

Appeal No. 424/2017
Qayyum Khan vs Govt

30.03.2021

Nemo for appellant.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Case was called time and again but neither appellant nor his counsel turned up.

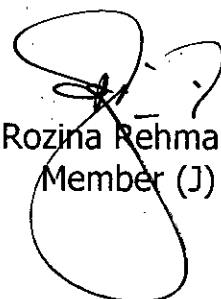
In view of above, instant appeal is hereby dismissed in default for non-prosecution. No order as to costs. File be consigned to the record room.

Announced.

30.03.2021



(Atiq ur Rehman Wazir)
Member (E)



(Rozina Rehman)
Member (J)

14.10.2020

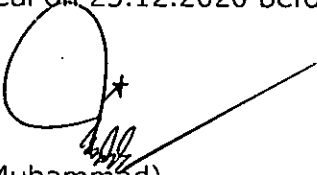
Junior counsel for petitioner present.

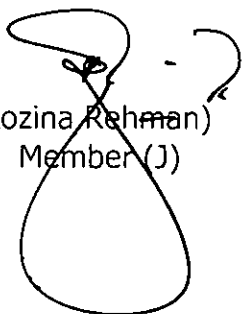
Mr. Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Arguments on application heard. Record perused.

Application in hand was filed for restoration of appeal which was dismissed in default on 18.02.2020.

As per record, appeal was dismissed in default on 18.02.2020 whereas application seeking restoration was filed on 25.02.2020 which is well within time hence stands accepted. File stands restored. It be properly registered. This application stands consigned to the record room, copy whereof be placed on original file. To come up for arguments in the main appeal on 25.12.2020 before D.B.


(Mian Muhammad)
Member (E)


(Rozina Rehman)
Member (J)

28.12.2020


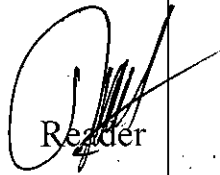

Due to summer vacation, case is adjourned to 30.03.2021 for the same as before.


Reader

Form-A
FORM OF ORDER SHEET

Court of _____

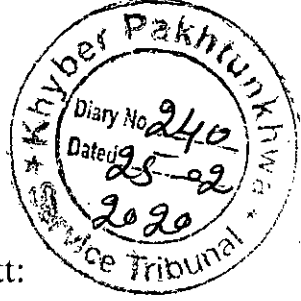
Appeal's Restoration Application No. 65 /2020

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	25.02.2020	<p>The application for restoration of appeal No. 424/2017 submitted by Mr. Muhammad Asif Yousafzai Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR <u>25/2/2020</u></p>
2		<p>This restoration application is entrusted to D Bench to be put up there on <u>21-04-2020</u></p> <p style="text-align: right;">MEMBER</p>
21.04.2020		<p>Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 28.07.2020 before D.B.</p> <p style="text-align: right;"> Reader</p>
28.07.2020		<p>Due to COVID19, the case is adjourned to 14.10.2020 for the same as before.</p> <p style="text-align: right;"> Reader</p>

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL,
PESHAWAR.

R-APP = 65/2020

APPEAL NO.424/2017



Mr. Qayum Khan

V/S

Agriculture Deptt:

APPLICATION FOR RESTORATION OF APPEAL NO.
424/2017 WHICH WAS DISMISSED ON DEFAULT VIDE
ORDER DATED 18.02.2018 RECEIVED BY THE APPELLANT
ON 21.02.2020.

RESPECTFULLY SHEWETH:


1. That the instant appeal No. 424/2017 was filed before this Honorable Tribunal.
2. That the instant appeal was in Argument stage at principle Bench Peshawar, on date 18.02.2020 the counsel for the appellant waiting for the bench. The counsel wait till 10 O' Clock but the bench-II was not started and put attendance with the reader and then move to Civil Court for recording evidence in case title "Naveed iqbal vs Edwards college" in court room no.40 and the case was called and dismissed on default on today 18.02.2020 before 12'oclock this fact came to the knowledge of the counsel when he back from the Civil Court At 12' o' Clock. **Copy of order is attached as annexure-A.**
3. That it is in the interest of justice that the appeal should be dealt on merit rather to dismiss on default.

It is therefore, most humbly prayed, that the instant appeal No. 424/2017 may be restore on the acceptance of this application.

APPELLANT

Through:

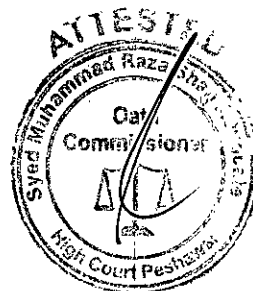

(M. ASIF YOUSAFZAI)


(SYED NOMAN ALI BUKHARI)
ADVOCATE, HIGH COURT
PESHAWAR.

AFFIDAVIT

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

[Signature]
DEPONENT



BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 424 /2017



Mr. Qayyum Khan, Water Management Officer,
District On-Farm Water Management,
District Peshawar.

Diary No. 451

Dated 03/05/2017

(Appellant)

VERSUS

1. The Government of KPK through Chief Secretary, Civil Secretariat Peshawar.
2. The Chief Secretary Civil Secretariat, Peshawar
3. The Secretary Agriculture Livestock and Cooperative Department Civil Secretariat, Peshawar.
4. The Director General Form of Water Management Government of KPK, Peshawar.
5. The Secretary Finance, KPK, Peshawar.
6. The Secretary Establishment, KPK, Peshawar.

(Respondents)

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNALS, 1974 ACT FOR DIRECTING THE RESPONDENTS TO CONSIDER THE RESPONDENTS TO CONDONE THE INTERRUPTION BETWEEN THE TWO PERIODS OF QUALIFYING SERVICES FOR PENSION PURPOSE UNDER RULES 2.12 (1) AND RULES 2.3 CIVIL SERVICES PENSION RULES. AND AGAINST NOT TAKING ANY ACTION ON DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF (90) DAYS

Certified

Khyber Pakhtunkhwa
Service Tribunal
Peshawar


Filed to-day

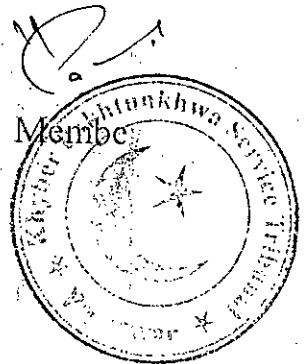
Registrar

3/5/17

12.12.2019

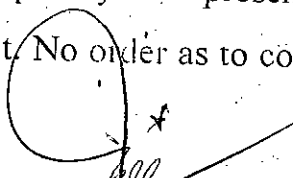
Lawyers are on strike on the call of Khyber Pakhtunkhwa Bar Council. Adjourn. To come up for further proceedings/arguments on 18.02.2020 before D.B.

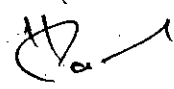

Member




18.02.2020

Appellant absent. Learned counsel for the appellant absent. Mr. Zia Ullah learned Deputy District Attorney alongwith Tayyab Gul Assistant present. Case called for several times but no one appeared on behalf of appellant. Consequently the present service appeal is dismissed in default. No order as to costs. File be consigned to the record room.


(Mian Muhammad)
Member


(Muhammad Hamid Mughal)
Member

ANNOUNCED.
18.02.2020

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Petition 18-2-2020
Number of Words 800
Copying Fee 10
Urgent _____
Total 10
Name of Applicant [Signature]
Date of Copying 21-2-2020
Date of Submission 21-2-2020

12.12.2019

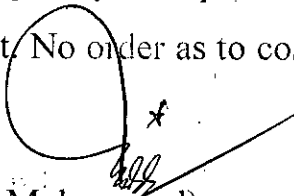
Lawyers are on strike on the call of Khyber Pakhtunkhwa Bar Council. Adjourn. To come up for further proceedings/arguments on 18.02.2020 before D.B.

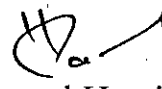

Member


Member

18.02.2020

Appellant absent. Learned counsel for the appellant absent. Mr. Zia Ullah learned Deputy District Attorney alongwith Tayyab Gul Assistant present. Case called for several times but no one appeared on behalf of appellant. Consequently the present service appeal is dismissed in default. No order as to costs. File be consigned to the record room.


(Mian Muhammad)
Member

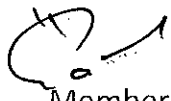

(Muhammad Hamid Mughal)
Member

ANNOUNCED.
18.02.2020

05.07.2019


Junior to counsel for the appellant and Mr. Riaz Khan Paindakhel learned Assistant Advocate General for the respondents present. Junior to counsel for the appellant requested for adjournment as senior counsel for the appellant is not in attendance. Adjourn. To come up arguments on 13.09.2019 before D.B.



Member


Member

13.09.2019

Appellant in person present. Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Sana Ullah Admin Officer present. Appellant seeks adjournment as his counsel is not in attendance. Adjourn. To come up for arguments on 03.10.2019 before D.B.



Member


Member

03.10.2019

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


Member


Member

20.02.2019

Appellant with counsel and Mr. Riaz Paindakheil learned Asst: AG for the respondents present. Learned counsel for the appellant requests for adjournment. Adjourned to come up for arguments on 05.04.2019 before D.B


Member


Chairman

05.04.2019

Learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney alongwith Mr. Sana Ullah Admin Officer for the respondents present.

Learned counsel for the appellant requests for adjournment in order to further prepare the brief.

Adjourned to 28.05.2019 before D.B.


Member


Chairman

28.05.2019


Mr. Taimur Ali Khan, Advocate for the appellant and Mr. Muhammad Yousaf, Assistant alongwith Mr. Riaz Ahmad Paindakheil, Assistant AG for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 05.07.2019 for arguments before D.B.

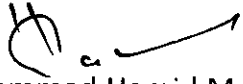

(HUSSAIN SHAH)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

02.08.2018


Junior to counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Junior to counsel for the appellant requested for adjournment as senior is not in attendance. Adjourned. To come up for arguments on 26.09.2018 before D.B.



(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

26.09.2018

Learned counsel for the appellant present. Mr. Sanaullah, Admin Officer alongwith Mr. Kabirullah Khattak, Addl: AG for the respondents present. Counsel for the appellant seeks adjournment. Granted. Case to come up for arguments on 13.11.2018 before D.B.


(Ahmad Hassan)
Member

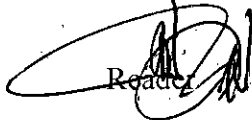

(M. Amin Khan Kundi)
Member


13.11.2018

Due to retirement of Hon'able Chairman, the Tribunal is defunct. Therefore, the case is adjourned for the same on 28.12.2018 before D.B.

28-12-2018

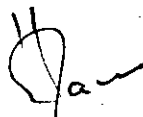
The Bench is incomplete
Therefore case is adjourned to
20-2-2019


Reader


Reader

19.01.2018

Learned counsel for the appellant and Mr. Kabir Ullah Khattak, Learned Additional Advocate General alongwith Rahat Shah Account Officer, for respondents present. Written reply submitted on behalf of respondent No.2 to 6 and the rest of the respondents relied upon the same. Adjourned. To come up for arguments/rejoinder on 22.03.2018 before D.B



(Muhammad Hamid Mughal)

MEMBER

22.03.2018

Learned counsel for the appellant present. Mr. Muhammad Jan, learned Deputy District Attorney alongwith Tayyab Gul Assistant and Sana Ullah, Admin Officer for the respondents present. Learned counsel for the appellant submitted rejoinder which is placed on file and seeks adjournment. Adjourn. To come up for arguments on 22.05.2018 before D.B



(Muhammad Amin Kundi)

Member



(Muhammad Hamid Mughal)

Member

22.05.2018

Junior counsel for the appellant and Mr. Zia Ullah, DDA alongwith Mr. Tayyab Gul, Assistant for the respondents present. Arguments could not be heard due to incomplete bench. Adjourned. To come up for arguments 02.8.2018 before D.B.




(Muhammad Amin Khan Kundi)

Member

Service Appeal No. 424/2017

22.11.2017

Counsel for the appellant present. Mr. Usman Ghani, District Attorney alongwith Mr. Tayyab Gul, Assistant for the respondents also present. Written reply on behalf of respondents not submitted. Learned District Attorney requested for further adjournment. Adjourned. To come up for written reply/comments on 19.12.2017 before S.B.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

19.12.2017

Learned counsel for the appellant present. Mr. Riaz Pinda Kheil, learned Assistant Advocate General along with Mr. Tayyab Gul, Assistant for the respondents present. Written reply not submitted. Representative of the respondents seeks time to file written reply/comments. Granted. To come up for written reply/comments on 04.01.2018 Before S.B


(Muhammad Hamid Mughal)
MEMBER

04.01.2018

Clerk of the counsel for appellant present and Assistant AG alongwith Mr. Tayyab Gul, Assisant for the respondents present. Written reply on behalf of respondents not submitted. Requested for adjournment. Adjourned. Last opportunity granted. To come up for written reply/comments on 19.01.2018 before S.B.


(Gul Zeb Khan)
Member (E)

13.09.2017

Counsel for the appellant seeks adjournment. Granted.
To come up for preliminary hearing on 11.10.2017 before S.B.

Chairman

11.10.2017

Counsel for the appellant present. Preliminary arguments heard and case file perused. The appellant was appointed as Water Management Officer (BPS-17) in Agriculture Department on contract basis vide notification dated 20.12.1993. From time to time his contract appointment was extended by the Provincial Government. Vide notification dated 07.06.2011, services of the appellant were regularized after promulgation of Khyber Pakhtunkhwa Employees Regularization Act 2005 w.e.f 24.11.2004. There is a break of break of 7 years 6 months in the stint of service from 20.12.1993 to 24.11.2004. He preferred departmental appeal on 06.01.2017 which was not responded within stipulated period, hence, the instant service appeal. Apparently the appellant is barred by time. When learned counsel for the appellant was confronted on the point that why he failed to agitate this issue in time, he was unable to give any plausible explanation? Reliance was placed on judgment of Peshawar High Court, Peshawar rendered in writ petition no. 3394-P/2016 dated 22.06.2016 wherein the issue of length of service has been decided.

Points urged need consideration. Admit subject to all legal objections. Appellant is directed to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 22.11.2017 before S.B.

Appellant Deposited
Security & Process Fee

(AHMAD HASSAN)
MEMBER

01.06.2017

Counsel for the appellant present and requested for adjournment. Adjourned. To come up for preliminary hearing on 06.07.2017 before S.B.



(Ahmad Hassan)
Member

06.07.2017

Counsel for the appellant present and requested for adjournment. Adjourned. To come up for preliminary hearing on 31.07.2017 before S.B.



(Ahmad Hassan)
Member

31.07.2017

Counsel for the appellant present. He seeks adjournment. Adjourned. To come up for preliminary hearing on 21.08.2017 before S.B.



Chairman

21/8/2017

No one is present on behalf of the appellant. The Hon'ble Member is on leave, therefore, case to come for preliminary hearing on 13/9/2017 before SB.






Reader

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 424/2017

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	03/05/2017	<p style="text-align: center;">The appeal of Mr. Qayyum Khan presented today by Mr. Muhammad Asif Yousafzai Advocate, may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	4/5/17	<p style="text-align: center;">This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>18-5-17</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	18.05.2017	<p style="text-align: center;">Counsel for the appellant present. Counsel for the appellant requested for adjournment. Request accepted. To come up for preliminary hearing on 01.06.2017 before S.B.</p> <p style="text-align: right;"> (Ahmad Hassan) Member</p>

Case No. 17-1234

Casefile for the applicant presented and requested for
the court to adjourn the trial for preliminary hearing on
06/12/2017 before 09:00.

06/12/2017

Additional information regarding the case is available on the court's website. The applicant is advised to provide the necessary documents by the deadline to avoid any delay in the proceedings.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 424 /2017

Mr.Qayyum Khan

VS.

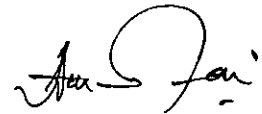
Agriculture Department

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of Appeal	-----	1-4
2.	Copy of appointment order	--A--	05
3.	Copy of Extension Order	--B--	06-13
4.	Copy of Service Certificate	--C--	14-15
5.	Copy of Notification dt. 24.09.2004	--D--	16-19
6.	Copy of Notification dt. 07.06.2011	--E--	20-21
7.	Copy of departmental appeal dt. 6,1,2017	--F--	22-23
8.	Copy of Director General Comments dt. 22.2.2017	--G--	24
9.	Copy of letter establishment department dt 10.03.2017	--H--	25
9.	Vakalat nama	-----	26

APPELLANT

THROUGH:



(M.ASIF YOUSAFZAI)

(ADVOCATE SUPREME COURT),



(TAIMUR ALI KHAN)

(ADVOCATE HIGH CORT),

&

(SYED NOMAN ALI BUKHRI)
ADVOCTE PESHAWAR.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____/2017

Mr. Qayyum Khan, Water Management Officer,
District On-Farm Water Management,
District Peshawar.

