

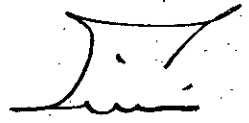
29.06.2022

Nemo for the appellant. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Muhammad Irfan, Assistant for the respondents present.

Previous date was changed on Reader Note, therefore, notice for prosecution of the appeal be issued to the appellant as well as his counsel through registered post and to come up for further proceedings as mentioned in order sheet dated 13.12.2021 before the D.B on 06.10.2022.



(Rozina Rehman)
Member (J)



(Salah-ud-Din)
Member (J)

06.10.2022

Counsel for the appellant present. Mr. Muhammad Adcel Butt, Additional Advocate general respondents present.

Counsel for the appellant made a request for adjournment on the ground that he has not prepared the brief. Adjourned. To come up for arguments on 07.12.2022 before D.B.



(Mian Muhammad)
Member (E)



(Kalim Arshad Khan)
Chairman

7th Dec. 2022

Nemo for the appellant. Mr. Muhammad Riaz Khan Painsdakhel, Assistant Advocate General alongwith Khalid Aziz, ASO for the respondents present.

02. Called several times, till rising of the court but nobody turned up on behalf of the appellant. The appeal is, therefore, dismissed in default. Consign.

03. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 7th day of December, 2022.*



(Fareeha Paul)
Member(E)



(Rozina Rehman)
Member(J)

SCANNED
KPST
Peshawar

Counsel was telephonically informed for the date fixed on 06/10/2022 on 26/09/22

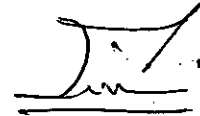
13.12.2021

Learned counsel for the appellant present. Mr. Irfan Anjum, Assistant alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Representative of the respondents stated that pension case of the appellant is under process and is going to be finalized in near future and sought further time for completion of process. Adjourned. Representative of the respondents is directed to produce copies of documentation/correspondence regarding pension papers of the appellant on the next date. To come up for further proceedings on 08.03.2022 before the D.B.



(Atiq-ur-Rehman Wazir)
Member (Executive)



(Salah-ud-Din)
Member (Judicial)

8-3-22 Due to Retirement of the Honble Chairman
the case is adjourned to 29-6-22

of order
Retired

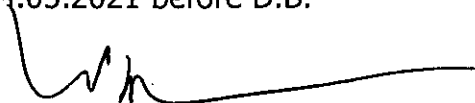
13/12/2021
12:00 PM
1284/2017

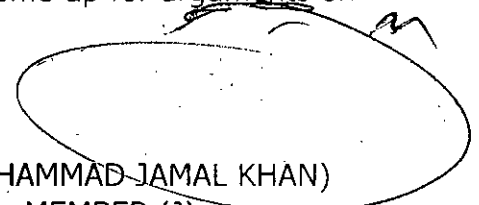



04.02.2021

Counsel for the appellant and Mr. Kabirullah Khattak learned Addl. AG for the respondents present.

Learned counsel representing appellant submitted that the pension case of the appellant is under process and is going to be prepared in near future and sought time for completion of the process. The case is adjourned, however, respondent No.1 is directed to depute a representative well conversant with the facts of case and rendering assistance to the Tribunal on the next date. To come up for arguments on 04.05.2021 before D.B.


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

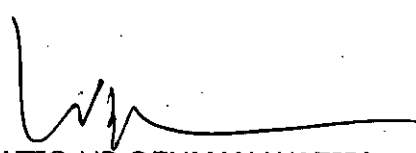

(MUHAMMAD JAMAL KHAN)
MEMBER (J)

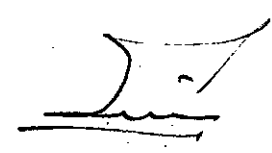
4.5.21 due to COVID-19, the case is adjourned to 2.9.2021 for the same. 

02.09.2021

Mr. Zafar Ali Khan, Advocate, Advocate for the appellant present. Mr. Usman Ghani, District Attorney for the respondents present.

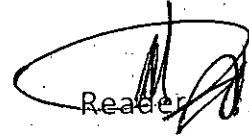
Learned counsel for the appellant requested for adjournment on the ground that he has not ^{made} met preparation for arguments. Adjourned. To come up for arguments before D.B on 13.12.2021.


(ATIQ UR REHMAN WAZIR)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

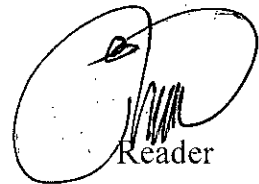
13.5 2020

Due to COVID19, the case is adjourned to
5/8 2020 for the same as before.


Reader

05.08.2020


Due to summer vacation case to come up for the same on
06.10.2020 before D.B.


Reader

06.10.2020

Representative of appellant on behalf of appellant present.
Mr. Kabir Ullah Khattak learned Additional Advocate
General for respondents present.


Lawyers are on general strike, therefore, the case is
adjourned to 24.11.2020 for arguments, before D.B.


(Atiq ur Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)


24.11.2020

Due to non-availability of D.B, the case is adjourned to
04.02.2021 for the same as before.


Reader

13.03.2020

Counsel for the appellant present. Asst: AG
alongwith Mr. Muhammad Irfan, Assistant and Mr.
Sajid, Supdt: for respondents present. Learned counsel
for the appellant seeks adjournment. Adjourned. To
come up for arguments on 13.05.2020 before D.B.



Member



Member

04.12.2019

Learned counsel for the appellant present. Mr. Usman Ghani learned District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 04.02.2020 before D.B.



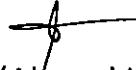
(Hussain Shah)
Member



(M. Amin Khan Kundi)
Member

04.02.2020

Due to general strike of Khyber Pakhtunkhwa Bar Council, learned counsel for the appellant is not available today. Mr. Kabirullah Khattak, Additional AG for the respondents present. Adjourned to 13.03.2020 for arguments before D.B.



(Ahmad Hassan)
Member



(M. Amin Khan Kundi)
Member

~~Learned counsel for the appellant present. Mr. Usman Ghani learned District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 04.02.2020 before D.B.~~

~~(Hussain Shah)
Member~~

~~(M. Amin Khan Kundi)
Member~~

22.07.2019

Learned counsel for the appellant and Mr. Muhammad Jan learned DDA for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 17.09.2019 before D.B.


(Hussain Shah)
Member

(M. Amin Khan Kundi)
Member

17.09.2019

Learned counsel for the appellant and Mr. Zia Ullah learned DDA present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 29.10.2019 before D.B.


Member


Member

29.10.2019

Clerk to counsel for the appellant present. Addl: AG alongwith Mr. Shafique, Senior Clerk and Mr. Akhtar Hussain, Assistant for respondents present. Clerk to counsel for the appellant seeks adjournment due to general strike of the bar. Adjourned. Case to come up for arguments on 04.12.2019 before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member


12.03.2019

Clerk of counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Zakiullah, Senior Auditor for respondents No. 8 present. Written replies on behalf of respondents No. 2 to 6 & 8 have already been submitted. Neither written reply on behalf of respondents No. 1 & 7 submitter nor their representatives present therefore, notice be issued to respondents No. 1 & 7 with the direction to direct the representative to attend the court and submit written reply on the next date by way of last chance. - Adjourned. To come up for written reply/comments on behalf of respondents No. 1 & 7 on 16.04.2019 before S.B.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

16.04.2019

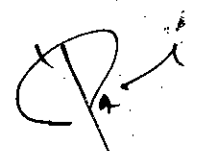
Clerk to counsel for the appellant present. Written reply on behalf of respondents No.1 & 7 is still awaited. Rehmat Khan Superintendent representative present and seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on 22.05.2019 before S.B.


Member

22.05.2019

Clerk to counsel for the appellant present. Written reply on behalf of respondents No.1 & 7 not received. Sajjad Superintendent representative of respondent No.1 absent.

The present service appeal pertaining to the pensionary benefits is lingering on at the stage of reply since 26.02.2018. The present case be therefore assigned to D.B for further proceedings. Respondents No.1 & 7 as well as the absent representative be put to notice for submission of reply on the next date before D.B. Adjourn. To come up for further proceedings on 22.07.2019 before D.B.


Member

26.09.2018

Appellant Akram Khan in person present. M/S Allah Nawaz, SDO for respondents No. 2 to 6 and Zakiullah, Senior Auditor for respondent No. 8 alongwith Mr. Kabirullah Khattak, Addl. AG for the respondents present. Learned Addl. AG requested for adjournment to file written reply on behalf of respondents No. 1 and 7. Granted. To come up for written reply of respondents No. 1 and 7 on 14.11.2018 before S.B.


