

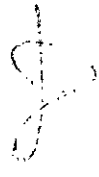
05.06.2017

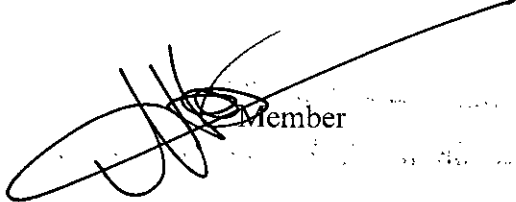
Clerk of the counsel for appellant present. Mr. Muhammad Adeel Butt, Additional AG for the respondents also present. Due to strike of the bar learned counsel for the appellant is not in attendance. Adjournd. To come up for arguments on 29.09.2017 before D.B.

(GUL ZUB KHAN)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

29.09.2017


Counsel for the appellant and Asst. Advocate General for the respondents present. Counsel for the appellant states at the Bar that the grievance of the appellant has been redressed and wants to withdraw the instant appeal. The requested is accepted and the appeal is dismissed as withdrawn. File be consigned to the record room.


Member

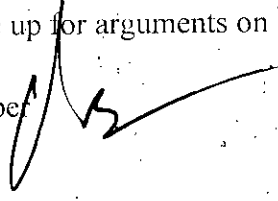

Chairman

ANNOUNCED
29.09.2017

19.5.2016

Agent to counsel for the appellant and Adl. AG for respondents present. Rejoinder submitted whereof copy which is handed over to the learned GP. To come up for arguments on 11.10.2016.

Member



Member



11.07.2016
M
12/1

Since 11th October 2016 has been declared as public holiday on account of Muharram, therefore, the case is re-fixed for arguments on 8.9.2016. Parties be informed accordingly.

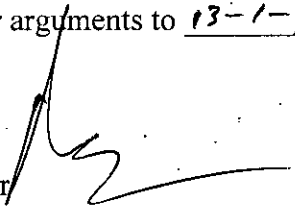
Member



08.09.2016

Agent to counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. Agent to counsel for the appellant requested for adjournment. Adjourned for arguments to 13-1-17 before D.B.

Member



Member



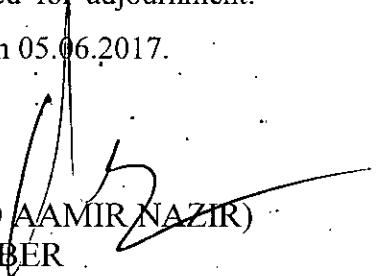
13.01.2017

Counsel for the appellant and Mr. Muhammad Jan, GP for the respondents present. Learned GP requested for adjournment. Request accepted. To come up for arguments on 05.06.2017.

(AHMAD HASSAN)
MEMBER



(MUHAMMAD AAMIR NAZIR)
MEMBER



10.06.2015

Appellant in person, M/S Yar Gul, Senior Clerk for respondent No. 2 and Irshad Muhammad, SO for respondent No. 5 alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 3.9.2015 before S.B.


Chairman

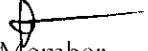
03.09.2015

Appellant in person, M/S Yar Gul, Senior Clerk and Irshad Muhammad, SO alongwith Addl: A.G for respondents present. Para-wise comments by respondents No. 1, 2 and 4 submitted while learned Addl: A.G rely on the same on behalf of respondent No. 3. The appeal is assigned to D.B for rejoinder and final hearing for 21.12.2015.


Chairman

21.12.2015

Clerk to counsel for the appellant and Mr. Ziaullah, GP for respondents present. Clerk to counsel for the appellant requested for time to submit rejoinder. To come up for rejoinder on 19.5.2016.


Member


Member

Reader Note:

05.12.2014

Clerk of counsel for the appellant and Mr. Kabirullah Khattak, Asst: Advocate General for the respondents present. Since the Tribunal is incomplete, therefore, case is adjourned to 26.02.2015 for the same.



Reader

26.02.2015

Counsel for the appellant present. Learned counsel for the appellant argued that on the strength of the judgment of this Tribunal dated 2.7.2010 in Service Appeal No. 318/2009 similarly placed employees were regularized with retrospective date while the appellant was denied such regularization w.e.f 12.5.2008. That earlier the appellant approached this Tribunal and vide judgment dated 16.01.2013 the respondents were directed to treat the grievances of the appellant as departmental appeal which was considered and rejected vide impugned order dated 21.4.2014 and hence the present appeal was filed on 7.5.2014.

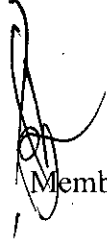
Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply for 10.6.2015 before S.B.


Chairman

*Appellant deposited
Process fees & Security*


04.07.2014

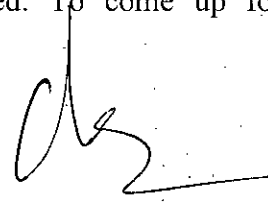
Counsel for the appellant present. Preliminary arguments partly heard. Pre-admission notice be issued to the learned GP to assist the Tribunal. To come up for preliminary hearing on 26.08.2014.



Member

26.08.2014

Appellant alongwith his counsel and Mr. Ziaullah, GP for the respondents present. Counsel for the appellant requested for adjournment. Request accepted. To come up for preliminary hearing on 15.10.2014.



Member

15.10.2014

Counsel for the appellant and Mr. Kabirullah Khattak, Asst: Advocate General for the respondents present. Counsel for the appellant requested for adjournment. Request accepted. To come up for preliminary hearing on 05.12.2014.





Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 690/2014


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	13 2	3
1	13/05/2014	<p>The appeal of Mr. Zewar khan resubmitted today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	15-5-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>4-7-2014</u></p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Zewar Khan Driver Office of the Director General Health Services received today i.e. on 07.05.2014 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Copy of order dated 21.4.2014 mentioned in the heading of the appeal is not attached with the appeal which may be placed on it.
- 2- Annexures-H and J of the appeal are illegible which may be replaced by legible/better one.

No. 692 /S.T.


Dt. 08/05 /2014.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Noor Muhammad Khattak Adv. Peshawar.

Note:

*Sir, All objections have been removed,
hence resubmitted today dated 14-5-2014.*


12/5/2014

BEFORE THE KHYBER PKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 690 / 2014

Zewar Khan

VS

Health Department

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of appeal	1- 3.
2.	Appointment order	A	4.
3.	Notification	B	5.
4.	Regularization order	C	6.
5.	Transfer order	D	7.
6.	Appointment order	E	8.
7.	Regularization order	F	9.
8.	Service book	G	10-13.
9.	Appointment order	H	14.
10.	Service book	I	15-16.
11.	Service Tribunal Judgment	J	17-19.
12.	Departmental appeal	K	20.
13.	Service appeal	L	21-22.
14.	Application	M	23.
15.	Correspondence	N	24-28.
16.	Rejection order	O	29.
21.	Vakalat nama	30.

APPELLANT

THROUGH:

M.A.
NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 690 /2014

667
07/5/2014

Mr. Zewar Khan, Driver (BPS-4),
O/O Director General Health Services, Peshawar..... **Appellant**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Secretary Health, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director General Health Services Khyber Pakhtunkhwa, Peshawar.
- 3- The Secretary Establishment Department Khyber Pakhtunkhwa, Peshawar.
- 4- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar **Respondents**

APPEAL UNDER SECTION 4 KOF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE APPELATE ORDER DATED 21-4-2014 WHEREBY THE REQUEST OF THE APPELLANT FOR THE GRANT OF FIXATION OF PAY/ REGULARIZATION OF HIS SERVICE WITH EFFECT FROM FIRST APPOINTMENT AS DRIVER (BPS-4) i.e. 19-6-1993 INSTEAD OF 14-6-2008 HAS BEEN REGRETTED BY THE RESPONDENT NO.2 ON NO GOOD GROUNDS

PRAYER:

That on acceptance of this appeal the impugned order dated 21-4-2014 may very kindly be set aside and the respondents may be directed to allow fixation of pay/ regularization to the appellant with effect from first appointment i.e. 19-6-1993 instead of 14-6-2008 thus by treating the appellant at par with his other colleagues under the principle of consistency reported in 2009 SCMR page No.1. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

[Handwritten signature]
7/5/14

as submitted to
and filed;

