

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 356/2024.

Abdul Qayyum (Appellant)


VERSUS

Govt: of Khyber Pakhtunkhwa etc (Respondents)

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DEPONENT


DSP/ Legal,
CPO, Peshawar

17-10-24

①

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 356/2024.

Abdul Qayyum (Appellant)

VERSUS

Govt: of Khyber Pakhtunkhwa etc (Respondents)

Khyber Pakhtunkhwa
Service Tribunal

Diary No. _____

Dated _____

PARAWISE COMMENTS BY RESPONDENTS NO 1 TO 5.

RESPECTIVELY SHEWETH:

PRELIMINARY OBJECTIONS:-

- a) That the appeal is not maintainable in the present form.
- b) That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.
- c) That the appellant is estopped to file the instant Appeal by his own conduct.
- d) That the appellant has not come to this Honorable Tribunal with clean hands.
- e) That the appellant has got no cause of action and locus standi to file instant Appeal.
- f) That the appeal is barred by law & limitation.

FACTS

1. Pertains to personal information of the appellant needs no comments.
2. Incorrect. The Finance Department, Government of Khyber Pakhtunkhwa, Peshawar has sanctioned one post of CCTV/ Photo Copier Operator (BPS-07) for project Coordination Unit vide ADP Scheme No. 956(80599) subsequently, the appellant was appointed against the said post on contractual basis. (Copy of appointment order is enclosed as Annexure "A").
3. The Provincial Government of Khyber Pakhtunkhwa promulgated the Khyber Pakhtunkhwa Employees (Regularization of Services Act, 2018) thus the service of the appellant was regularized w.e.f 07.03.2018 vide order dated 20.06.2018. (Copy enclosed as Annexure "B").
4. Incorrect. After promulgation of Regularization of Services Act, 2018 Finance Department issued Notification No. BO-I/FD/5-17/2018-19 dated 17.07.2018, wherein it was directed to change the nomenclature of posts which were not in conformity with the regular posts subject to the condition that the employee shall possess the requisite qualification and other credentials. On the said directions, the name of the post of CCTV/ Photocopier was changed to Photocopier but the incumbent basic pay scale (BPS-07) has not been changed.
5. Incorrect. After Scrutiny of the documents, the Home & TAs Department issued regularization order of the incumbent against the post of Photo Copier instead of his

initial project post CCTV/ Photo Copier Operator to bring him in line with the other regular posts. Basic pay scale of the incumbent has not been changed. The subject post was never analogical to the post of Junior Clerk. The main task of CCTV/ Photo Copier Operator post is to make photocopy of the documents and watching CCTV cameras, installed in the office.

6. Incorrect. The name of the said post i.e. CCTV/ Photo Copier Operator has been changed with Photo Copier to bring the post in conformity with the regular post, but the Basic Pay Scale i.e. BS-07 was not changed and the incumbent is still drawing his salary against as he was drawing in his initial project post.
7. Incorrect. The said post was never analogical to Junior Clerk. The job description of CCTV/ Photo Copier post is to make photocopy of the documents and operate machine and CCTV cameras installed in the office. Therefore, upgradation of the said post to the post of Junior Clerk by Provincial Government is not applicable.
8. Incorrect. The post of CCTV/ Photo Copier Operator has not been relegated to BPS-4. The incumbent is still drawing his salary in BPS-07 as was drawing in his initial project post.
9. Correct to the extent of filing of Writ Petition in the Hon'ble Peshawar High Court, Peshawar and the same was dismissed vide order dated 06.11.2023 being not pressed.
10. The job nature of the subject post is photocopying the documents and keeps an eye on CCTV cameras installed in the office. Therefore, the nature of the subject post is totally different to the posts of Junior Clerk (BS-11) and Computer Operator (BS-16). The appellant is not aggrieved rather he has already been treated in accordance with law/ rules thus, has no locus standi. Therefore, the instant Service Appeal is barred under law/ rules and is liable to be dismissed on the following grounds.

