


Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 1001/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	13.09.2024	<p>The implementation petition of Mr. Aziz Ullah submitted today by Noor Muhammad Khattak Advocate. It is fixed for implementation report before Single Bench at Peshawar on 23.09.2024. Original file be requisitioned. AAG has noted the next date. Parcha Peshi given to counsel for the petitioner.</p> <p style="text-align: right;">By order of the Chairman  REGISTRAR /</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR.

~~EP~~ EP NO. 1001 /2024

Aziz Ullah

VS

APPLICATION FOR FIXATION OF THE ABOVE TITLED EP AT
PRINCIPAL SEAT, PESHAWAR

Respectfully Sheweth:

1. That the above mentioned EP is pending adjudication before this Hon'ble Tribunal in which no date has been fixed so far.
2. That according to Rule 5 of the Khyber Pakhtunkhwa Service Tribunal Rules 1974, a Tribunal may hold its sittings at any place in Khyber Pakhtunkhwa which would be convenient to the parties whose matters are to be heard.
3. That it is worth mentioning that the offices of all the respondents concerned are at Peshawar and Peshawar is also convenient to the appellant/applicant meaning thereby that Principal Seat would be convenient to the parties concerned.
4. That any other ground will be raised at the time of arguments with the permission of this Hon'ble tribunal.

It is therefore prayed that on acceptance of this application the EP may please be fixed at Principal Seat, Peshawar for the Convenience of parties and best interest of justice.

Appellant/Applicant

Dated: 12/1/24

Through

Noor M. Rehman
ASC

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL,
PESHAWAR

Execution Petition No. 1001 of 2024

IN

Service Appeal No. 340/2016 (Aziz ullah Appellant V.S Govt: of Khyber Pakhtunkhwa through Secretary Public Health Engineering Department , Civil Secretariat, Peshawar. & other. Respondents)

=====

Aziz ullah . -----(Petitioner).

VERSUS

Secretary Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar and others. ----- (Respondents)

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Dated -----/-----/2024

Petitioner  Aziz ullah

Through  Noor Muhammad Khattak
Advocate High Court Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Execution Petition No. 1001 of 2024

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 15771

Dated 13-09-2024

IN

Service Appeal No. 340/2016 (Aziz ullah Appellant V.S Govt: of Khyber Pakhtunkhwa through Secretary Public Health Engineering Department , Civil Secretariat, Peshawar. & other. Respondents)
=====

Aziz ullah (Ex Steno Typist) son of Abidullah Khan, R/O Gullan Kala, Tehsil & District, Bannu, presently Official Colony Karak. (*Petitioner*).

VERSUS

1. Secretary Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
2. Director Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Male), Bannu the then Agency Education Officer F.R Bannu/Lakki at Bannu.
4. Sub Divisional Education Officer (Male) F.R. Bannu. (*Respondents*).

=====

**EXECUTION PETITION FOR DIRECTING THE RESPONDENTS
TO IMPLEMENT THE JUDGMENT DATED 18/08/2017 OF
THIS HON'ABLE SERVICE TRIBUNAL IN LITTER AND SPIRIT
PASSED IN THE ABOVE SERVICE APPEAL.**

=====

Respectfully Sheweth :-

The instant appeal arises out of the following facts.

FACTS:-

- I. That the present appellant was appointed against the vacant post of PTC by Agency Education Officer F.R Bannu /Lakki at Bannu vide appointment order Endst: No. 1463-67/New Data /Apptt: new - 2004 dated 28/08/2004 -----(*Photocopy*)

of Appointment order dated 28/08/2004 of Agency Education Officer F.R, Bannu is annexed as Annexure "A").

2. That the present petitioner performed his duties against the post of PTC whereas the services of petitioner were verified w.e.f 01/12/2009 to 13/01/2010 which this fact is evident from his service book. ----- *(Photocopy of Service Book is annexed as Annexure "B").*
3. That then the petitioner applied for the post of Steno Typist in P.H.E Department through proper channel and the petitioner was appointed as Steno Typist in P.H.E Department vide appointment order No. 18/E-4 dated 13/01/2010. ----- *(Photocopy of appointment order dated 13/01/2010 as Steno Typist is annexed as Annexure "C").*
4. That after joining the P.H.E Department as Steno Typist, the petitioner was relieved by the Agency Education Officer F.R Bannu on 13/01/2010 which this fact is evident from his Service Book.
5. That the petitioner along-with others employees of P.H.E Department were terminated from their service on false and ill-founded ground vide termination order No. 46/E-4/PHE dated 14/02/2014. ----- *(Photocopy of termination order dated 14/02/2014 is annexed as Annexure "D").*
6. That the petitioner then challenged the above referred termination order dated 14/02/2014 after rejection of departmental appeal filed on 05/03/2014 before the Khyber Pakhtunkhawa Service Tribunal, Peshawar.
7. That the Hon'able Service Tribunal dismissed the service appeal dated 18/08/2017, however, the Hon'able Service Tribunal, Peshawar held that cases of the appellants Farhanullah and Aziz ullah (Petitioner) who has applied for the posts through proper channel are different in view of F.R-I4. According to F.R-I4 such civil servants shall be reverted back to their original position in case they are terminated from their new assignment (not involving disciplinary action) and if they still hold lien on the posts on which they were employee previously. This Tribunal shall not discuss that whether these two appellants have their lien on those posts or not because this exercise involves determination of some factors which are delineated in FR-I4. This Tribunal while dismissing the appeals of all the three appellants directed the department in which both the appellants were employee to consider their cases in light of FR-I4 and if they are still holding lien, should be accommodated in accordance with rules. *(Photocopy of judgment dated 18/08/2017 with grounds of appeal are annexed as Annexure "E").*

8. That the present petitioner then challenged the judgment dated 17/08/2017 of this Hon'able Tribunal before the august Supreme Court of Pakistan vide CPLA No. 3468/2017 vide which the appeal was dismissed vide judgment dated 07/11/2019 and maintained the judgment of this Hon'able Tribunal dated 17/08/2017. (*Photocopy of judgment dated 07/11/2019 of Supreme Court of Pakistan is annexed as Annexure "F"*).
9. That on 04/12/2019 the petitioner then filed Civil Review Petition No. 636 of 2019 in CPLA No. 3468/2017 which was also dismissed. The judgment will be produced at the time of argument if need. ----- (*Photocopy of CRP in CPLA No. 3468/2017 is annexed as Annexure "G"*)
10. That the petitioner time and again agitated before the respondent No. 3 / District Education Officer (Male), Bannu to implement the judgment & directions of this Hon'able Tribunal passed in Service Appeal No. 340/2016 decided on 18/08/2017 but no avail.
12. That the petitioner has no other remedy except to file the instant execution petition for implementation the judgment and directions dated 18/08/2017 passed in S.A No. 340/2016, hence assail the same before this honourable Tribunal with the following grounds.

Grounds.

