


FORM OF ORDER SHEET

Court of _____

Appeal No. _____

1408/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	22/06/2023	<p>The appeal of Mr. Noor Muhammad resubmitted today by Mr. Muhammad Ijaz Mohmand Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on.</p> <p>By the order of Chairman  REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. 1408 /2023

Dr. Mukhtiar Khan, Agricultural Inspector (OPS).....Appellant

VERSUS

Govt. of K.P through Chief Secretary and others..... Respondents

I N D E X

S.No.	Description of documents.	Annexure	Dated
1)	Memo of appeal with affidavit.		1-5
2)	Application for condonation of delay with affidavit.		6-7
3)	Addresses of the parties.		8
4)	Copies of the service book and appointment order and B"	A-B	9-21
5)	Copies of the promotion order and educational testimonials	C-D	22-23
6)	Copy of departmental appeal	E	24-25
7)	Copy of service appeal and order 05.07.2019	F-G	26-31
8)	Copies of execution petition and order dated 22.11.2022	H-I	32-40
9)	Other documents inquiry etc		41-44
10)	Wakalatnama.		45

Appellant

Through

M. Ijaz Mohmand

Qaiser Hussain

&

Murad Ali Safi
Advocates, Peshawar

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. 1408 /2023

Dr. Mukhtiar Khan, Agricultural Inspector (OPS)
O/O the Agriculture (Extension) Department
Tribal District Bajaur.....Appellant

VERSUS

- 1) Govt. of Khyber Pakhtunkhwa, through Chief Secretary, Civil Secretariat, Peshawar.
- 2) Secretary Finance Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
- 3) Director General, Agriculture (Extension) Khyber Pakhtunkhwa, Peshawar.
- 4) District Director Agriculture Tribal District Bajaur.
- 5) Director, Coordination Planning and Monitoring HQ Office, Bajaur
- 6) Deputy Director Horticulture HQ Office, Bajaur.
- 7) Establishment Superintendent HQ Office, Bajaur.....Respondents

APPEAL U/S 4 OF SERVICE TRIBUNAL
ACT, 1974 FOR DIRECTING THE
RESPONDENTS TO REGULARLY
PROMOTE THE APPELLANT ON THE
POST OF AGRICULTURE INSPECTOR

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(BPS-16) FROM THE DATE WHEN APPELLANT WAS PROMOTED ON ACTING CHARGE BASIS i.e. 15.05.2009 AND AGAINST THE ORDER DATED 22.11.2022 WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT WAS DISMISSED.

Prayer:

On acceptance of this appeal, order dated 22.11.2022 may please be set aside and respondents may very kindly be directed to regularly promote the appellant on the post of Agriculture Inspector (BPS-16) when the appellant was promoted on acting charge basis i.e. 15.05.2009.

Any other remedy which this Hon'ble Tribunal deems fit in the circumstances of the case may kindly also be granted.

Respectfully Sheweth:-

Appellant humbly submits as under:-

- 1) That appellant having the requisite qualification was initially appointed as Field Assistant in the Agriculture Department vide order dated 13.02.1997. Since then appellant is serving the agriculture department quite efficiently and upto the entire satisfaction of his superior. (Copies of the service book and appointment order are attached as Annexure "A and B").
- 2) That after serving the Agriculture Department for more than 24 years and higher qualification of Ph.D degree the appellant was promoted to the post of Agriculture Inspector from the post Field Assistant on acting charge basis (OPS) vide order

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dated 15.05.2009. Despite vacant post and eligibility of the appellant the authorities promoted the appellant on acting charge basis on the post of Agriculture Inspector. (Copies of the promotion order and educational testimonials are attached as Annexure "C and D").

- 3) That it is very pertinent to mention that the appellant is the senior most employee of the Agriculture Department but inspite of that appellant is till working as Agriculture Inspector in his own pay and scale.
- 4) That appellant filed departmental appeal dated 01.02.2013 before respondent No.1 (the then Additional Chief Secretary FATA), which was not decided in the stipulated period of 90 days. (Copy of departmental appeal is Annexure "E").
- 5) That being aggrieved the appellant preferred S.A.No.922/2013 before this Hon'ble Tribunal on 22.05.2013, in which this Hon'ble Tribunal was pleased to "direct that the departmental appeal of the appeal would be decided within a period of 60 days through speaking order in accordance with law and rules and order of the departmental appeal may be communicated to the appellant and thereafter if the appellant was aggrieved from the appellate authority he may approach this Hon'ble Tribunal for his grievance" vide order dated 05.07.2019. (Copy of service appeal and order are attached as Annexure "F and G").
- 6) That despite the above mentioned directions issued by the hon'ble Service Tribunal vide order dated 05.07.2019, the respondents did not decide the departmental appeal within stipulated time, therefore, the appellant filed execution petition before the hon'ble Service Tribunal, resultantly the respondents dismissed the departmental appeal of the

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appellant on 22.11.2022. (Copies of execution petition and order dated 22.11.2022 are attached as Annexure "H and I").

- 7) That being aggrieved, the appellant approaches this Hon'ble Tribunal on the following amongst other grounds:

GROUND

- A. Because not regularizing the services of appellant on the post of Agriculture Inspector with retrospective effect is against the law, facts and norms of natural justice.
- B. Because appellant has not been treated by the respondent department in accordance with law and rules on the subject noted above and as such the respondent-department violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973.
- C. Because despite having Ph.D degree and the seniority the respondent-department has not promoted the appellant on the post of Agriculture Inspector on regular basis.
- D. Because the respondent-department acted in arbitrary and malafide manner by not promoting the appellant on regular basis on the post of Agriculture Inspector (BPS-16).
- E. Because appellant has got experience on the post of Agriculture Inspector and having the requisite qualification and seniority for, thus he is perfectly eligible to be promoted to the post of Agriculture Inspector on regular basis from the date when appellant was promoted on acting charge basis.
- F. Because act of respondents by not regularizing the appellant to the post of Agriculture Inspector (BPS-16) is against law, service rules and norms of natural justice, hence liable to be struck down.

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- G. Because the delay, if any, in filing the instant appeal may kindly be condoned because the order was not communicated to the appellant in time and similarly the execution petition mentioned above was also pending before this Hon'ble Tribunal, which was decided on 28.11.2022 on the basis of implementation order, but the Reader of the court given dates to the appellant due to which appellant was unaware of the order/ proceedings pending before this hon'ble court as well as departmental order dated 22.11.2022.
- H. Any ground will be raise at the time of hearing with the kind permission of this Hon'ble Tribunal.

It is therefore, humbly prayed that on acceptance of this appeal, order dated 22.11.2022 may please be set aside and respondents may very kindly be directed to regularly promote the appellant on the post of Agriculture Inspector (BPS-16) when the appellant was promoted on acting charge basis i.e. 15.05.2009.

Any other remedy which this Hon'ble Tribunal deems fit in the circumstances of the case may kindly also be granted.

Dated: 10.06.2023



Appellant

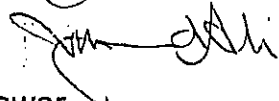
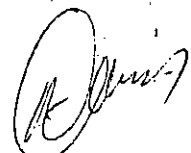
Through

M.Ijaz Mohmand

Qaiser Hussain


&
Murad Ali Safi

Advocates, Peshawar



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.

 Deponent

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. _____/202

Dr. Mukhtiar Khan, Agricultural Inspector (OPS)..... Appellant

VERSUS

Govt. of K.P through Chief Secretary and others..... Respondents

ADDRESSES OF PARTIES

APPELLANT:

Dr. Mukhtiar Khan, Agricultural Inspector (OPS)
O/O the Agriculture (Extension) Department
Tribal District Bajaur

RESPONDENTS

- 1) Govt. of Khyber Pakhtunkhwa, through Chief Secretary, Civil Secretariat, Peshawar.
- 2) Secretary Finance Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
- 3) Director General, Agriculture (Extension) Khyber Pakhtunkhwa, Peshawar.
- 4) District Director Agriculture Tribal District Bajaur.
- 5) Director, Coordination Planning and Monitoring HQ Office, Bajaur.
- 6) Deputy Director Horticulture HQ Office, Bajaur.
- 7) Establishment Superintendent HQ Office, Bajaur.



