29.08.2019

Counsel for the appellant present. Addl: AG alongwith Mr. Roheen Naz, ADO, 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

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 n 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

hmad Hassan) Member 15.04.2019

Clerk to counsel for the appellant present. Written reply not submitted. Miss Roheen Naz ADO Legal representative of the respondent department present and seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on 23.05.2019 before S.B

Member

23.05.2019

Junior to counsel for the appellant preint. Written reply not submitted. Sajjad Superintendent (for respondent No.1)Roheen Naz ADO (for respondent No.4) present and seek time to furnish written reply/comments. Hayat AD (for respondent No.3) and Zaki Ullah representative of respondent No.5 absent. Respondents No.2, 3, 5 & 6 as well as absent representatives 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

Jan learned Deputy District Attorney alongwith Roheen Naz ADO for the respondents No. 1 to 4 and. 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 29.08.2019 before S.B.

Member 1

25.1.2019

Mr. Muhammad Asif Advocate for appellant present.

Pre-admission notice be issued to the respondents to resolve the controversy in terms that whether the appellant would be entitled for consideration of his service from the date of appointment and not from the date of regularization for the pension benefits.

To come up on 27.02.2019 before S.B.

Chairman'

27.02.2019

Counsel for the appellant present. Nemo for the respondents.

Pre-admission notice was required to be issued to the respondents on 25.01.2019. The same has been sent on 30.1.2019, however, no one is in attendance to represent the respondents. Instant appeal is, therefore, admitted for regular hearing subject to all just exceptions.

Appellant Deposited
Security & Process Fee

process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments in 15,04.2019 before S.B.

Chairman

Form- A FORM OF ORDER SHEET

Court of		
Case No	 1523 /2018	

	Case No	() 2-5 /2018
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	24/12/2018	The appeal of Mr. Saif-ur-Rehman 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. REGISTRAR
2-	27/12/2018.	This case is entrusted to S. Bench for preliminary hearing to be put up there on 25/01/2019
		Mi.
		CHAIRMAN
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BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL. PESHAWAR

S.A.No. 1523 /2018			:
Saif-ur-Rehman	•••••	Appello	ant
	VERSUS	1	
Government of Khyber Pakhtu through Secretary Finance Civ		Peshawar & others	
		Respond	lents

INDEX

S.No.	Description of documents.	Annexure	Pages.
1	Memo of appeal.		1-4
2	Affidavit.	,	-
3	Addresses of the parties.	•	4
4	Copy of appointment letter	A	7
5	Copy of service book	В	8-17
5	Copy of appeal	С	18
6.	Copy of reference order	D	19
7	Copy of Charge report	E	20
8.	Wakalatnama		21

Through

Muhammad Asif

Advocate Supreme Court

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

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BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL. PESHAWAR

Khyber Pakhtukhwa Service Tribunal

Diary No. 1792

Dated 24-12-2018

S.A.No. 1523 /2018

Saif-ur-Rehman son of Gul Rehman R/o Garhi Momin, P.O. Akbarpura,

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

Registrar

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** DATE THE RETIREMENT 30.06.2016 i.e. WHILE APPEAL FILED ON 11.09.2016 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. 30.06.2016 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 12.10.1994 in Govt. Girls Primary School Garhi Momin, 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 30.06.2016 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 22 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 uptil 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 came before this Hon'ble Tribunal in this appeal on the following grounds amongst the others for pension and pensionary benefits.

GROUNDS:

- 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 appellant and thus has acted illegally.
- h. That the oral decision of respondents of not granting pension and pensionary benefits to the appellant 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 appellant 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.

