Elections & Rural Development Department Khyber Pakhtunkhwa as it stood on 30.12.2016 is notified as under:-

**FINAL SENIORITY LIST OF ASSISTANT DIRECTORS (BPS-17) LG&RDD AS STOOD ON 30.12.2016.**

Total sanctioned posts of Assistant Directors (BPS-17):-41

S#	Name of officer	Edu Quall	Domicile	Date of Birth	Date of 1 <sup>st</sup> Entry into Service	1 <sup>st</sup> regular appointment: to service / cadre			Promotion to present BPS		Remarks if any
						Date	BPS	Method of recruitment	BPS	Date	
1	M. Muhammad Zahoor	M.A Eco:	MKD	09.05.1961	06.11.1988	06.11.1988	17	Direct	18	25.07.2013	
2	M. Muhammad Fahim	M.B.A	Swat	14.02.1963	06.11.1988	06.11.1988	17	-do-	18	-do-	
3	Mr. Faiz Muhammad Khan	M.A (PS) & Journalism	N.W.A	12.04.1962	08.03.1992	08.03.1992	17	-do-	18	-do-	

SECTION OFFICER (ESTAB)

**VERIFIED**

4	Mr. Israrullah Khan	M.A Eco:	Swabi	19.04.1964	03.03.1992	03.03.1992	17	-do-	18 (personally up-graded)	-do-	
5	Mr. Shad Muhammad	M.Sc	Mansehra	03.04.1958	22.11.1988	22.11.1988 as Progress Officer	16	Promotee	17	27-08-2012	Consequent upon acceptance of their departmental appeals / representations by the appellate authority, the officers mentioned at Sl. No.6 to -10 - have regained their seniority.
6	Mr. Ahmad Sheraz	M.A (P. Science)	Swabi	15.09.1960	22.11.1988	22.11.1988 as Progress Officer	16	-do-	17	16.05.2013	-do-
7	Mr. Abdul Rashid	M.A	Haripur	01.01.1961	22.11.1988	22.11.1988 as Progress Officer	16	-do-	17	27.08.2012	-do-
8	Mr. Fazlullah	M.A (Sociology)	Swabi	08-10-1962	22.11.1988	22.11.1988 as Progress Officer	16	-do-	17	16-05-2013	-do-
9	Mr. Shibli Khan	M.Sc (Hon: Agri)	Swabi	01.05.1965	22.11.1988	22.11.1988 as Progress Officer	16	-do-	17	16.05.2013	-do-
10	Mr. Sardar-Ul-Mulk	M.Sc (Hons)	MKD	01.01.1966	07.09.1993	07.09.1993	17	Direct	18 (personally up-graded)	25.07.2013	
11		M.Sc	Chowah	01.04.1961	09.09.1993	09.09.1993	17	-do-	18	25.07.2013	

**SECTION OFFICER (ESTAB)**  
**Local Govt. Elections & Rural**  
**Development Department KP**


**ATTFC**  
 (Signature)

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12	Mr. Riaz Ahmad	M.Sc (Hon: Agri)	Swabi	06.05.1966	07.09.1993	07.09.1993	17	-do-	18 (personally up-graded)	25.07.2013
13	Mr. Khalid Israr Shah	M.A (P.Science)	Bannu	13.10.1966	01.09.1993	05.09.1993	17	-do-	18 (personally up-graded)	25.07.2013
14	Mr. Sajid Gul	M.S(Agri)	Dir Lower	09.05.1965	05.09.1993	05.09.1993	17	-do-	18 (personally up-graded)	25.07.2013
15	Mr. Said Rehman	M.A (P.S)	Mohmand Agency	25.06.1965	13.09.1993	13.09.1993	17	-do-	18 (personally up-graded)	25.07.2013
16	Syed Husnain Kazmi	M.Sc (Agri)	Mansehra	10.04.1966	07.09.1993	09.09.1993	17	-do-	18 (personally up-graded)	25.07.2013
17	Mr. Muhammad Jehangir	M.Sc	Peshawar	17.09.1965	25.05.1993	25.05.1993 Progress Officer	16	Promotee	18 (personally up-graded)	26.12.1996
18	Qazi Noor-Ul-Wahab	M.Sc	Nowshera	16.03.1996	26.05.1993	26.05.1993 Progress Officer	16	-do-	18 (personally up-graded)	26.12.1996
19	Mr. Alam Zeb	M.A	Swabi	15.09.1958	23.12.1980	23.12.1980	16	-do-	18 (personally up-graded)	26.12.1986
20	Mr. Salim Raza	M.A	Charsadda	15.12.1964	28.02.1990 (Supervisor B-9)	28.02.1990	BS-9	-do-	17	27.08.2012
21	Mr. Asadullah	B.A	Charsadda	28.09.1966	-do-	-do-	BS-9	-do-	17	27.08.2012

SECRETARY TO GOVERNMENT OF KP  
LOCAL GOVT. ELECTIONS & RURAL  
DEVELOPMENT DEPARTMENT

**ATTESTED**

  
SECTION OFFICER (ES&RD)  
LOCAL GOVT. ELECTIONS & RURAL DEVELOPMENT DEPARTMENT

27

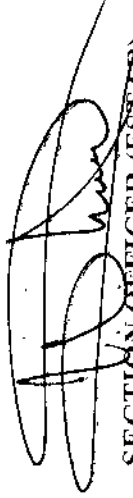


No. SO(LG-D)4-118/ADS/S.LIST/2017/VOL-II

Dated Peshawar, the 22<sup>nd</sup> August, 2017

Copy forwarded to:-

1. The Director General, LG&RDD Khyber Pakhtunkhwa, Peshawar.
2. The Director FATA, LG&RDD Warsak Road Peshawar.
3. All Assistant Directors, LG&RDD in Khyber Pakhtunkhwa
4. The Manager Government Printing Press Peshawar. He is requested to provide 100 printed copies of the seniority list.
5. The PS to Secretary LG,E&RD Department Peshawar.
6. The Office order file.

  
SECTION OFFICER (ESTAB)  
Phone # 091-9213224

ATTEST

offer of appointments to these employees were issued by the Deputy Secretary, Sarwar Khan of Local Council Board: an autonomous body. The adhoc appointments and its advertisement were supposed to be made by the appointing authority as per Section 13 of APT Rules 1989 which in the instant case is the Chief Secretary, Khyber Pakhtunkhwa but advertisement was made by the Deputy Secretary Local Council Board an autonomous body.