Appellant

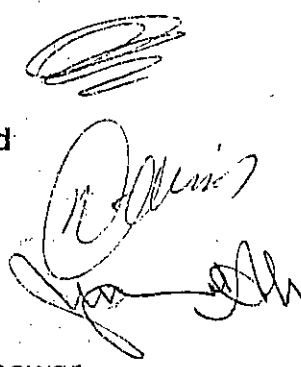
Through

M. Ijaz Mohmand

Kaiser Hussain

&
Murad Ali Safi

Advocates, Peshawar



BEFORE THE KHYBER PAKHTUNKHWA HIGH COURT TRIBUNAL
PESHAWAR

Appeal No. _____/2023

Dr. Mukhtiar Khan.....Appellant

VERSUS

Govt. of K.P. through Chief Secretary and others..... Respondents

APPLICATION FOR CONDONATION OF DELAY

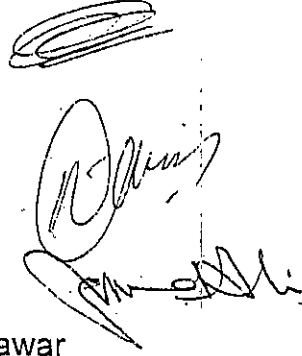
Respectfully Sheweth:

- 1) That the above titled appeal is being filed before this hon'ble Tribunal wherein next date has not yet been fixed.
- 2) That the order was not communicated to the appellant in time and similarly the execution petition mentioned above was also pending before this Hon'ble Tribunal, which was decided on 28.11.2022 on the basis of implementation order, but the Reader of the court given dates to the appellant i.e. 30.12.222, 15.01.2023, 20.02.2023, 20.03.2023 and 17.05.2023 due to which appellant was unaware of the order/ proceedings pending before this hon'ble court as well as departmental order dated 22.11.2022, hence the delay caused.
- 3) That the delay is neither deliberate nor willful but due to the reason mentioned above.
- 4) That superior courts always favour the adjudication of case on merits rather on technicalities, so the delay caused is condonable.

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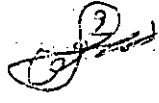
It is, therefore, humbly prayed that on acceptant of application, the delay, if any, in filing the instant appeal may kindly be condoned in the interest of justice and may be decided on merits.

Appellant
Through
M.Ijaz Mohmand
Qaiser Hussain
&
Murad Ali Safi
Advocates, Peshawar



AFFIDAVIT

I, do hereby affirm and declare on oath that the contents of the accompanying Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



Deponent

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Amx - A - B - 76
382

DIRECTORATE OF AGRICULTURE (EXTENSION) FATA, PESHAWAR.

ORDER

Dr. Mukhtiar S/O Hanifullah of Bajaur Agency is hereby offered a temporary post of Field Assistant in BPS-6(No. 1430-73-2535) with usual allowances as admissible under the rules and posted in Mohmand Agency under the Scheme Followup Horticulture Sector Development in FATA against the post of Field Assistant.

The appointment is purely on contract basis and on the winding up of the scheme his services would automatically be terminated without any notice and reasons.


1. He has to join duty at his own expenses.
2. The order is subject to the condition that he is domiciled of FATA/NWFP.
3. In case he wishes to resign at any time a 14 days notice will be necessary or in lieu thereof 14 days pay shall be forfeited.
4. He will have to produce a medical certificate of his fitness from Agency Surgeon as required under the rules before joining his duties.
5. If he accepts the post of these conditions he should report for duty to the Extra Assistant Director of Agriculture, Mohmand Agency at Chalanai and produce his original certificate in connection with age qualification etc.
6. The offer will be considered as cancelled if no reply is received from him on 27.2.97 or if he fails to report for duty upto the above date.

Sd/- (Dr. Shafiullah Khan)
Director of Agriculture,
(FATA) P e s h a w a r.

No. 754-5B /DA(FATA)
Dated Peshawar, the 13/2/97

Copy forwarded for information and necessary action to:

1. Dr. Mukhtiar S/O Hanifullah of Bajaur Agency.
2. The Deputy Director of Agriculture (FATA) Peshawar.
3. The Extra Assistant Director of Agriculture Mohmand Agency at Chalanai.
4. The Agency Account Office or, Mohmand Agency.
5. The Establishment Assistant H.Q. Office.


Director.

R.M.
Sana Zia

RECEIVED



26/2/97



حکومت
کری شتا
11086.7
نام و شمار کار
پنس و پرو
و دیگر امور
کتابت و ثبت
کتابت و ثبت
کتابت و ثبت
1908
پشور، پشاور ایجنسی

(10)

(Department only)

~~A-6~~

Amr B

3.

Verification Roll No. dated received back.

*Passed Phd in Agri. Science
for H. Khan (K) ev on session 23 Sept. 1993*

[Signature]
Left Thumb-Impression

Agri. Agency Officer
Mohmand Agency Ghailagal

Qualifications	Date	Qualifications	Date
English		First Arts	
Pushto		B.L. or B.A.	
Urdu		Membership Examination	
Plan-Drawing		Training School Final Examination	
Finger Print		Other Qualifications:—	
Drill Instructing		<i>Trained Field Assistant.</i>	
Court Duties			
Reserve Duties		<i>[Signature]</i> Extra Asst. Director of Agri. Mohmand Agency Ghailagal.	

N.B.— Line to be drawn under the qualification possessed.

ATTESTED
[Signature]

Entries in this page should be renewed or re-attested at least every five years and the Signature to lines 9 and 10 should be dated.

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Name: Mr. Mulkia Khan

Office: Bajaur Agency

Residence: Village Alizai (Chamanthal) Tehsil and
DISH Bajaur Agency.

Father's name and residence: Mr. Haniffullah

Date of birth by Christian era as nearly as can be ascertained: 14-8-1966

Exact height by measurement: 5-10

Personal marks for identification

Left hand thumb and Finger Impression of (Non-Gazetted) Officer.

Little Finger



Ring Finger



Middle Finger



Fore Finger



Thumb



9. Signature of Government Servant

10. Signature and Designation of the Head of the Office, or other Attesting Officer.

Latifa Latifi Director of Agrib
Bajaur Agency Swat

ATTESTED

1 Name of Post	2 Whether substantive or officiating and whether permanent or temporary	3 If officiating, state (i) Substantive appointment, or (ii) whether service entitles for pension under Art. 371 C.S.R.	4 Pay in substantive post	5 Additional Pay for officiating	6 Other emolument falling under the term "Pay"	7 Date of Appointment	8 Signal of Government
Field Ass II: BFS No. 6							
Trade Rev 440-73-25	officiating Temp.	-11-	-11-	1440/-	-11-	18 ² / 1997	
do	-11-	-11-	-11-	1440/-	-11-	1 ¹² / 97	
do	-11-	-11-	-11-	1440/-	-11-	1 ¹² / 98	
do	-11-	-11-	-11-	1440/-	-11-	1 ¹² / 99	
do	-11-	-11-	-11-	1440 ^{1/2}	-11-	1 ¹² / 2000	

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Name and rank of officer in charge of the office	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	Nature and duration of leave taken	Leave		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
					Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government	Government to which debitable		

[Signature]
 Extra Asstt Director of Agri
 Mehmand Agency Ghallana

Appointed as Field Assistant
 in B.P. 20.6 with effect from
 18/2/97 (FN) vide Director of
 Agricul. (PATA) Peshawar
 Office order No. 765-68
 dated 17/2/97.

