

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. 2016/2022

Khadim Hussain, Naib Qasid (Retired)

Appellant

Versus

1. Secretary to Government of Khyber Pakhtunkhwa
Irrigation Department Peshawar
2. Chief Engineer Irrigation Department Peshawar.

Respondents

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FAIZ UL HAQ

(Superintendent)

Irrigation Department Peshawar

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 2016 of 2022

Mr. Khadim Hussain

Appellant

Versus

- 1. Secretary to Govt: of
Khyber Pakhtunkhwa Irrigation Department Peshawar
- 2. Chief Engineer Irrigation Department Peshawar

Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 01 & 02

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 6318

Respectfully Shewith that the respondents submit as under:

Dated 6/7/2023

Preliminary Objections:

- 1. That the appellant has got no cause of action to file the instant appeal.
- 2. That the appellant has not come to this Honorable Tribunal with clean hands.
- 3. That the appeal is bad for mis joinder and non joinder of necessary parties.
- 4. That the appellant has no locus standi to file the instant appeal.
- 5. That the appeal is barred by law and limitation.

Objections on Facts:

- 1. Correct to the extent that the appellant was appointed as Sweeper BS-01 by the Project Coordinator, Pehur High Level Canal Project vide No. 1088/PC/PHLC/Misc: dated: 01-10-1995.
- 2. Correct to the extent that the appellant was transferred to WAPDA vide Secretary to Govt: of Khyber Pakhtunkhwa Irrigation Department Peshawar letter No. SO(E)/IRR/4-1/95/9434-47, dated: 24-08-1998 as per entry on page-05 of service book part-I. However, the Accountant General Khyber Pakhtunkhwa vide his letter No. Pension/K-23/2020-21/1203, dated: 20-04-2021 raised the observations that the project period is not countable towards pension and the CP Fund deducted/made during the deputation period at WAPDA was irregular.
- 3. Reply as per para-1 & 2 above.
- 4. Reply as per para-1 & 2 above.
- 5. Correct to the extent that the appellant is cardiac patient and was rendered incapacitated by the Standing Medical Board dated: 09-09-2020 and has been retired on medical grounds dated: 22-09-2020. However, the appellant has not rendered 25 yeas service rather 15 years and 09 months and 09 days regular service at his credit as his services were regularized with effect from 01-01-2005.

- 6. Correct. In reply it is submitted that the Accountant General Khyber Pakhtunkhwa vide his letter No. Pension/K-23/2020-21/1203, dated: 20-04-2021 raised the observations that the project period is not countable towards pension and also the CP Fund deducted/made during the deputation period at WAPDA is irregular.
- 7. Correct. Reply as per para-6 above.
- 8. Correct.
- 9. The services of the appellant rendered in the project with effect from 15-10-1995 to 31-12-2004 has been treated as project period and hence cannot be counted for the purpose of pension under the law, project policy, Regularization of Services Act, passed by Provincial Government from time to time.
- 10. The appeal filed by the appellant is not worth consideration on the following grounds.

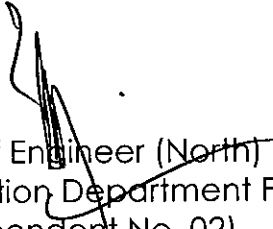
OBJECTIONS GROUNDS:


- A. In correct. The appellant was appointed as Sweeper BS-01 in Pehur High Level Canal Project vide Project Coordinator No. 1088/PC/PHLC/Misc: dated: 01-10-1995 and was subsequently transferred to WAPDA vide Secretary to Govt: of Khyber Pakhtunkhwa Irrigation Department Peshawar letter No. SO(E)/IRR/4-1/95/9434-47, dated: 24-08-1998 as per entry on page-05 of service book part-I. The CP Fund deducted/made during the deputation period at WAPDA is also irregular.
- B. In correct. The appellant was transferred from WAPDA to Irrigation Department vide order No. 9015-25/IB/A/6-E, dated: 22-12-2004 which means that the services of the appellant were regularized from the date ibid.
- C. In correct. The Accountant General Khyber Pakhtunkhwa vide his letter No. Pension/K-23/2020-21/1203, dated: 20-04-2021 has raised the observations that the project period is not countable towards pension and also the CP Fund deducted/made during the deputation period at WAPDA is irregular.

