

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

**SERVICE APPEAL NO. 710/2019**

Date of institution ... 30.05.2019

Date of judgment ... 10.11.2021

Feroz Shah S/O Hijab Shah, Junior Scale Stenographer-II, Small Dams  
Organization, Peshawar R/O Mian Khan, Tehsil Katlang, District Mardan.  
... (Appellant)

**VERSUS**

Irrigation Department through Superintending Engineer, Headquarter,  
Phase-VII, Hayatabad, Peshawar and five others.

... (Respondents)

**Present:**

Mr. Yousaf Ali,  
Advocate

... For appellant.

Mr. Kabirullah Khattak,  
Additional Advocate General

... For respondents.

Syed Noman Ali Bukhari,  
Advocate

... For private respondent No.6

Mian Muhammad  
Rozina Rehman

... Member (Executive)

... Member(Judicial)

**JUDGEMENT**

**MIAN MUHAMMAD, MEMBER (E):-** The service appeal has  
been filed against seniority list dated 07.5.2018 and 18.06.2019  
whereby the appellant was placed junior to private respondent No.6  
as well as rejection of his departmental appeal vide appellate order  
dated 30.04.2019.

2. Brief facts of the case are that the appellant initially joined the  
respondent-department as Stenotypist/KPO (BS-12) on contract

basis on 01.11.2003 whose contractual appointment was extended till 30.06.2008. The appellant approached the Peshawar High Court, Peshawar in writ petition seeking regularization against the post of stenotypist/KPO in terms of Khyber Pakhtunkhwa Civil Servants (Amendment) Act, 2005. The Peshawar High Court, Peshawar vide its judgement dated 14.06.2012 allowed his writ petition with the directions to respondents to regularize the services of petitioner and issue a notification in this regard. The respondent-department regularized services of the appellant w.e.f 24.09.2009 vide notification dated 12.11.2012. In tentative seniority list of Junior Scale Stenographers dated 29.05.2013 name of the appellant was reflected senior to private respondent No.6 and this position remained intact till 2016. However, on 07.05.2018 fresh seniority list was issued and the appellant stood junior to private respondent No.6 in seniority as it stood on 31.12.2017. The appellant preferred departmental appeal against the said seniority list to respondent NO.3 on 11.05.2018 followed by departmental appeal to respondent No.5 against fresh seniority list of 2018 as well as 2019, on 15.03.2019. His departmental appeal was however rejected on 30.04.2019 where-after, he approached the Service Tribunal in service appeal on 30.05.2019.

3. Notices were issued to the parties. Learned Additional Advocate General for official respondents No. 1 to 5 as well as counsel for private respondent No.6 submitted their written reply/parawise comments alongwith connected documents. Parties were heard and available record gone through thoroughly.

4. Learned counsel for the appellant contended that he is aggrieved of the seniority list of 2018 and 2019 whereby name of the private respondent No.6 is reflected at serial No.1 and name of the appellant placed at serial No.2 of the said seniority list despite the fact that their seniority was not disputed till 2016 and the appellant was at serial No.1 whereas private respondent No.6 was placed at serial No.2. The date of regularization of their service is one and the same i.e 24.09.2009 and in such a scenario age factor should be taken into account for determining seniority between the two. On this score the appellant is older in age whose date of birth is 15.09.1979 whereas date of birth of the private respondent No.6 is 30.12.1979. It was further contended that final seniority list was not issued by the department, therefore, tentative seniority list issued on 07.05.2018 and 21.02.2019 have been made the basis of departmental appeal as well as service appeal. The services of appellant were regularized in light of the Peshawar High Court, Peshawar judgement dated 14.06.2012 on his writ petition No.1411/2011 and his name was reflected senior to private respondent No.6 in earlier seniority list issued on 29.05.2013 and 24.01.2016. The impugned seniority list are illegal, against the law and facts which are liable to be set aside and the appellant's name be restored at his old seniority i.e senior to private respondent No.6.

5. Learned Additional Advocate General, on the other hand contended that the appellant was reinstated in service w.e.f 01.07.2008 vide order dated 12.11.2012 as per judgement of the Peshawar High Court, Peshawar dated 14.06.2012 and his services

were regularized w.e.f 24.09.2009 in pursuance of Section-3 of the Khyber Pakhtunkhwa Employees(Regularization of Service) Act, 2009. The appellant was suitably placed junior to private respondent No.6 subsequent to her appeal submitted in pursuance of tentative seniority list circulated on 29.05.2013. As her departmental appeal was acceded to on the basis of having secured higher marks in written test/interview i.e Private respondent No.6 secured 74.2% whereas appellant secured 71% at the initial stage of their first appointment to the post of Stenotypist/KPO on 13.10.2003. Moreover, her departmental appeal was accepted on the basis of advice tendered by the Regulation wing of Establishment Department vide correspondence dated 05.10.2018 duly reflected in remarks column of final seniority list issued on 18.06.2019. The appellant has challenged tentative seniority list whereas final seniority dated on 18.06.2019 has not been challenged rendering the instant service appeal as not maintainable under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.

06. Learned counsel for private respondent No.6 relied on his written reply and arguments advanced by the learned Additional Advocate General.

07. It is not disputed that the appellant as well as private respondent No.6 joined the respondent-department as contract employees (Steno Typist/KPO BS-12) in November 2003 and their services were regularized w.e.f 24.09.2019 under Section-3 of the Khyber Pakhtunkhwa Employees (Regularization of Services) Act,

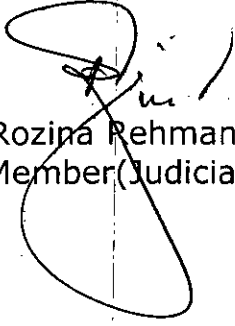
2009 vide office orders dated 12.11.2012 and 14.05.2010 respectively. It is also an admitted fact that the appellant filed writ petition No. 1411/2011 in Peshawar High Court with the plea for restoration to his post with back benefits and regularization of his service under Khyber Pakhtunkhwa Civil Servants (Amendment) Act, 2005. The Peshawar High Court in its judgement dated 14.06.2012 allowed his writ petition with direction "to regularize the services of petitioner and to issue Notification in this regard from the date, relevant to him, as done in other cases". The appellant did not challenge the seniority at that stage but only reinstatement and regularization. Seniority issue arose between the appellant and private respondent No.6 when tentative seniority list of junior Scale Stenographer (BS-14) as stood on 31.12.2017 was circulated vide endorsement dated 07.05.2018 showing private respondent No. 6 at serial No.1 and appellant at serial No.2.


08. The principle of seniority inter se of Civil Servants appointed to a service, cadre or post, has been laid down under Rule-17(a) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 in the manner that seniority is determined in accordance with the order of merit assigned by the Public Service Commission or Departmental Selection Committee. Moreover, tentative seniority list is circulated to the concerned civil servants inviting objections with regard to entries in the list, for rectification whereas final seniority list is issued thereafter as per provisions of Section-8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973. Keeping in view the above provisions of Khyber Pakhtunkhwa Civil Servants Act 1973 and Khyber Pakhtunkhwa Civil Servants

(Appointment, Promotion and Transfer) Rules 1989, seniority of both i.e the appellant vis a vis private respondent No.6 was determined on the basis of merit assigned by Departmental Selection Committee at the time of their entry in contract service in 2003 when private respondent No.6 secured 74.12 marks whereas the appellant secured 71 marks. Respondent-department also solicited advice of the regulation wing Establishment department before issuance of the final seniority list on 18.06.2019 which has not been challenged in the instant service appeal.

09. In view of what has been discussed in the preceding paras, we are of the considered opinion that the final seniority list has been issued by the respondent-department under the relevant law and rules on the subject issue. We therefore, find no justification to interfere with the final seniority list circulated on 18.06.2019. The service appeal is therefore dismissed. Parties are left to bear their own costs. File be consigned to the record room

ANNOUNCED  
10.11.2021

  
(Rozina Rehman)  
Member (Judicial)

  
(Mian Muhammad)  
Member (Executive)

**ORDER**

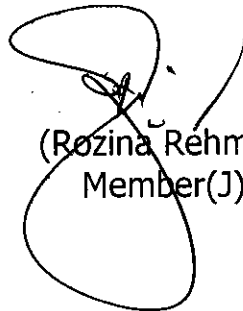
10.11.2021

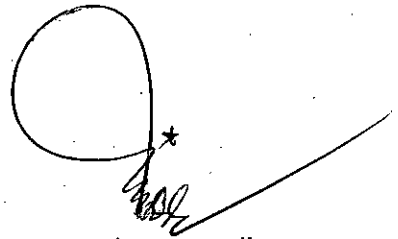
Learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for official respondents No. 1 to 5 and Syed Noman Ali Bukhari, Advocate for private respondent No.6 present. Arguments heard and record perused.

Vide our detailed judgement of today placed on file, we are of the considered opinion that the final seniority list has been issued by the respondent-department under the relevant law and rules on the subject issue. We therefore, find no justification to interfere with the final seniority list circulated on 18.06.2019. The service appeal is therefore dismissed. Parties are left to bear their own cost. File be consigned to the record room.

Announced:

10.11.2021

  
(Rozina Rehman)  
Member(J)

  
(Mian Muhammad)  
Member(E)

Fer. 2.

Contract  $\frac{w}{c}$   
2/15/09

Regularized

P. 13 Order issued of regularization on 12/11/12

but w.e.f 24.9.2009.

P. 15 Seniority.  $\mu \mu \mu \mu \mu$

P. 16 tentative. on 31.12.17

$\mu \mu \mu \mu \mu$

Admitted Shumaila

enrolled on Contract

prior to appnt.

$\mu \mu \mu \mu \mu$

AAli as not maintainable  
list was no final Seniority  
See comments of private

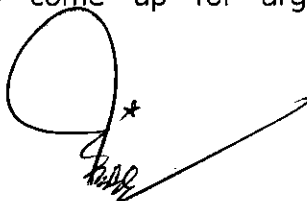
resptd.




26.08.2021

Appellant in person present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Faiz Ul Haq, Supdt for official respondents and Mr. Muhammad Asif Yousafzai, Advocate for private respondent No.6 present.


Appellant requested for adjournment on the ground that his counsel is not available due to some domestic engagements. Adjourned. To come up for arguments before the D.B on 10.11.2021.



(MIAN MUHAMMAD)  
MEMBER (EXECUTIVE)

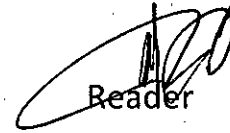


(SALAH-UD-DIN)  
MEMBER (JUDICIAL)



06.04.2021

Due to demise of Hon'able Chairman, the Tribunal is defunct, therefore, the case is adjourned to 08.07.2021 for the same.

  
Reader

08.07.2021

Counsel for appellant present.

Muhammad Adeel Butt learned Additional Advocate General alongwith Faiz ul Haq Superintendent for respondents present. Nemo for private respondent No.6.

Notice be issued to private respondents No.6 and her counsel for 26.08.2021 for hearing before D.B.



(Rozina Rehman)  
Member(J)

  
Chairman

*Handwritten notes:*  
Rozina  
13/7/21

21.09.2020

Appellant in person and Addl. AG alongwith Faizullah, Superintendent for official respondents present.

Official respondents No. 1 to 4 have furnished parawise comments, which are made part of the record. Mr. Muhammad Asif Yousafzai, Advocate appeared and furnished Wakalatnama on behalf of respondent No. 6 which is placed on record. He requests for some time to furnish reply. Granted, but as a last chance. To come up for reply of respondent No. 6 on 11.11.2020 before S.B.

Chairman

11.11.2020

Appellant is present in person. Mr. Kabirullah Khattak, Additional Advocate General alongwith representative of the department Mr. Faiz-ul-Haq, Superintendent, on behalf of official respondents No. 1 to 5 and clerk to counsel for private respondent No. 6, are also present.

Para-wise comments on behalf of private respondent No. 6 submitted, which are made part of the record. While written reply on behalf of official respondents have already been submitted. File to come up for rejoinder and arguments on 20.01.2021 before D.B.