- a. That the respondents especially District Education Officer (Male), Bannu is legally and lawfully bound to implement the judgment and directions of this Hon'able Tribunal
- b. That the petitioner also entitled to regularize his services as benefits of F.R-I4 has been extended in favour of petitioner by this Hon'able Service Tribunal with the directions to the departments in which the petitioner was employed to consider their cases the light of F.R-I4 and they are still holding lien, should be accommodated in accordance with rules.
- c. That the petitioner submitted the judgment of this Hon'able Tribunal before the District Education Officer (Male), Bannu to honour the same but he reluctant to implement the judgment.
- d. That as the petitioner was employee as PST /PTC of Agency Education Officer, F.R Bannu and F.R Bannu has been merged in District Bannu after 18th Amendment, hence, the respondent No. 3 / District Education Officer (Male), Bannu is not ready to implement the judgment.

- e. That any other point will be pressed during course of argument with permission of this Hon'able Tribunal.
- f. That as the F.R Bannu has been merged with settled District but there were some hurdles accept the F.R Bannu, therefore, time has been lapsed.
- g. That the petitioner has a good academic record having Master in Political Science, M.Ed, B.Ed , C.T and PTC and highly qualified for teaching.
- h. That if the petitioner will not accommodated and will not implement judgment of this Hon'able Court Tribunal well within time then petitioner will sustain irreparable loss due to age factor.

Prayer

It is, therefore, most humbly and respectfully prayed that on acceptance of the instant Execution Petition this Hon'able Service Tribunal may very graciously be pleased to direct the respondents to implement the judgment dated 17/08/2017 passed in Service Appeal No. 340/2016 in letter and spirit whereby this Hon'able Service Tribunal has extended the benefits of F.R -14.

Dated:- ----/-----/2024

Petitioner Aziz ullah

Through Noor Muhammad Khattak
Advocate High Court Peshawar.

Certificate

Certified that no such like Execution Petition has been filed earlier on similar ground before this Hon'able Tribunal or any other court.

Petitioner Aziz ullah

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL,
PESHAWAR

Execution Petition No. ----- of 2024

IN

Service Appeal No. 340/2016 (Aziz ullah Appellant V.S Govt: of Khyber
Pakhtunkhwa through Secretary Public Health Engineering Department ,
Civil Secretariat, Peshawar. & other. Respondents)

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Aziz ullah . ----- (Petitioner).

VERSUS

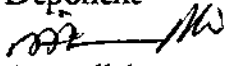
Secretary Elementary & Secondary Education Department, Khyber
Pakhtunkhwa, Peshawar and others. ----- (Respondents)

AFFIDAVIT

I, Aziz ullah (Ex Steno Typist) son of Abidullah Khan, R/O Gullan Kala, Tehsil & District, Bannu, presently Official Colony Karak do hereby solemnly affirm and declare on oath that all the contents of the accompanying Execution Petition are true and correct to the best of my knowledge and belief, nothing is lie and nothing has been concealed or mis-stated.

Dated :- ----/-----/2024

Deponent


Aziz ullah



BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL,
PESHAWAR

Execution Petition No. ----- of 2024

IN

Service Appeal No. 340/2016 (Aziz ullah Appellant V.S Govt: of Khyber Pakhtunkhwa through Secretary Public Health Engineering Department , Civil Secretariat, Peshawar. & other. Respondents)

=====

Aziz ullah . ----- (Petitioner).

VERSUS

Secretary Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar and others. ----- (Respondents)

ADDRESSES OF THE PARTIES.

Petitioner

Aziz ullah (Ex Steno Typist) son of Abidullah Khan, R/O Gullan Kala, Tehsil & District, Bannu, presently Official Colony Karak.

Respondents

1. Secretary Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
2. Director Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Male), Bannu the then Agency Education Officer F.R Bannu/Lakki at Bannu.
4. Sub Divisional Education Officer (Male) F.R. Bannu.

Dated:- ----/-----/2024

Petitioner Aziz ullah

*Through Noor Muhammad Khattak
Advocate High Court Peshawar.*



OFFICE OF THE AGENCY EDUCATION OFFICER

FR Bannu/Lakki at Bannu

APPOINTMENT ORDER:

Consequent upon the approval by the Departmental Selection Committee. One female PTC (untrained) candidate applied for FR Lakki, is hereby appointed under Government recruitment policy, against vacant PTC Post in the school noted against his name is BPS-07, @Rs,2555/- (on-fixed pay) P.M plus usual allowances for a period of three years on contract basis with effect from the date of taking over charge, in the interest of public service.

S#	Name of candidate with father's Name	Place of posting MCS Aqal Jan FR Bannu	Remarks
1	Azizullah S/o Abdullah	MCS Aqal Jan FR Bannu	Against Vacant PTC Post.

TERMS AND CONDITIONS:

1. His appointment has been made purely on temporary basis and is subject to the terms and conditions framed by the Government time to time. Moreover this appointment can be with drawn and is liable to termination with out any notice, if any legal, clerical or other kind of mistake arise their in. if he wish to resign from service, he will give one month's prior notice OR one month's full pay will be forfeited in lieu there of.
2. He will produce his Health and Age certificate from Medical Superintendent D.H.Q Hospital Bannu,
3. He will not be handed over charge if he is below 18 years OR above 40 years of age, if He fails to resume the charge within 15 (fifteen) days after issuing date of this order, his appointment order will be considered as cancelled.
4. His Domicile certificate will be verified by the quarter concerned, if found bogus his appointment order will stand as cancelled.
5. Hi documents/certificates will also be verified from the Quarter's concerned and if found bogus his appointment order will stand as cancelled.
6. The candidate will submit an affidavit to the effect that He does not work as Nazim, Naib Nazim and Councillor in Town Tehsil OR Union Council.
7. Any person who conceals or submit wrong information's disciplinary action will be taken against him as per rules.
8. His pay will not be drawn till the verification of his documents from the concerned University/Board/institutions.
9. Charge reports should be submitted in duplicate to all concerned.

(Mohammad Din Masood)
Agency Education Officer FR
Bannu/Lakki at Bannu.

Endst. No. 1463-67/ New Data/ Apptt: New 2004

Dated: 28/08/2004.

Copy to the:

1. Director of Education (FATA) NWFP, Peshawar for information please
2. District Coordination Officer Lakki Marwat at Lakki.
3. Assistant Political Agent FR Lakki at Tajori for information please.
4. District Account Officer Bannu at Bannu.
5. AAEO FR Lakki
6. Headmistress concerned school.
7. Accountant local office.
8. Candidate concerned.

