

24.02.2021

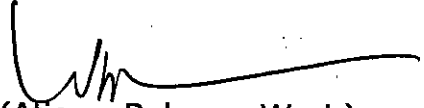
Petitioner in person present.

Muhammad Riaz Khan Paindakhel learned Assistant Advocate General alongwith Masoor ur Rehman Assistant Commissioner for respondents present.

Respondents submitted office order dated 25.01.2021 wherein the petitioner has been reinstated into service. Petitioner showed his satisfaction on the said order.

In view of above, instant Execution Petition be consigned to the record room. With no order as to costs.

Announced.
24.02.2021



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

24.11.2020

Petitioner in person and Muhammad Jan, learned DDA alongwith Masood Ur Rehman Superintendent Engineer for respondents present.

As per record, service appeal was dismissed by this Tribunal on 27.10.2017, however the petitioner was asked to approach Water Supply & Sanitation Department D.I. Khan as Pump Operator in connection with his previous job. As per order dated 22.09.2020, this Tribunal was informed that Superintending Engineer will be the relevant person who can execute the order subject to his presence before the Tribunal. Today Superintending Engineer appeared and stated that he is ready to implement the order but there is a hurdle in his way to implement the same. He stated that the petitioner was appointed as Sub Engineer on 17.12.2009 and before appointment as Sub Engineer he was pump Operator and he is now overage for the post of pump operator. He submitted that if the out of service period is condoned by this Hon'ble Tribunal then there is no hurdle for him to implement the order.

As per record the petitioner was appointed as Sub Engineer on 17.12.2009 and he was terminated from that post on 14.02.2014 against which he filed service appeal before this Hon'ble Tribunal which was dismissed vide judgment dated 27.07.2017, however, he was allowed to approach the respondent department in connection with his previous job. So keeping in view of the protracted agony of litigation of petitioner and statement of the Superintending Engineer, the Superintending Engineer is directed to treat the out of service period of the petitioner as leave without pay and reinstate him on the post of Pump Operator. To come up for implementation report on 26.01.2021 before S.B at Camp Court, D.I. Khan.


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

27.10.2020

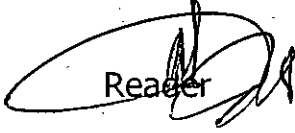
Petitioner is present in person. Mr. Muhammad Jan, Deputy District Attorney alongwith representative of the department Mr. Samiullah, Junior Clerk, are also present. Representative of the department requests for adjournment. Adjourned to 24.11.2020 on which date to come up for further proceedings as per preceding order sheet dated 22.09.2020 before S.B at Camp Court, D.I.Khan.



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

24/3/2020

Due to COVID-19 the case is adjourned. To come up for the same 21/4/2020 at Camp Court, D.I Khan


Reader

21/4/2020

Due to COVID-19 the case is adjourned. To come up for the same 22/4/2020 at Camp Court, D.I Khan



Reader

22.09.2020

Counsel for petitioner present.

Mr. Usman Ghani, District Attorney alongwith Muhammad Yousaf, SDO for respondents present.


As per record service appeal was dismissed by this Tribunal on 27.10.2017, however the petitioner was asked to approach Water Supply & Sanitation Department D.I.Khan in connection with his job as Pump Operator, in accordance with law, if so advised. Today, during the arguments, this Tribunal was informed that Superintendent Engineer is the relevant person who is ready to execute the orders subject to his presence before this Tribunal. As such, he be noticed for 27.10.2020 before S.B at Camp Court D.I Khan.


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

E.P No. 7/2018

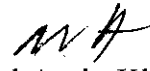
25.02.2020

Counsel for the petitioner and Mr. Usman Ghani, District Attorney alongwith Mr. Walayat Ullah, XEN for the respondents present. Learned counsel for the petitioner stated that vide order sheet dated 22.01.2019 the representative of the respondents requested for time to submit a complete report regarding the execution petition and the relief granted to the petitioner, if any but the report has not been submitted so far, therefore, representative of the department present in the court is directed to submit complete report/reply as per order sheet dated 22.01.2019. To come up for report/reply and arguments in the light of order sheet dated 22.01.2019 on 24.03.2020 before S.B at Camp Court D.I.Khan.


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

26.11.2019

Petitioner in person and Mr. Ziaullah Deputy District Attorney for the respondents present. Petitioner requested for adjournment on the ground that his counsel is not available today. Case to come up for further proceeding as per order sheet dated 22.04.2019 on the maintainability of the present execution petition on 28.01.2020 before S.B at Camp Court D.I.Khan.



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

28.01.2020

Petitioner in person and Mr. Usman Ghani, District Attorney alongwith Mr. Samiullah, Junior Clerk for the respondents present. Petitioner requested for adjournment on the ground that his counsel is not available today due to general strike of Khyber Pakhtunkhwa Bar Council. Adjourned to 25.02.2020 for further proceeding as per order sheet dated 22.04.2019 on the maintainability of the present execution petition before S.B at Camp Court D.I.Khan.



