

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 7856 /2021

Shaheen Iqbal

..... Appellant

Versus

Chief Secretary and others

..... Respondents

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Through

Ayub Khan
Appellant

Muhammad Ayub Khan Shinwari
LL.B; LL.M

Supreme Court of Pakistan.

Chamber: 7-A, Haroon Mansion, Khyber
Bazar, Peshawar.

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 7856 /2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 7950

Dated 30/11/2021

Shaheen Iqbal,
Water Management Officer,
Officer of District Director,
On Farm Water Management Department, Director, Peshawar.

SCANNED
K J T
Peshawar

..... Appellant

Versus

1. Chief Secretary of Govt. of Khyber Pakhtunkhwa, Peshawar
2. Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department, Peshawar.
3. Secretary to Govt. of Khyber Pakhtunkhwa, Agriculture, Livestock and Cooperation Deptt, Govt. of Khyber Pakhtunkhwa, Peshawar.
4. Director General, Agriculture, Livestock and Cooperation Deptt, Govt. of Khyber Pakhtunkhwa, Peshawar.

..... Respondents

Service Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against office order dated 27.07.2020 whereby the Departmental Appeal of the appellant against the Notification dated 19.10.2018 is dismissed.

Filed to-day

Registrar

30/11/2021

Respectfully Sheweth:

Brief but relevant facts of the case are as follows:

1. That the Appellant is duly qualified engineer registered with Pakistan Engineering Council and is serving in the respondent Department against the post mentioned in the title of the petition. **(Copy of PEC registration Certificate is filed herewith and annexed as Annex-A).**
2. That the provincial cabinet in its meeting held on 24.05.2018 decided and approved the grant of technical allowance @ 1.5 times of the initial basic pay scale to all the engineers working in provincial government Departments

Re-submitted to-day
and filed.

Registrar
9/12/2021

2

with effect from 1st July, 2018. **(Copy of decision of meeting of the Provincial Cabinet dated 24.05.2018 is filed herewith and annexed as Annex-B).**

3. That thereafter another meeting of the provincial cabinet was held on 15.10.2018 wherein it clarified the status of earlier cabinet decision regarding authorization of Technical Allowance to the Engineers of Provincial Government Departments and it was decided that the decision of the provincial Cabinet be implemented in letter and spirit. **(Copy of the decision of meeting of Provincial Cabinet dated 15.10.2018 is filed herewith and annexed as Annex-C).**
4. That in the light of aforesaid developments, the Appellant was under legitimate expectancy that he will be granted the benefits of the aforesaid decision of provincial cabinet but to the utter surprise of the Appellant, the benefit of the aforesaid provincial cabinet decision is given only to the engineers holding Engineering qualification serving in the C & W Department, Irrigation, Public Health Engineering and Local Government Department of Government of Khyber Pakhtunkhwa and the Appellant is deprived from its benefits. **(Copy of Notification is filed herewith and annexed as Annex-D).**
5. That it is pertinent to mention here that the respondents have extended the benefit of the Notification dated 19.10.2018 to the similarly placed colleagues/engineers of the appellant serving in Local Govt. & Mines & Minerals, vide Notification dated 07.07.2021. Furthermore the respondent No. 4 has requested the respondent No. 3 to extend the benefits of the Notification 19.10.2018 to the appellant vide letter dated 16.07.2021 and 19.11.2021. **(Copy of Notification is filed herewith and annexed as Annex. E, F & G).**
6. That the Appellant had time and again approached the respondents for redressal of his grievance but in vain. **(Copy of the Departmental Appeal is filed herewith and annexed as Annexed as Annex-H).**
7. That thereafter the appellant filed writ petition No. 681-P/2018 before the Honourable Peshawar High Court, Peshawar were directed to decide the departmental appeal of the appellant pending with the respondents. Despite the aforesaid judgment, the respondents were reluctant to pass final order on the departmental appeal of the appellant, thus the appellant filed C.o.C no. 448-P/2020 before the Peshawar High Court, wherein on the date of hearing, the respondents produced the impugned order dated 29.07.2020 whereby the departmental Appeal of the appellant is dismissed. The copy of the impugned order was produced in the hearing before the Honourable Peshawar High Court on the date of hearing i.e. 12.10.2021, whereas the attested copy of the said order is obtained by the appellant on 30.11/2021. **(Copy of judgment and order passed by Honorable Peshawar High Court, Peshawar and impugned order is filed herewith and annexed as annex-I & J, respectively)**

Hence, the title Service Appeal on the following amongst other grounds:

GROUNDS

- A. That the impugned Notification dated 19.10.2018 and impugned order date 29.07.2020 is against the law, illegal, unlawful and without lawful authority, thus calling into interference of this Honorable Tribunal.
- B. That the extension of benefits of technical allowance to the engineers serving in few departments and leaving the similarly placed employees of other departments, is ex-facie discriminatory and, therefore, violative of Article 3 and 25 of the Constitution of Islamic Republic of Pakistan, 1973 besides offensive to the principle of "equal pay equal work". The respondents cannot treat the similarly placed persons with different yard stick so far as pay and allowances are concerned.
- C. That the impugned Notification and impugned order is against the fundamental rights of the Appellant enshrined and protected under the Constitution of Islamic Republic of Pakistan, 1973.
- D. That the impugned Notification and impugned order is against the spirit of rule 25 of Government Rules of Business.
- E. That the impugned Notification and impugned order is issued in utter disregard of the decision of the Provincial cabinet. The provincial cabinet in its meeting held on 15.10.2018 clarified the status of earlier cabinet decision regarding authorization of Technical Allowance to the Engineers of Provincial Government Departments and it was decided that the decision of the Provincial Cabinet be implemented in letter and spirit.
- F. That the impugned Notification is against the dictums of the apex Supreme Court of Pakistan and also against the judgments of this Honourable Court.
- G. That the Appellant crave permission of this Honorable Tribunal to reply on other grounds at the time of arguments and produce any additional documents if required in support of instant petition.

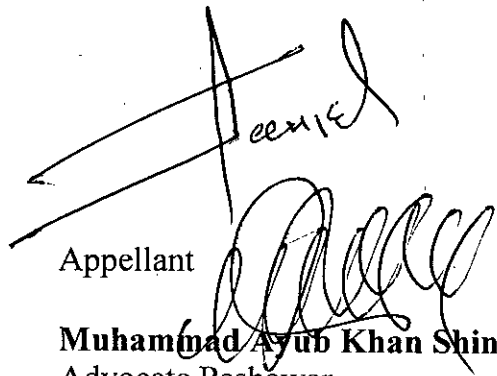
It is, therefore, prayed that on acceptance of this Appeal, this Honorable Tribunal may kindly:

- a. Declare the impugned order 29.07.2020 whereby the appeal of the appellant against the Notification dated 19.10.2018 is dismissed as against the law, illegal, unlawful and without lawful authority; and
- b. Declare the discriminatory implementation of the Provincial Cabinet Decisions dated 24.05.2018 and 15.10.2018 by the respondents as illegal,

unlawful, without lawful authority and ineffective upon the rights of the Appellant; and

- c. Direct the respondents to extend the benefit of the Notification Dated 19.10.2018 to the Appellant by grant of Technical Allowance with effect from 1st November, 2018 with all back benefits.
- d. Any other relief which has not been superficially prayed for and deemed fit and appropriate by this Honourable Tribunal in the circumstances may graciously be granted.

Through


Appellant

Muhammad Ayub Khan Shinwari
Advocate Peshawar

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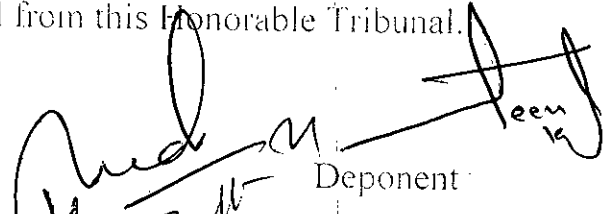
IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No _____ 2021

Shaheen Iqbal Versus Chief Secty, Govt of KP & Others

AFFIDAVIT

I, Shaheen Iqbal, Water Management Officer, Office of District Director, On Farm Water Management Department, office of District Director, Peshawar. do hereby solemnly affirm and declare on oath that the contents of the accompanying Service Appeal are true and correct to the best of my knowledge and belief and nothing is kept concealed from this Honorable Tribunal.


Deponent

Khalid Atiq-ud-Din
Oath Commissioner
Peshawar High Court

Shaheen Iqbal
17101-0337216-9

Annex B. 2

IMMEDIATE/SECRET

CABINET BUSINESS



11-06-18
GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT AND ADMN: DEPARTMENT
(CABINET WING)
No.SOC(E&AD)27-312/2018
Dated Peshawar the 05th June, 2018.

