

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 1625/2021

Date of Institution ... 25.01.2021  
Date of Decision ... 22.06.2022

Hassan Badshah S/O Said Qamash, Retired Constable No.246,  
District Police, Nowshera.

... (Appellant)

**VERSUS**

District Police Officer, Nowshera and five others.

... (Respondents)

Fazal Shah Mohmand,  
Advocate

... For appellant.

Naseer Ud Din Shah,  
Assistant Advocate General

... For respondents.

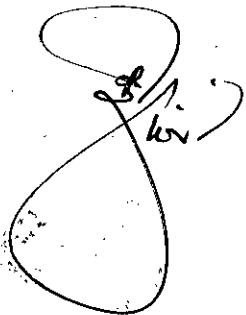
Rozina Rehman  
Fareeha Paul

... Member (J)  
... Member (E)

**JUDGMENT**

ROZINA REHMAN, MEMBER (J):The appellant has invoked the jurisdiction of this Tribunal through above titled appeal with the prayer as copied below:

“On acceptance of this appeal the impugned order of respondent No.1 dated nil and the impugned entry of compulsory retirement whereby appeal for necessary correction to the extent of retired on Medical Board has been filed may kindly be set aside and respondents may kindly be directed to make necessary correction in the retirement order as well as other service record of the appellant thereby entering

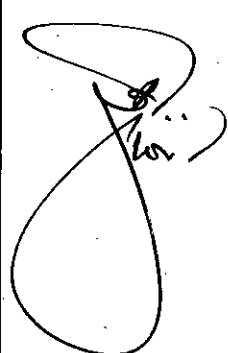


**“Retired on Medical Board/ground being permanently incapacitated” instead of “Compulsory Retirement.”**

2. Brief facts of the case are that appellant was enlisted in district Police Nowshera on 10.02.1980. He was referred to Standing Medical Board for examination and investigation in the year 1994 due to a complicated disease and the appellant was declared completely and permanently incapacitated for further service of any kind. He was accordingly retired from service on medical grounds, however, he was shown as compulsory retired on the discharge certificate instead of retired as invalidated/incapacitated. He approached the competent authority (respondent No.4) for rectification in the pension papers to the extent of entry in the type of pension as retired on Medical Board instead of compulsory retirement which was filed being time barred. He filed writ petition which was withdrawn with the permission to approach proper forum, hence, the present service appeal.

3. We have heard Fazal Shah Mohmand Advocate learned counsel for appellant and Naseer Ud Din Shah, learned Assistant Advocate General for respondents and have gone through the record and the proceedings of the case in minute particulars.

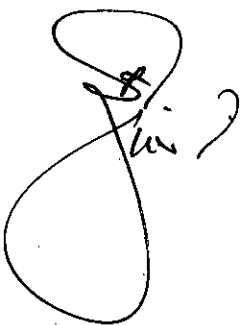
4. Fazal Shah Mohmand Advocate learned counsel appearing on behalf of appellant inter-alia submitted that the appellant was not treated according to law and rules because he was referred to Standing Medical Board for detailed examination and investigation and the opinion of Medical Board was taken into consideration but wrong entry was made in the relevant service record. He further contended that the entry in his service record was passed in utter violation of law and rules and that the impugned order being not a speaking order is liable to be



set aside. Lastly, he submitted that fundamental rights of the appellant guaranteed in the Constitution of Islamic Republic of Pakistan, 1973 were badly violated. He, therefore, requested for acceptance of the instant service appeal.

5. Conversely, learned AAG contended that appellant had proceeded on retirement in the year 1994 almost 26 years ago and due to devastating flood of 2010, entire record of District Nowshera got damaged/destroyed. It was submitted that perusal of form No.14-12(2) discharge certificate as well as Pension Roll Data Sheet, appellant proceeded on retirement under pension type as compulsory retirement on 05.10.1994 and that he kept mum for 26 years and no objection was raised on his mode of retirement, therefore, plea of the appellant being badly time barred, was rightly rejected.


6. From the record, it is evident that appellant served in the District Police, Nowshera. Due to some complicated disease, he was referred to Standing Medical Board for proper examination and investigation. The Standing Medical Board examined the appellant on 08.09.1994 and after proper examination by Dr. Zia Ur Rehman Psychiatrist Hayat Shaheed Hospital, Peshawar, the appellant was considered completely and permanently incapacitated for further service in consequence of being Sihizo Affective and was not fit for service. The Standing Medical Board agreed with the opinion of Dr. Zia Ur Rehman, Psychiatrist and they considered the appellant to be completely and permanently incapacitated for future service of any kind in consequence of Sihizo Affective and was not fit for further service and should be boarded out from service. Accordingly, he got retired but it is strange that he was




shown being proceeded on retirement under pension type as compulsory retirement on 05.10.1994. The respondents failed to explain as to why the present appellant was shown as compulsory retired on the Pension Roll Data Sheet. Compulsory retirement is a major punishment as per Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and admittedly, the appellant was examined by the Standing Medical Board. He was never departmentally proceeded against for any kind of misconduct but even then the word "Compulsory Retirement" was introduced in his relevant papers and instead of making rectification, his appeal was rejected being badly time barred. Infact, the order passed by the competent authority is a void order and no limitation runs against void order.

7. Keeping in view the above discussion, this appeal is allowed as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.  
22.06.2022

  
(Rozina Rehman)  
Member (J)

  
(Fareeha Paul)  
Member (E)

**ORDER**

22.06.2022

Appellant present through counsel.

