


20.02.2023

Clerk of counsel for the appellant present, Naseer Ud Din Shah, Learned Assistant Advocate General for the respondents present.

Mrs. Rozina Rehman, Learned Member (Judicial) is on leave, therefore, case is adjourned for the same on 12.05.2023 before D.B.

  
(Muhammad Akbar Khan)  
Member (E)

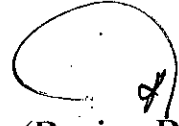
SCANNED  
KPST  
Peshawar

18<sup>th</sup> Nov. 2022

Lawyers are on strike today.

Case is adjourned to 12.01.2023 for arguments before the DB. Office is directed to notify the next date on the notice board as well as website of the Tribunal.

  
(Fareeha Paul)  
Member(E)


  
(Rozina Rehman)  
Member(J)

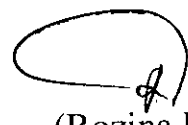
12.01.2023

Appellant present in person.

Muhammad Adeel Butt learned Additional Advocate General for respondents present.

Order sheet dated 12.04.2022 and 11.10.2022 would reveal that appellant had requested for fixation of his case before D.B which had partially heard his appeal, therefore, case was adjourned with direction to office to place the same before D.B comprising of Mr. Salah Ud Din learned Member (J) and the undersigned (Rozina Rehman). Both these order sheets were not taken into consideration by the office and case was once again fixed before this bench. Staff is warned to be careful in future and the matter be brought into the knowledge of learned Chairman with direction to the staff to fix the instant two appeals before the bench comprising of Mr. Salah Ud Din learned Member (J) and the undersigned. To come up for arguments on 20.02.2023 before D.B.

  
(Fareeha Paul)  
Member (E)

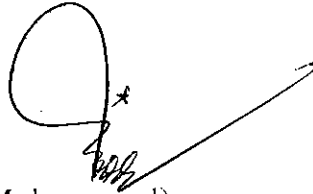
  
(Rozina Rehman)  
Member (J)

SCANNED  
KPST  
Peshawar

11.10.2022

Appellant in person present. Mr. Kabirullah Khattak,  
Additional Advocate General for the respondents present.

Appellant requested that as the instant appeal was partially heard by D.B in which Ms. Rozina Rehman learned Member (Judicial) was also one of the Member, therefore, the same may be fixed before the D.B which has partially heard the instant appeal. Request is genuine, therefore, office is directed to place the same before the D.B which has partially heard the instant appeal and to come up for arguments on 18.11.2022 before the concerned D.B.



(Mian Muhammad)  
Member (E)



(Salah-Ud-Din)  
Member (J)

18<sup>th</sup> Nov. 2022

Lawyers are on strike today.

Case is adjourned to 12.01.2023 for arguments before the DB. Office is directed to notify the next date on the notice board as well as website of the Tribunal.



(Fareeha Paul)  
Member(E)



(Rozina Rehman)  
Member(J)

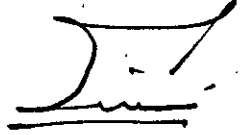
26.04.2022

Nemo for the appellant. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Notice for prosecution of the appeal be issued to the appellant through registered post and to come up for arguments on 06.06.2022 before the D.B.



(Rozina Rehman)  
Member (J)



(Salah-ud-Din)  
Member (J)

6<sup>th</sup> June. 2022

Proper D.B is not available. Therefore, case is adjourned to 24.08.2022 for the same as before.



Reader

24.08.2022

Mr. Ajman Behram Khan, Advocate as proxy for the appellant present and submitted an application that the appellant is unable to appear before the Tribunal due to death of his close relative. Mr. Naseer Ud Din Shah, Assistant Advocate General for respondents present. Adjourned. To come up for arguments on 11.10.2022 before D.B.



(Rozina Rehman)  
Member(J)

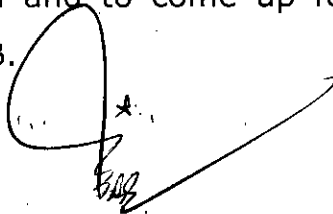


(Salah-Ud-Din)  
Member(J)


12.04.2022

Appellant in person present. Mr. Kabirullah Khattak,  
Additional Advocate General for the respondents present.

Appellant requested that as the instant appeal was partially heard by D.B in which Ms. Rozina Rehman learned Member Judicial was also one of the Member, therefore, the same may be fixed before the D.B which has partially heard the instant appeal. Request is genuine, therefore, office is directed to place the same before the D.B which has partially heard the instant appeal and to come up for arguments on 25.04.2022 before the D.B.



(Mian Muhammad)  
Member (E)



(Salah-ud-Din)  
Member (J)

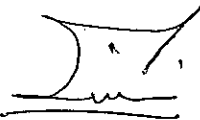
25.04.2022

Appellant present through representative. Mr. Muhammad Adeel Butt, learned Additional Advocate General for the respondents present.

Due to paucity of time, case is adjourned. To come up for remaining arguments on 26.04.2022 before the D.B.



(Rozina Rehman)  
Member (J)




(Salah-Ud-Din)  
Member (J)

27.07.2021

Appellant in person present.

Mr. Muhammad Adeel Butt, learned Additional Advocate General for respondents present.

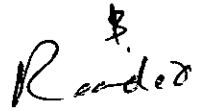
Appellant seeks adjournment. Adjourned. To come up for arguments on 16.12.2021 before D.B.

  
(Rozina Rehman)  
Member(J)

  
Chairman

16.12.21

DB is on Tans case to come up?  
For the same on Dated. 30-3-22


  
Rozina

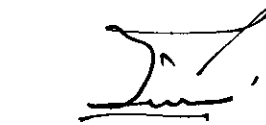
30.03.2022

Appellant in person present.

Mr. Muhammad Tufail S.O (Litigation) alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Partial arguments heard. To come up for remaining arguments on 12.04.2022 before D.B.

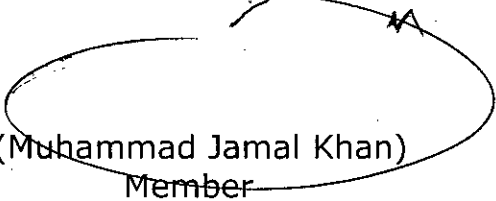
  
(Rozina Rehman)  
Member (J)

  
(Salah-Ud-Din)  
Member (J)

18.02.2021

Nemo for appellant. Mr. Kabirullah Khattak, Additional Advocate General for the respondents is also present.

Neither written reply on behalf of respondent submitted nor representative of the department is present, therefore, learned Additional Advocate General is directed to contact the respondents and furnish written reply/comments on the next date of hearing as a last chance. Adjourned to 05.04.2021 on which date file to come up for written reply/comments before S.B.

  
(Muhammad Jamal Khan)  
Member

05.04.2021

Appellant in person present. Mr. Kabirullah Khattak learned Additional Advocate General alongwith Habibullah SO for respondents present.

Representative of respondents submitted reply/comments which is placed on file. To come up for rejoinder if any, and arguments on 27.07.2021 before D.B.

  
(Atiq Ur Rehman Wazir)  
Member (E)

24.09.2020

Appellant in person and Addl. AG alongwith Hazrat Shah, Superintendent for respondent No. 1 & 2 present.

Appellant submitted an application for correction of address of respondent No. 3 in the Memorandum. Application placed on record.

Office is required to correct address of respondent No. 3 as "Director Independent Monitoring Unit, Head Office Health Department Shami Villas Hassan Garhi, Peshawar". Fresh notice be issued to respondent No. 3. To come up for written reply/comments on 17.11.2020 before S.B.

  
Chairman

17.11.2020

Junior to counsel for the appellant and Addl. AG for the respondents present.

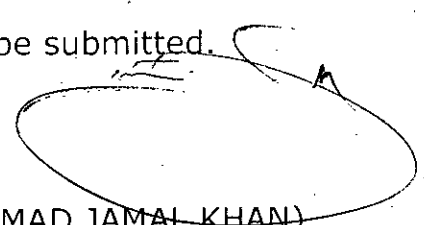
Learned AAG seeks time to contact the respondents and submit reply/comments on the next date. Adjourned to 06.01.2021 on which date the requisite reply/comments shall positively be submitted.

  
Chairman

06.01.2021

Appellant is present in person. Mr. Kabirullah Khattak, Additional Advocate General, for the respondents is also present.

Learned Additional Advocate General once again seeks time to contact the respondents and submit reply/comments on the next date. Adjourned to 18.02.2021 on which date the requisite reply/comments shall positively be submitted.

  
(MUHAMMAD JAMAL KHAN)  
MEMBER (JUDICIAL)



24.07.2020

Appellant himself is present. According to the appellant initially his appointment took place on contractual basis but later on his services alongwith services of other officials were regularized by an Act of the Provincial Assembly which was given effect by means of Notification dated 30.06.2017 wherein the name of appellant is available eminently at serial No. 89. That astonishingly their pay was reduced considerable from Rs. 38500/- to Rs. 21920/-. According to him courts in the homeland have issued direction that pay of employees before and after regularization be protected, in compliance thereof the Federal Government through Finance Division by virtue of Office Memorandum, has declared that the pay of non-gazette employees, contract employees on their regularization shall be protected. The government of Khyber Pakhtunkhwa through Finance Department adopted the aforesaid notification of the Federal Government by Providing of an umbrella of protection to the non-gazette employees on their regularization vide 06.02.2014. In the year 2015 once more the Government of Pakistan through Finance Division while making compliance of the judgments of various courts again provided protection to the gazetted contract employees who have been regularized vide notification dated 07.04.2015. He waited that the anomaly shall be removed but to no avail he contacted respondents for the needful but without any success.

Important issues affecting the service of a civil servant have been raised requiring proper resolution in the light of law and rules on the subject, therefore, the appeal is admitted for regular hearing. Appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments. To come up for written reply/comments on 24.09.2020 before S.B.

Appellant Deposited  
Security & Process Fee

24/7/20


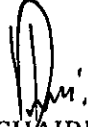
(MUHAMMAD JAMAL KHAN)  
MEMBER

Form- A

FORM OF ORDER SHEET

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

Case No.- 6127 /2020

1S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	22/06/2020	<p>The appeal of Mr. Nisar Ahmad presented today by him may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>24/07/2020</u></p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

**BEFORE THE CHAIRMAN SERVICE TRIBUNAL**

**KHYBER PAKHTUNKHWA**

**6127/20**

Nisar Ahmad .....(Appellant)

**VERSUS**

Secretary Health Govt. of Khyber Pakhtunkhwa etc.....(Respondents)

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Dated:- \_\_\_/06/2020

APPELLANT

(In Person)

NISAR AHMAD

S/o: Ghulam Muhammad

Mobile #-0313-9694088

**BEFORE THE CHAIRMAN SERVICE TRIBUNAL**

**KHYBER PAKHTUNKHWA**

6/27/20

Nisar Ahmad S/o Ghulam Ahmad

Resident of House No. 256 Phase I Armour Colony Manki Road Nowshera,

MDCA IMU Health.....(Appellant)

**VERSUS**

- 1- Secretary Health Govt. of Khyber Pakhtunkhwa Health Secretariat Peshawar.
- 2- Secretary Finance Govt. of Khyber Pakhtunkhwa Health Secretariat Peshawar.
- 3- Director Independent Monitoring Unit (IMU), Peshawar Division, House No. 22, Abdar Road University Town Peshawar.....(Respondents)

**SERVICE APPEAL UNDER SECTION 04 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974.**

RESPECTFULLY SHEWETH:-

1. That the appellant was initially inducted in the project namely "Independent Monitoring Unit" (Herein after called IMU) under the health department, Govt. of Khyber Pakhtunkhwa as "Monitoring and Data collection assistant" in BPS-16 in the year 2015-16, 175 monitor (150 Male and 25 Female) were recruited and trained for the said monitoring dated 15-04-2015. *(COPY ATTACHED HEREWITH AS ANNEXURE-A).*
2. That The appellant was inducted in the IMU after fulfilling all the codal formalities i.e advertisement, test and interview and after fair and transparent competition the appellant was appointed as "Monitoring and data collection" assistant (BPS-16).  
*(COPIES OF APPOINTMENT LETTER ARE ATTACHED AS ANNEXURE B)*
3. That recently the govt. of Khyber Pakhtunkhwa promulgated act No.VII of 2017, namely Khyber Pakhtunkhwa of Health Department and employees,

regularization act, 2017 where under the act employees of 5 projects were regularized:

- I. Health sector reform unit
- II. Strengthen of planning cell
- III. District Health information system
- IV. Independent monitoring unit
- V. Strengthen of rehabilitation of service of physical disable at Govt: of KPK were regularized.

*(COPY OF THE ACT NUMBER 07 IS ATTACHED AS ANNEXURE C)*

4. That in view of regularization act appellant was formally regularized vide notification dated 30-06-2017. *(COPY OF THE NOTIFICATION IS ATTACHED AS ANNEXURE D)*
5. That as a contract / project employee the applicant was receiving handsome salary but after regularization his salary has been reduced substantially. **(The difference between their salaries after regularization could be seen from the table attached herewith annexure E.)**
6. That it is pertinent to mentioned here that various courts of the country have issued direction that pay of employees before & after regularization be protected, therefore the Federal govt of Pakistan through finance division has issued an office memorandum that the pay of non gazetted contract employees on their regularization shall be protected.  
*-(Copy of Notification dated 31-05-2013 is attached as annexure F)*
7. That the Govt of KP through finance department adopted the aforesaid notification of the federal Govt, also giving pay protection to the non gazetted contract employee on their regularization vide notification dated 06-02-2014. *(Copy of the notification 06-02-2014 is attached annexure G)*
8. That again it was in the year 2015 when the Govt: of Pakistan through finance division in the light of the judgment of the various Courts, gave pay protection to the gazetted contract employees who have been regularized vide notification dated 07-04-2015. **(Copy of the notification dated 07-04-2015 is attached as annexure H).**

9. That appellant waited for considerable period of time, that the provincial Govt would give pay protection to the gazetted contract employees who have been regularized, however, of no fruitful results.

