

BEFORE THE KHYBER PAKHTUNKHWA, SERVICES TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2020

Sadiq AliAppellant

V E R S U S

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

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Through


Appellant


ASAD NABI

Advocate, Peshawar

Cell: 0345-9122165

&


BABAR HAYAT

Advocate, Peshawar

Cell: 0333-9727007

Dated: 03-10-2020

BEFORE THE KHYBER PAKHTUNKHWA, SERVICES TRIBUNAL,
PESHAWAR

Service Appeal No. 11539/2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 10979

Dated 05/10/2020

Sadiq Ali S/O Rehman Wali R/O. Miyan Khan Akhord
Khel, Tehsil Katlan District Mardan (Designation: Pump
Operator cum Chowkidar, Department of Public Health
Engineering, Circle Mardan)

Date of Presentation 05/10/2020 Appellant

Date of Return 01.10.2023

Reason: Want of funds **VERSUS**

M/S 04.10.23

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

**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**

Filed to-day
Registrar
05/10/2020

**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:

GROUND 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

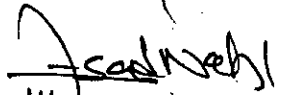
along with salaries, perks and privileges of the Chowkidar/Valve man from the date of his initial appointment.

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



Appellant

Through


Asad Nabi

Dated: 03/10/2020

Advocate, High Court
Peshawar

Cell: 0345-9122165

&


Babar Hayat

Advocate, High Court
Peshawar

Cell: 0333-9727007

BEFORE THE KHYBER PAKHTUNKHWA, SERVICES TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2020

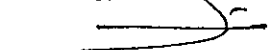
Sadiq Ali **Appellant**

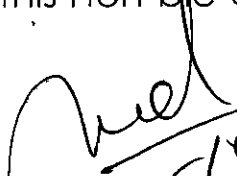

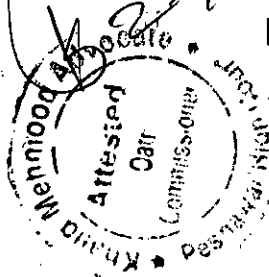
VERSUS

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

AFFIDAVIT

I, Sadiq Ali S/O Rehman Wali R/O Miyan Khan Akhora
Khel, Tehsil Katlan 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

Asad Wali


26/10/20



DEPONENT

**BEFORE THE KHYBER PAKHTUNKHWA, SERVICES TRIBUNAL,
PESHAWAR**

Service Appeal No. _____/2020

Sadiq Ali **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:

Sadiq Ali S/O Rehman Wali R/O Miyan Khan Akhora
Khel, Tehsil Katlan 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

(-8)

Annex "A"

OFFICE OF THE
SUPERINTENDING ENGINEER
PUBLIC HEALTH ENGG. CIRCLE
DISTRICT SECRETARIAT MARDAN.
No. _____

Dated, Mardan the ___/___/12/2010.

OFFICE ORDER

On the recommendation of Department Selection Committee in its meeting held on 15-12-2010 and in pursuance of Rule 10(4) of the NWFP Civil Servant (Appointment, Transfer & Promotions) Rules 1989, Mr. Sadique Ali S/o Rehman Wali R/o Vaiti & P.O. Mian Khan Tehsil & District Mardan is hereby appointed as Operator-cum-Chowkidar (BPS-17) with usual allowances as admissible under the rules on AM&R WSS Mian Khan against the existing vacancy. The terms and conditions of his appointment are as follows:-

1. He shall for all intents and purposes, be Civil Servant except for purpose of pension & gratuity. In lieu of pension and gratuity, he shall be entitled to receive such amount contributed by him towards Contributory Provident Fund (C.P.F.) along with the contribution made by the Govt; to his accounts in the said fund, in the prescribed manner.
2. He shall be governed by the Civil Servants Act 1973, all the laws applicable to the Civil Servant and Rules made there-under.
3. He shall initially, be on probation for a period of one year extendable for a further period up to another year.
4. His service shall be liable to termination at any time without assigning any reason thereof before the expiry of the period of probation, if his work during this period is not found satisfactory. In such an event, he shall be given a month's notice of termination from service or one month's pay in lieu thereof. In case he wishes to resign at any time, a month's notice shall be necessary or in lieu thereof a month's pay shall be forfeited.
5. He will liable to serve anywhere in Water Supply Scheme in P.H.E. Division Mardan. //
6. He will not claim to the right of seniority.
7. He shall produce medical fitness certificate from the Medical Superintendent, DHQ Hospital, Mardan, as required under the Rules.

If the above terms and conditions of appointment are acceptable to him, he should report for duty in the office of Sub-Divisional Officer Public Health Enngg; Mardan within 14 days against the existing vacancy.

ATTESTED

SUPERINTENDING ENGINEER
PUBLIC HEALTH ENGG. CIRCLE
MARDAN.

Copy forwarded for information to the:-

- 1- District Engineer Public Health Engineering Division Mardan.
- 2- Executive Engineer Public Health Engineering Division Mardan.
- 3- District Accounts Officer, Mardan.
- 4- Sub Divisional Officer, Public Health Engineering Sub Division Mardan.
- 5- Official concerned.

SUPERINTENDING ENGINEER
PUBLIC HEALTH ENGG. CIRCLE
MARDAN

BEFORE THE PESHAWAR HIGH COURT PESHAWAR.

Writ Petition No. _____ / of 2017.

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.

(10)

2

(17)

(25)

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 nizzd 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 their 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.

Commit

Commit

Incenty every sanctioned post must carry designat

11
18
13

Sanctioned post
2 & 5

Incenty as per para 2 & 5

correct

As per 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. *Incenty 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 orders

As per 2

- 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 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 downtrodding Art 4 of Constitution of Pakistan 1973.

~~Retired~~

BPS-1

Then - BPS-3

One promote to 6

LB

Charsadda

S#: 1

P Sec:001 Month:July 2014
CA7020 -Executive Engineer PHE Div
Works & Services

Pers #: 00401428 Buckle:

Name: FAIZ MOHAMMAD
PUMP OPERATOR

NTN:
GPF #:
Old #:

CNIC.No.1710180442191

GPF Interest Applied

01 Active Temporary

CA7020

PAYS AND ALLOWANCES:

0001-Basic Pay	5,700.00
1000-House Rent Allowance	891.00
1210-Convey Allowance 2005	1,785.00
1300-Medical Allowance	1,200.00
1948-Adhoc Allowance 2010@ 50%	1,620.00
1970-Adhoc Relief Allow 2011	486.00
2118-Adhoc Relief Allow (2012)	1,140.00
2148-15% Adhoc Relief All-2013	855.00
2174-Adhoc Relief Allow-2014	570.00
Gross Pay and Allowances	14,247.00

DEDUCTIONS:

GPF Balance	6,200.00	Subrc:	212.00
6211-CM KP Fund IDP,S-NW-2014			184.00

Total Deductions

396.00

13,851.00

D.O.B

01.07.1965

06 Years 06 Months 001 Days

LFP Quota:

HABIB BANK LIMITED UTMANZAI, CHARSADDA.