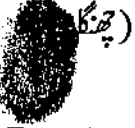
Agency Education Officer FR
Bannu/Lakki at Bannu

(Annex-B) (8)

- 1- Name (نام) Azizullah
- 2- Nationality and Religion Pakistani Muslim
(قومیت اور مذہب)
- 3- Residence Gulshan Killa P.O. Kamran Killa
(مستقل رہائش) Bau
- 4- Father's name and residence Abdullah — do
(والد کا نام اور پتہ)
- 5- Date of birth by christian era as 12-10-1973 Twelfth October
nearly as can be ascertained N.H. 8 Seventy three
(تاریخ پیدائش مطابق سن عیسوی)
- 6- Exact height by measurement 5-8
(قد و قامت)
- 7- Personal mark of identification NIL
(نشان شناخت)

8. Left hand/right hand thumb and finger-impressions of (Non-gazetted officer)
(مرد کی صورت میں بائیں اور عورت کی صورت میں دائیں ہاتھ کی انگلیوں کے نشانات)

Little Finger



Ring Finger



Middle Finger



Fore Finger

(انگشت شہادت)



Thumb

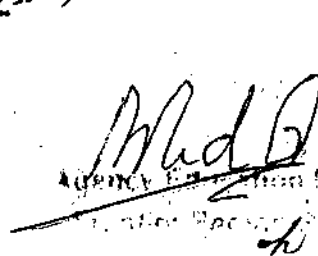


9. Signature of Govt. Servent

(سرکاری ملازم کے دستخط)

10. Signature and designation of the Head of the Office or other Attesting officer

(تصدیق کنندہ افسر کے دستخط اور مہر)


ATTESTED

Note: The entries in this page should be renewed or re-attested at least every five years and the signatures in lines 9 and 10 should be dated. Finger prints need no be taken after every 5 years under this rule.

اس صفحہ کے مندرجہ کم از کم پانچ سال بعد تصدیق ہونا ضروری ہیں اور نمبر 9 اور 10 میں دستخطوں کے نیچے تاریخ لکھنی چاہئے۔

انگلیوں کے نشانات کے لئے ہر پانچ سال کے بعد تصدیق کی ضرورت نہیں

1	2	3	4	5	6	7	8
Name of Post درجہ ملازمت	Whether Substantive or officiating and whather permanent or temporary عارضی مستقل یا یا قائم مقام	if officiating state- (i) substantive appointment or (ii) whether service counts for pension under rule 3-20 of C.S.R. (Pb.) Volume II اگر عارضی ہے تو رول کے مطابق پیش کش کا مستحق ہے؟	Pay in substantive position تنخواہ بطور عارضی ملازمت Rs.	Additional pay for officiating زائد تنخواہ بطور قائم مقام Rs.	Other emoluments falling under the term pay ماسوائے تنخواہ دیگر الادنیس	Date of appointment تاریخ تقریری	Signature of Government servant دستخط سرکاری ملازم
Times Agar Jaw				B.P.S (7)			
FR Bom		Offs/Jan	Contract	Rs. 2555/-		19/2004	
		do		Rs. 2555/-		12/2004	
		do		Rs. 2555/-		17/2004	
		do		2555/-		1/12/06	
				R.B.S 7 ((2940-160-7740))			
				Rs. 2940/-		9/2007	
				Rs. 2940/-		12/2007	
				R.B.S 7 ((3530 - 190 - 9230))			
				Rs. 3536/-		01/07/08	


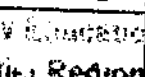

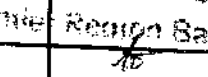
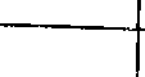
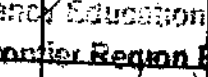
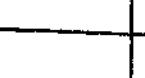

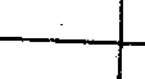
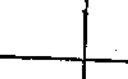
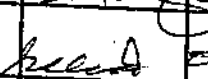
ATTESTED

Signature

9 Signature and designation of the Head of the office or other attesting officer in attestation of column 1 to 8	10 Date of termination or appointment	11 Reason of termination (such as promotion, transfer, dismissal)	12 Signature of the head of the office or other Attesting officer	13 Nature and duration of leave taken	13 Allocation of period of leave of average pay up to four months (or earned leave net exceeding 120 days) to which leave salary is debitable to another Government	14 Signature of the Head of the office or other attesting Officer	15 Reference to any recorded punishment or censure, reward or praised of the Government servants
					چار ماہ تک کی رخصت کے لئے اوسط تنخواہ کا تعین Period Government to which debitable عرصہ حکومت سے رقم ادا ہوگی		سزا یا جزا یا غیر مناسب کارکردگی کا ریکارڈ
Agency Education Office Frontier Region Bannu [Signature]	تاریخ انتظام ملازمت	وجوہات انتظام ملازمت ترقی تبادلہ یا برطرفی	دستخط افسر مجاز	رخصت کی نوعیت معیار	Appointed against vacant PTC Post in BPS7 at GIMCS Drawn Rs = 64650/- or a/c Pay & allowances 04/19 to 30/05 Agal. Tan FR Bannu on Contract basis for three years vide AEO FR Bannu / Lakki Endst No - 1463-67 new appol 2004 dt 28/08/2004	دستخط مجاز	سزا یا جزا یا غیر مناسب کارکردگی کا ریکارڈ
Agency Education Office Frontier Region Bannu [Signature]					① Passed SSC Exam from BISE Peshawar under R.No 47282 - Session 1989A obtaining 527 out of 850 marks.		
Agency Education Office Frontier Region Bannu [Signature]					② Passed Intermediate exam from BISE Peshawar under R.No. 63717 Session 1991-A obtaining 551/1100		
Agency Education Office Frontier Region Bannu [Signature]					③ Passed BA - Exam from Gomal University - D.I-Khan under R.No 10087 - Session 1996-A obtaining 249/550		
Agency Education Office Frontier Region Bannu [Signature]					④ Passed MA Political Science from Gomal University - D.I-Khan under R.No 1223 - Session 1999 obtaining 893/1700		
Agency Education Office Frontier Region Bannu [Signature]					[Signature]		

1 Name of Post درجہ ملازمت	2 Whether Substantive or officiating and whether permanent or temporary عارضی مستقل یا یا قائم مقام	3 if officiating state- (i) substantive appointment or (ii) whether service counts for pension under rule 3-20 of C.S.R. (Pb.) Volume II اگر عارضی ہے تو روڈ کے مطابق پینشن کا مستحق ہے؟	4 Pay in substantive position تنخواہ بطور عارضی ملازمت Rs.	5 Additional pay for officiating زائد تنخواہ بطور قائم مقام Rs.	6 Other emoluments falling under the term pay ماسوائے تنخواہ دیگر الاؤنس	7 Date of appointment تاریخ تقرری	8 Signature of Government servant دستخط سرکاری ملازم
DTC							
Mule Comunal School				Rs. 3538		1/12/08	
Agal Jan Kot				Fixed			
RLB							
				Rs. 3530		12/09	
				(Fixed)			

