#### BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.7142/2021

Date of Institution

13.07.2021

Date of Decision

08.11.2022

Muhammad Raheem S/O Fazal Raheem R/o Shagyali Bala, House No.1 P/O Shaggali Payan, District Peshawar.

(Appellant)

#### **VERSUS**

Secretary Health Department, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and five others.

Respondents)

#### Present:

NasruminAllah,

Advocate

. For appellant.

Asif Masood Ali Shah,

Deputy District Attorney

. For respondents.

Mrs. Rozina Rehman

MEMBER (J)

Miss. Fareeha Paul

... MEMBER (E)

#### JUDGMENT

ROZINA REHMAN, MEMBER: The appellant has invoked the jurisdiction of this Tribunal through above titled appeal with the prayer as copied below:

Jun 7

"That on acceptance of this service appeal, the respondent department may please be directed to incorporate the actual date of birth of the appellant as 01.01.1964 in the service record and thereafter the retirement order bearing endorsement No. 19333-38

dated 09.02.2020 may kindly be cancelled/withdrawn and he may be allowed to complete his service upto the age of superannuation, which is 01.01.2024 with all benefits of salaries and arrears."

- 2. Brief facts of the case are that the appellant joined the respondent department as Chowkidar on 01.09.1987. His date of birth was 01.01.1964. He came to know about the wrong entry in respect of his date of birth, and therefore, submitted representation for its rectification but to no avail. He filed civil suit for declaration but the same was returned to the appellant in original for presentation before the competent forum. Hence the present service appeal.
- 3. Mr. NasruminAllah learned counsel for the appellant submitted that the correct date of birth of the appellant was 01.01.1964 and that being illiterate person he was not aware of wrong entry made by the department in his service record without taking into consideration his CNIC. Learned counsel submitted that his salary was stopped and his order of retirement was issued which was wrong, illegal against law and facts because the entry in respect of his date of birth was wrongly made by the department and not by the appellant. He was not afforded any opportunity of personal hearing and he was condemned unheard. Lastly, he submitted that no regular inquiry was conducted into the matter and that CNIC of the appellant was not considered, he therefore, requested that the appeal may kindly be accepted.
- 4. Conversely, learned Deputy District Attorney submitted that as per service book of the appellant, his date of birth was 01.07.1958



and that his date of birth could not be altered at that stage as per G.F.R.116. He therefore requested for the dismissal of instant service appeal.

5. From the record it is evident that the appellant, Mr. Muhammad Raheem, was appointed as Chowkidar on 24.06.1987. His service book shows his date of birth as 01.07.1958. This entry in the service record was never objected to by the appellant during his service. He filed a civil suit for declaration for correction of his date of birth in his service record and CNIC which plaint was returned to the appellant for presentation before proper forum vide order of learned Sessions Judge dated 15.06.2021. In view of entry in service book regarding his date of birth, the appellant stood retired from government service w.e.f 30.06.2018 vide office order of the District Health Officer dated 09.02.2020 which means that he served the department even after attaining the age of retirement on 30.06.2018. There is nothing on file which could show that any order in respect of recovery was passed against appellant by the competent authority, however, pension was not paid to the appellant till today. The change of date of birth in service record is allowed within two years of entry into service according to G.F.R-116.

6. Having considered the matter from all angles in the light of material available on file, we do not find any merit in the instant appeal which is hereby dismissed. However, the respondents are directed not to pass any order in respect of recovery because he served

the department and was paid accordingly. The pension process be



4

expedited and the same be paid to the appellant according to law. Parties are left to bear their own costs. File be consigned to the record room.

<u>ANNOUNCED.</u> 08.11.2022

(Faseeha Paul) Member (E)

(Rozina Rehman)

Member (J)

**ORDER** 08.11.2022

Appellant present through counsel.

Asif Masood Ali Shah learned Deputy District Attorney for respondents present. Arguments heard. Record perused.

Vide our detailed judgment of today of this Tribunal place on file, we do not find any merit in the instant appeal which is hereby dismissed. However, the respondents are directed not to pass any order in respect of recovery because he served the department and was paid accordingly. The pension process be expedited and the same be paid to the appellant according to law. Parties are left to bear their own costs. File be consigned to the record room.

<u>ANNOUNCED.</u> 08.11.2022

Farceha Paul Member (E) (Rozina Rehman) Member (J)

.

Mr. Akhtar Ali, son of the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the

Son of the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today due to

strike of lawyers. Adjourned. To come up for arguments before the D.B on 08.11.2022.

(Salah-bu-Asias) (L) nədməM



(Meminahan) Member (E)

respondents present.

Due to Robinson of the Hon, ble chairman The Case is adjourned Tocome up for the Same as before on 30-5-22

30<sup>th</sup> May, 2022

Learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Asstt. AG alongwith Mastan Ali Shah, Assistant for the respondents present.

Learned counsel for the appellant seeks adjournment in order to properly assist the Court. Adjourned. To come up for arguments on 03.08.2022 before the D.B.

(Mian Muhammad) Member(E)

(Kalim Arshad Khan) Chairman

3-8-2022 Proper DB not available the case is adjourned to 14-10-2022

Roader

#### M. Rahim 7142/2021

13.09.2021

ppellant Deposited

ecurity & Process Fee

Counsel for the appellant present. Preliminary arguments heard.

Learned counsel for the appellant argued that the appellant was retired from service w.e.f 30.06.2018 vide impugned order dated 09.12.2020 though he had already submitted an application for correction in his date of birth to respondent No.2, on 20.07.2020. He also instituted Civil Suit for correction in date of birth, on 24.08.2020 and it was during pendency of his civil suit that the impugned order dated 09.12.2020 was issued by the respondent-department. The Civil Suit in question was however returned on the ground of jurisdiction with the direction to approach appropriate legal forum. He contended that actual date of birth in respect of the appellant is 01.01.1964 instead of 01.07.1958 (recorded/entered at page-3 of the service book). The actual date of birth is 201.01.1964 is also reflected in CNIC of the appellant. As per decision of the court of Civil Judge-IX Peshawar dated 15.06.2021, the instant service appeal was filed in Service Tribunal on 13.07.2021.

Points raised need consideration. The appeal is admitted to regular hearing, subject to all just and legal objections including limitation. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time or extension of time is not sought, the office shall submit the file with a report of non-compliance. File to come up for arguments on 24.12.2021 before the D.B.

(Mian Muhammad) Member(E)

Due to winter vacations, case is adjourned to 02.03.2022 for the same as before.

Reader

## Form-A

## FORM OF ORDER SHEET

Court or	
Case No 7/42 /2021	

S.No.	Date of order proceedings	Order or other proceedings with signature of judge	
1	2	3	
1-	04/08/2021	The appeal of Mr. Muhammad Rahim resubmitted today by M Nasruminallah Advocate may be entered in the Institution Register and pu up to the Worthy Chairman for proper order please.	
•		Projection to the second secon	
2-		This case is entrusted to S. Bench for preliminary hearing to be put up there on 13/09/21.	
		CHAIRNIAN	
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	#		

The appeal of Mr. Muhammad Rehman son of Fazal Raheem r/o Shagyali Bala House No.1 post office Box Shaggali Payan Peshawar received today i.e. on 13.07.2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- ✓- Memorandum of appeal may be got signed by the appellant.
- 2- Address of respondent no. 5 is incomplete which may be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- ✓3. Check list is not attached with the appeal.
- 4- Copy of departmental appeal is not attached with the appeal which may be placed on it.
- Certificate be given to the effect that appellant has not been filed any service appeal earlier on the subject matter in this Tribunal.

No. 1291 /S.T,

Dt. 14/07 /2021

REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Nasruminallah Adv. Pesh.

R/Six

All the objection all clewed,

the case is ye-submitt be fade the houble court.

(variables.

papastantal appeal is anneal in page 44-67. 4/8/21

# KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR CHECKLIST

(	ase litle:		
S#	——————————————————————————————————————	VEC	
1	This Appeal has been presented by: Aboxim: Allah A.	YES	NO
2	whether Counsel/Appellant/Respondent/Deponent have signed		<del>                                     </del>
3	the requisite documents?		
	Whether appeal is within time?	U	
4	Whether the enactment under which the appeal is filed mentioned?	-	
5	Whether the enactment under which the appeal is filed is correct?	1	<del>-</del>
6	whether amdavit is appended?	<del> </del>	<del>  - , - </del>
7	Whether affidavit is duly attested by competent Oath Commissioner?		
8	Whether appeal/annexures are properly paged?	<del> </del>	<del> </del>
9	Whether certificate regarding filing any earlier appeal on the	ļ <u>-</u>	<del> </del> -
	subject, Turnished?	1	
10	Whether annexures are legible?		<del> </del> -
11	Whether annexures are attested?		<del> </del>
12 13	Whether copies of annexures are readable/clear?	6-	<del> </del> -
13	Whether copy of appeal is delivered to AG/DAG?	V	
14	Whether Power of Attorney of the Counsel engaged is attested		
15	and signed by petitioner/appellant/respondents?		
16	Whether numbers of referred cases given are correct? Whether appeal contains cutting/overwriting?	\ \	
17	Whether list of books has been provided at the end of the appeal?		
18	Whether case relate to this court?		
19	Whether requisite number of spare copies attached?		<u> </u>
20	Whether complete spare copy is filed in separate file cover?	V .	
21	Whether addresses of parties given are complete?		<del></del>
22	Whether index filed?	<u> </u>	
23	Whether index is correct?	1	<del></del>
24	Whether Security and Process Fee deposited? On		
	Whether in view of Khyber Pakhtunkhwa Senico Tribunal D.L.		
25	been sent to respondents? On		
26	Whether copies of comments/reply/rejoinder submitted? On		<del></del>
		.	ĺ
27	Whether copies of comments/reply/rejoinder provided to		
나	opposite party? On	1	. 1

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name:	Us man sellal
Signature: Dated:	(vnuller).

## BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR.

Service No:	_/2021	-
Muhammad Raheem	Versus	Secretary Health Department
		& others
Appellant	1	Respondents
	<b>\$</b> \$	<b>\$\$\$\$</b> \$

## **INDEX**

S#	Description of the Documents	Annex	Pages
1.	Grounds of Service Appeal with affidavit	*	1-6
2.	Application for condonation of delay with affidavit	*	7-9
3.	Addresses of parties		10
4.	Copy of Employee Joined the Department	"A"	11 -14
5.	Copy of the CNIC (date of birth)	"B"	15
6.	Copy of suit & order dated 15/6/2021	"C"	16-25
<b>ア</b> .	Copy of written statement with enclosure of Health Department	"D"	26 – 33
8.	Copy of written statement of NADRA	"E"	34 - 41
9.	Copy of Service Card	"F"	42-43
10.	Copy of representation appeal	" <i>G</i> "	44
11.	Copy of Profarma issued by the department	"H"	45
12.	Copy of office order No. 19333-38 dated 09.02.2020	"I-I-1"	46
13.	Copy of relevant documents	"J"	47-74
14.	Wakalat Nama		75

Dated:- 06/07/2021

Appellant

Through:-

Advocate High Court

Peshawar.

## BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR.

Service No:- 7/42/2021

Muhammad Raheem S/o Fazal Raheem R/o Shagyali Bala, House No 1, PO Box, Shaggali Payan, District Peshawar.

Appellante Tribunal

Versus

Dated 13/7/2021

- 1. Secretary Health Department, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
- 2. District Health Officer, Town-II, Peshawar.
- 3. Director General AGPR Khyber Pakhtunkhwa, Peshawar Division, Peshawar.
- 4. Chairman NADRA, Islamabad.
- 5. Director General, MADRA Islamabad.

6. Regional Director NADRA, Head Office, Hayat Abad, Peshawar.

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Registrar

dto-day

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 TO THE EFFECT THAT THE ACTUAL DATE OF BIRTH OF THE APPELLANT/EMPLOYEE i.e. 01/01/1964 AND THE RESPONDENT DEPARTMENT HAS WRONGLY INCORPORATED THE DATE OF BIRTH OF THE APPELLANT/EMPLOYEE, WHICH NEEDS CORRECTION AND INCORPORATION OF THE ACTUAL DATE OF BIRTH i.e. 01/01/1964 IN SERVICE RECORD INSTEAD OF 01/07/1958.

#### Respectfully Sheweth:-

1. That the appellant/employee joined the department in the capacity of Chowkidar on 01/09/1987. (Copy attached as

Re-submitted to -day xure A).

Registras W

- 2. That the appellant/employee is illiterate having no education and for that purpose he can not read English and Urdu.
- 3. That the date of birth of the appellant//employee is 01/01/1964. (Copy of the CNIC is attached as annexure B).
- 4. That when the appellant/employee came to know about wrong entry of his date of birth, the appellant//employee submitted his departmental representation/appeal to the respondent department for correction of date of birth but no action whatsoever has been taken departmental representation, so the appellant/employee filed civil suit for declaration to the effect that the appellant's actual date of birth i.e. 01/01/1964 which was wrongly incorporated in the record of department as 01/07/1958, but that suit has been returned vide order dated 15/06/2021 in original to be presented before the competent forum. (Copy of suit is annexed as annexure C).
- 5. That in the above titled suit the respondent/Health Department has submitted his written statement. (Copy of written statement with enclosure is annexed as D).
- 6. That similarly respondent/NADRA has also submitted written statement alongwith enclosure. (Copy of written statement is attached as annexure E).

where in the date of retirement has been shown as 01/01/2024. (Copy attached as annexure H).

- F. That during the pendency of Civil Suit, the respondent department vide order bearing No 19333-38 dated 09/02/2020 has retired the appellant/employee with effect from 30/06/2018 despite the fact that the appellant/employee has performed his duty upto 09/02/2020 and has also drawn his salary through DDO of the department. (Copy of office order is attached as annexure I & I-1).
- G. That the respondent/department on one hand issued salary to the appellant/employee upto 09/02/2020 keeping in view date of birth of the appellant/employee as 01/01/1964, but on the other hand has retired the appellant/employee with effect from 30/06/2018.
- H. That the respondent department has illegally and without lawful authority has retired the appellant with effect from 30/06/2018, because the appellant age of superannuation on the proforma is 01/01/2024
- I. That the delay in service appeal is condonable as the appellant/employee approached for declaration against the respondent department/ as well as NADRA.

3

7. That the appellant/employee invokes the appellate jurisdiction of this Honourable Tribunal for correction of date of birth and directions to the respondent department to incorporate the same in this record on grounds inter alia:-

#### Grounds:-

- A. That the actual date of birth of the appellant/employee is 01/01/1964, which is also reflects the record of NADRA.
- B. That the appellant/employee, being illiterate, was not aware of wrong entry made by the respondent/department, which the respondent has incorporated in their record without considering CNIC of the appellant/employee, which shows that the actual date of birth is 01/01/1964.
- C. That the department service ID Card issued to the appellant/ employee reflect the date as 01/01/1964. (Copy of Service Card is attached as annexure F).
- D. That when the appellant/employee came to know about the wrong entry of date of birth, he submitted appeal/representation to the department, but no reply from the department, so the appellant was constrained to file Civil Suit, requesting for declaration, against the respondents as well as NADRA authorities. (Copy attached as annexure G).
- E. That in the proforma duly filed and issued by the department also bear date of birth of the appellant/employee is 01/01/1964



That any other grounds available to the appellant/employee, with leave of Honourable Tribunal will be raised at the final hearing of the case/appeal.

therefore, humbly requested that on acceptance of this service appeal, the respondent department may please be directed to incorporate the actual date of birth of the appellant/employee as 01/01/1964 in the service record and thereafter the appellant/employee retirement order bearing endorsement No 19333-38 dated 09/02/2020 may kindly be cancelled/ withdrawn and the appellant/ employee may please be allowed to complete his service upto the age of superannuation, which is 01/01/2024 with all benefits of salaries and arrears.

Dated:- 12.07.2021

Through:-

Advocate High Court

Peshawar.

#### CERTIFICATE:

It is certified that no such like appeal has earlier been filed by the appellant before this Hon'ble Tribunal.

# BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR.

Service No:-	_/2021	
Muhammad Raheem	Versus,	Secretary Health Department
		& others
Appellant		Respondents
<b>^ ^ ^ ^ ^ ^ ^ ^ ^ ^</b>	><><>	\$\dagger\$       \$\dagger\$
•	<u>AFFIDAVIT</u>	

I, Muhammad Raheem S/o Fazal Raheem R/o Shagyali
Bala, House No 1, PO Box, Shaggali Payan, District Peshawar,

(The appellant) do hereby solemnly affirm and declare on oath that the contents of this accompanying Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.

DEPONENT - 2539181-5 CNIC No: 7301- 2539181-5 Cell No:- 6313- 9628629



# BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR.

CM Na:/2021	T-man and the state of the stat
Service No:/2021	`. •
Muhammad Raheem Yersus	Secretary Health Department
Appellant	* & others ·····Respondents ≻◆◆◆◆◆◆
APPLICATION UNDER SECTION 5	& SECTION 14 OF
LIMITATION ACT, 1908 FOR CON	IDONATION OF DELAY
OCCURRED IN FILING OF ABOVE TO	ITLED APPEAL BEFORE
THIS HONOURABLE TRIBUNAL.	t

## Respectfully Sheweth:-

- 1. That the above appeal has been filed by the petitioner wherein no date of hearing has yet been fixed.
- 2. That the appellant/petitioner filed a Civil Suit before the court of Civil Judge, Peshawar for declaration against the respondents and NADRA for the reasons that against NADRA the service appeal was not competent.
- 3. That the delay in filing of Service Appeal is not willful but is due to declaratory against respondents including department,

who are beyond the condition of service of appellant/petitioner.

- 4. That the term and superior judiciary of the country in number of judgments and authorities has held that lis decided on merits and not on technicalities.
- 5. That the appellant/petitioner is illiterate person, having no knowledge of technicalities and whatever the appellant/petitioner has done in wrong forum, if it would be, it was not intentional or willful

It is, therefore, most humbly prayed that on acceptance of this application the delay, if any, in filing the above noted Service Appeal may kindly be condoned in the interest of justice.

Dated: - 06/07/2021

Through:-

**Appellant** 

Advocate High Court

# 9

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

CM No:	_/2021	•
ln ·	X.	
Service No:	/2021	
		ŧ
Muhammad Raheem	Versus	Secretary Health Department
•		& others
Appellant		Respondents
<b>*************************************</b>	·	>>>>>>>
	<b>AFFIDAVI</b>	$\Gamma^{-}$

I, Muhammad Raheem S/o Fazal Raheem R/o Shagyali

Bala, House No 1, PO Box, Shaggali Payan, District Peshawar,

(The appellant) do hereby solemnly affirm and declare on oath that the contents of this accompanying application for condonation of delay are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.



DEPONENT

CNIC No:- /7301- 2539181-5 Cell No:- 0313-9628629

# BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR.

Service No:-	_/2021	
Muhammad Raheem	Versus	Secretary Health Department
Appellant	<b></b>	& others Respondents ♦♦♦♦♦
ADD	RESSES OF P	<u>ARTIES</u>
APPELLANT		
Muhammad Raheem S/o PO Box, Shaggali Payan,		Shagyali Bala, House No 1,

## RESPONDENTS

- 1. Secretary Health Department, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
- 2. District Health Officer, Town-II, Peshawar.
- 3. Director General AG Khyber Pakhtunkhwa, Peshawar Division, Peshawar

Dated:- 06/07/2021

Through:-

Appellant

Advocate High Court Peshawar.

# 150 ESTA CODE [Establishmen: Code Khyber Pakhtunkhwa]

# Change in the recorded date of birth of the civil servants

I am directed to say that under the existing rules, immediately after his induction into service, every civil servant is required to declare the date of his birth by the Christian era with as far as possible confirmatory/conclusive evidence such as matriculation certificate, municipal birth certificate and so on. This is supplemented by the opinion of the Civil Surgeon/Standing Medical Board. The department after full satisfaction with age and on the basis of medical examination of the new entrant in the department, enter the same in an authentic document i.e. Service Book/History of Service etc. The said document is maintained by the Department/Audit and is always checked periodically.