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

E.P.No. 7/2018

27.08.2019

Counsel for the petitioner and Mr. Farhaj Sikandar, District Attorney for the respondents present. Learned counsel for the petitioner requested for adjournment. Adjourned to 23.09.2019 for arguments on the maintainability of the present Execution Petition before S.B at Camp Court D.I.Khan.



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

23.09.2019


Petitioner absent. Mr. Farhaj Sikandar learned Deputy District Attorney present. Due to general strike of the bar learned counsel for the petitioner not available. Adjourn. To come up for further proceedings as per preceding order sheet on the maintainability of the present execution petition on 21.10.2019 before S.B at Camp Court, D.I.Khan.



Member
Camp Court, D.I.Khan.

21/10/2019

Since tour to D.I.Khan has been cancelled .To come for the same on 26/11/2019.



Reader

22.04.2019

Petitioner with counsel and Mr. Farhaj Sikandar learned District Attorney present.

Perusal of the judgment of this Tribunal under implementation would show that the service appeal No.350/2016 filed by the petitioner was dismissed on merits, as such the present execution petition appears to be not maintainable. Adjourn. To come up for arguments on the issue of maintainability of the present execution petition on 25.06.2019 before S.B at Camp Court, D.I.Khan.



Member
Camp Court, D.I.Khan.

25.06.2019

Clerk of counsel for the petitioner and Mr. Mr. Farhaj Sikandar, District Attorney alongwith Mr. Samiullah, Junior Clerk for the respondents present. Clerk of counsel for the petitioner requested for adjournment on the ground that learned counsel for the petitioner is ill today and cannot attend the Tribunal today. Adjourned to 27.08.2019 for arguments on the maintainability of the present execution petition before S.B at Camp Court D.I.Khan.



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

22.01.2019

Counsel for the petitioner and Mr. Farhaj Sikandar, District Attorney alongwith Khursheed Anwar, SDO for the respondents present.

Representative of respondents requests for time to submit a complete report regarding the Execution Petition and the relief granted to the petitioner, if any. May do so on 25.02.2019 before S.B at camp court, D.I.Khan.



Chairman
Camp Court, D.I.Khan

25.02.2019

Petitioner in person present. Mr. Farhaj Sikandar, District Attorney alongwith Mr. Khurshid Anwar, SDO for the respondents present. Petitioner seeks adjournment. Adjourned to 22.04.2019 for further proceedings before S.B at Camp Court D.I.Khan.



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

22.06.2018

Neither petitioner nor his counsel present. Case to come up for further proceedings on 30.08.2018 before S.B at camp court, D.I.Khan.


Chairman

Camp Court, D.I.Khan

30-8-18

Neither petitioner nor his counsel present
Case is hereby cancelled, therefore the petition is
adjourned for the same on 22-10-18, at camp
court D.I. Khan.

22-10-18

Case is hereby cancelled, therefore the case
is adjourned for the same on 17-12-18
at camp court D.I. Khan.


17.12.2018

As per direction of the worthy Chairman Khyber Pakhtunkhwa Service Tribunal, D.I.Khan tour dated 17.12.2018 has been rescheduled and the case is re-fixed for 26.12.2018.


Reason


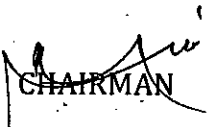


26.12.2018

Counsel for the petitioner present. Mr. Farhaj Sikandar, District Attorney for the respondents present. Representative of the department is not in attendance therefore, notice be issued to the respondents with the direction to direct the representative to attend the court on the next date positively. Adjourned. To come up for further proceedings on 22.01.2019 before S.B at Camp Court D.I.Khan.


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

FORM OF ORDER SHEET

Execution Petition No. 7/2018

S.No.	Date of order Proceedings	Order or other proceedings with signature of Judge
1	2	3
1	09.01.2018	<p>The Execution Petition of Mr. Saleem Nawaz submitted to-day by Mr. Rustam Khan Kundi Advocate may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>2-</p> <p>This Execution Petition be put up before Touring S. Bench at Dera Ismail Khan on <u>22-2-18</u></p> <p style="text-align: right;"> CHAIRMAN</p>
22.02.2018		<p>Counsel for the petitioner present. Notice be issued to the respondents for attendance for 26.04.2018 before S.B at Camp Court D.I.Khan.</p> <p style="text-align: right;"> (Muhammad Amin Khan Kundi) Member Camp Court D.I. Khan</p>
	25.05.2018	<p>Due to retirement of the Worth Chairman, the Tribunal become non-functional. To come up for the same 22.06.2018. Notice be issued to the parties accordingly.</p> <p style="text-align: right;"> Member</p>

BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBAR PAKHTUNKHWA PROVINCE

PESHAWAR
Execution Petition No. 7/2018
Miscellaneous Service Representation..... 2018

Saleem Nawaz.....**Appellant**

VERSUS

1- Government of KPK etc.....**Respondents**

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5	Chief Engg: office Letter No. 10/G-4-A/ST/PHE dated 08.09.2017	III	9
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7	Chief Engg: office Letter No. 07/G-4-A/ST/PHE dated 17.11.2017	V	12
8	Letter No.SO(Esst)/PHED/1-36/2017 dated 11.12.2017 <i>fund order</i>	VI	13
9	Copy of Appointment order No .02/E-4/PHE dated 17.12.2009(As sub Engg)	VII	14
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Dated 05.01.2018

