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KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

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Qayyum Khan vs Govt of KPK

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Muhamm Compilation

Incharge Judicial Branch

Proceedings



To unearth the real facts, the following concerned were summoned. They were heard in person and their statements were recorded. They were also cross examined.

1. Mr. Fawad Khan, Senior Scale Stenographer.
2. Ex-LHC Asad Ullah No. 5975 FRP Kohat.
3. Ex-Constable Rahmat Zamir No.5138 FRP Kohat.
4. Ex-FC Amir Waseem No.6090 FRP Kohat.
5. Computer Operator Shafi Ullah of FRP/HQrs: Peshawar.

Statement of Mr. Fawad Khan, Senior Scale Stenographer

He stated that the transfer orders of constable Amir Waseem No. 6090 and Rahmat Zameer No. 5138 from FRP to regular Police district Karak issued by CPO Peshawar has been handed over to him by LHC Asad Ullah of FRP Kohat Range at late hours at his office and stated that the office of record branch has been closed, therefore, the instant orders may be sent to office concerned for further process. Later-on, the same orders were found fake/bogus and thereafter, he was also known regarding its fake. An enquiry has been conducted by SP FRP Peshawar Range, through enquiry committee. In the findings of enquiry committee the allegations of fake transfer order has imposed upon him, without any cogent proof or evident. In the said enquiry the allegations were not established against him and thus the enquiry committee recommends him for departmental action, which was against the law/rules and norms of natural justice. The SP FRP Peshawar Range issued him Charge Sheet/Statement of Allegations for further departmental action and a committee comprising of DSP/Admin: and SI Legal FRP/HQrs: was constituted. It is pertinent to mention here that he was not known about the fake orders but the said LHC namely Asad Ullah contacted him and narrated that the orders are found fake, the concerned constables have been suspended and closed to FRP Police Lines, Peshawar and stressed for taking u-turn. Thereafter, he was trying to contact with LHC Asad Ullah but after the occurrence his mobile number 0344-9806550 was coming switched off. Therefore, he contacted SI Ishtiaq Badshah of FRP Kohat Range that he is coming to Kohat and informs LHC Asad Ullah about his visit to Kohat. He alongwith Constable Computer Operator Shafi Ullah proceeds to Kohat. On reaching to Kohat he met with LHC Asad Ullah and accosted that:-

- a. Why he concealed it that the transfer orders given by him are fake?

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,PESHAWAR

BEFORE: **KALIM ARSHAD KHAN** ... **CHAIRMAN**
MUHAMMAD AKBAR KHAN ... **MEMBER(Executive)**

Service Appeal No.424/2017

Date of presentation of Appeal.....03.05.2017
Date of Hearing.....07.05.2024
Date of Decision.....07.05.2024

Mr. Qayyum Khan, Water Management Officer, District On-Farm Water Management, District Peshawar.....(***Appellant***)

Versus

1. **The Government of Khyber Pakhtunkhwa** through Chief Secretary, Civil Secretariat, Peshawar.
2. **The Chief Secretary**, Civil Secretariat, Peshawar.
3. **The Secretary Agriculture, Livestock & Cooperative Department**, Civil Secretariat, Peshawar..
4. **The Director General** Form of Water Management Government of Khyber Pakhtunkhwa, Peshawar.
5. **The Secretary, Finance Department**, Khyber Pakhtunkhwa, Peshawar.
6. **The Secretary Establishment Department** Khyber Pakhtunkhwa, Peshawar.....(***Respondents***)

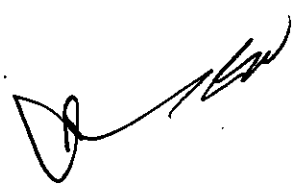
Service Appeal No.1259/2017

Date of presentation of Appeal.....13.11.2017
Date of Hearing.....07.05.2024
Date of Decision.....07.05.2024

Mr. Abdullah, Water Management Officer, District Director, On-Farm Water Management, District Mardan.....(***Appellant***)

Versus

1. **The Government of Khyber Pakhtunkhwa** through Chief Secretary, Civil Secretariat, Peshawar.
2. **The Chief Secretary**, Civil Secretariat, Peshawar.
3. **The Secretary Agriculture, Livestock & Cooperative Department**, Civil Secretariat, Peshawar.
4. **The Director General** Form of Water Management Government of Khyber Pakhtunkhwa, Peshawar.
5. **The Secretary, Finance Department**, Khyber Pakhtunkhwa, Peshawar.
6. **The Secretary Establishment Department** Khyber Pakhtunkhwa, Peshawar.....(***Respondents***)



2

Service Appeal No.424/2017 titled "Qayyum Khan Vs. The Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar and others" and Service Appeal No. 1259/2017 titled "Abdullah Khan versus The Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar and others" declared on 07.05.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mr. Muhammad Akbar Khan, Member Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

Present:

Mr. Muhammad Asif Yousafzai, Advocate.....For the appellants
Mr. Asif Masood Ali Shah, Deputy District Attorney.....For respondents

APPEALS UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 FOR DIRECTING THE RESPONDENTS TO CONSIDER THE RESPONDENTS TO CONDONE THE INTERACTION BETWEEN THE TWO PERIODS OF QUALIFYING SERVICES OF PENSION PURPOSE UNDER RULES 2.12(1) AND RULES 2.3 CIVIL SERVICES PENSION RULES AND AGAINST NOT TAKING ANY ACTION ON DEPARTMENTAL APPEALS OF THE APPELLANTS WITHIN THE STATUTORY PERIOD OF 90 DAYS.

CONSOLIDATED JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Through this single judgment, both the appeals, are jointly taken up as both are similar in nature and almost with the same contentions, therefore, can be conveniently decided together.

2. The appellants' cases are that they were appointed as Water Management Officers (BPS-17) in the Agriculture Department on contract basis vide Notification dated 20.12.1993; that from time to time, their contract appointment was extended by the Provincial Government. Vide Notification dated 07.06.2011, services of the appellants were regularized after promulgation of Khyber Pakhtunkhwa Employees Regularization Act 2005 w.e.f 24.11.2004; that there is a break of seven years and six months in the stint of service w.e.f 20.12.1993 to 24.11.2004.

3. They filed departmental appeals on 17.07.2017 which were not responded, hence, the instant service appeals.

4. On receipt of the appeals and their admission to full hearing, the respondents were summoned, who put appearance and contested the

appeals by filing written replies raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellants.

5. We have heard learned counsel for the appellants and learned Deputy District Attorney for the respondents.

6. The learned counsel for the appellants reiterated the facts and grounds detailed in the memo and grounds of the appeals while the learned District Attorney controverted the same by supporting the impugned order(s).

7. Learned counsel for the appellants relied on the letter dated 04.06.1977 of the then Government of NWFP which is reproduced as under:

"(2) Some confusion seems to exist in some quarters as to how condonation of interruptions between two spells of temporary/officiating service may be regulated under rule 2.12 (1) of the West Pakistan Civil Services Pension Rules. According to Rule 2.3 ibid temporary and officiating service followed by confirmation or temporary/officiating service of more than five years counts for pension/gratuity. The provisions of Rule 2.12 (1) take cognizance of only those cases where the Government servant had prior to the interruption rendered periods of qualifying service and it is considered fit to permit him to count certain past qualifying service towards pension/gratuity. The condonation of interruptions in service with a view to allowing past non-qualifying temporary/officiating service to qualify for pension/gratuity under Rule 2.3 is not permissible. In other words, condonation of interruptions for pension/gratuity in temporary/officiating service is permissible only where the broken period of temporary/officiating service is qualifying i.e. it exceeds five years, or is followed by confirmation. Where neither condition is fulfilled condonation of interruption is not permissible. To make it more clear the following illustrations are given.

First Illustration---A Government servant has the following broken spells of temporary/officiating service:-

- i. five years and one month followed by break;*
- ii. three years followed by break; and*
- iii. 6 years.*

(4)

Service Appeal No.424/2017 titled "Qayyum Khan Vs. The Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar and others" and Service Appeal No. 1259/2017 titled "Abdullah Khan versus The Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar and others" declared on 07.05.2024 by Division Bench comprising of Mr. Katiir Arshad Khan, Chairman, and Mr. Muhammad Akbar Khan, Member Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

First and third spells are qualifying under Rule 2.3 and, therefore, can be counted (as 11 years and one month qualifying service). The second spell of service being not qualifying will not count and will be treated as a part of the gap in between the first and third spell of service.

Second Illustration.--- A Government servant has the following broken spells of temporary/officiating service:-

- i. 5 year and one month followed by break;
- ii. 3 years followed by break; and
- iii. 4 years and 5 months.

Only the first spell is qualifying. The second and the third spells are not qualifying. Therefore, neither of the two gaps can be condoned.

Third Illustration.---A Government servant has the following broken spells of temporary/officiating service:-

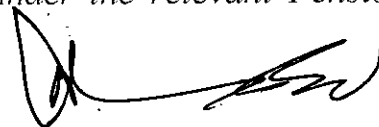
- i. 5 years and one month followed by break;
- ii. 3 years followed by break; and
- iii. One year followed by confirmation.

The second spell is not qualifying. First and the third spells are qualifying, and the gap between them can be condoned as in the case of the first illustration."

8. As against that the Department/respondents have produced copy of minutes of the meeting, wherein, the request of the appellants for condonation of interruption between two spells of service. Request of one Abdul Qayyum between two spells of service was considered and decided in the following manner:

"The chair briefed the participants about the detail of the case. Mr. Masood Ul Hassan, Law Department was of the view that Rule 2.3 of Civil Servants Pension Rules & Government Instructions 2006, is only for Civil Servants and not for Project or contract employees. Therefore, application of Rules 2.12 of Pension Rules in the instant case is out of question. The Director On Form Water Management, Khyber Pakhtunkhwa was also of the view that there is no documentary proof of GP fund deduction from the pay of the officer being Civil Servant.

Mr. Nasir Aman Deputy Secretary (Reg.) Establishment Department was of the view that under the relevant Pension Rules, the Administrative Department has to fill the gap between two spells of services, whereas in the instant case, the period between 1993 to 2001 is a non-qualifying service and between 2001 to 2004 is a non-service period, therefore, the request for regularization of contract period is not covered under the relevant Pension Rules and Govt. Instructions.



After threadbare discussion, the forum unanimously agreed that the request of the officer for regularization of contract period of service is not covered under the relevant Civil Servant Pension Rules & Government Instruction"

9. In reply, the respondents raised the following contentions:

1. *Correct to the extent that the appellant Mr. Abdullah Khan along with others were appointed as Water Management Officers on contract basis in different developmental projects like OFWM Phase-III (World Bank Assisted), SIAP Mardan, CRBC Stage-III D.I.Khan and OECF Japan on contract basis for a period of one year vide Govt. of Khyber Pakhtunkhwa, Agriculture, Livestock & Coop: Department Peshawar notification No.SOE(AD)II(2)70/MTG/K.C dated 20.12.1993. The contractual project service of the appellant was extendable on need basis subject to satisfactory performance. His contract was extended from time to time i.e. vide notifications dated 11.01.1995, 12.07.1995, 18.03.1997, 07.10.1998, 02.06.1999 and lastly, extended vide notification dated 20.03.2000 till 30.06.2001 and further extension beyond 30.06.2001 was not granted due to completion of Swabi Scarp Project Mardan.*


2. *In the year 2004, the Agriculture Department advertised certain posts of Water Management Officers (BS-17) for recruitment against the project posts in Project titled "National Program for Improvement/Lining of Watercourses (Khyber Pakhtunkhwa Component)" and on recommendation of Departmental Selection Committee the appellant along with others were appointed as Water Management Officer (BS-17) vide govt. of Khyber Pakhtunkhwa, Agriculture, Livestock & Coop: Department notification dated 24.11.2004 as fresh candidate as per terms and conditions specified for recruitments against the project posts for a period of one year extendable on need basis subject to satisfactory performance.*

3. *In the first spell of service the appellant was appointed on 20.12.1993 on contract basis as explained in Para-1 above against the project post for a period of one year and his contract was extended from time to time and last extension was granted up to 30.06.2001 i.e. completion date of Swabi Scarp Project Mardan.*

It is further submitted that the appellant Mr. Abdullah Khan in 2nd spell of service i.e. from 24.11.2004 while serving in the project titled "National Program for Improvement/Lining of Watercourses (Khyber Pakhtunkhwa Component) filed writ petition for regularization of his service which was decided in favour of the appellant and in compliance to the decision dated 01.03.2011 of the august Supreme Court of Pakistan the service of the appellant was regularized vide notification dated 07.06.2011.

4. *Correct to the extent that the appellant filed representation on 18.07.2017 which was sent to the Administrative Department vide Director General OFWM letter dated 01.08.2017 which is yet under consideration of the competent authority, but it is pertinent to mention here that similar nature appeal submitted by another colleague of the appellant i.e. Mr. Qayyum Khan (appellant in Service Appeal No.424/2017) was considered by the competent authority in a meeting held on 08.08.2017 under the Chairmanship of Additional Secretary (Regulation) Finance Department wherein the case was considered and rejected the same that the request of the officer for regularization of contract period of service is not covered under the relevant Civil Servant Pension Rules and Government instructions."*
10. The reliance of the appellants, on the above letter of the Government, was not worth consideration because in the letter, the gap was to be covered only when the service is either temporary or officiating, whereas, the appellants were admittedly project employees therefore, they cannot claim the desired relief.
11. In view of the above discussion, instant service appeals are dismissed. Costs shall follow the event. Copy of this judgment be placed in the file of the connected service appeal. Consign.
12. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 7th day of May, 2024.*


KALIM ARSHAD KHAN
Chairman


MUHAMMAD AKBAR KHAN
Member (Executive)

(7)

S.A #.424/2017


ORDER

7th May. 2024

1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

2. Vide our consolidated judgment of today placed on file, instant service appeal is dismissed. Costs shall follow the event. Copy of the judgment be placed in file of the connected appeal. Consign.

3. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 7th day of May, 2024.*



(Muhammad Akbar Khan)
Member (E)



(Kalim Arshad Khan)
Chairman

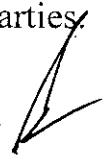
(26)

17th Apr. 2024

1. Junior to counsel for the appellant and Mr. Muhammad Jan, District Attorney alongwith Mr. Sanaullah Admin Officer for the respondents present.
2. Former made a request for adjournment in order to pay the cost and argue the case as senior counsel was not available today. Adjourned by way of last chance. To come up for payment of cost of Rs.10,000/- as well as arguments on 07.05.2024 before D.B. P.P given to the parties.

SCANNED
BY
PESHAWAR

Mutazem Shah



(Muhammad Akbar Khan)
Member (E)



(Kalim Arshad Khan)
Chairman

13th Feb, 2024

Junior to learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Mr. Sanaullah, Admin Officer for the respondents present.

Today, junior to learned counsel for the appellant again requested for adjournment on the ground that learned senior counsel for the appellant is busy in Peshawar High Court, Peshawar. Last opportunity is given to the appellant to ensure presence of his counsel and to argue this appeal on the next date positively. To come up for arguments on 12.03.2024 before the D.B. Parcha Peshi given to the parties.

(Salah-ud-Din)
Member (J)

(Kalim Arshad Khan)
Chairman

Naeem Amin

12.03.2024

1. Junior to counsel for the appellant present. Mr. Muhammad Jan, District Attorney alongwith Mr. Rahat Shah, Deputy Director for the respondents present.

2. On previous date last opportunity was given to the appellant to ensure presence of his counsel and argue the appeal on the next date positively. Today junior of learned counsel for the appellant again requested for adjournment on the ground that learned counsel for the appellant is busy in the august Supreme Court of Pakistan. Granted on payment of cost of Rs. 10000/-. To come up for arguments on 17.04.2024 before D.B. Parcha Peshi given to the parties.

(Muhammad Akbar Khan)
Member (E)

(Kalim Arshad Khan)
Chairman

Kamranullah

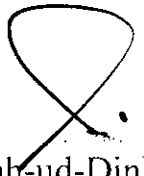
18.09.2023

Junior of learned counsel for the appellant present.
Mr. Sanaullah, Admin Officer alongwith Mr. Muhammad Jan,
District Attorney for the respondents present.

Junior of learned counsel for the appellant requested for
adjournment on the ground that learned counsel for the appellant
is busy before the Hon'ble Peshawar High Court, Peshawar.
Adjourned. To come up for arguments on 12.01.2024 before the
D.B. Parcha Peshi given to the parties.

SCANNED
KPST
Peshawar


(Fareeha Paul)
Member (E)


(Salah-ud-Din)
Member (J)

Naeem Amin


12.01.2024

SCANNED
KPST
Peshawar

Junior of learned counsel for the appellant present.
Mr. Sanaullah, Admin Officer alongwith Mr. Asif Masood
Ali Shah, Deputy District Attorney for the respondents
present.

Junior of learned counsel for the appellant requested for
adjournment on the ground that learned counsel for the
appellant is busy in Peshawar High Court, Peshawar.
Adjourned. To come up for arguments on 13.02.2024 before
the D.B. Parcha Peshi given to the parties.


(Fareeha Paul)
Member (E)


(Salah-ud-Din)
Member (J)

Naeem Amin

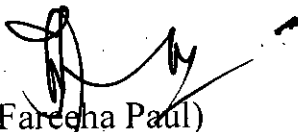
Restoration Application No.99/2021

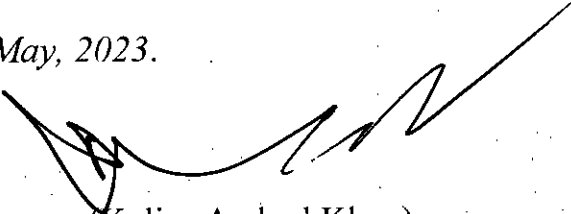
26th May, 2023

1. Learned counsel for applicant and Mr. Fazal Shah Mohmand, Additional Advocate General for respondents present.

2. Learned Additional Advocate General on behalf of the respondents did not raise any objection on acceptance of this application for restoration of appeal. Instant application is for restoration of appeal No.424/2017 dismissed in default on 30.03.2021. Considering the contention of learned counsel for the applicant and in the interest of justice, instant service appeal is restored to its original number. To come up for arguments on 21.08.2023 before D.B. P.P given to the parties.

3. *Pronounced in open Court at Peshawar under our hands and seal of the Tribunal on this 26th day of May, 2023.*


(Fareeha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman

Mutazem Shah

21st Aug, 2023

1. Learned counsel for the appellant and Mr. Muhammad Jan, District Attorney alongwith Mr. Rahat Shah, Deputy Director for respondents present.

2. Learned counsel for appellant requested for adjournment in order to prepare the brief. Adjourned but subject to payment of cost of Rs.5000/- to be paid on behalf of the appellant. To come up for arguments on 18.09.2023 before D.B. P.P given to the parties.


(Salah-Ud-Din)
Member (J)


(Kalim Arshad Khan)
Chairman

Mutazem Shah

SCANNED
KPST
Peshawar

SCANNED
KPST
Peshawar

12

21.09.2022

Nemo for the petitioner. Mr. Rahat Shah, Deputy Director (Litigation) alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Previous date was changed on Reader Note, therefore, notice for prosecution of the application be issued to the petitioner as well as his counsel through registered post and to come up for arguments on restoration application on 30.11.2022 before the D.B. Original file also be requisitioned for the date fixed.