Therefore he submitted an appeal to the Secretary Finance Govt; of Khyber Pakhtunkhwa Pakistan. (Copy of the Appeal and joint appeal are attached as annexure I & J).

10. That prior to this appeal a writ petition was filed before PHC Peshawar, which was turned down by honorable PHC Peshawar, on the ground that the jurisdiction of the deciding the said petition falls in ambit of service tribunal therefore the need of this appeal arose. (COPY OF THE WRIT PETITION & ORDER OF PHC IS ATTACHED AS ANNEXURE K).

11. That the appellant approached the respondents time & again to give them pay protection after their regularization but they did not responded to him therefore he is constrained to approach this honorable court for the following, amongst other grounds:-

### **GROUND:-**

A. That as stated in this petition that the federal govt. and the provincial govt. have given pay protection to the non gazetted employees but in case of gazetted contract employees, the federal govt. has given them pay protection. However, provincial govt. has hesitated to adopt the notification of federal govt. as it did in the case of non gazetted contract employees. Therefore, the honorable court is requested to direct them to give the appellant pay protection being gazetted contract Cum regular employees with all back benefits form date of regularization / recruitment. Moreover the pervious service shall also be protected.

B. That the petitioner has been discriminated as other similarly qualified employees of the same nature of duty of federal govt. have been protected by the federal govt. whereas the provincial govt. has turned a deaf ear and blind eyes to its employees.

- 4
- C. That the impugned refusal the respondent is illegal, unlawful and thus ineffective upon the rights of the appellant.
- D. That the appellant has been treated against the law and he has also deprived of equal protection of law.
- E. That the applicant may also be treated according to the provincial service rules like the other provincial Govt departments and the scale, salary and appellant other benefits should be the same i.e BPS-16.
- F. That the appellant seeks leave of this Honorable Court to take additional grounds at the time of arguments.

IT IS THEREFORE PRAYED THAT BY ACCEPTING THIS APPEAL THE IMPUGNED REFUSAL OF THE RESPONDENTS REGARDING PAY PROTECTION AFTER THE REGULARIZATION MAY KINDLY BE DECLARED AS ILLEGAL UNLAWFULL AND CONSEQUENTLY RESPONDENT MAY BE DIRECTED TO PROTECT THEIR PAY AS IT WAS BEFORE HIS REGULARIZATION WITH ALL BACK BENEFITS ANY OTHER RELIEF DEEMED FIT AND APPROPRIATE IN THE CIRCUMSTANCES OF THE CASE MAY PLEASED BE PASSED.

Dated:- \_\_\_/06/2020

APPELLANT  
(In Person)

*Nisar Ahmad*  
NISAR AHMAD

**CERTIFICATE:-**

Certified that no other Appeal on the same Facts and Grounds has been filed earlier before any other competent forum of law.

*Nisar Ahmad*  
Appellant in Person

**BEFORE THE CHAIRMAN SERVICE TRIBUNAL**

**KHYBER PAKHTUNKHWA**

Nisar Ahmad .....(Appellant)

**VERSUS**

Secretary Health Govt. of Khyber Pakhtunkhwa etc.....(Respondents)

**AFFIDAVIT**

I, Nisar Ahmad S/o. Ghulam Ahmad Resident of House No. 256 Phase I Armour Colony Manki Road Nowshera, MDCA IMU Health solemnly affirm and declare that the content of the appeal is true and correct to the best of my knowledge and nothing has been concealed.

Deponent: *Nisar Ahmad*

*Nisar Ahmad*

(Appellant in Person)

CNIC #:- 17201-6115361-7

**ATTESTED BY:-**

Oath Commissioner  
Distt; Courts Nowshera.



ATTESTED

ATTESTED



**BEFORE THE CHAIRMAN SERVICE TRIBUNAL**

**KHYBER PAKHTUNKHWA**

Nisar Ahmad .....(Appellant)

**VERSUS**

Secretary Health Govt. of Khyber Pakhtunkhwa etc.....(Respondents)

**MEMO OF PARTIES**

**APPELLANT:-**

Nisar Ahmad S/o Ghulam Ahmad

Resident of House No. 256 Phase I Armour Colony Manki Road Nowshera,

MDCA IMU Health.....(Appellant)

**VERSUS**

**RESPONDENTS:-**

1- Secretary Health Govt. of Khyber Pakhtunkhwa Health Secretariat Peshawar.

2- Secretary Finance Govt. of Khyber Pakhtunkhwa Health Secretariat Peshawar.

3- Director Independent Monitoring Unit (IMU), Peshawar Division, House No. 22,  
Abdar Road University Town, Peshawar.....(Respondents)

Dated:- \_\_\_/06/2020

APPELLANT

(In Person)

*Nisar Ahmad*  
NISAR AHMAD

ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT  
(Independent Monitoring Unit)  
2<sup>nd</sup> Floor, HRD Block, Khyber Road Peshawar

No. ADMIN/IMU/Vol-1/2014-15  
Dated: 15/04/2015

To,

1. Director General Health Services, Peshawar.
2. Hospital Directors, LRH, KTH, HMC, KTH
3. Medical Directors, LRH, KTH, HMC, KTH
4. All District Health Officers
5. All Chief Executives, Medical Superintendents
6. Chief Operations Officer, SRSP/PPHI, Khyber Pakhtunkhwa
7. All partners working with Health Department
8. All Commissioners, Khyber Pakhtunkhwa
9. All Deputy Commissioners, Khyber Pakhtunkhwa

Subject: MONITORING VISITS BY STAFF OF THE PROJECT "INDEPENDENT MONITORING UNIT (IMU)", HEALTH DEPARTMENT, GOVERNMENT OF KHYBER PAKHTUNKHWA.

I am directed to convey that, Independent Monitoring Unit (IMU) is a 3 years project of the Health Department, with the following objectives.

1. *Improve staff presence at health care facilities.*
2. *Collect data on sanctioned, filled and vacant positions.*
3. *Monitor the progress of Chief Minister Special Initiatives.*
4. *Monitor the quality of services at Primary, Secondary and Tertiary level.*
5. *Monitor functionality of equipments, assess status of medicines, consumables and logistics.*
6. *Check the general cleanliness of health outlets and functionality of support services.*
7. *Conduct real time online patient/client interviews.*

To achieve the above objectives, a team of 175 monitors (150 male & 25 females) have been recruited and trained. A PMU has been established with 10 Divisional Monitoring Offices (DMOs) at divisional level. The staff is equipped with latest smart phones, collecting data directly from the field, through a mobile software application, linked with an online dash board. The project will collect data on key performance indicators (KPIs) and advocate for corrective measures at higher levels of government, to improve service delivery and governance.

I am further directed to convey that the staff of IMU should be allowed to collect data during duty hours and facilitate the process to improve service delivery & quality of services. Gaps identified in service delivery will be filled through government own resources and donor assistance.

SD/###  
Secretary Health Department,  
Government of Khyber Pakhtunkhwa

ATTACHED

7



GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT  
(Independent Monitoring Unit)  
2<sup>nd</sup> Floor, HRD Block, Khyber Road Peshawar

Copy for information:

1. Secretary Establishment, Government of Khyber Pakhtunkhwa.
2. Secretary Administration, Government of Khyber Pakhtunkhwa
3. Secretary Finance, Government of Khyber Pakhtunkhwa.
4. Secretary Planning and development, Government of Khyber Pakhtunkhwa.
5. Chief Planning Officer, Health Department
6. PS to Additional Chief Secretary Khyber Pakhtunkhwa
7. PS to Secretary Health
8. PS to Special Secretary Health
9. Office Record

(Dr Akhtar Said)

Project Director, IMU, Health Department

*Wassir*  
ENGR. NISAR AHMAD  
Data Collection &  
Monitoring Activities  
2015

ATTESTED



GOVERNMENT OF KHYBER  
PAKHTUNKHWA  
HEALTH DEPARTMENT  
(INDEPENDENT MONITORING UNIT)

Date: 18/02/2015.

Order No 786-S/REC/IMU/11/2014-15: On the recommendation of Project Selection Committee and approval of the competent authority, following candidates are hereby appointed as Monitoring and Data Collection Assistant (BPS-16) in district Nowshera (Male).

NAME	FATHER NAME
MOHSIN KHAN	MUSHTAQ AHMAD
MUHAMMAD SAJID HAROON	HAROON KHAN
ZAR ALI KHAN	GUL HASSAN
MUHAMMAD ISHAQ	MURAD ALI
MASAUD JAN KHAN	TASLIM KHAN
MUHAMMAD AHMAD JAN	SAJID ALI KHAN
NISAR AHMAD	HAJI GHULAM MUHAMMAD

under the scheme "Establishment of Independent Monitoring Unit, in the Health Department" on contract basis, till 30<sup>th</sup> June 2016, on the following terms and conditions:-

Fixed Pay.

- i) Pay Package: Basic Pay Rs. 30,000/- P.M (Fixed Pay) with annual increment of 5% up to the maximum of Rs. 35,000/- as per the project policy, subject to enhancement on the rates as notified by Government from time to time for project posts.
- ii) Period of Contract: The period of this contract shall be till 30<sup>th</sup> June 2016, which could be extendable subject to satisfactory performance of the project employee.
- iii) A project employee shall work against that post for which he/she was recruited and shall not be transferred to any other post in the project or at any other station.
- iv) A project employee shall also not be transferred to any other project under the same Department/Govt.
- v) The contract shall be liable to termination on 30 days' notice (if the performance of the employee is found unsatisfactory) or payment of 30 days salary in lieu thereof, by either side.

**ATTESTED**

- vii) The employees shall be responsible for the losses (accruing to the project due to him/her and shall be held responsible thereof).
- viii) On completion of the project, the services of the project employees shall stand terminated however, they shall be re-appointed on need basis, if the project is extended over any new phase or phases.
- ix) Pension: Service Rendered by you under the present contract shall not qualify for pension/gratuity.
- x) Leave: You will be entitled for leave as admissible to the civil servants under the Khyber Pakhtunkhwa revised Leave Rules.
- xi) Travelling Allowance: Travelling Allowance for journey as admissible under the rules.
- xii) Rules/Regulations: In respect of other matters, not covered in this letter, you will be governed by the rules/regulations as applicable to Govt. employees, unless otherwise specified by the employer.
- xiii) Seniority: Being a temporary post there shall exist no relative seniority in your case in relation to other regular or temporary employees of your category in the Health Department.
- xiv) You will be governed by the Provincial Govt. rules as amended from time to time.
- xv) You will not be required to contribute towards General Provident Fund nor entitled to any benefit of the General Provident Fund.
- xvi) You will not divulge, either directly or indirectly, to any person any knowledge or information of a confidential nature which you may acquire concerning the affairs, property, enterprise and undertaking of the Department during the course of your service.

PROJECT DIRECTOR  
INDEPENDENT MONITORING

UNIT

Encl: No. 786-5/REG/IMU/H/2014-15:

Dated. 18/02/2015

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Chief Planning Officer, Health Department.
3. Director General Health Services.
4. PS to Secretary Health.
5. Personal File.

*WMS*  
ENGR. MSAR AHMAD  
Data Collection &  
Monitoring Assistant  
IMU

*Dr. Faryal Baddia*  
(Dr. FARYAL BADDIA)  
DEPUTY PROJECT DIRECTOR

ATTESTED

EXTRAORDINARY  
GOVERNMENT



REGISTERED NO. PIII  
GAZETTE

## KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, MONDAY, 13<sup>th</sup> MARCH, 2017.

PROVINCIAL ASSEMBLY SECRETARIAT,  
KHYBER PAKHTUNKHWA

### NOTIFICATION

Dated Peshawar, the 13<sup>th</sup> March, 2017.

No. PA/Khyber Pakhtunkhwa/Bills/2017/10279.—The Khyber Pakhtunkhwa Employees of Health Department (Regularization of Services) Bill, 2017 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 2<sup>nd</sup> March, 2017 and assented to by the Governor of the Khyber Pakhtunkhwa on 9<sup>th</sup> March, 2017 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

**THE KHYBER PAKHTUNKHWA EMPLOYEES OF HEALTH DEPARTMENT  
(REGULARIZATION OF SERVICES) ACT, 2017**

(KHYBER PAKHTUNKHWA ACT NO. VII OF 2017)

*(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa, (Extraordinary), dated the 13<sup>th</sup> March, 2017).*

AN  
ACT

*to provide for the regularization of the services of employees appointed on adhoc or contract basis against civil posts and project posts in the Khyber Pakhtunkhwa.*

**PREAMBLE:-** WHEREAS it is expedient to provide for regularization of services of doctors, Drug Inspectors and other employees appointed on contract or adhoc basis in Health Department, Government of Khyber Pakhtunkhwa;

It is hereby enacted as follows:-

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**1. Short title and commencement.**---(1) This Act may be called the Khyber Pakhtunkhwa employees of Health Department (Regularization of Services) Act, 2017.

(2) It shall come into force at once.

