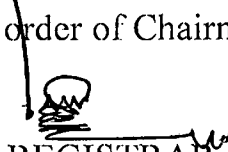


FORM OF ORDER SHEET

Court of _____

Case No.- 1668/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	24/11/2022	<p>The appeal of Mr. Muhammad Yar resubmitted today by Mr. Muhammad Anwar Khan Advocate. It is fixed for preliminary hearing before touring Single Bench at Swat on _____. Notices be issued to appellant and his counsel for the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

The appeal of Mr. Muhammad Yar son of Bakht Zamin Belt no.93/2779 Distt. Dir Lower received today i.e. on 22.11.2022 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal is not signed by the counsel.
- 2- Copy of appointment order in respect of appellant is not attached with the appeal which may be placed on it.

No. 3342 /S.T,

Dt. 23/11 /2022



REGISTRAR

SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

M. Anwar Khan Adv. Pesh.

The spelling of Muhammad Yar is correct in permanent order. So in contract order Resubmitted after compliance. Spelling is correct. Use correct spelling.

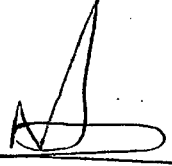
Date 23 11
2022



It is, therefore, requested that the delay if any, infilling the appeal / the instant appeal be graciously condoned and the appeal be decided on merits.

Applicant

Through



Muhammad Anwar Khan
(Pashtun Ghari)
Advocate Peshawar

Date: /10/2022

Affidavit:

It is verified on oath that the contents of this Application are true and correct to the best of my knowledge and belief and nothing has been concealed or mis stated from the Honorable Court.

DEPONENT

Handwritten signature and date: 21-11-22

BEFORE THE KPK SERVICES TRIBUNAL, PESHAWAR

Service Appeal No. 1668 /2022

Mr. Muhammad Yar S/o Bakht Zamin

.....Appellant

V E R S U S

Government of KPK through Chief Secretary & Others


.....Respondents

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Grounds of Service Appeal		1-4
2.	Affidavit		5
3.	Addresses of Parties		6
4.	Copy of contract appointment orders	A	7-9
5.	Copy of regular appointment order	B	10-12
6.	Copy of Application/ Appeal	C	13
7.	Copy of August Supreme Court Of Pakistan Judgment	D	14-19
8.	Copy of Service Tribunal Judgment	E	20-22
9.	Copy of Pension rules for qualifying Service	F	23
10.	Affidavit for request to hear the appeal in Peshawar Service Tribunal	G	24
11.	Wakalat Nama		25

Appellant

Through


Muhammad Anwar Khan
(Pashton Ghari)
Advocate High Court,
Peshawar

Date: 2/11/2022

①

BEFORE THE SERVICES TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. 11068/2022

Mr. Muhammad Yar S/o Bakht Zamin , Belt No 93/2779,
R/o Dehri Talash Post Office Ziarat Talash, Tehsil Timergara,
District Dir Lower.

.....**Appellant**

V E R S U S

1. Govt of Khyber Pakhtunkhwa, Through Chief Secretary Khyber Pakhtunkhwa, Civil Secreteriate Peshawar.
2. Secretary Finance Department, Khyber Pakhtunkhwa, Civil Secreteriate Peshawar.
3. The Provincial Police Officer Khyber Pakhtunkhwa, Civil Secreteriate Peshawar.
4. The Deputy Inspector General of Police Malakand Region Malakand.

.....**Respondents**

Appeal u/s 4 of the Khyber Pakhtun Khwa Service Tribunal Act, 1974 against the order dated 1-3-2020 of The Respondents No. 3, whereby Appellant service has been regularized from contract Service. The Regulization order dated 1-3-2020 may be considered w.e.f, 01-08-2009 instead of 1-03-2020.

Prayer in Appeal

On Acceptance of the instant appeal, The Respondents may be directed to count the Temporary Services of Appellant with effect from his initial recruitment dated 01-08-2009 toward his regular service for the purpose of grant of

pension and he may be allowed pension and other back benefits.

Respectfully Sheweth:

The appellant submits as under:

1. That the Appellant has been appointed as SPO (Special Police Officer) in Police Department on fixed Pay Rs. 15000/- PM in the Year 2009 in prescribe manner. **(Copy of contract Order is attached as Annexure A)**
2. That the August supreme court of Pakistan also Regularized the contract service as a regular service and also counted the contract service for seniority as per Supreme Court judgment published in Supreme Court monthly review.2014 SCMR 1289 and judgment of Punjab service tribunal Reported in 219 PLC (CS) 103.
3. That the Appellant has been Regularized by, the Respondents w.e.f 1/03/2020 instead of date of initial appointment of the Appellant. **(Copy of regular appointment order is attached as Annexure B)**
4. That the Appellant requested to the Respondents for counting the contract service into Regular service with all back benefits but all in vain. **(Copy of application/ Appeal is attached As Annexure C).**

GROUNDS:

3

- A) *That the Petitioner has not been treated in accordance with law and their rights secured and guaranteed under the law have been badly violated.*
- B) *That the same is against the natural justice also.*
- C) That the Appellant remained temporary employee of the Respondents, since 2009, the Appellant was regularized on 1-3-2020 thus in view of the provision contained in Article 371-A of the CSR the Appellant is also entitled that his contract services be counted for the purpose of pension.
- D) That as per Judgment of Supreme Court of Pakistan PLD 2016 Supreme Court 534. The August Supreme Court of Pakistan has specifically held that the Temporary Service followed by the conformation of regular service counted for the purpose of pension thus the Appellant is entitled for the grant of monthly pension by counting his service w.e.f the date of his initial appointment. **(Copy of August Supreme Court & Service Tribunal Judgment are attached as Annexure D & E respectively).**
- E) That there are a number of Judgments in identical cases. Therefore, Respondents are bound to follow the same and should have acted in accordance with law & judgment of August Supreme Court of Pakistan reported in 1996 SCMR 1185.
- F) That the Temporary service followed by confirmation/ regular appointment gave the Appellant a right that his service be considered as regular service. **(Copy of**

(4)

Pension rules for qualifying Service is attached as Annexure F).

G) That the appellant's nature of duty is such that leave to attend the court in any other district except Peshawar is impossible because only one leave in a month is possible and in that one day the appellant can visit specialist doctor for their parents as well as can attend the court, (Affidavit for request to hear appeal in Peshawar Service Tribunal is attached as annexure G).

H) That the Respondents are using different yard stick and are violating the provision of their own Law/ rules/ calendar and the constitution of Islamic Republic of Pakistan 1973.

I) That the Appellant may kindly be allowed to advance additional arguments at the time of hearing the instant Service Appeal.

It is, therefore, most humbly prayed that on acceptance of the instant service appeal, the impugned regularization order dated 01.03.2020 may very graciously be consider w.e.f his initial appointment i.e. 01/08/2009 instead of 01-03-2020 with all back benefits.

Any other remedy which is deemed fit by this Honorable Tribunal in the interest of justice, may also be granted in favour of appellant.

