

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.**

Service Appeal No. 1970/2019

Date of Institution ... 06.12.2019

Date of Decision ... 15.07.2021

Bibi Razia Begum,
R/o Rab Nawaz Khan Korouna,
Sardheri, Charsadda ... (Appellant)

VERSUS

Secretary to Government of Khyber Pakhtunkhwa, Department of
Health, Peshawar and four others. ... (Respondents)

MR. MUHAMMAD AYUB KHAN SHINWARI,
Advocate --- For appellant.

MR. MUHAMMAD ADEEL BUTT,
Additional Advocate General --- For respondents.

MR. SALAH-UD-DIN --- MEMBER (JUDICIAL)
MR. ATIQ-UR-REHMAN WAZIR --- MEMBER (EXECUTIVE)

JUDGMENT

SALAH-UD-DIN, MEMBER:-

Precise facts forming the
background of the instant service appeal are that the appellant
was appointed as Lady Health Worker on fixed pay vide
Notification dated 07.02.1996 and the contract of service was
extended from time to time. On promulgation of Khyber
Pakhtunkhwa Regulation of Lady Health Workers Program and
employees (Regularization and Standardization) Act 2014, the
services of the appellant were regularized with effect from 1st July
2012, however on attaining the age of superannuation on
14.04.2019, the appellant was retired vide office order bearing
No. 4064-68 DHO Charsadda dated 20.05.2019 without



pensionary benefits. The appellant filed departmental appeal, however the same was not responded within the statutory period of ninety days, therefore, she filed the instant service appeal for redressal of her grievance.

2. Learned counsel for the appellant has argued that the appellant was though initially appointed as Lady Health Worker on fixed pay vide Notification dated 07.02.1996, however her services were regularized with effect from 1st July 2012 through promulgation of Khyber Pakhtunkhwa Regulation of Lady Health Workers Program and employees (Regularization and Standardization) Act 2014, and in view of rules 2.2 and 2.3 of the West Pakistan Civil Services Pension Rules, 1963, the appellant was entitled to grant of pensionary benefits; that for the purpose of pensionary benefits the period of service of the appellant shall be considered from the date of her first appointment and not from the date of regularization of her services. In the last he requested that as the appellant is having more than ten years service as required for accruing of pensionary benefits, therefore, the appeal in hand may be allowed and the appellant may be granted pensionary benefits. Reliance was placed on 2019 PLC (C.S) 1065 as well as unreported judgments of worthy Peshawar High Court, Peshawar in Writ Petition No. 521-D of 2018 titled "Dr. Bashir Ahmad Versus Govt: of Khyber Pakhtunkhwa through Secretary Finance, Peshawar and others" and Writ Petition No. 1188-P of 2014 titled "Baghi Shah Versus Government of Khyber Pakhtunkhwa through Secretary Finance, Civil Secretariat, Peshawar KPK and others".

3. On the other hand, learned Additional Advocate General for the respondents, while opposing the arguments advanced by the learned counsel for the appellant, has contended that the appellant was initially appointed on fixed pay and her services were regularized with effect from 1st July 2012; that the appellant stood retired on 14.04.2019 and as such, she has performed duties as regular Lady Health Worker only for a period of about 06 years and 09 months, while pensionary benefits could be granted to a civil servant, in case of completion of ten years or more regular service; that the appellant was having less than ten years

regular service, therefore, she is not entitled to grant of pensionary benefits.

4. Arguments heard and record perused.

5. A perusal of the record would show that the appellant was initially appointed as Lady Health Worker on fixed pay vide appointment order dated 07.02.1996, however after promulgation of Khyber Pakhtunkhwa Regulation of Lady Health Workers Program and employees (Regularization and Standardization) Act 2014, the services of the appellant were regularized with effect from 1st July 2012. The appellant stood retired on 14.04.2019, however she has not been granted pensionary benefits. Now the question, which requires determination is as to whether for pensionary benefits, the services of the appellant shall be considered from the date of her initial appointment or from the date of regularization of her services? In order to appreciate the controversy in a proper way, it would be advantageous to reproduce rules 2.2 and 2.3 of the West Pakistan Civil Services Pension Rules, 1963, which are as below:-

" 2.2 Beginning of Service- Subject to any special rules the service of Government servant begins to qualify for pension when he takes over charge of the post of which he is first appointed.

Rule 2.3 Temporary and officiating service —
Temporary and officiating service shall count for pension as indicated below:-

- (i) *Government servants borne on temporary establishment who have rendered more than five years continuous temporary service for the purpose of pension or gratuity; and*
- (ii) *Temporary and officiating service followed by confirmation shall also count for pension or gratuity".*

6. A bare perusal of the above mentioned rules would make it clear that when a government servant is regularized, his total

length of service is to be computed from the date he joined the service, whether temporary or otherwise. In this view of the matter, the length of service of the appellant shall be counted from the date of her initial appointment i.e 07.02.1996 for the purpose of pension and gratuity. August Supreme Court of Pakistan in its judgment reported as 2015 PLC (C.S) 296 titled "Secretary to Government of Punjab, Finance Department Versus M. Ismail Tayer and 269 others, has graciously held that the pensionary benefits is not a bounty or ex-gratia payment but a right acquired in consideration of past service. Such right to pension is conferred by law and cannot be arbitrarily abridged or reduced except in accordance with such law as it is the vested right and legitimate expectation of retired civil servant.

7. In light of the above discussion, the appeal in hand is accepted and the respondents are directed to grant pensionary benefits to the appellant by processing and finalizing her pension case within a period of three months. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
15.07.2021



(SALAH-UD-DIN)
MEMBER (JUDICIAL)



(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)


ORDER
15.07.2021

Mr. Muhammad Ayub Khan Shinwari, Advocate, for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the appeal in hand is accepted and the respondents are directed to grant pensionary benefits to the appellant by processing and finalizing her pension case within a period of three months. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
15.07.2021


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

24.12.2020

Junior to counsel for the appellant and Asstt. AG alongwith Mohsin Ahmad, Coordinator and Anwarullah, Litigation Officer for the respondents present.

