

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL, PESHAWAR**

**CHECK LIST**

Attaullah Shah

**Versus**

AIOU & Others

..... Appellant

..... Respondents

<u>S NO</u>	<u>CONTENTS</u>	<u>YES</u>	<u>NO</u>
1.	This appeal has been presented by:	√	
2.	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	√	
3.	Whether appeal is within time?	√	
4.	Whether the enactment under which the appeal is filed mentioned?	√	
5.	Whether the enactment under which the appeal is filed is correct?	√	
6.	Whether affidavit is appended?	√	
7.	Whether affidavit is duly attested by competent Oath Commissioner?	√	
8.	Whether appeal/annexures are properly paged?	√	
9.	Whether certificate regarding filing any earlier appeal on the subject, furnished?	√	
10.	Whether annexures are legible?	√	
11.	Whether annexures are attested?		
12.	Whether copies of annexures are readable/clear?	√	
13.	Whether copy of appeal is delivered to AG/DAG?	√	
14.	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	√	
15.	Whether numbers of referred cases given are correct?	√	
16.	Whether appeal contains cutting/overwriting?	x	
17.	Whether list of books has been provided at the end of the appeal?	√	
18.	Whether case relate to this court?	√	
19.	Whether requisite number of spare copies attached?	√	
20.	Whether complete spare copy is filed in separate file cover?	√	
21.	Whether addresses of parties given are complete?	√	
22.	Whether index filed?	√	
23.	Whether index is correct?	√	
24.	Whether Security and Process Fee deposited? On _____		
25.	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____	√	
26.	Whether copies of comments/reply/rejoinder submitted? On _____		
27.	Whether copies of comments/reply/rejoinder provided to opposite party? On _____		

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name:- Hasan Nasir Advocate

Signature:- 

Dated:- 19-01-2024



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Appellant most humbly submits as below:

1. *That the Appellant was appointed as Assistant Engineer (BPS-17) in Communication & Works (C&W) Department Govt. of KP (earlier N.W.F.P) through Public Service Commission in dated 17-08-1989, and the Appellant performed his duties in the said department for a period of 10 years to the entire satisfaction of his superiors with zeal and zest.*
2. *That thereafter the Appellant was appointed as Executive Engineer (BPS-18) at Allama Iqbal Open University dated 31-07-1999. (Copy already attached).*
3. *That Appellant was relieved from service by the C&W Department, Govt. of KP vide letter dated No. SO(E)/1-46/89 dated 13-1999 from Secretary to Govt. of KP Communication & Works Department, and join my new job at Allama Iqbal Open University. But is also pertinent to mention here that the Appellant had lien with the C&W Department for 2 years. (Copy already attached).*
4. *That Appellant on assuming charge at AIOU as Executive Engineer on 14-09-1999 and on completion of the probation period of 2 years the service/job of the Appellant was*

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confirmed by AIOU, then the Appellant requested the C&W Department for termination of lien. **(Copy already attached).**

5. That Appellant on successful completion of 25 years service, which is qualifying period for retirement, i-e 10 years at C&W Department and 15 years and 10 months AIOU, the Appellant got the early retirement from AIOU and the Appellant proceeded on leave Preparatory to Retirement (LPR) on 31-01-2016.
6. That on retirement of the Appellant, the AIOU Department approached the C&W Department KP for transfer of the proportionate share of the pension of the Appellant, which was amounting to 47,20,667/-but the C&W Department KP did not transfer the same to AIOU. But is pertinent to mention here that only AIOU release the share of the Appellant for service rendered by Appellant 15 years and 10 months.
7. That the Appellant approached the C&W Department for the release of the proportionate share of pension of the Appellant but all in vain. **(Copy of the relevant documents are attached).**

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8. *That being aggrieved from the illegal and unlawful acts of the respondents the appellant approached to the August Peshawar High Court Peshawar, where the Hon'ble Court called comments from the respondents and the Writ Petition of the petitioner/appellant was allowed in the light of the comments through its worthy judgment dated: 02-04-2019. (Copy is attached).*
9. *That the appellant filed Review Petition against the order: 02-04-2019, which was allowed and the main writ petition was restored by the August Peshawar High Court Peshawar through its worthy order dated: 29-09-2020. (Copy of the order dated: 29-09-2020 is attached).*
10. *That during the proceedings in the writ petition the Hon'ble Peshawar High Court send the writ petition to this Hon'ble Tribunal for its disposal on merit through its worthy order dated: 26-04-2022. (Copy of the order dated: 26-04-2022 is attached).*
11. *That this Hon'ble Tribunal admitted the case titled above through its order dated: 28-03-2023, but later on directed the appellant to file a proper appeal. (Copy of the order dated: 28-03-2023 is attached).*

12. That the Appellant therefore filed the instant appeal on the following grounds inter-alia:-

**Grounds:-**

- A. That the impugned action/ inaction of the Respondents is illegal, unwarranted, without jurisdiction, without lawful authority, against the law, facts and based on malafide and is in utter disregard of relevant provision of administration of natural justice.
- B. That the impugned action and inaction of Respondents are illegal, unwarranted, unjustified and unconstitutional and against the fundamental laws of the case.
- C. That the Appellant has not been treated by the Respondents in accordance with law and rules on the subject noted above and as such the Respondents have violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- D. That the action and inaction of the Respondents against the Appellant is illegal, unlawful, arbitrary and unconstitutional one and is clearly based on malafide, therefore the action and inaction of the Respondents against the Appellant is not tenable.

