

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR
AT CAMP COURT SWAT

Service Appeal No. 442/2018

Date of Institution ... 03.04.2018

Date of Decision ... 08.09.2022

Mohabat Shah, (Rtd:) Senior Clerk (BPS-14), O/O Project Division
W&S, Dir Lower R/O Mohallah Salma, Dargai, District Malakand.

... (Appellant)

VERSUS

The Chief Engineer, Works & Services Department, Khyber
Pakhtunkhwa, Peshawar and three others.

... (Respondents)

MR. KAMRAN KHAN,
Advocate

--- For appellant.

MR. MUHAMMAD RIAZ KHAN PAINDAKHEL,
Assistant Advocate General

--- For respondents.

MR. SALAH-UD-DIN
MR. MIAN MUHAMMAD

--- MEMBER (JUDICIAL)
--- MEMBER (EXECUTIVE)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Through the instant service
appeal, the appellant has invoked jurisdiction of this Tribunal
with the prayer copied as below:-

*"on acceptance of this appeal, the impugned
order dated 22.07.2010 may very kindly be
set-aside and the respondents may be directed to
rectify/correct the date of commencement of
pension as 23.04.2009 instead of 24.04.2009 by
calculating the served period i.e 11 months and 10
days towards pension with all back benefits. Any
other remedy which this august tribunal deems fit
may also be awarded in favour of the appellant."*

2. Precise averments as raised by the appellant in his
appeal are that he joined the respondent-department on
13.05.1979. While posted as Senior Clerk in the office of
Deputy Director Project Division Works and Services Dir

Lower, the appellant submitted an application, seeking retirement with effect from 23.04.2009, which was allowed and the appellant stood retired with effect from 23.04.2009 vide order dated 07.05.2009. The date of birth of the appellant was 24.04.1958 and his age was 51 years at the time of retirement on 23.04.2009, however his commutation was wrongly calculated on the basis of considering his age as 52 years instead of 51 years. The appellant has rendered a total service of 29 years 11 months and 10 days, however the same was counted as 29 years only. In this respect, the appellant submitted a representation, however the same was regretted vide impugned order dated 22.07.2010, hence the instant service appeal.

3. Respondents contested the appeal by way of submitting para-wise comments, wherein they refuted the assertions as raised by the appellant in his appeal.

4. Learned counsel for the appellant has contended that the actual age of the appellant at the time of retirement was 51 years, however his commutation has wrongly been calculated by considering his age as 52 years. He next contended that the total service rendered by the appellant is 29 years 11 months and 10 days, therefore, in view of C.S.R 423, the same was required to have been counted as 30 years. He next contended that the pension of the appellant was not calculated correctly and his representation before the competent Authority was declined without any legal and justified reason.

5. On the other hand, learned Assistant Advocate General for the respondents has contended that upon own written request of the appellant, he was retired from service with effect from 23.04.2009 and his pension commenced with effect from 24.04.2009, therefore, as per the commutation table issued by Government of Khyber Pakhtunkhwa, his commutation was to be calculated on the next birth day i.e 52 years age. He further argued that as the appellant stood retired on his own request, therefore, in view of letter dated 27.03.2009, issued in consequence of Finance Division

Government of Pakistan OM No. F.14 (I)-R-7/2007-230 dated 28.11.2008, the appellant could not be extended condonation as provided in C.S.R 423 (i). He next argued that the pension case of the appellant has been processed strictly in accordance with the relevant rules, therefore, the appeal of the appellant may be dismissed with costs.

6. We have heard the arguments of learned counsel for the parties and have perused the record.

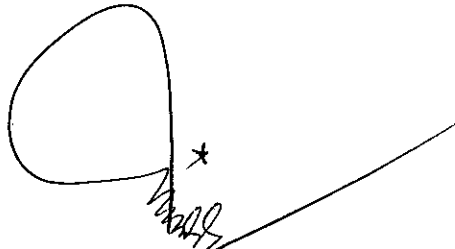
7. The question of calculation of commutation of the appellant is taken up first for discussion. It is an admitted fact that the date of birth of the appellant is 24.04.1958 and upon his own written request, he was retired from service with effect from 23.04.2009 meaning thereby that he received salary till 23.04.2009. The appellant had attained 51 years age on 23.04.2009 and his pension as per rules was to commence on 24.04.2009. On the said date, the age of the appellant became 51 years and 01 day, therefore, as per the commutation table issued by Government of Khyber Pakhtunkhwa, his age for commutation was to be reckoned on the next birth day, which comes out as 52 years. Sensing the said situation, the representation of the appellant was forwarded by the Administrative Officer Communication and Works Department Khyber Pakhtunkhwa Peshawar to the Accountant General Khyber Pakhtunkhwa Peshawar with the request that the PPO issued in respect of pension of the appellant may be revised and the recovery of pay of one day i.e 23.04.2009 may be deducted from the balance commutation. In essence it was a request for considering the date of retirement of the appellant as 22.04.2009 instead of 23.04.2009, which was regretted vide order dated 22.07.2010 on the ground that as the retirement of the appellant was accepted and PPO has already been issued, therefore, the retirement date of the appellant could not be modified. According to Government of NWFP Finance Department letter No. FD-SOSR.III/1-92/81 dated 1st October 1981, if a government servant withdraws his application or modifies the date of retirement before its accepting by the

competent Authority, the date of application or the date of retirement shall be deemed to have been withdrawn or modified as the case may be. In case of the appellant, the request for modification in the date of retirement was made after acceptance of his request for retirement by the competent Authority as well as preparation of the PPO, therefore, his representation has rightly been turned down.

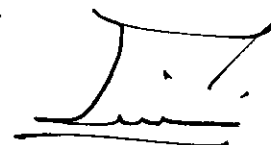
8. Now the question of considering the total service of the appellant as 30 years, is taken up for discussion. The appellant has rendered 29 years 11 months and 10 days as qualifying service and his request is that in view of C.S.R 423 (1), the deficiency of 21 days could be condoned and the service rendered by him could be considered as 30 years. In this respect, the respondents have relied upon letter dated 27.03.2009 issued in pursuance of Finance Division Government of Pakistan OM No. F.14 (I)-R-7/2007-230 dated 28.11.2008, whereby the benefit of condonation of deficiency up to six months in qualifying service for pension under C.S.R 423 (1) could not be granted in case of voluntary pension on premature retirement after completion of 25 years of service. The service of the appellant has thus rightly be considered as 29 years for pensionary benefits.

9. In view of the above discussion, the appeal in hand being devoid of merit stands dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
08.09.2022



(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)
CAMP COURT SWAT



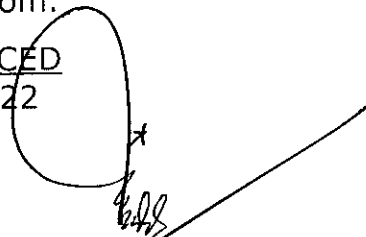
(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT SWAT


ORDER
08.09.2022

Appellant alongwith his counsel present. Mr. Muhammad Riaz Khan Paindakhel, Assistant 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 being devoid of merit stands dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
08.09.2022


(Mian Muhammad)
Member (Executive)
Camp Court Swat



(Salah-Ud-Din)
Member (Judicial)
Camp Court Swat


05.07.2022

Appellant in person present.

Noor Zaman Khattak, learned District Attorney for respondents present.

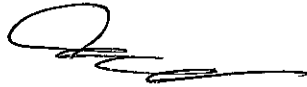
Former made a request for adjournment as his counsel is busy before Hon'ble Peshawar High Court, Peshawar; granted. To come up for arguments on 01.08.2022 before D.B at Camp Court, Swat.


(Fareeha Paul)
Member (E)
Camp Court, Swat


(Rozina Rehman)
Member (J)
Camp Court, Swat

1-8-22

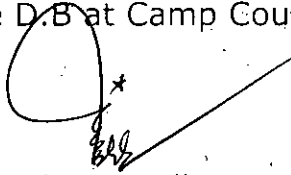
Due to Samman vacation the case is adjourned to 6-9-22 for the same.




06.09.2022

Appellant alongwith his counsel present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

Arguments heard. To come up for order on 08.09.2022 before the D.B at Camp Court Swat.


(Mian Muhammad)
Member (Executive)
Camp Court Swat



(Salah-Ud-Din)
Member (Judicial)
Camp Court Swat

11.02.2022 Tour is hereby canceled .Therefore, the case is adjourned to 08.04.2022 for the same as before at Camp Court Swat.


Reader


08.04.2022 Clerk of learned counsel for the appellant present. Mr. Noor Zaman Khattak, District Attorney present.

Previous date was changed on Reader Note, therefore, notices be issued to respondents through registered post and to come up for submission of written reply/comments on 07.06.2022 before the S.B at Camp Court Swat.


(Salah-Ud-Din)
Member (J)
Camp Court Swat

7th June, 2022 Appellant in person present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Fazal Hadi, Admin Officer for respondents present.

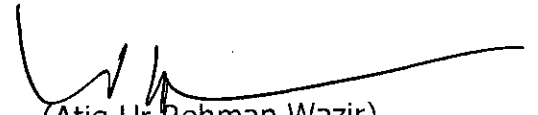
Written reply on behalf of respondents No.1 and 2 has submitted which is placed on file. A copy of the same is handed over to the appellant. To come up for arguments on 05.07.2022 before the D.B at camp court Swat.


(Kalim Arshad Khan)
Chairman
Camp Court Swat

09.12.2021

Appellant with counsel present. Mr. Riaz Khan Paindakheil, Assistant Advocate General alongwith Mr. Naseeb Khan Section Officer for respondents No. 3 present.

Reply/comments on behalf of respondents No. 3 & 4 have already been submitted vide order sheets dated 25.08.2021 and 03.11.2021 respondents No. 1 & 2 were strictly directed to furnish the reply/comments positively, but they failed to do the same. This Tribunal has left with no other option to take coercive measures against them. In the first instant salary of respondents No. 1 & 2 is hereby attached. The office of Accountant General is directed to furnish compliance order positively. To come up for reply/comments on 07.01.2022 before S.B at Camp Court, Swat.


(Atiq Ur Rehman Wazir)
Member (E)
Camp Court, Swat

07.01.2022

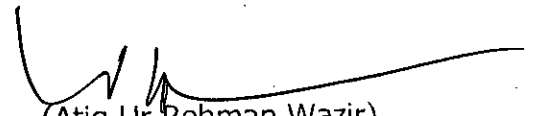
Appellant in person present. Mr. Riaz Ahmed Paindakheil, Assistant Advocate General for the respondents present and requested for further time for submission of written reply/comments. Last opportunity given. To come up for submission of written reply/comments on behalf of respondents No. 1 & 2 before the S.B on 11.02.2022 at Camp Court Swat.


(Salah-Ud-Din)
Member (J)
Camp Court Swat

09.12.2021

Appellant with counsel present. Mr. Riaz Khan Paindakheil, Assistant Advocate General alongwith Mr. Naseeb Khan Section Officer for respondents No. 3 present.

Reply/comments on behalf of respondents No. 3 & 4 have already been submitted vide order sheets dated 25.08.2021 and 03.11.2021 respondents No. 1 & 2 were strictly directed to furnish the reply/comments positively, but they failed to do the same. This Tribunal has left with no other option to take coercive measures against them. In the first instant salary of respondents No. 1 & 2 is hereby attached. The office of Accountant General is directed to furnished compliance order positively. To come up for reply/comments on 07.01.2022 before S.B at Camp Court, Swat.


(Atiq Ur Rehman Wazir)
Member (E)
Camp Court, Swat

07.01.2022

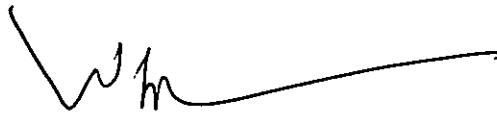
Appellant in person present. Mr. Riaz Ahmed Paindakhel, Assistant Advocate General for the respondents present and requested for further time for submission of written reply/comments. Last opportunity given. To come up for submission of written reply/comments on behalf of respondents No. 1 & 2 before the S.B on 11.02.2022 at Camp Court Swat.


(Salah-Ud-Din)
Member (J)
Camp Court Swat

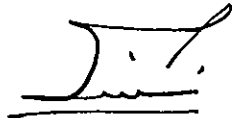
03.11.2021

Appellant in person present. Mr. Masood Ali Shah,
Deputy District Attorney alongwith Mr. Nasir Khan S.O for
respondents No. 3 present.

Written reply/comments on behalf of respondents
have already been submitted, while vide previous orders 3 & 4
directed that respondents No. 1 & 2 shall submit
reply/comments within 10 days failing which their right of
shall stand struck off. Written reply/comments on behalf of the
respondents have not been submitted, therefore, their right
defence stands struck off. Appellant requested for adjournment on
the ground that his counsel is busy in the Peshawar High Court,
Mingora Bench Swat. Adjourned. To come up for arguments before
the D.B on 09.12.2021 at Camp Court Swat.



