

Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	16.01.2020	<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u> Service Appeal No. 191/2019</p> <p style="text-align: center;">Date of Institution 11.02.2019 Date of Decision 16.01.2020</p> <p>Javid Khan son of Shah Wali presently serving as Chowkidar Civil Veterinary Dispensary (Sarak), Central Kurram District Kurram, Khyber Pakhtunkhwa..</p> <p style="text-align: right;">Appellant</p> <p style="text-align: center;">Versus</p> <ol style="list-style-type: none"> 1. The Secretary Agriculture, Livestock & Cooperation Department Khyber Pakhtunkhwa Peshawar. 2. The Director General (Extension) Livestock & Dairy Development Department Bacha Khan Chowk Charsadda Road Peshawar. 3. The Assistant Director Livestock & Dairy Development Parachinar District Kurram, Khyber Pakhtunkhwa. 4. The Secretary Finance Department Khyber Pakhtunkhwa Peshawar. 5. The Accountant General Khyber Pakhtunkhwa Peshawar. <p style="text-align: right;">Respondents</p> <p>Mr. Muhammad Hamid Mughal-----Member(J) Mr. Hussain Shah -----Member(E)</p> <p style="text-align: center;"><u>JUDGMENT</u> <u>MUHAMMAD HAMID MUGHAL, MEMBER:</u> Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney present.</p> <p>2. The appellant, has filed the present service appeal for</p>

16.1.2020

issuance of direction to the respondents to release the salary of the appellant.

3. Learned counsel for the appellant argued that the appellant was appointed as Chowkidar at Civil Veterinary Dispensary (Sarak), Central Kurram District Kurram in the year 2004; that right of salary of the appellant was denied to him for the past several months; that the appellant also filed departmental appeal for the release of his monthly salary but the same was not decided; that the act of withholding of monthly salary of the appellant is against law and fundamental rights enshrined in the constitution; that the matter in relation to salary of a civil servant has direct nexus with his terms & conditions of service.

4. As against that learned Deputy District Attorney argued that the appellant has concealed the material facts from this Tribunal; that dispute arose between two parties over Class-IV posts at Civil Veterinary Dispensary (Sarak), Central Kurram District Kurram and Government Primary School Kurram and finally FATA Tribunal decided the case against the appellant vide order dated 23.06.2016; that the appellant has not complied with the judgment of FATA Tribunal hence his salary was stopped. Further argued that the appellant has not submitted any departmental appeal to the appellate authority and that the appellate authority in the present case is Director Livestock newly merged areas.

16.1.2020

5. Arguments heard. File perused.

6. It is not disputed that the appellant was appointed as Chowkidar at Civil Veterinary Dispensary Sarak, (FR) Kurram vide order dated 18.02.2004. There is also no cavil to the proposition that matter of pay of a civil servant comes within ambit of his terms & conditions of service. This Tribunal however noticed with concern that in erstwhile FATA, unfortunately the appointments of civil servants were not made strictly in the prescribed manner.

7. The salary of the appellant has not been withheld by the competent authority or by the appellate authority rather it was stopped on the direction of Assistant Political Agent Central Kurram (Erstwhile FATA) allegedly as per Rawaj of Ex-FATA.

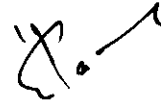
8. In view of the circumstances of the case and judgment of the FATA Tribunal dated 23.06.2016 referred to by the learned DDA and when there is no decision of the appellate authority on departmental appeal of the appellant. The case of the appellant is remitted to the appellate authority i.e. Director General Livestock newly merged areas (respondent No.2) for taking up the issue and to decide the departmental appeal of the appellant through speaking order within 30 days of the receipt of this judgment, which order of the appellate authority shall be given effect by the District Accounts Office Kurram and Accountant General Khyber Pakhtunkhwa (respondent No.5).

16.1.2020

Copy of this judgment alongwith copy of departmental appeal of the appellant and copy of judgment of FATA Tribunal dated 23.06.2016 be sent to the respondent No.2 for doing the needful at his end. In case, the appellant is not satisfied with the order of the appellate authority he may approach the proper forum for the redressal of his grievance. No order as to costs. File be consigned to the record room.



(Hussain Shah)
Member



(Muhammad Hamid Mughal)
Member

ANNOUNCED
16.01.2020

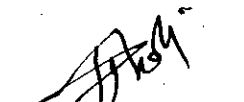
13.12.2020 Appellant with counsel present. Mr. Zia Ullah learned Deputy District Attorney alongwith representative Dr. Muhammad Javid Veterinary Officer present. Arguments heard. To come up for order on 16.01.2020 before D.B.

Member

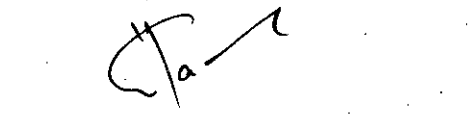


Member

16.01.2020 Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney present. Vide separate judgment of today of this Tribunal placed on file, the case of the appellant is remitted to the appellate authority i.e. Director General Livestock newly merged areas (respondent No.2) for taking up the issue and to decide the departmental appeal of the appellant through speaking order within 30 days of the receipt of this judgment, which order of the appellate authority shall be given effect by the District Accounts Office Kurram and Accountant General Khyber Pakhtunkhwa (respondent No.5). Copy of this judgment alongwith copy of departmental appeal of the appellant and copy of judgment of FATA Tribunal dated 23.06.2016 be sent to the respondent No.2 for doing the needful at his end. In case, the appellant is not satisfied with the order of the appellate authority he may approach the proper forum for the redressal of his grievance. No order as to costs. File be consigned to the record room.



(Hussain Shah)
Member



(Muhammad Hamid Mughal)
Member

ANNOUNCED.
16.01.2020

13.12.2019

Appellant with counsel present. Mr. Zia Ullah learned DDA alongwith representative Dr. Muhammad Jaffar Veterinary Officer present. Arguments heard. To come up for order on 16.01.2020 before D.B.


Member


Member

16.01.2020

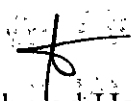
Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney present. Vide separate judgment of today of this Tribunal, placed on file, the case of the appellant is remitted to the appellate authority i.e. Director General Livestock newly merged areas (respondent No.2) to decide the departmental appeal of the appellant through speaking order within 30 days of the receipt of this judgment. Copy of this judgment alongwith copy of departmental appeal of the appellant be sent to the respondent No.2 for compliance. No order as to costs. File be consigned to the record room.

(Hussain Shah)
Member (E)

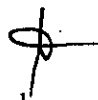
(Muhammad Hamid Mughal)
Member (J)

ANNOUNCED.
16.01.2020

29.08.2019 Counsel for the appellant present. Addl: AG alongwith Mr. Sajid, Supdt for respondent no.4 and Mr. Zakiullah, Senior Auditor for respondent no. 5 present. Written reply on behalf of respondent no.5 already submitted. Written reply on behalf of respondents no. 1 to 4 not submitted. Representative of respondent no.4 seeks time to submit the same. Notices be issued to respondents no. 1 to 3 for submission of written reply/comments. To come up for written reply/comments on 26.09.2019 before S.B.

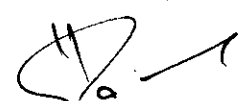

(Ahmad Hassan)

26.09.2019 Counsel for the appellant present. Addl: AG alongwith Dr. M. Jafar VO and Mr. Sajid, Supdt for respondents present. Written reply submitted which is placed on file. To come up for rejoinder and arguments on 12.12.2019 before D.B.


Member

12.12.2019 Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney present. Partial arguments heard. Learned DDA seeks adjournment for arguments. Adjourn. To come up for further arguments on 13.12.2019 before D.B.

Member


Member

15.04.2019

Learned counsel for the appellant present. Written reply not submitted. Zaki Ullah Senior Auditor representative of the respondent No.5 present and seeks time to furnish written reply/comments. No one present on behalf of remaining respondents. Notice be issued to remaining respondents i.e. respondents No.1 to 4 with the direction to furnish written reply/comments. Adjourn. To come up for written reply/comments on 23.05.2019 before S.B.



Member

23.05.2019

Learned counsel for the appellant present. Written reply not submitted. Jashaid Akhtar Legal Officer representative of the respondent department present and seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on 03.07.2019 before S.B.



Member

03.07.2019

Learned counsel for the appellant present. Mr. Muhammad Jan learned Deputy District Attorney alongwith M/S Dr. Muhammad Jaffar representative of respondents No.1 to 3, Sajid Superintendent representative of respondent No.4 and Zaki Ullah representative of the respondents No. 5 present. Written reply on behalf of respondents No. 1 to 4 not submitted. Representative of respondent No. 5 submitted written reply. Representatives of respondents No. 1 to 4 seeks time to furnish written reply/comments. Last opportunity is granted. Adjourned. To come up for written reply/comments on 29.08.2019 before S.B.




Member

01.03.2019

Counsel for the appellant Javid Khan present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was appointed Chowkidar in Livestock & Dairy Development Department vide order dated 14.02.2004. It was further contended that the appellant was performing his duty regularly but the respondent-department has stopped the salary of the appellant with effect from June 2018 without any reason and show-cause notice. It was further contended that the appellant filed departmental appeal in October 2018 but the same was not responded hence, the present service appeal. Learned counsel for the appellant further contended that the salary of the appellant was stopped by the respondent-department despite the fact that the appellant was performing his duty regularly therefore, the respondent-department is bound to release the salary of the appellant.

The contention raised by the learned counsel for the appellant needs consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notice be issued to the respondents for written reply/comments for 15.04.2019 before S.B.