(MUHAMMAD JAMAL KHAN)  
MEMBER (JUDICIAL)

20.01.2021

Due to COVID-19, the case is adjourned for the same on 06.04.2021 before D.B.

READER

17.06.2020

Counsel for the petitioner and Asst: AG alongwith Mr. Faiz Ul Haq, Superintendent for respondents present: Arguments on application for restoration of appeal heard and case file perused. Through instant petition the petitioner has prayed for setting aside order dated 02.09.2019 vide which the appeal of the present petitioner was dismissed due to non prosecution.

Since the instant application has been filed well within time, hence the appeal be restored and be fixed for its previous proceedings on 29.07.2020 before S.B subject to payment of fine of Rs. 1000/- which shall be borne from the pocket of the petitioner. Notices be issued to the respondents.

(MIAN MUHAMMAD)  
MEMBER

29.07.2020

Appellant present in person.

Submitted an application for extension of time to deposit security and process fee.

Application is allowed and the appellant is required to deposit the security and process fee within three working days.

Thereafter, notices be issued to the respondents for submission of written reply/comments on 21.09.2020 before S.B.

Chairman

*Rs. 1000 deposited as cost/fine under head C-03844 by Petitioner. Entry has been made in the Process fee Register at sr. No. 104.*



Appellant Deposited  
Security & Process Fee

*29/7/20*

18.12.2019

Petitioner alongwith counsel and Addl. AG for the respondents present.

Learned AAG states that he has not been issued notice for hearing in application for today, therefore, he ~~sought~~<sup>seeks</sup> adjournment.

Adjourned to 10.01.2020 for further proceedings before S.B.

  
Chairman

10.01.2020

Petitioner in person and Addl. AG alongwith Faizul Haq, Superintendent for respondents present.

Former requests for adjournment due to general strike of the Bar. Adjourned to 06.02.2020 for further proceedings before S.B.

  
Chairman


06.02.2020

Counsel for the petitioner and Mr. Kabirullah Khattak, Additional AG for the respondents present. Learned Additional AG requested for adjournment. Adjourned to 25.03.2020 for reply and arguments on restoration application before S.B. Notice be also issued to private respondent No. 6 for reply and attendance for the date fixed.

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

25.03.2020





Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 17.06.2020 before S.B.

  
Reader

Form-A  
FORM OF ORDER SHEET

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


Appeal's Restoration Application No. 355/2019

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	23.09.2019	<p>The application for restoration of appeal No. 710/2019 submitted by Mr. Yousaf Ali 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>
2	26/09/19	<p>This restoration application is entrusted to S. Bench to be put up there on <u>11/10/19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
11.10.2019		<p>Counsel for the petitioner present. Notices be also issued to the respondents for 15.11.2019 before S.B.</p> <p style="text-align: right;"> Chairman</p>
15.11.2019		<p>Petitioner in person and Addl. AG alongwith Faizul Haq, Superintendent for the respondents present.</p> <p>The Worthy Chairman is on leave, therefore, the matter is adjourned to 18.12.2019 for the same.</p> <p style="text-align: right;"> Reader</p>

03.07.2019

Counsel for the appellant Feroz Shah present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was serving as Junior Scale Stenographer (BPS-12) in Irrigation Department. It was further contended that as per seniority list pertaining to the year 2012, the appellant was at the top of seniority list belonging to the post of Junior Scale Stenographer (BPS-12) while the private respondent No. 6 Mrs. Shumaila Anjum has been shown at serial no. 2 junior to the appellant. It was further contended that the appellant name was continuously shown at the top of the seniority list since year 2012 to 2017 but suddenly the respondent-department has illegally shown private respondent No. 6 senior to the appellant in the seniority list pertaining to the year 2018 therefore, the appellant filed departmental appeal on 15.03.2019 but the same was rejected on 30.04.2019. It was further contended that in the previous seniority list pertaining to the year 2012 to 2016, the appellant is senior to private respondent No. 6 but the respondent-department has illegally shown at private respondent No. 6<sup>m</sup> senior to the appellant therefore, the seniority list pertaining to the year 2018 is liable to be rectified.

The contentions raised by the learned counsel for the appellant need consideration. The appeal is admitted for regular hearing. 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 02.09.2019 before S.B.

  
(Muhammad Amin Khan Kundi)  
Member

02.09.2019

Nemo for appellant.

It is already past 2.00 PM and the appellant is not represented despite repeated calls.

Dismissed for non-prosecution. File be consigned to the record room.



  
Chairman

Announced:  
02.09.2019.

Form- A  
FORM OF ORDER SHEET

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

Case No.- 710/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	30/05/2019	<p>The appeal of Mr. Feroz Shah presented today by Mr. Yousaf Ali Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR 30/05/19</p>
2-	31/05/19	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>03/07/19</u></p> <p> CHAIRMAN</p>



BEFORE THE KHYBER PAKHTUNKHWA SERVICES, TRIBUNAL,  
PESHAWAR

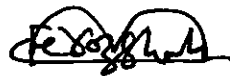
S.A.No. 710 /2019

**Feroz Shah**..... Appellant  
Versus

Irrigation Department  
through Superintending Engineer and others..... Respondents

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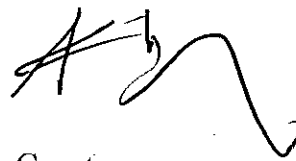
S.No.	Description of documents.	Annexure	Pages.
1	Memo of appeal		1-4
2	Addresses of the parties.		5
2	Copy of appointment order dated 01.11.2003.	A	6-7
3	Copy of termination order dated 07.06.2008.	B	8
4	Copy of order dated 14.06.2012 of Peshawar High Court, Peshawar.	C	9-12
5	Copy of office order dated 12.11.2012	D	13-14
6	Copy of tentative seniority list dt.29.05.2013	E	15
7	Copy of tentative seniority list dt.07.05.2017	F	16
8	Copy of departmental appeal for rectification of seniority list.	G	17-19
9	Copy of tentative seniority list dt.04.10.2016	G/1	20
10	Copy of tentative seniority list dt.21.02.2019	G/2	21
11	Copy of departmental appeal dt.15.03.2019	H	22-24
12	Copy of rejection order dt.30.04.2019	I	25
13	Wakalatnama.		26



Appellant

Through.

Yousaf Ali  
Advocate High Court



Dated: 28.05.2019

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICES, TRIBUNAL.

PESHAWAR

Appeal No. 710/2019

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 827

Dated 30/5/2019

Feroz Shah s/o Hijab Shah

Junior Scale Stenographer-II

Small Dams Organization, Peshawar.

R/o Mian Khan, Tehsil Katlang, District Mardan..... Appellant

Versus

- ✓1) Irrigation Department through Superintending Engineer, Headquarter, Phase-VII, Hayatabad, Peshawar.
- ✓2) Irrigation Department through Chief Engineer, South.
- 3) Chief Engineer South Irrigation Department, Peshawar.
- ✓4) D.G. Small Dams Irrigation Department, Peshawar.
- ✓5) Secretary Irrigation and Power Department Khyber Pakhtunkhwa, Peshawar.
- 6) Mrs. Shumaila Anjum, Junior Stenographer, Small Dams Irrigation Department, Phase-VII, Hayatabad..... Respondents

Appeal U/S 4 of the Khyber Pakhtunkhwa Services Tribunal Act, 1974 against the order No.2470/ A-5/207-E dated 30.04.2019 decided on 14.05.2019 and impugned order/ seniority list dated 07.05.2018 and 21.02.2019 whereby the appellant has been placed junior to respondent No.6.

Filed to-day

Registrar

30/5/19

Respectfully Sheweth;

The appellant most humbly submits as:

- 1) That the appellant was appointed in the respondent-department on contract basis for a period of 3 years in BPS-12 as steno-typist/ KPO vide dated 01.11.2003. (Annex: "A").
- 2) That the period of contractual employment was extended and lastly terminated on 07.06.2008. (Annex: "B").

- 3) That for the regularization of his service the appellant knocked the door of Peshawar High Court, Peshawar in the shape of W.P.No.1411/2011 and his service was regularized by the Peshawar High Court, Peshawar vide order dated 14.06.2012. (Annex: "C").
- 4) That respondent-department was pleased and thus comply the order of Peshawar High Court, Peshawar and in this respect office order dated 12.11.2012 was issued and consequently the appellant took over charge of regular employee in the department. (Annex: "D").
- 5) That meanwhile seniority list was issued by respondent-department and vide order dated 29.05.2013 and as per order of the Hon'ble Court, Peshawar High Court, Peshawar dated 14.06.2012, seniority was also awarded to the appellant, it is pertinent to mention here that this seniority remained intact upto 24.01.2016. (Copy Annex: "E").
- 6) That in the year 2018 fresh seniority list was released by the department wherein junior official (Mrs.Shumaila Anjum) has been placed as senior than the appellant. (Copy of the seniority list dated 17.05.2018 is attached as Annexure "F").

It is to clarify that the actual date is 17.05.2018 but inadvertently mentioned as 17.05.2017.

- 7) That the illegality/ irregularity or we may say the inadvertence overlooking regarding the seniority of the appellant was brought into the kind notice of respondent No.2 in the shape of appeal but in vain. (Annexure "G").
- 8) That similarly in other seniority list/ fresh seniority list pertaining to year 2019 i.e. 21.02.2019 respondent No.1 issued seniority list wherein again the appellant has been placed junior to respondent No.5 being junior to the appellant. *seniority Lists of 2016 & 2019 are annex G1 & G2.*
- 9) That now the seniority list impugned herein carries the word tentative but the department has issued no final seniority list yet and the same is final seniority as well.

- 10) That the appellant filed departmental representation/ appeal to respondent No.5 against the seniority list dated 07.05.2018 and 21.02.2019, the same has been reproduced on 30.04.2019 received to the appellant on 14.05.2019. (Copies of departmental appeal and order are attached as Annexure "H and I").
- 11) That the appellant being aggrieved of the same approaches this Hon'ble Tribunal, inter alia, on the following.

**GROUNDS:**

- a. That the impugned seniority list is illegal, against the law and facts available on the record.
- b. That order of Hon'ble Peshawar High Court regarding regularization and seniority of the appellant has been obeyed and complied with by the department upto 2016 but later on the deviation by the department for no reasons and without any fault on the part of the appellant, is unjust, unreasonable and illegal.
- c. That earlier the appellant has also objected the seniority list pertaining to year 2018 but the grievance of the appellant remained un-redressed.
- d. That the appellant has served the department beyond the call of his lawful obligations and similarly till date there is no complaint against the appellant whatsoever.
- e. That the appellant is very dutiful in respect of dispensation of his duty, honest in financial obligation and his conduct towards his colleagues and senior is very much well.
- f. That yardstick towards the appellant is unequal and discriminatory and with utmost respect against the constitutional mandate particularly Article 4, 15 and 27 of the Constitution of Pakistan, 1973.
- g. That regarding seniority of the appellant valuable rights have been accrued since 01.11.2003, 14.06.2012, 12.11.2012, 29.05.2013 and

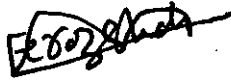
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24.01.2016, and these rights being inherited and alienable from which the appellant cannot be deprived through evasive mean and ifs and buts:

- h. That the respondents have violated the law, rules and policy on the subject.
- i. That similarly the respondents have not properly redressed the grievance of the appellant and simply reject the departmental appeal on mere conjecture and surmises and against the law on the subject.
- j. That the appellant will add further grounds if needed/ required.

It is therefore, very humbly prayed that on acceptance of this appeal the original seniority of the appellant may kindly be maintained by placing the appellant senior to respondent No.6.

Any other remedy to which the appellant is found fit in law, may also be allowed.



Appellant.