- 2. The date of birth of a civil servant as recorded in his service documents remains constantly in his knowledge. This is reiterated in his ACRs and the Seniority List issued by the department from time to time. The preparation of service record of an officer is an official act and according to law, it is presumed to be correct. GFR-116 also provides that the date of birth once recorded cannot be altered except in the case of clerical error, without the previous orders of the Local Administration. Despite this, certain Government Servants are complacent with the state of affairs and sleep over their rights for decades knowing fully about their dates of birth entered in their Service Books etc. It would therefore be too much to accept such a belated claim from a Civil Servant that he was born on a date other than the one entered in his service documents and that the delay in representation was due to ignoral ce of the alleged erroneous entry. After all, there is always attached a finality to decisions taken by competent authorities.
- 3. I am, accordingly, directed to request that all concerned may please be informed in clear terms that in future a request for an alteration in the recorded date of birth of a Government servant may only be entertained by the Appointing Authority in the case of officers in BS-17 and above and by the Administrative Department in the case of civil servants in BS-16 and below, after special enquiry and only if the Government servant applies for it within two years from the date of his entry into Government service.

(Authority; No.SOR.II(S&GAD)5(40)/87, dated 15th February, 1989)

# Criteria/modalities for classifying death/ incapacitation of civil servants in the line of duty for the purpose of compensation.

#### DEFINITIONS

(a) Civil Servant. Civil Servant means the same as defined in the Government of NWFP Civil Servants Act, 1973. However, the employees of Federal Government serving in Provincial Government would also be considered civil servants in the above mentioned meaning for the purpose of this letter.

#### ESTA CODE [Establis

- (b) Shaheed. Shat death due to a
- (c) Act of terroris Section-6 of th
  - (d) Permanent In severing of ar impairment of human body, (
  - (e) Temporary inc The compensation misuse.

#### 2. "In the line of Duty"

In the line of duty means the fc

- I. To reside in a
- II. To come and place of dut his/her native
- III. Duty hours n
- IV. To come an institutions, intellectual, family.
- V. Employees I from Securil
- VII. While busy

A civil servant, as de terrorism, anywhere, anytime be, will deserve to get the col

#### 3. Required Docume

For Shaheed:-

Obituary issued by the Depar

Police FIR. In case of verified by

Date of Birth 1580e

# BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR AT CAMP COURT, ABBOTTABAD

Service Appeal No. 365/2019

Date of Institution

15.03.2019

Date of Decision

15.11.202%

Rasool Shah son of Sarfaraz, resident of Khaial, District Kohistan.

(Appellant)

#### **VERSUS**

Government of Khyber Pakhtunkhwa, through Secretary Education, Peshawar and two others.

(Respondents)

Abdul Saboor Khan

Advocate

For appellant.

Muhammad Riaz Khan Paindakheil,

Assistant Advocate General

For respondents.

Áhmad Sultan Tareen

Chairman

Rozina Rehman

Member (J)

#### **JUDGMENT**

Rozina Rehman, Member(J): Brief facts of the case are that appellant was a Janitor/Chowkidar in GP.S Kewkail, Kohistan who was later on appointed as P.S.T on 20.03.2015, where-after, he tendered resignation from the post of Chowkidar. His appointment order dated 30.03.2015 was withdrawn on 01.12.2015. He, therefore, assailed the order of authority before the Hon'ble Peshawar High Court, however, during pendency of the Writ Petition, impugned order dated 10.12.2018 was passed, therefore, writ petition was dismissed. The appellant filed departmental appeal being aggrieved from the

03.11.2022

Appellant alongwith counsel present.

Preliminary arguments heard. Record perused.

Points raised need consideration. Instant appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notice be issued to respondents for submission of written reply/comments in office within 10 days of the receipt of notices, positively. To come up for written reply/comments on 07.12.2022 before S.B.

(Rozina Rehman) Member (J) impugned order dated 10.12.2018 but to no avail, hence, the present service appeal.

- 2. We have heard Abdul Saboor Khan Advocate learned counsel for appellant and Muhammad Riaz Khan Paindakheil, learned Assistant Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.
- Abdul Saboor Khan Advocate, learned counsel for appellant submitted that the impugned dated 10.12.2018 is wrong, illegal, against law and facts as he was not treated according to law. He contended that the appellant was only Seven years old in the year 1997, therefore, he could not manipulate his appointment and that the present appointment of the appellant as PS.T was not suffering from any legal defect nor the appellant lacks basic qualification, therefore, the impugned order is not tenable. He contended that neither discreet nor any proper regular inquiry was made, therefore, the impugned order is not sustainable. That the appellant was not afforded any opportunity of personal hearing and he was condemned unheard. He contended that the appointment of appellant as P.S.T vide order dated 20.03.2015 is correct and according to law as he was appointed after having being declared eligible and qualified by the competent authority and in consequence of the appointment order, he was medically examined where-after he submitted his charge report and performed duty till 01.12.2015. Lastly, he submitted that no regular inquiry was conducted into the matter and that CNIC verification from NADRA was never attempted which shows that all allegations were false. He, therefore, requested that the appellant may be reinstated into service with all back benefits.

### BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA,

#### **PESHAWAR**

Service Appeal No. 408/2022 Mr. Muhammad Javed

**Appellant** 

#### **Versus**

Secretary to Govt. of Khyber Pakhtunkhwa Finance Department and others.

Respondents

Reply / Parawise Comments on Behalf of Secretary Finance Govt. of Khyber Pakhtunkhwa Respondent No.01.

#### <u>AFFIDIVAIT</u>

I Mukaram Khan, Section Officer Govt. of Khyber Pakhtunkhwa Finance Department do hereby solemnly affirm and declare on oath that the contents of Para-wise Comments in Service Appeal No.408/2022 on behalf of Secretary to Govt. of Khyber Pakhtunkhwa Finance Department is true and correct to the best of my knowledge and belief and that nothing has been concealed from the Honorable Tribunal.

•

Deponent

- 4. Conversely, learned AAG submitted that the appellant was initially appointed as Class-IV on 05.11.1997 and he performed his duty till 20.03.2015 and got salary for the said period. He contended that as per original Service Book of the appellant, his correct date of birth is 02.01.1966, whereas, appellant fraudulently produced fake documents and CNIC having date of birth as 02.01.1990. He submitted that a formal inquiry was conducted and chance of personal hearing was provided to the appellant and that appointment order of the appellant was withdrawn on the charge of having two identity cards having different date of birth.
- 5. From the record it is evident that appellant Rasool Shah was appointed as Chowkidar vide order dated 05.11.1997. His Service Book shows his date of birth as 02.01.1966 and there is no dispute in respect of his salary during the period he remained in service. It was on 20.03.2015 when upon the recommendation of the District Selection Committee present appellant Rasool Shah was appointed as P.S.T in BPS-12. After joining the post of P.S.T, he submitted his resignation from the post of Chowkidar. This fact is not denied that the present appellant had been appointed as Chowkdar on 05.11.1997, whereas, his date of birth as per Secondary School Certificate is 02.01.1990. His date of birth at the time of his appointment as Chowkidar was recorded as 02.01.1966 and thus he succeeded in getting the job of Chowkidar at the age of less than eight years. In view of having shown two different dates of birth for getting two different jobs, the matter was inquired and even at present, this fact has not been denied, therefore, his order of appointment was withdrawn and major penalty of dismissal from service was imposed upon him.

#### BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

Service Appeal No.408/2022

Muhammad Javed.....(Appellant

#### VERSUS

- 1. Secretary to Government of Khyber Pakhtunkhwa, Finance Department.
- 2. Secretary to Government of Khyber Pakhtunkhwa, Agriculture Department......(Respondents)
- 3. Deputy Director Fisheries Mansehra......Respondents

#### COMMENTS ON BEHALF OF RESPONDENT NO. 1

#### **Preliminary Objections:**

- 1. That Applicant/Defendant has no cause of action /locus standi to file such like application at this belated stage.
- 2. That the Honorable Court has got no jurisdiction to entertain the present application.
- 3. That the applicant is estopped by Law, by deed and by his own conduct to file the instant application.
- 4. That the applicant has suppressed material facts from this Honorable Court.
- 5. That application of the applicant is incompetent in the present form and liable to be rejected summarily with heavy cost.

#### Facts:

- 1. Pertains to Record. Hence needs no comments.
- 2. Pertains to Record. Hence needs no comments.
- 3. Pertains to Record. Hence needs no comments.
- 4. Correct. Agriculture Department took up the case of the appellant with Finance Department for advice. This Department advised the Administrative Department to decide the case under section-4 (a) ii of NWFP (now Khyber Pakhtunkhwa) Government Servants E&D Rules and under section 2(ii) of Government decisions of Services Problems and Solutions (Annex-I).
- 5. Pertains to Agriculture Department.

#### **Grounds:**

- a. Pertains to Agriculture Department.
- b. No comments.
- c. Correct.
- d. Pertains to Agriculture Department.
- e. No comments.
- f. Correct.
- g. Correct,
- h. Correct.

In view of above, the case may kindly be decided/disposed of on merit.

Secretary to Coxt. of Klyber Pakhtunkhwa

(Respondent No.1

6. Having considered the matter from all angles in the light of material available on file, we do not find any merit in the instant service appeal which is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED. 15.11.2021

> (Ahmad Sultan Tareen) Chairman Camp Court, A/Abad

(Rozina Rehman) Member (J) Camp Court, A/Abad





# GOVERNMENT OF KHYBER PAKHTUNKHWA FINANCE DEPARTMENT

Civil Secretariat Peshawar. @ http://www.fcance.gkfl.pkf : Duagepaek.com/GokRFP willer.com/GokPF

NO. FD (SOSR-1):2-123/2021(M. Tayed) Dated Peshawar thei 24-05-202

The Section Officer (LFC),

Agriculture, Livestock, Fisheries & Cooperative Depti

Peshawar.

