

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

EXECUTION PETITION NO. 488/2022
IN SERVICE APPEAL NO. 990/2019

Farman Ullah

Petitioner

VERSUS

**Government of Khyber Pakhtunkhwa Through
Secretary Irrigation Department & others**

Respondents

Khyber Pakhtunkhwa
Service Tribunal

Subject: REQUEST FOR INTERIM RELIEF TO RESPONDENT NO. 02.

Case No. 8879

RESPECTIVELY SHEWETH:

Dated 6-11-23

1. That this Hon'ble Tribunal vide its Order dated 26.10.2023 directed the following:

"Implementation report not submitted nor any source form etc has been submitted in Account's Office, therefore, the salary of Secretary Irrigation Government of Khyber Pakhtunkhwa is attached in the manner as prescribed under Section-60(1)(i) of the code of Civil Procedure, 1908 till implementation of the Judgment. The Accountant General, Khyber Pakhtunkhwa is directed to attached the salary of Secretary Irrigation, Government of Khyber Pakhtunkhwa (respondent No. 02) and submit report in writing that the salary actually attached. To come up for submission of implementation report on 24.11.2023 before S.B.P.P given to the parties."

2. That, in pursuance of the directions of the Hon'ble Tribunal in Execution Petition No. 488/2022 in Service Appeal No. 990/2019, the case for (Pay & Allowances of higher post) has already been forwarded to Finance Department Khyber Pakhtunkhwa for release of funds (**Annex-I, II & III**). Hence, the orders of the Honorable Tribunal in the instant Execution Petition have already been complied to the extent/ jurisdiction of Irrigation Department/ Secretary Irrigation, Government of Khyber Pakhtunkhwa being respondent No. 02.

3. That, in the instant Service Appeal No. 990/2019, a Civil Petition leave to Appeal No. 439-P/2021 against the judgement has already been filed, which is pending disposal before the Apex Supreme Court of Pakistan. therefore, the instant Execution Petition is not sustainable.

4. That, the subject case is under process in Finance Department and the said Department has sought legal opinion of Law Department on the point whether to implement the Khyber Pakhtunkhwa Service Tribunal's Judgment conditionally or issue advice to Irrigation Department to wait till the final outcome of CPLA in the Service Appeal No. 990/2019 filed in the August Supreme of Pakistan (**Annex-IV**).

5. That, the Law Department has tendered its advice to implement the judgement dated 22.06.2021 passed by the Khyber Pakhtunkhwa, Service Tribunal in Service Appeal No. 990/2019 conditionally subject to final outcome of CPLA already pending for adjudication before Supreme Court of Pakistan. The Law Department is also advised to administrative Department to move an application for early hearing coupled within another application for suspension of impugned judgement of Khyber Pakhtunkhwa Service Tribunal in pending CPLA before Supreme Court of Pakistan (**Annex-V**). Therefore, on receipt of compliance report from Finance Department, the implementation report will be submitted in the Hon'ble Service Tribunal as directed.

Prayer.

It is, therefore humbly prayed that in light of the above facts, interim relief may be granted to the Respondent No. 02, and the Khyber Pakhtunkhwa Services Tribunal Order dated 26.10.2023 may kindly be reviewed and salary of the Secretary Irrigation Department, Government of Khyber Pakhtunkhwa be released, please.


Secretary to Govt. of Khyber Pakhtunkhwa,
Irrigation Department

**Secretary to
Govt of Khyber Pakhtunkhwa
Irrigation Department**



Annex - I

GOVERNMENT OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT
(ACCOUNTS SECTION)

3/15

No.11-AO/IRR/B.E/Reports/2023-24
Dated Peshawar, the 21-08-2023

To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Finance Department, Peshawar.

Attention:

Section Officer (SR-I)

Subject: -

E.P NO. 488/2023 IN SERVICE APPEAL NO. 990/2019 TITLED FARMAN ULLAH V/S
GOVT. OF KHYBER PAKHTUNKHWA THROUGH SECRETARY IRRIGATION &
OTHERS.

AUTHORIZATION OF PAY AND ALLOWANCES OF HIGHER POST.

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith copy of Judgment of Khyber Pakhtunkhwa Service Tribunal in Service Appeal No. 990/2019 titled Farman Ullah V/S Govt. of Khyber Pakhtunkhwa through Secretary Irrigation & Others, wherein the Service Tribunal Khyber Pakhtunkhwa had set aside the impugned order dated 12.07.2019 (Annex-I) and accepted the appeal with all back benefits (Annex-II).

