

27.06.2022

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

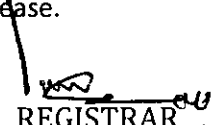

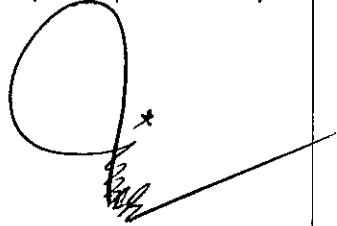

READER

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 198/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	17/02/2022	<p>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.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put there on <u>06-04-2022</u></p> <p style="text-align: right;"> CHAIRMAN</p>
2-	06.04.2022	<p>Clerk of learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl; AG for respondents present.</p> <p>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.</p> <p style="text-align: right;"> (MIAN MUHAMMAD) MEMBER(E)</p>

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.

Not removed

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

No. 361 /S.T,


Dt. 11/02 /2022


REGISTRAR

SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Nsir Mehmood Adv. Pesh.

Sir, The Dept. is not providing the retirement order to the appellant, therefore the appeal may kindly be placed before tribunal for order.


17/2/22

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Service Appeal No. 199/2022

Muhammad Hayat Khan..... Appellant

VERSUS

Secretary Public Health Engineering & others

..... Respondents

I N D E X

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	B	9-10
5.	Copy of the Service Book	C	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

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 4 OF
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 upto 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:-

GROUND S:-

- 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.


Appellant

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..... Appellant

VERSUS

Secretary Public Health Engineering & others

..... Respondents

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.


DEPONENT

② Annex-A

OFFICE OF THE EXECUTIVE DISTRICT OFFICER
WORKS & SERVICES DEPARTMENT KARAK

No. E-3/EDO/54

Dated Karak the 22/10/2007.

To.

Mr. Mohammad Hayat Khan S/O: Niaz Bat Khan,
Vill: Jaragi P.O. Shinwa Gudi Khel Teh: T.N.
Dist: Karak.

Subject:

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

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. Jaragi

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 District Officer Water Supply & Sanitation (PH&E) Karak.
3. District Accounts Officer Karak.

EXECUTIVE DISTRICT OFFICER
WORKS & SERVICES DEPTT:
KARAK.

(9)

The Asst. Dir. of Police

W.S. & J.T. or.

Ameru = B

Subject: Annual Report

Ref:

In Compliance of B.D.O

W.S. & J.T. or. D.P. No. 100/34 Dated 22/10/07

No. B. 3/200/34 Dated 22/10/07

I beg to submit my
annual report to you on 22/10/07

(P.N.) attached
herewith

S. D. A. S. G.
For n.a. file.
B.M.

Yours sincerely
M. H. Khan
M. H. Khan
B. Khan

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OFFICE OF THE MEDICAL SUPERINTENDENT DHQ HOSPITAL KARAK.

HEALTH & AGE CERTIFICATE

Name. MR- Mohammad Hujjat
 Father Name. MR- Niaz Hujjat Khan
 Nationality. Pakistan
 Cust. Afghanistan / Uzbekistan
 Residence. Village Jirazi Ho Shomani Luch Khed Tehsil Tord. District Herat
 Date of Birth. 1961 Height 5-8
 Personal mark of Identification. Scar Mark over the bar of right side neck.

HEAD OF OFFICE

I hereby certified that I have examined Mr/ ~~Ms~~ Mohammad Hujjat
 A candidate for employment in the office of the W & S Dept. Herat the cannot
 discover that He/ ~~She~~ has any communicable disease constitutional affection or badly
 infirmity except. Nil

I do not consider his/ ~~her~~ disqualification for employment in the W & S Dept. Herat
 Department.

His/ ~~her~~ age according to his own statement/ N.I.C Card is (46) years, and by
 physical appearance He/ ~~She~~ is about forty six Years of age.

LEFT/RIGHT HAND THUMB FINGER IMPRESSION

Thumb Fore Finger Middle Finger Ring Finger Little Finger



Mehmood

[Signature]
 MEDICAL SUPERINTENDENT
 DHQ. HOSPITAL KARAK

(11) Amir

1. Name (نام) Mohammad Hayat Khan

2. Nationality and Religion Islam
(قومیت اور مذہب)

3. Residence Villa Farsi P.O. Shinsa Capeli
(رہائش گاہ) Khel Tehsil - N. District, Wazir

4. Father's Name and Residence Ali Beg Khan
(والد کا نام اور پتہ)

5. Date of birth Christian era as nearly as can be ascertained 1961
(تاریخ پیدائش مطابق سن عیسوی)

6. Exact height by measurement 5' 7"
(قد و قامت)

7. Personal mark of identification Scar mark over the b.
(نشانی شناخت) of right side neck

8. 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)

Little Finger (چھنگلیا)

Ring Finger (چھنگلیا کے ساتھ کی انگلی)

Middle Finger (انگشت میاں)

Fore Finger (انگشت شہادت)

Thumb (انگڑھا)

9. Signature of Govt. Servant (سرکاری ملازم کے دستخط)

محمد صیات

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

(تصدیق کنندہ افسر کے دستخط اور مہر)

Assistant District Officer
Water Supply and Sanitation
Tehsil 7/1422211

Note: The entries in this page should be renewed or re-aggested 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.