Respondents No. 1 to 5 have furnished reply/comments. Placed on record. The appeal is assigned to D.B for hearing on 31.03.2021. The appellant may furnish rejoinder, within one month, if so desires.



Chairman

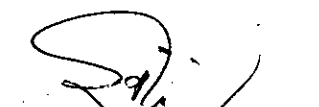
31.03.2021

Nemo for appellant.

Kabir Ullah Khattak learned Additional Advocate General alongwith Dr. Ali Shah Litigation Officer for respondents present.

Due to general strike on the call of Khyber Pakhtunkhwa Bar Council, instant case is adjourned to 15/7/2021 for arguments before D.B. Notice be issued to appellant/counsel for the date fixed.


(Atiq ur Rehman Wazir)
Member (E)

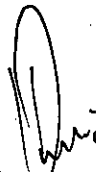

(Rozina Rehman)
Member (J)

1970/19

07.09.2020

Junior to counsel for the appellant and Addl. AG for the respondents present.

Learned AAG seeks further time to furnish reply/comments of the respondents. Adjourned to 29.10.2020 on which date the requisite reply/comments shall positively be furnished.


Chairman

29.10.2020

Nemo for appellant.

Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Dr. Mohsin Coordinator for respondents present.

Written reply on behalf of respondents is still awaited. Representative of respondents seeks time to furnish written reply/comments. Last chance is given. To come up for written reply/comments on 24.12.2020 before S.B.


(Rozina Rehman)
Member (J)

10.03.2020

Learned counsel for the appellant present. Preliminary arguments heard.

The appellant, Retired Lady Health Worker, has filed the present service appeal for the grant of pensionary benefits.

Submissions made by the learned counsel for the appellant, need consideration. The present service appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to the respondents for written reply/comments. To come up for written reply/comments on 23.04.2020 before S.B.


Member

23.04.2020

Due to COVID19, the case is adjourned to 20.07.2020 for the same as before.


Reader

20.07.2020

Junior counsel for appellant is present. Notices to respondents could not be issued due to public holidays on account of COVID-19, therefore, fresh notices be issued to the respondents for submission of written reply/comments. To come up for written reply/comments on 07.09.2020 before S.B.

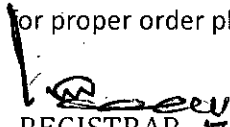



(MUHAMMAD JAMAL KHAN)
MEMBER

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. - _____ 1970/2019 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge		
1	2	3		
1-	19/12/2019	<p>The appeal of Mr. Bibi Razia Begum resubmitted today by Mr. Muhammad Ayub Shinwar 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 - 19/12/19</p> <p>2-</p>	<p><i>20/12/19</i></p> <p>23.01.2020</p>	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>23/01/20</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>Nemo for appellant.</p> <p>Notices be issued to appellant/counsel for preliminary hearing on 10.03.2020 before S.B.</p> <p style="text-align: right;">Chairman </p>

P-15A

The appeal of Mst. Bibi Razia Begum r/o Rab Nawaz Khan Korona Sardheri Charsadda received today i.e. on 06.12.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

Copy of retirement order of appellant mentioned in the memo of appeal is not attached with the appeal which may be placed on it.

No. 2134 /S.T,

Dt. 10-12- /2019.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

M.Ayub Shinwari Adv. Pesh.

Resubmitted after completion


19/12/19

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No 1970 /2019

Bibi Razia Begum

.....Appellant

Versus

Government of KPK through Secretary Health & others

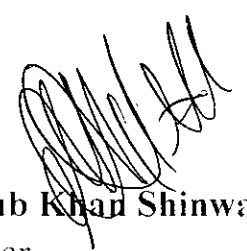
.....Respondents

INDEX

S. No	Description of Document	Dated	Annex	Pg No
1.	Service Appeal and Affidavit			1-3
2.	Copy of Appointment order of Appellant		A	4
3.	Copy of regularization order		B	5-
4.	Copy of service book / Retirement order		C	6-15/A
5.	Copy of Departmental appeal		D	16
	wakalat mense			17

Through

Razul
Appellant,


Muhammad Ayub Khan Shinwari
Advocate Peshawar

Chamber:

7-A, Haroon Mansion,
Khyber Bazar, Peshawar.
Cell No 03219068514

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No 1970 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1784

Dated 06/12/2019

Bibi Razia Begum,
R/o Rab Nawaz Khan Korouna,
Sardheri, Charsadda

.....Appellant

Versus

- ✓1. Secretary to Government of Khyber Pakhtunkhwa, Department of Health, Peshawar.
- ✓2. Secretary to Government of Khyber Pakhtunkhwa, Finance Department, Peshawar.
- ✓3. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
- ✓4. District Health Officer, Charsadda
- ✓5. District Account Officer, Charsadda

.....Respondents

**Service Appeal Under Section 4 of Khyber
Pakhtunkhwa Service Tribunal Act, 1974**

Respectfully Sheweth,

Brief but relevant facts of the case are as follows:

1. That the appellant was appointed as Lady Health Worker in the respondent Department on fixed pay by the competent authority in the prescribed manner after fulfilling all the codal formalities vide appointment order dated 07-02-1996. (Copy of the appointment order is appended herewith as **Annex-A**)
2. That the said contract was extended from time to time. Meanwhile the Government of Khyber Pakhtunkhwa promulgated Khyber Pakhtunkhwa Regulation of lady Health Workers Program and Employees (Regularization and Standardization) Act, 2014 the services of all the contract employees were regularized.
3. That in pursuance of the aforesaid Act the respondents regularized the services of the Appellant and her colleagues vide Office Order dated 24-09-2014. (Copy of Regularization order is appended herewith as **Annex-B**)
4. That now the appellant has retired from service on attaining the age of superannuation with effect from 14-04-2019 but the respondents are not preparing her pension papers for her monthly pension and other retiring benefits. (Copy of Service Book is appended herewith as **Annex-C**)

