

The appeal of Mr. Inam Gul, District Mardan presented today i.e. on 02.09.2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.


- 1- Appeal has not been flagged/marked with annexures marks.
- 2- Check list is not attached with the appeal.
- 3- Memorandum of appeal may be got signed by the appellant.
- 4- Approved file cover is not used.

No. 1739 /S.T,

Dt. 02/09/2021


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. L. Nawab Ali Noor AHC.



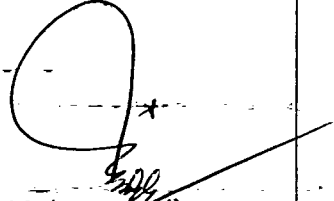
Respectfully Submitted,
Need full doco kindly put before
the Court.


Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 7400 /2021

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|--|
| 1 | 2 | 3 |
| 1- | 13/09/2021 | <p>The appeal of Mr. Inam Gul resubmitted today by Mr. L.Nawab Ali Noor 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> |
| 2- | | <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>05/11/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> |
| | 05.11.2021 | <p>Clerk of learned counsel for the appellant present.</p> <p>Former requests for adjournment on the ground that learned counsel is not available today. Adjourned. To come up for preliminary hearing on 13.01.2022 before S.B.</p> <p style="text-align: right;"> (Mian Muhammad) Member(E)</p> |

13.01.2022

Nemo for appellant.

Notice be issued to appellant/counsel for 10.03.2022
for preliminary hearing before S.B.



(Rozina Rehman)
Member (J)

10.03.2022

Due to retirement of the Worthy Chairman, the
Tribunal is defunct, therefore, case is adjourned to
~~13.06.2022~~ 13.06.2022 for the same as before.



Reader.

13th June, 2022

None for the appellant is present.

Counsel are on-strike.- To come up for preliminary
hearing on 29.06.2022 before S.B.



(Kalim Arshad Khan)
Chairman

29.06.2022

Learned counsel for the appellant present and
seeks adjournment on the ground that he has not
prepared the brief in order to properly assist the court.
Adjourned. To come up for preliminary hearing on
12.08.2022 before S.B.



(Fareeha Paul)
Member (E)

BEFORE THE SERVICE TRIBUNAL K.P.K PESHAWAR.

S. Appeal No. of 2021.

7400/21

1. Inam Gul S/O Hamish Gul Tehsil Katlang Distt Mard. 1.
.....Appellant.

VERSUS

1. Govt of K.P.K Through Secretary Elementary and Secondary
Education Civil Secretariat Peshawar and others.

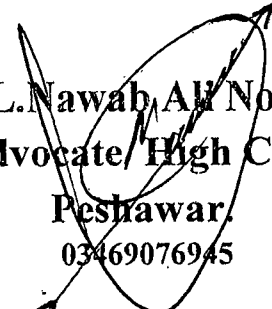
.....Respondents.

Index

| S.NO. | Description | Annexure | Pages |
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Appellant

Through


L. Nawab Ali Noor
Advocate/ High Court
Peshawar.
03469076945

BEFORE THE SERVICE TRIBUNAL K.P.K PESHAWAR.

S. Appeal No. of 2021.

1. Inam Gul S/O Hamish Gul Tehsil Katlang Distt Mardan.

.....Appellant.

VERSUS

1. Govt of K.P.K Through Secretary Elementary and Secondary Education Civil Secretariat Peshawar.

2. Director of Education K.P.K Directorate of Education Peshawar.

3. District Education Officer male Mardan.

.....Respondents.

Appeal under section -4 of the N.W.F.P service tribunal Act 1974 against the impugned act of respondent no. 3 whom not decided/ responded the appellant appeal in respect of untrained period to consider from 10.12.1987 to 1.4.1992 for promotion, within the stipulated time of ninety days .

Prayer:

On acceptance of this service appeal this honorable court may graciously be pleased to direct the respondents to consider the untrained period of service of appellant which is from 10.12.1987 to 1.4.1992 for promotion.

