

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

**SERVICE APPEAL NO. 970/2015**

Date of institution ... 26.08.2015  
Date of judgment ... 22.09.2016

Faiz Muhammad Steno Typists,  
Directorate Health Services FATA, Peshawar.

... (Appellant)

**VERSUS**

1. Government of Khyber Pakhtunkhwa through Secretary Health Services Peshawar.
2. Director General Health Services, Khyber Pakhtunkhwa Peshawar.
3. Director of Health Services FATA.

... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 FOR NOT REGULARIZING THE APPELLANT.

Mr. Nazir Ahmed, Advocate  
Mr. Ziaullah, Government Pleader

... For appellant.  
.. For respondents.

MR. ABDUL LATIF  
MR. PIR BAKHSH SHAH

.. MEMBER (EXECUTIVE)  
.. MEMBER (JUDICIAL)

**JUDGMENT**

ABDUL LATIF, MEMBER:- Our this single judgment will dispose of the instant service appeal as well as the connected Service Appeal No. 971/2015 titled "Muhammad Haris-vs-Government of Khyber Pakhtunkhwa through Secretary Health Services Peshawar" as common question of law and facts are involved in both these appeals.

2. Facts giving rise to the instant appeals are that the appellants Mr. Faiz Muhammad and Mr. Muhammad Haris were appointed as Computer Operator (BPS-11) on contract basis for a period of one year (1996-97) extendable upto 1997-98 in FATA Social Action Programme (SAP) Cell. The services of the appellants were extended in view of extension

Qf1.

of the project from 01.07.1998 to 30.06.2003 and that on closure of the SAP, the Governor Secretariate FATA adjusted the appellants on sanctioned regular posts of Steno Typists (BPS-12) on temporary basis where they are still working in the said capacity.

3. The appellants agitated the question of their regularization and seniority in the cadre of Stenographers before the appropriate departmental authority which was not responded and hence the instant service appeals in the Service Tribunal.

4. The learned counsel for the appellant argued that case of his clients was identical to the case of one Faiz-ul-Haq Office Assistant who was appointed in the SAP Cell of FATA alongwith these two appellants by the same authority after fulfilling all codal formalities adding further that Mr. Faiz-ul-Haq was regularized against the post of Office Assistant and his seniority in the said cadre was fixed from the date of his adjustment against the said post but the department was reluctant to extend similar treatment to these two officials who were similarly placed persons. He further argued that Mr. Faiz-ul-Haq was granted relief by the Khyber Pakhtunkhwa Service Tribunal vide its decision dated 30.12.2010 in Service Appeal No. 881/2010 and appeal of the department against the said judgment was dismissed by the Supreme Court of Pakistan vide judgment dated 01.11.2012 and argued further that as per dictum of the Superior Courts contained in 2009 SCMR 1, the present appellants also deserved to be treated in the same manner being similarly placed officials. He further relied on 2011 SCMR 898 and 2011 SCMR 1004 and prayed that being similarly placed persons the appellants may be regularized against their present posts and may be assigned proper seniority from the date of their adjustment there-against.

5. The learned Government Pleader resisted the appeal and argued that the Tribunal had got no jurisdiction to entertain the present appeals as no final order had been impugned by the appellants in their respective appeals. He further argued that the appeals did not fulfill the requirements of Section-4 and Section-7 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 hence should not be entertained. He further argued that case of the appellants was not identical to the case of Faiz-ul-Haq Assistant cited by the learned counsel for the appellants as these two appellants were initially appointed as Computer

Operator (BPS-11) and were later on adjusted against the cadre of Steno Typists (BPS-12) and added further that regularization of these two appellants against the post of Steno Typists would have serious implications of seniority for other Steno Typists/Stenographers who were not made party to the instant appeals. He also placed reliance on 2006 SCMR 1606.

6. Arguments of the learned counsels for the parties heard and record perused.

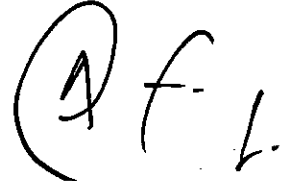
7. From perusal of the record it transpired, that the two appellants namely Faiz Muhammad and Muhammad Haris were initially appointed as Computer Operator (BPS-11) in the Social Action Programme FATA Cell and on winding up of the project they were adjusted against the newly created post of Steno Typists (BPS-12) on temporary basis in the Directorate of Health Services FATA vide order dated 16.06.2003. They are still working in the said capacity and their departmental appeals for regularization and for fixing of their seniority in the cadre of Stenographers have not yet been decided by the respondent-department. The record reveals that a colleague of the appellants Mr. Faiz-ul-Haq who was initially appointed in the same SAP Cell FATA was subsequently appointed against a post of Assistant in the Directorate of Health Services FATA and was also assigned seniority in the said cadre in pursuance of the judgment of this Service Tribunal. The record further reveals that Civil Petition No. 342-P of 2011 filed by the respondent-department against the judgment of the Service Tribunal in the case of Faiz-ul-Haq could not fructify for technical reasons hence this Service Tribunal judgment dated 30.12.2010 attained finality. The record further reveals that silence and inaction of the respondent-department over the case of the present appellants for such a long time seems intriguing as the appellants were neither regularized in service nor were they assigned any particular seniority in the Stenographers cadre in spite of passage of considerable time. It is observed that had there been no clear vacancy available with the department for which the appellants were eligible to be appointed, they should have been put on notice well in time as denial on the part of the respondent-department to recognize the status of services of these appellants at this belated stage would tantamount to injustice. In the circumstances, we are constrained

to remit the case to the respondent-department with the directions to treat these appeals as departmental appeals and examine and decide the same on merits within a period of 60 days in the light of decision cited above in the case of Faiz-ul-Haq Assistant. The appeals are disposed of in the above terms. Parties are, however, left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
22.09.2016



(PIR BAKHSH SHAH)  
Member



(ABDUL LATIF)  
Member

19.5.2016

Appellant in person and Addl. AG for respondents present.  
Rejoinder not submitted requested for time to file rejoinder. To come up  
for rejoinder/arguments to 22.9.2016.