(Appellant)

VERSUS

1. The Government of KPK through Chief Secretary, Civil Secretariat Peshawar.
2. The Chief Secretary Civil Secretariat, Peshawar
3. The Secretary Agriculture Livestock and Cooperative Department Civil Secretariat, Peshawar.
4. The Director General Form of Water Management Government of KPK, Peshawar.
5. The Secretary Finance, KPK, Peshawar.
6. The Secretary Establishment, KPK, Peshawar.

(Respondents)

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNALS, 1974 ACT FOR DIRECTING THE RESPONDENTS TO CONSIDER THE RESPONDENTS TO CONDONE THE INTERRUPTION BETWEEN THE TWO PERIODS OF QUALIFYING SERVICES FOR PENSION PURPOSE UNDER RULES 2.12 (1) AND RULES 2.3 CIVIL SERVICES PENSION RULES. AND AGAINST NOT TAKING ANY ACTION ON DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF (90) DAYS

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE RESPONDENTS MAY BE DIRECTED TO CONDONE THE INTERRUPTION BETWEEN THE TWO PERIODS OF QUALIFYING SERVICES FOR PENSION PURPOSE UNDER RULES 2.12 (1) AND RULES 2.3 CIVIL SERVICES PENSION RULES. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant was appointed as Water Management Officer in (BPS-17) on contract basis in the Agriculture Department vide notification dated 20.12.1993. The appellant's contract was extended from time to time vide notifications dated 1.11.1995, 12.07.1995, 18.03.1997, 16.07.1997, 17.10.1998, 2.06.1999, 20.03.2000, till 30.06.2001. **Copies of appointment order, extension order and service certificate are attached as Annexure-A, B, C.**
2. That vide notification dated 24.11.2004 the appellant was appointed as Water Management Officer in BPS-17 on contract basis and later on vide notification dated 07.06.2011 the appellant service was regularized under (NWFP) Employees Regularization of Service Act, 2005 w.e.f 24.11.2004. **Copies of notification are attached as Annexure-D, & E.**
3. That from the above mention breakup, it clear that the appellant first service spell from 20.12.1993 to 24.11.2004 consisted of seven year six months.
4. That the appellant filed representation for condonation of interruption between the two periods on 06.01.2017. The said appeal was sent to Director General Office and then to Secretary Agriculture office. The Director General office submitted his comments to the Secretary Agriculture and Livestock and Cooperative Department on 22.02.2017, and lastly the case of the appellant was referred to Establishment department and Establishment Department further directed to solicit the Finance Deptt: to finalize the issue. **Copies of**

departmental appeal, Director General comments and letter to establishment department are attached as Annexure-F, G, & H.

5. That despite the lapse of the statutory period of the 90 days, no fruit full action has been taken nor order pass on the departmental appeal till date. Hence the present appeal on the following grounds amongst the others.

GROUND:

- A) That not condoning the interrupted period between the two periods of the service and not taking action of departmental appeal of the appellant within statutory period 90 days is against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B) That the appellant first spell of service was consisted of seven year six months therefore, the appellant his legally entitled to his claim under pension rules 2.12 (1) and rules 2.3 of the West Pakistan Civil Services pension rule
- C) That the appellant has a genuine claim and under pension rules he is entitled to be granted condonation of interruption between the two periods of qualifying service for the pension purposes.
- D) That if the legal right was not granted to appellant then the appellant would suffer a lot for having less pensionary benefits than that to which he is otherwise legally entitled.
- E) That the appellant has not been treated according to law, rule and lingering on without any justification.
- F) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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

APPELLANT

Qayyum Khan

THROUGH:



(M.ASIF YOUSAFZAI)

(ADVOCATE SUPREME COURT)



(TAIMUR ALI KHAN)

(ADVOCATE HIGH COURT)

&

(SYED NOMAN ALI BUKHRI)

ADVOCATE PESHAWAR.

ALISTED

Water Management Officer in the
Office of Asstt. Director, Water
Management, Central.
Water Management Officer in the
Office of Asstt. Director, Water
Management, Natta Swat.

1- Mr. Mohammad Younis
2- Mr. Mohammad Farid Khattak

Place of posting

Sl. Name of Officer

No.

2- This appointment will not confer on them any right of claiming priority or regularization in service.
3- On their appointment, they are posted against the posts mentioned against each with immediate effect in the interest of public service.

House No. 80-Defence Officer
Housing Society Dera Ismael Khan
Agency Gul Raza Khan Electric Store
P.O. Dera Ismael Khan North Nazimabad
D.I. Khan
C/O. Dera Ismael Khan, P.O. Dera Ismael Khan

10- Mr. Javed Iqbal S/O
Mulla Chaza Khan
9- Mr. Mohammad Younis S/O
Mulla Khan
8- Mr. Farid Ahmad S/O
Ghulam Saeed
7- Mr. Javed Iqbal S/O
Farid Mohammad

Village & P.O. Chahalagay Distt. Swat.
House Lund Khwar Mardan
P.O. Lund Khwar C/O Misan Cloth
Kohat Cantt.
House No. 1070/3/4 Near Janta Masjid
Civil Hospital Dera Ismael Khan
C/O Azam Khan & Clinico Meer
Village Damana P.O. Kadyan, Swat.

6- Mr. Abdul Wahid Khan S/O
Ghulam Mohammad
5- Mr. Hidayat Ali S/O
Haji Shamoz Khan
4- Mr. Mohammad Farid Khattak
S/O Mohammad Azim Khattak
3- Mian Zaiduddin S/O
Mian Karim Baksh

H.No. 81/L.C. in front of Railway
Signal O/S Laidi Gate Dera Ismael Khan
Village Damana P.O. Kadyan, Swat.
Village Damana P.O. Kadyan, Swat.
Village Damana P.O. Kadyan, Swat.

2- Mr. Fayaz Khan S/O
Haji Azeem Khan
1- Mr. Naseer Ahmad S/O
Shahid Ahmad

Postal/Permanent Address

Sl. Name and Father's Name

No.

the terms and conditions as laid down in the agreement duly executed by them.
for a period of one year from the date of their taking over the charge on
(April Engineers) in Basic Pay Scale No. 17 (2870-215-5450) on contract basis
the following candidates, in order of merit, as Water Management Officers
Departmental Selection Committee, the Governor NWF is pleased to appoint
No. SCF (AD) II (2) 70/M/E/K/O. Consequently upon the recommendation of the

NOTIFICATION

DATED 19/11/1983

DEPARTMENT

AGRICULTURE, FOOD & COOPERATION

GOVERNMENT OF NWFP

(5)

A

(I+II)

(1)

Three copy

Handwritten signature and initials

- 3- Mian Zia-ud-Din
- 4- Mr. Hidayat Ali
- 5- Mr. Rafiq Ahmad
- 6- Mr. Nasoor Ahmad
- 7- Mr. Jamshid Iqbal
- 8- Mr. Abdullah Khan
- 9- Mr. Qayum Khan
- 10- Mr. Javaid Iqbal

- Water Management Officer,
Office of the Project Director,
Training Centre, DIKhan.
- Water Management Officer,
Office of the Project Director,
CRBC Stage-II, DIKhan.
- Water Management Officer,
Office of Asstt. Director,
Water Management, Alpuri, Swat.
- Water Management Officer,
Office of Project Director, CFWM
CRBC Stage-II, DIKhan.
- Water Management Officer,
Office of Asstt. Director,
Water Management, Swat.
- Water Management Officer,
Office of Asstt. Director,
Water Management, Mansehra.
- Water Management Officer,
Office of Asstt. Dy. Director,
Water Management, ATL-I, Peshawar.
- Water Management Officer,
Office of Project Director, CFWM
Stage-II, DIKhan.

35066-86

SECRETARY AGRICULTURE

Dated Pesh, the 20/12/1993

Indst. No. SCB(AD)II(2)10/Mtg/KC/

Copy forwarded for information and for action to the:-

- 1- PS to Minister for Agriculture, NWFP.
- 2- Secretary to Govt. of NWFP, Services & General Admin Deptt.
- 3- Director, Water Management, NWFP, Peshawar.
- 4- District Accounts Officer, Chitral. (5) DAO Swat.
- 6- DAO, DIKhan. (7) DAO Mansehra. (8) Accountant General, NWFP, Pesh.
- 9- Project Director, Training Centre, DIKhan.
- 10- Project Director, CRBC, Stage-II, DIKhan.
- 11- Asstt. Director, Water Management, Chitral, Matta Swat, Alpuri, Swat
- 14- Asstt. Directors, Water Management, Swat, Mansehra.
- 16- Dy. Director, Water Management (ATL-I) Peshawar.
- 17- Officers concerned. They should report for duty at their place of postings under intimation to the Director, Water Management and this Department.
- 18- The Manager, Government Printing Press, NWFP, Peshawar for publication in the next Government Gazette.
- 19- Office order file. (20) Personal files of the new recruited officers.
- 21- File No. SCB(AD)3(3)5.

17 WMP

Ako

(NISAR ALI SKAH)
SECTION OFFICER (ESTABLISHMENT)

20/12/93

Misal
20-12-93

at P. M. ... with the proposal

(B) B (2) 6

GOVERNMENT OF N.W.F.P.,
FOOD, AGRICULTURE, LIVESTOCK AND
COOPERATION DEPARTMENT.

DATED PESHAWAR, THE 11.1.1995.

NOTIFICATION.

NO.SOE(AD)II(2)70/Mtg./K.C. In continuation of this Department Notification of even No.35066-86, dated 20.12.1993, the Governor NWFP is pleased to extend the contract period of appointment upto 31.5.1995 in respect of the following Water Management Officers (Agricultural Engineers) (BS-17) on the existing terms & conditions:-

S.No.	Name of the Officer.
1.	Mr. Naseer Ahmad.
2.	Mr. Sayyid Khan. ✓
3.	Mr. Mian Zia-ud-Din.
4.	Mr. Hidayat Ali. ✓
5.	Mr. Abdulah Khan.
6.	Mr. Javed Iqbal.
7.	Mr. Mohammad Fahim Khattak.
8.	Mr. Rafiq Ahmad.
9.	Mr. Mohammad Yousaf.
10.	Mr. Jamshed Iqbal. ✓

SECRETARY TO GOVT: OF NWFP
AGRICULTURE DEPARTMENT.

- *****
- Endst: No. SOE(AD)II(2)70/Mtg./K.C. Dated 11.1.1995.
Copy forwarded for information & necessary action to the:
1. P.S. to Minister for Agriculture, NWFP, Peshawar.
 2. P.S. to Chief Secretary, NWFP, Peshawar.
 3. Director Water Management, NWFP, Peshawar w/r to his letter No.10474, dated 13.12.1994.
 4. Accountant General, NWFP, Peshawar.
 5. All District Accounts Officers/Agency Accounts Officers in NWFP.
 6. Officers concerned C/O Director Water Management, Peshawar.
 7. Manager Govt: Printing Press, Peshawar for publication in the next issue of Govt: Gazette.
 8. P.S. to Secretary Food, Agriculture, Livestock and Coop: Deptt: Peshawar.
 9. Personal Files of the Officers.
 10. Office Order File. ✓

SECTION OFFICER (ESTT:)
AGRICULTURE DEPARTMENT.

11/1/95

21-12-94 — 31-5-95

5 months

ATTESTED

1-6-95
31-5-95 → 31-5-96

(B)

one year

(7)

GOVERNMENT OF N.W.F.P.,
FOOD, AGRICULTURE, LIVESTOCK AND
COOPERATION DEPARTMENT.

DATED PESHAWAR, THE 12.7.1995.

NOTIFICATION.

NO. SOE(AD)II(2)/MTG/70 In continuation of this Department's Notifications of even No. dated 19.7.1994 and 11.1.1995, the Governor NWFP is pleased to extend the contract period of appointment upto 31.5.1996 or till the availability of selectees of the NWFP Public Service Commission, whichever is earlier, in respect of the following Water Management Officers/(Agricultural Engineers) (BS-17) on the existing terms & conditions:-

1. Mr. Naseer Ahmad.
2. Mr. Jayyum Khan.
3. Mian Ziauddin.
4. Mr. Hidayat Ali.
5. Mr. Abdullah Khan.
6. Mr. Javed Iqbal.
7. Mr. Rafiq Ahmad.
8. Mr. Mohammad Yousaf.
9. Mr. Jamshed Iqbal.
10. Mr. Mohammad Fahim Khattak.
11. Mr. Amjad Saeed.
12. Mr. Ahmad Shah.
13. Mr. Habibur Rehman.
14. Mr. Nadeem Amir.
15. Mr. Shahid Mehmood.
16. Mr. Amir Rabbani.
17. Mr. Amir Mohammad.
18. Mr. Sultan-e-Room.
19. Mr. Shaukat Masood.
20. Mr. Hafiz Gul Naeem.

SECRETARY TO GOVT. OF NWFP
AGRICULTURE DEPARTMENT.

ENDST: NO. SOE(AD)II(2)/MTG/70.

Dated 12.7.1995

- Copy forwarded for Information & Action to the following:-
2. Director Water Management, NWFP, Peshawar w/r to his letter No. 3700/3/13/Estt./D.M., dated 21.5.1995.
 4. Accountant General, NWFP, Peshawar.
 5. All Distt: Accounts Officers/Agency Accounts Officers in NWFP.
 6. Officers concerned C/O Director Water Management, NWFP, Peshawar.
 7. Manager Govt. Printing Press, Peshawar.
 8. P.F. of the Officers concerned.
 9. P.S. to Secretary Agriculture.
 10. Office Order File.

(Signature)
12/7/95
(NISAR ALI SHAH)
SECTION OFFICER (ESTT.)
AGRICULTURE DEPARTMENT.

(3)

(4)

(5)

(8)

31-5-95
✓ 1-6-95

31-5-96

(One year)

GOVERNMENT OF N.W.F.P.,
FOOD, AGRICULTURE, LIVESTOCK AND
COOPERATION DEPARTMENT.

DATED PESHAWAR, THE 12.7.1995.

NOTIFICATION.

NO. SOE(AD)II(2)/MTG/70 In continuation of this Department's

ATTESTED

(B)



CONFIDENTIAL

NO. (S) III(3)70/188/83. In pursuance of this
 subject, this notification of even no. dated 12/7/1995, the
 Governor has decided to extend the contract period of
 appointment with effect from 1-5-1996 to 31.5.1997 or till
 the availability of a post of the Govt. Public Service
 Commission, which ever is earlier, in respect of the following
 Water Management Officer (Agriculture Engineers) B-47 on
 the existing terms & conditions:-

- 1) Mr. [Name]
- 2) Mr. [Name]
- 3) Mr. [Name]
- 4) Mr. [Name]

OFFICE OF THE GOVERNOR
 GOVT. OF PUNJAB, LUDHIANA
 PUNJAB

NO. (S) III(3)70/188/83/ Dated Ludhiana 18/5/1997.

Copy forwarded for information & action to:-

- 1- The Director, Water Management, Ludhiana, Punjab with reference to his letter no. 944, dated 20/1/1997.
- 2- The Project Director, Agriculture Development Corporation, Ludhiana Project, Ludhiana w/o to his letter no. 73, dated 23/1/1997.
- 3- The District Revenue Officer, Ludhiana.
- 4- Officers concerned C/O Project Director, Ludhiana Project.
- 5- The District Government, Ludhiana, Punjab.
- 6- Personal files of the officer concerned.
- 7- File regarding Ludhiana Agriculture Department.
- 8- Office order file.

[Handwritten signature]
 18/5/97

ATTESTED

(OFFICE OF THE GOVERNOR)
 GOVT. OF PUNJAB, LUDHIANA

NOTIFICATION

(B) 10
In continuation of this Department notification of even No. 4062 dated 26/5/1937, the Government is pleased to extend the contract period of completion with effect from 1/6/1937 to 31/3/1938 or completion of the project which ever is earlier, in respect of the following Water Management Officers (Agriculture Engineers) B-17 on the existing terms and conditions:-

- 1) Mr. Shahid Mahmood.
- 2) Mr. Ridayat Ali.
- 3) Mr. Abdullah Khan.
- 4) Mr. Zayyaz Khan.
- 5) Mr. Niaz Ahmad.

SECRETARY GO GOVT. OF NWFP
FOOD, AGRICULTURE, LIVESTOCK AND COOP.
DEPARTMENT

Dated Pesh: the 15/7/1937.

