

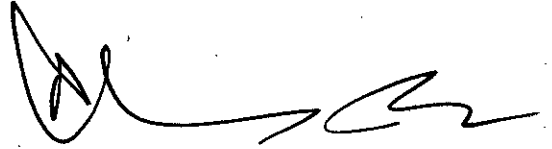
ORDER

29th Nov, 2022

1. Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Safiullah, Focal Person for respondents present

2. Vide our detailed order of today placed in Service Appeal No. 14607/2020 titled "Rafiq Ur Rehman-vs-Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar and others" (copy placed in this file), this appeal is also dismissed. Costs to follow the events. Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 29th day of November, 2022.*



(Kalim Arshad Khan)
Chairman

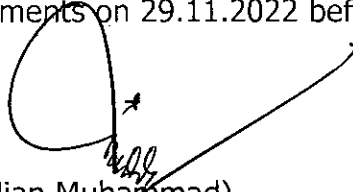


(Fareeha Paul)
Member(Executive)

14.09.2022

Learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present and requested that time may be granted for submission of reply/comments.

The case was though fixed for arguments, however respondents have not yet submitted reply/comments, therefore, last opportunity given, failing which their right for submission of reply/comments shall be deemed as struck off. To come up for submission of reply/comments as well as arguments on 29.11.2022 before the D.B.



(Mian Muhammad)
Member (E)



(Salah-Ud-Din)
Member (J)



24.11.2021

Proper D.B is not available, therefore, case is adjourned to

3 / 3 /2022 for the same as before.



Reader

3-3-22


*Due to Retirement of The Hon,ble
Chairman The case is adjourned on
12-5-22*




12-05-2022

None present on behalf of the appellant. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Notice be issued to the appellant and his counsel for the date fixed. To come up for arguments before the D.B on 01-07-2022.



(Fareeha Paul)
Member (E)



(Kalim Arshad Khan)
Chairman


01.07.2022

Learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not made preparation for arguments. Adjourned. To come up for arguments on 14.09.2022 before the D.B.



(Rozina Rehman)
Member (J)




(Salah-ud-Din)
Member (J)

29.03.2021

Junior to counsel for the appellant present. Mr. Kabirullah Khattak learned Addl. AG for respondents present.

Reply/comments on behalf of respondents not submitted. Learned Additional Advocate General is required to contact the respondents and facilitate the submission of reply/comments. To come up for reply/comments on 05.07.2021 before S.B.


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

05.07.2021

Junior to counsel for the appellant present. Mr. Adeel Butt, Additional Advocate General alongwith Mr. Jafar Ali, Assistant for respondents present.

Respondents have not submitted reply/comments. They are required to submit reply/comments within 10 days in office, positively. In case the respondents have not submitted reply/comments within stipulated time, office shall put up the appeal with a report of non-compliance. To come up for arguments on 24.11.2021 before D.B.


Chairman

08.01.2021

Mr. Babar Khan Yousafzai, Advocate, for appellant is present.

The epitomical gist of what has been agitated at the bar by the learned counsel representing appellant is that despite the fact of regularization of the services of appellant alongwith other employees it was made efficacious by giving it instantaneous effect without taking into account the past period during which appellant rendered services, agitating the matter before the Hon'ble Peshawar High Court, Peshawar, as the regularization order was passed sans pending salaries although the payroll contained the requisite information with regard to length of service. Finally appellant was directed to have recourse to the proper forum for redressal of the grievance hence, the present service appeal.

The point so agitated at the bar needs consideration. The appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 29.03.2021 before S.B.

Appellant Deposited
Security & Process Fee
15/2/21

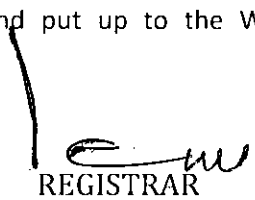


(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 14626 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	20/11/2020	<p>The appeal presented today by Mr. Babar Khan Yousafzai Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>08-01-2021</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p style="text-align: right;"></p>

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE
TRIBUNAL, PESHAWAR.

