

26.09.2019

Counsel for the appellant present. Addl: AG alongwith Mr. Roheen Naz, ADO, Mr. Sajid, Supdt and Mr. Zakiullah, Senior Auditor for respondents present.

Learned counsel for the appellant submitted an application that the appeal in question may be disposed of in the light of decision of this Tribunal dated 07.08.2019 passed in service appeal no. 113/2019 and the same is placed on file. The grievance agitated through the instant appeal has already been redressed through notification dated 22.05.2019, whereby services of fixed pay employees were regularized w.e.f 01.07.2008.

As the grievances of the appellant have been redressed, therefore, the appeal in hand is disposed of. File be consigned to the record room.

Announced:
26.9.2019



(Ahmad Hassan)
Member

23.05.2019

Junior to counsel for the appellant present. Roheen Naz ADO present and submitted written reply/comments on behalf of respondents No.1 to 4. Zaki Ullah Senior Auditor representative of respondent No.5 absent. Respondents No. 5 & 6 as well as absent representative be put to notice for submission of written reply. Adjourn. To come up for written reply/comments on 03.07.2019 before S.B



Member

03.07.2019

Learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney alongwith Roheen Naz ADO for the respondents present. Written reply on behalf of the respondent No. 1 to 4 already submitted. Mr. Zaki Ullah Senior Auditor on behalf of respondent No. 5 & 6 present and seek time to furnish written reply/comments. Adjourned. To come up for written reply/comments on behalf of the respondents No. 5 & 6 on 29.08.2019 before S.B.



Member

29.08.2019

Counsel for the appellant present. Addl: AG alongwith Mr. Zakaullah, Senior Auditor and Mr. Sajid, Supdt for respondents present. Written reply on behalf of respondents 5 and 6 not submitted. Requested for adjournment. Last opportunity granted. To come up for written reply/comments on behalf of respondents no. 5 and 6 on 26.09.2019 before S.B.



(Ahmad Hassan)
Member

27.02.2019

Counsel for the appellant present.

Learned counsel for the appellant contended that under the law regarding regularization of service of contract employees the continuous officiation of appellant was required to be considered for the purpose of pension benefits. The respondents are neither extending the said benefit nor declining it in writing.

In view of the above instant appeal is admitted for regular hearing subject to all just exceptions. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 15.04.2019 before S.B.

Appellant Deposited
Security & Process Fee


Chairman

15.04.2019

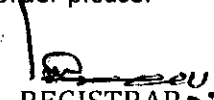
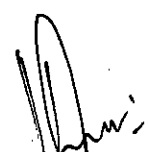

Learned counsel for the appellant present. Written reply not submitted. Rehmat Khan Superintendent representative of respondent No.1 and Zaki Ullah Senior Auditor representative of the respondent No.5 present and seek time to furnish written reply/comments. No one present on behalf of remaining respondents. Notice be issued to remaining respondents i.e. respondents No.2, 3, 4 and 6 with the direction to furnish written reply/comments. Adjourn. To come up for written reply/comments on 23.05.2019 before S.B


Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1560 /2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	27/12/2018	<p>The appeal of Mr. Jan Hussain presented today by Mr. Muhammad Asif 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 27/12/18</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>28-1-19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
28.01.2019		<p>Mr. Muhammad Saddique, junior counsel for the appellant presents ^{delivered the order} and requested for adjournment on the ground that learned senior counsel for the appellant is busy in the Hon'ble Peshawar High Court, Peshawar and cannot attend the Tribunal today. Adjourned to 27.02.2019 for preliminary hearing before S.B.</p> <p style="text-align: right;"> (MUHAMMAD AMIN KHAN KUNDI) MEMBER</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL

PESHAWAR

S.A.No. 1560 /2018

Jan Hussain..... Appellant

VERSUS


Government of Khyber Pakhtunkhwa,
through Secretary Finance Civil Secretariat, Peshawar & others
..... Respondents

I N D E X

S.No.	Description of documents.	Annexure	Pages.
1	Memo of appeal.		1-4
2	Affidavit.		5
3	Addresses of the parties.		6
4	Copy of appointment letter	A	7
5	Copy of service book	B	8-18
5	Copy of appeal	C	19
6.	Copy of detachment order	D	20
7	Copy of Charge report	E	21
8.	Wakalatnama		22


Appellant

Through


Muhammad Asif

Advocate Supreme Court
Off: 214 Syed Ahmad Ali Building
Near Taj Autos, Sunehri Masjid
Road, Peshawar Cantt.
Office No.091-5279292
Cell: 0302-8885187
0311-1934339

Dated: 22.12.2018

1-1
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9

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL.