- ①
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- E. *That the impugned order dated: 24-11-2017 has been issued malafidely therefore, the impugned order is void ab initio in the eyes of law.*
- F. *That the Appellant has served the department for a length of 10 years but the respondents are reluctant to release the proportionate share of the Appellant, the said arbitrary action of the Respondents is against the settle service laws and rules.*
- G. *That the Appellant has been deprived from his due right in disregard of the constitution, law and rules.*
- H. *That the Appellant has neither been treated in accordance with law nor extended equal protection of law which is inalienable right of the Appellant.*
- I. *That any other grounds will be raised at the time of arguments with the permission of this Hon'ble Court.*

**PRAYER:-**

*It is, therefore, most respectfully prayed that on acceptance of this instant Appeal, the respondents may kindly be directed to release/transfer the proportionate share amounting Rs. 47,20,667/- of the pension to the appellant.*

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*Any other relief which this Honourable Tribunal deems just and appropriate in the circumstances of the case, not specifically asked for, may also be granted in favour of Appellant against the Respondents.*

Dated:- 19/01/2024

Through:-

Appellant

**Asad Jan Durrani**  
Advocate Supreme Court  
of Pakistan

&

**Hassan Nasir**  
Advocate High Court  
Peshawar





PL  
② (19)

**BEFORE THE HONOURABLE PESHAWAR HIGH COURT,**

**PESHAWAR**

Writ Petition No \_\_\_\_\_ of 2018

1. Attaullah Shah S/O Amanullah Shah R/O H.no.65, St-1, Sector- G, Shickh  
Maltoon Town, Mardan .....(Petitioner)



**VERSUS**

1. Allama Iqbal Open University , through its Registrar , Islamabad
2. Federation of Pakistan , Ministry of Education , Islamabad
3. Government of Khyber Pukhtunkhwa through Chief Secretary , Peshawar
4. Secretary Communication & Works (C&W) Department Khyber  
Pukhtunkhwa , Peshawar
5. Accountant General , Khyber Pukhtunkhwa, Peshawar
6. Government of Khyber Pukhtunkhwa through Secretary, Finance  
Department , Peshawar ....(Respondents)

**Writ Petition under Article 199 Of**  
**the Constitution of Islamic Republic**  
**of Pakistan, 1973.**

**Respectfully Sheweth:-**

The Petitioner humbly submits as under:-

1. That the Petitioner was appointed as Assistant Engineer (BPS-17) in  
communication & works (C&W) department Govt of KP (earlier  
N.W.F.P) through Public Service Commission in dated 17-08-1989,  
and the petitioner performed his duties in the said department for a

**ATTESTED**  
**EXAMINER**  
Peshawar High Court  
Peshawar

②

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period of 10 years to the entire satisfaction of his superiors with zeal and zest.

2. That thereafter the petitioner was appointed as Executive Engineer (BPS-18) at Allama Iqbal Open University dated 31-07-1999 ( Copy of the order is attached as annexure 'A' ).
3. That petitioner was relieved from service by the C&W department , Govt of KP vide letter dated No. SO(E)/1-46/89 dated 13-1999 from secretary to Govt of KP communication & works department , to join my new job at Allama Iqbal Open University . But is also pertinent to mention here that the petitioner had lien with the C&W department for 2 years (Copy of the letter is attached as annexure 'B' ).
4. That petitioner on assuming charge at AIOU as Executive Engineer on 14-09-1999 and on completion of the probation period of 2 years , the service /job of the petitioner was confirmed by AIOU , then the petitioner requested the C&W department for termination of lien ( Copy of the order is attached as annexure 'C' ).
5. That petitioner on successful completion of 25 years service, which is qualifying period for retirement, i.e 10 years at C&W department and 15 years and 10 months AIOU, the petitioner got the early retirement from AIOU and the petitioner proceeded on leave Preparatory to Retirement (LPR) on 31-01-2016.

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Peshawar High Court  
Peshawar

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6. That on retirement of the petitioner, the AIOU department approached the C&W department KP for transfer of the proportionate share of the pension of the petitioner, which was amounting to 47,20,667/- but the C&W department KP did not transfer the same to AIOU. But it is pertinent to mention here that only AIOU release the share of the petitioner for service rendered by petitioner 15 years and 10 months.
7. That the petitioner approached the C&W department for the release of the proportionate share of pension of the petitioner but all in vain (Copy of the relevant documents are attached as Annexure 'D').
8. That the Petitioners feeling aggrieved from the said acts of Respondents and has no other adequate remedy but to approach this Honorable Court for directing the respondents for the release of the proportionate share of the petitioner as the service has already rendered by the petitioner to the C&W department KP on the following grounds inter-alia:-

GROUND:-

- A) That the impugned action/ inaction of the Respondents is illegal, unwarranted, without jurisdiction, without lawful authority, against the law, facts and based on malafide and is in utter disregard of relevant provision of administration of natural justice.