[Signature]
 Extra Asstt Director of Agri
 Mehmand Agency Ghallana

[Signature]
 Extra Asstt Director of Agri
 Mehmand Agency Ghallana

Service verified from the
 Pay bill of the official
 WCF 18/2/97 to 30/11/97

[Signature]
 Extra Asstt Director of Agri
 Mehmand Agency Ghallana

[Signature]
 Extra Asstt Director of Agri
 Mehmand Agency Ghallana

Service verified from the
 Pay bill of the official WCF
 1/12/97 to 13-8-98

[Signature]
 Extra Asstt Director of Agri
 Mehmand Agency Ghallana

[Signature]
 Extra Asstt Director of Agri
 Mehmand Agency Ghallana

[Signature]
 Extra Asstt Director of Agri
 Mehmand Agency Ghallana

Service verified from the Pay bill
 of the official WCF 1/8/98 to 30/11/98

[Signature]
 Extra Asstt Director of Agri
 Mehmand Agency Ghallana

ATTESTED

[Signature]
 Extra Asstt Director of Agri
 Mehmand Agency Ghallana

Service verified from the Pay bill
 of the official WCF 1/12/98 to
 30/11/99

[Signature]
 Extra Asstt Director of Agri
 Mehmand Agency Ghallana

Service verified
 from the pay bill of the official
 WCF 1/12/99 to 31/5/2000

[Signature]
 Extra Asstt Director of Agri
 Mehmand Agency Ghallana

[Signature]
 Extra Asstt Director of Agri
 Mehmand Agency Ghallana

No. and other particulars of appointment	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	Name and position of leave taker	Allocation of leave (leave on average pay and leave for which leave salary is payable to another Government)	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
					Period		
							<p>Service verified from the pay bill of the official Mr. F. 11/2/2000 to 30/11/2007</p> <p><i>[Signature]</i> Extra Assist Director of Agr. Suburban Agency Bhallasa</p>
							<p>Service verified from the pay bill of the official Mr. F. 11/2/2007 to 30/9/2008</p> <p><i>[Signature]</i> Extra Assist Director of Agr. Suburban Agency Bhallasa</p>
							<p>Pay fixed in respect of Basic pay Scale 3001 in G.S. 1065 on 21/6/2008 Mr. F. 11/2/2008 to 30/11/2008 of Mr. F. 11/2/2008 to 30/11/2008</p> <p>Mr. F. 11/2/2008 to 30/11/2008</p> <p><i>[Signature]</i> Extra Assist Director of Agr. Suburban Agency Bhallasa</p>
							<p>Service verified from the pay bill of the official Mr. F. 11/2/2002 to 30/11/2002</p> <p><i>[Signature]</i> Extra Assist Director of Agr. Suburban Agency Bhallasa</p>
							<p>Service verified from the pay bill of the official Mr. F. 11/2/2002 to 30/11/2002</p> <p><i>[Signature]</i> Extra Assist Director of Agr. Suburban Agency Bhallasa</p>

Extra Assist Director of Agr. Suburban Agency Bhallasa

30/11/07 At Bhallasa

Extra Assist Director of Agr. Suburban Agency Bhallasa

Extra Assist Director of Agr. Suburban Agency Bhallasa

Extra Assist Director of Agr. Suburban Agency Bhallasa

Extra Assist Director of Agr. Suburban Agency Bhallasa

Service verified from the pay bill of the official Mr. F. 11/2/02 to 30/11/02

Extra Assist Director of Agr. Suburban Agency Bhallasa

1 Name of Post	2 Whether substantive or officiating and whether permanent or temporary	3 If officiating, (i) Substantive position, or (ii) whether service counts for pension under Art. 371 C.S.R.	4 Pay in substantive Post	5 Additional Pay for officiating	6 Other emolument falling under the term "Pay"	7 Date of Appointment	8 Signature of Government Officer
Field Assst. D.P.S. No-6 SR. 2160-110-5460	officiating			2380/-		12/2004	
Revised BPS-6 R-2485-125-6225/-	Temp			2735/-		7/2005	
						12/2005	
				2985/-		12/06	
R. B.S no 6 SR. 2850-145-7200				3040/-		2/2007	
				3525/-		12/2007	

(17)

(18)

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	Nature and duration of leave taken	Leave		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
				Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government	Period Government to which debitable		
30-11-2004	A/Increment	<i>[Signature]</i>					Service verified for the pay bill of the official w.e.f. 1-2-03 to 31/7/04.
30-11-2005		Extra Asstt. Director of Agri Mohmand Agency Ghallani					Service verified for the pay bill of the official w.e.f. 1-8-2004 to 30-11-2004
30-11-2005		Extra Asstt. Director of Agri Mohmand Agency Ghallani					Service verified for the pay bill of the official w.e.f. 1-8-2004 to 30-11-2004
30-11-2005		Extra Asstt. Director of Agri Mohmand Agency Ghallani					Service verified for the pay of the official w.e.f. 1/12/04 to 30/11/05
30-11-2005		Extra Asstt. Director of Agri Mohmand Agency Ghallani					Service verified for the pay of the official w.e.f. 1/12/05 to 30/11/06
30-11-2006		Extra Asstt. Director of Agri Mohmand Agency Ghallani					Service verified for the pay of the official w.e.f. 1/12/06 to 30/11/07
30-11-2007		Extra Asstt. Director of Agri Mohmand Agency Ghallani					Service verified for the pay of the official w.e.f. 1/12/07 to 30/11/08
30-11-2008		Extra Asstt. Director of Agri Mohmand Agency Ghallani					Service verified for the pay of the official w.e.f. 1/12/08 to 30/11/09

Attested
[Signature]

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1	2	3	4	5	6	7	8
Name of Post	Whether substantive or officiating and whether permanent or temporary	If Officiating, state (i) Substantive appointment, or (ii) whether service counts for pension under Art. 37: C.S.R.	Pay in substantive Post	Additional Pay for officiating	Other emolument falling under the term "Pay"	Date of Appointment	Si Govern
R. B.S No 6	officiating		4305/-			7	
SB3430-175-8680	Temp					2508	
do	do		4480/-			12	
						2508	
do	do		4480/-			30	
						09	
BPS-6-3430-175-8580			4655/-			12	
						2008	
Ms. Mukhtiar F. Assit							
BPS-6-3430-175-8580			4830/-			12	
Ms. Mukhtiar F. Assit						2010	

8	7	6	5	4	3	2	1
Signal of Government	Date of Appointment	Other commitment falling under the term "Pay"	Additional pay for officiating	Pay in substantially	If Officiating, (i) Substantive appointment, or (ii) whether service exempt for pension under Art. 371 C.S.R.	Whether substantive or officiating and whether permanent or temporary	Name of Post
	1/20/11			7990/-			BPS-6-5600-990-14300/- Mr. Mulkhota P/Asstt.
	12/1/2011			8210/-			BPS-6-5600-990-14300/- Mr. Mulkhota P/Asstt.
	1/2/2011			8100			BPS-9-6200-380-17600 scale 17600/-
	12/1/2011						scale 17600/-

आयुक्त मंत्रालय, दिल्ली
आयुक्त मंत्रालय, दिल्ली

आयुक्त मंत्रालय, दिल्ली
आयुक्त मंत्रालय, दिल्ली

12/1/2011

8480/-

—

1/2/2011

8100

BPS-9-6200-380-17600

आयुक्त मंत्रालय, दिल्ली
आयुक्त मंत्रालय, दिल्ली

12/1/2011

8210/-

BPS-6-5600-990-14300/-
Mr. Mulkhota P/Asstt.

1/20/11

7990/-

BPS-6-5600-990-14300/-
Mr. Mulkhota P/Asstt.