019179001247-03

*No exp. deductions
Despite letter to
30/6/2015
7/2015*

Charsadda

S#: 1

Pers #: 00401428 Buckle:
Name: FAIZ MOHAMMAD

P Sec:001 Month:July 2015
CA7020 -Executive Engineer PHE Div
EXECUTIVE ENGINEER OFFICE
NTN:
GPF #:
Old #:

CNIC No.1710180442191
GPF Interest Applied
01 Active Temporary

CA7020 -

PAYS AND ALLOWANCES:

0001-Basic Pay	7,770.00
1000-House Rent Allowance	891.00
1210-Convey Allowance 2005	1,785.00
1300-Medical Allowance	1,500.00
1948-Adhoc Allowance 2010@ 50%	1,620.00
2148-15% Adhoc Relief All-2013	900.00
2174-Adhoc Relief Allow-2014	600.00
2199-Adhoc Relief Allow @10%	777.00
Gross Pay and Allowances	15,843.00

DEDUCTIONS:

GPF Balance 32,212.00 Subrc: 212.00

Total Deductions 212.00
15,631.00

D.O.B
01.07.1965
07 Years 06 Months 001 Days

LFP Quota:
HABIB BANK LIMITED UTMANZAI, CHARSADDA.
019179001247-03

Charsadda

S#: 1

P Sec:001 Month:July 2016
CA6009 -DEPUTY DISTRICT OFFICER WA
EXECUTIVE ENGINEER OFFICE

Pers #: 00401428 Buckle:

Name: FAIZ MOHAMMAD
PUMP OPERATOR

NTN:
GPF #:
Old #:

CNIC No.1710180442191

GPF Interest Applied

03 Active Temporary

CA6009 -

PAYS AND ALLOWANCES:

0001-Basic Pay	10,315.00
1000-House Rent Allowance	942.00
1210-Convey Allowance 2005	1,785.00
1300-Medical Allowance	1,500.00
1948-Adhoc Allowance 2010@ 50%	1,620.00
2148-15% Adhoc Relief All-2013	300.00
2199-Adhoc Relief Allow @10%	209.00
2211-Adhoc Relief All 2016 10%	1,031.00

Gross Pay and Allowances

17,702.00

DEDUCTIONS:

GPF Balance	27,859.00	Subrc:	522.00
6505-GPF Loan Principal Instal	Bal: 12,000.00		1,000.00

Total Deductions

1,522.00

16,180.00

D.O.B

01.07.1965

LFP Quota:

HABIB BANK LIMITED UTMANZAI, CHARSADDA.

08 Years 06 Months 001 Days

019179001247-03

Charsadda

S#: 1

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

Pers #: 00401428 Buckle:

Name: FAIZ MOHAMMAD

PUMP OPERATOR

CNIC No.1710180442191

GPF Interest Applied

06 Active Temporary

NTN:

GPF #:

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

22,846.00

DEDUCTIONS:

GPF Balance	53,529.00			Subrc:	798.00
6505-GPF Loan Principal Instal		Bal:	0.00		1,000.00
4004-R. Benefits & Death Comp:					450.00

Total Deductions

2,248.00

20,598.00

D.O.B

05.03.1979

09 Years 06 Months 001 Days

LFP Quota:

HABIB BANK LIMITED UTMANZAI, CHARSADDA.

019179001247-03

Charsadda

S#: 1

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

Pers #: 00401428 Buckle:
Name: FAIZ MOHAMMAD
PUMP OPERATOR
CNIC No.1710180442191
GPF Interest Applied

NTN:
GPF #:
Old #:

06 Active Temporary

CA7020 -

~~PAYS AND ALLOWANCES:~~

0001-Basic Pay	15,100.00
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%	1,510.00
2247-Adhoc Relief All 2018 10%	1,510.00
Gross Pay and Allowances	24,871.00

DEDUCTIONS:

GPF Balance	71,635.00	Subrc:	950.00
4004-R. Benefits & Death Comp:			690.00

Total Deductions	1,640.00
	23,231.00

D.O.B
05.03.1979
10 Years 06 Months 001 Days

LFP Quota:
HABIB BANK LIMITED UTMANZAI, CHARSADDA.
019179001247-03

Charsadda

S#: 1

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

Pers #: 00401428 Buckle:

Name: FAIZ MOHAMMAD
PUMP OPERATOR

NTN:

GPF #:

Old #:

CNIC No.1710180442191

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	27,109.00

DEDUCTIONS:

GPF Balance 83,035.00	Subrc: 950.00
4004-R. Benefits & Death Comp:	690.00

Total Deductions	1,640.00
	25,469.00

D.O.B

05.03.1979

11 Years 06 Months 001 Days

LFP Quota:

HABIB BANK LIMITED. UTMANZAI, CHARSADEA:
019179001247-03

Charsadda

S#: 2

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

Pers #: 00401428 Buckle:

Name: FAIZ MOHAMMAD
PUMP OPERATOR

NTN:

GPF #:

Old #:

CNIC No.1710180442191

GPF Interest Applied

06 Active Temporary

CA7020 -

PAYS AND ALLOWANCES:

2264-Adhoc Relief All 2019 10%	1,566.00
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1

BEFORE THE HON'BLE PESHAWAR HIGH COURT, PESHAWAR

W P No...../2022



1. Muhammad Yousaf son of Liaqat Ali,
serving as Tube Well Operator at Zulfiqar Ali Bhutto Institute, Duran Pur
and permanent resident of Mohala Chugh Khel Chamkani District Peshawar.
 2. Shabeer Jan son of Muhammad Ghayas,
Serving as Generator Operator at at Zulfiqar Ali Bhutto Institute, Duran Pur
and permanent resident of Mohala Ghareeb Abad, Village Sepal Mai, Post
Office Tamab Tehsil and Distirct Charsada
- _____ Petitioners

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Health, Civil
Secretariat, Peshawar
 2. Government of Khyber Pakhtunkhwa through Director General (Health)
Services, Health Department, Civil Secretariat, Peshawar.
 3. Government of Khyber Pakhtunkhwa through Director General (Health)
PIISA, Duran Pur, Ring Road, Peshawar.
 4. Government of Khyber Pakhtunkhwa through Secretary, Finance, Civil
Secretariat, Peshawar
 5. The Principal, Zulfiqar Ali Bhutto Post Graduate Paramedic Institute,
Duran Pur, Ring Road, Peshawar
- _____ Respondents

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

Having been aggrieved from impugned action and omission on the part of Respondents whereby Petitioner posts (Tube Well Operator and Generator Operator) in the budget book of 2021-22 were not upgraded in light of KP Up-gradation Policy dated 11/10/2010 as well as on the analogy of other health instituts of Health Department Government of KP. The said act and omission on the part of Respondents is discriminatory, against the settled norms and their own express up-gradation policy, thus petitioners are compelled to invoke the Constitutional jurisdiction of this Hon'ble Court because the Petitioners have no other speedy are efficacious remedy available except to file the instant writ Petition.

ATTESTED
EXAMINER
Peshawar High Court.

