03.10.2018

Mr. Azizul Haq, son of the appellant present. M/S Shahid Anwar, Assistant and Amir Zaman, Assistant Accountant alongwith Mr. Usman Ghani, District Attorney for the respondents present. Written reply not submitted. The above named representatives requested for adjournment. Granted. To come up for written reply/comments on 05 11.2018 before the S.B at camp court, Swat.

Member Camp Court Swat

05.11.2018

Due to retirement of the Hob'ble Chairman Service Tribunal is incomplete. Tour to Camp Court Swat has been cancelled. To come up for the same on 03.12.2018 at camp court Swat.

Keatler

Learned counsel for the appellant and Mr. Usman Ghani learned District Attorney present. Learned counsel for the appellant stated that the grievance of the appellant has been redressed and he wants to withdraw the present service appeal. Consequently the present service appeal is hereby dismissed as withdrawn. No order as to costs. File be consigned to the record room.

Member Camp Court, Swat

ANNOUNCED. 03.12.2018

soul, on the ton the contract of the contract

06.07.2018

Azizul Haq, son of the appellant alongwith counsel for the appellant Mr. Shamsul Hadi, Advocate present. Preliminary arguments heard.

The main contention of the appellant is that the appellant's services were regularized but with immediate effect and the services he rendered prior to that has not been considered towards pensionery benefits.

Points raised need consideration. The appeal is admitted for regular hearing, subject to all legal objections, if raised by the respondents. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 07.08.2018 alongwith similar service appeal No. 208/2018 before S.B at camp court, Swat.

Appellant Deposited Security Ringess Fee

> Chairman Camp court, Swat

07.08.2018

Clerk to counsel for the appellant and Amir Zaman shah Assistant for the respondents present. Due to summer vacations, the case is adjourned. To come ur for the same on 05.09.2018 at camp court Swat.

.05.09.2018

Clerk to counsel for the appellant present. Mr. Ameer Zaman Shah, A.O alongwith Mr. Usman Ghani, District Attorney for respondents present. Written reply not submitted. Representative of the requested for adjournment. Granted. Case to come up for written reply/comments on 03.10.2018 before S.B at camp court Swat.

Member Camp Court Swat

Form-A

FORMOF ORDERSHEET

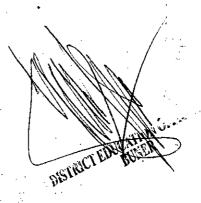
Court of	•		
		•	
Case No		579/2018	

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	26/04/2018	The appeal of Mr. Khair Ullah presented today by M
		Shamsul Hadi Advocate may be entered in the Institutio
		Register and put up to the Worthy Chairman for proper orde
		please.
	· · ·	REGISTRAR >6/4/
	c = 10	
2-	15-5-18	This case is entrusted to Touring S. Bench at Swat for
		preliminary hearing to be put up there on 6-07-2018
	·	CHAIRMAN
;		
•		
,		
	•	
`		
ļ		

REVISED SANCTION.

As approved by the competent authority Sanction is hereby accorded to the grant of retirement from service onsuperannuation of age and (Due to Death) encashment of LPR and death leave salary in the compliance of Honorable Court Judgment in the Peshawar High Court Mingora Bench (Dar-Ul-aza) Swat W.P No.618-M/2017 with interim Relief announce on 14/10/2017 Read with District Court Govt; Rule of Business 2001 and amendment made Vide No.So (FR) 5-95/2005/Vol: V Dated Peshawar the 13/12/2012 in respect of the following Chowkidars as recommended by the Sub:Dinisional Education Office (Female) Primary Buner as per detailbelow.

