

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

SERVICE APPEAL NO. 476/2014

Date of Institution ... 02.04.2014

Date of Judgment ... 07.03.2017

Mian Farooq Iqbal, Officer on Special Duty,
Establishment Department, government of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.

... (Appellant)

VERSUS

1. The Chief Secretary, Govt: of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Secretary Finance, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. The Secretary Establishment, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
4. The Secretary Mineral Development Department, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
5. The Director General, Directorate General Mines and Mineral, Khyber Pakhtunkhwa, Peshawar.

... (Respondents)

APPEAL UNDER SECTION-4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST THE FINANCE DEPARTMENT GOVERNMENT OF KHYBER PAKHTUNKHWA LETTER NO. FD(SOSR-1)12-4/2014 DATED 10.02.2014 WHEREBY THE APPLICATION OF THE PETITIONER FOR PROTECTION OF PAY AND COUNTING OF SERVICE RENDERED IN AUTONOMOUS BODY IN TOTAL SERVICE PERFORMED IN PROVINCIAL GOVERNMENT DEPARTMENT AS CIVIL SERVANT WAS DECLARED NOT ADMISSIBLE.

Mr. Muhammad Asif Yousfzai, Advocate.

.. For appellant.

Mr. Muhammad Adeel Butt, Additional Advocate General

.. For respondents.

MR. MUHAMAMD AAMIR NAZIR

.. MEMBER (JUDICIAL)

MR. ASHFAQUE TAJ

.. MEMBER (JUDICIAL)

JUDGMENT

MUHAMMAD AAMIR NAZIR, MEMBER: Mian Farooq Iqbal, Officer on Special Duty Establishment Department, hereinafter referred to as appellant, through the instant appeal under section-4 of Khyber Pakhtunkhwa Service Tribunal Act 1974, has impugned order dated 10.02.2014 vide which the application of the appellant for protection of pay and counting of service rendering by him in autonomous body was turned down by the respondents.

2. Brief facts of the case giving rise to the instant appeal are that initially the appellant was employed as Lecturer (BPS-17) in NWFP University of Engineering and Technology Peshawar in the year 1986. Subsequently, the appellant applied through proper channel for the post of Inspector of Mines(BPS-17). That after qualifying the competitive exam, the appellant was relieved and he assumed the charge of the post of Inspector of Mines in the Inspectorate of Mines Labour Welfare NWFP Peshawar on 10.07.1989. That the appellant was drawing basic salary @ Rs. 3460/- P.M while after joining the post of Inspector of Mines, the salary was fixed @ Rs. 2065/- Per month. That vide letter dated 04.06.2011, the Finance Department allowed the benefits of protection of pay to the employees of autonomous bodies on their subsequent appointment in Government Service. The appellant filed an appeal before respondent No.1 for protection of pay and counting of service rendered as Lecturer University of Engineering and Technology in the light of Finance Department letter referred above. That appeal of the appellant was rejected by respondent No.2 vide letter dated 10.02.2014 without any justification, hence the instant appeal.

07.03.17
3. Learned counsel for the appellant argued before the court that before joining the Government Service, the appellant was serving as Lecturer in University of Engineering and Technology and after obtaining NOC, the appellant applied through proper channel for the post of Inspector Mines. That the appellant was appointed to the post of Inspector Mines (BPS-17) through proper channel, there-after he was relieved by the University to join his new assignment. That as per Finance Department notification dated 04.06.2011 the appellant was entitled for benefits of pay and protection even then his appeal was rejected which illegal, hence the appeal of the appellant be accepted as prayed for.

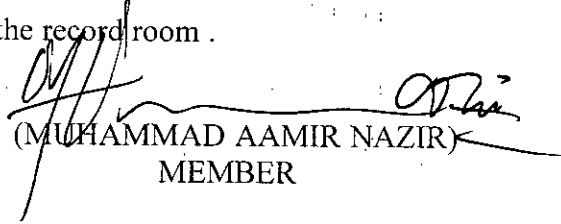
4. In rebuttal, learned Additional Advocate General argued before the court that the appellant is not entitled for pay protection and his appeal to this respect was rightly turned down by the competent authority. Though the Finance Department vide letter dated 04.06.2011 has allowed the benefits of pay protection to the employees of autonomous bodies on their subsequent appointment in government service, but the pay protection to the appellant is not admissible on the ground that he has joined provincial government service prior to the issuance

of the above referred notification. That the appeal in hand is without any substance, hence be dismissed.

5. We have heard arguments of learned counsel for the appellant and learned Additional Advocate General for the respondents and have gone through the record available on file.

6. Perusal of the case file reveals that the appellant was initially appointed as Lecturer in BPS-17 in NWFP University of Engineering and Technology in the year 1986. Later on, the appellant applied for the post of Inspector of Mines (BPS-17) in the Inspectorate of Mines Labour Welfare NWFP Peshawar through proper channel. The appellant after qualifying the Public Service Commission exam was appointed as Inspector of Mine in BPS-17 vide order dated 21.06.1989. Afterwards, the Finance Department issued a notification dated 04.06.2011 in which benefits of pay protection was allowed to the employees of the autonomous body on their subsequent appointment in Government Service who have adopted scheme of basic pay scale in to-to, provided that they have applied for the post through proper channel. The above referred notification was based on the judgment of Federal Service Tribunal Islamabad in appeal No. 1921(R) CS/2005 in case titled Sajjad Rashid and others. It is evident that the appellant was employee of University of Engineering and Technology Peshawar which was an autonomous body and has adopted scheme of basic pay scale in to-to in their appointment. The appellant applied through proper channel and after qualifying Public Service Commission was appointed as Inspector of Mines (BPS-17), therefore he is entitled for fixation/protection of pay of appointment of one post to another in light of notification of the finance department dated 04.06.2011. The appeal in hand is accepted in the light of the above discussion. Parties are however left to bear their own costs. File be consigned to the record room.


(ASHFAQUE TAJ)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

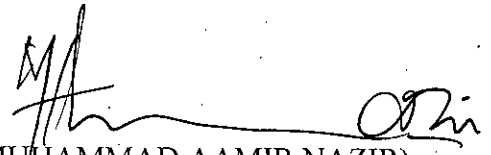
ANNOUNCED
07.03.2017

07.03.2017

Appellant with counsel and Addl: AG for respondents present.

Vide our detailed judgment of today consists of three pages placed on file, the appeal in hand is accepted as per detailed judgment. Parties are however, left to bear their own costs. File be consigned to the record room.

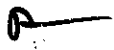

(ASHFAQUE TAJ)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

Announced
07.03.2017

17.03.2016

Counsel for the appellant and Mr. Ziaullah, GP for respondents present. Counsel for the appellant requested for adjournment. To come up for arguments on 21.06.2016.


Member


Member

21.06.2016

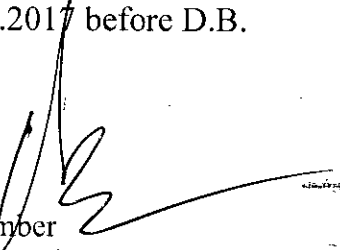
Clerk to counsel for the appellant and Addl: AG for respondents present. Clerk to counsel for the appellant stated that learned counsel is busy before the Hon'ble Peshawar High Court in a number of cases and he requested for adjournment. To come up for arguments on 2.11.16 before D.B.


MEMBER


MEMBER

02.11.2016

Counsel for the appellant and Mr. Ziaullah, GP for respondents present. Counsel for the appellant requested for adjournment. To come up for arguments on 07.03.2017 before D.B.


Member


Chairman

14.04.2015

Counsel for the appellant and Mr. Irshad Muhammad, SO for respondent No. 2 alongwith Addl: A.G for all respondents present. Written reply not submitted. Requested for adjournment. Another opportunity granted. To come up for written reply/comments on 30.4.2015.


Chairman

30.04.2015

Appellant in person, M/S Sultan Shah, Assistant and Irshad Muhammad, Supdt. alongwith Addl: A.G for respondents present. Para-wise comments submitted. The appeal is assigned to D.B for rejoinder and final hearing for 28.10.2015.


Chairman

28.10.2015

Counsel for the appellant and Mr. Muhammad Jan, GP for respondent present. Arguments could not be heard due to learned Member (Judicial) is on official tour to D.J Khan. Therefore, the case is adjourned to 17-3-16 for arguments.


Member

~~17-3-16~~

~~Counsel for the appellant and Mr. Muhammad Jan, GP for~~

~~respondent present. Arguments could not be heard due to learned~~

~~Member (Judicial) is on official tour to D.J Khan. Therefore, the~~

~~case is adjourned to 17-3-16 for arguments.~~

~~Member~~


~~Member~~

~~Member~~

~~Member~~

27.10.2014

Appellant with counsel present. Mr. Muhammad Jan, GP also present. Fresh notices be issued to the respondents and case to come up for written reply on 01.12.2014.


MEMBER

1.12.2014

Appellant in person and Mr. Muhammad Adeel Butt, AAG with Kaleemullah, B&AO for the respondents present. The Tribunal is incomplete. To come up for the same on 08.01.2015.


READER

08.1.2015

Junior to counsel for the appellant, Mr. Muhammad Jan, GP with Waqar Ahmad, Assistant for the respondents present. The Tribunal is incomplete. To come up for the same on 25.3.2015.


READER

25.03.2015

Counsel for the appellant and Mr. Muhammad Arshad, AO alongwith Addl: A.G for respondents present. Requested for adjournment. Last opportunity granted. To come up for written reply/comments on 14.4.2015 before S.B.


Chairman

Appeal No. 476/2014
Mian Farooq appeal

9.06.2014

Counsel for the appellant and Mr. Ziaullah, GP for the respondents present. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the departmental appeal dated 26.12.2013 was filed against the Government of Khyber Pakhtunkhwa Finance Department Instruction dated 04.06.2011 (Pay protection etc) which was rejected on the ground that the appellant has joined Provincial government prior to the issuance of Finance Department letter refer to above i.e. 04.06.2011, hence the instant appeal on 02.2014. He was further of the view that as held on 1994 FLC 400 no limitation would run against relates to financial matters.

The learned Government Pleader while assisting the court was of the view that there is no final order and no departmental appeal against order dated 10.02.2014. Appeal before the Tribunal shall always be against final order as provided Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.

Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notices be issued to the respondents. To come up for written reply/comments on 11.08.2014.

Appellant's appeal allowed
Process fee & security
By 22.06.2014
Allowed with 10% fee

19.06.2014

This case be put before the Final Bench for further proceedings.

Member

Chairman

11.08.2014

Clerk to counsel for the appellant and AAG present. None is available on behalf of the respondents. Fresh notices be issued to them. To come up for written reply on 27.10.2014.

MEMBER

3,

07.05.2014

Counsel for the appellant present and filed an application for early hearing. Case file requisitioned. Preliminary arguments partly heard. Pre-admission notice be issued to the learned GP to assist the Tribunal on the point of maintainability. To come up for preliminary hearing on 18.06.2014.



Member

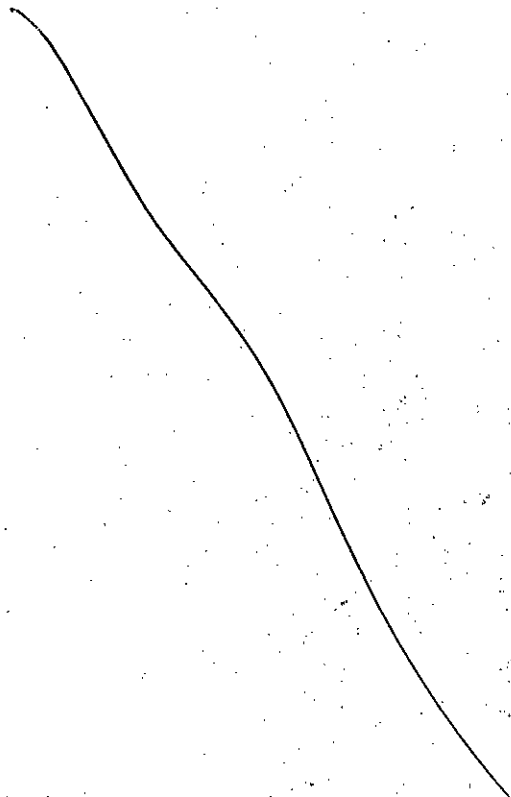
4,

18.06.2014

Clerk of Mr. Muhammad Asif Yousafzai, advocate present and filed Wakalat Nama on behalf of the appellant. Mr. Ziaullah, GP for the respondents present. To come up for preliminary hearing on 19.06.2014.




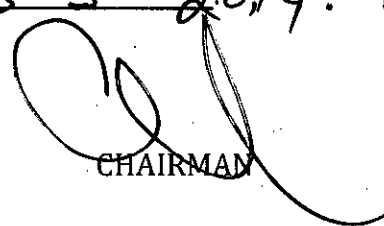
Member



Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 476/2014


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	04/04/2014	<p style="text-align: center;">The appeal of Mian Farooq Iqbal resubmitted today by him may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	7-4-2014	<p style="text-align: center;">This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>28-5-2014</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mian Farooq Iqbal Officer on Special Duty received today i.e. on 02 .04.2014 is incomplete on the following score which is returned to the appellant for completion and resubmission within 15 day.

- 1- Memorandum of appeal is photo state copy which is not acceptable the same be replaced by original one.
- 2- Annexures of the appeal may be attested.
- 3- Annexures H, I and K of the appeal are illegible which may be replaced by legible/better one.

No. 557 /S.T,

Dt. 02/3 /2014.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mian Farooq Iqbal appellant.