In Re

Service Appeal No. _____/2020

Fazal-e-Amin.....Appellant

Versus


Govt. of K.P & others.....Respondents

I N D E X

S. No	Description of documents	Annexure	Pages
1.	Grounds of appeal		1-4
2	Affidavit		5
3	Copy of regularization order dated 22.05.2013	"A"	6-9
4	Copy of Pay Scale slip	"B"	10
5	Copies writ petition & order dated 21.7.020	"C" & "D"	10-A-17
6	Wakalatnama		18


Appellant

Through


Babar Khan Yousafzai
Advocate, High Court.
Cell No.3219040499

Dated: - 16.11.2020

①

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

In Re

14626

Service Appeal No. _____/2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 15789

Dated 20/11/2020

Fazal-e-Amin S/o Najeem Khan R/o Hassan Abad, Rashkai Tehsil and
District Nowshera.....Appellant

Versus

1. Government of Khyber Pakhtunkhwa, through Chief Secretary, Civil Secretariat, Peshawar.
2. Government of Khyber Pakhtunkhwa Health Department through Secretary Health, Civil Secretariat, Peshawar.
3. Government of Khyber Pakhtunkhwa, Finance Department through its Secretary, Civil Secretariat, Peshawar.
4. Director General Health Khyber Pakhtunkhwa, PTCL Colony, Peshawar.
5. National Programme Manager, EPI NIH, National Institute of Health (NIH) Park Road, Chak Shahzad, Islamabad.
6. Director General EPI DGHS, Khyber Pakhtunkhwa, Peshawar

.....Respondents

Filed to-day

Registrar

20/11/20

=====

Appeal under Section 4 of the Service Tribunal Act, 1974 for grant of anti dating benefit of services as indicated on their pay slip since his initial appointment and also order for release of remuneration for the gap period in between 2010 till the date of regularization i.e. 22.05.2013 may also be allowed.

=====

2

Respectfully Sheweth:

1. That the Appellant is law abiding citizen of Pakistan and serving as clinical technician Khyber Pakhtunkhwa Expanded programme of immunization Pakistan.
2. That the initial appointment of the Appellant as EPI Technician was purely on contract bases for year extendable from the year 2006.
3. That in the year 2010 the project was initiated to be regularized by respondent no.3 due to the reason the contract of the Appellant was not extended but despite that he continued to perform his duties & Respondent no.2 and 3 are well aware of the instant fact.
4. That the Employees of the Department were extremely aggrieved from the attitude of the Respondents while performing duties without salary approach The Hon'ble High Court in W.P no.1670-P/2010 Nijat Ali and others Vs Govt and the same was disposed of with direction on 05-07-2012.
5. That in compliance of the order of the Honorable High Court the service of the all the employees along with Appellant were regularized with immediate effect and no order as for the period they work from the year 2010 till 22-05-2013, the date of regularization. (Copy of the order of regularization is attached as Annexure "A").
6. That the appellant for seeking remaining relief, once again approached before the Honourable Peshawar High Court Peshawar, as the said regularization order was silent pertaining to his pending salaries and filed COC 117-P/2012 in W.P 1670-P/2010 but the same was turn down with the technicalities.
7. That the pay slip of the Appellant duly indicate the length of service starting from the year 2006 but the benefit of the same has not been extended at the time of regularization and the salaries from the period 2010 till 22-05-2013 were not given, which amounts to force labour. (Copy of the pay scale of the Appellant is attached as annexure "B").

8. That the Appellant and 33 other Colleagues having no other adequate remedy available to them but to approached the Honorable Peshawar High Court, Peshawar for reprisal of their grievances via W.P. NO. 2914-P/2020. Which was disposed of with the direction to Respondent No 3 to decide the matter with in a period of one month along with the directions to the appellant to Approach the appropriate forum available for civil servants in case of any grievances, after the decision of respondent No.3. (Copies of the writ petition and order are attached as annexure "C" & "D" respectively).
9. That despite the clear directions of the Honourable Peshawar High Court, Peshawar to respondent No.3 dated 21.07.2020, respondent No.3 is reluctant to take any decision till now, hence, the appellant has left with no other option but to approach this Honorable Tribunal for the reprisal of his grievances.