[Handwritten signature]
7/5/14

R/SHEWETH:
ON FACTS:

- 1- That appellant was appointed as Driver (BPS-4) in the respondent Department on the recommendation of Departmental Selection Committee vide order dated 19-6-1993. That the appellant has served the respondent Department under the said project for more than 15 years quite efficiently and up to the entire satisfaction his superiors. Copy of the appointment order is attached as annexure **A.**
- 2- That vide Notification dated 12-5-2008 of the respondent No.4, the project under which the appellant has served the respondent Department was brought into regular budget. That in light of the above mentioned Notification the services of the appellant were regularized with effect from 31-5-2008 vide order dated 14-6-2008. Copies of the Notification, Regularization order and transfer order are attached as annexure **B, C & D.**
- 3- That feeling aggrieved from the above mentioned Notification one of the appellant colleague namely Mian Siraj knocked the door of this august Tribunal in appeal No.318/2009. That this august Tribunal decided the above mentioned appeal in favor of appellant colleague vide judgment dated 2-7-2010. Moreover one of appellant junior colleague namely Sahib Ur Rehman has also received similar relief vide Notification dated 26-1-2008. Copies of the appointment order, regularization order and service book of Sahib-Ur-Rehman are attached as annexure **E, F & G.** and appointment order, service book and service Tribunal judgment dated 2-7-2010 of Mian Siraj are attached as annexure **H, I & J.**
- 4- That appellant having similarly placed person also filed Departmental appeal before the respondent No.2 for fixation of his pay/regularization with effect from 19-6-1993. That then after the appellant knocked the door of this august Tribunal in appeal No.1312/2012. That this august Tribunal remanded the appeal of the appellant to the respondent Department to decide the same in accordance with law and rules vide order/judgment dated 16-1-2013. Copies of the Departmental appeal and service appeal are attached as annexure **K & L.**
- 5- That after receiving the judgment/order dated 16-1-2013 the appellant time and again visited the concerned quarter for his claim and in this regard several correspondence have been made but no fruitful result was obtained from the said

quarter. That vide order dated 21-4-2014 the claim of the appellant has been regretted by the respondent No.2 without any solid reason and clear justification. Copies of the application, correspondence and rejection are attached as annexure **M, N & O.**

- 6- Hence the present on the following grounds amongst the others.

GROUND:

- A- That the impugned order dated 21-04-2014 issued by the respondent No.4 is against the law, facts, norms of natural justice and materials on record , therefore not tenable and liable to be set aside.
- B- That the appellant has not been treated by the respondents in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Pakistan 1973.
- C- That not adjusting/regularizing the previous service of the appellant inspite of the fact that similar treatment has meted out to his other colleague is amounts to discrimination and injustice done on the part of respondent Department.
- D- That the respondent Department acted in arbitrary and malafide manner by not regularizing the services of the appellant from the date of first appointment i.e. 19.6.1993.
- E- That appellant is fully entitled for regularization of his service from the date of first appointment i.e. 19.6.1993 under the principle of consistency reported in 2009 SCMR 1.
- F- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore most humbly prayed that the appeal of the appellant may very kindly be accepted as prayed for.

APPELLANT


ZEWAR KHAN

THROUGH: 
NOOR MUHAMMAD KHATTAK
ADVOCATE

A-9

NWFP, Project Director,
Family Health Project (W/Bank)
Bangalow No. B/2 New Arbab colony
Abdara road, Peshawar.

No. 2008-21/FHP

Date. 18-06-83

OFFICE ORDER.

Consequent upon the result of test/interview and on the recommendation of Departmental Selection Committee Mr. Zewar Khan S/O Sehat Khan Moh: Landay Kanday Sufaid Dheri Peshis hereby offered a post of Driver in BPS-4 (1005-43-1650) plus usual allowances as admissible under the rules and sanctioned by the Government from time to time for the category of staff on the following terms and conditions. On his first appointment he is hereby posted to Family Health Project (World Bank) Office of the Local Consultant, Peshawar against an existing vacancy.

1. His appointment will be purely temporary and liable to be terminated without any notice being assigned.
2. The Service tenure will be subject to the project life and he will not claim any concession or rights on the completion of project schedule and his services will be terminated straight away.
3. If he wishes to resign at any time, he will have to resign in writing by giving a prior notice of one month and continue to serve the project till his resignation is accepted by the competent authority and communicated to him in writing, failing which one month pay will be forfeited to project funds.
4. He will be governed by such rules and orders as formulated by the government for the category of staff to which he belongs for the purpose of pay, allowances, T.A. , Leave and Medical Attendance.
5. His appointment will be subject to Medical Fitness, Verification of antecedents and production of Domicile of N.W.F.P.
6. He will not claim any pension or gratuity of other financial benefits on termination.
7. He will have to execute a bond on Judicial paper worth Rs. 5/- for the above terms and conditions if accepted to him.

If he accepts the offer on the above mentioned terms and conditions, he should report for duty to the undersigned Peshawar within one week of the receipt of this communication, failing which the offer will be withdrawn.

ACTING PROJECT DIRECTOR,
FAMILY HEALTH PROJECT (W/B)
N.W.F.P, PESHAWAR.

1. Mr. Zewar Khan S/O Sehat Khan Moh: Landay Kanday Sufaid Dheri Teh: & Distt: Peshawar.
2. Accounts Officer, Family Health Project N.W.F.P.
3. Local Consultant office, Family Health Project, Peshawar

ACTING PROJECT DIRECTOR.

ATTESTED

Mg

GOVERNMENT OF NWFP
FINANCE DEPARTMENT

B-5

NO.BVI/FD/4-48/2007-08/Vol.IV
Dated Peshawar, the 12th May 2008.

To

The Secretary to Govt. of NWFP,
Health Department, Peshawar.

Subject: CONVERSION OF FIX PAY TO REGULAR.

Dear Sir,

I am directed to refer to your letter No.SOB/HD/1-1/2006-07/PHSA, dated 03.03.2008 on the subjects noted above and to convey the concurrence of this Department for the conversion of 14 No. posts of Drivers on fixed pay into Pay Scale (04) in the following health institutions with immediate effect:-

S.No.	Institution	No. of posts
1	Nursing Schools Mardan, Swat, Kohat, Bannu and DIKhan.	5 (One in each Institution)
2	District Health Development Centre Mardan, Swat, Chitral, Abbottabad and Bannu.	5 (One in each Institution)
3	Director General Health Services.	3
4	Hayatabad Medical Complex, Peshawar.	1
	Total	14

Yours faithfully,

S/C
(ABDUS SAMAD)
BUDGET OFFICER-VI

C.C.

1. Accountant General, NWFP, Peshawar.
2. Director General, Health Services, NWFP, Peshawar.
3. Chief Executive, Hayatabad Medical Complex, Peshawar.
4. Director, Provincial Health Services Academy, NWFP, Peshawar.
5. District Accounts Officers, Mardan, Swat, Kohat, Bannu, DIKhan, Chitral & Abbottabad.
6. Principals, Nursing Schools, Mardan, Swat, Kohat, Bannu, DIKhan.
7. Principals, Divisional Health Development Centres, Mardan, Swat, Chitral, Abbottabad & Bannu.

ATTESTED

S/C
BUDGET OFFICER-VI

DIRECTORATE GENERAL HEALTH SERVICES, NWFP, PESHAWAR.

e-6

243

CE ORDER:

In pursuance of Finance Department letter No. BVI/FD/4-48/2007-08/Vol.IV DATED 15.5.2008 endorsed vide Health Department Endstt bearing No. SOB/ID/1-1/2006-07/PIISA dated 31.5.2008, the following contracts drivers on fixed salary of this Directorate are hereby adjusted against the regular vacancies (Pay Scale-04) with effect from 31/5/2008:-

- 1) Mr. Hazrat Aman
- 2) Mr. Zewar Khan
- 3) Mr. Muhammad Iqbal.

Sd/xx xx.xx
DIRECTOR GENERAL HEALTH
SERVICES, NWFP, PESHAWAR.

No. 4900-82 /Personnel

Date: 14/6/2008

Copy forwarded to the :-

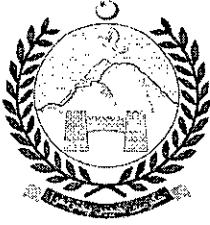
1. Accountant, DGHS, NWFP, Peshawar.
2. PA to DGHS, NWFP, Peshawar.
3. Officials Concerned.

