



09.05.2023

Appellant in person present. Mr. Hashmatullah, Superintendent alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Appellant requested for adjournment on the ground that his counsel is out of station. Adjourned. To come up for arguments on 10.07.2023 before D.B. Parcha Peshi given to the parties.

SCANNED  
KPST  
Peshawar

  
(Muhammad Akbar Khan)  
Member (E)

  
(Salah-ud-Din)  
Member (J)


\*Kamranullah\*


10<sup>th</sup> July, 2023

1. Appellant present in person. Mr. Muhammad Jan, District Attorney for the respondents present.

SCANNED  
KPST  
Peshawar

2. Appellant seeks adjournment on the ground that his learned counsel is busy before the Hon'ble Peshawar High Court today. Granted. To come up for arguments on 06.11.2023 before the D.B. Parcha Peshi given to the parties.

  
(Fareeha Paul)  
Member (E)

  
(Kalim Arshad Khan)  
Chairman

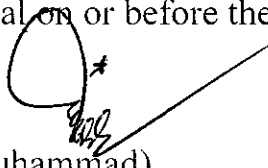
\*Fazle Subhan P.S.\*

19.10.2022

Appellant alongwith his counsel present. Mr. Mukarram Khan, Section Officer (Litigation) and Mr. Said Muhammad, Superintendent alongwith Mr. Naseer-ud-Din, Assistant Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not made preparation for arguments. Adjourned. To come up for arguments on 24.11.2022 before the D.B.

Appellant is directed to provide second Member copy of the instant appeal on or before the date fixed.



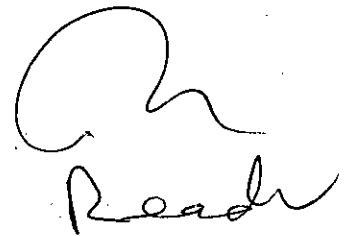
(Mian Muhammad)  
Member (E)



(Salah-Ud-Din)  
Member (J)

24/11/22

Due to deletion of the case to come up for the same on 1/2/23.



01.02.2023

Appellant in person present. Mr. Muhammad Jan, District Attorney alongwith Mr. Hashmatullah, Superintendent and Mr. Sajid Anwar Assistant for the respondents present.

Appellant sought adjournment on the ground that his learned counsel is out of station. Adjourned. To come up for arguments on 09.05.2023 before the D.B.



(FAREEHA PAUL)  
Member (E)



(SALAH-UD-DIN)  
Member (J)

SCANNED  
BY  
PESHAWAR

14.07.2022

Junior of learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Reply/comments on behalf of respondents not submitted. Learned Additional Advocate General seeks time to contact the respondents for submission of reply/comments. Adjourned. To come up for reply/comments on 01.09.2022 before S.B.

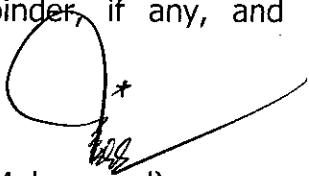


(MIAN MUHAMMAD)  
MEMBER (E)

01.09.2022

Appellant in person present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Said Muhammad, Superintendent for the respondents present.

Reply/comments on behalf of respondents submitted which are placed on file. Copy of the same is handed over to the appellant. Adjourned. To come up for rejoinder, if any, and arguments on 19.10.2022 before D.B.



(Mian Muhammad)  
Member (E)

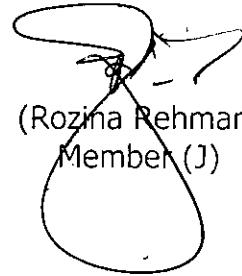
03.01.2022

Counsel for the appellant present. Preliminary arguments heard. Record perused.

Points raised need consideration. The appeal is admitted for hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments 10.03.2022 before the S.B.

Rs-800/-  
Appellant Deposited  
Security & Process Fee

*Amir Hich*  
30/5/22



(Rozina Rehman)  
Member (J)

10.03.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 30.05.2022 for the same as before.



Reader.

30<sup>th</sup> May, 2022

Clerk of learned counsel for the appellant. Mr. Kabirullah Khattak, Additional Advocate General for respondents present.

Clerk of learned counsel for the appellant submitted security and process fee today, therefore, notices be issued to the respondents for submission of written reply/comments through registered post. To come up for written reply/comments on 14.07.2022 before the S.B.





(Kalim Arshad Khan)  
Chairman

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. \_\_\_\_\_ **7741/2021**

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	10/11/2021	<p>The present appellant initially went in Writ Petition before the Hon'ble Peshawar High Court Peshawar and the Hon'ble High Court vide its order dated 03.11.2021 while treating the Writ Petition into an appeal and has sent the same to this Tribunal for decision in accordance with law. The same may be entered in the Institution register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put up there on <u>03/01/22</u></p> <p style="text-align: right;"> CHAIRMAN</p>



(2)

**The  
PESHAWAR HIGH COURT  
Peshawar**

Ph: No. 091-9210149-58

No. 42873 (1)/440/2021/WP-MN

Dated. 09-November-2021

**From**

**Deputy Registrar (J),  
Peshawar High Court,  
Peshawar.**

**To**

✓  
The Provincial Service Tribunal, Khyber Pakhtunkhwa, Peshawar.

**Subject: Writ Petitions W.P 655/2021 Title: eng. Ziarat Khan VS Govt of KPK**

**Memo,**

I am directed to send herewith the titled case in original alongwith all annexures and copy of order of this Honble Court dated 03.11.2021 for compliance.

*SF 9-11-21*  
**Deputy Registrar (J)**

**Encl: Copy of Order / Judgment**

(10)

**PESHAWAR HIGH COURT PESHAWAR**  
**FORM "A"**

**ORDER SHEET**

<i>Date of Order or Proceedings</i>	<i>Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary</i>
2	3
3.11.2021	<p><b><u>WP No. 655-P/2021.</u></b></p> <p>Present: Arbab Kaleem Ullah, Advocate for petitioner.</p> <p>Mr. Mohammad Riaz AAG alongwith Asfandyar Khattak, MDO Mineral Development department Khyber Pakhtunkhwa for respondents.</p> <p style="text-align: center;">*****</p> <p><b><u>ROOH-UL-AMIN KHAN, J.-</u></b> As per contents of the writ petition, the petitioner was appointed as Assistant Mining Engineer in Sarhad Development Authority on 20.5.1985. vide notification dated 17.2.1993 he was relieved from his duties as Project Manager Salt Project to join his new assignment in the Inspectorate of Mines Labour Welfare Khyber Pakhtunkhwa. The petitioner served in Sarhad Mineral (Pvt) Limited registered as a private limited company under the companies Act, 1913, a joint venture of Pakistan Minerals Development Corporation ( A Federal Government Organization) w.e.f 20.5.1985 to 17.2.1993. The Sarhad Mineral (Pvt) Ltd had adopted the schemes of basic pay scales of Government for its employees from the</p>

date of its incorporation. The Finance Department Khyber Pakhtunkhwa vide notification dated 4.6.2011 extended the benefits of Fixation/Protection of pay on appointment from one post of another to such employees of autonomous organizations who have adopted schemes of basic pay scale in toto on their appointment in Government offices, provided they applied for the post through proper channel. On the same analogy the petitioner filed an appeal for fixation /protection but the same was regretted.

2. In essence, the grievance of the petitioner is that he was entitled for pensionary benefits in light of the judgment of Hon'ble Supreme Court of Pakistan rendered in case titled **Government of Punjab through Secretary Education Lahore and others..vs..Sameena Parveen and others ( 20091 SCMR 1) and Tara Chand and others...vs..Karachi Water and Sewerage Board Karachi and others ( 2005 SCMR 499)** and he deserve to be treated at par with similarly placed employees.

3. Learned counsel for petitioner when confronted with the proposition as to whether at the time of his retirement the petitioner was not a civil servant? He stated he was civil servant but by now he has been retired from service.

4. Be that as it may, the petitioner has retired from service as a Civil servant who claims payment of

*For the Petitioner*



pensionary benefits which squarely falls in terms and conditions of a civil servant, wherein jurisdiction of this Court is barred under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973.

5. In view of above, this writ petition is not maintainable, however, instead of dismissing it, we deem it appropriate to convert it into appeal and transmit the same to the Service Tribunal in light of judgment in the case of "Mian Asghar Ali VS Govt. of Punjab through Secretary (Colonies) BOR Lahore and others" (2017 SCMR 118) where the petitioner may file an application for amendment of the appeal in accordance with law and subject to limitation.

6. In view of above, this writ petition stands disposed off.

*Rooh ul Amin*  
**SENIOR PUISNE JUDGE**

*21*  
**JUDGE**

2

IN THE PESHAWAR HIGH COURT, PESHAWAR.

Service Appeal no: 7741/2021

C.M.No. 7807/2021

IN  
W.P.No 655 /2021

Engr. Ziarat Khan ..... Petitioner

Versus

Secy. to Govt. of KPK Minerals Dev. Deptt: & others.. Respondents

**INDEX**

S.No.	Description of documents.	Annexure	Pages.
1	Application for inclusion		1
2	Affidavit.		2
3	Copy of grounds of writ petition.		3-8

Petitioner

Through

*Arbab Kaleem Ullah*  
Advocate High Court

Dated: 27.03.2021

FILED TODAY  
*R*  
Deputy Registrar  
29 MAR 2021

SCANNED  
29/03/21  
29 MAR 2021  
Signature *R*

①

IN THE PESHAWAR HIGH COURT, PESHAWAR.

C.M.No. 780-1/2021

IN

W.P.No. 655/2021

Engr. Ziarat Khan ..... Petitioner  
Versus

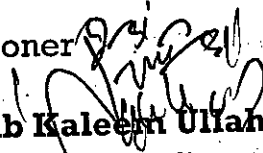
Secy. to Govt. of KPK Minerals Dev. Deptt: & others.. Respondents

APPLICATION FOR INCLUDING SECRETARY  
FINANCE GOVT. OF KHYBER PAKHTUNKHWA,  
CIVIL SECRETARIAT, PESHAWAR IN THE ARRAY  
OF RESPONDENTS AT Sr.No.6 OF THE INSTANT  
WRIT PETITION.

**Respectfully Sheweth;**

- 1) That the petitioner/ applicant had filed the captioned writ petition before this hon'ble court in which next date of hearing is fixed for 30.03.2021.
- 2) That while drafting the writ petition "**Secretary Finance Govt. of Khyber Pakhtunkhwa**" has inadvertently been left.
- 3) That non-inclusion of Secretary Finance in the array of respondents is an error and clerical mistake.

It is, therefore, humbly prayed that on acceptance of this application, Secretary Finance Govt. of Khyber Pakhtunkhwa may kindly be included in the array of respondents at Sr.No.6.

Petitioner   
Through  
**Arbab Kaleem Ullah**  
Advocate High Court

FILED TODAY

  
Deputy Registrar

29 MAR 2021

2

IN THE PESHAWAR HIGH COURT, PESHAWAR.

C.M.No. 780f /2021

IN

W.P.No. 655 /2021

Engr. Ziarat Khan ..... Petitioner

Versus

Secy. to Govt. of KPK Minerals Dev. Deptt: & others.. Respondents

**AFFIDAVIT**

I, Arbab Kaleem Ullah Advocate (petitioner), do hereby affirm and declare 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.

*[Handwritten Signature]*

Deponent

BC No.11-1561

Cell: 0345-9011110

FILED TODAY  
*[Signature]*  
Deputy Registrar

29 MAR 2021

No. <u>23381</u>	
Certified that	Deponent on solemnly
affirm	this
day <u>March</u>	<u>29</u>
at <u>Adro</u>	<u>Arbab Kaleem Ullah</u>
with	<u>Peshawar</u>
Whose name is	<u>self</u>
	<i>[Signature]</i>
	Oath Commissioner
	Peshawar High Court, Peshawar.
	<u>29/03/2021</u>

3

1

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR.

W.P.No. 655 /2021

Engr. Ziarat Khan  
Chief Commissioner Mines Labour Welfare (R)  
Commissionerate of Mines Labour Welfare  
Attached department Complex Khyber Road, Peshawar

.....Petitioner

**Versus**

- 1) Secretary to Govt. of KPK Minerals Development Department, Peshawar.
- 2) Director General Mines and Minerals Industries Department, Civil Secretariat, Peshawar
- 3) Director General Mines & Minerals, Peshawar.
- 4) Assistant Director Mines and Minerals, Peshawar.
- 5) Govt. of Khyber Pakhtunkhwa through Secretary Mines and Minerals, Civil Secretariat, Peshawar..... Respondents


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WRIT PETITION UNDER ARTICLE 199  
OF THE CONSTITUTION OF ISLAMIC  
REPUBLIC OF PAKISTAN 1973.

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Respectfully Sheweth:

- 1) That the petitioner was appointed at Sarhad Development Authority vide appointment letter No.SDA/AM(R) 9-PF/85 dated 15.05.1985 as Assistant Mining Engineer on regular basis (Annexure A") and petitioner on 20.05.1985 joined the services in Sarhad Minerals' (Pvt) Ltd for the appointed post. (Annexure A/1").

  
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2. That the petitioner vide notification dated 14.02.1993 Endst. No.SOI(IND)6-1/90 was appointed as Inspector in the Inspectorate of Mines Labour Welfare NWFP (now KP). (Annexure "B").
3. That after the notification dated 14.02.1993 the petitioner was relieved from his duties as project manager salt project to join his new assignment in the Inspectorate of Mines Labour Welfare through relieving order dated 17. 2.1993. (Annexure "B/1").
4. That petitioner served in Sarhad Mineral (Pvt) Limited, a joint Venture of Pakistan Minerals Development Corporation (A Federal Government Organization) and Sarhad Development Authority (A Provincial Government Organization) w.e.f. 20.05.1985 to 17.02.1993.
5. That Sarhad Mineral (Pvt) Limited, was registered as a private limited company on 16.05.1984 under the Companies Act, 1913 with the equity sharing of 51% by PMDC & 49% by SDA (Copy of notes of the account for the year 2017-18 Annexure "C").
6. That under Rule-2 (g) of Public Sector Companies (Corporate Governance) Rules, 2013 amended upto 21.04.2017, public sector company is defined as follow:

"Public Sector Company" means a company, whether public or private, which is directly or indirectly controlled, beneficially owned or not less than fifty one percent of the voting securities or voting power of which are held by the government or any instrumentality or agency of the government or a statutory body, has otherwise power to elect, nominate or appoint majority of its directors and include a public sector association

*Ju*  
*TC*

(S)

not for profit, licensed under section 42 of the Ordinance, (Ordinance means the companies Ordinance, 1984. (Copy of the Companies Rules annexure "D").

7. That Sarhad Minerals (Pvt) Ltd had adopted the schemes of basic pay scales of Government for its employees from the date of its incorporation. (Copy of SML letter dated 09.10.2017 is Annexure "E").
8. That for joining the provincial government service, petitioner applied through proper channel and consequently on selection as Inspector of Mines in the Inspectorate of Mines Khyber Pakhtunkhwa, petitioner had been properly relieved off his duties therein. (Copy of relieving order dated 17.02.1993 Annexure "F").
9. That the Finance Department Khyber Pakhtunkhwa vide notification No.FD (SR-I) 12-1/2011 dated 04.06.2011 henceforth extended the benefits of Fixation/ Protection of pay on appointment from one post to another to such employees of autonomous organizations who have adopted scheme of basic pay scales in toto on their appointment in Government offices, provided they have applied for the post through proper channel. (Copy of Finance Department letter dated 04.06.2011 is Annexure "G").
10. That in line with the Finance Department Circular (Policy) ibid, an appeal was preferred for fixation/ pay, protection as per the laid down criteria on the analogy of Mian Farooq Iqbal, who prior joining the Provincial Government services was an employee of the University of Engineering & Technology Peshawar, an autonomous body and the said benefit was extended to him w.e.f. 10.07.1989. (Copy of notification dated 15.06.2020 is Annexure "H").

je  
TC

11. That in wake of the Service Tribunal Khyber Pakhtunkhwa judgment in service appeal No.476/2017 dated 07.03.2017. (Copy of Provincial Service Tribunal judgment is Annexure "I") that was upheld by the Supreme Court of Pakistan vide judgment dated 27.11.2019 in C.A.No. 1308/2019. Operative part of the apex court judgment speaks volume of the clarity/ interpretation of the Finance Department Policy *ibid*. (Copy of the Supreme Court decision is Annexure "J").
12. That Apex court has therefore set criteria for giving benefits of pay protection from the date of appointment to the employees of such autonomous organization who have adopted the scheme of basic pay scales in toto on their appointment in Government offices such that the employee has applied for the post through proper channel.
13. That creating a distinction between the employees of autonomous organizations established through a resolution and employees of organization created under an Act/ Ordinance or an executive order under the authority of Act/ Ordinance or an Executive Order under the authority of an Act/ Ordinance for protection of pay is clearly violation of Article 25 of the Constitution of Pakistan.
14. That the supreme court of Pakistan in numerous reported judgments, especially in 2009 SCMR 1 and 2005 SCMR 499 held that:  
  
"if a tribunal or the Supreme Court decides a point of law relating to the terms and conditions of a civil servant who litigated, and there were other civil servants, who may not have taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the said decision be extended to other civil servants also, who may not be parties to that litigation, instead of compelling them

for  
TC



to approach the tribunal or any other legal forum.... All citizens are equal before law and entitled to equal protection of law as per Article 25 of the Constitution of Pakistan". (Copies of Supreme Court judgment is Annexure "K").

15. That Law Department Khyber Pakhtunkhwa vide letter dated 21.07.2016 has clarified that decision of the Supreme Court of Pakistan always have over riding effect on subordinate legislation and policies. (Copy of Law Department letter is Annexure "L").
16. That necessary pension contribution thereof for the said period has been calculated and transferred to the prescribed government of accused. (Copy of SML certificate dated 22.06.2020 and treasury challan dated 29.06.2020 are Annexure "M and M/1").
17. That on attaining the age of superannuation, after rendering 27 years qualifying services, the petitioner have been retired from Government service on 18.03.2020 as Chief Commissioner Mines Labour Welfare, BPS-20. (Copy of retirement order is Annexure "N").
18. That Finance Department Khyber Pakhtunkhwa vide letter dated 10.11.2020 regretted the appeal of petitioner stating therein that case of petitioner is not covered under the policy contrary to the fact that both the parameters chalked out by the Provincial Government under the Finance Department circular (policy) ibid are duly fulfilled. The intimation of the Finance Department Khyber Pakhtunkhwa is beyond reason and logic. (Copy of Finance Department letter dated 10.11.2020 Annexure "O").
19. That the treatment of the Finance Department is quite humiliating of making such intimation to a retired Grade-20

for  
TC

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officer in a clumsy manner, because in wake of the quoted irresistible solid legal and lawful precedents, the person/ petitioner who served the province for long 27 years while making appeal for his due, lawful, legal guaranteed basic & fundamental right should have to be appreciated properly and by specific and speaking order it should have to satisfy that under relevant clause, section, proviso of the policy is beyond the grasp of the appeal.

20. That the petitioner filed an appeal but all in vain and the authorities have given deaf ear to the petitioner/ appellant's stance. (Copy of appeal is Annexure "P").
21. That having no other adequate and efficacious remedy but to approach this Hon'ble Court to invoke the extraordinary constitutional jurisdiction of this Hon'ble court.