Filed to-day
6/12/19
Registrar
Re-submitted to-day
19/12/19
Registrar

5. That feeling aggrieved of the aforesaid act of respondents, the appellant filed Departmental Appeal which has not been decided yet and the statutory period for deciding the Departmental Appeal has lapsed. (Copy of the Departmental Appeal is filed herewith and annexed as **Annex-D**)

Hence, the instant Service Appeal on the following amongst other grounds:


Grounds:

- a. That the impugned act of respondent Department is against the law, illegal, unlawful and without lawful authority.
- b. That the treatment met to the Appellant is against the fundamental rights of the Petitioners enshrined and protected under the Constitution of Islamic Republic of Pakistan, 1973.
- c. That under the rule 2.3 of West Pakistan Civil Services Pension Rules, 1963, the service of the Appellant with effect from dates of appointment till date of regularization shall be counted for pension or gratuity.
- d. That the treatment met to the Appellant is against the dictums of August Supreme Court of Pakistan and this Honorable Tribunal.
- e. That the treatment met to the Appellant is not only based on discrimination but also the same is based on colorful exercise of powers which is not warranted under law.
- f. That the treatment met to the Appellant is not only against the principles of natural justice but also against the settled principles of administrative law.
- g. That the Appellant crave permission of this Honorable Tribunal to rely on other grounds at the time of arguments and produce any additional document if required in support of his Service Appeal.

It is, therefore, prayed that on acceptance of the title Service Appeal, the impugned Notification may kindly be set aside and the respondents may kindly be directed to prepare and process the pension papers of the appellant for monthly pension and other pension benefits along with arrears and back benefits.

Any other relief, deemed fit and appropriate by this Honorable Tribunal, in the circumstances of the service appeal which has not been prayed for, may graciously be granted.

Pasica
 Appellant,
 Through
Muhammad Ayub Khan Shinwari
 Advocate Peshawar.



IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No _____/2018

Bibi Razia Begum

.....Appellant

Versus

Government of KPK through Secretary Health & others

.....Respondents

Affidavit

I, Bibi Razia Begum, R/o Rab Nawaz Khan Korouna, Sardheri, Charsadda hereby solemnly affirm and declare on oath that the contents of the accompanying Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



Razia
~~Razia~~
Deponent

آرڈر برائے انتخاب ہسپتال کے ورکرز

نمبر شمارہ 162
 ڈی ایچ او آفس 7/2/96
 بی بی رحیم بیگم
 خورشید احمد خان
 (سر ڈیپارٹمنٹ)
 سر ڈیپارٹمنٹ

شرائط برائے انتخاب

- 1۔ آپ کا انتخاب ابتدائی طور پر پندرہ روزہ لیٹل میں لایا گیا ہے۔
- 2۔ پچھلے بارہ ہفتے میں متعلقہ ٹریننگ سٹا کا انتخاب کو ٹریننگ دے گا۔ ٹریننگ ہفتے میں پانچ دن (اتوار اور بدھ) متعلقہ ہفتے اور تعطیلات کو ہوگی۔
- 3۔ ٹریننگ کے بعد اگلے بارہ ماہ آپ کو اپنی متعلقہ علاقہ میں کام کرنا ہوگا۔ ہر ماہ تین ہفتے کام کرنے کے بعد وہ تھری ہفتے متعلقہ ٹریننگ سینٹر میں رپورٹ اور ٹریننگ کیلئے آنا ہوگا۔
- 4۔ آپ کو بارہ ہفتے کسی ٹریننگ کے دوران پچاس (50/-) روپیہ یعنی یہ دوران کے بعد ہر ماہ بارہ (1200/-) روپیہ ماہوار اعزاز دیا جائیگا۔
- 5۔ آپ کا انتخاب آپ کے مستقل رہائشی علاقہ کیلئے ہے اور دوران ٹریننگ و کام آپ کی کہیں تبدیلی (خارج) نہیں ہوگی۔
- 6۔ دوران ٹریننگ و کام متعلقہ انچارج بنیادی مرکز صحت کو ذہنی مرکز صحت / تحصیل یا ضلعی ہیڈ کوارٹر ہسپتال، آپ کی کارکردگی کو زیر رکھے گا، جس کی رپورٹ وہ وقتاً فوقتاً منجائے گا۔
- 7۔ انتخاب کے بعد تھری ہفتے چلا کر آپ کے انتخاب کے گوائڈ لائن میں ہیں یا پروگرام کے دوران ہی وقت بھی آپ کی کارکردگی غیر تسلی بخش ہوئی تو آپ کو بغیر کسی نوٹس کے نارن کر دیا جائیگا۔ اس سلسلہ میں آپ کو قسم کی قانونی چارہ بندی کی حقدار نہیں ہوگی۔
- 8۔ اگر آپ کی کارکردگی تسلی بخش رہی تو آپ کے انتخابی معاہدہ میں تو سبب ہوتی رہے گی جو 1998 تک رہے گا۔
- 9۔ آپ کو پروگرام کے دوران گاہے بگاہے جاری ہونے والی تمام ہدایات پر عمل کرنا ہوگا۔
- 10۔ آپ کو ہدایت کی جاتی ہے کہ آپ دورانہ 2/3/96 کو صبح 9:30 بجے ٹریننگ سنٹر قاصر میں تو آپ کا انتخاب خود بخود ختم سمجھا جائیگا۔

Health Officer
 Charsada

Health Officer
 Charsada

ATTESTED

وزیر اعظم کا پروگرام برائے خاندانی منصوبہ بندی اور بنیادی صحت
آرڈر برائے انتخاب پیشکش ہیلتھ ورکرز