Appellant

Off:

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Muhammad Asif

Advocate,

Supreme Court of Pakistan 214 Syed Ahmad Ali Building

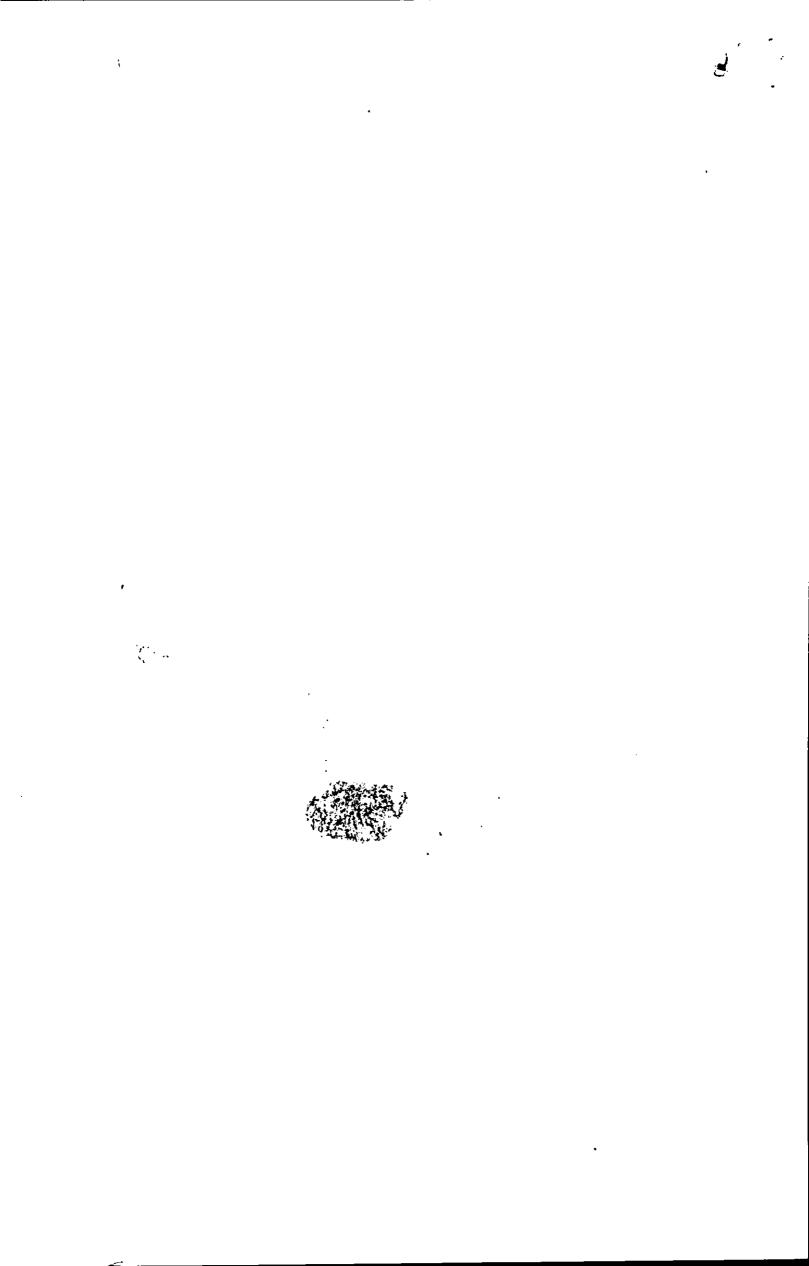
near Taj Autos, Sunehri Masjid

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.

Mol DARIS



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<u>BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,</u> <u>PESHAWAR</u>

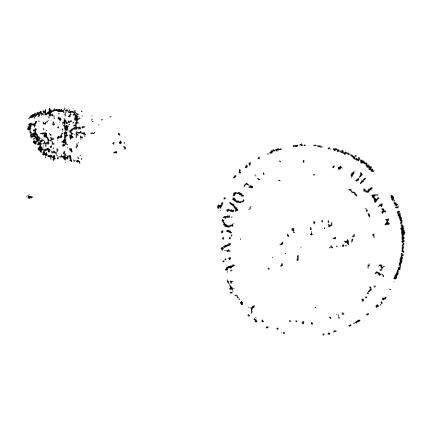
S.A.No	/2018	•
Saif-ur-Rehman	*	Appellant
	<u>VERSUS</u>	
	yber Pakhtunkhwa,	
through Secretary I	Finance Civil Secretariat, Pesha	war & othersRespondents