For information and necessary action.

~~DIRECTOR GENERAL HEALTH
SERVICES, NWFP, PESHAWAR.~~

ATTESTED

D-7



**DIRECTORATE GENERAL HEALTH
SERVICES GOVT: OF KHYBER
PUKHTUNKHWA PESHAWAR**

OFFICE ORDER

The following internal posting/transfer of Drivers is hereby ordered in the interest of public service with immediate effect:-

S.No	Name of Official	From	To	Remarks
1	Mr. Zewar Khan Driver	AD(Procurement Cell) DGHS office	Director (Admn) DGHS office	vice S.No.02
2	Mr. Ghulam Mustafa Driver	Director (Admn) DGHS office	AD(Procurement Cell) DGHS office	Vice S.No. 01

Arrival/ departure report should be submitted to this Directorate for record.


Sd/xxxxxxxxx
DIRECTOR GENERAL HEALTH
SERVICES, K.P.K PESHAWAR.
Dated 26 /12/2013.

No 7864-68 /Personnel.

Copy forwarded to the:-

1. Assistant Director (Procurement Cell) DGHS, KPK Peshawar.
2. PA to DGHS, Khyber Pakhtunkhwa Peshawar.
3. PA to Director (Admn) DGHS, KPK Peshawar.
4. Transport Officer DGHS, KPK Peshawar.
5. Officials concerned.

For information and necessary action.


DIRECTOR (ADMINISTRATION)
DGHS, Govt: of Khyber
Pukhtunkhwa Peshawar

Hafiz S.M Ali Shah

ATTESTED



12

17570
Annex-I

Office of the Project Director
Family Health Project (I/Bank)
26/C, Chiner Road, University
Town, Peshawar.

E-(8)

No. 1933-37/PF

Date. 16-5-85

OFFICE ORDER.

As recommended by the Minister for Finance N.W.F.P.

Mr. Sahib-ur-Rehman S/O Mir Ahmad Gul.

is hereby offered a post of Ambulance Driver BPS-04 (1360-58-2230)
Plus usual allowances as admissible under the rules and sanctioned
by the Government from time to time for the Category of staff on
the following terms and conditions.

On his first appointment he is hereby posted to Family Health
Project (World Bank) District Mardan.
against an existing vacancy.

His appointment will be purely temporary and liable to
be terminated with out any notice being assigned.

The service tenure will be subject to the Project life or
if decided by the Government other wise, he will not
claim any concession or rights on the completion of Post
Schedule and his services will be terminated straight
away.

If he wishes to resign at any time, he will have to
resign in writing by giving a prior notice of one month
and continue to serve the Project till his resignation
is accepted by the competent authority or communicated to
his in writing, failing which one month pay will be
forfeited to Project.

He will be governed by such rules and orders as formulated
by the Govt: from time to time for the category of staff to
which he belongs for the purpose of Pay, allowances,
TA, Leave and Medical Attendance.

His appointment will be subject to Medical fitness,
verification of antecedents and production of Certificate
of N.W.F.P.

He will not claim any pension or gratuity or other
financial benefits on termination.

He will have to execute a bond or judicial paper worth
Rs. 5/- for the above terms and conditions if accepted to
him.

If he accepts the offer on the above mentioned terms
and conditions, he should report for duty to the,

Assistant Director, DHDC Mardan.

ATTESTED

(Cont.....1/2.....)



OFFICE ORDER

Ex post facto approval is hereby accorded to regularize the services of the following official of Provincial Health Services Academy, Peshawar with effect from his date of appointment as mentioned below as per directives of the Secretary to Govt of NWFP Health department Peshawar vide his letter No. SO-III/8-90/07(Sahibur Rehman) dated 21st January, 2008

S.No	Name of Employer	Designation	Date of Appointment
1.	Mr.Sahibur Rehman.	Driver	16.5.1995

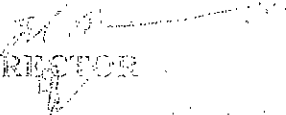
RE/-

DIRECTOR

No.215/PHSA/Admn/Appointment/2007-08/ Dated 26/12/2008.

Copy of the above is forwarded to:-

1. Accountant General, NWFP, Peshawar.
2. Director General Health NWFP, Peshawar
3. Deputy Director (M) PHSA, Peshawar.
4. Accounts Officer PHSA, Peshawar.
5. PS to Secretary to Govt of NWFP, Health department Peshawar
6. Mr.Sahibur Rehman Driver PHSA, Peshawar.


DIRECTOR

ATTESTED



G.P.Fed A/C
No. 10-JM - 10516/05

2

G-10

1. Name (FC) Sahib Bahman
2. Nationality and Religion Muslim
3. Residence (Punjab) Village Wazirabad District
4. Father's name and residence Mr. Ahmad
5. Date of birth by Christian era as nearly as can be ascertained 27-02-1922
6. Exact height by measurement 5-11
7. Personal mark of identification Small scar on right hand

8. Left hand/right hand thumb and finger-impressions of (Non-gazetted officer)

(دو ہاتھوں کی بائیں اور دائیں انگوٹھ اور پانچ انگلیوں کے نشانات)

Little Finger

(چمکیا)



King Finger

(چمکیا کے ساتھ کی انگلی)



Middle Finger

(مڈل)

Thumb

(انگوٹھ)

Fore Finger

(انگوٹھ کے ساتھ)



9. Signature of Govt. Servant

(دستخط کے ساتھ)

Sahib Bahman

10. Signature and designation of the Head of the Office or other Attesting officer

(تصدیق کنندہ افسر کے دستخط کے ساتھ)

[Signature]

Note : The entries in this page should be renewed or re-attested at least every five years and the signatures in lines 9 and 10 should be dated. Finger prints need not be taken after every 5 years under this rule.

(نوٹ: اس صفحہ پر درج کیے گئے تمام تفصیلات کو کم از کم ہر پانچ سالوں میں تجدید یا دوبارہ تصدیق کرنا ضروری ہے اور لائنوں 9 اور 10 میں دستخطوں کو تاریخ دینا ضروری ہے۔ اس قاعدہ کے تحت ہر پانچ سالوں کے بعد انگلیوں کے نشانات لینے کی ضرورت نہیں ہے۔)

ATTESTED

[Signature]

2

11

1	2	3	4		5		6	7
Name of Post	Whether Substantive or officiating and whether permanent or temporary	If officiating state- (i) Substantive appointment or (ii) whether service counts for pension under rule 3-20 of C.S.R. (Pb.) Volume II	Pay in substantive position.		Additional pay for officiating		Other emoluments falling under the term pay	Date of appointment
درجہ ملازمت	ماضی مستقل یا قائم مقام	اگر ماضی ہے تو کیا وہ رول کے مطابق پیش کا مستحق ہے	Rs.	Ps.	Rs.	Ps.	اسوائے تو وہ دیگر الاؤنس	تاریخ تقرری
BPS-4 (1360-58-2230)								
Driver FWP MWFP Peshawar DHDC Mandera	Temp		Pay	Rs. 1360/-			16 ⁰⁵ / ₉₅	
do	Temp		Pay	Rs. 1418/-			1 ¹² / ₉₅	
do	Temp		Pay	Rs. 1476/-			1 ¹² / ₉₆	
do	Temp		Pay	Rs. 1534/-			1 ¹² / ₉₇	

13

	12	13	14	15
Reason of termination (such as promotion, transfer, dismissal etc.)	Signature of the head of the office or other Attesting officer	Nature and duration of leave taken	Allocation of period of leave of average pay up to four months (or earned leave not exceeding 120 days) to which leave salary is debitable to another Government	Signature of the Head of the office or other attesting Officer
Reason of termination (such as promotion, transfer, dismissal etc.)	دستخط افسر مجاز	رفت کی نوعت وسیار	چار ماہ کی رخصت کے لئے اوسط تنخواہ کا تین Period Government to which debitable	دستخط افسر مجاز سزا جزایا غیر مناسب کارکردگی کاربیکارڈ

Interim Govt. of N.W.F.P.
 54 QAD letter no. SOR-11/54 QAD/1/389/98 dated 2000 and new contract policy 2002 vide letter no. FD(SOR-R-11)1201/2002 dated 26/12/2002 and Director P.H.S.A Peshawar office order No.05/P.H.S.A/Admin/Posting Transfer IV/2004-05/3891-94 dt. 16/07/2005 Mr. Salub-ur-Rehman S/O Mr. Ahmad Gul appointed/adjusted on contract basis as Driver BB-4.