Annex A 11

To,

4583
16/18

1. The Secretary to Govt. of Khyber Pakhtunkhwa, Irrigation Department
2. The Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department

SUBJECT: DECISION OF MEETING OF THE PROVINCIAL CABINET DATED 24.05.2018.

Dear Sir,

I am directed to forward herewith the following decision of the meeting of Provincial Cabinet held on 24.05.2018 under the chairmanship of Chief Minister, Khyber Pakhtunkhwa for implementation.

MISCELLANEOUS

7. The Secretary Irrigation briefed the Cabinet regarding the agenda item titled "Demand of the Khyber Pakhtunkhwa association of Government Engineers" discussed in the previous cabinet meeting held on 17-05-2018. The Cabinet agreed to reconsider its decision in the following manner:

- i. The Cabinet approved technical allowance @ 1.5 times of the initial basic pay scale to all engineers working in provincial government departments with effect from 1st July, 2018
- ii. The Cabinet approved to allow the Engineers for private practice. The ToRs and Conditions for the permission of private practice will be finalized and approved by the Committee constituted under the Chairmanship of Secretary Establishment.
- iii. The Cabinet approved, in principle, the demand of "Upgradation/restructuring of the Engineers" for which necessary modalities should be submitted for approval of the Cabinet.

Implementing Department: Irrigation/Establishment Deptts:

2. I am to request that an implementation report of the Cabinet decision as required under Rule 25 (2) of the Khyber Pakhtunkhwa Government Rules of Business, 1985 may kindly be furnished on top priority basis to the Cabinet Section, Administration Department.

Yours faithfully,
[Signature]

(QASIM JAN)
SECTION OFFICER (CABINET)

11
IMMBD

ATTESTED
[Signature]

+ SOC(E) Jan

ATTESTED
[Signature]

Annex

C

8



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT AND ADMINISTRATION DEPARTMENT
(CABINET WING)

No. SOC(E&AD)9-3/2018

Dated, Peshawar the 18th October, 2018.

- To
1. Mr. Muhammad Aijaz, Senior Minister
 2. Mr. Shehram Khan, Minister
 3. Mr. Talmoor Saleem Khan Jhagra, Minister
 4. Syed Muhammad Ishaq, Minister
 5. Haji Qalandar Khan Lodhi, Minister
 6. Mr. Akbar Ayub Khan, Minister
 7. Mr. Shakeel Ahmed, Minister
 8. Mr. Mohibullah Khan, Minister
 9. Dr. Amjad Ali, Minister
 10. Mr. Sultan Muhammad Khan, Minister
 11. Dr. Hisham Inam Ullah Khan, Minister
 12. Mr. Zia Ullah Khan Bangash, Advisor
 13. Mr. Himayatullah Khan, Advisor
 14. Mr. Abdul Karim Khan, Special Assistant
 15. Mr. Kamron Khan Bangash, Special Assistant

**SUBJECT: MINUTES OF THE SPECIAL (BUDGET) MEETING OF THE
PROVINCIAL CABINET DATED 15.10.2018.**

Dear Sir,

I am directed to enclose herewith a copy of minutes of The Special (Budget) meeting of the Provincial Cabinet held on 15.10.2018 at 11:00 A.M under the Chairmanship of Chief Minister Khyber Pakhtunkhwa in the Cabinet Room of Civil Secretariat, Khyber Pakhtunkhwa, Peshawar.

2. I am to request that after perusal, these minutes may kindly be returned to the Cabinet Section under a sealed cover.

Encl:(As above).

Yours faithfully,

Qasim Jan
(QASIM JAN)

SECTION OFFICER (CABINET)

ENDST.NO. & DATE EVEN.

Copy with a copy of the minutes is forwarded for perusal with the request to return it to the Cabinet Section, Administration Department Govt. of Khyber Pakhtunkhwa:-

1. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. P.S. to Chief Secretary Khyber Pakhtunkhwa.
4. P.S. to Secretary Administration Department.

Qasim Jan
SECTION OFFICER (CABINET)

ATTESTED

ATTESTED

ATTESTED

AF

Implementing Department: Secretary P&D (Merged Areas)

Miscellaneous

The Chief Minister desired to know the status of earlier Cabinet decision regarding authorization of Technical Allowance to the Engineers of Provincial Government Departments. Secretary Finance explained that there is lack of clarity regarding the beneficiaries of the decision as Engineers are also working at places other than C&W, Irrigation, PHE and Local Government Departments.

The Chair directed that the decision of the Provincial Cabinet for extension of Technical Allowance to the Engineers working in Provincial Government Departments may be implemented in letter & spirit.

Implementing Department: Finance/Irrigation Departments

Meeting ended with a vote of thanks from and to the chair.

ATTESTED

ATTESTED

ATTESTED

ANNEX D (2) ~~3~~



Government of Khyber Pakhtunkhwa
Finance Department
(Regulation Wing)

Peshawar, the 10th October, 2018

NOTIFICATION

No. FD/GO SICH/877/2018. The Government of Khyber Pakhtunkhwa has decided to grant Special Allowances to the following categories of employees holding Government appointments from the regulated engineering programmes of Higher Education Institutions (H.E.I.) Universities (U.I.) recognized by Higher Education Commission (HEC) and registered with Pakistan Engineering Council (PEC), serving against the sanctioned posts in the C.W. Irrigation, Public Health Engineering and Local Government Departments, Govt of Khyber Pakhtunkhwa with effect from 1st November 2018.

S.No.	Pay Scales	Initial Basic Pay of Pay Scales 2017	Rate of Technical Allowance Per Month @ 1.5 Initial Basic Pay as per Pay Scales 2017
1.	Engineers in BS-20	Rs. 69,000/-	Rs. 1,03,635/-
2.	Engineers in BS-19	Rs. 60,210/-	Rs. 88,817/-
3.	Engineers in BS-18	Rs. 58,350/-	Rs. 87,527/-
4.	Engineers in BS-17	Rs. 50,370/-	Rs. 75,550/-

- The above allowances will be admissible subject to the following conditions:
 - It will not be counted towards pension or gratuity.
 - It will not be admissible in any kind of leave as well as posting against OSD and leave reserve posts.
 - The Engineers in receipt of such allowances other than regular allowances as classified under major object A012.1, A012.2 shall be entitled to one of the allowances, whichever is more beneficial.
 - It will not be admissible to deputationists.

Secretary to Government
of Khyber Pakhtunkhwa
Finance Department

Under No & Date Even

- The Accountant General, Khyber Pakhtunkhwa, Peshawar
- The Additional Chief Secretary, P&D Department
- The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa
- All the Administrative Secretaries to Govt of Khyber Pakhtunkhwa
- All the Divisional Commissioners in Khyber Pakhtunkhwa
- All the Deputy Commissioners in Khyber Pakhtunkhwa
- All the District Accounts Officers in Khyber Pakhtunkhwa
- Director, (M.I.) Finance Department
- PSO to Chief Secretary, Khyber Pakhtunkhwa, Peshawar
- All Public Officers, Finance Department
- PS to Secretary, Finance Department
- PS to Special Secretary, Finance Department
- Assistant Director (I.R. Data Base) Finance Department
- PA to Additional Secretary (Regulation) Finance Department
- PA to Deputy Secretary (Regulation-II) Finance Department

(Naeem Tabassum)
Section Officer (SR-II)

10/10/18

ATTESTED

ATTESTED

10/1

SR1

BETTER COPY OF THE PAGE NO. 14

Government Of Khyber Pakhtunkhwa
Finance Department
(Regulation Wing)

Dated Peshawar The 19th October 2018

NOTIFICATION

No. FD(SO SR-II) 8-7/2018-19: The Government of Khyber Pakhtunkhwa has been pleased to sanction Technical Allowance as per the following rates to Engineers holding Engineering qualification from the accredited engineering programme of Higher Education Institutions (DEI) / Universities duly recognized by Higher Education Commission (HEC) and registered with Pakistan Engineering Council (PEC), serving against the sanctioned posts in the C&W, Irrigation, Public Health Engineering and Local Government Departments, Govt. of Khyber-Pakhtunkhwa with effect from 1st November 2018:-

<u>S.#</u>	<u>Pay Scales</u>	<u>Initial Basic Pay of Pay Scales 2017</u>	<u>Rate of Technical Allowance Per Month (@ 1.5 initial Basic Pays as per Pay Scales 2017)</u>
i.	Engineers in BS -20	Rs 69,090/-	Rs 1,03,635/-
ii.	Engineers in BS - 19	Rs 59,210/-	Rs 88,815/-
iii.	Engineers in BS -18	Rs 38,350/-	Rs 57,525/-
iv.	Engineers in BS -17	Rs 30,370/-	Rs 45,550/-

2. The above allowance will be admissible subject to the following conditions:-
- i. It will not be counted towards pension or gratuity.
 - ii. It will not be admissible in any kind of leave as well as posting against OSD and leave reserve posts.
 - iii. The Engineers in receipt of such allowances other than regular allowances as classified under major object A012-1 A-12-2 shall be entitled to one of the allowances, whichever is more beneficial.
 - iv. It will not be admissible to deputationists.