Respectfully Sheweth,

Brief facts giving rise to the Petitioners to file the instant Petition are as under;

Brief Facts

1. That the names and addresses of all the parties as mentioned above are adequate and sufficient for purpose of communication and personal services of notices and summons to be issued by this Hon'ble Court during pendency of the Writ Petition.
2. That Petitioners hails from respectable families and is law abiding citizens of Islamic Republic of Pakistan.
3. That after completion of intermediate and graduation, Petitioners were appointed as Tube Well Operator (BPS-3) and Generator Operator (BPS-3) by Respondent No. 3 vide appointment orders dated 9/8/2019 and 20/8/2019 respectively. It is worth to note that Petitioners submitted its arrival report with Respondent No.5 and are rendering services at Zulfiqar Ali Bhutto Post Graduate Paramedic Institute, Duran Pur, Ring Road, Peshawar (hereinafter referred as ZAB PGPI) against their respective posts with the entire satisfaction of high ups without any complaint from any walk of life. (Copies of appointment orders of Petitioners and arrival reports are annexed as annexure A & B)
4. That it is worth to note that as per the budget book for the year 2021/2022 all institutes of the health department of the Government of Khyber Pakhtunkhwa, the pay scale of tube well operator and generator operator is BPS 06 or BPS 07 respectively. (Copies advertisements of different health departments of Government of Khyber Pakhtunkhwa are annexed as annexure C)
5. That the Finance Department of Government of KP circulated a policy and criterion for the up gradation of post which was duly approved by Provincial Cabinet in its meeting held on 23rd august 2010. But in spite of crystal clear policy the Respondents are not up grading the post of Petitioners like other similar placed employees of Institutes of Health Departments.
6. That keeping in view the scale of other similar placed employees of different institutes of health department, the Petitioner submitted representation for up gradation to the Respondent No.5 and the same was received vide diary No. 292 dated 30/06/2021 and diary No. 412 dated 13/08/2021. Copies of Petitioner's representations are annexed as annexure D

ATTESTED
EXAMINER
Peshawar High Court

7. That on 30/08/2021, Respondent No. 03/ Director General (Health) PHSA KPK submitted a working paper for the up gradation of Petitioner's post to the Secretary Health Government of KPK but till date the post of the Petitioners were not up graded on the budget book of PHSA like other similar placed employees of the province.
(Copy of working paper 30/08/20210 is annexed as annexure D)

8. That the impugned act and omission of the Respondent is wrong; illegal and discriminatory against policy , colorable exercise of power and authority, hence there being no other adequate and efficacious remedy available except to invoke the constitutional jurisdiction of this Hon'ble Court inter alia on the following grounds.

GROUNDS

- A. That Petitioners are rendering similar services like other employees of different health institutions of KPK, hence, Petitioners are entitled for up gradation of post like other employees of different health institutes.
- B. That Respondents have not treated the Petitioners in accordance with law, rules and policy on the subject matter.
- C. That the act and omission of the Respondents are sheer violation of Article 04'09'25 of the constitution of the Islamic Republic of Pakistan.
- D. That the Respondents are duty bound to abide and follow the guidelines and policy issued, hence, on this core alone the Impugned Act and omission on the part of the Respondents are based on mala fide , ulterior motives and nepotism.
- E. That every public servant like Petitioner have legitimate expectation of rising up in Government hierarchy by means of up gradation etc. In the instant case Petitioners were under legitimate expectancy to be up graded in term of up gradation policy but have been deprived from their accrued legitimate right which is nullity in the eye of law and is liable to be interfere by this Hon'ble Court.
- F. That the Petitioner will raise any other ground at the time of arguments with the prior permission of this Hon'ble Court.

ATTESTED
EXAMINER
Peshwar High Court

In wake of the above submission it is, therefore, most humbly prayed that on acceptance of this petition, appropriate directions be issued to Respondents to upgrade the post of Petitioners (Tube well operator BPS-3 and Generator operator BPS -3) to grade 7 in line with up gradation policy dated 11/10/2010

as well as with analogy of other similar placed employees of different health institutions of KPK

INTERIM RELIEF

By way of interim relief this Hon'ble Court may graciously be pleased to direct the Respondent to actualize the Up-Gradation order of the Petitioner till the final disposal of the Writ Petition.

Petitioner

Through

Khalid Mahmood
Khalid Mahmood

Advocate,

Supreme Court of Pakistan

&

M. Ashfaq Khan Akhunnajid
M. Ashfaq Khan Akhunnajid

Advocate,

High Court, Peshawar

CERTIFICATE

Certified on instruction that Petitioner has not previously moved this Hon'ble Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 regarding present matter

List Of Books

1. The Constitution of the Islamic Republic of Pakistan, 1973.
2. Up-Gradation Policy of the Provincial Government, 2003.
3. Services Laws.

Advocate

[Signature]

ATTESTED
EXAMINER
Peshawar High Court

[Signature]

5

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

W.P No. _____/2022

Muhammad Yousaf & Others.....Petitioner

VERSUS

Gout of Khyber Pakhtunkhwa & Others

.....Respondents

AFFIDAVIT

I, Muhammad Yousaf S/O Liaqat Ali R/O Chugha Khel, Chamkani, District Peshawar, (Petitioner No.01), being competent and duly authorized to file the instant writ petition, do hereby solemnly affirm and declare on oath that the contents of the accompanying Writ petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Identified by

M. Yousaf
DEPONENT

CNIC#:17301-1897198-9

Cell#0314-9180597

Khalid Mahmood
Khalid Mahmood
Advocate, Supreme Court

No. 24765

Certified that the above was verified on solemnly affirmation before me on this 30 day of May 2023 at Peshawar who is put - Liaqat Ali M. Yousaf Khalid Mahmood

[Signature]
30/5/23

CERTIFIED TO BE TRUE COPY

EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 8.7 of
the Oath-taking & Shahaada Act 1984

17 MAY 2023

1

JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT

W.P. No.4775-P/2022

Muhammad Yousaf and another

Vs.

Government of Khyber Pakhtunkhwa through Secretary
Health, Civil Secretariat, Peshawar and others

Date of hearing **27.04.2023**

Petitioner(s) by: **Muhammad Ashfaq Khan Akhunkhel,**
Advocate.

Respondent(s) by: **Syed Sikandar Hayat Shah, AAG**
alongwith **Mr. Faiz Muhammad,**
Librarian, PHSA.

JUDGMENT

IJAZ ANWAR, J. This writ petition is filed under Article
199 of the Constitution of Islamic Republic of Pakistan, 1973,
with the following prayer:-

"It is, therefore, most humbly prayed that on acceptance of this petition, appropriate directions be issued to the respondents to upgrade the post of the petitioners (Tube Well Operators BPS-03 and Generator Operators BPS-03) to grade 7 in line with upgradation policy dated 11.10.2010 as well as with analogy of other similar placed employees of different Health Institutions of KPK".

2. In essence, the petitioners were appointed against the posts of Tube Well Operator (BPS-03) and Generator Operator (BPS-03) in the respondent-PHSA, however, through this petition, they are seeking similar treatment as the posts of Tube Well Operators and Generator Operators in other Government Departments of the Khyber



ATTESTED
EXAMINER
Peshawar High Court.

Pakhtunkhwa are either in BPS-06 or BPS-07 while they are holding BPS-03.

3. Comments were called from the respondents, who furnished the same, wherein, they opposed the issuance of desired writ asked for by the petitioners.

4. Arguments heard and record perused.

5. Though, the petitioners have not yet completed their stay in service for ten years since their appointments as Tube Well Operator (BPS-03) and Generator Operator (BPS-03), albeit, their case is based upon Para-III of the Upgradation Policy notified vide Notification bearing No.SO(FR)/FD/7-2/2008 dated 11.10.2010 under the heading "Upgradation of Posts Proposed on Grounds of Principle of Parity". This para appears to be relevant to the case of the petitioners, as such, it is reproduced as under:-

"Upgradation to Posts proposed on grounds of Principle of Parity:-

While processing the cases where the proponent department seeks upgradation of certain posts to a higher pay scale on the analogy of similar posts in some other department in this province created with same nomenclature, the Committee shall take into account following parameters:

- (i) Ascertainment of full details about all such posts created with same nomenclature by any department in addition to those Departments whose analogy has been quoted by proponent department.*
- (ii) Nomenclature shall not be sole criterion for determining parity/comparability of post(s). Other details i.e. the job description and prescribed qualification would necessarily be examined.*
- (iii) In case of difference of prescribed qualification or the job description (or both)*

ATTESTED
EXAMINER
Cmb Court.

as the case may be, the committee may direct the change of nomenclature of post(s) in any departments to avoid confusion on this ground.