[Signature]

ACCOUNT OFFICER
 Provincial Health Services Academy
 Dept of Health, Govt. of N.W.F.P.

Approved by DAC on file
 Disburse amount by pay & allowances from 18-7-05 to 31-6-06 vide PR-71 and pay regularized vide PR-70 dt. 2-6-06 No. 45-99

Asstt. Accountant General
 N.W.F.P. Peshawar

ATTESTED

[Signature]

Office of the Project Director
Family Health Project (W/Bank)
Khyber Road, Peshawar.

OFFICE ORDER:

With reference to the application of Mr. Mian Siraj S/O Mr. Mohammad Khan is hereby offered a post as Driver for Ambulance (BPS-4 (1360-58-2230) plus usual allowances as admissible under the rules and sanctioned by the Government from time to time from the category of staff on the following terms and conditions.

On his first appointment he is hereby posted to Family Health Project (World Bank) District Kohat.

- 1- His appointment will be purely on temporary and liable to be terminated without any notice being unsigned.
- 2- The service will be subject to the Project life or if decided by the Government otherwise he will not claim any concession or right on the completion project schedule and his service will be terminated straight away.
- 3- If he wishes to resign at any time he will have to resign in writing by giving of one month notice earlier his service from project his resignation accepted by the competent authority and communicated to his in writing failing with one month pay will be forfeited to project.
- 4- He will be governed by such rules and regulations the Government from the category of staff to which he will be long for the purpose of pay allowances TA, leave and Medical allowances, TA/DA and medical allowances.
- 5- Their appointment will be subject to the medical fitness verification of antecedent and produce them Domicile.
- 6- He will not claim any pension and other financial benefits.

PROJECT DIRECTOR
FAMILY HEALTH PROJECT
(W/BANK) NWFP PESHAWAR.

Copy forwarded to the all concerned.

Attested
1/9

within 7 days of the receipt of this communication,
failing which the offer will be withdrawn.

PROJECT DIRECTOR
FAMILY HEALTH PROJECT
(W/BANK) NWFP PESHAWAR.

Copy forwarded for information
and necessary action to:-

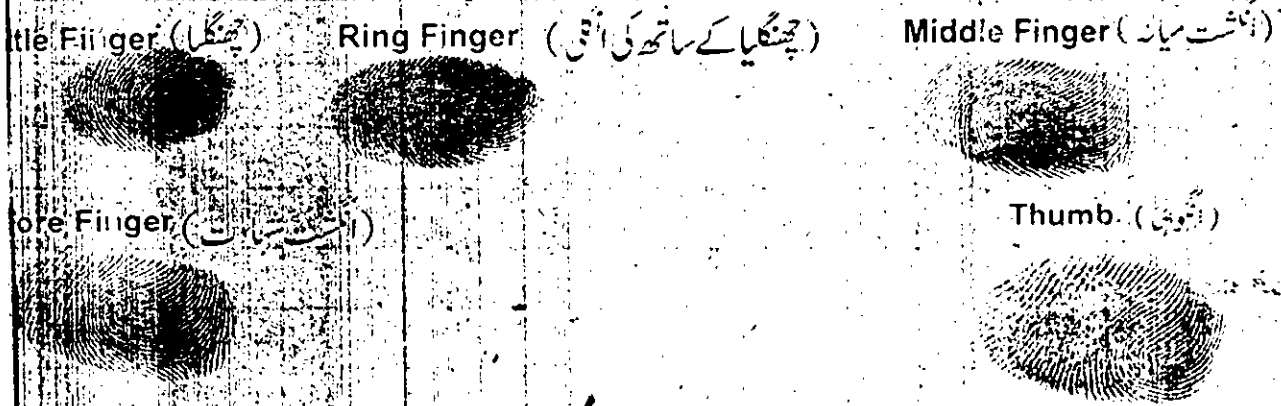
1. Mr. Mian Siraj S/O Mohd Khan
Village P/O Bilibang Teh: and Distt: Kohat.
2. Assistant Director,
District Health Development Centre,
Kohat.
3. Deputy Director,
Provincial Health Development Centre,
Family Health Project, Peshawar.
4. Accounts Officer,
Family Health Project, Peshawar.

[Signature]
(PROJECT DIRECTOR)

1. Name (نام) Mr. Mian Siraj
2. Nationality and Religion (قومیت اور مذہب) Pakistani
3. Residence (رہائشی پتہ) Military Distt: Kohat
4. Father's Name and Residence (والد نام اور پتہ) Mr. Mohd Khan
5. Date of birth Christian era as nearly as can be ascertained (تاریخ پیدائش عیسوی کے طور پر جتنی حد تک معلوم ہو سکے) 13-08-1964
CNIC No: 14301-4796939-5
Old NIC No: 143-64-215511
6. Exact height by measurement (قد و قامت) 5 ft 2 7 inches
7. Personal mark of identification (شخصی نشان) دائیں ہاتھ پر زخم کا نشان

Left hand/right hand thumb and finger impressions of (Non-gazetted officer)

(مرد کی صورت میں بائیں اور عورت کی صورت میں دائیں ہاتھ کی انگلیوں کے نشانات)



Signature of Govt. Servant (سرکاری ملازم کے دستخط)

Siraj

Signature and designation of the Head of the Officer or other Attesting Officer

(تصدیق کنندہ افسر کے دستخط اور مہر)

[Signature]
VICE PRINCIPAL
 Divisional Health Development
 Kohat

The entries in this page should be renewed or re-aggested at least every five years the signatures in lines 9 and 10 should be dated. Finger prints need not be taken after 5 years under this rule.

اس صفحہ کے مندرجہ کم از کم پانچ سال بعد تصدیق ہونا ضروری ہیں اور نمبر 9 اور 10 میں دستخطوں کے نیچے تاریخ لکھنی چاہیے۔ انگلیوں کے نشانات کے لئے ہر پانچ سال کے بعد تصدیق کی ضرورت نہیں۔

ATTESTED

[Signature]

of Drivers on fixed pay of Rs. 2500/- per month, without any break. The appellant was accordingly appointed as Driver Nursing School Kohat vide order dated 19-7-1999. At that time number of other employees were appointed on regular basis but the same was discriminated. Respondent No. 1 vide letter dated 21-1-2008 for the fixed employee namely Sahib-Ur-Rehman Driver into regular who is similarly placed employee like appellant, therefore respondent is requested for conversion of all other Drivers into regular pay scales. The Finance Department vide letter dated 12.5.2008 gave concurrence for conversion for the posts of Drivers on fixed pay into pay scale No.1 and in accordance with the said concurrence. Notification was issued by respondent No.2 on 17-5-2008, wherein the appellants name appeared at S. No. 7, but with immediate effect, whereas pay fixation of other employees was done with effect from the date of appointment. Feeling aggrieved the appellant submitted his departmental appeal on 09-11-2008, but with no response within the stipulated period, hence this appeal with the prayers that on acceptance of the appeal the respondents be directed to fix the pay of the appellant from the date of initial appointment in dated of 12-5-2008 along-with arrears to bring it at par with the length of service with such other relief as may deem fit-in the circumstances of the case may also be granted.

2. The respondents have filed their written reply, wherein they refuted the post of the appellant and stated that the case of the appellant is different from the case of other employees and that he was appointed in Family Health Project on 6-12-1994 till the project life i.e. 31-12-1999. He was adjusted as Driver at Nursing School on 14-2-2000 as per entry made in his service book on fixed pay of Rs. 3500/-P-M. Moreover he was brought to regular BPS-4 vide Finance Department's Notification dated 12-5-2008, with immediate effect. As such he is not entitled to the relief claimed by him.

Arguments heard and record perused.