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۔

9 Signature and designation of the Head of the office or other attesting officer in attestation of column 1 to 8 دستخط افسر مجاز	10 Date of termination or appointment تاریخ انقطاع ملازمت	11 Reason of termination (such as promotion, transfer, dismissal etc.) وجہات انقطاع ملازمت قرنی جدول بہترین	12 Signature of the head of the office or other Attesting Officer دستخط افسر مجاز	13 Nature and duration of leave taken رخصت کی نوبت دیں	13 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 پارہدہ کی رخصت کے لئے اوسط گزراؤ کا تین Period از Government to which debtable گرنے	14 Signature of the Head of the office or other attesting officer دستخط افسر مجاز	15 Reference to any recorded punishment of censure, or reward, or praised o the Government servants سزایا جزایا غیر مناسب کارکردگی کا ریکارڈ
30/11/2010 Annual Increment Granted							
30/11/2010 Annual Increment Granted							
30/11/2011 Annual Increment Granted							
30/11/2012 Annual Increment Granted							
30/11/2013 Annual Increment Granted							
30/11/2015 Annual Increment Granted 1-12-2015 30/11/2015							

Executive Engineer
Public Health Engineer

Executive Engineer
Public Health Engineer

1	2	3	4	5	6	7	8
Name of Post	Whether Substantive of officiating any whether permanent or temporary	It officiating state. (1) substantive appointment of (ii) whether service counts for pension under rule 3-20 C.S.R. (Pb) Volume II	Pay in substantive position	Additional pay for officiating	Other emoluments falling under the term pay	Date of appointment	Signature of government servant
		اگر عارضی ہے تو روٹل کے مطابق پینشن کا مستحق ہے؟	تعمروا بطور عارضی ملازمت	زائد تعمروا بطور قائم مقام	ماسوائے تعمروا دیگر الاؤنس	تاریخ تقرری	دستخط سرکاری ملازم
			Rs. Ps.	Rs. Ps.			
Bps-01			5700/-	700/-	6		
					2014		
6200-100-	Premature		1800/-	1000/-	7		
			5000/-				
Bps-01			6000/-			1-12-2014	
						FW	
Bps-01			Retention Bonus pay scale 1/2				
			7770/-				
6210-185-12060							
Bps-01			7965/-			1-12-2015	
						FW	
6210-195-12060			up Gradation in Two pay scales				
upgraded Bps-01/5							
Bps-03							
6535-280-14335			8355/-			1/12/2015	

Bps-01
Executive Engineer
Public Health Eng. Division
Karachi

Bps-01
Executive Engineer
Public Health Eng. Division
Karachi

Bps-01
Executive Engineer
Public Health Eng. Division
Karachi

Bps-01
Executive Engineer
Public Health Eng. Division
Karachi

Bps-01
Executive Engineer
Public Health Eng. Division
Karachi

Executive Engineer
Public Health Eng. Division
Karachi

(20) Annex-B

BEFORE SECRETARY PUBLIC HEALTH ENGINEERING,

CIVIL SECRETARIAT, PESHAWAR

D.No: 8092
Dated=12-11-2021

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

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 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 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 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 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 upto 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

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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

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8049	  
ایڈوکیٹ: <u>ڈاکٹر محمد الہود</u>	پشاور بار ایسوسی ایشن، خیبر پختونخواہ
بار کونسل ایسوسی ایشن نمبر: <u>BC=3296</u>	
رابطہ نمبر: <u>0333-9176275</u>	

بعدالت جناب: سید منیر ایسوسی ایشن

منجانب: <u>الہود</u>	دعویٰ:
	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:
	بامث تحریر آگے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ

آن مقام ڈاکٹر محمد الہود کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقریر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یا طرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کے پاس ہر قسم کے اختیار ہوں گے، تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخیت منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانبہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المقوم:

Accepted

محمد الہود

محمد الہود

نوٹ: اس وکالت نامہ کی فونو کالی تا قابل قبول ہوگی۔

محمد الہود