Chairman

14.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 02.01.2019. Written reply not received. M/S Allah Nawaz SDO and Zakiullah Senior Auditor representatives of respondents absent.


READER

02.01.2019

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Written replies on behalf of respondents No. 2 to 6 & 8 have already been submitted. None present on behalf of respondents No. 1 & 7 therefore, notice be issue to respondents No. 1 & 7 with the direction to direct the representative to attend the court and submit written reply on the next date positively. Adjourned. To come up for written reply/comments on behalf of respondents No. 1 & 7 on 12.03.2019 before S.B.


Muhammad Amin Khan Kundi
Member

10.05.2018

The Tribunal is non-functional due to retirement of our Hon'ble Chairman. Therefore, the case is adjourned. To come up for same on 05.07.2018.


Reader

05.07.2018

Appellant in person and Mr. Sardar Shoukat Hayat, Addl: AG alongwith Mr. Allah Nawaz, SDO for the respondents No. 2 to 6 present. Written reply submitted on behalf of official respondents No. 2 to 6. Remaining respondents requested for adjournment. Adjourned. To come up for written reply/comments on behalf of respondents No. 1, 7 & 8 on 07.08.2018 before S.B.


Member

07.08.2018

Appellant and his counsel were absent, however, clerk of counsel for the appellant present. Mr. Allah Nawaz, SDO for respondent no.2 to 6 and Mr. Zakiullah, Senior Auditor for respondent no.8 alongwith Mr. Kabirullah Khattak, Addl: AG for respondents present. Written reply on behalf of respondent no.8 submitted which is placed on file. Case to come up for written reply/comments of respondents no. 1 and 7 before S.B on 26.09.2018.


Chairman


26.02.2018

Counsel for the appellant and Addl: AG for respondent present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply on 13.03.2018 before S.B.


(Ahmad Hassan)
Member(E)

13.03.2018

Clerk of the counsel for appellant present. Mr. Riaz Paindakhel, Assistant AG alongwith Mr. Zakiullah, Senior Auditor for the respondents present. Written reply not submitted. Clerk of the counsel for appellant submitted an application for the correction of address of respondent No. 4 alongwith copies of memo appeal. Application is accepted. Thereafter fresh notices be issued to the respondents No. 4. To come up for written reply/comments on 12.04.2018 before S.B.


(M. Hamid Mughal)
Member

12.04.2018

Appellant absent. Junior counsel present on behalf of appellant. Mr. Kabir Ullah Khattak, Addl. AG present. Zakiullah, Senior Auditor (Representative) of the respondent department is also absent. Therefore, fresh notices be issued to the respondent department to attend the court positively. Written reply not submitted on behalf of respondents. Requested for adjournment. Adjourned. To come up for written reply/comments on 10.05.2018 before S.B.


Member

11.01.2018

Counsel for the appellant present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was appointed as Chowkidar in Public Health Engineering Department vide order dated 27.06.1995 on contract basis. It was further contended that the appellant was regularized on 30.07.2008 and he was retired from service on 30.06.2015 vide order dated 01.07.2015. It was further contended that according to rule 2.2 of West Pakistan Civil Services Pension Rules, 1963 when an employee remained for more than five years in service on contract or adhoc basis the same will be counted for pensionary benefits but the department is not paying pension to the appellant. It was further contended that the appellant also filed departmental appeal after some delay but since the matter pertains to the monetary benefits therefore, limitation does not run in such like matters. It was further contended that the department is legally bound to pay pension to the appellant and to count such service of the appellant remained in service on contract basis.

The contentions raised by learned counsel for the appellant need consideration. The appeal is admitted for regular hearing subject to limitation and all legal exceptions. The appellant is directed to deposit security and process fee within 10 days, thereafter notice be issued to the respondents for written reply/comments for 26.02.2018 before S.B.

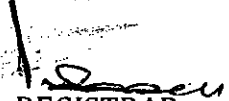

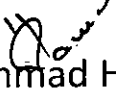
Appellant Deposited
Security & Process Fee


(Muhammad Amin Khan Kundi)
Member

FORM OF ORDERSHEET

Court of _____

Case No. 1284/2017

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	16/11/2017	<p>The appeal of Mr. Akram Khan presented today by Mr. Zafar Ali Khan Advocate, may be entered in the Institution Register and put up to Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 16/11/17</p>
2-	17/11/17	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>19/12/17</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	19.12.2017	<p>None present on behalf of the appellant. Case called but no one appeared on behalf of the appellant. Adjourned. To come up for Preliminary hearing on 11.01.2018 Before S.B</p> <p style="text-align: center;"> (Muhammad Hamid Mughal) MEMBER</p>

+

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL

PESHAWAR

S.A.No. 1284 /2017

Akram Khan..... Appellant

Versus

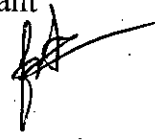
Govt of K.P through Secretary Finance and othersRespondents

I N D E X

S.No.	Description of documents.	Annexure	Pages.
1	Memo of appeal.		1-3
2	Affidavit.		4
3	Addresses of the parties.		5
4	Copy of the appointment order	A	6
5	Copy of service book	B	7-15
5	Copy of retirement order	C	16
6	Copy of departmental appeal.	D	17
7.	Wakalatnama		18

Appellant

Through



ZAFAR ALI KHAN

Advocates High Court Peshawar
Off: 214 Syed Ahmad Ali Building
Near Taj Autos, Sunehri Masjid
Road, Peshawar Cantt.
Office No.091-5279292
Cell: 0306-5965853
0333-9349442

Dated: 09.11.2017

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL.

PESHAWAR

Khyber Pakhtukhwa
Service Tribunal

S.A.No. 1284 /2017

Diary No. 1323

Dated 16-11-2017

Akram Khan s/o Shah Wazir Khan

R/o Aral Hathi Khel, District Bannu *Appellant*

VERSUS

- 1) Government of Khyber Pakhtunkhwa, through Secretary Finance Civil Secretariat, Peshawar.
- 2) Government of Khyber Pakhtunkhwa, through Secretary Public Health Civil Secretariat, Peshawar.
- 3) Chief Engineer Public Health Department, Peshawar ~~Fort Road, Peshawar Cantt.~~ *Circle Peshawar Hayatabad, Phase I, near PDA office, Peshawar.*
- 4) Superintendent Engineer Public Health, Department ~~Fort Road, Peshawar Cantt.~~ *Bannu.*
- 5) Executive Engineer Public Health, Bannu.
- 6) Sub-Divisional Engineer Public Health, Bannu.
- 7) District Account Officer, Bannu
- 8) Accountant General, Fort Road, Peshawar Cantt, Peshawar.

.....*Respondents*

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE RESPONDENT WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS NOT BEEN DECIDED AND THE STIPULATED PERIOD HAS BEEN PASSED.

Filed to-day
[Signature]
Registrar
16/11/17

Prayer:

On acceptance of this appeal, the appellant may kindly be declared entitled for the pension, gratuity and other benefits and direct the respondents to issue pension, gratuity and other benefits immediately.

Respectfully Sheweth;

Appellant humbly submits as under:

- 1) That appellant was appointed as Class-IV Chowkidar on dated 27.06.1995. (Copy of the order is Annexed as Annexure "A").
- 2) That later on the services of the appellant was regularized, as BPS-01 on 30.08.2008. (Copy of service book is Annexure "B").
- 3) That the appellant has been retired from service on 30.06.2015 vide order No.1661/E-16/PHE . (Copy of the order is Annexure "C").
- 4) That appellant moved departmental appeal to the respondent No.2 for the issuance of pension, gratuity and other benefits on dated 25.07.2017 but still has not been decided by the respondents and the stipulated period has been passed. (Copy of departmental appeal is Annexure "D").
- 5) That aggrieved with, appellant has come before this Hon'ble Tribunal in this appeal on the following grounds amongst the others for a direction to the respondents to issue pension along with other benefits to the appellant.

GROUND:

- a. That the respondent is not issuing pension, gratuity and other benefits to the appellant is against the facts and untenable in law.
- b. That the appellant has served in the education department for a period of almost 20 years, therefore, according to law and rules of services the appellant is entitled for the pension, gratuity and other benefits.