(14)

(20)

10 Date of termination of appointment	11 Reason of termination (such as promotion, transfer, dismissal, etc.)	12 Signature of the head of the office or other attesting Officer	13 Nature and duration of leave taken	14 Leave		15 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
				Allocation of period of leave on average pay upto four months for which leave salary is debitible to another Government	Government to which debitible		

pay Revised
30/6/2011

[Signature]
Agriculture Agency Officer
Bajaur Agency At Khar

[Signature]
Agriculture Agency Officer
Bajaur Agency At Khar
Service verified from
pay bill W. e. from
1-12/2010 to 30-11-2011

A19
30/11/2011

[Signature]
Agriculture Agency Officer
Bajaur Agency At Khar

[Signature]
Agriculture Agency Officer
Bajaur Agency At Khar

[Signature]
Agriculture Agency Officer
Bajaur Agency At Khar

P. No. 243 dt: 10-10-2012
allowance upgradable
on the basis of upgradation
Attsect for 1-7-2012 to 30-11-2012
Rs. 3600/-

[Signature]
Agriculture Agency Officer
Bajaur Agency At Khar

[Signature]
Agriculture Agency Officer
Bajaur Agency At Khar

30/11/2012
Amount

[Signature]
Agriculture Agency Officer
Bajaur Agency At Khar

Service verified from the
office copy of pay bill
W. e. from 1/12/2010 to
30-11-2011.

T. 127
9/11/2013

[Signature]
Agriculture Agency Officer
Bajaur Agency At Khar

Amount upgradable
W. e. from 1/7/2011 to 30/11/2012
amount to Rs = 3070/-

ATTESTED
[Signature]

[Signature]

22

Amr C
~~D 78~~

University Grants Commission

Sector H-9; Islamabad (Pakistan). Cables: Unigrant

Telephone

An
A 7/1

No. 8-26/UCC-Secy/2000/303

Dated: 14.11.2000.

Mr. Mukhtiar Khan,
Village, Sara Mina Konatay
P/o Khar
Bajaur Agency.

Subject:- CONFIRMATION OF EQUIVALENCE STATUS OF THE PH.D IN AGRICULTURAL SCIENCES FROM UKRARIAN STATE AGRARIAN UNIVERSITY, UKRAINE

Dear Sir,

I am directed to refer to your application dated 7.2.2000 on the subject and to inform you that in terms of Protocol signed between Pakistan and former USSR and as per decision of 35th meeting of UGC Equivalence Committee, the Ph.D in Agricultural Sciences awarded to you by the Ukrainian State Agrarian University, Ukraine is treated as equivalent to Ph.D degree in the relevant field from Pakistan.

Yours sincerely,

Dr. Muhammad Latif Virk
Secretary

Attested

Extra Asstt. Director of Agril.
Mohmand Agency Chailwal.

Attested

Extra Asstt. Director of Agril.
Mohmand Agency Chailwal.

Attested

F CHARGE

(23)

DIRECTORATE AGRIC. (FATA)

Dairy No. 758

Dated 19-05-09

Annex D

DIRECTORATE GENERAL AGRICULTURE (EXTENSION) NWFP, PESHAWAR

OFFICE ORDER

Posting / transfer of the following officials is hereby ordered with immediate effect in the interest of public service.

S.No.	Name of official	From	To
1.	Fazil Akbar	Agricultural Inspector o/o Agency Agriculture Officer, Bajaur	Agricultural Inspector HQ o/o DOA, Charsadda against the vacant post.
2.	Mukhtiar	Field Assistant o/o Agency Agriculture Officer, Mohmand Agency	Agricultural Inspector (ops) o/o Agency Agriculture Officer, Bajaur vice No. 1

No TA/DA is allowed to the official at S.No. 2.

Sd/- (SAIFULLAH KHAN)
DIRECTOR GENERAL
AGRICULTURE (EXTENSION)
NWFP, PESHAWAR

No. 16/159-A/Estt/ 7575-82 /DG

Dated Peshawar: the 15 / 5 / 09

Copy forwarded to: -

1. The Director Agriculture (FATA) NWFP, Peshawar w/r to his No.2536 dated 1.5.2009.
2. The EDO Agriculture, Charsadda.
3. The District Officer Agriculture, Charsadda.
4. The Agency Agriculture Officers, Bajour and Mohmand Agency.
5. The District Account Officer, Charsadda.
6. Agency Accounts Officer, Mohmand and Bajour Agency.
7. Officials concerned
8. For information and necessary action.
8. File No. 18/1/Estt/ for record.

He/need to write

DIRECTOR GENERAL

No. 2/61-Estt: 2924-25 / DA/FATA Dated Pesh: the 23-05

- Copy to:-
- 1-The Agri:Agency Officer Mohmand Agency at Ghallanai.
 - 2-The Dy:Director of Agriculture (FATA)Peshawar for informat

ATTESTED DIRECTOR OF AGRICUL. (EXT:) FATA, NWFP, PE.

To

24

Annex-E-21

The Additional Chief Secretary FATA,
FATA Secretariat Peshawar.

SUBJECT: DEPARTMENTAL APPEAL FOR
REGULARIZATION ON THE POST OF
AGRICULTURE INSPECTOR FROM
THE DATE WHEN APPELLANT WAS
PROMOTED ON OWN PAY SCALE i.e
15.5.2009

R.SHEWETH:

- 1- That appellant having the requisite qualification was initially appointed as Field Assistant in the Agriculture Department vide order dated 13.2.1997. That since then appellant is serving the Agriculture Department quite efficiently and up to the entire satisfaction of his superior.
- 2- That after serving the Agriculture Department for more than 12 years and higher qualification of Ph.D. Degree the appellant was promoted to the post of Agriculture Inspector on acting charge basis vide order dated 15.5.2009. That despite of vacant post and eligibility of the appellant the authorities promoted the appellant on acting charge basis on the post of Agriculture Inspector.
- 3- That it is very pertinent to mention that appellant is the senior most employee of the Agriculture Department but inspite of that appellant is till working as Agriculture Inspector in his own pay and scale.
- 4- That having no other remedy appellant filed this Departmental appeal on the following grounds amongst the others:

GROUND:

- A- That not regularizing the services of the appellant on the post of Agriculture Inspector with retrospective effect is against the law, facts and norms of natural justice.
- B- That appellant has not been treated by the Agriculture Department in accordance with law and rules on the subject noted above and as such the Agriculture Department violated Article 4 and 25 of the Constitution of Pakistan

(25) (22)

C- That despite of having the Ph.D. Degree and seniority the respondent Department have not promoted the appellant on the post of Agriculture Inspector on regular basis.


D- That the Agriculture Department acted in arbitrary and malafide manner by not promoting the appellant on regular basis on the post of Agriculture Inspector.

E- That appellant has got experience on the post of Agriculture Inspector and having the requisite qualification and seniority for, thus he is perfectly eligible to be promoted to the post of Agriculture Inspector on regular basis from the date when appellant was promoted on acting charge basis.

It is therefore humbly prayed that on acceptance of this Departmental appeal the appellant may very kindly be regularized on the post of Agriculture Inspector from the date when he was promoted on acting charge basis/own pay scale i.e 15.5.2009. Any other remedy which you r good self deems fit that may also be awarded in favor of the appellant.

Dated: 1.2.2013

Appellant


Dr. Mukhtiar Field Assistant,
O/o Agency Agricultural Officer,
Bajaur Agency



(26) (5)

Annex F

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO 922 /2013

Handwritten notes and stamps:
D.W.P. Peshawar
19/5/13

Mr. Mukhtiar Khan Agricultural inspector (OPS),
O/O the Agency Agriculture Officer, Bajaur Agency..... Appellant

VERSUS

- 1- The Additional Chief Secretary FATA, FATA Secretariat, Warsak road Peshawar.
- 2- The Director Agriculture FATA, Khyber Pakhtunkhwa Peshawar.
- 3- The Secretary Finance Department, Khyber Pakhtunkhwa Peshawar.
- 4- The Agency Agriculture Officer Bajaur Agency
- 5- Respondents
Director General Agriculture (Extension) KP K Peshawar

vide order dt. 12-2-19

APPEAL UNDER SECTION- 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 FOR DIRECTING THE RESPONDENTS TO REGULARLY PROMOTED THE APPELLANT ON THE POST OF AGRICULTURE INSPECTOR (BPS- 16) FROM THE DATE WHEN APPELLANT WAS PROMOTED ON ACTING CHARGE BASIS i.e. 15-5-2009 AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the respondents may very kindly be directed to regularly promote the appellant on the post of agriculture inspector (BPS-16) from the date when appellant was promoted on acting charge basis that is 15-5-2009. Any other remedy which this august Service Tribunal deems fit that may also be awarded in favor of the appellant.