S.No	Name & Designation	Name of	Date Of	Period of	Nature of
	l Alberta	School	Retirement	Encashment Of	Retirement
				LPR /Death Leave	<u> </u>
1	Piro Ex- (Chowkidar)	GGPS Bikand	30/06/207	01/07/2016 to	Superannuation
				30/06/2017	of Age
				(365 Days)	
2	KhairullahEx- (Chowkidar)	GGPS	19/12/2017	20/12/2016 to	Superannuation
		GolonoBawrai		19/12/2017	of Age
				(365 Days)	
3	ShamsherEx- (Chowkidar)	GGPS	31/07/2016	01/08/2016 to	Superannuation
		Shalbandi No:2		31/07/2017	of Age
				(365 Days)	
4	Sherullah Khan Ex-(Chowkidar)	GGPS	30/06/2016	01/07/2015 to	Superannuation
		SharshamoTan	. ,	30/06/2016	of Age
		gi		(365 Days)	<u> </u>
5	Late Shamshul Islam	GGPS Giro	30/06/2015	01/07/2014 to	Superannuation
	Ex-(Chowkidar)			30/06/2015	of Age
				(365 Days)	<u> </u>
6	Safrash Khan Ex- (Chowkidar)	GGPS Hall	30/06/2013	01/07/2012 to	Superannuation
				30/06/2013	of Age
				(365 Days)	
7	Sahib ZadaEx- (Chowkidar)	GGPS Ashezao	01/01/2013	02/01/2013 to	Superannuation
		Mara		01/01/2014	of Age
				(365 Days)	
8	BakhtNasibEx-(Chowkidar)	GGPS Dewana	30/06/2015	01/07/2014 to	Superannuation
•		Baba Ziarat		30/06/2015	of Age
				(365 Days)	
					<u> </u>
9	Shah Baros Khan Ex-	GGPS Chamo	23/07/2013	22/07/2012 to	Superannuation
	(Chowkidar)	Bazar Kot		23/07/2013	of Age
			, ,	(365 Days)	
•				30/01/2014 to	
10	Late Amroz Khan	GGPS	30/06/2015	30/06/2015	Death Leave
		Tangora		(180 Days)	Salary



					
11	Late Bakhti Ali	GGPS Daggar	21/09/2016	21/03/2016 to 21/09/2016 (180 Days)	Death Leave Salary
12	Late Usman Khan	GGPS Nara	16/09/2011	16/03/2011 to 16/09/2011 (180 Days)	Death Leave Salary
13	Late SahiLal Shah	GGPS AshezoNawaK alay	31/12/2014	01/12/2013 to 31/12/2014 (365 Days)	Superannuation of Age
14	Khan Said Ex- (Chowkidar)	GGPS ShamshiKotay	30/06/2015	01/07/2014 to 30/06/2015 (365 Days)	Superannuation of Age
15	SahbiullahEx- (Chowkidar)	GGPS Ajlai	30/06/2014	01/07/2013 to 30/06/2014 (365 Days)	Superannuation of Age

Note:

Necessary entry to this effect Should be made in their service Book accordingly.

(BAKHT ZADA)

DISTRICT EDUCATION OFFICER (M/F)
BUNER

Endst No. 8677-79

Dated. / 7 /2018

Copy Forwarded for information to the;

- 1. District Account Officer Buner.
 - 2. SDEO (F) Primary Daggar.
 - 3. Official Concerned.

DISTRICT Education

r (F

BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. <u>574</u>/2018.

Khairullah.....Appellant

VERSUS

District Education Officer (F) Bunir and others......Respondents

INDEX

S.N	Description of Documents 9	Annex	Pages
1.	Memo of Appeal.		1 3
2.	Affidavit.		4
3.	Addresses of the Parties.		5_
4.	Copy of appointment order	Α	6
5.	Copy of impugned order dated:22.12.2017	В	7
6.	Copies of departmental appeal & Judgment dated:17.01.2018.	C	8-12
7.	Copy of application	D	13
8.	Wakalat Nama.		

Appellant

Through

Shams ul Hadi

Dated: 20/04/2018.

Advocate, Peshawar.

Office: Near Al-Falah Mosque, Hayat

Abad, Mingora.

Cell No. 0347-4773440.

BEFORE THE KHYBER PAKHTOON KHWA SERVICES TRIBUNAL, PESHAWAR.

Service Appeal No. <u>579</u> /2018.

Khairullah

(Ex-Chowkedar GGPS Gulonoboray, Bunir)

R/o Village Gulonoboray Chagrazy, District Bunir......Appellant.

- 1. District Education Officer(female) Bunir.
- Khyber 2. Director, Elementary & Secondary Education Pakhtunkhwa, Peshawar.
- 3. District Account Officer, Bunir.
- 4. Accountant General Khyber Pakhtunkhwa, Peshawar.
- 5. The Government of Khyber Pakhtunkhwa through Secretary Education, Civil Secretariat, Peshawar.....(Respondents)

SECTION OF KHYBER APPEAL UNDER PUKHTUNKHWA SERVICES TRIBUNAL ACT 1974 **AGAINST** THE IMPUGNED OFFICE DATED:22.12.2017.

PRAYER IN APPEAL:

On acceptance of this appeal the impugned order :22.12.2017 regarding non sanctioning after retirement benefits i-e pension edto-dayetc of appellant may kindly be set aside and the appellant may kindly be awarded pension etc of appellant of his service with all back benefits of after retirement of service.