Member

Member

22.09.2016

Counsel for the appellant, M/S Amjid Ali, Assistant and Yar Gul,  
Senior Clerk alongwith Mr. Ziaullah, Government Pleader for  
respondents present.

Vide our detailed judgment of today placed on file, this appeal is  
disposed of as per the said detailed judgment. Parties are, however, left  
to bear their own costs. File be consigned to the record room.

ANNOUNCED  
22.09.2016

  
(PIR BAKHSH SHAH)  
MEMBER

(ABDUL LATIF)  
MEMBER

31.08.2015

Appellant Deposited  
Security & Process Fee



Counsel for the appellant present. Learned counsel for the appellant argued that the appellant is serving as Computer Operator in BPS-12 and entitled to treatment meted out to one Faiz-ul-Haq, a similarly placed employee, on the basis of judgment dated 30.12.2010 maintained by the august Supreme Court of Pakistan vide order dated 1.11.2012. Places reliance on case law reported as 1996 SCMR 1185 and 2009 SCMR-1. That the appellant preferred departmental appeal dated 26.5.2015 which was not responded and hence the instant service appeal on 26.8.2015.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 12.11.2015 before S.B.



Chairman

12.11.2015

Counsel for the appellant, M/S Yar Gul, Senior Clerk and Maaz Madni, Assistant Litigation Officer alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 9.2.2016 before S.B.



Chairman

09.02.2016

Counsel for the appellant, M/S Muhammad Arshed, SO and Maaz Madni, Assistant Litigation Officer alongwith Addl: A.G for respondents present. Para-wise comments on behalf of respondents No. 1 and 2 submitted. The learned Addl: AG relies on the same on behalf for respondent No. 3. The appeal is assigned to D.B for rejoinder and final hearing for 19.5.2016.



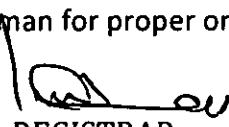

Chairman

Form- A

FORM OF ORDER SHEET

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

Case No. 2970 /2015


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	27.08.2015	<p>The appeal of Mr. Faiz Muhammad resubmitted today by Mr. Nazir Ahmad, Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;">                       REGISTRAR -                 </p>
2	27-8-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>31-8-15</u></p> <p style="text-align: right;">                       CHAIRMAN                 </p>

The appeal of Mr. Faiz Muhammad Steno Typist Directorate of Health FATA received to-day i.e. on 26.08.2015 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

Annexure-C of the appeal is illegible which may be replaced by legible/better one.

No. 1278 /S.T.

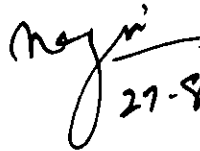
Dt. 26/8 /2015

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Nazir Ahmad Adv. Peshawar

Sir,

The Annexure C of the Appeal is replaced with a new one legible; Re-submitted.

  
27-8-2015



**IN THE KHYBER PAKHTOONKHWA SERVICE TRIBUNAL PESHAWAR.**

Appeal No. 2470 2015

Mr. Faiz Muhammad Steno Typists .....Appellant.

**Versus**

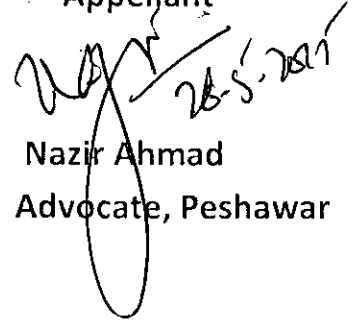
Government of KP through Secretary Health Services & others.....Respondents

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4	Future of SAP-II	C	9-11
5	Conversion of FATA SAP Cell Staff Budget from development to Current Budget	D	12-16
6	Adjustment order dated 16.6.2003	E	17
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Through

Appellant

  
26-5-2015

Nazir Ahmad  
Advocate, Peshawar

IN THE KHYBER PAKHTOONKHWAS SERVICE TRIBUNAL PESHAWAR.

Appeal No 470 /2015

Mr. Faiz Muhammad Steno Typists, Directorate Health Service FATA,  
Peshawar.....Appellant

Versus

**A.W.F. Province  
Service Tribunal**  
Diary No. 1004  
dated 26-8-2015

- 1. Government of the Khyber Pakhtoonkhwa through Secretary Health Services Peshawar.
- 2. Director General Health Services, K.P Peshawar.
- 3. Director of Health Services FATA.....Respondents.

Appeal Under Section 4 of the KP Service Tribunal Act, 1974 for not regularizing the Appellant.

Prayer:-

- A. On acceptance of this Appeal the Appellant be considered regularized as Steno typist anti date and be included in the seniority list accordingly.
- B. Any other relief which this Honourable Court may deem fit in the instant circumstances.

Respectfully Sheweth:- The need for the instant Appeal arises due to the following facts:

- 1. That the Appellant was initially appointed as per prescribed manner by the Director General Health Services, K.P on recommendation of the Departmental Selection Committee on the basis of merit under the "Criteria of Selection for Promotion/Initial Recruitment" set by the

**File in-40**  
*[Signature]*  
**Registrar**  
26/8/15

Re-submitted to-40  
and filed.  
*[Signature]*  
**Registrar**  
27/8/15

Government of Khyber Pakhtoonkhwa, services and General Administration Department (regulation Wing) vide No. SOR-I(S&GAD)4-1/75 dated 11<sup>th</sup> February, 1987 as Computer Operator BPS-11 plus usual allowances as admissible under the rules on contract basis for a period of one year i.e. 1996-97 extendable up to 1997-98 and was posted in FATA SAP CELL. These posts were prescribed by the Government of K.P for the DG Health Office and Lady Reading Hospital, Peshawar respectively and the appointment letter of the Appellant was issued on 19.8.1996..... (Annexure-A.