- D. In correct. As the CP Fund deducted/made during the deputation period at WAPDA is irregular, therefore, the deputation period does not affirm for entitlement for pension.
- E. Correct. However, the Accountant General Khyber Pakhtunkhwa vide his letter No. Pension/K-23/2020-21/1203, dated: 20-04-2021 has raised the observations that the CP Fund deducted/made during the deputation period at WAPDA is irregular and hence not countable towards pension.
- F. In correct. The appellant was not posted on deputation to Pehur High Level Canal Project rather the appellant was appointed as Sweeper in the said project.
- G. Correct but the Accountant General Khyber Pakhtunkhwa vide his letter No. Pension/K-23/2020-21/1203, dated: 20-04-2021 has raised the observations that the CP Fund deducted/made during the deputation period at WAPDA is irregular and is therefore not countable towards pension.
- H. In correct. The appointment of the appellant in the project was not permanent.

PRAYED

It is humbly prayed to dismiss the appeal with cost, please.


 Chief Engineer (North)
 Irrigation Department Peshawar
 (Respondent No. 02)
Chief Engineer
(North) Irr. KPE
Peshawar.


 Secretary to Govt: of Khyber
 Pakhtunkhwa Irrigation
 Department Peshawar
 (Respondent No. 01)

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 2016 of 2022

Mr. Khadim Hussain

Appellant

Versus

1. Secretary to Govt: of
Khyber Pakhtunkhwa Irrigation Department Peshawar
2. Chief Engineer Irrigation Department Peshawar

Respondents

COUNTER AFFIDAVIT

We do hereby solemnly affirm and declare that the contents of the parawise comments in Service Appeal No. 2016 of 2022 filed by Mr. Khadim Hussain are correct to the best of our knowledge and nothing has been concealed from the August Service Tribunal.

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

Secretary to Govt: of Khyber
Pakhtunkhwa Irrigation
Department Peshawar
(Respondent No. 01)

Chief Engineer (North)
Irrigation Department
Peshawar
(Respondent No. 02)
**Chief Engineer
(North) Irr. KPK
Peshawar,**



06 JUL 2023

9	10	11	12	13		14	15
				Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitabale to another Government		
			Appointed as Sweeper by the Project Coordinator PHLC Project Peshawar vide order No. 1088/PE/PHLC/mide dated: 10-10-95, and reported arrival on 15-10-95 (F.N) for duty.				
	30 ¹¹ / ₉₆		Annual Increment				Services for the period from 15-10-95 to 30-11-96, verified from the pay rolls.
	30 ¹¹ / ₉₇		Annual Increment				Services for the period from 1-12-96 to 30-11-97 verified from the pay rolls of this office.
			Transferred by Secretary to Govt of NWFP, Irr. Deptt Peshawar on deputation to Wapda vide Notification No. SO(E) Irr./4-1/95/9434-47 dtg 24-8-98 and reported arrival on 1-9-98 (F.N).				Debit contribution of B. 52/5 DM to the period from 1-9-98 to 1-8-2001 are curable

[Signature]
PROJECT CO-ORDINATOR,
Peshur High Level Canal Project,
Warsak Road Peshawar.

[Signature]
PROJECT CO-ORDINATOR,
Peshur High Level Canal Project,
Warsak Road Peshawar.

[Signature]
PROJECT CO-ORDINATOR,
Peshur High Level Canal Project,
Warsak Road Peshawar.

[Signature]
PROJECT CO-ORDINATOR,
Peshur High Level Canal Project,
Warsak Road Peshawar.

[Signature]
PROJECT CO-ORDINATOR,
Peshur High Level Canal Project,
Warsak Road Peshawar.

[Signature]
PROJECT CO-ORDINATOR,
Peshur High Level Canal Project,
Warsak Road Peshawar.

[Signature]
PROJECT CO-ORDINATOR,
Peshur High Level Canal Project,
Warsak Road Peshawar.

[Signature]
PROJECT CO-ORDINATOR,
Peshur High Level Canal Project,
Warsak Road Peshawar.

Deputy Project Director (DOI)
PHLC Project of Sphati,
District: Swabi.

[Signature]
Account Officer
Pension Branch

Attested *[Signature]* 24/11/98
[Signature] 29/11/98
Administrative Officer
O/o Chief Engineer (N)
Irrigation Deptt: Peshawar

9	10	11	12	13		14	15
				Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitible to another Government		
Signature and name of the head of the office or other attesting officer in cases 1 to 8	Date of termination of appointment	Reason of termination (such as promotion, transfer, dismissal, etc.)	Signature of the head of the office or other attesting Officer	Period	Government to which debitible	Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure, or reward or praise of the Government Servant
			Appointed as Sweeper by the Project Coordinator PHLC Project Peshawar vide Order No. 1088/PE/PHLC/MSD dated: 10-10-95, and reported arrival on 15-10-95 (F.N) for duty.				
	30/11/98		Annual Increment				Services for the period from 15-10-95 to 30-11-98, verified from the pay rolls.
	30/11/97		Annual Increment				Services for the period from 1-12-96 to 30-11-97, verified from the pay rolls of this office.
			Transferred by Secretary to Govt of NWFP, Irr. Deptt Peshawar on deputation to Wapda vide Notification No. SO(CE) Irr/4-1/95/A434-47 dt 24-8-98 and reported arrival on 1-9-98 (F.N).				Debit contribution of B. 502/50 DM. to the period from 1-9-98 to 31-8-2001 are curable

PROJECT CO-ORDINATOR,
Peshur High Level Canal Project,
Warsak Road Peshawar.