Respectfully Sheweth:

That the appellant served as Class-IV Employee in the 1. Education Department Bunir and as such got his retirement on the said post. (Copy of appointment order is annexure-A)

- 2. That keeping in view the agonies and the financial constrains of the family of the low grade retiring employees, the provincial government was pleased to regularized the services/Posts of the appellants in the year 2008 and as such they were declared civil servants and further the said order was confirmed according to "Regularization Act,2010" and as such the appellant performed his duties as permanent employees of Education Department in Bunir, till date of their retirement.
 - That the appellant keeping in view of the above 3. circulation was hopeful to get pension benefits etc after his retirement and as such waited for the same when they were taken by surprise when the Respondents No.1 informed the appellant, that they are not qualifying for pension benefits and others benefits after retirement.(Copy of office impugned order dated:22.12.2017 is annexure-
 - 4. That against the illegal actions of the respondents, on one hand the appellant filed departmental appeal and on other the appellant approached Peshawar High court Mingora Bench as in similar nature issues pension benefits of the others similar placed employees were awarded by the Honrable high court through various judgments, but finally a larger bench was constituted in the issue in hand, where writ petitions of the appellant and others treated as departmental appeals respondents were directed to decide the same in accordance with law and rules and in light of the judgment delivered in Amir Zeb's case. (Copy of departmental appeal, judgment dated:17.01.2018 are annexure.
 - 5. That the judgment was communicated to the respondents in shape of departmental appeal but the

same was not decided within the statutory period. (Copy of application annexure-

That being aggrieved the appellants prefer this appeal on the following grounds amongst others inter-alia.

GROUNDS:

- A. That actions and inactions of the respondents are violative of the constitution and the relevant laws laid down for the purpose, hence needs interference of this august Court.
- B. That the appellant has a poor financial background and served the department for long considerable period with the hopes of further benefits after retirement but the respondents did not observe the prescribed rules, regulations and denied the benefits in shape of pension to the appellant.
- C. That the issue in hand has now already been decided by this august court through a similar nature cases hence the appellant deserve for the same treatment.

It is, therefore, humbly prayed that On acceptance of this appeal the impugned Orders dated:22.12.2017 regarding non sanctioning after retirement benefits i-e pension etc of appellant may kindly be set aside and the appellant may kindly be awarded pension etc of appellant of his service with all back benefits of after retirement of service.

Or

Any other relief which this august Court deems appropriate may kindly be awarded to meet the ends of justice.

Through

Dated: 20/04/2018

Khairullah

Shams ul Hadi

Advocate, Peshawar.

BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No	/2018.	
Khairullah		Appellant
	VERSUS	
District Education O	fficer (F) Bunir and	othersRespondents

AFFIDAVIT

I, **Shams ul Hadi**, Advocate, Peshawar do hereby as per information convoyed to me by my client solemnly affirm and declare that the contents of the **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

ADVOCATE



BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No/2018.	
Khairullah	
Khairullah	Appellant
VERSUS	
District Education Officer (F) Bunir and others	Respondents

ADDRESSES OF THE PARTIES

APPELLANT:

Khairullah

(Ex-Chowkedar GGPS Gulonoboray, Bunir)

R/o Village Golonuboray Chagharzy, District Bunir

RESPONDENTS:

- 1. District Education Officer(Female) Bunir.
- 2. Director, Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
- 3. District Account Officer, Bunir.

Dated: 20/04/2018

- 4. Accountant General Khyber Pakhtunkhwa, Peshawar.
- 5. The Government of Khyber Pakhtunkhwa through Secretary Education, Civil Secretariat, Peshawar.

Appellant

Through

Shams ul Hadi

Advocate, Peshawar.

6 1 Am "A

depart of the land is hereby expointed so observant at dort; digle rimary debook. Gulomboray on contract basis at dort; (Tired) subject to the availability of Sudget rowinion under head(6-2000-4000-41902; rimary Sourcetion-79800-Contengency.

Torms and conditions will be communicated later on as and when received.

SUB-DIVISIONAL NOUS-PICH CFFICAR(F), DAGGAR MISTELL BURS.

2011 07 28 SUB-DIVISION SUBSTITUTE CONSUME STATE BOXES 20-12- /174.

Copy forwarded for information to;-

1. The Sistrict squestion Officer(F) rimary Super at Acustai.

2. The District Accounts Officer Buner at Dagger.

I The Official concerned.

4.The Read Mistress concurred.

5.The accounts Ulerk Local Office.

Calca Deringa.