- c. That the respondents failed to appreciate the real point involved in the case in its perspective. Hence has arrived at an incorrect conclusion.
- d. That by not awarding/ issuing the pension to the appellant, respondents are violating the terms and conditions of service as well as the service laws and rules.
- e. That by not issuing the pension benefits to the appellant, respondents are violating the fundamental rights of the appellant because there is no source of income of appellant except this pension etc.
- f. That the respondents by not issuing the pension to the appellant are exercising the powers not vested to them under the law.
- g. That the non-disposal of departmental appeal by the respondents is perversant and against the settled principle of law and justice.

It is, therefore, requested that on acceptance of this appeal, the appellant may kindly be declared entitled for the pension, gratuity and other benefits and direct the respondents to issue pension, gratuity and other benefits immediately.

Any other relief which this Hon'ble Tribunal deems appropriate in the circumstances of the case and not specifically asked for may kindly also be granted.

Appellant

Through

ZAFAR ALI KHAN
Advocate High Court Peshawar

CERTIFICATE:

Certified as per information furnished by my client that no such like appeal has earlier been filed before this Hon'ble Tribunal.

ZAFAR ALI KHAN
Advocate

4

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL

PESHAWAR

S.A.No. _____/2017

Akram Khan..... Appellant

Versus

Govt of K.P through Secretary Finance and othersRespondents

AFFIDAVIT

I, Akram Khan s/o Shah Wazir Khan R/o Aral Hathi Khel, District Bannu Bannu do hereby affirm and declare on oath that the contents of the accompanying **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this hon'ble court.


Deponent

5

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR

S.A.No. _____/2017

Akram Khan..... Appellant

Versus

Govt of K.P through Secretary Finance and others Respondents

ADDRESSES OF THE PARTIES

APPELLANT:

Akram Khan s/o Shah Wazir Khan
R/o Aral Hathi Khel, District Bannu

RESPONDENTS:

- 1) Government of Khyber Pakhtunkhwa, through Secretary Finance Civil Secretariat, Peshawar.
- 2) Government of Khyber Pakhtunkhwa, through Secretary Public Health Civil Secretariat, Peshawar.
- 3) Chief Engineer Public Health Department, Peshawar Fort Road, Peshawar Cantt.
- 4) Superintendent Engineer Public Health, Department Fort Road, Peshawar Cantt.
- 5) Executive Engineer Public Health, Bannu.
- 6) Sub-Divisional Engineer Public Health, Bannu.
- 7) District Account Officer, Bannu
- 8) Accountant General, Fort Road, Peshawar Cantt, Peshawar.

Appellant

Through



ZAFAR ALI KHAN
Advocate High Court Peshawar

Personal No 364892

Date Of Appointment: 27-06-1995

Name Akram Khan

Chowkidar

DDO BU6012

Public Health Engineering

Upgraded to Civil Servant under NWFP Civil Servant Act 1973 and awarded BPS-1 (Pay and Allowances are fixed since the date of appointment with no arrear upto 30-06-2008); Vide Deputy Secretary Budget-IV Govt: of NWFP Finance Department Peshawar No. BO-1/1-22/2007-08/FD Dated 29-01-2008

Pay Scale 1994 BPS-1 (1245 - 35 - 1770)

Rs. 1245/- PM	w.e.f. 27-06-1995
Rs. 1280/- PM	w.e.f. 01-12-1996
Rs. 1315/- PM	w.e.f. 01-12-1997
Rs. 1350/- PM	w.e.f. 01-12-1998
Rs. 1385/- PM	w.e.f. 01-12-1999
Rs. 1420/- PM	w.e.f. 01-12-2000

Pay Scale 2001 BPS-1 (1870 - 55 - 3520)

Rs. 2145/- PM	w.e.f. 01-12-2001
Rs. 2200/- PM	w.e.f. 01-12-2001
Rs. 2255/- PM	w.e.f. 01-12-2002
Rs. 2310/- PM	w.e.f. 01-12-2003
Rs. 2365/- PM	w.e.f. 01-12-2004

Pay Scale 2005 BPS-1 (2150 - 65 - 4100)

Rs. 2735/- PM	w.e.f. 01-07-2005
Rs. 2800/- PM	w.e.f. 01-12-2005
Rs. 2865/- PM	w.e.f. 01-12-2006

Pay Scale 2007 BPS-1 (2475 - 75 - 4725)

Rs. 3300/- PM	w.e.f. 01-07-2007
Rs. 3375/- PM	w.e.f. 01-12-2007

Pay Scale 2008 BPS-1 (2970 - 90 - 5670)

Rs. 4050/- PM	w.e.f. 01-07-2008
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Annex A

PK
ATTESTED

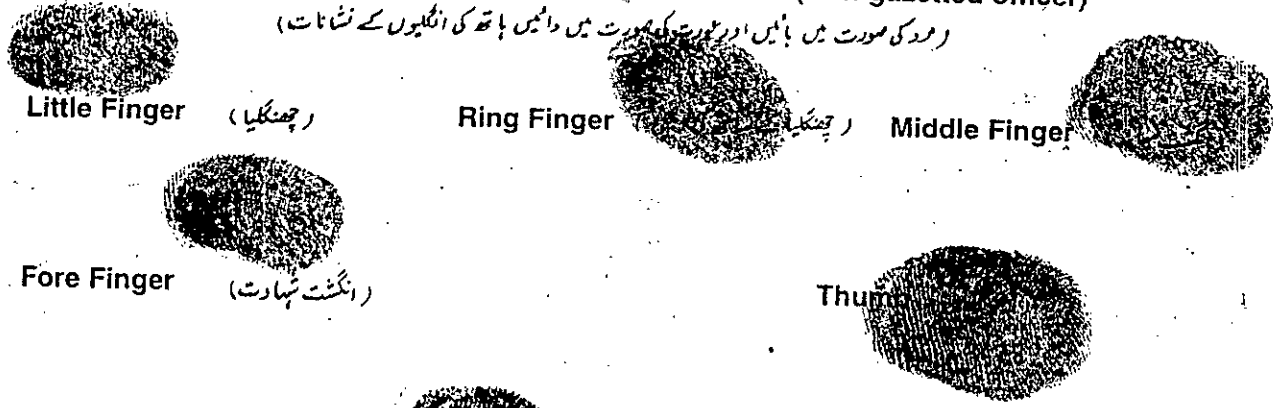
Drawn.
7350

Annex "B" (7)

1. Name (نام) Akram Khan
2. Nationality and Religion Islam
(قومیت اور مذہب)
3. Residence (مستقر/رہائش) village Patool khel P/O
Domal Teh: and Distt: Bannu.
4. Father's name and residence Shah Wazir Khan
(والد کا نام اور پتہ)
5. Date of birth by Christian era as nearly as can be ascertained 1955
(تاریخ پیدائش مطابق سن عیسوی)
6. Exact height by measurement _____
(قد و قامت)
7. Personal mark of identification mark on left Eye
(نشان شناخت)

8. Left hand/right hand thumb and finger-impressions of (Non-gazetted officer)

(مرد کی صورت میں بائیں اور سورت میں دائیں ہاتھ کی انگلیوں کے نشانات)



9. Signature of Govt. Servent



10. Signature and designation of the Head of the Office or other Attesting officer

Sub Divisional Officer
Public Health Engineering
Sub Division Bannu

Attested
[Signature]
Divisional Head Clerk
BPS-16 Public Health Engg.
Division Bannu

Note: The entries in this page should be re-attested at least every five years and the signatures in lines 9 and 10 should be dated. Finger prints need not be taken after every 5 years under this rule.