Through



Yousaf Ali  
Advocate High Court

5

BEFORE THE KHYBER PAKHTUNKHWA SERVICES, TRIBUNAL,

PESHAWAR

S.A.No. \_\_\_\_\_/2019

Feroz Shah..... Appellant

Versus

Irrigation Department  
through Superintending Engineer and others..... Respondents

ADDRESSES OF ADDRESSES OF THE PARTIES

APPELLANT:

**Feroz Shah s/o Hijab Shah**  
Junior Scale Stenographer-II  
Small Dams Organization, Peshawar.  
R/o Mian Khan, Tehsil Katlang, District Mardan

RESPONDENTS:

- 1) Irrigation Department through Superintending Engineer, Headquarter, Phase-VII, Hayatabad, Peshawar.
- 2) Irrigation Department through Chief Engineer, South.
- 3) Chief Engineer South Irrigation Department, Peshawar.
- 4) D.G. Small Dams Irrigation Department, Peshawar.
- 5) Secretary Irrigation and Power Department Khyber Pakhtunkhwa, Peshawar.
- 6) Mrs.Shumaila Anjum, Junior Stenographer, Small Dams Irrigation Department, Phase-VII, Hayatabad





Appellant

Through




Yousaf Ali  
Advocate High Court

Dated: 28.05.2019


**PAKISTAN National Identity Card**


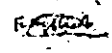
ISLAMIC REPUBLIC OF PAKISTAN  
 Name: **Feroz Shah**



 Father's Name: **Hijab Shah**


Gender: **M** Country of Birth: **Pakistan**

Identity Number: **16101-4413001-3** Date of Birth: **15.09.1979**

Date of Issue: **08.06.2017** Date of Expiry: **08.06.2027**

  
 Holder's Signature


 16101-4413001-3



16111276913  
 129-79-080377

Registry General of Pakistan

گمشدہ کارڈ ملنے پر قریبی لیڈ بکس میں ڈال دیں

SECRETARY GENERAL  
ELECTRICITY & POWER DEPTT.  
NO.134/STREET NO.08  
OFFICERS COLONY  
KHYBER ROAD PESHAWAR

ANEX-"A"

No. 1904-07/SDO/DC/7-E

Dated Peshawar, the 1/10/2003

6

To,

Feroz Shah No. Hight Shah  
Melage 5, P.O. Miran Khan  
Tehsil District, Mardan

Subject: APPOINTMENT as Steno Typist/KPO

Reference: Your application dated: \_\_\_\_\_

Consequent upon the recommendations/ approval of the committee constituted by the Secretary to Govt. of NWFP, vide his No. SO(E) IRR: /1-4/2002 dated 29/08/2003. You are hereby appointed on contract basis @ of Rs. 2745/- Per month fixed in BPS 12 plus usual allowances as admissible to Civil Servants of the same status and Grade for three year w.e.f the date of taking over charge of the post of Steno Typist/KPO in this organization subject to the following terms and conditions.

TERMS AND CONDITIONS.

1. You will be governed by such rules and regulation as may be prescribed by the Government from time to time for the category of the Govt. Servants to which you belong.
2. Your Services will be liable to termination without any notice. In case of resignation, you are required to produce one-month prior notice; otherwise your one-month salary will be forfeited in Govt. Treasury.
3. You should join the post within 15 days of the issue of this letter of appointment; otherwise the offer of appointment will stand cancelled automatically.
4. Your appointment is purely temporary and on contract basis for three years and liable to termination at any time without assigning any notice.
5. Your services will be liable to termination at any stage if your educational certificates and testimonial are found fake.
6. Your original certificates/degree will be checked from the concerned University/ Board/, NWFP, Peshawar etc: before handing over charge to you. Your salary may not be drawn till the complete verification of certificate/degree and if found fake, you may be handed over to the concerned Police authority.
7. You shall have to declared your assets and submit the same for record in this office.
8. You are required to produce Health and Age Certificate from the Medical Superintendent Services Hospital Peshawar before taking over charge.

AT



- 9. You are required to produce an undertaking on stamp paper of Rs. 10/- as per annexure-A attached before taking over charge.
- 10. The Contract Period will be renewed only if your performance during the period remained satisfactory.

*[Handwritten signature]*  
 Director General  
 Small Dams Organization

*[Handwritten initials]*  
 31/1

Copy to the:

- 1. A.G.NWFP Peshawar.
- 2. Assistant Accounts Officer (Local).
- 3. Personal File.

*[Handwritten signature]*  
 Director General  
 Small Dams Organization

*[Handwritten initials]*  
 31/1

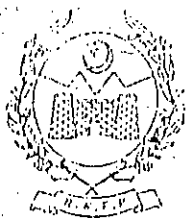
*[Handwritten signature]*

8

A

ANEX-11B

14



SMALL DAMS ORGANIZATION,  
IRRIGATION AND POWER DEPARTMENT,  
GOVT. OF NWFP, PESHAWAR,  
40-51 S.A.Q Road University Town Peshawar

ANNEX- [

No. 1581-SDO/IGI

Dated: Peshawar, the 7 / 06 / 2008

To,

Mr. Feroz Shah  
Steno Typist (Local)

Subject: NOTICE.

Your contract period for employment as Steno Typist K.P.O in this organization will expire on 30.06.2008. The same will not be extended and you will stand relieved of your duties w.e.f 30.06.2008 (A.N). Receipt of this letter be acknowledged.

Director General  
Small Dams Organization

Copy to the:-

- 1. Accountant General, NWFP, Peshawar
- 2. Director Small Dams Organization, Peshawar
- 3. Assistant Accounts Officer (Local) for information and necessary action.

*[Signature]*  
07/06/08  
Director General  
Small Dams Organization

*[Handwritten signature]*  
A

IN THE PESHAWAR HIGH COURT PESHAWAR.

9

ANEX - 11

W. P No. 140 /2011.

Feroz Shah Ex- KPO / Steno Typist BPS-12 R/O  
Mohallah Dindar Khel / Mian Khan P. O Mian Khan  
District Mardan.

(Petitioner)

V E R S U S

1. Province of Khyber Pakhtunkhwa through Secretary, Irrigation & Power Department Khyber Pakhtunkhwa Peshawar.
2. The Director General, Small Dams Organization, Irrigation and Power Department Khyber Pakhtunkhwa Peshawar.
3. Director, Small Dams Organization Peshawar.

(Respondents)

Writ Petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973

Prayer in Writ Petition:

On acceptance of this Writ Petition an appropriate Writ may please issued declaring that the Petitioner was fit and eligible for the post of KPO / Steno Typist BPS-12, he was appointed in accordance with law on contract basis vide order dated 1.11.2003 in terms of the contract policy of the provincial govt and continued as such till 7.6.2008 was therefore entitled to have been regularized against the Post of KPO/ Steno Typist (BPS-12) the notice dated 7.6.2008 whereby the contract service of the Petitioner was not extended is illegal, unlawful, without lawful authority, of no legal effect and liable to be set at naught, the reluctance on the part of the respondents in regularizing & reinstating the Petitioner is violative of law and illegal, he shall be deemed to be regular Civil Servant by operation of law in terms of NWFP Civil Servants (Amendment) Act, 2005, the petitioner may please be restored to his post with all back wages and benefits of service or any other remedy deemed proper may also be allowed.

FILED TODAY

Deputy Registrar

20 APR 2011

*[Handwritten signature]*

PESHAWAR HIGH COURT, PESHAWAR

FORM OF ORDER SHEET

10

Court of.....

Case No.....of.....

Date of Order of Proceedings	Order of other Proceedings with Signature of Judge.
1	2
<p>14.06.2012</p>	<p><u>W.P.No.1411/2011</u></p> <p>Present: Mr. Ijaz Anwar, Advocate for the petitioner. Mr. Zahid Yousaf, AAG for official respondents.</p> <p><u>DOST MUHAMMAD KHAN, C.J.:-</u> Petitioner Feroz Shah was appointed as KPO/Steno-typist BPS-12 vide appointment order dated 01.11.2003 but as a contract employee in view of the policy then invoked, however, he served on the post till 6.7.2008 when in the meanwhile the Provincial Assembly unanimously passed <u>Act No.IX. of 2005</u>, amending Section-19 of the Civil Servants Act and it was declared that all contract employees stand regularized, who were appointed from first July, 2001 till the <u>commencement of the Act</u>, hence the petitioner clearly falls within the beneficiary of the amendment introduced by the Provincial Assembly and to that extent, the learned AAG is unable to controvert the legal position. However, he is of the view that if it is presumed that the services of the petitioner was regularized from the date of commencement of the Act, then he falls within the definition of civil servant, therefore, he has to approach the Provincial Services Tribunal for redressal of the</p>

1  
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ie date

23/06  
A

*[Handwritten signature and stamp]*

grievance, he has expressed herein.

2. When he was confronted by the court with the fact that where the department has issued any notification in pursuance of the Act of the Assembly, regularizing the services of the petitioner, his answer was in the negative, hence for all intents and purposes he was contract employee and does not fall within the definition of Civil Servant, as defined in the Act and when similar placed persons, hundred in numbers, have been granted the same relief by the courts and also by the Provincial Government, then there is no reasonable justification with the respondents to refuse the same relief to the petitioner and that too when it is bereft of legitimate justification.

3. Accordingly, this petition is admitted and allowed and the respondents are directed to regularize the services of the petitioner and to issue a notification in this regard from the date, relevant to him, as was done in other cases.

~~\_\_\_\_\_~~  
CHIEF JUSTICE

~~\_\_\_\_\_~~  
JUDGE

Office  
15/11  
16/6

*[Handwritten signature]*  
A. H. ...

R. ...  
SECRET  
Accepted for deposit  
17/6

GOVERNMENT OF KHYBER PAKHTUNKHWA  
LAW, PARLIAMENTARY AFFAIRS &  
HUMAN RIGHTS DEPARTMENT.

ATTENDANCE SHEET

SUBJECT: - MEETING OF SCRUTINY COMMITTEE FOR FILING OF  
APPEAL/REVISION/CPLA OR OTHERWISE.

HELD ON 27.07.2012 AT 02.00 PM

S No.	Name	Designation	Department	Signature
1.	Pervaiz Khan	A.D.L.	DGMM	
2.	Yaqub Naus	DDM	DGMM	
3.	Dr. Qasim Jan	consultant	Law	
4.	Nasir Ahmad	A.D (LTI)	ESSEDR	
5.	Shabir Ahmad	Representative for EDO Mada.	Education	
6.	M. Saeed ur Rehman	ADO (ES)	Education	
7.	Muhammad Raza	SO (EM)	ESSE	
8.	Tufail Mohammad	By. Secy	ESSE Deptt.	
9.	Mubachir Hussain Shah	Secretary Board of Rev.	Revenue Deptt.	
10.	Ayub Ghool	DS	Agri.	



13  
ANEX "D"

**OFFICE OF THE CHIEF ENGINEER (SOUTH)**  
IRRIGATION DEPARTMENT KHYBER PAKHTUNKHWA PESHAWAR  
Phone No. 091-9212116 Fax No. 091-9212652

No. 2369-73 /IB/A/255-E

12  
Dated Peshawar, the /11/2012

**OFFICE ORDER**

In pursuance of the order dated 14/06/2012 of the Peshawar High Court Peshawar in Write Petition No.1441/2011 and advice contained in the Secretary to Govt: of Khyber Pakhtunkhwa Irrigation Department letter No.SO(E)/Irr:/14-2/2011(Feroz Shah) dated 8/10/2012 & No.SO(E)/Irr:/14-2/2011(Feroz Shah) dated 30/10/2012, Mr. Feroz Shah, KPO/Steno (BS-12) is hereby re-instated with effect from 01-07-2008 and posted in the office of Director General Small Dams Irrigation Department, Peshawar against the vacant post.

