


26.09.2019

Counsel for the appellant and Additional Advocate General alongwith Mr. Zakiullah, Senior Auditor and Mr. Ghausullah, Senior Auditor for respondents present. Counsel for the appellant requested for withdrawal of the instant appeal. In this respect his signature also obtained In the margin of the order sheet. Request accepted and the appeal in hand is therefore, dismissed as withdrawn. File be consigned to the record room.

Announced:
26.09.2019


(Ahmad Hassan)
Member

22.05.2019

Learned counsel for the appellant present. Written reply not submitted. Arshid Ali ADO representative of respondent department absent. Respondents as well as absent representative be put to notice for submission of written reply/comments. Adjourn. To come up for written reply/comments on 03.07.2019 before S.B.


Member

03.07.2019

Learned counsel for the appellant present. Mr. Muhammad Jan learned Deputy District Attorney along with Mr. Arshad ADO for the respondents No. 1 to 5 present and submitted written reply/comments. Mr. Zaki Ullah Senior Auditor on behalf of the respondent No. 6 present and seeks time to furnish written reply/comments. Last opportunity is granted. Adjourned. To come up written reply/comments on 29.08.2019 before S.B.


Member

29.08.2019

Counsel for the appellant present. Addl: AG for respondents present. Written reply on behalf of respondent no. 6 not submitted. Requested for adjournment. Last opportunity granted. To come up for written reply/comments of respondent no. 6 on 26.09.2019 before S.B.


(Ahmad Hassan)
Member

26/9/2019
Checked by Mr. Ahmad Hassan
Advocate

28.01.2019

Counsel for the appellant present and requested for time to deposit security and process fee. Request is accepted. Learned counsel for the appellant is directed to deposit the same within three days. Thereafter, notice be issued to the respondents for written reply/comments for 11.03.2019 before S.B.

Appellant Deposited
Security & Process Fee



(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

~~11.03.2019~~

~~Learned counsel for the appellant present. Written reply not submitted. No one present on behalf of respondent department. Notice be issued to the respondent department with direction to furnish written reply/comments. Adjourn. To come up for written reply/comments on 15.04.2019 before S.B.~~

11.03.2019

Learned counsel for the appellant present. Written reply on behalf of respondents still awaited. Mr. Hayat Assistant Director representative of respondents absent. Member be summoned with direction to furnish written reply/comments. Adjourn. To come up for written reply/comments on 15.04.2019 before S.B


Member

15.04.2019

Learned counsel for the appellant present. Written reply not submitted. Arshid Ali ADO representative of the absent. He be summoned with the direction to furnish written reply/comments. Adjourn. To come up for written reply/comments 22.05.2019 before S.B.


Member

04.12.2018

Counsel for the appellant present.

Contends that the appellant was denied pensionary benefits by the respondents on account of contents in the regularization instrument dated 30.07.2008 wherein it was, inter-alia, noted that the persons regularized were entitled for C.P.Fund instead of pension/gratuity and G.P.Fund. However, ~~that~~ similarly placed civil servants were allowed relief by the Hon'ble Peshawar High Court in Writ Petition No. 1188-P/2014.

The copy of judgment passed in the said Writ Petition was produced through which the Honourable High Court has adjudicated upon the question of counting of service of employees, rendered against fixed pay, for the purpose of pension benefits after they were regularized during the course of employment. Reference therein was made, inter-alia, to West Pakistan Civil Services Pensions Rules, 1963.

On the other hand, the regularization instrument dated 30.07.2008 speaks that the persons regularized thereunder were entitled for C.P.Fund instead of pension/gratuity and G.P.Fund unless otherwise provided in the relevant rules/regulation. Regarding the delay in filing departmental appeal, it was contended that receipt of pension was a recurring right of the appellant, therefore, the lapse of time may be ignored.

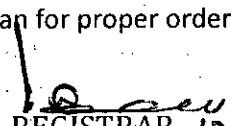

In the facts and circumstances of the case the instant appeal merits admission for regular hearing. Admit. The appellant is directed to deposit security and process fee within 10 days. Notices be issued to the respondents for 28.01.2019 for reply/comments before S.B.