GROUNDS: -

- A) That the length of service is rightly calculated in his pay slip but despite that the benefit of the same has not been given effect at the time of regularization.
- B) That the respondents forced him to continue his services from the period 2010 till the period of regularization i.e. 22-05-2013 but the salaries of the mentioned period is still outstanding. It amounts to force Labour rightly protected by the constitution of Pakistan.
- C) That the act of respondents for not calculating the length of Service and not pay the Salaries for the period they worked for is utter violation of law.
- D) That on one hand the pay slip duly indicates the length of Service and on other hand the benefit of the same is not extended towards his Service is an utter most violation of law.
- E) That the grievances of the Appellant are unheard and the respondents have given it a deaf ear.
- F) That the scope of work for eliminating Polio from Pakistan is always putting his life at risk.

G) That the Appellant craves permission of this Honorable Tribunal to advance any other ground at the time of hearing and to submit any other arguments/documents if necessary, in support of this instant Appeal.


It is, therefore, most humbly prayed that on acceptance of this Appeal by directing the respondents,

- i. The benefits of service length w.e.f. from initial appointment till date may please be granted to the appellant.
- ii. The salaries of the Appellant for the period they worked w.e.f 2010 till the date of regularization i.e. 22.05.2013 may kindly be released.
- iii. Any other relief which this Hon'ble Tribunal deems fit under the circumstances of the instant Appeal may graciously be granted in favour of the Appellant.


Appellant

Through

Dated: - 13.06.2020


(BABAR KHAN YOUSAFZAI)
Advocate, High Court,
Peshawar.

CERTIFICATE:

Certified that no such-like Appeal has earlier been filed by the appellant before this honourable Tribunal except this one.


ADVOCATE

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

In Re

Service Appeal No. _____/2020

Fazal-e-Amin.....Appellant

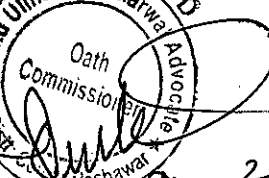
Versus

Govt. of K.P & others.....Respondents

AFFIDAVIT

I, Fazal-e-Amin S/o Najeem Khan R/o Hassan Abad, Rashkai Tehsil and District Nowshera, 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 hon'ble court.


Deponent

ATTESTED
* Zahid Ullah Khan Marwa Advocate
Oath Commissioner
District Peshawar

17-9-2020

(B) A.M.C. - A

ROUTED FOR THE OFFICE ORDER BEARING THE SAME NUMBER AND DATE

STORATE GENERAL HEALTH SERVICES KHYBER PAKHTINKHWA

KHYBER ROAD PESHAWAR

NO. 1178603-65 EP2.

Dated Peshawar the 22/05/2013

OFFICE ORDER.

In compliance with Government of Khyber Pakhtunkhwa, Health Department letter No. SOB/HD/1-1/2007-08 dated 15.02.2013 read with Peshawar High Court Peshawar order/judgment in W.P No. 1670/2010 dated 05.07.2012 the following PHC Tech / EPI Tech (petitioners) (BPS-09-6200-380/17500) plus other allowances as admissible under the rules are hereby regularized against the newly created post by the Finance Department letter No. BOVI/FD/4-2/2011-12/VOL-IV, dated 13/2/2013 in their respective districts with immediate effect.

S No	Name of Officers / Official	Designation / BPS	Place of Posting
1	Qaribullah	Jr. EPI Tech / Jr. PHC Tech	DHO Bannu.
2	Mahabal Khan	-do-	-do-
3	Barkatullah	-do-	-do-
4	Fakhar Alam	-do-	-do-
5	Hadayat Khan	-do-	DHO Buner
6	Muhammad Usman	-do-	-do-
7	Umar Liaq	-do-	-do-
8	Juma Gul	-do-	-do-
9	Abdul Ali Khan	-do-	-do-
10	Muhammad Hamayon	-do-	-do-
11	Miss Yasmeen	-do-	-do-
12	Abdul Kabeer	-do-	-do-
13	Arshad Ali	-do-	DHO Charsadda
14	Hussain Gul	-do-	-do-
15	Zahoor Khan	-do-	-do-
16	Muhammad Nafeeq	-do-	-do-
17	Abidur Rehman	-do-	DHO Chitral
18	Niaz Uddin	-do-	-do-
19	Qaidur Ibrar	-do-	-do-
20	Muhammad Shoab	-do-	DHO D.I.Khan
21	Ejaz Hussain	-do-	-do-
22	Muhammad Waseem	-do-	-do-
23	Muhammad Pervez	-do-	-do-
24	Asmat Ullah	-do-	-do-
25	Ameer Nawaz	-do-	-do-
26	Abdul Khalid	-do-	-do-
27	Jamsheed	-do-	-do-
28	Rafiqur Rehman	-do-	DHO Dir Lower
29	Naseer Muhammad	-do-	-do-
30	Rahman Ullah	-do-	DHO Dir Upper

