


FORM OF ORDER SHEET

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

Appeal No. 1898/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	10/10/2024	<p>The appeal of presented today by Mr. Ali Gohar Durrani Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 15.10.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

S.A # 1898/2024

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR**

**CHECK LIST**

Case Title: Misbah vs. Govt

S#	CONTENTS	YES	NO
1.	This appeal has been presented by:	✓ Yes	No
2.	Whether Counsel/Appellant Respondent/Deponent have signed the requisite documents.	✓ Yes	No
3.	Whether appeal is time barred?	Yes	✓ No
4.	Whether the enactment under which the appeal is filed mentioned?	✓ Yes	No
5.	Whether the enactment under which the appeal is filed is correct?	✓ Yes	No
6.	Whether affidavit is appended?	✓ Yes	No
7.	Whether affidavit is duly attested by competent Oath Commissioner?	✓ Yes	No
8.	Whether appeal/annexures are properly paged?	✓ Yes	No
9.	Whether certificate regarding filing any earlier appeal on the subject, furnished?	✓ Yes	No
10.	Whether annexures are legible?	✓ Yes	No
11.	Whether annexures are attested?	✓ Yes	No
12.	Whether copies of annexures are readable/clear?	✓ Yes	No
13.	Whether copy of appeal is delivered to AG/DAG?	✓ Yes	No
14.	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondent?	✓ Yes	No
15.	Whether numbers of referred cases given are correct?	✓ Yes	No
16.	Whether appeal contains cutting/overwriting?	Yes	✓ No
17.	Whether list of books has been provided at the end of the appeal?	✓ Yes	No
18.	Whether case relate to this Court?	✓ Yes	No
19.	Whether requisite number of spare copies attached?	✓ Yes	No
20.	Whether complete spare copy is filed in separate file cover?	✓ Yes	No
21.	Whether addresses of parties given are complete?	Yes	No
22.	Whether index filed?	✓ Yes	No
23.	Whether index is correct?	Yes	No
24.	Whether Security and Process fee deposited? On	Yes	No
25.	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice alongwith copy of appeal and annexures has been sent to respondents? On	Yes	No
26.	Whether copies of comments/reply/rejoinder submitted? On	Yes	No
27.	Whether copies of comments/reply/rejoinder provided opposite party? On	Yes	No

It is certified that formalities/documentations as required in the above table have been fulfilled.

Name: [Signature]  
Advocate  
Signature:-

BEFORE THE  
HONORABLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL


Service Appeal No. 1898 /2024

Misbah Ullah Versus Govt. of KP & others.

I N D E X

S.NO.	Description	Annex	Page No.
1.	Appeal with Affidavit		1-7
2.	Memo of address		8
3.	Copy of Appointment Order	A	9
4.	Copy of Notification dated 25-06-2019	B	10-13
5.	Copy of the Service Appeal No. 1244/2020	C	14
6.	Copy of the Judgment dated 14-01-2022	D	15-29
7.	Copy of the Execution Petition and Order dated 09.07.2024	E & F	30-36
8.	Copy of Departmental Representation	G	37-43
9.	Wakalatnama		

Through,

Appellant  
  
(ALI GOHAR DURRANI)  
Advocate Supreme Court  
0332-9297427

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BEFORE THE  
HONORABLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 16584

Dated 10-10-2024

Service Appeal No. 1898 /2024

Misbah Ullah, Naib Qasid (BPS - 1), Establishment & Administration  
Department Civil Secretariat, Peshawar.

(Appellant)

Versus

1. The Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. The Government of Khyber Pakhtunkhwa through Secretary Establishment, Establishment & Administration Department Civil Secretariat, Peshawar.
3. The Government of Khyber Pakhtunkhwa through Secretary Finance, Finance Department, Civil Secretariat Peshawar.
4. The Government of Khyber Pakhtunkhwa through Additional Chief Secretary Merged Areas, Office at Warsak Road, Peshawar.

(Respondents)

Filed-to-day  
Registrar

16/10/24

APPEAL UNDER SECTION 4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 FOR  
ADJUSTMENT/PLACEMENT W.E.F. 01.07.2019 OF THE  
APPELLANT IN HIS RESPECTIVE DEPARTMENT AND  
TO GIVE EFFECT & IMPLEMENT THE JUDGMENT OF  
THIS HONOURABLE TRIBUNAL DATED 14-01-2022.

Respectfully Sheweth:

That the appellant earnestly submits as under:

1. That the Appellant is a law-abiding citizen of Pakistan and also hails from a respectable family. That the appellant was appointed as a Naib Qasid (BPS-1), against the vacant post vide notification dated 17-06-2013.

Copy of appointment order is Annexure-A.

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2. That along with the appellant a total number of 117 employees appointed by erstwhile FATA Secretariat were declared as surplus and placed them in surplus pool of Establishment & Administration Department vide order dated 25-06-2019, and for their further adjustment/placement w.e.f. 01-07-2019 by virtue of which the civil servants were adjusted in the Surplus pool of Establishment Department and Administration Department.

**Copy of Notification dated 25-06-2019 is Annexure-B.**

3. That an appeal was filed in this regard, before the Honourable Service Tribunal and the same was heard on 14-01-2022. The said appeal was accepted, and subsequently, the impugned notification dated 25-06-2019 was set-aside, and directions were given to respondent i.e. the concerned authorities, to adjust the appellants to their respective departments.

**Copy of the Service Appeal No. 1227/2020 is Annex-C.**

4. That along with the aforementioned directions, the Honourable Service Tribunal rendered that upon adjustment to their respective department, the appellants would be entitled to all consequential benefits. Moreover, that the issue of seniority/promotion would be dealt with accordance with the provisions contained in Civil Servants (Appointment, Promotion and Transfer) Rules 1989, and in the view of the ratio as contained in the judgment titled Tikka Kahn & other vs Syed Muzafar Hussain Shah & others (2018 SCMR 332), the seniority would be determined accordingly.

5. That the Honourable Tribunal rendered its judgment dated 14-01-2022, the appellant sought the implementation of the judgment in his respect also, but to no avail.

**Copy of the Judgment dated 14-01-2022 has been Annex-D.**

6. That the judgment being in rem, and not personam, the Appellant approach this tribunal for seeking implementation of the judgment directly in Execution Petition. The Execution Petition for implementation of the judgment dated 14.01.2021 was disposed off vide judgment dated 09.07.2024 by this Honourable Tribunal wherein the appellant was allowed to file a service appeal for the redressal of his grievance as he was not a party to the Appeal No. 1227/2020 dated 14.01.2022.

**Copy of the Execution Petition and Order dated 09.07.2024 are Annexures - E & F.**

7. That the appellant filed a departmental representation for the redressal of his grievance to the Chief Secretary Government of Khyber Pakhtunkhwa 06.06.2023 but to no avail.

**Copy of Departmental Representation is Annexure-G.**

8. Now the appellant approaches this Tribunal on the following grounds amongst others.

Grounds:

- a. Because the impugned notifications are based on discrimination as is clearly laid out in the facts above.
- b. That the judgment dated 14-01-2022 rendered by the Honourable Service Tribunal is also applicable on those civil servants who were not a part of the said appeal, because judgments of the Honourable Service should be treated as judgments in rem, and not in personam, when they settle a point of law in respect of the same set of civil servants. Reference can be given to the relevant portion of judgment cited 2023 SCMR 8, produced herein below:

*“The learned Additional A.G., KPK argued that, in the order of the KP Service Tribunal passed in Appeals Nos. 1452/2019 and 248/2020, reliance was placed on the order passed by the learned Peshawar High Court in Writ Petition No. 3162-P/2019, which was simply dismissed with the observations that the writ petition was not maintainable under Article 212 of the Constitution, hence the reference was immaterial. In this regard, we are of the firm view that if a learned Tribunal decides any question of law by dint of its judgment, the said judgment is always treated as being in rem, and not in personam. If in two judgments delivered in the service appeals the reference of the Peshawar High Court judgment has been cited, it does not act to washout the effect of the judgments rendered in the other service appeals which have the effect of a judgment in rem. In the case of Hameed Akhtar Niazi v. The Secretary, Establishment Division, Government of Pakistan and others (1996 SCMR 1185), this Court, while remanding the case to the Tribunal clearly observed that if the Tribunal or this Court decides a point of law relating to the terms of service of a civil servant which covers not only the case of the civil servant who litigated, but also of other civil servants, who may have not taken any legal proceedings, in such a case, the dictates of justice and rules of good governance demand that the benefit of the above judgment be extended to other civil servants, who may not be parties to the above litigation, instead of compelling them to approach the Tribunal or any other legal forum.”*

- c. That the judgment dated 14-01-2022 rendered by the Honourable Service Tribunal is also applicable on those civil servants who were not a part of the said appeal, because judgments of the Honourable Service should be treated as judgments in rem, and not in personam. Reference can be given to the relevant portion of judgment cited 2023 SCMR 8, produced herein below:

*“The learned Additional A.G., KPK argued that, in the order of the KP Service Tribunal passed in Appeals Nos. 1452/2019 and 248/2020, reliance was placed on the order passed by the learned Peshawar High Court in Writ Petition No. 3162-P/2019, which was simply dismissed with the observations that the writ petition was not maintainable under Article 212 of the Constitution, hence the reference was immaterial. In this regard, we are of the firm view that if a learned Tribunal decides any question of law by dint of its judgment, the said judgment is always treated as being in rem, and not in personam. If in two judgments delivered in the service appeals the reference of the Peshawar High Court judgment has been*

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- d. That the applicant is relying upon judgment cited 2023 SCMR 8, whereby, the essence of Article 212 of the Constitution of Pakistan, 1973, was fulfilled, by observing that any question of law decided by the Service Tribunal shall be treated as Judgment in rem, and not in personam. In order, to give force to the judgment of the Supreme Court, the applicant may also be subjected to the judgment rendered by the Honourable Service Tribunal.
- e. **Because** blatant discrimination has been committed in the adjustment of the appellant as compared to other similarly placed employees of erstwhile FATA Secretariat have been adjusted in different departments of Khyber Pakhtunkhwa Civil Secretariat.
- f. **Because** the Appellant has been treated illegally, unlawfully and against the spirit of the law.
- g. **Because** the Rights of the Appellant are secured under Article 8, and the entirety of Part II of the Constitution of the Islamic Republic of Pakistan, and its redress falls solely within the ambit of Article 212 of the Constitution of the Islamic Republic of Pakistan, 1973, and lie with this Honorable Tribunal.
- h. **Because** the right to due process as per Article 10-A of the Constitution of the Islamic Republic of Pakistan, 1973 is being made redundant in the instant case against the Appellant. The right is absolute and cannot be done away with and it needs to be taken as liberally as possible as per the dictum laid by the Honorable Supreme Court in **PLD 2022 SC 497**.