Chairmah

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1387/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	12/11/2018	<p>The appeal of Mr. Akhtar Gul presented today by Mr. Jehanzeb Shinwari 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 12/11/18</p>
2-	17-11-2018	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>4-12-18</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE SERVICE TRIBUNAL, KPK, PESHAWAR

Service Appeal No. 1387 of 2018

Akhtar Gul Appellant

VERSUS

Gov: and others..... Respondents

INDEX

S.No	Description of Documents	Annex	Pages
1.	Grounds of service appeal		1-5
2.	Addressees of Parties		6
3.	Copy of office order	A	7
4.	copy of Circular	B	8
5.	Copy of Service Book	C	9-21
6.	Copy of retirement letter	D	22
7.	Copy of department appeal	E	23-25
8.	Wakalat Nama		26

Through

Appellant

Muhammad Anwar


Jahanzeb Shinwari

Date: 21 // 2018

Amir Nawaz Shinwari
Advocates Peshawar,
Cell: 0333-8866902

1

BEFORE THE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. 1387/2018

Khyber Pakhtukhwa
Service Tribunal

Diary No. 1626

Dated 12-11-2018

Akhtar Gul S/O Zarawar Khan
Chowkidar at GPS, Qadeem Kalay, Peshawar.....Appellant
V E R S U S

1. Government of Khyber Pakhtunkhwa, through Chief Secretary, Peshawar
2. Secretary to Education Government of KP, Civil Secretariat Peshawar.
3. Director, Elementary & Secondary Education, KPK Peshawar
4. Sub Division Education Officer (Male), Peshawar, GT Road, Peshawar
5. District Education Officer (Male) Primary, Peshawar, GT Road, Peshawar
6. District Accounts Officer, Peshawar**Respondents**

Filed to-day
12/11/18
Registrar

APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL
ACT, 1974 AGAINST THE NON-ISSUANCE
OF PENSION / NON PAYMENT OF
PENSIONARY BENEFITS AND GRATUITY
/ COMMUTATION TO THE APPELLANT,
BEING CIVIL SERVANTS, RETIRED ON
THE AGE OF SUPERANNUATION ON

2

30/06/2013 VIDE OFFICE ORDER UNDER
ENDST NO. 16977-80/Rtd. File No.
95/C-IV-Akhtar Gul DATED
11/05/2016 AGAINST WHICH THE
APPELLANT PREFERRED
DEPARTMENTAL APPEAL BUT THE
SAME HAS NOT BEEN RESPONDED
WITHIN THE STATUTORY PERIOD OF 90
DAYS, HENCE THIS SERVICE APPEAL.

RESPECTED SIR:

1. That the appellant was appointed as as Chokidar on 17/12/1999 on fixed pay in the office of education Department vide office order issued under Endst: No. 6184-90/Appointment of Class-IV/dated Peshawar the 17/12/1999. (Copy of office order is annexed as annexure A).
2. That in pursuance of Finance Deptt: Circular letter No. BOI/1-22/2007-08/FD dated 29/08/2008, all the Class-IV, employees who were at fixed pay, were regularized and converted to Civil Servant w.e.f 01/07/2008 and it is further clarified in para No 2 of the Ibid letter that the pay of the employee will be fixed from the date of appointment, but the employee will not be entitled to the arrears. (copy of Circular is annexed as annexure B)

3. That whole service career of the appellant/applicant is spotless and to this effect the ACRs bear the testimony. (Copy of Service Book is annexed as annexure C)
4. That the applicant/appellant has been retired from service w.e.f 23/06/2013 vide office order under Endst No. 16977-80/Rtd. File No. 95/C-IV-Akhtar Gul dated 11/05/2016. (Copy of retirement letter is annexed as annexure D)
5. That despite several verbal as well as written request, the department / authority had not issued pension to the applicant / appellant and the appellant / applicant, is feeling aggrieved, filed the Departmental Appeal for issuance of pension / payment of pensionary benefits / gratuity to the appellant with all back benefits, but the said appeal has not been responded within the statutory period of 90 days, hence, this service appeal. (Copy of department appeal is annexed as annexure E)
6. That the appellant feeling aggrieved and having no other adequate remedy, invokes the appellate jurisdiction of this Hon'ble Service Tribunal for the redressal of the grievance of the appellant, on the following grounds, inter alia:

GROUNDS:

- A. That pension is the lawful, fundamental and constitutional rights of the appellant and its non-issuance is in utter violation of the law, rules, regulation meant for civil servants.
- B. That pension to the civil servant is a right and not charity.

- C. That the appellant has not been treated according to law, rules and regulations meant for the of pension and thus the act of department is based on mala-fide intention.
- D. That Articles-4 & 8 of the constitution make it clear that deviation from law has not to be countenanced; this is an assurance to the people of Pakistan that people in authority shall treat them in accordance with law and each one is bound by these stipulations of the constitution.
- E. That the non-issuance of pension / payment of pensionary benefits and gratuity / commutation to the appellant is harsh and the appellant has been penalized for no fault on his part.
- F. That any other additional grounds will be raised at the time of final hearing of this appeal.

It is therefore, humbly requested that on acceptance of this Service appeal, the pension / non-payment of pensionary benefits and gratuity / commutation to the appellant may kindly be granted / issued with all back benefits. Any other relief, which has not been asked for specifically and the appellant is entitled to, may also be granted to the appellant.

Through

Appellant



Jahanzeb Shinwari


Muhammad Anwar

Amir Nawaz Shinwari
Advocates, Peshawar.