(Atiq-Ur-Rehman Wazir)
Member (Executive)
Camp Court, Swat

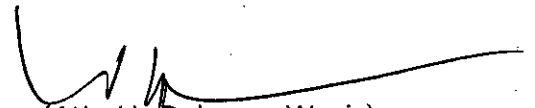


(Salah-Ud-Din)
Member (Judicial)
Camp Court, Swat

09.12.2021

Appellant with counsel present. Mr. Riaz Khan Paindakheil, Assistant Advocate General alongwith Mr. Naseeb Khan Section Officer for respondents No. 3 present.

Reply/comments on behalf of respondents No. 3 & 4 have already been submitted vide order sheets dated 25.08.2021 and 03.11.2021 respondents No. 1 & 2 were strictly directed to furnish the reply/comments positively, but they failed to do the same. This Tribunal has left with no other option to take coercive measures against them. In the first instant salary of respondents No. 1 & 2 is hereby attached. The office of Accountant General is directed to furnished compliance order positively. To come up for reply/comments on 07.01.2022 before S.B at Camp Court, Swat.


(Atiq Ur Rehman Wazir)
Member (E)
Camp Court, Swat

07.01.2022

Appellant in person present. Mr. Riaz Ahmed Paindakheil, Assistant Advocate General for the respondents present and requested for further time for submission of written reply/comments. Last opportunity given. To come up for submission of written reply/comments on behalf of respondents No. 1 & 2 before the S.B on 11.02.2022 at Camp Court Swat.


(Salah-Ud-Din)
Member (J)
Camp Court Swat

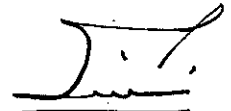
03.11.2021

Appellant in person present. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Mr. Naseeb Khan S.O for respondents No. 3 present.

Written reply/comments on behalf of respondents No. 3 & 4 have already been submitted, while vide previous order sheet it was directed that respondents No. 1 & 2 shall submit written reply/comments within 10 days failing which their right of defence shall stand struck off. Written reply/comments on behalf of the said respondents have not been submitted, therefore, their right of defence stands struck off. Appellant requested for adjournment on the ground that his counsel is busy in the Peshawar High Court, Mingora Bench Swat. Adjourned. To come up for arguments before the D.B on 09.12.2021 at Camp Court Swat.



(Atiq-Ur-Rehman Wazir)
Member (Executive)
Camp Court, Swat



(Salah-Ud-Din)
Member (Judicial)
Camp Court, Swat

07/04/2021

Due to COVID-19, the case is adjourned to

09/06/2021 for the same.


READER

26.07.2021

To come up for written reply/comments of respondents No. 1 and 2 on 25.08.2021 before S.B at Camp Court, Swat. Notices be issued to appellant/counsel as well as respondents for the date fixed.


Chairman

25.08.2021

Appellant in person and Mr. Muhammad Riaz Khan Painsdakhel, Asstt. AG for the respondents present.

The appeal was admitted for regular hearing on 09.10.2019 and notices were issued to the respondents for submission of written reply/comments. Written reply of respondent No. 4 is available on file, while respondent No. 3 relied on the same. Respondents No. 1 & 2 are defaulting in attendance till date. Let respondents No. 1 and 2 be afforded with final opportunity. Notices be issued to them for submission of written reply/comments within 10 days in office at Peshawar, positively. If they fail to do the needful in compliance with the notice, their right of defence shall stand struck off. Case to come up for arguments on 03.11.2021 before the D.B at camp court, Swat.



Chairman
Camp Court, Swat

04.11.2020

Nemo for appellant.

Learned Assistant Advocate General for respondents present.

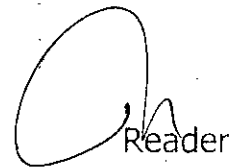
Written reply of respondents No.1 & 2 is still awaited. Notice be issued to respondents 1 & 2, by way of last chance, for submission of reply/comments, for 09.12.2020 before S.B at Camp Court, Swat.



Member (E)
Camp Court, Swat

09.12.2020

Due to COVID-19, case is adjourned to 03.02.2021 for the same as before.



Reader

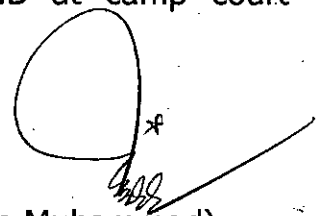
03.02.2021

Appellant in person present.

Muhammad Riaz Khan Paindakhel, Assistant Advocate General for respondents present.

Written reply on behalf of respondents No.1 and 2 not submitted. Notices be issued to them for the next date of hearing.

Adjourned to 07.04.2021 before S.B at camp court Swat.



(Mian Muhammad)
Member(E)
Camp Court Swat

07.09.2020

Counsel for appellant present.

Mr. Riaz Khan Paindakheil learned Assistant AG alongwith representative of respondent No.3 Mr. Farooq Ali S.O (Lit) present. No one present on behalf of respondents No.1 & 2. Notice be issued to respondents No.1 & 2.

Reply on behalf of respondent No.4 already submitted. Representative of respondent No.3 relied upon reply of respondent No. 4. To come up for written reply/comments on behalf of No.1 & 2 on 06.10.2020 before S.B at Camp Court, Swat.

Member (J)
Camp Court, Swat


06.10.2020

Neither appellant nor his counsel present. Mr. Usman Ghani, District Attorney is present.

Written reply on behalf of respondents No. 1 & 2 not submitted so far nor any representative on their behalf is present, therefore, notice be issued to respondents No. 1 & 2 for submission of written reply/comments. File to come up for written reply/comments on behalf of respondents No. 1 & 2 on 04.11.2020 before S.B at Camp Court, Swat.

(MUHAMMAD JAMAL KHAN)
MEMBER
CAMP COURT SWAT

Due to corona virus e tour
to camp court Swat has been
cancelled. To come up for the
same - on - 01-06-2020


Reader

01.06.2020 Due to Covid-19, the case is adjourned. To come up for the
same on 07.07.2020, at camp court Swat.


Reader


07.07.2020 Bench is incomplete. Therefore, the case is adjourned.
To come up for the same on 07.09.2020, at camp court
Swat.


Reader

Service Appeal No. 442/2018


06.01.2020

None present on behalf of the appellant. Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith M/S Muhammad Shamim, Section Officer on behalf of respondent No. 3 and Farhad, Account Officer on behalf of respondent No. 4 present. Representative of respondent No. 4 submitted written reply. The same is placed on record. Representative of respondent No. 3 requested for further time to file written reply. None present on behalf of respondents No. 1 & 2, therefore, notices be issued to them with the direction to direct the representative to attend the court and submit written reply on the next positively. Case to come up for written reply/comments on behalf of respondents No. 1 to 3 on 02.03.2020 before S.B at Camp Court Swat. Notice be also issued to appellant and his counsel for attendance for the date fixed.


(Muhammad Amin Khan Kundi)
Member
Camp Court Swat


02.03.2020

Learned counsel for the appellant present. Muhammad Shamim S.O representative of respondent No.3 present and seeks adjournment to furnish reply. Reply of respondent No.4 is already available on file. Remaining respondents be put to notice for reply. Adjourn. To come up for reply/comments on 06.04.2020 before S.B at Camp Court, Swat.


Member
Camp Court, Swat.


06.11.2019

Junior counsel for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith Mr. Shamim, Section Officer on behalf of respondent No. 3 present. None present on behalf of respondents No. 1 & 2, therefore, notices be issued to respondents No. 1 & 2 with the direction to direct the representative to attend the court and submit written reply on the next date positively. Adjourned to 03.12.2019 for written reply/comments before S.B at Camp Court Swat.


(Muhammad Amin Khan Kundi)
Member
Camp Court Swat

03.12.2019

Learned counsel for the appellant present. Written reply not submitted. Muhammad Shamim S.O, representative of respondent No.3 present and requested for time to furnish written reply/comments. None present on behalf of respondents No.1, 2 & 4. Notice be issued to respondents No.1, 2 & 4 for submission of reply. Adjourn, To come up for written reply/comments on 06.01.2020 before S.B at Camp Court, Swat.


Member
Camp Court, Swat


09.10.2019

Counsel for the appellant Mohabat Shah present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was serving ⁱⁿ Works and Services Department Dir Lower as Senior Clerk (BPS-14). It was further contended that the appellant was retired from service vide order dated 07.05.2009 with effect from 23.04.2009. It was further contended that the appellant remained in service for a period of 29 years 11 months and 19 days but the respondent-department has given him pension benefits only for 29 years and has not paid his pension for the remaining period of 11 months and 19 days. It was further contended that vide order dated 07.05.2009, the appellant was retired with effect from 23.04.2009 but the respondent-department has issued payment of pension to him with effect from 24.04.2009 therefore, the impugned order is illegal and liable to be set-aside.

The contention raised by learned counsel for the appellant need consideration. The 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, notices be issued to the respondents for written reply/comments for 06.11.2019 before S.B at Camp Court Swat.

Appellant Deposited
Security & Process Fee

15/10/19


(Muhammad Amin Khan Kundi)
Member
Camp Court Swat

02.07.2019

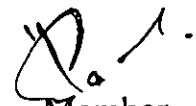
Appellant absent. Lawyers are observing strike on the call of Khyber Pakhtunkhwa Bar Counsel, learned counsel for the appellant also not present. Adjourn. To come for preliminary hearing on 04.09.2019 before S.B at Camp Court Swat.



Member
Camp Court, Swat.

04.09.2019


Learned counsel for the appellant present and seeks adjournment. Adjourn. To come up for preliminary hearing on 09.10.2019 before S.B at Camp Court, Swat.



Member
Camp Court, Swat.


07.03.2019


Counsel for the petitioner present. Mian Amer Qadir, District Attorney for respondents present. Notices be issued to the respondents for submission of written reply on application for restoration of appeal on 02.04.2019 before D.B at camp court Swat.


Member
Camp Court, Swat

02.04.2019

Shazullah Yousafzai Advocate appeared on behalf of petitioner. Mr. Mian Amir Qadir learned District Attorney present and seeks adjournment to furnish reply. Adjourn. To come up for reply and arguments on the instant application 10.06.2019 before D.B at Camp Court Swat.

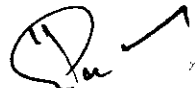

(M.Amin Kundi)
Member
Camp Court, Swat


(M. Hamid Mughal)
Member
Camp Court, Swat

10.06.2019

Learned counsel for the petitioner present. Mr. Mian Amir Qadir learned District Attorney present. Admittedly the instant application for restoration of Service Appeal No.442/2018 was filed well within time hence in the interest of justice, while keeping in view the reason mentioned in the instant application, the same is allowed. Consequently Service Appeal No.442/2018 is hereby restored. To come up for preliminary hearing on 02.07.2019 before S.B at Camp Court, Swat.



~~Restoration of Service Appeal No.442/2018~~


Member
Camp Court, Swat.

FORM OF ORDER SHEET

Court of _____

Misc. Application No. 469/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	20/12/2018	<p>The application for restoration of appeal No. 442/2018 submitted by Mr. Mohabat Shah through Mr. Noor Muhammad Khattak Advocate may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR.</p> <p>This Misc. application be put up before SB-Swat. Bench on <u>07-03-19</u></p> <p style="text-align: right;"> CHAIRMAN</p>
2-	15-01-19	


24.09.2018

None present for the appellant. Since the case pertains to territorial limits of Malakand, therefore, it is fixed for preliminary hearing on 05.10.2018 before S.B at camp court, Swat.


Chairman

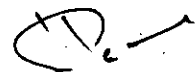
05.10.2018

Mr. Amir Zaman, Clerk of counsel for the appellant present and made a request for adjournment as learned counsel for the appellant has not reached from Peshawar. Granted. To come up for preliminary hearing on 07.12.2018 before S.B at camp court, Swat.


Chairman
Camp Court, Swat

07.12.2018

Appellant absent. Learned counsel for the appellant absent. Case called for several times but no one appeared on behalf of appellant. Consequently the present service appeal is hereby dismissed in default. No order as to costs. File be consigned to the record room.


Member
Camp Court Swat.

ANNOUNCED
07.12.2018

08.05.2018

The Tribunal is non-functional due to retirement of our Hon'ble Chairman. Therefore, the case is adjourned. To come up for same on 03.07.2018.


Reader

03.07.2018

Counsel for the appellant present and seeks adjournment. Adjourned. To come up for preliminary hearing on 23.07.2018 before S.B..


(Ahmad Hassan)
Member


23.07.2018

Learned counsel for the appellant present and seeks adjournment. Adjourned. To come up for preliminary hearing on 28.08.2018 before S.B


Member




28.08.2018

Counsel for the appellant present and seeks adjournment. Adjourned. To come up for preliminary hearing on 24.09.2018 before S.B.