Naseer Ud Din Shah, learned Assistant Advocate General  
for respondents present. Arguments heard. Record perused.

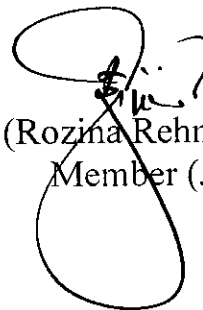
Vide our detailed judgment of today of this Tribunal  
placed on file, this appeal is allowed as prayed for. Parties are left  
to bear their own costs. File be consigned to the record room.

**ANNOUNCED.**

22.06.2022



(Farzeha Paul)  
Member (E)



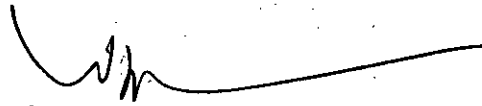
(Rozina Rehman)  
Member (J)

01.12.2021

Junior to counsel for the appellant present.

Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Fayyaz H.C for respondents present.

Former made a request for adjournment as senior counsel for the appellant is busy before Hon'ble Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 17.03.2022 before D.B.



(Atiq Ur Rehman Wazir)  
Member (E)



(Rozina Rehman)  
Member (J)

17.03.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 24.03.2022 for the same as before.



Reader.

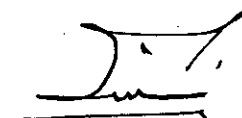
24.03.2022

Clerk of learned counsel for the appellant present Mr. Muhammad Riaz Khan Paindakheil learned Assistant Advocate General for the respondents present.

Clerk of the learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy before Hon'ble Peshawar High Court, Peshawar. Adjourned. To come up for arguments before the D.B on 22.06.2022.



(Rozina Rehman)  
Member (J)



(Salah-Ud-Din)  
Member (J)

01.04.2021

Appellant present through counsel. Preliminary arguments heard. Record perused.

Points raised need consideration. Appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notice be issued to the respondents. To come up for written reply/comments on 8/07/2021 before S.B.

Appellant Deposited  
Security & Process Fee

(Rozina Rehman)  
Member (J)

08.07.2021

Junior to counsel for the appellant and Mr. Kabirullah Khattak, Addl. AG alongwith Sajid, Superintendent Fayaz H.C for the respondents present.

Respondents have not furnished reply/comments. Representative of the respondents seek further time. Respondents are directed to submit reply/comments within 10 days in office, positively. In case the requisite reply/comments is not submitted within the stipulated time, office shall put up the appeal with a report of non-compliance. To come up for arguments before the D.B on 01.12.2021 before the D.B.

Stipulated period has passed and reply has not been submitted.

Chairman

P.S

28.07.2021

Learned Addl. A.G be reminded about the omission and for submission of Reply/comments within extended time of 10 days.

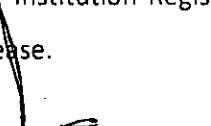
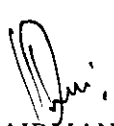
Chairman

Form- A

FORM OF ORDER SHEET

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

Case No.- 1625 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	25/01/2021	<p>The appeal of Mr. Hassan Badshah presented today by Mr. Fazal Shah Mohmand Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>2-</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>01/04/21</u></p> <p style="text-align: right;"> CHAIRMAN</p>



**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

Service Appeal No \_\_\_\_\_/2021

Hassan Badshah .....Appellant

**V E R S U S**

DPO & others.....Respondents

**I N D E X**

S.No	Description of Documents	Annexure	Pages
1.	Service appeal		1-3
2.	Application for condonation of delay		4
3.	Copy of Opinion of Standing Medical Board	A	5-6
4.	Copy of Discharge Certificate Pension Roll	B	7-8
5.	Copy of Application with report	C	9
6.	Copy of Application and Order dated NIL	D & E	10-11
7.	Copy of order dated 14-01-2021	F	12-13
8.	Wakalat Nama		14

**Dated:-25-01-2021**

  
**Appellant**

**Through**

  
**Fazal Shah Mohmand**  
**Advocate Supreme Court.**

**OFFICE:-** Cantonment Plaza Flat 3/B Khyber Bazar Peshawar Cell# 0301 8804841

**Email:-** [fazalshahmohmand@gmail.com](mailto:fazalshahmohmand@gmail.com)

-/-

**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

Service Appeal No 1625/2021

Hassan Badshah S/O Said Qamash, Retired Constable No. 246,  
District Police Nowshera ..... **Appellant**

Khyber Pakhtunkhwa  
Service Tribunal

**V E R S U S**

Diary No. 1631  
Dated 25/1/2021

1. District Police Officer, Nowshera.
2. Regional Police Officer, Mardan Region Mardan.
3. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
4. District Accounts Officer Nowshera.
5. Accountant General, Khyber Pakhtunkhwa, Peshawar.
6. Secretary Finance Department, Govt. of Pakhtunkhwa, Peshawar.

..... **Respondents**

**APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT  
1974 AGAINST THE ORDER DATED NIL OF  
RESPONDENT NO.1 WHEREBY DEPARTMENTAL APPEAL  
FOR NECESSARY CORRECTION TO THE EXTENT OF  
RETIRED ON MEDICAL BOARD HAS BEEN FILED.**

**PRAYER:-**

On acceptance of this appeal the impugned Order of respondent No. 1 dated NIL and impugned entry of compulsory retirement whereby appeal for necessary correction to the extent of Retired on Medical Board has been filed may kindly be set aside and respondents may kindly be directed to make necessary correction in the retirement order as well as other service record of the appellant thereby entering "Retired on Medical Board/ground being permanently incapacitated" instead of Compulsory Retirement.