Needful done. Resubmitted

*Notification the relevant page is legible
which may please be admitted.
Registrar.*

Annexure H is GOP

JF

04/04/2014

Before the Service Tribunal Khyber Pakhtunkhwa Peshawar

Service Appeal No. **476** /2014

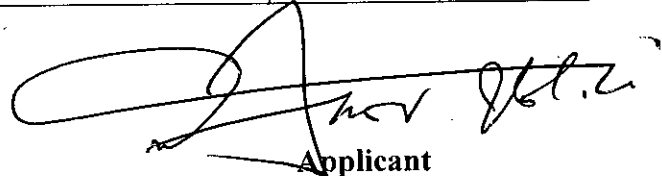
Mian Farooq Iqbal.....Applicant

VERSUS

Chief Secretary KPK and others.....Respondent(s)

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4	Charge assumption certificate	C	9
5	Last Pay Received Certificate	D	10
6	Finance Department vide letter No. FD (SR1)12-1/2011 dated 04.06.2011	E	11
7	Appeal to Chief Secretary for Protection of Pay	F	12-13
8	Finance Department letter FD(SOSR-1)12-4 dated 10.02.2014	G	14
9	Government of Sindh Labour Department order NO. Lab (1) 3-28/84(p) dated 07.11.1993	H	15-16
10	Government of Sindh Labour Department order No. Lab(1)5-7/76 dated 16.07.1997	I	17
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13	Wakalat Nama		


Applicant

(MIAN FAROOQ IQBAL
OSD, Establishment
Deptt, Peshawar)

4. That, the appellant was drawing basic salary @ Rs.3460/- p.m. whereas by joining the post as Inspector of Mines it was fixed @ Rs.2065/- p.m.(Copy of Last Pay Received as lecturer as **Annexure-D**).
5. That, the Finance Department vide letter No. FD (SR1)12-1/2011 dated 04.06.2011 has allowed the benefit of protection of pay to the employees of autonomous bodies on their subsequent appointment in Government Service. (**Annexure-E**).
6. The Appellant made an Appeal to Respondent No 1, for protection of pay from retrospective effect and counting of service rendered as Lecturer University of Engineering and Technology on 26.12.2013 in light of the Finance Department letter dated 04.06.2011(**Annexure-F**).
7. That, the Appellant appeal was rejected by Respondent No. 2 vide its letter No. FD(SOSR-1)12-4 dated 10.02.2014 stating that pay protection/fixation is not admissible to the appellant on the ground that *"he has joined Provincial Government prior to the issuance /effectiveness of this Deptt's letter i.e. 04 June, 2011. The letter was conveyed by Respondent No. 5, which was received by the Appellant on 31.03.2014"*.(Copy of Finance Department letter as **Annexure G**)

The decision of the respondents is discriminatory, unconstitutional, unreasonable, vindictive, arbitrary without jurisdiction, without lawful authority, discriminatory, malafide, illegal, based on ulterior motives, against the principles of natural justice, arbitrary therefore feeling aggrieved by the decision of Respondent, the Appellant has no other door to knock but to approach to this August Tribunal , hence this Appeal on the following grounds:-

Grounds:

1. **Because**, the appellant was serving in University of Engineering and Technology which is situated in the same Province.
2. **Because**, the appellant rendered service in the interest of Province.
3. **Because**, the Appellant was serving as Lecturer (BPS-17), and joined the Government Department as Inspector of Mines (BPS-17), both the post are of the same grade and has same time scale as notified by the Government.
4. **Because**, all the criteria mentioned in the Finance Letter dated 04.06.2011 was fulfilled by the Appellant before joining the Government Service.
5. **Because**, the University of Engineering and Technology has adopted scheme of basic pay scale in to-to as to that of Government.
6. **Because**, the Appellant has applied through proper channel and was relieved of his duties upon selection as Inspector of Mines.
7. **Because**, the Finance Department has adopted discriminatory and double standard where on one hand they allowed protection of pay to the appointees

Before the Service Tribunal Khyber Pakhtunkhwa Peshawar

Service Appeal No. 476 /2014

Mian Farooq Iqbal, Officer on Special Duty,
Establishment Department, Government of KPK,
Civil Secretariat, Peshawar.

Appellant

VERSUS

1. The Chief Secretary,
Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Secretary Finance,
Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. The Secretary Establishment,
Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
4. The Secretary Mineral Development Department,
Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
5. The Director General, Directorate General Mines and
Mineral, KPK; Peshawar.

Respondent(s)

Handwritten notes and stamps:
490
02/14/14

SERVICE APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT 1974 AGAINST THE FINANCE DEPARTMENT GOVERNMENT OF KHYBER PAKHTUNKHWA LETTER NO.FD(SOSR-1)12-4/2014 DATED 10.02.2014 WHEREBY THE APPLICATION OF THE PEITTIONER FOR PROTECTION OF PAY AND COUNTING OF SERVICE RENDERED IN AUTONOMOUS BODY IN TOTAL SERVICE PERDORMED IN PROVINCIAL GOVERNMENT DEPARTMENT AS CIVIL SERVANT WAS DECLARED NOT ADMISSIBLE.

Respectively Shewth

Short facts giving rise to this application are as under:-

1. That, the appellant was an employee of NWFP University of engineering and Technology Peshawar as Lecturer (BPS-17) in the Department of Mining Engineering w.e.f 03.12.1986 on regular basis (Annexure-A).
2. That, the appellant appeared before the Public Service Commission with proper permission of the Competent Authority for the post of Inspector of Mines (BPS-17) and selected (Annexure-B).
3. That, the appellant was therefore relieved and assumed the charge of the post of Inspector of Mines (BPS-17) in the Inspectorate of Mines Labour Welfare NWFP Peshawar on 10.07.1989 (Annexure-C).

co-submitted to the
and filed;

Handwritten signature and date: 2/14/14

(3)

after the Notification but on the other hand deprived the employees before the Notification. This is against the Natural Justice, basic Civil Rights as described in the Constitution of Pakistan, that every Citizen has equal rights.

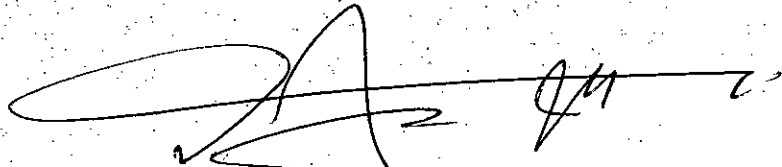
8. **Because,** The Government of Sindh Labour and Transport Department has allowed protection of pay last drawn by Mr. Rafique Ahmad Chandio, Assistant Mining Engineer in PMDC on his appointment as Junior Inspector of Mines Sindh in Inspectorate of Mines Sindh vide order NO. Lab (1) 3-28/84(p) dated 07.11.1993 (**Annexure-H**).
9. **Because,** the Government of Sindh Labour and Cooperation Department has allowed the protection of pay last drawn by Mr. Qurban Ali Abbasi as family planning officer on his appointment as Labour Officer on his appointment as a Labour Officer in the Labour Directorate of Sindh, vide order No. Lab(1)5-7/76 dated 16.07.1997(**Annexure-I**).
- 10.**Because,** the Finance Department vide letter NO.PRC/FD/1-1/98 dated 24.06.1990 allowed to count the service of autonomous bodies / semi-autonomous bodies rendered by the Officers /Officials of Directorate of Manpower and Training towards the length of service for the purpose of move-over (**Annexure-J**).
- 11.**Because,** the pay drawn and the effective service rendered by Government Servants in the Autonomous and Semi Autonomous Bodies, the salary of which is required to be fixed by the Central or Provincial Government shall be treated as pay drawn in effective service rendered in a post in Government Service as defined in the par-9 of Government of West Pakistan Finance Department Circular No. SO (SR) V-257/67 dated 27.04.1967 (**Annexure-K**).

(4)

It is therefore humbly prayed that on acceptance of this appeal, the appellant last pay drawn to the tune of Rs.3460/- p.m. as Lecturer in the Department of Mining Engineering, NWFP University of Engineering & Technology Peshawar may kindly be protected retrospectively from 10.07.1989 i.e. upon joining the post of Inspector of Mines, where the initial basic pay was fixed to the tune of Rs.2065/- p.m. and the service rendered in UET, Peshawar may be counted toward length of service in order to save the appellant from financial loss.

Any other relief which this August Tribunal may deem fit and appropriate may also very graciously be awarded.

Appellant



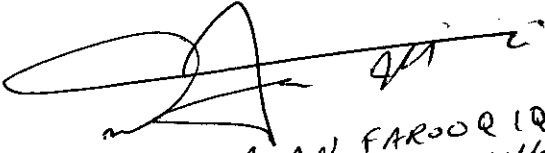
Mian Parooq Iqbal

Dated: 09/04/2014

(5)

Certificate

It is certified that prior to this appeal no other appeal on the same grounds has been preferred before this August Court.


(MIAN FAROOQ IQBAL)
OSD, Establishment Deptt
Peshawar

Affidavit

I, Mian Farooq Iqbal, OSD Establishment Department, Khyber Pukhtunkhwa, Peshawar do hereby solemnly affirm and declare that the contents of the appeal are true and correct to the best of my knowledge and belief and that nothing has been concealed.

Deponent



Mian Farooq Iqbal
OSD, Establishment Department,
Khyber Pukhtunkhwa,
Peshawar.

Identified by

Before the Service Tribunal Khyber Pakhtunkhwa Peshawar

Service Appeal No. /2014

Writ Petition

Mian Farooq Iqbal.....Applicant

VERSUS

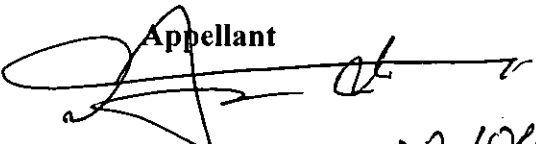
Chief Secretary KPK and others.....Respondent(s)

ADDRESSES OF PARTIES

Mian Farooq Iqbal, **Appellant**
OSD, Establishment Department
Peshawar.

-
1. The Chief Secretary, **Respondent(s)**
Government of Khyber Pukhtunkhwa,
Civil Secretariat, Peshawar.
 2. The Secretary to Government of Khyber Pukhtunkhwa,
Finance Department, Civil Secretariat, Peshawar.
 3. The Secretary to Government of Khyber Pukhtunkhwa,
Establishment Department, Civil Secretariat, Peshawar.
 4. The Secretary to Government of Khyber Pukhtunkhwa,
Mineral Development Department, Civil Secretariat, Peshawar.
 5. The Director General,
Director General M&M, DGMM Peshawar.
5 Khyber Road, Peshawar.

Witness

Appellant

MIANI FAROOQ IQBAL
OSD, Establishment Dept
Peshawar.

(7)

Annexure 'A'



REGISTRAR

NWFP UNIVERSITY OF ENGINEERING & TECHNOLOGY

P.O. Box 814 (University)
PESHAWAR

No. 2802 / Estt:

Date 22 / 7 / 1989.

TO WHOM IT MAY CONCERN

Certified that Engr. Mian Farooq Iqbal, has worked in this University as Lecturer in B-17 in the Department of Mining Engineering, with effect from 3/12/1986 to 10/7/1989.

attested
JM

SAN
Registrar
NWFP University of Engineering
and Technology

(8)

Annexure B

Form-D

CERTIFICATE OF DEPARTMENTAL PERMISSION

TO BE COMPLETED BY THE CANDIDATE.

- 1. Name ENGARMIAN FAROOQ IQBAL
- 2. Father's name MIAN SAROOR UD DIN
- 3. Post held LECTURER
- 4. Office/Department MINING ENGG DEPT.
- 5. Post applied for INSPECTOR OF MINES
- 6. Commission's advertisement number 1/87

M. Farooq Iqbal
 Signature of Candidate.

Place Peshawar

Date 18/3/87

*attended
9/1*

TO BE COMPLETED BY DEPARTMENT/OFFICE.

- 7. The Candidate is permitted to apply for the said post.
 - (a) He is employed in this department/Office as lecturer since 3 Dec 1986
 - (b) He holds this post in permanent/temporary/ad hoc capacity.
 - (c) His accepted domicile as per official records is Dera Ismail Khan
 - (d) In case of selection, he will be relieved of his duties under the existing University Rules.

Name and Designation of the Officer.

Signature

Registrar
NWFP University of Engg.
& Technology, Peshawar.

Place Peshawar

Date 18-03-1987

SECRETARY,
N.-W. F. P. Public Service Commission,
Peshawar.



8A.

Annexure (BI)

GOVERNMENT OF N.W.F.P.
INDUSTRIES, COMMERCE, MINERAL DEVELOPMENT,
LABOUR AND TRANSPORT DEPARTMENT.

Dated Peshawar the 21/6/1989

NOTIFICATION.

NO.SOI(IND)2-9/88. On the recommendation of the NWFP Public Service Commission, the Governor NWFP is pleased to appoint Mian Farooq Iqbal s/o Mian Sardar-ud-Din of District Swat as Inspector of Mines in Inspectorate of Mines Labour Welfare NWFP in BPS-17 (Rs.2065-155-3925) with immediate effect on the following terms and conditions:

- 1) His appointment will be purely on temporary basis.
- 2) He will be given the initial pay of BPS-17 (Rs.2065-155-3925) alongwith all allowances which may be sanctioned by the Government from time to time.
- 3) His appointment will be governed by the Civil Servants Act 1973 and other rules/regulations framed by the Provincial Govt. from time to time in this behalf.
- 4) He will be required to serve anywhere in NWFP.
- 5) He shall have to produce Medical Fitness Certificate from the Standing Medical Board.

Sd/-

Secretary to Govt. of NWFP,
Industries, Commerce, Mineral Dev.
Labour and Transport Department.

