

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 3531/2021

Date of Institution ... 15.03.2021

Date of Decision ... 13.12.2021

Mr. Feroz Khan Retired Assistant, O/o the Deputy Commissioner North Waziristan
Tribal District. ... (Appellant)

VERSUS

The Commissioner Bannu Division Bannu and two others. ... (Respondents)

Syed Noman Ali Bukhari,
Advocate ... For Appellant

Mr. Muhammad Rasheed,
Deputy District Attorney ... For Respondents

SALAH-UD-DIN ... **MEMBER (JUDICIAL)**
ATIQ-UR-REHMAN WAZIR ... **MEMBER (EXECUTIVE)**

JUDGMENT

ATIQ-UR-REHMAN WAZIR MEMBER (E):- Brief facts of the

case are that the appellant was working as Assistant in the office of Deputy Commissioner North Waziristan tribal district. Due to serious illness, the appellant applied for invalid retirement from service on medical grounds on 15-08-2019. The case of the appellant was referred to Director General Health Services for constitution of medical board vide order dated 02-06-2020 and the medical board furnished its opinion vide letter dated 15-09-2020, wherein the appellant was declared as unfit for further job and such recommendations were sent to Deputy Commissioner North Waziristan for implementation vide order dated 19-09-2020. The Deputy Commissioner instead of challenging such order, verbally refused to implement it and kept it pending, hence due to delay on part of the respondents, his invalid retirement order could not materialize well in time and in the

meanwhile, the appellant reached his age of superannuation, hence he was retired vide order dated 12-10-2020 on the basis of reaching his age of superannuation and not on invalid retirement. Feeling aggrieved, the appellant filed departmental appeal, which was rejected vide order dated 04-03-2020, hence the instant service appeal with prayers that the impugned orders dated 12-10-2020 and 04-03-2021 may be set aside and the appellant may be held entitled for retirement on medical grounds, with all consequential benefits.

02. Learned counsel for the appellant has contended that the appellant has not been treated in accordance with law, as actions and inactions violate the mandate provided under Article-4 of the Constitution; that respondents are legally bound to treat the appellant in accordance with law, as the appellant is legally entitled for pre-mature retirement on medical grounds; that the medical opinion was not challenged by the respondents within the stipulated timeframe, hence it gained finality, but due to delaying tactics by the office concerned, the appellant was deprived of his right, which is unlawful; that the appellant has been discriminated as similar placed employees were granted retirement on medical ground, whereas the same benefit was not granted to the appellant; that this Tribunal has already granted relief in similar case in Service Appeal No. 558/2019, decided on 21-02-2020 and Service Appeal No. 921/2021 decided on 09-11-2021 and the same may also be granted to the appellant being an identical case; that the appellant was not consulted nor any correspondence made with the appellant to defend his cause, which is illegal unlawful and contrary to the norms of natural justice; that the respondents had not adopted proper procedure in deciding the departmental appeal, nor the same was referred to the competent authority for decision; that the appellant was fully entitled for pre-mature retirement on medical grounds and denial of the same is totally illegal and contrary to rules, thus indulgence of this Tribunal is solicited.

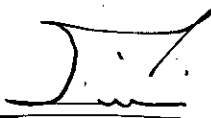
03. Learned Deputy District Attorney for the respondents has contended that it is correct that the appellant was declared invalid by the medical board, but his case was not considered due to the reason that the appellant concealed the fact that his actual date of retirement was near, hence he was retired on reaching his age of superannuation; that in case of invalid retirement, his son would become entitled to be recruited in his place, which would be a great injustice with unemployed youth of the district.

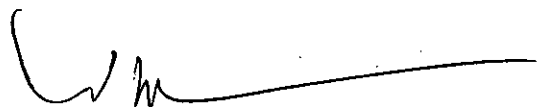
04. We have heard learned counsel for the parties and have perused the record.

05. In the last leg of his career, the appellant suffered from certain disease and applied for invalid retirement on medical grounds. The respondents duly processed his case and medical board was constituted to examine his fitness or otherwise. The medical board recommended him for retirement on medical grounds, being incapacitated and unfit for further job but the incumbent Deputy Commissioner refused such retirement under the plea that his son might take benefit of such retirement, which however was not warranted. It was astonishing to note that the respondents processed his case for invalid retirement due to his illness and after lengthy correspondence, medical board was constituted and medical board tendered its opinion, but after changes in administrative setup, the respondents took a U turn and refused the already approved case under the plea that his son might take benefit of such retirement, which was pathetic on part of the respondents. Taking action contrary to the opinion of the medical board constituted on their request, would amount to mistrust upon the medical board so constituted. The respondents however were required to take a sympathetic view of the situation, as the appellant served for longer time with the respondents and denial of benefits already accrued to him amount to injustice, which was not warranted.

06. In view of the foregoing discussion, the instant appeal is accepted. The impugned orders dated 12-10-2020 and 04-03-2021 are set aside and the appellant is held entitled to invalid retirement on medical grounds alongwith benefits accrued thereto. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
13.12.2021


(SALAH-UD-DIN)
MEMBER (J)

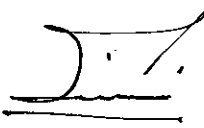

(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)


ORDER
13.12.2021

Appellant alongwith his counsel Syed Noman Ali Bukhari, Advocate present. Mr. Muhammad Rasheed, Deputy District Attorney for respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the instant appeal is accepted. The impugned orders dated 12-10-2020 and 04-03-2021 are set aside and the appellant is held entitled to invalid retirement on medical grounds alongwith benefits accrued thereto. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
13.12.2021


(SALAH-UD-DIN)
MEMBER (J)


(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

12.07.2021

Learned Addl, A.G be reminded about the omission and for submission of reply/comments within extended time of 10 days.


Chairman


Stipulated period passed reply not submitted.

05.08.2021

Counsel for the appellant present.

Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Umer Khitab Additional Assistant Commissioner for respondents present.

The respondents have not submitted the written reply but it has been stated on their behalf that the reply is in process for vetting and shall be submitted positively within 10 days in office. Counsel for the appellant shall collect the copy of reply from the office after 10 days. File to come up for arguments on 13.12.2021 before D.B.


(Atiq Ur Rehman Wazir)
Member (E)


Chairman

25.05.2021

Counsel for the appellant present. Preliminary arguments heard.

Points raised need consideration. The appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days of the issuance of the notice positively. If the written reply/comments are not submitted within the stipulated time, the office is directed to submit the file with a report of non-compliance. File to come up for arguments on 05.08.2021.

Appellant Deposited
Security & Process Fee

37/5/21




Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. - 3531 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	15/03/2021	<p>The appeal of Mr. Feroz Khan presented today by Syed Noman Ali Bukhari Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 15/3/2021</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>25/05/21</u></p> <p style="text-align: right;"> (for completion) CHAIRMAN</p>

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____/21

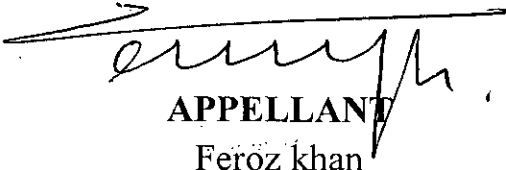
Feroz Khan

V/S

Revenue Deptt:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
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2.	Copy of transfer order	A	06
3.	Copy of charge report	B	07
4.	Copy of application	C	08-09
5.	Copy of order	D	10
6.	Copy of medical board application	E	11-13
7.	Copy of letter	F	14
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APPELLANT
Feroz Khan

THROUGH:


(SYED NOMAN ALI BUKHARI)
ADVOCATE, HIGH COURT.

(1)

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 3531 /21

Mr. Feroz Khan Retired Assistant,
O/o The Deputy Commissioner
North Waziristan Tribal District.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 3602

Dated 15/3/2021

(Appellant)

VERSUS

1. The Commissioner Bannu Division Bannu.
2. The Deputy Commissioner North Waziristan Tribal District.
3. The Senior Member of Board of Revenue, kpk, Peshawar

(Respondents)

.....

APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974
AGAINST THE APPELLATE ORDER DATED 04.03.2021
WHEREBY DEPARTMENTAL APPEAL FOR
RETIREMENT ON MEDICAL GROUND AND AGAINST
THE ORDER DATED 12.10.2020 WHEREIN THE
APPELLANT WAS CONDITIONALLY RETIRED FROM
SERVICE ON ATTAINING THE AGE OF
SUPERANNUATION INSTEAD OF RETIREMENT ON
MEDICAL GROUND, HAS BEEN REJECTED FOR NO
GOOD GROUNDS.