نمبر شمارہ-----162----- بمورخہ 7.2.96 ڈی ایچ او آفس چارسدہ
مسماة-----بی بی رضیہ بیگم دختر-----خورشید احمد خان
محلہ رہنواز خان کورونہ غنڈہ-----سکنہ شیخو سر ڈھیری
تحصیل چارسدہ-----ضلع چارسدہ-----صوبہ سرحد
بنیادی مرکز صحت ادیبی مرکز صحت / تحصیل ہیڈ کوارٹر ہسپتال / ضلعی ہیڈ کوارٹر ہسپتال
شرائط برائے انتخاب

- ۱۔ آپ کا انتخاب ابتدائی طور پر پندرہ ماہ کے لئے عمل میں لایا گیا ہے۔
- ۲۔ پہلے بارہ ہفتہ میں متعلقہ ٹریننگ سنٹر کا عمل آپ کو ٹریننگ دے گا، ٹریننگ ہفتہ پانچ دن (اتوار، سوموار، منگل، بدھ اور جمعرات) کو ہوگی۔
- ۳۔ ٹریننگ کے بعد اگلے بارہ ماہ آپ کو اپنے متعلقہ علاقہ میں کام کرنا ہوگا۔ ہر ماہ تین ہفتہ کام کرنے کے بعد چھوٹے ہفتہ متعلقہ ٹریننگ میں رپورٹ اٹریننگ کے لئے آنا ہوگا۔
- ۴۔ آپ کو بارہ ہفتہ کی ٹریننگ کے دوران پچاس (50) روپے یومیہ اور اس کے بعد ہر ماہ بارہ سو-1200 روپے ماہوار اعزازیہ دیا جائیگا۔
- ۵۔ آپ کا انتخاب آپ کے مستقبل رہائشی علاقہ کے لئے ہے اور دوران ٹریننگ و کام آپ کی کہیں تبدیلی (ٹرانسفر) نہیں ہوگی۔
- ۶۔ دوران ٹریننگ و کام متعلقہ انچارج بنیادی مرکز صحت ادیبی مرکز صحت / تحصیل یا ضلعی ہیڈ کوارٹر ہسپتال آپ کی کارکردگی کو زیر رکھے گا جس کی رپورٹ وہ وقتاً فوقتاً پہنچائے گا۔
- ۷۔ انتخاب کے بعد جب بھی پتہ چلا کہ آپ کے انتخاب کے کوائف صحیح نہیں ہیں یا پروگرام کے دوران کسی وقت بھی آپ کی کارکردگی غیر تسلی بخش ہوئی تو آپ کو بغیر کسی نوٹس کے فارغ کر دیا جائیگا۔ اس سلسلہ میں آپ کسی قسم کی قانونی چارہ جوئی کی حقدار نہیں ہوگی۔
- ۸۔ اگر آپ کی کارکردگی تسلی بخش رہی تو آپ کے انتخابی معاہدہ میں توسیف ہوتی رہے گی۔ جو 1998 تک ہو سکتا ہے۔
- ۹۔ آپ کو پروگرام کے دوران گے بگا ہے جاری ہونے والی تمام ہدایات پر عمل کرنا ہوگا۔
- ۱۰۔ آپ کو ہدایت کی جاتی ہے کہ آپ مورخہ 2.3.96 کو صبح 8.30 بجے ٹریننگ سنٹر BHO رپورٹ کریں۔ اگر آپ مقررہ وقت پر حاضر ہونے سے قاصر رہیں تو آپ کا انتخاب خود بخود ختم سمجھا جائیگا۔

ڈسٹرکٹ ہیلتھ آفیسر

ATTESTED



**OFFICE OF THE
DISTRICT HEALTH OFFICER
CHARSADDA**



Annex B
5

OFFICE ORDER

In terms of Section 4 (1) read with 1st proviso there under, of the Khyber Pakhtunkhwa Regulation of Lady Health Workers Program and employees (Regularization and Standardization) Act 2011, services of the following Lady Health Workers Program Employees of district Charsadda Khyber Pakhtunkhwa are hereby regularized w.e.f 1st July 2012. Their terms and conditions of service will be governed under the Khyber Pakhtunkhwa Regulation of Lady Health Workers Program and Employees (Regularization and Standardization) Act 2011 and rules to be made there under.

S.No	Nomenclature of Post	Name of Employee	F/H Name	RPS	Date of current posting	Place of Current Posting
1	LHS	Shahana	H: Ibadullah	7	01/04/2003	BHU Sheikho
2	LHW	Tophan Begum	H: Ibadullah	5	07/10/1996	BHU Sheikho
3	LHW	Zamda Begum	H: Yousaf Khan	5	07/10/1996	BHU Sheikho
4	LHW	Hadisa Begum	H: Ibadullah	5	07/10/1996	BHU Sheikho
5	LHW	Rozia Begum	H: Ibadullah	5	07/10/1996	BHU Sheikho
6	LHW	Shamim	H: Shafiq	5	13/07/1996	BHU Sheikho
7	LHW	Mahka Rehmat	H: Gulam Ali	5	13/07/1996	BHU Sheikho
8	LHW	Ishrat Jahan	F: Shah Muhammad	5	25/10/2000	BHU Sheikho
9	LHW	Safia Begum	H: Muhammad Shauq	5	25/10/2000	BHU Sheikho
10	LHW	Hanida Begum	F: Gul Behman	5	25/10/2000	BHU Sheikho
11	LHW	Nurgus Begum	H: Shafiq	5	25/10/2000	BHU Sheikho
12	LHW	Fahmida Begum	H: Yousaf Khan	5	15/03/2002	BHU Sheikho
13	LHW	Gul Fahmida Raza	H: Ibadullah	5	15/03/2002	BHU Sheikho
14	LHW	Bushra Begum	H: Anwarul Khan	5	15/03/2002	BHU Sheikho
15	LHW	Asma Begum	F: Jamil Muhammad	5	01/04/2003	BHU Sheikho
16	LHW	Jamila Begum	F: Faris Gul	5	01/04/2003	BHU Sheikho
17	LHW	Scema Gul	F: Akber Rehman	5	01/04/2003	BHU Sheikho
18	LHW	Gul Naz	H: Babar Khan	5	26/06/2004	BHU Sheikho
19	LHW	Nasira	F: Imran Shah	5	01/08/2005	BHU Sheikho
20	LHW	Uzma	F: Akber Khan	5	01/08/2005	BHU Sheikho
21	LHW	Nazia	H: Gamar Ali	5	15/06/2006	BHU Sheikho
22	LHW	Sadiya Nurgun	F: Babar Khan	5	15/06/2006	BHU Sheikho
23	LHW	Shamshad Begum	F: Ghofar Rehman	5	09/04/2007	BHU Sheikho
24	LHW	Seema Gul	H: Rasool Khan	5	03/07/2009	BHU Sheikho
25	LHW	Melwar	H: Zahar Shah	5	02/06/2010	BHU Sheikho

