



INSPECTORATE OF MINES
KHYBER PAKHTUNKHWA, PESHAWAR
ATTACHED DEPARTMENT, NEAR JUDICIAL COMPLEX
KHYBER ROAD PESHAWAR
Ph: 091-9211746- Email: [iomadm@gmail.com](mailto:iomadmn@gmail.com)

No. CIM/Admn/Court Cases/Shahen/2023 3210

Dated: 22 /06/2023

To

The Registrar,
Service Tribunal Khyber Pakhtunkhwa,
Peshawar.

Subject: - SERVICE APPEAL NO. 252/2023 TITLED SHAHEEN KHAN VS GOVT: OF KHYBER PAKHTUNKHWA & OTHERS

I am directed to refer to the subject noted above and to submit herewith the Parawise Comments of subject appeal of Shaheen Khan vs Govt: of Khyber Pakhtunkhwa in original and 3 copies of the same, scheduled for hearing date on 21.07.2023 for further process, please.

Assistant Director
(Administration)
Inspectorate of Mines
Khyber Pakhtunkhwa

Endstt: No. CIM/Admn/Court Cases/Shahen/2023 _____

Dated: /06/2023

Copy forwarded to:

1. The Chief Inspector of Mines Khyber Pakhtunkhwa.
2. P.S to Secretary Minerals Development Department.
3. P.S to Secretary Finance Khyber Pakhtunkhwa.
4. Section Officer (Litigation) Minerals Development Department w/r to his letter No. SO(Lit)/MDD/2-16/2023/8894-95, dated 20.06.2022.

Assistant Director
(Administration)
Inspectorate of Mines
Khyber Pakhtunkhwa

BEFORE THE HONOURABLE KHYBER PAKTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No. 252/2023

Shaheen Khan

..... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary & others.

.... (Respondents)

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4. Authority letter

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Deponent

Hearing date 21-07-23

Peshawar

[Signature]

BEFORE THE HONOURABLE KHYBER PAKTUNKHWA SERVICE TRIBUNAL**PESHAWAR.**Khyber Pakhtunkhwa
Service TribunalService Appeal No. 252/2023Diary No. 6189

Shaheen Khan

Dated 26-06-23

..... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary & others.

.... (Respondents)

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1, 2 & 3.**Respectfully Shewith:****Preliminary Objections:**

1. That the appellant has neither come to this tribunal with clean hands nor the appeal is based on factual grounds, legal footing and is, therefore, liable to be dismissed.
2. That the appellant has no cause of action/locus standi to file the instant appeal, hence, the appeal is not maintainable in its present form.
3. That the appellant is estopped by his own conduct to file the instant appeal.
4. That the appellant in its present form is defective, bad and is liable to be dismissed.
5. That the appellant is bound to abide by law and regulations of the respondents issued from time to time.
6. That the appeal is barred by law and limitation.
7. That the appeal is bad for mis-joinder and non-joinder of necessary parties.

ON FACTS:

1. Correct.

2. Correct.
3. Correct.
4. Correct to the extent that the Government of Khyber Pakhtunkhwa vide Notification No. FD(SR-1)12-1/2011, dated 04.06.2011 has decided that **henceforth** the benefit for protection of pay to the employees of autonomous bodies on their subsequent appointment in Government service is not admissible as employees of autonomous bodies are not civil servants within the meaning of Civil Servant Act, 1973. Therefore, there is an express bar in this notification for such autonomous bodies. However, the benefit of pay protection will be admissible to employees of such autonomous organizations who have adopted scheme of Basic Pay Scale in toto on their appointment in Government offices provided they have applied for the post through proper channel (**Annex-A**).
5. Correct to extent that the Hon'ble Khyber Pakhtunkhwa Service Tribunal had granted pay protection to Engr. Mian Farooq Iqbal and Finance Department had granted arrears to the same Officer on personal basis. The appellant had submitted his departmental appeal on the same lines, however, Finance Department had regretted his appeal on ground that the Finance Department's policy letter No. FD(SR-I)12-1/2011, dated 04.06.2011 is applicable from the date of its issuance while the officer concerned was appointed before applicability/issuance of the above mentioned policy, therefore, the case is regretted being not covered under the said policy (**Annex-B**).
6. Needs no comments. (Pertains to record).