Filed to-day

Registrar

15/3/2021

PRAYER:

***THAT ON THE ACCEPTANCE OF THIS APPEAL, THE
ORDER DATED 12.10.2020 and 04.03.2021 MAY PLEASE
BE SET ASIDE AND THE APPELLANT MAY BE HELD
ENTITLED FOR RETIREMENT ON MEDICAL GROUND
IN LIGHT OF THE OPINION OF MEDICAL BOARD***

WITH ALL BACK-AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO, BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant was working as Assistant in the O/o the Deputy Commissioner, North Waziristan Tribal district. The appellant was transfer to Dosalli vide order dated 24.07.2019 and assume the charge on 25.07.2019. **copy of transfer order and charge assumption report is attached as annexure-A & B.**
2. That the appellant fell suddenly ill and got medical checkup several time but the illness of the appellant increases with time, due to which the appellant request for repatriation back to the main office which was accepted and appellant was repatriated to parent office vide order dated 06.08.2019. But finally due to illness, appellant was not in position to continue his job, therefore, applied for invalid retirement from service on medical grounds on 15.08.2019. **Copy of application, order and medical board application is attached as Annexure-C, D & E.**
3. That the respondent Deputy Commissioner North Waziristan district referred cased to DG Health Services KP Peshawar for constitution of the medical board vide letter dated 02.06.2020. **Copy of letter is attached as annexure-F.**
4. That after constitution of medical board the meeting of standing medical board was held and furnished opinion /recommendations on 15.09.2020 wherein appellant was declared unfit for job and permanently incapacitated. The said recommendation of medical board was sent to Deputy Commissioner North Waziristan district for implementation vide letter dated 19.09.2020. the respondent instead of challenged the decision of the medical board within 15 days, orally denied to implement the same and kept pending. **Copy of opinion of standing medical board is attached as Annexure-G.**
5. That after verbally denial and keep pending the case appellant wrote application to Deputy Commissioner North Waziristan district for

implementation of medical board opinion and thereafter file suit in the civil court, during pendency of the civil suit, after delayed the case of the appellant for medical retirement. department issued at last retirement order dated 12.10.2020 on the age of superannuation which is void ab initio. Thereafter the civil suit of the appellant was return to the appellant for approach to proper forum vide order dated 03.12.2020. Thereafter, appellant being aggrieved filed departmental appeal against the order dated 12.10.2020 but the same was rejected vide order dated 04.03.2021 for no good grounds. Hence the present Service appeal on the following grounds amongst others. **Copy of application, impugned order, court order, departmental appeal and rejection order is attached as annexure-H, I, J, K & L.**

GROUNDS

- A. That the impugned order dated 12.10.2020 and 04.03.2021 the impugned actions and inactions violate the mandate provided under article 4 of the constitution of Pakistan .
- B. That respondent is legally bound to treat the petitioner in accordance to law and he is entitled for pre mature retirement on medical grounds.
- C. That the deptt: has a remedy under FR rules to challenge the medical board opinion within 15 days and review the same but the deptt: not do so, the opinion of the medical board attained finally which should be implemented.
- D. That after medical board opinion and approval for the retirement on medical ground the deptt: but the deptt inordinately delayed the same. Which is malafide on the part of the deptt?
- E. That earlier vide letter dated 02/06/2020 respondent no 2 by himself referred petitioner case before standing medical board and accordingly appellant appear before the standing medical board and valid constituted medical board declare petitioner unfit for government service but the appellant was not retired on medical grounds , which is totally illegal and against the rule and regulation .
- F. That the similar placed employee was retired on medical ground on the basis of standing medical board opinion but the appellant was discriminated which is great injustice with the appellant and violation of superior court judgments and constitution. **Copy of the order is attached as annexure-M.**
- G. That in the same nature case titled as Shaher Bano VS Govt: of KP appeal no:558/2019 decided on 21.02.2020 the Hon'able Tribunal granted relief to the employee, so being similar nature person the appellant also needs the same treatment under the principle of consistency. **Copy of judgment is attached as annexure-N.**

- H. That no proper opportunity of hearing has been provided by the respondent to the appellant hence he has been condemned unheard and the case has been decided in a mechanical manner without application of judicious mind.
- I. That nor the fundamental rules nor the CSR has been taken into consideration while deciding the case of appellant.
- J. That respondent has not adopted proper procedure in deciding the departmental appeal /representation nor the same has been refer to proper competent authority. Similarly no opportunity of hearing has been provided to appellant to explain his stance and law on subject.
- K. That because the impugned actions and inactions are against the principles ordained under article 25 of the constitution of Islamic republic of Pakistan.
- L. That because the impugned actions and inactions are blatantly against all norms of justice and principles of reasonability based on victimizations and discrimination.
- M. That the appellant by his own sweet will is not willing to proceed on retirement but his poor health problem not allowed him to continue his job therefore the directions issued vide impugned letter is totally illegal and violation of the basis fundamental rights of petitioner .
- N. That appellant has been arbitrary treated and he being qualified for the retirement on medical ground but his accrued rights are denying by the respondents without any just cause contrary to the clear cut provision of law .
- O. That the appellant is fully entitled for the pre-mature retirement on medical grounds and denial of the same by the respondent is totally illegal void against the rules and regulations thus indulgence of this hon'ble tribunal is required.
- P. That appellant also seeks permission of this hon'ble forum to raise additional point at the time of arguments.

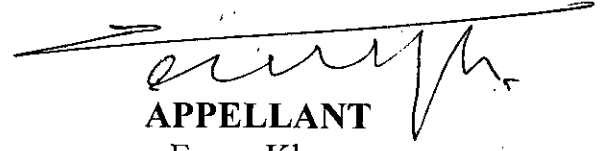
It is therefore respectfully prayed that on accepting this service appeal;

- A) The impugned order dated 12.10.2020 and 04.03.2021 may graciously be set aside by declaring it illegal, void, unlawful, without authority based on mala fide, void abinitio and thus not sustainable and the appellant is entitled for retirement on medical grounds.
- B) The respondent may please be direct to act in accordance with law and the actions and inactions of the respondent in not finalizing petitioner retirement case on the basis medical grounds is unconstitutional, unlawful, illegal without lawful authority and direction may please be issued to respondent

(5)

to finalized the pre-mature retirement case on medical grounds as per decision of the standing medical board.

C) Any administrative orders which are against the rules and regulation may please be declare ultra varies to the constitution of the Islamic republic of Pakistan and service law and thus liable to be struck down.

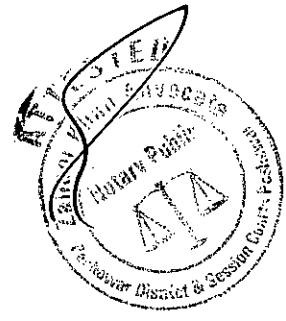


APPELLANT
Feroz Khan

THROUGH



(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT



Annexure - A

Better Copy
Page - 10

OFFICE ORDER

Following posting/transfers amongst the Tehsildars/Naib Tehsildars in this Division are hereby ordered in the best public interest:-

No.	Name	From	To
	Mr. Abdul Salam Tehsildar (BPS-16)	Naib Tehsildar Lakki	Tehsildar WAPDA recovery Bannu (upon his promotion as Tehsildar)
	Mr. Inayatullah Political Muharrir NWTD (BPS 11)	Naib Tehsildar (OPS) NWTD	Naib Tehsildar Garyum (OPS) NWTD
	Mr. Feroz Khan Assistant (BPS 16) Office of the DC NWTD	Office of the DC NWTD	Tehsildar Dossali NWTD (on the recommendation of DC NWTD)
	Mr. Mafeed Alam, Political Muharrir NWTD (BPS 11)	Naib Tehsildar Miranshah (OPS) NWTD	Will look after the work of Tehsildar Datakhel in addition to his own duties
	Mr. Ghafar Tehsildar (BPS 16)	Tehsildar Datakhel NWTD	Deputed at Razmak NWTD
	Mr. Ghani Ur Rehman Political Muharrir NWTD (BPS 11)	Political Muharrir NWTD	Naib Tehsildar Ghulam Khan (OPS) NWTD
	Mr. Ghani Rehman Naib Tehsildar (BPS 14)	HVC Commissioner Office Bannu	Naib Tehsildar Lakki
	Mr. Naik. Nawaz Naib Tehsildar (BPS 14)	DRA Lakki Marwat	Assigned the additional duties of Naib Tehsildar Tajuri District Lakki Marwat in addition to his own duties

By Order of
Commissioner
Bannu Division

Dated. 24 July 2019

No. 607.13/PO/DT-Estab./18.

Copy to.

1. Senior Member Board of Revenue, Khyber Pakhtunkhwa Peshawar
2. The deputy Commissioner Bannu
3. The Deputy Commissioner Lakki Marwat
4. The Deputy Commissioner North Waziristan TD
5. The District Accounts Officers Bannu/Lakki Marwat/NWTD
6. Assistant Secretary (Estab.) Board of Revenue Khyber Pakhtunkhwa Peshawar
7. All Tehsildars/Naib Tehsildars for immediate Compliance.

Sd/-
Secretary to Commissioner
Bannu Division

AS
Ahmed

Charge Assumption
Report Dossali

① B ⑦
~~Assumption~~

CHARGE ASSUMPTION REPORT

In compliance with the Commissioner, Bannu Division, office order No.607-13/PO/Estab/18, dated 24/07/2019, I, Haji Feroz Khan is hereby assuming charge of the post of Tehsildar Dossali today on 25/07/2019

[Handwritten signature]

[Handwritten signature]
(Haji Feroz Khan)
TEHSILDAR DOSSALI NWTD.

Dated: 25/07/2019

857-027/DSE

Copy to:

1. The Deputy Commissioner (NWTD).
2. The Additional Deputy Commissioner (NWTD).
3. The Secretary to Commissioner, Bannu Division.
4. The Assistant Commissioner Razmak.
5. The District Accounts Officer NWTD.
6. Personal file.

RS
Attested

[Handwritten signature]
E. Ali Asst. #

DC 25/7
NWTD 2019

[Handwritten signature]
TEHSILDAR DOSSALI NWTD.
25/7/2019

[Handwritten signature]
Reader to Commissioner
Bannu Division

8/3/21

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B

The Deputy Commissioner
North Waziristan Tribal District.

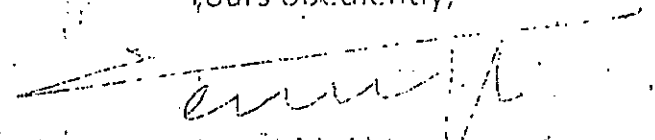
Subject:- REQUEST FOR REPATRIATION BACK TO MAIN OFFICE OF DISTRICT ADMINISTRATIVE.

R/Sir,

With due respect is stated that I have been posted as Tehsildar Dossali by Commissioner, Bannu Division vide his office order No.607-13/ PO/ Est/b/18, dated 24/7/2019 on the proposal/ recommendation of your goodself and I have assume charge/duty on 25/7/2019. Sir, I am facing great hardships and problems in this stage/age to perform my duty as Tehsildar.

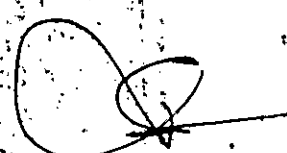
In view of the above facts and circumstances, it is, humbly requested to kindly approach Commissioner, Bannu Division, for withdrawal my posting and reassign me to your goodself office for further posting in main office.