3. As doubt the appellant was appointed as Driver in the Family Health Project on 06-12-1991 but before winding up the project on 31-12-1999, he was appointed as Driver in Nursing School Kohat vide office order dated 19-7-1999. As per entry in the service book the appellant was later on adjusted as Driver at fixed pay @ Rs. 2500/- per month vide order dated 14-2-2000. In the light of Finance Department's letter dated 12-5-2008, the post of the appellant was

Attested
[Signature]

reverted to BPS-4 on regular side; vide Notification dated 17-5-2008 of respondent No.2, but with immediate effect. The main contention of the appellant is that in the light of Finance Department's letter dated 30-7-2008 he is entitled to fixation of his pay from the date of his initial appointment instead of 12-5-2008 the case of Sahib-Ur-Rehman, similarly placed employee. Moreover, respondent No.2 has also addressed a letter dated 15-10-2008 to respondent No.4 in favor of the appellant for fixation of his pay from the date of appointment. However, it was observed that he will not be entitled to arrears up to 30-6-2008.

4. In view of the above the Tribunal deems it appropriate to remand the case of the appellant to the respondent Department with the direction to consider his claim with regard to entitlement of fixation of his pay from the date of appointment in the light of the aforesaid letters as well as case of Sahib-Ur-Rehman . Driver, strictly in accordance with law/rules on the subject within a period of one month of the receipt of this order. The appeal is disposed of in the above terms. Parties are, however, left to bear their own costs. File be consigned to the record.

ANNOUNCED

Attested
[Signature]

Annex (A)

J-17

THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.



SERVICE APPEAL NO. 313/2009

Date of institution ... 23.02.2009
Date of decision ... 02.07.2010

Mian Siraj, Driver, School of Nursing, Kohat,
K. Village & P.O. Bilitang,
Tehsil & District, Kohat.

(Appellant)

VERSUS

Government of NWFP (K.P.K) through
Secretary Health Department, Peshawar,
Director, Provincial Health Services Academy, Peshawar,
Accountant General, NWFP (K.P.K), Peshawar,
District Accounts Officer, Kohat.

(Respondents)

APPEAL U/S 4 OF THE NWFP SERVICE TRIBUNALS ACT, 1974
FOR FIXATION OF PAY WITH EFFECT FROM THE DATE OF
APPOINTMENT AS PER NOTIFICATION DATED 30.7.2008, AS IS
DONE TO THE OTHER EMPLOYEES AGAINST WHICH
APPELLANT SUBMITTED THE DEPARTMENTAL APPEAL
DATED 10.11.2008 BUT THE SAME IS NOT RESPONDED
DESPITE LAPSE OF 90 DAYS.

Mr. Waqar Ahmad Seth, Advocate;
Mr. Fahir Afgan Khattak,
Addl. Advocate General.

For appellant

For respondents

Mr. Sultan Mahmood Khattak,
Mr. Poor Ali Khan

Member
Member

JUDGMENT

SULTAN MAHMOOD KHATTAK, MEMBER:-

According to the

arguments made in the appeal, the appellant, namely, Mian Siraj, was appointed as Driver in Family Health Project in the year 1994. On winding up of the said Project on 31.12.1999, the Finance Department created posts of Drivers on fixed pay of Rs. 2500/- per month, without any break. The appellant was accordingly appointed as Driver in Nursing School Kohat vide order dated 19.7.1999. At that time, number of other employees were appointed on regular basis but the

ATTESTED

... was discriminated. Respondent No.1 vide letter dated 21.01.2008 ...
 ... the fixed pay employee, namely, Sahib-ur-Rahaman Driver into regular ...
 ... who is similarly placed employee like appellant, therefore, respondent ...
 ... requested for conversion of all other Drivers into regular pay scales. The ...
 ... Finance Department vide letter dated 12.5.2008 gave concurrence for conversion ...
 ... of Drivers on fixed pay into Pay Scale No.1 and in accordance with ...
 ... the said concurrence. Notification was issued by respondent No.2 on 17.5.2008, ...
 ... wherein, the appellant's name appeared at S.No.7, but with immediate effect, ...
 ... whereas pay fixation of other employees was done with effect from the date of ...
 ... appointment. Feeling aggrieved, the appellant submitted his departmental appeal ...
 ... on 09.11.2008, but with no response within the stipulated period, hence this ...
 ... appeal with the prayer that on acceptance of the appeal, the respondents be ...
 ... directed to fix the pay of the appellant from the date of initial appointment ...
 ... instead of 12.5.2008 along-with arrears to bring it at par with the length of ...
 ... service with such other relief as may deem fit in the circumstances of the case ...
 ... may also be granted.

The respondents have filed their written replies, wherein, they refuted the ...
 ... contention of the appellant and stated that the case of the appellant is different from ...
 ... the case of other employees and that he was appointed in Family Health Project ...
 ... on 6.12.1994 till the project life i.e. 31.12.1999. He was adjusted as Driver at ...
 ... Nursing School on 14.2.2000 as per entry made in his service book on fixed pay ...
 ... B-2500/PAI. Moreover, he was brought to regular BPS-4 vide Finance ...
 ... Department's Notification dated 12.5.2008, with immediate effect. As such he is ...
 ... not entitled to the relief claimed by him.

Arguments heard and record perused.

ATTESTED

In doubt, the appellant was appointed as Driver in the Family Health Project on 26.12.1994 but before winding up of the Project on 31.12.1999, he was appointed as Driver in Muslim Railway Kohat, vide office order dated 19.7.1999. As per entry in the service book, the appellant was later on adjusted as Driver on fixed pay @ Rs.2500/- per month vide order dated 14.2.2000. In the light of Finance Department's letter dated 12.5.2008, the post of the appellant was promoted to BPS-4 on regular side, vide Notification dated 17.5.2008 of respondent No.2, but with immediate effect. The main contention of the appellant is that in the light of Finance Department's letter dated 30.7.2008 he is entitled to fixation of his pay from the date of his initial appointment instead of 12.5.2008 like Sahib-ur-Rehman, similarly placed employee. Moreover, respondent No.2 has also addressed a letter dated 15.10.2008 to respondent No.4 in favour of the appellant for fixation of his pay from the date of appointment. However, it was observed that he will not be entitled to arrears upto 30.6.2008.

5. In view of the above, the Tribunal deems it appropriate to remand the case of the appellant to the respondent department with the direction to consider his claim with regard to entitlement of fixation of his pay from the date of appointment in the light of the aforesaid letters as well as case of Sahib-ur-Rehman, Driver, strictly in accordance with law/rules on the subject within a period of two months of the receipt of this order. The appeal is disposed of in the above terms. Parties are, however, left to bear their own costs. File be consigned to the record.

ANNOUNCED
09.07.2010

(NOOR ALI KHAN)
MEMBER

(SULTAN MEHMOOD KHATAK)
MEMBER

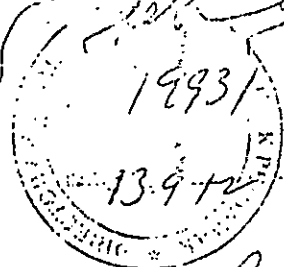
Certified true copy

13/07/2010
Secretary Tribunal

ATTESTED

(16)

Anx I



توبہ کا حکم

Attested

بسم اللہ الرحمن الرحیم
میں نے اپنے دل سے توبہ کیا ہے اور اس کے لیے پشیمان ہوں
اور اللہ سے دعا ہے کہ وہ میری توبہ قبول کرے اور میرے
گناہوں کو بخش دے۔

میں نے اپنی عمر کا یہ حصہ ایسا ہی گنہگار گزارا ہے جیسا کہ
آج کے دن میں نے اپنی توبہ سے ثابت کیا ہے۔
میں نے اپنی توبہ سے ثابت کیا ہے کہ میں نے اپنے
گناہوں کو کبھی نہیں فراموش کیا ہے اور میں ان سے
کبھی توبہ نہیں کرتا تھا۔
میں نے اپنے گناہوں کو کبھی نہیں فراموش کیا ہے اور میں
ان سے کبھی توبہ نہیں کرتا تھا۔
میں نے اپنے گناہوں کو کبھی نہیں فراموش کیا ہے اور میں
ان سے کبھی توبہ نہیں کرتا تھا۔

Hazrat

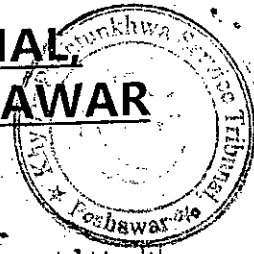
...