Noted
18/9/22

(Mian Muhammad)
Member (Executive)

(Salah-Ud-Din)
Member (Judicial)

30/11/22

Deleted from list to come up
on 22-2-23
On Reader

22.02.2023

Bench is incomplete, therefore, case is adjourned to 24.04.2023 for the same as before.

Reader

24th April, 2023

24th April has been declared as public holiday on account of Eid-UI-Fitr, therefore, the case is adjourned. To come up for the same on 26.05.2023.

SCANNED
Petitioner

Reader

01.02.2022

Nemo for the petitioner. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Previous date was changed on Reader Note, therefore, notice for prosecution of the petition be issued to the petitioner as well as his counsel and to come up for arguments on the restoration application on 12.05.2022 before the D.B.

*Noted
File
3/3/22*



(Rozina Rehman)
Member (J)



(Salah-ud-Din)
Member (J)

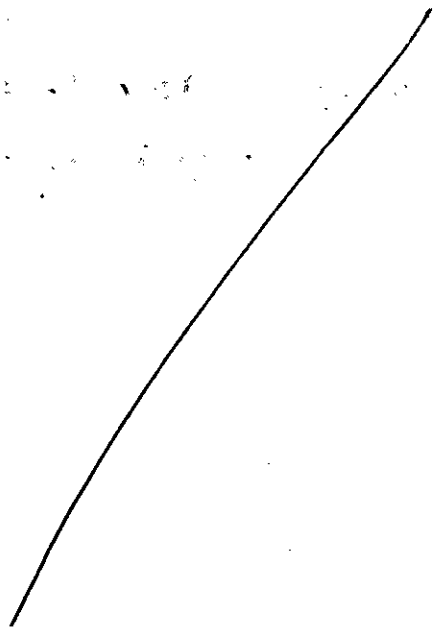
12-5-22

Proper DB not available the case is adjourned on 26-7-22

*Finalist
Reader*

26-7-22






proper DB not available to come up for the same as before on 21/9/22



FORM OF ORDER SHEET

Court of _____

Restoration Application No. 99 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	15.04.2021	<p>The Restoration Application submitted by Mr. Muhammad Qayum through Mr. Muhammad Asif Yousafzai Advocate may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This Restoration Application be put up before D. Bench on <u>14.10.2021</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	14.10.2021	<p>Learned counsel for petitioner present.</p> <p>Notice of the instant application be issued learned A.A.G/respondents for 29.11.2021 for arguments before D.B.</p> <p style="text-align: center;">  (Atiq-Ur-Rehman Wazir) Member (E) </p> <p style="text-align: center;">  (Rozina Rehman) Member (J) </p>
3-	29-11-2021	<p>Due to the unavailability of DB, the case is adjourned to 01/2/2022.</p> <p style="text-align: right;"> Reader</p>

SCANNED
KPST
Peshawar

Appeal No. 424/2017 15
Qayyum Khan vs Govt

30.03.2021

Nemo for appellant.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.


Case was called time and again but neither appellant nor his counsel turned up.

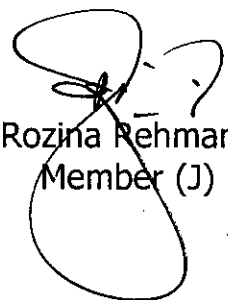
In view of above, instant appeal is hereby dismissed in default for non-prosecution. No order as to costs. File be consigned to the record room.

Announced.

30.03.2021

SCANNED
SCANNED
Peshawar


(Atiq ur Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

14.10.2020

Junior counsel for petitioner present.

Mr. Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Arguments on application heard. Record perused.

Application in hand was filed for restoration of appeal which was dismissed in default on 18.02.2020.

As per record, appeal was dismissed in default on 18.02.2020 whereas application seeking restoration was filed on 25.02.2020 which is well within time hence stands accepted. File stands restored. It be properly registered. This application stands consigned to the record room, copy whereof be placed on original file. To come up for arguments in the main appeal on 25.12.2020 before D.B.

(Mian Muhammad)
Member (E)

(Rozina Rehman)
Member (J)

28.12.2020

Due to summer vacation, case is adjourned to 30.03.2021 for the same as before.

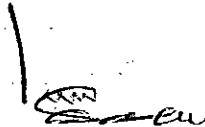
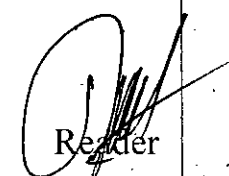
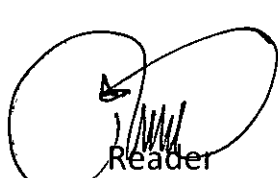
Reader

Form-A

FORM OF ORDER SHEET

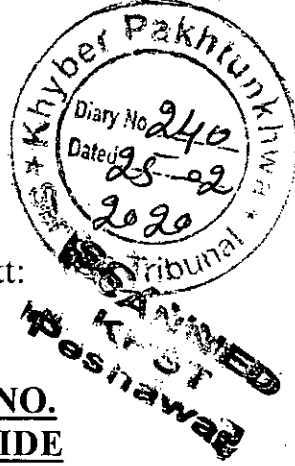
Court of _____

Appeal's Restoration Application No. 65 /2020

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	25.02.2020	<p>The application for restoration of appeal No. 424/2017 submitted by Mr. Muhammad Asif Yousafzai Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR 25/2/2020</p>
2		<p>This restoration application is entrusted to D. Bench to be put up there on <u>21-04-2020</u></p> <p style="text-align: right;">MEMBER</p>
	21.04.2020	<p>Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 28.07.2020 before D.B.</p> <p style="text-align: right;"> Reader</p>
	28.07.2020	<p>Due to COVID19, the case is adjourned to 14.10.2020 for the same as before.</p> <p style="text-align: right;"> Reader</p>

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

R-APP = 65/2020
APPEAL NO.424/2017



Mr. Qayum Khan

V/S

Agriculture Deptt:

**APPLICATION FOR RESTORATION OF APPEAL NO.
424/2017 WHICH WAS DISMISSED ON DEFAULT VIDE
ORDER DATED 18.02.2018 RECEIVED BY THE APPELLANT
ON 21.02.2020.**

RESPECTFULLY SHEWETH:


1. That the instant appeal No. 424/2017 was filed before this Honorable Tribunal.
2. That the instant appeal was in Argument stage at principle Bench Peshawar, on date 18.02.2020 the counsel for the appelland waiting for the bench. The counsel wait till 10 O' Clock but the bench-II was not started and put attendance with the reader and then move to Civil Court for recording evidence in case title "Naveed iqbal vs Edwards college" in court room no.40 and the case was called and dismissed on default on today 18.02.2020 before 12'oclock this fact came to the knowledge of the counsel when he back from the Civil Court At 12' o' Clock. **Copy of order is attached as annexure-A.**
3. That it is in the interest of justice that the appeal should be dealt on merit rather to dismiss on default.

It is therefore, most humbly prayed, that the instant appeal No. 424/2017 may be restore on the acceptance of this application.

APPELLANT

Through:

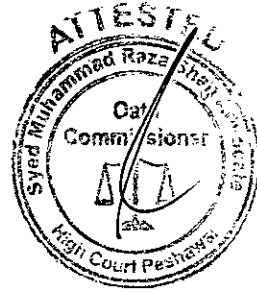

(M. ASIF YOUSAFZAI)


(SYED NOMAN ALI BUKHARI)
ADVOCATE, HIGH COURT
PESHAWAR.

AFFIDAVIT

It is affirmed and declared that the contents of application are true and correct to the best of my knowledge and belief.

[Signature]
DEPONENT



20

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 424 /2017



Mr. Qayyum Khan, Water Management Officer,
District On-Farm Water Management,
District Peshawar.

Diary No. 451

Dated 03/05/2017

(Appellant)

VERSUS

1. The Government of KPK through Chief Secretary, Civil Secretariat Peshawar.
2. The Chief Secretary Civil Secretariat, Peshawar
3. The Secretary Agriculture Livestock and Cooperative Department Civil Secretariat, Peshawar.
4. The Director General Form of Water Management Government of KPK, Peshawar.
5. The Secretary Finance, KPK, Peshawar.
6. The Secretary Establishment, KPK, Peshawar.

(Respondents)

Filed to-day
Qase
Registrar
3/5/17

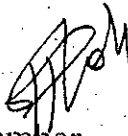
APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNALS, 1974 ACT FOR DIRECTING THE RESPONDENTS TO CONSIDER THE RESPONDENTS TO CONDONE THE INTERRUPTION BETWEEN THE TWO PERIODS OF QUALIFYING SERVICES FOR PENSION PURPOSE UNDER RULES 2.12 (1) AND RULES 2.3 CIVIL SERVICES PENSION RULES. AND AGAINST NOT TAKING ANY ACTION ON DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF (90) DAYS

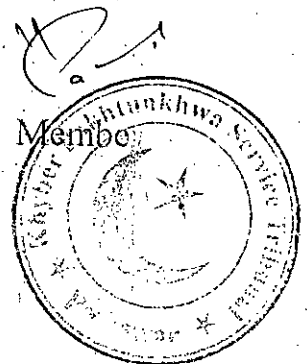
Certified to be true and correct

Registrar
Khyber Pakhtunkhwa Service Tribunal
Peshawar

12.12.2019

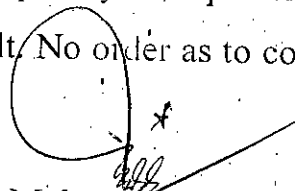
Lawyers are on strike on the call of Khyber Pakhtunkhwa Bar Council. Adjourn. To come up for further proceedings/arguments on 18.02.2020 before D.B.

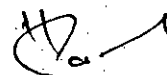

Member




18.02.2020

Appellant absent. Learned counsel for the appellant absent. Mr. Zia Ullah learned Deputy District Attorney alongwith Tayyab Gul Assistant present. Case called for several times but no one appeared on behalf of appellant. Consequently the present service appeal is dismissed in default. No order as to costs. File be consigned to the record room.


(Mian Muhammad)
Member


(Muhammad Hamid Mughal)
Member

ANNOUNCED
18.02.2020

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Petition 18-2-2020
Number of Words 800
Copying Fee 10
Urgent _____
Total 10
Name of Applicant [Signature]
Date of Copying 21-2-2020
Date of Presentation 21-2-2020

12.12.2019

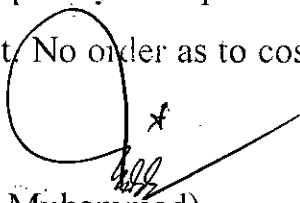
Lawyers are on strike on the call of Khyber Pakhtunkhwa Bar Council. Adjourn. To come up for further proceedings/arguments on 18.02.2020 before D.B.



Member


Member

18.02.2020

Appellant absent. Learned counsel for the appellant absent. Mr. Zia Ullah learned Deputy District Attorney alongwith Tayyab Gul Assistant present. Case called for several times but no one appeared on behalf of appellant. Consequently the present service appeal is dismissed in default. No order as to costs. File be consigned to the record room.


(Mian Muhammad)
Member


(Muhammad Hamid Mughal)
Member

ANNOUNCED.
18.02.2020

05.07.2019

Junior to counsel for the appellant and Mr. Riaz Khan Paindakhel learned Assistant Advocate General for the respondents present. Junior to counsel for the appellant requested for adjournment as senior counsel for the appellant is not in attendance. Adjourn. To come up arguments on 13.09.2019 before D.B.


Member


Member

13.09.2019

Appellant in person present. Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Sana Ullah Admin Officer present. Appellant seeks adjournment as his counsel is not in attendance. Adjourn. To come up for arguments on 03.10.2019 before D.B.


Member


Member

03.10.2019

Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 12.12.2019 before D.B.


Member


Member

20.02.2019

Appellant with counsel and Mr. Riaz Paindakheil learned Asst: AG for the respondents present. Learned counsel for the appellant requests for adjournment. Adjourned to come up for arguments on 05.04.2019 before D.B


Member


Chairman

05.04.2019

Learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney alongwith Mr. Sana Ullah Admin Officer for the respondents present.

Learned counsel for the appellant requests for adjournment in order to further prepare the brief.

Adjourned to 28.05.2019 before D.B.


Member


Chairman

28.05.2019


Mr. Taimur Ali Khan, Advocate for the appellant and Mr. Muhammad Yousaf, Assistant alongwith Mr. Riaz Ahmad Paindakheil, Assistant AG for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 05.07.2019 for arguments before D.B.



(HUSSAIN SHAH)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

02.08.2018


Junior to counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Junior to counsel for the appellant requested for adjournment as senior is not in attendance. Adjourned. To come up for arguments on 26.09.2018 before D.B.



(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

26.09.2018

Learned counsel for the appellant present. Mr. Sanaullah, Admin Officer alongwith Mr. Kabirullah Khattak, Addl: AG for the respondents present. Counsel for the appellant seeks adjournment. Granted. Case to come up for arguments on 13.11.2018 before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

13.11.2018

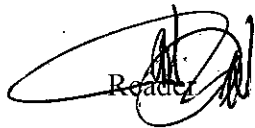
Due to retirement of Hon'able Chairman, the Tribunal is defunct. Therefore, the case is adjourned for the same on 28.12.2018 before D.B.


28-12-2018

The Bench is incomplete

Therefore case is adjourned to

20-2-2019


Reader


Reader

19.01.2018

Learned counsel for the appellant and Mr. Kabir Ullah Khattak, Learned Additional Advocate General alongwith Rahat Shah Account Officer, for respondents present. Written reply submitted on behalf of respondent No.2 to 6 and the rest of the respondents relied upon the same. Adjourned. To come up for arguments/rejoinder on 22.03.2018 before D.B

(Muhammad Hamid Mughal)
MEMBER

22.03.2018

Learned counsel for the appellant present. Mr. Muhammad Jan, learned Deputy District Attorney alongwith Tayyab Gul Assistant and Sana Ullah, Admin Officer for the respondents present. Learned counsel for the appellant submitted rejoinder which is placed on file and seeks adjournment. Adjourn. To come up for arguments on 22.05.2018 before D.B

(Muhammad Amin Kundi)
Member

(Muhammad Hamid Mughal)
Member

22.05.2018

Junior counsel for the appellant and Mr. Zia Ullah, DDA alongwith Mr. Tayyab Gul, Assistant for the respondents present. Arguments could not be heard due to incomplete bench. Adjourned. To come up for arguments 02.8.2018 before D.B.

(Muhammad Amin Khan Kundi)
Member

27
Service Appeal No. 424/2017

22.11.2017

Counsel for the appellant present. Mr. Usman Ghani, District Attorney alongwith Mr. Tayyab Gul, Assistant for the respondents also present. Written reply on behalf of respondents not submitted. Learned District Attorney requested for further adjournment. Adjourned. To come up for written reply/comments on 19.12.2017 before S.B.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER


19.12.2017

Learned counsel for the appellant present. Mr. Riaz Pinda Kheil, learned Assistant Advocate General along with Mr. Tayyab Gul, Assistant for the respondents present. Written reply not submitted. Representative of the respondents seeks time to file written reply/comments. Granted. To come up for written reply/comments on 04.01.2018 Before S.B


(Muhammad Hamid Mughal)
MEMBER

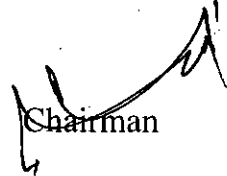
04.01.2018

Clerk of the counsel for appellant present and Assistant AG alongwith Mr. Tayyab Gul, Assisant for the respondents present. Written reply on behalf of respondents not submitted. Requested for adjournment. Adjourned. Last opportunity granted. To come up for written reply/comments on 19.01.2018 before S.B.


(Gul Zeb Khan)
Member (E)

13.09.2017

Counsel for the appellant seeks adjournment. Granted.
To come up for preliminary hearing on 11.10.2017 before S.B.



Chairman

11.10.2017

Counsel for the appellant present. Preliminary arguments heard and case file perused. The appellant was appointed as Water Management Officer (BPS-17) in Agriculture Department on contract basis vide notification dated 20.12.1993. From time to time his contract appointment was extended by the Provincial Government. Vide notification dated 07.06.2011, services of the appellant were regularized after promulgation of Khyber Pakhtunkhwa Employees Regularization Act 2005 w.e.f 24.11.2004. There is a break of break of 7 years 6 months in the stint of service from 20.12.1993 to 24.11.2004. He preferred departmental appeal on 06.01.2017 which was not responded within stipulated period, hence, the instant service appeal. Apparently the appeal is barred by time. When learned counsel for the appellant was confronted on the point that why he failed to agitate this issue in time, he was unable to give any plausible explanation? Reliance was placed on judgment of Peshawar High Court, Peshawar rendered in writ petition no. 3394-P/2016 dated 22.06.2016 wherein the issue of length of service has been decided.

Points urged need consideration. Admit subject to all legal objections. Appellant is directed to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 22.11.2017 before S.B.

Appellant Deposited
Security & Process Fee




(AHMAD HASSAN)
MEMBER

01.06.2017

Counsel for the appellant present and requested for adjournment. Adjourned. To come up for preliminary hearing on 06.07.2017 before S.B.



(Ahmad Hassan)
Member

06.07.2017

Counsel for the appellant present and requested for adjournment. Adjourned. To come up for preliminary hearing on 31.07.2017 before S.B.



(Ahmad Hassan)
Member

31.07.2017

Counsel for the appellant present. He seeks adjournment. Adjourned. To come up for preliminary hearing on 21.08.2017 before S.B.


Chairman

21/8/2017

No one is present on behalf of the appellant. The Hon'ble Member is on leave, therefore, case to come for preliminary hearing on 13/9/2017 before SB.


Reader




30

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 424/2017

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	03/05/2017	<p>The appeal of Mr. Qayyum Khan presented today by Mr. Muhammad Asif Yousafzai Advocate, may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	4/5/17	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>18-5-17</u></p> <p style="text-align: right;"> CHAIRMAN</p>
18.05.2017		<p>Counsel for the appellant present. Counsel for the appellant requested for adjournment. Request accepted. To come up for preliminary hearing on 01.06.2017 before S.B.</p> <p style="text-align: right;"> (Ahmad Hassan) Member</p>

Classified for the applicant's reasons and requested for
the court to adjourn the case for preliminary hearing on
06/22/71 before the court.

1. [Illegible]

... and ...
...
...
... to provide the security of ...

BEFORE THE KPK SERVICE TRIBUNAL PESHAWARSERVICE APPEAL NO. 424 /2017**SCANNED
KFST
Peshawar**

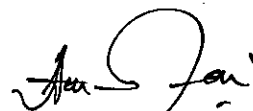
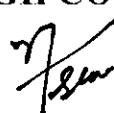
Mr. Qayyum Khan

VS

Agriculture Department

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of Appeal	-----	1-4
2.	Copy of appointment order	--A--	05
3.	Copy of Extension Order	--B--	06-13
4.	Copy of Service Certificate	--C--	14-15
5.	Copy of Notification dt. 24.09.2004	--D--	16-19
6.	Copy of Notification dt. 07.06.2011	--E--	20-21
7.	Copy of departmental appeal dt. 6,1,2017	--F--	22-23
8.	Copy of Director General Comments dt. 22.2.2017	--G--	24
9.	Copy of letter establishment department dt 10.03.2017	--H--	25
9.	Vakalat nama	-----	26

APPELLANT**THROUGH:****(M.ASIF YOUSAFZAI)****(ADVOCATE SUPREME COURT),****(TAIMUR ALI KHAN)****(ADVOCATE HIGH COURT),****&****(SYED NOMAN ALI BUKHRI)****ADVOCATE PESHAWAR.**

BEFORE THE KPK SERVICE TRIBUNAL PESHAWARAPPEAL NO. 424 /2017

Mr. Qayyum Khan, Water Management Officer,
District On-Farm Water Management,
District Peshawar.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 451

Dated 03/05/2017

(Appellant)

VERSUS

1. The Government of KPK through Chief Secretary, Civil Secretariat Peshawar.
2. The Chief Secretary Civil Secretariat, Peshawar
3. The Secretary Agriculture Livestock and Cooperative Department Civil Secretariat, Peshawar.
4. The Director General Form of Water Management Government of KPK, Peshawar.
5. The Secretary Finance, KPK, Peshawar.
6. The Secretary Establishment, KPK, Peshawar.