Yours obediently,



(Haji Feroz Khan)
Assistant BPS-15, presently working as
Tehsildar Dossali.

ATTACHED
15/7/19



Reader to Commissioner
Bannu Division,

8/3/21

9

Office of the Deputy Commissioner,
North Waziristan Tribal District,
No. 357-60 Estab: dated 01/8/2019.

The commissioner,
Bannu Division.

Subject:- APPLICATION OF HAJI FERUZ KHAN FOR REPATRIATION TO MAIN OFFICE.

MEMO.

Kindly refer to the attached self-explanatory application submitted by Haji Feroz Khan Assistant BPS-16 presently working as Tehsildar, Dossali North Waziristan Tribal District.

The official is unwilling and unable to perform his duty as Tehsildar, Dossali and requested for repatriation to main office of this District.

In view of the above, it is, therefore, requested that the official may please be repatriated to this office for further posting in main office.

[Signature]
Deputy Commissioner,
North Waziristan Tribal District

Copy to:-

The Assistant Commissioner, Razmak along with copy of application for information please.

[Signature]
Deputy Commissioner,
North Waziristan Tribal District

[Signature]
Attested

[Signature]
13/8
OFFICE OF THE DEPUTY COMMISSIONER,
NORTH WAZIRISTAN TRIBAL DISTRICT,
RAZMAK

[Signature]
Reader to Commissioner
Bannu Division

8/3/21

D
~~Page 1~~
10
~~Page 1~~

OFFICE OF THE COMMISSIONER BANNU DIVISION

No. 193-98/AG-A/F/90
Dated. 6/8/2019

OFFICE ORDER:

In light of the request of Deputy Commissioner North Waziristan Tribal District vide letter 359-60/Estab dated 1/8/2019 Mr. Feroz Khan Tehsildar Dossali is repatriated to his parent office as Assistant (BPS 16) as per his own request in the public interest with immediate effect.

Sd/-
Commissioner
Bannu Division

Even No and date:


Copy forwarded to.

1. Senior Member Board of revenue, Khyber Pakhtunkhwa Peshawar
2. The Deputy Commissioner North Waziristan TD with reference to the above.
3. The District Accounts Officer NWTD
4. Assistant Secretary (Estab.) Board of Revenue Khyber Pakhtunkhwa Peshawar
5. PS to Commissioner Bannu Division
6. Mr. Feroz Khan, Assistant of the Office Deputy Commissioner NWTD for Compliance.

Sd/-
Secretary to Commissioner
Bannu Division

Attested

ATTESTED
Mudasir Ali Bangash
Advocate
High Court Peshawar


Reader to Commissioner
Bannu Division

8/3/21

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To:

The Deputy Commissioner,
North Waziristan, Tribal District.

Subject: - REQUEST FOR MEDICAL BOARD

Respected sir,

With due respect is humbly stated that I am serving as Assistant (BPS-16) in your good self-office. Sir, I am suffering from certain diseases and despite regular treatment (medical prescriptions are attached) my health is deteriorating day by day and unable to perform my duty.

In view of the above, it is earnestly requested that I may very please be referred to a Medical Board for examination and opinion please.

Your most obedient servant,

(Haji Feroz Khan)

Assistant (BPS-16) Deputy Commissioner 15/8/19
Office North Waziristan Tribal District.
CNIC# 21505-5539972-3

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Dissems
NE

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3/2/2020

DC
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Attested

370
MOJIB HASSAN MOHAMMAD,
SCJ/JUDGE
NORTH WAZIRISTAN AT BANNU

An application of Haji Feroz Khan Assistant (BPs-16) of this office with the request that he is suffering from certain diseases and despite regular treatment, he could not recovered. The prescriptions may be perused at page 2-13 of the file. He has added that he is unable to perform his duty furthermore. As such he has requested that he may be referred to a medical Board for examination and Opinion please.

It may be mentioned here that such like cases are being referred to Medical Board via Director (Health) Khyber Pakhtunkhwa Peshawar.

If approved we may refer his case to the Director General, Health Khyber Pakhtunkhwa Peshawar as per past practice in vogue please.

Submitted for orders please.

Attested

Suppd: Para 3/N is submitted for orders, please.

M. A. / 10

Des please Please share brief of the official alongwith his previous postings and track record of services. Supdt 4-2 13/2

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[Handwritten signature]
JUDGE
COURT OF SESSIONS
PESHAWAR

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R/sir,

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regarding

Brief of the official i-e Haji Feroz Khan Assistant (BPS-16), Deputy Commissioner Office North Waziristan Tribal District is as follow:

Haji Feroz Khan is Senior, competent and experienced hand official of this office. He is working as Assistant in (BPS-16). As per his ACR dossier he has no adverse remarks at his credit. He was posted as Tehsildar in his own pay and scale with following posting:-

1. Tehsildar Torghar (CCB) vide at page-----16.
2. Tehsildar Spinwam (OPS) at page-----17.
3. Tehsildar Dattakhel (OPS) at page-----18.
4. Tehsildat Dossali (OPS) at page-----19.

9

The official while posted as Tehsildar Dossali had requested for repatriation to parent office vide his application at page-15, on the basis of some hardships and subsequently submitted application for retirement on medical ground. Which was processed by office at para-5/N, with proposal to refer the case to Director General Health Services Khyber Pakhtunkhwa.

10

Submitted for perusal and further orders please.

Supdt:

Paras 7-10/N are submitted for perusal please.

EA/2/2020

DC Please R. disuss

Supdt Dismissed.

27/12
02/03/2020

Supdt

The applicant has requested for retirement on medical grounds. If agreed his request may be sent to Datts for

Supdt:

n/a R. Keep pending

27/12

14

F

~~As per...~~

(C)



OFFICE OF THE DEPUTY COMMISSIONER
NORTH WAZIRISTAN TRIBAL DISTRICT

Tel: (0928) 300903 FAX (0928) 300642
Email Address: namraofficial@gmail.com

No. 87-88 TEA

Dated 02/06/2020

To: The Director General Health Services,
Khyber Pakhtunkhwa, Peshawar.

Subject: Constitution of Medical Board in respect of Haji Feroz Khan Assistant BPS-16.

Memo: Enclosed please find here with a self explanatory application submitted by Haji Feroz Khan Assistant (BPS-16) of this office bearing CNIC No.21505-5539972-3 and personal No.50251566 requesting therein, to refer him to the Medical Board for proper examination and opinion.

It is therefore, requested that the above named official may please be examined thoroughly through medical Board and submit opinion to this office for further process at the earliest please.

[Signature]
Deputy Commissioner
North Waziristan Tribal District.

Copy to: The official concerned with the directions to appear before the medical Board constitution for the purpose.

[Signature]

[Signature]
Deputy Commissioner
North Waziristan Tribal District.

Attested

[Signature]
Reader to Commissioner
Bannu Division

8/3/21

~~Amman~~ (A) (15) G

OFFICE OF THE
MEDICAL SUPERINTENDENT
DHQ TEACHING HOSPITAL
KDA; KOHAT

No. 4438 /F-6

Dated Kohat the 19 /09/2020

To
The Deputy Commissioner
North Waziristan Tribal District.

Subject:- STANDING MEDICAL BOARD IN RESPECT OF MR. FEROUZ KHAN

Memo:
With reference to the Director General Health Services Khyber Pakhtunkhwa Peshawar office letter No.5113/4/Medical/SMB dated 14.09.2020 on the subject cited above and to enclose herewith the opinion of the Standing Medical Board in respect of Mr. Feroz Khan, Assistant, working under your control, for further necessary action.

[Handwritten signature]
3/10

*E.A. Feroz Khan
Mr. Feroz Khan
copy for medical board*

[Handwritten signature]
BC
21-7

MEDICAL SUPERINTENDENT
DHQ TEACHING HOSPITAL
KOHAT

Enc: as above
Even No. & Date:

Copy forwarded to the Director General Health Services Khyber Pakhtunkhwa Peshawar for information w/r to his office No. quoted above.

6541
21/9/2020

Attended

MEDICAL SUPERINTENDENT
DHQ TEACHING HOSPITAL
KOHAT

Reader to Commissioner
Bannu Division

8/3/21

76

PROCEEDING OF STANDING MEDICAL BOARD
DISTRICT HEADQUARTER HOSPITAL KDA KOHAT

The Standing Medical Board has examined Mr. Feroz Khan (Assistant) attached to office of the Deputy Commissioner North Waziristan Tribal District, holding CNIC No.215035539972-3.

- C/o Severe pain cervical spine
- Unable to carry daily activities
- Neck pain / pain both L/L

O/E

- Cervical Spine: Normal ROM
- MRI L/S Spine suggestive of spinal stenosis
- Neurogenic Claudication
- DM/HTN
- Hypothyroid
- Maneuvers: -ve
- Δ Diabetic Peripheral Neuropathy

He is declared unfit for further government job.

SMB EXAMINATION
Dated Kohat the 15.09.2020

1. CO-OPTED MEMBER
Dr. Rehman Orthopaedic Surgeon
DHO Hospital Kohat

2. MEMBER
Dr. Akhtar Medical Specialist
DHO Hospital Kohat

3. MEMBER
Dr. Mohammad Nasir Medical Specialist
DHO Hospital Kohat

4. CHAIRMAN
Dr. Rahim Khan Medical Superintendent
DHO Hospital Kohat

Attested

Reader to Commissioner
Bannu Division

8/3/21



~~_____~~



APPLICATION FOR INVALIDATION ON MEDICAL GROUNDS.