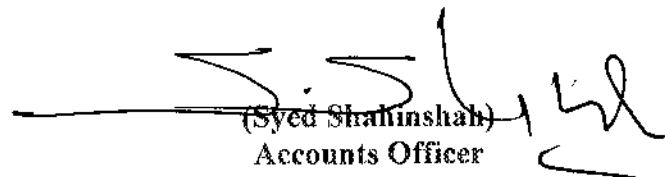
It is further submitted that the posts of these Planning Officers were created in regular budget vide circular No. AOII(Strengthening)/91 w.e.f 01.01.1992 but they got benefit of posting seniority from 1989. No seniority can accrue unless and until there are regular posts. (Annex-A is attached for ready reference)

It is also submitted that the Adhoc appointments and its advertisement are made when posts are regularly created and requisition to the commission are communicated with approval of the appointing authority as per Section 13 of APT Rules 1989. In this instant case regular posts were created on 01.01.1992 and its advertisement on Adhoc basis were made in 1989 which is unlawful.

It is therefore, requested that the impugned Joint Final Seniority list vide No. SO(LG-I)4-118/Assistant Directors/Seniority List/2017/Vol-II dated 22.08.2017 may be corrected from the date of creation of regular posts in a current budget since 01.1.1992 through Standing Service Rules Committee as well as by incorporating the name of Undersigned in the seniority list w.e.f 01.07.1991 by modifying the final seniority list of officers of the Directorate General LG&RDD, Khyber Pakhtunkhwa.

Thanking You

Faithfully Yours'

  
(Syed Shahinshah)  
Accounts Officer  
Dte: Gen: LG&RDD

RECEIVED

Tele: \_\_\_\_\_



31

#L

**GOVERNMENT OF N.W.F.P.**  
**WORKERS' WELFARE BOARD, PESHAWAR.**

Dated Peshawar, the \_\_\_\_\_ 1996

CHARGE RELINQUISHMENT CERTIFICATE

Consequent upon his appointment as Account Officer (B-17) in the Directorate General of Local Government and Rural Development vide Notification No. SO(LG-I)2-204/96 dated 22-4-1996, Syed Shahin Shah Manager Training (BPS-17) Secretarial Training Centre NWFP Workers Welfare Board Peshawar relinquished the charge of the post of Manager Training (B-17) in the Workers Welfare Board on May 5, 1996 (AN).

Sd/ x x x  
SECRETARY  
NWFP, WORKERS WELFARE BOARD  
PESHAWAR

Encl No: WWB. 1-1/VIII/772-78 Dated 11-3-1997

Copy to:

1. Secretary to Govt. of NWFP Local Govt. and Rural Development Department Peshawar.
2. Director General to Govt. of NWFP Local Govt. and Rural Development Department Peshawar.
3. Secretary Local Council Board, NWFP Peshawar
4. Secretary NWFP, Workers Welfare Board Peshawar
5. Accountant General, NWFP, Peshawar
6. ✓ Syed Shahin Shah, Account Officer, Directorate General of Local Govt. and Rural Development Department, NWFP Peshawar.
7. Personal file.
8. Office copy.

**ATTESTED**

(MUNEER KHAN)  
Assistant Secretary  
NWFP, Workers Welfare Board

(32) M

PART-IV  
ADHOC APPOINTMENT

13. *Requisition to Commission.*— When under any rule for the time being in force, a post is required to be filled in through the Commission, the appointing authority shall forward a requisition on the prescribed form to the Commission immediately after it is decided to fill in the post, or if that is not practicable and the post is filled on adhoc basis as provided in rule 14, within two months of the filling of the post.

14. *Adhoc Appointment.*— (1) When the appointing authority considers it to be in the public interest to fill in a post falling within the purview of the Commission urgently, it may, pending nomination of a candidate by the Commission, proceed to fill in such post on adhoc basis for a period not exceeding six months by advertising the same in accordance with the procedure laid down for initial appointment in Part-III of these rules.

(2) Short term vacancies in the posts falling within the purview of the Commission and vacancies occurring as a result of creation of temporary post for a period not exceeding six months, may be filled in by appointing authority otherwise than through the Commission on a purely temporary basis after advertising the vacancy.

PART-V  
PROBATION AND CONFIRMATION

15. *Probation.*— (1) A person appointed to a post on regular basis shall remain on probation for a period of two years, if appointed by initial recruitment, and for a period of one year, if appointed otherwise; provided that if his work or conduct during the period of probation has, in the opinion of the appointing authority, not been found satisfactory, the appointing authority may, notwithstanding that the period of probation has not expired—

- (a) dispense with his service, if he has been appointed by initial recruitment; or
- (b) revert him to his former post, if he has been appointed otherwise, or if there be no such post, dispense with his services; or
- (c) extend the period of probation for a period not exceeding one year in all and may, during or on the expiry of such extended period, pass such orders as it could have passed during or on the expiry of the initial probationary period.

*Explanation.*— Officiating service or service spent on deputation to a corresponding or a higher post may be allowed to count towards the period or probation.

(2) If no orders have been made by the day following the completion of the initial probationary period, the period or probation shall be deemed to have been extended, and if no orders have been made by the day on which the maximum period or probation expires, the probationer shall, subject to the proviso to sub-section (3) of section 6 of the North-West Frontier Province Civil Servants Act, 1973, be deemed to have satisfactorily completed his period of probation.

**ATTESTED**

**VAKALAT NAMA**

NO. \_\_\_\_\_/20

IN THE COURT OF Ko.P.o.k Service Tribunal, Peshawar

Shahin Shah (Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Court of Ko.P.o.k (Respondent)  
(Defendant)

I/We, Shahin Shah

Do hereby appoint and constitute **M. Asif Yousafzai, Advocate Supreme 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 costs.

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

Dated \_\_\_\_\_/20

S. S. Sher  
(CLIENT)

ACCEPTED

M. Asif Yousafzai  
**M. ASIF YOUSAFZAI**  
Advocate Supreme Court  
Peshawar.

**Taimur Ali Khan**  
Advocate High Court

Syed Nauman Ali Bukhari  
**Syed Nauman Ali Bukhari**  
Advocate

**OFFICE:**

Room # FR-8, 4<sup>th</sup> Floor,  
Bilour Plaza, Peshawar,  
Cantt: Peshawar  
Cell: (0333-9103240)



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Block "A" Civil Secretariat, Peshawar

Phone No. 091-9211128

**MOST IMMEDIATE / COURT MATTER.**

NO.SO (Lit-II) E&SED/1-3/SA # 153/18/Syed Shahin Shah.

