


# FORM OF ORDER SHEET

Court of \_\_\_\_\_

**Appeal No. 1380/2024**

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	<b>22-Aug-24</b>	<p>The appeal of Mr. UBAID UR REHMAN presented today by Mr. KABIR ULLAH KHATTÁK Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 18-Sep-24. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman</p> <p> <b>REGISTRAR</b></p>

Handwritten signature and scribbles at the top right of the page.

Handwritten signature and scribbles in the upper middle section.

Main body of handwritten text, appearing to be a letter or report, written in Urdu.

Handwritten signature and scribbles at the bottom of the main text block.

Handwritten text: "میرا تحریر" (My writing).

Four horizontal lines for handwritten notes or dates, with some faint markings.

Handwritten signature: "محمد الیاس" (Muhammad Ali).

Handwritten signature: "محمد الیاس" (Muhammad Ali).

Handwritten signature: "محمد الیاس" (Muhammad Ali) inside a rectangular box.

**BEFORE THE HONORABLE SERVICE TRIBUNAL  
KPK PESHAWAR**

Service Appeal No: 1380 2024

Ubaid Ur Rehman .....Appellant

**VERSUS**

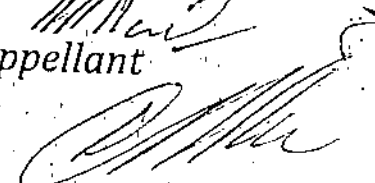
Secretary to Government of KPK & Other.....Respondents

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Appellant

Through

  
Kabir Ullah Khattak  
Advocate, High Court

(V)

**BEFORE THE HONORABLE SERVICE TRIBUNAL KPK  
PESHAWAR**

Service Appeal No: 1380 2024

Ubaid Ur Rehman S/O Abdur Rehman  
Posted as a Tracer O/O Executive Engineer C&W Division Torghar  
Abbottabad.

.....  
(Appellant)

**VERSUS**

1. Secretary to Government of KPK C&W Department Peshawar.
2. The Chief Engineer C&W Department Peshawar.

..... (Respondents)

**Appeal Under Section 04 of the Khyber Pakhtunkhwa Service Act, 1974 against the inaction of the respondents by not granting/counting contract service w.e.f from 2004 to 2012 of the appellant for pay/pension protection/fixation, for regular service as well as for seniority and against the inaction of the respondent by the not deciding the departmental appeal of the appellant within the statutory period of 90 days.**

**Prayer:**

That on acceptance of the instant service appeal the contract service/initial appointment of the appellant w.e.f from 2004 to 2012 may kindly be granted/counted for pay/pension protection/ fixation, for regular service as well as for seniority as per law and rules along all back benefits.

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Respectfully Sheweth:

1. That the appellant is law abiding citizen of Pakistan and having good reputation in the society. (Copy of CNIC is attached as annexure "A")
2. That the appellant was appointed as Sub-Engineer (BPS-11) in the Water Management Department on contract basis on 09-12-2004, and during this period the appellant performed his official duty with utmost deduction and without any complaint. (Copy of appointment order is attached as annexure "B")
3. That the contract service of appellant continued till 30-06-2011 and after that the said contract was terminated/ceased.
4. That the appellant submitted writ petition No. 593/2011 on 01-10-2011 for regularization of contract service which was accepted on 12-10-2011 and consequently the department concerned issued a notification on 12-05-2014 whereby the service of the appellant was regularized from the date of his initial appointment. (Copy of Court order dated 12-10-2011 and regularization order dated 12-05-2014 are attached as annexure "C & D")
5. That during pendency of the above noted writ petition the appellant was appointment as a tracer (BPS-05) in C&W Department on 07-05-2012. (Copy of appointment order dated 12-05-2012 is attached as annexure "E")
6. That after that on 05-08-2014 the appellant submitted an application requesting pay/pension protection and others and in response of which the Chief Engineer Center issued a letter to the Secretary of the Government of KP C&W Department on 17-10-2014, regarding the

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instant application. (Copy of application dated 05-08-2014 and forwarded order dated 17-10-2014 are attached as annexure "F&G")

7. That the appellant submitted departmental appeal on 10-05-2024 which was not responded by the respondent department. (Copy of departmental appeal as annexure "H").
8. That appellant being aggrieved the appellant filed the instant service appeal on the following grounds:-

**Grounds of appeal:**

- A. That the appellant is not been treated according to law and rules hence his right secured and guaranteed under the constitution of 1973 was badly violated.
- B. That the appellant was not treated by the respondents in accordance with law and rules on the subjected noted above and as such the respondents violated article 4 & 25 of the constitution of Islamic Republic of Pakistan 1973.
- C. That the treatment meted out to the appellant is a clear violation of the fundamental rights of the appellant as enshrined in the constitution of Pakistan 1973.
- D. That as per law and rules the appellant is entitled for pay/pension protection to count the initial appointment of contract service w.e.f from 2004 to 2012 for pay/pension protection, for regular service as well as for seniority.
- E. That there is no illegality on part of the appellant.
- F. That the inaction of respondents by not granting/counting initial appointment on the contract

(4)

service for pay/pension protection, for regular service as well as for seniority is against the law, rules norms of justice hence, may liable for sitting aside.

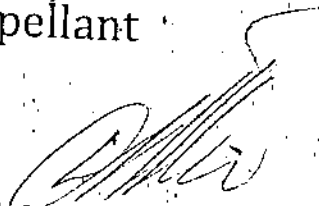
G. That any other grounds will be raised at the time of arguments.