Secretary to Government
Of Khyber Pakhtunkhwa
Finance Department

Endst: No. & Date Even

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Additional Chief Secretary P&D Department.
3. The Principal Secretary of Chief Minister, Khyber-Pakhtunkhwa
4. All the Administrative Secretaries to Govt. of Khyber-Pakhtunkhwa
5. All the Divisional Commissioners in Khyber-Pakhtunkhwa
6. All the Deputy commissioners in Khyber-Pakhtunkhwa
7. All the District Accounts Officers in Khyber-Pakhtunkhwa
8. Director, FMIU, Finance Department
9. PSO to Chief Secretary, Khyber-Pakhtunkhwa, Peshawar.
10. All Budget Officer, Finance Department
11. PS to Secretary Finance Department
12. PS to Special Secretary Finance Department
13. Assistant Director (HR Data Base) Finance Department
14. PA to Additional Secretary (Regulation) Finance Department
15. PA to Deputy Secretary (Regulation-II), Finance Department

ATTESTED

ATTESTED

ATTESTED



Annex E 11

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

Dated Peshawar the: 07-07-2021

NOTIFICATION

No. FD(SOSR-II)2-5/2021-22/Tech Allow: In partial modification of this Department notification No FD (SO SR-II) 8-7/2018-19, dated 19-10-2018, the Government of Khyber Pakhtunkhwa has been pleased to accord sanction to Technical Allowance as per the following rates to the Engineers holding Engineering qualification from the accredited engineering programme of Higher Education Institutions (HEI) / Universities duly recognized by Higher Education Commission (HEC) and registered with Pakistan Engineering Council (PEC), serving against positions that are required to be filled by engineers for C&W, Irrigation, Public Health Engineering, Local Government & Mines & Mineral Development Departments with effect from 01.07.2021:

S.No.	Pay Scale	Initial Basic Pay of Pay Scales 2017	Rate of Technical Allowance per Month @ 1.5 Initial Basic pay Scales 2017
1	Engineers in BPS 20	Rs. 69,090/-	Rs. 103,635/-
2	Engineers in BPS 19	Rs. 59,210/-	Rs. 88,815/-
3	Engineers in BPS 18	Rs. 38,350/-	Rs. 57,525/-
4	Engineers in BPS 17	Rs. 30,370/-	Rs. 45,550/-

2. The above allowance will be admissible subject to the following conditions:
- It will be subject to Income Tax.
 - It will not be counted towards pension and gratuity.
 - It will not be admissible in any kind of leave (except casual leave) as well as posting against OSD and Leave Reserve Posts.
 - Those engineers who are posted against other posts and are in receipt of cadre allowance other than regular allowances shall only be entitled to one of the allowances, whichever is more beneficial.
3. All Autonomous/Semi-Autonomous/Medical Teaching Institutions/Other Institutions and Authorities under Provincial Government shall adopt this notification within their respective organizations with the approval of concerned Competent Forum subject to availability of their resources


Secretary to Govt. of Khyber Pakhtunkhwa
Finance Department

Endst: No. & Date even.

A copy of the above is forwarded for information & necessary action to the:

- The Accountant General, Khyber Pakhtunkhwa.
- The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
- The Principal Secretary to Governor, Khyber Pakhtunkhwa.
- All Administrative Secretaries to government of Khyber Pakhtunkhwa.
- All the Divisional Commissioners in Khyber Pakhtunkhwa.
- All Deputy Commissioners in Khyber Pakhtunkhwa.
- All the District Accounts Officers in Khyber Pakhtunkhwa.
- The Director-FMIU, Finance Deptt. with the request to upload the same on FD's Website.
- PSO to Chief Secretary, Khyber Pakhtunkhwa.
- All Section Officers/Budget Officers in Finance Deptt. Khyber Pakhtunkhwa.
- The Manager, Government printing Press, Peshawar.
- The Private Secretary to Secretary, Finance Deptt. Khyber Pakhtunkhwa.
- PA to Special Secretary, Finance Department, Khyber Pakhtunkhwa.
- PAs to Addl. Secretaries/Deputy Secretaries in Finance Deptt. Peshawar.
- Master File.


(Muhammad Ilyas Khattak)
Section Officer (SR: II)

ATTESTED



DIRECTORATE GENERAL ON FARM WATER
MANAGEMENT KHYBER PAKHTUNKHWA

Government of Khyber Pakhtunkhwa
Department of Agriculture and Irrigation



No. *111/1* / *19/11* / *2011*
Date: *19/11/2011*

The Director
Agriculture, Irrigation and Countryside Department
Government of Khyber Pakhtunkhwa, Peshawar

Subject: GRANT OF TECHNICAL ASSISTANCE TO THE ENGINEERS OF THE FARM WATER
MANAGEMENT DIVISION OF AGRICULTURE DEPARTMENT GOVERNMENT OF KHYBER PAKHTUNKHWA
DATED 14.05.2011 & 14.10.2011 ON THE ANALYSIS OF CANAL, IRRIGATION, FLOOD
CONTROL, COMMUNITY, LOCAL GOVERNMENT AND MISL & SPECIALS DEPARTMENTS
GOVERNMENT OF KHYBER PAKHTUNKHWA

This request arising in the office of undersigned has been considered at departmental
level for execution in terms of the subject cited in honor of letter of 14/05/2011 & 14/10/2011
addressed to the undersigned from the Government of Khyber Pakhtunkhwa following the following
terms:

- a) Engineering Qualification from the approved Engineering Program of Higher
Education Institutions (H.E.I.)
- b) University of Qualification is recognized from Higher Education Commission of
(H.E.C) Government of Punjab and Government of Sindh (G.O.S.)
- c) Uninterrupted working experience in the concerned work of the Government of Punjab

It is requested for your consideration that the Engineers working in the Farm Water
Management Division should deal with the canal works, Irrigation works, Flood
Control, community improvement, preparation of DWSR estimates, the community
improvement, improvement of tertiary irrigation system, construction of water storage tanks,
restoration of High Lift Canal Irrigation System (High Lift Canal) FOC, PAFSA, DWSR, and other
works.

It is requested to kindly grant the Technical Assistance to the
engineers working in the office of undersigned as mentioned in the letter subjected to the
above terms.

Director General
Agriculture, Irrigation and Countryside
Department
Peshawar

ATTESTED



**DIRECTORATE GENERAL ON FARM WATER
MANAGEMENT KHYBER PAKHTUNKHWA**

19-Jamrud Road, ATI Campus Peshawar
(Ph: 091-9224307-8, Fax: 091-9224370, Email: dgofwm@gmail.com)



No. 1669 /DG/OFWM
Dated 16/07 /2021

To

Secretary,
Agriculture, Livestock and Cooperation Department
Government of Khyber Pakhtunkhwa, Peshawar

**Subject: - Departmental Appeal for extension of benefit of Notification
Dated 19-10-2018 partially modified dated 7-7-2021.**

The engineers serving in the office of undersigned has submitted a departmental appeal for extension of benefit of the subject above in shape of Technical Allowance granted to different attached departments of the Government of Khyber Pakhtunkhwa fulfilling the following criteria.

- Engineers holding Engineering Qualification from the accredited Engineering programme of Higher Education Institutions/ Universities duly recognized by Higher Education Commission.
- Engineers Registered with Pakistan Engineering Council.

It is submitted for your information that the Engineers working in the On Farm Water Management fulfilling the above criteria and deals with the civil works/ Engineering works i-e Construction, designing, improvement, preparation of BOQ/ estimates, of the following innervations, improvement of tertiary irrigation system, construction of water storage Tanks, Installation of High Efficiency Irrigation System (Drip & Sprinkle), PCC, PCPS, Brick, and Pipe lining.

In view of the above it is requested to kindly grant the Technical Allowance to the engineers working in the office of undersigned as mentioned in the above subjected notification please.

Director General
OFWM Khyber Pakhtunkhwa
Peshawar

ATTESTED

Handwritten signature/initials

**DIRECTORATE GENERAL ON FARM WATER
MANAGEMENT KHYBER PAKHTUNKHWA**
19-Jamrud Road, ATI Campus, Peshawar
(Ph: 091-9224307 & Fax: 091-9224371) Email: _____

No. 3464/DO/OFWM
Dated 19/11/2021

To

The Secretary
Agriculture, Livestock and Cooperation Department
Government of Khyber Pakhtunkhwa Peshawar .

