

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Service Appeal No. 411/2024**

Kamranullah,  
Senior Clerk/SDA

**APPELLANT**

**VERSUS**

1. The Secretary, C&W Department, Government of Khyber Pakhtunkhwa, Peshawar.
2. The Secretary, C&W Department, Government of Khyber Pakhtunkhwa, Peshawar.
3. The Chief Engineer (Centre) C&W Khyber Pakhtunkhwa, Peshawar.
4. The Executive Engineer, Highway Division District Khyber Tehsil Jamrud.
5. Hameedullah Accounts Clerk Additional Charge of SDA Highway Division District Khyber at Jamrud.

**RESPONDENTS**

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**CHIEF ENGINEER (CENTRE)**

15-05-2024



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4. Hameedullah Accounts Clerk Additional Charge of SDA Highway Division District Khyber at Jamrud.

**RESPONDENTS**

**PARAWISE COMMENTS ON BEHALF RESPONDENTS NO.1 to 3**

Respectfully Sheweth:

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 12770

Dated 15.05.2024

**PRELIMINARY OBJECTIONS: -**

1. That the instant Service Appeal in the present state is incompetent because the case and nature of the case is now different as the orders as impugned before this Tribunal i.e. 08.12.2023 (**Annexure-I**), communicated vide dated: 29.02.2024 (**Annexure-II**), have lost the validities due to the recent orders dated 22.02.2024 (**Annexure-III**), so the very status of the instant Appeal become frivolous and liable to rejection in limine on this score alone.
2. That the matter of Posting/Transfer as per Section-10 of the Civil Servant Act, 1973 every Official/Civil Servant is liable to serve anywhere within or outside the Province in any post under Federal Govt. or any Provincial Govt. so the appeal is liable to rejection at all.
3. That the appeal is bad for mis-joinder and non-join order of parties.
4. That the appellant has not come to the Tribunal with clean hands.
5. That the instant Service Appeal is badly timely time barred. For his prayer relates to the former orders dated: 08.12.2023 for which the appellant preferred an appeal to the appellant authority which is intimation in which Mr. Kamranullah Post in Buner to him was endorsed vide dated: 29.02.2024.

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**ON FACTS: -**

1. Correct to the extent that, due to Structural Changes in the department, some subordinate offices were detached and attached with other offices, which warranted the aforesaid posting in the O/O Chief Engineer (Centre) C&W Department Khyber Pakhtunkhwa, Peshawar.
2. Pertains to record.
3. Pertains to record.
4. Pertains to record.
5. Pertains to record.
6. Correct to the extent, the appellant instead to have placed the case with proper forum i.e., the Service Tribunal, he went before the august High Court Peshawar in a Writ Petition where he got some relief for the time being.
7. That the august High Court dismissed the very writ on 20.02.2024 on the grounds of jurisdiction as per bar contemplated under Article-212 of the Constitution of the Islamic Republic of Pakistan.
8. Correct to the extent that the departmental appeal was preferred by the appellant against his former orders dated: 08.12.2023, which was processed by the appellate authority and has been rejected with the same stance as preferred para-2 of the preliminary objections.

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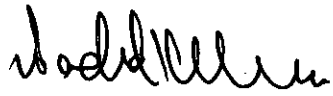
**GROUNDS:-**

- A. As explained in above paras of reply the nature of the case stands different because the orders as earlier issued lost validities due to the changed orders dated: 22.02.2024 (already Annexed as III).
- B. Incorrect.
- C. Incorrect.
- D. Incorrect, every Civil Servant as per Section-10 of the Civil Servant Act, 1973 shall have to serve anywhere in the Department or outside the Department when necessitated.
- E. Incorrect speculations of the appellant.
- F. No comments.
- G. The same as replied at Para-D above.
- H. As expressed in above paras of reply the orders as issued earlier have lost their validities due to the changed orders dated: 22.02.2024 (already Annexed as III), when the appellant is adjusted and posted in the O/O Executive Engineer Buner.
- I. Incorrect.
- J. Incorrect.
- K. The same reply as expressed in above paras of reply.
- L. At the then, the authority deemed appropriate to assign an Additional Charge of the Post of SDA to another official who by the way was holding the post of Accounts Clerk in the same Pay/Scale VIZ BPS-14, but as expressed in above paras, now all those orders, stands obvious and lost validities.
- M. The same as per Para-I, above.
- N. Not need any comments because the nature of the case is now stand different.