gk
Attendant

36	✓ Fazal Wadood	-do-	-do-
37	✓ Nizamul Haq	-do-	-do-
38	Hameedullah	-do-	DHO Karak
39	Taj Muhammad	-do-	-do-
40	Allia Zaheen	-do-	-do-
41	Roheeda Khatoon	-do-	-do-
42	Anayat Ajab	-do-	-do-
43	Muhammad Asim	-do-	-do-
44	Muhammad Basil	-do-	DHO Kohat
45	Zaheer Abbas	-do-	-do-
46	Azmat Ali Khan	-do-	-do-
47	Khalid Iran	-do-	-do-
48	Sajid Khan	-do-	-do-
49	Muhammad Ayaz	-do-	DHO Lakki Marwat
50	Amin Ullah	-do-	-do-
51	Muhammad Farooq	-do-	-do-
52	Hayal Ullah	-do-	-do-
53	Saifullah	-do-	-do-
54	Liaqa Zaman	-do-	-do-
55	✓ Muhammad Iqbal	-do-	DHO Malakand
56	✓ Shahid Hussain	-do-	-do-
57	✓ Shahid Khan	-do-	-do-
58	✓ Ata Ullah	-do-	-do-
59	✓ Kaisoom Ara	-do-	-do-
60	✓ Taruf Khan	-do-	DHO Mardan
61	✓ Shah Khalid	-do-	-do-
62	✓ Rizaz Khan	-do-	-do-
63	✓ Asghar Ali Shah	-do-	-do-
64	✓ Khalid Daood	-do-	DHO Nowshera
65	✓ Khalid Khan	-do-	-do-
66	✓ Fazle Amin	-do-	-do-
67	✓ Arshad Khan	-do-	-do-
68	✓ Wisal Muhammad	-do-	-do-
69	Chand Tahir Mahmood	-do-	DHO Mansehra
70	Haroon Rashid	-do-	-do-
71	Syed Tasaduq Shah	-do-	-do-
72	Waqar Ahmad	-do-	-do-
73	Iftikhar Ahmad	-do-	-do-
74	Haroon ur Rashid	-do-	DHO Peshawar
75	✓ Wahid Gul	-do-	-do-
76	Sheraz Khan	-do-	-do-
77	Saeed Ur Rahman	-do-	-do-
78	Hameed Ullah	-do-	DHO Swat
79	Gul Rahman	-do-	-do-
80	Said Karam	-do-	-do-
81	Sher Muhammad Khan	-do-	-do-

(7)

	Hayat	-do-	DHO Shangja
	Muhammad Wahab	-do-	-do-
	Bibi Ayesha	-do-	-do-
	Azimullah	-do-	-do-
	Roqla Bibi	-do-	-do-
87	Zia ur Rahman	-do-	-do-
88	Umar Khitab	-do-	DHO Tank
89	Waqas	-do-	-do-
90	Asad Abbas	-do-	-do-
91	Azmat ullah	-do-	-do-
92	Muhammad Zubair	-do-	-do-
93	Ahmad Jan	-do-	-do-

8

No. _____

Date: _____

Their appointment in the Health Department, Govt of Khyber Pakhtunkhwa will be the subject to the following Terms and Conditions:-