Endst.No.SOI(IND)2-9/88

Dated 21/6/1989

A copy is forwarded for information and necessary action to:-

- 1) The Accountant General NWFP, Peshawar.
- 2) The Secretary, NWFP Public Service Commission, Peshawar.
- 3) The Chief Inspector/Commissioner of Mines, Labour Welfare NWFP, Peshawar.
- 4) The Registrar, NWFP University of Engineering and Technology Peshawar.
- 5) Mian Farooq Iqbal s/o Mian Sardaruddin, C/O Cartown Motor Bargain opposite Dak Bungalow, Malakand Road, Nanakpura Mardan.

B. ASSHT

25.6.89

(S. KIPAYAT HUSSAIN)
SECTION OFFICER (ADMN.)

21/6/89

P/E

(9)

Annexure C

INSPECTORATE OF MINES LABOUR WELFARE,
N.W.F.P.

Flat No. 3-A/1 Saddar Road,
Opp: Cantt Railway Station,
Peshawar.

No. Com/Mines/1/32/
Dated Peshawar the, _____ 1989.

Subject: CHARGE ASSUMPTION REPORT.

In pursuance of Government of NWFP, Industries, Commerce,
Mineral Development Labour and Transport Department, Notification
No. SOI(IHD)2-9/89/7145-5 dated 21-6-1989, I Mian Farooq Iqbal
assumed the charge of my duties as Inspector Mines in the
Inspectorate of Mines, NWFP, Peshawar today the 10th July 1989 (AM)

*Attended
9/9*

M. Farooq Iqbal

(MIAN FAROOQ IQBAL)
Inspector Mines,

Inspectorate of Mines Labour Welfare,
NWFP, Peshawar.

all

Dist No. Com/Mines/1/32/1482-85 Dated Peshawar the, 11-7-1989.

Copy to:-

1. The Secretary to Government of NWFP,
Industries, Commerce, Mineral Development, Labour and
Transport Department, NWFP, Peshawar.
2. The Secretary to Government of NWFP,
S & GAD, Peshawar.
3. The Accountant General, NWFP, Peshawar.
4. The Chief Inspector of Mines, NWFP, Peshawar.

M. Farooq Iqbal

(MIAN FAROOQ IQBAL)
Inspector Mines,
Inspectorate of Mines Labour Welfare
NWFP, Peshawar.

all

Jan 1989

NATIONAL UNIVERSITY OF ENGINEERING AND TECHNOLOGY
DESAWADA

PAY CERTIFICATE

Last pay certificate of Engg. Man. Farooq, Iqbal, Lecturer
of the Dept. of Mining Engineering, NWFP U.E.T. preceding
his Resignation from service on 10/7/88 (A.N.)

He has been paid upto for 10/7/88 at the following rates:

Salary per month: Rs. 3100/-
Indexed pay: " 73/- Total Pay Rs. 3533/-
Other Allowances:

- (a) Conveyance Allowance: Rs. 300/- Indexed
- (b) Medical Allowance: Rs. 300/-
- (c)

DEDUCTIONS:-

*attached
9/7*

- (a) House Rent: 5% Rs. 173/-
- (b) Benevolent Fund " 20/-
- (c) Prof. Fund " 250/-
- (d) " - Advance " 300/-
- (e) Union Fund " 20/-
- (f) Group Insurance " 9/-

He made over the amount of the above deductions in the
Dept. of Mining Engg. on the 11th of July
of July 10, 1988

Recoveries are to be made from the pay of the officer as detailed on the reverse.

He has been paid leave salary as detailed below. Deductions have been made as noted on the reverse.

PERIOD	RATE	AMOUNT
From..... to.....	@ Rs.....	a month.
From..... to.....	@ Rs.....	a month.
From..... to.....	@ Rs.....	a month.

He is entitled to draw the following:

He is also entitled to joining time for..... days.

The details of income tax received from him upto the date from the beginning of the current year are noted on the reverse.

Dated 11th July 1988

P.T.O.

[Signature]
Assistant Officer
National University of Engg & Tech.
Desawada

[Signature]
11/7/88

(11)

Annexure E

TO BE SUBSTITUTED FOR THE SAME NUMBER AND DATE



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

NO. FD (SR-1) 12-1/2011

Dated Peshawar the: 4th June, 2011

TO:

1. All Administrative Secretaries to Govt: of Khyber Pakhtunkhwa.
2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
3. The Secretary to Governor, Khyber Pakhtunkhwa
4. The Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa.
6. The Secretary Finance FATA, FATA Secretariat, Peshawar.
7. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
8. All Heads of Attached Departments in Khyber Pakhtunkhwa.
9. All District Coordination Officers in Khyber Pakhtunkhwa.
10. All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa
11. The Registrar, Peshawar High Court, Peshawar.
12. The Chairman, Public Service Commission, Khyber Pakhtunkhwa.
13. The Chairman, Services Tribunal, Khyber Pakhtunkhwa.

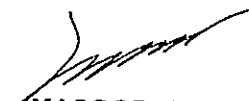
Subject: **FIXATION / PROTECTION OF PAY ON APPOINTMENT FROM ONE POST TO ANOTHER.**

Dear Sir,

I am directed to refer to the Government of Pakistan, Finance Division, Islamabad letter No.FNo.4(2)R-II/1996-235/2010, dated 08-06-2010 and Judgment dated 01-08-2009 of Federal Service Tribunal, Islamabad in appeal No.1921(R) CS/2005 in respect of *Mr. Sajjad Rashid* and others on the subject noted above and to state that in pursuance of the above quoted letter, the Government of Khyber Pakhtunkhwa has decided that henceforth the benefit of protection of pay to the employees of autonomous bodies on their subsequent appointment in Government Service is not admissible as the employees of autonomous bodies are not civil servants within the meaning of Civil Servant Act 1973. However, the benefit of pay protection will be admissible to employees of such autonomous organizations who have adopted scheme of basic pay scales in to-to on their appointment in government offices, provided they have applied for the post through proper channel.

*Attended
9/1*

Yours Faithfully,


(MASOOD KHAN)
Deputy Secretary (Reg-II)

Endst:of even No. & date.

Copy forwarded for information to:

1. All the Heads of Autonomous / Semi Autonomous Bodies of Khyber Pakhtunkhwa.
2. Director, Local Fund Audit, Khyber Pakhtunkhwa, Peshawar.
3. Director, Treasuries and Accounts, Khyber Pakhtunkhwa, Peshawar.
4. All District Comptrollers of Accounts, Senior District Accounts Officers and District/Agency Accounts Officer in Khyber Pakhtunkhwa / FATA.
5. Director, FMIU, Finance Department
6. PS to Minister Finance, Khyber Pakhtunkhwa.
7. P.S to Secretary Finance.
8. PA to Spl: Secretary Finance

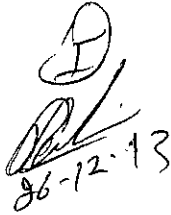
P.A.

(12)

Annexure F

To

O/C


86-12-13

The Chief Secretary,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject:

APPEAL FOR THE PROTECTION OF PAY AND COUNTING OF SERVICE RENDERED IN AUTONOMOUS BODIES FOR HE TOTAL SERVICE RENDERED AS CIVIL SERVANT.

Respected Sir,

With profound respect, it is stated; that I am a Civil Servant, in BPS-19 and am presently posted as OSD in the Establishment Department vide order dated 30.07.2013. My parent Department is Directorate General Mines & Minerals Khyber Pakhtunkhwa.

The Finance Department vide letter No.FD(SR1)12-1/2011 dated 04.06.2011 has allowed the benefit of protection of pay, to the employees of autonomous bodies on their subsequent appointment in Government Service.(Annexure-A).

In light of the Finance Department letter as referred above, I submit the following submission for your kind consideration:-

1. That, I was serving as Lecturer (BPS-17) in the Department of Mining Engineering, NWFP University of Engineering & Technology Peshawar w.e.f 03.12.1986 on regular basis and was drawing basic salary @ Rs.3533/- per month (copy of Service Certificate and LPC attached as Annexure-B, B-I respectively).
2. That, I appeared before the Public Service Commission through proper channel for the post of Inspector of Mines (BPS-17) and selected (Annexure-C).
3. That, I was therefore relieved and assumed the charge of the post of Inspector of Mines (BPS-17) in the Inspectorate of Mines Labour Welfare NWFP Peshawar on 10.07.1989. With initial basic pay @ Rs.2065/- per month (Annexure-D).
4. The Finance Department vide letter No.PRC/FD/1-1/98 dated 24.06.1990 allowed to count the service of autonomous bodies / semi autonomous bodies rendered by the Officers/Officials of Directorate of Manpower and Training towards the length of service for the purpose of move-over (Annexure-E).
5. The Government of NWFP, Industries, Commerce, Mineral Development, Labour and Transport Department has allowed protection of pay to the staff of Provincial Training Board and connected Technical Training

(13)

- Centers before their Merger in the Directorate of Manpower and Training NWFP vide Notification No. SO (B&A)1-18/86 dated 24.08.86 (Annexure-F).
6. The Government of Sindh Labour and Transport Department has allowed protection of pay last drawn by Mr. Rafique Ahmad Chandio, Assistant Mining Engineer in PMDC on his appointment as Junior Inspector of Mines Sindh in Inspectorate of Mines Sindh vide order No. Lab (1)3-28/84(p) dated 07.11.1993 (Annexure-G).
 7. The Government of Sindh Labour and Cooperation Department has allowed the protection of pay last drawn by Mr. Qurban Ali Abbasi as family planning officer on his appointment as Labour Officer in the Labour Directorate of Sindh, vide order No. Lab(1)5-7/76 dated 16.07.1997 (Annexure-H).
 8. Besides the above, the pay drawn and the effective service rendered by Government Servant in the Autonomous and Semi Autonomous Bodies, the salary of which is required to be fixed by the Central or Provincial Government shall be treated as pay drawn in effective service rendered in a post in Government Service as defined in the par-9 of Government of West Pakistan Finance Department Circular No.SO(SR)V-257/67 dated 27.04.1967 (Annexure-I).


In view of the above facts, I request that my basic pay drawn as Lecturer to the tune of Rs.3533/- in the Department of Mining Engineering, NWFP University of Engineering & Technology Peshawar instead of Rs.2065/- per month fixed as Inspector of Mines may kindly be protected with retrospective effect and the service rendered in UET, Peshawar w.e.f 03.12.21986 to 09.07.1989 may be counted toward length of service in order to save me from financial loss, for which I shall be highly obliged.

We regards,

Thanking you

Dated 26.12.2013

Yours faithfully,


Mian Farooq Iqbal
Officer on Special Duty,
Establishment Department,
Peshawar.

(14)

Annexure G



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

NO. FD (SOSR-1) 12-4/ 2014
Dated Peshawar the: 10-02-2014

Date: 17/2/14

To: The Secretary to Govt. of Khyber Pakhtunkhwa,
Minerals Development Department,
Peshawar.

Subject: - APPEAL FOR THE PROTECTION OF PAY AND COUNTING OF SERVICE
RENDERED IN AUTONOMOUS BODIES FOR THE TOTAL SERVICE
RENDERED AS CIVIL SERVANT.

Dear Sir,

I am directed to refer to your letter No.SO-Admn(MD)1-4/91/Vol-
XI/4327 dated 27-01-2014 on the subject noted above and to state that the
pay protection / fixation is not admissible to the applicant on the ground that
he has joined Provincial Government prior to the issuance / effectiveness of
this Deptt's letter i.e. 4th June, 2011.

270

WD
12-2-14

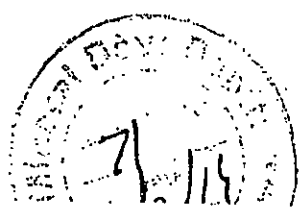
attached
1/1

Yours faithfully,

DS
14/02/14
SO(5)


(Wazir Muhammad Afsar)
SECTION OFFICER (SR-1)

17/2



(15)

Annexure-H

Better Copy

GOVERNMENT OF SINDH
LABOUR AND TRANSPORT DEPARTMENT

KARACHI, Dated the 07th Nov; 1993

ORDER.

NO:Lab(I)3-28/84(P):- Sanction is hereby accorded to the protection of pay last drawn by Mr. Rafique Ahmad Chandio as Assistant Mining Engineer (BPS-17), in Pakistan Mineral development Corporation on his appointment as Junior Inspector of Mines Sindh (BPS-17) in Inspectorate of Mines, Sindh at Rs.1775/- per month (in the pay scale of Rs.1600-120-3040) from the purpose of fixation of pay.

MOHAMMAD HUMAYUN FARSHORI
SECRETARY TO GOVERNMENT OF SINDH

GOVERNMENT OF SINDH
FINANCE DEPARTMENT

No.FD(SR-I)1(36)/92

Karachi, Dated the 7th Nov; 1993

A copy is forwarded to the Accountant General Sindh, Karachi for information and necessary action.

IQBAL AHMAD M. SHEIKH
SECTION OFFICER (SR-I)

NO.Lab(I) 3-28/84 (P)

Karachi, Dated the 7th Nov; 1993

A copy is forwarded for information to:-

1. The Chief Inspector of Mines, Sindh, Karachi.
2. Mr. Rafique Ahmad Chandio, Inspector of Mines (Coal), Hyderabad.
3. The Section Officer (SR-I), Finance Department, Government of Sindh, Karachi with reference to his letter No.FD(SR-I)1(36)/92 dated 30th Sep; 1993.

(ARSHAD ALI KHAN)
SECTION OFFICER (LABOUR-I)

(15)

Annexure H

GOVERNMENT OF SINDH
LABOUR AND TRANSPORT DEPARTMENT

Karachi, dated the 7th November, 1993.