Appellant

Through


Muhammad Anwar Khan
(Pashton Ghari)

Advocate High Court

Date: 24/11/2022

BEFORE THE KPK SERVICES TRIBUNAL, PESHAWAR

5

Service Appeal No. _____/2022

Mr. Muhammad Yar

.....Appellant

V E R S U S

Government of KPK through Chief Secretary & Others

.....Respondents

AFFIDAVIT

I, Muhammad Yar S/o Bakht Zamin, Belt No 93/2779,
R/o Dehri Talash Post Office Ziarat Talash, Tehsil Timergara,
District Dir Lower do hereby solemnly affirm and declare on
oath that the contents of the accompanying **Service Appeal**
are true and correct to the best of my knowledge and belief
and nothing has been concealed from this Tribunal.

DEPONENT

6

BEFORE THE KPK SERVICES TRIBUNAL, PESHAWAR

Service Appeal No. _____/2022

Mr. Muhammad Yar
.....Appellant

V E R S U S

Government of KPK through Chief Secretary & Others

.....Respondents

ADDRESSES OF PARTIES

APPELLANT

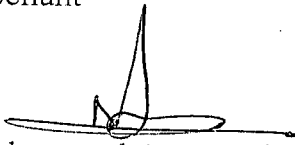
Mr. Muhammad Yar S/o Bakht Zamin , Belt No 93/2779,
R/o Dehri Talash Post Office Ziarat Talash, Tehsil Timergara,
District Dir Lower.

RESPONDENTS

1. Govt of Khyber Pakhtunkhwa, Through Chief Secretary Khyber Pakhtunkhwa, Civil Secreteriate Peshawar.
2. Secretary Finance Department, Khyber Pakhtunkhwa, Civil Secreteriate Peshawar.
3. The Provincial Police Officer Khyber Pakhtunkhwa, Civil Secreteriate Peshawar.
4. The Deputy Inspector General of Police Malakand Region Malakand.

Appellant

Through


Muhammad Anwar Khan
(Pashton Ghari)
Advocate high court

Date: 21/11/2022

Annex A
7-9

ORDER

The following personals are hereby enlisted as Special Police officer on contract basis for a period of 02 years w.e.f 21-07-2009 on monthly fixed salary of Rs 10,000/- In light of Provincial Police Officer NWP Peshawar Letter no:15392/E-II dated:20-06-2009,17472-79/E-II dated 13-07-09 and Letter No: 17901-6/E-II dated17-07-09.their service will be purely of temporary nature and will be terminated by the Authority without showing any reason and notice.

S#	Name	Father Name	Address	Tehsil	Alloted Const. No:
1	Zubair Shah	Fazal Rehman	Yar Khan Banda	Timer Gara	1/spo
2	Ayaz Khan	Dawa Khan	Begham Dara	Timer Gara	2/spo
3	Sardar Khan	Said Muhammad Khan	Toora Tiga	Timer Gara	3/spo
4	Muhammad Farid	Muslim Khan	Seyar Dara	Timer Gara	4/spo
5	Zakir Ullah	Dawa Khan	Peto Dara	Timer Gara	5/spo
6	Muhammad Amin	Muhammad Arif	Macho Talash	Timer Gara	6/spo
7	Taj Muhammad	Said Rehman	Yar Khan Banda	Timer Gara	7/spo
8	Muhammad Rafique	Zabardast	Shamshi Khan	Timer Gara	8/spo
9	Nazir Muhammad	Wali Muhammad	Bandai Kandaw	Timer Gara	9/spo
10	Tajamul Khan	Sher Muhammad Khan	Yar Khan Banda	Timer Gara	10/spo
11	Muhammad Uzair	Muhammad Zahir Shah	Shekh Banda	Timer Gara	11/spo
12	Ihsanullah	Fazal Rehman	Chenar Tangai	Timer Gara	12/spo
13	Muhammad Jansil	Saleh Muhammad	Yar Khan Banda	Timer Gara	13/spo
14	Ikramullah	Gul Khan	Yar Khan Banda	Timer Gara	14/spo
15	Muhammad Sadiq	Muhammad Bostan	Shago Kas	Timer Gara	15/spo
16	Muhammad Adil	Said Aziz Khan	Yar Khan Banda	Timer Gara	16/spo
17	Saghir Alam	Sher Qayum	Begham Dara	Timer Gara	17/spo
18	Arminullah	Said Akbar Khan	Mian Banda	Timer Gara	18/spo
19	Anwar Zaib	Muhammad Wazir	Ambar Zai	Timer Gara	19/spo
20	Azizullah	Inayat Khan	Danwa	Timer Gara	20/spo
21	Shafiq Rehman	Ihsanur Rehman	Mian Banda	Timer Gara	21/spo
22	Laiq Muhammad	Fazal hadi	Chenar Tangai	Timer Gara	22/spo
23	Rehmatullah	Sahib Zada	Syar Dara	Timer Gara	23/spo
24	Muhammad Ayub	Badshah Ghani	Syar Dara	Timer Gara	24/spo
25	Fazal Hameed	Noor Wahid	Syar Dara	Timer Gara	25/spo
26	Jehan Bakhat Said	Abdul Wahid	Syar Dara	Timer Gara	26/spo
27	Ali Muhammad	Gul Muhammad	Banrgai	Timer Gara	27/spo
28	Muhammad Saleem	Fazal Malik	Bajuro	Timer Gara	28/spo
29	Rahim Shad	Muslim Khan	Barikot	Timer Gara	29/spo
30	Sher Zaman	Ahmad Khan	Barikot	Timer Gara	30/spo
31	Amjad Khan	Rahim Gul	Chenc	Timer Gara	31/spo
32	Muhammad Hasham	Bakhat Zamin	Gumbat	Timer Gara	32/spo
33	Saad Ahmad	Halimur Rahim	Shamshi Khan	Timer Gara	33/spo
34	Shah Roz Khan	Abdulsalam	Chinarono	Timer Gara	34/spo
35	Muhammad Ayaz	Noor Hakeem	Bajuro	Timer Gara	35/spo
36	Abdullah	Masoom Khan	Shamshi Khan	Timer Gara	36/spo
37	Bahadar Zaib	Said Khan	Tangai Shamshi Khan	Timer Gara	37/spo
38	Rahim Badshah	Muhammad Kokhan	Bajuro	Timer Gara	38/spo
39	Ataur Rehman	Sher Akbar Khan	Bajuro	Timer Gara	39/spo
40	Fazal Rabbani	Sheraz Khan	Gumbat	Timer Gara	40/spo

