

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No.7723/2021

Engr: Ghulam Raheem

Appellant

Versus

Govt of Khyber Pakhtunkhwa
through Chief Secretary Khyber Pakhtunkhwa
& others

Respondents

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Deponent



Zahid Ullah
Section Officer (Litigation)
C&W Department, Peshawar

Next Date - 11-08-23

Place of Hearing

Peshawar

(1)

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR
SERVICE APPEAL NO.7723/2021

Mr. Ghulam Rahim
Sub Engineer (Rtd)
The then SDO (OPS)
Building Sub Division Mardan

--- Appellant

VERSUS

1. Government of Khyber Pakhtunkhwa through
Chief Secretary Khyber Pakhtunkhwa, Peshawar ----- Respondents
2. Government of Khyber Pakhtunkhwa
Secretary C&W Department, Peshawar
3. Government of Khyber Pakhtunkhwa
Secretary Finance Department, Peshawar
4. Government of Khyber Pakhtunkhwa
Secretary Establishment Department, Peshawar
5. Accountant General Khyber Pakhtunkhwa
Peshawar

Khyber Pakhtunkhwa
Service Tribunal

Dinay No. 6822

Date: 02/09/23

Joint Para-wise comments on behalf of Respondents No. 1 to 4

Respectfully Sheweth

Preliminary Objections

1. That the appeal is not maintainable for mis-joinder and non-joinder of necessary parties.
2. That the appellant has never challenged in time any order in which his rights were to be ignored.
3. That the appeal is premature.
4. That the appellant has got no cause of action and no locus standi to file the instant appeal.
5. That the appeal is time barred.

FACTS

1. Contents need no reply. It pertains to record.
2. Contents need no reply. It pertains to record.
3. Senior Scale (BS-16) was granted to the Sub Engineers including appellant on 02.03.2018 in light of service tribunal judgment passed on 02.03.2016.
4. Contents need no reply. It pertains to record.
5. Contents need no reply. It pertains to record.
6. As per record, the appellant was inducted in the department on 14.03.1988 and passed professional exam in 2006. Subsequently, the appellant stand retired from Government service on attaining the age of superannuation i.e 60th Years w.e.f 19.04.2021 (Annex-I). So far, his claim regarding requesting for promotion to the post of Assistant Engineer/SIDO (BS-17) is concerned, in this regard it is clarified that C&W Department is following the existing service rules of C&W Department as well as promotion policy of Provincial Government Khyber Pakhtunkhwa. The appellant has never requested for promotion nor he was eligible as his ACRs since 01.01.2004 to 31.12.2020 were missing. The Chief

Engineer (North) C&W SWAT submitted his ACRs after his retirement through letter dated 19.04.2021 (Annex-II). As per promotion policy, ACRs are the basic requirements for judgment of the competency of any Officer/Official for his promotion to the next higher scales, meaning thereby the claim of the appellant is baseless and unjustified. (2)

7. As explained in para-6.
8. As explained in para-6.

GROUND

- A. Incorrect, there is no mala-fide, no discrimination and violation of rights of the appellant has been made. In fact, the Department has followed rules/policy strictly in the cases of promotion of officers/officials of C&W Department.
- B. Incorrect, as explained in para-6 of the facts.
- C. Incorrect, neither discrimination to any individual, including the appellant was done nor any rule or principle of law infringed, the apprehension of the appellant is mis-leading.
- D. Incorrect, as explained in para-6 of the facts
- E. Incorrect, as explained in para-6 of the facts
- F. Incorrect, as explained in para-6 of the facts
- G. Incorrect, neither discrimination to any individual, including the appellant was done nor any rule or principle of law infringed, the apprehension of the appellant is mis-leading.
- H. Incorrect. No discrimination to any individual, including the appellant was made nor any rules or principal of law infringed. The apprehension of the appellant is mis-leading.
- I. Incorrect. There is no mala-fide intention of the respondents, no discrimination and no violation of rights of the appellant has been made.
- J. Incorrect, as explained in para-6 of the facts.
- K. The respondents would like to seek permission of the Hon'able Tribunal in advance more grounds during the time of arguments.

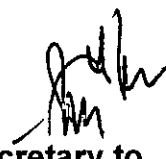
In view of the above, it is prayed that the instant service appeal may kindly be dismissed with costs having no substance.



**Secretary to
Govt of Khyber Pakhtunkhwa
Communication & Works Department
(Respondent No.1 & 2)**



**Secretary to
Govt of Khyber Pakhtunkhwa
Establishment Department
(Respondent No.4)**



**Secretary to
Govt of Khyber Pakhtunkhwa
Finance Department
(Respondent No.3)**

(3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No.7723/2021

Engr: Ghulam Raheem

Appellant

Versus

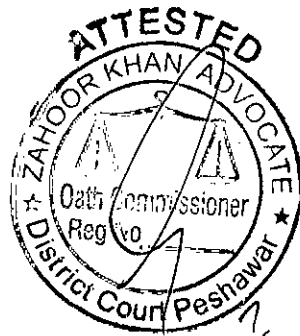
Govt of Khyber Pakhtunkhwa
through Chief Secretary Khyber Pakhtunkhwa
& others

Respondents

AFFIDAVIT

I, Zahid Ullah, Section Officer Litigation (BS-17) C&W Department, Peshawar hereby affirm and declare that all the contents of the Parawise comments are correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

It is further stated on oath that in this appeal, the answering respondent neither has been placed ex-party nor their defence has been struck off.