Handwritten signature and date:
22/5/13


R/SHEWETH:

- 1- That appellant having the requisite qualification was initially appointed as field assistant in the Agriculture Department vide order dated 13.2.1997. That since then appellant is serving the Agriculture department quite efficiently and up to the entire satisfaction of his superior. (Copies of the service book and appointment order are attached as Annexure A & B).

Handwritten signature

- 2- That after serving the Agriculture Department for more than 20 years and higher qualification of Ph.D. Degree the appellant was promoted to the post of Agriculture Inspector from the post field assistant on acting charge basis vide order dated 15.5.2009. That despite of vacant post and eligibility of the appellant the authorities promoted the appellant on acting charge basis on the post of Agriculture Inspector. (Copies of the promotion order and educational testimonials are attached as Annexure C & D).
- 3- That it is very pertinent to mention that appellant is the senior most employee of the Agriculture Department but inspite of that appellant is till working as Agriculture Inspector in his own pay and scale.
- 4- That having no other remedy appellant filed Departmental Appeal on but no reply has been received so far. Hence the present appeal on the following grounds amongst the others. (Copy of the Departmental Appeal is attached as Annexure E).

GROUND:

- A- That not regularizing the services of the appellant on the post of Agriculture Inspector with retrospective effect is against the law, facts and norms of natural justice.
 - B- That appellant has not been treated by the respondents Department in accordance with law and rules on the subject noted above and as such the respondent Department violated article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
 - C- That despite of having the Ph.D. Degree and the seniority the respondent Department has not promoted the appellant on the post of Agriculture Inspector on regular basis.
 - D- That the respondent Department acted in arbitrary and malifide manner by not promoting the appellant on regular basis on the post of Agriculture Inspector (BPS-16).
 - E- That appellant has got experience on the post of Agriculture Inspector and having the requisite qualification and seniority for, thus he is perfectly eligible to promoted to the post Agriculture Inspector on regular basis from the date when appellant was promoted on acting charge basis.
- 

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

APPELLANT

Mukhtiar Khan

MUKHTIAR KHAN

THROUGH:

N.M. Khattak

NOOR MOHAMMAD KHATTAK
ADVOCATE

[Signature]

18/12/2020

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27/12/20
4/1/21
28/1/21

No.

Mat.

Date of delivery of...

18/12/2020

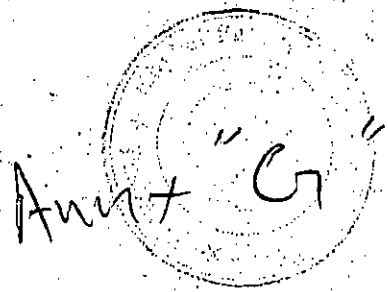
18/12/2020

29

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 922/2013

Date of institution ... 22.05.2013
Date of judgment 05.07.2019



Mulhtiar Khan Agriculture Inspector (OPS)
O/O the Agency Agriculture Officer, Bajaur Agency.

... (Appellant)

VERSUS

1. The Additional Chief Secretary FATA, FATA Secretariat, Warsak Road Peshawar.
 2. The Director Agriculture FATA, Khyber Pakhtunkhwa Peshawar.
 3. The Secretary Finance Department, Khyber Pakhtunkhwa Peshawar.
 4. Agency Agriculture Officer Bajaur Agency.
 5. Director General Agriculture (Extension) Khyber Pakhtunkhwa Peshawar.
- (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 FOR DIRECTING THE RESPONDENTS TO REGULARLY PROMOTE THE APPELLANT ON THE POST OF AGRICULTURE INSPECTOR (BPS-16) FROM THE DATE WHEN APPELLANT WAS PROMOTED ON ACTING CHARGE BASIS I.E 15.05.2009 AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN STATUTORY PERIOD OF NINETY DAYS.

M. Amin
5.7.2019

Mr. Noor Muhammad Khattak, Advocate. .. For appellant.
Mr. Riaz Ahmad Paindakheil, Assistant Advocate General .. For respondents.

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

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Counsel for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant Advocate General for the respondents present. Arguments heard and record perused.

2. Brief facts of the case as per present service appeal are that the appellant was serving in Agriculture Department as Field Assistant. The appellant was transferred/posted from the post of Field Assistant to the post of Agriculture Inspector vide order dated 15.05.2009 and is performing his duty since that time

(30) (10)

i.e 15.05.2009 as Agriculture Inspector but the respondent-department has not promoted the appellant on regular basis despite the fact that the appellant is serving in Agriculture Department more than 20 years and having higher qualification of P.HD Degree.

3. Perusal of the record reveals that the appellant was appointed as Field Assistant in Agriculture Department vide order dated 13.02.1997. The appellant is serving in Agriculture Department quite efficiently and up to the entire satisfaction of his superior. The respondent-department has transferred/posted the appellant from the post of Field Assistant to the post of Agriculture Inspector (OPS) vide order dated 15.05.2009 due to his efficiency and higher qualification and is performing his duty as Agriculture Inspector since 15.05.2009 but the respondent-department has not promoted the appellant on regular basis to the post of Agriculture Inspector so far. The record further reveals that the appellant has also filed departmental appeal to the Additional Chief Secretary FATA, FATA Secretariat Peshawar on 01.02.2013 for promotion on regular basis from the due date i.e 15.05.2009 but the departmental authority has not decided his departmental appeal so far therefore, we deem it appropriate to direct the departmental authority to decide the departmental appeal of the appellant within a period of 60 days through speaking order in accordance with law and rules and the order of the departmental appeal be also communicated to the appellant and thereafter, if the appellant was aggrieved from the appellate authority then he may approach this Tribunal for his grievances. Parties are left to bear their own costs. File be consigned to the record room.

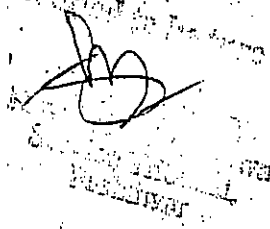
ANNOUNCED
05.07.2019



(AHMAD HASSAN)
MEMBER

Muhammad Amin
(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

Consent to the above copy

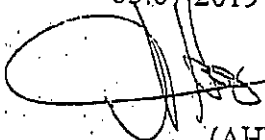


05.07.2019

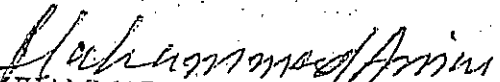
Counsel for the appellant and Mr. Riaz Ahmad Painsakheil, Assistant Advocate General for the respondents present. Arguments heard and record perused.

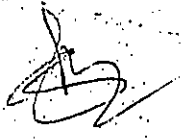
Vide our detailed judgment of today consisting of two pages placed on file, we deem it appropriate to direct the departmental authority to decide the departmental appeal of the appellant within a period of 60 days through speaking order in accordance with law and rules and the order of the departmental appeal be also communicated to the appellant and thereafter, if the appellant was aggrieved from the appellate authority then he may approach this Tribunal for his grievances. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
05.07.2019



(AHMAD HASSAN)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER



18/12/2020
18/12/2020
18/12/2020
18/12/2020

32

①

Amr + H

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

EP No 47/2021



Misc. Application No. _____/2021

For contempt of court
In S.A.No.922/2013



Dr.Mukhtiar Khan, Agricultural Inspector (OPS)
O/O the Agriculture (Extension) Department
Tribal District Bajaur.....Petitioner

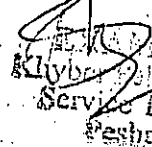
VERSUS

- 1) Dr.Kazim Niaz, Govt. of Khyber Pakhtunkhwa, through Chief Secretary, Civil Secretariat, Peshawar.
- 2) Mr.Abid Kamal, Director General, Agriculture (Extension) Khyber Pakhtunkhwa, Peshawar.
- 3) Mr.Shams, District Director Agriculture Tribal District Bajaur.