Att: 29/09/09
AS

42	Murad Khan	Said Muhammad Khan	Banrgai	Timer Gara	41/spo
43	Aziz Khan	Said Muhammad Khan	Shamshi Khan	Timer Gara	42/spo
44	Noor Rehman	Kamin Khan	Bajuro	Timer Gara	43/spo
45	Ghani Rehman	Ghulam Haidar	Ziarat	Timer Gara	44/spo
46	Fazil Khan	Ahmad Khan	Barikot	Timer Gara	45/spo
47	Naeemullah	Muatabar Khan	Shamshi Khan	Timer Gara	46/spo
48	Saleem Zada	Gul Hakeem	Bajuro	Timer Gara	47/spo
49	Muhammad Rasool	Abdussatar	Banrgai	Timer Gara	48/spo
50	M. Irshad Hussain	Shah Zamin	Begham Dara	Timer Gara	49/spo
51	Alamgir Khan	Bakhtiar Khan	Qila Shmshi Khan	Timer Gara	50/spo
52	Nasiruddin	Maslahuddin	Shamshi Khan	Timer Gara	51/spo
53	Bakht Zada	Sher Muhammad	Kano Shamshi Khan	Timer Gara	52/spo
54	Hussain Shah	Mian Rahim Shah	Shamshi Khan	Timer Gara	53/spo
55	Zahoor Elahi	Ghulam Habib	Bagh Dushkhel	Timer Gara	54/spo
56	Hayat Muhammad	Ata Muhammad	Bagh Dushkhel	Timer Gara	55/spo
57	Mian Muhammad	Gul Muhammad	Banrgai	Timer Gara	56/spo
58	Niamatullah	Gul Habib Khan	Shamshi Khan	Timer Gara	57/spo
59	Shah Jee	Ahmad Khan	Barikot	Timer Gara	58/spo
60	Haji Sarwar	Sakhi Sarwar	Shamshi Khan	Timer Gara	59/spo
61	Qadar Gul	Hazrat Gul	Amlook Dara	Timer Gara	60/spo
62	Wazir Zada	Muhammad Rafique	Bajuro	Timer Gara	61/spo
63	Muhammad Ghafoor	Gul Mateen	Barikot	Timer Gara	62/spo
64	Wazir Zada	Hesab Gul	Barikot	Timer Gara	63/spo
65	Amir Muhammad	Abdur Raziq	Bajuro	Timer Gara	64/spo
66	Tariq Khan	Habibur Rehman	Bajuro	Timer Gara	65/spo
67	Waqif Khan	Amir Baz Khan	Bajuro	Timer Gara	66/spo
68	Shakeel Ahmad	Halimur Rahim	Shamshi Khan	Timer Gara	67/spo
69	Adil Ahmad	Bashiruddin	Shamshi Khan	Timer Gara	68/spo
70	Muhammad Rafique	Ghulam Sadiq	Ziarat Talash	Timer Gara	69/spo
71	Hamayun Khan	Beradar Khan	Sho Ba Ba	Timer Gara	70/spo
72	Khurshed Khan	Ajab Khan	Bagh Dushkhel	Timer Gara	71/spo
73	Bashir Khan	Gul Faraz Khan	Cheno Talash	Timer Gara	72/spo
74	Azizul Hakim	Muhammad Hakim	Ziarat Talash	Timer Gara	73/spo
75	Islam Khan	Gul Zamin	Dehri Talash	Timer Gara	74/spo
76	Salim Khan	Wazir Khan	Shamshi Khan	Timer Gara	75/spo
77	Akhtar Hussain	Gul Mardin	Amlook Dara	Timer Gara	76/spo
78	Babo Zaman	Musamin Khan	Barekot	Timer Gara	77/spo
79	Anwar Ul Haq	Sirajul Haq	Kano Shamshi Khan	Timer Gara	78/spo
80	Farid Gul	Bunir Gul	Ahmad Gali	Timer Gara	79/spo
81	Muhammad Naeem	Muhammad Fahim Khan	Kano Shamshi Khan	Timer Gara	80/spo
82	Ajmal Khan	Bahadar Khan	Khan Serai	Timer Gara	81/spo
83	Shafiq Zaman	Sher Zaman Khan	Dehri Talash	Timer Gara	82/spo
84	Ali Muhammad	Heial Muhammad	Shamshi Khan	Timer Gara	83/spo
85	Afzal Hussain	Wali Muhammad	Bandagai	Timer Gara	84/spo
86	Wahidullah	Alif Zada	Dehri	Timer Gara	85/spo
87	Abdul Qayum	Thani Khan	Bandagai	Timer Gara	86/spo
88	Shamsul Haq	Aninul Haq	Bandagai	Timer Gara	87/spo
89	Malak Jan	Qasim Jan	Dehri Talash	Timer Gara	88/spo
90	Bunir Gul	Hazrat Gul	Dehri Talash	Timer Gara	89/spo
91	Shafiqur Rehman	Asifur Rehman	Bagh Dushkhel	Timer Gara	90/spo
92	Shahid Hussain	Muhammad Zahir Shah	Shamshi Khan	Timer Gara	91/spo
93	Hussain Khan	Zegar Khan	Cheno	Timer Gara	92/spo
94	Muhammad Bayar	Bakhat Zamin	Dehri	Timer Gara	93/spo
95	Sadiq Nawaz	Noor Muhammad	Ziarat Talash	Timer Gara	94/spo
96	Islam Muhammad	Hashtamand Khan	Lawara Shamshi Khan	Timer Gara	95/spo
97	Asgar Khan	Akbar Khan	Shamshi Khan	Timer Gara	96/spo
98	Shah Bakhat Rawan	Ibadat Khan	Khan Serai	Timer Gara	97/spo
99	Hazrat Karim	Abdur Rauf	Shamshi Khan	Timer Gara	98/spo
100	Arifullah	Mehmodullah	Shamshi Khan	Timer Gara	99/spo

Act-25/2011


(9)

100	Qazi Israrul Haq ✓	Qazi Aminul Haq ✓	Kano Shamshi Khan ✓	Timer Gara	100/spo
101	Hazrat Gul ✓	Abdur Raziq ✓	Kano Shamshi Khan ✓	Timer Gara	101/spo
102	Khalil Ahmad ✓	Muhammad Zamin ✓	Begham Dara ✓	Timer Gara	102/spo
103	Abdushakoor ✓	Baz Mohd: Khan ✓	Nasfa ✓	Timer Gara	103/spo
104	Roidar Ali ✓	Bakht Rawan ✓	Timergara ✓	Timer Gara	104/spo
105	Ghani Muhammad ✓	Noor Muhammad ✓	Kano Shamshi Khan ✓	Timer Gara	105/spo
106	Muhammad Ishaq ✓	Muhammad Bashir ✓	Bangai ✓	Timer Gara	106/spo
107	Muhammad Jamil ✓	Muhammad Kalim ✓	Bajauro ✓	Timer Gara	107/spo
108	Yousaf Khan ✓	Muhammad Qasam ✓	Bangai Talash ✓	Timer Gara	108/spo
109	Zafar Ullah ✓	Bashir Khan ✓	Shamshi Khan ✓	Timer Gara	109/spo
110	Aurang Zaib ✓	Jalat Khan ✓	Gumbat Talash ✓	Timer Gara	110/spo

OB No 1094


29/07/09


(MUMTAZ ZARIN)
TSh: QPM
District Police Officer,
Dir Lower at Timergara.

No. 1423131/OHC

Dated 10/8/2009

Copy of above is submitted to the Pay Officer and Establishr
Clerk for further necessary action.


(MUMTAZ ZARIN)
TSh: QPM
District Police Officer,
Dir Lower at Timergara.

Attest




OFFICE OF THE
DISTRICT POLICE OFFICER
DIR LOWER

Annex B

10-12

ORDER

The following Special Police Officers (SPOs) of this District Police have been regularized Vide Government of Khyber Pakhtunkhwa Home & Tribal Affairs Department Notification No. SO(Budget)/HD/15-29/2016 Vol-II, dated 08/04/2020 working in this District Police under DDO Code DA4021- Law & Order as Constables (BPS-7) w.e.f 01-03-2020.