PESHAWAR

S.A.No. 1560 /2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1814

Dated 27-12-2018

Jan Hussain s/o Sher Afzal Khan

R/o Sher Afzal Watozai, Khoeshgi Payan,

District Nowshera..... *Appellant*

VERSUS

- 1) Government of Khyber Pakhtunkhwa, through Secretary Finance Civil Secretariat, Peshawar.
- 2) Government of Khyber Pakhtunkhwa, through Secretary Education, Civil Secretariat, Peshawar.
- 3) Director Elementary and Secondary Education, near Govt. Higher Secondary School No.1 G.T. Road, Peshawar City.
- 4) District Education Officer (Male), District Nowshera.
- 5) Accountant General, Accountant General Office, Fort Road, Peshawar Cantt, Peshawar.
- 6) Senior District Account Officer, District Account Officer, Nowshera.

.....*Respondents*

Filed to-day

Registrar

27/12/18

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORAL ORDER OF RESPONDENTS OF REFUSAL TO ISSUE PENSION TO THE APPELLANT FROM THE DATE OF RETIREMENT i.e. 12.04.2014 WHILE APPEAL FILED ON 18.09.2018 HAS NOT SINCE BEEN REPLIED/ DECIDED AND THE STATUTORY PERIOD OF 3 MONTHS HAVE EXPIRED.

Prayer:

On acceptance of this appeal, the respondents may kindly be directed to issue pension and pensionary benefits to the appellant from the date of retirement i.e. 12.04.2014 by setting aside the oral refusal of the respondents regarding issuing pension to the appellant.

Respectfully Sheweth;

Appellant humbly submits as under:

- 1) That appellant was appointed as Class-IV Chowkidar/ Naib Qasid on 07.01.1993 in Govt. Primary School NO.2 Hamza Rashakai, Tehsil and District Nowshera and took charge against a vacant post of Chowkidar on fixed pay after producing medical fitness certificate. (Copy of appointment letter is Annexure "A").
- 2) That later on the services of the appellant was confirmed and the appellant was granted BPS-1 and in the year 2011 was granted BPS-2 and retired on 12.04.2014 in BPS-04. (Copy of service book is Annexure "B").
- 3) That after retirement appellant was confident that as appellant has served the department for more than 21 years therefore, appellant was confident that after due process pension would be granted to the appellant after due process.
- 4) That later on appellant inquired from the respondents regarding pension and pensionary benefits on which appellant was informed that hon'ble Peshawar High Court Peshawar has decided the writ petition regarding the pension and pensionary benefits therefore, after proper approval from competent authority the cases of pension would be decided/ processed.

- 5) That appellant was further informed that decision regarding pension would take some time because a lot of cases has to be considered individually and thus appellant should wait.
- 6) That finally when appellant did not get any response from, appellant again contacted the respondents. However, from the office of respondents, appellant came to know that pension and pensionary benefits have been granted only to those whom have challenged the same.
- 7) That appellant filed appeal to the respondents No.2 and 3 but 3 months have been passed and upto now the pension and pension benefits have not been granted to the appellant. Moreover appeal of the appellant has not been decided. (Copy of appeal is Annexure "C")
- 8) That aggrieved with, appellant has come before this Hon'ble Tribunal in this appeal on the following grounds amongst the others for pension and pensionary benefits.


GROUND:

- a. That the oral order refusal of respondents of not granting pension and pensionary benefits to the appellants is against law and facts hence untenable in the eyes of law.
- b. That by not deciding the appeal of appellant regarding pension and pensionary benefits to the appellant. Moreover not granting pension and pensionary benefits to the appellant, respondents are exercising powers not vested to them under the law.
- c. That respondents failed to appreciate the fact that appellant after joining the service and was retired on superannuation i.e. on 60 years of age and thus has served the department for more than 22 years and is entitled for pension and pensionary benefits.