Subject

APPLICATION FOR RESTORATION OF ANNUAL INCHEMENT FOR THE YEAR 2000, IN RESPECT OF MREMUHANMAD JAVED

Lam directed to refer to your letter No SO (LFC) AD/2-23/2020 dated 05-04-2021 on the subject noted above and to adjvse that the instant case may be examined under Section-4 a) its of NV Pakhtunkhwa) Government Servants (E&D) Rules 1973 and under Section. 2(ii) Government decisions of Services Problems & Solutions which are crystal clear (copies enclosed).

(REHMAT KHAN) 3.55 TIONIOFFICER (SR#1)

Date of Birth 1880e

#### BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.354/2018

Date of Institution

09.03.2018

Date of Decision

24.06.2021

Noor Jalil S/O Jalander Khan, Deputy Superintendent of Police, Directorate of Anti-Corruption Establishment Khyber Pakhtunkhwa Peshawar.

(Appellant)

#### **VERSUS**

Provincial Police Officer Khyber Pakhtunkhwa Peshawar and one another.

(Respondents)

#### Present:

Arbab Saiful Kamal, Advocate

For appellant.

Muhammad Adeel Butt, Additional Advocate General

For respondents.

AHMAD SULTAN TAREEN ROZINA REHMAN

. CHAIRMAN

... MEMBER (J)

#### **JUDGMENT**

ROZINA REHMAN, MEMBER: Appellant, Noor Jalil has filed this appeal for correction of his date of birth in the service record as 01.02.1959 instead of 01.02.1958 which according to the appellant, has incorrectly been recorded.

2. Learned counsel for appellant contended that two different dates of birth were recorded in the medical report as well as in the service book of the appellant which does not appeal to a prudent mind. He submitted that the authentic date of birth of appellant is 01.02.1959

L. That the appellant has not been treated in accordance with Article 25 of the constitution of Islamic republic of Pakistan, 1973.

It is, therefore, most humbly prayed that on acceptance of this departmental appeal máy kindly be accepted as prayed for in the heading of the appeal

Applicant

Syed Anwar

Assistant (BPS 16)

which was correctly recorded in the S.S.C and CNIC of the appellant. We argued that similar relief was extended by the respondents to other incumbents refusing the same relief to the appellant tantamount to discrimination.

- 3. Conversely, learned A.A.G resisted the appeal on several grounds including the plea that at the time of recruitment, the date of birth of appellant was recorded as 01.02.1958 and the appellant was raising this issue after 42 years though he was bound to raise the issue within two years of joining of service. He contended that change of date of birth in service record is allowed according to Police Rules 9.7 and G.F.R-116 within two years of entry into service, whereas, the request of appellant is badly time barred.
- 4. The case of appellant is that in his service book/service record his date of birth has incorrectly been recorded as 01.02.1958 while his actual date of birth was 01.02.1959 as recorded in the Secondary School Certificate and his Computerized CNIC. No doubt, appellant has placed on file Secondary School Certificate, however, his service record clearly shows entry in respect of his date of birth as 01.02.1958. The change of date of birth in service record is allowed within two years of entry into service according to Police Rules 9.7 and G.F.R-116. It has become a common practice with the civil servants to file suit for correction of date of birth when they come to the verge of retirement just to prolong their tenure for enjoying perks & privileges at the cost of others. Admittedly, the appellant joined the service in the year 1976 and passed his S.S.C held in March/April, 1976. It is beyond imagination that he was not in the knowledge of his actual date of birth despite the passage of more than 40 years.

# GOVERNMENT OF KHYBER PAKHTUN. ESTABLISHMENT DEPARTMENT (JUDICIAL WING)

No: SO(Lit-III)E&AD/3-23/2020 Dated: Peshawar, the 17th August, 2020

The Secretary to Govt. of Khyber Pakhtunkhwa, Information Department.

Peshawar.

Subject:

APPEAL NO. 5804/2020 - SYED ANWAR VS GOVERNMENT OF KHYBER PAKHTUNKHWA & OTHERS.

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith copy of Notice dated 27.07.2020, received from Registrar, Khyber Pakhtunkhwa, Service Tribunal Peshawar, with the request to depute an Officer (not below the rank of BPS-17) well conversant with the facts of the case to brief the Additional Advocate General, Khyber Pakhtunkhwa, Service Tribunal alongwith relevant record and to assist him before the Court on 18th September, 2020. The proceedings of the court may kindly be intimated to this Department accordingly for perusal of the Competent Authority, please.

(Encl: As Above:)

Yours faithfully,

Section Officer (Litigation-III)

#### Endst: of Even No. & Date:

Copy forwarded to the:-

1. P.S to Secretary, Establishment Department.

2. P.S to Special Secretary, Establishment Department.

3. P.A to Additional Secretary (Judicial), Establishment Department.

4. P.A to Deputy Secretary (Judicial), Establishment Department

5. Master file,

Section Officer (Litigation-III)

(2) (A) (A)

5. Keeping in view the above discussion, we do not find any merit in the present appeal which is hereby dismissed. With no order as to-costs. File be consigned to the record room.

ANNOUNCED. 24.06.2021

(Ahmad Sultan Tareen) Chairman (Rozina Rehman) Member (J)

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	Race Maslin
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	4. Father's name and residence Faz li Rahin as above
	5. Date of birth by Christian era as nearly as can be ascertained 1-7-1958.
	6. Exact height by measurement 5 _ &
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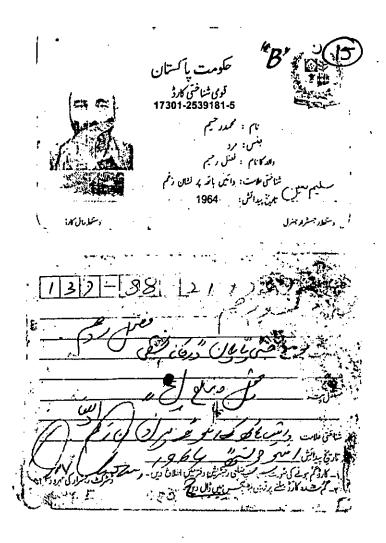
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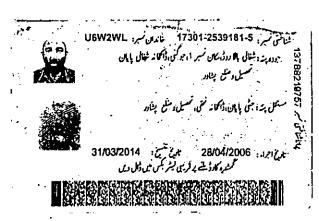
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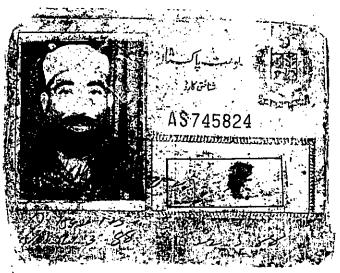
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### IN THE COURT OF SENIOR CIVIL JUDGE, PESHAWAR

Civil Suit No. /2020

Muhammad Raheem S/O Fazal Raheem R/O Shagyali Bala Road, House No 1, P.O Box Shagyali Payan, Teh: & Distt: Peshawar.

. Plaintiff

### VERSUS

1. Sectary to Health Department, Civil Secretariat, Peshawar

Institution Branch (Civil), New Judicial Complex, Peshawar

2. District Health Officer, Town II, Peshawar

3. Director General, A G P R, Peshawar Division, Peshawar

..... Defendants

- 4. Chairman NADRA, Islamabad.
- 5. Director General, NADRA, Islamabad.
- 6. Regional Director NADRA, Head office, Hayatabad, Peshawar

### ......<u>Preforma Defe</u>ndants

### **SUIT FOR:**

- A. Declaration to the effect that the plaintiff's actual date of birth is 01-01-1964 but the defendants No 1 3 have wrongly incorporated as 01-07-1958 and are reluctant to incorporated the correct Date of Birth as 01-01-1964 in the plaintiff's Service Record and such act of defendants No 1 3 are illegal, without lawful authority and is ineffective upon the rights of the plaintiff and may be declared as such.
- B. Mandatory / Directory injunction to the defendants No 1 3 that the defendants No 1 3 may kindly be directed to incorporate plaintiff's correct date of birth in their entire record.
- C. Permanent / Perpetual injunction against the defendants No 1-3 that the defendants No 1-3 may permanently be restrained from illegal act of not incorporating plaintiff's date of birth in their entire record.

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### Value for the purpose of Court Fee and Jurisdiction:

Cause of action accrued to the plaintiff against the defendants a few days ago when the defendants finally refused to incorporate plaintiff's Date of Birth.

### **Respectfully Sheweth:**

- 1. That the forefather as well as the plaintiff are the citizen / national of Pakistan by birth and are residents of Shagyali Bala Road, House No 1, P.O Box Shagyali Payan, Teh: & Distt: Peshawar. (Copies of CNIC are annexed)
- 2. That the plaintiff and his forefathers were / are illiterate and have no educational background.
- 3. That the plaintiff joined the health department on 09/06/1987 as Chowkidar. (copy of service certificate / record are annexed)
- 4. That the plaintiff actual date of birth is 01/01/1964 where the defendants No 1-3 have wrongly incorporated as 01/07/1958. Quel Which is mention in the chic of the flautity.
- 5. That, being citizen / national of Pakistan, by birth, it is the fundamental and Constitutional rights of the plaintiff's to have actual and correct service record.
- That the plaintiff have filed serval application to the DDHO and
   MO BHU of Jogani Town II Peshawar but in vein. (Copy of Application is attached)

- 7. That the defendants are legally and morally bound to incorporate the correct to the plaintiff, being the citizen / national of Pakistan.
- 8. That cause of action accrued to the plaintiff is within the jurisdiction of this Hon'ble court, hence this Honorable Court has got jurisdiction to adjudicate upon the matter.
- 9. That cause of action and value for the purpose of court fee and jurisdiction are correctly mentioned in the heading of the plaint.

It is, therefore, most humbly prayed that a decree as prayed for in the heading of the plaint may please be granted/ passed in favour of the plaintiff against the defendants with costs.

Any other relief under the facts and circumstances of the case, and this honorable court deems appropriate, may also be granted in favor of the plaintiff against the defendants.

Through

ruminAllah

ע*טומאונע)* Usman Ull על אוני

Abdul Haseeb

Advocates, Peshawar

Date: Aug 24, 2020 **VERIFICATION:** 

Verified on oath that the contents of this **Plaint** are true and correct to the best of my knowledge and belief.