26/7/23

Deponent

Zahid Ullah
Section Officer (Litigation)
C&W Department, Peshawar

CNIC # 14203-2044698-7

Mob No # 0340-5012785



**GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT**

NO. SO (Lit.)C&W/3-476/2023
Dated Peshawar, the June 27, 2023

AUTHORITY LETTER

Mr. Zahid Ullah, Section Officer (Litigation), C&W Peshawar having CNIC 14203-2044698-7 is hereby authorized to file the Joint Parawise Comments in case titled “**Service Appeal No.7723/2021 Engr: Ghulam Rahim Vs Government Of Khyber Pakhtunkhwa**” on behalf of Secretary C&W Department.

SECRETARY
to Govt of Khyber Pakhtunkhwa
C&W Peshawar.



(12) "C"
OFFICE OF THE CHIEF ENGINEER (CENTRE)
COMMUNICATION & WORKS DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR

No. 67-E/ 811(11) /CEC/C&WD

Dated Peshawar the 04/04/2021

OFFICE ORDER

In pursuance of sub-section (2) of section 13 A of the Khyber Pakhtunkhwa, Civil Servants Act, 1973, (Khyber Pakhtunkhwa Act No. XVIII of 1973) read with sub-section (3) thereof, Mr. Ghulam Rahim, Sub Engineer (BPS-16), presently posted as Sub Divisional Officer (DPS) office of the Executive Engineer C&W Highway Division Mardan, stands retired from Government Service with effect from 19/04/2021 (After Noon) on attaining sixtieth (60th) year of age, as his date of birth is 20/04/1961..

CHIEF ENGINEER (CENTRE)

Copy forwarded to the:-

1. Superintending Engineer C&W Circle Mardan with reference to his memo: No.39672-E dated 29-03-2021.
2. Section Officer (Establishment) C&W Department Peshawar.
3. Executive Engineer C&W Highway Division Mardan..He is requested to provide the original leave account and Leave Application on prescribed Forms alongwith Service Book of the incumbent official for processing of his 365-days leave encashment case.
4. District Accounts Officer, Mardan.
5. Mr. Ghulam Rahim, Ex-Sub Engineer (BPS-16), office of the Executive Engineer C&W Highway Division Mardan.

Ch. Tanzeem
CHIEF ENGINEER (CENTRE)

ATTESTED



6

**CHIEF ENGINEER (NORTH)
COMMUNICATION & WORKS DEPARTMENT
SWAT (AT SAIDU SHARIF)**

Camp office at Peshawar No. 567 /2-E

Dated: 19/04/2021

To

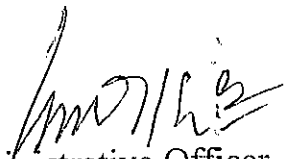
The Section Officer (Establishment) ✓
C&W Department Peshawar.

Subject: **PERFORMANCE EVALUATION REPORTS.**

I am directed to refer to the subject noted above and to forward herewith the Performance Evaluation Reports (PERs) in original (in duplicate) in respect of Engr. Ghulam Rahim, Sub-Divisional-Officer (OPS) BPS-16 attached to Executive Engineer Building Division Mardan, for the following period duly assessed and countersigned for information and further necessary action as desired please.

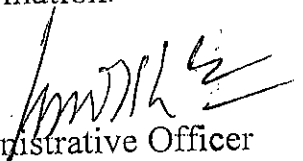
S.No	From	To	Remarks
1.	01-01-2004	31-12-2004	
2.	01-01-2005	31-12-2005	
3.	01-01-2006	31-12-2006	
4.	01-01-2007	07-11-2007	
5.	01-01-2008	08-05-2008	
6.	09-05-2008	31-12-2008	
7.	01-01-2009	31-12-2009	
8.	01-01-2010	30-11-2010	
9.	01-01-2011	31-12-2011	
10.	01-01-2012	31-12-2012	
11.	01-01-2013	31-12-2013	
12.	01-01-2014	31-12-2014	
13.	01-01-2015	31-12-2015	
14.	01-01-2016	31-12-2016	
15.	01-01-2017	31-12-2017	
16.	01-01-2018	28-07-2018	
17.	01-08-2018	31-12-2018	
18.	01-01-2019	31-07-2020	
19.	01-08-2020	31-12-2020	

DA/As Above:


Administrative Officer

Copy forwarded to the:

1. Engr. Ghulam Rahim, Sub-Divisional-Officer (OPS) BPS-16 attached to Executive Engineer Building Division Mardan for information.
2. PA to Chief Engineer (North) Local.


Administrative Officer