RECEIVED

9	10	11	12		13		14	15
Signature and designation of the Head of the office or other attesting officer in attestation of column 1 to 8	Date of termination or appointment	Reason of termination (such as promotion, transfer, dismissal)	Signature of the head of the office or other Attesting officer	Nature and duration of leave taken	Allocation of period of leave of average pay up to four months (or earned leave net exceeding 120 days) to which leave salary is debit to another Government		Signature of the Head of the office or other attesting Officer	Reference to any recorded punishment or censure, reward or praised of the Government servants
دستخط افسر مجاز	تاریخ انتقال ملازمین	وجوہات انتقال ملازمت ترقی تبادلہ یا برطرفی	دستخط افسر مجاز	رخصت کی نوعیت و معیار	پارہ ماہ کی رخصت کے لئے اوسط خواہ کا تعین	Government to which debitable گورنمنٹ جسے رقم ادا ہوگی	دستخط افسر مجاز	سزایا جزایا غیر مناسب کارکردگی کا ریکارڈ
 Agency Education Office Frontier Region Bannu								Service verified w.e.f 1-9-2004 to 30-11-2005 for A/R 4
 Agency Education Office Frontier Region Bannu		13/2/10 Relieved to PHE department as appointed stands typed	 Agency Education Office Frontier Region Bannu				 Agency Education Office Frontier Region Bannu	Service verified w.e.f 1-12-05 to 30-11-07 from pay bill & record.
 Agency Education Office Frontier Region Bannu							 Agency Education Office Frontier Region Bannu	Service verified w.e.f 1-12-07 to 30-11-09 from A/R 4 & other office records.
 Agency Education Office Frontier Region Bannu							 Agency Education Office Frontier Region Bannu	Service verified w.e.f 1-12-09 to 13-01-2010 from A/R & other records of this office
 Agency Education Office Frontier Region Bannu			 Agency Education Office Frontier Region Bannu				 Agency Education Office Frontier Region Bannu	ATTESTED

(Annex - c) (12)

33 -

OFFICE OF THE CHIEF ENGINEER
PUBLIC HEALTH ENGG. DEPARTMENT
NWFP, PESHAWAR.

No: 18 / E-4 / PHE

Dated Pesh: the 13 / 01 / 2010.

OFFICE ORDER.

On the recommendation of the Department Selection Committee as per its meeting held on 02/12/2009, the competent authority is pleased to offer a post of Steno Typist (BPS-12) to Mr. Aziz Ullah S/O Abid Ullah Khan R/O Village Gulan Killa P.O. Qamar Killi Tehsil & District Bannu on the following terms and conditions :-

- 1) He will get pay at the minimum of BPS-12 (Rs.4355 - 310 - 13655) including usual allowances as admissible under the rule. He will also be entitled to annual increment as per existing policy.
- 2) He shall be governed by the NWFP Civil Servants Act 1973 and all the laws applicable to the Civil Servants and Rules made there under.
- 3) He shall, for all intents and purposes, be Civil Servant except for purpose of pension or gratuity. In lieu of pension and gratuity, he shall be entitled to receive such amount contributed by him towards Contributory Provident Funds (C.P.F) alongwith the contributions made by Government to his account in the said fund, in the prescribed manner.
- 4) His employment in the PHE Department is purely temporary and his services are liable to be terminated without assigning any reason at fourteen (14) days notice or on the payment of 14 days salary in lieu of the notice. In case he wishes to resign at any time, 14 days notice will be necessary or in lieu thereof 14 days pay will be forfeited.
- 5) He shall, initially, be on probation for a period of two years extendable upto 3 years.
- 6) He shall produce a medical certificate of fitness from Medical Superintendent, Battagram before reporting himself for duty to the Deputy District Officer Water Supply & Sanitation Battagram, as required under the rules.
- 7) He has to join duty at his own expenses.
- 8) If he accepts the post of these conditions, he should report for duty to the Deputy District Officer Water Supply & Sanitation Battagram within 14 days of the receipt of this offer and produce original certificates in connection with his qualifications, domicile and age.

CHIEF ENGINEER

Copy to the :-

- 1) Deputy District Officer WS&S Battagram.
- 2) District Accounts Officer Battagram.
- 3) ✓ Mr. Aziz Ullah S/O Abid Ullah Khan R/O Village Gulan Killa P.O. Qamar Killi Tehsil & District Bannu.

CHIEF ENGINEER

ATTESTED

(Annex-D) (13)

- 23 -



OFFICE OF THE CHIEF ENGINEER (SOUTH)
PUBLIC HEALTH ENGG. DEPARTMENT
KHYBER PAKHTUNKHWA, PESHAWAR

No. 46 / E-4 / PHE,
Dated Peshawar, the 14 / 02 / 2014

To

Mr. Aziz Ullah s/o Abid Ullah Khan
Steno Typist P.H.Engg Division
Karak

Subject: TERMINATION FROM SERVICE

Your recruitment in PHED made vide this office letter No.18/E-4 /PHE dated 13.01.2010 was illegal and unlawful due to non-fulfillment of codal formalities.

2. Your appointment as a Steno Typist has been reviewed on the direction of Supreme Court of Pakistan Order dated 15.01.2014 in the civil petition No.2026 and 2029 of 2013, Mushtaq Ahmad and Muhammad Nasir Ali and others. The Supreme Court of Pakistan directed the undersigned to finalize action against all illegal appointees within one month. In this regard direction of Establishment & Administration Department vide his No.SOR-V(E&AD)/15-3/2009 dated 30.1.2013 received through Secretary PHE Department Khyber Pakhtunkhwa Peshawar No.SO(Estt)/PHED/1-90/2012-13 dated 3.2.2014 record of the recruitment of Steno Typist and other staff has been checked and found the following irregularities committed by the appointing authority in your appointment.

1. Vacancies/posts of Steno Typist s were not advertized through news paper.
2. Initial recruitment of Steno Typist s will continue to be made through recommendation of the Public Service Commission in light of S&GAD letter No.SOR-I (S&GAD)1-117/91(c) dated 12.10.1993; in this case NOC was not obtained from Public Service Commission before issuance of your appointment order. As such your appointment without recommendation of the Public Service Commission is invalid and unlawful.
3. Approval from Administrative Secretary was not obtained by the appointing authority before making your appointment.
4. Departmental selection committee was not constituted by the Administrative Secretary.
5. You have also failed to reply to the show cause notice issued vide this office No. 32/E-4 /PHE dated 21.01.2014 in your defense with in stipulated period.
6. The above mentioned irregularities committed by the appointing authority in your appointment process prove that you were illegally appointed and there is no justification to retain you in the service of PHED. You are therefore terminated from the Post of Steno Typist with immediate effect.

Chief Engineer (South)

Copy forwarded to:

1. The Secretary to Govt of Khyber Pakhtunkhwa Public Health Engg. Department Peshawar
2. PS to Minister for Public Health Engg. Department Khyber Pakhtunkhwa Peshawar.
3. The Accountant General Khyber Pakhtunkhwa Peshawar.
4. The Chief Engineer (North) Public Health Engg. Department Peshawar.
5. The Chief Engineer (FATA) Works & Services Department Peshawar.
6. All Superintending Engineers/Executive Engineers in South/North P.H.Engg. Department.
7. All District Accounts Officer in Khyber Pakhtunkhwa.

Chief Engineer (South)

Attested to be
True Copy

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(Annex - E) (14)

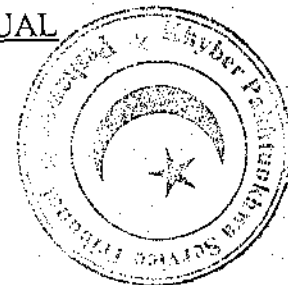
12 -

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Appeal No. 341/2016

Date of Institution ... 29.03.2016

Date of Decision ... 18.08.2017



Farhanullah, Ex-Steno Typist, PHE Division, Bannu R/O Hinjal Amir Khan, Tehsil and District, Bannu. ... (Appellant)

VERSUS

1. The Government of Khyber Pakhtunkhwa through Secretary, Public Health Engineering Department, Peshawar and another. ... (Respondents)

MR. KHLID RAHMAN,
Advocate

For appellant.