(Ahmad Hassan)
Member

Form-A
FORM OF ORDERSHEET

Court of _____
Case No. 442/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	03/04/2018	<p>The appeal of Mr. Mohabat Shah presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR 3/4/18</p>
2-	04/04/18	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>16/04/18.</u></p> <p style="text-align: right;"> MEMBER</p>
16.04.2018		<p>Counsel for the appellant present and seeks adjournment. Adjourned. To come up for preliminary hearing on 08.05.2018 before S.B.</p> <p style="text-align: right;"> (Ahmad Hassan) Member</p>

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 442 /2018

MOHABAT SHAH

VS

GOVT: OF KPK & OTHERS

INDEX

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APPELLANT

THROUGH:


NOOR MUHAMMAD KHATTAK

ADVOCATE

(0345-9383141)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

APPEAL NO. 442 /2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 475

Dated 03-4-2018

Mr. Mohabat Shah, (Rtd:) Senior Clerk (BPS-14),
O/O Project Division W&S, Dir Lower R/O of Mohallah Salma,
Dargai, District Malakand **Appellant**

VERSUS

- 1- The Chief Engineer, Works & Services Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Deputy Director, Project Division, Works & Services, District Dir (Lower).
- 3- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The Accountant General, Khyber Pakhtunkhwa, Peshawar.
..... **Respondents**

APPEAL UNDER SECTION-4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974
AGAINST THE IMPUGNED ORDER DATED 22.7.2010
WHERE BY THE RESPONDENT NO.4 REFUSED TO
RECTIFY THE DATE OF COMMENCEMENT OF PENSION
OF THE APPELLANT AS 23.4.2009 INSTEAD OF
24.4.2009 AND AGAINST NOT TAKING ACTION ON THE
DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN
THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the impugned order dated 22.7.2010 may very kindly be set aside and the respondents may be directed to rectify/correct the date of commencement of pension as 23.4.2009 instead of 24.4.2009 by calculating the served period i.e. 11 months & 10 days towards pension with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

- 1- That appellant joined the respondent department on 13.05.1979 and performed his duty quite efficiently, with full devotion.
- 2- That, the appellant while serving as senior clerk in the respondent Department, forwarded an application dated

Filed to Day

Registrar.

3/4/18

- 19.03.2009 for his retirement w.e.f. 23.04.2009 due to his domestic & financial problems. Copy of application is attached as annexure **A.**
- 3- That the application of the appellant was accepted vide order dated 07-05-2009, whereupon the appellant was retired from service w.e.f. 23.04.2009 having total service of 29 years 11 months and 10 days. Copy of the order is attached as annexure **B.**
- 4- That it is quite evident from the Pay roll of the appellant that appellant has the total service of 29 Years 11 Months & 10 days till his retirement dated i.e. 23-04-2009. That the date of birth of the appellant according to his CNIC is 24-04-1958, therefore at the time of retirement the respondents were required to calculate the pension commutation at the age of 51 years. Copies of ~~the pay roll~~ petition is attached as annexure **C.**
- 5- That, respondent no.4 prepared and approved pension paper in respect of the appellant vide letter dated 24-06-2009 and later on the same PPO was revised vide the respondent no.4 letter dated 24-02-2010. Copies of letters are attached as **D&E.**
- 6- That the appellant being aggrieved from the inaction of the respondents filed representation and that representation was properly forwarded by the respondent No.1 to the respondent No.4 for kind consideration but the same was regretted by the respondent No.4 without any cogent reason vide impugned order dated 22.7.2010. Copies of forwarding letter and impugned order dated 22.7.2010 are attached as annexure **F&G.**
- 7- That where after the appellant time and again requested the respondents for revised pension but of no avail. That finally the appellant submitted Departmental appeal but no reply has been received so far. Copy of the Departmental appeal is attached as annexure **H.**
- 8- That the appellant is left with no other adequate remedy but to file in the instant appeal on the following grounds amongst others.

GROUND:

- A-** That the impugned order dated 22.7.2010 of the respondent No.4 by not counting the period towards 30 years is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to set aside.

- B-** That the appellant has not been treated by the respondent Department in accordance with law and rules 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 appellant has served the department for 29 years 11 months & 10 days but the respondents have malafidely counted the service & pension of the appellant as 29 years, resultantly the appellant received financial loss.
- D-** That the respondent Department acted in arbitrary and malafide manner by issuing the impugned order dated 22.7.2010.
- E-** That the said act of the respondent respondents by not counting the length of service towards pension squarely falls within the violation of Article-38(e) of the Constitution of Pakistan 1973.
- F-** That the impugned order dated 22.7.2010 is not in accordance with law and rules and as such the same is not tenable and liable to be set aside.
- G-** That, it is the consistence view in various judgment of the Apex Supreme Court of Pakistan that "Pension is not the bounty of the state".
- H-** That the 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: 26.3.2018

APPELLANT


MUHABBAT SHAH

THROUGH:


NOOR MOHAMMAD KHATTAK

&

MUHAMMAD MAAZ MADNI,
ADVOCATES,
HIGH COURT PESHAWAR

A = (4)

To,

The Deputy Director,
Project Division Works & Services,
Dir Lower.

Subject:- APPLICATION FOR RETIREMENT.

Respectfully it is stated that due to some domestic/financial problems I am unable to continue my service further more. It is therefore requested that I may be retired from service with effect from 23/04/2009. Commutation/Encashment of 180-days leave may kindly be granted as soon as possible to solve my financial problem please.

Thanks,

Your's Obediently,

Dated 19/03/2009.

(MAHABAT SHAH)
Senior Clerk, Project Division
W&S Dir Lower.

ATTESTED
[Signature]

Personal No. 00372031

6

GOVERNMENT OF PAKISTAN
ACCOUNTANT GENERAL A.W.S.P.
DISTRICT

NAME: 00370021 SYSTEM Muckle:

Name: BULABAT SHAH
Des: SENIOR CLERK
NIC No: 1540189205737
GPF Interest Applied
09 - Active Permanent

P Sec: 007 Month: APRIL 2009
PR: 110
Min: Works & Services

GPF #: IRR/MKD/537
Gls #: 01

GRANDS AND ALLOWANCES:

0001-Basic Pay
1000-House Rent Allowance
1300-Medical Allowance
1770-Spl. Additional allowance
1830-Special Relief All (2005)
1831-Adhoc Relief (2005)
1844-Dearness Allowance (2004)

DEPTT CODE PR: 113

Gross Pay and Allowances

DEDUCTIONS:

GPF Balance 6,943.00
4200-Professional Tax
3501-Benevolent Fund
3511-Adm Group Insurance
3604-Group Insurance

Total Deductions

NET AMOUNT PAYABLE

QUALIFYING SERVICE

YRS 9 Year 11 Months

D.O.B

24.04.1958

19 Days

LFP Quota: 24

NSP TIMARGARA DIR

C/A 7476-7

NSP TIMARGARA DIR

ATTESTED



REGISTERED SPECIAL SEAL

OFFICE OF THE ACCOUNTANT GENERAL NWFP Peshawar.

No. Pen(Main)M-156/08-09/25715-17/48-50

Dated: 24/06/2009

A.E/Last Pay Rs. 9570/-
Length of qualifying service 29/11/12
D.O. Birth: 24/4/58
D.O. Appt: 13/5/79
D.O. Retirement: 24/4/09
D.O. Death: X
BPS- 09

Gross/Pen: Rs. 6475/-
1/4th Surrendered Rs. X

35% Comm: Rs. 2266/50
Net: Pen: Rs. 4209/-
Family Pen: Rs. X

To

The Agency Accounts Officer
Malakand.

Subject:

PENSION PAYMENT AUTHORITY IN R/O MOHABAT SHAH S/O SADIQ
SHAH EX: SENIOR CLERK.

Sir,

I have the honour to forward here with application for pension gratuity signed by the pension sanction authority. The following amounts of pension/commutation and increases may be paid to the above named pensioner.

- a. Pension Rs. 4209/- PM Rupees:- Four thousand two hundred and nine/-
b. Gratuity Rs. XX (PM welf. XX)
c. Commutation value amounting to Rs. 462502/- (Rupees. Four hundred sixty two thousand five hundred and two/-

Note:- 1. Inc: 07/2005 Rs. 420/90 PM 24/4/09
2. Inc: 07/2006 Rs. 694/49 PM 24/4/09

1. Pension will commence from 24/4/09 (24th April 2009)

2. Pension is debitible to Govt: NWFP Head of Account A04101

The Commutation is debitible to Govt: NWFP Head of Account A04102

Pension U/R four thousand two hundred and ten/-

Comm: U/R four hundred sixty two thousand five hundred and three/-

Enc: Photo graphs/photo copy of NIC 1st page, of pension application form, thumb & finger impression, s/signature and Descriptive roll are attached.

ACCOUNTS OFFICER
NWFP PESHAWAR

Copy forwarded to the Administrative Officer of Chief Engr: W&S NWFP Peshawar for information with reference to his memo No. 625 Dalg 3/6/09 for information.

Copy forwarded to Mohabat Shah S/o Sadiq Shah Dargai Malakand Agency.

ACCOUNTS OFFICER
NWFP PESHAWAR

ATTESTED

U.S. Khan
20/6/09

M.A. Khan
20/6/09

20/6

Handwritten signature

Handwritten signature and date 24/6/09

REGISTERED SPECIAL SEAL

OFFICE OF THE ACCOUNTANT GENERAL NWFP Peshawar.
No.Pen(Main)M-156/08-09/26471-73/6060-62

Dated: 24/02/2010

A.E/Last Pay Rs.9800/-
Length of qualifying service 29/11/10
D.O.Birth: 24/4/58
D.O.Appnt: 13/5/79
D.O.Retirement: 24/4/09
D.O.Death: X
BPS-09

Gross/Pen: Rs.6631/33
1/4th Surrendered Rs.X
Comm: Rs.2320/97
Net: Pen: Rs. 4310/36
Family Pen:Rs. X

due to ⁶ ~~gross~~ ~~grossing~~ ~~SP~~
Advanced increment.
E = 8

To
The Agency Accounts Officer
Malakand.

Subject: REVISED PENSION PAYMENT AUTHORITY IN R/O MOHABAT SHAH S/O SADIQUE SHAH EX: S/CLERK.

Sir,

I have the honour to forward here with an application for pension/Gratuity signed by the pension sanction authority. The following amounts of pension/commutation and increases may be paid to the above named pensioner.

- Pension Rs. 4310/36 PM Rupees:- four thousand three hundred and ten/36
- Commutation value amounting to Rs. 11115/- (Rupees. Eleven thousand one hundred and fifteen only/-

Note:-

1.	Inc:	07/2005	Rs. 431/04	PM	24/4/09
2.	Inc:	07/2006	Rs 711/21	PM	24/4/09
3.	Inc:	07/2009	Rs. 817/89	PM	1/7/09

- Pension will commence from 24/4/09 (24th April 2009)
- Pension is debitible to Govt: NWFP Head of Account A04101

The Commutation is debitible to Govt: NWFP Head of Account A04102
Pension U/R four thousand three hundred and eleven/-
Comm:U/R eleven thousand one hundred and sixteen/-

Enc: Photo graphs/photo copy of NIC 1st page of pension application form, thumb & finger impression, s/signature and Descriptive roll are attached.

All Payment made on this office Authority NO. M-156-08-09/25715-17/48-50 dated 24/6/09 may be adjusted.

ACCOUNTS OFFICER
NWFP PESHAWAR

Copy forwarded to the:-

- Admn officer office of the Chief Engineer NWFP Peshawar No. 192 dated 7/1/10.
- Mohabat Shah s/o Addiq -ul- Shah Moh: sabna Koz Killi Dargai Malamabad. Agency.

ATTESTED

ACCOUNTS OFFICER
NWFP.PESHAWAR.

OFFICE OF THE CHIEF ENGINEER (CENTRE)
COMMUNICATION & WORKS DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR.

Handwritten marks:
B = (circled)
F = (9 in a circle)

No. 66-E / 934 / CE / C&WD

Dated Peshawar the 12 / 07 / 2010

To

The Accountant General,
Khyber Pakhtunkhwa, Peshawar.

Subject: PRESENTATION – RETIREMENT.

I am directed to refer to the above noted subject and to say that Mr. Mohabat Shah Senior Clerk of this department was retired from Govt. service w.e.f 23-04-2009 vide order No. 66-E/491/CE/W&SD dated 07-05-2009 (copy attached).

Eesides to treat his retirement w.e.f 23-04-2009, he has been shown for payment of Pension w.e.f 24-04-2009 as per the PPO No. Pen(Main)M-156/8-09/25715-17/48-50 dated 24-06-2009 and revised No. Pen(Main)M-156/08-09/26471-73/6069-62 dated 24-02-2010 (copies enclosed). His application is annexed for reference.

