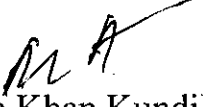


21.10.2019

Due to general strike on the call of Khyber Pakhtunkhwa Bar Council learned counsel for the appellant is not in attendance. Mr. Zia Ullah learned Deputy District Attorney for the respondents present Adjourned. To come up for further proceedings on 31.12.2019 before D.B.


(Hussain Shah)
Member

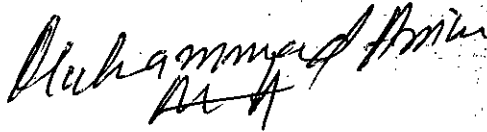

(M. Amin Khan Kundi)
Member

31.12.2019

None present for appellant. Mr. Usman Ghani, District Attorney alongwith Mr. Fazle Khaliq, ADO (Litigation) for the respondents present. The court time is about to over but non-appeared on behalf of the appellant nor the appellant was present in person, therefore, the instant service appeal is hereby dismissed in default. File be consigned to the record room.

ANNOUNCED
31.12.2019



(Hussain Shah)
Member

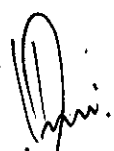

(M. Amin Khan Kundi)
Member

26.02.2019

Counsel for the appellant and Mr. Ziaullah,
DDA for the respondents present.

Rejoinder has been submitted on behalf of
appellant. To come up for arguments on 14.05.2019
before the D.B.


Member


Chairman

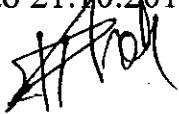
14.05.2019

Nemo for the appellant and Mr. Riaz Paindakhel
learned Assistant Advocate General for the respondents
present. Due to leave of the worthy Chairman the case is
adjourned to 25.07.2019 for arguments before D.B.


(Hussain Shah)
Member

25.07.2019

Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney
alongwith Mr. Fazal Ali, ADO for the respondents present. Representative
of the department furnished copy of notification dated 18.06.2019 which is
placed on record. Representative of the department stated that the grievance
of the appellant has been redressed through said notification. Learned
counsel for the appellant seeks adjournment to examine the same.
Adjourned to 21.10.2019 for further proceeding before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) SWABI
(Office phone & Fax No.0938280239, emis_swabi@yahoo.com)

OFFICE ORDER

The undersigned is pleased to allow the following officials (Fixed/contract pay C-IV employees) to retire from the Govt. service with pensionary benefits in the light of Finance Department (Regulation Wing) Khyber Pkhtunkhwa issued Vide Notification No.FD.(SOSR-II)4-36/2017 Dated 22-05-2019 and encashment of LPR as admissible to them under revised leave rules 1981 and who were retired without pension benefits due to less qualifying service in the best interest of public service.

S.No	Name & Designation	Name of School	Period or encashment LPR/Death Leave	Date of Death/Rtd
01	Mr. Ajmal Khan Ex-Chow	GPS Muhib Banda Dogai	01-07-2015 to 30-06-2016(365) Days on full pay	30-06-2016
02	Mr. Roidai Shah Ex- Chow	GPS Meman Banda Ulla(G)	03-02-2017 to 01-08-2017(180) days of full pay	01-08-2017
03	Mr. Amir Muhammad Ex-Chow	GPS Awan Abad Y/Hussain	01-07-2016 to 30-06-2017(365) days on full pay	30-06-2017
04	Mr. Syed Ghaffar Shah Ex-Chow	GPS Alla Dad Khe. Y/Hussain	16-10-2016 to 17-10-2017(365) days on full pay	17-10-2017

Note:

- 1:- Their previous orders of retirement from Govt. service without pension benefits is hereby with drawn
- 2:- If the concerned officials have already obtained the amount of G.F.P/LPR/BF/EEF/RBDC etc should not be paid again.

(NISAR MUHAMMAD)
DISTRICT EDUCATION OFFICER
(MALE) SWABI

Endst No. 6239-46 /LPR Fixed Pay C-IV/ File No.118/C-IV/ Dated 18/6 /2019

Copy of the above is forwarded to the:-

- 1:- Registrar Supreme Court of Pakistan.
- 2:- Registrar Peshawar High Court Peshawar.
- 3:- Registrar Service Tribunal Peshawar.
- 4:- Secretary E&SE Khyber Pakhtun Khwa Peshawar.
- 5:- Director E&SE Khyber Pakhtun Khwa Peshawar.
- 6:- District Accounts Office Swabi
- 7:- SDEO (M) concerned a/w original Service Books
- 8:- Officials Concerned.

DISTRICT EDUCATION OFFICER
(MALE) SWABI

18/6/19
Subdivisional Education
Officer (M)
Razzar (Swabi)



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) SWABI

(Office phone & Fax No.0938280239, emis_swabi@yahoo.com)

OFFICE ORDER

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03	Mr: Amir Muhammad Ex-Chow	GPS Awan Abad Y/Hussain	01-07-2016 to 30-06-2017(365) days on full pay	30-06-2017
04	Mr: Syed Ghaffar Shah Ex-Chow	GPS Alla Dad Khel Y/Hussain	16-10-2016 to 17-10-2017(365) days on full pay	17-10-2017

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- 2:- If the concerned officials have already obtained the amount of G.F.P/LPR/BF/EEF/RBDC etc should not be paid again.

(NISAR MUHAMMAD)
DISTRICT EDUCATION OFFICER
(MALE) SWABI

Endst No. 6239-46 /LPR Fixed Pay C-IV/ File No.118/C-IV/ Dated: 18/6 /2019

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- 8:- Officials Concerned.

DISTRICT EDUCATION OFFICER
(MALE) SWABI

18/6/19
Subdivisional Education
Officer (M)
Razzar (Swabi)

DFA

Amir Muhammad

25.07.2019

Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney alongwith Mr. Fazal Ali, ADO for the respondents present. Representative of the department furnished copy of notification dated 18.06.2019 which is placed on record. Representative of the department stated that the grievance of the appellant has been redressed through said notification. Learned counsel for the appellant seeks adjournment to examine the same. Adjourned to 21.10.2019 for further proceeding/~~arguments~~ before D.B.

(Hussain Shah)
Member

(M. Amin Khan Kundi)
Member

Naib Tehsildar on regular basis vide order dated 02.05.2009. (Copy of order dated 19.08.2006 is Annexure "A" and order dated 02.05.2009 is Annexure "B").

2. That vide order dated 02.04.2009, Naib Tehsildars, Haider Hussain and Qaisar Naz were given seniority from the date of first promotion on his own pay and scale as the post was available and they were qualified for the post. (Copy of order dated 02.04.2009 is Annexure "C").
3. That on the basis of said order dated 02.04.2009 and seniority; they were promoted as Tehsildar in BPs-16 are placed in seniority list of Tehsildars at Serial No.82 and 83. (Copy of seniority list of Tehsildar dated 13.08.2010 is Annexure "D").
4. That on the principle of judgment of Supreme Court of Pakistan reported in 2006 SCMR 1938 and being followed in case of Haider Hussain and Qaisar Naz, appellant was given the same benefit vide order dated 01.10.2009 by S.M.B.R. (Copy of 2006 SCMR 1938 is Annexure "E" and order is Annexure "E/1").
5. That a tentative seniority list of Naib Tehsildar was prepared by respondents on 24.03.2010 wherein appellant was shown at Serial No.30. (Copy of tentative seniority list is Annexure "F").
6. That final seniority list of Naib Tehsildar was prepared on 30.06.2010, wherein appellant is shown serial No.36. (Copy of final seniority list is Annexure "G").



امیر محمد

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) SWABI

(Office phone & Fax No.0938280239, emis_swabi@yahoo.com)

OFFICE ORDER

The undersigned is pleased to allow the following officials (Fixed/contract pay C-IV employees) to retire from the Govt: service with pensionary benefits in the light of Finance Department (Regulation Wing) Khyber Pakhtunkhwa issued Vide Notification No.FD (SOSR-II)4-36/2017 Dated 22-05-2019 and encashment of LPR as admissible to them under revised leave rules 1981 and who were retired without pension benefits due to less qualifying service in the best interest of public service.

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(NISAR MUHAMMAD)
DISTRICT EDUCATION OFFICER
(MALE) SWABI

Endst No. 6239-46 /LPR Fixed Pay C-IV/ File No.118/C-IV/ Dated: 18/6 /2019

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- 3:- Registrar Service Tribunal Peshawar.
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- 7:- SDEO (M) concerned a/w original Service Books
- 8:- Officials Concerned.

DISTRICT EDUCATION OFFICER
(MALE) SWABI

18/6/19

Subdivisional Education
Officer (M)
Razzar (Swabi)

26.11.2018

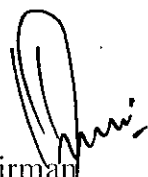
Counsel for the appellant present.

Contends that appellant was denied pensionary benefits and his qualifying service was miscalculated by non-inclusion of leave period which was part of his service.

Apparently, there is a delay of six days in filing the appeal in hand, however, an application for condonation of delay has been submitted with the appeal.

As the matter involved valuable right of the appellant, instant appeal is admitted for regular hearing but subject to all just exceptions. The appellant is directed to deposit security and process fee within 10 days. Notices be issued to the respondents for submission of written reply/comments on 15.01.2019 before S.B.

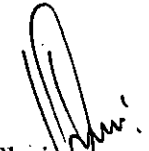
Appellant Deposited
Security & Process Fee


Chairman

15.1.2019

Appellant in person and Addl. AG alongwith Fazle Khaliq, ADO for the respondents present.

Respondents No. 1 to 3 have submitted comments to the appeal and also reply on application for condonation of delay. To come up for arguments before D.B on 26.02.2019. The appellant may submit rejoinder within a fortnight if so advised.

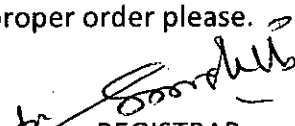




Chairman

Form -A

FORM OF ORDER SHEET

Court of _____

Case No. 911/2018

S.No.	Date of Order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	<p>18/07/2018</p> <p><i>19-7-2018</i></p>	<p>The appeal of Mr. Amir Muhammad presented by Mr. Asad Zeb Khan Advocate may be entered in the Institution register and put up to the Wrothy Chairman for proper order please.</p> <p><i>for</i>  REGISTRAR</p> <p>The case is entrusted to S. Bench for preliminary hearing to be put up there on <u>3-9-2018</u></p> <p> CHAIRMAN</p> <p>03.09.2018</p> <p>Appellant absent. Learned counsel for the appelant absent. Adjourned. To come up for preliminary hearing on 08.10.2018 before S.B</p> <p> Member</p> <p>08.10.2018</p> <p>None is present on behalf of the appellant. Adjourned. To come up for preliminary hearing on 026.11.2018 before S.B.</p> <p> Chairman</p>

BEFORE KHYBER PAKHTUN KHWA, SERVICE TRIABUNAL,
PESHAWAR

Service Appeal No. 911 /2018

Amir Muhammad _____ Appellant

Versus

Govt. of Khyber Pakhtun Khwa through Secretary Elementary and
Secondary Education and others

_____ Respondents

INDEX

S.NO.	PARTICULARS	ANNEX	P. NO.
1	Memo of Appeal		1-4
2	Affidavit		5
3	Application for condonation of delay		6
4	Affidavit		7
5	Copy of appointment order and service book	A & B	8-24
6	Copy of impugned order dated: 13-02-2018	C	25-26
7	Copy of departmental appeal	D	27-28
8	Wakalat nama		29

Through

Appellant


Asad Zeb Khan

Advocate High Court

Al-haaj Plaza, Yousaf Abad,
Dalazak Road, Peshawar

0346-9800565

Dated:-18/07/2018

1

BEFORE KHYBER PAKHTUN KHWA, SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 911 /2018

Khyber Pakhtukhwa
Service Tribunal

Diary No. 1176

Dated 18-7-2018

AMIR MUHAMMAD S/O Ghulam Nabi,
R/O Mohallah Awan Abad Zaim, Yar Hussain, Tehsil Lahor, District Swabi.
Appellant

Versus

1. Govt. of Khyber Pakhtun Khwa through Secretary Elementary and Secondary Education Department, Peshawar.
2. Director, Elementary and Secondary Education, Peshawar.
3. District Education Officer, Swabi.

Respondents

SERVICE APPEAL UNDER SECTION-4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE ACT OF THE RESPONDENT NO. 2 WHO ISSUED IMPUGNED ORDER DATED: 13-02-2018, VIDE WHICH THE APPELLANT WAS REFUSED OF PENSIONARY BENEFITS AFTER RETIREMENT ON SUPERNAUATION.

PRAYER IN APPEAL:

ON ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED: 13-02-2018, MAY KINDLY BE DECALRED AS ILLEGAL, UNLAWFUL, WITHOUT THE LEGAL AUTHORITY AND RESULTANTLY THE APPELLANT MAY GRACIOUSLY BE BENEFITED WITH PENSIONARY BENEFITS AS ADMISSIBLE TO CIVIL SERVANTS UNDER THE LAW.

Filed to Day
Registrar
18/7/18

Respectfully Sheweth!