Subject:

**GRANT OF TECHNICAL ALLOWANCE TO THE ENGINEERS OF ON
FARM WATER MANAGEMENT, WING OF AGRICULTURE
DEPARTMENT IN LIGHT OF CABINET DECISION DATED 24.05.2018 &
15.10.2018 ON THE ANALOGY OF C&W IRRIGATION PUBLIC HEALTH
ENGINEERING, LOCAL GOVERNMENT AND MINE & MINERALS
DEPARTMENTS GOVERNMENT OF KHYBER PAKHTUNKHWA.**

The engineers serving in the office of undersigned has submitted a departmental appeal for extension of benefit of the subject above in shape of Technical Allowance granted to different attached departments of the Government of Khyber Pakhtunkhwa fulfilling the following criteria.

- a. Engineering Qualification from the accredited Engineering Program of Higher Education Institutions (HEC)
- b. University of Qualification the recognized from Higher Education Commission (HEC) and registered with Pakistan Engineering Council (PEC).
- c. Should be serving against the sanctioned posts of Provincial Government.

It is submitted for your information that the Engineers working in the On Farm Water Management fulfilling the above criteria and deals with the civil works / Engineering works i.e. Construction, designing, improvement, preparation of BOQ / estimates of the following innervations empowerment of territory irrigation system, construction of water storage tracks installation of High Efficiency Irrigation System (Drip & Sprinkle) PCC, PCPS, Block and Pipe lining.

In view of the above it is requested to kindly grant the Technical Allowance to the engineers working in the office of undersigned as mentioned in the above subjected notification please.

Sd/-
Director General
Of W/M Khyber Pakhtunkhwa
Peshawar

ATTESTED

Annex 14

H
14

Secretary to Govt of Khyber Pakhtunkhwa,
Agriculture, Livestock and Cooperation Deptt, Peshawar

Subject: Departmental Appeal against Notification dated 19-10-2018

Sir,

The applicant humbly submits as follows:

1. That I am duly qualified engineer registered with Pakistan Engineering Council and are serving in the Department.
2. That the provincial cabinet in its meeting held on 24-05-2018 decided and approved the grant of technical allowance @ 1.5 times of the initial basic pay scale to all the engineers working in provincial government Departments with effect from 1st July, 2018.
3. That thereafter another meeting of the provincial cabinet was held on 15-10-2018 wherein it clarified the status of earlier cabinet decision regarding authorization of Technical Allowance to the Engineers of Provincial Government Departments and it was decided that the decision of the Provincial Cabinet be implemented in letter and spirit.
4. That in the light of aforesaid developments, I was under legitimate expectancy that I will be granted the benefits of the aforesaid decision of provincial cabinet but to my surprise, the Notification dated 19-10-2018 is issued whereby the benefit of the aforesaid provincial cabinet decision is given only to the engineers holding Engineering qualification serving in the C & W Department, Irrigation, Public Health Engineering and Local Government Departments of Government of Khyber Pakhtunkhwa and I have been deprived from its benefit.

It is, therefore, humbly requested that the benefit of Notification dated 19-10-2018 may kindly be granted to me with all back benefits.

Applicant,

Shah
14
SHAHEEN IOBAL
WMO (BS-17).

26/10/18

Copy to:

1. Chief Secretary to Govt of Khyber Pakhtunkhwa, Peshawar
2. Secretary to Government of Khyber Pakhtunkhwa, Finance Department, Peshawar

ATTESTED

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR



Writ Petition No _____ 2019

1. Muhammad Asif, Deputy Director Planning, On Farm Water Management Department, Peshawar
2. Muhammad Khurshid Afridi, Director General, On Farm Water Management Department, KP, Peshawar
3. Shamshad Hussain, District Director, On Farm Water Management Department, Charsadda
4. Sahibzada Alamgir, District Director, On Farm Water Management Department, Peshawar
5. Muhammad Azeem, Director HRD, On Farm Water Management Department, D.I Khan
6. Muhammad Afzal, District Director, On Farm Water Management Department, Peshawar
7. Behram Jan, Director Planning, On Farm Water Management Department, Peshawar
8. Dawa Khan, Distt Director, On Farm Water Management Department
9. Riaz Gul, District Officer, On Farm Water Management Department, Kohistan
10. Qayyum Khan, District Officer, On Farm Water Management Department, Bannu
11. Amir Rabbani, District Officer, On Farm Water Management Department, Chitral
12. Shahid Mahmood, District Officer, On Farm Water Management Department, Abbottabad
13. Abdullah Khan, Deputy Director, On Farm Water Management Department, Mardan
14. Rafiq Ahmad Ghuncha, Water Management Officer, On Farm Water Management Department, Office of Distt Officer, Tank
15. Moeen ud Din, District Officer, On Farm Water Management Department, Shangla
16. Zahid Khaliq, Water Management Officer, Office of District Director, On Farm Water Management Department, charsadda
17. Said Muhammad, Water Management Officer, Office of District Director, On Farm Water Management Department, Peshawar
18. Muhammad Idrees, Water Management Officer, Office of District Director, On Farm Water Management Department, Chitral

ATTESTED

ATTESTED

EXAMINER
Peshawar High Court

19. Munir Ahmad Khan, Water Management Officer, On Farm Water Management Department, presently in office of Project Director Gomalzam Dam
20. Wasimullah, Water Management Officer, Water Management Officer, Office of District Director, On Farm Water Management Department, presently in office of Project Director, Gomalzam Dam
21. Muhammad Farooq, Water Management Officer, Office of District Director, On Farm Water Management Department, Swabi
22. Saeed Shah, A.D Planning, Water Management Officer, Office of District Director, On Farm Water Management Department, Peshawar
23. Aman Khan, Water Management Officer, Office of District Director, On Farm Water Management Department, Buner
24. Ghulam Bilal, Water Management Officer, On Farm Water Management Department, office of District Director, D.I Khan
25. Muhammad Tufail, Water Management Officer, Office of District Director, On Farm Water Management Department, Karak
26. Qiyash Ahmad, Water Management Officer, Office of District Director, On Farm Water Management Department, Swabi
27. Aftab Ahmad Khan, Water Management Officer, Office of District Director, On Farm Water Management Department, D.I Khan
28. Nisar Ahmad, Water Management Officer, On Farm Water Management Department, presently in office of Project Director Gomalzam Dam
29. Muhammad Nadeem, Water Management Officer, Office of District Director, On Farm Water Management Department, Office of Distt Director Lakki Marwat
30. Attaullah, Water Management Officer, Office of District Director, On Farm Water Management Department, office of District Director, Haripur
31. Anjad Ali, Water Management Officer, Office of District Director, On Farm Water Management Department, District Office, Malakand
32. Shaheen Iqbal, Water Management Officer, Office of District Director, On Farm Water Management Department, office of District Director, Peshawar
33. Ihsanullah Khan, Water Management Officer, Office of District Director, On Farm Water Management Department, office of District Office, Bannu
34. Muhammad Zubair, Director Planning, Directorate General, Soil & Water Conservation Deptt, KP, Peshawar
35. Irfanullah, District Officer, Directorate General, Soil & Water Conservation Deptt, KP, Peshawar
36. Abdullah Khan, Soil Conservation Assistant, Directorate General, Soil & Water Conservation Deptt, KP, Peshawar
37. Awais Ali, Soil Conservation Assistant, Directorate General, Soil & Water Conservation Deptt, KP, Peshawar

ATTESTED

ATTESTED
 EXAMINER
 Peshawar High Court

17

38. Noor Muhammad, Soil Conservation Assistant, Directorate General, Soil & Water Conservation Deptt, KP, Peshawar
39. M Hizbullah Khan, D.D Industries & Commerce, KP, Peshawar

.....Petitioners

Versus

1. Chief Secretary to Govt of Khyber Pakhtunkhwa, Peshawar
2. Secretary to Govt of Khyber Pakhtunkhwa, Finance Department, Peshawar
3. Secretary to Govt of Khyber Pakhtunkhwa, Establishment Deptt, Peshawar
4. Accountant General, Khyber Pakhtunkhwa, Peshawar
5. Secretary to Govt of Khyber Pakhtunkhwa, Agriculture, Livestock and Cooperation Deptt, KP, Peshawar
6. Secretary to Govt of Khyber Pakhtunkhwa, Industries and Commerce, Deptt, KP, Peshawar

.....Respondents

**Writ Petition under Article 199 of The
Constitution of Islamic Republic of Pakistan, 1973**

Respectfully Sheweth,

Brief but relevant facts warranting this Writ Petition are:

1. That the Petitioners are duly qualified engineers registered with Pakistan Engineering Council and are serving in the respondent Departments against the posts mentioned in the title of the Writ Petition.
2. That the provincial cabinet in its meeting held on 24-05-2018 decided and approved the grant of technical allowance @ 1.5 times of the initial basic pay scale to all the engineers working in provincial-government Departments with effect from 1st July, 2018. (Copy of decision of meeting of the Provincial Cabinet dated 24-05-2018 is filed herewith and annexed as Annex-A)
3. That thereafter another meeting of the provincial cabinet was held on 15-10-2018 wherein it clarified the status of earlier cabinet decision regarding authorization of Technical Allowance to the Engineers of Provincial Government Departments and it was decided that the decision of the Provincial Cabinet be implemented in letter and spirit. (Copy of the decision of meeting of the Provincial Cabinet dated 15-10-2018 is filed herewith and annexed as Annex-B)

