

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

BEFORE: MR. AURANGZEB KHATTAK ... MEMBER (J)  
MRS. RASHIDA BANO ... MEMBER (J)

Service Appeal No.7461/2021

Fazal Kabir, Naib Qasid (BPS-3), Local Government & Rural Development  
Department, Mardan.....(*Appellant*)

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Service Appeal No. 7462/2021

Naveed Akhtar, Naib Qasid (BPS-3), Local Government & Rural Development  
Department, Mardan.....(*Appellant*)

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Service Appeal No. 7463/2021

Adil Khan, Naib Qasid (BPS-3), Local Government & Rural Development  
Department, Mardan.....(*Appellant*)

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Service Appeal No. 7464/2021

Rashid Ali, Naib Qasid (BPS-3), Local Government & Rural Development  
Department, Mardan.....(*Appellant*)

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Service Appeal No. 7465/2021

Muhammad Ayaz, Naib Qasid (BPS-3), Local Government & Rural Development  
Department, Mardan.....(*Appellant*)

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Service Appeal No. 7467/2021

Shah Fahad, Naib Qasid (BPS-3), Local Government & Rural Development  
Department, Mardan.....(*Appellant*)

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Service Appeal No. 7468/2021

Shahab Ali, Naib Qasid (BPS-3), Local Government & Rural Development  
Department, Mardan.....(*Appellant*)

**VERSUS**

1. The Director General, Local Government & Rural Development  
Department, Khyber Pakhtunkhwa, Peshawar.
2. The Assistant Director (Senior) Local Government & Rural  
Development Department, Mardan.
3. The District Account Officer, Mardan.

... (*Respondents*)



Noor Muhammad Khattak  
Advocate ... For appellant

Mr. Muhammad Jan  
District Attorney ... For respondents

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Date of Institution.....28.09.2022  
Date of Hearing.....26.09.2024  
Date of Decision.....26.09.2024

### JUDGMENT

**RASHIDA BANO, MEMBER (J):**Through this single judgment we intend to dispose of all the seven appeals captioned above as common question of law and facts are involved in them.

2. These appeals have been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:

**“On acceptance of these service appeals, the respondents may kindly be directed to release the monthly salaries of the appellants w.e.f 01.06.2020 till date. Any other remedy which this august Tribunal deems fit that may also be awarded in favour of the appellants.”**

3. Brief facts giving rise to these appeals are that the appellants were appointed as Naib Qasid on the proper recommendation of Departmental Selection Committee vide office order dated 16.03.2020. That in response, the appellants took over the charge of their post and started performing their duty. That after proper verification, the salaries of the

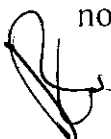


appellants were released by the respondents and as such they received the salaries for the month of May, 2020. That all of a sudden, respondents stopped the salaries of the appellants w.e.f 01.06.2020. Feeling aggrieved, they filed departmental appeals, which were not responded to, hence the present service appeals.

4. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant. We have heard learned counsel for the appellant and learned District Attorney for the respondents.

5. The learned counsel for the appellants argued that the appellants have not been treated in accordance with law and respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan; that the inaction of the respondents by not releasing the monthly salaries of the appellants is against the law, facts, norms of justice; that the appellant are still performing their duties and not releasing their salaries is amounting to forced labour and thus violation of article 11 of the constitution of Islamic Republic of Pakistan, 1973.

6. Conversely, learned District Attorney contended that appellant has been treated in accordance with law and rules. He further contended that the appointment order of the appellants were wrongly issued as they were not recommended by the Departmental Selection Committee and other



candidates were recommended by the DSC for the post of Naib Qasids, therefore, their salaries were stopped. He requested that appeals might be dismissed.

7. The perusal of record reveals that appellants were appointed as Naib Qasids upon the recommendation of DSC vide order dated 16.03.2020. Appellants took over charge of their posts and started performing their duties and received salaries for the month of May 2020. Then Mr. Masood Shah alongwith 9 others filed writ petition bearing No. 4775-P/2020 against present appellants, wherein beside other prayer one of the prayer was as noted below:

*“Declare further that the office order dated 16.03.2020 whereby the appointments of the private respondents were brought about are issued without any lawful authority, in derogation of the principles of natural justice and in colorful exercise of authority with no regards to law and rules”*


8. The Honorable Peshawar High Court, in its order dated 10.05.2023, dismissed Writ Petition No. 4775-P/2020, except with regard to Appellant No. 3. This means that the appointment orders of the appellants were stamped to be corrected by the Honorable Peshawar High Court. Respondent No. 2, the Assistant Director, appeared in person and, when questioned by the court, confirmed that the appellants have still attending the office of respondents for duty. The appellants also



presented an extract from the attendance register, which shows that they have been performing their duties to date, although their salaries have been stopped without any valid reason.

9. In view of the above, it will be in the interest of justice that let the department itself address and resolve the issue of the appellants' salaries strictly in accordance with the relevant rules, considering that the appellants' appointment orders remain valid, stamped by the Honorable Peshawar High Court, within ninety days positively after receipt of copy of this judgment. Costs shall follow the event.


10. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 26<sup>th</sup> day of September, 2024.*

  
(AURANGZEB KHATTAK)  
Member (J)

  
(RASHIDA BANO)  
Member (J)

**ORDER**  
26.09.2024

1. Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney alongwith Zubair Shah, Assistant Director for the respondents present.
2. Vide our detailed judgment of today placed on file, it will be in the interest of justice that let the department itself address and resolve the issue of the appellants' salaries strictly in accordance with the relevant rules, considering that the appellants' appointment orders remain valid, stamped by the Honorable Peshawar High Court, within ninety days positively after receipt of copy of this judgment. Costs shall follow the event.
3. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 26<sup>th</sup> day of September, 2024.*

  
(AURANGZEB KHATTAK)  
Member (J)

  
(RASHIDA BANO)  
Member (J)