ATTESTED  
EXAMINER  
Peshawar High Court  
Peshawar

(2)

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- B) That the impugned action and inaction of Respondents are illegal, unwarranted, unjustified and unconstitutional and against the fundamental laws of the state.
- C) That the petitioner has not been treated by the Respondents in accordance with law and rules on the subject noted above and as such the Respondents have violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- D) That the action and inaction of the Respondents against the petitioner is illegal, unlawful, arbitrary and unconstitutional one and is clearly based on mala fide, therefore the action and inaction of the Respondents against the petitioner is not tenable
- E) That the impugned order dated 24-11-2017 has been issued malafidely, therefore, the impugned order is void ab initio in the eyes of law.
- F) That the petitioner has served the department for a length of 10 years but the respondents are reluctant to release the proportionate share of the petitioner, the said arbitrary action of the Respondents is against the settle service laws and rules.
- G) That the petitioner has been deprived from his due right in disregard of the constitution, law and rules.
- H) That the petitioner has neither been treated in accordance with law nor extended equal protection, of law which is inalienable right of the petitioner.

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Peshawar High Court  
Peshawar

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1) That any other grounds will be raised at the time of arguments with the permission of this Hon'ble Court.

PRAYER:-

It is, therefore, most respectfully prayed that on acceptance of this Writ Petition; the acts of the Respondents may kindly be declared, illegal, unlawful authority, unwarranted, unconstitutional, null and void in the eyes of law, and also direct the Respondents to release the proportionate share of pension of the Petitioner.

Any other relief which this Honourable Court deems just and appropriate in the circumstances of the case, not specifically asked for, may also be granted in favour of Petitioners against the Respondents

Petitioners

Through

(ASAD JAN DURRANI)  
Advocate  
High-Court, Peshawar

Dated:- 01-03-2018

CERTIFICATE:-

No Writ Petition has earlier been filed on the subject between the parties is pending before this Honourable Court

LAW BOOKS:-

1. Constitution of Islamic Republic of Pakistan, 1973
2. Other relevant case laws will be submitted before your lordship at the time of arguments.

Advocate

**ATTESTED**  
**EXAMINER**  
Peshawar High Court  
Peshawar

(6) (14)

BEFORE THE HONOURABLE PESHAWAR HIGH COURT,  
PESHAWAR.

Writ Petition No. \_\_\_\_\_/2018

Attaullah Shah

VERSUS

Allama Iqbal Open University

I, Attaullah Shah S/o Amanullah Khann R/O H.No.65, St-1, Sector-G, Sheikh Maltoon Town, Mardan (petitioner) do hereby affirm and declare on oath that the contents of accompanying Writ Petition are true and correct and nothing has been concealed from this hon'ble Court.

Deponent

61101-1888483-3

Identified by

Asad Jan Durrani  
Advocate

17320

Certified that the above was verified on solemnly affirmation before me on this 1st day of May 2018 at Peshawar by Attaullah Shah who was present and who is personally known to me.

Asad Jan

18/03/2018

Notary Commission and No. \_\_\_\_\_ Peshawar.

Naqra Verified

CERTIFIED TO BE TRUE COPY

EXAMINER  
Peshawar High Court, Peshawar  
Authorized Under Article 8, 7 of  
the Qanoon-e-Shahadat Act 1984

18 JAN 2024

Judgment Sheet

**IN THE PESHAWAR HIGH COURT, PESHAWAR  
JUDICIAL DEPARTMENT**

Writ Petition No.1828-P of 2018

Attaullah Shah

Vs

Allama Iqbal Open University through its Registrar etc

**JUDGMENT**

Date of hearing 2.4.2019.

Petitioner (s) by: *Mr. Asad Jan Durrami Advocate*

Respondent(s) by: *Mr. Muhammad Rizq Khan (C.A.A.)*

....

**IKRAMULLAH KHAN, I.-** Through instant Constitutional petition filed under Article 199 of the Constitution of Islamic republic of Pakistan 1973("Constitution"), petitioner has prayed for the following relief:-

***"that on acceptance of this writ petition, the acts of respondents may kindly be declared illegal, unlawful authority, unwarranted, unconstitutional, null and void in the eyes of law, and also direct the respondents to release the proportionate share of pension of the petitioner."***

2. In essence, petitioner was initially appointed Assistant Engineer (BPS-17) in Communication & Works (C&W) Department, of Government of Khyber Pakhtunkhwa on 17.8.1989, who after completion of 10 years, applied to the post of Executive Engineer (BPS-18) at Allama Iqbal Open University

**ATTESTED**  
EXAMINER  
Peshawar High Court  
Peshawar



(14)

where he was appointed on the said post vide order dated 31.7.1999. After relieving the petitioner by C&W Department, for joining his new Job at Allama Iqbal Open University, lien was granted to the petitioner by C&W Department. Later on the services of petitioner was confirmed by the AIOU. However, after completion of 25 years service, petitioner got the early retirement thereby proceeding on Leave Preparatory to Retirement (LPR) on 31.1.2016. Thereafter, the latter department of petitioner approached the former department for transfer of proportionate share of pension of the petitioner amounting to Rs.47,20,667/- but the C&W Department did not transfer the while only AIOU release the share for petitioner for service rendered by petitioner as 15 years and 10 months. Thereafter, petitioner also approached the C&W Department for release of his proportionate share of pension but in vain, hence the instant Constitutional petition.