The official as such is sustaining a loss in the value of commutation by taking into account his next date of retirement.

It is, therefore, requested that his case may please be revived and a fresh PPO issued by making a recovery of pay for One day of 23.04.2009 from the balance commutation so worked-out, in order to save the retired official from recurring loss in commutation.

DA/As Above

Handwritten note:
Pl. examine the
Copy & put up

(AMINULLAH KHAN)
ADMINISTRATIVE OFFICER

Copy to Mr. Mohabat Shah (Rtd.) Senior Clerk R/O Mohallah Salma, Dargai, District Malakand w/r to his application dated 16-06-2010. He is requested to furnish your PFO to the Accountant General office for further course of action.

Handwritten:
Wone
N

ATTESTED

Handwritten signature
ADMINISTRATIVE OFFICER

T-71
30/6

To
The Treasury Officer,
Malakand

I have the honour to Request you to arrange
for the payment of Rs 462502/- (Rupees Four hundred sixty two thousand
five hundred two) to Mohabat Shah being the amount of
his commuted value of Pension sanctioned vide AG
order of number NO Pen (Mal) M-152/08-09/25715-17/
48-50
DATED 24/6/2009. His full particulars are as under:-

Date of Birth	Patron Name	Personal Mark	Residence
24/5/1958	Sadiq Shah	obidentificatio 15401-8820573-7	K-3 Kalai Dargai Malakand Agency

The amount of Commutation is
payable to the Head of Account A 04102 Govt of NWFP

AG No 154-1-8820573-7
Cross checked by
Prd P; 462502/-

I have
the
honour to

Agency Accounts Officer
Malakand

462502/-
Four hundred sixty two thousand
five hundred two

Subdt. Distt. Accounts Officer
Malakand

CP No 817535

ATTESTED

[Signature]

30/6/09

Order Number Four hundred sixty two thousand five hundred two

Agency A/c Office Wzd
C/W. No 60912

1) I rendered 29-11-12 day 8
service which is ~~on~~ only 29
years

2) My pay was 9800

on which the Gross Pension
is incorrect-

$$= \frac{9800 \times 30 \times 7}{300} = 6860$$

Gross Pension 6631 was
given to me instead of
6860-

3) Commutation 1st PPO received Rs. 46250/-
II PPO - Rs. 11157/-

6860
6630

229 diff.

diff one increment says

PPO 473617

T. 473617

ATTESTED

[Signature]

Mr. ~~Richard~~ Shel ^{K.} 50. 11/2

Debt 24-4-58 52
Debt 13-5-79 204-060 B8

Debt 23-4-59
Sum 29-11-12 = 8048 ✓

by 2.1570-00

by 2.6488-00

2500 2355-65 00

5354
1156
5308

2000 5354-35 00

2000 5354-35 27 1/2

Chicago 55-00

- 1) by ③ of 8/10/12 that 11 and that 11 may be full in property and get it signed for 800
- 2) Some suspicion for L-3 by to 30-11-79 at sum 18, from 16-2-47 to 22-2-07 at sum 27 may be recorded in the 8/10/12.
- 3) The / by Bill / County bill / photos and may that a full way be attached



39

C7 = (19)

Office of the
Accountant General
Khyber Pakhtunkhwa, Fort Road, Peshawar
Ph # 091-9211250-4
091-9211275

No. Pension(M)/M-156/2008-09/6156

Dated: 22.07.2010

To

The Administrative Officer,
O/O the Chief Engineer (Centre),
C & W Khyber Pakhtunkhwa Peshawar.

Subject: REPRESENTATION-RETIREMENT.

Puc 33

Memo:

Kindly refer to your office memo No. 66-E/934/CE/C&WD. Dated 12.07.2010 on the above-noted subject.

In this regard it is stated that Govt. of NWFP Finance Department vide his letter No. FD-SOSR.III/1-92/81 Dated 1st October 1981 clearly stated "that if a government servant withdraws his application or modifies the date of retirement before its acceptance by the competent authority, the date of application or the date of retirement shall be deemed to have been withdrawn or modified as the case may be".

In this case the retirement have been accepted and PPO have been issued. Therefore modification in date of retirement is not admissible.

C.E. C&W Deptt. (Centre)	
Dairy No.	1367
Date	25/7/2010
Case No.	
C.E. Caw	
S.E. (H.Q)	
D.E. (B.in)	
O	
O	
O	
CP	

25/7/10
ACCOUNTS OFFICER
K.P.K. PESHAWAR

*66-E A.O.
Puc 33*

ATTESTED

پروگرام سیکرٹری جنرل

[Signature]

To,

H = (13)

The Accountant General
Khyber Pakhtunkhwa at
Peshawar.

Subject:- APPLICATION FOR SYMPATHATIC RE-CONSIDRATION.

R/Sir,

With most profound respect I beg to submit a few line for your kind consideration please.

1. I rendered 29 years 11-Months & 10-days service according to the revised P.P.O dated.22/02/2010 (Copy annexed) where as my pension is calculated on 29-Years only and the remaining 11-Months and 10-days was not calculated. According to the prevailing pension rules I am entitled to receive pension on 30-years service.

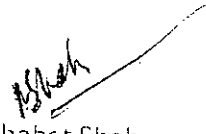
2. My date of birth is 24/4/1958 and I retired from service on w.e.f 23/4/2009 (copy annexed) My commutation was calculated at the age of 52 years where as I am entitled at the age of 51 years.

It is therefore very humbly requested that keeping in view the above facts my pension may please be revised on 30-Years and my commutation may also be re-colculated at the age of 51 years.

Thanking in your honour.

Dated. 28.15 /2016

Yours obediently


Mr. Muhabat Shah
Retired Senior Clerk
Vill: P/O & Tehsil Dargai
District Malakand.
Cell No. 0346-2435026

ATTESTED


VAKALATNAMA

re The KPK Service Tribunal Peshawar

OF 2018

Mahabat Khan

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Govt. of KPK & Others

(RESPONDENT)
(DEFENDANT)

I/we Mahabat Khan

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, 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. 02 / 4 / 2018

Shah

CLIENT

Shah

ACCEPTED

**NOOR MOHAMMAD KHATTAK
&
MUHAMMAD MAAZ MADNI
ADVOCATES**

OFFICE:

Flat No.3, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.

Phone: 091-2211391

Mobile No.0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No.442/2018

Mr. Mohabat Shah (Retd) Senior Clerk (BPS-14), O/O Project Division W&S, Dir Lower R/O Mohallah Salma, Dargai, District Malakand.....**Appellant**

Versus

1. The Chief Engineer Works and Services Department, Khyber Pakhtunkhwa Peshawar.
2. The Deputy Director, Project Division, Works & Services, District Dir (Lower).
3. The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
4. The Accountant General, Khyber Pakhtunkhwa, Peshawar.

.....**Respondents**

(Para wise 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 appellant has not come to this Court with clean hands.
- 4) That the instant Appeal is time barred.
- 5) That the Appeal in hand is not maintainable.
- 6) This Honorable Court lacks the jurisdiction to entertain the instant appeal.

Respectfully Sheweth:-

- 1) Pertains to record, however liable to be proved by the appellant.
- 2&3) Correct.
- 4) Correct to the extent that at the time of retirement, the age of the appellant was 51 years; however, as per Commutation Table issued by Govt of Khyber Pakhtunkhwa (Annex-A) the pension commutation ~~should~~ needs to be calculated at the next birthday; therefore, his pension commutation has been calculated on the basis of 52 years which is correct under the rules.
- 5) Correct.
- 6) The application of the appellant was forwarded by Administrative Officer, office of the Chief Engineer (Centre) Communication & Works Department, Khyber Pakhtunkhwa, Peshawar to Respondent No. 4 vide letter No. 66-E/934/CE/C&WD dated 12.07.2010 (Annex-B) with the request to re-consider the date of commencement of pension w.e.f 23.04.2009 instead of 24.04.2009; meaning thereby, that the retirement date may be considered w.e.f 22.04.2009 instead of 23.04.2009. However, the same was properly responded by Accounts Officer (Pension Main) of Respondent No. 4 vide letter No. Pension(M)/M-156/2008-09/6156 dated 22.07.2010 (Annex-C) stating therein that as per Govt of NWFP Finance Department letter No. FD-SOSR-III/1-92/81 dated 01.10.1981 (Annex-D) "if a government servant withdraws his application or modifies the date of retirement before its acceptance by the competent authority, the date of

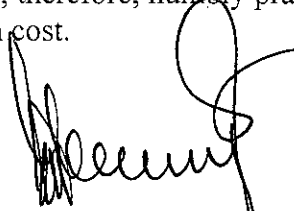
application or the date of retirement shall be deemed to have been withdrawn or modified as the case may be" and further explained that in the instant case, the retirement have been accepted and Pension Payment Order have been issued; therefore, modifications in the date of retirement is not admissible. Moreover, the Respondent No. 4 has correctly started the pension w.e.f 24.04.2009 as the official was retired from service on 23.04.2009 vide Office Order No. 66-E/49/CE/W&SD dated 07.05.2009 (Annex-E) by receiving his monthly salary up to 23.04.2009 and is entitled to get the pension from 24.04.2009 instead of 23.04.2009.

- 7) Incorrect. The Accounts Officer (Pension Main) of Respondent No. 4 has timely responded with full justification vide letter No. Pension(M)/M-156/2008-09/6156 dated 22.07.2010 (Annex-C) as already explained in Para 6 above.
- 8) No comments.

Grounds:-

- A. The qualifying service of the appellant was 29 years 11 months and 10 days. Therefore, his pension case was processed on the basis of 29 years in light of letter No. FD(SOSR-II)4-44/2009 dated 27.03.2009 (Annex-F) issued by Additional Secretary (Reg) Government of NWFP, Finance Department (Regulation Wing) wherein no condonation is allowed to those employees who comes under voluntary pension on premature retirement after completion of 25 years of service. In the instant case, the appellant was retired from service on his own request; therefore, benefit of condonation of a period of not exceeding six months deficiency in qualifying service for pension under CSR-423(i) was not extended to the appellant.
- B. As mentioned in Para "A" above, Respondent No. "4" has not violated any rules or law, and entertained the pension claim of the appellant under the rules without any delay.
- C. As mentioned in Para "A".
- D. As mentioned in Para 4, 6 and Para "A" above.
- E. As mentioned in Para "A".
- F. The letter dated 22.07.2010 issued by Accounts Officer (Pension Main) of Respondent No. 4 is in accordance law and rules. The detailed reply is mentioned at Para 4, 6 and Para "A" above.
- G. Pension has been processed under the rules as already explained in preceding Paras.
- H. No comments.

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


**ACCOUNTANT GENERAL
KHYBER PAKHTUNKHWA**

(PENSION COMMUTATION TABLE W.E.F.01.12.2001)

<u>Age Next Birthday</u>		*	Rate	<u>Age Next Birthday</u>		*	Rate
<u>20</u>	40.5043	12	486.0516	<u>46</u>	21.0538	12	252.6456
<u>21</u>	39.7341	12	476.8092	<u>47</u>	20.3555	12	244.2660
<u>22</u>	38.9653	12	467.5836	<u>48</u>	19.6653	12	235.9836
<u>23</u>	38.1974	12	458.3688	<u>49</u>	18.9841	12	227.8092
<u>24</u>	37.4307	12	449.1684	<u>50</u>	18.3129	12	219.7548
<u>25</u>	36.6651	12	439.9812	<u>51</u>	17.6526	12	211.8312
<u>26</u>	35.9006	12	430.8072	<u>52</u>	17.0050	12	204.0600
<u>27</u>	35.1372	12	421.6464	<u>53</u>	16.3710	12	196.4520
<u>28</u>	34.3750	12	412.5000	<u>54</u>	15.7517	12	189.0204
<u>29</u>	33.6143	12	403.3716	<u>55</u>	15.1478	12	181.7736
<u>30</u>	32.8071	12	393.6852	<u>56</u>	14.5602	12	174.7224
<u>31</u>	32.0974	12	385.1688	<u>57</u>	13.9888	12	167.8656
<u>32</u>	31.3412	12	376.0944	<u>58</u>	13.4340	12	161.2080
<u>33</u>	30.5869	12	367.0428	<u>59</u>	12.8953	12	154.7436
<u>34</u>	29.8343	12	358.0116	<u>60</u>	12.3719	12	148.4628
<u>35</u>	29.0841	12	349.0092	<u>61</u>	11.8632	12	142.3584
<u>36</u>	28.3362	12	340.0344	<u>62</u>	11.3684	12	136.4208
<u>37</u>	27.5908	12	331.0896	<u>63</u>	10.8872	12	130.6464
<u>38</u>	26.8482	12	322.1784	<u>64</u>	10.4191	12	125.0292
<u>39</u>	26.1009	12	313.2108	<u>65</u>	9.9639	12	119.5668
<u>40</u>	25.3728	12	304.4736	<u>66</u>	9.5214	12	114.2568
<u>41</u>	24.6406	12	295.6872	<u>67</u>	9.0914	12	109.0968
<u>42</u>	23.9126	12	286.9512	<u>68</u>	8.6742	12	104.0904
<u>43</u>	23.1840	12	278.2080	<u>69</u>	8.2697	12	99.2364
<u>44</u>	22.4713	12	269.6556	<u>70</u>	7.8778	12	94.5336
<u>45</u>	21.7592	12	261.1104	<u>71</u>	7.4983	12	89.9796

Designed by: Abid Mumtaz. (Resource Person)

Annex - B

OFFICE OF THE CHIEF ENGINEER (CENTRE)
COMMUNICATION & WORKS DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR.