**PRAYER:**

It is, therefore, most humbly requested that on acceptance of this writ petition, the fixation/ pay of the petitioner may kindly be revisited and the respondents may please be directed for pay protection on appointment from one post to another and counted the service rendered in Sarhad Mineral (Pvt) Ltd towards counting pension of petitioner.

Any other relief or direction expedient in the interest of justice may also be granted to the petitioner in the interest of justice.

Petitioner  
Through  
Arbab Kaleem Ullah  
Advocate High Court

Date: 04.02.2021

for  
TC

**BEFORE THE PESHAWAR HIGH COURT, PESHAWAR.**

**CHECK LIST**

1.	Case Title	<u>Ziadat/chem</u> <b>Versus</b> <u>Court of 1/12/11</u> ..... Petitioners ..... Respondents
2.	Case is duly signed.	<input checked="" type="checkbox"/> YES <input type="checkbox"/> No
3.	The law under which the case is preferred has been mentioned.	<input checked="" type="checkbox"/> YES <input type="checkbox"/> No
4.	Approved file cover is used.	<input checked="" type="checkbox"/> YES <input type="checkbox"/> No
5.	Affidavit is duly attested and appended.	<input checked="" type="checkbox"/> YES <input type="checkbox"/> No
6.	Case and annexures are properly paged and numbered according to index.	<input checked="" type="checkbox"/> YES <input type="checkbox"/> No
7.	Copies of annexures are legible and attested. If not, then better copies duly attested have annexed.	<input checked="" type="checkbox"/> YES <input type="checkbox"/> No
8.	Certified copies of all requisite documents have been filed.	<input checked="" type="checkbox"/> YES <input type="checkbox"/> No
9.	Certificate specifying that no case on similar grounds was earlier submitted in this court, filed.	<input checked="" type="checkbox"/> YES <input type="checkbox"/> No
10.	Case is within time.	<input checked="" type="checkbox"/> YES <input type="checkbox"/> No
11.	The value for the purpose of court fee and jurisdiction has been mentioned in the relevant column.	Yes <input checked="" type="checkbox"/> No
12.	Court fee in shape of stamp paper is affixed. [For writ Rs. 500, for other as required]	Yes <input checked="" type="checkbox"/> No
13.	Power of attorney is in proper form.	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
14.	Memo of addressed filed.	Yes <input checked="" type="checkbox"/> No
15.	List of books mentioned in the petition.	Yes <input checked="" type="checkbox"/> No
16.	The requisite number of spare copies attached [Writ petition-3, civil appeal (SB-2) Civil Revision (SB-1, DB-2)]	<input checked="" type="checkbox"/> YES <input type="checkbox"/> No
17.	Case (Revision/ Appeal/petition etc) is filed on a prescribed form.	Yes <input checked="" type="checkbox"/> No
18.	Power of attorney is attested by jail authority (for jail prisoner only)	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

It is certified that formalities/documentations as required in column 2 to 18 above, have been fulfilled.

Name:- Asbab/Chaudhry  
 Signature:- [Signature]  
 Dated:- 6/2/2011

**FOR OFFICE USE ONLY**

Case:- \_\_\_\_\_  
 Case received on \_\_\_\_\_  
 Complete in all respect: Yes/ No, (If No, the grounds) \_\_\_\_\_  
 Date in court:- \_\_\_\_\_

Signature \_\_\_\_\_  
 (Reader)  
 Date:- \_\_\_\_\_  
 Countersigned:- \_\_\_\_\_  
 (Deputy Registrar)

PH: 111-2500000  
 Peshawar High Court, Peshawar  
 Call No: 111-2500000  
 E-mail: peshawarhighcourt.gov.pk

**W.P. received**  
**For A.G.**  
**6-2-21**

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

655 P

W.P.No. \_\_\_\_\_/2021

Service Appeal no. 7741/2021

Engr. Ziarat Khan ..... Petitioner

**Versus**

Secy. to Govt. of KP Minerals Development Department &  
others..... Respondents

INDEX

S.No.	Description of documents.	Annexure	Pages.
1)	Opening Sheet.		A
2)	Writ Petition.		1-7
3)	Affidavit.		8
4)	Addresses of the parties.		9
5)	Copy of appointment letter No.SDA/AM(R) 9-PF/85 dated 15.05.1985	A	10-11
6)	Copy of joining report.	A/1	12
7)	Copy of notification dated 14.02.1993.	B	13
8)	Copy of relieving order dated 17.12.1993.	B/1	14
9)	Copy of notes of the account for the year 2017-18	C	15
10)	Copy of the Companies Rules	D	16-18
11)	Copy of SML letter dated 09.10.2017	E	19
12)	Copy of relieving order dated 17.02.1993.	F	20
13)	Copy of Finance Department letter dated 04.06.2011	G	21
14)	Copy of notification dated 15.06.2020	H	22
15)	Copy of Provincial Service Tribunal judgment	I	23-25
16)	Copy of the Supreme Court decision	J	26-28
17)	Copies of Supreme Court judgment	K	29-36

RE-FILED TODAY

Deputy Registrar

09 FEB 2021

FILED TODAY

Deputy Registrar

06 FEB 2021

S.No.	Description of documents:	Annexure	Pages.
18)	Copy of Law Department letter	L	37
19)	Copy of SML certificate dated 22.06.2020 and treasury challan dated 29.06.2020	M-M/1	38-39
20)	Copy of retirement order	N	40
21)	Copy of Finance Department letter dated 10.11.2020	O	41
22)	Copy of appeal.	P	42-44
23)	Court fee Rs.500/-		45-46
24)	Wakalatnamas		47

Dated: 06.02.2021

Petitioner

Through

Arbab Kaleem Ullah  
Advocates High Court

FILED TODAY  
Deputy Registrar  
06 FEB 2021

Scanned USB Received  
06 FEB 2021  
Signature

**IN THE PESHAWAR HIGH COURT, Peshawar**  
**OPENING SHEET FOR WRIT BRANCH**

Date of Filing: 06.02.2021

District: Peshawar

Case Type; Writ Petition

Nature of Original Proceedings:

Category Code

0 5 0 7 1 4

(Categories & Sub categories are given at the back of the opening sheet)

Review/ Contempt of Court in respect of:

Writ of:

Heabus  
Corpus

Prohibition

Mandamus  
✓

Qua  
Warranto

Certiorari

If Certiorari:

Forum	Date	Interlocutory/ Final Order	Case Pertains to
NA	NA	---	SB <input type="checkbox"/>
NA	NA	---	DB <input checked="" type="checkbox"/>

Petitioner Name	Engr.Ziarat Khan
Mobile No.	0336-9131127
Address	Chief Commissioner Mines Labour Welfare (R) Commissionerate of Mines Labour Welfare Attached department Complex Khyber Road, Peshawar
CNIC No.	16102-2309246-5
Email Address	---

Counsel for Petitioner(s)	Arbab Kaleem Ullah
Mobile No.	0345-9011110
Address	25-A, 1 <sup>st</sup> Floor, Nasir Mansion, Railway Road, Peshawar
CNIC No.	17101-1401574-3
Email Address	arbabkaleem@yahoo.com

Respondents	Secretary to Govt. of KPK Minerals Development Department, Peshawar.
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**ORIGINAL ORDER/ ACTION/ INACTION COMPLAINED OF:**  
Act of respondents

**PRAYER**

The fixation/ pay of the petitioner may kindly be revisited and the respondents may please be directed for pay protection on appointment from one post to another and counted the service rendered in Sarhad Mineral (Pvt) Ltd towards counting pension of petitioner.

**LAW/ RULES/ GOVERNING THE ORIGINAL PROCEEDINGS/ ACTION/ LOCATION**

Constitution of Pakistan, 1973.

Service Laws

Signature

Note: Any suggestion to improve the preformat will be appreciated.

FILED TODAY  
Deputy Registrar  
06 FEB 2021

1

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR.

655P

W.P.No. \_\_\_\_\_/2021

Service Appeal no 7741/2021

Engr. Ziarat Khan

Chief Commissioner Mines Labour Welfare (R)

Commissioner of Mines Labour Welfare

Attached department Complex Khyber Road, Peshawar

.....Petitioner

**Versus**

- ✓ 1) Secretary to Govt. of KPK Minerals Development Department, Peshawar.
- ✓ 2) Director General Mines and Minerals Industries Department, Civil Secretariat, Peshawar
- 3) Director General Mines & Minerals, Peshawar.
- 4) Assistant Director Mines and Minerals, Peshawar.
- 5) Govt. of Khyber Pakhtunkhwa through Secretary Mines and Minerals, Civil Secretariat, Peshawar..... Respondents

① Secretary Finance Govt of Khyber Pakhtunkhwa Civil Secretariat Peshawar.

WRIT PETITION UNDER ARTICLE 199

OF THE CONSTITUTION OF ISLAMIC  
REPUBLIC OF PAKISTAN 1973.

Wide order dt  
24/6/21

SCANNED

Respectfully Sheweth:

1. That the petitioner was appointed at Sarhad Development Authority vide appointment letter No.SDA/AM(R) 9-PF/85 dated 15.05.1985 as Assistant Mining Engineer on regular basis (Annexure A") and petitioner on 20.05.1985 joined the services in Sarhad Minerals' (Pvt) Ltd for the appointed post. (Annexure A/1").

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06 FEB 2021

2. That the petitioner vide notification dated 14.02.1993 Endst. No.SOI(IND)6-1/90 was appointed as Inspector in the Inspectorate of Mines Labour Welfare NWFP (now KP). (Annexure "B").
3. That after the notification dated 14.02.1993 the petitioner was relieved from his duties as project manager salt project to join his new assignment in the Inspectorate of Mines Labour Welfare through relieving order dated 17. 2.1993. (Annexure "B/1").
4. That petitioner served in Sarhad Mineral (Pvt) Limited, a joint Venture of Pakistan Minerals Development Corporation (A Federal Government Organization) and Sarhad Development Authority (A Provincial Government Organization) w.e.f. 20.05.1985 to 17.02.1993.
5. That Sarhad Mineral (Pvt) Limited, was registered as a private limited company on 16.05.1984 under the Companies Act, 1913 with the equity sharing of 51% by PMDC & 49% by SDA (Copy of notes of the account for the year 2017-18 Annexure "C").
6. That under Rule-2 (g) of Public Sector Companies (Corporate Governance) Rules, 2013 amended upto 21.04.2017, public sector company is defined as follow:

"Public Sector Company" means a company, whether public or private, which is directly or indirectly controlled, beneficially owned or not less than fifty one percent of the voting securities or voting power of which are held by the government or any instrumentality or agency of the government or a statutory body, has otherwise power to elect, nominate or appoint majority of its directors and include a public sector association

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Deputy Registrar  
06 FEB 2021



not for profit, licensed under section 42 of the Ordinance, (Ordinance means the companies Ordinance, 1984. (Copy of the Companies Rules annexure "D").

7. That Sarhad Minerals (Pvt) Ltd had adopted the schemes of basic pay scales of Government for its employees from the date of its incorporation. (Copy of SML letter dated 09.10.2017 is Annexure "E").
8. That for joining the provincial government service, petitioner applied through proper channel and consequently on selection as Inspector of Mines in the Inspectorate of Mines Khyber Pakhtunkhwa, petitioner had been properly relieved off his duties therein. (Copy of relieving order dated 17.02.1993 Annexure "F").
9. That the Finance Department Khyber Pakhtunkhwa vide notification No.FD (SR-I) 12-1/2011 dated 04.06.2011 henceforth extended the benefits of Fixation/ Protection of pay on appointment from one post to another to such employees of autonomous organizations who have adopted scheme of basic pay scales in toto on their appointment in Government offices, provided they have applied for the post through proper channel. (Copy of Finance Department letter dated 04.06.2011 is Annexure "G").
10. That in line with the Finance Department Circular (Policy) ibid, an appeal was preferred for fixation/ pay protection as per the laid down criteria on the analogy of Mian Farooq Iqbal, who prior joining the Provincial Government services was an employee of the University of Engineering & Technology Peshawar, an autonomous body and the said benefit was extended to him w.e.f. 10.07.1989. (Copy of notification dated 15.06.2020 is Annexure "H").

FILED TODAY  
Deputy Registrar

06 FEB 2021

11. That in wake of the Service Tribunal Khyber Pakhtunkhwa judgment in service appeal No.476/2017 dated 07.03.2017. (Copy of Provincial Service Tribunal judgment is Annexure "I") that was upheld by the Supreme Court of Pakistan vide judgment dated 27.11.2019 in C.A.No. 1308/2019. Operative part of the apex court judgment speaks volume of the clarity/ interpretation of the Finance Department Policy *ibid.* (Copy of the Supreme Court decision is Annexure "J").
12. That Apex court has therefore set criteria for giving benefits of pay protection from the date of appointment to the employees of such autonomous organization who have adopted the scheme of basic pay scales in toto on their appointment in Government offices such that the employee has applied for the post through proper channel.
13. That creating a distinction between the employees of autonomous organizations established through a resolution and employees of organization created under an Act/ Ordinance or an executive order under the authority of Act/ Ordinance or an Executive Order under the authority of an Act/ Ordinance for protection of pay is clearly violation of Article 25 of the Constitution of Pakistan.
14. That the supreme court of Pakistan in numerous reported judgments, especially in 2009 SCMR 1 and 2005 SCMR 499 held that:  
  
"if a tribunal or the Supreme Court decides a point of law relating to the terms and conditions of a civil servant who litigated, and there were other civil servants, who may not have taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the said decision be extended to other civil servants also, who may not be parties to that litigation, instead of compelling them

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06 FEB 2021

to approach the tribunal or any other legal forum.... All citizens are equal before law and entitled to equal protection of law as per Article 25 of the Constitution of Pakistan". (Copies of Supreme Court judgment is Annexure "K").

15. That Law Department Khyber Pakhtunkhwa vide letter dated 21.07.2016 has clarified that decision of the Supreme Court of Pakistan always have over riding effect on subordinate legislation and policies. (Copy of Law Department letter is Annexure "L").
16. That necessary pension contribution thereof for the said period has been calculated and transferred to the prescribed government of accused. (Copy of SML certificate dated 22.06.2020 and treasury challan dated 29.06.2020 are Annexure "M and M/1").
17. That on attaining the age of superannuation, after rendering 27 years qualifying services, the petitioner have been retired from Government service on 18.03.2020 as Chief Commissioner Mines Labour Welfare, BPS-20. (Copy of retirement order is Annexure "N").
18. That Finance Department Khyber Pakhtunkhwa vide letter dated 10.11.2020 regretted the appeal of petitioner stating therein that case of petitioner is not covered under the policy contrary to the fact that both the parameters chalked out by the Provincial Government under the Finance Department circular (policy) ibid are duly fulfilled. The intimation of the Finance Department Khyber Pakhtunkhwa is beyond reason and logic. (Copy of Finance Department letter dated 10.11.2020 Annexure "O").
19. That the treatment of the Finance Department is quite humiliating of making such intimation to a retired Grade-20

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 Deputy Registrar

06 FEB 2021

officer in a clumsy manner, because in wake of the quoted irresistible solid legal and lawful precedents, the person/petitioner who served the province for long 27 years while making appeal for his due, lawful, legal guaranteed basic & fundamental right should have to be appreciated properly and by specific and speaking order it should have to satisfy that under relevant clause, section, proviso of the policy is beyond the grasp of the appeal.

20. That the petitioner filed an appeal but all in vain and the authorities have given deaf ear to the petitioner/ appellants' stance. (Copy of appeal is Annexure "P").
21. That having no other adequate and efficacious remedy but to approach this Hon'ble Court to invoke the extraordinary constitutional jurisdiction of this Hon'ble court.

**PRAYER:**

It is, therefore, most humbly requested that on acceptance of this writ petition, the fixation/ pay of the petitioner may kindly be revisited and the respondents may please be directed for pay protection on appointment from one post to another and counted the service rendered in Sarhad Mineral (Pvt) Ltd towards counting pension of petitioner.

Any other relief or direction expedient in the interest of justice may also be granted to the petitioner in the interest of justice.

Petitioner  
Through  
Arbab Kaleem Ullah  
Advocate High Court

Date: 04.02.2021

FILED TODAY  
Deputy Registrar

06 FEB 2021

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

W.P.No. \_\_\_\_\_/2021

Engr.Ziarat Khan .....Petitioner

**Versus**

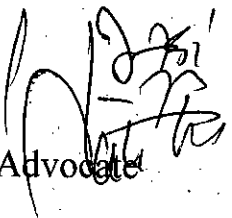
Secy. to Govt. of KP Minerals Development Department &  
others..... Respondents

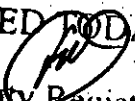
**CERTIFICATE:**

It is certified as per information furnished by my client that no such like writ petition has earlier been filed by the petitioner(s) in this Hon'ble Court. Further stated that being writ petition on the score that since there is no adequate and alternate legal remedy is available or previously avail or approach lower forum, thus this case may be fixed before the Worthy Division Bench (D.B) of this Hon'ble Court.

List of Books

1. Constitution of Islamic Republic of Pakistan 1973.
2. Other books as per need.

  
Advocate

FILED TODAY  
  
Deputy Registrar

06 FEB 2021

8

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

655 P

W.P.No. \_\_\_\_\_/2021

Engr.Ziarat Khan .....Petitioner

**Versus**

Secy. to Govt. of KP Minerals Development Department &  
others..... Respondents

AFFIDAVIT

I, Ziarat Khan son of Asar Khan R/o Mohallah Ghareeb Abad, Shergarh, Tehsil Takhtbai District Mardan (petitioner), do hereby affirm and declare on oath that the contents of the accompanying **Writ Petition** are true and correct and nothing has been concealed from this hon'ble court.

Identified by:

Arbab Kaleem Ullah  
Advocate High Court

Deponent

CNIC No.16102-2309246-5 ✓

Cell: 0336-9131127

No. 18721

Certified that the above was verified on solemnly affirmation before me in office this 18 day of Feb 2021 by Ziarat Khan s/o Asar Khan who was identified by Arbab Kaleem Ullah Who is presently known to me:

Oath Commissioner  
Peshawar Peshawar  
01/02/2021

FILED TODAY

Deputy Registrar

06 FEB 2021

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

W.P.No. \_\_\_\_\_/2021

Engr.Ziarat Khan .....Petitioner

**Versus**

Secy. to Govt. of KP Minerals Development Department &  
others..... Respondents

ADDRESSES OF THE PARTIES

PETITIONER:


Engr.Ziarat Khan  
Chief Commissioner Mines Labour Welfare (R)  
Commissionrate of Mines Labour Welfare  
Attached department Complex Khyber Road, Peshawar

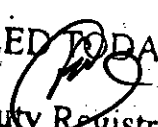
RESPONDENTS:

- 1) Secretary to Govt. of KPK Minerals Development Department,  
Peshawar.
- 2) Director General Mines and Minerals Industries Department,  
Civil Secretariat, Peshawar
- 3) Director General Mines & Minerals, Peshawar.
- 4) Assistant Director Mines and Minerals, Peshawar.
- 5) Govt. of Khyber Pakhtunkhwa through Secretary Mines and  
Minerals, Civil Secretariat, Peshawar

Petitioner

Through

  
**Arbab Kaleem Ullah**  
Advocate High Court

**FILED TODAY**  
  
Deputy Registrar

06 FEB 2021

Annexes "A"

10

10

SARHAD DEVELOPMENT AUTHORITY  
GOVERNMENT OF N-WFP PESHAWAR

No.SDA/AM(R)/9-PF/85 -

Dated 15 - 5 - 1985.

