

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 6573/2021

BEFORE: SALAH-UD-DIN --- MEMBER(J)
MIAN MUHAMMAD --- MEMBER(E)

Mst; Naheed Begum, Ex-LHW (BPS-05) (Retired), O/O the District Health Officer/CD Dinbahar Colony, Peshawar..... (Appellant)

VERSUS

1. The Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.
2. The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
3. The Director General, Health Services Department, Khyber Pakhtunkhwa, Peshawar.
4. The Accountant General, Khyber Pakhtunkhwa Fort Road, Peshawar
5. The District Health Officer, District Peshawar.....(Respondents)

Present:

MR. MIR ZAMAN SAFI,
Advocate. --- For Appellant.

MR. NASEER-UD-DIN SHAH,
Assistant Advocate General --- For respondents.

Date of Institution ... 21.06.2021
Date of hearing ... 17.06.2022
Date of Decision ... 17.06.2022

JUDGEMENT.

MIAN MUHAMMAD, MEMBER(E):- The service appeal has been instituted with the prayer that the appellant be allowed/granted pay fixation/regularization of contractual service in light of Rule 2.3 of the West Pakistan Pension Rules, 1963 w.e.f. 07.02.1996 till the date of regularization of service i.e. 01.07.2012 and also grant/release full pension w.e.f. 04.05.2021 when the appellant got retired from service on superannuation (60) years with all other consequential benefits.

02. Brief facts, as arrayed from contents of the service appeal in hand, are that the appellant was initially appointed as Lady Health Worker (LHW) on contract basis vide order dated 07.02.1996. Her contract service alongwith others was regularized w.e.f. 01.07.2012 under the Khyber Pakhtunkhwa Regulation of Lady Health Workers Programme and Employees (Regularization and standardization) Act, 2014. Her departmental appeal dated 19.03.2021 submitted to respondent No. 3 with the same plea and prayer, was not decided within the statutory period whereafter she filed the instant service appeal on 21.06.2021. The appellant attained the age of superannuation and was retired from service w.e.f. 03.05.2021 vide Notification dated 04.05.2021.

03. Learned counsel for the appellant vehemently contended that the appellant has rendered more than 25 years service in the far flung areas of district Charsadda and Peshawar. She has been requesting to the authorities for regularization of her contractual service with effect from her initial appointment of 1996 but her service was regularized w.e.f. 01.07.2012. While referring to Rule 2.3 of the West Pakistan Civil Services Pension Rules, 1963, learned counsel for the appellant argued that there was no break in the service of appellant from the date of initial appointment in 1996 till regularization of service on 24.09.2014, therefore, she was entitled for regularization in service and grant of pay fixation under the said Rules. To strengthen his arguments, he relied on 2010 PLC 354, 2019 PLC (C.S) 1065, 2021 SCMR 116 and this Tribunal judgement delivered on 13.09.2021 in service appeal No. 9137/200 titled Ahmad Ullah son of Zafar Ali (Driver) S11 Versus Government of Khyber Pakhtunkhwa through Secretary Administration and Seven others.

04. Learned Assistant Advocate General conversely argued and

contended that the appellant's service was regularized as Lady Health Worker (LHW) in BS-05 under the directions of august Supreme Court of

Pakistan dated 03.10.2012 in Cr. Original Petition No. 15 and 73 of 2021 in Human Rights case 16360 of 2009 and constitution Petition No. 36 of 2012

"Bushra Arain Versus Jehanzeb Khan, Secretary Health and others, with effect from 1st July 2012. Since she had only 08 years, 10 months and 02 days regular service to her credit, therefore, she was not entitled for any pensionary benefits. Moreover, the pensionary liability will accrue after 10

years of regular service from the date of regularization i.e. June, 2022, as decided by the Council of Common Interests (CCI) on 23.01.2013. The

appellant has therefore been treated in accordance with relevant law and rules. The appeal being devoid of merit, may graciously be dismissed with costs, he requested while concluding his arguments.

05. As a matter of the record, it is not disputed that the appellant was

initially appointed as LHW on contract basis vide order dated 07.02.1996 and there is no service break in her service till regularization w.e.f.

01.07.2012 under the Khyber Pakhtunkhwa Regulation of Lady Health Workers Programme and Employees (Regularization and Standardization)

Act, 2014. Since then she has rendered 08 years, 10 months and 02 days regular service which is less than 10 years of required service for pensionary

benefits. It is, however, of importance to make reference to Rule 2.3 (ii) of the West Pakistan Civil Services Pension Rules, 1963 which stipulates;

2.3 Temporary and officiating service—Temporary and officiating service

shall count for pension as indicated below:-

4

(i) Government servants borne on temporary establishment who have rendered more than five years continuous temporary service shall count such service for the purpose of pension or gratuity; and

(ii) Temporary and officiating service followed by confirmation shall also count for pension or gratuity.

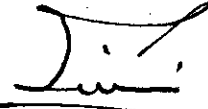
In the above scenario, the 16 years admitted contractual service of appellant was followed by regularization through enactment of provisional legislation which allows her to stand on the pedestal of eligibility and entitlement for the said benefits. The august Supreme Court of Pakistan in its judgement reported as 2010 PLC 354, has laid down the cardinal principle as follows:

"When an employee was regularized his total length of service, was to be computed from the day he joined the service, that could be temporary or otherwise-Even period of an employee of daily wages would be counted for the purpose of computing pensionary benefits."

06. In view of the provision of Rule 2.3(ii) of the West Pakistan Civil Services Pension Rules, 1963 as well as 2010 PLC 354, the contractual period of service of the appellant has been followed by regularization under special law but w.e.f. 01.07.2012. The contractual period of the appellant is therefore countable towards pension and she is entitled for pensionary benefits. The appeal in hand is, therefore, allowed and the respondents are directed to release pension to the appellant as per her due rights and

entitlement w.e.f 04.05.2021. Parties are left to bear their own costs. File be
consigned to the record room.

07. Pronounced in open court at Peshawar and given under our hands
and seal of the Tribunal this 17th of June, 2022.



(SALAH-UD-DIN)
MEMBER (J)



(MIAN MUHAMMAD)
MEMBER (E)

ORDER

17.06.2022

Learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present. Arguments heard and record perused.

02. Vide our detailed judgement of today separately placed on file containing (05) pages, the appeal in hand is, therefore, allowed and the respondents are directed to release pension to the appellant as per her due rights and entitlement w.e.f 04.05.2021. Parties are left to bear their own costs. File be consigned to the record room.

03. Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal this 17th of June, 2022.



(SALAH-UD-DIN)
MEMBER (J)

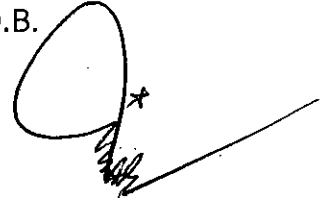


(MIAN MUHAMMAD)
MEMBER (E)

31.03.2022

Counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Mastan Ali Shah, Assistant present.

Written reply/comments on behalf of respondents submitted which is placed on file. A copy of the same is also provided to the learned counsel for the appellant. Adjourned. To come up for rejoinder and arguments on 17.06.2022 before D.B.

A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal line extending to the right.

(MIAN MUHAMMAD)
MEMBER(E)

23.09.2021

Counsel for the appellant present. Preliminary arguments heard. Record perused.

Points raised need consideration. Instant appeal is admitted for 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 respondents for submission of written reply/comments in office within 10 days of the receipt of notices, positively. If the reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments on 31.01.2022 before D.B.

Appellant Deposited
Security & Process Fee

(Rozina Rehman)
Member (J)

31.01.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG alongwith M/S Sajid Superintendent, Jaffar Ali, Assistant and Mastan Ali Shah, for respondents present.

Reply/comments on behalf of respondents are still awaited. Representatives of respondents sought for submission of reply/comments. Granted. To come up for reply/comments before the S.B on 31.03.2022.


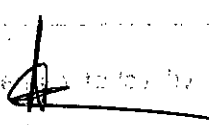

(Atiq-Ur-Rehman Wazir)
Member (E)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 6573 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	21/06/2021	<p>The appeal of Mst. Nahzed Begum presented today by Mr. Mir Zaman Safi 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>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>09/08/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p style="text-align: right;">REGISTRAR</p> <p>Counsel for the appellant requests for time for further preparation. Request is accorded. To come up for preliminary hearing on 23.09.2021 before S.B.</p> <p style="text-align: right;"> Chairman</p>
2-	09.08.2021	

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2021

NAHEED BEGUM

VS

HEALTH DEPTT:

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S.NO.	DOCUMENTS	ANNEXURE	PAGE
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5	Service book	C	8- 13.
6	Departmental appeal	D	14.
7	Retirement order	E	15.
8	Wakalat nama	16.

