

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

**CM 12(2) CPC Petition No 350/2023**  
**In**  
**Service Appeal No:- 1006/2019**

**ADDL: CHIEF SECRETARY & OTHERS**

**VERSUS**

**SYED QAMAR ABBAS & OTHERS**

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**Private Respondent No. 1**

**Through**



**NOOR MOHAMMAD KHATTAK**  
**ADVOCATES SUPREME COURT**

1-

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**SYED QAMAR ABBAS & OTHERS**

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 9788

Dated 11-12-2023

**REPLY ON BEHALF OF THE PRIVATE RESPONDENT NO. 1**

**R/SHEWETH:**

**ON FACTS:**

*The private respondent No. 1 submits as under:-*

**Preliminary Objections:**

- i. That petitioner has no cause of action to file the instant 12(2) petition.
- ii. That the petitioner has no locus standi to file the instant 12(2) petition.
- iii. That the petitioner is estopped by his own conduct to file the instant 12(2) petition.
- iv. That the petitioner has concealed material facts from this Honorable Tribunal while filing the instant 12(2) petition.
- v. That the instant 12(2) petition is not maintainable in its present form.

**ON FACTS:**

- 1- That Para No. 1 incorrect and misconceived. That this august Tribunal rightly allowed the service appeal of the private respondent No 1 and as such the judgment of this august Tribunal is based on valid legal grounds.
- 2- That Para No. 2 is incorrect and misconceived. That the private respondent has not concealed any material fact from this august Tribunal and as such the stance of the private respondent regarding counting of his previous contractual service towards regular service is/was based on legal footings. That though the appellant was initially

appointed in the project named Strengthening of Monitoring & Evaluation of Capabilities of Planning Cell in Irrigation and Power Cell, under the administrative control of Irrigation Department, but later on, the ibid project was brought into regular budget and the employees including the private respondent No 1 services were also regularized, therefore, the private respondent No 1 is entitled for pay protection and counting of his previous service towards regular service.

- 3- That Para No. 3 is correct, but after conversion of the ibid project, into regular budget, the same was handed over to the P&D Department, therefore, the private respondent No 1 became the employee of the P&D Department. That as the said improvement was done during the pendency of the Service Appeal of the respondent No 1, therefore, the private respondent could not arrayed the Secretary P&D as respondent.
- 4- That Para No. 4 is correct, hence needs no comments.
- 5- That Para No 5 is incorrect and misconceived. That initially the answering respondent No 1 was appointed in the Project named Strengthening of Monitoring & Evaluation of Capabilities of Planning Cell in Irrigation and Power Cell, run by Irrigation Department. That after regularization of the answering respondent No 1 the services of the answering respondent were handed over to the P & D Department during the pendency of the Service Appeal No 1006/2019, therefore, the P & D Department was not arrayed in the penal of respondents. That at the time of Execution Petition, the ibid department was arrayed as party, but later on this August Tribunal deleted the ibid respondent from the penal of respondents vide order sheet dated 01.06.2023. Copy of order sheet dated 01.06.2023 is attached as annexure.....**A**
- 6- That Para No 6 is incorrect, hence denied.
- 7- That Para No. 7 is incorrect, misleading in nature, hence denied.
- 8- That Para No. 8 is incorrect, misleading, hence denied.

**ON GROUNDS:**

- A- Ground A is incorrect, hence strongly denied.
- B- Ground B is incorrect and misconceived. That initially the answering respondent No 1 was appointed in the Project named Strengthening of Monitoring & Evaluation of Capabilities of Planning Cell in Irrigation and Power Cell, run by Irrigation Department. That after regularization of the answering respondent No 1 the services of the answering respondent were handed over to the P&D Department

during the pendency of the Service Appeal No 1006/2019, therefore, the P&D Department was not arrayed in the penal of respondents. That at the time of Execution Petition, the ibid department was arrayed as party, but later on this August Tribunal deleted the ibid respondent from the penal of respondents vide order sheet dated 01-06-2023.

- C- Ground C is incorrect and misleading, hence denied. The detail reply has already been given in above Paras.
- D- Ground D is incorrect and misleading, hence denied. The detail reply has already been given in above Paras.
- E- Ground E needs no reply.
- F- Ground F needs no reply.

It is therefore, most humbly prayed that on acceptance of this reply on behalf of the answering respondent No. 1 the 12(2) CPC petition of the petitioner may very graciously be dismissed with cost.

Dated: 11.12.2023

**Private Respondent No. 1**

**THROUGH**

**NOOR MOHAMMAD KHATTAK  
ADVOCATES SUPREME COURT**

**AFFIDAVIT**

I, Seyd Qamar Abbas, Environmentalist (BPS-18), Irrigation Department, Khyber Pakhtunkhwa, do hereby solemnly affirm that the contents of this **REPLY** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

**DEPONENT**

**ATTESTED**



11-12-2023

E.P. No. 690/2023  
S. Qamar Abbas



"A"  
-4-

02.05.2023

Learned counsel for the petitioner present. Mr. Asif Masood

Ali Shah, Deputy District Attorney alongwith Mr. Aman,  
Superintendent for the respondents present.

Representative of the respondents produced copy of letter dated 30.03.2023 forwarding summary for onward submission to the Chief Minister Khyber Pakhtunkhwa for counting of contract service/project service of the petitioner w.e.f 31.01.2003 towards regular service which is placed on file. Representative of the respondents is directed to follow the outcome of summary and submit proper implementation report on 01.06.2023 before S.B. Parcha Peshi given to the parties.

(Muhammad Akbar Khan)  
Member (E)

\*Kourmullah\*

1<sup>st</sup> June, 2023

1. Learned counsel for the petitioner present. Mr. Fazal Shah, Additional Advocate General alongwith Mr. Asad Ullah Khan, S.O (Litigation) for the respondents present.

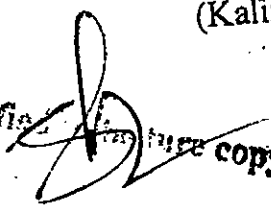
2. Representative of the respondents present and pointed out that Secretary P & D Department was not party in the main appeal the copy of which is annexed with this application. Learned counsel for the petitioner was confronted with the situation, who could not explain as to why Secretary P& D was made party in the implementation petition, therefore, name of respondent No. 5 (Secretary P&D) is thus deleted from the panel of respondents.

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Part of relief to the extent of pay fixation and payment of arrears has been extended to the appellant, which fact has been admitted by the petitioner and his counsel at the bar. The petitioner apprehends that his contractual service might not be counted towards pension at the relevant point of time. On this learned AAG sought some to make a formal order in this regard. Adjourned. To come up for further proceedings on 13.07.2023 before S.B. Original be also requisitioned.

Q

(Kalim Arshad Khan)  
Chairman

Certified  true copy

\*Kaleem Ullah\*

SECRETARY  
Service Tribunal  
Peshawar

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