PROJECT CO-ORDINATOR,
Peshur High Level Canal Project,
Warsak Road Peshawar.

PROJECT CO-ORDINATOR,
Peshur High Level Canal Project,
Warsak Road Peshawar.

PROJECT CO-ORDINATOR,
Peshur High Level Canal Project,
Warsak Road Peshawar.

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PROJECT CO-ORDINATOR,
Peshur High Level Canal Project,
Warsak Road Peshawar.

PROJECT CO-ORDINATOR,
Peshur High Level Canal Project,
Warsak Road Peshawar.

PROJECT CO-ORDINATOR,
Peshur High Level Canal Project,
Warsak Road Peshawar.

Deputy Project Director (DOI)
PHLC Project at Soghati,
District: Swabi.

Account Officer
Peshur Branch

Attested
Administrative Officer
Old Chief Engineer (N)
Irrigation Deptt. Peshawar

No. Pension/K-23/2020-21/1203

dated 20-04-2021

To

The Administrative Officer
O/o the Chief Engineer (South),
Irrigation Department Peshawar.

Subject: - Pension Paper in R/O Mr Khadim Hussain Naib Qasid BPS-04
Irrigation Department


Memo:-

Please refer to your letter No. 1623/IB/A/3-E, dated 29-03-2021 on
the above subject.

Returned in original with the remarks that the Project Service is not
countable toward Pension . Also the C.P Fund contribution deducted / made
during the Deputation period at WAPDA are irregular.

H.A.D Section advise the pension Section to return the case with
instruction to Department to take up the case with the Establishment &
Administration Department for guidance and clarification please.

Original Pension Paper and Service Book are enclosed.

Attested

Accounts Officer
Administrative Officer
O/o Chief Engineer (N)
Irrigation Dept: Peshawar

No Pension/K-23/2020-21/1203 Date 20-4-2021

To

The Administrative Officer
to the Chief Engineer (Govt)
Irrigation Dept Peshwar.

Subject: Pension Papers in Govt. Irrigation
Department N/Paid BPS-04 for Dept.

Memorandum

Please refer to your letter No 1623/9B/
14/3-15 dated, 23-3-2021 on the above subject -

Returned in original with the remarks

that the project service is not countable
towards Pension. Also the C.P.Fund contribution
deducted / made during the deputation period
at WAPDA are irregular.

HAD Section advise the Pension
Section to return the case with instructions
to Dept to take up the case with Estt. &
Admini Dept for guidance and
clarification please -
original Pension proposal 6/13052
are enclosed -

Yours
Officially

M/S Officer
19/4

21/4/2021

27/4

(Signature)

Handwritten notes in Urdu



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8

OFFICE OF THE
MEDICAL SUPERINTENDANT
SERVICES HOSPITAL, PESHAWAR

Phone: (Off) 091 9210500 (Exch) 091 9223472 Fax: 091-9210543

2997-98 /MS/SMB/2020-21

Dated 09/09/2020

Administrative Officer
Chief Engineer (North)
Irrigation Department Peshawar

STANDING MEDICAL BOARD

With reference to your office letter No. 1886/North/A-I/17-E Dated Peshawar 20/08/2020 addressed to Director General Health Services Khyber Pakhtunkhwa on the subject noted above.

Mr. Khadim Hussain Naib Qasid was examined by the Standing Medical Board in this office on 02/09/2020. The proceedings of the Standing Medical Board are sent herewith for further necessary action.

[Signature]
Chairman
Standing Medical Board
Medical Superintendent
Police/Service Hospital
Peshawar

- Director General Health Services Khyber Pakhtunkhwa for information with reference to his letter No. 4781-82/Medical Dated 25/08/2020.

