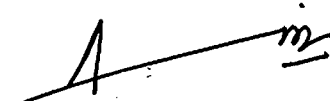

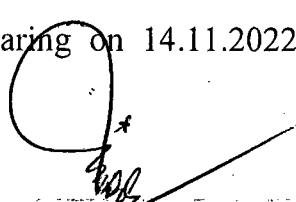


Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 1215/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	10/08/2022	<p>The present appellant initially went in Writ Petition before the Hon'ble Peshawar High Court Peshawar and the Hon'ble High Court vide its order dated 26.07.2022 while treating the Writ Petition into an appeal and has sent the same to this Tribunal for decision in accordance with law. This case is entrusted to Single Bench at Peshawar for preliminary hearing to be put up there on 11-08-2022.</p> <p>Nemo for appellant.  REGISTRAR</p> <p>Notices be issued to appellant and his counsel for preliminary hearing on 26.09.2022 before S.B.</p> <p> (Fareeha Paul) Member (E)</p>
	11,08,2022	
	26.09.2022	<p>Junior of learned counsel for the appellant present and requested for adjournment on the ground that learned counsel for the appellant is busy in the august Peshawar High Court, Peshawar. Adjourned. To come up for preliminary hearing on 14.11.2022 before S.B.</p> <p> (Mian Muhammad) Member (E)</p>

Handwritten notes:
11,08,2022
[Signature]
7/19/22



The
PESHAWAR HIGH COURT
Peshawar

Ph: No. 091-9210149-58

No. 56409 (1)/1564/2022/WP-MN

Dated. 06-August-2022

From

**Deputy Registrar (J),
Peshawar High Court,
Peshawar.**

To

The Registrar Service Tribunal, Khyber Pakhtunkhwa, Peshawar.

Subject: Writ Petitions W.P 2190/2021 Title: Niaz Ali Khan VS Govt of KP & others

Memo,

I am directed to send herewith the subject mentioned Writ Petition in original by the order dated 26-07-2022, passed by this Hon'ble Court for compliance.


Deputy Registrar (J)

Encl: Original file

(3)

[Handwritten mark]

#####

1 September-2021

W.P 2190/2021 (NOTICE CASES) (Provincial-Civil Services-Pension)

With IR (N) Left over by the court from 09-Sep-2021 and fixed before

H.D.B on 16-Nov-2021. Inform all concerned.

Adjournment by

Petitioner	Respondent
0	0

[Signature]
Deputy Registrar

#####

13 November-2021

W.P 2190/2021 (NOTICE CASES) (Provincial-Civil Services-Pension) With

IR (N) Adjourned by the court from 18-Nov-2021 and fixed before H.D.B on

13-Jan-2022. Inform all concerned.

Adjournment by

Petitioner	Respondent
0	0

[Signature]
Deputy Registrar

#####

17-January-2022

W.P 2190/2021 (NOTICE CASES) (Provincial-Civil Services-Pension) With IR

(N) Left over by the court from 13-Jan-2022 and fixed before H.D.B on

23-Feb-2022. Inform all concerned.

Adjournment by

Petitioner	Respondent
0	0

[Handwritten notes]
 Reply R. 427
 Received dt. 18-1-22.
 Reply R. 3
 Received dt. 4-2-22
 Reply R. 4
 Received dt. 4-4-22.

[Signature]
Deputy Registrar

PL

IN THE PESHAWAR HIGH COURT PESHAWAR

Inst # 18006

Writ Petitions No. 2190-P/21 with IR

In

Niaz Ali Khan V /s Govt of KP & others

Presented by Javed Iqbal Gulbela
on behalf of appellatant/petitioner.

Entered in the relevant register.

Be laid Before DB for orders on 15-06-2021

Dated 26 MAY 2021

176662
Reader

Dated 26 MAY 2021

Countersigned

Dated 26 MAY 2021

Deputy Registrar

1

02-July-2021

Adjournment by

Petitioner	Respondent
0	0

W.P 2190/2021 (NOTICE CASES) (Provincial-Civil Services-Pension) With IR (N) Left over by the court from 30-Jun-2021 and fixed before H.D.B on 09-Sep-2021. Inform all concerned.

SCANNED
* 27 MAY 2021
Signature *Deputy Registrar*

عدالت عالیہ پشاور ہائی کورٹ، پشاور



1-12-2021

تاریخ

230825-230826

پر وائہ انٹوس نمبر

W.P 2190/2021 (NOTICE CASES)

Writ Petitions

صیغہ دوآنی اپیل نگرانی آرٹس پیشین

مقدمہ نمبر

Niaz Ali Khan VS Govt of KP & others

(230825) Javed Iqbal Gulbela (PET:ADV) Peshawar, (230826) Writ Petition Branch AG Office
(RESP:ADV) Peshawar,

پر وائہ انٹوس بنام

مقدمہ مندرجہ عنوان بالا میں بتاریخ پیشی مورخہ: 13-Jan-2022 بمقام پشاور ہائی کورٹ

روروسے عدالت مقرر کی گئی ہے لہذا آپ وکیل صاحب / صاحبان کو بذریعہ پروانہ انٹوس ہذا مطلع کیا جاتا ہے کہ

دو تاریخ مذکور پر عدالت ہذا میں بوقت 08 : 30 AM بجے صبح برائے پیر دی جو اب دی مقدمہ اصالتاً مختار ناجا حاضر ہو جائے۔ ورنہ بصورت عدم موجودگی اس کے خلاف یکطرفہ کروائی عمل میں لائی جائے گی۔

آج بتاریخ 1-12-2021 کو ثبت میرے اور دستخط اور مہر عدالت سے جاری کیا گیا۔

بہ نے ایڈیشنل رجسٹرار

ایگزیکٹو سکریٹری



Gmail

Writ Br <phc.writbranch@gmail.com>

WP No. 2190/2021 Reminder for submission of comments by Respondent No.3,4,6 & 7

1 message

Writ Br <phc.writbranch@gmail.com>

Mon, Nov 22, 2021 at 12:51 PM

To: advocategeneralkp@gmail.com, solit1 finance <solit1fd@gmail.com>, PSC Muhammad Saeed <pscmuhammadsaeed@gmail.com>, ag@agkhyberpakhtunkhwa.gov.pk, anjum_physicist@yahoo.com, shabir666.press@gmail.com

*Dear Sir/Madam,**اَلْسَّلَامُ عَلَيْنَكُمُ .***URGENT COURT MATTER**

Case file alongwith Order of this Honourable Court, is transmitted for information & necessary compliance at the earliest.

please acknowledge receipt of this Email.

WRIT BRANCH (NOTICE SECTION)
PESHAWAR HIGH COURT, PESHAWAR

2 attachments

WP2190-P2021---18-11.pdf
23K

WP2190-2021 Niaz Ali Khan VS Govt of KP & others CF.pdf
3577K



Writ Br <phc.writbranch@gmail.com>

WP No. 2190/2021 for submission of comments as case is fixed for 18-11-2021

1 message

Writ Br <phc.writbranch@gmail.com>

Wed, Nov 17, 2021 at 12:09 PM

To: advocategeneralkp@gmail.com, cskpk2017 <cskpk2017@gmail.com>, Establishment Department <estdkpk@gmail.com>, Establishment@kp.gov.pk, solit1 finance <solit1fd@gmail.com>, shabir666.press@gmail.com, ag@agkhyberpakhtunkhwa.gov.pk

Dear Sir/Madam,

السلام عليكم


URGENT COURT MATTER


Case file alongwith Order of this Honourable Court, is transmitted for information & necessary compliance at the earliest.

please acknowledge receipt of this Email.

WRIT BRANCH (NOTICE SECTION)
PESHAWAR HIGH COURT, PESHAWAR

2 attachments

 wp2190-p2021--16-11.pdf
23K

 WP2190-2021 Niaz Ali Khan VS Govt of KP & others CF.pdf
3577K

عدالت عالیہ پشاور ہائی کورٹ، پشاور



8-10-2021

تاریخ

187568-187569

W.P 2190 / 2021 (NOTICE CASES)

Writ Petitions

مقدمہ نمبر

پروانہ انویسٹمنٹ
سیغہ دوانی اپیل نگرانی آرٹ پٹیشن

Niaz Ali Khan VS Govt of KP & others

(187568) Javed Iqbal Gulbela (PET:ADV) Peshawar, (187569) Writ Petition Branch AG Office
(RESP:ADV) Peshawar,

پروانہ انویسٹمنٹ

مقدمہ مندرجہ عنوان بالا میں بتاریخ پیشی مورخہ: 16-Nov-2021 بمقام پشاور ہائی کورٹ
رو بروئے عدالت مقرر کی گئی ہے لہذا آپ وکیل صاحب / اصحابان کو بذریعہ پروانہ انویسٹمنٹ ہذا مطلع کیا جاتا ہے کہ
وہ تاریخ مذکور پر عدالت ہذا میں بوقت 08 : 30 AM بجے صبح برائے پیروی جو اب وہی مقدمہ اصالتاً مختار تھا حاضر ہو جائے۔ ورنہ بصورت عدم موجودگی
اس کے خلاف یکطرفہ کرداری عمل میں لائی جائے گی۔
آج بتاریخ 8-10-2021 کو مثبت میرے اور دستخط اور مہر عدالت سے جاری کیا گیا۔

برائے ایڈیشنل رجسٹرار

الیکٹرونک کاپی

عدالت عالیہ پشاور ہائی کورٹ، پشاور



6-7-2021

تاریخ

139447-139448

پر وائے انوش نمبر

W.P 2190/2021 (NOTICE CASES)

مقدمہ نمبر

Writ Petitions

صیغہ دوائی اپیل نگرانی آرٹ پیٹیشن

Niaz Ali Khan VS Govt of KP & others

(139447) Javed Iqbal Gulbeila (PET:ADV) Peshawar, (139448) Writ Petition Branch AG Office
(RESP:ADV) Peshawar,

پر وائے انوش بنام

مقدمہ مندرجہ عنوان بالا میں بتاریخ پیشی مورخہ: **09-Sep-2021** بمقام پشاور ہائی کورٹ

رو بروئے عدالت مقرر کی گئی ہے لہذا آپ وکیل صاحب/صاحبان کو بذریعہ پروانہ انوش ہذا مطلع کیا جاتا ہے کہ

وہ تاریخ مذکور پر عدالت ہذا میں بوقت **08:30 AM** بجے صبح برائے بیرونی جو اب دعویٰ مقدمہ اصالتاً متنازعا حاضر ہو جائے۔ ورنہ بصورت عدم موجودگی

اس کے خلاف یکطرفہ کروائی عمل میں لائی جائے گی۔

آج بتاریخ **6-7-2021** کو ثبت میرے اور دستخط اور مہر عدالت سے جاری کیا گیا۔

برائے ایڈیشنل رجسٹرار

ایگزیکٹو کاپی

عدالت عالیہ پشاور ہائی کورٹ، پشاور



6-7-2021

W.P 2190/2021 (NOTICE CASES)

تاریخ

پروانہ انٹس نمبر

مقدمہ نمبر

Writ Petitions

سیخڑوانی اپیل نگرانی آرٹ پٹیشن

Niaz Ali Khan VS Govt of KP & others

پروانہ انٹس بنام

{{SUMMONID}} - R NO.1 GOVT OF KPK THROUGH CHIEF SECRETARY, KPK AT CIVIL SECRETARIAT, PESHAWAR. S/o (RESPONDANT)

{{SUMMONID}} - R NO.2 SECRETARY, ESTABLISHMENT, GOVT OF KPK AT CIVIL SECRETARIAT, PESHAWAR. S/o (RESPONDANT)

{{SUMMONID}} - R NO.3 SECRETARY FINANCE, GOVT OF KPK AT CIVIL SECRETARIAT, PESHAWAR. S/o (RESPONDANT)

{{SUMMONID}} - R NO.4 ACCOUNTANT GENERAL, KPK AT MALL ROAD, PESHAWAR. S/o (RESPONDANT)

{{SUMMONID}} - R NO.5 THE MANAGER, GOVT PRINTING PRESS AT BACHA KHAN CHOWK, PESHAWAR. S/o (RESPONDANT)

{{SUMMONID}} - R NO.6 CONTROLLER PRINTER & STATIONARY DEPTT; GOVT OF KPK, PESHAWAR. S/o (RESPONDANT)

{{SUMMONID}} - R NO.7 ACCOUNT OFFICER PENSION, ACCOUNTANT GENERAL KPK AT PESHAWAR CANTT. S/o (RESPONDANT)

09-Sep-2021

مقدمہ مندرجہ عنوان بالا میں تاریخ پیشی مورخہ: بمقام پشاور ہائی کورٹ

RESPONDANT

کو بذریعہ پروانہ انٹس ہذا مطلع کیا جاتا ہے کہ عدالت مقرر کی گئی ہے لہذا

وہ تاریخ مذکور پر عدالت ہذا میں بوقت 08:30 AM بجے صبح برائے بیرونی جوابدہی مقدمہ اصالتاً مختاراً حاضر ہو جائے۔ ورنہ بصورت عدم موجودگی

اس کے خلاف یکطرفہ کروائی عمل میں لائی جائے گی۔

آج تاریخ 6-7-2021 کو ثبت میرے اور دستخط اور مہر عدالت سے جاری کیا گیا۔

برائے ایڈیشنل رجسٹرار

✓

ایڈیشنل رجسٹرار



OUT TODAY
COURT MATTER/MOST IMMEDIATE
OFFICE OF ADVOCATE-GENERAL, KHYBER PAKHTUNKHWA, PESHAWAR

No. 7598-96G

dated 16-6-2021

Address: High Court Building, Peshawar.
Tel. No. 091-9212675

Exchange No 9213833
Fax No. 091-9210270

1. The Secretary,
Government of Khyber Pakhtunkhwa,
Finance Department, Peshawar.
2. The Accountant General,
Khyber Pakhtunkhwa, Peshawar.
3. The Controller,
Printer & Stationary Department,
Khyber Pakhtunkhwa, Peshawar.

Subject:- **WP 2190-P/2021 NIAZ ALI KHAN VS GOVERNMENT OF KHYBER PAKHTUNKHWA & OTHERS.**

The captioned case was fixed for hearing on **15/06/2021**, before the Hon'ble Peshawar High Court, Peshawar. The Hon'ble Court was gracious enough to adjourn the case to **30/06/2021** with directions that above named respondent(s) shall file **Comments** duly supported by sworn in affidavit and by annexing all relevant attested documents pertaining to the instant case and file the same before the next date i.e. 30/06/2021.

Accordingly Mr. Muhammad Hanif Controller Printing Press & Mr. Farhad Durrani Account Officer, office of Accountant General, Khyber Pakhtunkhwa, informed through telephone on 15/06/2021 to comply with the directions of the Hon'ble High Court within letter and spirit.

(Syed Qaiser Ali Shah)
Additional Advocate General,
Khyber Pakhtunkhwa, Peshawar.

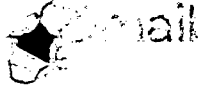
Endst.No.& Date even.

Copy to the Additional Registrar (Judl), Peshawar High Court, Peshawar

Additional Advocate General,
Khyber Pakhtunkhwa, Peshawar.

SCANNED

30 ⁰⁶/₂₁ N



Writ Br <phc.writbranch@gmail.com>

WP No. 2190/2021 for submission of comments

Message

Writ Br <phc.writbranch@gmail.com>

Thu, Jun 17, 2021 at 5:00 PM

To: advocategeneralkp@gmail.com, DAG <dagphc161@gmail.com>, solit1 finance <solit1fd@gmail.com>, saeed.ahmad@finance.gkp.pk, anjum_physicist@yahoo.com, Muhammad Naveed JanS <naveedjans123@gmail.com>, ag@agkhyberpakhtunkhwa.gov.pk, shabir666.press@gmail.com

Wa Alaikum

السلام عليكم

URGENT COURT MATTER

Case file alongwith Order of this Honourable Court, is transmitted for information & necessary compliance at the earliest.

please acknowledge receipt of this Email.

PHC BRANCH (NOTICE SECTION)PESHAWAR HIGH COURT, PESHAWAR**2 attachments**

WP2190-2021 Niaz Ali Khan VS Govt of KP & others CF.pdf
3577K

wp-21920-2021(15--06--2021-).pdf
33K

IN THE PESHAWAR HIGH COURT, PESHAWAR.
OBJECTION SLIP

No: 17743

Niaz Ali Khan V/S Govt of KP & others

- 7 Petition/annexures are not properly paged.
10 Copies of annexures are not legible. *some pages*
12 ~~Special~~ Power of attorney not filed.

HR
READER

Returned with above mentioned objections for removal to be re-submitted on or before _____

09/6/2021

24 May 2021

(A)
Deputy Registrar/ Incharge
Peshawar High Court, Peshawa

Respected Sir!

Re-submitted after removal of
objections.

Javed Iqbal Gul Beh.

(Adv.)

25/5/2021.

URGENT FORM

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

W.P No. _____/2021

Niaz Ali

VERSUS

Government of Khyber Pakhtunkhwa & Others

The Grounds of urgency are:

That the Respondents are going to make recovery of amount of alleged over-stay as the Petitioner has already rendered services, and if the captioned case is not fixed for an early date, the Petitioner will suffer irreparable loss, Hence in the given circumstances, early fixation before this Hon'ble Court, is in dispensable .

Dated: 21/05/2021

Petitioner

Through


Javed Iqbal Gulbela

Advocate Supreme Court of
Pakistan.