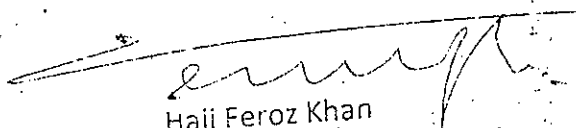
Subject :-
R/Sir,

Respectfully stated that I was posted as Tehsildar, Dossali (OPS) vide Commissioner, Bannu Division Office Order No.507-13/PO/Estab:/18, dated 24-07-2019 (copy enclosed for ready reference) in compliance of which I assumed the charge for duty on Dossali. However, unfortunately after performance of one week duty, I fell sick and accordingly informed my senior (Deputy Commissioner) through my written application dated 01-08-2019 (copy enclosed for ready reference) regarding my inability of further duty on the station. My application was considered and forwarded to Commissioner, Bannu Division Office vide your good office letter No.359-60/Estab:, dated 01-08-2019 (copy enclosed for ready reference) with the request to repatriate the Official (Haji Feroz Khan) to main DC, NWD Office Miranshah for further posting. In response to it Commissioner, Bannu Division was kind enough to issue office order vide No. 193-98/A9-A/F-90 dated 06/08/2019 (copy enclosed for ready reference) and in compliance I submitted arrival report to your good office for posting in main office the same day i.e. 07/08-2019 (copy enclosed for ready reference) which remained pending (without posting) till I submitted another application on 15-08-2019 (copy enclosed for ready reference) for referring to medical board for proper examination and opinion which unfortunately kept pending till 01-06-2020 for reasons best known to the office. At last my application was referred to Director General Health Services KPK Peshawar for medical examination and opinion vide office letter No.87-88/EA, dated 02-06-2020 (copy enclosed for ready reference). With reference to the office letter, Superintendent Police Services Hospital Peshawar after carrying out necessary medical examination and report, it was intimated to your good office vide his office letter No. 4438/F-6 dated 19/09/2020 with endorsement to the Director General Health Services KPK Peshawar being delayed for a period of more than three months of the endemic disease Covid-19 all over the world.


During submission of my application on 15-08-2019, my service according to my date of birth (04-10-1960) and dated entry into service (13-04-1980) I stood eligible for further service of 4 years, 01 month and 20 days in light of the Amended Bill of Civil Servants Act 1973 of Khyber Pakhtunkhwa Act No.XVIII of 1973 (copy enclosed for ready reference).

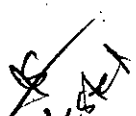
Keeping in view all the above-mentioned facts, it is therefore, earnestly requested that I may kindly be granted retirement on medical grounds with effect from 15-08-2020 Tuesday in strict accordance with report of Medical Board cited above please. This will save my, career, service, precious time and livelihood of my little children from wastage and further litigation in future please.

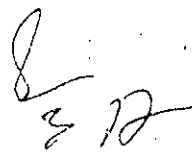
Yours Obediently


Haji Feroz Khan
Assistant BPS-16 DC Office North
Waziristan Tribal District Miranshah.

65612
21/9/2020

E.A
K.P

DC
21-9


A.H. Khan




Reader to Commissioner
Bannu Division.

8/3/21



**OF THE DEPUTY COMMISSIONER
NORTH WAZIRISTAN TRIBAL DISTRICT**

Ph: (0928) 300903 Fax # (0928) 300642

Email Address: dcnwtdofficial@gmail.com

No. 178-83 /EA

Dated 12 /10/2020


NOTIFICATION:-

Without prejudice to the legal remedies available to Provincial Government and in pursuance of judgement of the Honourable Peshawar High Court dated 19-02-2020 in W.P No. 5673-P/2019, Mr. Feroz Khan, Assistant (BPS-16) of this office shall stand retired from Government service on 03-10-2020 on attaining age of superannuation, as his date of birth is 04-10-1960 subject to CPLA/Appeal of the Provincial Government against aforementioned judgement of Peshawar High Court and any order contrary as and when issued by the apex Court of Pakistan.


DEPUTY COMMISSIONER
North Waziristan Tribal District

Copy forwarded to:-

1. Commissioner, Bannu Division.
2. Secretary-I, Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
3. Additional Deputy Commissioner, North Waziristan Tribal District.
4. District Accounts Officer, North Waziristan Tribal District.
5. Mr. Feroz Khan, Assistant.
6. District Nazir, office of Deputy Commissioner, NWTD.


ABDUL HASSAN MOHMAND,
SENIOR CIVIL JUDGE,
North Waziristan at Bannu


DEPUTY COMMISSIONER
North Waziristan Tribal District

ATTESTED

Plaintiff in person, while, defendant through representative present. My this order is directed to dispose of the question of maintainability of the suit in hand, raised by defendant in his written statement.

Brief summary of the suit in hand is that, plaintiff filed a civil suit bearing No. 184/1, dated 03-10-2020, with the contention that plaintiff was working as Assistant (BPS-16), and on 15-08-2019, the plaintiff submitted an application to defendant for referring him to Medical Board for retirement of plaintiff, however, defendant intentionally and mala fide kept pending the said petition and after the lapse of more than 09 months referred the said petition of 02-06-2020, vide letter No. 87/88/A, to Director General Health, KPK. Further contended that on the said letter of defendant a Medical Board was constituted and Medical Board after fulfilling all the codal formalities, declared plaintiff as unfit for government job and submitted recommendation to defendant vide letter No. 438/F6, dated 19-09-2020. The plaintiff further stated that defendant with mala fide intention also kept pending the said recommendation of Medical Board and at last, the plaintiff submitted another application to defendant for relieving him from service on basis of Medical ground on 21-09-2020. However, the defendant despite of the fact refused the recommendation of the Medical Board and issued office order No. 178-83/EA dated 12-10-2020, for relieving the plaintiff on routine retirement age, in the meanwhile, the counsel for plaintiff submitted another application for amendment of plaint, with the request that plaintiff may kindly be allowed to add and challenge the aforesaid office order of the defendant through amendment plaint.

Defendant was summoned. District Attorney on behalf of defendant along with Shahid Naseem, Litigation Assistant, appeared before the court and submitted authority letter and written statement and replication on behalf of defendant. The District Attorney raised certain legal objections in written statement including the issue of jurisdiction of this court.

The learned counsel of the plaintiff and District Attorney on behalf of

8/3/21
Bannu Division
Reader to Committee

M. H. Khan

8-12-2020
District Judge
North Waziristan (S)

ABDUL HUSAIN
JUDGE
NORTH WAZIRISTAN

Order-15
03.12.2020

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19

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03-12-2020

defendant, advanced their valuable arguments. In the light of arguments, record gone through.

On the question of jurisdiction, the counsel for plaintiff stated at the bar that plaintiff has claimed his civil right in the instant suit and therefore, this court has got jurisdiction to entertain the suit in hand being a civil court.

The District Attorney strongly rebutted the contention of counsel for plaintiff by stating that as per section 13 of Civil Servants Rules, all matters related to terms and conditions of service, civil court has got no jurisdiction to entertain cases related to service matter. The District Attorney relied on SCMR 2007, page No. 54, and SCMR 2002, page No. 102, and PLC 1984, page No. 864, for bar of jurisdiction.

As per SCMR 2007, page No. 54,

“ Jurisdiction of all other Courts was ousted because of the provisions contained in Art, 212 of the Constitution---Orders of departmental authorities, even though without jurisdiction or mala fide could be challenged only before Service Tribunal and jurisdiction of Civil Court including High Court was specifically ousted.”

As per SCMR 2002, page No. 102,

“ ---Preamble & S.4---Service Tribunal has exclusive jurisdiction in respect of matters relating to terms and conditions including disciplinary proceedings against civil servants.”

PLC 1984, page No. 864, Says,

“ Rule. 3.5-Retiring pension-Provisions of rule. 3.5 rigid in nature -Cannot be relaxed by Governor-Option to retire made when service qualifying for pension only 21 years-Retirement Notification of Governor by relaxing requirement of 25 years of service qualifying for pension in favour of application, held, without jurisdiction and void ab initio.”

Hence, keeping in view the above mentioned facts and circumstances, the instant suit is hereby returned to plaintiff with the direction to approach proper forum for his grievance.

ADDITIONAL JUDGE,
S. JUDGE,
District Court, Bannu

8-12-2020

Attested

Reader to Commissioner
Bannu Division

8/3/21

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Conti...
03.12.2020

Muharrir of this court is hereby directed to make necessary arrangements in the relevant register and return the suit in hand to the plaintiff as per law. This file be consigned to Record Room after its completion and compilation.

Announced:
03-12-2020

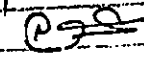

Copyist

District & Sessions Judge
North Waziristan at Bannu

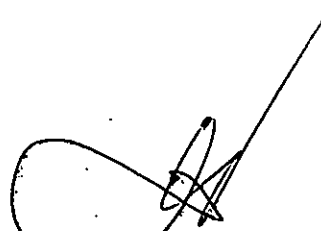
8-12-2020



Abdul Hassan Mohmand
Senior Civil Judge, NW,
at Bannu.

- 1. Registration No. 1939
- 2. Date of Presentation of Application 7-12-2020
- 3. Date of Receipt of the file _____
- 4. Date of Preparation of copy _____
- 5. Date of Delivery of copy 8-12-2020
- 6. No. of Copies / Sheets 7
- 7. Ordinary Fee 13
- 8. Urgent Fee _____
- 9. Total Fee 14
- 10. Signature of Copyist 


Attested


Reader to Commissioner
Bannu Division

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DEPARTMENTAL APPEAL BEFORE THE LEARNED
COMMISSIONER, BANNU DIVISION

Ferooz Khan S/O Talib Jan R/O Machi Khel Tehsil Mirali District North Waziristan.

...Appellant

Versus

Deputy Commissioner North Waziristan Tribal District ...Respondents

APPEAL/PRESENTATION AGAINST THE ORDER NO.178/83/EA
DATED 12/10/2020 MAY VERY KINDLY BE SET-ASIDE AB-INITIO
WITH RETROSPECTIVE EFFECT ON THE FOLLOWING GROUNDS.