Date: 21/11/2018

5

AFFIDAVIT

I 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 Tribunal.



DEPONENT





6

BEFORE THE SERVICE TRIBUNAL, KPK, PESHAWAR

Service Appeal No. _____ of 2018

Akhtar Gul..... Appellant

V E R S U S

Gov: and others..... Respondents

ADDRESSES OF PARTIES

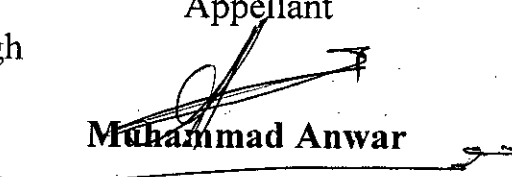
APPELLANT:

**Akhtar Gul S/O Zarawar Khan
Chowkidar at GPS, Qadeem Kalay, Peshawar**

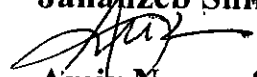
RESPONDENTS:

1. Government of Khyber Pakhtunkhwa, through Chief Secretary, Peshawar
2. Secretary to Education Government of KP, Civil Secretariat Peshawar.
3. Director, Elementary & Secondary Education, KPK Peshawar
4. Sub Division Education Officer (Male), Peshawar, GT Road, Peshawar
5. District Education Officer (Male) Primary, Peshawar, GT Road, Peshawar
6. District Accounts Officer, Peshawar

Through Appellant


Muhammad Anwar


Jahanzeb Shinwari


Amir Nawaz Shinwari
Advocates, Peshawar

Date: 2/11/2018

OFFICE OF THE SUB DIVISIONAL EDUCATION OFFICER (MALE) PRIMARY PESHAWAR.

Handwritten initials and a circled number '7'.

APPOINTMENT ORDER

Mr. Ashfar Gul S/O Kaswan Khan Village
and P.O. Dadeem Killi Wazirabad Teh. Feroz is hereby
appointed as chowkidar at the rate of Rs. 1200/-PM (Fixed) at Govt. Primary
School Dadeem Killi against newly created the post of
Chowkidar for the period of one year from the date of the taking over charge.

TERMS AND CONDITIONS.

1. The appointment is purely on temporary and contract basis and subject to the termination at any time without assigning any reason or prior notice.
2. In case of resignation he will have to submit one month prior notice to the Department or forfeit one month pay in lieu thereof to the Govt.
3. He is required to produce health and age Certificate from the Civil Surgeon.
4. He should not be allowed to take over charge if his age is less than 18 Years or above 45 Years.
5. His appointment is subject to the further domicile of NWFP.
6. If he failed to take Over Charge of the post within a week of the receipt of the order of appointment shall be cancelled.
7. Charge reports should be submitted to all concerned (in duplicate).
8. No TA/DA is allowed.

(YAM YA GUL)
SUB DIVISIONAL EDUCATION,
OFFICER (MALE) PESHAWAR.

Endst: No. 6184-90 / Appointt: of Class-IV/ Dated: P. the 17/12/96

Copy forwarded to the -

1. District Education Officer (Male) Primary Peshawar.
2. ASD (Accounts) Local Office
3. ASD ()
4. Head Office
5. Candidate Concerned.

SUB DIVISIONAL EDUCATION
OFFICER (MALE) PESHAWAR.

M. ZAHIR.
4.12.96.

Handwritten signatures and initials, including 'ASD' and '17/12'.

Anx-B

FINANCE DEPARTMENT



No. BO1/FD/1-22/2008-09/
Dated Peshawar, the 30/7/2008

To

The Accountant General,
NWFP, Peshawar.

Subject:- BUDGET SPEECH 2007-08 CONVERSION OF FIXED PAY CLASS-IV INTO REGULAR BPS-1 CP.FUND SCHEME.

Dear Sir,

I am directed to refer to your letter No.H.24(85)/Kchistan/Vol-11/851 dated 18/6/2008 on the subject noted above and to clarify that all the Class-IV Fixed Pay Employees have been regularized in BPS-1 giving them the status of Civil Servant, with effect from 1st July, 2008 (but not from the date of their appointments) as per provision of Section 19 of the Civil Servant Act, 1973 (read with Civil Servants(Amendment) Act, 2005). Under the Act ibid, these employees are entitled for Contributory Provident Fund (C.P. Fund) instead of Pension/Gratuity and G.P. Fund. Since length of service of the employees was at variance, therefore, in order to meet the demand of natural justice, fixation of pay has been allowed to them with effect from the dates of appointment bringing their salaries at par with the respective length of service. However, they shall not be entitled for arrears of pay and allowances as clarified in the instructions. So, it is confirmed that they are entitled for CP Fund instead of Pension/Gratuity and GP Fund, unless otherwise provided in the relevant Rules/Regulations.

