

BEFORE THE KHYBER PAKHTUNKHWA, SERVICES TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2020

Jan NisarAppellant

V E R S U S

Govt. of Khyber Pakhtunkhwa,
Secretary Public Health Eng: & othersRespondents

I N D E X

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Through


Appellant

ASAD NABI

Advocate, Peshawar

Cell: 0345-9122165

&


BABAR HAYAT

Advocate, Peshawar

Cell: 0345-9122165

03339727007

Dated: 03-10-2020

(1)

BEFORE THE KHYBER PAKHTUNKHWA, SERVICES TRIBUNAL,
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 11547/2020

Diary No. 10980

Dated 05/10/2020

Jan Nisar S/O Ghulam Qadir R/O Nawan Kalay, Rustam,
Tehsil & District Mardan (Designation: Pump Operator
cum Valve Man, Department of Public Health
Engineering, Circle Mardan)

Date of Presentation 05/10/2020Appellant

Date of Return 04/11/2023

Reason Want of Jurisdiction VERSUS

1. Government of Khyber Pakhtunkhwa, through Secretary Public Health Engineering, Civil Secretariat, Peshawar
2. Superintendent Engineering, Public Health Circle, Mardan.
3. Executive Engineer, Public Health, Near Eidga Division, Mardan.
4. Executive Engineer, Public Health, Division, Charsadda
5. Chief Engineer, Public Health, Civil Secretariat, KPK Peshawar.
6. Secretary Finance, Civil Secretariat, Peshawar.

.....Respondents

Filed to-day
Registrar
05/10/2020

**SERVICE APPEAL U/S 4 OF THE KPK
SERVICE TRIBUNAL ACT, 1974 AGAINST
THE ACTION/INACTION OF THE
RESPONDENT NO. 1, WHEREBY
DEPARTMENTAL APPEAL WAS FILED BY
THE APPELANT ON DATED 08-06-2020
BUT NO ORDER OR ACTION HAS BEEN**

**TAKEN BY THE RESPONDENT NO.1 TILL
DATE.**

Respectfully Sheweth:

Precisely, stating the facts of the case out of which the present appeal arises are as under:

1. That the appellant is serving as Operator-cum-Chowkidar/Operator-cum-Valveman since 2009. (Copy of the Appointment letter is attached as Annexure "A").
2. That the appellant has been performing his duty as per his designation with the satisfaction of the all the high-ups and no complaint of any kind has been made against till date.
3. That the scale of the Operator in Public Health Engineering Department is BPS-06 while the appellant has been appointed in BPS-01 but later on he was upgraded to BPS-03.
4. That the scale of the Valve-man/Chowkidar is carrying BPS-01 while the appellant has been treated as Class-IV in BPS-01 as per his appointment letter despite the fact that appellant is being subject to the duty of Chowkidar in addition to the duty of Tube-well operator.
5. That appointment letter is issued as per sanction of post from the finance department by the competent authority.

6. That the appellant has filed departmental representation which had not been responded and subsequently the appellant then approached to the Honourable Peshawar High Court vide writ petition no.3121/2017 wherein the responded admitted in comments that the duties of operator as well Chowkidar is taken from the appellant and resultantly the appellant was asked by the Honourable Court to approached the competent forum. (Copy of writ and comments are attached as Annexure "B")
7. That as per direction of the Honourable Peshawar High Court approached to this honourable Tribunal wherein the appellant was asked to file separate departmental representation which he complied but which was not responded till date. (Copy of service appeal, order dated 02-03-2020 and department representation dated 08-06-2020 are attached as Annexure "C", "D" and "E" respectively)
8. That being aggrieved, the appellant now approached this Honourable Tribunal again, inter alia on the following grounds:

G R O U N D S:

- A. That the competent authority is bound to pass appointment order as per the sanctioned post order issued from the finance department wherein, an appointment can be either Chowkidar (Class-

IV) or Operator (BPS-06) or accordingly he can be designated both with both salaries when both duties are taken from the appellant. (Copies of payroll of the other employees designated as Operator are attached as Annexure "F")

- B. That it is against the fundamental rights enshrined in the constitution of Pakistan 1973, that double duties as one being Operator and other as CHowkidar is being obtained from the appellant and the wages are not granted in accordance with the law neither perks and privileges of Operator and Chowkidar.
- C. That appellant has not been dealt in accordance with the law therefore downtrodden article 4 of the Constitution.
- D. That appellant has been discriminated wherein fundamental right of the appellant guaranteed under article 25 and 27 of the Constitution of Pakistan 1973 has been disregarded completely.
- E. That the appellant seeks leave of this Hon'ble Tribunal to raise /argue any additional point.

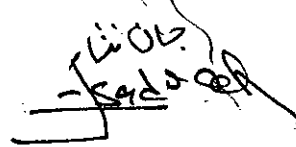
It is, therefore, most humbly prayed that on acceptance of this appeal, the appellant may please be directed to upgrade the scale of the appellant to BPS-06 with all the back benefits

along with salaries, perks and privileges of the Chowkidar/Valve man from the date of his initial appointment.

Any other relief if deems appropriate in the circumstances of the case, may also be graciously granted in favour of the appellant.

Through

Appellant

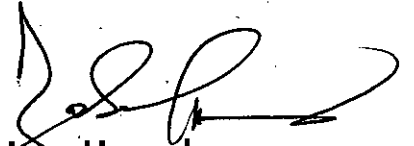


Asad Nabi

Advocate, High Court
Peshawar

Cell: 0345-9122165

&



Babar Hayat

Advocate, High Court
Peshawar

Cell: 0333-9727007

Dated: 03/10/2020

BEFORE THE KHYBER PAKHTUNKHWA, SERVICES TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2020

Jan Nisar **Appellant**


VERSUS

Govt. of Khyber Pakhtunkhwa,
Secretary Public Health Eng: & others..... **Respondents**

AFFIDAVIT

I, Jan Nisar S/O Ghulam Qadir R/O Nawan Kalay, Rustam, Tehsil & District Mardan, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble Court.

Accepted by
[Signature]
Accepted

[Signature]
25-10-20
DEPONENT


BEFORE THE KHYBER PAKHTUNKHWA, SERVICES TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2020

Jan Nisar**Appellant**

V E R S U S

Govt. of Khyber Pakhtunkhwa,
 Secretary Public Health Eng: & others.....**Respondents**

ADDRESSES OF THE PARTIES

A P P E L L A N T:

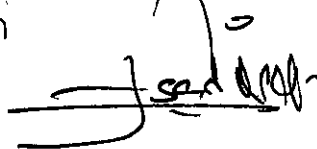
Jan Nisar S/O Ghulam Qadir R/O Nawan Kalay, Rustam,
 Tehsil & District Mardan

R E S P O N D E N T S:

1. Government of Khyber Pakhtunkhwa, through Secretary Public Health Engineering, Civil Secretariat, Peshawar
2. Superintendent Engineering, Public Health Circle, Mardan.
3. Executive Engineer, Public Health, Near Eidga Division, Mardan.
4. Executive Engineer, Public Health, Division, Charsadda
5. Chief Engineer, Public Health, Civil Secretariat, KPK Peshawar
6. Secretary Finance, Civil Secretariat, Peshawar.

Through

Appellant



Asad Nabi

Advocate, Peshawar

Dated: 03-10-2020

(7A) Aux-A
OFFICE OF THE
EXECUTIVE DISTRICT OFFICER
WORKS & SERVICES DEPARTMENT
MARDAN.

No. 5603 /11-E
Dated Mardan the 17/02/2009.

OFFICE ORDER.

On the recommendation of Departmental Selection Committee in its meeting held on 03-09-2008. Mr. Jan Nisar S/O Ghulam Qadar Village Nawan Killi (Rustam) Tehsil & District Mardan is hereby appointed as PUMP OPERATOR-CUM VALVEMAN (BPS-1) against new created vacancy of V.D.O AM&R Water Supply Scheme Nawan Killi with effect from date of arrival with following condition:-

- 1- His Appointment will be on purely temporary basis without pension/graduity as per civil servant act 1973 rules 19. However the incumbent will be entitled for C.P funds as per notification July 2008. His appointment is liable to terminate at any time with out any notice and assigning any reason during the period of service.
- 2- He will liable to serve any where in Water Supply & Sanitation Division Mardan.
- 3- He will have no claim to the right of seniority.
- 4- Before joining Service he shall produce a Medical Certificate of Fitness from Medical Superintendent District Headquarter Hospital Mardan.


EXECUTIVE DISTRICT OFFICER

Copy to the:-

- 1- Chief Engineer Public Health Engg: (W&S)Department NWFP Peshawar with reference to his No.01/B-5/PHE dated 24/08/2007.
- 2- District Nazim Mardan.
- 3- District Coordination Officer, Mardan.
- 4- Deputy District Officer Water Supply & Sanitation Mardan.
- 5- Assistant District Officer WS&S Mardan.
- 6- Official concerned.

For information.


ATTESTED


EXECUTIVE DISTRICT OFFICER

⑧ ④⑤ ①

BEFORE THE PESHAWAR HIGH COURT PESHAWAR.

Writ Petition No. _____ / of 2017.

Annex B

1. Mr. Sadiq Ali S/o Rehman Wali R/O Mian Khan Akora Khel, Tehsil Katlang District Mardan Designation Operator cum Chowkidar Department public health Engineering Circle Mardan
2. Mr. Abbas Khan S/o Waheedullah R/O Touheed Colony Charsadda Road Mardan District & Tehsil Mardan Designation Pump Operator cum Valve man Department public health Engineering Circle Mardan
- ✓ 3. Mr. Jan Nisar S/o Ghulam Qadar R/O Nawan Kali Rustam Tehsil & District Mardan Designation Pump Operator cum Valve man Department public health Engineering Circle Mardan
4. Mr. Hussain Ahmed S/o Asir Khan R/O Gul Mash Banda Tehsil & District Mardan. Designation Pump Operator cum Valve man Department public health Engineering Circle Mardan
5. Mr. Hussain Ahmad S/o Fazli Azeem R/O Mohallah Boki Khel Garhi Ismail Zai P/O Garhi Kapura Tehsil & District Mardan. Designation Operator cum Chowkidar Department public health Engineering Circle Mardan
6. Mr. Arshad Ghani S/o Sherin Ghani R/O Bala Kohi Bermol Tehsil & District Mardan. Designation Pump Operator cum Valve man Department public health Engineering Circle Mardan
7. Mr. Zawar Hussain S/o Gul Unber R/O Ghundo Tehsil Katlang & District Mardan. Designation Pump Operator cum Valve man Department public health Engineering Circle Mardan
8. Mr. Dawa Khan S/o Abdul Akbar R/O Shamilat Babini Road Par Hoti Tehsil & District Mardan. Designation Operator cum Chowkidar man Department public health Engineering Circle Mardan
9. Mr. Muhammad Waleed S/o Ahmad Ali R/O Mohallah Tashqand Rustam Tehsil & District Mardan. Designation Operator cum Chowkidar Department public health Engineering Circle Mardan.
10. Aziz Ur Rahman S/o Naseem Khan R/o Dhire dakhana Tehsil & Distt Mardan Pump Operator cum Valve man Department public health Engineering Circle Mardan.
11. Muhammad Arshad S/o Hidayat Ullah R/o Mohallah Malakakhil Tehsil & Distt Mardan Pump Operator cum Valve man Department public health Engineering Circle Charsadda.