8/1/18

Your Humble Appellant

Saleem Nawaz
Saleem Nawaz

Through Counsel

Rustam Khan Kundi
Rustam/khan kundi
Advocate High Court

①

BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBAR PAKHTUNKHWA PROVINCE

Execution Petition no. PESHAWAR
7/2018
Miscellaneous Service Representation 2018

Saleem Nawaz

S/o Karim Nawaz

R/o Mohallah Qureshianwala near Ghasmandi

Dera Ismail Khan.....**APPELLANT**

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 44

Dated 09-1-2018

VERSUS

- 1- Government of KPK through Secretary Public Health Engineering Department , Peshawar
- 2- Chief Engineer (South) Public Health Engineering Department , KPK
- 3- Executive Engineer Public Health Engineering Division , Dera Ismail Khan..... **RESPONDENTS.**

MISCELLENOUS Application /Petition u/sec.7(2) of the KPK Service Tribunal Act(I)1974 r/w , Rule 27 of the Service Tribunal Rules , 1974 for directing the Respondents individually and jointly to pass order in favour of the Applicant /Petitioner for his Adjustment as **Pump Operator BPS-6** under the Domain of Respondents 2 & 3, against the *Final order dt 10.12.2017*

The Applicant /Petitioner ,amongst other grounds,respectfully submits as under.

- 1) The Petitioner/Applicant due to termination of his services w.e.f 14-02-2014 approached the Hon'ble Service Tribunal for his reinstatement as Sub Engineer (BPS-11) and ultimately Service Tribunal pronounced judgment on 27-07-2017 at Peshawar advising the Appellant/Applicant to approach the Respondents for his reinstatement as Pump Operator appointed initially w.e.f 10-10-2007 which fact is admitted by all concerned.
- 2) The Applicant approached the Respondents for his induction as Pump Operator - Copy of Application dated 29-08-2017 is enclosed alongwith the copy of the Judgment of Hon'ble Service Tribunal.
- 3) The Respondents 2 & 3 have impliedly admitted the claim of the present Applicant .The copies of the correspondence of the Respondents Nos. 2 & 3 are enclosed.
- 4) The Respondent No.1 through Head of the Administrative Department, has in a very odd manner , raised a new plea of **retention of lien** over the incumbency of the Pump Operator , which is not permitted to them because the Applicant/Appellant was adjusted in a **higher post** of sub-engineer at the recommendation of Respondent No.3 and the discretion and at the behest of Respondent No.2 in the same deptt:

*Sub Engineer
Adm
09/1/18*

5) Such fiat of the Respondent No.1 is an act of disadvantage caused to the Applicant in an inexorable manner and on account of misinterpretation of terms and conditions of Service and the deputation/Recruitment Policy , when the Respondents are circumlocutory and flummoxed in their stances.

Hence , the present Application

GROUND S OF THE APPLICATION

a) The vacancies of Pump Operators are available and the declining of offer/adjustment against a vacant post in favour of the Applicant is an act of refusal of Exercise Of Jurisdiction vested in the Respondents.

b) The appointment against a higher post after **798 days** (from 10-10-2007 till 17-12-2009) of the initial recruitment of Applicant was not made subject to any other condition including retention or termination of lien and the rule of "reading - in"/ "casus omissus" is an instance of administrative arbitrariness.

The Applicant's Counsel may be permitted to urge further grounds during hearing of the Petition/Application.

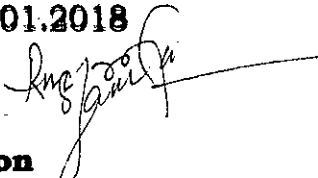
The Application / Petition may, kindly be accepted.

Your Humble Applicant



Saleem Nawaz

08,
Dated: 05.01.2018



Verification

It is solemnly affirmed that the contents of the Application / Petition are true and correct to the best of my knowledge and belief .


Through Counsel

Applicant

MEMO OF ADDRESSES

Miscellaneous Service Representation _____ 2018

Saleem Nawaz

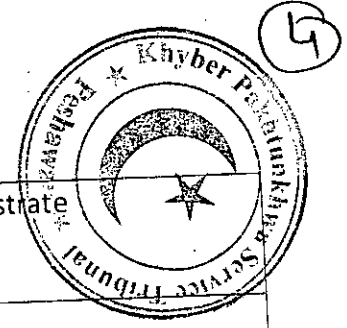
S/o Karim Nawaz

R/o Mohallah Qureshianwala near Ghasmandi

Dera Ismail Khan.....**APPELLANT**

VERSUS

- 1- Government of KPK through Secretary Public Health Engineering Department , Peshawar
- 2- Chief Engineer (South) Public Health Engineering Department , KPK
- 3- Executive Engineer Public Health Engineering Division , Dera Ismail Khan.....**RESPONDENTS.**



Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No. 350/2016

Date of Institution ... 04.04.2016
Date of Decision ... 27.07.2017

Saleem Nawaz S/o Karim Nawaz, R/O, Mohallah Qureshian Wala Near Ghass Mandi, D.I.Khan City.....**Appellant**

1. The Government of Khyber Pakhtunkhwa through: The Secretary, Public Health Engineering Department, Civil Secretariat, Peshawar.
2. The Chief Engineer (South), Public Health Engineering, Khyber Pakhtunkhwa, Peshawar.....**Respondents**

27.07.2017

JUDGMENT

MUHAMMAD HAMID MUGHAL, MEMBER: - Appellant and Mr.


