


07.03.2016

None present for appellant. Mr. Bashir Ahmad, Headmaster alongwith Mr. Muhammad Zubair, Sr.G.P for respondents present. Due to non-availability of D.B, appeal to come up for rejoinder and final hearing before D.B on 2.8.2016 at Camp Court Swat.

  
Chairman  
Camp Court Swat

02.08.2016

Appellant in person and Mr. Bashir Ahmad, Headmaster alongwith Mr. Muhammad Zubair, Sr.GP for the respondents present. Appellant submitted application for withdrawal of the appeal.

In the light of application appeal dismissed as withdrawn.  
File be consigned to the record room.

  
Chairman  
Camp court, Swat.

ANNOUNCED  
02.08.2016

02.08.16

22.06.2015

Agent of counsel for the appellant present. None present for respondents. The appeal pertains to the territorial limits of Malakand Division. Fresh notices be issued to the respondents for written reply for 7.9.2015 at Camp Court Swat.

  
Chairman


07.09.2015

None present for appellant. M/S Bashir Ahmed, Headmaster and Nowsher Awan, Senior Auditor alongwith Mr. Muhammad Zubair, Sr. GP for respondents present. Requested for adjournment. To come up for written reply/comments on 2.11.2015 before S.B at Camp Court Swat.

  
Chairman  
Camp Court Swat

02.11.2015

None present for appellant. M/S Bashir Ahmad, Headmaster and Nowsherawan, Senior Auditor alongwith Mr. Muhammad Zubair, Sr.G.P for respondents present. Para-wise comments submitted. The appeal is assigned to D.B for rejoinder and final hearing for 7.3.2016 at Camp Court Swat.

  
Chairman  
Camp Court Swat

70

02.03.2015

Counsel for the appellant present. Preliminary arguments partly heard. The matter required further clarification, therefore, pre-admission notice be issued to the learned AAG to contact the respondents for submission of complete record of the appellant. To come up for preliminary hearing on 27.03.2015

Member

8.

27.03.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant is an illiterate Chowkidar appointed as such on 3.5.1990. That according to his CNIC his year of birth is 1959 which is so recorded in the payroll as well. That at the time of appointment his year of birth was recorded as 1955 on the basis of medical certificate which come in to the notice of the appellant later on and then immediately preferred departmental appeal on 23.6.2014 which was rejected on 9.8.2014 and hence the instant service appeal on 15.8.2014.

Appellant Deposited Security & Process Fee

That the correction of date of birth is permissible as laid down in reported case 2008.SCMR.255.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notice be issued to the respondents for written reply for 22.6.2015 before S.B. Notice of stay application be also issued for the date fixed.

  
Chairman

3.

Reader Note.

15.09.2014

Clerk of counsel for the appellant present. The learned Member (Judicial) is not working due to a recent order of the Hon'ble Peshawar High Court, Peshawar effecting his status as District and Session Judge. To come up for preliminary hearing on 24.11.2014.

  
Reader

4.

Reader Note:

24.11.2014

Clerk of counsel for the appellant present. Since the Tribunal is incomplete, therefore, case is adjourned to 07.01.2015 for the same.

  
Reader

5.

Reader Note:

07.01.2015

Clerk of counsel for the appellant present. Since the Tribunal is incomplete, therefore, case is adjourned 19.02.2015 for the same.

  
Reader

6.

19.02.2015

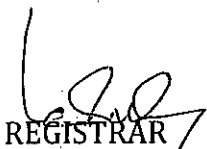

Counsel for the appellant present, and requested for adjournment. Request accepted. To come up for preliminary hearing on 02.03.2015.