ATTESTED

(9) (18) (21)

12. Hajji Waheed Ullah S/o Shah Zamir R/o garri wahidullah shafqadar tehsil district Mardan Pump Operator cum Chowkidar Department public health Engineering Circle Charsadda.
13. Atta Ullah Shah S/o Noor Hassan Shah R/o kocha Nadar Ali ochai Bazar Peshawar. Pump Operator cum Chowkidar Department public health Engineering Circle Charsadda.
14. Aftab Ahmad S/o Jan Muhammad R/o Shabqadar tehsil and District Charsadda Pump Operator cum Valve man Department public health Engineering Circle Charsadda

.....Petitioners

VERSUS

- 1) Government of KPK through Secretary Public Health Engineer Civil Secretariat, KPK Peshawar.
- 2) Superintendent Engineer Public Health Circle Mardan.
- 3) Executive Engineer Public Health nizz Eidga Division Mardan.
- 4) Executive Engineer Public Health Division Charsadda.
- 5) Chief Engineer Public Health Civil Secretariat KPK Peshawar.
- 6) Secretary Finance Civil Secretariat, KPK Peshawar.

.....Respondents

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

RESPECTFULLY SHEWETH:-

1. That petitioners are serving as per there designation detailed in the appointment letter as well as heading of the writ petition as operator Cum Chowkidar/ Operator Cum Valve man Since 2009, 2010, 2012-2016. (Copies of appointment order of petitioners are annex "A").
2. That petitioner is performing the duty of operator as well as Chowkidar Since their appointment.
3. That the Scale of the Operator is BPS 7.

ATTESTED

Correct

Correct

Instant every sanctioned post must carry design

(10)

(13)

Sanctioned post

Instant as in para 2 & 5

correct

As in 2 & 5

Fuel

4. That there is no designation as Operator Cum Chowkidar / Cum Valve man in BPS 1 as per sanction order issued from the Finance Department KPK.
5. That the Post of Chowkidar / Valve man is carrying BPS-1. *Instant upgraded to BPS-3*
6. That Petitioners are treated as Class IV in BPS 1 as per their appointment letter in spite of the fact that petitioners are being subjected to the duty of Chowkidar in addition to the duty of Operator
7. That appointment letter is issue as per sanction of post from the Finance Department by the competent authority.
8. That petitioners filed departmental appeal before the Chief Engineer to the effect that either petitioners may please be granted the scale, perks and privileges of the post of Operator or the duty of Operator be not taken from them and they be allowed to post on the duty of Chowkidar only but in vain. (Copy of appeal along with Post Office slip as annexed B)
9. That the KPK Service Tribunal is not functional due to not taking incharge of chairman Service Tribunal.
10. That the instant matter is not falling within the term and condition of service as the insertion of Operator only and deletion of Chowkidar/ Valve man from the appointment letter is involved.
11. That finding no other efficacious remedy petitioners approaches this honorable court on following grounds.

GROUNDS

As per appeal order.

As in 2

ATTESTED

- A. Because the competent authority is bound to pass appointment order as per the sanction of post order issued from the Finance Department wherein an appointment can be either Chowkidar/ (Class V) or Operator and accordingly he can be designated.
- B. That it is against the Fundamental rights enshrined in the Constitution of Pakistan 1973 that double duties that is one of Operator and the other of Chowkidar are being obtained from the petitioners and the wages are not granted in accordance with law and rules guarantee for both the post.
- C. Because petitioners have not been dealt in accordance with law therefore duntrodding Art 4 of Constitution of Pakistan 1973.

D. Because petitioners have been discriminated wherein fundamental right of petitioners guaranteed under Art 25, 27 of Constitution of Pakistan 1973 has been seriously infringed.

PRAYER

It is therefore humbly prayed that respondent may please be directed to maintain the designation of Operator in their appointment letter as per corresponding Basic Pay Scale for the post Operator issued from the Finance Department and delete the word chowkidar / valve man from their appointment letter.

Or In Alternative.

It is prayed that respondents may please be restrained from taking duty of tube well Operator from the petitioners against the salary of Chowkidar Post in BPS -1.

It is further prayed that the post of petitioners may please be upgraded as per provincial government policy like other employees of the government.

Any other relief deemed fit in the circumstance of the case may also be graciously granted.

INTERIM RELIEF

Respondent may please be restrained from taking duty of tube well Operator from the petitioner against the class IV post Chowkidar / valve man till the decision of the writ petition.

Dated.

Petitioner

Through

Amjad Ali
Advocate Supreme Court
Office at Mardan

CERTIFICATE

It is certified that no writ petition has been filed earlier on the instant subject matter.

Advocate.

LIST OF BOOKS

1. CONSTITUTION OF PAKISTAN 1973
2. OTHER AS PER NEED.

ATTESTED

BEFORE THE PESHAWAR HIGH COURT PESHAWAR.

Am-D

Writ petition No.3121/2017

Mr. Sadiq Ali S/O Rehman Wali R/O of Mian Khan Akora Khel,
Tehsil Katlang District Mardan & others.

(19)

.....(PETITIONER)

VERSUS

- 1) Government of Khyber Pakhtunkhwa, through Secretary Public Health Engineering Department Peshawar.
- 2) Superintending Engineer Public Health Engineering Circle Mardan.
- 3) Executive Engineer Public Health Engineering Division Mardan.
- 4) Executive Engineer Public Health Engineering Division Charsadda.
- 5) Chief Engineer (North) Public Health Engineering Department Khyber Pakhtunkhwa Peshawar.
- 6) Secretary Finance Government of Khyber Pakhtunkhwa Civil Secretariat Peshawar.

.....(RESPONDENTS)

JOINT PARA-WISE COMMENTS ON BEHALF OF RESPONDENTS NO.1-6.

Respectfully Sheweth:

PRELIMINARY OBJECTIONS.

1. That the petition is bad due to non-joinder and mis joinder of necessary parties.
2. That the petitioner has no cause of action.
3. That the petitioner has neither cause of action nor locus standi.
4. That the petitioner has stopped by his own conduct.
5. That the petitioner has not come to the court with clean hands and hit by laches.
6. That the petitioner is time barred.

FACTS:-

- 1- Pertains to record hence no comment.
- 2- Correct to the extent. As the petitioner is ex-land owner and the tube well is installed and located adjacent to his property. He has been appointed as Operator-cum-Chowkidar, therefore he is responsible for the maintenance and security of tube well in the best public interest.
- 3- Correct. But the petitioner concealed facts from this Honourable Court. That the post and designation of Operator (BPS-07) is different from Operator-cum-Chowkidar & Operator-cum-Valve man as per Policy of the Provincial Government.
- // 4- Incorrect. Every sanctioned post from Finance Department must carry designation and Basic Pay Scale. //

ATTESTED

5- Incorrect. The Government of Khyber Pakhtunkhwa upgraded the post of Operator-cum-Chowkidar & Operator-cum-Valve man from (BPS-01) to (BPS-03) in June 2015. Now they are serving in BPS-03 as per Government Policy.

6- Incorrect. As explained in Para 2 and 5 of the above.

7- Correct.

8- Correct. As explained in Para 2 and 5 of the above.

9- Incorrect. That the Khyber Pakhtunkhwa Service Tribunal is functional now.

10- Incorrect. The petitioners were appointed as Operator-cum-Chowkidar & Operator-cum-Valve man as per Government Policy. That the matter do fall within the purview of terms & condition of service and the terms & conditions of service will be agitated before the Khyber Pakhtunkhwa Service Tribunal under Article 212 of Constitution of Pakistan.

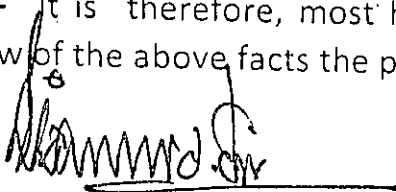
11- That the petitioner has alternate remedy and he may approach to the Khyber Pakhtunkhwa Service Tribunal Peshawar.

130

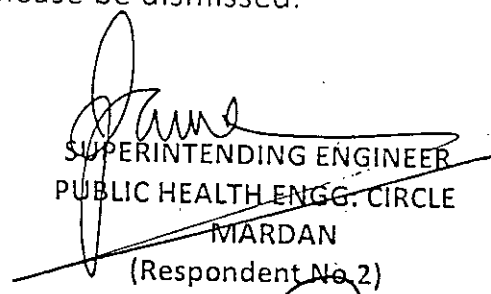
GROUND:-

- A) That the petitioners have been treated as per appointment orders.
- B) As explained in para-2 of facts.
- C) Incorrect. The petitioners have been dealt in accordance with Law/Policy.
- D) Incorrect. The petitioners have not discriminated whatsoever nor have any fundamental rights been violated.
- E) The respondents seek permission to raise additional grounds at the time of arguments.

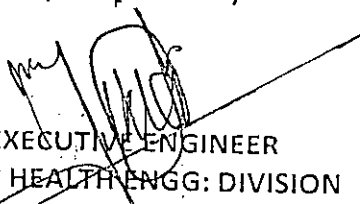
PRAYER:- It is therefore, most humbly prayed before this Honorable Court, that in view of the above facts the petition may please be dismissed.



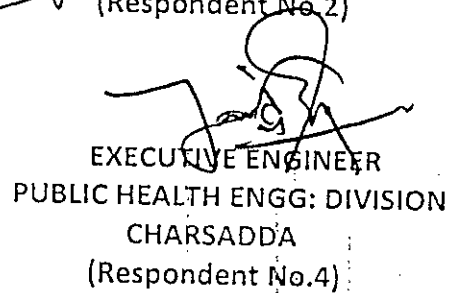
SECRETARY TO GOVT: OF KPK
PUBLIC HEALTH ENGG: DEPARTMENT
PESHAWAR
(Respondent No.1)



SUPERINTENDING ENGINEER
PUBLIC HEALTH ENGG. CIRCLE
MARDAN
(Respondent No.2)



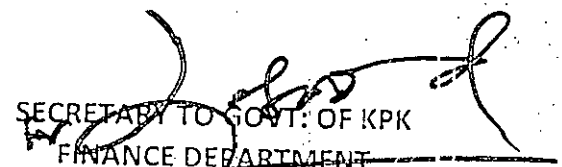
EXECUTIVE ENGINEER
PUBLIC HEALTH ENGG: DIVISION
MARDAN
(Respondent No.3)



EXECUTIVE ENGINEER
PUBLIC HEALTH ENGG: DIVISION
CHARSADDA
(Respondent No.4)



CHIEF ENGINEER
PUBLIC HEALTH ENGG: DEPARTMENT
PESHAWAR
(Respondent No.5)

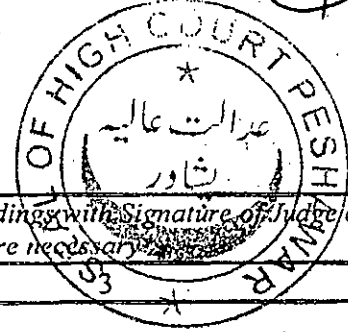


SECRETARY TO GOVT: OF KPK
FINANCE DEPARTMENT
PESHAWAR
(Respondent No.6)

ATTESTED

PESHAWAR HIGH COURT PESHAWAR
FORM "A"

ORDER SHEET



Serial No. of Order or Proceedings	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary
1	2	
	17.10.2018	<p><u>WP No. 3121-P/2017.</u></p> <p>Present:</p> <p style="text-align: right;">Mr. Amjad Ali, Advocate for petitioners.</p> <p style="text-align: center;">*****</p> <p><u>ROOH-UL-AMIN KHAN, J:-</u> Through instant writ petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, petitioners have prayed that the respondents may please be directed to maintain the designation of Operator in their appointment letter as per corresponding Basic Pay Scale for the post of Operator issued from the Finance Department and delete the work chowkidar/valve main from the appointment letter.</p> <p>2. Learned counsel for petitioners when confronted with the prayer of the writ petition which divulged that the case pertain to terms and conditions of service and para-9 of writ petition 'that since the Khyber Pakhtunkhwa Service</p>

Leah Sam

ATTEST
EXAMINER
Peshawar High Court

03 NOV 2018

ATTESTED

19

Tribunal is not functional due to not taking charge of chairman Service Tribunal, he candidly conceded that the case falls in terms and conditions of service therefore, requested that the same may be transmitted to the Service Tribunal.