- 2. That the Appellant service book alongwith other formalities was issued and the Government of KP Health Department vide Officer Order No 2-2SPOII/Health (FATA)/P&D/2000-01 dated 18.12.2000, extended the period of services of the Appellant w.e.f. 01.07.1998 to 30.06.2003.(Annexure-B).
- 3. That on closer of SAP, the Governor’s Secretariat (FATA) KP Peshawar vide NO AS/FATA/FATA/P&D/GS/SAP-II/408/03/01-02 dated 27.7.2002 issued, under the directives of the Federal Government with the program of “Future of SAP” with the direction “that the trained staff at the Federal and Provincial level should be retained after proper test on the basis of merit..... (Annexure-C).
- 4. That in compliance to the Social Sector Coordination Committee of the cabinet decisions the case was processed and approved by the competent authority through Secretary to Governor KP on proper file through Finance/P&D Department FATA Secretariat with the guidelines provided by the P&D Division Islamabad after approval, ***the Directorate of Health Services FATA adjusted the Appellant on the sanctioned regular vacant post as per prescribed manner and annual increments and other benefits of regular employees are extended*** ..... (Annexure-D& E).
- 5. That the Appellant filed a Departmental Appeal to the Secretary Health Services of KP through proper channel but despite lapse of 90 days no response is communicated to the Appellant and the Appellant is still considered Computer Operator BPS 12..... (Annexure-F).

***Being aggrieved hence this Appeal is preferred on the following grounds:***

Grounds:-

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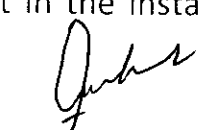
- A. That the Order of Director General Health whereby the Appellant is not considered a regular employee of the Department and is not enlisted in seniority list is against the fact and law and is not sustainable in the eyes of law as the development budget was converted into current budget.
- B. That the Appellant is selected through prescribed manner and was adjusted accordingly against the regular vacant post of Steno Typist as per guidelines of the Government of Pakistan, Planning and Development Division (Federal SAP Secretariat/DERA) Islamabad hence the Appellant is employee on regular basis as per rule.
- C. That the Appellant has 19 years of continuous service in health department without any interval, during this period the Appellant performed his duties in the Planning cell of the Government of KP Health Department and FATA Health Directorate at different official capacities as steno typist and is thus to be enlisted in the seniority list of steno typist of Health Department with anti- date.
- D. That according to Section 8 of the KP Civil Servant Act, 1973 for proper administration of a service, cadre or post, the appointing authority shall cause a seniority list of the members for the time being of such services, cadre or post to be prepared.
- E. That the Appellant has worked with the full satisfaction of the competent authority and there are no adverse remarks against him.
- F. That the Appellant is getting regular pay, allowances and annual increments as admissible under the rule and is deemed to be a regular civil servant.
- G. That even contract employees were regularized under employees on contract posts (Regularization of Service Amendment Act 1990 and 2005), which provides that a person though selected for appointment in the prescribed manner to a service of post on, or after the first date of July 2001 till the commencement of the said Act, but appointment on contract basis shall with effect from the commencement of the said Act, be deemed to have been appointed on a regular basis. All such persons and the persons appointed on regular basis to a service or post in the prescribed

manner after the commencement of the said Act shall for all intents and purposes be civil servant.

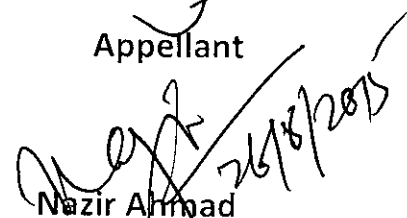
- H. That KP employees on contract basis (Regularization of Services) (Amendment Act), 1990 provides that anything contained in any law for the time being enforce any civil servant who is or has been appointed or deemed to have been appointed against any post in any Government Department under Section 3 of this Act shall be deemed to have been regularly appointed from the date of his continue officiation, subject to eligibility, according to the service rules applicable to the post verified by the Administrative Secretary of the Department concerned.
- I. That a similarly placed civil Servant Faiz-ul-Haq S/o Noor-ul-Haq Office Assistant Director Health Services FATA, Peshawar filed an Appeal No 881/2010 in the KP Service Tribunal which is admitted and allowed on 30.12.2010 and the Civil Petition No 342-P of 2011 filed by the Respondent in the Supreme Court of Pakistan is dismissed on 01.11.2012 consequent thereof the Respondents regularized him and gave him seniority accordingly..... (Annexure-G).
- J. That the Supreme Court of Pakistan in Hameed Akhtar Niazi case 1996 SCMR 1185 and 2009 SCMR 1, held that if a Court or a Tribunal award any relief to a civil servant then other similarly placed are entitled to the same relief without any litigation..

It is therefore humbly prayed that on acceptance of this Appeal the relief as prayed above be granted to the Appellant and be considered regular and be included in the seniority list accordingly.

Any other relief which this Honourable Court may deem fit in the instant circumstances.

  
Appellant

Through

  
Nazir Ahmad  
Advocate, Peshawar.

5

IN THE KHYBER PAKHTOONKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No. \_\_\_\_/2015

Mr. Faiz Muhammad Steno Typists .....Petitioner

Versus

Government of KP through Secretary Health Services & others.....Respondents

AFFIDAVIT

I Mr. Faiz Muhammad Steno Typists, Directorate Health Service FATA, Peshawar do hereby affirm and declare on oath that contents of this Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.

Identified by  
[Signature]

[Signature]  
Deponent

26-8-2015  
[Circular Stamp: EID MOHAMMAD KHATAK, ADVOCATE, CHIEF COMMISSIONER PESHAWAR]

③

**IN THE KHYBER PAKHTOONKHWA SERVICE TRIBUNAL PESHAWAR.**

Appeal No. \_\_\_\_\_/2015

Mr. Faiz Muhammad Steno Typists .....Appellant.