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RESPECTFULLY SUBMITTED,

1. That appellant was appointed as PTC BPS-7 as untrained teacher in education department vide Endst no. 214662-66/G/ptc/Apptt Dated 10.12.1987 now SPST BPS-15.
Copy of the appointment order as annexure A.
2. That appellant acquired the PTC course on 2.4.1992.
3. That appellant was awarded graded pay from 2.4.1992. Copy of the award graded pay of service book as annexure B.
4. That appellant was awarded BPS-9 from 2.4.1992.
5. That appellant was awarded three advance increments on acquiring B.A Decree from 2.4.1992.
6. That appellant was awarded BPS-12 on 1.10.2007.
7. That appellant was awarded increments for untrained period i.e from first appointment on 28.7.2009.
8. That appellant was awarded SPST on 12.2.2013.
9. That appellant was promoted to SPST on 12.2.13.
10. That appellant was promoted to PSHT on 11.11.14.
11. That untrained period of service is counted for the pension purpose also.
12. That appellant filed departmental appeal on 7.5.21 which was not respondent within the stipulated time of three months.
13. That respondent no.3 issued seniority list of teachers of Distt Mardan in which untrained period of service was not count for promotion purpose.

2

14. That due to the non considering the untrained period of service appellant placed at serial no. 159 of the seniority list.

15. That similar cases already been decided by this Honorable tribunal. Copies of relevant as annexure C.

16. That in this respect appellant properly submitted appeal on 7.5.21 of which statutory period of ninety days passed same without any response.

Copy of the departmental appeal as annexure D.

That having aggrieved from appellant approach this Honorable tribunal on following amongst others:

GROUND:

a. That not considering the untrained period of service of appellant for promotion is against the service rules, illegal, unlawful, unconstitutional act of the respondents hence need the same to be declare illegal unlawful, unconstitutional liable to be set aside.

b. That when same service is counted for pension purpose same time not counted for promotion is question mark before this Honorable tribunal.

c. That till act of the respondent clearly violation of law and service rules.

d. That treatment of respondents is clear violation of Art 4 and 25 of the constitution.

e. That respondents adopted pick and chose policy which is not justified under the law.

4
f. That action on the part of respondents amount to misuse of power and approach beyond from the jurisdiction under the law mentioned for.

j. That under the law being civil servant same is the negligence of the respondents with malafide intention.

On acceptance of this service appeal this honorable court may graciously be pleased to direct the respondents to consider the untrained period of service of appellant which is from 10.12.1987 to 1.4.1992 for promotion.

Appellant
Through
L. Nawab Ali Noor
Advocate High Court
Peshawar.

Certificate: certified that no such like S. Appeal is before this Honorable tribunal.

BEFORE THE SERVICE TRIBUNAL K.P.K PESHAWAR.

S. Appeal No. of 2021.

1. Inam Gul S/O Hamish Gul Tehsil Katlang Distt Mardan.
.....Appellant.

VERSUS

1. Govt of K.P.K Through Secretary Elementary and Secondary
Education Civil Secretariat Peshawar and others.
.....Respondents.

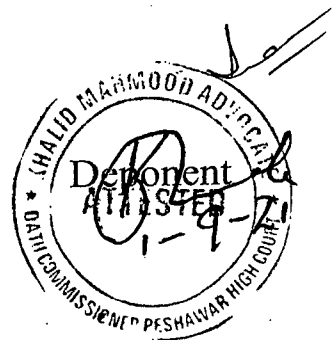
AFFIDAVIT.

I, Inam Gul S/O Hamish Gul Tehsil Katlang Distt Mardan ,do
solemnly affirm and declare on oath that the contents of the
accompanying S. Appeal are true and correct to the best of my
knowledge and belief and nothing been kept concealed from this
Honorable Tribunal.

Identified by

L.Nawab Ali Noor Advocate

03469076945



Phone No. 2006.

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) MARDAN.