3. Admittedly, petitioners are civil servants and their case falls in terms and conditions of civil servant, whereas, according to the Khyber Pakhtunkhwa Service Tribunal Rules, 1974, each employee shall file separate appeal even against the common grievance, hence this petition cannot be transmitted to the Service Tribunal.

4. In view of the above, this writ petition is dismissed. However, the petitioner would be at liberty to approach the proper forum, if so advised.

Announced on;
17th of October, 2018

JUDGE
JUDGE

5387
Date of Presentation of Application 17-10-18
No. of Pages 2
Filing Fee
Court Fee
Date of Preparation of Copy 3-11-18
Date of Delivery of Copy 3-11-18
Received By

Zarshad (DB) Hon'ble Mr. Justice Rooh-ul-Amin Khan & Hon'ble Mr. Justice Qalandar Ali Khan

CERTIFIED TO BE TRUE COPY

EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 87 of
The Constitution of 1973

03 NOV 2018

ATTESTED

(16) (11)

Annex "C"

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

Service Appeal No. _____/2018

Jan Nisar S/o Ghulam Qadar
R/o Nawan Kali Rustam Tehsil & District Mardan
Designation Pump Operator-cum-Valve man,
Department of Public Health Engineering Circle, Mardan
...Appellant

Versus

1. Government of KPK through Secretary Public Health Engineer Civil Secretariat, KPK, Peshawar.
2. Superintendent Engineer Public Health Circle, Mardan.
3. Executive Engineer Public Health Nizd Eidga Division, Mardan.
4. Executive Engineer Public Health Division, Charsadda.
5. Chief Engineer Public Health Civil Secretariat KPK Peshawar.
6. Secretary Finance Civil Secretariat, KPK Peshawar.

...Respondents

SERVICE APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974 AGAINST THE ACT, COMMISSION AND OMISSION OF THE RESPONDENTS AS THEY ARE TAKING DUTY OF TUBE WELL OPERATOR FROM THE APPELLANTS AGAINST THE SALARY OF CHOWKIDAR POST IN BPS-1, WHICH IS ILLEGAL, UNLAWFUL AND THE RESPONDENTS ARE LIABLE TO BE RESTRAINED FROM TAKING DUTY OF TUBE WELL OPERATOR FROM THE APPELLANT OR LIABLE TO PAY PERKS AND PRIVILEGES OF TUBE WELL OPERATOR

~~WES/EP~~

(17) (2)

Respectfully Submitted:

The appellant humbly submits as under;-

1. That the appellant is serving as per his designation detailed in the appointment letter as operator-cum-Chowkidar/ Operator-cum-Valve man since 2009. (**Copy of appointment order of appellant is Annex "A"**)
2. That the appellant is performing the duty of Operator as well as Chowkidar since his appointment.
3. That the scale of the Operator is BPS-7.
4. That there is no designation as Operator-cum-Chowkidar/ cum-Valve man in BPS-1 as per sanction order issued from the Finance Department KPK.
5. That the post of Chowkidar/ Valve man is carrying BPS-1.
6. That appellant is treated as Class-IV in BPS-1 as per his appointment letter inspite of the fact that appellant is being subjected to duty of Chowkidar in addition to the duty of Tube-Well Operator.
7. That appointment letter is issued as per sanction of post from the Finance Department by the competent authority.
8. That being aggrieved, the petitioner filed departmental appeal, before respondent No.1, but with no response. (**Copy of departmental appeal is Annex "B"**)
9. That thereafter, being aggrieved, the appellant filed W.P.No.3121/2017 before the hon'ble Peshawar High Court, Peshawar, wherein, respondents filed comments wherein, in para 2 admitted that duty of Operator as well as Chowkidar is taken from appellant. (**Copy of writ petition is Annex "C" and comments is Annex "D"**)

ATTESTED

10. That the hon'ble High Court vide order dated ~~17-10-18~~, directed the petitioner to approached to proper forum for his redressal.

11. That being aggrieved, the appellant are filing this service appeal on the following grounds amongst others.

GROUNDS

- A. Because the competent authority is bound to pass appointment order as per the sanction of post order issued from the Finance Department, wherein, an appointment can be either Chowkidar (Class-IV) or Operator or accordingly he can be designated both with both salaries when both duties are taken from appellant.
- B. Because it is against the fundamental rights enshrined in the Constitution of Pakistan, 1973 that double duties that is one of Operator and the other of Chowkidar is being obtained from the appellant and the wages is not granted in accordance with law perks and privileges of operator and Chowkidar.
- C. Because appellant has not been dealt in accordance with law therefore, downtrodden Article 4 of Constitution of Pakistan, 1973.
- D. Because appellant has been discriminated, wherein fundamental right of appellants guaranteed under Articles 25 & 27 of the Constitution of Pakistan 1973 has been seriously infringed.

It is, therefore, most humbly prayed that appellant may please be granted salary, perks and privileges of Operator as well as Chowkidar/ Valve-man from date of appointment with all back benefits.

OR IN ALTERNATIVE

It is prayed that respondents may please be restrained from taking duty of tube well Operator from the appellant in future against the salary of

ATTESTED

3
18

Chowkidar Post in BPS-1, while granting past benefits of Operator plus Chowkidar/ Valve-man.

(4)

Any other relief deemed appropriate in the circumstances of the case, may also be graciously granted in favour of appellant.

(19)

Jamir
Appellant

Through

Amjad Ali
Amjad Ali (Madan)
Advocate
Supreme Court of Pakistan

AFFIDAVIT

I, do hereby affirm and declare on oath that the contents of the appeal are true and correct to the best of my knowledge and belief and nothing material has been concealed from this hon'ble Tribunal.

Jamir
Deponent



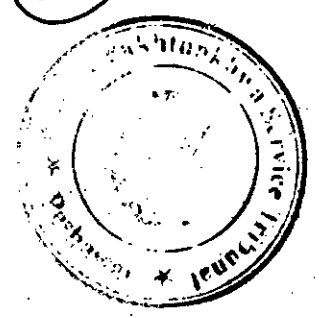
ATTESTED

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

20

SERVICE APPEAL NO. 267/2019

Date of institution ... 22.02.2019
Date of judgment ... 02.03.2020



Jan Nisar S/o Ghulam Qadar
R/o Nawan Kali Rustam Tehsil & District Mardan
Designation Pump Operator-cum-Valve man,
Department of Public Health Engineering Circle, Mardan

... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Public Health Engineer Civil Secretariat, Khyber Pakhtunkhwa, Peshawar.
 2. Superintendent Engineer Public Health Circle, Mardan.
 3. Executive Engineer Public Health Nizd Eidga Division, Mardan.
 4. Executive Engineer Public Health Division, Charsadda.
 5. Chief Engineer Public Health Civil Secretariat Khyber Pakhtunkhwa Peshawar.
 6. Secretary Finance Civil Secretariat, Khyber Pakhtunkhwa, Peshawar.
- ... (Respondents)

SERVICE APPEAL UNDER SECTION-4 OF SERVICE TRIBUNAL ACT, 1974, AGAINST THE ACT, COMMISSION AND OMISSION OF THE RESPONDENTS AS THEY ARE TAKING DUTY OF TUBE WELL OPERATOR FROM THE APPELLANTS AGAINST THE SALARY OF CHOWKIDAR POST IN BPS-1, WHICH IS ILLEGAL, UNLAWFUL AND THE RESPONDENTS ARE LIABLE TO BE RESTRAINED FROM TAKING DUTY OF TUBE WELL OPERATOR FROM THE APPELLANT OR LIABLE TO PAY PERKS AND PRIVILEGES OF TUBE WELL OPERATOR.

M. Amin
23.2.2020

Mr. Amjid Ali (Mardan), Advocate .. For appellant.
Mr. Muhammad Jan, Deputy District Attorney .. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI .. MEMBER (JUDICIAL)
MR. MIAN MUHAMMAD .. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Counsel for

the appellants and¹ Mr. Muhammad Jan, Deputy District Attorney
alongwith. Mr. Asghar Shah, Head Clerk for the respondents present.

Arguments heard and record perused.

ATTESTED
[Signature]
MEMBER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

2. Our this judgment shall disposed of above mentioned service appeal as well as

(21)

I. Service Appeal No. 268/2019 titled "Muhammad Arshad Versus Government of Khyber Pakhtunkhwa through Secretary Public Health Engineer Civil Secretariat, Khyber Pakhtunkhwa, Peshawar and five others",

II. Service Appeal No. 269/2019 titled "Muhammad Waleed Versus Government of Khyber Pakhtunkhwa through Secretary Public Health Engineer Civil Secretariat, Khyber Pakhtunkhwa, Peshawar and five others",

III. Service Appeal No. 270/2019 titled "Sadiq Ali Versus Government of Khyber Pakhtunkhwa through Secretary Public Health Engineer Civil Secretariat, Khyber Pakhtunkhwa, Peshawar and five others",

IV. Service Appeal No. 271/2019 titled "Hussain Ahmad Versus Government of Khyber Pakhtunkhwa through Secretary Public Health Engineer Civil Secretariat, Khyber Pakhtunkhwa, Peshawar and five others",

V. Service Appeal No. 272/2019 titled "Aftab Ahmad Versus Government of Khyber Pakhtunkhwa through Secretary Public Health Engineer Civil Secretariat, Khyber Pakhtunkhwa, Peshawar and five others",

VI. Service Appeal No. 273/2019 titled "Dawa Khan Versus Government of Khyber Pakhtunkhwa through Secretary Public Health Engineer Civil Secretariat, Khyber Pakhtunkhwa, Peshawar and five others",

VII. Service Appeal No. 274/2019 titled "Aziz-ur-Rahman Versus Government of Khyber Pakhtunkhwa through Secretary

ATTENDED

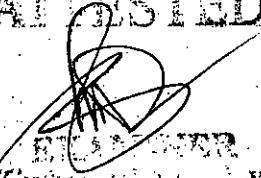
VII.

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Public Health Engineer Civil Secretariat, Khyber Pakhtunkhwa, Peshawar and five others", 22

- VIII. Service Appeal No. 275/2019 titled "Zarwar Hussain Versus Government of Khyber Pakhtunkhwa through Secretary Public Health Engineer Civil Secretariat, Khyber Pakhtunkhwa, Peshawar and five others",
- IX. Service Appeal No. 276/2019 titled "Atta Ullah Shah Versus Government of Khyber Pakhtunkhwa through Secretary Public Health Engineer Civil Secretariat, Khyber Pakhtunkhwa, Peshawar and five others",
- X. Service Appeal No. 277/2019 titled "Arshad Ghani Versus Government of Khyber Pakhtunkhwa through Secretary Public Health Engineer Civil Secretariat, Khyber Pakhtunkhwa, Peshawar and five others",
- XI. Service Appeal No. 278/2019 titled "Abbas Khan Versus Government of Khyber Pakhtunkhwa through Secretary Public Health Engineer Civil Secretariat, Khyber Pakhtunkhwa, Peshawar and five others",
- XII. Service Appeal No. 279/2019 titled "Haji Waheed Ullah Versus Government of Khyber Pakhtunkhwa through Secretary Public Health Engineer Civil Secretariat, Khyber Pakhtunkhwa, Peshawar and five others" and
- XIII. Service Appeal No. 280/2019 titled "Hussain Ahmad Versus Government of Khyber Pakhtunkhwa through Secretary Public Health Engineer Civil Secretariat, Khyber Pakhtunkhwa, Peshawar and five others" as common question of law and facts are involved in all the aforementioned service appeal.
3. Brief facts of the cases as per present appeals are that some of the appellants were appointed as Pump Operator-cum-Valve man.

