

13.05.2016

None present for petitioner. M/S Mushtaq Ahmed, SDO and Ansar Ahmed, AAO alongwith Addl. AG for respondents present. Reply on behalf of respondents No. 2, 4 & 6 submitted. Notice to petitioner/counsel for the petitioner be issued for 19.08.2016 for further proceedings before S.B.

  
Member

19.08.2016

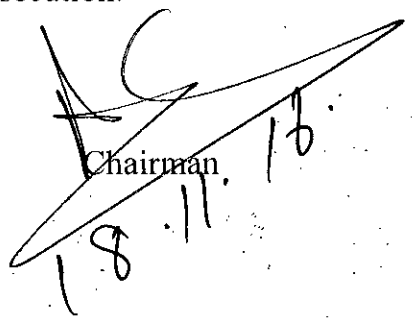
Counsel for the petitioner and Mr. Zakiullah, Senior Auditor alongwith Additional AG for respondents present. Wakalat Nama on behalf of the petitioner submitted and requested for adjournment. To come up for further proceedings on 18.11.2016 before S.B.

  
Member

18.11.2016

None present for the petitioner despite repeated calls. Addl. AG alongwith Fazal Ahad, Executive Engineer and Zakiullah, Senior Auditor for the respondents present.

In view of the above, the instant execution petition is dismissed for want of prosecution.

  
Chairman  
18.11.16

ANNOUNCED.  
18.11.2016

29.05.2015 . Agent of counsel for the petitioner, M/S Hayat Ullah ,Supdt, Mushtaq, SDO, Ansar Ahmad, AAO and Sardar Muhammad Haroon, DAO alongwith Asstt: AG for the respondents present. To come up for reply/implementation report on 28.08.2015 before S.B.

  
Chairman

28.08.2015 Petitioner in person, M/S Hayatullah, Supdt, Mushtaq Ahmed, SDO, Ansar Ahmed, AAO and Sardar Muhammad Haroon, DAO alongwith Addl: A.G for respondents present. Requested for adjournment. Adjourned to 13.11.2015 for further proceedings before S.B.

  
Chairman

13.11.2015 None present for petitioner. M/S Hayatullah, Supdt., Mustaq Ahmed, SDO, Ansar Ahmed, AAO and Sardar Muhammad Haroon, DAO alongwith Addl: A.G for respondents present. Informed the Tribunal that due to absence of the petitioner progress could not be made in the matter. Petitioner is directed to appear before this Tribunal on 26.2.2016 before S.B.

  
CHAIRMAN

26.02.2016 None present for petitioner. M/S Mushtaq Ahmed, SDO and Ansar Ahmed, AAO alongwith Addl: A.G for respondents present. Reply by respondents No. 5, 7 and 8 submitted. Notice to petitioner/counsel for the petitioner be issued for 13.5.2016 for further proceedings before S.B.

  
Member



FORM OF ORDER SHEET

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

Execution Petition No. 03/2015


S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	<p>04/02/2015</p> <p><i>23-2-15</i></p> <p>27.02.2015</p>	<p>The Execution Petition submitted Mr. Abdur Rehman through Mr. Ashraf Ali Khattak Advocate, may be entered in the relevant Register and put up to the Court for further order please.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p> <p>This Execution Petition be put up before Bench <u>I</u></p> <p>On <u>27-2-15</u></p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p> <p>Agent of counsel for the petitioner present.</p> <p>Notice be issued to the respondents for 29.5.2015 before <u>S.B.</u></p> <p style="text-align: right;"><i>[Signature]</i> Chairman</p>

The Execution Petition of Mr. Abdur Rehman Sub Engineer Public Health Department received to-day i.e. on 05.01.2015 is incomplete on the following score which is returned to the counsel for the appellants for completion and resubmission within 15 days.

Copy of Judgment passed by this Tribunal in appeal of the petitioner is not attached with the appeal which may be placed on it.

No. 11 /S.T.

Dt. 6-1- /2015.


  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Ashraf Ali Khattak Adv. Pesh.

Re-submitted

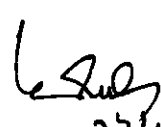
We have applied for attested copy of the service Appeal judgment. But the same has not been provided till the date being case of 2003.

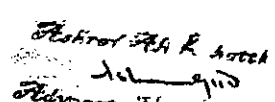
It is requested that further time may kindly be allowed as per rules.

  
23/1/15  
Ashraf Ali

Time is extended to 3/2/15 for resubmission of case. Advocate

Re-submitted as per order

  
23/1/15

  
Advocate High Court

Re-Submitted:

Application for the judgment of the  
Tribunal has already been  
submitted but till date its  
same has not been provided.

The petition may either be kindly  
be placed before the Tribunal or  
the time may be kindly be extended

~~Isi~~ 9700

Ashraf Ali Khattak

4/02/2018

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Execution Petition No. 03 /2015


Abdur Rehman Khan Sub  
Engineer  
.....Applicant

Versus


Secretary Public Health and  
Engineering Department  
Civil Secretariat, Peshawar  
and others.....Respondents

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Memo of Service Execution Petition alongwith Affidavit.			1-3
2.	Copy of judgment of the Honourable Supreme Court of Pakistan dated 25-08-2005		A	4-16
3.	Copy of Re instatement order dated 07-04-2008		B	17
4.	Copy of Application		C	18
5.	Wakaiat Nama			19

  
Applicant/Petitioner

Through

  
Ashraf Ali Khattak

Dated:     / 03/ 2015.

Advocates, Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**

Execution Petition No. 03 /2015

in  
C.P No. \_\_\_\_\_ /2005

01  
5-1-2015

Abdur Rehman Sub Engineer Public Health Department, Khyber  
Pakhtunkhwa, Peshawar.....Appellant.

Versus

1. The Govt: of Khyber Pakhtunkhwa through Secretary Local Council/ Local Govt Bacha Khan Chouk, Peshawar.
2. The Govt: of Khyber Pakhtunkhwa through Secretary Public Health Department, Civil Secretariat, Peshawar.
3. The Govt: of Khyber Pakhtunkhwa through Secretary C & W department, Civil Secretariat, Peshawar.
4. The Chief Engineer Public Health Department Civil Secretariat, Peshawar.
5. The Accountant General, Khyber Pakhtunkhwa, the Mall; Peshawar Cantt:
6. The District Officer Public Health and Engineering Department, District Kohistan.
7. The District Account Officer, District Kohistan.
8. The District Account Officer, District Mansehra. ..Respondents

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**Execution of the Judgment dated 25-08-2005 to the extent of Back Benefits and salaries.**

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Respectfully Sheweth,

Facts giving rise to the present Execution Petition are as under:-

1. That applicant has been re-instated by the Honourable Supreme Court of Pakistan in the year 2005 with all back benefits (Annexure-A).
2. That respondents were reluctant to re-instate the applicant.
3. That after hectic efforts; applicant was at last adjusted as Sub Engineer in the Department of respondent No.1 (Annexure-B) in the year 2008.
4. That applicant was re-instated along with back benefits, but the date no back benefit has been granted to the petitioner/applicant.
5. That applicant has time and again submitted numerous of applications before the respondents to adhere to the directions of the Honourable Supreme Court of Pakistan and grant the petitioner all back benefits, but the request of the petitioner has remained unheeded till the date, therefore the instant Execution Petition (Annexure-C).