Muhammad Jan, Deputy District Attorney on behalf of the official respondents present.

2. The appellant has filed present appeal u/s 4 of Khyber Pakhtunkhwa Service Tribunal Act-1974 against the respondents wherein he made impugned order dated 03.03.2016 passed by the respondent No.1 whereby the departmental appeal of the appellant against his termination order dated 14.02.2014 was dismissed.

3. Brief facts of the case are that the appellant who was Pump Operator in the office of Deputy District Officer Water Supply & Sanitation D.I.Khan, was offered post of Sub-Engineer (BPS-11) vide order dated 17.12.2009 of the Chief Engineer Public Health Engineering Department Khyber Pakhtunkhwa Peshawar.

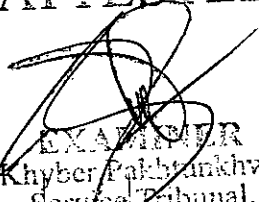
4. On 15.01.2014 during the hearing of C.Ps No. 2026 & 2029 of 2013, the august Supreme Court of Pakistan directed Chief Engineer, Public Health Engineering Department Khyber Pakhtunkhwa to finalize the action against illegal appointees in his department within one month and submit his report through registrar of the august Supreme Court.

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

5. On 21.01.2014 Show Cause Notice was issued to 25 Sub-Engineers, 01 Senior Scale Stenographer, 06 Steno-typists and 02 Data Entry Operators, including the appellant regarding their illegal appointments and vide order dated 14.02.2014 the appellant was terminated from the post of Sub-Engineer with immediate effect on the ground that he was illegally appointed. The appellant preferred departmental appeal against his termination order but received no response. The appellant than filed appeal before this Tribunal and this Tribunal vide common judgment dated 30.12.2015 passed in appeals 31 in number, remit the case of the appellant to the appellate authority of the Department, without interfering in the impugned order dated 14.02.2014 and issued directions for the decision of departmental appeal strictly in accordance with law/rules considering merits and fulfilling the requirement of opportunity of personal hearing. Resultantly opportunity of hearing was given to the appellant and order dated 03.03.2016 by the appellate authority was issued whereby the departmental appeal of the appellant was dismissed. This led to the present appeal by the appellant.

6. Learned counsel for the appellant argued that the termination order dated 14.02.2014 as well as the order of the appellate authority dated 03.03.2016 are against the law, facts, and norms of justice on the ground that the appellant possesses the required qualification and was appointed by the competent authority after the fulfillment of all the codal formalities. Further argued that after appointment the appellant has accrued vested right and therefore cannot be terminated and thereby allowed to suffer hardship for the lapse/irregularities committed by the department. In support of his case the learned counsel for the appellant referred the judgments reported in 1985 PLC (C.S) 478 ,1985 PLC(C.S) 528, 2004 PLC(C.S)1028,1996 SCMR 4813,1996 SCMR 4813, 1997 SCMR 1552, 2004 SCMR 1077,2005 SCMR 678,2005 PLC(C.S)240,2006 SCMR 678,2007 PLC(C.S)179,2009 SCMR 663,2011SCMR 1618,2011 PLC(C.S)331,2014 PLC(C.S)479 and 2015 SCMR.

ATTESTED

 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

7. Learned Deputy District Attorney while controverting the arguments of the learned counsel for the appellant defended the impugned orders on the grounds mentioned therein and maintained that the appellant was appointed illegally on political considerations. Further contented that the post earlier occupied by the appellant has now been filled, upon the recommendation of Public Service Commission on merits. Further argued that some other affectees/illegal appointees also took part in the examination held by Public Service Commission and few of them also succeeded to re-occupy their posts.

8. Arguments of learned counsel for the appellant and Deputy District Attorney heard. Record perused with their valuable assistance.

9. It is not disputed that the vacancies/posts against which the appellant was appointed, were not advertised at all in the newspapers rather the then Chief Minister of Khyber Pakhtunkhwa provided a list of applicants through his political secretary for appointments against such posts by the departmental authority and in the said list the name of the appellant is also mentioned, more so the appellant has not gone through any test. Hence the appointment was not made on the basis of eligibility cum merit criteria but otherwise due to political pressure etc. It may also be mentioned that neither the appointment was made in accordance with recruitment procedure applicable to the district cadre post, nor through the recommendation of Public Service Commission.

10. It is by now settled that all the appointments to the Government Institutions must be based on a transparent/fair process within the parameter of its applicable rules, regulation etc. but the fact remains that the bureaucracy can be so susceptible to the whims and wishes of the ruling elite class etc which results in an obvious weakening of the state institutions.