3. The respondents were put on notice, who contested the instant petition by filing their respective comments however, in Para 6 of their comments, respondent department has admitted that petitioner served the respondent department from 14.3.1992 to 13.3.1999 and the Finance Department had agreed to the payment of pension contribution amounting to Rs.1,55678/- in favour of petitioner for the above period. As such when the respondents have agreed and admitted in respect of payment of pension of above period as per Para 6 of their comments, therefore, this writ petition is disposed of accordingly

**ATTESTED**  
**EXAMINER**  
Peshawar High Court  
Peshawar

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in view of admission made therein Para 6 of the comments of respondents. The respondents shall pay the requisite amount as calculated by them to the petitioner within sixty (60) days positively.

Announced.  
2.4.2019.

JUDGE

JUDGE

29435

Date of Presentation of Application 18-01-2024

No of Pages 9

Copying fee 36-00

Total 18-01-2024

Date of Preparation of Copy 18-01-2024

Date of Delivery of Copy

Prepared By

CERTIFIED TO BE TRUE COPY

EXAMINER

Peshawar High Court, Peshawar

Authorized Under Article 8.7 of

the Qanoon-e-Shahadat Act 1984

18 JAN 2024

(P.L.)

(18)

**IN THE PESHAWAR HIGH COURT, PESHAWAR**

Review Petition No. \_\_\_\_\_ / 2019

In

Writ Petition No. 1828/2018



Attaullah Shah S/o Aman Ullah Shah R/o House No.65,  
Street No.1, Sector-G, Shiekh Maltoon Town Mardan

.....**Petitioner**

**V E R S U S**

- 1- Allama Iqbal Open University, through its Registrar, Islamabad.
- 2- Federation of Pakistan, Ministry of Education, Islamabad.
- 3- Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar.
- 4- Secretary Communication & Works ( C&W) Department Khyber Pakhtunkhwa, Peshawar.
- 5- Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 6- Government of Khyber Pakhtunkhwa through Secretary, Finance Department, Peshawar.

.....**Respondents**

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**REVIEW PETITION U/S 114 CPC  
FOR REVIEW OF ORDER DATED  
02.04.2019 OF THIS HON'BLE  
COURT IN WRIT PETITION  
NO.1828/2018.**  
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FILED TODAY  
Deputy Registrar

24 APR 2019

ATTESTED  
EXAMINER  
Peshawar High Court  
Peshawar

(2) (E) (19)

**Respectfully Sheweth:**

The petitioner humbly submits as under: -

1. That the petitioner approached this Hon'ble Court through writ petition No.1828 of 2018.
2. That the above titled writ petition has been decided on dated 02.04.2019 by this Hon'ble Court. **(Copy of the judgment is attached as Annexure "A")**.
3. That the petitioner humbly prays for the review, recall of the order of the Hon'ble Court dated 02.04.2019 inter alia on the following grounds:-

**GROUND S:**

- a) That this Hon'ble Court has not considered the record of the case and passed the instant order which needs to be reviewed.
- b) That the petitioner had served the Respondent No.4 Department for 10 years and then thereafter the petitioner applied for a post of Executive Engineer BPS-18 in Allam Iqbal Open University through proper channel on dated 31.07.1999. it is pertinent to mention here that on completion of 25 years service the petitioner get early retirement from Allama Iqbal Open University. It is again pertinent to mention here that the Respondent No.1 paid the pensionary benefits/proportionate share of pension

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A

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for the 15 years service to the petitioner while the Respondent No.4 after proper correspondents did not release/sent the proportionate share of the petitioner for 10 years to the Respondent No.1 then the petitioner approached this Hon'ble Court for the same. Then thereafter the respondent No.4 filed admitted the fact that the present petitioner had served the C&W Department for 10 years in Para 6 of the comments but the said department has incorrectly calculated the pensionary benefits for such period as Rs 155,678/- instead of Rs.47,20,667/-.

- c) That the amount of pension fund/proportionate share is Rs.47,20,667/- and not 1,55,678/- as the same is already clear from the calculation of petitioner as well as of AIOU/ Respondent No.1.
- d) That the petitioner has the right and relies on his strong/superior grounds, which is cleared from the record.
- e) That the petitioner has a very good prima- facie case as the respondents have admitted the case of the petitioner as far as the service provided by the petitioner to the Department is concerned.