Dated Peshawar, the 16-05-2018.

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. ST 25

Date 21/05/2018

To

✓ The Registrar,  
Khyber Pakhtunkhwa, Service Tribunal,  
Peshawar.

Subject:

**SERVICE APPEAL NO. 153/2018 TITLED SYED SHAHIN SHAH VS  
GOVT: OF KHYBER PAKHTUNKHWA, E&SE, DEPARTMENT &  
OHTERS.**

Sir,

I am directed to refer to your Notice with regard to Service Appeal No. 153/2018 on the subject noted above and to state that necessary relevant complete record may please be furnished to this Department for drafting of Joint Parawise Comments in this regard.

Yours faithfully,

SECTION OFFICER (LIT:II)

End: as above.

Endst: of even No. & date.

Copy is forwarded to:-

1. The Section Officer (Lit-II) Govt: of Khyber Pakhtunkhwa, Establishment Department (Litigation Section) w/r to his letter No.SO(Lit-II)E&AD/2-93/2018 dated 04-04-2018.
2. P.S to Secretary E&SE Department.

SECTION OFFICER (LIT:II)

Recd in Court

3/7/18



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Block "A" Civil Secretariat, Peshawar

Phone No. 091-9211128

**Reminder-I**

**MOST IMMEDIATE / COURT MATTER.**

NO.SO (Lit-II) E&SED/1-3/SA # 153/18/Syed Shahin Shah.  
Dated Peshawar, the 05-07-2018.

To

✓ The Registrar,  
Khyber Pakhtunkhwa, Service Tribunal,  
Peshawar.

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 779

Dated 13/07/2018

Subject: **SERVICE APPEAL NO. 153/2018 TITLED SYED SHAHIN SHAH VS  
GOVT: OF KHYBER PAKHTUNKHWA, E&SE, DEPARTMENT &  
OHTERS.**

Sir,

I am directed to refer to this Department letter of even No. dated 16-05-2018 on the subject noted above and to state that the requisite information/documents with regard to Service Appeal No. 153/2018 is still awaited, which may please be furnished to this Department for further necessary action.

Yours faithfully,

SECTION OFFICER (LIT:II)

Endst: of even No. & date.

Copy is forwarded to:-

1. The Section Officer (Lit-II) Govt: of Khyber Pakhtunkhwa, Establishment Department (Litigation Section).
2. P.S to Secretary E&SE Department.

SECTION OFFICER (LIT:II)

Recd

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

**Service Appeal No:153/2018**

**Syed Shahinshah, Accounts Officer,**

**Directorate General, LG&RDD .....Appellant**

**Versus**

- 1 The Government of KPK through  
Chief Secretary, Peshawar
- 2 The Chief Secretary, Khyber Pakhtunkhwa
- 3 The Secretary Establishment KPK
- 4 The Secretary, LG,E&RDD
- 5 Director General, LG&RDD
- 6 Secretary, Local Council Board .....Respondents

**JOINT PARA-WISE COMMENTS OF RESPONDENTS**

**Respectfully Sheweth;**

**Preliminary objections:-**

- i. The appellant has got no cause of action to institute the instant appeal;
- ii. The appellant has not come to the Hon'ble Tribunal with clean hands;
- iii. The appeal is not maintainable in its present form;
- iv. The appellant has concealed the material facts;
- v. The appellant has been promoted to the post of Deputy Director (Finance & Accounts) BPS-18;
- vi. The appeal is time barred;
- vii. The appeal is liable to be dismissed;

**On Facts:-**

Para-1 Pertains to record.

Para-2 The appellant was appointed as Accounts Officer (BS-17) under the initial recruitment quota as prescribed in the Service Rules and was posted in Directorate General, Local Government and Rural Development Department, Khyber Pakhtunkhwa, Peshawar during 1996.



Para-3 In response to para-3, it is submitted that as a result of restructuring of the Department of LG&RD in devolution process, 2001, the Directorate General, LG&RDD and its allied offices in the settled districts alongwith posts were abolished.

Para-4 The appellant was adjusted as Accounts Officer in the office of District Coordination Officer, Peshawar vide order as annexed- "D" to the appeal.

Para-5 In reply to para-5, it is clarified that the appellant was repatriated by the District Coordination Officer, Peshawar after which he was adjusted against the vacant post of Accounts Officer in Directorate of Information, Khyber Pakhtunkhwa, Peshawar. Again the appellant was repatriated by the Information Department and as a result of which he was posted as Accounts Officer in District Government, Mardan by the Government of Khyber Pakhtunkhwa.

The Directorate General, LG&RDD was revived and the appellant was adjusted against the newly created post of Accounts Officer in Directorate General, LG&RDD accordingly.

Para-6 Incorrect. The appellant belongs to Accounts Cadre while the service rules framed during the year 1998 pertaining to the Planning Officer as well as Assistant Directors of LG&RDD which is a separate cadre and has no concern with the appellant.

Para-7 Incorrect. The seniority list of Muhammad Zahoor and Muhammad Fahim was determined in accordance with law regulating their services as the said officers were regularized from the date of their initial appointment in implementation of Judgement of the Supreme Court of Pakistan (Annex A).

Para-8 Incorrect. Tentative Seniority list of Assistant Directors / Planning Officers (BPS-17) was circulated on 27-10-2015 and objection of the officers belonging to the said cadre were invited on the same while the appellant's cadre was accounts cadre, therefore, his name was not included in the said list

Para-9 Incorrect. The appellant belongs to accounts cadre and has already been promoted to the post of Deputy Director (Finance & Accounts) BPS-18, therefore, his cadre could not be mixed with the administration cadre.

Para-10 Appeal of the appellant is not based on merit on the following grounds:

**On Grounds:-**

A. Incorrect. The seniority list of Assistant Directors / Planning Officers LG&RDD circulated on 22-08-2017 is strictly in accordance with law.

B. As replied in Para-A above.

C. Incorrect. The appellant has been given seniority in his cadre and has already been promoted to his cadre post i.e. Deputy Director (Finance & Accounts) BPS-18.

D. Incorrect. The officer mentioned at Sl.No.1 of the seniority list has already been retired from service while Mr.Muhammad Fahim is a regular employee of the Department and has correctly been placed in the seniority list of his cadre.