اس صفحہ کے مندرجات کم از کم پانچ سال بعد تصدیق ہونا ضروری ہیں اور نمبر 9-10 میں دستخطوں کے نیچے تاریخ ہونی چاہیے انگلیوں کے نشانات کے لئے ہر پانچ سال کے بعد کی تصدیق کی ضرورت نہیں۔

ATTESTED

1	2	3	4		5		6	7	8
Name of Post	Whether Substantive or officiating and whether permanent or temporary	If officiating state- (i) substantive appointment or (ii) whether service counts for pension under rule 3-20 of C.S.R. (Pb.) Volume II	Pay in substantive position		Additional pay for officiating		Other emoluments falling under the term pay	Date of appointment	Signature of Government servant
			Rs.	Ps.	Rs.	Ps.			
درجہ ملازمت	عارضی مستقل یا قائم مقام	اگر عارضی ہے تو کیا وہ رول کے مطابق پیش کش کا مستحق ہے	نخواہ بطور عارضی ملازمت		زائد نخواہ بطور قائم مقام		ماسوائے نخواہ دیگر الاؤنس	تاریخ تقرری	دستخط سرکاری ملازم
1200 P.M	Temp.	Ofptg.	1200/- P.M					16/6/55	
Sub Divisional Officer Public Health Engineering Sub Division Bannu.									
Chhoti Das	Fixed Pay Basis								
-do-	-do-		Rs. 1500/- P.M					01/03/57	FN
-do-	-do-		Rs. 1800/- P.M					01/05/59	FN
-do-	-do-		Rs. 2000/- P.M					01/07/59	FN
-do-	-do-		Rs. 2500/- P.M					01/09/59	FN
-do-	-do-		Rs. 2800/- P.M					01/07/59	FN
-do-	-do-		Rs. 3100/- P.M					01/12/59	FN
-do-	-do-		Rs. 3500/- P.M					01/07/59	FN
-do-	-do-		Rs. 4000/- P.M					01/11/56	FN

ATTESTED

10

9	10	11	12		13			
Signature and designation of the Head of the office or other attesting officer in attestation of column 1 to 8	Date of termination or appointment	reason of termination (such as promotion, transfer, dismissal etc.)	Signature of the head of the office or other Attesting officer	Nature and duration of leave taken	Allocation of period of leave of average pay up to four months (or earned leave not exceeding 120 days) to which leave salary is debit to another Government		Signature of the Head of the office or other attesting Officer	Refer any records punishment or censure, or reward or praised of the Government servants
دستخط افسر مجاز	تاریخ انقطاع ملازمت	دروان انقطاع ملازمت ترقی تبادلہ یا برطرفی	دستخط افسر مجاز	رضعت کی نوعیت وسیما	چار ماہ کی رخصت کے لئے اوسط تنخواہ کا تعین	Period Government to which debit	دستخط افسر مجاز	سزایا جزا یا غیر مناسب کارکردگی کا ریکارڈ
<p>Appointment as a Chowkidar on WSS: Aral Hathi khel (Gulabichan) on Fixed Pay 1200/- Per month vide XER PHE: Dinn: office order no 01-05/E-10 dt. 19/6/95 and Arrival Report of duty</p>								
<p>Consolidation entry of an 27/6/95 increase in basic pay scale</p>								
<p>official employed on Basic pay scale removed by Provincial Govt for time to time with entry</p>							<p>Sub Divisional Officer Public Health Engineering Sub Division Bannu.</p>	
<p>S/D Finance Deptt - notification NOV and date</p>							<p>Increase in pay with effect from</p>	<p>to from</p>
28/02/97 AN	1	FD (PRC) 1-3/97 dt. 02-07-97			1200/-	1500/-	01-03-97	
30/06/2000	2	B-1/1-22/98-99/FD dt. 30-6-99			1500/-	1800/-	01-05-99	
31/08/02 AN	3	B-1/1-22/94-95/FD dt. 2-8-2000			1800/-	2000/-	01-07-2000	
30/06/03 AN	4	B-1/1-22/2002-3/FD dt. 25-9-2002			2000/-	2500/-	01-09-2002	
30/11/04 AN	5	BoI/1-22/03-04/FD dt. 05-9-03			2500/-	2800/-	01-07-2003	
30/04/05 AN	6	BoI/1-22/04-05/FD dt. 07-9-05			2800/-	3100/-	01-12-2004	
30/05/05 AN	7	BoI/1-22/05-06/FD dt. 21-11-05			3100/-	3500/-	01-07-2005	
31/10/06 AN	8	BoI/1-22/06-07/FD dt. 15-11-06			3500/-	4000/-	01-11-2006	

ATTESTED

Assistant District Officer
Works and Services (W & S)
Bannu

7	8	9	10	11	12		13	14	15
	Signature of Government servant	Signature and designation of the Head of the office or other attesting officer in attestation of column 1 to 8	Date of termination or appointment	reason of termination (such as promotion, transfer, dismissal etc.)	Signature of the head of the office or other Attesting officer	Nature and duration of leave taken	Allocation of period of leave of average pay up to four months (or earned leave not exceeding 120 days) to which leave salary is debitible to another Government	Signature of the Head of the office or other attesting Officer	Reference to any recorded punishment or censure, or reward or praised of the Government servants
	دستخط سرکاری ملازم	دستخط افسر مجاز	تاریخ انقضاء ملازمت	وجوہات انقضاء ملازمت تیار نہ پیر طری	دستخط افسر مجاز	رخصت کی نوعیت و سیارہ	چار ماہ کی رخصت کے لئے اوسط تنخواہ کا تعین Period Government to which debitible	دستخط افسر مجاز	سزا یا جزا یا غیر مناسب کارکردگی کا ریکارڈ
<p>Retired from Service w.e.f 30-6-2015 (AM), vide Executive Engineer P.H.E. Deras Bannu office order no. 168/12-16/PHE dater 1-7-2015.</p> <p>Sub Divisional Officer PUBLIC HEALTH ENGINEER DIVN BANNU</p> <p>Service was paid from 1-12-2014 to 30-6-2015 from the office copy of Pay Bill/Prq. Roll.</p> <p>Service regularized vide New PHE Division office order no 23/E-16/PHE dt. 5/1/2016</p> <p>Sub Divisional Officer PUBLIC HEALTH ENGINEER DIVN BANNU</p> <p>ATTESTED</p>									



OFFICE OF THE EXECUTIVE ENGINEER,
PUBLIC HEALTH ENGG: DIVISION BANNU

Ar
"C"

16

Ph/Fax#0928-9270049, E-mail:xenphedivision.bannu@gmail.com

No. 1661 /E-16/PHE

Dated Bannu, the 1 / 07/2015

OFFICE-ORDER

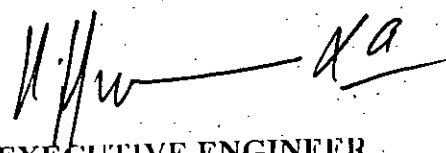
As recommended by Sub-Divisional Officer Public Health Engineering Sub-Division Bannu vide letter No. 01-02/E-16 dated 24/07/2015, on attaining the Age of Superannuation i.e. 60 (Sixty) Years Mr. Akram Khan S/O Shah Wazir Khan Chowkidar on AM&R Water Supply Scheme Aral Hathi Khel District Bannu is hereby retired with effect from 30/6/2015 (AN)

Sanctioned to the grant of 365-Days encashment in lieu of leave preparatory to retirement is also accorded under revised level Rule-1981.

EXECUTIVE ENGINEER,

Copy to:

1. The District Accounts Officer Bannu.
2. The DAO (Local) Bannu.
3. The SDO PHE Sub-Division Bannu with reference to above.
4. Official concerned.


EXECUTIVE ENGINEER,

~~ATTESTED~~

LEFT HAND THUMB AND FINGER
IMPRESSIONS.....

Civil

دیپارٹمنٹل اپیل "D" Annex

Secretary P.W.E. Dept:
Dairy No. 234
Dated: 25-07-17

من ایبلانٹ محکمہ سٹاک بلڈنگ بنوں میں بطور چوکیدار
لخنتاں ہوا تھا جو کہ مورخہ 30/6/2015 کو ساٹھ سالہ پر
محکمہ مذکورہ سے ریٹائرڈ ہوا بیوں من ایبلانٹ نے محکمہ
مذکورہ میں تقریباً 20 سال ملازمت کی ہے اور
ایک ڈپٹی افسر طریف سے تک ہے لہذا
ایبلانٹ بحالوں سال ملازمت پیشہ وغیرہ کا
حصہ رہوں لہذا من ایبلانٹ کو پیشہ وغیرہ جاری
رکنا حکم صادر فرمایا جائے کیونکہ من ایبلانٹ اب اس
عمر میں کوئی کام نہیں کر سکتے ہیں جو کہ پیشہ
وغیرہ میں من ایبلانٹ کا مانگنا حق ہے
اس لئے عازما بیوں من ایبلانٹ کو پیشہ وغیرہ
جاری رکنا حکم صادر فرمایا جائے

آرام خان ولد شاہ وزیر خان سکندر اہل خانہ
ڈاکٹر ڈومیل کھیل ونگ لاہور

ATTESTED

BEFORE THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL, PESHAWAR.

Prof
13-3-2018

S.A.No.1284/2017

Akram Khan.....Appellant

Versus

Govt. of K.P through Secretary Finance and others.....Respondents

**APPLICATION FOR BRINGING ON
RECORD THE CORRECT ADDRESS
OF RESPONDENT NO.4.**

Respectfully Sheweth;

- 1) That the above noted appeal is pending adjudication before this Hon'ble Tribunal and fixed for today i.e. 13.03.2018.
- 2) That as per directions of this hon'ble Tribunal, the correct address of respondent No.4 is as under:

**Superintendent Engineer Public Health Department circle
Peshawar Hayatabad, Phase-I, near PDA office, Peshawar**

It is, therefore, requested that correct address of respondent mentioned above may kindly be brought on record and served accordingly.