Any other remedy not specifically asked for and deemed appropriate in the circumstances case may also be granted in favor of the appellant.

**Respectfully Submitted:-**

1. That the appellant was enlisted in District Police Nowshera on 10-02-1980 and in the year 1994 due to complicated diseases was referred to Standing Medical Board for detailed examination and investigation. The Medical Board after examination and investigation opined that the appellant is completely and permanently incapacitated for further service of any kind. **(Copy of Opinion of Standing Medical Board is enclosed as Annexure A).**

Filed to-day

Registrar

25/1/2021

2. That the appellant was accordingly retired from service on Medical ground being permanently incapacitated however for reasons other than fair and bonafide in the Discharge Certificate and Pension Roll instead of retired as incapacitated/invalidated the type of pension was mentioned as Compulsory Retirement. **(Copy of Discharge Certificate Pension Roll is enclosed as Annexure B).**
3. That the appellant approached respondent No 4 for the copy of his Service Book vide application dated 10-06-2020 however the same was not traced as according to the office report the same was lost in 2010 due to heavy flood. **(Copy of Application with report is enclosed as Annexure C).**
4. That the appellant also approached respondent No 1 for necessary correction in the Pension Papers to the extent of entry in the type of pension as Retired on Medical Board instead of Compulsory Retirement which was filed being time barred vide order dated NIL. **(Copy of Application and Order dated NIL is enclosed as Annexure D & E).**
5. That the appellant filed Writ petition W.P No. 3447-P/2020 before the Honorable Peshawar High Court Peshawar for redressal of his grievances which later on withdrawn by the appellant with permission to approach proper forum. **(Copy of W.P No. 3447-P/2020 and Order dated 14-01-2021 is enclosed as Annexure F).**
6. That the impugned Order dated NIL of respondent No 1 whereby appeal for correction in the pension papers has been filed is against the law, facts and principles of justice on grounds inter-alia as follows:

### **GROUND S:-**

- A. That the omission and commissions of the respondents are illegal, unconstitutional, without lawful authority and of no legal authority.
- B. That the appellant is not treated according to law and rules being his fundamental right as per the law and Constitution of the law of land.
- C. That the appellant was referred to Standing Medical Board for detailed examination and investigation and the Medical Board after detailed examination was of the opinion that that the petitioner is completely and permanently incapacitated for further service of any kind.



- D. That through the wrong entry the appellant has been made to suffer for no fault as according to law in case of Retired on medical Board the son of the appellant is to be appointed in his place while in the present scenario he is not held entitled for such benefit.
- E. That the impugned order/entry is void being passed in utter violation of law and rules on the subject, thus even time factor becomes irrelevant in such cases eventuality.
- F. That the impugned order is not speaking order and thus liable to be set aside on this score alone.
- G. That there is no omission or commission on part of the appellant and no one could be punished for the fault of others.
- H. That the fundamental rights of the appellant guaranteed in the Constitution are badly violated and if he is not treated according to law he would suffer irreparable loss.
- I. That the appellant seeks the permission of this honorable Court for further/additional grounds at the time of arguments.

**It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.**

**Any other relief deemed appropriate and not specifically asked for, may also be granted in favor of the appellant.**

**Dated:-25-01-2021**

**Through**

  
**Appellant**  
  
**Fazal Shah Mohmand**  
**Advocate Supreme Court.**

**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

Service Appeal No \_\_\_\_\_/2021

Hassan Badshah .....Appellant

**V E R S U S**

DPO & others.....Respondents

**APPLICATION FOR CONDONATION OF DELAY IF ANY**

**Respectfully Submitted:-**

1. That the accompanying appeal is being filed today in which no date of hearing has been fixed so far.
2. That the grounds of appeal may be considered as integral Part of this application.
3. That the impugned entry and impugned order dated NIL are not only without lawful authority but also in violation of mandatory provisions of law, thus void ab-intio and time factor become irrelevant and such eventuality.
4. That after the son of the appellant became illegible for appointment, the cause of action accrued to the appellant, hence the instant appeal is well within time.
5. That the law as well as the dictums of the superior Courts also favors decisions of cases on merit.

**It is therefore prayed that on acceptance of this application, the delay if any in filing of appeal may kindly be condoned.**

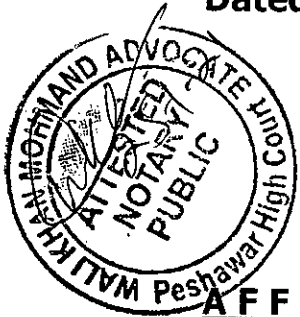
**Dated:-25-01-2021**

*[Signature]*  
**Appellant**

**Through**

*[Signature]*

**Fazal Shah Mohmand  
Advocate Supreme Court.**



**AFFIDAVIT**

I, Hassan Badshah S/O Said Qamash, Retired Constable No. 246, District Police Nowshera, do hereby solemnly affirm and declare on oath that the contents of this **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

*[Signature]*  
**DEPONENT**

The Standing Medical Board consisting of the following Members assembled in the office of the Medical Superintendent Hospital Peshawar, on 5/5/54, to examine Mr. Hussain and Sha. Constable No. 1246.

Dr. Zia-ur-Rahman, Psychiatrist, Peshawar, who after detailed examination and investigation is of the opinion that he is suffering from Senile Dementia and is not fit for service.

