



12.06.2024 1. Junior to learned counsel for the appellant present. Mr. Arshad Azam, learned Assistant Advocate General for the respondents present.

2. Written reply on behalf of respondents submitted through office which is placed on file. A copy whereof is handed over to learned counsel for the appellant. Adjourned. To come up for arguments on 09.07.2024 before D.B. P.P given to parties.

**SCANNED**  
**KPST**  
**Peshawar**

Kaleemullah

  
(Fareeha Paul)  
Member (E)


  
(Rashida Bano)  
Member (J)


09<sup>th</sup> July, 2024

Learned counsel for the appellant present. Mr. Arshad Azam, Assistant Advocate General for the respondents present.

Today, the case was fixed for arguments, however, learned counsel for the appellant submitted rejoinder, which his placed on file. Learned counsel for the appellant also seeks adjournment being not prepared for arguments today. Adjourned. To come up for arguments on 09.10.2024 before the D.B. Parcha Peshi given to the parties.

**SCANNED**  
**KPST**  
**Peshawar**

  
(Muhammad Akbar Khan)  
Member (Executive)

  
(Aungzeb Khattak)  
Member (Judicial)

S.A #.1274/2022

**ORDER**

9<sup>th</sup> Oct. 2024


1. Learned counsel for the appellant present. Mr. Naseer Ud Din Shah, Assistant Advocate General for the respondents present.

Heard.

2. Vide our consolidated judgment of today, placed on file, the appeal in hand is allowed with the direction to the department to proceed against the appellant, if they think that the appointment order was fake/bogus, in a way as provided under the law. In the light of the outcome of those proceedings, the department may further look into the extent of salary payable to the appellant. Costs shall follow the events. Consign.

3. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 9<sup>th</sup> day of October, 2024.*

  
(Fareeha Paul)  
Member (E)

  
(Kalim Arshad Khan)  
Chairman

\*Mutazem Shah\*

*Service Appeal No.1274/2023 titled "Raji Ullah versus Secretary Public Health Engineer Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others", Service Appeal No.1275/2023 titled "Jamil Khan versus Secretary Public Health Engineer Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others", Service Appeal No.1276/2023 titled "Inam Ullah versus Secretary Public Health Engineer Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others", Service Appeal No.1277/2023 titled "Naeem Ullah versus Secretary Public Health Engineer Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others" and Service Appeal No.1278/2023 titled "Muhammad Straj versus Secretary Public Health Engineer Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others" declared on 09.10.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Miss. Fareeha Paul, Member Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar.*

*appointment order of the appellant is still in place. Neither the appointment order has been withdrawn, nor the appellant has been dismissed from service. Salary slips provided with the appeal indicate that the appellant was an employee in the office of the Executive Engineer PHE, FATA and indicated in the Ministry of Education. Moreover, deduction of G.P Fund, as indicated in his pay slips, was against the terms and conditions of his appointment as indicated in his appointment order dated 29.03.2013 which indicates that he will not contribute to G.P Fund and will not be entitled to pension, gratuity benefits etc.*

7. *In view of the above discussion, the appeal in hand is allowed with the direction to the department to proceed against the appellant, if they think that the appointment order was fake/bogus, in a way as provided under the law. In the light of the outcome of those proceedings, the department may further look into the extent of salary payable to the appellant. Costs shall follow the events. Consign."*

8. Being similar in nature in view of rule of consistency by relying on the judgments of the Supreme Court of Pakistan in 2009 SCMR, 1, and 2022 SCMR, 959, instant service appeals are also decided in terms of the referred judgment of this Tribunal. Costs shall follow the event. Copy of this judgment be placed on files of the connected appeals. Consign.

9. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 9<sup>th</sup> day of October, 2024.*



**KALIM ARSHAD KHAN**

Chairman



**FAREEHA PAUL**

Member (Executive)

\*Attaazem Shah\*

*Service Appeal No.1274/2023 titled "Rafi Ullah versus Secretary Public Health Engineer Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others", Service Appeal No.1275/2023 titled "Jamil Khan versus Secretary Public Health Engineer Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others", Service Appeal No.1276/2023 titled "Inam Ullah versus Secretary Public Health Engineer Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others", Service Appeal No.1277/2023 titled "Naeem Ullah versus Secretary Public Health Engineer Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others" and Service Appeal No.1278/2023 titled "Muhammad Siraj versus Secretary Public Health Engineer Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others" declared on 09.10.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Miss. Fareeha Paul, Member Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar.*

while the learned Assistant Advocate General controverted the same by supporting the impugned order(s).