APPELLANT

THROUGH:


MIR ZAMAN SAFI
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

APPEAL NO. 6573/2021

Diary No. 6623

Mst; Naheed Begum, Ex-LHW (BPS-05) (Retired),
O/O the District Health Officer/CD Dinbahar Colony, Peshawar.

Dated 21/6/2021

.....APPELLANT

VERSUS

- 1- The Secretary, Health Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director General, Health Services Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The Accountant General, Khyber Pakhtunkhwa Fort Road, Peshawar.
- 5- The District Health Officer, District Peshawar.

.....RESPONDENTS

APPEAL UNDER SECTION- 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 FOR FIXATION OF PAY/REGULARIZATION OF CONTRACTUAL PERIOD IN LIGHT OF RULE 2.3 OF THE WEST PAKISTAN PENSION RULES, 1963 w.e.f 07-02-1996 FROM THE DATE OF INITIAL APPOINTMENT ON CONTRACT BASIS AGAINST THE POST OF LADY HEALTH WORKER TILL 01.7.2012 AND FOR THE GRANT OF FULL PENSIONARY BENEFITS IN RESPECT OF QUALIFYING SERVICE OF THE APPELLANT AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the appellant may very kindly be allowed/granted pay fixation/regularization of contractual service in light of Rule 2.3 of the West Pakistan Pension Rules, 1963 w.e.f 07-02-1996 till the date of regularization of service i.e. 01.07.2012 and also grant/release full pension w.e.f 04.05.2021 when the appellant got retired from service on superannuation (60 years) with all other consequential benefits. Any other remedy which this august Service Tribunal deems fit that may also be awarded in favor of the appellant.

Filed to-day
Registrar
21/6/21

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:

- 1- That the appellant was initially appointed in the respondent Department as Lady Health Worker vide order dated 07-02-1996 on contract basis. (Copy of the appointment order is attached as annexure.....A).

- 2- That after appointment the appellant took over the charge against the post of Lady Health Worker and started performing her duty quite efficiently and upto the entire satisfaction of her superiors.
- 3- That during service the services of the appellant alongwith other employees were regularized in light of **Khyber Pakhtunkhwa Regulation of Lady Health Workers Program & Employees (Regularization & Standardization) Act, 2014** vide Notification dated 24.09.2014. That it is pertinent to mention that the services of the appellant and other employees were regularized w.e.f 01.07.2012 instead of 07.02.1996. Copies of regularization notification dated 24.09.2014 and service book are attached as annexure**B & C**).
- 4- That the appellant has served the respondent Department for more than 25 years at the far flung areas of District Charsadda and Peshawar. That during service the appellant time and again requested the concerned authority for fixation of pay/regularization of her contractual period w.e.f 07.02.1996 till 01.07.2012 but the respondents on the basis of malafide intention not regularized the contractual service of the appellant.
- 5- That feeling aggrieved from the inaction of the concerned authority by not regularizing the contractual period, the appellant preferred Departmental appeal before the respondent No.3 for fixation of pay/regularization of contractual service w.e.f the date of initial appointment i.e. 07.02.1996 till 01.07.2012 but no reply has been so far. Copy of the Departmental appeal is attached as annexure.....**D**.
- 6- That it is also pertinent to mention here that during the pendency of Departmental appeal the appellant got retired from service on the basis of superannuation vide Notification dated 04.05.2021. Copy of the retirement order is attached as annexure.....**E**).
- 7- That appellant feeling aggrieved and having no other remedy but to file the instant service appeal on the following grounds amongst the others.

GROUND:

- A- That the inaction of respondents by not regularizing the contractual period/pay fixation to the appellant w.e.f 07-02-1996 till 01.07.2012 is against the law, facts, norms of natural justice and materials on the record.
- B- That appellant has not been treated in accordance with law and rules by the respondent Department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the respondent Department acted in arbitrary and mala fide manner by not regularizing the contractual period/allowing pay fixation to the appellant w.e.f 07-02-1996 till 01.07.2012.
- D- That the inaction of the respondents is discriminatory and against the norms of natural justice, therefore not tenable in the eye of law.

E- That under Article 38 (e) of the Constitution of Pakistan, 1973 state is bound to reduce disparity in the income and earning of the individuals including persons in the various services of Pakistan, therefore in light of the above mentioned Article the appellant is fully entitle for the grant of pay fixation w.e.f the date of initial appointment.

F- That there is no break in service of appellant from the date of initial appointment till regularization of service i.e. 24.09.2014.

G- That in light of Rule 2.3 of the West Pakistan Pension Rules, 1963 the appellant is fully entitle for the grant of pay fixation/regularization of service from the date of initial appointment till 01.07.2012.

H- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

Dated: 21.06.2021

APPELLANT

Naheed

NAHEED BEGUM

THOROUGH:

Mir Zaman Safi
**MIR ZAMAN SAFI
ADVOCATE**

CERTIFICATE:

It is certified that no other earlier appeal was filed between the parties.

Mir Zaman Safi
DEPONENT

LIST OF BOOKS:

- 1- CONSTITUTION OF PAKISTAN, 1973
- 2- SERVICES LAWS BOOKS
- 3- ANY OTHER CASE LAW AS PER NEED

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2021

NAHEED BEGUM

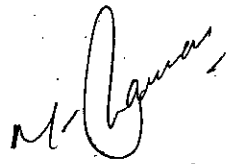
VS

HEALTH DEPTT:

AFFIDAVIT

I Mir Zaman Safi, Advocate High Court, Peshawar on the instructions and on behalf of my client do hereby solemnly affirm and declare that the contents of this **service appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.




MIR ZAMAN SAFI,
Advocate
High Court, Peshawar

دفتر ڈسٹرکٹ ہیلتھ آفیسر چارسدہ

B-6

سورہ: 24/9/2014

نمبر: 1689

ذیل ملازمین کی ملازمت کو یکم جولائی 2012 سے مستقل بنیاد پر باقاعدہ تصور کیا جاتا ہے انکی ملازمت کی قیود و شرائط مذکورہ بالا ایکٹ اور اسکے تحت بنائے جانے والے قواعد کے مطابق ہوں گی۔
خیر بخشو خوار کیولیشن آف لیڈی ہیلتھ ورکرز پروگرام اینڈ اسپلاز (ریگولر انریشن اینڈ سینڈرز انریشن) ایکٹ مجریہ 2012 کی سیکشن نمبر 3(1) کے تحت معاہدہ کی بنیاد پر کام کرنے والے

نمبر شمار	نام ملازم یا ملازمہ	والد کا نام	شوہر کا نام	بنیادی سکیل	عہدہ	تاریخ تقرری	مرکز صحت کا نام	مختلفہ ملازمت کا نام
1	ہدایت بیگم		محمد شفیع	7	لیڈی ہیلتھ سپروائزر	01/10/2005	بھرام	بھرام
2	سادیہ ولایت		سید ولایت شاہ	7	لیڈی ہیلتھ سپروائزر	01/04/2008	بھرام	بھرام
3	زرین سار بیگم		لمینح اللہ	5	لیڈی ہیلتھ ورکر	07/02/1996	بھرام	بھرام
4	گوڑیا سمین		غس الرحمن	5	لیڈی ہیلتھ ورکر	02/03/1996	بھرام	بھرام
5	فرحت ناز		تسکین	5	لیڈی ہیلتھ ورکر	02/03/1996	بھرام	بھرام
6	باغ حرم		علی نواز	5	لیڈی ہیلتھ ورکر	22/03/1996	بھرام	بھرام
7	ثریہ بیگم		اسرار احمد	5	لیڈی ہیلتھ ورکر	22/04/1996	بھرام	بھرام
8	نامید بیگم		ہدایت اللہ	5	لیڈی ہیلتھ ورکر	02/07/1996	بھرام	بھرام
9	ماجدہ بیگم		گل محمد	5	لیڈی ہیلتھ ورکر	16/01/2003	بھرام	بھرام
10	خادیہ		خدیجہ خان	5	لیڈی ہیلتھ ورکر	16/01/2002	بھرام	بھرام
11	ظہیرا بیگم		انسیر ناز	5	لیڈی ہیلتھ ورکر	16/01/2002	بھرام	بھرام
12	صبر بیگم		منیر گل	5	لیڈی ہیلتھ ورکر	16/01/2002	بھرام	بھرام
13	نازیہ		شاہد	5	لیڈی ہیلتھ ورکر	16/01/2002	بھرام	بھرام
14	صدقات		محمد شاہان	5	لیڈی ہیلتھ ورکر	16/01/2002	بھرام	بھرام
15	مہناز		وقار	5	لیڈی ہیلتھ ورکر	01/04/2003	بھرام	بھرام
16	سمیرا ناز		نیاز علی	5	لیڈی ہیلتھ ورکر	01/04/2003	بھرام	بھرام
17	نازیہ		حلم شاہ	5	لیڈی ہیلتھ ورکر	14/04/2003	بھرام	بھرام
18	بشری		لمینح اللہ	5	لیڈی ہیلتھ ورکر	26/06/2004	بھرام	بھرام
19	مہناز عباس		عبداللہ جان	5	لیڈی ہیلتھ ورکر	15/07/2004	بھرام	بھرام
20	ضیاء بیگم		بخت علی	5	لیڈی ہیلتھ ورکر	26/06/2005	بھرام	بھرام
21	شبانہ		جہانگیر	5	لیڈی ہیلتھ ورکر	01/08/2005	بھرام	بھرام
22	بس نازہ		انتھار	5	لیڈی ہیلتھ ورکر	15/08/2008	بھرام	بھرام
23	روبینہ سخاوت		سخاوت شاہ	5	لیڈی ہیلتھ ورکر	30/05/2006	بھرام	بھرام