**Versus**

Government of KP through Secretary Health Services & others.....Respondents

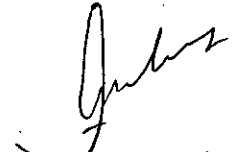
**Memo of Addresses**

**Appellant:-**

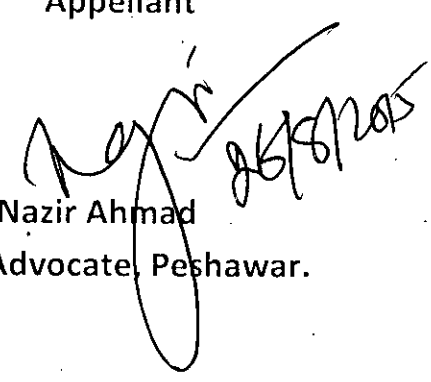
Mr. Faiz Muhammad Steno Typists, Directorate Health Service FATA,  
Peshawar.

**Respondents:-**

1. Government of the Khyber Pakhtoonkhwa through Secretary Health Services Peshawar.
2. Director General Health Services, K.P Peshawar.
3. Director of Health Services FATA.

  
Appellant

Through

  
Nazir Ahmad  
Advocate, Peshawar.

OFFICE ORDER.

Consequent upon the approval accorded by the Departmental Selection Committee held in the office of the undersigned on 17.7.1996, Mr. Faiz Mohammad S/O Ghulam Mohammad is hereby appointed as Computer Operator (NPS-11) plus usual allowances as admissible under the rules on Contract basis for a period of One Year i.e. 1996-97 extendable upto 1997-98 and posted in the Social Action Programme Cell (FATA).

If he accept the offer of appointment on Contract basis as Computer Operator, he should report to the Director Health Services, FATA, NWFP Peshawar at his own expenses within 10 days of the receipt of this letter.

If he failed to report for duty within the specified period, the offer of appointment on Contract basis will be deemed to have been withdrawn and no further correspondence shall be entertained in this respect.

Sd/-----  
DIRECTOR GENERAL HEALTH SERVICES, NWFP PESHAWAR.

NO. 11796-802/SAP Dated 19.8.96

Copy forwarded to the:-

1. Director Health Services, FATA, NWFP Peshawar.
2. AGPR, NWFP Peshawar.
3. Chief Planning Officer, Health Secretariat, Peshawar with ref; to Admn; approval No. 4-189/SPO/P&D/Health, dated 12.9.1995.
4. Section Officer (Budget) Health Secretariat, Peshawar.
5. S.P.O. (SAP).
6. Accounts Officer, Directorate General Health, Peshawar.
7. Mr. Faiz Mohammad S/O Ghulam Mohammed, Moh: Azizabad, Murshid Abad, Kohat Road, Peshawar.

for information and necessary action.

*[Signature]*  
for DIRECTOR GENERAL HEALTH SERVICES, NWFP PESHAWAR.

*For information only.*

*May file*

*(FATA)*

*DHS FATA*

*2/8/96*

*Ghams 2/8*

*[Signature]*



GOVERNMENT OF NWFP  
HEALTH DEPARTMENT.

Dated the Peshawar December 18, 2000.

*Annotate*  
③  
⑧

OFFICE ORDER.

No. 2-2/SPOII/Health (FATA)/ P&D/2000-01. The competent authority has been pleased to extend the period of services of the following officials for the period from July, 1998 to 30.06.2003 i.e. till project's life in the scheme "Provision for FATA SAP Cell in Health Department" with immediate effect.

1. Faiz-ul-Haq. (Office Assistant)
2. Faiz Muhammad. (Computer Operator)
3. Muhammad Haris. (Computer Operator)

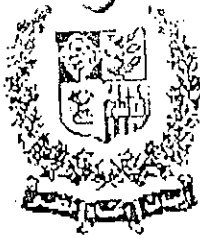
--Sd/--  
Additional Secretary (Dev.)  
Health Department, Peshawar.

Copy forwarded to the:-

1. Additional Accountant General PR (Sub Office), Peshawar.
2. Chief of Section FATA PE & D Department, Peshawar.
3. Chief Planning Officer, Health Department Peshawar.
4. Director Health Services, FATA.
5. P.A. to Deputy Secretary (Admn), Health Department
6. Official concerned.

*(Signature)*  
(ALAM ZEB MALIK)  
Section Officer (General)  
Health Department, Peshawar.

*(Signature)*  
*Regd*



Amir  
13  
D by U.M.S.  
9

Most Immediate

SAP  
D.O. No. 29(1)DERA/PC/2002  
GOVERNMENT OF PAKISTAN  
PLANNING & DEVELOPMENT DIVISION  
(FEDERAL SAP SECRETARIAT/DERA)  
"P" Block, Islamabad

JUNE 28, 2002

CHIEF FINANCE OFFICER ISLAMABAD  
(Phone: 9206492)

Subject: FUTURE OF SAPP-II

Dear Sir,

The Social Sector Coordination Committee (SSCC) of the Cabinet during its meeting held on 14-05-2002 has decided that:-

- A
- 4/7/02
- 6/7
- a. The Social Action Programme should be closed on 30-06-2002.
  - b. The trained staff at the Federal and Provincial level should be retained after proper test on the basis of merit.
  - c. All on going programmes/projects be integrated into the Social Sector Programme e.g. ESR, Health Policy, Women Development.
  - d. The bare minimum core staff including accounting staff at the Federal and Provincial Government levels may be retained till closing/finalization of accounts of SAP-II with donors for a period of 6 months (July – December 2002) or until closure activities have been finalized and accounts are closed. Necessary provision for staff expenditure may be made in the Federal and Provincial Budgets 2002-03.
  - e. The evaluation of Social Action Programme should be carried out after its closure.