6. In reviewing the appellants' cases, it is evident that both individuals were appointed as Class-IV employees in the respondent department in 2012 and 2014, respectively. While performing their duties, they encountered a significant issue when their salaries were halted. In response to this action, the appellants submitted departmental appeals seeking redress; however, these appeals went unanswered. Consequently, the lack of response from the department compelled the appellants to file the current service appeals.

7. Learned counsel for the appellant referred to the judgment passed in a similar nature Service Appeal No.15577/2020 titled "Zuhran Ullah versus the Government of Khyber Pakhtunkhwa", wherein, vide judgment dated 05.10.2022, the Tribunal has held as under:

*"6. In view of the arguments and record presented before us, it transpires that the appellant was appointed as Naib Qasid in the Public Health Engineering, FATA Division Kohat in the year 2013. He started performing his duties and getting salaries. In an inquiry conducted against Mr. Baharullah Khan, Ex-XEN FATA Division, Kohat, it was found that certain irregular appointments of Class-IV employees were made without observing codal formalities. Report of that inquiry has been provided with the reply in view of which salary of the appellant was stopped. It was strange to note that the source form available with the reply indicated stoppage of salary of the appellant from 1st January 2018 because of absence from duty. As there is a controversy in the reply given by the department followed by the statement of Additional Advocate General and in the source form, we think that the matter needs to be looked into in detail. It is further evident from the record that the*

*Service Appeal No.1274/2023 titled "Rafi Ullah versus Secretary Public Health Engineer Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others", Service Appeal No.1275/2023 titled "Jamil Khan versus Secretary Public Health Engineer Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others", Service Appeal No.1276/2023 titled "Inam Ullah versus Secretary Public Health Engineer Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others", Service Appeal No.1277/2023 titled "Nacem Ullah versus Secretary Public Health Engineer Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others" and Service Appeal No.1278/2023 titled "Muhammad Siraj versus Secretary Public Health Engineer Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others" declared on 09.10.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Miss. Fareeha Paul, Member Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar.*

Present:

Mr. Akhtar Abbas, Advocate.....For the appellants

Mr. Naseer Ud Din Shah, Assistant Advocate General ...For respondents

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**APPEALS UNDER SECTION 4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT,  
FOR RELEASE OF PAY/SALARIES OF THE  
APPELLANTS**

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**CONSOLIDATED JUDGMENT**

**KALIM ARSHAD KHAN CHAIRMAN:** Through this single judgment, all the above-mentioned appeals, are jointly taken up as all are similar in nature and almost with the same contentions, therefore, can be conveniently decided together.

2. Brief facts of the cases, as per grounds and memo of appeals, are that the appellants were appointed as Class-IV employees in the respondent department in the years 2012 and 2014; that while performing duties, their salaries were stopped against which they filed departmental appeals but the same were not responded, hence, the instant service appeals.

3. On receipt of the appeals and their admission to full hearing, the respondents were summoned, who put appearance and contested the appeals by filing written reply/comments. The defense setup was a total denial of the claim of the appellants.

4. We have heard learned counsel for the appellants and learned Assistant Advocate General for respondents.

5. The learned counsel for the appellants reiterated the facts and grounds detailed in the memo and grounds of the appeals

Service Appeal No.1274/2023 titled "Rafi Ullah versus Secretary Public Health Engineer Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others", Service Appeal No.1275/2023 titled "Jamil Khan versus Secretary Public Health Engineer Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others", Service Appeal No.1276/2023 titled "Iqam Ullah versus Secretary Public Health Engineer Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others", Service Appeal No.1277/2023 titled "Naeem Ullah versus Secretary Public Health Engineer Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others" and Service Appeal No.1278/2023 titled "Muhammad Siraj versus Secretary Public Health Engineer Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others" declared on 09.10.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Miss. Fareeha Paul, Member Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

Versus

1. **Secretary Public Health Engineering Department**, Khyber Pakhtunkhwa, Peshawar.
2. **Chief Engineer** Public Health Engineering North Khyber Pakhtunkhwa, Peshawar.
3. **XEN** Public Health Engineering Division, Kohat.
4. **Chief Engineer** Works & Services merged areas, Civil Secretariat, Peshawar.
5. **Accountant General office** Khyber Pakhtunkhwa, Peshawar.

