

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. 301/2023

Amir Muhammad

Appellant

VERSUS

**Government of Khyber Pakhtunkhwa through
Chief Secretary & others**

Respondents

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Deponent



Roz Amin
Superintendent (Litigation)
Irrigation Department

17-1-24

Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. _____

Dated _____

SERVICE APPEAL NO. 301/2023

Amir Muhammad

Appellant

VERSUS

**Government of Khyber Pakhtunkhwa through
Chief Secretary & others**

Respondents

AFFIDAVIT

I, Muhammad Tahir Orakzai, Secretary to Government of Khyber Pakhtunkhwa, Irrigation Department on behalf of following respondents (No.02-04) do hereby affirm and declare on oath that the contents of para-wise comments are true and correct to the best of my knowledge and belief that nothing has been kept concealed from this Hon'ble Tribunal. It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defense/ struck off/ cost.

(Muhammad Tahir Orakzai)

Secretary to Govt. of Khyber Pakhtunkhwa,
Irrigation Department
Respondent No. 2



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 301/2023

Mr. Amir Muhammad, Chief Draftsman
Irrigation Department

Appellant

Versus

Government of Khyber Pakhtunkhwa through Chief Secretary
Khyber Pakhtunkhwa and others

Respondents

JOINT PARA-WISE COMMENTS ON BEHALF OF THE RESPONDENTS NO. 02 to 04

Respectfully sheweth:

Preliminary objections:

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 100271

Dated 21-12-2023

1. That the appellant has got no cause of action/locus standi.
2. That the appellant has not come to this court with clean hands.
3. That the appellant has concealed some material facts from this Hon'ble Court.
4. That the appellant is disentitled for the relief claimed.

Facts:


- A. Correct as per record that, the appellant was appointed as Draftsman in 1985 and promoted to the post of Head Draftsman in the year 2003.
- B. Correct to the extent that, this Department vide order dated 01.08.2003 authorized the appellant to perform the duties of Chief Draftsman in addition to his own duties. Subsequently, this Department vide order dated 20.10.2010 promoted the appellant to the post of Chief Draftsman (BS-17) on regular basis. During this period appellant has never applied for grant of additional charge allowances. Additional Charge Allowance is admissible in equivalent scale and status while the appellant scale/ status was not equal therefore he was not entitled to Additional Charge Allowance as per Finance Department Policy dated 12.08.1997(**Annex-I**).
- C. The Facility of the Selection Grade has been discontinued w.e.f 01.12.2001(**Annex-II**).
- D. Pertains to record, and under para VI of Khyber Pakhtunkhwa Promotion Policy "Promotion will always be notified with immediate effect".
- E. Correct to the extent that, the appellant has filed writ petition in the Peshawar High Court, Peshawar where Hon'ble Court has directed the petitioner to approach the proper legal forum. Moreover, the appellant had submitted an application regarding his personal up-gradation in Secretary Irrigation office, which was not processed due to his retirement on superannuation.

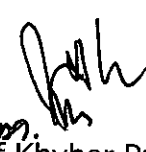
Grounds:

1. No Comments.
2. The service rules, seniority list, job description and prescribed qualification of every Department are different from each other's, and the appellant has already availed the benefits of promotion in his entire service.
3. Incorrect, appellant case has been treated in accordance with the law.
4. Incorrect, appellant has equally been treated. No mechanism of pick and choose exists in policy/rules.
5. No comments.
6. As the appellant has been promoted from BPS-11 to BPS-14 in the year 2003 and subsequently promoted from BPS-14 to BPS-17 in the year 2010, it reveals that the appellant has frequently availed the benefit of promotion in his entire service. Moreover, there is no proforma promotion policy/rules in the province of Khyber Pakhtunkhwa and as per para VI of the provincial promotion policy, promotion will always be notified with immediate effect.
7. Pertains to record.
8. Incorrect, the appellant submitted application for up-gradation in this Department but could not be processed due to his retirement from service.
9. Pertains to record.
10. As explained in Para-08 above.

It is therefore, requested that this appeal being devoid of merits may be dismissed with cost.

(~~Muhammad Tabir Orakzai~~)
Secretary to Govt. of Khyber Pakhtunkhwa,
Irrigation Department
Respondent No. 2

for ()
Secretary to Govt. of Khyber Pakhtunkhwa,
Establishment Department
Respondent No. 3

()
Secretary to Govt. of Khyber Pakhtunkhwa,
Finance Department
✓ **Respondent No. 4**

13-13/92

GOVERNMENT OF N.W.F.P.
FINANCE DEPARTMENT.

Dated Peshawar, the 12.8.1997

100

Annex I

The Secretary to Government of
N.W.F.P. Finance Department, Peshawar.

To

1. All Administrative Secretaries to Govt. of NWFP.
2. The Senior Member, Board of Revenue, NWFP, Peshawar.
3. The Secretary, Provincial Assembly, NWFP, Peshawar.
4. All Heads of Attached Departments in N.W.F.P.
5. The Secretary to Governor, N.W.F.P. Peshawar.
6. The Secretary to Chief Minister, NWFP, Peshawar.
7. All Commissioners/Deputy Commissioners/Political Agents/District & Session Judges in N.W.F.P.
8. The Registrar, Peshawar High Court, Peshawar.
9. The Secretary, Public Service Commission, NWFP, Pesh:
10. The Registrar, Service Tribunal, NWFP, Peshawar.
11. The Secretary, Board of Revenue, NWFP, Peshawar.

Subject: ENTRUSTMENT OF ADDITIONAL CHARGE AND GRANT OF EXTRA REMUNERATION FOR HOLDING ADDITIONAL CHARGE OF POSTS UNDER F.R. 49

Sir,

I am directed to refer to the subject noted above and to say that it has been observed that the instructions regarding entrustment of additional charge of posts and grant of extra remuneration issued from time to time are not strictly adhered to. This not only results in un-necessary extra expenditure, exchange of correspondence between the Finance Department and the Administrative Departments concerned but the Government Servants concerned are also placed in difficulties.

2. With a view to stream-lining the cases of additional charge and payment of extra remuneration the following consolidated instructions are issued :-

1. DISTRIBUTION OF WORK OF A VACANT POST.

The work of a vacant post, as far as possible, be distributed among more than one Govt. Servant of the same status and designation available in the Department/Office.

11. ADDITIONAL CHARGE ARRANGEMENT.

Where the distribution of the work among more than one Government Servant is not feasible, the charge of the vacant post may be entrusted in its entirety, to another Government Servant in an equivalent scale/status. This arrangement should not be made for a period less than one month and should not exceed three months and it should be allowed with specific approval of the Secretaries/Heads of the Attached Departments/Heads of Department not below BPS-20. However, it may be extended by another three months with the approval of next higher authority. Immediately on the expiry of six months of the full additional charge of the particular vacant post, the post shall be treated as

[Signature]
Section Officer (Litigation)
Finance Department Peshawar
Attested

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having been abolished and its duties automatically becoming part of the normal duties of the other existing posts of the same category in the department concerned. The post so treated as abolished shall not be revived without the concurrence of the Finance Department.

iii. PRIOR APPROVAL OF THE FINANCE DEPARTMENT.

- a. Before making full additional charge arrangement prior approval of the Finance Department may be obtained.
- b. Where it is not possible to obtain prior approval of Finance Department for cogent reasons, the proposal should be initiated immediately after making such arrangement and in any case not later than ten days from the date of making such arrangement. In such cases detailed reasons for which prior approval of Finance Department could not be obtained may invariably be given. However, Finance Department reserves the right to accept or reject the reasons advanced by the department concerned after examination of the case on merits.

iv. ADDITIONAL REMUNERATION.

Additional Charge/Dual Charge Allowance shall be sanctioned by the Finance Department at a uniform rate of 20% of basic pay not exceeding Rs.800/- P.M. subject to fulfilment of the above conditions.

5. I am to request that the above instructions may be brought to the notice of all concerned for strict compliance.

Your obedient servant,

(Signature)
(MOHAMMAD SULTAN)

ADDITIONAL FINANCE SECRETARY - V.

1st. No. FD(SR-1)3-1/92 Dated Peshawar, the 12.8.1997.

Copy forwarded for information to :-

All the Heads of Autonomous and Semi-Autonomous Bodies in N.W.F.P.

The Secretary Finance Department, Government of the Punjab, Sindh and Baluchistan, Lahore, Karachi and Quetta.

The Secretary Finance Department, Azad Government of the State of Jammu and Kashmir, Muzaffarabad.

(Signature)
(SULTAN MAHMOOD KHATTAK)

Deputy Secretary (Regulation)

t.No. FD(SR-1)3-1/92

Dated Peshawar, the 12.8.1997.

Copy forwarded to :-

- The Accountant General, N.W.F.P. Peshawar;
- All District/Agency Accounts Officers in N.W.F.P.
- The Treasury Officer, Peshawar.
- The P.S. to Secretary, P.A.S to Additional Secretaries/ Deputy Secretaries in Finance Department.
- All Section Officers/Budget Officers in Finance Deptt;
- The Director, Local Fund Audit, NWFP, Peshawar;

FIA
GOVERNMENT OF N.W.F.
FINANCE DEPARTMENT

NO.FD(PRC)1-1/2003
Dated Peshawar the, ~~April~~ 5-6-2003

From :- Secretary to Govt.of NWFP,
Finance Department.

To

1. All Administrative Secretaries to Govt.of NWFP.
2. The Senior Member, Board of Revenue, NWFP.
3. The Secretary to Governor NWFP, Peshawar.
4. The Secretary, Provincial Assembly, NWFP.
5. All Heads of Attached Departments NWFP.
6. All District Nazims/District Coordination Officers and District and Session Judges NWFP.
7. The Registrar, Peshawar High Court, Peshawar.
8. The Chairman, NWFP, Public Service Commission.
9. The Chairman, NWFP, Services Tribunal.
10. The Secretary Board of Revenue, NWFP.

SUBJECT:- REVISION OF BASIC PAY SCALES AND FRINGE BENEFITS OF CIVIL EMPLOYEES (BPS1-22) OF THE NWFP GOVT(2001)

Dear Sir,

I am directed to refer to this Department's letter No.FD(PRC)1-1/2001 dated Nov. 15, 2001 on the subject noted above and to say that clarification given against para 7(i) and (ii) may be read as under :-

"The Selection Grade and Move Over shall stand discontinued w.e.f 1-12-2001 instead of 27-10-2001. The clarification issued vide the above referred letter against Para 5(ii) and Para 7 (i) & (ii) stand modified to this effect."

Yours faithfully

(ABDUL LATIF)
DEPUTY SECRETARY (REG.)

Endst No.FD(PRC)1-1/2003 Dated Peshawar the, ~~April~~ 6, 2003
May

A copy is forwarded for information to :-

1. All Autonomous/Semi Autonomous Bodies/Corporation in NWFP.

(ABDUL LATIF)
DEPUTY SECY. (REG.)

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ENDST.NO & DATE EVEN.

A copy is forwarded for information to :-

1. The Accountant General, NWFP, Peshawar.
2. All District/Agency Accounts Officers in NWFP.
3. The Treasury Officer, Peshawar.
4. The Private Secretary to Finance Minister, NWFP.
5. The P.S to Secretary, PAs to Additional Secretaries/
Deputy Secretaries in Finance Department.
6. All Section/Budget Officers in Finance Department NWFP.
7. The Director, Local Fund Audit, NWFP, Peshawar.



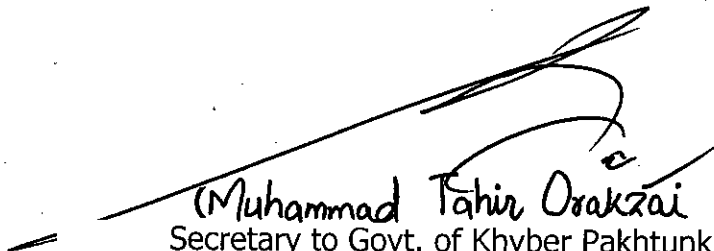
(SYED BAQAR SHAH)
SECTION OFFICER (SR.I)

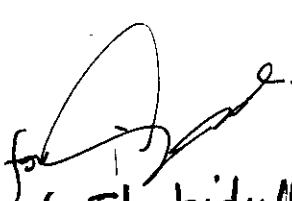

Section Officer (Litigation)
Irrigation Department Peshawar
Attested

①
20/11/2016
C.M.S

POWER OF ATTORNEY

I, Secretary to Govt. of Khyber Pakhtunkhwa Irrigation Department do hereby authorize Mr. Roz Amin, Superintendent (Litigation Section), Irrigation Department to file comments and make statement before the Khyber Pakhtunkhwa Service Tribunal, Peshawar in Service Appeal No. 301/2023 filed by Amir Muhammad VS Government of Khyber Pakhtunkhwa through Chief Secretary & others.


(Muhammad Tahir Orakzai)
Secretary to Govt. of Khyber Pakhtunkhwa,
Irrigation Department
Respondent No. 2


(Shahidullah)
Secretary to Govt. of Khyber Pakhtunkhwa,
Establishment Department
Respondent No. 3


(Faiz Alam.)
Secretary to Govt. of Khyber Pakhtunkhwa,
Finance Department
✓ **Respondent No. 5**