ENCL: NO. SOF (AD) II (2) 70/Mtg./

Copy forwarded for information & action to:-

- 1- The Director Water Management, NWFP, Peshawar w/r to his letter No. 4062, dated 26/5/1937.
- 2- The Project Director ABC-222 Project Mardan.
- 3- The District Accounts Officer Mardan.
- 4- Officer concerned, G/O Project Director, ABC-222 Project Mardan.
- 5- The Manager Government of Printing Press, NWFP, Pesh.
- 6- EO to Secretary Food and Agriculture Department.
- 7- Personal files of the officers.
- 8- Office order file.

ATTESTED

(MIRAR ALI SHAH)
SECTION OFFICER (DEPARTMENT)

16/7/37

98

30 98

17 months

(B)

(11) (7) (6)

GOVERNMENT OF NWFP
 FOOD, AGRICULTURE, LIVESTOCK & COOP.
 DEPARTMENT

NOTIFICATION.

No. SOE(AD) II(2) 70/Mtg:/KC/98 In continuation of the deptt: notification of even No. dated 16/7/97 the Governor NWFP is pleased to extend the contact period of appointment with effect from 1-6-98 to 30.11.98 Or completion of the Project, which ever is earlier, in respect of the following Water Management Officers(Agri:Engineers) BS-17 on the existing terms and conditions:-

- 1-Mr. Qayum Khan.
- 2-Mr. Abdullah Khan.
- 3-Mr. Fida Muhammad.
- 4-Mr. Hidayat Ali.

SECRETARY TO GOVT OF NWFP
 FOOD, AGRI: LIVESTOCK AND COOP: DEPTT.

Endst: No. SOE(AD) II(2) 70/Mtg:/KC/98 Dated Pesh: the 7/10/1998.

Copy forwarded for information & necessary action to:-

- 1-The Director Water Management NWFP, Peshawar.
- 2-The Project Director ADC-SSP Project Mardan.
- 3-The Distt:Accounts Officer Mardan.
- 4-Officers concerned C/O, Project Director ADC-SSP Project Mardan.
- 5-The Manager Govt: Printing Press, Peshawar.
- 6-PS to Secretary, Food, Agri: Livestock and Coop: Deptt: Peshawar.
- 7-The Personal Files of the officers.
- 8-Office order files.

(MUHAMMAD ISRAH)
 SECTION OFFICER (ESTT.)

ATTESTED

(B)

(12)

(7)

GOVERNMENT OF NWFP
FOOD, AGRICULTURE, LIVESTOCK & COOP.
DEPARTMENT

NOTIFICATION.

NO. GOA(AD)II(2)70/Mtg/99/70. The Competent Authority is pleased to extend the contract period of appointment with effect from 1/12/1998 to 30/11/1999 in respect of the following four (4) Water Management Officers (Agri:Engineers) BPS-17 on the existing terms and conditions:-

- 1- Mr. Sajid Khan.
- 2- Mr. Abdullah Khan.
- 3- Mr. Fida Muhammad.
- 4- Mr. Hidayat Ali.

SECRETARY TO GOVT. OF NWFP
FOOD, AGRICULTURE, LIVESTOCK AND COOP.
DEPARTMENT

UNDER: NO. GOA(AD)II(2)70/Mtg/99/ Dated Feshawar the 02/5/1999

Copy forwarded for information & w/action to:-

- 1- The Director Water Management, NWFP, Feshawar.
- 2- The Project Coordinator, AEO-SEP, Mardan.
- 3- The Chief Planning Officer, Food & Agri: Deptt.
- 4- The District Accounts Officer, Mardan.
- 5- Officers Concerned C/O Project Coordinator, Agri:Dev:Component Swabi Beary Project, Mardan.
- 6- The Manager Govt: Printing Press, NWFP, Feshawar.
- 7- PS to Secretary, Food & Agriculture Department.
- 8- Personal Files of the officers.
- 9- Office order file.

(MUNAFIQAN IGHAR)
SECTION OFFICER (ESTABLISHMENT)

ATTESTED

(8) (B) 13
GOVERNMENT OF NWFP,
AGRICULTURE, LIVESTOCK AND COOP.
DEPARTMENT.

NOTIFICATION.

NO. SOE(AD)II(2)70/Mtg:/99/KC. The competent Authority is pleased to extend the contract period of appointment with effect from 1/12/99 to 30/6/2000 i.e. the Project life in respect of the following four (4) Water Management Officers (Agri:Engineers) BPS-17 on the existing terms and conditions:-

- 1) Mr. Qayyum Khan. ✓
- 2) Mr. Abdullah Khan. ✓
- 3) Mr. Fida Mohammad.
- 4) Mr. Hidayat Ali.

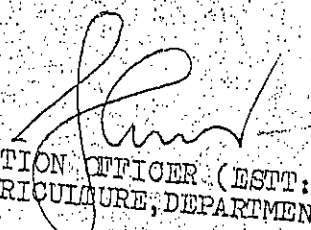
SECRETARY TO GOVT. OF NWFP,
AGRICULTURE DEPARTMENT.

Endst: No. SOE(AD)II(2)70/Mtg:/99/KC

Dated Pesh: the 20/3/2000.

✓ Copy forwarded for information and necessary action to:-

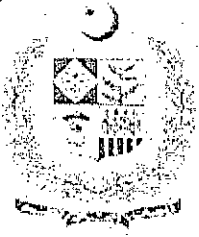
- 1-The Director Water Management NWFP, Peshawar.
- 2-The Project Coordinator, ADC-SSP Mardan.
- 3-The Chief Planning Officer Agriculture Department NWFP, Peshawar.
- 4-The Distt:Accounts Officer Mardan.
- 5-8) The Officers concerned C/O Project Coordinator, ADC-SSP Mardan.
- 9) The Mager Govt:Printing Press: Peshawar.
- 10) Person files of the Officers.
- 11) Office order File.


SECTION OFFICER (ESTT.)
AGRICULTURE, DEPARTMENT.

1-2-99 — 30-6-2001

1.5 years

ATTESTED



Office of the
DISTRICT COMPTROLLER OF ACCOUNTS
MARDAN

Ph/Fax # 0937-9230066.

No.DCA/PR-1/

Dated: 29/10/2011

CERTIFICATE

It is certified that Mr. Qayyum Khan, Fix-Water Management Officer (BPS-17) on contract basis in Agriculture Department and received on transfer from the Audit Circle D.I. Khan on 14-09-1995 has continued to draw his pay & allowances till 30-06-2001 on the strength of extension in contract period granted by the Government of NWFP, Agriculture Department from time to time.


District Comptroller of Accounts,
Mardan.

ATTESTED

(III) 8 "2" 10
Government of NWFP
Agriculture, Livestock and Cooperatives
Department
Peshawar dated the 24th November, 2004.

Notification.

No. No. SOE(AD)1.1 (2) 70 / 2004. On the recommendation of the Departmental Selection Committee, Government of NWFP, Agriculture, Livestock & Cooperatives Department is pleased to appoint the following candidates against the newly created posts of Water Management Officers(Eng.) BPS-17 purely on contract basis in the project titled National Program for improvement/ lining of water courses in Pakistan (project for NWFP) for a period of one year, from the date of assuming the charge of the post, extendable to the remaining project period subject to their satisfactory performance.

1. Muqbil-un- Naseer S/o Irfan-ud-Din Village, Tehsil P.O Timergara Moh: Miagulan Distt: Dir Lower.
2. Jehan Zeb S/o Aslam Khan C/o Assistant Director Water Management Near Mall Lara Stop Jehangira Road Swabi.
3. Abdul Malik S/o Ghazi Khan C/o Abdul Wahab Village Amin Khel (Chockara) P.O Ghundi Kala Tehsil Tahti Nasrati Dist: Karak.
4. Mohammad Tufail S/o Nadar Khan Village Masti Khan Banda P/O Khojaki Killa Tehsil T/Nasrati Distt: Karak.
5. Nisar Ahmad S/o Sarfaraz Ahmad House No. C/445 near Government Primary School No. 5 street Khawrs brothers Mohallah Kalrain walla d.I.Khan.
6. Abdullah Khan S/o Ghulam Muhammad Village Janga C/o Usman Cloth House Lund Khawar P.O Lund Khawar Teh: Takhi Bhai Distt: Mardan.
7. Aftab Ahmad Khan S/O Abdul Rashid Khan Distt. D.I.Khan, C/O Ina mullah Khan AD, FIA, Peshawar, Air Port.
8. Mohammad Farooq Khan S/O Qamar Khan Moh: Tauskhani village and P.O Lahore Distt: Swabi.
9. Waseemullah S/O Mohammad Saeed Village Kachkot Asad Khan P.O Torka Tehsil and District Bannu.
10. Shaheen Iqbal S/o Mir Khalam Village and P.O Haji Zai Tehsil and Distt: Charsadda.
11. Momen Uddin S/O Mohammad Mukhtar of Dir Lower.
12. Hidayat Ali S/O Haji Shamroz K. House No. 1070/3 now Mohalla near Jamia mosque Nowshera Cantt.
13. Tahir Khan S/O Zafarullah District: Tangi.
14. Anwar Saeed S/O Mohibullah Khan. Distt: Karak Tehsil Teht-e-Nasrati Village Nadar Kila P.O Manzeeni Banda.
15. Qiaah Ahmad S/O Faqir Saib sector, E/91 Sheikh Malloon Town distt. Mardan
16. Shahid Mahmood S/o Muhammad Ishaq H.No.389 Sector C Sheikh Malloon Town Mardan.
17. Ghulam Bilal S/O Karim Dad Khan P.O Paroa, D.I.Khan.
18. Qayyum Khan S/O Awar Mir Shah. House No. 81/LG in front of Railway Signal O/S Distt. Bannu.
19. Munir Ahmad S/o Saeed Ahmad Opposite to the GHS No.2 Kulachi Teh Kulachi Distt: D.I Khan.

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(17)

20. Saeed Shah S/O Jaffar Shah Distt: Mardan Teh Takht Dhai P.O Sattar Khan Colony Mahal Janira Hashinagro Kali.
21. Rafiq Ahmad Ghuncha S/O Ghulam Sarwar House No. 2528 Moh: Reshan Chiragh D.I. Khan.
22. Mohammed Shoaib S/O Muhammad Rameen House No. T-145 Street Saddique Abad Near Mirch Mandi Peshawar City.
23. Mirza Muhammad S/O Muhammad Inani Moh: Naway Cham Vill: & P.O Shahmansoor Tehsil and Distt: Swabi.
24. Jehan Zeb S/O Muqaid Jani Mugh Pali House New Bazar Chitral.
25. Said Muhammad S/O Mir Muhammad Village and P.O. Urmar Payan Moh: Alj Khel Distt. Peshawar.
26. Fazal Sattar S/O Nasir Ud Din Khan. Village Galkore P.O Osheri Teh: Dir Distt: Dir Upper.
27. Abdus Subhan S/O Abdur Razaq. C/O Dr. Aziz ur-Rehman Village and P.O Paniala Distt: D.I. Khan.
28. Muhammad Tahir S/O Noor Wahab r/o Malakand Agency.
29. Mr. Muhammad Nadeem S/O Muhammad Khan. Village Paniala Tehsil and District D.I. Khan.
30. Amir Rabbani S/O Rehmatullah H: No. 442 Sarafa Bazar Abbotabad
31. Muhammad Khalil Akbar S/O Abdur Rafiq Moh: Ismail Khel Village Garhi Daulat Zai P.O Garhi Kapura Tehsil and Distt: Mardan.
32. Muhammad Uzair Khan S/O Mohabat Khan Moh: Danda Village and P.O Charbagh Distt: Swat.
33. Hidayatullah S/O Muhammad Iqbal House No. 372 Armour Colony Manki Road Nowshera Cantt.
34. Zulfiqar Ali S/O Akbar Ali Khan P.O Kachji Paind Khan Midad Khel House Hanif Town Waqas Colony Diyal Road D.I Khan.
35. Zahid Khaleeq S/O Khaleeq-uz-Zaman House No. 30/D, Muhammad Jan Street Bannu.
36. Bakht Jamair S/O Shad Muhammad Khan C/O Bilal Book Store Village and P.O Jowar. Tehsil Daggarr Distt: Buner.
37. Irfanullah S/O Muhammad Hanif Mohallah Saeed Khel Teh and Distt: L/Marwat.
38. Anjad Masood S/O Sheikh Ahmad Dab. No. 1 Behind Ara Machine Shailia Road Mansehra.
39. Muhammad Rahmatullah Khan S/O Rohullah Khan Ismatullah LS-1 F-Block Flat No. 6 (C.A.E.B) Shami Road Wapda Colony Peshawar.
40. Kilayat Zaman S/O Shahi Zaman Street 11 A Hakoem Village and P.O Gujrat Teh and Distt: Mardan.
41. Aman Khan S/O Pekhawaray Khan Village and P.O Pir Baba Pacha Kalay Tehsil Daggarr Distt: Buner.
42. Ihsan Ullah Khan S/O Said Khumar Khan Village and P.O Kot Beli Tehsil and Distt: Bannu.

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- 43. Alta Ullah S/o Manaras Khari C/O H/W New Madyan Road Mingora District Swat.
- 44. Muhammad Idress S/o Abdul Kabir Bacha Village and P.O Mian Brangola Tehsil Adenzai Distt: Dir.
- 45. Irfanullah S/o Faqir Muhammad Khan(Late) Amjad Shahaed Colony Village and P.O Thanā Malakand Agency.
- 46. Zailul Haq S/o Muhammad Zaman Village Burghando P.O and Tensil Lal Qilla Distt: Dir Lower.
- 47. Amjad Ali S/o Muhammad Salim Mohi Irfan Abad /Salim Abad P.O Batkheila Malakand Agency.
- 48. Shahdad khan S/o Abdur Rashid C/O Mian Mohammed -Iqbal H.No.172 Street -8 Sector J/3 Phase No.2 Hayatabad Peshawar.

2. Their appointment shall be governed by the following terms and conditions:

- a. Their appointment shall be on contract basis initially for a period of One year. The contract shall stand automatically terminated on the expiry of the initial period. Fresh contract would be executed if the services of any of the above named candidates were further required.
- b. The appointment shall be subject to the medical fitness report by the standing Medical Board and satisfactory completion of pre-service training.
- c. They shall undergo One month pre-service training in one of the training centers at OFWM training centre D.I.Khan/Agricultural Training Institute Peshawar/Agricultural University Peshawar / NWFP Engineering University Peshawar. During training, they shall be paid stipend as per approved PC-1.
- X d. They shall be governed by such rules, regulations, orders, acts and ordinances etc relating to appointment, promotion, transfer, leave, T.A., Medical Attendance, seniority, efficiency & discipline and conduct as have been/may be prescribed by the Government for the category of Government servants of their status, from time to time and as interpreted by the Government.
- e. Their pay will be fixed in the Basic Pay Scale 17 i.e. Rs. 6210-465-15510 from the date of their taking over the charge of the post.
- f. Their services shall be liable to termination on the following conditions:
 - i. At any time without notice and without assigning any reasons during the period of their contract appointment if their work during this period was not found satisfactory.
 - ii. On One month notice by the Government on one side and by them on the other. In case the notice on either side is less than One month, a sum equivalent to the pay for the period by which the notice falls short of One month, will be paid by the Government to them or in lieu thereof One month pay shall be forfeited.
 - iii) By Government without previous notice if it is satisfied on material evidence that they are unfit and/or likely to remain unfit for a considerable period by reasons

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of ill health or physical disability to discharge their duties. The decision of the Government as to what constitutes considerable period shall be final.

- g. They shall not be entitled to any Traveling Allowance/Daily Allowance on their first appointment/posting.
- h. They shall not contribute to G.P Fund and will not be entitled to pension, gratuity benefits.
- i. This does not constitute inter se seniority and the appointees shall not be entitled to seniority as against any other Government Servant.

3. If the above terms and conditions are acceptable to the above named selected candidates, they should convey their willingness individually and attend office of the Director OFWM for signing the Contract Agreement on or before 10.12.2004 positively, where after the candidates shall be assigned to one of the above mentioned training centers by the Directorate of OFWM. In case of non submission of acceptance/ signing of Contract Agreement, the offer will stand cancelled.

Sd/++++
(ZAIBULLAH KHAN)

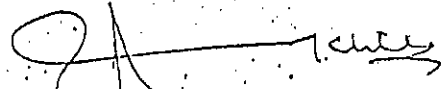
SECRETARY-AGRICULTURE

Endst: No. No. SOE(AD)11(2) 70 / 2004.