BEFORE THE HON'BLE PESHAWAR HIGH COURT, PESHAWAR

CHECK LIST

1.	Case title <i>Niaz Ali v/s Govt. of W/P & others</i>		
2.	Case is duly signed.	Yes	No
3.	The law under which the case is preferred has been mentioned.	Yes	No
4.	Approved file cover is used.	Yes	No
5.	Affidavit is duly attested and appended.	Yes	No
6.	Case and annexure are properly paged and numbered according to index.	Yes	No
7.	Copies of annexure are legible and attested. If not, then better copies duly attested have annexed.	Yes	No
8.	Certified copies of all requisite documents have been filed.	Yes	No
9.	Certificate specifying that no case on similar grounds was earlier submitted, in this court, filed.	Yes	No
10.	Case is within time.	Yes	No
11.	The value for the purpose of court fee and jurisdiction has been mentioned in the relevant column.	Yes	No
12.	Court fee in shape of stamp papers affixed. For writ Rs. 500, for other as required.	Yes	No
13.	Power of attorney is in proper form.	Yes	No
14.	Memo of addressed filed.	Yes	No
15.	List of books mentioned in the petition.	Yes	No
16.	The requisite number of spare copies-attached { Write petition- 3, Civil appeal(SB-2) Civil Revision (SB-1, DB-2)	Yes	No
17.	Case (Revision /appeal/petition etc) is filled on a prescribed form.	Yes	No
18.	Power of attorney is attested by jail authority (for jail prisoner only)	Yes	No

It is certified that formalities /documentations as required in column 2 to 18 above, have been fulfilled.

Name:- *Javed Iqbal Gubbela*

Signature: - 

Dated: - 21/5/21

FOR OFFICE USE ONLY

Case: - _____

Case received on _____

Complete in all respect: Yes/No, (If NO, the grounds) _____

Signature _____

(Reader)

Dated: - _____

Countersigned: - _____

(Deputy Registrar)

URGENT FORM

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

W.P No. _____ /2021

Niaz Ali

VERSUS

Government of Khyber Pakhtunkhwa & Others

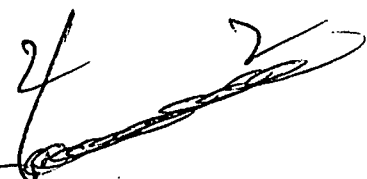
The Grounds of urgency are:

That the Respondents are going to make recovery of amount of alleged over-stay as the Petitioner has already rendered services, and if the captioned case is not fixed for an early date, the Petitioner will suffer irreparable loss, Hence in the given circumstances, early fixation before this Hon'ble Court, is in dispensable .

Dated: 21/05/2021

Petitioner

Through


Javed Iqbal Gulbela

Advocate Supreme Court of
Pakistan.

BEFORE THE HON'BLE PESHAWAR HIGH COURT, PESHAWAR

CHECK LIST

1.	Case title <i>Niaz Ali v/s Govt. of KPL & others</i>		
2.	Case is duly signed.	Yes	No
3.	The law under which the case is preferred has been mentioned.	Yes	No
4.	Approved file cover is used.	Yes	No
5.	Affidavit is duly attested and appended.	Yes	No
6.	Case and annexure are properly paged and numbered according to index.	Yes	No
7.	Copies of annexure are legible and attested. If not, then better copies duly attested have annexed.	Yes	No
8.	Certified copies of all requisite documents have been filed.	Yes	No
9.	Certificate specifying that no case on similar grounds was earlier submitted in this court, filed.	Yes	No
10.	Case is within time.	Yes	No
11.	The value for the purpose of court fee and jurisdiction has been mentioned in the relevant column.	Yes	No
12.	Court fee in shape of stamp papers affixed. For writ Rs. 500, for other as required}	Yes	No
13.	Power of attorney is in proper form.	Yes	No
14.	Memo of addressed filed.	Yes	No
15.	List of books mentioned in the petition.	Yes	No
16.	The requisite number of spare copies-attached { Write petition- 3, Civil appeal(SB-2) Civil Revision (SB-1, DB-2)	Yes	No
17.	Case (Revision /appeal/petition etc) is filled on a prescribed form.	Yes	No
18.	Power of attorney is attested by jail authority (for jail prisoner only)	Yes	No

It is certified that formalities /documentations as required in column 2 to 18 above, have been fulfilled.

Name:- *Javed Iqbal Gubbela*

Signature: - *[Signature]*

Dated: - 21/5/21

FOR OFFICE USE ONLY

Case: - _____

Case received on _____

Complete in all respect: Yes/No, (If NO, the grounds) _____

Signature _____

(Reader)

Dated: - _____

Countersigned: - _____

(Deputy Registrar)



**IN THE PESHAWAR HIGH COURT, PESHAWAR
OPENING SHEET FOR WRIT BRANCH**

Date of Filing: 21/05/2021

District: Peshawar.

Case Type: Writ Petition

Nature of Original Proceeding:

Category Code are given at sheet)	5	0	7	0	9	(Categories & Sub categories The back of the opening
Review/ Contempt of Court in respect of: Writ of:						
	Heabus Corpus		Prohibition		Mandamus	Quo ...
						Certiorari

If Certiorari:

Forum	Date	(I)nterlocutory/ (F)inal Order	Case Pertains to
		Interlocutory	<input type="checkbox"/>
			SB <input type="checkbox"/>
			DB <input type="checkbox"/>
Petitioner Name	Niaz Ali Khan		
Mobile No.	0313-5969752		
Address	Gulbahar, Shakarupura, Nhaqi Tehsil & District, Peshawar.		
CNIC No.	17301-1507222-3		
Email Address			
Counsel for Petitioner(s)	JavedIqbal Gulbela		
Mobile No.	0345-9405501		
Address	B-1, 2 nd Floor Al-Nimra Centre Qazi Plaza Government College Chowk Peshawar.		
CNIC No.	17301-1496065-7		
Email Address	Javediqbalgulbela1980@gmail.com		
Respondents	Government of Khyber Pakhtunkhwa & Others		
Address	Government of Khyber Pakhtunkhwa & Others		

FILED TODAY

Deputy Registrar

24 MAY 2021

Prayer : It is, therefore, most humbly prayed that on acceptance of the instant petition, a writ of quo-warranto be issued to the respondents to explain that under what authority of law, a second retirement order be issued, when already one is issued, and:

(i) By declaring the petitioner as validly retired from service vide office order No. 298-301 i.e. 27-08-2020 w.e.f 31-08-2020 upon his own request and be declared as fully entitled for the whole pension, all ancillary, fructions attached to his service spread over long 33 years.

(ii) To declare the impugned retirement order No. 1031-34, i.e 24-12-2020 as illegal, void and unconstitutional.

(iii) To declare the alleged deduction from pension and recovery of allegedly over-stay in service from the petitioner as illegal and void.

(iv) To declare that the incorrect date of birth of the petitioner i.e. 1959 has correctly been rectified and corrected in the service book vide office order No. 2286 i.e. 11-05-2000 and any subsequent denial thereof, or insisting upon incorrect date of birth i.e 1959 is wrong, illegal and void.

(v) To issue directions to respondents to sanction and release the full pension along with all its attached allowances etc with arrears, strictly as per orders of retirement No. 298-301 i.e. 27-08-2020 and be paid till 31-08-2020 without any deduction and recovery therof.

(vi) Even if the alleged date of birth of the petitioner is remained to be 1959, then direction be issued to the respondents to not to make any recovery of alleged over-stay, as the petitioner has already rendered services and case of similar nature has already been dealt with by respondents themselves.

Law/Rules/governing the original proceedings/action/Inaction, Constitution of Islamic Republic of Pakistan 1973

Signature

Note: Any suggestion to improve the Performa will be appreciated

IN THE HONORABLE PESHAWAR HIGH COURT
PESHAWAR

In W.P No- 2190P /2021

Niaz Ali Khan

VERSUS

Government of Khyber Pakhtunkhwa & Others

I N D E X

S#	Description of Documents	Annexure	Page#
1.	Writ Petition		1-11
2.	Affidavit		12
3.	Memo of Addresses		13
4.	Copy of the Service Book	"A"	14-15
5.	Copy of School Leaving Certificate	"B"	16
6.	Copy of Retirement dated 27/08/2020	"C"	17
7.	Copies of pay slips and office orders	"D"	18
8.	Copies of A.G Office letter dated 23-09-2020 and impugned retirement order dated 24-12-2020	"E&F"	19-20
9.	Copy of recovering notion	"G"	21-22
10.	Copies of W.P No. 793-P/2021 & Order Dated 18-03-2021	"H & I"	23-36
11.	Copy of Office Order No 2213/Estt dated 18-05-2021	"J"	37
12.	Other Documents	"K"	38-43
13.	Court Fee and Notice		44-45
14.	Wakalat Nama		46

Dated: 21/05/2021

Petitioner

Through

Javed Iqbal Gulbela

Advocate, Supreme Court of
Pakistan

①

IN THE HON'BLE PESHAWAR HIGH COURT
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 941

Dated 10/08/2022

In W.P No- _____/2021

Niaz Ali Khan, Ex-Binder (BPS-6), Department of Printing and Stationary Government of Khyber Pakhtunkhwa, Peshawar.

.....Petitioner

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
2. Secretary Establishment, Government of Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
3. Secretary Finance, Government of Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
4. Accountant General, Khyber Pakhtunkhwa at Mall Road, Peshawar.
5. The Manager, Government Printing Press at Bacha Khan Chowk, Peshawar.
6. Controller Printer & Stationary Department, Government of Khyber Pakhtunkhwa Peshawar.
7. Account Officer Pension, Accountant General Khyber Pakhtunkhwa at Peshawar Cantt Peshawar.

.....Respondents

Filed to-day

Registrar

PETITION UNDER ARTICLE 199 OF
CONSTITUTION OF THE ISLAMIC
REPUBLIC OF PAKISTAN 1973.

Respectfully Sheweth,

1. That the Petitioner is a naturally born bona-fide citizen of the Islamic Republic of Pakistan & hails from a respectable family.

2. That in fact the petitioner was serving as binder in BPS-6 in the Respondent Printing & Stationary Department Khyber Pakhtunkhwa & was posted at Peshawar. (Copy of the Service Book are annexed herewith as Annexure "A").
3. That the date of birth of the petitioner which has correctly been mentioned in School Leaving Certificate, issued back in the year 1977 i.e. on 16.06.1977 as 15.02.1965. (Copy of School Leaving Certificate is annexed herewith as Annexure "B").
4. That the petitioner has been inducted into service on 08/11/1987 & after serving for the long 33 years, the petitioner got retired from service on 27/08/2020 vide Order No: 298-301, i.e. 27/08/2020 w.e.f 31.08.2020 at the age of 55 years upon his own request. (Copy of Retirement dated 27/08/2020 is annexure "C").
5. That the grievances, the redressal of which the petitioner is seeking from this August Court is that the real & correct date of birth of petitioner is 15.2.1965 & the same has correctly been mentioned in the School Leaving Certificate. In fact at the time of preparation of Service book of petitioner, the incorrect & wrong date of birth was inadvertently mentioned & inserted by the officer/ official, who was preparing the service book of the petitioner, concerned, as 1959 inspite of the fact that the School Leaving Certificate, duly issued on 16.06.1977 had already been submitted with the department where-upon the petitioner

had been appointed in service on dated 8.11.1989. But due to mistake of reporting officer, the wrong date of birth was mentioned i.e. 1959 in the service book of the petitioner.

6. That after coming into knowledge about the wrong entry of incorrect Date of Birth of the Petitioner in service book, the Petitioner moved application for correction of his Date of Birth and the same was accordingly rectified and corrected back in the year of 2000 A.D i.e. vide letter No. 2286 dated 11-05-2000. **(Copy of Service Book is already annexed as Annexure "A")**.
7. That after rectification of the Date of Birth of the petitioner in service book, the same was reflected in all the relevant documentations of all the concerned officials including the pay slips, office orders etc and since then the correct Date of Birth is being used for all intents and purposes, in all record. **(Copies of pay slips and office orders are annexed herewith as Annexure "D")**
8. That the same preceding correct Date of Birth remained intact till, the Petitioner moved a request for retirement, which was duly sanctioned and the Petitioner got retired from service vide office order No. 298-301 dated 27-08-2020 w.e.f 31-08-2020.
9. That the irony of the fate is that when the Petitioner got retired from service on his own request vide office order dated 27-08-2020 and the Petitioner processed his case for release of pension, that office of the Accountant General Khyber Pakhtunkhwa

raised objections upon the Date of Birth of the Petitioner and its correction, which took place back in the year 2000.

10. That in order to appease the A.G Office, the Petitioner was again issued a retirement order vide office order No. 1031-34 dated 24-12-2020 w.e.f 30-06-2019 on alleged superannuation basis in light of office letter No. Pen-I/N-26/2020-21 Dated 23-09-2020 of Account Officer, Accountant General Khyber Pakhtunkhwa Peshawar. (Copies of A.G Office letter dated 23-09-2020 and impugned retirement order dated 24-12-2020 are annexed herewith as Annexure "E & F") respectively.
11. That not only the petitioner was issued another impugned retirement order dated 24-12-2020 and his request was substituted with notion of superannuation basis, but rather the wrong Date of Birth which had already been rectified back in the year 2000 was again raised and even recoveries were started from the petitioner for the alleged over stay in the service, which again is not only illegal and void, but quite strange and stunting as well. (Copy of recovering notion is annexed herewith as Annexure "G").
12. That feeling aggrieved from the high-headedness, omissions, adamany, and unfettered exercise of discretionary powers vested in respondents, the Petitioner approached this August Court in Writ Petition No. 793-P/2021, which was disposed-off vide order dated 18-03-2021 with the directions to the respondents to

decide Representation of the Petitioner within 30 days. (Copies of Writ Petition No. 793-P/2021 and Order dated 18-03-2021 are annexed herewith as Annexure "H & I" respectively).

13. That the representation of the Petitioner was decided by the Respondent Department vide Office Order No. 2213/ESTT Dated 18-05-2021. (Copy of office order dated 18-05-2021 is annexed herewith as Annexure "J").
14. That from the supra-mentioned episode, the grievances that comes into existence having no other efficacious remedy available elsewhere and forum to addressed at, the Petitioner approaches this August Court for recognition, enforcement and acknowledgement of his due and fundamental rights, inter-alia, upon the following grounds:

Grounds:-

- A. That there exist no other expedient-cum-expeditious and adequate remedy available elsewhere, hence the instant petition under the extra-ordinary jurisdiction of this August Court.
- B. That the petitioner is naturally born bona-fide citizen of the Islamic Republic of Pakistan and is fully and equally, on equality basis, entitled to all basic and fundamental rights as enshrined in the fundamental law of the land, interpreted,

guaranteed and enforced by the laws and law Courts of the land.

- C. That where the real and correct Date of Birth was already entered into and rectified back in the year 2000 and through proper channel and after following and observing the law on the subject, then again raising the same issue is not only illegal and void, but is unconstitutional and against the fundamental rights of the petitioner.
- D. That where not only the service book was rectified, but as well as the same was repeatedly and persistently reflected in the very monthly salary slips, issued by the same Accountant General Khyber Pakhtunkhwa Office, who is raising the issue of alleged wrong Date of Birth, again and again!
- E. That where once the retirement order was issued, then how come yet another retirement order could be issued?
- F. That where the Petitioner was retired on his own request, then how again he was retired on alleged ground of superannuation?

- G. That where the offices concerned, at all levels and at all relevant departments, did rectified the wrong entry viz-a-viz Date of Birth of the petitioner even by competent authority, then how that can be undone after twenty long years?
- H. That how the order of the competent authority can be undone after twenty years by non-competent and irrelevant authority?
- I. That where the correction was made and twenty years passed and certain vested rights accrued in favor of the Petitioner, how the same can be taken away in utter violation to the law.
- J. That even, if at all, the wrong Date of Birth of the Petitioner is taken into consideration, for the sake of arguments, and the petitioner is allegedly over-stayed, in the department, even then neither any recovery can be affected from the petitioner for over-stay, nor his pension can be subject to any deduction, nor can be withheld, as the petitioner did performed his duties during all this alleged over-stay period and has been

paid for the work done and not as a booty at all?

- K. That even, if at all, the Petitioner's Date of Birth is taken as that of 1959 and if the Petitioner has even allegedly over-stayed in his service, even then no recovery can be affected from the petitioner, as the petitioner has rendered service during all this long period.

- L. That above all, it was the mistake of respondent department, who did not retire the petitioner on alleged basis of superannuation and not of the petitioner, and the petitioner now cannot be made an escape goat for the alleged wrong done by others.

- M. That first of all, the correct date of birth of the petitioner is 15-02-1965 and same has rightly been rectified in the service record of the petitioner and lastly, even if the same has not been rectified, even then, no recovery of the alleged over-stayed from the petitioner can be affected.

N. That any other ground not raised here may graciously be allowed to be raised at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of the instant petition, a writ of quo-warranto be issued to the respondents to explain that under what authority of law, a second retirement order be issued, when already one is issued, and;

- (i) *By declaring the petitioner as validly retired from service vide office order No. 298-301 i.e. 27-08-2020 w.e.f 31-08-2020 upon his own request and be declared as fully entitled for the whole pension, all ancillary, fruitions attached to his service spread over long 33 years.*
- (ii) *To declare the impugned retirement order No. 1031-34, i.e 24-12-2020 as illegal, void and unconstitutional.*
- (iii) *To declare the alleged deduction from pension and recovery of allegedly over-stay in service from the petitioner as illegal and void.*

- (iv) *To declare that the incorrect date of birth of the petitioner i.e. 1959 has correctly been rectified and corrected in the service book vide office order No. 2286 i.e. 11-05-2000 and any subsequent denial thereof, or insisting upon incorrect date of birth i.e 1959 is wrong, illegal and void.*
- (v) *To issue directions to respondents to sanction and release the full pension along with all its attached allowances etc with arrears, strictly as per orders of retirement No. 298-301 i.e. 27-08-2020 and be paid till 31-08-2020 without any deduction and recovery thereof.*
- (vi) *Even if the alleged date of birth of the petitioner is remained to be 1959, then direction be issued to the respondents to not to make any recovery of alleged over-stay, as the petitioner has already rendered services and case of similar nature has already been dealt with by respondents themselves.*

(11)

Any other relief not specifically asked for, may graciously be extended in favor of the petitioner, in circumstances of the case.

Interim Relief:

By way of interim relief, the respondents be restrained from with-holding the pension etc from the petitioner or carrying any deduction or recovery viz-a-viz alleged over-stay in service, till the final disposal of the instant petition.