In exercise of powers conferred under sub-section (2) of the Section that the above mentioned employees are placed in the above pay scales as mentioned against their respective designations.

District Health Officer
Charsadda

No. 1087-III /NP/DPIU/DHO

Dated 24 / 10 / 2014

Copy forwarded to the:

1. Director General Health Services Khyber Pakhtunkhwa Peshawar.
2. PS to Secretary Health, Govt of Khyber Pakhtunkhwa Peshawar.
3. Provincial Coordinator NP for FP & PHC Khyber Pakhtunkhwa Peshawar.
4. District Accounts Officer, Charsadda
5. MO I/C BHU Sheikho
6. District Coordinator NP for FP & PHC Charsadda
7. Officials concerned

ATTACHED

District Health Officer
Charsadda

**OFFICE OF THE
DISTRICT HEALTH OFFICER
CHARSADDA**

OFFICE ORDER: -

In terms of Section 4(1) Proviso there under, of the Khyber Pakhtunkhwa Regulation of Lady Health Workers Program and employees (Regularization and Standardization) Act 2011, services of the following Lady Health Workers Program Employees of District Charsadda Khyber Pakhtunkhwa are hereby regularized w.e.f 1st July 2012. Their terms and conditions of service will be governed under the Khyber Pakhtunkhwa Regulation of Lady Health Workers Program and Employee (Regularization and Standardization Act 2014 and rules to be made these under.

S. No.	Nomenclature of Posts	Name of Employee	F/M	Name	BPS	Date of Current posting	Place of Current Posting
1.	LHW	Shabana	H:	Ibad Ullah	5	01.04.2002	BKU Sheikho
2.	LHW	Tajdar Begum	H:	Bashir	5	07.02.1996	BKU Sheikho
3.	LHW	Jamila Begm	H:	Yousaf Khan	5	07.02.1996	BKU Sheikho
4.	LHW		H:	Khalid Khan	5	07.02.1996	BKU Sheikho
5.	LHW	Razia Begum	H:	Maqsood Jan	5	07.02.1996	BKU Sheikho
6.	LHW	Shamam	H:	Shafiq	5	13.04.1996	BKU Sheikho
7.	LHW	Mahka Barkat	H:	Gohar Ali	5	13.07.1996	BKU Sheikho
8.	LHW	Ishrat Jahan	F:	Shad Muhammad	5	25.10.2000	BKU Sheikho
9.	LHW	Aia Begum	H:	Muhammad Shoaib	5	25.10.2000	BKU Sheikho
10.	LHW	Hamida Begum	F:	Gul Rehman	5	25.10.2000	BKU Sheikho
11.	LHW	Nargus Bano	H:	Shainge	5	25.10.2000	BKU Sheikho
12.	LHW	Fahmida Begum	H:	Yousaf Jan	5	15.03.2000	BKU Sheikho
13.	LHW	Gul Folmida Noz	H:	Mian Mehboob Shah	5	15.03.2000	BKU Sheikho
14.	LHW	Bushra Begum	H:	Amanullah Khan	5	15.03.2000	BKU Sheikho
15.	LHW	Asia Begum	F:	Jan Muhammad	5	01.04.2003	BKU Sheikho
16.	LHW	Jamila Begum	F:	Faqir Gul	5	01.04.2003	BKU Sheikho
17.	LHW	Seema Gul	F:	Meher Rehman	5	01.04.2003	BKU Sheikho
18.	LHW	Gul Naz	H:	Baba Jan	5	26.06.2004	BKU Sheikho

ATTACHED

(Better Copy)

5/2

19.	LHW	Nasira	F:	Tasleem Shah	5	01.08.2005	BKU Sheikho
20.	LHW	Uzma	F:	Akbar Khan	5	01.08.2005	BKU Sheikho
21.	LHW	Nazia	H:	Gohar Ali	5	15.06.2006	BKU Sheikho
22.	LHW	Sadia Noureen	F:	Nasir Khan	5	15.06.2006	BKU Sheikho
23.	LHW	Shamshad Begum	F:	Ghfar Rehman	5	09.04.2007	BKU Sheikho
24.	LHW	Seemat Gul	H:	Mardaaq Khan	5	23.07.2009	BKU Sheikho
25.	LHW	Mehnaz	H:	Zubair Shah	5	02.06.2010	BKU Sheikho

In exercise of powers conferred under the sub-section (b) of the Section ibid the above Comunity (sic) Employees one place in the above pay scales as mentioned against their respective obligations.

Sd/-
District Health Officer
Charsadda

No. 1087-III/NIV/DP/U/DHO

Dated 24/09/2014

Copy forwarded to the: -

1. Director General Health Service Khyber Pakhtunkhwa Peshawar.
2. PS to Secretary Health Govt of Khyber Pakhtunkhwa.
3. Provincial Coordinator NP for FP & PHC Khyber Pakhtunkhwa Peshawar.
4. District Accounts Officer, Charsadda.
5. NO I/C BHU Sheikho.
6. District Coordinator NP for FP & PHC Charsadda.
7. Officials concerned.