APPOINTMENT: -

Appointment of the following Person, s is/are hereby ordered against the Post-of PTO U/T on temporary and adhoc basis @ Rs, 750/- P.M. Fixed plus usual allowances as admissible under the rules in the BPS No. (7) Rupees, ~~XXXXXXXXXX~~ on or his/their own pay and grade, which is beneficial to him/them at the school noted against each names:-

| S.No. | Name | Qualification & Address | Posted at | Remarks. |
|-------|----------------|--|-------------------------------|------------|
| 11- | Mr. Ihsanullah | S/O Pasham Gul, B.A. r/o Janga (Teh: Mardan). | GMPS, Testi Malak. | A.V. Post. |
| 2:- | Mr. Alif Khan | S/O Ieelan Khan, Y.A. r/o Babozai (Teh: Mardan). | GMPS, Sirbiland. (Mian Khan). | do |
| 3:- | Mr. Inan Gul | S/O Hamesh Gul, P.Sc. r/o Qasmi (Teh: Mardan). | GPS, Salim Shah-Banda. | do |
| 4:- | Mr. Aziz Gul | S/O Sahib Gul, D.Com: r/o Sangau (Mardan). | GPS, Ohappal Abad. | do |

CONDITION OF APPOINTMENT: -

1. His/Their Services is/are liable to termination/reversion at any time without any reason being assigned.
2. In case of resignation He/They will have to submit One month, s prior notice to the Deptt: of forefiet One month, s pay in lieu thereof to Government.
3. He/They should not be allowed to take over charge if his/their age is/are less than 18 years and above 25 years.
4. He/They is/are required to produce Health and Age certificate from Medical Supdt: D.H.Q. Hospital Mardan before taking over charge.
5. Charge reports should be submitted to all concerned.
6. If He/They fails to take over charge of the post within 14 days after the issue of these orders the order of appointment shall stand cancelled.
7. Certificates should be checked before handing over charge.

(GUL ZAMAN KHAN)

District Education Officer
(Male) Mardan.

Endst: No. 21462-66 / G/PTO/Appts/ Dated Mardan the 10-12-1987

Copy forwarded for information and n/action to the

- 1:- Sub-Divisional Education Officer (Male) Mardan.
- 2:- Head Master/H. Teacher concerned.
- 3:- Candidate concerned.

Qadin/+++
1781987.

10/11/87
DISTRICT EDUCATION OFFICER
(MALE) MARDAN.

MUKAMIL KHAN
SS English BPS-12
GHSS Qasmi Mardan

| Signature and designation of the head of the office or other attesting officer in attestation of columns 1 to 8 | Date of termination of appointment | 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 on average pay upto four months for which leave salary is debitable to another Government | Signature of the head of the office or other attesting officer | Reference to any awarded punishment or censure, or reward or praise of the Government Servant. |
|---|------------------------------------|--|--|------------------------------------|---|--|---|
| S.D.E.O. (M) Mardan | 31/5/91 | Seal Revised | | | Government Period to which debitable | | Reference to any awarded punishment or censure, or reward or praise of the Government Servant. (7) |
| S.D.E.O. (M) Mardan | 01/04/92 | OTE passed & placed under 9 class F.S. Div. | S.D.E.O. (Male) | | | S.D.E.O. (M) Mardan | Appointed on DTC (UT) post in the BPS No 7 (7SD - PPF) fixed plus other allowances admissible under the rules vide BEO (M) Mardan Ltrd No 21462-66 dated 10.12.1987 |
| S.D.E.O. (Male) Mardan | 30/11/92 | A. Inc | S.D.E.O. (M) Mardan | | | ① | 14/12/85 30/11/92 |
| S.D.E.O. (M) Mardan | 31/11/93 | A. Inc | S.D.E.O. (M) Mardan | | | ② | S.D.E.O. Mardan |
| S.D.E.O. (M) Mardan | 31/5/94 | BPS Revised | S.D.E.O. (M) Mardan | | | ② | 12/89 |
| S.D.E.O. (M) Mardan | 30/11/94 | A. Inc | S.D.E.O. (M) Mardan | | | | |
| S.D.E.O. (M) Mardan | 30/11/95 | Office of The Accountant General, N.W.F.P. Peshawar. Pay fixed in the revised basic pay scales 1984 of Rs. 1625-97-3600 (B-9) @ 2-1799/- O.M.W.F.F. 1-6-1984 with 10% increment on 1-12-1984 | Accounts Officer, Pay Fixation Party NWFP, Peshawar | | | | |
| (M) Mardan | 30/11/96 | Pay Fixation Party NWFP, Peshawar | Accounts Officer, Pay Fixation Party NWFP, Peshawar | | | S.D.E.O. (M) Mardan | MUKAMIL KHAN SS English BPS-17 GHSS Qasmi Mardan |

