

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

SERVICE APPEAL NO. 926/2013

Date of institution ... 23.5.2013

Date of judgment ... 10.1.2014

Mahboob Elahi,
Ex-S.P./Incharge Computer Cell,
C.P.O Peshawar.

... (Appellant)

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
3. The Secretary to Govt. of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Civil Secretariat, Peshawar.
4. The Estate Officer, Govt. of Khyber Pakhtunkhwa, Peshawar. (Respondents)

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION NO. 3842-E-1/RETIREMENT ON SUPERANNUATION DATED 15.2.2013 ISSUED BY RESPONDENT NO. 2 WHEREBY THE APPELLANT WAS RETIRED FROM SERVICE W.E.F. 6.7.2012 AGAINST WHICH APPELLANT FILED DEPARTMENTAL REPRESENTATION BEFORE RESPONDENT NO. 1 BUT THE SAME WAS NOT DISPOSED OF WITHIN THE STATUTORY PERIOD OF 90 DAYS.

Mr. Khaled Rehman,
Advocate

For appellant

Mr. Muhammad Adeel Butt,
Additional Advocate General

For respondents

Mr. Qalandar Ali Khan
Mr. Muhammad Aamir Nazir

Chairman
Member

JUDGMENT

QALANDAR ALI KHAN, CHAIRMAN:- Appellant was SP/Incharge Computer Cell, Central Police Office (CPO) Peshawar, and was retired from service on superannuation vide notification dated 15.2.2013. The appellant preferred departmental appeal on 20.2.2013, and when received no response within statutory period, he lodged this appeal on the grounds that his date of birth was wrongly recorded as 7.7.1952 instead of 7.7.1954, because there was a difference of only two months between his date of birth and the date of birth of his elder brother, Muhammad Atiq. He claimed that in

order to rectify the incorrect date of birth, he approached Civil Court in Mardan and was granted decree for correction of his date of birth as 7.7.1954 vide judgment of the Civil Judge-XII, Mardan dated 14.7.2012. He further contended that when the respondent-department refused to implement judgment of the court, he again approached the Civil Court at Peshawar against the respondent-department, but his plaint was rejected by the Civil Judge-XXVI vide his order dated 23.4.2013, for want of jurisdiction.

2. The appeal was resisted by the respondents, inter-alia, on the grounds that the appeal was not only time barred but also not maintainable, as the appellant was seeking correction in his date of birth belatedly, not within two years of joining of service in the light of relevant rules, and had approached forums for correction of his date of birth, which had no jurisdiction to entertain his claim at such a belated stage. They defended recording the date of birth of the appellant as 7.7.1952 on the ground that the same date of birth was recorded in the Secondary School Certificate, which is legally a base for recording date of birth of an employee at the time of his entry into service. The respondents also referred to the legal provisions contained in Police Rules 9-7 and GFR-116, in support of their contention that correction of date of birth was permissible within two years of entry into government service. The respondents maintained that the appellant was rightly retired from service on attaining the age of superannuation according to his service record.

3. Arguments of the learned counsel for the appellant and learned AAG heard, and record perused.

4. Admittedly, the appellant did not make any attempt for correction of his date of birth within two years of joining of government service in accordance with clear provisions contained in GFR-116 and Police Rules 9-7; and after waiting and remaining silent over the issue till the fag-end of his service, for the first time lodged a suit for correction of his date of birth on 21.4.2011, which was decreed in his favour by the Court of Civil Judge-XII, Mardan on 14.7.2012. It is by now well settled that it is obligatory upon a civil servant to make application for change in his date of birth within two years of joining service. Reference in this connection can be made to the case reported as 2004 PLC (C.S.) 1162 (Supreme Court of Pakistan). The appellant has based his claim for correction of his date of birth on the ground that according to Secondary School Certificate, his elder brother has been shown just two months older than him, which was not possible; and his date of birth was, therefore, corrected on his suit for the purpose vide judgment dated 14.7.2012. The appellant, however, nowhere explained the reason as to why he could not discover the so-called error/mistake despite

holding a very responsible position in the department i.e. SP/Incharge Computer Cell CPO Peshawar. The appellant had, admittedly, joined service on the basis of Secondary School Certificate wherein his date of birth was recorded as 7.7.1952, which was accordingly recorded in his service book.

5. The mainstay of the case of the appellant is the judgment dated 14.7.2012 of the Civil Court, but it needs be stressed that the suit was primarily against the Education Department and the Police Department was neither a party to the suit nor, as such, the said judgment would be binding on the Police Department. Moreover, it is also well established that a suit for correction of date of birth would not be maintainable in view of bar contained in Article 212 of the Constitution (2004 PLC(C.S.)1162 (Supreme Court of Pakistan). Needless to say that a judgment passed without jurisdiction has no binding effect; and the respondent-department cannot be made to make correction or alteration of date of birth of a civil servant on the basis of such a judgment or decree. The appellant has himself placed on record a judgment/order of Civil Court at Peshawar dated 23.4.2013 whereby the plaint in his suit against the respondent-department for correction of his date of birth and restraining the department from his retirement on superannuation on the basis of his date of birth recorded in his service record was rejected for want of jurisdiction. In such like situation, the judgments of the august Supreme Court of Pakistan reported as 2008 SCMR 255 (Supreme Court of Pakistan) and 2009 SCMR 269 (Supreme Court of Pakistan), and referred to by the learned counsel for the appellant, also cannot come to the rescue of the appellant as in the former case the civil servant had got corrected his date of birth even before joining government service and in the latter case it was held that without holding proper inquiry into serious allegation of forgery, the department could not unilaterally alter date of birth of the civil servant on the basis of date of birth recorded in the seniority list. As such, the extremely belated attempt on the part of the appellant to get his date of birth corrected/changed cannot be crowned with success for the simple reason that the claim of the appellant at such a belated stage is neither supported by the law nor by any precedent case.

6. As a sequel to the foregoing discussion, the appeal is dismissed with costs.

ANNOUNCED
10.01.2014


(MUHAMMAD AAMIR NAZIR)
MEMBER


(QALANDAR ALI KHAN)
CHAIRMAN

10.1.2014

Appellant with counsel and Mr.Falak Nawaz, DSP(legal) on behalf of respondents with AAG present. Arguments heard and record perused.

Vide detailed judgment of today, placed on file, the appeal is dismissed with costs.

ANNOUNCED

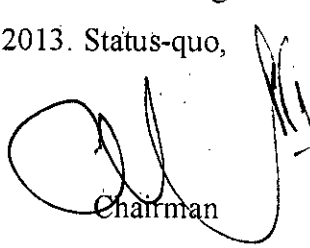
10.01.2014

MEMBER


CHAIRMAN

23.8.2013

Appellant with counsel present. Respondents have been served through the concerned officials, but none of them is present. However, Mr. Muhammad Jan, GP is present who will be contacting the respondents for written reply/comments on 24.9.2013. Status-quo, as before, till then.


Chairman

24.9.2013

Appellant in person and Mr. Falak Nawaz, DSP(Legal) on behalf of the respondents with AAG present. Written reply has not been received. Another chance is given for written reply/comments, positively, on 30.12.2013. Status-quo, as before, till then.


Chairman

30.12.2013

Appellant with counsel and Mr. Falak Nawaz, DSP(legal) on behalf of respondents No.1 to 3 with AAG for the respondents present. Joint written reply/written statement and reply to application on behalf of the respondents received, copies whereof are handed over to the learned counsel for the appellant. The learned counsel for the appellant stated that instead of disposal of application for interim relief, the appeal can be disposed of on merits, as there is no need to file rejoinder to the written reply/written statement of the respondents and further that the appellant will reach superannuation even according to the date alleged by him in the appeal. As an order of status-quo has been issued in the case, thereby restraining the respondents from getting the official residential house vacated from the appellant, a short date is given for arguments on merits of the appeal on 10.1.2014.


Chairman

Appeal No. 926/2013
Mr. Mehboob Ghani

31.07.2013

Appellant with counsel and Mr. Muhammad Jan, GP for

official respondents present and heard on preliminary. Counsel for the appellant contended that the appellant has been retried vide order dated 15.02.2013 w.e.f 06.07.2013 on the basis of his date of birth as per his service book i.e 07.07.1952. The appellant filed departmental appeal on 21.20.2013 which has not been responded after the laps of 90 days. Hence the instant appeal on 25.05.2013. The appellant stated that his correct date of Birth is 07.07.1954. Points raised need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, notice be issued to the respondents for submission of written reply on 23.08.2013. The appellant has also submitted application for suspension the operation of the impugned Notification dated 15.02.2013 and restraining the respondents from forcing the appellant to vacate the residential accommodation allotted to the appellant till the final disposal of the instant appeal. Notice of application should also be issued to the respondents for reply/arguments on the date fixed. Till then status quo be maintained.

Appellant deposited
Security & process fee
Rs 200/- Bante
receipt is attached
with file

Member.

5.

31.7.2013

This case be put before the Final Bench I for further proceedings.