*It is therefore mostly humbly prayed that on acceptance of the instant service appeal the contract service/initial appointment of the appellant w.e.f from 2004 to 2012 may kindly be granted/counted for pay/pension protection/ fixation, for regular service as well as for seniority as per law and rules along all back benefits.*

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

Through

  
Appellant

  
Kabir Ullah Khattak

&   
Roeeda Khan

Advocates, High Court  
Peshawar

Dated: 21/08/2024

(5)

**BEFORE THE HONORABLE SERVICE TRIBUNAL  
KPK PESHAWAR**

Service Appeal No: \_\_\_\_\_ 2024

Ubaid Ur Rehman..... (Appellant)

**VERSUS**

Secretary to Government of KPK & others..... (Respondents)

**MEMO OF ADDRESSES**

Ubaid Ur Rehman S/O Abdur Rehman

Posted as a Tracer O/O Executive Engineer C&W Division  
Torghar Abbottabad.

..... (Appellant)

**VERSUS**

1. Secretary to Government of KPK C&W Department  
Peshawar.


2. The Chief Engineer C&W Department Peshawar.

3. The District Account Officer Toghhar Abbottabad.

..... (Respondents)

  
Appellant

Through

  
**Roeeda Khan**  
Advocate High Court

Dated: 21/08/2024



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**BEFORE THE HONORABLE SERVICE TRIBUNAL  
KPK PESHAWAR**

Service Appeal No: \_\_\_\_\_ 2024

Ubaid Ur Rehman ..... **Appellant**

**VERSUS**


Secretary to Government of KPK & Other ..... **Respondents**

**A F F I D A V I T :-**

I, Ubaid Ur Rehman S/O Abdur Rehman Posted as a Tracer  
O/O Executive Engineer C&W Division Torghar Abbottabad,  
do hereby solemnly affirm and declare on oath that the  
contents of this Appeal, are true and correct to the best of  
my knowledge and belief and that nothing has been  
concealed from this honorable Tribunal.



**DEPONENT**

 Identified by  
Roeeda Khan  
Advocate, High Court  
Peshawar.

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BEFORE THE HONORABLE SERVICE TRIBUNAL KPK  
PESHAWAR

Service Appeal No: \_\_\_\_\_ 2024

Ubaid Ur Rehman .....Appellant

VERSUS


Secretary to Government of KPK & Other.....Respondents

**APPLICATION FOR CONDONATION OF DELAY (IF ANY)**

Respectfully Sheweth;

1. That the appellant has filed service appeal before this Hon'ble Tribunal, the contents whereof may kindly be read as and integral part of this application.
2. That the matter/dispute of the appellant is come under the definition of recurrence/continues cause of action against which no limitation has been run.
3. That there are so many judgment of the superior courts, that cases should be decided on merit rather than on technicalities.
4. That the valuable rights of the appellant are involved in the present and if the delay observed is not condone, appellant would likely to suffer an irreparable loss which cannot be compensated by any means what so ever.

*It is therefore, most humbly that the acceptance of this application, the delay if any may kindly be condoned in the interest of justice.*

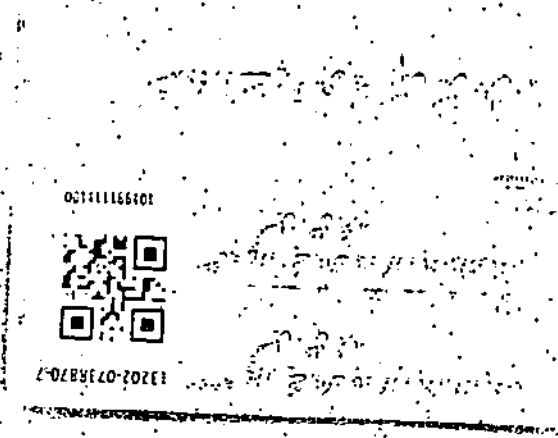
  
Appellant

Through

  
Roeeda Khan

Advocate High Court  
Peshawar.

Dated:21-08-2024



1099111150





13202-0738870-7

**PAKISTAN**  
National Identity Card

NAME: Ubaid Ur Rehman  
Father Name: Ubaid Ur Rehman  
Gender: Male  
Country of Birth: Pakistan  
Identity Number: 13202-0738870-7  
Date of Birth: 20.03.1979  
Date of Issue: 03.09.2021  
Date of Expiry: 03.09.2031

Holder's Signature: *[Signature]*

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'B' (9)

OFFICE OF THE DISTRICT COORDINATION OFFICER DISTRICTS BATTAGRAM

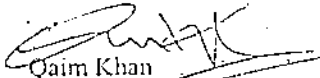
OFFICER ORDER:

Consequent upon the approval of the District recruitment committee Battagram in its meeting held on 09-12-04, under the chairmanship of District Coordination Officer, Battagram the following candidate are here by appointed against the posts of Sub-Engineer in BPS-11 (Contract) in the office of the District Officer Water Management National Program Battagram as per project policy in the interest of Public Service w.e.f 10-12-2004

S.No	Name/Father Name /Address	Office	Remarks
1	Atia U Rehman S/O Muhammad Anwar Khan Shinkhari Manselra	District Office Battagram	Newly Created Post
2	Zarnast S/O Syed Qahhar Battagram	--do--	--do--
3	Fayvaz Ahmed S/O Shams U Rehman Battagram	--do--	--do--
4	Mahd Riaz S/O Muhammad Umer Khan Battagram	--do--	--do--
5	Ubaid U Rehman S/O Abd U Rehman Battagram	--do--	--do--
6	Afser Shah S/O Syed Muzaffar Shah Battagram	--do--	--do--
7	Azizullah S/O Manzullah Battagram	--do--	--do--
8	Mahd Nawaz S/O Salah U Din Battagram	--do--	--do--