ATTESTED

M...

...

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



Appeal No. 1312/2012

Zewar Khan S/o Suhbat Khan (Driver) Directorate General, Health Services, Khyber Pakhtunkhwa, Peshawar

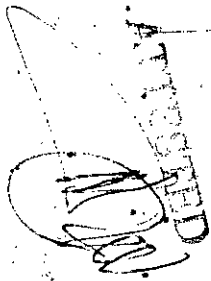
(Appellant)

VERSUS

*S.W.F. Prov. Govt.
No. 1289
Dated 03-12-12*

- (1) Director General, Health Services, Khyber Pakhtunkhwa, Peshawar
- (2) Assistant Director (P-II) DGHS Govt. of Khyber Pakhtunkhwa, Peshawar
- (3) Secretary to Govt. Khyber Pakhtunkhwa, Health Department, Peshawar
- (4) Govt. Khyber Pakhtunkhwa through Secretary Finance

(Respondents)



Appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 to the effect that impugned order U.O. No. 6165/Personal dated 02.10.2012 communicated on 25.11.2012 vide Diary No. 25462, whereby respondent No. 1 and 2 refused to give effect the regularization of the appellant from the date of appointment i.e. 19.06.1993 instead of 31.05.2008, is illegal and arbitrary without lawful authority and based on discrimination and the appellant is entitled to be regularized with all back benefit from the date of appointment i.e. 19.06.1993 and may kindly be declared as such.

ATTESTED

[Handwritten signature]

3/12/12
12/12/12

Appeal No. 1312/2012
Mr. Zeeshan Khan

22

16.1.2013



Appellant with counsel present and heard. Counsel for the appellant stated that the appellant was appointed as Driver on 19.06.1993 and was posted on Family Health Project Peshawar. The service of the appellant was regularized vide order dated 12.05.2008 with immediate effect. Counsel for the appellant further stated that two persons namely M/S Sahib Zama, and Main Siraj appointed along with the appellant in the same project, their services were regularized from the date of appointment. Main Siraj on filed appeal in the Service Tribunal bearing No 318/2009 and the same was remanded to the respondent-department to consider the case strictly in accordance with law and rules. Consequently department regularized the service of Main Siraj and Mr. Sahib Rehman from the date of his appointment.

In view of the Tribunal's judgment dated 2.7.2010 in appeal No. 318/2009 the case of the appellant is also remanded to the department for consideration on the same line but strictly in accordance with law, rules and regulation on the subject.

ed/
Member

ANNOUNCED

16.1.2013.

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Filing of Application 18-1-2013
Number of Pages 800
Copy of _____
Urgency 2
Tel. No. 8
Name of Officer _____
Date of Filing of Copy 18-1-2013
Date of Issuance of Copy 18-1-2013

ATTESTED

[Signature]

بخدمت جناب ڈائریکٹر جنرل ہیلتھ سروسز خیبر پختونخواہ پشاور

زیور خان ولد محبت خان (ڈرائیور، ڈائریکٹریٹ جنرل ہیلتھ سروسز پشاور)

درخواست برائے عمل درآمد بر فیصلہ دراپیل نمبر 1312/2012

سروس ٹریبونل خیبر پختونخواہ پشاور

جناب عالی! سائل حسب ذیل عرض رساں ہے۔

- (1) یہ کہ سائل / اپیلانٹ نے ایک عدد اپیل نمبر 1312/2012 روبرو سروس ٹریبونل خیبر پختونخواہ پشاور گزاری تھی جس کو بحث کے بعد باقاعدہ طور پر جناب عالی کو ریماڈ کیا گیا ہے۔ (فیصلہ لف ہے)
- (2) یہ کہ اپیل مذکورہ بالا میں جناب عالی کو سروس ٹریبونل نے باقاعدہ سروس اپیل نمبر 318/2009 کا ذکر کیا جس میں میاں سراج کو جناب عالی نے سروس از تاریخ تقرری Regularize کی ہے۔ اور اسی طرح صاحب الرحمن ڈرائیور کی سروس بھی تاریخ Appointment سے Regularize کرنے کے احکامات جاری ہو چکے ہیں۔
- (3) یہ کہ چونکہ میاں سراج اور صاحب الرحمن کے کیس کو مد نظر رکھتے ہوئے ہمارا کیس فیصلہ کرنے کے لئے کیا گیا ہے۔ بدیں وجہ آپ صاحبان سے گزارش کی جاتی ہے انہی حالات میں ہمارے کیس کو بھی اسی روشنی میں دیکھا جائے۔ اور ہمارے سروس کو تاریخ Appointment سے Regularize کرنے کے احکامات جاری فرمائی جائے۔
- (4) یہ کہ چونکہ من اپیلانٹ 19.06.1993 کو بھرتی ہوا تھا بدیں وجہ من سائل / اپیلانٹ بھی تاریخ مذکورہ سے Regularization اور سروس مراعات کا حقدار ہوں۔
- (5) یہ کہ من سائل / اپیلانٹ کے 19.06.1993 سے Regularization میں کوئی امر مانع قانون نہ ہے۔ اور بمطابق انصاف ہوگا۔

لہذا استدعا کی جاتی ہے کہ بحالات بالا من سائل کے Service Regularization کے احکامات

19.06.1993 سے بمعہ مراعات فرمائی جائے۔

ATTESTED

سائل / اپیلانٹ زیور خان

زیور خان ولد محبت خان (ڈرائیور، ڈائریکٹریٹ جنرل ہیلتھ سروسز پشاور)



GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS &
HUMAN RIGHTS DEPARTMENT

No. SO(OP-II)/LD/5-10/2012
DATED: PESH: THE 22 OCTOBER, 2013

21556-57

25
N- (24)

To The Secretary to Government of Khyber Pakhtunkhwa,
Health Department.

4544
22-10-2013

Subject: CONVERSION OF FIX PAY TO REGULAR/ ADVICE.

Dear Sir,

I am directed to refer to your Department's letter No. SOH-III/8-89/2013 (Hazrat Amen & Others) dated 09-10-2013 on the subject noted above and to state that in the case of Hameed Akhtar Niazi V. The Secretary, Establishment Division, Government of Pakistan and others (1996 SCMR 1185) and subsequent cases of Tara Chand and other Versus. Karachi Water & Sewerage Board, Karachi and others (2005 SCMR 499) and Government of Punjab versus Samina Perveen and others (2009 PLC (C.S)376), the Supreme Court of Pakistan has consistently held, " If Tribunal or the Supreme Court decides a point of law relating to the terms and conditions of a civil servant who litigated, and there were other civil servants, who may not have taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the said decision be extended to other civil servants also, who may not be parties to that litigation, instead of compelling them to approach the tribunal or any other legal forum--- All citizen are equal before law and entitled to equal protection of law as per Art. 25 of the Constitution" //

2. The case of Mr. Hazrat Aman has been remanded to the official respondents (Health Department) by the Service Tribunal for consideration in light of Service Tribunal's judgment dated 2.7.2010 in appeal No. 318/2009. The issue involved is administrative in nature and it is the duty of Administrative Department to examine that whether case of Mr. Hazrat Aman is similar to the cases of Mr. Sahib-ur-Rehman and Mian Siraj Drivers and he is similarly placed person like the two other Drivers mentioned above or otherwise?

Yours Faithfully,

SECTION OFFICER (OPINION)

Endst: of even No. & date.

A copy is forwarded to the P.S to Secretary Law, Department.

ATTESTED

SECTION OFFICER (OPINION)

So-III

SSH
HS
DS-II
23/10/13

25

Copy No. 2960
Dated: 11/9/14
Health Department

GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT.

NO.SO (LIT-II) FD/2-246/2014.
Dated Peshawar the 27/02/2014.

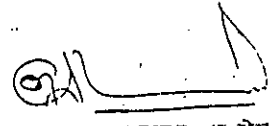
To

The Secretary to Govt of Khyber Pakhtunkhwa,
Health Department, Peshawar

Subject: CONVERSION OF FIX PAY TO REGULAR/ADVICE.