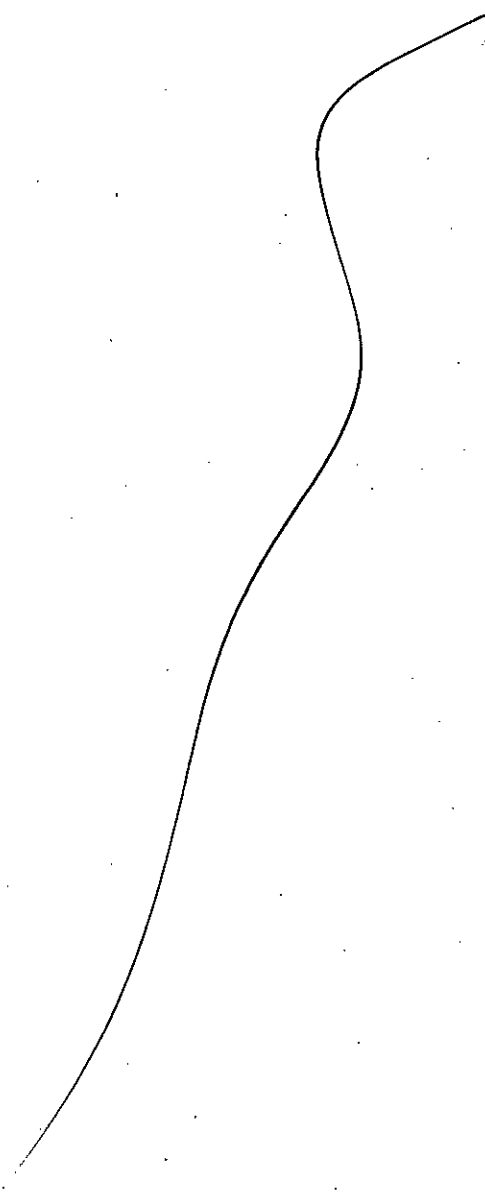
Chairman

3.

30.07.2013

Counsel for the appellant present. Pre-admission notice be issued to the Sr.GP/GP for preliminary arguments on 31.07.2013.

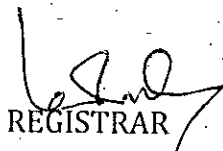


Member



Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 926/2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	23/05/2013	<p>The appeal of Mr. Mehboob Ilahi presented today by Mr. Khaled Rehman 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	15-7-2013	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>30-7-2013</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 926/2013

Mehboob Ilahi

.....Appellant

Versus

The Govt. of KPK and
others

.....Respondents

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4.	Decree and judgment of the Civil Judge.	14.07.2012	B	9-14
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7.	Impugned Notification	15.02.2013	E	0-19
8.	Order of the Court	23.04.2013	F	20-22
9.	Departmental Representation	20.02.2013	G	23-24
10.	Wakalat Nama			

Through

Appellant

Khaled Rahman
Advocate, Peshawar

9-B, Haroon Mansion,
Khyber Bazar, Peshawar.
Cell # 0345-9337312

Dated: 21 / 05 / 2013

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 926 /2013

Mehboob Ilahi,
Ex-S.P/Incharge Computer Cell,
C.P.O PeshawarAppellant.

W.F. Peshawar
No. 968
Date 23/5/13

Versus

1. Govt. of Khyber Pakhtunkhwa through
Chief Secretary, Civil Secretariat, Peshawar.
2. The Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.
3. The Secretary to Govt. of Khyber Pakhtunkhwa
Home and Tribal Affairs Department,
Civil Secretariat, Peshawar.
4. The Estate Officer,
Govt. of Khyber Pakhtunkhwa,
Peshawar.Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE TRIBUNALS
ACT, 1974 AGAINST THE IMPUGNED
NOTIFICATION NO.3842-E-1/RETIREMENT ON
SUPERANNUATION DATED 15.02.2013 ISSUED
BY RESPONDENT NO.2 WHEREBY THE
APPELLANT WAS RETIRED FROM SERVICE
W.E.F. 06.07.2012 AGAINST WHICH APPELLANT
FILED DEPARTMENTAL REPRESENTATION
BEFORE RESPONDENT NO.1 BUT THE SAME
WAS NOT DISPOSED OF WITHIN THE
STATUTORY PERIOD OF 90 DAYS.

23/5/13

PRAYER:

On acceptance of the instant appeal, impugned Notification dated 15.02.2013 may graciously be set aside and appellant be restored on service and the incorrect date of birth recorded in the service record of appellant i.e. 07.07.1952 be rectified as 07.07.1954 with all back benefits.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. That appellant was serving as senior Officer in the Police Department as S.P. Incharge Computer Cell, C.P.O Peshawar. He has got longstanding unblemished service at his credit.
2. That the correct date of birth of appellant is 07.07.1954 as evident from the facts that the age difference between appellant and his elder brother Muhammad Attique is only two months (Certificate *Annex:-A*).
3. That the same wrong date of birth has been recorded in the Service record of appellant for the correction of which appellant repeatedly requested the Department but his requests fell upon deaf ears.
4. That finally appellant approached the Court of competent jurisdiction for the correction of date of birth of appellant in the credential inas much as the Department has recorded incorrect entry in the Service Book of appellant from the educational.

documents. The Court finally allowed the claim and decreed the suit of appellant vide judgment and decree dated 14.07.2012 (*Annex:-B*).

5. That after the decision of the competent court, the appellant submitted an application (*Annex:-C*) to the Department that the incorrect date of birth i.e. 07.07.1952 be rectified as 07.07.1954 as per the judgment of the Court but the application was pending without any fruitful result and to the contrary on the basis of incorrect date of birth, the Department started the retirement proceedings of appellant, therefore, appellant was forced to file yet another Civil Suit (*Annex:-D*) in the Court of learned Civil Judge, Peshawar to restrain the Department from not retiring the appellant on the basis of incorrect date of birth.
6. That while the suit was pending when in the meantime the impugned Notification dated 15.02.2013 (*Annex:-E*) was issued whereby the appellant was retired from service on the basis of wrongly recorded date of birth. The Suit was then dismissed for want of jurisdiction and being infructuous in wake of the changed scenario vide order dated 23.04.2013 (*Annex:-F*).
7. That appellant, being aggrieved of the impugned Notification *ibid*, preferred departmental Representation before Respondent No.1 on 20.02.2013 (*Annex:-G*) but the same was not disposed of within statutory period of 90 days,

hence this appeal inter-alia on the following grounds:-

Grounds:

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned Notification, which is unjust, unfair and hence not sustainable in the eye of law.
- B. That since the incorrect date of birth has been set aside by the learned Court and the decision of the court is binding upon Department, therefore, the Department was duty-bound to correct their own record, but instead the impugned Notification was unlawfully issued whereby appellant was prematurely retired on the basis of incorrect date of birth.
- C. That the Court of competent jurisdiction has declared the correct date of birth of the appellant as 07.07.1954 and the judgment has attained finality and now the Respondents have no other option save to rectify the date of birth of appellant.
- D. That even otherwise the incorrectly recorded date of birth of appellant in the Service record of the Respondents has been proved as such and in that eventuality the Respondents are required to have rectified the same of their own motion but then

they not only failed to do so rather refused to implement a decree of the competent court which has resulted in serious miscarriage of justice.

- E. That the appellant will also seek to address other grounds at the time of arguments.

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.

Through



Appellant

**Khaleel Rahman,
Advocate, Peshawar.**

Dated: 21 / 05/ 2013

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**Service Appeal No. _____/2013**

Mehboob IlahiApplicant/Appellant.

Versus

The Govt. of KPK and others.....Respondents

Application for suspending the operation of the impugned Notification dated 15.02.2013 and restraining the Respondents from forcing the appellant to vacate the residential accommodation allotted to the appellant till the final disposal of the instant appeal.

Respectfully Sheweth,

2. That the above titled service appeal is being filed today which is yet to be fixed for hearing.
3. That the facts alleged and grounds taken in the body of main appeal may kindly be as an integral part of this application, which make out an excellent prima facie case in favour of the appellant.
4. That the balance of convenience also lies in favour of appellant and in case the impugned Notification is not suspended, the appellant will suffer irreparable loss.

It is, therefore, humbly prayed that on acceptance of this application, the operation of the impugned

Notification dated 15.02.2013 may graciously be suspended and Respondents be restrained from forcing the appellant to vacate the residential accommodation allotted to him till the final disposal of the appeal.


Applicant

Through


Khaleed Rahman,
Advocate, Peshawar.

Dated: 21 / 05/ 2013

Affidavit

I, Mehboob Ilahi, Ex-SP/Incharge Computer Cell, C.P.O, Office, Peshawar, do hereby affirm and declare on oath that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.


Deponent

ATTESTED



s. No 079841

Roll No. 9793

Board of Intermediate & Secondary Education
PESHAWAR (PAKISTAN)



SECONDARY SCHOOL CERTIFICATE EXAMINATION
SESSION 1969
ANNUAL

This is to certify that Mahboob Elahi
son of Haji Ghafoor Gul
and a student of Government High School Gujrat, (Mardan)
passed the **SECONDARY SCHOOL CERTIFICATE EXAMINATION** of the Board of Intermediate and Secondary
Education, Peshawar held in June, 1969 in the First Division.

The candidate passed in the following subjects :—

- | | | |
|--------------|------------------------|------------------------|
| 1. English | 4. Social Studies | 7. Physiology Hygiene. |
| 2. Urdu | 5. Mathematics (Elect) | |
| 3. Islamiyat | 6. Physics & Chemistry | |

Date of Birth Seventh July One thousand
nine hundred and Fifty-two (7.7.1952)

31st December, 1969

SECRETARY

Must be
filled

S. NO 072983

Roll No. 11007

Renewed

Board of Intermediate & Secondary Education
PESHAWAR (PAKISTAN)

BA



SECONDARY SCHOOL CERTIFICATE EXAMINATION
SESSION 1968
ANNUAL

This is to certify that Mohammad Atiq
Ghafoor Gul
Son/ of _____
and a student of Govt High School Gujrat (Mardan)
passed the **SECONDARY SCHOOL CERTIFICATE EXAMINATION** of the Board of Intermediate and Secondary
Education, Peshawar held in March 1968 in the Third Division.