GROUNDS:

1. That the appellant was working as Assistant (BPS-16) in the office of the Deputy Commissioner North Waziristan Tribal District. (Copy of Order of posting as a Assistant (BPS-16) is annexure A) *1-2 pages.*
2. That where the appellant fell ill and moved an application to respondent on 15/08/2019 for medical examination through medical board. (Copy of application is annexure B).
3. That the respondent kept pending till 01/06/2020 for reasons best known to the respondent at last my application was referred to Director General Health Services KPK Peshawar for medical examination and opinion on letter No.87-88/EA dated 02/06/2020. (Copy is annexure C)
4. That Director General Health KPK give approval for medical examination where the appellant was directed to appear before medical board examination to competent doctors including medical Superintendent District Head Quarter Hospital Kohat.
5. That the appellant appeared for medical examination to the above medical board where the appellant was examined and declared unfit for more government job.
6. That the report was delayed for a period of 02 months of the pandemic dieses Covid-19 all over the world. Latter on the medical board intimated the respondent through letter No.4438/F-6 dated 19/09/2020. (Copies of covering letter & opinion is annexure D) *1 - 2 pages.*
7. That the respondent kept without any order the medical board report for a long time. At last the appellant moved a written application dated 19/09/2020 to the respondent but the respondent issued order for pending the case of the appellant without any reason. (Copy of application along with order is annexure E)
8. That several time the respondent were requested to issued according to medical board report retirement order of appellant from 5/09/2020 but the respondent used delaying tactics. At last the respondent verbally refused for issuing of retirement of appellant on medical ground.
9. That the appellant filed Civil Suit before the learned Senior Civil Judge District North Waziristan for his grievances on 03/10/2020. But latter on respondent issue on 12/10/2020 retirement order of superannuation on attending 60 year age.

Copy of A-F

Law

COMMISSIONER
Bannu Division

Received / 17-12-20

Discussed

Attested

11/12/20

08/03/21

69/2

11-12-20

14-12-20

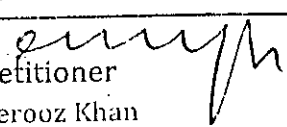
Reader to Commissioner
Bannu Division

15
23

10. That after submitting of written reply by the respondent the learned Senior Civil Judge North Waziristan returned the suit of the appellant on 03/12/2020 with the directions to approach proper forum for his grievances. (Copy of suit, written reply, orders of senior Civil Judge NW are annexure F). 1 to 23 pages.
11. That the respondent not agreed with recommendation of standing medical board report as per approval not fit for appellant more government job.
12. That in the light of above facts respondent was required to issued retirement order of the appellant on medical ground as per recommendation of standing medical board because appellant was not able to continue further government job but it was in inordinately delayed and the respondent issued impugned order No.178/83/EA dated 12/10/2020 on attaning the age of superannuation 60 years.

It is, therefore, most humbly prayed that the impugned order/letter No.178-83/EA dated 12/10/2020 may very graciously be set-aside and the respondent department may be directed to retire the appellant on medical ground as with effect from 15/09/2020 as per recommendation of standing medical board.

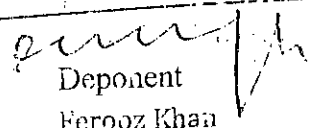
Dated: 11/12/2020


Petitioner
Ferooz Khan
(Ex-Assistant (BPS-16))

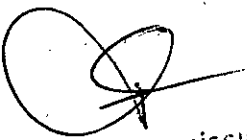
AFFIDAVIT

I, Ferooz Khan S/O Talib Jan R/O Machi Khel Tehsil Mirali District North Waziristan, do hereby solemnly affirms and declare that the contents of the instant Departmental Appeal are true and correct to the best of our knowledge and belief and nothing has been concealed from this Honourable Court.

Attested
Mehboob Ali Khan
Advocate
Oath Commission
11/12/2020


Deponent
Ferooz Khan

AS
Attested


Reader to Commissioner,
Banna Division
08/03/21

50 L (23)

IN THE COURT OF COMMISSIONER BANNU DIVISION
BANNU

Mr. Ferooz khan (Ex-Assistant), Office of DC, NWTD..... (Appellant)
Versus
Deputy Commissioner, NWTD..... (Respondent)

ORDER:

Mr. Ferooz Khan (Ex-Assistant) of the office of the Deputy Commissioner, North Waziristan Tribal District has preferred an appeal against the impugned order No. 173-83/EA, dated 12-10-2020 issued by the Deputy Commissioner North Waziristan Tribal District vide which the appellant was conditionally retired from service on attaining the age of superannuation.

Brief history of the case is that Mr. Fezoor khan (Ex-Assistant) moved an application to Deputy Commissioner North Waziristan Tribal District for retirement on Medical Board grounds on, 15-08-2019, but Deputy Commissioner Office claims that his application was received on 30-01-2020.

Medical Board was then constituted and he was recommended for retirements on Medical grounds vide board report date, 19-09-2020.

The incumbent Deputy Commissioner North Waziristan Tribal District, issued his retirement orders vide the impugned order dated, 12-10-2020, on the basis of attaining the age of superannuation (i.e.03-10-2020) instead of Medical grounds. Hence he has moved this instant appeal.

Parties present and heard in detail.

Deputy Commissioner has taken the plea that the appellant applied for retirement on Medical grounds, only two (2) weeks before his actual retirement on superannuation, which is based on malafide and has no justification.

Perusal of the case shows that the impugned order of the Deputy Commissioner North Waziristan is based on merit. Hence the instant appeal is therefore dismissed with no order as to cost. File is consigned to the record room after necessary completion.

AS
Attest

Announced
04-03-2021

Reader to Commissioner
Bannu Division
8/3/21

COMMISSIONER
BANNU DIVISION

~~Annexure~~
 GOVERNMENT OF KHYBER PAKHTUNKHWA
 BOARD OF REVENUE
 REVENUE & ESTATE DEPARTMENT

Peshawar dated the 27/07/2018

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ORDER

No. Estt:II/Rtd/Medical Board / _____ The Standing Medical Board, Police & Service Hospital Peshawar has examined Mr. Abdur Rashid, Assistant (BS-16) office of the Deputy Commissioner Lakki Marwat and found him "unfit" for Government job due to his permanently incapacitation, therefore on the recommendation of Standing Medical Board he is hereby retired from Government Service on medical grounds with immediate effect. He has rendered 36 years service.

His date of birth is 13/08/1958:

By order of
Senior Member

End: No. Estt:II/Rtd/Medical Board: 26898-701

Copy forwarded to the:-

1. Deputy Commissioner Lakki Marwat with reference to his letter No. 394/AG-Estt. dated 26/06/201.
2. District Accounts Officer, Lakki Marwat.
3. Official concerned.

~~Assistant Secretary (Estt)~~

میرزا عبدالرشید

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Received
NO. <u>3433</u>
Date <u>12/7/18</u>
Return Date _____
Action <u>Estt. Arsh</u>

DC Lakki Marwat

میرزا عبدالرشید

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ATTESTED

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Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
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1	2	3
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
Appeal No.558/2019

Date of Institution ... 30.04.2019
Date of Decision ... 21.02.2020

Shaher Bano Wife of Muhammad Ishfaq R/O Tarkha Koi Tehsil & District Karak -----Appellant

Versus.

The Government of Khyber Pakhtunkhwa, Civil Secretariat Peshawar through Chief Secretary and others.

-----Respondents

Muhammad Amin Khan Kundi.....Member(J)
Mr. Hussain ShahMember (E)

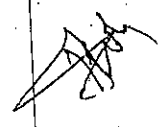
21.02.2020

JUDGMENT

Mr. HUSSAIN SHAH:-Learned counsel for the appellant and Mr. Riaz Khan Paindakhel learned Assistant Advocate General alongwith Mr. Umer Daraz Budget & Account Officer for the respondents present.

2. Contended that the appellant had applied for retirement on medical grounds due to her poor health. She was subjected to standing medical board on 15.09.2018. The Chairman standing medical board submitted the report of standing medical board vide letter 27.09.2018 where in it was mentioned that the appellant is unfit for government jobs and she may be boarded out on medical grounds as she is permanently incapacitated. In response to the medical report respondent No.2 asked the respondent No.4 vide letter dated 27.09.2018 to process the complete documents for premature retirement on medical grounds so that approval of the competent authority i.e. the respondent No.1 may be obtained. However instead of retiring the appellant on medical grounds the respondent No.2 conveyed to respondent No.4 vide letter dated 22.01.2019 that the appellant may be retired under the rules as she has

ATTESTED



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already completed the required qualifying service for retirement under the rules instead of medical grounds hence the appellant may be directed to apply a fresh for premature retirement on the basis of fulfilling qualifying service for premature retirement. Thereafter the appellant time and again approached the respondents for retirement on medical ground alongwith an appeal for review of the direction given vide letter dated 22.01.2019 which was rejected vide order dated 17.04.2019 hence the appellant having no other alternate remedy filed the instant service appeal U/S 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 with the prayer that the impugned order of dated 22.01.2019 and order dated 17.04.2019 may be set aside by declaring it illegal, vide unlawful, without authority, based on malafide and direct the respondents to entitled the appellant for retirement on medical grounds and also entitled for payment of all outstanding dues from the date when her salary has been stopped with all benefits of pay and service.