On his reinstatement and as per provision contained in Section-3 of the Khyber Pakhtunkhwa Employees (Regularization of Service) Act 2009, the Competent Authority is pleased to regularized the Services of Feroz Shah, KPO/Steno Typist (BPS-12) with effect from 24-09-2009 on the following terms and conditions: -

- 1) He will get pay at the minimum of BPS-12 including usual allowances as admissible under the rule. He will also be entitled to annual increment as per existing policy.
  - 2) He will be governed by the Khyber Pakhtunkhwa Civil Servants Act, 1973 and all the laws applicable be to Civil Servants and Rules made there-under.
  - 3) He will, for all intents and purposes, be Civil Servants except for purpose of pension & gratuity. In lieu of pension and gratuity, he will be entitled to receive such amount as would be contributed by his towards Contributory Provident Fund (C.P.F) along-with the contributions made by Government to his account in the said fund, in the prescribed manner.
  - 4) His employment in the Small Dams Organization 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 thereof. In case he wish to resign at any time, 14 days notice will be necessary or in lieu thereof 14 days pay will be forfeited.
  - 5) He will, initially, be on probation for a period of two years extendable upto 3 years.
- M

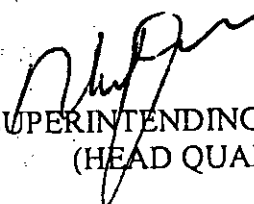
14

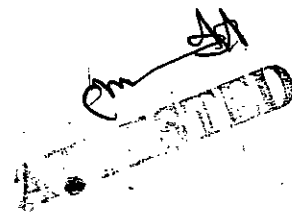
His seniority will be determined in accordance with relevant rules but subject to Section-4 of the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2009.

SUPERINTENDING ENGINEER  
(HEAD QUARTER)

Copy forwarded to the: -

1. Secretary to Govt: of Khyber Pakhtunkhwa Irrigation Department Peshawar w/r to his letters quoted above for information.
2. Secretary to Govt: of Khyber Pakhtunkhwa Public Service Commission, Peshawar
3. Accountant General, Khyber Pakhtunkhwa Peshawar.
4. Director General, Small Dams, Irrigation Department Peshawar.
5. Mr. Feroz Shah, KPO/Steno Typist, O/O the Director General Small Dams Irrigation Department Peshawar.

  
SUPERINTENDING ENGINEER  
(HEAD QUARTER)





15

ANEX- "E"

TENTATIVE SENIORITY LIST OF JUNIOR SCALE STENOGRAPHER-II ON THE CADRE STRENGTH OF REGIONAL OFFICE AS STOOD ON 31-12-2012

In pursuance of Section-8 of the KPK, Civil Servants, Act, 1973, read with Secretary to Government of KPK Services and General Administration Deptt: circular letter No. SOR-I(S&GAD)3-15/88, dated 17-7-1989, the Tentative Seniority list of Junior Scale Stenographer-II belonging to the cadre strength of Regional Office as stood on 31-12-2012 is published as under:-

SL No	Name of Official with Academic Qualification	Date of Birth	Domicile	Date of Ist Entry into Govt: Service	Regular Appointment/Promotion to the present post		Method of Recruitment/ Appointment.	Present Appointment with date	Remarks
					Date	B.P.S			
1	2	3	4	5	6	7	8	9	10

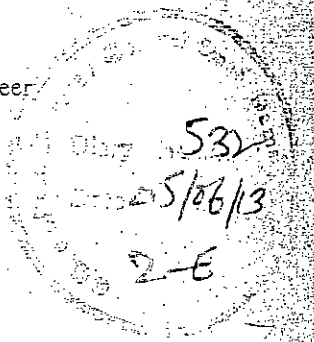
Junior Scale Stenographer-II

1	Faroze Shah	15-9-1979	Mardan	6/11/2003 on Contract Basis	24-10-2009	BS-14	By initial recruitment	24-10-2009 J/Scale Stenographer-II	
2	Shumaila Anjum	30-12-1979	Peshawar	1/11/2003 on Contract Basis	24-10-2009	BS-14	By initial recruitment	24-10-2009 J/Scale Stenographer-II	
3	Mr. Zafar Ali	01/4/1985	Peshawar	13-11-2012	13-11-2012	BS-14	By initial recruitment	13-11-2012 J/Scale Stenographer-II	

*Appas*  
*Note it from S.No. 1 to 27 this office.*

Dated Peshawar the 29 / 11 / 2013

Superintending Engineer  
Head Quarter



No. 8356-57 /IB/A/207-E

Copy forwarded to the:-

- Chief Engineer (North) Khyber Pakhtunkhwa Irr: Peshawar.
- Director General Small Dams Irrigation Department Khyber Pakhtunkhwa Pesahwar

They are requested to note the tentative seniority list of all J/Scale Stenographer-II working their offices for preparing appeal/representation if any within 30 days from the date of issue of this Seniority List.

*[Signature]*  
28/5/13  
Superintending Engineer  
Head Quarter

16

72

ANEX - "F"

TENTATIVE SENIORITY LIST OF JUNIOR SCALE STENOGRAPHERS BS-14- BORN ON THE CADRE STRENGTH OF REGIONAL OFFICE AS STOOD ON 31-12-2017

In pursuance of Section-8 of the KPK, Civil Servants, Act. 1973, the Tentative Seniority list of Junior Scale Stenographers BS-14 belonging to the cadre strength of Regional Office as stood on 31-12-2017 is hereby notified/circulated as under:

18

SL No	Name of Official with Academic Qualification	Date of Birth	Domicile	Date of 1st Entry into Govt: Service	Regular Appointment/ Promotion to the Present Post		Appointment/ Promotion to the present post	Remarks
					Date	B.P.S		
1	2	3	4	5	6	7	8	9
1	Mrs. Shumaila Anjum	30-12-1979	Peshawar	01-11-2003 on Contract Basis	24-09-2009	14	By regularization	Attached to D.G Small Dams Directorate
2	Mr. Feroz Shah	15-09-1979	Mardan	06-11-2003 on Contract Basis	24-09-2009	14	By regularization	Attached to D.G Small Dams Directorate
3	Mr. Roohullah Khan (M.Sc)	03-06-1988	F.R. Bannu	02-12-2016	02-12-2016	14	By initial recruitment	Attached to Bannu Irrigation Circle Bannu.
4	Mr. Karamat Ullah (B.A)	06-07-1994	Lakki Marwat	05-12-2016	05-12-2016	14	By initial recruitment	Attached Peshawar Irrigation Circle Peshawar.

*sed*  
Superintending Engineer  
(Head Quarter)

No. 2263 IA-5/207-E Dated Peshawar the 07 10/5/2017

- Copy forwarded to the:-
- ✓ 1. D.G Small Dams Irrigation Department Peshawar.
  - 2. Superintending Engineer Bannu Irrigation Circle Bannu
  - 3. Superintending Engineer Peshawar Irrigation Circle Peshawar

*[Signature]*  
Superintending Engineer  
(Head Quarter)

They are requested to kindly note the Seniority list from the officials concerned for preferring appeal if any within 30 days of the publication

*Note it from concerned*

*[Handwritten signatures and initials]*

3029  
14-05-18

# بخدمت جناب چیف انجینئر محکمہ آبپاشی حکومت KPK پشاور

(17)

محکمہ جاتی اپیل برائے درستی سناری لیسٹ و منسوخی آرڈر نمبر 2263 بمورخہ

07/05/2018

جناب عالی! سائل حسب ذیل عرض رساں ہے۔

(1) یہ کہ بحوالہ فیصلہ پشاور ہائی کورٹ پشاور بہ سلسلہ رٹ پٹیشن 1411/2011 فیصلہ محررہ

14/06/2012 جس کی رو سے سائل کے سروس کوریگولرائز کیا گیا۔

(2) یہ کہ بعد ازاں محکمہ نے مذکورہ فیصلے کی رو سے جناب چیف انجینئر (جنوبی) حکومت KPK

نے از روئے حکم نامہ نمبر 731-7369-1B10/2369-A255-E مورخہ

11/11/2012 جاری کر کے سائل کو صوبائی اسمبلی کے پاس کردہ قانون ACT No IX of

2005 کے تحت ریگولر کیا گیا۔

(3) یہ کہ جناب سپرنٹنڈنگ انجینئر (South) کے دفتر سے بحوالہ خط نمبری 8356057/1

Seniority List Tantation، مورخہ 29/05/2013 جاری

کیا گیا جس میں من سائل کو سیریل نمبر 1 اور مسماۃ شائیلہ انجم کو سیریل نمبر 2 پر رکھا گیا۔

(4) یہ کہ مذکورہ سناری لیسٹ میں ملازمین کو اپیل کے لیے 30 دن کا وقت دیا گیا مگر کسی نے

اپیل نہ کی۔ *Shulees* سکین - 3 حوالہ سے مستحکمہ انجم *date birth*

(5) یہ کہ اسی طرح پھر دوبارہ Seniority List Tantation بحوالہ خط نمبر 5123/

1B/A/2007-E مورخہ 14/01/2016 پر کیا گیا، اسمیں بھی میرا نام سیریل نمبر 1 اور شائیلہ انجم کا

نام سیریل نمبر 2 پر رکھا گیا۔ تاہم اس پر بھی شائیلہ انجم صاحبہ نے کوئی اپیل نہ کی۔



19

To

The Chief Engineer (South)  
Irrigation Department Peshawar.

Subject:- APPLICATION FOR JUSTICE / Promotion  
Sir

Respectfully it is stated that it has come to my knowledge that Miss Shumaila Anjum has submitted for application for granting seniority over me without any justification.

In this connection kindly perused her regularization order issued vide Secretary Irrigation Notification No. SO(E)IRR:/4-4/2000, dated 31-12-2009 much later from the undersigned as I have been regularized in light of court order in 2005. // 14.6.2018

It is requested that my present position in the seniority list may kindly be keep intact please.

Yours Obediently

Feroz Shah Stenographer  
Small Dams Directorate  
Irrigation Department Peshawar.

date : 27<sup>04</sup>/<sub>2018</sub>.

2804

27-4-2018

Office of the Chief Engineer (South)	Date
Section	Section
CVIC	S.B
SND	S.A ✓
SG	SR

20

ANEX- G-1

**TENTATIVE SENIORITY LIST OF JUNIOR SCALE STENOGRAPHER BS-14 OF IRRIGATION DEPARTMENT KHYBER PAKHTUNKHWA AS STOOD ON 31-12-2015**

In pursuance of Section-3 of the KPK, Civil Servants, Act, 1973, the Tentative Seniority list of Junior Scale Stenographer bs-14 of Irrigation Department Khyber Pakhtunkhwa as stood on 31-12-2015 is published as under:-

Name of Official with Academic Qualification	Date of Birth	Domicile	Date of Ist Entry into Govt. Service	Regular Appointment/Promotion to the present post		Method of Recruitment/ Appointment.	Present Appointment with date	Remarks
				Date	B.P.S			
2	3	4	5	6	7	8	9	10
<u>Junior Scale Stenographer</u> Faroz Shah	15-9-1979	Mardan.	6/11/2003 on Contract Basis	24-10-2009	BS-14	By initial recruitment	24-10-2009 J/Scale Stenographer	Locally
Shumaila Arjum	30-12-1979	Peshawar	1/11/2003 on Contract Basis	24-10-2009	BS-14	By initial recruitment	24-10-2009 J/Scale Stenographer	Locally

ADMINISTRATIVE OFFICER  
PH: NO. 9212118

5123 /B/A/207-E

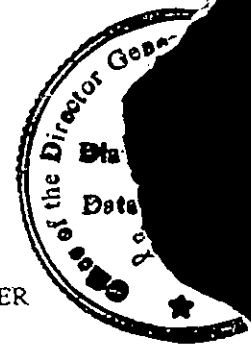
Dated Peshawar the

24/10/2016

Copy forwarded to the:-  
Chief Engineer (North) Khyber Pakhtunkhwa Irr. Peshawar.  
Director General Small Dams Irrigation Department Khyber Pakhtunkhwa Peshawar.  
They are requested to note the tentative seniority list of all J/Scale Stenographer working their offices for preparing appeal/representation if any within 30 days from the date of issue of this Seniority List.

*Handwritten notes:*  
As it accepted to both  
Puz Note it from concerned then file.