- d. That respondents failed to appreciate the fact that a person who servers for 10 years is entitled for the pension and pensionary benefits.
- e. That under the law for granting pension and pensionary benefits the period of service i.e. regular and temporary are counted.
- f. That respondents under the law were bound to decide the case of each employee to whom pension and pensionary benefits were refused in the light of decision of Peshawar High Court, Peshawar.
- g. That respondents failed to appreciate the real point involved in the case of appelland and thus has acted illegally.
- h. That the oral decision of respondents of not granting pension and pensionary benefits to the appelland is perversant and against the settled principle of law and justice and as such is liable to be set aside.

It is, therefore, requested that on acceptance of this appeal, respondents may kindly be directed to release pension and pensionary benefits to the appelland from the date of retirement along with any other remedy which deems fit and necessary and not specifically asked for may also be awarded with costs.



Through 
Muhammad Asif
 Advocate,
 Supreme Court of Pakistan
 Off: 214 Syed Ahmad Ali Building
 near Taj Autos, Sunehri Masjid
 Road, Peshawar Cantt.
 Cell: 0302-8885187
 Off: 091-5279292

CERTIFICATE:

Certified as per information furnished by my client that no such like appeal has earlier been filed before this Hon'ble Tribunal.



5

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,

PESHAWAR

S.A.No. _____/2018

Jan Hussain..... *Appellant*

VERSUS

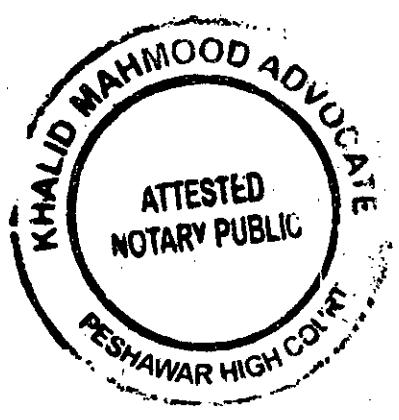
Government of Khyber Pakhtunkhwa,
through Secretary Finance Civil Secretariat, Peshawar & others
.....*Respondents*

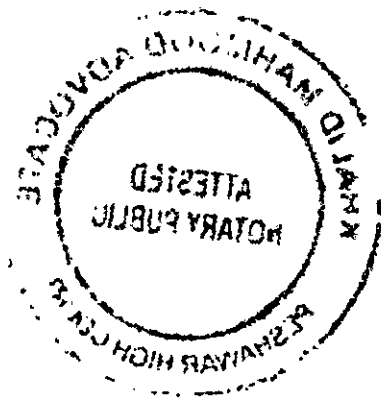
AFFIDAVIT

I, Jan Hussain s/o Sher Afzal Khan R/o Sher Afzal Watozai, Khoeshgi Payan, District Nowshera do hereby affirm and declare on oath that the contents of the accompanying **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this hon'ble court.



Deponent





BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR

S.A.No. _____/2018

Jan Hussain..... *Appellant*

VERSUS

Government of Khyber Pakhtunkhwa,
through Secretary Finance Civil Secretariat, Peshawar & others
.....*Respondents*

ADDRESSES OF THE PARTIES

APPELLANT:

Jan Hussain s/o Sher Afzal Khan
R/o Sher Afzal Watozai, Khoeshgi Payan,
District Nowshera

RESPONDENTS:

- 1) Government of Khyber Pakhtunkhwa, through Secretary Finance Civil Secretariat, Peshawar.
- 2) Government of Khyber Pakhtunkhwa, through Secretary Education, Civil Secretariat, Peshawar.
- 3) Director Elementary and Secondary Education, near Govt. Higher Secondary School No.1 G.T. Road, Peshawar City.
- 4) District Education Officer (Male), District Nowshera.
- 5) Accountant General, Accountant General Office, Fort Road, Peshawar Cantt, Peshawar.
- 6) Senior District Account Officer, District Account Officer, Nowshera.