**2. Definitions.**--- (1) In this Act, unless the context otherwise requires,-

- (a) "Government" means the Government of Khyber Pakhtunkhwa;
- (b) "Commission" means the Khyber Pakhtunkhwa Public Service Commission;
- (c) "Department" means the Health Department of Government of Khyber Pakhtunkhwa;
- (d) "Departmental Selection Committee" means a Departmental Selection Committee constituted for making selection for initial appointment to posts in BPS-16 and below in the Department.
- (e) "Project" means:-
  - (i) Health Sector Reforms Unit (HSRU), Health Department;
  - (ii) Strengthening of Planning Cell, Health Department;
  - (iii) District Health Information System, Health Department;
  - (iv) Independent Monitoring Unit, Health Department, and;
  - (v) Strengthening of Rehabilitation of Service of Physically Disabled at Health Department, Khyber Pakhtunkhwa.
- (f) "employees" mean those duly qualified persons:-
  - (i) who were appointed as District Specialist, Medical Officers, Dental Surgeons and Drug Inspectors on adhoc or contract basis by the Government in the years 2015, 2016 and 2017 but otherwise than in accordance with the prescribed method of recruitment;
  - (ii) who were appointed in Saidu Medical College, Swat and Gajju Khan Medical College, Swabi on adhoc or contract basis by the Government in the years 2015, 2016 and 2017 but otherwise than in accordance with the prescribed method of recruitment;

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(iii) who were appointed on adhoc or contract basis by the Government in Khalifa Gul Nawaz Teaching Hospital Bannu in the year, 2011 in the following cadres but otherwise than in accordance with the prescribed method of recruitment:-

- (a) Paramedics cadre;
- (b) Nursing cadre;
- (c) Computer operator;
- (d) Photographer;
- (e) Sub-Engineer, and;

(iv) who were appointed in the projects referred to in sub section (1) on adhoc or contract basis in accordance with project policy.

(g) "law or rules" means the law or rules for the time being in force governing the selection and appointment of civil servants;

(h) "posts" means a posts occupied by the employee and is required to be filled on the recommendation of Commission or Departmental Selection Committee.

(2) The expressions, "Adhoc appointment or Contract appointment" shall have the same meaning as respectively assigned to them in the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973).

**3. Regularization of services of employees.**--- (1) Notwithstanding anything contained in any other law or rules, the employees appointed on contract or adhoc basis and holding the post till the commencement of this Act shall be deemed to have been validly appointed on regular basis from the day of the commencement of this Act.

Provided that;

- (i) Where this Act affects the service promotion quota of any service cadre, such employee(s) shall be deemed to have been regularized against the post in the lower grade of such cadre prescribed under the rules for initial recruitment.
- (ii) they have not resigned from their services or terminated from service on account of misconduct, inefficiency or any other ground before the commencement of this Act; and
- (iii) the services of such employees shall be deemed to have been regularized only on the publication of their names in the Official Gazette.

**4. Determination of seniority.**--- (1) The employees whose services are regularized under this Act or in the process of attaining services at the commencement of this Act shall rank junior

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to all civil servants belonging to the same service or cadre, as the case may be, who are in service on regular basis on the commencement of this Act, and shall also rank junior to such other persons, if any, who, in pursuance of the recommendation of the Commission/ Departmental Selection Committee made before the commencement of this Act, are to be appointed to the respective service or cadre, irrespective of the actual date of appointment.

(2) The seniority inters of the employees, whose services are regularized under this Act within the same service or cadre, shall be determined on the basis of their continuous affiliation in such service or cadre;

Provided that if the date of continuous affiliation in the case of two or more employees is the same, the employee older in age shall rank senior to the younger one.

5. **Removal of difficulties.**--- If any difficulty arises in giving effect to any of the provision of this Act, the Department may give such direction as it may consider necessary for the removal of such difficulty.

6. **Overriding effect.**--- Notwithstanding anything to the contrary contained in any other law or rules, the provisions of this Act shall have an overriding effect and the provisions of any such law or rules to the extent of inconsistency to this Act shall cease to have effect.

BY ORDER OF MR. SPEAKER  
PROVINCIAL ASSEMBLY OF KHYBER PAKHTUNKHWA

(AMANULLAH)  
Secretary  
Provincial Assembly of Khyber Pakhtunkhwa

ENGR. NISAR AHMAD  
Data Collection &  
Monitoring Assistant  
2023/3

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**GOVERNMENT OF KHYBER PAKHTUKHWA  
HEALTH DEPARTMENT  
Dated: 30/06/2017**

**NOTIFICATION**

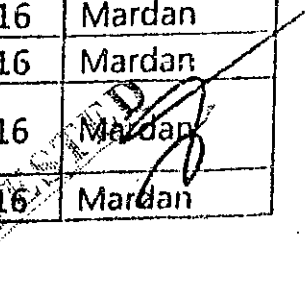
**No. SOG/Health/2-65/2017:-** In pursuance of Section-3 of The Khyber Pakhtunkhwa Employees of Health Department (Regularization of Services) Act, 2017 (Khyber Pakhtunkhwa Act no. VII of 2017), the services of following officers/officials appointed on contract/fixed pay basis in ADP no. 339 code 140775 "Establishment of Independent Monitoring Unit" and holding the posts at the time of commencement of the Act ibid shall stand regularized:-

S.No	Name	Father Name	Designation	BPS	District
1	Aftab Ahmad Akhunzada	Nisar Ahmed	Database Admin/ Data Analyst	18	Head Office
2	Taugeer Iftikhar Abbasi	Iftikhar Hussain	Divisional Monitoring Officer	18	Abbottabad
3	Mujib Ur Rehman	Gulfam Khan	Divisional Monitoring Officer	18	Peshawar
4	Syed Sohaib Shah	Syed Mussadiq Shah	Divisional Monitoring Officer	18	Mansehra
5	Salman Rahim	Abdur Rahim	Divisional Monitoring Officer	18	Swat
6	Muhammad Atif Khan	Rehan Gul	Divisional Monitoring Officer	18	Lower Dir
7	Abdul Waheed	Muhammad Siraj	Divisional Monitoring Officer	18	kchat
8	Gohar Rehman	Mushtaq Ahmed	Divisional Monitoring Officer	18	Mardan
9	Maliha Gul	Asmat ullah Khan	Divisional Monitoring Officer	18	DI Khan
10	Adnan Saeed Khan	Saeed Khan	Admin/Accounts Officer	18	Head Office
11	Kousar Khan	Abdur Rehman	Data Collection Assistant	16	Peshawar
12	Zahoor Alam	Fakhr uddin Ahmed	Data Collection Assistant	16	Peshawar
13	Usman Khan	Bashir Ahmed	Data Collection Assistant	16	Peshawar
14	Waqas Ayub	Muhammad Ayub Khan	Data Collection Assistant	16	Peshawar
15	Sikandar Wadood	Ihsan Ul Wadood	Data Collection Assistant	16	Peshawar
16	Muhammad Haris Mehmood	Khalid Mehmood	Data Collection Assistant	16	Peshawar
17	Arif Khan	Hayat Khan	Data Collection Assistant	16	Peshawar
18	Rashid Noor	Noor Muhammad	Data Collection Assistant	16	Peshawar
19	Marina Iqbal	Muhammad Iqbal	Data Collection Assistant	16	Peshawar
20	Mehwish Khan	Naseer Ahmad	Data Collection Assistant	16	Peshawar

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21	Uzma Karim	Abdul Karim	Data Collection Assistant	15	Peshawar
22	Fatima Jahan	Taj Muhammad Khan	Data Collection Assistant	16	Peshawar
23	Azra Aamir	Abdur Rehman	Data Collection Assistant	15	Peshawar
24	Zulfikar Ali	Muhammad Ali	Data Collection Assistant	16	Charsadda
25	Zeeshan Ali	Sher Bahadar	Data Collection Assistant	16	Charsadda
28	Shahzad yousaf	Muhammad Yousaf	Data Collection Assistant	15	Kohat
29	Saira Batool	Aitaf Muhammad	Data Collection Assistant	15	Kohat
30	Aziz Ur Rehman	Abdur Rehman	Data Collection Assistant	16	Hangu
31	Azmat Ali	Qeemat Khan	Data Collection Assistant	16	Hangu
32	Asad Iqbal	Haq Nawaz Khan	Data Collection Assistant	16	karak
33	Qaisar Farooq	Muhammad Farooq	Data Collection Assistant	16	Karak
34	Muhammad Waqas Khan	Abdul Sattar Khan	Data Collection Assistant	16	Bannu
35	Zahid Ullah Khan	Ghulam Khan	Data Collection Assistant	16	Bannu
36	farhan Ashiq	Ashiq Noor	Data Collection Assistant	16	Bannu
37	Muhammad Waseem Farooq	Muhammad Asif Khan	Data Collection Assistant	16	Bannu
38	Ihsan Ullah Khan	Zafar Ullah Khan	Data Collection Assistant	16	Bannu
39	Sadaf Parveen	Shafi Ullah Jan	Data Collection Assistant	16	Bannu
40	Muhammad wajid Iqbal	Muhammad Iqbal Khan	Data Collection Assistant	16	DI Khan
41	Waqar Asmat Khan	Asmat Ullah Khan	Data Collection Assistant	16	DI Khan
42	Irfan Daud	Daud Khan	Data Collection Assistant	16	DI Khan
43	Muhamma Imran Zia	Zia Ul Hassan Shah	Data Collection Assistant	16	DI Khan
44	Shafqat Ullah	Inayat Ullah Khan	Data Collection Assistant	16	DI Khan
45	Adnan Latif Khan	Abdul Latif Khan	Data Collection Assistant	16	DI Khan
46	Nusrat Shaheen	Mehmood Khan	Data Collection Assistant	16	DI Khan
47	Muhammad Imran Ullah	Inayat Ullah Khan	Data Collection Assistant	16	Tank
48	Asif Ali	Akbar Ali	Data Collection Assistant	16	Tank
49	Muhammad Maaz	Hakim Khan	Data Collection Assistant	16	Tank
50	Khalid Waseem	Nadir Khan	Data Collection Assistant	16	Lakki Marwat
51	Muhammad Gul	Ghulam Jan	Data Collection Assistant	16	Lakki Marwat
52	Imad Khan	Khalid Ur Rehman	Data Collection Assistant	16	Malakand
53	Mehran Khan	Dost Muhammad	Data Collection Assistant	16	Malakand

54	Muhammad Tahir	Muhammad Nazar	Data Collection Assistant	16	Malakand
55	Sajjad Khan	Sher Zada	Data Collection Assistant	16	Malakand
56	Shahnaz	Muhammad Gul	Data Collection Assistant	16	Malakand
57	Abdur Rashid	Abdur Rahim	Data Collection Assistant	16	Swat
58	Shaukat Ali	Khalil Ur Rahman	Data Collection Assistant	16	Swat
59	Adnan Khan	Shah Duran	Data Collection Assistant	16	Swat
60	Zeshan Ali	Muhammad Ali Shah	Data Collection Assistant	16	Swat
61	Atif Khan	Mumtaz Ali Khan	Data Collection Assistant	16	Swat
62	Ihsan Ullah	Bakht Karam	Data Collection Assistant	16	Swat
63	Murad Ali Mian	Bahardar Ali Mian	Data Collection Assistant	16	Swat
64	Sana Sher Afzal	Sher Afzal Khan	Data Collection Assistant	16	Swat
65	Mati Ur Rehman	Bakht Zada	Data Collection Assistant	16	Shangla
66	Izhar Ullah	Alamgir	Data Collection Assistant	16	Shangla
67	Ihsan Ullah	Hazrat Usman	Data Collection Assistant	16	Shangla
68	Sharif Ullah	Said Muhammad	Data Collection Assistant	16	Shangla
69	Abdul Saboor	Sadurul Uloom	Data Collection Assistant	16	Shangla
70	Gauhar Ali	Pir Said	Data Collection Assistant	16	Bunner
71	Naseem Ul Haq	Hameed Ullah Khan	Data Collection Assistant	16	Bunner
72	Naveed Ahmad	Abdul Shakoor	Data Collection Assistant	16	Bunner
73	Munir Ahmad	Raishad Khan	Data Collection Assistant	16	Swabi
74	Arshad Ali	Nazar Muhammad	Data Collection Assistant	16	Swabi
75	Abid Ali Khan	Zahir Khan	Data Collection Assistant	16	Swabi
76	Sajjad Ahmad	Ameer Zada	Data Collection Assistant	16	Swabi
77	Irfan Ali Khan	Munjra Khan	Data Collection Assistant	16	Swabi
78	Nida Tabassum	Jan Muhammad	Data Collection Assistant	16	Swabi
79	Jawad Ali	Ashraf Ali	Data Collection Assistant	16	Swabi
80	Kashif Khan Tanoli	Muhammad Sheesh Khan	Data Collection Assistant	16	Swabi
81	Yasir Khan	Ajab Khan	Data Collection Assistant	16	Mardan
82	Usman Hakam	Abdul Hakam	Data Collection Assistant	16	Mardan
83	Zahid Hussain	Bakhtyar Khan	Data Collection Assistant	16	Mardan
84	Zahir Rehman	Muhammad Rahman	Data Collection Assistant	16	Mardan
85	Intiaz Alam	Ibrahim Khan	Data Collection Assistant	16	Mardan

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86	Muhammad Saqib	Gulzar Muhammad	Data Collection Assistant	16	Mardan
87	Hina Tila	Tila Muhammad Khan	Data Collection Assistant	16	Mardan
88	Akbar Ali Akhan	Hijab Gul	Data Collection Assistant	16	Mardan
89	Nisar Ahmed	Haji Ghulam Muhammad	Data Collection Assistant	16	Nowshera
90	Muhammad Ahmed Jan	Sajid Ali Khan	Data Collection Assistant	16	Nowshera
91	Masaud Jan Khan	Taslim Khan	Data Collection Assistant	16	Nowshera
92	Shehreyar	Khush Dil	Data Collection Assistant	16	Nowshera
93	Abdullah	Bakht Biland	Data Collection Assistant	16	Nowshera
94	Zainab Ali khan	Liaqat Ali Khan	Data Collection Assistant	16	Nowshera
95	Aamir Malook	Saif Ul Malook	Data Collection Assistant	16	Nowshera
96	Mubashir Rabbani	Ghulam Rabbani	Data Collection Assistant	16	Abbottabad
97	Waqas Ahmed	Taj Muhammad	Data Collection Assistant	16	Abbottabad
98	Muhammad Gulbaz	Mushtaq Ahmed	Data Collection Assistant	16	Abbottabad
99	Sarmad Jadoon	Imtiaz Khan	Data Collection Assistant	16	Abbottabad
100	Mansoor Ahmed	Maqbool Ahmed	Data Collection Assistant	16	Abbottabad
101	Syed Safeer Ali	Syed Shabbir Shah	Data Collection Assistant	16	Abbottabad
102	Usman Malik	Bashir Hussain Malik	Data Collection Assistant	16	Abbottabad
103	Ayesha Mushtaq	Sardar Mushtaq Ahmed	Data Collection Assistant	16	Abbottabad
104	Muhammad Abeela	Muhammad Jadoon Khan	Data Collection Assistant	16	Abbottabad
105	Arsalan Yaqoob	Muhammad Yaqoob	Data Collection Assistant	16	Haripur
106	Umer Ayub	Malik Muhammad Ayub	Data Collection Assistant	16	Haripur
107	Syed Basharat Ali	Syed Imran	Data Collection Assistant	16	Haripur
108	Ahsan Ullah Khan	Muhammad Saleem Khan	Data Collection Assistant	16	Haripur
109	Asif Mehmood	Gulzar Khan	Data Collection Assistant	16	Haripur
110	Faiqa Wahid	Abdul Wahid	Data Collection Assistant	16	Haripur