.....Respondents

APPLICATION FOR INITIATING
CONTEMPT OF COURT PROCEEDING
AGAINST THE RESPONDENTS U/S 3/4
OF THE CONTEMPT OF COURT
ORDINANCE 2003 R/W ARTICLE 204
OF THE CONSTITUTION OF ISLAMIC
REPUBLIC OF PAKISTAN FOR
DISOBEYING THE ORDER OF THIS
HON'BLE TRIBUNAL DATED
05.07.2019.

Certified to be true copy


Khyber Pakhtunkhwa
Service Tribunal,
Peshawar.

Respectfully Sheweth;


- 1) That the petitioner filed service appeal No.922/2013 before this Hon'ble Tribunal which was decided vide order dated 05.07.2019 in which this hon'ble Tribunal passed the following order:

"Direct that the departmental appeal of the appeal would be decided within a period of 60 days through speaking order in accordance with law and rules and order of the departmental appeal may be communicated to the appellant and thereafter if the appellant was aggrieved from the appellate authority they he may approach this Hon'ble Tribunal for his grievance".

(Copy of order is Annexure "A")

- 2) That the petitioner approached the respondents time and again for compliance of the order as directed by this Hon'ble Tribunal, but till date after lapse of about two years the respondents are reluctant to comply with the order of this Hon'ble Tribunal.
- 3) That the aforesaid act of respondents is totally illegal, is in total disregard to the order dated 05.07.2019.
- 4) That the respondent has intentionally and deliberately disobeyed the worthy order of this hon'ble tribunal, therefore, the contempt of court proceedings may kindly be initiated against him.
- 5) That omission of respondents to act upon the order of this Hon'ble Court speaks of the fact that respondents have undermined the authority of this Hon'ble Tribunal and has not moved even an inch for implementation of the same.

Certified to be true copy


Officer
Service Tribunal,
Peshawar

6) That this omission/ act of respondents squarely falls within the ambit of contempt of court as respondents have conveniently ignored the directions given by this Hon'ble Tribunal.

7) That in the circumstances the respondents have committed gross violation of the order passed by this Hon'ble Tribunal and has exposed themselves for contempt of court proceedings.

It is, therefore, humbly prayed that on acceptance of this application, contempt proceedings may graciously be initiated against the respondents according to law and they may also be directed to implement the worthy order of this Hon'ble Tribunal in letter and spirit.

Petitioner
Dr. Mulhtiar Khan
Through

M. Ijaz Mohmand

Qaiser Hussain

&
Murad Ali Safi
Advocates High Court
Peshawar.

Certified to be true copy
JUDGE
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

35



28th Nov. 2022

1. Petitioner alongwith his counsel present Mr. Kabirullah Khattak. Addl: AG alongwith Mr. Muhammad Saeed. District Deputy Director and Mr. Asif Ud Din Asif Ja. Superintendent for respondents present.

02. Representative of the respondents produced compliance report bearing Endst: No. Lit/41025/DGA dated 25.11.2022, whereby in compliance with the judgment of this Tribunal. grievance of the petitioner has been redressed. Since the order of the Tribunal has been complied with, therefore, the instant execution petition is filed. Consign.

03. *Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal on this 28th day of November, 2022.*

SCANNED
KPST
Peshawar

(Kalim Arshad Khan)
Chairman

Certified to be true copy
EMANUER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 28/4/2023
Number of ~~pages~~ page 4
Copying Fee 20/-
Urgent ✓
Total 20/-
Name of _____
Date of Copy 29/5/2023
Date of Delivery of Copy 29/5/2023

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Execution Petition No. 47 of 2021
In Service Appeal No. 922/2013

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A 2000-4-1

Dr. Mukhtiar Khan

APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa through Chief Secretary & Others.

RESPONDENTS

DISPOSAL OF DEPARTMENTAL APPEAL

It is submitted that according to the judgment of this Honorable Tribunal in the Service Appeal No. 922/2013 decided on dated 05.07.2019. The department constituted a committee Vide No. 17729-33/DGA dated 01.09.2020 to probe into the matter and furnish report to communicate the same to the appellant.

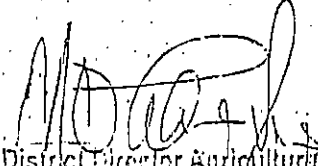
The committee examine the case in light of his departmental appeal according to the relevant documents in respect of the appellant, the point / question were raised, the appellant was appointed as Field Assistant in BS-06 purely on contract basis in the Developmental Scheme "Follow up" Horticulture Sector Development FATA in Mohmand Agency and recorded in his office order that on "winding up of the scheme his service would be automatically terminated without any notice and reasons.


It is further submitted that after winding up of the said project, the then Director Agriculture FATA again repeated such like illegal practice and appointed the appellant as Field Assistant BS-06 on regular basis while no project employee is entitle to be adjust / appoint against the regular post converted from the project post under the rules, therefore, his appointment is totally illegal and unlawful. It is pertinent to mention here due to non-availability of vacant post of Field Assistant BS-06 in the office of District Director Agriculture, Bajour at that time, the Director Agriculture FATA Peshawar adjusted / posted the appellant as Agriculture Inspector (ops) not on regular basis.

Hence the committee suggested after lengthy and thorough discussion that the service of the appellant is more than 23 years in the department as Field Assistant / Agriculture Inspector (ops) so his termination from service at this stage is not justice to the poor official, therefore he may be kept in service as Field Assistant BS-09, till his retirement "or" promoted to the post of Agriculture Inspector BS-11 on his own turn according to the seniority list of Field Assistant maintain by the Department. The appellant is not entitle for promotion to the post of Agriculture Inspector BS-11 out of turn on the basis of his temporary posting (ops) as Agriculture Inspector copy of the report is attached as (Annexure-A). According to the recommendation of committee the department decided his departmental appeal and the appellant was posted in his original post as Field Assistant copy attached as (Annexure-B) and the name of the appellant is listed at S.No.202 in the seniority list of Field Assistant of Agriculture Department (Extension Wing) as stood on 01.05.2021, which is notified / circulated vide order No.18/159-A/Esll/11046-07/DGA dated 05.05.2021 copy attached as (Annexure-C).

In view of above the Departmental Appeal decided by the department and the appellant adjusted / posted in his original post of Field Assistant and his name listed in the Seniority list of Field Assistant of Agriculture Extension Department.

It is therefore humbly prayed that on acceptance on the above comments, the execution petition of the appellant may kindly be dismissed.


District Director Agriculture
Tribal District Bajaur


DIRECTOR GENERAL
AGRICULTURE (EXTENSION)
KHYBER PAKHTUNKHWA PESHAWAR

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

No. Lit/ 41025 /DGA

Dated: Peshawar 25/11 2022

Execution Petition No.47 of 2021
In Service Appeal No. 922/2013

37

Dr. Mukhtiar Khan

APPELLANT

VERSUS

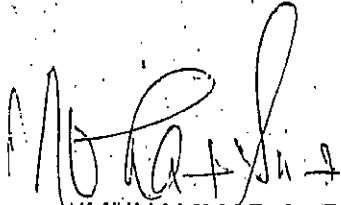
Govt. of Khyber Pakhtunkhwa through Chief Secretary & Others.

