

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Execution Petition No. 500 of 2023 in Service Appeal No.1508/2012

Engr: Inayat Ullah

Appellant

Versus

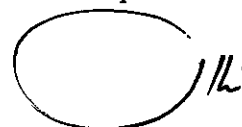
Govt of Khyber Pakhtunkhwa
through Secretary to Khyber Pakhtunkhwa
C&W Department & others

Respondents

I N D E X

S.NO.	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGE
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Deponent



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

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
EXECUTION PETITION 500 OF 2023 IN SERVICE APPEAL NO. 1508/ 2012

ENGR. INAYAT ULLAH
EX-SE C&WD R/O House No: 124
Street No: 06 Sector No: 04
Phase-IV, Hayatabad Peshawar

--- Appellant

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Chief Secretary
2. Secretary to Govt of Khyber Pakhtunkhwa C&W Department
3. Chief Engineer (North) C&W Swat

--- Respondents

OBJECTION PETITION ON BEHALF OF RESPONDENTS NO. 1, 2 & 3

Khyber Pakhtunkhwa
Services Tribunal

Slary No. 8137

Dated 05/10/23

PRELIMINARY OBJECTIONS:-

- i. That appellant herein has not come to the court with clean hands and has not stated the facts of the case.
- ii. That no **legal right** vests of the appellant which could possibly be enforced through the process of court and that too in its constitutional jurisdiction.
- iii. That the appellant does not come within the definition of **aggrieved person** by any stretch of imagination.
- iv. The appellant herein is not entitled to any of the reliefs listed in the prayer.
- v. The appellant has got no lucus standi to file the service appeal.

Respectfully Sheweth:

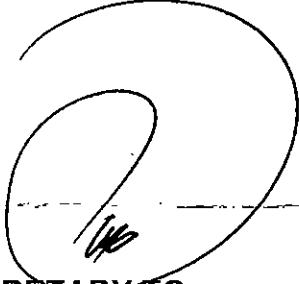
1. Pertains to record, No Comments.
2. Pertains to record No Comments.
3. Incorrect, as per procedure the judgment of Service Tribunal dated 17.12.2015 forwarded to Law Department with the request to place the same before Scrutiny Committee of Law Department as to whether the case is fit for filing of CPLA before the Supreme Court of Pakistan against the said judgment **dated 17.12.2015**. After threadbare discussion, the committee was decided with consensus that it is a fit case for filing CPLA/Appeal before the Supreme Court of Pakistan (**Annex-I**). Accordingly, the Department filed CPLA/Appeal before the Supreme Court of Pakistan on 11.02.2016 (**Annex-II**). After lapse of more than 07 years, the appellant has filed Execution Petition in Services Tribunal on 31.07.2023 (**Annex-III**). Therefore the Department taken-up case with Law Department for advice. The Law Department tendered advice with the wordings that the instant Execution Petition No 500 of 2023, has been filed, beyond the statutory period provided under Section 48 of Code of Civil Procedure, 1908 for Execution of order and judgment of Services Tribunal dated 17.12.2015 in service appeal No 1508 of 2012. There the Law Department has advised to file and objection petition under Section 47 of Code of Civil procedure, 1908 on maintainability of Execution petition through the Law Officer concerned. (**Annex-IV**)

4. Incorrect, as explained above, the Department filed an appeal / CPLA before the Supreme Court of Pakistan, wherein the date of hearing is not yet to be fixed.
5. Incorrect, there is no mala-fide, no discrimination and violation of rights of the appellant has been made. In fact, the Department followed rules/ regulation/policy strictly in such like cases. As explained above, the Department processed the case and submitted / forwarded the judgment of the Services Tribunal dated 17.12.2015 for placing before the scrutiny Committee. The Law Department declared the case fit for filing before the Supreme Court of Pakistan. Accordingly, the Department filed CPLA before the Supreme Court of Pakistan on 11.02.2016. Hence the claim of the appellant is not justified.
6. As Explained in Para-3 above.
7. The respondents seek permissions of this Hon'able Tribunal to rely additional grounds at the time of arguments.

In view of the above, it is humbly prayed that the instant execution petition is not based on facts, may kindly be dismissed with cost.