The appellant most humbly submits as under:-

1. That the present appellant was appointed in the education department District Swabi in the year 1998 as **chowkidar** at GPS Awan abad Zaim,

(2)

Yar Hussain and consequent to the appointment, the appellant took charge of his duties.

{True Copy of Appointment order and service book are attached as **Annexure-A & B**}.

2. That the appellant after appointment, was working with great zeal and devotion since date of arrival according to the rules of service and according to the wishes of the Superiors and having no complaint against the present appellant since his appointment.
3. That the appellant stood retired from his service on attaining age of superannuation on 30-06-2017.
4. That after retirement, the appellant submitted his papers for grant of pension and other pensionary benefits as admissible under the law to the civil servants to the respondent No. 3 and the appellant was waiting for the result of his pension papers, when all of a sudden, the appellant received regret letter dated: 13-02-2018 from respondent No. 3, vide which the respondent No. 3 refused to pay pension and other financial benefits to the appellant.
{True copy of impugned letter dated: 13-02-2018 is attached, mark as **Annex-C**}
5. That the impugned letter dated: 13-02-2018 was illegal and unlawful and the appellant being aggrieved of the same, preferred departmental appeal to the respondent No. 2 on 09-03-2018 which was received by the office of respondent No. 2 on 12-03-2018. But till date no response is made to the departmental appeal of the appellant and the appellant is still in wait of the same.
{True copy of departmental appeal is attached, mark as **Annex-D**}
6. That the appellant being aggrieved and having no other efficacies remedy except to file the instant appeal for the redressal of his grievances before this Hon'ble Tribunal on the following amongst other grounds.

3
GROUNDS:

- A. Because the impugned orders of respondent No. 3 dated: 13-02-2018 is against law, facts, hence liable to be set-aside.
- B. Because the respondent No. 3 in utter disregard to the principles of the fairness, merit and transparency passed the present impugned order dated: 13-02-2018, hence the impugned order of the respondent is against the law, illegal, unlawful and void ab initio and liable to be turned down.
- C. Because the appellant served the department for almost 19 years and six months without any stigma on his service and with unblemished record hence he deserves to be given pensionary benefits.
- D. Because the impugned order dated: 13-02-2018 is against the West Pakistan Civil Services Pension Rules, 1963 vide which minimum length of qualifying service is ten years and after rendering services for more than ten years, civil servant is entitled for pensionary benefits.
- E. Because the appellant had been made victim of discrimination, demerits, partiality and favoritism without any just and reasonable cause thereby offending the fundamental rights of the appellant as provided by the constitution of 1973, hence the impugned order detailed above is liable to be set at naught.
- F. Because the impugned order has been passed by applying wrong law over the subject, hence no limitation can run against an illegal order.
- G. Because the appellant is very hardworking and punctual in his duty, therefore, no complaint received by the Respondents against the appellant and under the doctrine of "Adl and Ehsan" he is entitled for pensionary benefits.
- H. Because the appellant was condemned unheard, his departmental appeal was not properly adjudicated in the manner as provided by the law. Further no chance of personal hearing was given to the present appellant in order to redress his grievances which shows the malafide of the Respondents, hence needs interference of this Hon'ble Tribunal.

(4)

- I. Because the present impugned order is illegal, illogical, against facts, without jurisdiction and suffering from material irregularity, hence is untenable and liable to be struck down.
- J. Because the Respondents erroneously exercised their powers against judicial principle, and have passed the impugned order and opened a new pandora box in clear violation of Service law, hence, the impugned order is liable to be set aside, and the appellant may kindly be awarded pensionary benefits.
- K. The appellant crave for leave of the Hon'ble Tribunal to raise additional grounds at the time of arguments.

IT IS, THEREFORE, MOST RESPECTFULLY PRAYED THAT ON ACCEPTANCE OF THIS APPEAL THIS HON'BLE TRIBUNAL MAY VERY GRACIOUSLY BE PLEASED TO:

- i. **DECLARE THE IMPUGNED ORDER DATED: 13-02-2018 AS ILLEGAL, AND UNLAWFUL.**
- ii. **DIRECT THE RESPONDENTS TO AWARD/GRANT PENSION AND PENSIONARY BENEFITS TO THE APPELLANT AS ADMISSIBLE TO HIM UNDER THE LAW.**
- iii. **ANY OTHER RELIEF, THOUGH NOT SPECIFICALLY ASKED FOR, DEEMS APPROPRIATE, MAY ALSO BE GRANTED.**

Dated: 18/07/2018

Through:

ASAD ZEB KHAN
Appellant

ASAD ZEB KHAN
ASAD ZEB KHAN
Advocate High Court, Peshawar.

Note: That no such like petition / Appeal on this subject matter has earlier been filed before this Hon'ble Tribunal!

ASAD ZEB KHAN

(5)

**BEFORE KHYBER PAKHTUN KHWA, SERVICE
TRIABUNAL, PESHAWAR**

Service Appeal No. _____/2018

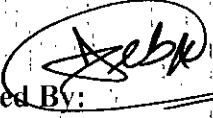
Amir Muhammad _____ **Appellant**


Versus

**Govt. of Khyber Pakhtun Khwa through Secretary Elementary and
Secondary Education and others** _____ **Respondents**

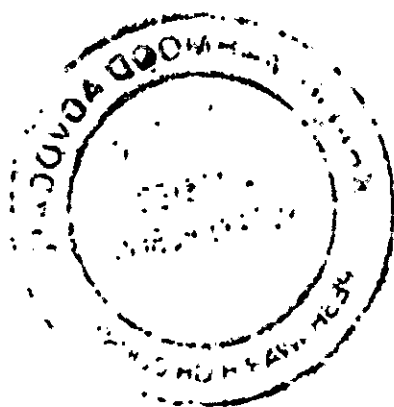
AFFIDAVIT

I, **AMIR MUHAMMAD** S/O Ghulam Nabi, R/O Mohallah Awan Abad Zaim, Yar Hussain, Tehsil Lahor, District Swabi, do hereby solemnly affirm and declare upon oath that the contents of the appeal are true and correct to the best of my knowledge & belief and nothing has been concealed or withheld from this Honourable Tribunal.

Identified By: 
ASAD ZEB KHAN,
Advocate, High Court,
Peshawar.


Deponent
Amir Muhammad
CNIC: _____





6

**BEFORE KHYBER PAKHTUN KHWA, SERVICE
TRIABUNAL, PESHAWAR**

Service Appeal No. _____/2018

Amir Muhammad _____ **Appellant**

Versus

**Govt. of Khyber Pakhtun Khwa through Secretary Elementary and
Secondary Education and others** _____ **Respondents**

APPLICATION FOR CONDONATION OF DELAY

Respectfully Sheweth:

1. That the accompanied appeal is filed, in which no date of hearing is fixed.
2. That the appellant filed his departmental appeal but no response what-so-ever has been made. Further the delay has been caused due to ailment of the appellant who was on bed rest for more than 20 days.
3. That the delay in filing the appeal is not deliberate and intentional but due to the reason mentioned above.
4. That the impugned order is illegal, as the same has been passed by applying wrong law, so no limitation is run against an illegal order.
5. That the law, equity and fair play demands that the subject appeal may kindly be heard at merits rather on technicalities.

It is, therefore, most respectfully prayed that the delay in filing appeal may kindly be condoned and the decision may kindly be made on merits.

Through:

Amir Muhammad
Appellant

Dated: 18/07/2018

Asad Zeb Khan
ASAD ZEB KHAN
Advocate High Court, Peshawar.

(7)

**BEFORE KHYBER PAKHTUN KHWA, SERVICE
TRIABUNAL, PESHAWAR**

Service Appeal No. _____/2018


Amir Muhammad _____ **Appellant**


Versus

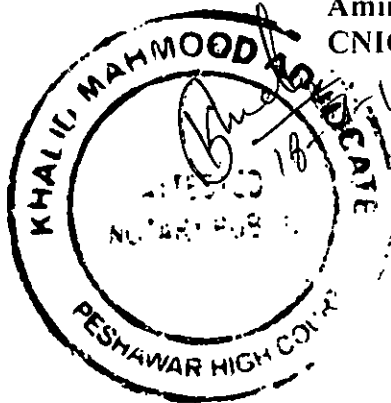
**Govt. of Khyber Pakhtun Khwa through Secretary Elementary and
Secondary Education and others** _____ **Respondents**

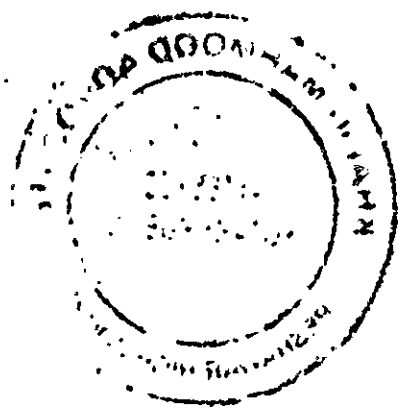
AFFIDAVIT

I, **AMIR MUHAMMAD** S/O Ghulam Nabi, R/O Mohallah Awan Abad Zaim, Yar Hussain, Tehsil Lahor, District Swabi, do hereby solemnly affirm and declare upon oath that the contents of the application are true and correct to the best of my knowledge & belief and nothing has been concealed or withheld from this Honourable Tribunal.

Identified By: 
ASAD ZEB KHAN,
Advocate, High Court,
Peshawar.


Deponent
Amir Muhammad
CNIC: _____





CA

8

OFFICE OF THE SUB DIVISIONAL EDUCATION OFFICER (MALE) RAJOUR.

APPOINTMENT ON CONTRACT BASIS

OFFICE ORDER.

Mr. Amir Muhammad S/o Shulan Nahi

Village & P.O. Y/Hassan M.A. Akh Daula Tehsil Lak. District Swabi is hereby appointed as Chowkidar on contract basis @ Rs--1200/- per month against newly created post at G.P.S. Amir Akh Jam Y/Hassan as per Govt. rules with effect from 01-01-1998 on the following terms and conditions:

- 1. His appointment is purely on contract basis and liable to termination at any time without assigning any reasons or notice.
- 2. He will not be allowed to take over charge in case his age is less than 18 Years or above 45 Years.
- 3. If he failed to take over charge of the post within fifteen days of the issue of this order will stand cancelled.
- 4. In case he wishes to resignation of his post he will have to give one month prior notice or for a diet one month pay in lieu thereof to Govt.:
- 5. Charge report should be submitted (in triplicate) to this office.

(AMIR CHOWKIDAR)
SUB DIVISIONAL EDUCATION OFFICER,
(MALE) RAJOUR.

Distt. No:- 27 / F.No. 18/1998/THS/10-11 Dated Rajour the 7-1-98

Copy forwarded to:-

- 1. The District Education Officer (Male) - Rajour - Swabi.
- 2. The District Accounts Officer Swabi.
- 3-4. ASDEO (T) & (A) Local Office.
- 5. Head Teacher G.P.S. Amir Akh Jam Y/Hassan
- 6. Candidate Concerned.

Signature: Muhammad 8/1/98
SUB DIVISIONAL EDUCATION OFFICER
(MALE) RAJOUR

Assistant Sub Div:
Edu: Officer (Male)
Chowk Rajour (Swabi)

Attested

"B"

9

3

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.