Terms and Condition:

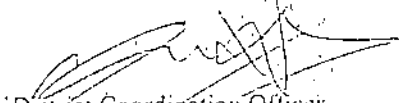
1. That your appointment is purely temporary on contract basis for a period of one year and your services are liable to be terminated at any time without any notice or reason being assigned.
2. That you are declared medically fit for government service.
3. That you will be governed by such approved order as may be issued by the Government of NWFP from time to time in the category of Govt Servants to which you belong.
4. If you wish to resign at any time you will resign in written with 30 days notice or pay in lieu thereof and will continue to serve the Government till the acceptance of your resignation by the competent authority.
5. That you can be posted any where in District Battagram.
6. That you will not be entitled to any facility for medical examination at joining the first appointment.
7. The offer is subject to the availability of vacant post.
8. The appointees will get salaries against the sanctioned posts in the budget.
9. The candidates are required to produce age and health certificate from the MS DHQ Hospital Battagram.
10. The candidates will enter into an agreement with the Govt and will be governed by terms and conditions here in after mentioned in such agreement.
11. They will not claim their seniority in their respective cadre.
12. The District Officer Water Management should obtain surety bond as well as agreement bond executed by the candidates into obey the contract policy and will have no right to challenge the policy in any Court of law.
13. If you accept the post on above conditions you should report to District Officer Water Management Battagram with in 15 days the order will be cancelled if you fail to report for duty with in above mentioned period

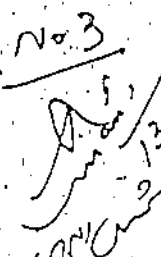
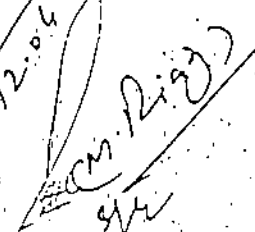
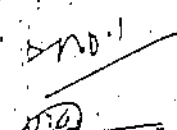
  
 Qaim Khan  
 District Coordination Officer  
 Chairman District Recruitment Committee  
 Battagram


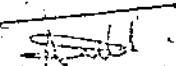
Encls: 7497-00 Dated Battagram the 09/12/2004

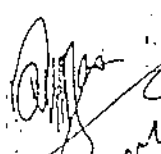

Copy to:

1. Director General on farm Water management National Program NWFP Peshawar.
2. Executive Dist Officer Agriculture Battagram.
3. Dist Officer Water Management National Programme Battagram.
4. District Account Officer Battagram.
5. All Concerned for information and necessary action.

  
 District Coordination Officer,  
 Chairman District Recruitment Committee  
 Battagram

S.No 3  
  
 13-12-04  
  
 S.No 6  


  
 U. Rehman  
 S.No 7  


  
 S.No 2  


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BEFORE THE PESHAWAR HIGH COURT,  
ABBOTTABAD BENCH.



W.P No. 593 /2011

1. Ahmed Saeed Assistant Director, Office of the District Officer on Farm Water Management Pakhwal Chowk Manshehra.
2. Muhammad Qasim Water Management Officer, Office of the District Officer On Farm Water Management Haripur.
3. Ayaz Ali Shah WMO On Farm Water Management, Abbottabad.
4. Shafique-ur-Rehman Sub Engineer On Farm Water Management Abbottabad.
5. Faisal Hayat Sub Engineer On Farm Water Management, Abbottabad.
6. Ibrar Zeb Sub Engineer On Farm Water Management, Abbottabad.
7. Zar Mast Khan Sub Engineer On Farm Water Management Battagram.
8. Muhammad Riaz Sub Engineer On Farm Water Management, Abbottabad.
9. Muhammad Nawaz Sub Engineer On Farm Water Management, Battagram.
10. Mushtaq Ahmed Sub Engineer On Farm Water Management, Battagram.
11. Muhammad Ashfaq Sub Engineer, Office of the District Officer On Farm Water Management Manshehra.
12. Zahid Javed Sub Engineer, Office of the District Officer On Farm Water Management Manshehra.
13. Mazhar Iqbal Sub Engineer, Office of the District Officer On Farm Water Management Manshehra.
14. Muhammad Uzair Sub Engineer, Office of the District Officer On Farm Water Management Manshehra.
15. Syed Nasir Hussain Shah Sub Engineer, Office of the District Officer On Farm Water Management Manshehra.
16. Muhammad Naeem Sub Engineer, Office of the District Officer On Farm Water Management Manshehra.
17. Akhtar Muneeb Sub Engineer, Office of the District Officer On Farm Water Management Manshehra.
18. Jamil Ahmad Sub Engineer, Office of the District Officer On Farm Water Management Manshehra.
19. Muhammad Arif Sub Engineer, Office of the District Officer On Farm Water Management Manshehra.
20. Azam Mehboob Sub Engineer, Office of the District Officer On Farm Water Management Manshehra.
21. Shahid Anjum Sub Engineer, Office of the District Officer On Farm Water Management Manshehra.