The candidate passed in the following subjects :—

- | | | |
|--------------|---------------------------|--------|
| 1. English | 4. Social: Studies | 7. Nil |
| 2. Urdu | 5. Mathematics (Elective) | |
| 3. Islamiyat | 6. Physics & Chemistry | |

Date of Birth Fourth May, One thousand
nine hundred and Fifty Two (04-5-1952)

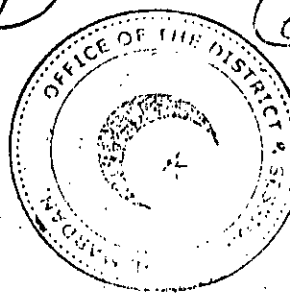
Issued in lieu of Oc, No. 065078.

31st December, 1968

to Full

M. A. B. Khan
SECRETARY
P. Khan

ANNEX "B" 9



IN THE COURT OF ARSHAD KHAN AFRIDI, CIVIL JUDGE-XII, MARDAN.

Suit No:.....133/1

Date of institution21.4.2011.

Date of decision.....14.7.2012

~~14-07-12~~

Mehboob Ilahi son of Haji Ghafoor Gul R/O Gujarat Tehsil & District Mardan..... (Plaintiff)

Versus

Chairman Board of Intermediate & Secondary Education Peshawar, & five others..... (Defendants)

SUIT FOR DECLARATION & PERMANENT MANDATORY INJUNCTION.

JUDGMENT:-

Plaintiff Mehboob Ilahi brought the instant suit against the defendants (fully detailed in the head note of the plaint) for declaration to the effect that correct date of birth of the plaintiff is 7.7.1954, but the defendants have wrongly entered the same in their record as 7.7.1952. In prayer Bay plaintiff sought for permanent mandatory injunction.

Brief facts as per plaint are that correct date of birth of the plaintiff is 7.7.1954, but at the time of admission the defendants have wrongly and mistakenly entered it in their record as 7.7.1952, which is a clerical mistake and is wrong, ineffective upon the right of the plaintiff. That there would be irreparable loss to the plaintiff due the said wrong date of birth and the defendants are legally bound to correct it as 7.7.1954. That, the defendants were asked time and again, but of no use, hence the instant suit.

Defendants were summoned, amongst whom defendants No.3 & 5 appeared and submitted their cognovits, by which they admitted claim of the plaintiff and stated that if the

ATTORNEY

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decree passed in favour of the plaintiffs, they have got no objection. Defendant No.1 appeared through Mst.Farzana advocate (legal advisor for Board of Intermediate and Secondary Education, Peshawar), and contested the suit by filing written statement wherein,he denied claim of the plaintiff on so many legal and factual grounds, while the remaining defendants despite service did not bothered to appear before the court, therefore, placed and proceeded against ex.parte.

From the divergent pleadings of the parties following issues were framed by my learned predecessor in office.

Issues:

1. Whether the plaintiff has got cause of action?
2. Whether the correct date of birth of the plaintiff is 7.7.1954?
3. Whether suit of the plaintiff is time barred?
4. Whether the plaintiff is entitled for the decree as prayed for?
5. Relief.

Both the parties were given full opportunity to produce their evidence, as they desired in the case. Parties availed this opportunity and produced whatever evidence they wanted to produce.

Thereafter evidence of the parties was closed and case was fixed for arguments. After hearing arguments of the parties and perusal of their evidence and record, my issue-wise evidence is as under: -

14/7/12

قرض خلیق و لکھنؤ کی سند

Name of	
Date of Pt.	No. 15766 Dt: 22.12.12
Date of	22.12.12
Date of	22.12.12
No.s of	20P
Court Fee	
urgent fee	
Signed of Cop	Murad Ali
Date of Delivery	22/12/12

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ISSUE NO.2

The burden is on the plaintiff to prove that whether his correct date of birth is 7.7.1954 and defendants have wrongly entered his date of birth as 7.7.1952, in their records.

The plaintiff appeared before the court as PW-2 and produced school record as Ex.PW 1/1, according to which name of the plaintiff is entered at serial No.259 and his Date of Birth is entered as 7.7.1952, while the name of his elder brother namely Muhammad Ateeq has been entered at Serial No.237 of (Ex.PW 1/1), and his Date Of Birth is entered as 04.05.1952, thereby having a difference of only two months, which is quite unnatural and impossible. Plaintiff also produced secondary school certificate of his brother as (Ex.PW 1/3), in which his Date Of birth is mentioned as 7.7.1952.

Muhammad Ateeq son of Haji Ghafoor Gul (brother of plaintiff) appeared as Pw-2 and supported the version of the plaintiff.

During cross-examination of both the above PWs no contradiction has been brought on record.

On the other hand defendant produced one Muhammad Taqqi Junior Clerk BISE, Peshawar who produced his authority letter (Ex.PW 1/1), admission form of plaintiff (Ex.PW 1/2), in which date of birth of the plaintiff has correctly been mentioned as 7.7.1952.

After perusal of case file and scrutiny of evidence, the defendants have made about 60 days difference between the

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22/12/11

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age of plaintiff and his real brother Muhammad Ateeq, which is quite unnatural and impossible for a mother to give birth to two children within 02 months.

From the above discussion, it is quite clear that how could a mother born two children within two months? therefore, it is candidly clear that correct date of birth of the plaintiff is 7.7.1954 and the defendants have wrongly inserted his date of birth as 7.7.1952. Therefore, Issue is decided in positive.

ISSUE NO.3:

It is for the defendants to prove that the instant suit is time barred but they have failed to prove the same even their representative has failed to cite relevant provision of limitation Act in his written statement or evidence. Hence the instant issue is decided in negative.

ISSUE NO.1 & 4

After perusal of case file and findings on issue No.4, it manifest that the plaintiff has proved his contention regarding incorrect date of birth. So he has got a cause of action to approach this court for redressal of his grievance. More so he was also found to entitle for decree as prayed for. Hence both these issues are decided in positive.

RELIEF: -

On the basis of my issue-wise findings on foregoing issues, it is manifest that plaintiff has successfully proved his contention. Therefore the instant suit is hereby decreed in favour of plaintiffs. Furthermore, the defendants are directed to



14/7/12

EXHIBIT

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correct wrong entry in respect of date of birth of the plaintiffs in their record as 7.7.1954. Parties are left to bear their own cost.

Announced.
Dt. 14.07.2012

~~Arshad Khan Afridi,
Civil Judge-XII, Mardan.~~

CERTIFICATE

Certified that my, this judgment of today consists of 5 pages and each page has been read, corrected and signed by me wherever necessary.

Dated: 14.07.2012.

~~Arshad Khan Afridi,
Civil Judge-XII, Mardan.~~

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EXAMINER
Copying Department
Sessions Court Mardan

22/12/12

ATTESTED



پروہد ڈکٹر

نمبر ۱۱۱۱۱ - روضہ ۲۱۰۶۰۱۱ - جلد ۱۶۰۶۱۲

مذکورہ ذیل کے افراد کے خلاف رجسٹرڈ کیس نمٹانے کے لئے درخواست

محبوب الہی ولد حاجی غفور گل ساکن گجرات مردان تحصیل و ضلع مردان

(مدعی)

بنا



Handwritten signature or name at the top right of the list.

پیدائش کی تاریخ اور مقام

۱۔ پیدائش ۱۸/۱۱/۱۹۵۸ - پیدائش پرانے سکول گجرات ضلع مردان

۲۔ پیدائش اور رجسٹرڈ مانی سکول گجرات ضلع مردان

۳۔ پرنسپل اور رجسٹرڈ پوسٹ گریجویٹ کالج مردان ضلع مردان

۴۔ رجسٹرڈ نادرا دفتر مردان ضلع مردان

(مدعا علیہم)

۱۔ ترمیمی دعویٰ استقرار حق بدین مراد کہ مدعی کا صحیح و درست تاریخ پیدائش مورخہ ۰۷/۰۷/۱۹۵۴

ہے۔ مگر مدعا علیہم کے قلمی غلطی سے مدعی کے تعلیمی ریکارڈ و اسناد جاری کردہ میں غلط طور پر مورخہ ۰۷/۰۷/۱۹۵۲ درج کیا گیا ہے۔ جو کہ غلط، خلاف قانون، خلاف انصاف، خلاف واقعات و خلاف اصول فطری و مبنی تہذیبی ہے۔ اور حقوق مدعی پر غیر مؤثر و کالعدم ہے اور مدعی پر گزرنے والے اس غلط اندراج کا پابندی نہیں ہے۔ اور مدعا علیہم اس امر کے پابند ہیں کہ وہ مدعی کے تعلیمی ریکارڈ و اسناد جاری کردہ میں تصحیح کر کے درست تاریخ پیدائش مورخہ ۰۷/۰۷/۱۹۵۴ درج و تصدیق کرے۔

Handwritten signature and stamp: ORIGINAL COPY Court No. 2-100 Mardan

۲۔ دعویٰ صدور حکم امتناعی تاکیدی دوائی بدین مراد کہ مدعا علیہم کو پابند کرے کہ وہ اپنی تعلیمی ریکارڈ و اسناد جاری کردہ میں مدعی کی درست تاریخ پیدائش مورخہ ۰۷/۰۷/۱۹۵۴ اور کسی قسم کا غلط اندراج در ریکارڈ مدعی میں کرنے سے منع و باز رہے۔

Certified to be True Copy
EXAMINER
Copying Department
Sessions Court Mardan

22/12/11

بنائے دعویٰ کے لئے چند روز سے بعد از انکار مدعا علیہم اندر حدودات عدالت حضور انور پیدائش ہوئی۔

مالت بضرر اختیار سماعت عدالت حضور انور کو اختیار سماعت حاصل ہے۔

مالت بضرر کوٹ میں استقرار حق - ۱۵/- روپے حکم امتناعی - ۱۵/- روپے

P.T.O

قدم نمبر / تاریخ ۱۶/۱۲ کو روٹ برک ہمارے میو جوڈیسی فریقین واسطے زیر نمونہ آفریک
رجسٹرڈ تھا۔ جس میں جمع صادر تھا۔ P.T.O

Parties present.