To:

Mr. Ziarat Khan S/O Asar Khan,  
Village & P.O. Shergarh,  
Distt: MARDAN.

Subject: A P P O I N T M E N T

Ref. your application dated 7th January, 1985.

You are hereby offered a post of Asstt. Mining Engineer,  
in the Nari Panooos Salt Mines Project - of the Authority's on  
the following terms and conditions with effect from the date of joining  
duty.

1. Nature of Appointment. Regular After completion of  
probationary period  
of 6 months extendable  
to one year.

Temporary/Seasonal: On/contract/period/and  
special/conditions/if  
any/be/specified.

2. Grade/Scale of pay - Rs. (B-17) Rs. 1600-120-3040.

(a) For pay and allowances and fringe benefits during  
probationary period :-

- i) Initial pay Rs. 1600/- per month.  
ii) Fringe benefits Rs. - per month.

(b) For pay and allowances and fringe benefits after  
completion of probationary period :-

- i) Initial pay Rs. 1600/- per month.  
ii) Fringe benefits Rs. - per month.

3. House Rent Allowance. a. During probationary period  
20% of initial of time scale - per month.

b. After completion of probationary period 40% of initial of time  
scale per month.

ATTESTED  
to be the  
Advocate

Cont'd P/2.



**SARHAD DEVELOPMENT AUTHORITY  
GOVERNMENT OF NWFP PESHAWAR**

No. SDA/ AM (R) 9-PF/ 85

Dated 15.05.1985.

To

Mr. Zlarat Khan S/o Asar Khan,  
Village & P.O Shergarh,  
Distt: Mardan.

**SUBJECT: APPOINTMENT**

Ref. your application dated 7<sup>th</sup> January 1985.

You are hereby offered a post of Asstt, Mining Engineer, in the Nari Panoos Salt Mines Project of the Authorities on the following terms and conditions with effect from the date of joining duty.

1. Nature of Appointment	Regular	After completion of probationary period of 6 months extendable to one year.
	Temporary/ Seasonal:	On contract period and special conditions if any be specified.

2. Grade/ Scale of Pay Rs. B-17 Rs. 1600-120-3040.

(a) For pay and allowances and fringe benefits during probationary period:-

- i) Initial Pay Rs. 1600/- Per month
- ii) fringe Benefits Rs. \_\_\_\_\_ Per Month.

(b) For pay and allowances and fringe benefits after completion of probationary period:-

- i) Initial Pay Rs. 1600/- Per month
- ii) Fringe benefits Rs. \_\_\_\_\_ Per month.

3. House Rent Allowance and during probationary period  
20% of initial of time scale per month.

B. after completion of probationary  
Period 40% of initial of time scale per month.

11

4. ~~Conveyance Allowance~~ a) During probationary period as admissible at the place of posting under the rules.

b) After completion of probationary period as admissible at the place of posting under the rules.

5. Medical facilities for self and family as per SDA Medical attendance Rules.

6. Place of duty.

You are employed for Nari Panoos Salt Mines Project/Office/Head-Office-etc; and you will not have any right or claim to employment in any other project/office/head office of the Authority, in case your services are no longer required in connection with the affairs of the project/office/head office.

The Authority may change your designation/duties as and when deemed necessary.

7. Security deposit required

8. Notice of termination of appointment. During the probationary period your service can be terminated without assigning any reason thereof. After successful completion of the probationary period your services can be terminated on one month's notice or pay in lieu thereof on either side provided such termination is not due to misconduct, for which it will be terminated without any notice.

9. Medical Fitness

Medical

You shall have to produce a Medical Fitness Certificate from the Authority's Doctor or from a practitioner nominated by the Authority regarding your health within one month of joining service.

10. Rules governing the Sardar Mineral Limited Company rules. service.

11. You will not divulge either directly or indirectly to any person or body any knowledge or information which you may acquire concerning affairs, property, enterprises, undertaking of the Authority or Company its business and trade matters and secrets.

12. Offer open upto

If the above terms and conditions are acceptable to you, then you are requested to sign the duplicate copy of this letter as a token of your acceptance and send it by Registered post and report for duty to the Project Manager Nari Panoos within Seven days of the receipt of this letter.

salt Proj: SDA -

Copy to :-

- 1. Director (Minerals) SDA.
- 2. General Manager (Mines) SDA.
- 3. Proj. Manager Nari Panoos Salt Project SDA.

( IFTIKHAR UD DIN )  
CHAIRMAN S.D.A.

ATTENDED

to be copy  
Ad. Date

Accepted

Bhan

18/5/85

Annexes <sup>no</sup> 1

12

SARHAD MINERAL LIMITED NARIPANCOOS SALT PROJECT.

Ref: No. SML/J/1018

As recd.

Dated:

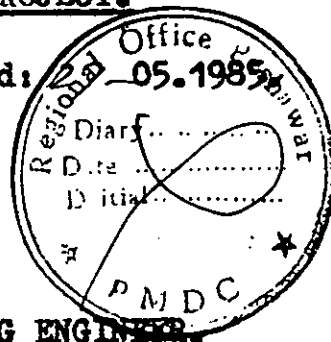
05.1985

The Secretary,  
Sarhad Development Authority,  
Peshawar.

MkhQh

Steno

4/61



Sub:- JOINING REPORT OF ASSISTANT MINING ENGINEER.

Dear Sir,

Mr. Ziarat Khan Assistant Mining Engineer appointed  
vide Chairman, Sarhad Development Authority letter No. SDA/AM(R)/  
9-PF/85 dated 15.5.1985 has joined duty on 20.5.1985 forenoon  
at the Project. His joining report is enclosed for information  
& record please.

Yours faithfully,

sd

( Tasleemuddin )  
Project Manager

Copy to:-

1. PS to Chairman, Sarhad Development Authority Peshawar.
2. Director (Mines) S.D.A. Peshawar.
3. Secretary, Sarhad Mineral Limited Peshawar.
4. Mr. Shoaib, Assistant Mining Engineer/Site Incharge.  
He is advised to hand over complete charge to Mr. Ziarat Khan

( Tasleemuddin )

Project Manager.

20/5/85

10  
AG/DEC/85



Annex B

13

GOVERNMENT OF N.-W. F. P.  
INDUSTRIES, COMMERCE, MINERAL DEVELOPMENT,  
LABOUR AND TRANSPORT DEPARTMENT.

Dated Peshawar, the 14/2/1993

NOTIFICATION.

NO.SOI(IND)6-1/90. The Governor NWFP, on the recommendation of NWFP Public Service Commission is pleased to appoint the following candidates as Inspector of Mines (BPS-17) in the Inspectorate of Mines Labour Welfare NWFP with immediate effect on the terms and conditions as offered vide this Department Memorandum of even number and date subject to their medical fitness and verification of character by the concerned agencies:-

S.No.	Name of Candidate with Father's Name.	Domicile
1.	Mr. Ziarat Khan s/o Asar Khan	Distt Dir
2.	Mr. Abdul Rashid s/o Abdul Manan	Distt D.I. Khan
3.	Mr. Jamil Khan s/o Sadullah Khan	Mohmand Agency

Sd/-  
SECRETARY TO GOVERNMENT OF NWFP,  
INDUSTRIES, COMMERCE, MINERAL DEVELOPMENT,  
LABOUR AND TRANSPORT DEPARTMENT.

Endst.No.SOI(IND)6-1/90 / 2383 - 2392

Dated 14/2/1993

Copy is forwarded to:-

1. The Accountant General NWFP, Peshawar.
2. The Secretary to Govt. of NWFP, S&GAD.
3. The Chief Inspector of Mines Labour Welfare NWFP, Peshawar.
4. P.S. to Minister for Labour NWFP.
5. P.S. to Chief Secretary NWFP.
6. The Secretary, NWFP Public Service Commission, Peshawar w/r to his letter No.6948 dated 6/1/1993.
7. The Secretary, Pakistan Mineral Development Corporation, Head Office 13/H-9 P.C. Shaigan Islamabad with the request to relieve Mr. Abdul Rashid s/o Abdul Manan, Engineer of your Organization to join his new assignment.
8. Mr. Masoodur Rehman, Secretary-cum-Manager, Sarhad Mineral Ltd Peshawar with the request to relieve Mr. Ziarat Khan s/o Asar Khan to join his new assignment.
9. Mr. Pervez Malik, Secretary, Gemstone Corporation of Pakistan Peshawar with the request to relieve Mr. Jamil Khan s/o Sadullah Khan, Asstt Mining Engineer, enabling him to join his new assignment.
10. Mr. Ziarat Khan s/o Asar Khan, Project Manager, Salt Project Tehsil B.D. Shah District Karak.
11. Mr. Abdul Rashid s/o Abdul Manan, Asstt Mining Engineer PMDC Salt Quarries Jatta via Kohat Polachi Distt Karak.
12. Mr. Jamil Khan s/o Sadullah Khan, Mining Engineer, Swat Emerald Mines Mingora Swat.
13. The Manager, Govt Printing Press Peshawar for publication in the official gazette.

Resd/...

*Handwritten signature and stamp:*  
Mohammad Aslam  
Superintendent  
Industries, Commerce & Transport,  
Govt. of N.W.F.P.

*Handwritten signature and stamp:*  
Mohammad Aslam  
SECTION OFFICER (ADMN.)

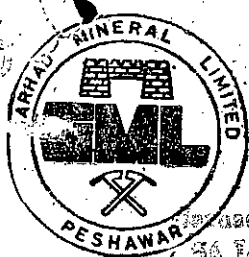
Phone : No : 812624

Annexure "B" 1

81

14

Cable Address :  
SERMIN Peshawar



# SARHAD MINERAL LIMITED

Sarhad Mineral (Pvt) Limited  
56 I/4 Phase - II Mayatabad  
Peshawar



Head Office :

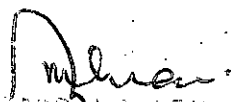
PESHAWAR.

Ref. No : SML/ADAN/14/2006

Dated : 17-2-1993.

## RELIEVING ORDER.

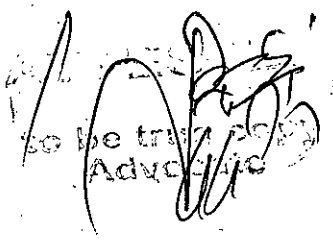
With reference to Government of N.W.F.P., Industries, Commerce, Mineral Development, Labour and Transport Department, notification No.SOI (IND) 6-1/90 dated 14-2-1993, Mr.Ziarat Khan, Project Manager, Salt Project, Naripancos is hereby relieved off from his duties in the (After Noon) of 17th February, 1993, to join his new assignment in Inspectorate of Mines Labour Welfare, N.W.F.P. Peshawar.

  
( MASOOD-UR-REHMAN )  
Secretary,

To:  
Mr.Ziarat Khan,  
Project Manager,  
Salt Project, Naripancos.

c.c.to:-

1. The Managing Director, SML, Head Office, Peshawar.
2. The Chief Inspector of Mines, N.W.F.P., Peshawar.
3. Mr.Mohammad Aslam, Section Officer (Adm) Industries Commerce, Mineral Development, Labour & Transport Department, Govt, of N.W.F.P., Peshawar.

  
to be true copy  
Advocate

BETTER COPY

**SARHAD MINERAL LIMITED**

Head office:  
Peshawar.

Ref No. SML/ADmn/14/2006

Dated 17.2.1993

Relieving Order.

With reference to Government of NWFP, Industries, commerce, Mineral Development, Labour and Transport Department, notification No. SOI (INI)6-1/90 dated 14.2.1993, Mr. Ziarat Khan, Project Manager, Salt Project, Naripanoos is hereby relieved off from his duties in the (After Noon) of 17<sup>th</sup> February, 1993, to join his new assignment in Inspectorate of Mines Labour Welfare, WNFP Peshawar.

Masood ur Rehman  
Secretary,

To.

Mr Ziarat Khan,  
Project Manager,  
Salt Project, Naripanoos.

CC to:

1. The Managing Director, SML, Head Offices, Peshawar.
2. The Chief Inspector of Mines, NWFP, Peshawar.
3. Mr. Mohammad Aslam, Section Officer (Admn Industries Department, Govt, of NWFP Peshawar.



Annexes "C" 153 7

GOVERNMENT OF N.-W. F. P.  
INDUSTRIES, COMMERCE, MINERAL DEVELOPMENT,  
LABOUR AND TRANSPORT DEPARTMENT.

Dated Peshawar, the \_\_\_\_\_

NOTIFICATION

Annexure - "C"

No. SOI(IND)6-1/90. In partial modification of this Deptt's Notification of even No. dated 20/3/1993, charge assumption report of the Inspector of Mines are notified as under:-

<u>S.No.</u>	<u>Name</u>	<u>Assumed the Charge of the post</u>	<u>Date of Assumption of Charge.</u>
1.	Mr. Ziarat Khan	Inspector of Mines, field Office Swat at Mingora.	18/2/1993(F.N).
2.	Mr. Abdur Rashid	Inspector of Mines, field office Hazara at Abbottabad.	18/2/1993(F.N).
3.	Mr. Jamil Khan	Inspector of Mines, field office Swabi.	1/3/1993(F.N).

Sd/-  
SECRETARY TO GOVERNMENT OF NWFP,  
INDUSTRIES, COMMERCE, MINERAL DEVELOPMENT,  
LABOUR AND TRANSPORT DEPARTMENT.

Endst: No. SOI(IND)6-1/90 / 4341 Dated: 30/3/1993.

Copy forwarded for information and necessary action to the:-

1. The District Accounts Officer, Swabi.
2. The District Accounts Officer, Swat.
3. The District Accounts Officer, Abbottabad.
4. The Chief Inspector of Mines, Labour Welfare, NWFP, Peshawar.
5. The Officer Concerned.
6. The Manager Govt Printing and Stationery Department Peshawar.

Attested

(MOHAMMAD ASLAM)  
SECTION OFFICER (ADMN):

Chief Inspector of Mines-  
Cum-Commissioner Mines,  
NWFP, Peshawar.

**ATTESTED**  
to be true copy  
Advocate

Put up on file  
ad. 1/4/93  
PA

Annex "D"

26

Annexure - D

**PUBLIC SECTOR COMPANIES (CORPORATE GOVERNANCE) RULES, 2013**

As amended upto April 21, 2017

1. **Short title, commencement and applicability.** — (1) These Rules may be called the Public Sector Companies (Corporate Governance) Rules, 2013.

(2) They shall come into force after ninety days of the issuance of this notification.

(3) These rules shall apply to all Public Sector Companies, as defined in clause (g) of rule 2.

(4) In the case of listed Public Sector Companies, where there is any inconsistency with the Code of Corporate Governance, the provisions of these rules shall prevail.

2. **Definitions.** — (1) In these rules, unless there is anything repugnant in the subject or context:

- (a) "Board" means board of directors of a Public Sector Company;
- (b) "Commission" means the Securities and Exchange Commission of Pakistan established under the Securities and Exchange Commission of Pakistan Act, 1997 (XLII of 1997);
- (c) "Executive" means an employee of a Public Sector Company, who is entrusted with responsibilities of an administrative or managerial nature, including the Chief Executive and Executive Director;
- (d) "Independent Director" means a Non-Executive Director who is not in the service of Pakistan or of any statutory body or any body or institution owned or controlled by the Government and who is not connected or does not have any other relationship, whether pecuniary

ATTESTED

to be true copy  
Advocate



or otherwise, with the Public Sector Company, its associated companies, subsidiaries, holding company or directors. The test of independence principally emanates from the fact whether such person can be reasonably perceived as being able to exercise independent judgment without being subservient to any form of conflict of interest.

A director shall not be considered independent if one or more of the following circumstances exist,-

- (i) he has been an employee of the Public Sector Company, any of its subsidiaries, or holding company during the last two years;
  - (ii) he has, or has had within the last two years, a material business relationship with the Public Sector Company either directly or indirectly, or director of a body that has such a relationship with the Public Sector Company;
  - (iii) he has received remuneration in the two years preceding his appointment as a director or has received additional remuneration excluding retirement benefits from the Public Sector Company apart from director's fee or has participated in the Public Sector Company's share option or a performance-related pay scheme;
  - (iv) he is a close relative (spouse, lineal ascendants and descendants and brothers and sisters) of the company's promoters, directors or major shareholders;
  - (v) he holds cross-directorships or has significant links with other directors through involvement in other companies or bodies; or
  - (vi) he has served on the Board for more than two consecutive terms from the date of his first appointment provided that such person shall be deemed independent director after a lapse of one term;
- (e) "Non-Executive Director" means a director of a Public Sector Company who is not entrusted with responsibilities of an administrative or managerial nature;

**ATTESTED**  
 [Signature]  
 Secretary

18

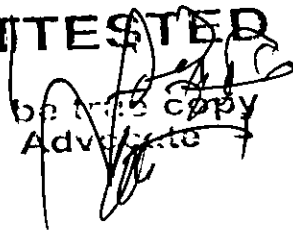
- (f) "Ordinance" means the Companies Ordinance, 1984 (XLVII of 1984);
- (g) "Public Sector Company" means a company, whether public or private, which is directly or indirectly controlled, beneficially owned or not less than fifty one percent of the voting securities or voting power of which are held by the Government or any instrumentality or agency of the Government or a statutory body, or in respect of which the Government or any instrumentality or agency of the Government or a statutory body, has otherwise power to elect, nominate or appoint majority of its directors, and includes a public sector association not for profit, licensed under section 42 of the Ordinance.

(2) All other terms and expressions used but not defined in these rules shall have the same meaning as are assigned to them in the Ordinance.

**2A. Criteria for sound and prudent management.** - (1) For the purposes of these rules, the following shall be the criteria for sound and prudent management of a Public Sector Company, which shall be bound to comply with it at all times namely: -

- (a) the business of the Public Sector Company is carried on with integrity, objectivity, due care and the professional skills appropriate to the nature and scale of its activities;
- (b) each director and chief executive officer, by whatever name called, of the Public Sector Company complies with the fit and proper criteria specified under these rules;

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Advocate



Annex (E) 19



# SARHAD MINERAL (Pvt) LIMITED

(A joint venture of PMDC and SDA Govt. of Khyber Pakhtunkhwa)

Tel. (091) 5816783  
091-9219559

Head Office  
164-A, Industrial Estate,  
Jamrud Road, Peshawar.

Dated: 09-10-2017

Ref.No:SML/Admn/ 14/24/2017

The Commissioner of Mines,  
Commissionerate of Mines, Labour Welfare, Khyber Pakhtunkhwa,  
Attached Department Complex, Khyber Road, Peshawar.

Subject: APPEAL

Dear Sir,

Kindly refer to the letter No: Com/Mines/702 dated 09.10.2017 seeking clarification of Finance Department, Government of Khyber Pakhtunkhwa (Regulation Wing) that whether Sarhad Mineral (Pvt.) Ltd. adopts the scheme of basic pay scales, if so from which date?. In this connection, it is clarified that Sarhad Mineral (Pvt.) Ltd. has adopted the scheme of basic pay scales of Government of Khyber Pakhtunkhwa for its employees from the date of its incorporation i.e. 16.05.1984

Thanking you.

