

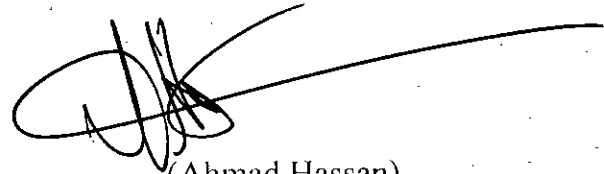
Order

24.09.2019


Appellant with counsel present. Mr. Farhaj Sikandar, DDA alongwith Mr. Abbas, Revenue Officer and Mr. Khalil, SI for respondents . Arguments heard and record perused.

This appeal is also dismissed as per detailed judgment of today placed on file in service appeal No. 886/2012 titled "Syed Munir Hussain Shah-vs-The Secretary to Government of Khyber Pakhtunkhwa, Irrigation Department, Peshawar and five others." Parties are left to bear their own cost. File be consigned to the record room.

Announced:
24.09.2019



(Ahmad Hassan)
Member
Camp Court D.I.Khan





(Muhammad Hamid Mughal)
Member

Service Appeal No. 1072/2016

24.06.2019


Counsel for the appellant and Mr. Farhaj Sikandar, District Attorney alongwith Mr. Attaullah, S.I (Legal) for the respondents present. Learned counsel for the appellant submitted rejoinder and requested for adjournment for arguments. Adjourned to 26.08.2019 for arguments before D.B at Camp Court D.I.Khan.



(Hussain Shah)
Member
Camp Court D.I.Khan


(Muhammad Amin Khan Kundi)
Member
Camp Court D.I.Khan

26.08.2019

Appellant in person and Mr. Farhaj Sikandar, District Attorney alongwith M/S Kashif, Inspector and Khalil Ahmad, S.I (Legal) for the respondents present. Due to general strike on the call of Pakistan Bar Council, learned counsel for the appellant is not available today. Adjourned to 24.09.2019 for arguments before D.B at Camp Court D.I.Khan.


(Hussain Shah)
Member
Camp Court D.I.Khan



(Muhammad Amin Khan Kundi)
Member
Camp Court D.I.Khan

21.01.2019

Appellant in person and Mr. Farkhaj Sikandar, District Attorney alongwith Mr. Muhammad Anwar, Deputy Collector and Mr. Khalid Nawaz, Inspector (Legal) for respondents present.


Due to general strike on the call of Khyber Pakhtunkhwa Bar Council the matter is adjourned to 26.02.2019 for arguments before D.B at camp court, D.I.Khan.



Member


Chairman
Camp Court, D.I.Khan

26.02.2019


Appellant in person present. Learned counsel for the appellant is not in attendance. Mr. Farhaj Sikandar, District Attorney alongwith Mr. Khalid Nawaz, Inspector (Legal) for the respondents present. Appellant seeks adjournment. Adjourn. To come up for arguments on 22.04.2019 before D.B at Camp Court D.I.Khan.



(M. Amin Khan Kundi)
Member
Camp Court D.I.Khan


(M. Hamid Mughal)
Member
Camp Court D.I.Khan

22.04.2019

Learned counsel for the appellant and Mr. Farhaj Sikandar, District Attorney alongwith Mr. Khalid Nawaz Inspector (Legal) for the respondents present. Learned counsel for the appellant seeks adjournment to furnish rejoinder. The present appeal pertains to the year 2016 hence, last opportunity is granted to learned counsel for the appellant for arguments. Adjourn. To come up for rejoinder and arguments on 24.06.2019 before D.B at Camp Court D.I.Khan.



(M. Amin Khan Kundi)
Member
Camp Court D.I.Khan


(M. Hamid Mughal)
Member
Camp Court D.I.Khan

Service Appeal No. 1071/2016

26.11.2018

Appellant in person present. Mr. Usman Ghani, District Attorney alongwith Mr. Muhammad Anwar Alam, Deputy Collector for the respondents present. Written reply on behalf of respondent No. 6 has already submitted. Written reply on behalf of respondents No. 1 to 5 submitted today. Copy of the same handed over to the appellant. Adjourned. To come up for rejoinder and arguments on 18.12.2018 before D.B at Camp Court D.I.Khan.


(Muhammad Amin Khan Kundi)
Member
Camp Court D.I.Khan


18.12.2018


As per direction of the worthy Chairman Khyber Pakhtunkhwa Service Tribunal, D.I.Khan tour dated 18.12.2018 has been rescheduled and the case is re-fixed for 27.12.2018.

Reader

27.12.2018

Counsel for the appellant present. Mr. Farhaj Sikandar, District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment to furnish rejoinder. Adjourned. To come up for rejoinder and arguments on 21.01.2019 before D.B at Camp Court D.I.Khan.


(Hussain Shah)
Member
Camp Court D.I.Khan


(Muhammad Amin Khan Kundi)
Member
Camp Court D.I.Khan

28.06.2018

Tour is hereby cancelled; Therefore the case is adjourned for the same on ~~01.08~~ 2018 before S.B.


Resident
Camp Court D.I Khan


~~01.08~~ 2018

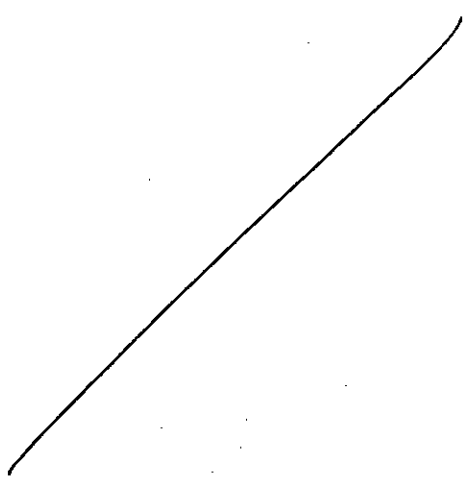
Appellant present in person. Tour is hereby cancelled. Therefore the Case is adjourned for the same on 10.09.2018 before S.B.


Resident
Camp Court D.I Khan

10.09.2018

Appellant in person and Mr. Ziaullah, Deputy District Attorney for the respondents present. Representative of the department is not in attendance therefore, fresh notice be issued to the respondents with the direction to direct the representative to attend the court and submit written reply on the next date positively. Adjourned. To come up for written reply/comments on 26.11.2018 before S.B at Camp Court D.I.Khan.



(Muhammad Amin Khan Kundi)
Member
Camp Court D.I.Khan



Service Appeal No. 886/2012

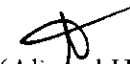
22.02.2018.

Appellant in person present. Mr. Usman Ghani, District Attorney alongwith Mr. Anwar Alam, Deputy Collector for the respondents also present. Written reply on behalf of respondent No. 6 has already submitted. Written reply on behalf of respondents No. 1 to 5 not submitted despite last opportunity. Learned District Attorney requested for further adjournment. Another last opportunity granted. Adjourned. To come up for written reply/comments on behalf of respondents No. 1 to 5 on 15.03.2018 before S.B at Camp Court D.I.Khan.


(Muhammad Amin Khan Kundi)
Member
Camp Court D.I. Khan

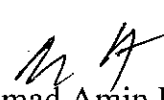
15.03.2018

Counsel for the appellant and Mr. Ziaullah, DDA alongwith Mr. Kifayat Ullah, Zilladar for respondents present. Written reply not submitted despite last opportunities. Requested for further adjournment. Last opportunity further extended subject to payment of cost of Rs. 500/- which shall be borne by respondents from their own pockets. To come up for written reply on 28.06.2018 before S.B at camp court D.I.Khan.