Appellant Deposited
Security & Process Fee


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 191/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	11/2/2019	<p>The appeal of Mr. Javid Khan presented today by Mr. Ali Azim Afridi Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 11/2/19</p> <p>2-</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>1-3-19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE SERVICE TRIBUNAL KP, PESHAWAR

Service Appeal No. 191 / 2019

Service Tribunal

Peshawar, Khyber Pakhtunkhwa

Javid Khan S/O Shah Wali Presently Serving as Chowkidar,
Civil Veterinary Dispensary (Sarak), Central Kurram, District
Kurram, Khyber Pakhtunkhwa

.....Appellant

VERSUS

-
1. The Secretary Agriculture, Livestock & Cooperation Dept.
Civil Secretariat, Khyber Pakhtunkhwa, Peshawar
 2. The Director General (Extension) Livestock & Dairy
Development, Bacha Khan Chowk, Charsadda Road, Peshawar
 3. The Asst. Director Livestock & Dairy Development, Parachinar,
District Kurram, Khyber Pakhtunkhwa
 4. The Secretary Finance, Civil Secretariat, Khyber Pakhtunkhwa,
Peshawar
 5. The Accountant General, Khyber Pakhtunkhwa, Peshawar

.....Respondent(s)

SERVICE APPEAL

BEFORE THE SERVICE TRIBUNAL KP, PESHAWAR

Service Appeal No. 191 /2019

Javid Khan

.....Appellant**Versus**

The Secretary Agriculture KP, Peshawar & Others

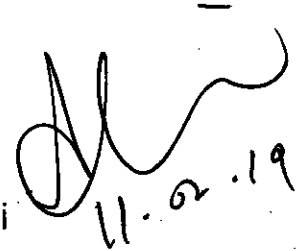
.....Respondent(s)**INDEX**

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2.	Memo of Address of Parties	10
3.	Copy of the Office Order dated 14.02.2004 along-with Appointment Order dated 18.02.2004 is annexed as Annexure "A" and "A-1"	11-12
4.	Copy of the Departmental Appeal dated 18.10.2018 along-with relevant details is annexed as Annexure "B" and "B-1"	13-22
5.	Copy of the Pay-Slip is annexed as Annexure "C"	23
6.	Vakalatnama	24

Appellant**Through**

Ali Azim Afridi

Advocate High Court

Contact # 0333-9555000


11.02.19

BEFORE THE SERVICE TRIBUNAL KP, PESHAWAR

Service Appeal No. 191 /2019

Javid Khan S/O Shah Wali Presently Serving as Chowkidar,
Civil Veterinary Dispensary (Sarak), Central Kurram, District
Kurram, Khyber Pakhtunkhwa

.....Appellant Khyber Pakhtunkhwa
Service Tribunal

Diary No. 171

Versus

Dated - 11-2-19

1. The Secretary Agriculture, Livestock & Cooperation Dept. Civil Secretariat, Khyber Pakhtunkhwa, Peshawar
2. The Director General (Extension) Livestock & Dairy Development, Bacha Khan Chowk, Charsadda Road, Peshawar
3. The Asst. Director Livestock & Dairy Development, Parachinar, District Kurram, Khyber Pakhtunkhwa
4. The Secretary Finance, Civil Secretariat, Khyber Pakhtunkhwa, Peshawar
5. The Accountant General, Khyber Pakhtunkhwa, Peshawar

.....Respondent(s)

**APPEAL UNDER SECTION 4 OF THE KP
SERVICE TRIBUNAL ACT, 1974; FOR
ALLOWING GRANT/RELEASE OF SALARY
TO THE PRESENT APPELLANT; HAVING
DIRECT NEXUS WITH HIS TERMS AND
CONDITIONS; BEING A CIVIL SERVANT;
PRESENTLY AT THE DISPOSAL OF
GOVERNMENT OF KHYBER PAKHTUNKHWA**

Filed to-day

Registrar

11/2/19

Respectfully Sheweth,

1. That The Constitution of Islamic Republic of Pakistan aims at protecting civil servants in order to ensure smooth running

of affairs of the Government and Institutions so as to benefit the public citizenry.

2. The Constitution of Islamic Republic of Pakistan equally beshields civil servants from being treated otherwise than in accordance with law.

In Sheikh Riaz-ul-Haq's Case¹, it was held that, *"Admittedly, civil servants being citizens of Pakistan have fundamental rights including the right to access to justice as envisaged under Article 9 of the Constitution"*.

3. That the Constitution of Islamic Republic of Pakistan evenly emphasizes on equality for the citizens and by the citizens; aimed at underpinning rule of law.
4. That the Constitution of Islamic Republic of Pakistan enables, the state not deprive any person of life or liberty; which a person is entitled to enjoy; distilling the command of the Constitution.

In Shehla Zia' Case², It was held that, *"Article 9 of the Constitution provides that no person shall be deprived of life or liberty save in accordance with law; The word life is very significant as it covers all facets of human existence; The word life has not been defined in the Constitution but it does not mean nor can be restricted only to the vegetative or animal life or mere existence from conception to death; Life includes all such amenities and facilities which a person born in a free country is entitled to enjoy with dignity, legally and constitutionally"*.

5. That an employee/servant; if not paid his salary/wages for the work done by him for his employer; he is not expected

¹ PLD 2013 SC 501

² PLD 1994 SC 693

to live a proper life; if he does not get his salary; then how can he sustain himself and his family members; even if he doesn't starve and managers to keep his soul and body intact, his own life and those of his dependent members of the family are bound to heavily suffer in quality.

It Metropolitan's Case³, It was held that, *"Article 14 of the Constitution which guarantees dignity of man is contravened when an employee/servant is denied his right to receive his salary/wages by him; Article 14, inter alia, commands "the dignity of man and, subject to law, the privacy of home, shall be inviolable"; A man who is denied the fruit of the labour and work done by him is bound to live in a manner which will deprived him of his dignity; In order to save himself from starvation and keep himself alive, such a person will have to steal, beg or borrow; A person who is forced to do any such things must suffer in dignity; Similarly, to keep his dignity intact he must enjoy facilities and amenities of life of modest keep his dignity intact the he must enjoy facilities and amenities of the life of modest level according to his station in life; The total effect of non-payment of salaries to the respondents is that they are suffering in honour and dignity and their quality of life is also adversely affected, and hence fundamental rights guaranteed under Articles 9 and 14 of the Constitution stand denied to them".*

ON FACTS

6. That the appellant was appointed as Chowkidar, at Civil Veterinary Dispensary (Sarak), Central Kurram; District Kurram, Khyber Pakhtunkhwa in the year 2008. **(Copy of**

³ PLD 1996 Lhr 499

the office order dated 14.02.2004 along-with appointment order dated 18.02.2004 is annexed as Annexure "A" and "A-1").

7. That the gravamen of the present appellant originates therefrom non-payment of salary; wherein departmental appeal was preferred to respondent No. 1 and as such neither the same was entrusted nor decided till date. **(Copy of the Departmental Appeal dated 18.10.2018 along-with relevant details is annexed as Annexure "B", B-1 and B-2)**
8. That non-payment of salary amounts to withholding one's right to enjoyment of life; which nonetheless is no longer a bounty rather a right. **(Copy of the pay-slip is annexed as Annexure "C")**

In General Manager's Case⁴, It was held that,
"Salaried/wages are the rightful dues which the employees/servants must get from the employers without delay".

9. That non-payment of salary; have direct nexus with the terms and conditions of the present appellant, being a civil servant.

In Punjab Text Book Board's Case⁵, It was held that,
"The matter in relation to salary of civil servants having a direct nexus with the terms and conditions of service of the employees; as such service tribunal alone is the appropriate forum having jurisdiction to deal with matters relating to the terms and conditions of civil servants".

10. That the appellant preferred departmental

⁴ PLD 1970 SC 415

⁵ PLD 2001 SC 1032

appeal/representation on 18.10.2018; seeking grant/release of salary; which appeal was left unattended to by the competent authority/respondent No. 1 till date. Hence the instant service appeal inter-alia on the following grounds:-

GROUND

- A.** That non-payment of salary amounts to withholding one's right to enjoyment of life; as such exercise amounts to betrayal of the command of the Constitution and Law.
- B.** That not allowing the appellant; right to receive his salary; is totally uncalled for, against the law governing the subject matter.
- C.** That grant of salary is no more a bounty right a right; enabling the present appellant to claim the same; from the respondents.
- D.** That denial of salary to the present appellant amounts to deprivation of his dignity.
- E.** That the matter in relation to salary of civil servants having a direct nexus with the terms and conditions of service of the employees; as such the same lies within the jurisdiction of the service tribunal.
- F.** That it is cardinal principle of law and justice that what cannot be done directly cannot be done indirectly.⁶
- G.** That "Expressio Unis Est Exclusio Alterius", commanding that when law requires a thing to be done in particular manner then, it should be done in that manner as anything done in conflict of the command of law shall be unlawful being prohibited.
- H.** That "*Ignorantia juris non excusat*", commanding that ignorance of the law excuses not.

⁶ PLD 1993 SC 473 at Page 687

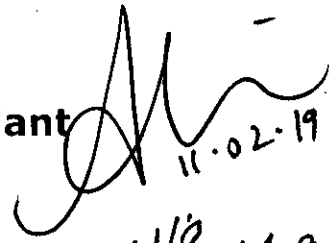
- I. That further necessary grounds will be raised during the course of arguments.

PRAYER

It is therefore humbly prayed that on acceptance of this Service Appeal:-

1. The non-grant/allowance/release of salary amounts to withholding one's right to enjoyment of life; as such necessary directions may please be issued the respondents for allowing the present appellant to seek/withdraw his salary at earliest in accordance with law.
2. Any such order be passed which this Hon'ble Tribunal deems fit and appropriate as the circumstances may require for determination of the subject at hand.

Appellant
Through


11.02.19
جاوید خان

Ali Azim Afridi

Advocate High Court

Contact # 0333-9555000

BEFORE THE SERVICE TRIBUNAL KP, PESHAWAR

Service Appeal No. /2019

Javid Khan

.....Appellant**Versus**

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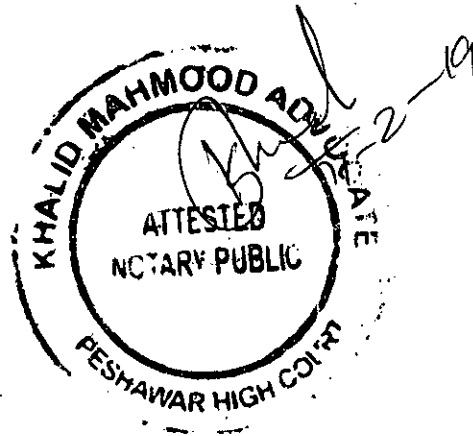
.....Respondent(s)**AFFIDAVIT**

I, Javid Khan S/O Shah Wali Presently Serving as Chowkidar, Civil Veterinary Dispensary (Sarak), Central Kurram, District Kurram, Khyber Pakhtunkhwa, appellant do hereby on oath affirm and declare that the contents of the Service Appeal are true and correct to the best of my knowledge, belief and nothing has been concealed therefrom the Hon'ble Tribunal.

Deponent

جاوید خان

CNIC # 21301-0263532-1



BEFORE THE SERVICE TRIBUNAL KP, PESHAWAR

Service Appeal No. /2019

Javid Khan

.....Appellant**Versus**

The Secretary Agriculture KP, Peshawar & Others

.....Respondent(s)**MEMO OF ADDRESS OF PARTIES****Appellant**

Javid Khan S/O Shah Wali Presently Serving as Chowkidar,
Civil Veterinary Dispensary (Sarak), Central Kurram, District
Kurram, Khyber Pakhtunkhwa

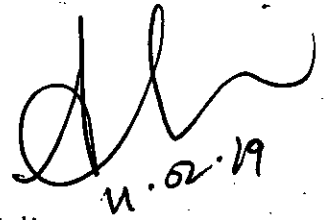
Respondent(s)

1. The Secretary Agriculture, Livestock & Cooperation Dept. Civil Secretariat, Khyber Pakhtunkhwa, Peshawar
2. The Director General (Extension) Livestock & Dairy Development, Bacha Khan Chowk, Charsadda Road, Peshawar
3. The Asst. Director Livestock & Dairy Development, Parachinar, District Kurram, Khyber Pakhtunkhwa
4. The Secretary Finance, Civil Secretariat, Khyber Pakhtunkhwa, Peshawar
5. The Accountant General, Khyber Pakhtunkhwa, Peshawar

Appellant**Through**

Ali Azim Afridi

Advocate High Court

Contact # 0333-9555000


11.02.19

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Amr 4A11
14/2 /2004

/AG, Dated Parachinar the

on

The Political Agent, Kurram.