(Respondents)

Filed to-day

Registrar

3/5/17

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNALS, 1974 ACT FOR DIRECTING THE RESPONDENTS TO CONSIDER THE RESPONDENTS TO CONDONE THE INTERRUPTION BETWEEN THE TWO PERIODS OF QUALIFYING SERVICES FOR PENSION PURPOSE UNDER RULES 2.12 (1) AND RULES 2.3 CIVIL SERVICES PENSION RULES. AND AGAINST NOT TAKING ANY ACTION ON DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF (90) DAYS


PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE RESPONDENTS MAY BE DIRECTED TO CONDONE THE INTERRUPTION BETWEEN THE TWO PERIODS OF QUALIFYING SERVICES FOR PENSION PURPOSE UNDER RULES 2.12 (1) AND RULES 2.3 CIVIL SERVICES PENSION RULES. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWETH:**FACTS:**

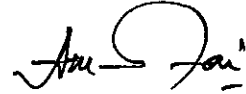
1. That the appellant was appointed as Water Management Officer in (BPS-17) on contract basis in the Agriculture Department vide notification dated 20.12.1993. The appellant's contract was extended from time to time vide notifications dated 1.11.1995, 12.07.1995, 18.03.1997, 16.07.1997, 17.10.1998, 2.06.1999, 20.03.2000, till 30.06.2001. **Copies of appointment order, extension order and service certificate are attached as Annexure-A, B, C.**
2. That vide notification dated 24.11.2004 the appellant was appointed as Water Management Officer in BPS-17 on contract basis and later on vide notification dated 07.06.2011 the appellant service was regularized under (NWFP) Employees Regularization of Service Act, 2005 w.e.f 24.11.2004. **Copies of notification are attached as Annexure-D, & E.**
3. That from the above mention breakup, it clear that the appellant first service spell from 20.12.1993 to 24.11.2004 consisted of seven year six months.
4. That the appellant filed representation for condonation of interruption between the two periods on 06.01.2017. The said appeal was sent to Director General Office and then to Secretary Agriculture office. The Director General office submitted his comments to the Secretary Agriculture and Livestock and Cooperative Department on 22.02.2017, and lastly the case of the appellant was referred to Establishment department and Establishment Department further directed to solicit the Finance Deptt: to finalize the issue. **Copies of**

It is, therefore most humbly prayed that the appeal of the appellatant may be accepted as prayed for.



APPELLANT
Qayyum Khan

THROUGH:



(M.ASIF YOUSAFZAI)
(ADVOCATE SUPREME COURT)



(TAIMUR ALI KHAN)
(ADVOCATE HIGH CORT)

& 

(SYED NOMAN ALI BUKHRI)
ADVOCTE PESHAWAR.

departmental appeal, Director General comments and letter to establishment department are attached as Annexure-F, G, & H.

5. That despite the lapse of the statutory period of the 90 days, no fruit full action has been taken nor order pass on the departmental appeal till date. Hence the present appeal on the following grounds amongst the others.

GROUND:

- A) That not condoning the interrupted period between the two periods of the service and not taking action of departmental appeal of the appellant within statutory period 90 days is against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B) That the appellant first spell of service was consisted of seven year six months therefore, the appellant his legally entitled to his claim under pension rules 2.12 (1) and rules 2.3 of the West Pakistan Civil Services pension rule
- C) That the appellant has a genuine claim and under pension rules he is entitled to be granted condonation of interruption between the two periods of qualifying service for the pension purposes.
- D) That if the legal right was not granted to appellant then the appellant would suffer a lot for having less pensionary benefits than that to which he is otherwise legally entitled.
- E) That the appellant has not been treated according to law, rule and lingering on without any justification.
- F) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

ATTESTED

1- Mr. Mohammed Yousof
2- Mr. Mohammed Fahim Khattak

Water Management Officer in the
Office of Asstt. Director, Water
Management, Central.
Water Management Officer in the
Office of Asstt. Director, Water
Management, Matla Swat.

Place of posting

2- This appointment will not confer on them any right of claiming seniority or regularization in service.
3- On their appointment, they are posted against the posts mentioned against each with immediate effect in the interest of public service.

C/O. Dajko Wacha, G. Baham Dera
D.I. Khan.
P.O. Bahawal North Waziristan
Agency Gul Rayat Khan Electric Store.
House No. 66-Defence Officer
House No. Society Dera, Bahawal.

10- Mr. Jawahar Lal S/O
Madda Khan.

9- Mr. Mohammed Yousof S/O
Madda Khan.

8- Mr. Rafiq Ahmad S/O
Ghulam Saeed.

7- Mr. Javed Iqbal S/O
Daj Mohammad.

6- Mr. Abdulrah Khan S/O
Ghulam Mohammad.

5- Mr. Hidayat Ali S/O
Haji Sheroz Khan.

4- Mr. Mohammed Fahim Khattak
S/O Mohammed Azim Khattak.

3- Miss Zaidun S/O
Mian Karim Baksh.

2- Mr. Gayum Khan S/O
Haji Awaj Mir Shah.

1- Mr. Naseer Ahmad S/O
Shahid Ahmad.

Village & P.O. Ghulagay Distt. Swat.
C/O. Doluxo Wacha, G. Baham Dera
D.I. Khan.
P.O. Bahawal North Waziristan
Agency Gul Rayat Khan Electric Store.
House No. 1070/3/Noor Jamia Masjid
Kowshera Centt.
P.O. Lund Khwar Nardan.
House Lund Khwar Nardan.

Village Damana P.O. Kadyan, Swat.
C/O Azim X/Ray & Clinic Near
Civil Hospital Dera Ismail Khan.
House No. 1070/3/Noor Jamia Masjid
Kowshera Centt.
P.O. Lund Khwar Nardan.
House Lund Khwar Nardan.

Postal/Permanent Address

Sl. Name and Father's Name

Sl. No.

No. SOE(AD)II(2)70/MtB/KC. Consequently upon the recommendation of the Departmental Selection Committee, the Governor NWFP is pleased to appoint the following candidates, in order of merit, as Water Management Officers (Civil Engineering) in Basic Pay Scale No. 17(2670-215-5450) on contract basis for a period of one year from the date of their taking over the charge on the terms and conditions as laid down in the agreement duly executed by them.

NOTIFICATION

GOVERNMENT OF NWFP
AGRICULTURE, FOOD & COOPERATION
DEPARTMENT

DATE: 1993

36

(I+II)

1

5

A

901

True copy
Tukhona

(B)

38

B-6

GOVERNMENT OF N.W.F.P.,
FOOD, AGRICULTURE, LIVESTOCK AND
COOPERATION DEPARTMENT.

DATED PESHAWAR, THE 11.1.1995.

NOTIFICATION.

NO.SOE(AD)II(2)70/Mtg./K.C. In continuation of this Department
Notification of even No.35066-86, dated 20.12.1993, the
Governor NWFP is pleased to extend the contract period of
appointment upto 31.5.1995 in respect of the following
Water Management Officers (Agricultural Engineers) (BS-17)
on the existing terms & conditions:-

- | S.No. | Name of the Officer. |
|-------|-----------------------------|
| 1. | Mr. Naseer Ahmad. |
| 2. | Mr. Sayyid Khan. ✓ |
| 3. | Mr. Mian Zia-ud-Din. |
| 4. | Mr. Hidayat Ali. ✓ |
| 5. | Mr. Abdulal Khan. |
| 6. | Mr. Javed Iqbal. |
| 7. | Mr. Mohammad Fahim Khattak. |
| 8. | Mr. Rafiq Ahmad. |
| 9. | Mr. Mohammad Yousaf. |
| 10. | Mr. Jamshed Iqbal. ✓ |

SECRETARY TO GOVT: OF NWFP
AGRICULTURE DEPARTMENT.

Endst: No. SOE(AD)II(2)70/Mtg./K.C. Dated 11.1.1995.

- Copy forwarded for information & necessary action to the:
1. P.S. to Minister for Agriculture, NWFP, Peshawar.
 2. P.S. to Chief Secretary, NWFP, Peshawar.
 3. Director Water Management, NWFP, Peshawar w/r to his letter No.10474, dated 13.12.1994.
 4. Accountant General, NWFP, Peshawar.
 5. All District Accounts Officers/Agency Accounts Officers in NWFP.
 6. Officers concerned C/O Director Water Management, Peshawar.
 7. Manager Govt: Printing Press, Peshawar for publication in the next issue of Govt: Gazette.
 8. P.S. to Secretary Food, Agriculture, Livestock and Coop: Deptt: Peshawar.
 9. Personal Files of the Officers.
 10. Office Order File. ✓

SECTION OFFICER (ESTT:)
AGRICULTURE DEPARTMENT.

21-12-94 — 31-5-95 5 months

ATTESTED

(Signature)

1-6-95

31-5-95

31-5-96

one year

(B) 39
GOVERNMENT OF N.W.F.P.,
FOOD, AGRICULTURE, LIVESTOCK AND
COOPERATION DEPARTMENT.

DATED PESHAWAR, THE 12.7.1995.

NOTIFICATION.

NO. SOE(AD) II(2)/MTG/70 In continuation of this Department's Notifications of even No. dated 19.7.1994 and 11.1.1995, the Governor NWFP is pleased to extend the contract period of appointment upto 31.5.1996 or till the availability of selectees of the NWFP Public Service Commission, whichever is earlier, in respect of the following Water Management Officers/(Agricultural Engineers) (BS-17) on the existing terms & conditions:-

1. Mr. Naseer Ahmad.
2. Mr. Qayyum Khan.
3. Mian Ziauddin.
4. Mr. Hidayat Ali.
5. Mr. Abdullah Khan.
6. Mr. Javed Iqbal.
7. Mr. Rafiq Ahmad.
8. Mr. Mohammad Yousaf.
9. Mr. Jamshed Iqbal.
10. Mr. Mohammad Fahim Khattak.
11. Mr. Amjad Saeed.
12. Mr. Ahmed Shah.
13. Mr. Habibur Rehman.
14. Mr. Nadeem Amir.
15. Mr. Shahid Mehmood.
16. Mr. Amir Rabbani.
17. Mr. Amir Mohammad.
18. Mr. Sultan-e-Room.
19. Mr. Sheukat Masood.
20. Mr. Hafiz Gul Naeem.

SECRETARY TO GOVT. OF NWFP,
AGRICULTURE DEPARTMENT.

ENDST: NO. SOE(AD) II(2)/MTG/70.

Dated 12.7.1995

Copy forwarded for Information & Action to the

2. Director Water Management, NWFP, Peshawar w/r to his letter No. 3700/3/13/Estt./D.M., dated 21.5.1995.
4. Accountant General, NWFP, Peshawar.
5. All Distt: Accounts Officers/Agency Accounts Officers in NWFP.
6. Officers concerned C/O Director Water Management, NWFP, Peshawar.
7. Manager Govt. Printing Press, Peshawar.
8. P.F. of the Officers concerned.
9. P.S. to Secretary Agriculture.
10. Office Order File.

(NISAR ALLI SHAH)
SECTION OFFICER (ESTT.)
AGRICULTURE DEPARTMENT.

46

(8) One year

31-5-95

31-5-96

✓ 1-6-95

GOVERNMENT OF N.W.F.P.,
FOOD, AGRICULTURE, LIVESTOCK AND
COOPERATION DEPARTMENT.

DATED PESHAWAR, THE 12.7.1995.

NOTIFICATION.

NO. SOE(AD) II(2)/MTG/70 In continuation of this Department's

ATTESTED

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(B)



NOTICE

... In regard to notification of this ...
... dated 12/7/1995, the ...
... the contract period of ...
... 1-1-1995 to 31.5.1997 or till ...
... the availability of selection of the ...
... the following ...
... on ...
... the existing terms and conditions:-

- 1) Mr. ...
- 2) Mr. ...
- 3) Mr. ...
- 4) Mr. ...

...
...
...

... Dated: 18/3/1997.

Copy forwarded for information & n/action to:-

- 1- The Director Water Management, ... with reference to his letter No. 949, dated 20/1/1997.
- 2- The Project Director, ... Department, ... w/r to his letter No. 227, dated 20/1/1997.
- 3- The District ...
- 4- Officers concerned ...
- 5- The Manager Government Engineering ...
- 6- Personal files of the officer concerned.
- 7- P.O. Secretary, ...
- 8- Office order file.

(Signature)
...

18/3/97

NOTIFICATION

In continuation of this Department
notification of even No. dated 18/3/1997, the Government
is pleased to extend the period of appointment with
effect from 1/6/1997 to 31/3/98 or completion of the project
which ever is earlier, in respect of the following Water
Management Officers (Agriculture Engineers) B-17 on the
existing terms and conditions:-

- 1) Mr. Shahid Mahmood.
- 2) Mr. Hidayat Ali.
- 3) Mr. Abdullah Khan.
- 4) Mr. Nazim Khan.
- 5) Mr. Fida Mahmood.

SECRETARY TO GOVT. OF WEST
BENGAL, AGRICULTURE, LIVESTOCK AND COOP.
DEPARTMENT

Dated Luck: the 15/7/1997.

ENDET: NO. SOF (AD) II(2)70/Mtg/

Copy forwarded for information & p/action to:-

- 1- The Director Water Management, W.B.P., Peshawar w/r to his letter No. 4062, dated 26/5/1997.
- 2- The Project Director A.M.C. - III, Project Mardan.
- 3- The District Accounts Officer Mardan.
- 4- Officers concerned, O/O Project Director, A.M.C. - III, Project Mardan.
- 5- The Manager Government Printing Press, W.B.P., Peshawar.
- 6- To Secretary Food and Agriculture Department.
- 7- Personal files of the officers.
- 8- Office order file.

ATTESTED

(MUSAR ALI KHAN)
SECTION OFFICER (DEPARTMENT)

16/7/97

98

30/98

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GOVERNMENT OF NWFP
FOOD, AGRICULTURE LIVESTOCK & COOP:
DEPARTMENT

NOTIFICATION.

No. SOE(AD)FC(2)FC/50/98 In continuation of the deptt:
notification of even No. dated 16/7/97 the Governor NWFP is pleased
to extend the contract period of appointment with effect from 1-6-98
to 30.11.98 On completion of the Project, which ever is earlier, in
respect of the following Water Management Officers(Agri:Engineers)
BS-17 on the existing terms and conditions:-

- 1-Mr. Qayum Khan.
- 2-Mr. Abdullah Khan.
- 3-Mr. Fida Muhammad.
- 4-Mr. Hidayat Ali.

SECRETARY TO GOVT. OF NWFP
FOOD, AGRICULTURE AND COOP. DEPTT.

Endst: No. SOE(AD)FC(2)FC/50/98 Dated Pesh: the 7/10/1998.

Copy forwarded for information & necessary action to:-

- 1-The Director Water Management NWFP, Peshawar.
- 2-The Project Director ADC-SSP Project Mardan.
- 3-The Distt:Accounts Officer Mardan.
- 4-Officers concerned C/O Project Director ADC-SSP Project Mardan.
- 5-The Manager Govt:Printing Press, Peshawar.
- 6-PS to Secretary Food, Agri:livestock and Coop:Deptt:Peshawar.
- 7-The Personal Files of the officers.
- 8-Office order files

(MUHAMMAD ISRAAF)
SECTION OFFICER (ASST.)

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GOVERNMENT OF NWFP
FOOD, AGRICULTURE, LIVESTOCK & COOP.
DEPARTMENT

NOTIFICATION

NO. 503(AD)II(2)70/Mtg./99/KS. The Competent Authority is pleased to extend the contract period of appointment with effect from 1/12/1998 to 30/11/1999 in respect of the following four (4) Water Management Officers (Agri:Engineers) BPL-17 on the existing terms and conditions:-

- 1- Mr. Sayyid Khan.
- 2- Mr. Abdullah Khan.
- 3- Mr. Fida Muhammad.
- 4- Mr. Ridayat Ali.

SECRETARY TO GOVT. OF NWFP
FOOD, AGRICULTURE, LIVESTOCK AND COOP.
DEPARTMENT

UNDER: NO. 503(AD)II(2)70/Mtg./99/ Dated Peshawar the 02/6/1999

Copy forwarded for information & n/action to:-

- 1- The Director Water Management, NWFP, Peshawar.
- 2- The Project Coordinator, AEC-SEP, Mardan.
- 3- The Chief Planning Officer, Food & Agri: Deptt.
- 4- The District Accounts Officer, Mardan.
- 5-8 Officers Concerned C/O Project Coordinator, Agri:Dev:Component Swabi Scarp Project, Mardan.
- 9- The Manager Govt:Printing Press, NWFP, Peshawar.
- 10- 25 to Secretary, Food & Agriculture Department.
- 11- Personal Files of the officers.
- 12- Office order file.

(MUNAWWAR IQRAR)
SECTION OFFICER (ESTABLISHMENT)

ATTESTED

[Signature]

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GOVERNMENT OF NWFP,
AGRICULTURE, LIVESTOCK AND COOP.
DEPARTMENT.

NOTIFICATION.

NO. SOE(AD)II(2)70/Mtg:/99/KC. The competent Authority is pleased to extend the contract period of appointment with effect from 1/12/99 to 30/6/2001 i.e. the Project life in respect of the following four (4) Water Management Officers(Agri:Engineers) BPS-17 on the existing terms and conditions:-

- 1)Mr.Qayyum Khan.✓
- 2)Mr.Abdullah Khan.✓
- 3)Mr.Fida Mohammad.
- 4)Mr.Hidayat Ali.

SECRETARY TO GOVT. OF NWFP,
AGRICULTURE DEPARTMENT.

Endst:No.SOE(AD)II(2)70/Mtg:/99/KC

Dated Pesh: the 20/3/2000.

✓ Copy forwarded for information and necessary action to:

- 1-The Director Water Management NWFP, Peshawar.
- 2-The Project Coordinator, ADC-SSP Mardan.
- 3-The Chief Planning Officer Agriculture Department NWFP, Peshawar.
- 4-The Distt:Accounts Officer Mardan.
- 5-8)The Officers concerned C/O Project Coordinator, ADC-SSP Mardan
- 9)The Mager Govt:Printing Press Peshawar.
- 10)Person files of the Officers.
- 11)Office order File.

[Signature]
SECTION OFFICER (ESTT.)
AGRICULTURE DEPARTMENT.

1-2-99 — 30-6-2001 1.5 years

ATTESTED

[Signature]



II (B) 46

14

AGRICULTURE DEVELOPMENT COMPONENT
SWABI SCARP
MARDAN

Opposite Sheikh Maltoon Town, Nowshera road, Mardan ☎ (0931) 68634 Fax 68801

TO WHOME IT MAY CONCERN

(EXPERIENCE CERTIFICATE)

It is certified that Mr. Qayyum Khan S/O Mr. Awai Mir Shah has been Served as Water Management Officer (Engineer) in On Farm Watermanagement Department of Agriculture for 7 & half years i.e. Since 21st December, 1993 Till todote i.e. 30th June, 2001.