The Standing Medical Board agrees with the opinion of Dr. Zia-ur-Rahman Psychiatrist, Peshawar, Hospital Peshawar.

He should be permanently incapacitated for further service completely and permanently incapacitated for further service of any kind as a consequence of Senile Dementia and is not fit for further service and should be considered for removal from service.

DR. CHITRAKAWAN  
DATE: 5/9/54.

(PROF. DR. ZIA-UR-RAHMAN)  
EYE SPECIALIST  
SHAHED TEACHING HOSPITAL  
PESHAWAR... MEMBER...

(DR. GHULAM FARID KHAN)  
PRESIDENT, STANDING MEDICAL  
BOARD/MEDICAL SUPERVISOR  
HOSPITAL PESHAWAR.

(DR. ZIA-UR-RAHMAN)  
PSYCHIATRIST  
SHAHED TEACHING HOSPITAL  
PESHAWAR... MEMBER...

(DR. ZIA-UR-RAHMAN)  
MEDICAL SPECIALIST  
SHAHED TEACHING HOSPITAL  
PESHAWAR... MEMBER...

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BETTER COPY OF THE PAGE NO. 5-

OFFICE OF THE PRESIDENT STANDING MEDICAL BOARD/MEDICAL  
SUPERINTENDENT CIVIL HOSPITAL PESHAWAR

The Standing Medical Board consisting on the following Members assembled in the office of the Medical Supdt: Civil Hospital Peshawar, on 08/09/1994, to examine Mr. Hussan Bad Shah Constable No. 246.

He had referred to Dr. Zia Ur Rehman Psychiatrist Hayat Shaheed Hospital Peshawar, who after detailed examination and investigation is on the opinion that he is suffering from Senizo Affective and is not fit for service.

The Standing Medical Board agreed with the opinion of Dr. Zia-ur-Rehman Psychiatrist Hayat Shaheed Teaching Hospital Peshawar.

We considered Mr. Hussan Bad Shah Constable is completely and permanently incapacitated for further service of any kind in consequence of Sehizo Affective and is not fit for further Service and should be boarded out from service.

Station: Peshawar  
Dated 08/09/1994

(Prof. Dr. Zia-Ul-Islam)  
Eye Specilist Hayat  
Shaheed Teaching Hosp  
Peshawar... Member...

(Dr. Zia-ur-Rehman)  
Psychiairist Hayat  
Shaheed Teaching Hosp  
Peshawar ... Co-Opted Member...

(DR. Ghulam Farid Khan)  
President Standing Medical  
Board/Medical Supdt: Civil  
Hospital Peshawar.

(Dr. Zahid Farooq)  
Medical Specialist Hayat  
Shaheed Teaching Hospital  
Peshawar ... Member...

ATTESTED TO BE  
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No. 1126 /MS, DMS, Dated Feshwar on 25/9/1994.

From:-  
The Medical Superintendent,  
Civil Hospital, Feshwar.

To,  
The Superintendent of Police,  
District, Feshwar.

Subject:- STANDING MEDICAL BOARD.

Re:- Director General Health Services, Warr,  
Fesh: Enc No: No. +249/M, dated 5/5/1994.

Mr. Hussain Bad Shah Consto: No. 246, was examined  
by the Standing Medical Board held in this office on 5/9/1994. The  
proceeding of the Standing Medical Board is sent herewith for  
further necessary action.

*Handwritten signature*  
MEDICAL SUPERINTENDENT  
CIVIL HOSPITAL, FESHWAR.

No. \_\_\_\_\_ /MS, DMS,  
Copy of the above is forwarded to the  
Director General Health Services Warr, Fesh: for information  
with reference to his letter quoted above.

MEDICAL SUPERINTENDENT  
CIVIL HOSPITAL, FESHWAR.

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**BETTER COPY OF THE PAGE NO. 36**

NO. 1124/MS/BMB,  
25/09/1994

Dated Peshawar the

From: The Medical Superintendent,  
Civil Hospital, Peshawar.

To: The Superintendent of Police,  
District Nowshera.

Subject: **STANDING MEDICAL BOARD.**

Memo:-

Ref: Director General Health Services Now, Pesh: Endst  
No. 4249/M dated 05/05/1994.

Mr. Hussan Badshah Constable No. 246, was examined by the Standing Medical Board held in this office on 08/09/1994. The proceeding of the Standing Medical Board is sent herewith for further necessary action.

MEDICAL SUPERINTENDENT  
CIVIL HOSPITAL, PESHAWAR.

No. \_\_\_\_\_/MS/BMB,

Copy of the above is forwarded to the Director General Health Services, Now/Pesh for information with reference to his letter quoted above.

MEDICAL SUPERINTENDENT  
CIVIL HOSPITAL, PESHAWAR.

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POLICE NO. 100

POLICE DEPARTMENT

FORM NO. 14-12(2)  
DISCHARGE CERTIFICATE

GS & FD KPK 547 PS 160

DISTRICT-NOWSHERA

DESCRIPTION ROLL 246

Provincial Rank of Constabulary No Constable

Name of Parentage Hassan Badshah s/o Said Qamash

Cast Phatan

Village & P.O PS & District village Ismail Zai P.O Garhi Kapoora District Mardan

Height 5-7


Age on date of Discharge 32 years

Distinctive Marks -

Character Compulsory Retirement

Case of discharge and date (Note also medals and decoration held if any).

Dated 09-06-2020.