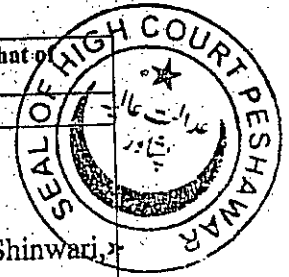
ATTESTED

EXAMINER
Peshawar High Court

19

PESHAWAR HIGH COURT PESHAWAR
ORDER SHEET

Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary
12.02.2020	<p style="text-align: center;">2</p> <p><u>Writ Petition No. 5321-P/2018.</u></p> <p>Present: Mr. Muhammad Ayub Khan Shinwari, advocate for the petitioners.</p> <p>Syed Qaiser Shah, Addl. AG on behalf of respondents.</p> <p style="text-align: center;">*****</p> <p><u>WAQAR AHMAD SETH, CJ:-</u> Through this constitutional petition, we intend to decide the instant petition as well as connected writ petitions bearing No. 5755-P/2018 & 681-P/2019, being identical in nature.</p> <p>2. Mujahid Naseer, Assistant Director (M&E) P&D Department, & others, petitioners, herein aggrieved from the acts / inactions of respondents have directed this petition with the following relief:-</p> <p>a. Declare the discriminatory implementation of the Provincial Cabinet Decisions dated 24.05.2018 & 15.10.2018 by the respondents as illegal, unlawful, without lawful authority and ineffective upon the rights of the petitioners; and</p> <p>b. Direct the respondents to extend the benefit of the Notification dated 19.10.2018 to the petitioners by grant of Technical Allowance with effect from 1st November, 2018 with all back benefits.</p>



ATTESTED

ATTESTED

EXAMINER
Peshawar High Court

AS

2. At the very outset, learned counsel for the petitioners while producing copy of the judgment dated 21.11.2019, rendered by this Court in writ petition bearing No. 5877-P of 2018; whereby in exactly similar situation, this Court directed the respondents-Chief Secretary, Government of Khyber Pakhtunkhwa to decide the appeal of petitioners pending before him, requested that appeal of present petitioners are also pending before the hierarchy, requested for direction and decision thereon. Learned AAG when confronted, conceded to, in view of which this as well as the connected petitions are disposed of accordingly by directing the respondents to decide the appeals of petitioners pending over there, within a shortest possible time in accordance with relevant law.

No. 2747
 Date of Presentation of Application 22-7-2020
 No of Pages 9P
 Copying fee 36/-
 Total 36/-
 Date of Preparation of Copy 22-7-2020
 Date of Delivery of Copy 2-7-2020
 Received By [Signature]

[Signature]
 Chief Justice

[Signature]
 Judge

ATTESTED

Tariq Jan PS.

DB, Mr. Justice Waqar Ahmad Seth, Chief Justice & Mr. Justice Abdul Shakoor, JJ.

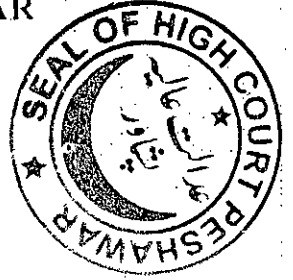
[Signature]
 CERTIFIED TO BE TRUE COPY

EXAMINER
 Peshawar High Court - Peshawar
 Authorised Under Article 87 of
 the Qanun-e-Shahadat Order 1988

22 JUL 2020

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

C.o.C No _____/2020
in
Writ Petition No 681-P/2019



1. Muhammad Asif, Deputy Director Planning, On Farm Water Management Department, Peshawar
2. Muhammad Khurshid Afridi, Director General, On Farm Water Management Department, KP, Peshawar
3. Shamshad Hussain, District Director, On Farm Water Management Department, Charsadda
4. Sahibzada Alamgir, District Director, On Farm Water Management Department, Peshawar
5. Muhammad Azeem, Director HRD, On Farm Water Management Department, D.I Khan
6. Muhammad Afzal, District Director, On Farm Water Management Department, Peshawar
7. Behram Jan, Director Planning, On Farm Water Management Department, Peshawar
8. Dawa Khan, Distt Director, On Farm Water Management Department
9. Riaz Gul, District Officer, On Farm Water Management Department, Kohistan
10. Qayyum Khan, District Officer, On Farm Water Management Department, Bannu
11. Amir Rabbani, District Officer, On Farm Water Management Department, Chitral
12. Shahid Mahmood, District Officer, On Farm Water Management Department, Abbottabad
13. Abdullah Khan, Deputy Director, On Farm Water Management Department, Mardan
14. Rafiq Ahmad Ghuncha, Water Management Officer, On Farm Water Management Department, Office of Distt Officer, Tank
15. Moeen ud Din, District Officer, On Farm Water Management Department, Shangla
16. Zahid Khaliq, Water Management Officer, Office of District Director, On Farm Water Management Department, charsadda
17. Said Muhammad, Water Management Officer, Office of District Director, On Farm Water Management Department, Peshawar
18. Muhammad Idrees, Water Management Officer, Office of District Director, On Farm Water Management Department, Chitral

ATTESTED
EXAMINER
Peshawar High Court

- 19. Munir Ahmad Khan, Water Management Officer, On Farm Water Management Department, presently in office of Project Director Gomalzam Dam
- 20. Wasimullah, Water Management Officer, Water Management Officer, Office of District Director, On Farm Water Management Department, presently in office of Project Director, Gomalzam Dam
- 21. Muhammad Farooq, Water Management Officer, Office of District Director, On Farm Water Management Department, Swabi
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- 25. Muhammd Tufail, Water Management Officer, Office of District Director, On Farm Water Management Department, Karak
- 26. Qiash Ahmad. Water Management Officer, Office of District Director, On Farm Water Management Department, Swabi
- 27. Aftab Ahmad Khan, Water Management Officer, Office of District Director, On Farm Water Management Department, D.I Khan
- 28. Nisar Ahmad, Water Management Officer, On Farm Water Management Department, presently in office of Project Director Gomalzam Dam
- 29. Muhammad Nadeem, Water Management Officer, Office of District Director, On Farm Water Management Department, Office of Distt Director Lakki Marwat
- 30. Attaullah, Water Management Officer, Office of District Director, On Farm Water Management Department, office of District Director, Haripur
- 31. Amjad Ali, Water Management Officer, Office of District Director, On Farm Water Management Department, District Office, Malakand
- 32. Shaheen Iqbal, Water Management Officer, Office of District Director, On Farm Water Management Department, office of District Director, Peshawar
- 33. Ihsanullah Khan, Water Management Officer, Office of District Director, On Farm Water Management Department, office of District Office, Bannu
- 34. Muhammad Zubair, Director Planning, Directorate General. Soil & Water Conservation Deptt, KP, Peshawar
- 35. Irfanullah, District Officer, Directorate General, Soil & Water Conservation Deptt, KP, Peshawar
- 36. Abdullah Khan, Soil Conservation Assistant, Directorate General, Soil & Water Conservation Deptt, KP, Peshawar
- 37. Awais Ali, Soil Conservation Assistant, Directorate General, Soil & Water Conservation Deptt, KP, Peshawar

ATTESTED
 EXAMINER
 Peshawar High C

38. Noor Muhammad, Soil Conservation Assistant, Directorate General, Soil & Water Conservation Deptt, KP, Peshawar

39. *M Hizbullah Khan, DD Industries & Commerce, KP, Peshawar*Petitioners

Versus

1. Kazim Niaz, Chief Secretary to Govt of Khyber Pakhtunkhwa, Peshawar
2. Atif ur Rehman, Secretary to Govt of Khyber Pakhtunkhwa, Finance Department, Peshawar
3. Jamal ud Din, Secretary to Govt of Khyber Pakhtunkhwa, Establishment Deptt, Peshawar
4. M Israr Khan, Secretary to Govt of Khyber Pakhtunkhwa, Agriculture, Livestock and Cooperation Deptt, KP, Peshawar

.....Respondents

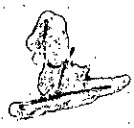
Application under Article 204 of The Constitution of Islamic Republic of Pakistan, 1973 read with Contempt of Court Ordinance for initiating contempt of court proceedings against the respondents/Contemnors and implementation of Judgment and Order dated 12-02-2020 passed in Writ Petition No 681-P/2019.