  
Member

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 1047/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	15/08/2014	<p style="text-align: center;">The appeal of Mr. Rozi Khan Presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	19-8-2014	<p style="text-align: center;">This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>15-9-2014</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

APPEAL NO. 1047 / 2014

**Rozi Khan**

**VS**

**Edu: Department**

**INDEX**

<b>S.NO.</b>	<b>DOCUMENTS</b>	<b>ANNEXURE</b>	<b>PAGE</b>
1.	Memo of appeal	.....	1- 3.
2.	Stay application	.....	4.
3.	Appointment order	<b>A</b>	5.
4.	CNIC copy	<b>B</b>	6.
5.	Pay roll	<b>C</b>	7.
6.	Medical certificate	<b>D</b>	8.
7.	Service book	<b>E</b>	9- 11.
8.	Departmental appeal	<b>F</b>	12- 13.
9.	Rejection order	<b>G</b>	14.
10.	Vakalat Nama	.....	15.

**APPELLANT**

**THROUGH:**

  
**NOOR MOHAMMAD KHATTAK**  
**ADVOCATE**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

Appeal No. 1047 /2014

Mr. RoziKhan, Chowkidar (BPS-04),  
Govt Girls Community Model School Qaldara, District Malakand.

1080  
15/8/2014

..... **Appellant**

**VERSUS**

1. The Government of Khyber Pakhtunkhwa through Secretary (E&SE) Department, Khyber Pakhtunkhwa Peshawar.
2. The Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
3. The District Education Officer (Female), District Malakand at Batkhela.
4. The District Accounts Officer, District Malakand.

..... **Respondents**

**APPEAL UNDER SECTION- 4 OF THE KHYBER**  
**PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974**  
**AGAINST THE APPELLATE ORDER DATED 09-08-2014**  
**WHEREBY THE DEPARTMENTAL APPEAL OF THE**  
**APPELLANT FOR CORRECTION / RECTIFICATION OF**  
**HIS DATE OF BIRTH HAS BEEN REJECTED ON NO GOOD**  
**GROUND**

**PRAYER:**

That on acceptance of this appeal the impugned appellate order dated 09-08-2014 may very kindly be set aside and the respondents may be directed to rectify/correct the date of birth of the appellant in the service book as 01-07-1959 instead of 01-07-1955. Any other remedy which this august Tribunal deems fit may also be awarded in favor of the appellant.

**R/SHEWETH:**

**ON FACTS:**

- 1- That the appellant was appointed as chowkidar in Government Girls community Model School Qaldara, District Malakand on the recommendation of the Departmental Selection committee vide order dated 03-05-1990. That right from appointment the appellant has served the Education

Department quite efficiently and up to the entire satisfaction of his superiors. Copy of the appointment order is attached as annexure ..... **A.**

- 2- That the date of birth of the appellant according to his CNIC, School leaving certificate and pay roll is 01-07-1959. That after appointment when the appellant was examined by the Medical Superintendent, the Medical Superintendent has wrongly and illegally recorded the date of birth of appellant in the medical certificate as 01-07-1955 instead of 01-07-1959. Copies of the CNIC, pay roll and medical certificate are attached as annexure ..... **B, C and D.**
- 3- That on the basis of that wrong entry the concerned authority also wrongly recorded/entered the date of birth of the appellant in the service book as 01-07-1955 instead of 01-07-1959. That appellant time and again requested the concerned authority to modify/rectify his date of birth as 01-07-1959 but the concerned authority paid no heed to the request of appellant. Copy of the service book is attached as annexure ..... **E.**
- 4- That on the basis of that wrong entry in the medical certificate as well as service book the appellant is going to be retired pre-maturely in January, 2015. That if the Department retired the appellant pre-maturely then the appellant will definitely receive irreparable loss and will suffer badly.
- 5- That having no other remedy the appellant prefer Departmental appeal but the same was rejected by the respondent No.3 on no good grounds. Hence the present appeal on the following grounds amongst the others.

**GROUND:**

- A- That the impugned appellate order dated 9.8.2014 issued by the respondent No.3 is against the law, facts, norms of natural justice and materials on the record, hence not tenable and liable to be set aside.
- B- That the appellant has not been treated by the respondents in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the respondents acted in arbitrary and malafidy manner by not rectifying/correcting the date of birth of appellant is as 01-07-1959 instead of 01-07-1955.



