


FORM OF ORDER SHEET

Court of _____

Appeal No. _____

268/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	14/02/2024	<p>The appeal of Mr. Sajid Anwar resubmitted today by Mr. Taimur Ali Khan Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 15.02.2024. Parcha Peshi is given to counsel for the appellant.</p> <p>By the order of Chairman  REGISTRAR</p>

The appeal of Mr. Sajid Anwar received today i.e on 02.02.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Check list is not attached with the appeal.
- 2- Annexures of the appeal are unattested.
- 3- Affidavit is not attested by the Oath Commissioner.
- 4- Appeal has not been flagged/marked with annexures marks.
- 5- Copy of application mentioned in para-6 of the memo of appeal is not attached with the appeal be placed on it.
- 6- Page no. 11 of the appeal is illegible which may be replaced by legible/better one.
- 7- Six more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 237 /S.T.

Dt. 6/2 /2024.



REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Taimur Ali Khan Adv.
High Court at Peshawar.

Respected Sir,

1- Removed

2- Removed

4- Removed

5- copy of departmental appeal/application is attached as Annexure-F page-20

6- Removed

7- Removed

Resubmitted after compliance



14/02/2024

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 268 /2024

Sajid Anwar

V/S


M&M Department

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THROUGH:

APPELLANT


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT
03339390916

(1)

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

SERVICE APPEAL NO. 268 /2024

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 10985

Dated 02-02-2024

Mr. Sajid Anwar, Assistant (BS-16),
DG Office, Mines & Mineral Development, Peshawar.

(APPELLANT)

VERSUS

1. The Secretary Finance Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Secretary Mineral Development Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. The Director General, Mines & Mineral Development Khyber Pakhtunkhwa near Judicial Complex Peshawar.

(RESPONDENTS)

**APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974
AGAINST THE IMPUGNED ACTION OF THE
RESPONDENTS OF NOT COUNTING PREVIOUS
SERVICE RENDERED BY THE APPELLANT AS
ASSISTANT IN THE VALUE ADDITION RESEARCH
AND DEVELOPMENT WORKS ON ORES MINERALS
IN KHYBER PAKHTUNKHWA W.E.F 01.07.2013 TILL
06.03.2018 ON REGULARIZATION OF THE PROJECT
TOWARD HIS PAY PROTECTION, PENSION,
GRATUITY AND ALLOWANCES ETC AND NOT
TAKING ACTION ON THE DEPARTMENTAL APPEAL
OF THE APPELLANT WITHIN THE STATUTORY
PERIOD OF NINETY DAYS.**

Present-day

Registrar

PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL, THE
RESPONDENTS MAY PLEASE BE DIRECTED TO
COUNT PREVIOUS SERVICE RENDERED BY THE
APPELLANT AS ASSISTANT IN THE VALUE
ADDITION RESEARCH AND DEVELOPMENT WORKS

ON ORES MINERALS IN KHYBER PAKHTUNKHWA
W.E.F 01.07.2013 TILL 06.03.2018 ON
REGULARIZATION OF THE PROJECT TOWARD HIS
PAY PROTECTION, PENSION, GRATUITY AND
ALLOWANCES ETC WITH ALL BACK BENEFITS. ANY
OTHER REMEDY WHICH THIS AUGUST TRIBUNAL
DEEMS FIT AND APPROPRIATE THAT, MAY ALSO,
BE AWARDED IN FAVOUR OF THE APPELLANT.

RESPECTFULLY SHEWETH:

FACTS:

1. That the respondent department advertised different posts for the project namely "Value Addition/Research and Development works on Ores Minerals in Khyber Pakhtunkhwa" in the year 2012 in which the post of Assistant was also included and the appellant being eligible for the post of Assistant applied for the said post. **(Copy of advertisement is attached as Annexure-A)**
2. That the Selection Committee was held on 17.06.2013 and after conducting proper procedure, the appellant was found suitable for appointment on the post of Assistant and in the pursuance of that recommendation the appellant was appointed as Assistant 01.07.2013. **(Copies of meeting minutes and appointment order dated 01.07.2013 are attached as Annexure-B&C)**
3. That appellant since his appointment on the post of Assistant is performing his duty devotion and honesty; whatsoever, assigned to him and no complaint has been filed regarding his performance by his superiors.
4. That the Provincial Government regularized many projects through an Act namely the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018 in which the project of the appellant namely "Value Addition/Research and Development works on Ores Minerals in Khyber Pakhtunkhwa" was included. **(Copy of Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018 is attached as Annexure-D)**
5. That in terms of section-4 of the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018, the competent authority regularized the services of the employees of the project titled "Value Addition/Research and Development works on Ores Minerals in

Khyber Pakhtunkhwa” with effect from 07.03.2018 vide notification dated 01.08.2018 in which the name of the appellant was also included. **(Copy of notification dated 01.08.2018 is attached as Annexure-E)**

6. That project titled “Value Addition Research and Development works on Ores Minerals in Khyber Pakhtunkhwa” was regularized through regularization Act 2018, wherein the appellant has served w.e.f 01.07.2013 till 06.03.2018 (i.e 04.years 08 months and 06 days) on contract basis, but that period i.e w.e.f 01.07.2013 till 06.03.2018 was not counted to toward their pay protection, pension, gratuity and allowances etc, therefore, the appellant filed departmental appeal to respondent No.2 on 01.11.2023 to count his previous service w.e.f 01.07.2013 till 06.03.2018 rendered in “Value Addition/Research and Development works on Ores Minerals in Khyber Pakhtunkhwa” toward his pay protection, pension, gratuity and allowances etc, which was not responded within the statutory period of ninety days. **(Copy departmental appeal is attached as Annexure-F)**