No. 66-E / 934 / CE / C&WD

Dated Peshawar the 12 / 07 / 2010

2
B = 13
F = 9

To

The Accountant General,
Khyber Pakhtunkhwa, Peshawar.

Subject: PRESENTATION - RETIREMENT.

I am directed to refer to the above noted subject and to say that Mr. Mohabat Shah Senior Clerk of this department was retired from Govt. service w.e.f 23-04-2009 vide order No. 66-E/491/CE/W&SD dated 07-05-2009 (copy attached).

Besides to treat his retirement w.e.f 23-04-2009, he has been shown for payment of Pension w.e.f 24-04-2009 as per the PPO No. Pen(Main)M-156/8-09/25715-17/48-50 dated 24-06-2009 and revised No. Pen(Main)M-156/08-09/26471-73/6060-62 dated 24-02-2010 (copies enclosed). His application is annexed for reference.

The official as such is sustaining a loss in the value of commutation by taking into account his next date of retirement.

It is, therefore; requested that his case may please be revived and a fresh PPO issued by making a recovery of pay for One day of 23.04.2009 from the balance commutation so worked-out, in order to save the retired official from recurring loss in commutation.

DA/As Above.

*Pl. examine the
Case & put up*

(AMINULLAH KHAN)
ADMINISTRATIVE OFFICER

Copy to Mr. Mohabat Shah (Rtd.) Senior Clerk R/O Mohallah Salma, Dargai, District Malakand w/r to his application dated 16-06-2010. He is requested to furnish your PFO to the Accountant General office for further course of action.

Wone

ATTESTED

[Signature]
ADMINISTRATIVE OFFICER

Annex-C 39

C7 = (19)



Office of the
Accountant General
Khyber Pakhtunkhwa, Fort Road, Peshawar
Ph # 091-9211250-4
091-9211275

No. Pension(M)/M-156/2008-09/6156

Dated: 22.07.2010

To

The Administrative Officer,
O/O the Chief Engineer (Centre),
C & W Khyber Pakhtunkhwa Peshawar.

Subject: REPRESENTATION-RETIREMENT

Puc 33

Memo: Kindly refer to your office memo No. 66-E/934/CE/C&WD Dated 12.07.2010 on the above noted subject.

In this regard it is stated that Govt. of NWFP Finance Department vide his letter No. FD-SOSR.III/1-92/81 Dated 1st October 1981 clearly stated "that if a government servant withdraws his application or modifies the date of retirement before its acceptance by the competent authority, the date of application or the date of retirement shall be deemed to have been withdrawn or modified as the case may be"

In this case the retirement have been accepted and PPO have been issued. Therefore modification in date of retirement is not admissible.

C.E. C&W Depitt: (Centre)
Dairy No. 1367
Date 30/7/2010
Cass No.
C.E. Caw
S.E. (H.Q)
D.E. (B.ir)
FO
SO
CP

66-E A.O.
Ret. up

22/7/10
ACCOUNTS OFFICER
K.P.K PESHAWAR

ATTESTED

قلمی ایسے کے لئے دیکھو

Handwritten signature

Annex-D

No. FD-SOSR.III/4-92/81
dated Peshawar, the 1st October, 1981

From:

GOVERNMENT OF NWFP,
FINANCE DEPARTMENT,
Finance Department, Peshawar.

To

1. All Administrative Secretaries to Govt of NWFP.
2. All Heads of Attached Departments NWFP.
3. All Commissioners of Divisions in N.W.F.P.
4. All Deputy Commissioners/Political Agents in NWFP.
5. All District and Session Judges in N.W.F.P.
6. The Registrar, Peshawar High Court, Peshawar.
7. The Chairman, NWFP Public Service Commission, Peshawar.
8. The Chairman, NWFP Service Tribunal, Peshawar.

Subject:- WITHDRAWAL OF APPLICATION FOR VOLUNTARY RETIREMENT FROM GOVERNMENT SERVICE AFTER COMPLETING 25 YEARS QUALIFYING SERVICE FOR PENSION.

Sir,

I am directed to refer to the subject noted above and to say that according to paragraph 8 of the former Government of West Pakistan Finance Department letter No. SO(SR)-V-257/67, dated 27.4.1967 subject to the provisions of the Essential Service Maintenance Act, all Government Servants shall have the right to retire on a retiring pension after completing 25 years qualifying service; provided that a Government servant, who intends to retire before attaining the age of superannuation shall, at least three months before the date on which he intends to retire, submit a written intimation to the authority which appointed him, indicating the date on which he intends to retire. Such an intimation, once submitted, shall be final and shall not be allowed to be modified or withdrawn.

2. In pursuance of Establishment Division, O.M.No. 23/2/81 CV (B) dated 12th April, 1981 as adopted by the Government of N.W.F.P. Services and General Administration Department vide letter No. SOR.II (SERVAD) 5-3/79 (Vol:II), dated 12th August, 1981 it has been decided that the words "Such an intimation once submitted, shall be final and shall not be allowed to be modified or withdrawn" occurring in paragraph 8 of above mentioned letter shall be deleted and substituted by the following words:-

"If a Government servant withdraws his application for premature retirement or modifies the date of retirement, before its acceptance by the competent authority, the application or the date of retirement shall be deemed to have been withdrawn or modified, as the case may be."

Your obedient servant,

(Signature)
(MUHAMMAD AMIN)

ADDITIONAL SECRETARY-I

OFFICE OF THE CHIEF ENGINEER
WORKS & SERVICES DEPARTMENT,
NWFP PESHAWAR.

No. 66-E / 491 / CE / W&SD

Dated Peshawar the 07 / 05 / 2009

Annex-

OFFICE ORDER

Mr. Mahabat Shah Senior Clerk attached to the office of the Deputy Director, Project Division Works & Services District Dir (Lower) is hereby retired from Govt. Service w.e.f 23/04/2009 on his own request after completing 29 years, 11 months and 10 days qualifying service under rule 3.4 of NWFP Pension Rules read with Section-13 of Civil Servants Act 1973.

Further more under the provision of Rules 20 of NWFP Civil Servants Revised Rules 1981, Sanction is also accorded for encashment of lump sum amount equal to 180-days salary in lieu of L.P.R out of leave admissible at the credit of the above named official.

(ENGR. AHMAD JAN)
CHIEF ENGINEER

Copy to the:-

- 1) Accountant General NWFP Peshawar.
- 2) The Deputy Director, Project Division Works & Services District Dir (Lower) with reference to his letter No. 14075/3-E dated 26/03/2009.
- 3) Official concerned.
- 4) Cashier (local).

CHIEF ENGINEER

Annex-F

208-A/c

P-1/C

GOVERNMENT OF NWFP
FINANCE DEPARTMENT
(REGULATION WING)
NO.FD(SOSR.II)4-44/2009
Dated Peshawar the 27/3/2009

27-3-2009

To

1. All the Administrative Secretaries to Government of NWFP.
2. The Senior Member, Board of Revenue, NWFP, Peshawar.
3. The Secretary to Governor, NWFP, Peshawar.
4. The Principal Secretary to Chief Minister, NWFP, Peshawar.
5. The Secretary, Provincial Assembly, NWFP, Peshawar.
6. All Heads of Attached Departments in NWFP.
7. All District Nazims/Regional Coordination Officers District Coordination Officers/Political Agents/District & Sessions Judges in NWFP.
8. All Executive District Officers in NWFP.
9. The Registrar, Peshawar High Court Peshawar.
10. The Secretary, Public Service Commission, NWFP, Peshawar.
11. The Registrar, Service Tribunal NWFP, Peshawar.
12. The Secretary, Board of Revenue, NWFP, Peshawar.

EX-01

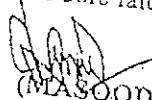
Subject:- CONDONATION OF DEFICIENCY IN QUALIFYING SERVICE FOR PENSION/GRATUITY.

Dear Sir,

I am directed to refer to the subject noted above and to state that in pursuance of Finance Division Government of Pakistan O.M.No.F.14(1)-R-7/2007-230 dated 28/11/2008, it has been decided that the benefit of condonation of a period of not exceeding six months deficiency in qualifying service for pension under CSR-423(i) may be extended to all retiring civil servants who have at least completed 9 years 6 months at the time of superannuation for the purpose of pension etc. except voluntary pension on premature retirement after completion of 25 years of service.

2. This supersedes Finance Department's letter No.SOSR.III(FD)4-112/82 dated 15/12/1982 and No.SOSR.III(FD)4-44/83-Vol:II dated 04/7/1989. However, the cases already decided under these letters shall not be re-opened.

Yours faithfully,


(MASOOD AHMAD)
ADDITIONAL SECRETARY(REG.)
P.T.O

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No.442/2018

Mr. Mohabat Shah (Retd) Senior Clerk (BPS-14), O/O Project Division W&S, Dir Lower R/O Mohallah Salma, Dargai, District Malakand.....**Appellant**

Versus

1. The Chief Engineer Works and Services Department, Khyber Pakhtunkhwa Peshawar.
 2. The Deputy Director, Project Division, Works & Services, District Dir (Lower).
 3. The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
 4. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
-**Respondents**

(Para wise 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 appellant has not come to this Court with clean hands.
- 4) That the instant Appeal is time barred.
- 5) That the Appeal in hand is not maintainable.
- 6) This Honorable Court lacks the jurisdiction to entertain the instant appeal.

Respectfully Sheweth:-

- 1) Pertains to record, however liable to be proved by the appellant.
- 2&3) Correct.
- 4) Correct to the extent that at the time of retirement, the age of the appellant was 51 years; however, as per Commutation Table issued by Govt of Khyber Pakhtunkhwa (Annex-A) the pension commutation should needs to be calculated at the next birthday; therefore, his pension commutation has been calculated on the basis of 52 years which is correct under the rules.
- 5) Correct.s
- 6) The application of the appellant was forwarded by Administrative Officer, office of the Chief Engineer (Centre) Communication & Works Department, Khyber Pakhtunkhwa, Peshawar to Respondent No. 4 vide letter No. 66-E/934/CE/C&WD dated 12.07.2010 (Annex-B) with the request to re-consider the date of commencement of pension w.e.f 23.04.2009 instead of 24.04.2009; meaning thereby, that the retirement date may be considered w.e.f 22.04.2009 instead of 23.04.2009. However, the same was properly responded by Accounts Officer (Pension Main) of Respondent No. 4 vide letter No. Pension(M)/M-156/2008-09/6156 dated 22.07.2010 (Annex-C) stating therein that as per Govt of NWFP Finance Department letter No. FD-SOSR-III/1-92/81 dated 01.10.1981 (Annex-D) "if a government servant withdraws his application or modifies the date of retirement before its acceptance by the competent authority, the date of

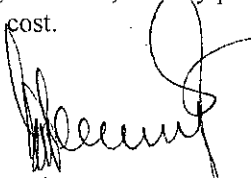
application or the date of retirement shall be deemed to have been withdrawn or modified as the case may be" and further explained that in the instant case, the retirement have been accepted and Pension Payment Order have been issued; therefore, modifications in the date of retirement is not admissible. Moreover, the Respondent No. 4 has correctly started the pension w.e.f 24.04.2009 as the official was retired form service on 23.04.2009 vide Office Order No. 66-E/49/CE/W&SD dated 07.05.2009 (Annex-E) by receiving his monthly salary up to 23.04.2009 and is entitled to get the pension from 24.04.2009 instead of 23.04.2009.

- 7) Incorrect. The Accounts Officer (Pension Main) of Respondent No. 4 has timely responded with full justification vide letter No. Pension(M)/M-156/2008-09/6156 dated 22.07.2010 (Annex-C) as already explained in Para 6 above.
- 8) No comments.