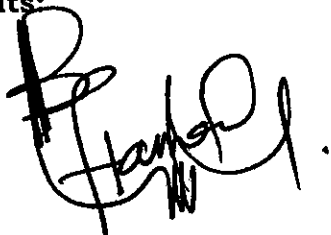
ON GROUNDS:

- A. Incorrect. The Finance Department had rejected his appeal on the ground that the appellant was appointed before the issuance of the said Notification of Finance Department dated 04.06.2011, therefore, he was not eligible for protection of pay.
- B. Incorrect. The appellant was not entitled for protection of pay as he was appointed before the issuance of the said Notification of Finance Department dated 04.06.2011.
- C. Correct to the extent that the same relief was granted to Engr. Mumtaz on lines of Engr. Mian Farooq Iqbal, however, the same was granted to only Engr. Mumtaz and not all the appellants.
- D. Correct to the extent that the relief was granted to Engr. Mian Farooq on personal basis only.
- E. Correct to the extent that the relief was extended to the individuals by the Honorable tribunal, however, the said relief was granted on individual basis.
- h* F. Incorrect. No right has been violated. The appellant was not eligible for pay protection as he was appointed before the issuance of the Notification of Finance Department dated 04.06.2011. *h*
- G. Needs no comments. (Pertains to record).

PRAYERS:

It is therefore, humbly prayed that, the appeal of appellant does not hold a firm ground which may kindly be dismissed.

Respondents:



Secretary,
Minerals Development Department,
Khyber Pakhtunkhwa



Secretary,
Finance Department,
Khyber Pakhtunkhwa

SECRETARY
to Govt of Khyber Pakhtunkhwa
Minerals Dev: Deptt:



Chief Secretary,
Government of Khyber Pakhtunkhwa

BEFORE THE HONOURABLE PESHAWAR HIGH COURT, PESHAWAR.Service Appeal No. 252/2023

Shaheen Khan

..... (Appellant)

VERSUS

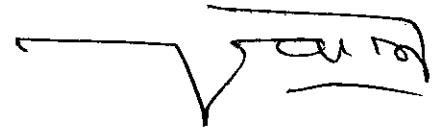
Government of Khyber Pakhtunkhwa through Chief Secretary & others.

.... (Respondents)

AFFIDAVIT

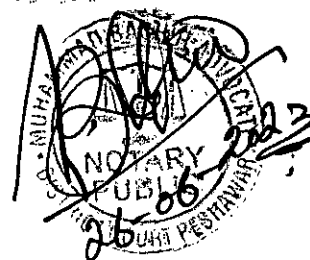
I, **Zaka Ullah**, Assistant Director Administration, Inspectorate of Mines, Khyber Pakhtunkhwa, Peshawar, do hereby solemnly affirm and declare that the contents of the accompanying **reply** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defense have been struck off.

DEPONENT


CNIC: 11201-2820198-7

Cell No. 0345-5736343

ATTESTED

Amman - A

9

TO BE SUBSTITUTED FOR THE SAME NUMBER AND DATE



**GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)**

NO. FD (SR-1) 12-1/2011

Dated Peshawar the: 4th June, 2011

TO:

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

Subject: FIXATION / PROTECTION OF PAY ON APPOINTMENT FROM ONE POST TO ANOTHER.

Dear Sir,

I am directed to refer to the Government of Pakistan, Finance Division, Islamabad letter No. F.No.4(2)R-II/1996-235/2010, dated 08-06-2010 and Judgment dated 01-08-2009 of Federal Service Tribunal, Islamabad, in appeal No.1921(R) CS/2005 in respect of Mr. Sajjad Rashid and others on the subject noted above and to state that in pursuance of the above quoted letter, the Government of Khyber Pakhtunkhwa has decided that henceforth the benefit of protection of pay to the employees of autonomous bodies on their subsequent appointment in Government Service is not admissible as the employees of autonomous bodies are not civil servants within the meaning of Civil Servant Act 1973. However, the benefit of pay protection will be admissible to employees of such autonomous organizations who have adopted scheme of basic pay scales in to-to on their appointment in government offices, provided they have applied for the post through proper channel.