1. He will be on probation initially for a period of one year extendable for further period not exceeding one year.
 2. His services can be dispensed with during the probation period, if his / her work and conduct found unsatisfactory.
 3. His appointment will be subject to medical fitness verification of character / antecedents and educational qualifications.
 4. He will not be entitled to any TA / DA for medical examination and joining the first appointment.
 5. He will be governed by such rules and orders as may be issued by the Government Khyber Pakhtunkhwa for the category of Government servant to which He / She belongs.
 6. As laid down vide Govt. Khyber Pakhtunkhwa E & AD Notification No. E&A(1-3)/2005 dated 10.8.2005, he will not be entitled to pension or gratuity however in lieu thereof, will be entitled to receive such amount contributed by her towards the contributory provident fund along with the contributions made by the Government to her account in the said fund.
 7. If he wishes to resign from the service she will have to submit resignation in writing 14-days in advance of deposit 14-days salary in the Govt. Treasury. However he will continue to service the Government till his / her resignation is accepted by the competent authority.
- If the above terms and conditions are acceptable to him he should report within 14 days of the receipt of this order.

The Competent authority is pleased to relax the rules for age to the petitioners for appointment one time.

ent authority is pleased to relax rules in qualification to the petitioners one time.

(15-3) (9)


24/4/17
DEPUTY DIRECTOR EPI
KHYBER PAKHTUNKHWA

No. _____/EPI

Dated _____/2013

Copy forwarded to the:-

1. Registrar Peshawar High Court Peshawar with ref to W.P 1670/2010.
2. Accountant General Khyber Pakhtunkhwa.
3. National Program Manager Islamabad Chak Shahzad.
4. PS to Secretary Health Department Khyber Pakhtunkhwa.
5. PA to DGHS, Khyber Pakhtunkhwa.
6. Section Officer (Budget) Health Department Khyber Pakhtunkhwa.
7. Budget Officer VI Finance Department Khyber Pakhtunkhwa.
8. ALL DHOs Health in Khyber Pakhtunkhwa for compliance.
9. ALL DAOs Health in Khyber Pakhtunkhwa for n/action.
10. AD Accounts DGHS Khyber Pakhtunkhwa.
11. Officers / Officials concerned with the direction to submit arrival / Charge Assumption / Charge Relieving Reports under intimation to all concerned within 30-days on the receipt of this order. In case of failure to do so, it would be presumed that you are not willing to join duty and the post would be declared as vacant.


24/4/17
DEPUTY DIRECTOR EPI
KHYBER PAKHTUNKHWA

10-A

Amc - C

PAWAR HIGH COURT, PESHAWAR.

Dist. Govt. NWFP-Provincial
District Accounts Office Nowshera
Monthly Salary Statement (December-2017)

10
Annex "B"



Personal Information of Mr FAZLI AMIN d/w/s of NAJEEM KHAN
Personnel Number: 00361319 CNIC: 1720122056759
Date of Birth: 10.03.1977 Entry into Govt. Service: 01.04.2006

NTN:
Length of Service: 11 Years 09 Months 001 Days

Employment Category: Active Temporary
Designation: JUNIOR PHC TECHNICIAN (MU
DDO Code: NR6113-D.H.O (E.P.D)

80003661-DISTRICT GOVERNMENT KHYBE

Payroll Section: 001
GPF A/C No:
Vendor Number: -
Pay and Allowances:

Cash Center:
GPF Balance: 72,277.00

Pay scale: BPS For - 2017

Pay Scale-Type: Civil BPS: 12

Pay Stage: 4

Wage type		Amount	Wage type		Amount
0001	Basic Pay	17,160.00	1000	House Rent Allowance	1,307.00
1210	Convey Allowance 2005	2,856.00	1300	Medical Allowance	1,500.00
1985	Health Professional Allow	10,000.00	2148	15% Adhoc Relief All-2013	348.00
2199	Adhoc Relief Allow @10%	259.00	2211	Adhoc Relief All 2016 10%	1,354.00
2224	Adhoc Relief All 2017 10%	1,716.00			0.00

Deductions - General

Wage type		Amount	Wage type		Amount
12	GPF Subscription - Rs2220	-2,220.00	3501	Benevolent Fund	-600.00
09	Income Tax	-64.00	4004	R. Benefits & Death Comp:	-1,052.00

Deductions - Loans and Advances

Description	Principal amount	Deduction	Balance
Income Tax	654.38		
Recovered till December-2017:	277.00	Exempted: 0.92-	Recoverable: 378.30
Deductions: (Rs.):	-3,936.00		
		Net Pay: (Rs.):	32,564.00