W 385  
1-10-11

Additional Registrar  
Peshawar High Court  
Abbottabad Bench

Certified to be True Copy  
Examiner IS X M  
Peshawar High Court  
Abbottabad Bench  
Authorized Under Section 75 Acts Ordinance

- 22. Shabir Ahmed Sub Engineer, Office of the District Officer On Farm Water Management Manshehra.
- 23. Syed Afsar [Sbah Sub Engineer, Office of the District Officer On Farm Water Management Battagram.
- 24. Fazal Ur Rehman Sub Engineer, Office of the District Officer On Farm Water Management Battagram.
- 25. Muhammad Asad Sub Engineer, Office of the District Officer On Farm Water Management Battagram.
- 26. Muhammad Asim Sub Engineer, Office of the District Officer On Farm Water Management Haripur.
- 27. Khalid Mehmood Sub Engineer, Office of the District Officer On Farm Water Management Haripur.
- 28. Syed Asad Shah Sub Engineer, Office Of the District Officer On Farm Water Management Haripur.
- 29. Gulistan Khan Sub Engineer, Office of the District Officer On Farm Water Management Haripur.
- 30. Qazi Aziz ur Rehman Sub Engineer, Office of the District Officer On Farm Water Management Haripur.
- 31. Safer Ahmed Sub Engineer, Office of the District Officer On Farm Water Management Haripur.
- 32. Sajjad Ahmad Sub Engineer, Office of the District Officer On Farm Water Management Haripur.
- 33. Muhammad Tariq Sub Engineer, Office of the District Officer On Farm Water Management Haripur.
- 34. Masood Khan Sub Engineer, Office of the District Officer On Farm Water Management Haripur.
- 35. Ubaid ur Rehman Sub Engineer, Office Of the District Officer On Farm Water Management Kohistan.
- 36. Iqbal Khan Sub Engineer, Office of the District Officer On Farm Water Management Kohistan.
- 37. Liaqat Ali Sub Engineer, Office of the District Officer On Farm Water Management Kohistan.
- 38. Abdul Salam Sub Engineer, Office of the District Officer On Farm Water Management Abbottabad.
- 39. Muhammad Farooq Field Assistant, Office of the District Officer On Farm Water Management Manshehra.
- 40. Iftikhar Ahmad Field Assistant, Office of the District Officer On Farm Water Management Battagram.
- 41. Naveed Akbar Field Assistant, Office of the District Officer On Farm Water Management Haripur.
- 42. Muhammad Sajid Class IV, Office of the District Officer On Farm Water Management Manshehra.
- 43. Amjad Khan Class IV, Office of the District Officer On Farm Water Management Manshehra.
- 44. Syed Azam Shah Class IV, Office of the District Officer On Farm Water Management Manshehra.
- 45. Muhammad Saleem Class IV, Office of the District Officer On Farm Water Management Manshehra.
- 46. Shams ur Rehman Class IV, Office of the District Officer On Farm Water Management Manshehra.
- 47. Abdul Hafeez Class IV, Office of the District Officer On Farm Water Management Manshehra.

Additional Registrar  
Peshawar High Court  
Abbottabad Bench

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Peshawar High Court  
Abbottabad Bench  
Authorized Under Section 625 Act 1907

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48. Muhammad Zahoor Class IV, Office of the District Officer On Farm Water Management Manshra.
49. Azhar Aqeel Class IV, Office of the District Officer On Farm Water Management Manshra.
50. Muhammad Yousaf Class IV, Office of the District Officer On Farm Water Management Manshra.
51. Muhammad Shoaib Class IV, Office of the District Officer On Farm Water Management Manshra.
52. Khalid Khan Class IV, Office of the District Officer On Farm Water Management Manshra.
53. Muhammad Yasir Class IV, Office of the District Officer On Farm Water Management Manshra.
54. Muhammad Niaz Class IV, Office of the District Officer On Farm Water Management Manshra.
55. Bibi Nasreen Class IV, Office of the District Officer On Farm Water Management Manshra.
56. Pir Gulab Class IV, Office of the District Officer On Farm Water Management Manshra.
57. Babu Khan Class IV, Office of the District Officer On Farm Water Management Battagram.
58. Muhammad Naqab Class IV, Office of the District Officer On Farm Water Management Battagram.
59. Rafi Ullah Class IV, Office of the District Officer On Farm Water Management Battagram.
60. Hakim Khan Class IV, Office of the District Officer On Farm Water Management Battagram.
61. Mustafa Shah Class IV, Office of the District Officer On Farm Water Management Battagram.
62. Syed Maqsood Shah Class IV, Office of the District Officer On Farm Water Management Haripur.
63. Ali Haider Class IV, Office of the District Officer ON Farm Water Management Haripur.
64. Javed ur Rehman Class IV, Office of the District Officer On Farm Water Management Haripur.
65. Muhammad Khurshed Class IV, Office of the District Officer On Farm Water Management Haripur.
66. Muhammad Mushtaq Class IV, Office of the District Officer On Farm Water Management Haripur.
67. Shabbir Ahmad Class IV, Office of the District Officer On Farm Water Management Haripur.
68. Gul Nawaz Class IV, Office of the District Officer On Farm Water Management Haripur.
69. Muhammad Zaroof Class IV, Office of the District Officer On Farm Water Management Haripur.
70. Jahangir Khan Class IV, Office of the District Officer On Farm Water Management Haripur.
71. Khalid Mehmood Class IV, Office of the District Officer On Farm Water Management Haripur.
72. Sajid Ali Class IV, Office of the District Officer On Farm Water Management Haripur.
73. Khan Afsar Class IV, Office of the District Officer On Farm Water Management Haripur.