FILED TODAY  
Deputy Registrar  
24 APR 2019

ATTESTED  
EXAMINER  
Peshawar High Court  
Peshawar

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f) That any other ground will be raised at the time of argument with the prior permission of this Hon'ble Court.

It is, therefore, most humbly prayed that on acceptance of this review petition, the judgment & order dated 02.04.2019 may please be reviewed by modifying the amount as Rs.47,20,667/- instead of amount 1,55,678/- calculated by them i.e Respondent No.4.

Any other relief deemed appropriate may kindly be granted to petitioner against the respondents.

Petitioner

Through

Date: 23.04.2019

**Asad Jan Durrani**  
Advocate High Court,  
Peshawar  
Cell#0312-9181592

**ATTESTED**  
EXAMINER  
Peshawar High Court  
Peshawar

FILED TODAY  
Deputy Registrar  
24 APR 2019

(5) (22)

**IN THE PESHAWAR HIGH COURT, PESHAWAR**

Review Petition No. \_\_\_\_\_ / 2019  
In  
Writ Petition No. 1828/2018

Attaullah Shah ..... **Petitioner**

**V E R S U S**

Allama Iqbal Open University, through its Registrar,  
Islamabad and others ..... **Respondents**

**A F F I D A V I T**

I, Amjid Ali S/o Gul Muhammad R/o Near PCISR, Lab,  
House No.35-A Street No.4, Mohallah Shaheen Town  
Peshawar, (**Special Attorney**), do hereby solemnly affirm  
and declare on oath that the contents of this Review  
petition are true and correct to the best of my knowledge  
and belief and nothing has been concealed from this  
Hon'ble Court.

*Handwritten signature*

**DEPONENT**

Identified by:

CNIC No. 17301-1272424-1  
Cell# 0300-8583035

**Asad Jan Durrani**  
Advocate High Court, Peshawar

<p>27157</p> <p>Deponent's name as above verified on solemnly affirmation on oath of this <u>25th</u> of <u>Apr 2018</u> by <u>Amjid Ali</u> <u>Gul Muhammad</u> District <u>Asad Jan</u></p> <p>is personally</p>	<p><i>Handwritten signature</i></p> <p>25/4/19</p> <p>Commissioner Peshawar High Court, Peshawar.</p>
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CERTIFIED TO BE TRUE COPY  
EXAMINER  
Peshawar High Court, Peshawar  
Authorized Under Article 87 of  
the Qanun-o-Shahadat Act 1984  
18 JAN 2024

FILED TODAY  
Deputy Registrar

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**PESHAWAR HIGH COURT PESHAWAR**  
**FORM "A"**

**ORDER SHEET**



Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary
2	3
29.9.2020	<p><b><u>Review Petition No.98-P/2019 with CM No. 22-P/2019 in WP No. 1828-P/2018.</u></b></p> <p><b>Present:</b></p> <p>Mr. Asad Jan Durrani, Advocate for petitioner.</p> <p>Mr. Atif Ali Khan, AAG for provincial Government.</p> <p>Barrister Asfandyar Khan, for respondent No.1.</p> <p>*****</p> <p><b><u>ROOH-UL-AMIN KHAN, J.-</u></b> Through the instant review petition, petitioner seeks review of order dated 2.4.2019 passed by this Court in WP No. 1828-P/2018.</p> <p>2. It was pointed out that the petitioner had prayed a claim against C&amp;W department Khyber Pakhtunkhwa for transfer of the proportionate share of the petitioner amounting to Rs. 47, 20, 667/- but the C&amp;W department Khyber Pakhtunkhwa shown transferred the same to Allama Iqbal Open University, where the petitioner remained for the last tenure of service. The respondents submitted their reply wherein the claim of petitioner was admitted in para-6.</p>

*Rooh-ul-Amin Khan*

**ATTESTED**  
**EXAMINER**  
Peshawar High Court  
PESHAWAR



however the contribution amount was shown to the tune of Rs. 1,55678/- instead of Rs. 47,20,667/- for a period of service from 14.3.1992 to 14.3.1999. The writ petition was disposed of on admission made by the respondents in para-6 of the judgment, without adhering to the amount claimed by petitioner in para-6 of writ petition. Learned AAG present in Court when confronted with the above situation he submitted at the bar that the claim of the petitioner was calculated which comes to Rs. 1,55,678/- and the same has been verified by the Finance Department, whereas the breakup has not been produced before the Court. While deciding the writ petition erroneously the amount of Rs. 1,55,678/- was decided in favour of the petitioner which, in fact was not the claim of petitioner in his writ petition.

3. In view of above, this review petition is accepted. The main writ petition is restored. The respondents i.e Finance Department and C&W department are directed to produce the complete break up of service and outstanding amount of the petitioner.