AFFIDAVIT

I, Saif-ur-Rehman son of Gul Rehman R/o Garhi Momin, P.O. Akbarpura, Tehsil and 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	
Saif-ur-Rehma	n	Appellant
	VER	
	Khyber Pakhtunkhwa,	Duta o O at a
through Secret	ary Finance Civil Secret	ariat, Peshawar & othersRespondents
	ADDRESSES OF	THE PARTIES

APPELLANT:

Saif-ur-Rehman son of Gul Rehman

R/o Garhi Momin, P.O. Akbarpura,

Tehsil and 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

Advocate Supreme Court

SER ERE

OFFICE OF THE SUB-DIVISIONAL EDUCATION OFFICER (FEMALE) NOWSHERA

APPDINMENT OF CHOWKIDAR ON CONTRACT BASE.

\$5\$\$\$\$\$\$ Mr, Sackur Rehman S/O Cul Rehman. is hereby appointed as a Chawheder on 1200/- P.M Fixed at Govt; Girls Pry; School Chari Momen on Contact bases in the intrest of public service against charled post with effect from sanction of Pests.

Note. The appointment of the above named condidate is hereby made purely temporary basis and libale to termination at any time without assigning any reason or any notice.

In case of resignation he/She will both have to submit One Month perior notice to the Deptt or forefiet One month pay in lieu there

of the Govt;
3- He/She is require to produce health and && age certificate from the Civil surgen Booncerned.
4. He/she should not take over charge if his /her age is less than 18 years or above 45 years.

5. Charge reports should be submitted to all concerned.

6. Pay of the class IV will be drawn after sanction of the Budget . and post.

> (NASIM SULTAN) Sub Divisional Education Officer(F) Nowshera.

/Dated NSR the // //0/94 Copy for information and Notessary action to the:-

1. Distt: Accounts Occioor, Nowshama. 2. Diett. Education officer (F) Primary, Nowshera.

3. A.S.D. EO. concerned.

4. Headmistress concerned.

5. Accountant local office.

Candidate concerned.

SUB DIVISIONAL EDUCATION OFFICER (F) NOWSHERA.

Sub Divisional Education Officer (F) Nowshera

MITESTED

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Mr. Soul in Rehmen

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Designation ___ Chowhol

Price : Rs. 50/-

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STATIONERY & PRINTING DEPARTMENT, GOVERNMENT OF N.W.E.P., PESHAWAR.

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Jesimit Ling (Ling) mlet bot) agas.) 1 In Leso

ATTESTED



OFFICE OF THE DISCRICT EDUCATION OFFICER (FEMALE) NOWSHERA

Anne + D(1°

OFFICE ORDER

respection authority is pleased to grant of sanction to the retirement of the following efficial as mentioned against his name.

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

.S#	Name of Official	Date of Birth	Date of 1st Appointment	Date Retirement	LPR for Leave Encashment.	Remarks.
1.	Mr.Saif ur Rehman Ex-Chowkidar GGPS, Garhi Momin (NSR) P.No.380840	01-07-1956	12-10-1994 (Fixed) Regularized in BPS-01 w.e.from 01-07-2008	30-06-2016 (A.N)	365-days	On Superannuation (60 years)

1. Necessary entry to this effect should be made in his Service Book accordingly.

(ATTIA SULTANA)`
DISTRICT EDUCATION OFFICER
(FEMALE) NOWSHERA

Endst No. 4458 -63 Class-IV Retirement

Dated Nowshera the 1/0 /2016.

Copy forwarded for information & necessary action to the:-

- 1. Senior District Accounts Officer, Nowshera.
- Sub Divisional Education Officer (Female) Nowshera w/r to his letter No.482-84, dated 10/08/2016.
- 3. Superintendent Establishment (Local Office).
- 4. ADEO (F) Primary: Estt: (Local Office).
- 5. ADEO (F) Cirlce Pabbi.

