27.06.2022

Learned Member (Executive), is on leave. Therefore, the case is adjourned to 04.08.2022 for the same as before.

Form- A

FORM OF ORDER SHEET

Court or	
n No	198/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	j 3
1-	17/02/2022	The appeal of Mr. Muhammad Hayat Khn resubmitted today by Mr. Nasir Mehmood Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.
		REGISTRAR .
2-		This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put there on $66 - 69 - 2020$
		CHAIRMAN
		į
	06.04.2022	Clerk of learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl; AG for respondents present.
		Clerk of learned counsel for the appellant seeks adjournment on the ground that learned counsel is not available today due to general strike of the bar. Adjourned. To come up for preliminary hearing on 27.06.2022 before S.B.
		(MIAN MUHAMMAD) MEMBER(E)

The appeal of Mr. Muhammad Hayat Khan Ex-Operator cum Valve man WSS Jarasi District Karak received today i.e. on 11.02.2022 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

Copy of retirement order of appellant mentioned in the memo of appeal is not attached with the appeal which may be placed on it.

Dt. 11/09 /2022

SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Six The Dett. is not providing the retirement order to the appealant, therefore the appeal may kindly be placed before tribunal for order.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 199/2022

Muhammad Hayat Khan...... Appellant

VERSUS

Secretary Public Health Engineering & others

..... Respondents

INDEX

S.No	Description of Documents	Annex	Pages
1.	Service Appeal		1-6
2.	Affidavit		7
3.	Copy of Appointment order dated 22.10.2007	A	8
4.	Copies of arrival report and medical certificate	В	9-10
5.	Copy of the Service Book	С	11-19
6.	Copy of Departmental Appeal	D	20-22
7.	Wakalat NAma		23

Appellant

Through:

Dated: 09.02.2022

NASIR MAHMOOD

Advocate, Supreme Court

Of Pakistan

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service	Appeal	No	_/2022
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Muhammad Hayat Khan, Ex-Operator cum Valve Man WSS Jarasi, Tehsil Takht Nasrati District Karak.

..... Appellant

VERSUS

1. Secretary Public Health Engineering, Civil Secretariat, Peshawar

2. Chief Engineering Public Health Engineering, Civil Secretariat, Peshawar

3. Superintending Engineer Public Health Engineering, Kohat Division Kohat.

4. XEN Public Health Engineering Karak.

...... Respondents

APPEAL UNDER SECTION KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE NON-ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT DATED 12.11.2021 DIARY NO **8092, HENCE** THE INSTANT APPEAL WHEREBY THE APPELLANT HAS BEEN DENIED SALARIES AND PENSION.

Prayer:

On acceptance of this Appeal the Respondents may kindly be directed to release the salaries and pension of the Appellant throughout.

Respectfully Sheweth:-

- 1. That the Appellant was appointed as Operator Cum Valve Man vide order dated 22.10.2007 against the vacant post in WSS Jarasi Tehsil Takjht Nasrati District Karak. (Copy of Appointment order dated 22.10.2007 is attached as annexure A)
- 2. That the Appellant submitted arrival report on 22.10.2007 which was duly endorsed by XEN Public Health Engineering Karak and thereafter, the Appellant also submitted his Medical Certificate with the department. (Copies of arrival report and medical certificate are attached as annexure B)
- 3. That from the date of appointment, the Appellant was performing his duties to the entire satisfaction of his superior and there was not a single complaint against the Appellant in his whole career.
- 4. That due to the unblemished record the Appellant, he was upgraded to BPS-3 on 01.12.2015 and the arrears of the Upgradation were received by the

Respondents. (Copy of the Service Book is attached as annexure C)