M. Hussain
2.3.2020

ATTESTED

Secretary
Public Health Engineer Civil Secretariat
Peshawar

and some of the appellants were appointed as Operator-cum-Chowkidars in the Public Health Department although there is no designation as operator-cum-Chowkidar and Operator-cum-Valve man in BPS-1 as per sanction order issued from the Finance Department Khyber Pakhtunkhwa. They were/are performing double duties of Operator-cum-Valve man/ Operator-cum-Chowkidar since their appointment. The post of Chowkidar/Valve man is Class-IV carrying BPS-1 while the scale of Operator is BPS-7 and the appellants were/are treated as Class-IV in BPS-1 and were/are receiving salary of post of Class-IV. They filed joint departmental appeal to Secretary Public Health Engineering Government of Khyber Pakhtunkhwa Civil Secretariat Peshawar but the same was not responded, therefore, the appellant filed Writ Petition before the Worthy High Court with the pray that the respondents may be directed to maintain the designation of Operator in their appointment letter as per corresponding Basic pay Scale for the post of Operator issued from finance Department and delete the work of Chowkidar/Valve man from the appointment letter but the Writ Petition was disposed with the observations that admittedly, the petitioners are civil servants and their case falls in terms and conditions of civil servant, whereas, according to the Khyber Pakhtunkhwa Service Tribunal Rules, 1974, each employee shall file separate appeal even against the common grievance, hence this petition cannot be transmitted to the Service Tribunal. However, the petitioners were held at liberty to approach the proper forum, if so advised vide judgment dated 17.10.2018. Hence, the service

appeals.

4. Respondents, were summoned who contested the appeal by filing written reply/comments.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

23.12.2020

5. Learned counsel for the appellants contended that some of the appellants were appointed as Operator-cum-Valve man and some of the appellants were appointed as Operator-cum-Chowkidar in the Public Health Department. It was further contended that as per sanctioned post order issued by the Finance Department an appointment can be either Chowkidar (Class-IV) or Operator but the appellants were/are performing double duties of Operators and Valve Man as well as Operators and Chowkidars but they were/are receiving salary of Chowkidar (Class-IV) while the post of Operator carrying BPS-7 and the appellants have been discriminated, therefore, prayed that the respondents may be directed to grant salary, perks and privileges of Operators as well as Chowkidars/Valve Man from the date of their appointment with all back benefits or the respondents may be restrained from taking duties of Operators in future against the salary of Chowkidar post BPS-1 and prayed for acceptance of appeals.

6. On the other hand, learned Deputy District Attorney for the respondents opposed the contention of learned counsel for the appellants and contended that under section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 any civil servant aggrieved from any final order whether original or appellate made by the departmental authority in respect of any of the terms and conditions of the service may within thirty days of communication of such order to him prefer an appeal to the Tribunal having jurisdiction in the matter but in the present appeal neither there is any original order nor appellate order, therefore, the service appeals are not maintainable. It was further contended that under rule 3 (2) of Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986 where the order of competent authority affects more than one civil servant

M. Khan
2.3.2022

ATTESTED
[Signature]
Deputy District Attorney
Peshawar

then every affected civil servant shall prefer appeal separately but in the present service appeals all the appellants have submitted joint departmental appeal (undated) to the departmental authority, therefore, the present service appeals are not maintainable and prayed that without touching the merit of the case, all the above mentioned service appeals may be dismissed.

7. Perusal of the record reveals that all the appellants have filed joint departmental appeal (undated) to the departmental authority and under rule 3 (2) of the Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986 where the order of competent authority affects more than one civil servant then every affected civil servant shall prefer the appeal separately but in the present service appeal all the appellants have submitted joint departmental appeal (undated) to the departmental authority, therefore, in our view, all the above mentioned service appeals are not maintainable due to filing of joint departmental appeal. Hence, the same are dismissed. However, the appellants are at liberty to file separate departmental appeals and after disposal of departmental appeals they are at liberty to file service appeals, if so advised, subject to all legal objections. Parties are left to bear their own costs. Files be consigned to the record room.

ANNOUNCED
02.03.2020

(Signature)
*
(MIAN MUHAMMAD)
MEMBER

(Signature)
(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 01/06/2020
 Number of Words 2400
 Copying Fee 26-00
 Regent 26-00
 Total 26-00
 Name of Applicant (Signature)
 Date of Completion of Copy 03-06-2020
 Date of Delivery of Copy 03-06-2020

26

Annex E

Secretary
Public Health Engineer
Govt. of Khyber Pakhtunkhwa
Civil Secretariat, Peshawar.

365
08/06/2020

DEPARTMENTAL APPEAL

204
08/06/2020

Sir,
The appellant humbly submits as under:-

1. That the appellants are serving as per there designation detailed in the appointment letter as operator-cum-Chowkidar/ Operator-cum-Valve man since 2009, 2010, 2012-2016. (Copy of appointment order of appellants are attached)
2. That the appellants are performing the duty of Operator as well as Chowkidar since their appointments.
3. That the scale of the Operator is BPS-7.
4. That there is no designation as Operator-cum-Chowkidar/ cum-Valve man in BPS-1 as per sanction order issued from the Finance Department KPK.
5. That the post of Chowkidar/ Valve man is carrying BPS-1.
6. That the appellants are treated as Class-IV in BPS-1 as per their appointment letter inspite of the fact that appellants are being subjected to duty of Chowkidar in addition to the duty of Operator.
7. That appointment letter is issued as per sanction of post from the Finance Department by the competent authority.
8. That petitioner filed a joint Departmental Appeal, wherein the KP Service Tribunal passed order dated 02.03.2020 for filing of separate departmental appeal. (Copy of order dated 02.03.2020 is attached).
9. That being aggrieved, the appellants are filing this departmental appeal on the following grounds amongst others:-

45
09-06-2020

ATTESTED

GROUNDS

- A. Because the competent authority is bound to pass appointment order as per the sanction of post order issued from the Finance Department, wherein, an appointment can be either Chowkidar (Class-IV) or Operator or accordingly he can be designated.
- B. Because it is against the fundamental rights enshrined in the Constitution of Pakistan, 1973 that double duties that is one of Operator and the other of Chowkidar are being obtained from the appellants and the wages are not granted in accordance with law and rules guarantee for both the posts.
- C. Because appellants have not been dealt in accordance with law therefore, downtrodden Article 4 of Constitution of Pakistan, 1973.
- D. Because appellants have been discriminated, wherein fundamental right of appellants guaranteed under Articles 25 & 27 of the Constitution of Pakistan 1973 has been seriously infringed:
- E. Because Qasim Khan, Faiz Mohammad, Zeeshan etc similarly placed has been granted BPS-3 from BPS-1 and BPS-6 from BPS-3 and appellant is also entitled to the same

It is, therefore, most humbly prayed that on acceptance of this Departmental Appeal, the designation of Operator in their appointment letter as per corresponding Basic Pay Scale for the post of Operator issued from the Finance Department may please be maintained and delete the word Chowkidar/ Valve man from their appointment letter.

OR IN ALTERNATE

It is prayed that duty of tube well Operator may please be not taken from appellant against the salary of Chowkidar Post in BPS-1.

ATTESTED

It is further prayed that the post of appellants may please be upgraded to BPS-6 from BPS-1 as per Provincial Government Policy like other employees of the Government, namely, Qasim Khan, Faiz Mohammad, Zeeshan etc as shown in pay rolls.

Any other relief deemed appropriate in the circumstances of the case, may also be graciously granted in favour of appellant.

28

APPELLANT

Jan Nisar

08/06/2020

Mr. Jan Nisar S/o Ghulam Qadar
R/o Nawan Kali Rustam Tehsil &
District Mardan,
Designation Pump Operator
Cum Valve man, Department
Public Health Engineering Circle,
Mardan.

So(E)

B

08.06.20

ATTESTED

Annex "F"

29

3.txt

Charsadda

S#: 1

P Sec:001 Month:July 2017
CA7020 -Executive Engineer PHE Div
EXECUTIVE ENGINEER PHE DI

Pers #: 00401407 Buckle:
Name: QASIM KHAN
PUMP OPERATOR
CNIC No.1710163917757
GPF Interest Applied
06 Active Temporary

NTN:
GPF #: 401407
Old #:

CA7020

PAYS AND ALLOWANCES:

0001-Basic Pay	15,100.00
1000-House Rent Allowance	1,029.00
1210-Convey Allowance 2005	1,932.00
1300-Medical Allowance	1,500.00
2148-15% Adhoc Relief All-2013	300.00
2199-Adhoc Relief Allow @10%	209.00
2211-Adhoc Relief All 2016 10%	1,266.00
2224-Adhoc Relief All 2017 10%	1,510.00

Gross Pay and Allowances
DEDUCTIONS:

GPF Balance 165,968.00		Subrc:	798.00
6505-GPF Loan Principal Instal	Bal: 20,000.00		1,000.00
3501-Benevolent Fund			600.00
4004-R. Benefits & Death Comp:			450.00

Total Deductions 2,848.00

19,998.00

D.O.B
17.03.1970
09 Years 06 Months 001 Days

LFP Quota:
NATIONAL BANK OF PAKCHARSADDA SUGAR
5009-3

ATTESTED

ATTESTED

30

2.txt

Charsadda

S#: 1

P Sec:001 Month:July 2018
CA7020 -Executive Engineer PHE Div
EXECUTIVE ENGINEER PHE DI

Pers #: 00401407 Buckle:

NTN:

Name: QASIM KHAN

GPF #: 401407

PUMP OPERATOR

Old #:

CNIC No.1710163917757

GPF Interest Applied

06 Active Temporary

CA7020

PAYS AND ALLOWANCES:

0001-Basic Pay	15,660.00
1000-House Rent Allowance	1,544.00
1210-Convey Allowance 2005	1,932.00
1300-Medical Allowance	1,500.00
2148-15% Adhoc Relief All-2013	300.00
2199-Adhoc Relief Allow @10%	209.00
2211-Adhoc Relief All 2016 10%	1,266.00
2224-Adhoc Relief All 2017 10%	1,566.00
2247-Adhoc Relief All 2018 10%	1,566.00
Gross Pay and Allowances	25,543.00

DEDUCTIONS:

GPF Balance 209,873.00		Subrc:	950.00
6505-GPF Loan Principal Instal	Bal: 8,000.00		1,000.00
3501-Benevolent Fund			600.00
4004-R. Benefits & Death Comp:			690.00

Total Deductions

3,240.00

22,303.00

D.O.B
17.03.1970

LFP Quota:
NATIONAL BANK OF PAKCHARSADDA SUGAR
4321179367

10 Years 06 Months 001 Days

ATTESTED

ATTESTED

31

1.TXT

S#: 1 Charsadda

Pers #: 00401407 Buckle:
Name: QASIM KHAN
PUMP OPERATOR
CNIC No.1710163917757
GPF Interest Applied
06 Active Temporary

P Sec:001 Month:July 2019
CA7020 -Executive Engineer PHE Div
EXECUTIVE ENGINEER PHE DI

NTN:
GPF #: 401407
Old #:

CA7020

PAYS AND ALLOWANCES:

0001-Basic Pay	16,220.00
1000-House Rent Allowance	1,544.00
1210-Convey Allowance 2005	1,932.00
1300-Medical Allowance	1,500.00
2148-15% Adhoc Relief All-2013	300.00
2199-Adhoc Relief Allow @10%	209.00
2211-Adhoc Relief All 2016 10%	1,266.00
2224-Adhoc Relief All 2017 10%	1,622.00
2247-Adhoc Relief All 2018 10%	1,622.00
Gross Pay and Allowances	27,837.00

DEDUCTIONS:

GPF Balance 184,493.00	Subrc:	950.00
6505-GPF Loan Principal Instal	Bal: 41,660.00	1,390.00
3501-Benevolent Fund		600.00
4004-R. Benefits & Death Comp:		690.00

Total Deductions

3,630.00
24,207.00

D.O.B 17.03.1970
11 Years 06 Months 001 Days

LFP Quota:
NATIONAL BANK OF PAKCHARSADDA SUGAR
4321179367

S#: 2 Charsadda

Pers #: 00401407 Buckle:
Name: QASIM KHAN

P Sec:001 Month:July 2019
CA7020 -Executive Engineer PHE Div
EXECUTIVE ENGINEER PHE DI