It is therefore humbly prayed that on acceptance of this Execution Petition, this Honourable Tribunal may graciously be pleased to direct the respondents to grant the applicant all back benefits right from the date of dismissal till re-instatement as per decision/judgment of the Honourable Supreme Court of Pakistan dated 25-08-2005.

*Abdur Rehman*  
Applicant

Through

*Ashraf Ali Khan*  
Ashraf Ali Khan,  
Advocate, Patna.

Dated: / 01/01/15.



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Execution Petition No. \_\_\_\_\_/2015**

Abdur Rehman Khan Sub Engineer, Public Health Engineering  
Department Govt of Khyber Pakhtunkhwa, Peshawar  
.....Applicant.

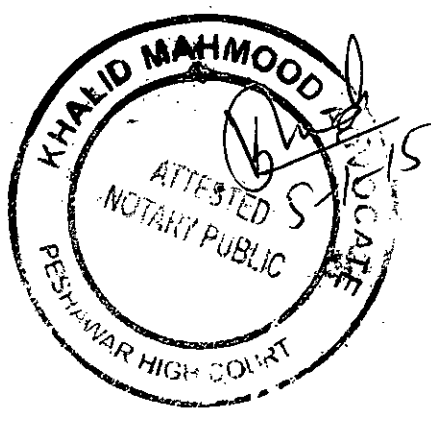
**Versus**

Secretary to the Govt of Khyber Pakhtunkhwa Public Health and  
Engineering Department Civil Secretariat, Peshawar and others  
.....Respondents.

**Affidavit**

I, Abdur Rehman Khan Sub Engineer, Public Health Engineering  
Department Govt of Khyber Pakhtunkhwa, Peshawar do hereby  
solemnly affirms on Oath that the contents of the this Execution  
Petition are true and correct to the best of my knowledge and belief  
and nothing has been concealed from this Honourable Court.

*Abdur Rehman*  
Deponent



IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)

P-4 R2-4 L-70/5  
Anx: A

PRESENT

MR. JUSTICE HAMID ALI MIRZA  
MR. JUSTICE NASIR-UL-MULK

CIVIL APPEALS NO.44 TO 79 OF 2004 AND  
CIVIL PETITIONS NO.1409/2004 & 319/2005

(On appeal from the judgment of the N.W.F.P. Service Tribunal,  
Peshawar, dated 7.2.2004 passed in Service Appeals No.926, 959  
to 979, 989, 1037 to 1039, 1048 to 1050, 1067 to 1071, 1085,  
1170 of 2003 and 60 of 2004.

Zafarullah Khan	Appellants (in C.A.No.44/05)
Attiquar Rehman	(in C.A.No.45/05)
Khalid Saeed	(in C.A.No.46/05)
Muhammad Zahoor	(in C.A.No.47/05)
Fakhr-uz-Zaman Khan	(in C.A.No.48/05)
Muhammad Fahim	(in C.A.No.49/05)
Shad Mohammad	(in C.A.No.50/05)
Raza Ullah Khan	(in C.A.No.51/05)
Muhammad Iqbal Khan	(in C.A.No.52/05)
Sheraz Ahmed	(in C.A.No.53/05)
Abdur Rushid	(in C.A.No.54/05)
Arshad Zia	(in C.A.No.55/05)
Fazlullah	(in C.A.No.56/05)
Muhammad Raees Khan	(in C.A.No.57/05)
Muhammad Ilyas	(in C.A.No.58/05)
Aziz-ur-Rehman	(in C.A.No.59/05)
Muhammad Sadiq	(in C.A.No.60/05)
Asghar Huesain	(in C.A.No.61/05)
Salim Javed	(in C.A.No.62/05)
Amin Gul	(in C.A.No.63/05)
Dilawar Khan	(in C.A.No.64/05)
Munawar Ahmed	(in C.A.No.65/05)
Schwantosh	(in C.A.No.66/05)
Muhammad Nazif	(in C.A.No.67/05)
Ghulam Akbar	(in C.A.No.68/05)

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Superintendent  
Supreme Court of Pakistan

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Aman Ullah Khan	(in C.A.No.69/05)
Abdali Shah	(in C.A.No.70/05)
Intizar Muhammad	(in C.A.No.71/05)
Muhammad Khan	(in C.A.No.72/05)
Arif Qayyum	(in C.A.No.73/05) ✓
Abdul Hamced	(in C.A.No.74/05)
Naseem Ullah	(in C.A.No.75/05)
Muhammad Ismail	(in C.A.No.76/05)
Fazal-ur-Rehman	(in C.A.No.77/05)
Malik Irfan	(in C.A.No.78/05)
Iqbal Ahmed	(in C.A.No.79/05)
Pervez Khan	Petitioner (in C.P.No.1409/04)
Sarfraz Khan	(in C.P.No.319/05)

Government of N.W.F.P. and others **Versus** Respondents  
 For the Appellants: Mr. Muhammad Akram Sheikh, Sr. A.S.C.  
 (in C.A.Nos.44 to 56/05) Mr. Muhammad Ahmed Zaidi, A.O.R.

For the Appellants  
 (in C.A.Nos.57 to 79/05 &  
 C.P.1409/04) Mr. Abdul Rehman Siddiqui, A.S.C.  
 Ch. Muhammad Akram, A.O.R.

For the Petitioner  
 (in C.P.No.319/05) Mr. Muhammad Aslam Uns, A.S.C.  
 Mr. Arshad Ali Ch. A.O.R.

For the Respondents  
 (in all cases) Mr. Muhammad Essa Khan, Addl.A.G. N.W.F.P.

Date of hearing: 25<sup>th</sup> August 2005

**JUDGMENT**

NASIR-UL-MULK, J.- By this single judgment, it is proposed to dispose of Civil Appeals No.44 to 79 of 2005 and Civil Petitions No.1409 of 2004 and 319 of 2005. In the civil appeals, leave to appeal was granted to consider inter-alia "whether by virtue of N.W.F.P. Employees On Contract Basis (Regularization of Services) Act, 1989 (Act No. VIII of 1989) as amended by N.W.F.P. Act No. II of 1990, the petitioners were to be treated as regularly appointed civil servants notwithstanding that their original initial appointment was on contract basis."

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*AS*  
 Superintendent  
 Supreme Court of Pakistan

2. The facts of all these matters, except civil appeal No.46 of 2005, filed by Khalid Saeed, are materially similar. In these similar appeals/petitions, the appellants/petitioners had applied in the year 1986 for the various posts, advertised for appointments on ad-hoc basis by the Government of N.W.F.P., Local Government, Elections and Rural Development Department, Peshawar (hereinafter referred to as the Department), published in the National Dailies of 30.10.1987. The total numbers of posts advertised were 136. The appellants, upon the recommendation of the Selection Board, constituted for the purpose, were appointed in November 1988 on the posts for which they were selected. As a specimen it will be worthwhile to reproduce the letter of appointment of one of the appellants, namely Zafarullah Khan, appellant in civil appeal No.44 of 2005:-

"GOVERNMENT OF NWFP  
LOCAL GOVERNMENT, ELECTIONS AND RURAL  
DEVELOPMENT DEPARTMENT

NO.DS.1/LCB/1-8/88

Dated Peshawar 22<sup>nd</sup> Nov.1988.