Grounds:-

- A. The qualifying service of the appellant was 29 years 11 months and 10 days. Therefore, his pension case was processed on the basis of 29 years in light of letter No. FD(SOSR-II)4-44/2009 dated 27.03.2009 (Annex-F) issued by Additional Secretary (Reg) Government of NWFP, Finance Department (Regulation Wing) wherein no condonation is allowed to those employees who comes under voluntary pension on premature retirement after completion of 25 years of service. In the instant case, the appellant was retired from service on his own request; therefore, benefit of condonation of a period of not exceeding six months deficiency in qualifying service for pension under CSR-423(i) was not extended to the appellant.
- B. As mentioned in Para "A" above, Respondent No. "4" has not violated any rules or law, and entertained the pension claim of the appellant under the rules without any delay.
- C. As mentioned in Para "A".
- D. As mentioned in Para 4, 6 and Para "A" above.
- E. As mentioned in Para "A".
- F. The letter dated 22.07.2010 issued by Accounts Officer (Pension Main) of Respondent No. 4 is in accordance law and rules. The detailed reply is mentioned at Para-4, 6 and Para "A" above.
- G. Pension has been processed under the rules as already explained in preceding Paras.
- H. No comments.

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


ACCOUNTANT GENERAL
KHYBER PAKHTUNKHWA

Annex - A

(PENSION COMMUTATION TABLE W.E.F.01.12.2001)

<u>Age Next Birthday</u>		*	Rate	<u>Age Next Birthday</u>		*	Rate
<u>20</u>	40.5043	12	486.0516	<u>46</u>	21.0538	12	252.6456
<u>21</u>	39.7341	12	476.8092	<u>47</u>	20.3555	12	244.2660
<u>22</u>	38.9653	12	467.5836	<u>48</u>	19.6653	12	235.9836
<u>23</u>	38.1974	12	458.3688	<u>49</u>	18.9841	12	227.8092
<u>24</u>	37.4307	12	449.1684	<u>50</u>	18.3129	12	219.7548
<u>25</u>	36.6651	12	439.9812	<u>51</u>	17.6526	12	211.8312
<u>26</u>	35.9006	12	430.8072	<u>52</u>	17.0050	12	204.0600
<u>27</u>	35.1372	12	421.6464	<u>53</u>	16.3710	12	196.4520
<u>28</u>	34.3750	12	412.5000	<u>54</u>	15.7517	12	189.0204
<u>29</u>	33.6143	12	403.3716	<u>55</u>	15.1478	12	181.7736
<u>30</u>	32.8071	12	393.6852	<u>56</u>	14.5602	12	174.7224
<u>31</u>	32.0974	12	385.1688	<u>57</u>	13.9888	12	167.8656
<u>32</u>	31.3412	12	376.0944	<u>58</u>	13.4340	12	161.2080
<u>33</u>	30.5869	12	367.0428	<u>59</u>	12.8953	12	154.7436
<u>34</u>	29.8343	12	358.0116	<u>60</u>	12.3719	12	148.4628
<u>35</u>	29.0841	12	349.0092	<u>61</u>	11.8632	12	142.3584
<u>36</u>	28.3362	12	340.0344	<u>62</u>	11.3684	12	136.4208
<u>37</u>	27.5908	12	331.0896	<u>63</u>	10.8872	12	130.6464
<u>38</u>	26.8482	12	322.1784	<u>64</u>	10.4191	12	125.0292
<u>39</u>	26.1009	12	313.2108	<u>65</u>	9.9639	12	119.5668
<u>40</u>	25.3728	12	304.4736	<u>66</u>	9.5214	12	114.2568
<u>41</u>	24.6406	12	295.6872	<u>67</u>	9.0914	12	109.0968
<u>42</u>	23.9126	12	286.9512	<u>68</u>	8.6742	12	104.0904
<u>43</u>	23.1840	12	278.2080	<u>69</u>	8.2697	12	99.2364
<u>44</u>	22.4713	12	269.6556	<u>70</u>	7.8778	12	94.5336
<u>45</u>	21.7592	12	261.1104	<u>71</u>	7.4983	12	89.9796

Designed by: Abid Mumtaz. (Resource Person)

Annex - B

~~10~~
F-9

OFFICE OF THE CHIEF ENGINEER (CENTRE)
COMMUNICATION & WORKS DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR.

No. 66-E / 934 / CE / C&WD

Dated Peshawar the 12/07/2010

To

The Accountant General,
Khyber Pakhtunkhwa, Peshawar.

Subject: PRESENTATION - RETIREMENT.

I am directed to refer to the above noted subject and to say that Mr. Mohabat Shah Senior Clerk of this department was retired from Govt. service w.e.f 23-04-2009 vide order No. 66-E/491/CE/W&SD dated 07-05-2009 (copy attached).

Besides to treat his retirement w.e.f 23-04-2009, he has been shown for payment of Pension w.e.f 24-04-2009 as per the PPO No. Pen(Main)M-156/8-09/25715-17/48-50 dated 24-06-2009 and revised No. Pen(Main)M-156/08-09/26471-73/6060-62 dated 24-02-2010 (copies enclosed). His application is annexed for reference.

The official as such is sustaining a loss in the value of commutation by taking into account his next date of retirement.

It is, therefore, requested that his case may please be revived and a fresh PPO issued by making a recovery of pay for One day of 23.04.2009 from the balance commutation so worked-out, in order to save the retired official from recurring loss in commutation.

DA/As Above.

*Pl. examine the
copy of PPO*

(AMINULLAH KHAN)
ADMINISTRATIVE OFFICER

Copy to Mr. Mohabat Shah (Rtd.) Senior Clerk R/O Mohallah Salma, Dargai, District Malakand w/r to his application dated 16-06-2010. He is requested to furnish your PPO to the Accountant General office for further course of action.

Wone

ATTESTED
[Signature]

[Signature]
ADMINISTRATIVE OFFICER

Annex-C 39

G-19



Office of the
Accountant General
Khyber Pakhtunkhwa, Fort Road, Peshawar
Ph # 091-9211250-4
091-9211275

No.Pension(M)/M-156/2008-09/6156

Dated: 22.07.2010

To

The Administrative Officer,
O/O The Chief Engineer (Centre),
C & W Khyber Pakhtunkhwa Peshawar.

Subject: REPRESENTATION-RETIREMENT

Puc 33

Memo:

Kindly refer to your office memo No. 66-E/934/CE/C&WD Dated 12.07.2010 on the above-noted subject.

In this regard it is stated that Govt. of NWFP Finance Department vide his letter No. FD-SOSP.III/1-92/81 Dated 1st October 1981 clearly stated "that if a government servant withdraws his application or modifies the date of retirement before its acceptance by the competent authority, the date of application or the date of retirement shall be deemed to have been withdrawn or modified as the case may be"

In this case the retirement have been accepted and PPO have been issued. Therefore modification in date of retirement is not admissible.

C.E. C&W Deptt. (Centre)
Dairy No. 1367
Date 22/7/2010
Class No.
C.E. Caw
S.E. (H.Q.)
S.E. (B-1)
S.O.
Asst. S.O.
CD

66-E A.O. Ret. up

ACCOUNTS OFFICER
K.P.K. PESHAWAR

ATTESTED

Handwritten signature in Urdu

Handwritten signature

4001-10
No. SO(SR)-III/4-82/11
Let's see how the 1st October, 1981

GOVERNMENT OF NWFP
FINANCE DEPARTMENT
NWFP

From:

To

The Secretary to Government
Finance Department, Peshawar.

1. All Administrative Secretaries to Govt of NWFP.
2. All Heads of Attached Departments NWFP.
3. All Commissioners of Divisions in N.W.F.P.
4. All Deputy Commissioners/Political Agents in NWFP.
5. All District and Session Judges in N.W.F.P.
6. The Registrar, Peshawar High Court, Peshawar.
7. The Chairman, NWFP Public Service Commission, Peshawar.
8. The Chairman, NWFP Service Tribunal, Peshawar.

Subject:- WITHDRAWAL OF APPLICATION FOR VOLUNTARY RETIREMENT
FROM GOVERNMENT SERVICE AFTER COMPLETING 25 YEARS
QUALIFYING SERVICE FOR PENSION.

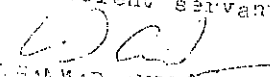
Sir,

I am directed to refer to the subject noted above and to say that according to paragraph 6 of the former Government of West Pakistan Finance Department letter No. SO(SR)-V-257/67, dated 27.4.1967 subject to the provisions of the Essential Service Maintenance Act, all Government Servants shall have the right to retire on a retiring pension after completing 25 years qualifying service provided that a Government servant, who intends to retire before attaining the age of superannuation shall, at least three months before the date on which he intends to retire, submit a written intimation to the authority which appointed him, indicating the date on which he intends to retire. Such an intimation, once submitted, shall be final and shall not be allowed to be modified or withdrawn.

2. In pursuance of Establishment Division, O.M. No. 23/2/81 CV (B) dated 12th April, 1981 as adopted by the Government of N.W.F.P. Services and General Administration Department vide letter No. SO(SR) II (SERAD) 5-3/79 (Vol:II), dated 12th August, 1981 it has been decided that the words "Such an intimation once submitted, shall be final and shall not be allowed to be modified or withdrawn" occurring in paragraph 8 of above mentioned letter shall be deleted and substituted by the following words:-

"If a Government servant withdraws his application for premature retirement or modifies the date of retirement, before its acceptance by the competent authority, the application or the date of retirement shall be deemed to have been withdrawn or modified, as the case may be."

Your obedient servant,


(M. HAFIZ AMIR)
ADDITIONAL SECRETARY-I

OFFICE OF THE CHIEF ENGINEER
WORKS & SERVICES DEPARTMENT,
NWFP PESHAWAR.

No. 66-E / 491 / CE / W&SD

Dated Peshawar the 07 / 05 / 2009

Annex - E

OFFICE ORDER

Mr. Mahabat Shah Senior Clerk attached to the office of the Deputy Director, Project Division Works & Services District Dir (Lower) is hereby retired from Govt. Service w.e.f 23/04/2009 on his own request after completing 29 years 11 months and 10-days qualifying service under rule 3.4 of NWFP Pension Rules read with Section-13 of Civil Servants Act 1973.

Further more under the provision of Rules 20 of NWFP Civil Servants Revised Rules 1981, Sanction is also accorded for encashment of lump sum amount equal to 180-days salary in lieu of L.P.R out of leave admissible at the credit of the above named official.

(ENGR: AHMAD JAN)
CHIEF ENGINEER

Copy to the:-

Accountant General NWFP Peshawar.

The Deputy Director, Project Division Works & Services District Dir (Lower) with reference to his letter No. 14075/3-E dated 26/03/2009.

Official concerned.

Cashier (local).

CHIEF ENGINEER

Annex-F 208-A/c

P-1/C

GOVERNMENT OF NWFP
FINANCE DEPARTMENT
(REGULATION WING)
NO.FD(SOSR.II)4-44/2009
Dated Peshawar the 27/3/2009

27-3-2009

To

1. All the Administrative Secretaries to Government of NWFP.
2. The Senior Member, Board of Revenue, NWFP, Peshawar.
3. The Secretary to Governor, NWFP, Peshawar.
4. The Principal Secretary to Chief Minister, NWFP, Peshawar.
5. The Secretary, Provincial Assembly, NWFP, Peshawar.
6. All Heads of Attached Departments in NWFP.
7. All District Nazims/Regional Coordination Officers District Coordination Officers/Political Agents/District & Sessions Judges in NWFP.
8. All Executive District Officers in NWFP.
9. The Registrar, Peshawar High Court Peshawar.
10. The Secretary, Public Service Commission, NWFP, Peshawar.
11. The Registrar, Service Tribunal NWFP, Peshawar.
12. The Secretary, Board of Revenue, NWFP, Peshawar.

EX. 01


Subject:- CONDONATION OF DEFICIENCY IN QUALIFYING SERVICE FOR PENSION/GRATUITY.

Dear Sir,

I am directed to refer to the subject noted above and to state that in pursuance of Finance Division Government of Pakistan O.M.No.F.14(1)-R-7/2007-230 dated 28/11/2008, it has been decided that the benefit of condonation of a period of not exceeding six months deficiency in qualifying service for pension under CSR-423(i) may be extended to all retiring civil servants who have at least completed 9 years 6 months at the time of superannuation for the purpose of pension etc. except voluntary pension on premature retirement after completion of 25 years of service.

This supersedes Finance Department's letter No.SOSR.III(FD)4-112/82 dated 15/12/1982 and No.SOSR.III(FD)4-44/83-Vol.II dated 04/7/1989. However, the cases already decided under these letters shall not be re-opened.

Yours faithfully,


(MASOOD AHMAD)
ADDITIONAL SECRETARY (REG.)
P.T.O



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 2503-4/ST

Dated: 16/12 /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

1. The Accountant General,
Government of Khyber Pakhtunkhwa,
Peshawar.
2. District Accounts Officer,
Government of Khyber Pakhtunkhwa,
Dir Lower.

Subject: ORDER REGARDING ATTACHMENT OF SALARY IN SERVICE APPEAL NO. 442/2018, MR.
MOHABBAT SHAH.

