

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 1416/2023

Abdul Rahim, Versus Government of Khyber Pakhtunkhwa through Secretary, PHE
Department, Civil Secretariat, Peshawar and Others

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AT from Rajam

DEPONENT

CNIC No. 17301-1478147-9

Cell # 0319-9064196

16-11-2023

Peshawar.

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.1416/2023

Abdul Rahim,
Superintending Engineer (BPS-19),
PHE Khyber Pakhtunkhwa.

Appellant

VERSUS

1. **Government of Khyber Pakhtunkhwa** through Secretary, Public Health Engineering Department, Civil Secretariat, Peshawar.
2. **Chief Engineer Public Health Engineering Department**, Khyber Pakhtunkhwa, Peshawar.
3. **Amil Muhammad**, Superintending Engineer Public Health Engineering Division Kohat.
4. **Shehzada Behram**, Superintending Engineer Public Health Engineering Division Dir Upper.
5. **Kifayat Ullah Khan**, Superintending Engineer, XEN Public Health Engineering Division Buner.

Respondents

**JOINT PARA WISE COMMENTS ON BEHALF OF
RESPONDENTS NO.1 & 2**

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 8863

Dated 03-11-2023

Respectfully Sheweth

Preliminary Objections

1. The appellant has no locus standi to file the instant petition.
2. The appellant has no cause of action nor locus standi.
3. The appellant has not come to this Hon'able Tribunal with clean hands.
4. The appeal is badly time bared.
5. The appeal is bad for non joinder, misjoinder of necessary parties.
6. The present appeal is not maintainable in its present form and also in the present circumstances of the issue.

ON FACTS

1. Pertains to record. Hence no comment.
2. Correct. Hence no comment.
3. Pertains to record.
4. Incorrect and misconceived. It is clarified that the appellant has already instituted a "**Service Appeal No. 1150/2012 titled Abdul Rahim V/S Secretary PHED and Others**" wherein, the appellant has raised objection on seniority, issued by the respondent department, however, the present appeal is not maintainable in the eyes of law, as the same is subjudice in this Hon'able Tribunal and date of hearing is fixed on 09.10.2023. The present appeal being vexatious and devoid of merit may please be dismissed with cost. As the same issue of the circumstance is pending adjudication before this Hon'able Tribunal. It is also worth to mention here that the tentative seniority list of Superintending Engineer (BPS-19) is not challenged by the appellant in the Hon'able Peshawar High Court Peshawar.
5. Pertains to record.
6. As discussed in para-4 of the above.
7. In compliance with the direction of Hon'able Supreme Court of Pakistan the appellant was promoted on regular basis and was placed in the seniority list of SDOs from the date of regular promotion in BPS-17 accordingly, hence, the tentative seniority list of Superintending Engineers (BPS-19) issued by the respondent department is based on merit and as per rules and policy (**tentative seniority list of Superintending Engineer is Annex-A**). The burden lies upon the appellant to prove the same before this Hon'able Tribunal that where the appellant has been placed wrongly in the seniority list *ibid*.

- 8. Incorrect and misconceived. As discussed in para-7 of the above.
- 9. Incorrect and misconceived. As discussed above.
- 10. It is clarified that Service appeal No. 1150/2012 titled Abdul Rahim V/S Government of Khyber Pakhtunkhwa PHED & others" having the same grievances of the seniority. It is worth mentioning that the case of seniority is subjudice before this Hon'able Tribunal, wherein, date of hearing is fixed on 09.10.2023, then why the petitioner instituted the present appeal having common question of law and facts. Hence the present appeal is not maintainable in the eyes of law and the appellant has no cause of action to file the present appeal where the same issue is pending adjudication before this Hon'able Tribunal.
- 11. Incorrect and misconceived. As discussed above.
- 12. It is clarified before this Hon'able Tribunal that the issue of the seniority raised by the appellant is pending adjudication, then what is the need of the present Service appeal.
- 13. Incorrect and misconceived. The appellant has been placed rightly at S.No. 11 in tentative seniority list of Superintending Engineer (BPS-19) PHED. The Burdon lies upon the appellant to prove his claim before this Hon'able Tribunal.
- 14. No comments.
- 15. The appellant is not an aggrieved person he has been treated as per rules and policy.

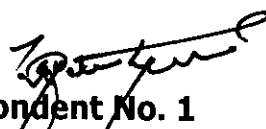
ON GROUNDS

- A. No comments.
- B. Incorrect and misconceived. As discussed in the preceding paras.
- C. The respondent department issued seniority as per rules and policy.
- D. Incorrect and misconceived. Hence denied.
- E. The respondent department followed rules and regulation in the discharge of official business.
- F. Incorrect and misconceived. As discussed in the preceding paras.
- G. Incorrect and misconceived. It is clarified that the respondent department promoted the appellant from Sub Engineer (BPS-11) to the post of SDO (BPS-17) on acting charge basis on 16.09.2008. The appellant instituted Civil Petition No.438 & 439-P/2009 in the Hon'able Supreme Court of Pakistan. In compliance with the judgment of the apex court the appellant was promoted on regular basis and reflected in seniority list of SDOs accordingly. It is also clarified that the civil petition filed by the appellant in the august of Supreme Court of Pakistan pertaining to his regular promotion of SDO instead of seniority issue. The respondent department complied with the direction of Hon'able Supreme Court of Pakistan in letter and spirit

PRAYERS

Keeping in view the above, it is therefore most humbly prayed before this Hon'able Tribunal, that the present appeal being vexatious and devoid of merit may please be dismissed with cost.