  
District Police Officer,  
Nowshera

TO WHOM IT MAY CONCERNED


Certified that Constable Hassan Badshah No.2467 has been discharge from the Police force from the 10-02-1980 to 05-10-1994 having served follows:-

POLICE SERVICE

	YEAR	MONTHS	DAYS
As CONSTABLE	<u>14</u>	<u>07</u>	<u>25</u>
As			
As			
Total	<u>14</u>	<u>07</u>	<u>25</u>
GRAND TOTAL OF SERVICE	<u>14</u>	<u>07</u>	<u>25</u>

Paid on account of clothing money -. He has received a just amount of his pay and arrears of pay from his first enrolment upto this date all claims against him by Govt has been settled in full.

Dated: 09-06-2020.

  
District Police Officer,  
Nowshera

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کمیٹی کا - ڈسٹرکٹ انچارجنگ آفیسر ایف ایچ ایف

ادرا فوائت لہذا لہذا لہذا

صاحب عالی

صاحب عالی کے نام سے لکھی گئی ہے کہ مسائل حل کر کے اور کوئی مسئلہ نہ رہے

15-10-1994

انہوں نے جو مسائل لکھے ہیں ان کے حل کی ضرورت ہے

انہوں نے جو مسائل لکھے ہیں ان کے حل کی ضرورت ہے

انہوں نے جو مسائل لکھے ہیں ان کے حل کی ضرورت ہے

صاحب عالی

10/6/20

U Bhatti

صاحب عالی کے نام سے لکھی گئی ہے کہ مسائل حل کر کے اور کوئی مسئلہ نہ رہے

انہوں نے جو مسائل لکھے ہیں ان کے حل کی ضرورت ہے

Mr. Zahid Gh  
As Per rule  
10/6/20

10/6/20

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**PENSION ROLL DATA SHEET  
NOT A PAYMENT ADVICE**

-8-

Date of Issue : 09.06.2020  
 CG Type : FRESH  
 CG Number : 00782697-01  
 Pensioner ID : 00782697  
 Pension Register No:  
 Pensioner's Name : HASSAN BADSHAH  
 Father / Husband name : SAID QAMASH  
 Designation : CONSTABLE  
 IC No.: 1610103831897  
 Grade / Scale : 05  
 Department Min: Law Department  
 Pensioner's Type: SELF  
 Pension Type: COMPULSARY RETIREMENT  
 Date of Birth : 10.01.1962  
 Date of appointment: 10.02.1980  
 Date of retirement: 07.10.1994  
 Date of Death:  
 Date of commencement: 06.10.1994  
 Date of Restoration: 05.10.2032  
 Accounts office ID : NR  
 Accounts office Name : Nowshera  
 Federal / Province : Khyber Pakhtunkhwa  
 Length of Qualifying Service : 14 years, 7 months, 25 days  
 IC and Date of sanction of pension / Letter No. :  
 On the date of the order Audit and Accounts officer authorising  
 the Pension/Gratuity/Commutation  
 Permanent Address: DIST MARDAN

Note :  
 Age : 35 years  
 Last Drawn pay/Emoluments(Rs.): 2192.00  
 Gross Pension(Rs.) : 807.20  
 1/4th Surrendered Portion (Rs.) :  
 Commuted Portion (Rs.) : 0.00  
 Net Pension (Rs.) : 6000.00  
 Net Family Pension (Rs.) : 0.00  
 Amount of Commutation(Rs.) : 0.00  
 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 : 0.00  
 Commutation Table value : 38.23  
 Recovery on A/C of:  
 Debitable to Govt : Khyber Pakhtunkhwa

**PROPOSED PENSION SLIP**

Payment details

Wage Type	Wage Type Text	Amount
0100	Monthly Pension - Self	6000.00
0101	Pension Increases - Self	5000.00
1599	Medical Allow - Pensioner	750.00
1600	Med. All. 2015 Pensioner	187.50

He/She is also entitled to the following increases

Sr. No	Period	Increase % or amount	Increase Amount	W.E.F.
	JUL.2015	Rs. 600.00	600.00	01.08.2016
	JUL.2016	10.00%	660.00	01.08.2016
	JUL.2017	10.00%	726.00	01.07.2017
	JUL.2018	Rs. 2014.00	2014.00	01.07.2018
	JUL.2019	10.00%	1000.00	01.07.2019
	0.	Rs. 0.00	0.00	

Bank Details

Bank Account Number : 0010038693230012  
 Bank Branch : GARHI DAULATZAI  
 GARHI DAULATZAI  
 Payment Mode : ALLIED BANK LIMITED

ACCOUNTS OFFICER  
(Pension)

Document Printed on 09.06.2020 by 894475

**ATTESTED TO BE  
TRUE COPY**

"D" 2  
-10-

The D.P.O. Nowshera  
Nowshera Distt.

Subject: Request for necessary correction  
in the Pension Papers.

R/Sir: ① I have the honour to bring to  
your kind notice that I the under signed  
was examined by the concerned Standing Medical  
Board on 8-9-1994 & as a result of the that  
Medical report, I was retired from service  
on Medical Board. (The relevant documents are attached)

② When the pension papers was prepared &  
given to the under signed, it was recorded  
that the under signed was retired from  
service & pension type was shown as  
(Compulsory), which is now a great loss  
for me.

So, it is requested that necessary correction  
in the pension papers be made please.