- 5. That from the service record of the Appellant, it is clear that Appellant was regularly performing his service and it was also twice authenticated by the pay fixation party of the Accountant General Office.
- 6. That afterwards on 30.11.2017, there is no entry in the service record of the Appellant because the pay of the Appellant was drawn by Respondent No 4 office and has never been paid to the Appellant except for the initial 4 months although it is clear from the service Book of the Appellant that it was duly verified by XEN Karak annually from the date of his appointment i.e from 22.10.2017 to 30.11.2017 but his salary was never paid to the Appellant.
- 7. That the Appellant retired from service on 30.06.2021 and the Appellant waited and approached XEN Karak for release of his salary and pension but uptil now, there is no response from them.
- 8. That in the light of the Judgments of the Superior Courts of the Country, salary and pension is the right of civil servant and it is not a bounty to be paid to the civil servant.

- 9. That the Appellant is a sole bread earner of his family and has waited for long year for release of salary although performed his duties regularly and now the Respondents are not paying neither the salary nor the pension of the Appellant which is unjust and cruelty on behalf of the XEN Karak and the other hierarchy.
- 10. That the Appellant filed departmental Appeal which was not responded (Annex-D), hence aggrieved wherefrom the non-action on the departmental Appeal and after expiry of the statutory period approaches this Hon'ble Tribunal, inter alia on the following grounds:-

GROUNDS:-

- A. That the non-action on the departmental Appeal of the Respondents is illegal and they are bound under the law to have decided the Appeal of the Appellant by paying his pension and salaries to the Appellant.
- B. That the Appellant was a low paid and uneducated employee and was performing his duty regularly but was unaware of the fact that the Respondents are receiving the salaries from the account office and are not paying the same to the Appellant, which action of the Respondents is

absolutely illegal and be declared so by this Hon'ble Tribunal.

- C. That the whole staff of Respondent no 4 office is involve in illegal receiving of the salaries of the Appellant and not paying the same to the Appellant therefore they are liable to be proceeded for the same by making them punishable under the law and by initiating recovery proceedings against them, consequently payment of the salaries and pension to the Appellant.
- D. That it has consistently held by the Hon'ble Apex Court of the Country that pension is not the bounty to be paid to the Civil Servant but it is fundamental rights guaranteed by the constitutional of Islamic Republic of Pakistan.
- E. That in the now advance stage of technological sciences there is no slavery and even slavery is forbidden by the Islam but the Respondents has treated the Appellant as a slave and taken work from his but has not paid the salaries and pension to the Appellant which action of the Respondents is absolutely illegal and this is fit case to be investigated by the NAB.
- F. That any other ground will be raised at the time of arguments with prior permission of this Hon'ble Tribunal.

It is, therefore, humbly prayed that on acceptance of this Appeal the Respondents may kindly be directed to release the salaries and pension of the Appellant throughout.

Any other relief deemed proper and fit in the circumstances of the case may also very graciously be granted to the appellant.

Appella
Through:

Dated: 09.02.2022

NASIR MAHMOOD

Advocate, Supreme Court

Of Pakistan

CERTIFICATE:-

Certified that as per instructions of my client no such Service Appeal on behalf of the petitioner has earlier been filed in this Hon'ble Tribunal on the subject matter.

ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No/2022
Muhammad Hayat Khan Appellan
VERSUS
Secretary Public Health Engineering & others
Respondent

AFFIDAVIT

I, Muhammad Hayat Khan, Ex-Operator cum Valve Man WSS Jarasi, Tehsil Takht Nasrati District Karak, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

DÉPONENT

OF THE EXECUTIVE DISTRICT OF

OFFICE OF THE EXECUTIVE DISTRICT OFFICER WORKS & SERVICES DEPARTMENT KARAK

No. E-3/EDO/**54**Dated Karak the **23** / 10/2007.

To.

Mr. Mohammad Hayat Khan 8/0:Niaz Bat Khan,

VillsJaragi P.O. Shinwa Gudi Khel TehsT.N.

DigttsKarak.