ADMINISTRATIVE OFFICER  
PH: NO. 9212118



TO BE SUBSTITUTED BEARING SAME No. & DATE

26

ANEX- G-2

TENTATIVE SENIORITY LIST OF JUNIOR SCALE STENOGRAPHERS BS-14 BORN ON THE CADRE STRENGTH OF REGIONAL OFFICE AS STOOD ON 31-12-2018

In pursuance of Section-8 of the Khyber Pakhtunkhwa, Civil Servants, Act, 1973, the Tentative Seniority list of Junior Scale Stenographers BS-14 belong to the cadre strength of Regional office as stood on 31-12-2018 is hereby notified/circulated as under:-

Sl. No.	Name of Official with Academic Qualification	Date of Birth with Domicile	Date of Ist. Entry into Govt. Service	First Regular Appointment to the Service/Cadre			Present Place of Posting/Cadre of Posting	Remarks
				Date	SPS	Method of Recruitment		
1	Ms. Shumaila Anjum	30-12-1979 Peshawar	01-11-2003 on Contract Basis	24-10-2009	14	By initial recruitment	DG Small Dams Irrigation Department Peshawar	Seniority fixed in light of advise of Govt. of Khyber Pakhtunkhwa Establishment Deptt: letter No. SOR-V(E&AD)/71/G.Irr:2017/Voi-II, dated: 05-10-2018, received through Secretary Irrigation letter No. SO(E)/Irr/2-1/2006/V1, dated: 11-10-2018.
2	Mr. Feroz Shah	15-09-1979 Mardan	06-11-2003 on Contract Basis	24-10-2009	14	-do-	DG Small Dams Irrigation Department Peshawar	
3	Mr. Rooh Ullah (M.Sc)	03-06-1983 FR Bannu	02-12-2016	02-12-2016	14	-do-	Superintending Engineer Bannu Irr. Circle Bannu	

*[Signature]*  
SUPERINTENDING ENGINEER  
(HEAD QUARTER)

No. 1164 /A-5/207-E  
Copy forwarded to the:-

Dated Peshawar the 21/12/2019

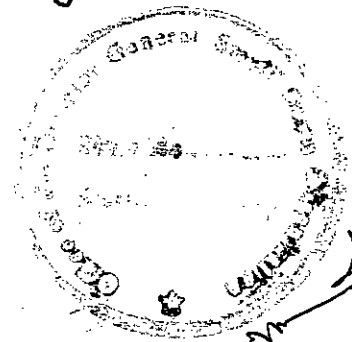
- 1 Director General Small Dams Irrigation Department Peshawar
- 2 Superintending Engineer Bannu Irrigation Circle Bannu

They are requested to note the tentative seniority list from all Junior Scale Stenographers working in their offices for preferring appeal/representation if any within 30 days from the date of issue of this Seniority List.

*I not accepted this Seniority list.*

*[Signature]*  
Dt: 07/03/2019

SUPERINTENDING ENGINEER  
(HEAD QUARTER)



Today Received  
Dt: 07/03/2019 Time: 12:00 PM

*[Signature]*  
Dt: 07/03/2019


To,  
The Secretary  
Irrigation and Power Department  
Khyber Pakhtunkhwa, Peshawar.

Subject: Departmental Appeal/ Representation for  
awarding/ seniority to the appellat preferably  
with effect from 07.05.2018 or 21.02.2019.

Respected Sir,

The appellat most humbly submits as:

- 1) That the appellat was appointed in your good-self department on contact basis for a period of 3 years in BPS-12 s steno-typist/ KPO vide dated 01.11.2003. (Copy enclosed).
- 2) That the period of contractual employment was extended and lastly terminated on 07.06.2008. (Copy enclosed).
- 3) That for the regularization of his service the appellat knocked the door of Peshawar High Court, Peshawar in the shape of W.P.No.1411/2011 and his service was regularized by the Peshawar High Court, Peshawar vide order dated 14.06.2012. (Copy enclosed).
- 4) That your goodself department was pleased and thus comply the order of Peshawar High Court, Peshawar and in this respect office order dated 12.11.2012 was issued and consequently the appellat took over charge regular employee in your good self department. (Copy enclosed).
- 5) That meanwhile seniority list was issued by your goodself department vide order dated 29.05.2013 and as per order of the Hon'ble Court, Peshawar High Court, Peshawar dated 14.06.2012, seniority was also awarded to the appellat, it is pertinent to mention here that this seniority remained intact upto 24.01.2016. (Copies enclosed).
- 6) That in the year 2018 fresh seniority list was released by <sup>your</sup> good self department wherein junior official (Mrs:Shamula Anjum) has been





placed as senior than the appellant. (Copy of the seniority list dated 17.05.2018 is enclosed).

It is to clarify that the actual date is 17.05.2018 but inadvertently mentioned as 17.05.2017.

- 7) That the illegality/ irregularity or I may say the inadvertence overlooking regarding the seniority of the appellant was brought into the kind notice of Chief Engineer (South) Irrigation Department in the shape of appeal but in vain. (Copies enclosed).
- 8) That similarly in other seniority list/ fresh seniority list pertaining to year 2019 i.e. 21.02.2019 your good self department issued seniority list wherein again the appellant has been placed junior to Mrs. Shamila Anjum being junior to the appellant.
- 9) That the appellant being feeling highly aggrieved against both the seniority list dated 07.05.2018 and 21.02.2019, hence the instant appeal/ representation on the following amongst other grounds:

**GROUND:**

- a. That the impugned seniority list is illegal, against the law and facts available on the record.
- b. That order of Hon'ble Peshawar High Court regarding regularization and seniority of the appellant has been obeyed and complied by the department upto 2016 but later on the deviation by the department for no reasons and without any fault on the part of the appellant, is unjust, unreasonable and illegal.
- c. That earlier the appellant has also objected the seniority list pertaining to year 2018 but the grievance of the appellant remained un-redressed.
- d. That the appellant has served your good self department beyond the call of his lawful obligations and similarly till date there is no complaint against the appellant whatsoever.



24

- e. That the appellant is very dutiful in respect of dispensation of his duty, honest in financial obligation and his conduct towards his colleagues and senior is very much well.
- f. That yardstick towards the appellant is unequal and discriminatory and with utmost respect against the constitutional mandate particularly Article 4 and 27 of the Constitution of Pakistan, 1973.
- g. That regarding seniority of the appellant valuable rights have been recruited since 01.11.2003, 14.06.2012, 12.11.2012, 29.05.2013 and 24.01.2016, and these rights being inherited and alienable from which the appellant cannot be deprived through evasive means and ifs and buts.
- h. That the appellant will add further grounds if needed/ required.

It is therefore, very humbly prayed that on acceptance of this appeal/ representation the original seniority of the appellant may kindly be maintained.

Dated: 15.03.2019

Appellant



Feroz Shah s/o Hijab Shah  
R/o Mian Khan, Tehsil Katlang,  
District Mardan  
Junior Scale Stenographer-II  
Cell: \_\_\_\_\_

C.C. to

- 1) Superintending Engineer Headquarter.
- 2) Chief Engineer South Irrigation Deptt:
- 3) D.G. Small Dams Irrigation Department Peshawar.





OFFICE OF THE CHIEF ENGINEER (SOUTH)  
GOVT: OF KHYBER PAKHTUNKHWA  
IRRIGATION DEPARTMENT PESHAWAR

Ph: 091-9212116 Fax No. 091-9212652 E-Mail: chiefoffice@yahoo.com  
Twitter: @chiefsouthirrkp Facebook: fb.me/chiefengrsouth

ANEX - "I"

No. 2470 /A-5/207-E

Dated Peshawar the 26/04/2019

25

To:

✓ The Director General,  
Small Dams Irrigation Department,  
Peshawar.

Subject: - DEPARTMENTAL APPEAL/REPRESENTATION FOR AWARDING SENIORITY TO THE APPLICANT PREFERABLY WITH EFFECT FROM 07/05/2018 OR 21/02/2019

Reference: Your letter No. 0060/SD/DG/2-E, dated: 02-04-2019  
This Office letter No. 3393/A-5/207-E(VII), dated: 21-06-2018  
This Office letter No. 4711/A-5/207-E(VII), dated: 10-09-2018  
This Office letter No. 5088/IB/A-5/207-E, dated: 03-10-2018

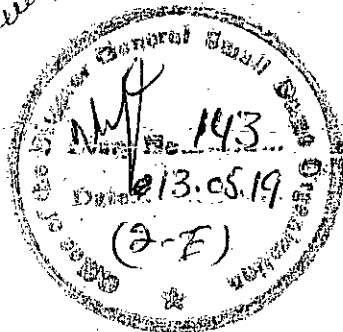
I am directed to state that the appeal of the appellant is rejected in light of the advice contained in Establishment Department letter No. SOR-V(E&AD)/7-1/G.Irri:/2017/Vol-II, dated: 05-10-2018, received through Secretary to Govt: of Khyber Pakhtunkhwa Irrigation Department Peshawar letter No. SO(E)/Irr:/2-1/2006/VI, dated: 11-10-2018 (copy attached) please.

Encls: As Above

SUPERINTENDING ENGINEER  
(HEAD QUARTER)

Copy to the Section Officer (Establishment) O/O the Secretary Irrigation w/r to above for information please.

See



SUPERINTENDING ENGINEER  
(HEAD QUARTER)

B. P. S.  
Peshawar  
Discussed 14/5/19

2-E

قیمت 50 روپے	6297			
ایڈوکیٹ: <u>محمد اسلم</u>		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل ایسوسی ایشن نمبر: <u>BC-15-5408</u>				
رابطہ نمبر: <u>03339052089</u>				

بعدالت جناب: مسٹر جسٹس سید ساجد علی شاہ

مخاطب: <u>محرمی منیر فریڈ شاہ</u>	دعویٰ:
<u>فسرور شاہ</u>	علت نمبر:
<u>بنام</u>	مورخہ:
<u>ایئر لائنس ڈیپارٹمنٹ وغیرہ</u>	جرم:
	تھانہ:

**باعت تحریر آگے**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ  
 آن مقام کیشاور کیلئے الواسع علی اجرا علی صہافی کو وکیل مقرر  
 کرانے کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کمال اختیار ہوگا، نیز وکیل صاحب کو  
 راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق  
 زبانی پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز  
 دائر کرنے اپیل نگرانی و نظر ثانی 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

29/5/1990  
 DESHAWAR BAR ASSOCIATION  
 KHYBER PAKHTUNKHWA

Attested  
 and  
 Accepted

نوٹ: اس وکالت نامہ کی فونو کاپی ناقابل قبول ہوگی۔

مقام کیشاور  
اسلم

18

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR**

Service Appeal No.710/2019

Feroz Shah

**Appellant**

Versus

1. Superintending Engineer (Headquarters)

2&3. Chief Engineer (South) Irrigation Department

**Respondents**

4. Director General Small Dams Irrigation Department.

5. Secretary, to Government of  
Khyber Pakhtunkhwa Irrigation Department Civil Sectt:

**PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO.1 TO 4 ARE AS  
UNDER**

**Respectfully sheweth**

**Preliminary Objections**

1. That the appellant has no cause of action.
2. That the appellant has not come to the court with clean hand.
3. That the appellant is bad for mis joinder and non joinder of necessary parties.
4. That the appellant has no locus standi.

**Facts**

1. Not correct the appellant was appointed as Steno typist/Key Punch Operator BS-12 vide letter No.1904-7/SDO/DG/7-E, dated 1-11-2003 (Annexure-I) issued by the respondent No.4 for a period of Six months.

2. It is correct to the extent that he was served with notice dated 7-6-2008 (Annexure-II)

3&4 He was re-instated with effect from 1-7-2008 vide No.2369-73/IB/A/255-E, dated 12-11-2012 as per orders of Peshawar High Court Peshawar dated 14-6-2012 (Annexure-III) in writ petition No.1411/2011 and also regularized with effect 24-9-2009 in pursuance of Section-3 of Khyber Pakhtunkhwa Employees (Regularization of Service Act 2009)

5. In Correct, the name of the appellant was shown senior in the tentative seniority list circulated vide No.8356-57/IB/A/207-E, dated 29-5-2013 against which Mr.Shumila Anjum Junior Scale Stenographer preferred appeal which was accepted and the seniority was modified vide this office No.2263/A-5/207-E, dated 07-5-2018.