Dated: 21/05/2021

Petitioner

Through

Javed Iqbal Gulbela
Advocate Supreme Court of
Pakistan

Saghir Iqbal Gulbela

Ahsan Sardar

&

Tahir Khan

Advocates, High Court,

Peshawar

Certificate:-

Previously, W.P No 793-P/2021 was moved before this August Court, which was disposed-off and the instant case pertains to Hon'ble Double Bench of this August Court.

ADVOCATE

Law Books:-

1. Constitutional of Islamic Republic of Pakistan 1973
2. Case law according to need.

ADVOCATE

IN THE HON'BLE PESHAWAR HIGH COURT
PESHAWAR

W.P No. ____/2021

Niaz Ali Khan Petitioner

VERSUS

Govt of KPK & others Respondents

AFFIDAVIT

I, Niaz Ali Khan S/o Abdur Rasheed R/o Gulbahar Shakar Pura, Nahaki Tehsil and district Peshawar, do hereby solemnly affirm and declare that the contents of the accompanying **Writ Petition** true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Niaz Ali Khan

DEPONENT

CNIC # 17301-1507222-3 ✓

Cell # 0313-5969752

Identified By:

Javed Iqbal Gulbela

JAVED IQBAL GULBELA

Advocate, Peshawar

26271

I, *Niaz Ali Khan* do hereby solemnly affirm and declare that the contents of the accompanying *Writ Petition* true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

affirmation before me this *19* day of *May* 20*21* at *Peshawar* s/o *Ab Rasheed* who was identified by *Javed Iqbal* Who is personally known to me:

Oath Commissioner
Peshawar High Court, Peshawar.
19/5/2021

Nadra verifies

 Reset Password

 Logout


Verisys
online
verification system

Online Service for verification of NADRA Identity Cards



Card Verification

Identity Card Number : 17301-1507222-3

Verification Date : May 19, 2021

[Start New Verification](#)

This person has been given exemption of expiry being Senior Citizen and does not require renewal for rest of his or her life.

CNIC Verification

Card Status: Verified

Name	بیاز علی خان
Father Name	عبدالرشید
Gender	مرد
Identification Mark	گلے برنگہ
Citizen Number	17301-1507222-3
DOB	15-02-1965
Issue Date	07-01-2015
Date of Expiry	07-01-2025
Card Type	ID Card
Old NIC	13765189365
Present Address	
Permanent Address	گلی محلہ گلپار، شکر پورہ، تحصیل و ضلع بساؤر




IN THE HONORABLE PESHAWAR HIGH COURT
PESHAWAR

In W.P No- _____/2021

Niaz Ali Khan

VERSUS

Government of Khyber Pakhtunkhwa & Others

ADDRESSES OF PARTIES

ADDRESS OF PETITIONER

Niaz Ali Khan, Ex-Binder (BPS-6), Department of Printing and Stationary Government of Khyber Pakhtunkhwa, Peshawar.

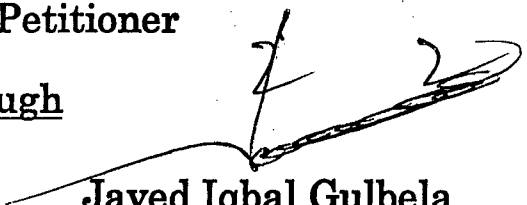
ADDRESSES OF RESPONDENTS

1. Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
2. Secretary Establishment, Government of Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
3. Secretary Finance, Government of Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
4. Accountant General, Khyber Pakhtunkhwa at Mall Road, Peshawar.
5. The Manager, Government Printing Press at Bacha Khan Chowk, Peshawar.
6. Controller Printer & Stationary Department, Government of Khyber Pakhtunkhwa Peshawar.
7. Account Officer Pension, Accountant General Khyber Pakhtunkhwa at Peshawar Cantt Peshawar.

Dated: 21/05/2021

Petitioner

Through


Javed Iqbal Gulbela
Advocate, Supreme Court of
Pakistan

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 .. M. Naz Ali Khan
2. Rank .. Mughal
3. Residence .. Village + P.O. Gul Bela
Tehsil + Distt. Peshawar
4. Father's name and residence .. outly attested Abdur Rashid - do -

5. Date of birth by Christian or as nearly as can be ascertained 15-02-1965 Date of Birth
1959 Corrected vide No. 2286 dt. 11/5/2001

6. Exact height by measurement 5' 6"
MANAGER
Govt. Stationery & Printing Deptt. of N.W.F.P. Peshawar

7. Personal marks for identification .. Black mole on chin

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. M. Naz Ali Khan

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

Attested
MANAGER
Stationery & Printing Deptt. of N.W.F.P. Peshawar

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

No. 2286 /

DEPARTMENT OF WEST
PUNJAB - PESHAWAR DEPARTMENT.

Peshawar the 4-5-2001.

OFFICE ORDER.

The competent authority is pleased to order rectification in Govt. Service record according to original School Certificate and N.I. Card of the following three officials and now corrections are made.

S.No.	Name of official.	Wrong date of birth.	Corrected date of birth.
1.	Mr. Islam Gul Binder.	1956	10-11-1960
2.	Mr. Niaz Ali Khan Binder.	1959	15-2-1965
3.	Mr. Jam Muhammad	6-10-1957	04-11-1959

(FANID KHAN)
Manager.

No. _____ /

Dated Pesh: the _____ /2001.

Copy to:-

1. The Accountant General NWFP Peshawar.
2. All personal file of each official.

(FANID KHAN)
Manager.

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

JAVED IQBAL Gul Bela
Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

17



GOVERNMENT OF
KHYBER PAKHTUNKHWA
PRINTING & STATIONERY DEPARTMENT

Am-C

No. /Estt

Dated Peshawar, the 7 / 2020.

CONTROLLER

OFFICE ORDER

In pursuance of Government of Khyber Pakhtunkhwa Finance Department Notification No. SO (FR) FD/5-92/2005/Vol-V, dated 13.12.2012, Sanction is hereby accorded to the drawl of 365 days of leave encashment pay in lump sum Rs.288720/- (Rupees Two hundred and eighty eight thousand seven hundred and twenty only) with effect from 01.09.2019 to 31.08.2020 in lieu of LPR in favour of Mr. Niaz Ali Khan Binder BPS-06 of this department who will stand retired from service on 31.08.2020 (Afternoon) his own request.

2. The expenditure of Rs.288720/- (Rupees Two hundred and eighty eight thousand seven hundred and twenty only) involved will be met from within the sanctioned budget grant under the head "01-General Public Service, 015- General Services, 0154- other General Services, 015403- Centralized Printing and Stationery Publication, PR4447- Stationery and Printing Provincial, AO111-Encashment of LPR " during the current financial year 2020-21.

(Muhammad Hanif Khan)
Controller

Estt: No. 294-301

Dated Peshawar the 27 / 8 / 2020.

Copy for information to:

1. The Accountant General Khyber Pakhtunkhwa Peshawar.
2. The Manger, Government Press, Peshawar.
3. Mr. Niaz Ali Khan Binder BPS-06 Government Press, Peshawar.
4. The Main File.

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

(Muhammad Hanif Khan)
Controller

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

BETTER COPY-17

**GOVERNMENT OF
KHYBER PAKHTUNKHWA
PRINTING & STATIONERY DEPARTMENT**

CONTROLLER

OFFICE ORDER

1. In pursuance of Government of Khyber Pakhtunkhwa Finance Department Notification No. SO (FR)FD/5-92/2005/Vol-V, dated 13.12.2012, Sanction is hereby accorded to the drawl of 365 days of leave encashment pay in lump sum Rs. 288720/- (Rupees, Two Hundred and eighty eight thousand seven hundred and twenty) with effect from 01.09.2019 to 31.08.2020 in lieu of LPR in favour of Mr. Niaz Ali Khan Binder BPS-06 of this department who will stand retired from service on 31.08.2020 (Afternoon) his own request.
2. The expenditure of Rs. 288720/- (Rupees, Two hundred and eighty eight thousand seven hundred and twenty only involved will be met from within the sanctioned budget grant under the head "01-General Public Service. 015-General Services, 0154- other General Service. 015403- Centralized printing and stationery publication. PR4447- Stationery and printing provincial AO-111- Encashment of LPR "during the current financial year 2020-21.

Muhammad Hanif Khan
Controller
Dated Peshawar 27/08/2020

Endst: No.298-30/

Dated Peshawar 27/8/2020.


Copy for information to:

1. The Accounting General Khyber Pakhtunkhwa Peshawar.
2. The Manager, Government
3. Mr. Niaz Ali Khan Binder BPS-06 Government, Peshawar.
4. The main File

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-5405501

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-5405501

Government of Khyber Pakhtunkhwa
Accountant General Khyber Pakhtunkhwa, Peshawar
Monthly Salary Statement (August-2020)

Annire D
18 

Personal Information of Mr NIAZ ALI KHAN d/w/s of ABDUR RASHEED

Personnel Number: 00043805 CNIC: 1730115072223 NTN: 0
 Date of Birth: 15.02.1965 Entry into Govt. Service: 08.11.1987 Length of Service: 32 Years 09 Months 025 Days

Employment Category: Active Permanent

Designation: BINDER GRADE-1 80003942-GOVERNMENT OF KHYBER PAKH
 DDO Code: PR4447-ACCOUNT OFFICER STATY: &PRINTING DEPTT: NWFP PESHAWAR.
 Payroll Section: 008 GPF Section: 006 Cash Center:
 GPF A/C No: LJS 010500 Interest Applied: Yes **GPF Balance: 123,955.00**

Vendor Number: -
Pay and Allowances: Pay scale: BPS For - 2017 Pay Scale Type: Civil BPS: 06 Pay Stage: 24

Wage type		Amount	Wage type		Amount
0001	Basic Pay	24,060.00	1001	House Rent Allowance 45%	2,316.00
1210	Convey Allowance 2005	1,932.00	1300	Medical Allowance	1,500.00
2148	15% Adhoc Relief All-2013	532.00	2199	Adhoc Relief Allow @10%	362.00
2211	Adhoc Relief All 2016 10%	1,877.00	2224	Adhoc Relief All 2017 10%	2,406.00
2247	Adhoc Relief All 2018 10%	2,406.00	2264	Adhoc Relief All 2019 10%	2,406.00

Deductions - General

Wage type		Amount	Wage type		Amount
3006	GPF Subscription	-950.00	3501	Benevolent Fund	-600.00
4004	R. Benefits & Death Comp:	-690.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
6505	GPF Loan Principal Instal	90,000.00	-2,500.00	37,500.00

Deductions - Income Tax

Payable: 0.00 Recovered till AUG-2020: 0.00 Exempted: 0.00 Recoverable: 0.00

Gross Pay (Rs.): 39,797.00 Deductions: (Rs.): -4,740.00 Net Pay: (Rs.): 35,057.00

Payee Name: NIAZ ALI KHAN
 Account Number: 4083881114
 Bank Details: NATIONAL BANK OF PAKISTAN, 230387 PESHAWAR CITY PESHAWAR CITY,

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address: MANAGER GOVT STATY AND PTG DEPTT PESH
 City: Peshawar Domicile: NW - Khyber Pakhtunkhwa Housing Status: No Official
 Temp. Address:
 City: Email: niazalikhan41@gmail.com

System generated document in accordance with APPM 4.6.12.9(SERVICES/28.08.2020/16:27:00/v2.0)
 * All amounts are in Pak Rupees
 * Errors & omissions excepted

JAVED IQBAL Gul Bela
 Daudzai Law Chamber
 Advocate High Court Peshawar
 Mob: 0345-0403501

JAVED IQBAL Gul Bela
 Daudzai Law Chamber
 Advocate High Court Peshawar
 Mob: 0345-0403501

No - Pen - I / N-26/2024-21 / 19
 To
 Ann E / 23-9-2020

The Controller

Printing & Stationery Deptt

Subj: Pension case in v/o M/s Raji Khan
 Ex: Binder Grade - I
 Parliament

Memor: Ref: Your office letter No-435/dt-18-9-2020
 on the above subject.

Service book (two parts) and Pension Papers
 are returned in original with the remarks
 that the ex: official date of birth recorded
 in service book as 1959, later on thirteen
 half years date of birth have been overwritten/
 changed from 1959 to 15-2-1965.

It is therefore the case may be
 referred to Establishment & Admin Deptt
 under intimation to this office.

ACCOUNTS OFFICER
 O/A.C. Khyber Pakhtunkhwa
 M2

JAVED IQBAL Gul Pala
 Nazdai Law Chamber
 Mob: 0315-940667

JAVED IQBAL Gul Bela
 Nazdai Law Chamber
 Mob: 0345-940501



CONTROLLER

GOVERNMENT OF
KHYBER PAKHTUNKHWA
PRINTING & STATIONERY DEPARTMENT

No. _____/Estt:

Dated Peshawar, the _____/_____/2020

Ann "F"

(20)

OFFICE ORDER

In light of Account Officer Letter No:Pen-I/N-26/2020-21/1064/dated, 16-12-2020, Previous office Order Vide No:298-30 dated 27-08-2020 is hereby withdrawn and revised Sanction is hereby accorded to the drawl of 365 days of leave encashment pay in lump sum Rs. 2,82,000/- (Two Lac Eighty Two Thousand Only) with effect from 01.07.2018 to 30.06.2019 in lieu of LPR in favour of Mr. Niaz Ali Khan Binder Grade I (BPS-06) of this department who will stand retired from service on 30.06.2019 (Afternoon) on attaining the age of superannuation of sixty years.

2. The expenditure of Rs. 2,82,000/- (Two Lac Eighty Two Thousand Only) involved will be met from within the sanctioned budget grant under the head "01-General Public Service, 015-General Services, 0154-Other General Services, 015403-Centralized Printing and Publication PR4447-Stationery and Printing Provincial, 404114- Encashment of LPR" during the current financial year 2020-21.

(Muhammad Hanif Khan)

Controller

Endst: No. 1031-34 /Estt:

Dated Peshawar the 24 /12 /2020

Copy for information to:

1. The Accountant General Khyber Pakhtunkhwa Peshawar.
2. The Manager, Government Printing Press, Peshawar.
3. Mr. Niaz Ali Khan Binder Grade I (BPS-06), Govt. Press, Peshawar.
4. The Main file.

(Muhammad Hanif Khan)

Controller

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

ACCOUNT OFFICER
Stationery and Printing Deptt.
Govt. of Khyber Pakhtunkhwa
Peshawar.

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

(81)

Ann "G"



Office of the
Accountant General
Khyber Pakhtunkhwa
Fort Road, Peshawar
Phone: 091 9211250-54

No. Pension-1/M-206/Y-5/2019-20/N-26/20-21/1044

Dated: 01.12.2020

To

The Controller
Printing & Stationary Depatt
Peshawar

[Signature]
12 DEC 2020

Subject: Pension Case In R/O Muhammad Ahsan, Yaseen Khan & Niaz Ali Khan

Memo: Refer your office letter nos.

- 1- 553 / Date: 08-10-2020
- 2- 554 / Date: 08-10-2020
- 3- 555 / Date: 08-10-2020

Pension cases of the above named officials have been processed for 65% anticipatory (monthly pension) and 35% pension commutation with-held till clarification of the issue.

It is further submitted that the issue of date of birth may be taken up with Finance department/Establishment department of the Khyber Pakhtunkhwa and then re submitted the case to this office accordingly.

Requests immediately

ACCOUNTS OFFICER

PENSION

11/12/2020 11/12/20

15.12.2020

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mobile: 0345-945551

AA (Pension-I)

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-945551

No- Pen - I / N-26/2020-21/1064 / dt 16-12-2020

To

(22)

The controller
Printing & stationery
Dept: Peshawar.

Sub:- Pension case in v/o Niaz Ali Khan
Ex: Binder Grade I

Memo:- Ref: your office letter no-554 / dt
8-10-2020 on the subject cited above.

Service book (Two Part) and Pension papers
are again returned in original that anticipatory
Pension of the ex-official has started wef
1-11-2020 and the date of birth of the
ex-official may be considered as 01-7-1959
instead of 15-2-1965 and recovery of over-
payment w-ef 1-7-2018 to 31-8-2020 may
be worked out and detail submitted to this
office and revised Pension papers along with
revised CPC may be submitted to this office
for further perusal.

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

ACCOUNT OFFICER
C/o A.C. Khyber Pakhtunkhwa

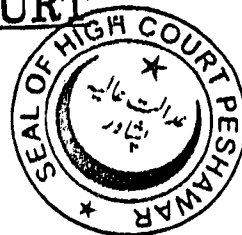
[Signature]

Arif

23

Ann H⁴

**IN THE HON'BLE PESHAWAR HIGH COURT
PESHAWAR**



In W.P No- 793-P /2021

Niaz Ali Khan, Ex-Binder (BPS-6), Department of Printing and Stationary Government of Khyber Pakhtunkhwa, Peshawar.

.....Petitioner

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
2. Secretary Establishment, Government of Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
3. Secretary Finance, Government of Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
4. Accountant General, Khyber Pakhtunkhwa at Mall Road, Peshawar.
5. The Manager, Government Printing Press at Bacha Khan Chowk, Peshawar.
6. Controller Printer & Stationary Department, Government of Khyber Pakhtunkhwa Peshawar.
7. Account Officer Pension, Accountant General Khyber Pakhtunkhwa at Peshawar Cantt Peshawar.

.....Respondents

**PETITION UNDER ARTICLE 199 OF
CONSTITUTION OF THE ISLAMIC
REPUBLIC OF PAKISTAN 1973.**

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9465591

FILED TODAY
Deputy Registrar
08 FEB 2021

Respectfully Sheweth,

1. That the Petitioner is a naturally born bona-fide citizen of the Islamic Republic of Pakistan & hails from a respectable family.

PAICPLS/35770 Pesh.