(Ahmad Hassan)
Member
Camp Court D.I.Khan


30.11.2017

Appellant in person present. Mr. Farhaj Sikandar, District Attorney alongwith Mr. Muslim Din, SDO for the respondents also present. Written reply on behalf of respondent No. 6 has already submitted. Written reply on behalf of respondents No. 1 to 5 not submitted. Learned District Attorney requested for further adjournment. Adjourned. To come up for written reply/comments on behalf of respondents No. 1 to 5 on 25.01.2018 before S.B at Camp Court D.I.Khan.


(Muhammad Amin Khan Kundi)
Member
Camp Court D.I. Khan

25.01.2018


Appellant in person present. Mr. Farhaj Sikandar, District Attorney alongwith Mr. Abbas Ishrat, Inspector for the respondents also present. Written reply on behalf of respondent No. 6 has already submitted. Written reply on behalf of respondents No. 1 to 5 not submitted. Learned District Attorney requested for further adjournment. Last opportunity granted. Adjourned. To come up for written reply/comments on behalf of respondents No. 1 to 5 on 22.02.2018 before S.B at Camp Court D.I.Khan.


(Muhammad Amin Khan Kundi)
Member
Camp Court D.I. Khan

Service Appeal No. 1070/2016


26.07.2017

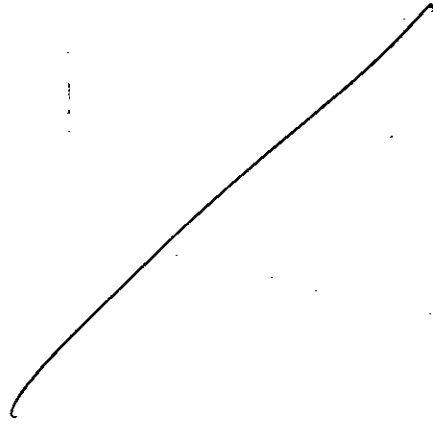
Appellant in person present. Mr. Nazir Ahmed, Head Constable for respondent No. 6 alongwith Mr. Farhaj Sikandar, District Attorney for the respondents also present. Written reply on behalf of respondent No. 6 submitted. Representative of remaining respondents are not in attendance, therefore, notice be issued to respondents No. 1 to 5 with the direction to direct the representative to attend the court positively on the next date and submit written reply by way of last chance. Adjourned. To come up for written reply/comments on behalf of respondents No. 1 to 5 on 27.09.2017 before S.B at Camp Court D.I.Khan.


(Muhammad Amin Khan Kundi)
Member
Camp Court D.I. Khan

27.09.2017

Appellant in person present and Mr. Farhaj Sikandar, District Attorney for the respondents present. Written reply not submitted. Requested for adjournment. Request accepted. To come up for written reply/comments on 30.11.2017 before S.B. at Camp Court D.I.Khan.



Member
(Judicial)
Camp Court D.I.Khan



25.01.2017


Learned counsel for appellant present. He requested that in other service appeal titled "Munir Hussain Shah-vs-Secretary Irrigation against the same impugned order the service appeal has been admitted with subject to decide the matter of limitation at the time of final arguments so, the facts of the instant service appeal animating from the same impugned order are similar to the already admitted service appeal and hence may kindly be admitted. The request seems proper. In the interest of justice as the points raised need consideration. The service appeal is admitted subject to clarification of limitation at the time of final arguments. The appellant is directed to deposit the security and process fee within 10 days thereafter notice be issued to the respondents for written reply/comments for 22.02.2017 before S.B at Camp Court D.I.Khan.

Appellant Subm. Fee
Security Fee Rs. 1000/-
25/1/2017


ASHFAQUE TAJ
MEMBER
Camp Court D.I.Khan

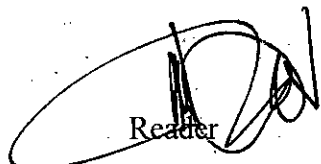
22.02.2017

Appellant in person and Mr. Anwar Alam, Deputy Director alongwith Mr. Farhaj Sikandar, Government Pleader for respondents present. Representative of respondent-department requested for time for submission of written reply. Request accepted. To come up for written reply/comments on 29.03.2017 before S.B at Camp Court D.I.Khan.


(ASHFAQUE TAJ)
MEMBER
Camp Court D.I.Khan

29.03.2017

Since tour is hereby cancelled, therefore, the case is adjourned for the same on 26.07.2017.


Reader

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1070/2016


S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	20/10/2016	<p>The appeal of Syed Maqbool Hussain Shah resubmitted today by post through Mr. Muhammad Saeed Bhutta Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p> <p>2-</p> <p>This case is entrusted to Touring S. Bench at D.I.Khan for preliminary hearing to be put up there on <u>28.11.16</u>.</p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p> <p>28.11.2016</p> <p>Since D.I.Khan tour dated 28.11.2016 has been cancelled, therefore, case to come up for preliminary hearing on 23.01.2017 before S.B at Camp Court D.I.Khan.</p> <p style="text-align: right;"><i>[Signature]</i> Reader</p> <p><i>[Handwritten marks]</i></p>

The appeal of Syed Maqbool Hussain Shah son of Murid Ahmad Shah r/o Land Khair Shah Distt. D.I.Khan received today i.e. on 06.10.2016 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- According to the statement of the appellant recorded in para-5 and 6 in the memo of appeal that appellant made/preferred departmental appeal on dated 6/10/2011(Annexure-E) which was partially accepted on dated 29/8/2011(Annexure-F). How can it possible that decision was made much before preferring the departmental appeal?
- 2- Addressess of respondent no. 5 & 6 are incomplete which may be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 3- Law under which appeal is filed is not mentioned.
- 4- Annexures of the appeal may be flagged.
- 5- Sub-rule-3 of rule-6 of the Khyber Pakhtunkhwa Service Tribunal rules 1974 requires that every memorandum of appeal shall be presented to the Tribunal in file covers.

No. 1653 /S.T,

Dt. 7/10 /2016


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Muhammad Saeed Bhutta Adv.
High Court Dera Ismail Khan.

Respected Sir.

*All the objects are met out.
impugned order is 29-8-2011
by which our departmental
appeal dated 6-10-2011 was
partially accepted in which our*

*Service was regularized but
Right of Pension was decided against
which instant appeal is submitted.
Dated 18-10-2016 M. Saeed Bhutta
Advocate Attock*

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL, PESHAWAR

In Service Appeal No. 1070/2016

Syed Maqbool Hussain Shah Appellant

Versus

The Secretary to Government of Khyber Pakhtunkhwa,
Irrigation Department, Peshawar and others.

..... Respondents

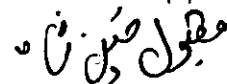
SERVICE APPEAL

INDEX

S.No.	Description of document	Annexure	Pages
1	Memo and grounds for appeal along with application for condonation of delay	--	1-7
2	Copies of appointment order dated 01/02/1996 and GP/FC No. 2905	A&B	8-9
3	Copy of order dated 11/04/2007	C	10
4	The copies of the LPC, reliving letter and all other relevant documents	D	11-12
5	Copy of departmental appeal	E	13-15
6	Copy of notification dated 29/08/2011	F	16-18
7	Vakalatnama	--	19

Dated: 4/10/2016

Your Humble Appellant



S. Maqbool Hussain Shah

Through Counsel


Muhammad Saeed Bhutta
Advocate High Court

P. ①

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL, PESHAWAR

In Service Appeal No. 1070/2016

Syed Maqbool Hussain Shah Appellant

Versus

The Secretary to Government of Khyber Pakhtunkhwa,
Irrigation Department, Peshawar and others.