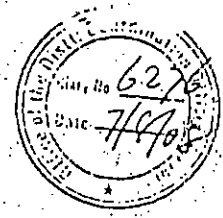
Ersof/...
...

Yours faithfully,
[Signature]
Fida Muhammad
Budget Officer-I

Endst No. & Date even:

Copy is forwarded w/r to Finance Dept's circular letter No. BO1/1-22/2007-08/FD dated 29/1/2008, for information & necessary action to:-

- 1) All Administrative Secretaries to Government of NWFP
- 2) Secretary to Governor, NWFP, Peshawar
- 3) Principal Secretary to Chief Minister, NWFP, Peshawar
- 4) All District Coordination Officers in NWFP
- 5) All Heads of Attached Departments in NWFP
- 6) The Registrar, Peshawar High Court, Peshawar
- 7) The Registrar, NWFP Service Tribunal, Peshawar
- 8) The Secretary Provincial Assembly, NWFP, Peshawar
- 9) The Secretary, Board of Revenue, NWFP, Peshawar
- 10) All District Accounts Officers in NWFP
- 11) All Budget/Section Officers in Finance Department, Peshawar



OFFICE OF THE EDO (F&P) SWABJ
D. No. 1350/08
Dated: 7-8-08

[Signature]
BUDGET OFFICER-I

20/8
84

on Zahed Khan
For n/a and keep n
Salam 7/8/08

[Signature]
Aucted

SEMI-POSTAL

BOOK

✓ Price

RS 13

OF

32

No. Arjun Gul Chowkidar.

C.P.S. Dadeem Welli (Main Railway)
Shri Zashwar Chav
W.R. P-17-12-96

378549

کتاب نمبر 378549
کتاب کی قیمت 13 روپے

19/1/97

~~13/1/97~~

Price : Rs. 10000

13/1

10

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

1. Name: MR: ARTHUR GULL

2. Race: AFGHAN

3. Residence: village Qadim Kelli Tera Kachori Tehsil & District Peshawar.

4. Father's name and residence: MR: ZARAWAR KHAN

5. Date of birth by Christian era as nearly as can be ascertained: 1953. 4



6. Exact height by measurement: 5 - 6

7. Personal marks for identification: Scar on the hand (left side)


8. Left hand thumb and Finger Impression of (Non Gazetted) Officer.

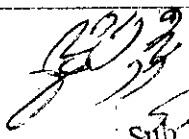
A-7/2016-17

Little Finger  Ring Finger 

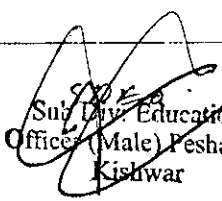
Middle Finger  Fore Finger 


Thumb 

9. Signature of Government Servant 

10. Signature and Designation of the Head of the Office, or other Attesting Officer. 
Sub Divisional Education Officer (M) Peshawar

Reattested


Sub Divisional Education Officer (Male) Peshawar Kishwar


Attested

11

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
Chowkidea G.P.S Qadeemkhilli 1245- (Mera Kachori)			Rs-1200	Fixed		17-96	
			Rs 1200/pra			12/97	
			Rs 1200/pra				
			Rs 1245/pra			17-97	
			Rs 1280/pra			12/98	
			Rs 1315/pra			12/98	

71-1245/pra

BPS 001 A (1245-35-1770)

Attended

Asstt. Distt. Officer,
(Male) Pwy. Peshawar

Deputy District Officer,
(Male) Pwy. Peshawar

Signature of the officer attesting of the columns

B.D.P. Pesh

12

Signature and designation of the head of the office or other attesting officer in column No. 8	10 Date of termination of appointment	11 Reason of termination (such as promotion, transfer, dismissal, etc.)	12 Signature of the head of the office or other attesting Officer	13 Leave		14 Signature of the head of the office or other attesting officer	15 Reference to any recorded punishment or censure, or reward or praise of the Government Servant	
				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			
					Period			Government to which debitable
<i>[Signature]</i> S.D.E.O (m) Peshawar		Appointed as a Clerk under vide Sub Divisional Education Officer (Male) Peshawar office No. 6184-90/class-IV dt 17-12-96						
<i>[Signature]</i> S.D.E.O (m) Peshawar		IR-136 2/1/07 S-T Verified Wed 1-10-2007	<i>[Signature]</i> Sub Divisional Education Officer (M) Peshawar.					
		Additional Distt. Officer Peshawar	<i>[Signature]</i> Distt. Officer Peshawar		Service Verified W. E. From 17/12/30/11 to 30/9/11 From the Acq Roll and Other Record of This Office S.D.E.O (m) Peshawar			
					TR# 138 dtd: 7/2/08 Assears for the month of 10/2007 @ 4000/- paid.	<i>[Signature]</i> AAO		
					Service Verified w. o. dt 12-27-27 to 29-11-99 from the Acq roll and Other Record of this Office.	<i>[Signature]</i> Distt. Officer (M) Peshawar		
					Service Verified w. o. dt / / to / / from the Acq roll and Other Record of this Office.			