2. In compliance with the above decision, all Provincial Governments, concerned Ministries/Divisions are requested to take appropriate measures for implementation of the SSCC decisions, in letter and spirit. Core team of efficient trained personnels particularly accounting staff of SAP may be retained for closure of SAPP-II activities by extending ongoing PC-1s under their normal budget from

Abdul  
Reza

over resources. Hopefully, there would be no problem in extending implementation period of these PC-1s as cost/scope of the projects of SAP Cells/Sections will remain the same, as there are sufficient savings in these projects. It does not involve any revision of PC-1. Only extension of implementation period is needed consisting of (a) one page brief addressed to Planning and Development Departments and Finance Departments in the Provinces (b) in case of Federal Government such letter be addressed to P&D Division and Finance Division with a list of staff to be retained. The expenditure during extended period however, would be met from respective PSDPs by concerned governments, as Donors may not agree to extend financing. Alternately, SAP staff can be adjusted in Provincial DERA Units with the assurance that SAP closing will be done by them without affecting DERA activities.

(18)

3. All ongoing programmes/projects and institutions developed under SAP be integrated in regular Social Sector Programmes. It will be appreciated if the list of such projects with cost, expenditure incurred by June, 2002 and balance provided in 2002-03 is intimated to this Secretariat for apprising the SSCC in its next meeting.

4. As regards the evaluation of the SAPP-II you are requested to furnish sub-sector-wise/year-wise and cumulative targets, achievements both of inputs and outputs with reasons of shortfalls. List of covenants separately for ADB and IDA and its status, classification of compliance with fully or partially with reasons of shortfalls may also be annexed with the report. It may also, inter alia, cover; (i) the policy design drawbacks if any, (ii) implementation problems and reasons for not attending such problems in time.

5. In addition to sectoral progress separate paragraphs be added on cross sectoral issues like; (i) gender balancing; (ii) good governance; (iii) steps taken in the light of Third Party Validation Reports/Audit position; (iv) community participation; (v) Schemes transferred to users associations for meeting O&M

Attended  
Najir

s etc. The reports may be brief and details be Annexed in tables or in matrix

11

6. The status of policy reforms, capacity building, its sustainability after closure of SAP may also be addressed.

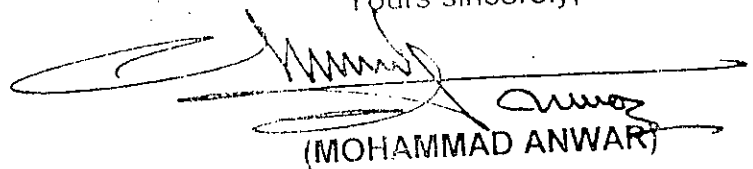
7. Financial analysis indicating year-wise/cumulative budgetary allocations, releases and expenditure for each sub-sector with separate details of development, non-development pertaining to salary and non-salary may please be provided for the programme period. All financial figures may please be reflected in millions of rupees for consistency.

8. SAPP-II is going to close on 30-06-2002 but Social Sectors will remain operational. Therefore, the philosophy of SAPP-II may please be integrated into Social Sector Programmes. At the national level, Poverty Reduction Indicators have been worked out. A set of these indicators is enclosed for your information. Kindly ensure continuity of the on-going programmes and/or initiation of new programme to improve these indicators by linking social sectors with Devolution Plan of the respective Governments.

9. A separate brief on social sectors under Devolution Plan highlighting problems/issues and recommendations may please be furnished to this Secretariat on priority basis so that policy decisions of the SSCC for streamlining the implementation under new scenario can be solicited.

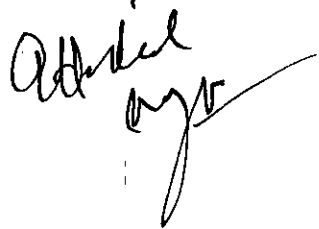
With best regards.

Yours sincerely,

  
(MOHAMMAD ANWAR)

(1) Mr. M. Akram Malik  
Chairman  
Planning & Development Board  
Government of Punjab  
Lahore

(2) Mr. Shahzad Shaikh,  
Additional Chief Secretary (Dev)  
Planning & Dev. Department  
Government of Sindh  
Karachi



Mr. Mian Moazzam Shah  
SAP Coordinator  
M/O Population & Welfare  
Government of Pakistan  
Islamabad.

Mr. Mehar Dad  
SAP Coordinator  
Government of NA  
Gilgit

Mr. Ghulam Haider Kazmi  
SAP Coordinator  
P & D Department  
Government of AJK  
Muzaffarabad

Mr. Imran Khan Nasir,  
SAP Coordinator, ICT  
Government of Pakistan  
Islamabad.

Mr. Asim Shahi,  
SAP Coordinator (FATA)  
Government of NWFP  
Peshawar.

Copy for information to:-

- i) PS to Deputy Chairman
- ii) PS to Secretary
- iii) J.S: Committee Cabinet Division, Islamabad

*Handwritten signature*

*Handwritten mark*

35

Annexure

D  
12

Subject:

**CONVERSION OF FATA SAP CELL STAFF FROM DEVELOPMENT BUDGET TO CURRENT BUDGET.**

1. FATA SAP cell was established in Health Directorate, FATA on 22/06/1995 at a total cost of Rs. 1.409 million. Under the project the following staff was approved.

S.No	Name of Post	Grade	No
1	Planning Officer	17	1
2	Assistant	11	1
3	Computer Operator	11	2
4	Naib Qasid	1	2

2. In addition to the staff some equipment and furniture were also approved. The detail of equipment/furniture etc. is as under:-

S.No	Name of Item	No
1	Computer Machines	2
2	Photo Copier	1
3	Calculator	4
4	Furniture	17
5	Air Conditioner	1

3. The objectives of the cell was to plan, coordinate, implement and monitor the schemes to be executed under the Social Action Programme and to cope with the increased work load generated by the SAP.
4. The scheme was revised during 1998-99 and was approved at a total cost of 8.393 million. The schemes was revised by the Health Department at the Secretariat level. The necessary inputs such as staff, equipment and transport were included in the PC-I for the newly established FATA section within the Health Department. The detail of staff and equipment etc. for the revised scheme is attached at Annexure-I. The revised administrative approval for the scheme was issued on 13/01/1999 Annexure -II.
5. Since 1<sup>st</sup> July 2002 Health Directorate FATA have been brought under the Administrative Control of Governor's Secretariat FATA as such the FATA section of the Health Department has no more concerned with the Health Directorate FATA. The issue of FATA SAP cell needs to be considered in the above circumstances, it is submitted for your kind information that out of approved staff presently one Office Assistant BPS-11, two Computer Operators BPS-11 and one Naib Qasid BPS-1 are working under the project. The Project will be closed on 30/06/2003.