Vide my detailed judgment of today, separately placed on file, it is manifest that plaintiff has successfully proved his contention. Therefore the instant suit is hereby decreed in favour of plaintiffs against the defendants. Furthermore, the defendants are directed to correct wrong entry in respect of date of birth of the plaintiffs in their record as 7.7.1954. Parties are left to bear their own cost.

Q. record room.

Announced.
DL.14.7.2012


file be amended to
Arshad Khan Afridi,
Civil Judge-XII, Mardan.

ردیف	خبر نامہ	ردیف	ردیف
1	لوہے کاٹاڑی	1	1
1	لوہے کاٹاڑی	1	1
1	لوہے کاٹاڑی	1	1
1	لوہے کاٹاڑی	1	1
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1	لوہے کاٹاڑی	1	1
1	لوہے کاٹاڑی	1	1
1	لوہے کاٹاڑی	1	1

کو بہتے و تکفل سے و غیرہ ۱۳

Certified to be True Copy
EXAMINER
Copying Department
Sessions Court Mardan




ANNEX "C" 
15

Sir,

Respectfully submitted that my exact Date of Birth is 7.7.1954 which is wrongly entered in records as 7.7.1952 affecting my service; for which I applied to the court for issuing Decree in this case and the court after a long hearing issued a Decree in my favour. (court Decree and ID card is attached).

It is, therefore, requested that order for the necessary correction of record may kindly be given to save the applicant from suffering.

Thanking you in anticipation.


(Mehboob Ilahi) 14/7
S.P/Computer
C.P.O.


ATTESTED

C

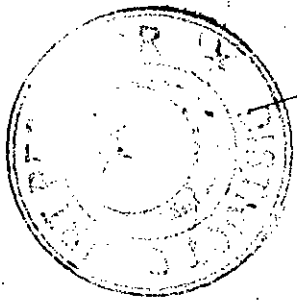
سرور کا دفتر اور قاضی صاحب کی طرف سے

دہ انت دہوالی چٹان

ANNEX "D" 16

گورنمنٹ ہائیڈرو گرافی
13

محوب الہی ولد صاحبی مخدوم اور صاحبہ محبت صاحبہ ہمدان صاحبہ ہمدان (مکینہ) سندھ 13



1500
13

22 JAN 2014
SCJ, Pesh

حکومت غیر مختومہ اور مذکورہ جہت کے سرکار اور
کیے سکوتی ہوئے وقتا مئی اور غیر مختومہ الیاد -

الیکٹریٹیک آف پولیس غیر مختومہ اپیل اور -

27/11/13

ا۔ دہوالی استغرافی میں کورس میں فرقہ 06-07 لغوی کھول کے تحت عدالت
تحت عدلیہ جہت کے افسر کے افسر کے - اور ایسا عدالت از ان کے تحت کورہ
عدلیہ جہت کے دہوالی کے تاریخ پیدائش 07-07 لغوی کورہ کے دہوالی
عدالت میں فرقہ 06-07 سے ایسا کورہ کے درجہ میں - غلط - ایسا کورہ عدالت
پیدائش تحقیق - عدالت وقات وقات - منہرہ منہرہ اور عدالت اصول الصاف
فطری ہوئے ہر عدالت حقوق میں فرقہ شرانہ کالڈ ہے - دہوالی ایسا ہند میں
ہے - اور عدلیہ ایسا کورہ میں دہوالی کے تاریخ پیدائش الجور 07-07 کی دہوالی کورہ
کے ہند میں -

ب۔ دہوالی عدالت کے حکم اتنی ہی نامی دہوالی ہر عدالت عدلیہ میں کورہ کے دہوالی
تاریخ پیدائش الجور 07-07 ایسا کورہ میں درستی کرنے سے ایسا کورہ میں اند
دہوالی کورہ اندازاً 2 ماہ تاریخ پیدائش ایسا کورہ کے کورہ میں فرقہ 06-07
سے ایسا کورہ کورہ کے سے ہند میں -

RECEIVED
Examiner
Dist. Court Peshawar

تاریخ دہوالی عدالت کے حکم اتنی ہی نامی دہوالی ہر عدالت عدلیہ میں کورہ کے دہوالی
تاریخ پیدائش الجور 07-07 ایسا کورہ میں درستی کرنے سے ایسا کورہ میں اند
دہوالی کورہ اندازاً 2 ماہ تاریخ پیدائش ایسا کورہ کے کورہ میں فرقہ 06-07
سے ایسا کورہ کورہ کے سے ہند میں -

تاریخ دہوالی عدالت کے حکم اتنی ہی نامی دہوالی ہر عدالت عدلیہ میں کورہ کے دہوالی
تاریخ پیدائش الجور 07-07 ایسا کورہ میں درستی کرنے سے ایسا کورہ میں اند
دہوالی کورہ اندازاً 2 ماہ تاریخ پیدائش ایسا کورہ کے کورہ میں فرقہ 06-07
سے ایسا کورہ کورہ کے سے ہند میں -

ATTACHED

1/11/13

3

بن علی
 جس کے لئے بن علی نے ایک رسالہ لکھا ہے جس میں
 ہے کہ بن علی نے جو کچھ لکھا ہے وہ سب سچ ہے۔
 اور اس میں جو کچھ لکھا ہے وہ سب سچ ہے۔
 اور اس میں جو کچھ لکھا ہے وہ سب سچ ہے۔
 اور اس میں جو کچھ لکھا ہے وہ سب سچ ہے۔
 اور اس میں جو کچھ لکھا ہے وہ سب سچ ہے۔

21/01
 2013



ATTESTED
 20.5.13
 DISTRICT COMMISSIONER
 FAISALABAD

محوب الہی بنیم حکومت ویزن
دیوی استوارتی ویزن

جہاں علی :- درخواست نمائند محمد علی بھادو در حکم استغاثی عارضی داخل ہے :-

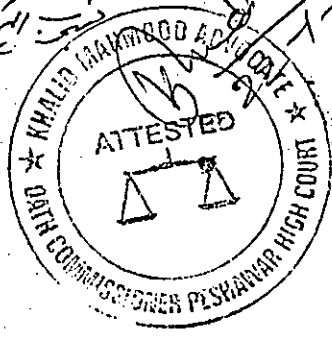
I - یہ مقدم بعنوان باہر آئے عدالت میں اس دائر کیا جا رہا ہے۔

2 - یہ مقدم عدالت میں درج ذیل کی تاریخ میں عدالت کے بائبلنگڈو اندر آئے (بیس 72) 1952
کے تقویت ہمدی کو جو 06 07 سے رہا مقرر کرنے اور عدالت سے فارغ کرنے کے
درج میں - جبکہ عدالت کی تاریخ میں عدالت کے بائبلنگڈو اندر آئے 1331 جولائی 21 2012
منسٹر شدہ - 14 جولائی 07 قرار دی گئی ہے۔ (یہ تمام عدالت ہے۔) 1954

3 - کہ اگر عدالت کو معلوم اندر انہ کی تاریخ کی تقویت میں تھیں از وقت عدالت میں تاریخ
تاریخ - تو اس صورت میں عدالت کے حقوق کو ناقابل تلافی نقصان پہنچا جائے
قبیلہ لیبورتہ دیگر عدالت کے حقوق کو نقصان پہنچانے کا عمل نہیں ہے۔
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Examiner
Dist: Court Peshawar

4 - یہ مقدم بہم کو از اس وقت عدالت میں ہے۔
5 - یہ مقدم عدالت میں ہے اس کا حساب بیونس گاڑی افسان ہے۔

استغاثی :- کہ بھادو در حکم استغاثی عارضی دستخط محمد علی بھادو
فرمان کی ہے کہ وہ نا لاقصد ہمدی کو عدالت سے فارغ کرنے
21 جولائی 2013



تاریخ
محمد علی بھادو
مدیریت دیوانی
13-1
محمد علی بھادو
مدیریت دیوانی

ATTESTED

ANNEX "E"

19

FOR PUBLICATION IN THE KHYBER
PAKHTUNKHWA POLICE GAZETTE PART-II
ORDERS BY THE PROVINCIAL POLICE OFFICER
KHYBER PAKHTUNKHWA, PESHAWAR.

NOTIFICATION.

Dated: 15/2/2013.

No. 3842 /E-I, RETIREMENT ON SUPERANNUATION:

Mr. Mehboob Elahi, SP/Incharge Computer Cell, CPO Peshawar attaining the age of superannuation pension i.e (60 years) with effect from 06.07.2012, (A.N), stood retired from service on superannuation pension from the date mentioned above.

Sd/-
MUHAMMAD AKBAR KHAN HOTI
Provincial Police Officer,
Khyber Pakhtunkhwa
Peshawar.