Subject:

APPOINTMENT AGAINST THE VACANT POST OF OPERATOR CUM VALVE MAN ON FIXED PAY BASIS @ RS.4000/- PER MONTH AT V.S.S. JARASI

As recommended by the Deputy District Officer Water Supply & Sanitation Karak. You are hereby appointed against the vacant post of Operator Cum Valve man on Fixed Pay basis i.e Rs.4000/- Per month at w.s.s. Jarasi

On the following terms & conditions: -

- 1. Your Service will be governed under the Government of NWFP Fixed pay policy.
- 2. Either party can terminate the contract on two (2) months notice.
- 3. You will not be liable to contribute to G.P fund and not be entitled for any pension & gratuity benefits.

If the above offer of the appointment of Fixed pay basis is acceptable to you on the above terms & conditions, you are advised to report the Deputy District Officer Water Supply & Sanitation Karak.

EXECUTIVE DISTRICT OFFICER WORKS & SERVICES DEPTT: KARAK

Copy is forwarded for information & necessary action to the:

1. District Coordination Officer Karak.

2. Deputy Distriofficer water Supply & Sanitation (PHE) Karak.

3. District Accounts Officer Karak.

Nn.

EXECUTIVE DISTRICT OFFICER WORKS & SERVICES DEPTT:
KARAK.

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(10)

OFFICE OF THE MEDICAL SUPERINTENDENT DHO HOSPITAL KARAK.

HEALTH & AGE CERTIFICATE

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BEFORE SECRETARY PUBLIC HEALTH ENGINEERING,

CIVIL SECRETARIAT, PESHAWAR

D.Nos

Annex

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pated=12-11-2021

DEPARTMENTAL APPEAL FOR RELEASE OF PENSION AND SALARIES OF THE APPELLANT.

Respectfully Sheweth:

- That the appellant was appointed as Operator cum Valve Man vide order dated 22.10.2007 against the vacant post in WSS Jarasi Teshil Takht Nasrati District Karak. (Copy of appointment order dated 22.10.2007 is attached as "A")
- 2. That the appellant submitted arrival report on 22.10.2007 which was duly endorsed by XEN Public Health Engineering Karak and thereafter, the appellant also submitted his medical certificate with the department. (Copies of arrival report and medical certificate are attached as annexure "B").
- 3. That from the date of appointment, the appellant was performing his duties to the entire satisfaction of his superior and there was not a single complaint against the appellant in his whole career.

- 4. That due to the unblemished record of the appellant, he was upgraded to BPS-3 on 01.12.2015. (Copy of the service book is attached herewith as annexure "C").
- 5. That from the service record of the appellant, It is cleared that appellant was regularly perfuming his service and it was also twice authenticated by the pay fixation party of the Accountant General office.
- 6. That afterwards on 30.11.2017, there is no entry in the service record of the appellant because the pay of the appellant was deposited in the bank and thereafter that was drawn by XEN Karak through cross-check, although it is clear from the service book of the appellant that it was duly verified by XEN Karak annually from the date of his appointment i.e. from 22.10.2007 to 30.11.2017 but het salary was never paid to the appellant.
- 7. That the appellant retired from service on 30.06.2021 and the appellant waited and approached XEN Karak for release of his salary and pension but uptil now, there is no response from them.
- 8. That in the light of the judgments of the Superior Courts of the country, salary and pension is the right of civil servant and it is not a bounty to be paid to the civil servant.
- 9. That the appellant is a sole bread earner of his family and has waited for long year for release of salary although performed his duties regularly and now the respondents are not paying

neither the salary nor the pension of the appellant which is unjust and cruelty on behalf of the XEN Karak and the other hierarchy.

It is, therefore, humbly prayed that on acceptance of this appeal, the salaries and pension of the appellant may kindly ordered to be released in his favour so that he may be able to pass his old age life with dignity.

Appellant

Muhammad Hayat Khan

Ex. Operator cum Valve Man WSS Jarasi, Tehsil Takht Nasrai

District Karak.

CNIC 14203-20582251-7

Cell # 0343-2344811