### NOTE:

As per information supplied to me by my client, no such like plaint/suit has earlier been filed before this Honourable Count regarding the instant matter.

Instant civil suit has been filed by counsel for the plaintiffs who admitted the contents of the plaint as true and correct. It registered. Defendants be be summoned

16 / 10 /2020.

Rarveen, Civil Judge-IX/Duty Judge, Peshawar

Order..02 16.10.2020

> Plaintiff through counsel present. Defendants not present. Process not issued. Moharrir is warned to be careful in future. Fresh process be issued against defendants for

26/11/2020.

Civil Judge-IX,

Peshawar

3 ptho-16 v. 60° 4 N 2 pthosisti-16 So for 6 -16 00/1/2021 Postscript: 06/01/2021 Later on counsel for plaintiff moved an application for restraining the defendant from retiring the petitioner, placed on file. Notice of the application be issued to the defendant for date fixed. Nazia Parveen, Civil Judge-IX, Peshawar فر جعین مزریس و ملاح ملفر وا درم سند بداید بداید است انهادی هشرسیان نادر درفل شد. مرائے جواب دعمیٰ مخاب برداعلیم و تا ہ - بد المراسية المراس

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10/2/2021

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9/12/2020 issued vide No. 19333-38.
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Order...10 26/05/2021 (4)

Parties through counsel present. Arguments heard.

File to come up for order on 15/6/11

Nazia Parveen, Civil Judge-IX, Peshawar

### Order....11 15.06.2021

1.

Plaintiff through counsel present. Defendants No.1 to 3 through their representative present.

2. Today date was fixed for order on application of temporary injunction and maintainability of instant suit.

3. This order pertains to the decision of point of maintainability. Arguments of the learned counsel for parties were heard and record was perused.

Perusal of record reveals that plaintiff has instituted the suit for declaration and mandatory cum perpetual injunction for correction of his date of birth in the plaintiff's service record and CNIC. Defendants appeared before the court and submitted written statement.

Plaintiff is seeking rectification of his date of birth in his service record and it is well established from the available record that plaintiff is the employee in the Health

## ATTESTED

2 1 JUM 2021
(Examiner)
District Court Peshawar

### (order No.11 dated 15.06.2021 continued)

4

Department which is government institution. Mode of correction in the date of birth of civil servant is provided under the Civil Servants Rules, 1973 which was the part of the terms and condition of the service of a civil servant. Correction in the date of birth by a civil servant could not be done through a civil suit. Civil Servant has to approach Service Tribunal for alteration in his date of birth.

- 6. Thus, for the above reasons, the plaint is hereby returned to the plaintiff to file his suit at the appropriate forum having jurisdiction. Moharrir of the court is directed to do the needful. Original plaint and wakalat-nama be returned to plaintiff.
- 7. This file be consigned to record room after its necessary completion.

**Announced:** 15.06.2021

CERTIFIED TO BE TRUE COPY

Copying Agency District Court
Peshawar.

Nazia Parveen, Civil Judge-IX, Peshawar

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### باعث تحرير آنكه

مقدمه مندرج عنوان بالا میں اپی طرف سے واسطے پیروی وجواب دہی کاروائی متعلقہ کی وہا مہم کی طور استمام کی میں کی استمار کی میں کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدہ کی کل کاروائی کا کال افتیار ہوگا ، نیز و کیل صاحب کو راضی نامہ کرنے و تقر ر خالث و فیصلہ بر طف دیے جواب دعوی اقبال دعوی اور درخواست از ہرقتم کی تقدیق زریں پر دسخط کرنے کا افتیار ہوگا ، نیز بصورت عدم پیروی یا ڈگری کی طرفہ یا ائیل کی برآ مدگی اور منسوفی ، نیز دائر کرنے ائیل گرانی ونظر خانی و بیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدہ نہ کورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار تا تونی کو این ہمراہ یا این بجائے تقر ر کا افتیار ہوگا اور صاحب مقرر شیرہ کو وہی جملہ نہ کورہ با افتیارات حاصل ہوں کے اور اس کا ساختہ پر داختہ منظور و تبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانبہ التوائے مقدہ کے سبب سے ہوگا ۔کوئی تاریخ بیشی مقام دورہ یا حد سے دوران مقدمہ میں جو خرچہ ہر جانبہ التوائے مقدہ کے سبب سے ہوگا ۔کوئی تاریخ بیشی مقام دورہ یا حد سے بہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ بیروی نہ کورہ کریں ،لہذ وکالت نامہ لکھ دیا تاکہ سند رہے بہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ بیروی نہ کورہ کریں ،لہذ وکالت نامہ لکھ دیا تاکہ سند رہ

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مقد سدمندر بيرعنوان بالائتن ايزناطرف ستدائتكه بيروى وجواب دنائ كاروائن متعليق

كركاتر اركيا جاتا جركه صاحب موسوف كو مقده كى كل كاردائى كاكل اختياد بموكا م يغز ويكل صاحب كو رائى ما مدك في التي المرائع الله التقياد بموكا م يغز ويكل صاحب كو رائى ما مدك و ينه بجاب دمون التي المرائع كالدور و است اذ برقتم كى تصديق وري برمتخط كرني كا اختياد بموكا ، غيز الصورت عدم بجروى يا فرك يكم في يا اينيل كى برآمد كى اور منوق ، غيز المورت عدم بجروى يا فرك يكم في المؤل كى برآمد كالى يا بيزوى كرني مخالا ور المسورت خرورت تقده خكوره ككل يا بيزوى كرني مخالا ور المسورت خرورت تقده خكوره ككل يا بيزوى كرني ما اختياد بموكا يا ورائع بالمؤل كى والختياد بموكا اور صاحب منزو شده كو وى تبله خكوره با اختيادات حاصل مول كى اور السكام ماخت به واخته منظور و تبول بموكا وروران مقدم بيل بوخ چر بها خدالتواسة مقده كرني بهذه و كال مارين في مقام دوره يا عد سها بهرون خواست بار بمولا ويك صاحب يابند مد بهول كرك بيروى خكوره كري بهذه و كالت بارد كله ويا تاكه بهذه بهدا كرك بيروى خكوره كري بهذه و كالت بارد كله ويا تاكه بهذه بهدا كرك بيروى خكوره كري بهذه و كالت بارد كله ويا تاكه بهذه بهدا كرك بيروى خكوره كري بهذه و كالت بارد كله ويا تاكه بهذه بهدا كرك بيروى خكوره كري بهذه و كالت بارد كله ويا تاكه بهذه بهدا كرك بيروى خكوره كري بهذه و كالت بارد كله ويا تاكه بهذه بهدا كري بهدة و كالت بارد كله ويا تاكه بهذه بهدا كري بهدة و كالت بارد كله ويا تاكه بهذا بهدا كري بهدة و كلات بارد كله ويا تاكه بهذا بهدا كري بهدة و كلات بارد كري بارد و كالت بارد كري بارد كري بارد و كالت بارد كري بارد و كالت بارد كري بارد كري بارد و كالت بارد كله بارد كري بارد كري بارد كري بارد و كالت بارد كري بار

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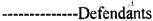
### CIVIL SUIT No 303/1

Muhammad Raheem

#### Versus

- 1: Secretary Health, Govt of Khyber Pakhtunkhwa Peshawar.
- 2: District Health Officer Town-II Peshawar.
- 3: Director General AG PR , Division, Peshawar.
- 4: Chairman NADRA Islamabad.
- 5: Director General NADRA, Islamabad .
- 6: Regional Director NADRA, Head office, Hayatabad, Peshawar.

Plaintiff



### WRITTEN STATEMENT ON BEHALF OF RESPONDENTS No.01 to 02

Respectfully Shewith,

### Preliminary Objections.

- The plaintiff has neither got any cause of action nor locus standi to file the instant suit.
- The plaintiff has not come to the court with clean hands.
- The plaintiff is bad for non joinder and mis joinder of the necessary parties.

### Reply on facts:-

- A. Pertaining to record.
- B. No comments.
- C. The plaintiff joined health department as Chowkidar in BPS-01 scale (440- 10-640) vide office order No.9566-70/phmi/LRH dated 24-06-1987: which is attached as Annexure-A.
- D. 100% incorrect.

As the plaintiff was appointed as Chowkidar by the Administrator of Lady Ready Hospital (Post graduate medical Institute) Peshawar dated 24-06-1987 which is ready attached as Annexure-A. Needless to mention that the plaintiff was not appointed by the defendants No.1&3.

- E. No comments.
- F. Pertaining to record.
- G. No comments.
- H. No comments.

I. No answer on behalf of answering defendant.

It is pertinent to mention here that the plaintiff worked for several years after appointment in Lady Reading Hospital Peshawar& transferred to District Peshawar in 1991 (as attached Annexure-B) after that he served in BHU Jogani District Peshawar till now.

It is therefore, most humbly prayed that the suit of the plaintiff be dismissed with cost throughout.

(18)

Respondent No.1& 2

Secretary Health Through
Deputy District Health Officer
Town-II, Peshawar.

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ATTESTED

21 JUN 2021

District Court Peshawar

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### IN THE COURT OF CIVIL JUDGE, PESHAWAR

Muhammad Raheem S/O Fazal Raheem CNIC#17301-2539181-5

(Plaintiff)

(28)

Secretary Health and others

(Defendants)

### APPLICATION FOR DELETION OF NAME OF DEFENDANT #4 to 6

VS

Respectfully Sheweth:

- 1. That the plaintiff applied for CNIC in the year 2006 from NRC Peshawar Cant and obtained SCNIC# 17301-4240543-5 and renewed his CNIC in the year 2015 and entered his date of birth 00-00-1964, according to policy of Nadra which is consider as 01-01-1964 which is correctly recorded in his CNIC data. (Record attached).
- 2. That no relief has been sought from the defendant# 4 to 6, therefore the impleading of defendant# 4 to 6 in the calendar of defendants is un-usefull.
- 3. That the plaintiff has no right to suit against the NADRA.