Dated Peshawar the, 24th November, 2004

Copy of the above is forwarded to the:-

1. Accountant General, NWFP, Peshawar.
2. Director General Health Services, NWFP Peshawar, He is requested to kindly arrange for an early medical examination of the above named appointees through the Standing Medical Board and supply their medical examination certificates to this Department for record.
3. Director General, Federal Water management cell almarkaz F-8 Islamabad.
4. Director, On Farm Water Management Department NWFP, Peshawar w/r to his memo No.11674 dated. 04-10-2004 with the request to furnish the posting proposal of the above appointees on successful completion of the training at the earliest.
5. All appointees as per list given in para-1 of the notification.
6. PS to Chief Secretary, NWFP.
7. PS to Minister for Agriculture, NWFP.
8. PS to Additional Chief Secretary F&F department.
9. PS to Secretary Agriculture.
10. PS to Special-Secretary to Chief Minister/ Provincial Coordinator.
11. Master file.



(AKHTER ALI SHAH)
SECTION OFFICER (ESTT.)

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Dated Peshawar, the 7/6/2011.

NOTIFICATION.

NO. SOE (AD) 17-131/2009.- In pursuance to the judgement of the Hon' able Supreme Court of Pakistan in civil appeals No. 834 to 837 of 2010, the Competent authority is pleased to regularize the services of the following Water Management Officers (BS-17) appointed on contract basis in the project "National Program for Improvement of Watercourses in Pakistan (Khyber Pakhtunkhwa Component) as provided under section-19 sub-section (2) of the NWFP Employees (Regularization of Services) Act, 2005 with effect from 24-11-2004:-

Sl. No.	Name of Officer
1.	Mr. Wajid Ali
2.	Mr. Atta-ul-Haq
3.	Mr. Farmanullah
4.	Mr. Mujeeb-ur-Rehman
5.	Mr. Wakeel Khan
6.	Mr. Muhammad Shahid Nawaz
7.	Mr. Abdullah Khan
8.	Mr. Aftab Ahmad Khan
9.	Mr. Shahid Mehmood
10.	Mr. Ghulam Bilal
11.	Mr. Qayyum Khan
12.	Mr. Rafiq Ahmad Ghuncha
13.	Mr. Said Muhammad
14.	Mr. Muhammad Nadeem
15.	Mr. Amir Rabbani
16.	Mr. Zahid Khaliq

2. Terms & Conditions of their regularization in service are as under:-

- i. Their services will be considered regular but without pensionary or Gratuity benefits in term of Section-19 of the NWFP Civil Servant Act, 1973 as amended vide NWFP Civil Servants (Amendment) Act, 2005. They will however be entitled to contribute to Contributory Provident Fund in such a manner and at such rates as prescribed by the Government.
- ii. Their services will be liable for termination on one month's notice from either side. In case of resignation without notice, two month's pay/allowances shall be refunded to Government.
- iii. They will be governed under such rules and regulations as may be issued from time to time by the Government.
- iv. In case of misconduct, they will be proceeded against the NWFP Removal from Service (Special Powers) Ordinance, 2000 and the Rules framed there under from time to time.
- v. Charge report should be submitted by the officers concerned.

ATTESTED

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(22)

**ON FARM WATER MANAGEMENT DEPARTMENT
DISTRICT PESHAWAR**

19-Jamrud Road, ATI Campus Peshawar (Ph: 091-9224232)

No. 678 /DD/OFWM

Dated 06/01 /2017

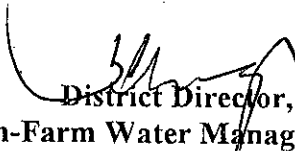
To

The Director General,
On-Farm Water Management,
Khyber Pakhtunkhwa, Peshawar.

**SUBJECT: THROUGH PROPER CHANNEL APPLICATION FOR PENSION
PURPOSE IN RESPECT OF MR.QAYYUM KHAN WMO FOR
CONDONATION OF INTERRUPTION BETWEEN THE TWO
PERIODS OF QUALIFYING SERVICES.**

Memo: -

Enclose please find herewith the original application of Mr. Qayyum Khan, Water Management Officer along with the Annexure I-V for onward submission to the concerned quarters.


District Director,
On-Farm Water Management,
District Peshawar.

CC

Mr. Qayyum Khan, Water Management Officer of this office for information.

ATTESTED

23

To

The Secretary,
Agriculture Livestock and Coop: Deptt,
Government of Khyber Pakhtunkhwa,
Peshawar.

THROUGH: PROPER CHANNEL.

SUBJECT: CONDONATION OF INTERRUPTION BETWEEN THE TWO PERIODS OF QUALIFYING SERVICES FOR PENSION PROPOSES UNDER THE RULE 2.12 (1) AND RULE 2.3 OF THE WEST PAKISTAN CIVIL SERVICES PENSION RULES.

Respected Sir,

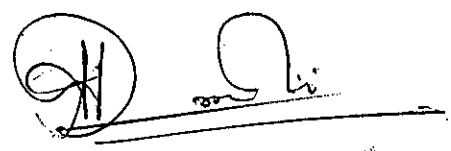
With due respect, I want to bring it to your kind notice the following facts.

- i) Initially I was appointed as Water Management Officer (BS-17) in On-Farm Water Management Agriculture Department on contract basis, vide Notification No. SOE (AD) II (2)70/Mtg/KC dated 20-12-1993. (Notification attached as Annex-I)
- ii) I served the Department in the same position as Water Management Officer upto 30-06-2001. Thus my 1st service spell of qualifying temporary service is of 7 years and 6 months. (Relevant Notification and documents attached as Annex-II)
- iii) My services were terminated without any reason.
- iv) After a break of 3 years and 4 months, I was reappointed as Water Management Officer BS-17 in On-Farm Water Management Agriculture Department vide Notification No. SOE (AD) II (2)70/2004, dated 24-11-2004. (Notification attached as Annex-III)
- v) My services were regularized as Water Management Officer through Notification No. SOE (AD) 17-131/2009 dated 07-06-2011, with effect from 24-11-2004. (Notification attached as Annex-IV)
- vi) At present I am serving the Department as Water Management Officer (BS-17) in office of the District Director, On-Farm Water Management, District Peshawar and now my 2nd spell of regular qualifying service period is over 12 years.

Therefore it is requested that my 1st service spell of 7 years and 6 months may be treated as qualifying service for pension and the same may be counted with the 2nd spell of qualifying service of more than 12 years and thus the condonation of interruption between the two spells of temporary / officiating service may be regulated under Rule 2.12 (1) and Rule 2.3 of the west Pakistan Civil services of pension Rules (the Government instructions and illustrations are attached for ready reference as Annex-V)

Thanks.

ATTESTED



(QAYYUM KHAN),
Water Management Officer,
O/O District Director,
On-Farm Water Management,
District Peshawar.

Dated: 06/01 /2017.



**DIRECTORATE GENERAL
ON FARM WATER MANAGEMENT
KHYBER PAKHTUNKHWA PESHAWAR**



No. 673 /DG/Estt/OFWM dated Peshawar the, 22/2/2017
To,

The Section Officer (Estt:)
Govt. of Khyber Pakhtunkhwa
Agriculture, Livestock & Coop: Deptt:
Peshawar

Subject:- APPLICATION FOR PENSION PURPOSE IN RESPECT OF MR. QAYYUM KHAN
WMO FOR CONDONATION OF INTERRUPTION BETWEEN THE TWO PERIODS
OF SERVICE

Memo,

Reference your letter No. SOE(AD)/17-131/2016/WM dated 10-02-2017 on the subject cited above.

In this regard it is stated that prior to appointment in "National Program for Improvement/Lining of Watercourses Project Khyber Pakhtunkhwa Component" Mr. Qayyum Khan was previously appointed as Water Management Officers on contract basis for a period of one year vide Government of Khyber Pakhtunkhwa, Agriculture, Livestock & Cooperative Department Peshawar notification dated 20-12-1993 and was posted in o/o the Deputy Director ATL-I Peshawar (Annex-A).

His contract service was extended, from time to time till 30-06-2001 vide Government of Khyber Pakhtunkhwa, Agriculture, Livestock & Cooperative Department Peshawar notification dated 20-03-2000 and further extension beyond 30-06-2001 was not granted due to completion of Swabi Scarp Project Mardan (Relevant documents of the above mentioned period attached as Annex-B).


In 2004 Mr. Qayyum Khan was appointed as Water Management Officer in the project titled "National Program for Improvement/Lining of Watercourses (Khyber Pakhtunkhwa Component)" vide Notification dated 24-11-2004 on contract basis for a period of one year extendable for further period on satisfactory performance (Annex-C).

Mr. Qayyum Khan while serving in NPIWCs project filed writ petition for regularization of his services which was decided in favour of the applicant. In compliance to the decision of Hon'ble Supreme Court of Pakistan his services was regularized vide notification dated 07-06-2011 (Annex-D).

At present Mr. Qayyum Khan is serving as Water Management Officer (BS-17) in o/o District Director On Farm Water Management Peshawar and submitted the subjected application (Copy attached (Annex-E)).

The above noted factual position is submitted for favour of perusal and with the request that the case may be sent to Law, Finance & Establishment Department for advice please.

ATTESTED


Director General
On Farm Water Management
Khyber Pakhtunkhwa, Peshawar



GOVERNMENT OF KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK & COOPERATIVE
DEPARTMENT

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NO.SOE(AD)/17-131/WM/2016
Dated Peshawar, the March 10, 2017

To

The Secretary to Government of Khyber Pakhtunkhwa,
Establishment Department.

Subject: APPLICATION FOR PENSION PURPOSE IN RESPECT OF MR.QAYYUM
KHAN WATER MANAGEMENT OFFICER FOR CONDONATION OF
INTERRUPTION BETWEEN THE TWO PERIODS OF SERVICE.

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith copy of Director General, On Farm Water Management, Khyber Pakhtunkhwa Peshawar letter No.221 dated 19/01/2017 and No.673 dated 22/02/2017 and copy of application filed by Mr. Qayum Khan Water Management Officer for condonation of Interruption between the two periods of service with the submission that the officer was appointed as Water Management Officer (BS-17 in OFWM, on contract basis dated 20.12.1993 (Annex-I). He served upto 30.06.2001 for seven year and six month (Annex-II). He was terminated due to closure of project. After three year he was reappointed as WMO in Water Management Department on 24.11.2004 (Annex-III). The services of the officer were regularized as WMO vide dated 07.6.2011 w.e.f 24.11.2004 (Annex-IV) and still he is working as WMO (BS-17) in O/o District Director OFWM, Peshawar and now his 2nd spell of regular qualifying service period is over 12 years.

The officer therefore requested that his 1st service spell of 7 year and 6 months may be treated a qualifying service for pension and the same may be counted with the 2nd spell of qualifying service of more than 12 years and thus the condonation of interruption between the two spells of temporary/officiating serviced may be regulated under Rule 2.12(1) and Rule 2.3 of the West Pakistan Civil Services of Pension Rules (Annex-V).

It is further to inform that as per report of DG OFWM, the officer prior to appointment in "National Program for Improvement/Lining of Watercourses Project Khyber Pakhtunkhwa component" was appointed as WMO on contract basis for a period of one year on 20.12.1993 and was posted in O/o Deputy Director Area Team Leader-I, Peshawar (Annex-VI).

His contract service was extended from time to time till 30.06.2001 vide dated 20.3.2000 and further extension beyond 30.6.2001 was not granted due to completion of Swabi Scarp Project Mardan (Annex-VII).

ATTESTED


In 2004, the officer was appointed as WMO in project titled National Program for Improvement/Lining of Watercourses vide dated 24.11.2004 on contract basis for a period of one year extendable for further period on satisfactory performance (Annex-VIII).

Mr.Qayyum Khan while serving in NPIWCs project filed writ petition for regularization of his services which was decided in favour of the applicant. In compliance to the decision his services were regularized dated 7.6.2011 (Annex-IX).

I am therefore directed to request for soliciting the advice of the Establishment Department that whether the project contract service for seven years six followed by broken period of 03 years can be treated as qualifying service for pension/gratuity please.

Encl: As above

Yours faithfully,



10/03/11

(SADAQAT ULLAH)
SECTION OFFICER-ESTT:

Endst. of even No. & Date.

Copy for information to:

1. DG OFWM, Khyber Pakhtunkhwa Peshawar
3. P.S to Secretary Agriculture department.


10/03/11

SECTION OFFICER-ESTT:

VAKALAT NAMA

NO. _____/2017

IN THE COURT OF Sesvice Tribunal Peshawar

Qayyum Khan (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Agriculture Deptt: (Respondent)
(Defendant)

I/We, Qayyum Khan

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

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

Dated _____/20

(Signature)
(CLIENT) Qayyum Khan

ACCEPTED

(Signature)
M. ASIF YOUSAFZAI
Advocate Supreme Court
Peshawar.

(Signature)
Taimur Ali Khan
Advocate High Court

Syed Nauman Ali Bukhari
Advocate

OFFICE:
Room # FR-8, 4th Floor,
Bilour Plaza, Peshawar,
Cantt: Peshawar
Cell: (0333-9103240)

26 PLD (SC) 534

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

Writ Petition No.3394-P/2016

Date of hearing:- 22.06.2017

Petitioner(s):- Amir Zeb Widower of Mst. Asiya Shafi by
Mr. Khush Dil Khan, Advocate.

Respondent (s):- The District Account Officer, Nowshera & 05
others by Syed Qaisar Ali Shah, AAG.

JUDGMENT

ROOH-UL-AMIN KHAN, J:- Through this Common judgment, we, propose to decide the following Constitutional Petitions filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 (the Constitution), as identical questions of law and facts are involved therein and the writ sought by the petitioners is also one and the same.

1. **Writ Petition No.3394-P/2016**
(Amir Zeb Vs District Account Officers Nowshera etc)
2. **Writ Petition No.2867-P/2016**
Mst. Akhtar Bibi Vs District Education Officer (M) Kohat etc).
3. **Writ Petition No.3143-P/2014**
(Muhammad Shah Zaib etc Vs Govt of Khyber Pakhtunkhwa through Chief Secretary and others)
4. **Writ Petition No.2872-P/2014.**
Hakeem Khan through LRs Vs Govt of KPK through Sectary Elementary & Secondary Education, Peshawar etc)
5. **Writ Petition No.1339-P/2014**
(Mst. Rani Vs Sub-Division Education Officer etc).
6. **Writ Petition No.55-P/2015**
(Mst. Bibi Bilqees Vs Govt of KPK through Secretary Finance, Peshawar).

Amir Zeb

2. Amir Zeb petitioner in W.P. No.3394-P/2016 is the widower of Mst. Asiya Shafi (late). His grievance is that on 28.02.2003, his wife was initially appointed as PTC on contract basis and, later on, by virtue of Khyber Pakhtunkhwa Civil Servants (Amendment) Act, 2005, her service was regularized. On 31.07.2015, during her service, she met her natural death, therefore, he being her widower/LR applied for payment of her all admissible retirement benefits, in pursuance whereof, leave encashment, GP fund and other admissible funds were paid to him by the respondents, but his pension claim was refused by the respondents on the ground of lack of prescribed length of her regular service, excluding the period of her service on contract, hence, this petition.

3. Mst. Akhtar Bibi, the petitioner in Writ Petition No.2867-P/2016, is the widow of (late) Lal Din Class-IV employee. She has averred in her writ petition that her late husband was initially appointed as Chowkidar on 01.10.1995 on contract basis, however, later on, his service was regularized vide Notification No.BOI-1-22/2007-08 dated 05.08.2008. On 15.05.2010, the deceased died during his service, so she applied for her pension but the same was refused to her on the ground that the regular service of the deceased employee was less than the prescribed length of regular service, hence, this petition.

4. Muhammad Shah Zaib and Muhammad Afnan Alam are the LRs of deceased Fakhar Alam. Their grievance is that their deceased father was appointed as Chowkidar on 13.01.1998 in Mother Child Health Centre Tank, who, later on, during his service was murdered, for which FIR was registered against the accused. Petitioners applied for retirement of the deceased. Vide notification dated 31.12.2013, the deceased was retired from service on account of his death w.e.f. 21.10.2013. The family pension of the deceased was prepared and processed, however, the same was refused to the petitioners, hence, this petition.

5. Petitioners in Writ Petition No.2872-P/2014, are the LRs of deceased Hakeem Khan Class-IV employee, who died during pendency of the instant writ petition. Grievance of the petitioners is that their predecessor was appointed as Chowkidar on fixed pay in Education Department on 24.04.1993. Vide order dated 29.01.2008, service of the deceased alongwith his counterparts was regularized by virtue of Khyber Pakhtunkhwa Civil Servants (Amendment) Act, 2013 w.e.f. 30.06.2001. On attaining the age of superannuation, the deceased got retired on 31.12.2012, so petitioner applied for grant of his pension but the same was refused, hence, this petition.