GROUND:-

- A) That not taking action on the departmental appeal of the appellant and not counting the previous service rendered by him in project titled “Value Addition/Research and Development works on Ores Minerals in Khyber Pakhtunkhwa” w.e.f 01.07.2013 till 06.03.2018 toward his pay protection, pension, gratuity and allowances etc after regularization of the that project along with all back benefits are against the law, facts, norms of justice and material on record, therefore, not tenable.
- B) That project titled “Value Addition/Research and Development works on Ores Minerals in Khyber Pakhtunkhwa” was regularized through Khyber Pakhtunkhwa Employees (Regularization of Services) Act 2018, wherein the appellant has served for about 04 years 08 months and 06 days w.e.f 01.07.2013 till 06.03.2018 and on regularization of the project the appellant is entitle for pay protection, pension, gratuity and allowances etc along with back benefits of his previous service w.e.f 01.07.2013 till 06.03.2018.
- C) That the post of the appellant was proper advertised and after adopting proper procedure the appellant was found suitable for appointment on the post of Assistant by Selection Committee and in compliance of

recommendation of Selection Committee the appellant was appointed on the post of Assistant in project title "Value Addition Research and Development works on Ores Minerals in Khyber Pakhtunkhwa" and has served there on for about 04 years, 08 month and 06 days on contract basis and his service was regularized under Khyber Pakhtunkhwa Employees (Regularization of Services) Act 2018 and is entitle for pay protection, pension, gratuity and allowances etc of his previous service rendered in project titled "Value Addition Research and Development works on Ores Minerals in Khyber Pakhtunkhwa" w.e.f 01.07.2013 till 06.03.2018.

- D) That the claim of the appellant of counting his previous service rendered in the project titled "Value Addition Research and Development works on Ores Minerals in Khyber Pakhtunkhwa" w.e.f 01.07.2013 till 06.03.2018 toward pension and gratuity is also covered by the West Pakistan Pension Rules 1961 and as such the appellant is entitled to count his previous service rendered in "Value Addition Research and Development works on Ores Minerals in Khyber Pakhtunkhwa" w.e.f 01.07.2013 till 06.03.2018 toward pension and gratuity.
- E) That the pay of the employees of project title "capacity Building project of P&D Department" of Planning & Development were protected by the department itself on the regularization of project through same Pakhtunkhwa Employees (Regularization of Services) Act 2018 vide order dated 10.07.2019 and the appellant being similarly placed has not extended the same benefits, which is clear violation of Article-25 of the Constitution of Pakistan. **(Copy of order dated 10.07.2019 is attached as Annexure-G)**
- F) That similarly nature appeal No.1006/2019 title Syed Qamar Abbas was allowed by this Honorable Tribunal and the appellant being similarly placed person is also entitle the same relief under the rule of consistency. **(Copy of judgment dated 19.01.2022 is attached as Annexure-H)**
- G) That the appellant has not been treated in accordance with rules and has been deprived from his legal rights of not counting his previous service toward pay protection, pension, gratuity allowance etc in the arbitrary manner by the respondents.
- H) That the appellant seeks permission of this Honorable Tribunal to advance others grounds and proofs at the time of hearing.

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It is, therefore, most humbly prayed that that on acceptance of this appeal, the respondents may please be directed to count previous service rendered by the appellant as Assistant in the Value Addition/Research and Development works on Ores minerals in Khyber Pakhtunkhwa w.e.f 01.07.2013 till 06.03.2018 on regularization of the project toward his pay protection, pension, gratuity and allowances etc with all back benefits. Any other remedy which this august Tribunal deems fit and appropriate that, may also, be awarded in favour of the appellant.

APPELLANT
Sajad Anwar

THROUGH:


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. _____/2024

Sajid Anwar

V/S

M&M Department

AFFIDAVIT

I, Sajid Anwar, Assistant (BS-16), DG Office, Mines & Mineral Development, Peshawar, (Appellant) do hereby affirm and declare that the contents of this amended service appeal are true and correct and nothing has been concealed from this Honorable Tribunal.

DEPONENT

A/A

A/A

A (2)

Daily "Mashruq"

Dated: 11-04-2012

JOBS OPPORTUNITIES

The Director General Mines & Minerals Khyber Pakhtunkhwa, Peshawar invites applications from suitable candidates for the following posts for its projects, "Value Addition/ Research and Development work on Oras, Minerals in Khyber Pakhtunkhwa" purely on contract basis.

S. No.	Name of Post	BPS	No. of Post	Age	Qualification	Experience	Per month salary	Preference
1	Geologist	17	01	50-55	M.Sc Geology	15 years experience	45,000/-	Given preference who have worked in Copper/Silver Exploration Project, Drest.
2	Analytical Chemist	17	01	40-50	M.Sc Chemistry	10 years experience	45,000/-	Preference will be given to those who have chemical analysis experience
3	Pilot Plant Supervisor (Technical)	14	01	35-45	Metric/ F.Sc	10 years experience	24,000/-	Given preference who have worked in MoST project executed by MTL, DGMM
4	Office Assistant/ Accountant	11	01	25-35	B.A/B Sc	2 to 5 years experience	15,000/-	
5	Computer Operator	11	01	25-35	B.A/IT Certified	2 to 5 years experience	15,000/-	Given preference who have worked in MoST project executed by MTL, DGMM
6	Pilot Plant Technician (Mechanical)	09	01	30-40	Diploma in Mechanical Technology	10 years experience	14,000/-	Given preference who have worked in MoST project executed by MTL, DGMM
7	Pilot Plant Technician (Electrical)	09	01	30-40	Diploma in Electrical Technology	10 years experience	14,000/-	
8	Driver	04	01	30-40	Primary	10 years driving experience and LTV License	10,000/-	
9	Naib Qasid	01	01	30-40	Primary	Office work experience	8,000/-	
10	Security Guard	01	01	35-45	Primary		8,000/-	

Note: The appointing authority has the right to decrease or increase vacancies or change requisite terms given in the advertisement.