..... Respondents

SERVICE APPEAL

APPLICATION FOR CONDONATION OF DELAY

Respectfully Sheweth:

The appellant humbly submits as under,

1. That the above titled service appeal is being filed before this honourable Tribunal.
2. That in above titled appeal, appellant challenged the virus of the order dated 29/08/2011 bearing No. SO(E)IRR/4-6/2000 passed by the worthy Secretary Govt. of Khyber Pakhtunkhwa, Irrigation Department Peshawar, where appellant services were declared on contract basis and denied the pension benefits in spite of the fact that petitioner was posted as Constable in Police Department on the regular basis and during his job in the Police Department, appellant applied through proper channel for the post of Patwari BPS-05 in Irrigation Department D.I.Khan and appointed vide order dated 11/04/2007.
3. That after assigning new job in the Irrigation Department, impugned order No. SO(E)IRR/4-6/2000 dated 29/08/2011 was communicated by the Irrigation Department, in which it was stated that appellant's services were regularize but benefits of pensions and gratuity were denied.
4. That feeling aggrieved by the above cited order, on 29/08/2011, appellant preferred departmental appeal before

P. 2

the worthy Secretary to the Irrigation Department Peshawar through proper channel.

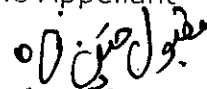
was

5. That when the appellant conveyed the impugned order cited above appellant preferred his appeal to the respondent No. 1 which is well within time.
6. That the appellant could not cause delay in filing his departmental appeal but the same was done as the impugned order was communicated to the appellant because the said order was not addressed to the appellant but it was addressed to the department. In this context applicant's appeal is well within time and if any delay is occurred on the face of the record if occurred may kindly be condoned.
7. That the acceptance of this application is the interest of justice because appellant's valuable rights are involved in the above titled appeal.

In the light of the above facts and circumstances, the delay (if occurred on the face of the record) may graciously be condoned in the interest of justice.

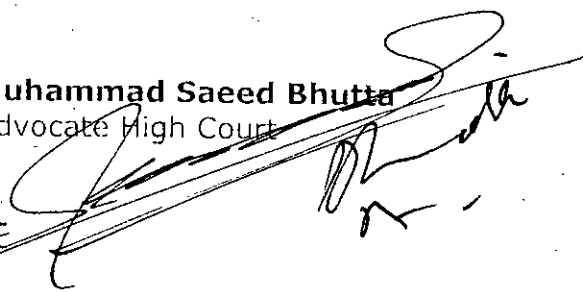
Dated: 4/10/2016

Humble Appellant



S. Maqbool Hussain Shah
Through Counsel

Muhammad Saeed Bhutta
Advocate High Court



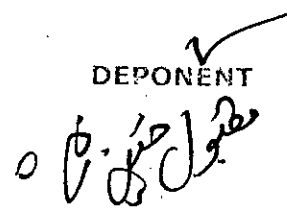
AFFIDAVIT

I, **S. Maqbool Hussain Shah**, the appellant, do hereby solemnly affirm and declare on oath that contents of above application are true & correct to the best of my knowledge and that nothing has been concealed from this Honourable Court.

Dated: 4-10-2016



DEPONENT



P-3

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

Service Appeal No. 1070 /2016

Syed Maqbool Hussain Shah son of Murid Ahmad Shah r/o
Lang Khair Shah, Tehsil Paharpur, Dera Ismail Khan.

.....(**APPELLANT**)

**Khyber Pakhtunkhwa
Service Tribunal**

VERSUS

Diary No. 1066

Dated 06-10-2016

1. The Secretary to Government of Khyber Pakhtunkhwa, Irrigation Department, Peshawar.
2. The Chief Engineer (South) Irrigation Department, Peshawar.
3. The Chief Engineer North Irrigation Department, Peshawar.
4. The Superintending Engineer Head Quarter South Irrigation Department, Peshawar.
5. The Superintending Engineer, Irrigation Department, office Opposite High Court D.I.Khan.
6. District Police Officer, Office Near Circuit House adjacent to anti terrorist Court Dera Ismail Khan.

Filed to-day

..... (**RESPONDENTS**)

Registrar

**APPEAL U/S 4 OF KPK SERVICE TRIBUNAL ACT 1974
AGAINST THE ORDER 29/08/2011 BEARING NO.
SO(E)IRR/4-6/2000 PASSED BY THE WORTHY
SECRETARY TO GOVERNMENT OF KHYBER**

**PAKHTUNKHWA, IRRIGATION DEPARTMENT, PESHAWAR
WHEREBY APPELLANT SERVICE WERE DECLARED ON
CONTRACT BASIS, IN SPITE OF THE FACT THE
APPELLANT WAS POSTED AS CONSTABLE IN THE POLICE
DEPARTMENT ON REGULAR BASIS AND DURING HIS JOB
IN POLICE DEPARTMENT, APPELLANT APPLIED FOR THE**

Re-submitted to - day
and filed.

Singh
30-10-16
Registrar

P. 4

ORDER CITED ABOVE PETITIONER'S SERVICES WAS REGULARIZED BUT BENEFITS OF PENSION AND GRATUITY WAS DENIED.

Respectfully Sheweth, The Appellant humbly submits as under;

1. That the appellant joined service in the Police Department and was appointed as Police Constable in District Police Dera Ismail Khan on 01/02/1996, as a permanent Government servant and was also allotted a proper G.P Fund No. GP/FC NO. 2905 and was regularly contributed towards Appellant G.P. Fund accounts. Copies of appointment order dated 01/02/1996 and GP/FC No. 2905 are enclosed as **Annexure-A & B** respectively.
2. That since the appellant was a trained Patwari, therefore, the appellant applied through proper channel to the Executive Engineer, Paharpur Irrigation Division, D.I.Khan for his appointment as Patwari in the Irrigation Department, D.I.Khan and consequently on the recommendations of the Departmental Selection Committee, Appellant appointed as Patwari in the Irrigation Department, D.I.Khan vide order No. 1720-26/118-E, dated 11/04/2007, issued by the Executive Engineer, Paharpur Irrigation Division, D.I.Khan. Copy of order dated 11/04/2007 is enclosed as **Annexure-C**.
3. That in order to join new assignment the Appellant left the service of the Police Department on 14/04/2007, and joined the service as Patwari Irrigation in the Irrigation Department, D.I.Khan just thereafter. The copies of the LPC, reliving documents and all other relevant documents are enclosed as **Annexure-D**.
4. That since the Appellant was a permanent Government servant and had served the Police Department on permanent basis for a considerable long period of at

P-5

4. That since the Appellant was a permanent Government servant and had served the Police Department on permanent basis for a considerable long period of about 11 years, therefore, the Worthy Executive Engineer, Paharpur Irrigation Division D.I.Khan was legally obliged to have issued the Appellant's appointment orders on permanent basis but he erroneously ordered Appellant's appointment on contract basis and therefore, deprived the appellant from all kinds of service benefits including pension and gratuity.
5. That dissatisfied with the order dated 29/08/2011 of the respondent No. 1, in which appellant's service was regularized but benefits of pension and gratuity denied, Appellant preferred an appeal to the respondent No. 1 through proper channel. Copy of departmental appeal is enclosed as **Annexure-D**.
6. That respondent No. 1 vide order No. SO(E)/IRR/4-6/2000 dated 29/08/2011, was pleased to accept the appeal partially and regularized the service of the appellant as Patwari (BPS-09) of Paharpur Irrigation Division, D.I.Khan w.e.f the commencement of the NWFP Employees (Regularization of Service) Act, 2009 bearing Notification No. PA/NWFP/Bills/2009/38472 dated 24/10/2009. However it was further ordered that service of the Appellant will be governed by the Khyber Pakhtunkhwa Civil Servants Act, 1973 and all the laws applicable to the Civil Servants and Rules made there under. Furthermore, appellant's departmental appeal dated 06/10/2011 was partially accepted in result of impugned order dated 29/08/2011 and resultantly the appellant partially aggrieved from the impugned order dated 29/08/2011 and in this respect appellant is going to submit the instant appeal. Copy of impugned order dated 29/08/2011 is enclosed as **Annexure-E**.

the prescribed manner. Obviously these observations of respondent No. 1 are highly misconceived and incorrect.