Therefore they are allotted the following regular Constabulary number noted against each their names.

S#	Rank, Name	Father Name	SPO Belt No.	New Allotted Regular Belt No.
1.	Zubair Shah	Fazal Rahman	1	2541 ✓
2.	Ayaz Khan	Dawa Khan	2	2212
3.	Muhammad kamal	Muhammad Ismaeel	3	995
4.	Alam Zeb	Aziz ur Rahman	4	634
5.	Zakirullah	Dawa Khan	5	342
6.	Muhd: Amin	Muhd: Arif Khan	6	1037
7.	Taj Muhammad	Syed Rahman	7	583
8.	Aurang Zaib	Gul Karam Khan	8	1925
9.	Fazal Hussain	Muzamin Khan	9	912
10.	Tajammul Khan	Sher Muhammad Khan	10	2697
11.	Bakht Sardar	Sher Muhd: Khan	11	2698
12.	Ihsanullah	Fazal Rahman	12	2699
13.	Gul Zamin Khan	Bakhtawar	13	2700
14.	Ikramullah	Gul Khan	14	2701
15.	Muhd: Sadiq Khan	Muhd: Bostan Khan	15	2702
16.	Ikramullah	Nadar Khan	16	2703
17.	Daulat Khan	Akbar Khan	17	2704
18.	Aminullah Khan	Syed Akbar Khan	18	2705
19.	Anwar Zaib	Muhammad Wazir	19	2706
20.	Azizullah	Inayat Khan	20	2707
21.	Zahir Khan	Mirza Gul	21	2708
22.	Laiq Muhammad	Fazal Hadi	22	2709
23.	Muhd: Jamil	Mehmood Khan	23	2710
24.	Yousaf Khan	Sarzamin Khan	24	2711
25.	Muhammad Wahid	Shaibar Khan	25	2712
26.	Deedar Gul	Stana Gul	26	2713
27.	Ali Muhammad	Gul Muhammad	27	2714
28.	Muhammad Salim	Fazal Malik	28	2715
29.	Naeem Ullah	Gul Rahim	29	2716
30.	Sher Zaman Khan	Ahmad Khan	30	2717
31.	Amjad Khan	Rahim Gul	31	2718
32.	Muhammad Hasham	Bakht Zamin	32	2719
33.	Abdul Farooq Khan	Abdul Wakeel Khan	33	2720
34.	Jawad Ali	Nazir Malik	34	2721
35.	Muhammad Ayaz	Noor Hakim	35	2722
36.	Rohullah	Hamdullah	36	2723
37.	Bahadar Zaib	Syed Khan	37	2724
38.	Rahim Badshah	Muhammad Rokhan	38	2725
39.	Shaukat Ali Khan	Muhd: Habib	39	2726
40.	Naik Zada	Muhammad Zada	40	2727
41.	Shah Karim	Bacha Muhammad	41	2728
42.	Aziz Khan	Said Muhammad Khan	42	2729
43.	Noor Rahman	Kamin Khan	43	2730
44.	Ghani Rahman	Ghulam Haider	44	2731

Agst-2020
AD

45.	Sher Afzal	Amir Sher Ali Khan	45	2732
46.	Muhammad Hussin	Muhairuddin	46	2733
47.	Salm Zada	Gul Hakim	47	2734
48.	Muhammad Rasool	Abdul Sallar	48	2735
49.	Ali Khan	Ajdar Khan	49	2735
50.	Alam Said	Khan Said	50	2737
51.	Nasoer uddin	Musteh Uddin	51	2738
52.	Shakir Ullah	Abdullah Khan	52	2739
53.	Hussain Shah	Mian Rahim Shah	53	2740
54.	Musafar Khan	Shabar Khan	54	2741
55.	Behram	Mhammad Khan	55	2742
56.	Khanzad Gul	Khanzada	56	2743
57.	Niamat Ullah	Gul Habib Khan	57	2744
58.	Shah Jee	Ahmad Khan	58	2745
59.	Saddam Hussain	Bakht Zada	59	2746
60.	Qadar Gul	Hazrat Gul	60	2747
61.	Wazir Zada	Muhd: Raleeq	61	2748
62.	Muhammad Ghafoor	Gul Maleen	62	2749
63.	Wazir Zada	Hisab Gul	63	2750
64.	Amir Muhammad	Abdul Raziq	64	2751
65.	Tariq Khan	Habib ur Rahman	65	2752
66.	Fazal Nawab	Fazal Bari	66	2753
67.	Gul Karim	Gul Wali	67	2754
68.	Fazal Karim	Bahre Rawan	68	2755
69.	Alam Zeb	Said Faqir	69	2756
70.	Ashraf Khan	Taaj Muhammad Khan	70	2757
71.	Mansoor Akhtar	Gul Zada	71	2758
72.	Imran Khan	Gran Bacha	72	2759
73.	Tauheed Ullah	Umar Zada	73	2760
74.	Rahat Gul	Nasib Gul	74	2761
75.	Saleem Khan	Wazir Khan	75	2762
76.	Akhtar Hussain	Gul Mar Din	76	2763
77.	Babo Zaman	Musamin Khan	77	2764
78.	Sultan	Toor Jan	79	2765
79.	Muhd: Shafi	Fazal Khalq	80	2766
80.	Muhd: Zubair	Muhd: Zaman Khan	81	2767
81.	Hidayat Ul Islam	Muhammad Darvesh	82	2768
82.	Jan Rahman	Khan Muhammad	83	2769
83.	Naeem Ullah	Noor Rahim	84	2770
84.	Islam Zeb Khan	Sani Gul	85	2771
85.	Abdul Kabir	Syed Amin Jan	86	2772
86.	Ghulam Hussain	Muhammad Amin	87	2773
87.	Malak Jan	Qasim Jan	88	2774
88.	Ubaidur Rahman	Munawar Khan	89	2775
89.	Shafiq ur Rahman	Arif ur Rahman	90	2776
90.	Nasib Bacha	Muhammad Salih	91	2777
91.	Hussain Khan	Zigar Khan	92	2778
92.	Muhammad Yar	Bakht Zamin	93	2779
93.	Muhammad Younas	Muhammad Shoab	94	2780
94.	Islam Muhammad	Hashitamand Khan	95	2781
95.	Hameed Ullah	Bacha Lalq	96	2782
96.	Shah Bakht Rawan	Ibadat Shah	97	2783
97.	Gul Zar Muhammad	Wali Muhammad	98	2784
98.	Iflikhar	hakim Gul	99	2785
99.	Umar Rahman	Saifud Din	100	2786
100.	Hazrat Gul	Abdur Raziq	101	2787
101.	Imran Khan	Muhd: Zamin Khan	102	2788
102.	Abdul Shakoor	Baz Muhammad Khan	103	2789
103.	Roidar Ali	Bakht Rawan	104	2790
104.	Ghani Muhammad	Noor Mhammad	105	2791
105.	Mhammad Ishaq	Muhammad Beshir	106	2792