CNIC# 16201-0746515-7

1. Name: AMIR MUHAMMAD

2. Race: AFGHAN (Pakistani) (GHULAM-NABI)

3. Residence: Mehallah Awanabad (Ziam) Yachussain
Tehsil Lahor Distt Swabi


4. Father's name and residence: GHULAM-NABI As above


5. Date of birth by Christian era as nearly as can be ascertained: 1957

6. Exact height by measurement: 5-6"


7. Personal marks for identification: A cut mark on Rt Hand Finger

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

Little Finger: 

Ring Finger: 

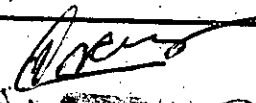
Middle Finger: 

Fore Finger: 

Thumb: 

Attested

9. Signature of Government Servant: 

10. Signature and designation of the Head of the Office, or other Attesting Officer: 
Deputy District Officer
(M) Lahor

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. 37 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
			Fix pay @ Rs. 1500/= PM				
Chowkidar on Contract basis GPS Awam Abad Zam Zam Hussain	Contract Fix Pay.		Rs 1500/=	PM Fixed.		07/01/1998	[Signature]
—do—	—do—		Rs 1800/=	PM Fixed.		01/05/1999	[Signature]
—do—	—do—		Rs 2000/=	PM Fixed.		01/07/2000	[Signature]
—do—	—do—		Rs 2500/=	PM Fixed.		01/09/2002	[Signature]
—do—	—do—		Rs 2800/=	PM Fixed.		01/07/2003	[Signature]
—do—	—do—		Rs 3100/=	PM Fixed.		1/12/2004	[Signature]
—do—	—do—		Rs 3500/=	PM Fixed.		01/07/2005	[Signature]
—do—	—do—		Rs 4000/=	PM Fixed.		01/09/2006	[Signature]
	Entries	Revised	WEF 07-01-1998				
	BPS -1	Rs (1245-35-1770)					
Chowkidar GPS Awam Abad Zam Zam Hussain	officiating Regular		Rs 1245/=	PM		07/01/1998	[Signature]
—do—	—do—		Rs 1280/=	PM		1/12/1998	[Signature]
—do—	—do—		Rs 1315/=	PM		1/12/1999	[Signature]
—do—	—do—		Rs 1350/=	PM		1/12/2000	[Signature]

Attested

(10) (11)

9 Signature and Designation of the head of the office or other attesting officer in attestation of columns 1 to 8	10 Date of termination or 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> Dy D. O. (M) LAHOR	30/4/1999	Fix Pay Revised	<i>[Signature]</i> Dy D. O. (M) LAHOR		Appointed as chowkidar on contract basis @ Rs 12.00/= PM			
<i>[Signature]</i> Dy D. O. (M) LAHOR	30/6/2000	Fix Pay Revised	<i>[Signature]</i> Dy D. O. (M) LAHOR		Fixed at GPS Awam Abad Liam You Hussain vide S.D.E.O (M)			
<i>[Signature]</i> Dy D. O. (M) LAHOR	31/8/2002	Fix Pay Revised.	<i>[Signature]</i> Dy D. O. (M) LAHOR		Lahor Endet No 27 / F.No: 18 / Appt / Tr / c.e. - 12 Dated 7-1-1998.			
<i>[Signature]</i> Dy D. O. (M) LAHOR	30/6/2003	Fix Pay Revised.	<i>[Signature]</i> Dy D. O. (M) LAHOR		Deputy District Officer (M) Lahor 07-1-1998			
<i>[Signature]</i> Dy D. O. (M) LAHOR	30/11/2004	Fix Pay Revised.	<i>[Signature]</i> Dy D. O. (M) LAHOR		Service Verified w.e.f 30-11-1998 from the office record			
<i>[Signature]</i> Dy D. O. (M) LAHOR	30/6/2005	Fix Pay Revised.	<i>[Signature]</i> Dy D. O. (M) LAHOR		Deputy District Officer (M) Lahor			
<i>[Signature]</i> Dy D. O. (M) LAHOR	31/8/2006	Fix Pay Revised	<i>[Signature]</i> Dy D. O. (M) LAHOR		Service Verified w.e.f 30-11-99 from the office record		1-12-98	
<i>[Signature]</i> Dy D. O. (M) LAHOR	30/6/2008	Awarded regular Bps-1 WEF Appt date Entries Revised.	<i>[Signature]</i> Dy D. O. (M) LAHOR		Deputy District Officer (M) Lahor		30-1-12-99	
<i>[Signature]</i> Dy D. O. (M) LAHOR	30/11/1998	A/gnc	<i>[Signature]</i> Dy D. O. (M) LAHOR		Deputy District Officer (M) Lahor		1-12-2000	
<i>[Signature]</i> Dy D. O. (M) LAHOR	30/11/99	A/gnc.	<i>[Signature]</i> Dy D. O. (M) LAHOR		Service Verified w.e.f 30-11-2001 from the office record			
<i>[Signature]</i> Dy D. O. (M) LAHOR	30/11/2000	A/gnc.	<i>[Signature]</i> Dy D. O. (M) LAHOR		Deputy District Officer (M) Lahor		1-12-2001	
<i>[Signature]</i> Dy D. O. (M) LAHOR	30/11/2001	A/gnc.	<i>[Signature]</i> Dy D. O. (M) LAHOR		Service Verified w.e.f 30-11-2002 from the office record			

Attested

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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
Chowkidar GPS Arwan Abad Ziam Tar Hussain	Officiating Regular		Rs 1385/2 PM			1/12/2001	
		Revised BPS-1		Rs (1870-55-3520)			
-do-	-do-		Rs 2090/2 PM			1/12/2001	
-do-	-do-		Rs 2145/2 PM			1/12/2002	
-do-	-do-		Rs 2200/2 PM			1/12/2003	
-do-	-do-		Rs 2255/2 PM			1/12/2004	
		Revised BPS-1		Rs (2150-65-4100)			
-do-	Attested		Rs 2605/2 PM			1/7/2005	
-do-	-do-		Rs 2670/2 PM			1/12/2005	
-do-	-do-		Rs 2735/2 PM			1/12/2006	
		Revised BPS-1		Rs (2475-75-4725)			
-do-	-do-		Rs 3150/2 PM			1/7/2007	
-do-	-do-		Rs 3225/2 PM			1/12/2007	

9 Signature and Designation of the head of the office or other attesting officer in attestation of columns 1 to 8	10 Date of termination or 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		
<i>[Signature]</i> Dy D. O. (M) LAHOR	12/2001	Pay Revised.	<i>[Signature]</i> Dy D. O. (M) LAHOR		Service Verified w.e.f 1-12-2002 to 30-11-2003	<i>[Signature]</i> Deputy District Officer (M) Lahor	from the office record
<i>[Signature]</i> Dy D. O. (M) LAHOR	30/11/2002	A/Inc.	<i>[Signature]</i> Dy D. O. (M) LAHOR		Service Verified w.e.f 1-12-2003 to 30-11-2004	<i>[Signature]</i> Deputy District Officer (M) Lahor	from the office record
<i>[Signature]</i> Dy D. O. (M) LAHOR	30/11/2003	A/Inc.	<i>[Signature]</i> Dy D. O. (M) LAHOR		Service Verified w.e.f 1-12-2004 to 30-11-2005	<i>[Signature]</i> Deputy District Officer (M) Lahor	from the office record
<i>[Signature]</i> Dy D. O. (M) LAHOR	30/11/2004	A/Inc.	<i>[Signature]</i> Dy D. O. (M) LAHOR		Service Verified w.e.f 1-12-2005 to 30-11-2006	<i>[Signature]</i> Deputy District Officer (M) Lahor	from the office record
<i>[Signature]</i> Dy D. O. (M) LAHOR	30/6/2005	Pay Revised.	<i>[Signature]</i> Dy D. O. (M) LAHOR		Service Verified w.e.f 1-12-2006 to 30-11-2007	<i>[Signature]</i> Deputy District Officer (M) Lahor	from the office record
<i>[Signature]</i> Dy D. O. (M) LAHOR	30/11/2005	A/Inc.	<i>[Signature]</i> Dy D. O. (M) LAHOR		Service Verified w.e.f 1-12-2007 to 30-11-2008	<i>[Signature]</i> Deputy District Officer (M) Lahor	from the office record
<i>[Signature]</i> Dy D. O. (M) LAHOR	30/11/2006	A/Inc.	<i>[Signature]</i> Dy D. O. (M) LAHOR			<i>[Signature]</i> Deputy District Officer (M) Lahor	
<i>[Signature]</i> Dy D. O. (M) LAHOR	30/6/2007	Pay Revised.	<i>[Signature]</i> Dy D. O. (M) LAHOR		Service regularised by awarding regular BPS-1 WEF 1-7-2008 vide Govt of NWFP Finance Deptt Notification No B-0-1/1-22/2007-2008/F.D. Dated: 29-01-2008 While Fixation will be made from the date of appointment with no arrears prior to 30-6-2008.	<i>[Signature]</i> Deputy District Officer (M) Lahor	
<i>[Signature]</i> Dy D. O. (M) LAHOR	30/11/2007	A/Inc.	<i>[Signature]</i> Dy D. O. (M) LAHOR			<i>[Signature]</i> Deputy District Officer (M) Lahor	
<i>[Signature]</i> Dy D. O. (M) LAHOR	30/6/2008	Pay Revised.	<i>[Signature]</i> Dy D. O. (M) LAHOR			<i>[Signature]</i> Deputy District Officer (M) Lahor	

Attested

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CEI

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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
Chowkidar BPS Arwan Abad Ziam Tar Hussain	officiating Regular	Revised	BPS-1	Rs (2970-90-5670)		17/2008	
do	do		Rs 3870/- PM			12/2008	
<p>2005</p> <p>OFFICE OF THE ACCOUNTANT GENERAL PESHAWAR</p> <p>PAY FIXATION IN PESHAWAR</p> <p>AT RS..... OF RS..... With Next Increment on.....</p> <p>1-12-2005</p> <p>1-12-2008</p> <p>2007</p>							
do	do		Rs 4050/- PM			01/12/2009	
do			Rs 4140/- PM			01/12/2010	
		Pay Revised BPS-1	(4800-150-9300)				
do			Rs 6750/- PM			01/07/2011	
do			Rs 6900/- PM			01/12/2011	
			Rs 7050/- PM			01/12/2012	

Attested

15

9	10	11	12	13		14	15
				Leave			
				Nature and duration of leave	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government		
Signature and Designation of the head of the office or other attesting officer in attestation of columns 1 to 8	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.	Period	Government to which debitable	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
				<i>[Signature]</i> Dy D. O. (M) LAHOR	30/11/2008		
<i>[Signature]</i> Dy D. O. (M) LAHOR	31/11/09	A/Inc	<i>[Signature]</i> Dy D. O. (M) LAHOR			<i>[Signature]</i> Deputy District Officer (M) Lahor	
2008							
OFFICE OF THE ACCOUNTANT GENERAL N.W.F.P. PESHAWAR PAY FIXED IN THE REVISED BASIC PAY SCALES I							
OF RS ATRS 2970/- to 5620 With Next Increment on 07-2008 02-2008							
Pay Fixed on 07-2008							
Rs 8760/-							
<i>[Signature]</i> Dy D. O. (M) LAHOR	31/11/2010	A/Inc	<i>[Signature]</i> Dy. D.O (M) Lahor			<i>[Signature]</i> DAO	
<i>[Signature]</i> Dy. D.O (M) Lahor	30/11/2011	pay Revised	<i>[Signature]</i> Dy. D.O (M) Lahor			Attested	
2007							
OFFICE OF THE ACCOUNTANT GENERAL N.W.F.P. PESHAWAR PAY FIXED IN THE REVISED BASIC PAY SCALES I							
OF RS ATRS With Next Increment on 07-2007 12-2007							
<i>[Signature]</i> Dy. D.O (M) Lahor	30/11/2011	A/Inc	<i>[Signature]</i> Dy. D.O (M) Lahor			<i>[Signature]</i>	
<i>[Signature]</i> Dy. D.O (M) Lahor	30/11/2012	A/Inc	<i>[Signature]</i> Deputy District Officer (M) Lahor			<i>[Signature]</i> Account Officer Pay Fixation Party N.W.F.P. Peshawar	
Service Verified w.e.f 01-12-2009 to 30-11-2011 from the office record							
Dy. D.O (M) Lahor							

18
CEI

16

1	2	3	4	5	6	7	8	
Name of post	Whether substan- tive 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	
Chowkidar		Revised Entries due to regularized BPS-1						
G.P.S. Awam Ahal		B-1 (1245-35-1770)						
Yar Hussain		pay on 1-7-1998	1245/-		pm			
		pay on 1-12-1998	1280/-		A/pm			
		pay on 1-12-1999	1315/-		A/pm			
		pay on 1-12-2000	1350/-		A/pm			
		pay on 1-12-2001	1385/-		A/pm			
		Revised BPS-1 (1870-55-3520)						
		pay on 1-12-2001	2090/-		Revised			
		pay on 1-12-2002	2145/-		A/pm			
		pay on 1-12-2003	2200/-		A/pm			
		pay on 1-12-2004	2255/-		A/pm			
		Revised BPS-14 (2160-65-4100)						
		pay on 01-07-2005	2605/-		Revised			
		pay on 1-12-2005	2670/-		A/pm			
		pay on 1-12-2006	2735/-		A/pm			
		Revised and Awarded BPS-2 B (2530-85-5080)						
		pay on 01-07-2007	3210/-		Revised			
		pay on 01-09-2007	3295/-		one special increment			
		pay on 01-12-2007	3380/-		A/pm			
		Revised BPS-2 A (3035-100-6035)						
		pay on 01-07-2008	4035/-		Revised			
		pay on 01-12-2008	4135/-		A/pm			
		pay on 01-12-2009	4235/-		A/pm			
		pay on 01-12-2010	4335/-		A/pm			
		Revised BPS-2 B (4900-170-10000)						
		pay on 01-07-2011	7110/-		Revised			
		pay on 01-12-2011	7280/-		A/pm			
		pay on 01-12-2012	7450/-		A/pm			

Attested

608, Divisional Edu. Office
M. J. Labor Distt. Swabi

17

9 Signature and Designation of the head of the office or other attesting officer in attestation of columns 1 to 8	10 Date of termination or 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		
				<p>Scale upgraded from BPS-1 to BPS-3 w.e.f. 1-7-2007 vide Govt. of RPR Peshwar under Notification No BCR/FD/1-22/2007-08 but no order is inadmissible w.e.f. 1-7-2008.</p>			
						<p>Sub. Divisional Edu. Officer (M) Lahor Distt. Swabi</p>	
				<p><u>UNDERTAKING</u></p> <p>I Mrs. Amner Muhammad Choudhary hereby undertaking to the effect that if any overpayment is made to me as a result of incorrect upgradation to B-2 The amount of over payment should be recovered for my pay/pension etc</p>			
						<p>Sub. Divisional Edu. Officer (M) Lahor Distt. Swabi</p>	
				<p>Attested</p>			