Disty No. 117

Date 8/4/2021

ATTESTED
EXAMINER
Peshawar High Court

24

8

2. That in fact the petitioner was serving as binder in BPS-6 in the Respondent Printing & Stationary Department Khyber Pakhtunkhwa & was posted at Peshawar. (Copy of the Service Book are annexed herewith as Annexure "A").
3. That the date of birth of the petitioner which has correctly been mentioned in School Leaving Certificate, issued back in the year 1977 i.e. on 16.06.1977 as 15.02.1965. (Copy of School Leaving Certificate is annexed herewith as Annexure "B").
4. That the petitioner has been inducted into service on 08/11/1987 & after serving for the long 33 years, the petitioner got retired from service on 27/08/2020 vide Order No: 298-301, i.e. 27/08/2020 w.e.f 31.08.2020 at the age of 55 years upon his own request. (Copy of Retirement dated 27/08/2020 is annexure "C").
5. That the grievances, the redressal of which the petitioner is seeking from this August Court is that the real & correct date of birth of petitioner is 15.2.1965 & the same has correctly been mentioned in the School Leaving Certificate. In fact at the time of preparation of Service book of petitioner, the incorrect & wrong date of birth was inadvertently mentioned & inserted by the officer/ official, who was preparing the service book of the petitioner, concerned, as 1959 inspite of the fact that the School Leaving Certificate, duly issued on 16.06.1977 had already been submitted with the department where-upon the petitioner

FILED TODAY
Deputy Registrar
08 FEB 2021

JAVED IQBAL Gul Beta
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

ATTESTED
EXAMINER
Peshawar High Court

2

25

had been appointed in service on dated 8.11.1989. But due to mistake of reporting officer, the wrong date of birth was mentioned i.e. 1959 in the service book of the petitioner.

6. That after coming into knowledge about the wrong entry of incorrect Date of Birth of the Petitioner in service book, the Petitioner moved application for correction of his Date of Birth and the same was accordingly rectified and corrected back in the year of 2000 A.D i.e. vide letter No. 2286 dated 11-05-2000. (Copy of Service Book is already annexed as Annexure "A").
7. That after rectification of the Date of Birth of the petitioner in service book, the same was reflected in all the relevant documentations of all the concerned officials including the pay slips, office orders etc and since then the correct Date of Birth is being used for all intents and purposes, in all record. (Copies of pay slips and office orders are annexed herewith as Annexure "D")
8. That the same preceding correct Date of Birth remained intact till, the Petitioner moved a request for retirement, which was duly sanctioned and the Petitioner got retired from service vide office order No. 298-301 dated 27-08-2020 w.e.f 31-08-2020.
9. That the irony of the fate is that when the Petitioner got retired from service on his own request vide office order dated 27-08-2020 and the Petitioner processed his case for release of pension, that office of the Accountant General Khyber Pakhtunkhwa

FILED TODAY

Deputy Registrar

08 FEB 2021

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob/8345-9405501

ATTESTED

EXAMINER
Peshawar High Court

raised objections upon the Date of Birth of the Petitioner and its correction, which took place back in the year 2000.

10. That in order to appease the A.G Office, the Petitioner was again issued a retirement order vide office order No. 1031-34 dated 24-12-2020 w.e.f 30-06-2019 on alleged superannuation basis in light of office letter No. Pen-I/N-26/2020-21 Dated 23-09-2020 of Account Officer, Accountant General Khyber Pakhtunkhwa Peshawar. (Copies of A.G Office letter dated 23-09-2020 and impugned retirement order dated 24-12-2020 are annexed herewith as Annexure "E & F") respectively.

11. That not only the petitioner was issued another impugned retirement order dated 24-12-2020 and his request was substituted with notion of superannuation basis, but rather the wrong Date of Birth which had already been rectified back in the year 2000 was again raised and even recoveries were started from the petitioner for the alleged over stay in the service, which again is not only illegal and void, but quite strange and stunting as well. (Copy of recovering notion is annexed herewith as Annexure "G").

FILED TODAY

Deputy Registrar

08 FEB 2021

12. That feeling aggrieved from the high-headedness, omissions, adaman, and unfettered exercise of discretionary powers vested in respondents and after being exhausted thoroughly, the Petitioner approaches this August Court for recognition, enforcement and acknowledgment of his due and fundamental rights upon the following grounds, inter-alia:

JAVED IQBAL Gil Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

ATTESTED

EXAMINER

Peshawar High Court

27
④

Grounds:-

- A. That there exist no other expedient cum expeditious and adequate remedy available elsewhere, hence the instant petition under the extra-ordinary jurisdiction of this August Court.
- B. That the petitioner is naturally born bona-fide citizen of the Islamic Republic of Pakistan and is fully and equally, on equality basis, entitled to all basic and fundamental rights as enshrined in the fundamental law of the land, interpreted, guaranteed and enforced by the laws and law Courts of the land.
- C. That where the real and correct Date of Birth was already entered into and rectified back in the year 2000 and through proper channel and after following and observing the law on the subject, then again raising the same

FILED TODAY
Deputy Registrar
08 FEB 2021

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9409501

ATTESTED
EXAMINER
Peshawar High Court

(28)

(2)

issue is not only illegal and void, but is unconstitutional and against the fundamental rights of the petitioner.

D. That where not only the service book was rectified, but as well as the same was repeatedly and persistently reflected in the very monthly salary slips, issued by the same Accountant General Khyber Pakhtunkhwa Office, who is raising the issue of alleged wrong Date of Birth, again and again!

E. That where once the retirement order was issued, then how come yet another retirement order could be issued?

F. That where the Petitioner was retired on his own request, then how again he was retired on alleged ground of superannuation?

G. That where the offices concerned, at all levels and at all relevant departments,

FILED TODAY

Deputy Registrar

08 FEB 2021
JAWAD IQBAL
Fauzai Law Chambers
Advocate High Court Peshawar
Mob: 0345-9405501

~~ATTESTED~~
EXAMINER
Peshawar High Court

(28)

did rectified the wrong entry viz-a-viz Date of Birth of the petitioner even by competent authority, then how that can be undone after twenty long years?

H. That how the order of the competent authority can be undone after twenty years by non-competent and irrelevant authority?

I. That where the correction was made and twenty years passed and certain vested rights accrued in favor of the Petitioner, how the same can be taken away in utter violation to the law.

J. That even, if at all, the wrong Date of Birth of the Petitioner is taken into consideration, for the sake of arguments, and the petitioner is allegedly over-stayed, in the department, even then neither any recovery can be affected from the petitioner for over-stay, nor his pension can be subject to any deduction,

FILED DDD
Deputy Registrar
08 FEB 2021

FAVEED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob. 0345-9405501

ATTESTED
EXAMINER

nor can be withheld, as the petitioner did performed his duties during all this alleged over-stay period and has been paid for the work done and not as a booty at all?

K. That even, if at all, the Petitioner's Date of Birth is taken as that of 1959 and if the Petitioner has even allegedly over-stayed in his service, even then no recovery can affected from the petitioner, as the petitioner has rendered service during all this long period.

L. That above all, it was the mistake of respondent department, who did not retired the petitioner on alleged basis of superannuation and not of the petitioner, and the petitioner now cannot be made an escape goat for the alleged wrong done by others,

FILED TODAY
Deputy Registrar
08 FEB 2021

JAVED IQBAL Gill Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

ATTESTED
EXAMINER
Peshawar High Court

M. That first of all, the correct date of birth of the petitioner is 15-02-1965 and same

31

has rightly been rectified in the service record of the petitioner and lastly, even if the same has not been rectified, even then, no recovery of the alleged over-stayed from the petitioner can be affected.

N. That any other ground not raised here may graciously be allowed to be raised at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of the instant petition, a writ of quo-warranto be issued to the respondents to explain that under what authority of law, a second retirement order be issued, when already one is issued, and:

- (i) *By declaring the petitioner as validly retired from service vide office order No. 298-301 i.e. 27-08-2020 w.e.f 31-08-2020 upon his own request and be declared as fully entitled for the whole pension, all ancillary, fruitions attached to his service spread over long 33 years.*
- (ii) *To declare the impugned retirement order No. 1031-34, i.e 24-12-2020 as illegal, void and unconstitutional.*
- (iii) *To declare the alleged deduction from pension and recovery of allegedly over-stay in service from the petitioner as illegal and void.*

FILED TODAY
Deputy Registrar
08 FEB 2021

SAVED IQBAL Gul Bala
Deudzal Law Chamber
A-10/1, Peshawar High Court Peshawar
Phone: 0345-9485501

ATTESTED
EXAMINER
Peshawar High Court

- (iv) *To declare that the incorrect date of birth of the petitioner i.e. 1959 has correctly been rectified and corrected in the service book vide office order No. 2286 i.e. 11-05-2000 and any subsequent denial thereof, or insisting upon incorrect date of birth i.e 1959 is wrong, illegal and void.*
- (v) *To issue directions to respondents to sanction and release the full pension along with all its attached allowances etc with arrears, strictly as per orders of retirement No. 298-301 i.e. 27-08-2020 and be paid till 31-08-2020 without any deduction and recovery thereof.*
- (vi) *Even if the alleged date of birth of the petitioner is remained to be 1959, then direction be issued to the respondents to not to make any recovery of alleged over-stay, as the petitioner has already rendered services and case of similar nature has already been dealt with by respondents themselves.*

Any other relief not specifically asked for, may graciously be extended in favor of the petitioner, in circumstances of the case.

Interim Relief:

By way of interim relief, the respondents be restrained from with-holding the pension etc from the petitioner or carrying any deduction or recovery viz-a-viz alleged over-stay in service, till the final disposal of the instant petition.

JAVED IQBAL Gul Bela
 Daudpatal Law Chamber
 Peshawar High Court Peshawar
 Mob: 0345-9405294
FILED TODAY
 Deputy Registrar
08 FEB 2021

Dated: 06/02/2021

Petitioner ~~ATTESTED~~
 EXAMINER
 Peshawar High Court

(4)

(33)

Through

Javed Iqbal Gulbela

Saghir Iqbal Gulbela

Ahsan Sardar

&

Tahir Khan

Advocates, High Court,
Peshawar

Certificate:-

No such like writ petition has ever been moved by me for the same petitioner prior to this one and the instant case pertains to Hon'ble Double Bench of this August Court.

ADVOCATE

Law Books:-

1. Constitutional of Islamic Republic of Pakistan 1973
2. Case law according to need.

ADVOCATE

FILED TODAY
Deputy Registrar
08 FEB 2021

Peshawar High Court
Authorized Under Section 14 of
The Qanun-e-Shahadat Ordinance, 1984

27 MAR 2021

JAVED IQBAL Gulbela
Deudzal Law Chamber
Adv. at High Court Peshawar
Mob: 0345-9405561

(34)

Ann

I



Judgment Sheet

IN THE PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT

W.P.No 793-P of 2021

Niaz Ali Khan

Vs.

Government of Khyber Pakhtunkhwa through
Chief Secretary, KPK, Peshawar and others.

Date of hearing 18.03.2021

Petitioner (s) by Mr. Javed Iqbal Gulbela, Advocate

Respondent (s) by Mr. Muhammad Riaz, AAG

JUDGMENT

MUHAMMAD NASIR MAHFOOZ, J:- Through the instant petition filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, petitioner has prayed this Court for the following relief:-

It is, therefore, most humbly prayed that on acceptance of the instant petition, a writ of quo warranto be issued to the respondents to explain that under what authority of law, a second retirement order be issued, when already one is issued, and;

(i) By declaring the petitioner as validly retired from service vide office order No.298-301 i.e. 27.08.2020 w.e.f. 31.08.2020 upon his own request and be declared as fully entitled for the whole pension, all ancillary, fructions, attached to his service spread over long 33 years.

JAVED IQBAL GULBELA
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

J. Iqbal

ATTESTED
EXAMINER
Peshawar High Court

35

(ii) To declare the impugned retirement order No.1031-34, i.e. 24.12.2020 as illegal, void and unconstitutional.

(iii) To declare the alleged deduction from pension and recovery of allegedly over-stay in service from the petitioner as illegal and void.

(iv) To declare that the incorrect date of birth of the petitioner i.e. 1959 has correctly been rectified and corrected in the service book vide office order No.2286 i.e. 11.05.2000 and any subsequent denial thereof, or insisting upon incorrect date of birth i.e. 1959 is wrong, illegal and void.

(v) To issue directions to respondents to sanction and release the full pension alongwith all its attached allowances etc, with arrears, strictly as per orders of retirement No.298-301 i.e. 27.08.2020 and be paid till 31.08.2020 without any deduction and recovery thereof.

(vi) Even if the alleged date of birth of the petitioner is remained to be 1959, then direction be issued to the respondents to not to make any recovery of alleged over-stay, as the petitioner has already rendered services and case of similar nature has already been dealt with by respondents themselves.

2. After hearing learned counsel for the petitioner and learned AAG for the respondents at some length, learned counsel for the petitioner submitted that regarding the grievance raised in the instant writ petition, the petitioner has also submitted representation before the competent authority

S. Qureshi
JAVED IQBAL Gul Billa
FazludZai Law Chamber
Peshawar High Court Peshawar
Mob. 0345-9405501

ATTESTED

EXAMINER

Peshawar High Court

and he may be directed to pass an appropriate order on the same within 30 days.

3. The learned AAG also agreed to the said request, hence, the instant petition is disposed of with the direction that the representation of petitioner submitted before the respondents/Competent Authority shall be positively decided within 30 days after providing him opportunity of hearing.

Announced
18.03.2021

[Signature]
JUDGE

[Signature]
JUDGE

No. 30716
Date of Presentation of Application 20/3/2021
No of Pages 14
Copying fee 56/-
Total 56/-
Date of Preparation of Copy 27/3/2021
Date of Delivery of Copy 27/3/2021
Received By A. K. J. 27/3/2021

[Signature]
EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 87 of
the Constitution of Pakistan
27 MAR 2021

Shahid Ali, Court Secretary

(D.B.) Hon'ble Justice Musarrat Hilali and
Hon'ble Mr. Justice Muhammad Nasir Mahfooz

JAVED IQBAL GUL Beha
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

37

Ann 4 J⁴



CONTROLLER

GOVT: PRINTING & STATIONERY DEPARTMENT
KHYBER PAKHTUNKHWA, PESHAWAR

No. 2213 /Estt

Dated Peshawar, the 18/15 /2021

To

Mr Niaz Ali,
Ex-Binder, Gulbahar Shakar Pura
Peshawar.

Subject: ISSUANCE OF 14 MONTH SALARY.

With reference to your application, it is stated that, this Department has already sent your pension case duly completed to Accountant General Office.

You are therefore advised to address the observations of Accountant General Office already provided to you.

(Muhammad Hanif Khan)
Controller

JAVED IQBAL Gul Bela
Advocate Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

PENSION ROLL DATA SHEET & PENSION SLIP

38

Ann^K₄

Date of issue: 28.01.2021
 PPO Type: FRESH
 PPO Number: 00043805-01
 Pensioner ID: 00043805
 Pension-Register No: PEN-1/N-26/2020-21
 Pensioner's Name: NIAZ ALI KHAN
 Father / Husband name: ABDUR RASHEED
 Designation: BINDER GRADE-2
 NIC No.: 1730115072223
 Grade / Scale: 06
 Department.Min: STATIONERY & PRINTING PRO
 Pensioner's Type: SELF
 Pension Type: SUPERANNUATION
 Date of Birth: 01.07.1959
 Date of appointment: 08.11.1987
 Date of retirement: 30.06.2019
 Date of Death:
 Date of commence: 01.07.2019
 Date of Restoration:
 Accounts office ID: PW
 Accounts office Name: AG KP Peshawar
 Federal / Province: Khyber Pakhtunkhwa
 Length of Qualifying Service: 31 years, 7 months, 22 days
 Old-PPO Number:
 No. and Date of sanction of pension / Letter No. :
 and the date of the other Audit and Accounts officer authorising
 the Pension/Gratuity/Commutation
 Permanent Address:

Note : ANTICIPATORY PENSION PAID. RS. 589765/- OF PA
 & ALLOWANCES MAY BE RECOVERED.
 Age : 60-years
 Last Drawn pay/Emoluments(Rs.): 23500.00
 Gross Pension(Rs.) : 16842.00
 1/4th Surrendered-Portion (Rs.) :
 Commuted Portion (Rs.) : 5894.70
 Net Pension (Rs.) : 10947.30
 Net Family Pension (Rs.) : 0.00
 Amount of Commutation(Rs.) : 875144.00
 With Held Amount (Rs.) : 0.00
 Life Time Arrears (Rs.) : 0.00
 Arrears Of Pension (Rs.) : 0.00
 Special Additional Pension (Rs.) : 0.00
 Commutation Percentage : 35.00
 Commutation Table value : 12.37
 Recovery on A/C of:
 Debitable to Govt : Khyber Pakhtunkhwa
 Total Net Share
 Federal : 0.00 Punjab : 0.00
 Sindh : 0.00 NWFP : 0.00
 Balochistan : 0.00 Military : 0.00
 AJK : 0.00 Autonomous : 0.00

He/She is also entitled to the following increases

Sr. No.	Period	Increase % or amount	Increase Amount	W.E.F.
1	JUL.2011	15.00 %	1642.10	01.07.2019
2	JUL.2015	10.00 %	1258.94	01.07.2019
3	JUL.2016	10.00 %	1384.83	01.07.2019
4	JUL.2017	10.00 %	1523.32	01.07.2019
5	JUL.2018	10.00 %	1675.65	01.07.2019
6	JUL.2019	10.00 %	1843.21	01.07.2019
7	0.	Rs. 0.00	0.00	
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				
26				
27				

PENSION SLIP

Month: January
 Year: 2021

Pension-roll details

Wage Type	Wage Type Text	Amount
/559	Payment	449576.00
0100	Monthly Pension - Self	10947.00
0101	Pension Increases - Self	9328.00
1599	Medical Allow - Pensioner	2737.00
1600	Med. All. 2015 Pensioner	684.00
5901	Arrears of Pension	425880.00

RS = 23660/-

Bank Details

Bank Account Number : 4083881114
 Bank Branch : PESHAWAR-CITY
 PESHAWAR CITY
 Payment Mode : NATIONAL BANK OF PAKISTAN

JAVED IQBAL Gul Bela
 Daudzai Law Chamber
 Advocate High Court Peshawar
 Mob: 0345-940550

JAVED IQBAL Gul Bela
 Daudzai Law Chamber
 Advocate High Court Peshawar
 Mob: 0345-940550

39

Account Office
Credit Advice to Bank - (COMMUTATION)
DATE - 22.01.2021

Page :31
Date/Time:22.01.2021/15:05:57
User Name:50166848

Summary of Branches for Bank of NATIONAL BANK OF PAKISTAN

Branch Code	Branch	No of Employees	Amount
230301	MAIN BRANCH, ABBOTABAD.MAIN BRANCH, ABBOTABAD.	1	877,600.00
230365	MARDAN MAIN BRCHMARDAN MAIN BRCH	1	454,296.00
230387	PESHAWAR CITY PESHAWAR CITY	1	285,379.00
230388	UNIVERSITY CAMPUS UNIVERSITY CAMPUS	2	1,340,964.00
230389	UNIVERSITY TOWN UNIVERSITY TOWN	1	1,131,869.00
230572	PABBIPABBI Nowshera	1	785,837.00
230824	TARU JABATARU JABA	1	1,111,335.00
231328	JALOZAI JALOZAI	1	703,173.00
231435	SHABQADAR SHABQADAR	1	1,222,918.00
231499	OFFICER COLONEY OFFICER COLONEY	1	989,557.00
231516	GUNJ GATE GUNJ GATE	1	900,605.00
231759	HAYATABAD BRANCH HAYATABAD BRANCH	1	834,405.00
231859	CORPORATE BRANCH PESH CANTT CORPORATE BRANCH PESH CANTT	1	1,022,459.00
231979	National Bank of Pakistan Adda Darband Adda Darband Skinderpur	1	1,562,219.00
		Bank Total	15 13,222,616.00

Amount in words: THIRTEEN MILLION TWO HUNDRED TWENTY-TWO THOUSAND SIX HUNDRED SIXTEEN

Account Office
Credit Advice to Bank - (COMMUTATION)
DATE - 22.01.2021

Page :19
Date/Time:22.01.2021/15:05:57
User Name:50166848

Branch code: 230387 Branch: PESHAWAR CITY

City:

Per.No	Name	CNIC	Account No	Amount
00043805	NIAZ ALI KHAN	172011502223	4083881114	285,379.00
			Bank Branch Total	1 285,379.00

Amount in words: TWO HUNDRED EIGHTY-FIVE THOUSAND THREE HUNDRED SEVENTY-NINE RUPEES

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

No. SOH-VI/HD/4-4/Miso/2020

Dated Peshawar, the 18th November, 2020

To

The Accountant General,
Khyber Pakhtunkhwa,
Peshawar.