E & F As replied in para-C above

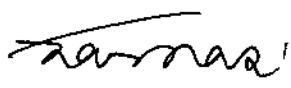
G. Incorrect. The Planning Officers and other employees who were appointed on contract basis were regularized in implementation of Judgement of the Supreme Court of Pakistan (**Annex-B**).

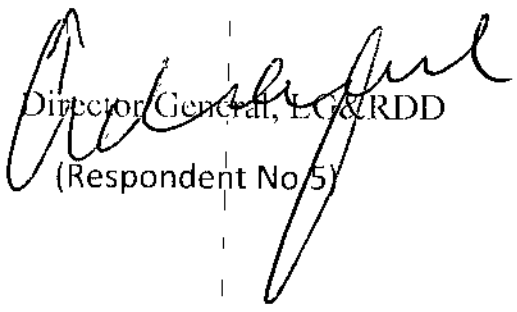
F/A

- H. Incorrect. The appellant has been given his legal right in his cadre and has been promoted to the post of Deputy Director (Finance & Accounts) BPS-18.
- I. Incorrect. The appellant has been treated in accordance with law regulating his services.
- J. Additional grounds if produced by the appellant will be replied at the time of arguments.

It is requested that the Hon'ble Service Tribunal may graciously dismiss appeal of the appellant with cost.

  
Secretary, Establishment  
(Respondent No.3)

  
Secretary, LG, E & R/D  
(Respondent No.4)

  
Director General, LG & R/D  
(Respondent No.5)





Government of Khyber Pakhtunkhwa  
Local Government, Elections and Rural Development Department

NOTIFICATION

Dated Peshawar, 12<sup>th</sup> October, 2018

3503

No.SO(LG-I)2-128/2018.- The Competent Authority on the recommendations of Provincial Selection Board has been pleased to promote Syed Shahinshah, Accounts Officer (BPS-17) to the post of Deputy Director (Finance and Accounts) BPS-18 in Directorate General, Local Government and Rural Development Department, Khyber Pakhtunkhwa Peshawar with immediate effect.

2. On his promotion, the officer will remain on probation, in terms of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.

3. Consequent upon his promotion, Syed Shahinshah is posted against the vacant post of Deputy Director (Finance & Accounts) BPS-18 in Directorate General, Local Government and Rural Development Department, Khyber Pakhtunkhwa, Peshawar with immediate effect.

SECRETARY TO GOVT. OF KHYBER  
PAKHTUNKHWA, LG.E&RDD

Endst No. SO(LG-I)2-128/2018

Dated Pesh: 12<sup>th</sup> October, 2018

Copy is forwarded to:-

1. The Secretary to Government of Khyber Pakhtunkhwa, Establishment Department.
2. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
3. The Director General, LG&RDD, Khyber Pakhtunkhwa, Peshawar.
4. All Assistant Directors, LG&RDD in Khyber Pakhtunkhwa.
5. Syed Shahinshah, Accounts Officer, Directorate General, LG&RDD, KP, Hayatabad, Peshawar
6. The Manager, Government Printing Press, Peshawar.
7. Personal file of the officer concerned.
8. The PS to Secretary, LG.E&RDD.
9. Office order file.

(HAJI MUHAMMAD)  
SECTION OFFICER (ESTAB)

Ph: // 091-9213224

**IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)**

*Annex-B*

**PRESENT**

**MR. JUSTICE HAMID ALI MIRZA  
MR. JUSTICE NASIR-UL-MULK**

**CIVIL APPEALS NO.44 TO 79 OF 2004 AND  
CIVIL PETITIONS NO.1409/2004 & 319/2005**

(On appeal from the judgment of the N.W.F.P. Service Tribunal,  
Peshawar, dated 7.2.2004 passed in Service Appeals No.926, 959  
to 979, 989, 1037 to 1039, 1048 to 1050, 1067 to 1071, 1085,  
1170 of 2003 and 60 of 2004.

Zafarullah Khan	Appellants (in C.A.No.44/05)
Attiquir Rehman	(in C.A.No.45/05)
Khalid Saeed	(in C.A.No.46/05)
Muhammad Zahoor	(in C.A.No.47/05)
Fakhr-uz-Zaman Khan	(in C.A.No.48/05)
Muhammad Fahim	(in C.A.No.49/05)
Shad Mohammad	(in C.A.No.50/05)
Raza Ullah Khan	(in C.A.No.51/05)
Muhammad Iqbal Khan	(in C.A.No.52/05)
Sheraz Ahmed	(in C.A.No.53/05)
Abdur Rashid	(in C.A.No.54/05)
Arshad Zia	(in C.A.No.55/05)
Fazlullah	(in C.A.No.56/05)
Muhammad Raees Khan	(in C.A.No.57/05)
Muhammad Ilyas	(in C.A.No.58/05)
Aziz-ur-Rehman	(in C.A.No.59/05)
Muhammad Sadiq	(in C.A.No.60/05)
Asghar Hussain	(in C.A.No.61/05)
Salim Javed	(in C.A.No.62/05)
Amin Gul	(in C.A.No.63/05)
Dilawar Khan	(in C.A.No.64/05)
Munawar Ahmed	(in C.A.No.65/05)
Schwanosh	(in C.A.No.66/05)
Muhammad Nazif	(in C.A.No.67/05)
Ghulam Akbar	(in C.A.No.68/05)

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Supreme Court of Pakistan  
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Aman Ullah Khan	(in C.A.No.69/05)
Abdali Shah	(in C.A.No.70/05)
Intizar Muhammad	(in C.A.No.71/05)
Muhammad Khan	(in C.A.No.72/05)
Arif Qayyum	(in C.A.No.73/05)
Abdul Hameed	(in C.A.No.74/05)
Naseem Ullah	(in C.A.No.75/05)
Muhammad Ismail	(in C.A.No.76/05)
Fazal-ur-Rehman	(in C.A.No.77/05)
Malik Irfan	(in C.A.No.78/05)
Iqbal Ahmed	(in C.A.No.79/05)
Pervez Khan	Petitioner (in C.P.No.1409/04)
Sarfraz Khan	(in C.P.No.319/05)
Government of N.W.F.P. and others	Respondents
For the Appellants: (in C.A.Nos.44 to 56/05)	Mr. Muhammad Akram Sheikh, Sr. A.S.C. Mr. Muhammad Ahmed Zaidi, A.O.R.
For the Appellants (in C.A.Nos.57 to 79/05 & C.P.1409/04)	Mr. Abdul Rehman Siddiqui, A.S.C. Ch. Muhammad Akram, A.O.R.
For the Petitioner (in C.P.No.319/05)	Mr. Muhammad Aslam Uns, A.S.C. Mr. Arshad Ali Ch. A.O.R.
For the Respondents (in all cases)	Mr. Muhammad Essa Khan, Addl.A.G. N.W.F.P.
Date of hearing:	25 <sup>th</sup> August 2005