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111	Zubair Khan	Muhammad	Data Collection Assistant	16	Haripur
112	Tehzeeb Nadeem	Muhammad Karim	Data Collection Assistant	16	Upper Dir
113	Muhammad Tehseen Raza	Raza Khan	Data Collection Assistant	16	Upper Dir
114	Muhammad Imdad Ul Haq	Ahmad Munir	Data Collection Assistant	16	Upper Dir
115	Risz Ahmad	Nisar Ahmed	Data Collection Assistant	16	Lower Dir
116	Fazal Aman	Khaista Rahman	Data Collection Assistant	16	Lower Dir
117	Bushra Qayyum	Abdul Qayyum	Data Collection Assistant	16	Lower Dir
118	Muhammad Munaleen Alam	Alam Zeb	Data Collection Assistant	16	Lower Dir
119	Muhammad Qasim Shah	Muhammad Sadiq	Data Collection Assistant	16	Lower Dir
120	Ihsan Ul Haq	Khurshaid-ul- haq	Data Collection Assistant	16	Lower Dir
121	Azad Ur Rehman	Abdul Sattar	Data Collection Assistant	16	Chitral
122	Ihsan Ud din	Azim Ud Din	Data Collection Assistant	16	Chitral
123	Muhammad Aman	Sher Dil Khan	Data Collection Assistant	16	Chitral
124	Adeel Ul Mulk	Qayoom Ul Mulk	Data Collection Assistant	16	Chitral
125	Saira Azam	Mir Azam Khan	Data Collection Assistant	16	Chitral
126	Muhammad Zeeshan Uddin	Islah-Ud-Din	Data Collection Assistant	16	Chitral
127	Gazi Aswar	Amir Ur Din	Data Collection Assistant	16	Chitral
128	Sarfraz Ahmed	Gul Muhammad	Data Collection Assistant	16	Kohistan
129	Aurangzeb	Nosheer	Data Collection Assistant	16	Kohistan
130	Abdul Mateen	Nawab	Data Collection Assistant	16	Kohistan
131	Zhan Alam	Sarbuland Khan	Data Collection Assistant	16	Kohistan
132	Abdul Sattar	Ghaffar Khan	Data Collection Assistant	16	Kohistan
133	Malik Harzeed Akhtar	Imam Rabbani	Data Collection Assistant	16	Battagram
134	Hidayat Ullah	Speen Gul	Data Collection Assistant	16	Battagram
135	Shahab Hussain	Muhammad Hussain	Data Collection Assistant	16	Battagram
136	Habeera Sattar	Syed Abdul Sattar Shah	Data Collection Assistant	16	Battagram
137	Muhammad Danish	Rehman Uddin	Data Collection Assistant	16	Toghan

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*[Handwritten Signature]*

138	Muhammad Awais	Sher Bahadar	Data Collection Assistant	16	Manselwa
139	Shif Irfan	Muhammad Irfan	Data Collection Assistant	16	Manselwa
140	Rizwan Khurshid	khursheed Abbasi	Data Collection Assistant	16	Manselwa
142	Sheryar Khan	Nadir Khan	Data Collection Assistant	16	Manselwa
143	Syed Shah Fahad	Syed Pir Muhammad Shah	Data Collection Assistant	16	Manselwa
144	Waqas Rashid	Baboo Abdur Rashid	Data Collection Assistant	16	Manselwa
145	Atiq Ur Rehman	Shafiq Ur Rehman	Data Collection Assistant	16	Manselwa
146	Zubair Razaq	Abdul Razaq	Data Collection Assistant	16	Manselwa
147	Khursheed Ahmed	Abdul Rahim	Data Collection Assistant	16	Manselwa
148	Muhammad Afzal	Muhammad Rafique	Data Collection Assistant	16	Manselwa
149	Sarmad Shehnaam	Muhammad Tariq	Data Collection Assistant	16	Manselwa
150	Nighat Mushtaq	Mushtaq Ahmed	Data Collection Assistant	16	Manselwa
151	Zeeshan Khan	Gul Azam	Computer Operator	16	Peshawar
152	Waqas Ahmed	Khan Sher	Driver	6	Peshawar
153	Riffat Ullah	Inayat Ullah	Driver	6	Peshawar
154	Muhammad Iftikhar	Muhammad Ishaq	Driver	6	Abbottabad
155	Zakir Ali	Nadir Khan	Driver	6	Mardan
156	Akash Khan	Tarik Khan	Driver	6	Abbottabad
157	Ghulam Akbar	Fazal Akbar	Driver	6	Peshawar
158	Dost Muhammad	Ghulam Muhmaad	Driver	6	Peshawar
159	Naeem Ullah Jan	Masam Jan	Naib Qasid	3	Peshawar
160	Ajab Khan	Khan Muhammad	Naib Qasid	3	Peshawar
161	Waqas Ahmad	Aman Sher	Naib Qasid	3	Peshawar
162	Hameed Ullah Khan	Munawar Khan	Naib Qasid	3	Kohat
163	Muhammad Islam	Akbar Jan	Naib Qasid	3	Bannu
164	Hafeez Ullah	Subhan Ullah	Driver	6	Manselwa

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165	Muhammad Adeel Asif	Muhammad Asif	Driver	6	Mansehra
166	Shoaib Ahmed	Muhammad Ahmad Khan	Driver	6	Mansehra
167	Maqsood Ahmad	Muhammad Hussain Khan	Naib Qasid	3	Lower Dir
168	Mawahid Ali	Murad Ali	Naib Qasid	3	Mardan
169	Muhammad Kamran Rauf	Abdul Rauf	Naib Qasid	3	DI Khan
170	Saeed Ur Rehman	Muhammad Bashir	Naib Qasid	3	DI Khan
171	Amer Zeb	Muhammad Zareen	Naib Qasid	3	Swat
172	Shakeel Ahmad	Aziz Ur Rehman	Driver	6	Lower Dir

**Secretary to Govt. of Khyber Pakhtunkhwa  
Health Department**

**Endst: no. and Date even as above.**

**Copy to:-**

1. The Accountant General, Khyber Pakhtunkhwa
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa
3. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa
4. All head of Attached Department, Health Department, Peshawar
5. PSO to Chief Secretary, Khyber Pakhtunkhwa
6. Manager, Government Printing Press Department Khyber Pakhtunkhwa for Publication in the official Gazette.
7. PS to Senior Minister for Health, Khyber Pakhtunkhwa, Peshawar
8. PS to Additional Chief Secretary (P&D) Khyber Pakhtunkhwa
9. PS to Secretary Health, Khyber Pakhtunkhwa
10. Officers/officials concerned.

*whisk*  
ENCL. NO. 153 AHMAD  
1923 &  
Muzaffar Khan  
1923 &  
1923 &

*Jibreel Raza*  
30 June  
**(JIBREEL RAZA)**  
Section Officer (General)

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# TABLE OF COMPARISON

Before Regularization	After Regularization
38500	21920

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**Government of Khyber Pakhtunkhwa**  
**Accountant General Khyber Pakhtunkhwa, Peshawar**  
**Monthly Salary Statement (April-2017)**



Personnel Information of Mrs NISAR AHMAD d/w/s of GHULAM MUHAMMAD

Personnel Number: 00740871      CNIC: 1720161153617      NTN:  
 Date of Birth: 01.01.1989      Entry into Govt. Service:      Length of Service: 00 Years 00 Months 000 Days

Employment Category: Regular / Contract

Designation: MONITORING & DATA COLLECT      80346512-GOVERNMENT OF KHYBER PAKH

DDO Code: PR5055-Basic Health KP Peshawar

Payroll Section: 009      GPF Section: 002      Cash Center:  
 GPF A/C No:      Interest Applied: No      GPF Balance:      0.00

Vendor Number: 30259445 - NISAR AHMAD 0120062119 ABL 250286

Pay and Allowances:      Pay scale: BPS For - 2016      Pay Scale Type: Civil      BPS: 16      Pay Stage: 1

Wage type		Amount	Wage type		Amount
0045	Fixed Pay / Salary	38,500.00			0.00

Deductions - General

Wage type		Amount	Wage type		Amount
3609	Income Tax	-208.00	4200	Professional Tax	-200.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 1,099.98      Recovered till April-2017: 685.00      Exempted: 0.38-      Recoverable: 415.36

Gross Pay (Rs.): 38,500.00      Deductions: (Rs.): -408.00      Net Pay: (Rs.): 38,092.00

Payee Name: NISAR AHMAD  
 Account Number: 0120062119  
 Bank Details: ALLIED BANK LIMITED, 250286 CAVALRY ROAD CAVALRY ROAD,

Leaves:      Opening Balance:      Aailed:      Earned:      Balance:

Permanent Address:-

City: ABBOTTABAD

Domicile: -

Housing Status: No Official

Temp. Address:

City:

Email: ahmadnisar610@gmail.com

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**Government of Khyber Pakhtunkhwa**  
**Accountant General Khyber Pakhtunkhwa, Peshawar**  
**Monthly Salary Statement (September-2017)**

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**Personal Information of Mrs NISAR AHMAD d/w/s of GHULAM MUHAMMAD**

Personnel Number: 00740871      CNIC: 1720161153617      NTN:  
 Date of Birth: 01.01.1989      Entry into Govt. Service:      Length of Service: 00 Years 00 Months 000 Days

**Employment Category: Active Temporary**

Designation: MONITORING & DATA COLLECT      80692618-GOVERNMENT OF KHYBER PAKH  
 DDO Code: PR5875-Khyber Pakhtunkhwa  
 Payroll Section: 009      GPF Section: 002      Cash Center:  
 GPF A/C No:      Interest Applied: No      **GPF Balance:**      8,418.00  
 Vendor Number: 30259445 - NISAR AHMAD 0120062119 ABL 250286  
**Pay and Allowances:**      Pay scale: BPS For - 2017      Pay Scale Type: Civil      BPS: 16      Pay Stage: 0

Wage type		Amount	Wage type		Amount
0001	Basic Pay	18,910.00	1001	House Rent Allowance 45% /	2,727.00
1974	Medical Allowance 2011	1,500.00	2211	Adhoc Relief All 2016 10%	1,588.00
2224	Adhoc Relief All 2017 10%	1,891.00			0.00

**Deductions - General**

Wage type		Amount	Wage type		Amount
3016	GPF Subscription - Rs3340	-2,806.00	3501	Benevolent Fund	-800.00
4004	R. Benefits & Death Comp:	-1,089.00			0.00

**Deductions - Loans and Advances**

Loan	Description	Principal amount	Deduction	Balance

**Deductions - Income Tax**

Payable: 0.00      Recovered till September-2017: 0.00      Exempted: 0.00      Recoverable: 0.00

**Gross Pay (Rs.): 26,616.00      Deductions: (Rs.): -4,695.00      Net Pay: (Rs.): 21,921.00**

Payee Name: NISAR AHMAD  
 Account Number: 0120062119  
 Bank Details: ALLIED BANK LIMITED, 250286 CAVALRY ROAD CAVALRY ROAD,

Leaves:      Opening Balance:      Aailed:      Earned:      Balance:

**Permanent Address:**

City: ABBOTTABAD

Domicile: -

Housing Status: No Official

Temp. Address:

City:

Email: ahmadnisar610@gmail.com

*Nisar Ahmad*  
 ENCON. NISAR AHMAD  
 Data Collection &  
 Monitoring Ass. Officer  
 0120062119

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System generated document in accordance with APPM 4.6.12.9 (SERVICES/29.09.2017/20:15:23/v1.1)  
 \* All amounts are in Pak Rupees  
 \* Errors & omissions excepted

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Government of Pakistan  
Finance Division  
(Regulations Wing)

\*\*\*\*

F. No. 7(9)R-1/2012-

Islamabad, the 31<sup>st</sup> May, 2013

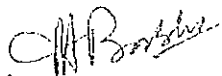
OFFICE MEMORANDUM

Subject: - PROTECTION OF PAY OF CONTRACT EMPLOYEES ON  
REGULARIZATION/APPOINTMENT ON REGULAR BASIS

The undersigned is directed to say that the proposals for protection of pay last drawn by the contract employees on their regularization/appointment on regular basis are received in Finance division and considered/decided on case to case basis. The existing rules/orders on the subject do not provide for protection of pay of contract employees on their regularization. The Courts have held from time to time that the pay of contract employees on their regularization/appointment on regular basis should be protected. The matter has been examined in the light of Court's Judgments and it has been decided to issue general policy guidelines in this regard. Pay of a non-Gazetted contract employee on his regularization/appointment on regular basis will be protected subject to the following conditions:-

- i) That the contract appointment has been made on standard terms and conditions circulated by Establishment Division as amended for time to time.
- ii) That the contract employee has applied through proper channel and has been properly relieved by the appointing authority. This condition shall not apply in case of regularization on the same post.
- iii) That regularization/regular appointment has been made with the approval of competent authority.
- iv) That there is no break/interruption between contract service and regular service.
- v) That the service rendered on contract basis shall not qualify for pension/gratuity.
- vi) That in case of regular appointment in lower grade pay shall not be protected.