*Bookha S*  
JUDGE

*[Signature]*  
JUDGE

29434

*Zarshad* (DB) Hon'ble-Mr. Justice Rōoh Ul Amin Khan & Hon'ble Mr. Justice Ikramullah Khan

Date of Presentation of Application..... 18-01-224  
 No of Pages..... 7-8  
 Filing Fee..... 28-00  
 No of Copy..... 18-01-224  
 18-01-224  
*[Signature]*

CERTIFIED TO BE TRUE COPY  
 EXAMINER  
 Peshawar High Court, Peshawar  
 Authorized Under Article 8, 7 of  
 the Qanoon-e-Shahadat Act 1984  
 18 JAN 2024

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P.L.

BEFORE THE HONOURABLE PESHAWAR HIGH COURT,

PESHAWAR

Writ Petition No \_\_\_\_\_ of 2018

1. Attaullah Shah S/O Amanullah Shah R/O H.no.65, St-1, Sector- G, Shick  
Maltoon Town, Mardan .....(Petitioner)



VERSUS

1. Allama Iqbal Open University , through its Registrar , Islamabad
2. Federation of Pakistan , Ministry of Education , Islamabad
3. Government of Khyber Pukhtunkhwa through Chief Secretary , Peshawar
4. Secretary Communication & Works (C&W) Department Khyber  
Pukhtunkhwa , Peshawar
5. Accountant General , Khyber Pukhtunkhwa, Peshawar
6. Government of Khyber Pukhtunkhwa through Secretary, Finance  
Department , Peshawar ....(Respondents)

**Writ Petition under Article 199 Of**  
**the Constitution of Islamic Republic**  
**of Pakistan, 1973.**

Respectfully Sheweth:-

The Petitioner humbly submits as under:-

1. That the Petitioner was appointed as Assistant Engineer (BPS-17) in  
communication & works (C&W) department Govt of KP (earlier  
N.W.F.P) through Public Service Commission in dated 17-08-1989,  
and the petitioner performed his duties in the said department for a

**ATTESTED**  
**EXAMINER**  
Peshawar High Court  
Peshawar

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period of 10 years to the entire satisfaction of his superiors with zeal and zest.

2. That thereafter the petitioner was appointed as Executive Engineer (BPS-18) at Allama Iqbal Open University dated 31-07-1999 ( Copy of the order is attached as annexure 'A' ).
3. That petitioner was relieved from service by the C&W department , Govt of KP vide letter dated No. SO(E)/1-46/89 dated 13-1999 from secretary to Govt of KP communication & works department , to join my new job at Allama Iqbal Open University . But is also pertinent to mention here that the petitioner had lien with the C&W department for 2 years (Copy of the letter is attached as annexure 'B' ).
4. That petitioner on assuming charge at AIOU as Executive Engineer on 14-09-1999 and on completion of the probation period of 2 years , the service /job of the petitioner was confirmed by AIOU , then the petitioner requested the C&W department for termination of lien ( Copy of the order is attached as annexure 'C' ).
5. That petitioner on successful completion of 25 years service, which is qualifying period for retirement, i-e 10 years at C&W department and 15 years and 10 months AIOU, the petitioner got the early retirement from AIOU and the petitioner proceeded on leave Preparatory to Retirement (LPR) on 31-01-2016.

**ATTESTED**  
EXAMINER  
Peshawar High Court  
Peshawar

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(3)

6. That on retirement of the petitioner, the AIOU department approached the C&W department KP for transfer of the proportionate share of the pension of the petitioner, which was amounting to 47,20,667/-but the C&W department KP did not transfer the same to AIOU. But it is pertinent to mention here that only AIOU release the share of the petitioner for service rendered by petitioner 15 years and 10 months.
7. That the petitioner approached the C&W department for the release of the proportionate share of pension of the petitioner but all in vain (Copy of the relevant documents are attached as Annexure 'D').
8. That the Petitioners feeling aggrieved from the said acts of Respondents and has no other adequate remedy but to approach this Honorable Court for directing the respondents for the release of the proportionate share of the petitioner as the service has already rendered by the petitioner to the C&W department KP on the following grounds inter-alia:-

GRUNDS:-

- A) That the impugned action/ inaction of the Respondents is illegal, unwarranted, without jurisdiction, without lawful authority, against the law, facts and based on malafide and is in utter disregard of relevant provision of administration of natural justice.

**ATTESTED**  
**EXAMINER**  
Peshawar High Court  
Peshawar

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(2)

B) That the impugned action and inaction of Respondents are illegal, unwarranted, unjustified and unconstitutional and against the fundamental laws of the state.

C) That the petitioner has not been treated by the Respondents in accordance with law and rules on the subject noted above and as such the Respondents have violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

D) That the action and inaction of the Respondents against the petitioner is illegal, unlawful, arbitrary and unconstitutional one and is clearly based on mala fide, therefore the action and inaction of the Respondents against the petitioner is not tenable

E) That the impugned order dated 24-11-2017 has been issued malafidely, therefore, the impugned order is void ab initio in the eyes of law.

F) That the petitioner has served the department for a length of 10 years but the respondents are reluctant to release the proportionate share of the petitioner, the said arbitrary action of the Respondents is against the settle service laws and rules.

G) That the petitioner has been deprived from his due right in disregard of the constitution, law and rules.