Terms & Conditions

- The above personals will be appointed purely on contract basis only for this project period and they do not have any right to claim or absorption in any other project.
- The salary will be lump sum fixed including all emoluments etc.
- The appointment will be initially for one year, which may be extended as per requirement.
- They will be entitled for C/L only for 25 days in a year.
- The service can be terminated any time before completion of contract period on one-month prior notice on either side.
- Application should be supported with attested copies of relevant experience/ educational qualification/ domicile certificate/ NIC and two recent passport size photographs and must be submitted to Principal Research Officer, Mineral Testing Laboratory, 164-C Industrial Estate, Jamrud road, Peshawar. Ph/fax (091) 9217229.
- No TADA will be permissible to the candidates appearing for the test/interview.
- Name of the post applied should clearly be mentioned on the left hand corner of the envelope.
- Incomplete application without attested testimonials or received after due date will not be considered.
- Only short listed candidates will be called for test/interview etc.
- Last date for receipt of application is 20.04.2012

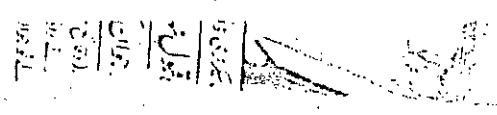
Principal Research Officer
MTL-EPD, DGMM

~~17~~

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4/8

B (8)



MINUTES OF THE SELECTION COMMITTEE MEETING HELD ON 17-06-2013

A meeting of the Selection Committee held on 17-6-2013 at 10:00 AM under the Chairmanship of Director General, Mines and Minerals Khyber Pakhtunkhwa to consider the appointments for the Project posts of Value Addition/R&D Works on Ores Minerals in Khyber Pakhtunkhwa.

The following attended the meeting:

1. Director General / Project Director
Mines & Minerals Khyber Pakhtunkhwa Chairman
2. Representative of Establishment Department, KPK Member
3. Representative of Finance Department, KPK Member
4. Representative of P&D Department, KPK Member
5. Representative of Minerals Dev. Department, KPK Member

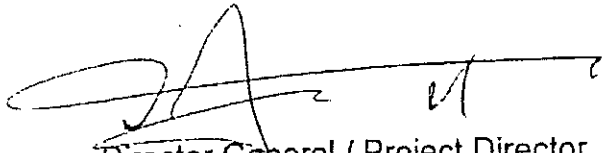
The details of the candidates are as under:

Nomenclature of Posts	Received Application	Candidates Attended/Appeared for Interview
Office Assistant/ Accountant (BPS-11)	108	03
Computer Operator (BPS-11)	18	03
Pilot Plant Technician (Mechanical) (BPS-09)	08	02
Pilot Plant Technician (Electrical) (BPS-09)	07	03
Driver (BPS-04)	15	03
Naib Qasid (BPS-01)	32	01
Security Guard (BPS-01)	06	02
Pilot Plant Helpers (BPS-01)	09	04

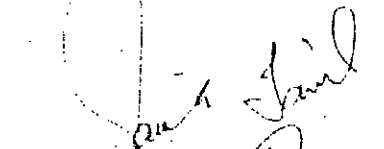
The Selection Committee after conducting the interview of the candidates, the following have been found suitable for appointments for the posts as noted against their names:

Next P. 2

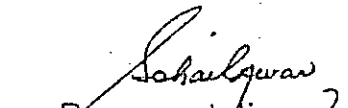
<u>Name</u>	<u>Selected</u>
Mr. Sajid Anwar S/o Rahim Zar	As Office Assistant (BPS-11)*
Mr. Khan Alam S/o M. Akbar	As Computer Operator (BPS-11)
Mr. Sajjad Haider S/o Muqaddar Khan	As Pilot Plant Technician (Mechanical) (BPS-09)
Mr. Sher Khan S/o Nazir Khan	As Pilot Plant Technician (Electrical) (BPS-09)
Mr. Uzair Siddique S/o Abdul Hafeez Siddique	As Driver (BPS-04)
Mr. Muhammad Khalid S/o Ghuncha Khan	As Naib Qasid (BPS-01)
Mr. Muhammad Shoaib S/o Naik Muhammad	As Security Guard (BPS-01)
Mr. Islam Gul S/o Toar Gul	As Pilot Plant Helper (BPS-01)
Mr. Shamshad Khan S/o Hazrat Wali Khan	As Pilot Plant Helper (BPS-01)
Mr. Noor Ayaz S/o Fayaz Khan	As Pilot Plant Helper (BPS-01)




Director General / Project Director
Mines & Minerals Khyber Pakhtunkhwa
(Chairman)



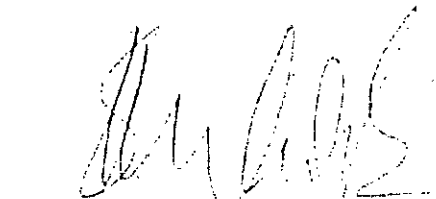
Representative
Establishment Department
Khyber Pakhtunkhwa