ATTESTED



بگرام	01/06/2006	لیڈی ہیلتھ ورکر	5	ارشاد خان	سرت	26
بگرام	15/06/2006	لیڈی ہیلتھ ورکر	5	محمد عالم خان	نور بی بی	27
بگرام	15/06/2006	لیڈی ہیلتھ ورکر	5	محمد ایاز	فہمیدہ	28
بگرام	15/06/2006	لیڈی ہیلتھ ورکر	5		شاہ عظمیٰ	29
بگرام	01/04/2007	لیڈی ہیلتھ ورکر	5		کچی	30
بگرام	01/04/2007	لیڈی ہیلتھ ورکر	5		سمیع اللہ	31
بگرام	01/04/2007	لیڈی ہیلتھ ورکر	5		شیر افضل	32
بگرام	01/04/2007	لیڈی ہیلتھ ورکر	5		افضل خان	33
بگرام	01/04/2007	لیڈی ہیلتھ ورکر	5	شاہ زین	زیب النساء	34
بگرام	01/04/2007	لیڈی ہیلتھ ورکر	5		سید عالم	35
بگرام	01/04/2007	لیڈی ہیلتھ ورکر	5		شاہ خالد	36
بگرام	01/04/2007	لیڈی ہیلتھ ورکر	5		مراد خان	37
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بگرام	09/04/2007	لیڈی ہیلتھ ورکر	5	تازی خان	جیلہ	39
بگرام	09/04/2007	لیڈی ہیلتھ ورکر	5	جلالت خان	صدف بیگم	40
بگرام	16/04/2007	لیڈی ہیلتھ ورکر	5		منتہار خان	
بگرام	20/06/2011	لیڈی ہیلتھ ورکر	5		حبیب الرحمن	
بگرام	28/12/1998	لیڈی ہیلتھ ورکر	5			

ڈسٹرکٹ ہیلتھ آفیسر چارسدہ

ڈسٹرکٹ ہیلتھ آفیسر چارسدہ

ATTESTED

(Signature)

نقل برائے اطلاع

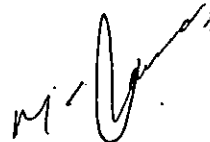
- ۱۔ رجسٹرار سپریم کورٹ آف پاکستان، اسلام آباد۔
- ۲۔ ڈائریکٹر جنرل ہیلتھ سروسز خیبر پختونخوا ایشاد۔
- ۳۔ سیکشن اینڈیجیشن ہیلتھ ڈیپارٹمنٹ آف ایشاد۔
- ۴۔ PS ٹوبیکوٹری سحت خیبر پختونخوا ایشاد۔
- ۵۔ ڈسٹرکٹ اکاؤنٹس آفیسر چارسدہ۔
- ۶۔ متعلقہ انچارج میڈیکل آفیسر۔
- ۷۔ متعلقہ ملازم / ملازمہ۔

SERVICE BOOK-8

No. 806690 OF _____

Mr.	<u>Nahed Begum</u>
S/o	<u>Madad Khan</u>
Designation	<u>LHW</u>
Department	<u>Rice Pattagram</u>

ATTESTED



Heirs,

- 1.
- 2.
- 3.

(9)

Name: _____

Race: _____

Residence: _____

Verification Roll No. _____

dated _____

received back _____

Father's name _____

Date of birth by C nearly as can be a

Left Thumb Impression

Exact height by me

Qualification

Date

Qualification

Date

English

First Arts

Personal marks for

Pushto

B.L. or B.A.

Left hand thumb and of (Non-Gazetted) off

Urdu

Pledership examination

Little Finger:

Plan-drawing

Training School Final examination

Middle Finger:

Finger Print

Other qualifications—

thumb:

Drill Instructing

Signature of Government

Court Duties

Signature and designation of the Office, or other officer.

Reserve Duties

N.B.— Line to be drawn under the qualification possessed.

ATTESTED

[Handwritten Signature]

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

Name: Nahed Begum

Race: Afghan

(10)

Residence: Rattayram Kandhine
Charsadda

Father's name and residence: Madael Khan

Date of birth by Christian era as nearly as can be ascertained: 04-05-1961

Exact height by measurement: 4-10^{1/2}

Date

Personal marks for identification:

Left hand thumb and Finger impression of (Non-Gazetted) officer:

Little Finger:



Ring Finger:



Middle Finger:



Fore Finger:



Thumb:



Signature of Government Servant:

Nahed

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

M. A. Khan
District Health Officer

ATTESTED
M. A. Khan

1	2	3	4	5	6	7	8
Name of post	Whether substantive or officiating and whether permanent or temporary.	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R.	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the term "Pay"	Date of Appointment	Signature of Government Servant
LHW			pay	PS	1200/2	3/96	Nadred
Fixed Salary	"	"	"	"	1200/2	97	
"	"	"	"	"	Rs 1200/2	98	
"	"	"	"	"	Rs 1200/2	99	
"	"	"	"	"	Rs 1200/2	2000	
"	"	"	"	"	Rs 1400/2	2001	
"	"	"	"	"	Rs 1400/2	2002	
"	"	"	"	"	Rs 1600/2	2003	
"	"	"	"	"	Rs 1700/2	7-04	
"	"	"	"	"	Rs 1800/2	2005	
"	"	"	"	"	Rs 1900/2	2006	
"	"	"	"	"	Rs 2600/2	2007	
"	"	"	"	"	Rs 3090/2	1-1-08	
"	"	"	"	"	Rs 3190/2	2009	
"	"	"	"	"	Rs 3290/2	2010	
"	"	"	"	"	Rs 7000/2	2011	
EL-07	"	"	"	"	Rs 5100/2	12	
5100-260-13200	"	"	"	"	Rs 5660/2	12	
LHW	"	"	"	"	Rs 5900/2	13	
"	"	"	"	"	Rs 5900/2	14	
69RS-340-17185	"	"	"	"	Rs 7665/2	15	
LHW	"	"	"	"	Rs 8000/2	15	
"	"	"	"	"	Rs 8000/2	15	
8590-420-21190	"	"	"	"	Rs 9850/2	17	
LHW	"	"	"	"	Rs 9850/2	2016	

nature of the head or other attesting in attestation columns 1 to 8

Signature of Government Servant
 Char...

Signature of Government Servant
 Char...

pay
 pay

8 Signature of Government Servant	9 Signature and Designation of the head of the office or other attesting officer in attestation of columns 1 to 8	10 Date of termination or appointment	11 Reason of termination (such as promotion, transfer, dismissal, etc.)	12 Signature of the head of the office or other attesting officer.	13 Name and duration of leave taken	14 Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government	15 Signature of the head of the office or other attesting officer	16 Reference to any remission or punishment or censure, or reward or praise of the Government Servant
						Period	Government to which debitable	
3 96	Noticed							
77 78 79 2000								
2001 2002 2003								
1.7.04 2005 2006								
2007 1-1-08 2009 2010								
2011								
11/7 12 11/12 13 11/12 14								
15-								
12 15-								
17 2016								

11

Appointed as LHW against the vacant post on Band Salary Vids. DHO 6/0 No. 157 / DHO 207/12/96.

[Signature]
District Health Officer
Charsadda

[Signature]
District Health Officer
Charsadda
TR No 372
7/12/2016

[Signature]
District Health Officer
Charsadda

Drawn pay for 758, 9/2016
No 43937
No 58580

Regularized the services of LHW Vids Govt of KPK Health Deptt No. 6/165/Eco/pe/

[Signature]
District Health Officer
Charsadda

[Signature]
District Health Officer
Charsadda

pay fixed provisionally as per provided scales

[Signature]
District Health Officer
Charsadda

Amount in arrears not allowed.