To

Mr. Zafar ullah Khan s/o  
Gul Faraz Khan, c/o Abdul Sattar, Office Supdt. FLA,  
Mall Road Peshawar Cantt..

Subject: APPOINTMENT ON CONTRACT BASIS.

Further to our letter of even number dated 2-11-88, and the agreement signed by you on 13<sup>th</sup> November, 1988 the Provincial Government are pleased to appoint you as Planning Officer (Karak), on contract basis on the terms and conditions contained in the said agreement (copy enclosed) for the period commencing from the date of assumption of charge until 30.6.1989 or earlier as the case may be.

On appointment you are posted in the office of Asstt. Director LG & RUD (Karak). And advised to report for duty to him on or before 28.11.1988. No TA/DA will be admissible to you for the journey on this account.

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(SARWAR KHAN)  
DEPUTY SECRETARY-(LCB).

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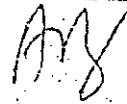
Superintendent  
Supreme Court of Pakistan

The letters of appointment of the other appellants were similarly worded. It may be noted that though the posts were advertised to be filled on ad-hoc basis, the appointments were made on contract basis. The case of the appellants is that the nature of employment was changed on account of ban imposed on recruitment on ad-hoc basis by the N.W.F.P. Civil Servants (Regularization of Services) Act, 1988.

3. The appellant in civil appeal No.46 of 2005 was appointed on 12.3.1990 as Planning Officer in BPS-17 under the Scheme "Strengthening of Local Government and Rural Development" purely on the contract basis. The terms and the date of employment of this appellant makes his case distinguishable from the rest of the appellants.

4. All the appellants were serving the Department when in the year 1996 the Accountant General, N.W.F.P. stopped payment of their salaries, impelling them to file Constitutional Petitions (Writ Petition No.1084 of 1996 etc.) wherein they prayed that they be declared to be duly regularized civil servants in the light of provisions of the N.W.F.P. Employees on Contract Basis (Regularization of Service) Act 1989 (Act VIII of 1989) as amended by the Act No.II of 1990. The writ petition was dismissed on 4.3.2003. During the pendency of the petitions, the appellants remained in service on account of the interim orders passed in their favour by the High Court. The appellants being aggrieved of the decision of the High Court filed constitutional petitions for leave to appeal before this Court. During the pendency of the petitions the appellants' services were terminated in the light of judgment of the High Court. In view of this development, this Court was of the opinion that the appellants had to assail the orders of termination of their services before the Service Tribunal. A direction was given to the Service Tribunal that in case appeals were filed by the appellants, the same be disposed of expeditiously. While disposing of the petitions in the above terms, this Court directed the Government of N.W.F.P. to pay the appellants their outstanding salaries if not paid so far.

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5. The appellants thereafter filed their respective appeals before the Service Tribunal. All the appeals, except one filed by Tahira Yasmeen, were dismissed. That case was held to be distinguishable for the employee had been appointed on temporary and not on contract basis. The reasons for dismissal of the appeals have been stated in para 10 of the impugned judgment, dated 7.2.2004, which reads as under:-

"10. A look at the record would show that appointments of the appellants were made purely on contract basis initially for a period of six months. Agreement deeds were also executed between the employers and employees. The prayer of the appellants for their regularization was not acceded to by the respondent department. It is evident that status of the appellants ever since their initial appointments till the termination of their services remained as contract employees. Since the appellants were contract employees, therefore, they are not civil servants within the meaning of section 2(b) of the NWFP Civil Servants Act, 1973. Therefore, this Tribunal lacks jurisdiction in the matter in hand. Accordingly, the instant appeal as well as the connected appeals mentioned above, except Appeal No.926/03 figures at S.No.1 at page-2 of the judgment, fail and are dismissed, with no order as to costs."

6. The Service Tribunal thus declined to exercise jurisdiction on the ground that the appellants being contract employees were not civil servants and thus could not file appeals before the Service Tribunal. These findings run contrary to the order of this Court dated 10.6.2003 passed in C.P.No.185-P of 2003 wherein it was expressly stated that the appellants may file appeals before the N.W.F.P. Service Tribunal against their orders of termination and direction was also given to the Service Tribunal for the expeditious disposal of the appeals, if filed. The Service Tribunal, on account of above findings, did not attend to the merits of the appeals before it.

7. The case of the appellants throughout has been that they were to be appointed on ad-hoc basis as advertised but on account of the ban imposed on

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such employment by the Act of 1988, they were appointed on contract basis. That in any case their services as civil servants stood regularized by Act VIII of 1989 as amended by Act II of 1990. That throughout their service they had been treated as civil servants and were given all benefits of such service.

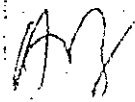
8. Mr. Muhammad Akram Sheikh, Sr. A.S.C. elaborating the case of the appellants submitted that the appellants had served the Department continuously for 15/16 years and though their initial period of contract had expired, they remained in employment without further extension of the contractual service. That all along, the appellants had been treated as civil servants, probably on account of Act VIII of 1989, and thus the non-issuance of any formal order/notification regularising the appellants' service under the said statutory provisions would be a lapse of the Department. Countering the claim of the Department that the appellants belonged to a project/scheme of the Department and were not appointed to regular posts in the Department, the learned Sr. A.S.C. submitted that neither the advertisement advertising the posts nor the appellants' orders of appointment had referred to employment in any scheme/project. For his submissions, the learned counsel cited "Ahmed Khan v Secretary to Government (1997 SCMR 1477) and Government of N.W.F.P. v Rukhsar Ali (2005 SCMR 22)."

9. Mr. Abdul Rehman Siddiqui and Mr. Muhammad Aslam Uns, learned ASC who appeared for some of the appellants adopted the arguments advanced by Mr. Muhammad Akram Sheikh, Sr. A.S.C.

10. Before referring to the contentions of Mr. Muhammad Essa Khan, learned Additional Advocate General, N.W.F.P. representing the Department, it would be appropriate to state the statutory provisions relevant for determination of the main questions raised before us. As already mentioned the posts in question were advertised on 30.10.1987 to be filled on ad-hoc basis. Section 5 of N.W.F.P. Civil

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Servants (Regularization of Service) Act 1988, enacted on 23.1.1988, is reproduced as follows:-

"5. Ban on recruitment on ad hoc basis:- (1) Notwithstanding anything contained in any law or rule there shall be no recruitments by way of ad hoc appointments for a period of ten years from the date of commencement of this Act.

(2) The Government may fill in short term or temporary vacancies by way of contractual appointment in such manner and on such terms and conditions as may be prescribed for a period not exceeding two years during which period the selectees of the Public Service Commission against the vacancies, to fill in the posts, shall be made available by the Public Service Commission."