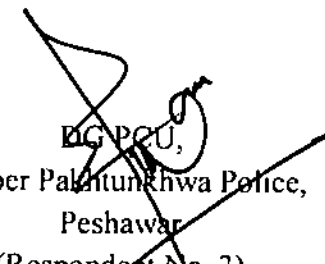
GROUNDS

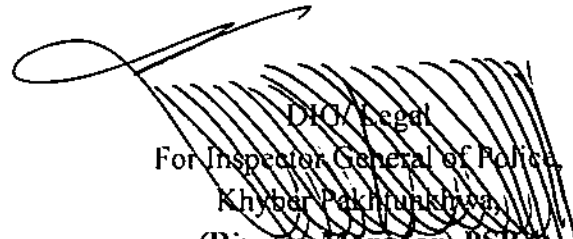
- A. Incorrect. The appellant has already been treated in accordance with law/ rules/ policy.
- B. Para to the extent of citizenship is not related needs no comments while rest of the para is legal hence, admitted.
- C. Plea taken by the appellant is not plausible because no deviation whatsoever has been made by the answering respondents from the law/ rules.
- D. Incorrect. This Para falls in the ambit of change of cadre which is not allowed in Police Department in accordance with law/ rules.
- E. Incorrect and misleading. The appellant is concealing real facts from this Hon'ble Tribunal. As already explained above that CCTV/ Photo Copier Operator has been changed with Photo Copier but the basic pay scale is same and the appellant is drawing his salary against BPS-07 as he was drawing in his initial project scale. The appellant is unnecessarily blaming the respondents.
- F. Incorrect. No discrimination exists on part of answering respondents.


- G. Incorrect. The appellant has already been awarded with regularization hence no malafide has been committed by the answering respondents.
- H. Incorrect. As already explained in preceding paras.
- I. The appellant is not entitled to be adjusted with benefits as per Regularization Act, 2022 because the services of the appellant was regularized as per Regularization of Services Act, 2018 hence, he has already been treated in accordance with law/ rules. The appellant cannot claim the incentives of the promulgation of Regularization of Services Act, 2022.
- J. The answering respondents may also be allowed to raise additional grounds at time of hearing of instant Service Appeal.


PRAYER:-

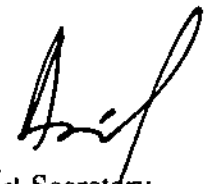
In view of the above, it is humbly prayed that the appeal of the appellant being non maintainable in accordance with law/ rules, having lack of legal force may kindly be dismissed with costs, please.


 DG PCU,
 Khyber Pakhtunkhwa Police,
 Peshawar
 (Respondent No. 3)
(Irfan Ullah Khan) PSP
 Incumbent


 DIO/ Legal
 For Inspector General of Police,
 Khyber Pakhtunkhwa,
(Rizwan Manzoor) PSP
 (Respondent No. 1)
 Incumbent


 Secretary,
 Government of Khyber Pakhtunkhwa
 Finance Department, Peshawar
Mr. Amer Sultan Tareen
 (Respondent No. 4)
 Incumbent


 Secretary,
 Government of Khyber Pakhtunkhwa
 Establishment Department, Peshawar
(Zulfiqar Ali Shah)
 (Respondent No. 5)
 Incumbent


 Addl. Chief Secretary,
 Government of Khyber Pakhtunkhwa
 Home & TAs Department, Peshawar
Muhammad Abid Majeed
 (Respondent No. 2)
 Incumbent
 Additional Chief Secretary
 Home & T.As Department
 Khyber Pakhtunkhwa.

(4)

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 356/2024.