The Assistant Director,
Livestock and Dairy Development,
Kurram Agency, Parachinar.

Subject:-

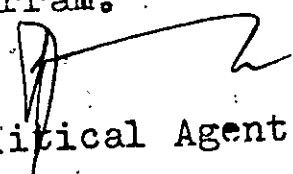
NOMINATION.

Memorandum:-

As recommended by the Assistant Political Agent (FR) Kurram vide his memo: No. 36/APA/FR dated 12.1.2004, following persons are nominated for appointment against the newly created posts as noted below against each:-

1-Javid Khan s/o Shah Wali caste Haji Khel village Sarak as chowkidar in Veterinary Center at Sarak(FR) Kurram.

2-Zahir Khan s/o Haji Wazir caste Haji Khel village Sarak as Bihishti in Veterinary Center at village Sarak FR Kurram.


Political Agent, Kurram


No _____/AG,

Copy forwarded to Assistant Political Agent (FR) Kurram at Satta ref: to his memo: No. 36/APA(FR) dated 12.1.2004 for information please.

Political Agent, Kurram

12

Amir "A-1"

OFFICE OF THE ASSISTANT DIRECTOR, LIVESTOCK AND DAIRY DEVELOPMENT KURRAM AGENCY,
PARACHINAR.


=====

APPOINTMENT ORDER.

Consequent upon the approval/Nomination of the Political Agent Kurram Wide No. 744 / AG Dated 14/02/2004, Mr. Javid Khan S/O Shah Wali caste Haji Khel resident of village Sarak FR Kurram is hereby appointed as a Chowkidar ~~Carex~~ at Civil Vety: Dispat Sarak (FR) kurram against the vacant post on contract basis SPS.I Plus usual Allowance as admissible under the rules with effect from 20.02.2004.

NOTE:=-

1. He is directed to produce his health and age Certificate from the Medical Supd: Agency Head Quarter Hospital.
2. The age of the candidate should be between 18 & 35 years.
3. His appointment is purely made on temporary basis and liable to termination at any time with out assigning any notice (in case by wants resign from service he will have to give one month prior notice or forfeit one month Pay in lieu thereof).
4. Charge reports in duplicate should be submitted to this office.
5. If he failed to take over charge within 15 days his appointment will automatically be considered as cancelled.

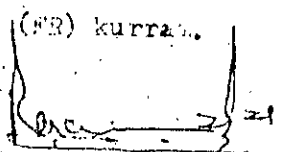

ASSISTANT DIRECTOR,
LIVESTOCK AND DAIRY DEVELOPMENT
KURRAM AGENCY PARACHINAR.

NO. 301-03 / DATED PARACHINAR THE 18 / 02 / 2004.

Copy of the above is forwarded to:-

1. The Deputy Director, Livestock & Dairy Development FR/PARA Peshawar.
2. The Agency Account Officer Kurram Agency Parachinar.
3. Mr. Javid Khan S/O Shah Wali resident of Village Sarak (FR) kurram.

FOR INFORMATION AND COMPLIANCE.


ASSISTANT DIRECTOR,
LIVESTOCK & DAIRY DEVELOPMENT,
KURRAM AGENCY PARACHINAR.

محفوظ جناب سکریٹری لائٹس ٹاک ۲۰۲ دام اقبالہ۔

درخواست برائے ریلیز ماحضہ سنسور و سٹریٹس سڑک

جناب عالی :

گزارش قابل غور ہے کہ مسائل ایکسپریس گھرانے

سے تعلق رکھتا ہے۔ اور گھر ماوا حد فضل ہے۔ اسے سنسور کے علاوہ کوئی

خاص ذریعہ معاش نہیں ہے۔ مسائل صورتات سے پتہ چلتا ہے کہ سڑک سڑک پر

سب جھٹ پھوٹا ہے۔ 2004 - 2 - 14 سے ڈیوٹی سربراہی دے رہا ہے۔ لیکن

ابھی مسائل کاٹنے کی صورت سے سنسور بند کیا ہے۔ مسائل کے سنسور کو ریلیز کرنے

کے لئے دفعہ کو شش کی۔ لیکن کوئی دلیف نہ مل سکا۔

لکھی آپ آپ ہا جان کے خدمت میں بہت انگاری کیسا موغرضہ کی جاتی ہے

کہ مسائل کو جلد از جلد مہانہ سنسور کے ریلیز کرنے کی حکم ہمارے فرما کر مشکوڑے ہاویں

عین نواز حسن پوری

موظ 18/10/2018

سائل : جاوید خان، دلشاد علی خان، کتنہ سڑکے۔

14 Am 13/1


MEDICAL CERTIFICATE

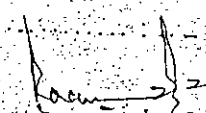
Name of Official: Javid Khan.
Caste or Race: Tot Hsji Khel.
Father's name: Shah Wali Khan.
Residence: Village Sarak FR Kupram.

Date of birth: 24-08-1978

Exact height by measurement: 5'7"

Personal mark of identification: Scar on forehead

Signature of the Official: 


Signature of head of office: 


Seal of Office:

Assistant Director
Livestock & Dairy Development
Kupram Agency Peshawar

I do hereby certify that I have examined Mr. Javid Khan, a candidate for employment in the Office of the Livestock & D.D. and can not discover that he had any disease communicable or other constitutional affection or bodily infirmity except N.A.

I do not consider this as disqualification for employment in the office of the Livestock & D.D. as chowkidar. His age according to his own statement (25) year and by appearance about 25-26 years.


LEFT HAND THUMB AND FINGER IMPRESSIONS


Medical Superintendent,
District Hospital, Kupram
Kupram Agency Peshawar

The entries in this should be dated

Name

Race

Residence

Father's name and

Date of birth by (C nearly as can be as

Exact height by me

Personal marks for

Left hand thumb and of (Non-Gazetted) of

Little Finger

Middle Finger

Thumb

Signature of Government

Signature and designation of the Officer or other

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

1. Name: Javid Khan

2. Race: Tori Haji Khal

3. Residence: Village Sarak FR. Kurram


4. Father's name and residence: Shah Wali Khan


5. Date of birth by Christian era as nearly as can be ascertained: 24-08-1978


6. Exact height by measurement: 5' 7"


Date


7. Personal marks for identification: 


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


Little Finger: 

Ring Finger: 


Middle Finger: 


Fore Finger: 

Thumb: 

Signature of Government Servant: 

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


Assistant Director
Livestock & Dairy Development
Kurram Agency Peshawar

1	2	3	4	5	6	7	8
Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R.	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the term "Pay"	Date of Appointment	Signature of Government Servant
@/s/1870-55-3520 BPS-I=				1870/-		20/02/2004	
		Revised Basic Pay Scale					
Class-II=		2005- BPS-I= 2150-65-4100		2150/-		1/05	
@/s/2150-65-4100			2215/-			1/12/2005	
do			2200/-			1/12/06	

17

5

8 No of Servant	9 Signature and Designation of head of the office other attesting officer in attestation of columns 1 to 8	10 Date of termination or appointment	11 Reason of termination (such as promotion, transfer, dismissal, etc.)	12 Signature of the head of the office or other attesting officer	13 Leave		14 Signature of the head of the office or other attesting officer	15 Reference to any recorded placement or confer, or award or credit of the Government Servant
					Nature and dura- tion of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government.		
						Period		
	<i>[Signature]</i> Assistant Director Livestock & Dairy Development Kurrum Agency Parachinar	<i>[Signature]</i>						
	<i>[Signature]</i> Assistant Director Livestock & Dairy Development Kurrum Agency Parachinar	<i>[Signature]</i>						<i>[Signature]</i> Assistant Director Livestock & Dairy Development Kurrum Agency Parachinar
	<i>[Signature]</i> Assistant Director Livestock & Dairy Development Kurrum Agency Parachinar	30/11/05						Service Verified A/Roll of Pay W.E.F. 27/2/05 to 30/11/05
	<i>[Signature]</i> Assistant Director Livestock & Dairy Development Kurrum Agency Parachinar							Service Verified A/Roll of Pay W.E.F. 01/2/05 to 30/11/05
	<i>[Signature]</i> Assistant Director Livestock & Dairy Development Kurrum Agency Parachinar							Service Verified A/Roll of Pay W.E.F. 01/2/05 to 30/11/05
	<i>[Signature]</i> Assistant Director Livestock & Dairy Development Kurrum Agency Parachinar	30/11/06	Annual leave					Service Verified A/Roll of Pay W.E.F. 01/2/05 to 30/11/05

1	2	3	4	5	6	7	8	9
Name of post	Whether substantive or officiating and whether permanent or temporary.	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R.	Pay of substantive post.	Additional Pay for officiating	Other emolument falling under the term "Pay"	Date of Appointment	Signature of Government Servant	Signature of Officer bearing the post in the column
Revised Pay Scales 2007								
			Pay fixed 2700/-			1/7/2007		
Class-IV 2530-85-5080 BPS-8	Temp					1/12/2007		
			2785/-					
Revised Pay Scales 2008								
			Pay fixed 3335/-			1/7/2008		
Class-IV 3035-100-6035 BPS-9	Temp					1/12/2008		
			3435/-					
			3525/-			1/12/2009		

Signature of Officer bearing the post in the column

Signature of Government Servant

Signature of Officer bearing the post in the column

Signature of Government Servant

Signature of Officer bearing the post in the column

Signature of Government Servant

Signature of Officer bearing the post in the column

Signature of Government Servant

Signature of Officer bearing the post in the column

Signature of Government Servant

Ami "C"

00675224 JAVID KHAN Prev Pers No: Desig: CHOWKIDAR (00030357) Grade: 04 NTN: Buckle No.: Gzatted/Non-Gzatted: N
Father Name: SHAH WALI KHAN Date Of Birth: 24.08.1978 Date Of Appointment: 20.02.2004 CNIC: 9000000000802

PAYMENTS AMOUNT DEDUCTIONS AMOUNT LOAN/FUND PRINCIPAL REPAYED BALANCE

0001 Basic Pay 15,180.00
1000 House Rent Allowance 972.00

Accounts Office Muzaffarabad
PAYROLL REGISTER
For the month of May, 2018

Page: 30
Date: 21.06.2018

DDO: KM0010 Asstt Director Live Stock Kurram

Cash Center: C-2

1210 Convey Allowance 20 1,785.00
1300 Medical Allowance 1,500.00
1516 Dress/ Uniform Allow 100.00
1528 Unattractive Area A 1,494.00
1567 Washing Allowance 100.00
2148 15% Adhoc Relief All 338.00
2199 Adhoc Relief Allow @ 224.00
2211 Adhoc Relief All 201 1,136.00
2224 Adhoc Relief All 201 1,518.00
5002 Adjustment House Ren 1,796.00
5801 Adj Basic Pay 20,422.00
5975 Adj Adhoc Relief All 1,517.00
5990 Adj Adhoc Relief All 865.00