11. The above act was enacted after the advertisement but before the appellants' appointments. It would thus appear that it was on account of this intervening event of ban on ad-hoc appointments by the above statutory provision that the appellants' appointments were made on contractual basis, notwithstanding that according to the advertisement the appointments were to be made on ad-hoc basis. However, on 13.11.1989, N.W.F.P. Act No.VIII of 1989 was enacted for the purpose of regularizing the services of contractual employees. The relevant provisions are contained in Sections 3 and 4 of the Act as under:-

"3. Special provision regarding employees on contract basis:- Notwithstanding any thing contained in sub-section (1) of section 2 of the North West Frontier Province Civil Servants Act, 1975 (N.W.F.P. Act No.XVIII of 1978), any candidate appointed on contract basis in any Government Department against any post on contract basis under section 5 of the North West Frontier Province Civil Servants (Regularization of Services) Act, 1988 (N.W.F.P. Act No.1 of 1988)

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1988) till the commencing day of this Act shall be always be deemed to have been so appointed.

4.(1) Notwithstanding anything contained in any law for the time being enforce, any Civil Servant, who is, or has been appointed or deemed to have been appointed against any post in any Government Department under section 3 of this Act shall be deemed to have been regularly appointed from the date of his continuous officiation, subject to, eligibility, according to the service rules applicable to the post, verified by the Administrative Secretary of the department concerned;

Provided that if any Civil Servant is aggrieved regarding his eligibility, he shall have one right of appeal to the Chief Secretary, Government of North West Frontier Province, and his decision I the case shall be final:

Provided further that if there is any gap in service of any Civil Servant between this enactment and the date of appointment under section 3 of this Act, due to termination of contractual services only the same shall be deemed to have been condoned as extraordinary leave without pay.

(2) The inter se seniority of the civil servants under this Act shall be determined by the Government, according to service rules in vogue."

12. Section 4 reproduced above was substituted by an amending Act (N.W.F.P. Act No. II of 1990). The substituted provisions did not bring much material change in the original section and to a greater extent was a reproduction of the substituted provision. Under Section 3 of Act VIII of 1989 a candidate appointed on contract basis against any post under Section 5 of the Act I of 1988 was deemed to have been appointed on ad hoc basis from the date of his appointment. By virtue of Section 4 such person, who is deemed to have been appointed under Section 3 on ad hoc basis, shall be considered to have been regularly appointed from the date of his continuous employment. This however has been made subject to verification of eligibility of the candidate for the post by the Administrative Secretary of the Department. The appellants, as stated above, had been appointed on contract basis under Section 5 of Act I of 1988 as

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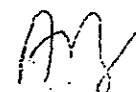
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they could not have been appointed on ad-hoc basis on account of the ban imposed by the Act. Thus, their employment was to be considered appointment of civil servant on ad hoc basis under Section 3 of Act VIII of 1989 and consequently were deemed to have been regularly appointed by virtue of Section 4 of the Act. Act VIII of 1989 did not envisage the issuance of any notification for regularization of employees falling within the scope of Sections 3 and 4. Such employees became civil servants by operation of law. The only condition was verification of eligibility of the employees by the Administrative Secretary. It is not the case of the Department that appellants were not eligible for the posts to which they were appointed. Even if the formal exercise of verification was to be carried out, the same was to be undertaken by the Secretary and obviously the appellants cannot be made to suffer for non-performance of a statutory responsibility imposed on the head of the Department.

13. In view of the above clear statutory provisions favouring the appellants, the learned Additional Advocate General, N.W.F.P. laid stress upon the Department's stand that the appellants were employed for a project and were never appointed to any regular post in the Department. Elaborating the point he submitted that the Department had started a scheme called "Strengthening of Local Government and Rural Development Department" for which PC-I was approved and it was for the running of the scheme that the appellants were employed. That the appellants were to be paid from the developmental funds and not from the Provincial Exchequer. The learned Additional Advocate General maintained that with the restructuring of the Department in the process of devolution of powers, the office of the Director General, Local Government and Rural Development and all its offices and schemes were abolished and thus the services of the appellants, who were contractual employees for a scheme, had to be terminated.

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Supreme Court of Pakistan  
ISLAMABAD

14. The position taken by the learned Additional Advocate General, regarding the appellants' nature of employment, does not find support from the relevant documents. By the advertisement of 30.10.1987 the Department invited applications for filling up certain posts in the Rural Development of the Government of N.W.F.P. There was no mention of the posts being related to any project or scheme. The letters of appointment, one of which has been reproduced above, also does not make such a reference. These two are the relevant documents for the purpose of determining as to whether the appellants were appointed for a project or in the Department. As neither the advertisement nor the letters of appointments, both issued by the Local Government and Rural Development Department of the Government of N.W.F.P., state that employment is for any particular project or scheme, the same is deemed to have been made in the Department. Additionally, the appellants, who had served the Department for 15 years, had been treated as regular employees of the Department and not as employees of a project. Circumstances indicative of this treatment have been highlighted by the Service Tribunal in the impugned judgment and have not been controverted by the Department, either before the Tribunal or before us. The appellants had been granted revised basic pay scales like all other civil servants in the years 1991 and 1994 along with annual increments. They were given the benefit of the scheme of basic pay, allowances and pension enhanced by the Provincial Government in the year 2001 for the provincial civil servants. The appellants were regular subscribers to the G.P. Fund and the Benevolent Fund, and it is stated that on transfer of one of the appellants to Peshawar, the G. P. Fund was also transferred to the office of Accountant General, N.W.F.P. Peshawar. These are normal incidence of service of civil servants and not of employment in a project. The source of funds for paying the salaries to the appellants or the contents of any P.C.I is a matter of internal administration of the Provincial Government. The nature of the appellants' employment is to be decided on the basis of the letters

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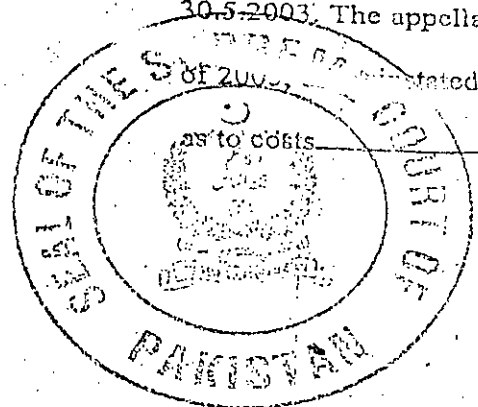
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appointment and the manner in which their employments have been considered thereafter. The foregoing discussion shows that the appellants were employees of the Department and not of any Scheme or Project and by virtue of the provisions of Act VIII of 1989, as amended, had become regular civil servants.

15. The case of Khalid Saeed, appellant in Civil Appeal No.46 of 2005, however, stands on a different footing. He was appointed on 12.3.1990 after the enactment of Act VIII of 1989 and Act II of 1990, the latter is dated 25.2.1990, though it has been enforced retrospectively w. e. f. 13.11.1989. The two Acts had regularized the services of those employees who were employed on contract basis till coming into force of the Acts on 13.11.1989. Obviously, Khalid Saeed cannot claim benefit of these Acts.