During the job, he has performed the following duties competently.

1. Situation analysis and Report writing.
2. Supervision of Flow Measurement by Flume & Current Meter.
3. Facilitate farmers in forming Water User Associations.
4. Supervision of Profile, Command Level, Bench Mark & As Built Surveys.
5. Computerized water channel designing in Parabolic, Rectangular & Trapezoidal Cross sections.
6. Preparation of computerized Cost estimates for waterchannels , water control Structures etc.
7. Supervision of Civil works.
8. Introduce and develop plans for Precise Land Levelling, Land Development, Drainage & Irrigation.

During his stay in the Department, he proved himself hardworking, competent , committed & punctual.

Deputy Director,

On Farm Water Management,

ADC-SSP, Mardan., NWFP.

Deputy Director
O.F.W.M. (ADC)

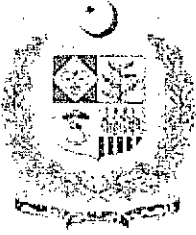
Swabi Scarp Project
Mardan.

ATTESTED

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Office of the
DISTRICT COMPTROLLER OF ACCOUNTS
MARDAN

Ph/Fax #-0937-9230066.

No.DCA/PR-I/


Dated: 29/10/2011

CERTIFICATE

It is certified that Mr. Qayyum Khan, Ex-Water Management Officer (BPS-17) on contract basis in Agriculture Department and received on transfer from the Audit Circle D.I. Khan on 14-09-1995 has continued to draw his pay & allowances till 30-06-2001 on the strength of extension in contract period granted by the Government of NWFP, Agriculture Department from time to time.


District Comptroller of Accounts,
Mardan.

ATTESTED



Notification.

No. No. SOE(AD)11 (2) 70 / 2004. On the recommendation of the Departmental Selection Committee, Government of NWFP, Agriculture, Livestock & Cooperatives Department is pleased to appoint the following candidates against the newly created posts of Water Management Officers(Eng.) BPS-17 purely on contract basis in the project titled National Program for improvement/ lining of water courses in Pakistan (project for NWFP) for a period of one year, from the date of assuming the charge of the post, extendable to the remaining project period subject to their satisfactory performance.

1. Muqsit-un-Naseer S/o Irfan-ud-Din Village, Tehsil P.O Timergara Moh: Miagulan Distt: Dir Lower.
2. Jehan Zeb S/o Aslam Khan C/o Assistant Director Water Management Near Mall-Lara Slop Jehangira Road Swabi.
3. Abdul Malik S/o Ghazi Khan C/o Abdul Wahab Village Amin Khel (Chockara) P.O Ghundi Kala Tehsil Tahli Nasrati Distt: Karak.
4. Mohammad Tufail S/o Nadar Khan Village Masti Khan Banda P/O Khojaki Killa Tehsil T/Nasrati Distt: Karak.
5. Nisar Ahmad S/o Sarfaraz Ahmad House No. C/445 near Government Primary School No. 5 street Khawrs brothers Mohallah Katrain walla d.I.Khan.
6. Abdullah Khan S/o Ghulam Muhammad Village Janga C/o Usman Cloth House Lund Khawar P.O Lund Khawar Teh: Takht Bhai Distt: Mardan.
7. Aftab Ahmad Khan S/O Abdul Rashid Khan Distt. D.I.Khan. C/O Ina mullah Khan AD, FIA, Peshawar, Air Port.
8. Mohammad Farooq Khan S/O Qalar Khan Moh: Tauskhani village and P.O Lahore Distt: Swabi.
9. Waseemullah S/O Mohammad Saeed Village Kachkot Asad Khan P.O Torka Tehsil and District Bannu.
10. Shaheen Iqbal S/O Mir Khatam Village and P.O Haji Zai Tehsil and Distt: Charsadda.
11. Momen-Uddin S/O Mohammad Mukhtar of Dir Lower.
12. Hidayat Ali S/O Haji Shainroz K: House No. 1070/3 new Mohalla near Jamia mosque Nowshera Cantt.
13. Tahir Khan S/O Zafarullah District: Tangla.
14. Anwar Saeed S/O Mohibullah Khan. Distt: Karak Tehsil Teht-e-Nasrati Village Nadar Kila P.O Manzeeni Banda.
15. Qiyash Ahmad S/O Faqir Saib sector, E/91 Sheikh Maltoon Town distt. Mardan
16. Shahid Mahmood S/O Muhammad Ishaq H.No.389 Sector C Sheikh Maltoon Town Mardan.
17. Ghulam Bilal S/O Karim Dad Khan P.O Paroa, D.I.Khan.
18. Qayyum Khan S/O Awal Mir Shah. House No. 81/LG in front of Railway Signal O/S Distt. Bannu.
19. Munir Ahmad S/O Saeed Ahmad Opposite to the GHS No.2 Kutachi Teh Kutachi Distt: D.I Khan.

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- Saeed Shah S/o Jaffar Shah Distt: Mardan Teh Takht Bhai P.O Sattar Khan Colony Mahal Jamra Hashinagro Kali.
21. Rafiq Ahmad Ghuncha S/o Ghulam Sarwar House No. 2528 Moh: Roshan Chiragh D.I. Khan.
22. Mohammed Shoaib S/o Muhammad Rameen House No. T-145 Street Saddique Abad Near Mirch Mandi Peshawar City.
23. Mirza Muhammad S/o Muhammad Inani Moh: Naway Cham Vill: & P.O Shahmansoor Tehsil and Distt: Swabi.
24. Jehan Zeb S/o Muqaid Jan Mugh Pati House New Bazar Chitral.
25. Said Muhammad S/o Mir Muhammad Village and P.O Urmar Payan Moh: Ali Khel Distt. Peshawar.
26. Fazal Sattar S/O Nasir Ud Din Khan. Village Galkore P.O Osheri Teh: Dir Distt: Dir Upper.
27. Abdus Subhan S/O Abdur Razaq. C/O Dr. Aziz ur-Rahman Village and P.O Paniala Distt: D.I. Khan.
28. Muhammad Tahir S/O Noor Wahab r/o Malakand Agency.
29. Mr. Muhammad Nadeem S/O Muhammad Khan. Village Paniala Tehsil and District D.I. Khan.
30. Amir Rabbani S/o Rehmatullah H: No. 448 Sarafa Bazar Abbotabad
31. Muhammad Khalil Akbar S/o Abdur Rafiq Moh: Ismail Khel Village Garhi Daulat Zai P.O Garhi Kapura Tehsil and Distt: Mardan.
32. Muhammad Uzair Khan S/o Mohabal Khan Moh: Danda Village and P.O Charbagh Distt: Swat.
33. Hidayatullah S/o Muhammad Iqbal House No. 372 Armour Colony Manki Road Nowshera Cantt.
34. Zulfikar Ali S/O Akbar Ali Khan P.O Kachji Paind Khan Midad Khel House Hanif Town Waqas Colony Diyal Road D.I Khan.
35. Zahid Khaleeq S/o Khaleeq-uz-Zaman House No. 30/D, Muhammad Jan Street Bannu.
36. Bakht Jamair S/o Shad Muhammad Khan C/o Bilal Book Store Village and P.O Jowar. Tehsil Daggar Distt: Buner.
37. Irfanullah S/o Muhammad Hanif Mohallah Saeed Khel Teh and Distt: L/Marwat.
38. Amjad Masood S/o Sheikh Ahmad Dab: No. 1 Behind Ara Machine Shailia Road Mansehra.
39. Muhammad Rahmatullah Khan S/o Rohullah Khan Ismatullah LS-I F-Block Flat No. 6 (C.A.E.B) Shami Road Wapda Colony Peshawar.
40. Kilayat Zaman S/o Shahi Zaman Street H. A Hakcem Village and P.O Gujrat Teh and Distt: Mardan.
41. Aman Khan S/o Pekhawaray Khan Village and P.O Pir Baba Pacha Kalay Tehsil Daggar Distt: Buner.
42. Ihsan Ullah Khan S/O Said Khumar Khan Village and P.O Kot Beli Tehsil and Distt: Bannu.

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- 43. Alta Ullah S/o Manaras Khan C/O Dir Lower H/W New Madyan Road Mingora District Swat.
- 44. Muhammad Idress S/o Abdul Kabir Bacha Village and P.O Mian Brangola Tehsil Adenzai Distt: Dir.
- 45. Irfanullah S/o Faqir Muhammad Khan(Late) Amjad Shaheed Colony Village and P.O Thana Malakand Agency.
- 46. Zailul Haq S/o Muhammad Zaman Village Burghando P.O and Tehsil Lal Qilla Distt: Dir Lower.
- 47. Amjad Ali S/o Muhammad Salim Mohi: Irfan Abad /Salim Abad P.O Balthela Malakand Agency.
- 48. Shahdad Khan S/o Abdur Rashid C/O Mian Mohammed -Iqbal H.No.172 Street -8 Sector J/3 Phase No.2 Hayatabad Peshawar.

2. Their appointment shall be governed by the following terms and conditions:

- a. Their appointment shall be on contract basis initially for a period of One year. The contract shall stand automatically terminated on the expiry of the initial period. Fresh contract would be executed if the services of any of the above named candidates were further required.
- b. The appointment shall be subject to the medical fitness report by the standing Medical Board and satisfactory completion of pre-service training.
- c. They shall undergo One month pre-service training in one of the training centers at OFWM training centre D.I.Khan/Agricultural Training Institute Peshawar/Agricultural University Peshawar / NWFP Engineering University Peshawar. During training, they shall be paid stipend as per approved PC-1.
- X d. They shall be governed by such rules, regulations, orders, acts and ordinances etc relating to appointment, promotion, transfer, leave, T.A., Medical Attendance, seniority, efficiency & discipline and conduct as have been/may be prescribed by the Government for the category of Government servants of their status, from time to time and as interpreted by the Government.
- e. Their pay will be fixed in the Basic Pay Scale 17 i.e. Rs. 6210-465-15510 from the date of their taking over the charge of the post.
- f. Their services shall be liable to termination on the following conditions:
 - i. At any time without notice and without assigning any reasons during the period of their contract appointment if their work during this period was not found satisfactory.
 - ii. On One month notice by the Government on one side and by them on the other. In case the notice on either side is less than One month, a sum equivalent to the pay for the period by which the notice falls short of One month, will be paid by the Government to them or in lieu thereof One month pay shall be forfeited.
 - iii) By Government without previous notice if it is satisfied on material evidence that they are unfit and/or likely to remain unfit for a considerable period by reasons

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of ill health or physical disability to discharge their duties. The decision of the Government as to what constitutes considerable period shall be final.

- g. They shall not be entitled to any Traveling Allowance/Daily Allowance on their first appointment/posting.
- h. They shall not contribute to G.P Fund and will not be entitled to pension, gratuity benefits.
- i. This does not constitute inter se seniority and the appointees shall not be entitled to seniority as against any other Government Servant.

3. If the above terms and conditions are acceptable to the above named selected candidates, they should convey their willingness individually and attend office of the Director OFWM for signing the Contract Agreement on or before 10.12.2004 positively, where after the candidates shall be assigned to one of the above mentioned training centers by the Directorate of OFWM. In case of non submission of acceptance/ signing of Contract Agreement, the offer will stand cancelled.

Sd/++++
(ZAIBULLAH KHAN)

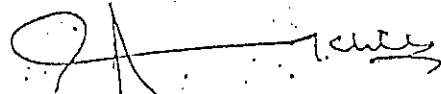
SECRETARY AGRICULTURE

Endst: No. No. SOE(AD)11(2) 70 / 2004.

Dated Peshawar the, 24th November, 2004

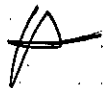
Copy of the above is forwarded to the:-

1. Accountant General, NWFP, Peshawar.
2. Director General Health Services, NWFP Peshawar, He is requested to kindly arrange for an early medical examination of the above named appointees through the Standing Medical Board and supply their medical examination certificates to this Department for record.
3. Director General, Federal Water management cell almarkaz F-8 Islamabad.
4. Director, On Farm Water Management Department NWFP, Peshawar w/r to his memo No.11674 dated. 04-10-2004 with the request to furnish the posting proposal of the above appointees on successful completion of the training at the earliest.
5. All appointees as per list given in para-1 of the notification.
6. PS to Chief Secretary, NWFP.
7. PS to Minister for Agriculture, NWFP.
8. PS to Additional Chief Secretary P&S department.
9. PS to Secretary Agriculture.
10. PS to Special-Secretary to Chief Minister/ Provincial Coordinator.
11. Master file.



(AKHTER ALI SHAH)
SECTION OFFICER (ESTT.)

ATTESTED



True copy
H. Tariq

Dated Peshawar, the 7/6/2011

NOTIFICATION.

NO. SOE (AD) 17-131/2009.- In pursuance to the judgement of the Hon' able Supreme Court of Pakistan in civil appeals No. 834 to 837 of 2010, the Competent authority is pleased to regularize the services of the following Water Management Officers (BS-17) appointed on contract basis in the project "National Program for Improvement of Watercourses in Pakistan (Khyber Pakhtunkhwa Component) as provided under section-19 sub-section (2) of the NWFP Employees (Regularization of Services) Act, 2005 with effect from 24-11-2004:-

Sl. No.	Name of Officer
1.	Mr. Wajid Ali
2.	Mr. Atta-ul-Haq
3.	Mr. Farmanullah
4.	Mr. Mujeeb-ur-Rehman
5.	Mr. Wakeel Khan
6.	Mr. Muhammad Shahid Nawaz
7.	Mr. Abdullah Khan
8.	Mr. Aftab Ahmad Khan
9.	Mr. Shahid Mehmood
10.	Mr. Ghulam Bilal
11.	Mr. Qayyum Khan
12.	Mr. Rafiq Ahmad Ghuncha
13.	Mr. Said Muhammad
14.	Mr. Muhammad Nadeem
15.	Mr. Amir Rabbani
16.	Mr. Zahid Khaliq

2. Terms & Conditions of their regularization in service are as under:-

- i. Their services will be considered regular but without pensionary or Gratuity benefits in term of Section-19 of the NWFP Civil Servant Act, 1973 as amended vide NWFP Civil Servants (Amendment) Act, 2005. They will however be entitled to contribute to Contributory Provident Fund in such a manner and at such rates as prescribed by the Government.
- ii. Their services will be liable for termination on one month's notice from either side. In case of resignation without notice, two month's pay/allowances shall be refunded to Government.
- iii. They will be governed under such rules and regulations as may be issued from time to time by the Government.
- iv. In case of misconduct, they will be proceeded against the NWFP Removal from Service (Special Powers) Ordinance, 2000 and the Rules framed there under from time to time.
- v. Charge report should be submitted by the officers concerned.

ATTESTED

[Signature]

- 53
- vi. Their posting orders will be issued subsequently after approval of the competent authority.

SECRETARY AGRICULTURE.

21

Endst. of even No. & Date.

Copy forwarded for information and necessary action to:-

1. The Registrar, Hon' able Peshawar High Court, Peshawar.
2. The Director General, On-Farm Water Management, Khyber Pakhtunkhwa, Peshawar.
3. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
4. The Director General, (National Program) Water Management, Khyber Pakhtunkhwa, Peshawar.
5. The Manager, Government Printing Press, Peshawar.
6. All the District Officers / Deputy Directors, On-Farm Water Management, in Khyber Pakhtunkhwa.
7. All the District Accounts Officers, in Khyber Pakhtunkhwa.
8. Officers concerned.

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mm
(SAKHI-UR-REHMAN)
SECTION OFFICER-ESTT:

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**ON FARM WATER MANAGEMENT DEPARTMENT
DISTRICT PESHAWAR**

19-Jamrud Road, ATI Campus Peshawar (Ph: 091-9224232)

No. 678 /DD/OFWM

Dated 06/01 /2017

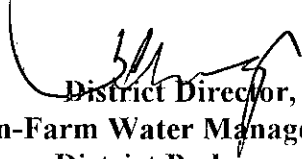
To

The Director General,
On-Farm Water Management,
Khyber Pakhtunkhwa, Peshawar.

**SUBJECT: THROUGH PROPER CHANNEL APPLICATION FOR PENSION
PURPOSE IN RESPECT OF MR.QAYYUM KHAN WMO FOR
CONDONATION OF INTERUPTION BETWEEN THE TWO
PERIODS OF QUALIFYING SERVICES.**

Memo: -

Enclose please find herewith the original application of Mr. Qayyum Khan, Water Management Officer along with the Annexure I-V for onward submission to the concerned quarters.


District Director,
On-Farm Water Management,
District Peshawar.

CC

Mr. Qayyum Khan, Water Management Officer of this office for information.

ATTESTED



To

23

The Secretary,
Agriculture Livestock and Coop: Deptt;
Government of Khyber Pakhtunkhwa,
Peshawar.

THROUGH: PROPER CHANNEL.

SUBJECT: CONDONATION OF INTERRUPTION BETWEEN THE TWO PERIODS OF QUALIFYING SERVICES FOR PENSION PROPOSES UNDER THE RULE 2.12 (1) AND RULE 2.3 OF THE WEST PAKISTAN CIVIL SERVICES PENSION RULES.

Respected Sir,

With due respect, I want to bring it to your kind notice the following facts.

- i) Initially I was appointed as Water Management Officer (BS-17) in On-Farm Water Management Agriculture Department on contract basis, vide Notification No. SOE (AD) II (2)70/Mtg/KC dated 20-12-1993. (Notification attached as Annex-I)
- ii) I served the Department in the same position as Water Management Officer upto 30-06-2001. Thus my 1st service spell of qualifying temporary service is of 7 years and 6 months. (Relevant Notification and documents attached as Annex-II)
- iii) My services were terminated without any reason.
- iv) After a break of 3 years and 4 months, I was reappointed as Water Management Officer BS-17 in On-Farm Water Management Agriculture Department vide Notification No. SOE (AD) II (2)70/2004, dated 24-11-2004. (Notification attached as Annex-III)
- v) My services were regularized as Water Management Officer through Notification No. SOE (AD) 17-131/2009 dated 07-06-2011, with effect from 24-11-2004. (Notification attached as Annex-IV)
- vi) At present I am serving the Department as Water Management Officer (BS-17) in office of the District Director, On-Farm Water Management, District Peshawar and now my 2nd spell of regular qualifying service period is over 12 years.

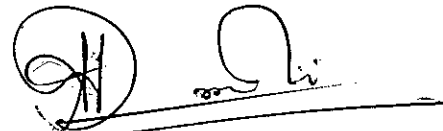
Therefore it is requested that my 1st service spell of 7 years and 6 months may be treated as qualifying service for pension and the same may be counted with the 2nd spell of qualifying service of more than 12 years and thus the condonation of interruption between the two spells of temporary / officiating service may be regulated under Rule 2.12(1) and Rule 2.3 of the west Pakistan Civil services of pension Rules (the Government instructions and illustrations are attached for ready reference as Annex-V)

Thanks.

ATTESTED

*

Dated: 06/01 /2017.



(QAYYUM KHAN),
Water Management Officer,
O/O District Director,
On-Farm Water Management,
District Peshawar.