Yours Faithfully,

(MASOOD KHAN)
Deputy Secretary (Reg-II)

Assistant Director
(Administration)
Inspectorate of Mines
Khyber Pakhtunkhwa

Copy forwarded for information to:

1. All the Heads of Autonomous / Semi Autonomous Bodies of Khyber Pakhtunkhwa
2. Director, Local Fund Audit, Khyber Pakhtunkhwa, Peshawar.
3. Director, Treasuries and Accounts, Khyber Pakhtunkhwa, Peshawar.
4. All District Comptrollers of Accounts, Senior District Accounts Officers and District/Agency Accounts Officer in Khyber Pakhtunkhwa / FATA.
5. Director, FMIU, Finance Department
6. PS to Minister Finance, Khyber Pakhtunkhwa.
7. P.S to Secretary Finance.
8. PA to Spl. Secretary Finance.

(SHAUKAT ULLAH)
Section Officer (SR II)

GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

(24/11)

Finance Department (Civil Engineering) Peshawar (1) (2) (3) (4) (5) (6) (7) (8) (9) (10) (11) (12) (13) (14) (15) (16) (17) (18) (19) (20) (21) (22) (23) (24) (25) (26) (27) (28) (29) (30) (31) (32) (33) (34) (35) (36) (37) (38) (39) (40) (41) (42) (43) (44) (45) (46) (47) (48) (49) (50) (51) (52) (53) (54) (55) (56) (57) (58) (59) (60) (61) (62) (63) (64) (65) (66) (67) (68) (69) (70) (71) (72) (73) (74) (75) (76) (77) (78) (79) (80) (81) (82) (83) (84) (85) (86) (87) (88) (89) (90) (91) (92) (93) (94) (95) (96) (97) (98) (99) (100)

NO. FD(SR-1)12-4/2020/Mr. Shaheen Khan
Dated Peshawar the: 17-01-2023

To

Amn - B (8)

The Section Officer (Estt),
Minerals Development Department,
Peshawar.

Subject: - GRANT OF PAY PROTECTION / FIXATION BENEFIT SERVED. PMDC PROJECT SERVICE.

I am directed to refer to your letter's No. SOE/MDD/1-13/PF/Shaheen/5213-15 dated 18.12.2022 on the subject noted above and to state that Finance Department's policy letter No.FD(SR-1)12-1/2011 dated 04.06.2011 is applicable from the date of its issuance while the officer concerned was appointed before applicability/issuance of the above mentioned policy, therefore, the case is regretted being not covered under the said policy, please

M/F
[Signature]
SECTION OFFICER (SR-1)

[Signature]
Director
Administration
Government of Mines
Khyber Pakhtunkhwa



INSPECTORATE OF MINES
KHYBER PAKHTUNKHWA, PESHAWAR
ATTACHED DEPARTMENT, NEAR JUDICIAL COMPLEX
KHYBER ROAD PESHAWAR
Ph: 091-9211746- Email: [iomadm@gmail.com](mailto:iomadmn@gmail.com)

No. CIM/Admn/Court Cases/2023/ 3272

Dated: 26/06/2023

To

The Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Subject: - **SERVICE APPEAL NO. 252/2023 TITLED SHAHEED KHAN VS GOVT:
OF KHYBER PAKHTUNKHWA & OTHERS.**

I am directed to refer to the subject noted above and to state that the competent authority has been pleased to authorize Mr. Zaka Ullah, Assistant Director (Administration) to represent the respondent No. 1, 2, & 3 in the subject case, please.

Assistant Director
(Administration)
Inspectorate of Mines
Khyber Pakhtunkhwa