No. 3843-50 /E-I,

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

1. Addl: IGP/HQrs Khyber Pakhtunkhwa Peshawar.
2. Addl: IGP/Investigation, Khyber Pakhtunkhwa Peshawar.
3. Accountant General Khyber Pakhtunkhwa Peshawar.
4. Section Officer (Accounts) Govt. of Khyber Pakhtunkhwa, Home & TAS Department Peshawar w/r to his letter No. 50 (Accounts) HD/3-1/2012/Police Corr: dated: 01.02.2013
5. Officer concerned.
6. Office Supdt: Secret CPO, Peshawar.
7. U.O.P File.

ATTESTED

(KHALID MASOOD)
Addl: IGP/Headquarters,
For Provincial Police Officer,
Khyber Pakhtunkhwa
Peshawar.

ANNEX F¹¹³ (20)

IN THE COURT OF ASIF KAMAL, CIVIL JUDGE-XXVI, PESHAWAR.

Or... 12

23.04.2013

Plaintiff in person while defendant, through representative present. Through this order I shall dispose of two applications simultaneously, one application for temporary injunction filed by petitioner/plaintiff while another for rejection of plaint under Order VII Rule 11 CPC filed by the petitioners/defendants.

Learned counsel for the plaintiff argued that the correct date of birth of plaintiff is 06.07.1954. In this respect the wrong entry in the record of defendants regarding the date of birth of plaintiff is 07.07.1952. Therefore, the defendants may be restrained from retiring the plaintiff on 06.07.2012. Learned counsel for plaintiff further argued that in the suit titled Mehboob Elahi..vs.. Chairman Board of Intermediate & Secondary Education Peshawar instituted on 21.4.2011, decided on 14.7.2011 by Civil Judge-XII, Mardan and granted a decree in favour of plaintiff whereby date of birth of plaintiff was corrected and declared to be 07.07.1954. Counsel for the plaintiff further argued that in this context, in existence of court decree, defendants cannot deny the correct date of birth of plaintiff as 07.07.1954. Counsel for the plaintiff argued that if temporary injunction is not granted in favour of plaintiff, defendants would retire him and he would receive irreparable loss and would be at inconvenience. In addition to this plaintiff has prima facie case in existence of court decree in suit No.133/1. Therefore, by accepting the application in hand, temporary injunction may be granted in favour of the plaintiff and application under order VII rule 11 CPC may be dismissed.

Defendants were summoned, who appeared through Learned counsel for defendants rebutted the arguments of the learned counsel for the plaintiff.

In wake of the arguments and perusal of the record it is held that plaintiff mainly relied on the court decree in suit No.133/1, however, perusal of the

8/3/04/13

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20.5.13
Examiner
Distt: Court Peshawar

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photocopies shows that the present defendants were not party to that suit, hence that judgment cannot be enforced against the present defendants, because decree is not passed against them. In addition to this the present suit is incompetent in its present form, as the suit cannot be brought for the execution of another suit/decreed. In addition to this NLR 1997 Service 11 (Citation-A) which is reproduced here for ready reference:

"Change of date of birth of civil servant is part of terms and conditions of his/her service. Civil Court would have no jurisdiction under Art-212(2) to entertain and decide seeking change of date of birth of a civil servant".

IN this respect 2004 PLC (CS) 1162 (Citation - A) is hereby reproduced as under:

--Age--- Date of birth, correction of --- limitation --- Plea of civil servant with regard to wrong entry of date of birth, when raised after remaining in service for a long period, would not carry any eight --- civil Servant could not make application for change in his date of birth after two years of joining service --- Authenticity of date of birth recorded in document when civil servant joined service, could not be challenged belatedly".

In the context of above mentioned case laws, it is held that plaintiff has got no cause of action to bring fresh suit in existence of decree in suit No.133/1. It is further held that this court has no jurisdiction in the context of above mentioned laws, hence it is held that plaintiff has got no prima facie case, therefore, application for temporary injunction is hereby dismissed and application under Order VII Rule 11 CPC is hereby accepted and the plaint of the plaintiff is rejected. No order as to cost.

File be consigned to the record room after necessary completion and compilation.

Announced:-
23.04.2013

(Asif Kamal)
Civil Judge-XXVI,
Peshawar

ATTESTED

CERTIFIED COPY

20.5.13

Court
Peshawar

No. 9241
Date of 20/5/13
MS
20/5/13
20/5/13
Date of 20/5/13

بدو و گندی

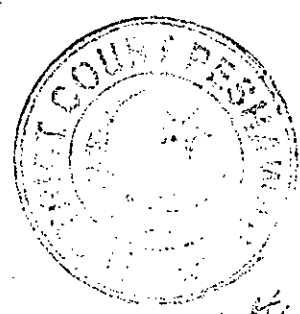
بدالت جناب آصف کمال سول جج XXVI لٹاور

عن مقدم 22/12/22 رجوع 23/12/22
23/12/22

محب ای واری وغوریل و وضع حجرات خدیج مردان صاحب سند پور (پشاور) لٹاور



Of
SCJ



حکومت غیر مجنون خواہ بنام ہیں سکرٹریٹ در -
کے سکرٹری پیویم و قباکی اور غیر مجنون خواہ -
3 ✓ الیکٹریکل آف پشاور غیر مجنون خواہ کے در -

1 - دعوی استغرافی میں کہ اس میں شرف 07 کے لئے کمال کے مکتوب در وقت
تحت بدو علیہم جاری رکھنا ہوا ہے۔ اور ایک اور در وقت از اس کے مکتوب کو
بدو علیہم جسکی رو سے وہ مکتوب کو غیر مجنون خواہ کے در 07 کے لئے لکھ کر
در وقت سے اس کے 05 07 کے لئے لکھ کر در ہے۔ غلط۔ بدو اس کے لئے
بدو استحقاق - غلط وقت - اور اس کے لئے بدو ہستی اور غلط اور اس کے لئے
فطری سے بدو ہستی اور اس کے لئے بدو ہستی اور اس کے لئے بدو ہستی اور اس کے لئے
ہے۔ اور بدو علیہم کے لئے بدو ہستی اور اس کے لئے بدو ہستی اور اس کے لئے
کے با بدو ہستی -

2 - دعوی حدود در حکم استغرافی کے لئے دعوی بدو ہستی اور اس کے لئے بدو ہستی اور اس کے لئے
مکتوب بدو ہستی اور اس کے لئے بدو ہستی اور اس کے لئے بدو ہستی اور اس کے لئے
در ہی کو ملے اندر 2 مکتوب مکتوب بدو ہستی اور اس کے لئے بدو ہستی اور اس کے لئے
سے بدو ہستی اور اس کے لئے بدو ہستی اور اس کے لئے بدو ہستی اور اس کے لئے

ATTESTED
20.5.13
Examiner
Dist. Court Peshawar

بنا ہے دعوی بدو ہستی اور اس کے لئے بدو ہستی اور اس کے لئے بدو ہستی اور اس کے لئے
بدو ہستی اور اس کے لئے بدو ہستی اور اس کے لئے بدو ہستی اور اس کے لئے
مکتوب بدو ہستی اور اس کے لئے بدو ہستی اور اس کے لئے بدو ہستی اور اس کے لئے

بدو ہستی اور اس کے لئے بدو ہستی اور اس کے لئے بدو ہستی اور اس کے لئے بدو ہستی اور اس کے لئے

TESTED

P.T.O

In the context of above mentioned case laws, it is held that plaintiff has got no cause of action to bring fresh suit in existence of decree in suit No.133/1. It is further held that this court has no jurisdiction in the context of above mentioned laws, hence it is held that plaintiff has got no prima facie case, therefore, application for temporary injunction is hereby dismissed and application under Order VII Rule 11 CPC is hereby accepted and the plaint of the plaintiff is rejected. No order as to cost.

سول جج XXV/1 لہاؤر

صید عدالت

خارجہ مالش

روئے	—	مدعا علیہ	ضیانب مدعی	روئے	—
		Nil	Nil		

No. 9244
 Date 20/5/13
 Name
 20/5/13
 20/5/13

حکم آخذ بتاريخ مورخ 23/5/13 کو بہ ثبت میں
 دستخط اور صید عدالت کے جاری کیا گیا۔

سول جج XXV/1 لہاؤر

صید عدالت
 20/5/13
 Court
 Peshawar

To

The Chief Secretary,
Govt. of Khyber Pakhtunkhwa
Civil Secretariat, Peshawar

Recd
21/2/13

Answer 6

23

3-2/9/9

Subject: Departmental Representation against the impugned Notification No.3842-E-1/Retirement on Superannuation dated 15.02.2013 issued by the Provincial Police Officer, whereby the appellant was retired from service w.e.f. 06.07.2012.

Respected Sir,

With due respect I have the honour to submit this departmental Representation for your kind consideration and favourable action on the following facts and grounds:

1. That appellant was serving as S.P. Incharge Computer Cell, C.P.O Peshawar. He has got unblemished service record at his credit.
2. That the correct date of birth of appellant is 07.07.1954 as evident from the facts that the age difference between the ages of appellant and his elder brother Muhammad Attique is only two months.
3. That the same wrong date of birth has been recorded in the Service record of appellant for the correction of which appellant repeatedly requested the Department but his requests fell upon deaf ears.
4. That finally appellant approached the Court of competent jurisdiction for the correction of date of birth of appellant in the credential inas much as the Department has recorded incorrect entry in the Service Book of appellant from the educational documents. The Court finally allowed the claim and decreed the suit of appellant vide judgment and decree dated 14.07.2012 (Copy of judgment and decree is attached).
5. That after the decision of the competent court, the appellant submitted an application to the Department that the incorrect date of birth i.e. 07.07.1952 be rectified as 07.07.1954 as per the judgment of the Court. (Copy of application is attached).
6. That the application was pending without any fruitful result and to the contrary on the basis of incorrect date of birth, the Department started the retirement proceeding of appellant,

ATTESTED


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therefore, appellant was forced to file another Civil Suit in the Court of learned Civil Judge, Peshawar to restrain the Department from not retiring the appellant on the basis of incorrect date of birth (Copy of Complaint is attached).

