

28.04.2023

Appellant present through counsel.

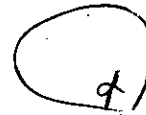
Muhammad Jan, learned District Attorney for respondents present.

Learned Member Executive (Mr. Muhammad Akbar Khan) is on

SCANNED
KPBT
Peshawar

leave, therefore, case is adjourned. To come up for arguments on

15.06.2023 before D.B. Parcha Peshi given to the parties.



(Rozina Rehman)
Member (J)

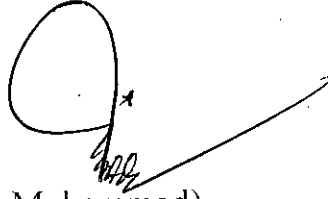
Mutazem Shah

24.11.2022

Learned counsel for the appellant present. Mr. Shaukat Hussain, Superintendent and Mr. Fida Hussain, ASO alongwith Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not made preparation for arguments. Adjourned. To come up for arguments on 13.02.2023 before the D.B.

SCANNED
KPST
Peshawar



(Mian Muhammad)
Member (E)



(Salah-Ud-Din)
Member (J)

13.02.2023

Learned counsel for the appellant present. Mr. Fida Hussain, ASO and Mr. Hashmatullah, Superintendent alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Learned Additional Advocate General requested for adjournment on the ground that he is not properly prepared for arguments due to non-availability of the brief. Adjourned. Last opportunity is given for arguments. To come up for arguments on 28.04.2023 before the D.B.

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KPST
Peshawar



(Fareeha Paul)
Member (E)



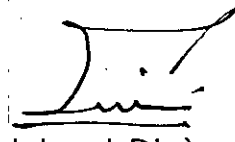
(Salah-ud-Din)
Member (J)

09.06.2022

Clerk of learned counsel for the appellant present. Mr. Fida Hussain, ASO alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

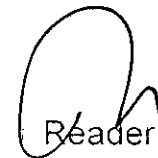
Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today due to strike of lawyers. Adjourned. To come up for arguments on 30.08.2022 before the D.B.


(Fareeha Paul)
Member (E)


(Salah-ud-Din)
Member (J)

30.08.2022

Bench is incomplete, therefore, case is adjourned to 24.11.2022 for the same as before.


Reader

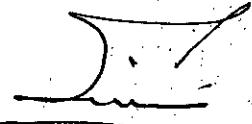
15.11.2021

Learned counsel for the appellant present. Mr. Fida Hussain, ASO alongwith Mr. Javed Ullah, Assistant Advocate General for the respondents present.

Comments on behalf of respondents have already been submitted and placed on file. Learned counsel for the appellant requested for adjournment on the ground that he has not gone through the record. Adjourned. To come up for arguments on 03.01.2022 before the D.B.



(Mian Muhammad)
Member (E)



(Salah-Ud-Din)
Member (J)

03.01.2022

Counsel for the appellant and Mr. Noor Zaman, DDA alongwith Fida Hussain, ASO for the respondents present.

Former seeks adjournment in order to further prepare the brief. Request accorded. To come up for arguments on 11.04.2022 before the D.B.



(Atiq-ur-Rehman Wazir)
Member(E)



Chairman

11.04.2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak learned Addl. AG alongwith Mr. Fida Hussain Assistant Social Organizer and Mr. Naseeb Khan Section Officer for the respondents present.

Learned counsel for the appellant requests for adjournment. Last opportunity is granted. To come up for arguments before the D.B on 09.06.2022.



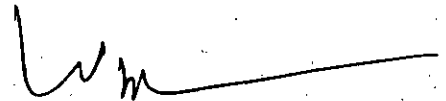
(Rozina Rehman)
Member (J)



Chairman

29.03.2021

Appellant with counsel present and submitted application for extension of time to deposit security and process fee. Application is placed on file. Appellant is directed to deposit security and process fee within 03 days. Thereafter, notice be issued to the respondents for submission of reply/comments for 01.07.2021 before S.B.


(Atiq Ur Rehman Wazir)
Member (E)

01.07.2021

Counsel for the appellant and Mr. Kabirullah Khattak, Addl. AG alongwith Irfan Anjum, Assistant for the respondents present.

Representative of the respondents seeks time to submit reply. Respondents are required to submit written reply/comments within 10 days in office, positively. In case written reply/comments are not submitted within the stipulated time, office shall submit the file with a report of non-compliance. To come up for arguments on 15.11.2021 before the D.B.

Stipulated period has passed and reply has not been submitted.


Chairman

P.S

14.07.2021

Learned Addl. A.G be reminded about the omission and for submission of Reply/comments within extended time of 10 days.


Chairman

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07.01.2021

Mr. Asad Nabi, Advocate, for appellant is present.

That being in service as Operator-cum-Chowkidar/Operator-cum-Valveman since 2016 appellant is rendering duties with the satisfaction of his high-ups leaving no room for any lapses. The scale of Operator in Public Health Engineering Department is BPS-06 while appellant has been appointed in BPS-01 however, he was subsequently upgraded to BPS-03, the scale of Valveman and Chowkidar is holding BPS-01 and the appellant has been treated as Class-IV in BPS-01, after according sanction by the Finance Department. Departmental representation was made without response, appellant approached Hon'ble Peshawar High Court, Peshawar, in Writ Petition wherein respondents admitted that appellant is performing duties of Operator as well Chowkidar, directing him to have recourse to competent forum accordingly the present service appeal submitted.

The point so agitated at the bar needs consideration. The appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 29.03.2021 before S.B.



Appellant Deposited
Security & Process Fee

(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

FORM OF ORDER SHEET

Court of _____

Case No.- 12168 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	16/10/2020	<p>The appeal of Mr. Dawa Khan presented today by Mr. Asad Nabi 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> <p>2-</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>07/01/2021</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA, SERVICES TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2020

Dawa Khan **Appellant**

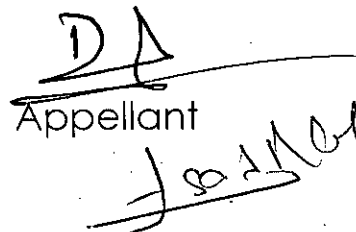
V E R S U S

Govt. of Khyber Pakhtunkhwa,
Secretary Public Health Eng: & others **Respondents**

I N D E X

S.No	DESCRIPTION OF DOCUMENTS	ANNEX	PAGES
1.	Service Appeal		1-5
2.	Affidavit		6
3.	Addresses of the parties		7
4.	Copy of the Appointment letter	A	8
5.	Copy of writ and comments	B	9-14
6.	Copy of service appeal	C	15-20
7.	Copy of the order dated 02-03-2020	D	21-26
8.	Copy of the departmental representation dated 08-06-2020	E	27-29
9.	Copies of payroll of other employees	F	30-34
10.	Wakalatnama		

Through


Appellant

ASAD NABI

Advocate, Peshawar

Cell: 0345-9122165

&


BABAR HAYAT

Advocate, Peshawar

Cell: 0333-9727007

Dated: 03-10-2020

(11)

BEFORE THE KHYBER PAKHTUNKHWA, SERVICES TRIBUNAL,
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 15168 /2020

Diary No. 11626

Dated 16/10/2020

Dawa Khan S/O Abdul Akbar R/O Shamilar Babini Road,
Par hoti, Tehsil & District, Mardan (Designation: Pump
Operator cum Chowkidar, Department of Public Health
Engineering, Circle Mardan)

.....Appellant.

V E R S U S

1. Government of Khyber Pakhtunkhwa, through
Secretary - Public Health Engineering, Civil
Secretariat, Peshawar
2. Superintendent Engineering, Public Health Circle,
Mardan.
3. Executive Engineer, Public Health, Near Eidga
Division, Mardan.
4. Executive Engineer, Public Health, Division,
Charsadda
5. Chief Engineer, Public Health, Civil Secretariat, KPK
Peshawar
6. Secretary Finance, Civil Secretariat, Peshawar.

.....Respondents

**SERVICE APPEAL U/S 4 OF THE KPK
SERVICE TRIBUNAL ACT, 1974 AGAINST
THE ACTION/INACTION OF THE
RESPONDENT NO. 1, WHEREBY
DEPARTMENTAL APPEAL WAS FILED BY
THE APPELLANT ON DATED 08-06-2020
BUT NO ORDER OR ACTION HAS BEEN**

Filed to-day

Registrar,
16/10/2020

**TAKEN BY THE RESPONDENT NO.1 TILL
DATE.**

Respectfully Sheweth:

Precisely, stating the facts of the case out of which the present appeal arises are as under:

1. That the appellant is serving as Operator-cum-Chowkidar/Operator-cum-Valveman since 2016. (Copy of the Appointment letter is attached as Annexure "A").
2. That the appellant has been performing his duty as per his designation with the satisfaction of the all the high-ups and no complaint of any kind has been made against till date.
3. That the scale of the Operator in Public Health Engineering Department is BPS-06 while the appellant has been appointed in BPS-01 but later on he was upgraded to BPS-03.
4. That the scale of the Valve-man/Chowkidar is carrying BPS-01 while the appellant has been treated as Class-IV in BPS-01 as per his appointment letter despite the fact that appellant is being subject to the duty of Chowkidar in addition to the duty of Tube-well operator.
5. That appointment letter is issued as per sanction of post from the finance department by the competent authority.

6. That the appellant has filed departmental representation which had not been responded and subsequently the appellant then approached to the Honourable Peshawar High Court vide writ petition no.3121/2017 wherein the responded admitted in comments that the duties of operator as well Chowkidar is taken from the appellant and resultantly the appellant was asked by the Honourable Court to approached the competent forum. (Copy of writ and comments are attached as Annexure "B")
7. That as per direction of the Honourable Peshawar High Court approached to this honourable Tribunal wherein the appellant was asked to file separate departmental representation which he complied but which was not responded till date. (Copy of service appeal, order dated 02-03-2020 and department representation dated 08-06-2020 are attached as Annexure "C","D" and "E" respectively)
8. That being aggrieved, the appellant now approached this Honourable Tribunal again, inter alia on the following grounds:

GROUND S:

- A. That the competent authority is bound to pass appointment order as per the sanctioned post order issued from the finance department wherein, an appointment can be either Chowkidar (Class-

IV) or Operator (BPS-06) or accordingly he can be designated both with both salaries when both duties are taken from the appellant. (Copies of payroll of the other employees designated as Operator are attached as Annexure "F")

- B. That it is against the fundamental rights enshrined in the constitution of Pakistan 1973, that double duties as one being Operator and other as Chowkidar is being obtained from the appellant and the wages are not granted in accordance with the law neither perks and privileges of Operator and Chowkidar.
- C. That appellant has not been dealt in accordance with the law therefore downtrodden article 4 of the Constitution.
- D. That appellant has been discriminated wherein fundamental right of the appellant guaranteed under article 25 and 27 of the Constitution of Pakistan 1973 has been disregarded completely.
- E. That the appellant seeks leave of this Hon'ble Tribunal to raise /argue any additional point.

It is, therefore, most humbly prayed that on acceptance of this appeal, the appellant may please be directed to upgrade the scale of the appellant to BPS-06 with all the back benefits

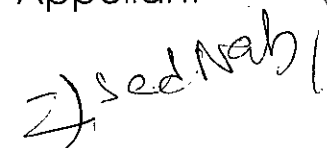
along with salaries, perks and privileges of the Chowkidar/Valve man from the date of his initial appointment.

Any other relief if deems appropriate in the circumstances of the case, may also be graciously granted in favour of the appellant.



Appellant

Through



Asad Nabi

Advocate, High Court
Peshawar
Cell: 0345-9122165

&



Babar Hayat

Advocate, High Court
Peshawar
Cell: 0333-9727007

Dated: 15/10/2020

BEFORE THE KHYBER PAKHTUNKHWA, SERVICES TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2020

Dawa Khan **Appellant**

VERSUS

Govt. of Khyber Pakhtunkhwa,
Secretary Public Health Eng: & others..... **Respondents**

AFFIDAVIT

I, Dawa Khan S/O Abdul Akbar R/O Shamilar Babini Road, Par hoti, Tehsil & District, Mardan, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble Court.



DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA, SERVICES TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2020

Dawa Khan **Appellant**

V E R S U S

Govt. of Khyber Pakhtunkhwa,
Secretary Public Health Eng: & others..... **Respondents**

ADDRESSES OF THE PARTIES

A P P E L L A N T:

Dawa Khan S/O Abdul Akbar R/O Shamilar Babini Road,
Par hoti, Tehsil & District, Mardan

R E S P O N D E N T S:

1. Government of Khyber Pakhtunkhwa, through Secretary Public Health Engineering, Civil Secretariat, Peshawar
2. Superintendent Engineering, Public Health Circle, Mardan.
3. Executive Engineer, Public Health, Near Eidga Division, Mardan.
4. Executive Engineer, Public Health, Division, Charsadda
5. Chief Engineer, Public Health, Civil Secretariat, KPK Peshawar
6. Secretary Finance, Civil Secretariat, Peshawar.

Through

~~Appellant~~

Asad Nabi

Advocate, Peshawar

Dated: 15-10-2020

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

apgradation

Present:

Mr. Justice Anwar Zaheer Jamali, CJ
Mr. Justice Mian Saqib Nisar
Mr. Justice Amir Hani Muslim
Mr. Justice Ejaz Afzal Khan
Mr. Justice Mushir Alam

Civil Appeals No.101 & 102-P of 2011.

(On appeal from judgment dated 27.04.2010, of
the Peshawar High Court, Peshawar, passed in
Writ Petitions No.205 of 2010 and 33 of 2009).

Regional Commissioner Income Tax,
Northern Region, Islamabad.
(in Civil Appeal No.101-P/2011)

Commissioner of Income Tax Company Zone,
Income Tax Officer, Peshawar
(in Civil Appeal No.102-P/2011).

...Appellants.

VS

Syed Munawar Ali and others.
(in Civil Appeal No.101-P/2011)

Kiramatu Ullah Khan and others.
(in Civil Appeal No.102-P/2011).

...Respondents.

For the Appellants:

Mr Shahid Raza, ASC.
(in both Appeals)

For Respondent No.:
1-8 in C.A.No.101-P/11
& for Respondents No.1-39
in C.A.No.102-P/11).

Mr Ijaz Anwar, ASC.

Date of hearing:

17.02.2016.