Hassan Badshah  
S/o Syed Ramash  
No - 246

ATTESTED TO BE  
TRUE COPY

REFERENCE ATTACHED

11- "E"

Sir,

Ex-Constable Hassan Badshah No.246 has submitted the attached application requesting therein for necessary correction in connection with his pension case. As per his request, his pension was carried out and marked/shown as compulsory instead of Medical pension.

If your good self agreed, may seek legal opinion from Inspector legal or otherwise?

Submitted for further orders please.

EC / NSR  
22-6-20

HC/DPO NSR

Approved

Application moved by Ex-Constable Hassan Badshah is not worth consideration because he proceeded on retirement on 05-10-1994, but since his retirement he never raised any objection on his mode of retirement therefore the said application may be filed please, if agree

Inspector legal

DPO Filed being time barred

ATTESTED TO BE TRUE COPY

"F"  
12-



**IN THE PESHAWAR HIGH COURT PESHAWAR**

Writ Petition No 3447P/2020

Hassan Badshah S/O Said Qamash, Retired Constable No 246 District Police Nowshera.....**Petitioner**

**VERSUS**

1. District Police Officer Nowshera.
2. Regional Police Officer, Mardan Region Mardan.
3. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
4. District Accounts Officer Nowshera.
5. Accountant General, Khyber Pakhtunkhwa, Peshawar.
6. Secretary Finance Department, Govt. of Khyber Pakhtunkhwa, Peshawar.....**Respondents**

**WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF THE ISLAMIC REPUBLIC OF PAKISTAN 1973 AS AMENDED UP TO DATE.**

**Respectfully Submitted:-**

FILED TODAY  
Deputy Registrar  
16 JUL 2020

1. That the petitioner was enlisted in District Police Nowshera on 10-02-1980 and in the year 1994 due to complicated diseases was referred to Standing Medical Board for detailed examination and investigation. The Medical Board after examination and investigation opined that the petitioner is completely and permanently incapacitated for further service of any kind. **(Copy of Opinion of Standing Medical Board is enclosed as Annexure A).**

2. That the petitioner was accordingly retired from service on Medical ground being permanently incapacitated however for reasons other than fair and bonafide in the Discharge Certificate and Pension Roll instead of retired as incapacitated/invalidated the type of pension was mentioned as Compulsory Retirement. **(Copy of Discharge Certificate Pension Roll is enclosed as Annexure B).**

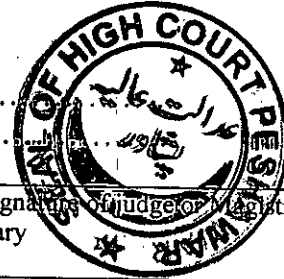
3. That the petitioner approached respondent No 3 for the copy of his Service Book vide application dated 10-06-2020 however the same was not traced as according to the office report the

**ATTESTED**  
**EXAMINER**  
Peshawar High Court

PESHAWAR HIGH COURT, PESHAWAR  
FORM "A"  
FORM OF ORDER SHEET.

-13-

Court of .....  
Case No. ....



Serial No of order or proceeding	Date of Order or Proceeding	Order or other proceedings with Signatures of Judge or Magistrate and that of parties or counsel where necessary
1	2	3
	14.01.2021.	<p><u>Writ Petition No. 3447-P/2020</u></p> <p><b>Present:-</b></p> <p>Mr. Fazal Shah Mohmand Advocate, for the petitioner.</p> <p>Mr. Muhammad Atif Khan AAG, for Provincial Government.</p> <p>****</p> <p><b>S M ATTIQUE SHAH, J:-</b> After arguing the case at some length; learned counsel for petitioner requested for withdrawal of the instant writ petition in order to approach the competent forum for redressal of grievance of petitioner. As such, this writ petition is dismissed as withdrawn; however, petitioner would be at liberty to approach the competent forum for redressal of his grievance; but subject to all just and legal objections from other side.</p> <p><b>Announced.</b> 14.01.2021.</p> <p style="text-align: right;"><i>[Signature]</i> JUDGE</p> <p style="text-align: right;"><i>[Signature]</i> JUDGE</p>

No. 22481  
Date of Presentation of Application 16-1-2021  
No of Pages  
Copying fee  
Total  
Date of Preparation of Copy 16-1-2021  
Date of Delivery of Copy 16-1-2021  
Received By *[Signature]*

"A.Qayum PS"

(DB)

Hon'ble Mr. Justice S M Attique Shah & Hon'ble Mr. Justice Muhammad Naeem Anwar.

*[Signature]*  
CERTIFIED TO BE TRUE COPY

Examiner  
Peshawar High Court, Peshawar  
Authorized Under Article 177-c  
of the Qanun-e-shahadat Order, 1948.

16 JAN 2021



بعد الٹ سروس ٹریڈنگ لڈ لڈ

سروس اپیل نمبر :- 2021/1625

2021ء منجانب حسن بادشاہ  
حسن بادشاہ نام DPPO لاہور

اپیل نمبر = 1625/2021

موزخہ  
مقدمہ  
دعویٰ  
جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ رالو منظر ایڈووکیٹ  
آن مقام لاہور کیلئے حصہ اول سہ ماہیہ 2021 + A+S.C  
مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ بر حلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی  
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لایا اپنے بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیار حاصل ہوں گے اور اس کا ساختہ  
پر وخت منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا۔  
کوئی تاریخ پیشی مقام دوہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے کہ پیروی  
مذکورہ کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم 25 ماہ جنوری 2021ء

العاب گ واہ العاب

کے لئے منظور ہے  
Accepted  
Attested

بمقام لاہور  
Attested & Accepted  
(Adm)

BEFORE THE HONOURABLE, KHYBER PAKHTUNKHWA, SERVICE  
TRIBUNAL PESHAWAR

Service Appeal No. 1625/2021

Hassan Badshah s/o Said Qamash, Retired Constable No. 246,  
District Police Nowshera.