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AH...
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960.	Rahmat Faqir	Muhammad Ameen	983	3647
961.	Badshah Muhd:	Juma Khan	984	3648
962.	Kachay Khan	Muhammad Jan	985	3649
963.	Muhammad Riaz	Muhammad Fayaz	986	3650
964.	Bakht Munir	Muhd: Arif	987	3651
965.	Muhd: Waqas	Jehan Bahadar	988	3652
966.	Muhd: Siyar Khan	Asfandiyar Khan	989	3653
967.	Abdullah Khan	Shah Wali Khan	990	3654
968.	Izzat Gul	Gul Khan	991	3655
969.	Sikandar Syed	Tahir Syed Bacha	992	3656
970.	Dilawar Syed	Munawar Syed	993	3657
971.	Mahmood Shah	Gul Fachai	994	3658
972.	Ajmal Khan	Ghulam ur Rahman	995	3659
973.	Asad Ali	Amir Zaman	996	3660
974.	Sabir Gul	Khaista Gul	997	3661
975.	Abd ur Rahman	Aslam Khan	998	3662
976.	Sana Ullah	Abdullah	999	3663

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OB No. 329

Dated. 08/05 /2020

District Police Officer,
Dir Lower

No. 5525 /OASI, Dated Timergara the 08/05 /2020

Copy forwarded to the:-

- 1- Regional Police Officer Malakand Range at Saidu Sharif Swat for information, please.
- ✓ 2- District Account Officer, Dir Lower
- 3- Pay Officer Local Office, Dir Lower
- 4- Establishment Clerk Local Office, Dir Lower

Amir Zaman
District Police Officer,
Dir Lower

Arif
[Signature]

Annex (13)

بجسور جناب آئی جی پی صاحب خیبر پختونخواہ پشاور

درخواست بمراد عطائیگی Back Benefit از 2009ء و

شامل فرمانے Contract Back Service

Period برائے پنشن

جناب عالی! سائل حسب ذیل عرض رساں ہے۔

1- یہ کہ سائل 2009ء میں SPO بھرتی ہوئے تھے اور پشاور ہائی کورٹ نے 2017ء میں

مستقل کرنے کا فیصلہ فرمایا تھا۔

2- یہ کہ محکمہ پولیس نے یکم مارچ 2020ء کو مستقل کرنے کا آرڈر فرمایا ہے۔

لہذا استدعا ہے کہ سائل کو بمطابق قانون بھرتی کی تاریخ سے Regular

کرنے کا حکم صادر فرمایا جاوے۔

رض 20/08/22 محمد یار

محمد یار ولایت زمیں بند 93/2779 ڈھری تلس کھل
مگرزہ صلح کورڈر

A. H. S. J.

2018 S C M R 64

[Supreme Court of Pakistan]

Present: Gulzar Ahmed and Sajjad Ali Shah, JJ

ABDUL JABBAR and others---Appellants

Versus

GENERAL MANAGER (PERSONNEL) PAKISTAN RAILWAYS and others---
Respondents

Civil Appeals Nos. 17-K to 42-K of 2017, decided on 16th November, 2017.

(Against the consolidated order dated 26.8.2016 passed by the Federal Service Tribunal Islamabad in 94(K)CS/16 to 119(K)CS/16)

(a) Civil Servants (Appeal) Rules, 1977---

---R.4(1)---Appeal from an 'order' passed by an authority---"Order"---Scope---for preferring an appeal in terms of R. 4 of the Civil Servants (Appeal) Rules, 1977, there had to be an order altering, interpreting to a civil servant's disadvantage, reducing or withholding his maximum pension and allowances---In such grievances/proceedings no particular form of order was required and even pension fixation notices could be treated as an order for the purposes of availing the remedy of appeal under R. 4 of the Civil Servants (Appeal) Rules, 1977.

(b) Civil Servants (Appeal) Rules, 1977---

---Pensionary rights, claim for---Limitation---Grievance in respect of pensionary benefits was a recurring cause, consequently, limitation could not come in the way of such relief---Where, however, such pensionary benefit was altered or interpreted to the disadvantage of a civil servant or his pension was reduced or his maximum pension was withheld including an additional pension admissible to him under the rules then his grievance to that extent had to be regulated in terms of R. 4(1) of the Civil Servants (Appeal) Rules, 1977.

Chief Executive Progressive Paper Ltd./The Chairman National Press Trust, Islamabad v. Sh. Abdul Majeed 2005 P.L.C (C.S.) 1439 ref.

Muhammad Khalil Dogar, Advocate Supreme Court and Mazhar Ali B. Chohan,
Advocate-on-Record for Appellants (in all cases).

Sanaullah Noor Ghouri, Advocate Supreme Court and Ms. Raana Khan, Advocate-

Annex D

14-19

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on-Record for Respondents.

Date of hearing: 16th November, 2017.

15

ORDER

SAJJAD ALI SHAH, J.---The appellants who are retired civil servants have impugned the order of the Service Tribunal dated 26.8.2016 declining the reckoning of increment by way financial relief of Rs. 300/- per month in the monthly salary for computing, pensionary emoluments from the date of retirement for want of impugned order as required by section 4(1)(a) of the Service Tribunals Act, 1973.

2. Briefly, the Prime Minister's Secretariat on 11.3.1997 issued an U.O. No.16(P)PMDIR/931/97 in compliance of Prime Minister's address to the Nation on 23.2.1997 regarding financial relief of Rs.300/- per month to the low paid employees. The appellants were allowed such relief till the date of their retirement but such benefit was not included in their last pay for commuting pension and other post-retirement benefits on the ground that it was an ad hoc relief. It appears that the appellants, in the year 2016, filed departmental appeals and after getting no response approached the Service Tribunal. The Tribunal, after hearing the parties, through the impugned order, dismissed their appeals by holding that "there is a yawning gap of over eighteen years since the appellant retired w.e.f. Feb, 1998. The appellant should have come within the statutory period as prescribed under Rule-4 of the Service Tribunals Act, 1973, when came to know that Rs.300/- per month announced by the Prime Minister had not been computed in the pensionary benefits" and that "it is admitted position that in the lis at hand there is no impugned order; hence, appeal filed by the appellant is hit by section 4(1)(a) of the Service Tribunal Act, 1973. When there is no impugned order, there should be no representation or appeal, hence, as a corollary no appellate order":-

3. Leave was granted by this Court vide order dated 27.1.2017 which reads as under:-

"that the non or deficient grant of pension is a recurring cause of action and thus to hold that the petitioners have been sleeping over their rights since long; besides that they have failed to avail any departmental remedy such as that of appeal or representation is misconceived because no departmental appeal to a retired employee for pensionary benefits is available under the law and thus a civil servant aggrieved of the short payment or non-payment of the pensionary benefits can directly approach the learned Service Tribunal for the claim of their pensionary benefits. Leave is granted to consider the above."