[Signature]
District Health Officer
Charsadda

pay fixed provisionally as per provided pay scale 2016

[Signature]
District Health Officer
Charsadda

ATTESTED
[Signature]

1 Name of post	2 Whether substantive or officiating and whether permanent or temporary.	3 If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R.	4 Pay in substantive post	5 Additional Pay for officiating	6 Other emolument falling under the term "Pay"	7 Date of Appointment	8 Signature of Government Servant
BDS-25 8590-420-21190 L.H.W.		"	Pay	Rs	10970	1-12-11	
10960-500-25260 L.H.W.		"	"	Rs	10860	1-7-11	
"	"	"	"	Rs	10760	1-12-11	
<p>OSR of the Khuzdar District Fixed in the Revised Basic Pay Scales</p> <p>6985</p> <p>Pay Fixed on 01-07-2015</p> <p>R.B.P.S. 8590-420-21190</p> <p>Pay Fixed on 01-07-2015</p> <p>R.B.P.S. 9850-300-25260</p> <p>Pay Fixed on 01-07-2015</p> <p>R.B.P.S. 12260</p> <p>Pay Fixed on 01-12-2011</p>		<p>Accountant General Khuzdar Peshawar Revised Basic Pay Scales</p> <p>240-1285</p> <p>7685</p> <p>9850</p> <p>12260</p>	5	5	5		<p>301</p> <p>District Headquarter Charsadda</p>
		<p>Accounts Officer Pay Fixation Party Peshawar</p>					

9	10	11	12	13		14	15
				Leave			
				Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government		
Signature and designation of the head of the office or other attesting officer. In Allocation of columns 1 to 9	Date of termination or appointment	Reason of termination (such as promotion, transfer, dismissal, etc.)	Signature of the head of the office or other attesting officer.	Period	Government ID which debitable	Signature of the head of the office or other attesting officer	Remarks in any recorded punishment or bonus or reward or prize of the Government Servant
	30 ¹¹ / ₂₀₁₈		Annual increment allowed				Service verified upto 9/11/2018
	<i>[Signature]</i> District Health Officer Charsadda		<i>[Signature]</i> District Health Officer Charsadda			<i>[Signature]</i> District Health Officer Charsadda	
			Transferred to DHO Peshawar vide DHS/HRP/2018-19 vide S/O 3994-4003 dated 4/9/2019.				Service verified upto 14/9/19 (A.S.)
			<i>[Signature]</i> District Health Officer Charsadda			<i>[Signature]</i> District Health Officer Charsadda	

13

ATTESTED

[Signature]

To,

The Director General,
Health Service Department,
Khyber Pakhtunkhwa, Peshawar

D-14

Subject: DEPARTMENTAL APPEAL FOR FIXATION OF PAY W.E.F
07.02.1996 TILL THE DATE OF REGULARIZATION OF
SERVICE i.e. 01.07.2012

Respected Sir,

With due respect it is stated that the undersigned was initially appointed as Leady Health Worker vide order dated 07.02.1996 on contract basis. That right from the date of 1st appointment till date the undersigned is performing duties quite efficiently and upto the entire satisfaction of her superiors. During service the services of the undersigned alongwith her other colleagues were regularized vide order dated 24.09.2014 with effect from 01.07.2012 instead of 07.02.1996. That the undersigned has served the Department for more than 24 years with all zeal and zest and is going to be retired from service on superannuation in near future. That during my entire service no complaint has whatsoever been recorded to the high ups against the undersigned. That it is pertinent to mention here that the undersigned was entitle for fixation of her pay/regularization of contractual period w.e.f 07.02.1996 in light of **Rule 2.3 of the West Pakistan Civil Services Pension Rules, 1963** but the concerned authority regularized her services w.e.f 01.07.2012 instead of 07.02.1996. That the undersigned time and again visited the concerned authorities and requested for pay fixation from the date of her 1st appointment i.e. 07.02.1996 but the concerned authority is not willing to do so. Respected Sir, the undersigned is fully entitle for fixation of her pay from the date of 1st appointment i.e. 07.02.1996 in light of the above quoted rules. That the undersigned feeling aggrieved preferred this Departmental appeal before your good self.

It is therefore, most humbly prayed that on acceptance of this Departmental appeal the concerned authority may very kindly be directed for fixation of pay of the undersigned with effect from the date of her 1st appointment i.e. 07.02.1996. Any other remedy which your good self deems fit that may also be awarded in favor of the undersigned.

Dated: 19.03.2021.

Your Obediently

Naheed
NAHEED BEGUM, Leady Health Worker,
O/O the District Health Officer, Peshawar

9871
191-3/24

Naheed



(10)

GOVERNMENT OF KHYBER PAKHTUNKHWA
DISTRICT HEALTH OFFICER PESHAWAR

Dated Peshawar the 04/05/2021
No. 6442-48 /DHO.DPIU

E-15

NOTIFICATION

NO.PA/Khyber PakhtunKhwa/Bills/2014/351. In terms of provision of The Khyber PakhtunKhwa Regulation of Lady Health Workers Program & employees (regularization & standardization) Act, 2014 (Para (4) Sub-Para (4) & (5) if the Khyber PakhtunKhwa Civil Servants Revised Leave Rules 1981 and instructions there under issued from time to time, sanction is hereby accorded to the grant of 365 days leave encashment in lieu of LPR in respect of **Mr/Mst. Naheed Begum** W/o **Hidayat Ullah** **BPS-05** as Lady Health Worker attached to **CD Dinbahar Colony/District Health Officer Peshawar.**

2. In terms of Section-13 of the Khyber PakhtunKhwa Civil Servants Act 1973, the official shall stand retire from service on **03/05/2021** AN on attaining the age of superannuation.

Sd/-XXXXXXXXXXXXXXXXXX
District Health Officer
Peshawar

A Copy is forwarded to the:-

1. Accountant General Khyber PakhtunKhwa Peshawar.
2. Provincial Coordinator LHWs Program Khyber PakhtunKhwa Peshawar.
3. District Coordinator LHWs Program Peshawar.
4. Litigation Officer DHO Office Peshawar.
5. Office Assistant.
6. Establishment section to update the retired personnel list.
7. Account section

For information an n/action.

District Health Officer
Peshawar

ATTESTED

(Handwritten signature)

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

_____ OF 2021

Naheed Begum

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Health Deptt:

(RESPONDENT)
(DEFENDANT)

I/We Naheed Begum

Do hereby appoint and constitute **MIR ZAMAN SAFI, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. 21 / 16 / 2021

Naheed.

CLIENT

ACCEPTED

MIR ZAMAN SAFI
ADVOCATE

OFFICE:

Room No.6-E, 5th Floor,
Rahim Medical Centre, G.T Road,
Hashtnagri, Peshawar.
Mobile No.0323-9295295

BEFORE THE PESHAWAR HIGH COURT PESHAWAR.

Writ Petition No. 6573-P/2021

Mst.Naheed Begum

-----Petitioner

Versus

Govt of Khyber Pakhtunkhwa & Others

-----Respondents

INDEX

S. No	Description of Documents	Annexure	Page No.
01	Parawise Comments		01-03
02	Copy of Notification dated.02-07-2014	I	04-08
03	Appointment order of the petitioner	II	09
04	Copy of Judgment of Supreme Court	III	10-11
05	Retirement order of the petitioner	IV	12
06	Decision of Council of Common Interest	V	13

① 21

BEFORE THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL PESHAWAR

Service Appeal No. 6573/2021

Mst. Naheed Begum, Ex-Lady Health Worker, R/O Din Bahar Colony,
Tehsil and District Peshawar

.....Appellant

VERSUS

1. Secretary Health, Government of Khyber Pakhtunkhwa.
2. Secretary Finance, Government of Khyber Pakhtunkhwa.
3. Director General Health Services, Khyber Pakhtunkhwa.
4. Accountant General Khyber Pakhtunkhwa Peshawar.
5. District Health Officer Peshawar.

.....Respondents.

REPLY ON BEHALF OF RESPONDENTS No 01 to 05

Preliminary Objections.

- I. The appellant has got neither cause of action nor locus standi.
- II. The appeal is not maintainable in its present form.
- III. That the appellant has deliberately concealed material facts from the Hon'ble Service Tribunal Peshawar, hence liable to be dismissed.
- IV. That the appellant has filed the instant appeal with mala-fide motives.
- V. That the appeal is not maintainable in its present form and also in the present circumstance of the issue.
- VI. The appellant has not come to the Hon'ble Tribunal with clean hands and hit by laches.
- VII. That the appeal is bad due to non-joinder and mis-joinder of necessary and proper parties.
- VIII. That the appeal is barred by law and badly time barred.
- IX. That the appellant is not civil servant and is public servant with the meaning of S.9 of the Khyber Pakhtunkhwa Regularization of Lady Health workers program and employees (Regularization and standardization) Act 2014 and. Hence the Honourable Tribunal has no jurisdiction.