8. That on the misconception of law, the appellant/petitioner submitted application for the impleadment of party in the similar case which is pending before your honour, titled "**Munir Hussain Shah Vs. Govt. of KPK etc**" and in the said titled case appellant challenged the virus of the impugned order but on 26/09/2016, the impleadment application by the appellant was withdrawn. *and due to this*

9. That the record shows that appellant was not a new recruit/employee rather Appellant's service was purely a transferred from one Government Department to another Government Department and Appellant had joined the service in the Irrigation Department in continuation of previous service in the Police Department. Thus the services of the appellant can only be treated under the Khyber Pakhtunkhwa Civil Servants Act, 1973 and not by any other rules and regulations. Thus appellant's service in the Police Department is countable towards all kinds of service benefits including pension and gratuity by the Irrigation Department of Khyber Pakhtunkhwa. *Reason, Appeal in question is being filed today.*

It is, therefore, respectfully prayed that the impugned order No. SO(E) IRR/4-6/2000 dated 29/08/2011 issued by the respondent No. 1 may graciously be reviewed and the observations made by respondent No. 1 in the above cited impugned order may graciously be expunged/deleted and on the acceptance of this appeal the Appellant may please be held entitled to receive pension and gratuity from the dated of his first appointment in Police Department and all matters of appellant service may please be dealt in accordance with Khyber Pakhtunkhwa Civil Servant Act, 1973, and

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all the laws applicable to the Civil Servants and Rules made there under as given in Para No. 2 of the impugned order, to meet the ends of justice.

Dated: 4/10/2016

Your Humble Appellant

سید مقبول حسین شاہ

S. Maqbool Hussain Shah
Through Counsel

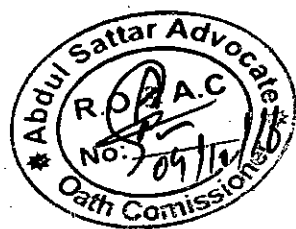
[Handwritten Signature]
Muhammad Saeed Brutta
Advocate High Court

AFFIDAVIT

I, **S. Maqbool Hussain Shah**, appellant herein, do hereby solemnly affirm on oath that all parawise contents of the accompanying appeal are true and correct to the best of my knowledge, belief and information; that nothing has been concealed or kept secret from this worthy Tribunal, nor anything contained therein is based on exaggeration or distortion of facts.

Dated: 4/10/2016

✓
DEPONENT
سید مقبول حسین شاہ



2

Annex - (A)

(8)

حکم

P

مہی شہرل حسن ولد محمد علی شاہ قوم سید سکند لنگ ہیر شاہ

تھانہ پھار پور تحصیل پھار پور ضلع ڈیڑھ گجرات جگتھ 6 ایکڑ

پہالی 33 x 35 1/2 ایکڑ ٹیٹھ 10/10/1955

27 سال 9 ماہ 18 دن سے کنوینشن
منظوری ڈیڑھ گجرات 26849-52/40-1
بعد مدغم ڈیڑھ گجرات پورے اور بعد تصدیق حال چلن حوزوں


پایا جا رہا ہے کہ لوہیل ^{ERP} ضلع ڈیڑھ اسمائیل خان میں عرصہ آزمائشی

تین سال کے عارفی طور پر بعد کنٹری بھرتی کیا جائے


موضوع 1 سے ضلع پڈا سائنٹ پیری نمبر 6103 الٹ کیا جائے

FR/1/11/55

حکم در آرد ریگ ہوسا


22. DEBRA ISMAIL KHAN
02/11/196

171
1-2-88

Allan


Annex (13)
P-9-



GOVERNMENT OF PAKISTAN
ACCOUNTANT GENERAL N.W.F.P
DISTRICT
PAY ROLL SYSTEM

PAGE NO: 7482

PAYMENT ADVICE

PAYROLL 2 JULY 1996

149-84-26025J DOB: 01/01/1923
HAQBOL HUSSAIN SHAH (6192)
CONSTABLE

S.I. CARD:
P. DIK (POLICE PROPER)
PROVINCIAL POLICE

BPS 15 H MALE MUSLIM

DEPTT CODE 2245

PAYMENTS		
1	PAY	725
127	H.P.A	31
175	WASH:ALL:	38
175	RET:ALL	425
175	MEDICAL ALLS:	23
147	CONST:REL:ALLW:	35
155	SPL:D.A	45
155	SPL:REL:ALL	45
155	CO:REL	45
	TOTAL ***	931
DEDUCTIONS/RECOVERIES		BALANCE
51	G.INS	44
55	G.P.F	18
	POLDK0029.5	12457
	TOTAL ***	224

MENT: 1.21996 COA: 1021996

NET AMOUNT PAYABLE 6707.00

QUALIFYING SERVICE
YRS. 6 MON

CASH PAYMENT THRU DEPT

Accountant
[Signature]



OFFICE OF THE EXECUTIVE ENGINEER
PAHARPUR IRRIGATION DIVISION DERA ISMAIL KHAN

Amr ©
P-10

No. 1161-47/1118-E
To

Dated DIKhan the 11/13/2007.

Syed Maqbool Hussain Shah
S/O Murid Ahmed Shah R/O Lang Kher Shah,
District DIKhan.
C/O District Police Officer DIKhan.

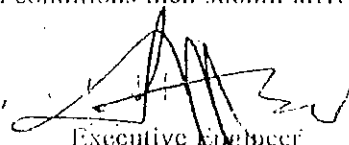
Subject: - APPOINTMENT ON THE POST OF PATWARI ON CONTRACT BASIS.

Consequent upon the recommendations of the Departmental Selection Committee issued vide this office order No: 1118/118:E dated 06.3.2007, you are hereby appointed on the subject post on contract basis as per Govt. policy in vogue in BPS-05 (2100-100-5100) plus usual allowances as admissible under the rules with effect from the actual date of arrival for duty on the following terms and conditions.