Respectfully Sheweth,

Brief but relevant facts of the case are as follows:

1. That the Petitioner filed the title Writ Petition before this Honorable Court with a following prayer:
 - a. Declare the discriminatory implementation of the Provincial Cabinet Decisions dated 24-05-2018 and 15-10-2018 by the respondents as illegal, unlawful, without lawful authority and ineffective upon the rights of the Petitioners; and
 - b. Direct the respondents to extend the benefit of the Notification Dated 19-10-2018 to the Petitioners by grant of Technical Allowance with effect from 1st November, 2018 with all back benefits.
 - c. Any other relief which has not been specifically prayed for and deemed fit and appropriate by this Honorable Court in the circumstances may graciously be granted.
2. That the title Writ Petition was clubbed with identical Writ petitions and this Honorable Court was pleased to dispose off the title Writ Petition along with other Writ Petitions vide Judgment dated 12-02-2020 with the directions to

M. Asif
ATTESTED
EXAMINER
Peshawar High Court



decide the appeals of the petitioners pending over there, within a shortest possible time in accordance with relevant law. (Copy of the Judgment is attached herewith as Annex-A)

- 3. That the copy of the aforesaid Order was not only delivered to the respondents by the office of this Honorable Court but also the same is delivered by the Applicant to the respondents.
- 4. That the Applicant approached the Respondents so many times to comply with the Order 12-02-2020 and to implement the judgment and order of this Honorable Court in letter and spirits but to no fruitful results.
- 5. That the respondents are deliberately disobeying the Orders of this Honorable Court, which shows the intentions as well as disobedience on their part, towards the order of this Court.
- 6. That the respondents are required to be dealt with iron handedly and are liable to be proceeded for committing flagrant contempt of court.

It is, therefore, prayed that on acceptance of this application, on initiating contempt of court proceedings, the respondents may kindly be punished under Contempt of Court Act read with Article 204 of the Constitution of Islamic Republic of Pakistan, 1973 and the respondents be further directed to implement the Order dated 12-02-2020 passed in Writ Petition 681-P/2019 in its letter and spirit.

Applicants
Through

Muhammad Ayub Khan Shinwari
Advocate Peshawar

(Signature)
30 NOV 2021
Authorised Under Article 17 c
The Qanun-e-shahadat Order 1974

30 NOV 2021

Intelligible differentia exist amongst the engineers who are granted "Technical Allowance" and the petitioners, therefore, the petitioners being not entitled as per facts, Cabinet Decision, Policy and recommendations of the Committee on the subject, the prayer of the Engineers Cadre of the concerned department made in the above mentioned Writ Petition filed in the Peshawar High Court, Peshawar is regretted, being not worthy of consideration and against the spirit of the Cabinet Decision of the Provincial Government of Khyber Pakhtunkhwa on the subject.

4. In view of the order *ibid* no case for initiation of any contempt proceedings has been made out against the respondents. In case the petitioners are not in agreement with the decision rendered by the respondent No.1, as referred above, then they can challenge the same before the proper forum and not through any contempt of court proceedings.

5. For what has been discussed above, this petition, being bereft of any merit, is hereby dismissed.

Announced
12.10.2021

ed/ Jal Far Khattak
JUDGE

ed/ Musarat Akhtari
JUDGE

No. 12437
Date of Presentation of Application 10/11/21
No of Pages 10
Copying fee 1
Total 10
Date of Preparation of Copy 30/11/21
Date of Delivery of Copy 30/11/21
Received By [Signature]

EXHIBIT TO BE TRUE COPY
Examined
Peshawar High Court, Peshawar
Registered Under Article 87 of
the Constitution of Pakistan Order 108

30 NOV 2021



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

Peshawar, Dated the 29th July, 2020

OFFICE ORDER:

No.FD/SOSR-II/8-7/2020 Whereas, the Provincial Government of Khyber Pakhtunkhwa sanctioned Technical Allowance to the tune of 1.5 Initial Basic Pay per month as per Pay Scale of 2017 to the only Four Works Department i.e. C&W, Irrigation, Public Health Engineering & Local Govt Departments Engineers from BS-17 to BS-20 as per rates mentioned therein vide Finance Department Notification No.FD(SOSR-II)8-7/2018-19 Dated 19-10-2018 in pursuance of the approval of the Provincial Cabinet.

And whereas, the Engineers cadre of certain departments requested through proper representation for grant of the above allowance on the analogy of the Engineers of the Four Works Departments which was examined but not entertained, being not based on merit, in light of the approved cabinet decision and policy accordingly.

And whereas, following non-maintainability of their request by the Provincial Government the engineers of the Agriculture Department filed a Writ Petition No. No. 5877-P/2018 titled "Zahid Rabbani & Others VS Chief Secretary Khyber Pakhtunkhwa & Others" in the Peshawar High Court, Peshawar in which they prayed for grant of the said allowance to their cadre on the analogy of the Engineers of Four Works Department.

And whereas, the Honourable Peshawar High Court, Peshawar in its judgment Dated: 21-11-2019 and referred the case to Chief Secretary, Khyber Pakhtunkhwa to look into the matter and make decision within the shortest possible time in accordance with the relevant law, rules on the subject.

And whereas, accordingly the Committee constituted by the Provincial Government under the Chairmanship of Minister Finance, examined the Court directions in the above Writ Petition in light of decision of the Provincial Cabinet on the subject and regretted the aforementioned allowance on the following grounds:

1. That the Engineers working in 04 Departments i.e. C&W, Irrigation, PHE and LG&RD Department, to whom Technical Allowance has been allowed by the Provincial Government vide Notification No. FD(SOSR-II)8-7/2018-19 dated 19th October, 2018 are dealing totally with the infrastructure of the Province/Provincial Government. They are practically involved in Engineering Works like construction of Roads, Buildings, Canals, Drains and other construction/engineering works etc, throughout their duty hours and perform duties at field outside their offices. On many occasions they work overtime. While the Petitioners are not performing duties cited hereinbefore.

That the office timings for field formation are not fixed rather depends upon the quantum of work & number of sites which they visit/inspect. These inspections/visits include far flung areas in same Districts, consumes time, energy and resources and

FILED TODAY
Deputy Registrar
04 AUG 2020

ATTESTED

application of technical/engineering skills. In case of defect/deficiency or any mis-happening observed therein, the concerned engineer is held responsible for the loss/consequences. It is worth to mention that the Petitioners do not undertake these duties as well.

- III. That apart from field work these engineers also manage the office work before start of project like preparation of Project Estimates and Contract/ Agreements etc. all these documents are technically checked by the engineers. Besides, field Engineers are fully committed with Engineering and Field/Office work and no relaxation for availing even Gazzetted holidays, whereas engineers of the other than 04 Departments are not engaged with field work, only performing official assignment of duties and fully relax to avail all holidays whereas the Petitioners are performing normal duties in agriculture department.
- IV. That similarly, the job/duty of Engineers working in Agriculture Department is just desk type, having no application of Engineering skill and do not involve practically in any, type of construction work like constructions/maintenance of buildings, Road, Residential & Non Residential Accommodations, Maintenance & Repair of Roads, Bridges, Ferries, Tunnels, Rope-ways, cause ways etc.

And whereas, the matter was thereafter considered threadbare by Chief Secretary who also concurs with aforesaid observation, and now, in light of the above intelligible differentia exist amongst the engineers who are granted "Technical Allowance" and the Petitioners, therefore, the Petitioners being not entitled as per facts, Cabinet Decision, Policy and recommendations of the Committee on the subject, the prayer of the Engineers Cadre of the concerned department made in the above mentioned Writ Petition filed in the Peshawar High Court, Peshawar is regretted, being not worthy of consideration and against the spirit of the Cabinet Decision of the Provincial Government of Khyber Pakhtunkhwa on the subject.

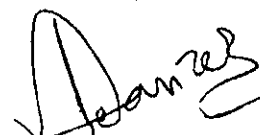
FILED TODAY
Deputy Registrar
04 AUG 2020

CHIEF SECRETARY,
KHYBER PAKHTUNKHWA

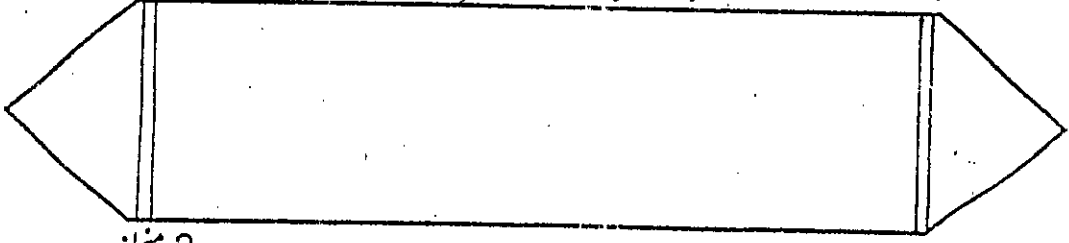
Endst: of Even No. & date:

1. The Registrar, Peshawar High Court, Peshawar with reference to the above mentioned Writ Petition.
2. The Advocate General, Khyber Pakhtunkhwa, Peshawar.
3. The Secretary to Govt. of Khyber Pakhtunkhwa, Law, Human Rights & Parliamentary Affairs Department.
4. The Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.
5. The Special Secretary-I, Finance Department.
6. The PSO to Chief Secretary, Khyber Pakhtunkhwa.
7. Master File.