Respectfully Sheweth:

Para No 01. of the appeal pertains to record.

Para No 02. of the appeal pertains to record.

Para No 03 .of the appeal is misleading, appellate was regularized under the

directions of Hon'ble Supreme Court of Pakistan on 03-10-2012, in Cr. Original Petition No 15 and 73 of 2021 in Human Rights Case No 16360 of 2009 and Constitution Petition No 36 of 2112 "Bushra Arain Vs. Jahanzaib Khan, Secretary Health and Others. As per

and Employees (Regularization and Standardization) ACT 2014 appellant was also regularized w.e.f 1st July 2012 as her initial appointment as Lady Health Worker in BPS 05 (Annex-I),

1. Correct to the extent that appellant was appointed as Lady Health Worker on 07-02-1996 on contract basis having fixed pay without any pay scale (appointment order as Annex-II). However, the Hon'ble Supreme Court of Pakistan on 03-10-2012, ordered regularization of Lady Health Workers program in Cr. Original Petition No 15 and 73 of 2021 in Human Rights Case No 16360 of 2009 and Constitution Petition No 36 of 2112 "Bushra Arain Vs. Jahanzaib Khan, Secretary Health and Others, wherein the Hon'ble Supreme Court of Pakistan declared that :

All LHSs, LHWs Account Supervisors and Drivers will be regularized from 1st July, 2012 as initial appointed and calculation of financial implication to be borne by Federal Government shall be made accordingly on the basis of employees' strength as on 30th June 2011 including cost of total cost of the project. (Annex-I).

Therefore, under the judgment of Hon'ble Supreme Court of Pakistan, appellant was regularized w.e.f 1st July 2012 as her initial appointment as Lady Health Worker in BPS 05 (Annex-III), and as appellant served as a regular government employee only for 08 years, 10 Months and 02 days (i.e from 1st July 2012 till 3rd may 2021) therefore appellant after attaining the age of superannuation was relieved and her services were made stand retired from 3rd may 2021 (Annex IV), therefore, appellant is not entitled for any pensionary benefits on the plea that pension liability will accrue after ten years from the date of regularization i.e June 30, 2022, as prescribed in Council of Common Interest (CCI) decision (Annex-V).

2. In Correct. Already explained in Para No 03 and 04 above.
3. Para No 02 of the appeal pertains to record.
4. That the instant appeal is not maintainable and barred by law.


REPLY ON GROUNDS


- a) Incorrect. As stated in Para No 03 to 04 ibid.
- b) Incorrect. As stated in Para No 03 to 04 ibid.
- c) Incorrect. Already explained above.

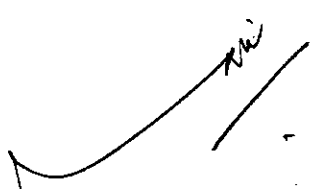
- d) Incorrect .The appellant has been treated in accordance with law, rules and appellant is not entitled for fixation of pay/regularization of contractual services w.e.f 07-02-1996, as stated in Para No 04 above.
- e. Incorrect. Already explained above.
- f. Incorrect. Ground is irrelevant.
- g. Incorrect. Appellant has not been regularized under Civil Servants Act rather under Khyber Pakhtunkhwa Regulation of Lady Health Workers Program and Employees (Regularization and Standardization ACT 2014 (**Annex-VI**), wherein Section 04 has clearly mentioned regularization of appellant w.e.f 1st July 2012 following the judgment of Hon'ble Supreme Court of Pakistan as initial appointment w.e.f 1st July 2012 (**Annex-I**), therefore, appellant is not entitled for any pensionary benefits on the plea that pension liability will accrue after ten years from the date of regularization i.e June 30, 2022 as prescribed in Council of Common Interest (CCI) decision (**Annex-V**).
- h. The respondents seek permission to raise further grounds during the arguments.

PRAYER:

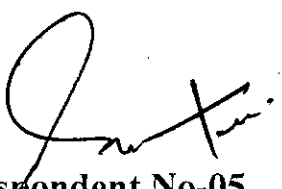
In the view of above, it is humbly prayed that the instant appeal being devoid of merit may very graciously be dismissed with cost.


Respondent No-01
 Secretary Health Khyber Pakhtunkhwa
 Peshawar


Respondent No-02
 Secretary Finance Khyber Pakhtunkhwa
 Peshawar


Respondent No-03
 Director General Health Services
 Khyber Pakhtunkhwa Peshawar

Respondent No-04
 Account General
 Khyber Pakhtunkhwa Peshawar


Respondent No-05
 District Health Officer
 Peshawar

FOR THE EXTRAORDINARY GAZETTE ISSUE OF
THE KHYBER PAKHTUNKHWA

PROVINCIAL ASSEMBLY SECRETARIAT
KHYBER PAKHTUNKHWA

Annexure 4

NOTIFICATION

Dated Peshawar, the 2/07/2014.

No.PA/Khyber Pakhtunkhwa/Bills/2014/ 351 The Khyber Pakhtunkhwa Regulation of Lady Health Workers Program and Employees (Regularization and Standardization) Bill, 2014 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 24th June, 2014 and assented to by the Governor of the Khyber Pakhtunkhwa on 29th June, 2014 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

**THE KHYBER PAKHTUNKHWA REGULATION OF LADY HEALTH
WORKERS PROGRAM AND EMPLOYEES (REGULARIZATION
AND STANDARDIZATION) ACT, 2014**

(KHYBER PAKHTUNKHWA ACT NO. XXVI OF 2014)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa.
(Extraordinary), dated the 02/07/2014).

(Here print as in the accompaniment).

Nur-e-El

SECRETARY,

Provincial Assembly of Khyber Pakhtunkhwa.

No. and date (as per notification above).

A copy of the above notification with the accompaniment is forwarded to the Manager, Government Stationery and Printing Department, Peshawar, with the request to publish the same in the extraordinary issue of the Khyber Pakhtunkhwa Government Gazette of today's date and distribute copies thereof immediately in accordance with the list given overleaf.

Proof should be sent to this Secretariat before publication.

Nur-e-El

SECRETARY,

Provincial Assembly of Khyber Pakhtunkhwa

E.No. PA/Khyber Pakhtunkhwa /Bills/2014/ 352-56 Dated 2/07/2014

A copy of the above is forwarded to :-

1. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. The Secretary to Government of Khyber Pakhtunkhwa, Health Department.
3. The Secretary to Government of Khyber Pakhtunkhwa, Law Department.
4. The Director Information, Khyber Pakhtunkhwa.
5. The Director I.T/ Special Secretary Provincial Assembly of Khyber Pakhtunkhwa.

Nur-e-El

SECRETARY,

Provincial Assembly of Khyber Pakhtunkhwa

5

AN
ACT

to regulate the status of Lady Health Workers Program in the Province of the Khyber Pakhtunkhwa and to regularize and standardize the services of employees of the said program

WHEREAS in pursuance of the Constitution (Eighteenth Amendment) Act, 2010, the subject of Health has been devolved to the Provinces and as such Lady Health Workers Program run by Federal Government for supporting the family planning and primary health care was devolved to the Provinces accordingly;

AND WHEREAS in the Lady Health Workers Program, the community based workers have a special nature of job, for the execution of which they have to remain continuously embedded with their local catchment population;

AND WHEREAS it is obligatory to maintain the original concept and design of the Lady Health Workers Program, to ensure the presence of community embedded employees for effective service delivery to the people of the area;

AND WHEREAS it is expedient to regulate the status of Lady Health Workers Program in the Province of the Khyber Pakhtunkhwa and to regularize and standardize the services of the employees of the said program.

It is hereby enacted as follows:-

1. Short title, application and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Regulation of Lady Health Workers Program and Employees (Regularization and Standardization) Act, 2014.

(2) It shall apply to all persons employed or to be employed in Lady Health Workers Program, in the Province of the Khyber Pakhtunkhwa.

(3) It shall come into force at once except section 4, which shall come in to force on 1st July, 2012.

2. Definitions.---In this Act, unless there is anything repugnant in the subject or context,-

- (a) "catchment population" means the local population for which a Community Embedded Employee of the Program is appointed or posted and regularly resides therein;
- (b) "Community Embedded Employee" means a Program employee residing and working within his defined catchment population for which he was appointed or posted;
- (c) "District Program Implementation Unit" means the Management Unit of the Program at District level;
- (d) "Government" means the Government of the Khyber Pakhtunkhwa;
- (e) "prescribed" means prescribed by rules;
- (f) "Program" means the Lady Health Workers Program devolved to the Province and which was previously run by the Federal Government under the name of the National Program for Family Planning and Primary Health Care;
- (g) "Program employee" means an employee of the Program, whose service is regularized under this Act and includes persons to be appointed after the commencement of this Act;

- (h) "Province" means the Province of the Khyber Pakhtunkhwa;
- (i) "Provincial Program Implementation Unit" means the Management Unit of the Program at Provincial level; and
- (j) "rules" mean rules made under this Act.