6. Mst. Rani, petitioner in Writ Petition No.1339-P/2014, is the widow of Syed Imtiaz Ali Shah (late) Class-IV employee. She has averred in her writ

look in

petition that on 15.01.1996 her late husband was appointed as Chowkidar in the respondents department on adhoc basis/fixed pay, whose service was, later on, regularized on 30.07.2008. During his service, the deceased met his natural death on 15.01.2012, hence, the petitioner applied for her pensionary benefits, but the same was refused on the ground that though service of the deceased was regularized but without pension gratuity, hence, this petition.

7. Mst. Bibi Bilqees, petitioner in Writ Petition No.55-P/2015, is the widow of Saif ur Rehman deceased. Her grievance is that her deceased husband was initially appointed as Chowkidar on 09.07.1995 in Public Health Department Nowshera on contract basis, however, his service was regularized on 01.07.2008. The deceased died during his service on 05.05.2012, so when petitioner applied for his pensionary benefits, the same was refused to her on the ground that the deceased was lacking the prescribed length of regular service, hence, this petition.

8. Respondents in the above writ petitions have filed their respective Para-wise comments, wherein they have admitted the fact that the pensions have been refused to the petitioners/LRs of the deceased employees because they were lacking the prescribed length of their regular service, whereas period of adhoc or contract service cannot be counted towards regular service for the purpose of pension.

The learned Addl. A.G. also questioned the maintainability of the writ petitions on the ground that section 19 (2) of the Khyber Pakhtunkhwa Civil Servant Acts deal with right of pension of deceased civil servant, which squarely falls in Chapter-II, pertaining to terms and conditions of service, therefore, jurisdiction of this Court under Article 212 of the Constitution is barred.

9. Having heard the arguments of learned counsel for the parties, record depicts that undisputedly the deceased employees were the Civil Servants and instant writ petitions have been filed by their LRs qua their pensions. Since the controversy pertains to pension of the deceased employees which according to the contention of worthy Law Officer is one of the terms and conditions of a civil servant under section 19 (2) of the Civil Servants Act, 1973, hence, before determining the eligibility of the deceased employees to the pension or otherwise, we, would like to first meet the legal question qua maintainability of the instant writ petitions on the ground of lack of jurisdiction of this Court under Article 212 of the Constitution. To answer the question, it would be advantageous to have a look over the definition of "Civil Servant" as contemplated under section 2(b) of Khyber Pakhtunkhwa Civil Servants Acts, 1973 and section 2 (a) of Khyber Pakhtunkhwa Service Tribunal Act, 1974. For the sake of convenience and ready reference, definition

For the Court

given in both the Statute are reproduced below one after the other

"2(b) "civil servant" means a person who is a member of a civil service of the Province, or who holds a civil post in connection with the affairs of the Province, but does not include---

- (i) A person who is on deputation to the Province from the Federation of any other Province or other authority;
- (ii) A person who is employed on contract or on work charged basis, or who is paid from contingencies; or
- (iii) A person who is a "worker" or "workman" as defined in the Factories Act, 1934 (Act XXV of 1934), or the Workman's Compensation Act, 1923 (Act VII of 1923)".

"S.2(a) "Civil Servant" means a person who is or has been a civil servant within the meaning of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No.XVIII of 1973), but does not include a civil servant covered by the Khyber Pakhtunkhwa Subordinate Judiciary Service Tribunal Act, 1991;]

As per the definitions of a "civil servant" given in the two Statutes referred to above, the petitioners neither holding any civil post in connection with the affairs of the Province nor have been remained as civil servants, thus, do not fall within the definition of "civil servant".

10. Though section 19(2) of the Khyber Pakhtunkhwa Civil Servants Acts, 1972, in the event of death of a civil servant, whether before or after retirement conferred a right of pension on his/her family who shall be entitled to receive such pension or gratuity or both as prescribed by Rules. It is also undeniable fact that pension and gratuity fall within the ambit of terms and conditions of a civil servant, but a legal question would arise as to whether the legal heirs i.e. family of a deceased civil servant would be competent to agitate his/her/their grievance regarding pension before the Service Tribunal, particularly, when

As per Statute

he/she/they do not fall within the definition of Civil Servant. The Service Tribunals have been constituted under Article 212 of the Constitution for dealing with the grievances of civil servants and not for their legal heirs. The question regarding filing appeal by the legal heirs of deceased's civil servant and jurisdiction of Service Tribunal, cropped up before the Hon'ble Supreme Court in case titled, "Muhammad Nawaz Special Secretary Cabinet Division through his Legal Heirs Vs Ministry of Finance Government of Pakistan through its Secretary Islamabad" (1991 SCMR 1192), which was set at naught in the following words:-

"A 'civil servant' has been defined in section 2(b) of the Civil Servants Act, 1973. A right of appeal under the Service Tribunals Act, 1973 has been given to a civil servant aggrieved by any final order whether original or appellate made by a departmental authority in respect of any of the terms and conditions of his serve. The appellants admittedly are the legal heirs of the deceased civil servant and there being no provision in the service Tribunals Act of 1973 to provide any remedy to the successors-in-interest of a civil servant, the learned Tribunal, in our view, was correct in holding that the appeal before it stood abated and the same is hereby maintained".

In case titled, "Rakhshinda Habib Vs Federation of Pakistan and others" (2014 PLC (C.S) 247), one Habib ur Rehman Director General in Ministry of Foreign Affairs, aggrieved by his supersession filed appeal before the worthy Service Tribunal, but unfortunately, during pendency of appeal he died, therefore, his appeal before the Federal Service Tribunal Islamabad was abated. Rakhshinda Habib, the widow of

Rakhshinda Habib

deceased then filed constitution petition No.1021 of 2010 before the Islamabad High Court, but the same was dismissed vide judgment dated 13.06.2013, against which she preferred aforesaid appeal before the Hon'ble Supreme Court, which was allowed and it was held by the worthy apex court that:-

“That civil servant could not be promoted after his death, however, pensionary benefits of promotion could be extended to the legal heirs of the deceased employees”.

11. Going through the law on the subject and deriving wisdom from the principles laid down by the Honble apex Court in the judgments (supra), we are firm in our view that petitioners/legal heirs of the deceased employees have locus standi to file these petitions because the pensionary benefits are inheritable which under section 19 (2) of the Khyber Pakhtunkhwa Civil Servant Act, on the demise of a civil servants, devolves upon the legal heirs. The petitioners, as stated earlier, being LRs of the deceased civil servants do not fall within the definition of “Civil Servant”, and they having no remedy under section 4 of the Service Tribunal Act to file appeal before the Service Tribunal, the bar under Article 212 of the Constitution is not attracted to the writ petitions filed by them and this Court under Article 199 of the Constitution is vested with the jurisdiction to entertain their petitions. Resultantly, the objection regarding non-maintainability of the petitions stands rejected.

12. Adverting to question of entitlement of the deceased employees to the pension, we, would like to reproduce the relevant rules of the West Pakistan Civil Services Pensions Rules, 1963 below, as these would advantageous in resolving the controversy:-

“2.2. Beginning of service- Subject to any special rules the service of Government servant begins to qualify for pension when he takes over charge of the post to which he is first appointed.”

Rule 2.3 Temporary and officiating service—Temporary and officiating service shall count for pension as indicated below:-

- (i) Government servants borne on temporary establishment who have rendered more than five years continuous temporary service for the purpose of pension or gratuity; and
- (ii) Temporary and officiating service followed by confirmation shall also count for pension or gratuity.

13. The rules *ibid* reveal that the service of government servant begins to qualify for pension from the very first day of his/her taking over the charge, irrespective of the fact whether his/her appointment and entry in to service was temporary or regular. It is also clear from sub-rule (i) that continuous temporary service of a civil servant shall also be counted for the purpose of pension and gratuity and by virtue of sub rule (ii), temporary and officiating service followed by confirmation shall be counted for pension and gratuity. It is undeniable fact that the NWFP Civil Servant (Amendment Bill), 2005 was passed by the provincial assembly on 5th July 2005 and

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assented by the Governor of the Province on 12th July 2005 whereby section 19 was amended and all the employees of the Provincial Government selected for appointment in the prescribed manner to the post on or after 1st day of July 2001, but on contract basis were deemed to be appointed on regular basis. They were declared Civil Servants, however, were held disentitled for the pensionary benefits. Section 19 of Khyber Pakhtunkhwa Civil Servants Act, 1973 was further amended by Khyber Pakhtunkhwa Civil Servants (Amendment) Act, 2013. The text of section 19 (4) (proviso 1 and 2) are reproduced as below:-

"Provided that those who are appointed in the prescribed manner to a service or post on or after the 1st July, 2001 till 23rd July, 2005 on contract basis shall be deemed to have been appointed on regular basis:

Provided further that the amount of Contributory Provident Fund subscribed by the civil servant shall be transferred to his General Provident Fund."

14. From bare reading of section 19 of Amendment Act, 2005 and 2013 respectively, it is manifest that the persons selected for appointment on contract basis shall be deemed as regular employee and subsequently were held entitled for pensionary benefits. The deceased employees have completed the prescribed length of service as their service towards pension shall be counted from the first day of their appointment and not from the date of regularization of their service.

Looked Same

15. We deem it appropriate to mention here that question of interpretation and true import of the term pension was raised before the august Supreme Court of Pakistan in case titled "Government of NWFP through Secretary to Government of NWFP Communication & Works Department, Peshawar Vs Muhammad Said Khan and others (PLD 1973 Supreme Court of Pakistan 514) wherein it was held that:

"It must now be taken as well settled that a person who enters government service has also something to look forward after his retirement to what are called retirement benefits, grant of pension being the most valuable of such benefits. It is equally well settled that pension like salary of a civil servant is no longer a bounty but a right acquired after putting a satisfactory service for the prescribed minimum period. A fortiori, it cannot be reduced or refused arbitrarily except to the extent and in the manner provided in the relevant rules."

16. In case titled "Secretary to Govt: of the Punjab, Finance Department Vs M. Ismail Tayer and 269 others" 2015 PLC (CS) 296, the august Supreme Court of Pakistan was pleased to held that the pensionary benefits is not a bounty or ex-gratia payment but a right acquired in consideration of past service. Such right to pension is conferred by law and cannot be arbitrarily abridged or reduced except in accordance with such law as it is the vested right and legitimate expectation of retired civil servant.

Looked

17. For what has been discussed above, we by allowing these writ petitions, issue a writ to the respondents departments to pay pension of the deceased employees to the petitioners/LRs of the deceased.

Announced:

22.06.2017

Shri Ajit P.S.

Looku San
JUDGE
[Signature]
JUDGE

[Signature]
JUDGE

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

Appeal No. 424/2017

Mr. Qayyum Khan
Water Management Officer

APPELLANT

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar.
2. The Chief Secretary Civil Secretariat, Peshawar.
3. The Secretary Government of Khyber Pakhtunkhwa, Agriculture, Livestock and Cooperative Department Civil Secretariat, Peshawar.
4. The Director General, On Farm Water Management Khyber Pakhtunkhwa, Peshawar.
5. The Secretary Finance Khyber Pakhtunkhwa, Peshawar.
6. The Secretary Establishment Khyber Pakhtunkhwa, Peshawar

RESPONDENTS

INDEX

S. No.	Description of Documents	Annexure	Page
1	Comments	-	1-3
2	Affidavit	-	4
3	Appointment Notification dated 20-12-1993	A	5-6
4	Extension order dated 11.01.1995	B	7
5	Extension order dated 12.07.1995	C	8
6	Extension order dated 18.03.1997	D	9
7	Extension order dated 16.07.1997	E	10
8	Extension order dated 07.10.1998	F	11
9	Extension order dated 02.06.1999	G	12
10	Extension order dated 20.03.2000	H	13
11	Appointment notification dated 24.11.2004	I	14-17
12	Order of Peshawar High Court, Peshawar dated 01.03.2011.	J	18-22
13	Regularization Notification dated 07.06.2011	K	23-24
14	Comments/Views of DG OFWM Office	L	25
15	Copy of letter dated 04.10.2017	M	26
16	Minutes of the meeting dated 08.08.2017	N	27


Deponent

25

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

In the matter of Service Appeal No. 424/2017 of Mr. Qayyum Khan Water Management Officer o/o District Director On Farm Water Management District Peshawar.....**Appellant**

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar.
2. The Chief Secretary Civil Secretariat, Peshawar
3. The Secretary Government of Khyber Pakhtunkhwa, Agriculture, Livestock and Cooperative Department Civil Secretariat, Peshawar.
4. The Director General, On Farm Water Management Khyber Pakhtunkhwa, Peshawar.
5. The Secretary Finance Khyber Pakhtunkhwa, Peshawar.
6. The Secretary Establishment Khyber Pakhtunkhwa, Peshawar.....**Respondents**


PARA WISE COMMENTS ON BEHALF OF RESPONDENTS

Respectfully Shewith:

Preliminary Objections


1. That the appeal is badly time bared in the eyes of Law.
2. That the appellant has got no locus standi or cause of action against the replying respondents.
3. That the appeal is premature.
4. That no discrimination/injustice have been done to the appellant.
5. That due to concealment of material fact and misstatement, the appeal is liable to be dismissed.

COMMENTS

- 
1. Correct to the extent that the appellant Mr. Qayyum Khan along with others were appointed as Water Management Officers on contract basis in different developmental projects like OFWM Phase-III, (World Bank Assisted), SIAP Mardan, CRBC Stage-III, D.I.Khan and OECF Japan on contract basis for a period of one year vide Govt. of Khyber Pakhtunkhwa, Agriculture, Livestock & Coop: Department Peshawar notification No. SOE(AD)II(2)70/MTG/K.C. dated 20-12-1993 (**Annex-A**). The contractual project service of the appellant was extendable on need basis subject to satisfactory performance. His contract was extended from time to time i.e. vide notifications dated 11-01-1995, 12-07-1995, 18-03-1997, 16-07-1997, 07-10-1998, 02-06-1999 and lastly extended vide notification dated 20-03-2000 till 30-06-2001 and further extension beyond 30-06-2001 was not granted due to completion of Swabi Scarp Project Mardan (**Annex-B,C,D,E,F,G & H**).

- 30
2. In the year 2004, the Agriculture Department advertised certain posts of Water Management Officers (BS-17) for recruitment against the project posts in Project titled "National Program for Improvement/Lining of Water Courses (Khyber Pakhtunkhwa Component)" and on recommendation of Departmental Selection Committee the appellant along with others was appointed as Water Management Officer (BS-17) vide Govt. of Khyber Pakhtunkhwa, Agriculture, Livestock & Coop: Department notification dated 24-11-2004 (**Annex-I**) as fresh candidate as per terms and conditions specified for recruitments against the project posts for a period one year extendable on need basis subject to satisfactory performance.
3. Incorrect, in the 1st spell of service the appellant was appointed on 20-12-1993 on contract basis as explained in Para-1 above against the project post for a period of one year and his contract was extended from time to time and last extension was granted up to 30-06-2001 i.e. completion date of Swabi Scarp Project Mardan.

It is further submitted that the appellant Mr. Qayyum Khan in 2nd spell of service i.e. from 24-11-2004 while serving in the project titled "National Program for Improvement/Lining of Watercourses (Khyber Pakhtunkhwa Component) filed writ petition for regularization of his service which was decided in favour of the appellant and in compliance to the decision dated 01-03-2011 of the august Supreme Court of Pakistan (**Annex-J**) the service of the appellant was regularized vide notification dated 07-06-2011 (**Annex-K**).

- 
4. Correct to the extent that the appellant filed representation on 06-01-2017 which was sent to the Administrative Department along with comments / views of Director General Office vide letter dated 22-02-2017 (**Annex-L**). The Administrative Department further submitted his case to Govt. of Khyber Pakhtunkhwa Finance Department for consideration of the competent authority.

The Finance Department considered his case in the meeting held on 08-08-2017 under the Chairmanship of Additional Secretary (Regulation) Finance Department wherein his case was considered and reject^{ed} the same that the request of the officer for regularization of contract period of service is not covered under the relevant Civil Servant Pension Rules and Government instructions (copy of letter dated 04-10-2017 & minutes of the meeting dated 08-08-2017 attached **Annex-M&N**).

2. In fact, the competent authority has considered all the aspects of the case in light of the relevant rules and Government instruction on the subject matter and the same was communicated to the appellant well in time.

GROUND

A. In fact, the competent authority considered the appeal of the appellant and rejected the same as explained in para-4 above. Therefore, the plea of the appellant is not based on facts and out of place as the appellant has been treated in accordance with law, rules & policy on the subject matter and material on record.


B. In fact, the appellant was project employee, therefore, his claim for grant of condonation of interruption between two spell of service is not covered under the relevant Rules and Government Instruction on the subject matter as these rules is only for Civil Servants not for project contract employees.

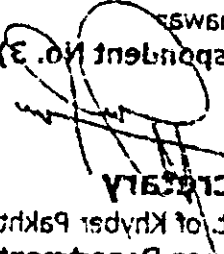
C. In fact, being project employee the appellant is not entitled for his claim and not deprived in any way.