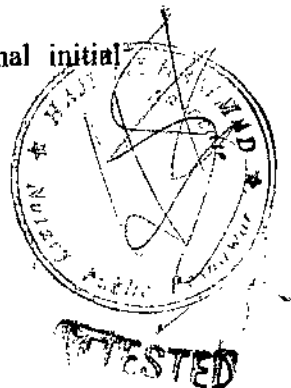
**JUDGMENT**

**NASIR-UL-MULK, J.-** By this single judgment, it is proposed to dispose of Civil Appeals No.44 to 79 of 2005 and Civil Petitions No.1409 of 2004 and 319 of 2005. In the civil appeals, leave to appeal was granted to consider inter-alia "whether by virtue of N.W.F.P. Employees On Contract Basis (Regularization of Services) Act, 1989 (Act No. VIII of 1989) as amended by N.W.F.P. Act No. II of 1990, the petitioners were to be treated as regularly appointed civil servants notwithstanding that their original initial appointment was on contract basis."

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2. The facts of all these matters, except civil appeal No.46 of 2005, filed by

Khaid Saeed, are materially similar. In these similar appeals/petitions, the appellants/petitioners had applied in the year 1986 for the various posts, advertised for appointments on ad-hoc basis by the Government of N.W.F.P, Local Government, Elections and Rural Development Department, Peshawar (hereinafter referred to as the Department), published in the National Dailies of 30.10.1987. The total numbers of posts advertised were 136. The appellants, upon the recommendation of the Selection Board, constituted for the purpose, were appointed in November 1988 on the posts for which they were selected. As a specimen it will be worthwhile to reproduce the letter of appointment of one of the appellants, namely Zafarullah Khan, appellant in civil appeal No.44 of 2005:-

GOVERNMENT OF NWFP  
LOCAL GOVERNMENT, ELECTIONS AND RURAL  
DEVELOPMENT DEPARTMENT

NO.DS./LCB/1-8/88

Dated Peshawar 22<sup>nd</sup> Nov. 1988.

To

Mr. Zafar ullah Khan s/o  
Gul Faraz Khan, c/o Abdul Sattar, Office Supdt. FIA,  
Mail Road Peshawar Cantt.

Subject: APPOINTMENT ON CONTRACT BASIS.

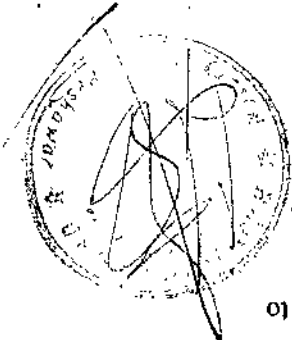
Further to our letter of even number dated 2-11-88, and the agreement signed by you on 13<sup>th</sup> November, 1988, the Provincial Government are pleased to appoint you as Planning Officer (Karak), on contract basis on the terms and conditions contained in the said agreement (copy enclosed) for the period commencing from the date of assumption of charge until 30.6.1989 or earlier as the case may be. On appointment you are posted in the office of Asstt. Director LG & RPD (Karak). And advised to report for duty to him on or before 28.11.1988. No TA/DA will be admissible to you for the journey on this account.

(SARWAR KHAN)  
DEPUTY SECRETARY-(L.C.B.)

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The letters of appointment of the other appellants were similarly worded. It may be noted that though the posts were advertised to be filled on ad-hoc basis, the appointments were made on contract basis. The case of the appellants is that the nature of employment was changed on account of ban imposed on recruitment on ad-hoc basis by the N.W.F.P. Civil Servants (Regularization of Services) Act, 1988.

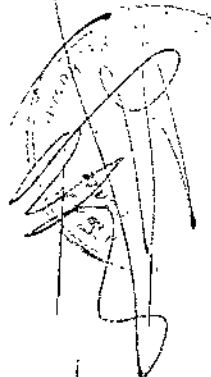
3. The appellant in civil appeal No.46 of 2005 was appointed on 12.3.1990 as Planning Officer in BPS-17 under the Scheme "Strengthening of Local Government and Rural Development" purely on the contract basis. The terms and the date of employment of this appellant makes his case distinguishable from the rest of the appellants.

4. All the appellants were serving the Department when in the year 1996 the

Accountant General, N.W.F.P. stopped payment of their salaries, impelling them to file Constitutional Petitions (Writ Petition No.1084 of 1996 etc.) wherein they prayed that they be declared to be duly regularized civil servants in the light of provisions of the N.W.F.P. Employees on Contract Basis (Regularization of Service) Act 1989 (Act VIII of 1989) as amended by the Act No.II of 1990. The writ petition was dismissed on 4.3.2003. During the pendency of the petitions, the appellants remained in service on account of the interim orders passed in their favour by the High Court. The appellants being aggrieved of the decision of the High Court filed constitutional petitions for leave to appeal before this Court. During the pendency of the petitions the appellants' services were terminated in the light of judgment of the High Court. In view of this development, this Court was of the opinion that the appellants had to assail the orders of termination of their services before the Service Tribunal. A direction was given to the Service Tribunal that in case appeals were filed by the appellants, the same be disposed of expeditiously. While disposing of the petitions in the above terms, this Court directed the Government of N.W.F.P. to pay the appellants their outstanding salaries if not paid so far.

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5. The appellants thereafter filed their respective appeals before the Service Tribunal. All the appeals, except one filed by Tahira Yasmeen, were dismissed. That case was held to be distinguishable for the employee had been appointed on temporary and not on contract basis. The reasons for dismissal of the appeals have been stated in para 10 of the impugned judgment, dated 7.2.2004, which reads as under:-

"10. A look at the record would show that appointments of the appellants were made purely on contract basis initially for a period of six months. Agreement deeds were also executed between the employers and employees. The prayer of the appellants for their regularization was not acceded to by the respondent department. It is evident that status of the appellants ever since their initial appointments till the termination of their services remained as contract employees. Since the appellants were contract employees, therefore, they are not civil servants within the meaning of section 2(b) of the NWFP Civil Servants Act, 1973. Therefore, this Tribunal lacks jurisdiction in the matter in hand. Accordingly, the instant appeal as well as the connected appeals mentioned above, except Appeal No.926/03 figures at S.No.1 at page-2 of the judgment, fail and are dismissed, with no order as to costs."