3300 GPF Other Govt. Emp 830.00- GPF#: 30,268.00
3701 Benevolent Fund(Excha 120.00-
3705 R. Ben & Death Comp(E 300.00-

PAYMENTS 48,947.00 DEDUCTIONS 1,250.00-
Branch Code: 221695 TORI BAZAR, PARACHINAR UPPER KURRAM HABIB BANK LIMITED

NET PAY 47,697.00 01.05.2018 31.05.2018
TORI BAZAR, PARACHINAR UPPER KUPARACHINAR

Accnt.No: 7900167003

23

58712
 ایڈویٹ: علی علی (امریکی)
 بار کونسل ایسوسی ایشن نمبر: DC-16-6960
 رابطہ نمبر: 0333-9555000



پشاور بار ایسوسی ایشن، خیبر پختونخوا

بعدالت جناب: سر سید محمد رسول (علی)

دعویٰ: _____
 علت نمبر: _____
 مورخہ: _____
 جرم: _____
 تھانہ: _____

منجانب: جاوید خان (ایڈووکیٹ)

جاوید خان بنام بی بی سیدہ (Agriculture)

۰/۰/۰

باعت تحریر آگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ
 آن مقام - ایکلے علی علی (امریکی) کو مکمل مقرر
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو
 راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی اور منسوخی، نیز
 - دائر کرنے اپیل نگرانی و نظارتی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
 مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخست منظور و قبول ہوگا
 دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے
 المرقوم: 02/11/2019

مقام: _____
 واہ شد: _____
 کے لیے منظور ہے۔

Handwritten signatures and text at the bottom of the page.

21301-0263532-1

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No.191/2019

Mr. Javed khanAppellant.

Vs

Secretary to Govt of Khyber Pakhtunkhwa,
Agriculture Livestock & Cooperation Department,
Peshawar and others.....Respondents.

Reply on behalf of Respondent No. 5

Preliminary Objections:-

1. That the appellant has no cause of action.
2. That the appellant has no locus standi.
3. That the appeal is time barred.
4. That the appellant is bad due to joinder and mis-joinder of the necessary parties.

Respectfully Sheweth:-

Para 6 to 10:-

It is submitted that the matter in hand is an administrative in nature and relates to Respondent No.1, 2 & 3. They are in better position to redress the grievances of the Appellant. Besides, the Appellant has raised no grievances against Respondent No.5.

It is pertinent to mention here that the appellant is the citizen of District Kurram, and performing his duties in District kurram, comes under the audit jurisdiction of Agency Accounts Office, Kurram which the appellant has not made as Respondent in the instant appeal.

Keeping in view the above mentioned facts, it is humbly prayed that the Appellant may be directed to approach Respondent No.1,2 & 3 and the Appeal in hand having no merits may be dismissed with cost.


**ACCOUNTANT GENERAL
KHYBER PAKHTUNKHWA**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
APPEAL NO. 191/ 2019

Javid Khan

.....Appellant

VERSUS

Government of Khyber Pakhtunkhwa & Others

..... Respondents

INDEX

S.No.	Description of Documents	Annexure	Page No
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3.	Departmental Appeal	B	7
4.	Appeal of Petitioner to Commissioner FCR Kohat Division	C	8-9
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6.	Review Petition Judgment FATA Tribunal	E	16-18
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10.	Authority Letter	----	25

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

APPEAL NO. 191/ 2019

Javid Khan

.....**Appellant**

VERSUS

The Secretary Agriculture, KP, Peshawar & Others

.....**Respondents**

Para-wise Comments on Behalf of the Respondent No. 1 to 4.

PRELIMINARY OBJECTIONS:

- A. That the appellant has got no locus standi for filing this appeal.
- B. The appeal is bad for non joinder and misjoinder of unnecessary parties.
- C. The appellant has got no cause of action to file the present appeal.
- D. The appeal is not maintainable in its present form.

Respectfully Sheweth:

FACTS

1. Correct.
2. No comments.
3. Correct.
4. Pertains to record.
5. No comments.
6. Correct to the extent that Mr. Javed Khan S/O Shah wali was appointed as Chowkidar at Civil Veterinary Dispensry, Sarak (FR) Kurram on 18-02-2004.
(Annexure- A)
7. Incorrect. No such Departmental appeal has been received by the Respondents. Moreover, the annexed Departmental appeal seems to be dubious as it is not properly signed by the Appellant. It is pertinent to mention that the Appellate authority in this case is Director Livestock, Newly Merged Areas rather than Respondent No. 1. **(Annexure- B)**
8. Incorrect. There was a dispute between two parties over class IV posts at Civil Veterinary Center, Sarak, Central Kurram and Government Primary School Kurram. Initially, the Dispute was resolved by the elders of the tribal area, which was challenged by the Appellant's party before the Assistant Political Agent (APA), Central Kurram. The Decision of Elders was upheld by the APA Central Kurram on 14-04- 2015. The Appellant's party confronted the decision before the Commissioner FCR, Kohat, which was sustained by the competent authority

on 19-11-2015 (**Annexure- C**). The Decision was once again challenged by the Appellant's party before the FATA Tribunal, wherein the case was decided against the Appellant on 23-06-2016 (**Annexure- D**). Review Petition was filed against the Judgment, which was also dismissed on 19-09-2017 (**Annexure- E**). But, the Appellant's party did not comply to the judgment of FATA Tribunal and also did not attend the proceedings of the said court, hence, the salary of the Appellant was stopped on the direction of the Assistant Political Agent, Central Kurram on 11-06-2018. (**Annexure- F**)

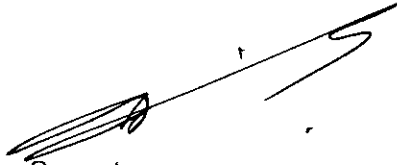
9. No comments.

10. As already stated in para No. 7. Furthermore, the Appellant's salary was stopped on 25-06-2018, whereas the Ex- FATA Agriculture, Livestock & Fisheries Departments came under the domain of Respondent No. 1 & 2 on 15-11-2018. (**Annexure- G**)

GROUNDS

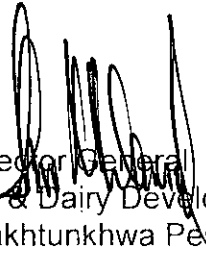
- A. Incorrect. The salary of the Appellant has been stopped due to the dispute arise over the controversy on class IV posts by two parties including the Appellant. The salary was stopped as per prevailing rules of Ex-FATA at that time by the competent authority in order to ensure the implementation of the FATA Tribunal order.
- B. Incorrect. The dispute is still there and the notification of salary stoppage is still intact.
- C. No comments.
- D. As stated in above paras.
- E. No comments
- F. No comments.
- G. No comments.
- H. Incorrect. The salary of the Appellant has been stopped as per the existing rules at that time by the competent authority in order to ensure the implementation of the order of FATA Tribunal.
- I. The Respondents seek permission to raise additional grounds at the time of arguments.

In view of the above facts, it is humbly prayed that the instant appeal may be dismissed, accordingly.



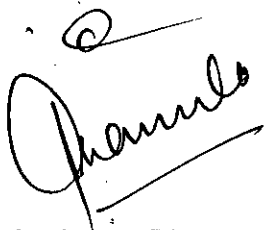
Secretary
Agriculture, Livestock & Cooperative
Department, Khyber Pakhtunkhwa,
Peshawar

Respondent No. 1



Director General
Livestock & Dairy Development
Khyber Pakhtunkhwa Peshawar

Respondent No. 2



Assistant Director
Livestock & Dairy Development
District Kurram

Respondent No. 3



Secretary
Finance, Khyber Pakhtunkhwa,
Peshawar

Respondent No. 4

Annex 44

7

4

OFFICE OF THE ASSISTANT DIRECTOR, LIVESTOCK AND DAIRY DEVELOPMENT KURRAM AGENCY,
PARACHINAR.

APPOINTMENT ORDER.

Consequent upon the approval/Nomination of the Political Agent Kurram Vide No. 744 / AG Dated 14/02/2004, Mr. Javid Khan S/O Shah Wali caste Haji Khel resident of village Sarak FR Kurram is hereby appointed as a Chowkidar at Civil Veterinary Dispensary Sarak (FR) Kurram against the vacant post on contract basis BPS-I Plus usual Allowance as admissible under the rules with effect from 20.02.2004.

NOTE:-

1. He is directed to produce his health and age Certificate from the Medical Supd: Agency Head Quarter Hospital.
2. The age of the candidate should be between 18 & 35 years.
3. His appointment is purely made on temporary basis and liable to termination at any time without assigning any notice (in case he wants resign from service he will have to give one month prior notice or forfeit one month Pay in lieu thereof).
4. Charge reports in duplicate should be submitted to this office.
5. If he failed to take over charge within 15 days his appointment will automatically be considered as cancelled.

[Signature]

ASSTANT DIRECTOR,
LIVESTOCK AND DAIRY DEVELOPMENT
KURRAM AGENCY PARACHINAR.

NO. 301-03 / DATED PARACHINAR THE 18 / 2 / 2004.

Copy of the above is forwarded to:-

1. The Deputy Director, Livestock & Dairy Development FR/PARA Peshawar.
 2. The Agency Account Officer Kurram Agency Parachinar.
 3. Mr. Javid Khan S/O Shah Wali resident of Village Sarak (FR) Kurram.
- FOR INFORMATION AND COMPLIANCE.

[Signature]

ASSISTANT DIRECTOR,
LIVESTOCK & DAIRY DEVELOPMENT,
KURRAM AGENCY PARACHINAR.

(5)

BETTER COPY

**OFFICE OF THE ASSISTANT DIRECTOR, LIVESTOCK AND DAIRY
DEVELOPMENT KURRAM AGENCY, PARACHINAR.**

APPOINTMENT ORDER.

Consequent upon the approval/Nomination of the Political Agent Kurram Vide No. 177/AG Dated 14/02/2004. Mr. Javid Khan S/O Shah Wali Caste Haji Khel resident of village Sarak FR Kurram is hereby appointed as Chowkidar at Civil Vety: Dis: at Sarak (FR) Kurram against the vacant post on contract basis BPS-1 plus usual Allownces as admissible under the rules with effect from 20.02.2004.

NOTE:-

1. He is directed to produce his health and age Certificate from the Medical Supd: Agency Head Quarter Hospital.
2. The age of the candidate should be between 18 & 33 years.
3. His appointment is purely made on temporary basis and liable to termination at any time without assigning any notice (in caseby wants resign from serive he will have to give one month prior notice or forfeit one month Pay in lieu thereof.
4. Charge reports in duplicate should be submitted to this office.
5. If he failed to take over charge with in 15 days his appointment will automatically be considered as cancelled.