.t-c

Office order

Mr. khairullah S/o Mr. Abdul Faqir village gulono boray and donar of the land I hereby appointed as chowker at Govt; Girls Primary School, Gulonobory on contract basis at Rs.1200/- (Fixed) Subject to the availability of budget revision under head (6-40000-41000-41502; primary Education -59600-Contency.

Terms and conditions will be communicated later on as and when received.

(MISS:Farveen Akhtar Chudry)

Sub: Divisional education officer (F),

Daggar Disst; Buner.

OFFICE of the Sub; Divisional Education Officer (F) Daggar Distt; Buner

Ends No <u>3267-71/</u>

Dated: <u>20-12-/</u> 1994.

Copy Forwarded for information to;-

- 1. The Distt; education Officer (F) Primary Buner at Sowarai.
- 2. The Distt; Account Officer Buner at Daggar.
- 3. The Head Mistress Concerned.
- 4. The Accounts Clerk Local Officer.

SUB: DIVISIONAL EDUCATION OFFICER (F)
DAGGAR DISTT; BUNER.

4-6



A huser

OFFICE OF THE DISTRICT EDUCATION OFFICER(FEMALE) BUNER.

RETIREMENT SANCTION.

Sanction is hereby accorded to the grant of retirement from service in respect of Mr. Khairullah Chowkidar GGPS Gulono Bawrai w.e.f 19-12-2017 without pension and sanction to the grant of 9 (Nine) months pay amounting to Rs 156420/- on the basis of 1 months pay each completed year is also accorded in (Lieu) of gratuity under the rules F.D (S.OSR-iii/4-199) dated 10-02-1977 (as the officials having services less then ten years and more then five years).

(SADIA ILYAS)
DISTRICT EDUCATION OFFICER(F)
BUNER.

Endst: No. 6074-78 Dated 22/12 /2017.

Copy for information to the;-

- 1 District Accounts Officer Buner.
- 2. ADEO(Budget & Accounts) local office.
- 3 *SDEO Female Primary Buner along with S/Book w/r to No.4246 dated 13-12-2017.
- 4. Official Concerned

5. Office File

DISTRICT EDUCATION OFFICER(F)

BUNER

R. O

ct-c

en sacro por sistemas 8 (15/01-0373340.7) el) (in while y pio in est plans), UCIDO (primédici de la la cons 19 19 12 20-12-1994 1 2 5 m 2 22 19 (18 1) . Des : 60 = 3 60) Port Jelvo60, si 036 fan ! wishing Fund - all save 1994 uc (21610 (2010) Curis (curis) Object Sain July - Ello

BEFORE THE PESHAWAR HIGH C	OURT (MINGORA BENCH)
W.P. No. <u>31-M</u> /2018.	A STATE OF THE STA
Khiarullah S/O Abdul Faqir	186
(Ex-Chowkedar) Govt Primary Scho	
R/o Gulono Bawaray, Chagharzy	District Bunir(Petitioner)

VERSUS

- 1. District Education Officer(Female), Bunir.
- 2. District Account Officer, Bunir.
- 3. Accountant General Khyber Pakhtunkhwa, Peshawar.
- 4. The Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.....(Respondents)

WRIT	PETITION	UNDER	ARTICLE	199	OF	THE
CONST	ITUTION OF	' ISLAMIC	REPUBLIC	OF	PAKIS	STAN,
1973.						

Respectfully Sheweth:

Brief facts giving rise to the instant Writ Petition are as under:

FACTS:

- 1. That the petitioner is the residents of District Bunir with his poor family back ground.
- 2 That the petitioner served as Class-IV Employee in the Education Department Bunir and as such got his retirement on the said post. (Copies of Appointment letter and retirement notification are annexure "A" respectively).

(10),

PESHAWAR HIGH COURT, MINGORA BENCH/ DAR UL QAZA, SWAT

FORM OF ORDER SHEET

		-		- 153 () 44	,	
	Court of			 	1	
ì	•	ř		\$ 35 E	1	
	Case No		of	 \~~\.		- 1,5
				 N 1995 N		

Serial No. of order	Date of Crider	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or
or proceeding		counsel where necessary
	17.01.2018	W.P. No. 31-M of 2018
		Present: Mr. Shams-ul-Hadi, Advocate, for the Petitioner.
		Mr. Rahim Shah, Astt: Advocate General for
	,	the official Respondents. ***
		MOHAMMAD IBRAHIM KHAN, J
		Through this writ petition under Article 199 of the
		Constitution of Islamic Republic of Pakistan, 1973,
	:	Khiarullah, the Petitioner has made a prayer for the grant
		of pensionery benefits on the grounds enumerated in his
		petition.
		2. In essence, the Petitioner was appointed as
		Class-IV employee in the Education Department District
		Buner and after successful completion of the tenure of
		his service was retired upon attaining superannuation
		period of retirement. It is pertinent to mention here that
	علا سو	keeping in sight the financial constraints of the
		government employees, the provincial government
	;	regularized their services under Regularization Act 2010.
L	-	