ORDER

NO:Lab(I)3-28/84(P):- Sanction is hereby accorded to the protection of pay last drawn by Mr. Rafique Ahmed Chandio as Assistant Mining Engineer (BPS-17), in Pakistan Mineral Development Corporation on his appointment as Junior Inspector of Mines Sindh (BPS-17) in Inspectorate of Mines, Sindh at Rs. 4775/- per month (in the pay scale of Rs. 1600-120-3040) for the purpose of fixation of pay.

MULANAD HUMAYUN FARSHORI
SECRETARY TO GOVERNMENT OF SINDH

GOVERNMENT OF SINDH
FINANCE DEPARTMENT

Karachi, dated the 7th November, 1993.

No. FD(SR-I)1(36)/92

A copy is forwarded to the Accountant General Sindh, Karachi for information and necessary action.

IQBAL AHMED M. SHAIKH
SECTION OFFICER (SR-I)

Karachi, dated the 7th November, 1993.

NO:Lab(I)3-28/84(P)

A copy is forwarded for information to:-

1. The Chief Inspector Mines, Sindh, Karachi.
2. Mr. Rafique Ahmed Chandio, Inspector of Mines (Coal), Hyderabad.
3. The Section Officer (SR-I), Finance Department, Government of Sindh, Karachi, with reference to his letter No. FD(SR-I)1(36)/92, dated, 30th September, 1993.

(ARCHAD ALI KHAN)
SECTION OFFICER (LABOUR-I)

Carachi
Diary No. 2/23
Date 11/11/93
9/11/93

attested
[Signature]

(16)

BETTER COPY

**GOVERNMENT OF SINDH
FINANCE DEPARTMENT**

SUBJECT: PROTECTION OF PAY.

The Section Officer (Labour-I), Labour and Transport Department Government of Sindh, may please refer to his UO NO:Lab(I)3-28/89 dated 18-10-1992 on the subject noted above.

2. Finance Department agrees to allow protection of pay last drawn by Mr. Rafique Ahmed Chandio as Assistant Mining Engineer (BPS-17) in Pakistan Mineral Development Corporation on his appointment as Junior Inspector of Mines Sindh (BPS-17) in the Inspectorate of Mines Sindh, as Rs. 1775/- P.M (in the pay scale of Rs. 1600-120-3040) for the purposes of fixation of pay.

3. Audit copy may please be furnished for with authentication.

Sd/-

**(IQBAL AHMED M. SHAIKH)
SECTION OFFICER SR-I**

FOR SECRETARY TO GOVERNMENT OF SINDH

The Section Officer (Lab.I)
Labour and Transport Department,
Government of Sindh Karachi

U.C.T.O (FE (SR.I) 1 (36)/92, Karachi, dated the 30 September 1993

(16)

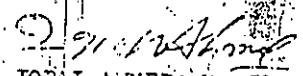
GOVERNMENT OF SINDH
FINANCE DEPARTMENT

SUBJECT: PROTECTION OF PAY

The Section Officer (Labour-I), Labour and Transport Department, Government of Sindh, may please refer to his U.O.NO:Lab(I)3-28/89 dated 18.10.1992 on the subject noted above.

2. Finance Department agrees to allow protection of pay last drawn by Mr. Rafique Ahmed Chaudhri as Assistant Mining Engineer (BPS-17) in Pakistan Mineral Development Corporation on his appointment as Junior Inspector of Mines, Sindh (BPS-17) in the Inspectorate of Mines Sindh, at Rs. 1775/-p.m. (in the pay scale of Rs. 1600-120-3040) for the purpose of fixation of pay.

3. Audit copy may please be furnished for authentication.


(IQBAL AHMED M. SHAIKH)
SECTION OFFICER SR.I
FOR SECRETARY TO GOVERNMENT OF SINDH

The Section Officer (Lab.I),
Labour and Transport Department,
Government of Sindh,
Karachi.

U.O.NO:PD(SR.I)1(36)/92, Karachi, dated the 30/September 1992.

GOVERNMENT OF SINDH
LABOUR AND COOPERATION DEPARTMENT

KARACHI, Dated the 16.07.1977

ORDER.

NO:Lab(I)547/75:- Sanction is accorded to the protection of pay of Rs.525/- (Rs. Five hundred twenty five) last drawn by Mr. Qurban Ali abbasi as Family Planning Officer, on his appointment as Labour Officer in the pay scale of Rs.350-35-57/40-925 with effect from 16.03.1971 relaxation of rule 41 (i) (a) of Sindh Civil Service Rules Vol-I.

M. M. USMANI
SECRETARY TO GOVERNMENT OF SINDH

KARACHI, Dated the 16.07.1977

attested
JM
NO.FD-SRI-1(5)/77

A copy is forwarded for information and necessary action to the Accountant General Sindh, Karachi.

WALI MOHAMMAD DHMACH
SECTION OFFICER (SR-I)

NO.Lab(I)5-7/76

KARACHI, Dated the 16.07.1977

A copy is forwarded for information to:-

1. The Director Labour Sindh, Karachi.
2. The Section Officer (SR-I), Finance Department, Government of Sindh, Karachi.
3. Mr. Qurban Ali Abbasi, Labour Officer West Division, Labour Directorate Karachi.

(AZIZ UR REHMAN KHAN)
SECTION OFFICER (LABOUR-I)

(17)

Annexure I

GOVERNMENT OF SIND
LABOUR & COOPERATION DEPARTMENT

Karachi dated 16.7.1977.

AD:
Dir: 549
Date: 19.7.77

0171
 22
 DALA

Lab(1554/77): Sanction is accorded to the protection of pay of Rs. 525/- (Rs. Five hundred twenty five) last drawn by Mr. Qurban Ali Abbasi as Family Planning Officer, on his appointment as Labour Officer in the pay scale of Rs. 350-35-5 5/40-225 with effect from 16.3.1977 and relaxation of rule 41(i) (a) of Sind Civil Service Rules Vol.-I.

M. M. USMANI
 SECRETARY TO GOVERNMENT OF SIND

Karachi, dated 16.7.1977.

No. FD-SRI-1(5)/77

A copy is forwarded for information and necessary action to the Accountant General Sind, Karachi.

(Wali Mohammad Dhanuchi)
 Section Officer(SR-I)

No. Lab(155-7776

Karachi, dated 16.7.1977.

A copy is forwarded for information to:-

1. The Director Labour Sind, Karachi.
2. The Section Officer(SR-I) Finance Department, Government of Sind, Karachi.
3. Mr. Qurban Ali Abbasi, Labour Officer, West Division, Labour Directorate, Karachi.

(AZIZ-UR-REHMAN KHAN)
 SECTION OFFICER(LABOUR-I)

J1/ 16.7.77.

alter

(18)

Annexure J

Better Copy

No.PRC/FD/1-1/89
Govt of NWFP.
Finance Department
Dated Peshawar the 24th June, 1990

To

The Secretary to Govt of NWFP,
Services and General Administration,
Department, Peshawar.

Subject: COUNTING OF SERVICE RENDERED IN THE AUTONOMOUS /
SEMI AUTONOMOUS BODY MOVE OVER.

Sir,

I am directed to refer to your letter No.SOUC(S&GAD)3-8/90, dated the 23rd May 1990 on the subject cited above and to say that the officers have been allowed protection of pay vide notification No.BOVIII/(ED)/47-19(Lab)Vol-III, dated 24.08.1986.

By allowing pay protection their services have virtually been counted towards increment. The incidence of move-over is directly related to pay; thus the services of the officers rendered under the Autonomous /Semi Autonomous Bodies apparently counts towards length of service for the purpose of move-over only.

Your obedient Servant

-sd-
(Noor ul Haq)
Deputy Secretary (PRO)

attended
JH

(19)

NO. PRC/ED/1-1/89/
GOVERNMENT OF N.W.F.P.
FINANCE DEPARTMENT
Dated Peshawar the 24th June, 1990

To

The Secretary to Govt. of N.W.F.P.
Services and General Administration
Department, Peshawar.

Subject:

COUNTING OF SERVICE RENDERED IN THE AUTONOMOUS/
SEMI-AUTONOMOUS BODY MOVE-OVER.

Sir,

I am directed to refer to your letter No. 50UC
(S&GAU)3-8/90, dated the 23rd May 1990 on the subject
cited above and to say that the officers have been allowed
protection of pay vide notification No. BC/LR/(G.O)/47-19
(Lab.) Vol. III, dated 24-8-1986.

attch

By allowing pay protection their services
have virtually been counted towards increments. The incidence
of move-over is directly related to pay, thus the services
of the officers rendered under the Autonomous/Semi Autonomous
Bodies apparently counts towards length of service for the
purpose of move-over only.

Your Obedient Servant,

AL
(NOOR-UL-HAQ)
Deputy Secretary (PRC)

114

No. S.O. (SR) 111-247/63, Dated Lahore, the 7th June, 1963.

- Copies to be sent to:
- (1) all Administrative Secretaries to the Government of West Pakistan;
 - (2) all Heads of Attached Departments;
 - (3) all Commissioners of Divisions;
 - (4) the Registrar, High Court, West Pakistan, Lahore;
 - (5) all Deputy Commissioners, Political Agents in West Pakistan;
 - (6) all District and Sessions Judges in West Pakistan;
 - (7) the Accountant-General, West Pakistan, Lahore;
 - (8) the Comptroller, Southern Area, West Pakistan, Karachi;
 - (9) the Comptroller, Northern Area, West Pakistan, Peshawar;
 - (10) the Director, Audit and Accounts (Works), West Pakistan, Lahore; and
 - (11) the Financial Adviser, Ghulam Muhammad Barrage Project, Hyderabad.

ANWAR BEG,
Section Officer (Financial Rules) III
Government of West Pakistan,
Finance Department.

APPENDIX-I

No. SO (SR) V-257/67.
GOVERNMENT OF WEST PAKISTAN,
FINANCE DEPARTMENT.

Dated Lahore, the 27th April, 1967.

FROM

MR. TAJAMUL HUSSAIN, P. M. A. S.,
Secretary to Government, West Pakistan,
Finance Department.

TO,

- (1) ALL HEADS OF ATTACHED DEPARTMENTS AND THE REGISTRAR, HIGH COURT OF WEST PAKISTAN;
- (2) ALL COMMISSIONERS OF DIVISIONS IN WEST PAKISTAN;
- (3) ALL REGIONAL HEADS IN WEST PAKISTAN;
- (4) ALL DISTRICT AND SESSIONS JUDGES AND DEPUTY COMMISSIONERS/POLITICAL AGENTS IN WEST PAKISTAN; AND
- (5) ALL HEADS OF OFFICES IN WEST PAKISTAN.

Subject.—REVISION OF PENSION RULES AND RATES—RECOMMENDATIONS OF THE PAY AND SERVICES COMMISSION.

Sir,

I AM directed to state that the Government of West Pakistan have had under consideration the recommendations of the Pay and Services Commission relating to Pension. The Government of West Pakistan has now been pleased to take the following decisions, which shall take effect on and from 1st July, 1966.

[Handwritten signature]

21

2. *Option for Government Servants in pensionable service*—(1) Government servants who were in pensionable service on 1st July, 1966, shall be allowed the option to retain their existing pensionary benefits. This option should be exercised in writing and communicated, in the case of Gazetted Officers to the Accounts Officer, and, in the case of Non-Gazetted Government Servants to the Head of Office, concerned, so as to reach him within six months from the date of issue of this letter. If, on that date, a Government servant is on leave or temporary deputation outside Pakistan, he may exercise his option and communicate it to the Head of Office, concerned, on his return to duty.

(2) An option exercised by a Government servant under sub-para. (1), shall be duly acknowledged by the Accounts Officer or, as the case may be, the Head of Office, concerned and placed on the Service Record of the Government servant.

(3) An option, once exercised and communicated to the Accounts Officer or the Head of Office, shall be final.

(4) A Government servant who does not exercise and communicate his option within the time limit prescribed in sub-para. (1), shall be deemed to have accepted the new pensionary benefits sanctioned in this letter.

3. *Option for Government servants entitled to Contributory Provident Fund*—(1) Government servants in Non-pensionable service on 1st July, 1966, excluding those employed on contract or otherwise for a specified period or term which did not extend to the age of superannuation, and who were entitled to the benefits of a Contributory Provident Fund, shall, unless the amount of the Contributory Provident Fund has been paid, be allowed to opt for the pensionary benefits sanctioned in this letter, in lieu of the existing retirement benefits admissible to them. This option shall be exercised and communicated in the manner, subject to the conditions and within the time limits, prescribed in sub-paragraphs (1)-(3) of paragraph 2. Those Government servants who do not exercise and communicate their options for the pensionary benefits sanctioned in this letter within the prescribed time limits, shall not be entitled to the benefits thereof and shall continue on their existing terms.

(2) In the case of those who opt for the pensionary benefits sanctioned in this letter:—

(i) the amount of contributions made by Government with interest thereon to the Contributory Provident Fund of such officials shall be repaid to the Government.

(ii) the amount of subscription, together with interest thereon, which was contributed by them to the Contributory Provident Fund, shall be transferred to the General Provident Fund and shall for all purposes be governed by the rules of that Fund; provided that interest shall be calculated at the rate prevailing in the year in which the contributions were actually made.

(iii) the rules and orders of the Government relating to the date of joining and commencing of service for the purpose of the rules for reckoning the qualifying service for pension, count for such service.

(iv) Such Government servants as opt for pensionary benefits under these orders shall be governed by the West Pakistan Civil Services Pension Rules, as amended from time to time.

4. *Table of Pensions*—Subject to the provisions of paragraphs 6 and 7 below, the table of pensions as contained in Annexure I to this letter shall regulate all the four kinds of pensions, namely, Compensation Pension, Invalid Pension, Superannuation Pension and Retiring Pension. Special additional pension provided in the existing rules shall not be admissible in addition to the pension calculated under the enclosed Table of pensions.