3. **Status of Program.**---(1) On commencement of this Act, the National Program for Family Planning and Primary Health Care, shall be deemed to be a Program of Government to be known as the Lady Health Workers Program.

(2) The purpose of the Program shall be to provide preventive, curative, rehabilitative and promotive health care services to the catchment population in the Province.

(3) The Program shall continue for such a period as Government may determine.

(4) After coming into force of this Act, Government may appoint persons to various posts in the Program on contract basis and there shall be no regular appointment in the Program.

(5) The appointment under sub-section (4) shall be made in accordance with the criteria and manner as may be prescribed.

4. **Regularization.**---(1) On commencement of this Act, all the Program employees, who were appointed in the Program on contract or fixed monthly stipend basis before 1st July 2012, and holding the said post till the commencement of this Act, shall stand regularized with effect from 1st July, 2012:

Provided that the services of such Program employees shall be deemed to have been regularized under this Act only on the publication of their names in the official Gazette:

Provided further that the posts of the Program fallen vacant on account of death, retirement, resignation, dismissal, termination or otherwise shall be filled-in on contract basis.

(2) The Program employees regularized under this Act shall be placed in the relevant Pay Scales corresponding to the civil servants or as may be determined by Government.

(3) The seniority of the Program employees regularized under this Act shall be determined in a manner as may be prescribed.

(4) A Program employee, whose services are regularized under this Act, shall retire from service, on the option of the Program employee and on such date as requested by the Program employee, after completion of twenty five years of qualifying service or on the completion of sixtieth year of age.

(5) A Program employee, whose service is regularized under this Act, shall be entitled to such pensionary and retirement benefits as may be determined by Government.

5. **Mechanism of recruitment for Community Embedded Employees.**---(1) For filling a post of Community Embedded Employee, the appointing authority shall cause to verify and ensure in the prescribed manner that person, who is to be appointed against such post, shall be a regular resident of his catchment population.

(2) The Provincial Program Implementation Unit shall oversee and monitor the process and finding of the verification, carried out by the appointing authority under sub-section (1), before a person is appointed against post of Community Embedded Employee.

(3) The Community Embedded Employee shall perform his duties within the catchment population of his residence; provided that Government may adjust a Community Embedded Employee in another area in certain circumstances to be prescribed.

(4) Notwithstanding anything contained in other provisions of this Act, the services of the Community Embedded Employees, whose services are regularized under this Act, or other Community Embedded Employees to be appointed after the commencement of this Act, shall be liable to termination, if the employee-

- (a) has unlawfully ceased to be a regular resident within or has become a non-resident for his catchment population; or
- (b) is involved in any other engagement or a practice which is not in accordance with the laid down and approved policy of the Program; or
- (c) has ceased to be efficient in the performance of official duties; or
- (d) has proved guilty of gross misconduct.

(5) A Community Embedded Employee, whose service is terminated under sub-clause (a) or (b) of sub-section (4) of this Act may be reinstated into service in a manner as may be prescribed:

Provided that this opportunity of reinstatement shall not be given more than once throughout the tenure of a Community Embedded Employee's service:

Provided further that-

- (a) no salary or allowances shall be paid to the re-instated employee for the period spent under termination; and
- (b) payment made, if any, to the terminated employee being re-instated, which was not allowed during or for the period spent under termination, is recovered from the employee.

6. **Posting, transfer and adjustment of Program employees.**---Notwithstanding anything contained in other provisions of this Act, the Program employees, except the Community Embedded Employees, may be transferred to perform duty anywhere in the Province.

7. **Disciplinary action.**---Disciplinary cases against the Program employees shall be dealt with in a manner as may be prescribed.

8. **Application of Government rules.**---The Program employees shall be dealt in accordance with the provisions of this Act and rules; provided that if no specific rules are available on any matter, the Government rules shall be applicable to such Program employees.

9. **Public servants.**---All Program employees shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860 (Act No. XLV of 1860).

10. **Power to make rules.**---Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

11. **Saving.**--- Any rules, orders or instructions in respect of any terms and conditions of services of Program employees duly made or issued by an authority competent to make them and in force immediately before the commencement of this Act shall, in so far as such rules, orders or instructions are not inconsistent with the provisions of this Act, be deemed to be rules made under this Act.

12. **Removal of difficulties.**---If any difficulty arises in giving effect to any of the provisions of this Act, Government may make such order, not inconsistent with the provisions of this Act, as may appear to be necessary for the purpose of removing the difficulty:

Provided that no such power shall be exercised after the expiry of one year from the commencement of this Act.

13. Repeal--- The Khyber Pakhtunkhwa Regulation of Lady Health Workers Program and Employees (Regularization and Standardization) Ordinance, 2014 (Khyber Pakhtunkhwa Ord. No. VI of 2014) is hereby repealed.

**BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER
PAKHTUNKHWA**

(AMANULLAH)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa

A-5

وزیر اعظم کا پروگرام برائے خاندانی منصوبہ بندی اور بنیادی

آرڈر برائے انتخاب نیشنل ہیلتھ ڈرگز

نمبر شمارہ 151 مورخہ 7-2-96 ذی الحجہ 1417
 محلہ نارنگ پور ضلع جہلم تحصیل جہلم
 بنیادی مرکز صحت / دہی مرکز صحت / تحصیل ہیڈ کوارٹر ہسپتال / ضلعی ہیڈ کوارٹر ہسپتال
 کی سلیکشن کمیٹی کی سفارش پر بطور نیشنل ہیلتھ ڈرگز کے ٹریننگ معیاری
 بنیاد پر منتخب کر لیا گیا ہے۔

شرائط برائے انتخاب

- 1۔ آپ کا انتخاب ابتدائی طور پر پندرہ ماہ کیلئے عمل میں لایا گیا ہے۔
- 2۔ پہلے بارہ ہفتے میں متعلقہ ٹریننگ سنٹر کا مہلہ آپ کو ٹریننگ دے گا۔ ٹریننگ ہفتے میں ایک دن (اتوار، سوموار، منگل، بدھ اور جمعرات) کو ہوگی۔
- 3۔ ٹریننگ کے بعد اگلے بارہ ماہ آپ کو اپنے متعلقہ علاقہ میں کام کرنا ہوگا۔ ہر ماہ تین ہفتے کام کرنے کے بعد چھ ہفتے متعلقہ ٹریننگ سینٹر میں رپورٹ کرنا ہونگے۔
- 4۔ آپ کو بارہ ہفتے کی ٹریننگ کے دوران پچاس (50%) روپیہ میسج اور اس کے بعد ہر ماہ بارہ (1200/-) روپیہ ماہوار اعزاز دیا جائیگا۔
- 5۔ آپ کا انتخاب آپ کے مستقل رہائشی علاقہ کے لیے ہے۔ دوران ٹریننگ و کام آپ کی کہیں تبدیلی (خارج) نہیں ہونی۔
- 6۔ دوران ٹریننگ و کام متعلقہ اخباری بنیادی مرکز صحت / دہی مرکز صحت / تحصیل یا ضلعی ہیڈ کوارٹر ہسپتال، آپ کی کارکردگی کو زیر نظر رکھے گا، جس کی رپورٹ وہ وقتاً فوقتاً بخانے گا۔
- 7۔ انتخاب کے بعد جب بھی پتہ چلا کہ آپ کے انتخاب کے کوآفٹ میں نہیں ہیں یا پروگرام کے دوران ہی وقت بھی آپ کی کارکردگی غیر تسلی بخش ہوئی تو آپ کو بغیر کسی نوٹس کے فارغ کر دیا جائیگا۔ اس سلسلہ میں آپ کو قسم کی قانونی چارہ دہی کی مقدار نہیں ہوگی۔
- 8۔ اگر آپ کی کارکردگی تسلی بخش رہی تو آپ کے انتخابی معاہدہ میں ترمیم ہوتی رہے گی۔ 1998 تک دیکھا جائے۔
- 9۔ آپ کو پروگرام کے دوران گاہے بگاہے جاری ہونے والی تمام ہدایات پر عمل کرنا ہوگا۔
- 10۔ آپ کو ہدایت کی سہولت ہے کہ آپ 2 مارچ 1996 کو 8:30 بجے ٹریننگ سنٹر

02 MAR 1996

RHC

ATTESTED

Assistant District Health Officer

IN THE SUPREME COURT OF PAKISTAN
(Original Jurisdiction)

Present

Mr. Justice Iftikhar Muhammad Chaudhry, CJ.
Mr. Justice Jawwad S. Khawaja
Mr. Justice Khilji Arif Hussain