Petitioner

Through



Zafar Ali Khan
Advocate, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL, PESHAWAR.

S.A.No.1284/2017

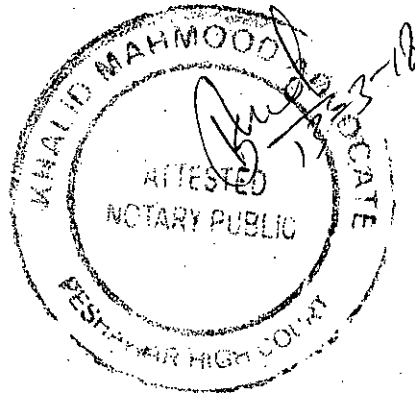
Akram Khan.....Appellant

Versus

Govt. of K.P through Secretary Finance and others.....Respondents

AFFIDAVIT

I, Akram Khan s/o Shah Wazir R/o Aral Hathi Khel, District Bannu do hereby affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



اکرام خان
Deponent

BEFORE THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL, PESHAWAR.

S.A.No.1284/2017

Akram Khan.....Appellant

Versus

Govt. of K.P through Secretary Finance and others.....Respondents

**APPLICATION FOR BRINGING ON
RECORD THE CORRECT ADDRESS
OF RESPONDENT NO.4.**

Respectfully Sheweth;

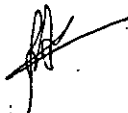
- 1) That the above noted appeal is pending adjudication before this Hon'ble Tribunal and fixed for today i.e. 13.03.2018.
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**Superintendent Engineer Public Health Department circle
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Petitioner

Through



Zafar Ali Khan
Advocate, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL, PESHAWAR.

S.A.No.1284/2017

Akram Khan.....Appellant

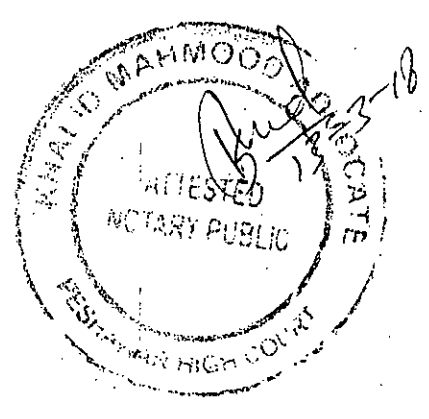
Versus

Govt. of K.P through Secretary Finance and others.....Respondents

AFFIDAVIT

I, Akram Khan s/o Shah Wazir R/o Aral Hathi Khel, District Bannu do hereby affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

اکرام خان
Deponent



OFFICE OF THE SUPERINTENDING ENGINEER
PUBLIC HEALTH ENGINEERING CIRCLE PESHAWAR
PLOT NO. 40/B-II PHASE-V, HAYATABAD, PESHAWAR.
PHONE NO. 091-9219564

NO. 02 / C-1/SE

Dated Peshawar the 3 / 04 / 2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 386

Dated 05/04/2018

To

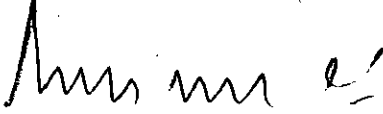
The Registrar,
Khyber Pakhtunkhwa Service Tribunal
Peshawar.

Subject: - APPEAL NO: 1284 OF 2017 IN RESPECT OF MR. AKRAM KHAN V/S
GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH SECRETARY FINANCE
ETC.


It is submitted that the subjected case received to this office is pertaining
to PHE Circle Bannu.

Therefore it is requested that the same may be sent to PHE Circle Bannu
for further necessary action please.

DA/As above


Superintending Engineer
PHE Circle, Peshawar

Put up to the court with
relevant app. d.


5/4/18

Daddy

BEFORE THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL, PESHAWAR.

S.A.No.1284/2017

Akram Khan.....Appellant

Versus

Govt. of K.P through Secretary Finance and others.....Respondents

**APPLICATION FOR BRINGING ON
RECORD THE CORRECT ADDRESS
OF RESPONDENT NO.4.**

Respectfully Sheweth;


- 1) That the above noted appeal is pending adjudication before this Hon'ble Tribunal and fixed for today i.e. 13.03.2018.
- 2) That as per directions of this hon'ble Tribunal, the correct address of respondent No.4 is as under:

**Superintendent Engineer Public Health Department circle
Peshawar Hayatabad, Phase-I, near PDA office, Peshawar**

It is, therefore, requested that correct address of respondent mentioned above may kindly be brought on record and served accordingly.

Petitioner

Through


Zafar Ali Khan
Advocate, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL, PESHAWAR.

S.A.No.1284/2017

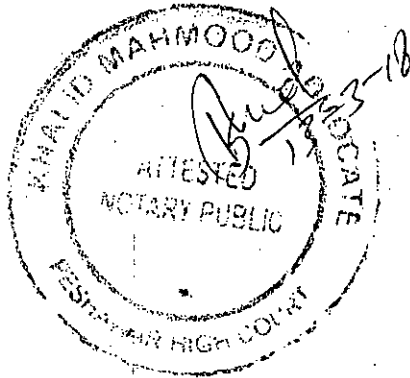
Akram Khan.....Appellant

Versus

Govt. of K.P through Secretary Finance and others.....Respondents

AFFIDAVIT

I, Akram Khan s/o Shah Wazir R/o Aral Hathi Khel, District Bannu do hereby affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



Khalid Mahmood
Deponent

No. 204/AMC
7/5/2018

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 1284/2017

Akram Khan Ex-Chowkidar

(Appellant)

VERSUS

Secretary to PHE Department & other

(Respondent)

Respectfully Sheweth:-

Preliminaries objection from Respondent No.2 to 6

1. That the appellant has no locus standing and cause of action.
2. That this court has no jurisdiction to adjudicate the matter.
3. That the appellant has not come to this honorable tribunal with clean hand.
4. That the appellant has been estopped by his own conduct to file the appeal.

Para-wise reply / comments on behalf of respondents

1. **Para No-1** is correct to the extent to the entry in Service Book vide which the appellant was appointed as Chowkidar on Water Supply Scheme Aral Hathi Khel vide Executive Engineer, Public Health Engg: Division Bannu appointment office order No. 01-05/E-16 on fixed pay basis (1st page of Service Book photo copy attached). **Annexure-A**

2. **Para No-2** of the petition it is stated that Policy for appointment of all Class-IV employee on fixed pay basis introduced with effect from 04/11/1992. Later on, in light of policy 2008 their pay was fixed just like a regular employee from the date of initial appointment. However their salary was fixed from initial appointment. (Finance Department Notification copy attached). **Annexure-B**

3. **Para No-3** is correct.

4. **Para No-4** is correct. In this context FD letter No. BOI/FD/1-22/2008-09 dated 30/07/2008 all the Class-IV fixed pay employees have been regularized in BPS-01 and giving them the status of Civil servant with effect from 01/07/2008 (But not from the date of their appointment) as per provision of section 19 of the Civil servant Act 1973 (read with Civil servants) (Amendment Act 2005. Under the Act ibid. These employees are entitled for contributory, provident Fund (C.P Fund) instead of Pension / Gratuity and G.P.Fund. (Photo copy of Finance Department letter attached). **Annexure-C**

Recently Peshawar High Court Peshawar decided that fix pay employees are regular from 01/07/2008 in writ petition No. 1224/2015 (Photo copy attached).

Annexure-D

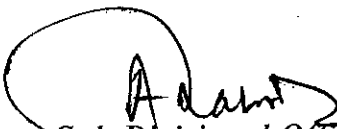
Gratuity case of the petitioner is sent to District Accounts Office Bannu vide this office letter No. 106/E-16 dated 22/01/2016 for collection of gratuity, but the petitioner are not trying to collect the pension gratuity. (Photo copy attached).


Annexure-E

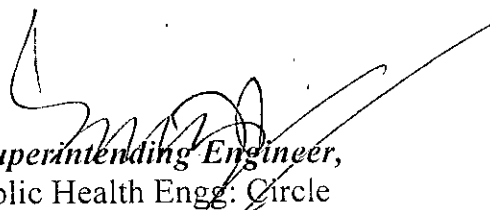
GROUNDS:-

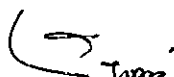
- a). Para No.a is incorrect. Detailed reply has been given in Para No-4.
- b). Para No.b is correct to the extent that the appellants served in the Department of the respondents.
- c). Para No.c is incorrect.
- d). Para No.d is also incorrect.
- e). Para No.e is incorrect.
- f). Para No.f is incorrect.
- g). Para No.g is incorrect.