5. *Table for calculating the commuted value of pensions*—The table for calculating the commuted value of pensions is appended as Annexure-II to this letter.

6. *Amount of pension for permanent Government servants*—In the case of Government servants employed in a substantive and permanent capacity in pensionable service, the amount of pension shall be regulated as follows:—

(a) If a Government servant retires or is selected for discharge owing to the abolition of his permanent post, after completing qualifying service of 5 years but less than 10 years, he may be granted a gratuity not exceeding one month's pay for each completed year of qualifying service, subject to a maximum of Rs. 12,500.

* Deleted with effect from 1-7-67. For details see Appendix IV.
† Table revised with effect from 1-10-67. For details see Appendix V.
‡ For details see Appendix VI. No. 10057/11/11 dated 10-2-1971. Appendix VII.

Handwritten signatures and initials.

(22)

(b) If such a Government servant has completed qualifying service of 10 years or more at the time of his retirement or discharge, as the case may be, he may be granted pension not exceeding an amount calculated in accordance with the scale given in the enclosed pension table, subject to the conditions and maxima laid down therein.

7. Amount of pension for temporary Government servants.—A Government servant in pensionable service, who is not employed in a substantive post

in accordance with the provisions of paragraph 6, if he retires from service, or if he is discharged after completing qualifying service of 25 years or more, owing to the abolition of his post or replacement by a "qualified" candidate. If such a Government servant is discharged after completing 10 years but less than 25 years qualifying service, he may be granted a gratuity not exceeding one month's pay for each completed year of qualifying service, subject to maximum of Rs. 25,000. (Also see letter No. SO (SR) V-2776/68, dated 19th February, 1969).

8. Retiring pension.—Subject to the provisions of the Essential Services Maintenance Act, all Government servants shall have the right to retire on a retiring pension after completing 25 years' qualifying service; provided that a Government servant, who intends to retire before attaining the age of superannuation shall, at least three months before the date on which he intends to retire, submit a written intimation to the authority which appointed him, indicating the date on which he intends to retire. Such an intimation, once submitted, shall be final and shall not be allowed to be modified or withdrawn. The right given by this para, shall not however, be available to a Government servant against whom a departmental enquiry is pending.

9. Service in an Autonomous or Semi-Autonomous Body.—For the purpose of grant of pension (including a special transitional pension) under these orders, the pay drawn and the effective service rendered by a Government servant in an autonomous or semi-autonomous body, the authorised capital of which is wholly subscribed by the Central and/or Provincial Government, in a post, appointment to which is, by law, required to be made and the salary of which is required to be fixed by the Central or a Provincial Government shall be treated as pay drawn and effective service rendered in a post in Government service.

*Added vide Government of West Pakistan PD, letter No. SO (SR) V-3355/67 dated 1st July, 1968. (Appendix-V).

It was decided that Pay (including special pay) drawn in foreign service will be taken into consideration if the three conditions stipulated in para 9 of F. D's Circular No. S. O. (SR) V-257/67, dated 27th April, 1967 are fulfilled.

10. Qualifying service and condonation of deficiencies.—For the purpose of grant of pension under these orders—

(1) it shall be other wise provided by special rules or contract.

from the date he takes charge of the office to which he is appointed.

(2) a deficiency of six months or less in the qualifying service of a Government servant shall be deemed to have been condoned;

(3) a deficiency of more than six months but less than a year, may be condoned by the competent authority if both the conditions mentioned below were satisfied:—

(a) if the Government servant dies while in service or retires under circumstances beyond his control, such as on becoming invalid or on abolition of his permanent post and his eventual selection for discharge, and, but for such contingency, he would have completed another year of qualifying service; and

(b) the service rendered by the Government servant was meritorious

(4) a deficiency of one full year or more shall not be condoned.

CLARIFICATION.

The provisions in sub-paragraphs (2) and (3) of para 10 of F.D. letter No. SO (SR) V-257/67, dated 27th April, 1967 have replaced the existing provision in sub-rule (2) of rule 2.12 of the West Pakistan Civil Services Pension Rules, viz: the Administrative Department may condone deficiency in qualifying service for pension up to six months provided the service is meritorious and the condonation, if allowed, will bring the service up to 25 completed years of qualifying service. A question has arisen, whether a deficiency upto six months shall be deemed to have been condoned at any stage of qualifying service, or is the condonation restricted to a particular stage of qualifying service. Finance Department have, after thorough examination of the matter, decided that the intention is not to restrict the operation of the

*The Government of West Pakistan Finance Department letter No. SO (SR) V-434/68 dated 29th April, 1969.

2 Substituted vide letter No. SO (SR) III FD/4-112/73, dated 1-12-1973. (Appendix-IV)

Approved
W. M. Khan

(23)

concession to any particular stage but to allow condonation of a deficiency at any stage up to the 30th year. To illustrate this intention, a deficiency of six months or less will be deemed to have been condoned so as to make 4 years and 6 months qualifying service as 5 years qualifying service; 9 years and six months qualifying service as 10 years qualifying service; 24 years and six months qualifying service as 25 years qualifying service and 29 years and six months qualifying service as 30 years qualifying service. Similarly, deficiencies exceeding six months but less than one year may be condoned by the competent authority (Finance Department) at all stages subject of course to the conditions prescribed in sub-para (3) of paragraph 10 of Finance Department's Letter No. S. O. (SR)-V-257/67, dated the 27th April, 1967.

(Government of West Pakistan,
F. D. Letter No. S. O. (SR)-
V-1805/67, dated 29th July, 1967.)

11. *Grant of increase in service pensions.*—Government servants who retired on or after the 1st December, 1962, but before 1st July, 1966 shall for the period from the 1st April, 1964 to 30th June, 1966 be granted the same increase in service pension as was granted to those Government servants who retired before the 1st December, 1962, in accordance with the Finance Department's letter No. FD-PC-(II)-Pen-46/64, dated the 2nd June, 1964 as amended from time to time. In the case of those Government servants who died after the 1st December, 1962, but before 1st July, 1966, and whose case a family pension was admissible under the existing rules the family pension for the period from the 1st April, 1964 to 30th June, 1966 shall be revised after taking into account the pension increase sanctioned in this paragraph.

12. *Revision of existing pensions.*—(1) The pension of Government servants who retired before 1st July, 1966 including family pensions, in respect of payment on that date shall, on receipt of application from the pensioner by the Accountant-General, West Pakistan, Lahore; Comptroller, Northern Area, West Pakistan, Peshawar; Comptroller, Southern Area, West Pakistan, Karachi, be revised with effect from 1st July, 1966 according to these orders. Provided that if the existing pension plus the increase in service pension admissible before that date is more than the pension as calculated under the existing rules, the existing pension plus increase thereon shall continue to be paid. For the purpose of revising the pension under these orders it shall not be necessary to obtain a revised sanction from the pension sanctioning authority except in a case where an ordinary/Special additional pension was reduced.

(2) In the case of existing pensioners, who have already drawn a lump sum gratuity under the West Pakistan Civil Services Pension Rules or the Rules of an Integrating Unit or have received the commuted value of a portion of their pension before 1st July, 1966, the increase in the gross pension accruing under these orders shall be paid in the shape of monthly pension and no portion of that increase shall be allowed to be commuted or converted into gratuity.

13. *Rate of exchange for payment in sterling.*—All amounts payable under these orders, including the increase in service pension sanctioned in paragraph 11, shall when admissible for payment in Sterling, be converted into sterling at the official rate of exchange for the time being in force.

14. *Non-admissibility of pension benefits in certain cases.*—The pensionary benefits sanctioned in this letter shall not be admissible to pensioners residing in India or to those Pakistani pensioners who have received or are entitled to receive increases under the British Acts.

15. *Application of existing rules and orders.*—In any matter in respect of which no provision has been made in these orders, the existing provisions of the rules and orders regulating grant of pension as applicable in each case shall continue to apply until altered, repealed or amended; provided that the provisions of the West Pakistan Civil Services Pension Rules or the rules of any integrating units regarding the grant of special additional pension shall not apply.

16. Necessary amendments for the rules shall be made in due course.

Your Obedient Servant,

TAJAMUL HUSSAIN,
Secretary to Government of West Pakistan,
Finance Department.

After copy

S.O. (SR)-V-257-67, dated 27th April, 1967

Copies are forwarded to:

- (1) The Accountant-General, West Pakistan, Lahore;
- (2) The Comptroller, Northern Area, West Pakistan, Peshawar;
- (3) The Comptroller, Southern Area, West Pakistan, Karachi.

Administrative stamps and handwritten notes at the bottom of the page.

(24)

- (4) the Comptroller, Southern Area (Quetta and Kalat Wing), Karachi;
- (5) the Director, Audit and Accounts (Works), West Pakistan, Lahore;
- and
- (6) the Comptroller and Auditor-General of Pakistan.

A. S. QURESHI,
Deputy Secretary (Regulations),
Government of West Pakistan,
Finance Department.

No. SO (SR)-V-257/67, dated Lahore, the 27th April, 1967.

Copies are forwarded, for information, to—

- (1) all Administrative Secretaries to Government of West Pakistan;
- (2) the Financial Adviser, Ghulam Muhammad Barrage Project, Hyderabad;
- (3) all Section Officers in Finance Department;
- (4) Private Secretaries to Ministers; and
- (5) Private Secretaries to Chief Secretary, Additional Chief Secretary and Finance Secretary.

MIRZA RAHMATULLAH,
Section Officer, SRF,
Government of West Pakistan,
Finance Department.

No. SO (SR)-V-257/67, dated Lahore, the 27th April, 1967.

Copies are forwarded to all Heads of Autonomous and Semi-Autonomous Bodies in West Pakistan for information and with the request that these instructions may be brought to the notice of all Government servants on deputation with them—

MIRZA RAHMATULLAH,
Section Officer, SRF,
Government of West Pakistan,
Finance Department.

ANNEXURE-I
PENSION TABLE.

Completed years of qualifying service	Scale of pension expressed as fractions of average emoluments	Maximum limit of pension per month
1	2	Rs.
10	10/50	250
11	11/50	275
12	12/50	300
13	13/50	325
14	14/50	350
15	15/50	375
16	16/50	430
17	17/50	485
18	18/50	540
19	19/50	595
20	20/50	650
21	21/50	695
22	22/50	740
23	23/50	785
24	24/50	830
25	25/50	875
26	26/50	900
27	27/50	925
28	28/50	950
29	29/50	975
30 and above	30/50	1,000

Note.—Any amount in scale of Rs. 600 per mensem, calculated in accordance with the scale shown in column (2) of this Table shall be reduced by 50% and the maximum limit shown in column (3) shall be applied thereafter.

attached

(25)

ANNEXURE-II
COMMUTATION TABLE.

Age next birthday	Number of years purchased	Age next birthday	Number of years purchased
20	24.265	50	15.639
21	24.061	51	15.481
22	23.853	52	15.096
23	23.640	53	14.707
24	23.424	54	14.513
25	23.203	55	13.915
26	22.978	56	13.513
27	22.747	57	13.109
28	22.513	58	12.702
29	22.273	59	12.294
30	22.028	60	11.886
31	21.777	61	11.497
32	21.522	62	11.104
33	21.260	63	10.713
34	20.993	64	10.327
35	20.720	65	9.946
36	20.442	66	9.570
37	20.157	67	9.200
38	19.867	68	8.836
39	19.570	69	8.477
40	19.267	70	8.127
41	18.956	71	7.785
42	18.641	72	7.448
43	18.318	73	7.121
44	17.988	74	6.802
45	17.650	75	6.494
46	17.307	76	6.194
47	16.956	77	5.900
48	16.596	78	5.627
49	16.231	79	5.360
		80	5.104

No. S. O. (SR) V-2776/68.

GOVERNMENT OF WEST PAKISTAN
FINANCE DEPARTMENT.

Dated Lahore, the 19th. February, 1969.

From -

MR. FIROZ-UD-DIN AHMED, C. S. P.,
Deputy Secretary (Service Regulations).

To

- All Secretaries to Government of West Pakistan.
- All Heads of Attached Departments and Registrar, High Court of West Pakistan.
- All Commissioners of Divisions in West Pakistan.
- All Regional and Zonal Heads in West Pakistan.
- All District and Sessions Judges and Deputy Commissioners in West Pakistan.
- The Secretary to Governor.
- The Secretary to West Pakistan Public Service Commission.

Attended

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO /2014.

Mian Farooq Iqbal . VS Chief Secretary KPK etc.

**APPLICATION FOR FIXING AN EARLY
DATE OF HEARING INSTEAD OF
28.5.2014.**

R.SHEWETH.

- 1- That the above noted appeal is pending in preliminary hearing and fixed for 28.5.2014.
- 2- That the main issue in appeal is regarding the PAY FIXATION/PROTECTION and the appellant has been facing financial loss due to illegal action/omission of the respondent Deptt:
- 3- That the urgent hearing of the case is requested because the appellant is facing financial hardships.
- 4- That since the important issue is involved in the appeal and the date fixed for preliminary hearing is too far.

Therefore to meet the ends of justice, it is prayed that the appeal may be fixed on an early date instead of 28.5.
.2014.