NTN:

Page 1

ATTESTED

ATTESTED

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SN: 1

Untitled

Pers #: 00660102
Name: ZEE SHAN
PUMP OPERATOR
CNIC No. 1710131715133
GPF Interest Applied
06 Active Temporary

Buckle:

P Seq: 001 Month: October 2019
CA7020 -Executive Engineer PHE Div
EXECUTIVE ENGINEER PHE DI
NTN:
GPF #: 660102
Old #:

PAYS AND ALLOWANCES:		CA7020	-
0001-Basic Pay		12,860.00	
1000-House Rent Allowance		1,544.00	
1210-Convey Allowance 2005		1,932.00	
1300-Medical Allowance		1,500.00	
2148-15% Adhoc Relief All-2013		270.00	
2199-Adhoc Relief Allow @10%		183.00	
2211-Adhoc Relief All 2016 10%		934.00	
2224-Adhoc Relief All 2017 10%		1,286.00	
2247-Adhoc Relief All 2018 10%		1,286.00	
Gross Pay and Allowances		23,081.00	
DEDUCTIONS:			
GPF Balance	15,697.00		
6503-GPF Loan Principal Instal		Bal: 43,500.00	Subrc: 950.00
3501-Benevolent Fund			1,500.00
4004-R. Benefits & Death Comp:			600.00
			690.00

Total Deductions

3,740.00

19,341.00

D.O.B
01.07.1984
07 Years 08 Months 000 Days

LFP Quota:
ALLIED BANK LIMITED TEHSIL BAZAR
0010063847050010

ATTESTED

ATTESTED

33

209

آسامیاں خالی ہیں

گورنمنٹ آف خیبر پختون خواہ پبلک ہیلتھ انجینئرنگ ڈویژن مردان

پبلک ہیلتھ انجینئرنگ ڈویژن مردان میں ٹیوپ ویل آپریٹری پی ایس 06 کی عارضی آسامیاں تعیناتی کے لئے گورنمنٹ آف خیبر پختون خواہ کے سرسبز و لڑکے کے مطابق خواہش مند امیدواروں سے درخواستیں مطلوب ہیں۔ جو کہ مندرجہ ذیل ہیں۔

ڈاٹر سپلائی سکیم پانچ کلاں، ڈاٹر سپلائی سکیم دور آباد، ڈاٹر سپلائی سکیم کوٹ کله، ڈاٹر سپلائی سکیم چراغ دین کله، ڈاٹر سپلائی سکیم شکر موری

شرائط:

۱۔ امیدوار کا خلیج مردان کارہائشی (ڈومینائل) کا ہونا ضروری ہے۔ ۲۔ عمر کی حد 18 سے 40 سال تک مقرر ہے۔

۳۔ سرکاری ملازمین اپنی محکموں کی وساطت سے درخواستیں ارسال کریں۔

۴۔ معذور اور اقلیتوں کا کوئی سپریم کورٹ کے فیصلے کے تحت اور گورنمنٹ آف خیبر پختون خواہ کی پالیسی کے مطابق ہوگی۔

۵۔ مقررہ تاریخ کے بعد کوئی بھی درخواست قابل قبول نہیں ہوگی۔

۶۔ آسامیوں میں کمی بیشی کی جاسکتی ہے۔

۷۔ صرف مندرجہ ذیل بالا شرائط پر پورا اترنے والے شارٹ لسٹ امیدواروں کو اسٹڈی اینڈ ویو کے لئے نکالا جائے گا۔

۸۔ خواہشمند امیدواران اپنی درخواستیں Superintending Engineer PHE Circle Marān ششکشی روڈ

مردان کے دفتر میں اوقات کار 09:00 تا 05:00 بجے تک بموردہ 04.09.2020 تک جمع کرا سکتے ہیں۔

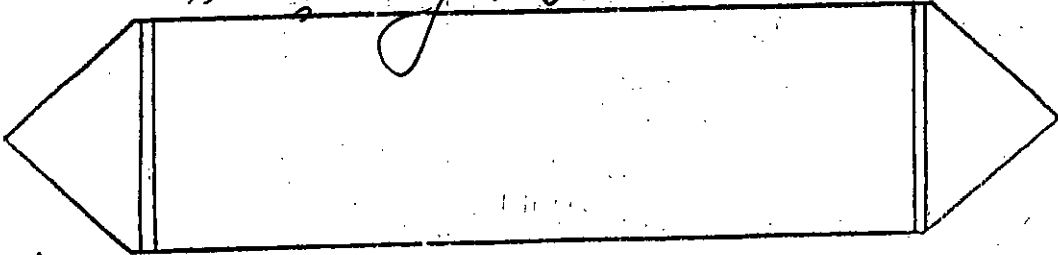
INF(P)2966/20

۹۔ نامکمل درخواست پر کوئی عمل درآمد نہیں کیا جائے گا۔

ایگزیکٹو انجینئر، پبلک ہیلتھ انجینئرنگ ڈویژن مردان

ATTESTED

بعدالت KP سروس پیرونی کے لئے



Appellant 2020ء منجانب

جناب نثار بنام وکیل پیرونی کے لئے

موزعہ مقدمہ دعویٰ جرم
Service Appeal
Sewal
Sewal

باعث تحریر آئندہ

ایڈووکیٹ نثار چان

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیرونی و جواب دہی وکل کاروائی متعلقہ آن مقام کے لئے

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دینے جواب دہی اور اقبال دعویٰ اور بسورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیرونی یا ڈگری یا یکطرفہ یا ایلیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیرونی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساتھ ساتھ پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائد اتوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیرونی نہ کوڑ کریں۔ لہذا وکالت نامہ لکھ دیا کہ مسترد ہے۔

المرقوم 2 ماہ 10 2020

accepted by
Rizwan

Accepted by
Asad Nabi

مقام
Baber Rajat
Peshawar

adv Taza Chan

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

C.M No. ____/2021

IN

Appeal No. 11540 /2020

Jan Nisar

..... Petitioner/Appellant

Versus

Govt of KP through Secretary Public Health Eng: & others

..... Respondents

APPLICATION FOR ALLOWING THE APPLICANT TO SUBMIT
PROCESS/ NOTICES FEE & SECURITY FEE AS PER ORDER SHEET
DATED 17.11.2020 OF THIS HONOURABLE TRIBUNAL

Respectfully Sheweth:

1. That the captioned case is fixed for hearing for 01.02.2021.
2. That as per directions of this honourable court, the applicant could not comply the direction of this honourable court.
3. That applicant is now ready to submit the required fee as per directions of this honourable Court.

*Period for deposit
is further extended for
3 working days.*

[Signature]
18/1/21

It is, therefore, prayed that on acceptance of this application, the applicant may very kindly be allowed to submit the requisite fee.

Jan Nisar

Petitioner/Appellant

Through

Asad

Asad Nabi
Advocate,
High Court Peshawar

Dated: 18.01.2021

AFFIDAVIT

All the contents of the application are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble Court.

Asad

ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.11540/2020

Jan Nisar S/O Ghulam Qaddar R/O Nawan Kallay Rustum Tehsil & District
Mardan.

_____ (Petitioner)

Versus

- 1) Govt. of Khyber Pakhtunkhwa through Secretary Public Health Engineering Department, Civil Secretariat Peshawar.
- 2) Superintending Engineer Public Health Engineering Circle Mardan.
- 3) Executive Engineer PHE Division Mardan.
- 4) Executive Engineer PHE Division Charsadda.
- 5) Chief Engineer, Public Health Engineering Department, Peshawar.
- 6) Secretary Finance Department, Khyber Pakhtunkhwa.

_____ (Respondents)

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BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 11540/2020

Jan Nisar S/O Ghulam Qadar R/O Nawan Kalay, Rustum, & Disst: Mardan (Operator Cum Valve Man) PHED Division Mardan.....Appellant.

V E R S U S

1. Govt: of Khyber Pakhtunkhwa through Secretary Public Health Engineering Department Peshawar.
2. Superintending Engineer ,PHE Circle Mardan
3. Executive Engineer, Public Health Engineering Division, Mardan.
4. Executive Engineer, Public Health Engineering Division, Charsadda.
5. Chief Engineer, Public Health Engineering Department, Peshawar.
6. Secretary Finance Department, Khyber Pakhtunkhwa

JOINT PARA-WISE COMMENTS ON BEHALF OF RESPONDENT NO. 1 to 6.

Respectfully Sheweth!

PRELIMINARY OBJECTIONS

1. The appellant have no cause of action / locus standi.
2. The appellant have not come to court with clean hands.
3. The present appeal is liable to be dismissed for mis joinder / non joinder of necessary and proper parties.
4. The appellant is estopped by his own conduct.
5. The instant appeal is not maintainable in the present form and also in the present circumstances of the issue.
6. The appeal is badly time barred.

REPLY ON FACTS:-

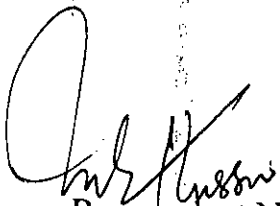
1. Pertains to the record.
2. Pertains to the record.
3. In reply, it is submitted that the post of Pump Operator (BPS-06) is different from Operator Cum Chowkidar and Operator Cum Valveman (BPS-03) as per policy of Provincial Govt., (Annex-A). Initially the Basic Pay Scale of the post of Operator Cum Chowkidar and Operator Cum Valveman was (BPS-01), which was upgraded to (BPS-03) in June 2015 by the Government of Khyber Pakhtunkhwa. In the same manner Basic Pay Scale of Pump Operator was upgraded from (BPS-04) to (BPS-06) (Annex-B).
The petitioner was appointed as per sanctioned post from Finance Department and as evident from the designation of the post i.e. Operator Cum Chowkidar and Operator Cum Valveman, the petitioner is responsible for the security and operation of the scheme in the best public interest. Furthermore, in light of Minutes of Meeting held on 19-05-2021 in Finance Department regarding declaration of unessential / redundant posts as dying cadre, it was decided that the posts of Pump Operator (BPS-06) shall be declared redundant / dying cadre and on vacation, all such posts shall stand abolished automatically (Annex-C).
4. Incorrect. The scale of operator-cum-chowkidar and operator-cum-valveman is BPS-03. Petitioner has been appointed as operator-cum-chowkidar, therefore he is responsible for the operation and security of tube well in the best public interest.
5. Pertains to record.
6. As stated Incorrect detail reply already given in Para 3 above.
7. Pertains to the record, however, instant service appeal as barred by Law.
8. In reply, it is submitted that the appellant have no locus standi and cause of action to file the instant service appeal.

REPLY ON GROUNDS:-

- A. Incorrect. As explained in Para 3 & 4 of the facts.
 B. That the appellant have been treated as per appointment orders, in accordance with Law.
 C. Incorrect. The appellant have been dealt in accordance with law/ policy.
 D. Incorrect. The appellant have not been discriminated what so ever nor has any fundamental rights being violated.
 E. That the respondents seek permission to raise additional grounds at the time of arguments please.

PRAYER:

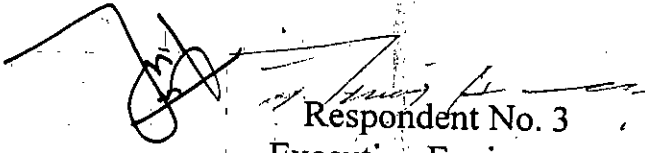
It is therefore most humbly prayed before this Honorable service tribunal that the instant service appeal may please be dismissed.