Representative
Finance Department
Khyber Pakhtunkhwa



Representative
P&D Department
Khyber Pakhtunkhwa



Representative
Minerals Dev. Department
Khyber Pakhtunkhwa



Directorate General of Mines and Minerals
KHYBER PAKHTUNKHWA
Attached Departments Complex Khyber Road Peshawar

No. 7 /Project Posts/DGMM/Admn:

Dated 1 /07/2013

To: Mr. Sajid Anwar S/o Rahim Zar
Mohallah Anwarabad, P.O Box
Babozai, Tehsil Kattang District Mardan

Subject: APPOINTMENT AS OFFICE ASSISTANT (BPS-11) ON FIXED PAY BASIS.

Reference your application and subsequent interview dated 17/6/2013, you are hereby offered to work as Office Assistant (BPS-11) on fixed pay basis in the "Value Addition/ R&D Works on Ores Minerals in Khyber Pakhtunkhwa" being implemented by Mineral Testing Laboratory, EPD. The terms and conditions are stated below:

TERMS AND CONDITIONS:

- i)- Your appointment will be purely on fixed pay basis only for the scheme and you will have no right or claim for absorption in any other project/scheme. After completion of project or termination of project whichever is earlier, your service shall be terminated.
- ii)- You will be paid Rs. 15000/- per month in lump sum inclusive of all emoluments etc.
- iii)- The appointment shall be for the period of the said project or its termination by Govt, whichever is earlier.
- iv)- You will be entitled for casual leave as per rules.
- v)- Your services can be terminated any time on or before the completion of the project period on one month prior notice on either side.
- vi)- No TA/DA is allowed for joining the duty.

Please sign the duplicate copy as a token of the acceptance of the above terms and conditions and report for duty to Mineral Testing Laboratory, Hayatabad.

Sd/-
Director General Mines and Minerals
Khyber Pakhtunkhwa

Endst: No. _____ /Project Pcs/DGMM/Admn:

Dated. _____ /7/2013

Copy forwarded to:-

- 1- PA to Director General Mines and Minerals, Khyber Pakhtunkhwa.
- 2- The Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 3- The Principal Research Officer, Mineral Testing Laboratory, Hayatabad.
- 4- The Assistant Director (Accounts), H/Q Office, Peshawar.

Assistant Director (Administration)
For Director General.

A/E

11 8



EXTRAORDINARY
GOVERNMENT



REGISTERED NO. PIII
G A Z E T T E

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, WEDNESDAY, 7TH MARCH, 2018.

PROVINCIAL ASSEMBLY SECRETARIAT,
KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 7th March, 2018.

No. PA/Khyber Pakhtunkhwa/Bills/2018/5031.—The Khyber Pakhtunkhwa Employees (Regularization of Services) Bill, 2018 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 26th February, 2018 and assented to by the Governor of the Khyber Pakhtunkhwa on 2nd March, 2018 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA EMPLOYEES (REGULARIZATION OF SERVICES) ACT, 2018

(KHYBER PAKHTUNKHWA ACT NO. X OF 2018)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa, (Extraordinary), dated the 7th March, 2018).

AN
ACT

to provide for the appointment and regularization of services of certain employees appointed on adhoc basis against civil posts and contract basis against project posts in the Province of the Khyber Pakhtunkhwa.

WHEREAS it is expedient to provide for the appointment and regularization of services of certain employees appointed on adhoc basis against civil posts and contract basis against project posts in the Province of the Khyber Pakhtunkhwa;

It is hereby enacted as follows:

1. **Short title, application and commencement.**---(1) This Act may be called the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018.

(2) It shall apply to all the employees as defined in clause (e) of sub-section (1) of section 2 of this Act.

(3) It shall come into force at once.

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

(a) "Commission" means the Khyber Pakhtunkhwa Public Service Commission;

(b) "contract appointment" means the appointment of a duly qualified person, for a specific period, made against project posts, in a prescribed manner;

(c) "Departmental Selection Committee" means a Departmental Selection Committee, constituted for the purpose of making selection for initial recruitment to civil post under a Government Department or office of Government;

(d) "Government" means the Government of the Khyber Pakhtunkhwa;

(e) "employees" mean duly qualified,-

(i) one hundred and fifty-eight (158) District Specialists of Health Department, who are appointed on adhoc basis against civil posts w.e.f. 4th July, 2017 and holding such civil posts till the commencement of this Act; and

(ii) persons, who are appointed in the projects on contract basis in accordance with the project policy;

(f) "Government Department" means a Government Department, as defined in the Khyber Pakhtunkhwa Government Rules of Business, 1985;

(g) "law or rule" means the law or rule, for the time being in force, governing the selection and appointment of civil servants;

(h) "project" means a perpetual nature project, the continuation on which and conversion to regular budget is essential for service delivery duly identified by the Departments and reflected in the Schedule;

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KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 7th MARCH, 2018. 197

- (i) "civil post" means a civil post under Government or in connection with the affairs of Government to be filled in on the recommendation of the Commission;
- (j) "project post" means a post in the project; and
- (k) "Schedule" means a Schedule appended to this Act.

(2) The expression "adhoc appointment" shall have the same meaning as is assigned to it in the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973).

