

Service Appeal No.1223/2022 titled "Ijaz Ali Khan versus The Secretary to Government of Khyber Pakhtunkhwa Planning & Development Department, Civil Secretariat, Peshawar and others". Service Appeal No.1224/2022 titled "Shafi Ur Rehman versus The Secretary to Government of Khyber Pakhtunkhwa Planning & Development Department, Civil Secretariat, Peshawar and others". Service Appeal No.1225/2022 titled "Muhammad Shahab versus The Secretary to Government of Khyber Pakhtunkhwa Planning & Development Department, Civil Secretariat, Peshawar and others" and Service Appeal No.1226/2022 titled "Sabir Khan versus The Secretary to Government of Khyber Pakhtunkhwa Planning & Development Department, Civil Secretariat, Peshawar and others" declared on 09.10.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mrs. Kalim Arshad Khan, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

.....Appellant

Versus

1. **The Secretary Planning & Development Department, Khyber Pakhtunkhwa, Peshawar.**
2. **The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.**
3. **The Secretary Establishment, Khyber Pakhtunkhwa, Peshawar.**

.....Respondents

Service Appeal No.1226/2022

Date of presentation of Appeal.....05.08.2022

Date of Hearing.....13.11.2024

Date of Decision.....13.11.2024

Mr. Sabir Khan, Naib Qasid Planning & Development Department, Civil Secretariat, Khyber Pakhtunkhwa, Peshawar.

.....Appellant

Versus

1. **The Secretary Planning & Development Department, Khyber Pakhtunkhwa, Peshawar.**
2. **The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.**
3. **The Secretary Establishment, Khyber Pakhtunkhwa, Peshawar.**

.....Respondents

Present:

Mr. Noor Muhammad Khattak, Advocate.....For the appellants

Mr. Muhammad Jan, District Attorney.....For respondents

APPEALS UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE INACTION OF THE RESPONDENTS BY NOT COUNTING CONTRACT PERIOD TOWARDS REGULAR SERVICE FOR THE PURPOSE OF PENSIONARY BENEFITS ALONG WITH FRINGE BENEFITS AND AGAINST NOT DECIDING THE DEPARTMENTAL APPEAL WITHIN THE STATUTORY PERIOD OF NINETY DAYS.



Service Appeal No.1223/2022 titled "Ijaz Ali Khan versus The Secretary to Government of Khyber Pakhtunkhwa Planning & Development Department, Civil Secretariat, Peshawar and others". Service Appeal No.1224/2022 titled "Shafi Ur Rehman versus The Secretary to Government of Khyber Pakhtunkhwa Planning & Development Department, Civil Secretariat, Peshawar and others". Service Appeal No.1225/2022 titled "Muhammad Shahab versus The Secretary to Government of Khyber Pakhtunkhwa Planning & Development Department, Civil Secretariat, Peshawar and others" and Service Appeal No.1226/2022 titled "Sabir Khan versus The Secretary to Government of Khyber Pakhtunkhwa Planning & Development Department, Civil Secretariat, Peshawar and others" declared on 09.10.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mrs. Kalim Arshad Khan, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

BEFORE: **KALIM ARSHAD KHAN** ... **CHAIRMAN**
RASHIDA BANO ... **MEMBER(Judicial)**

Service Appeal No.1223/2022

Date of presentation of Appeal.....05.08.2022
Date of Hearing.....13.11.2024
Date of Decision.....13.11.2024

Mr. Ijaz Ali Khan Computer Operator Planning & Development Department, Civil Secretariat, Khyber Pakhtunkhwa, Peshawar.
.....**Appellant**

Versus

1. **The Secretary Planning & Development Department**, Khyber Pakhtunkhwa, Peshawar.
2. **The Secretary Finance Department**, Khyber Pakhtunkhwa, Peshawar.
3. **The Secretary Establishment**, Khyber Pakhtunkhwa, Peshawar.
.....**Respondents**

Service Appeal No.1224/2022

Date of presentation of Appeal.....05.08.2022
Date of Hearing.....13.11.2024
Date of Decision.....13.11.2024

Mr. Shafi Ur Rehman Naib Qasid Planning & Development Department, Civil Secretariat, Khyber Pakhtunkhwa, Peshawar.
.....**Appellant**