Appellant

Through

Muhammad Asif
Muhammad Asif
Advocate Supreme Court

Annex A
7

OFFICE OF THE SUB DIVISIONAL EDUCATION OFFICER (M) NOWSHERA

OFFICE ORDER on Contract Basis 1200/PM Fixed

Mr. JAN Hussain

SHER AFZAL Khan

residing at Sher Afzal Khan H. Road, is hereby appointed as a class teacher on contract basis on 12/01/93

the date of taking over charge at P.S. Sher Afzal Khan against the vacant post under the provisions of rules 1200/PM Fixed

CONDITIONS

1. Charge reports should be sent to this office.
2. No TA/DA is allowed being first appointment.
3. No joining time is allowed what is absolutely necessary for the transit.
4. The appointment is purely temp; basis and subject to the termination at any time/notice. In case he wishes to leave the department he shall have to submit one month prior notice.
5. He should be produced his Health and age certificate from the concerned Civil Surgeon/ M.O. within 10 days after the issue of this order as required under rule (1.10) SR 4.
6. In case the candidate fails to take over charge within 10 days from the date of issue of this order, his appointment will stand cancelled automatically.
7. The candidate shall not be hired over charge if his age is not between 18 to 30 years.
8. The pay scale and service rules shall be subject to the revision in accordance with the orders to be passed by the Govt; from time to time.
9. He will produce all relevant documents, i.e. Office order, health certificate, Identity Card, domicile etc. at the time of taking over charge.
10. He will be dealt with under the S.D. rules if he violate Govt; Rules and regulations.
11. The contract will be stored between the attached official document.

(Mohammad Zaman Khan)
Sub Divnl; Education Officer (M)
Nowshera,

Dated: 4023-2610.IV. Dated: 4/1/1993

Y. HIT & P.S. Sher Afzal Khan

Hamza Roswala

Attested
Govt. Middle School
Nowshera

Attested

**OFFICE OF THE SUB DIVISIONAL EDUCATION OFFICER, (F)
NOWSHERA**

Office Order on contract bases

Mr. Jan Hussain S/o Sher Afzal Khan resident of village Sha Afzal kar. candidate is hereby appointed as class IV Chowkidar/ N/Qasid on Rs: 1200/-PM fixed under the rules with effect from the date of his taking over charge at Govt Girls Primary School Shah Afzal Korona of Chowkidar According the Agreement Bond under the following terms and conditions

Conditions:-

1. Charge reports should be submitted to all concerned.
2. NO TA/DA is allowed.
3. No joining time is allowed what is absolutely necessary for the transit.
4. The appointment is purely on temporary basis & subject to the termination at any time and without any notice.
5. The case he wishes to leave the Deptt: the should have submit on month prior notice.
6. He/ Should be produced his health & age certificate from the concerned civil Surgeon with in 7 days of reporting arrival a duty as required under the rules FR 10 Sr.4.
7. In case the candidate failed to take over charge within 10 days from the date of issue of this order his appointment will stand automatically cancelled.
8. The candidate should not be handover charge if his are is set between 18-45 years.
9. He will produced photo copies of the relevant documents in national Identity card Domicile etc to this office at the time of taking over charge.
10. He will be death with under the E & D rules 1973 if he violated Govt: Rules and regulation.

Muhammad Zaman Khan
Sub Divisional Education Officer
(M) Nowshera

Endst No: 4023-26/C.IV dated the 06.01.1993.

Copy of the above is forwarded to the:

1. District Education Officer (Female) Primary Nowshera
2. District Accounts Officer Nowshera
- 3.

Sub Divisional Education Officer
(M) Nowshera

A.S.
ATTESTED

Note: The entries on this page should be renewed or re-attested at least every five years and the Signature to lines 9 and 10 should be dated.

Annex B (8)

1. Name: JANI HUSSAIN

2. Race: AFGHAN

3. Residence: Moh: Sher Afzal Khan waterai vilq/d Khesqai Payan
TEH. & DIST: NOWSHERA

4. Father's name and residence: Sher Afzal Khan As Above

5. Date of birth by Christian era as nearly as can be ascertained: 13-04-1954 13TH APRIL N/4 FIFTY FOUR

6. Exact height by measurement: 5-8

Date

7. Personal marks for identification: A wound on right hand

8. Left hand thumb and Finger impression of (Non-Gazetted) officer:



Little Finger:



Ring Finger:



Middle Finger:



Fore Finger:



Thumb:



9. Signature of Government Servant: [Signature]

10. Signature and designation of the Head of the office, or other Attesting Officer: [Signature]
(Maic)
Nowshera

ATTESTED

06/10/08

1	2	3	4	5	6	7	8	9	10	11	12
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 Art. 371 C.S.R.	Pay in substantive post	Additional pay for officiating	Other emolument falling under the term "pay"	Date of Appointment	Signature of Government servant	Signature and designation of head of the office for attestation of columns 1 to 6	Use of information appointment	Use of information as promotion, transfer, dismissal etc.)	Signature of head of the office or other attesting officer
Chowkidar		BPS	Rs 1200/-	Rs	Final	12/01/1993					
GPS Hamza					Final	7/1/1993		D.D.O. (Male)			
Rashid No. 2 NSR			Rs 1200/-								
Do		Rs	1500/-			12/98					
Do		Rs	1800/-			6/1999					
Do		Rs	2000/-			7/2000					
Do		Rs	2500/-			7/2002					
Do		Rs	2800/-			7/2003					
Do		Rs	3100/-			12/2004					
Do		Rs	3500/-			12/2005					
Do		Rs	4000/-			12/2006					

D.D.O. (S/A) Nowshera

ATTESSED

Post	Whether substantive or officiating and whether permanent or temporary.	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R.	Pay in substantive post	Additional pay for officiating	Other amount falling under the term "pay"	Date of Appointment	Signature of Government servant
			BPs (D) B. 920-26-1310				
			By field on 7-1-93	B. 920/-			
			" 01-12-93	B. 946/-			
			BPs (D) B. 1245-35-1770				
			" on 1-6-94	B. 1280/-			
			01-12-94	B. 1315/-			
			01-12-95	B. 1350/-			
			01-12-96	B. 1385/-			
			01-12-97	B. 1420/-			
			01-12-98	B. 1455/-			
			01-12-99	B. 1490/-			
			01-12-2000	B. 1525/-			
			30-11-2001	B. 1560/-			
			BPs (D) B. 1870-55-3520				
			1.12.2001	B. 2385/-			
			01-12-02	B. 2420/-			
			01-12-03	B. 2475/-			
			01-12-04	B. 2520/-			
			BPs (D) B. 2150-65-7000. 1-7-05				
			01-12-05	B. 2995/-			
			01-12-06	B. 3060/-			
			BPs (D) B. 2420-75-6725. 1-7-07				
			01-12-07	B. 3640/-			
			BPs (D) B. 2870-90-5670. 1-7-08				
			01-12-08	B. 4320/-			
			01-12-08	B. 4410/-			

[Signature]
 SDO/WD/...

ATTESTED

13

2	3	4	5	6	7	8
Whether substantive or officiating and whether permanent or temporary.	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R.	Pay in substantive post	Additional pay for officiating	Other emolument falling under the term "pay"	Date of appointment	Signature of Head of the Government or other authority
Chowkidar KPS Hamza						
Rastakha No-2 (N/A)		4500/- P.M.			12/09	A
		4590/- P.M.			14/10	A
		144 780/- P.M.			17/2011	A
		144 762/- P.M.			12/2011	A

DDO USE

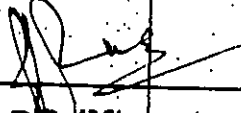
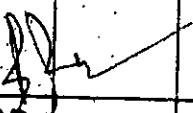
DDO USE

DDO USE

DDO USE

ATTESTED

15

1 Name of Post	2 Whether substantive or officiating and whether permanent or temporary.	3 If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R.	4 Pay in substantive post	5 Additional pay for officiating	6 Other emolument falling under the term "pay"	7 Date of Appointment	8 Signature of Government servant
Resident in the Right of 14/15-02 and one SP. Adm. 97/02 dated 1/9/2007							
		1-7-2007			3575-		
	BS-02	1-7-2007			3530-		
	one SP. Adm. mt	1-9-2007			3635-		
		17/07			3720-		
		7/08			3465 41935-		
		17/08			3558 44535-		
		10/09			3635 4635-		
		14/10			3720 4735-		
		7/2011			7790-		
		17/2011			7960-		
Additional Adm. 11/08/11							
							