RESPONDENTS

IMPLEMENTATION REPORT

It is submitted that according to the judgment of this Honorable Tribunal in the Service Appeal No.922/2013 decided on dated 05.07.2019. The department decided the departmental appeal addressed to Ex-Additional Chief Secretary, FATA Secretariat Peshawar in light of rules / relevant documents for grant of regularization on the post of Agricultural Inspector (BS-11) is hereby rejected and submitted the decision of departmental appeal to appellant through registered letter vide No. 40795/DGA dated 22.11.2022 (copy alongwith relevant annexure is attached).

It is therefore humbly prayed that on acceptance the above comments, the execution petition of the appellant may kindly be dismissed.



(MUHAMMAD SAEED)
DISTRICT DIRECTOR AGRICULTURE
(EXT.) TRIBAL DISTRICT BAJAUR

District Director Agriculture
Tribal District Bajaur



(JAN MUHAMMAD KHAN)
DIRECTOR GENERAL

AGRICULTURE (EXTENSION)
KHYBER PAKHTUNKHWA PESHAWAR
DIRECTOR GENERAL
AGRICULTURE (EXTENSION)
KHYBER PAKHTUNKHWA PESHAWAR

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Execution Petition No.47 of 2021
In Service Appeal No. 922/2013

38

Dr. Mukhtiar Khan

APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa through Chief Secretary & Others.

RESPONDENTS

IMPLEMENTATION REPORT

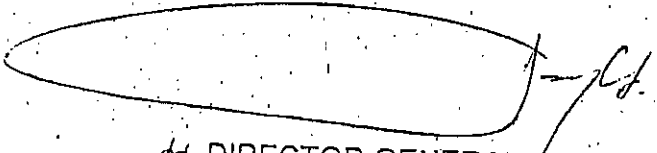
It is submitted that according to the judgment of this Honorable Tribunal dated 05.07.2019 wherein directed the department to decide departmental appeal of the appellant within 60 days through speaking order in accordance with law / rules and order of departmental appeal which may also be communicated to the appellant. In this regard the undersigned constituted an Enquiry Committee vide No.17729-33/DGA dated 01.09.2020 (Annexure-A) to probe into the matter and furnish report to communicate the same to the appellant as directed by this Honorable Tribunal.

The Enquiry Committee thoroughly checked / verified the original service book and other relevant documents in respect of the appellant, the point / question were raised, the appellant was appointed as Field Assistant in BS-06 purely on contract basis in the Developmental Scheme "Follow up" Horticulture Sector Development FATA in Mohmand Agency and recorded in his office order that on "winding up of the scheme his service would be automatically terminated without any notice and reasons.

It is further submitted that after winding up of the said project, the then Director Agriculture FATA again repeated such like illegal practice and appointed the appellant as Field Assistant BS-06 on regular basis while no project employee is entitled to be adjust / appoint against the regular post converted from the project post under the rules, therefore, his appointment is totally illegal and unlawful. It is pertinent to mention here due to non-availability of vacant post of Field Assistant BS-06 in the office of District Director Agriculture, Bajour at that time, the Director Agriculture FATA Peshawar adjusted / posted the appellant as Agriculture Inspector (ops) not on regular basis.

Hence enquiry committee suggested after lengthy and thorough discussion that the service of the appellant is more than 23 years in the department as Field Assistant / Agriculture Inspector (ops) he surely has gained sufficient knowledge / experience in the relevant field as so his termination from service at this stage is not justice to the poor official, therefore he may be kept in service as Field Assistant BS-09 till his retirement "or" promoted to the post of Agriculture Inspector BS-11 on his own turn according to the seniority list of Field Assistant maintain by the Department. The appellant is not entitled for promotion to the post of Agriculture Inspector BS-11 out of turn on the basis of his temporary posting (ops) as Agriculture Inspector copy of enquiry report is attached as (Annexure-B). According to the recommendation of enquiry committee the appellant was posted in his original post as Field Assistant and the name of the appellant is listed at S.No.202 in the seniority list of Field Assistant of Agriculture Department (Extension Wing) as stood on 01.05.2021, which is notified / circulated vide order No.18/159-A/Estt./11046-07/DGA dated 05.05.2021 copy attached as (Annexure-C)

It is hereby humbly prayed that on acceptance on the instant comments, the execution petition of the appellant may kindly be dismissed.


* DIRECTOR GENERAL
AGRICULTURE (EXTENSION)
KHYBER PAKHTUNKHWA PESHAWAR

Registered

DIRECTORATE GENERAL, AGRICULTURE EXTENSION
KHYBER PAKHTUNKHWA, PESHAWAR

No. Lit/ 110795 /DGA Dated: Peshawar 22/11/2024

(39)

To,

Mr. Mukhtiar Khan, Field Assistant
o/o the District Director Agriculture,
Tribal District Bajour.

Subject:- DEPARTMENTAL APPEAL FOR REGULARIZATION ON THE POST OF AGRICULTURE INSPECTOR FROM THE DATE 15.05.2009 WHEN APPELLANT WAS POSTED IN HIS OWN PAY SCALE I.E. BS-06.

Memo.

Reference to your departmental appeal Addressed to Ex-Additional Chief Secretary, FATA Secretariat Peshawar submitted by Director General, Agriculture Extension Merged Area Hayatabad, Peshawar to this office vide his letter No. 2/77/Estt./5260/DGA (MA) dated 17.11.2022 and the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar directions in the Service Appeal No. 922/2013 decision dated 05.07.2019.

Your departmental appeal was thoroughly examined in light of rules / relevant documents for grant of regularization on the post of Agriculture Inspector (BS-11) is hereby rejected on the following grounds.

1. You were appointed as Field Assistant in (BS-06) purely on contract basis in the Developmental Scheme "Follow up of Horticulture Section Development FATA in Mohmand District" and clearly recorded in your office order that on winding up of the developmental scheme your services would be terminated automatically without any notice and reason.
2. You were not promoted to the post of Agriculture Inspector (BS-11) but you were transferred from Mohmand Agency (District Mohmand) and adjusted against the vacant post of Agriculture Inspector (BS-11) in Bajour Agency (District Bajour) in your own pay and scale (BS-09) on your own request because of your home district, vide office order No.7575-82/DGA dated 15.05.2009.
3. You are not a senior most amongst Field Assistants cadre, your name had been enlisted at S.No.141 in the current seniority list of Field Assistant (BS-09) circulated vide order No.12851-87/DGA dated 12.05.2022, you will be promoted to the post of Agriculture Inspector (BS-11) on regular basis on your own turn according to the seniority list of Field Assistants.
4. You had also been posted as Field Assistant (BS-09) against the vacant post in the office of District Director Agriculture, Tribal District Bajour vide office order No. 6502-09/DGA dated 09.03.2021 and till date you are working as Field Assistant (BS-09) in your home district Bajour.

5. According to the Service Rules of Agriculture Extension Department Khyber Pakhtunkhwa, Peshawar the post of "Agriculture Inspector BS-11) will be filled 100% by promotion on the basis of seniority cum fitness from amongst Field Assistant (BS-09) copy annexed.

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No. Lit./ 40796 99 /DGA

Dated: Peshawar 22/11 2022

o/c DIRECTOR GENERAL

Copy forwarded for information and necessary action; to

1. The Registrar, Khyber Pakhtunkhwa Service Tribunal Peshawar.
2. The Director General, Agriculture Extension Merged Area Hayatabad, Peshawar.
3. The District Director Agriculture, Tribal District Bajour.
4. The Superintendent Establishment Directorate General, Agriculture Extension HQ Office Peshawar.

o/c DIRECTOR GENERAL

22/11/22



(41) Amt "J"
AGRICULTURE (EXTENSION) DEPARTMENT
TRIBAL DISTRICT BAJAUR

Phone/Fax No. 0942-220445 No. 1204 /DDA Bajaur Dated 4 /11/2020

To,

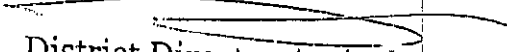
✓ The Dr. Mukhtiar Field Assistant (BPS-09)
working against the post of Agriculture inspector (OPS)
of this office.