1. Your services will be on contract basis and will be purely temporary, which can be terminated on 02 months notice or 02 months salary in lieu thereof.
2. The contract is initially for a period of three years which can be renewed and shall stand automatically terminated on the expiry of requirements.
3. You have to provide medical fitness certificate from the Medical Superintendent District Headquarter Hospital DIKhan.
4. Your services will be kept on probation period of one year to judge your efficiency.
5. You should produce 01 personal guarantor holding bank guarantee or Moveable/immoveable property worth Rs: 10,00,000/- or 02 personal guarantors holding bank guarantee up to Rs: 5 Lac (5,00,000/- each or equivalent property on stamp paper as task of recoveries of abiana will be assigned to you in your respective Halqa and the guarantors will then be held responsible for any loss to Govt. if happened due to your actions..
6. Besides the above you must also produce the following documents :-
 - A. Domicile Certificate.
 - B. Qualification certificate.
 - C. National Identity Card.
 - D. Non Dismissal certificate.
 - E. You are also directed to produce your service record i.e. service book etc; within ten days positively. *to be*
 - F. A certificate will have ~~been~~ produced showing no disciplinary action taken against you and non imposing fine in the entire service.
 - G. You are further required to produce an undertaking on stamp paper worth Rs: 10/- duly attested by Oath Commissioner stating therein the acceptance of all the above noted terms and conditions.

Attested
Jama

If you accept the above mentioned terms and conditions then submit arrival report in this office within seven days of the receipt of this letter.


Executive Engineer
Paharpur Irrigation Division DIKhan

Copy to the:-

1. Chief Engineer (O&M) Irrigation Department N.W.F.P Peshawar.
2. Superintending Engineer, Southern Irrigation Circle Bannu.
3. District Accounts Officer DIKhan.
4. Deputy Collector, Paharpur Irrigation Division DIKhan.
5. Head Clerk (Local) Paharpur Irrigation Division DIKhan.
6. Divisional Accounts Officer (Local) Paharpur Irrigation Division DIKhan.

self-
Executive Engineer
Paharpur Irrigation Division DIKhan

PR-No - 00188918

N. W. F. P. Accty No. 249

GS&PD NW.F.P. - 622 FS Form of 10/11/31

14984260250

LAST PAY CERTIFICATE.

Amx

(D)

(11)

1. Last Pay Certificate of Const. May Bool Hussain No. 313 of the ... proceeding of ... to ...

2. He has been paid upto ... at the following rates:-

Table with columns: Particulars, Pay, Deductions. Includes Substantive Pay, Officiating Pay, Exchange Compensation Allowance, and various allowances like M.A., M.A., R.A., W.A., C.A., S.P.L.R.A., Adhok.R.A., S.P.L.A., D.A.

Handwritten notes: 1. Member of G.P. ... 2. ...

3. He made over charge of the Office of ... on the ...

4. Recoveries are to be made from the pay of the Government servant ...

5. He has been paid leave salary as detailed below. Deductions have been made as noted on the reverse.

Table with columns: Period, Rate, Amount. Rows for leave salary periods.

- 6. He is entitled to draw the following: ...
7. He is also entitled to joining time for ... days.
8. The detailed ... the current year are noted on the reverse.

(Signature) District Police Officer
(Designation) Dara Ismail Khan

No 263 Dated at 17-4-2007.

District Police Office,
Dara Ismail Khan

REFERENCE ATTACHED.

P. 12

Constable Maqbool Hussain, No. 313 of this district Police has submitted an application requesting therein that he may be allowed to apply for the post of Patwari in Irrigation Department.

If approved, may allow him to apply for the said post.

Submitted for order please.

H. S. a

S. P. Singh
4/96

Allowed

S. P. Singh
4/96

W. D. D. Dikhan.

Approved

Annex (E)
P-13

To,

The Secretary
to Government of Khyber Pakhtunkhwa,
Irrigation Department, Peshawar.

Through: - Proper Channel.

Subject: - Representation.

Respected Sir,

With due respect and humble submissions it is submitted that I was serving as Constable in the Police Department, DIKhan and had joined his service on 1/2/1996. Since I was also a qualified Patwari therefore I with the permission of my high-up applied for my appointment as Patwari in the Irrigation Deptt. D.I.Khan. Consequently on the recommendation of Departmental Selection Committee I was appointed as Patwari on contract basis vide order dated 11/4/2007 issued by the Executive Engineer, Paharpur Irrigation Division, DIKhan. The copy of the order is enclosed please.

2. That since I was an old and regular Government employee therefore I made a request to your goodself for regularization of my services, through proper channel. The copy of my service record is enclosed please.

3. That your kind honour was please to accept my humble request and ordered for regularization of my services as Patwari (BPS-5) of Paharpur Irrigation Division, DIKhan with effect from the date of commencement of the NWFE Employees (Regularization of Services) Act, 2009 vide your office order dated 29/8/2011. The copy of which is enclosed please.

Handwritten signature

P. 14

4. That in addition to above it was also ordered that for all intents and purposes I will be a Civil Servant and my services will be governed by Khyber Pakhtunkhawa Civil Servants, Act, 1973 but I will not be entitled to get pension and gratuity benefits and instead will be entitled to recover such amount which I would contribute towards C.P.F etc

5. That admittedly these observations are highly misconceived and incorrect and merits reversal on inter alia, the following grounds:-

GROUNDS

i. That it stands established from the material available on record that I had joined my service as Constable in the Police Department at D.I.Khan on 1/2/1996 and had got more than 11 years qualifying service at my credit in the year, 2007 when I was appointed Patwari Irrigation Deptt. D.I.Lhan vide order dated 11/4/2007 issued by the Executive Engineer Paharpur Irrigation Division, D.I.Khan.

ii. That it was very rightly observed by your goodself that my services will be governed by the Khyber Pakhtunkhawa Civil Servants Act, 1973 and all the laws applicable to the Civil Servants and Rules made thereunder will be applicable in my case thus in the attending circumstances by the NWFP Employees (Regularization of Services) Act, 2009 was not applicable in my case any my regularization in service as Patwari of Paharpur Irrigation Division, DIKhan since the commencement of the said Act was unjust and unfair.

iii. That once it was observed by your kind honour that all the laws applicable to the Civil Servants and Rules made thereunder will be

Handwritten signature and scribbles on the left margin.

applicable in my case and my case will be governed by the Khyber Pakhtunkhwa Civil Servants Act, 1973 then with due respect your kind honour was legally not obliged to deprive me from pension and gratuity benefits and that I will be entitled to receive such amount which I had contributed towards C.P.F, etc. Obviously these observations are highly misconceived, incorrect and unjust.

It is, therefore, respectfully prayed my case may very kindly be reviewed and after modifying your impugned order dated 29/8/2011, my services may please be regularized from the date of my joining service in the Irrigation Deptt. in D.I.Khan in the year, 2007 by counting my previous 11 years qualifying service in the Police Department and I may also please be allowed to achieve all pension and gratuity benefits after depositing towards G.P.Fund and oblige.

Your humble Petitioner

مقبول حسین شاہ پٹواری

(Syed Maqbool Hussain Shah)
s/o Murid Ahmad Shah r/o Lang
Khair Shah Tehsil Peharpur
District D.I.Khan Patwari
Peharpur Irrigation Division,
D.I.Khan.

Through:

D/-6.10.2011.

(Muhammad Saeed Bhutta)
Advocate, High Court, D.I.Khan.

~~M. Saeed Bhutta~~
M. Saeed Bhutta
Advocate

~~Attended~~
~~[Signature]~~



GOVERNMENT OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT

Dated Peshawar the 29th August, 2011.

ORDER

No. SO(E)/IRR/4-6/2000. In pursuance of the North West Frontier Province Employees (Regularization of Services) Act, 2009 bearing Notification No. PA/NWFP/Bills/2009/38472 dated 24th October, 2009, the Competent Authority is pleased to regularize the services of the following contract appointees, Patwaris (BS-5) of Paharpur Irrigation Division, D. I. Khan, w.e.f the commencement of the above mentioned Act: -

- i. Syed Munir Hussain Shah.
- ii. Syed Maqbool Shah.
- iii. Mr. Khizar Hayat.
- iv. Mr. Azizullah.