3. Regularization of services of adhoc employees.---Notwithstanding anything contained in any law or rules, the employees at sub-clause (i) of clause (e) of sub-section (1) of section 2 of this Act, appointed on adhoc basis against civil posts and holding such civil posts till the commencement of this Act, shall be deemed to have been validly appointed on regular basis, from the date of commencement of this Act, subject to verification of their qualifications and other credentials by the concerned Government Department.

4. Regularization of services of project employees.---Notwithstanding anything contained in any law or rules, the employees at sub-clause (ii) of clause (e) of sub-section (1) of section 2 of this Act, appointed on contract basis against project posts and holding such project posts till the commencement of this Act, shall be deemed to have been validly appointed on regular basis from the date of commencement of this Act, subject to verification of their qualifications and other credentials by the concerned Government Department:

Provided that the terms and conditions of services of employees reflected at S.No.5 of the Schedule shall further be governed under the National Disaster Management Authority Act, 2010 (Act No. XXIV of 2010) and Regulations made thereunder; and the terms and conditions of services of employees reflected at S.No.6 & 7 of the Schedule shall be governed under the Khyber Pakhtunkhwa Emergency Rescue Services Act, 2012 (Khyber Pakhtunkhwa Act No. XV of 2012).

5. General conditions for regularization.---For the purpose of regularization of the employees under this Act, the following general conditions shall be observed:

- (i) the service promotion quota of all service cadres shall not be affected;
- (ii) the employees shall possess the same qualification and experience as required for a regular post;
- (iii) the employees have not resigned from their services or terminated from service on account of misconduct, inefficiency or any other grounds before the commencement of this Act; and

- (iv) the services of such employees shall be deemed to have been regularized only on the publication of their names in the Official Gazette.

6. **Seniority.**---(1) Except the employees mentioned in the proviso to section 4 of this Act, whose services are to be regulated by their respective laws and rules, all other employees whose services are regularized under this Act or in the process of attaining service at the commencement of this Act, shall rank junior to all civil servants belonging to the same service or cadre, as the case may be, who are in service on regular basis on the commencement of this Act, and shall also rank junior to such other persons, if any, who, in pursuance of the recommendation of the Commission or Departmental Selection Committee, as the case may be, made before the commencement of this Act, are to be appointed to the respective service or cadre, irrespective of their actual date of appointment.

(2) The seniority inter-se of the employees, whose services are regularized under this Act within the same service or cadre, shall be determined on the basis of their continuous officiation in such service or cadre:

Provided that if the date of continuous officiation in the case of two or more employees is the same, the employee older in age shall rank senior to the younger one.

7. **Removal of difficulties.**---If any difficulty arises in giving effect to any of the provisions of this Act, the Chief Minister may make such order not inconsistent with the provisions of this Act as may appear to it to be necessary for the purpose of removing such difficulty:

Provided that no such powers shall be exercised after the expiry of one year from the coming into force of this Act.

8. **Overriding effect.**---Notwithstanding anything to the contrary contained in any other law or rule for the time being in force, the provisions of this Act shall have an overriding effect and the provisions of any such law or rule to the extent of inconsistency to this Act shall cease to have effect.

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KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 7th MARCH, 2018. 199

SCHEDULE
See section 2(1)(h)(k)

1. Capacity Building of Planning and Development Department.
2. Establishment of M&E System in Khyber Pakhtunkhwa.
3. Sustainable Development Unit, Planning and Development Department.
4. Urban Policy Unit, Planning and Development Department.
5. Provincial Reconstruction, Rehabilitation & Settlement Authority under Provincial Disaster Management Authority.
6. Establishment of Emergency Rescue Services (Rescue 1122) in 16 Districts.
7. Establishment of Planning, Monitoring & Evaluation Wing in ERS (Rescue 1122) Headquarter.
8. Roll Back Malaria Control Program.
9. Prime Minister's Program for prevention and control of Hepatitis.
10. Establishment of Financial Management Cell in Health Department.
11. Establishment of Safe Blood transfusion.
12. Strengthening of TB Control Program Khyber Pakhtunkhwa.
13. Establishment of Procurement Cell in office of DG Health Services, Peshawar.
14. Mother, Neonatal and Child Health (MNCH) Program in Khyber Pakhtunkhwa.
15. Social Health Protection Initiative for Khyber Pakhtunkhwa.
16. Establishment of Bacha Khan Medical College Mardan.
17. Integrated HIV, Hepatitis and Thalassemia Control Program.
18. Construction of Shaheed Mohtarama Benazir Bhutto Children Hospital Mardan.
19. Higher Education Management Information System (HEMIS) Cell.

20. Project Management Unit (PMU) for implementation of BS Program and Special Initiatives.
21. Computerization of Arms License.
22. Prison Management Information System.
23. Development of Common Application for Government Departments.
24. ICT Infrastructure for Government of Khyber Pakhtunkhwa.
- 24A. IT Support for improvement of Health Service Delivery.
- 24B. IT Professional Training Centre.
25. Strengthening of Planning Cell at Elementary & Secondary Education Department.
26. Provision of free text book to all students of Khyber Pakhtunkhwa upto Intermediate level (Phase-XIV).
27. Strengthening of Planning Cell at Industries Department.
28. Establishment of Special Media Cell in the Directorate of Information.
29. Strengthening of Information Department.
30. Establishment of three FM Stations at Kohat, Swat and Abbottabad.
31. Establishment of Planning Cell at Local Government and Rural Development Department.
32. Retirement Benefit and Death Compensation Cell.
33. Automation of Pension Payment System (APPS).
34. Energy Monitoring Unit.
35. Establishment of Planning Cell in Food Department.
36. Automation of Food Department.
37. Operationalization of Redesigned Energy and Power Department.