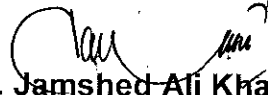
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- O. It is not necessary that the appellant has not relinquished the charge of his former posting, whereas the official who was already serving as Accounts Clerk has been assigned the additional charge Take over the post of SDA, who take over the posting on the said post. Executive Engineer Highway Division Khyber vide his letter No. 2396/3-E dated 22.02.2024 (**Annexure-IV**).
- P. As the status of the instant appeal against the impugned orders dated: 08.12.2023 and the appellant order dated: 29.02.2024 is changed, not needs any further arguments.

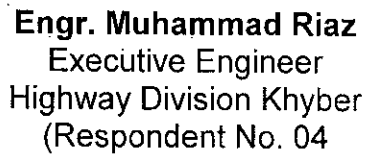
In view of the changed position of the posting case, the instant Appeal may grievously be dismissed with heavy cost.



**Dr. Asad Ali Khan**  
Secretary to Govt  
Of Khyber Pakhtunkhwa  
C&W Department Peshawar  
(Respondent No. 1&2)



**Engr. Jamshed Ali Khan**  
Chief Engineer (Centre)  
C&W Department Peshawar  
(Respondent No. 03)



**Engr. Muhammad Riaz**  
Executive Engineer  
Highway Division Khyber  
(Respondent No. 04)

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**APPELLANT**

**VERSUS**

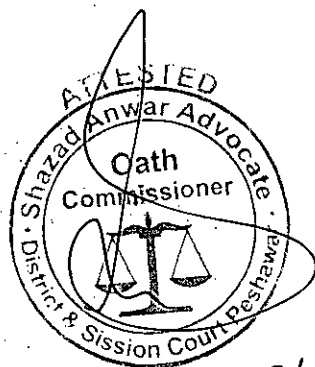
1. The Secretary, C&W Department, Government of Khyber Pakhtunkhwa, Peshawar.
2. The Secretary, C&W Department, Government of Khyber Pakhtunkhwa, Peshawar.
3. The Chief Engineer (Centre) C&W Khyber Pakhtunkhwa, Peshawar.
4. The Executive Engineer, Highway Division District Khyber Tehsil Jamrud.
5. Hameedullah Accounts Clerk Additional Charge of SDA Highway Division District Khyber at Jamrud.

**RESPONDENTS**

**AFFIDAVIT**

I, Mr. Zahid Habib, Administrative Officer, Office of the Chief Engineer (Centre), C&W Department Peshawar, do hereby solemnly affirm and state on Oath that the whole contents of these comments are true and correct to the best of my knowledge and belief that nothing has been concealed from this Khyber Pakhtunkhwa Service Tribunal Peshawar.

It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defense has been struck off.



15.05.2024

Deponent

**Zahid Habib**

Administrative Officer (Centre),  
C&W Department Peshawar  
CNIC # 17301-4839902-3  
MOB # 0345-9396757

(6)

Annex-I



OFFICE OF THE CHIEF ENGINEER (CENTRE)  
COMMUNICATION & WORKS DEPARTMENT  
KHYBER PAKHTUNKHWA PESHAWAR

No. CEC/C&WD/2-3/E&A, 1639  
Dated Peshawar the, 08/12/2023

OFFICE ORDER

The Competent Authority has been pleased to transfer the following Officials in C&W Department, with immediate effect, in the best public interest.