Subject:- APPEAL FOR ENQUIRY

I am directed to refer to your letter No. Pen-1/S-29/2016-17/514 dated 14.02.2020 on the subject noted above and to forward herewith a copy of letter No. FS/SOSR-II/6-1/2017 dated 07.01.2019 Govt. of Khyber Pakhtunkhwa Finance Department with the request that the period of overstay may be treated as re-employment in Service and the amount drawn in excess in respect of Mr. Sabihullah Ex-Driver may be waived off.

Encl: As Above

Section Officer (E-I)

8/11/2020

Endst: of even No. & date:

Copy forwarded to:

- 1 The Director General Health Services Khyber Pakhtunkhwa
- 2 The Medical Superintendent Naseerullah Khan Baber Memorial Hospital, Peshawar.
- 3 PS to the Secretary Health Govt. Khyber Pakhtunkhwa
- 4 PS to the Special Secretary (E&A) Health Department Khyber Pakhtunkhwa.

JAVED IQBAL Gul Bela
District Law Chamber
Peshawar High Court Peshawar
Mob: 0345-3405501

Section Officer (E-I)

Better Copy 25 40

GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

No. SOH VI/HD/4-4/Misc/2009

Dated Peshawar, the November, 2020

To

The Accountant General,
Khyber Pakhtunkhwa
Peshawar.

Subject:- APPEAL FOR ENQUIRY

I am directed to refer to your letter No. Pen-1/S-29/2016-17/514 dated 14.02.2020 on the subject noted above and to forward herewith a copy of letter No. FS/SOSR-II/6-1-1/2017 dated 17-01-2019 Govt. of Khyber Pakhtunkhwa Finance Department with the request that the period of overstay may be treated as re-employment in service and the amount drawn in excess in respect of Mr. Ssabihullah Ex-Driver may be waived off.

Encl: As Above

Section office (E-I) 18.11.2020

Endst: of even No, & date

Copy forwarded to:

1. The Director General Health Service Khyber Pakhtunkhwa
2. The Medical Superintendent Naseerullah Khan Baber Memorial Hospital Peshawar.
3. PS to the Secretary Health Govt. Khyber Pakhtunkhwa
4. PS to the Special Secretary (E&A) Health department Khyber Pakhtunkhwa

Section Officer (E-I).

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob. 0345-9405501

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob. 0345-9405501



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

(26) (41)

NO.FD/SOSR-II/6-1/2017
Dated Peshawar the 07.01.2019

To
The Secretary Govt of Khyber Pakhtunkhwa,
Health Department

Subject **APPEAL FOR ENQUIRY**

Dear Sir,

I am directed to refer to Health Department letter No. SOH-IV/HD/4-1/Misc/Sahibullah/9013 dated 16.10.2018 on the subject noted above and to state that the overstay in service from 16.11.1953 to 01.07.1956 beyond the age of superannuation in respect of Mr. Sahibullah Ex-Driver of Health Department may be considered a reemployment and the amount drawn in excess be waived off, as was decided in similar nature of case by the Government of Khyber Pakhtunkhwa Finance Department Department vide letter No.SOSR-II/6-1/2003 dated 25.10.2008 (Copy enclosed)

Moreover disciplinary proceedings may be initiated against the concerned dealing officer/officials responsible for entering wrong date of birth as advised by the Establishment Department (Copy enclosed)

Yours faithfully

(2) *Wina*
10/1/19
(NAEEM/TABASSUM)
(SECTION OFFICER (SR.II))

Copy to:-

The Accountant General Office Khyber Pakhtunkhwa, Peshawar

(SECTION OFFICER (SR.II))
07/01/19

JAVED IQBAL Gul Bela
Daudzai Law Chamber
High Court Peshawar
0345403567

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate
High Court Peshawar
0345403567

Government of NWFP
Finance Department
(Regulation Wing)
No. FD(SOSR.H)6-1/2007
Dated Peshawar the 25/10/2008

To

The Accountant General,
NWFP, Peshawar.

Subject: - SERVICE BEYOND SUPERANNUATION.

Dear Sir,

I am directed to refer to your letter No. 11-24(76) Vol-IX/Swat/845 dated 13/6/2008 on the subject noted above and to state that Mr. Gul Ahmad was appointed as Chowkidar in BPS-1 on 27/10/1987. After reaching the age of superannuation he should have been retired on 02/11/2002 but due to negligence of Administrative Department the incumbent rendered 4 years, 11 months and 23 days service beyond the age of 60 years and received emoluments for the said excess period.

2. I am further directed that the period of over stay may be treated as re-employment and the amount drawn in excess is hereby waived-off.

3. I am directed to request you for severe check so that any such case may not happen again.

Yours faithfully,

(MUNAWAR KHAN)
SECTION OFFICER (SR-II)

Enclst: No. & date even.

Copy along with service book of the official in original & other documents is forwarded to the District Comptroller of Accounts Swat, with reference to his letter No. DCA-Swat/Pen/136-37 dated 29/7/2008 for information and necessary action.

OFFICE OF THE ACCOUNTANT GENERAL NWFP PESHAWAR

No. H-24(113)RBPS-2006-07/Prov. Correspondence File/ 764 Dated: 30.10.2008

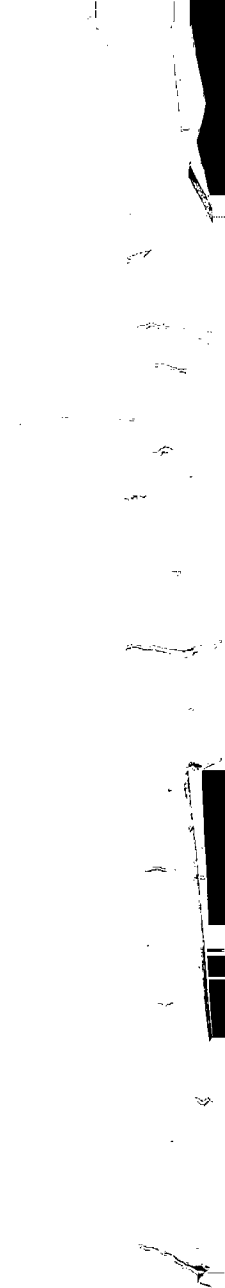
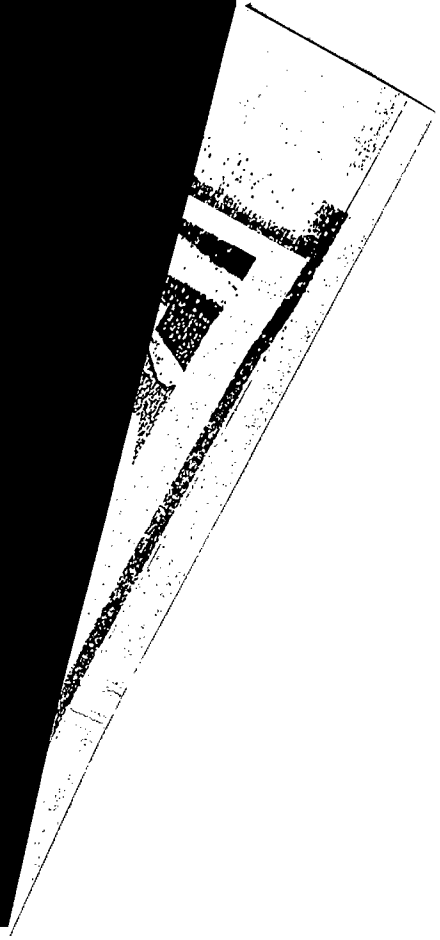
Copy of the above is forwarded for information and necessary action to DAC Swat with reference to this office Memo No. 11-24(76) Vol-IX/820/ Dated 2.05.2008

Per Munawar (Section) Section

Abbas
ACCOUNTS OFFICER (HAD)
NWFP PESHAWAR

JAVED IQBAL Gul Bela
Deudzan Law Chamber
Advocate High Court Peshawar
Mob: 0343-9403091

JAVED IQBAL Gul Bela
Deudzan Law Chamber
Advocate High Court Peshawar
Mob: 0343-9403091



Better Copy-42

Government of NWFP
Finance Department
(Regulatin Wing)
No. FD(SOSR.II)6-I/2007
Dated Peshawar the
25.10.2008

To

The Accountant General
NWFP, Peshawar.

Subject:- **SERVICE BEYOND SUPERANNUATION**

Dear Sir,

I am directed to refer to your letter No. 11-24(76) Vol-IX/Swat/845 dated 13.16.2008 on the subject dated above and to state that Mr. Gul Ahmad as appointed as Chowkidar in BPS-1 on 27.10.1987. After rending the age of superannuation he should have been retired on 02.11.20002 but due to negligence of Administrative Department the incumbent rendered 4 years, 11 months and 23 days service beyond the age of 60 years and receive emoluments for the said excess period.

2. I am further directed that the period of over stay may be treated as re-emoluments and the amount drawn in excess is hereby waived off.

3. I am directed to request you for service check so that m such case may not happen again.

Yours Faithfully,

(Munawar Khan)
Section Officer (SP-II)

Endst No. & date even.

Copy along with service book of the official in original and other documents is forwarded to the District Controller Accounts Swat, with reference to his letter No. DCA, Swat / Pen/ 136-37 dated 29.07.20108 for information and necessary action.

Section Officer
(SP-II)

OFFICE OF THE ACCOUNT GENERAL NWFP PESHAWAR

No. H-24(113)/RBPS-2006-7/Prove (Correspondence File 964 dated 30.10.2008)

Copy of the above is forwarded for information and ne
cessary action to DAO/ Swat with reference to this office Memo No.H-24 (76) Vol-IX dated
12.06.2008.

ACCOUNT OFFICER (HEAD)
NWFP PESHAWAR.

JAVED IQBAL Gul Bela
Daudza Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

JAVED IQBAL Gul Bela
Daudza Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

JAVED IQBAL Gul Behi
Abdulai Law Chamber
Abdulai High Court Chamber
MWP: 0345-9405501

06-10-2020

~~Handwritten signature and text, possibly a name like 'Gul Behi'.~~

Handwritten text in Urdu script, appearing to be a legal document or a list of points. The text is dense and covers most of the page's content area.

(58)

Handwritten signature or name at the bottom of the page.

(44)

IN THE HONORABLE PESHAWAR HIGH COURT
PESHAWAR

In W.P No- _____/2021

Niaz Ali Khan

VERSUS

Government of Khyber Pakhtunkhwa & Others

NOTICE

To,

1. Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
2. Secretary Establishment, Government of Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
3. Secretary Finance, Government of Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
4. Accountant General, Khyber Pakhtunkhwa at Mall Road, Peshawar.
5. The Manager, Government Printing Press at Bacha Khan Chowk, Peshawar.
6. Controller Printer & Stationary Department, Government of Khyber Pakhtunkhwa Peshawar.
7. Account Officer Pension, Accountant General Khyber Pakhtunkhwa at Peshawar Cantt Peshawar.

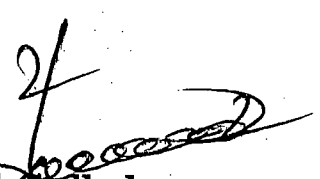
SUBJECT:- NOTICE FOR FILING WRIT PETITION

Please take notice that I am filing Writ Petition before the Hon'ble Peshawar High Court Peshawar.

Dated: 21/05/2021

Petitioner

Through


Javed Iqbal Gulbela

Advocate, Supreme Court of
Pakistan

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR.

Writ Petition No. 2190-P/2021

Niaz Ali KhanPetitioner

Versus

Govt: of Khyber Pakhtunkhwa Chief Secretary & othersRespondents

INDEX

S#	Particular	Annexures	Page No.
01	Reply on behalf of Secretary Finance	-	1
02	Affidavit	-	02
03	Authority letter	-	03

FILED TODAY

Deputy Registrar

11 SEP 2021

store copy

BEFORE THE PESHAWAR HIGH COURT PESHAWAR.

Writ Petition No. 2190-P/2021

Niaz Ali Khan Petitioner.

VS

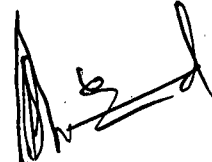
Government of Khyber Pakhtunkhwa Chief Secretary & other Respondents

**REPLY ON BEHALF OF SECRETARY TO GOVT. OF KHYBER
PAKHTUNKHWA FINANCE DEPARTMENT (RESPONDENT NO. 03)**

Respectfully Sheweth.

Secretary To Government of Khyber Pakhtunkhwa Finance Department (Respondent No. 03) endorse and rely on the Parawise Comments already filed by the Respondent No. 04 & 07 (Accountant General And Accounts Officer, Pension) in the instant writ petition.

The Parawise Comments of Respondent No. 04 & 07 may be considered as reply on behalf of Secretary to Government Of Khyber Finance Department (Respondent No. 03) also.



**SECRETARY
GOVT: OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(RESPONDENT NO. 03)**

FILED TODAY
Deputy Registrar
11 SEP 2021

2

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR.

Writ Petition No. 2190-P/2021

Niaz Ali KhanPetitioner

Versus

Govt: of Khyber Pakhtunkhwa Chief Secretary & othersRespondents

AFFIDAVIT

I, Fazal Muhammad, Superintendent Litigation-I, Finance Department, Civil Secretariat, Peshawar, do hereby solemnly affirm and declare on oath that the contents of enclosed Reply in WP No. 2190-P/2021, are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honorable Court.

DEPONENT

Identified by:



Advocate General
Khyber Pakhtunkhwa,
Peshawar.



(Fazal Muhammad)

Superintendent (Lit-I)

Finance Department

CNIC: 17301-1534936-9

PH#: 091-9210415

FILED TODAY

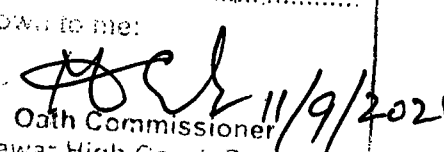
Deputy Registrar

11 SEP 2021

34688

Certified that the above was verified on solemnly affirmation before me in office this 11 day of Sep 2021 at Peshawar by Fazal Muhammad who was identified by A.G. Peshawar

Who is personally known to me:


Oath Commissioner
Peshawar High Court, Peshawar



3
GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

AUTHORITY LETTER

Mr. Fazal Muhammad, Superintendent Litigation-I, Finance Department, Civil Secretariat, Peshawar is hereby authorized to file Reply in WP No. 2190-P/2021, titled Niaz Ali Khan versus Govt: of Khyber Pakhtunkhwa Chief Secretary & others on behalf of Secretary Finance Department, Govt. of Khyber Pakhtunkhwa (respondent No. 03).

**DEPUTY SECRETARY
GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT**

BEFORE THE PESHAWAR HIGH COURT PESHAWAR

Writ Petition No. 2190-P/2021

Niaz Ali Khan.....Petitioner.

V/S

Government of Khyber Pakhtunkhwa through,
Chief Secretary Peshawar & other.....Respondents.

(Para wise reply on behalf of Respondent No.4 & 7)

INDEX

S.NO.	PARTICULAR.	ANNEXURE.	PAGE.
1.	Reply	-----	1-3
2.	Affidavit	-----	4
3.	Supreme Court Judgment in CP.NO.14/2013 Dated: 23/01/2013	A	5-7
4.	Peshawar High Court Judgment in WP.NO.2123-p/2020 Dated: 26/11/2020	B	8-12
5.	Civil Appeal No. 71/2017 Judgment dated:31/01/2018	C	13-16
6.	ESTA CODE (S&GAD)5/(40)87 Dated: 15/02/1989	D&E	17-20
7.	Service Book	F	21
8.	Pension Slip	G	22

Spore copy

BEFORE THE PESHAWAR HIGH COURT PESHAWAR

Writ Petition No. 2190-P/2021

Niaz Ali Khan.....Petitioner.

V/S

Government of Khyber Pakhtunkhwa through,
Chief Secretary Peshawar & other.....Respondents.