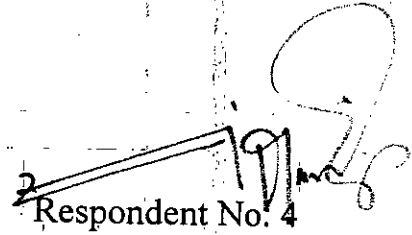
Respondent No. 1
 Secretary to
 Govt: of Khyber Pakhtunkhwa
 Public Health Engg: Department
 Peshawar



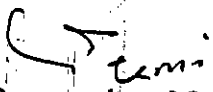
Respondent No. 2
 Superintending Engineer
 Public Health Engg: Circle
 Mardan



Respondent No. 3
 Executive Engineer
 Public Health Engg: Division
 Mardan



Respondent No. 4
 Executive Engineer
 Public Health Engg: Division:
 Charsadda



Respondent No. 5
 Chief Engineer Public Health Engg: Deptt:
 KPK Peshawar



Respondent No. 6
 Secretary Finance
 Civil Secretariat Peshawar

MOST IMMEDIATE



**GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT**

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

No. BO.I/FD/5-17/2020-21 (Dying Cadre)

Dated Peshawar the 26/05/2021

To

1. The Additional Chief Secretary,
Government of Khyber Pakhtunkhwa,
Planning & Development Department.
2. The Senior Member,
Government of Khyber Pakhtunkhwa,
Revenue & Estate Department.
3. All Administrative Secretaries to,
Government of Khyber Pakhtunkhwa.

Subject: - DECLARATION OF UNESSENTIAL / REDUNDANT POSTS AS DYING CADRE

Dear Sir,

I am directed to refer to the subject noted above and to state that in pursuance of the decision of the Provincial Cabinet taken in its Special Budget meeting held on 19.06.2020, "to undertake next phase of expenditure review to realize efficiency savings as part an integrated sectoral review process," and an extensive exercise conducted by Finance Department, in consultation with major Departments on the subject matter, followed by the decisions taken in a meeting held under the chairmanship of Special Secretary Finance on 19/05/2021 at 11.30 am in Finance Department, the following instructions are issued for compliance:

- 1) All unessential/redundant posts, identified by Finance Department and confirmed by the relevant Administrative Departments as mentioned in the statement (**Annex.I**) are hereby declared as dying cadre with immediate effect. All these posts shall be personal to the present incumbent and after becoming vacant as a result of retirement etc. no further recruitment will be made. On vacation, these posts shall stand abolished automatically.
- 2) All vacant posts falling in the category of dying cadre shall be abolished forthwith subject to verification of the relevant Departments. In this regard, the Departments will immediately communicate DDO wise breakup of the dying cadre posts for formal abolition from the SAP System.
- 3) All posts of Behishti, Caller, Khalasi, Farash, Badraga and Barkandaz in all Departments are hereby declared as dying cadre with immediate effect. On vacation all such dying cadre posts shall stand abolished automatically. However, existing vacant posts will be abolished after verification by the Departments in due course of time.

2. I am further directed to state that the Principal Accounting Officers shall make sure that no appointment is made against a vacant post of dying cadre.

Yours faithfully,

(SAEED AHMAD KHAN)
BUDGET OFFICER.I

Encls. as above:

Endst: No. & Date Even.

Copy forwarded for information and necessary action to the:-

1. Accountant General, Khyber Pakhtunkhwa.
2. All District Controller of Accounts/District Accounts Officers, Khyber Pakhtunkhwa.
3. Director FMIU, Finance Department with the request to lock all the dying cadre posts in the SAP System forthwith to avoid appointment against these posts.
4. All Budget Officers II-XI/PAC/NMAs, Finance Department for necessary action.
5. P.S to Secretary Finance.
6. P.Ss to Special Secretary Finance including NMAs.
7. P.A to Additional Secretary (Budget), Finance Department.
8. P.A to Deputy Secretary (Budget.III), Finance Department.

BUDGET OFFICER.I

DYING CADRE POSTS 2020-21


Sl. No.	Category	Department	Post	2020	2021	2022	2023
1	Settled	ELEMENTARY & SECONDARY EDUCATION DEPARTMENT	BEHISHTI	3,4,5,9	1,674	1206	476
2	Settled	ELEMENTARY & SECONDARY EDUCATION DEPARTMENT	CALLER	3,4,5	689	457	237
3	Settled	ELEMENTARY & SECONDARY EDUCATION DEPARTMENT	FARASH	3	1	1	-
4	Settled	ELEMENTARY & SECONDARY EDUCATION DEPARTMENT	HOUSE KEEPER	7	2	0	2
5	Settled	ELEMENTARY & SECONDARY EDUCATION DEPARTMENT	WATER CARRIER	3	6	45	-39
7	NMA's	ELEMENTARY & SECONDARY EDUCATION DEPARTMENT	BEHISHTI	2,3,4	355	292	63
8	NMA's	ELEMENTARY & SECONDARY EDUCATION DEPARTMENT	CALLER	1,2,3,4	2025	1705	320
9	NMA's	ELEMENTARY & SECONDARY EDUCATION DEPARTMENT	HOUSE KEEPER	5	1	1	-
10	NMA's	ELEMENTARY & SECONDARY EDUCATION DEPARTMENT	TANDOORCHI	3,4	10	4	6
11	NMA's	ELEMENTARY & SECONDARY EDUCATION DEPARTMENT	WATER CARRIER	3,4	60	53	7
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT Total					4823	3764	1072
1	Settled	Health Department	ASSISTANT HOUSE KEEPER	7	1	1	-
2	Settled	Health Department	AYA	2	-	1	-1
3	Settled	Health Department	AYA	3	14	7	7
4	Settled	Health Department	AYA	4	10	21	-11
5	Settled	Health Department	BADRAGA	3	8	6	2
6	Settled	Health Department	BEHISHTI	1	-	2	-2
7	Settled	Health Department	BEHISHTI	2	-	32	-32
8	Settled	Health Department	BEHISHTI	3	675	695	-20
9	Settled	Health Department	BEHISHTI	4	-	121	-121
10	Settled	Health Department	BEHISHTI	5	-	13	-13
11	Settled	Health Department	BLACKSMITH	4	2	2	-
12	Settled	Health Department	CSSD OPERATOR	12	2	-	2
13	Settled	Health Department	DIETICIAN	7	2	1	1
14	Settled	Health Department	HOUSE KEEPER	7	3	1	2
15	Settled	Health Department	HOUSE KEEPER	10	23	15	8
16	Settled	Health Department	HOUSE KEEPER	12	4	4	-
17	Settled	Health Department	HOUSE KEEPER-10	10	1	-	1
18	Settled	Health Department	HOUSE KEEPER-7	7	1	-	1
19	Settled	Health Department	HOUSE OFFICER	17	30	10	20
20	Settled	Health Department	LANGARI	3	-	8	-8
21	Settled	Health Department	MESSEUR	7	1	1	-
22	Settled	Health Department	MIDWIFE SUPERVISOR	16	3	3	-
23	Settled	Health Department	MISALCHI	3	1	1	-
24	Settled	Health Department	MODLER	12	1	-	1
25	Settled	Health Department	PACKER	3	3	2	1
26	Settled	Health Department	RECEPTIONIST	5	7	2	5
27	Settled	Health Department	RECEPTIONIST	6	2	2	-
28	Settled	Health Department	RECEPTIONIST	7	12	8	4
29	Settled	Health Department	RECEPTIONIST	8	4	4	-
30	Settled	Health Department	REFRECTIONIST	10	3	1	2
31	Settled	Health Department	RESTORER	4	7	7	-
32	Settled	Health Department	UTENCL CLEANER	3	1	1	-
33	Settled	Health Department	WAITER	3	1	1	-
34	Settled	Health Department	WATCHMAN	2	1	1	-
35	NMA's	Health Department	AYA	4	1	1	-
36	NMA's	Health Department	BADRAGA	3	4	4	-
37	NMA's	Health Department	BADRAGA	4	14	12	2
38	NMA's	Health Department	BEHISHTI	3	251	257	-6
39	NMA's	Health Department	BEHISHTI	4	21	19	2
40	NMA's	Health Department	BEHISHTI-1	1	-	5	-5
41	NMA's	Health Department	BEHISHTI-2	2	-	3	-3
42	NMA's	Health Department	BEHISHTI-3	3	62	62	-
43	NMA's	Health Department	BEHISHTI-4	4	42	46	-4
44	NMA's	Health Department	HOUSE KEEPER	12	4	3	1
45	NMA's	Health Department	MESSEUR	3	1	1	-
46	NMA's	Health Department	MESSEUR	12	1	1	-
47	NMA's	Health Department	MID WIFE	6	45	1	44
48	NMA's	Health Department	MIDWIFE	5	143	139	4
49	NMA's	Health Department	MIDWIFE	6	56	50	6
50	NMA's	Health Department	MIDWIFE	7	7	3	4
51	NMA's	Health Department	MIDWIFE	12	17	4	13

Chief Officer
 Health Department
 District Hospital
 Peshawar

No.	Category	Department	Job Title	Male	Female	Total	Others
52	NMAs	Health Department	RECEPTIONIST	7	1		1
53	NMAs	Health Department	REFRECTIONIST	16	1		1
54	NMAs	Health Department	WATER CARRIER	3	1	1	
55	NMAs	Health Department	WATER CARRIER	5	38	45	7
56	NMAs	Health Department	WATER CARRIER-3	3	10	9	4
57	NMAs	Health Department	WATER CARRIER-4	4	33	34	1
Health Department Total					1576	1674	98
1	Settled	Agriculture, Livestock & Fisheries	BADRAGA	5	4	4	
2	Settled	Agriculture, Livestock & Fisheries	BADRAGA	7		1	1
3	Settled	Agriculture, Livestock & Fisheries	BALQON MAKER	3	2	2	
4	Settled	Agriculture, Livestock & Fisheries	BEHISHTI	3	3	3	
7	Settled	Agriculture, Livestock & Fisheries	FARASH	3	1		1
8	Settled	Agriculture, Livestock & Fisheries	KHALASI	3	2	2	
9	Settled	Agriculture, Livestock & Fisheries	PLOUGH MAN	3	25	22	3
10	Settled	Agriculture, Livestock & Fisheries	SECURITY SURGEANT	7	1	1	
11	Settled	Agriculture, Livestock & Fisheries	SEPOYEE	3	3	3	
12	Settled	Agriculture, Livestock & Fisheries	TOBACCO CURRER	10	1	1	
13	Settled	Agriculture, Livestock & Fisheries	WATCHMAN	3	6	5	1
14	NMAs	Agriculture, Livestock & Fisheries	BADRAGA	3	10	10	
15	NMAs	Agriculture, Livestock & Fisheries	BLACKSMITH	5	1	1	
Agriculture, Livestock & Fisheries Total					59	55	4
1	Settled	IRRIGATION DEPARTMENT	BADRAGA	3	162	156	6
2	Settled	IRRIGATION DEPARTMENT	BARKANDAZ	3	54	53	1
3	Settled	IRRIGATION DEPARTMENT	BASTA BARDAR	3	22	22	
4	Settled	IRRIGATION DEPARTMENT	BEHISHTI	3	1	1	
5	Settled	IRRIGATION DEPARTMENT	BLACKSMITH	5	1	1	
6	Settled	IRRIGATION DEPARTMENT	CHAINMAN	4	10	7	3
7	Settled	IRRIGATION DEPARTMENT	FOREMAN	6	6	5	1
8	Settled	IRRIGATION DEPARTMENT	WORK MISTRI	10	10	9	1
9	Settled	IRRIGATION DEPARTMENT	QAFADAR	3	28	28	
10	Settled	IRRIGATION DEPARTMENT	FARASH	3	1	1	
11	Settled	IRRIGATION DEPARTMENT	SIGNALLOR	5	25	22	3
12	Settled	IRRIGATION DEPARTMENT	FERRO PRINTER	3	4	4	
13	Settled	IRRIGATION DEPARTMENT	CANDIDATE ZILLADAR	3	4	1	3
14	Settled	IRRIGATION DEPARTMENT	APPRENTICE PATWARI	3	14	8	6
15	Settled	IRRIGATION DEPARTMENT	MATE	4	221	205	16
IRRIGATION DEPARTMENT Total					563	523	40
1	Settled	Revenue & Estate	BEHISHTI	3	3	3	
2	Settled	Revenue & Estate	DAK RUNNER	3	15	15	
3	Settled	Revenue & Estate	DISHWASHER	3	2		2
4	Settled	Revenue & Estate	FARASH	3	1		1
5	Settled	Revenue & Estate	INTERNEE	1	40	25	15
6	Settled	Revenue & Estate	JAREEB KASH	1	220	67	153
7	Settled	Revenue & Estate	KHANSAMA	3	7	7	
8	Settled	Revenue & Estate	MISALCHI	3	1	1	
9	Settled	Revenue & Estate	NAIB QASID (JAREEB KASH)	1	60	76	16
10	Settled	Revenue & Estate	RECORD LIFTER	3	3	3	
11	Settled	Revenue & Estate	WAITER	6	15	11	4
12	Settled	Revenue & Estate	WAITER/BEARER	1	2		2
13	Settled	Revenue & Estate	WAITER-6	6	2	2	
14	Settled	Revenue & Estate	WAITER-96	6	1		1
15	Settled	Revenue & Estate	BEHISHTI	3	2	2	
16	Settled	Revenue & Estate	BEHISHTI	4	29	29	
17	Settled	Revenue & Estate	BEHISHTI-1	1	1		1
18	Settled	Revenue & Estate	BEHISHTI-2	2	2	1	1
19	Settled	Revenue & Estate	BEHISHTI-3	3	2	1	1
20	Settled	Revenue & Estate	BEHISHTI-4	4	6	6	
21	Settled	Revenue & Estate	JAREEB KASH	3	6	6	
22	Settled	Revenue & Estate	KHALASI	3	1	1	
23	Settled	Revenue & Estate	KHANSAMA-2	2	1		1
24	Settled	Revenue & Estate	KHANSAMA-4	4	1	1	
Revenue & Estate Total					423	257	166
1	Settled	Public Health Engineering	PUMP OPERATOR	6	1334	1184	150
2	Settled	Public Health Engineering	ASSTT. PUMP OPERATOR	4	21	21	
3	Settled	Public Health Engineering	BARKANDAZ	3	38	35	3