16. In view of the above, Civil Appeal No.46 of 2005 is dismissed whereas Civil Appeals No.44, 45, 47 to 79 of 2005 are allowed, Civil Petition Nos. 1409 of 2004 and 319 of 2005 are converted into appeals and allowed. Resultantly, the impugned judgment and order of the N.W.F.P. Service Tribunal to that extent are set aside and so also the order of termination of the said appellants dated 30.5.2003. The appellants, except Khalid Saeed, appellant in Civil Appeal No.46



Islamabad  
August 25, 2005  
Shirazi/

8/29/05

Attested  
True Copy

Sgt. Hamid Ali Mirza  
Sgt. Mirza-ul-Mulk  
Certified to be true copy

Supervisor  
Supreme Court of Pakistan  
ISLAMABAD  
4/13/05

NOT APPROVED FOR RECORD  
Date of Presentation: 8/29/05  
No. of Pages: 33  
Name of the Officer: [Signature]  
Copy to: [Signature]  
Date of Approval: [Signature]

GOVERNMENT OF N.W.F.P.  
LOCAL GOVT. ELECTIONS AND RURAL  
DEVELOPMENT DEPARTMENT

NOTIFICATION

Dated Peshawar, the 10<sup>th</sup> November, 2005

No.SO(LG-I)3-323/03.- Consequent upon acceptance of Civil Appeals No.44, 45, 47 to 79 of 2005, 1409 of 2004 and 319 of 2005 and setting aside of this Department Notification No.SO(LG-I)2-113/96, dated 30-5-2003 by the Supreme Court of Pakistan vide Judgement dated 25-08-2005, the Competent Authority is pleased to re-instate in service the following officers/officials of the Local Government and Rural Development Department, NWFP with effect from the date of their termination from service viz 30-5-2003 with all back benefits and their services regularized from the date of their initial appointment:-

Sl.No.	Name of officer/official	Designation with BPS
1.	Mr.Zafrullah Khan	Planning Officer (BPS-17)
2.	Mr.Muhammad Zahoor	-do-
3.	Mr.Muhammad Faheem	-do-
4.	Mr.Muhammad Iqbal	-do-
5.	Mr.Pervez Khan	-do-
6.	Mr.Attiq-Ur-Rehman.	-do-
7.	Mr.Fakhr-Uz-Zaman	-do-
8.	Mr.Sarfraz Khan	-do-
9.	Mr.Arshad Zia	--do--
10.	Mr.Shad Muhammad	Progress Officer (BPS-16)
11.	Mr.Raza Ullah Khan	-do-
12.	Mr.Sheraz Ahmed	-do-
13.	Mr.Abdur Rasaid	-do-
14.	Mr.Fazlullah	-do-
(15)	Mr.Muhammad Raees Khan	Sub-Engineer (BPS-11)
16. ✓	Mr.Muhammad Ilyas	-do-
17.	Mr.Aziz-Ur-Rehman	-do-
18.	Mr.Muhammad Siddiq	-do-
19.	Mr.Asghar Hussain	-do-
20.	Mr.Salim Jayce	-do-
21.	Mr.Amin Gul	-do-
22.	Mr.Dilawar Khan	-do-

Attested  
True Copy

23.	Mr. Munawar Ahmed	-do-
24.	Mr. Muhammad Nazif.	-do-
25.	Mr. Ghulam Akbar.	-do-
26.	Mr. Amanullah Khan	-do-
27.	Mr. Abdali Shah	-do-
28.	Mr. Intizar Muhammad	-do-
29.	Mr. Muhammad Khan	-do-
30.	Mr. Arif Qayum	-do-
31.	Mr. Abdul Hameed	-do-
32.	Malik Mohammad Irfan	-do-
33.	Mr. Fazal-Ur-Rehman	Stenographer (Jr. Scale (BPS-12).
34.	Mr. Schwanosh	Assistant (BPS-11)
35.	Mr. Naseemullah	-do-
36.	Mr. Muhammad Ismail	-do-
37.	Mr. Iqbal Ahmed	-do-

2. On re-instatement these officers/officials are placed in the Surplus Pool of Local Government and Rural Development Department for which Finance Department shall create posts, till they are adjusted as per policy of the Provincial Government.

SECRETARY TO GOVT. OF NWFP,  
LOCAL GOVT., ELECTIONS & RURAL  
DEVELOPMENT DEPARTMENT

Endst. No. SO(LG-1)3-323/03

Dated Peshawar, the 10<sup>th</sup> November, 2005

Copy is forwarded to:-

1. All the Administrative Secretaries, Government of NWFP.
2. The Accountant General, NWFP, Peshawar.
3. The Registrar, NWFP Service Tribunal, Peshawar.
4. The Director General (D&M), LG & RDD.
5. All District Coordination Officers in NWFP.
6. The PS to Chief Secretary, NWFP, Peshawar.
7. The PS to Minister for LG & RD, NWFP, Peshawar.
8. The PS to Secretary, LG & RDD.
9. The Director, FATA, LG & RDD, Peshawar.
10. The Section Officer (Surplus Pool), E&A Department.
11. The Section Officer (General), LG & RDD.
12. All Officers/officials concerned.
13. Personal file of the officer/official concerned.

*Muhammad*

(DIL MUHAMMAD)  
SECTION OFFICER (ETAB)

Attested  
True Copy

Anx: B

P-17

GOVERNMENT OF NWFP  
WORKS & SERVICES DEPTT

ORDER

NO. (SO E-II)W&S/11-26/08(SE) Consequent upon the decision of Supreme Court of Pakistan dated 25/8/2005, the following Sub Engineers have been adjusted in the PHE Works & Services Department and allowed to draw the arrears of their pay & allowances with effect from 1/6/2007 against the vacant posts mentioned against each subject to their further posting/transfer in the Department which will be issued later on:

S.No.	Name of official	Office
1	2	3
1.	Mr. Amin Gul	O/O the DDO PHE Mansehra
✓ 2.	Mr. Abdur Rehman	O/O the DDO PHE Kohistan.
3.	Malik Muhammad Irfan	O/O the DDO PHE Kohistan

SECRETARY

NO. SO(EII)W&S/11-268/08(SE)

DATED PESHAWAR THE 7/4/2008.

Copy forwarded to the:-

1. Chief Engineer PHE Peshawar.
2. Executive Distt Officers W&S Kohistan & Mansehra.
3. Dy. Distt Officers PHE Kohistan & Mansehra.
4. District Accounts Officers District Kohistan & Mansehra.
5. PS to Secretary W&S Department NWFP Peshawar.
6. Incharge Computer Cell W&SD Peshawar.
7. Officials concerned.
8. O/O file and Personal Files.

(SYED BAQIR SHAH)

SECTION OFFICER (ESTAB-II)

Handwritten signature and date: 9/04/08

Handwritten signature and initials: amp 9

Attested  
True Copy

بخدمت جناب وزیر اعلیٰ صاحب صوبہ خیبر پختونخواہ پشاور

عنوان: تنخواہوں کی عدم ادائیگی

جناب عالی!