CC No. 19 (8888) dated 1-7-2008 to B-2

[Handwritten signature]

Attested

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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
GPS Awan Abad Yar Hussam		RS	7620/- pm			1/12/13	RS
		RS	7790/- pm			1/12/2014	RS
	Revised BPS-2 (6335-220-12935)						
		RS	10075/- pm			1/07/2015	RS
		RS	10298/- pm			1/12/2015	
	Refixation of pay due to upgraded to B-4 (6730-300-15730) w.e.f 1-7-2015						
	pay on 01-7-2015 in BPS-2		RS	10075/- pm			
4035/RS	pay fixed in B-4 on 1-7-2015		RS	10330/- pm			upgraded to B-4
	premature Inc on 1-7-2015		RS	300			Premature Inc
7119/RS	pay on 1-12-2015 A/Inc		RS	10630/- pm			A/Inc
10295/RS			B-4	10630/- pm			
Chowkidar B-4 Yar Hussam	SA/Temp		RS	10630/- pm		1/12/2015	RS

Attested

Sub Divisional Edu Officer
(Male) Lahor Dist: Swabi

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9	10	11	12	13		14	15	
				Leave				
Signature and Designation of the head of the office or other attesting officer in attestation of columns 1 to 8	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.	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		
Sub Divisional Edu Officer (Male) Lahor Swabi	30/11/14	A/P						
S.D.E.O (M) Lahor Swabi	30/06/2015	Pay Revised	S.D.E.O (M) Lahor Swabi					
S.D.E.O (M) Lahor Swabi	01/07/2015	Upgraded to B-4	S.D.E.O (M) Lahor Swabi					
S.D.E.O (M) Lahor Swabi								
S.D.E.O (M) Lahor Swabi	30/06/2015	Pay Revised	S.D.E.O (M) Razzar Swabi					

UNDERTAKING
 I DO HEREBY GIVEN AN UNDERTAKING TO THE EFFECT THAT IF ANY OVER PAYMENT IS MADE TO ME AS A RESULT OF INCORRECT FIXATION OF MY PAY DUE TO UPGRADATION BPS 4 LATER ON IT WILL BE DETACTED FROM MY PAY / PENSION/GRAUITY ETC. SIGN: OF GOVT. SER.

NOTIFICATION
 TWO PAY SCALE UPGRADATION TO ALL PROVINCIAL GOVERNMENT EMPLOYEES FROM BPS 1 TO BPS 5 VIDE GOVT OF KPK FINANCE DEPARTMENT NOTIFICATION NO FD/30/FRI7-20/2015 DATED 30/5/2015

288
 TX/116 Drawn Rs. 60531 = due to upgradation to B-4 w.e.f 1.7.2015 to 31.3.2016

Attested

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20

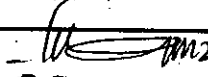
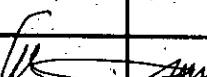
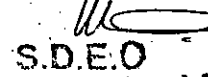

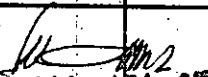
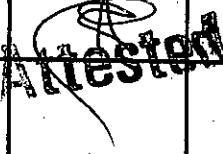
1	2	3	4	5	6	7	8
Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R.	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the term "Pay"	Date of Appointment	Signature of Government Servant
	Refraction of pay due to premature pay						
	1-7-2014 (B-2 4900-170-10000)						
	pay on 1-12-2013 — 7620/- A/c						
	1-7-2014 — 7790/- Premature Inc.						
	1-12-2014 — 7960/- A/c						
	B-2 (6335-2209-12935)						
	1-7-2015 — 10295/- Revised B-2						
	1-12-2015 — 10515/- A/c						
	1-7-2015 — 15750/-						
	B-4 (6730-570-15750)						
	pay on 1-12-2015 — 10630/- up graded B-4						
	1-12-2015 — 10830/- premature Inc.						
	1-12-2018 — 10930/- A/c						
	S.D.E.O						
	(M) Lahor Swabi						

Attested

Joint Name Accountant General
 Khyber Pakhtun Khwa Peshawar
 Pay Fixed in the Revised Basic Pay Scales
 R.B.P.S.
 Pay Fixed @ Rs 2035 1008035 B-2
 w.e.f. 01-07-2008
 Pay Fixed @ Rs 1900 17010000 B-2
 w.e.f. 01-07-2008
 R.B.P.S. 1900 17010000 B-2
 Pay Fixed @ Rs 2110 w.e.f. 01-07-2011
 Date of Next increment is on 01/12/2011
 Accounts Officer
 Peshawar

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>Chowkiala B-4</u>							
CPS Awanabad		pay Revised B=4 (8280-370-19380)					
Yar Hussain			Rs 13090/- pm			11/07/2016	
			Rs 13460/- pm			11/12/2016	

Attested

9	10	11	12	13		14	15
Signature and Designation of the head of the office or other attesting officer in attestation of columns 1 to 8	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 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		
 S.D.E.O. (M) Razzar Swabi	30/11/2016	A/Inc	 S.D.E.O. Razzar Swabi			Service Verified w.e.f 01-12-2011 to 30-6-2017 from the office Record	
 S.D.E.O. (M) Razzar Swabi	30/16/2017	Detn of Retirement	 S.D.E.O. (M) Razzar Swabi			 Sub Divisional Edu. Officer (Male) Razzar Distt:Swabi	
							

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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

Attested



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OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) SWABI
(Office phone & Fax No.0938280239, emis_swabi@yahoo.com)

SANCTION FOR THE GRANT OF ENCAHMENT OF LPR AND
RETIREMENT ON SUPERNAUATION FROM GOVT: SERVICE

Sanction is hereby accorded to the grant of encashment of LPR to the w.e.f 01-07-2016 to 30-06-2017(365) days on full pay in r/o Mr. Amir Muhammad Ex-Chowkidar GPS Awan Abad Yar Hussain and retirement on supernauation from Gove: service w.e.f (30-06-2017) without pension benefits due to less qualifying service as admissible to him under the revised leave rules 1981.


Note:

- 1:- Necessary entry to this effect should be made in his original service book & leave account.
- 2:- This order is final and shall not be revoked at any stage.

(JEHANGIR KHAN)
DISTRICT EDUCATION OFFICER
(MALE) SWABI

Endst No. 1476-80 /LPR File No. 09-101/C-IV/ Dated: 13-02 /2018
Copy of the above is forwarded to the:-

- 1:- District Accounts Officer Swabi.
- 2:- SDEO(M) Razzar a/w original Service Book.
- 3:- EMIS Cell Local Office.
- 4:- District Monitoring Officer Swabi.
- 5:- Official Concerned.

: DISTRICT EDUCATION OFFICER
(MALE) SWABI
13/2/18


Attested

66

FORM OF LEAVE ACCOUNT UNDER THE REVISED LEAVE RULES.
 (Approved vide Finance Division's letter No.F.1 (3) - Rev. 1/78, dated 18-1-1979)

Leave Account of **Mr. Amir Muhammad Chowkidar** Date of Commencement of Service **07-01-1998**, Date of attaining the age of superannuation **30-06-2017**

PERIOD OF DUTY					Full Calendar months		Leave earned on full pay @ 4 days for each calendar month.		Leave at credit (Column 21 + 6)		PERIOD		Leave on full pay without medical certificate to maximum of 120 days & 365 days in case of LPR.		Leave on full pay on medical certificate subject to a maximum of 180 days		Leave on full pay on medical certificate subject to a maximum of 365 days in entire service		In terms of half pay		In terms of full pay		Recreation leave of 15 days in a year but 10 days to be debited		In terms of half pay		In terms of full pay		Actual No. of days		No. of days debitabe (double the actual number)		Total leave (Columns 10+11+12+14+15+17+19)		Balance on 1-7-1978/ return from leave (Cols. 7-20)		Remarks		Attestation																												
1	From	To	Y.M.D	F.Yr	Days	Days	From	To	Days	Days	Days	Days	Days	Days	Days	Days	Days	Days	Days	Days	Days	Days	Days	Days	Days	Days	Days	Days	Days	Days	Days	Days	Days	Days	Days	Days	Days																														
	07-01-1998	30-06-2017	19-05-23	935	935	935	01-07-2016	30-06-2017	365																																																										
Applied for Encashment in Lieu of LPR																																																																			
Sub-Divisional Education Officer																																																																			
(Male) Razzar																																																																			

Attested

(27)

"D"

To,

THE HON'BLE DIRECTOR,
Elementary and Secondary Education Department,
Khyber Pakhtun Khwa, Peshawar.

Amir
12/3

Subject: DEPARTMENTAL APPEAL AGAINST THE
IMPUGNED ORDER DATED: 13-02-2018 VIDE WHICH
THE DEO (MALE) DISTRICT SWABI REFUSED TO
PAY PENSION AND PENSIONARY BENEFITS TO THE
APPELLANT.

P.A. O. Director
D. No. 891
12-3-18

Worthy Sir,

Most respectfully, the applicant submits as under:-

1. That the appellant was working as Chowkidar at Govt. Primary School Awan Abad , Yar Hussain District Swabi and got retired on 30-06-2017 after attaining age of superannuation.
2. That after retirement, the appellant duly submitted his papers/ documents for grant of pension and other pensionary benefits, but surprisingly the Hon'ble D.E.O (Male) District Swabi vide impugned order dated: 13-02-2018 refused to grant pension and pensionary benefits to the appellant.
3. That it is an unalienable right of appellant that he should be awarded all his due financial benefits accrued to him from the service so rendered.
4. That the appellant was a permanent employee of the department and under the law, he is entitled for all pensionary benefits.


Attested

5. That the apex court of country including all superior courts of Pakistan are of the view that regularization in service must be from the date of initial appointment and not from any subsequent date.
6. That the impugned order of the Hon'ble DEO, Swabi is illegal, unlawful and void ab initio and against the settled provisions of service laws.
7. That the impugned order is arbitrary, based on nepotism and highly discriminatory and liable to be reversed by awarding/ordering payment of pension to the appellant.
8. That the impugned order is against the Article 4 of constitution of Pakistan.
9. That the appellant through this departmental appeal most respectfully submitted that an appropriate order may very graciously be passed in respect of payment of pension and other pensionary benefits in favor of appellant.

The appellant will be highly obliged.



Dated: 09-03-2018

Appellant


Amir Muhammad
Ex-Chowkidar
Govt. Primary School,
Awan Abad, Yar Hussain,
Swabi.


Attested

129

قیمت 50 روپے			35314
ایڈوکیٹ: اسمیر زب خان	پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل ایسوسی ایشن نمبر: BC-09-1517	رابطہ نمبر: 0346-9800565		

بعدالت جناب: خیبر پختونخواہ سردسوں ہاٹل میونل سٹیٹ

مخائب: سائل / Appellant	دعوی:
	علت نمبر:
امیر محمد بنام حکومت	مورخہ:
	جرم:
	تھانہ:

بامت تحریر آگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دی کارروائی متعلقہ درجہ میں
آن مقام سٹیٹ کیلئے اسمیر زب خان کے امیر محمد بنام حکومت کو وکیل مقرر
کر 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 ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز
دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخہ منظور و قبول ہوگا
دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے
باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند ہے

المرقوم: 18-07-2018

الم ————— واہ شد ————— الم

مقام پشاور کے لیے منظور ہے۔

Fida

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No.911/2018

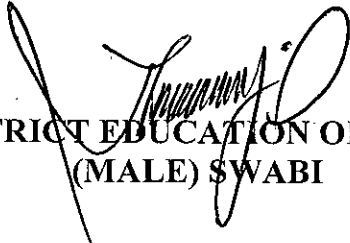
Amir Muhammad S/O Ghulam Nabi R/O Mohallah Awan Abad Zaim Yar Hussain,
Tehsil Lahor, District Swabi.....Appellant

VERSUS

1. Govt:of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Department, Peshawar
 2. Director Elementary&Secondary Education, Peshawar
 3. District Education Officer Swabi
-Respondents

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DISTRICT EDUCATION OFFICER
(MALE) SWABI

**District Education Officer
(Male) Swabi.**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No.911/2018

Amir Muhammad S/O Ghulam Nabi R/O Mohallah Awan Abad Zaim Yar Hussain,
Tehsil Lahor, District Swabi.....**Appellant**

VERSUS

1. Govt:of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Department, Peshawar
 2. Director Elementary&Secondary Education, Peshawar
 3. District Education Officer Swabi
-**Respondents**

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS 01 TO 03

Respectfully Sheweth,

PRELIMINARY OBJECTIONS.

1. That the instant Appeal is badly time barred and not maintainable.
2. That the Appellant has no locus standi or cause of action to file the instant Appeal
3. That the Appellant has not come to the Tribunal with clean hands.
4. That the Appellant concealed the material facts from the Honourable Tribunal.
5. That the Appellant has filed the instant Appeal just to pressurize the respondents.
6. That the Appellant is estopped by his own conduct to file the instant appeal.
7. That the instant Appeal is against the prevailing laws and rules.
8. That as per pension rules, rule No. 1.5, the service rendered by the appellant till 30.06.2008 is not qualifying for pension. Hence not maintainable.