Crl. Original Petition No.15 and 73 of 2012

In

Human Rights Case No.16360 of 2009

And

Constitution Petition No.36 of 2012

(Regarding the Regularization of Service
of Lady Health Supervisor/Workers)

Bushra Arain (In Crl.O.P.15/12)
Dr. Pir Ghulam Hussain and others (In Crl.O.P.73/12)

...Petitioners

Versus

Mr. Jahanzeb Khan, Secretary Health and others ... Respondents

In Attendance: Ms. Bushra Araen, LHS (Crl.O.P.15/12)
Ms. Rukhsana Anwar, LHS (in Cont. P.36/12)
Ms. Shafaq, Programme Officer
Ms. Farhat Sultana, LHS
Ms. Saeeda Shaheen, LHS
Ms. Maryam Sultana, LHS
Dr. Pir Ghulam Hussain,
Field Monitoring Coordinator (Crl.O.P.73/12)

For the Federation: Raja M. Aleem Abbasi, DAG

For Govt. of Punjab: Mr. Javed Hassan, AAG

For Govt. of Sindh: Mr. M. Qasim Mir Jat, AAG, Sindh
Mr. Saeed Qureshi,
Focal Person to Secretary Health

For Govt. of KPK: Syed Arshad Hussain Shah, AAG, KPK
Mr. Asmatullah Qureshi, S.O.

For Govt. of Balochistan: Mr. M. Azam Khan, Khattak, AAG, Balochistan

Date of hearing: 03.10.2012.

ORDER

The learned DAG stated that the in pursuance of the policy funds have been released for the distribution of salaries etc. to the Provinces till the moth of September, 2012. According to his instructions on the completion of codal formalities from the Finance Ministry this amount is likely to be transferred in the shortest possible time so that the respective Provinces may reimburse the amount to the staff working in various projects relating to health. Mst. Bushra Araen, LHS and others stated that

ATTESTED

Superintendent
Supreme Court of Pakistan

and the Provincial Governments may take interest to disburse their salaries well in time particularly before the Eid-ul-Azha. Learned DAG stated that all efforts shall be made to do the needful. We expect that the Chief Secretaries of the respective Provinces and the Commissioner ICT shall also take steps in this behalf.

2. Dr. Pir Ghulam Hussain, Field Monitoring Coordinator stated that the Officers and Staff of Programme Monitoring Units (PMUs) approximately 167 in numbers have been left at the disposal of Provinces for the purpose of confirmation yet they are working at par with the LHWs and LHSs on the Federal strength, since 1996, therefore, their services may also be regularized by the Federation. The learned DAG has stated that this decision has been taken in a meeting duly represented by the representatives of the respective Provincial Governments. He has referred to the summary sent to the Prime Minister, relevant paragraphs of the same are reproduced as under:-

"iv. All LHSs, LHWs Account Supervisors and Drivers will be regularized from 1st July, 2012 as initial appointed and calculation of financial implication to be borne by Federal Government shall be made accordingly on the basis of employees' strength as on 30th June, 2011 including cost of medicine and operational costs not exceeding 10% of the total cost of the project.

v. Staff of the PMUs of concerned provinces shall be regularized by the respective Provinces. The Provinces shall be responsible for the payment of liabilities accruing on this account."

We observed that if it is mutually agreed between Federal and Provincial Governments, they must undertake exercise to regularize the employees as early as possible without any discrimination. If the Lady Health Supervisors (LHSs) and Lady Health Workers (LHWs) are confirmed by the Federal Government then again another issue of discrimination in respect of regularization of PMUs Staff will arise. The Chief Secretaries of the respective Provinces and the Commissioner ICT is required to submit a progress report in this behalf on the next date of hearing. It is requested on behalf of the Federation that four weeks time may kindly be granted in order to regularize the aforesaid employees. The request is allowed. The matter shall be listed for hearing after



Islamabad,
03.10.2012.
M. Ashraf Malik

5/1

Sd/- Jaffar Muhammad Chaudhry, C.
Sd/- Jawwad S. Khawaja, J
Sd/- Khulji Arif Hussain, J

Certified to be True Copy

Supintendent

GOVERNMENT OF KHYBER PAKHTUNKHWA
DISTRICT HEALTH OFFICER PESHAWAR

Dated Peshawar the 04/05/2021
No. 6442-48 /DHO.DPIU

Annexure
IV

E-15

NOTIFICATION

NO.PA/Khyber PakhtunKhwa/Bills/2014/351. In terms of provision of The Khyber PakhtunKhwa Regulation of Lady Health Workers Program & employees (regularization & standardization) Act, 2014 (Para (4) Sub-Para (4) & (5) if the Khyber PakhtunKhwa Civil Servants Revised Leave Rules 1981 and instructions there under issued from time to time, sanction is hereby accorded to the grant of 365 days leave encashment in lieu of LPR in respect of Mr/Mst. Naheed Begum W/o Hidayat Ullah BPS-05 as Lady Health Worker attached to CD Dinbahar Colony/District Health Officer Peshawar.

2. In terms of Section-13 of the Khyber PakhtunKhwa Civil Servants Act 1973, the official shall stand retire from service on 03/05/2021 AN on attaining the age of superannuation.

Sd/-XXXXXXXXXXXXXXXX
District Health Officer
Peshawar

A Copy is forwarded to the:-

1. Accountant General Khyber PakhtunKhwa Peshawar.
 2. Provincial Coordinator LHWs Program Khyber PakhtunKhwa Peshawar.
 3. District Coordinator LHWs Program Peshawar.
 4. Litigation Officer DHO Office Peshawar.
 5. Office Assistant.
 6. Establishment section to update the retired personnel list.
 7. Account section
- For information an n/action.

District Health Officer
Peshawar

ATTESTED

Annexure - V

13

18

~~ANNEXURE~~

MINISTRY OF INTER PROVINCIAL COORDINATION
DATE: January 27, 2013 | REGULARIZATION OF LADY WORKERS ETC.

DECISION

The Council of Common Interests considered the Summary filed January 17, 2013 submitted by Ministry of Inter Provincial Coordination (Secretariat of CCI) on "Regularization of Lady Muslim Workers etc" and decided that Federal Government will keep on financing the LHWs Program till June 30, 2017. Pension liability which will accrue after ten years from the date of regularization i.e. June 30, 2023 will be settled in a separate meeting. The Council also directed the provincial governments to finalize the necessary legislation regarding their service structure and terms and conditions etc as soon as possible keeping continuity of the spirit of original contract in view.

Better Copy

Case No CCI 2/1/2013 Dated January 23,2013	REGULARIZATION OF LADY HEALTH WORKERS ETC
---	--

DECISION

The council of Common interests considered the summary dated January 17, 2013 submitted by Ministry of inter Provincial Coordination (secretariat of CCI) on “ Regularization of Lady Health Workers etc “ and decided that Federal Government will keep on financing the LHWs program till June 30,2017. Pension liability which will accrue after ten years from the dated of regularization i.e June 30,2022 will be settled in a separate meeting .The Council also directed the provincial government to finalize the necessary legislation regarding their service structure and terms and conditions etc as soon as possible keeping continuity of the spirit of original scheme in-view.

BEFORE THE PESHAWAR HIGH COURT PESHAWAR

Services Appeal No. 6573/2021.

Mst: Naheed Bugam

Vs

Govt: of KP (Health)

AFFIDAVIT

I Dr, Mubarak Zeb khan S/O Mr, Alam Zeb Khan Litigation Officer ,Office of DHO Peshawar, do hereby solemnly affirm and declare on oath that content of the instant replay are true and correct to the best of my knowledge & belief and nothing has been concealed from this honorable Court.