2. Ministries/Divisions/Departments are authorized to protect/fix pay in terms of above guidelines. Only those cases may be referred to Finance Division where some clarification or advice of Finance Division is required.

  
(Muhammad Bashir Zahid)  
Accounts Officer(R-1)  
Tele: 9245843

All Ministries/Divisions/Departments

**ATTACHED**

Copy also forwarded for information to:-

1. President's Secretariat (Public), Islamabad.
2. President's Secretariat (Personal), Islamabad.
3. Prime Minister's Secretariat (Internal), Islamabad.
4. Prime Minister's Secretariat (Public), Islamabad.
5. National Assembly Secretariat, Islamabad.
6. Senate Secretariat, Islamabad.
7. Election Commission of Pakistan, Islamabad.
8. Supreme Court of Pakistan, Islamabad.
9. Federal Shariat Court, Islamabad.
10. Auditor General of Pakistan, Islamabad.
11. Controller General of Accounts, Islamabad.
12. AGPR, Islamabad/Lahore/Peshawar/Karachi/Quetta.
13. Military Accountant General, Rawalpindi.
14. All Financial Advisers/Deputy Financial Advisers attached to Ministries/Divisions and all officers of Finance Division.
15. Chief Accounts Officer, M/o Foreign Affairs, Islamabad.
16. Financial Adviser and Chief Accounts Officer, Pakistan Railways, Lahore.
17. All Chief Secretaries/Finance Secretaries of the Government of Punjab/Sindh/KPK/Balochistan & Azad State of Jammu & Kashmir.
18. Capital Development Authority, Islamabad.
19. Office of the Chief Commissioner, Islamabad.
20. Federal Public Service Commission, F-5/1, Agha Khan Road, Islamabad.
21. Secretary, Wafaqi Mohtasib (Ombudsman)'s Secretariat, Islamabad.
22. Pakistan Atomic Energy Commission, Islamabad.
23. Central Directorate of National Savings, Islamabad.
24. National Accountability Bureau, Islamabad.
25. Member (Finance), KRL, P.O. Box No. 1384, Islamabad.
26. Intelligence Bureau, Islamabad.
27. Pakistan Mint, Lahore.
28. DG Post Offices, Islamabad.
29. Secretariat Training Institute, Islamabad.
30. Directorate General of Inspection & Training, Customs & Central Excise, 8<sup>th</sup> Floor, New Customs House, Karachi.
31. National Re-Construction Bureau, Prime Minister's Secretariat, Islamabad.
32. Earthquake Reconstruction & Rehabilitation Authority (ERRA), P.M. Sectt. (Public), Islamabad.
33. Federal Tax Ombudsman's Secretariat, Islamabad.
34. Cost Accounts Organization, Islamabad.

*Wahid*  
MADR ANWAR AHMAD  
Team Collection &  
Accounting Assistant  
1992

*Muhammad Bashir Zahid*  
(Muhammad Bashir Zahid)  
(Section Officer(R-II))  
Tele: 9245843

**ATTACHED**



GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT  
(REGULATION WING)

NO. FD (SOFR-1) 12-7/2014  
Dated Peshawar the 6<sup>th</sup> February, 2014

To:

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

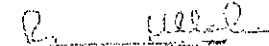
Subject: PROTECTION OF PAY OF CONTRACT EMPLOYEES ON  
REGULARIZATION / APPOINTMENT ON REGULAR BASIS.

Dear Sir,

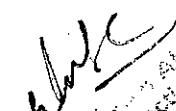
In pursuance to the Finance Division's Office Memorandum No.7(9)R-I/2012 dated 31<sup>st</sup> May, 2013, the competent authority is pleased to allow the pay protection to non-Gazetted contract employees on their regularization / appointment on regular basis with immediate effect subject to the following conditions:-

- i) That the contract appointment has been made on standard terms and conditions, circulated by this Provincial Government as amended from time to time.
- ii) That the contract employee has applied through proper channel and has been properly relieved by the appointing authority. This condition shall not apply in case of regularization on the same post.
- iii) That regularization / regular appointment has been made with the approval of competent authority.
- iv) That there is no break / interruption between contract service and regular service.
- v) That the service rendered on contract basis shall not qualify for pension / gratuity.
- vi) That in case of regular appointment in lower grade, pay shall not be protected.

Yours faithfully,

  
(RAZAULLAH KHAN)

Addl. Secretary (Regulation)

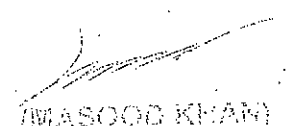
  
ENGR. IQBAL ANWAR  
Joint Secretary &  
Finance

232

**ATTESTED**

Copy for information & necessary action to:-

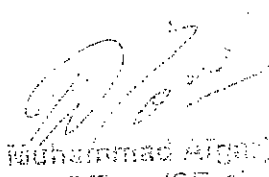
1. The Director, Treasuries & Accounts, Khyber Pakhtunkhwa.
2. All the District Comptroller of Accounts in Khyber Pakhtunkhwa.
3. The Director, Local Fund Audit, Khyber Pakhtunkhwa, Peshawar.
4. The Director, FMIU, Finance Department
5. The Treasury Officer, Peshawar.
6. The Secretary, Board of Revenue, Khyber Pakhtunkhwa.
7. All the District & Agency Accounts Officers in Khyber Pakhtunkhwa / FATA.

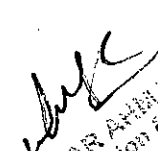
  
(IQBAL KHAN)  
Deputy Secretary (Reg-II)

Order No. & Date Even

Copy for information is forwarded to:-

1. All the Section Officers / Budget Officers in Finance Department, Khyber Pakhtunkhwa, Peshawar.
2. The Private Secretary to Senior Minister for Finance, Khyber Pakhtunkhwa.
3. The Private Secretary to Secretary / P.As to Special Secretary / Additional Secretaries / Deputy Secretaries in Finance Deptt.

  
(Wazir Muhammad Afroz)  
Section Officer (SR-1)

  
WAZIR MUHAMMAD AFROZ  
Data Collection &  
Monitoring Assistant  
FATA

**URGENT**

F. No. 4 (2) R-2/2014-237

Islamabad, the 7<sup>th</sup> April, 2015

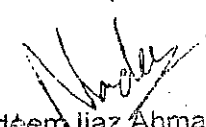
OFFICE MEMORANDUM

Subject:- PROTECTION OF PAY OF GAZETTED CONTACT EMPLOYEES  
ON REGULARIZATION/APPOINTMENT ON REGULAR BASIS

The proposal for protection of pay last drawn by the contract employees on their regularization/appointment on regular basis are received in Finance Division and considered/decided on case to case basis. The existing rules/orders on the subject do not provide for protection of pay of gazetted contract employees on their regularization. The Courts have held from time to time that the pay of gazetted contract employees on their regularization/appointment on regular basis should be protected. The matter has been examined in the light of Court's Judgments and it has been decided to issue general policy guidelines in this regard. Pay of gazetted contract employee on his regularization/appointment on regular basis will be protected subject to the following conditions:-

- i. That the contract appointment has been made in a BPS on standard terms and conditions circulated by Establishment Division as amended for time to time.
- ii. That the contract employee has applied through proper channel and has been properly relieved by the appointing authority. This condition shall not apply in case of regularization on the same post.
- iii. That regularization/regular appointment has been made with the approval of competent authority.
- iv. That there is no break/interruption between contract service and regular service.
- v. That the service rendered on contract basis shall not qualify for pension/gratuity.
- vi. That in case of regular appointment from higher grade to lower grade, pay shall not be protected.

2. Accountant General of Pakistan Revenues (AGPR) will make fixation of pay in terms of above guidelines. Only those cases may be referred to Finance Division where some clarification or advice of this Division is required.

  
(Nadeem Ijaz Ahmad)  
Section Officer (R-2)  
Ph. 9245846

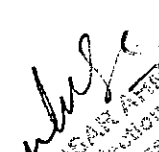
All Ministries/Divisions/Departments


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2. President's Secretariat (Personal), Islamabad.
3. Prime Minister's Secretariat (Internal), Islamabad.
4. Prime Minister's Secretariat (Public), Islamabad.
5. National Assembly Secretariat, Islamabad.
6. Senate Secretariat, Islamabad.
7. Election Commission of Pakistan, Islamabad.
8. Supreme Court of Pakistan, Islamabad.
9. Federal Shariat Court, Islamabad.
10. Auditor General of Pakistan, Islamabad.
11. Controller General of Accounts, Islamabad.
12. AGPR, Islamabad/Lahore/Peshawar/Karachi/Quetta.
13. Military Accountant General, Rawalpindi.
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15. Chief Accounts Officer, M/o Foreign Affairs, Islamabad.
16. Financial Adviser and Chief Accounts Officer, Pakistan Railways, Lahore.
17. All Chief Secretaries/Finance Secretaries of the Government of Punjab/Sindh/KPK/Balochistan & Azad State of Jammu & Kashmir & Gilgit-Baltistan.
18. Capital Development Authority, Islamabad.
19. Office of the Chief Commissioner, Islamabad.
20. Federal Public Service Commission, F-5/1, Agha Khan Road, Islamabad.
21. Secretary, Wafaqi Mohtasib (Ombudsman)'s Secretariat, Islamabad.
22. Pakistan Atomic Energy Commission, Islamabad.
23. Central Directorate of National Savings, Islamabad.
24. National Accountability Bureau, Islamabad.
25. Member (Finance), KRL, P.O.Box No.1384, Islamabad.
26. Intelligence Bureau, Islamabad.
27. Pakistan Mint, Lahore.
28. DG Post Offices, Islamabad.
29. Secretariat Training Institute, Islamabad.
30. Directorate General of Inspection & Training, Customs & Central Excise, 8<sup>th</sup> Floor, New Customs House, Karachi.
31. National Re-Construction Bureau, Prime Minister's Secretariat, Islamabad.
32. Earthquake Reconstruction & Rehabilitation Authority (ERRA), P.M. Sectt. (Public), Islamabad.
33. Federal Tax Ombudsman's Secretariat, Islamabad.
34. Cost Accounts Organization, Islamabad.
35. Web Master

  
ENGR. NADEEM IJAZ AHMAD  
Dir. Collection &  
Monitoring Assessment  
2023-24

  
(Nadeem Ijaz Ahmad)  
Section Officer(R-2)  
Tele: 9245846

RECEIVED



GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT

①

NO

Dated 19-08-2019

To

The Secretary Finance,  
Government of Khyber Pakhtunkhwa.

Subject: Appeal For Pay Protection/Allowances

Dear Sir

With due respect it is stated that the employees of the following projects were regularized by provincial assembly, Khyber Pakhtunkhwa through an ACT titled, "the Khyber Pakhtunkhwa employees of health department (regularization of services) ACT 2017", dated 3<sup>rd</sup> march 2017. (Annex-I)

1. Strengthening Of Planning Cell, Health Department Khyber Pakhtunkhwa
2. Health Sector Reform Unit (HSRU), Health Department Khyber Pakhtunkhwa
3. District Health Information System (DHIS), Health Department Khyber Pakhtunkhwa
4. Independent Monitoring Unit (IMU), Health Department Khyber Pakhtunkhwa
5. Strengthening Of Rehabilitation Services Of Physically Disabled At Health Department Khyber Pakhtunkhwa

Employees were appointed in the above mentioned projects in various pay scales i.e. from BPS 1 to BPS 18 on the basis of standard terms and conditions on contract/fixed pay basis. They were granted annual increment and benefits as per project policy of Government of Khyber Pakhtunkhwa.

The finance division, Islamabad vide office memorandum No. 7(9)R-I/2012 dated 31-05-2013, issued a general policy guideline wherein, the pay of non-Gazetted contract employees, on their regularization was protected. (Annex-II)

In pursuance of the said office memorandum of Finance Division Islamabad No. 7(9)R-I/2012 dated 31-05-2013, the Government of Khyber Pakhtunkhwa finance department (Regulation Wing), vide letter No. FD (SOSR-1)12-7/2017 dated 06-02-2014, adopted the pay protection policy of finance division Islamabad for non-Gazetted contract employees on their regularization. (Annex-III)

Subsequently, in order to cover the pay protection of Gazetted contract employees on their regularization/appointment on regular basis, the finance division Islamabad issued another memorandum vide F.No. 4(2) R-2/2014-237 dated 07-04-2015 (Annex-IV) and F.No. 4(2) R-2/2014-241 dated 20-09-2016.

ATTESTED

It is also pertinent to mention here that the Government of Khyber Pakhtunkhwa has not adopted/allowed the protection of pay policy guidelines/instructions of finance division Islamabad issued on 07-04-2015 and 20-09-2016 in respect of Gazetted contract employees on their regularization/appointment on regular basis.

In view of the above, it is humbly requested that the concerned department may be directed to issue the policy guidelines of pay protection of Gazetted employees on the analogy of non-Gazetted employees in the light of instructions of finance division Islamabad regarding the Gazetted employees. It is further requested that the pay of said employees regularized through the above mentioned ACT may be protected on the basis of these guidelines please.

Moreover every government employee is receiving some sort of allowance, be it HPA, secretarial allowance, risk allowance, executive allowance etc. On the other hand the IMU staff has been deprived from such like allowance. Keeping in view the nature and responsibility of the job a monitoring allowance should be allowed for us, so that we may continue our job with zeal and zest.

Encl: AA

Yours faithfully,

Nisar Ahmad

*Nisar Ahmad*  
ENCLER NISAR AHMAD  
Finance Collection &  
Monitoring Assistant  
IMU Health

Monitoring and Data Collection Assistant

Nowshera

*forwarded to Director IMU  
for N/A plz*

D. NO 2913A  
DATE 11-09-2019  
Director IMU Health

*[Signature]*  
DMD B2 10.09.2019

**ATTESTED**

(1)

NO: \_\_\_\_\_

Dated 04-03-2020

Through proper channel:

To

The Secretary Finance  
Govt of Khyber Pakhtunkhwa  
Peshawar

DATE: 04/03/2020  
Director Health

Subject: Appeal for pay protection.