..... Appellant

**V**ersus

Inspector General of Police, KPK, Peshawar etc

..... Respondents.

I N D E X

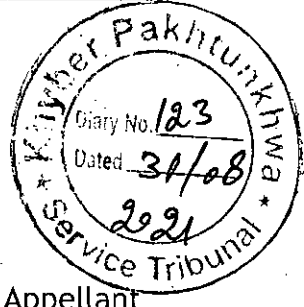
S.No.	Description of documents	Annexure	Pages
1.	Reply of Respondent.	-	1-3
2.	Affidavit	-	04
5.	Copy of form No. 14-12(ii) Pension data sheet	A-B	5-6

Inspector Legal,  
Nowshera

BEFORE THE HONOURABLE, KHYBER PAKHTUNKHWA, SERVICE  
TRIBUNAL PESHAWAR

Service Appeal No. 1625/2021

Hassan Badshah s/o Said Qamash, Retired Constable No. 246,  
District Police Nowshera.



..... Appellant

**V e r s u s**

1. District Police Officer, District Nowshera.
2. Regional Police Officer, Mardan Region, Mardan.
3. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
4. District Accounts Officer, Nowshera.
5. Accountant General, Khyber Pakhtunkhwa, Peshawar.
6. Secretary Finance Department, Govt: of Khyber Pakhtunkhwa, Peshawar.

..... Respondents.

REPLY ON BEHALF OF RESPONDENTS

Respectfully Sheweth: -

PRELIMINARY OBJECTIONS

1. That the appellant has got no cause of action and locus standi to file the appeal.
2. That the appeal is badly barred by law and limitation.
3. That the appellant has been estopped by his own conduct to file the instant appeal.
4. That the appeal is not maintainable in its present form.
5. That the appellant has not come to the Honourable Tribunal with clean hands.
6. That the appeal is bad for mis-joinder and non-joinder of necessary parties.

Facts

1. That no record of the appellant is available with District Nowshera due to the fact that appellant had proceeded on retirement in the year 1994 almost 26 years ago and due to devastating flood of 2010 entire record of District Nowshera got destroyed/damaged. From the perusal of form No. 14-12(2) Discharge Certificate as well as Pension Roll Date Sheet which are available on record, appellant proceeded on retirement under pension type as compulsory retirement on 05-10-

1994. (Copy of Form No. 14-12(2), pension data sheet is annexed as annexure "A" & "B").

2. Incorrect. As per documents pertaining to the retirement of appellant, mode of retirement of the appellant has been mentioned as compulsory retirement. For 26 years appellant kept mum and neither raised any objection on his mode of retirement nor submitted any application for correction of the same. The plea of appellant is badly barred by limitation.
3. That appellant was well aware of this fact that entire record of District Nowshera had been destroyed due to the flood of 2010 even then he submitted application for provision of his service record. (Service Book). Taking advantage of the situation, appellant moved instant service appeal by taking plea of his retirement on medical ground.
4. Correct to the extent that appellant approached respondent No. 01 through application for correction in his pension papers. However, the application was filed being badly time barred.
5. Correct to the extent that appellant approached the Honourable Peshawar High Court, Peshawar through W.P No. 3447-P/2020, however, the same was withdrawn by the appellant/petitioner in order to approach the competent form for redressal of his grievance.
6. Incorrect. Rejection of application of the appellant is in accordance with law, facts and principle of justice as neither service record of the appellant is available nor application was submitted by appellant well in time. Petition of the appellant is liable to be dismissed on the following grounds: -

**GROUND**S

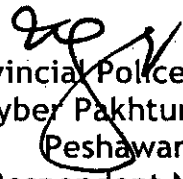
- A. Incorrect. No omission and commissions have been made by the respondents rather appellant has been treated in accordance with law and rules.
- B. Incorrect. Appellant has been treated in accordance with law and no right of the appellant has been violated.
- C. Incorrect. As explained above, as per pension documents of the appellant his type of pension was mentioned as compulsory retirement. Appellant kept enjoying pensionary benefits for 26 years. During these 26 years, appellant never made any application for any correction or raised any objection over his mode of retirement.
- D. Para already explained needs no comments.
- E. Para already explained needs no comments.

3


- F. Incorrect. The order passed in favor of the appellant was never either agitated or objected over by the appellant since his retirement hence; the same is liable to be maintained.
- G. Para already explained hence; needs no comments.
- H. Incorrect. No right of the appellant has been violated rather has been treated in accordance with law and rules.
- I. The respondents also seek permission of this Honourable Court to advance additional grounds at the time of arguments.

**Prayer**

It is, therefore, most humbly prayed that on acceptance of above submissions the appeal of the appellant may very kindly be dismissed with cost, please.

  
Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.  
Respondent No. 03

  
Regional Police Officer,  
Mardan  
Respondent No. 02

  
District Police Officer,  
Nowshera  
Respondent No. 01

(4)

BEFORE THE HONOURABLE, KHYBER PAKHTUNKHWA, SERVICE  
TRIBUNAL PESHAWAR

Service Appeal No. 1625/2021

Hassan Badshah s/o Said Qamash, Retired Constable No. 246,  
District Police Nowshera.