Chief Engineer (North)
Communication & Works,
Department (Respondent No.3)



SECRETARY TO
Govt. of Khyber Pakhtunkhwa
C&W Department, Peshawar
(Respondent No.1&2)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Execution Petition No. 500 of 2023 in Service Appeal No.1508/2012

Engr: Inayat Ullah

Appellant

Versus

Govt of Khyber Pakhtunkhwa
through Secretary to Khyber Pakhtunkhwa
C&W Department & others

Respondents

AFFIDAVIT

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

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

Deponent



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

CNIC # 14203-2044698-7

Mob No # 0340-5012785



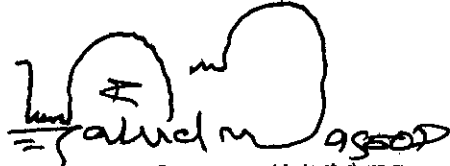


GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

NO.SO (Lit.)C&W/3-260/2013
Dated Peshawar, the October 05, 2023

AUTHORITY LETTER

The Competent Authority (Secretary C&W) has been pleased to authorize Mr. Zahid Ullah, Section Officer Litigation (BS-17), C&W Peshawar is hereby authorized to file the objection petition in case titled "Execution Petition No.500 of 2023 in Service Appeal No.1508/12 - Engr: Inayat Ullah VS Govt of Khyber Pakhtunkhwa through Secretary C&W Department & Others" on behalf of Secretary C&W Department.


DEPUTY SECRETARY (ADMIN)
Govt: of Khyber Pakhtunkhwa
C&W Department

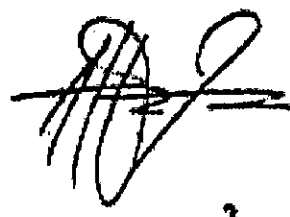
Copy forwarded to PS to Secretary C&W Department, Peshawar.

SERVICE APPEAL NO.1508/12 ENGINEER INAYATULLAH VS GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH SECRETARY C&W DEPARTMENT AND OTHERS.

A meeting of the Scrutiny Committee on the above titled subject was held on 29-01-2016 under the Chairmanship of Secretary Law Department in order to determine the suitability / Fitness of the subject case for filing of CPLA /appeal in the upper forum or otherwise..

2. Following attended the meeting:-

- 1. Mr. M: Sohail
Assistant Advocate General
- 2. Mr. Ghulam Sadiq
Additional Secretary
C&W Department
- 3. Mr. Shakeel Asghar
Deputy Solicitor
Law Department

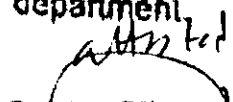


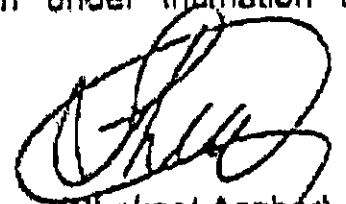
3. When the subject case was placed before the S: Committee for discussion the representative of C&W Department apprised the Committee about the background of the case and stated that besides other charges, the appellant had also been charged for absence from duty since 21-05-2011 without proper intimation / prior approval and all the codal formalities have been fulfilled by the Administrative Department before imposition of major penalty against him.

4. The Scrutiny Committee also observed that honorable Services Tribunal also admitted the guilt of appellant i.e. absence from the duty while stating that after carefully perused the record and as the appellant has not categorically denied absence from duty from certain time meaning thereby the charge of absence was proved against the appellant before the Tribunal too but surprisingly the honorable court instead of maintaining the penalty modified the same unintentionally from removal into compulsory retirement with effect from the date of issuance of impugned order i.e. 01-10-2012.

5. The Scrutiny Committee after threadbare discussion was of the view that besides the admission of appellant regarding absence from the duty the modification of penalty was not necessary in the given circumstances of the case, hence why it was decided with consensus that CPLA is to be filed in the subject case before the Apex Court of Pakistan.

6. The representative of C&W Department was directed to approach the office of Advocate General alongwith complete record of the case which may include certified copy of judgment, grounds of appeal, and annexure (if any) for doing the needful within the period of limitation under intimation to this department.


Secretary Office
Khyber Pakhtunkhwa
C&W Department


(Shakeel Asghar)
Deputy Solicitor

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POWER OF ATTORNEY
IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

Govt. of Khyber Pakhtunkhwa and others

PETITIONER(S)

VERSUS

Engineer Inayatullah

RESPONDENTS

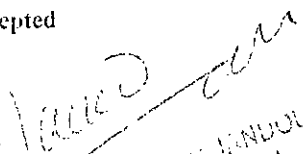
I, through Petitioner (Govt. of KPK) in the above Petition, do hereby appoint and constitute Mian Saadullah Jandoli, Advocate-on-Record, Supreme Court, for Govt. of Khyber Pakhtunkhwa the Attorney for the aforesaid Petitioner(s) to commence and prosecute appear and defend this action/appeal/suit/petition/reference on my/our behalf and all proceeding that may be taken in respect on any application connected with the same including proceeding in taxation and application for review, to draw and deposit money, to file and take back documents, to accept the proceeds of the Court, to appoint and instruct Counsel, to represent the aforesaid Petitioner(s) in the above matter and to do all things incidental to such acting for the aforesaid Petitioner(s).