11. The argument on behalf of appellant that he met the requisite qualification for the post and as such rightly appointed has no force in it as other persons having requisite qualification and might have been more meritorious were kept out of the whole process of the recruitment. Learned counsel for the appellant remained unable to demonstrate that the judgments referred by him are of any help to the illegal appointee for the purpose of his reinstatement.

ATTESTED

[Signature]
 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

12. The appellant must have gone through hardship due to his termination from service but the ill-gotten gains cannot be defended/protected under any canon of law nor even on humanitarian consideration in as much as such gains availed by the illegal appointees were at the cost of other deserving citizen of the country with a legitimate expectation that they would be able to seek appointment on the basis of open merit/eligibility cum merit criteria. Wisdom in this regard is gained from judgment of the august Supreme Court of Pakistan titled Syed Mubashir Raza Jaffri and others -----Petitioners Versus EMPLOYEES OLD-AGE BENEFITS INSTITUTIONS (EOBI) through President of Board, of Trustees and others-----Respondents (2014 SCMR Page 949).

13. The august Supreme Court also observed in number of cases that in such situation besides proceedings against the beneficiaries of illegal appointments, the officers who were responsible for implementing illegal directives should also be held equally responsible and severe action should be taken against them so in future it may serve as deterrent for other likeminded persons.

14. In the light of above we see no merits in the present appeal. Hence the same is dismissed. Appellant may approach Water Supply & Sanitation Department D.I.Khan in connection with his job as Pump Operator, in accordance with law, if so advised. Parties are left to bear their own costs. File be consigned to the record room after its completion.

Announced
27.07.2017 *Sd/- M. Hamid Nughal,*
Member

Sd/- Ahmad Hassan,
Member

Certified to be true copy
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Amerwaj

8

Before The Worthy Chief Engineer (South) Public Health Engineering
Department Govt of K.P.K Province-Peshawar

Subject: Reinstatement As pump-operator (Formerly BPS-04 now-06)
Under the Domain of Executive Engineer Public Health
Engineering: Division Dera Ismail Khan.

The Applicant respectfully submits as follows:-

1. The Applicant was appointed against the post of Pump-Operator(BPS-04) vide office Order No.310/4-E dated 10.10.2007 against regular vacancy which still subsists. Copy is enclosed. And on 10.10.2007 Applicant was qualified Diploma Holder of Mechanical Engineering. Copy of the Diploma is enclosed.
2. Later on the Applicant was appointed as Sub-Engineer (BPS-11); but the Services as Sub-Engineer were terminated wef 14.02.2014 vide Chief Engineer Office order No 30/E-4 PHE dated 14.02.2014, Though the Applicant was confirmed appointee as pump -Operator after 10.10.2007 under Appointment Rules 1989.
3. The Service Appeals of the Applicant could not meet success. Copy of the order of service Tribunal, dated 27.07.2017 is enclosed and the Applicant has been advised to address the Department Authorities for reinstatement as Pump-operator. Copy of order of Division Bench of the Service Tribunal is enclosed.
4. It is in pursuance of such advice that the Applicant now requests for reinstatement as Pump-Operator BPS-06 wef 15.02.2014 with all permissible service benefits due under the Rules.
5. The circumstances are not such that Your Honour may not exercise the general powers of the superintendence of the service affairs of an aggrieved Servant.

Kindly pass Orders to the Executive Engineer Public Health Engineering Division D.I.Khan for The Reinstatement of the Applicant as Pump-Operator..

With Regards

Your Humble

Saleem Nawaz S/o Karim Nawaz

Moh: Qureshian Wala Near

Ghaus Mandi D.I.Khan

CE.P.H.E Deptt:	
(South)	
File No.	442
Case No.	2018/171 Ends
Office Order No.	310/4-E dated 10.10.2007(Pump-opp)
Office Order No.	02/E-4 dated 17-12-2009 (Sub-Eng)
Office Order No.	30/E-4 dated 14-02-2014(Termination)
Judgment	dated 27-07-2017

Office Order No. 30/E-4 dated 14-02-2014(Termination)
Judgment, dated 27-07-2017

Ask/Kan for detailed report whether he can accommodate
CC 157

Annex III

9



OFFICE OF THE CHIEF ENGINEER (SOUTH)
PUBLIC HEALTH ENGG. DEPTT: KHYBER PAKHTUNKHWA, PESHAWAR
Ph#091-9212984 Fax#091-9210228 E-mail: Ce.s.phed.pr5419@gmail.com

No. 0/G-4-A/ST /PHE,

Dated Peshawar, the 08 / 09/2017.

To,

The Superintending Engineer,
Public Health Engineering Circle,
DIKhan.

The Executive Engineer,
Public Health Engineering Division,
DIKhan.

Subject: COURT JUDGEMENT IN THE SERVICE APPEAL NO.350/2016
SALEEM NAWAZ VS GOVERNMENT.

Enclosed please find herewith a copy of judgement of Service Tribunal Peshawar dated 27/07/2017 (copy attached) in the subject case. You are requested to furnish detail report containing availability of post and documentary proof that whether the applicant applied for the post of Sub Engineer through proper channel or otherwise? The report also contains your comments/views in light of judgement for further consideration.