Yours truly,

(Munir Ahmad)  
Secretary  
Secretary  
Govt. of Khyber Pakhtunkhwa Peshawar

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Advocate

Phone : No : 812624

Annex 4/11



Cable Address :  
SERMIN Peshawar



## SARHAD MINERAL LIMITED

Sarhad Mineral (Pvt) Limited  
54 J/4 Phase -II Hayatabad  
Peshawar

Head Office :

PESHAWAR.

Ref. No : SML/ADMN/14/2006

Dated : 17-2-1993.

### RELIEVING ORDER.

With reference to Government of N.W.F.P., Industries, Commerce, Mineral Development, Labour and Transport Department, notification No.SOI (IND) 6-1/90 dated 14-2-1993, Mr.Ziarat Khan, Project Manager, Salt Project, Naripanoos is hereby relieved off from his duties in the (After Noon) of 17th February, 1993, to join his new assignment in Inspectorate of Mines Labour Welfare, N.W.F.P., Peshawar.

( MASOOD-UR-REHMAN )  
Secretary,

To.  
Mr.Ziarat Khan,  
Project Manager,  
Salt Project, Naripanoos.

c.c.to:-

1. The Managing Director, SML, Head Office, Peshawar.
2. The Chief Inspector of Mines, N.W.F.P., Peshawar.
3. Mr.Mohammad Aslam, Section Officer (Admn) Industries Commerce, Mineral Development, Labour & Transport Department, Govt, of N.W.F.P., Peshawar.

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Advocate



GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT  
(REGULATION WING)

NO. FD (SR-1) 12-1/2011  
Dated Peshawar the: 4<sup>th</sup> June, 2011

TO:

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

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

Dear Sir,

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

Yours Faithfully,

(MASOOD KHAN)  
Deputy Secretary (Reg-II)

Indst: of even No. & date.

Copy forwarded for information to:

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

(SHAUKAT ULLAH)  
Section Officer (SR-I)

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Advocate



Annexes H

Annexure H

GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT  
(REGULATION WING)

29

Dated Peshawar the 15.06.2020

**NOTIFICATION**

**No.FD(SOSR-I)/12-4/2020.** In pursuance of Khyber Pakhtunkhwa Service Tribunal Judgement in Service Appeal No.476/2014 announced on 07.03.2017 and Supreme Court of Pakistan Judgement in CP No.1308/2019 dated 27.11.2019, the Finance Department with the approval of the competent authority (Chief Minister Khyber Pakhtunkhwa) is pleased to accord sanction to continuation of service and protection of basic pay of Rs.3460/- (Three Thousand Four Hundred and Sixty Only) last drawn by Mian Farooq Iqbal as Lecturer (BPS-17), Department of Mining Engineering University of Engineering and Technology, Peshawar on his appointment as Inspector of Mines (BPS-17) in Inspectorate of Mines, in the pay scale of Rs.2065-155-3925 w.e.f 10.07.1989.

2- The earlier notification of even No. dated 07.12.2018 of this Department stands withdrawn.

SECRETARY TO GOVERNMENT  
OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT

**ENDST: NO. & DATE EVEN.**

Copy for information and necessary action is forwarded to the:-

1. Registrar, Service Tribunal, Khyber Pakhtunkhwa.
2. The Accountant General, Khyber Pakhtunkhwa, Peshawar.

(Musharraf Khan Marwat)  
Addl: Secretary (Regulation)  
FINANCE DEPARTMENT

**ENDST: NO. & DATE EVEN.**

Copy of the above is forwarded for information and necessary action to the:-

1. PS to Secretary, Finance Department, Khyber Pakhtunkhwa.
2. PS to Special Secretary, Finance Department, Khyber Pakhtunkhwa.
3. PS to Secretary, Minerals Development Department, Peshawar with reference to the letter No.SO Appeal(MDD)/1-1175/2020 dated 18-05-2020.
4. Section Officer (Lit-II) Finance Department, Peshawar via his file No.SO(Lit-II)/FD/2-1474/2014.
5. PA to DS (Reg-I), Finance Department, Peshawar.
6. Officer concerned.

SECTION OFFICER (SR-I)  
FINANCE DEPARTMENT

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Advocate

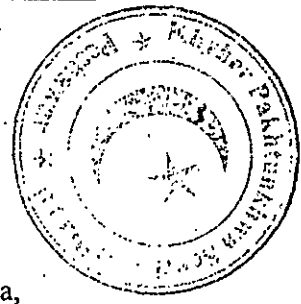
*Annexed* **12-4**

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BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.

SERVICE APPEAL NO. 476/2014

Date of Institution ... 02.04.2014  
Date of Judgment ... 07.03.2017



Mian Farooq Iqbal, Officer on Special Duty,  
Establishment Department, government of Khyber Pakhtunkhwa,  
Civil Secretariat, Peshawar.

... (Appellant)

VERSUS

1. The Chief Secretary, Govt: of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Secretary Finance, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. The Secretary Establishment, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
4. The Secretary Mineral Development Department, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
5. The Director General, Directorate General Mines and Mineral, Khyber Pakhtunkhwa, Peshawar.

... (Respondents)

APPEAL UNDER SECTION-4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST THE FINANCE DEPARTMENT GOVERNMENT OF KHYBER PAKHTUNKHWA LETTER NO. FD(SOSR-1)12-4/2014 DATED 10.02.2014 WHEREBY THE APPLICATION OF THE PETITIONER FOR PROTECTION OF PAY AND COUNTING OF SERVICE RENDERED IN AUTONOMOUS BODY IN TOTAL SERVICE PERFORMED IN PROVINCIAL GOVERNMENT DEPARTMENT AS CIVIL SERVANT WAS DECLARED NOT ADMISSIBLE.

Mr. Muhammad Asif Yousfzai, Advocate. .. For appellant.  
Mr. Muhammad Adeel Butt, Additional Advocate General .. For respondents.

MR. MUHAMMAD AAMIR NAZIR .. MEMBER (JUDICIAL)  
MR. ASLIFAQUE TAJ .. MEMBER (JUDICIAL)

JUDGMENT

MUHAMMAD AAMIR NAZIR, MEMBER: Mian Farooq Iqbal, Officer on Special Duty Establishment Department, hereinafter referred to as appellant, through the instant appeal under section-4 of Khyber Pakhtunkhwa Service Tribunal Act 1974, has impugned order dated 10.02.2014 vide which the application of the appellant for protection of pay and counting of service rendering by him in autonomous body was turned down by the respondents.

*Handwritten signature*  
Khyber Pakhtunkhwa  
Tribunal,  
Peshawar

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Advocate

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2. Brief facts of the case giving rise to the instant appeal are that initially the appellant was employed as Lecturer (BPS-17) in NWFP University of Engineering and Technology Peshawar in the year 1986. Subsequently, the appellant applied through proper channel for the post of Inspector of Mines(BPS-17). That after qualifying the competitive exam, the appellant was relieved and he assumed the charge of the post of Inspector of Mines in the Inspectorate of Mines Labour Welfare NWFP Peshawar on 10.07.1989. That the appellant was drawing basic salary @ Rs. 3460/- P.M while after joining the post of Inspector of Mines, the salary was fixed @ Rs. 2065/- Per month. That vide letter dated 04.06.2011, the Finance Department allowed the benefits of protection of pay to the employees of autonomous bodies on their subsequent appointment in Government Service. The appellant filed an appeal before respondent No.1 for protection of pay and counting of service rendered as Lecturer University of Engineering and Technology in the light of Finance Department letter referred above. That appeal of the appellant was rejected by respondent No.2 vide letter dated 10.02.2014 without any justification, hence the instant appeal.

3. Learned counsel for the appellant argued before the court that before joining the Government Service, the appellant was serving as Lecturer in University of Engineering and Technology and after obtaining NOC, the appellant applied through proper channel for the post of Inspector Mines. That the appellant was appointed to the post of Inspector Mines (BPS-17) through proper channel, there-after he was relieved by the University to join his new assignment. That as per Finance Department notification dated 04.06.2011 the appellant was entitled for benefits of pay and protection even then his appeal was rejected which illegal, hence the appeal of the appellant be accepted as prayed for.

4. In rebuttal, learned Additional Advocate General argued before the court that the appellant is not entitled for pay protection and his appeal to this respect was rightly turned down by the competent authority. Though the Finance Department vide letter dated 04.06.2011 has allowed the benefits of pay protection to the employees of autonomous bodies on their subsequent appointment in government service, but the pay protection to the appellant is not admissible on the ground that he has joined provincial government service prior to the issuance

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of the above referred notification. That the appeal in hand is without any substance, hence be dismissed.

5. We have heard arguments of learned counsel for the appellant and learned Additional Advocate General for the respondents and have gone through the record available on file.

6. Perusal of the case file reveals that the appellant was initially appointed as Lecturer in BPS-17 in NWFP University of Engineering and Technology in the year 1986. Later on, the appellant applied for the post of Inspector of Mines (BPS-17) in the Inspectorate of Mines Labour Welfare NWFP Peshawar through proper channel. The appellant after qualifying the Public Service Commission exam was appointed as Inspector of Mine in BPS-17 vide order dated 21.06.1989. Afterwards, the Finance Department issued a notification dated 04.06.2011 in which benefits of pay protection was allowed to the employees of the autonomous body on their subsequent appointment in Government Service who have adopted scheme of basic pay scale in to-to, provided that they have applied for the post through proper channel. The above referred notification was based on the judgment of Federal Service Tribunal Islamabad in appeal No. 1921(R) CS/2005 in case titled Sajjad Rashid and others. It is evident that the appellant was employee of University of Engineering and Technology Peshawar which was an autonomous body and has adopted scheme of basic pay scale in to-to in their appointment. The appellant applied through proper channel and after qualifying Public Service Commission was appointed as Inspector of Mines (BPS-17), therefore he is entitled for fixation/protection of pay of appointment of one post to another in light of notification of the finance department dated 04.06.2011. The appeal in hand is accepted in the light of the above discussion. Parties are however left to bear their own costs. File be consigned to the record room.

sd/- M. Amir Nazir, Member  
sd/- Ashfaqul Taj, Member

ANNOUNCED  
07.03.2017

certified to be true copy  
SECRETARY  
Hyber Peshawar  
Service Tribunal,  
Peshawar

Date of Presentation of Application 21-03-17  
Number of Writs 200  
Copies of Writs 800  
Urgent  
Total  
Name of Opponent  
Date of Contention 27-03-17  
Date of Belief 27-03-17

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Advocate

Annexes "J" ~~Annexes "J"~~

IN THE SUPREME COURT OF PAKISTAN  
(Appellate Jurisdiction)

26

PRESENT

Mr. Justice Gulzar Ahmed  
Mr. Justice Maqbool Baqar

Civil Appeal No. 1308/2019

(Against the judgment dated  
07.03.2017 of the Khyber  
Pakhtunkhwa Service Tribunal,  
Peshawar passed in Appeal No.  
476/2017)

*Chief Secretary Govt. of KP Civil Appellant(s)*  
*Secretariat, Peshawar & others*

*Versus*

*Mian Farooq Iqbal Respondent(s)*

For the Appellant(s) : Mr. Zahid Yousaf Qureshi, Addl AG, KP

For the Respondent(s) : In person

Date of Hearing : 27.11.2019

ORDER

Gulzar Ahmed, J. We have heard the learned Additional Advocate General, KP. In support of his submission that the benefit of pay protection and counting of service was not available to the respondent, he has relied upon the letter dated 04.06.2011 (available at page 21 of the paper book) issued by the Regulation Wing of the Finance Department, Government of Khyber Pakhtunkhwa. Such letter is scanned below:

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to be true copy  
Advocate

ATTESTED

Senior Legal Associate  
Supreme Court of Pakistan  
Islamabad

27



GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT  
(REGULATION WING)

NO. FD (SR-1) 12-3/2011  
Dated Peshawar the 4<sup>th</sup> June, 2011

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

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

Dear Sir,

I am directed to refer to the Government of Pakistan, Finance Division, Islamabad letter No.F.No.4(2)R-II/1898-235/2010, dated 08-06-2010 and Judgment dated 01-08-2009 of Federal Service Tribunal, Islamabad in appeal No.1921(R) CS/2005 in respect of Mr. Sajjad Rashid and others on the subject noted above and to state that in pursuance of the above quoted letter, the Government of Khyber Pakhtunkhwa has decided that henceforth the benefit of protection of pay to the employees of autonomous bodies on their subsequent appointment in Government Service is not admissible as the employees of autonomous bodies are not civil servants within the meaning of Civil Servant Act 1973. However, the benefit of pay protection will be admissible to employees of such autonomous organizations who have adopted scheme of basic pay scales in to-to on their appointment in government services provided they have applied for the post through proper channel.

*intended*  
*9/7*

Yours Faithfully,

(MASOUD KHAN)  
Deputy Secretary (Reg-III)

End of even No. & date.

Copy forwarded for information to:

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

2. Learned Additional Advocate General has stated that the respondent was appointed as a Lecturer in the University of Engineering and Technology, Peshawar on 03.12.1986. The respondent applied for being appointed as Inspector Mines through proper channel in the Mines Department and ultimately, succeeded in the same and was appointed as an Inspector Mines vide order dated 21.06.1989. Learned Addl. AG further contends that by virtue of the letter dated 04.06.2011, as reproduced above, the respondent was not entitled to pay protection. This letter has been considered by the Service Tribunal in its impugned judgment and even on our own reading, we are unable to agree with the learned Addl. AG that this has affected the case of the respondent, for that, the very letter used the word "henceforth" and provides to

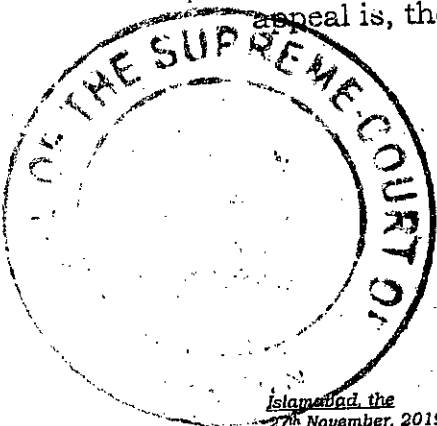
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Advocate

**ATTESTED**  
Senior Court Associate  
Supreme Court of Pakistan  
Islamabad

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discontinue the benefit of pay protection of the employees of autonomous bodies. However in the last line it gives such benefit of pay protection to the employees of such autonomous organizations who have adopted the Scheme of Basic Pay Scale in toto on their appointment in Government Offices. In the first place, the very letter shows that it will apply from 04.06.2011 and will not affect the employees who have already been employed in Government service from the autonomous organizations and the case of the respondent being that of appointed on 21.06.1989, the same is not affected. Further, it is also an admitted fact that the University, in which the respondent was working, has adopted the Scheme of Basic Pay Scale in toto in the Government service. Besides, the respondent has applied for the post through proper channel, therefore, the condition of applying through proper channel has been satisfied.

3. After considering all aspects of the matter, we are of the firm view that no illegality has been committed in the impugned judgment of the Tribunal. The same is maintained. The appeal is, therefore, dismissed with no order as to costs.



Islamabad, the  
27th November, 2019  
Rizwan  
21/11/19

Sd/-J  
Sd/-J

**Certified to be True Copy**

Senior Court Associate  
Supreme Court of Pakistan  
Islamabad

GR No: 218P/19  
 Date of Presentation: 29/11/19  
 No of Words: 92  
 No of Pages: 9  
 Remission: 10 - 0  
 Copy Fee: 5 - 50  
 Court Fee: 10 - 00  
 Total: 37/12/19  
4/12/19

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Advocate

2009 S C M R 1

[Supreme Court of Pakistan]

Present: Abdul Hameed Dogar, C.J., Ijaz-ul-Hassan Khan, Muhammad Qaim Jan Khan  
and Ch. Ejaz Yousaf, JJ

GOVERNMENT OF PUNJAB, through Secretary Education, Civil Secretariat, Lahore and  
others----Petitioners

Versus

SAMEENA PARVEEN and others----Respondents

Criminal Petitions Nos.71-L and 72-L, Civil Petitions 215-L, 216-L, 217-L, 218-L, 224-L to  
236-L of 2006, decided on 29th April, 2008.

(On appeal from the judgment, dated 29-1-2008 of the Lahore High Court, Lahore passed in  
Cr.O.P. No.370/W and 561/W of 2007, Writ Petitions Nos.11525, 11263, 11516, 11662, 11663,  
11766, 11881, 11835, 12136 and 12185 of 2007, 86, 123, 274, 345, 599, 643 and 11619 of  
2008).

Civil service---

----Administration of justice---If a Tribunal or the Supreme Court decides a point of law relating  
to the terms and conditions of a civil servant who litigated, and there were other civil servants,  
who may not have taken any legal proceedings, in such a case, the dictates of justice and rule of  
good governance demand that the benefit of the said decision be extended to other civil servants  
also, who may, not be parties to that litigation, instead of compelling them to approach the  
Tribunal or any other legal forum---All citizens are equal before law and entitled to equal protection  
of law as per Art.25 of the Constitution.

Hameed Akhtar Niazi v. The Secretary, Establishment Division, Government of Pakistan and others  
1996 SCMR 1185 and Tara Chand and others v. Karachi Water and Sewerage Board, Karachi and  
others 2005 SCMR 499 fol.

Mst. Muqqadas Akhtar and another v. Province of Punjab through Secretary Education Department,  
Government of Punjab and another 2000 PLC (C.S.) 867 ref.

Ms. Afshan Ghazanfar, A.A.-G., Punjab and Rana Abdul Qayyum, D.S. (Education) Punjab for  
Petitioners.

S.M. Tayyab, Senior Advocate Supreme Court for Respondents (in Cr.Ps. Nos.71-L, 72-L and  
C.P.224-L of 2008).

Nemo for other Respondents.

ORDER

ABDUL HAMEED DOGAR, C.J.---Through this order we intend to dispose of above captioned  
petitions filed against common judgment, dated 29-1-2008 passed by learned Judge in Chambers of

ATTORNEY  
ADVOCATE

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Lahore High Court, Lahore whereby Cr.O.P. No.370/W and 561/W of 2007, Writ Petitions Nos.11525, 11263, 11516, 11662, 11663, 11766, 11881, 11835, 12136 and 12185 of 2007, 86, 123, 274, 345, 599, 643 and 11619 of 2008 filed by respondents were allowed and the impugned orders passed by petitioner/authority were set aside.

2. Briefly, stated facts giving rise to the filing of instant petitions are that respondents were appointed as PTC Teachers during the year 1995/1996 after completion of all legal requirements and they joined their respective place of posting. After sometime, their appointments were cancelled being bogus vide order No.277/E-1, dated 3-4-1998. This order was assailed before learned Lahore High Court, Lahore and same was declared to be without lawful authority in the case reported as Mst. Muqqadas Akhtar and another v. Province of Punjab through Secretary Education Department, Government of Punjab and another 2000 PLC (C.S.) 867. The relevant paragraph is reproduced as under:--

"Consequently the petitioners are declared to be in service and the action of the Headmasters/Incharge of the Schools stopping the petitioners from performance of their duties as PTC Teachers on the basis of the above said impugned order, is declared to be without lawful authority. It is, however, clarified that the department is at liberty to proceed against petitioners, if so desired, on individual basis under the relevant law and under the Punjab Civil Servant (Efficiency and Discipline) Rules, 1975."