- D- That not rectifying/correcting the date of birth of the appellant in the service book and medical certificate by the respondent Department, is against the law, facts, norms of natural justice and materials on the record, hence not tenable and liable to be set aside.
- E- That it is the consistent view of the Superior Courts that one should not be punished on the fault of others.
- F- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore most humbly prayed that the appeal may be accepted as prayed for.

Dated:12.8.2014

**APPELLANT**



**ROZI KHAN**

**THROUGH:**



**NOOR MOHAMMAD KHATTAK  
ADVOCATE**

**BEFORE THE KHYBER PAKHTUNKHEWA SERVICE TRIBUNAL**  
**PESHAWAR**

APPEAL NO \_\_\_\_\_ /2014

Rozi Khan

VS

Edu: Department

**APPLICATION FOR DIRECTING THE**  
**RESPONDENTS THAT NOT TO RETIRE THE**  
**APPELLANT TILL THE DISPOSAL OF THIS APPEAL**

**R/SHEWETH:**

- 1- That the appellant filed above mentioned appeal along with this application before this august service Tribunal in which no date has been fixed so for.
- 2- That all the three ingredients necessary for the stay is in favor of the appellant.
- 3- That not rectifying the date of birth of appellant by the respondents is against the norms of natural justice and also not tenable in the eye of law.
- 4- That the grounds of main appeal is also be considered as integral part of this application.

It is therefore humbly prayed that on acceptance of this application the respondents may be directed that not retire the appellant till the disposal of this appeal.

APPELLANT



ROZI KHAN

THROUGH:



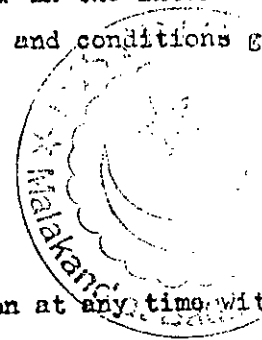
NOOR MOHAMMAD KHATTAK  
ADVOCATE

APPOINTMENT / 14

OFFICE ORDER

A-5

Mrs. Rozai Khan S/O Awal Shah village Qaldara Post office Dargai Malakand Agency is hereby appointment at Govt. Girls Primary School Qaldara as Chowidar in Basic Pay Scale No. 1 @ Rs. 600-13-260 Plus usual allowance per month as due and admissible under the rules against newly created post of chowikdar in the interest of public services from the date of taking over charge on the terms and conditions given below:-



TERMS AND CONDITIONS.

- 1: Charge report should be submitted to all concerned.
- 2: No TA/DA is allowed.
- 3: The appointments are purely temporary and subject to termination at any time without notice and assigning any reason.
- 4: In case of resignation they will have to submit one month prior notice to the Deptt. forfeited one month pay in to Govt. Treasury in lieu there of.
- 5: The candidates are required to produced Age and Health Certificate from the Agency Surgeon concerned.
- 6: The Candidates will take take over charge if their age exceeds 45 years or below 18 years.
- 7: If the candidate failed to take over charge with in 15 days of the issue of this Letter order, the order shall stand automatically cancelled.
- 8: The candidate should bound to work 24 hours as post are whole time chowikdar in the school.

EXPW  
C.I. Bathkola  
13/10/90

(Mrs) Maryam Siddiqi

Sub-Divisional Education Officer (F)  
Malakand Agency at Bathkola.

0-2

Order No. 646-51 Dated S.D.E.O. (F) Bathkola the 2/5/1990.

Handwritten notes and signatures in Urdu script.

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

- 1: The Distt. Education Officer (F) Malakand Agency at Bathkola.
- 2: The Headmistress GGS Qaldara.
- 3: Candidate Concerned.
- 4: The Agency Accounts Officer Malakand (Malakand Agency)
- 5: Accountant/DA/Distt. Local office.

Sub-Divisional Education Officer (F)  
Malakand Agency at Bathkola.

**ATTESTED**

Handwritten signature/initials.

CERTIFIED TRUE COPY  
MALAKAND

D-8

MEDICAL CERTIFICATE.