		DDO (M) (E/SE) NSP			DDO (M) (E/SE) NSP		
		12/12			2130/-		
		12/13			2304/-		
4435/10							
7790/11							

Jitendra Singh
 Khoyar Patti, Gwalior, M.P.
 Pay Fixed in the Pay Band
 R.B.S.
 Pay Band 100-6936
 Pay Band 4435-10000
 Pay Band 4200-10000
 Date of Birth 17/90
 Date of Pension is on 04/12/2011
 Office of the
 Filiation Party

ATTEST

9	10	11	12	13		14	15
Name and Designation of head of the office or attesting officer in attestation of columns 1 to 4	Date of termination or appointment	Reason of termination (such as promotion, transfer, dismissal, etc.)	Signature of the head of the office or other attesting officer	Leave		Signature of the head of the office or other attesting officer.	Reference to any recorded punishment or censure, or reward or praise of the Government Servant
				Nature and dura- tion of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debtible to another Government		
				Period	Government to Which debitible		

[Signature]
D.D.O. (Male)
Primary Newsheera

Appointed as Chowkidar
vide SDEO (M) Pyy Newsheera
Endst No. 4033-26 dated 6-1-1993
and taken over charge on
7-1-1993 at GPS Hamia Rashaka
No 2 NSR or F.N.

[Signature]
D.D.O. (Male)
Primary Newsheera

[Signature]
D.D.O. (Male)
Primary Newsheera

[Signature]
D.D.O. (Male)
Primary Newsheera

[Signature]
D.D.O. (Male)
Primary Newsheera

[Signature]
D.D.O. (Male)
Primary Newsheera

[Signature]
D.D.O. (Male)
Primary Newsheera

[Signature]
D.D.O. (Male)
Primary Newsheera

[Signature]
D.D.O. (Male)
Primary Newsheera

[Signature]
D.D.O. (Male)
Primary Newsheera

[Signature]
ATTESTED

حضرت جناب ڈیڑی شریک انکوشن انڈیا Male نام نوشتہ
Annex C (19)

اپنی پڑے جاری نہیں و غیرہ

جناب کی حسب ذیل چیزوں کے بارے

کہا گیا ہے کہ جناب کی جنم تاریخ جو کہ 07-01-1993 اور جنم نام جو کہ

اور مورخہ 12-04-2014 اور 60 سال کی عمر میں جنم لیا
ہے یہ سب ثابت ہوا

جناب کی ساری 21 سال کی ملازمت کے بارے میں و غیرہ
کا قصداً سے بیان کیا گیا ہے کہ جناب کی جنم تاریخ
نہیں ہے کہ

اس کے علاوہ کہ جناب کی جنم تاریخ و غیرہ
ہے کہ جناب کی جنم تاریخ اور مورخہ

18-09-2018

انجینئر جناب ڈیڑی شریک انکوشن
کو بریلڈ برائے انکوشن انڈیا



ATTESTED



OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) NOWSHERA
(Phone & Fax # +92-923-9220228)

GRANT OF LEAVE

Amir D
20

The competent authority is pleased to grant of sanction to the retirement of the following official as mentioned against his name.

More over in pursuance of section 20 of civil servant revised leave rules 1981. Sanction is hereby accorded to the grant of Encashment (365) on full pay in lieu of LPR as admissible to his under the rules.

S#	Name/Design: & School	Date of 1 st Appointment	Date of Birth	D/O Retirement	Remarks
1-	Mr. Jan Hussain, Chowkidar GPS No. 2 Hamza Rashakai	07/01/1993	13/04/1954	12/04/2014	Age Superannuation

Note: 1. Necessary entry to this effect should be made to his service book accordingly.