6. In correct, Mrs.Shumaila Anjum has been placed senior in the seniority list issued vide No.2263/A-5/207-E, dated 7-5-2018 on the basis of securing higher

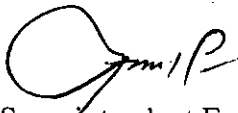
marks in written test/interview (i.e. 74.12 and 71.00) and the same was also confirmed by the Secretary to Government of Khyber Pakhtunkhwa Establishment Department as per his advice contained in letter No.SOR-V(E&AD)7-1/G.Irr:/2017/Vol:II, dated 5-10-2018 (Annexure-IV)

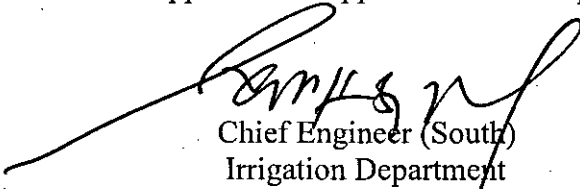
- 7 In- correct, the appeal of the appellant being not based on legal grounds was not considered.
8. As explained in para-6 the seniority list was issued as per policy in vogue.
9. In correct, final seniority list has already been circulated vide No.3152/A-5/207\_E,dated 18-6-2019 (Annexure-V).
10. As explained in para-7 above please.
11. The appeal of the appellant is not worth consideration on the following grounds:-

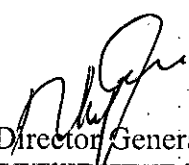
### GROUNDS

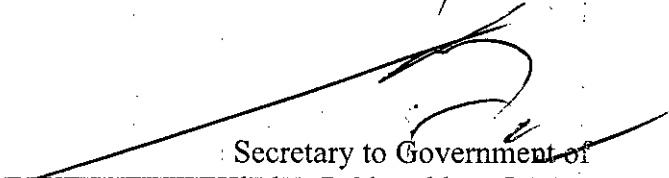
- a. In correct, seniority list of junior Scale Stenographer was issued in light of prevailing rules /instructions of the provincial Government.
- b. In correct, both the officials have been regularized on the same date (i.e. 24-9-2009).
- c. In-correct, the grievances of the appellant against seniority list having no legal footing was not entertained.
- d. No comments.
- e. No comments
- f. In correct, the Department has treated the case of the appellant in light of rules/regulation.
- g. In correct, the appellant have not been deprived from his legal right.
- h. In correct, action of the respondents is according to rules/policy.
- i. The Department has treated the case of the appellant in light of rules/regulation.
- j. That the respondents also seek permission to present additional grounds/documents during the course of arguments.

It is very humbly prayed to dismiss the appeal of the appellant with cost please.

  
Superintendent Engineer  
(Headquarters)  
(Respdent No.1)

  
Chief Engineer (South)  
Irrigation Department  
(Respondent No.2&3)

  
Director General  
Small Dams Directorate  
(Respdent No.4)

  
Secretary to Government of  
Khyber Pakhtunkhwa Irr. Deptt.  
(Respondent No.5)

18

(13)

TO BE SUBSTITUTED FOR THE SAME NUMBER AND DATE. AWLEY-TV 38

O/O DIRECTOR GENERAL  
SMALL DAMS ORGANIZATION  
IRRIGATION & POWER DEPTT:  
HOUSE NO.134/ STREET NO. 08  
DEFENCE OFFICERS COLONY  
KHYBER ROAD PESHAWAR.

No.1904-07 /SDO/DC/ 7-1:

Dated Peshawar, the 01/11/2003.

To:

Mr. Feroz Shah  
S/O Hijab Shah  
Village P.O Mian Khan  
Tehsil & District Mardan.

Subject: APPOINTMENT.

Reference: Your application dated. \_\_\_\_\_

Consequent upon the recommendations/ approval of the committee constituted by the Secretary to Govt. of NWFP, vide his No. SO(E) IRR: 14-4 /2002 dated 29/08/2003 and approval granted by NWFP, Public Service Commission, Peshawar. You are hereby appointed on contract basis @ of Rs. 2745 Per month fixed in BPS-12 plus usual allowances as admissible to Civil Servants of the same status and Grade for Six Months w.e.f. the date of taking over charge of the post of Steno Typist/ K.P.O in this organization or till the arrival of selectees of the Commission whichever is earlier in respect of the subject cited posts. Subject to the following terms and conditions.

TERMS AND CONDITIONS.

1. You will be governed by such rules and regulation as may be prescribed by the Government from time to time for the category of the Govt. Servants to which you belong.
  2. Your Services will be liable to termination without any notice. In case of resignation, you are required to produce one-month prior notice; otherwise your one-month salary will be forfeited in Govt. Treasury.
  3. You should join the post within 15 days of the issue of this letter of appointment; otherwise the offer of appointment will stand cancelled automatically.
  4. Your appointment is purely temporary and on contract basis for three years and liable to termination at any time without assigning any notice.
  5. Your services will be liable to termination at any stage if your educational certificates and testimonial are found fake.
  6. Your original certificates/degree will be checked from the concerned University/ Board/ NWFP, Peshawar etc: before handing over charge to you. Your salary may not be drawn till the complete verification of certificate/degree and if found fake, you may be handed over to the concerned Police authority.
  7. You shall have to declared your assets and submit the same for record in this office.
- 48-

- 8. You are required to produce Health and Age Certificate from the Medical Superintendent Services Hospital Peshawar before taking over charge.
- 9. You are required to produce an under taking on stamp paper of Rs. 10/- as per annexure-A attached before taking over charge.
- 10. The Contract Period will be renewed only if your performance during the period remained satisfactory.

*[Signature]*  
 Director General  
 Small Dams Organization.

- Copy to the:
- 1. A.G NWFP Peshawar.
  - 2. Assistant Accounts Officer (Local).
  - 3. Personal File.

*[Signature]*  
 Director General  
 Small Dams Organization.

*[Handwritten initials]*

Date 31/10/11  
 7-E





SMALL DAMS ORGANIZATION  
IRRIGATION AND POWER DEPARTMENT

GOVT. OF NWFP, PESHAWAR  
46-C/1 S.A.Q Road University Town Peshawar

No. LSI-SysDODG/72

Date: Peshawar, the 7 /06/2008

ANNEX-VIII

To,

Mr. Feroz Shah  
Steno Typist (Local).


Subject: NOTICE.

Your contract period for employment as Steno Typist K.P.O in this organization will expire on 30.06.2008. The same will not be extended and you will stand relieved of your duties w.e.f 30.06.2008 (A.N). Receipt of the letter be acknowledged.

Director General  
Small Dams Organization

Copy to the:-

1. Accountant General NWFP, Peshawar
2. Director Small Dams Organization Peshawar.
- ✓ 3. Assistant Accounts Officer (Local) for information and necessary action

  
07/06/08  
Director General  
Small Dams Organization



OFFICE OF THE CHIEF ENGINEER (SOUTH)  
IRRIGATION DEPARTMENT KHYBER PAKHTUNKHWA PESHAWAR  
Phone No. 091-9212116 Fax No. 091-9212652

No. 2369-73 /IB/A/255-E

Dated Peshawar, the 12 /11/2012

OFFICE ORDER

In pursuance of the order dated 14/06/2012 of the Peshawar High Court Peshawar in Write Petition No.1441/2011 and advice contained in the Secretary to Govt. of Khyber Pakhtunkhwa Irrigation Department letter No.SO(E)/Irr:/14-2/2011(Feroz Shah)-dated 8/10/2012 & No.SO(E)/Irr:/14-2/2011(Feroz Shah) dated 30/10/2012. Mr. Feroz Shah, KPO/Steno (BS-12) is hereby re-instated with effect from 01-07-2008 and posted in the office of Director General Small Dams Irrigation Department, Peshawar against the vacant post.

On his reinstatement and as per provision contained in Section-3 of the Khyber Pakhtunkhwa Employees (Regularization of Service) Act 2009, the Competent Authority is pleased to regularized the Services of Feroz Shah, KPO/Steno Typist (BPS-12) with effect from 24-09-2009 on the following terms and conditions: -

- 1) He will get pay at the minimum of BPS-12 including usual allowances as admissible under the rule. He will also be entitled to annual increment as per existing policy.
- 2) He will be governed by the Khyber Pakhtunkhwa Civil Servants Act, 1973 and all the laws applicable be to Civil Servants and Rules made there-under.
- 3) He will, for all intents and purposes, be Civil Servants except for purpose of pension & gratuity. In lieu of pension and gratuity, he will be entitled to receive such amount as would be contributed by his towards Contributory Provident Fund (C.P.F) along-with the contributions made by Government to his account in the said fund, in the prescribed manner.
- 4) His employment in the Small Dams Organization 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 thereof. In case he wish to resign at any time, 14 days notice will be necessary or in lieu thereof 14 days pay will be forfeited.
- 5) He will, initially, be on probation for a period of two years extendable upto 3 years.

6)

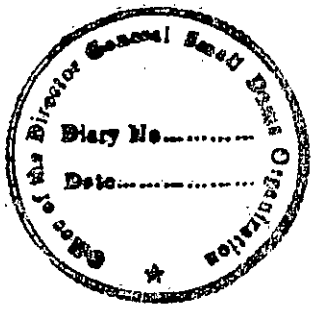
His seniority will be determined in accordance with relevant rules but subject to Section-4 of the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2009.

SUPERINTENDING ENGINEER  
(HEAD QUARTER)

Copy forwarded to the :-

- 1. Secretary to Govt: of Khyber Pakhtunkhwa Irrigation Department Peshawar w/r to his letters quoted above for information.
- 2. Secretary to Govt: of Khyber Pakhtunkhwa Public Service Commission, Peshawar
- 3. Accountant General, Khyber Pakhtunkhwa Peshawar.
- 4. Director General, Small Dams, Irrigation Department Peshawar.
- 5. Mr. Feroz Shah, KPO/Steno Typist, O/O the Director General Small Dams Irrigation Department Peshawar.

*[Handwritten Signature]*  
 SUPERINTENDING ENGINEER  
 (HEAD QUARTER)



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17

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1/1/11

IN THE PESHAWAR HIGH COURT PESHAWAR.

W. P No. 140 /2011.

Feroz Shah Ex- KPO / Steno Typist BPS-12 R/O  
Mohallah Dindar Khel / Mian Khan P. O Mian Khan  
District Mardan.

(Petitioner)

VERSUS

1. Province of Khyber Pakhtunkhwa through Secretary,  
Irrigation & Power Department Khyber Pakhtunkhwa  
Peshawar.
2. The Director General, Small Dams Organization,  
Irrigation and Power Department Khyber Pakhtunkhwa  
Peshawar.
3. Director, Small Dams Organization Peshawar.

(Respondents)

Writ Petition under Article 199 of the Constitution of  
Islamic Republic of Pakistan, 1973

Prayer in Writ Petition:

On acceptance of this Writ Petition an appropriate Writ may please issued declaring that the Petitioner was fit and eligible for the post of KPO / Steno Typist BPS-12, he was appointed in accordance with law on contract basis vide order dated 1.11.2003 in terms of the contract policy of the provincial govt and continued as such till 7.6.2008 was therefore entitled to have been regularized against the Post of KPO/ Steno Typist (BPS-12) the notice dated 7.6.2008 whereby the contract service of the Petitioner was not extended is illegal, unlawful, without lawful authority, of no legal effect and liable to be set at naught, the reluctance on the part of the respondents in regularizing & reinstating the Petitioner is violative of law and illegal, he shall be deemed to be regular Civil Servant by operation of law in terms of NWFP Civil Servants (Amendment) Act, 2005, the petitioner may please be restored to his post with all back wages and benefits of service or any other remedy deemed proper may also be allowed.

20 APR 2011

27

**PESHAWAR HIGH COURT, PESHAWAR**  
**FORM OF ORDER SHEET**

Court of.....


Case No.....of.....