"Incorporation of the right to a fair trial and due process by Article 10-A in the Constitution as an independent fundamental right underscores the constitutional significance of fair trial and due process and like other fundamental rights, it is to receive a liberal and progressive interpretation and enforcement."
- i. **Because** the Honorable Supreme Court of Pakistan in the recent judgment in Justice Qazi Faez Isa case has held in unequivocal terms that even the highest of offices are not to be denied the fundamental

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rights so guaranteed by the Constitution. The judgment is reported as PLD 2022 SC 119 and lay as under:

“Right to be dealt with in accordance with law. No one, including a Judge of the highest court in the land, is above the law, At the same time, no one, including a Judge of the highest court in the land, can be denied his right to be dealt with in accordance with law; it matters little if the citizen happens to hold a high public office, he is equally subject to and entitled to the protection of law.”

The judgment referred to above further lay clear that the principles of natural justice are to be met in every circumstance in the following terms:

“After recognition of the right to fair trial and due process as a fundamental right by insertion of Art. 10A in the Constitution, violation of the principles of natural justice, which are the necessary components of the right to fair trial and due process, is now to be taken as a violation of the said fundamental right as well.”

These principles are time and again reiterated by the Honorable Supreme Court and have been recently held of immense value in PLD 2021 SC 600 in the following words:

“Constitutional guarantee of the right to be dealt with in accordance with law, under Art. 4 of the Constitution, is available not only to every citizen of the country but also to every other person for the time being within Pakistan, Said constitutional guarantee cannot be curtailed or limited in the case or matter of any person whosoever he may be and whatever the allegations against him may be.”

- j. Because the actions on part of the respondents seriously are in the negation of the Constitution of the Islamic Republic of Pakistan, 1973 and the Civil Servants Act.
- k. Because the Fundamental Rights of the Appellant have been violated in relation to Article 4, 8, 9, 18 & 25 of the Constitution of the Islamic Republic of Pakistan, 1973. The said rights flow out of the Constitution the terms and conditions of service of the Appellant and this Honorable Court being the custodian of the Fundamental Rights of citizens of Pakistan, as well as the protection afforded by the Constitution of Islamic Republic of Pakistan 1973, is why the Appellant seeks the redress of their grievances and to end the ordeal the Appellant is going through due to the illegal, unlawful and unjust acts and inaction of the Respondents.
- l. Because the Appellant has got the fundamental right of being treated in accordance with law but the treatment meted out to the Appellant is on



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consideration other than legal and he has been deprived of his rights duly guaranteed to him by the constitution of Pakistan.


- m. **Because** the appellant has not been treated in accordance with law, hence his rights secured and guaranteed under the Law are badly violated.
- n. **Because** the Appellant crave for leave to add further grounds at the time of his oral arguments before this Hon'ble Tribunal highlighting further contraventions of the provisions of the Constitution & Laws which adversely affected the Appellant.

**Prayer:**

It is, therefore, most humbly prayed that on the acceptance of this appeal, this Honorable Tribunal may so kindly declare that the notification whereby the appellant was declared to be in the surplus pool, and which has already been set-aside by this Honorable Tribunal, vide its judgment dated 14.01.2022 in Service Appeal No. 1227/2022 titled Hanif Ur Rehmanvs. Government of Khyber Pakhtunkhwa through Chief Secretary, be also declared illegal to the extent of the Appellant and the appellant may so kindly be adjusted/placed in his respective department W.E.F 01-07-2019.

Any other relief that this Honorable Tribunal may deem fit and appropriate may also be granted.

  
Appellant

Through, 

(ALI GOHAR DURRANI)  
Advocate Supreme Court  
0332-9297427  
[khaneliegohar@yahoo.com](mailto:khaneliegohar@yahoo.com)  
SHAH | DURRANI | KHATTAK

7

BEFORE THE  
HONORABLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL

Service Appeal No. \_\_\_\_\_/2024

Misbah Ullah, Naib Qasid (BPS - 1), Establishment & Administration  
Department Civil Secretariat, Peshawar.

(Appellant)

Versus

The Government of Khyber Pakhtunkhwa and others

(Respondents)

AFFIDAVIT

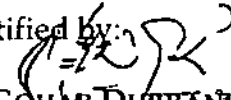
I, Misbah Ullah, Naib Qasid (BPS-1), Establishment & Administration Department Civil Secretariat, Peshawar do hereby solemnly declare and affirm on oath:

I am personally conversant with the facts and circumstances of the case as contained therein and the facts and circumstances mentioned in the enclosed writ petition are true and correct to the best of my knowledge and belief.

Deponent

CNIC#



Identified by:   
ALI GOHAR DURRANI  
Advocate Supreme Court



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BEFORE THE  
HONORABLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL

Service Appeal No. \_\_\_\_\_/2024

Misbah Ullah, Naib Qasid (BPS - 1), Establishment & Administration  
Department Civil Secretariat, Peshawar.

(Appellant)

**Versus**

1. The Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. The Government of KP through Secretary Establishment, Establishment & Administration Department Civil Secretariat, Peshawar.
3. The Government of KP through Secretary Finance, Finance Department, Civil Secretariat Peshawar.
4. The Government of KP through Additional Chief Secretary Merged Areas, Office at Warsak Road, Peshawar.

(Respondents)



Appellant

Through,



(ALI GOHAR DURRANI)

Advocate Supreme Court

0332-9297427

[khaneliegohar@yahoo.com](mailto:khaneliegohar@yahoo.com)

SHAH | DURRANI | KHATTAK



9  
Annex  
A

# FATA SECRETARIAT

(Administration, Infrastructure & Coordination Department)  
(Estate Office, Warsak Road, Peshawar)

## APPOINTMENT ORDER.

No. 101-20/EO/ADMN-Vol-II. Consequent upon the recommendations of the Departmental Selection / Promotion Committee Mr. Misbah Ullah S/O Mr. Mihraban Shah, Kaniwar, Sherpao Tehsil Tangi District Charsadda is hereby appointed as Naib Qasid (BPS-1) against the vacant post with immediate effect on the following terms and conditions. His appointment will be governed under Rule-10 sub rule-2 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.

1. He will get pay at the minimum of BS-1 including usual allowances as admissible under the rules. He will be entitled to annual increment as per existing policy.
2. He shall be governed by the Khyber Pakhtunkhwa Civil Servant Act 1973 and all the laws applicable to the civil servants and rules made there under.
3. He shall produce a Medical Certificate of fitness from Medical Superintendent, Services Hospital Peshawar, before joining duties in (A,I&C) Department, FATA Secretariat, as required under the rules
4. 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 has to join duties at his own expenses.

If he accepts the post on these conditions, he should report for duties to (A,I&C) Department, FATA Secretariat within 14 days of the receipt of this order.

SECRETARY (A, I & C)

No. 101-20/EO/ADMN-Vol-II/4912-19

Dated 17/06/2013

Copy to the;

1. Additional Accountant General PR Sub-Office, Peshawar.
2. Section Officer (B&A) Admn, FATA Secretariat, Peshawar.
3. Section Officer (B&A), FATA Secretariat, Peshawar.
4. Estate Officer/DDO, FATA Secretariat, Peshawar.
5. PS to Secretary (A,I&C) Department, FATA Secretariat, Peshawar.
6. Bill Clerk (A,I&C) Department, FATA Secretariat.
7. Official concerned.
8. Personal File.

Estate Officer.