JUDGMENT

AMIR HANI MUSLIM, J. - These Appeals, by leave of the
Court, are directed against common judgment dated 27.04.2010, passed by
the Peshawar High Court, Peshawar, whereby the Writ Petitions filed by the

ATTESTED

13

[Signature]
Court Associate
Supreme Court of Pakistan
Islamabad

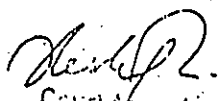
Respondents were disposed of with the direction to the Appellants to act according to law and to do what is required by the law to do within a minimum possible time.

2. The facts necessary for the adjudication of the present proceedings are that the Respondents and others while working as Superintendents/Supervisors with the Appellants filed an Application before the Chairman, Federal Board of Revenue (Revenue Division) for upgradation of their posts from BS-13 to BS-16, *inter alia*, on the ground that since the post of Superintendent has been upgraded to BS-16 in Federal/Provincial Government, therefore, the post of Superintendent may also be upgraded in the Federal Board of Revenue from BS-13 to BS-16. The said Application remained undecided, and the Respondents filed Writ Petitions before the Peshawar High Court, which were disposed of by a learned Division Bench by the consolidated impugned judgment.

3. The Appellants filed Civil Petitions for leave to Appeal against the judgment of the Peshawar High Court in which leave was granted to consider whether in view of the bar contained under Article 212 (3) of the Constitution, the High Court has the jurisdiction to entertain a Constitution Petition relating to the terms and conditions of service of civil servants. Hence these Appeals.

4. The learned Counsel for the Appellants has contended that the jurisdiction of the learned Peshawar High Court was barred under Article 212 (3) of the Constitution, as the issue of upgradation which was the subject matter of the Writ Petitions relates to the terms and conditions of

ATTESTED

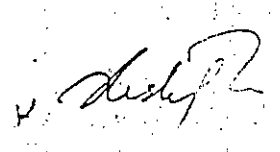

Counsel Associate
Supreme Court of Pakistan

service of the Respondents and could not have been adjudicated upon by the High Court. He next contended that the terms and conditions of service of civil servants fall within the domain of the Service Tribunal, therefore, the impugned judgment was without jurisdiction.

5. As against this, the learned Counsel for the Respondents have contended that the issue of upgradation is not covered by the expression "terms and conditions of service" of a civil servant, therefore, the High Court has the jurisdiction to decide the issue.

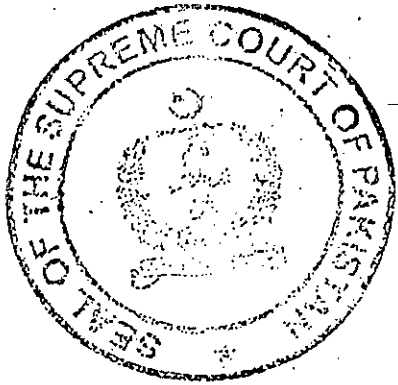
6. We have heard the learned Counsel for the parties and have perused the record. The expression "upgradation" is distinct from the expression "Promotion", which is not defined either in the Civil Servants Act or the Rules framed thereunder, and is restricted to the post (office) and not with the person occupying it. The upgradation cannot be made to benefit a particular individual in term of promoting him to a higher post and further providing him with the avenues of lateral appointment or transfer or posting. In order to justify the upgradation, the Government is required to establish that the department needs re-structuring, reform or to meet the exigency of service in the public interest. In the absence of these pre-conditions, upgradation is not permissible.

7. The aforesaid definition of the expression, "Upgradation" clearly manifests that it cannot be construed as promotion, but can be granted through a policy. In fact, this Court in the judgment titled as Al Azhar Khan Baloch vs. Province of Sindh (2015 SCMR 456) and an unreported judgment of this Court passed in the case of Chief Commissioner



Inland Revenue and another vs. Muhammad Afzal Khan (Civil Appeal No.992 of 2014) has held that the issue relating to upgradation of civil servants can be decided by a High Court in exercise of its constitutional jurisdiction and bar contained under Article 212(3) of the Constitution would not be attracted. The policy of upgradation, notified by the Government, in no way, amends the terms and conditions of service of the civil servant or the Civil Servants Act and or the Rules framed there-under. The Service Tribunals have no jurisdiction to entertain any appeal involving the issue of upgradation, as it does not form part of the terms and conditions of service of the civil servants. The question in hand has already been answered by the aforesaid two judgments of this Court.

8. For the aforesaid reasons, we do not find any infirmity in the impugned judgment; consequently these Appeals are dismissed.



Sd/- Arwar Zaheer Jamali, HCF
 Sd/- Mian Saqib Nisar, J
 Sd/- Amir Hani Muslim, J
 Sd/- Ejaz Afzal Khan, J
 Sd/- Mushir Alam, J

Certified to be True Copy.

[Signature]
 Court Associate
 Supreme Court of Pakistan
 Islamabad

Islamabad the,
 17th February 2016.
Approved for reporting.
 Sohail**

8
 24-2-16

GR No: 3282/15 Civil/Criminal
 Date of Presentation: 22-2-16
 No of Words: 1200
 No of Folios: 12
 Requisition Fee for: 500
 Copy Fee in: 7-00
 Court Fee Stamp: 12-00
 Date of Completion of Copy: 27-2-16
 Date of delivery of Copy: 29/2/16
 Prepared by: [Signature]
 By: Miss Nadeem



OFFICE OF THE EXECUTIVE ENGINEER
PUBLIC HEALTH ENGG: DIVISION MARDAN.
Ph/9230149, FAX/9230149 E.Mail:xenphemardan@gmail.com

No. 46/EE-6 (B) /XEN/PHE/D/MARDAN
Dated Mardan the, 31/05/2016.

OFFICE ORDER.

In pursuance of rules 10(4) of Ex-N.W.F.P civil servant (Appointment, Promotion and Transfer) rules 1989 Mr. Dawa S/O Abdul Akbar R/O Shamilat Babani Road District Mardan is hereby appointed as Operator-cum-Chowkidar (BPS-03) on AM&R WSS: Purana & New Shamilat District Mardan from the date of his arrival report on the following terms & conditions.

- 1- He shall for all intents and purpose be civil servant except for purpose of pension or gratuity. In lieu of pension gratuity, he shall be entitled to receive such amount contributed by him towards Contributory provident fund (C/P) (CPF) along with the contribution made by Govt to his account in the said fund in the prescribed manner.
- 2- He shall be governed by the civil servant act 1973, all the latest applicable to the civil servant and rules made there under.
- 3- He shall initially be on probation for a period of one year extendable for a further period up to another year.
- 4- His service shall be liable to terminate at any time out without assigning any reason thereof before the expiry of the period of the probation, if his work during his period is not found satisfactory. In such an event he given a month's notice of termination from service or one month's pay shall be forfeited.
- 5- He will liable to serve anywhere in Public Health Engg: Division Mardan.
- 6- He will not claim to the right of seniority.
- 7- He shall produce a Medical Certificate of fitness from Medical Superintendent District Headquarter Hospital Mardan as required under the rules.

If the above terms & conditions of appointment are acceptable to him, he should report for duty in the office of the SDO PHE: Sub Division Mardan in 14 days against the said vacancy.

[Signature]
EXECUTIVE ENGINEER
PUBLIC HEALTH ENGG: DIVISION
MARDAN

Dated Mardan the 31/05/2016.

Endst No. 46/EE-6(B)
Copy to the:-

- 1) Section Officer (Estt) Public Health Engineering Department KPK Peshawar.
- 2) Superintending Engineer PHE Circle Mardan
- 3) District Accounts Officer Mardan
- 4) S.D.O PHE: Sub Division Mardan.
- 5) Official Concerned

EXECUTIVE ENGINEER
PUBLIC HEALTH ENGG: DIVISION

(9)

(10)

BEFORE THE PESHAWAR HIGH COURT PESHAWAR.

Writ Petition No. _____ / of 2017.

Annex B

1. Mr. Sadiq Ali S/o Rehman Wali R/O Mian Khan Akora Khel, Tehsil Katlang District Mardan Designation Operator cum Chowkidar Department public health Engineering Circle Mardan
2. Mr. Abbas Khan S/o Waheedullah R/O Touheed Colony Charsadda Road Mardan District & Tehsil Mardan Designation Pump Operator cum Valve man Department public health Engineering Circle Mardan
3. Mr. Jan Nisar S/o Ghulam Qadar R/O Nawan Kali Rustam Tehsil & District Mardan Designation Pump Operator cum Valve man Department public health Engineering Circle Mardan
4. Mr. Hussain Ahmed S/o Asir Khan R/O Gul Mash Banda Tehsil & District Mardan. Designation Pump Operator cum Valve man Department public health Engineering Circle Mardan
5. Mr. Hussain Ahmad S/o Fazli Azeem R/O Mohallah Boki Khel Garhi Ismail Zai P/O Garhi Kapura Tehsil & District Mardan. Designation Operator cum Chowkidar Department public health Engineering Circle Mardan
6. Mr. Arshad Ghani S/o Sherin Ghani R/O Bala Kohi Bermol Tehsil & District Mardan. Designation Pump Operator cum Valve man Department public health Engineering Circle Mardan
7. Mr. Zawar Hussain S/o Gul Unber R/O Ghundo Tehsil Katlang & District Mardan. Designation Pump Operator cum Valve man Department public health Engineering Circle Mardan
8. Mr. Dawa Khan S/o Abdul Akbar R/O Shamilat Babini Road Par Hoti Tehsil & District Mardan. Designation Operator cum Chowkidar man Department public health Engineering Circle Mardan
9. Mr. Muhammad Waleed S/o Ahmad Ali R/O Mohallah Tashqand Rustam Tehsil & District Mardan. Designation Operator cum Chowkidar Department public health Engineering Circle Mardan.
10. Aziz Ur Rahman S/o Naseem Khan R/o Dhire dakhana Tehsil & Distt Mardan Pump Operator cum Valve man Department. public health Engineering Circle Mardan.
11. Muhammad Arshad S/o Hidayyat Ullah R/o Mohallah Malakakhil Tehsil & Distt Mardan Pump Operator cum Valve man Department public health Engineering Circle Charsadda.

Arshad
→

12. Hajji Waheed Ullah S/o Shah Zamir R/o garri wahidullah shafqadar tehsil district Mardan Pump Operator cum Chowkidar Department public health Engineering Circle Charsadda.
13. Atta Ullah Shah S/o Noor Hassan Shah R/o kocha Nadar Ali, ochai Bazar Peshawar. Pump Operator cum Chowkidar Department public health Engineering Circle Charsadda.
14. Aftab Ahmad S/o Jan Muhammad R/o Shabqadar tehsil and District Charsadda Pump Operator cum Valve man Department public health Engineering Circle Charsadda

.....Petitioners

VERSUS

- 1) Government of KPK through Secretary Public Health Engineer Civil Secretariat, KPK Peshawar.
- 2) Superintendent Engineer Public Health Circle Mardan.
- 3) Executive Engineer Public Health nizz Eidga Division Mardan.
- 4) Executive Engineer Public Health Division Charsadda.
- 5) Chief Engineer Public Health Civil Secretariat KPK Peshawar.
- 6) Secretary Finance Civil Secretariat, KPK Peshawar.

.....Respondents

WRIT PETITION / UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF
PAKISTAN - 1973

RESPECTFULLY SHEWETH:-

1. That petitioners are serving as per there designation detailed in the appointment letter as well as heading of the writ petition as operator Cum Chowkidar/ Operator Cum Valve man Since 2009, 2010, 2012-2016. (Copies of appointment order of petitioners are annex "A").
2. That petitioner is performing the duty of operator as well as Chowkidar Since their appointment.
3. That the Scale of the Operator is BPS 7.

Attested by
D. M.

Comdt

Comdt

Incent 7 every sanctioned post must carry design (11)

Sanctioned Post

Incent as in para 2 & 5

correct

As in 2 & 5

Fuel

Attest to

As per amended orders

As in 2

4. That there is no designation as Operator Cum Chowkidar / Cum Valve man in BPS 1 as per sanction order issued from the Finance Department KPK.
5. That the Post of Chowkidar / Valve man is carrying BPS-1. *Incent upgraded to BPS-3*
6. That Petitioners are treated as Class IV in BPS 1 as per their appointment letter in spite of the fact that petitioners are being subjected to the duty of Chowkidar in addition to the duty of Operator
7. That appointment letter is issue as per sanction of post from the Finance Department by the competent authority.
8. That petitioners filed departmental appeal before the Chief Engineer to the effect that either petitioners may please be granted the scale, perks and privileges of the post of Operator or the duty of Operator be not taken from them and they be allowed to post on the duty of Chowkidar only but in vain. (Copy of appeal along with Post Office slip as annexed B)
9. That the KPK Service Tribunal is not functional due to not taking incharge of chairman Service Tribunal.
10. That the instant matter is not falling within the term and condition of service as the insertion of Operator only and deletion of Chowkidar/ Valve man from the appointment letter is involved.
11. That finding no other efficacious remedy petitioners approaches this honorable court on following grounds.

GROUNDS

- A. Because the competent authority is bound to pass appointment order as per the sanction of post order issued from the Finance Department wherein an appointment can be either Chowkidar/ (Class IV) or Operator and accordingly he can be designated.
- B. That it is against the Fundamental rights enshrined in the Constitution of Pakistan 1973 that double duties that is one of Operator and the other of Chowkidar are being obtained from the petitioners and the wages are not granted in accordance with law and rules guarantee for both the post.
- C. Because petitioners have not been dealt in accordance with law therefore down trodding Art 4 of Constitution of Pakistan 1973.

D. Because petitioners have been discriminated wherein fundamental right of petitioners guaranteed under Art 25, 27 of Constitution of Pakistan 1973 has been seriously infringed.

PRAYER

It is therefore humbly prayed that respondent may please be directed to maintain the designation of Operator in their appointment letter as per corresponding Basic Pay Scale for the post Operator issued from the Finance Department and delete the word chowkidar / valve man from their appointment letter.

Or In Alternative.

It is prayed that respondents may please be restrained from taking duty of tube well Operator from the petitioners against the salary of Chowkidar Post in BPS -1.

It is further prayed that the post of petitioners may please be upgraded as per provincial government policy like other employees of the government.

Any other relief deemed fit in the circumstance of the case may also be graciously granted.

