

original

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL**

**PESHAWAR**

**C.M. No. 1106/24**

**SERVICE APPEAL NO. 535/2024**

1. **The Govt of Khyber Pakhtunkhwa**  
through Chief Secretary,  
Khyber Pakhtunkhwa,  
Civil Secretariat, Peshawar.
  
2. **The Secretary**  
Govt. of Khyber Pakhtunkhwa,  
Communication & Works Department,  
Civil Secretariat, Peshawar..... **Appellants**

**VERSUS**

**Engr: Zia-ur-Rahman**  
SDO Mega Project-III Abbottabad (BPS-17)  
C&W Department, Abbottabad..... **Respondent**

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Deponent



Zeeshan,  
Section Officer (Litigation)  
C&W Department, Peshawar.

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**C.M.No. 1106/24**  
**SERVICE APPEAL NO. 535/2024**

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 16057

Dated 25-09-24

1. **The Govt of Khyber Pakhtunkhwa**  
through Chief Secretary,  
Khyber Pakhtunkhwa,  
Civil Secretariat, Peshawar.

2. **The Secretary**  
Govt. of Khyber Pakhtunkhwa,  
Communication & Works Department,  
Civil Secretariat, Peshawar.....

**Appellants**

**VERSUS**

**Engr: Zia-ur-Rahman**  
SDO Mega Project-III Abbottabad (BPS-17)  
C&W Department; Abbottabad.....

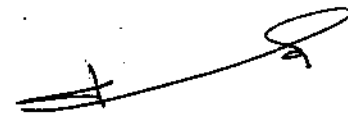
**Respondent**

Subject: - **APPLICATION FOR SETTING ASIDE THE EX-PARTE  
PROCEEDING INITIATED AGAINST THE OFFICIAL  
RESPONDENTS VIDE ORDER DATED 18/09/2024 IN SERVICE  
APPEAL NO. 535 OF 2024 TITLED AS "ZIA UR RAHMAN VS  
GOVT OF KHYBER PAKHTUNKHWA THROUGH CHIEF  
SECRETARY & OTHERS"**

Respectfully Sheweth:

1. That the above mentioned Service Appeal is pending adjudication before this Hon'ble Tribunal which is fixed for hearing on 11/11/2024.
2. That the Respondent Department have been proceeded ex-parte vide order dated 18/09/2024. (Annexure-I)
3. That under the Law, Respondent Department can join proceeding at any time and there is no bar on acceptance of such application.
4. That the representative of respondents has noted incorrect date of hearing inadvertently which is made basis for ex-parte proceeding.

It is requested that on acceptance of this application, the order dated 18/09/2024 may kindly be set-aside and the Respondents may be allowed to submit Parawise Comments.



**MUHAMMAD ISRAR**  
**SECRETARY**  
to Govt of Khyber Pakhtunkhwa  
C&W Department, Peshawar.  
(Respondent No. 1 & 2)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL**  
**PESHAWAR**

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Govt. of Khyber Pakhtunkhwa,  
Communication & Works Department,  
Civil Secretariat, Peshawar..... **Appellants**

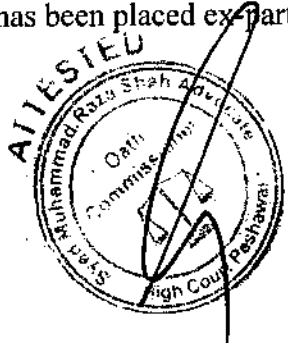
**VERSUS**

**Engr: Zia-ur-Rahman**  
SDO Mega Project-III Abbottabad (BPS-17)  
C&W Department; Abbottabad..... **Respondent**

**AFFIDAVIT**

I, Muhammad Israr, Secretary to Govt of Khyber Pakhtunkhwa, C&W Department, Peshawar hereby affirm and declare that all the contents of the Application are correct to the best of my knowledge and belief and nothing has been concealed.