3. The learned counsel for the appellant argued that the respondent No.2 referred the appellant for standing medical board vide letter dated 03.08.2018. The appellant was called for the medical board by the DG health vide letter dated 10.08.2018 to be appearing before standing medical board on 12.09.2018. The appellant appeared before the board on 15.09.2018 and vide letter dated 27.09.2018 report of standing medical board to the office of respondent No.2 on 10.08.2018 by the DG health office. Again the respondent No.2 directed the respondent No.4 vide letter dated 27.09.2018 for processing the case of the appellant for premature retirement on medical ground by furnishing all the requisite documents. Further contended that the office of respondent No.2 changed his previous stance contrary to the case in process the respondent No.4 was directed vide the impugned order of 22.01.2019 to resubmit the

ATTESTED

retirement case of the appellant on the basis of the completion of qualifying service for ordinary premature retirement on the basis of medical ground. The appeal of the appellant dated 11.02.2019 was not considered and vide letter dated 17.04.2019 the respondent No.4 was informed that the application of the appellant alongwith others has been rejected and they should apply for premature/superannuation retirement whichever is applicable in their individual cases. Further contended that the impugned action and inaction on the part of respondents are against the law and justice. The respondent No.2 took the shelter behind the general instructions by the government issued vide letter dated 11.12.2018 wherein it was directed that the civil servants who has completed/eligible for premature retirement. There cases and appeal for retirement on medical ground may not be sent to competent authority. Further contended that the case of the appellant was processed quite earlier then the direction issued on 22.01.2019 and was at final stage and as a general rule of law. The case of the appellant is not covered on the impugned instruction of dated 22.01.2019. Further contended that the appellant has been arbitrary treated and being qualified for retirement on medical grounds and as such accrued rights are being denied by the respondent without any just cause contrary to the clear cut provisions of law and the fundamental rules. Moreover that from the date of her medical report she has been relieved from duty and her salary has been stopped and her pensionary benefits has not been paid. In this connection the learned counsel for the appellant relied upon the judgment of the Peshawar High Court reported as 2019 PLC (CS) notes 24. He further pleaded that the appeal may be accepted and the impugned orders of dated 22.01.2019 and 17.04.2019 be set aside and all the benefits as per prayers may be granted by the respondents.

ATTESTED

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4. The learned Assistant Advocate General contested the facts, grounds of the appeal and arguments of the learned counsel for the appellant and argued that her request/appeal for premature retirement on medical ground has been rejected in the view of the order dated 11.12.2018. As she has completed her qualifying service for premature retirement. He further stated that the appellant has been dealt in accordance with the law and rules. No fundamental rights has been violated of the appellant while directing her to apply for fresh ground on premature retirement on the basis of qualifying service instead of medical grounds, hence the appeal may be dismissed with costs.

5. Arguments heard. File perused.

6. The Tribunal examined the arguments and counter arguments, the memo of appeal and the Para-wise comments of the respondents and relevant record attached to the case file and observes that the request of the appellant was initiated with her application of dated 07.07.2018 wherein she requested for retirement on medical ground with effect from 31.07.2018 her request for medical examination by the standing medical board was formally taken up with Director General Health Service by respondent No.2 vide letter dated 03.08.2018. The standing medical board recommended her for premature retirement on medical ground being incapacitated and not fit to continue in government service. Respondent No.2 forwarded the medical board recommendation to respondent No.4 and directed to process the case of the appellant for retirement on medical ground for the approval of the competent authority. After the instructions issued by the respondent No.2 vide letter dated 22.01.2019 the case of the appellant for retirement on medical ground was reversed at a final stage and converted it to the premature retirement on the basis of qualifying service without any statutory provision. It

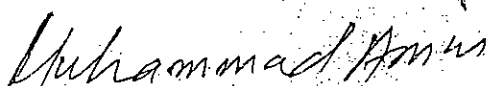

ATTACHED




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appears that the impugned inaction on the part of respondent No.2 to submit the case to the approving authority is not covered under the law as the appellant has been denied her right for opting retirement on medical ground as provided in FR. 10-A. Moreover, the denial of invalid pension and service benefits as required under SR 4 AA is not covered under the law and the instructions issued by the finance department under circular letter dated 1st December 1998.

7. In view of the above discussion we are of the considered opinion that the instant appeal carries merit and is approved with setting aside the orders adverse to the interest of the appellant and the respondents are directed to process the case of the appellant for retirement on medical ground and grant her invalid pension with effect from the date she has been relieved from the duty. Parties are left to bear their own costs. File be consigned to the record room.


(Muhammad Amin Khan Kundi)
Member


(Hussain Shah)
Member

ANNOUNCED
21.02.2020

ATTESTED

VAKALATNAMA

NO. _____/20

IN THE COURT OF KP Service Tribunal Peshawar

Feroz Khan

Appellant
Petitioner
Plaintiff

VERSUS


SMBR

Respondent (s)
Defendants (s)

I/WE Feroz Khan

do hereby appoint and constitute the **SYED NOMAN ALI BUKHARI Advocate High Court** for the aforesaid Appellant(s), Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party to commence and prosecute / to appear and defend this action / appeal / petition / reference on my / our behalf and all proceedings that may be taken in respect of any application connected with the same including proceeding in taxation and application for review, to draw and deposit money, to file and take documents, to accept the process of the court, to appoint and instruct council, to represent the aforesaid Appellant, Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party agree(s) ratify all the acts done by the aforesaid.

DATE _____/20


(CLIENT)

ACCEPTED


SYED NOMAN ALI BUKHARI
ADVOCATE HIGH COURT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

Reply in Service Appeal No.3531 of 2021.

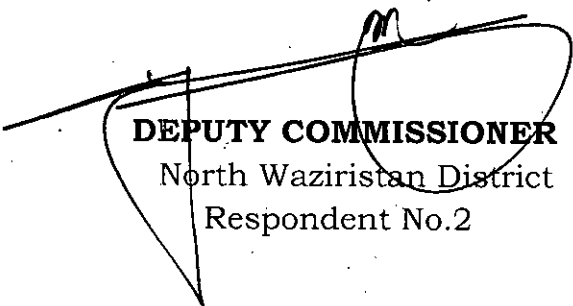
Mr. Feroz Khan Retired Assistant, Office of the Deputy Commissioner, District North Waziristan District-----Appellant

Versus

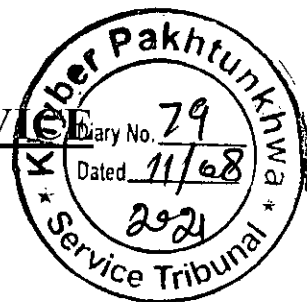
1. Commissioner, Bannu Division
2. Deputy Commissioner, North Waziristan District.
3. Senior Member, Board of Revenue, Khyber Pakhtunkhwa, Peshawar.-----Respondents

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DEPUTY COMMISSIONER
North Waziristan District
Respondent No.2

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.



Reply in Service Appeal No.3531 of 2021.

Mr. Feroz Khan Retired Assistant, Office of the Deputy Commissioner, District North Waziristan-----Appellant

Versus

1. Commissioner, Bannu Division
2. Deputy Commissioner, North Waziristan District.
3. Senior Member, Board of Revenue, Khyber Pakhtunkhwa, Peshawar.-----Respondents

JOINT PARA-WISE COMMENTS ON BEHALF OF RESPONDENTS No. 1,2 &3.

PRELIMINARY OBJECTIONS:-

1. That the appellant has got no cause of action and locus standi to file the present appeal.
2. That the appeal is badly time barred.
3. That this honourable court has got no jurisdiction to entertain the present appeal.
4. That the appeal is bad for misjoinder and non-joinder of necessary party.

Respectfully Sheweth,

Para-wise reply is as under:-

REPLY ON FACTS:-

1. Correct: The appellant was working as Assistant (BPS-16) in the office of Deputy Commissioner, North Waziristan District who was posted as Tehsildar Dossali in his own pay & scale vide Commissioner, Bannu Division order dated 24-07-2019.
2. Correct to the extent that appellant was repatriated to his parent office as per his own request vide Commissioner, Bannu Division order dated 15-08-2019 whereas as per available record, the appellant moved application for referral of invalid retirement case to Medical Board on 30-01-2020 instead of 15-08-2019 (Annex-A).
3. Correct: The case was forwarded to the Director General, Health Services, Khyber Pakhtunkhwa, Peshawar by the then Deputy Commissioner, North Waziristan District vide letter No. 87-88/E.A, dated 02-06-2020 (Annex-B).
4. Correct to the extent that Medical Superintendent, DHQ Teaching Hospital, KDA, Kohat vide letter No. 4438/F-6, dated 19-09-2020 forwarded recommendations of Standing Medical Board (Annex-C) to this office on 21-09-2020 which were filed on the grounds that the concerned was to retire from service after two weeks of submission of medical board which was Injustice with the unemployed youth of North Waziristan.

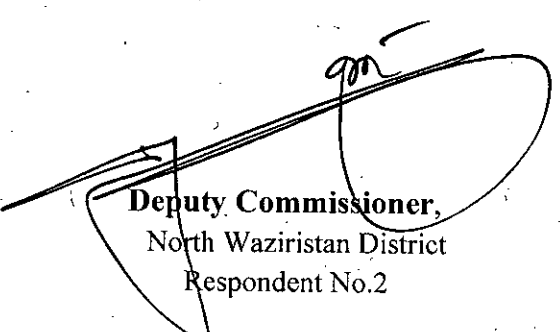
- 5. Incorrect: As mentioned earlier, the case was not kept pending but was filed on 21-09-2020 on the grounds mentioned vid Para-4.
- 6. Correct: The appellant filed a civil suit in the court of learned Senior Civil Judge, North Waziristan District. Which was returned vide order dated 03-12-2020 with the directions to approach proper forum for appellant's grievances. The appellant accordingly moved departmental appeal/presentation to Commissioner, Bannu Division (Respondent No.1) which was dismissed vide order dated 04-03-2021.(Annex-D).

REPLY ON GROUNDS:


- A. Incorrect: In compliance with the judgment dated 19-02-2020 passed by the Honourable Peshawar High Court, Peshawar, the appellant was retired from service on 03-10-2020 on attaining the age of superannuation vide office order No.178/83/EA, dated 12-10-2020 whereas the Respondent No.1 dismissed the service appeal of the appellant vide order 04-03-2021. Furthermore, according to Khyber Pakhtunkhwa Civil Servants Pension Rules & Orders 2006, the appellant completed 25 years service in the year 2005.
- B. Incorrect: Both the orders were issued/passed on merit.
- C. Incorrect: The case of the appellant could not be treated as premature under the law, as appellant was going retire from service on attaining age of superannuation on 03-10-2020, whereas Respondent No.2 received medical board report vide letter No. 4438/F-6, dated 19-09-2020 only two weeks prior to the date of superannuation.
- D. Incorrect: As explained at Para-B.
- E. Incorrect: As explained at Para-B.
- F. Incorrect: As explained vide Para-B, Respondent No.2 issued retirement order of the appellant under rules on attaining the age of Superannuation on 03-10-2020.
- G. Pertains to record.
- H. Incorrect: The appellant has been proceeded according to law and rules in vogue.
- I. Incorrect: A proper departmental appeal was lodged by the appellant before the Respondent No.1 against the order dated 12-10-2020 issued by Respondent No.2 whereby proper opportunity of personal hearing was provided to the appellant.
- J. Incorrect: As explained at Para-B, the case of appellant was disposed off as per law/ rule.