INTERIM RELIEF

Respondent may please be restrained from taking duty of tub well Operator from the petitioner against the class IV post Chowkidar / valve man till the decision of the writ petition.

Dated.

Petitioner

Through

Amjad Ali
Advocate Supreme Court
Office at Mardan

CERTIFICATE

It is certified that no writ petition has been filed earlier on the instant subject matter.

LIST OF BOOKS

1. CONSTITUTION OF PAKISTAN 1973
2. OTHER AS PER NEED.

Advocate.

Attorney
Or

BEFORE THE PESHAWAR HIGH COURT PESHAWAR.

Writ petition No.3121/2017

Mr. Sadiq Ali S/O Rehman Wali R/O of Mian Khan Akora Khel,
Tehsil Katlang District Mardan & others.

.....(PETITIONER)

VERSUS

- 1) Government of Khyber Pakhtunkhwa, through Secretary
Public Health Engineering Department Peshawar.
- 2) Superintending Engineer Public Health Engineering Circle Mardan.
- 3) Executive Engineer Public Health Engineering Division Mardan.
- 4) Executive Engineer Public Health Engineering Division Charsadda.
- 5) Chief Engineer (North) Public Health Engineering Department Khyber
Pakhtunkhwa Peshawar.
- 6) Secretary Finance Government of Khyber Pakhtunkhwa Civil Secretariat
Peshawar.

.....(RESPONDENTS)

JOINT PARA-WISE COMMENTS ON BEHALF OF RESPONDENTS NO.1-6.

Respectfully Sheweth:

PRELIMINARY OBJECTIONS.

1. That the petition is bad due to non-joinder and mis joinder of necessary parties.
2. That the petitioner has no cause of action.
3. That the petitioner has neither cause of action nor locus standi.
4. That the petitioner has stopped by his own conduct.
5. That the petitioner has not come to the court with clean hands and hit by laches.
6. That the petitioner is time barred.

FACTS:-

- 1- Pertains to record hence no comment.
- 2- Correct to the extent. As the petitioner is ex-land owner and the tube well is installed and located adjacent to his property. He has been appointed as Operator-cum-Chowkidar, therefore he is responsible for the maintenance and security of tube well in the best public interest.
- 3- Correct. But the petitioner concealed facts from this Honourable Court. That the post and designation of Operator (BPS-07) is different from Operator-cum-Chowkidar & Operator-cum-Valve man as per Policy of the Provincial Government.
- 4- Incorrect. Every sanctioned post from Finance Department must carry designation and Basic Pay Scale.

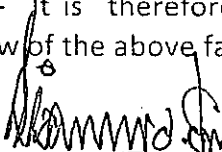
- (14) /
- 5- Incorrect. The Government of Khyber Pakhtunkhwa upgraded the post of Operator-cum-Chowkidar & Operator-cum-Valve man from (BPS-01) to (BPS-03) in June 2015. Now they are serving in BPS-03 as per Government Policy.
- 6- Incorrect. As explained in Para 2 and 5 of the above.
- 7- Correct.
- 8- Correct. As explained in Para 2 and 5 of the above.
- 9- Incorrect. That the Khyber Pakhtunkhwa Service Tribunal is functional now.
- 10- Incorrect. The petitioners were appointed as Operator-cum-Chowkidar & Operator-cum-Valve man as per Government Policy. That the matter do fall within the purview of terms & condition of service and the terms & conditions of service will be agitated before the Khyber Pakhtunkhwa Service Tribunal under Article 212 of Constitution of Pakistan.
- 11- That the petitioner has alternate remedy and he may approach to the Khyber Pakhtunkhwa Service Tribunal Peshawar.


GROUNDS:-


- A) That the petitioners have been treated as per appointment orders.
- B) As explained in para-2 of facts.
- C) Incorrect. The petitioners have been dealt in accordance with Law/Policy.
- D) Incorrect. The petitioners have not discriminated whatsoever nor have any fundamental rights been violated.
- E) The respondents seek permission to raise additional grounds at the time of arguments.

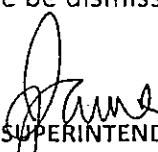
PRAYER:- It is therefore, most humbly prayed before this Honorable Court, that in view of the above facts the petition may please be dismissed.

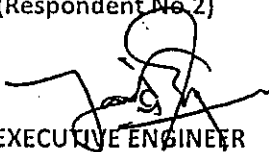
Attor

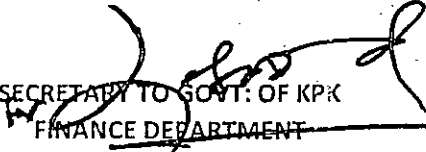

 SECRETARY TO GOVT: OF KPK
 PUBLIC HEALTH ENGG: DEPARTMENT
 PESHAWAR
 (Respondent No.1)


 EXECUTIVE ENGINEER
 PUBLIC HEALTH ENGG: DIVISION
 MARDAN
 (Respondent No.3)


 CHIEF ENGINEER
 PUBLIC HEALTH ENGG: DEPARTMENT
 PESHAWAR
 (Respondent No.5)


 SUPERINTENDING ENGINEER
 PUBLIC HEALTH ENGG: CIRCLE
 MARDAN
 (Respondent No.2)


 EXECUTIVE ENGINEER
 PUBLIC HEALTH ENGG: DIVISION
 CHARSADDA
 (Respondent No.4)


 SECRETARY TO GOVT: OF KPK
 FINANCE DEPARTMENT
 PESHAWAR
 (Respondent No.6)

18

Annex C
①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 273/2019

Khyber Pakhtunkhwa Service Tribunal

Case No. 257

Dated 22-2-2019

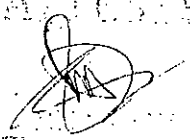
Dawa Khan S/o Abdul Akbar
R/o Shamilar Babini Road Par Hoti, Tehsil & District Mardan Designation Pump Operator-cum-Chowkidar Department of Public Health Engineering Circle, Mardan
...Appellant

Versus

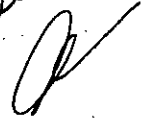
1. Government of KPK through Secretary Public Health Engineer Civil Secretariat, KPK, Peshawar.
2. Superintendent Engineer Public Health Circle, Mardan.
3. Executive Engineer Public Health Nizd Eidga Division, Mardan.
4. Executive Engineer Public Health Division, Charsadda.
5. Chief Engineer Public Health Civil Secretariat KPK Peshawar.
6. Secretary Finance Civil Secretariat, KPK Peshawar.

...Respondents

Filed to-day
Registrar
22/2/19

APPROVED


SERVICE APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974 AGAINST THE ACT, COMMISSION AND OMISSION OF THE RESPONDENTS AS THEY ARE TAKING DUTY OF TUBE WELL OPERATOR FROM THE APPELLANTS AGAINST THE SALARY OF CHOWKIDAR POST IN BPS-1, WHICH IS ILLEGAL, UNLAWFUL AND THE RESPONDENTS ARE LIABLE TO BE RESTRAINED FROM TAKING DUTY OF TUBE WELL OPERATOR FROM THE APPELLANT OR LIABLE TO PAY PERKS AND PRIVILEGES OF TUBE WELL OPERATOR

Appeller


16

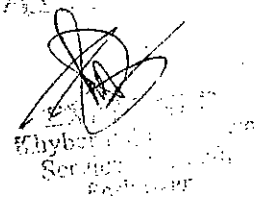
(2)

Respectfully Submitted:

The appellatant humbly submits as under;-

1. That the appellatant is serving as per his designation detailed in the appointment letter as operator-cum-Chowkidar/ Operator-cum-Valve man since 2016. **(Copy of appointment order of appellatant is Annex "A")**
2. That the appellatant is performing the duty of Operator as well as Chowkidar since his appointment.
3. That the scale of the Operator is BPS-7.
4. That there is no designation as Operator-cum-Chowkidar/ cum-Valve man in BPS-1 as per sanction order issued from the Finance Department KPK.
5. That the post of Chowkidar/ Valve man is carrying BPS-1.
6. That appellatant is treated as Class-IV in BPS-1 as per his appointment letter inspite of the fact that appellatant is being subjected to duty of Chowkidar in addition to the duty of Tube-Well Operator.
7. That appointment letter is issued as per sanction of post from the Finance Department by the competent authority.
8. That being aggrieved, the petitioner filed departmental appeal, before respondent No.1, but with no response. **(Copy of departmental appeal is Annex "B")**
9. That thereafter, being aggrieved, the appellatant filed W.P.No.3121/2017 before the hon'ble Peshawar High Court, Peshawar, wherein, respondents filed comments wherein, in para 2 admitted that duty of Operator as well as Chowkidar is taken from appellatant. **(Copy of writ petition is Annex "C" and comments is Annex "D")**

A. H. H. H. H.
R


Secretary
Peshawar High Court

(17)

(3)

10. That the hon'ble High Court vide order dated 17-10-2018, directed the petitioner to approached to proper forum for his redressal.
11. That being aggrieved, the appellant are filing this service appeal on the following grounds amongst others.

GROUNDS

- A. Because the competent authority is bound to pass appointment order as per the sanction of post order issued from the Finance Department, wherein, an appointment can be either Chowkidar (Class-IV) or Operator or accordingly he can be designated both with both salaries when both duties are taken from appellant.
- B. Because it is against the fundamental rights enshrined in the Constitution of Pakistan, 1973 that double duties that is one of Operator and the other of Chowkidar is being obtained from the appellant and the wages is not granted in accordance with law perks and privileges of operator and Chowkidar.
- C. Because appellant has not been dealt in accordance with law therefore, downtrodden Article 4 of Constitution of Pakistan, 1973.
- D. Because appellant has been discriminated, wherein fundamental right of appellants guaranteed under Articles 25 & 27 of the Constitution of Pakistan 1973 has been seriously infringed.

It is, therefore, most humbly prayed that appellant may please be granted salary, perks and privileges of Operator as well as Chowkidar/ Valve-man from date of appointment with all back benefits.

OR IN ALTERNATIVE

It is prayed that respondents may please be restrained from taking duty of tube well Operator from the appellant in future against the salary of

Attest u
[Signature]

ATTESTED
[Signature]
EXAMINER
Hydrabad
Service
Enrolled

18

Chowkidar Post in BPS-1, while granting past benefits of Operator plus Chowkidar/ Valve-man.

47

Any other relief deemed appropriate in the circumstances of the case, may also be graciously granted in favour of appellant.

Deo
Appellant

Through
Amjad Ali (Madan)
Advocate
Supreme Court of Pakistan

AFFIDAVIT

I, do hereby affirm and declare on oath that the contents of the appeal are true and correct to the best of my knowledge and belief and nothing material has been concealed from this hon'ble Tribunal.

Deo
Deponent



Attended
G

Amjad Ali

01-06-2020
18-06
18-06
Amjad Ali
03-06-2020
03-06-2020

(19)

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 273/2019

Khyber Pakhtunkhwa Service Tribunal

Entry No. 257

Dated 22-2-2019

Dawa Khan S/o Abdul Akbar
R/o Shamilar Babini Road Par Hoti, Tehsil & District
Mardan Designation Pump Operator-cum-Chowkidar
Department of Public Health Engineering Circle, Mardan
...Appellant

Versus

1. Government of KPK through Secretary Public Health Engineer Civil Secretariat, KPK, Peshawar.
2. Superintendent Engineer Public Health Circle, Mardan.
3. Executive Engineer Public Health Nizd Eidga Division, Mardan.
4. Executive Engineer Public Health Division, Charsadda.
5. Chief Engineer Public Health Civil Secretariat KPK Peshawar.
6. Secretary Finance Civil Secretariat, KPK Peshawar.

...Respondents

Attended

Filed to-day

Registrar

22/2/19

ATTESTED

[Signature]
Registrar
Khyber Pakhtunkhwa Service Tribunal

SERVICE APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974 AGAINST THE ACT, COMMISSION AND OMISSION OF THE RESPONDENTS AS THEY ARE TAKING DUTY OF TUBE WELL OPERATOR FROM THE APPELLANTS AGAINST THE SALARY OF CHOWKIDAR POST IN BPS-1, WHICH IS ILLEGAL, UNLAWFUL AND THE RESPONDENTS ARE LIABLE TO BE RESTRAINED FROM TAKING DUTY OF TUBE WELL OPERATOR FROM THE APPELLANT OR LIABLE TO PAY PERKS AND PRIVILEGES OF TUBE WELL OPERATOR

(21)

Anne D

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

SERVICE APPEAL NO. 267/2019

Date of institution ... 22.02.2019
Date of judgment ... 02.03.2020



Jan Nisar S/o Ghulam Qadar
R/o Nawan Kali Rustam Tehsil & District Mardan
Designation Pump Operator-cum-Valve man,
Department of Public Health Engineering Circle, Mardan
... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Public Health Engineer Civil Secretariat, Khyber Pakhtunkhwa, Peshawar.
2. Superintendent Engineer Public Health Circle, Mardan.
3. Executive Engineer Public Health Nizd Eidga Division, Mardan.
4. Executive Engineer Public Health Division, Charsadda.
5. Chief Engineer Public Health Civil Secretariat Khyber Pakhtunkhwa Peshawar.
6. Secretary Finance Civil Secretariat, Khyber Pakhtunkhwa, Peshawar.
... (Respondents)

SERVICE APPEAL UNDER SECTION-4 OF SERVICE TRIBUNAL ACT, 1974, AGAINST THE ACT, COMMISSION AND OMISSION OF THE RESPONDENTS AS THEY ARE TAKING DUTY OF TUBE WELL OPERATOR FROM THE APPELLANTS AGAINST THE SALARY OF CHOWKIDAR POST IN BPS-1, WHICH IS ILLEGAL, UNLAWFUL AND THE RESPONDENTS ARE LIABLE TO BE RESTRAINED FROM TAKING DUTY OF TUBE WELL OPERATOR FROM THE APPELLANT OR LIABLE TO PAY PERKS AND PRIVILEGES OF TUBE WELL OPERATOR.

M. Amin
2.3.2020

Attest
[Signature]

Mr. Amjid Ali (Mardan), Advocate .. For appellant.
Mr. Muhammad Jan, Deputy District Attorney .. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI .. MEMBER (JUDICIAL)
MR. MIAN MUHAMMAD .. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Counsel for
the appellants and Mr. Muhammad Jan, Deputy District Attorney
alongwith Mr. Asghar Shah, Head Clerk for the respondents present.
Arguments heard and record perused.