56

9 (24)

**DIRECTORATE GENERAL
ON FARM WATER MANAGEMENT
KHYBER PAKHTUNKHWA PESHAWAR**



No. 673 /DG/Estt/OFWM dated Peshawar the, 22/2/2017
To,

The Section Officer (Estt:)
Govt. of Khyber Pakhtunkhwa
Agriculture, Livestock & Coop: Deptt:
Peshawar

Subject:- APPLICATION FOR PENSION PURPOSE IN RESPECT OF MR. QAYYUM KHAN
WMO FOR CONDONATION OF INTERRUPTION BETWEEN THE TWO PERIODS
OF SERVICE

Memo,

Reference your letter No. SOE(AD)/17-131/2016/WM dated 10-02-2017 on
the subject cited above.

In this regard it is stated that prior to appointment in "National Program for Improvement/Lining of Watercourses Project Khyber Pakhtunkhwa Component" Mr. Qayyum Khan was previously appointed as Water Management Officers on contract basis for a period of one year vide Government of Khyber Pakhtunkhwa, Agriculture, Livestock & Cooperative Department Peshawar notification dated 20-12-1993 and was posted in o/o the Deputy Director ATL-I Peshawar (Annex-A).

His contract service was extended from time to time till 30-06-2001 vide Government of Khyber Pakhtunkhwa, Agriculture, Livestock & Cooperative Department Peshawar notification dated 20-03-2000 and further extension beyond 30-06-2001 was not granted due to completion of Swabi Scarp Project Mardan (Relevant documents of the above mentioned period attached as Annex-B).

In 2004 Mr. Qayyum Khan was appointed as Water Management Officer in the project titled "National Program for Improvement/Lining of Watercourses (Khyber Pakhtunkhwa Component)" vide Notification dated 24-11-2004 on contract basis for a period of one year extendable for further period on satisfactory performance (Annex-C).

Mr. Qayyum Khan while serving in NPIWCs project filed writ petition for regularization of his services which was decided in favour of the applicant. In compliance to the decision of Hon'ble Supreme Court of Pakistan his services was regularized vide notification dated 07-06-2011 (Annex-D).

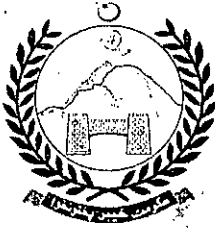
At present Mr. Qayyum Khan is serving as Water Management Officer (BS-17) in o/o District Director On Farm Water Management Peshawar and submitted the subjected application (Copy attached (Annex-E).

The above noted factual position is submitted for favour of perusal and with the request that the case may be sent to Law, Finance & Establishment Department for advice please.

ATTESTED

[Signature]

[Signature]
Director General
On Farm Water Management
Khyber Pakhtunkhwa, Peshawar



57
H = 25
GOVERNMENT OF KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK & COOPERATIVE
DEPARTMENT

NO. SOE(AD)/17-131/WM/2016
Dated Peshawar, the March 10, 2017

To

The Secretary to Government of Khyber Pakhtunkhwa,
Establishment Department.

Subject: APPLICATION FOR PENSION PURPOSE IN RESPECT OF MR. QAYYUM KHAN WATER MANAGEMENT OFFICER FOR CONDONATION OF INTERRUPTION BETWEEN THE TWO PERIODS OF SERVICE.

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith copy of Director General, On Farm Water Management, Khyber Pakhtunkhwa Peshawar letter No.221 dated 19/01/2017 and No.673 dated 22/02/2017 and copy of application filed by Mr. Qayum Khan Water Management Officer for condonation of Interruption between the two periods of service with the submission that the officer was appointed as Water Management Officer (BS-17 in OFWM; on contract basis dated 20.12.1993 (Annex-I). He served upto 30.06.2001 for seven year and six month (Annex-II). He was terminated due to closure of project. After three year he was reappointed as WMO in Water Management Department on 24.11.2004 (Annex-III). The services of the officer were regularized as WMO vide dated 07.6.2011 w.e.f 24.11.2004 (Annex-IV) and still he is working as WMO (BS-17) in O/o District Director OFWM, Peshawar and now his 2nd spell of regular qualifying service period is over 12 years.

The officer therefore requested that his 1st service spell of 7 year and 6 months may be treated a qualifying service for pension and the same may be counted with the 2nd spell of qualifying service of more than 12 years and thus the condonation of interruption between the two spells of temporary/officiating serviced may be regulated under Rule 2.12(1) and Rule 2.3 of the West Pakistan Civil Services of Pension Rules (Annex-V).

It is further to inform that as per report of DG OFWM, the officer prior to appointment in "National Program for Improvement/Lining of Watercourses Project Khyber Pakhtunkhwa component" was appointed as WMO on contract basis for a period of one year on 20.12.1993 and was posted in O/o Deputy Director Area Team Leader-I, Peshawar (Annex-VI).

His contract service was extended from time to time till 30.06.2001 vide dated 20.3.2000 and further extension beyond 30.6.2001 was not granted due to completion of Swabi Scarp Project Mardan (Annex-VII).

ATTESTED


In 2004, the officer was appointed as WMO in project titled National Program for Improvement/Lining of Watercourses vide dated 24.11.2004 on contract basis for a period of one year extendable for further period on satisfactory performance (Annex-VIII)

Mr.Qayyum Khan while serving in NPIWCs project filed writ petition for regularization of his services which was decided in favour of the applicant. In compliance to the decision his services were regularized dated 7.6.2011 (Annex-IX)

I am therefore directed to request for soliciting the advice of the Establishment Department that whether the project contract service for seven years six followed by broken period of 03 years can be treated as qualifying service for pension/gratuity please.

Encl: As above


Yours faithfully,


(SADAQAT ULLAH)
SECTION OFFICER-ESTT:

Endst. of even No. & Date.

Copy for information to:

1. DG OFWM, Khyber Pakhtunkhwa Peshawar
3. P.S to Secretary Agriculture department.


SECTION OFFICER-ESTT:

VAKALAT NAMA

NO. _____/2017

IN THE COURT OF Service Tribunal PeshawarSCANNED
PESHAWARQayyum Khan(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Agriculture Dep't(Respondent)
(Defendant)I/We, Qayyum Khan

Do hereby appoint and constitute **M. Asif Yousafzai, Advocate Supreme Court Peshawar**, 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 _____/20

Qayyum Khan
(CLIENT)

ACCEPTED

M. Asif Yousafzai

M. ASIF YOUSAFZAI
Advocate Supreme Court
Peshawar.

Taimur Ali Khan

Taimur Ali Khan
Advocate High Court

Syed Nauman Ali Bukhari
Advocate

OFFICE:

Room # FR-8, 4th Floor,
Bilour Plaza, Peshawar,
Cantt: Peshawar
Cell: (0333-9103240)

IN THE PESHAWAR HIGH COURT,
PESHAWAR,
[Judicial Department].

SCANNED
KPST
Peshawar

Writ Petition No.2246-P/2016

Date of hearing:- 22.06.2017

Petitioner(s):- Rizwanullah by Mr. Khalid Rehman, Advocate.

Respondent (s):- By Syed Qaisar Ali Shah AAG.

JUDGMENT

ROOH-UL-AMIN KHAN, J:- Through this common judgment, we, propose to decide the following writ petitions as identical questions of law and facts are involved therein:-

Writ Petition No.2246-P/2016

Rizwan Ullah Vs Govt

Writ Petition No.290/2016

Haq Nawaz Vs Govt

Writ Petition No.3061-P/2015

Mehrab Gul Vs Govt

Writ Petition No.1084-P/2017

Saadullah Khan Vs Govt

Writ Petition No.1281-P/2016

Naimatullah Vs Govt.

Writ Petition No.1626-P/2015

Shafiq ur Rehman Vs Govt

Writ Petition No.1861-P/2016

Siyal Khan Vs Govt

Writ Petition No.2177-P/2016

Hamidullah Khan Vs Govt

Writ Petition No.3373-P/2016

Anderaf Gul Vs Govt.

Writ Petition No.286-P/2016

Basir Azam Vs Govt

Writ Petition No.2868-P/2016

Gulistan Khan Vs Govt

Writ Petition No.3226-P/2016

Ashiq Ali Vs Govt

Writ Petition No.4623-P/2016

Said Mali Khan Vs Govt

Writ Petition No.4924-P/2016

Malik Wali ur Rehman Vs Govt

Writ Petition No.457-P/2016

Liaq Shah Vs Govt

Rooh-ul-Amin

with exclusive jurisdiction in such like matter. It has persistently been held by this Court as well as by the august Supreme Court of Pakistan that a civil servant, if aggrieved by a final order, whether original or appellate, passed by the departmental authority with regard of his/her terms and conditions of service, the only remedy available to him/her would be filing of appeal before the Service Tribunal even if the case involves vices of particular Rule or notification.

7. So far as the argument of learned counsel for petitioner with regard to discriminatory treatment and violation of Article 25 of the Constitution is concerned, we deem it necessary to clarify that a civil servant cannot bypass the jurisdiction of Service Tribunal by taking shelter under Article 25 of the Constitution in such like matter. The Service Tribunal shall have the exclusive jurisdiction in a case which is founded on the terms and conditions of service, even if it involves the question of violation of fundamental rights because the Service Tribunals constituted under Article 212 of the Constitution are the outcome of the constitutional provisions and vested with the powers to deal with the grievances of civil servants arising out from original or appellate order of the department.

8. As regards the admission of learned counsel for petitioners to treat the instant writ petitions and send the same to the concerned authority for consideration/decision, the same has weight. In this regard we are fortified by the

Handwritten signature/initials

judgment of the august apex Court in case titled, "I.A. Sherwani and others v Government of Pakistan through Secretary, Finance Division, Islamabad and others (1991 SCMR 1041).

9. In view of the above, it is held that all these writ petitions are not maintainable, however, in the interest of justice, we instead of dismissing the same, transmit to the concerned Secretaries to the Government of Khyber Pakhtunkhwa to treat them as departmental appeals and decide strictly in accordance with Civil Servants Pension Rules, 1963.

10. Before parting with the judgment, we, deem it appropriate to mention here that the concerned Secretaries while deciding the departmental appeals, may take guidance from the judgment of this Court rendered in Writ Petition No.3394-P/2016, titled, "Amir Zeb Vs District Account Officer Nowshera etc" dated 22.06.2017, wherein guideline has been provided for eligibility of a civil servant for the pension who had served on adhoc/contract and fixed pay basis.

Announced:
22.06.2017
Sraaj Afzal P.S.

Roohi Sana
JUDGE

[Signature]
JUDGE

[Signature]
JUDGE

605

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

SB

No.

Appeal No. 424 of 2017

MR. QAYUM KHAN Appellant/Petitioner

Versus

Through Chief Secretary Respondent

Respondent No. 3

Notice to: The Secretary Agriculture Live Stock and Cooperative Department Civil Secretariat Pesh

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 22.11.2017 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this 18

Day of Oct 20 17

Secy Agri

Sullay
2-11-17

Registrar,
Khyber Pakhtunkhwa Service Tribunal
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

SB

No.

Appeal No. 424 of 2017
MR. Qayyum Khan Appellant/Petitioner

Through Chief Sec Civil Sec Respondent

Respondent No. 1

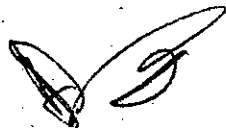
Notice to: The Government of Kpk Through Chief Secy Civil Secretariat Pesh

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 22-11-2017 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this 18.11 Day of Oct 2017.


Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

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"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No.

424

SB

Appeal No. of 2017
MR. QAYYUM KHAN
.....Appellant/Petitioner

Through Chief Sec Civil Sect
.....Respondent

The Chief Secretary Civil Sect Pesh.
Respondent No. 1 Sect Pesh.


Notice to: —

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated..... 18

Given under my hand and the seal of this Court, at Peshawar this.....
Day of.....20 .

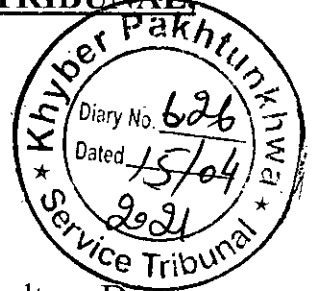

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

23/6/17

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

R.A. No 99/2024
APPEAL NO. 424/2017



Muhammad Qayum

V/S

Agriculture Deptt:

**SCANNED
KPST
Peshawar**

**APPLICATION FOR RESTORATION OF APPEAL NO.
424/2017 WHICH WAS DISMISSED ON DEFAULT VIDE
ORDER DATED 30.03.2021.**

RESPECTFULLY SHEWETH:

1. That the instant appeal No. 424/2017 was filed before this Honorable Tribunal against the order.
2. That the instant appeal was in Argument stage at principle Bench Peshawar, on date 12.02.2019. counsel was engaged in Supreme Court and appellatant himself was seriously ill. The appeal was dismissed on default on 30.03.2021.
3. That it is in the interest of justice that the appeal should be dealt on merit rather to dismiss on default.

It is therefore, most humbly prayed, that the instant appeal No. 424/2017 may be restore on the acceptance of this application.

APPELLANT

Muhammad Qayum

Through:

M. ASIF YOUSAFZAI
Advocate, Supreme Court

AFFIDAVIT

It is affirmed and declared that the contents of application are true and correct to the best of my knowledge and belief.

DEPONENT



BEFORE THE KPK SERVICE TRIBUNAL PESHAWARAPPEAL NO. 424 /2017

Mr. Qayyum Khan, Water Management Officer,
District On-Farm Water Management,
District Peshawar.

Khyber Pakhtunkhwa
Service TribunalDiary No. 451Dated 03/05/2017

(Appellant)

VERSUS

1. The Government of KPK through Chief Secretary, Civil Secretariat Peshawar.
2. The Chief Secretary Civil Secretariat, Peshawar
3. The Secretary Agriculture Livestock and Cooperative Department Civil Secretariat, Peshawar.
4. The Director General Form of Water Management Government of KPK, Peshawar.
5. The Secretary Finance, KPK, Peshawar.
6. The Secretary Establishment, KPK, Peshawar.

(Respondents)

Filed to-day

Registrar

3/5/17

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNALS, 1974 ACT FOR DIRECTING THE RESPONDENTS TO CONSIDER THE RESPONDENTS TO CONDONE THE INTERRUPTION BETWEEN THE TWO PERIODS OF QUALIFYING SERVICES FOR PENSION PURPOSE UNDER RULES 2.12 (1) AND RULES 2.3 CIVIL SERVICES PENSION RULES. AND AGAINST NOT TAKING ANY ACTION ON DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF (90) DAYS

Certified to be true copy

[Signature]
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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Appeal No. 424/2017
Qayyum Khan vs Govt



30.03.2021

Nemo for appellant.


Kabir Ullah Khattak learned Additional Advocate General for respondents present.


SCANNED
KPST
Peshawar

Case was called time and again but neither appellant nor his counsel turned up.

In view of above, instant appeal is hereby dismissed in default for non-prosecution. No order as to costs. File be consigned to the record room.

Announced.
30.03.2021


(Atiq ur Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

Date of Presentation of Application 15/04/21

Number of Words 800

Copying Fee 10.00

Urgent 4.00


Total 14.00

Name of Copyist _____

Date of Completion of Copy 15/04/21

Date of Delivery of Copy 15/04/21

Certified to be true copy


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

Appeal No. 424/2017

Mr. Qayyum Khan
Water Management Officer

APPELLANT

SCANNED
KPST
Peshawar**VERSUS**

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar.
2. The Chief Secretary Civil Secretariat, Peshawar.
3. The Secretary Government of Khyber Pakhtunkhwa, Agriculture, Livestock and Cooperative Department Civil Secretariat, Peshawar.
4. The Director General, On Farm Water Management Khyber Pakhtunkhwa, Peshawar.
5. The Secretary Finance Khyber Pakhtunkhwa, Peshawar.
6. The Secretary Establishment Khyber Pakhtunkhwa, Peshawar

RESPONDENTS

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5	Extension order dated 12.07.1995	C	8
6	Extension order dated 18.03.1997	D	9
7	Extension order dated 16.07.1997	E	10
8	Extension order dated 07.10.1998	F	11
9	Extension order dated 02.06.1999	G	12
10	Extension order dated 20.03.2000	H	13
11	Appointment notification dated 24.11.2004	I	14-17
12	Order of Supreme Court of Pakistan dated 01.05.2011	J	18-22
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Deponent

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

In the matter of Service Appeal No. 424/2017 of Mr. Qayyum Khan Water Management Officer o/o District Director On Farm Water Management District Peshawar.....**Appellant**

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar.
2. The Chief Secretary Civil Secretariat, Peshawar
3. The Secretary Government of Khyber Pakhtunkhwa, Agriculture, Livestock and Cooperative Department Civil Secretariat, Peshawar.
4. The Director General, On Farm Water Management Khyber Pakhtunkhwa, Peshawar.
5. The Secretary Finance Khyber Pakhtunkhwa, Peshawar.
6. The Secretary Establishment Khyber Pakhtunkhwa, Peshawar.....**Respondents**

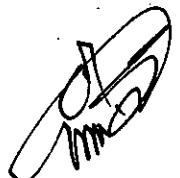
PARA WISE COMMENTS ON BEHALF OF RESPONDENTS

Respectfully Shewith:

Preliminary Objections

1. That the appeal is badly time bared in the eyes of Law.
2. That the appellant has got no locus standi or cause of action against the replying respondents.
3. That the appeal is premature.
4. That no discrimination/injustice have been done to the appellant.
5. That due to concealment of material fact and misstatement, the appeal is liable to be dismissed.

COMMENTS

- 
1. Correct to the extent that the appellant Mr. Qayyum Khan along with others were appointed as Water Management Officers on contract basis in different developmental projects like OFWM Phase-III, (World Bank Assisted), SIAP Mardan, CRBC Stage-III, D.I.Khan and OECF Japan on contract basis for a period of one year vide Govt. of Khyber Pakhtunkhwa, Agriculture, Livestock & Coop: Department Peshawar notification No. SOE(AD)II(2)70/MTG/K.C. dated 20-12-1993 (**Annex-A**). The contractual project service of the appellant was extendable on need basis subject to satisfactory performance. His contract was extended from time to time i.e. vide notifications dated 11-01-1995, 12-07-1995, 18-03-1997, 16-07-1997, 07-10-1998, 02-06-1999 and lastly extended vide notification dated 20-03-2000 till 30-06-2001 and further extension beyond 30-06-2001 was not granted due to completion of Swabi Scarp Project Mardan (**Annex-B,C,D,E,F,G & H**).

2. In the year 2004, the Agriculture Department advertised certain posts of Water Management Officers (BS-17) for recruitment against the project posts in Project titled "National Program for Improvement/Lining of Water Courses (Khyber Pakhtunkhwa Component)" and on recommendation of Departmental Selection Committee the appellant along with others was appointed as Water Management Officer (BS-17) vide Govt. of Khyber Pakhtunkhwa, Agriculture, Livestock & Coop: Department notification dated 24-11-2004 (**Annex-I**) as fresh candidate as per terms and conditions specified for recruitments against the project posts for a period one year extendable on need basis subject to satisfactory performance.
3. Incorrect, in the 1st spell of service the appellant was appointed on 20-12-1993 on contract basis as explained in Para-1 above against the project post for a period of one year and his contract was extended from time to time and last extension was granted up to 30-06-2001 i.e. completion date of Swabi Scarp Project Mardan.

It is further submitted that the appellant Mr. Qayyum Khan in 2nd spell of service i.e. from 24-11-2004 while serving in the project titled "National Program for Improvement/Lining of Watercourses (Khyber Pakhtunkhwa Component) filed writ petition for regularization of his service which was decided in favour of the appellant and in compliance to the decision dated 01-03-2011 of the august Supreme Court of Pakistan (**Annex-J**) the service of the appellant was regularized vide notification dated 07-06-2011 (**Annex-K**).