Name of Official..... *Mr. Reza Khan*.....

Caste or race..... *Muslim Pakistani*.....

Father's name..... *Mrs. Abdul Rehman S. D.*.....

Residence..... *Village: Chaklana P.O. Dargai*.....  
*M. S. Lakshmi Agency*.....

Date of birth..... *1955, According to M.C.*.....

Exact height by measurement..... *5' 7"*.....

Personal mark of identification..... *Wound Scar on the left side of face*.....

Signature of the official..... *[Signature]*.....

Signature of head of office.....

Seal of Office.....

I do hereby certify that I have examined Mr. *Reza Khan*, a candidate for employment in the office of the *Education Department* and can not discover that he had any disease communicable or other constitutional affection or bodily infirmity except..... *nil*.....

I do not consider this as disqualification for employment in the office of the *Education Department*. His age according to his own statement, *35 yrs* years and by appearance about *Thirty five years* years. *Scar on his left side of face five inch from the eye - down.*

ATTESTED

LEFT HAND THUMB AND FINGER IMPRESSIONS.....

Dated: *05-5-1990*

[Signature]

Medical Superintendent  
Civil Hospital.....

[Signature]

☆ عبدالله

0334-9529757

Heirs,

- 1.
- 2.
- 3.

Verification Roll No.                      dated                      received back

Left thumb-impresion.

Qualification	Date	Qualifications	Date
English		First Arts	
Pashtu		B L. or B. A.	
Urdu		Peardership examination	
Plan-drawing		Training School Final examination	
Finger print		Other qualifications--	
Drill instructing			
Court duties			
Reserve duties			

N.B.—line to be drawn under the qualification assessed.

**ATTESTED**



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

1. Name *Mr. Rozi Khan*  
2. Race *Afghan*  
3. Residence *village Oraldara P.O. Dargai Malakand Agency*

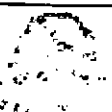
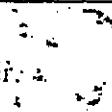

4. Father's name and residence *Awal Shah*

5. Date of birth by Christian era as nearly as can be ascertained *4-5-1955*  
*Fourth May N.H. f/19 five*

6. Exact height by measurement *5-6*

7. Personal marks for identification *scar on the left side of the face - head near the eye brow.*

8. Left hand thumb and Finger impression of (non-gazetted) officer

Little Finger  Ring Finger  
Middle Finger  Fore Finger  
Thumb 

9. Signature of Government servant *Rozi Khan*

10. Signature and designation of the Head of the Office, or other Attesting Officer.

*Siddiq*  
Sub Divn/ Education Officer (P)  
Malakand Agency at Batakela

**ATTESTED**  
*[Signature]*

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
chaw: 44ps Adora	1/1/74	Rs. 600/-				55/90	[Signature]
[Signature]	[Signature]	Rs. 613/-				112/90	[Signature]
RPS No. 1 Rs. 920 - 26-12-10							
[Signature]	[Signature]	Rs. 1094/-				112/91	[Signature]
[Signature]	[Signature]	Rs. 1050/-				112/91	[Signature]
[Signature]	[Signature]	Rs. 1076/-				112/92	[Signature]
[Signature]	[Signature]	Rs. 1102/-				112/93	[Signature]
<p> <b>COMPTROLLER GENERAL OF THE REVENUE</b>  <b>IN THE REVENUE DEPARTMENT</b>  <b>FOR THE YEAR 1974-75</b>  <b>NO. 26-13/0-10/1</b>  <b>D.D. 24/11/74</b>  <b>11/11/74</b>  <b>11/11/74</b> </p>							
RPS No. 1245 - 35-12-10							
[Signature]	[Signature]	Rs. 1490/-				112/94	[Signature]
[Signature]	[Signature]	Rs. 1525/-				112/94	[Signature]