S.No.	Name	From	To	Remarks
1.	Mr. Hameed Ullah (BPS-14)	Accounts Clerk O/O XEN Highway Division Khyber.	The Official to hold the additional charge of Senior Clerk/SDA O/O XEN Highway Division, Khyber.	Vice # 2
2.	Mr. Kamran Ullah (BPS-14)	Senior Clerk/SDA O/O XEN Highway Division, Khyber.	Report to Chief Engineer (Centre) for further posting	

CHIEF ENGINEER (CENTRE)

COPY FORWARDED TO THE:

1. Superintending Engineer Circle C&W Khyber.
2. Executive Engineer Highway Division Khyber.
3. PS to Secretary C&W Department Peshawar.
4. PS to Minister C&W Department Peshawar
5. District Accounts Officer, Swat-I / Khyber.
6. Official Concerned.
7. Personal File.

Superintendent  
Establishment Section  
o/o C.E.(C) C&W  
Khyber Pakhtunkhwa Peshawar

CHIEF ENGINEER (CENTRE)



GOVERNMENT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT

OK  
Annex-II

No. SOE/C&WD/24-60/2023  
Dated Peshawar, the February 29, 2024

To

Mr. Kamranullah,  
the then Senior Clerk/SDA  
O/O XEN Highways Division, Khyber.

Subject: APPEAL AGAINST THE IMPUGNED TRANSFER ORDER DATED  
08.12.2023

I am directed to refer to the subject noted above and to state that your appeal dated: 11.12.2023 was processed and obtained comments/views of Chief Engineer (Center) C&W Peshawar. In the comments, the Chief Engineer (Center) C&W Peshawar has intimated through letter dated 02.01.2024 that your appeal examined but did not convincing on the basis that as per Civil Servant Act, 1973, "Every Civil Servant shall be liable to sought anywhere within the Province, or any post under Provincial Government or Local Authority or Established by any such Government". Therefore, Secretary C&W Department has filed/turned down your appeal/representation.

2. You are hereby informed accordingly.

*nam*  
29.02.2024  
SECTION OFFICER (Estb)

Endst even No. & date

Copy forwarded to:

1. Chief Engineer (Center) C&W Peshawar.
2. PS to Secretary C&W Department, Peshawar
3. PA to Additional Secretary C&W Department Peshawar
4. PA to Deputy Secretary (Admn) C&W Department Peshawar.

SECTION OFFICER (Estb)

*nam*  
*[Signature]*  
Superintendent  
Establishment Section  
o/o C.E.(C) C&W  
Khyber Pakhtunkhwa Peshawar



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Annex-III

OFFICE OF THE CHIEF ENGINEER (CENTRE)  
COMMUNICATION & WORKS DEPARTMENT  
KHYBER PUKHTUNKHWA PESHAWAR

No. CEC/C&WD/2-3/E&A, 277  
Dated Peshawar the, 22/02/2024

OFFICE ORDER

The Competent Authority has been pleased to post Mr. Kamran Ullah, Senior Clerk/SDA (BPS-14) under report to Chief Engineer (Centre) Peshawar vide this office No. CEC/C&WD/2-3/E&A, 1632 dated 08.12.2023, to the O/O Executive Engineer C&W Division Buner-I against the vacant post of Senior Clerk/SDA (BPS-14) with immediate effect in the best interest of public.

*[Signature]*  
CHIEF ENGINEER (CENTRE)

COPY FORWARDED TO THE:

1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. Chief Engineer (North) C&W Department Swat.
3. Superintending Engineer C&W Circle, Swat.
4. Executive Engineer C&W Division Buner-I.
5. District Account Officer concerned.
6. PS to Secretary C&W Department Peshawar.
7. Official concerned.

*[Signature]*  
CHIEF ENGINEER (CENTRE)

*[Signature]*  
Superintendent  
Establishment Section  
O/o C.E. (C) C&W  
Khyber Pakhtunkhwa Peshawar



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Annex-IV

OFFICE OF EXECUTIVE ENGINEER  
HIGHWAY DIVISION DISTRICT KHYBER  
Main Jamrud Road, Tribal District Khyber.  
Phone # 091-5820286. Fax # 091-5820286  
E-mail: [exenhighwaykhyber@gmail.com](mailto:exenhighwaykhyber@gmail.com)

No.2396/3-E

Dated: 22/02/2024

To

The Chief Engineer (Centre)  
Communication & Works Department  
Khyber Pakhtunkhwa Peshawar.

Subject: **ARRIVAL REPORT**

Reference: - Your Office Order No. CEC/C&WD/2-3/E&A,263 Dated: 21-02-2024.

In compliance of your Office Order No quoted above Mr. Hameed Ullah (Senior Clerk/SDA) has reported Arrival in this office today on 21-02-2024 (A.N) please.

EXECUTIVE ENGINEER

Copy forwarded for information to the:-

1. Superintending Engineer C&W Department (Khyber) Circle Peshawar.
2. Divisional Accounts Officer (Local).

EXECUTIVE ENGINEER

AMKS  
Superintendent  
Establishment Section  
o/o C.E.(C) C&W  
Khyber Pakhtunkhwa Peshawar

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Executive Engineer  
Highway Division Khyber

Subject:- ARRIVAL REPORT

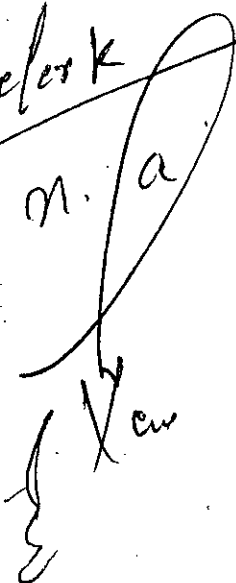
In compliance with Chief Engineer (Center) Communication & Works Department Peshawar Office Order No.CEC/C&WD/2-3/E&A,263 Dated 21/02/2024, I submit my Arrival Report in this Division today on 21/02/2024 (A.N).

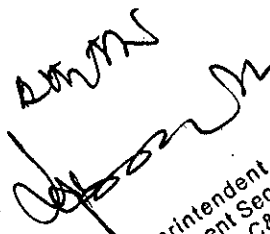
Thanks,

  
Fameed Ullah

SDA (Highway Sub Division Ba

21/2/2024

E/elect  
for m. a.  
  
E/cu

  
Superintendent  
Establishment Section  
of C.E.(C) C&W  
Khyber Pakhtunkhwa Peshawar

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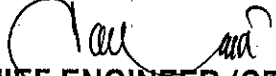
OFFICE OF THE CHIEF ENGINEER (CENTRE)  
COMMUNICATION & WORKS DEPARTMENT  
KHYBER PAKHTUNKHWA, PESHAWAR

No. CEC/C&WD/S.A.No.411/2024

Dated Peshawar the 13 / 05 / 2023

**AUTHORITY LETTER**

Mr. Zahid Habib, Administrative Officer (Centre) (BPS) C&W Department Peshawar is hereby authorized to file the para-wise comments and attend the Honorable Service Tribunal Peshawar on behalf of Respondent No 3 in connection with Service Appeal No. 411 of 2024 titled "Kamran Ullah" vs Govt. of KPK " on each date as and when fixed by the Honorable Court.

  
CHIEF ENGINEER (CENTRE)

**COPY FORWARDED TO THE:**

1. Section Officer (Litigation ), C&W Department Peshawar w/r to his office letter No. So(Lit)C&W/3-505/2024 Dated 07.05.2024 for information, please.
2. PS to Secretary, C&W Department Peshawar for information, please.
3. Mr. Zahid Habib, Administrative Officer (Centre) (BPS) C&W Department Peshawar for information and necessary action.

CHIEF ENGINEER (CENTRE)