Sd/-
ASSISTANT DIRECTOR,
LIVESTOCK AND DAIRY DEVELOPMENT
KURRAM AGENCY PARACHINAR.

No.301- 03./ /

DATED PARACHINAR The 18 / 02 / 2004.

Copy of the above is forwarded to:-

1. The Deputy Director, Livestock & Dairy Development FR/ FATA Peshawar.
2. The Agency Account Officer Kurram Agency Parachinar.
3. Mr. Javid Khan S/O Shah Wali resident of Village Sarak (FR) Kurram.

FOR INFORMATION AND COMPLIANCE.

Sd/-
ASSISTANT DIRECTOR
LIVESTOCK & DAIRY DEVELOPMENT,
KURRAM AGENCY PARACHINAR

11

(6)

No. 744 /AG, Dated Parachinar the 14/2 /2004
From


The Political Agent, Kurram.

The Assistant Director,
Livestock and Dairy Development,
Kurram Agency, Parachinar.

Subject:- NOMINATION.
Memorandum:-

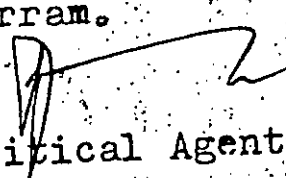
As recommended by the Assistant Political Agent (FR) Kurram vide his memo: No. 36/APA/FR dated 12.1.2004 following persons are nominated for appointment against the newly created posts as noted below against each:-

- 1-Javid Khan s/o Shah Wali caste Haji Khel village Sarak as chowkidar in Veterinary Centre at Sarak(FR) Kurram.
- 2-Zahir Khan s/o Haji Wazir caste Haji Khel village Sarak as Bihishti in Veterinary Centre at village Sarak FR Kurram.


Political Agent, Kurram

No. _____ /AG,

Copy forwarded to Assistant Political Agent (FR) Kurram at Sadda ref: to his memo: No. 36/APA(FR) da 12.1.2004 for information please.


Political Agent, Kurram

محفوظ سیکریٹری لائبریری لاہور ۲۰۰۲ء ۱۰ م ۱۰ قیاد۔

درفواست برائے ویلز ماہجان سنو اور سٹیٹ سرائے

جناب عالی :-

گزارش قابل غور ہے کہ سائل ایک عرب گھرانے سے تعلق رکھتا ہے۔ ارد گھر ماوا حد فضل ہے۔ اس وقت تنخواہ کے علاوہ کوئی خاص ذریعہ معاش نہیں ہے۔ مسائل حیوانات سے پھال گاہ سے سرائے کے سائل (م) میں بحیثیت چوکیدار 2004-2-14 سے ڈیوٹی سرانجام دے رہا ہے۔ لیکن ابھی مسائل کاٹنے سے پہلے ہی سے تنخواہ بند ہے۔ سائل نے تنخواہ کو ویلز کے لئے بند دینی دفعہ کو شش گم۔ لیکن کوئی دلیف نہ مل سکا۔

گھڑی آیا ہے آپ صاحبان کے خدمت میں بہت افسوس کیسا غرض کیا جاتی ہے کہ سائل کو جلد از جلد ماہانہ تنخواہ کے ویلز کرنے کا حکم ہمارے سرکار کے ذریعہ دیا جائے۔

عین خواہش ہوگی

تاریخ 18/10/2018

محمد : جاوید خان، دلشان، دلہی خان، سکریٹری

14
 COURT OF THE COMMISSIONER FCR, KC

KOHAT

Appeal No. 41/2015

Date of institution 22-4-2015
 Date of decision 19-11-2015

(1)Haji Muhammad Saddique s/o Haji Mulla Jan(2)Haji Wazir Shah s/o Fazal Rehman(3)Gul Ahmed s/o Haji Mir(4)Rahim Shah s/o Sadeen Shah(5)Haji Shah Wali Khan s/o Qutab Shah Khan,Qoam Para Chamkani of Serak Central Kurram.....Appellants

Versus

(1)Ila Muhammad s/o Tori Gul(2)Yaqoob Khan(3)Sher Afzal(4)Ali Man Shah (5)Sher Akbar Qoam Para Chamkani of Serak Central Kurram.
 (6)Assistant Political Agent Central Kurram Sadda..... Respondents.

APPEAL AGAINST THE ORDER OF ASSISTANT POLITICAL AGENT CENTRAL KURRAM SADDA DATED 14-04-2015.

ORDER

Brief facts of the case are that there is a dispute on posts of Class-IV Servants Dispensary Serak etc. In order to resolve the matter, the case was referred to the council of elders with the consent of the parties as provided under section 8 FCIL. The council of elders submitted divided findings three on one side while one on the other side. The Assistant Political Agent Upper Central Kurram Sadda accepted the majority award of the council of elders and passed order in its agreement vide order dated 14-4-2015. Being aggrieved the appellant filed the instant appeal.

Parties present. Arguments of the learned counsels for the parties already heard. Record of the case thoroughly perused.

From the perusal of the record it reveals that the order of the lower court is based on the majority award of the Council of Elders which is in conformity with the FCR/Kewaj. I have not noticed any irregularity or illegality in the impugned order and I see no good ground to interfere in it. Therefore, the order of the Assistant Political Agent Central Kurram Sadda dated 14-4-2015, is upheld and the appeal having no weight is dismissed.

Announced
 19-11-2015

Attested
 30/11/2015
 Khatun
 Khatun

COMMISSIONER FCR
 KOHAT DIVISION KOHAT

BETTER COPY

COURT OF THE COMMISSIONER FCR, KOHAT DIVISION KOHAT
Appeal No.41/2015

Date of institution 22-04-2015

Date of decision 19-11-2015

(1) Haji Muhammad Saddique s/o Haji Mulla Jan (2) Haji Wazir Shah s/o Fazal Rehman (3) Gul Ahmad s/o Haji Mir (4) Rahim Shah s/o Sadeen (5) Haji Shah Wali Khan s/o Qutab Shah Khan, Qoom Para Chamkani of Seral Central Kurram.....Appellants

Versus

(1) Lal Muhammad s/o Tori Gul (2) Yaqoob Khan (3) Sher Afzal (4) Ali Man Shah (5) Sher Akbar Qoam Para Chamkani of Serak Cenral Kurram.

(6) Assistant Political Agent Central Kurram Sadda..... Respondents

APPEAL AGAINST THE ORDER OF ASSISTANT POLITICAL AGENT
CENTRAL KURRAM SADDA DATED 14-04-2015.

ORDER

Brief facts of the case are that there is a dispute on posts of Class-IV Servants Dispensary Serak etc. In Order to resolve the matter, the case was referred to the council of elders with the consent of the parties as provided under section 8 FCR. The council of elders' submitted divided findings three on one side while one on the other side. The Assistant Political Agent Upper Central Kurram Sadda accepted the majority award of the council of elders and passed order in its agreement vide order dated 14-04-2015. Being aggrieved the appellant filed the instant appeal.

Parties present. Arguments of the learned counsels for the parties already heard. Record of the case thoroughly perused.

From the perusal of the record it reveals that the order of the lower court is based on the majority award of the Council of Elders which is in conformity with the FCR/Rewaj. I have not noticed any irregularity or illegality in the impugned order and I see no good ground to interfere in it. Therefore, the order of the Assistant Political Agent Central Kurram Sadda dated 14-04-2015, is upheld and the appeal having no weight is dismissed.

Sd/-

COMMISSIONER FCR
KOHAT DIVISION KOHAT

Announced
19-11-2015.

Annex: (D)

(10)

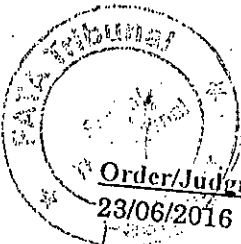
BEFORE THE FATA TRIBUNAL PESHAWAR

Civil Revision Petition No.....02/12/2015
Date of Institution.....02/12/2015
Date of Decision.....23/06/2016

- 1- Haji Malik Muhammad Saddique S/O Haji Mulla Jan
- 2- Haji Wazir Shah S/O Fazal Rehman
- 3- Gul Ahmad S/O Haji Mir
- 4- Mista Khan S/O Pirat Khan
- 5- Haji Shah Wali Khan S/O Qutab Shah Khan, Qoum
Para Chamkani of Serak Central Kurram.
(Petitioners)

V/S

- 1- Lal Muhammad S/O Tori Gul,
- 2- Yaqoob Khan
- 3- Sher Afzal
- 4- Ali Mun Shah
- 5- Sher Akbar, Qoum Para Chamkani of Serak Central
Kurram.
- 6- Commissioner FCR Kohat Division Kohat.
- 7- Assistant Political Agent Central Kurram Satta.
(Respondents)



Order/Judgment
23/06/2016

The instant Revision Petition is filed against the order of learned Commissioner FCR Kohat Division Kohat dated 19/11/2015, whereby he dismissed the appeal of the petitioner against the order/judgment of the APA/ADM Central Kurram, Satta dated 14/04/2015.

Brief facts of the case are that Haji Malik Muhammad Saddique (present petitioner) lodged complaint against the Lal Muhammad etc (present respondents) stating therein that the Government had approved a civil dispensary at village Serak for the inhabitants of the area. The dispensary was constructed by the villagers themselves due to insufficient funds for the scheme. They purchased property for the said dispensary from Lal Muhammad @ Rs. 2 Lac. In this regard an agreement was also made to the effect that all privileges benefits regarding the said dispensary will be shared amongst the inhabitants of Serak. Meanwhile, Lal Muhammad etc (present respondents) violated the agreement and got appointment of their persons as Class-IV in the said dispensary without consultation of the Qoum Serak. The respondent stated in his statement that the government had sanctioned Government Primary School for Serak Star Kali. Dispute over Class-IV servants cropped up amongst the inhabitants of Serak. Later on the

local elders namely Malik Mulla Jan, Haji Mir, Haji Wazir, Ahmad Jan, Shah Wali Khan, Lal Muhammad locally decided that the Class-IV vacancy would be filled up from Qoum Serak, therefore, one Masta Khan was nominated as Chowkidar for the said School with the condition that the said chowkidar would be responsible for distribution of monthly salary amongst the whole Qoum of Serak. In this regard Mr. Lal Muhammad was taken guarantor from the Qoum. But the chowkidar Masta Khan failed to do so. In addition to this, Sher Afzal and Yaqoob were taken guarantors regarding payment for the land that Qoum Serak will be liable to pay the cost of land that amounts to Rs. 2 lacs to Lal Muhammad. He further added that 03 schemes i.e. civil dispensary, livestock dispensary and Girls Primary School have also been approved for the Serak Qoum. As per mutual consultation of Serak Qoum, the primary school was given to Ghra Ghara with the condition that the benefits/privileges regarding said school will not be shared with Gul Ahmad. But few persons Shah Wali Khan, Muhammad Sadiq, Wazir and Gul Ahmad nominated themselves as owners of the scheme. With the prior consent of the parties this case was referred to a four membered council of elders/jirga under section 8 Frontier Crimes Regulation. The said council of elders/jirga submitted its majority award which is as under:-