- (iv) The committee may associate with all such departments having same nomenclature of certain post(s) with same responsibilities and same qualifications to ascertain as to what were reasons for creation of same posts in different departments with different pay scales and thus made recommendations in respect of all such posts in all concerned departments, whether they took up the case or otherwise, to bring uniformity in pay scales in all departments to avoid future references.

Provided that the committee shall not recommend such proposals for uniformity where prescribed qualifications as well as the qualifications possessed by existing incumbents is not at par with the posts(s)/incumbents cited as precedence.

Provided further that in such cases the committee may recommend change of nomenclature of either those post(s) having higher prescribed qualifications or those having lesser prescribed qualifications as may be deemed appropriate by the committee".

6. Learned counsel for the petitioners has then referred to different advertisements and budget books of the Irrigation, Agriculture, Health and Education Departments, Universities and Hospitals, wherein, the posts of Tube Well Operator and Generator Operator are either in BPS-06 or BPS-07.

7. Article 38 of the Constitution of Islamic Republic of Pakistan, 1973 provides for "promotion of social and economic well-being of the people and also to reduce disparity in the income and earnings of individuals subject to

ATTESTED
EXAMINER
Peshawar High Court.

4

reasons". In the case titled, "I.A. Shurwani and others Vs. Government of Pakistan through Secretary, Finance Division, Islamabad and others (1991 SCMR 1041)", the Hon'ble Supreme Court of Pakistan, while commenting upon the cases where discrimination can be ascertained, has observed as under:-

"(i) that equal protection of law does not envisage that every citizen is to be treated alike in all circumstances, but it contemplates that persons similarly situated or similarly placed are to be treated alike;

(ii) that reasonable classification is permissible but it must be founded on reasonable distinction or reasonable basis;

(iii) that different laws can validly be enacted for different sexes, persons in different age groups, persons having different financial standings, and persons accused of heinous crimes;

(iv) that no standard of universal application to test reasonableness of a classification can be laid down as what may be reasonable classification in a particular set of circumstances may be unreasonable in the other set of circumstances;

(v) that a law applying to one person or one class of persons may be constitutionally valid if there is sufficient basis or reason for it, but a classification which is arbitrary and is not founded on any rational basis is no classification as to warrant its exclusion from the mischief of Article 25;

(vi) that equal protection of law means that all persons equally placed be treated alike both in privileges conferred and liabilities imposed;

(vii) that in order to make a classification reasonable, it should be based—

(a) on an intelligible differentia which distinguishes persons or things that are grouped together from those who have been left out;

(b) that the differentia must have rational nexus to the object sought to be achieved by such classification".

ATTESTED
EXAMINER
Peshawar High Court,

8. In the instant matter, the petitioners claimed discrimination in the grant of pay scales as according to them, similar posts in the Provincial Government Departments, having similar nomenclature, are either in BPS-06 or BPS-07 while they are still serving in BPS-03. We, thus, considered it expedient to refer the matter of upgradation of the petitioners to the respondents and to consider their case for upgradation in order to bring them at par with their counterparts in other Government Departments/Autonomous Bodies within a period of two months positively.

9. In view of the above, we dispose of this writ petition and send the case of upgradation of the petitioners to the Upgradation Committee of the Provincial Government, headed by the Finance Secretary, for its consideration in accordance with law within a period of two months positively.

Announced
Dt: 27.04.2023

21

JUDGE

JUDGE

(DB) Hon'ble Mr. Justice Ijaz Anwar and Hon'ble Mr. Justice Sana Ullah Khan

Notarized

CERTIFIED TO BE TRUE COPY

EXAMINER
Peshawar High Court, Peshawar
Authorized under Article 8.7 of
Quanoon-e-Shaheed Act 1984
17 MAY 2023

84169
Date of Presentation of Application... 17-05-2023
No of Pages... 10-9
Copying fee... -
Total... 40-10
Date of Preparation of Copy... 17-05-2023
Date of Delivery of Copy... 17-05-2023
By... [Signature]

(02) (19) (27)

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.

BEFORE THE PESHAWAR HIGH COURT PESHAWAR.

Aux-D
(20)

AB

Writ petition No.3121/2017

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

.....(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.

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.

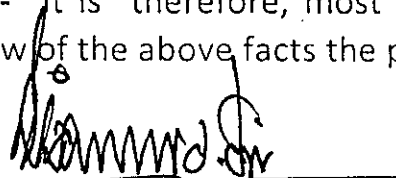
10- Incorrect. The petitioners were appointed as Operator-cum-Chowkidar & Operator-cum-Valve man as per Government Policy. That the matter do fall within the purview of terms & condition of service and the terms & conditions of service will be agitated before the Khyber Pakhtunkhwa Service Tribunal under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

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

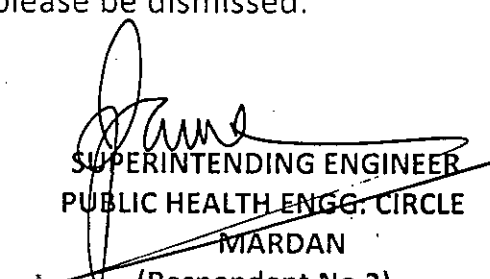
GROUND:-

- 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.

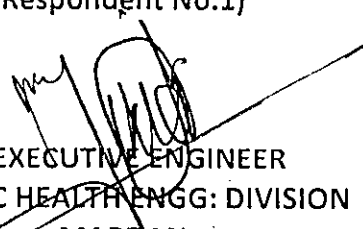
PRAYER:- It is therefore, most humbly prayed before this Honorable Court, that in view of the above facts the petition may please be dismissed.



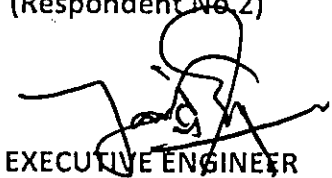
SECRETARY TO GOVT: OF KPK
PUBLIC HEALTH ENGG: DEPARTMENT
PESHAWAR
(Respondent No.1)



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



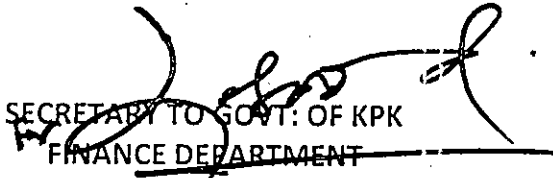
EXECUTIVE ENGINEER
PUBLIC HEALTH ENGG: DIVISION
MARDAN
(Respondent No.3)



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)

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: 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>

Handwritten signature: Amjad Ali

ATTEST
EXAMINER
Peshawar High Court

03 NOV 2018

176

(15)

		<p>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.</p> <p>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.</p> <p>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.</p> <p><i>Announced for;</i> 17th of October, 2018</p> <p style="text-align: right;">JUDGE</p> <p style="text-align: right;">JUDGE</p>
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8387

Date of Presentation of Application..... 17-10-18

No. of Pages..... 2

Copying Fee.....

Urgent Fee.....

Total.....