~~Attended~~

(2)

Service Verified w. o. dt 12-27-27 to 29-11-99 from the Acq roll and Other Record of this Office.

Distt. Officer (M) Peshawar

1	2	3	4	5	6	7	8	9
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.K.	Pay in substantive Post	Additional Pay for officiating	Other emolument falling under the term "Pay"	Date of Appointment	Signature of Government	Signature of officiating employee in this column
Charakidas SPS Qadeemhili (Medical Teacher)			Rs 1358/pa			1/12/2001		
~			Rs 1388/pa			1/12/2001		
Revised pay scale 2001 Rs (1870-55-3520)								
~			Rs 2090/pa			1/12/2001		
~			Rs 2145/pa			1/12/2002		
~			Rs 2200/pa			1/12/2003		
~			Rs 2255/pa			1/12/2004		
Revised pay scale in BBS No I Rs (2150-65-4100)								
~			Rs 2805/pa			1/7/2005		
~			Rs 2870/pa			1/12/2005		
~			Rs 2735/pa			1/12/2006		
Revised pay Scale in BBS No IV (2475-75-4720)								
~			Rs 3158/pa			1/7/2007		
~			Rs 3225/pa			1/12/2007		

~~Accepted~~
(Signature)

Asstt. Distt. Officer,
insp (Male) Pvt. Peshawar

Deputy District Officer
(Male) Pvt. Peshawar

(14)

9	10	11	12	13 Leave		14	15
Signature and designation of the head of the office or other attesting officer in 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 recorded punishment or censure, or reward or praise of the Government Servant
					Period	Government to which debitable	
		No arrears & present CI 7/08 is admissible				(3) Service V. P. No. 1-12-99 to 30-11-01 Acq: roll and Other Record of this Office. Deputy Dy. Officer (AI) Primary Cashier	
		Pay verified of 3057/- in Rs 1000/- 7-2007.	Accounts Officer R. P. P.			(4) Service V. P. No. 1-12-01 to 30-11-04 Acq: roll and Other Record of this Office. Deputy Dy. Officer (AI) Primary Cashier	
						TR-245 Drawn Rs. 1,05,72/- of 6 arrears of P. roll due to awarded of G.P.S. I w.e.f. 7/08 to 5/08	
		TR-741 Drawn Rs. 6,270/- arrears of H.A. + M.A. + W.A. + D.A from 9/07 to 12/09.				16/11/10 ATO	
						(5) Service V. P. No. 1-12-04 to 30-11-06 Acq: roll and Other Record of this Office. Deputy Dy. Officer (AI) Primary Cashier	
						(6) Service V. P. No. 1-12-06 to 30-11-07 Acq: roll and Other Record of this Office. Deputy Dy. Officer (AI) Primary Cashier	

~~Arrested~~

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
Chowkhidar M.P.S. Qadeem Kili (Mera Kachan) Revised pay Scale in BPS-01 (2970-900-5670)							
u	a		Rs 3870/pm			7/2008	
d	a		Rs 3960/pm			12/2008	
- do -			Rs 4050/-			12/09	
- do -			Rs 4140/-			12/2010	
BPS-01 (Rs 4800-150-9300)							
- do -			Rs 6750/-			7/2011	
- do -			Rs 6900/-			12/2011	
- do -			Rs 7050/-			12/2012	
Revised entry of upgradation of scale from BPS-01 to BPS-02 w.e.f. 01-7-2007 BPS-02 (Rs 2530-85-5080)							
			Rs 3210/pm			01-7-2007	
one special increment			Rs 3210 + 85 = Rs 3295/-			01-9-2007	
from 01-9-2007			Rs 3295 + PM 3320/-			01-12-2007	
Scale revised from 01-7-2008 BPS-02 (Rs 3035-100-6035)							
			Rs 3935/pm			01-7-2008	
			Rs 4035/pm			01-12-2008	
			Rs 4135/pm				

Attested

Signature of Government Servant	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	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 duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitale. to another Government		
						Period		
						(7)	Service Verified w.e.f 1-12-07 to 30-11-09 from the Acq: roll and Other Record of this Office.	
	Deputy District Officer (M) Prithvi, Peshawar	30-11-08	Agree:	Deputy District Officer (M) Prithvi, Peshawar				
	Deputy District Officer (M) Prithvi, Peshawar	30-11-09	Agree:	Deputy District Officer (M) Prithvi, Peshawar		(8)	Service Verified w.e.f 1-12-09 to 30-11-2010 from the Acq: roll and Other Record of this Office.	
	Deputy District Officer (M) Prithvi, Peshawar	30-11-2010	Agree:	Deputy District Officer (M) Prithvi, Peshawar		(9)	Service Verified w.e.f 1-12-2010 to 30-11-2011 from the Acq: roll and Other Record of this Office.	
	Deputy District Officer (M) Prithvi, Peshawar	30-11-2011	Agree:	Deputy District Officer (M) Prithvi, Peshawar		(10)	Service Verified w.e.f 1-12-2011 to 30-11-2012 from the Acq: roll and Other Record of this Office.	