I am directed to forward herewith a certified copy of order dated
09.12.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No.442/2018

Mr. Mohabat Shah (Retd) Senior Clerk (BPS-14), O/O Project Division W&S, Dir Lower R/O Mohallah Salma, Dargai, District Malakand.....Appellant

Versus

1. The Chief Engineer Works and Services Department, Khyber Pakhtunkhwa Peshawar.
2. The Deputy Director, Project Division, Works & Services, District Dir (Lower).
3. The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
4. The Accountant General, Khyber Pakhtunkhwa, Peshawar.

.....Respondents

(Para wise 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 appellant has not come to this Court with clean hands.
- 4) That the instant Appeal is time barred.
- 5) That the Appeal in hand is not maintainable.
- 6) This Honorable Court lacks the jurisdiction to entertain the instant appeal.

Respectfully Sheweth:-

- 1) Pertains to record, however liable to be proved by the appellant.
- 2&3) Correct.
- 4) Correct to the extent that at the time of retirement, the age of the appellant was 51 years; however, as per Commutation Table issued by Govt of Khyber Pakhtunkhwa (Annex-A) the pension commutation ~~should~~ needs to be calculated at the next birthday; therefore, his pension commutation has been calculated on the basis of 52 years which is correct under the rules.
- 5) Correct.
- 6) The application of the appellant was forwarded by Administrative Officer, office of the Chief Engineer (Centre) Communication & Works Department, Khyber Pakhtunkhwa, Peshawar to Respondent No. 4 vide letter No. 66-E/934/CE/C&WD dated 12.07.2010 (Annex-B) with the request to re-consider the date of commencement of pension w.e.f 23.04.2009 instead of 24.04.2009; meaning thereby, that the retirement date may be considered w.e.f 22.04.2009 instead of 23.04.2009. However, the same was properly responded by Accounts Officer (Pension Main) of Respondent No. 4 vide letter No. Pension(M)/M-156/2008-09/6156 dated 22.07.2010 (Annex-C) stating therein that as per Govt of NWFP Finance Department letter No. FD-SOSR-III/1-92/81 dated 01.10.1981 (Annex-D) "if a government servant withdraws his application or modifies the date of retirement before its acceptance by the competent authority, the date of

application or the date of retirement shall be deemed to have been withdrawn or modified as the case may be" and further explained that in the instant case, the retirement have been accepted and Pension Payment Order have been issued; therefore, modifications in the date of retirement is not admissible. Moreover, the Respondent No. 4 has correctly started the pension w.e.f 24.04.2009 as the official was retired from service on 23.04.2009 vide Office Order No. 66-E/49/CE/W&SD dated 07.05.2009 (Annex-E) by receiving his monthly salary up to 23.04.2009 and is entitled to get the pension from 24.04.2009 instead of 23.04.2009.

- 7) Incorrect. The Accounts Officer (Pension Main) of Respondent No. 4 has timely responded with full justification vide letter No. Pension(M)/M-156/2008-09/6156 dated 22.07.2010 (Annex-C) as already explained in Para 6 above.
- 8) No comments.

Grounds:-

- A. The qualifying service of the appellant was 29 years 11 months and 10 days. Therefore, his pension case was processed on the basis of 29 years in light of letter No. FD(SOSR-II)4-44/2009 dated 27.03.2009 (Annex-F) issued by Additional Secretary (Reg) Government of NWFP, Finance Department (Regulation Wing) wherein no condonation is allowed to those employees who comes under voluntary pension on premature retirement after completion of 25 years of service. In the instant case, the appellant was retired from service on his own request; therefore, benefit of condonation of a period of not exceeding six months deficiency in qualifying service for pension under CSR-423(i) was not extended to the appellant.
- B. As mentioned in Para "A" above, Respondent No. "4" has not violated any rules or law, and entertained the pension claim of the appellant under the rules without any delay.
- C. As mentioned in Para "A".
- D. As mentioned in Para 4, 6 and Para "A" above.
- E. As mentioned in Para "A".
- F. The letter dated 22.07.2010 issued by Accounts Officer (Pension Main) of Respondent No. 4 is in accordance law and rules. The detailed reply is mentioned at Para 4, 6 and Para "A" above.
- G. Pension has been processed under the rules as already explained in preceding Paras.
- H. No comments.

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


**ACCOUNTANT GENERAL
KHYBER PAKHTUNKHWA**

(PENSION COMMUTATION TABLE W.E.F.01.12.2001)

<u>Age Next Birthday</u>		*	Rate	<u>Age Next Birthday</u>		*	Rate
<u>20</u>	40.5043	12	486.0516	<u>46</u>	21.0538	12	252.6456
<u>21</u>	39.7341	12	476.8092	<u>47</u>	20.3555	12	244.2660
<u>22</u>	38.9653	12	467.5836	<u>48</u>	19.6653	12	235.9836
<u>23</u>	38.1974	12	458.3688	<u>49</u>	18.9841	12	227.8092
<u>24</u>	37.4307	12	449.1684	<u>50</u>	18.3129	12	219.7548
<u>25</u>	36.6651	12	439.9812	<u>51</u>	17.6526	12	211.8312
<u>26</u>	35.9006	12	430.8072	<u>52</u>	17.0050	12	204.0600
<u>27</u>	35.1372	12	421.6464	<u>53</u>	16.3710	12	196.4520
<u>28</u>	34.3750	12	412.5000	<u>54</u>	15.7517	12	189.0204
<u>29</u>	33.6143	12	403.3716	<u>55</u>	15.1478	12	181.7736
<u>30</u>	32.8071	12	393.6852	<u>56</u>	14.5602	12	174.7224
<u>31</u>	32.0974	12	385.1688	<u>57</u>	13.9888	12	167.8656
<u>32</u>	31.3412	12	376.0944	<u>58</u>	13.4340	12	161.2080
<u>33</u>	30.5869	12	367.0428	<u>59</u>	12.8953	12	154.7436
<u>34</u>	29.8343	12	358.0116	<u>60</u>	12.3719	12	148.4628
<u>35</u>	29.0841	12	349.0092	<u>61</u>	11.8632	12	142.3584
<u>36</u>	28.3362	12	340.0344	<u>62</u>	11.3684	12	136.4208
<u>37</u>	27.5908	12	331.0896	<u>63</u>	10.8872	12	130.6464
<u>38</u>	26.8482	12	322.1784	<u>64</u>	10.4191	12	125.0292
<u>39</u>	26.1009	12	313.2108	<u>65</u>	9.9639	12	119.5668
<u>40</u>	25.3728	12	304.4736	<u>66</u>	9.5214	12	114.2568
<u>41</u>	24.6406	12	295.6872	<u>67</u>	9.0914	12	109.0968
<u>42</u>	23.9126	12	286.9512	<u>68</u>	8.6742	12	104.0904
<u>43</u>	23.1840	12	278.2080	<u>69</u>	8.2697	12	99.2364
<u>44</u>	22.4713	12	269.6556	<u>70</u>	7.8778	12	94.5336
<u>45</u>	21.7592	12	261.1104	<u>71</u>	7.4983	12	89.9796

Designed by: Abid Muntaz. (Resource Person)

Annex - B

~~B = B~~
F = 9

OFFICE OF THE CHIEF ENGINEER (CENTRE)
COMMUNICATION & WORKS DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR.

No. 66-E / 934 / CE / C&WD

Dated Peshawar the 12/07/2010

To

The Accountant General,
Khyber Pakhtunkhwa, Peshawar.

Subject: PRESENTATION - RETIREMENT.

I am directed to refer to the above noted subject and to say that Mr. Mohabat Shah Senior Clerk of this department was retired from Govt. service w.e.f 23-04-2009 vide order No. 66-E/491/CE/W&SD dated 07-05-2009 (copy attached).

Besides to treat his retirement w.e.f 23-04-2009, he has been shown for payment of Pension w.e.f 24-04-2009 as per the PPO No. Pen(Main)M-156/8-09/25715-17/48-50 dated 24-06-2009 and revised No. Pen(Main)M-156/08-09/26471-73/6060-62 dated 24-02-2010 (copies enclosed). His application is annexed for reference.

The official as such is sustaining a loss in the value of commutation by taking into account his next date of retirement.

It is, therefore, requested that his case may please be revived and a fresh PPO issued by making a recovery of pay for One day of 23.04.2009 from the balance commutation so worked-out, in order to save the retired official from recurring loss in commutation.

DA/As Above

*Pl. examine the
Copy & put up*

(AMINULLAH KHAN)
ADMINISTRATIVE OFFICER

Copy to Mr. Mohabat Shah (Rtd.) Senior Clerk R/O Mohallah Salma, Dargai, District Malakand w/r to his application dated 16-06-2010. He is requested to furnish your PPO to the Accountant General office for further course of action.

Wone

ATTESTED

[Signature]
ADMINISTRATIVE OFFICER



Office of the
Accountant General
Khyber Pakhtunkhwa, Fort Road, Peshawar
Ph # 091-9211250-4
091-9211275

No. Pension(M)/M-156/2008-09/6156

Dated: 22.07.2010

To

The Administrative Officer,
O/O the Chief Engineer (Centre),
C & W Khyber Pakhtunkhwa Peshawar.

Subject: REPRESENTATION-RETIREMENT

Puc 33

Memo:

Kindly refer to your office memo No. 66-E/934/CE/C&WD Dated 12.07.2010 on the above noted subject.

In this regard it is stated that Govt. of NWFP Finance Department vide his letter No. FD-SOSR.III/1-92/81 Dated 1st October 1981 clearly stated "that if a government servant withdraws his application or modifies the date of retirement before its acceptance by the competent authority, the date of application or the date of retirement shall be deemed to have been withdrawn or modified as the case may be".

In this case the retirement have been accepted and PPO have been issued. Therefore modification in date of retirement is not admissible.

C.E. C&W Depitt: (Centre)
Dairy No. <u>1367</u>
Date <u>22/7/2010</u>
Class No.
C.E. Caw
S.E. (H.O)
D.E. (B-II)
VO
PO
SO
CP

*66-E A.O.
Put up*

D. K. K.
22/7/10
ACCOUNTS OFFICER
K.P.K. PESHAWAR

ATTESTED

B

بانی

Annex-1
No. SP-SOR.III/4-32/81
Dated Peshawar, the 12th October, 1981

From:

GOVERNMENT OF NWFP,
FINANCE DEPARTMENT,
Peshawar.

To

1. All Administrative Secretaries to Govt of NWFP.
2. All Heads of Attached Departments NWFP.
3. All Commissioners of Divisions in N.W.F.P.
4. All Deputy Commissioners/Political Agents in NWFP.
5. All District and Session Judges in N.W.F.P.
6. The Registrar, Peshawar High Court, Peshawar.
7. The Chairman, NWFP Public Service Commission, Peshawar.
8. The Chairman, NWFP Service Tribunal, Peshawar.

Subject: WITHDRAWAL OF APPLICATION FOR VOLUNTARY RETIREMENT
FROM GOVERNMENT SERVICE AFTER COMPLETING 25 YEARS
QUALIFYING SERVICE FOR PENSION.

Sir,

I am directed to refer to the subject noted above and to say that according to Paragraph 6 of the former Government of West Pakistan Finance Department letter No. SO(SR)-V-257/57, dated 27.4.1967 subject to the provisions of the Essential Service Maintenance Act, all Government Servants shall have the right to retire on a retiring pension after completing 25 years qualifying service; provided that a Government servant, who intends to retire before attaining the age of superannuation shall, at least three months before the date on which he intends to retire, submit a written intimation to the authority which appointed him, indicating the date on which he intends to retire. Such an intimation, once submitted, shall be final and shall not be allowed to be modified or withdrawn.

2. In pursuance of Establishment Division, O.M.No. 22/2/81 CV (B) dated 12th April, 1981 as adopted by the Government of N.W.F.P. Services and General Administration Department vide letter No. SOR.II (SERAD)3-3/79 (Vol:II), dated 12th August, 1981 it has been decided that the words "Such an intimation once submitted, shall be final and shall not be allowed to be modified or withdrawn" occurring in paragraph 8 of above mentioned letter shall be deleted and substituted by the following words:-

"If a Government servant withdraws his application for premature retirement or modifies the date of retirement, before its acceptance by the competent authority, the application or the date of retirement shall be deemed to have been withdrawn or modified, as the case may be."

Your obedient servant,

(M. AHMAD AMIN),
ADDITIONAL SECRETARY-I.

OFFICE OF THE CHIEF ENGINEER
WORKS & SERVICES DEPARTMENT,
NWFP PESHAWAR.