 Executive Officer
 District Revenue Office
 District Revenue Office
 District Revenue Office

4	Settled	Public Health Engineering	FERRO KHALASI	3	19	18	1
5	Settled	Public Health Engineering	JAMADAR	6	1	4	
7	Settled	Public Health Engineering	BADRAGA	3	13	20	-7
8	Settled	Public Health Engineering	BARKANDAZ	3	3	3	
9	Settled	Public Health Engineering	CARPENTER-CUM- BLACKSMITH	3	1	1	
10	Settled	Public Health Engineering	DAFADAR	3	1		1
11	Settled	Public Health Engineering	FITTER	3	2	1	1
12	Settled	Public Health Engineering	COLLY	3	2	2	
Public Health Engineering Total					1435	1286	149
1	Settled	Industries, Commerce and Technical Education	DAK RUNNER	3	1		1
2	Settled	Industries, Commerce and Technical Education	FARASH	3	1	1	
4	Settled	Industries, Commerce and Technical Education	BEHISHTI	3	11	8	3
5	Settled	Industries, Commerce and Technical Education	BEHISHTI	4		1	-1
6	Settled	Industries, Commerce and Technical Education	SHOP ATTENDANT	3	298	113	185
7	Settled	Industries, Commerce and Technical Education	SHOP ATTENDANT	4	4		4
8	Settled	Industries, Commerce and Technical Education	TANDOORCHI	3	2	2	
9	Settled	Industries, Commerce and Technical Education	WAITER	3	1	1	
11	NMAs	Industries, Commerce and Technical Education	BEHISHTI	4	3	3	
12	NMAs	Industries, Commerce and Technical Education	SHOP ATTENDANT	4	45	38	7
Industries, Commerce and Technical Education TOTAL					356	167	199


 Budget Officer-I
 Govt. of Khyber Pakhtunkhwa
 Finance Department



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

Dated Peshawar, the 30-06-2015

NOTIFICATION

NO.FD/SO(FR)7-20/2015 The competent authority has been pleased to accord approval to the upgradation of pay scales of the following provincial government employees with effect from 01-07-2015:

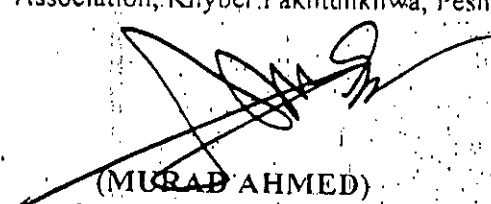
- a) Two pay scale upgradation will be allowed to all provincial government employees from BS-01 to BS-05.
 - b) One pay scale upgradation will be allowed to all provincial government employees from BS-06 to BS-15.
 - c) Special Compensatory Allowance equal to difference of notional upgradation of BS-16 to BS-17 will be allowed to all provincial government employees in BS-16 in lieu of upgradation.
 - d) Upgradation will be applicable to both pay and allowances with freezing limits and other conditions currently in vogue unless revised by the government.
 - e) Pay fixation on upgradation will be applicable w.e.f. 01-07-2015 or 01-12-2015 on the option to be given by the concerned employee.
 - f) All provincial government employees who have been upgraded en-block or individually in last five years starting from 01-07-2010 or have been granted special allowance / pay equal to 40 % or more of their normal pay shall not be entitled for the instant upgradation.
2. Pay of existing incumbents of the posts shall be fixed in higher pay scales at a stage next above the pay in the lower pay scale.
 3. All the concerned Departments will amend their respective service rules to the same effect in the prescribed manner.
 4. The above upgradation scheme shall not be applicable to employees of Autonomous Bodies, Semi-Autonomous Bodies and Public Sector Companies.
 5. Explanatory note and subsidiary instructions on the subject will be issued separately.

**SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT**

Endst No. & Date even.

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

- 1) PS to Additional Chief Secretary, FATA.
- 2) All Administrative Secretaries Government of Khyber Pakhtunkhwa.
- 3) Senior Member, Board of Revenue, Khyber Pakhtunkhwa Peshawar.
- 4) Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 5) Secretary to Governor, Khyber Pakhtunkhwa, Peshawar.
- 6) Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
- 7) Secretary Provincial Assembly, Khyber Pakhtunkhwa.
- 8) All Heads of Attached Departments in Khyber Pakhtunkhwa.
- 9) Registrar, Peshawar High Court, Peshawar.
- 10) All Deputy Commissioners, Political Agents, District & Sessions Judges / Executive District Officers Khyber Pakhtunkhwa.
- 11) Chairman, Khyber Pakhtunkhwa, Public Service Commission, Peshawar.
- 12) Registrar, Service Tribunal Khyber Pakhtunkhwa.
- 13) Secretary to Govt. of Punjab, Sindh and Baluchistan, Finance Department, Lahore, Karachi and Quetta.
- 14) The District Comptroller of Accounts, Peshawar, Mardan, Kohat, Bannu, Abbottabad, Swat and I Khan.
- 15) The Senior District Accounts Officer Nowshera, Swabi, Charsadda, Haripur, Mansehra and Dir Lower.
- 16) The Treasury Officer, Peshawar.
- 17) All District/Agency Accounts Officers in Khyber Pakhtunkhwa / FATA.
- 18) PSO to Senior Minister for Finance, Khyber Pakhtunkhwa.
- 19) PSO to Chief Secretary, Khyber Pakhtunkhwa.
- 20) Director Local Fund Audit, Khyber Pakhtunkhwa Peshawar.
- 21) PS to Finance Secretary.
- 22) PAs to All Additional Secretaries/ Deputy Secretaries in Finance Department.
- 23) All Section Officers/Budget Officers in Finance Department.
- 24) Mr. Jabir Hussain Bangash, President, Class-IV Association, Civil Secretariat, Khyber Pakhtunkhwa Peshawar.
- 25) Mr. Manzoor Khan, President, Civil Secretariat Driver Association Khyber Pakhtunkhwa, Peshawar.
- 26) Mr. Akbar Khan Mohmand, Provincial President, Class-IV Association, Khyber Pakhtunkhwa, Peshawar.


(MURAD AHMED)
SECTION OFFICER (FR)

5/4
Transpakt



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

Finance Department Civil Secretariat Peshawar

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

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No:BO.I/FD/5-17/2020-21 (Dying Cadre)

Dated Peshawar the 22/05/2021

To

1. The Additional Chief Secretary,
Government of Khyber Pakhtunkhwa,
Planning & Development Department.
2. The Senior Member,
Government of Khyber Pakhtunkhwa,
Revenue & Estate Department.
3. All Administrative Secretaries to
Government of Khyber Pakhtunkhwa.

Subject: - MINUTES OF THE MEETING HELD ON 19TH MAY, 2021 IN FINANCE DEPARTMENT REGARDING DECLARATION OF UNESSENTIAL REDUNDANT POSTS AS DYING CADRE

Dear Sir;

I am directed to refer to the subject noted above and to enclose herewith minutes of the meeting held under the chairmanship of Special Secretary Finance Department, Khyber Pakhtunkhwa on 19.05.2021 in the Committee Room of Finance Department, which are self-explanatory, for information and necessary action.

Yours faithfully,

Encls. as above.

(SAEED AHMAD KHAK)
BUDGET OFFICER-I

Endst: No. & Date Even.

Copy alongwith a copy of the minutes of the above mentioned meeting is forwarded for Information and necessary action to the:-

1. All Budget Officers II-XI/PAC/NMAs, Finance Department with the request to decide the cases pertaining to redesignation of certain posts, proposed as dying cadre, after due process.
2. P.S to Secretary Finance.
3. P.Ss to Special Secretary Finance including NMAs.
4. P.A to Additional Secretary (Budget), Finance Department.
5. P.A to Deputy Secretary (Budget.III), Finance Department.

BUDGET OFFICER-I

4. IRRIGATION DEPARTMENT					
S.NO	Designation	BPS	Sanctioned Posts	Filled Posts	Vacant
1	BADRAGA	3	-	-	-
2	BARKANDAZ	3	54	53	1
3	BASTA BARDAR	3	22	22	-
4	BEHSHTI	3	1	1	-
5	BLACKSMITH	5	1	1	-
6	CHAINMAN	4	10	7	3
7	FOREMAN	6	6	5	1
8	WORK MISTRI	10	10	9	1
9	DAFADAR	3	28	28	-
10	FARASH	3	1	1	-
11	SIGNALLOR	5	25	22	3
12	FERRO PRINTER		4	4	-
13	CANDIDATE ZILLADAR		4	1	3
14	APPRENTICE PATWARI		14	8	6
15	MATE		221	205	16
Total Settled Districts			401	367	34

5. Revenue & Estate					
S.No	Designation	BPS	Sanctioned Posts	Filled Posts	Vacant
1	BEHSHTI	3	3	3	-
2	DAKIRUNNER	3	15	15	-
3	DISHWASHER	3	2	-	2
4	FARASH	3	1	-	1
5	INTERNEE	1	40	25	15
6	JAREEB KASH	1	220	67	153
7	KHANSAMA	3	7	7	-
8	MISALCHI	3	1	1	-
9	NAIB QASID (JAREEB KASH)	1	60	76	(16)
10	RECORD LIFTER	3	3	3	-
11	WAITER	6	15	11	4
12	WAITER/BEARER	1	2	-	2
13	WAITER-6	6	2	2	-
14	WAITER-96	6	1	-	1
Total Settled Districts			372	210	162
15	BEHSHTI	3	2	2	-
16	BEHSHTI	4	29	29	-
17	BEHSHTI-1	1	1	-	1
18	BEHSHTI-2	2	2	1	1
19	BEHSHTI-3	3	2	1	1
20	BEHSHTI-4	4	6	6	-
21	JAREEB KASH	3	6	6	-
22	KHALASI	3	1	1	-
23	KHANSAMA-2	2	1	-	1
24	KHANSAMA-4	4	1	1	-
Total NMAs			51	47	4
Grand Total			423	157	166