H) That the petitioner has neither been treated in accordance with law nor extended equal protection of law which is inalienable right of the petitioner.

ATTESTED  
EXAMINER  
Peshawar High Court  
Peshawar

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5

1) That any other grounds will be raised at the time of arguments with the permission of this Hon'ble Court.

PRAYER:-

It is, therefore, most respectfully prayed that on acceptance of this Writ Petition, the acts of the Respondents may kindly be declared, illegal, unlawful authority, unwarranted, unconstitutional, null and void in the eyes of law, and also direct the Respondents to release the proportionate share of pension of the Petitioner.

Any other relief which this Honourable Court deems just and appropriate in the circumstances of the case, not specifically asked for, may also be granted in favour of Petitioners against the Respondents

Petitioners

Through

(ASAD JAN DURRANI)  
Advocate  
High-Court, Peshawar

Dated:- 01-03-2018

CERTIFICATE:-

No Writ Petition has earlier been filed on the subject between the parties is pending before this Honourable Court

LAW BOOKS:-

1. Constitution of Islamic Republic of Pakistan, 1973
2. Other relevant case laws will be submitted before your lordship at the time of arguments.

Advocate

**ATTESTED**  
**EXAMINER**  
Peshawar High Court  
Peshawar

30 (B)

BEFORE THE HONOURABLE PESHAWAR HIGH COURT,  
PESHAWAR.

Writ Petition No. \_\_\_\_\_/2018

Attaullah Shah

VERSUS

Allama Iqbal Open University

I, Attaullah Shah S/o Amanullah Khann R/O H.No.65, St-1,  
Sector-G, Sheikh Maltoon Town, Mardan (petitioner) do hereby  
affirm and declare on oath that the contents of accompanying Writ  
Petition are true and correct and nothing has been concealed from  
this hon'ble Court.

Deponent

61101-1888483-3

*[Signature]*

Identified by

Asad Jan Durrani  
Advocate

*[Signature]*

No. 17320

Certified that the deponent has verified on solemnly  
affirmation before me on this  
day of 19/01/2018 at Peshawar  
Attaullah Shah  
who was identified by  
Asad Jan Durrani  
Who is person  
*[Signature]*  
Commissioner and  
Peshawar.

*Maahra Verified*

CERTIFIED TO BE TRUE COPY

EXAMINER  
Peshawar High Court, Peshawar  
Authorized Under Article 8, 7 of  
the Qanun-e-Shahadat Act 1904

18 JAN 2024

31

**PESHAWAR HIGH COURT, PESHAWAR.**

**FORM 'A'**  
**FORM OF ORDER SHEET**



Date of order.	Order or other proceedings with the order of the Judge
26.04.2022	<p><b><u>W.P.No.1828-P of 2018.</u></b></p> <p><b>Present:</b> Mr.Hassan Nasir, advocate for the petitioner.</p> <p>Mr.Muhammad Arshad Yousafzai, advocate for the respondent No.1.</p> <p>Mr.Arshad Ali Nowsheravi, AAG for the Federation.</p> <p>Mr.Khaled Rehman, AAG for the Provincial Government.</p> <p>-----</p> <p><b><u>LAL JAN KHATTAK, J.-</u></b> As the matter pertains to terms and conditions of service of the petitioner over which this court has no jurisdiction per Article 212 of the Constitution of Islamic Republic of Pakistan, 1973, therefore, we send the instant petition to the Khyber Pakhtunkhwa Service Tribunal, Peshawar for adjudication in accordance with law.</p>
	<p><i>[Signature]</i> JUDGE</p>
	<p><i>[Signature]</i> JUDGE</p>
<p>Date of Presentation of Petition</p> <p>No of Pages</p> <p>Copying Fee</p> <p>Total</p> <p>Date of Preparation of Copy</p> <p>Date of Delivery of Copy</p> <p>Amount Rs</p>	<p>29436</p> <p>18-01-2024</p> <p>28-01-2024</p> <p>18-01-2024</p> <p>18-01-2024</p> <p><i>[Signature]</i></p>
	<p>CERTIFIED TO BE TRUE COPY</p> <p><i>[Signature]</i></p> <p>EXAMINER</p> <p>Peshawar High Court, Peshawar</p> <p>Authorized Under Article 8, 7 of the Qanoon-e-Shariat Act 1984</p> <p>18 JAN 2024</p>

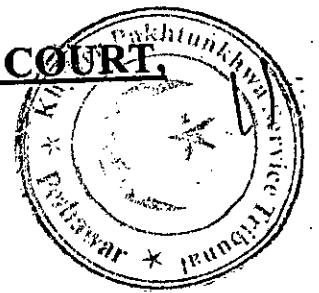


①

31-A

**BEFORE THE HONOURABLE PESHAWAR HIGH COURT,**

**PESHAWAR**



Writ Petition No 1828 P of 2018  
Service Appeal No. 797/2022

1. Attaullah Shah S/O Amanullah Shah R/O H.no.65, St-1, Sector- G, Shiekh  
Maltoon Town, Mardan .....(Petitioner)

**VERSUS**

1. Allama Iqbal Open University , through its Registrar , Islamabad
2. Federation of Pakistan , Ministry of Education , Islamabad
3. Government of Khyber Pukhtunkhwa through Chief Secretary , Peshawar
4. Secretary Communication & Works (C&W) Department Khyber  
Pukhtunkhwa , Peshawar
5. Accountant General , Khyber Pukhtunkhwa, Peshawar
6. Government of Khyber Pukhtunkhwa through Secretary, Finance  
Department , Peshawar .....(Respondents)