2. under:-

Terms and conditions of their regular appointment will be as

They will get pay at the minimum of BPS-05 including usual allowances as admissible under the rule. They will also be entitled to annual increment as per existing policy.

2) They will be governed by the Khyber Pakhtunkhwa Civil Servants Act, 1973 and all the laws applicable to the Civil Servants and Rules made there-under.

3) They will, for all intents and purposes, be Civil Servants, except for purpose of pension & gratuity. In lieu of pension and gratuity, and will be entitled to receive such amount as would be contributed by his towards Contributory Provident Fund (C.P.F) along-with the contributions made by Government to their accounts in the said fund, in the prescribed manner.

4) Their employment in the Small Dams Organization is purely temporary and their services are liable to be terminated without assigning any reason, at fourteen (14) days notice or on the payment of 14 days salary in lieu thereof. In case they wish to resign at any time, 14 days notice will be necessary or in lieu thereof 14 days pay will be forfeited.

5) They will, initially, be on probation for a period of two years extendable upto 3 years.

6) Their seniority will be determined in accordance with relevant rules but subject to Section-4 of the NWFP Employees (Regularization of Services) Act, 2009.

Secretary to Govt. of Pakhtunkhwa
Irrigation Department

Amir A-F
page
(16)

745824

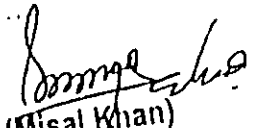
GOVERNMENT OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT



Endst. Of every no & date

Copy of the above is forwarded to:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa.
3. The Chief Engineer, (South), Irrigation Department, Peshawar.
4. The Chief Engineer, (North), Irrigation Department, Peshawar.
5. The Superintending Engineer (H/Q) South Irrigation Department, Peshawar.
6. The Superintending Engineer, D. I. Khan Irrigation Circle, D. I. Khan.
7. The Distt: Accounts Officer, D.I. Khan.
8. Officials concerned C/o XEN Paharpur Irrigation Division, D. I. Khan.
9. P.S to Secretary, Irrigation Department.
10. Master File.


(Misal Khan)
Section Officer (Establishment)

BEFORE THE HONOURABLE SERVICE TRIBUNAL K.P.K. PESHAWAR.

Service Appeal No. _____

Syed Maqbool Hussain Shah. VERSUS.

The Secretary Govt: of K.P.K.
Etc.

APPEAL.

Application to implead the Petitioner
as Appellant in the above titled Appeal.

Respectfully Sheweth:

- 1- That the Petitioner humbly submits that above titled Appeal is fixed before your honour on 29.03.2015.
- 2- That in above titled appeal, Appellant Challenged the vicious of the Order dated 29.8. 2011 bearing No.SO(E)Irr/406/2000 passed by the Worthy Secretary, to Government of KPK Irrigation Department, Peshawar whereby appellant as well as the Petitioner Services were declared on Court not basis on the inspite of the facts the Petitioner was posted as Process Server in the District Judiciary D.I.Khan on the regular basis and during his Job in District Judiciary, D.I.Khan Petitioner applied for the Post of Patwari in Irrigation Department, D. I. Khan and posted through Proper Channel as Patwari in the year, 2007. Petitioner has submitted Departmental Appeal before the Competent Authority on 29.8.2011.
All the relevant record is hereby enclosed.

Page- 2.

P. 18

3- That the appellant as well as the Present Petitioner are aggrieved by the Order of Worthy Secretary, Irrigation Department, KPK Peshawar dated 29.8.2011 so the cause of action occurred to the Petitioner is similarly which is pending before you for adjudication. Furthermore Petitioner also got cause of action against the same Respondents in the above titled Appeal, as Prayed for.

In the light of the above facts and circumstances Petitioner be impleaded as Appellant in the above titled Appeal in the interest of justice.

Your Humble Applicant,

میرا حبیب شاہ

Syed Maqbool Hussain Shah son of
Murid Ahmad Shah r/o Lang Khair Shah
Tehsil Paharpur Distt: D.I.Khan
Patwari Paharpur Irrigation Division
D.I.Khan

Dated: 17.3.2015.

Amir

9

Father's Name: GHULAM SARWAR (LATE)
 Address: MOHALLA JUCY, IN USMANIA STREET
 D.I. KHAN CITY
 Office: 9804585, Ref. Tel: 714712
 Enrolment Date L.C.: 19-12-1998
 Enrolment Date H.C.: 10-03-2005
 Place of Practice: D.I. KHAN
 Date of Birth: 06-06-1972
 Blood Group: AB+VE
 I.C.No: 12101-0110354-9
 N.W.F.P. BAR COUNCIL

N.W.F.P. Bar Council

وکالت نام



ADVOCATE
 High Court

GHULAM SAEED
 BHUTTA



Secretary's
 Signature

(Signature)

Plot No. 1, Snekgina Square, Feshawar Phone: 921-921117
 Email: nwfpbarcouncil@htmail.com

میں
 Before the Senior Tribunal, Peshawar
 Appellant: *(Handwritten name)*
 vs Secretary K.P.K.

Service Appeal
 باعث تحریر آئندہ

M. Saeed Bhutta Advocate High Court

High Court
 D.I. Khan

(Main body of handwritten text in Urdu, detailing the service appeal and legal arguments.)

جدا وکالت نام لکھو واپس تاکہ عدالت

مؤمن وکالت نام سن اپریل ۲۰۱۶ء کو

(Handwritten signatures and dates)
 4/19/2016

مقبول ہو گیا

(Footnote or additional text at the bottom)

BEFORE THE KHYBER PAKHTUNKWA SERVICE TRIBUNAL PESHAWAR CAMP
COURT DERA ISMAIL KHAN.

Service Appeal No.1070/2016

Syed Maqbool Hussain Shah
(Appellant)

Versus

Govt. of KPK etc
(Respondents)

PRELIMINARY OBJECTIONS:

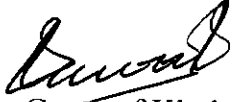
- 1- The appellant has got No cause of action or locus standi to file the instant appeal.
- 2- That the appeal is badly time barred.
- 3- That the appellant is estopped by his own acts of oversight to file the present appeal.
- 4- That the appellant has deliberately concealed the real particulars from the Honorable Tribunal.
- 5- That the appellant has not come to this Honorable Tribunal with clean hands.
- 6- That the instant appeal is not maintainable in its present form.
- 7- The filing of this appeal is unsuccessful exercise and wastage of time of the Honorable Tribunal.