(22)

2

2. Our this judgment shall disposed of above mentioned service appeal as well as

I. Service Appeal No. 268/2019 titled "Muhammad Arshad Versus Government of Khyber Pakhtunkhwa through Secretary Public Health Engineer Civil Secretariat, Khyber Pakhtunkhwa, Peshawar and five others",

II. Service Appeal No. 269/2019 titled "Muhammad Waleed Versus Government of Khyber Pakhtunkhwa through Secretary Public Health Engineer Civil Secretariat, Khyber Pakhtunkhwa, Peshawar and five others",

III. Service Appeal No. 270/2019 titled "Sadiq Ali Versus Government of Khyber Pakhtunkhwa through Secretary Public Health Engineer Civil Secretariat, Khyber Pakhtunkhwa, Peshawar and five others",

IV. Service Appeal No. 271/2019 titled "Hussain Ahmad Versus Government of Khyber Pakhtunkhwa through Secretary Public Health Engineer Civil Secretariat, Khyber Pakhtunkhwa, Peshawar and five others",

V. Service Appeal No. 272/2019 titled "Aftab Ahmad Versus Government of Khyber Pakhtunkhwa through Secretary Public Health Engineer Civil Secretariat, Khyber Pakhtunkhwa, Peshawar and five others",

VI. Service Appeal No. 273/2019 titled "Dawa Khan Versus Government of Khyber Pakhtunkhwa through Secretary Public Health Engineer Civil Secretariat, Khyber Pakhtunkhwa, Peshawar and five others",

VII. Service Appeal No. 274/2019 titled "Aziz-ur-Rahman Versus Government of Khyber Pakhtunkhwa through Secretary

M. Arshad
2-3-2020

Aftab Ahmad

Aziz-ur-Rahman

(23)

3

Public Health Engineer Civil Secretariat, Khyber Pakhtunkhwa, Peshawar and five others",

VIII. Service Appeal No. 275/2019 titled "Zarwar Hussain Versus Government of Khyber Pakhtunkhwa through Secretary Public Health Engineer Civil Secretariat, Khyber Pakhtunkhwa, Peshawar and five others",

IX. Service Appeal No. 276/2019 titled "Atta Ullah Shah Versus Government of Khyber Pakhtunkhwa through Secretary Public Health Engineer Civil Secretariat, Khyber Pakhtunkhwa, Peshawar and five others",

X. Service Appeal No. 277/2019 titled "Arshad Ghani Versus Government of Khyber Pakhtunkhwa through Secretary Public Health Engineer Civil Secretariat, Khyber Pakhtunkhwa, Peshawar and five others",

XI. Service Appeal No. 278/2019 titled "Abbas Khan Versus Government of Khyber Pakhtunkhwa through Secretary Public Health Engineer Civil Secretariat, Khyber Pakhtunkhwa, Peshawar and five others",

XII. Service Appeal No. 279/2019 titled "Haji Waheed Ullah Versus Government of Khyber Pakhtunkhwa through Secretary Public Health Engineer Civil Secretariat, Khyber Pakhtunkhwa, Peshawar and five others" and

XIII. Service Appeal No. 280/2019 titled "Hussain Ahmad Versus Government of Khyber Pakhtunkhwa through Secretary Public Health Engineer Civil Secretariat, Khyber Pakhtunkhwa, Peshawar and five others" as common question of law and facts are involved in all the aforementioned service appeal.

3. Brief facts of the cases as per present appeals are that some of the appellants were appointed as Pump Operator-cum-Valve man

Amir
2.3.2020

Amir
2.3.2020

(24)

and some of the appellants were appointed as Operator-cum-Chowkidars in the Public Health Department although there is no designation as operator-cum-Chowkidar and Operator-cum-Valve man in BPS-1 as per sanction order issued from the Finance Department Khyber Pakhtunkhwa. They were/are performing double duties of Operator-cum-Valve man/ Operator-cum-Chowkidar since their appointment. The post of Chowkidar/Valve man is Class-IV carrying BPS-1 while the scale of Operator is BPS-7 and the appellants were/are treated as Class-IV in BPS-1 and were/are receiving salary of post of Class-IV. They filed joint departmental appeal to Secretary Public Health Engineering Government of Khyber Pakhtunkhwa Civil Secretariat Peshawar but the same was not responded, therefore, the appellant filed Writ Petition before the Worthy High Court with the pray that the respondents may be directed to maintain the designation of Operator in their appointment letter as per corresponding Basic pay Scale for the post of Operator issued from finance Department and delete the work of Chowkidar/Valve man from the appointment letter but the Writ Petition was disposed with the observations that admittedly, the petitioners are civil servants and their case falls in terms and conditions of civil servant, whereas, according to the Khyber Pakhtunkhwa Service Tribunal Rules, 1974, each employee shall file separate appeal even against the common grievance, hence this petition cannot be transmitted to the Service Tribunal. However, the petitioners were held at liberty to approach the proper forum, if so advised vide judgment dated 17.10.2018. Hence, the service appeals.

Order 3.2

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Service Tribunal
Peshawar

4. Respondents were summoned who contested the appeal by filing written reply/comments.

(25)

5

5. Learned counsel for the appellants contended that some of the appellants were appointed as Operator-cum-Valve man and some of the appellants were appointed as Operator-cum-Chowkidar in the Public Health Department. It was further contended that as per sanctioned post order issued by the Finance Department an appointment can be either Chowkidar (Class-IV) or Operator but the appellants were/are performing double duties of Operators and Valve Man as well as Operators and Chowkidars but they were/are receiving salary of Chowkidar (Class-IV) while the post of Operator carrying BPS-7 and the appellants have been discriminated, therefore, prayed that the respondents may be directed to grant salary, perks and privileges of Operators as well as Chowkidars/Valve Man from the date of their appointment with all back benefits or the respondents may be restrained from taking duties of Operators in future against the salary of Chowkidar post BPS-1 and prayed for acceptance of appeals.

W. Ahmad
21.3.2022

6. On the other hand, learned Deputy District Attorney for the respondents opposed the contention of learned counsel for the appellants and contended that under section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 any civil servant aggrieved from any final order whether original or appellate made by the departmental authority in respect of any of the terms and conditions of the service may within thirty days of communication of such order to him prefer an appeal to the Tribunal having jurisdiction in the matter but in the present appeal neither there is any original order nor appellate order, therefore, the service appeals are not maintainable. It was further contended that under rule 3 (2) of Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986 where the order of competent authority affects more than one civil servant

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APPEALS

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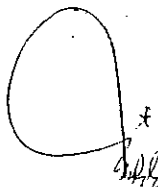
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then every affected civil servant shall prefer appeal separately but in the present service appeals all the appellants have submitted joint departmental appeal (undated) to the departmental authority, therefore, the present service appeals are not maintainable and prayed that without touching the merit of the case, all the above mentioned service appeals may be dismissed.

7. Perusal of the record reveals that all the appellants have filed joint departmental appeal (undated) to the departmental authority and under rule 3 (2) of the Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986 where the order of competent authority affects more than one civil servant then every affected civil servant shall prefer the appeal separately but in the present service appeal all the appellants have submitted joint departmental appeal (undated) to the departmental authority, therefore, in our view, all the above mentioned service appeals are not maintainable due to filing of joint departmental appeal. Hence, the same are dismissed. However, the appellants are at liberty to file separate departmental appeals and after disposal of departmental appeals they are at liberty to file service appeals, if so advised, subject to all legal objections. Parties are left to bear their own costs. Files be consigned to the record room.

Muhammad

ANNOUNCED
02.03.2020



(MIAN MUHAMMAD)
MEMBER

Muhammad Amin

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER



01-06-2020
2400
2600
2600

03-06-2020
03-06-2020

(27)

Annex (B)

38

To,

Secretary
Public Health Engineer
Govt. of Khyber Pakhtunkhwa
Civil Secretariat, Peshawar.

File No. 870
Dated 08/06/2020

DEPARTMENTAL APPEAL

S.O Esit PHED
Dairy No 209
Date 08/06/2020

Sir,

The appellant humbly submits as under;-

1. That the appellants are serving as per there designation detailed in the appointment letter as operator-cum-Chowkidar/ Operator-cum-Valve man since 2009, 2010, 2012-2016. (Copy of appointment order of appellants are attached)
2. That the appellants are performing the duty of Operator as well as Chowkidar since their appointments.
3. That the scale of the Operator is BPS-7.
4. That there is no designation as Operator-cum-Chowkidar/ cum-Valve man in BPS-1 as per sanction order issued from the Finance Department KPK.
5. That the post of Chowkidar/ Valve man is carrying BPS-1.
6. That the appellants are treated as Class-IV in BPS-1 as per their appointment letter inspite of the fact that appellants are being subjected to duty of Chowkidar in addition to the duty of Operator.
7. That appointment letter is issued as per sanction of post from the Finance Department by the competent authority.
8. That petitioner filed a joint Departmental Appeal, wherein the KP Service Tribunal passed order dated 02.03.2020 for filing of separate departmental appeal. (Copy of order dated 02.03.2020 is attached).
9. That being aggrieved, the appellants are filing this departmental appeal on the following grounds amongst others:-

COPIED FOR SUPPL.
KHYBER PAKHTUNKHWA
Dairy No. 51
Dated 09-06-20

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(28)

GROUNDS

- A. Because the competent authority is bound to pass appointment order as per the sanction of post order issued from the Finance Department, wherein, an appointment can be either Chowkidar (Class-IV) or Operator or accordingly he can be designated.
- B. Because it is against the fundamental rights enshrined in the Constitution of Pakistan, 1973 that double duties that is one of Operator and the other of Chowkidar are being obtained from the appellants and the wages are not granted in accordance with law and rules guarantee for both the posts.
- C. Because appellants have not been dealt in accordance with law therefore, downtrodden Article 4 of Constitution of Pakistan, 1973.
- D. Because appellants have been discriminated, wherein fundamental right of appellants guaranteed under Articles 25 & 27 of the Constitution of Pakistan 1973 has been seriously infringed.
- E. Because Qasim Khan, Faiz Mohammad, Zeeshan etc similarly placed has been granted BPS-3 from BPS-1 and BPS-6 from BPS-3 and appellant is also entitled to the same

It is, therefore, most humbly prayed that on acceptance of this Departmental Appeal, the designation of Operator in their appointment letter as per corresponding Basic Pay Scale for the post of Operator issued from the Finance Department may please be maintained and delete the word Chowkidar/ Valve man from their appointment letter.

Muhammad


OR IN ALTERNATE

It is prayed that duty of tube well Operator may please be not taken from appellant against the salary of Chowkidar Post in BPS-1.

It is further prayed that the post of appellants may please be upgraded to BPS-6 from BPS-1 as per Provincial Government Policy like other employees of the Government, namely, Qasim Khan, Faiz Mohammad, Zeeshan etc as shown in pay rolls.

(29)

Any other relief deemed appropriate in the circumstances of the case, may also be graciously granted in favour of appellant.

APPELLANT

Dad

8.6.2020

Mr. Dawa Khan S/o Abdul Akbar
R/o Shamilat Babini Road Par Hoti
Tehsil & District Mardan,
Designation Operator cum
Chowkidar Department
Public Health Engineering Circle,
Mardan.

50(E)B

08.06.20

Amal

Annex "F"

30

3.txt

S#: 1 Charsadda

P Sec:001 Month: July 2017
CA7020 -Executive Engineer PHE Div
EXECUTIVE ENGINEER PHE DI

Pers #: 00401407 Buckle:
Name: QASIM KHAN
PUMP OPERATOR
CNIC No.1710163917757
GPF Interest Applied
06 Active Temporary

NTN:
GPF #: 401407
Old #:

CA7020

PAYS AND ALLOWANCES:

0001-Basic Pay	15,100.00
1000-House Rent Allowance	1,029.00
1210-Convey Allowance 2005	1,932.00
1300-Medical Allowance	1,500.00
2148-15% Adhoc Relief All-2013	300.00
2199-Adhoc Relief Allow @10%	209.00
2211-Adhoc Relief All 2016 10%	1,266.00
2224-Adhoc Relief All 2017 10%	1,510.00
	22,846.00

Gross Pay and Allowances
DEDUCTIONS:

GPF Balance 165,968.00		Subrc:	798.00
6505-GPF Loan Principal Instal	Bal: 20,000.00		1,000.00
3501-Benevolent Fund			600.00
4004-R. Benefits & Death Comp:			450.00

Total Deductions 2,848.00
19,998.00

Abdullah

D.O.B
17.03.1970
09 Years 06 Months 001 Days

LFP Quota:
NATIONAL BANK OF PAKCHARSADDA SUGAR
5009-3

ATTESTED

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2.txt

S#: 1 Charsadda
 Pers #: 00401407 Buckle:
 Name: QASIM KHAN
 PUMP OPERATOR
 CNIC No.1710163917757
 GPF Interest Applied
 06, Active Temporary

P Sec:001 Month:July 2018
 CA7020 -Executive Engineer PHE Div
 EXECUTIVE ENGINEER PHE DI

NTN:
 GPF #: 401407
 Old #:

PAYS AND ALLOWANCES:

0001-Basic Pay	15,660.00
1000-House Rent Allowance	1,544.00
1210-Convey Allowance 2005	1,932.00
1300-Medical Allowance	1,500.00
2148-15% Adhoc Relief All-2013	300.00
2199-Adhoc Relief Allow @10%	209.00
2211-Adhoc Relief All 2016 10%	1,266.00
2224-Adhoc Relief All 2017 10%	1,566.00
2247-Adhoc Relief All 2018 10%	1,566.00
Gross Pay and Allowances	25,543.00

CA7020

DEDUCTIONS:

GPF Balance . 209,873.00	Subrc:	950.00
6505-GPF Loan Principal Instal	Bal: 8,000.00	1,000.00
3501-Benevolent Fund		600.00
4004-R. Benefits & Death Comp:		690.00

Total Deductions

3,240.00

22,303.00

Attested

D.O.B
 17.03.1970
 10 Years 06 Months 001 Days

LFP Quota:
 NATIONAL BANK OF PAKCHARSADDA SUGAR
 4321179367

ATTESTED

39

1.TXT

S#: 1 Charsadda
Pers #: 00401407 Buckle:
Name: QASIM KHAN
PUMP OPERATOR
CNIC No. 1710163917757
GPF Interest Applied
06 Active Temporary