**Writ Petition under Article 199 Of**  
**the Constitution of Islamic Republic**  
**of Pakistan, 1973.**

Respectfully Sheweth:-

Certified to be true copy

*[Signature]*  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

The Petitioner humbly submits as under:-

1. That the Petitioner was appointed as Assistant Engineer (BPS-17) in  
communication & works (C&W) department Govt of KP (earlier  
N.W.F.P) through Public Service Commission in dated 17-08-1989,  
and the petitioner performed his duties in the said department for a

**FILED TODAY**  
**Deputy Registrar**  
**03 APR 2018**

31-B



03.03.2023

Clerk to counsel for the appellant present and requested for adjournment on the ground that learned counsel for the appellant is busy before Hon'ble Peshawar High Court, Peshawar. Last opportunity is granted. Adjourned. To come up for preliminary hearing on 28.03.2023 before S.B. P.P given to clerk to counsel for the appellant.

SCANNED  
KFST  
Peshawar

(Muhammad Akbar Khan)  
Member (E)

28<sup>th</sup> March, 2023

Counsel for the appellant present. Preliminary arguments heard and record perused.

Points raised need consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security within 10 days. Thereafter, local respondents be served through ordinary mode while out-district respondents be served through TCS, the expenses of which shall be deposited by the appellant within 07 days. To come up for written reply/comments on 18.05.2023 before the S.B. Parcha Peshi given to learned counsel for the appellant.

SCANNED  
KFST  
Peshawar

Certified to be true copy

Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

(Farzha Paul)  
Member(E)

31-C



10<sup>th</sup> Nov, 2023

1. Learned counsel for the appellant present. Mr. Habib Anwar, Additional Advocate General for the respondents present.
2. Learned counsel for the appellant submits that the appellant had, in the first instance filed writ petition No. 1828-P/2018 before Peshawar High Court, Peshawar and the Peshawar High Court, Peshawar vide order dated 26.04.2022 transmitted the writ petition before this Tribunal for its decision in accordance with law. Learned counsel for the appellant is directed to submit appeal in a proper format as per the provisions of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 and Rules made there under alongwith all enabling other provisions of the appeal rules etc. To come up on 12.12.2023 before S.B. P.P given to the parties.

9

(Kalim Arshad Khan)  
Chairman

\*Ahsan Shah\*

12<sup>th</sup> Dec. 2023

1. Learned counsel for the appellant present. Mr. Asad Ali Khan, Assistant Advocate General for the respondents present.
2. As per directions given on the previous date, the appellant has not submitted appeal in proper format. Learned counsel for the appellant requested for time. Last chance is given to the appellant to do the needful within a week. To come up on 22.01.2024 before S.B. P.P given to the parties.

9

(Kalim Arshad Khan)  
Chairman

\*Mutazem Shah\*

Certified to be true copy  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 22-1-24  
Number of Words 28  
Copying Fee 15/-  
Urgent ✓  
Total 20/-  
Name of Copyist \_\_\_\_\_  
Date of Completion of Copy 22-1-24  
Date of Delivery of Copy 22-1-24

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR.**

Service Appeal No:- 797-P/2022

Attaullah Shah

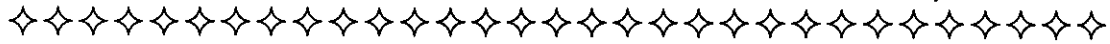
**Versus**

Allama Iqbal Open

University & Others

..... Appellant

..... Respondents



**ADDRESSES OF PARTIES**

**APPELLANT**

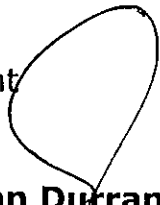
Attaullah Shah S/o Amanullah Shah R/o House No. 65, Street-1, Sector-G, Sheikh Maltoon Town, Mardan.

**RESPONDENTS**

1. Allama Iqbal Open University, through its Registrar, Islamabad.
2. Federation of Pakistan, Ministry of Education, Islamabad.
3. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar.
4. Secretary Communication & Works (C&W) Department Khyber Pakhtunkhwa, Peshawar.
5. Accountant General, Khyber Pakhtunkhwa, Peshawar.
6. Government of Khyber Pakhtunkhwa through Secretary, Finance Department, Peshawar.


Dated:- 19/01/2024

Through:-

Appellant 

**Asad Jan Durrani**  
Advocate Supreme Court  
of Pakistan

&

  
**Hassan Nasir**  
Advocate High Court  
Peshawar