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KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 7th MARCH, 2018. 201

38. Establishment of Planning Cell in Energy and Power Department.
39. Computerization of Land Record.
40. Creation of MRS Cell in C&W Department.
41. Enhancement of existing facilities in MIS/GIS for C&W Department.
42. Strengthening of Planning Cell and Monitoring of Developmental Projects of Agriculture Department.
43. Project Coordination Unit (PCU) for implementation of Law and Order Initiative in Khyber Pakhtunkhwa.
44. Afghan Management and Repatriation Cell at Home Department.
45. Traffic Control Management System and FM Radio 693-120173.
46. Strengthening of Prosecution Directorate, PCMC and Planning Cell at Home Department.
47. Establishment of 100 Family Welfare Centers.
48. Establishment of Population and Research Training Institute and Social Mobilization.
49. Value Addition/Research and Development works on Ore Minerals in Khyber Pakhtunkhwa.
50. Establishment of Model Coal Mine at Shahkot District Nowshera.
51. Establishment of Zoo for Peshawar Division.
52. Development and Management of National Park in Khyber Pakhtunkhwa.
53. Conservation and Management of Wildlife in Central and Northern Division.
54. Establishment of Monitoring, Evaluation, Grievance and Inquiry Cell in Administrative Department.
55. Establishment of Climate Change Cell for Multilateral Environmental Agreements.
56. Carbon Stock Assessment in Khyber Pakhtunkhwa.

57. Introduction of Range Management Initiatives in Khyber Pakhtunkhwa.
58. Establishment of Engineering Wing in Sports, Tourism, Archeology, Youth Affairs and Museums Department.

BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER PAKHTUNKHWA

(NASRULLAH KHAN KHATTAK)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa



Government of
Khyber Pakhtunkhwa
Minerals Development Department

Dated Peshawar, 01-08- 2018

NOTIFICATION


No. SOE/MDD/2-25/2015. In terms of Section-4 of The Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018, (Khyber Pakhtunkhwa Act No. X of 2018), the Competent Authority, is pleased to regularize the services of the following employees of the project titled "Value Addition/Research and Development works on Ore Mineral in Khyber Pakhtunkhwa (For the office of Minerals Testing Laboratory, Peshawar)", with effect from 7.3.2018:-

S.No	Name	BPS	Designation
1	Sajid Anwar	16	Assistant
2	Khan Alam	16	Computer Operator
3	Israr-ud-Din	14	Laboratory Technician
4	Sajjad Haider	11	Junior Laboratory Technician
5	Sher Khan	10	Electrical Supervisor
6	Muhammad Uzair Siddiqui	06	Driver
7	Muhammad Khalid	03	Naib Qasid
8	Shoaib	03	Chowkidar
9	Ibrar-ur-Rehman	03	Chowkidar
10	Noor Ayaz Khan	03	Laboratory Attendant
11	Nowsherawan	03	Laboratory Attendant
12	Imran	03	Laboratory Attendant
13	Bashir Hussain	03	Laboratory Attendant

---sd---
Secretary to
Govt. of Khyber Pakhtunkhwa
Minerals Development Department

Endst: No. & date Even: 16566-87

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Principal Secretary to Chief Minister Khyber Pakhtunkhwa, Peshawar
3. PSO to Chief Secretary, Khyber Pakhtunkhwa
4. PS to Additional Chief Secretary P&D Department, Khyber Pakhtunkhwa
5. PS to Secretary Establishment Department, Khyber Pakhtunkhwa
6. PS to Secretary Minerals Development Department, Khyber Pakhtunkhwa
7. PS to Secretary Finance Department, Khyber Pakhtunkhwa
8. Manager Govt. Printing Press
9. All the above named employees
10. Office order file.


(Muhammad Javed)
Section Officer (Estt:)

Swat.

41 18

neral Dev: Deptt: (KPK)
Secy: Diary No. 3001
Date: 01-11-23

F (20)

To

The Worthy Secretary
Mineral Development,
Peshawar.

Subject: APPEAL FOR PROTECTION OF PAY ON REGULARIZATION.

With great veneration it is requested in your honor that I may appeal on the subject noted above and to enclose herewith a self-explanatory application (copy enclosed) along with the following documents in respect of Mr. Sajid Anwar Assistant (BPS-16) of this Directorate for appropriate necessary action please.

1. Copy of advertisement as per (Annex-A)
2. Copy of minutes of Project Shortlisting Committee meeting (Annex-B)
3. Copy of minutes of Project Selection Committee as per (Annex-C)
4. Copy of appointment order in Project "Value Addition/R&D works on Ores Minerals being implemented by Mineral Testing Laboratory, EPD under Director General Mines & Minerals Khyber Pakhtunkhwa, Peshawar as per (Annex-D)
5. Copy of Regularization Act(2018) as per (Annex-E)
6. Copy of Govt. of Pakistan, Finance Division O.M F.NO.7(9)-1/2012-1388 dated:31.05.2013 as per (Annex-F)
7. The case may be entertained vide Notification No.F.NO.7(9) R-1/2012-1388 dated:06.03.2014 as per (Annex-G) to enable him for pay protection due to appointment a project employee and he has served 04 years 08 Month & 06 days as Assistant till conversion to non-development side as per Regularization Act Annex-E.
8. "The applicant is also entitled to pay protection from the date of initial appointment as per verdict of the Khyber Pakhtunkhwa Service Tribunal in Service Appeal N0.1006/2019 decided on 19/01/2022 titled Syed Qamar Abbas versus Chief Secretary Khyber Pakhtunkhwa(Annex-H), on the basis of Judgement reported as 2009 SCMR Page-1 wherein the honorable court stated that "If the Tribunal or the Supreme Court decides a point of law relating to the terms and conditions of a civil servant who litigated, and there were other civil servants, who may not have taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the said decision be extended to other civil servants also, who may, not be parties to that litigation, instead of compelling them to approach the Tribunal or any other legal forum.
9. As per precedent (Annex-I), The Accountant General, Peshawar has already fixed pay protection the development scheme (Project), NWFP Serhad Development Authority (Mineral Wing) regularized and merged in Director General Mines & Minerals, Peshawar.