(Mohammad Inam Toru)
District Education Officer,
(Male) Nowshera

Endst No 1381-84 /Retirement cases/Estab: dated Nowshera the 14 104 /2015
Copy of the above is forwarded for information & necessary action to the:-

1. District Accounts Officer, Nowshera
2. Sub Divisional Education Officer, (M) Nowshera
3. Head Master concerned
4. Official concerned

AS
District Education Officer,
(Male) Nowshera

Amir
ATTESTED

Annex E (21)

حاجی صاحب

احسان حسین و دیگر

اسی تقریباً سید SDE سے آمد اور
وہاں سے گرفتار کیا گیا اور اس کی
تفصیلات -

اس کی تاریخ 07/01/1993
از نویم ایف ایف ایف ایف ایف ایف ایف

حاجی صاحب

Head Master
Govt. Middle Sch
Rasoolpur
07-01-1993

Head Master
Govt. Middle Sch
Rasoolpur

Case No. 4023-2610-IV
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(Mohammad Zaman Khan)
Sup. Divnl; Education Officer (M)
Rawshera

Distt; No. 4023-2610-IV. Dated 07/01/1993.

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to be done.

HIT & PS Sherazal Karson
Daza Rasoolpur

Signature
(NAME) NO. 1/2

Signature
1/2/93

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بعدالت سروس ٹریبونل ۱۹۶۱ء



2 جناب ...

بجاء

صالحین

موزخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی اور جواب دہی وکل کارروائی متعلقہ
 آن مقام کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
 وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دینے جواب دہی اور اقبال دعویٰ اور
 بصورت ڈگری کرنے اجراء اور صولی چیک درو پیہار عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
 زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برادگی اور منسوخ
 نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
 کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
 ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
 پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانبہ التوائے مقدمہ کے سبب سے ہوگا۔
 کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
 مذکور کریں۔ لہذا وکالت نامہ لکھدیا کہ سندر ہے۔

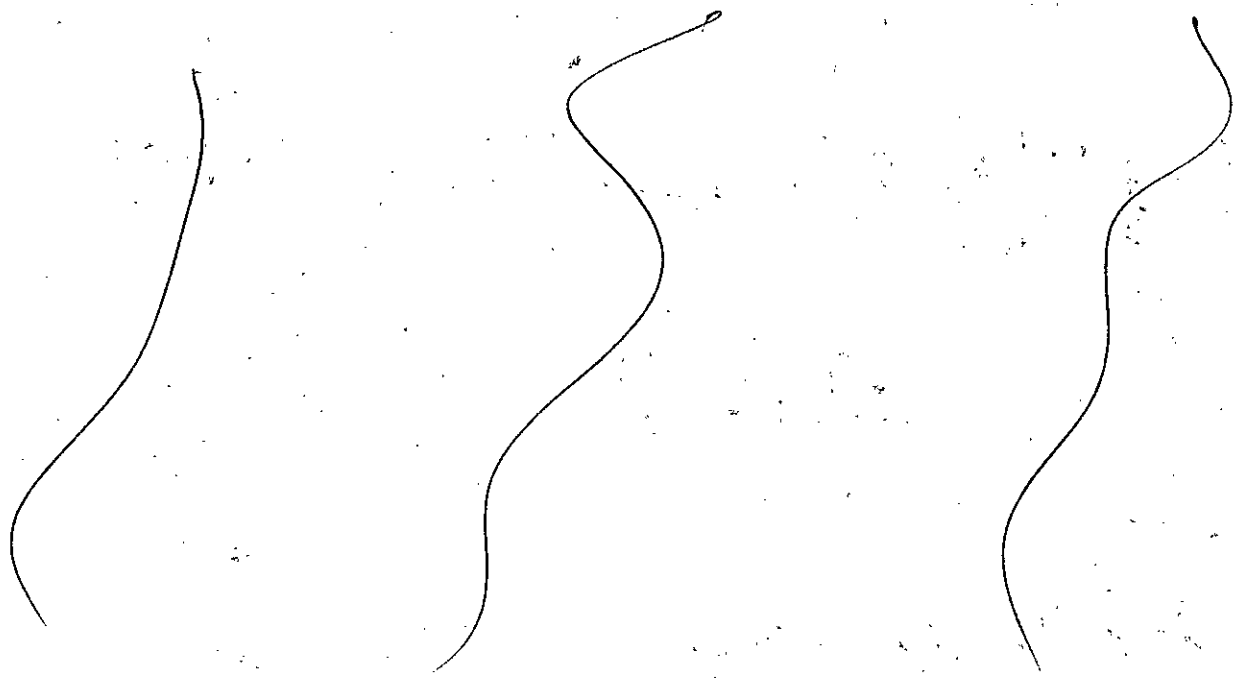
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العبد _____ واہ العبد _____