Facts

1. That the appellant was appointed on 07.10.1998 against Chowkidar post at GPS Awan Abad Zaim Yar Hussain Swabi. His appointment was purely on contract fixed pay salary and was subsequently regularized w.e.f.01.07.2008. After that, he got retired on 30.06.2017 on attaining the age of superannuation. He also filed Service Appeal No.1248 of 2016 for change in his date of birth, which was dismissed by the Honourable Service Tribunal on 07.02.2018. Finance Department letter about appointment, Endorsement letter of Education Department, Endst: letter of Director of Primary Education Govt:of NWFP & Finance Department letter are annexed as A,B,C&D.
2. That it is mandatory for a Civil Servant to perform his duty with great zeal & devotion and according to the wishes of the superiors, otherwise he would have to be proceeded under E&D Rules, 2011.
3. That as per West Pakistan Pension Rules, 1963, rule 4.4, the minimum length of qualifying service required for grant of pension and other pensionary benefits is 10 years, while the length of qualifying service in case of the appellant is only 09 years. Hence he is not entitled for grant of pension.
4. That vide Government of KPK Finance Department No.BO-I/F.D/1-22.2016-17 dated Peshawar the 12.07..2017, the regularization of the appellant and status as a Civil Servant is w.e.f. 01.07.2008 but not from is appointment. This policy still

**District Education Officer
(Male) Swabi.**

stands same and required to be followed in letter and spirit. That service rendered on contract basis shall not qualify for pension/gratuity.

In the light of the above said letter, the appellant is not entitled for grant of pensionary benefits. Finance Department letters annexed as E and F.

5. That the impugned order dated 13.02.2018 is legal, lawful and the appellant status is crystal clear as stated in para 1,2 and 4 above, does not enable him to get pensionary benefits as per rules, law and policy. Furthermore the departmental appeal as well as the service appeal both are badly time barred and not maintainable in the present form and circumstances of the issue.
6. That the appellant is not an aggrieved person at all, because as per West Pakistan pension Rules 1963 rule 4.4 the minimum length of qualifying service required for grant of pension and other pensionary benefits is 10 years, while the length of qualifying service in the case of the appellant was only 09 years. Furthermore West Pakistan pension rules 1963 rule 1.5 also excludes the period of service rendered by the appellant w.e.f. 07.01.1998 to 30.06.2008. In fact, the applicant was appointed on 07.01.1998 on contract fixed salary basis vide Government of NWFP Finance Department No.BI/2-I/92-93/FD dated Peshawar, the 04.11.1992 which states, " In future, the Non Education Cadre posts in the Education Department such as Chowkidars, Naib Qasids, Malis, Water carriers, Sweepers etc; be filled on contact basis, in order to rid the Provincial exchequer of the extra burden on account of future pensionary liabilities". Theses posts be filled in on fixed salary basis. The petitioner was appointed in Education Department and he had accepted all the terms and conditions without any agitation before taking over charge till retirement. The petitioner became civil servant w.e.f. 01.07.2008 vide Government of NWFP Finance Department No.B.O.I/1-22/2007-08/FD, dated 29.01.2008, in this regard all the previous policies/instructions shall be treated as cancelled w.e.f. 01.07.2008. According to West Pakistan Civil Services Pension rules,1963 rule No. 1.5, these rules shall not apply to:
 - i. Government Servants paid from contingencies/borne on work charged Establishment.,
 - ii. Government Servants engaged on contact which contains no stipulations for pension under these rules.,
 - iii. Any person for whose appointment in conditions of service, special provision is made by or under any law for the time being enforced.,
 - iv. Any Government servant or Class of Government Servants who may be excluded by a competent authority from the application of these rules,
 - v. Any Government Servant who holds a post which has been declared by a competent authority to be non pensionable.
 - vi. Any person whose whole time is not retained for public service but is merely paid for work done, such as Government pleaders and law officers not debarred from private practice.,

vii. Any person who is not paid from the Provincial Consolidated fund, but is paid from a fund by Government as trustee, or a local fund or remunerated by fees for the grant of a tenure of land or of any other source of revenue or of a right to collect money.

Pension rule 2.1, the service of the Government Servant does not qualify for pension unless it conforms to the following three conditions.

- First- The service must under Government.
- Second- The service must not be non-pensionable.
- Third- The service must be paid by Government from the Provincial consolidated fund.

According to Finance Department Regulation Wing No:FD(SOSR-1)12-7/2014 dated Peshawar the 06th February, 2014, protection of pay of contract employee on regularization/appointment on regular basis the condition No.5 states" the service rendered on contact basis shall not qualify for pension/gratuity. That according to rule 4.4, after a qualifying service of not less than 10 years, full superannuation, full pension may be granted.

As discussed above, the service of appellant w.e.f. 07.01.1998 to 30.06.2008 is not qualifying service for pension. His qualifying service for pension is only 09 years, which is much less than 10 years, hence, the petitioner is not entitled for the grant of pensionary benefits as per pension rule 1.5,2.1 & 4.4.

The appellant has no cause of action to file the instant appeal and the appeal in hand may be dismissed inter alia amongst the following ground.

Grounds.

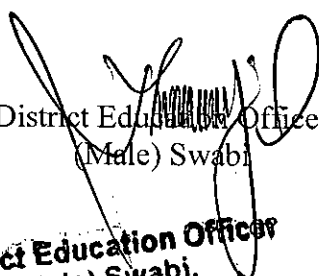
- A. Incorrect, hence denied, the impugned order of respondent No.3 dated 13.02.2018 is in accordance with law, facts, rules and policy, hence may be maintained.
- B. Incorrect, hence denied, the impugned order of respondent No.3 dated 13.02.2018 is in accordance with the principles of the fairness, merit and transparency. It is also legal in accordance with law, rules, facts and policy, hence may be maintained.
- C. Incorrect, hence denied, the length of qualifying service for pension in the case of the appellant is only 09 years, which is much less than, the minimum length of qualifying service required for grant of pension. As per West Pakistan Pension Rules, 1963, rule 1.5, the period of service rendered by such cadre between the period from 01.07.1992 to 30.06.2008 is excluded for counting qualifying service for pension. It has been also discussed in length in para 6 of the facts. Hence he is not deserved to be given pensionary benefits.
- D. Incorrect, hence, denied the impugned order dated 13.02.2018 is in accordance with West Pakistan Civil Service Pension Rules, 1963. According to rule 1.5 and rule 2.1, his length of qualifying service for pension is only 09 years. "law does not recognized any contract employee as Civil Servant. The same is reported in 2013 PLC(CS)1463. "Pension has to be determined on the basis of qualifying


District Education Officer
(Male) Swabi.

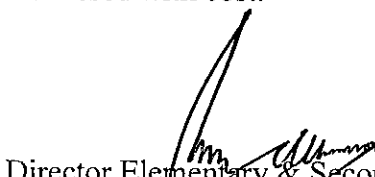
service and not on the basis of total length of service" The same is reported in NLR 1991 CLJ 706.

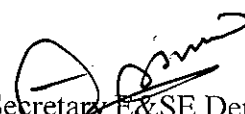
- E. Incorrect, hence denied. Appellant has not been discriminated, the merit has been followed in letter and spirit and the appellant has been dealt in accordance with law, facts rules and policy, fundamental rights of the appellant as provided by the constitution Islamic Republic of Pakistan 1973 have not been violated. Hence the impugned order may be maintained.
- F. Incorrect, hence denied, the impugned order has been passed by applying correct and relevant law over the subject, The impugned order has been passed in accordance with West Pakistan Civil servant pension Rules, 1963, rule 1.5,2.1 and 4.4, hence limitation runs in the instant case.
- G. Incorrect, hence denied, it is mandatory for a Civil Servant to perform his duties with entire satisfaction of his superiors, hard working and punctuality in duty is mandatory for every Civil Servant, otherwise he would have to be proceeded under E&D Rules, 2011. He is not entitled for grant of pension due to his less length of qualifying service for pension, as per rule 4.4 of West Pakistan Civil Servant pension rules 1963.
- H. Incorrect, hence denied, the appellant has been dealt in accordance with law, rules and policy. There is nothing exist in statute that in pension case the appellant may be heard in pension. It is admitted that the length of qualifying service for pension of the appellant is much less than the minimum length of service required for grant of pension under pension rule 4.4.
- I. Incorrect, hence denied, the impugned order is legal, logical, according to facts, with jurisdiction and in accordance with law, rules, and policy. Hence tenable in the eye of law.
- J. Incorrect, hence denied, there are various contradictory judgments on the same stance/plea. The matter is subjudice in the August Supreme Court of Pakistan pension rules, 1.5,2.1 and 4.4 do not give him right of pensionary benefits. Respondents have exercised their powers in accordance with law, rule and policy. The appellant qualifying service for pension is much less than 10 years, hence he is not entitled for grant of pensionary benefits. The appellant has been dealt in accordance with pension rules, 1.5.2.1 and 4.4 and service law has not been violated in any shape. Hence the impugned order may be maintained.
- K. That the respondents seek permission to raise/argue other points/grounds on the day of hearing the case.

In view of the above submissions, facts and grounds it is earnestly requested that the instant appeal may very graciously be dismissed with cost.


 District Education Officer
 (Male) Swabi

District Education Officer
 (Male) Swabi.


 Director Elementary & Secondary Education
 Khyber Pakhtunkhwa, Peshawar


 Secretary E&SE Department
 Govt:of Khyber Pakhtunkhwa, Peshawar

5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No.911/2018

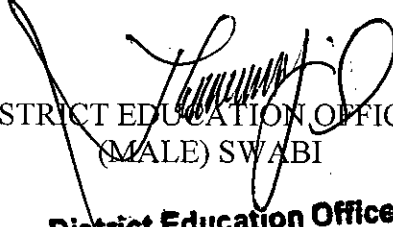
Amir Muhammad S/O Ghulam Nabi R/O Mohallah Awan Abad Zaim Yar Hussain,
Tehsil Lahor, District Swabi.....**Appellant**

VERSUS

1. Govt:of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Department, Peshawar
 2. Director Elementary&Secondary Education, Peshawar
 3. District Education Officer Swabi
-**Respondents**

AFFIDAVIT

We do hereby solemnly affirm and declare on oath that the contents of the comments are true and correct to the best of our knowledge and belief, nothing has been concealed from this Honourable Tribunal.


DISTRICT EDUCATION OFFICER
(MALE) SWABI

**District Education Officer
(Male) Swabi.**

(6)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No.911/2018

Amir Muhammad S/O Ghulam Nabi R/O Mohallah Awan Abad Zaim Yar Hussain,
Tehsil Lahor, District Swabi.....**Appellant**

VERSUS

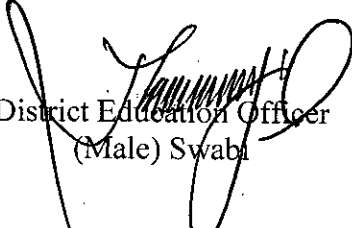
1. Govt:of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Department, Peshawar
 2. Director Elementary&Secondary Education, Peshawar
 3. District Education Officer Swabi
-**Respondents**

Reply of application for condonation of delay


Respectfully Sheweth,

1. That the accompanied para-wise comments is filed in which next date of hearing is 15.01.2019.
2. That the departmental appeal as well as service appeal both are time barred, the appellant was not interested, because he filed both the appeals badly time barred. Hence not maintainable.
3. That the delay in filing the appeal is deliberate and intentional. He makes lame excuses.
4. That the impugned order is legal and in accordance with law, rules, policy and rules 1.5, 2.1 and 4.4 of West Pakistan Civil Servants pension rules 1963 discussed in length in the para-wise comments. The hurdles of limitation could not be crossed under the guise of any hardships or imagined inherent discretionary jurisdiction of the court. Ignorance, negligence, mistake or hardship did not save limitation nor does poverty of the parties. Same is reported in 2016 PLD SC 872. Hence limitation runs and the appeals are badly time barred.
5. That, the appeal barred by time, is not maintainable in the eye of law.

In view of the above submissions/facts it is earnestly requested that the application for condonation of delay may very graciously be rejected.


District Education Officer
(Male) Swabi

**District Education Officer
(Male) Swabi.**


Director Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar


Secretary G&SE Department
Govt:of Khyber Pakhtunkhwa, Peshawar

Annexure - A (7) (4)

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GOVT OF NWFP
FINANCE DEPARTMENT
No. BI/2-1-/92/FD
Dated Peshawar the 4-11-1992

To

1. The Secretariat to Government of NWFP
Education Department.
2. The Secretary to Government of NWFP
Health & SW Department.
3. The Secretary to Government of NWFP,
Public Health Engineering Department.
4. The Secretary to Government of NWFP,
C&W Department.