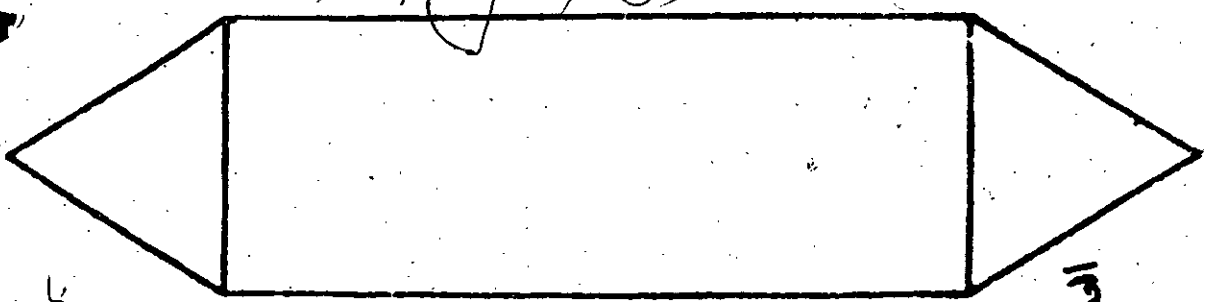
APPELLANT

THROUGH:


M.ASIF YOUSAFZAI

ADVOCATE.

بعدالت رسول کریم ﷺ لکھنؤ



میاں غلام محمد صاحب
حکومت ویدیا

مورخہ
مقدمہ
دعویٰ
جریم

باعث تحریر انکم

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پروردگار و جواب دہی وکل
کارروائی متعلقہ آن نظام لکھنؤ کے لئے *M. Asif Yousaf Adv.*
مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا نیز
بکسر صاحب کو کرنے لاشی نامہ و تقررات و فیصلہ برطرف دیے جواب دہی اور اقبال دعویٰ اور
بصورت دگری کر کے اجراء اور وصولی چیک در پینہ اور مرضی دعویٰ اور درخواست برہنہ کی تصدیق
نہ اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پروردگار یا دگری کیفر یا اپیل کی برآمدگی اور مرضی
نیز دگری کرنے اپیل ٹکڑی و نظر ثانی و پروردگار کرنے کا اختیار ہوگا۔ اور بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا منتظر قانونی کو اپنے ہمراہ یا اپنی جگہ تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جگہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساتھ
پیداختہ منظور و قبول ہوگا۔ و دوران مقدمہ میں جو خرچہ و ہرجانہ اتوائے مقدمہ کے سبب سے ہوگا۔
اسکے سختی و کس صاحب موصوف ہوں گے۔ نیز بقایا و خرچہ کی ذمہ داری کرنے کا بھی اختیار ہوگا۔ اگر
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے۔ کہ پروردگار
مذکور کریں۔ لہذا ذرا کالت نامہ لکھدیا کہ سند رہے۔

Acceptance
M. Asif Yousaf Adv.

Signature of M. Asif Yousaf Adv.

Signature of Ghulam Muhammad

مقام Reshwar کے لئے منظور ہے۔

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO /2014.

Mian Farooq Iqbal . VS Chief Secretary KPK etc.

APPLICATION FOR FIXING AN EARLY
DATE OF HEARING INSTEAD OF
28.5.2014.

R.SHEWETH.

- 1- That the above noted appeal is pending in preliminary hearing and fixed for 28.5.2014.
- 2- That the main issue in appeal is regarding the PAY FIXATION/PROTECTION and the appellant has been facing financial loss due to illegal action/omission of the respondent Deptt:
- 3- That the urgent hearing of the case is requested because the appellant is facing financial hardships.
- 4- That since the important issue is involved in the appeal and the date fixed for preliminary hearing is too far.

Therefore to meet the ends of justice, it is prayed that the appeal may be fixed on an early date instead of 28.5.2014.

APPELLANT

THROUGH:


M.ASIF YOUSAFZAI

ADVOCATE.

①

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. 476/2014

Mian Farooq Iqbal

Appellant

Versus

1- The Chief Secretary and others

Respondents

SERVICE APPEAL UNDER SECTION-4 OF THE SERVICE TRIBUNAL ACT, 1974

Joint para-wise comments on behalf of Respondents

Respectively Shewith

Preliminary objections.

- 30.04.14
- 1- The instant appeal is bad for misjoinder and non joinder of necessary party.
 - 2- That the appellant has no cause of action and locus standi to file the instant service appeal.
 - 3- That the appellant has not come with clean hands and supported facts hence not allowed for any relief.
 - 4- That the appeal is not maintainable in its present form.
 - 5- That the appeal is not maintainable being time barred.
 - 6- That the appellant has remained no more a Government Servant hence not allowed to any relief, and to knock the door of Service Tribunal.
 - 7- That the appellant is estopped by his own conduct to file this appeal.
 - 8- That the appeal is barred by Law hence liable to dismissed.

FACTS:

- 1- Para No.1 is related to record, and University should have been made as respondent, which have not been made, therefore, needs proof.
- 2- Correct to the extent that the appellant appeared before the Public Service Commission for the post of Inspector of Mines (B-17) and selected but he has resigned from his previous service as is evident from the LPC of the appellant issued by the NWFP University of Engineering & Technology, Peshawar (photo copy annexed 'A'). Further, under FR 130 Chapter XIII Part-V of Fundamental Rules, persons transferred to Government Service from a Local Fund which is not administered by government, will be treated as joining a first post under government and their previous service will not count as duty performed (photo copy annexed 'B').

3- Incorrect, the appellant was not relieved but has resigned from his service as discussed in para No.2.

4- No comments

5- Correct to the extent that the Finance Department vide letter No. FD(SRI)12-1/2011 dated 4.6.2011 has allowed the benefit of protection of pay to the employees of autonomous bodies on their subsequent appointment in government service but the pay protection/fixation is not admissible to the appellant on the ground that he has joined provincial government service prior to the issuance / effectiveness of the above mentioned Finance Department letter dated 4.6.2011 and thus the letter No. FD(SR-1)12-1/2011 has no retrospective effect.

6- Correct but the appeal of the appellant was turn down by Respondent No.1 as explained in para No.5.

7- Correct. The decisions of the respondent is fair, constitutional, reasonable, within jurisdiction, with lawful authority, legal and in accordance with the principal of natural justice, therefore, the appeal of the appellant may be dismissed on the following grounds:-

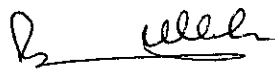
GROUND:


- 1- That the appellant was serving in University of Engineering & Technology which is an autonomous body and under F.R 130 Chapter-XIII Part-V of Fundamental Rules a person transferred to Government Service from Local bodies which is not administered by Government will be treated as joining a 1st post under Government and their previous service will not be count^{ed} as duty performed.
- 2- Not relevant.
- 3- No comments.
- 4- Incorrect, hence denied. The appellant has resigned from the service of NWFP University of Engineering & Technology, Peshawar before joining the service in the Inspectorate of Mines.
- 5- Incorrect hence denied.


- 6- Incorrect. The appellant has resigned from his previous service under the NWFP University of Engineering and Technology, Peshawar before joining this service in the Inspectorate of Mines.
- 7- Incorrect. The standard adopted by the Finance Department, Government of ⁱⁿ ~~K.P.K.~~ is/accordance with ~~the~~ Law and natural justice.
- 8- No comments.
- 9- No comments.
- 10- No comments.
- 11- Not relevant, hence denied.

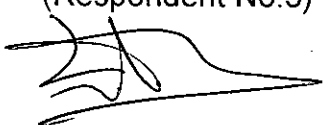
It is not out of place to mention that the appellant has been removed from service with effect from 19/8/2014 (photo copy annexed "C") and remained no more a Government Servant and hence cannot move this appeal before the Service Tribunal, therefore, the appeal of the appellant may be dismissed with cost please.

CHIEF SECRETARY
Khyber Pakhtunkhwa
(Respondent No.1)


SECRETARY
Finance Department
Govt. of Khyber Pakhtunkhwa
(Respondent No.2)


SECRETARY
Establishment Deptt:
Govt. of Khyber Pakhtunkhwa
(Respondent No.3)


SECRETARY
Minerals Dev: Department
Govt. of Khyber Pakhtunkhwa
(Respondent No.4) 22.4.15


DIRECTOR GENERAL
Mines & Minerals
Khyber Pakhtunkhwa
(Respondent No.5)

Annex A (4)
 Annex "A"
 Annexure -

(10)

UNIVERSITY OF ENGINEERING AND TECHNOLOGY
 DELHI

PAY CERTIFICATE

Last pay certificate of Col. Man. Jaiswal, Iqbal, Iqbal
 of the Dept. of Mining Engineering, N.W.P. U.E.T. preceding
~~his departure from service on 10/7/88 (A.M.)~~

He has been paid upto for 10/7/88 at the following rates:

Salary (Basic) Rs. 3100/-
 Indexed pay Rs. 20/-
 Total Pay Rs. 3530/-

- Other allowances:-
- (a) Conveyance Allowance Rs. 300/-
 - (b) Medical Allowance Rs. 300/-
 - (c)

DEDUCTIONS:-

attached
 JA

- (a) House Rent Rs. 173/-
- (b) Provident Fund " 20/-
- (c) Gratuity " 250/-
- (d) " Advance " 300/-
- (e) Union Fund " 20/-
- (f) Group Insurance " 13/-

He made over the cash of the above mentioned amounts on the 10th of July 1988.

Recoveries are to be made from the pay of the officer as detailed in the reverse.
 He has been paid leave salary as detailed below. Deductions have been made as noted on the reverse.

PERIOD	RATE	AMOUNT
From.....to.....	@ Rs..... a month.
From.....to.....	@ Rs..... a month.
From.....to.....	@ Rs..... a month.

He is entitled to draw the following:
 He is also entitled to holiday time for..... days.
 The details of income tax recovered from him upto the date from the beginning of the current year are noted on the reverse.

Dated 11th July 1988

P.T.O.

Administrative Officer
 University of Engineering and Technology
 Delhi

5

Annex B

P/175

CHAPTER XIII.--SERVICE UNDER LOCAL FUNDS.

F.R. 128. Government servants paid from local funds which are administered by Government are subject to the provisions of Chapters I to IX of these rules.

Audit Instructions:--

(1) Employees of local funds administered by Government who are not paid from general revenues and are, therefore, not Government servants are subject to the provisions of Chapter I to XI of the Fundamental Rules.

[Para. 1 (i), Chap. XIII, Sec. I of Manual of Audit Instructions (Reprint).]

(2) The expression 'Local and which are administered by Government' means funds administered by bodies which by law or rule having the force of leave come under the control of Government *in regard to proceedings generally* and not merely in regard to specific matters, such as the sanctioning of the budget or sanction to the creation or filling up of particular posts or the enactment of leave, pension or similar rules; in other words it means funds over whose expenditure Government retains complete and direct control.

[Para 1 (ii), Chap. XIII, Sec. I of Manual of Audit Instructions (Reprint).]

F.R. 129. The transfer of Government servants to service under local funds which are not administered by Government will be regulated by the rules in Chapter XII.

F.R. 130. Persons transferred to Government service from a local fund which is not administered by Government will be treated as joining a first post under Government, and their previous service will not count as duty performed. A local Government may, however, allow previous service in such cases to count as duty performed on such terms as it thinks fit.

THE SCHEDULE

(Fundamental Rule 75-A)

Provisions for the determination of Domicile.

1. A person can have only one domicile.
2. The domicile of origin of every person of legitimate birth is the country in which at the time of his birth his father was domiciled, or, if he is a posthumous child, in the country in which his father was domiciled at the time of the father's death.
3. The domicile of origin of a illegitimate child is in the country in which "at the time of his birth his mother was domiciled.
4. The domicile of origin prevails until a new domicile has been acquired and a new domicile continues until the former domicile has been resumed or another has been acquired.

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Annex C
Annex C
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GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

Dated Peshawar the August 19, 2014

NOTIFICATION

NO. SO(E-II)E&AD/9-365/2013. WHEREAS, the following officers were proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 on account of their involvement in charges leveled against them as per the Charge Sheet and the Statement of Allegations:-

SR. #	NAME OF OFFICERS
1.	Mian Farooq Iqbal (BS-19 Officer) the then Director General, Mines & Minerals now OSD E&A Department.
2.	Mr. Yaqub Nawaz Deputy Director (Tech.) BS-18, Directorate General, Mines & Minerals, Khyber Pakhtunkhwa.
3.	Mr. Roz Amin (PMS BS-17) Section Officer, Finance Department.

AND WHEREAS, Mr. Asmatullah Khan (PCS EG BS-20) DG, Prosecution was appointed as enquiry officer to conduct inquiry against the accused officers:

AND WHEREAS, the Inquiry officer after having examined the charges, evidence on record and explanation of the accused officers, submitted his report.

AND WHEREAS, the competent authority also accorded the opportunity of personal hearing to the accused officer.

NOW THEREFORE, the Competent authority, after having considered the charges, evidence on record, the explanation of the accused officers, defense offered by the accused officers during personal hearing and exercising his power under Rule-14 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, has decided to impose major/minor penalties on the following officers, as mentioned against each with immediate effect:-

SR. #	NAME OF OFFICERS	PENALTY
1.	Mian Farooq Iqbal (BS-19) the then Director General, Mines & Minerals now OSD E&A Department.	Removal from Service.
2.	Mr. Yaqub Nawaz Deputy Director (Tech.) BS-18, Directorate General, Mines & Minerals, Khyber Pakhtunkhwa.	Stopping his three successive annual increments with immediate effect.
3.	Mr. Roz Amin, (PMS BS-17) Finance Department.	Stoppage of one annual increment as and when falling due.