Appel No. 979/98

BEFORE THE NWFP SERVICE TRIBUNAL PESHAWAR.

Intiaz Ahmed S/O Gul Afzal PTC Turlandi R/O Vill: & P.O: Kalu Khan Teh. & Dist: Sawabi... Appellant.



VERSUS

- 1. Director of Education (Primary) NWFP Peshawar.
- 2. District Education officer (P) (M) Sawabi.
- 3. Govt: of NWFP Through Secretary Education NWFP

1842
Dated 10-8-98

Re-submitted and filed.

Appel No. 979/98
Registrar.
22/8/98

اسرید دودا ایچ پروٹوشن علیہ
مناظرین

..... Respondents.

خیر احمد خاں
0346-7790801

Prayer: - On acceptance of this appeal the Appellant may please be awarded graded pay from the date of taking over Charge/Appellant.

10- 10.6.1999

Mr. Amjad Ali, Advocate for appellant present. Mr. Shamsul Hakam, Deputy DEO (M) Sawabi is present for respondents. Mr. Mohammad-Faham Jan, Advocate (Govt. Pleader) also present. Arguments heard. Vide my detailed judgment of today in appeal No. 979/1998, "Mst. Musrat Begum-Vs-Director of Education (Primary) NWFP, Peshawar and 2 others", this appeal is accepted as prayed for. No order as to costs. File be consigned to the record.

ANNOUNCED
10.6.1999

[Signature]
CHAIRMAN

Asked to be
File Copy

| | |
|----------------------------------|-----------|
| Date of presentation of original | 10.6.1999 |
| Number of words | 3-52 |
| Copying fee | 2-00 |
| Urdu fee | 2-00 |
| Date of completion of copy | 23-8-98 |
| Date of delivery of copy | 23-8-98 |

EX. AMJAD ALI
NWFP SERVICE TRIBUNAL
PESHAWAR

P-2

BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR.

SERVICE APPEAL NO. 979/1998



Date of institution ... 13.8.1998

Date of decision ... 10.6.1999

Mst. Nusrat Begum D/O Aurangzeb,
PTC Teacher, GGPS Dagai, R/O Village & P.O
Dagai, Tehsil & District, Swabi. ... Appellant

Versus

- 1- Director of Education (Primary)
NWFP, Peshawar.
- 2- District Education Officer(F) Swabi.
- 3- Govt. of NWFP through Secretary
Education NWFP. ... Respondents

Mr. Amjad Ali,
Advocate. For appellant

Mr. Mohammad Faheem Jan,
Advocate (Govt. Pleader). For respondents

Mr. Mohammad Qaim Jan Khan, ... Chairman

JUDGMENT

MOHAMMAD QAIM JAN KHAN, CHAIRMAN:- This is a service appeal filed by Mst. Nusrat Begum appellant under section 4 of the NWFP Service Tribunals Act, 1974 for the award of graded pay from the date of taking over charge.