Subject APPOINTMENTS OF SPECIFIC CATEGORIES
OF STAFF ON FIXED SALARIES

Sir;

I am directed to state that the Provincial Cabinet in its meeting held on 21-05-1992 had inter-alia decided that:-

1. "In Future the non-education cadre posts in the education department such as Chowkidars, Naib Qasids, Malies, Water Carriers, Sweepers etc; be filled on contract basis, in order to rid the Provincial exchequer of the extra burden on account of future pensionary liabilities".
2. On reconsideration the Government has now decided that the cabinet decision referred to above may be applied to similar jobs in some other departments as well. Accordingly the following categories of jobs in Primary Schools, BHUs, RHCs, Water Supply Schemes and C&W Department will hence-forth be filled in on fixed salary basis:-
 1. Chowkidar
 2. Mali
 3. Baheshti
 4. Coolie in Road Gang
 5. Valve Man
3. The above instructions would apply to fresh requirements for such jobs whose number would be sanctioned by the Finance Department. Budgetary provision will be made available / reflected under the commodities and services (596000- Payment to the other for services rendered) in the respective department budget on the basis of sanctioned jobs and will be spent only for the payment of salaries to these categories of employees.


District Education Officer
(Male) Swabi.


DIST. EDUCATION OFFICER
(MALE) SWABI

(08)

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4. The monthly wages fixed for the above categories of employees will be Rs.1200/- per month.

5. The Departments / Appointing authorities are also requested to observe the following:-

- a) Maintain complete record of such appointments.
- b) Restrict the appointment of employees for seasonal, Maintenance work to the period when their services are actually required.

Yours obediently,

(Abdus Samad Khan)
Deputy Secretary (B&C)

Endst: No. & Date even

Copy forwarded for information and necessary action to:-

1. Accountant General, NWFP, Peshawar.
2. All District Accounts Officers in the Province.
- 3.

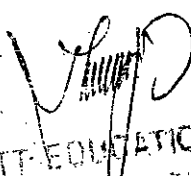
(Abdus Samad Khan)
Deputy Secretary (B&C)

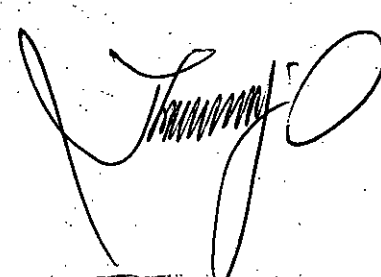
Endst: No. & Date even

Copy forwarded to :-

1. All Additional Secretaries.)
2. All Deputy Secretaries.) Finance Department
3. All Section Officers/
Budget Officers)

(ROOHULLAH KHAN)
BUDGET OFFICER-1


DIST. EDUCATION OFFICER
(MALE) SWABI


District Education Officer
(Male) Swabi.

Annexure - B

Annexure - B

7

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GOVERNMENT OF N.W.F.P.
EDUCATION DEPARTMENT

No. SOG/EDU/6-147/K.C/92
Dated Pesh: the 22-11-1992

To

1. The Director of Education (Colleges), NWFP.
2. The Director of Education (Secondary) NWFP.
3. The Director of Education (Primary) NWFP.
4. The Director of Education (FATA) NWFP.
5. The Director of Education (Technical) NWFP.
6. The Director Bureau of Curriculum Dev. & Education Extension Services, NWFP, Abbottabad.
7. All the Project Directors of Education in NWFP.

Subject: RECRUITMENTS OF THE POST OF NON-EDUCATION CADRE
IN THE EDUCATION DEPARTMENT

I am directed to refer to this Department letter of even number dated 30th June 1992 on the subject cited above and to enclose herewith a copy of Government of NWFP, Finance Department letter No.B1/2-1/92-93 FD dated 4-11-1992 containing the revised policy of the Provincial Government to the effect that the following categories of jobs in Primary Schools, BHUs, RHCs, Water Supply Schemes and C&W Department will henceforth be filled in on fixed salary basis.

1. Chowkidar
2. Mali
3. Baheshti
4. Coolie in Road Gang
5. Valve Man

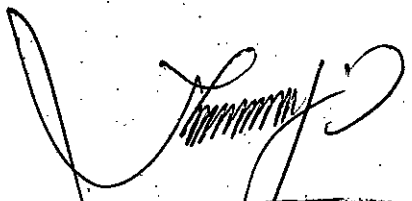
2. Budget allocation will be made available / reflected under the commodities and Services (596000-Payment to the other for the services rendered) in the respective Department's budget, on the basis of sanctioned jobs and will be spent only for payment of salaries to these categories of employees.

3. The monthly wages fixes for the above categories of employees will be Rs:1200/- per month.

4. The Departments / Appointing authorities are required to maintain respective record of these employees.

5. In view of the above, the Government of NWFP, Education Department has directed to lift the temporary ban on appointment imposed under the department letter of even number dated 30th June, 1992

(contd.....P/2)


District Education Officer
(Male) Swabi.


DISTT. EDUCATION OFFICER
(MALE) SWABI

10

Better Copy

Page-2

6. The Director Primary Education may please submit demand for budget allocation under Commodities and Services (596000-Payment to the other for Services rendered), to meet the over-all expenditure for taking up with Finance Department on urgent basis.

(Nasrullah Jan)

Addl: Secretary Education-I

Endst: No. SOG/EDU/6-147/KC/92

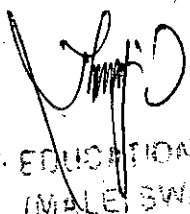
Dated 22-11-1992

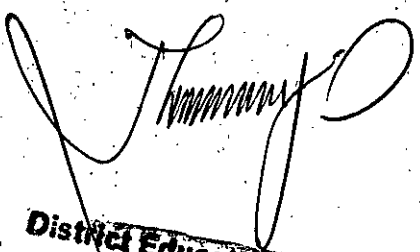
Copy of the above is forwarded for information to:-

1. PS to Secretary to Govt: of NWFP, Finance Department.
2. Addl: Secretary-II, Education Department, Govt: of NWFP.
3. PS to Secretary Education, NWFP.

(Nasrullah Jan)

Addl: Secretary Education-I


DIST: EDUCATION OFFICER
(MALE) SWABI


District Education Officer
(Male) Swabi.

Better Copy

Phone No: 812072

DIRECTORATE OF PRIMARY EDUCATION
N.W.F.P (HAYATABAD) PESHWAR.
NO.F-1/Directorate/PA/M&A/Appointment of Persons to posts
on Contact basis
Dated Peshawar the 7.12.1992

Annexure - C
Annexure

17

To:

1-35. All the District Education Officer (M&F), Primary
36-92. All Sub-Divisional Education Officers (M&F) in N.W.F.P.

Subject:- APPOINTMENT OF PERSONS TO POSTS ON CONTRACT BASIS.

Memo:-

I am directed to enclose a photo state copy of Service and General Administration Department Government of NWFP, No:SORI (S&GAD) 4-7/86 dated 9th; April, 1988 regarding appointment of persons to posts on contact basis and a copy of Government of NWFP Education Department Memo:No:SO (G)/Edu/6-147/KC/92 dated 22.11.1992 regarding recruitment to the post of Non-Education cadre in the Education Department and direct you to make appointments of chowkidars sanctioned for primary schools W.E.F. 1.7.1992 in the light of the instruction contained in the above referred memorandum.

Encl:- As above.

ADDITIONAL DIRECTOR - I
PRIMARY EDUCATION NWFP

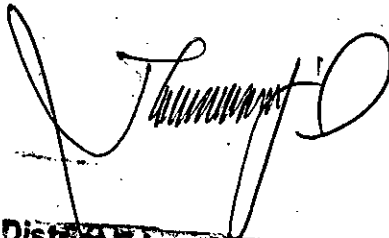
Endst.No: & date as above.

Copy forwarded to the:-

1. Secretary to Government of NWFP, Education Department
2. P. A. to Director Education (Primary) NWFP, Local Office

ADDITIONAL DIRECTOR - I
PRIMARY EDUCATION NWFP

DISTT. EDUCATION OFFICER
(MALE) SWABI


District Education Officer
(Male) Swabi.

Better Copy

حکومت صوبہ سرحد
محکمہ خزانہ

Annexure - D

12

Annexure D

مراسلہ نمبر پی۔ او۔ ا۔ 081/2007-ایف۔ ڈی

مورخہ 29 جنوری 2008

خدمت:

- 1- تمام انتظامی معتمدین حکومت صوبہ سرحد۔
- 2- معتمد برائے گورنر صوبہ سرحد، پشاور۔
- 3- پرنسپل سٹاف آفیسر برائے وزیر اعلیٰ صوبہ سرحد۔
- 4- تمام سربراہان ماتحت محکمہ جات صوبہ سرحد۔
- 5- تمام ضلعی رابطہ افسران صوبہ سرحد۔
- 6- رجسٹرار پشاور ہائی کورٹ، پشاور۔
- 7- رجسٹرار، سروس ٹریبونل، صوبہ سرحد، پشاور۔
- 8- سیکرٹری، صوبہ پبلک سروس کمیشن، صوبہ سرحد، پشاور۔
- 9- سیکرٹری بورڈ آف ریونیو، صوبہ سرحد۔

عنوان - بجٹ تقریر

جناب عالی

مجھے ہدایت کی گئی ہے کہ عنوان بالا کا حوالہ دیتے ہوئے عرض کروں کہ صوبائی حکومت نے تمام

درجہ چہارم (مقررہ تنخواہ Fixed pay) پانے والے ملازمین کو یکم جولائی 2008 سے این۔ ڈی۔ ایف۔ پی سول ملازمین ایکٹ 1973 کے تحت سول ملازمین کا درجہ دیکر بنیادی سکیل -1 (BPS) دینے کی منظوری دی ہے۔

2- مذکورہ ملازمین کی تنخواہ کا تعین (Fixation of pay) ان کی بھرتی کے تاریخ (Date of Appointment) سے کیا جائے گا۔ تمام ملازمین تنخواہ اور الاؤنسز وغیرہ کی مذ میں کسی قسم کی ہتھیاجات (Arrears) کے حقدار نہیں ہوں گے۔

3- اس سلسلے میں پہلے سے جاری شدہ تمام پالیسی/ہدایات یکم جولائی 2008 سے منسوخ تصور ہوں گے۔

District Education Officer
(Male) Swabi.

DISTRICT EDUCATION OFFICER
(MALE) SWABI

نقل برائے اطلاع:

- (1) اکاؤنٹس جنرل، صوبہ سرحد بمعہ گزارش کہ مندرجہ بالا اقدامات کی نافذ العمل کو یقینی بنایا جائے۔
- (2) جملہ ایگزیکٹو ڈسٹرکٹ آفیسرز، فنانس اینڈ پلاننگ، صوبہ سرحد۔
- (3) جملہ ضلعی آفسران حساب داری، صوبہ سرحد۔

میزانیہ افسر (1) محکمہ خزانہ

تظہیر نمبر و تاریخ ایضاً:

نقل برائے اطلاع:

- (1) نجی معتمد برائے چیف سیکرٹری صوبہ سرحد۔
- (2) جملہ اضافی معتمدین و نائب معتمدین محکمہ خزانہ، صوبہ سرحد۔
- (3) جملہ بجٹ آفیسرز / سیکشن آفیسرز محکمہ خزانہ، صوبہ سرحد۔
- (4) ڈائریکٹر FMIU محکمہ خزانہ صوبہ سرحد۔
- (5) نجی معتمد برائے فنانس سیکرٹری صوبہ سرحد۔

میزانیہ افسر (1) محکمہ خزانہ

OFFICE OF THE EXECUTIVE DISTRICT OFFICE R(ELEM&SECONDRY EDU: SWABI)

Endst:No.175-82/ CLASS IV APPOINTMENT FILE/DATED, 9/7/08

Copy of the above is forwarded for information & necessary action to the:-

1. Deputy District Officer (M/F Swabi/Lahor& Topi).
2. Principals/Headmasters, GHSS.GGHSS/GHS/GGHS (District Swabi).
3. District Accounts Officer Swabi.
4. District Officer (M&F) Local Office.
5. ADEO(Establishment)) M&F Local Office.
6. Supdt(M&F) Local Office.
7. Dealing Asstt: Concerned.

EXECUTIVE DISTRICT OFFICER
(ELEMENTARY & SECONDARY EDUCATION SWABI)

District Education Officer
(Male) Swabi.

DIST. EDUCATION OFFICE
(MALE) SWABI

Annexure - E (134)

Annexure - E (11)

ADEO (Lit)

27/9/17

GOVERNMENT OF KHYBER PAKHTUNKHWA
Elementary & Secondary Education Department
Block "A" Opposite MPA's Hostel, Civil Secretariat Peshawar.

No: SO(Lit-I)/E&SE/1-1/2012
Dated Peshawar the 30-08-2017

To

The Director
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar.

Subject:- 1-EXECUTION PROCEEDINGS IN COURT OF CIVIL JUDGE No: III IN CIVIL SUIT MST:
FARHAD BIBI VS GOVT: OF KPK.

2- VARIOUS PETITIONS PENDING IN PESHAWAR HIGH COURT BANNU
REGARDING ENTITLEMENT OF PENSIONARY BENEFIT TO FIXED PAY/
CONTRAT POLICY CLASS-IV.