6. The Service Tribunal thus declined to exercise jurisdiction on the ground that the appellants being contract employees were not civil servants and thus could not file appeals before the Service Tribunal. These findings run contrary to the order of this Court dated 10.6.2003 passed in C.P.No.185-P of 2003 wherein it was expressly stated that the appellants may file appeals before the N.W.F.P. Service Tribunal against their orders of termination and direction was also given to the Service Tribunal for the expeditious disposal of the appeals, if filed. The Service Tribunal, on account of above findings, did not attend to the merits of the appeals before it.

7. The case of the appellants throughout has been that they were to be appointed on ad-hoc basis as advertised but on account of the ban imposed on

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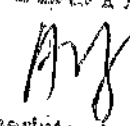
such employment by the Act of 1988, they were appointed on contract basis. That in any case their services as civil servants stood regularized by Act VIII of 1989 as amended by Act II of 1990. That throughout their service they had been treated as civil servants and were given all benefits of such service.

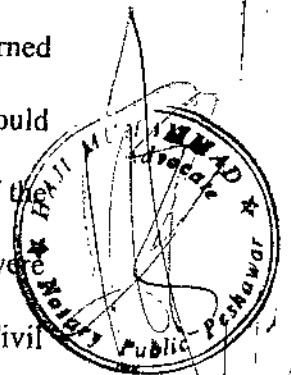
8. Mr. Muhammad Akram Sheikh, Sr. A.S.C. elaborating the case of the appellants submitted that the appellants had served the Department continuously for 15/16 years and though their initial period of contract had expired, they remained in employment without further extension of the contractual service. That all along, the appellants had been treated as civil servants, probably on account of Act VIII of 1989, and thus the non-issuance of any formal order/notification regularising the appellants' service under the said statutory provisions would be a lapse of the Department. Countering the claim of the Department that the appellants belonged to a project/scheme of the Department and were not appointed to regular posts in the Department, the learned Sr. A.S.C. submitted that neither the advertisement advertising the posts nor the appellants' orders of appointment had referred to employment in any scheme/project. For his submissions, the learned counsel cited "Ahmed Khan v Secretary to Government (1997 SCMR 1477) and "Government of N.W.F.P. v Rukhsar Ali (2005 SCMR 22)."

9. Mr. Abdul Rehman Siddiqui and Mr. Muhammad Aslam Uns, learned ASC who appeared for some of the appellants adopted the arguments advanced by Mr. Muhammad Akram Sheikh, Sr. A.S.C.

10. Before referring to the contentions of Mr. Muhammad Essa Khan, learned Additional Advocate General, N.W.F.P. representing the Department, it would be appropriate to state the statutory provisions relevant for determination of the main questions raised before us. As already mentioned the posts in question were advertised on 30.10.1987 to be filled on ad-hoc basis. Section 5 of N.W.F.P. Civil

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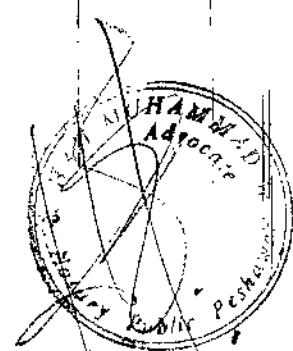
Servants (Regularization of Service) Act 1988, enacted on 23.1.1988, is reproduced as follows:-

"5. Ban on recruitment on ad hoc basis:- (1) Notwithstanding anything contained in any law or rule there shall be no recruitments by way of ad hoc appointments for a period of ten years from the date of commencement of this Act.

(2) The Government may fill in short term or temporary vacancies by way of contractual appointment in such manner and on such terms and conditions as may be prescribed for a period not exceeding two years during which period the selectees of the Public Service Commission against the vacancies, to fill in the posts, shall be made available by the Public Service Commission."

11. The above act was enacted after the advertisement but before the appellants' appointments. It would thus appear that it was on account of this intervening event of ban on ad-hoc appointments by the above statutory provision that the appellants' appointments were made on contractual basis, notwithstanding that according to the advertisement the appointments were to be made on ad-hoc basis. However, on 13.11.1989, N.W.F.P. Act No.VIII of 1989 was enacted for the purpose of regularizing the services of contractual employees. The relevant provisions, embodied in Sections 3 and 4 of the Act as under:-

"3. Special provision regarding employees on contract basis:- Notwithstanding any thing contained in sub-section (1) of section 2 of the North West Frontier Province Civil Servants Act, 1973 (N.W.F.P. Act No.XVIII of 1978), any candidate appointed on contract basis in any Government Department against any post on contract basis under section 5 of the North West Frontier Province Civil Servants (Regularization of Services) Act, 1988 (N.W.F.P. Act No.1 of



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1988) till the commencing day of this Act shall be always be deemed to have been so appointed.

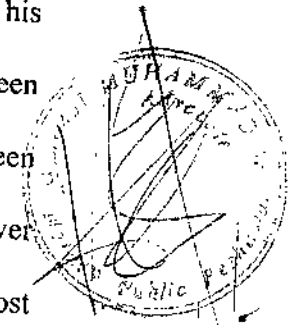
4.(1) Notwithstanding anything contained in any law for the time being enforce, any Civil Servant, who is, or has been appointed or deemed to have been appointed against any post in any Government Department under section 3 of this Act shall be deemed to have been regularly appointed from the date of his continuous officiation, subject to eligibility, according to the service rules applicable to the post, verified by the Administrative Secretary of the department concerned;

Provided that if any Civil Servant is aggrieved regarding his eligibility, he shall have one right of appeal to the Chief Secretary, Government of North West Frontier Province, and his decision I the case shall be final:

Provided further that if there is any gap in service of any Civil Servant between this enactment and the date of appointment under section 3 of this Act, due to termination of contractual services only the same shall be deemed to have been condoned as extraordinary leave without pay.

(2) The inter se seniority of the civil servants under this Act shall be determined by the Government, according to service rules in vogue."