Sd/-
District Health Officer
Charsadda

ATTACHED

SERVICE BOOK

813328

OF

Mr. Bibi Ra'za Begum

S/o D/o Khursheed Ahmad Khan

Designation LHAI

Department BHU Sherkiho

Rs. 75/-



The entries on 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: Bibi R. G. Begum

Race: Afghan

Residence: Nikilga / P. O. / R. B. M. W. / K. H. M.
K. S. M. / P. O. / S. M. / T. H. / D. / G. / S. / T. / C.



Father's name and residence: K. H. M. / P. O. / S. M. / T. H. / D. / G. / S. / T. / C.


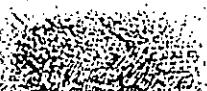
Date of birth by Christian era as nearly as can be ascertained: 15-04-1959


Exact height by measurement: 5' 2"

Personal marks for identification: N/A
17/01-180/339-8

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

Little Finger:  Ring Finger: 

Middle Finger:  Fore Finger: 

Thumb: 

ATTESSED

Signature of Government Servant: 

Signature and designation of the Head of the office, or other Attesting Officer: 

1	2	3	4	5	6	7	8
Name of Post	Substantive Whether substantive or officiating and whether permanent or temporary	Officiating State (if substantive) or whether service counts for pension under Art. 37(5) C.S.R.	Pay in column 4	Additional pay in column 5	Other emoluments falling under the term pay	Date of appointment	
1. H.A. / 2. J.A.			Pay in column 4	Rs. 1200	1200	12/96	12/96
				P	1200	12/97	
				P	1200	12/98	
				P	1200	12/99	
				P	1200	12/00	
				P	1400	12/01	
				P	1400	12/02	
				P	1600	12/03	
				P	1700	12/04	
				P	1800	12/05	
				P	1900	12/06	
				P	2600	12/07	
				P	2700	12/08	
				P	3190	12/09	
				P	3290	12/10	
				P	7000	12/11	
BPS-05				P	5100	12/12	
5400-260-13000				P	5660	12/13	
				P	5660	12/13	
				P	5900	12/14	

ATTESTED

Signature and Designation of the head of the office or other attesting officer in attestation of columns 1 to 8	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	Leave		Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure, or reward or praise of the Government Servant
				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		
				Period	Government to which debitable		

Appointed as LHW against the vacant post of Head Salary Niche DHC o/o No 167/DHC dt 7/2/196

District Officer
Charsadda

District Officer
Charsadda

District Officer
Charsadda

Regularised the service of LHW vide Govt of KP/HC dt 6/16/60/ Eco/pe/11/No 1/11/2003 dt 2.2.2013 WCF 1-7-12

District Officer
Charsadda

TESTED

Amount Increment Allowed

District Officer
Charsadda

Amount Increment Allowed

District Officer
Charsadda

1	2	3	4	5	6	7	
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 serv.
6985-340-17185 L.H.W.			Pay	Rs. 7665/-		12/15	
			,	Rs. 8005/-		12/15	
8590-160-24190 L.H.W.			,	Rs. 9850/-		12/2016	
,	,	,	,	Rs. 10970/-		12/2016	

ACCEPTED

No. of servant	Signature and Designation of the head of the office or other attesting officer in attestation of columns 1 to 5	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	Leave		Signature of the head of the office or other attesting officer	Reference to any recorded punishment or award or praise of the Government Servant
					Nature and duration of leave taken	Allocation of period of leave on average payable four months for which leave salary is debitable to another Government		
						Period		

pay paid pro vis only per
 per...
 District Officer
 Charsada

Annual increment allowed

District Officer
 Charsada

pay paid pro vis only per
 per...

District Officer
 Charsada

30¹¹ AN Annual increment allowed

District Officer
 Charsada

District Officer
 Charsada

Services verified
 from 01-7-12 to
 30-11-2016 AN

District Officer
 Charsada
 T.O. No 599

ATTACHED

15/12/2016
 One pay allowance
 30¹¹ 2016

No 7209

District Officer
 Charsada

1	2	3	4	5	6	7	
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 serv
BPS=05 10260-500-25760 LHV		11	pay	P.C = 1006/17	17		
11	11	11	11	Rs 10760/17	17		
<p>Office of the Accountant General Khyber Pakhtunkhwa Peshawar Fixed in the Revised Basic Pay Scales Pay Fixation Party R.B.H.S. Date of fixation 01-07-2015 Pay Fixation Party R.B.H.S. Date of fixation 01-07-2016 Pay Fixation Party R.B.H.S. Date of fixation 01-07-2017 Pay Fixation Party R.B.H.S. Date of fixation 01-12-2017</p>							
<p>Accounts Officer Pay Fixation Party Peshawar</p> <p style="text-align: right;">ATTESTED</p>							

9 Name and Designation of head of the office for attesting officer (attribution 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 Leave		14 Signature of the head of the office or other attesting officer	15 Reference to any recorded punishment or cessure, or reward or praise of the Government Servant	
				Nature and dura- tion of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debtible to another Government			
								Period
			<p><i>Praty Khand Prath... per revised pay scale 01-7-17</i></p> <p><i>[Signature]</i> District Health Officer Charsadda</p>					
			<p><i>30/7 AN Annual... Allowed</i></p> <p><i>[Signature]</i> District Health Officer Charsadda</p>					
			<p><i>Senior Verified upto 7 for 30/7 AN</i></p> <p><i>[Signature]</i> District Health Officer Charsadda</p>					
			<p><i>Paid Arrear on A.C d Pay And Allowances bet 1-7-12 to 30-11-2015 Amounting to Rs. 163,266/-</i></p> <p><i>[Signature]</i> Finance Officer LHWS Program KPK Peshawar</p>					
			<p><i>27.2.18</i></p>					
			<p>ATTACHED</p>					