It is therefore humbly prayed on acceptance of this application the name of the defendant# 4 to 6 may please be deleted.

pefendan#4 to 6

Date: 63/93/2021

**Verification**: It is verified that the contents of the written statement are true and correct and nothing have been concealed from this honorable court.

ATTESTED

21/ 1/11 2021

District Court Pestinos





### GOVERNMENT OF PAKISTAN MINISTRY OF INTERIOR HEADQUARTERS NATIONAL DATABASE AND REGISTRATION AUTHORITY (NADRA)

NADRA, 10/2/05-(Legal)

Islamabad, 21" March, 2005.

### OFFICE ORDER

Pursuant to Section 37 of the National Database and Registration Authority Ordinance, 2000, (VIII of 2000), the Authority has been pleased a to muthorize and accordingly delegate its powers to all Assistant managers (Legal) Working in Hendquarters NADRA, Provincial Hendquarters, NADRA and Regional Headquarters NADRA to represent NADRA, to prosecute, defend in suits and proceeding, to sign and verify plaints pleadings, applications, petitions or documents before any court or technical; to expect, withdraw and receive documents from such court and tribanal; to apply for inspection and inspect documents and record; to obtain copies of documents and papers etc. To do generally, all acts relating to courts and tribunals except the Supreme Court of Pakistan.

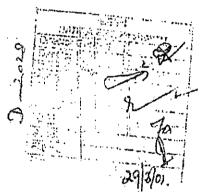
Assistant Director Legal NADRA-RHO Peshawar Khyber PakhtunKhwa

... Director Legal For Chairman NADRA Digital Reformationand appoint

Placelbudon.

1. All DGs PHQs/RHQs NADRA. (\*\*\*)

All DGs HQs NADRA. For information.



Y JUN 2021

(Examiner) District Court Peshawar





National Database and Registration Authority Reserrch and Development

homepage	regtrack	change password	family tree	minor info	personal info	logout

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				Export Date	04-12-2015
Printing Departi	ment	Distribution		Personal Infor	mation
Status	Date	Status	Date	Name	محمدرحيم
Printing Data No Available	ot	Distribution Data N Available	Noț	Father Name	محمدرحیم فضل رحیم
		·		Mother Name	حسن زری
				Date of Birth	00-00-1964
				House/Flat No.	1
				Mohallah/Stree	t null
				Sector	null

Neighborhood null

شغالی بالا روڈ

City/Village

جوگنی

Tehsil/Sub-Division /3/ پشاور

Post Office

شغالی پایان

Postal Code

null

پشاور District/Country

null

Sector



National Database and Registration Authority Reservan and Development

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homepage	regtrack	change password	family tree	minor info	personal info	logout

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27-05-

Card Accepted by Applicant **KHADIJA** 



**BIBI** from **CDC**-**Peshawar** 

2006

Neighborhood

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Further Details

شغالي بالا

روڈ

City/Village

Tehsil/Sub-Division

Post Office

شغالي پایان

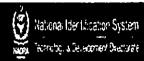
Postal Code

یشاور District/Country

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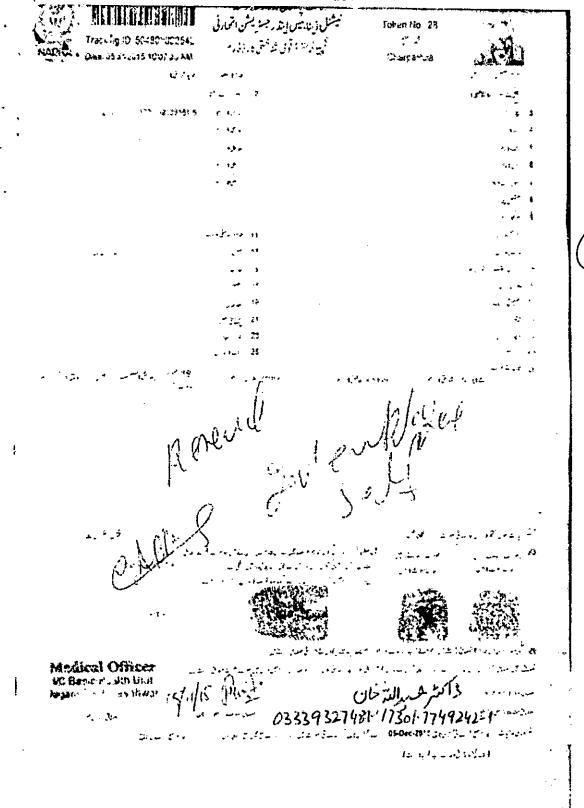
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ŧ	Daughter	Photo	17301-******4	CNIC	طيجيسي	معطربع	نسيم أحثر	0/0/1985	Processed	# Q	
ŧ	Son	Photo	17301-******-9	CRC TO CNIC	احترعان	معطرحيم	سيم اختر	1/2/1991	Processed	4 0	
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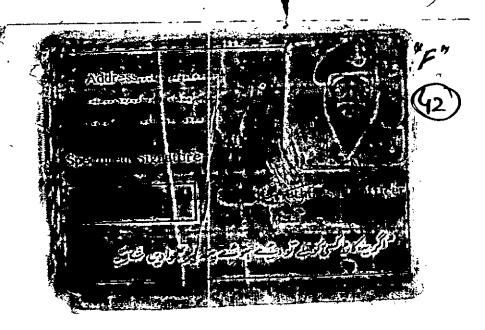
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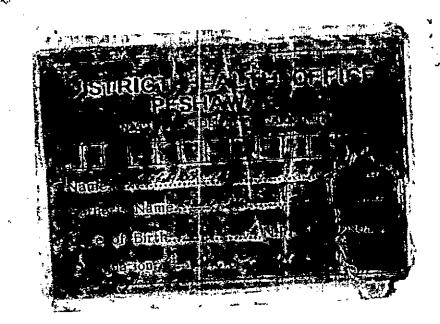




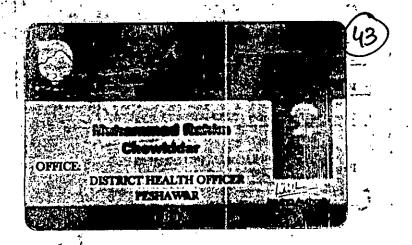








STATE OF STATE OF



Father / Husband Name: Fazzal Rahlm

CNIC No: 17301-2539181-5 Date of Birth 01-01-1964

Mark of Identification Nil St. See The Blood Group: Orive

Emergency Contact Number: 0313-9628629 B.P.S. 02

BHU-logani PO Bloodhali Bala
Present Address: District Postal Postal Bala
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# EMPLOYEE PROFILE



Form No: FI/EP/02-03/06-01	District: PESHAWAR.
NEW UPDATING Re	eporting Month: 01-10-05
This form should be filled and returned to the District Information Tec	• . •
employees. Please start by making the appropriate selection on the left	hnology Office by all government
	top corner.
Operational Tier: District i. Tehsil Functionary	
2. Group: Character of	
1. Office: Exective 11 Spaces Houlk	
, ,	
Personal Information	
5. Full Name: MOJIANIPIAD. RAHIM	6. Gender: [M] [F]
7. Date Of Birth (dd/mm/yy): 0/ - 0/ - 1564 8. Dom	icile: Peshamor (ALD FP)
9. NIC No (old): 137-88-219757	1
10. CNIC No (new):	
11. NT No (tax payer only):	
12 Marital Status	
, , , , , , , , , , , , , , , , , , ,	ndants:
14. Spouse Employment Status: Unemployed Government Pr	ivate Self-employed
Service Information	
15. Service Status: Permanent Daily wages Contingent paid	Ad-hoc Comract
16. Appointment Date (dd/mm/yy): 69-06-1987 17. Retirement Dat	te (dd/mm/yy); 01-01-2-0-2-1
18. Cadre: District	1 2 4
19. Computer Literate: Y N 20. Field of specialization:	Lawkeday
Present Posting	
23. BPS: 61 24. Increments:	Date (dd/mm/yy):007-06 1987

26. Allowances: Rs. 180

25. Basic Pay: Rs.

0313-9628629

27. Other: Rs.



# OFFICE OF THE DISTRICT HEALTH OFFICER PESHAWAR

Phone No. 091-9212911

(27)

# OFFICE ORDER

Mr. Mukammad Rahlm S/O Fazal Rahlm working as Chowkidar attached to Bill Joyani Peshawar under the control of undersigned hereby stands retired from Government service with effect from 30/06/2018 on the age of supermunition. According to his service book, his date of birth is 01/07/1958 and date of appointment as 24/06/1987.

He is also entitled for 365 days eneashment in Heit of 365 days. LPR and necessary sanction is hereby accorded to this effect.

Sd/xxxxxxxxx District Health Officer Peshawar

No. 19333 - 38/EDOH/IDCH

Desert Rosberge the: Q91 17 7020

### A copy is forwarded to the:

- 1. Accountant General Khyber Pakhtunkhwa Peshawar.
- 2. Director General Health Services Khyberpakhtunkhwa Pashawar.
- 3. DDHO Town II Peshawar.
- Medicul Officer BHU Jogani Peshawar.
  - 5. Accounts Section DHO Office Peshawar.
  - 6. Mr. Muhammad Rahim S/O Fazal Rahim For information and n/action

District Health Officer

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2/ Mil Zuzi

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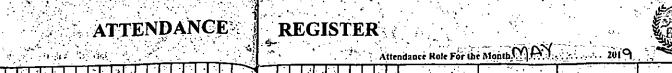