DA/as above.

Chief Engineer (South)

No: 1599/E-8 dt: 29.9.17
Neu Dik.

Pls. Submit report
for onward process
to the CE (South).

Superintending Engineer
Public Health Engrs. Deptt.
D.I. Khan.

Office of The
SE. PHE Circle
D.I. Khan
Dairy No. 841 27/9/17
Case No. E-8



NO. 4102 / ES/A

Dated D.I.Khan the 25 / 10 / 2017.

To

The Chief Engineer (South)
Public Health Engg: Department
Khyber Pakhtunkhwa, Peshawar.

Subject:-

COURT JUDGEMENT IN THE SERVICE APPEAL NO.350/2016 SALEEM
NAWAZ VS GOVERNMENT


Ref:

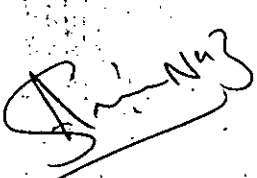
Your office letter No.10/G-4-A/ST/PHE dated 08.09.2017.

In this connection it is submitted for your kind information that official was working in Public Health Engineering Division DIKhan as a Pump Operator and approach for the post of Sub: Engineer through proper channel and appointed as Sub Engineer vide Chief Engineer (S) No.02/E-4/PHE dated 17.12.2009 as evident from his appointment order of Sub Engineer (Copy attached).

The vacant position of posts of operational staff in respect of this office has already been submitted to your good office. (Copy attached)

Hence report is submitted as desired please.


Executive Engineer
Public Health Engg: Division
D.I.Khan


Copy forwarded to the Superintending Engineer PHE Circle DIKhan for information with reference to his No.1599/E-8 dated 29.09.2017 please.

Executive Engineer
Public Health Engg: Division
D.I.Khan

Attention Please

A.O. Sahib
PIHE (S)

Peshawar

SANCTIONED / WORKING STRENGTH OF PHE DIVISION D.I.KHAN

S. No	Designation	Total Strength	Working Strength	Vacant Position	Remarks
1	Executive Engineer (BPS-18)	01	01	--	
2	Sub Divisional Officer (BPS-17)	03	03	--	
3	Divisional Accounts Officer (BPS-17)	01	01	--	
4	Assistant Social Mobilizer (BPS-16)	01	--	01	
5	Head Clerk (BPS-16)	01	01	--	
6	Steno Typist (BPS-14)	01	--	01	
7	Head Draftsman (BPS-13)	01	01	--	
8	Draftsman (BPS-12)	01	01	--	
9	Sub Engineer (BPS-12)	08	07	01	
10	Accounts Clerk (BPS-10)	02	--	02	
11	Senior Clerk (BPS-14)	04	04	--	
12	Junior Clerk (BPS-11)	10	10	--	
35	Tracer (BPS-07)	01	01	--	
36	Pipe Fitter (BPS-06)	03	03	--	
37	Pump Operator (BPS-06)	163	160	03	Posts vacant due to retirement
38	Assistant Pump Operator (BPS-04)	11	11	--	
39	Mate (BPS-04)	09	09	--	
40	Barkandaz (BPS-02)	02	02	--	
41	Chowkidar (BPS-03)	137	135	02	Posts vacant due to sudden death
42	Chowkidar Office (BPS-03)	02	02	--	
43	Ferro Khalasi (BPS-03)	01	01	--	
44	Naib Qasid (BPS-03)	05	05	--	
45	Operator cum V/Man (BPS-03)	95	95	--	
46	Operator cum Chowkidar (BPS-03)	153	147	06	After completion of interview/office process the selection Committee has recommended against the vacant posts. Approval awaited.
47	Sweeper (BPS-03)	03	03	--	
48	Valve Man (BPS-03)	188	188	--	
49	Valve Man Chowkidar (BPS-03)	17	17	--	

S. No 3

Executive Engineer
Public Health Eng. Division
D.I. Khan

Annexure V

12

OFFICE OF THE CHIEF ENGINEER (SOUTH)
PUBLIC HEALTH ENGG: DEPT: KHYBER PAKHTUNKHWA, PESHAWAR
Ph#091-9212984 Fax#091-9210228 E-mail: Cc.s.phcd.pr5419@gmail.com

No. 07/9-4A/ST /PHE,
Dated Peshawar, the 17/11/2017

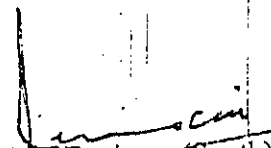
To,
The Section Officer (Estt)
Public Health Engg: Department
Peshawar.

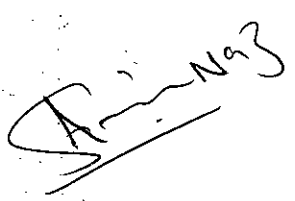
Subject: **COURT JUDGMENT IN THE SERVICE APPEAL NO.350/2016 SALEEM NAWAZ VS GOVERNMENT.**

Enclosed please find herewith a copy of Judgment of Service Tribunal Peshawar dated 27.7.2017 in the subject case (Copy enclosed) as well as report received from Executive Engineer PHE Division D.I Khan vide his letter No.4102/E-5/A dated 25.10.2017 (Copy attached).

