

original

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 537/2024

C.M. No. 1105/2024

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

Mr. Muhammad Maaz
SDO, C&W Building Sub-Division
Yousaf Khel, Mohmand..... **Respondent**

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| 4 | Order dated 18/09/2024 passed by the Khyber Pakhtunkhwa Service Tribunal Peshawar in Service Appeal No. 537 of 2024 | I | 4-5 |

Deponent



Zeeshan

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

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

C.M-1105/2024

SERVICE APPEAL NO. 537/2024

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 16058

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

Mr. Muhammad Maaz

SDO, C&W Building Sub-Division
Yousaf Khel, Mohmand.....

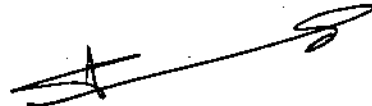
Respondent

Subject:- **APPLICATION FOR SETTING ASIDE THE EX-PARTE PROCEEDING INITIATED AGAINST THE OFFICIAL RESPONDENTS VIDE ORDER DATED 18/09/2024 IN SERVICE APPEAL NO. 537 OF 2024 TITLED AS "MUHAMMAD MAAZ 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

SERVICE APPEAL NO. 537/2024

- 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

Mr. Muhammad Maaz
SDO, C&W Building Sub-Division
Yousaf Khel, Mohmand..... **Respondent**

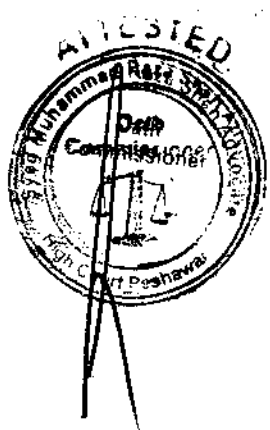
AFFIDAVIT

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-party nor their defense has been struck off.

23 SEP 2024

Deponent



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



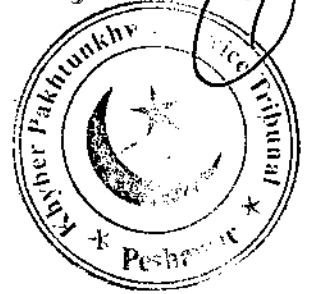
**GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT**

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. 537 of 2024 Muhammad Maaz 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. S37 /2024

Mr. Muhammad Maaz
SDO, C&W Building Sub-Division,
Yousaf Khel, Mohmand. **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 26.12.2023 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. Throughout his career appellant has rendered unblemished and spotless Service for the Department.
2. 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
[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

[Signature]
Section Officer (Administration)
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.

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.

(Muhammad Akbar Khan)
Member (E)

27.08

Kamranullah

18th 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 ~~respondent~~ appellant.

(Kalim Arshad Khan)
Chairman

18th Sept

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

18th Sept

Adnan Shah, P.A.

SECTION OFFICER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 23-09-2024
Number of Words 2-p
Copying Fee 10/-
Agent 5/-
Total 15/-
Date of Copying 23-09-2024
Date of Completion of Work 23-09-2024
Date of Delivery of Copy 23-09-2024