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**Service Appeal No.1277/2023**

Date of presentation of Appeal.....06.06.2023  
Date of Hearing.....09.10.2024  
Date of Decision.....09.10.2024

**Naeem Ullah**, son of Hajid Iqbal Jan resident of village and post office Hurmaz, Tehsil Mir Ali, North Waziristan.....**Appellant**

Versus

1. **Secretary Public Health Engineering Department**, Khyber Pakhtunkhwa, Peshawar.
2. **Chief Engineer** Public Health Engineering North Khyber Pakhtunkhwa, Peshawar.
3. **XEN** Public Health Engineering Division, Kohat.
4. **Chief Engineer** Works & Services merged areas, Civil Secretariat, Peshawar.
5. **Accountant General office** Khyber Pakhtunkhwa, Peshawar.

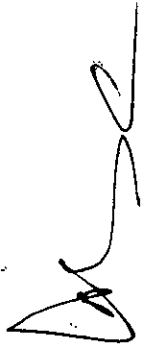
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**Service Appeal No.1278/2023**

Date of presentation of Appeal.....06.06.2023  
Date of Hearing.....09.10.2024  
Date of Decision.....09.10.2024

**Muhammad Siraj** son of Abdul Khanan resident of Kotka Abdul Ghaffar, Khojan Khas FR Bannu.....**Appellant**

Versus

1. **Secretary Public Health Engineering Department**, Khyber Pakhtunkhwa, Peshawar.
2. **Chief Engineer** Public Health Engineering North Khyber Pakhtunkhwa, Peshawar.
3. **XEN** Public Health Engineering Division, Kohat.
4. **Chief Engineer** Works & Services merged areas, Civil Secretariat, Peshawar.
5. **Accountant General office** Khyber Pakhtunkhwa, Peshawar.



Service Appeal No.1274/2023 titled "Rafi Ullah versus Secretary Public Health Engineer Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others", Service Appeal No.1275/2023 titled "Jamil Khan versus Secretary Public Health Engineer Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others", Service Appeal No.1276/2023 titled "Inam Ullah versus Secretary Public Health Engineer Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others", Service Appeal No.1277/2023 titled "Naeem Ullah versus Secretary Public Health Engineer Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others" and Service Appeal No.1278/2023 titled "Muhammad Siraj versus Secretary Public Health Engineer Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others" declared on 09.10.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Miss. Fareeha Paul, Member Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,PESHAWAR**

BEFORE: **KALIM ARSHAD KHAN** ... **CHAIRMAN**  
**FAREEHA PAUL** ... **MEMBER(Executive)**

***Service Appeal No.1274/2023***

Date of presentation of Appeal.....06.06.2023  
Date of Hearing.....09.10.2024  
Date of Decision.....09.10.2024

**Rafi Ullah** son of Mir Nawaz R/O Village and post of Masha Mansoor Khan Tehsil and District Lakki Marwat.....***Appellant***

Versus

1. **Secretary Public Health Engineering Department**, Khyber Pakhtunkhwa, Peshawar.
2. **Chief Engineer** Public Health Engineering North Khyber Pakhtunkhwa, Peshawar.
3. **XEN** Public Health Engineering Division, Kohat.
4. **Chief Engineer** Works & Services merged areas, Civil Secretariat, Peshawar.
5. **Accountant General office** Khyber Pakhtunkhwa, Peshawar.

***Service Appeal No.1275/2023***

Date of presentation of Appeal.....06.06.2023  
Date of Hearing.....09.10.2024  
Date of Decision.....09.10.2024

**Jamil Khan** son of Haji Ghulam Khan, resident of Kotka Muhammad Khan Ismail Khani Tehsil and District Bannu.....***Appellant***

Versus

1. **Secretary Public Health Engineering Department**, Khyber Pakhtunkhwa, Peshawar.
2. **Chief Engineer** Public Health Engineering North Khyber Pakhtunkhwa, Peshawar.
3. **XEN** Public Health Engineering Division, Kohat.
4. **Chief Engineer** Works & Services merged areas, Civil Secretariat, Peshawar.
5. **Accountant General office** Khyber Pakhtunkhwa, Peshawar.

***Service Appeal No.1276/2023***

Date of presentation of Appeal.....06.06.2023  
Date of Hearing.....09.10.2024  
Date of Decision.....09.10.2024

**Rafi Ullah** son of Mir Nawaz R/O Village and post of Masha Mansoor Khan Tehsil and District Lakki Marwat.....***Appellant***

