

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Execution Petition No. 1101/2024
in Service Appeal No. 7552 OF 2021

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

--- Appellant

Versus

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

--- Respondents

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Deponent



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

(13)

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR
EXECUTION PETITION NO. 1101/24
IN SERVICE APPEAL NO. 7552 OF 2021

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

-- Appellant

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

Khyber Pakhtunkhwa
Sec. 17932
Diary No. 17932
Dated 24/11/24

REPLICATION ON BEHALF OF RESPONDENTS NO. 1,2 & 3

Respectfully Sheweth

1. Incorrect, in this regard it is clarified that although the Finance Department shifted various cadres of posts newly regularized, including the post of the applicant from the Cost Centre/DDO code PR 4109 to PR 5437 through a letter dated 04.12.2019. However, Finance Department re-shifted the MRS Cell from C&W Department after approval of Competent Authority (Chief Minister Khyber Pakhtunkhwa) through a letter dated 04.03.2021. Therefore, it is quite clear that the claim of the applicant is not justified. Since, Finance Department shifted the MRS Cell, including the appellant to Finance Department Khyber Pakhtunkhwa, then how can the applicant claim his salary from C&W Department.
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 salaries from C&W Department but the Khyber Pakhtunkhwa Services Tribunal 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

appeal against the impugned judgment and order of the Khyber Pakhtunkhwa Services Tribunal Peshawar dated 03.05.2024 passed in service appeal No.7552/2021 may graciously be granted.

- 4. Incorrect, since the petitioner case is not covered under the rules, he has not been deprived of any fundamental or constitutional ~~at~~ rights.

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. 1101/2024
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Mr. Ishtiaq Ahmad
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Finance Department Peshawar

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C&W Department, Peshawar

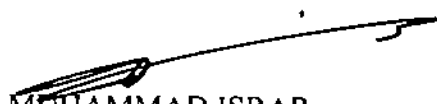
--- Respondents

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-parte nor their defense has been struck off.

Deponent



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

ATTESTED



A circular official stamp of the Khyber Pakhtunkhwa Service Tribunal, Peshawar. The text around the stamp includes 'Azmat Ahsan', 'Noor Public', and 'Khyber Pakhtunkhwa Service Tribunal Peshawar'. A handwritten signature is written over the stamp, and the date '11-11-2024' is written to the right.



GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

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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. 1101 of 2024 in Service Appeal No 7552/2021 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)

12238-40 (S)

~~Annex~~

Diary No. 4873
Date 8-8-2024
Secretary C&W Dept

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

Subject: SERVICE APPEAL NO. 7552/2021 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/3-460/2022, 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 with the prayer that the impugned order dated 28-08-2021 may be set-aside and the respondent may be directed to release salary of the appellant w.e.f. 01-04-2021 till date. 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 salaries from 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	10-09-2024

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) (S) (DSCA) (SOLICIT)

Yours faithfully,
Tahir Iqbal Khattak
(TAHIR IQBAL KHATTAK)
SOLICITOR
LAW DEPARTMENT

Endst: No & Date Even.
Copy forwarded to the.

- 1. PS to Secretary Law Department.

SOLICITOR

[Signature]
Section Chief (Litigation)
Khyber Pakhtunkhwa
C&W Department