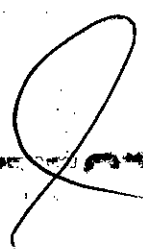
- 7. That while the suit was pending when in the meantime the impugned Notification dated 15.02.2013 was issued whereby the appellant was retired from service on the basis of wrongly recorded date of birth (Copy of the Notification is attached).
- 8. That since the incorrect date of birth has been set aside by the learned Court and the decision of the court is binding upon Department, therefore, the Department was duty-bound to correct their own record, but instead the impugned Notification was unlawfully issued whereby appellant was prematurely retired on the basis of incorrect date of birth.

For the aforesaid reasons it is, therefore, humbly requested that by setting aside the impugned retirement Notification of the appellant dated 15.02.2013, appellant be restored on service and the incorrect date of birth recorded in the service record of appellant i.e. 07.07.1952 be rectified as 07.07.1954.

Yours faithfully


 Menboob Ilahi,
 Ex-S.P./Incharge
 Computer Cell,
 C.P.O Peshawar

Dated: 22.02.2013


 A

WAKALAT NAMA

IN THE COURT OF

K.P.K Peshawar Tribunal

Peshawar

Mehboob Ali

Appellant(s)/Petitioner(s)

Gourt etc

VERSUS

Respondent(s)

I/We Mehboob Ali Khan do hereby appoint
Mr. Khaled Rehman, Advocate in the above mentioned case, to do all or
any of the following acts, deeds and things.

1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defence of the said case at all its stages.
3. To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of proceedings.

AND hereby agree:-

- a. That the Advocate(s) shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains unpaid.

In witness whereof I/We have signed this Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this _____

Attested & Accepted by

Khaled Rehman,
Advocate, Peshawar.

Signature of Executants

9-B, Haroon Mansion
Khyber Bazar, Peshawar

PROVINCIAL

3951 / 14

GS&F D.NWFP.-1128/25-Form Store-1000 Pads 100L-12.5.2007/PI (Z)

(This portion to be trans mitted by the Bank Agent to the Treasury Officer in support of the credit in his daily account.)

NGM/32 *PK 4024*

To
Wahid
100

THE MANAGER, STATE BANK OF PAKISTAN

Dated the 16/2/13 of Feb 2013

CHAIRMAN
Service
KPM Peshawar

Received from the bearer the sum of Rs. 100/- one hundred

to be credited to Government account under the head CO 38 44

in account of Process fee in case no. 926/13

Mehboob Hussain

Head of A/C *verified*

Assistant Treasury Officer
Signature and full official designation of the
officer ordering the money to be paid in.

In case of "Duty on Impressing Documents" the amounts creditable to each of the following detailed heads should be noted:

- (a) Duty on embossing one anna receipt and cheques stamps.
- (B) Duty on Documents voluntarily brought for adjudication (Section 31, Act II of 1899)
- (c) Duty on unstamped or insufficiently stamped documents levied under Chapter IV of Act II of 1899.
- (d) Other items.

PROVINCIAL CHALAN

Treasury / Sub-Treasury

Chalan of Cash paid into the.....

State Bank of Pakistan

NWFP BSC
CHALAN No. 3051/25

To be filled in by the remitter

To be filled in by the Departmental officer of the Treasury

By whom tendered	Name or Designation and address of the person on whose behalf money is paid.	Full particulars of the remittances and of authority (if any)	Amount	Head of Account	Order to the Bank *
				9/12/15	
				350/100/-	

CHAIRMAN
Service Tribunal
KPK, Peshawar
Signature

Name
Security Defendable
Rs. 100/- deposited by
Mehboob Ulahi A. No. 113
Total (A) 100/-

Correct received and grant receipts. Signatures and full designation of the officer ordering the money to be paid in

(a) (in words) Rupees

One Hundred

*To be used only in the case of remittances to Bank through an officer of the Government.

Received

State Bank of Pakistan
SBP BSC (Bank) Peshawar
RECEIVED IN CASH
2 AUG 2013

Treasurer

Date

one hundred

Treasury Officer

Manager

Accountant

Particulars

Amount

Rs.

Paisa.

Coin

Notes (with details)

Cheques (with details)

Total:

CHAIRMAN
Service Tribunal
KPK, Peshawar

Head of A/C Verified

Assistant Treasury Officer
Peshawar.

Note: 1 In the case of payments at the Treasury Receipts for sums less than Rs. 500 do not require the signature of the Treasury Officer but only of the Accountant and the Treasury Receipts however for cash and cheque paid for service stamps should always be signed by Treasury Officer Act of C.A. Code Vol. I.

Note: 2 Particulars of money tendered should be given on the reverse.

Note: 3 In case where direct credit at Bank are permissible the columns. "Head of account" will be filled in by the Treasury Officers, or the Accounts Officers as the case may be on receipts of the Bank Daily Sheet.

In case of "Duty on Impressing Documents" the amount creditable to each of the following detailed heads be noted:

- (a) Duty on embossing on anna receipt and cheque stamps.
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- (c) Duty on unstamped or insufficiently stamped documents levied under Chapter IV of Act II of 1899.
- (d) Other Items.

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No.926/2013

Mehoob Ilahi Ex-SP.....(Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Chief Secretary and three (03) others.....(Respondent)

Subject:- WRITTEN STATEMENT ON BEHALF OF RESPONDENTS.

Preliminary Objections:-

1. Appeal of appellant is not maintainable in the present form.
2. Appeal of appellant is bad for non-joinder of necessary parties and joinder of un-necessary parties.
3. Appeal of appellant is time barred.
4. Appellant has not come to the Honorable Service Tribunal with clean hands.
5. Appellant has knocked at the door of Honorable Tribunal at very belated stage.
6. Appellant is etsopped by his own conduct to file the present appeal.

Facts:-

1. Needs no comments, it pertains to record.
2. In correct, date of birth of appellant i.e. 07.07.1952 as mentioned in his Secondary School Leaving Certificate was duly entered in his service record. Appellant never raised objection to his date of birth entered in his service record and on the eve of his retirement had come up with a decree from Civil Court with a view to gaining more years in service. Again the respondents were not made parties in the Civil Suit. Furthermore, his second Civil Suit for implementation of the decree was rejected.
3. Incorrect, under the law and rules as laid down in Police Rules 9-7 and GFR 116, apply for correction of age is permissible within two years of entry in government service. The above rules regarding correction of

age are sound. Therefore the prayer of appellant at this belated stage is not tenable.

Incorrect, superior courts have observed in several reported judgments that change of date of birth of a civil servant is part of terms and conditions of service. Therefore Service Tribunals have got exclusive jurisdiction to entertain and decide matters of change of date of birth of a civil servant.

Incorrect, appellant did not implead the respondents cited in the present service appeal as defendants in the civil suit. Therefore respondents did not change the date of birth of appellant at belated stage. Again the rules were not allowing correction of age of civil servant after two years of entry into service.

Correct to the extent that retirement order of appellant was issued on attaining the age of superannuation. Furthermore, the second civil suit of appellant was rejected by the court on grounds of lack of cause of action and jurisdiction.

Incorrect, appellant is no more civil servant as he had attained the age of superannuation. Therefore his representation was groundless.

Grounds:-

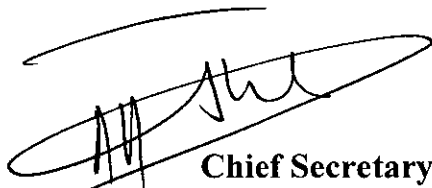
(a) Incorrect, the retirement from service order of appellant was just, legal and lawful. Appellant had attained the age of superannuation. Therefore the respondents were under legal obligation to issue retirement from service order of appellant. Appellant's contention of correction of his date of birth recorded in the service record at entry belated stage.


(b) Incorrect, respondents were not cited as defendants in the civil suit filed by appellant for change of his date of birth. Furthermore,


appellant had made no prayer for correction of date birth in service record in the Civil Suit.

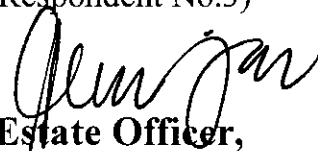
- c. incorrect, appellant first made attempt to implement the decree through Civil Court as he filed second Civil Suit wherein the respondents were cited as defendant but the Civil Court rejected the Civil Suit.
- d) Incorrect, appellant has failed to advance any proof in support of his claim for correction of his date of birth in service record. Again such correction was sought at the end of his service carrier. In case appellant was having valid claim for correction of his date of birth, he was under legal obligation to apply within two years.
- e) Respondents may be allowed to raise additional ground at the time of arguments.

