

Form No: HCJ D/C-121.

**ORDER SHEET****IN THE ISLAMABAD HIGH COURT, ISLAMABAD**  
**JUDICIAL DEPARTMENT**

W.P No.3520 of 2009

Ag. Cdr (Retired) Irshad Ahmad

Versus

National Highway Authority &amp; another

S. No. of order proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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01      17-01-2011      Mr. Abdur Rehman Khan Advocate for petitioner,  
Mr.Mumtaz Ahmad Bilal Advocate for respondents,  
Mohammad Imran, AD (Legal), National Highway  
Authority.

This order will dispose of Writ Petition Nos.3520/2009 and  
86 of 2010 as relate to same service dispute of the petitioner.

2-      Facts in brief are that petitioner in November 2009 filed  
Writ Petition No.3520 and another Writ Petition No.86 on  
01.11.2010 stating therein that he had been employee of NHA on  
contract basis and served there from February 2007 to February,  
2009. After the expiry of period, he applied for extension which  
was placed before the Executive Board the authority. It is further  
stated that the Board through its meeting No.169 held on  
01.04.2009 considered his extension and decided to extend the  
same from 01.02.2009 to 31.01.2011. It is stated that the extension  
was granted but on the condition that evaluation reports of the  
petitioner for the last two years be made available by 31<sup>st</sup> May  
2009.

3-      It is his grievance that the admin wing did not produce the  
performance report for the period from January 2007 to December  
2007 and from January 2008 to June 2008 and, therefore, the  
Executive Board did not approve his extension due to the  
omission of the admin wing. According to him, his salaries were  
stopped from February, 2009, though he had been on job. It is  
mentioned that instead of following the decision of Executive  
Board about personal hearing, the Chairman/respondent No.3  
relieved him of his services w.e.f 08.08.2009.

4-      It is his contention that his request for extension was  
reconsidered in the Board meeting No.179 on 19<sup>th</sup> and 20<sup>th</sup>

September 2009 but again his request was not considered and authorized the Chairman to grant hearing to the petitioner. It is mentioned that his termination order by the Chairman is without jurisdiction and he has suffered for no fault on his part. He requested for the release of his salaries w.e.f February 2009 till date and for setting aside the impugned order dated 18.12.2009. Learned counsel for the petitioner placed reliance upon case law reported in 2005 TDC (Service) 344, wherein it was held that the departmental authority cannot withhold payment of salary to an employee, as stoppage of salary would be a classical case of abuse and misuse of power of the departmental authority.

5- In response, the respondents refuted both the petitions by filing parawise comments on legal as well as factual grounds. It is submitted that petitioner was contract employee and after the expiry of his contract, the competent authority i.e. Executive Board had not approved his extension. It is further stated that his request was rejected twice through meetings No.169 and 179 and in compliance with the order of this Court dated 10.12.2009, arrears of pay and allowances amounting to Rs.508,864/- were paid to the petitioner vide office order dated 18.12.2009. It is further mentioned that the petition is not maintainable because no vested right has been violated and the petitioner has not approached the court with clean hands. Lastly, it is stated that the extension of service cannot be claimed as of right and under the writ jurisdiction, courts cannot grant such relief.

6- I have considered the arguments and perused the record.

7- Admitted position of the case is that the petitioner was appointed as Deputy Director for a period of two years on contract basis in February 2007 which expired in February, 2009. Thereafter his request for extension was placed before the competent authority in the meeting bearing No.169 which was rejected. It was second time placed before the Board meeting No.179 where-after the Chairman granted him a personal hearing but his extension was not approved by the Board. Initial order for not extending his service was conveyed to the petitioner on 08.08.2009. It is also admitted fact that salaries and allowances till 08.08.2009 were paid to the petitioner by the department. Since contract employees cannot force for the extension of contract



period and under the constitutional jurisdiction even the courts cannot force any statutory body to extend the same. The decision of the Board was communicated to the petitioner on 08.08.2009 and his salaries till that date were also paid to him in compliance with order of this Court dated 10.12.2009. Hence, dictum laid down in the case law referred by the counsel has been followed by the department by releasing his salaries. It is needless to mention that contract employees are always governed by the terms and conditions of contract and cannot ask for more than that.

8- Viewing the above, Writ Petitions bearing Nos.3520 of 2009 and 86 of 2010 are not maintainable as no question of violation of fundamental rights is involved. Resultantly, both writ petitions stand dismissed with no orders as to costs.

9- In consequence thereof, contempt petitions bearing No.38/W/2010, 06/W/2010 and 03/W/2011 have become infructuous and are so disposed of accordingly.

(MUHAMMAD ANWAR KHAN KASI)  
JUDGE

M.Suhail

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Blue slip added.  
for  
18/11/11