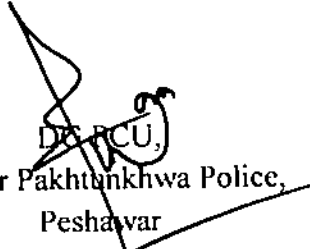
Abdul Qayyum (Appellant)

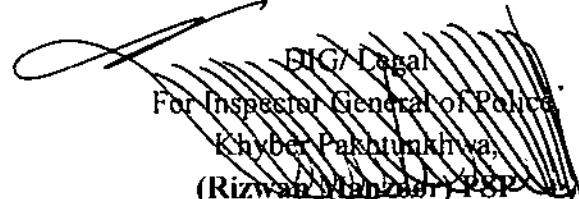
VERSUS

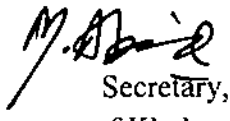
Govt: of Khyber Pakhtunkhwa etc (Respondents)


AUTHORITY LETTER


Mr. Faheem Khan DSP/ Legal, CPO, Peshawar is authorized to submit Para-wise comments/ reply in the captioned Service Appeal in the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar and also to defend instant case on behalf of respondents No. 1 to 5.


DE PCU,
Khyber Pakhtunkhwa Police,
Peshawar
(Respondent No. 3)
(Irfan Ullah Khan) PSP
Incumbent


DIG/ Legal
For Inspector General of Police,
Khyber Pakhtunkhwa,
(Rizwan Mubashir) PSP
(Respondent No. 1)
Incumbent


Secretary,
Government of Khyber Pakhtunkhwa
Finance Department, Peshawar
Mr. Amer Sultan Tareen
(Respondent No. 4)
Incumbent


Secretary,
Government of Khyber Pakhtunkhwa
Establishment Department, Peshawar
(Zulfikar Ali Shah)
(Respondent No. 5)
Incumbent


Addl. Chief Secretary,
Government of Khyber Pakhtunkhwa
Home & TAs Department, Peshawar
Muhammad Abid Majeed
(Respondent No. 2)
Incumbent
Additional Chief Secretary
Home & T.As Department
Khyber Pakhtunkhwa.

5

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 356/2024.

Abdul Qayyum (Appellant)

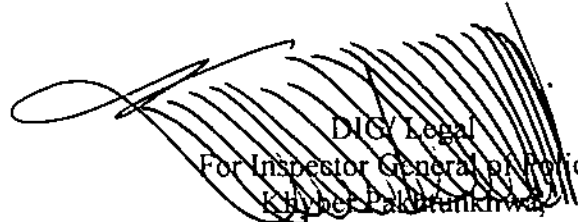
VERSUS

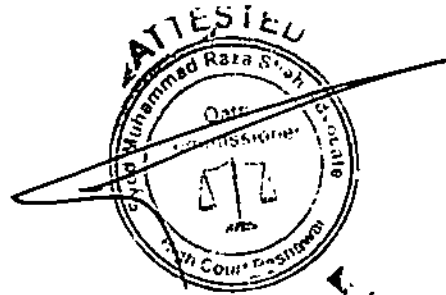
Govt: of Khyber Pakhtunkhwa etc (Respondents)

AFFIDAVIT

I, Rizwan Manzoor, Deputy Inspector General of Police, Legal, Khyber Pakhtunkhwa, Peshawar do hereby solemnly affirm on oath that the contents of Para-wise comments on behalf of respondents No. 1 to 5 are correct to the best of my knowledge/ belief. Nothing has been concealed from this Hon'ble Service Tribunal.

It is further stated on oath that in this Para-wise comments, the answering respondents have neither been placed ex-parte nor their defense is struck off.


DIG/ Legal
For Inspector General of Police,
Khyber Pakhtunkhwa
(Rizwan Manzoor) PSP
(Respondent No. 1)
Incumbent



115 OCT 2024

No: 1761/SDSP/PCU/PROC, DATED: 14/10/13

(10)

(14)

ANNEXURE - B

Appointment Order

The competent authority has been pleased to appoint Mr. Abdul Qayum, S/o Zar Badshah, Annara Bakri Banda, Post office Mardan, Distt Mardan, as "CCTV/Photocopier Operator" with fixed pay of Rs. 10,000/- (Rs. Ten Thousand Only) all inclusive per month on contract basis in this Department on the following terms and conditions:

- The period of contract will be for one year extendable subject to satisfactory performance or completion of the project, whichever is earlier.
- The services would be liable to termination on one month's notice if not required or found unsatisfactory.
- He will be entitled to receive pay at the rate of Rs. 10,000/- per month Fixed and shall not be entitled to any encashment or to earn any annual increment during his contractual appointment. His pay will commence from the date of arrival and ceases on the date of termination of his agreement or on termination of his services for any reason, whichever may be earlier.
- He will be on probation for six months.
- He will not be entitled to conveyance, house rent allowances and any other allowances which is admissible to civil servants of the same status of grade.
- In case he wishes to resign at any time one month's notice will be necessary or in lieu thereof one month's pay shall be forfeited to the government.
- His appointment to the above post will not confer on him any right of regular appointment/absorption against the post of CCTV/Photocopier Operator in the PCU or any other post nor will his services count towards seniority/promotion/pension etc.
- He has to join duty on his own expense.
- He will execute a service agreement with this department on prescribed form before joining the post. Date of appointment will be considered from the date of assumption of charge.
- He will be governed as per provisions contained in the Contract Agreement.
- He has to produce Medical Fitness Certificate before joining the post from the Civil Surgeon, Police Services Hospital, Peshawar.
- If he accepts the posts on the above terms and condition, he may report for duty on or before 22-10-2013.

No: 1762/SDSP/PCU/PROC
to:

[Signature]
Dated 14/10/13

[Signature]

Director General
Project Coordination Unit

1. Accounts Officer PCU, Police Department, Peshawar

[Signature]
2013/10/14

[Signature]

Director General



Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department

Dated 12th Rawar, the June 20, 2018.

NOTIFICATION/ORDER

E.No. SO (DRY/ID)/General Projects/2017-18/Vol-III (283440). In compliance of the Provincial Government of Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018, the Provincial Government is pleased to notify Regularization of Services of the following (54) Nos of Employees working under the project "Project Coordination Unit for Implementation of Law and Order Initiatives in Khyber Pakhtunkhwa, Police Department" w.e.f 07.03.2018, as provided under section 4 of the ibid Act.

S. No.	Name	Designation	Age
1.	Engr. Feroz Shah	Deputy Director Works	18
2.	Engr. Almal Hayat	Assistant Director Works	17
3.	Engr. Abdul Munim Khan	Assistant Director Works	17
4.	Engr. Arif Azeem	Assistant Director Works	17
5.	Mr. Himayat Ullah	Procurement Officer	17
6.	Mr. Faisal Ali Khan	Office Assistant	16
7.	Mr. Muhammad Faheem	Office Assistant	16
8.	Mr. Anjad Rashid	Office Assistant	16
9.	Syed Imran Khan	Office Assistant	16
10.	Syed Iftikhar Gilani	Office Assistant	16
11.	Mr. Shahzad Gul	Office Assistant	16
12.	Mr. Fahad Saleem	Office Assistant	16
13.	Mr. Asif Hameed	Computer Operator	16
14.	Mr. Muhammad Dawood Khan	Computer Operator	16
15.	Mr. Khurram Ali Shehzad	Computer Operator	16
16.	Mr. Abid Ullah Khan	Computer Operator	16
17.	Mr. Sajid Rashood	Computer Operator	16
18.	Mr. Muhammad Arif	Computer Operator	16
19.	Mr. Muhammad Anjad	Computer Operator	16
20.	Mr. Fayaz Muhammad	Sub. Engineer (Civil)	11
21.	Mr. Waqid Ali	Sub. Engineer (Civil)	11
22.	Mr. Falak Naz	Sub. Engineer (Civil)	11
23.	Mr. Adnan Malik	Sub. Engineer (Civil)	11
24.	Mr. Muhammad Saiman	Sub. Engineer (Electrical)	11
25.	Mr. Ihsan Gul	Junior Clerk	11
26.	Mr. Shah Khalid	Junior Clerk	11
27.	Mr. Azhar Khan	Junior Clerk	11
28.	Mr. Abdul Qayum	Photo Copier	07
29.	Mr. Hashmat Ali	Driver	06
30.	Mr. Sabir Ali Khan	Driver	06
31.	Mr. Naseeb Khan	Driver	06
32.	Mr. Sajid Ali	Driver	06
33.	Mr. Daulat Khan	Driver	06
34.	Syed Aamir Shah	Driver	06
35.	Mr. Ayaz Khan	Driver	06
36.	Mr. Shahid Ahmed	Driver	06
37.	Mr. Shah Muhammad	Driver	06
38.	Mr. Aiam Zaib	Driver	06