"It is therefore most humbly requested that my pay may kindly be protected along with arrears on regularization on the basis of above submission" please.

AS(A)

Secretary MDD
1/11/23

DSE
01/11/23

30-10-2023

Sajid Anwar S/O Raheem Zar
Assistant (BPS-16)

Director General Mines & Minerals

PR. examination
To proceed
recomendation
- 1/11/23



GOVERNMENT OF KHYBER PAKHTUNKHWA
PLANNING & DEVELOPMENT DEPARTMENT

9 (21)

Dated: Peshawar the 10th July, 2019

ORDER

No. Asstt. Chief (B&A) P&DD/1-2/C.B/2018-19 In pursuance of Government of Khyber Pakhtunkhwa Finance Department letter No. FD (SOSR-1) 12-4/2018-19/(27389) dated 14.06.2019 and in the light of circular No. FD (SOSR-1) 12-7/2014 dated 06.02.2014 read with clarification issued by Government of Pakistan Finance Division (Regulation Wing) office memorandum No. 7(9)R-1/2012-1388 dated 6th March 2014, and in compliance of the conditions fixed there under and consequent upon their regularization under the "Khyber Pakhtunkhwa Employees (Regularization of Services) Act 2013", pay protection is hereby accorded in favour of the following employees BPS-1 - BPS-16 of "Capacity Building Project of P&D Department" with effect from the date indicated in column No.5 below, with the condition that the services rendered on contract basis shall not qualify for pension/gratuity.

Sl#	Name of Official	BPS	Designation	Date of Appointment/Effective Date for Grant of Pay Protection (Initial Stage of Respective Pay Scales)
1	2	3	4	5
1	Mr. Ijaz Ali	12	Computer Operator	31.05.2013 (Effective date of Finance Division OM)
2	M. Shahab	12	Computer Operator	-do-
3	Mr. Sajid Aji	12	Computer Operator	-do-
4	Mr. Farhad Ali	12	Computer Operator	-do-
5	Muhammad Rehan	12	Computer Operator	-do-
6	Mr. Sohail Khan	12	Computer Operator	-do-
7	Mr. Irfan Alam	14	Assistant	31.05.2013
8	Mr. Asad Kamran	14	Assistant	-do-
9	Muhammad Kashif	14	Assistant	-do-
10	Mr. Nck Abbas	14	Assistant	-do-
11	Mr. Akhter Ali	7	Telephone Operator	-do-
12	Mr. Asif Khan	4	Driver	-do-
13	Mr. Niaz Ali	4	Driver	-do-
14	Mr. Ajmal Khan	4	Driver	-do-
15	Mr. Khan Ghalib	4	Driver	-do-
16	Mr. Iqshad	4	Driver	-do-
17	Muhammad Siyar	4	Driver	-do-
18	Muhammad Kamran	4	Driver	-do-
19	Muhammad Ismail	4	Driver	-do-
20	Mr. Mukamil Shah	4	Driver	01.03.2015
21	Mr. Noor Hassan	4	Driver	01.03.2015

1	M. Abdul Basit Khan	6	Driver	17.03.2016
2	Mr. Waqas Ahmad	5	Electrician	15.12.2016
3	Mr. Shahzad Khan	7	Generator Operator	31.05.2013
4	Mr. Sulaiman Shah	1	Naib Qasid	-do-
5	Mr. Shafi-ur-Rahman	1	Naib Qasid	-do-
6	Mr. Sabir Khan	1	Naib Qasid	-do-
7	Muhammad Ibrahim	1	Naib Qasid	-do-
8	Mr. Akhtar Gul	1	Naib Qasid	-do-
9	Muhammad Khalid	1	Naib Qasid	-do-
10	Mr. Javed Khan	3	Naib Qasid	02.04.2016
11	Mr. Syed Zulfiqar Ali Jafri	1	Naib Qasid	31.05.2013
12	Mr. Niamat Ullah	1	Naib Qasid	-do-
13	Mr. Asim Khan	1	Naib Qasid	-do-
14	Mr. Masood Shah	1	Naib Qasid	-do-
15	Mr. Farooq Ahmad	1	Naib Qasid	-do-
16	Syed Rasool Shah	1	Naib Qasid	07.04.2014
17	Mr. Jawad Ahmad	1	Naib Qasid	02.05.2015
18	Mr. Ahsan Ullah	3	Naib Qasid	30.09.2016
19	Mr. Wajid Ali	3	Naib Qasid	01.12.2016
20	Mr. Haleemullah	3	Naib Qasid	15.12.2016
21	Mr. Haseeb Ahmad	3	Naib Qasid	15.12.2016
22	Mr. Akhtar Sher	3	Naib Qasid	15.12.2016
23	Ms. Farhada	3	Naib Qasid	02.01.2017
24	Mr. Salman Khan	1	Naib Qasid	31.05.2013
25	Mr. Mehrab Hussain	3	Naib Qasid	02.05.2017
26	Mr. Ijaz Ahmad	1	Chowkidar	31.05.2013
27	Mr. Zahoor Khan	1	Chowkidar	-do-
28	Mr. Mulkhar Khan	1	Chowkidar	-do-
29	Mr. Zar Shah	1	Chowkidar	-do-
30	Mr. Sharoon	1	Sweeper	-do-

SECRETARY
PLANNING & DEVELOPMENT DEPARTMENT

No. & date even.