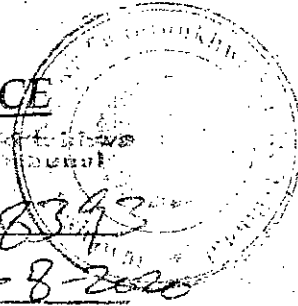
DEPONENT



Dr, Mubark Zeb
Litigation Officer
Office of DHO Peshawar
NIC No: 17101-6493994-5
**District Health
Officer Peshawar**

For appellant

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR



Service Appeal No. 9137 of 2020

Case No. 8343
Dated 10-8-2020

Ahmad Ullah Son of Zafar Ali (Driver), Staff Training Institute Benevolent Fund Building Peshawar Cantt.
..... Appellant

VERSUS

- ✓1- Govt of Khyber Pakhtunkhwa through its Secretary Administration Civil Secretariat Peshawar.
- ✓2- Govt of Khyber Pakhtunkhwa through its Secretary Establishment Deptt: Civil Secretariat Peshawar
- ✓3- Secretary Information & Technology, Civil Secretariat Peshawar.
- ✓4- Director Staff Training Institute Benevolent Fund Building Peshawar Cantt.
- ✓5- Director Information & Technology, Khyber Pakhtunkhwa, Peshawar.
- ✓6- Section Officer (Admin) Administration Deptt: Civil Secretariat Peshawar.
- ✓7- Section Officer (Admin) Staff Training Institute Benevolent Fund Building Peshawar Cantt.
- 8- Accountant General Khyber Pakhtunkhwa Peshawar

..... Respondents

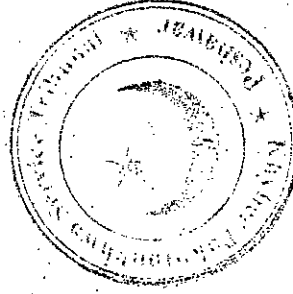
Filed to-day
Registrar
10/8/2020
ATTESTED
[Signature]
Registrar
Khyber Pakhtunkhwa Service Tribunal
Peshawar

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST THE IMPUGNED ORDER NO.SO(ADMIN) E&AD/4(04)/STI/AHMAD ULLAH DATED

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.9137/2020

Date of Institution ... 10.08.2020
Date of Decision ... 13.09.2021



Ahmad Ullah Son of Zafar Ali (Driver), Staff Training Institute
Benevolent Fund Building Peshawar Cantt.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through its Secretary
Administration Civil Secretariat Peshawar and Seven others.

... (Respondents)

Murtaza Khan Durrani,
Advocate

... For Appellant.

Usman Ghani,
District Attorney

... For Respondents.

AHMAD SULTAN TAREEN
ROZINA REHMAN

... CHAIRMAN
... MEMBER (J)

JUDGMENT

ROZINA REHMAN, MEMBER (J): Brief facts of the case are that appellant was appointed as Chowkidar on Contract Basis in S.T & I.T Department vide order dated 03.08.2009 in the Project I.T Professional Training Center for Unemployed I.T Graduates and Government Employees. He joined his duties on 05.10.2009 and he remained as Chowkidar on Contract Basis w.e.f 05.10.2009 to 21.02.2012. On the recommendation of Departmental Selection Committee, he was appointed as Driver on Fixed Pay/Contract Basis on 21.02.2012 and after 9 years of continuous service, he was

ATTESTED

regularized through Employees (Regularization of Services) Act, 2018 and his service was regularized w.e.f 1st July, 2018 in Staff Training Institute. He filed departmental appeal with prayers to count his 10 years continuous service for promotion and pensionary benefits but his request was turned down. He then filed writ petition for redressal of his grievance and vide order of the august Court, dated 25.06.2020, he was directed to file service appeal before the competent forum, hence, the present service appeal.

2. We have heard Murtaza Khan Durrani Advocate appearing on behalf of appellant and Usman Ghani learned District Attorney for the respondents and have gone through the record and the proceedings of the case in minute particulars.

3. Learned counsel for appellant contended that the impugned order is illegal, arbitrary and without jurisdiction which is based on discrimination. He contended that it is settled law that when an employee is regularized, his total length of service is to be computed from the day he joined the service. Reliance was placed on 2021 S.C.M.R 116;2019 P.L.C (C.S) 1065 and 2010 P.L.C (C.S) 354.

4. Conversely learned District Attorney submitted that in the light of Khyber Pakhtunkhwa (Regularization of Services) Act, 2018, the services of 24 employees including the appellant were regularized w.e.f 01.07.2018. He submitted that the appellant filed an application, wherein, he had requested the Director to count his project service w.e.f 05.10.2009 to 01.07.2018 for the purpose of promotion and pension and that his application was processed and disposed of on

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

the ground that Regularization Act, 2018 provides regularization of the employees to be regularized with immediate effect and therefore, pursuant to that all contract employees were regularized with immediate effect.

5. It is a matter of record that appellant was initially appointed on Contract Basis as Chowkidar on 03.08.2009. On the recommendation of Departmental Selection Committee, he was appointed as Driver on Contract Basis on 21.02.2012 and accordingly, he submitted his arrival report on 21.02.2012. It is also not denied that his service was regularized vide Notification No. SOE-IV (4) (E&AD)/5-09-2009 dated 18.10.2018 w.e.f July, 1st, 2018 in Staff Training Institute. He then submitted an application for inclusion of previous Government service but his request was denied on the ground that previous service could not be counted for pension or gratuity as service rendered on Contract Basis, shall not qualify for the same.

6. There is no denial of the fact that appellant was initially appointed on Fixed Pay and subsequently his services were regularized, hence, in view of the Rule 2.3 of West Pakistan Civil Services Pension Rules, 1968, the appellant is to be paid pensionary benefits from the date of his first appointment. It is well settled law, when any employee on contract is absorbed into regular employment, and there is no break in his service, then period on contract employment has to be considered for counting length of service of pensionary benefits etc. Reliance is placed on 2010 P.L.C 354, wherein, it is held that:

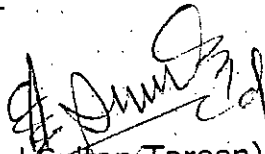
ATTESTED


 J. MINER
 Pakhtokhwa
 Service Tribunal
 Peshawar

"When an employee was regularized, his total length of service, was to be computed from the day he joined the service that could be temporary or otherwise. Even period of an employee of daily wages would be counted for the purpose of computing pensionary benefits".

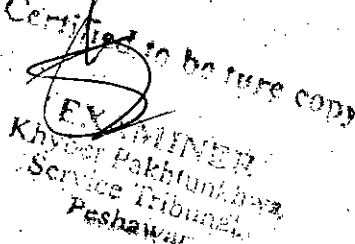
07. Therefore, while considering the above, we are not inclined to hold a different view, therefore, while accepting this appeal, we direct the respondents to pay all the pensionary benefits to the appellant by counting his service from the date of his initial appointment i.e. 03.08.2009. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
13.09.2021


(Ahmad Sultan Tareen)
Chairman


(Rozina Rehman)
Member (J)

Date of Presentation of Application 23-9-21
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Khyber Pakhtunkhwa
Service Tribunal
Peshawar



KHYBER PAKHTUNKWA
SERVICE TRIBUNAL, PESHAWAR

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

No. _____/ST Dated ____/____/2022

To:

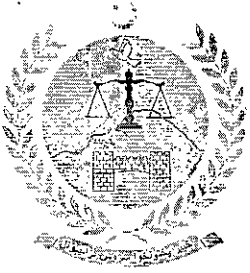
The District Health Officer, Peshawar.

SUBJECT:- **JUDGMENT IN SERVICE APPEAL NO. 6573/2021, TITLED Mst. NAHEED BEGUM VERSUS THE SECRETARY HEALTH DEPARTMENT, GOVERNMENT OF KHYBER PAKHTUNKHWA, PESHAWAR ETC.**

I am directed to forward herewith a certified copy of order dated 17.06.2022, passed by this Tribunal in the above mentioned service appeal for compliance.

Encl. As above.

(WASEEM AKHTAR)
REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL,
PESHAWAR.



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

No. _____/ST Dated ____/____/2022

To:

The District Health Officer, Peshawar.

SUBJECT:- JUDGMENT IN SERVICE APPEAL NO. 6573/2021, TITLED Mst. NAHEED BEGUM VERSUS THE SECRETARY HEALTH DEPARTMENT, GOVERNMENT OF KHYBER PAKHTUNKHWA, PESHAWAR ETC.

I am directed to forward herewith a certified copy of order dated 17.06.2022, passed by this Tribunal in the above mentioned service appeal for compliance.

Encl. As above.

(WASEEM AKHTAR)
REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL,
PESHAWAR.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 6573/2021

Mst: Naheed Begum.....Appellant.

Vs

Secretary Health Govt of Khyber Pakhtunkhwa Peshawar and
others.....Respondents.

Reply on behalf of Respondent No. 4

Preliminary Objections:-

1. That the appellant has no cause of action.
2. That the appellant has no locus standi.
3. That the appeal is time barred.
4. That the appellant is bad due to joinder and misjoinder of the necessary parties.

Respectfully Sheweth

Para 1 to 7 :

It is submitted that, being administrative in nature, the matter relates to Respondents No.1, 2, 3 & 5 and they are in a better position to redress the grievances of the appellant. Besides, the appellant has raised no grievances against Respondent No.4.

It is pertinent to mention here that in light of DHO Charsadda Notification No.1689-28, dated: 24.09.2014 (copy enclosed) the appellant has been regularized w.e.f 01.07.2012 instead the initial date of appointment. Hence, she has served the department for less than 10 years which is mandatory for pension entitlement.

Keeping in view the above mentioned facts, it is humbly prayed that the appeal at hand, having no merits, may be dismissed with cost.


**ACCOUNTANT GENERAL
KHYBER PAKHTUNKHWA**