Additional Registrar  
Peshawar High Court  
Abbottabad Bench

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Examiner  
Peshawar High Court  
Abbottabad Bench  
Authorized Under Section 75 Acts Ordinance

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74. Noor Wali Class IV, Office of the District Officer On Farm Water Management Kohistan.
75. Zaib ul Haq Class IV, Office of the District Officer On Farm Water Management Kohistan.
76. Taj Muhammad Class IV, Office of the District Officer On Farm Water Management Kohistan.
77. Hamim Class IV, Office of the District Officer On Farm Water Management Kohistan.
78. Fazal ur Rehman Class IV, Office of the District Officer On Farm Water Management Kohistan.
79. Gul Shelzada Class IV, Office of the District Officer On Farm Water Management Kohistan.
80. Muhammad Riaz Class IV, Office of the District Officer On Farm Water Management Kohistan.
81. Sher Baz Class IV, Office of the District Officer On Farm Water Management Kohistan.
82. Muhammad Ismail Class IV, Office of the District Officer On Farm Water Management Kohistan.
83. Muhammad Jamil Rod Man (Class IV employee) On Farm Water Management; Abbottabad.
84. Raheed Rod Man (Class IV employee) On Farm Water Management, Abbottabad.
85. Murad Khan Rod Man (Class IV employee) On Farm Water Management, Battagram.
86. Banaris Rod Man (Class IV employee) On Farm Water Management Battagram.
87. Nawaz Rod Man (Class IV employee) On Farm Water Management Battagram.
88. Shoukat Rod Man (Class IV employee) On Farm Water Management, Battagram.
89. Niaz Muhammad Rod Man (Class IV employee) On Farm Water Management, Battagram.
90. Matiullah Rod Man (Class IV employee) On Farm Water Management, Battagram.
91. Muhammad Zakir Rod Man (Class IV employee) On Farm Water Management, Battagram.
92. Khaista Gul Rod Man (Class IV employee) On Farm Water Management, Battagram.
93. Ibrahim Rod Man (Class IV employee) On Farm Water Management, Battagram.
94. Laiq Rasheed Rod Man (Class IV employee) On Farm Water Management, Battagram.
95. Farooq Rashid Rod Man (Class IV employee) On Farm Water Management, Battagram.
96. Saeed Akbar Rod Man (Class IV employee) On Farm Water Management, Haripur.
97. Shabir Ahmad Rod Man (Class IV employee) On Farm Water Management, Haripur.

Certified to be True Copy

...PETITIONERS

Registry  
Peshawar High Court  
Abbottabad Bench

Enrollment No. 1574  
Peshawar High Court  
Abbottabad Bench  
Authorized Under Section 75 Acts Ord.

Handwritten signature and date: 10/10/14



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SP 3

VERSUS

1. Government of Khyber Pakhtunkhwa, through Secretary Agriculture, Livestock and Cooperative Department Peshawar.
2. Government of KPK through Secretary Finance Peshawar.
3. Director General On Farm Water Management Department KPK Peshawar.
4. Deputy Coordinator Project Monitoring Unit (NPIWC KPK Component) Peshawar.
5. District Officer On Farm Water Management Manshara.
6. District Officer On Farm Water Management Battagram.
7. District Officer On Farm Water Management Haripur.
8. District Officer On Farm Water Management Kohistan.
9. District Officer On Farm Water Management Abbottabad.
10. District Coordination Officer Manshara.
11. District Coordination Officer Battagram.
12. District Coordination Officer Haripur.
13. District Coordination Officer Kohistan.
14. District Coordination Officer Abbottabad.

....RESPONDENTS

WRIT PETITION UNDER ARTICLE 199 READ WITH ARTICLE 25 OF THE OF CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973; TO THE

*Filed Today*  
Additional Registrar  
Peshawar High Court  
Abbottabad Bench  
11/10/14

EFFECT THAT THE PETITIONERS WERE APPOINTED IN ACCORDANCE WITH

Certified to be True Copy

Read by  
Peshawar High Court  
Abbottabad Bench

PRESCRIBED METHOD OF RECRUITMENT AND THROUGH THE DEPARTMENTAL SELECTION COMMITTEE ON CONTRACT BASIS IN NATIONAL PROGRAMME FOR IMPROVEMENT / LINING OF WATER COURSES NWFP (NOW KPK) AND UPON THE ENACTMENT OF SUB-SECTION 2 OF SECTION 19 OF NORTH WEST FRONTIER PROVINCE CIVIL SERVANTS (AMENDMENT) ACT, 2005, THEY ARE TO BE APPOINTED ON REGULAR BASIS. SOME SIMILAR EMPLOYEES OUT OF THE PETITIONERS HAVE BEEN APPOINTED ON REGULAR BASIS IN THE LIGHT OF JUDGMENT OF AUGUST, SUPREME COURT OF PAKISTAN DATED 11/03/2011 BUT THE SERVICES OF THE PETITIONERS HAVE NOT BEEN MADE REGULAR WHICH IS DISCRIMINATORY AGAINST THE LAW AND NATURAL JUSTICE.

FILED TODAY

Additional Registrar  
Peshawar High Court  
Abbottabad Bench

9/10/14

PLAINTIFF:- ON ACCEPTANCE OF INSTANT WRIT PETITION, IT IS PRAYED THAT THE RESPONDENTS MAY BE DIRECTED TO APPOINT

ue COPY  
5 X VI  
Court

THE PETITIONERS ON REGULAR BASIS FROM THE DATE OF THEIR APPOINTMENTS ON REGULAR BASIS UNDER SUB-SECTION-2 OF SECTION-19 OF NWFP (KPK) CIVIL SERVANT (AMENDMENT) ACT, 2005 AS WELL AS IN THE LIGHT OF JUDGMENT OF AUGUST SUPREME COURT OF PAKISTAN DATED 11/03/2011 WITH ALL BACK BENEFITS.

Respectfully Sheweth:-

1. That the petitioners No.1 to 3 are officers in BPS-17, No.4 to 38 are Sub Engineers in BPS-11, 39 to 41 are Field Assistants BPS-6 and 42 to 97 are Class-IV employees in BPS-1.