P Sec:001 Month: July 2019
CA7020 -Executive Engineer PHE Div
EXECUTIVE ENGINEER PHE DI
NTN:
GPF #: 401407
Old #:

PAYS AND ALLOWANCES:

0001-Basic Pay	16,220.00
1000-House Rent Allowance	1,544.00
1210-Convey Allowance 2005	1,932.00
1300-Medical Allowance	1,500.00
2148-15% Adhoc Relief All-2013	300.00
2199-Adhoc Relief Allow @10%	209.00
2211-Adhoc Relief All 2016 10%	1,266.00
2224-Adhoc Relief All 2017 10%	1,622.00
2247-Adhoc Relief All 2018 10%	1,622.00
Gross Pay and Allowances	27,837.00

DEDUCTIONS:

GPF Balance 184,493.00			
6505-GPF Loan Principal Instal	Bal: 41,660.00	Subrc:	950.00
3501-Benevolent Fund			1,390.00
4004-R. Benefits & Death Comp:			600.00
			690.00

Total Deductions

3,630.00
24,207.00

Handwritten signature

D.O.B 17.03.1970
11 Years 06 Months 001 Days

LFP Quota:
NATIONAL BANK OF PAKCHARSADDA SUGAR
4321179367

S#: 2 Charsadda
Pers #: 00401407 Buckle:
Name: QASIM KHAN

P Sec:001 Month: July 2019
CA7020 -Executive Engineer PHE Div
EXECUTIVE ENGINEER PHE DI
NTN:

ATTESTED

32

S#: 1
Pers #: 00660102 Buckle:
Name: ZEE SHAN
PUMP OPERATOR
CNIC No. 1710131715133
GPF Interest Applied
06 Active Temporary

Untitled
P Sec: 001 Month: October 2019
CA7020 -Executive Engineer PHE Div
EXECUTIVE ENGINEER PHE DI
NTN:
GPF #: 660102
Old #:

PAYS AND ALLOWANCES:		CA7020
0001-Basic Pay		12,860.00
1000-House Rent Allowance		1,544.00
1210-Convey Allowance 2005		1,932.00
1300-Medical Allowance		1,500.00
2148-15% Adhoc Relief All-2013		270.00
2199-Adhoc Relief Allow @10%		183.00
2211-Adhoc Relief All 2016 10%		934.00
2224-Adhoc Relief All 2017 10%		1,286.00
2247-Adhoc Relief All 2018 10%		1,286.00
Gross Pay and Allowances		23,081.00
DEDUCTIONS:		

GPF Balance	15,697.00		
6505-GPF Loan Principal Instal		Bal: 43,500.00	Subrc: 950.00
3501-Benevolent Fund			1,500.00
4004-R. Benefits & Death Comp:			600.00
			690.00

Total Deductions	3,740.00
	19,341.00

D.O.B	LFP Quota:
01.07.1934	ALLIED BANK LIMITED TEHSIL BAZAR
07 Years 08 Months 000 Days	CO10063847050010

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آسامیاں خالی ہیں

گورنمنٹ آف خیبر پختون خواہ پبلک ہیلتھ انجینئرنگ ڈویژن مردان

پبلک ہیلتھ انجینئرنگ ڈویژن مردان میں ٹیوب ویل آپریٹری پی ایس 06 کی عارضی آسامیاں تعیناتی کے لئے گورنمنٹ آف خیبر پختون خواہ کے سرسروورڈز کے مطابق خواہش مند امیدواروں سے درخواستیں مطلوب ہیں۔ جو کہ مندرجہ ذیل ہیں۔
وائر سپلائی سکیم پائے کلاں، وائر سپلائی سکیم زور آباد، وائر سپلائی سکیم کوٹ کله، وائر سپلائی سکیم چراغ دین کله، وائر سپلائی سکیم شکر موری

شرائط:

- 1۔ امیدوار کا ضلع مردان کارہاشی (ڈومینائل) کا ہونا ضروری ہے۔ ۲۔ عمر کی حد 18 سے 40 سال تک مقرر ہے۔
- ۳۔ سرکاری ملازمین اپنی جگہوں کی وساطت سے درخواستیں ارسال کریں۔
- ۴۔ معذور اور اقلیتوں کا کوئی سپریم کورٹ کے فیصلے کے تحت اور گورنمنٹ آف خیبر پختون خواہ کی پالیسی کے مطابق ہوگی۔
- ۵۔ مقررہ تاریخ کے بعد کوئی بھی درخواست قابل قبول نہیں ہوگی۔
- ۶۔ آسامیوں میں کمی بیشی کی جاسکتی ہے۔

۷۔ صرف مندرجہ ذیل بالا شرائط پر پورا اترنے والے شارٹ لسٹ امیدواروں کو ٹسٹ و انٹرویو کے لئے نکایا جائے گا۔

۸۔ خواہشمند امیدواران اپنی درخواستیں Superintending Engineer PHE Circle Marḡan شش روز

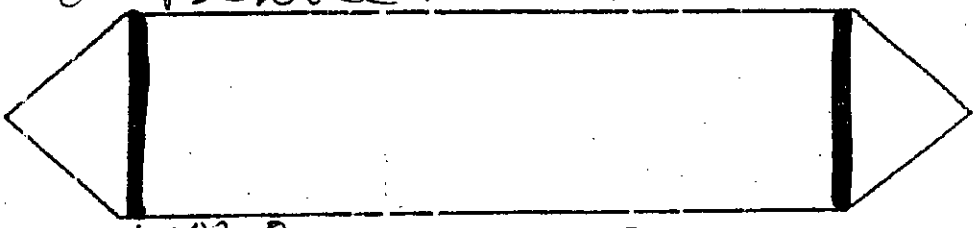
مردان کے دفتر میں اوقات کار 05:00 تا 09:00 بجے تک ہوری 04.09.2020 تک جمع کرا سکتے ہیں۔

INF(P)2966/20

۹۔ نامکمل درخواست پر کوئی عمل درآمد نہیں کیا جائے گا۔

ایگزیکٹو انجینئر، پبلک ہیلتھ انجینئرنگ ڈویژن مردان

بعدالت la Personne Formel



2020 منجانب

موزنہ 3-10-20

نام Dawood

مقدمہ Appeal

BC 134232

17301-6419/641

جزم

PKR 05459122/65

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب رہی دکل کاروائی متعلقہ

آن مقام Appeal کیلئے Appeal

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی اس کاروائی کا کامل اختیار ہوگا۔ نیز
 دیکل صاحب کو راضی نامہ کرنے و تقررات حالت فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور
 بصورت ڈگری کرنے اجراء اصولوں چیک و روپیہ ارضی و غیر ارضی اور درخواست ہر قسم کی تصدیق
 زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کیلئے طرفہ یا اپیل کی برآمدگی اور منسوخی
 نیز دائر کرنے اپیل نگرانی و نظربانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
 کے کل یا جزوی کاروائی کے واسطے اور دیکل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
 ہوگا۔ اور صاحب مقرر شدہ کو کبھی وہی جملہ مذکورہ با اختیار تامل حاصل ہوں گے اور اس کا ساتھ
 پروا ختم منظور قبول ہوگا۔ دوران مقدمہ میں جو فرچہ ہر ہر اہل ذمہ نے مقدمہ کے سبب سے ہوگا۔
 کوئی تاریخ پیشی مقام دورہ پر ہو یا مدد سے باہر ہو تو دیکل صاحب پابند ہوں گے۔ کہ پیروی
 مذکورہ کریں۔ لہذا ادکالت نامہ آگہد یا کہ سند ہے۔

Appeal

المرقوم 3-10-20

بمقام

کے لئے منظور ہے۔

Accepted
 Seal

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



Service Appeal No. 11539/2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 10979

Dated 05/10/2020

Sadiq Ali S/O Rehman Wali R/O Miyan Khan Akhord
Khel, Tehsil Katlan District Mardan (Designation: Pump
Operator cum Chowkidar, Department of Public Health
Engineering, Circle Mardan)

.....Appellant

VERSUS

1. Government of Khyber Pakhtunkhwa, through
Secretary Public Health Engineering, Civil
Secretariat, Peshawar
2. Superintendent Engineering, Public Health Circle,
Mardan.
3. Executive Engineer, Public Health, Near Eidga
Division, Mardan.
4. Executive Engineer, Public Health, Division,
Charsadda
5. Chief Engineer, Public Health, Civil Secretariat, KPK
Peshawar
6. Secretary Finance, Civil Secretariat, Peshawar.

.....Respondents

**SERVICE APPEAL U/S 4 OF THE KPK
SERVICE TRIBUNAL ACT, 1974 AGAINST
THE ACTION/INACTION OF THE
RESPONDENT NO. 1, WHEREBY
DEPARTMENTAL APPEAL WAS FILED BY
THE APPELLANT ON DATED 08-06-2020
BUT NO ORDER OR ACTION HAS BEEN**

*Filed to-day
Registrar
05/10/2020*

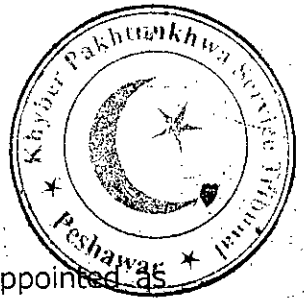
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[Signature]
**EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar**

Chairs

17.11.2020

Counsel for the appellant present.



It is argued that the appellant, having been appointed as Operator-cum-Chowkidar is being paid the emoluments of BPS-1 while the other officials having been same appointment are drawing salary etc. in BPS-6/7. It is contended that the appellant being placed similarly to the other operators-cum-Chowkidars is entitled for status and emoluments in BPS-6/7.

The record shows that the appointment of appellant was effected many years back while he made departmental representation in the year 2020. Subject to the apparent delay on the part of the appellant, instant appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 01.02.2021 before S.B.


Chairman

Date of Presentation of Application 06/11/2021

Number of Volumes 200

Copying Fee 10/-

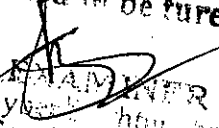
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Total 147

Name of Copyist -

Date of Completion of Copy 06/11/2021

Date of Delivery of Copy 06/11/2021

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA, SERVICES TRIBUNAL,
PESHAWAR



Service Appeal No. 11539/2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 10979

Dated 05/10/2020

Sadiq Ali S/O Rehman Wali R/O Miyan Khan Akhord
Khel, Tehsil Katlan District Mardan (Designation: Pump
Operator cum Chowkidar, Department of Public Health
Engineering, Circle Mardan)

.....Appellant

V E R S U S

1. Government of Khyber Pakhtunkhwa, through Secretary Public Health Engineering, Civil Secretariat, Peshawar
2. Superintendent Engineering, Public Health Circle, Mardan.
3. Executive Engineer, Public Health, Near Eidga Division, Mardan.
4. Executive Engineer, Public Health, Division, Charsadda
5. Chief Engineer, Public Health, Civil Secretariat, KPK Peshawar
6. Secretary Finance, Civil Secretariat, Peshawar.

.....Respondents

**SERVICE APPEAL U/S 4 OF THE KPK
SERVICE TRIBUNAL ACT, 1974 AGAINST
THE ACTION/INACTION OF THE
RESPONDENT NO. 1, WHEREBY
DEPARTMENTAL APPEAL WAS FILED BY
THE APPELLANT ON DATED 08-06-2020
BUT NO ORDER OR ACTION HAS BEEN**

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Hod-to-day
Registrar
05/10/2020

ATTESTED

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

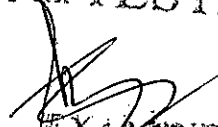
**TAKEN BY THE RESPONDENT NO.1 TILL
DATE.**

Respectfully Sheweth:

Precisely, stating the facts of the case out of which the present appeal arises are as under:

1. That the appellant is serving as Operator-cum-Chowkidar/Operator-cum-Valveman since 2009. (Copy of the Appointment letter is attached as Annexure "A").
2. That the appellant has been performing his duty as per his designation with the satisfaction of the all the high-ups and no complaint of any kind has been made against till date.
3. That the scale of the Operator in Public Health Engineering Department is BPS-06 while the appellant has been appointed in BPS-01 but later on he was upgraded to BPS-03.
4. That the scale of the Valve-man/Chowkidar is carrying BPS-01 while the appellant has been treated as Class-IV in BPS-01 as per his appointment letter despite the fact that appellant is being subject to the duty of Chowkidar in addition to the duty of Tube-well operator.
5. That appointment letter is issued as per sanction of post from the finance department by the competent authority.

ATTESTED



EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

6. That the appellant has filed departmental representation which had not been responded and subsequently the appellant then approached to the Honourable Peshawar High Court vide writ petition no.3121/2017 wherein the responded admitted in comments that the duties of operator as well Chowkidar is taken from the appellant and resultantly the appellant was asked by the Honourable Court to approached the competent forum. (Copy of writ and comments are attached as Annexure "B")
7. That as per direction of the Honourable Peshawar High Court approached to this honourable Tribunal wherein the appellant was asked to file separate departmental representation which he complied but which was not responded till date. (Copy of service appeal, order dated 02-03-2020 and department representation dated 08-06-2020 are attached as Annexure "C","D" and "E" respectively)
8. That being aggrieved, the appellant now approached this Honourable Tribunal again, inter alia on the following grounds:

GROUND S:

- A. That the competent authority is bound to pass appointment order as per the sanctioned post order issued from the finance department wherein, an appointment can be either Chowkidar (Class-

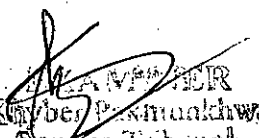
ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

- IV) or Operator (BPS-06) or accordingly he can be designated both with both salaries when both duties are taken from the appellant. (Copies of payroll of the other employees designated as Operator are attached as Annexure "F")
- B. That it is against the fundamental rights enshrined in the constitution of Pakistan 1973, that double duties as one being Operator and other as Chowkidar is being obtained from the appellant and the wages are not granted in accordance with the law neither perks and privileges of Operator and Chowkidar.
- C. That appellant has not been dealt in accordance with the law therefore downtrodden article 4 of the Constitution.
- D. That appellant has been discriminated wherein fundamental right of the appellant guaranteed under article 25 and 27 of the Constitution of Pakistan 1973 has been disregarded completely.
- E. That the appellant seeks leave of this Hon'ble Tribunal to raise /argue any additional point.