- K. Incorrect: As explained at Para-H, proper opportunity of hearing was provided by the respondent No.1 while deciding the departmental appeal.
- L. Incorrect: No violation of the Article 25 of Constitution of Islamic Republic of Pakistan has been committed.
- M. Incorrect: As explained at Para-B and Para-H, no victimization & discrimination was done with the appellant and the case was decided as per merit.
- N. Incorrect: As explained at Para-B, the recommendations of Medical Superintendent, DHQ Teaching Hospital, KDA, Kohat were received two weeks before the date of superannuation of appellant. Moreover, the entire motive of the appellant to move application for retirement on medial board at the last of year of retirement was to utilize the benefits of Rule 10 (4) of Appointment, Promotion & Transfer (APT) Rules 1989 which was injustice with the unemployed youth of North Waziristan.
- O. Incorrect: As explained above, the appellant was retired from service under the law.
- P. Incorrect: As mentioned vide Para-1 to 5.
- Q. Incorrect:

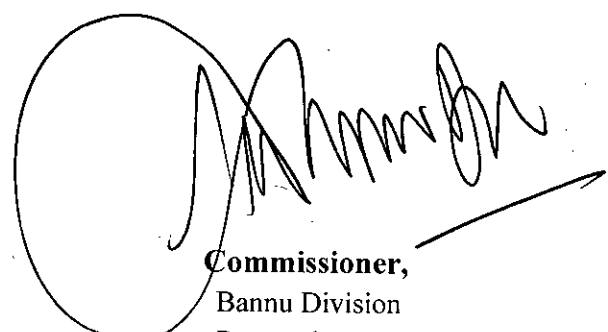
In view of the above, it is therefore most humbly requested that the instant appeal being devoid of merit may very graciously be dismissed with cost.



Deputy Commissioner,
North Waziristan District
Respondent No.2



Senior Member,
Board of Revenue,
Khyber Pakhtunkhwa, Peshawar
Respondent No.3



Commissioner,
Bannu Division
Respondent No.1

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.**

Reply in Service Appeal No.3531 of 2021.

Mr. Feroz Khan Retired Assistant, Office of the Deputy Commissioner, District North Waziristan District-----Appellant

Versus

1. Commissioner, Bannu Division
2. Deputy Commissioner, North Waziristan District.
3. Senior Member, Board of Revenue, Khyber Pakhtunkhwa, Peshawar.-----Respondents

AFFIDAVIT

I, Umar Khitab, Additional Assistant Commissioner, Miranshah do hereby affirm and declare that the contents of the accompanying para wise comments on behalf Deputy Commissioner, North Waziristan District are true and correct the best of my knowledge and belief and nothing has been concealed from this honouable court.

Deponent


(Umar Khitab)

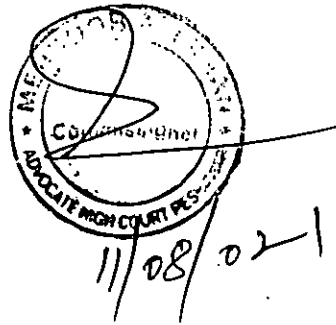
Additional Assistant Commissioner,
Miranshah

CNIC No. 12201-9837005-3

Identified by:-

Additional Advocate General
Khyber Pakhtunkhwa

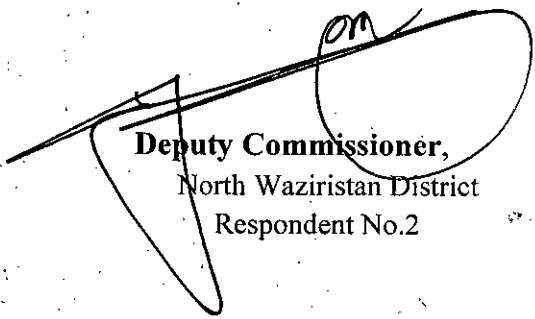
Attested




5

AUTHORITY

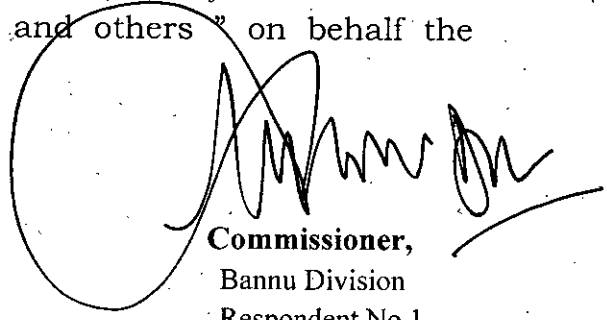
Mr. Umar Khitab, Additional Assistant Commissioner, Miranshah is authorized to submit joint parawise comments in the Khyber Pakhtunkhwa, Service Tribunal, Peshawar in the service appeal No. 3531 of 2021 case titled "Feroz Kan VS Commissioner, Bannu Division and others" on behalf the Respondent No.1,2 and 3.



Deputy Commissioner,
North Waziristan District
Respondent No.2



Senior Member,
Board of Revenue,
Khyber Pakhtunkhwa, Peshawar
Respondent No.3



Commissioner,
Bannu Division
Respondent No.1

6

Annex - A

To:

The Deputy Commissioner,
North Waziristan, Tribal District.

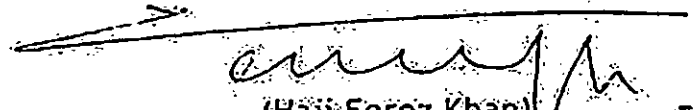
Subject: - REQUEST FOR MEDICAL BOARD

Respected sir,

With due respect is humbly stated that I am serving as Assistant (BPS-16) in your good self office. Sir, I am suffering from certain diseases and despite regular treatment (medical prescriptions are attached) my health is deteriorating day by day and unable to perform my duty.

In view of the above, it is earnestly requested that I may very please be referred to a Medical Board for examination and opinion please.

Your most obedient servant,



(Haji Feroz Khan)

Assistant (BPS-16) Deputy Commissioner
Office North Waziristan Tribal District.

GNIC# 21505-5539972-3

15/8/19

E.A

D. Sams

NR

570
3/2/2020

DC
20-1

7
Annex B

**OFFICE OF THE DEPUTY COMMISSIONER
NORTH WAZIRISTAN TRIBAL DISTRICT**

Tel: (0928) 300903 FAX (0928) 300642
Email Address: nanraofficial@gmail.com

No 27-88 TEA

Dated 02/06/2020

To:

The Director General Health Services,
Khyber Pakhtunkhwa, Peshawar.

Subject: Constitution of Medical Board in respect of Haji Feroz
Khan Assistant BPS-16.

Memo:

Enclosed please find here with a self explanatory application submitted by Haji Feroz Khan Assistant (BPS-16) of this office bearing CNIC No.21505-5539972-3 and personal No.50251566 requesting therein, to refer him to the Medical Board for proper examination and opinion.

It is therefore, requested that the above named official may please be examined thoroughly through medical Board and submit opinion to this office for further process at the earliest please.


Deputy Commissioner
North Waziristan Tribal District.

Copy to:

The official concerned with the directions to appear before the medical Board constitution for the purpose.


Deputy Commissioner
North Waziristan Tribal District.

8

Annex-C

OFFICE OF THE
MEDICAL SUPERINTENDENT
DHQ TEACHING HOSPITAL
KDA; KOHAT

No. 4438 /F-6

Dated Kohat the 19 /09/2020

To
The Deputy Commissioner
North Waziristan Tribal District.

Subject:- STANDING MEDICAL BOARD IN RESPECT OF MR. FEROUZ KHAN

Memo:
With reference to the Director General Health Services Khyber Pakhtunkhwa Peshawar office letter No.5113/4/Medical/SMB dated 14.09.2020 on the subject cited above and to enclose herewith the opinion of the Standing Medical Board in respect of Mr. Feroz Khan, Assistant, working under your control, for further necessary action.

*E-A processed in
we have not case for medical board.
file.*

*DC
21-9*

[Signature]
MEDICAL SUPERINTENDENT
DHQ TEACHING HOSPITAL
KOHAT

Encl: as above
Even No. & Dated:

Copy forwarded to the Director General Health Services Khyber Pakhtunkhwa Peshawar for information w/r to his office No. quoted above.

6541
21/9/2020

[Signature]
MEDICAL SUPERINTENDENT
DHQ TEACHING HOSPITAL
KOHAT

Mr. Ferooz Khan (Ex-Assistant), Office of DC, NWTD.....
Versus
Deputy Commissioner, NWTD.....

Annex - D 76

ORDER:

Mr. Ferooz Khan (Ex-Assistant) of the office Commissioner, North Waziristan Tribal District has preferred an appeal against the impugned order No. 173-83/EA, dated 12-10-2020 issued by the Deputy Commissioner North Waziristan Tribal District vide which the appellant was conditionally retired from service on attaining the age of superannuation.


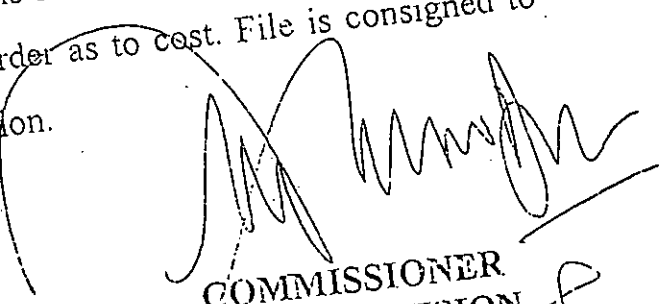
Brief history of the case is that Mr. Ferooz Khan (Ex-Assistant) moved an application to Deputy Commissioner North Waziristan Tribal District for retirement on Medical Board grounds on, 15-08-2019, but Deputy Commissioner Office claims that his application was received on 30-01-2020.