9 Signature and Position of the Head of the Office or other authority concerned	10 Date of Termination Of appointment	11 Reason of Termination (Such as promotion, retirement, dismissal, etc.)	12 Signature of the head of the Office or other authorizing officer	13 Allocation of period of service on average pay for which leave salary has been paid to another Government to which it is admissible	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.
30/1/2008 C. Chahok	30/1/2008	Altaf	C. Chahok		Service Verified w.e.f. 12-07 To 30-11-2008 From This Office Record.	
					C. Chahok DY: D.O. (F) Dargai Mandi	
					Approved one adv. spl. Incr. w.e.f. 01-9-2007 vide Govt. of N.W.F.P. Finance Department No. FD (SR-1) 2-4/2008 dt. 14-4-2009	
					C. Chahok DY: D.O (F) Sama Ranizai Dargai (Mkd)	
	30/1/09	Altaf	DY: D.O. Dargai Mandi		Agency Accounts Officer Altaf Mandi	
					Service Verified w.e.f. 12-08 To 30-11-09 From This Office Record, DY: D.O. (F) Dargai Mandi	
					ATTESTED	
						Service Verified w.e.f. 12-08 To 31-8-2009 From This Office Record, Dargai Mandi

1	2	3	4	5	6	7	8
Name of post	Whether substitute and whether permanent or temporary	If officiating, state (a) sub-stitute (b) appointing officer (c) date of appointment (d) position under which C.S.R.	Special duties performed	Additional pay or allowance	Other employment under the term "pay"	Date of appointment	Signature of Government official

Vertical line of tick marks along the left margin.

9  
- tax  
- action  
- the  
- at  
- that

F-12

To

**The District Education Officer (F),  
Malakand at Batkhela.**

**SUBJECT: DEPARTMENTAL APPEAL FOR RECTIFICATION  
OF DATE OF BIRTH OF APPELLANT IN THE  
SERVICE BOOK**

Sir,

Most humbly appellant begs to submit as under:-

- 1- That appellant is the bonafide resident of Village Qaldara, Tehsil & P/O Dargai District Malakand.
- 2- That appellant was appointed as chowkidar in Government Primary School Qaldara on the recommendation of Departmental Selection Committee vide order dated 3.05.1990. That right from appointment till date the appellant has served the Education Department quite efficiently and up to the entire satisfaction of his superiors.
- 3- That the date of birth of the appellant according to his CNIC, School leaving Certificate and pay roll is 01.07.1959. That after appointment when the appellant was examined by the Medical Superintendent, the Medical Superintendent has wrongly and illegally recorded the date of birth of appellant in the medical Certificate as 1955 instead of 01.07.1959.
- 4- That on the basis of that wrong entry the concerned authority also wrongly recorded/ entered the date of birth of appellant in the service book as 1955 instead of 01.07.1959. That appellant time and again requested the concerned authority to modify/ rectify his age as 01.07.1959 but the concerned authority paid no heed to the request of appellant.
- 5- That on the basis of that wrong entry in the medical certificate as well as service book the appellant is going to be retired pre-maturely in January, 2015. That if the department retired the appellant pre-maturely then the appellant will receive irreparable loss and will suffer badly.
- 6- That having other remedy the appellant prefers this departmental appeal on the following grounds amongst the others.

**ATTESTED**



**GROUND:**

- A- That not rectifying/re-correcting the date of birth of appellant in the service book of the appellant by the respondent Department is against the law, facts and norms of natural justice.
- B- That the appellant has not been treated in accordance with law and rules and as such the concerned authority violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the concerned authority acted in arbitrary and malafide manner by not rectifying/ correcting the date of birth of appellant is as 01.07.1959 instead of 1955.
- D- That the appellant date of birth according to his CNIC is 01.07.1959 but the concerned authorities has wrongly entered the date of birth of appellant in the service book as 1955.
- E- That it is the consistent view of the Superior Courts that one should not be punished on the fault of others.
- F- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

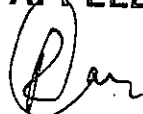
It is therefore, most humbly prayed that on acceptance of this Departmental appeal the concerned authority may be directed to rectify/ corrected the date of birth of appellant in the service book as 01.07.1959 instead of 1955. Any other relief which your good self deems fit that may also be awarded in favor of appellant.