Attested

[Signature]
Administrative Officer
Chief Engineer (N)
Irrigation Deptt: Peshawar

A-E
[Signature]
10/9/2020

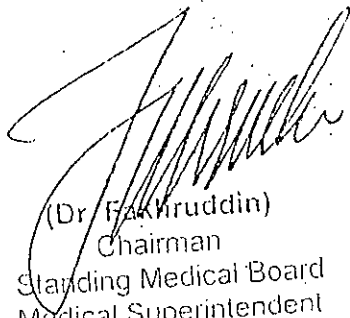
OFFICE OF C.E (North) IRR: DEPTT:	
Mich Dairy No. 5809	
Date 09/09/2020	
Ce	DD(F)
<i>[Signature]</i>	DD(D)
-09/09/2020	T.O
	C.C

OFFICE OF THE CHAIRMAN STANDING MEDICAL BOARD/MEDICAL SUPERINTENDENT POLICE/SERVICES, HOSPITAL PESHAWAR.

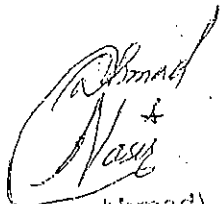
The Standing Medical Board comprising the following members assembled in the office of the Medical Superintendent Police/Services, Hospital Peshawar to examine Mr Khadim Hussain.

The Standing Medical Board referred the patient to Cardiologist Services Hospital Peshawar who is of the opinion that he is a known case of ischemic heart disease, post MI. He is still symptomatic despite GDMT. He is not fit for duties. The Standing Medical Board agrees with the opinion of Cardiologist. He is unfit for Govt. job. Therefore, he may be boarded out on medical grounds as he is permanently incapacitated.

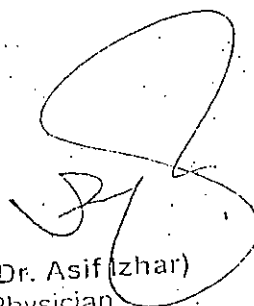
HOSPITAL PESHAWAR
DATED: 02/09/2020



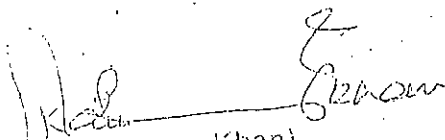
(Dr. Fakhruddin)
Chairman
Standing Medical Board
Medical Superintendent
Police/Services, Hospital,
Peshawar.



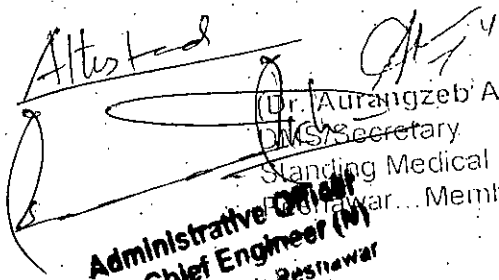
(Dr. Naseer Ahmad)
Ophthalmologist
Police/Services Hospital,
Peshawar. Member



(Dr. Asif Izhar)
Physician
Police/Services, Hospital
Peshawar. Member



(Dr. Kamran Khan)
Orthopedic Surgeon
Standing Medical Board
Police/Services Hospital, Peshawar



(Dr. Aurangzeb Afridi)
DMS/Secretary
Standing Medical Board
Police/Services Hospital, Peshawar... Member...
Administrative Officer
Old Chief Engineer (N)
Irrigation Dept. Peshawar



OFFICE OF THE CHIEF ENGINEER (NORTH)
IRRIGATION DEPARTMENT PESHAWAR
Phone 9212117 Email chiefnorthirr@gmail.com

No. 2384 /North/A-1/17-E

Dated Peshawar the 22/09/2020

OFFICE ORDER:

In term of Clause 3.3 of the Khyber Pakhtunkhwa Civil Servants Pension Rules, and Orders. Mr. Khadim Hussain Naib Qasid of this office has retired from service w.e.f. 02.09.2020 on medical/invalidation grounds. The case was referred to the Standing Medical Board for examination. The Board examined the individual on 02.09.2020 and recommended that he may be boarded out on medical grounds as being permanently incapacitated. The date of birth of the official is 14.12.1969 at the time of entrance into government service on 15.10.1995 as per official record.

CHIEF ENGINEER (NORTH)

Copy of the above is forwarded to the:

1. Chief Engineer (South) Irrigation Department, Peshawar for information and necessary action please.
2. Accountant General Khyber Pakhtunkhwa, Peshawar for information and necessary action please.
3. Cash & Bill Assistant (local) for information and further necessary action please.
4. Official concerned for information please.

Administrative Officer
O/o Chief Engineer (N)
Irrigation Deptt: Peshawar

OFFICE OF THE CHIEF ENGINEER
IRRIGATION DEPARTMENT NWFP

NO. 9015-25 /IB/A/6-E,
Dated Peshawar the 22/12/2004/.