Date of Preparation of Copy..... 2-11-18

Date of Delivery of Copy..... 3-11-18

Received By.....

Zarshad

(DB) Hon'ble Mr. Justice Rooh-Ul-Amin Khan & Hon'ble Mr. Justice Qalander Ali Khan

CERTIFIED TO BE TRUE COPY

EXAMINER
Peshawar High Court, Peshawar
Authorised Under Article 87 of
The Constitution of Pakistan Order, 1954

03 NOV 2018

17

Annex C
①

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

Service Appeal No. _____/2018

Sadiq Ali S/o Rehman Wali
R/o Mian Khan Akora Khel, Tehsil Katlang District
Mardan, Designation Operator-cum-Chowkidar
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**

(12)

6

**RESTRAINED FROM TAKING DUTY OF
TUBE WELL OPERATOR FROM THE
APPELLANT OR LIABLE TO PAY PERKS
AND PRIVILEGES OF TUBE WELL
OPERATOR**

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.

- (70) (3)
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.
 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 "B" and comments is Annex "C"**)
 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.

20

4

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


(21)

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


Appellant
Through 
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.


Deponent



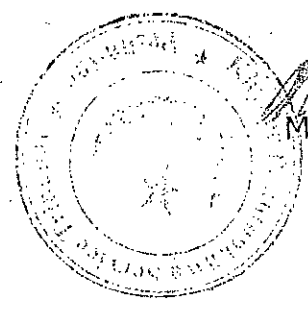
22

Annex D

14.11.2019

Appellant in person present. Mr. Ziaullah, DDA for respondents present. Appellant submitted rejoinder which is placed on file. Adjourned. To come up for arguments on 10.01.2020 before D.B.


Member




Member

10.01.2020

Due to general strike of the bar on the call of Khyber Pakhtunkhwa Bar Council, the case is adjourned. To come up for further proceedings/arguments on 02.03.2020 before D.B.


Member

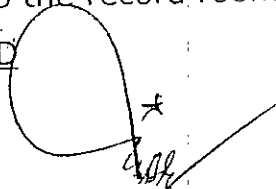

Member

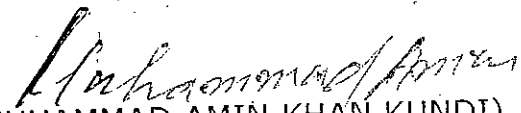
02.03.2020

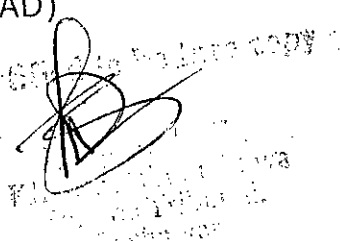
Counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Asghar Shah, Head Clerk for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of six pages placed in connected Service Appeal No. 267/2019 titled "Jan Nisar Versus The Government of Khyber Pakhtunkhwa through Secretary Public Health Engineer Civil Secretariat, Khyber Pakhtunkhwa, Peshawar and five others", the present service appeal is not maintainable due to filing of joint departmental appeal. Hence, the same is dismissed. However, the appellant is at liberty to file separate departmental appeal and after disposal of departmental appeal he is at liberty to file service appeal, if so advised, subject to all legal objections. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
02.03.2020


(MIAN MOHAMMAD)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER



(23)

Annex E

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

No. 372
08/06/2020
S.O ESTD 2150
Date 21
08/06/2020

DEPARTMENTAL APPEAL

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:-

ATTESTED

48
09-06-20

24

10

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.

ATTESTED

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.

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.

APPELLANT



08/06/2020

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.

So (E)

S

08.06.2020


ATTESTED

Annex "F"

26

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 22,846.00

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

ATTESTED

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

27

2.txt

Charsadda

S#: 1

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

Pers #: 00401407 Buckle:

NTN:
GPF #: 401407
Old #:

Name: QASIM KHAN

PUMP OPERATOR

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

ATTESTED

Total Deductions 3,240.00

22,303.00

D.O.B

17.03.1970

10 Years 06 Months 001 Days

LFP Quota:

NATIONAL BANK OF PAKCHARSADDA SUGAR
4321179367

20

1.TXT

Charsadda

S#: 1

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

ATTENDED

Total Deductions

3,630.00

24,207.00

D.O.B 17.03.1970
11 Years 06 Months 01 Days

LFP Quota:
NATIONAL BANK OF PAKCHARSADDA SUGAR
4321179367

Charsadda

S#: 2

Pers #: 00401407 Buckle:
Name: QASIM KHAN

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

NTN:

129

S#: 1

untitled

P Ser: 1001 Month: October 2019
CA7020 -Executive Engineer PHE Div
EXECUTIVE ENGINEER PHE DI

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

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		
6505-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 01.07.1934 LFP Quota:
07 Years 08 Months 000 Days ALLIED BANK LIMITED TEHSIL BAZAR
0010063847050010

ATTESTED

(30)

آسامیاں خالی ہیں

گورنمنٹ آف خیبر پختون خواہ پبلک ہیلتھ انجینئرنگ ڈویژن مردان

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

واٹر سپلائی سکیم پائپ لائن، واٹر سپلائی سکیم زور آباد، واٹر سپلائی سکیم کوٹ کله، واٹر سپلائی سکیم چراغ دین کله، واٹر سپلائی سکیم شکر موری

ATTESTED

شرائط

- 1۔ امیدوار کا صلح 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 کوٹہ 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 بلا یا جائے گا۔

۸۔ خواہشمند امیدواران اپنی درخواستیں Superintending Engineer PHE Circle Marḡan شہسی روز

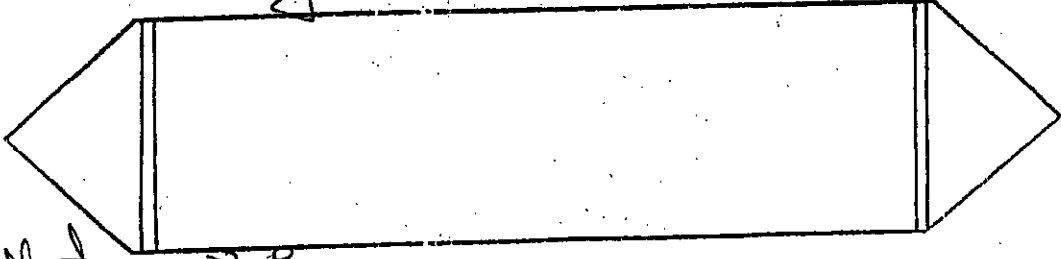
مردان کے دفتر میں اوقات کار 05:00 تا 09:00 بجے تک بموردہ 04.09.2020 تک جمع کرا سکتے ہیں۔

INF(P)2966/20

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

ایگزیکٹو انجینئر، پبلک ہیلتھ انجینئرنگ ڈویژن مردان

بعدالت - ۱۷ سے ۲۰ تک



۲۰۲۲ء منجانب اپیل

صاف نام خود غلط آف
۲۰۲۲ء

موزخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دکل کاروائی متعلقہ میں
آن مقام کے لیے دعا کی درخواست کی ہے

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
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ از عرضی دعویٰ اور درخواست ہر قسم کی تصدیق

زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور

کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساتھ

پروا ختم منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جائزہ التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی

مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ مندر ہے۔

المرقوم ۲۰ _____ ۱۰ _____ ۲۰ _____

Accepted by
Babul Pite
ADV

Accepted by
Asad Nabi Pite

Accepted by
Tara Khan

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.11539/2020

Sadiq Ali S/O Rehman Wali R/O Mian Khan Akhora hail Tehsil Katlang & 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)