Date of Order of Proceedings	Order of other Proceedings with Signature of Judge.
1	2
14.06.2012	<p><u>W.P.No.1411/2011</u></p> <p>Present: Mr. Ijaz Anwar, Advocate for the petitioner.            Mr. Zahid Yousaf, AAG for official respondents.</p> <p><u>DOST MUHAMMAD KHAN, C.J.:-</u> Petitioner Feroz Shah was appointed as KPO/Steno-typist BPS-12 vide appointment order dated 01.11.2003 but as a contract employee in view of the policy then invoked, however, he served on the post till 6.7.2008 when in the meanwhile the Provincial Assembly unanimously passed Act No.IX of 2005, amending Section-19 of the Civil Servants Act and it was declared that all contract employees stand regularized, who were appointed form first July, 2001 till the commencement of the Act, hence the petitioner clearly falls within the beneficiary of the amendment introduced by the Provincial Assembly and to that extent, the learned AAG is unable to controvert the legal position. However, he is of the view that if it is presumed that the services of the petitioner was regularized from the date of commencement of the Act, then he falls within the definition of civil servant, therefore, he has to approach the Provincial Services Tribunal for redressal of the</p>

grievance, he has expressed herein.

2. When he was confronted by the court with the fact that where the department has issued any notification in pursuance of the Act of the Assembly, regularizing the services of the petitioner, his answer was in the negative, hence for all intents and purposes he was contract employee and does not fall within the definition of Civil Servant, as defined in the Act and when similar placed persons, hundred in numbers, have been granted the same relief by the courts and also by the Provincial Government, then there is no reasonable justification with the respondents to refuse the same relief to the petitioner and that too when it is bereft of legitimate justification.

3. Accordingly, this petition is admitted and allowed and the respondents are directed to regularize the services of the petitioner and to issue a notification in this regard from the date, relevant to him, as was done in other cases.

  
CHIEF JUSTICE

  
JUDGE

*Office  
 15/11  
 9/10/16/6*

*R. D. D. D.  
 2-5-67  
 Adm. Officer  
 11/16*

26  
2010  
13/12/10

To be substituted for order of even No. dated 31<sup>st</sup> December, 2009.

GOVERNMENT OF KHYBER PAKHTUNKHWA  
IRRIGATION DEPARTMENT

Dated Peshawar the 14<sup>th</sup> May, 2010.

ORDER

No. SO(E)IRR:/4-4/2000:

In pursuance of Section-3 of the NWFP Employees (Regularization of Services) Act, 2009, the Competent Authority is pleased to regularize the services of Miss Shumaila Anjum, KPO/Stenotypist (BS-12), appointed on contract basis vide order No.1895-98/SDO/DG/7-E dated 1<sup>st</sup> November, 2003, with effect from 24-9-2009.

2. Terms and conditions of her regular appointment will be as under:-

- 1) She will get pay at the minimum of BPS-12 including usual allowances as admissible under the rule. She will also be entitled to annual increment as per existing policy.
- 2) She will be governed by the NWFP Civil Servants Act, 1973 and all the laws applicable to the Civil Servants and Rules made there-under.
- 3) She will, for all intents and purposes, be Civil Servants except for purpose of pension & gratuity. In lieu of pension and gratuity, she will be entitled to receive such amount as would be contributed by her towards Contributory Provident Fund (C.P.F) along-with the contributions made by Government to her account in the said fund, in the prescribed manner.

sf  
MS  
ca  
13/5

Her employment in the Small Dams Organization is purely temporary and her 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 thereof. In case she wish to resign at any time, 14 days notice will be necessary or in lieu thereof 14 days pay will be forfeited.

She will, initially, be on probation for a period of two years extendable upto 3 years.

NO	DATE	BY	REMARKS
101	13/5	MS	MS
102			
103			
104			
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106			
107			
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110			

1. Chief Engineer (South), Irrigation Department w/r to his letter quoted above.
2. PA to Additional Secretary, Irrigation Department, Peshawar.

*[Signature]*  
Section Officer (Establishment)

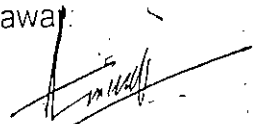
- 6) Her seniority will be determined in accordance with relevant rules but subject to Section-4 of the NWFP Employees (Regularization of Services) Act, 2009.

Secretary to Govt of Pakhtunkhwa  
Irrigation Department

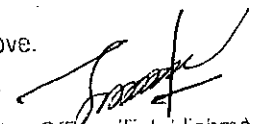
Endst: No. & date as above.

Copy of the above is forwarded to:

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Secretary, Provincial Assembly of Khyber Pakhtunkhwa, Peshawar.
3. The Secretary, Khyber Pakhtunkhwa Public Service Commission Peshawar.
4. The Chief Engineer (O&M), Irrigation Department, Peshawar.
5. The Chief Engineer (Dev), Irrigation Department, Peshawar.
6. The Director General, Small Dams Organization, Peshawar.
7. Miss Shumaila Anjum, KPO/Steno, Small Dams Organization Peshawar.
8. PS to Secretary, Irrigation Department, Peshawar.

  
(ANWARUL HAQ)  
Section Officer (Establishment)

- ✓ 1. Chief Engineer (South), Irrigation Department w/r to his letter quoted above.
2. PA to Additional Secretary, Irrigation Department, Peshawar.

  
Section Officer (Establishment)



GOVERNMENT OF NWFP  
IRRIGATION DEPARTMENT

Section-3 of the NWFP, Civil Services, Act 1973 read with Secretary to Government of NWFP Services and General Administration Deptt. circular letter No. SRO/GAD/3-15/83, dated 17-7-1989, the Tentative Seniority list of Junior Scale Stenographer-II belonging to the cadre strength of Regional Office Peshawar on 31-12-2012 is published as under:-

Name of Official with Academic Qualification	Date of Birth	Domicile	Date of Ist Entry into Govt. Service	Regular Appointment/Promotion to the present post		Method of Recruitment/ Appointment.	Present Appointment with date	Remarks
				Date	B.P.S			
2	3	4	5	6	7	8	9	10
<u>Junior Scale Stenographer-II</u> Faroz Shah	15-9-1979	Mardan	6/11/2003 on Contract Basis	24-10-2009	BS-14	By initial recruitment	24-10-2009 J/Scale Stenographer-II	
Shumaila Anjum	30-12-1979	Peshawar	1/11/2003 on Contract Basis	24-10-2009	BS-14	By initial recruitment	24-10-2009 J/Scale Stenographer-II	
Mr. Zafar Ali	01/4/1985	Peshawar	13-11-2012	13-11-2012	BS-14	By initial recruitment	13-11-2012 J/Scale Stenographer-II	

*AK has  
note it for  
S no. 1027  
This office.*

Dated Peshawar the

*24/6  
29/15/2013*

Superintending Engineer  
Head Quarter

*532  
25/06/13  
E-E*

8356-57/TB/A/207-E

Copy forwarded to the:-

Chief Engineer (North) Khyber Pakhtunkhwa Irr: Peshawar.  
Director General Small Dams Irrigation Department Khyber Pakhtunkhwa Pesahwar

They are requested to note the tentative seniority list of all J/Scale Stenographer-II working their offices for preparing appeal/ representation if any within 30 days from the date of issue of this Seniority List.

*28/5/13*  
Superintending Engineer  
Head Quarter

**TENTATIVE SENIORITY LIST OF JUNIOR SCALE STENOGRAPHERS BS-14- BORN ON THE CADRE STRENGTH OF REGIONAL OFFICE AS STOOD ON 31-12-2017**

In pursuance of Section-8 of the KPK, Civil Servants, Act. 1973. the Tentative Seniority list of Junior Scale Stenographers BS-14 belonging to the cadre strength of Regional Office as stood on 31-12-2017 is hereby notified/circulated as under:-

SL No	Name of Official with Academic Qualification	Date of Birth	Domicile	Date of 1st Entry into Govt: Service	Regular Appointment/ Promotion to the Present Post		Appointment/ Promotion to the present post	Remarks
					Date	B.P.S		
1	2	3	4	5	6	7	8	9
1	Mrs. Shumaila Anjum	30-12-1979	Peshawar	01-11-2003 on Contract Basis	24-09-2009	14	By regularization	Attached to D.G Small Dams Directorate
2	Mr. Feroz Shah.	15-09-1979	Mardan	06-11-2003 on Contract Basis	24-09-2009	14	By regularization	Attached to D.G Small Dams Directorate
3	Mr.Roohullah Khan (M.Sc)	03-06-1988	F.R Bannu	02-12-2016	02-12-2016	14	By initial recruitment	Attached to Bannu Irrigation Circle Bannu .
4	Mr.Karamat Ullah (B.A).	06-07-1994	Lakki Marwat	05-12-2016	05-12-2016	14	By initial recruitment	Attached Peshawar Irrigation Circle Peshawar.

*[Signature]*  
Superintending Engineer  
(Head Quarter)

No. **2263** /A-5/207-E

Dated Peshawar the **07** **15** 2018

Copy forwarded to the:-

- 1 D.G Small Dams Irrigation Department Peshawar.
- 2 Superintending Engineer-Bannu Irrigation Circle Bannu
- 3 Superintending Engineer Peshawar Irrigation Circle Peshawar



*[Signature]*  
Superintending Engineer  
(Head Quarter)

They are requested to kindly note the Seniority list from the officials concerned for preferring appeal if any within 30 days of the publication

*[Handwritten signatures and initials]*

WEIGHTAGE OF SHORT LISTED CANDIDATES FOR THE POST OF STENO TYPIST/KPO.

S.No.	Name.	F/ Name.	Qualification Marks	Experience Marks	Marks Obtained in written/Practical Test.	Marks for interview.	Total
1.	Mohammad Suleman.	Ibad-ur-Rehman.	53+8=61	4	1.88/4	2	68.88
2.	Nazir Ahmad.	Nisar Ahmad.	53+8=61	Nil.	1.52/4	Absent	Nil
3.	Daud Khan.	Haji Naseeb Gul.	70+8=78	Nil.	1.38/4	Failed	Nil
4.	Said Rehman.	Shehzada	53+8=61	Nil.	1.28/4	Absent	Nil
5.	Nisar Ahmad Khan.	Jaffer Khan	70+6=76	Nil.	1.76/4	Failed	Nil
6.	Dawood Shah.	Saif-ur-Rehman.	53+8=61	Nil.	2.12/4	Absent	Nil
7.	Tahir Fawad	Noor Nawaz Zafar.	53	Nil.	2.54/4	2	57.54
8.	Saifullah	Abdul Gafoor Khan.	70+8=78	Nil.	1.62/4	Absent	Nil
9.	Feroz Shah.	Hijab Shah	53+6=59	7	3.00/4	2	71.00
10.	Gohar Ali	Sherzada.	53+6=59	Nil.	1.72/4	4	64.72
11.	Shumaila Anjum	Late Ramzan Shah.	53+6=59	9	2.12/4	4	74.12

ANNEX-A

13/10/03

D. J. J. J.

J. J. J. J.

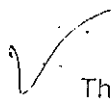
Govt Serv Irrigation  
No. 6792  
Date: 2/10/18



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT & ADMN. DEPARTMENT  
(REGULATION WING)

No. SOR-V(E&AD)/7-1/G Irr: 2017/Vol-II  
Dated 5<sup>th</sup> October, 2018.

To



The Secretary to Govt. of Khyber Pakhtunkhwa,  
Irrigation Department.

Subject APPEAL AGAINST SENIORITY.

Dear Sir,

I am directed to refer to the Irrigation Department letter No. SO(E)/Irr/2-1/06/Vol-VI dated 25-09-2018 on the subject noted above and to state that since Miss Shumaila Anjum has secured higher numbers in the test/interview than Mr. Feroz Shah, therefore, she may be considered senior.

Yours faithfully,

SECTION OFFICER (REG-V)

Endst. of even No. & Date.

Copy forwarded to the PA to Deputy Secretary (R-III) Establishment Department.