D. In fact, the plea of the appellant that if his legal right was not granted to the appellant then he will suffer a lot is not based on facts, out of place and material on record.


E. In fact, the appellant was treated according to law, rules & not deprived in any way.


Therefore, it is prayed that keeping in view the above noted facts the appeal of the appellant may kindly be dismissed.


Secretary
Govt. of Khyber Pakhtunkhwa
Agriculture, Livestock & Coop. Deptt.
Peshawar
(Respondent No. 3)


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


Chief Secretary
Govt. of Khyber Pakhtunkhwa
(Respondent No. 1)


Director General
On Farm Water Management
Khyber Pakhtunkhwa
(Respondent No. 4)


Secretary
Govt. of Khyber Pakhtunkhwa
Establishment Department, Peshawar
(Respondent No. 6)

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

Appeal No. 424/2017

Mr. Qayyum Khan
Water Management Officer

APPELLANT

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar.
2. The Chief Secretary Civil Secretariat, Peshawar.
3. The Secretary Government of Khyber Pakhtunkhwa, Agriculture, Livestock and Cooperative Department Civil Secretariat, Peshawar.
4. The Director General, On Farm Water Management Khyber Pakhtunkhwa, Peshawar.
5. The Secretary Finance Khyber Pakhtunkhwa, Peshawar.
6. The Secretary Establishment Khyber Pakhtunkhwa, Peshawar

RESPONDENTS

AFFIDAVIT

I Shamshad Hussain **Director General On Farm Water Management Khyber Pakhtunkhwa, Peshawar** do hereby solemnly declare and affirm that the respondents have not suppressed the facts and actual position of the case from this Tribunal. The comments of affidavit and reply both are true and correct according to my knowledge, belief and nothing has been concealed from this Tribunal.


Deponent

DATED PESHAWAR / 1993

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Annex-B

NOTIFICATION

No. SOE(AD)II(2)70/Mtg/KC. Consequent upon the recommendation of the Departmental Selection Committee, the Governor NWFP is pleased to appoint the following candidates, in order of merit, as Water Management Officers (Agril. Engineers), in Basic Pay Scale No. 17(2870-215-5450) on contract basis for a period of one year from the date of their taking over the charge on the terms and conditions as laid down in the agreement duly executed by them:-

Sl. No.	Name and Father's Name	Postal/Permanent Address
1-	Mr. Naseer Ahmad S/O Shabir Ahmad.	Vill: Shagai Shagram P/O Madyan Tehsil Behrain Distt: Swat.
2-	Mr. Qayum Khan S/O Haji Awal Mir Shah	H.No. 81/L.C. in front of Railway Signal O/S Lakki Gate Bannu, City.
3-	Mian Ziauddin S/O Mian Karim Baksh	Village Damana P.O. Madyan, Swat.
4-	Mr. Mohammad Fahim Khattak S/O Mohammad Azim Khattak	C/O Azim X/Ray & Clinic Near Civil Hospital Dera Ismail Khan.
5-	Mr. Hidayat Ali S/O Haji Shamroz Khan.	House No. 1070/3 Near Jamia Masjid Nowshera Cantt.
6-	Mr. Abdullah Khan S/O Ghulam Mohammad	P.O. Lund Khwar C/O Misan Cloth House Lund Khwar Mardan.
7-	Mr. Javed Iqbal S/O Taj Mohammad.	Village & P.O. Ghalagay Distt: Swat.
8-	Mr. Rafiq Ahmad S/O Ghulam Sarwar.	C/O Deluxe Watch Co. Rahim Bazar D.I. Khan.
9-	Mr. Mohammad Yousaf S/O Mada Khan.	P.O. Tehsil Mirali North Waziristan Agency Gul Rayat Khan Electric Store.
10-	Mr. Jamsheed Iqbal S/O Malik Ghazi Khan.	House No. 86-Defence Officer Housing Society Defence, Pesh. Cantt.

2- This appointment will not confer on them any right of claiming seniority or regularization in service.

3- On their appointment, they are posted against the posts mentioned against each with immediate effect in the interest of public service:-

Sl. No.	Name of Officer	Place of posting
1-	Mr. Mohammad Yousaf	Water Management Officer in the office of Asstt. Director, Water Management, Chitral.
2-	Mr. Mohammad Fahim Khattak	Water Management Officer in the office of Asstt. Director, Water Management, Motta Swat.

Contd...P/2-

- 3- Mian Zia-ud-Din
- 4- Mr. Hidayat Ali
- 5- Mr. Rafiq Ahmad
- 6- Mr. Naseer Ahmad.
- 7- Mr. Jamshid Iqbal
- 8- Mr. Abdullah Khan
- 9- Mr. Gayum Khan
- 10- Mr. Javaid Iqbal

- Water Management Officer,
Office of the Project Director,
Training Centre, DIKhan.
- Water Management Officer,
Office of the Project Director,
CRBC Stage-II, DIKhan.
- Water Management Officer,
Office of Asstt. Director,
Water Management, Alpuri, Swat.
- Water Management Officer,
Office of Project Director, CFWM
CRBC Stage-II, DIKhan.
- Water Management Officer,
Office of Asstt. Director,
Water Management, Swat.
- Water Management Officer,
Office of Asstt. Director,
Water Management, Mansehra.
- Water Management Officer,
Office of Asstt. Dy. Director,
Water Management, ATL-I, Peshawar.
- Water Management Officer,
Office of Project Director, CFWM
Stage-II, DIKhan.

35066-86

SECRETARY AGRICULTURE

Dated Pesh, the 20/12/1993

Endst. No. SCE(AD)II(2)70/Mtg/KC/

Copy forwarded for information and n/action to the:-

17/12/93

- 1- PS to Minister for Agriculture, NWFP.
- 2- Secretary to Govt. of NWFP, Services & General Adm. Deptt.
- 3- Director, Water Management, NWFP, Peshawar.
- 4- District Accounts Officer, Chitral. (5) DAO Swat.
- 6- DAO, DIKhan. (7) DAO Mansehra. (8) Accountant General, NWFP, Pesh.
- 9- Project Director, Training Centre, DIKhan.
- 10- Project Director, CRBC, Stage-II, DIKhan.
- 11- Asstt. Director, Water Management, Chitral, Matta Swat, Alpuri, Swat
- 14- Asstt. Directors, Water Management, Swat, Mansehra.
- 16- Dy. Director, Water Management (ATL-I) Peshawar.
- 17- Officers concerned. They should report for duty at their place of postings under intimation to the Director, Water Management and this Department.
- 18- The Manager, Government Printing Press, NWFP, Peshawar for publication in the next Government Gazette.
- 19- Office order file. (20) Personal files of the new recruited officers
- 21- File No. SCE(AD)3(3)5.

Ala

Misal
20-12-93

Pl. Compare with the proposal of this office - 21/12/93

(NISAR ALI SHAH)
SECTION OFFICER (ESTABLISHMENT)

20/12/93

GOVERNMENT OF N.W.F.P.,
FOOD, AGRICULTURE, LIVESTOCK AND
COOPERATION DEPARTMENT.

DATED PESHAWAR, THE 11.1.1995.

NOTIFICATION.

NO. SOE(AD)II(2)70/Mtg./K.C. In continuation of this Department Notification of even No. 35066-86, dated 20.12.1993, the Governor NWFP is pleased to extend the contract period of appointment upto 31.5.1995 in respect of the following Water Management Officers (Agricultural Engineers) (BS-17) on the existing terms & conditions:-

S.No.	Name of the Officer.
1.	Mr. Naseer Ahmad.
2.	Mr. Kayyum Khan. ✓
3.	Mr. Mian Zia-ud-Din.
4.	Mr. Hidayat Ali. ✓
5.	Mr. Abdulaloh Khan.
6.	Mr. Javed Iqbal.
7.	Mr. Mohammad Fahim Khattak.
8.	Mr. Rafiq Ahmad.
9.	Mr. Mohammad Yousaf.
10.	Mr. Jamshed Iqbal. ✓

SECRETARY TO GOVT. OF NWFP
AGRICULTURE DEPARTMENT.

- Endst: No. SOE(AD)II(2)70/Mtg./K.C. Dated 11.1.1995.
Copy forwarded for information & necessary action to the:
1. P.S. to Minister for Agriculture, NWFP, Peshawar.
 2. P.S. to Chief Secretary, NWFP, Peshawar.
 3. Director Water Management, NWFP, Peshawar w/r to his letter No. 10474, dated 13.12.1994.
 4. Accountant General, NWFP, Peshawar.
 5. All District Accounts Officers/Agency Accounts Officers in NWFP.
 6. Officers concerned C/O Director Water Management, Peshawar.
 7. Manager Govt: Printing Press, Peshawar for publication in the next issue of Govt: Gazette.
 8. P.S. to Secretary Food, Agriculture, Livestock and Coop: Deptt: Peshawar.
 9. Personal Files of the Officers.
 10. Office Order File.

SECTION OFFICER (ESTT.)
AGRICULTURE DEPARTMENT.

21-12-94 — 31-5-95

5 months

DWM

Annex-D
103

GOVERNMENT OF N.W.F.P.,
FOOD, AGRICULTURE, LIVESTOCK AND
COOPERATION DEPARTMENT.

DATED PESHAWAR, THE 12.7.1995.

40

NOTIFICATION.

NO. SOE(AD)II(2)/MTG/70 In continuation of this Department's Notifications of even No. dated 19.7.1994 and 11.1.1995, the Governor NWFP is pleased to extend the contract period of appointment upto 31.5.1996 or till the availability of selectees of the NWFP Public Service Commission, whichever is earlier, in respect of the following Water Management Officers/(Agricultural Engineers) (BS-17) on the existing terms & conditions:-

1. Mr. Naseer Ahmad.
2. Mr. Qayyum Khan.
3. Mian Ziauddin.
4. Mr. Hidayat Ali.
5. Mr. Abdullah Khan.
6. Mr. Javed Iqbal.
7. Mr. Rafiq Ahmad.
8. Mr. Mohammad Yousaf.
9. Mr. Jamshed Iqbal.
10. Mr. Mohammad Fahim Khattak.
11. Mr. Amjad Saeed.
12. Mr. Ahmad Shah.
13. Mr. Habibur Rehman.
14. Mr. Nadeem Amir.
15. Mr. Shahid Mehmood.
16. Mr. Amir Rabbani.
17. Mr. Amir Mohammad.
18. Mr. Sultan-e-Room.
19. Mr. Shaukat Masood.
20. Mr. Hafiz Gul Naeem.

SECRETARY TO GOVT. OF NWFP
AGRICULTURE DEPARTMENT.

ENDST: NO. SOE(AD)II(2)/MTG/70. Dated 12.7.1995.

Copy forwarded for Information & action to the:-

1. P.S. to Minister for Agriculture, NWFP.
2. P.S. to Chief Secretary, NWFP.
3. Director Water Management, NWFP, Peshawar w/r to his letter No. 3700/3/13/Estt:/DWM, dated 21.5.1995.
4. Accountant General, NWFP, Peshawar.
5. All Distt: Accounts Officers/Agency Accounts Officers in NWFP.
6. Officers concerned C/O Director Water Management, NWFP, Peshawar.
7. Manager Govt. Printing Press, Peshawar.
8. P.F. of the Officers concerned.
9. P.S. to Secretary Agriculture.
10. Office Order File.

[Signature]
12/7/95

(NISAR ALI SHAH)
SECTION OFFICER (ESTT.)
AGRICULTURE DEPARTMENT.

[Handwritten notes]
Submit immediate
proposals for posts in the
projects. 13/7/95 P.T.O.

NOTIFICATION

NO. 1003/11(2)/1997 In pursuance of this department's notification of even No. dated 12/7/1995, the Governor N.E.I. is pleased to extend the contract period of appointment with effect from 1-6-1996 to 31.5.1997 or till the availability of selections of the N.E.I. Public Service Commission which ever is earlier in respect of the following Water Management Officers (Agriculture Engineers) B-17 on the existing reservoir -

- 1) Mr. ...
- 2) Mr. ...
- 3) Mr. ...
- 4) Mr. ...

NO. 1003/11(2)/1997 dated 18/5/1997.

Copy forwarded for information and action to:-

- 1- The Director, Water Management, ... with reference to ... dated 20/1/1997.
- 2- The Director, Agricultural Development Component, ... with reference to his letter to ... dated 27/1/1997.
- 3- The Director, ...
- 4- Officers concerned, ... Project Director, ... Project ...
- 5- The ... Government,
- 6- Personnel
- 7- State Secretary, ... Agriculture Department.
- 8- Office order file.

[Handwritten Signature]
18/3/97

(AT) ...
OFFICE ...

**GOVERNMENT OF NWFP
FOOD, AGRICULTURE LIVESTOCK & COOP:
DEPARTMENT**

Notification

No. SOE(ADII(2)/70/Mtg: in continuation of this Department notification of even No. dated 18-03-1997, the Government of NWFP is pleased to extend the contract period of appointment with effect from 01-06-1997 to 31-05-1998 or completion of the project which ever is earlier in respect of the following Water Management Officer (Agriculture Engineer) BS-17 on the existing terms and conditions.

- 1) Mr. Shahid Mehmood
- 2) Mr. Hidayet Ali
- 3) Mr. Abdullah Khan
- 4) Mr. Qayyum Khan
- 5) Mr. Said Muhammad

**SECRETARY TO GOVT. OF NWFP
FOOD, AGRICULTURE LIVESTOCK & COOP:
DEPARTMENT**

ENDST. NO. SOE(AD)11(2)70/Mtg/

Dated Pesh: the 16-07-1997.

Copy forwarded for information & n/action to:-

1. The Director Water Management NWFP Peshawar w/r to his letter No. 4062, dated 26-05-1997.
2. The Project Director ADC-SSP project Mardan.
3. The District Accounts Officer Mardan.
4. Officer concerned, o/o Project Director ADC-SSP Project Mardan.
5. The Manager Government of Printing Press, NWFP Pesh.
6. PS to Secretary Food and Agriculture Department.
7. Personal filed of the officers.
8. Office order file.

Sd/---
(NISAR ALI SHAH)
SECTION OFFICER (ESTABLISHMENT)

GOVERNMENT OF NWFP
FOOD, AGRICULTURE, LIVESTOCK AND COOP.
DEPARTMENT

MEMORANDUM

NO. SCR(KD) II(2)70/Mtg/ In continuation of this Department notification of even No. 4 of 18/3/1997, the Government is pleased to extend the contract period of appointment with effect from 1/6/1997 to 31/3/1998 or completion of the project which ever is earlier, in respect of the following Water Management Officers (Agriculture Engineers) B-17 on the existing terms and conditions:-

- 1) Mr. Shahid Mahmood.
- 2) Mr. Hidayat Ali.
- 3) Mr. Abdullah Khan.
- 4) Mr. Nayyaz Khan.
- 5) Mr. Nida Mahmood.

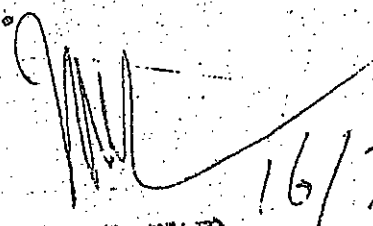
SECRETARY TO GOVT. OF NWFP
FOOD, AGRICULTURE, LIVESTOCK AND COOP.
DEPARTMENT

ENDST: NO. SCR(KD) II(2)70/Mtg/

Dated Pesh: the 15/7/1997.

Copy forwarded for information & n/action to:-

- 1- The Director Water Management, NWFP, Peshawar w/r to his letter No. 4062, dated 26/5/1997.
- 2- The Project Director AEC-DEP Project Mardan.
- 3- The District Accounts Officer Mardan.
- 4- Officer concerned, U/O Project Director, AEC-DEP Project Mardan.
- 5- The Manager Government of Printing Press, NWFP, Pesh.
- 6- PS to Secretary Food and Agriculture Department.
- 7- Personal files of the officers.
- 8- Office order file.



16/7/97

(MUSAW ALI SHAH)
SECTION OFFICER (ESTABLISHMENT)

98

30/98

Y. 20/13



109

GOVERNMENT OF NWFP
FOOD, AGRICULTURE, LIVESTOCK & COOP.
DEPARTMENT

NOTIFICATION

No. SOE(AD)11(2)70/Mtg./KC/98 In continuation of the deptt. notification of even No. dated 16/7/97, the Governor NWFP, is pleased to extend the contract period of appointment with effect from 1-5-98 to 30-11-98. On completion of the Project, which ever is earlier, in respect of the following Water Management Officers (Agri. Engineers) BS-17 on the existing terms and conditions:-

- 1-Mr. Qayam Khan
- 2-Mr. Abdullah Khan
- 3-Mr. Uda Muhammad
- 4-Mr. Rida Ali

SECRETARY TO GOVT. OF NWFP
FOOD, AGRI. LIVESTOCK AND COOP. DEPTT.