In view of above judgment, the respondents were absolved of the charges of bogus appointments. But later on once again the services of respondents were terminated vide order, dated 3-8-2005, which order was challenged before learned Lahore High Court, Lahore through Writ Petition No.16864 of 2005. The said writ petition was allowed vide judgment, dated 11-12-2006 and the impugned order, was declared as illegal and without lawful authority. Similarly, one of the teachers namely Mst. Naseem Akhtar assailed the order, dated 3-8-2005 before Punjab Service Tribunal, Lahore through Appeal No.903 of 2006 which was also allowed vide judgment, dated 4-9-2006. The said judgment was maintained by this Court in Civil Petition No.1960-L of 2006 vide judgment, dated 2-11-2006. On 26-9-2007 once again the services of respondents were terminated. Feeling aggrieved they filed above mentioned petitions before the learned Lahore High Court, Lahore which were allowed vide impugned judgment as stated above.

3. It is mainly contended by learned A.A.-G. Punjab appearing on behalf of petitioners that the jurisdiction of the learned High Court is barred under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973 in matters involving determination of terms and conditions of civil servants. She further contended that the appointments of the respondents were bogus and fake as they were never selected by the competent authority, therefore the orders of dismissal passed by departmental authority were in accordance with law, which did not call for any interference by this Court.

4. On the other hand, Mr. S. M. Tayyub, learned Senior Advocate Supreme Court appearing on behalf of some of the respondents supported the impugned judgment and contended that appointments of respondents had taken place in accordance with rules and prescribed procedure. They submitted their applications in pursuance of advertisement of the posts of PTC Teachers. They passed the required test and were appointed by the competent authority. According to him, the respondents were in service for about 9-10 years and during this period no objection was raised, and subsequently on vague allegations they were dismissed from service. He further contended that cases of respondents were at par with Mst. Naseem Akhtar which was decided by this Court in Civil Petition No. 1960-L of 2006 vide judgment, dated 2-11-2006.

5. We have considered the arguments of both the parties and have gone through the record and proceedings of the case in minute particulars. The matter has already been decided by this Court

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in the case of Mst. Naseem Akhtar (supra), and it has been held that the appointment orders of the respondents as PTC Teachers were genuine. It was held by this Court in the case of Hameed Akhtar Niazi v. The Secretary, Establishment Division, Government of Pakistan and others 1996 SCMR 1185 that if a Tribunal or this Court decides a point of law relating to the terms and conditions of a civil servant who litigated, and there were other civil servants, who may not have taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the said decision be extended to other civil servants also, who may not be parties to that litigation instead of compelling them to approach the Tribunal or any other legal forum. This view was reiterated by this Court in the case of Tara Chand and others v. Karachi Water and Sewerage Board, Karachi and others 2005 SCMR 499 and it was held that according to Article 25 of the Constitution of Islamic Republic of Pakistan, 1973 all citizens are equal before law and entitled to equal protection of law.

6. In this view of the matter, we are of the view that no ground for interference in the impugned judgment is made out. Accordingly, the petitions being devoid of force are dismissed and leave to appeal refused.

M.B.A./G-13/SC

Petitions dismissed

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Advocate

that Noor Muhammad and Gama (the vendor) were the sons of Khair Din who was real brother of Pir Bakhsh, the father of the petitioner-pre-emptor Umar Din. The document (Exh.D-4), another pedigree table of the year 1979-80 also indicates that Noor Muhammad and Ghulam Muhammad were brothers and that Wali Muhammad was son of late Noor Muhammad and father of the vendees, the respondents Nos.1 and 2. A similar position is reflected by pedigree table (Exh.D-1/4). Once identity of Ghulam Muhammad alias Gama was established by evidence, it would hardly make any difference whether he was mentioned as Ghulam Muhammad at one place and as Gama at another place of the pedigree table. The vendees-respondents Nos. 1 and 2, being nearer to the vendor Ghulam Muhammad alias Gama in order of succession, possessed a superior right of pre-emption vis-à-vis the pre-emptor-petitioner in respect of the sale of the suit-land. Section 15(b) of the Punjab Pre-emption Act, 1913, lays down that the right of pre-emption in respect of agricultural land shall vest in the person, in order of succession, who but for such sale would be entitled, on the death of the vendor to inherit the land or property sold. The petitioner failed to demonstrate as to how late Umar Din predecessor in interest, would have been entitled to inherit the suit-land in preference to the respondents Nos.1 and 2 in the event of death of vendor Ghulam Muhammad in order of succession.

6. A similar question was earlier examined by superior Courts in some cases. In *Mst. Raz Khanum Bibi v. Nazir Ahmad and others* 1985 SCMR 1725 at full Bench of this Court has held that the words "in order of succession in section 15 of the Pre-emption Act would mean that under Islamic law if there is a contest between "sharers" or in a given case some "sharers" or some "residuaries", who, for example, succeed simultaneously and no one excludes the other and each succeeds up to the extent of his share, then as the order of the succession is the same and none succeeds prior and in preference to the other, the suit will fail if the pre-emptor and the vendee are heirs of the above categories. It has been further held that the right contemplated by section 15(b) of the Act was to vest in persons concerned "in order of succession" which simply means the order in which persons inter se would be entitled to inherit. Consequently, there is no scope for introducing the concept, if it can be so termed, "propinquity of relationship". The order of succession is to be determined with reference to the Personal Law of the parties and when that has been done the person entitled to succeed in order of succession is the person first entitled to pre-empt. If the nearest in order of succession does not seek to pre-empt, then, the person next in succession may do so until all the heirs in succession are exhausted. In *Karim Bakhsh and others v. Jahandad Khan and others* 74 P.R. 1906. It was held that the expression "in the order of relationship which was the

term then existing had no reference to degree of propinquity but was equivalent to "order of succession". The Privy Council in *Sabz Ali Khan v. Khair Muhammad Khan* AIR 1922 Privy Council 139 = ILR 3 Lahore 48 had the occasion of construing the provisions of section 12(a) of the old Punjab Pre-emption Act (11 of 1905). It was held therein that under section 12(a) of the Act the whole line of heirs of the vendor and not merely the nearest heir at the time of sale, had the right of pre-emption in respect of agricultural land. The priority of the right between the claimants must be determined according to the order of succession. In our opinion, the view taken by the High Court is plainly correct to which no exception can be taken. The impugned judgment does not suffer from any legal or factual infirmity so as to warrant interference by this Court.

6. For the foregoing reasons, we do not find any merit in this petition which is dismissed and leave to appeal is refused accordingly.

M.B.A./U-32/S

Petition dismissed.

2005 S C M R 499

[Supreme Court of Pakistan]

Present: Nazim Hussain Siddiqui, C.J., Javed Iqbal  
and Abdul Hameed Dogar, JJ

TARA CHAND and others---Petitioners

versus

KARACHI WATER AND SEWERAGE BOARD,  
KARACHI and others---Respondents

Civil Review Petition No.259 of 2002, Civil Miscellaneous Applications Nos.874 and 875 of 2001 in Civil Appeal No.1235 of 2000, decided on 14th December, 2004.

(On review against the judgment of this Court, dated 14.5.2002 passed in Civil Appeal No.1235 of 2000).

(a) Constitution of Pakistan (1973)---

---Arts. 185, 188 & 25---Supreme Court Rules 1980, O.XXXIII, R.5--- Civil Procedure Code (V of 1908), O.XLI, R.33---Review petition--- Civil service---Contentions of the petitioner were that neither notice about grant of leave to appeal by the Supreme Court nor that of ex parte order by the Supreme Court was served upon him; that he was one of the petitioners who impugned the departmental orders of retrenchment and

SCMR

Annexes. 1/C

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termination before the High Court, which were set aside in appeal by the Supreme Court; that the moment he came to know about the decision of the Supreme Court, he had approached the Court and filed Civil Review Petition well within time and that though he was a non-appealing party in the appeals, yet he was entitled to the same relief on the basis of principle of equality---Validity---Held, since the services of all such persons were dispensed with by single order, as such, there was no distinction between their case and that of the appellants and was identical on all fours---When Tribunal or Court decides a point of law relating to the terms of service of a civil servant which covered not only the case of civil servants who litigated, but also of other civil servants, who might have not taken any legal proceedings, the dictates of justice and rule of good governance demand that the benefit of the decision be extended to other civil servants, who might not be parties to the litigation instead of compelling them to approach the Tribunal or any other legal forum--- Article 25 of the Constitution was also explicit on the point that all citizens were equal before law and were entitled to equal protection of law. [pp. 504, 506, 507] A, C, D & E

Hameed Akhtar Niazi v. The Secretary, Establishment Division, Government of Pakistan and others 1996 SCMR 1185; Abdul Hameed Nasir and others v. National Bank of Pakistan and others 2003 SCMR 1030; Hakim Muhammad Nabi Khan and 2 others v. Warasatullah through Legal Representatives 1987 SCMR 1698; Province of Punjab through Collector Bahawalpur, District, Bahawalpur and others v. Col. Abdul Majeed and others 1997 SCMR 1692 ref.

(b) Judgment in personam---

---Definition.

A judgment determining the rights of persons inter se in or to any money or property in dispute, but not affecting the status of persons or things or determining any interest in property except between the parties. They include all judgment for money.

Normally a judgment binds only those who are parties to it. Such judgments are known as Judgments in personam.

Judgments in personam or inter parties are those which determine the rights of parties inter se to or in the subject-matter in dispute, whether it be corporeal property of any kind whatever or a liquidated or unliquidated demand, but do not affect the status of either persons or things, or make any disposition of property or declare or determine any interest in it except as between the parties litigant. They include all judgments which are not judgments in rem.

A judgment in personam determines the rights of the parties

inter se to or in the subject-matter in dispute, whether it be corporeal property of any kind whatever or a liquidated or unliquidated demand, but does not affect the status of either persons or things, or make any disposition of property, or declare or determine any interest in it except as between the parties litigant. Judgments in personam include all judgments which are not judgments in rem, but as many judgments in the latter class deal with the status of persons and not of things, the description "Judgment inter parties" is preferable to 'Judgment in personam'.

A judgment against a particular person, as distinguished from a judgment against a thing or a right or status. [p. 504] B

The Oxford Companion to Law by Dawid M. Walker; K.J. Aiyar's Judicial Dictionary (10th Edition 1988); Words and Phrases legally defined (Vol: 3 I-N) and Black's Law Dictionary with pronunciations (6th Edition) ref.

(c) Judgment in rem---

---Definition.

A legal determination binding not only the parties but all persons. It applies particularly to judgments in Admiralty, declaring the status of a ship; matrimonial causes, grants of probate and administration and condemnation of goods by a competent Court.

A judgment which gives to the successful party possession or declaration of some definite right which right is available against the whole world.

A judgment in rem may be defined as the judgment of a Court of competent jurisdiction determining the status of a person or thing, or the disposition of a thing (as distinct from the particular interest in it of a party to the litigation). Apart from the application of the term to persons; it must affect the res in the way of condemnation, forfeiture, declaration of status or title, or order for sale or transfer.

An adjudication pronounced upon the status of some particular thing or subject-matter, by a Tribunal, having competent authority is judgment in rem. It is founded on a proceeding instituted against or on something or subject-matter whose status or condition is to be determined or one brought to enforce a right in the thing itself. It operates upon the property. It is a solemn declaration of the status of some person or thing. It is binding upon all persons insofar as their interests in the property are concerned. [p. 504] B

The Oxford Companion to Law by Dawid M. Walker; K.J.

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Aiyar's Judicial Dictionary (10th Edition 1988); Words and Phrases legally defined (Vol: 3 I-N) and Black's Law Dictionary with pronunciations (6th Edition) quoted.

Syed Iftikhar Hussain Gillani, Senior Advocate Supreme Court for Petitioner (in Civil Review Petition No.259 of 2002).

Ibrar Hussain, Advocate Supreme Court for Respondents in Civil Review Petition No.259 of 2002.

M. Bilal, Senior Advocate Supreme Court and Ch. Akhtar Ali, Advocate-on-Record for Applicants (in Civil Miscellaneous Applications Nos.874 and 875 of 2001).

Ibrar Hussain, Advocate Supreme Court for Respondents Nos.1-3 (in Civil Miscellaneous Applications Nos.874 and 875 of 2001).

Raja Abdul Ghafoor, Advocate-on-Record for Respondents Nos.4-5 (in Civil Miscellaneous Applications Nos.874 and 875 of 2001).

Date of hearing: 14th December, 2004.

#### ORDER

ABDUL HAMEED DOGAR, J.--The background leading to the filing of the above mentioned matters are that about 130 employees of Karachi Water and Sewerage Board including petitioner Tara Chand (in Civil Review Petition No.259 of 2002) and applicants, namely, Muhammad Haneef, Bashir Ahmad, Muhammad Dawood and Asadullah Saher (in Civil Miscellaneous Applications Nos.874 and 875 of 2001) challenged the orders, dated 11-7-1998, 18-7-1998 and 20-7-1998 passed by Vice Chairman about retrenchment and termination of their services through Constitution Petition No.D-1151 of 1998 before the learned High Court of Sindh at Karachi. The said petition was dismissed vide judgment, dated 4-6-1999 by the learned Division Bench of High Court of Sindh, Karachi. The said judgment was challenged in Civil Petition Nos.352-K, 396-K and 464-K of 1999 in which leave to appeal was granted and the appeals were numbered as Civil Appeals Nos.1232 to 1235 of 2000. In the aforesaid appeals, petitioner Tara Chand and applicants, namely, Muhammad Haneef, Bashir Ahmad, Muhammad Dawood and Asadullah Saher were arrayed as respondents. After grant of leave to appeal, the notices were issued to them but were not served upon them and an ex parte order was passed by the Assistant Registrar (Civil) against them on 13-3-2001. However, above appeals were heard and allowed by this Court vide judgment, dated 14-5-2002 and the orders, dated 11-7-1998, 18-7-1998 and 20-7-1998 passed by the Vice Chairman of the Board were set aside and were declared without lawful authority. All the appellants therein were reinstated in service.

2. On coming to know about the above decision, petitioner Tara Chand along with Javed Hussain, Muhammad Shah, Kanyolal, Muhammad Hanif Shaikh, Abdul Shakoor, Mujahid Hanif and Muhammad Iqbal Palejo filed Review Petition No.259 of 2002 on 11-6-2002 wherein they urged that in fact they were respondents in the aforesaid Civil appeals but were not served, as such, ex parte order passed against them in their absence be set aside and they may be allowed the same relief as granted to appellants.

3. However, the aforesaid Civil Review Petition was returned by Assistant Registrar (Civil) on 13-3-2001 to the Advocate-on-Record with the objection that the same was not entertainable under Order XXVI rule 6 of Supreme Court Rules, 1980 as the counsel who had drawn this review petition did not appear and argue the case in the above mentioned appeals. The said order was challenged through Civil Miscellaneous Appeal No.42 of 2003 under Order V rule 33 of Supreme Court Rules, 1980, which was allowed only to the extent of petitioner Tara Chand were as against others, it was dismissed for non-prosecution by a learned Judge in Chambers, vide order, dated 20-11-2003. Petitioner Tara Chand filed amended review petition whereas applicants, namely, Muhammad Haneef, Bashir Ahmad, Muhammad Dawood and Asadullah Saher moved Civil Miscellaneous Application No.874 of 2001 for setting aside the order, dated 13-3-2001 as Civil Miscellaneous Application No.875 of 2001 for transposition from the side of respondents to the side of appellants.

4. We have heard Messrs Syed Iftikhar Hussain Gillani, learned Senior Advocate Supreme Court for petitioner, M. Bilal, Senior Advocate Supreme Court for applicants and Messrs Ibrar Hussain and Raja Abdul Ghafoor, learned Advocates Supreme Court for the respondents and have gone through the record and proceedings in minute particulars.

5. Syed Iftikhar Hussain Gillani, learned Advocate Supreme Court, contended that in fact petitioner Tara Chand was arrayed as respondent No.47 in Civil Appeal No.1235 of 2000. According to him, neither notice about grant of leave to appeal nor that of ex parte order, dated 13-6-2001 was served upon him. Admittedly, he was one of the petitioners who impugned the departmental orders of retrenchment and termination before the learned High Court of Sindh, which were set aside in appeal by this Court. The moment he came to know about the decision, he approached this Court and filed above mentioned civil review petition well within time. Though he is a non-appealing party in the aforementioned appeals, yet is entitled to the same relief on the basis of principle of rule of equality. In support, he relied upon the case of

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Hameed Akhtar Niazi v. The Secretary, Establishment Division, Government of Pakistan and others 1996 SCMR 1185.

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6. Mr. M. Bilal, learned Senior Advocate Supreme Court on behalf of applicants, namely, Muhammad Haneef, Bashir Ahmad, Muhammad Dawood and Asadullah Saher contended that the applicants were also the petitioners before the learned High Court of Sindh and had challenged the departmental orders passed against them. They were also arrayed as respondents Nos. 50, 58, 92 and 104 in Civil Appeal No. 1235 of 2000 before this Court, which was allowed. Their matter is identical on all aspects with those appellants; therefore, deserves the same relief.

7. On the other hand, Messrs Ibrar Hussain and Raja Abdul Ghafoor, learned Advocate Supreme Courts, vehemently opposed the above contentions and argued that the judgment of this Court passed in the aforesaid civil appeals was in fact judgment in personam and not in rem, as such, the petitioner and applicants are not entitled to any relief. According to them, this being a service matter, they should have approached the Service Tribunal for redressal of their grievance which jurisdiction was not invoked by them.

8. Admittedly, petitioner Tara Chand and applicants, namely, Muhammad Haneef, Bashir Ahmad, Muhammad Dawood and Asadullah Saher had challenged the orders, dated 11-7-1998, 18-7-1998 and 20-7-1998 of their retrenchment and termination along with other petitioners in writ petition before learned High Court of Sindh. It is also an admitted fact that petitioner and applicants were arrayed as respondents in Civil Appeal No. 1235 of 2000 before this Court wherein the above said order of learned High Court was challenged. Since the services of all of them were dispensed with by single order, as such, there is no distinction in between their case and that of appellants and is identical on all fours.

9. As to whether impugned judgment is 'judgment in personam' or 'judgment in rem', it would be appropriate to reproduce their definitions as defined in various dictionaries:

(I) The Oxford Companion to Law by David M. Walker

Judgment in personam.--- A judgment determining the rights of persons inter se in or to any money or property in dispute, but not affecting the status of persons or things or determining any interest in property except between the parties. They include all judgments for money.

Rem, Judgment in.--- A legal determination binding not only the parties but all persons. It applies particularly to judgments in

(Abdul Hameed Dogai, J)  
Admiralty, declaring the status of a ship, matrimonial causes, grants of probate and administration and condemnation of goods by a competent Court.

(II) K.J. Aiyar's Judicial Dictionary (10th Edition 1988)

Normally a judgment binds only those who are parties to it. Such judgments are known as judgments in personam.

Rem, Judgment in.--- A judgment which gives to the successful party possession or declaration of some definite right which right is available against the whole world.

(III) Words and Phrases legally defined (Vol. 3 I-N)

Judgment, In personam.--- A judgment in personam or inter parties are those which determine the rights of parties inter se to or in the subject-matter in dispute, whether it be corporeal property of any kind whatever or a liquidated or unliquidated demand, but do not affect the status of either persons or things, or make any disposition of property or declare or determine any interest in it except as between the parties litigant. They include all judgments which are not judgments in rem.