Dear Sir,

I am directed to refer to your letter No. SOH-III/8-89/13 (Hazrat
Anjan & Others) dated 10-02-2014 on the subject noted above and to state that
Administrative Department may resolve the issue as per advice of Law Department.



SECTION OFFICER (LIT-II)

ATTESTED



50/111
12
11/3
28/3
Ryu.
BST

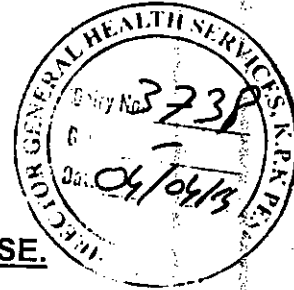
26



GOVT. OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT
No. SOH-III/8-89/2013(Hazarat Aman & Others)
Dated the Peshawar 04th April, 2014

To

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

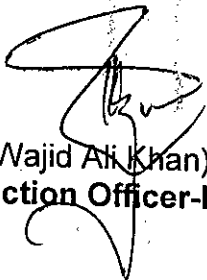


Per

SUBJECT: CONVERSION OF FIX PAY TO REGULAR/ADVISE.

I am directed to refer to this department letter of even number dated: 19-11-2013 on the subject noted above and to state that to resolve the issue as per advice of Law Department (Copy attached for ready reference).

Encl: As above.


(Wajid Ali Khan)
Section Officer-III

ATTESTED




GOVT. OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

No. SOH-III/8-89/2013(Hazarat Aman & Others)
Dated the Peshawar 19th November, 2013

86

(27)


To

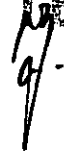
The Director General,
Health Services, Khyber Pakhtunkhwa,
Peshawar.

SUBJECT: CONVERSION OF FIX PAY TO REGULAR/ADVISE.

I am directed to refer to the subject noted above and to enclose herewith a copy of letter No. SO (OP-II)/LD/5-10/2012 dated: 22-10-2013 received from Section Officer (opinion) Law, Parliamentary Affairs & Human Rights Department which is self-explanatory and to state that to examine the case thoroughly in light of the above reference letter of Law Department and furnish views/comments to this department to proceed further in the matter.

Encl: As above.


(Wajid Ali Khan)
Section Officer-III

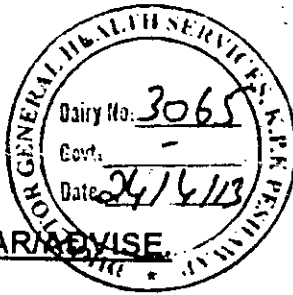
ATTESTED




GOVT. OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT
No. SOH-III/8-89/2013(Hazrat Aman & Others)
Dated the Peshawar 24th April, 2013

To

✓
The Director General,
Health Services, Khyber Pakhtunkhwa,
Peshawar.



Per
ADP-II

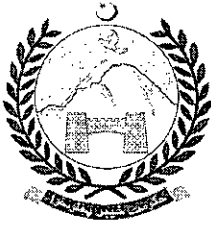
SUBJECT: CONVERSION OF FIX PAY TO REGULAR ADVISE.

I am directed to refer to your letter No. 1508/Personnel dated: 26-03-2013 on the subject noted above and to say that if regularization of Main Siraj & Sahibur Rehman done accordingly to rules/regulation. The case of Mr. Hazrat Aman and Others be process accordingly and ex-post facto approval may be accorded to them.

Kashif Iqbal
please
1 May
(Kashif Iqbal Jilani)
Section Officer-III

ATTESTED

Driver




0 - (29)

DIRECTORATE GENERAL HEALTH
SERVICES, GOVT: OF KHYBER
PAKHTUNKHW, PESHAWAR.
NO _____/PERSONNEL
DATED _____/04/2014.

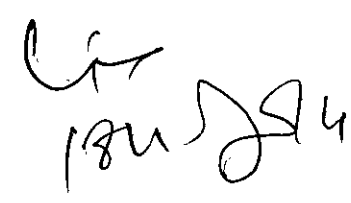

Subject: **CONVERSION OF FIX PAY TO REGULAR / ADVISE.**

Will Mr. Zewar Khan Driver attached to this Directorate General Health Services Khyber Pakhtunhwa Peshawar , please refer to his application on the subject noted above .

Since the posts have been created on regular basis with effect from 12.05.2008, ~~his~~ regularization from the date of appointment can not be considered.


ASSISTANT DIRECTOR (P-II)
DGHS, Govt: of Khyber
Pukhtunkhwa Peshawar

Mr. Zewar Khan Driver
DGHS, office KPK Peshawar.
U.O.NO 2834 /Personnel
Dated 21 /04/2014.


Attested


VAKALATNAMA

IN THE COURT OF KPK Service Tribunal Peshawar.

OF 2014

Zewar Khan

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Health Department

(RESPONDENT)
(DEFENDANT)

I/We Zewar Khan

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ___/___/2014

زبور خان

CLIENT

M

ACCEPTED

**NOOR MOHAMMAD KHATTAK
(ADVOCATE)**

OFFICE:

Room No.1, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.

Phone: 091-2211391

Mobile No.0345-9383141

NWFP, Project Director,
Family Health Project (W/Bank)
Bangalow No. B/2 New Arbab colony
Abdara road, Peshawar.

No. 201/P-21/APP

Date: 19-06-93

Annex B
OFFICE ORDER.

Consequent upon the result of test/interview and on the recommendation of Departmental Selection Committee Mr. Zewar Khan S/O Sehat Khan Moh: Landay Kanday Sufaid Dheri

is hereby offered a post of Driver in BPS-4 (1005-43-1650) plus usual allowances as admissible under the rules and sanctioned by the Government from time to time for the category of staff on the following terms and conditions. On his first appointment he is hereby posted to Family Health Project (World Bank) Office of the Local Consultant, Peshawar against an existing vacancy.

1. His appointment will be purely temporary and liable to be terminated without any notice being assigned.

2. The Service tenure will be subject to the project life and he will not claim any concession or rights on the completion of project schedule and his services will be terminated straight away.

3. If he wishes to resign at any time, he will have to resign in writing by giving a prior notice of one month and continue to serve the project till his resignation is accepted by the competent authority and communicated to him in writing, failing which one month pay will be forfeited to project funds.

4. He will be governed by such rules and orders as formulated by the government for the category of staff to which he belongs for the purpose of pay, allowances, F.A., Leave and Medical Attendance.

5. His appointment will be subject to Medical Fitness, verification of antecedents and production of Domicile of N.W.F.P.

6. He will not claim any pension or gratuity or other financial benefits on termination.

7. He will have to execute a bond on Judicial paper worth Rs. 5/- for the above terms and conditions if accepted to him.

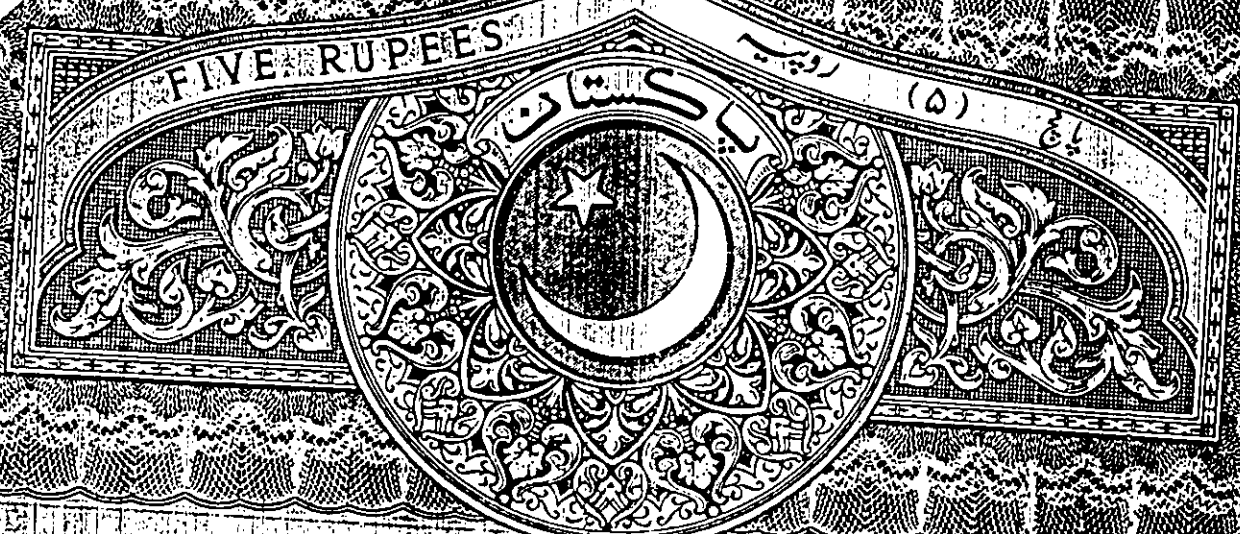
If he accepts the offer on the above mentioned terms and conditions, he should report for duty to the undersigned Peshawar within one week of the receipt of this communication, failing which the offer will be withdrawn.