Medical Board was then constituted and he was recommended for retirements on Medical grounds vide board report date, 19-09-2020.

The incumbent Deputy Commissioner North Waziristan Tribal District, issued his retirement orders vide the impugned order dated, 12-10-2020, on the basis of attaining the age of superannuation (i.e. 03-10-2020) instead of Medical grounds. Hence he has moved this instant appeal. Parties present and heard in detail.

Deputy Commissioner has taken the plea that the appellant applied for retirement on Medical grounds, only two (2) weeks before his actual retirement on superannuation, which is based on malafide and has no justification.

Perusal of the case shows that the impugned order of the Deputy Commissioner North Waziristan is based on merit. Hence the instant appeal is therefore dismissed with no order as to cost. File is consigned to the record room after necessary completion.



COMMISSIONER
DIVISION

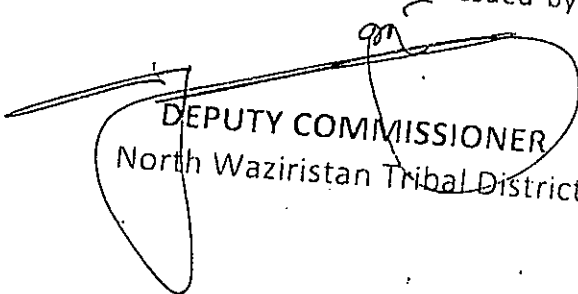
No. 178-83 /EA

10

Dated 12 /10/2020

NOTIFICATION:-

Without prejudice to the legal remedies available to Provincial Government and in pursuance of judgement of the Honourable Peshawar High Court dated 19-02-2020 in W.P No. 5673-P/2019, Mr. Feroz Khan, Assistant (BPS-16) of this office shall stand retired from Government service on 03-10-2020 on attaining age of superannuation, as his date of birth is 04-10-1960 subject to CPLA/Appeal of the Provincial Government against aforementioned judgement of Peshawar High Court and any order contrary as and when issued by the apex Court of Pakistan.


DEPUTY COMMISSIONER
North Waziristan Tribal District

Copy forwarded to:-

1. Commissioner, Bannu Division.
2. Secretary-I, Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
3. Additional Deputy Commissioner, North Waziristan Tribal District.
- ✓ 4. District Accounts Officer, North Waziristan Tribal District.
5. Mr. Feroz Khan, Assistant.
6. District Nazir, office of Deputy Commissioner, NWTD.


DEPUTY COMMISSIONER
North Waziristan Tribal District



THE DEPUTY COMMISSIONER, BANNU

Tel: 0928-9270032, Fax: 0928-9270079 dcbannu

No. 2128-31/DC/AE/BC

Dated: 29-07-2021

OFFICE ORDER:

The Standing Medical Board Medical Superintendent Police/Service Hospital Peshawar has examined Mr. Rashid Gul Assistant (BPS-16) of the office of Deputy Commissioner Bannu and found him unfit for further government services, due to his diabetes Mellitus, Ischemic heart disease and Sciatica. MRI shows disc bulge at LV5-SV1 intervertebral disc level causing left exiting nerve root compression, disc bulge at LV4-LV5 intervertebral disc level causing bilateral exiting nerve roots compression, disc desiccatory changes at LV3-LV4 intervertebral disc level therefore, on the recommendations of Standing Medical Board the official is hereby retired on medical grounds from Govt: Service with effect from 26.05.2021(A.N). He has rendered 40 years approximately Govt: service.

His date of birth is 06.06.1961

Sanction is also accorded to the grant of encashment of LPR equal to 365 days earned leave in favour of Mr. Rashid Gul Assistant (BPS-16) as admissible under the leave rules.


DEPUTY COMMISSIONER

Even No & Date:

Copy forwarded to:

1. The District Comptroller of Accounts, Bannu alongwith service book and Pension Papers for necessary action.
2. Bill Clerk D.C Office Bannu.
3. Official Concerned.


DEPUTY COMMISSIONER



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 2589 /ST

Dated: 27/12 /2021

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262


To

The Deputy Commissioner,
Government of Khyber Pakhtunkhwa,
North Waziristan.

Subject: JUDGMENT IN APPEAL NO. 3531/2021 MR. FEROUZ KHAN.

I am directed to forward herewith a certified copy of Judgement dated 13.12.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 921/2021

Date of Institution ... 14.01.2021

Date of Decision ... 09.11.2021



Mr. Ashraf Khan Retired Assistant, O/o the Deputy Commissioner North Waziristan Tribal District. ... (Appellant)

VERSUS

The Senior Member of Board of Revenue, Khyber Pakhtunkhwa Peshawar and two others. ... (Respondents)

Syed Noman Ali Bukhari,
Advocate ... For Appellant

Mr. Muhammad Rasheed,
Deputy District Attorney ... For Respondents

SALAH-UD-DIN ... **MEMBER (JUDICIAL)**
ATIQ-UR-REHMAN WAZIR ... **MEMBER (EXECUTIVE)**

JUDGMENT

ATIQ-UR-REHMAN WAZIR MEMBER (E):- Brief facts of the

case are that the appellant was working as Assistant in the office of Deputy Commissioner North Waziristan tribal district. Due to serious illness, the appellant applied for invalid retirement from service on medical grounds. The case of the appellant was referred to medical board and the medical board furnished its opinion vide letter dated 05-08-2020, wherein the appellant was declared unfit for further job. The Deputy Commissioner approved his retirement on medical grounds vide order sheet dated 13-08-2020, but due to delay on part of the respondents, his invalid retirement order could not materialize well in time and in the meanwhile, the appellant reached his age of superannuation, hence he was retired on the basis of reaching his age of superannuation and not on invalid retirement. Feeling aggrieved, the appellant filed departmental appeal, which was

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

rejected vide order dated 17-12-2020, hence the instant service appeal with prayers that the impugned orders dated 10-09-2020 and 17-12-2020 may be set aside and the appellant may be held entitled for retirement on medical grounds, with all consequential benefits.

02. Learned counsel for the appellant has contended that the appellant has not been treated in accordance with law, as actions and inactions violate the mandate provided under Article-4 of the Constitution; that respondents are legally bound to treat the appellant in accordance with law, as the appellant is legally entitled for pre-mature retirement on medical grounds; that the medical opinion was not challenged by the respondents within the stipulated timeframe, hence it gained finality, even the Deputy Commissioner approved his retirement on medical ground in light of opinion of medical board, but due to delaying tactics by the office concerned, the appellant was deprived of his right, which is unlawful; that the appellant has been discriminated as similar placed employees was granted retirement on medical ground, whereas the same benefit was not granted to the appellant; that this Tribunal has already granted relief in similar case in Service Appeal No. 558/2019, decided on 21-02-2020 and the same may also be granted to the appellant being an identical case; that the appellant was not consulted nor any correspondence made with the appellant to defend his cause, which is illegal unlawful and contrary to the norms of natural justice; that the respondents had not adopted proper procedure in deciding the departmental appeal, nor the same was referred to the competent authority for decision; that the appellant was fully entitled for pre-mature retirement on medical grounds and denial of the same is totally illegal and contrary to rules, thus indulgence of this tribunal is solicited.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

03. Learned Deputy District Attorney for the respondents has contended that it is correct that the appellant was declared invalid by the medical board, but his case was not considered due to the reason that the appellant concealed the fact

that his actual date of retirement was near, hence he was retired on reaching his age of superannuation; that in case of invalid retirement, his son would become entitled to be recruited in his place, which would be a great injustice with unemployed youth of the district.

04. We have heard learned counsel for the parties and have perused the record.

05. In the last leg of his career, the appellant suffered from certain disease and applied for invalid retirement on medical grounds. The respondents duly processed his case and medical board was constituted to examine his fitness or otherwise. The medical board recommended him for retirement on medical grounds, being incapacitated and unfit for further job but the incumbent deputy commissioner refused such retirement under the plea that his son might take benefit of such retirement, which however was not warranted. It was astonishing to note that the respondents processed his case for invalid retirement due to his illness and after lengthy correspondence, medical board was constituted and medical board tendered its opinion, even the Deputy Commissioner concerned approved his case for invalid retirement. Placed on record is a note submitted to the Deputy Commissioner with recommendations that since the appellant can't work anymore and the medical board has also recommended him for invalid retirement on medical grounds, hence he may be retired on medical grounds, whereas the Deputy Commissioner concerned had approved such proposals vide note sheet dated 13-08-2020, but after changes in administrative setup, the respondents took a U turn and refused the already approved case under the plea that his son might take benefit of such retirement, which was pathetic on part of the respondents. Taking action contrary to the opinion of the medical board constituted on their request, would amount to mistrust upon the medical board so constituted. The respondents however were required to take a sympathetic view of the situation, as the appellant served for longer time with the respondents and

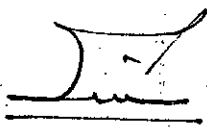
ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

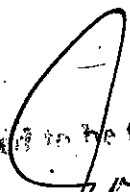
denial of benefits already accrued to him amount to injustice, which was not warranted.


06. In view of the foregoing discussion, the instant appeal is accepted. The impugned orders dated 10-09-2020 and 17-12-2020 are set aside and the appellant stands entitled to invalid retirement on medical grounds alongwith benefits accrued thereto. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
09.11.2021


(SALAH-UD-DIN)
MEMBER (J)


(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)


Certified to be true copy
MEMBER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 17/11/21
No. 2000
27
4
26
Name 
Date of Completion 17/11/21
Date of Receipt of Copy 17/11/21