ATTESTED

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Amex B



ESTABLISHMENT & ADMN: DEPARTMENT  
(REGULATION WING)

Dated Peshawar, the 25<sup>th</sup> June, 2019

NOTIFICATION

No. SO(O&M)/E&AD/3-18/2019: In pursuance of integration and merger of erstwhile FATA with Khyber Pakhtunkhwa, the Competent Authority is pleased to declare the following 17 employees appointed by erstwhile FATA Secretariat as "Surplus" and place them in the Surplus Pool of Establishment and Administration Department for their further adjustment/placement w.e.f. 01.07.2019:-

Sr.No.	Name of employee	Designation	BPS (Personal)
1.	Asbiq Hussain	Assistant	16
2.	Hanif ur Rehman	Assistant	16
3.	Shaukat Khan	Assistant	16
4.	Zahid Khan	Assistant	16
5.	Qaiser Khan	Assistant	16
6.	Shahid Ali Shah	Computer Operator	16
7.	Farooq Khan	Computer Operator	16
8.	Tauseef Iqbal	Computer Operator	16
9.	Waseem	Computer Operator	16
10.	Ahraf Hussain	Computer Operator	16
11.	Amir Ali	Computer Operator	16
12.	Rab Nawaz	Computer Operator	16
13.	Kamran	Computer Operator	16
14.	Hafiz Muhammad Amjad	Computer Operator	16
15.	Fazl-ur-Rehman	Computer Operator	16
16.	Rajah Ali Khan	Head Draftsman	13
17.	Bakhtiar Khan	Sub Engineer	11
18.	Hakeem-ud-Din	Draftsman	11
19.	Naseem Khan	Storekeeper	7
20.	Inamullah	Driver	5
21.	Hazrat Gul	Driver	5
22.	Said Ayoob	Driver	5
23.	Abdul Qadir	Driver	5
24.	Sharbat Khan	Driver	5
25.	Iqbal Shah	Driver	5
26.	Muhammad Ali	Driver	5

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28	Wabeedullah Shah	Driver	5
29	Mastan Shah	Driver	5
30	Mubashir Alam	Driver	5
31	Yousaf Hussain	Driver	5
32	Ihsanullah	Driver	5
33	Daud Shah	Driver	5
34	Qismat Wali	Driver	5
35	Alan Zeb	Driver	5
36	Shafiqatullah	Driver	5
37	Qismatullah	Driver	5
38	Wali Khan	Tracer	5
39	Muhammad Zabir Shah	Tracer	5
40	Niaz Akhtar	Driver	4
✓41	Mena Jan	Driver	4
42	Zaki aillah	N/Qasid	3
43	Sabir Shah	Naib Qasid	2
44	Muhammad Hussain	Naib Qasid	2
45	Zobair Shah	Naib Qasid	2
46	Muhammad Sharif	Naib Qasid	2
47	Dost Ali	Naib Qasid	2
48	Nishat Khan	Naib Qasid	2
49	Wdan Shah	Naib Qasid	2
✓50	Inamullah	Naib Qasid	2
51	Maqsood Jan	Naib Qasid	2
52	Zeeshan	Naib Qasid	2
53	Arshad Khan	Naib Qasid	2
54	Ikhtlaq Khan	Naib Qasid	2
55	Saidar Ali Shah	Naib Qasid	2
56	Kifayatullah	Naib Qasid	2
57	Hidayatullah	Naib Qasid	2
58	Khalid Khan	Naib Qasid	2
59	Shabir Khan	Naib Qasid	2
60	Saeed Gul	Naib Qasid	2
61	Zahidullah	Naib Qasid	2
62	Farhad Gul	Naib Qasid	2
63	Hameed Khan	Naib Qasid	2
64	Rashid Khan	Naib Qasid	2
65	Dost Muhammad	Naib Qasid	2
66	Sajidullah	Naib Qasid	2
67	Ifikhar ud Din	Naib Qasid	2
68	Allaf ur Rehman	Chowkidar	2
69	Muliaminad Amir	Chowkidar	2
70	Yusuf Arafat	Chowkidar	2
71	Zameer Khan	Chowkidar	2
72	Kimyn Gul	Chowkidar	2
73	Azizullah	Chowkidar	2

ATTESTED

74.	Zainullah		1
75.	Saifullah		1
76.	Inayatullah	Chowkidar	1
77.	Muhammad Abid	Chowkidar	2
78.	Daud Khan	Chowkidar	2
79.	Muhammad Suleem	Chowkidar	1
80.	Fazale Jaiq	AC Cleaner	1
81.	Alimzab	AC Cleaner/Naib Qasid	2
82.	Nelind Nadshah	Mall	1
83.	Niaz Ali	Mall	1
84.	Muhammad Arshad	Cook	2
85.	Hoshullah	Cook	2
86.	Latif Jan	Khulim Mosque	2
87.	Muhammad Arshad	Regulation Beldar	2
88.	Haniyah	Sweeper	2
89.	Karon	Sweeper	2
90.	Majid Anwar	Sweeper	2
91.	Shauqail	Sweeper	2
92.	Ruhid Masceh	Sweeper	2
93.	Nucom Munkr	Sweeper	2
94.	Purdeep Singh	Sweeper	2
95.	Mukesh	Sweeper	2
96.	Muhammad Naveed	Sweeper	2
97.	Dalal Ram	Sweeper	2
98.	Muhammad Nisar	Sweeper	2
99.	Said Anwar	Naib Qasid	1
100.	Maseeb Zeb	Naib Qasid	1
101.	Abid	Naib Qasid	1
102.	Wakool Khan	Naib Qasid	1
103.	Muhammad Amjad Ayaz	Naib Qasid	1
104.	Samiullah	Naib Qasid	1
105.	Mahabur Rehman	Naib Qasid	1
106.	Muhammad Shouab	Naib Qasid	1
107.	Bayyar Khan	Naib Qasid	1
108.	Misbahullah ✓	Naib Qasid	1
109.	Muhammad Tanveer	Naib Qasid	1
110.	Waqas Khurshid	Naib Qasid	1
111.	Muhammad Zahir Shah	Naib Qasid	1
112.	Javed Khan	Naib Qasid	1
113.	Nisar Nabil	Dere	1
114.	Arjad Khan	Mall	1
115.	Jawad Khan	Mall	1
116.	Inamullah	Chowkidar	1
117.	Ishtiaq Jan	Chowkidar	1

In order to ensure proper and expeditious adjustment/absorption of the above mentioned surplus staff, Deputy Secretary (Establishment) Establishment Department has

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(13)

been declared as focal person to properly monitor the whole process of adjustment/ placement of the surplus pool staff.

Consequent upon above all the above surplus staff alongwith their original record of service are directed to report to the Deputy Secretary (Establishment) Establishment Department for further necessary action.

CHIEF SECRETARY  
GOVT. OF KHYBER PAKHTUNKHWA

Encls: No. & Date Given

Copy to:-

1. Additional Chief Secretary, P&D Department.
2. Additional Chief Secretary, Merged Areas Secretariat.
3. Senior Member Board of Revenue.
4. Principal Secretary to Governor, Khyber Pakhtunkhwa.
5. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
6. All Administrative Secretaries, Khyber Pakhtunkhwa.
7. The Accountant General, Khyber Pakhtunkhwa.
8. Secretary (AI&C) Merged Areas Secretariat.
9. Additional Secretary (AI&C) Merged Areas Secretariat with the request to hand over the relevant record of the above staff to the Establishment Department for further necessary action and taking up the case with the Finance Department with regard to financial implications of the staff w.e.f. 01.07.2019.
10. All Divisional Commissioners in Khyber Pakhtunkhwa.
11. All Deputy Commissioners in Khyber Pakhtunkhwa.
12. Director General Information, Khyber Pakhtunkhwa.
13. PS to Chief Secretary, Khyber Pakhtunkhwa.
14. Deputy Secretary (Establishment), Establishment Department for necessary action.
15. Section Officer (E-I), Establishment Department.
16. Section Officer (E-II) Establishment Department for necessary action.
17. Section Officer (E-IV) Establishment Department.
18. PS to Secretary Establishment Department.
19. PS to Special Secretary (Regulation), Establishment Department.
20. PS to Special Secretary (Establishment), Establishment Department.

(GAULIAR ALI) 25/06/19  
SECTION OFFICER (O&M)

~~ATTESTED~~



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Amir C

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR



Service Appeal No. 1237/2020

Chief Justice 10487  
Date 21-9-2020

Hanif Ur Rehman, Assistant (BPS-16), Directorate of Prosecution Khyber Pakhtunkhwa.

Appellant

VERSUS

- 1) Government of Khyber Pakhtunkhwa through its chief Secretary at Civil Secretariat Peshawar.
- 2) Government of Khyber Pakhtunkhwa through Secretary, Finance Department at civil Secretariat Peshawar.

Respondents

21/9/2020

APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, (AS PER THE ORDER DATED 04-08-2020 OF THE AUGUST SUPREME COURT OF PAKISTAN) AGAINST THE UNJUSTIFIABLE AND IMPUGNED NOTIFICATION NO.SO(O&M)/E&AD/3-18/2019 DATED 25-06-2019, WHEREBY THE APPELLANT HAS BEEN PLACED SURPLUS AS PER THE SURPLUS POOL POLICY AND LATER ON DURING THE

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Secretary  
Khyber Pakhtunkhwa  
Service Tribunal

ATTESTED

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Annex 'D'

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No: 1227/2020

Date of Institution ... 21.09.2020

Date of Decision ... 14.01.2022



Hanif Ur Rehman, Assistant (BPS-16), Directorate of Prosecution Khyber Pakhtunkhwa. (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through its Chief Secretary at Civil Secretariat Peshawar and others. (Respondents)

Syed Yahya Zahid Gillani, Taimur Halder Khan & All Gohar Durrani, Advocates

For Appellants

Muhammad Adeel Butt, Additional Advocate General

For respondents

AHMAD SULTAN TAREEN ... ATIQ-UR-REHMAN WAZIR ...