Dated: 27.06.2014

**ATTESTED**



**APPELLANT**



ROZI KHAN, CHOWKIDAR (BPS-4),  
GGPS QALDARA TEHSIL DARGAI,  
DISTRICT MALAKAND.

G-14



OFFICE OF THE  
DISTRICT EDUCATION OFFICER  
(F) MALAKAND AT BATKHELA.

Telephone No. 0932-410283  
E-mail: emismalakand@yahoo.com

No. 3058 /F.NO.1/Class-IV age Relex:

Dated Batkhela the: 9/8 /2014.

TO

Mr:Rozi Khan Chowkidar,  
GGPS Qaldara District Malakand.

Subject:- DEPARTMENTAL APPEAL FOR RECTIFICATION OF DATE OF BIRTH.

Memo:-

Reference your Application dated 08-07-2014, In this connection it is stated that your application is rejected that the undersigned is NO power to rectified your dated of birth.

*[Signature]*  
DISTRICT EDUCATION OFFICER  
(FEMALE)MALAKAND AT BATKHELA

Faridoon Khan/Training.

**ATTESTED**

*[Signature]*

Annexure (A)

MEDICAL CERTIFICATE.

Name of Official..... Mr. Reza Khan.....  
 Caste or race..... Muslim Pakistani.....  
 Father's name..... Mr. Asad Khan I. No. 1 St. D.....  
 Residence..... Village..... Orakman P.O. Dargua.....  
 ..... N.S. (Agency) Agency.....  
 Date of birth..... 1.9.55, According to M.C.....  
 Exact height by measurement..... 5' 6".....  
 Personal mark of identification..... Wound Scar on the left side of the head.....  
 Signature of the official..... [Signature].....  
 Signature of head of office.....

Sed of Office.....

I do hereby certify that I have examined Mr. Reza Khan, a candidate for employment in the office of the Education Department and can not discover that he had any disease communicable or other constitutional affection or bodily infirmity except..... Nil.....

I do not consider this as disqualification for employment in the office of the Education Department. His age according to his own statement... 35 yrs... years and by appearance about Thirty five years. Scar on the left side of the forehead near the eye - down.

LEFT HAND THUMB AND FINGER IMPRESSIONS.....

Dated: 05-5-1990.

Medical Superintendent Civil Hospitals.....

[Signature]

بخدمت جناب قابل قدر چیئر مین صاحب سروس ٹریبیونل خیبر پختونخواہ (سوات کیمپ) مینگورہ سوات

درخواست بمراد واپسی سروس اپیل  
نمبر 1047/2014 روزی خان چوکیدار  
بنام محکمہ تعلیم خیبر پختونخواہ -

جناب عالی!

گزارش حسب ذیل کی جاتی ہے کہ سائل نے محکمہ تعلیم ضلع ملاکنڈ کے خلاف سروس اپیل نمبر 1047/2014 اس معزز ٹریبیونل میں داخل کر رکھی تھی۔ چونکہ سائل کی تنخواہ و پنشن 2014 سے بند ہے۔ اور سائل کا کوئی اور ذریعہ معاش نہیں جس کی وجہ سے سائل کو بچوں کی کفالت میں کافی مشکلات کا سامنا ہے۔ لہذا مقدمے کی طوالت کی وجہ سے سائل اب مزید انتظار کا متحمل نہیں ہو سکتا اسلئے آپ صاحبان مہربانی کر کے سائل کے سروس اپیل نمبر 1047/2014 کو withdraw کر کے محکمہ تعلیم کو سائل کی پنشن وغیرہ جلد از جلد عطا کرنے کے احکامات صادر فرمادیں۔

سائل عمر بھر دعا گو رہے گا۔

المرقوم: 02/08/2016

العارض

روزی خان

درخواست گزار

روزی خان چوکیدار گورنمنٹ گرلز کمیونٹی ماڈل سکول قالدہ ضلع ملاکنڈ۔

CNIC No: 15401-0352586-3 , Cell No# 03348439973 .