4. Learned ASC for the appellants contended that this Court in the case of Managing Director, Pakistan Railways, Carriage Factory, Islamabad v. Muhammad Asghar (2003 SCMR 1037) has held that the increase of Rs.300/- per month announced by the Prime

Asghar

1/15/2022, 11:27 AM

Minister in his address to the nation granting financial relief to the low paid employees was neither ad hoc nor a temporary relief and was liable to be included for calculating pension and other post-retirement benefits and, therefore, the Tribunal has erred in rejecting the appellants' claim for want of the impugned order. Per counsel since the pensionary benefit being terms and conditions of the service and available under the law, therefore, the civil servants aggrieved of short payment or non-payment of pensionary benefits could directly approach the Service Tribunal to claim such benefits or their short fall and that there was no requirement of any impugned order.

5. On the other hand, learned counsel for the respondents initially tried to argue that the relief so allowed in consequent to the Prime Minister's address was an ad hoc relief but in view of the pronouncement of this Court in the case of Managing Director, Pakistan Railways, Carriage Factory, Islamabad (supra), did not press this argument, however, contended that the claim is hit by laches and, therefore, was rightly declined. It was lastly submitted that since such relief was discontinued w.e.f. 1.12.2001 vide Finance Division's O.M. No.F(1)(5)IMP 2001 dated 4.9.2001 on introducing revised pay scales, therefore, the employees who retired after 1.12.2001 were not entitled to such benefit. However, the entitlement of the appellants to the relief claimed was not disputed on factual plane.

6. In response, learned ASC for the appellants submitted that none of the appellant retired after 1.12.2001, therefore, such submission is not even relevant for the purposes of instant controversy.

7. We have heard the contentions of learned counsel for the respective parties and have perused the record. The procedure to be followed by a civil servant in case where his conditions of service in respect of pay, allowances or pension are altered, interpreted to his disadvantage, reduced or withheld etc. is detailed in section 4(1)(a) to (c) of the Civil Servants (Appeal) Rules, 1977, which reads as under:-

"4.(1) A civil servant shall be entitled to appeal to the appellate authority from an order passed by an authority which -

- (a) alters to his disadvantage, his conditions of service, pay, allowances or pension; or
- (b) interprets to his disadvantage the provisions of any rules whereby his conditions of service, pay, allowances or pension are regulated; or
- (c) reduces or withholds the maximum pension, including an additional pension, admissible to him under the rules governing pensions; or
- (d)"

8. Perusal of the reproduced provision reflects that a civil servant has to file an appeal

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against an order may it be an order fixing his pension which alters, interprets to his disadvantage, reduces or withholds his pay, allowances or pension including any additional pension etc. The time frame for filing such appeal is provided in section 22 of the Civil Servant Act, 1973 which lays down that where a right to prefer an appeal or apply for a review in respect of any order relating to the terms and conditions is provided to a civil servant under any rules applicable to him such appeal or application shall, except as may be otherwise prescribed, be made within 30 days of the date of such order. It is further provided in subsection (2) of section 22 of the said Act that the remedy of filing representation within 30 days from the date of an order causing grievance to the civil servant is available in cases where under the relevant rules no provision for appeal or review exist in respect of any order or class of orders.

9. Under the circumstances, there has to be an order altering, interpreting to his disadvantage, reducing or withholding maximum pension and allowances of a civil servant for preferring an appeal in terms of Rule 4 of the Civil Servant (Appeal) Rules, 1977. In such grievances/proceedings no particular form of order is required and even pension fixation notices could be treated as an order for the purposes of availing the remedy of appeal under section 4 of the Civil Servants (Appeal) Rules, 1977. Likewise Section 4 of the Service Tribunals Act, 1973 provides that any civil servant aggrieved by any final order whether original or appellate made by the departmental authority in respect of any of the terms and conditions of his service may within 30 days of the communication of such order to him, prefer an appeal to the Tribunal. The proviso to Section 4 further provides that if an appeal or representation or review preferred to the departmental authority is not decided within a period of 90 days, then such person may prefer an appeal before the Service Tribunal. Consequently, the obvious conclusion which one can draw is that an order which is the root of grievance coupled with an un-responded appeal or representation and/or the order of appellate authority deciding such appeal or representation would entitle a civil servant to approach the Service Tribunal for redressal of his grievance and in this particular case in respect of his pay allowances or pension.

10. Though it has been repeatedly held by this Court that pension is in fact a deferred part of the pay of an employee while he was putting his best efforts in rendering service to his employer during his hay days and this part is deferred to be paid to him periodically or otherwise to meet his old age needs as such pensionary benefits were neither a bounty nor a concession from any one and in the latter case are paid month wise and therefore, grievance in respect thereof provides a recurring cause, consequently, the limitation could not come in the way of such relief. Reference can readily be made to the case of Chief Executive Progressive Paper Ltd./The Chairman National Press Trust, Islamabad v. Sh. Abdul Majeed (2005 PLC (C.S.) 1439). However, in our opinion, where such pensionary benefit is altered or interpreted to the disadvantage of a civil servant or his pension is reduced or his maximum pension is withheld including an additional pension admissible to him under the rules then his grievance to that extent has to be regulated in terms of Rule 4(1) of the Civil Servant (Appeal) Rules, 1977.

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11. However, the controversy herein need to be decided in the light of the background that one Muhammad Yousuf an employee of respondent had first voiced his grievance on non-inclusion of financial relief of Rs.300/- P.M. while reckoning his pensionary benefits and the Service Tribunal gave verdict in his favour on 28.12.1998 in Service Appeal No.295(R) of 1998. The respondent implemented the decision but again refused such benefit to their another employee namely, Muhammad Asghar compelling him to prefer the departmental appeal by asserting the pension fixation notices as order causing grievance. The representation remained un-responded forcing him to approach the Service Tribunal. The Service Tribunal while accepting his appeal directed the Pakistan Railways to include Rs.300/- in his monthly salary for computing pensionary benefits. The respondent instead of implementing the order of the Tribunal as in the case of Muhammad Yousaf approached this Court by impugning the order of the Tribunal and this Court vide its judgment referred to as Managing Director, Pakistan Railways, Carriage Factory, Islamabad (supra), held that such financial relief of Rs.300/- was reckonable towards the pensionary emoluments. The relevant part of the said judgment reads as under:-

"Prime Minister's Secretariat U.O. No. 15(P) PMDIR/931/97, dated 11.3.1997 issued in response to Prim Minister's address to the Nation on 23.2.1997 regarding financial relief to the low paid employees on the face of it does not speak of ad hoc or temporary relief. On the contrary, it mentions that a financial relief of Rs.300/ per month was allowed to all the employees from BS-1 to BS-16 with effect from 1.3.1997. Thus it being permanent increase in the pay scale would be reckonable towards the pensionary emoluments".

12. The Court further in the concluding paragraph observed as follows:-

"We are constrained to observe that the petitioner/department while refusing the relief to the respondent has not only discriminated but has shown double standard, as such, while maintaining the finding of the Tribunal, we uphold the reckoning of the increase of Rs.300/ - in the basic pay towards calculating the pensionary emoluments of the respondent."