Hon'ble Mr. Justice Mohammad Ibrahim Khan Hon'ble Mr. Justice Muhammad Nasir Mahfooz Cf-C

- When the Petitioner applied competent authority for the grant of pension benefits, he was blatantly refused the same concession on the sole ground that he has not completed his tenure of service/period of pension. In this respect, the Petitioner wrote several letters to the quarter concerned for redressal of his grievance, but of no avail, hence the present writ petition has been preferred inter-alia on the grounds mentioned therein.
- After arguing the case at some length, both learned counsel for the Petitioner and learned A.A.G appearing on behalf of the official Respondents are conciliatory that the case of the Petitioner be treated as representation the Respondents/Department for redressal of the grievance of the Petitioner in respect of grant of pension benefits in the light of judgment dated 22.06.2017 rendered by the Hon'ble Larger Bench in W.P. No. 3394-P & 2246-P of *2016.*

In view of the above, this writ petition is disposed of in terms that it is converted representation/appeal transmitted and Respondents/Department to decide the same strictly in



accordance with law in the light of this Court judgment as referred to in Para 4 of this judgment. <u>Announced</u> Dt.17.01.2018 JUDGE Date of Corner jon of Crists & Amiliaha Certified to be true copy

J. C

و المحاليم المحالية المالية ال

درخواست بمرادمل درامد بروئے فیصلہ عدالت برائے عطامیکی پینھن۔

جناب عالی:۔ (1) گزارش کی جاتی ہے کی سائیل نے محکم تعلیم میں ڈیوٹی انجام دے کرمدت ملازمت مکمل کر کے ریٹائر منٹ حا صل کی۔

(2) یہ کہ بعد میں سائیل کو پینشن کاحق دار نہیں گھرایا گیا ہدیں وجہ سائیل نے پیٹاور ہائی کورٹ مینکورہ نیج میں رٹ بیٹیشن نمبر 8اصل سے 12 دائیری جس نے سائیل کے قل میں فیصلہ کر کے آپ صاحبان کوہدائت دی گئی ہیں کہ سائیل کو پینشن جاری کیا جائے اور تمام کاروائی عرصہ دوسال میں مکمل کیا جائے۔

للذاكب صاحبان سے كزارش ہے كہ مائى كورث كے فيلے مورجہ 18 - 1-17 كى روشى ميں پينشن دينے كے مناسب احکامات جاری کرلے نوبندہ ناعمردعا کوہ رےگا۔

کورٹ کا فیملہ اسکک ہے۔

خبرالله

خيردالله وله عسرالغفيركية كوزيرواي حصرري

20-1-2018 ·

كالى براسة اطلامهاني وطرورى كاروالى 1 _سيكريٹرى محكمة تعليم خيبر پختون فمواه پشاور _ 2_ دا نیر بانز کلمه نیبر پختون لمواه پشاور ..

of-c

العرالت رسول بمثاور الميثاور الميثاور الميثاليدوپي ر الرام بنام الورطند) و نسره الرام الرام بنام الورطند) و نسره باعث تحريرا نكه مقدمہ مندرجہ بالا میں این طرف سے واسطے پیروی وجواب دہی و کل کاروائی الله متعلقة أن مقام كروس الريبونل كلك كرابهادي الموكك كو مقرر کرکے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیاط ہوگا۔ نیز وکیل صاحب کو راضی نامہ وتقرر ثالث و فیصلہ پر حلف دینے جواب سے دی اورا قبال دعوی اور درخواست ہرتتم کی تصدیق زراس پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری ایک طرف یا اپیل کی برامدہوگی اور منسوخ ڈائر کرنے اپیل تگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ بصورت ضرورت مذکور کے نسل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شده کو بھی جملہ مذکورہ بالااختیارات حاصل ہوئے اور اسکا ساختہ برواخته منظور و قبول ہوگا اور دوران مقدمہ میں جو خرجہ وہر جانہ التواہے مقدمہ کے سبب سے ما گا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا وخرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ ہر ہو یا حد سے باہر ہوتو وکیل صاحب یابند نه ہوئے کی پیروی مقدمہ مذکورالہذا وکالت نامہ لکھ دیا ک سندرہے العبد حکواہ شرک دہ العبد کم منظور ہے منظور ہے کے منظور ہے