[Signature]
ACTING PROJECT DIRECTOR,
FAMILY HEALTH PROJECT (W/B)
N.W.F.P, PESHAWAR.

1. Mr. Zewar Khan S/O Sehat Khan Moh: Landay Kanday Sufaid Dheri Teh: & Distt: Peshawar.

2. Accounts Officer, Family Health Project N.W.F.P.

3. Local Consultant office



AFFIDAVIT BOND

I, Mr/Mrs. Zewan Khan S/O Sohlat Khan of
Teh: District. Peshawar Vill: Sufaid Dehri
do hereby solemnly affirm and declare on Oath as under:-

That I have selected/offered a post of Driver
(BPS-4 (1005-43-1650)) in NWFP Family Health
Project (W/Bank), 2-New Arbab Colony Abdara Lane University
Town Peshawar (Project Implementation Unit) Vide Office
Order No: -2019-21/FHP/Dated:-19-6-93

That I accepted all terms and conditions mentioned in
the above Office Order No: -219-21/FHP/Dated:-19-6-93

That I will abide by all rules and regulations of the
concerned department.

Whatever stated above is true and correct to the best of my
knowledge and belief and nothing has been concealed or mis-stated
therein.

Training & Monitoring Officer
Family Health Project
W/Bank/ N. W. F. P. Peshawar

Place: Peshawar
Dated: - /09/1993.

Deponent. زewan خان

Witness: [Signature] T/Clerk FHP
Witness: [Signature]

Mr/Mrs: Zewan Khan
NIC: -137-90-089488

Amir 85
A 827 C

DIRECTORATE GENERAL HEALTH SERVICES, NWFP, PESHAWAR

DER:

In pursuance of Finance Department letter No. BVI/FD/4-48/2007-08/Vol IV DATED
endorsed vide Health Department Endstt bearing No. SOB/ID/1-1/2006-07/PIISA
5/2008, the following contracts drivers on fixed salary of this Directorate are hereby
against the regular vacancies (Pay Scale-04) with effect from 31/5/2008:-

- 1) Mr. Hazrat Aman
- 2) Mr. Zewar Khan
- 3) Mr. Muhammad Iqbal

Sd/xx xx xx
DIRECTOR GENERAL HEALTH
SERVICES, NWFP, PESHAWAR

No. 4980-82 Personnel Date: 14/16/2008

Copy forwarded to the:-

- 1) Accountant DGHS, NWFP, Peshawar
- 2) PA to DGHS, NWFP, Peshawar
- 3) Officials Concerned

For information and necessary action.

DIRECTOR GENERAL HEALTH
SERVICES, NWFP, PESHAWAR

BEFORE THE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA, PESHAWAR

Appeal No. 1312/2012



Zewar Khan S/o Suhbat Khan (Driver) Directorate General Health
Services Khyber Pakhtunkhwa Peshawar

(Appellant)

VERSUS

G.W.P. No. 1279
Dated 03/12/12

- (1) Director General Health Services, Khyber Pakhtunkhwa, Peshawar
 - (2) Assistant Director (P-I) DGHS Govt. of Khyber Pakhtunkhwa Peshawar
 - (3) Secretary to Govt. Khyber Pakhtunkhwa, Health Department Peshawar
 - (4) Govt. Khyber Pakhtunkhwa through Secretary Finance
- (Respondents)

Appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 to the effect that impugned order U.O. No. 6165/Personal dated 02.10.2012 communicated on 25.11.2012 vide Diary No. 25452, whereby respondent No. 1 and 2 refused to give effect the regularization of the appellant from the date of appointment i.e. 19.06.1993 instead of 31.05.2008, is illegal and arbitrary without lawful authority and based on discrimination and the appellant is entitled to be regularized with all back benefit from the date of appointment i.e. 19.06.1993 and may kindly be declared as such.

Mr. Zeeshan Khan



2013

Appellant with counsel present and heard. Counsel for the appellant stated that the appellant was appointed as Driver on 19.06.1993 and was posted on Family Health Project Peshawar. Service of the appellant was regularized vide order dated 12.05.2008 with immediate effect. Counsel for the appellant further stated that two persons namely M/S Sahib Zama and Main Siraj appointed along with the appellant in the same project, their services were regularized from the date of appointment. Main Siraj on filed appeal in the Service Tribunal bearing No 318/2009 and the same was remanded to the respondent department to consider the case strictly in accordance with law and rules. Consequently department regularized the service of Main Siraj and Mr. Sahib Rehman from the date of his appointment.

In view of the Tribunal's judgment dated 2.7.2010 in appeal No. 318/2009 the case of the appellant is also remanded to the department for consideration on the same line but strictly in accordance with law, rules and regulation on the subject.

[Handwritten signature]

ANNOUNCED

16.1.2013



Date of Receipt of Application 18.1.2013

Name of Applicant 800

Copies 6

Urgency 2

To 8

Name of Officer [Signature]

Date of Receipt of Copy 18-1-2013

Date of Receipt of Copy 18-1-2013

**BEFORE THE KHYBER PAKHTUN
PESHAV**

A SERVICE TRIBUNAL

APPEAL NO.6

14.

ZEWAR KHAN VERSUS

VT: OF KPK

**REJOINDER ON BEHALF OF PET
THE REPLY SUBMITTED B**

**ER IN RESPONSE TO
RESPONDENTS**

R/SHEWETH:

Preliminary Objections:

(1 to 5):

All the objections raised by respondents are in correct and baseless and not in accordance with law and rules rather the respondent is estopped due to their own conduct to raise any objection at this stage of the writ petition.

ON FACTS:

- 1- Admitted correct hence denied.
- 2- Admitted correct hence denied.
- 3- Incorrect and not replied accordingly. That feeling aggrieved from the Notification of regularization one of the appellant colleague namely Mr. Mian Siraj knocked the door of this august Tribunal in appeal No.318/2009. That this august Tribunal decided the abovementioned appeal in favor of the appellant colleague vide judgment 02-07-2010. More over one of the junior colleague of appellant namely Mr.Sahib-ur-Rehman has also received similar relief vide Notification dated 26-01-2008.
- 4- Incorrect and not replied accordingly. That the appellant having similarly placed person also filed Departmental appeal for fixation of his pay/regularization with effect from 19-06-1993. That then after appellant filed service appeal in august Tribunal in appeal No.1312/2012. That this august Tribunal remanded the appeal to the respondent Department to decide the same in accordance with law and rules vide judgment dated 16-01-2013.
- 5- Incorrect and not replied accordingly. That appellant is fully entitled under the law and prevailing Rules for his claim.

GROUND:

All the grounds of main appeal are correct and in accordance with law and prevailing rules and that of the respondent are incorrect and baseless hence denied. That the impugned order dated 21-04-2014 issued by the respondent No.4 is against the law, facts and norms of natural justice. That the respondent Department acted in arbitrary and malafide manner by not regularizing the services of the appellant from the date of first appointment i.e. 19-06-1993. That not adjusting/regularizing the previous service of the appellant inspite of the fact that similar treatment has meted out to his other colleagues is amounts to discrimination and injustice done on the part of respondent Department. That appellant is fully entitled for regularization of his service from the date of first appointment i.e. 19-06-1993 under the principal of consistency reported in 2009 SCMR 1.

It is therefore most humbly prayed that on acceptance of this rejoinder the writ petition of the petitioner may be accepted as prayed.

APPELLANT



ZEWAR KHAN

THROUGH:



**NOOR MOHAMMAD KHATTAK
ADVOCATE**