CHIEF SECRETARY
GOVERNMENT OF KHYBER PAKHTUNKHWA

Order No. & date even

Copy forwarded to the:-

1. Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. Secretary to Government of Khyber Pakhtunkhwa, Finance Department
4. Secretary to Government of Khyber Pakhtunkhwa, Minerals Development Department
5. Accountant General, Khyber Pakhtunkhwa.
6. Director General, Mines & Minerals, Khyber Pakhtunkhwa
7. PSO to Chief Secretary, Khyber Pakhtunkhwa
8. PS to Secretary Establishment/PS to SS(E)/SS (Reg)/PA AS(HRD)/DS(E.) /SO(E II) Establishment Department
9. PS to Secretary (Adm.) /D.S(A)/SO(Secret)/Estate Officer/ACSO Cypher/Dy Director (IT) and, Director, Protocol Administration Department, Khyber Pakhtunkhwa
10. Officers concerned.
11. Manager, Government Printing Press, Peshawar.

(MUHAMMAD JAVED SIDDIQI)
SECTION OFFICER (EST. II)

5591
20-8-14

ADA

20/8/14

Skill Development

Council

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

MR. JUSTICE EJAZ AFZAL KHAN
MR. JUSTICE SARDAR TARIQ MASOOD
MR. JUSTICE FAISAL ARAB

CIVIL APPEALS NO. 843 TO 863 AND 969 TO 970 OF 2012 AND
CIVIL APPEALS NO. 263-L TO 265-L OF 2013 AND 984, 127-P AND
129-P TO 134-P AND 136-P TO 141-P AND 143-P TO 148-P OF
2014 AND CIVIL PETITIONS NO. 1353-L OF 2012 AND 3474 OF
2015 AND CMAs NO. 1378 OF 2014 AND 6497 OF 2014.

(On appeal against the judgments dated 23.04.2012, 2.4.2014, 29.5.2012, 12.06.2012, 15.5.2012, 25.4.2013, 30.05.2013, 11.9.2013, 16.9.2013, 27.6.2013, 14.5.2014, 10.6.2014, 15.5.2014, 3.6.2014 and 23.9.2015 of the Lahore High Court, Lahore, Lahore High Court, Rawalpindi Bench, Peshawar High Court, Peshawar and High Court of Balochistan Quetta in W. P. Nos. 3002, 3519/ 2010, 256/11, ICA.87/10, WP. 4208/10, 5468/10, ICAs. 232/11, 258/10, WPs. 1229/09, 23067/09, 2130/10, 15724/10, 3751/10, 3752/10, 21755/10, 23465/10, ICAs. 87/2010 248/10, 249/10, 257/10, WPs. 9878/10, 15813/10, 15918/10, 15844/10, 15638/11, ICAs. 233/11, 234/11, WPs. 4146/10, 3173-P/12, 3172-P/12, 3174-P/12, 3239-P/12, 3240-P/12, 1297-P/12, 3032-P/12, 3283-P/13, 3321-P/12, 3362-P/12, 3378-P/12, 122-P/13, 1279-P/12, 1499-P/12, 1349-P/14, 1746-P/14, 207-M-P/14, 1393/14 and CP. 811/2015).

DCO/Chairman District Recruitment Committee,
Khanewal and others.

EDO (Education), Lodhran/Member Recruitment Committee,
Lodhran and others.

DCO/Chairman District Recruitment Committee, Sahiwal and others.

DCO/Chairman District Recruitment Committee, Sahiwal and others.

DCO/Chairman District Recruitment Committee,
Faisalabad and others.

DCO/Chairman District Recruitment Committee,
Hafiz Abad and others.

DCO/Chairman District Recruitment Committee, Hafizabad and others.

DCO/Chairman District Recruitment Committee, Bahakkar and others.

Secretary Govt. of the Punjab Education Dept., Lahore, etc.

DCO/Chairman District Recruitment Committee,
Nankana Sahib and others.

Province of the Punjab through Secretary (Schools) and others.

- Govt. of the Punjab Ibr. Secy. Education, Lahore and others.
- EDO (Education) Member Executive Committee. Lodhran and others.
- EDO (Education) Member Executive Committee. Lodhran and others.
- EDO (Education). Multan and others.
- EDO (Education). Multan and others.
- DCO Jhang and others.
- Govt. of Punjab Ibr. Secy Education, Lahore and others.
- Executive District Officer (Education) Khanewal and others.
- DCO/Chairman District Recruitment Committee, Bhakkar and others.
- DCO/Chairman District Recruitment Committee, Bhakkar and others.
- DCO/Chairman District Recruitment Committee, Bhakkar and others.
- EDO (Education) Chakwal/Member Recruitment Committee, etc.
- EDO (Education) Chakwal/Member Recruitment Committee, etc.
- The Secy. Govt. of Punjab Education Department, Punjab, Lahore, etc.
- District Co-ordination Officer Bahawalnagar and another.
- District Co-ordination Officer Bahawalnagar and another.
- District Co-ordination Officer Bahawalnagar and another.
- District Co-ordination Officer Bahawalnagar and another.
- Secy. School Education Department, Govt. of Punjab Lahore, etc.
- District Education Officer (Male) Charsadda and others.
- District Education Officer (Male) Peshawar and others.
- District Education Officer (Male) Peshawar and others.
- District Education Officer (Male) Peshawar and others.
- District Education Officer (Male) Peshawar and others.
- Provincial Govt. Ibr. Secy (E&S) Education, Peshawar, etc.
- Director Education FATA, Peshawar and others.
- Director Education FATA, Peshawar and others.
- Director Education FATA, Peshawar and others.

CALL NO. 1001 AND 1002 TO 1014 OF 2012 AND 1015 TO 1017 OF 2012 AND 1018 AND 1019 OF 2012
1020 TO 1022 AND 1023 TO 1025 AND 1026 TO 1028 OF 2012 AND CTA, 1029 OF 2012
AND 1030 OF 2012 AND CTA, 1031 OF 2012 AND 1032 OF 2012

- Additional Chief Secretary FATA, Peshawar and others.
- Additional Chief Secretary FATA, Peshawar and others.
- Secretary to Govt. of KPK (E&S) Education Peshawar and others.
- Govt. of KPK thr. Chief Secretary, Peshawar and others.
- District Education Officer, Peshawar and others.
- District Education Officer, Peshawar and others.
- District Education Officer, (Male) Dir Lower and others.
- Govt. of KPK thr. Chief Secretary, Peshawar and others.
- Muhammad Siddique and others.

Appellant(s)/Petitioner

VERSUS

- Kishwar Sultana and others.
- Msl. Imtiaz Khadim and others.
- Nasim Akhtar and others.
- Muhammad Ejaz Kamran and another.
- Msl. Shazia Ambreen and others.
- Nazra Balool and others.
- Nazra Balool and others.
- Samina Bibi and others.
- Muhammad Asghar and others.
- Msl. Azra Bano and others.
- Asif Ali and others.
- Saira Younas and others.
- Msl. Sanobar Tabassum and others.
- Sheikh Iftan Ahmad and others.
- Nasir Abbas and others.
- Muhammad Imran Hyssain and others.

CALL 142 TO 613 AND 241 TO 178 OF 2015 AND 7-14 TO 7-14 OF 2013 AND 715, 1717 AND
1717 TO 1724 AND 1724 TO 1731 AND 1731 TO 1738 OF 2015 AND 715, 1717 AND
AND 241 OF 2015 AND 715, 1717 AND 1731 OF 2015.

Nasim Akhter.

Aylsha Mumtaz and others.

Mrs. Zubaida Nazli and others.

Abdul Ghafoor Noon and others.

Saeeda Malik and others.

Mehboob Alam Khan and others.

Sajid Mumtaz and others.

Allat Hussain and others.

Mrs. Yasmeen Tahira and others.

Adeela Alzal.

Adeela Alzal.

Alla-ul-Ghohoor, etc.

Talib Hussain, etc.

Samina Sikandar and another.

Mustah ud Din and others.

Raees Khan.

Abid Hussain and another.

Inayatullah.

Saeedullah.

Centre Research of Education thr. Zafar Iqbal.

Shabana and others.

Mrs. Naheeda Nizam.

Shakirullah and others.

Tariq Aziz and others.

Rifaqat Khan and others.

Mrs. Shakela Naz and others.

Mrs. Neelam Waris.

Syed Ibne Abbas.

Milkhari Ali and others.

Lail ur Rehman and others.

Zia-ur-Rahman and others.

Mst. Mehreen Hayat.

The Secretary, Govt. of Balochistan, Education Department,
Quetta and others.

...Respondent(s)

For the Appellant(s): Mr. Mudassar Khalid Abbasi, AAG, Pb.

Mr. Waqar Ahmed Khan, Addl. A. G. KPK.

Majeedullah, Legal Representative DE(E&SE)
Peshawar.

Fazl-e-Khalid, Legal Representative DEO (Male)
Sawabl.

For the respondents: Mr. Ijaz Anwar, ASC.
(in CAs. 145-P to 147-P/14 and 128-P/14).

Molvi Ejaz-ul-Haq, ASC.
(in CAs. 843, 844, 850, 854, 969, 856 and
859/2012)

Syed Wasol-ul-Hassan Shah, ASC
(in CA. 843/12)

Mr. Abdul Rehman Siddiqui, ASC
(in CMAs. 1490 and 6497/14)

Mr. M. Siddique Khan Baloch, ASC
(in CMAs. 2366-2367/16)

Rehmanullah, in person.
Farooq Ahmed, in person.
Mushraf Shah, in person.
M. Ishaq, in person.
M. Zia-ul-Haq, in person.
(in CA. 145-P/2014).

On Court's Notice

Mr. Sahal Ahmed, DAC.

Date of Hearing: 08.04.2016 (Judgment Reserved)

.....

JUDGMENT

EJAZ AFZAL KHAN, J. These appeals with the leave of the Court have arisen out of the judgments dated 23.04.2012, 29.5.2012, 12.06.2012, 15.5.2012, 25.4.2013, 30.05.2013, 11.9.2013, 16.9.2013, 27.6.2013, 14.5.2014, 10.6.2014, 15.5.2014, 3.6.2014 and 02.04.2014 of the Lahore High Court, Lahore, Lahore High Court, Rawalpindi Bench, Rawalpindi and Peshawar High Court, Peshawar whereby they dismissed the Intra Court Appeals and Writ Petitions filed by the appellants. Civil Petition No. 3774 of 2015 has arisen out of the judgment dated 23.09.2015 of the High Court of Balochistan, Quetta whereby the petition filed by the petitioner was dismissed in limine.

2. As the points urged in these appeals as well as petitions are identical, we dispose them of by this single judgment.

3. The learned AAG, Punjab appearing on behalf of the appellants contended that Skill Development Council was established under the National Training Ordinance, 1980 and the rules made thereunder, for providing technical and vocational training and not for awarding any certificate or diploma in the fields of art, craft, education or physical education; and that the Skill Development Council overstepped its limits by offering courses in the fields mentioned above and issuing certificates or diplomas therein. He next contended that since the certificates or diplomas issued by the Skill Development Council do not conform to the course, curriculum or training required for art, craft, education or physical education, any appointment made on the basis of such certificate or diploma being against the provisions of the Ordinance

and rules made thereunder is liable to be annulled. Even the National Training Board, the learned AAG maintained, constituted under the Ordinance cannot issue any directive to protect any such diploma or certificate when its role in the whole affair is recommendatory. The learned AAG to support his contention also placed reliance on the letter No: SO(SE-IV)4-461/09 dated 16.08.2010 Issued by the Secretary Schools Education Department, Govt. of Punjab.

4. The learned Additional A.G. KPK endorsed the arguments of learned AAG, Punjab.

5. Learned ASC appearing on behalf of respondents contended that where respondents have qualified diplomas or certificates under the aegis of Skill Development Council in the fields of art, craft, education or physical education, their appointments were rightly made on the basis of such diplomas and certificates in various departments of Government, therefore, no exception could be taken to their appointments at this stage. Such appointments, the learned ASC contended, cannot be undone even under the doctrine of *locus poentillo*, when not only decisive steps have been taken, but valuable rights have also accrued to the respondents. Learned ASC went on to argue that many respondents whose appointments have been made on the basis of diplomas or certificates issued by the Skill Development Council, also possessed requisite qualifications at the time of their appointments and many acquired, if after their appointments, therefore, their appointments cannot be undone, even if it is assumed that the diplomas or certificates issued by the Council have no statutory sanction.

6. We have gone through the record carefully and considered the submissions of learned AAG Punjab, learned Addl. AG, KPK as well as learned ASCs for the respondents.

7. What is National Training Board? What is Skill Development Council? What is vocational training? Answer to these questions and allied thereto are fully answered by Section 2 of the Ordinance which reads as under:-

Definitions. - In this Ordinance, unless there is anything repugnant in the subject or context, -

- a) "establishment" means any office, firm, industrial unit, undertaking, shop or premises in which workmen are employed for the purpose of carrying on any industry;
- b) "industry" means any business, trade, manufacture, calling, service, employment or occupation;
- c) "institution" means a school, college or institute, by whatever name called, imparting vocational training;
- d) "National Board" means the National Training Board constituted under section 3;
- da) "National Trade Testing Board" means National Trade Testing Board constituted by the National Training Board under sub-section (2) of section 4;
- e) "prescribed" means prescribed by regulations made under this Ordinance;
- f) "Provincial Board" means a Provincial training Board constituted under sub-section (2) of section 5;

- (a) "Provincial Trade Testing Board" means provincial Trade Testing Board constituted by the Provincial Training Board;
- (b) "Skill Develop Council" means the Skill Development Council, constituted by the National Training Board under sub-section (2) of section 4;
- (c) "Technical Education and Vocational Training Authority" means the Technical Education and Vocational Training Authority constituted by the Provincial Government;
- (d) "Vocational training" means training in any physical and professional skill, trade, calling or occupation".