OFFICE ORDER

In pursuance of the summary approved by the Minister for Irrigation and Power Department, received vide Secretary to Government of NWFP Irrigation and Power Department letter No. SO(E)IRR:/5-2/70, dated 18-12-2004, on promotion of Class-IV employees of Irrigation Department NWFP, the following postings / transfers amongst the Junior Clerks are hereby ordered with immediate effect in the public interest.

SL: NO	NAME	PRESENT POSTING	PROPOSED POSTING	REMARKS
1	Mr. Wasal Khan Junior Clerk	Chief Engineer (Development) Office Peshawar	As Junior Clerk Chief Engineer (Development) Office Peshawar	Vice No.3
2	Mr. Fazle Rehman Junior Clerk	Chief Engineer (Development) Office Peshawar	As Junior Clerk Chief Engineer (O&M) Office Peshawar	Against the vacant post
3	Mr. Fasihur Rehman Junior Clerk	Chief Engineer (Development) Office Peshawar	As Junior Clerk Chief Engineer (O&M) Office Peshawar	-do-
4	Mr. Iqbal Shah Junior Clerk	Flood and Drainage Division Peshawar	As Junior Clerk Flood and Drainage Circle Peshawar	Vice No.5
5	Mr. Muhammad Arshad Junior Clerk	Flood and Drainage Circle Peshawar	Chief Engineer (O&M) Office Peshawar.	Against the vacant post
6	Mr. Raziullah Junior Clerk	Chief Engineer (Development) Office Peshawar	As Junior Clerk Project Division for Small Irrigation Schemes Peshawar	-do-
7	Mr. Manzoor Junior Clerk	Chief Engineer (O&M) Office Peshawar	As Junior Clerk Chief Engineer (O&M) Office Peshawar	-do-
8	Mr. Irshad Ahmad Junior Clerk	Under transfer from F&D Division Pesh: to Project Division for SIS Peshawar	Flood & Drainage Division Peshawar	Retained against his original post
9	Mr. Khadim Hussain Chowkidar	National Drainage Programme Cell Peshawar	As Naib Qasid Chief Engineer (Dev:) Office Peshawar	Vice No.1

[Signature]
SUPERINTENDING ENGINEER
(HEADQUARTERS) 22/12

C.C

1. Private Secretary to Minister for Irrigation and Power Department.
2. Secretary to Government of NWFP Irrigation and Power Department with reference to his letter No. SO(E)IRR:/5-2/70, dated 18-12-2004,
3. Chief Engineer (Development) Irrigation Department NWFP Peshawar.
4. Provincial Coordinator NDP Cell Peshawar,
5. Accountant General NWFP Peshawar.
6. Superintending Engineer, Flood and Drainage Circle Peshawar,
7. Superintending Engineer, Small Irrigation Schemes Circle Peshawar.
8. Executive Engineer, Project Division for Small Irrigation Schemes Peshawar
9. Executive Engineer, Flood and Drainage Division Peshawar.
10. Cash and Bill Clerk (Local),
11. Officials concerned

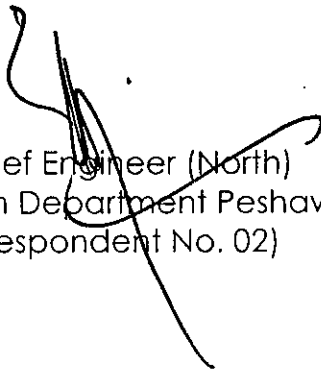
[Signature]
Attested

[Signature]
SUPERINTENDING ENGINEER
(HEADQUARTERS)

[Signature]
Administrative Officer
O/o Chief Engineer (N)
Irrigation Deptt. Peshawar

POWER OF ATTORNEY

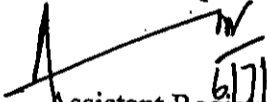
Mr. Faizul Haq Superintendent BS-17 (North) Irrigation Department Peshawar is hereby authorized to attend the Khyber Pakhtunkhwa Service Tribunal Peshawar on behalf of Respondent No. 01 & 02 in connection with Service Appeal No. 2016 of 2022 filed by Mr. Khadim Hussain v/s Govt: of Khyber Pakhtunkhwa Irrigation Department Peshawar.


Chief Engineer (North)
Irrigation Department Peshawar
(Respondent No. 02)

Cost of Rs. 3000/ received in Service Appeal No. 2016/2022

Titled Khadij Hussain VS. Govt. OF KP Secretary irrigation

in the office of Assistant Registrar, Dated: 6 / 7 / 2023.


6/7/23
Assistant Registrar
Khyber Pakhtunkhwa
Service Tribunal
Peshawar