A judgment in personam determines the rights of the parties inter se to or in the subject-matter in dispute, whether it be corporeal property of any kind whatever or a liquidated or unliquidated demand, but does not affect the status of either persons or things, or make any disposition of property, or declare or determine any interest in it except as between the parties litigant. Judgments in personam include all judgments which are not judgments in rem, but as many judgments in the latter class deal with the status of persons and not of things, the description "Judgment inter parties" is preferable to 'Judgment in personam'.

Judgment, In Rem.--- A judgment in rem may be defined as the judgment of a Court of competent jurisdiction determining the status of a person or thing, or the disposition of a thing (as distinct from the particular interest in it of a party to the litigation). Apart from the application of the term to persons, it must affect the res in the way of condemnation, forfeiture, declaration of status or title, or order for sale or transfer.

(IV) Black's Law Dictionary with pronunciations (6th Edition).

Judgment in personam or inter parties. A judgment against a

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particular person, as distinguished from a judgment against a thing or a right or status.

Judgment in rem. An adjudication pronounced upon the status of some particular thing or subject-matter, by a Tribunal, having competent authority. *Booth v. Copley*, 238 Ky. 23, 140 S.W. 2d, 62, 666. It is founded on a proceeding instituted against or on something or subject-matter whose status or condition is to be determined. *Eureka Building and Loan Ass'n v. Shultz*, 139 Kan, 435, 32 P.2d 477, 480; or one brought to enforce a right in the thing itself. *Federal Land Bank of Omaha v. Jafferson*, 229 Iowa 1054, 295 N.W. 855, 857. It operates upon the property, *Guild v. Walis*, 150 Or. 69, 40 P. 2nd 747, 742. It is a solemn declaration for the status of some person or thing. *Jones v. Teat*, Tex Civ. Appellant., 57 S.W. 2d. 617, 620. It is binding upon all persons in so far as their interests in the property are concerned.

10. To further elaborate the above aspect, it would be relevant to refer the case of Hameed Akhtar Niazi (supra) wherein this Court has held that when Tribunal or Court decides a point of law relating to the terms of service of a civil servant which covers not only the case of the Civil servants who litigated, but also of other civil servants, who may have not taken any legal proceedings, the dictates of justice and rule of good governance demand that the benefit of the above judgment be extended to other civil servants, who may not be parties to the above litigation instead of compelling them to approach the Tribunal or any other legal forum. This Court in the case of *Khawaja Abdul Hameed Nasir and others v. National Bank of Pakistan and others* 2003 SCMR 1030 also extended the benefit to all the persons falling within the same category in order to do complete justice. To further fortify, reference is made to the case of *Hakim Muhammad Nabi Khan and 2 others v. Warasatullah through Legal Representatives* 1987 SCMR 1698, wherein this Court had allowed benefit of relief to non-appearing party of doing complete justice. Irrespective of above, this Court in the case of *Province of Punjab through Collector Bahawalpur, District, Bahawalpur and others v. Col. Abdul Majeed and others* 1997 SCMR 1692, while discussing the provisions of Order XLI, rule 33, C.P.C. and Order XXXIII, rule 5 of the Supreme Court Rules, 1980, has held at page 1709 as under:---

"Not only this it is now well-settled that under Order XLI, rule 33, C.P.C., that the High Court and under Order XXXIII, rule 5 of the Supreme Court Rules this Court, can exercise the appellate powers in favour of all or any of the respondents or parties although such respondents or parties may not have filed any appeal or objection".

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11. Irrespective of above case laws, our Constitutional provisions are also explicit. According to Article 25 of the Constitution of Islamic Republic of Pakistan, 1973, all citizens are equal before law and are entitled to equal protection of law.

12. The result, therefore, is that for the reasons stated above, we find force in the contentions of learned counsel for petitioner and applicants and allow Civil Review Petition No.259 of 2002 and Civil Miscellaneous Applications Nos. 874 and 875 of 2001. Accordingly, petitioner Tara Chand and applicants, namely, Muhammad Haneef, Bashir Ahmad, Muhammad Dawood and Asadulah Saher are also extended the same relief which has been allowed by this Court on 14-5-2002 in Civil Appeal No.1235 of 2000.

M.B.A./T-11/S

Order accordingly.

2005 S C M R 507

[Shariat Appellate Jurisdiction]

Present: Justice Abdul Hameed Dogar Chairman,  
Justices Muhammad Nawaz Abbasi,  
Mian Shakirullah Jan, Dr. Allama Khalid Mahmud  
and Allama Rashid Ahmed Julundhari, Members

MUHAMMAD SAFDAR SATTI and another---Appellants

versus

Mst. AASIA KHATOON and 2 others---Respondents

Crl. Shariat Appeal No.5 of 2001, decided on 13th October, 2004.

(On appeal from the judgment and order, dated 11-2-1999 of the Federal Shariat Court, Islamabad passed in Criminal Revision No.11/I of 1998).

(a) Offence of Qazf (Enforcement of Hadd) Ordinance (VIII of 1979)---

---Ss. 7/11/14---Constitution of Pakistan (1973), Art.203F(2B)---Leave to appeal was granted by Supreme Court to consider, if the charge of Zina was levelled against the wife by her husband along with the divorce, would it attract S.14 of the Offence of Qazf (Enforcement of Hadd) Ordinance, 1979, for undertaking the proceedings of Lian, and if the proceeding of Lian was not applicable in such a situation, could the husband be tried for the offence of Qazf. [p. 509] A

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"Annexes" L 12

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GOVERNMENT OF KHYBER PAKHTUNKHWA  
DEPARTMENT OF PUBLIC HEALTH  
No. SO(EPH)/PHED/1-1/2018/R  
DATE: 2/July/2018

The Secretary to Govt of Khyber Pakhtunkhwa,  
Public Health Engineering Department.

**Subject: ADVICE REGARDING IMPLEMENTATION OF RECOMMENDATIONS OF THE DEPARTMENTAL PROMOTION COMMITTEE IN VIEW OF PENDING INQUIRY.**

Dear Sir,  
I am directed to refer to your Department's letter No. SO(EPH)/PHED/1-1/2018/R Karak dated 18-07-2018 on the subject noted above and to state that in accordance with para-V of Promotion Policy, 2009 promotion of a civil servant will be deferred in addition to para-IV of the said policy if disciplinary or Departmental proceedings are pending against him. Whereas, the Supreme Court of Pakistan in its Judgement, 2009 SCMR 648, declared that "None just that some disciplinary proceedings were pending against the respondent was not a sufficient ground to stop his promotion at that servant. However, it would not deter the authorities to continue with disciplinary proceedings against the Civil servant, if any, justly, fairly and honestly thereafter." Similarly in other decisions as cited, 2008 P.L.C. (Q.B.) 551, 2007 P.L.C. (Q.B.) 116, 2006 P.L.C. (Q.B.) 104, which allows the promotion of civil servant even some disciplinary proceedings are pending against the civil servant. Hence, the promotion case/ notification of civil servant cannot be deferred due to an anticipated formal inquiry which is initiated to punish him in advance.

2. In light of Judgment of the Supreme Court it seems that the Promotion Policy is deficient on the point and needs to be updated in line with the Supreme Court judgment as the decision of the superior court always have over-riding effect on sub-ordinate legislation and policies.

Yours Faithfully,

Section Officer (Opinion-II)

Encl: of even No. & Date.

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- 1. The P.S to Secretary Law Department.
- 2. The P.S to Secretary Establishment Department for information.

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Government of Khyber Pakhtunkhwa  
Parliamentary Affairs and  
Human Rights Department

No. (Sic) Vol-B/22819-10  
Date Peshawar the 21 July 2016

To

The Secretary to Govt of Khyber Pakhtunkhwa,  
Public Health Engineering Department.

**SUBJECT: ADVISE REGARDING IMPLEMENTATION OF  
RECOMMENDATIONS OF THE DEPARTMENTAL PROMOTION  
COMMITTEE IN VIEW OF PENDING INQUIRY.**

Dear Sir,

I am directed to refer to your departments letter No. SO (Estt) / PHED/1-1/2018/ I.R Karak dated 15.07.2018 on the subject noted above and to state that in accordance with Para V of Promotion Policy, 2009 promotion of a civil servant will be deferred in addition to Para IV or the said policy of disciplinary or Departmental proceedings are pending against him, whereas, the Supreme Court of Pakistan in the Judgment 2000 SCMR 645, deferred that Mere fact that same disciplinary proceedings was pending against the respondent was not a sufficient ground to stop the promotion of the servant, However it would got during the authorities to continue with disciplinary proceedings against in Civil Servant if any, justly fairly and resort as the . Similarly in other designs as cited 2008 PLC (Cs) 551, 2007 PLC (Cs) 716 , 2007 PLD (Cs) 9-4 which allows the (sic) even some disciplinary proceedings was pending that the civil servant hence the promotion case/ notification of civil servant cannot be deferred due to an anticited formal inquiry which is liable to punishment in grievance.

2. So, in light of judgment of the Supreme Court. It seems that in Promotion, policy is deficient on the point and needs to be updated in line with the Supreme Court judgment as the decision of the superior courts always have overriding effect on subordinate legislation and .

Yours faithfully,

Section Officer (Opinion II)

Endst of even No & date.

Copy forwarded for information to

1. The PS to Secretary Law Department.
2. The PS to Secretary Establishment Department for information.



# SARHAD MINERAL (PVT) LIMITED

(A joint venture of PMDC and SDA Govt. of Khyber Pakhtunkhwa)

Tel. (091) 5892759

Head Office

164-A, Industrial Estate, Jmrud Road Peshawar

Ref: No.SML/Admin-1/276

22<sup>nd</sup> June, 2020

## TO WHOM IT MAY CONCERN

It is certified that Mr. Ziarat Khan, Chief Commissioner Mines Labor Welfare (BPS-20), Mineral Development Department has rendered his service in Sarhad Mineral (Pvt) Limited w. e. f 20-5-1985 to 11-11-1992 as Assistant Mining Engineer (BPS-17) & W.e.f 12-11-1992 to 17-2-1993 as Project Manager (BPS-18). His pension contribution detail is as under.

- 1- pay scale 1600-120-3040 (20-5-1985 to 30-6-1987)  
No of month = 25.33  
Pension contribution  $(3040+1600)/2 \times 1/3 \times 25.33 = \text{Rs. } 19588.53$
- 2- pay scale: 2065-155-3925 (1-7-1987 to 30-6-1991)  
No of month = 48.0  
Pension contribution  $(3925 \times 2065)/2 \times 1/3 \times 48.0 = \text{Rs. } 47920.00$
- 3- pay scale: 2870-215-5450 (1-7-1991 to 11-11-1992)  
No of months = 16.36  
Pension contribution  $(5450+2870)/2 \times 1/3 \times 16.36 = \text{Rs. } 22,685.87$
- 4- pay scale: 3756-271-6475 (12-11-1992 to 17-02-1993)  
No of month = 3.17  
Pension contribution  $(6475+3765)/2 \times 1/3 \times 3.17 = \text{Rs. } 5410.13$

Total pension contribution  $(19588.53+47920.00+22685.87+5410.13) = \text{Rs. } 95604.53$

Government Pay scales adopted by Sarhad Mineral (Pvt) Limited w.e.f July 1985 to June 1993 verified from the SML Head Office Peshawar Record.

Mr. Ziarat Khan was relieved of from his duties on 17.02.1993 (AN) to join his new assignment as Inspector of Mines (BPS-17) in the Inspectorate of Mines Laborur Welfare Peshawar.

All relevant documents of relieving and joining are attached for reference.

Attested  
  
Deputy Commissioner  
Mines Labour Welfare  
Khyber Pakhtunkhwa, Peshawar.

MUNIR AHMED  
SECRETARY SML

ATTESTED  
to be true & correct  
Admission

Notified  
MUNIR AHMED  
Secretary  
Mineral Limited  
Government of P.W.D.  
Challan of cash paid in to  
Government of P.W.D.  
Challan No.

Annex 1 39

PROVINCIAL

Treasury of Sub-Treasury  
National Bank of Pakistan  
State Bank of Pakistan

Form No. 32-A  
Provincial/ Central

9

NATIONAL BANK OF PAKISTAN  
Secretariate Br.  
(0986)  
29 JUN 2021  
CASH RECEIPT

By Whom Tender	To be filled in the Remitters		Amount	To be Filled by the Department Officer or the Treasury	
	Name or designation and address of the person of who's behalf money is paid	Full particulars of the remittance and of authority (if any)		Head of account	Order to the Bank
Sorhan Mineral (Pvt) Ltd Personal NO: 0015332 DDO Code: PR5472	Zia ul Kha, Chief Commission Mines, Minerals Dev. Department	Pension Contrib- buti-	A. 95605/-	C-02241 PROVINCIAL	
Total:-			A. 95605/-		

(in words) Rupees  
Received Payment  
Treasury/Officer  
Signature

Approved  
Date

To be used only in the case of remittances to bank through an officer of the Government

PROVINCIAL

Treasury of Sub-Treasury  
National Bank of Pakistan  
State Bank of Pakistan

Form No. 32-A  
Provincial/ Central

Challan of cash paid in to  
Challan No.

By Whom Tender	To be filled in the Remitters		Amount	To be Filled by the Department Officer or the Treasury	
	Name or designation and address of the person of who's behalf money is paid	Full particulars of the remittance and of authority (if any)		Head of account	Order to the Bank
Sorhan Minerals (Pvt) Ltd Personal NO: 0015332 DDO Code: PR5472	Zia ul Kha, Chief Commission Mines, Minerals Dev. Department	Pension Contrib- buti-	A. 95605/-	C-02241 PROVINCIAL	
Total:-			A. 95605/-		

(in words) Rupees  
Received Payment  
Treasury/Officer  
Signature

Approved  
Date

To be used only in the case of remittances to bank through an officer of the Government

Attested

Deputy Commissioner  
Mines Labour Welfare  
Khyber Pakhtunkhwa, Peshawar





*Amexes* *40*  
Government of  
Khyber Pakhtunkhwa  
Minerals Development Department

Dated Peshawar, the March 18, 2020 / 428587

**NOTIFICATION**

**No. SOE (MDD) /1-7/PF/Ziarat Khan.** Without prejudice to the legal remedies available to Provincial Government and in pursuance of judgment of the Peshawar High Court dated 19.02.2020 in W.P No.5673-P/2019, Mr. Ziarat Khan, Chief Commissioner of Mines Labour Welfare (BS-20), Commissionerate of Mines Labour Welfare, Khyber Pakhtunkhwa shall stand retired form Government Service on 31.01.2020 on attaining age of superannuation, as his date of birth is 01.02.1960, subject to CPLA/ Appeal of the Provincial Government against aforementioned judgment of Peshawar High Court and any order contrary as and when issued by the apex Court of Pakistan.

-Sd-

Secretary to Govt: of Khyber Pakhtunkhwa,  
Minerals Development Department

**No. SOE (MDD) /1-7/PF/Ziarat Khan.**

**Dated: March 18, 2020**

Copy is forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa.
2. Director General, Mines & Minerals, Khyber Pakhtunkhwa.
3. Chief Commissioner of Mines Labour Welfare, Commissionerate of Mines Labour Welfare, Khyber Pakhtunkhwa.
4. Chief Inspector of Mines, Khyber Pakhtunkhwa.
5. PS to Secretary Establishment, Khyber Pakhtunkhwa.
6. PS to Secretary Minerals Development Department, Khyber Pakhtunkhwa.
7. Officer concerned.
8. Master file.

*(Hafiz Abdul Jafri)*

SECTION OFFICER (ESTT :)

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to be true copy  
Advocate

Annexes "O" (41)



**GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT**

Finance Department Civil Secretariat Peshawar <http://www.finance.gkp.pk> [facebook.com/GoKFPD](https://www.facebook.com/GoKFPD) [twitter.com/GoKFPD](https://www.twitter.com/GoKFPD)

**NO. FD (SOSR-1) 12-7/2017-20(34298)  
Dated Peshawar the: 10-11-2020**

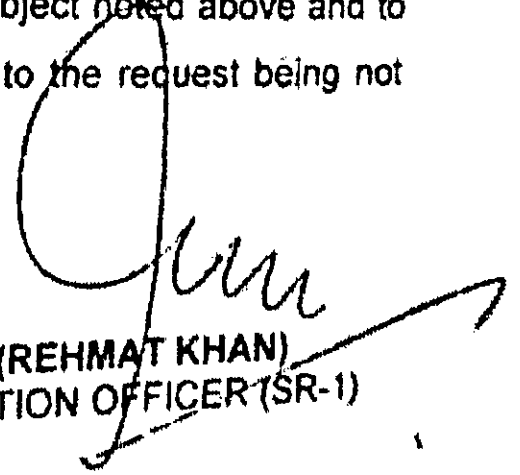
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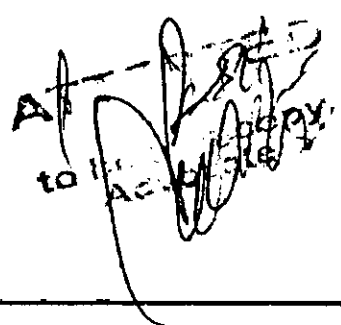
The Section Officer (Estt)  
Minerals Development Department,  
Peshawar.

Subject: -

PAY PROTECTION ON APPOINTMENT FROM ONE POST TO ANOTHER AND COUNTING OF SERVICE RENDERED IN SARHAD DEVELOPMENT AUTHORITY (SDA) TOWARDS COUNTING OF PENSION.

I am directed to refer to your letter No.SO(E)/MDD/2-25/Misc:/2019/6584-87(Mr. Ziarat Khan, Ex.Chief Commissioner Mines Labour Welfare (BS-20) dated 15-07-2020 on the subject noted above and to state that Finance Department is unable to accede to the request being not covered under the existing policy.

  
(REHMAT KHAN)  
SECTION OFFICER (SR-1)

  
to be...

Annexes

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4

To,

The Director,  
Human Rights Cell.  
Peshawar High Court, Peshawar.