I am directed to refer to the subject noted above & to enclose herewith a copy of Finance Department letter No: BO-I/FD/1-22/2016-17 dated 12/7/2017 which is self explanatory for further necessary action.

Sd/-

(Abdur Rauf Khattak)
Section Officer (Lit: I)

Endst: No: & date even as above.

DIRECTORATE E&SE DEPARTMENT KHYBER PAKHTUNKHWA, PESHAWAR.

Endst: No: 3663-3707 /Lit: II(G) Civil Suit Lakki Dated Peshawar the 30/09/2017.

- 1 Copy of the above is forwarded to All the District Education Officers(M/Female)in Khyber Pakhtunkhwa, for favour of perusal & strict compliance, please.
- 2 Section Officer (Lit: I) E&SE Department, Khyber Pakhtunkhwa, Peshawar
- 3 Section Officer (Lit: II) E&SE Department, Khyber Pakhtunkhwa, Peshawar
- 4 Deputy Director (Lit:) local Directorate.
- 5 PA to Director, local Directorate.

Amal

Asstt: Director (Lit: II)
E&SE Department Khyber
Pakhtunkhwa, Peshawar.

[Signature]

District Education Officer
(Male) Swabi.

DIST. EDUCATION OFFICER
(MALE) SWABI



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

No. BO-I/FD/1-22/2016-17
Dated Peshawar the 12/07/2017

19
01

To

The Accountant General,
Khyber Pakhtunkhwa, Peshawar.

- Subject:-
- 1) EXECUTION PROCEEDINGS IN HONORABLE COURT OF CIVIL JUDGE NO.III IN CIVIL SUITE MST: FARHAD BIBI V/S GOVT: OF KPK AND OTHERS.
 - 2) VARIOUS PETITIONS PENDING IN HONORABLE PESHAWAR HIGH COURT BANNU BENCH REGARDING ENTITLEMENT OF PENSIONARY BENEFIT TO FIXED PAY/CONTRACT POLICY CLASS-IV

Dear Sir,

I am directed to refer to your letter No.H-24(110)/Lakki Marwat/2016-17/201-2 dated 19-04-2017 on the subject noted above and to state that Fixed Pay Policy was introduced in 1992 & 1999 whereunder the class-IV employees of specified Department including Education, were required to be appointed on fixed pay. Later on, the provincial Government decided to discontinue the Policy vide this Department's letter No. BO-I/1-22/2007-08/FD dated 29-01-2008, which, inter alia, provides that "All the Class-IV Fixed Pay employees have been regularized in BPS-I giving them the status of Civil Servant, with effect from 1st July, 2008 (but not from the date of their appointments). This policy still stands same and required to be followed in letter and spirit.

As far as appointment of legal advisor for the office of Treasury/Account offices is concerned, it is clarified that in each District, the Government pleaders are available for providing legal assistance to Departments. Besides, Attorney General/Advocate General and other Law Officers who are also pleading Government cases in the Peshawar High Court, Peshawar and Supreme Court of Pakistan. Therefore, creating an additional liability on public exchequer is in no way justified.

It is, therefore, advised that all Department's/offices concerned may pursue such cases regularly in compliance with laid down Law, rules and policy/instructions.

Yours faithfully,

Handwritten notes:
8/4/17
19/7/17
discuss
19/11

(SAEED AHMAD KHAN)
BUDGET OFFICER-I

Enclst: No. & date even:

Copy forwarded to the:

1. All Administrative Secretaries concerned in Khyber Pakhtunkhwa for information and necessary action.
2. P.S to Finance Secretary.

BUDGET OFFICER-I

DIST. EDUCATION OFFICER
(MALE) SWABI

District Education Officer
(Male) Swabi.

10/17
17/17

15/6/17
19/11

Handwritten notes:
As per court
DSE for
planning
19/11

Annexure - F

15

Annexure - F



**GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)**

NO. FD (SOSR-1) 12-7/2014
Dated Peshawar the 6th February, 2014

To:

1. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa
2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
3. The Secretary to Governor, Khyber Pakhtunkhwa
4. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa
5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa.
6. The Secretary Finance FATA, FATA Secretariat, Peshawar
7. All Heads of Attached Departments in Khyber Pakhtunkhwa
8. All Divisional Commissioners in Khyber Pakhtunkhwa.
9. All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa
10. The Registrar, Peshawar High Court, Peshawar
11. The Chairman, Public Service Commission, Khyber Pakhtunkhwa
12. The Chairman, Services Tribunal, Khyber Pakhtunkhwa.
13. The Accountant General, Khyber Pakhtunkhwa, Peshawar.

Subject

**PROTECTION OF PAY OF CONTRACT EMPLOYEES ON
REGULARIZATION / APPOINTMENT ON REGULAR BASIS.**

Dear Sir,

In pursuance to the Finance Division's Office Memorandum No.7(9)R-I/2012 dated 31st May, 2013, the competent authority is pleased to allow the pay protection to non-Gazetted contract employees on their regularization / appointment on regular basis with immediate effect subject to the following conditions:-

- i) That the contract appointment has been made on standard terms and conditions, circulated by this Provincial Government as amended from time to time.
- ii) That the contract employee has applied through proper channel and has been properly relieved by the appointing authority. This condition shall not apply in case of regularization on the same post.
- iii) That regularization / regular appointment has been made with the approval of competent authority.
- iv) That there is no break / interruption between contract service and regular service
- v) That the service rendered on contract basis shall not qualify for pension / gratuity.
- vi) That in case of regular appointment in lower grade, pay shall not be protected.

Yours faithfully,

(RAZAULLAH KHAN)
Addl: Secretary (Regulation)

DISTT. EDUCATION OFFICER
(MALE) SWABI

Modos - manage your online data. Learn More >

District Education Officer
(Male) Swabi.

Endst: No .FD (SOSR-1) 12-7 /2014

Dated 6th Feb, 2014

Copy for information & necessary action to the:-

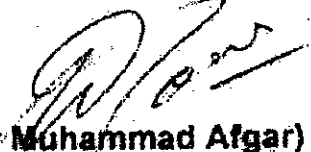
1. The Director, Treasuries & Accounts, Khyber Pakhtunkhwa.
2. All the District Comptroller of Accounts in Khyber Pakhtunkhwa.
3. The Director, Local Fund Audit, Khyber Pakhtunkhwa, Peshawar.
4. The Director, FMIU, Finance Department.
5. The Treasury Officer, Peshawar.
6. The Secretary, Board of Revenue, Khyber Pakhtunkhwa.
7. All the District & Agency Accounts Officers in Khyber Pakhtunkhwa / FATA.



(MASOOD KHAN)
Deputy Secretary (Reg-II)

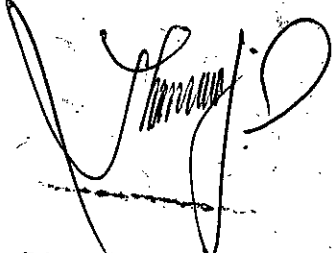
Endst: No. & Date Even

Copy for information is forwarded to:-

1. All the Section Officers / Budget Officers in Finance Department, Khyber Pakhtunkhwa, Peshawar.
2. The Private Secretary to Senior Minister for Finance, Khyber Pakhtunkhwa.
3. The Private Secretary to Secretary / P.As to Special Secretary / Additional Secretaries / Deputy Secretaries in Finance Deptt.


(Wazir Muhammad Afsar)
Section Officer (SR-1)


DIST. EDUCATION OFFICER
(Male) SWABI


District Education Officer
(Male) Swabi.

BEFORE KHYBER PAKHTUN KHWA, SERVICE TRIABUNAL,
PESHAWAR

Service Appeal No. 911/2018

Amir Muhammad

Appellant

Versus

Govt. of Khyber Pakhtun Khwa through Secretary Elementary and
Secondary Education and others

Respondents


INDEX

S.No	Description of documents	Annex	Pages
1	Rejoinder		2-3
2	Affidavit		4

Dated: 13-02-2019

Through

APPELLANT


ASAD ZEB KHAN,
Advocate, High Court,
Peshawar.

①
**BEFORE KHYBER PAKHTUN KHWA, SERVICE TRIBUNAL,
PESHAWAR**

Service Appeal No. 911/2018

Amir Muhammad _____ **Appellant**

Versus

**Govt. of Khyber Pakhtun Khwa through Secretary Elementary and
Secondary Education and others**

_____ **Respondents**

RE-JOINDER ON BEHALF OF APPELLANT

Respectfully Sheweth:

The appellant most humbly submits as under:-

PRILIMINARY OBJECTIONS:-

1. That the appellant has got a locus standi and has a genuine case in his hand. The appeal of the appellant is well within time, however, the appellant also move an application for condonation of delay and this august tribunal has got the power and ample jurisdiction to entertain the matter and to advance relief to the appellant. Further the Hon'ble Tribunal has also the power to condone delay, if any, if the appeal is found time-barred. Whatever, the case may be, the department was bound under the law that while following the judgments of august Peshawar High Court, Peshawar passed in similar nature cases in Writ Petitions No. 627-A/2018 dated: 18-12-2018, Writ Petition No. 19-A/2014, W.P No. 3394-P/2016, W.P No. 551-A/2017 & 1035-A/2017, they should have extended the same relief to the appellant, but they have refused to do so, hence the appellant being similarly placed employee has the right to be

(2)

treated at par with the employees/petitioners of aforementioned writ petitions. All the preliminary objections taken by the respondents in their written reply are expressly denied.

Reply to facts:

1. Para No. 1 of the written reply needs no further explanation.
2. Para No. 2 of the written reply also needs no further details.
3. Para No. 3 to 6 of the written reply are interlinked, hence jointly replied. All the assertions made in the written reply are vehemently denied. As per Rule 2.3 of the West Pakistan Pension Rules, 1968, pension shall be paid to the employee from his initial date of appointment and not from the date of regularization. It is well settled law that whenever, contract employment is absorbed into regular one and there is no service break then employment on contract basis shall be counted towards calculating pensionary benefits. In this regard reliance is placed on 2010 PIC (CS) 354 and judgments of august Peshawar High Court, Peshawar passed in similar nature cases in Writ Petitions No. 627-A/2018 dated: 18-12-2018, Writ Petition No. 19-A/2014, W.P No. 3394-P/2016, W.P No. 551-A/2017 & 1035-A/2017, wherein the Hon'ble Courts were pleased to add/ count the contract period of employment towards counting the pensionary benefits. As the appellant is similarly placed employee like petitioners in W. P No. 627-A/2018 (i.e. employees of education department) so the benefit of the above referred verdicts should also be extended towards the appellant. The appellant has more than 19 years service on his credit and accordingly is entitled for the grant of pensionary benefits. Moreover, the Rule 1.5 of the West Pakistan Pension Rules quoted in the written reply is not applicable to the case of appellant, as it is related to the employees on contract basis but the appellant stood regularized through notification of 2008. The Department Appeal of the appellant is well within time and the service appeal is also within the said parameters. Further according to the judgment of the Supreme Court of Pakistan, in case of no response of the department in

3

deciding departmental appeal, the appellant has two remedies, one to file service appeal after expiry of 90 days and second is to wait for decision of departmental appeal and then to file service appeal, so in light of the judgment of the Supreme Court of Pakistan, the service appeal of the appellant is well within time.

Reply to Grounds of written reply filed by respondents:


A-K Reply filed in response to the grounds of the appeal are vague and baseless. The respondents have failed to give any plausible reason in their written reply. As stated earlier, the Superior Courts had already decided the anomaly in respect of counting of contract service/employment for calculating the pensionary benefits and as per Hamid Akhtar Niazi case reported in 1996 and according to judgment reported in 2009 SCMR 1, the appellant should be extended the similar treatment as has been extended / given to petitioners in Writ Petitions No. 627-A/2018 dated: 18-12-2018, Writ Petition No. 19-A/2014, W.P No. 3394-P/2016, W.P No. 551-A/2017 & 1035-A/2017.

In view of the above, and in addition to the main appeal, it is humbly prayed that this Hon'ble Tribunal may graciously be pleased to pass an appropriate order in accordance with the prayers made in the main appeal.

APPELLANT

Through

Dated: 13-02-2019


ASAD ZEB KHAN,
Advocate, High Court,
Peshawar

(4)

BEFORE KHYBER PAKHTUN KHWA, SERVICE TRIABUNAL,
PESHAWAR

Service Appeal No. 911/2018

Amir Muhammad _____ Appellant

Versus

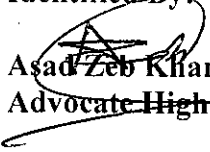
Govt. of Khyber Pakhtun Khwa through Secretary Elementary and
Secondary Education and others

_____ Respondents

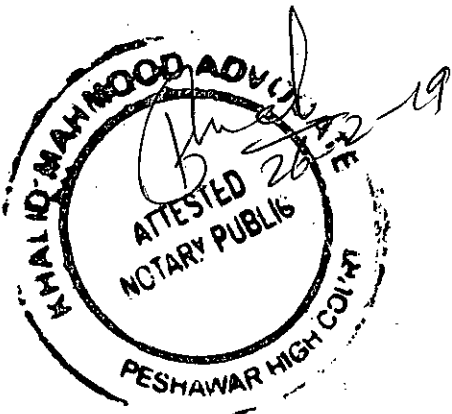
AFFIDAVIT

I, AMIR MUHAMMAD S/O Ghulam Nabi, R/O Mohallah Awan Abad Zaim,
Yar Hussain, Tehsil Lahor, District Swabi, do hereby solemnly affirm and
declare upon oath that the contents of the titled rejoinder are true and correct
to the best of my knowledge & belief and nothing has been concealed or
with held there from.