Now the appellant namely Mr. Farman Ullah Assistant Engineer Irrigation Department has filed implementation petition in the Service Tribunal Khyber Pakhtunkhwa (Annex-III) and the Registrar Khyber Pakhtunkhwa Service Tribunal has sought implementation report in the subject matter (Annex-IV).

In this regards all the requisite documents on prescribed format in respect of Mr. Farman Ullah, Assistant Engineer (BPS-16) in own pay and scale for the grant of pay & allowances of higher post of BPS-17 w.e.f 16.12.2009 to 31.08.2021 are forwarded with the request that concurrence in respect of Mr. Farman Ullah Assistant Engineer (OPS) for grant of higher post of BPS-17 may please be issued as admissible to him, subject to the outcome of CPLA filed in the Supreme Court of Pakistan, so that the decision of the Khyber Pakhtunkhwa Service Tribunal may be implemented in letter and sprite please.

Encl: as above.

Yours faithfully,

ACCOUNTS OFFICER

Copy forwarded for information to: -

1. The Registrar Khyber Pakhtunkhwa Services Tribunal Peshawar.
2. The Section Officer (Lit) Irrigation Department Peshawar.
3. P.S to Secretary Irrigation Department, Peshawar.
4. P.A to Additional Secretary Irrigation Department, Peshawar.

ACCOUNTS OFFICER

MOST IMMEDIATE
COURT MATTER

Annex - II

4



GOVERNMENT OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT
(ACCOUNTS SECTION)

No.11-AO/IRR/B.E/Reports/2023-24
Dated Peshawar, the 18-09-2023

To,

The Section Officer (SR-I),
Finance Department.

Subject: -

E.P NO. 488/2023 IN SERVICE APPEAL NO.990/2019 TITLED FARMAN ULLAH V/S GOVT. OF KHYBER PAKHTUNKHWA TOUGH SECRETARY IRRIGATION & OTHERS

I am directed to refer to your letter No. FD/(SOSR-1)1-1/202018-23/Farman Ullah dated 11.01.2023 on the subject noted above and to state that the petitioner / officer concerned was posted as SDO / Assistant Engineer (BPS-17) in his own pay scale on 23.02.2006 and assumed the charge of the post on 06.03.2006 (all relevant documents have already been submitted to your office).

The Khyber Pakhtunkhwa Service Tribunal has accepted the appeal of the petitioner with back benefits.

In view of the above, the petitioner / concern officer may be allowed the benefits of higher post from the date of his posting in higher post i.e. 06.03.2006 or from the 16.12.2009 to 31.08.2021 whichever the policy allows please.

Encl: as above.


ACCOUNTS OFFICER

Copy forwarded for information to: -

1. The Chief Engineer (North), Irrigation Department .
2. P.S to Secretary to Irrigation Department, Peshawar.
3. P.A to Additional Secretary Irrigation Department, Peshawar.
4. *The section office (Litigation) Irrigation Dept.*


ACCOUNTS OFFICER



2nd Reminder
MOST IMMEDIATE
COURT MATTER

GOVERNMENT OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT
(ACCOUNTS SECTION)

No.11-AO/IRR/B.E/Reports/2023-24
Dated Peshawar, the 31-10-2023

5

Annex - II

To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Finance Department, Peshawar.

Attention:

Section Officer (SR-I)

Subject: -

E.P NO. 488/2023 IN SERVICE APPEAL NO.990/2019 TITLED
FARMAN ULLAH V/S GOVT. OF KHYBER PAKHTUNKHWA TOUGH
SECRETARY IRRIGATION & OTHERS

Dear Sir,

I am directed to refer to this Department's letters of even number dated 21.08.2023 and 18.09.2023 on the subject noted above and to state that hearing in the subject case held on 26th October 2023 in the court of Chairman Khyber Pakhtunkhwa Service Tribunal, whereby the Chairman expressed displeasure over the non-implementation of the court Judgment dated 12.07.2023, therefore attached the salary of Secretary Irrigation Department and further directed that implementation report may be submitted on 24.11.2023 before the court (copy of order sheet is enclosed).

It is pertinent to mention here that Finance Department Khyber Pakhtunkhwa is a sanctioning / competent authority in the instant case. Moreover, all the requisite documents have already been provided by Irrigation Department.

It is therefore once again requested that the petitioner / concern officer may be allowed the benefits of higher post as admissible to him, so that the court judgment may be implemented in letter and spirit please.

The matter may be treated as most immediate being court matter.

Encl: as above.

Yours Faithfully

(Signature)
ACCOUNTS OFFICER

Copy forwarded for information to: -

- 1.The Registrar Khyber Pakhtunkhwa Services Tribunal Peshawar.
- 2.The Section Officer (Lit) Irrigation Department Peshawar.
- 3.P.S to Secretary Irrigation Department, Peshawar.
- 4.P.A to Additional Secretary Irrigation Department, Peshawar.