It is to be noted that there 18 other similar cases regarding the graded pay. As the points of facts & law are just the same, so my this single judgment shall dispose of the present appeal as well as needed

Attached to be copy of

99
RECEIVED
NWFP Service Tribunal
Peshawar

appeals, details of which are as under:-

- 1- Appeal No. 980/98, Mst. Jasmin Bibi-Vs-Director of Education (P)NWFP, Peshawar etc
- 2- Appeal No. 982/98, Abdul Manan-Versus- - do -
- 3- Appeal No. 984/98, Tufail Ahmad-Versus- - do -
- 4- Appeal No. 985/98, Gul Hayat -Versus- - do -
- 5- Appeal No. 986/98, Khair Mohammad-Vs- - do -
- 6- Appeal No. 987/98, Imtiaz Ahmed -Vs- - do -
- 7- Appeal No. 988/98, Zain Khan -Vs- - do -
- 8- Appeal No. 989/98, Amanullah -Vs- - do -
- 9- Appeal No. 990/98, Muntaz Khan -Vs- - do -
- 10- Appeal No. 991/98, Raziq Mohammad-Vs- - do -
- 11- Appeal No. 992/98, Razaullah -Vs- - do -
- 12- Appeal No. 993/98, Zarshad Mohammad-Vs- - do -
- 13- Appeal No. 994/98, Fazli Hadi -Vs- - do -
- 14- Appeal No. 995/98, Pervez Khan -Vs- - do -
- 15- Appeal No. 996/98, Meeri Khan -Vs- - do -
- 16- Appeal No. 997/98, Hazrat Ali -Vs- - do -
- 17- Appeal No. 998/98, Sheda Mohammad-Vs- - do -
- 18- Appeal No. 999/98, Nawar Khan -Vs- - do -

Facts of the case are that the appellant was appointed as PTC Teacher on 13.2.1990. Copy of appointment order is Annexure-A. That the appellant was not granted graded pay from 13.2.90 to 29.5.94, although she is performing her duties efficiently. Copy of Service Book is attached as Annexure-B. That the appellant is a qualified PTC teacher. That as per decision of Supreme Court of Pakistan vide SCMR 1976 page 297, SCMR 1986 page 990, SCMR 1996 page 1101 and SCMR 1996 page 1185, if an employee is made to work against a particular post, he shall be entitled to All monetary benefits attached to that post, but the appellant has been deprived of her right i.e. graded pay (advance increment & annual increment etc.). That the appellant has

relevant copy is

Added to be Free Copy
[Signature]
 10.6.99

[Circular Stamp]
 10.6.99

Annexure-C. The other teachers similarly placed have been granted graded pay. That the appellant has preferred a departmental appeal before respondent No. 1 but of no avail, hence the present appeal. Copy of the departmental appeal is

Annexure-D. That according to F.R 24 annual increment to be drawn as matter of course and cannot be withheld without punishment and period is to be specified also but no such action has ever been taken against the appellant which can be based for the stoppage of annual increment. In the prayer ✓ the appellant has asked for acceptance of the present appeal and for the award of graded pay, seniority and regularization of service from the date of taking over the charge.

Respondents have been served. They appeared through their respective representative/counsel, submitted reply rebutting all the allegations of the appellant. The appellant has also submitted her rejoinder after which detailed arguments of Mr. Amjad Ali, Advocate for appellant and Mr. Mohammad Faheem Jan, Advocate (Govt. Pleader) for respondents have been heard and record perused.

As far as the preliminary/legal objections are concerned, being a money matter limitation is not attracted. There is no evidence worth the name on the record regarding estoppel by conduct on the part of the appellant and the terms and conditions of her appointment is not a hurdle in the way of the appellant. The status of trained and untrained teacher will be discussed in factual issue.

✓ On factual side, although initially the appellant was un-trained and later on she improved and passed condensed PTC Course and has been granted graded pay from the date of acquiring the requisite qualification, even then she is entitled for the pay of the post and the un-trained nature of the appellant being an untrained teacher is not a hurdle

Attested
Paul
Cemy
to be

App C-12

P-15

in the award of the pay the post to appellant.
 this behalf this Tribunal as well as the Hon'ble Supreme
 Court of Pakistan has throughout the in so many
 remarkable authorities. For reference one will suffice
 and that is 1976 SCMR page 297 in which Hon'ble Supreme
 Court of Pakistan has upheld in a writ petition that "on
 no discoverable principle the untrained teachers could be
 refused grade pay to their disadvantage by an executive
 fiat." So the point has become crystal clear and even the un-
 trained teachers are entitled to the pay of the posts and
 attached benefits. With these observations, the appeal in
 hand as well as the connected appeals are hereby accepted
 as prayed for. No order as to costs. File be consigned to
 the record.