MR. MUHAMMAD JAN,
Deputy District Attorney

...

For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. AHMAD HASSAN.

...

...

CHAIRMAN
MEMBER

ATTESTED

NIAZ MUHAMMAD KHAN
Chairman
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN.- Arguments of the learned counsel for the parties heard and record perused.

2. This judgment shall dispose of the instant service appeal as well as connected service appeals No. 340/2016 Azizullah and No. 349/2016 Muhammad Iftikhar as common questions of law and facts are involved in all the appeals.

FACTS

3. The appellants were recruited to the post of Steno Typist (BPS-12) in the Public Health Engineering Department after advertisement of the posts in the Newspaper dated 27.08.2009. The appellants Farhanullah and Azizullah, were already in service who had applied for the posts of Steno Typists through proper channel while appellant Muhammad Iftikhar submitted fresh application.

ATTESTED

Consequent upon the advertisement some recommendations were made by the Departmental Selection Committee and on the basis of that recommendations, the appellants were appointed against the post of Steno Typist on 13.01.2010. The same department had recruited some Sub Engineers during the same period and their appointments were challenged being not made in accordance with the rules and the matter finally went up to the august Supreme Court of Pakistan. During the said hearing, the august Supreme Court of Pakistan had held that some other illegal appointments had also been made in the same department and that some proceedings were already underway against all those illegal appointees who were not parties in the CPLA before the august Supreme Court of Pakistan. Nevertheless, the august Supreme Court of Pakistan in the judgment dated 15.01.2014, directed the department to complete the proceedings against all illegal appointees and submit report before the Registrar of the august Supreme Court of Pakistan. Thereafter the department issued show cause notices to many persons including the present appellants and they were finally terminated from service being illegal appointees on the grounds mentioned in the show cause notices as well as in the termination order. The said termination order was challenged by the present appellants departmentally as well as through appeals before this Tribunal. This Tribunal then decided those appeals on 20.12.2012 directing the appellate authority to reconsider the case of the appellants by providing them opportunity of defence and decide the same on merits. In pursuance of the said order, the appellate authority rejected the appeals of the appellant and in the second round the appellants had challenged those appellate orders before this Tribunal in the present appeals.

ARGUMENTS

4. Learned counsel for the appellant argued that the appointment of the appellants was on regular basis and in the advertisement the word contract, short

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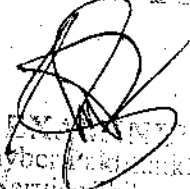

 MAJID
 Khair Pakistanhwa
 Services Tribunal,
 Peshawar

~~ATTESTED~~

period and temporary etc. were inadvertently mentioned. The learned counsel for the appellant supplemented his this ground on the basis of appointment order in which there is no mention of appointment on contract basis or on ad hoc basis. The learned counsel for the appellant further argued that rather in para 2 of the appointment order it has been mentioned that the services of the appellants would be governed under the Khyber Pakhtunkhwa Civil Servants Act, 1973 alongwith all other laws and rules applicable there under. The learned counsel for the appellant further argued that the irregularity or illegality pointed out by the department during the whole proceedings were not well based for the reason as follows:-

- i. That the objection that the posts fell within the purview of the Public Service Commission is wrong as according to amendment made in the Public Service Commission rules these posts have been declared as district cadre posts and fall outside the purview of the Public Service Commission.
- ii. That the proper Departmental Selection Committee was constituted which made the recommendations.
- iii. That the appellants served the department for almost 5 years and no objection was ever made on their appointments.
- iv. That the proceedings initiated against the appellants were not taken under the concerned disciplinary rules.
- v. That the appellants have been terminated from service and the word "termination" is alien to service laws.
- vi. That no sufficient and meaningful defence was provided to the appellant and the department violated settled elements of due process.
- vii. That the authority terminating the appellants had himself defended the appointment process before the Worthy High Court by filing reply in a writ filed by one Akbar Khan.

ATTESTED


 Deputy District Attorney
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

On the other hand the learned Deputy District Attorney argued that at present this Tribunal cannot go beyond the limits, settled by the decision of this

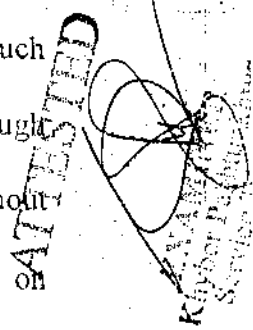
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Tribunal dated 30.12.2015. According to learned D.D.A this Tribunal after hearing the detailed arguments, remanded the appeals to the appellate authority and there was no direction that fresh proceedings under disciplinary rules or any other law should be initiated against the appellants in that very judgment. That the appointees were rightly terminated on the basis of being appointed due to political interference. In this respect he referred to a list submitted by the PSO of then Hon'ble Chief Minister to the department in which names of all the appellants figured. He further pointed out that the very recommendations of the Departmental Selection Committee are forged and fake as the alleged Chairman of the committee had given in writing that there was no such Departmental Selection Committee nor he had ever signed any minutes or recommendations of the committee. That orders of termination of the appellants have rightly been made.

CONCLUSION.

6. This Tribunal for the sake of convenience would weigh the available record of the process of appointment without referring to the other proceedings independently. The very advertisement for the posts was for appointment on contract basis with adding the words "short period". The appointment orders made in violation of the advertisement are *void ab-intio* and any order which is *void ab initio* cannot be defended on any score including the principle of *locus poenitentiae*.

7. The learned counsel for the appellant had pointed out that the term "termination" is alien to the service laws but this Tribunal is not in agreement with the learned counsel for the appellant because the term "termination" is very much available in the Khyber Pakhtunkhwa Civil Servants Act, 1973. If we go through Section 11 of the said Act, the service of a civil servant can be terminated without notice, inter-alia, if his appointment is made on ad hoc basis terminable on appointment of a person on the recommendations of the selection authority, his

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16-

appointment can be terminated. Though the case of the contract employees is not covered under this section but it is settled law that contract appointments are made in accordance with certain policy which may be issued by the competent authority under Section 25 of the Act. Admittedly, these contract employees were recruited under Section 25 of the Act and do not fall within the definition of civil servants as is clear from the definition of term "Civil Servant" under Section 2 (I)(ii) of the Act. If an appointment is made on the basis of contract within the purview of Section 25 of the Act then no authority, whatsoever can call the same as permanent employee being civil servant as is done by the appointing authority in the appointment letter in para-2. Because if appointing authority is allowed to change the whole scheme of the law then it would amount to allowing the functionaries of the state to violate the law at their own whims.