Dear Sir

With due respect it is stated that the employees of the following projects were regularized by provincial assembly, Khyber Pakhtunkhwa through an Act title, "the Khyber Pakhtunkhwa employees of health department (regularization of services) Act 2017", dated 3<sup>rd</sup> March 2017. (Annex I)

1. Strengthening of planning cell, Health department Khyber Pakhtunkhwa.
2. Health Sector Reform Unit (HSRU), Health Department Khyber Pakhtunkhwa.
3. District Health Information System (DHIS), Health Department Khyber Pakhtunkhwa.
4. Independent Monitoring Unit (IMU) Health Department Khyber Pakhtunkhwa.
5. Strengthening of Rehabilitation Services of Physically Disabled at Health Department Khyber Pakhtunkhwa.

Employees were appointed in the above mentioned projects in various pay scales i.e from BPS 1 to BPS 18 on the basis of standard terms and conditions on contract/ fixed pay basis. They were granted annual increment and benefits as per project policy of Government of Khyber Pakhtunkhwa.

The finance division, Islamabad vide office memorandum No. 7(9)R-1/2012 dated 31-05-2013, issued a general policy guideline wherein, the pay of non-Gazetted contract employees, on their regularization was protected. (Annex-II)

In pursuance of the said office memorandum of Finance Division Islamabad No. 7(9)R-1/2012 dated 31-05-2013, the Government of Khyber Pakhtunkhwa finance department (Regulation Wing), vide letter No.FD (SOSR-1) 12-7-2017 dated 06-02-2014, adopted the pay protection policy of finance division Islamabad for non-Gazetted contract employees on their regularization. (Annex-III)

APPROVED

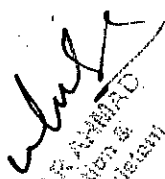
Subsequently, in order to cover the pay protection of Gizedted contract employees on their regularization/ appointment on regular basis, the finance division Islamabad issued another memorandum vide F. No.4(2)/2014-237 dated 07-04-2015 Annex-IV) and F.No.4(2)R-2/2014-241 dated 20-09-2016.

It is also pertinent to mention here that the Government of Khyber Pakhtunkhwa has not adopted/allowed the protection of apy policy guidelines/instructions of finance division Islamabad issued on 07-04-2015 and 20-09-2016 in respect of Gizedted contract employees on their regularization/ appointment on regular basis.

In view of the above, it is humbly requested that the concerned department may be directed to issue the policy guidelines of pay protection of Gizedted employees on the analogy of non-Gizedted employees in the light of instructions of finance division Islamabad regarding the Gizedted employees. It is further requested that the pay of said employees regularized through the above mentioned ACT may be protected on the basis of these guidelines please.

Encl: AA

Yours faithfully,

  
ENCLOSURE  
Nisar Ahmad  
Monitoring and Data Collection Assistant  
District Nowshera  
IMU Health Department

Nisar Ahmad  
Monitoring and Data Collection Assistant  
District Nowshera  
IMU Health Department (KP)

ATTESTED

12

14

**JUDGMENT SHEET**  
**PESHAWAR HIGH COURT, PESHAWAR**  
**(JUDICIAL DEPARTMENT)**

WP No. 4199-P/2018

**JUDGMENT.**

Date of hearing: 15.05.2019

Petitioner: Nisar Ahmad & Muhammad Qasim Khan

Respondents: (Motion) Sabir Ahmad

**WAQAR AHMAD SETH, CJ:-** Through the

instant Writ Petition, petitioners have prayed for issuance of an appropriate writ in the following manner:-

*"It is, therefore prayed that by accepting this petition, the impugned refusal of respondents to give pay protection to petitioners after regularization and their refusal to award monitoring allowance and MS allowance, be declared illegal, unlawful and thus ineffective upon the rights of the petitioners and consequently respondent may be directed to protect their pay as it was before their regularization and they may also be awarded M.S allowances as well as monitoring allowance".*

2. Brief facts of the case are that the petitioners were appointed as Monitoring & Data Collection Assistant (BPS-16) on fixed pay in the project, namely, Independent Monitoring Unit under the Health Department Government of Khyber Pakhtunkhwa and after promulgation of Khyber Pakhtunkhwa Employees of Health Department and

**ATTESTED**

application/appeal to the competent authority for grant of Monitoring Allowance but the same was rejected/ignored; hence, the instant Writ Petition.

3. Respondents No. 1 to 3 have furnished their comments and opposed the writ of petitioners.

4. Arguments heard and record perused.

5. Admittedly, the petitioners were appointed in a project on fixed pay and later on, their services stand regularized in view of promulgation of Khyber Pakhtunkhwa Employees of Health Department (Regularization of Service) Act, 2017 vide Notification dated 30.06.2017 but they do not fulfil the criteria laid down in clauses (i), (ii), (iii), (iv) and (v) of the Policy circulated by the Federal Government on 31.05.2013 read with clause (iv) and (v) of the main policy dated 21.03.2000. Pay protection is applicable to grade pay employees whereas the petitioners were on fixed pay before regularization. So far as the claim of petitioners regarding MS allowance and Monitoring allowance is concerned, after regularization, the petitioners are civil servants and their grievance relates to the terms and conditions of services, for

ANNEXED

which, the appropriate remedy for seeking their redressal would surely be the Services Tribunal. This Court is barred under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973 to take cognizance of any matter relating to '*terms and conditions*' of service of a civil servant. The Apex Court in Ali Azhar Khan Baloch's case (2015 SCMR 456), has again laid down that the issue relating to the '*terms and conditions*' of service cannot be entertained by a High Court either in its constitutional jurisdiction or in its original civil jurisdiction being barred under Article 212 of the Constitution.

6. Resultantly, the writ petition being without any merit is hereby dismissed.

ANNOUNCED:  
Dated: 15.05.2019

  
Chief Justice

  
Judge

-----  
Nawab Shah SCS (DB) Justice Waqar Ahmed Bath CJ & Justice Abdul Shakoor J

  
ENCL. MS&R ARMA  
Data Collection &  
Monitoring Assis  
15/5/19

**ATTESTED**



**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWR.**

Appeal No. 6127 of 2020

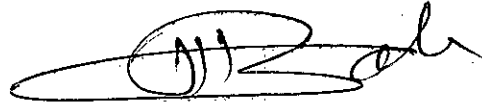
Nisar khan .....(Petitioner)

Versus

Secretary to Govt: of KPK Health Department .....(Respondent No.1)

**AFFIDAVIT**

I. **Mr. Habib Ullah**, Section Officer(Litigation-II), Government of Khyber Pakhtunkhwa , Health Department do hereby solemnly affirm and declare that the contents of the Parawise Comments on behalf of Secretary Health, Respondent No.1, 02 and 03 is true and correct to the best of my knowledge, belief and that nothing has been concealed from this Hon'ble Court.



Habib Ullah

Section Officer (LIT. II)  
GOVT: OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT.  
CNIC No 15302-0976504-5

**Identified by:-**

**Advocate General,  
Khyber Pakhtunkhwa**

---

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 6127/2020

Nisar Ahmad .....(Appellant)

VERSUS

Secretary Health Government of Khyber Pakhtunkhwa and others..... (Respondents)

RESPECTFULLY SHEWETH:

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

PRELIMINARY OBJECTIONS:-

1. That the Appellant has got neither cause of action nor locus standi to file the instant Appeal.
2. That the Appellant has filed the instant appeal just to pressurize the respondents.
3. That the instant Appeal is against the prevailing Law and Rules.
4. That the Appeal is not maintainable in the present form and also in the present circumstances of the issue.
5. That the Appellant has filed the instant Appeal with mala-fide intention hence liable to be dismissed.
6. That the Appeal is badly time barred.
7. That the Honorable Tribunal has no Jurisdiction to adjudicate upon the matter.
8. That the instant appeal is bad for mis-joinder and non-joinder of the necessary parties.
9. That the matter has already been decided by Peshawar High Court in Writ Petition No. 4199-P/2008 dated 15-05-2019; hence the instant appeal is hit by Rule-23 of the Khyber Pakhtunkhwa Service Tribunal Rules.
10. That there is no final order (Original or Appellate); hence this Honourable Court has no jurisdiction to adjudicate the matter.

**ON FACTS:**

1. Correct to the extent that the appellant was initially inducted in the project namely Establishment of Independent Monitoring Unit (IMU) ADP Scheme under the health Department Govt. of Khyber Pakhtunkhwa as "Monitoring and Data Collection Assistant" in BPS-16 and trained dated 15/04/2015.
2. Pertains to record.
3. Pertains to record.
4. Correct to the extent that the Appellant alongwith others were regularized vide Notification dated 30-06-2017.
5. Pertains to record; however, he has been paid all the benefits from the date of regularization admissible under the rules.
6. Pertains to record; however, it is worth-mentioning that the memorandum of Federal Govt. is not applicable to the provincial employees. Further the memorandum is pertains to contract employees while the appellant, being project employee is not entitled for the same.
7. Pertains to record; however, the Notification dated 06-02-2014 pertains to the contract employees and not the project employees; hence the benefit of the Notification cannot be extended to the appellant. As employee of a project are born on the temporary establishment.
8. Correct to the extent of the Notification; however, the same is not extendable to the appellants, being project employees.
9. Pertains to the record; however, the appellant are not entitled for the same. However the departmental appeal is badly time barred as the appellant was regularized on 30-06-2017 but departmental appeal was filed on 19-09-2019.
10. Correct to the extent of High Court Judgment dated 15-05-2019; however, it is important to mention that the court in its judgment Para-5 has declared that pay protection is only applicable to graded pay employees; hence Federal Govt. Notification dated 31-05-2013 is not applicable to the appellant. The Writ Petition was dismissed; hence the instant appeal is not only time barred but the same is hit by Rule-23 of the Khyber Pakhtunkhwa Service Tribunal Rules as well.
11. Incorrect. His pray for pay protection has already been dismissed by High Court in its judgment dated 15-05-2019.

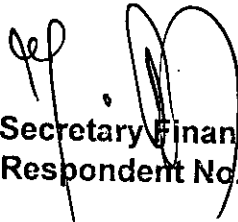
**GROUND:**

- A. Incorrect. As per Paras above, the appellant being project employee is not entitled for any pay protection.
- B. Incorrect. The appellant has been treated in accordance with law and rules. The notification of the Federal Govt. is not applicable to the appellant being project employee and the same has already been decided by the Peshawar High Court vide its judgment dated 15-05-2019 dismissing the stance of the appellant.
- C. Incorrect. The appellant has been treated in accordance with law and rules.
- D. As per above para-c.
- E. As per above paras.
- F. That the respondent seek permission of the Honorable Tribunal to adduce other grounds during final hearing of the appeal.

**PRAYER:**

It is therefore humbly prayed that on acceptance of the comments, the instant appeal may very graciously be dismissed with cost.

  
Secretary Health  
Respondent No.1

  
Secretary Finance  
Respondent No.2

  
Director IMU Health  
Respondent No.3

**BEFORE HONORABLE SERVICE TRIBUNAL KHYBER  
PAKHTUNKHWA**

NISAR AHMAD .....Applicant

VERSUS

SECRETARY HEALTH AND OTHERS..... Respondent



**SUBJECT : APPLICATION FOR CORRECTION OF ADDRESS OF OF  
RESPONDENT # 3 DIRECTOR IMU IN APPEAL # 6126/20-**

Respected Sheweth:

It is most humbly submitted as under:

1. That the above titled Appeal is pending adjudicating before this Honorable Court and is fixed for hearing dated 24-09-2020.
2. That the Head Office of Independent Monitoring Unit is transferred / shifted from old location "House # 22 Abdara road University Town" to new address that is " IMU Head Office Health Department Shami Villas Hassan Garhi Peshawar".

It is therefore most humbly prayed that on acceptance of this application the address of Respondent # 3 may kindly be changed in the Appeal .

Applicant / Appellant

Nisar Ahmad

Dated 24-07-2020

Affidavit:

I do hereby affirm that  
Contents of this application are true,  
And correct.

Deponent

put up to the court with  
relevant appmt.

  
28/07/2020

**BEFORE HONORABLE SERVICE TRIBUNAL KHYBER  
PAKHTUNKHWA**

NISAR AHMAD .....Applicant

VERSUS

SECRETARY HEALTH AND OTHERS..... Respondent



**SUBJECT : APPLICATION FOR CORRECTION OF ADDRESS OF OF  
RESPONDENT # 3 DIRECTOR IMU IN APPEAL # 6127/20-**

Respected Sheweth:

It is most humbly submitted as under:

1. That the above titled Appeal is pending adjudicating before this Honorable Court and is fixed for hearing dated 24-09-2020.
2. That the Head Office of Independent Monitoring Unit is transferred / shifted from old location "House # 22 Abdara road University Town" to new address that is " IMU Head Office Health Department Shami Villas Hassan Garhi Peshawar".

It is therefore most humbly prayed that on acceptance of this application the address of Respondent # 3 may kindly be changed in the Appeal .

Applicant / Appellant

Nisar Ahmad

Dated 24-07-2020

Affidavit:

I do hereby affirm that  
Contents of this application are true,  
And correct.

Deponent

Put up to the court with  
affidavit.

20/8/2020

Deo du

24.7.2020

گورنمنٹ آف سندھ، کراچی  
سروس ریگولیشن

Page 9 appointment  
ment paper.

Page 2. clause.

Page 3.

Page 18. Regularized  
by the act and govern  
ment by order number  
30-6-2017 of service  
regulation 89.

Page 22. Pay reduced.

Page 23.

Pension rule 1963  
rule 2.2.