گزارش ہے کہ سائل B.Sc سول انجینئر UET Peshawar کا گریجویٹ ہے سائل 1988 میں بطور سب انجینئر محکمہ بلدیات و ترقی دیہات میں بھرتی ہوا بعد میں MMA حکومت کے دوران سائل کو بمع دوسرے ساتھیوں کے نوکری سے نکال دیا گیا۔ سائل بمع دوسرے ساتھیوں کے سپریم کورٹ میں چلا گیا جہاں سے سپریم کورٹ نے ہمارے حق میں 25-08-2005 فیصلہ دیا اور تمام سابقہ مراعات کے ساتھ بحال کیا حکومت نے بعد میں محکمہ پبلک ہیلتھ انجینئر ڈیپارٹمنٹ میں سائل کو بمع دوسرے ساتھیوں بطور سب انجینئر ایڈجسٹ کیا۔ سابقہ تنخواہوں کی ادائیگی کیلئے خالی پوسٹوں پر صرف اور صرف تنخواہوں کی ادائیگی کیلئے بمع دوسرے ساتھی ملک عرفان کوہستان ڈی ڈی او۔ پی ایچ ای ڈی میں آرڈر نمبر

(SO E-II) W&S/11-26/08(SE) مورخہ 07-04-2008 ایڈجسٹ کیا۔ ملک عرفان کی تنخواہ ڈسٹرکٹ اکاؤنٹ آفس نے ادا کی اور سائل کی تنخواہ کی ادائیگی سے انکار کیا۔ ہیڈ کلرک پبلک ہیلتھ نے مجھے بتایا کہ ڈسٹرکٹ اکاؤنٹ والے روپے مانگتے ہیں جبکہ میں روپے کی ادائیگی سے انکاری تھا جس کی وجہ سے سائل ابھی تک یعنی سابقہ 9-10 سالوں کی تنخواہوں سے محروم چلا آ رہا ہے جس کی وجہ سے سائل کی ذہنی حالت بھی خراب ہو گئی ہے۔

لہذا آپ صاحبان سے گزارش ہے کہ سائل کی تمام کی تمام تنخواہیں سپریم کورٹ کے آرڈر کے مطابق ادا کی جائے اور ذمہ داران کو سزا دی جائے۔

نوٹ: سائل کو ذہنی مریض بنانے کے خلاف سائل عدالتی کارروائی کا حق برخلاف ذمہ داران محفوظ رکھتا ہے۔

## العارض

سائل عبدالرحمن خان (سب انجینئر) پبلک ہیلتھ انجینئرنگ ڈیپارٹمنٹ خیبر پختونخواہ  
NIC No- 14 201-1427886-9

برائے رابطہ: عارف قیوم (سب انجینئر) پبلک ہیلتھ ایف۔ آرہوں

موبائل نمبر: 0300-9060041, 0335-9060044

کاپی برائے:

1۔ سیکرٹری پبلک ہیلتھ انجینئرنگ ڈیپارٹمنٹ خیبر پختونخواہ پشاور

Attested  
True Copy



Before the Khyber Pakhtunkhwa Service Tribunal Peshawar

Executive Petition No.3/2015,

Abdur Rehman Khan.....Appellant.

V/S

Government of Khyber Pakhtunkhwa through,  
Secretary local Council / Local Government Peshawar and others .....Respondents.

(Reply on behalf of respondent No.5), 7 & 8)

**Preliminary Objections.**

- 1). That the appellant has no cause of action.
- 2). That the appellant has no locus standi.
- 3). That the appellant is bad due to non-joinder and miss-joinder of necessary parties.
- 4). That Finance Department Peshawar is the most important party in the instant case which has not been made as respondent by the appellant.

**Respectfully Sheweth:-**

Para 1 to 5:-

After the Scrutiny of the case it is pointed out that it is an administrative nature case and totally relates with Administrative Department of the appellant as well as Finance Department Peshawar, besides the appellant has raised no grievances against this office.

Hence Administrative Department (Local Council /Local Government) as well as Finance Department Government of Khyber Pakhtunkhwa Peshawar is in better position to redress the grievences of the appellant.


However, it is pertinent to mention here that the name of the appellant has not been mentioned in the list of appellant under the Supreme Court of Pakistan Judgment dated 25.08.2005.


Keeping in view the above mentioned facts, it is therefore, humbly prayed that the name of this office (respondent No.5) may be removed from list of respondents.

  
ACCOUNTANT GENERAL  
KHYBER PAKHTUNKHWA

Respondent No  
07

Respondent No = 08

  
District Account Officer  
Kohistan

  
District Account Officer  
Peshawar

# Before the Khyber Pakhtunkhwa Service Tribunal Peshawar

Executive Petition No.3/2015,

Abdur Rehman Khan.....Appellant.

V/S

Government of Khyber Pakhtunkhwa through,  
Secretary local Council / Local Government Peshawar and others .....Respondents.

(Reply on behalf of respondent No.5), 7 & 8)

## Preliminary Objections.

- 1). That the appellant has no cause of action.
- 2). That the appellant has no locus standi.
- 3). That the appellant is bad due to non-joinder and miss-joinder of necessary parties.
- 4). That Finance Department Peshawar is the most important party in the instant case which has not been made as respondent by the appellant.

## Respectfully Sheweth:-

Para 1 to 5:-

After the Scrutiny of the case it is pointed out that it is an administrative nature case and totally relates with Administrative Department of the appellant as well as Finance Department Peshawar, besides the appellant has raised no grievances against this office.

Hence Administrative Department (Local Council /Local Government) as well as Finance Department Government of Khyber Pakhtunkhwa Peshawar is in better position to redress the grievances of the appellant.

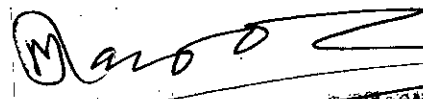
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Keeping in view the above mentioned facts, it is therefore, humbly prayed that the name of this office (respondent No.5) may be removed from list of respondents.

  
ACCOUNTANT GENERAL  
KHYBER PAKHTUNKHWA

Respondent No  
07

Respondent No = 08

  
District Account Officer  
Kohistan

  
District Account Officer

# Before the Khyber Pakhtunkhwa Service Tribunal Peshawar

Executive Petition No.3/2015,

Abdur Rehman Khan.....Appellant.

V/S

Government of Khyber Pakhtunkhwa through,  
Secretary local Council / Local Government Peshawar and others .....Respondents.

(Reply on behalf of respondent No.5), 7 & 8)

## Preliminary Objections.

- 1). That the appellant has no cause of action.
- 2). That the appellant has no locus standi.
- 3). That the appellant is bad due to non-joinder and miss-joinder of necessary parties.
- 4). That Finance Department Peshawar is the most important party in the instant case which has not been made as respondent by the appellant.

## Respectfully Sheweth:-

Para 1 to 5:-

After the Scrutiny of the case it is pointed out that it is an administrative nature case and totally relates with Administrative Department of the appellant as well as Finance Department Peshawar, besides the appellant has raised no grievances against this office.

Hence Administrative Department (Local Council /Local Government) as well as Finance Department Government of Khyber Pakhtunkhwa Peshawar is in better position to redress the grievences of the appellant.

However, it is pertinent to mention here that the name of the appellant has not been mentioned in the list of appellant under the Supreme Court of Pakistan Judgment dated 25.08.2005.

Keeping in view the above mentioned facts, it is therefore, humbly prayed that the name of this office (respondent No.5) may be removed from list of respondents.