CHAIRMAN ... MEMBER (EXECUTIVE)

JUDGMENT

ATIQ-UR-REHMAN WAZIR MEMBER (E):-

This single judgment

shall dispose of the instant service appeal as well as the following connected service appeals, as common question of law and facts are involved therein:-

1. 1228/2020 titled Zubair Shah
2. 1229/2020 titled Farooq Khan
3. 1230/2020 titled Muhammad Amjad Ayaz
4. 1231/2020 titled Qaiser Khan
5. 1232/2020 titled Ashiq Hussain
6. 1233/2020 titled Shoukat Khan
7. 1244/2020 titled Haseeb Zeb

ATTACHED

Signature and stamp of the Member (Executive)

ATTACHED

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8. 1245/2020 titled Muhammad Zahir Shah

9. 11125/2020 titled Zahid Khan

10. 11126/2020 titled Touseef Iqbal

02. Brief facts of the case are that the appellant was initially appointed as Assistant (BPS-11) on contract basis in Ex-FATA Secretariat vide order dated 01-12-2004. His services were regularized by the order of Peshawar High Court vide judgment dated 07-11-2013 with effect from 01-07-2008 in compliance with cabinet decision dated 29-08-2008. Regularization of the appellant was delayed by the respondents for quite longer and in the meanwhile, in the wake of merger of Ex-FATA with the Province, the appellant alongwith others were declared surplus vide order dated 25-06-2019. Feeling aggrieved, the appellant alongwith others filed writ petition No 3704-P/2019 in Peshawar High Court, but in the meanwhile the appellant alongwith others were adjusted in various directorates, hence the High Court vide judgment dated 05-12-2019 declared the petition as infructuous, which was challenged by the appellants in the supreme court of Pakistan and the supreme court remanded their case to this Tribunal vide order dated 04-08-2020 in CP No. 881/2020. Prayers of the appellants are that the impugned order dated 25-06-2019 may be set aside and the appellants may be retained/adjusted against the secretariat cadre borne at the strength of Establishment & Administration Department of Civil Secretariat. Similarly seniority/promotion may also be given to the appellants since the inception of their employment in the government department with back benefits as per judgment titled Tikka Khan & others Vs Syed Muzafar Hussain Shah & others (2018 SCMR 332) as well as in the light of judgment of larger bench of High court in Writ Petition No. 696/2010 dated 07-11-2013.

03. Learned counsel for the appellants has contended that the appellants has not been treated in accordance with law, hence their rights secured under the Constitution has badly been violated; that the impugned order has not been

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SECRETARY  
 PESHAWAR HIGH COURT  
 PESHAWAR

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passed in accordance with law, therefore is not tenable and liable to be set aside; that the appellants were appointed in Ex-FATA Secretariat on contract basis vide order dated 01-12-2004 and in compliance with Federal Government decision dated 29-08-2008 and in pursuance of judgment of Peshawar High Court, dated 07-11-2013, their services were regularized with effect from 01-07-2008 and the appellants were placed at the strength of Administration Department of Ex-FATA Secretariat; that the appellants were discriminated to the effect that they were placed in surplus pool vide order dated 25-06-2019, whereas services of similarly placed employees of all the departments were transferred to their respective departments in Provincial Government; that placing the appellants in surplus pool was not only illegal but contrary to the surplus pool policy, as the appellants never opted to be placed in surplus pool as per section-5 (a) of the Surplus Pool Policy of 2001 as amended in 2006 as well as the unwillingness of the appellants is also clear from the respondents letter dated 22-03-2019; that by doing so, the mature service of almost fifteen years may spoil and go in waste; that the illegal and untoward act of the respondents is also evident from the notification dated 08-01-2019, where the erstwhile FATA Secretariat departments and directorates have been shifted and placed under the administrative control of Khyber Pakhtunkhwa Government Departments, whereas the appellants were declared surplus; that billion of rupees have been granted by the Federal Government for merged/erstwhile FATA Secretariat departments but unfortunately despite having same cadre of posts at civil secretariat, the respondents have carried out the unjustifiable, illegal and unlawful impugned order dated 25-06-2019, which is not only the violation of the Apex Court judgment, but the same will also violate the fundamental rights of the appellants being enshrined in the Constitution of Pakistan, will seriously affect the promotion/seniority of the appellants; that discriminatory approach of the respondents is evident from the notification dated 22-03-2019, whereby other employees of Ex-FATA were not placed in surplus pool but Ex-FATA Planning Cell of P&D was placed and merged into Provincial

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GOVERNMENT OF PAKISTAN

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P&D Department; that declaring the appellants surplus and subsequently their adjustment in various departments/directorates are illegal, which however were required to be placed at the strength of Establishment & Administration department; that as per judgment of the High Court, seniority/promotions of the appellants are required to be dealt with in accordance with the judgment titled Tikka Khan Vs Syed Muzafar (2018 SCMR 332), but the respondents deliberately and with malafide declared them surplus, which is detrimental to the interests of the appellants in terms of monetary loss as well as seniority/promotion, hence interference of this tribunal would be warranted in case of the appellants.

04. Learned Additional Advocate General for the respondents has contended that the appellants has been treated at par with the law in vogue i.e. under section-11(A) of the Civil Servant Act, 1973 and the surplus pool policy of the provincial government framed thereunder; that proviso under Para-6 of the surplus pool policy states that in case the officer/officials declines to be adjusted/absorbed in the above manner in accordance with the priority fixed as per his seniority in the integrated list, he shall loose the facility/right of adjustment/absorption and would be required to opt for pre-mature retirement from government service provided that if he does not fulfill the requisite qualifying service for pre-mature retirement, he may be compulsory retired from service by the competent authority, however in the instant case, no affidavit is forthcoming to the effect that the appellant refused to be absorbed/adjusted under the surplus pool policy of the government; that the appellants were ministerial staff of ex-FATA Secretariat, therefore they were treated under section-11(a) of the Civil Servant Act, 1973; that so far as the issue of inclusion of posts in BPS-17 and above of erstwhile agency planning cells, P&D Department merged areas secretariat is concerned, they were planning cadre employees, hence they were adjusted in the relevant cadre of the provincial government; that after merger of erstwhile FATA with the Province, the Finance Department vide

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 MEMBER  
 KHAYBER PAKHTUNKHWA  
 PUBLIC SERVICE TRIBUNAL  
 PESHAWAR

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order dated 21-11-2019 and 11-06-2020 created posts in the administrative departments in pursuance of request of establishment department, which were not meant for blue eyed persons as is alleged in the appeal; that the appellants has been treated in accordance with law, hence their appeals being devoid of merit may be dismissed.

05. We have heard learned counsel for the parties and have perused the record.

06. Before embarking upon the issue in hand, it would be appropriate to explain the background of the case. Record reveals that in 2003, the federal government created 157 regular posts for the erstwhile FATA Secretariat, against which 117 employees including the appellants were appointed on contract basis in 2004 after fulfilling all the codal formalities. Contract of such employees was renewed from time to time by issuing office orders and to this effect; the final extension was accorded for a further period of one year with effect from 03-12-2009. In the meanwhile, the federal government decided and issued instructions dated 29-08-2008 that all those employees working on contract against the posts from BPS-1 to 15 shall be regularized and decision of cabinet would be applicable to contract employees working in ex-FATA Secretariat through SAFRON Division for regularization of contract appointments in respect of contract employees working in FATA. In pursuance of the directives, the appellants submitted applications for regularization of their appointments as per cabinet decision, but such employees were not regularized under the pleas that vide notification dated 21-10-2008 and in terms of the centrally administered tribal areas (employees status order 1972 President Order No. 13 of 1972), the employees working in FATA, shall, from the appointed day, be the employees of the provincial government on deputation to the Federal Government without deputation allowance, hence they are not entitled to be regularized under the policy decision dated 29-08-2008.

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Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

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07. In 2009, the provincial government promulgated regularization of service Act, 2009 and in pursuance, the appellants approached the additional chief secretary ex-FATA for regularization of their services accordingly, but no action was taken on their requests, hence the appellants filed writ petition No 969/2010 for regularization of their services, which was allowed vide judgment dated 30-11-2011 and services of the appellants were regularized under the regularization Act, 2009, against which the respondents filed civil appeal No 29:P/2013 and the Supreme Court remanded the case to the High Court Peshawar with direction to re-examine the case and the Writ Petition No 969/2010 shall be deemed to be pending. A three member bench of the Peshawar High Court decided the issue vide judgment dated 07-11-2013 in WP No 969/2010 and services of the appellants were regularized and the respondents were given three months time to prepare service structure so as to regulate their permanent employment in ex-FATA Secretariat vis-à-vis their emoluments, promotions, retirement benefits and inter-se-seniority with further directions to create a task force to achieve the objectives highlighted above. The respondents however, delayed their regularization, hence they filed COC No. 178-P/2014 and in compliance, the respondents submitted order dated 13-06-2014, whereby services of the appellants were regularized vide order dated 13-06-2014 with effect from 01-07-2008 as well as a task force committee had been constituted by Ex-FATA Secretariat vide order dated 14-10-2014 for preparation of service structure of such employees and sought time for preparation of service rules. The appellants again filed CM No. 182-P/2016 with IR in COC No 178-P/2014 in WP No 969/2010, where the learned Additional Advocate General alongwith departmental representative produced letter dated 28-10-2016, whereby service rules for the secretariat cadre employees of Ex-FATA Secretariat had been shown to be formulated and had been sent to secretary SAFRAN for approval, hence vide judgment dated 08-09-2016, Secretary SAFRAN was directed to finalize the matter within one month, but the respondents instead of doing the needful,

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declared all the 117 employees including the appellants as surplus vide order dated 25-06-2019, against which the appellants filed Writ Petition No. 3704-P/2019 for declaring the impugned order as set aside and retaining the appellants in the Civil Secretariat of establishment and administration department having the similar cadre of post of the rest of the civil secretariat employees.