It is requested that necessary advice in the matter may kindly be provided that whether the appellant be appointed on the vacant post of Operator BPS-6 or otherwise? And with immediate affect or from the date of the Judgment of the court?

DA/As above


Chief Engineer (South)





**GOVERNMENT OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG: DEPARTMENT**

No.SO(Estt)/PHED/ 1-36/2017
Dated Peshawar, the December 11, 2017

To

The Chief Engineer (South),
Public Health Engg: Department,
Peshawar

Subject:

**COURT JUDGMENT IN THE SERVICE APPEAL NO.350/2016-
SALEEM NAWAZ VERSUS GOVERNMENT.**

I am directed to refer to your letter No.07/G-4-A/ST/PHE dated 17-11-2017 on the subject noted above and to state that the appellant is not entitled to re-join his old service of Pump Operator at PHE Division D.I. Khan as the period of retention of lien if granted to or availed by him is also exhausted.

DEPUTY SECRETARY (ADMN)

Saleem Nawaz

Annexure VII

14

OFFICE OF THE CHIEF ENGINEER
PUBLIC HEALTH ENGG: DEPARTMENT
NWFP, PESHAWAR.

No. 02 / E-4/PHE

Dated Pesh: the 17 / 12 / 2009.

OFFICE ORDER.

On the recommendation of the Department Selection Committee as per its meeting held on 02/12/2009, the competent authority is pleased to offer a post of Sub Engineer (BPS-11) to Mr. Saleem Nawaz Pump Operator in O/O Deputy District Officer Water Supply & Sanitation D.I.Khan on the following terms and conditions :-

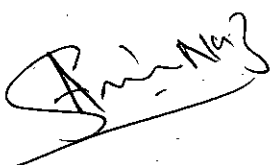
- 1) He will get pay at the minimum of BPS-11 (Rs.4115 - 275 - 12365) including usual allowances as admissible under the rule. He will also be entitled to annual increment as per existing policy.
- 2) He shall be governed by the NWFP Civil Servants Act 1973 and all the laws applicable to the Civil Servants and Rules made there under.
- 3) He shall, for all intents and purposes, be Civil Servant except for purpose of pension or gratuity. In lieu of pension and gratuity, he shall be entitled to receive such amount contributed by him towards Contributory Provident Funds (C.P.F) alongwith the contributions made by Government to his account in the said fund, in the prescribed manner.
- 4) His employment in the PHE Department is purely temporary and his services are liable to be terminated without assigning any reason at fourteen (14) days notice or on the payment of 14 days salary in lieu of the notice. In case he wishes to resign at any time, 14 days notice will be necessary or in lieu thereof 14 days pay will be forfeited.
- 5) He shall, initially, be on probation for a period of two years extendable upto 3 years.
- 6) He has to join duty at his own expenses.
- 7) If he accepts the post of these conditions, he should report for duty to the Deputy Director W&S Shangla within 14 days of the receipt of this offer and produce original certificates in connection with his qualifications, domicile and age.

CHIEF ENGINEER

Copy to the :-

- 1) Deputy Director W&S Shangla.
- 2) District Accounts Officer Shangla.
- 3) Mr. Saleem Nawaz S/O Karim Nawaz Pump Operator O/O Deputy District Officer Water Supply & Sanitation D.I.Khan


CHIEF ENGINEER



Annexure VIII

15

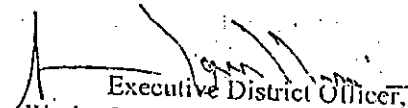
OFFICE OF THE EXECUTIVE DISTRICT OFFICER WORKS AND SERVICES DEPARTMENT D.I.KHAN.

OFFICE ORDER.

NO. 3/0

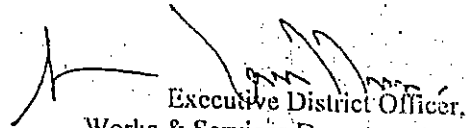
14-E /DATED DIKHAN THE 10 /10 /07

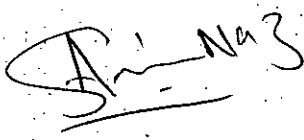
As recommended by the selection committee in its meeting held on 10.10.2007, Saleem ⁵⁰ Karim Nawaz R/O Moh: Qureshian Wala Ghas Mandi DIKhan is hereby appointed as Pump Operator, Contract BPS-04 in Tehsil DIKhan against the newly created posts of Operational Staff in the newly completed Water Supply Schemes (Tube Well) of District DIKhan vide Finance Deptt: No. BO-1/12-2/2007-08/PHE dated 1.10.2007 subject to the production of medical fitness certificate duly obtained from medical superintendent DHQ Hospital DIKhan.