ATTESTED


SECTION OFFICER (SR-II)

بعد الت جانب سروسى نر سیرل کے۔ پی کے لیسٹ



موزخہ
مقدمہ
دعویٰ
جرم

2 منجانب
بنام گورنمنٹ و عہدہ

2021 ————— 5-A

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام لیسٹ کے لیے محمد الیوسف بنام گورنمنٹ و عہدہ

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب برصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالت ہ فیصلہ بر حلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زر میں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برادگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ امور با اختیارات حاصل ہوں گے اور اس کا ساختہ
چراغہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا۔
کلی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہیں گے۔ کہ پیروی
کلی کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

ATTESTED

المرقوم 30 ماہ جولائی 2021

العبد گواہ

ATTESTED
Accepted
کے لئے منظور ہے۔

بمقام لیسٹ

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

In the matter of Service Appeal No. 7856/2021 of Shaheen Iqbal Water Management Officer o/o District Director On Farm Water Management Peshawar

.....Appellant
Khyber Pakhtunkhwa
Service Tribunal

VERSUS

Diary No. 1879

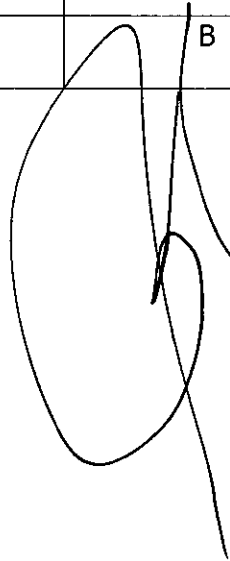
Dated 8/11/2022

1. Chief Secretary to Government of Khyber Pakhtunkhwa Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa, Finance department.
3. Secretary to Government of Khyber Pakhtunkhwa, Agriculture, Livestock and Coop: Department, Peshawar.
4. Director General, Agriculture, Livestock and Cooperation Deptt: Govt. of Khyber Pakhtunkhwa, Peshawar.

.....Respondents

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S.No.	Particulars	Annexure	Pages
1	Comments	-	1-3
2	Affidavit	-	4
3	Copy of Finance Department Notification dated 19-10-2018	A	5
4	Copy of order dated 29-07-2020	B	6-7



DEPONENT

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

In the matter of Service Appeal No. 7856/2021 of Shaheen Iqbal Water Management Officer o/o District Director On Farm Water Management Peshawar

.....Appellant

VERSUS


1. Chief Secretary to Government of Khyber Pakhtunkhwa Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa, Finance department.
3. Secretary to Government of Khyber Pakhtunkhwa, Agriculture, Livestock and Coop: Department, Peshawar.
4. Director General, Agriculture, Livestock and Cooperation Deptt: Govt. of Khyber Pakhtunkhwa, Peshawar.

.....Respondents

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS

Respectfully Sheweth:

Preliminary Objections

- 
1. That the appellant has no cause of action.
 2. That the appellant has no locus standi.
 2. The appeal is premature.
 3. That due to concealment of material facts and misstatement the appeal is liable to be dismissed.
 4. The appeal is badly bared by time and not maintainable in eyes of law.
 5. That the appeal is bad for miss-joinder and non-joinder of necessary and proper parties.

COMMENTS

1. Correct to the extent that the appellant is serving as Water Management Officer (BPS-17) in On Farm Water Management wing of Agriculture department.
2. Pertains to record hence need no comments.
3. Pertains to record hence need no comments.
4. That in pursuance to decisions of Provincial Cabinet in the meetings held on 24.05.2018 and 15.10.2018 regarding approval / authorization of Technical Allowance (@ rate of 1.5 times of the initial Basic Pay Scale) the Government of Khyber Pakhtunkhwa Finance Department (Regulation Wing) vide notification dated 19.10.2018 sanctioned technical allowance to the Engineers holding Engineering

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qualification from the accredited engineering program of Higher Education Institutions (HEI) / Universities duly recognized by Higher Education Commission (HEC) and registered with Pakistan Engineering Council (PEC), serving against the sanctioned posts in the C&W, Irrigation, Public Health Engineering and Local Government Department.

As the appellant is not working in any of the department mentioned in the ibid notification, therefore, the expectancy of the appellant regarding grant of Technical Allowance is out of place and he has not been deprived in any way (copy of Finance Department notification dated 19-10-2018 attached **Annex-A**)

5. Incorrect, the position regarding allowing Technical Allowance to the Engineers serving against the sanctioned posts in Technical Department has categorically highlighted in Para-4 of the comments.

Beside this, the Engineers of Technical Department having specific nature job which are carried out by the Engineers in their concerned departments. While the job/duty of Engineers working in Agriculture Department is just desk type having no application of Engineers skill and do not involve practically in any type of construction work like constructions/maintenance of buildings, Roads, Residential & Non-Residential Accommodations maintenance, repair of Roads, Building etc. therefore, the stance taken by appellant in the Service Appeal is not justified.

6. As explain in Para-5 above.
7. The petitioner himself admitted that his departmental appeal has been dismissed by the concerned competent authority (Copy of order dated 29-07-2020 attached **Annex-B**)

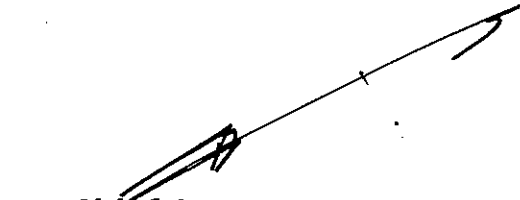
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GROUNDS

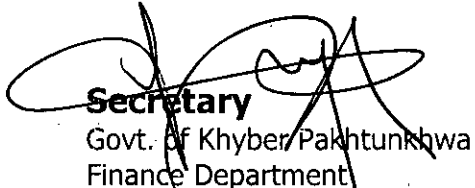
- A. Incorrect, the impugned notifications dated 19.10.2018 and impugned order dated 29.07.2020 are according with law, rules & facts on record.
- B. Incorrect, notifications dated 19.10.2018 and impugned order dated 29.07.2020 are not in violation of law and rules and no inequality has been done to the appellant.
- C. Incorrect, the impugned notification and impugned order are according to norms of justice and no fundamental rights of the appellant has been violated.
- D. Incorrect, the notifications and orders issued regarding technical allowance to the engineers are in accordance with the law, rules & policy of the Government.
- E. As explained in Para-4 & 5 above.
- F. Incorrect, the impugned notifications are according to norms of justice and dictum of the apex courts.

G. That Respondents also seek permission of this court to advance further grounds during arguments.

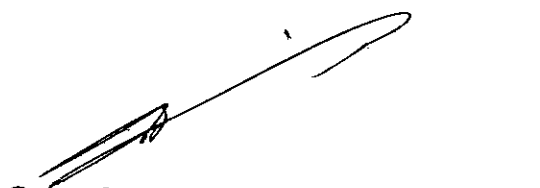
In light of the above facts, it is prayed that appeal of the appellant may kindly be dismissed with cost.



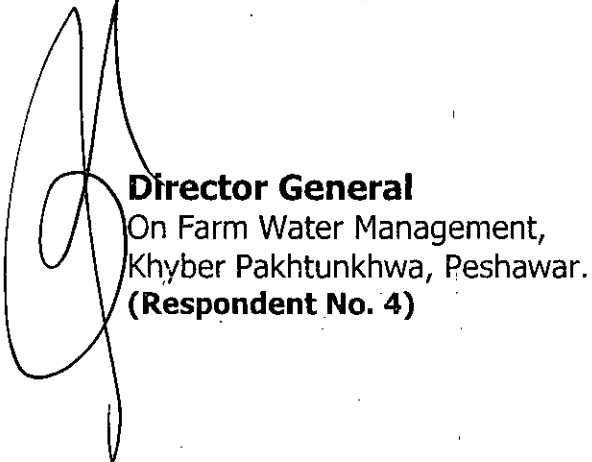
Chief Secretary
Govt. of Khyber Pakhtunkhwa
Peshawar
(Respondent No. 1)



Secretary
Govt. of Khyber Pakhtunkhwa
Finance Department
Peshawar
(Respondent No. 2)



Secretary
Govt. of Khyber Pakhtunkhwa
Agriculture, Livestock & Coop: Deptt.,
Peshawar
(Respondent No. 3)



Director General
On Farm Water Management,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No. 4)

In the matter of Service Appeal No. 7856/2021 of Shaheen Iqbal Water Management Officer o/o District Director On Farm Water Management Peshawar