Aforesaid Petitioner(s) hereby agrees/agree to ratify all acts done by the aforesaid Attorney in pursuance of this authority.

In witness whereof I/we do hereunto set my/our hand/hands

Signed with Official seal stamp

Accepted


(Mian Saadullah Jandoli)
Advocate-on-Record
Supreme Court of Pakistan
(for KPK) Advocate-General's Office
Office KPK, High Court Building, Peshawar.
Office Tel. # 091-9210312, 9210119

1- Chief Secretary,
Govt. of Khyber Pakhtunkhwa,
Peshawar.

2- Secretary Communication & Works
Department Khyber Pakhtunkhwa,
Peshawar.

Secretary
C&W Department
Peshawar

3- 
Chief Engineer,
North, C&W, Peshawar

CHIEF ENGINEER (NORTH),
Communication & Works Department,
Peshawar

Date of Issuing the Power of Attorney is 11-02-2016



FROM 2 Section officer (Lit)

To. Section officer (Estab)
CT W Dep H

Letter No - SO (Lit) R & AD / 3-2015/013

Date 15-02-2016

"B"

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KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

Diary No. 5653
Date: 3-8-2023
Secretary C&W Dept

No. EP 500 of 2023 AS(A)

50 (lit)
2/3
3/8

Mayat Ullah Appellant/Petitioner

VERSUS

Through its chief secy Respondent

Respondent No. 2

Notice to: Secy: Communication & Works Department
140 Peshawar.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal on 3/8/23 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 3 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No. dated

Given under my hand and the seal of this Court, at Peshawar this 3/

Day of July 2023

For Implementation Report

attest
[Signature]
[Seal]
Section Officer (L-2) /
Khyber Pakhtunkhwa
C&W Department

04/8/2023
[Signature]

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Granted Holidays.
2. Always quote Case No. While making any correspondence.

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BEFORE THE HONORABLE CHAIRMAN SERVICES TRIBUNAL KP,
PESHAWAR

Handwritten signature/initials

(a) Application No. 1/2021
(b) Implementation
(c) Petition Appeal No. 1508/2012

PLANNED
KAST
.....

Inayat Ullah (Applicant / Appellant)

VERSUS

Government of KP & others (Respondents)

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Applicant / Appellant

through

Handwritten signature

Handwritten signature

MUHAMMAD YASIR KHATTAK

Advocate Supreme Court

Flat No 7, 2nd Floor, Zeb
Plaza, Faisal Payan,
Peshawar
Cell # 0121-9060880

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**GOVERNMENT OF THE KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS AND
HUMAN RIGHTS DEPARTMENT**

9

No. ALO(OP-II)/LD/15-2/2023

Peshawar,
Dated the: 20-09-2023

13376-78

To

The Secretary,
Government of Khyber Pakhtunkhwa,
Communication & Works Department.

Diary No: 6921
Date: 21-9-2023
Secretary (C&W) LD, G

Attention: Section Officer (Litigation)

SUBJECT: EXECUTION PETITION NO. 500 OF 2023 IN SERVICE APPEAL NO. 1508/12- ENGR: INAYAT ULLAH VS GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH SECRETARY C&W OTHERS.

Dear Sir,

I am directed to refer to your Department's letter No.SOE (Lit) C&W/3-260/2013, dated 05.09.2023, on the subject noted above and to state that the instant Execution Petition No. 500 of 2023, has been filed, beyond the statutory period provided under section 48 of Code of Civil Procedure 1908 for execution of order and judgment of Service Tribunal dated 17.12.2015 in Service Appeal No. 1508 of 2012.

2. Keeping in view the above, legal position, the Administrative Department is advised to file and Objection Petition under section 47 of Code of Civil Procedure, 1908 on maintainability of Execution Petition through the Law Officer concerned, please.

Yours faithfully,

AS
ASSISTANT LAW OFFICER (OP-II)

Endst: No. & date even:-

Copy is forwarded for information to:

1. PS to Secretary, Law Department.
2. Master File.

ASSISTANT LAW OFFICER (OP-II)

2
21/9
22/09/23
ASH

File