Deductions - Income Tax

Pay (Rs.): 36,500.00
Name: FAZLI AMIN
Number: 6944-2
Details: NATIONAL BANK OF PAKISTAN, 230511 RISAL PUR RISAL PUR,

Opening Balance: Aailed: Earned: Balance:

Address: Domicile: NW - Khyber Pakhtunkhwa Housing Status: No Official
Email:

Attest

ATED
NER
High Court

7/11:00:00) 2) All amounts are in Pa' Rupees 3) Errors & omissions excepted

FOR THE

A. Re

W.P. No. _____



- 1. Tariq Khan S/o Mustafa Khan
- 2. Asif Ali Shah S/o Syed Iqbal Shah
- 3. Ras Khan S/o Qasim Khan
- 4. Shah Farid S/o Mohd Ullah
- 5. Abdul Khalid S/o Abdul Aziz
- 6. Fiaz Hussain S/o Iqbal Hussain
- 7. Shah Wali S/o Muhammad Ali
- 8. Muhammad Feroze S/o Muhammad Khan
- 9. Ali Haidar S/o Muhammad Khan
- 10. Shahid Hussain S/o Anwar Khan
- 11. Shahid Khan S/o Muhammad Khan
- 12. Muhammad Iqbal S/o Bahadur Khan
- 13. Iqbal Hussain S/o Iqbal Hussain
- 14. Hidayat Ullah S/o Sher Ali Khan
- 15. Asif Ali S/o Muhammad Iqbal Khan
- 16. Rafti Ur Rehman S/o Haidar Ullah
- 17. Atta Ullah S/o Rehman Ullah
- 18. Arshad Khan S/o Faraz Khan
- 19. Mirza Muhammad S/o Saif Muhammad
- 20. Amir Sada S/o Nazir Muhammad

W.P. No. _____

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EXTRA

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- (11)
21. Rehman Ullah S/o Zolayat Khan
 22. Subhan Ullah S/o Fazal Subhan
 23. Umar Badshah S/o Gran Badshah
 24. Sher Bahadar S/o Muhammad Razaq
 25. Nizam Ul Haq S/o Muhammad Ajmeer
 26. Naseer Muhammad S/o Neik Muhammad
 27. Fazal Wadood S/o Abdur Raziq
 28. Arshad Ali S/o Haroon Khan
 29. Fazal Amin S/o Najeem Khan
 30. Khalid Khan S/o Taj Muhammad
 31. Arshad Khan S/o Wazir Gul
 32. Khalid Daud S/o Daud Khan
 33. Arshad Ali S/o Abbas Khan
 34. Zahoor Khan S/o Tahmash Khan

All Clinical Technicians in Expanded Programme on immunization (EPI)
posted at different Districts of Khyber Pakhtunkhwa.

.....Petitioners.

VERSUS

1. Government of Khyber Pakhtunkhwa, through Chief Secretary, Civil Secretariat, Peshawar.
2. Government of Khyber Pakhtunkhwa Health Department through Secretary Health, Civil Secretariat, Peshawar.
3. Government of Khyber Pakhtunkhwa, Finance Department through its Secretary, Civil Secretariat, Peshawar.

ATTESTED
EXAMINER
Peshawar High Court

- (19)
4. Director General Health Khyber Pakhtunkwa, PTCL Colony, Peshawar.
 5. National Programme Manager, EPI NIH, National Institute of Health (NIH) Park Road, Chak Shahzad, Islamabad.
 6. Director General EPI DGHS, Khyber Pakhtunkhwa, Peshawar

.....Respondents

=====

**PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC
OF PAKISTAN, 1973.**

=====

Respectfully Sheweth:

1. That the petitioners are law abiding citizens of Pakistan with designation of clinical technician.
2. That the initial appointment of the petitioner as EPI Technician was purely on contract bases for year extendable from the year 2006.
3. That in the year 2010 the project was initiated to be regularized by respondent no.3 due to the reason the contract of the petitioner was not extended but despite that they continued to perform their duties. Respondent no.2 and 3 are aware of the fact.
4. That the petitioner were extremely aggrieved from the attitude of the Respondents while performing duties without salary approach this Honble Court in W.P no.1670-P/2010 Nijat Ali and others Vs Govt and the same was disposed of with direction on 05-07-2012 .