Government Pension and gratuity

Government of Sindh  
- summarizing 10th year  
service in regularization

371- Govt Service Regulation 11371

my pay is projected and  
what period is covered  
usually Pension and  
graduity

- Appointment -

- 18-2-2015 Appointment  
noted

on 2-3-2015 - check - my  
assumed

Page 19 - 8-2019 to 11-1

6/1/19 to 6/30/19 1/2/19 to 3/31/19

Page 33 - 1-3-2020 -

1/1/20 to 1/31/20 2/1/20 to 2/28/20  
3/1/20 to 3/31/20

within period.





**GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT**

Finance Department Civil Secretariat Peshawar <http://www.finance.gkp.pk> [facebook.com/GovKPTD](https://www.facebook.com/GovKPTD) [twitter.com/GovKPTD](https://twitter.com/GovKPTD)

**NO. FD (SOSR-1) 12-2/2020(34323)  
Dated Peshawar the: 18<sup>th</sup> March, 2021**

To:

1. The Addl: Chief Secretary, P&D Department, Khyber Pakhtunkhwa.
2. The Addl: Chief Secretary, Merged Areas Sectt: Khyber Pakhtunkhwa.
3. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
4. All Administrative Secretaries to Govt of Khyber Pakhtunkhwa.
5. The Principle Secretary to Governor, Khyber Pakhtunkhwa.
6. The Principle Secretary to Chief Minister, Khyber Pakhtunkhwa. Commerce &
7. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa.
8. All Heads of Attached Departments in Khyber Pakhtunkhwa.
9. The Registrar, Peshawar High Court, Peshawar.
10. All District & Sessions Judges in Khyber Pakhtunkhwa.
11. The Chairman, Public Service Commission, Khyber Pakhtunkhwa.
12. The Chairman, Services Tribunal, Khyber Pakhtunkhwa.
13. All Deputy Commissioners, in Khyber Pakhtunkhwa.

Subject: **PROTECTION OF PAY OF CONTRACT EMPLOYEES ON  
REGULARIZATION / APPOINTMENT ON REGULAR  
BASIS.**


Dear Sir,

In pursuance to the Finance Division's Office Memorandum No.4(2)R-2/2014-237 dated 7<sup>th</sup> April, 2015, the Competent Authority (Provincial Cabinet) is pleased to allow the pay protection to gazetted contract employees on their regularization / appointment on regular basis subject to the following conditions:-

- i) That the contract appointment has been made in BPS on standard terms and conditions, circulated by this Provincial Government as amended from time to time.
- ii) That the contract employee has applied through proper channel and has been properly relieved by the appointing authority. This condition shall not apply in case of regularization on the same post.
- iii) That regularization / regular appointment has been made with the approval of competent authority.
- iv) That there is no break / interruption between contract service and regular service.

- v) That the service rendered on contract basis shall not qualify for pension / gratuity.
- vi) That in case of regular appointment in lower grade, pay shall not be protected.
- vii) That the pay protection / fixation of pay will be admissible with immediate effect with regard to old / new cases which are fulfilling the pay protection criteria mentioned above.

2. In addition to the above, the Accountant General Khyber Pakhtunkhwa may make fixation of pay in terms of above guidelines and only those cases may please be referred to Finance Department where some clarification or advice is required.

Yours faithfully,  
  
 (Muhammad Salim Shah)  
 Deputy Secretary (Reg. I & II)

Endst: No & Date even.

A Copy for information & necessary action is forwarded to the:-

1. Secretaries to Government of Punjab, Sindh, Balochistan, Finance Departments
2. Accountant General, Khyber Pakhtunkhwa, Peshawar.
3. All Heads of Autonomous / Semi Autonomous Bodies in Khyber Pakhtunkhwa.
4. The Director, Treasuries & Accounts, Khyber Pakhtunkhwa.
5. All the District Controller of Accounts in Khyber Pakhtunkhwa.
6. The Director, Local Fund Audit, Khyber Pakhtunkhwa, Peshawar.
7. The Director, Finance Deptt. with the regional level offices attached to the Govt.
8. The Manager, Govt. Printing Press, Peshawar & District Offices.
9. All the District Accounts Officers in Khyber Pakhtunkhwa.
10. The Section Officer (Cable) Govt. Deptt. Khyber Pakhtunkhwa, Peshawar. (No: SOC(EA) 61/202 (dated 03/03/2021))
11. The Section Officer (Estab) Govt. Deptt. Khyber Pakhtunkhwa, Peshawar. (No: 24/10/2020 in respect of Engg. Deptt. Govt. Deptt. Khyber Pakhtunkhwa, Peshawar.)
12. The Private Secretary to Chief Secretary, Khyber Pakhtunkhwa.
13. The Private Secretary to Minister of Finance, Khyber Pakhtunkhwa.
14. The Private Secretary to Secretary Finance Deptt. Khyber Pakhtunkhwa.
15. PA to Special Secretary, Finance Department, Khyber Pakhtunkhwa.
16. PAs to Additional Secretaries / Deputy Secretaries in Finance Department, Khyber Pakhtunkhwa.

  
 (REHAMAT KHAN)  
 SECTION OFFICER (SR-1)



GOVERNMENT OF KHYBER PAKHTUNKHWA  
PLANNING AND DEVELOPMENT DEPARTMENT  
URBAN POLICY AND PLANNING UNIT  
Civil Secretariat Peshawar  
Phone No. 091-9212352 Fax 091-9212427

ORDER

Dated: Peshawar the 07<sup>th</sup> August, 2019

NO. UP/PP&D/Accounts/2019-20: In pursuance of Government of Khyber Pakhtunkhwa Finance Department letter No. FDSOSR-1)12-4/2018-19/(27389) dated 14.06.2019 and in the light of Circular No. FDSOSR-1)12-7/2014 dated 06.02.2014 read with clarification issued by Government of Pakistan Finance Division (Regulation Wing) office memorandum No. 7(9)R-1-2012-1388 dated 6<sup>th</sup> March 2014, and in compliance of the condition fixed there under and consequent upon their regularization under the "Khyber Pakhtunkhwa Employees (Regularization of Services) Act 2018", pay protection is hereby accorded in favor of the following employees BPS-1 to BPS-16 of "Urban Policy & Planning Unit of P&D Department" with effect from the date indicated in column No.5 below, with the condition that the services rendered on contract basis shall not qualify for pension/gratuity.

S/N	Name of official	BPS	Designation	Date of Appointment (Effective Date for Grant of Pay Protection (Initial Stage of Respective Pay Scale)
1	Mr. Zakir Ayub	16	Office Assistant	10/7/2013 (Effective date of Finance Division OM)
2	Mr. Asghar Sayed	16	Office Assistant	10/7/2013
3	Mr. Nadeem Ahmed	16	Office Assistant	12/8/2013
4	Mr. Zakir Khan	16	Office Assistant	11/5/2014
5	Mr. Muhammad Altaf	16	Office Assistant	26/5/2014
6	Mr. Waqas	7	Photocopy Assistant	20/5/2014
7	Mr. Saad Khan	7	Photocopy Assistant	03/7/2013
8	Mr. Muhammad Fathem	6	Driver	21/5/2013
9	Mr. Muhammad Usman	6	Driver	03/7/2013
10	Mr. Muhammad Ejaz	6	Driver	08/7/2013
11	Mr. Fareeq Khan	6	Driver	03/7/2013
12	Mr. Haider Ali	6	Driver	24/6/2014
13	Mr. Mujeeb Khan	6	Driver	09-5-2014
14	Mr. Ajeel Shah	3	Naib Qasid	5/10/2014
15	Mr. Zar Ali	3	Naib Qasid	09/5/2014
16	Mr. Muhammad Sohalb	3	Naib Qasid	13/5/2014
17	Mr. Asfandyar	3	Naib Qasid	27/10/2014
18	Mr. Saad ullah	3	Naib Qasid	12/5/2014
19	Mr. Imtiaz Khan	3	Naib Qasid	3/7/2013
20	Mr. Ruwaid Ghani	3	Naib Qasid	06/6/2014
21	Mr. Muhammad Saeed	3	Chowkidar	07/5/2014
22	Mr. Zafraan Gul	3	Chowkidar	09/5/2014

XXXXX

SECRETARY

Planning & Development Department

Enclst: No. & date even

Copy forwarded to the:-

1. The Accountant General, Khyber Pakhtunkhwa.
2. Secretary to Government of Khyber Pakhtunkhwa, Finance Department.
3. Secretary to Government of Khyber Pakhtunkhwa, Planning & Development Department.
4. The Section Officer (Estt.), P & D Department.
5. The Section Officer (G), P & D Department.



Manager - IIR  
Urban Policy & Planning Unit  
P & D Department

23	Mr. Abdul Basit Khan	6	Driver	17.03.2016
24	Mr. Waqas Ahmad	5	Electrician	15.12.2016
25	Mr. Shahzad Khan	7	Generator Operator	31.05.2013
26	Mr. Sulaiman Shah	1	Naib Qasid	-do-
27	Mr. Shafi-ur-Rahman	1	Naib Qasid	-do-
28	Mr. Sabir Khan	1	Naib Qasid	-do-
29	Muhammad Ibrahim	1	Naib Qasid	-do-
30	Mr. Akhtar Gul	1	Naib Qasid	-do-
31	Muhammad Khalid	1	Naib Qasid	-do-
32	Mr. Javed Khan	3	Naib Qasid.	02.04.2016
33	Mr. Syed Zulfiqar Ali Jafri	1	Naib Qasid	31.05.2013
34	Mr. Niamat Ullah	1	Naib Qasid	-do-
35	Mr. Asim Khan	1	Naib Qasid	-do-
36	Mr. Masood Shah	1	Naib Qasid	-do-
37	Mr. Farooq Ahmad	1	Naib Qasid	-do-
38	Syed Rasool Shah	1	Naib Qasid	07.04.2014
39	Mr. Jawad Ahmad	1	Naib Qasid	02.05.2015
40	Mr. Ahsan Ullah	3	Naib Qasid	30.09.2016
41	Mr. Wajid Ali	3	Naib Qasid	01.12.2016
42	Mr. Halcemullah	3	Naib Qasid	15.12.2016
43	Mr. Haseeb Ahmad	3	Naib Qasid	15.12.2016
44	Mr. Akhtar Sher	3	Naib Qasid	15.12.2016
45	Ms. Farhada	3	Naib Qasid	02.01.2017
46	Mr. Salman Khan	1	Naib Qasid	31.05.2013
47	Mr. Mehrab Hussain	3	Naib Qasid	02.05.2017
48	Mr. Ijaz Ahmad	1	Chowkidar	31.05.2013
49	Mr. Zahoor Khan	1	Chowkidar	-do-
50	Mr. Ifrikhar Khan	1	Chowkidar	-do-
51	Mr. Zar Shah	1	Chowkidar	-do-
52	Mr. Sharoon	1	Sweeper	-do-

**SECRETARY**  
**PLANNING & DEVELOPMENT DEPARTMENT**

Enclt: No. & date even.

Copy forwarded to the:-

- 1 The Accountant General, Khyber Pakhtunkhwa.
- 2 Secretary to Govt. of Khyber Pakhtunkhwa
- 3 Secretary to Govt. of Khyber Pakhtunkhwa Finance Department.
- 4 The Section Officer (Estt.), P&D Department.
- 5 The Section Officer (G), P&D Department.

P&D DEPARTMENT

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Government of Pakistan  
Finance Division  
(Regulations Wing)

\*\*\*\*

F.No. 7(9) R-I/2012-1388


Islamabad, the 6th March, 2014

OFFICE MEMORANDUM

Subject: - CLARIFICATION REGARDING PROTECTION OF PAY OF CONTRACT EMPLOYEES ON REGULARIZATION/ APPOINTMENT ON REGULAR BASIS

The undersigned is directed to refer to this Division's O.M. of even number dated 31<sup>st</sup> May, 2013 and state that AGPR, Islamabad and certain Ministries/Divisions/ Departments have raised certain queries for clarification which have been examined and clarified as under:-

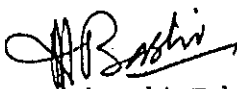
S. No	Queries raised	Clarification
i.	Finance Division's O.M. dated 31 <sup>st</sup> May, 2013 does not contain effective date of implementation. From which date will it take effect.	The said O.M. will take effect from the date of its issue i.e. 31-05-2013.
ii.	Whether the pay of employees working on daily wages, short-term vacancies and on contract basis, regularized by the Cabinet Sub-Committee is protectable.	The pay of only those contract employees (Non-gazetted), whose appointments have been made on standard terms and conditions in BPS by the competent authority, is protectable.
iii.	Whether employees whose services were transferred from development to non-development side are entitled to pay protection.	Pay is protectable of those employees only whose contract appointment in development side was made in BPS-1 to 15 on standard terms and conditions.
iv.	Whether the pay of contract employees on their regularization in lower grade is protectable or otherwise.	Finance Division's O.M. clearly states that in case of regular appointment in lower grade pay shall not be protected.
v.	Whether the contract employees of BPS-1 to 4 who were moved one scale up w.e.f. 01-07-2007 are entitled to protection of pay on regularization.	Yes.
vi.	In case the pay protection is allowed w.e.f. 31-05-2013 to all back date cases, please clarify about the date of pay fixation regarding date of regularization or implementation of this policy and whether payment of arrear after 31-05-2013 payable or not.	As stated against (i) above.
vii.	Whether an employee working in a Development Project on his appointment on regular basis in the Ministry, Division and Department is protectable.	As stated against (iii) above.
viii.	Whether the pay of an employee working on contract basis in the Provincial Government who later on joins a regular post in a Federal Government is also protectable.	Yes, subject to conditions, as stated against (ii) above.