مقدمہ ہذا کی تفصیل کچھ یوں ہے۔ کہ فریق اول نے درخواست گزاری کہ ہمارے مابین کلاس فور ملازمین ڈسپنسری سراک پر تنازعہ چلا آرہا ہے۔ کیونکہ مذکورہ ڈسپنسری میں کلاس فور ملازمین کی ریکنسی پر پورے قوم سراک کا حق بنتا ہے۔ لیکن اس پر فریق دوم نے قبضہ جمایا ہوا ہے۔ جو کہ پوری قوم کی حق تلفی ہے۔ مقدمہ ہذا میں فریق اول مسمی لعل محمد ولد اورے گل کا بیان قلمبند کیا گیا۔ جو کہ پروردہ نمبر 27-28 پر شامل مثل ہے۔ وہ بیانی ہے کہ گارن سراک ستر کلمے کے لئے ایک پرائمری سکول کی منظوری ہو چکی تھی۔ لیکن کلاس فور ملازمتوں پر گارن والوں کے درمیان تنازعہ کھڑا ہوا۔ حاجی ملا جان، حاجی سیر، حاجی وزیر، احمد جان، شاہ ولی خان، ملک لعل محمد نے فیصلہ دیا۔ اور کلاس فور ملازمت کو مشترکہ قومی ملکیت قرار دیا۔ مسٹا خان کو بطور چوکیدار مقرر کیا گیا۔ اور میں نے اس امر کی ضمانت کی، کہ مسٹا خان ماہوار تنخواہ گارن میں بانٹے گا۔ لیکن مسٹا خان نے ماہوار تنخواہ تا حال گارن والوں کو نہیں دی۔ میں کمزور تھا۔ اور مسٹا خان کو مجبور کرنے سے قاصر رہا۔ گارن سراک کے لئے تین سکیموں کی منظوری ہو چکی تھی۔ جس میں ڈسپنسری حیوانات، ڈسپنسری، پرائمری سکول شامل ہیں۔ ہم نے پرائمری سکول گارن غرہ غاڑہ کو دینے پر آمادگی کا اظہار کیا۔ کیونکہ ہم نے ضمانت کی ہے۔ گارن سراک کے لئے ڈسپنسری حیوانات گارن والوں کا مشترکہ ہیں۔ اور حاجی شاہ ولی خان، محمد صدیق، وزیر اور گل احمد نے مذکورہ ڈسپنسری حیوانات اپنی نام درج منظور کی ہے۔ اور یہ بات انہوں نے قوم سے پوشیدہ رکھی ہے۔ حالانکہ یہ سکیم گارن والوں کا مشترکہ ہیں۔ گارن سراک کے لئے ڈسپنسری کی عمارت کے لئے ملک لعل محمد نے اپنی ملکیتی زمین دی۔ اور میں نے قوم سے فیصلہ بھی کیا ہے۔ اور قوم نے زرسمن مبلغ دو لاکھ (200,000) روپیہ مقرر کیا ہے۔ اور زرسمن کی ادائیگی کے لئے شیر افضل اور یعقوب خان نے ضمانت کی ہے۔ لیکن تاحال قوم کی طرف سے ادائیگی نہیں ہوئی ہے۔ زمین میں کسی قسم کا حق نہیں ہے۔ اور ڈسپنسری کی عمارت کا ملا جان حاجی نے ٹھیکہ لیا تھا۔ مگر عمارت قوم والوں نے مشترکہ طور پر تعمیر کیا تھا۔ فریق دوم نے ہدیریمہ بیان صفحہ نمبر 40 بیان کیا کہ ہمارا لعل محمد ولد طورے سکھ سراک کے ساتھ سراک ڈسپنسری پر عدالت نہیں تنازعہ چلا آرہا ہے۔ اپنی طرف سے ملک عبدالجنان قوم مستوال سکھ کوچی کو اپنا چرگہ ممبر نامزد کیا۔ اور یہ بھی تحریر کیا۔ کہ وہ جو بھن فیصلہ کرے گا۔

عدالت جناب ایڈیشنل ڈسٹرکٹ مجسٹریٹ صاحب سنٹرل کرم نے مثل میں رائے مرتب کرنے کے لئے ہم سمیران جرگے کی تقرری سمیران جرگے نے مثل کا بغور مطالعہ کیا۔ فریقین کے بیانات ملاحظہ کیے۔ خفیہ و اعلانیہ تحقیقات کئے۔ فریقین کے متعلق راضی نامہ مرتب کی ہر ممکن کوشش کی۔ مگر کامیاب نہ ہوئے۔

پس طے شدہ تہنجات کی روشنی میں ہماری رائے ذیل ہے۔

- 1- فریقین کے بیانات بالا بیان کئے گئے ہیں۔ ان کے بارے میں رائے درج ذیل پیش کی جاتی ہے۔
- 2- مقدمہ کہ اصلیت بالا بیان کی گئی ہے۔
- 3- ڈسپنسری کی تعمیر کا ٹھیکہ حاجی مل جان کو دیا گیا تھا۔ مگر محکمہ کی طرف سے منظور شدہ رقم ناکافی تھی۔ اور بلڈنگ کی تکمیل ممکن نہ تھی۔ لہذا حاجی ملا جان سرراک کے قوم سے اس بارہ میں امداد مانگی۔ سرراک کے قوم نے فیصلہ کیا کہ ڈسپنسری جتنے بھی سرکاری سکیمیں سرراک کو منظور کئے جائیں گے۔ ان کی مراعات بھی قومی سطح پر تقسیم کئے جائیں گے۔ لہذا قوم سرراک کے سرورزن نے کام کاج کر کے اپنی مدد آپ کے تحت بلڈنگ کی تکمیل کر دی۔ اراضی ڈسپنسری مسمیٰ لعل محمد کی ملکیت تھی۔ جس کے لئے قوم نے فیصلہ کر کے اراضی کی قیمت مبلغ دو لاکھ روپے مقرر کر دی۔ قوم کی طرف سے یعقوب خان اور شیر افضل، لعل محمد کو اس رقم کے ضامنان مقرر کر دیے گئے۔

ابن بارہ میں لعل محمد کا استدلال ہے کہ اسکے رقم کی ادائیگی ضامنان نے ناکام نہیں کی ہے۔ پس ہم جرگہ سمیران تجویز کرتے ہیں کہ ضامنان یعقوب خان اور شیر افضل بدین طور حلف برداری کرے۔ کہ ہم نے قوم کی طرف سے ذمہ داری کی اراضی کی رقم مبلغ دو لاکھ روپے لال محمد کو دے دی ہے۔ اس کو ادا کئے ہیں۔ حلف برداری کی تکمیل پر ڈسپنسری کی جملہ ملازمتیں قومی تصور کئے جائیں۔ اور قوم سرراک والے آپس میں مشورہ کر کے ملازمتیں تقسیم کریں۔

اگر ضامنان بالا حلف برداری میں ناکام رہیں۔ تو سرراک قوم والے رقم مبلغ دو لاکھ روپے بلا تاخیر لعل محمد کو ادا کریں۔ اور ملازمتوں میں ایک کلاس فور لعل محمد کو دیجائے۔ بقایا ملازمتیں قوم سرراک آپس میں تقسیم کریں۔

بالکل درست ہے۔ اراضی لعل محمد کی ملکیت تھی۔ جس کو قوم سرراک والوں نے مبلغ دو لاکھ روپے قیمت مقرر کر کے رقم ادائیگی کے لئے دو ضامنان یعقوب خان اور شیر افضل دیدئے۔

جیسا کہ اوپر بیان کیا گیا۔

ہم جرگہ سمیران تجویز کرتے ہیں۔ کہ مثل کے صفحہ نمبر 11 پر قوم سرراک والوں نے ڈسپنسری کے علاوہ گورنمنٹ پرائمری سکول اور GGPS کے سکولوں اور حیوانات ڈسپنسری کے مراعات کی حصول کا دعویٰ بھی کیا ہے۔ لہذا گورنمنٹ پرائمری سکول سرراک کے مراعات کے بارہ میں لعل محمد بدین طور حلف برداری کرے۔ کہ اس نے مستان خان کو قوم کی طرف سے ضمانت کی ہے۔ کہ مراعات قومی ہونگے۔ لعل محمد کی حلف برداری کی تکمیل پر سکول ہذا کی مراعات قومی تصور کئے جائیں۔ بصورت عدم حلف برداری سکول کی مراعات مستان خان کی ہونگی۔

شفابخانہ حیوانات کی بلڈنگ کی منظوری نا حال نہیں ہوئی ہے۔ مگر ملازمتیں برقرار ہیں۔ ہم جرگہ سمیران قومی اتفاق و اتحاد کی خاطر تجویز کرتے ہیں۔ کہ ڈسپنسری ہذا کی عمارت قوم سرراک کے متفقہ طور پر ایک جگہ جن کو تعمیر کیا جائے۔ جہاں تک ملازمتوں کا تعلق ہے۔ ان میں سے ایک ملازمت موجودہ مالک یعنی شاہ ولی خان کو دی جائے۔ بقایا قومی سطح پر تقسیم کئے جائیں۔

گورنمنٹ گرلز پرائمری سکول کی عمارت بھی نا حال موجود نہیں۔ فی الوقت کمیونل سکول کی سطح ملازمتیں برقرار ہیں۔ بلڈنگ کی منظوری ہو چکی ہے۔ لہذا بلڈنگ قوم سرراک کے متفقہ طور پر جسے جاتے والے جگہ پر تعمیر کی جائے۔ ایک کلاس فور گل احمد کو دیجائے۔ بقایا قوم سرراک والے آپس میں مشورہ سے تقسیم کرے۔

رائے جرگہ بمنظوری پیش بحضور آئو ہے۔

local elders namely Malik Mulla Jan, Haji Mir, Haji Wazir, Ahmad Jan, Shah Wali Khan, Lal Muhammad locally decided that the Class-IV vacancy would be filled up from Qoum Serak, therefore, one Masta Khan was nominated as Chowkidar for the said School with the condition that the said chowkidar would be responsible for distribution of monthly salary amongst the whole Qoum of Serak. In this regard Mr. Lal Muhammad was taken guarantor from the Qoum. But the chowkidar Masta Khan failed to do so. In addition to this Sher Afzal and Yaqoob were taken guarantors regarding payment for the land that Qoum Serak will be liable to pay the cost of land that amounts to Rs. 2 lacs to Lal Muhammad. He further added that 03 schemes i.e. civil dispensary, livestock dispensary and Girls Primary School have also been approved for the Serak Qoum. As per mutual consultation of Serak Qoum, the primary school was given to Ghra Ghara with the condition that the benefits/privileges regarding said school will not be shared with Gul Ahmad. But few persons Shah Wali Khan, Muhammad Sadiq, Wazir and Gul Ahmad nominated themselves as owners of the scheme. With the prior consent of the parties this case was referred to a four membered council of elders/jirga under section 8 Frontier Crimes Regulation. The said council of elders/jirga submitted its majority award which is as under:-