It is therefore humbly prayed that the appeal of appellant may be dismissed with costs.


for **Chief Secretary,**
Government of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.
(Respondent No.1)


Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No.2)


Secretary,
Govt of Khyber Pakhtunkhwa,
Home & TAs Department,
Peshawar.
(Respondent No.3)


Estate Officer,
Government of Khyber
Pakhtunkwa, Peshawar
(Respondent No.4)

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No.926/2013

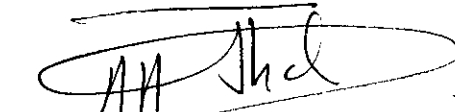
Mehoob Ilahi Ex-SP(Appellant)


Versus

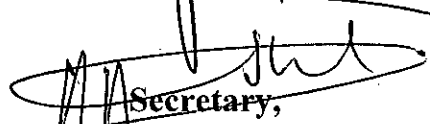
1. Government of Khyber Pakhtunkhwa through Chief Secretary and three(03) others.....(Respondent)

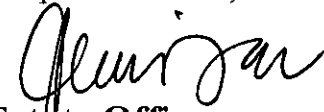
AFFIDAVIT.

The respondents in the above title appeal, do here by affirm on oath that the contents of reply, are true and correct to the best of our knowledge and belief and nothing has been canceled from this honorable court.

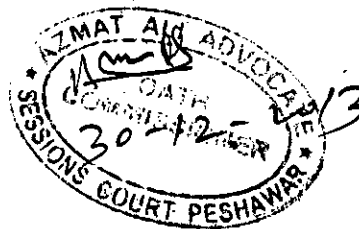

for **Chief Secretary,**
Government of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.
(Respondent No.1)


Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No.2)


Secretary,
Govt of Khyber Pakhtunkhwa,
Home & TAs Department,
Peshawar.
(Respondent No.3)


Estate Officer,
Government of Khyber
Pakhtunkwa, Peshawar
(Respondent No.4)

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Estate Office

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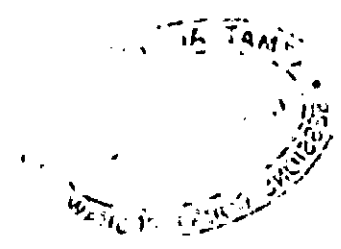
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BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No.926/2013

Mchoob Ilahi Ex-SP(Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Chief Secretary and three (03) others.....(Respondent)

Subject:- WRITTEN STATEMENT ON BEHALF OF RESPONDENTS.

Preliminary Objections:-

1. Appeal of appellant is not maintainable in the present form.
2. Appeal of appellant is bad for non-joinder of necessary parties and joinder of un-necessary parties.
3. Appeal of appellant is time barred.
4. Appellant has not come to the Honorable Service Tribunal with clean hands.
5. Appellant has knocked at the door of Honorable Tribunal at very belated stage.
6. Appellant is estopped by his own conduct to file the present appeal.

Facts:-

1. Needs no comments, it pertains to record.
2. In correct, date of birth of appellant i.e. 07.07.1952 as mentioned in his Secondary School Leaving Certificate was duly entered in his service record. Appellant never raised objection to his date of birth entered in his service record and on the eve of his retirement had come up with a decree from Civil Court with a view to gaining more years in service. Again the respondents were not made parties in the Civil Suit. Furthermore, his second Civil Suit for implementation of the decree was rejected.
3. Incorrect, under the law and rules as laid down in Police Rules 9-7 and GFR 116, apply for correction of age is permissible within the prescribed entry in government service. The above rules regarding

age are sound. Therefore the prayer of appellant at this belated stage is not tenable:

4. Incorrect, superior courts have observed in several reported judgments that change of date of birth of a civil servant is part of terms and conditions of service, therefore Service Tribunals have got exclusive jurisdiction to entertain and decide matters of change of date of birth of a civil servant.
5. Incorrect, appellant did not impale the respondents cited in the present service appeal as defendants in the civil suit. Therefore respondents did not change the date of birth of appellant at belated stage. Again the rules were not allowing correction of age of civil servant after two years of entry into service.
6. Correct to the extent that retirement order of appellant was issued on attaining the age of superannuation. Furthermore, the second civil suit of appellant was rejected by the court on grounds of lack of cause of action and jurisdiction.
7. Incorrect, appellant is no more civil servant as he had attained the age of superannuation. Therefore his representation was groundless.

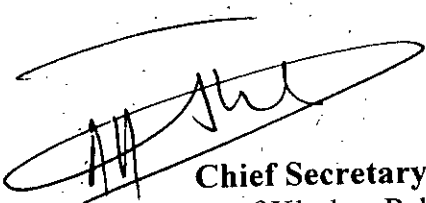
Grounds:-

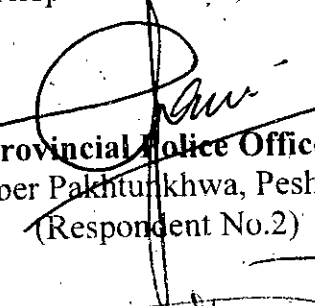
- a) Incorrect, the retirement from service order of appellant was just, fair, legal and lawful. Appellant had attained the age of superannuation. Therefore the respondents were under legal obligation to issue retirement from service order of appellant. Appellant agitated correction of his date of birth recorded in the service record at very belated stage.
- b) Incorrect, respondents were not cited as defendants in the civil suit filed by appellant for change of his date of birth. Furthermore,


appellant had made no prayer for correction of date birth in service record in the Civil Suit.

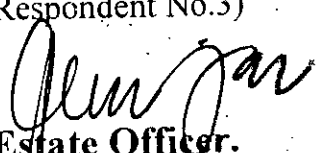
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- d) Incorrect, appellant has failed to advance any proof in support of his claim for correction of his date of birth in service record. Again such correction was sought at the end of his service carrier. In case appellant was having valid claim for correction of his date of birth, he was under legal obligation to apply within two years.
- e) Respondents may be allowed to raise additional ground at the time of arguments.

It is therefore humbly prayed that the appeal of appellant may be dismissed with costs.


Chief Secretary,
Government of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.
(Respondent No.1)


Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No.2)


Secretary,
Govt of Khyber Pakhtunkhwa,
Home & TAs Department,
Peshawar.
(Respondent No.3)


Estate Officer,
Government of Khyber
Pakhtunkhwa, Peshawar
(Respondent No.4)

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No.926/2013

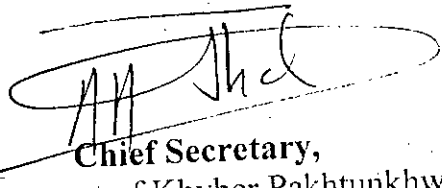
Mehoob Ilahi Ex-SP(Appellant)

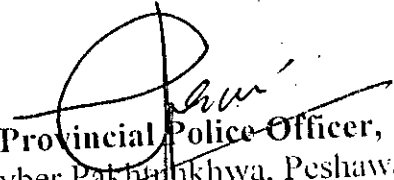
Versus

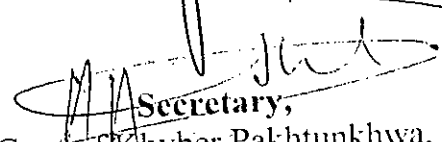
1. Government of Khyber Pakhtunkhwa through Chief Secretary and three(03) others.....(Respondent)

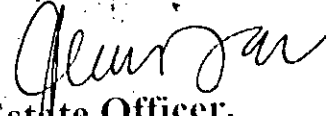
AFFIDAVIT.

The respondents in the above title appeal, do here by affirm on oath that the contents of reply, are true and correct to the best of our knowledge and belief and nothing has been canceled from this honorable court.

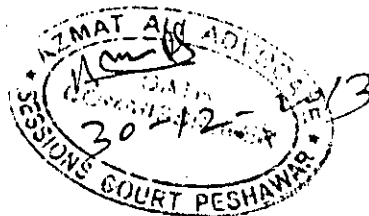
fr 
Chief Secretary,
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Civil Secretariat, Peshawar.
(Respondent No.1)


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Home & TAs Department,
Peshawar.
(Respondent No.3)


Estate Officer,
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Pakhtunkhwa, Peshawar
(Respondent No.4)

ATTESTED



BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No.926/2013

Mehoob Ilahi Ex-SP(Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Chief Secretary and three (03) others.....(Respondent)

Subject:- WRITTEN STATEMENT ON BEHALF OF RESPONDENTS IN RESPONSE TO THE APPLICATION OF THE APPELLANT FOR SUSPENSION OF OPERATION OF NOTIFICATION VIDE WHICH APPELLANT WAS RETIRED ON ATTAINING AGE OF SUPERANNUATION.

Respectfully Sheweth!

Respondents submit as follows:-

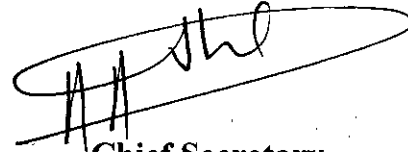
2. Para No. 2 of the application needs no comments.
3. Prar No. 3 is incorrect and denied. The appellant has no prima facie case in his favour. The application of appellant for suspension of the operation of the impugned notification of retirement from service is not sustainable under the law and rules. The appeal of appellant is badly time barred because under the law as provided in Police Rules 9-7 and GFR 116, apply for correction of age is permissible within two years of entry in government service while appellant agitated correction of his date of birth recorded in the service record at very belated stage. Therefore, balance of convenience is in favour of respondents. The date of birth of appellant was recorded in his service record as mentioned in his Secondary School Leaving Certificate. Therefore appellant has got no prima facie case. Hence the application for suspension of impugned notification is not tenable. Appellant has also failed to advance any proof in support of his claim for correction of his date of birth in service record. Again such correction was sought at the end of his service

carrier. In case appellant was having valid claim for correction of his date of birth, he was under legal obligation to apply within two years.