8. Coming to the objection of the learned counsel for the appellant that proceedings can be taken only under disciplinary rules as according to learned counsel after 2011 the persons making illegal appointments as well as appointees fall within the definition of "misconduct", hence the department should have initiated proceedings under disciplinary rules and there is no other legal way of terminating the services of the appellant. Contention of the learned counsel for the appellant is correct but only if appointments were not void ab initio. Secondly the case of the appellant is one of contract employment as observed above and contract employment and services of the contract employees can be terminated and dispensed with at any time without serving any notice and without showing any cause. The question of disciplinary proceedings does not arise in this case and secondly the termination simplicitor is different from removal, dismissal and compulsory retirement which are penalties and in the case in hand these are not penalties but termination simplicitor on the basis of an order being void ab initio. So far as the reply furnished by the same terminating authority before the Worthy High

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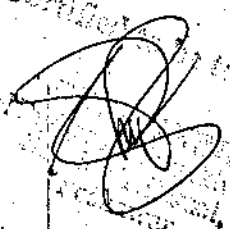
Court is concerned, that reply if at all relevant to the controversy could not make illegal action as legal, without going into the detail as to whether the case of the petitioner before the Worthy High Court is *pari materia* with the appeals before the Tribunal.

9. The nutshell of the above discussion is that no case is made out by the appellants, however, cases of the appellants Farhanullah and Azizullah who had applied for the posts through proper channel are different in view of F.R. 14. According to F.R. 14 such civil servants shall be reverted back to their original position in case they are terminated from their new assignment (not involving disciplinary action) and if they still hold lien on the posts on which they were employed previously. This Tribunal shall not discuss that whether these two appellants have their lien on those posts or not because this exercise involves determination of some factors which are delineated in FR-14. This Tribunal while dismissing the appeals of all the three appellants directs the departments in which both the appellants were employed to consider their cases in the light of FR-14 and if they are still holding lien, should be accommodated in accordance with rules. Parties are left to bear their own costs. File be consigned to the record room.

Ahmed Ali Niaz Muhammad Khan, Chairman

18.08.2017

Ali Ahmad Hassan, Member.

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Date of Presentation of Copy 18-08-17
Number of Words 2400
Copying Fee 14-
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Total 14-
Name of Copyist MMD
Date of Completion of Copy 05-09-17
Date of Delivery of Copy 05-09-17

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18

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 3410 /2016

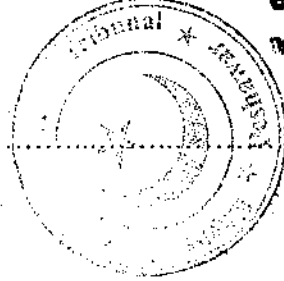
K.W.P. Province
Service Tribunal

Diary No. 294

Dated 29-3-2016

Azizullah

Ex-Steno Typist,
S/o Abidullah Khan,
R/o Gullan Kala,
Tehsil & District Bannu.....



Appellant

Versus

1. **The Govt. of Khyber Pakhtunkhwa**
through Secretary,
Public Health Engineering Department,
Civil Secretariat, Peshawar.

2. **The Chief Engineer (South)**
Public Health Engineering Department,
Khyber Pakhtunkhwa, Peshawar

Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORIGINAL ORDER DATED 14.02.2014 ISSUED BY RESPONDENT NO.2 WHEREBY THE SERVICES OF THE APPELLANT WERE UNLAWFULLY TERMINATED AGAINST WHICH DEPARTMENTAL APPEAL WAS ALSO REJECTED VIDE IMPUGNED APPELLATE ORDER COMMUNICATED THROUGH LETTER DATED 03.03.2016.

PRAYER:

On acceptance of the instant appeal, the impugned original order dated 14.02.2014 passed by Respondent No.2 and that of the appellate authority dated 03.03.2016 may graciously be set aside and appellant be reinstated into service with all back benefits.

29/3/16

29/3/16

Respectfully Sheweth,

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

ATTESTED


[Signature]
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ATTESTED

Steno Typist. Since the appellant was eligible for the same post, therefore, he applied for the post of Steno Typist.

2. That subsequently after going through the selection process, the Departmental Selection Committee recommended the appellant for the post of Steno Typist vide Statement of Selection Committee (**Annex:-B**) and consequently on its recommendations appellant was appointed as Steno-Typist (BPS-12) vide office order dated 13.01.2010 (**Annex:-C**) after observing all the codal formalities.
3. That after his appointment appellant was examined by the Medical Officer and was found fit. The Department has also prepared the Service Book (**Annex:-D**) wherein all the necessary entries have been made from time to time. Meanwhile the post of Steno-Typist (BPS-12) was upgraded to BPS-14.
4. That certain Sub-Engineers of the PHE Department earlier approached the Hon'ble Peshawar High Court, Peshawar in Writ Petitions No.271-P/2013 & No.663-P/2013 claiming regularization of their services, however, the writ petitions were dismissed on 02.10.2013 against which they preferred C.Ps No.2026 & 2029 before the Apex Court but the same too were dismissed vide Judgment dated 15.01.2014. During the hearing of the case before the Apex Court, Respondent No.2 brought into the notice of the Court that the Department had also taken action against the illegally appointed employees upon which the Hon'ble Court directed him to finalize the action within one month and submit report.
5. That the appellant was at a loss when he came to know that a joint Show Cause Notice dated 21.01.2014 (**Annex:-E**) was issued to as many as 34 employees including the appellant although his appointment order was perfectly in accordance with law and rules. The appellant submitted reply (**Annex:-F**) to the Show Cause Notice *ibid* and explained his position to the competent authority.
6. That vide impugned original order dated 14.02.2014 (**Annex:-G**), the services of the appellant were terminated on false and ill-founded grounds, against which appellant preferred Departmental appeal (**Annex:-H**) on 05.03.2014 but the same was not disposed of within the statutory period. Thereafter, appellant alongwith others approached the Hon'ble Peshawar High Court, Peshawar in W.P.No.615-

ATTESTED


 Secretary
 Peshawar

ATTESTED

Steno Typist. Since the appellant was eligible for the same post, therefore, he applied for the post of Steno Typist.

2. That subsequently after going through the selection process, the Departmental Selection Committee recommended the appellant for the post of Steno Typist vide Statement of Selection Committee (**Annex:-B**) and consequently on its recommendations appellant was appointed as Steno-Typist (BPS-i2) vide office order dated 13.01.2010 (**Annex:-C**) after observing all the codal formalities.
3. That after his appointment appellant was examined by the Medical Officer and was found fit. The Department has also prepared the Service Book (**Annex:-D**) wherein all the necessary entries have been made from time to time. Meanwhile the post of Steno-Typist (BPS-12) was upgraded to BPS-14.
4. That certain Sub-Engineers of the PHE Department earlier approached the Hon'ble Peshawar High Court, Peshawar in Writ Petitions No.271-P/2013 & No.663-P/2013 claiming regularization of their services, however, the writ petitions were dismissed on 02.10.2013 against which they preferred C.Ps No.2026 & 2029 before the Apex Court but the same too were dismissed vide Judgment dated 15.01.2014. During the hearing of the case before the Apex Court, Respondent No.2 brought into the notice of the Court that the Department had also taken action against the illegally appointed employees upon which the Hon'ble Court directed him to finalize the action within one month and submit report.
5. That the appellant was at a loss when he came to know that a joint Show Cause Notice dated 21.01.2014 (**Annex:-E**) was issued to as many as 34 employees including the appellant although his appointment order was perfectly in accordance with law and rules. The appellant submitted reply (**Annex:-F**) to the Show Cause Notice ibid and explained his position to the competent authority.
6. That vide impugned original order dated 14.02.2014 (**Annex:-G**), the services of the appellant were terminated on false and ill-founded grounds, against which appellant preferred Departmental appeal (**Annex:-H**) on 05.03.2014 but the same was not disposed of within the statutory period. Thereafter, appellant alongwith others approached the Hon'ble Peshawar High Court, Peshawar in W.P.No.615-