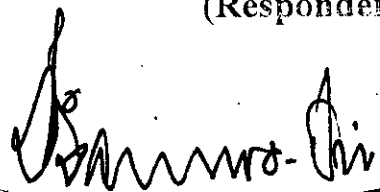
It is humbly prayed that this Honorable court may graciously be pleased to dismiss the service appeal of the appellants against respondents.


Sub-Divisional Officer,
Public Health Engg: S/Division
Bannu
(Respondent No.06)


Executive Engineer,
Public Health Engg: Division
Bannu
(Respondent No.05)


Superintending Engineer,
Public Health Engg: Circle
Bannu
(Respondent No.04)


Chief Engineer (South),
Public Health Engg: Deptt:
K.P.K Peshawar
(Respondent No.03)


Secretary,
Govt: of Khyber Pakhtunkhwa
PHE Department Peshawar
(Respondent No.02)

7790
170
7960

SERVICE BOOK

11120
260
11380
260
11640

148,4628

7790
170
7960

1200

P. No. 364882

Name اسم خان

Father's Name والد کا نام شاہد عزیز

Qualification موسس

Designation والٹر شپ

Department مک P.H.D. Kanwar.

Permanent Address ستقل پتہ

Signature and Designation of the Head of the Government or other
 Signature and Designation of the Head of the office or other
 Signature and Designation of the Head of the office or other
 Signature and Designation of the Head of the office or other

9	10	11	12	13	14	15	
Signature and Designation of the Head of the office or other in attestation of column 1 to 8	Date of termination or appointment	reason of termination (such as promotion, transfer, dismissal etc.)	Signature of the head of the office or other Attesting officer	Nature and duration of leave taken	Allocation of period of leave of average pay up to four months (or earned leave not exceeding 120 days) to which leave salary is debitable to another Government	Signature of the Head of the office or other attesting Officer	Reference to any recorded punishment or censure, or reward or praised of the Government servants
					چار ماہ کی رخصت کے لئے اوسط تنخواہ کا تعین Period Government to which debitable		
دستخط انسپرجنرل	تاریخ انقطاع ملازمت	وجوہات انقطاع ملازمت ترقی تیار لاریپٹری	دستخط انسپرجنرل	رخصت کی نوعیت وسیار		دستخط انسپرجنرل	سزایا جزا یا غیر مناسب کارکردگی کا ریکارڈ
				Appointment as a Chowkidar on WSS: Arsal Hattai Khan (Ganabichan) on Fixed pay 1200/- per month vide XE-PHE: Dinn office order no 01-05/E-10 dt. 19.6.95 and Annual Report of duty consolidated entry of no 27-6/95 increase in basis pay scale appropriate employed in basis pay scale removed by provincial Govt from time to time with effect from 01-07-97 S/PD Finance Deptt notification No- and date			
	04 AN 20-97	1	FD (PRC) 1-3/97 dt. 02-07-97		1200/-	1500/-	01-03-97
	06 AN 20-2000	2	B-1/1-22/98-99/FD dt. 30-6-99		1500/-	1800/-	01-05-99
	08 AN 31-02-2000	3	B-1/1-22/94-95/FD dt. 2-8-2000		1800/-	2000/-	01-07-2000
	06 AN 30-03-2002	4	B-1/1-22/2002-3/FD dt. 25-9-2002		2000/-	2500/-	01-07-2002
	03 AN 30-03-2003	5	BoI/1-22/03-04/FD dt. 08-9-03		2500/-	2800/-	01-07-2003
	04 AN 30-11-2004	6	BoI/1-22/04-05/FD dt. 07-9-05		2800/-	3100/-	01-12-2004
	04 AN 30-04-2005	7	BoI/1-22/05-06/FD dt. 21-11-05		3100/-	3500/-	01-07-2005
	05 AN 31-10-2006	8	BoI/1-22/06-07/FD dt. 15-11-06		3500/-	4000/-	01-11-2006

Assistant District Officer
 Works and Services (W & S)
 Dinnu

حکومت صوبہ سرحد
محکمہ خزانہ

مراسلہ نمبر: بی۔ او۔ ا۔ ا۔ ۱۱۲۲/۵۸-۲۰۰۷-۲۰۰۷/ایف۔ بی۔ ڈی
✓ مورخہ ۲۹ جنوری، ۲۰۰۸ء

بخدمت:

- ۱۔ تمام انتظامی معتمدین حکومت صوبہ سرحد۔
- ۲۔ معتمد برائے گورنر صوبہ سرحد، پشاور۔
- ۳۔ پرنسپل سٹاف آفیسر برائے وزیر اعلیٰ صوبہ سرحد۔
- ۴۔ تمام سربراہان ماتحت محکمہ جات صوبہ سرحد۔
- ۵۔ تمام ضلعی رابطہ افسران صوبہ سرحد۔
- ۶۔ رجسٹرار پشاور ہائی کورٹ، پشاور۔
- ۷۔ رجسٹرار، سرحد ٹریبیونل، صوبہ سرحد، پشاور۔
- ۸۔ سیکرٹری، صوبائی پبلک سروس کمیشن، صوبہ سرحد، پشاور۔
- ۹۔ سیکرٹری بورڈ آف ریویو، صوبہ سرحد۔

عنوان: بجٹ تقریر ۵۸-۲۰۰۷ میں درجہ چہارم کے مقررہ تنخواہ پانے والے (Fixed pay) ملازمین کے لیے سی۔ بی۔ پی۔ فنڈ کا اعلان۔

جناب عالی!

مجھے ہدایت کی گئی ہے کہ عنوان بالا کا سوال دیتے ہوئے عرض کروں کہ صوبائی حکومت نے تمام درجہ

چہارم (مقررہ تنخواہ Fixed pay) پانے والے ملازمین کو یکم جولائی ۲۰۰۸ء سے این۔ ڈبلیو۔ ایف۔ بی۔ سول ملازمین ایکٹ ۱۹۷۳ء کے تحت سول ملازمین کا درجہ دیگر بنیادی سکیل (BPS-1) دینے کی منظوری دی ہے۔

۲۔ مذکورہ ملازمین کی تنخواہوں کا ٹین (Fixation of pay) ان کی بھرتی کے تاریخ (Date of

Appointment) سے کیا جائے گا۔ تاہم یہ ملازمین جنہوں کو ملازمت کے وقت کسی قسم کی تاخیر (arrears) کے حقدار نہیں ہو سکے۔

۳۔ اس سلسلے میں پہلے سے جاری شدہ تمام پالیسی رہنمائی یکم جولائی ۲۰۰۸ء سے منسوخ تصور

ہو گئے۔

آپ کا مخلص

(شرافت خان ربانی)
نائب معتمد (میزائینہ ۴)

ANNEXURE-7
7/c
4

GOVERNMENT OF NWFP
FINANCE DEPARTMENT

No. 801/FD/1-22/2008-09/
Dated Peshawar, the 30/7/2008

To

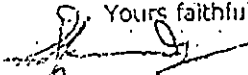
The Accountant General,
NWFP, Peshawar.

Subject: BUDGET SPEECH 2007-08 CONVERSION OF FIXED PAY CLASS-IV
INTO REGULAR BPS-1 CP FUND SCHEME.

Dear Sir,

I am directed to refer to your letter No.H.24(85)/Kohistan/Vol-II/851 dated 18/6/2008 on the subject noted above and to clarify that all the Class-IV Fixed Pay Employees have been regularized in BPS-1 giving them the status of Civil Servant with effect from 1st July 2008 (but not from the date of their appointments) as per provision of Section 19 of the Civil Servant Act, 1973 (read with Civil Servants (Amendment) Act, 2005). Under the Act ibid, these employees are entitled for Contributory Provident Fund (C.P. Fund) instead of Pension/Gratuity and G.P. Fund. Since length of service of the employees was at variance, therefore, in order to meet the demand of natural justice, fixation of pay has been allowed to them with effect from the dates of appointment bringing their salaries at par with the respective length of service. However, they shall not be entitled for arrears of pay and allowances as clarified in the instructions. So, it is confirmed that they are entitled for CP Fund instead of Pension/Gratuity and GP Fund, unless otherwise provided in the relevant Rules/Regulations.