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



25 SEP 2024

Deponent

*(Handwritten signature)*

**MUHAMMAD ISRAR**  
**SECRETARY**  
to Govt of Khyber Pakhtunkhwa  
C&W Peshawar.  
(Respondent No.1 & 2)

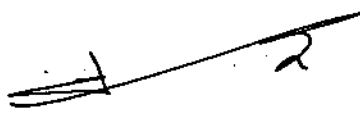


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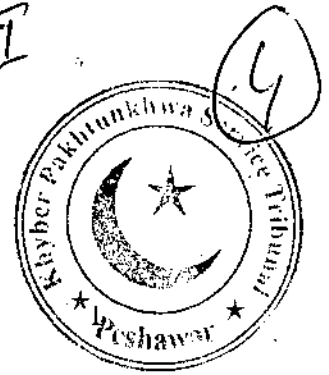
**GOVERNMENT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT**

**AUTHORITY LETTER**

Mr. Zeeshan, Section Officer (Litigation), C&W Peshawar having CNIC 17301-2418439-1 is hereby authorized to file the Joint Parawise Comments in case titled "Service Appeal No. 535 of 2024 Zia Ur Rahman Vs Secretary to Govt Of Khyber Pakhtunkhwa through Chief Secretary & Others" on behalf of Secretary C&W Department.

  
**MUHAMMAD ISRAR  
SECRETARY  
to Govt of Khyber Pakhtunkhwa  
C&W Peshawar.  
(Respondent No.1 & 2)**

Annex-I



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 535 /2024

Engr. Zia-ur-Rahman

SDO Mega Project-III Abbottabad (BPS-17)

C&W Department Abbottabad. .... Appellant

VERSUS

1. The Govt. of Khyber Pakhtunkhwa  
through Chief Secretary,  
Khyber Pakhtunkhwa,  
Civil Secretariat, Peshawar.

2. The Secretary  
Govt. of Khyber Pakhtunkhwa  
Communication & Works Department,  
Civil Secretariat, Peshawar ..... Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION DATED 28.11.2023 WHEREBY THE APPELLANT HAS BEEN PROMOTED TO THE POST OF ASSISTANT ENGINEER/SDO (BPS-17) ON REGULAR BASIS BUT WITH IMMEDIATE EFFECT INSTEAD THE DATE OF JUDGMENT OF THIS HON'BLE TRIBUNAL DATED 07.10.2021 FOR WHICH APPELLANT PREFERRED DEPARTMENTAL REPRESENTATION TO RESPONDENT NO. 1 ON 20.12.2023 WHICH WAS NOT DISPOSED WITH IN THE STATUTORY PERIOD OF 90 DAYS.

PRAYER:

On acceptance of the instant appeal, the impugned Notification dated 28.11.2023 may graciously be modified and appellant may kindly be promoted to the post of Assistant Engineer/SDO (BPS-17) with effect from the date of the judgment of this Hon'ble Tribunal dated 07.10.2021 with all consequential with all back benefits.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. That appellant was initially appointed as Sub-Engineer in the Communication & Works Department way back on 01.09.2014. Throughout his career appellant has rendered unblemished and spotless Service for the Department.

That the Provincial Government vide Notification dated 13.01.1980 (Annex-A) had reserved 10% quota for promotion to the post of Assistant Engineer from

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Section Officer (Litigation)  
Khyber Pakhtunkhwa  
C&W Department

5

27.08.2024

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

RECEIVED  
MEMBERS  
PESHAWAR  
27.08.2024

2. Reply/comments on behalf of respondents not submitted. Learned Deputy District Attorney seeks time to contact the respondents for submission of reply/comments. Granted. To come up for reply/comments as well as preliminary hearing on 18.09.2024 before S.B. P.P given to the parties.

27.08.2024

(Muhammad Akbar Khan)  
Member (E)

27.08.2024

18<sup>th</sup> Sept, 2024

1. Learned for the appellant present. Mr. Uzair Azam, Additional Advocate General present.

2. Despite service through TCS, written reply on behalf of the respondents has not been filed nor is there anybody present as representative, therefore, they are placed ex-parte. The appeal is admitted to full hearing subject to all just and legal objections. The appellant is directed to deposit security fee within 10 days. To come up for ex-parte arguments on 11.11.2024 before D.B. P.P given to the learned counsel for the ~~appellant~~ appellant.

18<sup>th</sup> Sept, 2024

WITNESSED  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

(Kalim Arshad Khan)  
Chairman

18<sup>th</sup> Sept, 2024

\*Adnan Shah, P.A.\*

Attest  
Adnan Shah

Date of Presentation of Application 23-09-2024  
Number of Words 2-P  
Copying Fee 10/-  
Talent 5/-  
Total 15/-  
Name of Copyist -  
Date of Completion 23-09-2024  
Date of Delivery of Copy 23-09-2024