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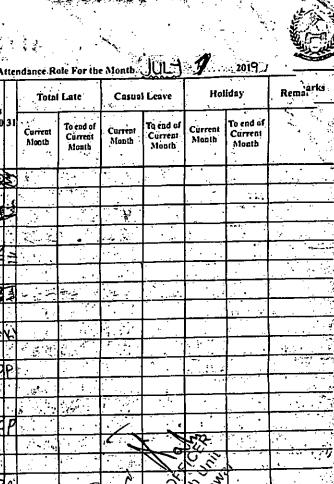
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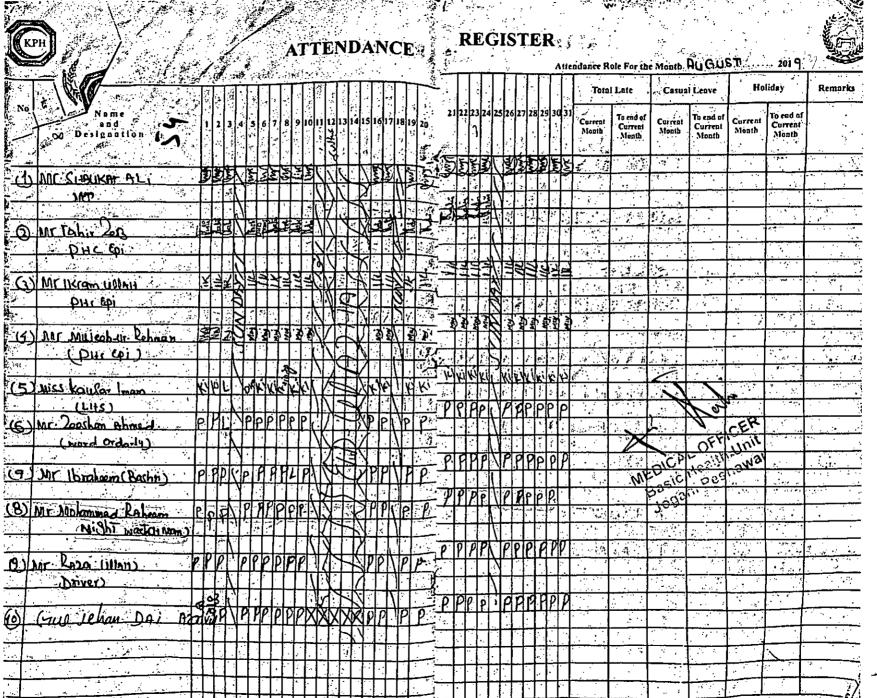
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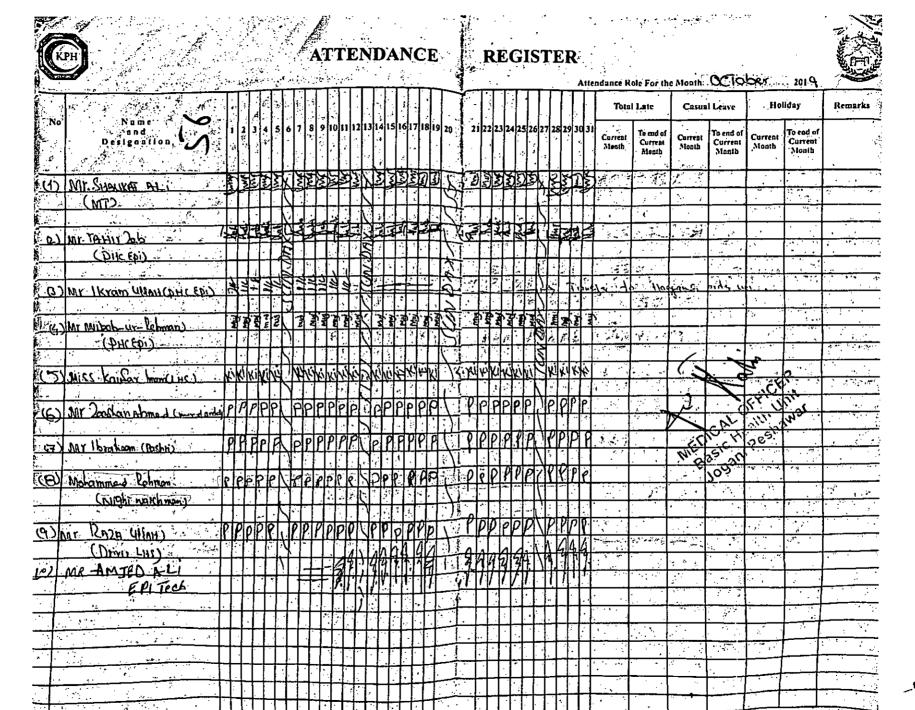
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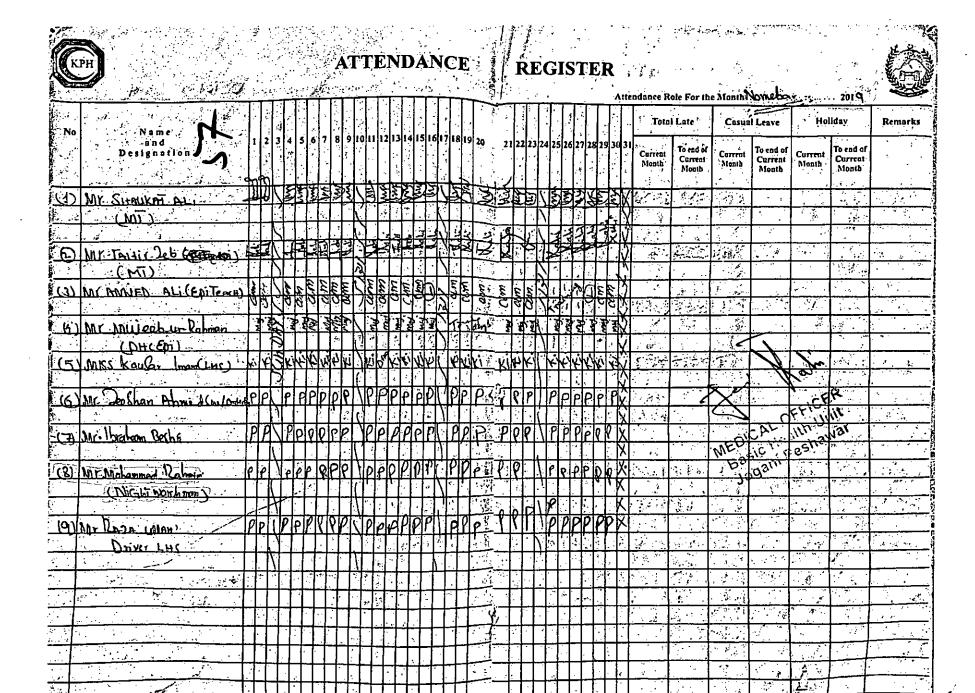


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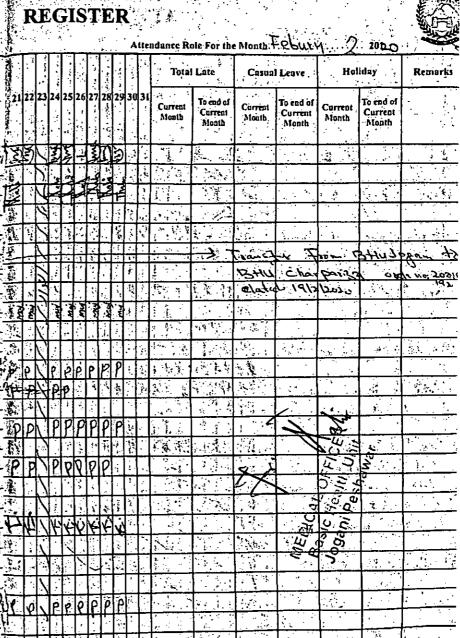
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# ATTENDANCES









# ATTENDANCE REGISTER



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# ATTENDANCE REGISTER



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### **ATTENDANCE**

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August 120,20



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### IN THE COURT OF HON'BLE CIVIL JUDGE, PESHAWAR

In reference

Muhammad Rahim

Secretary Health & Others

APPLICATION FOR SUSPENSION OF ORDER NO.19333-38 DATED 09.12.2020 ISSUED NO.19333-38/EDOH/IDCH DATED 09.12.2020.

Respectfully Sheweth:-

- 1. That the above titled case is pending adjudication before this Hon'ble Court and is fixed for w. 5 to day.
- 2. That the suit of the plaintiff was instituted on 24.08.2020 it has been noticed to defendants and consequently the defendants submitted their written statement on wherein no mention of the order dated 09.12.2020 which is impugned herein the instant application.
- 3. That office order dated 09.12.2020 has been issued during the pendency of suit and is liable to be suspended with further request that plaintiff may not be relieved till final disposal of the titled case wherein the exact date of birth of the petitioner/plaintiff is 01.01.1964.
- 4. That it would be in the best interest of justice that order dated 09.12.2020 may kindly be suspended.

It is, therefore, most humbly prayed that on acceptance of this application, that the order No. 19333-38/EDOH/IDCH dated 09.12.2020, communicated to the plaintiff in the first week of the February, may please be suspend till the final disposal of the case.

Through

ATTESTED

21/ 10/1 2021

Plaintiff

Nasruminallah

Advocate, Peshawar

# IN THE COURT OF CIVIL JUDGE, PESHAWAR

Muhammad Raheem Versus Secretary Health and others

Reply to the application on behalf of defendant no 1 & 2 for the suspension of order dated 09-12-2020.

### A. Preliminary objection:-

- 1. That the petitioner has no cause of Action to file the instant application against the answering defendants.
- 2. That the application is badly time barred hence not maintainable.
- 3. That this Honourble Court has got no Jurisdiction to entertain the present suit.

### B. Para wise reply.

- 1. Para no 1 needs no comments.
- 2. Para no 2 is totally incorrect hence denied, it is submitted that the order dated 09-12-2020 is per according to Law and Regulation and completion of his service tenure super nation.
- 3. Para no 3 is incorrect hence denied.
- 4. Para no 4 is totally incorrect hence denied that the order dated 09-12-2020 is according to the service Rules ad per super nation.

It is therefore, most humbly prayed that the application of the plaintiff be dismissed with cost throughout.

21 JUN 2021

District Court Peshawar

Respondent No.1& 2

Secretary Health Through
Deputy District Health Officer
Town-II, Peshawar.

Peshawar Dist.