Yours faithfully,


Fida Muhammad
Budget Officer-I

Encl No. & Date even:

Copy is forwarded w/r to Finance Dept's circular letter No. 801/1-22/2007-08/FD dated 29/1/2008, for information & necessary action to:-

- 1) All Administrative Secretaries to Government of NWFP
- 2) Secretary to Governor, NWFP, Peshawar
- 3) Principal Secretary to Chief Minister, NWFP, Peshawar
- 4) All District Coordination Officers in NWFP
- 5) All Heads of Attached Departments in NWFP
- 6) The Registrar, Peshawar High Court, Peshawar
- 7) The Registrar, NWFP Service Tribunal, Peshawar
- 8) The Secretary Provincial Assembly, NWFP, Peshawar
- 9) The Secretary, Board of Revenue, NWFP, Peshawar
- 10) All District Accounts Officers in NWFP
- 11) All Budget/Section Officers in Finance Department, Peshawar


BUDGET OFFICER-I

OFFICE OF THE ACCOUNTANT GENERAL NWFP PESHAWAR

No.H-24(113)/RBPS-2006-07/Prov: Corresponds file/906 Dated: 07-08-2008

Copy of the above is forwarded for information and necessary action to all concerned.

1. All DAOs/AAOs in NWFP.
2. All Payrolls Section (..).
3. Pw to DAGs.
4. Pension (M).

211
A.C
22

Judgment Sheet

PESHAWAR HIGH COURT
PESHAWAR

(Judicial Department)

Writ Petition No. 1224-P/2015

Habib ur Rehman

Versus

Chief Secretary to Govt: of KPK and others.

Date of hearing. 10.01.2018

Petitioner By *Shahid Khan Advocate*

Respondents. By *Officer addn in charge of the P.A.S.*

JUDGMENT

MUSARR AT HILALI:- The instant writ petition has been filed by the petitioner under Article 199 of the Islamic Republic of Pakistan, 1973 praying that a writ may be issued to respondents to release the pension and pensionary benefits to the petitioner without any further delay.

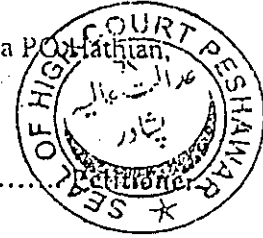
2. Brief facts, as per averments of the writ petition are that the petitioner worked as Chowkidar in the Education Department from 1.09.1998 to 11.5.2012

1
BEFORE THE HON'BLE PESHAWAR HIGH COURT, PESHAWAR

W.P.No. 1224-P /2015

Habib ur Rahman S/O Mahabat Khan R/O Libas Khan Koroonia P.O. Hathiyan,

Tehsil Takht Bhai, District Mardan



VERSUS

1. Chief Secretary to Govt. of Khyber Pakhtunkhwa, Peshawar.

2. The Secretary, Education Department, Govt. of Khyber Pakhtunkhwa Peshawar.

3. Divisional Education Officer Mardan.

4. Executive District Education Officer, Mardan

5. Accountant General, Khyber Pakhtunkhwa, Peshawar.

6. Secretary Finance Govt. of K.P.K Peshawar
..... Respondents.

7. Districts Accounts Officer Mardan

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

PRAYER IN WRIT.

ON ACCEPTANCE OF THIS PETITION, THE AN APPROPRIATE
DIRECTION BE ISSUED TO RESPONDENTS TO issue/ RELEASE THE
PENSION AND PENSIONERY BENEFITS TO THE PETITIONER
WITHOUT ANY FURTHER DELAY.

FILED TODAY

ATTESTED
EXAMINER
Peshawar High Court

and at the age of 60, a sanction letter regarding his retirement from Executive District Office (E&S) Education Mardan was issued on 01.05.2012. That despite of fulfillment of all the codal formalities, the respondents are reluctant to release the pension and pensionary benefits to the petitioner. Feeling aggrieved with the actions of respondents, the instant writ petition has been filed.

Arguments of learned counsel for the parties heard and record perused.

3. The case of petitioner is that he served the respondent department from 01.09.1998 till 11.5.2012, however, on his retirement, he was not paid pension till date. Comments were called from the respondents which were accordingly submitted wherein they have submitted that since the petitioner was a fix pay employee, therefore, he is not entitled to the pension/pensionary benefits as per the relevant rules/policy. The same has been clarified by the letter of Government of NWFP Finance Department. No. BO

Law

ATTESTED
EXAMINER
Peshawar High Court
23 JAN 2018

1/FD/1-22/2008-09 dated 30.07.2008 addressed to the Accountant General, NWFP, Peshawar in the following terms:-

~~All the Class-IV fixed Pay Employees have been regularized in BPS-1, giving them the status of Civil Servant with effect from 1st July, 2008 (but not from the date of their appointments) as per provision of Section 10 of the Civil Servant Act, 1973 (read with Civil Servants (Amendment) Act, 2005). Under the Act ibid, these employees are entitled for Contributory Provident Fund (C.P. Fund) instead of Pension/Gratuity and G.P. Fund.~~

4. In view of the above, the petitioner being fix pay employee is not entitled to the relief prayed for i.e. release of pension and pensionary benefits. In the circumstances, the instant writ petition being devoid of merit stands dismissed.



Announced on;
Dated. 10.01.2018

(Signature)
JUDGE
(Signature)
11
JUDGE

No. 6614
D.B Hon'ble Mr. Justice Waqar Ahmad Seth and Hon'ble Justice Musarrat Hilali
Date of Presentation of Application 11/1/18
No of Pages 1-1
Copying Fee
Urgent Fee
Total 16-00
Date of Presentation of Copy 03/1/18

CERTIFIED TO BE TRUE COPY
Examiner
Peshawar High Court, Peshawar
Authorized Under Article 27 of
The Constitution of the Islamic Republic of Pakistan Order 1984
23 JAN 2018

Ammesur-E

OFFICE OF THE EXECUTIVE ENGINEER
PUBLIC HEALTH ENGG: DIVISION BANNU.

NO 106 /E-16/PHE

Dated Bannu 22/04/2016

To

The District Account Officer,
Bannu.

Subject:-

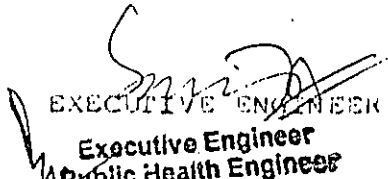
PENSION PAPERS IN RESPECT OF MR. AKRAM KHAN

CHOWKIDAR OF THIS DIVISION.

The pension papers in respect of above named Chowkidar complete in all respect along with original Service Book (in two parts) is sent herewith for favour of further necessary action please.

DA:

Pension papers with
Original Service Book.


EXECUTIVE ENGINEER
Executive Engineer
Public Health Engineer
Division Bannu

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 1284/2017

Akram Khan Ex-Chowkidar

(Appellant)

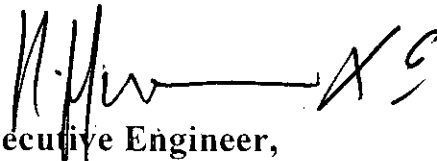
VERSUS

Secretary to PHE Department & other

(Respondent)

INDEX

S.No	Particular of Documents	Annexure	Page
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4	FD Urdu Notification	Annexure-B	07
5	Finance Deptt: fixed Pay regularization Notification from 01/07/2008.	Annexure-C	08
6	Peshawar High Court Peshawar decision	Annexure-D	09-12
7	Letter to DAO Bannu collection of Pension & Gratuity.	Annexure-E	13



Executive Engineer,
Public Health Engg: Division
Bannu

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 1284/2017

Akram Khan Ex-Chowkidar

(Appellant)

VERSUS

Secretary to PHE Department & other

(Respondent)

• AFFIDAVIT

I Mr. Khan Muhammad Khan Executive Engineer, Public Health Engineering Division Bannu solemnly declares on oath that the contents of the Para-wise reply are true and correct to the best of my knowledge and belief and that the nothing has been concealed from the Honourable Court.



Executive Engineer,
Public Health Engg: Division
Bannu
(Respondents), 5

Before the Khyber Pakhtunkhwa Service Tribunal Peshawar

Appeal No. ¹²⁸⁴1288/2017

Akram Khan.....Appellant.

V/S

Government of Khyber Pakhtunkhwa through Secretary Finance Peshawar
and others.....Respondents.

(Para wise reply on behalf of Respondent No.8)

Preliminary Objections.