It is, therefore, most humbly prayed that on acceptance of this appeal, the appellant may please be directed to upgrade the scale of the appellant to BPS-06 with all the back benefits

ATTESTED


 MEMBER
 (Kyber Peshawar)
 Service Tribunal
 Peshawar

along with salaries, perks and privileges of the Chowkidar/Valve man from the date of his initial appointment.

Any other relief if deems appropriate in the circumstances of the case, may also be graciously granted in favour of the appellant.

[Signature]

Appellant

Through

[Signature]
Asad Nabi

Advocate, High Court
Peshawar
Cell: 0345-9122165
&

Dated: 03/10/2020

[Signature]

Babar Hayat

Advocate, High Court
Peshawar
Cell: 0333-9727007

Date of Presentation of Application 06/11/2021
Number of Pages 2002
Copies of 22/2
U. 3/2
Total 26
Name of Copyist _____
Date of Completion of Copy 06/11/2021
Date of Delivery of Copy 06/11/2021

Certified to be true copy
[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.12168/2020

Dawa Khan S/O Abdul Akbar R/O Shalimar Babeini Par Hoti Tehsil & District Mardan.

_____ (Petitioner)

Versus

- 1) Govt. of Khyber Pakhtunkhwa through Secretary Public Health Engineering Department, Civil Secretariat Peshawar.
- 2) Superintending Engineer Public Health Engineering Circle Mardan.
- 3) Executive Engineer PHE Division Mardan.
- 4) Executive Engineer PHE Division Charsadda.
- 5) Chief Engineer, Public Health Engineering Department, Peshawar.
- 6) Secretary Finance Department, Khyber Pakhtunkhwa.

_____ (Respondents)

Index

S. NO	PARTICULARS	PAGE NO
1.	Reply/ joint Para wise comments	1-2
2.	Letter and list of Finance department for declaration of unessential/Redundant posts as dying cadre	3-6
3.	Notification/Office order of Finance department	7-8
4.	Minutes of the meeting of Finance department	9-15
5.	Authority letter	16
6.	Affidavit	17

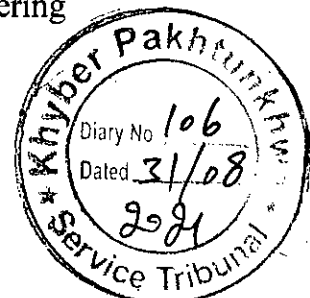
BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 12168/2020

Dawa Khan S/O Abdul Akbar R/O Shalimar Babini Road, Par Hoti Tehsil & District Mardan (Operator Cum Chowkidar) PHED Division Mardan.....Appellant.

V E R S U S

1. Govt: of Khyber Pakhtunkhwa through Secretary Public Health Engineering Department Peshawar.
2. Superintending Engineer ,PHE Circle Mardan
3. Executive Engineer, Public Health Engineering Division, Mardan.
4. Executive Engineer, Public Health Engineering Division, Charsadda.
5. Chief Engineer, Public Health Engineering Department, Peshawar.
6. Secretary Finance Department, Khyber Pakhtunkhwa



JOINT PARA-WISE COMMENTS ON BEHALF OF RESPONDENT NO. 1 to 6.

Respectfully Sheweth!

PRELIMINARY OBJECTIONS

1. The appellant have no cause of action / locus standi.
2. The appellant have not come to court with clean hands.
3. The present appeal is liable to be dismissed for mis joinder / non joinder of necessary and proper parties.
4. The appellant is stopped by his own conduct.
5. The instant appeal is not maintainable in the present form and also in the present circumstances of the issue.
6. The appeal is badly time barred.

REPLY ON FACTS:-

1. Pertains to the record.
2. Pertains to the record.
3. In reply, it is submitted that the post of Pump Operator (BPS-06) is different from Operator Cum Chowkidar and Operator Cum Valveman (BPS-03) as per policy of Provincial Govt., (Annex-A). Initially the Basic Pay Scale of the post of Operator Cum Chowkidar and Operator Cum Valveman was (BPS-01), which was upgraded to (BPS-03) in June 2015 by the Government of Khyber Pakhtunkhwa. In the same manner Basic Pay Scale of Pump Operator was upgraded from (BPS-04) to (BPS-06) (Annex-B).

The petitioner was appointed as per sanctioned post from Finance Department and as evident from the designation of the post i.e. Operator Cum Chowkidar and Operator Cum Valveman, the petitioner is responsible for the security and operation of the scheme in the best public interest. Furthermore, in light of Minutes of Meeting held on 19-05-2021 in Finance Department regarding declaration of unessential / redundant posts as dying cadre, it was decided that the posts of Pump Operator (BPS-06) shall be declared redundant / dying cadre and on vacation, all such posts shall stand abolished automatically (Annex-C).

4. Incorrect. The scale of operator-cum-chowkidar and operator-cum-valveman is BPS-03. Petitioner has been appointed as operator-cum-chowkidar, therefore he is responsible for the operation and security of tube well in the best public interest.
5. Pertains to record.
6. As stated Incorrect detail reply already given in Para 3 above.
7. Pertains to the record, however, instant service appeal is barred by Law.
8. In reply, it is submitted that the appellant have no locus standi and cause of action to file the instant service appeal.

REPLY ON GROUNDS:-

- A. Incorrect. As explained in Para 3 & 4 of the facts.
 B. That the appellant have been treated as per appointment orders, in accordance with Law.
 C. Incorrect. The appellant have been dealt in accordance with law/ policy.
 D. Incorrect. The appellant have not been discriminated what so ever nor has any fundamental rights being violated.
 E. That the respondents seek permission to raise additional grounds at the time of arguments please.

PRAYER:

It is therefore most humbly prayed before this Honorable service tribunal that the instant service appeal may please be dismissed.

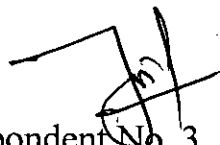


Respondent No. 1

Secretary to Govt. of Khyber Pakhtunkhwa
 P.H.E. Department
 Govt. of Khyber Pakhtunkhwa
 Public Health Engg: Department
 Peshawar

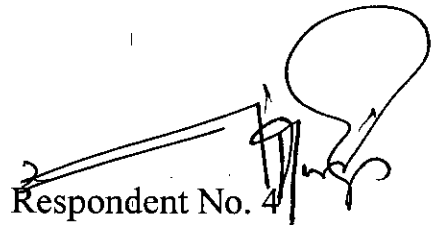


Respondent No. 2
 Superintending Engineer
 Public Health Engg: Circle
 Mardan



Respondent No. 3

Executive Engineer
 Public Health Engg: Division
 Mardan



Respondent No. 4

Executive Engineer
 Public Health Engg: Division:
 Charsadda



Respondent No. 5

Chief Engineer Public Health Engg: Deptt:
 KPK Peshawar



Respondent No. 6

Secretary Finance
 Civil Secretariat Peshawar



**GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT**

Finance Department Civil Secretariat Peshawar

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No. BO.I/FD/5-17/2020-21 (Dying Cadre)

Dated Peshawar the 26/05/2021

To

1. The Additional Chief Secretary,
Government of Khyber Pakhtunkhwa,
Planning & Development Department.
2. The Senior Member,
Government of Khyber Pakhtunkhwa,
Revenue & Estate Department.
3. All Administrative Secretaries to,
Government of Khyber Pakhtunkhwa.

Subject: - DECLARATION OF UNESSENTIAL/ REDUNDANT POSTS AS DYING CADRE

Dear Sir,

I am directed to refer to the subject noted above and to state that in pursuance of the decision of the Provincial Cabinet taken in its Special Budget meeting held on 19.06.2020, "to undertake next phase of expenditure review to realize efficiency savings as part an integrated sectoral review process," and an extensive exercise conducted by Finance Department, in consultation with major Departments on the subject matter, followed by the decisions taken in a meeting held under the chairmanship of Special Secretary Finance on 19/05/2021 at 11:30 am in Finance Department, the following instructions are issued for compliance:

- 1) All unessential/redundant posts, identified by Finance Department and confirmed by the relevant Administrative Departments as mentioned in the statement (**Annex.I**) are hereby declared as dying cadre with immediate effect. All these posts shall be personal to the present incumbent and after becoming vacant as a result of retirement etc. no further recruitment will be made. On vacation, these posts shall stand abolished automatically.
- 2) All vacant posts falling in the category of dying cadre shall be abolished forthwith subject to verification of the relevant Departments. In this regard, the Departments will immediately communicate DDO wise breakup of the dying cadre posts for formal abolition from the SAP System.
- 3) All posts of Behishti, Caller, Khalasi, Farash, Badraga and Barkandaz in all Departments are hereby declared as dying cadre with immediate effect. On vacation all such dying cadre posts shall stand abolished automatically. However, existing vacant posts will be abolished after verification by the Departments in due course of time.

2. I am further directed to state that the Principal Accounting Officers shall make sure that no appointment is made against a vacant post of dying cadre.

Yours faithfully,

Encls. as above.

(SAEED AHMAD KHAN)
BUDGET OFFICER.I

Endst: No. & Date Even.

Copy forwarded for information and necessary action to the:-

1. Accountant General, Khyber Pakhtunkhwa.
2. All District Controller of Accounts/District Accounts Officers, Khyber Pakhtunkhwa.
3. Director FMIU, Finance Department with the request to lock all the dying cadre posts in the SAP System forthwith to avoid appointment against these posts.
4. All Budget Officers II-XI/PAC/NMAs, Finance Department for necessary action.
5. P.S to Secretary Finance.
6. P.Ss to Special Secretary Finance including NMAs.
7. P.A to Additional Secretary (Budget), Finance Department.
8. P.A to Deputy Secretary (Budget.III), Finance Department.

BUDGET OFFICER.I

DYING CADRE POSTS 2020-21


1	Settled	ELEMENTARY & SECONDARY EDUCATION DEPARTMENT	BEHISHTI	3,4,5,9	1,674	1206	476	
2	Settled	ELEMENTARY & SECONDARY EDUCATION DEPARTMENT	CALLER	3,4,5	689	457	237	
3	Settled	ELEMENTARY & SECONDARY EDUCATION DEPARTMENT	FARASH	3	1	1	-	
4	Settled	ELEMENTARY & SECONDARY EDUCATION DEPARTMENT	HOUSE KEEPER	7	2	0	2	
5	Settled	ELEMENTARY & SECONDARY EDUCATION DEPARTMENT	WATER CARRIER	3	6	45	-39	
7	NMAs	ELEMENTARY & SECONDARY EDUCATION DEPARTMENT	BEHISHTI	2,3,4	355	292	63	
8	NMAs	ELEMENTARY & SECONDARY EDUCATION DEPARTMENT	CALLER	1,2,3,4	2025	1705	320	
9	NMAs	ELEMENTARY & SECONDARY EDUCATION DEPARTMENT	HOUSE KEEPER	5	1	1	-	
10	NMAs	ELEMENTARY & SECONDARY EDUCATION DEPARTMENT	TANDOORCHI	3,4	10	4	6	
11	NMAs	ELEMENTARY & SECONDARY EDUCATION DEPARTMENT	WATER CARRIER	3,4	60	53	7	
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT Total						4823	3764	1072
1.	Settled	Health Department	ASSISTANT HOUSE KEEPER	7	1	1	-	
2	Settled	Health Department	AYA	2	-	1	-1	
3	Settled	Health Department	AYA	3	14	7	7	
4	Settled	Health Department	AYA	4	10	21	-11	
5	Settled	Health Department	BADRAGA	3	8	6	2	
6	Settled	Health Department	BEHISHTI	1	-	2	-2	
7	Settled	Health Department	BEHISHTI	2	-	32	-32	
8	Settled	Health Department	BEHISHTI	3	675	695	-20	
9	Settled	Health Department	BEHISHTI	4	-	121	-121	
10	Settled	Health Department	BEHISHTI	5	-	13	-13	
11	Settled	Health Department	BLACKSMITH	4	2	2	-	
12	Settled	Health Department	CS&D OPERATOR	12	2	-	2	
13	Settled	Health Department	DIETICIAN	7	2	1	1	
14	Settled	Health Department	HOUSE KEEPER	7	3	1	2	
15	Settled	Health Department	HOUSE KEEPER	10	23	15	8	
16	Settled	Health Department	HOUSE KEEPER	12	4	4	-	
17	Settled	Health Department	HOUSE KEEPER-10	10	1	-	1	
18	Settled	Health Department	HOUSE KEEPER-7	7	1	-	1	
19	Settled	Health Department	HOUSE OFFICER	17	30	10	20	
20	Settled	Health Department	LANGARI	3	-	8	-8	
21	Settled	Health Department	MESSEUR	7	1	1	-	
22	Settled	Health Department	MIDWIFERY SUPERVISOR	16	3	3	-	
23	Settled	Health Department	MISALCHI	3	1	1	-	
24	Settled	Health Department	MODLER	12	1	-	1	
25	Settled	Health Department	PACKER	3	3	2	1	
26	Settled	Health Department	RECEPTIONIST	5	7	2	5	
27	Settled	Health Department	RECEPTIONIST	6	2	2	-	
28	Settled	Health Department	RECEPTIONIST	7	12	8	4	
29	Settled	Health Department	RECEPTIONIST	8	4	4	-	
30	Settled	Health Department	REFRECTIONIST	10	3	1	2	
31	Settled	Health Department	RESTORER	4	7	7	-	
32	Settled	Health Department	UTENCIL CLEANER	3	1	1	-	
33	Settled	Health Department	WAITER	3	1	1	-	
34	Settled	Health Department	WATCHMAN	2	1	1	-	
35	NMAs	Health Department	AYA	4	4	1	-	
36	NMAs	Health Department	BADRAGA	3	4	4	-	
37	NMAs	Health Department	BADRAGA	4	14	12	2	
38	NMAs	Health Department	BEHISHTI	3	251	257	-6	
39	NMAs	Health Department	BEHISHTI	4	21	19	2	
40	NMAs	Health Department	BEHISHTI-1	1	-	5	-5	
41	NMAs	Health Department	BEHISHTI-2	2	-	3	-3	
42	NMAs	Health Department	BEHISHTI-3	3	62	62	-	
43	NMAs	Health Department	BEHISHTI-4	4	42	46	-4	
44	NMAs	Health Department	HOUSE KEEPER	12	4	3	1	
45	NMAs	Health Department	MESSEUR	3	1	1	-	
46	NMAs	Health Department	MESSEUR	12	1	1	-	
47	NMAs	Health Department	MID WIFE	6	45	1	44	
48	NMAs	Health Department	MIDWIFE	5	143	139	4	
49	NMAs	Health Department	MIDWIFE	6	56	50	6	
50	NMAs	Health Department	MIDWIFE	7	7	3	4	
51	NMAs	Health Department	MIDWIFE	12	17	4	13	

