

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Execution Petition No. 1102/2024**  
**in Service Appeal No. 5188 OF 2021**

Mr. Ishtiaq Ahmad --- Appellant  
Assistant Engineer (MRS-Cell)  
Finance Department

**Versus**

1. Govt of Khyber Pakhtunkhwa through  
Chief Secretary Peshawar
2. Secretary to Govt of Khyber Pakhtunkhwa  
C&W Department, Peshawar --- Respondents
3. Chief Engineer (Centre)  
C&W Department, Peshawar

**I N D E X**

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Deponent



Zeeshan,  
Section Officer (Litigation)  
C&W Department, Peshawar.

(1)

**BEFORE THE KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL PESHAWAR**  
**EXECUTION PETITION NO. 1102/24**  
**IN SERVICE APPEAL NO. 5188 OF 2021**

Mr. Ishtiaq Ahmad  
Assistant Engineer (MRS-Cell)  
Finance Department

-- Appellant

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 17933

Dated 14/11/24

**VERSUS**

1. Govt. of Khyber Pakhtunkhwa through  
Chief Secretary Peshawar
2. Secretary to Govt. of Khyber Pakhtunkhwa  
C&W Department
3. Chief Engineer (Centre)  
C&W Peshawar

-- Respondents

**REPLY ON BEHALF OF RESPONDENTS NO. 1,2 & 3**

Respectfully Sheweth

1. The Appellant alongwith others were regularized under Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018. However, the services of the officials included the appellant of Market Rates System (MRS) cell have been placed under the administrative control of Finance Department and they will be housed physically in C&W Department vide Notifications dated 03.05.2021. The aggrieved officer filed Service Appeal before the Khyber Pakhtunkhwa Services Tribunal for the grant seniority as Assistant Engineer in C&W Department. The Services Tribunal accepted his appeal on 03.05.2024.
2. Incorrect, as explain in Para-I above, need no comments.
3. Incorrect, as per procedure, the Judgment of the Khyber Pakhtunkhwa Services Tribunal dated 03.05.2024 forwarded to Law department with the request to place the same before the Scrutiny Committee of Law Department that as to whether the case is fit for filing of CPLA in the Supreme Court of Pakistan against the said judgment dated 03.05.2024. After threadbare discussion, it was decided with consensus by the Scrutiny Committee that the subject case is fit for filing of Appeal / CPLA before the Supreme Court of Pakistan on the main ground (Annex-I)

*"That the MRS Cell was re-shifted from C&W Department to Finance Department by the Chief Minister, being Competent Authority, under Rules of Business, 1985. Furthermore, after re-shifting of MRS Cell to Finance Department, the appellant was not entitled to claim seniority in C&W Department but the Khyber Pakhtunkhwa has ignored these aspects of the case"*


Accordingly, the Department filed CPLA / Appeal before the Supreme Court of Pakistan with the prayer that on acceptance of this petition, leave to


(2)

appeal against the impugned judgment and order of the Khyber Pakhtunkhwa Services Tribunal Peshawar dated 03.05.2024 passed in service appeal No.5188/2021 may graciously be granted.

4. Incorrect, as explained in Para-3 above, the answering respondents have not violated any right of the appellant nor caused any malafide or discrimination in fact the Department followed rules / policy strictly in the cases of promotion/proforma promotion of Officers/Officials of the Department.

In view of the above, it is humbly prayed that the instant execution petition is not based on facts, may kindly be dismissed with cost.

  
**(MUHAMMAD ISRAR)**  
SECRETARY TO  
Govt of Khyber Pakhtunkhwa  
C&W Department  
(RESPONDENT No. 1 & 2)

  
**(JAMSHID ALI KHAN)**  
CHIEF ENGINEER (CENTRE)  
Communication & Works Peshawar  
(RESPONDENT No. 3)

**CHIEF ENGINEER (CENTRE)**  
**C&W DEPARTMENT**  
KHYBER PAKHTUNKHWA PESHAWAR

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Execution Petition No. 1102/2024**  
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Assistant Engineer (MRS-Cell)  
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- 2. Secretary to Govt of Khyber Pakhtunkhwa  
C&W Department, Peshawar --- Respondents
- 3. Chief Engineer (Centre)  
C&W Department, Peshawar

**AFFIDAVIT**

I, Muhammad Israr, Secretary to Govt of Khyber Pakhtunkhwa, C&W Department, Peshawar hereby affirm and declare that all the contents of the reply to the Execution Petition are correct to the best of my knowledge and belief and nothing has been concealed.