2. That the petitioners were appointed in accordance with prescribed method of recruitment and through the departmental selection committee on contract basis in the year 2004 to 2007 in the "National Programme for improvement / lining of Water courses in Pakistan (NWFP / KPK) Component" in the Water Management Agriculture Department. Appointment letters of the petitioners except

FTT  
 Additional Registrar  
 Peshawar High Court  
 Abbottabad Bench  
 11/10/14

Copy  
 Registrar  
 Peshawar High Court  
 Abbottabad Bench

(18)

(9)

5. ✓ That some of the similar employees filed writ petition before the Peshawar High Court Peshawar for regularization of their services. Their writ petitions were accepted and upheld by the August Supreme Court of Pakistan vide judgment published in 2011 SCMR 898. In pursuance of the said judgment of the August Supreme Court of Pakistan, the services of the employees have been regularized by the respondents.

6. ✓ That some other counter part, similar employees of Water Management working under the respondents filed a writ petition No. 1858/11 before Peshawar High Court Peshawar on the analogy of the said judgment of August Supreme Court of Pakistan which has also been admitted/accepted in favour of employees in the writ petition by the honourable Peshawar High Court Peshawar. Attested copy of the same shall be placed on record as and when obtained.

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 Abbottabad Bench  
 21/10/14

7. ✓ That as per rules, whenever August Supreme Court of Pakistan decides a point of law in a case, such decisions must be implemented by the concerned authorities on all other similar

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 Peshawar High Court  
 Abbottabad Bench  
 21/10/14

191

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employees in the Department and the similar employees may not be forced to resort to courts for the same relief. The judgment of the August Supreme Court of Pakistan, 2011 SCMR, 898 should have been implemented on all similarly placed employees by respondents but respondents did not implement the said judgment and the services of the petitioners have not been regularized w.e.f the dates of their appointments with all back benefits.

8. ✓ That the terms and conditions of contract of appointment of the petitioners are the same to those whose services have been regularized by the respondents.

9. ✓ That services of some similar employees have been regularized under sub-section-2 of section-19 of NWFP (KPK) civil servant (Amendment) Act, 2005, in the light of judgment of the August Supreme Court of Pakistan but the services of the petitioners have not been regularized which amounts to discrimination and malafide against the petitioners on the part of the respondents. Hence, the petitioners are not being treated on the

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 Peshawar High Court  
 Abbottabad Bench  
 11/10/11

copy the petitioners are not being treated on the  
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 Peshawar High Court  
 Abbottabad Bench

principle of equality and natural justice which is against the precedents and law.

10. That the Court fee stamp paper worth Rs. 500/- is affixed with the instant writ petition.

It is therefore, humbly prayed that on acceptance of instant writ petition, the honourable Court may very graciously be pleased to issue a writ by directing the respondents to appoint the petitioners on regular basis from the dates of their appointments on contract basis with all back benefits in the light of judgments of the August Supreme Court of Pakistan and the Peshawar High Court Peshawar.

PETITIONERS

Through

Dated: 01/10/2011

(Muhammad Arshad Khan Tanoli)  
Advocate High Court, Abbottabad.

AFFIDAVIT

I, Muhammad Arshad Khan Advocate hereby solemnly affirm and declare on oath that as per information provided to me by my clients, the contents of the foregoing Writ Petition, are correct to the best of my knowledge and belief and nothing has been concealed from the honourable Court.

13101-0918746-1

DEPONENT

*(Signature)*

Muhammad Arshad Khan  
Advocate Abbottabad

Registered  
Peshawar High Court  
Abbottabad  
Certified to be True Copy

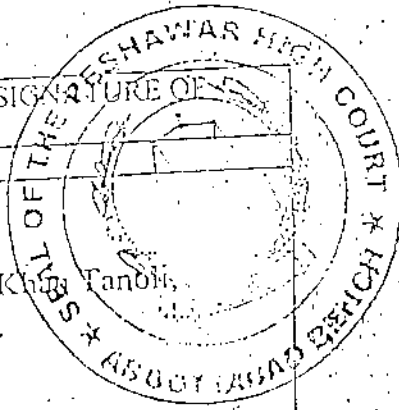
*(Signature)*

PESHAWAR HIGH COURT, ABBOTTABAD BENCH

21

FORM 'A'  
FORM OF ORDER SHEET

Date of Order or Proceedings	ORDER OR PROCEEDINGS WITH SIGNATURE OF JUDGE/JUDGES
12.10.2011	W.P No. 593/2011
	<p>Present: Mr. Muhammad Arshad Khan Tanoli, Advocate, for petitioners.</p> <p style="text-align: center;">***</p> <p><u>ATTAULLAH KHAN, J:-</u> The petitioners have filed the present writ petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973; for issuing a writ by directing the respondents to appoint the petitioners on regular basis from the dates of their appointments on contract basis with all back benefits in the light of judgments of the August Supreme Court of Pakistan and the Peshawar High Court, Peshawar.</p> <p>2. Learned counsel for petitioner does not press the present writ petition provided the respondents are directed to consider the petition of the petitioners in the light of decision in W.P No.360/2009 titled "Amir Hussain etc Vs. Government and others.</p> <p>3. The request is accepted. The petition is treated as representation and forwarded to respondents with the directions to decide the petition within one</p>



*[Handwritten signature]*

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 Peshawar High Court  
 Abbottabad Bench  
 Under Section 15 Act 1973

month in light of decision dated 15.09.2011 in W.P. No.360/2009 referred to above, failing which the petitioners would be at liberty to file a fresh petition.