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6. Public Health Engineering					
S.No.	Designation	BPS	Sanctioned Posts	Filled Posts	Vacant
1	PUMP OPERATOR	6	1334	1184	150
2	ASSTT. PUMP OPERATOR	4	21	21	-
3	BARKANDAZ	3	38	35	3
4	FERRO KHALASI	3	19	18	1
5	JAMADAR	6	1	-	-
6	Total Settled District		1413	1259	154
7	BADRAGA	3	13	20	(7)
8	BARKANDAZ	3	3	3	-
9	CARPENTER-CUM-BLACKSMITH	3	1	1	-
10	DAFADAR	3	1	-	1
11	FITTER	3	2	1	1
12	COLLY	3	2	2	-
	Total NMAs		22	27	2
	Grand Total		1435	1286	156

7. Industries, Commerce and Technial Education					
S.No.	Designation	BPS	Sanctioned Posts	Filled Posts	Vacant
1	DAK RUNNER	3	1	-	1
2	FARASH	3	1	1	-
3	Total Industries Settled Districts		2	1	1
4	BEHISHTI	3	11	8	3
5	BEHISHTI	4	-	1	(1)
6	SHOP ATTENDANT	3	298	113	185
7	SHOP ATTENDANT	4	4	-	4
8	TANDOORCHI	3	2	2	-
9	WAITER	3	1	1	-
10	Total Technical Education Settled		316	125	191
11	BEHISHTI	4	3	3	-
12	SHOP ATTENDANT	4	45	38	7
	Total Technical Education NMAs		48	41	7
	Grand Total		366	167	199

1. ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

S.No	Nomenclature of Posts	BPS	Sanctioned Posts	Filled Posts	Vacant
1	BEHISHTI	3,4,5,9	1,674	1206	476
2	CALLER	3,4,5	689	457	237
3	FARASH	3	1	1	-
4	HOUSE KEEPER	7	2	0	2
5	WATER CARRIER	3	6	45	(39)
Total Settled Districts			2,372	1709	715
7	BEHISHTI	2,3,4	355	292	63
8	CALLER	1,2,3,4	2025	1705	320
9	HOUSE KEEPER	5	1	1	-
10	TANDOORCHI	3,4	10	4	6
11	WATER CARRIER	3,4	60	53	7
Total NMAs			2,451	2,055	396
Grand Total			4,823	3,764	1111

2. Health Department

S.NO	Designation	BPS	Sanctioned Posts	Filled Posts	Vacant
1	ASSISTANT HOUSE KEEPER	7	1	1	-
2	AYA	2	-	1	(1)
3	AYA	3	14	7	7
4	AYA	4	10	21	(11)
5	BADRAGA	3	8	6	2
6	BEHISHTI	1	-	2	(2)
7	BEHISHTI	2	-	32	(32)
8	BEHISHTI	3	675	695	(20)
9	BEHISHTI	4	-	121	(121)
10	BEHISHTI	5	-	13	(13)
11	BLACKSMITH	4	2	2	-
12	CSSD OPERATOR	12	2	-	2
13	DIETICIAN	7	2	1	1
14	HOUSE KEEPER	7	3	1	2
15	HOUSE KEEPER	10	23	15	8
16	HOUSE KEEPER	12	4	4	-
17	HOUSE KEEPER-10	10	1	-	1
18	HOUSE KEEPER-7	7	1	-	1
19	HOUSE OFFICER	17	30	10	20
20	LANGARI	3	-	8	(8)
21	MESSEUR	7	1	1	-
22	MIDWIFERY SUPERVISOR	16	3	3	-
23	MISALCHI	3	1	1	-
24	MODLER	12	1	-	1
25	PACKER	3	3	2	1
26	RECEPTIONIST	5	7	2	5
27	RECEPTIONIST	6	2	2	-
28	RECEPTIONIST	7	12	8	4
29	RECEPTIONIST	8	4	4	-
30	REFRECTIONIST	10	3	1	2
31	RESTORER	4	7	7	-
32	UTENCIL CLEANER	3	1	1	-
33	WAITER	3	1	1	-
34	WATCHMAN	2	1	1	-

2. Health Department						
S.NO	Designation	BPS	Sanctioned Posts	Filled Posts	Vacant	
Total Settled Districts			823	974	(15)	
35	AYA	4	1	1	-	
36	BADRAGA	3	4	4	-	
37	BADRAGA	4	14	12	2	
38	BEHISHTI	3	251	257	(6)	
39	BEHISHTI	4	21	19	2	
40	BEHISHTI-1	1	-	5	(5)	
41	BEHISHTI-2	2	-	3	(3)	
42	BEHISHTI-3	3	62	62	-	
43	BEHISHTI-4	4	42	46	(4)	
44	HOUSE KEEPER	12	4	3	1	
45	MESSEUR	3	1	1	-	
46	MESSEUR	12	1	1	-	
47	MID WIFE	6	45	1	44	
48	MIDWIFE	5	143	139	4	
49	MIDWIFE	6	56	50	6	
50	MIDWIFE	7	7	3	4	
51	MIDWIFE	12	17	4	13	
52	RECEPTIONIST	7	1	-	1	
53	REFRECTIONIST	16	1	-	1	
54	WATER CARRIER	3	1	1	-	
55	WATER CARRIER	5	38	45	(7)	
56	WATER CARRIER-3	3	10	9	1	
57	WATER CARRIER-4	4	33	34	(1)	
Total NMAs			753	700	53	
Grand Total			1576	1674	98	

3. Agriculture, Livestock & Fisheries						
S.NO	Designation	BPS	Sanctioned Posts	Filled Posts	Vacant	
1	BADRAGA	5	4	4	-	
2	BADRAGA	7	-	1	(1)	
3	BALLOON MAKER	3	2	2	-	
4	BEHISHTI	3	3	3	-	
7	FARASH	3	1	-	1	
8	KHALASI	3	2	2	-	
9	PLOUGH MAN	3	25	22	3	
10	SECURITY SURGEANT	7	1	1	-	
11	SEPOYEE	3	3	3	-	
12	TOBACCO CURRER	10	1	1	-	
13	WATCHMAN	3	6	5	1	
Total Settled Districts			44	34	10	
14	BADRAGA	3	10	10	-	
15	BLACKSMITH	5	1	1	-	
Total NMAs			55	45	10	
Grand Total						

MINUTES OF MEETING HELD ON 19TH MAY 2021 IN FINANCE DEPARTMENT REGARDING DECLARATION OF UNESSENTIAL/REDUNDANT POSTS AS DYING CADRE

A meeting was held under the chairmanship of Special Secretary Finance, on 19.05.2021 to discuss and decide the matter regarding declaration of unessential/redundant posts in certain Departments as dying cadre. List of participants is annexed.

2. The meeting commenced with recitation from the Holy Quran. Opening the discussion, the Special Secretary Finance welcomed the participants and highlighted aims and objectives of the meeting and invited Additional Secretary (Budget), Finance Department to initiate formal proceedings of the meeting. The Additional Secretary (Budget) invited attention of the participants towards the decision taken by the Provincial Cabinet in its Special Budget Meeting held on 19th June, 2020 that, "Finance Department shall undertake next phase of the expenditure review to realize efficiency savings as a part of an integrated sectoral review process." So, he added that the Finance Department has, initially, conducted exercise in respect of the following major Departments with technical assistance of SNG PFM team, which will be rolled over to entire Departments in due course of time.

- i) Revenue and Estate Department.
- ii) Health Department
- iii) Industries, Commerce and Technical Education
- iv) Elementary & Secondary Education Department
- v) Agriculture Department
- vi) Public Health Engineering Department
- vii) Irrigation Department

3. Thereafter, on invitation of the Additional Secretary (Budget), Finance Department the Budget Officer-I, Finance Department made detailed presentation entailing rising trend of expenditure on salary viz-a-viz break up of proposed unessential / redundant posts to be declared as dying cadre, in the given Departments. He pointed out that Finance Department has already provided a list of unessential posts identified as redundant for confirmation before declaring the same as dying cadre. The proposed dying cadre posts of seven departments were individually discussed with the representative of each Department in the light of the budget and expenditure trend for last five years.

DECISIONS:

4. After threadbare discussion, the following key decisions were unanimously taken:
- i) All unessential/redundant posts as identified by Finance Department and confirmed by the relevant Administrative Departments (Annex-I) shall be declared as dying cadre with immediate effect. On vacation, all such posts shall stand abolished automatically.
 - ii) All vacant posts falling in the category of dying cadre shall be abolished forthwith subject to verification of the relevant Departments within given timelines. Otherwise, Finance Department shall take action based on the latest pay roll data on OM Module/SAP System.
 - iii) The department shall communicate the list of dying cadre and break up of vacant posts, to Finance Department, till close of business on 20th May, 2021.

positively. In case of failure, all identified posts shall be declared as dying cadre and all vacant posts will be treated as abolished, with immediate effect.

- iv) The Departments will be at liberty to propose any such post to Finance Department for re-designation on case to case basis based on viable justification.
- v) The Departments shall provide the joining and retirement date of all the employees working against the posts of dying cadre. Transfers against these posts shall be subject to approval of Finance Department.
- vi) FMIU, Finance Department shall lock all the dying cadre posts in the SAP System with immediate effect so as to avoid appointment against the posts.
- vii) All posts of Behishti, Caller, Khalasi, Farash, Badraga and Barkandaz in all Departments shall be dying cadre with immediate effect. On vacation all such dying cadre posts shall stand abolished automatically. However, existing vacant posts will be abolished after verification by the Departments in due course of time.
- viii) Principal Accounting Officers shall make sure that no appointment is made against a vacant post of dying cadre.

5. The meeting ended with a note of thanks to and by the Chair.




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

Dated Mardan, the August 24, 2021

AUTHORITY LETTER

Mr. Fida Hussain, Assistant Social Organizer (ASO) PHE Division, Mardan, is hereby authorized to submit the Joint Parawise Comments and attend the Khyber Pakhtunkhwa Service Tribunal Peshawar in service appeal No. 11540/2020 titled "Jan Nisar S/O Ghulam Qadar VS Government of Khyber Pakhtunkhwa through Chief Secretary and others" on behalf of Executive Engineer PHE Division Mardan and Secretary Public Health Engineering Department, to protect the Government interest.


**EXECUTIVE ENGINEER
Public Health Engineering
DIVISION MARDAN**

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 11540/2020

Jan Nisar S/O Ghulam Qaddar R/O Nawa Kallay Rustum Tehsil & district Mardan.

_____ (Petitioner)

Versus

- 1) Govt. of Khyber Pakhtunkhwa through Secretary Public Health Engineering Department, Civil Secretariat Peshawar.
- 2) Superintending Engineer Public Health Engineering Circle Mardan.
- 3) Executive Engineer PHE Division Mardan.
- 4) Executive Engineer PHE Division Charsadda.
- 5) Chief Engineer, Public Health Engineering Department, Peshawar.
- 6) Secretary Finance Department, Khyber Pakhtunkhwa.

_____ (Respondents)

AFFIDAVIT

I, Fida Hussain Assistant Social Organizer, PHE Division Mardan do hereby affirm and declare on oath that the contents of the instant Index submitted by Executive Engineer PHE Division Mardan, in light of hon'ble court order dated 01/07/2021 in Service Appeal No. 11540/2020 titled "Jan Nisar Versus Government of Khyber Pakhtunkhwa through Secretary PHE Khyber Pakhtunkhwa & others" are true and correct to the best of my knowledge and belief and nothing has been concealed from the Honorable Court.

Identified by:

Adil Advocate General
Khyber Pakhtunkhwa

DEPONENT
CNIC No. 17102-3812943-5
Cell # 0346-9000819

Fida Hussain