4. Correct to the extent that the appellant filed representation on 06-01-2017 which was sent to the Administrative Department along with comments / views of Director General Office vide letter dated 22-02-2017 (**Annex-L**). The Administrative Department further submitted his case to Govt. of Khyber Pakhtunkhwa Finance Department for consideration of the competent authority.

The Finance Department considered his case in the meeting held on 08-08-2017 under the Chairmanship of Additional Secretary (Regulation) Finance Department wherein his case was considered and reject^{ed} the same that the request of the officer for regularization of contract period of service is not covered under the relevant Civil Servant Pension Rules and Government instructions (copy of letter dated 04-10-2017 & minutes of the meeting dated 08-08-2017 attached **Annex-M&N**).

5. Incorrect, the competent authority has considered all the aspects of the case in light of the relevant rules and government instruction on the subject matter and the same was communicated to the appellant well in time.

GROUND

A. Incorrect, the competent authority considered the appeal of the appellant and reject^{ed} the same as explained in para-4 above. Therefore, the plea of the appellant is not based on facts and out of place as the appellant has been treated in accordance with law, rules & policy on the subject matter and material on record.


B. Incorrect, the appellant was project employee, therefore, his claim for grant of condonation of interruption between two spell of service is not covered under the relevant Rules and Government Instruction on the subject matter as these rules is only for Civil Servants not for project contract employees.


C. Incorrect, being project employee the appellant is not entitled for his claim and not deprived in any way.


D. Incorrect, the plea of the appellant that if his legal right was not granted to the appellant then he will suffer a lot is not based on facts, out of place and material on record.

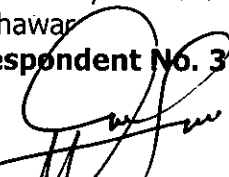
E. Incorrect, the appellant was treated according to law, rules & not deprived in any way.


Therefore, it is prayed that keeping in view the above noted facts the appeal of the appellant may kindly be dismissed.


Chief Secretary
Govt. of Khyber Pakhtunkhwa
(Respondent No. 2)


Secretary
Govt. of Khyber Pakhtunkhwa
Agriculture, Livestock & Coop: Deptt:
Peshawar
(Respondent No. 3)


Director General
On Farm Water Management
Khyber Pakhtunkhwa
(Respondent No.04)


Secretary
Govt. of Khyber Pakhtunkhwa
Finance Department
(Respondent No. 5)


Secretary
Govt. of Khyber Pakhtunkhwa
Establishment Department, Peshawar
(Respondent No. 6)

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BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

Appeal No. 424/2017

Mr. Qayyum Khan
Water Management Officer

APPELLANT


VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar.
2. The Chief Secretary Civil Secretariat, Peshawar.
3. The Secretary Government of Khyber Pakhtunkhwa, Agriculture, Livestock and Cooperative Department Civil Secretariat, Peshawar.
4. The Director General, On Farm Water Management Khyber Pakhtunkhwa, Peshawar.
5. The Secretary Finance Khyber Pakhtunkhwa, Peshawar.
6. The Secretary Establishment Khyber Pakhtunkhwa, Peshawar

RESPONDENTS

AFFIDAVIT

I Shamshad Hussain **Director General On Farm Water Management Khyber Pakhtunkhwa, Peshawar** do hereby solemnly declare and affirm that the respondents have not suppressed the facts and actual position of the case from this Tribunal. The comments of affidavit and reply both are true and correct according to my knowledge, belief and nothing has been concealed from this Tribunal.


Deponent

DATED PESH:THE _____/1993

NOTIFICATION

No.SOE(AD)II(2)70/Mtg/KC. Consequent upon the recommendation of the Departmental Selection Committee, the Governor NWFP is pleased to appoint the following candidates, in order of merit, as Water Management Officers (Agril. Engineers) in Basic Pay Scale No. 17(2870-215-5450) on contract basis for a period of one year from the date of their taking over the charge on the terms and conditions as laid down in the agreement duly executed by them:-

Sl. No.	Name and Father's Name	Postal/Permanent Address
1-	Mr. Naseer Ahmad S/O Shabir Ahmad.	Vill: Shagai Shagram P/O Madyan Tehsil Behrain Distt: Swat.
2-	Mr. Qayum Khan S/O Haji Awel Mir Shah	H.No. 81/L.C. in front of Railway Signal O/S Lakki Gate Bannu, City.
3-	Mian Ziauddin S/O Mian Karim Bakhsh	Village Damana P.O. Madyan, Swat.
4-	Mr. Mohammad Fahim Khattak S/O Mohammad Azim Khattak	C/O Azim X/Ray & Clinic Near Civil Hospital Dera Ismail Khan.
5-	Mr. Hidayat Ali S/O Haji Shamroz Khan.	House No. 1070/3/Near Jamia Masjid Nowshera Cantt.
6-	Mr. Abdullah Khan S/O Ghulam Mohammad	P.O. Lund Khwar C/O Misan Cloth House Lund Khwar Mardan.
7-	Mr. Javed Iqbal S/O Taj Mohammad.	Village & P.O. Ghalagay Distt: Swat.
8-	Mr. Rafiq Ahmad S/O Ghulam Sarwar.	C/O Deluxe Watch Co. Rahim Bazar D.I. Khan.
9-	Mr. Mohammad Yousaf S/O Mada Khan.	P.O. Tehsil Mirali North Waziristan. Agency Gul Rayet Khan Electric Store.
10-	Mr. Jamsheed Iqbal S/O Malik Ghazi Khan.	House No. 86-Defence Officer Housing Society Defence, Pesh: Cantt.

2- This appointment will not confer on them any right of claiming seniority or regularization in service.

3- On their appointment, they are posted against the posts mentioned against each with immediate effect in the interest of public service:-

Sl. No.	Name of Officer	Place of posting
1-	Mr. Mohammad Yousaf	Water Management Officer in the office of Asstt. Director, Water Management, Chitral.
2-	Mr. Mohammad Fahim Khattak	Water Management Officer in the office of Asstt. Director, Water Management, Natta Swat.

Contd...P/2-

- 3- Mian Zia-ud-Din Water Management Officer, Office of the Project Director, Training Centre, DIKhan.
- 4- Mr. Hidayat Ali Water Management Officer, Office of the Project Director, CRBC Stage-II, DIKhan.
- 5- Mr. Rafiq Ahmad Water Management Officer, Office of Asstt. Director, Water Management, Alpuri, Swat.
- 6- Mr. Naseer Ahmad. Water Management Officer, Office of Project Director, CFWM CRBC Stage-II, DIKhan.
- 7- Mr. Jamshid Iqbal Water Management Officer, Office of Asstt. Director, Water Management, Swat.
- 8- Mr. Abdullah Khan Water Management Officer, Office of Asstt. Director, Water Management, Mansehra.
- 9- Mr. Qayum Khan Water Management Officer, Office of ~~Asstt.~~ Dy. Director, Water Management, ATL-I, Peshawar.
- 10- Mr. Javaid Iqbal Water Management Officer, Office of Project Director, OFWM Stage-II, DIKhan.

35066-86

SECRETARY AGRICULTURE

Dist. No. SCE(AD)II(2)70/Mtg/KC/

Dated Pesh, the 20/12/1993

Copy forwarded for information and n/action to the:-

- 1- PS to Minister for Agriculture, NWFP.
- 2- Secretary to Govt. of NWFP, Services & General Adm. Deptt.
- 3- Director, Water Management, NWFP, Peshawar.
- 4- District Accounts Officer, Chitral. (5) DAO Swat.
- 6- DAO, DIKhan. (7) DAO Mansehra. (8) Accountant General, NWFP, Pesh.
- 9- Project Director, Training Centre, DIKhan.
- 10- Project Director, CREC, Stage-II, DIKhan.
- 11- Asstt. Director, Water Management, Chitral, Motta Swat, Alpuri, Swat
- 14- Asstt. Directors, Water Management, Swat, Mansehra.
- 16- Dy. Director, Water Management (ATL-I) Peshawar.
- 17- Officers concerned. They should report for duty at their place of postings under intimation to the Director, Water Management and this Department.
- 18- The Manager, Government Printing Press, NWFP, Peshawar for publication in the next Government Gazette.
- 19- Office order file. (20) Personal files of the new recruited officers
- 21- File No. SCE(AD)3(3)5.

17/12/93

(NISAR ALI SKAR) SECTION OFFICER (ESTABLISHMENT)

20/12/93

Misal 20-12-93

Al-o
Pl, compare with the proposal of this office -
21/12/93

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111
GOVERNMENT OF N.M.F.P.,
FOOD, AGRICULTURE, LIVESTOCK AND
COOPERATION DEPARTMENT.

DATED PESHAWAR, THE 11.1.1995.

NOTIFICATION.

NO. SOE(AD)II(2)70/Mtg./K.C. In continuation of this Department Notification of even No. 35066-86, dated 20.12.1993, the Governor NWFP is pleased to extend the contract period of appointment upto 31.5.1995 in respect of the following Water Management Officers (Agricultural Engineers) (BS-17) on the existing terms & conditions:-

S.No.	Name of the Officer.
1.	Mr. Naseer Ahmad.
2.	Mr. Sayyid Khan. ✓
3.	Mr. Mian Zia-ud-Din.
4.	Mr. Hidayat Ali ✓
5.	Mr. Abdalrah Khan.
6.	Mr. Javed Iqbal.
7.	Mr. Mohammad Fahim Khattak.
8.	Mr. Rafiq Ahmad.
9.	Mr. Mohammad Yousaf.
10.	Mr. Jamshed Iqbal. ✓

SECRETARY TO GOVT. OF NWFP
AGRICULTURE DEPARTMENT.

- Endst: No. SOE(AD)II(2)70/Mtg./K.C. Dated 11.1.1995.
Copy forwarded for information & necessary action to the:
1. P.S. to Minister for Agriculture, NWFP, Peshawar.
 2. P.S. to Chief Secretary, NWFP, Peshawar.
 3. Director Water Management, NWFP, Peshawar No. 10474, dated 13.12.1994.
 4. Accountant General, NWFP, Peshawar.
 5. All District Accounts Officers/Agency Accounts Officers in NWFP.
 6. Officers concerned C/O Director Water Management, Peshawar.
 7. Manager Govt. Printing Press, Peshawar for publication in the next issue of Govt. Gazette.
 8. P.S. to Secretary Food, Agriculture, Livestock and Coop. Deptt: Peshawar.
 9. Personal Files of the Officers.
 10. Office Order File.

SECTION OFFICER (ESTT.)
AGRICULTURE DEPARTMENT.

21-12-94 — 31-5-95

5 months

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DWM
ANGEX-D
107
GOVERNMENT OF N.W.F.P.
FOOD, AGRICULTURE, LIVESTOCK AND
COOPERATION DEPARTMENT.

DATED PESHAWAR, THE 12.7.1995.

40
NOTIFICATION.

NO. SOE(AD)II(2)/MTG/70. In continuation of this Department's Notifications of even No. dated 19.7.1994 and 11.1.1995, the Governor NWFP is pleased to extend the contract period of appointment upto 31.5.1996 or till the availability of selectees of the NWFP Public Service Commission, whichever is earlier, in respect of the following Water Management Officers/(Agricultural Engineers) (BS-17) on the existing terms & conditions:-

1. Mr. Naseer Ahmad.
2. Mr. Jayyum Khan.
3. Mian Ziauddin.
4. Mr. Hidayat Ali.
5. Mr. Abdullah Khan.
6. Mr. Javed Iqbal.
7. Mr. Rafiq Ahmad.
8. Mr. Mohammad Yousaf.
9. Mr. Jamshed Iqbal.
10. Mr. Mohammad Fahim Khattak.
11. Mr. Amjad Saeed.
12. Mr. Ahmad Shah.
13. Mr. Habibur Rehman.
14. Mr. Nadeem Amir.
15. Mr. Shahid Mehmood.
16. Mr. Amir Rabbani.
17. Mr. Amir Mohammad.
18. Mr. Sultan-e-Room.
19. Mr. Shaukat Masood.
20. Mr. Hafiz Gul Naeem.

SECRETARY TO GOVT: OF NWFP
AGRICULTURE DEPARTMENT.

ENDST: NO. SOE(AD)II(2)/MTG/70. Dated 12.7.1995.

Copy forwarded for Information & action to the:-

1. P.S. to Minister for Agriculture, NWFP.
2. P.S. to Chief Secretary, NWFP.
3. Director Water Management, NWFP, Peshawar w/r to his letter No. 3700/3/13/Estt:/DWM, dated 21.5.1995.
4. Accountant General, NWFP, Peshawar.
5. All Distt: Accounts Officers/Agency Accounts Officers in NWFP.
6. Officers concerned C/O Director Water Management, NWFP, Peshawar.
7. Manager Govt: Printing Press, Peshawar.
8. P.F. of the Officers concerned.
9. P.S. to Secretary Agriculture.
10. Office Order File.

12/7/95
(NISAR ALI SHAH)
SECTION OFFICER (ESTT.)
AGRICULTURE DEPARTMENT.

A.O.
Silent immediate
proposals for pasturing in the
proposed projects in the
13/7/95
P.O.

(4)

NOTIFICATION

NO. HC (C) II (C) 70/MS/90. In partial modification of this department's notification of even no. dated 12/7/1995, the Governor N.W.F. is pleased to extend the contract period of appointment with effect from 1-5-1995 to 31.5.1997 or till the availability of releases of the N.W.F. Public Service Commission which ever is earlier, in respect of the following Water Management Officers (Agriculture Engineers) 3-17 on the existing contract conditions:-

- 1) Mr. Abdul Wahid
- 2) Mr. ...
- 3) Mr. Abdul Wahid
- 4) Mr. ...

NO. HC (C) II (C) 70/MS/90 dated 18/5/1997.

Copy forwarded for information and action to:-

- 1- The Director Water Resources, ... with reference to ... dated 20/4/1997.
- 2- The Director, ... Agriculture Development Component, ... project, ... to his letter no. ... dated 28/1/1997.
- 3- The Director, ... Officer, ...
- 4- Officers concerned, ... Project Director, ABC- ... Project ...
- 5- The General Government Printing Press, ...
- 6- Personnel ... Officer concerned.
- 7- For to ... Agriculture Department.
- 8- Office order file.

[Handwritten signature]
18/5/97

79

BETTER COPY

**GOVERNMENT OF NWFP
FOOD, AGRICULTURE LIVESTOCK & COOP:
DEPARTMENT**

Notification

No. SOE(ADII(2)/70/Mtg: in continuation of this Department notification of even No. dated 18-03-1997, the Government of NWFP is pleased to extend the contract period of appointment with effect from 01-06-1997 to 31-05-1998 or completion of the project which ever is earlier in respect of the following Water Management Officer (Agriculture Engineer) BS-17 on the existing terms and conditions.

- 1) Mr. Shahid Mehmood
- 2) Mr. Hidayet Ali
- 3) Mr. Abdullah Khan
- 4) Mr. Qayyum Khan
- 5) Mr. Said Muhammad

**SECRETARY TO GOVT. OF NWFP
FOOD, AGRICULTURE LIVESTOCK & COOP:
DEPARTMENT**

ENDST. NO. SOE(AD)11(2)70/Mtg/

Dated Pesh: the 16-07-1997.

Copy forwarded for information & n/action to:-

1. The Director Water Management NWFP Peshawar w/r to his letter No. 4062, dated 26-05-1997.
2. The Project Director ADC-SSP project Mardan.
3. The District Accounts Officer Mardan.
4. Officer concerned, o/o Project Director ADC-SSP Project Mardan.
5. The Manager Government of Printing Press, NWFP Pesh.
6. PS to Secretary Food and Agriculture Department.
7. Personal file of the officers.
8. Office order file.

Sd/---
(NISAR ALI SHAH)
SECTION OFFICER (ESTABLISHMENT)

GOVERNMENT OF NWFP
FOOD, AGRICULTURE, LIVESTOCK & COOP.

NO. 100/1997

In continuation of this Department notification of even No. 12/1/1997, the Government is pleased to extend the contract period of advertisement with effect from 1/6/1997 to 31/5/98 or completion of the project which ever is earlier, in respect of the following Water Management Officers (Agriculture Engineers) B-17 on the existing terms and conditions:-

- 1) Mr. Shahid Mahmood.
- 2) Mr. Hidayat Ali.
- 3) Mr. Abduallah Khan.
- 4) Mr. Jeyyum Khan.
- 5) Mr. M. A. Mohammad.

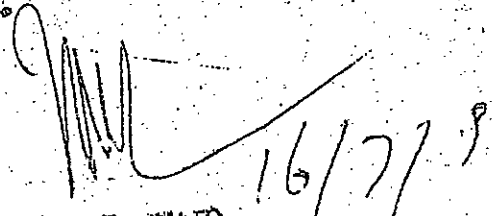
SECRETARY TO GOVT. OF NWFP
FOOD, AGRICULTURE, LIVESTOCK AND COOP.
DEPARTMENT

ENDST: NO. SCR (AD) II (2) 70/Mtg/

Dated Lash: the 16/7/1997.

Copy forwarded for information & action to:-

- 1- The Director Water Management, NWFP, Peshawar w/r to his letter No. 4052, dated 26/5/1997.
- 2- The Project Director ADC-DFP Project Warden.
- 3- The District Accounts Officer Warden.
- 4- Officer concerned, S/O Project Director, ADC-DFP Project Warden.
- 5- The Manager Government of Printing Press, NWFP, Pesh.
- 6- IS to Secretary Food and Agriculture Department.
- 7- Personal files of the officers.
- 8- Office order file.



(MUZAF ALI SHAH)
SECTION OFFICER (STAFF ADMIN)

16/7/97

98

30/7/98

1500/15

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GOVERNMENT OF NWFP
FOOD, AGRICULTURE, LIVESTOCK & COOP
DEPARTMENT

NOTIFICATION

No. SOE(AD) 11(2)70/Mtg./KC/98 In continuation of the deptt:
notification of even No. dated 16/7/97 the Governor NWFP is pleased
to extend the contract period of appointment with effect from 1-5-98
to 30.11.98 On completion of the Project, whichever is earlier in
respect of the following Water Management Officers (Agri. Engineers)
BS-17 on the existing terms and conditions -

- 1-Mr. Sayam Khan.
- 2-Mr. Abdullah Khan.
- 3-Mr. Tida Muhammad.
- 4-Mr. Hidayat Ali.

SECRETARY TO GOVT. OF NWFP
FOOD, AGRICULTURE, LIVESTOCK AND COOP DEPTT.

Endst. No. SOE(AD) 11(2)70/Mtg./KC/98 Dated Pesh. the 7/10/1998.

Copy forwarded for information & necessary action to -

- 1-The Director, Water Management, NWFP, Peshawar.
- 2-The Project Director, ADC-SSP, Project Mardan.
- 3-The Distt. Accounts Officer, Mardan.
- 4-Officers concerned, C/O Project Director, ADC-SSP, Project Mardan.
- 5-The Manager, Govt. Printing Press, Peshawar.
- 6-PS to Secretary, Food, Agri. Livestock and Coop. Deptt., Peshawar.
- 7-The Personal Files of the officers.
- 8-Office order files.