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 Peshawar

ATTESTED

Service Appeal No.803/2014 (*Annex:-I*) before this Hon'ble Tribunal which was finally decided vide Judgment dated 30.12.2015 (*Annex:-J*), and the case was remitted to the appellate authority for decision within a period of two months from the receipt of the Judgment. The appellate authority thereafter rejected the appeal of the appellant vide impugned appellate order communicated through letter dated 03.03.2016 (*Annex:-K*), hence this appeal, inter alia, on the following grounds:-

Grounds:

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned orders which are unjust, unfair and hence not sustainable in the eye of law.
- B. That it is wrongful assumption on the part of Respondents that the disputed post was to be filled in on the recommendation of Khyber Pakhtunkhwa Public Service Commission. After the introduction of Local Government System in the Province way back in the year 2001, the Local Governments were granted autonomy including power of appointments of the District Cadres and in this respect the Khyber Pakhtunkhwa Public Service Commission (Functions) Rules, 1983 were amended vide notification dated 02.11.2012 while posts of Works & Services Department from BPS-1 to BPS-15 were declared as District Cadre posts vide Notification dated 22.03.2005, affirmed by the Establishment Department vide letter dated 08.04.2006, therefore, the objection of the Respondents is without any legal substance and consequently the impugned orders are void ab-initio and hence not maintainable.
- C. That appellant was appointed on 13.01.2010 and after successfully completing his period of probation he had become a permanent regular employee of the Department having at his credit more than 5 years service, therefore, the sudden termination order in haphazard manner is highly unjust, unreasonable, result of abusive exercise of power, therefore, has no legal authority but inspite of the same, the appellate authority failed to appreciate this important aspect and rejected the appeal in an illegal manner which is not tenable under the law.
- D. That being a regular civil servant under Section-16 of the Khyber Pakhtunkhwa

ATTESTED

EXCHAMBER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ATTESTED

the appellant were terminated in a fill-in-the-blank manner and in violation of the law.

- E. That no enquiry muchless regular was conducted into the allegations which is the essential requirement of law and by now it has become a trite law that no major penalty can be imposed without holding regular enquiry.
- F. That the Hon'ble Tribunal has directed the appellate authority to provide opportunity of personal hearing and decide the issue in accordance with law but the appellate authority failed to provide a meaningful opportunity of personal hearing to the appellant nor decided the appeal in accordance with law but rejected the appeal in highly illegal and fill-in-the-blank manner in violation of not only the direction of the Hon'ble Tribunal but also Rule-5 of the Khyber Pakhtunkhwa Civil Servants (Appeals) Rules-1986, therefore, the impugned original order as well as the appellate order are nullity in the eyes of law and thus liable to be brushed aside.
- G. That the Respondents have misinterpreted the direction of the Hon'ble Apex Court which was only in respect of the illegal appointments and that too in accordance with the prescribed Rules. The Hon'ble Apex Court had never directed for the action against those whose appointment orders were in accordance with law nor to violate the prescribed rules for termination of services.
- H. That the appellant was appointed in the prescribed manner after observing all the codal formalities and has successfully completed the period of probation and put in more than 5 years service efficiently, dedicatedly and thus valuable rights accrued in his favour, which could not be taken away under the principle of locus poenitentiae and for that matter the principle of promissory estoppel.
- I. That without prejudice to the grounds mentioned above and in addition thereto if there was any irregularity in the appointment order which is not even available in the case in hand then for that the competent authority is responsible and for the same the poor employee cannot be punished.
- J. That it is also important to add here that a writ petition No.219/2011 challenging similar appointment order was filed before the Peshawar High Court, Mingora Bench wherein the Department submitted the Parawise Comments asserting that all the codal formalities had been fulfilled while issuing the appointment orders to the appellant and others while in the case in hand a contradictory stance was taken

ATTESTED

EX-AMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

ATTESTED

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by the Department which is also illegal and hence not sustainable.

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.

[Handwritten signature]

Appellant

Through

Khaled Rahman,
Advocate,
Supreme Court of Pakistan

Dated: ___/03/2016

Certified *[Signature]* copy

Date of Presentation of Application: 18-8-17
 Number of Words: 2000
 Copying Fee: 12
 Urgent:
 Total: 12
 Name of Officer: *[Signature]*
 Date of Completion of Work: 05-09-17
 Date of Delivery of Copy: 05-09-17

ATTESTED

(Annex-F) (26) 588

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT

Mr. Justice Gulzar Ahmed, HACJ
Mr. Justice Maqbool Baqar

Civil Petitions No. 3420, 3468, 3732 of 2017
(Against judgment dated 18.08.2017 of the KPK Service
Tribunal passed in Appeals No. 340, 341 & 349/2016)

**Farhanullah
Azizullah
Muhammad Iftikhar**

Petitioner(s)

Versus

**The Government of KPK thr. Secretary Public
Health Engineering Department, Peshawar &
another**

Respondent(s)

For the Petitioner(s) : Mr. Muhammad Shoaib
Shaheen, ASC
Mr. Ahmed Nawaz Chaudhry,
AOR

For the Respondent(s) : Not Represented

Date of Hearing : 07.11.2019

ORDER

Gulzra Ahmed, ACJ Petitioners claimed that they were appointed Stenotypist in BS-12 in the respondent Department. The matter regarding appointment in the respondent Department was considered by this Court, wherein vide judgment dated 15.01.2014 it was found that the recruitment of Sub-Engineers were not made in accordance with law and it was also noted that some illegal appointments have also been made in the Department. Pursuant to such observation of this Court, the Department inquired into the matter of illegal appointments and thereafter issued show-cause notices to many persons including the present petitioners, pursuant thereto, their services were terminated. The petitioners

ATTESTED

Senior Court Associate
Supreme Court of Pakistan
Islamabad

ATTESTED

as it appears have filed departmental appeals which were rejected. Upon which they filed service appeals before the Service Tribunal, KP which were dismissed vide impugned judgment dated 18.08.2017.

2. Petitioners Farhanullah and Azizullah were, however, allowed by the Tribunal to join their original post for that they have applied for the post of Stenotypist in the respondent Department through proper channel. Benefits of F.R. 14 was given to them. No such benefit was given to the petitioner-Muhammad Iftikhar for that his case was not that of previous employment in service. Learned counsel for the petitioners contended that the petitioners were regularly employed and were not liable to be terminated in that advertisement was published in the newspaper.