Identified By:


Asad Zeb Khan,
Advocate High Court, Peshawar.

1620-07465157
Deponent





5



**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

SERVICE APPEAL NO. 1055/2014

Date of institution ... 19.08.2014

Date of judgment ... 12.10.2017



... (Appellant)

VERSUS

- 1. Senior District Accounts Officer Nowshera.
- 2. Executive District Education Officer Nowshera.
- 3. Sub-Divisional Education Officer (Female) District Nowshera.
- 4. District Education Officer (Female) Primary District Nowshera.
- 5. Director of Education (Female) Dabgari Garden, Peshawar.
- 6. Govt. of KPK through Secretary Education, Civil Secretariat, Peshawar.
- 7. Govt. of KPK through Secretary Finance, Civil Secretariat, Peshawar.
- 8. Accountant General, Accountant General Officer, Govt. of KPK, Peshawar.

... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE RESPONDENTS WHEREBY THE DEPARTMENTAL REPRESENTATION OF THE APPELLANT HAS NOT BEEN DECIDED AND THE STIPULATED PERIOD HAS BEEN PASSED.

Mr. Ifikhar Ali, Advocate. .. For appellant.
 Mr. Kabirullah Khattak, Additional Advocate General .. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI .. MEMBER (JUDICIAL)
 MR. MUHAMMAD HAMID MUGHAL .. MEMBER (JUDICIAL)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER:- Our this single judgment shall also dispose of service appeal titled Wakeel Khan-Versus-Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar and others bearing No. 1213/2013 and service appeal titled Amir Aman-Versus--Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar and others bearing

ATTEST

[Signature]
 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal

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being identical nature arising out from the same law, fa

This appeal has been filed under Section-4 of the Khyber Pakhtunkhwa Pension Act, 1974 against the order dated 4.10.2013 whereby the appellant was granted service on superannuation but without extending the benefits of pension. Appellant also filed departmental appeal on 14.05.2014 but the same was not responded. Hence, the present service appeal on 19.08.2014.

3. Learned counsel for the appellant contended that the appellant was appointed Class-IV Chowkidar on pay of Rs. 1200/- per month on (fixed) on 12.10.1992 in Education Department. It was further contended that later on the service of appellant was regularized on 30.07.2008. It was further contended that the appellant was retired from service on 04.10.2013 but benefits of pension etc was not extended to the appellant on the ground that length of the service of the appellant was less than qualifying service. It was further contended that the appellant filed departmental appeal for issuance of pension, gratuity and other benefits but the same was not responded. It was further contended that according to Rule 2.2 of West Pakistan Civil Services Pension Rules, 1963 the service of the government servant begin to qualify for pension when he takes over charge of the post to which he is first appointed. It was further contended that according to Rule 2.3 of the West Pakistan Civil Services Pension Rules, 1963 temporary and officiating service shall count for pension if he has rendered more than five years continuous temporary service for the purpose of pension or gratuity and temporary and officiating service followed by confirmation shall also count for pension or gratuity. It was further contended that the NWFP Civil Servants (Amendment Bill), 2005 was passed by the Provincial Assembly on 5th July 2005 and assented by the Governor of the Province on 12th July 2005 whereby section 19 was amended and all the employees of the Provincial Government selected for appointment in the prescribed manner to the post on or after 1st July 2001 but on contract basis were deemed to be appointed on regular basis. However, they were held disentitled for the pensionary benefits. It was further contended that section- 19 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 was further amended by the

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Pakhtunkhwa Civil Servants (Amendment) Act, 2013 and the person selected for appointment on contract basis were declared to be deemed as regular employ and subsequently were held entitled for pensionary benefits. Therefore, it was contended that the service of the appellant will be considered from the date of appointment i.e 12.10.1995 and the same will be counted for pension and gratuity etc. The learned counsel for the appellant also relied unreported judgments of the Worthy Peshawar High Court in Writ Petition No. 1188 of 2014 decided on 09.09.2014 titled Baghi Shah-Versus-The State etc, Writ Petition No. 1590 of 2014 decided on 11.09.2014 titled Mst. Wajihat W/o Nisar Muhammad-Versus-Senior District Accounts Officer & others, Writ Petition No. 1659-P/2014 decided on 27.11.2014 titled Yaqoob Khan S/o Abdul Manan-Versus-Government of Khyber Pakhtunkhwa etc and Writ Petition No. 3394-P/2016 decided on 22.06.2017 titled Amir Zeb-Versus-The District Account Officer, District Nowshera etc. It was further contended that in the present service appeal the departmental appeal was filed after some delay but since the service appeal pertains to the matter of pay, pension and other emolument therefore, the limitation does not fore
closed the right of the appellant accrued to him, in such like matter the limitation does
not run and relied in this regard on 2002 PLC (C.S) 1388 Punjab Service Tribunal and
prayed that the appeal may be accepted and the department may be directed to consider the length of service of the appellant from the date of his appointment and pay pensionary benefits to the appellant.

4. On the other hand, the learned Assistant Advocate General Mr. Kabirullah Khattak opposed the contention of learned counsel for the appellant and contended that the appellant was appointed as Class-IV Chowkidar on pay of Rs. 1200/- per month on adhoc relief on (fixed) vide order dated 12.10.1995 and he was regularized vide order dated 30.07.2008 with effect from 01.07.2008. It was further contended that the appellant was retired on 04.10.2013 and the appellant served as regular employee only for five years hence, he is not entitled for pensionary benefits. In this regard he also relied on unreported judgment of the Worthy Peshawar High Court passed in Writ Petition No. 23-P/2015 decided on 24.06.2015 titled Sher Badshah S/o Amir Badshah-

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Versus- Senior District Accounts Officer Nowshera etc and PLD 1990 Supreme Court page 719 and prayed for dismissal of appeal.

5. We have heard the arguments and gone through the record available on file.

6. Perusal of the record reveals that the appellant was appointed as Class-IV Chowkidar on pay of Rs. 1200/- per month on fixed pay under relevant rules on 12.10.1995. The record further reveals that the service of the appellant was regularized on 30.07.2008. The record further reveals that the appellant was retired from service on 04.10.2013 but pension and gratuity was not extended to the appellant.

7. Regarding the question of entitlement of the appellant to the pension, we, would like to reproduce the relevant rules of the West Pakistan Civil Services Pensions Rules, 1963 below, as these would be advantageous in resolving the controversy:-

"2.2. Beginning of Service-

Subject to any special rules the service of Government servant begins to qualify for pension when he takes over charge of the post to which he is first appointed.

Rule 2.3 Temporary and officiating service ___ Temporary and officiating service shall count for pension as indicated below:-

- (i) Government servants borne on temporary establishment who have rendered more than five years continuous temporary service for the purpose of pension or gratuity; and
- (ii) Temporary and officiating service followed by confirmation shall also count for pension or gratuity.

8. The rules ibid reveal that the service of government servant begins to qualify for pension from the very first day of his/her taking over the charge, irrespective of the fact whether his/her appointment and entry in to service was temporary or regular. It is also clear from sub-rule (i) that continuous temporary service of a civil servant shall also be counted for the purpose of pension and gratuity and by virtue of sub rule (ii), temporary and officiating service followed by conformation shall be counted for pension and gratuity.

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9. We deem it appropriate to mention here that question of interpretation and true import to the term pension was raised before the august Supreme Court of Pakistan in case titled **“Government of NWFP through Secretary to Government of NWFP Communication & Works Department, Peshawar Vs Muhammad Said Khan and others (PLD 1973 Supreme Court of Pakistan 514)** wherein it was held that:

“It must now be taken as well settled that a person who enters government service has also something to look forward after his retirement to what are called retirement benefits, grant of pension being the most valuable of such benefits. It is equally well settled that pension like salary of a civil servant is no longer a bounty but a right acquired after putting a satisfactory service for the prescribed minimum period. A fortiori, it cannot be reduced or refused arbitrarily except to the extent and in the manner provided in the relevant rules.”

10. In case titled **“Secretary To Govt: of the Punjab, Finance Department Vs M. Ismail Tayer and 269 others” 2015 PLC (CS) 296**, the august Supreme Court of Pakistan was pleased to held that the pensionary benefits is not a bounty or ex-gratia payment but a right acquired in consideration of past service. Such right to pension is conferred by law and cannot be arbitrarily abridged or reduced except in accordance with such law as it is the vested right and legitimate expectation of retired civil servant.

11. In the present case the appellant was initially appointed on 12.10.1995 followed by his regularization on 30.07.2008. Though the appellant has rendered temporary service for a continuous period of more than 12 years and 9 months service and regular service of more than 5 years and 2 months meaning thereby that as a whole he has more than 17 years service at his credit. By virtue of rule 2.3 as well as Chapter-IV rule 4.4 of the West Pakistan Civil Services Pensions Rules, 1963. he has qualified the prescribed service for pensionary benefits. therefore, the objections raised by the respondents is not tenable and not supported by any rule or regulation. Judgment of hon'ble Peshawar High Court in Mst. Wajihat case (Writ Petition No. 1590-P/2014), Baghi Shah's case (Writ

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Petition No. 1188-P/2014, Yaqoob Khan case's (Writ Petition No. 1659-P/2014) and in Amir Zeb case's (Writ Petition No. 3394-P/2016) may be quoted as a reference.

12. In the light of the above discussion we are constrained to accept the appeal and direct the respondent-department to finalize the pension case of the appellant and grant pensionary benefits to him. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

12.10.2017

Hamid

(MUHAMMAD HAMID MUGHAL)
MEMBER

Muhammad Amin
(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

~~Certified to be true copy~~

[Signature]
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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PESHAWAR HIGH COURT ABBOTTABAD
BENCH

JUDICIAL DEPARTMENT

JUDGMENT SHEET

WP No. 627-A/2018.

Date of hearing 18.12.2018.

*Petitioner/s (Sher Afzal Khan) by Mr.
Kamran Gul, Advocate.*

*Respondent/s (Govt. of KPK & others)
by Yasir Zahoor Abbasi, AAG.*

SYED MUHAMMAD ATTIQUE SHAH.J.

Through the instant petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner namely *Sher Afzal Khan* has prayed as under:-

“On acceptance of instant writ petition, the respondents may graciously be directed to pay the pensionary benefit of the petitioner and they also be directed to issue/pay the monthly pension of the petitioner.”

2. Brief but relevant facts of the case are that the petitioner was appointed as *Chowkidar* in Government Primary School Pind Muneem, District Haripur vide order dated 08.11.1995 and served the department for more than 20 years. Lateron, the petitioner on attaining the age of superannuation retired from service in the year 2016. That the respondents only paid Rs. 46504/- and refused to pay the pensionary benefits to the petitioner despite several requests. Hence, the instant writ petition.

3. Arguments heard and record available gone through.

4. Without going deep into the merits of the case, suffice it to say that the issue involved in the present writ petition has already been discussed and decided by this Court in writ petition No. 19-A/2014, which reads as under:-

“As there is no denial of the fact that petitioner was initially appointed on fixed pay and subsequently his services were

regularized, hence, in view of the Rule 2.3 of West Pakistan Civil Services Pension Rules, 1968, the petitioner is to be paid pensionary benefits from the date of his first appointment. It is well settled law, when any employee on contract is absorbed into regular employment, and there is no break in his service, then period on contract employment has to be considered for counting length of service of pensionary benefits etc. Reliance is placed on 2010 PLC 354, wherein it is held that:-

When an employee was regularized, his total length of service, was to be computed from the day he joined the service that could be temporary or otherwise. Even period of an employee of daily

*wages would be counted for
the purpose of computing
pensionary benefits"*

5. Therefore, while considering the above as well as the judgments passed by this Court in Writ petitions No. 3394-P/2016, 551-A/2017 and 1035-A/2017, we are not inclined to hold a different view, therefore, while accepting this petition, we direct the respondents to pay all the pensionary benefits to the petitioner by counting his service from the date of his appointment i.e 08.11.1995.

6. As right to pension is conferred by law and cannot be arbitrarily abridged or reduced except in accordance with law, as it is the vested right and legitimate expectation of retired civil servant, therefore, copy of this judgment be circulated to *The Secretary Finance and Accountant General, Khyber Pakhtunkhwa* to issue directions to all the heads of department and District Accounts officers in Khyber

Pakhtunkhwa, to strictly follow the decisions pronounced by the apex Court as well as this Court in number of judgments, on the issue.

Announced.

18.12.2018

Tahir PS

Jain
JUDGE

Mah
JUDGE

Hon'ble Justice Lal Jan Khattak & Syed Muhammad Attique Shah.