08. During the course of hearing, the respondents produced copies of notifications dated 19-07-2019 and 22-07-2019 that such employees had been adjusted/absorbed in various departments. The High Court vide judgment dated 05-12-2019 observed that after their absorption, now they are regular employees of the provincial government and would be treated as such for all intent and purposes including their seniority and so far as their other grievance regarding their retention in civil secretariat is concerned, being civil servants, it would involve deeper appreciation of the vires of the policy, which have not been impugned in the writ petition and in case the appellants still feel aggrieved regarding any matter that could not be legally within the framework of the said policy, they would be legally bound by the terms and conditions of service and in view of bar contained in Article 212 of the Constitution, this court could not embark upon to entertain the same. Needless to mention and we expect that keeping in view the ratio as contained in the judgment titled Tikka Khan and others Vs Syed Muzafar Hussain Shah and others (2018 SCMR 332), the seniority would be determined accordingly, hence the petition was declared as infructuous and was dismissed as such. Against the judgment of High Court, the appellants filed CPLA No. 881/2020 in the Supreme Court of Pakistan, which was disposed of vide judgment dated 04-08-2020 on the terms that the petitioners should approach the service tribunal, as the issue being terms and condition of their service, does fall within the jurisdiction of service tribunal, hence the appellant filed the instant service appeal.

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Secretary, Government of Punjab

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09. Main concern of the appellants in the instant service appeal is that in the first place, declaring them surplus is illegal, as they were serving against regular posts in administration department Ex-FATA, hence their services were required to be transferred to Establishment & Administration Department of the provincial government like other departments of Ex-FATA were merged in their respective department. Their second stance is that by declaring them surplus and their subsequent adjustment in directorates affected them in monetary terms as well as their seniority/promotion also affected being placed at the bottom of the seniority line.

10. In view of the foregoing explanation, in the first place, it would be appropriate to count the discriminatory behaviors of the respondents with the appellants, due to which the appellants spent almost twelve years in protracted litigation right from 2008 till date. The appellants were appointed on contract basis after fulfilling all the codal formalities by FATA Secretariat, administration wing but their services were not regularized, whereas similarly appointed persons by the same office with the same terms and conditions vide appointments orders dated 08-10-2004, were regularized vide order dated 04-04-2009. Similarly a batch of another 23 persons appointed on contract were regularized vide order dated 04-09-2009 and still a batch of another 28 persons were regularized vide order dated 17-03-2009; hence the appellants were discriminated in regularization of their services without any valid reason. In order to regularize their services, the appellants repeatedly requested the respondents to consider them at par with those, who were regularized and finally they submitted applications for implementation of the decision dated 29-08-2008 of the federal government, where by all those employees working in FATA on contract were ordered to be regularized, but their requests were declined under the plea that by virtue of presidential order as discussed above, they are employees of provincial government and only on deputation to FATA but without deputation allowance.

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 MEMBER  
 Khuzdar District Tribunal  
 Section 14, Khuzdar  
 Khuzdar

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 ATTORNEY

hence they cannot be regularized, the fact however remains that they were not employee of provincial government and were appointed by administration department of Ex-FATA Secretariat, but due to malafide of the respondents, they were repeatedly refused regularization, which however was not warranted. In the meanwhile, the provincial government promulgated Regularization Act, 2009, by virtue of which all the contract employees were regularized, but the appellant were again refused regularization, but with no plausible reason, hence they were again discriminated and compelling them to file Writ Petition in Peshawar High Court, which was allowed vide judgment dated 30-11-2011 without any debate, as the respondents had already declared them as provincial employees and there was no reason whatsoever to refuse such regularization, but the respondent instead of their regularization, filed CPLA in the Supreme Court of Pakistan against such decision, which again was an act of discrimination and malafide, where the respondents had taken a plea that the High Court had allowed regularization under the regularization Act, 2009 but did not discuss their regularization under the policy of Federal Government laid down in the office memorandum issued by the cabinet secretary on 29-08-2008 directing the regularization of services of contractual employees working in FATA, hence the Supreme Court remanded their case to High Court to examine this aspect as well. A three member bench of High Court heard the arguments, where the respondents took a U turn and agreed to the point that the appellants had been discriminated and they will be regularized but sought time for creation of posts and to draw service structure for these and other employees to regulate their permanent employment. The three member bench of the High Court had taken a serious view of the unessential technicalities to block the way of the appellants, who too are entitled to the same relief and advised the respondents that the petitioners are suffering and are in trouble besides mental agony, hence such regularization was allowed on the basis of Federal Government decision dated 29-08-2008 and the appellants were declared as civil servants of the FATA.

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Secretariat and not of the provincial government. In a manner, the appellants were wrongly refused their right of regularization under the Federal Government Policy, which was conceded by the respondents before three member's bench, but the appellants suffered for years for a single wrong refusal of the respondents, who put the matter on the back burner and on the ground of sheer technicalities thwarted the process despite the repeated direction of the federal government as well as of the judgment of the courts. Finally, Services of the appellants were very unwillingly regularized in 2014 with effect from 2003 and that too after contempt of court proceedings. Judgment of the three member bench is very clear and by virtue of such judgment, the respondents were required to regularize them in the first place and to own them as their own employees borne on the strength of establishment and administration department of FATA Secretariat, but step-motherly behavior of the respondents continued unabated, as neither posts were created for them nor service rules were framed for them as were committed by the respondents before the High Court and such commitments are part of the judgment dated 07-11-2013 of Peshawar High Court. In the wake of 25th Constitutional amendments and upon merger of FATA Secretariat into Provincial Secretariat, all the departments alongwith staff were merged into provincial departments. Placed on record is notification dated 08-01-2019, where P&D Department of FATA Secretariat was handed over to provincial P&D Department and law & order department merged into Home Department vide notification dated 16-01-2019; Finance department merged into provincial Finance department vide notification dated 24-01-2019, education department vide order dated 24-01-2019 and similarly all other department like Zakat & Usher Department, Population Welfare Department, Industries, Technical Education, Minerals, Road & Infrastructure, Agriculture, Forests, Irrigation, Sports, FDMA and others were merged into respective Provincial Departments, but the appellants being employees of the administration department of ex-FATA were not merged into Provincial Establishment & Administration Department; rather they were

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*[Signature]*  
 Director  
 Establishment & Administration Department


*[Signature]*  
 DIRECTOR

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declared surplus, which was discriminatory and based on malafide, as there was no reason for declaring the appellants as surplus, as total strength of FATA Secretariat from BP5-1 to 21 were 56983 of the civil administration against which employees of provincial government, defunct FATA DC, employees appointed by FATA Secretariat, line directorates and autonomous bodies etc. were included, amongst which the number of 117 employees including the appellants were granted amount of Rs. 25505.00 million for smooth transition of the employees as well as departments to provincial departments and to this effect a summary was submitted by the provincial government to the Federal Government, which was accepted and vide notification dated 09-04-2019, provincial government was asked to ensure payment of salaries and other obligatory expenses, including terminal benefits as well of the employees against the regular sanctioned 56983 posts of the administrative departments/attached directorates/field formations of erstwhile FATA, which shows that the appellants were also working against sanctioned posts and they were required to be smoothly merged with the establishment and administration department of provincial government, but to their utter dismay, they were declared as surplus inspite of the fact that they were posted against sanctioned posts and declaring them surplus, was no more than malafide of the respondents. Another discriminatory behavior of the respondents can be seen, when a total of 235 posts were created vide order dated 11-06-2020 in administrative departments i.e. Finance, Home, Local Government, Health, Environment, Information, Agriculture, Irrigation, Mineral and Education Departments for adjustment of the staff of the respective departments of ex-FATA, but here again the appellants were discriminated and no post was created for them in Establishment & Administration Department and they were declared surplus and later on were adjusted in various directorates, which was detrimental to their rights in terms of monetary benefits, as the allowances admissible to them in their new places of adjustment were less than the one admissible in civil secretariat. Moreover, their seniority was also affected

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 OFFICER IN CHARGE  
 FATA SECRETARIAT  
 ISLAMABAD


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as they were placed at the bottom of seniority and their promotions, as the appellant appointed as Assistant is still working as Assistant in 2022, are the factors, which cannot be ignored and which shows that injustice has been done to the appellants. Needless to mention that the respondents failed to appreciate that the Surplus Pool Policy-2001 did not apply to the appellants since the same was specifically made and meant for dealing with the transition of district system and resultant re-structuring of governmental offices under the devolution of powers from provincial to local governments as such, the appellants service in erstwhile FATA Secretariat (now merged area secretariat) had no nexus whatsoever with the same, as neither any department was abolished nor any post, hence the surplus pool policy applied on them was totally illegal. Moreover the concerned learned counsel for the appellants had added to their miseries by contesting their cases in wrong forums and to this effect, the supreme court of Pakistan in their case in civil petition No. 881/2020 had also noticed that the petitioners being pursuing their remedy before the wrong forum, had wasted much of their time and the service Tribunal shall justly and sympathetically consider the question of delay in accordance with law. To this effect we feel that the delay occurred due to wastage of time before wrong forums, but the appellants continuously contested their case without any break for getting justice. We feel that their case was already spoiled by the respondents due to sheer technicalities and without touching merit of the case. The apex court is very clear on the point of limitation that cases should be considered on merit and mere technicalities including limitation shall not debar the appellants from the rights accrued to them. In the instant case, the appellants has a strong case on merit, hence we are inclined to condone the delay occurred due to the reason mentioned above.

11. We are of the considered opinion that the appellants has not been treated in accordance with law, as they were employees of administration department of the ex-FATA and such stance was accepted by the respondents in their comment

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 Director  
 Service  
 FATA



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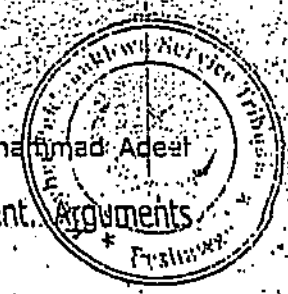
submitted to the High Court and the High Court vide judgment dated 07-11-2013 declared them civil servants and employees of administration department of ex-FATA Secretariat and regularized their services against sanctioned posts, despite they were declared surplus. They were discriminated by not transferring their services to the establishment and administration department of provincial government on the analogy of other employees transferred to their respective departments in provincial government and in case of non-availability of post, Finance department was required to create posts in Establishment & Administration Department on the analogy of creation of posts in other Administrative Departments as the Federal Government had granted amount of Rs. 25505 million for a total strength of 56983 posts including the posts of the appellants and declaring them surplus was unlawful and based on malafide and on this score alone the impugned order is liable to be set aside. The correct course would have been to create the same number of vacancies in their respective department i.e. Establishment & Administrative Department and to post them in their own department and issues of their seniority/promotion was required to be settled in accordance with the prevailing law and rule.