Ray on 1/08 verified
for Rs. 4035/- BPs 2-

AD (PP)
[Signature]

17

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 Secretary
			4235/-			01/12/2009	
			Rs. 4135/- PM				
			4335/-			01/12/2010	
			Rs. 4235/- PM				
Scale Revised on 01-7-2011							
BPS 02 (In 4900-170-10000)							
			Rs. 6740/- PM	7110/-		01/7/2011	
			7280/-				
			Rs. 7110/- PM			01/12/2011	
			7450/-				
			Rs. 7280/- PM			01/12/2012	
<p style="text-align: right;">Sub Divisional Edu. Officer (M), Peshawar.</p> <p style="text-align: right;">Date: 30/6/2013</p>							
SPS Daddeem Kally		Allent (M) Peshawar				01/12/2013	
Chowkida		SD (M) Peshawar				01/12/2014	
		Peshawar				28/01/2014	
<p>Sub Divisional Education Officer (Male) Peshawar</p> <p style="font-size: 2em; font-weight: bold;">Attached</p>							

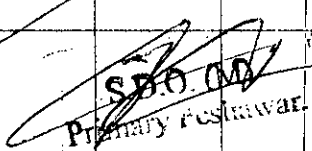
18

8 Signature of attesting officer in column 1 to 8	9 Signature and designation of the head of the office or other attesting officer in column 1 to 8	10 Date of termination of appointment	11 Reason of termination (such as promotion, transfer, dismissal, etc.)	12 Signature of the head of the office or other attesting Officer	13 Leave		14 Signature of the head of the office or other attesting officer	15 Reference to any recorded punishment or censure, or reward or praise of the Government Servant
					Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debit to another Government		
						Period		
						Upgradation of scale from BPS-2 to BPS-2 W.C from 01-7-2007 vide Finance Deptt. Notification No. FD/50(FR)72/2007 dt. 01-7-2007 and DEOM No. (BOS) Peshawar Bd. St. No. 2706 288 dt. 29-01-2013		
							Sub Divisional Edu: Officer (M) Peshawar.	
		30-6-2013	Retired		11-229		Drawn Rs. 19675/- arrears of pay and allowance due to upgradation BPS-2 from 1-7-2008 to 28-2-2013.	
							12/3 Asst: Accounts Officer Sub D.O. Anwar Pakhtunkhwa Peshawar.	
							(1) Service verified upon 1/12/2012 to 3/6/2013 from the Acquittance Roll and other record to this office	
							Sub Divisional Education Officer (Male) Peshawar	

Com. BPS dated

~~Attended~~

19

1	2	3	4	5	6	7	8
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
<u>RETIREMENT ORDER ENTRY</u>							
<u>Retirement Entry</u>							
<p>Retired from service w.e.f. 30/6/2013 AM, with Encashment in lieu of LPR for 240 days, vide SDO (CM) Peshawar Enclst No. 16977-80 dt 11/5/2016</p>							
 <p>SDO CM Primary Peshawar</p>							
<p>Attended</p>							

Signature of the testing staff column

G

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(23)

8	9 Signature and designation of the head of the office or other attesting officer in column 1 to 8.	10 Date of termination of appointment	11 Reason of termination (such as promotion, transfer, dismissal, etc.)	12 Signature of the head of the office or other attesting Officer	13 Leave		14 Signature of the head of the office or other attesting officer	15 Reference to any recorded punishment or censure, or reward or praise of the Government Servant	
					Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitible to another Government			
						Period			Government to which debitible
		TR. 602 20/6/16						<p>x Service verified upon 11/2/2013 to 30/11/2014 from the Accountant Roll and other record to this office</p> <p>Sub Divisional Officer Puducherry</p>	
		Pay verified @ Rs. 58783/- on account of arrears of encashment of LPR (200) days.						<p>Service verified upon 11/2/2014 to 26/10/2014 from the Accountant Roll and other record to this office</p> <p>Sub Divisional Officer Puducherry</p>	
								<p>Consolidated Entry.</p> <p>Consolidated Service verified ref 01-07-2008 to 30-06-2013 and local verification in S/Book signed by DDOs from time to time</p> <p>Pay verified @ Rs. 7110/- in BPS-02 on 1-7-2011 for the purpose of Pension only.</p> <p>Sub Divisional Officer Puducherry</p>	

(12)

Consolidated Entry.