(Para wise reply on behalf of Respondent No.4 & 7)

Preliminary Objections:-

- 1) That the Petitioner has no cause of action.
- 2) That the Petitioner has no locus standi.
- 3) That the Petitioner has not come to this Court with clean hands.
- 4) That the Petition in hand having no merits hence liable to be dismissed.
- 5) That the instant Petition is barred by Law/rules.
- 6) That the Petitioner has not complied with Section 79, 80 CPC.
- 7) That the instant Petition is time barred.
- 8) That under the article 212 of the constitution of Islamic Republic of Pakistan 1973, the petitioner is required to come through a right forum i.e Service Tribunal.
- 9) That the identical cases C.P No.14/2013 titled Ahmad Khan Dehpal V/s Government of Balochistan and others dismissed by the Supreme Court of Pakistan vide its judgment dated: 23/01/2013 and Writ Petition No. 2123-P/2020 Titled Abdul Qayum V/s Secretary Water Management Department Peshawar and others dismissed by the Peshawar High Court Peshawar vide its judgment dated:29/09/2020, as well as Civil Appeal No.71 of 2017 titled Mushtaq Ahmad V/s Accountant General Khyber Pakhtunkhwa and others has been dismissed by the Additional District judge-IV D.I Khan vide its judgment dated: 31/01/2018(Annex- A, B & C).

Respectfully Sheweth:

- 1) No comments.
- 2) Relates to Record, however liable to be proved by the Petitioner.

3) That being a Government Servant the Service Book is the authentic document to verify the D.O.B of any Government Servant and in the Service Book of the Petitioner the D.O.B is clearly mentioned as 1959 which later on has been changed/alterd as 15/02/1965 on 11/05/2001 by the Administrative Department of the Petitioner which is totally against the Para 116 of GFR vol-1 read with S & GAD (Regulation Wing) letter No.SOR(S&GAD)5/(40)/87, dated :15/02/1989, (Annex D, E & F) states that:-

“That under Para 116 of GFR vol-1 read with S&GAD (Regulation Wing) letter No.SOR(S&GAD) 5/(40)/87, dated: 15/02/1989, the Date of Birth of any Government Servant once recorded in the service documents gets finality and cannot be changed/alterd except in case of clerical mistake. The Government Servant can apply for corrections of DOB within two years from the date of his entry in to Government Service. (Annex-D &E)”

- 4) Incorrect to the extent that as the D.O.B of the Petitioner mentioned in his Service Book as 1959, accordingly his correct date of retirement is 30/08/2019 instead to 31/06/2020. In this regard over and above Pay & allowances which the Petitioner has illegally been received upon his over stay are liable to be recovered under the rules.
- 5) Incorrect as mentioned in para “6” above.
- 6) As mentioned in Para “3” above the Administrative Department has no Power to change/alter the DOB of the Petitioner at this belated stage.
- 7) That under Para 116 of GFR vol-1 read with S&GAD (Regulation Wing) letter No.SOR(S&GAD) 5/(40)/87, dated: 15/02/1989, the Date of Birth of any Government Servant once recorded in the service documents gets finality and cannot be changed/alterd except in case of clerical mistake. The Government Servant can apply for corrections of DOB within two years from the date of his entry in to Government Service. (Annex-D &E).
- 8) Incorrect as mentioned in Para “6” above.
- 9) That as mentioned in Para “3” above and in light of this Department letter No. Pen-I/N-26/2020-21/ dated:23/09/2020 (Annex-G) the petitioner as well as his administrative department concerned is required to refer the case to Establishment & Admn Department Peshawar for obtaining proper sanction for correction/alteration of D.O.B in Service Book on this belated stage under the rules.
- 10) That in light of Government of Khyber Pakhtunkhwa, Printing & stationary Department Peshawar office order No.298-30/, dated: 27/08/2020, the Petitioner was retired pre-mature by the Administrative Department concerned. But after the Scrutiny of the case his actual D.O.B is 1959, accordingly upon his own request the Petitioner has been stand retired w.e.f 30/06/2019 reaching to superannuation. Hence the Payment of overstay is liable to be recovered under the Pension rules.
- 11) That Respondent No.4 & 7 are bound to follow the rules and instructions issued by the provincial Government of Khyber Pakhtunkhwa from time to time. Hence the Proper retirement order and action in this regard taken by respondents is correct and under the rules.
- 12) That the said writ Petition No. 793-P/2021, which was disposed off vide order dated: 18/03/2021 was not received to respondent No. 4 & 7 nor any comments in this regard were called upon by the Court.
- 13) No comments as not related to respondent No.4 & 7.

14) As mentioned in above Para's the over and above payment of pay & allowances for overstay is liable to be recovered from the Pension of the Petitioner.

Grounds:

- A. That as the Pension rules are exists and the respondents are bound to follow these rules in letter & spirit, hence the instant writ petition having no merits may be dismissed.
- B. No Comments.
- C. As mentioned in Para "6" above.
- D. As mentioned in Para "3" above.
- E. Not related to Respondent No. 4 & 7, hence no comments.
- F. As mentioned in Para "10" above.
- G. That for the correction of D.O.B in the Service Book of the Petitioner, the administrative department has not fulfill the requirements of GFR-116, 117 read with S&GAD letter dated: 15/02/1989, (Annex-D, E & F).
- H. As mentioned in Para "6" above.
- I. That Respondent No.4 & 7 are bound to follow the rules and instructions issued by the Provincial Government of Khyber Pakhtunkhwa, from time to time.
- J. That Respondent No.4 & 7 as and when received the Pension case of the Petitioner has been entertained & Processed without any delay and issued monthly Pension to the Petitioner through his respective Bank A/c No.4083881114, NBP, which the Petitioner is regularly received on monthly basis (Annex-G) , but the overpayment of Pay & Allowances is liable to be recovered under the Pension rules.
- K. As mentioned in Para "9" above.
- L. Relates to Respondent No.5 & 6 and they are in better position to show the status of the case.
- M. Incorrect.
- N. No comments.

Keeping in view the above mentioned facts it is, therefore, humbly prayed that the writ in hand having no merits may be dismissed with cost and payment of over above pay and allowances which the Petitioner has been received illegally may kindly be ordered to be recovered.

Y. J. J. J. J.
ACCOUNTS OFFICER
PENSION

C. J. J. J. J.
Accountant General
Khyber Pakhtunkhwa

P-4

BEFORE THE PESHAWAR HIGH COURT PESHAWAR

Writ Petition No. 2190-P/2021

Niaz Ali Khan.....Petitioner.

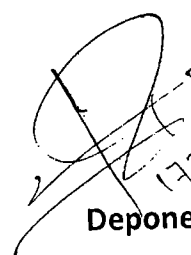
V/S

Government of Khyber Pakhtunkhwa through,
Chief Secretary Peshawar & other.....Respondents.

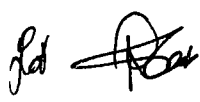
(Para wise reply on behalf of Respondent No.4 & 7)

AFFIDAVIT

I, Ali Shehryar Bukhari, Senior Auditor, Office of the Accountant General Khyber Pakhtunkhwa Peshawar do hereby solemnly affirms & declare that the contents of reply submitted on behalf of Respondent No. 4 & 7 is true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Court.


Deponent 17301-SALUS/2021-3
0346-9018135

Identified By




Advocate General
Khyber Pakhtunkhwa

T

29666

certified that the above was verified on solemnly
affirmation before me in office this 29
day of June 21 Ali Shehryar
S.A Peshawar
A.G.
who was
Who is present


29/06/2021

2013 S C M R 759

[Supreme Court of Pakistan]

Present: Anwar Zaheer Jamali and Ejaz Afzal Khan, JJ

AHMED KHAN DEHPAL---Petitioner

Versus

GOVERNMENT OF BALUCHISTAN and others---Respondents

C.P. No.14-Q of 2013, decided on 23rd January, 2013.

(On appeal against the judgment dated 24-12-2012 passed by the Balochistan Service Tribunal, Quetta in S.A. No.93 of 2012).

Civil Servants (Appointment, Promotion and Transfer) Rules, 1973---

---R. 12A---Constitution of Pakistan, Art.212(3)---Alteration in date of birth recorded at the time of joining service---Scope---Date of birth of civil servant (petitioner) was recorded as 2-2-1953 in his secondary school certificate and the Service Book---After many years in service civil servant claimed that his actual date of birth was 2-2-1958, and consequently instituted a suit for correction of his date of birth, which suit was decreed in his favour---Civil servant approached his department for correction of his date of birth but to no avail---Departmental representation filed by civil servant failed and appeal filed before the Service Tribunal was also dismissed---Validity---According to Rule 12A of Civil Servants (Appointment, Promotion and Transfer) Rules, 1973 date of birth once recorded at the time of joining government service would be final and thereafter no alteration in the date would be permissible---In the present case idea to have the date of birth altered appeared to be an afterthought of the civil servant---Question was as to how the civil servant, who joined the service in 1982, could not know about his actual date of birth despite the passage of more than two decades, especially when at various stages during his studies as well as service he filled many examination forms, pro formas as well as service book---Petition for leave to appeal was dismissed in circumstances.

Muhammad Sharif v. Chief Secretary and another 2011 PLC (C.S.) 35 distinguished.

Khalil Ahmad Siddiqui v. Pakistan through Secretary Interior, Interior Division, Government of Pakistan and 5 others 2003 PLC (C.S.) 696 and Khalil Ahmed Siddiqui v. Pakistan through Secretary Interior, Islamabad and 5 others 2004 PLC (C.S.) 1044 ref.

M. Hadi Shakil Ahmed, Advocate Supreme Court for Petitioner.

Nemo for Respondents.

Date of hearing: 23rd January, 2013.

JUDGMENT

EJAZ AFZAL KHAN, J.---This petition for leave to appeal has arisen out of the judgment dated 24-12-2012 of the learned Service Tribunal, Quetta whereby it dismissed appeal filed by the petitioner.

2. Brief facts giving rise to the instant petition are that the petitioner was appointed as Assistant Engineer in BS-17 in the Irrigation Department, Government of Balochistan on 10-5-1982. He, after

ACCOUNT OFFICER
Office of Accounts General
Khyber Pakhtunkhwa Peshawar

F-16

stepping up many rungs in terms of scales, lastly held the post of Chief Engineer. His date of birth in the Secondary School Certificate and the Service Book was recorded as 2-2-1953. Somehow, it dawned upon him that his actual date of birth is not 2-2-1953 but 2-2-1958. He, thus instituted a suit for declaration and correction of his date of birth. The decree asked for was granted. He approached the Secretary Irrigation Department for correction of his date of birth but of no avail. He filed a representation but that too yielded no result. He then filed an appeal before the Service Tribunal but it too met the same fate.

3. Learned counsel appearing on behalf of the petitioner contended that when the relevant record was looked into, it transpired that the actual date of birth of the petitioner was 2-2-1958, therefore, he asked for its correction. It was liable to be corrected, argued the learned counsel, when a decree in this behalf was also passed. The learned counsel to support his contention placed reliance on the case of "Muhammad Sharif v. Chief Secretary and another" (2011 PLC (C.S.) 35).

4. We have gone through the record and the judgment cited by the learned counsel for the petitioner and have also considered the arguments addressed at the bar.

5. Before we discuss the merits of the case and arguments addressed at the bar it is worthwhile to refer to Rule 12A of the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973 which reads as under:--

[12A. Alteration in the date of birth.---The date of birth once recorded at the time of joining government service shall be final and thereafter no alteration in the date of birth of a civil servants shall be permissible.]

6. The above quoted rule reveals that a date of birth once recorded at the time of joining government service shall be final and thereafter no alteration in the date shall be permissible. This provision was inserted by SRO 521(I) on 31st July, 2000. An alteration before 31st July, 2000 could well be made but not thereafter. Reference to the case of "Muhammad Sharif v. Chief Secretary and another" (supra) will not be of any help to the petitioner as in that case the date of birth recorded in the Secondary School Certificate as well as Service Book was the same whereas it is not the case here. The idea to have the date of birth altered appears to be an off shoot of an afterthought. It, as a matter of fact, has become a common practice with the civil servants to file a civil suit for correction of date of birth when they come to the verge of their retirement just to prolong their tenure for enjoying the perks and privileges for a few more years at the cost of others.

7. How comes this that the petitioner who joined the service in 1982 could not know about his actual date of birth despite the passage of more than two decades. Especially when at various stages during his studies as well as service he filled many examination forms, other pro formas as well as service book. In the case of "Khalil Ahmad Siddiqui. v. Pakistan through Secretary Interior, Interior Division, Government of Pakistan and 5 others" 2003 PLC (C.S.) 696, one of us while dealing with an identical situation held as under:--

"A perusal of the record would reveal that the date of birth of the petitioner was recorded as 19-12-1941 in the Secondary School Certificate as well as the service record. It may be true that the petitioner moved an application for the correction of his service record in the year 1966 before his High-Ups but it is equally true that the said application was not pursued to its logical end. It is also true that another application was moved in this behalf in the year 1982 but again it was left the halfway and never perused whole heartedly to the desired culmination. Why did the petitioner sit and sleep over it for decades and decades together has not been plausibly explained anywhere either in the writ petition or in rejoinder or during the course of arguments addressed at the bar. Why did the petitioner make no effort to get corrected the very basic document of Secondary School Certificate from the Board concerned is another circumstance which violently militates against the genuineness of the stand adopted by him as to the date of birth. If at all the petitioner was in know of some document showing is actual date of birth lying somewhere in Bijnoor, he could well have gone to India to fetch it in mid or late sixties. Why did he postpone his purposeful visit to India till 1998 and why did he not use the good offices of his relatives

Stamp: **SECRETARY**
Office of the
Secretary
Peshawar

to have the same is yet another question whose answer cannot be found either from the record or the counsel representing the petitioner. It, is a matter of fact, has become a common phenomenon and usual practice that the Government Servants if and when they come at the verge of their retirement, they question their dates of birth just to prolong their tenure and enjoy the perks and privileges of their service for a few more years at the cost of others. This idea never creeps across their mind earlier and in case it does, it is never taken seriously and pursued to the desired end. It is clearly and squarely a case of estoppel of conduct which will certainly bar and barricade the petitioner from seeking the correction asked for at least at such a belated stage".

8. In the case of "Khalil Ahmed Siddiqui v. Pakistan, through Secretary Interior, Islamabad and 5 others" (2004 PLC (C.S) 1044), this Court while dismissing the petition against the aforesaid judgment held as under:--

"There is no cavil to the proposition that the above rule having no retrospective effect, would not apply to the cases in which the date of birth of the Government servant was corrected before its promulgation but the request of the petitioner in this behalf was turned down by the department having been found without any foundation and consequently the operation of the rule in question in the case of petitioner would not be excluded. Learned counsel for the petitioner while placing reliance on Government of Balochistan through Secretary S&GAD, Quetta v. Marjan Khan (2003 PLC (C.S.) 245 and Tarb Arif Fatimi v. President of Pakistan (PLD 1994 SC 562) has contended that the matter was not properly considered by the High Court in the light of law laid down by the superior Courts on the subject. We, in the above factual background of the case, do not feel it necessary to further dilate upon the question of applicability of rule 12-A ibid, or the claim of petitioner on the ratio of above referred judgments. The petitioner without producing any proof in support of his claim, sought correction of his date of birth only on the basis of oral assertion that his date of birth given in the Secondary School Certificate was not correct. We are afraid, the controversial question of fact cannot be adjudicated by the High Court in its Constitutional jurisdiction. The matter relating to the correctness or otherwise of the date of birth in the service record being purely question of fact, cannot be determined without recording of evidence and detailed scrutiny of facts and such exercise cannot be undertaken in writ jurisdiction. Further the learned counsel has not been able to convince us that the jurisdiction of the High Court in the matters connected with the terms and conditions of the service of a civil servant is not ousted under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973. This petition having no substance is accordingly, dismissed. Leave is refused".

When viewed against this backdrop, we don't find any merit in this petition.

9. For the reasons discussed above, this petition being without merit is dismissed and the leave asked for is refused.

MWA/A-5/SC

Petition dismissed.

Q. J. Javed
ACCOMPTANT GENERAL
Office of Accountant General
Khyber Pakhtunkhwa Peshawar

**JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT**

W.P.No. 2123-P/2020

Abdul Qayum

Vs

Government of Khyber Pakhtunkhwa through Secretary
Water Management Department and others

Date of hearing 26.11.2020

Petitioner (by) Mr. Abdul Kabir Khan, Advocate

Respondents (by) Syed Sikandar Hayat Shah, AAG alongwith
Dr. Imran Khan, Assistant Accountant
General, Khyber Pakhtunkhwa, Peshawar

JUDGMENT

MUHAMMAD NASIR MAHFOOZ, J. Through the
instant petition filed under Article 199 of the Constitution
of Islamic Republic of Pakistan, 1973, petitioner (Abdul
Qayum) seeks the following relief:-

"It is, therefore, requested that on acceptance of this writ petition, the respondent may kindly be directed to issue and release all the pension contributions of the petitioner and to accept the correct date of birth 01.07.1959 instead of 01.07.1956. It is further requested that any other remedy which may deem fit may also be granted."

Dr. Imran Khan

Dr. Imran Khan
ACCOUNTANT GENERAL
Office of the Accountant General
Khyber Pakhtunkhwa, Peshawar

P-9
2

2. Brief facts as per contents of the writ petition are that petitioner was appointed as Chowkidar on 10.06.1984 in the respondents' department and at that time his date of birth was recorded in the service book as 01.07.1956 instead of 01.07.1959; later on, when he came to know about the wrong entry, he applied for correction. Accordingly, correction was made and the date of birth was corrected as 01.07.1959. On attaining the age of superannuation, petitioner applied for pension, however, the Accounts office of District Buner did not consider the date of birth i.e. 01.07.1959 and asked him to produce medical certificate from the Medical Board. Thereafter, petitioner produced the report of Standing Medical Board but the same was also not considered. The Accounts Office of District Buner sent the case of petitioner to the office of Accountant General, Khyber Pakhtunkhwa, Peshawar for guidance, however, the A.G office returned the case back to Accounts Office, Buner with the direction to examine the case in the light of



ACCOUNTANT GENERAL
Office of Accountant General
Khyber Pakhtunkhwa Peshawar

S&GAD letter dated 15.02.1959 read with GFR 116-117 accordingly. The petitioner time and again requested the department for grant of pensionary benefits but in vain; hence, the instant writ petition.