SECTION OFFICER (REG-V)

PL process

8/10/2018  
Govt Serv Irrigation  
AS

8/10  
Sg(E)/10

SA  
On  
SOE/9/18

**FINAL SENIORITY LIST OF JUNIOR SCALE STENOGRAPHERS BS-14 BORN ON THE CADRE STRENGTH OF REGIONAL OFFICE AS STOOD ON 31-12-2018**

In pursuance of Section-8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, Final Seniority list of Junior Scale Stenographers BS-14 belong to the cadre strength of Regional office as stood on 31-12-2018 is hereby notified/circulated as under:-

Sl. No	Name of Official with Academic Qualification	Date of Birth with Domicile	Date of Ist Entry into Govt:	First Regular Appointment to the Service/Cadre			Present Place of Posting	Remarks
				Date	BPS	Method of Recruitment		
1	Ms. Shumaila Anjum	30-12-1979 Peshawar	01-11-2003 on Contract Basis	24-10-2009 <i>9</i>	14	By initial recruitment	DG Small Dams Irrigation Department Peshawar	Seniority fixed in light of advise of Govt. of Khyber Pakhtunkhwa Establishment Deptt: letter No. SOR-V(E&A)/71/G.Irr:2017/Vol-II, dated: 05-10-2018, received through Secretary Irrigation letter No. SO(E)/Irr:2-1/2006/vi dated: 11-10-2018
2	Mr. Feroz Shah	15-09-1979 Mardan	06-11-2003 on Contract	24-10-2009 <i>9</i>	14	-do-	DG Small Dams Irrigation Department Peshawar	-do-
3	Mr. Rooh Ullah (M.Sc)	03-06-1988 FR Bannu	02-12-2016	02-12-2016	14	-do-	Superintending Engineer Bannu Irr: Circle Bannu	---

No. **3152** /A-5/207-E

Copy forwarded to the:-

- 1 Director General Small Dams Irrigation Department Peshawar
- 2 Superintending Engineer Bannu Irrigation Circle Bannu

Dated Peshawar the

18 /06/2019

SUPERINTENDING ENGINEER  
(HEAD QUARTER)

*dc* *[Signature]*  
10/06

SUPERINTENDING ENGINEER  
(HEAD QUARTER)

**VAKALAT NAMA**

APPEAL NO. 710 /2019

IN THE COURT OF KP SERVICE TRIBUNAL, PESHAWAR

Feroz Shah

(Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Government of KP etc.

(Respondent)  
(Defendant)

I/We, Shumaila Anjum (Respondent No. 6)

Do hereby appoint and constitute **M. Asif Yousafzai, Advocate Supreme Court Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

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

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

Shumaila Anjum  
(CLIENT)

ACCEPTED

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

Syed Noman Ali Bukhari  
**SYED NOMAN ALI BUKHARI**  
*Advocate High Court*

S. Khan  
**SHAHKAR KHAN YOUSAFZAI**  
*ADVOCATE, PESHAWAR*

**OFFICE:**

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

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

**Service Appeal No. 710/2019**

Feroz Shah

VS

Govt: of KPK etc

.....  
**PARAWISE COMMENTS ON BEHALF OF  
PRIVATE RESPONDENTS NO. 6.**

**RESPECTFULLY SHEWETH:**

**PRELIMINARY OBJECTION:**

1. That the appellant has no cause of action.
2. That the appellant has not come to the Court with clean hands.
3. That the appellant is bad for mis-joinder and non-joinder of necessary party.
4. That the appellant has no locus standi.

**FACTS**

1. Not correct the appellant was appointed as Steno Typist/Key Punch Operator BPS-12 vide letter No. 1904-7/SDO/DG/7-E, dated 1-11-2003 issued by the respondent No. 4 for a period of six months.
2. It is correct to the extent that he was served with notice dated 7.6.2008.
- 3&4. He was re-instated with effect from 1-7-2008 vide No. 2369-73/IB/A/255-E, dated 12.11.2012 as per orders of Peshawar High Court Peshawar dated 14.6.2012. (Annexure-III) in writ petition No. 1411/2011 and also regularized with effect 24.09.2009 in pursuance of Section-3 of Khyber Pakhtunkhwa Employees (Regularization of Service Act 2009).
5. Incorrect, the name of the appellant was shown senior in the tentative seniority list circulated vide No. 8356-57/IB/A/207-E, dated 29.05.2013 against which Ms. Shumila Anjum Junior Scale Stenographer preferred appeal which was accepted and the seniority was modified vide this office NO. 2263/A-5/207-E, dated 07.05.2018. Moreover the Peshawar High Court, Peshawar not discussed the seniority in the Judgment dated 14.06.2012 but only issued directions for regularization of the appellant.

6. Incorrect, Mrs. Shumaila Anjum has been placed senior in the Senior Typist issued vide No. 2263/A-5/207-E dated 7.5.2018 on the basis of continuous officiation as per Section-4 of the Regularization of Service Act, 2009. The respondent No. 6 continuous officiations date is 1.11.2003 while the appellant continuous officiation date is 6.11.2003 therefore the private respondent No. 6 is placed senior from the appellant as per section-4 of the Regularization Act, 2009.
7. Incorrect, the appeal of the appellant being not based on legal grounds was not considered.
8. As explained in Para-6 the seniority list was issued as per policy in vogue.
9. Incorrect, final seniority list has already been circulated vide No. 3152/A-5/207-E, dated 18.6.2019.
10. As explained in Para-7 above please.
11. The appeal of the appellant is not worth consideration on the following grounds.

**GROUND:-**

- A- Incorrect, seniority list of Junior Scale Stenographer was issued in light of prevailing rules/instructions of the Provincial Government.
- B- Incorrect, both the officials have been regularized on the same date (i.e 24.09.2009).
- C- Incorrect, the grievance of the appellant against seniority list having no legal footing was not entertained.
- D- Para-D of the appeal has no relevancy with the seniority, so needs no comments.
- E- Needs no comments. It is pertinent to mention here that the private respondent No. 6 is senior than the appellant.
- F- Incorrect, the Department has treated the case of the appellant in light of rules/regulation.
- G- Incorrect, the appellant have not been deprived from his legal right.
- H- Incorrect, action of the respondents is according to rules/policy.
- I- The Department has treated the case of the appellant in light of rules/regulation



J- That the private respondent also seeks permission to present additional grounds/documents during the course of argument.

It is, therefore, most humbly prayed that the appeal of the appellant may be dismissed being devoid of merit.

*Shumila Anjum*  
Respondent No. 6

THROUGH:-

*M. Asif Yousafzai*  
(M. ASIF YOUSAFZAI)  
ADVOCATE SUPREME COURT,

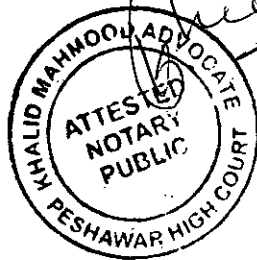
(TAIMUR ALI KHAN)  
ADVOCATE HIGH COURT,

*Syed Noman Alibukhari*  
(SYED NOMAN ALIBUKHARI)  
ADVOCATE HIGH COURT

&  
(SHAHKAR KHAN YOUSAFZAI)  
ADVOCATE

AFFIDAVIT

I, Respondent No. 6 (Mrs. Shumila Anjum) do hereby solemnly affirm and declare that the contents of this para-wise comments are true and correct to the best of my knowledge and belief.



*Shumila Anjum*  
DEPONENT

*Shumila Anjum*

Before the Court of Service Tribunal Judge Pesh.

Feroz Shel v/s Irrigation Depart.

Ref. Service appeal No. 710/19

Application for getting permission  
for depositing the Security.

Respected Steward.

- The Petitioner respectfully submits as under
1. That the Petitioner's case having titled mentioned above is pending for adjudication before this Honourable Court
  2. That the Petitioner wants to deposit security as per rule and regulation fixed by Govt.

It is therefore humbly prayed that on acceptance of this application an Order for depositing security may kindly be passed in the above titled case.

Petitioner.



Feroz Shel

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR.

Restoration Application no. 355/19

C.M.No. \_\_\_\_\_/2019

IN

Appeal No.710/2019


Feroz Shah ..... Applicant/Appellant

VERSUS


Irrigation Department and others..... Respondents

INDEX

S.No.	Description of documents.	Annexure	Pages.
1	Application for restoration.		1-2
2	Affidavit.		3
3	Copy of order dated 02.09.2019		4

  
Applicant

Through

  
**Yousaf Ali**  
Advocate, High Court  
Peshawar.

Dated: 23.09.2019

BEFORE THE KHYBER PAKHTUNHWA SERVICES TRIBUNAL.

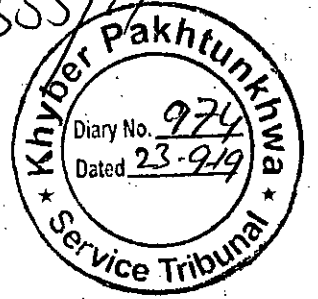
PESHAWAR.

Restoration Application no. 355/19

C.M.No. \_\_\_\_\_/2019

IN

Appeal No. 710/2019



Feroz Shah ..... Applicant/Appellant

VERSUS

Irrigation Department and others..... Respondents

APPLICATION FOR RESTORATION/ RE-  
ADMISSION OF THE ABOVE NOTED  
APPEAL DISMISSED IN DEFAULT.

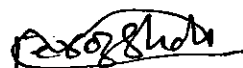
*Respectfully Sheweth;*

Applicant submits as under:

- 1) That the above noted Regular First Appeal was fixed on 02.09.2019 which was dismissed in default.
- 2) That on the date fixed for hearing the undersigned (counsel for petitioner) did not appear before the court as the case was fixed for 02.09.2019 but due to wrong entry in the clerk diary i.e. 03.09.2019 the date was missed and when on the next day petitioner enquired about the case he was informed that case has been dismissed in default.
- 3) That superior courts of the country always favour adjudication of the cases on merits rather than on technicalities and there is no legal impediment in the way of restoration of the case.

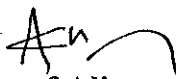
4) That application is well within time.

It is, therefore, requested that on acceptance of this application, the above noted Appeal may kindly be restored/ re-admitted in the interest of justice and may kindly be decided on merits



Applicant

Through



**Yousaf Ali**  
Advocate, High Court  
Peshawar.

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL.

PESHAWAR

Appeal No. 710/2019



Khyber Pakhtunkhwa Service Tribunal

Diary No. 827

Dated 30/5/2019

Feroz Shah s/o Hijab Shah  
Junior Scale Stenographer-II  
Small Dams Organization, Peshawar.  
R/o Mian Khan, Tehsil Katlang, District Mardan

Appellant

Versus

- 1) Irrigation Department through Superintending Engineer, Headquarter, Phase-VII, Hayatabad, Peshawar.
- 2) Irrigation Department through Chief Engineer, South.
- 3) Chief Engineer South Irrigation Department, Peshawar.
- 4) D.G. Small Dams Irrigation Department, Peshawar.
- 5) Secretary Irrigation and Power Department Khyber Pakhtunkhwa, Peshawar.
- 6) Mrs.Shumaila Anjum, Junior Stenographer, Small Dams Irrigation Department, Phase-VII, Hayatabad..... Respondents

Appeal U/S 4 of the Khyber Pakhtunkhwa Services Tribunal Act, 1974 against the order No.2470/ A-5/207-E dated 30.04.2019 decided on 14.05.2019 and impugned order/ seniority list dated 07.05.2018 and 21.02.2019 whereby the appellant has been placed junior to respondent No.6.

Filed to-day

Registrar

30/5/19

02.09.2019

Nemo for appellant.

It is already past 2.00 PM and the appellant is not represented despite repeated calls.

Dismissed for non-prosecution. File be consigned to the record room.

SD/-  
Chairman

Announced:  
02.09.2019

Certified to be true copy  
Khyber Pakhtunkhwa Service Tribunal, Peshawar

Date of Presentation of Appeal: 20-9-19

Number of Words: 400

Copying Fee: 4-00

Urgent: 4-00

Total: 8-00

Name of Copyist: [Signature]

Date of Completion of Copy: 20-9-19

Date of Delivery of Copy: 20-9-19

BEFORE THE KHYBER PAKHTUNHWA SERVICES TRIBUNAL,

PESHAWAR.

C.M.No. \_\_\_\_\_/2019

IN

Appeal No.710/2019

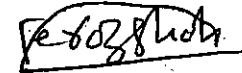
Feroz Shah ..... Applicant/Appellant

VERSUS

Irrigation Department and others..... Respondents

AFFIDAVIT

I, Feroz Shah S/o Hijab Shah R/o Mian Khan, Tehsil Katlang, Distirct Mardan, (Appellant/Applicant), , do hereby affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



Deponent