13. The appellants are also the employees of the Pakistan Railways and once the controversy regarding the nature of the financial relief granted by the Prime Minister was determined and its inclusion for the purpose of reckoning pensionary emoluments was directed by this Court in the case of Managing Director, Pakistan Railways, Carriage Factory, Islamabad (supra) back in the year 2003, we wonder why the appellants were compelled to approach this Court. The respondents under the principle of good governance laid down by this Court in the case of Hameed Akhtar Niazi v. The Secretary, Establishment Division, Govt. of Pakistan and others (1995 SCMR 1185) were bound to include the amount of financial relief of Rs.300/- in the pensionary benefits of all their employees at least till the discontinuation of such relief on introducing revised pay scales. So far as the question of laches is concerned, in our opinion, such plea is not available to

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respondents on two counts; firstly, that after determination of this controversy by this Court in above referred case where the respondents unsuccessfully had challenged the inclusion of such financial relief towards pensionary benefits, it was their bounden duty to include such benefit at least in the cases of employees who, like the present appellants, were entitled to such relief even if their argument of discontinuation of such relief on 1.12.2001 i.e. upon introduction of revised pay scales is accepted Secondly, neither the representation of the appellants was rejected by the respondents on the ground of being barred by time nor the Service Tribunal gave any specific finding or held the petition barred by time.

14. In the instant case the employees of the respondent/Pakistan Railways who were granted relief by this Court in the case of Managing Director, Pakistan Railways, Carriage Factory, Islamabad (supra) had preferred representation by treating the pension fixation notices as an order interpreting the financial relief of Rs.300/- P.M. to their disadvantage. The Tribunal accepted their appeal by redressing their grievances and directing the respondent/Pakistan Railways to include the financial relief of Rs.300/- P.M. allowed by the Prime Minister in reckoning their pensionary benefits which order was maintained by this Court in the judgment referred and reproduced above. Following their colleagues, the appellants herein instead of filing appeal in terms of Rule 4 of the Civil Servants (Appeal) Rules, 1977, had moved the representation to the appellate authority which could be treated as an un-responded appeal, had approached the Tribunal which, in our opinion, appears to be sufficient compliance of section 4(1)(1) of the Service Tribunals Act, 1973 specially when the claim of the appellants was backed by the judgment of this Court.

15. In the foregoing circumstances, all these appeals are allowed and the respondent/Pakistan Railways is directed to include the financial relief of Rs. 300/- P.M. for computing post retirement benefits. Parties to bear their own costs.

MWA/A-36/SC

Appeals allowed.

Attest
[Signature]

Annex E

22 - 22

Case Judgement

<http://www.plsbeta.com/LawOnline/law/casedescription.asp?caseid..>

2019 F.L.C (C.S.) 103

[Punjab Service Tribunal]

Before Justice (R) Abdul Sami Khan, Chairman

FAREEHA REHMAN and others

Versus

PROVINCE OF PUNJAB through Secretary Higher Education and others

Service Appeals Nos. 2730 to 2742, 2946 to 2978 and 4058 to 4065 of 2016, decided on 19th July 2018.

Punjab Service Tribunal Act (IX of 1974)---

---S. 4---Constitution of Pakistan, Art.25---Regularization in service---Back benefits---Discrimination---Appellants were lecturers appointed on contract basis for a period of 3 years---Grievance of appellants was that similarly placed other lecturers had been regularized---Validity---Appellants were appointed as female lecturers through departmental selection committee on contract basis for a period of 3 years---Contract services of appellants were extended from time to time without any break for about 15 years---Appellants were met with discriminatory treatment as same was established from facts and documentary evidence relied upon by appellants that other employees of Government of Punjab through different orders/notifications were regularized---Claim of appellants that their employments should have been regularized from date of initial appointments was refused which showed that they had been dealt with discrimination---Service Tribunal set aside orders passed by authorities as appellants were entitled for regularization from date of initial appointment as lecturers---Appeal was allowed in circumstances.

Muhammad Aslam Awan, Advocate Supreme Court v. Federation of Pakistan and others" reported as 2014 SCMR 1289 rel.

Muhammad Sajid Khan Tanoli for Appellant (in Appeals Nos.2730 to 2742 of 2016 and 2946 to 2978 of 2016).

Rizwana Anjum Mufti for Appellant (in Appeals Nos.4058 to 4065 of 2016).

Muhammad Arshad Naseer District Attorney.

ORDER

JUSTICE (R) ABDUL SAMI KHAN, CHAIRMAN.----Since common questions of law and facts are involved in the following appeals which are being disposed of through this single judgment:-

- I) Fareeha Rehman v. Province of the Punjab through Secretary Higher Education Department and others (Service Appeal No.2730/2016).
- II) Raheela Ghafoor v. Province of the Punjab through Secretary Higher Education Department and others (Service Appeal No.2731/2016).
- III) Zomra Ilyas v. Province of the Punjab through Secretary Higher Education Department and others (Service Appeal No.2732/2016).
- IV) Andleeb Iqbal v. Province of the Punjab through Secretary Higher Education Department and others (Service Appeal No.2733/2016).
- V) Noreen Akhtar v. Province of the Punjab through Secretary Higher Education Department and others (Service Appeal No.2734/2016).
- VI) Anjum Iqbal v. Province of the Punjab through Secretary Higher Education Department and others (Service Appeal No.2735/2016).
- VII) Huma Khanum v. Province of the Punjab through Secretary Higher Education Department and others (Service Appeal No.2736/2016).

- 4
- L) Shazia Jabeen v. Province of the Punjab through Secretary Higher Education Department and others (Service Appeal No.4061/ 2016).
- LI) Rizwana Nazir v. Province of the Punjab through Secretary Higher Education Department and others (Service Appeal No.4062/ 2016).
- LII) Farzana Khan v. Province of the Punjab through Secretary Higher Education Department and others (Service Appeal No.4063/ 2016).
- LIII) Uzma Tariq v. Province of the Punjab through Secretary Higher Education Department and others (Service Appeal No.4064/ 2016).
- LIV) Ghazala Naz v. Province of the Punjab through Secretary Higher Education Department and others (Service Appeal No.4065/ 2016).

2. Appellants filed instant appeals under section 4 of the Punjab Service Tribunal Act, 1974 praying that the appellants may be regularized in their services w.e.f. their date of initial appointments with all back pensionary and other benefits and their previous length of service about 15 years be considered as a regular employee and seniority may also be fixed from the date of original appointments and the probation period may also be considered as regular service by way of setting aside the impugned order dated 9.5.2016.

3. Briefly, the departmental authorities established eight colleges during the period from 1998-1999 and the Director of Education (Colleges), Rawalpindi recruited 70 female lecturers along with other staff on contract basis through Departmental Selection Committee for a period of three years with the approval of the competent authority. The Higher Education Department extended their contract services from time to time but they were not regularized despite rendering long service without break. It is also mentioned that the services of other lecturers recruitment by the respondent department during this period were regularized gradually.

Appellants along with other female lecturers filed Writ Petitions Nos.2713/2009 and 2722/2009 in the Lahore High Court, Rawalpindi Bench, Rawalpindi for regularization of their services. The said writ petitions were accepted vide orders dated 4.4.2012 with the following direction:--

"For the reasons supra, both the writ petition are accepted and the respondents are directed to regularize the petitioners with immediate effect within a period of two months".

Thereafter, the respondent department filed I.C.A. No.155/2012 assailing the judgment dated 4.4.2012 which was dismissed vide order dated 16.5.2013, hence the judgment of the Hon'ble Lahore High Court, Rawalpindi Bench, Rawalpindi has attained finality.