Versus

1. **The Secretary Planning & Development Department**, Khyber Pakhtunkhwa, Peshawar.
2. **The Secretary Finance Department**, Khyber Pakhtunkhwa, Peshawar.
3. **The Secretary Establishment**, Khyber Pakhtunkhwa, Peshawar.
.....**Respondents**

Service Appeal No.1225/2022

Date of presentation of Appeal.....05.08.2022
Date of Hearing.....13.11.2024
Date of Decision.....13.11.2024

Mr. Muhammad Shahab, Computer Operator, Planning & Development Department, Civil Secretariat, Khyber Pakhtunkhwa, Peshawar.

Service Appeal No.1223/2022 titled "Ijaz Ali Khan versus The Secretary to Government of Khyber Pakhtunkhwa Planning & Development Department, Civil Secretariat, Peshawar and others", Service Appeal No.1224/2022 titled "Shaft Ur Rehman versus The Secretary to Government of Khyber Pakhtunkhwa Planning & Development Department, Civil Secretariat, Peshawar and others", Service Appeal No.1225/2022 titled "Muhammad Shahab versus The Secretary to Government of Khyber Pakhtunkhwa Planning & Development Department, Civil Secretariat, Peshawar and others" and Service Appeal No.1226/2022 titled "Sabir Khan versus The Secretary to Government of Khyber Pakhtunkhwa Planning & Development Department, Civil Secretariat, Peshawar and others" declared on 09.10.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mrs. Kalim Arshad Khan, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

The defense setup was a total denial of the claim of the appellants.

4. We have heard learned counsel for the appellants and learned District Attorney for respondents.

5. The learned counsel for the appellants reiterated the facts and grounds detailed in the memo and grounds of the appeals while the learned District Attorney controverted the same by supporting the impugned order(s).

6. Vide Notification dated 08th June, 2018, eighty-seven (87) employees of the project namely "Capacity Building of Planning & Development" were regularized with effect from 02.03.2018 as provided under Section-4 of the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018. Appellants were also regularized through the said notification. However, their service in the project was yet to be counted. The appellants have annexed some other notifications, wherein, previous services were counted of those project employees.

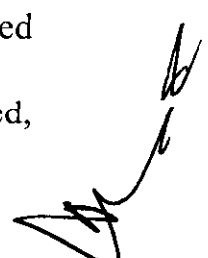
7. The appellants are still in service. There is an issue of the period of their previous service. If the appellants have served for ten years as regular service, they are entitled for counting of their previous service; if otherwise, they are not entitled for their desired relief prayed in these appeals.

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 against different posts in the project namely "Capacity Building Project (P&D) Department; that after rendering their services not less than fifteen years, till 2018, on promulgation of the Khyber Pakhtunkhwa Regularization Act, 2018, they were regularized w.e.f 02.03.2018; that similarly, the project/contract based employees of the Sports, Tourism Archaeology Culture & Youth Affairs Department were also regularized by the order of the august Supreme Court of Pakistan; that similar project employees in the erstwhile FATA were also regularized vide Notification dated 04.08.2020 w.e.f 18.05.2006 and their services were counted; that for the purpose of counting their previous services, they filed departmental representations 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.



Service Appeal No.1223/2022 titled "Ijaz Ali Khan versus The Secretary to Government of Khyber Pakhtunkhwa Planning & Development Department, Civil Secretariat, Peshawar and others", Service Appeal No.1224/2022 titled "Shafi Ur Rehman versus The Secretary to Government of Khyber Pakhtunkhwa Planning & Development Department, Civil Secretariat, Peshawar and others", Service Appeal No.1225/2022 titled "Muhammad Shahab versus The Secretary to Government of Khyber Pakhtunkhwa Planning & Development Department, Civil Secretariat, Peshawar and others" and Service Appeal No.1226/2022 titled "Sabir Khan versus The Secretary to Government of Khyber Pakhtunkhwa Planning & Development Department, Civil Secretariat, Peshawar and others" declared on 09.10.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mrs. Kalim Arshad Khan, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

8. The appeals in hand are decided in the above terms. 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 13th day of October, 2024.