Index

S. NO	PARTICULARS	PAGE NO
1.	Reply/ joint Para wise comments	1-2
2.	Letter and list of Finance department for declaration of unessential/Redundant posts as dying cadre	3-6
3.	Notification/Office order of Finance department	7-8
4.	Minutes of the meeting of Finance department	9-15
5.	Authority letter	16
6.	Affidavit	17

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

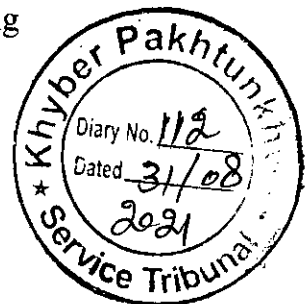
Service Appeal No. 11539/2020

Sadiq Ali S/O Rehman Wali R/O Mian Khan Akhura Khail Tehsil Katlang District

Mardan (Operator cum Chowkidar) 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:-

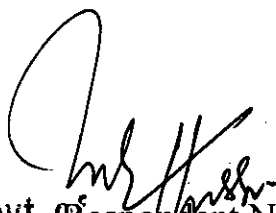
1. Pertains to the record.
2. Pertains to the record.
3. In reply, it is submitted that the post of Pump Operator (BPS-06) is different from Operator Cum Chowkidar and Operator Cum Valveman (BPS-03) as per policy of Provincial Govt., (Annex-A). Initially the Basic Pay Scale of the post of Operator Cum 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 is 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:

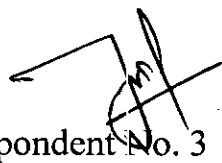
It is therefore most humbly prayed before this Honorable service tribunal that the instant service appeal may please be dismissed.



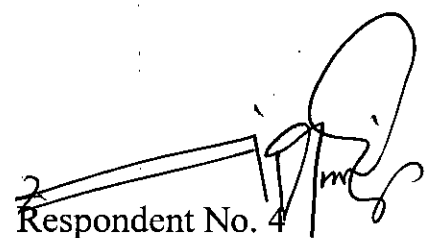
Secretary to Govt. of Khyber Pakhtunkhwa
 P.H.E. Department
 Public Health Engg: Department
 Peshawar



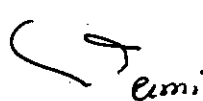
Respondent No. 2
 Superintending Engineer
 Public Health Engg: Circle
 Mardan



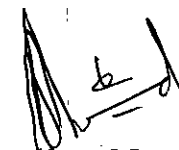
Respondent No. 3
 Executive Engineer
 Public Health Engg: Division
 Mardan



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

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 11539/2020
Sadiq Ali S/O Rehman Wali R/O Mian Khan Akhura Khail Tehsil Katlang District
Mardan (Operator cum Chowkidar) 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.
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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:-

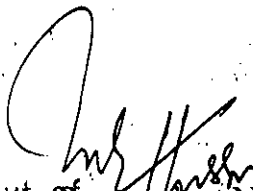
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The petitioner was appointed as per sanctioned post from Finance Department and as evident from the designation of the post i.e. Operator Cum Chowkidar and Operator Cum Valveman, the petitioner is responsible for the security and operation of the scheme 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).
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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 is 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:-

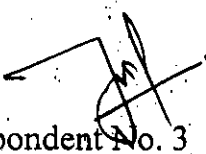
- A. Incorrect. As explained in Para 3 & 4 of the facts.
 B. That the appellants have been treated as per appointment orders, in accordance with Law.
 C. Incorrect. The appellants have been dealt in accordance with law/ policy.
 D. Incorrect. The appellants have not been discriminated what so ever nor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

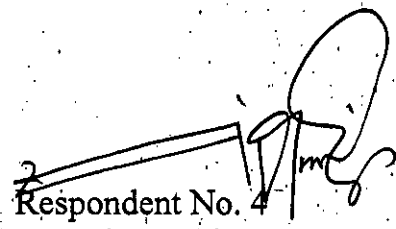
PRAYER:


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

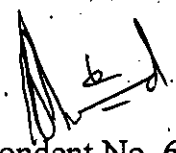

 Secretary to Govt. Respondent No. 1
 Khyber Pakhtunkhwa
 P.H.E. Department of Khyber Pakhtunkhwa
 Public Health Engg: Department
 Peshawar


 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

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 11539/2020
 Sadiq Ali S/O Rehman Wali R/O Mian Khan Akhura Khail Tehsil Katlang District
 Mardan (Operator cum Chowkidar) 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:-

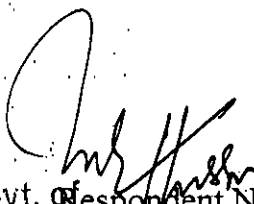
1. Pertains to the record.
2. Pertains to the record.
3. In reply, it is submitted that the post of Pump Operator (BPS-06) is different from Operator Cum Chowkidar and Operator Cum Valveman (BPS-03) as per policy of Provincial Govt., (Annex-A). Initially, the Basic Pay Scale of the post of Operator Cum 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 is 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:-

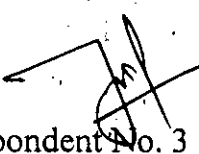
- A. Incorrect. As explained in Para 3 & 4 of the facts.
 B. That the appellants have been treated as per appointment orders, in accordance with Law.
 C. Incorrect. The appellants have been dealt in accordance with law/ policy.
 D. Incorrect. The appellants have not been discriminated what so ever nor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

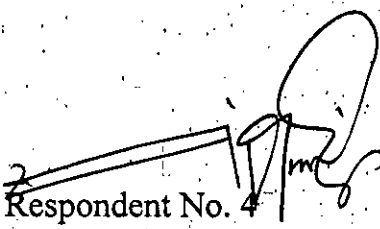
PRAYER:


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



 Secretary to Govt. Respondent No. 1
 Khyber Pakhtunkhwa Secretary to
 P.H.E. Department 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



**GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT**

4
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 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 DDOwise 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,

Encls.as above.