Consolidated Service verified ref 01-07-2008 to 30-06-2013 and local verification in S/Book signed by DDOs from time to time

Pay verified @ Rs. 7110/- in BPS-02 on 1-7-2011 for the purpose of Pension only.

Sub Divisional Officer
Puducherry
14/2/16

(20)

HT 10 P.S. 15
 J. William Kelley
 APPROVER

FROM OF LEAVE ACCOUNT UNDER THE REVISED LEAVE RULES 1981

Approved by Finance Division's letter No. F 1 (3) Rev. 1/78 dated 18-1-1979

Leave Account of Mr. Messrs.

Date of attending the age of superannuation

Alexander
Chawla

Date of Commencement of Service

Government Department served under					PERIOD OF DUTY					LEAVE TAKEN																			
					From	To	Y.M.D.	F.Y.	Days	PERIOD		From	To	Days	Days	Days	Days	Days	Days	Days	Days	Days	Days						
					1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23		
					Leave earned on full pay (4 days for each as longer months)					Leave at credit (Column + 6)					LEAVE ON HALF PAY		LEAVE NOT DUE		ABSENCE		REMARKS		Attestation						
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Attested
SOME
 Director, Medical Postward

Amea

"D"

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OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) PESHAWARRETIREMENT NOTIFICATION:-

Under the provision of rules-20 of Govt. of Khyber Pakhtunkhwa Peshawar civil servant revised leave rules 1981, sanction is hereby accorded to the grant of Encashment in lieu of LPR equal to 240 days on full pay in respect of Mr. Akhtar Gul Chowkidar GPS Qadeemi Kalay Peshawar as admissible to him under the rules.

He is allowed to retire from Govt service with effect from 30-06-2013(A/N).

Note:

1. Necessary entry to this effect should be made in his service book and leave account which are returned herewith.
2. His Date of birth is 1953.

DISTRICT EDUCATION OFFICER
(MALE) PESHAWAR

Endst No. 16177-80 /Rtd .File No.95/ /C-IV-Akhtar Gul Dated 11 / 5 /2016.

Copy of the above is forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar
2. SDEO(M) Peshawar
3. Official concerned.
4. P.File.

DY: DISTRICT EDUCATION OFFICER
(MALE) PESHAWAR

Anna F

23

Advanced Copy/Through Proper Channel

To,

Worthy Chief Secretary

Education Department, KPK, Peshawar

Subject: **Departmental appeal against the non-issuance of pension/pensionary benefits to the appellant being Civil Servant retired on superannuation on 30/06/2013.**

RESPECTED SIR:

1. That the appellant/applicant was appointed as Chokidar on 17/12/1999 **on fixed pay** in the office of education Department vide office order issued under Endst: No. 6184-90/Appointment of Class-IV/dated Peshawar the 17/12/1996. (Copy of appointment order is annexed as annexure A)
2. That in pursuance of Finance Deptt: Circular letter No. BO-I/1-22/80-2008/FD dated 29/01/2008, all the Class-IV, employees who were at fixed pay, were regularized and converted to Civil Servant w.e.f 01/07/2008. (copy of Circular is annexed as annexure B)
3. That whole service career of the appellant/applicant is spotless and to this effect the ACRs bear the testimony. (Copy of Service Book is annexed as annexure C)

Att/sted

24

4. That the applicant/appellant has been retired from service w.e.f 30/06/2013 under Endst No. 16977-80/Rtd. File No. 95/C-IV-Akhtar Gul Dated 11/05/2016. (Copy of retirement letter is annexed as annexure D)
5. That despite several verbal as well as written requests, the department/authority is not issuing pension to the applicant/appellant and the appellant/applicant, feeling aggrieved invokes the Appellate Departmental Jurisdiction for issuance of pension/pensionary benefits to the applicant/appellant with all back benefits on the following grounds, inter alia:

GRUNDS:

- A. That pension is the lawful, fundamental and constitutional rights of the applicant/appellant and its non-issuance is utter violation the law, rules, regulation meant for civil servants.
- B. That pension to the civil servant is a right and not charity.
- C. That the act of non-issuance of pension to the applicant/appellant is within the four-corner misconduct on the part of the authority.
- D. That the appellant has not been treated according to law, rules and regulations meant for the of pension

Atto

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and thus the act of department is based on mala-fide intention.

- E. That it is the constitutional duty of each and every authority in Pakistan to exercise its power fairly, justly and transparently, which has not been done in the case of applicant/appellant and the applicant/appellant has not been treated in accordance with law, rules and regulations.
- F. That Article-4 of the constitution commands that all the citizens without any discrimination shall be dealt with in accordance with law, so enforcement of the law leaves no room for creating any distinction between the citizens.
- G. That Articles-4 & 8 of the constitution make it clear that deviation from law has not to be countenanced: this is an assurance to the people of Pakistan that people in authority shall treat them in accordance with law and each one is bound by these stipulations of the constitution.
- H. That any other additional grounds will be raised at the time of personal hearing of this appeal.