  
(Muhammad Bashir Zahid)  
Accounts Officer(R-I)

All Ministries/Divisions/Departments

Copy also forwarded for information to:-

1. President's Secretariat (Public), Islamabad.
2. President's Secretariat (Personal), Islamabad.
3. Prime Minister's Secretariat (Internal), Islamabad.
4. Prime Minister's Secretariat (Public), Islamabad.
5. National Assembly Secretariat, Islamabad.
6. Senate Secretariat, Islamabad.
7. Election Commission of Pakistan, Islamabad.
8. Supreme Court of Pakistan, Islamabad.
9. Federal Shariat Court, Islamabad.
10. Auditor General of Pakistan, Islamabad.
11. Controller General of Accounts, Islamabad.
12. AGPR, Islamabad/Lahore/Peshawar/Karachi/Quetta.
13. Military Accountant General, Rawalpindi.
14. All Financial Advisers/Deputy Financial Advisers attached to Ministries/Divisions and all officers of Finance Division.
15. Chief Accounts Officer, M/o Foreign Affairs, Islamabad.
16. Financial Adviser and Chief Accounts Officer, Pakistan Railways, Lahore.
17. All Chief Secretaries/Finance Secretaries of the Government of Punjab/Sindh/KPK/Balochistan & Azad State of Jammu & Kashmir.
18. Capital Development Authority, Islamabad.
19. Office of the Chief Commissioner, Islamabad.
20. Federal Public Service Commission, F-5/1, Agha Khan Road, Islamabad.
21. Secretary, Wafaqi Mohtasib (Ombudsman)'s Secretariat, Islamabad.
22. Pakistan Atomic Energy Commission, Islamabad.
23. Central Directorate of National Savings, Islamabad.
24. National Accountability Bureau, Islamabad.
25. Member (Finance), KRL, P.O.Box No.1384, Islamabad.
26. Intelligence Bureau, Islamabad.
27. Pakistan Mint, Lahore.
28. DG Post Offices, Islamabad.
29. Secretariat Training Institute, Islamabad.
30. Directorate General of Inspection & Training, Customs & Central Excise, 8<sup>th</sup> Floor, New Customs House, Karachi.
31. National Re-Construction Bureau, Prime Minister's Secretariat, Islamabad.
32. Earthquake Reconstruction & Rehabilitation Authority (ERRA), P.M. Sectt. (Public), Islamabad.
33. Federal Tax Ombudsman's Secretariat, Islamabad.
34. Cost Accounts Organization, Islamabad.

  
(Muhammad Bashir Zahid)  
(Section Officer(R-II))  
Tele: 9245843

1

**IN THE PESHAWAR HIGH COURT,**  
**PESHAWAR,**  
**[Judicial Department],**

**Wirt Petition No.986-P/2019**

Khursheed Ahmed Sheikh son of Miran Bakhsh,  
and others.

Petitioner (s)

**VERSUS**

Government of Khyber Pakhtunkhwa,  
through Secretary Health Department Peshawar and others.

Respondent (s)

For Petitioner (s) :- Mr. Shehzad Irfan Zia, Advocate.  
For respondents :- M/S Arshad Ahmad AAG and Muhammad  
Tofeeq DAG.  
Date of hearing: 08.10.2020

**ORDER**

**ROOH-UL-AMIN KHAN, J:-** By invoking the  
constitutional jurisdiction of this Court under Article 199  
of the Constitution of Islamic Republic of Pakistan, 1973,  
the petitioners seek issuance of the following writ:-

- i.** That the respondents may kindly be directed  
to regularize the services of the petitioners  
from the date of their initial appointments  
and their previous contract services be  
counted for all practical service purpose.
- ii.** That the respondents may kindly be directed  
to extend all facilities including protection  
of pay to the petitioners on the basis of their  
initial appointments.
- iii.** That the respondents may kindly be directed  
to frame/formulate service structure of the  
petitioners without further delay in

*Roohul Amin*



accordance with law to save the service career of the petitioners.

- iv. That the petitioners may graciously be declared civil servants straightaway and the respondents may be directed to extent all facilities admissible to other civil/government employees.
- v. That the respondents may also be directed to allow health professional allowance to all field program Officers as they are fully involved in nutrition, immunization, and primary health care activities in the field with special focus on mother and child health and non-practicing allowance to petitioner No.7 being a doctor and also put his name in Management Cadre as already requested.
- vi. Any other relief which is not specifically asked for and this Hon'ble Court deems appropriate may also be granted in favour of the petitioners.

2. As per averments in the writ petition, the petitioners are employees of Health Department Khyber Pakhtunkhwa. Initially they were appointed against their respective posts under the Prime Minister's programme (Family Planning & Primary Health Care) now known as Lady Health Workers Program (LHWs). The LHWs program was federally funded and provincially implemented. After 18<sup>th</sup> amendement, the health sector devolved upon the Provincial Government, therefore, services of the petitioners were regularized by the

*for the same*

Government of Khyber Pakhtunkhwa w.e.f. 1<sup>st</sup> July, 2012 in their respective scales vide notification dated 25.02.2013 in compliance with the judgment dated 01.01.2013, of the Hon'ble Supreme Court in Criminal Original Petition No.15/2012. In the meantime, the Government of KP Finance Department created 51 posts for LHWs employees including the petitioners and the said posts were put in PR 4309-Director General Health Services Peshawar vide notification dated 06.09.2016. The Provincial Coordinator LHWs program prepared last pay certificates of the regularized employees and forwarded the same to the new DDO (Director General Health Services), Peshawar, who in turn, submitted last pay Certificates to the Accountant General Khyber Pakhtunkhwa. The Government of Khyber Pakhtunkhwa started payment of salaries to the petitioners on the basis of their existing pay and scales w.e.f. 1 July 2016 and continued the same till February 2017. To the surprise of petitioners, the Accountant General Office unlawfully and illegally stopped payment of salaries to the petitioners on their current pay and salaries w.e.f. March 2017 and re-fixed pay of the petitioners w.e.f. 1st July, 2012 and started deduction from their salaries.

*for his am*  
 Grievance of the petitioners is that their initial appointment was made on contract basis and they availed all the benefits like a regular civil servant for the whole period of their service. In such state of affairs they are

entitled to regularization from their initial date of appointments and the Federal Government is under legal obligation to pay share to Provincial Government of their services which they have rendered under their administrative control so that they (petitioners) be considered for pension and their service rendered under the Federal Government, be counted for the purpose of pension. The petitioners have also prayed that they are entitled for a service structure for the purpose of service benefits and advancement in service like other civil servants of Provincial Government. They further prayed that FATA employees who were regularized under the directives of the Hon'ble Supreme Court in same criminal Original Petition No.15/2012, have been granted protection of pay by the Government, therefore, they are also entitled to the same treatment.

3. Comments of the respondents were called, which were filed accordingly.

4. Learned counsel for the petitioners restricted his arguments only to relief (ii) of the writ petition on the ground that on 25.02.2013, the Government of Khyber Pakhtunkhwa in compliance with the decision/judgment dated 01.01.2013 of the Hon'ble Supreme Court, passed in Criminal Original Petition No.15 of 2012 in HRC No.16360 of 2009, Constitution Petition No.36 of 2012 and Criminal Original Petition No.73 of 2012 in HRC

*Co-learned*

No.16360 of 2009. has issued a notification, whereby services of the Lady Health Supervisors, Lady Health Workers, Accountants Supervisors, Drivers and PMU staff of Family Planning and Primary Health Care Programme, have been regularized w.e.f. 01.07.2012.

5. For the sake of convenience and ready reference relevant part of the judgment is reproduced below:-

“We have pointed out to the learned DAG that in view of the earlier commitment made before this Court, the staff of the Primary Health Care Programme, were required to be regularized w.e.f. 01.07.2012 but now in view of the above position their regularization shall take place w.e.f. 01.07.2013. Under the circumstances, we direct the Secretary, Ministry of Inter-Provincial Coordination that the matter should be again taken up in view of the earlier commitment made by the Federal Government to ensure that their regularization shall take place w.e.f. 01.07.2012 and similarly the Federal Government shall ensure that the Provincial Governments also accept such regularization. The matter is lingering on for a considerable period, therefore, it is ordered that the same be expedited and concluded as earlier as possible.”

Petitioners are now the employees of Health Department Khyber Pakhtunkhwa thus fall in clause (e) of the Notification dated 25.02.2013. It is not disputed that the petitioners were working in BPS.17 in the year 2012, and as such, against the same scale they have been regularized, but the entire benefits i.e. annual increments and enhancement in basic pay were deducted from their

*Leokha Sami*

salaries and the petitioners were awarded basis pay only, which they were receiving in the year 2012. It is also not disputed that the petitioners are serving the respondents department for the last two decade and consequent upon the order of the august Supreme Court, they were regularized w.e.f. 2012, but their pays were not protected with effect from the date of their regularization in their basic pay scales in the year 2012, which obviously shall reduce their basic pay to the half of that which they were receiving in the year 2017. The act of the respondents i.e. not protecting pay of the petitioners/employees on their regularization shall not render any benefit to them; rather it shall amount to punishment by reducing the already received increments from the basic pay of the petitioners. Rule 22 of the Fundamental Rules speak volumes about protection of pay of the employees on fresh appointment to a higher or equal post through proper channel or promotion. For the sake of convenience and ready reference, the same is reproduced below:-

**"F.R.22. The initial substantive pay of a Government Servant who is appointed substantively to a post on a time scale of pay is regulated as follows:-**

- (a) If he holds a lien on a permanent post, other than a tenure post, or would hold a lien on such a post had his lien not been suspended;
- (i) When appointment to the new post involves the assumption of duties or responsibilities of greater importance

(as interpreted for the purposes of rule 30) than those attaching to such permanent post, he will draw as initial pay the stage of the time scale next above his substantive pay in respect of the old post;

(ii) When appointment to the new post does not involve such assumption, he will draw as initial pay the stage of the time scale which is equal to his substantive pay in respect of the old post, or, if there is no such stage the stage next below that pay plus personal pay equal to the difference, and in either case will continue to draw that pay until such time as he would have received an increment in the time scale of the old post or for the period after which an increment is earned and in the time scale of the new post, whichever is less. But if the minimum pay of the time scale of the new post is higher than his substantive pay in respect of the old post, he will draw that minimum as initial pay;

(iii) When appointment to the new post is made on his own request under rule 15(a) and the maximum pay in the time scale of that post is less than his substantive pay in respect of the old post, he will draw that maximum as initial pay.

(b) If the conditions prescribed in clause (a) are not fulfilled he will draw as initial pay the minimum of the time scale.

*Keshu Sami*

Provided, both in cases covered by clause (a) and in cases, other than cases of re-employment after resignation from the public service (or after removal from the public service for inefficiency,

misconduct or as a disciplinary measure), covered by clause (b) that if he either:-

- (1) has previously held substantively or officiated in:-
  - (i) the same post, or
  - (ii) a permanent or temporary post on the same time scale, or
  - (iii) a permanent post other than a tenure post, or on an identical time scale or a temporary post on an identical time scales, such post being on the same time scale as a permanent post, or

- (2) is appointed substantively to a tenure post on a time scale identical with that of another tenure post which he has previously held substantively or in which he has previously officiated, then the initial pay shall not be less than the pay, other than special pay, personal pay or emoluments classed as pay by the Governor General under rule 9(21)(a)(iii) which he drew on the last such occasion and he shall count for increments the period during which he drew that pay on such last and any previous occasions. If, however, the pay last drawn by the Government servant in a temporary post has been inflated by the grant of premature increments the pay which he would have drawn but for the grant of those increments shall, unless otherwise ordered by the authority competent to create the new post, be taken for the purposes of this proviso to be the pay which he last drew in the temporary post.

**Explanation:** The condition in paragraph (iii) of the first proviso that the temporary post should be on the same time scale as a permanent post shall not be enforced when a temporary post is (i) created by one Government or Department for the purpose of work of the same nature as the ordinary work for which permanent posts exist in a cadre under a different Government or department and (ii) sanctioned on a time scale identical with the

*M. S. D. S.*

time scale applicable to the permanent posts in the cadre under the different Government of department.

6. We confronted the worthy Additional Advocate General and Deputy Attorney General with proposition as to whether there is any break or interruption in the service of either employee/petitioner during service at Federal or Provincial level, their response was in the negative and stated that the respondents department has not denied pay protection to the petitioners on any such ground. In such an eventuality, the petitioners are entitled to protection of pay towards their previous service rendered by them in view of the Government of Khyber Pakhtunkhwa Finance Department circular No.FD (SOR-1) dated 06.02.2014 read with Rule 22 (b) of the Fundamental Rules. In view of the Act (ibid), and notification dated 25.02.2013, the respondents department were required to regularize services of the petitioners in their respective scales which they were holding in the year 2012 with protection of increase in their basis pay scales. This writ petition is allowed in the above terms.

**Announced:**  
**08.10.2020**

M.Siraj Afridi P

*Rooh ul Amin*  
JUDGE

*SM Attique Shah*  
JUDGE

**DB of Hon'ble Mr. Justice Rooh ul Amin Khan; and**  
**Hon'ble Mr. Justice SM Attique Shah**



**BEFORE HONORABLE SERVICE TRIBUNAL KHYBER**

**PAKHTUNKHWA**

6/27/2020

NISAR AHMAD .....Applicant

VERSUS

SECRETARY HEALTH AND OTHERS..... Respondent

**SUBJECT : APPLICATION FOR EXEMPTION OF APPLICANT /  
APPEALANT FROM TODAY,S HEARING-**

Respected Sheweth:

It is most humbly submitted as under:

1. That the above titled Appeal is pending adjudicating before this Honorable Court and is fixed fortoday,s hearing i.e dated 24-08-2022.
2. That due to sudden death of a Blood Relative of Applicant , the Applicant / Appealant is unable to make his attendance for today,s hearing.
3. That the reason for non attendance is un intentional but a genuine one, hence the Applicant / Appealant seeks Exemption from today,s hearing.
4. That there is no Legal bar on Exemption of Applicant / Appealant from todays hearing.

It is therefore most humbly prayed that on acceptance of this application the Appealant / applicant may very kindly be exempted from today,s hearing .

Applicant / Appellant



Nisar Ahmad

Dated 24-08-2022

Affidavit:

I do hereby affirm that Contents of this application are true,And correct.

Deponent