(Signature)
ACCOUNTS OFFICER



**GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT**

Finance Department Civil Secretariat Peshawar

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

[facebook.com/GoKPPD](https://www.facebook.com/GoKPPD)

twitter.com/GoKPPD

NO. FD (SOSR-1)1-1/2023/Farman Ullah
Dated Peshawar the: 18-10-2023

6
Annex-IV

To:

The Secretary to Govt of Khyber Pakhtunkhwa,
Law, Parliamentary Affairs & Human Rights Department

Subject: -

**EXECUTION PETITION NO.488/2023 IN SERVICE APPEAL
NO.990/2019 TITLED FARMAN ULLAH V/S GOVT. OF KHYBER
PAKHTUNKHWA THROUGH SECRETARY IRRIGATION & OTHERS.**

Dear Sir,

I am directed to refer to the subject noted above and to state that Irrigation Department has requested this Department for grant of higher post benefits in respect of one Mr. Farman Ullah, Sub-Engineer (BS-16) for holding the higher post of SDO / Asstt: Engineer (BS-17) w.e.f 16-12-2009 to 31-08-22021 in light of Service Tribunal judgement dated 22-06-2021.

2. The case of the above named officer was previously examined and regretted being not covered under the policy. Later on, the appellant filed Service Appeal in Khyber Pakhtunkhwa Service Tribunal which was decided in his favour. Now, the Service Tribunal has sought implementation report from the respondents while on the other hand, CPLA has already been filed by the Administrative Department in august Supreme Court of Pakistan against the said judgement which is still pending for final decision. (copies of Jugement & Execution Petition etc are enclosed).

3. In view of the above circumstances, legal opinion is solicited on the point whether to implement the Khyber Pakhtunkhwa Service Tribunal's judgement conditionally or issue advice to the Irrigation Department to wait till the final outcome of CPLA filed in august Supreme Court of Pakistan.

4. An early response will highly be appreciated, please.

SECTION OFFICER (SR-1)

Endt: of even No & date

Copy is forwarded for information to the Accounts Officer, Irrigation Department with reference to his letter No.11-AO/IRR/B.E/Reports/2023-24 dated 18-09-2023.

M/F
SECTION OFFICER (SR-1)



GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS &
HUMAN RIGHTS DEPARTMENT

7

NO.ALO(OP-II)/LD/5-6/2023/KC/15944-4
DATED: PESH: THE 26TH OCTOBER, 2023

To

Annex-V

The Secretary,
Government of Khyber Pakhtunkhwa,
Finance Department.

Attention: Section Officer (SR-1)

Subject: EXECUTION PETITION NO. 488/2023 IN SERVICE APPEAL
NO. 990/2019 TITLED FARMAN ULLAH V/S GOVT. OF
KHYBER PAKHTUNKHWA THROUGH SECRETARY
IRRIGATION & OTHERS.

Dear Sir,

I am directed to refer to your Department's letter No. FD(SOSR-1) 1-1/2023//Farman Ullah, dated 18.10.2023, on the subject noted above and to state that judgment dated 22.06.2021 passed by the Khyber Pakhtunkhwa Service Tribunal in Service Appeal No. 990/2019 is worth implementation conditionally subject to final outcome of CPLA already pending for adjudication before Supreme Court of Pakistan.

2. The Administrative Department is also advised to move an application for early hearing coupled with another application for suspension of impugned judgment of Khyber Pakhtunkhwa Service Tribunal, in pending CPLA before Supreme Court of Pakistan, please.

Yours faithfully,

Assistant Law Officer (Opinion-II)

Endst: of even No. & date.

Copy is forwarded to the:-

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

Assistant Law Officer (Opinion-II)

26th Oct. 2023

1. Petitioner in person present. Mr. Asad Ali Khan, Assistant Advocate General alongwith Mr. Syed Maqbool Hussain, Superintendent and Mr. Atiq Ur Rehman, Assistant Finance Department present.

2. Implementation report has not been submitted nor any source form etc. has been submitted in the Accounts office, therefore, the salary of Secretary Irrigation Government of Khyber Pakhtunkhwa is attached in the manner as prescribed under Section-60(1)(i) of the code of Civil Procedure, 1908 till implementation of the judgment. The Accountant General Khyber Pakhtunkhwa is directed to attach the salary of Secretary Irrigation Government of Khyber Pakhtunkhwa (respondent No.2) and submit report in writing that the salary are actually attached. To come up for submission of implementation report on 24.11.2023 before S.B. P.P given to the parties.

(Kalim Arshad Khan)
Chairman

Adnan Shah