(R)

Pr.

ANNOUNCED
10.6.1999

Mohammad Qaim Jan Khan
 (MOHAMMAD QAIM JAN KHAN)
 CHAIRMAN

Date of presentation of application 19.6.99
 Number of Words 1100
 Copying fee 6.00
 Argues 6.00
 Total 12.00
 Name of copyist M. A. B. Butt
 Date of completion of copy 23.6.99
 Date of delivery of copy 23.6.99

~~Stamp~~
 EXAMINER
 PUNJAWAR

Should be
 three copies
[Signature]

DEO male Distt Mordan. No. D-13

Departmental Appeal to Consider The untrained
Period of Service from 10.12.1987 to 1.4.1992
for the promotion of Appellant.

Respectfully Submitted,

- 1- That appellant is PSHT Teacher Serving in The
education department of Mordan District.
- 2- That appellant was appointed as untrained Teacher
on 10.12.1987.
- 3- That appellant expired PVE Course 2.4.1992.
- 4- That appellant was awarded 3 advance increments
on B.A on 2.4.1992.
- 5- That appellant was awarded increments for untrained
period on 28.7.2009.
- 6- That appellant was promoted to PSHT on 11.11.2014.
- 7- That untrained period is Countable for Pension benefit.

It is Therefore humbly Prayed That appellant untrained
period 10.12.1987 to 1.4.1992 may kindly Consider
for promotion purpose.

Dated: 7.5.21.

Appellant.
Gram Gul s/o Hansraj
PSHT Teacher Mordan
A. 11.

بعدالت

Before The Service
Fazlur Raza Peshawar

مخانب Appellant
بنام لکھنؤ

Imam Gul

مورخہ..... 20-1-1

مقدمہ

دعویٰ

Court of M.P.V. through Secretary

(F.S.P.) vs. Secretary Peshawar & Other
باعث تحریر آئندہ

دعا نمبر 100/2007

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ
آن مقام سروس میزائل جنسٹریٹ جی کے لئے ایل بی ایف کے ذریعہ درخواست کی گئی ہے کہ
مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا مکمل اختیار ہوگا۔ نیز
وکیل صاحب کو اراضی نامہ و تقرر ثالث و فیصلہ و حلف دینے جواب دہی اور اقبال دعویٰ اور بصورت
ڈگری کرانے اجراء اور وصولی چیک روپیہ اور غرضی اور غرضی اور درخواست ہر قسم کی تصدیق زرا میں
پر دستخط کرنا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یا غرضی یا غرضی یا غرضی اور
دائر کرنے۔ اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ اور بصورت غرضی ہر مقدمہ مذکورہ
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے اختیار کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے۔ اور اس کا سائن
پر داختم منظور و قبول ہوگا۔ اور دوران مقدمہ میں جو خرچہ و ہر جانہ التوائے مقدمہ کے سبب سے
ہوگا۔ اس کے مستحق وکیل صاحب موصوف ہوں گے۔ نیز بقایا و خرچہ کی وصولی کرنے کا اختیار
حاصل ہوگا۔ اگر کوئی تاریخ پیشی مقام ہذا یا حد سے باہر ہو وکیل صاحب یا بند نہ ہو سکے۔ کہ پیروی
مقدمہ مذکور کریں۔ لہذا وکالت نامہ لکھ دیا تاکہ سند رہے۔

Attested
and
accepted

20

ماہ

المرقوم

دعا نمبر 100/2007

بنام سروس میزائل جنسٹریٹ جی کے لئے ایل بی ایف کے ذریعہ درخواست کی گئی ہے کہ