Respondent No. 2
Chief Engineer
PHE Department


Respondent No. 1
SECRETARY TO GOVT. OF KPK
PHE DEPARTMENT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

P
Service Appeal No. 1416/2023

Abdul Rahim
 Superintending Engineer (BPS-19).
 PHE Khyber Pakhtunkhwa

Versus

Government of Khyber Pakhtunkhwa, & Others

AFFIDAVIT

I, Muhammad Irfan Anjum, Superintendent, PHE Department Peshawar do hereby affirm and declare on oath that the contents of the comments in Service Appeal No. 1416/2023 titled "Abdul Rahim Versus Government of Khyber Pakhtunkhwa & Others" are true and correct to the best of my knowledge and belief and nothing has been concealed from the Honorable Service Tribunal Peshawar.

It is further stated on oath that in this appeal the answering respondents neither been placed ex-parte nor their defense has been struck off / cost.



M. Irfan Anjum
 DEPONENT
 CNIC No. 17301-1478147-9
 Cell # 03139064196

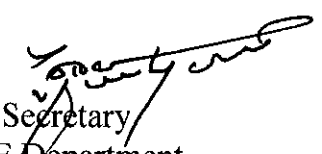
3/11/23

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GOVT. OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGINEERING DEPARTMENT

AUTHORITY LETTER.

No.SO(LIT)PHED/ST/40-56/Abdul Rahim. Muhammad irfan Anjum, Superintendent) PHE Department is hereby authorized to submit the Comments/Reply in the Khyber Pakhtunkhwa Service Tribunal in Service Appeal No.1416/2023 titled "Abdul Rahim Vs: Government of Khyber Pakhtunkhwa through Secretary PHE Department and others" on behalf of the respondent No.1 Department.


Secretary/
PHE Department
Khyber Pakhtunkhwa



GOVERNMENT OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG: DEPARTMENT

Dated Peshawar, the January 02, 2023

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TENTATIVE SENIORITY LIST OF SUPERINTENDING ENGINEERS (BPS-19) PUBLIC HEALTH ENGINEERING DEPARTMENT KHYBER PAKHTUNKHWA AS STOOD ON 02-01-2023.

Seniority No	Name	Academic Qualification	Date of birth	Domicile	Date of Ist Entry in Govt. Service	Date of appointment/promotion in present grade	Remarks
1.	Rehan Gul	B.E (Civil)/ Master of Engg: in Civil Engg:	22-03-1963	Kohat	01-10-1987	13-12-2022	The officer is promoted in last PSB and he retained his original seniority.
2.	Muhammad Yousaf	B.E (Civil)	27-03-1966	D.I. Khan	01-08-1992	21-01-2021	
3.	Sohail Ahmed Khan Alizai	B.E (Civil) SMC	15-02-1968	Haripur	12-01-1994	21-01-2021	
4.	Walayatullah Khan	B.E (Civil) SMC	28-03-1968	South Waziristan	12-01-1994	21-01-2021	
5.	Muhammad Amjad Shamsher	B.E (Civil) ii. M.Sc (Envir Engg) iii. Diploma in Procurement & Supply Chain Management (DP&SCM) (SMC)	18-04-1969	Bannu	12-01-1994	05-08-2021	
6.	Shahid Mehmood	B.E (Civil)	27-04-1972	Mansehra	15-11-1997	05-08-2021	
7.	Irshad Khan	B.E (Civil)	15-04-1968	Mohmand Agency	15-11-1997	05-08-2021	
8.	Amil Muhammad	B.Sc (Civil)	12-01-1966	FR Bannu	07-04-1986	11-01-2022	He was deferred by the PSB in its earlier meetings. He was promoted to BPS-19 and he retained his original seniority.
9.	Shahzada Behram	B.Sc (Civil)	04-11-1963	Mardan	08-10-1987	05-08-2021	
10.	Kifayatullah Khan	B.Sc (Civil) M.Sc (Civil)	14-02-1969	Bannu	16.09.1993	13-12-2022	
11.	Abdul Rahim	B.Sc (Civil)/M.Sc (Environmental Engg)	25.08.1965	Bannu	16.09.1993	05-08-2021	

[Signature]
Section Officer (Lit)
PHE Department
Peshawar.

Seniority No	Name	Academic Qualification	Date of birth	Domicile	Date of Ist Entry in Govt. Service	Date of appointment/promotion in present grade	Remarks
12.	Khan Muhammad Khan	B.Sc (Civil)	02.04.1968	N.W.A	16.09.1993	22-07-2022	
13.	Mir Adam Khan	B.Sc (Civil)	28-02-1966	FR Bannu	17-10-1987	05-08-2021	
14.	Shaukat Rahman	B.E (Civil)/ M.Sc(Water Supply Engineering) The Netherlands M.Sc (Project Management)	31-07-1968	Haripur	09-02-1995	13-12-2022	The seniority of the officer has been fixed due to major penalty of demotion to lower grade for one year.
15.	Yousaf Khan	B.Sc (Civil)	01-03-1969	Swat	16-09-1993	13-12-2022	

A. H. Khan
Section Officer (Lit)
PHE Department
Peshawar.