Subject:- APPEAL

Respectfully Shewith,

1. That I had served in Sarhad Mineral (Pvt) Limited, a Joint Venture of Pakistan Minerals Development Corporation (A Federal Government Organization) and Sarhad Development Authority (A Provincial Government Organization) w.e.f 20-05-1985 to 17-02-1993.
2. That Sarhad Mineral (Pvt) Limited, was registered as a private limited company on 16-05-1984 under the Companies Act, 1913 with the equity sharing of 51% by PMDC & 49% by SDA (**Copy of notes of the account for the year 2017-18 Annexed-A**).
3. Under Rule-2 (g) of Public Sector Companies (Corporate Governance) Rules, 2013, amended upto 21-04-2017, Public sector company is defined as follow:  
"Public Sector Company" means a company, whether public or private, which is directly or indirectly controlled, beneficially owned or not less than fifty one percent of the voting securities or voting power of which are held by the Government or any instrumentality or agency of the Government or a statutory body, or in respect of which the Government or any instrumentality or agency of the Government or a statutory body, has otherwise power to elect, nominate or appoint majority of its directors, and include a public sector association not for profit, licensed under section 42 of the Ordinance,(Ordinance means the companies Ordinance, 1984 (**Copy of the Companies Rules Annexed-B**).
4. That Sarhad Minerals (pvt) Ltd had adopted the schemes of basic pay scales of Government for its employees from the date of its incorporation (**Copy of SML letter dated 09-10-2017 Annexed-C**).
5. That for joining the Provincial Government Service, I had applied through proper Channel. Consequently on selection as Inspector of Mines in the Inspectorate of Mines. I had been properly relieved off my duties therein (**Copy of the reliving order dated 17-02-1993 Annexed-D**) Necessary Pension Contribution thereof for the said period has been calculated and deposited (**Copy of SML certificate dated 22-06-2020 and treasury challan dated 29-06-2020 Annexed E and F respectively**).
6. That the Finance Department Khyber Pakhtunkhwa vide Notification NO. FD (SR-1)12-1/2011 dated 04-06-2011 henceforth extended the benefits of Fixation/Protection of Pay on appointment from one post to another to such employees of autonomous organizations who have adopted scheme of basic pay scales in toto on their appointment in Government offices, provided they have applied for the post through proper channel. (**Copy of Finance Department letter dated 04-06-2011 Annexed-G**).
7. That in line with the Finance Department Circular (Policy) ibid, an appeal was preferred for fixation/pay protection as per the laid down criteria on the analogy of Mian Farooq Iqbal, who prior joining the Provincial Government services was an employee of the University of Engineering & Technology, Peshawar, an autonomous body and the said benefit was extended to him w.e.f 10-07-1989 (**Copy of Notification dated 15-06-2020 Annexed-H**) in wake of the Service Tribunal Khyber Pakhtunkhwa judgment in Service Appeal No. 476/2017 dated 07-03-2017 (**Copy of the Provincial Service Tribunal judgment Annexed-I**) that was upheld by the Supreme Court of Pakistan vide judgment dated 27-11-2019 in CA NO 1308/2019. Operative part of the apex court judgment speaks volume of the clarity/ interpretation of the Finance Department policy ibid (**Copy of the Supreme Court decision Annexed-J**).

The Apex court has therefore set criteria for giving benefits of pay protection from the date of appointment to the employees of such autonomous organization who have

ATTESTED

to be  
Advocate

Handwritten notes in the left margin:  
- Sarhad Mineral  
- Accounts  
- Govt. of K.P.

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adopted the scheme of basic pay scale in toto on their appointment in Government offices such that the employee has applied for the post through proper channel.

8. That in the operative part of the Federal Service Tribunal Judgment dated 01-08-2009 in SA NO. 1921(R) CS/2005 it has been elaborated that:

"creating a distinction between the employees of autonomous organizations established through a Resolution and employees of organization created under an Act/Ordinance or an Executive Order under the authority of Act/Ordinance or an Executive Order under the authority of an Act/Ordinance for protection of pay is clearly violation of Article 25 of the Constitution of Pakistan" **(Copy of the Federal Service Tribunal Judgment Annexed-K).**

9. That the Supreme Court of Pakistan in numerous reported judgments especially in 2009 **SCMR 1 & 2005 SCMR 499** held that:

"if a tribunal or the supreme court decides a point of law relating to the terms and conditions of a civil servant who litigated, and there were other civil servants, who may not have taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the said decision be extended to other civil servants also, who may, not be parties to that litigation, instead of compelling them to approach the tribunal or any other legal forum.....all citizens are equal before law and entitled to equal protection of law as per article 25 of the constitution" **(Copies of Supreme Court Judgments Annexed-L and M).**

10. That Law Department Khyber Pakhtunkhwa vide letter dated 21-07-2016 has clarified that decision of the supreme court always have over riding effect on subordinate legislation and policies **(Copy of Law Department Letter Annexed-N).**

11. On attaining the age of superannuation, after rendering 27 years qualifying services, I have been retired from Government Service on 18-03-2020 as Chief Commissioner Mines Labour Welfare, BPS-20 **(Copy of retirement order Annexed-O).**

12. That Finance Department Khyber Pakhtunkhwa vide letter dated , regretted my appeal stating therein that my case is not covered under the policy **(Copy of Finance Department letter Annexed-P)** contrary to the fact that both the parameters chalked out by the provincial government under the Finance Department circular (policy) ibid are duly fulfilled. The intimation of the Finance Department Khyber Pakhtunkhwa is beyond reason and logic.

13. That the treatment of the Finance Department is quit humiliating of making such intimation to a retired Grade-20 officer in a clumsy manner, because in wake of the quoted irresistible solid legal and lawful precedents, the person/appellant who served the province for long 27 years while making appeal for his due, lawful, legal guaranteed basic & fundamental right should have to be appreciated properly and by specific and speaking order it should have to satisfy that under which clause, section, proviso of the policy is beyond the grasp of the appeal.

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to be true & duly  
Advocate

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In view of the above, as I have served in an autonomous organization for about 08 years and has also fulfilled the criteria set out by the Apex Court for pay protection, it is humbly requested that Fixation/Pay Protection case of mine may be re-visited and the clumsy intimation may be withdrawn so that I and my family may not suffer huge financial loss in wake of deviation from the set principles of the apex Supreme Court please.

Dated:03-12-2020

03/12/2020

(Engineer Ziarat Khan)

Chief Commissioner Mines Labour Welfare (R)  
Commissionerate of Mines Labour Welfare  
Attached Department Complex Khyber Road  
Peshawar

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to be true copy  
Advocate

Attested by  
Nadav  
Nadav

45

45  
Zapat (Cherry)

Root BK

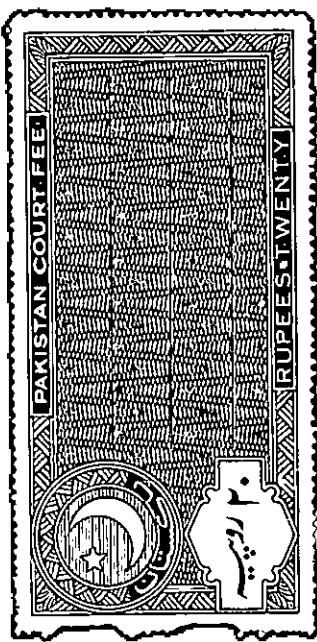
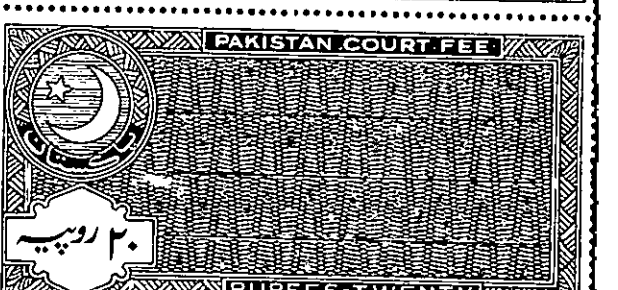
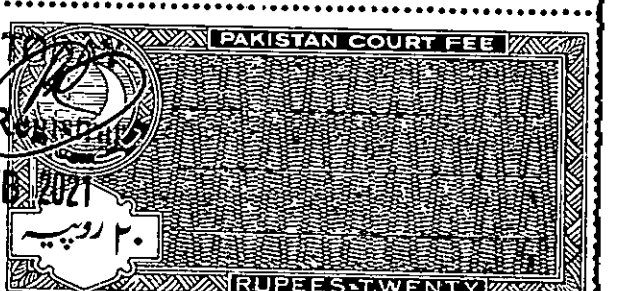
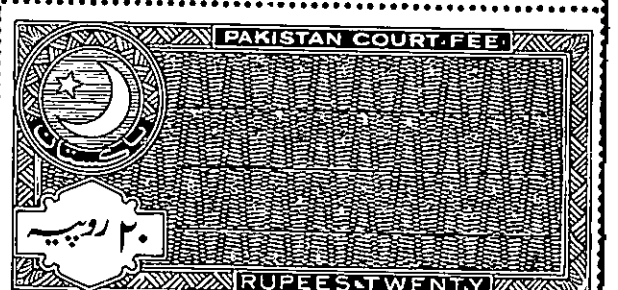
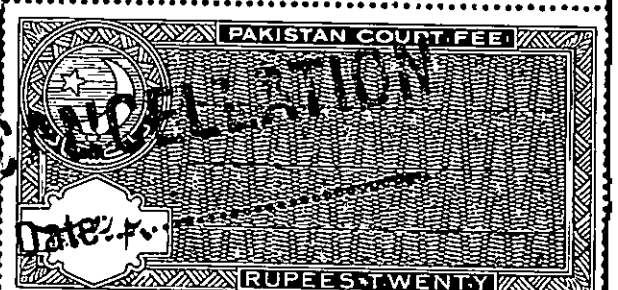
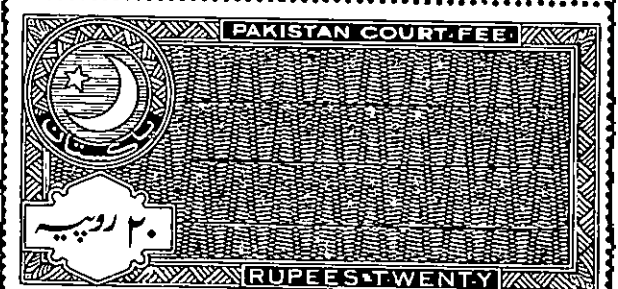
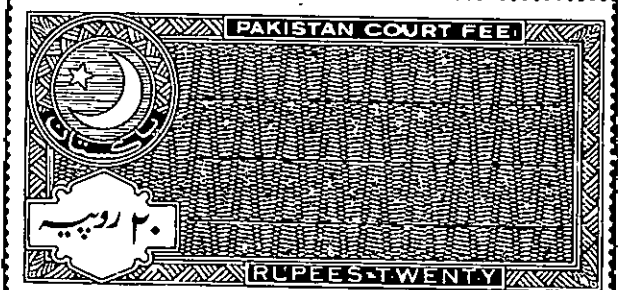
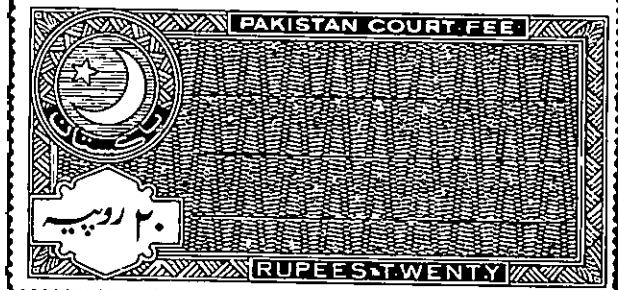
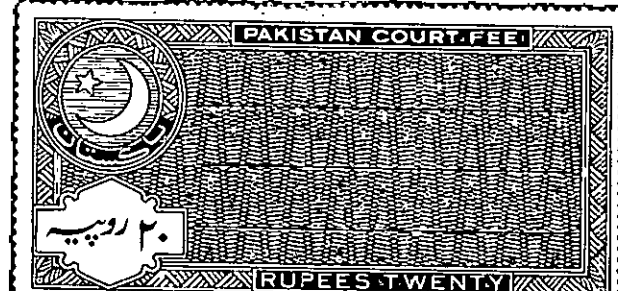
CANCELLATION

By \_\_\_\_\_

FILED TODAY  
Deputy Registrar  
JULY 2021

*[Handwritten signature]*

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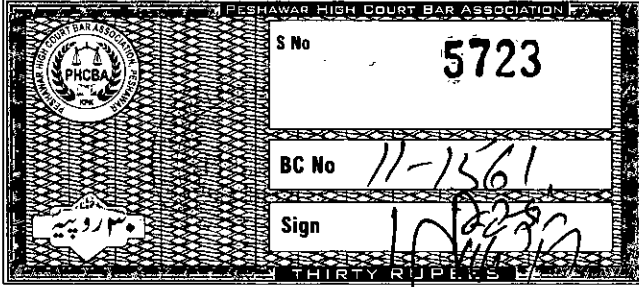
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Deputy Registrar  
06 FEB 2021

APPELLATION  
to be taken copy  
A/S/...

(47)

# وکالت نامہ

## بعدالت پشاور ہائی کورٹ پشاور



26/1/2021 مورخہ  
Writ Petition مقدمہ  
دعویٰ  
جرم

Mob - 0345-9011110  
Email - 17301-14015747  
باعث تحرے آنکہ

منجانب  
زیارت خان بنام

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطہ پیروی و جواب وہی وکل کاروائی، متعلقہ  
آن مقام۔۔۔۔۔ کیلئے۔۔۔۔۔ اور اب کلمہ اللہ اللہ اللہ  
مقرر کر کے اقرار کیا جاتا ہے۔ کہ وکیل موصوف کو مقدمہ کی کل کاروائی کا مکمل اختیار حاصل ہوگا  
نیز وکیل صاحب کو عرضی دعویٰ داخل کرنے، جواب دعویٰ، اپیل، نظر ثانی کا بھی اختیار حاصل ہو  
گا نیز وکیل صاحب بصورت ڈگری برخلاف من اختیار دہندہ اپیل، نگرانی، نظر ثانی از عدالت ابتداء  
تا عدالت انتہا یعنی سپریم کورٹ آف پاکستان دائر کر سکتا ہے وکیل موصوف بصورت عدم پیروی  
کاروائی یکطرفہ یا ڈگری یکطرفہ کیخلاف درخواست دائر کر سکتا ہے اور وکیل موصوف میری جانب  
سے مقدمہ میں بصورت ڈگری چیک یا نقد روپیہ کی شکل میں وصولی کر سکے گا اور مزید یہ کہ وکیل  
موصوف مقدمہ متذکرہ کی کل یا جزوی کاروائی کیلئے اپنی بجائے دیگر وکیل بھی اپنے ساتھ مقرر کر سکتا  
ہے جس کو بھی وہ جملہ اختیار حاصل ہونگے جو کہ وکیل موصوف کو حاصل ہیں مجھے اس صورت میں  
تمام ساختہ پر داختم منظور و قبول ہوگا لہذا میں نے وکالت نامہ ہذا تحریر کر کے اس پر دستخط انشان

زیارت خان  
Petitioner

FILED TODAY

Deputy Registrar

06 FEB 2021

انگشت ثبت کر دیا ہے تاکہ سندر ہے۔

ATTESTED  
to be true copy  
Advocate

المرقوم 26 مارچ 2021ء



وہ ال کے لئے منظور ہے۔

پشاور  
بمقام



original

**BEFORE THE PESHAWAR HIGH COURT PESHAWAR**

Service Appeal No. 7741-P/2021

Ziarat Khan .....Petitioner.

**VERSUS**

Secretary to Mineral Development Department & others..... Respondents.

**INDEX**

S.No.	Particular of documents	Annexes	Pages
1.	Parawise Comments	.....	01-03
2.	Affidavit	.....	04
3.	Appointment dated 15.05.1985	"A"	05 - 06
4.	Notification dated 14.02.1993	"B"	07
5.	Relieving order dated 17.02.1993	"C"	08
6.	Appeal dated 09.10.2017	"D"	09
7.	Service Appeal No. 476/2014	"E"	10 -12
8.	Notification dated 29.07.2021	"F"	13
9.	Finance Letter dated 10.11.2020	"G"	14

  
**DEPONENTS**

Fair

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

Appeal No. 7741/2021

in

Writ Petition No. 655-P/2021

Eng. Ziarat Khan.....Appellant.

**V E R S U S**

Secretary to Government of Khyber Pakhtunkhwa, Mineral Development Department & others  
..... Respondents.

**PARAWISE COMMENTS ON BEHALF OF**  
**RESPONDENT NO. 01, 02 & 06**

*Respectfully Sheweth:*

**Preliminary Objections:**

- 1- That the appellant has neither come to this court with clean hands nor the appeal is based upon factual grounds, legal footing and is, therefore, liable to be dismissed.
- 2- That the appellant has no cause of action and locus standi to file the instant appeal, hence, the appeal is not maintainable in its present form.
- 3- That the appellant is not entitled to any relief and this appeal is just to waste the precious time of this Hon'able Tribunal.
- 4- That the appellant is estopped by his own conduct to file the instant appeal.
- 5- That the appellant has no prima facie case against the respondents.
- 6- That the appeal in its present form is defective, bad and is liable to be dismissed.
- 7- That the appellant is bound to abide by law and regulations of the Respondents issued from time to time.
- 8- That the appeal is barred by law.

**REPLY ON FACTS**

1. Correct to the extent that the appellant was appointed at Sarhad Development Authority as Assistant Mining Engineer vide appointment letter No. SDA/AM(R)/9/PF/85 dated 15.05.1985 (**Annex-A**).
2. Correct to the extent that the appellant was appointed as Inspector of Mines in Inspectorate of Mines Labour Welfare NWFP (Khyber Pakhtunkhwa) Industries Department of Government vide Notification/Endst No. SO1(IND)6-1/90/2383-2392 dated 14.02.1993 (**Annex-B**).
3. Correct to the extent that the Appellant was relived from his duties by Sarhad Mineral (Pvt) Limited vide reliving order dated 17.02.1993 (**Annex-C**).

*M. Z. Khan*

*[Handwritten mark]*

4. Correct to the extent that the petitioner served in the Sarhad Mineral (Pvt) Limited w.e.f 20.05.1985 to 17.02.1993. The rest of the para is subject to proof.
5. The para-5 is subject to proof.
6. The para-6 is subject to proof.
7. Correct to the extent that Sarhad Mineral (Pvt) Ltd has adopted the scheme of Basic Pay Scales of Government of Khyber Pakhtunkhwa for its employees from the date of its incorporation i.e., 16.05.1984 (**Annex-D**).
8. Admitted.
9. Correct to the extent that Finance Department Government of Khyber Pakhtunkhwa vide notification No. FD(SR1)12-1/2011 dated 04.06.2011 has decided that henceforth the benefit for protection of pay to the employees of autonomous body on their subsequent appointment in Government Service is not admissible as employees of autonomous bodies are not civil servant within the meaning of Civil Servant Act-1973. However, the benefit of pay protection will be admissible to employees of such autonomous organizations who have adopted scheme of Basis Pay Scale in toto on their appointment in Government offices provided they have applied for the post through proper channel.
10. Correct to the extent that Mian Farooq Iqbal, who joined the Provincial Government Services was an employee of the University of Engineering & Technology, an autonomous body, the benefit of pay protection was extended to him vide Service Tribunal Khyber Pakhtunkhwa Judgement dated 07.03.2017 in Service Appeal No. 476/2014 (**Annex-E**), which was upheld by the Supreme Court of Pakistan in Civil Appeal No. 1308/2019 dated 27.11.2019.
11. As stated in para-10.
12. Explained in para-09.
13. The para is subject to proof.
14. Correct to the extent that all citizen is equal before law and entitled to equal protection of Law under the Constitution of Islamic Republic of Pakistan. However, the rest of the para is subject to proof.
15. No comments.
16. Subject to proof.
17. The Appellant retired w.e.f 31.01.2020 on attaining sixty years of age as his date of birth is 01.02.1960 (**Annex-F**).
18. The Finance Department vide No. FD(SOSR-1)12-7/2017-20(34298) dated 10.11.2020 regretted to accede to the request being not covered under the existing policy (**Annex-G**).

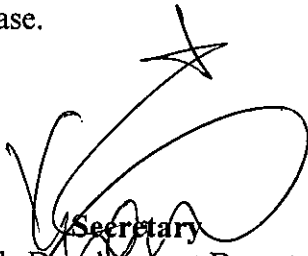
19. The treatment of the Finance Department is in accordance with Law & Policy.