3. Respondents submitted their comments, wherein they have mentioned that the actual date of birth of petitioner is 01.07.1956, by alteration the date has been changed to 01.07.1959. The Standing Medical Board too verified 01.07.1959 to be the true and correct age of petitioner. In view of this date of birth, he performed his duties till his retirement on 17.06.2019.

4. We have heard arguments of learned counsel for the parties and have perused the documents available on the file.

5. After considering the entries of service book, it appears that the date of birth of petitioner in the NIC and the computerized Pay Roll from the year, 2006 till his retirement is the same i.e. 01.07.1959. Though, the report of Standing Medical Board is much after the date



ACCOUNTANT GENERAL
Office of Accountant General
Khyber Pakhtunkhwa Peshawar

P-11

of retirement but this Court in another identical case bearing W.P.no. 3858-P/2014 decided on 25.11.2015

held as under:-

"In view of the foregoing discussion, we hold that the petitioner stood retired from service on 30.06.2009 as per his date of birth dated 01.07.1949 recorded in his service book at the time of his induction in service in 1976 and that the subsequent change of date of birth was not in accordance with law and rules. Simultaneously, we also hold that since the petitioner had served the respondent/Department till 30.06.2014 under the bonafide belief in view of his changed date of birth as 01.07.1954 and thus performed duties for five long years accordingly and no one objected to his overstay in the department, therefore, no monetary recovery in respect of the said five years be made from the pensionary benefits etc. to which he is entitled.

This writ petition stands disposed of in the above terms."

ACCOUNTS OFFICER
OFFICE OF THE
MAYOR
MAYOR'S OFFICE
MAYOR'S OFFICE
MAYOR'S OFFICE

6. The case of petitioner is *pari materia* to the above mentioned decided case as he has continued to perform his duty till 17.06.2019 and in case his date of birth was to be reckoned as 01.07.1956, then he was to retire on 17.06.2016. The instant writ petition is disposed of with similar directions that no monetary recovery in

respect of the said three years be made from the pensionary benefits of the petitioner.


ACTING CHIEF JUSTICE

Announced
26.11.2020


JUDGE


ACCOUNTANT GENERAL
Office of Accountant General
Khyber Pakhtunkhwa Peshawar

(DB) Hon'ble Mr. Justice Qaiser Rashid Khan, Acting Chief Justice
Hon'ble Mr. Justice Muhammad Nasir Mahfooz

Noor Shah

(Annex - C)

P-13

(16)

In the Court of
ARBAB AZIZ AHMAD, ADDL: DISTRICT JUDGE-IV
DERA ISMAIL KHAN

Civil Appeal No. 71 of 2017

Mushtaq Ahmad son of Muhammad Bakhsh caste Majhota resident of Gara Essa Khan, Tehsil Daraban District D.I.Khan.... (Appellant/plaintiff)

V E R S U S

The Accountant General & another..... (Respondent/defendant)

Date of Institution 21.11.2017
Date of Decision 31.01.2018

JUDGMENT

This appeal is directed against the judgment and decree dated 08.11.2017, passed by learned Civil Judge-VI, D.I.Khan, whereby suit filed by the appellant/plaintiff was dismissed.

Facts in background are that, plaintiff brought a suit for permanent injunction against defendants wherein he prayed for incorporating his correct date of birth i.e 05.01.1963 in their record as per decree dated 13.11.2015 passed by learned Civil Judge-III, D.I.Khan in his favour. It is further alleged in the plaint that as per judgment and decree of the learned Civil Judge-III, D.I.Khan, his service book has already been rectified by the headmaster of his school whereas defendants are reluctant to rectify their record, hence the suit.

The defendants were summoned who appeared before the Court but thereafter remained absent, therefore, they were placed ex-parte and plaintiff was directed to produce his ex-parte evidence.

31.01.2018

Accountant General
Office of the Accountant General
Khyber Pakhtunkhwa Peshawar

Plaintiff in support of his case recorded his own statement as PW-1 and closed his ex-parte evidence. Thereafter, ex-parte arguments of appellant/plaintiff were heard.

The learned trial Court after hearing ex-parte arguments dismissed the suit of the appellant/plaintiff, hence the instant appeal.

Arguments heard and record perused.

Learned counsel for the appellant/plaintiff argued that judgment & decree of the learned trial court is against law, facts & evidence on record hence untenable. He further argued that the correct date of birth of appellant/plaintiff is 05.01.1963 but the defendants are reluctant to correct their record. He added that the Judgment delivered by the learned trial Court has resulted in gross miscarriage of justice and thus requested that the same be set aside.

The representative/Junior Auditor of DAO, respondents/defendants fully supported the case of respondents/defendants and prayed for dismissal of the instant appeal.

Perusal of record reveals that the appellant/plaintiff filed the suit in the instant case wherein he sought correction of his date of birth in the record of respondents/defendants on the basis of judgment/decree dated 13.11.2015, passed by learned Civil Judge-III, D.I.Khan, in a suit titled, "Mushtaq Ahmad Vs NADRA" filed by the appellant/plaintiff on 18.06.2015 for declaration-cum-permanent injunction. It is apparent from the record that the respondents/defendants were not impleaded as a party to that suit, therefore, they had not been provided an opportunity to refute the stand taken in the suit of appellant/plaintiff, therein, furthermore the

4.7.2018
31.01.2018
ACCO
Office of the Accountant General
Khyber Pakhtunkhwa Peshawar

learned trial court, which requires interference by this court through any illegality or infirmity in the impugned judgment and decree of the

Hence in light of what has been discussed above, I have not found

be final and thereafter no alteration in the same shall be permissible.

employee once recorded at the time of joining Government service shall

and privileges for a few more years. Furthermore, date of birth of an

stage is apparently aimed at to only prolong his tenure for enjoying his

in the present case also the plea of the appellant/plaintiff at this belated

few more years at the cost of others.

their tenure for enjoying the perks and privileges for a

come to the verge of their retirement just to prolong

file a civil suit for correction of date of birth when they

has become common practice with the civil servant to

be an offshoot of an after-though. It is a matter of fact.

"The idea to have the date of birth altered appears to

2013 SCMR 759 wherein it is observed that:

case of "Ahmad Khan Dipal Vs Government of Baluchistan" reported in

similar question came before the august Supreme Court of Pakistan in the

which was neither claimed nor the Court granted against them. Almost

therefore, the appellant/plaintiff cannot claim execution of such a relief

(Ex. PW-1/1) was not passed against the present respondents/defendants.

Government servant. As per record the judgment dated 13.11.2015

the appellant/plaintiff had not even disclosed the fact that he is a

record of respondents/defendants in the said suit. Besides, in the said suit,

appellant/plaintiff had not made any prayer for correction of his age in the

APPELLANT
Office of the
Khyber Pakhtunkhwa
Government
General
Secretary

31-01-2018
A. B.

(18)

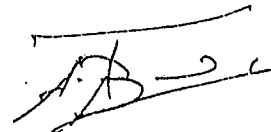
P-15

(19)

instant appeal, thus the appeal in hand being devoid of merits is dismissed, accordingly. No order as to costs.

Record of learned trial court be returned forthwith and file of this court be consigned to Record Room after completion.

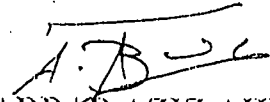
ANNOUNCED
31.01.2018



(ARBAB AZIZ AHMAD)
Additional District Judge-IV
Dera Ismail Khan

CERTIFICATE

Certified that this Judgment of mine consisting of 04 pages, each of which has been read, signed and corrected by me wherever necessary.



(ARBAB AZIZ AHMAD)
Additional District Judge-IV,
Dera Ismail Khan



ARBAB AZIZ AHMAD
Addl: Distt. & Session Judge-IV
Dera Ismail Khan

ACCOMPLISHED OFFICER
Office of A...
Khyber Pakhtunkhwa Peshawar

(Annex-D)



ESTA CODE

**ESTABLISHMENT CODE KHYBER PAKHTUNKHWA
(REVISED EDITION) 2011**

**A COMPENDIUM OF LAWS, RULES AND INSTRUCTIONS
RELATING TO THE TERMS AND CONDITIONS
OF PROVINCIAL CIVIL SERVANTS**

ACC. SEC. GENERAL
Office of Administration General
Khyber Pakhtunkhwa Peshawar

**COMPILED BY;
(O&M) SECTION
ESTABLISHMENT & ADMINISTRATION DEPARTMENT**

Change in the recorded date of birth of the civil servants

(Annex D)

I am directed to say that under the existing rules, immediately after his induction into service, every civil servant is required to declare the date of his birth by the Christian era with as far as possible confirmatory/conclusive evidence such as matriculation certificate, municipal birth certificate and so on. This is supplemented by the opinion of the Civil Surgeon/Standing Medical Board. The department after full satisfaction with age and on the basis of medical examination of the new entrant in the department, enter the same in an authentic document i.e. Service Book/History of Service etc. The said document is maintained by the Department/ Audit and is always checked periodically.

→ 2. The date of birth of a civil servant as recorded in his service documents remains constantly in his knowledge. This is reiterated in his ACRs and the Seniority List issued by the department from time to time. The preparation of service record of an officer is an official act and according to law, it is presumed to be correct. GFR-116 also provides that the date of birth once recorded cannot be altered except in the case of clerical error, without the previous orders of the Local Administration. Despite this, certain Government Servants are complacent with the state of affairs and sleep over their rights for decades knowing fully about their dates of birth entered in their Service Books etc. It would therefore be too much to accept such a belated claim from a Civil Servant that he was born on a date other than the one entered in his service documents and that the delay in representation was due to ignorance of the alleged erroneous entry. After all, there is always attached a finality to decisions taken by competent authorities.

3. I am, accordingly, directed to request that all concerned may please be informed in clear terms that in future a request for an alteration in the recorded date of birth of a Government servant may only be entertained by the Appointing Authority in the case of officers in BS-17 and above and by the Administrative Department in the case of civil servants in BS-16 and below, after special enquiry and only if the Government servant applies for it within two years from the date of his entry into Government service.

(Authority; No.SOR.II(S&GAD)5(40)/87, dated 15th February, 1989)

AC/10/10/10/10/10/10
 Office of Assistant General
 Khyber Pakhtunkhwa Peshawar

25
Annex E
P-19
2

GOVERNMENT OF N.W.F.P.
Services & General Administration Department
(Regulation Wing)

No.SOR-II(S&GAD)5(40)/87,
Dated Peshawar the 15th February, 1989.

To

1. All Administrative Secretaries to Government of NWFP.
2. Secretary to Governor, NWFP.
3. All Commissioners in NWFP.
4. All Heads of Attached Departments in NWFP.
5. All Heads of Autonomous/Semi-Autonomous Bodies in NWFP.
6. All Deputy Commissioners/Political Agents in NWFP.
7. All District and Sessions Judges in NWFP.
8. The Registrar, Peshawar High Court, Peshawar.
9. The Secretary, Board of Revenue, NWFP, Peshawar.
10. The Secretary, NWFP Public Service Commission, Peshawar.
11. The Registrar, NWFP Service Tribunal, Peshawar.

SUBJECT:- CHANGE IN THE RECORDED DATE OF BIRTH OF THE CIVIL SERVANTS.

Sir,

I am directed to say that under the existing rules, immediately after his induction into service, every civil servant is required to declare the date of his birth by the christian era with as far as possible along with confirmatory/conclusive evidence such as matriculation certificate, municipal birth certificate and so on. This is supplemented by the opinion of the Civil Surgeon/Standing Medical Board. The department after full satisfaction with age and on the basis of medical examination of the new entrant in the department, enter the same in an authentic document, i.e. Service Book/History of Service etc. The said document is maintained by the Department/Audit and is always checked periodically.

2. The date of birth of a civil servant as recorded in his service documents remains constantly in his knowledge. This is reiterated in his ACRs and the Seniority Lists issued by the department from time to time. The preparation of service record of an officer is an official act and according to Law, it is presumed to be correct. GFR-116 also provides that the date of birth once recorded cannot be altered except in the case of clerical error, without the previous orders of the Local Administration. Despite this, certain Government Servants are complacent with the state of affairs and sleep over their rights for decades knowing fully about their dates of birth entered in their Service Books etc. It would therefore be too much to accept such a belated claim from a Civil Servant that he was born on a date other than the one entered in his service documents and that the delay in representation was due to ignorance of the alleged erroneous entry. After all, there is always attached a finality to decisions taken by competent authorities.

2/2/89
3/3/2009

Distressed
OFFICE

am. F. D.
29/2

(24)

C

P-20

3. I am, accordingly, directed to request that all concerned may please be informed in clear terms that in future a request for an alteration in the recorded date of birth of a Government servant may only be entertained by the Appointing Authority in the case of officers in B-17 and above and by the Administrative Department in the case of civil servants in B-16 and below, after special enquiry and only if the Government servant applies for it within two years from the date of his entry into Government service.

4. Kindly acknowledge receipt.

Your Obedient Servant,

Z. Khattak

(ZARIN DAD KHATTAK)
Additional Secretary (Regulation)

Endst: No. SORII(S&GAD)5(40)/87, Dated Peshawar the 15th February, 1989.

Peshawar. Copy forwarded to Secretary to Chief Minister, NWFP,

Z. Khattak

(ZARIN DAD KHATTAK)
Additional Secretary (Regulation)

Endst: No. SORII(S&GAD)5(40)/87, Dated Peshawar the 15th February, 1989.

Copy forwarded to:-

1. All Additional Secretaries in Services and General Administration Department.
2. All Deputy Secretaries in Services and General Administration Department.
3. Private Secretary to Chief Secretary, NWFP.
4. All Section Officers/Estate Officer in Services and General Administration Department.
5. Private Secretary to Secretary, Services and General Administration Department.
6. Librarian, Services and General Administration Department.

ACC. NO. 1000
Office of the
Chief Secretary
Peshawar

G. Jilani

(GHULAM JILANI)
Section Officer (Reg-II)

(Annex-F)

P-21

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: M. Niaz Ali Khan
 2. Race: (14) Mughal
 3. Residence: Village + P.O. Gul Bela, Tehsil + Distt. Peshawar

4. Father's name and residence: outly called Abdur Rashid - do -

5. Date of birth by Christian era as nearly as can be ascertained: 15-02-1965 (date of birth) / 19-59 (corrected) No. 2786 dt. 11/5/2001

6. Exact height by measurement: 5-6
Govt. Stationery & Printing Deptt. of NWFP, Peshawar
MANAGER
Govt. Stationery & Printing Deptt. of NWFP, Peshawar

7. Personal marks for identification: Black mole on chin

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

Little Finger	Ring Finger
Middle Finger	Fore Finger
Thumb	

RECEIVED
 COURT OF APPEALS
 PESHAWAR
 10/05/2001

9. Signature of Government servant: NIJAZ ALI KHAN

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

Attested: [Signature]
 MANAGER
 Stationery & Printing Deptt. of NWFP, Peshawar.

JAVED IQBAL - Gul Bela
 Daudzal Law Chamber
 Advocate High Court Peshawar
 Mob: 0345-9405501

PENSION ROLL DATA SHEET & PENSION SLIP

Date of issue : 21.06.2021
 PPO Type : FRESH
 PPO Number : 00043805-01
 Pensioner ID : 00043805
 Pension Register No: PEN-I/N-26/2020-21
 Pensioner's Name : **NIAZ ALI KHAN**
 Father / Husband name : **ABDUR RASHEED**
 Designation: **BINDER GRADE-2**
 NIC No.: 1730115072223
 Grade / Scale : 06
 Department.Min: **STATIONERY & PRINTING PRO**
 Pensioner's Type: **SELF**
 Pension Type: **SUPERANNUATION**
 Date of Birth : 01.07.1959
 Date of appointment: 08.11.1987
 Date of retirement: 30.06.2019
 Date of Death:
 Date of commence : 01.07.2019
 Date of Restoration :
 Accounts office ID : PW
 Accounts office Name : AG KP Peshawar
 Federal / Province : Khyber Pakhtunkhwa
 Length of Qualifying Service : 31 years, 7 months, 22 days
 Old PPO Number :
 No. and Date of sanction of pension / Letter No. :
 and the date of the other Audit and Accounts officer authorising
 the Pension/Gratuity/Commutation
 Permanent Address:

Note : ANTICIPATORY PENSION PAID. RS. 589765/- OF PAY & ALLOWANCES MAY BE RECOVERED.

Age : 60 years
 Last Drawn pay/Emoluments(Rs.): 23500.00
 Gross Pension(Rs.) : **16842.00**
 1/4th Surrendered Portion (Rs.) :
 Commuted Portion (Rs.) : 5894.70
 Net Pension (Rs.) : **10947.30**
 Net Family Pension (Rs.) : **0.00**
 Amount of Commutation(Rs.) : **875144.00**
 With Held Amount (Rs.) : 0.00
 Life Time Arrears (Rs.) : 0.00
 Arrears Of Pension (Rs.) : 0.00
 Special Additional Pension (Rs.) : 0.00
 Commutation Percentage : 35.00
 Commutation Table value : 12.37
 Recovery on A/C of :
 Debitable to Govt : Khyber Pakhtunkhwa
 Total Net Share
 Federal : 0.00 Punjab : 0.00
 Sindh : 0.00 NWFP : 0.00
 Balochistan : 0.00 Military : 0.00
 AJK : 0.00 Autonomous : 0.00

P-22

He/She is also entitled to the following increases

Sr. No.	Period	Increase % or amount	Increase Amount	W.E.F.
1	JUL.2011	15.00 %	1642.10	01.07.2019
2	JUL.2015	10.00 %	1258.94	01.07.2019
3	JUL.2016	10.00 %	1384.83	01.07.2019
4	JUL.2017	10.00 %	1523.32	01.07.2019
5	JUL.2018	10.00 %	1675.65	01.07.2019
6	JUL.2019	10.00 %	1843.21	01.07.2019
7	0.	Rs. 0.00	0.00	
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				
26				
27				

ACCOUNTANT GENERAL
 Office of Accounts General
 Khyber Pakhtunkhwa Peshawar

PENSION SLIP

Month: May
 Year: 2021

Pension roll details

Wage Type	Wage Type Text	Amount
/559	Payment	23696.00
0100	Monthly Pension - Self	10947.00
0101	Pension Increases - Self	9328.00
1599	Medical Allow - Pensioner	2737.00
1600	Med. All. 2015 Pensioner	684.00

Bank Details

Bank Account Number : 4083881114
 Bank Branch : PESHAWAR CITY
 PESHAWAR CITY
 Payment Mode : NATIONAL BANK OF PAKISTAN

IN THE COURT OF HONOURABLE PESHAWAR HIGH COURT
PESHAWAR

Writ Petition No. 2190-P/2021

Niaz Ali Khan, Ex-Binder (BPS-6), Department of Printing and Stationery
Government of Khyber Pakhtunkhwa, Peshawar.