No. 66-E / 491 / CE / W&SD

Dated Peshawar the 07 / 05 / 2009

Annex-2

OFFICE ORDER

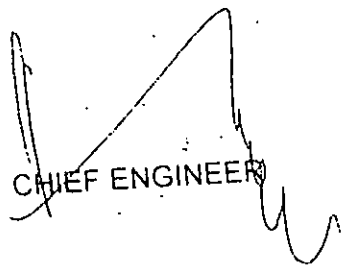
Mr. Mahabat Shah Senior Clerk attached to the office of the Deputy
Director, Project Division Works & Services District Dir (Lower) is hereby retired
from Govt. Service w.e.f 23/04/2009 on his own request after completing
29 years 11 months and 10-days qualifying service under rule 3.4 of NWFP
Service Rules read with Section-13 of Civil Servants Act 1973.

Further more under the provision of Rules 20 of NWFP Civil
Service Rules 1981, Sanction is also accorded for encashment of lump
sum amount equal to 180-days salary in lieu of L.P.R out of leave admissible at
the credit of the above named official.

(ENGR: AHMAD JAN)
CHIEF ENGINEER

Copy to the:-

- 1) Accountant General NWFP Peshawar.
- 2) The Deputy Director, Project Division Works & Services District Dir
(Lower) with reference to his letter No. 14075/3-E dated
26/03/2009.
- 3) Official concerned.
- 4) Cashier (local).


CHIEF ENGINEER

Annex-F 208-A/c P-1/c

GOVERNMENT OF NWFP
FINANCE DEPARTMENT
(REGULATION WING)
NO.FD(SOSR.II)4-44/2009
Dated Peshawar the 27/3/2009

27-3-2009

To

1. All the Administrative Secretaries to Government of NWFP.
2. The Senior Member, Board of Revenue, NWFP, Peshawar.
3. The Secretary to Governor, NWFP, Peshawar.
4. The Principal Secretary to Chief Minister, NWFP, Peshawar.
5. The Secretary, Provincial Assembly, NWFP, Peshawar.
6. All Heads of Attached Departments in NWFP.
7. All District Nazims/Regional Coordination Officers District Coordination Officers/Political Agents/District & Sessions Judges in NWFP.
8. All Executive District Officers in NWFP.
9. The Registrar, Peshawar High Court Peshawar.
10. The Secretary, Public Service Commission, NWFP, Peshawar.
11. The Registrar, Service Tribunal NWFP, Peshawar.
12. The Secretary, Board of Revenue, NWFP, Peshawar.

EX-01

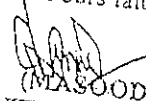
Subject:- CONDONATION OF DEFICIENCY IN QUALIFYING SERVICE FOR PENSION/GRATUITY.

Dear Sir,

I am directed to refer to the subject noted above and to state that in pursuance of Finance Division Government of Pakistan O.M. No.F.14(1)-R-7/2007-230 dated 28/11/2008, it has been decided that the benefit of condonation of a period of not exceeding six months deficiency in qualifying service for pension under CSR-423(i) may be extended to all retiring civil servants who have at least completed 9 years 6 months at the time of superannuation for the purpose of pension etc. except voluntary pension on premature retirement after completion of 25 years of service.

This supersedes Finance Department's letter No.SOSR.III(FD)4-112/82 dated 15/12/1982 and No.SOSR.III(FD)4-44/83-Vol.II dated 04/7/1989. However, the cases already decided under these letters shall not be re-opened.

Yours faithfully,


(MASOOD AHMAD)
ADDITIONAL SECRETARY(REG.)
P.T.O

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR
SERVICE APPEAL NO.442/ 2018

Mr. Mohabbat Shah (Rtd)
Senior Clerk (BS-09) O/O
Project Director, Project
Division Dir Lower R/O
Mohallah Salma Dargai Distt
Malakand

V/S Govt of Khyber Pakhtunkhwa &
Others
(1) Chief Engineer (Centre)
C&W Deptt Peshawar

INDEX

SI No.	Description of the documents	Annex	Pages
1	Written Comments	-	1 - 3
2	Affidavit	-	4

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO.442/2018

Mr. Mohabat Shah (Rtd) Senior Clerk (BS-09)
O/O Project Division, Dir Lower
R/O Mohallah Salma, Dargai, District Malakand.

.....Appellant

VERSUS

1. Chief Engineer (Centre) Works & Services Department, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Director, Project Division, Works & Services Department, Dir Lower.
3. Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
4. Accountant General, Khyber Pakhtunkhwa, Peshawar.

.....Respondents

PARAWSIE COMMENTS ON BEHALF OF RESPONDENTS 1 AND 2

PRELIMINARY OBJECTIONS:-

- i. That the Appellant has got no cause of action.
- ii. That the Appeal is incompetent and is not maintainable in its present form.
- iii. That the Appellant is estopped by his own conduct to bring the present appeal.
- iv. That the Appellant has no locus standi.
- v. That the Appeal is bad for mis-joinder and non-joinder of necessary and proper parties.
- vi. That the Appeal is time barred.
- vii. The Appellant has not come to court with clean hands.
- viii. The instant Service Appeal against the Respondent No.1 and 2 is incompetent.

ON FACTS

- 1- Correct as per record.
- 2- Correct as per application of Appellant dated 19-03-2009.
- 3- Correct to the extent that Appellant when applied for retirement vide his application dated 19.03.2009, his retirement orders were issued accordingly (as annexed B with the Appeal), and that was for the Respondent-4 Accountant General's office to have treated his qualifying service with effect from 13.05.1979 upto 22.04.2009, which had to be 29-years, 11-months and 10-days. The error terming the appellant retired with effect from 24.04.2009 and its remedies rests with Respondent-4.
- 4- Pertains to record.

- 5- Incorrect. It was the appellant who submitted Pension Papers alongwith its requisites, which after sanction by Respondent No.1 were passed on to Respondent No.4, being his further concern. Since, Pension Papers were prepared by the Appellant himself mentioning his length of service and age, therefore, any error cannot be attributed to Respondents in this regard. On the others appellants mis-quoted his Pay scale of BPS-14, he was in BPS-09 and retired as such.
- 6- Correct; as stated above, when the appellant represented his case, it was referred to Respondent No.4, Accountant General's office for corrective action but the response from Respondent No.4 was in negative as per his letter dated 22-07-2010 (already Annexed-G with the appeal).
- 7- Copy of the Departmental Appeal attached as Annexed-H with the instant service appeal, shows it is addressed to Respondent No.4, by the appellant. Rest of the Respondent No.1, 2 and 3 are not aware of that appeal as it seems presented direct to Respondent No.4, (Accountant General Khyber Pakhtunkhwa, Peshawar).
- 8- As explained above.

REPLY ON GROUNDS:-



- A- Not related to answering respondents. The Respondent No.4, (Accountant General Khyber Pakhtunkhwa) shall look into its reality under the prevailing rules/regulations.
- B- So far Respondent No.1 and 2 are concerned, their role is nothing but to forward pension claim as supplied/produced by the Appellant to Accountant General Khyber Pakhtunkhwa (Respondent No.4), to finalize the Pension as well as the Commutation according to the prevailing rules/regulations.
- C- As stated in Para-B ibid.
- D- Incorrectly attributed to the Respondent Department. It is the Respondent No.4, (Accountant General Khyber Pakhtunkhwa), who issued the impugned letter dated 22-07-2010 as sued before this Court/Tribunal.
- E- As stated in above paras, it is the job of the Respondent No.4, (Accountant General's Office) to protect the right of appellant enshrined in the respective Articles of the Constitution of Islamic Republic of Pakistan, without discrimination in respect of Pension etc.

F- Pertains to the Respondent No.4, (Accountant General Khyber Pakhtunkhwa).

G- As explained above.

H- The respondents seek permission to raise additional grounds during arguments.

In wake of the above stated facts/circumstances placed before this Honorable Tribunal, the whole issue pertains to counting/terming the service and the Commutation rates as applicable against his age which wholly comes under the domain and responsibility of Respondent No.4 and the replying Respondent (s)-1-2 have nothing to do with it.

NOTE:

1. *Deputy Director Project Division
Works & Services, Dir Lower,
stands wind-up since 12/2009.*
2. *Chief Engineer
Work & Services Peshawar.
already abolished in 12/2009*



**CHIEF ENGINEER (CENTRE)
C&W DEPARTMENT, PESHAWAR
(RESPONDENT NO. 1 & FOR 2)**

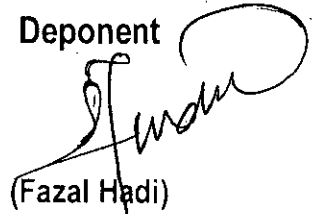
BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL CAMP COURT SWAT.
SERVICE APPEAL NO.442/2018.

Mr.Mohabbat Shah (Rtd) Senior clerk (BS-09) O/O Project Director, Project Division Dir Lower R/O Mohallah Salma Dargai District Malakand.	VS	Govt: of Khyber Pakhtunkhwa & Others (1)Chief Engineer (Centre) C&W Department Peshawar.
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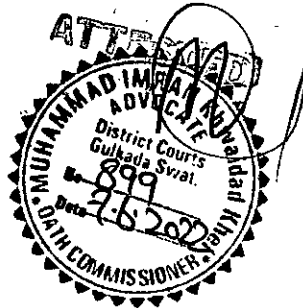
AFFIDAVIT.

I, Fazal Hadi Administrative Officer (BS-17) O/O the Chief Engineer (North) C&W Department Swat, do hereby solemnly state that the accompanying comments in the instant Service Appeal, drawn are correct to the best of my knowledge, belief and nothing has been kept secret/concealed from this Honourable Service Tribunal.

Deponent



(Fazal Hadi)
Administrative Officer
O/O Chief Engineer (North)
C&W Department Swat.



B-5

OFFICE OF THE CHIEF ENGINEER
WORKS & SERVICES DEPARTMENT,
NWFP PESHAWAR.

No: CG-E.T. 471 / CE / W&SD

Dated Peshawar the 27 / 05 / 2009

OFFICE ORDER

Mr. Mahabub Shah Senior Clerk attached to the office of the Deputy Director, Project Division Works & Services District Dir (Lower) is hereby retired from Govt. Service w.e.f 23/04/2009 on his own request after completing 29-years, 11-months and 10-days qualifying service under rule 3.4 of NWFP Pension Rules read with Section 13 of Civil Servants Act 1973.

Further more under the provision of Rules 20 of NWFP Civil Servant Revised Rules 1981, Sanction is also accorded for encashment of lump sum amount equal to 180-days salary in lieu of L.P.R out of leave admissible at the credit of the above named official.

(ENGR. AHMAD JAN)
CHIEF ENGINEER

Copy to the:-

- 1) Accountant General NWFP Peshawar.
- 2) The Deputy Director, Project Division Works & Services District Dir (Lower) with reference to his letter No. 14075/3-E dated 26/03/2009.
- 3) Official concerned.
- 4) Cashier (local).

ATTESTED

CHIEF ENGINEER

FD/HR 3
27/5/2009 all
21st to 27th 2009 all
endorsements not
attached

To,

A = (4)

The Deputy Director,
Project Division Works & Services,
Dir Lower.

Subject:- APPLICATION FOR RETIREMENT.

Respectfully it is stated that due to some domestic/financial problems I am unable to continue my service further more. It is therefore requested that I may be retired from service with effect from 23/04/2009. Commutation/Encashment of 180-days leave may kindly be granted as soon as possible to solve my financial problem please.

Thanks,

Your's Obediently,

Dated 19/03/2009.

(MAHABAT SHAH)
Senior Clerk, Project Division
W&S Dir Lower.

ATTESTED

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Office of the
Accountant General
Khyber Pakhtunkhwa, Fort Road, Peshawar
Ph # 091-9211250-
091-9211275

No. Pension(M)/M-156/2008-09/6156

Dated: 22.07.2010

To

The Administrative Officer,
O/O the Chief Engineer (Centre),
C & W Khyber Pakhtunkhwa Peshawar.

Subject: REPRESENTATION-RETIREMENT *Puc 33*

Memo: Kindly refer to your office memo No. 66-E/93-4/CE/C&WD Dated 12.07.2010 on the above noted subject.

In this regard it is stated that Govt of NWFP Finance Department vide his letter No. FD-SOSR III/1-92/81 Dated 1st October 1981 clearly stated "that if a government servant withdraws his application or modifies the date of retirement before its acceptance by the competent authority, the date of application or the date of retirement shall be deemed to have been withdrawn or modified as the case may be".

In this case the retirement have been accepted and PPO have been issued. Therefore modification in date of retirement is not admissible.

C.E. C&W District (Centre)
Dairy No. 1367
Date 25/7/2010
Cases No.
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S.E. (B.I)
S.D. (A)
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S.D. (X)
S.D. (Y)
S.D. (Z)

25/7/10
ACCOUNTS OFFICER,
K.P.K. PESHAWAR

*66-E A.O.
Ret up*

(Signature)

ATTESTED

(Signature)

فہمہ سید