12. We have observed that grave injustice has been meted out to the appellants in the sense that after contesting for longer for their regularization and finally after getting regularized, they were still deprived of the service structure/rules and creation of posts despite the repeated directions of the three member bench of Peshawar High Court in its judgment dated 07-11-2013 passed in Writ Petition No. 969/2010. The same directions has still not been implemented and the matter was made worse when impugned order of placing them in surplus pool was passed, which directly affected their seniority and the future career of the appellants after putting in 18 years of service and half of their service has already been wasted in litigation.

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 JUDGE  
 Khyber Pakhtunkhwa  
 Service Tribunal  
 Peshawar

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ORDER  
14.01.2022

Learned counsel for the appellant present. Mr. Muhammad Azeef Butt, Additional Advocate General for respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, passed in service appeal bearing No. 1227/2020 titled Hanif-Ur-Rehman Versus Government of Khyber Pakhtunkhwa through its Chief Secretary at Civil Secretariat Peshawar and others, the instant service appeal is accepted. The impugned order dated 25-06-2019 is set aside with direction to the respondents to adjust the appellant in his respective department i.e. Establishment & Administration Department Khyber Pakhtunkhwa against his respective posts and in case of non-availability of posts, the same be created for the appellant on the same manner, as were created for other Administrative Departments vide Finance Department notification dated 11-06-2020. Upon his adjustment in his respective department, the appellant is held entitled to all consequential benefits. The issue of his seniority/promotion shall be dealt with in accordance with the provisions contained in Civil Servant Act, 1973 and Khyber Pakhtunkhwa Government Servants (Appointment, Promotion & Transfer) Rules, 1989, particularly Section-17(3) of Khyber Pakhtunkhwa Government Servants (Appointment, Promotion & Transfer) Rules, 1989. Needless to mention and is expected that in view of the ratio as contained in the judgment titled Tikka Khan and others Vs Syed Muzafar Hussain Shah and others (2018 SCMR 332), the seniority would be determined accordingly. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED  
14.01.2022

  
(AHMAD SULTAN TAREEN)  
CHAIRMAN

  
(ATTIQ-UR-REHMAN WAZIR)  
MEMBER (E)

**ATTESTED**

Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

13) In view of the foregoing discussion, the instant appeal alongwith connected service appeals are accepted. The impugned order dated 25-06-2019 is set aside with direction to the respondents to adjust the appellants in their respective department i.e. Establishment & Administration Department Khyber Pakhtunkhwa against their respective posts and in case of non-availability of posts, the same shall be created for the appellants on the same manner, as were created for other Administrative Departments vide Finance Department notification dated 11-06-2020. Upon their adjustment in their respective department, they are held entitled to all consequential benefits. The issue of their seniority/promotion shall be dealt with in accordance with the provisions contained in Civil Servant Act, 1973 and Khyber Pakhtunkhwa Government Servants (Appointment, Promotion & Transfer) Rules, 1989, particularly Section-17(3) of Khyber Pakhtunkhwa Government Servants (Appointment Promotion & Transfer) Rules, 1989. Needless to mention and is expected that in view of the ratio as contained in the judgment titled Tikka Khan and others Vs Syed Muzafar Hussain Shah and others (2018 SCMR 332), the seniority would be determined accordingly. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED  
14.01.2022

*(Signature)*  
(AHMAD SULTAN TAREEN)  
CHAIRMAN

*(Signature)*  
(ATIQ-UR-REHMAN WAZIR)  
MEMBER (E)

Consent to be true copy  
*(Signature)*  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 18/04/22  
Number of Writs 500  
No. of Pages 58  
Total 62  
Date of Receipt of Copy 18/04/22  
Date of Delivery of Copy 18/04/22

**ATTESTED**



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Amr E.

BEFORE THE  
HONORABLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL

In Re:

Execution Petition No. \_\_\_\_\_/2023

In Service Appeal No. 1244/2020

Decided on: 14.01.2022

Misbah Ullah S/o Mihraban Shah R/o Kaniwar, Sherpao, Post  
office Tangi, Tehsil Tangi, District Charsadda.

(PETITIONER)

Versus

1. The Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. The Government of KP through Secretary Establishment, Establishment & Administration Department Civil Secretariat, Peshawar,
3. The Government of KP through Secretary Finance, Finance, Finance department at Civil Secretariat Peshawar.
4. The Government of KP through Additional Chief Secretary Merged Areas, Office at Warsak Road, Peshawar.

(Respondents)

EXECUTION PETITION TO GIVE EFFECT & IMPLEMENT  
THE JUDGMENT OF THIS HONOURABLE TRIBUNAL  
DATED 14-01-2022, UPON THE EXECUTION PETITIONER.

ATTESTED

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Respectfully Sheweth.

That the petitioner earnestly craves the permission of the Honorable Service Tribunal to submit as under:

1. THAT the petitioner was appointed as a Naib Qasid (BPS-1) against the vacant post vide notification dated 17-06-2013.

Copy of appointment order is Annexure-A.

2. That along with the petitioner a total number of 117 employees appointed by erstwhile FATA Secretariat were declared as surplus and placed them in surplus pool of Establishment & Administrative Department vide order dated 25-06-2019, and for their further adjustment/placement w.e.f 01-07-2019 by virtue of which the civil servants were adjusted in the Surplus pool of Establishment Department and Administration Department.

Copy of Notification dated 25-06-2019 is Annexure-B

3. That the Government of Khyber Pakhtunkhwa, Establishment & Administration department (Establishment Wing) through Section Officer (E-III) issued a letter dated 19-07-2019 to the Deputy Commissioner, Charsadda for adjustment of surplus staff of erstwhile FATA Secretariat and the services of the petitioner were placed for further adjustment against the vacant post of Naib Qasid as per surplus pool policy.

(Copy of letter dated 19-07-2019 is Annex-C)

4. That on 22-07-2019 a letter was issued by the Section Officer (III) Government of Khyber Pakhtunkhwa Establishment Department in pursuance of letter dated 29-07-2019, and the services of the petitioner were adjusted against the vacant post of Naib Qasid (BPS-01) in the office of Establishment & Administration Department (Establishment Wing).

(Copy of office order dated 22-07-2019 is Annex-D)

5. That a letter was issued by the Government of Khyber Pakhtunkhwa Home & Tribal Department on 10-10-2019 for requisition of the services of the petitioner.

(Copy of letter dated 10-10-2019 is Annex-E)

6. That appeal was filed in this regard, before the Honourable Service Tribunal and the same was heard on 14-01-2022. The said appeal

ATTESTED

was accepted, and subsequently, the impugned notification dated 25-06-2019 was set-aside, and directions were given to respondent i.e the concerned authorities, to adjust the appellants to their respective departments.

(Copy of the Service Appeal No. 1244/2020 is Annex-F)

7. That along with the aforementioned directions, the Honourable Service Tribunal rendered that upon adjustment to their respective department, the appellants would be entitled all consequential benefits. Moreover, that the issue of seniority/promotion would be dealt within accordance with the provisions contained in Civil Servants (appointment, promotion and Transfer) Rules 1989, and in the view of the ratio as contained in the judgment titled Tikka Kahn & other vs Syed Muzafar Hussain Shah & others (2018 SCMR 332), the seniority would be determined accordingly.

8. That the Honourable Tribunal rendered its judgment dated 14-01-2022, but after the lapse of about three months, the respondent did not implement the judgment dated 14-01-2022 of this Honourable Tribunal.

(Copy of the judgment dated 14-01-2022 has been Annex-G)

9. That due to the inaction of the respondents to comply with the directions of the Honourable Service Tribunal, post lapse of 3 months, an execution petition no. 250 of 2022 was filed in this regard, and the same was decided affirmative.

10. That the judgment dated 14-01-2022 rendered by the Honourable Service Tribunal is also applicable on those civil servants who were not a part of the said appeal, because judgments of the Honourable Service should be treated as judgments in rem, and not in personam. Reference can be given to the relevant portion of judgment cited 2023 SCMR 8, produced herein below:

*"The learned Additional A.G., KPK argued that, in the order of the KP Service Tribunal passed in Appeals Nos. 1452/2019 and 248/2020, reliance was placed on the order passed by the learned Peshawar High Court in Writ Petition No. 3162-P/2019, which was simply dismissed with the observations that the writ petition was not maintainable under*

**ATTESTED**

Article 212 of the Constitution, hence the reference was immaterial. In this regard, we are of the firm view that if a learned Tribunal decides any question of law by dint of its judgment, the said judgment is always treated as being in rem, and not in personam. If in two judgments delivered in the service appeals the reference of the Peshawar High Court judgment has been cited, it does not act to washout the effect of the judgments rendered in the other service appeals which have the effect of a judgment in rem. In the case of *Hameed Akhtar Niazi v. The Secretary, Establishment Division, Government of Pakistan and others* (1996 SCMR 1185), this Court, while remanding the case to the Tribunal clearly observed that if the Tribunal or this Court decides a point of law relating to the terms of service of a civil servant which covers not only the case of the civil servant who litigated, but also of other civil servants, who may have not taken any legal proceedings, in such a case, the dictates of justice and rules of good governance demand that the benefit of the above judgment be extended to other civil servants, who may not be parties to the above litigation, instead of compelling them to approach the Tribunal or any other legal forum."