20. Subject to proof.

21. No comments.

**PRAYER:**

It is therefore most humbly prayed that the Appeal of the appellant may be dismissed with cost please.



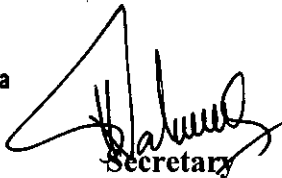
Secretary  
Minerals Development Department,  
Khyber Pakhtunkhwa, Peshawar.  
(Respondent No. 1)

**SECRETARY**  
to Govt of Khyber Pakhtunkhwa  
Minerals Dev: Deptt:



Director General  
Mineral Development Department,  
Khyber Pakhtunkhwa, Peshawar.  
(Respondent No. 2)

**Director General,**  
**Mines and Mineral**  
**Khyber Pakhtunkhwa**



Secretary  
Finance Department,  
Khyber Pakhtunkhwa, Peshawar.  
(Respondent No. 6)

**SECRETARY**  
Govt: of Khyber Pakhtunkhwa  
Finance Deptt:

**BEFORE THE KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL PESHAWAR.**

SERVICE APPEAL NO. 7741/2021

Engr Ziarat Khan ..... Appellant

**Versus**

Secretary to Government of Khyber Pakhtunkhwa, Minerals Development &  
others ..... Respondents

**AFFIDAVIT**

I Said Muhammad Superintendent Litigation (BPS-17), Directorate General Mines & Mineral do hereby solemnly affirm and declare that the contents of the accompanying para-wise comments are true and correct to the best of my knowledge and belief and that nothing has been concealed from Honorable Tribunal.

**DEPONENT**

**Identified by**

1	7	1	0	1	-	8	5	3	1	4	5	4	-	3
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SARHAD DEVELOPMENT AUTHORITY  
GOVERNMENT OF N-WFP PESHAWAR

No.SDA/AM(R)/9-PF/85

Dated 15 - 5 - 1985.

To:

Mr. Ziarat Khan S/O Asar Khan,  
Village & P.O. Shergarh,  
Distt: MARDAN.

Subject: A P P O I N T M E N T

Ref. your application dated 7th January, 1985.

You are hereby offered a post of Asstt. Mining Engineer,  
in the Nari Panos Salt Mines Project - of the Authority's on  
the following terms and conditions with effect from the date of joining  
duty.

- 1. Nature of Appointment. Regular After completion of probationary period of 6 months extendable to one year.

Temporary/Seasonal: On contract period and special conditions if any be specified.

- 2. Grade/Scale of pay - Rs. (B-17) Rs. 1500-120-3040.

(a) For pay and allowances and fringe benefits during probationary period :-

- i) Initial pay ; Rs. 1600/- per month.
- ii) Fringe benefits Rs. - per month.

(b) For pay and allowances and fringe benefits after completion of probationary period :-

- i) Initial pay Rs. 1600/- per month.
- ii) Fringe benefits - per month.

- 3. House Rent Allowance a. During probationary period  
20% of initial of time scale - per month.

b. After completion of probationary period 40% of initial of time scale per month.

Cont'd P/2..

4. ~~Conveyance Allowance~~ a) During probationary period as admissible at the place of posting under the rules.
- b) After completion of probationary period as admissible at the place of posting under the rules.

5. Medical facilities for self and family as per SDA Medical attendance Rules.

6. Place of duty.

You are employed for Nari Panoos Salt Mines Project/Office/Head-Office-etc; and you will not have any right or claim to employment in any other project/office/head office of the Authority, in case your services are no longer required in connection with the affairs of the project/office/lead office.

The Authority may change your designation/duties as and when deemed necessary.

7. Security deposit required

8. Notice of termination of appointment.

During the probationary period your service can be terminated without assigning any reason thereof. After successful completion of the probationary period your services can be terminated on one month's notice or pay in lieu thereof on either side provided such termination is not due to misconduct, for which it will be terminated without any notice.

9. Medical Fitness

/ Medical

You shall have to produce a Medical Fitness Certificate from the Authority's Doctor or from a practitioner nominated by the Authority regarding your health within one month of joining service.

10. Rules governing the service. : Sarhad Mineral Limited Company rules.

11. You will not divulge either directly or indirectly to any person or body any knowledge or information which you may acquire concerning affairs, property, enterprises, undertaking of the Authority or Company its business and trade matters and secrets.

12. Offer open upto

If the above terms and conditions are acceptable to you, then you are requested to sign the duplicate copy of this letter as a token of your acceptance and send it by Registered post and report for duty to the Project Manager Nari Panoos within Seven days of the receipt of this letter.

salt Proj: SDA -

Copy to :-

1. Director (Minerals) SDA.
2. General Manager (Mines) SDA.
3. Proj. Manager Nari Panoos Salt Project SDA.

( IFTIKHAR UD DIN )  
CHAIRMAN S.D.A.

Accepted

Bhan

18/5/85

\*\*\*

PROZ/\*



7  
Annex. (B)

GOVERNMENT OF N.-W. F. P.  
INDUSTRIES, COMMERCE, MINERAL DEVELOPMENT,  
LABOUR AND TRANSPORT DEPARTMENT.

Dated Peshawar, the 14/2/1993 Annex

NOTIFICATION.

NO.SOI(IND)6-1/90. The Governor NWFP, on the recommendation of NWFP Public Service Commission is pleased to appoint the following candidates as Inspector of Mines (BPS-17) in the Inspectorate of Mines Labour Welfare NWFP with immediate effect on the terms and conditions as offered vide this Department Memorandum of even number and date subject to their medical fitness and verification of character by the concerned agencies:-

S.No.	Name of Candidate with Father's Name	Domicile
1	Mr. Ziarat Khan s/o Asar Khan	Distt Dir
2.	Mr. Abdul Rashid s/o Abdul Manan	Distt D.I. Khan
3.	Mr. Jamil Khan s/o Sadullah Khan	Mohmand Agency

Sd/-

SECRETARY TO GOVERNMENT OF NWFP,  
INDUSTRIES, COMMERCE, MINERAL DEVELOPMENT  
LABOUR AND TRANSPORT DEPARTMENT.

Endst. No. SOI(IND)6-1/90 | 2-383-2392 Dated 14/2/1993

Copy is forwarded to:-

1. The Accountant General NWFP, Peshawar.
2. The Secretary to Govt. of NWFP, S&GAD.
3. The Chief Inspector of Mines Labour Welfare NWFP, Peshawar.
4. P.S. to Minister for Labour NWFP.
5. P.S. to Chief Secretary NWFP.
6. The Secretary, NWFP Public Service Commission, Peshawar w/r to his letter No. 6948 dated 6/1/1993.
7. The Secretary, Pakistan Mineral Development Corporation, Head Office 13/H-9 P.O. Shaigan Islamabad with the request to relieve Mr. Abdul Rashid s/o Abdul Manan, Engineer of your Organization to join his new assignment.
8. Mr. Masoodur Rehman, Secretary-cum-Manager Sarhad Mineral Ltd Peshawar with the request to relieve Mr. Ziarat Khan s/o Asar Khan to join his new assignment.
9. Mr. Pervez Malik, Secretary Gemstone Corporation of Pakistan Peshawar with the request to relieve Mr. Jamil Khan s/o Sadullah Khan, Asstt Mining Engineer, enabling him to join his new assignment.
10. Mr. Ziarat Khan s/o Asar Khan, Project Manager, Salt Project Tehsil B.D. Shah District Karak.
11. Mr. Abdul Rashid s/o Abdul Manan, Asstt Mining Engineer PMEC Salt Quarries Jatta via Kohat Polachi Distt Karak.
12. Mr. Jamil Khan s/o Sadullah Khan, Mining Engineer, Swat Emerald Mines Mingora Swat.
13. The Manager, Govt. Printing Press Peshawar for publication in the official gazette.

*Resister*  
*alex*

*Khatir Bae*  
Superintendent  
Industries, Commerce & Transport,  
Govt. of N.W.F.P.

*o/c* (MOHAMMAD ISLAM)  
SECTION OFFICER (ADMN.).



812624

8 Amc C<sup>p</sup> A/c

Cable Address:  
SERMIN Peshawar



## SARHAD MINERAL LIMITED

Sarhad Mineral (Pvt) Limited  
54 J/4 Phase - II Hayatabad  
Peshawar

Head Office:

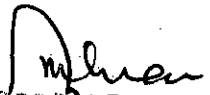
PESHAWAR.

Ref. No : SML/ADMN/14/2006

Dated : 17-2-1993.

### RELIEVING ORDER.

With reference to Government of N.W.F.P., Industries, Commerce, Mineral Development, Labour and Transport Department, notification No.SOI (IND) 6-1/90 dated 14-2-1993, Mr.Ziarat Khan, Project Manager, Salt Project, Naripanoos is hereby relieved off from his duties in the (After Noon) of 17th February, 1993, to join his new assignment in Inspectorate of Mines Labour Welfare, N.W.F.P., Peshawar.

  
( MASOOD-UR-REHMAN )  
Secretary,

To.  
Mr.Ziarat Khan,  
Project Manager,  
Salt Project, Naripanoos.

c.c.to:-

1. The Managing Director, SML, Head Office, Peshawar.
2. The Chief Inspector of Mines, N.W.F.P., Peshawar.
3. Mr.Mohammad Aslam, Section Officer (Admn) Industries Commerce, Mineral Development, Labour & Transport Department, Govt, of N.W.F.P., Peshawar.

Attested



Deputy Commissioner  
Mines Labour Welfare  
Khyber Pakhtunkhwa, Peshawar



# SARHAD MINERAL (Pvt) LIMITED

(A joint venture of PMDC and SDA Govt. of Khyber Pakhtunkhwa)

Tel. (091) 5816783  
091-9219559

Head Office  
164-A, Industrial Estate,  
Jamrud Road, Peshawar.

Ref.No:SML/Admn/ 14/24/2017

Dated: 09-10-2017

The Commissioner of Mines,  
Commissionerate of Mines, Labour Welfare, Khyber Pakhtunkhwa,  
Attached Department Complex, Khyber Road, Peshawar.

Subject: APPEAL

Dear Sir,

Kindly refer to the letter No: Com/Mines/702 dated 09.10.2017 seeking clarification of Finance Department, Government of Khyber Pakhtunkhwa (Regulation Wing) that whether Sarhad Mineral (Pvt.) Ltd. adopts the scheme of basic pay scales, if so from which date?. In this connection, it is clarified that Sarhad Mineral (Pvt.) Ltd. has adopted the scheme of basic pay scales of Government of Khyber Pakhtunkhwa for its employees from the date of its incorporation i.e. 16.05.1984

Thanking you.

Yours truly,

(Muneer Ahmed)  
Secretary SML  
Secretary  
Govt. of Khyber Pakhtunkhwa Peshawar

165  
15) Amr EI

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.

SERVICE APPEAL NO. 476/2014

Date of Institution ... 02.04.2014  
Date of Judgment ... 07.03.2017



Mian Farooq Iqbal, Officer on Special Duty,  
Establishment Department, government of Khyber Pakhtunkhwa,  
Civil Secretariat, Peshawar.

(Appellant)

VERSUS

1. The Chief Secretary, Govt: of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Secretary Finance, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. The Secretary Establishment, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
4. The Secretary Mineral Development Department, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
5. The Director General, Directorate General Mines and Mineral, Khyber Pakhtunkhwa, Peshawar.

(Respondents)

5  
07.03.17

APPEAL UNDER SECTION-4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST THE FINANCE DEPARTMENT GOVERNMENT OF KHYBER PAKHTUNKHWA LETTER NO. FD(SOSR-1)12-4/2014 DATED 10.02.2014 WHEREBY THE APPLICATION OF THE PETITIONER FOR PROTECTION OF PAY AND COUNTING OF SERVICE RENDERED IN AUTONOMOUS BODY IN TOTAL SERVICE PERFORMED IN PROVINCIAL GOVERNMENT DEPARTMENT AS CIVIL SERVANT WAS DECLARED NOT ADMISSIBLE.

Mr. Muhammad Asif Yousfzai, Advocate.  
Mr. Muhammad Adeel Butt, Additional Advocate General

For appellant.  
For respondents.

MR. MUHAMAMD AAMIR NAZIR  
MR. ASIIFAQUE TAJ

MEMBER (JUDICIAL)  
MEMBER (JUDICIAL)

JUDGMENT

MUHAMMAD AAMIR NAZIR, MEMBER: Mian Farooq Iqbal, Officer on Special Duty Establishment Department, hereinafter referred to as appellant, through the instant appeal under section 4 of Khyber Pakhtunkhwa Service Tribunal Act 1974, has impugned order dated 10.02.2014 vide which the application of the appellant for protection of pay and counting of service rendering by him in autonomous body was turned down by the respondents.

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa

2. Brief facts of the case giving rise to the instant appeal are that initially the appellant was employed as Lecturer (BPS-17) in NWFP University of Engineering and Technology Peshawar in the year 1986. Subsequently, the appellant applied through proper channel for the post of Inspector of Mines (BPS-17). That after qualifying the competitive exam, the appellant was relieved and he assumed the charge of the post of Inspector of Mines in the Inspectorate of Mines Labour Welfare NWFP Peshawar on 10.07.1989. That the appellant was drawing basic salary @ Rs. 3460/- P.M while after joining the post of Inspector of Mines, the salary was fixed @ Rs. 2065/- Per month. That vide letter dated 04.06.2011, the Finance Department allowed the benefits of protection of pay to the employees of autonomous bodies on their subsequent appointment in Government Service. The appellant filed an appeal before respondent No.1 for protection of pay and counting of service rendered as Lecturer University of Engineering and Technology in the light of Finance Department letter referred above. That appeal of the appellant was rejected by respondent No.2 vide letter dated 10.02.2014 without any justification, hence the instant appeal.

03.17.3. Learned counsel for the appellant argued before the court that before joining the Government Service, the appellant was serving as Lecturer in University of Engineering and Technology and after obtaining NOC, the appellant applied through proper channel for the post of Inspector Mines. That the appellant was appointed to the post of Inspector Mines (BPS-17) through proper channel, there-after he was relieved by the University to join his new assignment. That as per Finance Department notification dated 04.06.2011 the appellant was entitled for benefits of pay and protection even then his appeal was rejected which illegal, hence the appeal of the appellant be accepted as prayed for.

4. In rebuttal, learned Additional Advocate General argued before the court that the appellant is not entitled for pay protection and his appeal to this respect was rightly turned down by the competent authority. Though the Finance Department vide letter dated 04.06.2011 has allowed the benefits of pay protection to the employees of autonomous bodies on their subsequent appointment in government service, but the pay protection to the appellant is not admissible on the ground that he has joined provincial government service prior to the issuance.

ATTESTED  
 [Signature]  
 Secretary  
 Peshawar

167 (125)

of the above referred notification. That the appeal in hand is without any substance, hence be dismissed.

5. We have heard arguments of learned counsel for the appellant and learned Additional Advocate General for the respondents and have gone through the record available on file.

6. Perusal of the case file reveals that the appellant was initially appointed as Lecturer in BPS-17 in NWFP University of Engineering and Technology in the year 1986. Later on, the appellant applied for the post of Inspector of Mines (BPS-17) in the Inspectorate of Mines Labour Welfare NWFP Peshawar through proper channel. The appellant after qualifying the Public Service Commission exam was appointed as Inspector of Mine in BPS-17 vide order dated 21.06.1989. Afterwards, the Finance Department issued a notification dated 04.06.2011 in which benefits of pay protection was allowed to the employees of the autonomous body on their subsequent appointment in Government Service who have adopted scheme of basic pay scale in to-to, provided that they have applied for the post through proper channel. The above referred notification was based on the judgment of Federal Service Tribunal Islamabad in appeal No. 1921(R) CS/2005 in case titled Sajjad Rashid and others. It is evident that the appellant was employee of University of Engineering and Technology Peshawar which was an autonomous body and has adopted scheme of basic pay scale in to-to in their appointment. The appellant applied through proper channel and after qualifying Public Service Commission was appointed as Inspector of Mines (BPS-17), therefore he is entitled for fixation/protection of pay of appointment of one post to another in light of notification of the finance department dated 04.06.2011. The appeal in hand is accepted in the light of the above discussion. Parties are however left to bear their own costs. File be consigned to the record room

Sd/- M. Amir Nazir, Member  
Sd/- Ashfaqul Taj, Member

*[Signature]*  
IR

ANNOUNCED  
07.03.2017  
Certified to be true copy  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar



13) *Amir F*

**Government of**  
**Khyber Pakhtunkhwa**  
**Minerals Development Department**

Dated Peshawar, 29th July, 2021

**NOTIFICATION**

**No. SOE/MDD/2-17/2021.** In pursuance of Section 13A(I) of Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No.XVIII of 1973), and supersession of Notification No.SOE/MDD/1-7/PF/Ziarat Khan/4380-87 dated 19-02-2020 (refer to the notification of conditional retirement), Mr. Ziarat Khan, Chief Commissioner of Mines, Labor Welfare (BS-20), stands retired from Government Service with effect from 31-01-2020 on attaining sixtieth (60<sup>th</sup>) year of age, as his date of birth is 01-02-1960.

2. Notwithstanding the supersession of Notification mentioned in above Para, any leave encashment granted or LPR and other benefit, if any, availed thereunder, shall be deemed to be validly granted or availed.

Secretary to Govt: of Khyber Pakhtunkhwa,  
Minerals Dev: Department

**No. SOE/MDD/PF/2-17/2021**

13903-10

**Dated: 29th July, 2021**

Copy is forwarded to:-

1. The Accountant General, Khyber Pakhtunkhwa.
2. The Director General, Mines & Minerals, Khyber Pakhtunkhwa
3. Chief Commissioner of Mines, Labor Welfare, Khyber Pakhtunkhwa.
4. Chief Inspector of Mines, Minerals Khyber Pakhtunkhwa.
5. PS to Secretary Establishment, Khyber Pakhtunkhwa
6. PS to Secretary Minerals Development Department, Khyber Pakhtunkhwa.
7. Officer concerned.
8. Master file.

*[Signature]*  
(Hafiz Abdul Jalil)  
Section Officer (Estt.)



*DGM*  
*[Signature]*  
04/08/2021

*Acty*  
*[Signature]*

*Abd 09/08/2021*  
*[Signature]*  
(JC Admin)

*File's Retirement Pension*



19/11/20  
Aimex G  
A 2/17

**GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT**

Finance Department Civil Secretariat Peshawar

<http://www.finance.gkp.pk>

[facebook.com/GoKPFD](https://www.facebook.com/GoKPFD)

[twitter.com/GoKPFD](https://twitter.com/GoKPFD)

**NO. FD (SOSR-1) 12-7/2017-20(34298)  
Dated-Peshawar the: 10-11-2020**

To:

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

Subject: -

**PAY PROTECTION ON APPOINTMENT FROM ONE POST TO  
ANOTHER AND COUNTING OF SERVICE RENDERED IN SARHAD  
DEVELOPMENT AUTHORITY (SDA) TOWARDS COUNTING OF  
PENSION.**

I am directed to refer to your letter No.SO(E)/MDD/2-25/Misc:/2019/6584-87(Mr. Ziarat Khan, Ex.Chief Commissioner Mines Labour Welfare (BS-20) dated 15-07-2020 on the subject noted above and to state that Finance Department is unable to accede to the request being not covered under the existing policy.

27/11  
  
(REHMAT KHAN)  
SECTION OFFICER (SR-1)