مقدمہ ہذا کی تفصیل کچھ یوں ہے۔ کہ فریق اول نے درخواست گزاروں کے ہمارے مابین کلاس فور ملازمین ڈسپنسری سرک پر تنازعہ چلا آرہا ہے۔ کیونکہ مذکورہ ڈسپنسری میں کلاس فور ملازمین کی ویکٹنسی پر پورے قوم سرک کا حق بنتا ہے۔ لیکن اس پر فریق دوم نے قبضہ جمایا ہوا ہے۔ جو کہ پوری قوم کی حق تلفی ہے۔ مقدمہ ہذا میں فریق اول سسی لعل محمد ولد طورے گل کا بیان قلمبند کیا گیا۔ جو کہ پروردہ نمبر 27-28 پر شامل مثل ہے۔ وہ ہوائی ہے کہ گاروں سرک ستر کلمے کے لئے ایک پرائمری سکول کی منظوری ہو چکی تھی۔ لیکن کلاس فور ملازمین پر گاروں والوں کے درمیان تنازعہ کھڑا ہوا۔ حاجی ملا جان، حاجی سیر، حاجی وزیر، احمد جان، شاہ ولی خان، ملک لعل محمد نے فیصلہ دیا۔ اور کلاس فور ملازمین کو مشترکہ قومی ملکیت قرار دیا۔ مستان خان کو بطور چوکیدار مقرر کیا گیا۔ اور میں نے اس امر کی ضمانت کی، کہ مستان خان ماہوار تنخواہ گاروں میں بانٹے گا۔ لیکن مستان خان نے ماہوار تنخواہ نا حال گاروں والوں کو نہیں دی۔ میں کمزور تھا۔ اور مستان خان کو مجبور کرنے سے قاصر رہا۔ گاروں سرک کے لئے تین سکیموں کی منظوری ہو چکی تھی۔ جس میں ڈسپنسری حیوانات، ڈسپنسری، پرائمری سکول شامل ہیں۔ ہم نے پرائمری سکول گاروں غرہ غارہ کو دینے پر آمادگی کا اظہار کیا۔ کیونکہ ہم نے ضمانت کی ہے۔ گاروں سرک کے لئے ڈسپنسری حیوانات گاروں والوں کا مشترکہ ہیں۔ اور حاجی شاہ ولی خان، محمد صدیق، وزیر اور گل احمد نے مذکورہ ڈسپنسری حیوانات اپنی نام درج منظور کی ہے۔ اور یہ بات انہوں نے قوم سے پوشیدہ رکھی ہے۔ حالانکہ یہ سکیم گاروں والوں کا مشترکہ ہیں۔ گاروں سرک کے لئے ڈسپنسری کی عمارت کے لئے ملک لعل محمد نے اپنی ملکیتی زمین دی۔ اور میں نے قوم سے فیصلہ بھی کیا ہے۔ اور قوم نے زرسمن مبلغ دو لاکھ (200,000) روپیہ مقرر کیا ہے۔ اور زرسمن کی ادائیگی کے لئے شیر افضل اور یعقوب خان نے ضمانت کی ہے۔ لیکن ناخال قوم کی طرف سے ادائیگی نہیں ہوئی ہے۔ زمین میں کسی قسم کا حق نہیں ہے۔ اور ڈسپنسری کی عمارت کا ملا جان حاجی نے ٹھیکہ لیا تھا۔ مگر عمارت قوم والوں نے مشترکہ طور پر تعمیر کیا تھا۔ فریق دوم نے بذریعہ بیان صفحہ نمبر 40 بیان کیا کہ ہمارا لعل محمد ولد طورے سکھ سرک کے ساتھ سرک ڈسپنسری پر عدالت میں تنازعہ چلا آرہا ہے۔ اپنی طرف سے ملک عبدالجنان قوم متوال سکھ کوچی کو اپنا جرگہ ممبر ناسزد کیا۔ اور یہ بھی تحریر کیا۔ کہ وہ جو بھی فیصلہ کرے گا۔

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appellate court, but the same did not pay any attention to the contention of the appellant. The order passed by appellate court amounts to miscarriage of justice. Similarly Mr. Pir Fida Advocate appearing on behalf of petitioners added that the case between the parties is of civil nature while learned trial court has decided it according to the procedure laid down for cases of criminal nature under section 11 of Frontier Crimes Regulation amended 2011. He referred to page 51 of record in support of his contention. He argued that statements of one Saddique, Shah Wali, and Gul Muhammad were not taken into account by the jirga members. The issues were not properly framed as per pleadings. He prayed that the impugned orders may be set aside being untenable. Neither the jirga members have given their opinion in true spirit as required under 8 Frontier Crimes Regulation nor the trial court has fulfilled its responsibilities and the appellate court has overlooked the various important points/materials relating to the case. He further contended that the circumstances of the case demand that the orders of both the lower courts may be set aside or any order deemed appropriate by this honourable tribunal may be passed to meet the requirements of justice.

May

The counsel for respondents in rebuttal contended that in the case in hand the jirga was nominated with the consent of the parties who submitted majority award which was accepted by the APA/ADM Central Kurram Sadda. The learned trial court had proper jurisdiction to decide the case and the parties had not raised any such objection before the trial court. Every issue has been thoroughly examined by the jirga. The jirga's majority award was accepted and order/decreed was passed accordingly. Counsel for respondents further argued that the case was properly dealt with according to the provisions of section 8 of the Frontier Crimes Regulation by the trial court. No material irregularity in the proceedings has been pointed out which has adversely affected merits of the case. The Commissioner FCR also maintained the order of the trial court. The judgment/order of the Commissioner FCR is based on valid, and sound reasons. The counsel for respondents requested that the revision may be dismissed and order of both the learned trial court and Commissioner FCR Kohat may be maintained.

We have heard arguments of the counsel for the parties at length and thoroughly gone through the record. The record reveals that trial court has referred the case to a council of elders vide proper detailed order of reference with the consent of the parties. The majority jirga members have given a comprehensive award in conformity with the local Rewaj. The trial court has passed order/decreed on the basis of the said verdict which has also

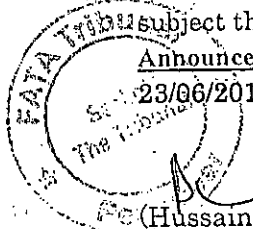
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been upheld by the appellate court. However, perusal of the trial court's judgment shows that the APA, while accepting the majority award as being according to law and Rewaj, has in his judgment added a clause "The undersigned does not agree with the recommendation of jirga members in this respect. As the said school has been running since long and Masta Khan has retired from his services as Chowkidar. Since it is a service matter, this court is of the opinion that the post of Chowkidar may be left untouched." So he has excluded the post of Chowkidar from the accounting of rights and benefits.

Since the trial court has accepted the majority award as being according to law and Rewaj so this exception is arbitrary, and against Rewaj and therefore modified to the extent that post of Chowkidar be included in the accounting of rights and benefits. Subject to above modification the trial court's decree, is just and proper. We have not observed any substantial illegality or procedural irregularity occasioning miscarriage of justice. Hence the revision petition being devoid of force is hereby dismissed, and impugned order 19/11/2015 of Commissioner FCR, Kohat Division is upheld/maintained

subject the aforementioned modification.



Announced
23/06/2016

(Hussain Zada Khan)
Member FATA Tribunal

(Muhammad Atif Nazir)
Member FATA Tribunal

(Sang-e-Majan)
Chairman FATA Tribunal

Certificate:

This order/judgment consists of six pages, each signed & stamped.

Chairman
FATA Tribunal

(111)

An. No. (E) (16)

BEFORE THE FATA TRIBUNAL PESHAWAR

Civil Review Petition No.-----CL.59/08/2016
Date of Institution-----30/08/2016
Date of Decision-----19/09/2017

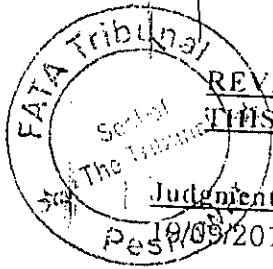
1. Haji Malik Muhammad Saddique s/o Haji Mula Jan
2. Haji Wazir Shah s/o Fazal Rehman
3. Gul Ahmad s/o Haji Mir
4. Mista Khan s/o Pirat Khan
5. Haji Shah Wali Khan s/o Qutab Shah Khan, caste Para Chamkani, All residents of Sirak Central Kurram Agency

(Petitioners)

V/S

1. Lal Muhammad s/o Tor Gul
2. Yaqoob Khan
3. Sher Afzal
4. Aliman Shah
5. Sher Akbar Qoum Para Chamkani All residents of Sirak Central Kurram Agency

(Respondents)



**REVIEW PETITION AGAINST THE ORDER/JUDGMENT OF
THIS TRIBUNAL DATED 23/06/2016**

**Judgment/Order
19/09/2017**

Through this order/judgment we want to dispose of the review petition filed against the impugned order/judgment dated 23/06/2016 of this Tribunal.

The details of the case have already been explained, elaborately in this Tribunal's order dated 23/06/2016, which needs no repetition.

Arguments of the learned counsel for both the parties were heard at length once again and record of the case was minutely scrutinized.

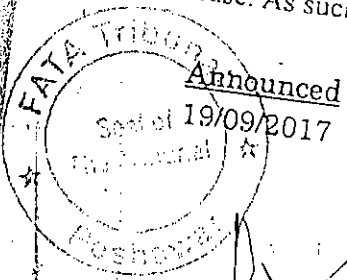
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In accordance with the principles laid down by the superior judiciary, Review has a very limited scope. According to the said principles, no rehearing is to be allowed upon the merits or even on the ground that matter has been discovered which if it had been produced at hearing revision might materially have affected the judgment of the court. Review cannot be allowed for merely re-examination of same arguments. Re-argument a case on merit as well as additional ground is beyond the scope of review jurisdiction. It can only be allowed if there is apparent legal or factual error or mistake on the face of the impugned judgment which substantially affected the fate of the case and occasions perpetuation of illegality or substantial irregularity:

We have considered the submissions of learned counsel and re-perused the entire record. We have not found any apparent mistake, error or substantially affecting the fate of the case.

Arguments of the learned counsel mostly revolved around the points which have already been agitated before this Tribunal in the revision petition and have been duly considered. The learned counsel could not pinpoint any self evident, substantial, legal or factual error or mistake in the impugned order/judgment which has affected merits of the case. As such the review petition in hand being devoid of merit is dismissed.