Announced  
12.10.2011

SD JUDGES

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S X/H  
Peshawar High Court  
Abbottabad Bench  
Authorized Under Sec 25 Act 1973



D<sup>3</sup>

GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
AGRICULTURE LIVESTOCK & COOPERATIVE  
DEPARTMENT

Dated the Peshawar the May 12, 2014

**Notification**

No. SOE(AD)/17-131/2004 In continuation to this department notification of even number dated 3.7.2013, the competent authority is pleased to regularize the services of the following official (In order of merit) under Section-19 sub Section (2) of the Khyber Pakhtunkhwa Civil Servants (Amendment) Act, 2005 and Regularization Act, 2009 from the date of his initial appointment:-

No.	Official Name	Designation	Pay Scale	Date of Appointment
1.	Abaid-ur-Rehman	Sub Engineer	RS-11	10/12/2004

Terms and Conditions of his regularization in service are as under:-

1. His services will be considered regular and are entitled to GP Fund in such a manner and at such rates as may be prescribed by the Government under Khyber Pakhtunkhwa Civil Servants (Amendments) Act, 2013.

2. He service will be liable to termination on one month's notice from either side. In case of resignation without notice, his two month's pay/allowances shall be forfeited to Government.

3. He will be governed under such rules and regulations as may be issued from time to time by the Government.

4. In case of misconduct, he will be proceeded against the Government Servants (E&D) Rules, 2011 and the Rules framed from time to time.

Sd/xx

**SECRETARY AGRICULTURE**

Encl. of even No. & Date.

Copy forwarded for information and necessary action to:-

1. 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 Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. The PS to Chief Secretary, Khyber Pakhtunkhwa.
6. The Budget Officer, Government of Khyber Pakhtunkhwa Finance Department w/r to his letter No. BOVII/FD/2-3/SNE/2012-13 dated 18.10.2012.
7. All District/Agency Accounts Officers in Khyber Pakhtunkhwa.
8. The Manager, Government Printing Press, Peshawar.
9. Officers/Officials Concerned.
10. PS to Minister Agriculture, Khyber Pakhtunkhwa, Peshawar.
11. PS to Secretary to Government of Khyber Pakhtunkhwa, Establishment Department.
12. PS to Secretary, Agriculture, Live Stock and Cooperative Department.
13. PS to Secretary to Government of Khyber Pakhtunkhwa, Law, Parliamentary Affairs and Human Rights Department.
14. Master file.

  
(DAULAT KHAN)  
SECTION OFFICER-ESTT:

C E

(23)

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

No. 23-E(Tracer)/ 567 /CE/C&WD

Dated Peshawar the 07/05/2012

OFFER OF APPOINTMENT.

On the recommendations of the Departmental Selection Committee, in its meeting held on 03<sup>rd</sup> May 2012, the Competent Authority is pleased to offer a post of Tracer (BPS-05) viz. 5400-260-13200 to Mr. Ubaid-ur-Rahman S/O Abdur Rahman R/O Pora Battagram Tehsil & District Battagram on the following terms and conditions:-

- 1). You will get pay at the minimum of BPS-05 (Rs. 5400-260-13200) plus usual allowances as admissible under the Rules. You will also be entitled to the annual increment as per existing policy.
- 2). You shall be governed by the Khyber Pakhtunkhwa Civil Servants Act-1973 and the laws applicable to the Civil Servants and Rules made there under.
- 3). You shall, for all intents and purposes, be a Civil Servant, except for the purpose of pension or gratuity. In lieu of pension and gratuity, you will be entitled to receive such an amount contributed by you towards Contributory Provident Fund (C.P.F) alongwith the contributions made by the Government to your account in the said fund, in the prescribed manner and rates, fixed by the Government from time to time.
- 4). Your employment in the Communication & Works Department is purely temporary and your services are liable to be terminated without assigning any reasons at fourteen (14) days prior notice or on the payment of 14 days salary in lieu of the notice. In case you desire to resign, 14-days notice will be necessary or in lieu thereof 14-days pay will be forfeited.
- 5). You will initially be on probation for a period of One Year, extendable upto 2-years.
- 6). To produce a Medical Certificate of fitness from the Medical Superintendent AHQ/DHQ Hospital concerned, before reporting for duty as required under the rules.
- 7). You should to join duty at your own expenses.
- 8). You will have to serve any where in Khyber Pakhtunkhwa Province.

If you accept the post on the above terms & conditions, you should report to Chief Engineer (FATA) W&S Department Peshawar for further posting within 14-days of the receipt of this offer and produce original certificates in support of your qualification, domicile and health / age etc.

(Engr. Hidayatullah Khan)  
Chief Engineer (Centre)

Copy forwarded to the :-

- 1) Secretary to Govt. of Khyber Pakhtunkhwa, C&W Deptt. Peshawar.
- 2) Chief Engineer (FATA) W&S Department Peshawar.
- 3) Mr. Ubaid-ur-Rahman S/O Abdur Rahman R/O Pora Battagram Tehsil & District

F<sup>2</sup> (24)

To:

The Chief Engineer,  
C&W (Center) Peshawar.

1230  
5/8/2014

Subject: APPLICATION FOR PAY AND PENSION PROTECTION

Sir,

Most respectfully it is stated that I joined the Water Management department as Sub-Engineer in year 10/12/2004 in BPS-11 on contract basis and the same contract expired and my services were illegally terminated, against which courts proceedings were initiated wherein order for reinstatement and a notification dated May 12, 2014 was passed by Govt of KPK Agriculture Live Stock and Cooperative Department wherein the applicant was reinstated as sub engineer BS-11. That as non availability of post the applicant was sent to surplus pool.

That during the said period the applicant had applied for the post of Tracer in this department and was appointed as Tracer in C&W Department at BS-5 vide office order no. 23-E(Tracer)/569/CE/C&WD, dated Peshawar the 07/05/2012.