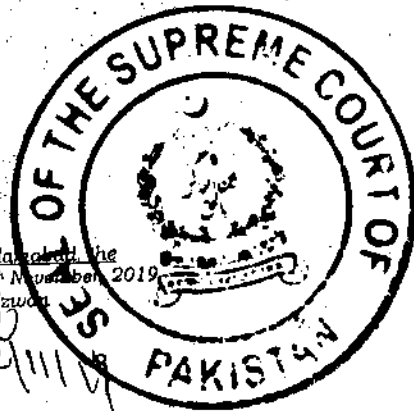
3. We have considered the submissions of the learned counsel for the petitioners and have noted that the very appointment letter, appearing at page 32 of CP No. 3420/2017, which is common for all the three petitioners, shows that the petitioners were appointed purely on temporary basis and their services were liable to be terminated without assigning any reason at 14 days notice. The petitioners have not been able to show that the status of their employment, which was purely temporary, was changed to any other nature of employment and thus, apparently by virtue of the very letter of their appointment, their service as per the agreed terms were liable to be terminated. In our view, the petitioners, though filed service appeal, but the learned Service Tribunal vide the impugned judgment has given ample reasons for non-suiting the petitioners; more so, when it also made reference to the order of this Court and thereafter, the subsequent proceedings taken by the Department. Even otherwise, no


ATTESTED
ATTESTED

Senior Court Associate
Supreme Court of Pakistan
Islamabad

substantial question of law of public importance in terms of Article 212(3) is raised. The petitions are dismissed and leave refused.

Sd/-HACJ
Sd/-J



Certified to be True Copy

Senior Court Associate
Supreme Court of Pakistan
Islamabad

22200/19

GR No: _____

Date of Presentation: 7-11-19

No of Words: 40

No of Folios: 3

Requisition Fee Rs: 500

Copy Fee is: 500

Court Fee Stamps: 1000

Date of Completion of Copy: 13/11/19

Date of delivery of Copy: _____

Compared by/Prepared by: _____

Received by: _____

ATTESTED

1 (Annex-5) (29)

IN THE SUPREME COURT OF PAKISTAN

(Review jurisdiction)

Civil Review Petition No. _____/2019

IN

CPLA No. 3468/2017

**Azizullah S/o Abidullah Khan, Ex-Steno Typist, R/o Gullan
kala Tehsil & District Bannu.**

.....Petitioner

VERSUS

1. *The Government of Khyber Pakhtunkhwa through Secretary, Public Health Engineering Department, Civil Secretariat, Peshawar.*
2. *The Chief Engineer (South), Public Health Engineering Department, Khyber Pakhtunkhwa, Peshawar.*

.....Respondents

**CIVIL REVIEW PETITION UNDER ARTICLE 188 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973
R/W ORDER XXVI RULE 1 OF THE SUPREME COURT RULES
1980 FOR REVIEW OF THE JUDGMENT DATED 07-11-2019
PASSED BY THIS APEX COURT IN CIVIL PETITION NO.
3468/2017.**

Respectfully Sheweth,

- 1) *That according to Article 188 of the Constitution of Pakistan, 1973 R/W order XXVI Rule-1 of Supreme Court Rules 1980 and keeping in view the practice of this Hon'ble Court in its order dated 07-11-2019 passed in Civil Petition No. 3468/2017 may be reviewed.*
- 2) *That the above cited Civil Petition No. 3468/2017 in filed by the petitioner came up for hearing before this Hon'ble Court on 07-11-2019 which was dismissed.*

ATTESTED

3) That though the version of the petitioner was not properly addressed.

4) That the instant Civil Review Petition is being filed by the present petitioner against the impugned order dated 07-11-2019 passed by this Hon'ble court in Civil Petition No. 3468/2017 on the following amongst other:-

GROUNDS

- i. That the scope of Review U/A 188 of the Constitution 1973 is more wider and powerful and keeping in view the peculiar facts, circumstances and law this Hon'ble court has ample jurisdiction to review its judgment
- ii. That the impugned order has been passed without considering the argument made by the petitioner's counsel and the record available on the file.
- iii. That the judgment of this Hon'ble court in a case DG ANF reported in 2012 SCMR 119 is the best instance of its practise for review of its judgment.
- iv. That the following words enshrine in order XXVI Rule 1 of Part-IV of Supreme Court Rules 1980 are very much important and having its significant Subject to

ATTESTED

law and Practice of Court, the court may review its judgment or order ----- proceedings on the ground of an error apparent on the face of record".

- v. That the petitioner has produced the independent reliable trustworthy documentary as well as oral evidence before this Hon'ble court as well in the support of his contention, which was not be considered.
- vi. That the Hon'ble Apex Court with due respect have fell in error while delivering the impugned order that the matter of the petitioner have politicized in the trial court in this regard a fake letter has been issued.
- vii. That the provisions of the local Government Ordinance, 2001 and the rule made there under do no empower the District Government/ Competent Authority to appoint the employees I the District Government without referring the matter to the learned Khyber Pakhtunkhwa Public Service Commission, therefore, the reasons for non-suiting the petiotner were justified and in accordance with law.

ATTESTED

- viii. That the learned Tribunal was not even sure about the competent authority (whether it is the Public Service Commission or the District Government), therefore, in the absence of clear findings, ousting the petitioner from service in any way is not legal /lawful , Moreover, the similarly placed four employees namely M/s Muhammad Imran , Stenographer, and Suleman Shah, Draftsman , have been retained, who were appointed along with the petitioner in the same process of selection whereas the petitioner has been ousted from service illegally and unlawfully.
- ix. That the act of the respondents is violative to the principle of locus poenitentiae because the appointment order was issued in favour the petitioner, and legitimate rights were accrued in favour of the petitioner, which cannot be taken away in an arbitrary manner and the legal and factual questions raised by the petitioner were not appreciated and considered by the learned Khyber Pakhtunkhwa Service Tribunal.
- x. That the impugned action of the respondents is violative to the judgment of this August Court reported in "2002 SCMR 71" and 2002 SCMR 82" and

ATTESTED

(33)

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also respondents have violative the principle of Locus Poenitentiae as declared by this Apex Court in the judgment mentioned in page No.7 para no. "L" in the Paper book of Civil Petition No. 3468/2019. That the petitioner would refer/ submit more relevant grounds / authorities at the time of the arguments.

PRAYER

In the light of above it is most respectfully prayed that this Review Petition may kindly be accepted against the order dated 07-11-2019 passed in Civil Petition No. 3468/2017 may please reviewed in the interest of justice.

(AZIZULLAH)
S/o Abidullah Khan,
Ex-Steno Typist,
R/o Gullan kala Tehsil & District Bannu.
Cell No. 0345-8111343
Petitioner in person

Dated:- 04-12-2019
CERTIFICATE

Certified that, this is the first Civil Review petition against the impugned order in this Hon'ble Court.

Petitioner In person

ATTESTED

VAKALATNAMA
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

EP No /2024

Azizullah

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

ERISE DEPT

(RESPONDENT)
(DEFENDANT)

I/we Azizullah

Do hereby appoint and constitute **Noor Mohammad Khattak Advocate Supreme Court** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. 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.

Dated. / /202


CLIENT

ACCEPTED

**NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT**


WALEED ADNAN


UMAR FAROOQ MOHMAND


KHANZAD GUL

&


**ABID ALI SHAH
ADVOCATES**

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