(SAEED AHMAD KHAN)
BUDGET OFFICER.I

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

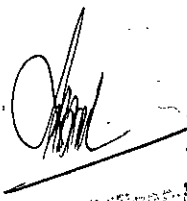
S.No.	Department	Non-Regular Post	BPS	Sanctioned Posts	Filled Posts	Vacant	
1	Settled	ELEMENTARY & SECONDARY EDUCATION DEPARTMENT	BEHISHTI	3,4,5,9	1,674	1206	476
2	Settled	ELEMENTARY & SECONDARY EDUCATION DEPARTMENT	CALLER	3,4,5	689	457	237
3	Settled	ELEMENTARY & SECONDARY EDUCATION DEPARTMENT	FARASH	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	NMAs	ELEMENTARY & SECONDARY EDUCATION DEPARTMENT	BEHISHTI	2,3,4	355	292	63
8	NMAs	ELEMENTARY & SECONDARY EDUCATION DEPARTMENT	CALLER	1,2,3,4	2025	1705	320
9	NMAs	ELEMENTARY & SECONDARY EDUCATION DEPARTMENT	HOUSE KEEPER	5	1	1	-
10	NMAs	ELEMENTARY & SECONDARY EDUCATION DEPARTMENT	TANDOORCHI	3,4	10	4	6
11	NMAs	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	MIDWIFERY 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	UTENCIL CLEANER	3	1	1	-
33	Settled	Health Department	WAITER	3	1	1	-
34	Settled	Health Department	WATCHMAN	2	1	1	-
35	NMAs	Health Department	AYA	4	1	1	-
36	NMAs	Health Department	BADRAGA	3	4	4	-
37	NMAs	Health Department	BADRAGA	4	14	12	2
38	NMAs	Health Department	BEHISHTI	3	251	257	-6
39	NMAs	Health Department	BEHISHTI	4	21	19	2
40	NMAs	Health Department	BEHISHTI-1	1	-	5	-5
41	NMAs	Health Department	BEHISHTI-2	2	-	3	-3
42	NMAs	Health Department	BEHISHTI-3	3	62	62	-
43	NMAs	Health Department	BEHISHTI-4	4	42	46	-4
44	NMAs	Health Department	HOUSE KEEPER	12	4	3	1
45	NMAs	Health Department	MESSEUR	3	1	1	-
46	NMAs	Health Department	MESSEUR	12	1	1	-
47	NMAs	Health Department	MID WIFE	6	45	1	44
48	NMAs	Health Department	MIDWIFE	5	143	139	4
49	NMAs	Health Department	MIDWIFE	6	56	50	6
50	NMAs	Health Department	MIDWIFE	7	7	3	4
51	NMAs	Health Department	MIDWIFE	12	17	4	13

Signature
 District Officer
 Dept. of Health & Family Welfare
 Finance Department

S.No		Department	Nomenclature of Posts	BPS	Sanctioned Posts	Filled Posts	Vacant	
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	1	
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	BALOON 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	DAFADAR	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	


 District Office
 Government of Punjab
 Faisalabad

S.No	Department	Nomenclature of Posts	BES	Sanctioned Posts	Filled Posts	Vacant
4	Public Health Engineering	FERRO KHALASI	3	19	18	1
5	Public Health Engineering	JAMADAR	6	1	1	-
7	Public Health Engineering	BADRAGA	3	13	20	-7
8	Public Health Engineering	BARKANDAZ	3	3	3	-
9	Public Health Engineering	CARPENTER-CUM-BLACKSMITH	3	1	1	-
10	Public Health Engineering	DAFADAR	3	1	-	1
11	Public Health Engineering	FITTER	3	2	1	1
12	Public Health Engineering	COLLY	3	2	2	-
Public Health Engineering Total				1435	1286	149
1	Industries, Commerce and Technical Education	DAK RUNNER	3	1	-	1
2	Industries, Commerce and Technical Education	FARASH	3	1	1	-
4	Industries, Commerce and Technical Education	BEHISHTI	3	11	8	3
5	Industries, Commerce and Technical Education	BEHISHTI	4	-	1	-1
6	Industries, Commerce and Technical Education	SHOP ATTENDANT	3	298	113	185
7	Industries, Commerce and Technical Education	SHOP ATTENDANT	4	4	-	4
8	Industries, Commerce and Technical Education	TANDORCHI	3	2	2	-
9	Industries, Commerce and Technical Education	WAITER	3	1	1	-
11	Industries, Commerce and Technical Education	BEHISHTI	4	3	3	-
12	Industries, Commerce and Technical Education	SHOP ATTENDANT	4	45	38	7
Industries, Commerce and Technical Education TOTAL				366	167	199
GRAND TOTAL				2245	1726	1532



Budget Officer-1
Govt. of Khyber Pakhtunkhwa
Finance Department

1



**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:

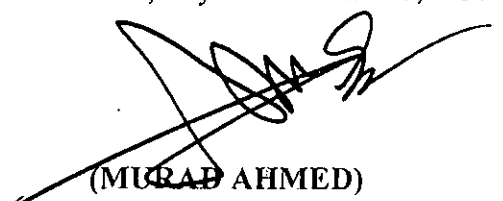
- a) Two pay scale upgradation will be allowed to all provincial government employees from BS-01 to BS-05.
 - b) One pay scale upgradation will be allowed to all provincial government employees from BS-06 to BS-15
 - c) Special Compensatory Allowance equal to difference of notional upgradation of BS-16 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 in 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 D.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)

SY
 Transport




GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT 9

Finance Department Civil Secretariat Peshawar

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

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twitter.com/GoKPPD

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 KHAN)
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

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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	BEHISHTI	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	BEHISHTI	3	3	3	-
2	DAK RUNNER	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	BEHISHTI	3	2	2	-
16	BEHISHTI	4	29	29	-
17	BEHISHTI-1	1	1	-	1
18	BEHISHTI-2	2	2	1	1
19	BEHISHTI-3	3	2	1	1
20	BEHISHTI-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	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 Technical 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

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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	-

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2. Health Department					
S.NO	Designation	BPS	Sanctioned Posts	Filled Posts	Vacar.
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	BALOOON 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	
14	BADRAGA	3	10	10	-
15	BLACKSMITH	5	1	1	-
Total NMAs			55	45	10
Grand Total					

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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.



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**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. 11539/2020 titled "Sadiq Ali S/O Rehman Wali 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**



GOVERNMENT OF KHYBER PAKHTUNKHWA
RIGHT TO INFORMATION COMMISSION
7th Floor, Tasneem Plaza, Near Benevolent Fund Building,
6th Saddar Road, Peshawar
Email: complaints@kprti.gov.pk
Ph: +92-91-9212643
Fax: +92-91-9211163

No. RTIC/AR/1-3904/17 / 488-90
Dated: 11th January, 2018

To

Mr. Sadiq Ali,
Village Post Office Mian Khan, Mohallah Akora Khel, Tehsil Katlang,
Mardan.

Ref:

MR. SADIQ ALI VS PHED, PESHAWAR.

Sub:

SUPPLY OF INFORMATION UNDER RTI. ACT, 2013
(COMPLAINT NO. 03904)

I am directed to refer to the subject noted above and to enclose please find the requisite Information received from **Public Health Engineering Department, Peshawar** vide letter No. **SOG/PHED/03-11/Right to Information Act**, dated: **20-11-2017**, regarding your case.

You are advised to confirm in writing the receipt of complete and relevant information within **Seven** days of the receipt of this letter.

In case we do not receive any response from you, your case will stand disposed off.

Assistant Registrar
Right to Information Commission,
KPK, Peshawar.

Copy to:-

Section Officer General, PHED, Peshawar.

Assistant Registrar
Right to Information Commission,
KPK, Peshawar.



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

No.SOG/PHED/03-11/Right to Information Act
Dated Peshawar, the November 20, 2017

To ✓

The Assistant Registrar,
Right to Information Commission,
Khyber Pakhtunkhwa, Peshawar.


3894
pvc

Subject: **SADIQ ALI VERSUS PHED, PESHAWAR**
COMPLAINT AGAINST NON SUPPLY OF INFORMATION BY PHED
PESHAWAR COMPLAINT NO. 03894

Dear Sir,

I am directed to refer to your letter No. RTIC/AR/1-3894/17/11474-75 dated 09-11-2017 on the subject noted above and to say that the requisite information has already submitted to the complainant vide Chief Engineer (South) letter No. 04/G-29/PHE dated 23-06-2017, however, a copy of the same is hereby enclosed for your kind perusal please.

Yours faithfully,


(IHSANULLAH)
SECTION OFFICER (G)

Encls: As Above

Endst: Of Even No. & Date.