Subject: INQUIRY REPORT IN LIGHT OF APPEAL NO 922/2013.

Memo,

Enclosed please find herewith the photo copies of the inquiry report in light of appeal No.922/2013 which was conducted through constituted committee of the office of the Director General Agriculture Extension Khyber Pakhtunkwa Peshawar which is self explicit and addressed to the Director Agriculture Extension Merged Areas Peshawar and copy there of endorsed to the undersigned is sent to you for information

Encl:


District Director Agriculture
Tribal District Bajaur

the above named official as Field Assistant (BS-06) in the department and
Agricultural Inspector (ops) w.e.f. 15.5.2009.

INQUIRY REPORT IN LIGHT OF APPEAL NO.922/2013 IN RESPECT OF DR. MUKHTIAR KHAN, FIELD ASSISTANT BPS-09 / AGRICULTURAL INSPECTOR (OPS) TRIBAL DISTRICT BAJOUR.

According to the honourable court decision wherein directed the department to decide Departmental Appeal of the appellant within 60 days through speaking order in accordance with Law / Rules and order of departmental appeal which may also be communicated to the appellant.

In this regard the Director General Agriculture Extension constituted an enquiry committee vide No.17729-33/DGA(E) dated 01.09.2020 comprising the following officers to probe into the matter and furnished report / findings within Ten (10) days to communicate the same to the appellant as advised / directed by the honourable court.

S.No.	Name and Designation	BPS	
1.	Malik Abdul Nasir, Director, Coordination, Planning and Monitoring HQ Office.	19	Chairman
2.	Dr. Hafiz Farhad Ali, Deputy Director Horticulture HQ Office.	18	Member
3.	Muhammad Saeed, Establishment Superintendent HQ Office.	17	Member

The Director General, Agriculture (Extension) Khyber Pakhtunkhwa, Peshawar further directed the District Director Agriculture (Tribal District) Bajour vide letter No.176/DGA(E) dated 04.09.2020 and copies thereof endorsed to others vide No.18077-80 to provide all the relevant documents / record to the enquiry committee for checking / verification of appointment in respect of Mr. Mukhtiar Khan as Field Assistant (BPS-09) / Agricultural Inspector (ops) in the office of the District Director Agriculture (Tribal District) Bajour vide No.18/159-A/ Estt/7575-82/DGAE dated 15.05.2009.

Being chairman of the enquiry committee I alongwith the above two members proceeded to the office of DDA Bajour tribal District on 08.09.2020 at 11.00 AM, where the District Director Agriculture, Bajour Tribal District, Mr. Ziaul Islam alongwith dealing staff and the appellant Dr. Mukhtiar Khan, Field Assistant / Agricultural Inspector (ops) were present on the occasion for the purpose mentioned above.

A copy of TOR was delivered to the DDA, Bajour Tribal District and Dr. Mukhtiar Khan, Field Assistant (BP-09) / Agricultural Inspector (ops) was present who also handled the TOR copy. Afterward discussion started regarding appointment of the above named official as Field Assistant (BS-06) in the department and Agricultural Inspector (ops) w.e.f. 15.5.2009.

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The enquiry committee thoroughly checked / verified the original service book and other relevant documents in respect of the above named official, the following points / question were raised and were necessary to clarify in detail for solution and settlement of the case in respect of the appellant.

OBSERVATIONS

1. The appellant was appointed as Field Assistant in BS-06 purely on contract basis in the Development Scheme "Follow-up" Horticulture Sector Development FATA in Mohmand Agency and recorded in his office order that on "winding-up of the scheme his service would be automatically terminated without any notice and reason".
2. It is worth mentioning that the appointment against the vacant post of Field Assistant BS-06 in the project was made by the then Director Agriculture (Extension) FATA illegally and without adopting any rules / regulation for such appointment while basic qualification / rules for the appointment of Field Assistant are as under: -

Post / BPS	Qualification	Age	Method of recruitment
Field Assistant BPS-06 / 09	a. At least 2 nd division in secondary school certificate from a recognized board; and	18 - 28	By initial recruitment
	b. Certificate of passing two years training course of Field Assistant from Agricultural Training Institute, Peshawar.	20 - 32	
	c. 6 th months condense course		

It is further requested that after winding-up the said project the then Director Agriculture FATA again repeated such like illegal practice and appointed the concerned project employees as Field Assistant BS-06 on regular basis while no project employee is entitled to adjust / appoint against the regular post converted from the project posts under the rules, therefore, his appointment is totally illegal and unlawful.

It is pertinent to mention here that due to non-availability of vacant post of Field Assistant in the office of the District Director Agriculture, Bajour at that time, the Director Agriculture FATA Peshawar adjusted / posted him as Agricultural Inspector (ops) not on regular basis. Now, the Director Agriculture Merged Areas is competent and required / essential to post him at an early date against his proper / original post of Field Assistant BPS-09 in the district or out of the district where the post of Field Assistant (BS-09) is lying vacant.

CONCLUSION

1. After detail discussion it was observed from the service record / documents of the official concerned that he is not qualified / entitled for appointment against the post of Field Assistant BS-06, as he is not diploma holder from Agricultural Training institute / Agriculture Services Academy, Peshawar.

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2. Agricultural Inspector in the department is in BPS-11 not in BPS-16.
3. He was initially appointed as Field Assistant BS-06 in the project and after winding-up the project he was adjusted on regular basis which is also irregular and unlawful practice.
4. Now, the appellant / Field Assistant (BPS-09) is working as Agricultural Inspector from the last Nine (09) years (ops) not on regular basis.

Hence the enquiry committee suggested after lengthy and thorough discussion that the service of the appellant is more than 23 years in the department as Field Assistant / Agricultural Inspector (ops) he surely be gained sufficient knowledge / experience in the relevant field and so his termination from service at this stage is not Justice to the poor official, therefore, he may be kept in-service as Field Assistant BPS-09 till his retirement "OR" promoted to the post of Agricultural Inspector BS-11 on his own turn according to the seniority of Field Assistant maintained by the Department because the appellant is not entitled for promotion to the post of Agricultural Inspector (BS-11) out of turn on the basis of his temporary posting (ops) as Agricultural Inspector.

Submitted for necessary action.

1	Dr. Hafiz Farhad Ali, Deputy Director (Marketing) HQ	<u>Member</u>	2	Mr. Muhammad Saeed, Superintendent HQ Office.	<u>Member</u>
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3.	Mr. Abdul Nasir Director, Coordination, Planning and Monitoring HQ.	<u>Chairman</u>
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قیمت 50 روپے	72175	PBA PESHAWAR BAR ASSOCIATION		
ایڈوکیٹ: <u>نیلانہ</u>		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل/ایسوسی ایشن نمبر BC-15-5408		رابطہ نمبر: 03449229321		

بعدالت جناب: حکیم حسین کرسٹین کی طرف سے حکیم حسین کرسٹین کا پتہ

مخاطب: <u>سائیل / ایپیل</u>	دعویٰ: <u>کرسٹین ایپل</u>
<u>ڈاکٹر مختار خان</u>	علت نمبر: _____
<u>بنام</u>	موردہ: _____
<u>حکومت</u>	جرم: _____
	تھانہ: _____

باعث تحریر آگے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ آن مقام سید محمد اعجاز سعید، قید حسین کرسٹین کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یک طرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داخستہ منظور و قبول ہوگا دوران مقدمہ میں جو فرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

وکیل صاحب

ڈاکٹر مختار خان

Attested

Accepted

المقام 12-6-2023

عبد الوہاب شاہ

مقام کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی فونو کاپی ناقابل قبول ہوگی۔

حکیم حسین