12. Section 4 reproduced above was substituted by an amending Act (N.W.F.P. Act No. II of 1990). The substituted provisions did not bring much material change in the original section and to a greater extent was a reproduction of the substituted provision. Under Section 3 of Act VIII of 1989 a candidate appointed on contract basis against any post under Section 5 of the Act I of 1988 was deemed to have been appointed on ad hoc basis from the date of his appointment. By virtue of Section 4 such person, who is deemed to have been appointed under Section 3 on ad hoc basis, shall be considered to have been regularly appointed from the date of his continuous employment. This however has been made subject to verification of eligibility of the candidate for the post by the Administrative Secretary of the Department. The appellants, as stated above, had been appointed on contract basis under Section 5 of Act I of 1988 as



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Superintendent  
Supreme Court of Pakistan

they could not have been appointed on ad-hoc basis on account of the ban imposed by the Act. Thus, their employment was to be considered as appointment of civil servant on ad hoc basis under Section 3 of Act VIII of 1989 and consequently were deemed to have been regularly appointed by virtue of Section 4 of the Act. Act VIII of 1989 did not envisage the issuance of any notification for regularization of employees falling within the scope of Sections 3 and 4. Such employees became civil servants by operation of law. The only condition was verification of eligibility of the employees by the Administrative Secretary. It is not the case of the Department that appellants were not eligible for the posts to which they were appointed. Even if the formal exercise of verification was to be carried out, the same was to be undertaken by the Secretary and obviously the appellants cannot be made to suffer for non-performance of a statutory responsibility imposed on the head of the Department.

13. In view of the above clear statutory provisions favouring the appellants, the learned Additional Advocate General, N.W.F.P. laid stress upon the Department's stand that the appellants were employed for a project and were never appointed to any regular post in the Department. Elaborating the point he submitted that the Department had started a scheme called "Strengthening of Local Government and Rural Development Department" for which PC-I was approved and it was for the running of the scheme that the appellants were employed. That the appellants were to be paid from the developmental funds and not from the Provincial Exchequer. The learned Additional Advocate General maintained that with the restructuring of the Department in the process of devolution of powers, the office of the Director General, Local Government and Rural Development and all its offices and schemes were abolished and thus the services of the appellants, who were contractual employees for a scheme, had to be terminated.

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14. The position taken by the learned Additional Advocate General, regarding the appellants' nature of employment, does not find support from the relevant documents. By the advertisement of 30.10.1987 the Department invited applications for filling up certain posts in the Rural Development of the Government of N.W.F.P. There was no mention of the posts being related to any project or scheme. The letters of appointment, one of which has been reproduced above, also does not make such a reference. These two are the relevant documents for the purpose of determining as to whether the appellants were appointed for a project or in the Department. As neither the advertisement nor the letters of appointments, both issued by the Local Government and Rural Development Department of the Government of N.W.F.P., state that employment is for any particular project or scheme, the same is deemed to have been made in the Department. Additionally, the appellants, who had served the Department for 15 years, had been treated as regular employees of the Department and not as employees of a project. Circumstances indicative of this treatment have been highlighted by the Service Tribunal in the impugned judgment and have not been controverted by the Department, either before the Tribunal or before us. The appellants had been granted revised basic pay scales like all other civil servants in the years 1991 and 1994 along with annual increments. They were given the benefit of the scheme of basic pay, allowances and pension enhanced by the Provincial Government in the year 2001 for the provincial civil servants. The appellants were regular subscribers to the G.P. Fund and the Benevolent Fund, and it is stated that on transfer of one of the appellants to Peshawar, the G. P. Fund was also transferred to the office of Accountant General, N.W.F.P. Peshawar. These are normal incidence of service of civil servants and not of employment in a project. The source of funds for paying the salaries to the appellants or the contents of any P.C.1 is a matter of internal administration of the Provincial Government. The nature of the appellants' employment is to be decided on the basis of the letters of

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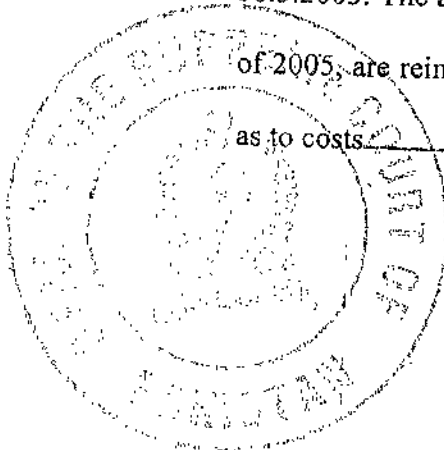
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appointment and the manner in which their employments have been considered thereafter. The foregoing discussion shows that the appellants were employees of the Department and not of any Scheme or Project and by virtue of the provisions of Act VIII of 1989, as amended, had become regular civil servants.

15. The case of Khalid Saeed, appellant in Civil Appeal No.46 of 2005, however, stands on a different footing. He was appointed on 12.3.1990 after the enactment of Act VIII of 1989 and Act II of 1990, the latter is dated 25.2.1990, though it has been enforced retrospectively w. e. f. 13.11.1989. The two Acts had regularized the services of those employees who were employed on contract basis till coming into force of the Acts on 13.11.1989. Obviously, Khalid Saeed cannot claim benefit of these Acts.

16. In view of the above, Civil Appeal No.46 of 2005 is dismissed whereas Civil Appeals No.44, 45, 47 to 79 of 2005 are allowed, Civil Petition Nos. 1409 of 2004 and 319 of 2005 are converted into appeals and allowed. Resultantly, the impugned judgment and order of the N.W.F.P. Service Tribunal to that extent are set aside and so also the order of termination of the said appellants dated 30.5.2003. The appellants, except Khalid Saeed, appellant in Civil Appeal No.46 of 2005, are reinstated in service with all back benefits. There shall be no order as to costs.



Islamabad  
August 25, 2005  
Shirazi/\*

MC  
8/9/05

Sd/- Hamid Ali Mirza  
Sd/- Nur-ud-Din Mulla

Certified to be true copy

Superintendent  
Supreme Court of Pakistan  
ISLAMABAD  
13/9/2005

~~"NOT APPROVED FOR REPORTING"~~ Article:

Sl. No.	447/05
Date of Disposition	25-8-05
Amount	3000
No. of Wages	35
Disbursement Fee (%)	5M
Duty Charge	
Over-See Charge	F.O.C.
Stamp Duty	
Comm.	
Date of Receipt by	13-9-2005
Copy	14-9-05
Prepared by	
Received by	Muhammad Aslam Siddiqui