Attested  
per  
11/2/01

13

6. Since the FATA Directorate is already deficient of staff. (The officials working under the project have rendered very good services and performed their duties with great zeal and enthusiasm. It is therefore, requested that the services of the following trained staff be converted from Development Budget to the current Budget side w.e.f. 01/07/2003.

- 1. One Office Assistant BPS-11
- 2. Two Computer Operators BPS-11
- 3. One Naib Qasid BPS-I.

7. It is added for your kind information that the P&D Department vide letter No AS/FATA/P&D/GS/SAP-II/408/03/01-02, dated 27/07/2002 has also communicated the decision regarding the future of SAP-II. It has been mentioned in the decision that the trained staff at the Federal and Provincial level should be retained after proper test on the basis of merit. Annexure - III.

8. Submitted please.

*Ghulam Nabi Khan*  
27/11/03

(Dr. Ghulam Nabi Khan),  
Deputy Director (Dev).

9. *JW*  
*22/11/03*  
Director Health Services,  
FATA, Peshawar

*GAH*  
*27/11/03*

10. Additional Secretary (P&D/Finance)

*What are your recommendations?*

*- ions please*

*1268*  
*21.11.03*

11. *GAH*  
The undersigned recommends because office Asstt is leaving after Development activities & the two computer operators are well trained. Their replacement will be beneficial for FATA Health Division.  
*GAH*  
*27/11/03*

Add. Secy P&D

(14)

12. Accord to Seniority of 1961, ...  
Documents, ...  
approved by ...  
are cleared.

Reference Para-12/N

13. The SNE for three (3) posts of Assistants in BPS-11 and Two (2) Posts of Steno typist BPS-12 are cleared. The Posts were created vide Government of Pakistan States and F.R. Division Islamabad letter No. F.3-Sec.XI/EFC/93 dated 18/04/1996 for Strengthening of Directorate Health Services FATA (Annexure V). The above stated position are lying vacant upto the date:

14. The following officials who are working under the SAP cell and their performance is highly satisfactory. I recommend their adjustment against the vacant equivalent sanctioned position in Directorate Health Services FATA.

1. Faiz-ul-Haq. Office Assistant BPS-11 against the post of Assistant
2. Faiz Muhammad. Computer Operator BPS-11 against the post of steno typist
3. Muhammad Haris. Computer Operator BPS-11 against the post of steno typist

15. Submitted for approval please.

*[Signature]*  
Director Health Services  
FATA. Peshawar  
27/01/03

Additional Secretary (P&D).

16. Guidelines have been provided by P&D division for absorption of SAP officials. If health board follows these guidelines and if special fit in Secretary-to-Governor they may be adjusted.

As proposed at Para 16/n ...  
As P&D ...  
Committee to be constituted ...

380  
6/2/03

30/01/03  
6/2/03



to take a paper test on basis of  
Merit, before they can adjust

(18)

D. Director  
D. Director

for

The following Committee is  
suggested

17/

1. Dr. Gharoon
2. Mr. Mahmood Nazki P.O.
3. Mr. Mahmood Nazki IIMS Co-ordinator.

Submitted for approval

[Signature]

DHS FATA

Agreed

[Signature]

[Signature]

The interview was conducted and found  
all the three candidate fit for adjustment  
Orders may please be issued. (P.O.)

18/

(D. Dev) order may be issued

[Signature]  
02/06/03

19/

DHS FATA Supdt. Account  
for comments

P.O.

20/

The Selection made by the  
committed credence under  
Para-17- under the guideline  
of the Govt. P + D is clear.

21

As suggested in Para-18.  
submitted for order / approval of

22

DHS (FAATA).  
DDM/Estab. will they be on contract  
basis or otherwise. 14/6 SA.  
Can they be adjusted  
against the vacant posts ~~for~~  
~~on a temporary basis~~

✓ 23

This Directorate can adjust the officers  
(against the vacant posts in the Directorate)  
Hence Services File.

DHS

24

They are adjusted against  
vacant posts purely on  
temporary basis

15/6

25

Spdl Est.

Yes Sir, they adjusted now on  
temporary basis. 15/6

Attended  
copy

*Amir*  
*E*  
*17*

**GOVERNOR'S SECRETARIAT, FATA**  
**DIRECTORATE HEALTH SERVICES, FATA, PESHAWAR**

Ph: 091-9212109, 9212207.

Fax: 091-9210212.

Dated: 16 / 06 / 2003

\*\*\*\*\*

**OFFICE ORDER**

No. DHS/FATA/DEV/1-26/2002-03. The Competent Authority is pleased to adjust the services of Mr. Faiz Muhammad, Computer Operator, SAP Cell (BPS-11) against the vacant post of Steno Typist (BPS-12) in the Directorate of Health Services (FATA) on temporary basis in the best interest of public services with immediate effect.

Sd/xxxxxxxxxxxxxxxxxxxxxxxxxx  
Secretary to Governor,  
Governor's Secretariat, FATA,  
Peshawar.

Endorsement of even number and date

Copy forwarded to the:-

1. Additional Secretary, P&D, Governor's Secretariat, FATA, Peshawar.
2. Additional Accountant General, PR (Sub Office), Peshawar.
3. Deputy Secretary (Finance) Governor's Secretariat, FATA, Peshawar.
4. Director General Health Services, NWFP, Peshawar.
5. P.S to Secretary to Governor, Governor's Secretariat, FATA, Peshawar.
6. Accountant, DHS, FATA, Peshawar.
7. Official concerned.