  
ACCOUNTANT GENERAL  
KHYBER PAKHTUNKHWA

Respondent No  
07

Respondent No = 08

  
District Account Officer  
Kohistan

  
District Account Officer  
Kohistan

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR

E. P No. 130/2015.

In

S.A No. 1367/2010

Muhammad Afzal S/O Muhammad Raşool, CT GHSS Pir Saddi, District Mardan  
.....Petitioner

**Versus**


Govt of KPK Secretary E & SE Peshawar & Others  
.....Respondents

**IMPLEMENTATION REPORT FOR AND ON BEHALF OF THE RESPONDENTS  
REGARDING THE JUDGMENT DATED 14/05/2015 IN SERVICE APPEAL NO.  
1366/2010 OF THIS HONORABLE SERVICE TRIBUNAL.**

Respectfully Sheweth,

1. That the date 26/02/2016 is fixed for implementation report in the above cited case
2. That this Honorable Tribunal remanded the case of the applicant back to Elementary & Secondary Education Department for consideration.
3. That the department considered the case of the applicant and forwarded the same to the Directorate Elementary & Secondary Education Peshawar vide letter No. 4005 dated 11/06/2015 reply to which is Letter No 4584/F.No.2/A-15/KC dated 27/08/2015 (Copies are Attached as Annexure-A & B)
4. That the selection grade has been discontinued with effect from 01-07-2001 accordingly.
5. That the applicant is not entitled for selection grade as the same has been discontinued with effect from 01/07/2001 and the rules cannot permit the same.

In view of the above it is requested that the present execution petition may kindly be filed being implemented

  
District Education Officer  
(Male) Mardan



7A)

18

DISTRICT EDUCATION OFFICER  
(MALE) MARDAN

NO. 408 /PF/AE-III

DATED 11 / 10 /2015

To

The Director  
Elementary and Secondary Education  
Khyber Pakhtun Khwa Peshawar

Subject:- AWARD OF SELECTION GRADE

Memo:-

A copy of the appeal in respect of the following SCT teachers alongwith a photo copy of the Judgment of the service Tribunal Peshawar where in direction has been given that the Department should decide the case as per policy are sent herewith with the request for necessary opinion/ guidance to this office to proceed further.

1. Muhammad Afzal SCT GHSS Pir Saaddi.
2. Muhammad Ikram SCT GHSS Hathiān.
3. Zair Muhammad SCT GHS Palo Dheri.

It is added that the Selection Grade has already been Dis-continued since 01.07.2001

*Signature*  
SUPERINTENDENT  
District Education Officer  
(M. S. Mardan)

*Signature*  
DISTRICT EDUCATION OFFICER  
(MALE) MARDAN

Registered

"B"

(21)

OFFICE OF THE DIRECTOR ELEMENTARY &  
SECONDARY EDUCATION KHYBER

PAKHTUNKHWA PESHAWAR

NO. 4584 / F.No.2/A-15/KC

Dated Peshawar the 27/8 /2015

To

The District Education Officer  
(Male) Mardan

**SUBJECT:- AWARD OF SELECTION GRADE.**

Memo:-

Reference your letter No.4005 dated 11-06-2015 on the subject noted above and to inform you that the case of selection grade in respect of the following teachers may be decided as per existing rules / policy. Furthermore the selection grade has been discontinued with effect from 01-07-2001 and the rules cannot permit.

The applicants may be informed accordingly:-

- 1- Muhammad Afzal SCT GHSS Pir Saddi.
- 2- Muhammad Ikram SCT GHSS Hathian
- 3- Zair Muhammad SCT GHS Palo Dheri.

*VPK 26/8/15*  
Deputy Director Establishment  
Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar

\*/Noor/15\*

*AB-111*  
*[Signature]*  
*2/8*

*A. Usman*  
*[Signature]*

5662  
2-9-15

**SUPERINTENDENT**  
District Education Officer  
(Male) Mardan.

DISTRICT EDUCATION OFFICER  
(MALE) MARDAN  
NO. 637/Award of S/Grade  
DATED 11/11/2015

To

- 1. Muhammad Afzal SCT, GHSS, Pir Saddi.
- 2. Muhammad Ikram SCT, GHSS, Hathian.
- 3. Zair Muhammad SCT, GHS, Palo Dheri.

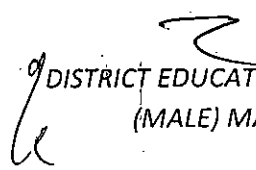
Subject:- AWARD OF SELECTION GRADE.

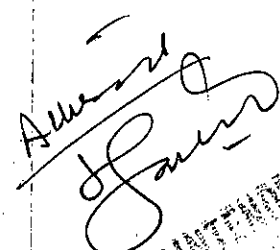
Memo:-

Reference Director Elementary and Secondary Education Khyber Pakhtun Khwa Peshawar No.4584/F.No.2/A-15/KC dated 27.08.2015.

It is stated for your kind information that the Selection Grade has been discontinued with effect from 01.07.2001 and the rules cannot permit.

Photo copy of the above No. attached.

  
DISTRICT EDUCATION OFFICER  
(MALE) MARDAN

  
SUPERINTENDENT  
District Education Officer  
Mardan

D. Ura/AAR  
22/3/16

Appeal No. 03/2015.

Abdul Rehman Sub Engineer ..... (Appellant)

V E R S U S

Secretary Public Health Engg: Department & Others .... (Respondents)

**COMMENTS / REPLY IN THE EXECUTION PETITION  
ON BEHALF OF RESPONDENTS NO.2, 4 & 6**

Respectfully Shweth:

PRELIMINARY OBJECTIONS.

1. The Petitioner / Appellant has no cause of action to file the instant Petition.
2. The Petitioner / Appellant has no come to this Honourable Court with Clean hands.
3. The Petition is not maintainable.
4. The Petitioner has concealed the material facts from this Honourable Court.
5. The instant petition is not executable.
6. This Honourable court has no jurisdiction to entertain the Petition.
7. The Petition is time barred.

FACTS

1. Pertains to record.
2. Not correct. The Applicant was adjusted in the Department in the year 2008 and placed in the Office of the Executive Engineer Public Health Engineering Division Kohistan against the vacant post of Sub engineer. But he did not submit the arrival report, L.P.C, Service Book to the said office, which documents are pre-requisite for drawl of pay etc.



- 3. The applicant himself admitted that he was adjusted by the Department, hence he himself negated his plea taken by him in para-2 above.
- 4. As stated in para-2 above, the applicant did not submit the arrival report with other relevant documents, required for drawl of pay etc. Therefore, he ~~lost all his benefits without any fault of the Department.~~ In fact, pay & allowances of the officials are drawn after fulfillment of certain necessary formalities, which could never be completed <sup>without the cooperation of</sup> by the applicant. Therefore, the Department could not be held responsible for the negligence and faults of the applicant. ✓
- 5. Not correct. No application has been received from the applicant in this regard. In fact the applicant <sup>was not</sup> cannot be able to submit arrival report & L.P.C etc; to the office where he was adjusted then how he claimed that he has submitted numerous application to the respondents for grant of all back benefits. ✓

In view of above, it is very humbly prayed that the appeal may please be dismissed with cost.

Therefore, his documents were not processed for back benefits...

*letter subject to correction*

XEN PHE KUHISTAN

*22-3-2016*

Abdul Qadir General  
(Service Tribunal) KPK  
Peshawar.

**IMMEDIATE**



**GOVT: OF KHYBER PAKHTUNKHWA  
PUBLIC HEALTH ENGG: DEPARTMENT**

No SO(LIT)PHE/16-08/abdur Rehman  
Dated Peshawar, the April 20, 2016

To

The Chief Engineer (North),  
PHE Peshawar.