P Sec: 004 Month: November 2020 PW6579 -DisttSuprtMngrPPHI-1522-2 Pers #: 00040176 Buckle: 0 "DisttSuprtMngr/PPHI-1522 MUHAMMAD RAHIM NTN: CHOWKIDAR GPF #: 016591 CNIC No.13701138074 Old #: 99991672646 GPF Interest Applied 02 Active Temporary PW6579 PAYS AND ALLOWANCES: 19,210.00 0001-Basic Pay 0046-Personal Pay (Maxim Grade) 1,320.00 1210-Convey Allowance 2005 1,785.00 1300-Medical Allowance 1,500.00 1516-Dress/ Uniform Allowance 150.00 1567-Washing Allowance 150.00 2148-15% Adhoc Relief All-2013 491.00 2199-Adhoc Relief Allow @10% 323.00 2224-Adhoc Relief All 2017 10% 2,053.00 2247-Adhoc Relief All 2018 10% 2,053.00 2264-Adhoc Relief All 2019 10% 2,053.00 GPF Balance 199,625.00 Subrc: 770.00

Total Deductions

3501-Benevolent Fund

4004-R. Benefits & Death Comp:

1,670.00

600.00

300.00

31,049.00

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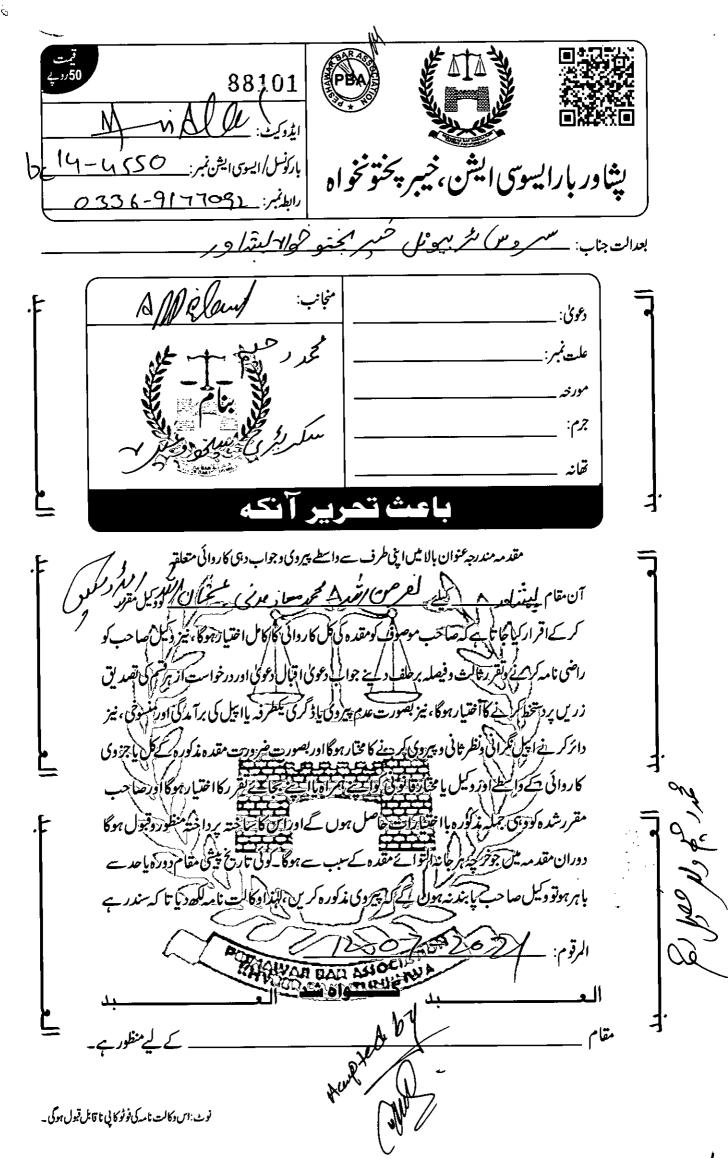
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33 Years 05 Months 008 Days

LFP Quota:

HABIB BANK LIMITED G.T.ROAD, PESHAWAR.

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# BEFORE THE SERVICE TIRBUNAL KHYBER PAKHTUNKHWA, PESHAWAR

Service No:- 7142 / 2021

Muhammad Raheem S/O Fazal Raheem R/P Shagyali Bala, House No. 1 PO Box, Shaggali Payan, Disctrict Peshawar.

Appellant

#### VERSUS

- 1. Secretary Health Department, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
- 2. Disctrict Health Officer, Town-II, Peshawar.
- 3. Director General AGPR, Khyber Pakhtunkhwa, Peshawar Division, Peshawar.
- 4. Chariman NADRA, Islambad.
- 5. Director General, Islamabad.
- 6. Regional Director NADRA, Head Office, Hayatabad, Peshawar.

Respondents

The appellant, Muhammad Raheem S/O Fazal Raheem was the employee of Provincial Health Department, which falls under the jurisdiction of Provincial Government. This office only entertains Federal employees. It is pertinent to mention here that the provincial employees are entertained by the office of Accountant General Khyber Pakhtunkhwa and they will be in better position to respond.

#### PRAYER:-

Keeping in view the above explained position, this office may kindly be excluded from the respondent list and Accountant General Khyber Pakhtunkhwa may be included for future proceedings.

ADDITIONAL ACCOUNTANT GENERAL: AGPR, SO, Peshawar

(Respondent No. 03)

# <u>BÉFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u> <u>PESHAWAR</u>

### Service Appeal No. 7142/2021.

Muhammad	Raheem
----------	--------

-----Appellant

#### Versus

- 1: Through Secretary Health, Govt of Khyber Pakhtunkhwa Peshawar.
- 2: District Health Officer, Town-II, Peshawar.
- 3: Director General AGPR Khyber Pakhtunkhwa Peshawar Division Peshawar.
- 4: Chairman NADRA, Islamabad
- 5: Director General, Islamabad.
- 6: Regional Director NADRA, Head Office, HayatAbad Peshawar.

-----Respondents

#### PARAWISE REPLY ON BEHALF OF RESPONDENTS No.01& 02.

### **Preliminary Objections:-**

- 1. The appellant has neither cause of action nor locus standi to file the instant appeal.
- 2. The appellant has not come to the court with clean hands.
- 3. The appeal is bad for mis joinder and non joinder of the necessary and proper parties.
- 4. That the instant appeal is barred by law and badly time barred.
- 5. That the appellant has been stopped being his own conduct to file the appeal.
- 6. That this Honourble Services Tribunal has no jurisdiction to adjudicate to matter.

#### Respectfully Shewith,

#### Reply on facts;

- Para No.1 Pertains to record, hence need no comments.
- Para No.2 Needs to be proceed.
- Para No.3 Incorrect, as per his services book, his date of birth is 01-07-1958.
- Para No.4 Incorrect, as per his services book, the correct date of birth is 01-07-1958 & his date of birth could not be altered or changed at this stage under GFR116.
- Para No. 5 Pertains to record.
- Para No. 6 Related to NADRA.
- Para No. 7 Incorrect, the instant appeal being badly time barred & is not maintainable.

#### Reply on Grounds:

:A: - Incorrect, as per para 4.

- Incorrect, under GFR 116 date of birth once recorded cannot be 8 subsequently altered or changed.
- Pertains to record, however another date of entry in his service card does not entitle him for changing his entry into services book.
- Pertains to record D: -
- Incorrect, as per para "B" E: -
- F: -Pertains to record, Hence detail reply has been given in above paras.
- Pertains to record, Hence the department has the right to recover the G: salaries, received by the appellant beyond his services.
- Incorrect, the reply respondents acted as per Law and Rules. H: -
- I: -Incorrect.
- That the respondent also seek permission to raise further points at the J: time of final Arguments.

It is therefore, requested that the services appeal in hand, being devoid of merits, may graciously be dismissed with cost.

Respondent No.01 Secretary Health Khyber Pakhtunkhwa Peshawar

Respondent No. 02 District Health Officer, Town-II Peshawar

Affordamit: That The contents of the Reply are true and correct and howing has been conceal from this Hyphoticul.

DEPONENT 17/01-0365818-9

# BÉFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

# Service Appeal No. 7142/2021.

### Muhammad Raheem

--Appellant

#### Versus

- 1: Through Secretary Health, Govt of Khyber Pakhtunkhwa Peshawar.
- 2: District Health Officer, Town-II, Peshawar.
- 3: Director General AGPR Khyber Pakhtunkhwa Peshawar Division Peshawar.
- 4: Chairman NADRA, Islamabad
- 5: Director General, Islamabad.
- 6: Regional Director NADRA, Head Office, HayatAbad Peshawar.

-----Respondents

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- B: Incorrect, under GFR 116 date of birth once recorded cannot be 8 subsequently altered or changed
- C: Pertains to record, however another date of entry in his service card does not entitle him for changing his entry into services book.
- D: Pertains to record
- E: Incorrect, as per para "B"
- F: Pertains to record, Hence detail reply has been given in above paras.
- G: Pertains to record, Hence the department has the right to recover the salaries, received by the appellant beyond his services.
- H: Incorrect, the reply respondents acted as per Law and Rules.
- I: Incorrect.
- J: That the respondent also seek permission to raise further points at the time of final Arguments.

It is therefore, requested that the services appeal in hand, being devoid of merits, may graciously be dismissed with cost.

Respondent No.01

Secretary Health

Khyber Pakhtunkhwa Peshawar

Respondent No. 02

District Health Officer, Town-II

Peshawar

# <u>BÉFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u> <u>PESHAWAR</u>

# Service Appeal No. 7142/2021.

### Muhammad Raheem

----Appellant

#### Versus

- 1: Through Secretary Health, Govt of Khyber Pakhtunkhwa Peshawar.
- 2: District Health Officer, Town-II, Peshawar.
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- 4: Chairman NADRA, Islamabad
- 5: Director General, Islamabad.
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-----Respondents

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- D: Pertains to record
- E: Incorrect, as per para "B"
- F: Pertains to record, Hence detail reply has been given in above paras.
- G: Pertains to record, Hence the department has the right to recover the salaries, received by the appellant beyond his services.
- H: Incorrect, the reply respondents acted as per Law and Rules.
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It is therefore, requested that the services appeal in hand, being devoid of merits, may graciously be dismissed with cost.

Respondent No.01
Secretary Health

Khyber Pakhtunkhwa Peshawar

Respondent No. 02

District Health Officer, Town-II

Peshawar