Annex - B

Attested
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Attested
[Signature]
Asst. Commr

20/6/18

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Batter Copy

Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department
Dated Peshawar, June 20, 2018.

NOTIFICATION/ORDER

R.SO(DEV)/HD/General-Projects/2017-18/Vol-III(203940):- in compliance of the Provincial Government of Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018. The Provincial Government is pleased to notify Regularization of Services of the following (54) Nos of Employees working under the project "Project Coordination Unit for Implementation of Law and Order Initiatives in Khyber Pakhtunkhwa, Police Department" w.e.f 07.03.2018 as provided under section 4 of the ibid Act.

S.No	Name	Designation	BPS
1	Engr. Feroz Khan	Deputy Director works	18
2	Engr. Aimat Hayat	Assistant Director works	17
3	Engr. Abdul Munim Khan	Assistant Director works	17
4	Engr. Arif Azeem	Assistant Director works	17
5	Mr. Himayat Khan	Procurement Officer	16
6	Mr. Faisal Ali Khan	Office Assistant	16
7	Mr. Muhammad Faheem	Office Assistant	16
8	Mr. Ahmad Rashed	Office Assistant	16
9	Syed Imran Khan	Office Assistant	16
10	Syed Iftikhar Gillani	Office Assistant	16
11	Mr. Shahzad Gul	Office Assistant	16
12	Mr. Fahad Saleem	Office Assistant	16
13	Mr. Asif Hameed	Computer Operator	16
14	Mr. Muhammad Dawood Khan.	Computer Operator	16
15	Mr. Khurram Ali Shehzad	Computer Operator	16
16	Mr. Abid Ullah Khan	Computer Operator	16
17	Mr. Sajid Rasheed	Computer Operator	16
18	Mr. Muhammad Arif	Computer Operator	16
19	Mr. Muhammad Amjad	Computer Operator	16
20	Mr. Fayaz Muhammad	Sub. Engineer (Civil)	11
21	M. Wahid Ali	Sub. Engineer (Civil)	11
22	Mr. Falak Naz	Sub. Engineer (Civil)	11
23	Mr. Abdul Malik	Sub. Engineer (Civil)	11
24	Mr. Muhammad Salman	Sub. Engineer (Electrical)	11
25	Mr. Ihsan Gul	Junior Clerk	11
26	Mr. Shah Khalid	Junior Clerk	11
27	Mr. Azhar Khan	Junior Clerk	11
28	Mr. Abdul Qayum	Photo Copier	07
29	Mr. Hashmat Ali	Driver	06
30	Mr. Sabs Ali Khan	Driver	06
31	Mr. Naseeb Khan	Driver	06
32	Mr. Sajid Ali	Driver	06
33	Mr. Daulat Khan	Driver	06
34	Syed Aamir Shah	Driver	06
35	Mr. Ayaz Khan	Driver	06
36	Mr. Shahid Ahmad	Driver	06
37	Mr. Shah Muhammad	Driver	06
38	Mr. Alam Zaib	Driver	06
39	Mr. Muhammad Umer	Driver	06