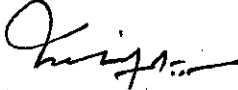
ON FACTS:


- 1- This Para is connected to the personal record of the appellant earlier service.
- 2- This Para is correct. The appellant was offered Canal Patwari seat vide order No.1720-26/118-E dated 11-04-2007, after Departmental Selection Committee finalized his candidature for the vacant post. That the service of the appellant would be governed by the civil servants (Amendments) Act 2005, that for all intents and purpose be Civil Servant Except for purpose of pension or gratuity (**Annexure-A**).
- 3- This Para is correct to the point that the appellant Joined the Irrigation Department on 14-04-2007 as a fresh appointee. But he graciously accepted the terms and conditions of the new service and **did not come through proper channel**.
- 4- The Para No.4 is vehemently denied that Executive Engineer Paharpur Irrigation Division DIKhan was legally bound to issue appointment orders on permanent basis. The department followed strictly the recruitment policy rules and not supposed to deviate from that. The department had to pursue the Civil Servants (Amendment) Act 2005, where by a person selected for appointment on or after the 1st day of July 2001 till the commencement of the said Act, for all intents and purpose be Civil Servant **EXCEPT** for the purpose of pension or gratuity.
- 5- This Para is correct to the point that the Appeal was preferred, but after more than 4 years of joining service.
- 6- This Para is correct, the department accepted the appeal by applying regularization of services act, 2009 (NWFP) Khyber Pakhtunkhwa and that service of the appellant would be Governed by the Khyber Pakhtunkhwa Civil servant Act 1973.


- 7- This Para is Agreed to the point that the appellant was considered as civil servant, but it is incorrect, false and malicious that the department made misconceived observations. The service of the appellant had to be governed through regularization of service Act 2009 (**Annexure-B**).
- 8- The Para Point already answered, but the appellant was offered the Canal Patwari seat only on the terms and conditions of the **contract** policy prevailing that time (Civil Servant Amendment Act 2005) The appellant was under no compulsion to accept or not to accept the terms of appointment. But the appellant graciously and willingly accepted the terms and condition of the new service without any prejudice.


In light of the above mentioned replies it is therefore humbly prayed that on acceptance of the replies, the appeal may very graciously be dismissed with costs.


Secretary to Govt. of Khyber Pakhtunkhwa
Irrigation Department, Peshawar.
(Respondent No.1)

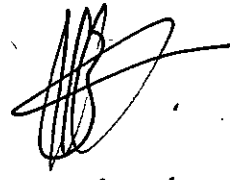

Chief Engineer (South)
Irrigation Deptt: Peshawar
(Respondent No.2)


Chief Engineer (North)
Irrigation Department Peshawar
(Respondent No.3)


Superintending Engineer (H/Q)
O/O Chief Engineer (South)
Irrigation Department Peshawar
(Respondent No.4)


Superintending Engineer
DIKhan Irrigation Circle, DIKhan.
(Respondent No.5)

*vetted subject to corrections made in reply to
Appeal No 1072/16 as Annexes and Affidavit*



10/9/18

D-District Attorney
Khyber Pakhtunkhwa
Service Tribunal Camp Court
D.I. Khan

BEFORE THE KHYBER PAKHTUNKWA SERVICE TRIBUNAL PESHAWAR CAMP
COURT DERA ISMAIL KHAN.

Service Appeal No.1070/2016

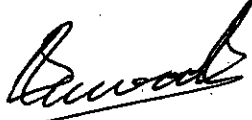
Syed Maqbool Hussain Shah
(Appellant)

Versus

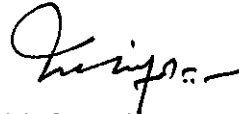
Govt. of KPK etc
(Respondents)

COUNTER AFFIDAVIT

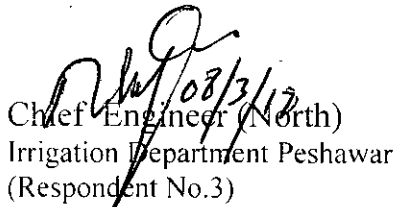
We, respondents No.1 to 5 do hereby solemnly affirm that the contents of Reply to the appeal are true to the best of our knowledge and nothing has been concealed from this Honorable Tribunal.



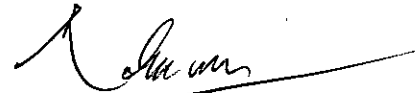
Secretary to Govt: of Khyber Pakhtunkhwa
Irrigation Department, Peshawar.
(Respondent No.1)



Chief Engineer (South)
Irrigation Deptt: Peshawar.
(Respondent No.2)



Chief Engineer (North)
Irrigation Department Peshawar
(Respondent No.3)



Superintending Engineer (H/Q)
O/O Chief Engineer (South)
Irrigation Department Peshawar
(Respondent No.4)



Superintending Engineer
DIKhan Irrigation Circle, DIKhan.
(Respondent No.5)

**North-West Frontier Province
Civil Servants (Amendment) Act, 2005
(N.W.F.P. Act No. IX of 2005)**

An Act further to amend the North-West Frontier Province Civil Servants Act, 1973

[Gazette of N.W.F.P., Extraordinary, Page No. 202-203, 23rd July, 2005]

No. PA/NWFP/Legis:1/2005/20440.---The North-West Frontier Province Civil Servants (Amendment) Bill, 2005 having been passed by the Provincial Assembly of North-West Frontier Province on the 5th July, 2005 and assented to by the Governor of the North-West Frontier Province on 12th July, 2005 is hereby published as an Act of the Provincial Legislature of the North-West Frontier Province.

Preamble.---WHEREAS it is expedient further to amend the North-West Frontier Province Civil Servants Act, 1973 (N.W.F.P. Act No. XVIII of 1973), for the purpose hereinafter appearing;

It is hereby enacted as follows:--

1. Short title and commencement.---(1) This Act may be called the North-West Frontier Province Civil Servants (Amendment) Act, 2005.

(2) It shall come into force at once.

2. Amendment of section 19 of N.W.F.P. Act No. XVIII of 1973.--- In the North-West Frontier Province Civil Servants Act, 1973 (N.W.F.P. Act No. XVIII of 1973), for section 19, the following shall be substituted, namely:

19. Pension and gratuity.---(1) On retirement from service, a civil servant appointed on regular basis in the prescribed manner before the commencement of the North-West Frontier Province Civil Servants (Amendment) Act, 2005 (hereinafter referred to as the said Act), shall be entitled to receive such pension or gratuity as are admissible to him under the West Pakistan Civil Service Pension Rules:

Provided that in the event of the death of such a civil servant, whether before or after retirement, his family shall be entitled to receive such pension, or gratuity or both, as admissible under the said rules.

(2) A person though selected for appointment in the prescribed manner to a service or post on or after the 1st day 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, except for the purpose of pension or gratuity. Such a Civil servant shall, in lieu of pension and gratuity, be entitled to receive such amount contributed by him towards the Contributory Provident Fund, along with the contributions made by Government to his account in the said fund, in the prescribed manner:

Provided that in the event of death of such a civil servant, whether before or after retirement his family shall be entitled to receive the said amount, if it has already not been received by such deceased civil servant.

(3) No pension to a civil servant, who is otherwise entitled to it, shall be admissible to him, if he is dismissed or removed from service for reasons of discipline, but Government may sanction compassionate allowance to such a civil servant, not exceeding two-third of the pension or gratuity which would have been admissible to him had he been invalidated from service on the date of such dismissal or removal.

Provided that a civil servant referred to in sub-section (2), in case of such dismissal or removal, may, in addition to his own contributions to the Contributory Provident Fund, be allowed, on account of such compassionate allowance, a sum not exceeding two-third of Government contributions in his account.

(4) If the determination of the amount of pension or gratuity admissible to a civil servant is delayed beyond one month of the date of his retirement or death, he or his family, as the case may be, shall be paid provisionally such anticipatory pension or gratuity as may be determined by the prescribed authority, according to the length of service of the civil servant which qualified for pension or gratuity; and any over payment on such provisional payment shall be adjusted against the amount of pension or gratuity finally determined as payable to such civil servant or his family.