**BEFORE THE KKP, SERVICE TRIBUNAL, PESHAWAR.**

**Service Appeal No. 153/2018**

Syed Shahinshah

VS

Govt: of KPK etc

**REJOINDER ON BEHALF OF APPELLANT**

**RESPECTFULLY SHEWETH:**

**Preliminary Objections:**

- (1-7) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

**FACTS:**

- 1 The para-1 of the appeal is correct. The appellant was relieved properly and served the Worker Welfare Board Khyber Pakhtunkhwa from 01.07.1991 to 5.5.1996 (Copy of the letter dated 14.04.1998 is attached as Annexure-A).
- 2 The Para-2 of the appeal is correct.
- 3 The Para-3 of the service appeal is correct.
- 4 The Para-4 of the Service Appeal is correct.
- 5 The Para-5 of the appeal is correct. The respondents admitted that the appellant was made a rolling stone against the general equity, against the absorption and adjustment policy and its clarifications, against the law and against the Constitution.
- 6 The Para-6 of the service Appeal is correct and 1998 the planning officers were neither regular civil Servants nor contract employee nor adhoc employee but just laymen and citizen. The planning officer and Assistant Directors are two different groups and the Accounts cadre was ignored.
- 7 The Para-7 of the Service Appeal is correct. The reply is misleading this learned Service Tribunal vide Judgment in



strengthen scheme in 1987-88. The project employees were regularized in 2005 when the Director General was not existed and they were deemed to be adjusted in the District Government according to the Policy.

- 8 The Para-8 of the Service Appeal is correct. The reply is incorrect and misleading.
- 9 The Para-9 of the Service Appeal is correct and the replying is misleading very clearly the respondent admitting the wrong that the Planning Officer were clubbed together with Assistant Director and the Account and the Finance Cadre was omitted.
- 10 The Para-10 of the Service Appeal is correct and according to the Law and Constitution on the following grounds.

**GROUND:**

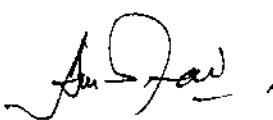
- A. The Para-A of the grounds of Service Appeal is correct while the reply is incorrect and against the law, facts and norms of justice.
- B. The Para-B of the grounds of Service Appeal is correct. The detail is given in the Para-1 of the facts of this rejoinder.
- C. The Para-C of the grounds of Service Appeal is correct. While the reply of respondents is incorrect and misleading.
- D. The Para-D of the grounds of Service Appeal is correct. While the reply of respondent Para-D of the grounds is incorrect and misleading. The detail is given in Para-7 of the facts of this rejoinder.
- E&F. The Paras in E&F of the grounds of Service Appeal are correct. The detail is given in Para-1 & 7 of the facts of this rejoinder. The reply of the respondents are incorrect and misleading.
- G. The Para-G of the grounds of Service Appeal is correct. The advertisement dated 30.10.1997 and the letter No. DS.I/LCB/1-8/88 Dated 12.11.1988 endorsed by the Deputy Secretary LCB-I Sarwar Khan. This advertisement by Deputy Secretary LCB-I Sarwar Khan as a Section Officer (General) Local Government, Election and Rural Development Department, Government of Khyber Pakhtunkhwa which is mischievous and fraudulent and stands no where in the eyes of Law. The Local Council Board is corporate body the reply of the respondents are incorrect and misleading. Copies of

- H. The Para-H of the grounds of Service Appeal is correct. The reply of the respondents in Para-H is misleading and against the spirit and contents of the instant service appeal.
- I. The Para-I of the grounds of Service Appeal is correct, and the reply of the respondents in Ground-I misleading and incorrect
- J. The Para-J of the grounds of Service Appeal is correct.

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

**APELLANT**

**Through:**

  
( M. ASIF YOUSAFZAI )  
ADVOCATE, PESHAWAR.

**AFFIDAVIT**

It is affirmed and declared that the contents of rejoinder and appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from the honorable Tribunal.

  
**DEPONENT**



R I

GOVERNMENT OF N.W.F.P.  
LOCAL GOVERNMENT, SECTIONS AND RURAL  
DEVELOPMENT DEPARTMENT

NO. LO(LG-I)10-458/96/  
Dated Pesh: the 4th April, 1996

To

The Secretary to Govt. of NWFP,  
Finance Department, Peshawar.

Subject:- GRANT OF EARNED INCREMENTS IN RELAXATION OF PR-22.

Sir,

I am directed to refer to the subject cited above and to state that while working as Manager Secretarial Training Centre in Workers Welfare Board, NWFP, Peshawar, Syed Shahinshah was selected through NWFP Public Service Commission and was appointed as Accounts Officer (BPS-17) in the Local Government and Rural Development Department. The above named officer was relieved properly. He had served the Workers Welfare Board NWFP w.e.f. 1-5-1991 to 5-5-1996. The above named officer request for the grant of earned increments since 6-5-1996.

I am therefore directed to approach the Finance Department for advice whether the above named officer is entitled for the grant of earned increments w.e.f. 6-5-1996 in relaxation of PR-22 or otherwise.

Your Obedient Servant,

( ARBAB WAHID ALAM )  
SECTION OFFICER-I

Inst. No. & Date Even.

A copy forwarded to the Director General, Local Government and Rural Development Department, NWFP, Peshawar for information pl.

SECTION OFFICER-I





B

9 22-11-88

R 3

NO. DS.I/LCB/1-8/88,  
Dated Peshawar 22nd Nov: 1988.

To

The Director General, LG & RDD, NWFP, Peshawar.  
The Asstt. Director, LG & RDD, Peshawar.

Subject: APPOINTMENT ON CONTRACT BASIS.

Further to our letter of even number dated 2-11-1988, and the agreement signed by you on \_\_\_\_\_, 1988, the Provincial Government are pleased to appoint you as \_\_\_\_\_, on contract basis on the terms and conditions contained in the said agreement (copy enclosed) for the period commencing from the date of assumption of charge un-till 30-6-1989 or earlier as the case may be.

On appointment you are posted in the office of \_\_\_\_\_ and advised to report for duty to him on or before \_\_\_\_\_ No T.A/D.A will be admissible to you for the journey on this account.

(JAWAID KHAN)  
DEPUTY SECRETARY-I (LCB).

Encls: of Even Number & Date.

Copy along with a copy of above agreement is forwarded to:-

1. The Director General, LG & RDD, NWFP, Peshawar.
2. The Divl: Director, LG & RDD,
3. The Asstt: Director, LG & RDD,
4. The Deputy Secretary-II, Local Council Board.
5. The Secretary to Government of NWFP, Planning and Development Department, Peshawar.

*[Handwritten signature]*

*[Handwritten signature]*  
DEPUTY SECRETARY-I (LCB).

*[Handwritten signature]*