In compliance of the order of the Hon'ble Lahore High Court, Rawalpindi Bench, Rawalpindi, appellants along with other lecturers who were on the strength of Higher Education Department on 4.12.2014 were regularized into government service with immediate effect vide Notification No.SO(CE-III)61-2/2009 dated 4.12.2014 and not from the date of their initial appointments.

Aggrieved of the notification dated 4.12.2014, appellant preferred departmental appeals which were not decided and later on, appellants filed Service Appeals Nos. 1788, 1790 to 1800 of 2015 and 2050 to 2090 of 2015 which were decided by this Tribunal vide order dated 18.2.2016 with direction to the Secretary, Higher Education Department, Government of the Punjab, Lahore to decide the pending representations/departmental appeals of the appellants within a period of 30 days.

In deference to the same, the Secretary, Higher Education Department, Government of the Punjab, Lahore vide order dated 9.5.2016 decided the representations/ departmental appeals of the appellants and refused the claim of the appellants as prayed. Hence these appeal.

4. I have considered the arguments of both parties and perused the record.
5. It is established from the record that the appellants were appointed as female lecturers through

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Case Judgement

<http://www.plsbeta.com/LawOnline4law/casedescription.asp?ca-cde...>

Departmental Selection Committee in the year, 1998-99 on contract basis for a period of three years. The contract services of the appellants were extended from time to time without any break for about 15 years.

6. It has been noticed that the appellants were met with discriminatory treatment which is established from the facts and documentary evidence relied upon by the learned Counsel for the appellants that the other employees of the Government of the Punjab through different orders, notifications were regularized but the claim of the appellants that their employment may be regularized from the date of initial appointments was refused which shows that they have been dealt with discrimination by the Higher Education Department, Government of the Punjab.

In this regard I may observe here that it has been settled by the Hon'ble Supreme Court of Pakistan that seniority of a civil servant was to be reckoned from the date of initial appointment and not from the date of conformation or regularization.

7. In this regard reliance can easily be placed on the judgment of the Full Bench of the Hon'ble Supreme Court of Pakistan titled as "Muhammad Aslam Awan, Advocate Supreme Court v. Federation of Pakistan and others" reported as 2014 SCMR 1289 held as under:-

"civil servant---Seniority of---Reckoned from date of initial appointment---In service matters, while considering the seniority of civil servants, the seniority was reckoned from the date of initial appointment and not from the date of confirrhation or regularization".

8. For what has been discussed above, I came to the conclusion that the appellants were entitled for regularization from the date of their initial appointments as Lecturers, hence these appeals are allowed by setting the impugned orders.

MH/2/PST
Appeal allowed.

Aiteshad


23 (1)

SERVICE QUALIFYING FOR PENSION

1. **Conditions of Qualifications:-** The service of a Government Servant does not qualify for pension unless it conforms to the following three conditions:-
- First:- The Service must be under Government.
 - Second:- The service must not be Non-pensionable.
 - Third:- The service must be paid by Government from the Provincial Consolidated Fund. Rule.2.1.

SERVICE RENDERED AFTER RETIREMENT ON SUPERANNUATION PENSION.

Service rendered after retirement on superannuation pension/retiring pension shall not count for pension or gratuity. Note below Rule - 2.1

3. **Begining of Service:** Subject to any special rules, the service of Civil servant begins to qualify for pension when he takes over charge of the post to which he is first appointed.
Rule 2.2.

4. **Temporary and officiating service:** Temporary and officiating service shall count for pension as indicated below:-

- i) Civil servants borne on temporary establishment who have rendered more than five years continuous temporary service shall count such service for the purpose of pension or gratuity; and
- ii) temporary and officiating service followed by confirmation shall also count for pension or gratuity. Rule 2.3.

CLARIFICATION OF PHRASE - QUALIFYING SERVICE

Temporary and officiating service followed by confirmation or temporary/officiating service exceeding five years qualifies for pension.

Some confusion seems to exist in some quarters as to how condonation of interruptions between two spells of temporary/officiating service may be regulated under Rule 2.12(1) of the West Pakistan Civil Services Pension Rules. According to Rule 2.3 ibid temporary and officiating service followed by confirmation or temporary/officiating service exceeding five years counts for pension/gratuity. The provisions of Rules 2.12(1) take effect only of those cases where the Government servant had prior to the interruption rendered periods of qualifying service and it is considered fit to permit him to count certain past qualifying service towards pension/gratuity. The condonation of interruptions in service with a view to allowing past Non-qualifying temporary/officiating service to qualify for pension/gratuity under Rule 2.3 is not permissible. In other words condonation of interruptions for pension/gratuity in temporary/officiating service is permissible only where the broken period of temporary/officiating service is qualifying i.e. it exceeds five years or is followed by confirmation. Where neither condition is fulfilled, condonation of interruption is not permissible. To make it more clear the following illustrations are given:-

Handwritten signatures and initials at the bottom right of the page.

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WAKALAT NA NA

IN THE COURT OF

VERSUS

Accused/
Petitioner/
Appellant/
Plaintiff.

Respondent/
Defendant/
Complainant

FIR No. Dated: Police Station:

Charge U/s

KNOW ALL to whom these presents shall come that I the undersigned appoint:

Muhammad Anwar Khan, (Pushton Ghari),
Advocate, High Court, Peshawar (herein after called the Advocate) to be the Advocate for

the Appellant/Petitioner in the above mentioned case, to do all the following acts, deeds and things or any of them, that is to say:

- 1) To act and plead in the above mentioned case in this court or any other Court in which the same may be tried or heard in the first instance or in appeal or review or execution or in any other stage of its progress until its final decision.
- 2) To sign, verify and present pleadings, appeals, cross - objections, petitions for execution, review, revision, withdrawal, compromise or other petition or affidavits or other documents as shall be deemed necessary or advisable for the prosecution of said case in all its stages.
- 3) To withdraw or compromise in the said case or submit to arbitration any difference or dispute that shall arise touching or in any manner relating to the said case.
- 4) To receive money and grant receipts therefore and to do all other acts and things which may be necessary to be done for the progress and the course of the prosecution of the said case.
- 5) To engage any other Legal practitioner authorizing him to exercise the power and authorities hereby conferred on the Advocate whenever he may think fit to do so.

AND I hereby agree to ratify whatever the Advocate or his substitute shall do in the promises.

AND I hereby agree not to hold the Advocate or its substitute responsible for the result of the said case and in consequence of his absence from the court when the said case is called up for hearing.

AND I hereby that in the event of the whole or any part of the fee agreed by me to be paid to the Advocate remaining unpaid, He shall be entitled to withdraw from the prosecution of the said case until the same is paid.

IN WITNESS WHEREOF I hereunto set my hand to these presents the contents of which have been explained to and understood by me, this ____ day of ____ 201__

Accepted, ✓

Muhammad Anwar Khan, (Pushton Ghari),
Advocate High Court, Peshawar
Cell No:- 0333-9262374

Signature/ thumb impression
of party / parties.

Office Address:- Law Chamber No 127, New Bar Room, Judicial Complex, Peshawar