KALIM ARSHAD KHAN
Chairman



RASHIDA BANO
Member (Judicial)

Mutazem Shah

MEMO OF COSTS
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.1223/2022

Date of presentation of Appeal 05.08.2022
Date of hearing 13.11.2024
Date of Decision 13.11.2024

Mr. Ijaz Ali Khan Computer Operator Planning & Development Department, Civil Secretariat, Khyber Pakhtunkhwa, Peshawar.

.....*Appellant*

Versus

1. **The Secretary Planning & Development Department**, Khyber Pakhtunkhwa, Peshawar.
2. **The Secretary Finance Department**, Khyber Pakhtunkhwa, Peshawar.

Respondents)

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974.


PRESENT

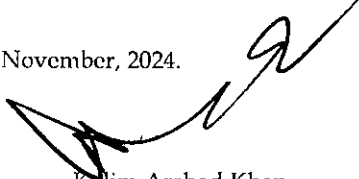
1. Mr. Noor Muhammad Khattak, Advocate, for the Appellant
2. Mr. Muhammad Jan, District Attorney, for respondents

Appellants	Amount	Respondent	Amount
1. Stamp for memorandum of appeal	Rs. Nil	1. Stamp for memorandum of appeal	Rs. Nil
2. Stamp for power	Rs. Nil	2. Stamp for power	Rs. Nil
3. Pleader's fee	Rs. Nil	4. Pleader's fee	Rs. Nil
4. Security Fee	Rs. 100/-	4. Security Fee	Rs. Nil
5. Process Fee	Rs. Nil	5. Process Fee	Rs. Nil
6. Costs	Rs. Nil	6. Costs	Rs. Nil
Total	Rs. 100/-	Total	Rs. Nil

Note: Counsel Fee is not allowed as the required certificate has not been furnished.

Given under our hands and the seal of this Court, this 13th day of November, 2024.




Rashida Bano
Member (Judicial)


Kalim Arshad Khan
Chairman

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.1223/2022



Ijaz Ali Versus Government of Khyber Pakhtunkhwa through Secretary
P&D and others

S.No. of Order & Date of proceeding	Order or other proceedings with signature of Chairman/Member(s)/Registrar and that of parties or counsel where necessary
<p>Order-16 7th November, 2024.</p>	<p>Present</p> <ol style="list-style-type: none">1. Mr. Noor Muhammad Khattak, Advocate on behalf of appellant present.2. Mr. Naseer Uddin Shah, Assistant Advocate General assisted by Mr. Mehar Mohammad and Mr. Hashmat Ullah S.O for the respondents.3. Former requested for adjournment on the ground that he has not made preparation of the case. Absolute last chance is given, failing which case will be decided on the basis of available record without providing further chance of hearing. To come up for arguments on 13.11.2024 before D/B. P.P given to the parties. <p style="text-align: center;"> (Muhammad Akbar Khan) Member (E)</p> <p style="text-align: center;"> (Rashida Bano) Member (J)</p> <p>*Kaleemullah*</p>

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No.1223/2022

Ijaz Ali Khan versus Government of Khyber Pakhtunkhwa

S.No. of Order & Date of proceeding	Order or other proceedings with signature of Chairman/Member(s)/Registrar and that of parties or counsel where necessary
Order-17 13 th November, 2024.	<p><u>Kalim Arshad Khan, Chairman</u></p> <p>Present:</p> <ol style="list-style-type: none">1. Mr. Noor Muhammad Khattak, Advocate, on behalf of appellant.2. Mr. Muhammad Jan, District Attorney, on behalf of respondents.3. Vide our consolidated judgment of today, placed on file, the appellant is still in service. There is an issue of the period of his previous service. If the appellant has served for ten years as regular service, he is entitled for counting of his previous service; if otherwise, he is not entitled for their desired relief prayed in this appeal. Copy of the order be placed on file of connected cases. Costs shall follow the event. Consign.4. <i>Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 13th day of November, 2024</i> <p style="text-align: center;"> (Rashida Bano) Member (J)</p> <p style="text-align: center;"> (Kalim Arshad Khan) Chairman</p> <p><small>*Muzam Shah*</small></p>