Subject: **APPEAL NO. 03/2015 – ABDUR REHMAN VS GOVT: OF KPK  
SECRETARY PHE DEPARTMENT & OTHERS.**

I am directed to refer to your letter No.10/G-5/PHE(N) dated 07-04-2016 on the subject and to forward herewith joint para wise comments in the subject case duly signed by the Secretary PHED being the Respondent, with the request to submit the same in the Khyber Pakhtunkhwa, Service Tribunal well in time and proceedings of the Tribunal on each date of hearing may also be intimated to this Department regularly.

Encls: As Above.

  
SECTION OFFICER (LIT)

ENDST: OF EVEN NO. & DATE

Copy forwarded to the PS to Secretary PHED Peshawar.

Chief Engineer (North) Department
11504
20/4/16
5-5

SECTION OFFICER (LIT)

Ao  
P/s. Submit the  
same in Service Tribunal  
well in time.

K  
Informed Xen Kohistan  
for n.a. on 25/4/16  
He will depute SDO for  
n.a.

قیمت 10 روپے



56107

ایڈووکیٹ/ڈسٹنگو  
بار کونسل ابار ایسوسی ایشن پشاور  
رابطہ نمبر: 0311-9440376

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: سر دس لٹریچر پشاور

مخانب:	دعوی:
APPellant	علت نمبر:
عبدالرحمن	موضوع:
PH	جرم:
	تھانہ:

**بابت تحریر آگہ**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروانی متعلقہ  
 ان مقام سنیت و راجے **ناردر جان رندو** کے واسطے پیروی و جواب دہی کاروانی متعلقہ  
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروانی کا کامل اختیار ہوگا، نیز وکیل صاحب کو  
 راضی نامہ کرنے و تقریر جالت و فیصلہ برطن دینے جواب دعوی اقبال دعوی اور درخواست از ہر قسم کی تصدیق  
 زریں ہد متخل کر کے کا اختیار ہوگا، نیز ضرورت عدم پیروی یا ناقصی یا غیرت یا اہل کی برآمدگی اور منسوخی، نیز  
 دائر کرنے اہل نگرانی و نظریاتی و پیروی کرنے کا اختیار ہوگا اور ضرورت مقدمہ مذکورہ کے کل یا جزوی  
 کاروانی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقریر کا اختیار ہو گا اور صاحب  
 مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور ان کا سامنے ہر ذرا غتہ منظور و قبول ہوگا دوران مقدمہ  
 میں جو خرچہ ہر جانہ التوائے مقدمہ کے حساب سے ہوگا وہ وکیل موصوف و جرن کرنے کا اختیار ہوگا کوئی تاریخ پیشی مقام  
 دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی یا مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ مندر ہے۔

المرقوم: 19-8-2016

العبد \_\_\_\_\_ واہ شد \_\_\_\_\_  
 مقام شہاد \_\_\_\_\_ کے لئے منظور ہے۔

attested & accepted  
[Signature]

تاریخ و جگہ: \_\_\_\_\_

موسم

[Signature]

151

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No. 03/2015.

Abdul Rehman Sub Engineer ..... (Appellant)

VERSUS

Secretary Public Health Engg: Department & Others .... (Respondents)

**COMMENTS / REPLY IN THE EXECUTION PETITION  
ON BEHALF OF RESPONDENTS NO.2, 4 & 6**

Respectfully Shweth:

PRELIMINARY OBJECTIONS.

1. The Petitioner / Appellant has no cause of action to file the instant Petition.
2. The Petitioner / Appellant has no come to this Honourable Court with Clean hands.
3. The Petition is not maintainable.
4. The Petitioner has concealed the material facts from this Honourable Court.
5. The instant petition is not executable.
6. This Honourable court has no jurisdiction to entertain the Petition.
7. The Petition is time barred.

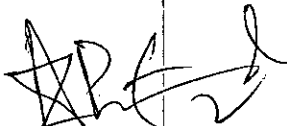
FACTS

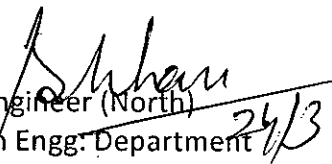
1. Pertains to record.
2. Not correct. The Applicant was adjusted in the Department in the year 2008 and placed in the Office of the Executive Engineer Public Health Engineering Division Kohistan against the vacant post of Sub engineer. But he did not submit the arrival report, L.P.C, Service Book to the said office, which documents are pre-requisite for drawl of pay etc.

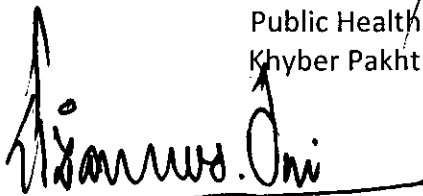
*Abdul Rehman*

3. The applicant himself admitted that he was adjusted by the Department, hence he himself negated his plea taken by him in para-2 above.
4. As stated in para-2 above, the applicant did not submit the arrival report with other relevant documents, required for drawl of pay etc. Therefore, his documents were not processed for back benefits. In fact, pay & allowances of the officials are drawn after fulfillment of certain necessary formalities, which could never be completed without the cooperation of the applicant. Therefore, the Department could not be held responsible for the negligence and faults of the applicant.
5. Not correct. No application has been received from the applicant in this regard. In fact the applicant was not be able to submit arrival report & L.P.C etc; to the office where he was adjusted then how he claims that he has submitted numerous application to the respondents for grant of all back benefits.

In view of above, it is very humbly prayed that the appeal may please be dismissed with cost.

  
Executive Engineer  
Public Health Engg: Division  
Kohistan

  
Chief Engineer (North)  
Public Health Engg: Department  
Khyber Pakhtunkhwa Peshawar

  
Secretary to Govt: of Khyber Pakhtunkhwa  
Public Health Engineering Department  
Peshawar

**AFFIDAVIT**

I, Mushtaq SDO PHE Sub Division Kohistan do hereby solemnly affirms on Oath that the contents of the this Comments / Reply are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

DEPONENT

7

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No. 03/2015.

Abdul Rehman Sub Engineer ..... (Appellant)

VERSUS

Secretary Public Health Engg: Department & Others .... (Respondents)

**COMMENTS / REPLY IN THE EXECUTION PETITION  
ON BEHALF OF RESPONDENTS NO.2, 4 & 6**

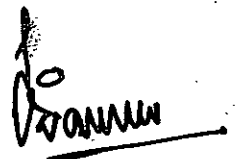
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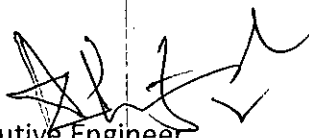
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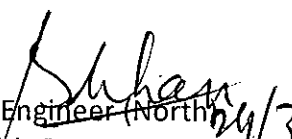
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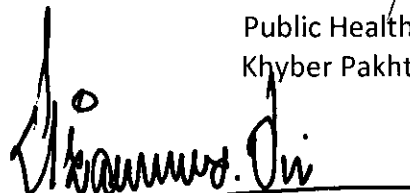


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Secretary to Govt: of Khyber Pakhtunkhwa  
Public Health Engineering Department  
Peshawar

**AFFIDAVIT**

I, Mushtaq SDO PHE Sub Division Kohistan do hereby solemnly affirms on Oath that the contents of the this Comments / Reply are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

DEPONENT