8. What are the functions of National Training Board are enumerated in Section 4 of the Ordinance which reads as under:-

"4. Functions of the National Board.—(1) The National Board shall --

- i) collaborate with the source of labour market information as determined from a survey of establishments with a view to assessing on a continuing basis existing and future training needs, both local and foreign;
- ii) systematically study existing training programmes with respect to their relevance, duration and size and recommend such measures to be taken as seem desirable to improve the quality of training;
- iii) establish criteria for evaluating and determining training programmes and facilities;
- iv) develop training syllable and establish and specify national training standards and trade testing rules to ensure horizontal and vertical mobility;

- v) supervise such training programmes are funded from the Federal budget;
- vi) prepare national training plan, programs and projects in view of local as well as foreign requirements and monitor their implementation;
- vii) recommend to the Federal Government means for financing training programmes;
- viii) promote and finance training of establishment based or institution-based training officials and instructors;
- ix) organize and conduct seminars and workshops for various types of personnel associated with training activities;
- x) collect and compile statistics related to training;
- xi) co-ordinate the working of Provincial Boards and Technical Education and Vocational Training Authority;
- xii) review existing and propose legislation on vocational training and recommend necessary legislative provisions with the concurrence of the Provincial Boards and Technical Education and Vocational Training Authority;
- xiii) issue to establishments, Provincial Boards, Technical Education and Vocational Training Authority or institutions for compliance directives within the framework of the approved plans and projects;
- xiiiia) assist and establish institutions in collaboration with private sector to promote technical, vocational and in-plant training and skill development;

xiiib) undertake registration and licensing of all establishments, organizations or institutions which are offering or providing vocational training;

xiiic) develop system and conduct trade testing and certification of skilled workers who have received vocational training through any source or acquired skills through experience or informal system;

xiv) do all other acts necessary for carrying out the purposes of this Ordinance;

(2) The National Board may set up such administrative and technical committees, skill development councils, authorities, trade testing boards or other such bodies for the efficient performance of its functions, and entrust to such committees, skill development councils, authorities, trade testing boards or other such bodies such functions as it may consider necessary."

7. Functions of Skill Development Council have been dealt with by Rule 6 of the Rules of Business of Skill Development Council, 2013 which reads as under:-

"6. Functions of the Council: The Council will perform following functions:

- a) Provide a productive link between employers, employees, training providers and trainees;
- b) Identify training needs of the geographical area, analyze and prioritize training needs and arrange training, retraining as well as skill upgradation through contracted arrangement with public and private training institutes/establishments and in-plant training mode.
- c) Develop National Vocational Qualifications for prescribed levels from pre to post education of

- Technical/professional skills and knowledge based on employment and industry/market need analysis and submits for approval of NTB.
- d) Assure quality training for youth and already employed persons by preparing courses, setting standards, developing Quality Management System and final trade testing and certification. Trade Testing and certification up to six months duration will be carried out by SDC with the concurrence of National Training Board and the courses more than six months duration will be conducted by the NTB/PTB.
 - e) Develop the potential of work-force by increasing their standard of skill and basic education so as to increase productivity, quality of product and to meet the needs of both domestic and international market.
 - f) Motivate employers to operate as investor in human capital, so as to encourage organizations to invest in people through participation in skill development programmes besides arranging skill competitions for enhancing the popularity of vocational training in all areas and improving proficiency of skilled workers as well as promote self employment by providing loan to winners.
 - g) Support informal sector i.e. Usulad-Shagird system through provision of training for skill enhancement and trade testing. Provide skill training and structured education to working children of small garages and workshops to protect child labour and bring them into main stream of vocational education and training.
 - h) Develop and implement special training programme for women, children of industrial workers and under privileged youth to prepare

them for gainful employment or to engage in some income generating activities to raise their standard of living and social up lifting through self employment.

- i) Develop and arrange specialized training programme in Information Technology for unemployed educated youth (Matriculate-Graduate) to provide them maximum employment opportunities locally and abroad.
- ii) Introduction and promotion of distance learning, computer based training and new training technologies including video conferencing through support and affiliation with international institutions/universities involving local institutions.
- k) Customized training programme for the rehabilitation of expatriates and employers being declared surplus due to privatization as well as downsizing programmes of the Government.
- l) Any other programme and activity to promote technical vocational education and training in the country with the approval of NTB."

10. How the Council shall conduct its business or what is procedure therefor has been chartered out in Rule 7 of the above mentioned rules which reads as under :-

"7. Procedure to Conduct Business:

- a) The SDCs shall set its targets regarding number of trainees to be trained in various Vocational Qualifications from proficiency, and competency based certificate and diploma level for better employment opportunities to the trainees.

- b) The SDCs shall identify the training need through surveys, direct interaction with employer associations/individual employers and keeping in view the local and international market trend.
- c) The SDCs shall design and develop the training programmes through technical committees comprised of representatives from business organizations and training providers and will arrange the training of educated youth and already employed at various public and private training institutes including industry individually or with group of institutes on contractual basis.
- d) The selection of the institute/training providers will be made keeping in view the facilities available at the institute(s) and the contents of the course.
- e) The Council will recommend registration of public and private institutes including industry based training institutes to NTB/PTB as covered under National Training Ordinance 2002.
- f) Training programme will be announced in the newspapers and selection of trainees will be made by the SDCs on merit with the help of participating institutes.
- g) The SDC shall also register and impart training to school leavers Matric dropouts, educated and uneducated unemployed, child trainee and other workers in the formal and informal sectors for the purpose of imparting training and skill up grading in all programmes sponsored by the Government or any other donor agency or body.
- h) The SDC will charge at an average 10% service charges from the training institutes for each training programme to cover the cost of

advertisement, brochure, registration and certification and other expenses of the Council. The rate of service charges may be reduced or increased keeping in view the nature and potential of the training programme. However, the fee structure should be on cost recovery basis.

i) The Council will develop a mechanism to provide financial assistance in shape of repayable loan, free sponsorship to the deserving trainees/government servants and their employees but number of such cases would depend on the availability of funds.

ii) The Council may issue to the trainee a trainee card which may be used as the basis for reimbursing the training cost to the training institution or employer where training is to be imparted. A system of training credit for crediting training cost to the training provider may be established.

k) The Council will draw its own action plan for attaining the objectives and making the Council to operate on a self financing basis with the approval of NTB.

l) All SDCs will forward the following to NTB.

- a) Annual Training Plan by 1st Week of December every year.
- b) Six month progress report and expenditure statement.
- c) Yearly progress report.

m) The Chairman shall appoint a Director SDC, subject to approval of the Council, who will be responsible for administering and implementing the decisions of the Council and who will be fully accountable to the Council for all his actions. The Director will also act as Secretary of the Council.

- n) For smooth and efficient administration and implementation of the affairs of the Council, the Chairman will contract tasks and assignments.
- o) The Council will constitute various committees for the smooth functioning of the work.
- p) The Chairman will be the ex-officio Chairman of all committees formed by the Council.
- q) The Director will be the ex-officio Secretary of all committees constituted by the Council.
- r) The SDC may delegate any or all of its power to the Chairman, or any member or committee(s) appointed by it subject to such conditions as it may deem fit.
- s) The Chairman shall use the powers of the council in its absence or whenever the council is not in session subject to confirmation of all the decisions taken in exercise of the powers under this provision, of the Council in its next meeting."

11. Letter dated 14.08.2010 of the Secretary Schools, Education Department, Govt. of Punjab is also relevant which reads as under:-

"Govt. of the Pakistan, Ministry of Labour and Manpower National Training Bureau, Islamabad vide No.1(57)NTB-TT.C/2009/66 dated 2.6.2010 has replied that "Skill Development Councils (SDCs) were established and their Rules of Business were framed by the Ministry vide No.3/2/2001-TT-II dated 17.7.2002. These Rules of Business authorize SDCs to conduct courses and issue certificate for only 06 months duration with the concurrence of National Training Board, Diplomas of Art and Craft, Oriental Teacher and Physical Education are not including in the list

provided by the Govt. of Pakistan, Ministry of Labour and Manpower, National Training Bureau, Islamabad (list attached). Therefore, awarding of such diplomas by SDCs is complete violation of Rules of Business of SDCs.

12. A careful reading of the above quoted provisions of the Ordinance and the Rules would reveal that domain of the National Training Board and Skill Development Council is clearly demarcated by the provisions of the Ordinance and Rules made thereunder. The purpose behind the establishment of Board is to provide technical education and vocational training in any physical and professional skill, trade, calling or occupation. The Board does not do all this in a vacuum. It makes a survey and systematic study of the market to assess the existing and future training needs, both at local and foreign level and establishes criteria for evaluating and determining training programmes and facilities. After doing so, it develops syllabi, establishes and specifies national training standards and trade testing rules to ensure horizontal and vertical mobility, develops system and conducts trade testing and certification of skilled workers who have received vocational training through any source or acquired skills through experience and informal system, as is provided in Section 4 of the Ordinance. The Skill Development Council as the very name suggests focuses on labour, market, information and launches technical education and vocational training in any physical and professional skill, trade, calling or occupation so that the people who cannot acquire higher or specialized education may get opportunities of employment, according to the needs and requirements of the market. Art, craft, education and physical education are well beyond the domain of

the Council and capacity of its faculty: it thus could not launch programmes in any of these fields. The Board and the Council travelled beyond what they were established for by launching programmes falling exclusively in the domain of art, craft, education or physical education. The letter reproduced above also clearly demarcated the domain of the Board and the Council. In spite of that the Council issued certificates and diplomas in such fields, even in respect of the courses of one year duration. Another amazing and intriguing fact is that appointments have been made on the basis of such diplomas and certificates in the educational institutions without caring to know that the Council does not have the power and competence to launch such programmes, courses and curriculums and issue certificates and diplomas in this behalf. The education being a specialized field having many dimensions in today's context could not thus be left to the faculty which did not have specialized qualification and training therefor. Persons on the speak of Education Department went into deep slumber. Even if a few of them were awake, they watched the sight and spectacle with hands folded and legs crossed. By the time they realized and raised hue and cry, the water had gone above their heads. Yes, it is never too late to mend but what to do! Retain them, is the answer of the protagonists of status quo. Don't worsen the bad if correction is possible, is the answer given by those who are guided by prudent and progressive outlook. We deliberated over the pros and cons of the answers thus given. The solution we have come out with is simple! Let them continue, if they besides the certificates or diplomas, issued by the Council, possess the requisite or equivalent qualifications. Let those also continue, who improved their

qualifications even thereafter. Those who could not improve their qualification up till now should improve it within a period of one year, which would be reckoned from the date of commencement of the next available academic session of the respective programme. We, therefore, allow the appeals, convert the petitions into appeals and allow them in the terms mentioned above.

Judge

Judge

Judge

Announced in open Court at Islamabad on _____

Judge

Not approved for reporting.
M. Azhar Malik

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

Service Appeal No. 476/2014

Mian Farooq Iqbal

VS Chief Secretary & others

.....
REJOINDER ON BEHALF OF APPELLANT

.....
RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-8) 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 Not properly replied and specifically denied by the respondents meaning thereby that para 1 of the appeal is correct.
- 2 First portion of the of the para B is admitted correct. Hence no comments, while the rest of the para is incorrect as the appellant has not resigned from his previous service but he was relieved from the previous service.
- 3 Incorrect. While para 3 of the appeal is correct.
- 4 No comments endorsed by the respondents meaning that para 4 of the appeal is correct.
- 5 Partially admitted correct by the respondents. However it is added that right granting law/ notifications and rules are always having effect from retrospective date as per Supreme Court judgments. More over rights cannot be abridged by

the Finance Deptt; by fixing applicability date of their own choice.

- 6 Admitted correct by the respondents that the appellant filed departmental appeal but it was rejected without any justification.
- 7 Not replied according to para 7 of the appeal meaning by that para 7 of the appeal is correct. Moreover the appellant has good cause of action and appeal of the appellant may be accepted on the following grounds.

GROUNDS:

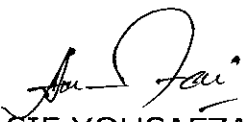
1. Incorrect while para.1 of grounds is correct. More over the contention of the respondents is totally contradictory to the notification.
2. Incorrect. Para 2 of the grounds of the appeal is relevant and correct.
3. No comments endorsed by the department that para 3 of the grounds of the appeal is correct.
4. Not replied according to para 4 of the grounds of the appeal. Moreover para 4 of the grounds of the appeal is correct.
5. Incorrect. While para 5 of the grounds of the appeal is correct.
6. Incorrect. The appellant applied through proper channel to the post of Inspector of Mines and was relieved upon selection as Inspector of Mines.
7. Incorrect. the standard adopted by the Finance Deptt;, Govt: of KPK is not accordance with law and natural justice where as on one hand they allowed protection of pay to the appointees after the notification but on the other hand it deprived the employees before the notification. Which is kind of discrimination top the appellant as well as to other employees of the province.

8. No comments, endorsed by the department meaning that para 8 of the grounds of the appeal is correct.
9. No comments, endorsed by the department meaning that para 9 of the grounds of the appeal is correct.
10. No comments, endorsed by the department meaning that para 10 of the grounds of the appeal is correct.
11. Incorrect. Para 11 of the grounds of the appeal is relevant therefore the stance of the department is incorrect. Hence denied.

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

APPELLANT
Mian Farooq Iqbal

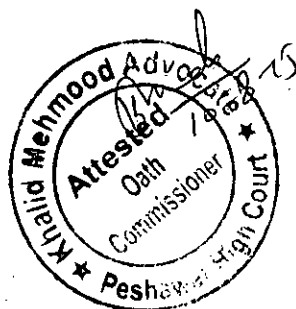
Through:


(M. ASIF YOUSAFZAI)
&

(TAIMUR ALI KHAN)
ADVOCATES PESHAWAR.

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.




DEPONENT