ATTESTED
EXAMINER
Peshawar High Court

(13)

(Copy of the W.P 1670-P/2010 along with order is attached as annexure "A").

5. That in compliance of the order of this Honourable court the service of the petitioners were regularized with immediate effect and no order as for the period they work from the year 2010 till 22-05-2013 the date of regularization. (Copy of the orders of regularization are attached as Annexure "B").
6. That the petitioners aggrieved from the regularization orders as the same was silent pertaining to their pending salaries once again approach this Honble Court in COC 117-P/2012 in W.P 1670-P/2010 but the same was turn down with the technicalities. (Copy along with order in COC is attached as annexure "C").
7. That the pay slip of the petitioners duly indicate the length of service as 13 years and 10 months with different dates of appointment starting from the year 2006 but the benefit of the same has not been extended at the time of regularization and the salaries from the period 2010 till 22-05-2013 were not given amounts to force labour . (Copies of the pay scale of the petitioners are attached as annexure "D").
8. That the petitioners time and again approach the authorities but they were reluctant to redress the grievance of the petitioners thus they have no other remedy available to them but to approach this Honourable Court in the instant W.P inter alia on the following grounds;

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EXAMINER
Peshawar High Court

(14)

GROUNDS: -

- A) That the length of service is rightly calculated in their pay slip but despite that the benefit of the same has not been given effect at the time of regularization.
- B) That the respondents forced them to continue their services from the period 2010 till the period of regularization i.e. 22-05-2013 but the salaries of the mentioned period is still outstanding. It amounts to force Labour rightly protected by the constitution of Pakistan.
- C) That the act of respondents for not calculating the length of Service and not pay the Salaries for the period they worked for is utter violation of law.
- D) That on one hand the pay slip duly indicates the length of Service and on other hand the benefit of the same is not extended towards their Service is an utter most violation of law.
- E) That the grievances of the petitioners are unheard and the respondents have given it a deaf ear.
- F) That the acts of the respondents by not calculating the length of Service are creating agony among the petitioners.
- G) That the scope of work for eliminating Polio from Pakistan is always putting their life at risk.
- H) That the petitioners craves permission of this Honourable court to advance any other ground at the time of hearing and to submit any other arguments/documents if necessary, in support of this writ petition.

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Peshawar High Court

(15)

It is, therefore, most humbly prayed that on acceptance of this Writ Petition by directing the respondents,

- i. The benefits of initial appointment till date may kindly be extended to the petitioners by amending the regularization order.
- ii. The salaries of the petitioners for the period they worked w.e.f 2010 till the date of regularization i.e. 25.05.2013 may kindly be released.
- iii. Any other relief which this Hon'ble Court deems fit under the circumstances of the instant Writ Petition may graciously be granted in favour of the petitioners.

Petitioners

Through

Dated: - 13.06.2020


(BABAR KHAN YOUSAFZAI)
Advocate, High Court,
Peshawar.

CERTIFICATE:

Certified that earlier the petitioners filed a writ petition No.2368-P/2020 before this honourable court but the same was withdrawn on 12.05.2020 with the permission to file fresh one.

LAW BOOKS:

1. Constitution of Islamic Republic of Pakistan, 1973.
2. Case law according to need.


ADVOCATE

CERTIFIED TO BE TRUE COPY


EXAMINER
Peshawar High Court, Peshawar
Authorised Under Article 8.7 of
The Muslim-e-Shahadat Order, 1981

08 AUG 2020

3. Since the petitioners are civil servant; therefore, after the decision of respondent No. 3, they may approach the proper forum available to the civil servants.

4. In this view of the matter, respondent No. 3 is directed to conclude the same within a period of one month. With these observations, petition in hand is disposed of.