*Attended  
page*

*9/c*

*[Signature]*  
Director Health Services,  
FATA, Peshawar.

جناب ڈائریکٹر جنرل ہیلتھ سروسز، فیروز خان آباد، لاہور

Amul  
98

محکمہ ایپل بزار کے منتقلی اور شہریت سنبھاری کمیٹی  
میں سے منجملہ صحت

جناب عالی: گزارش کی جانے لگی ہے کہ ایپل کمیٹی کے

(SAP) سنبھاری کمیٹی کے بتاریخ 1986-7-17 کمیٹی

اپریل 11-83 کے ایک سال (انٹرنیٹ)

پر سرٹیفکیٹ بنواتے ہیں اور پھر اسی کمیٹی کے

قرارداد کی بنیاد پر ایپل کمیٹی کے

بعد میں اس کی کمیٹی کے منتقلی کے

منتقل کیا گیا اور ایپل کمیٹی کو

خالی پوسٹ پر ایپل کمیٹی کیا گیا۔

تک ایپل کمیٹی کو عارضی ملازم سمجھنا ہے اور

کے سنبھاری کمیٹی میں شامل نہیں کیا گیا

بعض اہل حق۔ ان کی اسٹیٹس کے سرورس کے

ڈائریکٹری جو کہ منظور ہوئی۔ اور

بھی منتقلی کی اپیل مسترد کر دی

تاکہ 10 ایپل کمیٹی کے منتقلی کے

سنبھاری کمیٹی میں شامل کیا جائے اور

Amul  
98

ایپل کمیٹی کے منتقلی کے سرورس کے  
ڈائریکٹری جو کہ منظور ہوئی۔ اور  
بھی منتقلی کی اپیل مسترد کر دی  
تاکہ 10 ایپل کمیٹی کے منتقلی کے  
سنبھاری کمیٹی میں شامل کیا جائے اور  
بعض اہل حق۔ ان کی اسٹیٹس کے سرورس کے  
ڈائریکٹری جو کہ منظور ہوئی۔ اور  
بھی منتقلی کی اپیل مسترد کر دی  
تاکہ 10 ایپل کمیٹی کے منتقلی کے  
سنبھاری کمیٹی میں شامل کیا جائے اور

Amelars

(G) (A) (G)  
19  
239

THE K.P.K SERVICE TRIBUNAL PESHAWAR

Appeal No. 881/2010

Date of institution - 26.04.2010  
Date of decision - 30.12.2010



Assistant, Directorate of Health Services FATA Peshawar  
.....(Appellant)

VERSUS

1. Government of K.P.K through Secretary Health Department Peshawar.  
2. Director General Health Services, KPK Peshawar.  
3. Director Health Services FATA.....(Respondents)

Appeal Under Section 4 of the K.P.K Service Tribunals Act 1974 against the order dated 3.10.2009.

M. Nazir Ahmad, Advocate..... For Appellant  
Mr. Tahir Iqbal-Khattak, AGP..... For Respondents.

SYED MANZOOR ALI SHAH..... MEMBER  
MR. NOOR ALI KHAN..... MEMBER

*Handwritten signature*

JUDGMENT

SYED MANZOOR ALI SHAH, MEMBER: This appeal has been filed by the appellant against order dated 3.10.2009.

2. Brief facts of the case are that the appellant was initially appointed as Assistant vide order dated 11.2.1987 on contract basis for a period of one year and was posted in FATA SAP Cell. These posts were prescribed by the K.P.K Government for Health and LRH Peshawar and the appointment order of the appellant was issued on 19.8.1996. The Health Department extended the services of the appellant w.e.f. 1.7.1998 to 30.6.2003. On closer of SAP the Governor Secretariat FATA vide order dated 27.7.2002 issued under the directives of Federal Government with the programme of "Future of SAP" with the direction "that the trained staff at the Federal and Provincial level should be retained after proper test on the basis of merit. After approval the Directorate of Health Services (FATA) adjusted the appellant as per prescribed manner.

RECEIVED  
EXAMINER

241

(28)

The appellant preferred a departmental appeal but with no response. Hence, the instant appeal.

Arguments heard and record perused:

4. The learned counsel for the appellant argued that the appellant was selected through prescribed manner and adjusted accordingly against the post of Assistant, hence, he is a regular employee. The appellant has in his credit 14 years spotless service in Health Department without any break. During the period the appellant performed duties in the Planning Cell of Health Department and FATA Health Directorate as office Assistant and to be enlisted in the seniority list of office Assistants. Even contract employees have been regularized under employees post (Regularization of Service Amendment Act, 1990 and 2005.

5. The A.G.P argued that he appellant was appointed particularly for SAP Cell FATA after fulfilling all codal formalities. He was adjusted on purely temporary basis on the regular sanctioned post of office Assistant after adopting all the procedures. He was working as such from 16.6.2003, having 11 years service from 1996. The Directorate Health Services KPK was requested for inclusion of his name in seniority list accordingly. The appellant is not a regular employee of Health Department but a project based employee, therefore, his name was not enlisted in the seniority list.

6. In view of the above, the appeal is accepted and the respondent department is directed to enlist the name of the appellant in the seniority list of Assistants of FATA Secretariat at proper place. No order as to costs. File be consigned to the record.

ANNOUNCED  
30.12.2010

(NOOR ALI KHAN)  
MEMBER.

(SYED MANZOOR ALI SHAH)  
MEMBER.

Attested  
Majid

Certified to be true copy  
Khatun  
Service Tribunal,  
Peshawar

Date of filing of application	6-1-2011
Words	800
Fee	6-00
Total	6-00
Time of Copying	1/1
Completion of Copy	31-1-2011

34

(B)

(21)

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**Present:**  
MR. JUSTICE NASIR-UL-MULK  
MR. JUSTICE TARIQ PARVEZ

**CIVIL PETITION NO. 342-P OF 2011**  
(on appeal from judgment of the KPK Service Tribunal, Peshawar dated 30.12.2010 passed in Appeal No. 381 of 2010)

Government of KPK, through Secretary Health Department & others ...Petitioners.