Chief Officer
Health Department
District Hospital
Dera Ismail Khan

No		Department	Number of Posts	PPS	Sanctioned Posts	Filled Posts	Vacant	
52	NMAs	Health Department	RECEPTIONIST	7	1	-	1	
53	NMAs	Health Department	REFRECTIONIST	15	1	-	1	
54	NMAs	Health Department	WATER CARRIER	3	1	1	-	
55	NMAs	Health Department	WATER CARRIER	5	38	45	-7	
56	NMAs	Health Department	WATER CARRIER-3	3	10	9	1	
57	NMAs	Health Department	WATER CARRIER-4	4	33	34	-1	
Health Department Total						1576	1674	-98
1	Settled	Agriculture, Livestock & Fisheries	BADRAGA	5	4	4	-	
2	Settled	Agriculture, Livestock & Fisheries	BADRAGA	7	-	1	-1	
3	Settled	Agriculture, Livestock & Fisheries	BALOON MAKER	3	2	2	-	
4	Settled	Agriculture, Livestock & Fisheries	BEHISHTI	3	3	3	-	
7	Settled	Agriculture, Livestock & Fisheries	FARASH	3	1	-	1	
8	Settled	Agriculture, Livestock & Fisheries	KHALASI	3	2	2	-	
9	Settled	Agriculture, Livestock & Fisheries	PLOUGH MAN	3	25	22	3	
10	Settled	Agriculture, Livestock & Fisheries	SECURITY SURGEANT	7	1	1	-	
11	Settled	Agriculture, Livestock & Fisheries	SEPOYEE	3	3	3	-	
12	Settled	Agriculture, Livestock & Fisheries	TOBACCO CURRER	10	1	1	-	
13	Settled	Agriculture, Livestock & Fisheries	WATCHMAN	3	6	6	-1	
14	NMAs	Agriculture, Livestock & Fisheries	BADRAGA	3	10	10	-	
15	NMAs	Agriculture, Livestock & Fisheries	BLACKSMITH	5	1	1	-	
Agriculture, Livestock & Fisheries Total						59	55	4
1	Settled	IRRIGATION DEPARTMENT	BADRAGA	3	162	156	6	
2	Settled	IRRIGATION DEPARTMENT	BARKANDAZ	3	54	53	1	
3	Settled	IRRIGATION DEPARTMENT	BASTA BARDAR	3	22	22	-	
4	Settled	IRRIGATION DEPARTMENT	BEHISHTI	3	1	1	-	
5	Settled	IRRIGATION DEPARTMENT	BLACKSMITH	5	1	1	-	
6	Settled	IRRIGATION DEPARTMENT	CHAINMAN	4	10	7	3	
7	Settled	IRRIGATION DEPARTMENT	FOREMAN	6	6	5	1	
8	Settled	IRRIGATION DEPARTMENT	WORK MISTRI	10	10	9	1	
9	Settled	IRRIGATION DEPARTMENT	DAFADAR	3	28	28	-	
10	Settled	IRRIGATION DEPARTMENT	FARASH	3	1	1	-	
11	Settled	IRRIGATION DEPARTMENT	SIGNALLOR	5	25	22	3	
12	Settled	IRRIGATION DEPARTMENT	FERRO PRINTER	3	4	4	-	
13	Settled	IRRIGATION DEPARTMENT	CANDIDATE ZILLADAR	3	4	1	3	
14	Settled	IRRIGATION DEPARTMENT	APPRENTICE PATWARI	3	14	8	6	
15	Settled	IRRIGATION DEPARTMENT	MATE	4	221	205	16	
IRRIGATION DEPARTMENT Total						563	523	40
1	Settled	Revenue & Estate	BEHISHTI	3	3	3	-	
2	Settled	Revenue & Estate	DAK RUNNER	3	15	15	-	
3	Settled	Revenue & Estate	DISHWASHER	3	2	-	2	
4	Settled	Revenue & Estate	FARASH	3	1	-	1	
5	Settled	Revenue & Estate	INTERNEE	1	40	25	15	
6	Settled	Revenue & Estate	JAREEB KASH	1	220	67	153	
7	Settled	Revenue & Estate	KHANSAMA	3	7	7	-	
8	Settled	Revenue & Estate	MISALCHI	3	1	1	-	
9	Settled	Revenue & Estate	NAIB QASID (JAREEB KASH)	1	60	76	-16	
10	Settled	Revenue & Estate	RECORD LIFTER	3	3	3	-	
11	Settled	Revenue & Estate	WAITER	6	15	11	4	
12	Settled	Revenue & Estate	WAITER/BEARER	1	2	-	2	
13	Settled	Revenue & Estate	WAITER-6	6	2	2	-	
14	Settled	Revenue & Estate	WAITER-96	6	1	-	1	
15	Settled	Revenue & Estate	BEHISHTI	3	2	2	-	
16	Settled	Revenue & Estate	BEHISHTI	4	29	29	-	
17	Settled	Revenue & Estate	BEHISHTI-1	1	1	-	1	
18	Settled	Revenue & Estate	BEHISHTI-2	2	2	1	1	
19	Settled	Revenue & Estate	BEHISHTI-3	3	2	1	1	
20	Settled	Revenue & Estate	BEHISHTI-4	4	6	6	-	
21	Settled	Revenue & Estate	JAREEB KASH	3	6	6	-	
22	Settled	Revenue & Estate	KHALASI	3	1	1	-	
23	Settled	Revenue & Estate	KHANSAMA-2	2	1	-	1	
24	Settled	Revenue & Estate	KHANSAMA-4	4	1	1	-	
Revenue & Estate Total						423	257	166
1	Settled	Public Health Engineering	PUMP OPERATOR	6	1334	1184	150	
2	Settled	Public Health Engineering	ASST. PUMP OPERATOR	4	21	21	-	
3	Settled	Public Health Engineering	BARKANDAZ	3	38	35	3	

Original Copy
 Govt. of Punjab
 Ferozpur
 10/11/2018

S.No	Department	Organization	2011	2012	2013	2014	
4	Settled	Public Health Engineering	FERRI KHALASI	3	19	18	1
	Settled	Public Health Engineering	JAMADAR	6	1	4	
7	Settled	Public Health Engineering	BADRAGA	3	13	20	7
8	Settled	Public Health Engineering	BARKANDAZ	3	3	3	
9	Settled	Public Health Engineering	CARPENTER-CUM- BLACKSMITH	3	1	1	
10	Settled	Public Health Engineering	DAFADAR	3	1		1
11	Settled	Public Health Engineering	FITTER	3	2	1	1
12	Settled	Public Health Engineering	COLLY	3	2	2	
Public Health Engineering Total					1435	1286	149
1	Settled	Industries, Commerce and Technical Education	DAK RUNNER	3	1		1
2	Settled	Industries, Commerce and Technical Education	FARASH	3	1	1	
4	Settled	Industries, Commerce and Technical Education	BEHISHTI	3	11	8	3
5	Settled	Industries, Commerce and Technical Education	BEHISHTI	4		1	-1
6	Settled	Industries, Commerce and Technical Education	SHOP ATTENDANT	3	298	113	185
7	Settled	Industries, Commerce and Technical Education	SHOP ATTENDANT	4	4		4
8	Settled	Industries, Commerce and Technical Education	TANDOORCHI	3	2	2	
9	Settled	Industries, Commerce and Technical Education	WAITER	3	1	1	
11	NMAs	Industries, Commerce and Technical Education	BEHISHTI	4	3	3	
12	NMAs	Industries, Commerce and Technical Education	SHOP ATTENDANT	4	45	38	7
Industries, Commerce and Technical Education TOTAL					366	167	199
GRAND TOTAL							


 Budget Officer-I
 Govt. of Khyber Pakhtunkhwa
 Finance Department



7

GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

Dated Peshawar, the 30-06-2015

NOTIFICATION

NO.FD/SO(FR)7-20/2015 The competent authority has been pleased to accord approval to the upgradation of pay scales of the following provincial government employees with effect from 01-07-2015:

- a) Two pay scale upgradation will be allowed to all provincial government employees from BS-01 to BS-05.
 - b) One pay scale upgradation will be allowed to all provincial government employees from BS-06 to BS-15
 - c) Special Compensatory Allowance equal to difference of notional upgradation of BS-16 to BS-17 will be allowed to all provincial government employees in BS-16 in lieu of upgradation.
 - d) Upgradation will be applicable to both pay and allowances with freezing limits and other conditions currently in vogue unless revised by the government.
 - e) Pay fixation on upgradation will be applicable w.e.f. 01-07-2015 or 01-12-2015 on the option to be given by the concerned employee.
 - f) All provincial government employees who have been upgraded en-block or individually in last five years starting from 01-07-2010 or have been granted special allowance / pay equal to 40 % or more of their normal pay shall not be entitled for the instant upgradation.
2. Pay of existing incumbents of the posts shall be fixed in higher pay scales at a stage next above the pay in the lower pay scale.
 3. All the concerned Departments will amend their respective service rules to the same effect in the prescribed manner.
 4. The above upgradation scheme shall not be applicable to employees of Autonomous Bodies, Semi Autonomous Bodies and Public Sector Companies.
 5. Explanatory note and subsidiary instructions on the subject will be issued separately.

SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

2

Endst No. & Date even.

Copy of the above is forwarded for information and necessary action to the: -

- 1) PS to Additional Chief Secretary, FATA.
- 2) All Administrative Secretaries Government of Khyber Pakhtunkhwa.
- 3) Senior Member, Board of Revenue, Khyber Pakhtunkhwa Peshawar.
- 4) Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 5) Secretary to Governor, Khyber Pakhtunkhwa, Peshawar.
- 6) Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
- 7) Secretary Provincial Assembly, Khyber Pakhtunkhwa.
- 8) All Heads of Attached Departments in Khyber Pakhtunkhwa.
- 9) Registrar, Peshawar High Court, Peshawar.
- 10) All Deputy Commissioners, Political Agents, District & Sessions Judges / Executive District Officers in Khyber Pakhtunkhwa.
- 11) Chairman, Khyber Pakhtunkhwa, Public Service Commission, Peshawar.
- 12) Registrar, Service Tribunal Khyber Pakhtunkhwa.
- 13) Secretary to Govt. of Punjab, Sindh and Baluchistan, Finance Department, Lahore, Karachi and Quetta.
- 14) The District Comptroller of Accounts, Peshawar, Mardan, Kohat, Bannu, Abbottabad, Swat and Dir Khan.
- 15) The Senior District Accounts Officer Nowshera, Swabi, Charsadda, Haripur, Mansehra and Dir Lower.
- 16) The Treasury Officer, Peshawar.
- 17) All District/Agency Accounts Officers in Khyber Pakhtunkhwa / FATA.
- 18) PSO to Senior Minister for Finance, Khyber Pakhtunkhwa.
- 19) PSO to Chief Secretary, Khyber Pakhtunkhwa.
- 20) Director Local Fund Audit, Khyber Pakhtunkhwa Peshawar.
- 21) PS to Finance Secretary.
- 22) PAs to All Additional Secretaries/ Deputy Secretaries in Finance Department.
- 23) All Section Officers/Budget Officers in Finance Department.
- 24) Mr. Jabir Hussain Bangash, President, Class-IV Association, Civil Secretariat, Khyber Pakhtunkhwa, Peshawar.
- 25) Mr. Manzoor Khan, President, Civil Secretariat Driver Association Khyber Pakhtunkhwa, Peshawar.
- 26) Mr. Akbar Khan Mohmand, Provincial President, Class-IV Association, Khyber Pakhtunkhwa, Peshawar.


(MURAD AHMED)
SECTION OFFICER (FR)

Sy
Transport



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

Finance Department Civil Secretariat Peshawar <http://www.finance.gkp.pk>

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No:BO.I/FD/S-17/2020-21 (Dying Cadre)

Dated Peshawar the 22/05/2021

To

1. The Additional Chief Secretary,
Government of Khyber Pakhtunkhwa,
Planning & Development Department.
2. The Senior Member,
Government of Khyber Pakhtunkhwa,
Revenue & Estate Department.
3. All Administrative Secretaries to,
Government of Khyber Pakhtunkhwa.

Subject: - MINUTES OF THE MEETING HELD ON 19TH MAY, 2021 IN FINANCE DEPARTMENT REGARDING DECLARATION OF UNESSENTIAL REDUNDANT POSTS AS DYING CADRE

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith minutes of the meeting held under the chairmanship of Special Secretary Finance Department, Khyber Pakhtunkhwa on 19.05.2021 in the Committee Room of Finance Department, which are self-explanatory, for information and necessary action.

Yours faithfully,

Encls.as above.

(SAEED AHMAD KHAN)
BUDGET OFFICER.I

Endst: No. & Date Even.

Copy alongwith a copy of the minutes of the above mentioned meeting is forwarded for information and necessary action to the:-

1. All Budget Officers II-XI/PAC/NMAs, Finance Department with the request to decide the cases pertaining to redesignation of certain posts, proposed as dying cadre, after due process.
2. P.S to Secretary Finance.I
3. P.Ss to Special Secretary Finance including NMAs.
4. P.A to Additional Secretary (Budget), Finance Department.
5. P.A to Deputy Secretary (Budget.III), Finance Department.