CHIEF JUSTICE

JUDGE

ANNOUNCED
21.07.2020

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EXAMINER
Peshawar High Court, Peshawar
Authorised Under Article 87 of
The Qanun-e-Shahadat Order 1984
08 AUG 2020

No. 4198
Date of Presentation of Application 8/8/2020
No of Pages 12P
Copying fee _____
Total 485
Date of Preparation of Copy 8/8/2020
Date of Delivery of Copy 8/8/2020
Received By DR Kam

VAKALATNAMA

(POWER OF ATTORNEY)

IN THE K.P. Service Tribunal, Peshawar

Case. _____ No. _____/2020

Fazli-e Amin

.....Petitioner

Govt. of K.P. etc Versus

.....Respondents

I, Fazli-e Amin S/o, D/o Najeem Khan the Appellant, do hereby appoint and constitute Babar Khan Yousafzai, Muhammad Ali Khan and Ansab Abdullah, Advocates of Legal Oracles, in the above-mentioned cause, to do all or any of the following acts, deeds and things:-

1. To appear, act, and plead for me in the above-mentioned cause, in this court or any other court in which the same may be tried or heard, and in any other proceedings arising out of or connected therewith;
2. To sign and verify and file or withdraw all proceedings, petitions, appeals, affidavits, and applications for compromise or withdrawal, or for submission to arbitration of the said cause, or any other documents as may be deemed necessary or advisable by them for the conduct, prosecution or defence of the said cause at all its stages;
3. To receive payment of, and issue receipts for, all moneys that may be or become due and payable to me/us during the course or on the conclusion of the proceedings;
4. To do all other acts and things which may be deemed necessary or advisable during the course of proceedings;
5. To delegate all or any of the above powers to any other legal practitioner;

AND I, hereby also agree:-

- (a) To ratify whatever the Advocate(s) or their substitutes may do in the proceedings;
- (b) not to hold the Advocate(s) or their substitutes responsible if the said cause be proceeded ex parte or dismissed in default in consequence of their absence from the court when it is called for hearing unless such absence is due to the gross negligence of the Advocate(s) or their substitutes; and
- (c) That the Advocate(s) shall be entitled to withdraw from the prosecution of the said cause if the whole or any part of the agreed fees remain unpaid.

IN WITNESS WHEREOF I have signed this Power of Attorney hereunder on this _____ day of _____ 2020 at Peshawar and the contents of this Power of Attorney have been read, fully explained and understood by me.

Signatures of executants:

Fazli Amin

S/o Najeem Khan

ACCEPTED
LEGAL ORACLES

Suite No. 1, Opposite Cantt Railway Station,
Saddar Road, Peshawar Cantt.

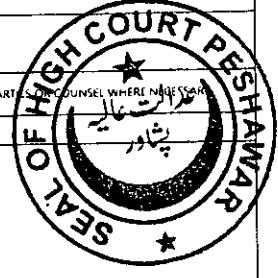
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W: www.legaloracles.com

16

Amir - D

PESHAWAR HIGH COURT, PESHAWAR	
FROM 'A'	
FORM OF ORDER SHEET	
COURT OF CASE NO.	
SERIAL NO OF ORDER OR PROCEEDINGS	DATE OF ORDER OR PROCEEDINGS
1	2
21.07.2020	W.P. No. 2914-P/2020 with IR.
<p>Present: -</p> <p>Mr. Babar Khan Yousafzai, advocate for the petitioners</p> <p style="text-align: center;">~ ~ ~</p> <p>WAQAR AHMAD SETH CJ: - Through the instant constitutional petition filed by the petitioners under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, they prayed that;-</p> <ol style="list-style-type: none"> i. The benefits of initial appointment till date may kindly be extended to the petitioners by amending the regularization order. ii. The salaries of the petitioners for the period they worked w.e.f. 2010 till the date of regularization i.e. 25.05.2013 may kindly be released. iii. Any other relief which this Hon'ble Court deems fit under the circumstances of the instant writ petition may graciously be granted in favour of the petitioners. <p>2. After arguing the case at some length, learned counsel for the petitioners requests for sending the instant writ petition by treating the same as appeal/representation to the respondent No. 3 for its decision within a period of one month.</p>	



(DB), HON'BLE MR. JUSTICE WAQAR AHMAD SETH, CHIEF JUSTICE AND MR. JUSTICE MUHAMMAD NASIR MEHFOOZ, HJ.
 AMIR BASHIR AWAN, SENIOR COURT SECRETARY.

ATTESTED
 EXAMINER
 Peshawar High Court

Attested