11. That relying upon the judgment of the Honourable Supreme Court, the execution petitioner would also be subject to the judgment dated 14-07-2021 rendered by the Honourable Service Tribunal, since the above mentioned judgment of the Supreme Court would be applicable on all Courts sub-ordinate to it. Reference can be given to Article 189 of the Constitution of Pakistan, 1973, for easy reference, produced herein below:

"Decisions of Supreme Court binding on other Courts

189. Any decision of the Supreme Court shall, to the extent that it decides a question of law or is based upon or enunciates a principle of law, be binding on all other courts in Pakistan."

12. That the judgment of the Honourable Service tribunal cited 2023 SCMR 8, whereby, the essence of Article 212 of the Constitution of Pakistan, 1973, was fulfilled, by observing that any question of law decided by the Service Tribunal shall be treated as Judgment in rem, and not in personam. In order, to give force to the judgment of the Supreme Court, the execution petitioner may also be subjected to the judgment rendered by the Honourable Service Tribunal.

ATTESTED

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Reference can be given to Article 190 of the Constitution of Pakistan, 1973, for easy reference, produced herein below:

*"Action in aid of Supreme Court*

*190. All executive and judicial authorities throughout Pakistan shall act in aid of the Supreme Court."*

13. That keeping in view the above facts the petitioner filed a departmental appeal 06-06-2023 for adjustment in civil secretariat as per service Tribunal judgment dated 14-01-2022 but to no avail.

(Copy of Representation is Annex-H)


14. That the execution petitioner now approaches this Honorable Tribunal for directions to implement the judgment dated 14.07.2021 in the larger interest of justice and fair play.

Prayer:

It is therefore most humbly prayed that on the acceptance of this petition, may it please this honorable tribunal to so kindly direct the implementation of judgment dated 14.01.2022 in Service Appeal No. 1244/2022 titled Haseeb Zeb vs. Government of Khyber Pakhtunkhwa through Chief Secretary on the Execution Petitioner, any other relief that this Honorable Tribunal may deem appropriate in the circumstances of the case may also be given.

  
Execution Petitioner

Through

  
(ALI GOHAR DURRANI)

Advocate High Court

0332-9297427

[khaneliegohar@yahoo.com](mailto:khaneliegohar@yahoo.com)

SHAH | DURRANI | KHATTAK

**ATTESTED**

**ATTESTED**

35

16

BEFORE THE  
HONORABLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL

In Re:

Execution Petition No. \_\_\_\_\_/2023

In Service Appeal No. 1244/2020

Decided on: 14. 01. 2022

Misbah Ullah

(PETITIONER)

Versus


The Government of Khyber Pakhtunkhwa and others

(Respondents)

AFFIDAVIT Of,


I, Misbah Ullah S/o Mihraban Shah R/o Kaniwar, Sherpao, Post office Tangi, Tehsil Tangi, District Charsadda, do hereby solemnly declare and affirm on oath:-

I am personally conversant with the facts and circumstances of the case as contained therein and the facts and circumstances mentioned in the enclosed writ petition are true and correct to the best of my knowledge and belief.

  
Deponent

CNIC# 17102-7101468-5

Identified by:

  
ALI GOHAR DURRANI  
Advocate High Court

  
ATTESTED

Execution Petition No.715/2023, in Service Appeal No.1227/2020,  
titled "Waheed Ullah Shah Vs. Government of Khyber  
Pakhtunkhwa"

ORDER

9<sup>th</sup> July, 2024 Kalim Arshad Khan, Chairman: Learned counsel for the petitioner present. Mr. Muhammad Jan, District Attorney for the respondents present.

2. The matter has been received from the Single Bench of Ms. Farecha Paul, learned Member (Executive): Special SB of the undersigned (Chairman) was constituted.

3. This application is for implementation of judgment dated 14.01.2022, passed in Service Appeal No.1227/2020 titled "Hanif Ur Rehman Vs. Government of Khyber Pakhtunkhwa" wherein, the petitioner was not party. The learned counsel informed that the petitioner has filed departmental appeal. Since the petitioner has himself simultaneously resorted to the provisions of Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, therefore, let him file Service Appeal before this Tribunal. Disposed of. Consign.

4. *Pronounced in open Court at Peshawar under my hand and seal of the Tribunal on this 9<sup>th</sup> day of July, 2024.*



\*Mutazem Shah\*

*[Signature]*  
ATTORNEY  
Muhammad Jan

*[Signature]*  
(Kalim Arshad Khan)  
Chairman

Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

ATTESTED

Date of Presentation of Appeal 11/7/24

Number of Words page 2

Copying Fee 10/-

Urgent

Total 10/-

To,

The Chief Secretary,  
Government of Khyber Pakhtunkhwa,  
Peshawar.

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2474-P

06.06.2023

091-9210124

Ex-205

Annex "G"

**Subject: APPEAL FOR ADJUSTMENT IN CIVIL SECRETARIAT AS PER SERVICE TRIBUNAL JUDGMENT DATED 14.01.2022**

Respected Sir,

It is stated with great reverence that in pursuance of integration and merger of erstwhile FATA with Province of Khyber Pakhtunkhwa I, the undersigned, besides others, was declared as "Surplus" by the Establishment and Administration Department (Regulation Wing), Khyber Pakhtunkhwa vide Notification No.SO(O&M)/E&AD/3-18/2019 dated 25.06.2019. Later on, I was adjusted in the Prosecution Home Department, Khyber Pakhtunkhwa.

2- Some of the officials filed case in the Court and the Hon'ble Service Tribunal, Khyber Pakhtunkhwa passed a Judgment dated 14.01.2022 and set aside the above Surplus Notification. Operative part of the Judgment is reproduced as under (Page-14 of the judgment);

**"In view of the foregoing discussion, the instant appeal alongwith connected service appeals are accepted. The impugned order dated 25.06.2019 is set aside with direction to the respondents to adjust the appellants in their respective department i.e Establishment & Administration Department, Khyber Pakhtunkhwa against their respective posts and in case of non-availability of posts, the same shall be created for the appellants on the same manner, as were created for other Administrative Departments vide Finance Department Notification dated 11.06.2020....."**

3- In pursuance of the above judgment, I am also entitled to be adjusted in Civil Secretariat, Khyber Pakhtunkhwa Peshawar.

4- Above in view, it is humbly requested to kindly issue my adjustment order in Civil Secretariat, Khyber Pakhtunkhwa as per judgment of the Service Tribunal dated 14.01.2022, please.

OK  
Secy Admin

Faithfully Yours  
Misbah Ullah

06-06-23

(-----),

Naib Qasid (Ex- FATA)

03038643002

**ATTESTED**



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Annex 4

GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT & ADMINISTRATION  
DEPARTMENT  
(ESTABLISHMENT WING)

No. SOE-III (E&AD)1-3/2019/Erstwhile FATA,  
Dated Peshawar the July 19, 2019

To |  
The Deputy Commissioner,  
Charsadda.

Subject:- **ADJUSTMENT OF SURPLUS STAFF OF ERSTWHILE FATA  
SECRETARIAT.**

Dear Sir,

I am directed to refer to the subject noted above and to state that 117 employees of different categories from BPS-01 to BPS-16 of Erstwhile FATA Secretariat are declared as surplus and notified vide Establishment Department Notification No.SO(O&M)/E&AD/3-18/2019 dated 25-06-2019 (copy enclosed). As per Surplus Pool Policy notification dated 14-06-2007(copy enclosed), services of the following Employees of Erstwhile FATA Secretariat having domicile of District Charsadda are placed at your disposal for further adjustment w.e.f 01-07-2019:-

S.No.	Name	Designation with BS
1.	Hazrat Gul	Driver (BPS-05)
2.	Wadan Shah	Naib Qasid (BPS-02)
3.	Maqsood Jan	Naib Qasid (BPS-02)
4.	Misbahullah	Naib Qasid (BPS-01)

It is therefore, requested that the above mentioned Surplus Pool Staff may be adjusted in your District as per Surplus Pool Policy.

Yours faithfully

*Zaman Ali Khan*  
(Zaman Ali Khan) 19/7/19  
SECTION OFFICER (E-III)

Endst.of even No.& date

Copy forwarded to:-

1. The Secretary to Govt. of Khyber Pakhtunkhwa Finance Department.
2. The District Accounts Officer, Charsadda.
3. The Section Officer (O&M), Establishment Department.
4. The Section Officer (Admn/Budget & Dev:) E&A Department.
5. P.S to Secretary (Estt.), Establishment Department.
6. P.S to Special Secretary (Estt.), Establishment Department.
7. Officials concerned with the direction to report to Deputy Commissioner, Charsadda.
8. Master file.

*Zaman Ali Khan*  
SECTION OFFICER (E-III) 19/7/19

**ATTESTED**



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GOVERNMENT OF KHYBER  
PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
No. SOE-III (E&AD)1-3/2019/Erstwhile FATA  
Dated Peshawar the July 22, 2019

To

The Deputy Commissioners,

1. Peshawar.
2. Charsadda.
3. Nowshera.
4. Mardan.
5. Lakki Marwat.
6. Malakand.
7. Karak.
8. Bannu.
9. Kohat.
10. Dir Lower.
11. Mansehra.
12. Abbottabad.
13. Mohmand.
14. Khyber.
15. Bajaur.
16. North Waziristan.
17. Kurram.