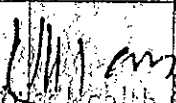
1	2	3	4	5	6	7	
Name of Post	Whether substan- tive or officiating and whether permanent or temporary.	If officiating, state (i) substantive appointment, or (ii) Whether service counts for pension under Art. 371 C.S.R.	Pay in substantive post	Additional pay for officiating	Other emolument falling under the term "pay"	Date of Appointment	Sign Governor
<u>BPS OS</u> 10260-500-25260				Pay	3260-25	12.17 08	

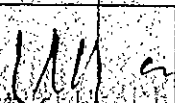
ATTESTED

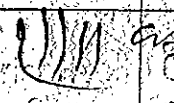
9	10	11	12	13 Leave		14	15
Signature of the officer attesting officer postion of sections 1 to 8	Date of termination or appointment	Reason of termination (such as promotion, transfer, dismissal, etc.)	Signature of the head of the office or other attesting officer	Nature and dura- tion of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government	Signature of the head of the office or other attesting officer	Reference to any recorded punishment or cessure, or reward or praise of the Government Servant
					Period		
	30 ¹¹ / ₀₁₈				ANNUAL INCREMENT		
							SERVICE CEASED 30/11/018

15

17/11

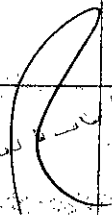

District Health Officer
Charsadda


Dist. Health Officer
Charsadda


Dist. Health Officer
Charsadda

Re called from Service with P
14-04-2019


District Health Officer
Charsadda



15/A

OFFICE OF THE DISTRICT HEALTH OFFICER CHARSADEA.

OFFICE ORDER

Ms. BiBi Razia Begum Lady Health Worker attached to BHU Shiekho has retired from service w.e.f 14/04/2019, afternoon on attaining superannuation of 60 years age, after completion of six years nine month and fourteen days qualified service.

District Health Officer
Charsadda

No. 6064-68
DHO CHARSADEA

DATED THE/ 25 / 5 / 2019 /

CC:-

- 1- Coordinator LHWs progame Charsadda
- 2- Medical Officer I/C Shiekho
- 3- District Accounts Officer Charsadda.
- 4- LHS concerned.
- 5- Ms. BiBi Razia Begum LHW BHU Shiekho.

District Health Officer
Charsadda.

Handwritten signature

جناب سپرٹرنی بیورو کے
موجودہ سپرٹرنی بیورو - پٹانہ

استدعا پر اس وقت کی حالت اور اس کی ترقی

میں اس وقت کی حالت اور اس کی ترقی

معاون
پٹانہ

یہ کہ اس وقت کی حالت اور اس کی ترقی
میں اس وقت کی حالت اور اس کی ترقی
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میں اس وقت کی حالت اور اس کی ترقی

پٹانہ

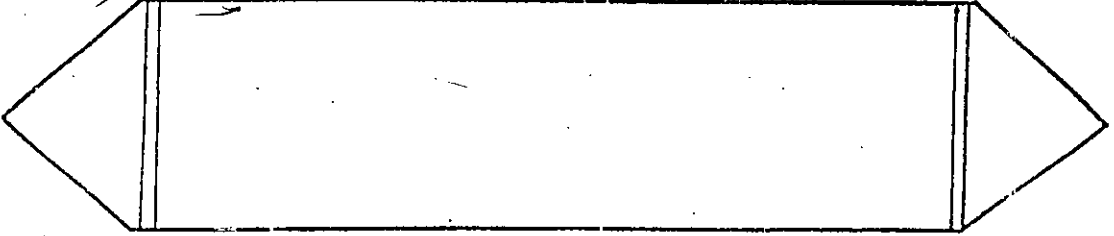
ATTESTED

یہ کہ اس وقت کی حالت اور اس کی ترقی
میں اس وقت کی حالت اور اس کی ترقی
میں اس وقت کی حالت اور اس کی ترقی

پٹانہ



بعد الت صا۔ نزوس کرسٹونل لہ در



2، پنجاب

لی بی رضیہ بیگم بنام حکومت ہواہ

منورہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کاروائی متعلقہ
آن مقام کے لئے محمد علی صاحب خان مسٹر کیلئے محمد علی صاحب خان مسٹر کا نام لکھا گیا ہے۔
مقررہ کار کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف 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 برادگی 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 لیا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
پر داختم منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکورہ کریں۔ لہذا وکالت نامہ لکھ دیا کہ مندر ہے۔

المرقوم _____ ماہ _____ 2014

العبد _____ واہ العبد

کے لئے منظور ہے۔

بمقام

Beza
Bibi Razia Begum
Razia

ATTESTED

1870

1871

1872

1873

1874

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 1970/2019.

Bibi Razia Begum R/O Rab Nawaz Khan Koruna, Sardehri, Charsadda
..... **Appellant.**

Versus

Government of Khyber Pakhtunkhwa & others..... **Respondents**

INDEX

S.No.	Description of Documents	Annexure	Pages
1.	Affidavit		1
2.	Comments Reply		2-5
3.	Judgment of the Hon'ble Supreme Court of Pakistan in Criminal Original petition No. 15 and 73 of 2012 in Human Rights Case No. 16360 of 2019 CP No. 36 of 2012.	I	6-7
4.	The Khyber Pakhtunkhwa Regulation of Lady Health Workers Program and Employees (Regularization and Standardization ACT 2014).	II	8-12

(DR. MOHSIN AHMAD,)

Coordinator LHW Program, District Health
Office Charsadda

C.N.I.C No. 17101-0360266-1

Mobile No. 0301-8912774

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 1970/2019.

Bibi Razia Begum R/O Rab Nawaz Khan Koruna, Sardehri, Charsadda
..... **Appellant.**

Versus

Government of Khyber Pakhtunkhwa & others..... **Respondents**

Affidavit

I, **DR. MOHSIN AHMAD**, Coordinator LHW Program, District Health Office Charsadda do hereby solemnly affirm and declare that the contents of the Parawise comments at Page 2-5 is submitted on behalf of District Health Office Charsada is true and correct to the best of my knowledge, belief and that nothing has been concealed from this Hon'ble Court.