(MUHAMMAD ISRAFI)
SECTION OFFICER (GSET)

30-99

one year

GOVERNMENT OF NWFP
FOOD, AGRICULTURE, LIVESTOCK & COOP.
DEPARTMENT

NOTIFICATION

NO. 503(AD)II(2)70/Mtg/99/KC. The Competent Authority is pleased to extend the contract period of appointment with effect from 1/12/1998 to 30/11/1999 in respect of the following four (4) Water Management Officers (Agri:Engineers) BPS-17 on the existing terms and conditions:-

- 1- Mr. Qaryun Khan.
- 2- Mr. Abiullah Khan.
- 3- Mr. Fida Muhammad.
- 4- Mr. Misyat Ali.

SECRETARY TO GOVT. OF NWFP
FOOD, AGRICULTURE, LIVESTOCK AND COOP.
DEPARTMENT

UNDER: NO. 503(AD)II(2)70/Mtg/99/ Dated Feshawar the 02/8/1999

Copy forwarded for information & w/action to:-

- 1- The Director Water Management, NWFP, Feshawar.
- 2- The Project Coordinator, AIC-SSP, Mardan.
- 3- The Chief Planning Officer, Food & Agri: Deptt.
- 4- The District Accounts Officer, Mardan.
- 5-8 Officers Concerned O/O Project Coordinator, Agri:Dev:Component Swabi Scorp Project, Mardan.
- 9- The Manager Govt:Printing Press, NWFP, Feshawar.
- 10- PS to Secretary, Food & Agriculture Department.
- 11- Personal Files of the officers.
- 12- Office order file.

(MULAZIM IGHAR)
SECTION OFFICER (ESTABLISHMENT)

83

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(2)

GOVERNMENT OF NWFP,
AGRICULTURE, LIVESTOCK AND COOP.
DEPARTMENT

NOTIFICATION.

NO. SOE(AD)II(2)70/Mtg:/99/KC. The competent Authority is pleased to extend the contract period of appointment with effect from 1/12/99 to 30/6/2000 i.e. the Project life in respect of the following four (4) Water Management Officers (Agri. Engineers) BPS-17 on the existing terms and conditions:-

- 1) Mr. Qayyum Khan. ✓
- 2) Mr. Abdullah Khan. ✓
- 3) Mr. Fida Mohammad.
- 4) Mr. Hidayat Ali.

SECRETARY TO GOVT. OF NWFP,
AGRICULTURE DEPARTMENT.

Endst: No. SOE(AD)II(2)70/Mtg:/99/KC

Dated Pesh: the 20/3/2000.

✓ Copy forwarded for information and necessary action to:

- 1- The Director Water Management NWFP, Peshawar.
- 2- The Project Coordinator, ADC-SSP Mardan.
- 3- The Chief Planning Officer Agriculture Department NWFP, Peshawar.
- 4- The Distt: Accounts Officer Mardan.
- 5-8) The Officers concerned C/O Project Coordinator, ADC-SSP Mardan.
- 9) The Mager Govt: Printing Press Peshawar.
- 10) Person files of the Officers.
- 11) Office order File.


SECTION OFFICER (ESPT.)
AGRICULTURE DEPARTMENT

1-2-99 — 30-6-2001 1.5 years

To be copy
Lubana

Government of NWFP
Agriculture, Livestock and Cooperatives
Department.Peshawar dated the, 24th November, 2004.

Notification.

No. No. SOE(AD)11 (2) 70 / 2004. On the recommendation of the Departmental Selection Committee, Government of NWFP, Agriculture, Livestock & Cooperatives Department is pleased to appoint the following candidates against the newly created posts of Water Management Officers(Eng.) BPS-17 purely on contract basis in the project titled National Program for improvement/ lining of water courses in Pakistan (project for NWFP) for a period of one year, from the date of assuming the charge of the post, extendable to the remaining project period subject to their satisfactory performance.

1. Muqsit-un-Naseer S/o Irfan-ud-Din Village, Tehsil P.O Timergara Moh: Miragulan Distt: Dir Lower.
2. Jehan Zeb S/o Aslam Khan C/o Assistant Director Water Management Near Mall Lara Stop Jehangira Road Swabi.
3. Abdul Malik S/o Ghazi Khan C/o Dr. Abdul Wahab Village Amin Khel (Chockara) P.O Ghundi Kala Tehsil Tahti Nasrali Distt: Karak.
4. Mohammad Tufail S/o Nadar Khan Village Masti Khan Banda P/O Khojaki Killa Tehsil T/Nasrali Distt: Karak.
5. Nisar Ahmad S/o Sarfaraz Ahmad House No: C/445 near Government Primary School No. 5 street Khawrs Brothers Mohallah Katrain walla d.I: Khan.
6. Abdullah Khan S/o Ghulam Muhammad Village Janga C/o Usman Cloth House Lund Khawar P.O Lund Khawar Teh: Takht Bhai Distt: Mardan.
7. Aftab Ahmad Khan S/o Abdul Rashid Khan Distt: D.I: Khan. C/O Ina mullah Khan AD FIA, Peshawar, Air Port.
8. ✓ Mohammad Farooq Khan S/O Qader Khan Moh: Tauskhani village and P.O Lahore Distt: Swabi.
9. Waseemullah S/O Mohammad Saeed Village Kachkot Asad Khan P.O Torika Tehsil and District Bannu.
10. Shaheen Iqbal S/o Mir Khatam Village and P.O Haji Zai Tehsil and Distt: Charsadda.
11. Moeen Uddin S/O Mohammad Mukhtar of Dir Lower.
12. Hidayat Ali S/O Haji Shamroz Khan House No. 1070/3 new Mohalla near Jamia mosque Nowshera Cantt.
13. Tahir Khan S/O Zafarullah District Shangla.
14. ✗ Anwar Saeed S/O Mohibullah Khan, Distt: Karak Tehsil Teht-e-Nasrali Village Nadar Kila P.O Manzeeni Banda.
15. Qiaash Ahmad S/O Faqir Saib sector: E/91 Sheikh Malloon Town distt. Mardan
16. Shahid Mahmood S/O Muhammad Ishaq H.No. 389 Sector C Sheikh Malloon Town Mardan.
17. Ghulam Bilal S/O Karim Dad Khan P.O Parra, D.I: Khan.
18. → Qayyum Khan S/O Awal Mir Shah: House No. 51/LC in front of Railway Signal O/S Distt: Bannu.
19. Munir Ahmad S/O Saeed Ahmad: House No. 21/LC in front of Railway Signal O/S Distt: Bannu.

True Copy
for file

- 20. Saeed Shah S/o Jaffar Shah Distt: Mardan Teh Takht Bhai P.O Sattar Khan Colony Mahal Jamra Hashtnagro Kali.
- 21. Rafiq Ahmad Ghuncha S/o Ghulam Sarwar House No. 2528 Moh: Roshan Chiragh D.I. Khan.
- 22. Mohammed Shoaib S/o Muhammad Ramzan House No. T-145 Street Saddique Abad Near Mirchi Mandi Peshawar City.
- 23. Mirza Muhammad S/o Muhammad Inam Moh: Naway Cham Vill: & P.O Shahmansoor Tehsil and Distt: Swabi.
- 24. Jehan Zeb S/o Muqaid Jan Mugh Pali House New Bazar Chitral.
- 25. Said Muhammad S/o Mir Muhammad Village and P.O Umar Payan Moh: Ali Khel Distt. Peshawar.
- 26. Fazal Sattar S/O Nasir Ud Din Khan. Village Galkore P.O Osheri Teh: Dir Distt: Dir Upper.
- 27. Abdus Subhan S/O Abeer Razaq. C/O Dr. Aziz ur-Rehman Village and P.O Paniala Distt: D.I.Khan.
- 28. Muhammad Tahir S/O Noor Wahab r/o Lakand Agency.
- 29. Mr. Muhammad Nadeem S/O Muhammad Khan. Village Paniala Tehsil and District D.I.Khan.
- 30. Amir Rabbani S/o Rehrnatullah H.No. 448 Sarafa Bazar Abbotabad ✓
- 31. Muhammad Khalil Akbar S/o Abdur Rafiq Moh: Ismail Khel, Village Garhi Daulat Zai P.O Garhi Kapura Tehsil and Distt: Mardan.
- 32. Muhammad Uzair Khan S/o Mohabal Khan Moh: Danda Village and P.O Charbagh Distt: Swat.
- 33. Hidayatullah S/o Muhammad Iqbal House No. 372 Armour Colony Manki Road Nowshera Cantt.
- 34. Zulfiqar Ali S/O Akbar Ali Khan P.O Kachi Paind Khan Midad Khel House Hanif Town Waqas Colony Diyai Road D.I Khan.
- 35. Zahid Khaleeq S/o Khaleeq-uz- Zaman House No. 30/D, Muhammad Jan Street Banpu.
- 36. Bakht Jamair S/o Shad Muhammad Khan C/o Bilal Book Store Village and P.O Jowar Tehsil Daggar Distt: Buner.
- 37. Irfanullah S/o Muhammad Hanif Mohallir Saeed Khel Teh and Distt: L/Marwat.
- 38. Amjad Masood S/o Sheikh Ahmad Dab No. 1 Behind Ara Machine Shailia Road Mansehra.
- 39. Muhammad Rahmatullah Khan S/o Rohullah Khan Ismatullah LS-1-F-Block Flat No. 6 (C.A.E.B) Shami Road Wapda Colony Peshawar.
- 40. Kiliyat Zaman S/o Shahi Zaman Street H.A Hakeem Village and P.O Gujrat Teh and Distt: Mardan.
- 41. Aman Khan S/o Pekhawaray Khan Village and P.O Pir Baba Pacha Kalay Tehsil Daggar Distt: Buner.
- 42. Ihsan Ullah Khan S/O Said Khumar Khan Village and P.O Kot Beli Tehsil and Distt: Buner.

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- 43. Alta Ullah S/o Manaras Khan C/O Noor H/W New Madyan Road Mingora District Swat.
- 44. Muhammad Idress S/o Abdul Kabir Bacha Village and P.O Mian Brangola Tehsil Adenzai Distt: Dir.
- 45. Irfanullah S/o Faqir-Muhammad Khan(Late) Amjad Shaheed Colony Village and P.O Thana Malakand Agency.
- 46. Zailul Haq S/o Muhammad Zaman Village Burghando P.O and Tehsil Lal Cilla Distt: Dir Lower.
- 47. Amjad Ali S/o Muhammad Salim Moh: Irian Abad /Salim Abad P.O Balthela Malakand Agency.
- 48. Shahdad Khan S/o Abdur Rashid C/O Mian Mohammed -Iqbal H.No.172 Street -8 Sector J/3 Phase No.2 Hayatabad Peshawar.

2. Their appointment shall be governed by the following terms and conditions:

- a. Their appointment shall be on contract basis initially for a period of One year. The contract shall stand automatically terminated on the expiry of the initial period. Fresh contract would be executed if the services of any of the above named candidates were further required.
- b. The appointment shall be subject to the medical fitness report by the standing Medical Board and satisfactory completion of pre-service training.
- c. They shall undergo One month pre-service training in one of the training centers at OFWM training centre D.I.Khan/Agricultural Training Institute Peshawar/Agricultural University Peshawar / NWFP Engineering University Peshawar. During training, they shall be paid stipend as per approved PC-1.
- d. They shall be governed by such rules, regulations, orders, acts and ordinances etc relating to appointment, promotion, transfer, leave, T.A., Medical Attendance, seniority, efficiency & discipline and conduct as have been/may be prescribed by the Government for the category of Government servants of their status, from time to time and as interpreted by the Government.
- e. Their pay will be fixed in the Basic Pay Scale 17 i.e. Rs. 6210-465-15510 from the date of their taking over the charge of the post.
- f. Their services shall be liable to termination on the following conditions:
 - i. At any time without notice and without assigning any reasons during the period of their contract appointment if their work during this period was not found satisfactory.
 - ii. On One month notice by the Government on one side and by them on the other. In case the notice on either side is less than One month, a sum equivalent to the pay for the period by which the notice falls short of One month, will be paid by the Government to them or in lieu thereof One month pay shall be forfeited.
 - iii) By Government without previous notice if it is satisfied on material evidence that they are unfit and/or likely to remain unfit for a considerable period by reasons

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of ill health or physical disability to discharge their duties. The decision of the Government as to what constitutes considerable period shall be final.

- g. They shall not be entitled to Traveling Allowance/Daily Allowance on their first appointment/posting.
- h. They shall not contribute to G.P Fund and will not be entitled to pension, gratuity benefits.
- i. This does not constitute inter se seniority and the appointees shall not be entitled to seniority as against any other Government Servant.

3. If the above terms and conditions are acceptable to the above named selected candidates, they should convey their willingness individually and attend office of the Director OFWM for signing the Contract Agreement on or before 10.12.2004 positively, where after the candidates shall be assigned to one of the afore-mentioned training centers by the Directorate of OFWM. In case of non submission of acceptance/ signing of Contract Agreement, the offer will stand cancelled.

Sd/++++
(ZAIBULLAH KHAN)

SECRETARY AGRICULTURE

Endst: No. No. SOE(AD)11 (2) 70 / 2004.

Dated Peshawar the, 24th November, 2004

Copy of the above is forwarded to the:-

1. Accountant General, NWFP, Peshawar.
2. Director General Health Services, NWFP Peshawar. He is requested to kindly arrange for an early medical examination of the above named appointees through the Standing Medical Board and supply their medical examination certificates to this Department for record.
3. Director General, Federal Water management cell aimarkaz F-8 Islamabad.
4. Director, On Farm Water Management Department NWFP, Peshawar w/r to his memo No.11674 dated. 04-10-2004 with the request to furnish the posting proposal of the above appointees on successful completion of the training at the earliest.
5. All appointees as per list given in para-1 of the notification.
6. PS to Chief Secretary, NWFP.
7. PS to Minister for Agriculture, NWFP.
8. PS to Additional Chief Secretary P&D department.
9. PS to Secretary Agriculture.
10. PS to Special Secretary to Chief Minister/ Provincial Coordinator.
11. Master file.

*True Copy
Amir Ali*


(AKHTER ALI SHAH)
SECTION OFFICER (ESTT.)

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Javed Iqbal
Mr. Justice Raja Fayyaz Ahmed
Mr. Justice Asif Saeed Khan Khosa

Civil Appeals No. 834 to 837 of 2010

(On appeal from the judgment dated 01.12.2009 of the Peshawar High Court, Peshawar passed in Review Petitions No. 64, 68, 69 and 66 of 2009 in Writ Petitions No. 1645/2007, 29/2009, 84/2009 and 43 of 2009)

Government of North-West Frontier Province through
Secretary, Agriculture, Live Stock and Cooperatives
Department, Peshawar, etc.
(in all cases) ... Appellants

versus

- 1. Abdullah Khan, etc. (in CA. 834/2010)
- 2. Wakil Khan (in CA. 835/2010)
- 3. Amir Rabbani (in CA. 836/2010)
- 4. Attā-ul-Haq, etc. (in CA. 837/2010)

... Respondents

For the appellants:
(in all cases)

Qazi Muhammad Anwar, ASC

For the respondents:
(in all cases)

Mr. Gul Zarin Kiani, ASC with
Mr. Waseem-ud-Din Khattak, ASC

Date of hearing:

01.03.2011

JUDGMENT

Asif Saeed Khan Khosa, J.: The respondents in the present appeals had been selected for appointment in the prescribed manner on or after the first day of July, 2001 and before the 23rd day of July, 2005 but they had all been appointed on contract basis and upon enactment of subsection (2) of section

ATTEST


Superintendent
Supreme Court of
ISLAMABAD

19 of the North-West Frontier Province Civil Servants (Amendment) Act, 2005 they were to be deemed to have been appointed on regular basis but upon failure of the Provincial Government to treat them as such they and some others filed different Writ Petitions before the Peshawar High Court, Peshawar which Writ Petitions had been allowed by a learned Division Bench of the said Court through a consolidated judgment dated 01.12.2009 with a direction to treat the said respondents as regular employees. On that occasion the learned Additional Advocate-General appearing for the Provincial Government had conceded the claim of the respondents and others to be treated as regular employees. Instead of challenging that judgment of the Peshawar High Court, Peshawar before this Court the appellants herein chose to file Review Petitions before the Peshawar High Court, Peshawar but all such Review Petitions were dismissed by a learned Division Bench of the said Court through a consolidated judgment dated 01.12.2009. The said consolidated judgment dismissing the appellants' Review Petitions has been assailed by the appellants before this Court through the present appeals after obtaining leave of the Court on 14.09.2010.

2. We have heard the learned counsel for the parties at some length and have gone through the relevant record of the case with their assistance.

3. The main contention of the learned counsel for the appellants is that the respondents were project employees appointed on contractual basis and, thus, they were not entitled to

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 Superintendent
 Supreme Court of Pak
 ISLAMABAD

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be regularized in service and in this regard he has referred to the provisions of the North-West Frontier Province Employees (Regularization of Services) Act, 2009. We have, however, remained unable to subscribe to this submission of the learned counsel for the appellants inasmuch as according to clause (aa) of subsection (1) of section 2 of the North-West Frontier Province Employees (Regularization of Services) Act, 2009 "contract appointment" meant appointment of a duly qualified person made "otherwise than in accordance with the prescribed method of recruitment". It is admitted at all hands that the appointments of the respondents were made in accordance with the prescribed method of recruitment and through the Departmental Selection Committee and, thus, their case did not attract the above mentioned definition of "contract appointment" contained in clause (aa) of subsection (1) of section 2 of the said Act of 2009. It may be true that the definition of "employee" contained in clause (b) of subsection (1) of section 2 of the said Act of 2009 excluded the employees appointed for a "project post" but before the Peshawar High Court, Peshawar as well as before this Court the appellants have utterly failed to produce anything to establish their assertion that the respondents had in fact been appointed for any project post. All that the appellants could produce before the Peshawar High Court, Peshawar in that regard were some salary slips and payrolls but such salary slips or payrolls could not be accepted as proper substitute for positive and definite proof of the nature of the respondents' appointment or employment.

ATTES
Superior
Supreme Court
ISLAMA

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4. We have found that the case of the respondents was in fact squarely covered by the provisions of subsection (2) of section 19 of the North-West Frontier Province Civil Servants (Amendment) Act, 2005 because the respondents had been appointed on contract basis in a manner in accord with the prescribed procedure and that they had been appointed between the period which was catered for by the said Act of 2005. In this view of the matter we have found the learned Division Bench of the Peshawar High Court, Peshawar to be quite justified in allowing the respondents' Writ Petitions and in dismissing the appellants' Review Petitions and also in directing the appellants to treat the respondents as regular employees.

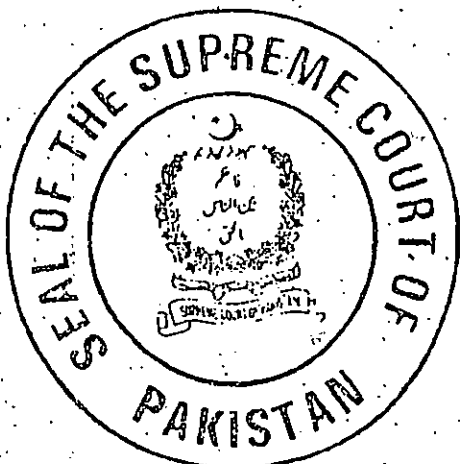
5. We have unmistakably noticed that during the hearing of the respondents' Writ Petitions before the Peshawar High Court, Peshawar the claim of the respondents and the legal position applicable to them had been conceded by the learned Additional Advocate-General appearing for the Provincial Government and, therefore, the appellants cannot be allowed at this stage to turn around and to try to wriggle out of that concession which we have otherwise found to be quite correct and fair.