Copy forwarded to the:-

- 1. The Accountant General, Khyber Pakhtunkhwa.
- 2. Secretary to Govt. of Khyber Pakhtunkhwa Finance Department.
- 3. Secretary to Govt. of Khyber Pakhtunkhwa, Planning and Development Department.
- 4. The Section Officer (Estt.), P&D Department.
- 5. The Section Officer (G), P&D Department.

ASSISTANT CHIEF (B&A)
PLANNING & DEVELOPMENT DEPARTMENT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

AR

Service Appeal No. 1006/2019

Date of Institution ... 19.07.2019

Date of Decision ... 19.01.2022

Mr. Syed Qamar Abbas, Environmentalist (BPS-18) Irrigation Department, Khyber Pakhtunkhwa. (Appellant)

VERSUS

The Chief Secretary Khyber Pakhtunkhwa, Peshawar and others. (Respondents)

Noor Muhammad Khattak
Advocate For appellant

Asif Masood Ali Shah,
Deputy District Attorney For respondents

AHMAD SULTAN TAREEN ... CHAIRMAN
ATIQU-UR-REHMAN WAZIR ... MEMBER (EXECUTIVE).

JUDGMENT

ATIQU-UR-REHMAN WAZIR MEMBER (E): Brief facts of the case are that the appellant was initially appointed as Environmentalist on contract basis in Irrigation Department vide order dated 31-01-2003. Services of the appellant were regularized through an Act on 25-04-2017 from the date of commencement of the Act, i.e. 13-03-2017. As per Finance Division Notification dated 07-04-2015, pay of the contract employees on their regularization will be protected and in light of the finance division notification, the appellant filed departmental appeal for counting his previous service and pay fixation before the respondents, which was not responded, hence the instant service appeal with prayers that the appellant may be allowed/granted pay fixation with effect from 31-01-2003 i.e. the date on

which the appellant was appointed as Environmentalist by counting his previous contractual service towards regular service.

02. Learned counsel for the appellant has contended that by not fixing the pay of the appellant with effect from 31-01-2003 by the respondents is against law, facts and norms of natural justice, therefore not tenable and liable to be set aside; that the appellant has not been treated in accordance with law, hence his rights secured under the Constitution has badly been violated; that the respondents acted in arbitrary and mala fide manner by not granting/allowing pay fixation to the appellant with effect from 31-01-2003; that similar nature cases has already been decided by the this august tribunal in service appeal No 318/2019 decided on 02-07-2010, whereby fixation of pay was granted from the date of initial appointment; that under the principle of consistency reported in judgment of Supreme Court of Pakistan in 2009 SCMR 1 and 1996 SCMR 1185, the appellant is fully entitled for the relief meted out to other employees of various departments; that by not counting the previous service of the appellant, the respondents violated Rule-2.3 of the West Pakistan Pension Rules, 1963.

03. Learned Deputy District Attorney for the respondents has contended that services of the appellant were regularized through regularization Act, 2017 from the date of its commencement i.e. 13-03-2017 and not from initial appointment; that the policy of federal government is not applicable in the province, hence he was not regularized from the date of his first appointment; that departmental appeal of the appellant is not traceable in the department, hence no action was taken to this effect.

04. We have heard learned counsel for the parties and have perused the record.

05. Record reveals that the appellant was initially appointed as Environmentalist on contract basis under the scheme of Strengthening of

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Monitoring and Evaluation Capabilities of Planning Cell in Irrigation & Power Department vide order dated 31-01-2003. Employees of the above mentioned scheme including the appellant were regularized through the Khyber Pakhtunkhwa Planning & Monitoring Cell, Irrigation Employees (Regularization of Services) Act, 2017 dated 13-03-2017. In light of provision of the Act, a notification dated 24-04-2017 was issued through which services of the appellant alongwith other employees were regularized from the date of commencement of the Act. The appellant invoked the jurisdiction of Finance Division Notification dated 25-04-2017, which has clearly allowed pay protection of contract employees whose service has been regularized through an Act. The provincial government vide notification dated 18-03-2021 have also issued a notification in pursuance of the Federal Government notification and allowed pay protection to such employees.

In view of the situation, the instant appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
19.01.2022

(Signature)
(AHMAD SULTAN TAREEN)
CHAIRMAN

(Signature)
(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

03/02/22
16/02
18/-
18/-
26/6/22
26/7/22

VAKALAT NAMA

NO. _____/2024

IN THE COURT OF KP Service Tribunal, Peshawar

Sajid Anwar (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Mines & Mineral Department (Respondent)
(Defendant)

I/We, _____

Do hereby appoint and constitute **TAIMUR ALI KHAN, ADVOCATE HIGH COURT**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/2024

(CLIENT)

ACCEPTED



TAIMUR ALI KHAN
Advocate High Court

BC-10-4240

CNIC: 17101-7395544-5

Cell No. 03339390916