**Subject: - ADJUSTMENT OF SURPLUS STAFF OF ERSTWHILE FATA SECRETARIAT.**

Dear Sir,

I am directed to refer to this Department's letter of even No. dated 19-07-2019 (copy enclosed) and to request to nominate an authorized official of your respective office to collect the original service book & Personal File of the employees of Erstwhile FATA Secretariat on **29-07-2019** placed at the disposal of District Surplus Pool for further adjustment.

I am further directed to state that the concerned may be directed to collect the same on **29-07-2019**.

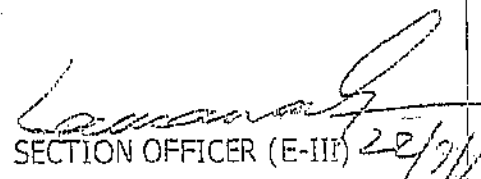
Yours faithfully

  
(Zaman Ali Khan) 22/7/19  
SECTION OFFICER (E-III)

Endst. of even No. & date

Copy forwarded to the:-

1. P.S to Secretary (Estt.), Establishment Department.
2. P.S to Special Secretary (Estt.), Establishment Department.
3. P.A to Deputy Secretary (Estt.), Establishment Department.
4. Section Officer (O&M), Establishment Department.
5. Master file.

  
SECTION OFFICER (E-III) 22/7/19

**ATTESTED**



GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
HOME & TRIBAL AFFAIRS DEPARTMENT

No. E & A (HD) 2-27 / 2013  
Dated Peshawar the October 10, 2019

To

The Director General Prosecution  
Khyber Pakhtunkhwa

Subject: REQUISITION OF SERVICES  
Sir,

I am directed to refer to the subject noted above and to enclose herewith copies of order No.00278/EA dated 1/10/2019 and order No.DC (CHD)Estt:7(18)Absorption/8121-27 dated 9/10/2019 received from Deputy Commissioners Peshawar and Charsadda respectively with the request to adjust the following Naib Qasids against the vacant posts under intimation to this Department at the earliest, please:-

- i- Mr. Habib-ur-Renman
- ii- Mr. Misbahullah

ADVERTED

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GOVERNMENT OF PAKISTAN  
ACCOUNTANT GENERAL PAKISTAN REVENUE  
PESHAWAR AGPR (SO) PESH  
PAY ROLL SYSTEM

PAYMENT ADVICE

33

P. Sec: 002 Month: July 2018  
PRO310 - ADMN AND CO-ORDINATION D  
Min. Of Finance & Rev.

Pers # 50174759 BUERT  
Name MISBAHULLAH  
NAIB QASID  
CNIC No: 710271014685

MTN:  
GPF #:  
Old #:

DEPT CODE PR0310

PAYS AND ALLOWANCES:

0001-Basic Pay  
1001-House Rent Allowance 45%  
1210-Convey Allowance 2005  
1300-Medical Allowance  
1833-Integrated Allowance (2005)  
1964-Adhoc Allowance 2010@ 50%  
1966-Special Allowance 30%  
2211-Adhoc Relief All 2016 10%

8,360.00  
1,337.00  
1,785.00  
1,500.00  
450.00  
1,485.00  
2,039.00  
836.00

Gross Pay and Allowances  
DEDUCTIONS:

GPF Balance 9,193.00  
3501-Benevolent Fund  
3511-Addl Group Insurance  
3604-Group Insurance

Subtr: 274.00  
120.00  
3.00  
58.00

17,792.00

Total Deductions

455.00

NET AMOUNT PAYABLE 17,337.00

QUALIFYING SERVICE  
YRS MCN  
03 Years 01 Months 01 Days

D. O. B  
12.03.1990

LFP Quota: 4  
NATIONAL-BANK OF PAKWARSAK-ROAD PESHAWAR  
4053-8

ATTESTED

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To

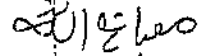
Deputy Commissioner,  
Charsadda.

Subject:- ARRIVAL REPORT

Dear Sir,

In Compliance with Establishment & Admisintration Department  
(Regulation Wing); Government of Khyber Pakhtunkhwa Notification NO.SOE-  
III (E&AD)1-3/2019/Erstwhile FATA Dated Peshawar 19-07-2019, I  
Misbahullah (BS-01) submitted my arrival report to -07-2019.

Your's Faithfully



Misbahullah  
Naib Qasid

~~ATTESTED~~

43

**ADMINISTRATION INFRASTRUCTURE & CO ORDINATION  
DEPARTMENT MERGED AREAS SECRETARIAT PESHAWAR.DDO  
CODE PR0310.**

**LAST PAY CERTIFICATE**

P.NO. 50174759

Last Pay Certificate of Mr. Misbah Allah- N/Q (BPS-01), of the Administration Infrastructure & Co Ordination Department Merged Areas Secretariat Peshawar DDO CODE PR0310. here by placed in surplus pool of Establishment and Administration Department Government of Khyber Pakhtunkhwa vide Notification No SO(O&M)/E&AD/3-18/2019 Dated 25/06/2019 He has been paid up to 30-06-2019. at the following rates:-

S.No	PAYMENTS		S.No	DEDUCTION	
1	Basic Pay	10870/-	1	B/Fund (Excha.)	246/-
2	House rent All	2006/-	2	R. Ben & Death Com	0
3	Convey Allowance	1785/-	3	GP Fund	400/-
4	Medical Allowance	1500/-	4	GPF loan principal	0
5	Special Allowance	3261/-	5	Add Group Insurance	3/-
6	Adhoc Relief - 2016	860/-	6	5% House Rent charges	0
7	Adhoc Relief - 2017	1087/-	7	Group insurance	490/-
8	Adhoc Relief -2018	1087/-			
9	Integrated Allowance	450/-			
10	Spl Conveyance to Disable	0			
11	Overtime All	0			
	Grand Total	22906/-			
				Total Deduction:-	1139/-

**Gross Pay: Rs.22906/- Ded: Rs.1139/-Net Pay Rs.21767/-**

1) Balance of Rs .Nil/-on A/C of GP Fund Advance is recoverable @ Rs.Nil/-PM

He made over charge of (AI&C) Department on the afternoon of 30-06-2019




*Verified*

*Accounts officer  
SP Peshawar*

Estate Officer/DDO  
AI&C Department  
Merged Areas Secretariat  
Peshawar.  
PESHAWAR

**ATTESTED**

*Accounts Officer  
Sub Officer*

50	56741	پشاور بار ایسوسی ایشن، خیبر پختونخواہ
ایڈوکیٹ: صدر المندھم	PESHAWAR BAR ASSOCIATION	
بار کونسل ایسوسی ایشن نمبر: BC-21-4442		
رابطہ نمبر: 0332-5723656		

بعدالت جناب: *RP Service Tribunal Peshawar*

مخاطب: <i>Appellant</i>	دعویٰ:
<i>Misbah ul Haq</i>	علت نمبر:
بنام	موضوع:
<i>Govt</i>	جرم:
	تھانہ:

**باعت تحریر آنگہ**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ آن مقام لیساور کے صدر المندھم کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کالہ اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقریر نمائندگی فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا تاخیر یا کسی طرفہ یا اپیل کی برائگی اور منسوخی، نیز دائر کرنے اپیل نمائندگی و نظر ثانی و پیروی کیلئے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانون کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساتھ ساتھ درخواست منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانبہ التوا کے مقدمہ کے سبب سے ہوگا اس کی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب یا بندہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 10/20/24

الع ہد گواہ شد الع ہد  
 مقام  
 Accepted  
 Amno

# POWER OF ATTORNEY

BEFORE THE Sevice Tribunal Pesh  
No. \_\_\_\_\_ of 202\_

Misbah Ulla

VERSUS

Govi

I/we \_\_\_\_\_ do hereby appoint &  
constitute The Law Firm Of SHAH | DURRANI | KHATTAK  
(a registered law firm) as counsel in the above mentioned case, to do all or any of the following acts, deeds and things:-

1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal or any other court/tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file Plaint/Written Statement or withdraw all proceedings, petitions, suit appeals, revision, review, affidavits and applications for compromise or withdrawal, or for submission to arbitration of the said case, or any other document, as may be deemed necessary or advisable by him for proper conduct, prosecution or defence of the said case at any stage.
3. To do and perform all other acts which may be deemed necessary or advisable during the course of the proceedings.

## AND HEREBY AGREE:-

- a) To ratify whatever the said Advocates may do in the proceedings in my interest, Not to hold the Advocates responsible if the said case be proceeded ex-parte or dismissed in default in consequence of their absence from the Court/Tribunal when it is called for hearing or is decided against me/us.
- b) That the Advocates shall be entitled to withdraw from the prosecution of the said case if the whole OR any part of the agreed fee remains unpaid.

In witness whereof I/We have signed this Power of Attorney/Wakalat Nama hereunder the contents of which have been read/explained to me/us and fully understood by me / us this \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_.

Signature of Executant(s)

Accepted subject to term regarding payment of fee for/on behalf of The Law Firm of Shah | Durrani | Khattak.

Zarak Arif Shah  
Advocate High Court  
0333-8335886

Ali  
ALI GOHAR DURRANI  
Advocate Supreme Court (6232)  
[aligothar@sdklaw.org](mailto:aligothar@sdklaw.org)  
+92-332-929-7427

Hannah Zahid Durrani  
Advocate High Court

Babar Khan Durrani  
Advocate High Court  
0301-8891818

Shah | Durrani | Khattak  
(A registered law firm)  
[www.sdklaw.org](http://www.sdklaw.org) [info@sdklaw.org](mailto:info@sdklaw.org)  
231-A, Street No. 13, New Shami Road, Peshawar.