**VERSUS**

Faizul Haq ...Respondent.

For the Petitioners: Mr. Lal Jan Khattak, Addl. AG.

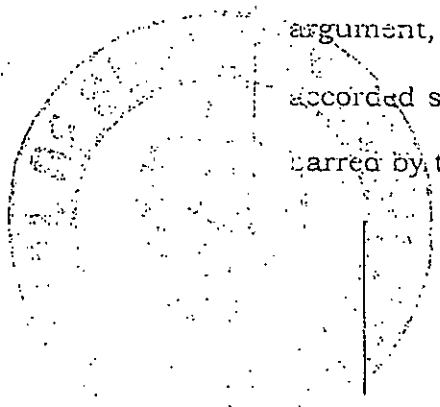
For the Respondent: N.R.

Date of Hearing: 01.11.2012.

**ORDER**

**NASIR-UL-MULK, J.**— This petition is barred by 61 days.

The learned Additional Advocate General states that the only clarification is sought that as in Para-6 of the impugned judgment, it has been directed that the respondent be given seniority in the list of Assistants of the FATA Secretariat, whereas the FATA Secretariat does not have any seniority list of its own. We would not comment upon this argument, as the petition is time barred. The respondent is to be accorded seniority in accordance with law. The petition is dismissed as barred by time.



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*Sd/- Nasir-ul-Mulk*  
*Sd/- Tariq Parvez, J.*

Certified to be true copy  
*Handwritten signature*  
Deputy Registrar  
Supreme Court of Pakistan,  
Peshawar.

PESHAWAR  
1st November, 2012.  
*Mudassar* ☆  
*Handwritten signature*  
02/11

WAKALATNAMA

92

In the R.P.K. Service Tribunal, Peshawar

Mr Faiz Muhammed ————— Appellant

VS

Govt of K.P.K through Secretary Health Service  
Peshawar

I/we the Appellant

do hereby appoint Mr. Nazir Ahmad Advocate Peshawar High Court Peshawar my/our Counsel in subject proceedings and authorize him to appear, plead, compromise, withdraw or refer the matter for arbitration for me/us without any liability for his default and with the authority to engage/appoint any other advocate/counsel at my/our expense if necessary and receive all sums and amounts payable to me/us and to all such acts which he may deem necessary for protecting my/our interests in the matter. He is authorized to file Appeal, Revision, Review and Application for restoration or Application for setting-aside ex-parte decree proceedings on my/our behalf.

Dated: 26.8.2015

Accepted and Attested

Nazir Ahmad  
Nazir Ahmad  
Advocate, Peshawar  
Cell: 0301-8571879  
Office: 091-5277215

Govt  
Appellant



# **BEFORE SERVICE TRIBUNAL PESHAWAR.**

**Appeal No. 970/2015**

Faiz Muhammad.....**Appellant.**

**Versus.**

Government of Khyber Pakhtunkhwa & Others.....**Respondents.**

**Parawise comments on behalf of respondent No.1 & 2.**

## **Preliminary Objections:-**

1. That the appellant has no cause of action.
2. That the appeal is not maintainable and also time barred.
3. That the appeal is bad for mis joinder and non joinder of necessary parties.
4. That the appellant has no locus standi and also estopped by his own conduct.
5. That the appellant has not come to the Tribunal with the clean hands.

## **FACTS.**

1. That have been appointed as Computer Operator purely on contract basis for a period of one year and posted in Social Action Program (FATA).
2. Their Services have been extended for the period from July,1988 to 30-06-2003 i.e, till Project life (FATA SAP CELL) by the Government of KPK Health Department Peshawar.
3. Relates to DHS (FATA).
4. Incorrect. They have been adjusted against the vacant posts of Steno Typist (BPS-12) i.e-Ex-cadre post purely on temporary basis in their own pay scale i.e BPS-11.
5. Incorrect. They have already been informed through DHS (FATA)that their name cannot be included in the seniority list of stenographer (BPS-14) as they were originally appointed as Computer Operator and adjusted against the post of stenographer in the project (FATA SAP CELL), vide letter No.8768 dated 31-10-2014.

## **GROUND:**

- A. Incorrect. As Explained in para-05.
- B. They have been adjusted against the vacant posts of Steno Typist and not appointed under the prescribed manner/Rule on Regular basis.
- C. Incorrect. As Explained in Para-B.
- D. Incorrect. They have not been regularly appointed as Steno Typist (BPS-12) but adjusted against the post of Steno Typist purely on temporary basis.
- E. Pertains to record.
- F. Incorrect. They are not regular employee.


G. Incorrect. They have not been appointed on contract basis but not only adjusted on Ex-cadre post purely on temporary basis.

H. Incorrect. As in Para (G).

I. Pertains to record

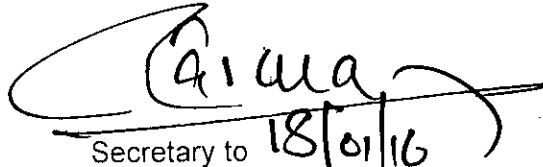
J. No Comments.

In view of the legal and factual position narrated above it is prayed that the appeal in hand may please be dismissed with cost.



11/1/16

Director General Health Services,  
Khyber Pakhtunkhwa, Peshawar.  
(Respondent No. 2)



18/01/16

Secretary to  
Government of Khyber Pakhtunkhwa  
Health Department, Peshawar.  
(Respondent No.1).

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1645 /ST Dated 6 /10 / 2016


To

The Director General,  
Health Services Peshawar.

Subject: - JUDGMENT

I am directed to forward herewith a certified copy of Judgement dated 22.9.2016 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.