کے لئے منظور ہے۔

بمقام





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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1560/2018

Jan Hussain Appellant

Versus

Government of Khyber Pakhtunkhwa Through secretary finance

Civil secretariat Peshawar and others..... Respondent

Index

S.NO	Description of Documents	Annexure	Pages
1	Para wise comments		1-4
2	Affidavit		5
3			
4			

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1560/2018

Jan Hussain..... Appellant

Versus

Government of Khyber Pakhtunkhwa

Through secretary finance

Civil secretariat Peshawar and others..... Respondent

REPLY ON BEHALF OF RESPONDENT NO. 4

Preliminary Objection

1. That the appellant has no cause of action to file the instant appeal.
2. That the appeal is not maintainable.
3. That the necessary parties have not been arrayed as a parties therefore the appeal is liable to be dismissed on the ground of mis-joinder and non-joinder.
4. That the applicant has not came to the court with clean hand.
5. That the appeal is time barred.
6. That the length of the service of the applicant does not qualify him for the pension and pensionary benefits.
7. That the appellant has filed the present appeal without being available the Department remedy such that departmental appeal before the departmental appellate authority.

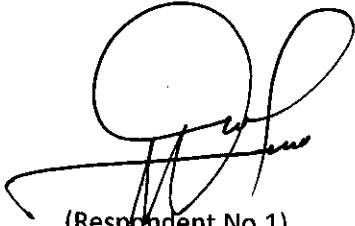
Reply to facts

1. Para No. 1 pertain to record hence no comments.
2. Para No. 2 pertain to record hence no comments.
3. Para No. 3 is incorrect hence denied. The appellant was initially on fixed pay/contractual employee. The service rendered by him during the course of his fixed pay/contractual employment cannot be counted toward his pension. The appellant does not possess the length of service for qualify pension.
4. Para No.4 is incorrect hence denied in toto. As replied above.
5. Para No. 5 is incorrect. As replied above.
6. Para No. 6 is incorrect, hence denied. As replied above.
7. Para No. 7 is incorrect, hence denied. As replied above.
8. Para No. 8 is incorrect, hence denied. The appellant has not filed any departmental appeal before the departmental appellate competent authority therefore the appeal is no maintainable on this score alone.
9. Para No. 9 is incorrect, hence denied. The appellant has not availed any departmental remedy and therefore cannot invoke the jurisdiction of this Hon'ble Tribunal.

Reply to grounds

- a. That the ground A is, incorrect hence denied. Since the appellant has not filed any departmental appeal therefore the question of verbal order does not arise.
- b. That ground B, is incorrect hence denied. The appellant has not filed any departmental appeal.
- c. That ground C, is incorrect hence denied, the detailed answer has already been submitted.
- d. That ground D, incorrect hence denied. Appellant does not possess the required length of service for pension.
- e. That ground E, incorrect hence denied. The contractual service cannot be counted towards pension and pensionary benefits.
- f. That ground F, is legal but cases of the appellant is different.
- g. That ground G, is incorrect hence denied. Detailed reply has been given above.
- h. That the ground H, incorrect hence denied. No order has been passed by the respondent. Moreover the appellant has not availed any Departmental remedy as provided by law and mandatory under relevant statutes. i.e. the appeal rule (1986).

In the view of the explained facts and ground, the appeal of the appellant is devoid of merit and also not maintainable therefore may please be dismissed.




(Respondent No.1)

Secretary to Govt:
Of Khyber Pakhtunkhwa
Finance Department
SECRETARY
Govt: of Khyber Pakhtunkhwa
Finance Deptt:



Respondent No
Secretary Education *ESSED*.

Respondent No. 3



Director (E&SE)
Government of Khyber
Pakhtunkhwa



Respondent No. 4
DEO (F) NSR.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service appeal No. 1560/2018

Jan Hussain.....Appellant

Versus

Govt of KPK & others.....Respondents

Affidavit

I Mst. Roheen Assistant District Education (Legal) office of the District Education officer (Female) Nowshera, do hereby affirm and declare on oath that the contents of accompanying comments are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable court.