.. .. *Petitioner*

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar.
2. Secretary Establishment, Government of Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
3. Secretary Finance, Government of Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
4. Accountant General (AG), Khyber Pakhtunkhwa at Mall Road Peshawar.
5. The Manager, Government Printing Press at Bacha Khan Chowk, Peshawar.
6. Controller Printing and Stationery Department, Government of Khyber Pakhtunkhwa, Peshawar.
7. Account Officer Pension, Accountant General Khyber Pakhtunkhwa at Peshawar Cantt Peshawar.

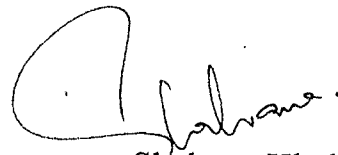
INDEX

Sl: No.	Description of Documents	Annex	Pages
1	Reply to Writ Petition	--	1-2
2	School Leaving Certificate	I	3
3	Copy of N.I.C (Age change)	II	4
4	Observation of Accountant General Office	III	5

RE-FILED TODAY
Deputy Registrar
28 JAN 2022

FILED TODAY
Deputy Registrar
16 NOV 2021

Respondent


Shahana Khalil
Stationery and Printing Deptt
Govt. of Khyber Pakhtunkhwa
Peshawar

Court of Honourable Peshawar High Court
Peshawar

store copy

IN THE COURT OF HONOURABLE PESHAWAR HIGH COURT
PESHAWAR

Writ Petition No. 2190-P/2021

Niaz Ali Khan, Ex-Binder (BPS-6), Department of Printing and Stationery
Government of Khyber Pakhtunkhwa, Peshawar.

.. .. *Petitioner*

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar.
2. Secretary Establishment, Government of Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
3. Secretary Finance, Government of Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
4. Accountant General (AG), Khyber Pakhtunkhwa at Mall Road Peshawar.
5. The Manager, Government Printing Press at Bacha Khan Chowk, Peshawar.
6. Controller Printing and Stationery Department, Government of Khyber Pakhtunkhwa, Peshawar.
7. Account Officer Pension, Accountant General Khyber Pakhtunkhwa at Peshawar Cantt Peshawar.

.. .. *Respondents*

Para-wise Comments on Behalf of Respondent No. 6

PRELIMINARY OBJECTIONS

The Accountant General Office may explain their legal position in the case.

Written reply is as under.

Para No. 1: is correct.

Para No.2: is correct.

Para No. 3: is correct. As per School Leaving Certificate date of birth is 15.02.1965 (Annex-I).

Para No. 4: is correct. This Department prepared the pension case of the Petitioner in accordance with his date of birth as 15.02.1965 at first.

Para No. 5: The date of birth of the Petitioner was correctly recorded as 1959 as per his CNIC provided by him at that time. Later on the Petitioner changed his age in CNIC on 24.03.2001, duly marked change of age on CNIC (Annex-II), after this the Petitioner requested the Department for change in his date of birth.

Para No.6: is correct.

Para No. 7: After correction of date of birth, this Department carried out all the procedure as per the corrected date of birth.

Para No. 8: is correct

Para No. 9: is correct. The Accountant General Office raised objection that the date of birth was not changed within the prescribed period of two years.

Para No.10: The second Retirement Order was issued in light of Accountant General Office observations that Pension Papers may be prepared by considering his date of birth as 1959 (Annex-III).

Para No. 11: As per Accountant General Office observations the date of birth was not corrected within the prescribed time of two years after date of appointment as laid down in policy /GFR-116. so the date of birth of the Petitioner was considered as 1959 as per original CNIC provided by him at the time of appointment.

FILED TODAY
Deputy Registrar
16 NOV 2021



SUPERINTENDENT
Printing and Stationery Dept
Govt of Khyber Pakhtunkhwa
Peshawar

Para No. 12: is correct.

Para No. 13: is correct.

Grounds:

- A. is correct.
- B. is correct.
- C. As per Accountant General Office observations the date of birth was not corrected within the prescribed time of two years.
- D. The Accountant General Office may offer the reply.
- E. The second Retirement order was issued in light of Accountant General Office observations that Pension Papers may be prepared by considering his date of birth as 1959 (Annex-II).
- F. As stated above.
- G. As stated above the date of birth was not rectified within the stipulated period.
- H. The Accountant General Office may offer the reply.
- I. The Accountant General Office may offer the reply.
- J. The Accountant General Office may offer the reply.
- K. The Accountant General Office may offer the reply.
- L. As stated above, This Department prepared the pension case of the Petitioner in accordance with his date of birth as 15.02.1965 at first. Later on, the pension papers were prepared in compliance with the observation of Accountant General Office and re-submitted to the Accountant General Office for further process as desired.
- M. The Accountant General Office may offer the reply.
- N. The Accountant General Office may offer the reply.

PRAYERS

It is humbly prayed that AG Office may interpret their observation under GFR-116 etc. and this Office will comply with directions of the Honourable Court please.

FILED TODAY
[Signature]
Deputy Registrar
16 NOV 2021

[Signature]
RESPONDENT NO. 6
CONTROLLER
 Controller, Government Printing & Stationery Department
 Khyber Pakhtunkhwa, Peshawar
 Khyber Pakhtunkhwa, Peshawar

[Signature]

Khyber Pakhtunkhwa
 Government Printing & Stationery Department
 Peshawar

مدارس چھوڑنے کا سارٹیفکیٹ

Am B

نمبر 396
 تاریخ 15.9.1965
 مدرسہ اسلامیہ
 مدرسہ اسلامیہ

ان طلباء کی صورت میں مدرسہ کے کسی حصہ اس کا استعمال
 کی ضرورت پڑھائی کے اختتام پر چھوڑیں
 جس کا مقصد یہ ہے کہ مدرسہ کے تمام حصوں کو دوبارہ استعمال
 کے لیے تیار کیا جاسکے۔

نمبر مدرسہ	داخل ہونے کی تاریخ			خاص ہونے کی تاریخ	سال درسیہ		ماتر میں باقی سال	ماتر میں باقی سال	ماتر میں باقی سال
	گول می	ورم می	پری می		1	2			
173	28-5	21-5	77	28-5	21-5	77			
174	11-4	21-5	77	28-5	21-5	77			

تاریخ 16.6.77
 صرف اسکالرشپ پانے والوں کی ضرورت میں

Date of Birth
 15.02.1968
 Verified
 H.M.S. Gul Bela
 Peshawar

اسکالرشپ کی مقدار
 اس کے ساتھ ساتھ ادائیگی
 اس کے ساتھ ساتھ ادائیگی
 اس کے ساتھ ساتھ ادائیگی

مدرسہ اسلامیہ
 مدرسہ اسلامیہ
 مدرسہ اسلامیہ

Handwritten signature

JAVED IQBAL, Gul Bela
 Daudzai Law Chamber
 Advocate High Court Peshawar
 Mob. 0345-940550

Handwritten signature
 SUPERINTENDENT
 Station
 Peshawar



ACCOUNTS OFFICER
OIA, KOLKATA

[Handwritten signature]

JAVED IQBAL Gil Pals
Nandlal Law Chamber
No. 15, 9th Floor
Nandlal Law Court Building
Kolkata - 700 015

[Handwritten signature]

JAVED IQBAL Gil Pals
Nandlal Law Chamber
No. 15, 9th Floor
Nandlal Law Court Building
Kolkata - 700 015

[Handwritten signature]

Service book (two parts) and Pension papers
are returned in original with the remarks
that the ex-official date of birth recorded
in service book as 1959, later on thirteen
half years date of birth have been overwritten/
changed from 1959 to 15-2-1965.
It is therefore the case may be
referred to Establishment & Admin Deptt
under intimation to this office.

Memor: Ref: Your office letter No-435/dt-18-9-2020
on the above subject.

Subj: Pension case in v/o NIG at Jahan
Pashur
Printing & Stationery Deptt
The Controller
Ex: Binder Grade - I

Ann B
dt 23-9-2020
(19)

No - Pen - I / N-26/2020-21 /

To

Gmail

Writ Br <phc.writbranch@gmail.com>

WP No. 2190/2021 for compliance of order as case is fixed for 24-03-2022

1 message

Writ Br <phc.writbranch@gmail.com>

Fri, Feb 25, 2022 at 10:45 AM

To: advocategeneralkp@gmail.com, solit1 finance <solit1fd@gmail.com>, PSC Muhammad Saeed <pscmuhammadsaeed@gmail.com>, Litigation PSC <litigationpsc@gmail.com>, ag@agkhyberpakhtunkhwa.gov.pk, anjum_physicist@yahoo.com, shabir666.press@gmail.com, Khaled Rahman <khaledrahman.advocate@gmail.com>

Dear Sir/Madam,

السَّلَامُ عَلَيْكُمْ

URGENT COURT MATTER



Case file alongwith Order of this Honourable Court, is transmitted for information & necessary compliance at the earliest.

please acknowledge receipt of this Email.

WRIT BRANCH (NOTICE SECTION)PESHAWAR HIGH COURT, PESHAWAR**2 attachments****WP2190 -P 2021 23-02-22.pdf**
43K**WP2190-2021 Niaz Ali Khan VS Govt of KP & others CF.pdf**
3577K




✓

PESHAWAR HIGH COURT, PESHAWAR
FORM OF ORDER SHEET

Date of Order of Proceedings	Order of other Proceedings with Signature of Judge.
1	2
15.06.2021	<p data-bbox="508 423 883 458"><u>WP No. 2190-P of 2021</u></p> <p data-bbox="508 504 987 539"><u>Present:</u> Petitioner in person.</p> <p data-bbox="756 584 872 609" style="text-align: center;">*****</p> <p data-bbox="508 675 1318 972">Syed Qaiser Ali Shah, AAG, present in the court, is put on notice and directed to file comments on behalf of respondents No.3,4,6 and 7 within a fortnight.</p> <p data-bbox="508 1023 845 1058"><u>INTERIM RELIEF.</u></p> <p data-bbox="508 1108 1318 1406">Notice for 30.06.2021. Till the date fixed, the respondents are restrained from making any recovery from the petitioner in respect of his alleged overstay in service.</p> <div data-bbox="845 1370 1136 1693" style="text-align: center;"> CHIEF JUSTICE  JUDGE</div>



PESHAWAR HIGH COURT, PESHAWAR

ORDER SHEET

Date of Order of Proceedings	Order or other Proceedings with Signature of Judge(s).
1	2
18.11.2021	<p><u>W.P. No.2190-P/2021</u></p> <p>Present: Mr. Javed Iqbal Gulbela, Advocate, for the petitioner.</p> <p>Muhammad Sohail, AAG, for the official respondents.</p> <p>*****</p> <p>Comments have not yet been submitted by respondents No.3, 4, 6 and 7; as such, reminder be issued to them to file the same within a fortnight. Adjourned to a date in office.</p> <p> JUDGE</p> <p> JUDGE</p> <p></p>

PESHAWAR HIGH COURT, PESHAWAR



ORDER SHEET

Date of Order or Proceedings	Order or others Proceedings with Signature of Judge
1	2
23.02.2022	<p><u>W.P No.2190-P/2021 with I.R.</u></p> <p>Present: Ms. Farwa Kazmi, Advocate on behalf of counsel for the petitioner.</p> <p>Mr. Khaled Rahman, Addl. A.G, for the respondents.</p> <p>*****</p> <p>The former seeks time to file rejoinder.</p> <p>Allowed. May do so within a fortnight. Adjourned to 24.03.2022. Till then, the interim relief dated 15.06.2021 shall continue.</p> <p> JUDGE</p> <p> JUDGE</p> <p>SCANNED</p>

PESHAWAR HIGH COURT, PESHAWAR

ORDER SHEET





Date of Order or Proceedings	Order or others Proceedings with Signature of Judge
1	2
24.03.2022	<p><u>W.P No.2190-P/2021 with I.R.</u></p> <p>Present: Mr. Javed Iqbal Gulbela, Advocate, for the petitioner.</p> <p>Ms. Shakeela Begum, Assistant A.G, for the respondents.</p> <p>*****</p> <p>Due to paucity of time, this case is adjourned to 16.05.2022.</p> <p> JUDGE</p> <p> JUDGE</p>

SCANNED

PESHAWAR HIGH COURT, PESHAWAR

ORDER SHEET


Date of Order of Proceedings	Order of other Proceedings with Signature of Judge.
1	2
16.05.2022	<p><u>WP No.2190-P-2021 with IR</u></p> <p>Present: Mr. Javed Iqbal Gulbela, Advocate, for the petitioner.</p> <p style="text-align: center;"> Mr. Wilayat Khan, AAG for respondents.</p> <p style="text-align: center;">****</p> <p style="text-align: center;">Learned counsel for petitioner seeks time to prepare the case for arguments on the point of maintainability. May do so. Adjourned to 14.06.2022.</p> <p style="text-align: right;"> JUDGE</p> <p style="text-align: right;"> JUDGE</p>

**DB-Hon'ble Mr. Justice Shakeel Ahmad & Hon'ble Mr. Justice Syed Arshad Ali
Ayub, CS**

PESHAWAR HIGH COURT, PESHAWAR

FORM OF ORDER SHEET



Date of Order of Proceedings	Order or other Proceedings with Signature of Judge.
1	2
14.06.2022	<p><u><i>Writ Petition No.2190-P/2021</i></u></p> <p>Present: Petitioner in person.</p> <p>Mr. Saqib Raza, AAG, for the respondents.</p> <p>*****</p> <p>On the request of the former, the case is adjourned to 26.07.2022.</p> <p style="text-align: center;">CHIEF JUSTICE  JUDGE</p>

(Fayaz)

(D.B) Justice Qaiser Rashid Khan, CJ & Justice Abdul Shakoor, J

✓

**PESHAWAR HIGH COURT, PESHAWAR
ORDER SHEET**

Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary
1	2
26.07.2022	<p data-bbox="418 435 748 473"><u>W.P No.2190-P/2021.</u></p> <p data-bbox="418 521 1414 561"><i>Present: Mr. Javed Iqbal Gulbela, Advocate, for the petitioner.</i></p> <p data-bbox="607 607 1305 647"><i>Mr. Bashir Naveed, AAG, for the respondents.</i></p> <p data-bbox="761 738 984 763" style="text-align: center;">*****</p> <p data-bbox="418 839 1430 1222"><u>Dr. Khurshid Iqbal, J.-</u> Petitioner, Niaz Ali Khan, was serving as Binder (BPS-6) in the Department of Printing and Stationery, Government of Khyber Pakhtunkhwa, Peshawar. On his own request, he got retired from his department. His retirement order was issued on 27.08.2020.</p> <p data-bbox="418 1287 1430 1501">2. The petitioner moved the instant writ petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, with the following relief:</p> <p data-bbox="509 1564 1341 1748" style="text-align: center;"><i>“It is, therefore, most humbly prayed that on acceptance of the instant petition a writ of quo-warranto be issued to the respondents to explain that under what authority of law, a second retirement order be issued, when already one is issued, and;</i></p> <ul style="list-style-type: none"><li data-bbox="509 1791 1341 2005">i) <i>By declaring the petitioner as validly retired from service vide office order No.298-301 i.e. 27-08-2020 w.e.f 31-08-2020 upon his own request and be declared as fully entitled for the whole pension, all ancillary, frictions attached to his service spread over long 33 years.</i><li data-bbox="509 2018 1341 2081">ii) <i>To declare the impugned retirement order No.1031-34, i.e. 24-12-2020 as illegal, void and unconstitutional.</i><li data-bbox="509 2094 1341 2182">iii) <i>To declare the alleged deduction from pension and recovery of allegedly over-stay in service from the petitioner as illegal and void.</i><li data-bbox="509 2194 1341 2232">iv) <i>To declare that the incorrect date of birth of the</i>

Javed Iqbal
SCANNED

petitioner i.e. 1959 has correctly been rectified and corrected in the service book vide office order No.2286 i.e. 11-05-2000 and any subsequent denial thereof, or insisting upon incorrect date of birth i.e. 1959 is wrong, illegal and void.

- v) *To issue directions to respondents to sanction and release the full pension alongwith all its attached allowances etc. with arrears, strictly as per orders of retirement No.298-301 i.e. 27-08-2020 and be paid till 31-08-2020 without any deduction and recovery thereof.*
- vi) *Even if the alleged date of birth of the petitioner is remind to be 1959, then direction be issued to the respondents to not to make any recovery of alleged over-stay, as the petitioner has already rendered services and case of similar nature has already been dealt with by respondents themselves.*
- vii) *Any other relief not specifically asked for, may graciously be extended in favour of the petitioner, in the circumstances of the case.*

3. We have heard Mr. Javed Iqbal Gulbela, Advocate, learned counsel for the petitioner and perused the record.

4. On the face of the record, the relief sought falls within the jurisdiction of Service Tribunal under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973. As such, we direct that it be forwarded to the worthy Service Tribunal for its disposal. The parties are directed to appear before the Service Tribunal on 27.09.2022.

5. The instant writ petition is disposed of in the above terms.

Announced:
26.07.2022


JUDGE


JUDGE