It is further stated on oath that in this appeal, the answering respondent neither has been placed ex-party nor their defense has been struck off.

Deponent



MUHAMMAD ISRAR  
SECRETARY  
to Govt of Khyber Pakhtunkhwa  
C&W Peshawar.  
(Respondent No.1 & 2)

**ATTESTED**



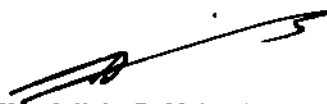
11-2-2024



GOVERNMENT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT

**AUTHORITY LETTER**

Mr. Zeeshan, Section Officer (Litigation), C&W Peshawar having CNIC 17301-2418439-1 is hereby authorized to file reply to the Execution Petition before the Khyber Pakhtunkhwa Service Tribunal Peshawar in case titled "Execution Petition No. 1102 of 2024 in Service Appeal No 5188/2021 Ishtiaq Ahmad Vs Govt Of Kpk Through Chief Secretary & Others" on behalf of Secretary C&W Department.

  
MUHAMMAD ISRAR  
SECRETARY  
to Govt of Khyber Pakhtunkhwa  
C&W Peshawar.  
(Respondent No.1 & 2)

Annex-1

No. SOL/Law/9-26(6)/C&W/2024/  
Dated Peshawar the 31-07-2024

12858-52 (S)

To

1. The Advocate General,  
Khyber Pakhtunkhwa, Peshawar.
2. The Secretary to Govt. of Khyber Pakhtunkhwa,  
Communication & Works Department.

No. 4874  
8-8-2024  
Secretary C&W Deptt.  
DS(A) (S&L)

Subject:

SERVICE APPEAL NO. 5188/2021 ENGR. ISHTIAQ AHMAD VERSUS GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH CHIEF SECRETARY AND OTHERS

I am directed to refer to Govt. of Khyber Pakhtunkhwa Communication & Works Department letter No.SO(Lit)C&W/3-456/2021, dated: 25.07.2024 on the subject noted above and to state that a meeting of the Scrutiny Committee has been held on 31-07-2024 under the Chairmanship of Secretary Law Department in order to determine the fitness of the subject case for filing of Appeal/CPLA before the Supreme Court of Pakistan.

That the appellant filed the subject service appeal against the seniority list of Assistant Engineers / SDO's / Junior Engineers. The Khyber Pakhtunkhwa Service Tribunal vide order dated 03-05-2024 accepted the subject service appeal as prayed for.

After a threadbare discussion on the subject case particularly hearing the stance of Administrative Department, it was decided with consensus by the Scrutiny Committee that the subject case is a **Fit** case for filing of Appeal/CPLA before the Supreme Court of Pakistan on the following main grounds amongst others:-

Grounds:-

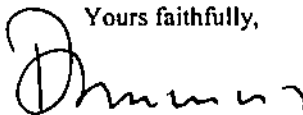
That the MRS Cell was re-shifted from C&W Department to Finance Department by the Chief Minister, being competent authority, under Rules of Business, 1985. Furthermore, after re-shifting of MRS Cell to Finance Department, the appellant was not entitled to claim seniority in C&W Department but the Khyber Pakhtunkhwa Service Tribunal has ignored these aspects of the case.

The details regarding limitation of the case are as under:-

Date of decision	03-05-2024
Date of application for obtaining attested copies of the judgment	16-05-2024
Date of preparation of copies of the judgment by the issuing copying branch	24-07-2024
Date of delivery of the attested copies of judgment by the issuing copying branch	24-07-2024
Expected date on which limitation period will expire	09-09-2024

In view of the foregoing, the Administrative Department is advised to approach the office of Advocate General, Khyber Pakhtunkhwa through a well conversant departmental representative alongwith complete record of the case for doing the needful forthwith, please.


AS(A)

Yours faithfully,  
  
 (TAHIR IQBAL KHATTAK)  
 SOLICITOR  
 LAW DEPARTMENT

Endst: No & Date Even.

Copy forwarded to the.

PS to Secretary Law Department.

  
 Section Officer (Litigation),  
 Khyber Pakhtunkhwa  
 Govt. Department

SOLICITOR