**North-West Frontier Province Employees
 (Regularization of Services) Act, 2009**

(Annex B)

**Notification
 Dated Peshawar, the 24th October, 2009**

No.PA/NWFP/Bills/2009/38472.---The North-West Frontier Province Employees (Regularization of Services) Bill, 2009 having been passed by the Provincial Assembly of North-West Frontier Province on 15th October, 2009 and assented to by the Governor of the North-West Frontier Province on 20th October, 2009 is hereby published as an Act of the Provincial Legislature of the North-West Frontier Province.

**THE NORTH-WEST FRONTIER PROVINCE
 EMPLOYEES (REGULARIZATION OF SERVICES) ACT, 2009.
 (N-W.F.P. ACT NO. XVI OF 2009)**

(First published after having received the assent of the Governor of the North-West Frontier Province in the Gazette of the N.-W.F.P. (Extraordinary), Dated the 24th October, 2009).

**AN
 ACT**

to provide for the regularization of the services of certain employees appointed on adhoc or contract basis.

(Amended)

ESTA CODE [Establishment Code Khyber Pakhtunkhwa]

273

Preamble. ---WHEREAS it is expedient to provide for the regularization of the services of certain employees appointed on adhoc or contract basis, in the public interest, for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement. --- (1) This Act may be called the North- West Frontier Province Employees (Regularization of Services) Act, 2005

(2) It shall come into force at once and shall be deemed to have been taken effect at the promulgation of the Ordinance.

2. Definitions. ---(1) In this Act, unless the context otherwise requires,-

- (a) "Commission" means the North-West Frontier Province Public Service Commission;
- (aa) "contract appointment" means appointment of a duly qualified person made otherwise than in accordance with the prescribed method of recruitment;
- (b) "employee" means an adhoc or a contract employee appointed by Government on adhoc or contract basis or second shift/night shift but does not include the employees for project post or appointed on work charge basis or who are paid out of contingencies;
- (c) "Government" means the Government of the North-West Frontier Province ;
- (d) "Government Department" means any department constituted under rule 3 of the North-West Frontier Province Government Rules of Business, 1985;
- (e) "law or rule" means the law or rule for the time being in force governing the selection and appointment of civil servants; and
- (f) "post" means a post under Government or in connection with the affairs of Government to be filled in on the recommendation of the Commission,

(2) The expressions "adhoc appointment" and "civil servant" shall have the same meanings as respectively assigned to them in the North-West Frontier Province Civil Servants Act, 1973 (N.-W.F.P. Act No. XVIII of 1973).

3. Regularization of services of certain employees.--- All employees including recommendees of the High Court appointed on contract or adhoc basis and holding that post on 31st December, 2008 or till the commencement of this Act shall be deemed to have been validly appointed on regular basis having the same qualification and experience for a regular post:

Provided that the service promotion quota of all service cadres shall not be affected.

BEFORE THE HONOURABLE SERVICE TRIBUNAL,
KHYBER PAKHTUNKHWA, PESHAWAR.

Service Appeal No. 1070/2016

Syed Maqbool Hussain Shah.....(Appellant)

Versus

The Secretary to Govt of KPK, Irrigation Department and others.....(Respondents)

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 06

Respefully sheweth,

Parawise Comments are submitted as under:-

PRELIMINARY OBJECTIONS

1. That the appellant has got no cause of action.
2. That the appeal is bad for misjoinder/non-joinder of necessary parties.
3. That the appeal is time barred.
4. That the appellant has not come with clean hands.
5. That the appellant is estopped due to his own conduct.
6. That the appellant has concealed the material facts from Honourable Tribunal.

REPLY ON FACTS

1. Pertains to record. That the appellant was enlisted as Constable on three years probation vide order OB No. 171, dated 01.02.1996.
2. Correct to the extent that application of the appellant was forwarded vide DPO DIKhan office Memo: No. 3334 dated 17.02.2007 and relieved vide this office letter Memo: No. 6936, dated 23.04.2007. **Copies Annexure "A & B"**.
3. That the appellant was relieved vide this office letter Memo: No. 6936, dated 23.04.2007. **Copy already Annexure "B"**
4. Pertains to other Respondents, hence no comments.
5. Pertains to other Respondents, hence no comments.
6. Pertains to record and other Respondents, hence no comments.
7. Pertains to record, hence no comments.
8. Correct to the extent only that appellant was serving in Police Department and his application for appointment in Irrigation Department was forwarded vide this office Memo: No. 3334, dated 17.02.2007 and upon appointment as Patwari he was relieved from Police Department vide this office Memo: No. 6936, dated 23.04.2007, without any lien.

It is therefore, requested that the appeal being devoid of legal footing may be dismissed with cost.

2-6
District Police Officer
Dera Ismail Khan
(Respondent No.6)

BEFORE THE HONOURABLE SERVICE TRIBUNAL,
KHYBER PAKHTUNKHWA, PESHAWAR.

Service Appeal No. 1070/2016

Syed Maqbool Hussain Shah.....(Appellant)

Versus

The Secretary to Govt of KPK, Irrigation Department and others.....(Respondents)

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENTS

I, respondent do hereby solemnly affirm and declare on oath that the contents, of Comments/Written reply to Appeal are true & correct to the best of my knowledge and nothing has been concealed from this Honourable Tribunal.

2. ✓
District Police Officer,
✓ Dera Ismail Khan
(Respondent No.6)

BEFORE THE HONOURABLE SERVICE TRIBUNAL,
KHYBER PAKHTUNKHWA, PESHAWAR.

Service Appeal No. 1070/2016

Syed Maqbool Hussain Shah.....(Appellant)

Versus

The Secretary to Govt of KPK, Irrigation Department and others.....(Respondents)

A U T H O R I T Y

I, respondent do hereby authorised DSP/Legal, DIKhan to appear before the Service Tribunal Khyber Pakhtunkhwa, Peshawar, on my behalf, He is also authorised to produce/ withdraw any application or documents in the interest of Respondent and the Police Department.

2.6
District Police Officer,
Dera Ismail Khan
✓ (Respondent No.6)

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From: The District Police Officer,
Dera Ismail Khan.

To: The Exectiven Enginner,
Paharpur Irrigation Division,
Dera Ismail Khan.

No. 3334 /dated DIKhan the 17/02/2007.

Subject: **APPLICATION**

Memo:

An application in respect of Constable Maqbool Hussain, No.313 of this District Police requesting there in for appointment as Patwari in your department is sent herewith for favourable consideration, please.

He is allowed to apply for the said post.

Maqbool Hussain
District Police Officer,
Dera Ismail Khan

(A)

(40)

313

B)

From: The District Police Officer,
Dera Ismail Khan.

To: The Executive Engineer,
Paharpur Irrigation Division,
Dera Ismail Khan

No. 6936 /dated Dikhan the 23 - 4 - /2007

Subject: **APPOINTMENT ON THE POST OF PATWARI ON CONTRACT BASIS**


Memo: Please refer to your office letter No.1741-47/118-E, dated 11.04.2007 and No.1720-26/118-E, dated 11.4.2007.

On appointment as Patwari in your department the following constables of this District have been relieved from this department w.e.f. 14.4.2007. Moreover it is further certified that they have faced no departmental enquiry nor find^d/dismissed during their entire service in this District: -

1. Constable Syed Munir Hussain No.624
2. Constable Maqbool Hussain No.313

Their service rolls are also enclosed herewith.

A.I. FOKSI


District Police Officer,
Dera Ismail Khan
23/4/07

B