BUDGET OFFICER.I

4. IRRIGATION DEPARTMENT					
S.NO	Designation	BPS	Sanctioned Posts	Filled Posts	Vacant
1	BADRAGA	3	-	-	-
2	BARKANDAZ	3	54	53	1
3	BASTA BARDAR	3	22	22	-
4	BEHISHTI	3	1	1	-
5	BLACKSMITH	5	1	1	-
6	CHAINMAN	4	10	7	3
7	FOREMAN	6	6	5	1
8	WORK MISTRI	10	10	9	1
9	DAFADAR	3	28	28	-
10	FARASH	3	1	1	-
11	SIGNALLOR	5	25	22	3
12	FERRO PRINTER		4	4	-
13	CANDIDATE ZILLADAR		4	1	3
14	APPRENTICE PATWARI		14	8	6
15	MATE		221	205	16
	Total Settled Districts		401	367	34

5. Revenue & Estate					
S.No	Designation	BPS	Sanctioned Posts	Filled Posts	Vacant
1	BEHISHTI	3	3	3	-
2	DAK RUNNER	3	15	15	-
3	DISHWASHER	3	2	-	2
4	FARASH	3	1	-	1
5	INTERNEE	1	40	25	15
6	JAREEB KASH	1	220	67	153
7	KHANSAMA	3	7	7	-
8	MISALCHI	3	1	1	-
9	NAIB QASID (JAREEB KASH)	1	60	76	(16)
10	RECORD LIFTER	3	3	3	-
11	WAITER	6	15	11	4
12	WAITER/BEARER	1	2	-	2
13	WAITER-6	6	2	2	-
14	WAITER-96	6	1	-	1
	Total Settled Districts		372	210	162
15	BEHISHTI	3	2	2	-
16	BEHISHTI	4	29	29	-
17	BEHISHTI-1	1	1	-	1
18	BEHISHTI-2	2	2	1	1
19	BEHISHTI-3	3	2	1	1
20	BEHISHTI-4	4	6	6	-
21	JAREEB KASH	3	6	6	-
22	KHALASI	3	1	1	-
23	KHANSAMA-2	2	1	-	1
24	KHANSAMA-4	4	1	1	-
	Total NMAs		51	47	4
	Grand Total		423	157	166

11

6. Public Health Engineering					
S.No	Designation	BPS	Sanctioned Posts	Filled Posts	Vacant
1	PUMP OPERATOR	6	1334	1184	150
2	ASSTT. PUMP OPERATOR	4	21	21	-
3	BARKANDAZ	3	38	35	3
4	FERRO KHALASI	3	19	18	1
5	JAMADAR	6	1	1	-
6	Total Settled District		1413	1259	154
7	BADRAGA	3	13	20	(7)
8	BARKANDAZ	3	3	3	-
9	CARPENTER-CUM-BLACKSMITH	3	1	1	-
10	DAFADAR	3	1	-	1
11	FITTER	3	2	1	1
12	COLLY	3	2	2	-
	Total NMAs		22	27	2
	Grand Total		1435	1286	156

7. Industries, Commerce and Technical Education					
S.No	Designation	BPS	Sanctioned Posts	Filled Posts	Vacant
1	DAK RUNNER	3	1	-	1
2	FARASH	3	1	1	-
3	Total Industries Settled Districts		2	1	1
4	BEHISHTI	3	11	8	3
5	BEHISHTI	4	-	1	(1)
6	SHOP ATTENDANT	3	298	113	185
7	SHOP ATTENDANT	4	4	-	4
8	TANDOORCHI	3	2	2	-
9	WAITER	3	1	1	-
10	Total Technical Education Settled		316	125	191
11	BEHISHTI	4	3	3	-
12	SHOP ATTENDANT	4	45	38	7
	Total Technical Education NMAs		48	41	7
	Grand Total		366	167	199

1. ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

12

S.No	Nomenclature of Posts	BPS	Sanctioned Posts	Filled Posts	Vacant
1	BEHISHTI	3,4,5,9	1,674	1206	476
2	CALLER	3,4,5	689	457	237
3	FARASH	3	1	1	-
4	HOUSE KEEPER	7	2	0	2
5	WATER CARRIER	3	6	45	(39)
Total Settled Districts			2,372	1709	715
7	BEHISHTI	2,3,4	355	292	63
8	CALLER	1,2,3,4	2025	1705	320
9	HOUSE KEEPER	5	1	1	-
10	TANDOORCHI	3,4	10	4	6
11	WATER CARRIER	3,4	60	53	7
Total NMAs			2,451	2,055	396
Grand Total!			4,823	3,764	1111

2. Health Department

S.NO	Designation	BPS	Sanctioned Posts	Filled Posts	Vacant
1	ASSISTANT HOUSE KEEPER	7	1	1	-
2	AYA	2	-	1	(1)
3	AYA	3	14	7	7
4	AYA	4	10	21	(11)
5	BADRAGA	3	8	6	2
6	BEHISHTI	1	-	2	(2)
7	BEHISHTI	2	-	32	(32)
8	BEHISHTI	3	675	695	(20)
9	BEHISHTI	4	-	121	(121)
10	BEHISHTI	5	-	13	(13)
11	BLACKSMITH	4	2	2	-
12	CSSD OPERATOR	12	2	-	2
13	DIETICIAN	7	2	1	1
14	HOUSE KEEPER	7	3	1	2
15	HOUSE KEEPER	10	23	15	8
16	HOUSE KEEPER	12	4	4	-
17	HOUSE KEEPER-10	10	1	-	1
18	HOUSE KEEPER-7	7	1	-	1
19	HOUSE OFFICER	17	30	10	20
20	LANGARI	3	-	8	(8)
21	MESSEUR	7	1	1	-
22	MIDWIFERY SUPERVISOR	16	3	3	-
23	MISALCHI	3	1	1	-
24	MODLER	12	1	-	1
25	PACKER	3	3	2	1
26	RECEPTIONIST	5	7	2	5
27	RECEPTIONIST	6	2	2	-
28	RECEPTIONIST	7	12	8	4
29	RECEPTIONIST	8	4	4	-
30	REFRECTIONIST	10	3	1	2
31	RESTORER	4	7	7	-
32	UTENCIL CLEANER	3	1	1	-
33	WAITER	3	1	1	-
34	WATCHMAN	2	1	1	-

2. Health Department					
S.NO	Designation	BPS	Sanctioned Posts	Filled Posts	Vacant
Total Settled Districts			823	974	(15)
35	AYA	4	1	1	-
36	BADRAGA	3	4	4	-
37	BADRAGA	4	14	12	2
38	BEHISHTI	3	251	257	(6)
39	BEHISHTI	4	21	19	2
40	BEHISHTI-1	1	-	5	(5)
41	BEHISHTI-2	2	-	3	(3)
42	BEHISHTI-3	3	62	62	-
43	BEHISHTI-4	4	42	46	(4)
44	HOUSE KEEPER	12	4	3	1
45	MESSEUR	3	1	1	-
46	MESSEUR	12	1	1	-
47	MID WIFE	6	45	1	44
48	MIDWIFE	5	143	139	4
49	MIDWIFE	6	56	50	6
50	MIDWIFE	7	7	3	4
51	MIDWIFE	12	17	4	13
52	RECEPTIONIST	7	1	-	1
53	REFRECTIONIST	16	1	-	1
54	WATER CARRIER	3	1	1	-
55	WATER CARRIER	5	38	45	(7)
56	WATER CARRIER-3	3	10	9	1
57	WATER CARRIER-4	4	33	34	(1)
Total NMAs			753	700	53
Grand Total			1576	1674	98

3. Agriculture, Livestock & Fisheries					
S.NO	Designation	BPS	Sanctioned Posts	Filled Posts	Vacant
1	BADRAGA	5	4	4	-
2	BADRAGA	7	-	1	(1)
3	BALLOON MAKER	3	2	2	-
4	BEHISHTI	3	3	3	-
7	FARASH	3	1	-	1
8	KHALASI	3	2	2	-
9	PLOUGH MAN	3	25	22	3
10	SECURITY SURGEANT	7	1	1	-
11	SEPOYEE	3	3	3	-
12	TOBACCO CURRER	10	1	1	-
13	WATCHMAN	3	6	5	1
Total Settled Districts			44	34	-
14	BADRAGA	3	10	10	-
15	BLACKSMITH	5	1	1	-
Total NMAs			55	45	10
Grand Total					

14

MINUTES OF MEETING HELD ON 19TH MAY 2021 IN FINANCE DEPARTMENT REGARDING DECLARATION OF UNESSENTIAL/REDUNDANT POSTS AS DYING CADRE

A meeting was held under the chairmanship of Special Secretary Finance, on 19.05.2021 to discuss and decide the matter regarding declaration of unessential/redundant posts in certain Departments as dying cadre. List of participants is annexed.

2. The meeting commenced with recitation from the Holy Quran. Opening the discussion, the Special Secretary Finance welcomed the participants and highlighted aims and objectives of the meeting and invited Additional Secretary (Budget), Finance Department, to initiate formal proceedings of the meeting. The Additional Secretary (Budget) invited attention of the participants towards the decision taken by the Provincial Cabinet in its Special Budget Meeting held on 19th June, 2020 that, "Finance Department shall undertake next phase of the expenditure review to realize efficiency savings as a part of an integrated sectoral review process." So, he added that the Finance Department has, initially, conducted exercise in respect of the following major Departments with technical assistance of SNG PFM team, which will be rolled over to entire Departments in due course of time.

- i) Revenue and Estate Department.
- ii) Health Department
- iii) Industries, Commerce and Technical Education
- iv) Elementary & Secondary Education Department
- v) Agriculture Department
- vi) Public Health Engineering Department
- vii) Irrigation Department

3. Thereafter, on invitation of the Additional Secretary (Budget), Finance Department the Budget Officer-I, Finance Department made detailed presentation entailing rising trend of expenditure on salary yiz-a-viz break up of proposed unessential / redundant posts to be declared as dying cadre, in the given Departments. He pointed out that Finance Department has already provided a list of unessential posts identified as redundant for confirmation before declaring the same as dying cadre. The proposed dying cadre posts of seven departments were individually discussed with the representative of each Department in the light of the budget and expenditure trend for last five years.

DECISIONS:

4. After threadbare discussion, the following key decisions were unanimously taken:

- i) All unessential/redundant posts as identified by Finance Department and confirmed by the relevant Administrative Departments (Annex.I) shall be declared as dying cadre with immediate effect. On vacation, all such posts shall stand abolished automatically.
- ii) All vacant posts falling in the category of dying cadre shall be abolished forthwith subject to verification of the relevant Departments within given timelines. Otherwise, Finance Department shall take action based on the latest pay roll data on OM Module/SAP System.
- iii) The department shall communicate the list of dying cadre and break up of vacant posts, to Finance Department, till close of business on 20th May, 2021

positively. In case of failure, all identified posts shall be declared as dying cadre and all vacant posts will be treated as abolished, with immediate effect.

- iv) The Departments will be at liberty to propose any such post to Finance Department for re-designation on case to case basis based on viable justification.
- v) The Departments shall provide the joining and retirement date of all the employees working against the posts of dying cadre. Transfers against these posts shall be subject to approval of Finance Department.
- vi) FMIU, Finance Department shall lock all the dying cadre posts in the SAP System with immediate effect so as to avoid appointment against the posts.
- vii) All posts of Behishti, Cailer, Khalasi, Farash, Badraga and Barkandaz in all Departments shall be dying cadre with immediate effect. On vacation all such dying cadre posts shall stand abolished automatically. However, existing vacant posts will be abolished after verification by the Departments in due course of time.
- viii) Principal Accounting Officers shall make sure that no appointment is made against a vacant post of dying cadre.

5. The meeting ended with a note of thanks to and by the Chair.




Dated Mardan, the August 24, 2021

16

AUTHORITY LETTER

Mr. Fida Hussain, Assistant Social Organizer (ASO) PHE Division Mardan, is hereby authorized to submit the Joint Parawise Comments and attend the Khyber Pakhtunkhwa Service Tribunal Peshawar in service appeal No. 12168/2020 titled "Dawa Khan S/O Abdul Akbar VS Government of Khyber Pakhtunkhwa through Chief Secretary and others" on behalf of Executive Engineer PHE Division Mardan and Secretary Public Health Engineering Department, to protect the Government interest.


EXECUTIVE ENGINEER
Public Health Engineering
DIVISION MARDAN

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**Service Appeal No. 12168/2020****Dawa Khan S/O Abdul Akbar R/O Shalemar Babeini Par Hoti Tehsil and District Mardan**

_____(Petitioner)

Versus

- 1) Govt. of Khyber Pakhtunkhwa through Secretary Public Health Engineering Department, Civil Secretariat Peshawar.
- 2) Superintending Engineer Public Health Engineering Circle Mardan.
- 3) Executive Engineer PHE Division Mardan.
- 4) Executive Engineer PHE Division Charsadda.
- 5) Chief Engineer, Public Health Engineering Department, Peshawar.
- 6) Secretary Finance Department, Khyber Pakhtunkhwa.

_____(Respondents)

AFFIDAVIT

I, Fida Hussain Assistant Social Organizer, PHE Division Mardan do hereby affirm and declare on oath that the contents of the instant Index submitted by Executive Engineer PHE Division Mardan, in light of hon'ble court order dated 01/07/2021 in Service Appeal No. 12168/2020 titled "Dawa Khan Versus Government of Khyber Pakhtunkhwa through Secretary PHE Khyber Pakhtunkhwa & others" are true and correct to the best of my knowledge and belief and nothing has been concealed from the Honorable Court.

Identified by: -

Add Advocate General
Khyber Pakhtunkhwa

DEPONENT
CNIC No. 17102-3812943-5
Cell # 0346-9000819

F. Hussain

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

C.M No. _____/2021

IN

Appeal No. 12168 /2020

Dawa Khan Petitioner/Appellant

Versus

Govt of KP through Secretary Public Health Eng: & others
..... Respondents

APPLICATION FOR ALLOWING THE APPLICANT TO SUBMIT
PROCESS/ NOTICES FEE & SECURITY FEE AS PER ORDER SHEET
DATED 07.01.2021 OF THIS HONOURABLE TRIBUNAL

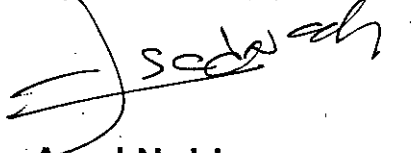
Respectfully Sheweth:

1. That the captioned case is fixed for hearing for 29.03.2021.
2. That as per directions of this honourable court, the applicant could not comply the direction of this honourable court.
3. That applicant is now ready to submit the required fee as per directions of this honourable Court.

It is, therefore, prayed that on acceptance of this application, the applicant may very kindly be allowed to submit the requisite fee.


Petitioner/Appellant

Through


Asad Nabi

Advocate,
High Court Peshawar

Dated: 18.01.2021

AFFIDAVIT

All the contents of the application are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble Court.


ADVOCATE