Copy forwarded to the:-

1. Chief Engineer (South), PHE Peshawar w/r to above.
2. Mr. Sadiq Ali (Complainant).
3. PS to Secretary PHE Peshawar.

KP-RTI COMMISSION
Diary No: 7522
Date: 22-11-17
Section: AR

(IHSANULLAH)
SECTION OFFICER (G)

AR
22/11

DU

OFFICE OF THE CHIEF ENGINEER (SOUTH)
PUBLIC HEALTH ENGG:DEPTT:KHYBER PAKHTUNKHWA, PESHAWAR
Ph#091-9212984 Fax#091-9210228 E-mail: Ce.s.phed.pr5419@gmail.com

No. 04 / C-29 /PHE,
Dated Peshawar, the 23/6 /2017

To,
Mr. Sadiq Ali S/O Rehman Wali
R/O Mohallah Akora Khel Mian Khan
Tehsil Katlang District Mardan

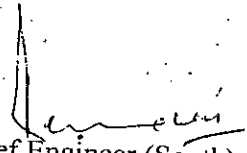
Subject: **INFORMATION UNDER RTI ACT 2013**
Reference: Your application dated 07.6.2017

The requisite information as requested by you under RTI action is re-submitted herewith for information.

DA/As above

Chief Engineer (South)

1. The Assistant Registrar Right to Information Commission Peshawar for information.
2. The Section Officer (G); PHE Department Peshawar for information.


Chief Engineer (South)

آفس: چیف انجینئر (ساوتھ) پبلک ہیلتھ انجینئرنگ ڈیپارٹمنٹ خیبر پختونخواہ۔

عنوان: معلومات رسائی۔

نمبر شمار	سوال	جواب
۲	لیکن سوال نمبر ۳ سے ہمارا مطلب یہ ہے کہ چونکہ آپریٹر جو کہ صرف ٹیوب ویل چلاتا ہے اس کا سکیل چھ (6) ہے جبکہ آپریٹر کم چوکیدار جو کہ ٹیوب ویل کے چلانے کے ساتھ ٹیوب ویل کی حفاظت یعنی چوکیداری کا بھی ذمہ دار ہے تو اسے تین (3) سکیل دیا گیا ہے۔ عہدوں کے مطابق سکیل میں فرق بنیادی وجہ کیا ہے یعنی عقل کا تقاضا تو یہ ہے کہ آپریٹر کم چوکیدار کا سکیل چھ (6) جبکہ صرف آپریٹر کا سکیل تین (3) ہونا چاہیے جو کہ حقیقت میں ایسا نہیں ہے۔ اس کی وجہ بیان کریں۔	ہر آسامی کیلئے سکیل کا تعین محکمہ خزانہ کرتا ہے اسی طرح آپریٹر اور آپریٹر کم چوکیدار کے سکیل بھی محکمہ خزانہ نے ترتیب دیے ہیں اور وہ ہی اس کی بہتر تشریح کر سکتے ہیں۔
۳	سوال نمبر ۴ سے ہمارا مطلب یہ ہے کہ محکمہ پبلک ہیلتھ میں آپریٹر کی ڈیوٹی کیا ہے، آپریٹر کم چوکیدار کی ڈیوٹی کیا ہے اور آپریٹر کم وال مین کی ڈیوٹی کیا ہے۔ کلاس فور کے رولز ریگولیشن سے ہمارا مطلب یہی ہے کہ مذکورہ کلاس فور کے فرائض کی وضاحت کریں۔ آپ کے بھیجے گئے تمام کاغذات درخواست کے ساتھ لف ہیں۔	آپریٹر کا کام ٹیوب ویل چلانا۔ آپریٹر کم چوکیدار کا کام ٹیوب ویل چلانا اور اس کی حفاظت کرنا۔ آپریٹر کم وال مین کا کام ٹیوب ویل چلانا اور لوگوں کو منصفانہ پانی کی فراہمی کیلئے والوکھولنا اور بند کرنا۔

چیف انجینئر (ساوتھ)

آفس: چیف انجینئر (ساؤتھ) پبلک ہیلتھ انجینئرنگ، ڈیپارٹمنٹ خیبر پختونخواہ۔

عنوان: معلومات رسائی۔

نمبر شمار	سوال	جواب
۳	لیکن سوال نمبر ۳ سے ہمارا مطلب یہ ہے کہ چونکہ آپریٹر جو کہ صرف ٹیوب ویل چلائے گا اس کا سکیل چھ (6) ہے جبکہ آپریٹر کم چوکیدار جو کہ ٹیوب ویل کے چلانے کے ساتھ ٹیوب ویل کی حفاظت یعنی چوکیداری کا بھی ذمہ دار ہے تو اسے تین (3) سکیل دیا گیا ہے۔ عہدوں کے مطابق سکیل تین فرق کا بنیادی وجہ کیا ہے یعنی عقل کا تقاضا تو یہ ہے کہ آپریٹر کم چوکیدار کا سکیل چھ (6) جبکہ صرف آپریٹر کا سکیل تین (3) ہونا چاہیے جو کہ حقیقت میں ایسا نہیں ہے۔ اس کی وجہ بیان کریں۔	ہر آسامی کیلئے سکیل کا تعین محکمہ خزانہ کرتا ہے اسی طرح آپریٹر اور آپریٹر کم چوکیدار کے سکیل بھی محکمہ خزانہ نے ترتیب دیے ہیں اور وہ ہی اس کی بہتر تشریح کر سکتے ہیں۔
۴	سوال نمبر ۴ سے ہمارا مطلب یہ ہے کہ محکمہ پبلک ہیلتھ میں آپریٹر کی ڈیوٹی کیا ہے، آپریٹر کم چوکیدار کی ڈیوٹی کیا ہے اور آپریٹر کم وال مین کی ڈیوٹی کیا ہے۔ کلاس فور کے رولز ریگولیشن سے ہمارا مطلب یہی ہے کہ مذکورہ کلاس فور کے فرائض کی وضاحت کریں۔ آپ کے بھیجے گئے تمام کاغذات درخواست کے ساتھ لف ہیں۔	آپریٹر کا کام ٹیوب ویل چلانا۔ آپریٹر کم چوکیدار کا کام ٹیوب ویل چلانا اور اس کی حفاظت کرنا۔ آپریٹر کم وال مین کا کام ٹیوب ویل چلانا اور لوگوں کو متصفانہ پانی کی فراہمی کیلئے والوکھولنا اور بند کرنا۔

چیف انجینئر (ساؤتھ)

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 11539/2020

**Sadiq Ali S/O Rehman Wali R/O Mian Khan Akhora Khel Tehsil Katlang
District Mardan**

_____ (Petitioner)

Versus

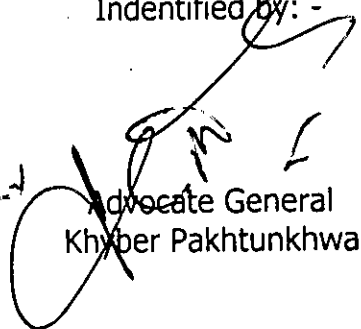
- 1) Govt. of Khyber Pakhtunkhwa through Secretary Public Health Engineering Department, Civil Secretariat Peshawar.
- 2) Superintending Engineer Public Health Engineering Circle Mardan.
- 3) Executive Engineer PHE Division Mardan.
- 4) Executive Engineer PHE Division Charsadda.
- 5) Chief Engineer, 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. 11539/2020 titled "Sadiq Ali 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: -

A. M. I.

Advocate General
Khyber Pakhtunkhwa

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

Fida Hussain