Assted
J. J. J.
CO-100

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8



Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department

S.No.	Name	Designation	BPS
39.	Mr. Muhammad Umar	Driver	06
40.	Mr. Moeen Ud Din	Driver	06
41.	Mr. Rooh Ullah	Naib Qasid	03
42.	Mr. Irfan Ullah	Naib Qasid	03
43.	Mr. Ayaz Anwar	Naib Qasid	03
44.	Syed Muzammil Sltah	Naib Qasid	03
45.	Mr. Mateeullah	Naib Qasid	03
46.	Syed Manzoor Ahmed	Naib Qasid	03
47.	Mr. Muhammad Zafid	Naib Qasid	03
48.	Mr. Shahid Khan	Naib Qasid	03
49.	Mr. Faiz Sultani	Naib Qasid	03
50.	Mr. Fazl-e-Raziq	Watcherman	03
51.	Mr. Harkat Ullah Khan	Watcherman	03
52.	Mr. Shahid Khalid	Watcherman	03
53.	Mr. Jarnshed Khan	Watcherman	03
54.	Mr. Adesh Kumar	Sweeper	03

-sd-
Secretary to Govt. of Khyber Pakhtunkhwa
Home & Tribal Affairs Department

Encl: No. & date 2022

Copy forwarded for information to:-

1. Principal Secretary to Chief Minister Khyber Pakhtunkhwa, Peshawar.
2. Accountant General Khyber Pakhtunkhwa, Peshawar.
3. Provincial Police Officer, Khyber Pakhtunkhwa.
4. PS to Chief Secretary, Khyber Pakhtunkhwa.
5. Secretary to Govt. of Khyber Pakhtunkhwa, Establishment & Admin Department
6. Secretary to Govt. of Khyber Pakhtunkhwa, Law Department
7. Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.
8. Manager Govt. Printing Press Peshawar for publication in the official gazette
9. PS to Home Secretary, Khyber Pakhtunkhwa.
10. Section Officer (General), Home Department.
11. Officers / Officials Concerned.

[Handwritten signature]

(HUMAIRA MEHMOOD)
SECTION OFFICER (DEV.)

PH: 091-9210238 FAX No 091-9210201

*Attested
ASi of Legal*

(4) (8A)

Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department

40	Mr. Moeen Ud Din	Driver	06
41	Mr. Rooh Ullah	Driver	06
42	M. Ifran Ullah	Naib Qasid	03
43	Mr. Ayaz Anwar	Naib Qasid	03
44	Syed Muzammil Shah	Naib Qasid	03
45	Mr. Mateenullah	Naib Qasid	03
46	Syed Manzoor Ahmad	Naib Qasid	03
47	Mr. Muhammad Zahid	Naib Qasid	03
48	Mr. Shahid Khan	Naib Qasid	03
49	Mr. Faiz Sajjad	Naib Qasid	03
50	Mr. Fazl-e-Khalig	Naib Qasid	03
51	Mr. Barakat Ullah Khan	Watcherman	03
52	Mr. Shah Khalid	Watcherman	03
53	Mr. Jamshed Khan	Watcherman	03
54	Mr. Adeesh Kumar	Sweeper	03

-sd-

Secretary to Govt of Khyber Pakhtunkhwa
Home & Tribal Affairs Department

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Javed
00/04

Endst: No & date even

Copy forwarded for information to:-

1. Principal Secretary to Chief Minister Khyber Pakhtunkhwa, Peshawar.
2. Accountant General Khyber Pakhtunkhwa, Peshawar.
3. Provincial Police Officer, Khyber Pakhtunkhwa.
4. PS to Chief Secretary, Khyber Pakhtunkhwa.
5. Secretary to Govt. of Khyber Pakhtunkhwa Establishment & Admn Department.
6. Secretary to Govt. of Khyber Pakhtunkhwa, Law Department.
7. Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.
8. Manager Govt. Printing Press Peshawar for Publication in the official gazette.
9. PS to Home Secretary, Khyber Pakhtunkhwa.
10. Section Officer (General). Home Department.
11. Officers/Official Concerned.

(HUMAIRA MEHMOOD)
SECTION OFFICER (DEV)
PH: 091-9210238 Fax: 091-9210201