That as the applicant has rendered long service at Water Management department and vide above mentioned notification the petitioner appointment was made on courts order, but for the reason that the applicant is currently serving in this department i.e. C&W and want to continue with his services and do not want to joint service at Water Management department.

It is, therefore, requested that the pervious government service of the applicant be counted for the pay and pension of the applicant and if there is any vacant post of sub engineer available the applicant may kindly be adjusted against the said seat.

Applicant

*[Signature]*  
UBAID UR RAHMAN  
5/8/2014

Tr. C&W Department  
*[Signature]*

To

The Secretary to Govt. of  
Khyber Pakhtunkhwa  
C&W Department

SUBJECT:- APPLICATION FOR PAY AND PENSION PROTECTION.

Sir,

It is submitted that one, Mr. Ubaid Ur Rahman who is serving as Tracer in BPS-05 with C&W Department preferred application for the purpose of counting of his past services rendered with Water Management under Agriculture Live-Stock & Co-operative Department from 10-12-2004 to the date of his joining C&W Department i.e. 07-05-2012 towards Pay Protection & Pension as well.

The back-grounds of his case is narrated as under:-

- i) That when the C&W Department advertized the vacancies of Tracers in print media, the applicant applied as fresh candidature and after clearance of the DSC, he and others were appointed on 07-05-2012.
- ii) Now he states, that prior to his appointment as Tracer in BPS-05, he was serving as Sub Engineer in BPS-11 with Water Management under Agriculture Live Stock & Co-operative Department since 10-12-2004 on contract basis and later he and his other counter-parts were terminated which he and other effectees contested the case in August High Court Peshawar and Apex Court of Supreme Court of Pakistan and consequent thereto his services had been regularized w.e.f. 10-12-2004, the date of his 1<sup>st</sup> appointment as Sub Engineer in BPS-11 vide Agriculture Department Notification No. SOE(AD)17-131/2004 dated 12-05-2004. The Re-instatement orders as Sub Engineer in BPS-11 and further placing services in Surplus Pool had also been issued by the Agriculture Live Stock & Co-operative Department vide order No. SOE(AD)17-131/2004 dated 10-01-2013. Probably his name might appear in the lists of Surplus Pool of concerned Department.
- iii) At the moment, he requested to count his past service rendered with Water Management under Agriculture Department i.e. from 10-12-2004 to the date when he joined this Department C&W on 07-05-2012 towards Pay Protection & Pension as well.
- iv) In his representation date 05-08-2014 he also requested that if there is any vacant post of Sub Engineer, he may be adjusted against the said post, meaning thereby as Sub Engineer in BPS-11. The application of above-named Tracer (BPS-05) is submitted herewith for favour of valuable advice or the matter may be referred to Establishment Department and Finance Department's concurrence as well. It may also be kept in notice that the said official holds appointment as Tracer in BPS-05 as fresh candidature with C&W Department and never applied through his former organization because he was not termed a regular servant and was retrenched from the strength of Agriculture Department at that time.

DA/As above:

CHIEF ENGINEER (CENTER)

Copy to the:-

1. Mr. Ubaid-ru-Rehman Tracer O/O Executive Engineer C&W Division Tor-ghar for information w/r to his application dated 05-08-2014. Would he intimate his position as Sub Engineer (BPS-11) still appears in the list of employees placed in Surplus pool of the Agriculture Department or otherwise?
2. Section Officer (E) Agriculture Live-Stock & Cooperative Department for information & similar clarification as asked for from the individual stated above.

CHIEF ENGINEER (CENTER)

H<sup>m</sup> (26)

To.

The Chief Engineer,

C&W Department Peshawar.

Subject: DEPARTMENTAL APPEAL FOR COUNTING CONTRACTS SERVICE FOR REGULAR SERVICE, PAY/PENSION PROTECTION AND SENIORITY.

Pray:

*THAT ON ACCEPTANCE THE INSTANT DEPARTMENTAL APPEAL THE CONTRACT SERVICE OF THE APPELLANT W.E.F 2004 TO 2012 MAY KINDLY BE COUNTED FOR REGULAR SERVICE, PAY/PENSION PROTECTION AND FOR SENIORITY AS PER LAW AND RULES ALONG WITH ALL BACK BENEFITS*

Respectfully Sheweth.

- 1 That the appellant was appointed as Sub-Engineer (BPS-11) in the Water Management Department on contract basis on 09-12-2004, and during this period the appellant performed his official duty with utmost deduction and without any complaint.
- 2 That the contract service of appellant continued till 30-06-2011 and after that the said contract was terminated/ceased.
- 3 That the appellant submitted writ petition No. 593/2011 on 01-10-2011 for regularization contract service which accepted on 12-10-2011 and consequently the department concerned issued a notification on 12-05-2014 whereby the service of the appellant was regularized from the date of his initial appointment.
- 4 That during pendency of the above noted writ petition the appellant was appointed as a tracer (BPS-05) in C&W Department on 12-05-2012.
- 5 That as per decision of the Honble Peshawar High Court Peshawar the Agriculture Department issued a notification bearing No. SOE(AD)/17-131/2004 dated 26-05-2014 regarding the regularization of service of the appellant from the date of initial appointment.
- 6 That after that on 05-08-2014 the appellant submitted an application requesting pay/pension protection and others and in response of which the Chief Engineer Center issued a letter to the Secretary of the Government of KP C&W Department on 17-10-2014, regarding the instant application.

*It is therefore most humbly prayed that on acceptance of the instant departmental appeal the contract service of the appellant w.e.f 2004 to 2012 may kindly be counted for regular service, pay/pension protection and for seniority as per law and rules along with all back benefits.*

Dated: 10/05/2024

  
Yours Sincerely

Ubaid Ur Rehman