..... Appellant

**V e r s u s**


1. District Police Officer, District Nowshera.
2. Regional Police Officer, Mardan Region, Mardan.
3. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
4. District Accounts Officer, Nowshera.
5. Accountant General, Khyber Pakhtunkhwa, Peshawar.
6. Secretary Finance Department, Govt: of Khyber Pakhtunkhwa,  
Peshawar.

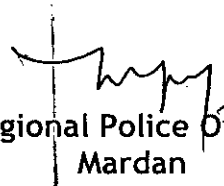
..... Respondents.

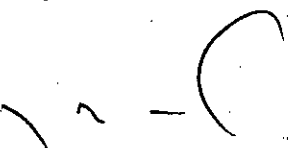
AFFIDAVIT

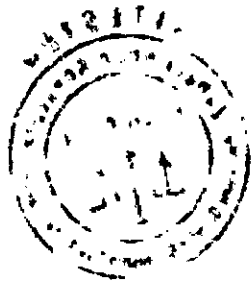
We the respondents No. 1,2&3 do hereby solemnly affirm and declare on Oath that the contents of reply to the appeal are true and correct to the best of our knowledge and belief and nothing has been concealed from the Honourable tribunal.



  
Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.  
Respondent No. 03

  
Regional Police Officer,  
Mardan  
Respondent No. 02

  
District Police Officer,  
Nowshera  
Respondent No. 01




(5) A3  
GS & FD KPK 547 PS 160

FORM NO. 14-12(2)  
DISCHARGE CERTIFICATE

DISTRICT NOWSHERA

DEPARTMENT

- 1) DESCRIPTION ROLL \_\_\_\_\_ 246  
Provincial Rank of Constabulary No \_\_\_\_\_ Constable  
2) Name of Parentage \_\_\_\_\_ Hassan Badshah s/o Said Qamash  
3) Cast \_\_\_\_\_ Phatan  
4) Village & P.O PS & District \_\_\_\_\_ village Ismail Zai P.O Garhi Kapoora District Mardan  
5) Height \_\_\_\_\_ 5-7  
6) Age on date of Discharge \_\_\_\_\_ 32 years  
7) Distinctive Marks \_\_\_\_\_  
8) Character \_\_\_\_\_ ~~Compulsory Retirement~~  
9) Case of discharge and date (Note also medals and decoration held if any).  
Dated 09-06-2020.

  
District Police Officer,  
Nowshera

TO WHOM IT MAY CONCERNED

Certified that \_\_\_\_\_ Constable Hassan Badshah No.2467 has been discharge from the Police force from the \_\_\_\_\_ 10-02-1980 to 05-10-1994 \_\_\_\_\_ having served follows:-

POLICE SERVICE

	YEAR	MONTHS	DAYS
As CONSTABLE	14	07	25
As			
As			
Total	14	07	25
GRAND TOTAL OF SERVICE	14	07	25

Paid on account of clothing money \_\_\_\_\_ - \_\_\_\_\_. He has received a just amount of his pay and arrears of pay from his first enrolment upto this date all claims against him by Govt has been settled in full.

Dated: 09-06-2020.

\_\_\_\_\_



(6) CB

**PENSION ROLL DATA SHEET  
NOT A PAYMENT ADVICE**

20  
2697-01  
82697  
HASSAN BADSHAH  
Name : SAID QAMASH  
CONSTABLE  
1610103831897  
Scale : 05  
Department: Law Department  
Pensioner's Type: SELF  
Pension Type: ~~COMPULSORY RETIREMENT~~  
Date of Birth : 10.01.1962  
Date of appointment: 10.02.1980  
Date of retirement: 05.10.1994  
Date of Death:  
Date of commencement : 06.10.1994  
Date of Restoration : 05.10.2032  
Accounts office ID : NR  
Accounts office Name : Nowshera  
Federal / Province : Khyber Pakhtunkhwa  
Length of Qualifying Service : 14 years, 7 months, 25 days  
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: DIST MARDAN

Note :  
Age : 33 years  
Last Drawn pay/Emoluments(Rs.): 2192.00  
Gross Pension(Rs.) : 807.20  
1/4th Surrendered Portion (Rs.) :  
Commutated Portion (Rs.) : 0.00  
Net Pension (Rs.) : 6000.00  
Net Family Pension (Rs.) : 0.00  
Amount of Commutation(Rs.) : 0.00  
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 : 0.00  
Commutation Table value : 38.23  
Recovery on A/C of  
Debitable to Govt : Khyber Pakhtunkhwa

**PROPOSED PENSION SLIP**

**Payment details**

Wage Type	Wage Type Text	Amount
0100	Monthly Pension - Self	6000.00
0101	Pension Increases - Self	5000.00
1599	Medical Allow - Pensioner	750.00
1600	Med. All. 2015 Pensioner	187.50

He/She is also entitled to the following increases

Sr. No.	Period	Increase % or amount	Increase Amount	W.E.F.
1	JUL.2015	Rs. 600.00	600.00	01.08.2016
2	JUL.2016	10.00 %	660.00	01.08.2016
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4	JUL.2018	Rs 2014.00	2014.00	01.07.2018
5	JUL.2019	10.00 %	1000.00	01.07.2019
6	0	Rs. 0.00	0.00	
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**Bank Details**

Bank Account Number : 0010038693230012.  
Bank Branch : GARHI DAULATZAI  
GARHI DAULATZAI  
Payment Mode : ALLIED BANK LIMITED

ACCOUNTS OFFICER  
(Pension)