Endst. No. SOE(AD)11(2)70/Mtg./KC/98 Dated Pesh. the 7/10/1998

Copy forwarded for information & necessary action to:-

- 1-The Director, Water Management NWFP, Peshawar.
- 2-The Project Director, ADC-SSP Project Mardan.
- 3-The Distt. Accounts Officer Mardan.
- 4-Officers concerned C/O Project Director, ADC-SSP Project Mardan.
- 5-The Manager Govt. Printing Press, Peshawar.
- 6-PS to Secretary, Food, Agri. Livestock and Coop. Deptt. Peshawar.
- 7-The Personal Files of the officers.
- 8-Office order files.

(MUHAMMAD ISRA) SECTION OFFICER (SST)

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GOVERNMENT OF NWFP
FOOD, AGRICULTURE, LIVESTOCK & COOP.
DEPARTMENT

NOTIFICATION.

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one year

NO. SOB(AD)II(2)70/Mtg:/99/20. The Competent Authority is pleased to extend the contract period of appointment with effect from 1/12/1998 to 30/11/1999 in respect of the following four (4) Water Management Officers (Agri:Engineers) B22-17 on the existing terms and conditions:-

- 1- Mr. Qayyum Khan.
- 2- Mr. Abdullah Khan.
- 3- Mr. Fida Muhammad.
- 4- Mr. Hidayat Ali.

SECRETARY TO GOVT. OF NWFP
FOOD, AGRICULTURE, LIVESTOCK AND COOP.
DEPARTMENT

ENCL: NO. SOB(AD)II(2)70/Mtg:/99/ Dated Peshawar the 02/6/1999

Copy forwarded for information & n/action to:-

- 1- The Director Water Management, NWFP, Peshawar.
- 2- The Project Coordinator, AIC-SEP, Mardan.
- 3- The Chief Planning Officer, Food & Agri: Deptt.
- 4- The District Accounts Officer, Mardan.
- 5-8 Officers Concerned C/O Project Coordinator, Agri:Dev:Component Swabi Scarp Project, Mardan.
- 9- The Manager Govt:Printing Press, NWFP, Peshawar.
- 10- PS to Secretary, Food & Agriculture Department.
- 11- Personal Files of the officers.
- 12- Office order File.

(MUNAWWAR ISHAK)
OFFICIAL OFFICER (ESTABLISHMENT)

(8)

43

113

44

GOVERNMENT OF NWFP,
AGRICULTURE, LIVESTOCK AND COOP.
DEPARTMENT.

NOTIFICATION.

NO. SOE(AD) II(2)70/Mtg:/99/KC. The competent Authority is pleased to extend the contract period of appointment with effect from 1/12/99 to 30/6/2001 i.e. the Project life in respect of the following four (4) Water Management Officers (Agri. Engineers) BPS-17 on the existing terms and conditions:-

- 1) Mr. Qayyum Khan. ✓
- 2) Mr. Abdullah Khan. ✓
- 3) Mr. Fida Mohammad.
- 4) Mr. Hidayat Ali.

SECRETARY TO GOVT. OF NWFP,
AGRICULTURE DEPARTMENT.

Endst: No. SOE(AD) II(2)70/Mtg:/99/KC Dated Pesh: the 20/3/2000.

Copy forwarded for information and necessary action to:

- 1- The Director Water Management NWFP, Peshawar.
- 2- The Project Coordinator, ADC-SSP Mardan.
- 3- The Chief Planning Officer Agriculture Department NWFP, Peshawar.
- 4- The Distt. Accounts Officer Mardan.
- 5-8) The Officers concerned C/O Project Coordinator, ADC-SSP Mardan
- 9) The Mager Govt. Printing Press Peshawar.
- 10) Person files of the Officers.
- 11) Office order File.

[Signature]
SECTION OFFICER (ESTT.)
AGRICULTURE DEPARTMENT.

1-2-99 — 30-6-2001 1.5 years

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Lutias*

Government of NWFP
Agriculture, Livestock and Cooperatives
Department
Peshawar dated the 24th November, 2004.

Notification.
No. No. SOE(AD)11 (2) 70 / 2004. On the recommendation of the Departmental Selection Committee, Government of NWFP, Agriculture, Livestock & Cooperatives Department is pleased to appoint the following candidates against the newly created posts of Water Management Officers(Eng.) BPS-17 purely on contract basis in the project titled National Program for improvement/ lining of water courses in Pakistan (project for NWFP) for a period of one year, from the date of assuming the charge of the post, extendable to the remaining project period subject to their satisfactory performance.

1. Muqsit-un- Naseer S/o Irfan-ud-Din Village, Tehsil P.O Timergara Moh: Miagulan Distt: Dir Lower.
2. Jeman Zeb S/o Aslam Khan C/o Assistant Director Water Management Near Mail Lara Stop Jehangira Road Swabi.
3. Abdul Malik S/o Ghazi Khan C/o Dr. Abdul Wahab Village Amin Khel (Chockara) P.O Ghundi Kala Tehsil Talati Nasrati Distt: Karak.
4. Mohammad Tufail S/o Nadar Khan Village Masti Khan Banda P/O Khojaki Killa Tehsil T/Nasrati Distt: Karak.
5. Nisar Ahmad S/o Sarfaraz Ahmad House No. C/445 near Government Primary School No. 5 street Khawrs Brothers Mohallah Kalrain walla d.I.Khan.
6. Abdullah Khan S/o Ghulam Muhammad Village Janga C/o Usman Cloth House Lund Khawar P.O Lund Khawar Teh: Takht Bhai Distt: Mardan.
7. Aftab Ahmad Khan S/O Abdul Rashid Khan Distt: D.I.Khan. C/O Ina mullah Khan AD FIA, Peshawar, Air Port.
8. ✓ Mohammad Farooq Khan S/O Qamar Khan Moh: Tauskhani village and P.O Lahore Distt: Swabi.
9. Waseemullah S/O Mohammad Saeed Village Kachkot Asad Khan P.O Torka Tehsil and District Bannu.
10. Shaheen Iqbal S/O Mir Khatam Village and P.O Haji Zai Tehsil and Distt: Charsadda.
11. Moeen Uddin S/O Mohammad Mukhtar of Dir Lower.
12. Hidayat Ali S/O Haji Shamroz Khan House No. 1070/3 new Mohalla near Jamia mosque Nowshera Cantt.
13. Tahir Khan S/O Zafarullah District Shangla.
14. ✗ Anwar Saeed S/O Mohibullah Khan. Distt: Karak Tehsil Teht-e-Nasrati Village Nadar Kila P.O Manzeeni Banda.
15. Qiaash Ahmad S/O Faqir Saib sector, E/91 Sheikh Maltoon Town distt. Mardan
16. Shahid Mahmood S/O Muhammad Ishaq H.No 389 Sector C Sheikh Maltoon Town Mardan.
17. Ghulam Bilal S/O Karim Dad Khan P.O Parra, D.I.Khan.
18. Qayyum Khan S/O Awal Mir Shah House No. 5/1/LC in front of Railway Signal O/S Distt. Bannu.
19. Munir Ahmad S/O Saeed Ahmad site to the GHS No.2 Kulachi Teh-Kulachi Distt: Bannu.

Trace Copy
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20. Saeed Shah S/o Jaffar Shah Distt: Mardan Teh Takht Bhai P.O Sattar Khan Colony Mahal Jamra Hashtnagro Kali.
21. Rafiq Ahmad Ghuncha S/o Ghulam Sarwar House No. 2528 Moh: Roshan Chiragh D.I. Khan.
22. Mohammed Shoab S/o Muhammad Ramzan House No. T-145 Street Saddique Abad Near Mirchi Mandi Peshawar City.
23. Mirza Muhammad S/o Muhammad Inam Moh: Naway Cham Vill: & P.O Shahmansoor Tehsil and Distt: Swabi.
24. Jehan Zeb S/o Muqaid Jan Mugh Pati House New Bazar Chitral.
25. Said Muhammad S/o Mir Muhammad Village and P.O Urmar Payan Moh: Ali Khel Distt. Peshawar.
26. Fazal Sattar S/O Nasir Ud Din Khan. Village Galkore P.O Osheri Teh: Dir Distt: Dir Upper.
27. Abdus Subhan S/O Abour Razaq. C/O Dr. Aziz ur-Rehman Village and P.O Paniala Distt: D.I.Khan.
28. Muhammad Tahir S/O Noor Wahab r/o ... Agency.
29. Mr. Muhammad Nadeem S/O Muhammad Khan. Village Paniala Tehsil and District D.I.Khan.
30. Amir Rabbani S/o Rehmatullah H.No. 448 Sarafa Bazar Abbotabad ✓
31. Muhammad Khalil Akbar S/o Abdur Rafiq Moh: Ismail Khel, Village Garhi Daulat Zai P.O Garhi Kapura Tehsil and Distt: Mardan.
32. Muhammad Uzair Khan S/o Mohabat Khan Moh: Danda Village and P.O Charbagh Distt: Swat.
33. Hidayatullah S/o Muhammad Iqbal House No. 372 Armour Colony Manki Road. Nowshera Cantt.
34. Zulliqar Ali S/O Akbar Ali Khan P.O Kachi Paind Khan Midad Khel House Hanif Town Waqas Colony Diyai Road D.I Khan.
35. Zahid Khaleeq S/o Khaleeq-uz- Zaman House No. 30/D, Muhammad Jan Street Bannu.
36. Bakht Jamair S/o Shad Muhammad Khan C/o Bilal Book Store Village and P.O Jowar Tehsil Daggar Distt: Buner.
37. Irfanullah S/o Muhammad Hanif Mohallir Saeed Khel Teh and Distt: L/Marwat.
38. Amjad Masood S/o Sheikh Ahmad Dab No. 1 Behind Ara Machine Shailia Road Mansehra.
39. Muhammad Rahmatullah Khan S/o Rohullah Khan Ismatullah LS-1-F-Block Flat No. 6 (C.A.E.B) Shami Road Wapda Colony Peshawar.
40. Kifayat Zaman S/o Shahi Zaman Street H.A Hakeem Village and P.O Gujrat Teh and Distt: Mardan.
41. Aman Khan S/o Pekhawaray Khan Village and P.O Pir Baba Pajna Kalay Tehsil Daggar Distt: Buner.
42. Ihsan Ullah Khan S/O Said Khumar Khan Village and P.O Kot Bahi Tehsil and Distt: Bannu.

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43. Atta Ullah S/o Manaras Khan C/O Noor H/W New Madyan Road Mingora District Swat.
44. Muhammad Idress S/o Abdul Kabir Bacha Village and P.O Mian Brangola Tehsil Adenzai Distt: Dir.
45. Irfanullah S/o Faqir Muhammad Khan (Late) Amjad Shaheed Colony Village and P.O Thana Malakand Agency.
46. Zailul Haq S/o Muhammad Zaman Village Burghando P.O and Tehsil Lal Qilla Distt: Dir Lower.
47. Amjad Ali S/o Muhammad Salim Moh: Irfan Abad /Salim Abad P.O Batkhela Malakand Agency.
48. Shahdad Khan S/o Abdur Rashid C/O Mian Mohammed -Iqbal H.No.172 Street -8 Sector J/3 Phase No.2 Hayatabad Peshawar.

2. Their appointment shall be governed by the following terms and conditions:

- a. Their appointment shall be on contract basis initially for a period of One year. The contract shall stand automatically terminated on the expiry of the initial period. Fresh contract would be executed if the services of any of the above named candidates were further required.
- b. The appointment shall be subject to the medical fitness report by the standing Medical Board and satisfactory completion of pre-service training.
- c. They shall undergo One month pre-service training in one of the training centers at OFWM training centre D.I.Khan/Agricultural Training Institute Peshawar/Agricultural University Peshawar / NWFP Engineering University Peshawar. During training, they shall be paid stipend as per approved PC-1.
- d. They shall be governed by such rules, regulations, orders, acts and ordinances etc relating to appointment, promotion, transfer, leave, T.A., Medical Attendance, seniority, efficiency & discipline and conduct as have been/may be prescribed by the Government for the category of Government servants of their status, from time to time and as interpreted by the Government.
- e. Their pay will be fixed in the Basic Pay Scale 17 i.e. Rs. 6210-465-15510 from the date of their taking over the charge of the post.
- f. Their services shall be liable to termination on the following conditions:
 - i. At any time without notice and without assigning any reasons during the period of their contract appointment if their work during this period was not found satisfactory.
 - ii. On One month notice by the Government on one side and by them on the other. In case the notice on either side is less than One month, a sum equivalent to the pay for the period by which the notice falls short of One month, will be paid by the Government to them or in lieu thereof One month pay shall be forfeited.
 - iii) By Government without previous notice if it is satisfied on material evidence that they are unfit and/or likely to remain unfit for a considerable period by reasons

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of ill health or physical disability to discharge their duties. The decision of the Government as to what constitutes considerable period shall be final.

- g. They shall not be entitled to any Traveling Allowance/Daily Allowance on their first appointment/posting.
- h. They shall not contribute to G.P Fund and will not be entitled to pension, gratuity benefits.
- i. This does not constitute inter se seniority and the appointees shall not be entitled to seniority as against any other Government Servant.

3. If the above terms and conditions are acceptable to the above named selected candidates, they should convey their willingness individually and attend office of the Director OFWM for signing the Contract Agreement on or before 10.12.2004 positively, where after the candidates shall be assigned to one of the afore- mentioned training centers by the Directorate of OFWM. In case of non submission of acceptance/ signing of Contract Agreement, the offer will stand cancelled.

Sd/++++
(ZAIBULLAH KHAN)

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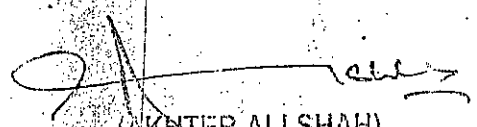
Dated Peshawar the, 24th November, 2004

Endst: No. No. SOE(AD)11 (2) 70 / 2004.

Copy of the above is forwarded to the:-

1. Accountant General, NWFP, Peshawar.
2. Director General Health Services, NWFP Peshawar, He is requested to kindly arrange for an early medical examination of the above named appointees through the Standing Medical Board and supply their medical examination certificates to this Department for record.
3. Director General, Federal Water management cell aimarkaz F-8 Islamabad.
4. Director, On Farm Water Management Department NWFP, Peshawar w/r to his memo No.11674 dated. 04-10-2004 with the request to furnish the posting proposal of the above appointees on successful completion of the training at the earliest.
5. All appointees as per list given in para-1 of the notification.
6. PS to Chief Secretary, NWFP.
7. PS to Minister for Agriculture, NWFP.
8. PS to Additional Chief Secretary P&D department.
9. PS to Secretary Agriculture.
10. PS to Special Secretary to Chief Minister/ Provincial Coordinator.
11. Master file.

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(AKHTER ALI SHAH)
SECTION OFFICER (ESTT.)

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IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Javed Iqbal
Mr. Justice Raja Fayyaz Ahmed
Mr. Justice Asif Saeed Khan Khosa

Civil Appeals No. 834 to 837 of 2010

(On appeal from the judgment dated 01.12.2009 of the Peshawar High Court, Peshawar passed in Review Petitions No. 64, 68, 69 and 66 of 2009 in Writ Petitions No. 1645/2007, 29/2009, 84/2009 and 43 of 2009)

Government of North-West Frontier Province through
Secretary, Agriculture, Live Stock and Cooperatives
Department, Peshawar, etc.
(in all cases) ...Appellants

versus

1. Abdullah Khan, etc. (in CA. 834/2010)
2. Wakil Khan (in CA. 835/2010)
3. Amir Rabbani (in CA. 836/2010)
4. Atta-ul-Haq, etc. (in CA. 837/2010)

...Respondents

For the appellants:
(in all cases)

Qazi Muhammad Anwar, ASC

For the respondents:
(in all cases)

Mr. Gul Zarin Kiani, ASC with
Mr. Waseem-ud-Din Khattak, ASC

Date of hearing:

01.03.2011

JUDGMENT

Asif Saeed Khan Khosa, J.: The respondents in the present appeals had been selected for appointment in the prescribed manner on or after the first day of July, 2001 and before the 23rd day of July, 2005 but they had all been appointed on contract basis and upon enactment of subsection (2) of section

ATTEST

Superintendent
Supreme Court of
ISLAMABAD

19 of the North-West Frontier Province Civil Servants (Amendment) Act, 2005 they were to be deemed to have been appointed on regular basis but upon failure of the Provincial Government to treat them as such they and some others filed different Writ Petitions before the Peshawar High Court, Peshawar which Writ Petitions had been allowed by a learned Division Bench of the said Court through a consolidated judgment dated 01.12.2009 with a direction to treat the said respondents as regular employees. On that occasion the learned Additional Advocate-General appearing for the Provincial Government had conceded the claim of the respondents and others to be treated as regular employees. Instead of challenging that judgment of the Peshawar High Court, Peshawar before this Court the appellants herein chose to file Review Petitions before the Peshawar High Court, Peshawar but all such Review Petitions were dismissed by a learned Division Bench of the said Court through a consolidated judgment dated 01.12.2009. The said consolidated judgment dismissing the appellants' Review Petitions has been assailed by the appellants before this Court through the present appeals after obtaining leave of the Court on 14.09.2010.