(DR. MOHSIN AHMAD,)

Coordinator LHW Program, District Health
Office Charsadda

C.N.I.C No. 17101-0360266-1

Mobile No. 0301-8912774

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR**

Service Appeal No. 1970/2019

Bibi Razia Begum R/O Rab Nawaz Khan Koruna, Sardheri, Charsadda
..... **Appellant.**

Versus

1. Secretary to Government of Khyber Pakhtunkhwa, Department of Health Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa, Finance Department Peshawar.
3. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
4. District Health Officer, Charsadda.
5. District Accounts Officer, Charsadda **Respondents.**

REPLY ON BEHALF OF RESPONDENTS No 01 to 05.

Preliminary Objections.

- I. The appellant has neither cause of action nor locus standi.
- II. The petition is not maintainable in its present form.
- III. That the appellant has deliberately concealed material facts from the Hon'ble Services Peshawar, hence liable to be dismissed.
- IV. That the appellant has filed the instant petition just to pressurize the respondents and the Government.
- V. That the appellant has filed the instant petition on mala-fide motives.
- VI. That the petition is not maintainable in its present form and also in the present circumstance of the issue.
- VII. The appellant has not come to the court with clean hands and hit by laches.
- VIII. That the petition is bad due to non-joinder and mis-joinder of necessary parties.

Respectfully Sheweth:

1. Para No 01 of the Petition pertains to record, hence needs no comments.
2. Para No 02 of the petition pertains to record, hence needs no comments.
3. Para No 03 of the petition pertains to record, hence needs no comments.

4. Correct to the extent that appellant reached to the age of superannuation on 14-04-2019 therefore appellant retired from her services, however, it is pertinent to mention here that appellant was appointed on contract basis during 07-02-1996 as Lady Health Worker without any Basic Pay Scale on fixed salary, who was regularized by the Hon'ble Supreme Court of Pakistan through its judgment dated 03-10-2012 under judgment order in Criminal Original petition No 15 and 73 of 2012 in Human Rights Case No 16360 of 2019 CP No 36 of 2012, wherein Hon'ble Supreme Court of Pakistan declared that:

"All LHSs, LHWs Account Supervisors and Drivers will be regularized from 1st July, 2012 as initial appointment and calculation of financial implication to be borne by Federal Government shall made according 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.

Staff of the PMUs of concerned provinces shall be regularized by the respective Provinces. The Provinces shall be responsible for the payment of liability occurring on this account." (Annex-I)

Furthermore, Furthermore, The Khyber Pakhtunkhwa Regulation of Lady Health Workers Program and Employees (Regularization and Standardization) ACT 2014, in its section No 4 (1) and (5) provides that

"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

A Program employee, whose service is regularized under this Act, shall be entitled to such pensioner and retirement benefits as may be determined by Government". (Annex-II)

Therefore, the plea of the appellant is neither legal nor logical for the reason that the appellant was regularized w.e.f 1st July 2012 and retired on 14-04-2019, therefore, appellant after regularization has served as Lady Health Worker in BPS 05 only for 06 years 09 Months and 13 days, while for pensionary benefits, pension liability accrue after ten years from the date of date of regularization i.e 1st July 2012 till 30th June 2022, therefore appellant does not fulfils criteria for pensionary benefits.

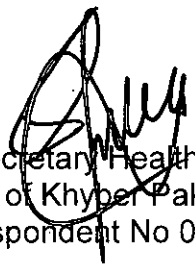
5. Needs no comments.

GROUNDS


- a) Incorrect. Department has followed directions of the Hon'ble Supreme court as well as prevailing rules.
- b) Incorrect. No discrimination and fundamental rights have been violated by the respondents. Sufficient reply has been given in answering Para No 04 of the petition above.
- c) Incorrect. Already explained in answering Para No 04 of the petition above.
- d) Incorrect. Appellant has tried to deceive the Hon'ble Tribunal sufficient reply has been given in answering Para No 04 above.
- e) Incorrect. Already explained in answering Para No 04 and Ground No B of the petition above.
- f) Incorrect. Already explained in answering Para No 04 of the petition above.
- g) Needs no comments.

PRAYER:

In the view of above, it is humbly prayed that the the instant Petition being in hand may very graciously be dismissed with cost.



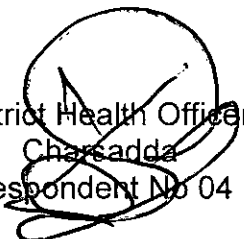
Secretary Health
Government of Khyber Pakhtunkhwa
Respondent No 01



Secretary Finance
Government of Khyber Pakhtunkhwa
Respondent No 02



Director General Health Services
Khyber Pakhtunkhwa
Respondent No 03



District Health Officer
Charsadda
Respondent No 04



District Accounts Officer
Charsadda
Respondent No 05

(6)

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 Araen

Dr. Pir Ghulam Hussain and others

(In Crl.O.P.15/12)

(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 month 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 the

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 no 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 initially 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



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

Islamabad,
03.10.2012.
M. Asim Malik

5/7

Certified to be True Copy

[Handwritten signature]
4/11/13

(8)

FOR THE EXTRAORDINARY GAZETTE ISSUE OF
THE KHYBER PAKHTUNKHWA

PROVINCIAL ASSEMBLY SECRETARIAT
KHYBER PAKHTUNKHWA

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).

Nun-e-eeh

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.

Nun-e-eeh

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.

Nun-e-eeh

9

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

- (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 to maintain a balance in the population.

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(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 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:

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



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

No. 1530 /ST

Dated: 05/08 /2021

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

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

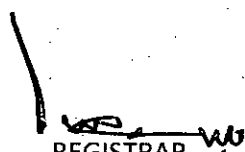
To

The District Health Officer,
Government of Khyber Pakhtunkhwa,
Charsada.

Subject: JUDGMENT IN APPEAL NO. 1970/2019, MST. RAZIA BIBI.

I am directed to forward herewith a certified copy of Judgement dated 15.07.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR