

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

EXECUTION PETITION NO. 690/2023 IN SERVICE APPEAL NO.
1006/2019

Syed Qamar Abbas

Appellant

VERSUS

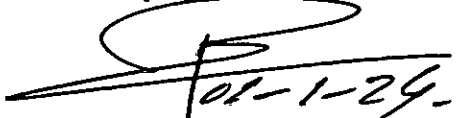
**Government of Khyber Pakhtunkhwa through
Secretary Irrigation Department & others**

Respondents

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Deponent



Roz Amin

Superintendent (Litigation)
Irrigation Department

Most Immediate/
Court Matter



GOVERNMENT OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT
(Litigation Section)



Irrigation Department Civil Secretariat Peshawar



www.Irrigation.gkp.pk



solitirrigation@gmail.com



091-9223459

No. SO (Lit)/Irr:/3-565/2023

Dated Peshawar the 28th December, 2023

To


The Registrar,
Khyber Pakhtunkhwa Service Tribunal.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 10119

Dated 1-1-2024

Subject: E.P NO. 690/2023 IN SERVICE APPEAL NO. 1006/2019 TITLED SYED QAMAR ABASS V/S GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH SECRETARY IRRIGATION.

Dear Sir,

1. That, this Hon'ble Tribunal vide its Order dated 11.12.2023 directed the following (**Annex-I**):

"Implementation report has not been submitted by the respondents, therefore, the Tribunal is constrained to attach the salary of respondents No. 3,4 and 6 in the manner 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 respondents No. 3,4 and 6 and submit report in writing that the salary is actually attached."

2. That, in pursuance of Khyber Pakhtunkhwa Service Tribunal Judgement in Service Appeal No. 1006/2023 dated 19.01.2023 and Execution Petition No. 690/2023 dated 28.11.2022 Finance Department has already sanctioned pay protection (conditionally) to the appellant of his previous Service rendered in project from his first appointment i.e. 01.01.2003 vide letter 08.02.2023 subject to final decision of the Supreme court of Pakistan in CPLA (**Annex-II**). Hence, the orders of the Honorable Tribunal in the instant Execution Petition with respect to pay protection to the appellant in Service Appeal has already been complied with.

3. That, in the instant Execution Petition No. 690/2022 in Service Appeal No. 1006/2019, a Civil Petition leave to Appeal No. 541-P/2022 against the judgement has already been filed, which is pending before the Supreme Court of Pakistan, therefore, the instant Execution Petition is not sustainable.

4. That, a subsequent application for early hearing and suspension of judgment has also been filed in the Supreme Court of Pakistan (**Annex-III**).

5. That, the counting of the service towards pension from the date of appointment of the appellant falls under the jurisdictions of the P&D Department as P&D Department is the Administrative Department of the petitioner since establishment of the Provincial Planning Service (PPS) Cadre in 2018. Therefore, Irrigation Department has approached P&D Department for compliance of the above order of the Khyber Pakhtunkhwa Service Tribunal, Peshawar (**Annex-IV**). Hence, on receipt of compliance report from P&D Department, the implementation report will be submitted before the Hon'ble Service Tribunal accordingly.

6. It is, therefore humbly prayed that in light of the implementation referred above, relief may be granted to the Respondent No. 06, the Khyber Pakhtunkhwa Services Tribunal Order dated 11.12.2023 may kindly be reviewed and salary of the Director Irrigation Department, Government of Khyber Pakhtunkhwa be released accordingly.

Encl. As Above.


(AKHTAR RASOOL)

Section Officer (Litigation)

Endst. No and date even:

Copy for information is forwarded to the: -

1. PS to Secretary, Irrigation Department, Khyber Pakhtunkhwa.
2. PA to Additional Secretary, Irrigation Department, Khyber Pakhtunkhwa.
3. Deputy Secretary (Admn:), Irrigation Department, Khyber Pakhtunkhwa
4. Master File.

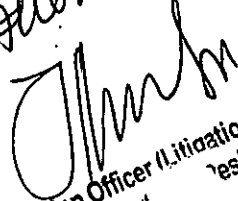

Section Officer (Litigation)

11th Dec, 2023

1. Petitioner alongwith his counsel present. Mr. Asad Ali Khan, Assistant Advocate General alongwith Mr. Riaz, Superintendent for the respondents present.
2. Implementation report has not been submitted by the respondents, therefore, the Tribunal is constrained to attach the salary of respondents No. 3,4 and 6 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 respondents No. 3,4 and 6 and submit report in writing that the salary is actually attached. To come up for submission of implementation report on 26.12.2023 before S.B. P.P given to the parties.

Adnan Shah


(Kalim Arshad Khan)
Chairman

Alerted

Section Officer (Litigation)
Irrigation Department
Peshawar



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

Finance Department Civil Secretariat Peshawar <http://www.finance.gkp.gov.pk> [facebook.com/GoKPFD](https://www.facebook.com/GoKPFD) [twitter.com/GoKPFD](https://www.twitter.com/GoKPFD)

NO. FD(SOSR-1)12-4/2023/Syed Qamar Abbas
Dated Peshawar the: 08-02-2023

To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Planning & Development Department,
Peshawar

Subject: - PAY PROTECTION IN RESPECT OF SYED QAMAR ABBAS
CHIEF COORDINATION, PLANNING & DEVELOPMENT
DEPARTMENT.

Dear Sir,

I am directed to refer to the subject noted above and to convey that in pursuance of Khyber Pakhtunkhwa Service Tribunal's judgment in Service Appeal No.1006/2019 announced on 19.01.2022 and Execution Petition No. 690/22 dated 28.11.2022, Finance Department agrees to accord sanction of pay protection (conditionally) to the applicant of his previous service rendered in project from his 1st appointment i.e. 31.01.2003 and in case decision in CPLA comes against the applicant then the benefits received on account of pay protection will be recovered.

Your's faithfully,

SECTION OFFICER (SR-1)

Copy forwarded for information and necessary action to:-

1. Accountant General, Khyber Pakhtunkhwa w/r to the letter No.H-24/Promotion Fixation/119 dated 26.10.2022.
2. Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
3. Section Officer (Lit-II), Finance Department.
4. Mr. Syed Qamar Abbas, Chief Coordination, Planning & Development Department w/r to his letter No.PF/2017 dated 17.01.2023.
5. Master file.

*Attended
Shahid
Sd/-*

Shahid
SECTION OFFICER (SR-1)

*Attended
JMB*

Section Officer (Lit-II)
Finance Department Peshawar



IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

112
201

Case No. CPLA No. 541-P/2022

Title: Chief Secretary, Govt. of Khyber Pakhtunkhwa Peshawar and others Versus Mr. Syed Qamar Abbas

SUBJECT: APPLICATION FOR EARLY HEARING & TRANSFER

CATEGORY OF CASE: To grant allow/Pay fixation w.e.f 31/01/2003

BRIEF OF CASE (FROM TRIAL COURT TO IMPUGNED ORDER):-

Nature of Proceeding before lower Court:- (Execution Petition) before Khyber Pakhtunkhwa, Service Tribunal, Peshawar asking for implementation of the judgment and order dated 19-01-2022 which is impugned before this august Court in CPLA No. 541-P/2022.

Relief claimed in main case. That the impugned Judgment & Order dated 19-01-2022 passed in Service Appeal No. 1006/2019 be suspended.

GROUND/REASON OF URGENCY:

1. Respondent filed Execution Petition before the Khyber Pakhtunkhwa, Service Tribunal, Peshawar for implementation of impugned order dated 19-01-2022. Grounds of E.P. No. 690/2022 is attached
2. Hon'ble Khyber Pakhtunkhwa, Service Tribunal, Peshawar vide order dated 01-06-2023 directed the petitioners to submit proper implementation report in respect of Judgment & Order dated 19-01-2022 in Service Appeal No. 1006/2019 on the date fixed i.e 13-07-2023. (Order dated 01-06-2023 is attached herewith).
3. That if the impugned Judgment & Order is compiled it will cause irreparable loss to the petitioners and also indulge the petitioners in multiplicity of litigations.

PROOF OF URGENCY: Attached Not attached

APPLICANT IS: Decree Holder Judgment Debtor other

PRAYER:

It is respectfully prayed that the Petition may kindly transferred to the Principal seat at Islamabad and be fixed in the 1st Week of July, 2023.

UNDERTAKING:

Certified that this is 2nd application by the AOR/Applicant for early fixation of instant case.

SUPREME COURTS OF
PAKISTAN

Moin-ud-Din Humayun
(Moin-ud-Din Humayun)
Advocate-on-Record
Supreme Court of Pakistan
Respondent/Petitioners

Attested
[Signature]
Secretary (Litigation)
Ministry of Law, Government of Khyber Pakhtunkhwa
Peshawar



**GOVERNMENT OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT
(Litigation Section)**



Irrigation Department Civil Secretariat Peshawar



www.Irrigation.gkp.pk



solitirrigation@gmail.com



091-9223459

No. SO (Lit)/Irr:/3-247-B/2022

Dated Peshawar the 28TH December, 2023

To

**The Secretary to Government of Khyber Pakhtunkhwa,
Planning & Development Department.**

**Subject: CPLA NO. 541-P/2022 CHIEF SECRETARY KHYBER
PAKHTUNKHWA AND OTHERS V/S SYED QAMAR ABBAS.**

Dear Sir,

I am directed to refer to the subject noted above and enclose herewith a copy of Khyber Pakhtunkhwa Service Tribunal Order Sheet dated 11.12.2023 whereby the Hon'ble Tribunal has attached the salaries of respondent No. 03. 04. & 06 i.e. Secretary Finance Department, Secretary Establishment Department & Director Irrigation Department for non-implementation of its judgment in the subject case and directed for submission of implementation report on 26.12.2023 before the Khyber Pakhtunkhwa Service Tribunal. **(Copy enclosed)**

I am further directed to state that the appellant Syed Qamar Abbas filed Service Appeal No. 1006/2019 before Khyber Pakhtunkhwa Service Tribunal for allowing/ granting pay fixation w.e.f 31.01.2003 the date on which the appellant was appointed as Environmentalist by counting his previous contractual service towards regular service. The Khyber Pakhtunkhwa Service Tribunal Peshawar vide its judgement dated 19.01.2022 accepted the appeal of the appellant. Accordingly, this Department in consultation with Law Department filed CPLA No. 541-P/2022 in the Supreme Court of Pakistan against the judgement of the Service Tribunal. In the meanwhile, the petitioner filed Execution Petition No 690/2022 in the Khyber Pakhtunkhwa Service Tribunal Peshawar for implementation of judgement dated 19.01.2022. Furthermore, on the request of this Department an application for early hearing and transfer of Case No. CPLA No. 541-P/2022 titled "Chief Secretary Government of Khyber Pakhtunkhwa and others Vs Syed Qamar Abbas" was moved by Advocate-on-Record Supreme Court of Pakistan for the Government of Khyber Pakhtunkhwa. **(Copy Enclosed)**

It is worth mentioning here that in pursuance of Khyber Pakhtunkhwa Service Tribunal Judgement in Service Appeal No. 1006/2023 dated 19.01.2023 and Execution Petition No. 690/2023 dated 28.11.2022 Finance Department has already sanctioned pay protection (conditionally) to the appellant of his previous Service rendered in project from his first appointment i.e. 01.01.2003 vide letter 08.02.2023 subject to final decision of the Supreme court of Pakistan in CPLA **(Copy Enclosed)**. However, the counting of the service towards pension from the date of appointment of the appellant falls under the jurisdictions of the P&D Department as P&D Department is the Administrative Department of the petitioner since establishment of the Provincial Planning Service (PPS) Cadre in 2018.

In view of the above I am therefore, directed to request that proper implementation report regarding counting of the service towards pension from the date of appointment of the appellant may be prepared in compliance of the Judgment of the Tribunal in the subject case for onward submission to quarter concerned.

Yours faithfully,

(AKHTAR RASOOL)

Section Officer (Litigation)

Endst. No and date even:

Copy for information is forwarded to the: -

1. PS to Secretary, Establishment Department, Khyber Pakhtunkhwa
2. PS to Secretary, Finance Department, Khyber Pakhtunkhwa.
3. PS to Secretary, Irrigation Department, Khyber Pakhtunkhwa.
4. PA to Additional Secretary, Irrigation Department, Khyber Pakhtunkhwa.
5. Deputy Secretary (Admn.), Irrigation Department, Khyber Pakhtunkhwa
6. Master File.

Section Officer (Litigation)

Accepted
Section Officer (Litigation)
Irrigation Department Peshawar