2. We have heard the learned counsel for the parties at some length and have gone through the relevant record of the case with their assistance.

3. The main contention of the learned counsel for the appellants is that the respondents were project employees appointed on contractual basis and, thus, they were not entitled to

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be regularized in service and in this regard he has referred to the provisions of the North-West Frontier Province Employees (Regularization of Services) Act, 2009. We have, however, remained unable to subscribe to this submission of the learned counsel for the appellants inasmuch as according to clause (aa) of subsection (1) of section 2 of the North-West Frontier Province Employees (Regularization of Services) Act, 2009 "contract appointment" meant appointment of a duly qualified person made "otherwise than in accordance with the prescribed method of recruitment". It is admitted at all hands that the appointments of the respondents were made in accordance with the prescribed method of recruitment and through the Departmental Selection Committee and, thus, their case did not attract the above mentioned definition of "contract appointment" contained in clause (aa) of subsection (1) of section 2 of the said Act of 2009. It may be true that the definition of "employee" contained in clause (b) of subsection (1) of section 2 of the said Act of 2009 excluded the employees appointed for a "project post" but before the Peshawar High Court, Peshawar as well as before this Court the appellants have utterly failed to produce anything to establish their assertion that the respondents had in fact been appointed for any project post. All that the appellants could produce before the Peshawar High Court, Peshawar in that regard were some salary slips and payrolls but such salary slips or payrolls could not be accepted as proper substitute for positive and definite proof of the nature of the respondents' appointment or employment.

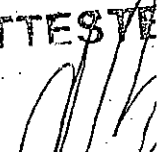
ATTES/

Superintendent
Supreme Court
ISLAMABAD

4. We have found that the case of the respondents was in fact squarely covered by the provisions of subsection (2) of section 19 of the North-West Frontier Province Civil Servants (Amendment) Act, 2005 because the respondents had been appointed on contract basis in a manner in accord with the prescribed procedure and that they had been appointed between the period which was catered for by the said Act of 2005. In this view of the matter we have found the learned Division Bench of the Peshawar High Court, Peshawar to be quite justified in allowing the respondents' Writ Petitions and in dismissing the appellants' Review Petitions and also in directing the appellants to treat the respondents as regular employees.

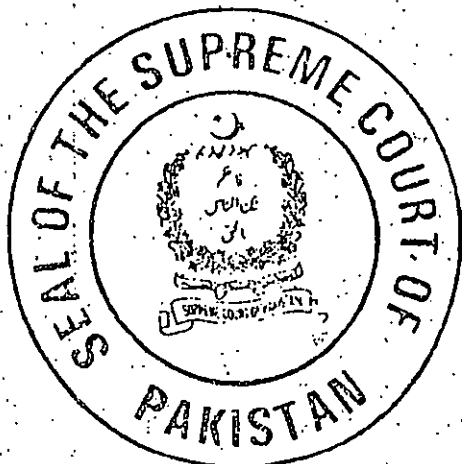
5. We have unmistakably noticed that during the hearing of the respondents' Writ Petitions before the Peshawar High Court, Peshawar the claim of the respondents and the legal position applicable to them had been conceded by the learned Additional Advocate-General appearing for the Provincial Government and, therefore, the appellants cannot be allowed at this stage to turn around and to try to wriggle out of that concession which we have otherwise found to be quite correct and fair.

6. It is not disputed before us that the original consolidated judgment passed by the Peshawar High Court, Peshawar in the respondents' Writ Petitions had not been assailed by the appellants before this Court and they have now approached this Court challenging the consolidated judgment passed by the Peshawar High Court, Peshawar dismissing their Review Petitions. In our

ATTESTE

Superintendent
Supreme Court of P.
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considered opinion the appellants' Review Petitions had been dismissed by the Peshawar High Court, Peshawar quite correctly as no error patent on the face of the record had been pointed out by the appellants and the consolidated judgment passed by the Peshawar High Court, Peshawar in the Writ Petitions filed by the respondents stands unchallenged before this Court on its merits till date. The appellants cannot now be allowed to assail the consolidated judgment passed in the respondents' Writ Petitions while disregarding the rigours of the law of limitation.

7. For what has been discussed above all these appeals are dismissed with no order as to costs.



ISLAMABAD
01.03.2011
Not approved for reporting.

M. Yasin

7/3/11

Sd/- Javed Farbal, J
Sd/- Raja Fayyaz Khwaja, J
Sd/- Asif Saeed Khan Khosa, J

Certified to be True Copy

Superintendent
Supreme Court of Pakistan
ISLAMABAD

7/3/11

SR NO:	604/11	Civil/Criminal
Date of Presentation:	07-03-11	
No. of Words:	1500	
No. of folios:	15	
Requisition Fee Rs:	500	
Copy Fee In:	9-0	14-0
Court Fee stamps:		
Date of Completion of Copy:	17/3/2011	
Date of delivery of Copy:		22/03/2011
Compared by:	Sd/-	
Received by:		

Dated Peshawar, the 7/6/2011

NOTIFICATION.

NO. SOE (AD) 17-131/2009.-

In pursuance to the judgement of the Hon' able Supreme Court of Pakistan in civil appeals No. 834 to 837 of 2010, the Competent authority is pleased to regularize the services of the following Water Management Officers (BS-17) appointed on contract basis in the project "National Program for Improvement of Watercourses in Pakistan (Khyber Pakhtunkhwa Component) as provided under section-19 sub-section (2) of the NWFP Employees (Regularization of Services) Act, 2005 with effect from 24-11-2004:-

Sl. No.	Name of Officer
1.	Mr. Wajid Ali
2.	Mr. Atta-ul-Haq
3.	Mr. Farmanullah
4.	Mr. Mujeeb-ur-Rehman
5.	Mr. Wakeel Khan
6.	Mr. Muhammad Shahid Nawaz
7.	Mr. Abdullah Khan
8.	Mr. Aftab Ahrnad Khan
9.	Mr. Shahid Mahmood
10.	Mr. Ghulam Eilsa
11.	Mr. Qayyum Khan
12.	Mr. Rafiq Ahmad Ghuncha
13.	Mr. Said Muhammad
14.	Mr. Muhammad Nadeem
15.	Mr. Amir Rabbani
16.	Mr. Zahid Khaliq

2. Terms & Conditions of their regularization in service are as under:-
- Their services will be considered regular but without pensionary or Gratuity benefits in term of Section-19 of the NWFP Civil Servant Act, 1973 as amended vide NWFP Civil Servants (Amendment) Act, 2005. They will however be entitled to contribute to Contributory Provident Fund in such a manner and at such rates as prescribed by the Government.
 - Their services will be liable for termination on one month's notice from either side. In case of resignation without notice, two month's pay/allowances shall be refunded to Government.
 - They will be governed under such rules and regulations as may be issued from time to time by the Government.
 - In case of misconduct, they will be proceeded against the NWFP Removal from Service (Special Powers) Ordinance, 2000 and the Rules framed there under from time to time.
 - Charge report should be submitted by the officers concerned.

- vi. Their posting orders will be issued subsequently after approval of the competent authority.

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SECRETARY AGRICULTURE.

Endst. of even No. & Date.

Copy forwarded for information and necessary action to:-

1. The Registrar, Hon' able Peshawar High Court, Peshawar.
2. The Director General, On-Farm Water Management, Khyber Pakhtunkhwa, Peshawar.
3. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
4. The Director General, (National Program) Water Management, Khyber Pakhtunkhwa, Peshawar.
5. The Manager, Government Printing Press, Peshawar.
6. All the District Officers / Deputy Directors, On-Farm Water Management, in Khyber Pakhtunkhwa.
7. All the District Accounts Officers, in Khyber Pakhtunkhwa.
8. Officers concerned.

h
7/10/08
(SAKHI-UR-REHMANI)
SECTION OFFICER-ESTT:



**DIRECTORATE GENERAL
ON FARM WATER MANAGEMENT
KHYBER PAKHTUNKHWA PESHAWAR**



15

No. 673 /DG/Estt/OFWM dated Peshawar the, 22/2/2017
To,

The Section Officer (Estt:)
Govt. of Khyber Pakhtunkhwa
Agriculture, Livestock & Coop: Deptt:
Peshawar

Subject:- APPLICATION FOR PENSION PURPOSE IN RESPECT OF MR. QAYYUM KHAN
WMO FOR CONDONATION OF INTERRUPTION BETWEEN THE TWO PERIODS
OF SERVICE

Memo, Reference your letter No. SOE(AD)/17-131/2016/WM dated 10-02-2017 on
the subject cited above.

In this regard it is stated that prior to appointment in "National Program for Improvement/Lining of Watercourses Project Khyber Pakhtunkhwa Component" Mr. Qayyum Khan was previously appointed as Water Management Officers on contract basis for a period of one year vide Government of Khyber Pakhtunkhwa, Agriculture, Livestock & Cooperative Department Peshawar notification dated 20-12-1993 and was posted in o/o the Deputy Director ATL-I Peshawar (Annex-A).

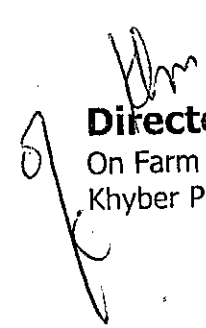
His contract service was extended from time to time till 30-06-2001 vide Government of Khyber Pakhtunkhwa, Agriculture, Livestock & Cooperative Department Peshawar notification dated 20-03-2000 and further extension beyond 30-06-2001 was not granted due to completion of Swabi Scarp Project Mardan (Relevant documents of the above mentioned period attached as Annex-B).

In 2004 Mr. Qayyum Khan was appointed as Water Management Officer in the project titled "National Program for Improvement/Lining of Watercourses (Khyber Pakhtunkhwa Component)" vide Notification dated 24-11-2004 on contract basis for a period of one year extendable for further period on satisfactory performance (Annex-C).

Mr. Qayyum Khan while serving in NPIWCs project filed writ petition for regularization of his services which was decided in favour of the applicant. In compliance to the decision of Hon'ble Supreme Court of Pakistan his services was regularized vide notification dated 07-06-2011 (Annex-D).

At present Mr. Qayyum Khan is serving as Water Management Officer (BS-17) in o/o District Director On Farm Water Management Peshawar and submitted the subjected application (Copy attached (Annex-E).

The above noted factual position is submitted for favour of perusal and with the request that the case may be sent to Law, Finance & Establishment Department for advice please.


Director General
On Farm Water Management
Khyber Pakhtunkhwa, Peshawar



GOVERNMENT OF KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK & COOPERATIVE
DEPARTMENT

NO.SOE(AD)/17-131/2016/ WM
Dated Peshawar, the October 4, 2017

To

The Director General,
On Farm Water Management,
Khyber Pakhtunkhwa, Peshawar

SUBJECT:- APPLICATION FOR PENSION PURPOSE IN RESPECT OF MR.QAYYUM KHAN
WATER MANAGEMENT OFFICER FOR CONDONATION OF INTERRUPTION
BETWEEN THE TWO PERIODS OF SERVICE

I am directed to refer to your letter No.673 dated 22/02/2017 on the subject noted above and to inform that as per minutes of the meeting held on 08.08.2017 under the Chairmanship of Addl: Secretary (Regulation) Finance Department that the request of the officer for regularization of contract period of service is not covered under the relevant Civil Servant Pension Rules and Government Instructions (copy enclosed).

Encl: As above

Endst. of even No. & Date.

Copy for information to:

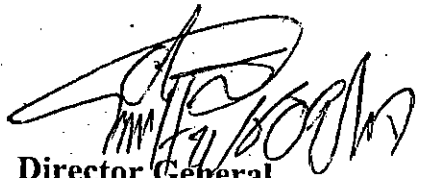
1. P.S to Secretary Agriculture department.
2. PA to DS (Admn), Agriculture Department.

SECTION OFFICER-ESTT:

SECTION OFFICER-ESTT:

No. 9591 /DG/OFWM dated Peshawar the, 06/10 /2017

Copy of the above along with minutes of the meeting dated 08-08-2017 is forwarded to District Director OFWM Peshawar with reference to his letter No. 678/DD/OFWM dated 06-01-2017 for favour of information and further necessary action.


Director General
On Farm Water Management
Khyber Pakhtunkhwa, Peshawar

**MINUTES OF THE MEETING REGARDING CONDONATION OF INTERRUPTION
BETWEEN TWO SPELL OF SERVICES IN R/O MR. QAYYUM KHAN WATER
MANAGEMENT OFFICER**

A Meeting regarding the subject matter was held on 08/08/2017 at 1:00 Hours under the chairmanship of Additional Finance Secretary (Regulation) Finance Department in his office.

The Following participants attended the meeting:-

- 1) **Mr. Musharraf Khan Marwat,** **In Chair**
Additional Finance Secretary (Reg) Department.
- 2) **Mr. Nasir Aman,** **Member**
Deputy Secretary (Reg) Establishment Deptt.
- 3) **Mr. Masood-ul-Hassan** **Member**
Section Officer (Opinion-II)
Law Department.
- 4) **Mr. Javed Iqbal,** **Member**
DISH Director, On Form Water Management,
Agriculture Department.
- 5) **Dr. Mir Ahmad Khan,** **Member**
Section Officer (Establishment)
Agriculture, Live Stock & Dairy Development Deptt.
- 6) **Mr. Moazzam Khan** **Member**
Section officer (SR-II),
Finance Department.

The meeting started with recitation of Holy Quran.

The chair briefed the participants about the detail of the case. Mr. Masood-ul-Hassan, Law Department was of the view that Rule 2.3 of Civil Servants Pension Rules & Government Instructions 2006, is only for Civil Servants and not for Project or contract employees. Therefore, application of Rules 2.12 of Pension Rules in the instant case is out of question. The Director On Form Water Management, Khyber Pakhtunkhwa was also of the view that there is no documentary proof of GP fund deduction from the pay of the officer being Civil Servant.

Mr. Nasir Aman Deputy Secretary (Reg.) Establishment Department was of the view that under the relevant Pension Rules, the Administrative Department has to fill gap between two spell of Services, whereas in the instant case, the period between 1993 to 2001 is a non-qualifying service and between 2001 to 2004 is a non-service period, therefore, the request for regularization of contract period is not covered under the relevant Pension Rules and Govt. Instructions.

After threadbare discussion, the forum unanimously agreed that the request of the officer for regularization of contract period of service is not covered under the relevant Civil Servant Pension Rules & Government Instruction.

The meeting ended with a vote of thanks to and from the chair.

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 424/2017

Mr. Qayyum Khan

vs

Govt: of KPK etc

.....

REJOINDER ON BEHALF OF APPELLANT

.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

(I-V) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

1. Admitted correct by the respondents. Therefore no comments.
2. Admitted correct by the respondents. So no comments.
3. Incorrect. While Para-3 of the appeal is correct. The first spell of the appellant was from 1993 to 2001 (more than 7 years).
4. Partially admitted correct by the respondents. However it is added that no refusal order has been convened to the appellant till date and as a matter of fact and law after the lapse of 90 days the decision making authority was become functus officio.
5. Incorrect. While Para-5 of the appeal is correct. Moreover as explain in Para-4 above.

GROUND:

- A) Incorrect. While Para-A of grounds of the appeal is correct. Moreover the respondents have not communicated any rejection order to the appellant till date, however, after the lapse of 90 days the decision making authority was becomes functus officio.

- B) Incorrect. While Para-B of grounds of the appeal is correct. As evident from the pension rules any spell of 5 years or more as countable towards the second spell for the purpose of pension therefore contention of the appellant is correct whereas date of respondent is incorrect.
- C) Incorrect. While Para-C of grounds of the appeal is correct.
- D) Incorrect. While Para-D of grounds of the appeal is correct.
- E) Incorrect. While Para-E of grounds of the appeal is correct.
- F) Legal.

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

APPELLANT

Through:



**(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT
&**

**(TAIMUR ALI KHAN)
ADVPCATE HIGH COURT**

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder and appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from Hon'able tribunal.



DEPONENT