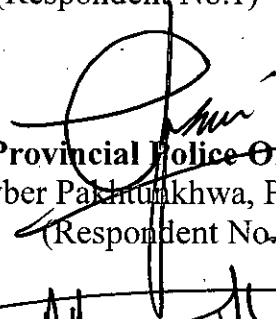
4. Para No. 4 is incorrect and denied.

It is therefore humbly prayed that the application of appellant may be dismissed with costs.

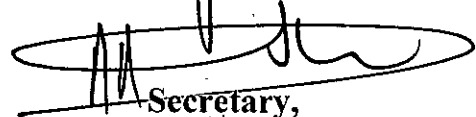
for



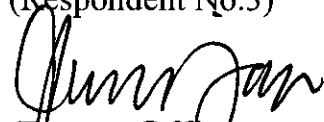
Chief Secretary,
Government of Khyber Pakhtunkhwa,
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Secretary,
Govt of Khyber Pakhtunkhwa,
Home & TAs Department,
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(Respondent No.3)



Estate Officer,
Government of Khyber
Pakhtunkwa, Peshawar
(Respondent No.4)

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No.926/2013

Mehoob Ilahi Ex-SP(Appellant)


Versus

1. Government of Khyber Pakhtunkhwa through Chief Secretary and three (03) others.....(Respondent)

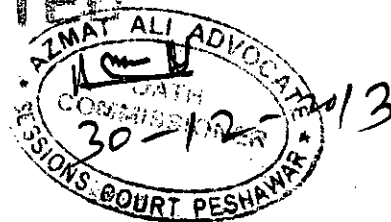
Affidavid

I Mr. Falak Nawaz DSP Legal Department representative do here by affirm on oath that the contents of reply in response to application for suspension of notification vide wick appellant was retived o attaining age of superannuation, are correct to the best my knowledge concealed form this Honorable Tribunal.

DEPONENT.


Falak Nawaz
DSP Legal
CPO Peshawar.
14203-2060203-5

ATTESTED



BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No.926/2013

Mehoob Ilahi Ex-SP.....(Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Chief Secretary and three (03) others.....(Respondent)

Subject:- WRITTEN STATEMENT ON BEHALF OF RESPONDENTS IN RESPONSE TO THE APPLICATION OF THE APPELLANT FOR SUSPENSION OF OPERATION OF NOTIFICATION VIDE WHICH APPELLANT WAS RETIRED ON ATTAINING AGE OF SUPERANNUATION.

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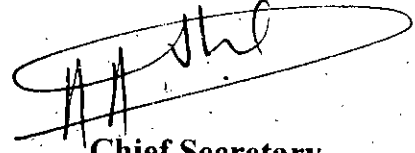
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carrier. In case appellant was having valid claim for correction of his date of birth, he was under legal obligation to apply within two years.

4. Para No. 4 is incorrect and denied.

It is therefore humbly prayed that the application of appellant may be dismissed with costs.

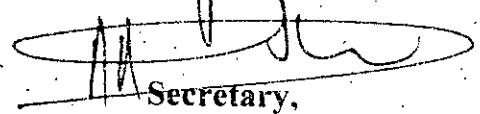
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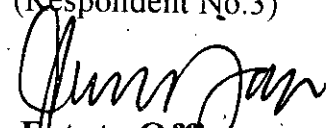
Chief Secretary,
Government of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.
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Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.
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Secretary,
Govt of Khyber Pakhtunkhwa,
Home & TAs Department,
Peshawar.
(Respondent No.3)



Estate Officer,
Government of Khyber
Pakhtunkwa, Peshawar
(Respondent No.4)

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BEFORE THE SERVICE TRIBUNAL, KPK PESHAWAR

Service Appeal No.926/2013

Mehoob Ilahi Ex-SP.....(Appellant)


Versus

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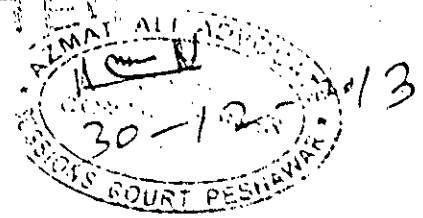
Affidavit

I Mr, Falak Nawaz DSP Legal Department representative do here by affirm
on oath that the contents of reply in response to application for suspension of notification
vide wick appellant was retived o attaining age of superannuation, are correct to the best
my knowledge concealed form this Honorable Tribunal.

DEPONENT.


Falak Nawaz
DSP Legal
C/O Peshawar.
1-12-2003 2060/03/13

ATTESTED


ALMAT ALLI
30-12-2013
SERVICE TRIBUNAL PESHAWAR

cases shall sign the certificate at the foot of Form 24 and forward the papers to the Accountant-General.

When submitting the case to the Deputy Inspector-General, application should be made at the same time for the condonation of any interruptions or deficiencies (Articles 416 and 423, Civil Service Regulations) there may be, and also for the commutation of any period of leave which may be inadmissible.

The portion of service not verified by the Accountant-General, or the service occurring between the verified service and the date of discharge on pension, shall be verified from the acquittance rolls, and a certificate to this effect shall be attached with the pension application.

(3) In the case of lower subordinates the pension roll shall be prepared as directed in Article 824, Civil Service Regulations. Such periods of service as have to be verified in other offices shall be verified in good time.

(4) Doubtful points shall be checked by the Urdu long roll, order book, punishment register and acquittance rolls, and, if necessary, by reference to other offices as required by the Note 1 to rule 9.2 (4), the character roll should then be corrected. (*vide* Articles 823 and 8.24, Civil Service Regulations).

(5) Whether any discrepancy exists or not, inferior service rendered before appointment in the police should be verified by reference to the head of the office in which it was performed. If it is impossible to verify the service in this way the procedure prescribed in Article 908(e), Civil Service Regulations, should be followed. Superior service can be verified by the Accountant-General, *vide* Article 908 The Civil Service Regulations, but if this is not possible, the procedure described above should be followed.

(6) The pension claims of police officers of rank not higher than head constables, who are permitted by the Provincial Government to count their former military service towards civil pension under Article 356 of the Civil Service Regulations, should be treated under the ordinary rules, and the statement of service in Form 24 forwarded to the officer incharge, Pension Branch, Accountant-General's Office, Lahore, for verification of their claims to pension six months before their retirement as required by Article 907 (b) and (c) of the Civil Service Regulations.

9.7. Alteration in age : (1) The date of birth shown in the character roll or corresponding record, can be altered only with the sanction of the Inspector-General of Police, on production of proof to his satisfaction. If the recorded age does not tally with that certified by an invaliding medical officer, board or committee, and the discrepancy affects the title to pension or liability to superannuation, the matter should be reported and the officer should not be discharged till the orders of the Inspector-General have been received. In the case of an officer whose year of birth in year and month of birth only is known, but not the exact date, the 1st July of the year or 16th of the month respectively should be treated as the date of birth for the purpose of calculation of pension, *vide* note under article 283 of the Audit Code,

Volume I. The date of birth of all officers enrolled before the 1st October, 1933 may be allowed to remain as already recorded.

(2) Further orders as to the conditions under which alterations of age may be sanctioned are contained in letter No. 20076 (Home Gazette) of 4th July, 1928 from the Chief Secretary to Government, Punjab. According to these orders, an alteration may only be made, after special enquiry, if applied for within two years of the applicant's entry into Government service. The Provincial Government may, however, make a correction in the recorded age of a Government servant at any time, if it is satisfied that age has been incorrectly recorded with the object that the Government servant may derive unfair advantage.

9.8. Classes of pensions : Pensions admissible to police officers and menial servants are detailed below.

9.9. Invalid pension : An invalid pension proportionate to the length of service is awarded to a police officer who by bodily or mental infirmity is permanently incapacitated for further service in the police. If the incapacity is directly due to irregular or intemperate habits, no pension can be granted. If it has not been directly caused by such habits, but has been accelerated or aggravated by them, it will be for the authority by whom the pension may be granted to decide what reduction should be made on this account—(Articles 441, 454 and 474, Civil Service Regulations). If the length of the invalid's service is less than ten years a gratuity only will be admissible.—(Article 474 (a), Civil Service Regulations). Superintendents are required to be on their guard against endeavours to retire on invalid pension by officers who are capable of serving longer.

9.10. Invaliding rolls : Police officers whose cases fall under the above rule shall be sent to the District Health Officer with a letter in Form 9.10(a). If the District Health Officer is of opinion that the police officer should be invalided he should be asked to fill in an invaliding roll (Form 9.10(b)) on receipt of which steps should be taken to prepare the pension papers without delay. If the incapacity is not declared to be complete and permanent, he should, if possible, be retained in employment on light duty. If a pension is granted the capacity for partially earning a living shall be taken account of in assessing its amount.—(vide Articles 427 and 447 (b), Civil Service Regulations).

9.11. Surgical operations not compulsory : A police officer need not be subjected to a dangerous operation merely to render him fit to perform his duties.

9.12. Incapacity due to intemperance : Whenever the District Health Officer is of opinion that the incapacity of a proposed invalid is caused wholly or partially, by irregular or intemperate habits, it shall be the duty of the Superintendent, in communication with such District Health Officer to investigate and place on record the medical and police history of such officer. It should be decided whether a public officer's inefficiency is the result of irregular habits, or whether it is due to one act which, from neglect, may have resulted in running his constitution and health. The mere fact that a police officer has suffered from syphilis is not sufficient to make him liable to the forfeiture or reduction of pension.

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