It is therefore, humbly requested that on acceptance of appeal the pension/pensionary benefits to the applicant/appellant may kindly be issued with all back benefits.

Dated 10/08/2018

Appellant/applicant
Akhtar Gul
Chowkidar at GPS Qadeem
Kalay, Peshawar

Accepted

بعدالت یہاں
کری کر رہی ہوں

کلاہ
2 بجانبہ ایف
بنام حکومتی

مورخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنک

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ
آن مقام کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی مکمل کارروائی کا مکمل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک دروپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
ازر اس پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار 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 مقبر شدہ کو بھی وہی جملہ مذکورہ با اختیار حاصل ہوں گے
اور اس کا ساختہ پرداخت منظور قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ 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 کالت نامہ لکھ دیا کہ سندر ہے۔

المرقوم 12 / 11 / 2018

العہدۃ
مقام

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

SERVICE APPEAL NO.1387/2018

Akhtar Gul

V/S

Govt:

REPLY ON BEHALF OF RESPONDENTS.

Respectively Sheweth:

The Respondents submits bellow:

PRELIMINARY OBJECTIONS:

1. That the Appellant has no cause of action /locus standi.
2. That the Appellant has concealed material facts from this Hon,ble Tribunal.
3. That the Appellant has been estopped by his own conduct to file the instant appeal before this Hon'ble Tribunal.
4. That the instant Appeal is badly time barred.
5. That the instant Appeal is not maintainable in its present form.
6. That the instant Appeal is bad for mis-joinder and non-joinder for the necessary parties.
7. That the Appellant has not come with clean hands to this Hon'ble Tribunal.
8. That the instant Appeal is barred by law.
9. That the Appellant does not fall within the ambit of aggrieved person.

ON FACTS.

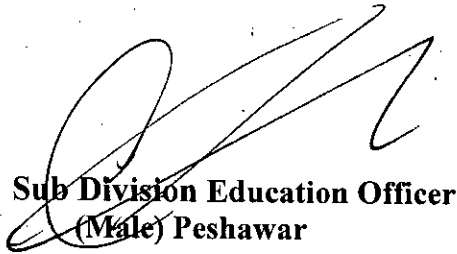
1. That in reply to Para No.1, it is submitted that the Appellant was appointed on fixed pay and he is not entitled for regular pension.
2. That Para No.2 is incorrect, misleading and against the fact. After regularization order the length of service of the Appellant is less than 25 years as required under the pension rules.
3. That Para No.3 pertains to record.
4. That Para No.4 also pertains to record.
5. That Para No.5 has already discussed in the above Para.
6. That Para No.6 is incorrect, misleading and against the facts the Appellant has got no cause of action to file the instant appeal.

GROUND

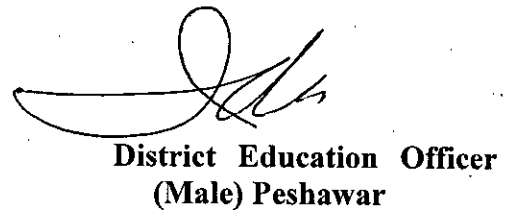
- A. That Ground-A is incorrect and against the facts the respondent acted according to law, rules and policy.
- B. That Ground-B is also incorrect. The detail reply has been given in the above Para.
- C. That Ground -C is incorrect, misleading and against the facts. The Respondent are bound to act according to law, rules and policy.

- D. That in reply to Ground-D, it is submitted that the said law is not applicable on the Appellant case.
- E. That Ground-E is also incorrect, misleading and against the facts, the Respondents treat the Appellant under the law.
- F. That the respondents have also seeks the permission of this Hon'ble Tribunal for further / additional grounds at the time argument.

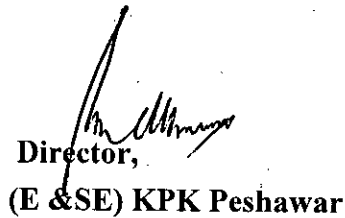
It is therefore, very humbly prayed that on acceptance of this reply, the instant appeal may very kindly be dismissed with cost.



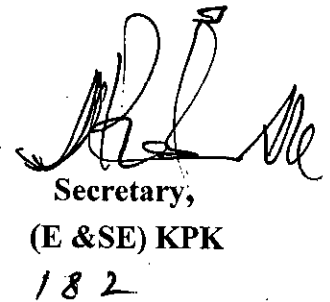
**Sub Division Education Officer
(Male) Peshawar**



**District Education Officer
(Male) Peshawar**



**Director,
(E &SE) KPK Peshawar**



**Secretary,
(E &SE) KPK
182**

**Chief Secretary,
(E &SE) KPK Peshawar**