Executive District Officer,
Works & Services Department
Dera Ismail Khan

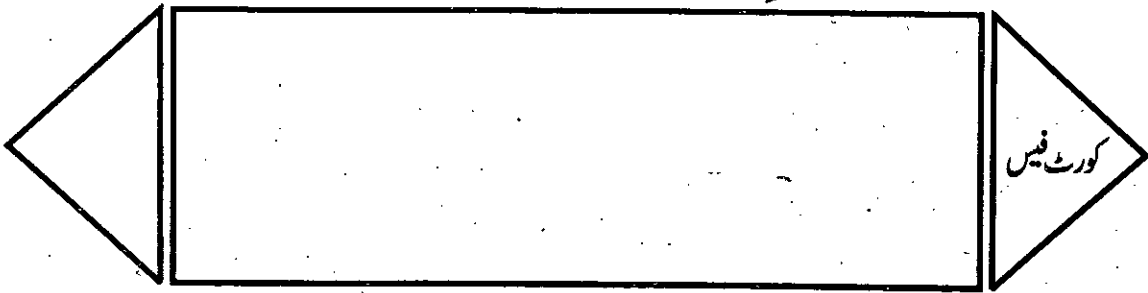
Copy forwarded to the :-

1. District Coordination Officer DIKhan.
2. Deputy District Officer Water Supply and Sanitation Divn: DIKhan vide his letter No.5303/E-5/A, dated 8.10.2007.
3. District Accounts Officer D.I.Khan.
4. Official Concerned.


Executive District Officer,
Works & Services Department
Dera Ismail Khan



وکالت نامہ



بعدالت جناب صاحب القدر کے کی کے موصوف محمد علی / موصوف محمد علی
 منجانب نصیر احمد / Appellant
 نام موصوف محمد علی کے موصوف محمد علی
 دعوے یا جرم STP
 تفصیل دعوے یا جرم 2018

باعث تحریر آنکہ

مقدمہ مندرجہ بالا عنوان میں باہمی طرف واسطے بیروی و جوابدہی برائے پیشی یا تصفیہ مقدمہ بمقام ڈی جی ڈی کیلئے
رستم خان لودھی و نس نعل سجاد اور ایڈووکیٹ
 کو حسب ذیل شرائط پر وکیل مقرر کیا ہے۔ کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا ہوں گا۔ اور بروقت پکارے جانے مقدمہ
 وکیل صاحب موصوف کو اطلاع دیکر حاضر عدالت کروں گا۔ اگر پیشی پر مظہر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے برخلاف
 ہو گیا تو صاحب موصوف اس کے کسی طرح پر ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام بکھری کے علاوہ کسی جگہ یا بکھری کے اوقات
 سے پہلے یا پیچھے یا بروز تعطیل بیروی کرنے کے ذمہ دار نہ ہوں گے۔ اور مقدمہ صدر بکھری کے علاوہ کسی اور جگہ سماعت ہونے پر بروز تعطیل یا بکھری
 کے اوقات کے آگے پیچھے پیش ہونے پر مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضے کے ادا کرنے یا عطا نہ کے واپس کرنے
 کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پرداخت صاحب موصوف مثل کردہ ذات خود منظور قبول ہوگا۔ اور صاحب موصوف کو عرضی
 دعوے یا جوابدہی یا درخواست اجراءے ڈگری و نظر ثانی اپیل نگرانی و ہر قسم درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کرنے
 اور ہر قسم کاروبار وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور اس پر ثالثی و رضی نامہ فیصلہ بر حلف کرنے، اقبال دعویٰ کا بھی
 اختیار ہوگا۔ اور بصورت مقرر ہونے تاریخ پیشی مقدمہ مذکورہ بیرون از بکھری صدر بیروی مقدمہ مذکورہ درخواست نظر ثانی و اپیل و نگرانی و برآمدگی مقدمہ
 یا مستوفی ڈگری یا کطرف یا درخواست حکم انتہائی یا قرقنی یا گرفتاری قبل از فیصلہ و اجراءے ڈگری بھی صاحب موصوف کو بشرط ادا سنگل علیحدہ عطا نہ بیروی کا
 اختیار ہوگا۔ اور تمام ساختہ پرداخت صاحب موصوف مثل کردہ ذات خود منظور قبول ہوگا۔ اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ
 مذکورہ یا اس کے کسی جزو کی کاروائی یا بصورت درخواست نظر ثانی اپیل یا نگرانی یا دیگر معاملہ مقدمہ مذکورہ کی دوسرے وکیل یا پیر سز کو اپنے بجائے یا اپنے ہمراہ
 مقرر کریں۔ اور ایسے مشیر قانون کو بھی ہر امر میں وہی اور ایسے ہی اختیار حاصل ہونگے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ میں جو کچھ ہر جانہ
 التوا پڑے گا۔ وہ صاحب موصوف کا حق ہوگا اگر صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کرے گا۔ تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ
 کی بیروی نہ کریں۔ اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا وکالت نامہ لکھ دیا ہے کہ پسند رہے۔
 مورخہ _____ ماہ _____ 2018 مضمون وکالت نامہ من لیا ہے اور اچھی طرح سمجھ لیا ہے۔ اور منظور ہے۔

8/11/2018

Accepted
 Zill-ud-Din
 Advocate
 8/11/2018

Accepted
 8/11/2018

Accepted

8/11/2018