(Hussain Zada Khan)
Member FATA Tribunal

(Muhammad Atif Nazir)
Member FATA Tribunal

(Sang-e-Marjan)
Chairman FATA Tribunal

Certificate:

This judgment/order consists of two pages, each signed & stamped

Chairman
FATA Tribunal

BETTER COPY

In accordance with the principles laid down by the superior judiciary. Review has a very limited scope. According to the said principle no rehearing is to be allowed upon the merits or even on the ground that the matter has been discovered which if it has been produced at hearing revision might materially have affected the judgment of the court. Review cannot be allowed for merely re-examination of same arguments. Re-arguing a case on merit as well as additional ground is beyond the scope of review jurisdiction. It can only be allowed if there is apparent legal or factual error or mistake on the face of the impugned judgment which substantially affect the fate of the case and occasions perpetuation of illegality or substantially irregularity.

We have considered the submission of learned counsel and re-perused the entire record. We have not found any apparent mistake, error substantially affecting the fate of the case.

Arguments of the learned counsel mostly revolved around the points which have already been agitated before this Tribunal in the revision petition and have been duly considered. The learned counsel could not pinpoint any self evident, substantial, legal or factual error or mistake in the impugned order/judgment which has affected merits of the case. As such the review petition in hand being devoid of merit is dismissed.

Announced
19/09/2017

Sd/-
(Hussain Zada Khan)
Member FATA Tribunal

Sd/-
(Muhammad Atif Nazir)
Member FATA Tribunal

Sd/-
(Sang-e-Marjan)
Chairmain FATA Tribunal

Certificate:

This judgment consists of two pages, each signed & stamped.

Sd/-
Chairmain
FATA Tribunal

A
19

OFFICE OF THE ASSISTANT DIRECTOR LIVESTOCK AND DAIRY DEVELOPMENT
DEPARTMENT DISTRICT KURRAM PARACHINAR


No. 199 / ADL & DD / Kurram Dated the Parachinar 25 / 06 / 2018

The District Account Officer
Kurram at Parachinar

Subject: STOPPAGE OF SALARY OF CLASS IV

Memo:


Refer to the Assistant Commissioner Central Kurram Sadia letter No 743-45/AC-CK Dated 11-06-2018 on the subject cited above it is stated that the salary of Mr. Javid Khan Chowkidar of Civil Veterinary Centre Sarak Central Kurram is hereby stopped. Salary owing to the dispute over Class IV posts at Civil Veterinary Centre Sarak Central Kurram between two entries, till for further order please.


 Assistant Director
 Livestock and Dairy Development
 District Kurram Parachinar

No. 200 / ADL & DD / Kurram Dated the Parachinar 25 / 06 / 2018

Copy of the above is forwarded to:

1. Assistant Commissioner Central Kurram Sadia
2. Office File


 Assistant Director
 Livestock and Dairy Development
 District Kurram Parachinar

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BETTER COPY

**OFFICE OF THE ASSISTANT DIRECTOR, LIVESTOCK AND DAIRY
DEVELOPMENT KURRAM AGENCY, PARACHINAR.**

No 1099/ ADL & DD / Kurram

Dated the Parachinar 25 / 06 / 2018

To

The District Account Officer,
Kurram at Parachinar.

Subject: STOPPAGE OF SALARY OF CLASS-IV
Memo,

Refer to the Assistant Commissioner Central Kurram Sadda letter No. 743-45/AC-CK Dated 11-06-2018, on the subject cited above it is stated that the salary of Mr. Javid Khan Chawkidar of Civil Veterinary Centre Sarak Cetral Kurram is hereby stopped owing to the dispute over Class-IV posts at Civil Veterinary Centre Sarak Central Kurram between two parties, till further order please.

Sd/-
Assistant Director
Livestock and Dairy Development
District Kurram Parachinar

No. 2000-01 / ADL & DD/ Kurram

Dated the Parachinar 25 / 06 / 2018.

Copy of the above is forwarded to:-

1. Assitant Commissioner Central Kurram Sadda.
2. Office File.

Sd/-
Assistant Director
Livestock and Dairy Development,
District Kurram Parachinar

(21)

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**OFFICE OF THE ASSISTANT COMMISSIONER
CENTRAL KURRAM SADDA**

No: 743-451AC-CK
Dt: 11.1.2018

1. The Additional Agency Education Officer,
Lower/Central Kurram, Sadda.
2. The Assistant Director,
Livestock (Lower/Central Kurram).

To: The Political Agent Kurram

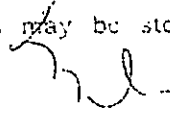
Subject: STOPPAGE OF SALARIES OF CLASS-IV SERVANTS.
Memo

There is a dispute over class-IV posts at GPS Sarak and Veterinary Centre Sarak between Haji Muhammad Sadiq and others (1st party) vs. Lul Muhammad and others (2nd party) and case has been decided by the Federal FATA Tribunal Peshawar.

The following individuals, working under your department are evading court attendance, which is creating delay in implementation of the orders.

1. Masta Khan s/o Pirat Khan Chowkidar GPS Sarak CK.
2. Javid s/o Shah Wali Khan (Class-IV at Veterinary Centre Sarak).
3. Zahir s/o Wazir (Class-IV at Veterinary Centre Sarak).

In order to ensure implementation, it is directed that the monthly salaries of the above mentioned individuals may be stopped under the provisions of this office please.


Assistant Commissioner,
Central Kurram Sadda.

BETTER COPY

(22)

**OFFICE OF THE ASSISTANT COMMISSIONER,
CENTRAL KURRAM SADDA.**

No. 743-45 /AC-C5

Dt: 11 /06 /2018

To

1. The Additional Agency Education Officer,
Lower / Central Kurram, Sadda.
2. The Assistant Director,
Livestock (Lower /Central Kurram).

Info: The Political Agent Kurram

Subject: **STOPPAGE OF SALARIES OF CLASS-IV SERVANTS**
Memo,

There is a dispute over class-IV posts at GPS Sarak and Veterinary Centre Sarak between Haji Muhammad Sadiq and others (1st party) Versus Lal Muhammad and others (2nd party) and case has been decided by the Honorable FATA Tribunal Peshawar.

The following individuals, working under your department are avoiding court attendance, which is creating delay in implementation of the orders.

1. Masta Khan s/o Pirat Khan Chowkidar GPS Sarak CK.
2. Javid s/o Shah Wali Khan (Class-IV at Veterinary Centre Sarak).
3. ZAHir s/o Wazir (Class-IV at Veterinary Centre Sarak).

In order to ensure implementation, it is directed that the monthly salaries of the above mentioned individuals may be stopped under intimation to this office please.

Sd/-
Assistant Commissioner
Central Kurram Sadda

Annex: (6)

(23)



GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

Dated Peshawar November 15, 2018

NOTIFICATION

NO. SO(E-I)/E&AD/9-126/2018, in pursuance of integration and merger of erstwhile FATA with Khyber Pakhtunkhwa and in order to provide better line of administrative management, the following Directorates working under FATA Secretariat shall henceforth report to their respective Secretary to Government of Khyber Pakhtunkhwa in all official business:-

S#	NAME OF DIRECTORATE	REPORT TO RESPECTIVE SECRETARY OF THE DEPARTMENT
1	a) Directorate of Agriculture (Extension) b) Directorate of Livestock & Dairy Development c) Directorate of Fisheries	Secretary Agriculture Livestock & Cooperation Department
2	Directorate of Forests	Secretary Environment Department
3	Directorate of Irrigation & Hydel Power	Secretary, Irrigation Department
4	Directorate of Sports	Secretary Sports Culture Tourism & Youth Affairs Department

2. Subsequent modalities on other auxiliary matters shall be decided shortly
3. In case of issues in financing, development schemes and other matters relating to erstwhile FATA viz-a-viz Federal Government and other partners, the respective Secretary may communicate and route cases as per current arrangements accordingly.

CHIEF SECRETARY
GOVERNMENT OF KHYBER PAKHTUNKHWA

ENDST. NO. & DATE EVEN.

Copy forwarded to the:-

1. Additional Chief Secretary, P&D Department
2. Additional Chief Secretary Merged Areas Warsak Road Peshawar
3. Senior Member Board of Revenue Khyber Pakhtunkhwa
4. Principal Secretary to Governor, Khyber Pakhtunkhwa
5. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa
6. All Administrative Secretaries to Government of Khyber Pakhtunkhwa
7. COS 11 Corps Headquarters, 11 Corps Peshawar
8. All Divisional Commissioners in Khyber Pakhtunkhwa
9. Accountant General, Khyber Pakhtunkhwa
10. Accountant General (PR) Sub Office, Peshawar
11. All Deputy Commissioners in Khyber Pakhtunkhwa
12. Director, Agriculture (Extension), Livestock & Dairy Development, Forests, Irrigation & Hydel Power, Sports Erstwhile FATA Sectl.
13. Director General Information, Khyber Pakhtunkhwa
14. PS to Chief Secretary, Khyber Pakhtunkhwa
15. PS to Secretary Establishment/PS to Secretary Administration Departments.
16. PS to Special Secretary (E)/ D.S.(Admn), D.S. (Est)/ SO(Secret)/SO(HRD-I)/SO(E-II)/DD(IT) and ACSO Cypher E&AD.
17. Manager, Govt. Printing Press Peshawar.

(ISHTIAQ AHMAD)
SECTION OFFICER (E-I)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR APPEAL NO. 191/2019

Javid Khan

.....Appellant

VERSUS

The Secretary Agriculture, KP, Peshawar & Others

..... Respondents

AFFIDAVIT

I, Dr. Muhammad Jaffar, Veterinary Officer (H), Directorate General (Extension) Livestock and Dairy Development Department Khyber Pakhtunkhwa Peshawar, do hereby solemnly affirm on oath that the contents of the parawise comments/ Reply related to the above mentioned Appeal are true and correct to the best of my knowledge and belief, and that nothing has been concealed from this Honorable Service Tribunal.


DEPONENT

14202-1329348-9



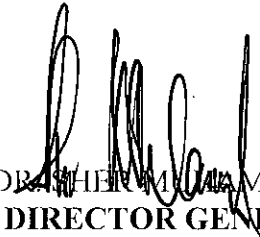
DIRECTORATE GENERAL (EXTENSION)
LIVESTOCK & DAIRY DEVELOPMENT KHYBER PAKHTUNKHWA,
PESHAWAR

Tel: 091-9210249/9210276, Fax: 091-9210285, E-mail: dglddext@yahoo.com

Web: www.livestockextkp.gov.pk

AUTHORITY LETTER

Dr. Muhammad Jaffar, Veterinary Officer (H), of this office is hereby authorized to pursue the case titled, Javid Khan Versus Secretary Agriculture, Khyber Pakhtunkhwa, Peshawar & Others in Appeal No. 191/ 2019 in Khyber Pakhtunkhwa Service Tribunal Peshawar, on behalf of the Respondents.


(DR. MUHAMMAD JAFFAR)
DIRECTOR GENERAL

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 380 /ST

Dated 11-02- / 2020


To

The Director General Agriculture (Extension) Livestock & Dairy
Development Department,
Government of Khyber Pakhtunkhwa,
Bacha Khan Chowk Peshawar.

Subject: - JUDGMENT IN APPEAL NO. 191/2019, MR. JAVID KHAN.

I am directed to forward herewith a certified copy of Judgement dated
16.01.2020 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.