6. It is not disputed before us that the original consolidated judgment passed by the Peshawar High Court, Peshawar in the respondents' Writ Petitions had not been assailed by the appellants before this Court and they have now approached this Court challenging the consolidated judgment passed by the Peshawar High Court, Peshawar dismissing their Review Petitions. In our

ATTESTE
Superintendent
Supreme Court of P.
ISLAMABAD

considered opinion the appellants' Review Petitions had been dismissed by the Peshawar High Court, Peshawar quite correctly as no error patent on the face of the record had been pointed out by the appellants and the consolidated judgment passed by the Peshawar High Court, Peshawar in the Writ Petitions filed by the respondents stands unchallenged before this Court on its merits till date. The appellants cannot now be allowed to assail the consolidated judgment passed in the respondents' Writ Petitions while disregarding the rigours of the law of limitation.

7. For what has been discussed above all these appeals are dismissed with no order as to costs.



ISLAMABAD
01.03.2011
Not approved for reporting.

M. Yasin

7/3/11

Sd/- Javed Iqbal, J
Sd/- Raja Fayaz Ahmed, J
Sd/- Asif Saeed Khan Khosro, J

Certified to be True Copy

Superintendent
Supreme Court of Pakistan
ISLAMABAD

1608/11

SR NO:	1608/11	Civil/Criminal
Date of Presentation:	07-03-11	
No. of Words:	1500	
No. of folios:	15	
Requisition Fee Rs:	9.00	
Copy Fee In:	14.00	
Court Fee stamps:		
Date of Completion of	17/3/2011	
Copy:		
Date of delivery of		
Copy:	22/03/2011	
Compared by:		
Received by:		

Dated Peshawar, the 7/6/2011

NOTIFICATION.

NO. SOE (AD) 17-131/2009.-

In pursuance to the judgement of the Hon' able Supreme Court of Pakistan in civil appeals No. 834 to 837 of 2010, the Competent authority is pleased to regularize the services of the following Water Management Officers (BS-17) appointed on contract basis in the project "National Program for Improvement of Watercourses in Pakistan (Khyber Pakhtunkhwa Component) as provided under section-19 sub-section (2) of the NWFP Employees (Regularization of Services) Act, 2005 with effect from 24-11-2004:-

Sl. No.	Name of Officer
1.	Mr. Wajid Ali
2.	Mr. Atta-ul-Haq
3.	Mr. Farmanullah
4.	Mr. Mujeeb-ur-Rehman
5.	Mr. Wakeel Khan
6.	Mr. Muhammad Shahid Nawaz
7.	Mr. Abdullah Khan
8.	Mr. Aftab Ahrnad Khan
9.	Mr. Shahid Mahmood
10.	Mr. Ghulam Ehsan
11.	Mr. Qayyum Khan
12.	Mr. Rafiq Ahmad Ghuncha
13.	Mr. Said Muhammad ✓
14.	Mr. Muhammad Nadeem
15.	Mr. Amir Rabbani
16.	Mr. Zahid Khaliq

2. Terms & Conditions of their regularization in service are as under:-

- i. Their services will be considered regular but without pensionary or Gratuity benefits in term of Section-19 of the NWFP Civil Servant Act, 1973 as amended vide NWFP Civil Servants (Amendment) Act, 2005. They will however be entitled to contribute to Contributory Provident Fund in such a manner and at such rates as prescribed by the Government.
- ii. Their services will be liable for termination on one month's notice from either side. In case of resignation without notice, two month's pay/allowances shall be refunded to Government.
- iii. They will be governed under such rules and regulations as may be issued from time to time by the Government.
- iv. In case of misconduct, they will be proceeded against the NWFP Removal from Service (Special Powers) Ordinance, 2000 and the Rules framed there under from time to time.
- v. Charge report should be submitted by the officers concerned.

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- vi. Their posting orders will be issued subsequently after approval of the competent authority.

SECRETARY AGRICULTURE.

Endst. of even No. & Date.

Copy forwarded for information and necessary action to:-

1. The Registrar, Hon' able Peshawar High Court, Peshawar.
2. The Director General, On-Farm Water Management, Khyber Pakhtunkhwa, Peshawar.
3. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
4. The Director General, (National Program) Water Management, Khyber Pakhtunkhwa, Peshawar.
5. The Manager, Government Printing Press, Peshawar.
6. All the District Officers / Deputy Directors, On-Farm Water Management, in Khyber Pakhtunkhwa.
7. All the District Accounts Officers, in Khyber Pakhtunkhwa.
8. Officers concerned.

h
7/10/08
(SAKHI-UR-REHMAN)
SECTION OFFICER-ESTT:



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**DIRECTORATE GENERAL
ON FARM WATER MANAGEMENT
KHYBER PAKHTUNKHWA PESHAWAR**



No. 673 /DG/Estt/OFWM dated Peshawar the, 22/2/2017
To,

The Section Officer (Estt:)
Govt. of Khyber Pakhtunkhwa
Agriculture, Livestock & Coop: Deptt:
Peshawar

Subject:- APPLICATION FOR PENSION PURPOSE IN RESPECT OF MR. QAYYUM KHAN
WMO FOR CONDONATION OF INTERRUPTION BETWEEN THE TWO PERIODS
OF SERVICE

Memo,
Reference your letter No. SOE(AD)/17-131/2016/WM dated 10-02-2017 on
the subject cited above.

In this regard it is stated that prior to appointment in "National Program for Improvement/Lining of Watercourses Project Khyber Pakhtunkhwa Component" Mr. Qayyum Khan was previously appointed as Water Management Officers on contract basis for a period of one year vide Government of Khyber Pakhtunkhwa, Agriculture, Livestock & Cooperative Department Peshawar notification dated 20-12-1993 and was posted in o/o the Deputy Director ATL-I Peshawar (Annex-A).

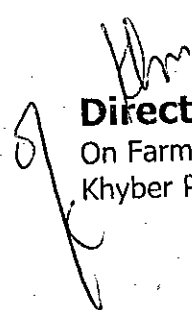
His contract service was extended from time to time till 30-06-2001 vide Government of Khyber Pakhtunkhwa, Agriculture, Livestock & Cooperative Department Peshawar notification dated 20-03-2000 and further extension beyond 30-06-2001 was not granted due to completion of Swabi Scarp Project Mardan (Relevant documents of the above mentioned period attached as Annex-B).

In 2004 Mr. Qayyum Khan was appointed as Water Management Officer in the project titled "National Program for Improvement/Lining of Watercourses (Khyber Pakhtunkhwa Component)" vide Notification dated 24-11-2004 on contract basis for a period of one year extendable for further period on satisfactory performance (Annex-C).

Mr. Qayyum Khan while serving in NPIWCs project filed writ petition for regularization of his services which was decided in favour of the applicant. In compliance to the decision of Hon'ble Supreme Court of Pakistan his services was regularized vide notification dated 07-06-2011 (Annex-D).

At present Mr. Qayyum Khan is serving as Water Management Officer (BS-17) in o/o District Director On Farm Water Management Peshawar and submitted the subjected application (Copy attached (Annex-E).

The above noted factual position is submitted for favour of perusal and with the request that the case may be sent to Law, Finance & Establishment Department for advice please.


Director General
On Farm Water Management
Khyber Pakhtunkhwa, Peshawar



GOVERNMENT OF KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK & COOPERATIVE
DEPARTMENT

NO.SOE(AD)/17-131/2016/ WM
Dated Peshawar, the October 4, 2017

To

The Director General,
On Farm Water Management,
Khyber Pakhtunkhwa, Peshawar

SUBJECT:- APPLICATION FOR PENSION PURPOSE IN RESPECT OF MR.QAYYUM KHAN
WATER MANAGEMENT OFFICER FOR CONDONATION OF INTERRUPTION
BETWEEN THE TWO PERIODS OF SERVICE

I am directed to refer to your letter No.673 dated 22/02/2017 on the subject noted above and to inform that as per minutes of the meeting held on 08.08.2017 under the Chairmanship of Addl: Secretary (Regulation) Finance Department that the request of the officer for regularization of contract period of service is not covered under the relevant Civil Servant Pension Rules and Government Instructions (copy enclosed).

Encl: As above

Endst. of even No. & Date.

Copy for information to:

- 1. P.S to Secretary Agriculture department.
- 2. PA to DS (Admn), Agriculture Department.

A o In r

[Signature]
SECTION OFFICER-ESTT:

[Signature]
SECTION OFFICER-ESTT:

No. 9591 /DG/OFWM dated Peshawar the, 06/10 /2017

Copy of the above along with minutes of the meeting dated 08-08-2017 is forwarded to District Director OFWM Peshawar with reference to his letter No. 678/DD/OFWM dated 06-01-2017 for favour of information and further necessary action.

[Signature]
Director General
On Farm Water Management
Khyber Pakhtunkhwa, Peshawar

**MINUTES OF THE MEETING REGARDING CONDONATION OF INTERUPTION
BETWEEN TWO SPELL OF SERVICES IN R/O MR. QAYYUM KHAN WATER
MANAGEMENT OFFICER**

A Meeting regarding the subject matter was held on 08/08/2017 at 1200 Hours under the chairmanship of Additional Finance Secretary (Regulation) Finance Department in his office.

The Following participants attended the meeting:-

- 1) **Mr. Musharraf Khan Marwat,** **In Chair**
Additional Finance Secretary (Reg) Department.
- 2) **Mr. Nasir Aman,** **Member**
Deputy Secretary (Reg) Establishment Deptt.
- 3) **Mr. Masood-ul-Hassan** **Member**
Section Officer (Opinion-II)
Law Department.
- 4) **Mr. Javed Iqbal,** **Member**
DIST Director, On Form Water Management,
Agriculture Department.
- 5) **Dr. Mir Ahmad Khan,** **Member**
Section Officer (Establishment)
Agriculture, Live Stock & Dairy Development Deptt.
- 6) **Mr. Moazzam Khan** **Member**
Section officer (SR-II),
Finance Department.

The meeting started with recitation of Holy Quran.

The chair briefed the participants about the detail of the case. Mr. Masood-ul-Hassan, Law Department was of the view that Rule 2.3 of Civil Servants Pension Rules & Government Instructions 2006, is only for Civil Servants and not for Project or contract employees. Therefore, application of Rules 2.12 of Pension Rules in the instant case is out of question. The Director On Form Water Management, Khyber Pakhtunkhwa was also of the view that there is no documentary proof of GP fund deduction from the pay of the officer being Civil Servant.

Mr. Nasir Aman Deputy Secretary (Reg.) Establishment Department was of the view that under the relevant Pension Rules, the Administrative Department has to fill gap between two spell of Services, whereas in the instant case, the period between 1993 to 2001 is a non-qualifying service and between 2001 to 2004 is a non-service period, therefore, the request for regularization of contract period is not covered under the relevant Pension Rules and Govt. Instructions.

After threadbare discussion, the forum unanimously agreed that the request of the officer for regularization of contract period of service is not covered under the relevant Civil Servant Pension Rules & Government Instruction.

The meeting ended with a vote of thanks to and from the chair.

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 424/2017

Mr. Qayyum Khan

vs

Govt: of KPK etc

.....

REJOINDER ON BEHALF OF APPELLANT

.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

(I-V) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

- 1 Admitted correct by the respondents. Therefore no comments.
- 2 Admitted correct by the respondents. So no comments.
- 3 Incorrect. While Para-3 of the appeal is correct. The first spell of the appelland was from 1993 to 2001 (more than 7 years).
- 4 Partially admitted correct by the respondents. However it is added that no refusal order has been convened to the appelland till date and as a matter of fact and law after the lapse of 90 days the decision making authority was become functus officio.
- 5 Incorrect. While Para-5 of the appeal is correct. Moreover as explain in Para-4 above.

GROUND:

- A) Incorrect. While Para-A of grounds of the appeal is correct. Moreover the respondents have not communicated any rejection order to the appelland till date, however, after the lapse of 90 days the decision making authority was becomes functus officio.

- B) Incorrect. While Para-B of grounds of the appeal is correct. As evident from the pension rules any spell of 5 years or more as countable towards the second spell for the purpose of pension therefore contention of the appellant is correct whereas date of respondent is incorrect.
- C) Incorrect. While Para-C of grounds of the appeal is correct.
- D) Incorrect. While Para-D of grounds of the appeal is correct.
- E) Incorrect. While Para-E of grounds of the appeal is correct.
- F) Legal.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

APPELLANT

Through:



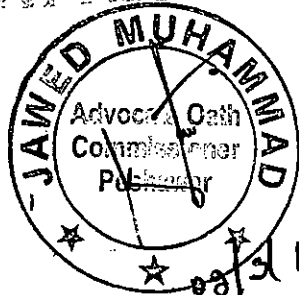
**(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT
&**

**(TAIMUR ALI KHAN)
ADVPCATE HIGH COURT**

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder and appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from Hon'able tribunal.

ATTESTED




DEPONENT

100
For Respondents
Project employee & broken record

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

Service Appeal No. 508/NEEM/1998

Date of Institution... 04.04.1998

Date of decision... 26.12.2017



Fazle Rabbi son of Manjawar, R/O Thana, Malakand Agency, Ex-Forest Guard,
Social Forestry Project, Malakand. (Appellant)

Versus

1. The Divisional Forest Officer, Social Forestry Division, Malakand and 3
others. (Respondents)

MR. Noor Muhammad Khattak,
Advocate.

For appellant.

MR. Kabeerullah Khattak,
Addl. Advocate General

For respondents.

ATTESTED

MR. NIAZ MUHAMMAD KHAN,
MR. GUL ZEB KHAN,

CHAIRMAN
MEMBER

CHAIRMAN
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - This judgment shall also
disposed of connected service appeals No. 506/Neem/1998 Gul Hassan Shah, No.
507/Neem/1998 Muhammad Irshad, No. 514/Neem/1998, Naseer Hussan, No.
520/Neem/1998 Bakhtiar Ali, No. 525/Neem/98 Riyasat Shah, No. 526/Neem/1998
Zamin Khan, No. 531/Neem/1998 Muhammad Rahim, No. 532/Neem/1998 Bahre
Karam, No. 535/Neem/98 Jaffar Akram, and No. 536/Neem/1998 Noor
Muhammad as in all the appeals common questions of law and facts are involved.

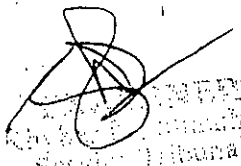
2. Arguments of the learned counsel for the parties heard and record perused.

FACTS

3. The appellants were originally employed in Malakand Social Forestry
Project in early 90's. Later on in the late 90's their services were terminated due to

completion of the project period. Some of the appellants were re-appointed/re-adjusted in broken period of their services. The appellants then approached this Tribunal for considering their service of the project as regular service. This Tribunal finally decided those service appeals vide consolidated judgment dated 31.05.2005 in service appeal No. 508/1998, by dismissing the appeals, however it was added that the appellants if having ten years or more continuous service were entitled to the pensionary benefits as per rules while those having less than ten years service be given financial benefits, as admissible under the rules.

4. Aggrieved from this judgment, the Finance Department approached the august Supreme Court of Pakistan and the august Supreme Court of Pakistan vide judgment dated 01.10.2013 remitted the appeals back to this Tribunal for decision afresh.

ATTESTED

 Justice (Retd.) M. Iqbal
 Service Tribunal,
 Faisalabad

ARGUMENTS

5. The learned counsel for the appellants argued that at least majority of the appellants were civil servants because their services were regularized in Forest Department. That this Tribunal therefore, had the jurisdiction to entertain and decide the issue.

6. On merits he referred to CSR-371-A whereby according to learned counsel for the appellants the service rendered by government service in temporary establishment for more than five years should count towards pension and other pensionary benefits.

7. On the other hand the learned Addl. Advocate General argued that this Tribunal lacked the jurisdiction because admittedly all the appellants were project employees and not civil servants as defined in Section 2(b) of the Khyber Pakhtunkhwa Civil Servants Act, 1973. He further argued that no pensionary

benefits could be extended to the project employees. He also referred to a judgment delivered by this Tribunal recently in Service appeal No. 640/2015 entitled "Issa Dad Vs. Government of Khyber Pakhtunkhwa through Secretary Education and others" decided on 15.12.2017 in which this Tribunal denied the prayer of the appellants for regularization of the period of project.

CONCLUSION

8. There are two sets of appellants, one set of appellants was project employees who were not adjusted/re-employed in the Forest Department namely Gul Hassan Shah, Muhammad Irshad, Bakhtiar Aii, Riasat Shah, Zamin Khan, Bahre Karam and Noor Muhammad. In view of the definition contained in Section 2(b) of the Khyber Pakhtunkhwa Civil Servants Act, 1973 they are not civil servants. Therefore, this Tribunal has got no jurisdiction to entertain or adjudicate upon their appeals.

9. The second set of appellants namely Fazie Rabbi, Nasser Hassan, Muhammad Rahim, and Jaffar Akram who have been reappointed/readjusted therefore, at present they are civil servants hence this Tribunal has got the jurisdiction to adjudicate upon their appeals.

10. Now the only issue is whether the period served by these last mentioned appellants in the project would count towards pension and pensionary benefits. The learned counsel for the appellants referred to CSR 371-A added by a notification dated 23rd January, 1949. The CSR being a Federal regulation would not override the provincial rules on the subject as the appellants are provincial employees. The relevant rule of the province almost *pari materia* is rule 2.3 of West Pakistan Civil Service Pension Rules. The wording in both these rules give almost the same message except an addition in Regulation 371-A (ii) which goes against the

RECEIVED
15/12/2017

Khyber Pakhtunkhwa
Services Tribunal,
Peshawar

appellants. Rule 2.3 of the West Pakistan Civil Service Pension Rules says that temporary and officiating service followed by confirmation shall also be counted for pension and gratuity. But the service borne in temporary establishment must be a service which is pensionable. According to explanation in rule 2.1 of the West Pakistan Civil Service Pension Rules certain conditions of qualification for pension have been mentioned. Rule 2.1(1) of the said rules laid down that government servant (even on regular establishment) forfeit his past service in three cases. One of the case is removal from service. The additional part of CSR which was left undecided above also says that temporary and officiating service followed by confirmation which does not qualify for pension under the rules in this section shall also count for pension or gratuity subject to the exclusion of broken periods of temporary or officiating service, if any. If we read this latter part of CSR in conjunction with rule 2.3 and rule 2.1 and rule 2.11 of the West Pakistan Pension Rules then it clearly lead us to conclusion that only that temporary and officiating service shall count for pension which is followed by confirmation. No broken period can count towards pension. In the case of Issa Dad mentioned above the appellants who were initially employees of the project sought relief of their regular appointment from the date of initial appointment. But this Tribunal decided that when there was some broken period, then no regularization or any benefit could be given to civil servants who were appointed on regular service after the broken period.

11. As a consequence of the above, the cases of Gul Hassan Shah, Muhammad Irshad, Bakhtiar Ali, Riasat Shah, Zamin Khan, Bahre Karam and Noor Muhammad are dismissed for want of jurisdiction whereas the cases of appellants namely Fazle Rabbi, Nasser Hassan, Muhammad Rahim, and Jaffar

ATTESTED



Akram are dismissed on merits. Parties are left to bear their own costs. File be
consigned to the record room.

*sd/- Mirza Muhammad Khan,
Chairman*

*sd/- Gulzeb Khan,
Member*

ANNOUNCED
26.12.2017

Certified to be true copy

[Signature]
MAJID AHMED
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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