.....Appellant

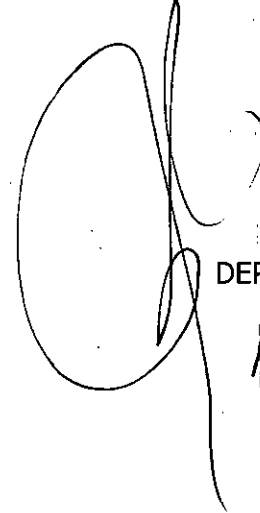
VERSUS

1. Chief Secretary to Government of Khyber Pakhtunkhwa Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa, Finance department.
3. Secretary to Government of Khyber Pakhtunkhwa, Agriculture, Livestock and Coop: Department, Peshawar.
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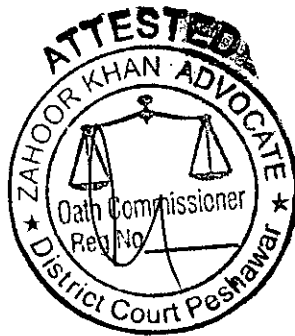
AFFIDAVIT

I, Javid Iqbal **Director General On Farm Water Management Khyber Pakhtunkhwa, Peshawar** do hereby solemnly declare and affirm that the respondents have not suppressed the facts and actual position of the case from this honourable Tribunal. The comments of affidavit and reply both are true and correct according to my knowledge, belief and nothing has been concealed from this Tribunal.



DEPONENT

14202-7345424-7





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Government of Khyber Pakhtunkhwa
Finance Department
(Regulation Wing)

Dated Peshawar the 19th October, 2018

NOTIFICATION

No FD (SO SR-II) 8-7/2018-19: The Government of Khyber-Pakhtunkhwa has been pleased to sanction Technical Allowance as per the following rates to Engineers holding Engineering qualification from the accredited engineering programme of Higher Education Institutions (HEI) / Universities duly recognized by Higher Education Commission (HEC) and registered with Pakistan Engineering Council (PEC), serving against the sanctioned posts in the C&W, Irrigation, Public Health Engineering and Local Government Departments, Govt. of Khyber-Pakhtunkhwa with effect from 1st November 2018 :-

S.#	Pay Scales	Initial Basic Pay of Pay Scales 2017	Rate of Technical Allowance Per Month (@ 1.5 initial Basic Pays as per Pay Scales 2017)
i.	Engineers in BS - 20	Rs 69,090/-	Rs 1,03,635/-
ii.	Engineers in BS - 19	Rs 59,210/-	Rs 88,815/-
iii.	Engineers in BS - 18	Rs 38,350/-	Rs 57,525/-
iv.	Engineers in BS - 17	Rs 30,370/-	Rs 45,550/-

2. The above allowance will be admissible subject to the following conditions:-
- It will not be counted towards pension or gratuity.
 - It will not be admissible in any kind of leave as well as posting against OSD and leave reserve posts.
 - The Engineers in receipt of such allowances other than regular allowances as classified under major object A012-1 A012-2 shall be entitled to one of the allowances, whichever is more beneficial.
 - It will not be admissible to deputationists.

Secretary to Government
of Khyber Pakhtunkhwa
Finance Department

Endst: No & Date Even

- The Accountant General, Khyber Pakhtunkhwa, Peshawar
- The Additional Chief Secretary P&D Department
- The Principal Secretary to Chief Minister, Khyber-Pakhtunkhwa
- All the Administrative Secretaries to Govt of Khyber-Pakhtunkhwa
- All the Divisional Commissioners in Khyber-Pakhtunkhwa
- All The Deputy Commissioners in Khyber-Pakhtunkhwa
- All the District Accounts Officers in Khyber-Pakhtunkhwa
- Director, FMIU, Finance Department
- PSO to Chief Secretary, Khyber-Pakhtunkhwa, Peshawar
- All Budget Officer, Finance Department
- PS to Secretary Finance Department
- PS to Special Secretary Finance Department
- Assistant Director (HR Data Base) Finance Department
- PA to Additional Secretary (Regulation) Finance Department
- PA to Deputy Secretary (Regulation-II), Finance Department

(Nacem Tabassum)
Section Officer (SR-II)

19/10/18



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

Peshawar, Dated the 29th July, 2020

OFFICE ORDER:

No.FD/SOSR-II/8-7/2020 Whereas, the Provincial Government of Khyber Pakhtunkhwa sanctioned Technical Allowance to the tune of 1.5 Initial Basic Pay per month as per Pay Scale of 2017 to the only Four Works Department i.e. C&W, Irrigation, Public Health Engineering & Local Govt Departments Engineers from BS-17 to BS-20 as per rates mentioned therein vide Finance Department Notification No.FD(SOSR-II)8-7/2018-19 Dated 19-10-2018 in pursuance of the approval of the Provincial Cabinet.

And whereas, the Engineers cadre of certain departments requested through proper representation for grant of the above allowance on the analogy of the Engineers of the Four Works Departments which was examined but not entertained, being not based on merit, in light of the approved cabinet decision and policy accordingly.

And whereas, following non-maintainability of their request by the Provincial Government the engineers of the Agriculture Department filed a Writ Petition No. No. 5877-P/2018 titled "Zahid Rabbani & Others VS Chief Secretary Khyber Pakhtunkhwa & Others" in the Peshawar High Court, Peshawar in which they prayed for grant of the said allowance to their cadre on the analogy of the Engineers of Four Works Department.

And whereas, the Honourable Peshawar High Court, Peshawar in its judgment Dated: 21-11-2019 and referred the case to Chief Secretary, Khyber Pakhtunkhwa to look into the matter and make decision within the shortest possible time in accordance with the relevant law, rules on the subject.

And whereas, accordingly the Committee constituted by the Provincial Government under the Chairmanship of Minister Finance, examined the Court directions in the above Writ Petition in light of decision of the Provincial Cabinet on the subject and regretted the aforementioned allowance on the following grounds:

- I. That the Engineers working in 04 Departments i.e. C&W, Irrigation, PHE and LG&RD Department, to whom Technical Allowance has been allowed by the Provincial Government vide Notification No. FD(SOSR-II)8-7/2018-19 dated 19th October, 2018 are dealing totally with the infrastructure of the Province/Provincial Government. They are practically involved in Engineering Works like construction of Roads, Buildings, Canals, Drains and other construction/engineering works etc, throughout their duty hours and perform duties at field outside their offices. On many occasions they work overtime. While the Petitioners are not performing duties cited hereinbefore.
- II. That the office timings for field formation are not fixed rather depends upon the quantum of work & number of sites which they visit/inspect. These inspections/visits include far flung areas in same Districts, consumes time, energy and resources and

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04 AUG 2020

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application of technical/engineering skills. In case of defect/deficiency or any mis-happening observed therein, the concerned engineer is held responsible for the loss/consequences. It is worth to mention that the Petitioners do not undertake these duties as well.

- III. That apart from field work these engineers also manage the office work before start of project like preparation of Project Estimates and Contract/ Agreements etc. all these documents are technically checked by the engineers. Besides, field Engineers are fully committed with Engineering and Field/Office work and no relaxation for availing even Gazzetted holidays, whereas engineers of the other than 04 Departments are not engaged with field work, only performing official assignment of duties and fully relax to avail all holidays whereas the Petitioners are performing normal duties in agriculture department.
- IV. That similarly, the job/duty of Engineers working in Agriculture Department is just desk type, having no application of Engineering skill and do not involve practically in any, type of construction work like constructions/maintenance of buildings, Road, Residential & Non Residential Accommodations, Maintenance & Repair of Roads, Bridges, Ferries, Tunnels, Rope-ways, cause ways etc.

And whereas, the matter was thereafter considered threadbare by Chief Secretary who also concurs with aforesaid observation, and now, in light of the above intelligible differentia exist amongst the engineers who are granted "Technical Allowance" and the Petitioners, therefore, the Petitioners being not entitled as per facts, Cabinet Decision, Policy and recommendations of the Committee on the subject, the prayer of the Engineers Cadre of the concerned department made in the above mentioned Writ Petition filed in the Peshawar High Court, Peshawar is regretted, being not worthy of consideration and against the spirit of the Cabinet Decision of the Provincial Government of Khyber Pakhtunkhwa on the subject.

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Deputy Registrar

04 AUG 2020

CHIEF SECRETARY,
KHYBER PAKHTUNKHWA

Endst: of Even No. & date:

1. The Registrar, Peshawar High Court, Peshawar with reference to the above mentioned Writ Petition.
2. The Advocate General, Khyber Pakhtunkhwa, Peshawar.
3. The Secretary to Govt. of Khyber Pakhtunkhwa, Law, Human Rights & Parliamentary Affairs Department.
4. The Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.
5. The Special Secretary-I, Finance Department.
6. The PSO to Chief Secretary, Khyber Pakhtunkhwa.
7. Master File.


SECTION OFFICER (SR-II)