(6.) Official Concerned.

DISTRICT EDUCATION OFFICER (FEMALE) NOWSHERA

ATILITED



(FEMALE) NOWSHIPA

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More over a pursuance of section 20 of civil servant recessful eave rules and severthereby accorded to the grain of bheasthment on full pay in flee or table as adults libble to him under the

Remarks.	LPR br Leave	Bate . Retirement	Date of 1 ⁿ Appointment	Date of Blith	Se I Nam. of Onicia.
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	(ATTEX SUBERSEZ)
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	(FEMALE) NOWSHLKA

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- 5 bb Divisional Education Orficer (Female) Newshera wis to my letter No 482-84, dated 10/08/2016.
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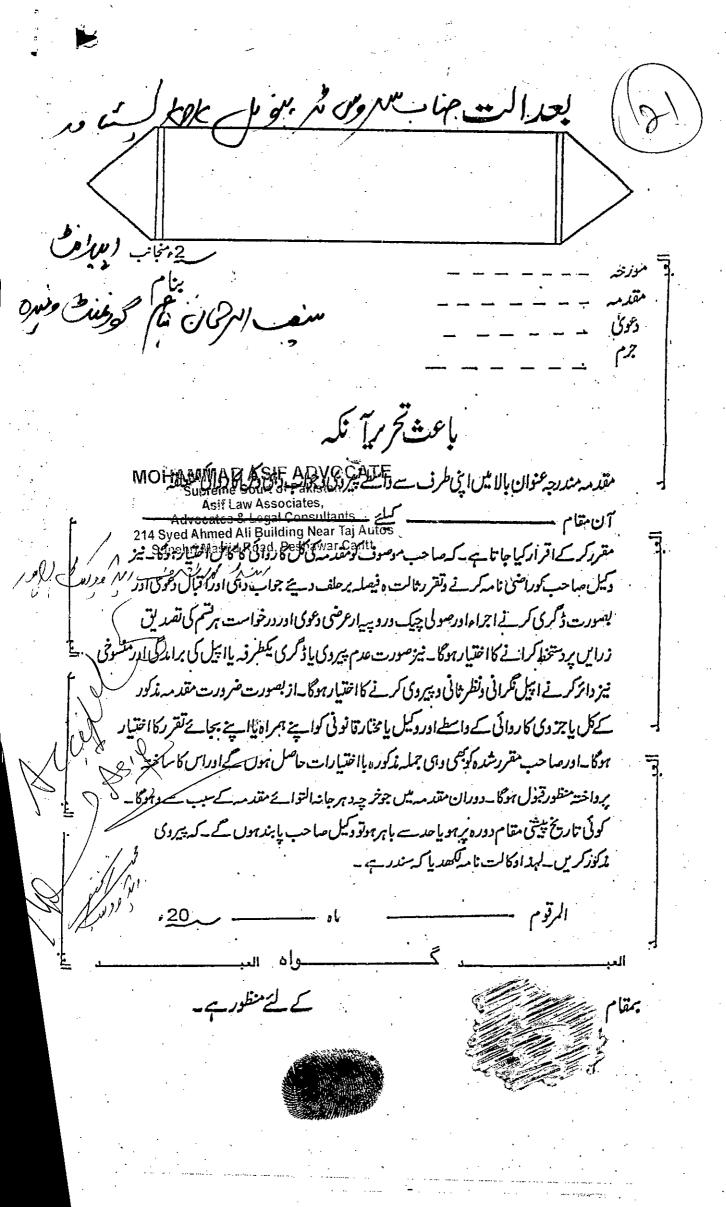
DISTRICT EDUCATION OFFICER

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ATTESTED.



MOHAMMAD ASIF ADVCCATE
Supreme Court of Pakistan
Asif Law Associates,
Advocates & Legal Consultants
214 Syed Ahmed Ali Building Near Taj Autos
Sunehri Masjid Road, Peshawar Cantt.