- 1). That the Appellant have no cause of action.
- 2). That the Appellant have no locus standi.
- 3). That the Appeal in hand is not maintainable.
- 4). That the instant Appeal is time barred.
- 5). That the identical case Writ Pition No. 1224-P/2015 Habib-Ur-Rehman V/S Provincial Government of KPK, has already been dismissed by the Peshawar High Court Peshawar (Annex-A).
- 6). That writ petition No.1188-P/2014, titled Baghi Shah v/s Secretary Finance Department Peshawar and others, Provincial Government of Khyber Pakhtunkhwa has filed CPLA in the Apex Court (Annex-B).

Respectfully Sheweth:-

Para 1:- Proved by record, however liable to be proved by the Appellant.

Para 2 Correct, that the Appellant was regularized with effect from 1st July, 2008 (but not from the date of his appointment) in light of Finance Department Peshawar notification No.BOI/FD/1-22/2008-09, dated 30.07.2008. Hence he had not completed the qualifying Service for pension that is 10 years (Annex-C).

Para 3:- Proved by record , however liable to be proved by the Appellant.

Para 4:- As mentioned in para "2" above the Appellant is not entitled for pension.

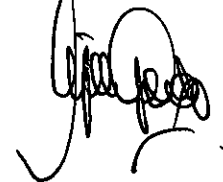
Para 5:- As mentioned in para "2" Above the Appellant is not entitled for pension.



GROUNDS:-

- A:- That Respondent No.8 , is bound to follow the rules and instructions issued by the Provincial Government of Khyber Pakhtunkhwa from time to time.
- B:- Incorrect , to the extent that the Appellant has not completed the qualifying service for pension that is 10 years.
- C:- Incorrect, that in light of Finance Department Peshawar vide letter No. BO/FD/1-22/2008-09, dated 30.07.2008 the appellant was regularized with effect from 01.07.2008. Hence the Appellant did not complete the qualifying service for pension and not entitled for any pension under the rule.
- D:- Incorrect. As mentioned in Para "A" above , Respondent No.8 has not violated any rule or law.
- E:- That an identical case Writ Petition No. 1224-P/2015 Habib-Ur-Rehman V/S Provincial Government of KPK, has already been dismissed by the Peshawar High Court Peshawar. Hence the Appellant is not entitled for pension.
- F:- As mentioned in Para "A" above.
- G:- Relates to respondent No. 2 , Hence no comments .

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



**ACCOUNTANT GENERAL
KHYBER PAKHTUNKHWA**

Judgment Sheet

PESHAWAR HIGH COURT
PESHAWAR

(Judicial Department)

Writ Petition No. 1224-P/2015

Habib ur Rehman

Versus

Chief Secretary to Govt: of KPK and others.



Annex A

Date of hearing. 10.01.2018

Petitioner By *Shahid Khan Advocate*

Respondents. By *Officer addn of aus of tal AR 9*

JUDGMENT

MUSARR AT HILALI J:- The instant writ petition has been filed by the petitioner under Article 199 of the Islamic Republic of Pakistan, 1973 praying that a writ may be issued to respondents to release the pension and pensionary benefits to the petitioner without any further delay.

2. Brief facts, as per averments of the writ petition are that the petitioner worked as Chowkidar in the Education Department from 1.09.1998 to 11.5.2012

ATTESTED
EXAMINER
Peshawar High Court

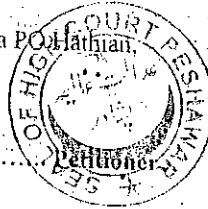
1

BEFORE THE HON'BLE PESHAWAR HIGH COURT, PESHAWAR

W.P. No. 1224-P /2015

Habib ur Rahman S/O Mahabat Khan R/O Libas Khan Koroona PO Mithjan,

Tehsil Takht Bhai: District Mardan



VERSUS

1. Chief Secretary to Govt. of Khyber Pakhtunkhwa, Peshawar.
2. The Secretary Education Department, Govt. of Khyber Pakhtunkhwa Peshawar.
3. Divisional Education Officer Mardan.
4. Executive District Education Officer, Mardan
5. Accountant General, Khyber Pakhtunkhwa, Peshawar.

6. *Secretary of Finance Govt. of K.P.K. Peshawar*
..... Respondents.

7. *District's Accounts Officer Mardan*

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

PRAYER IN WRIT.

ON ACCEPTANCE OF THIS PETITION, THE AN APPROPRIATE
DIRECTION BE ISSUED TO RESPONDENTS TO issue/ RELEASE THE
PENSION AND PENSIONERY BENEFITS TO THE PETITIONER
WITHOUT ANY FURTHER DELAY.

FILLED TODAY

Deputy Registrar

15 FEB 2015

ATTESTED

EXAMINER
Peshawar High Court

23 JAN 2018

and at the age of 60, a sanction letter regarding his retirement from Executive District Office (E&S) Education Mardan was issued on 01.05.2012. That despite of fulfillment of all the codal formalities, the respondents are reluctant to release the pension and pensionary benefits to the petitioner. Feeling aggrieved with the actions of respondents, the instant writ petition has been filed.

Arguments of learned counsel for the parties heard and record perused.

3. The case of petitioner is that he served the respondent department from 01.09.1998 till 11.5.2012, however, on his retirement, he was not paid pension till date. Comments were called from the respondents which were accordingly submitted wherein they have submitted that since the petitioner was a fix pay employee, therefore, he is not entitled to the pension/pensionary benefits as per the relevant rules/policy. The same has been clarified by the letter of Government of NWFP Finance Department No. BO

Onaw

ATTESTED
EXAMINER
Peshawar High Court
23 JAN 2018

WFD/1:22/2008-09 dated 30.07.2008 addressed to the Accountant General, NWFP, Peshawar in the following terms:-

"all the Class-IV fixed Pay Employees have been regularized in BPS-1 giving them the status of Civil Servant, with effect from 1st July, 2008 (but not from the date of their appointments) as per provision of Section 10 of the Civil Servant Act, 1973 (read with Civil Servants (Amendment) Act, 2005). Under the Act *ibid*, these employees are entitled for Contributory Provident Fund (C.P Fund) instead of Pension/Gratuity and G.P Fund."

4. In view of the above, the petitioner being fix pay employee is not entitled to the relief prayed for i.e. release of pension and pensionary benefits. In the circumstances, the instant writ petition being devoid of merit stands dismissed.

(W. W. G. Ahmed Seth)

JUDGE
(Musarrat H. Hilal)
11
JUDGE

Announced on;
Dated. 10.01.2018



D.B Hon'ble Ms Justice Wagar Ahmed Seth and Hon'ble Justice Musarrat Hilal]

2018
Date of Presentation of Application 11/1/18
No of Pages 4
Copy of 1
Vigilance 16-55
03/1/18
03/1/18

CERTIFIED TO BE TRUE COPY
Examiner
Peshawar High Court, Peshawar
Authorized Under Article 87 of
The Constitution of Pakistan Order 1995
23 JAN 2018

(Musarrat H. Hilal)

BETTER COPY

Annex - e

GOVERNMENT OF NWFP
FINANCE DEPARTMENT
No. BO1/FD/1-2/2008-09
Dated Peshawar, the 30/07/2008

To,

The Accountant General,
NWFP, Peshawar.

Subject:- **BUDGET SPEECH 2007-08 CONVERSION OF FIXED PAY CLASS-IV INTO REGULAR
BPS-1 CP FUND SCHEME.**

Dear sir,

I am directed to refer to your letter No. H.24(85)/ Kohistan /Vol-II/851 dated 18.06.2008, on the subject noted above and to clarify that all the class-IV Fixed Pay Employees have been regularized in BPS-1 giving them the status of Civil Servant, with effect from 1st July, 2008 (but from the date of their appointments) as per Provision of Section 19 of the Civil Servant Act, 1973 (read with Civil Servants (Amendment) Act, 2005): Under the Act ibid, these employees are entitled for Contributory Provident Fund (CP Fund) instead of Pension / Gratuity and GP Fund. Since length of service of the employee was at variance, therefore, in order to meet the demand of natural justice, fixation of pay has been allowed to them with effect from the dates of appointment bringing their salaries at par with the respective length of service. However, they shall not be entitled for arrears of pay and allowances as clarified in the instructions. So, it is confirmed that they are entitled for CP Fund instead of Pension / Gratuity and GP Fund, unless otherwise provided in the relevant Rules / Regulations.

Yours faithfully,

(Fida Muhammad)
Budget Officer-1

Endst:No. & Date even:

Copy is forwarded w/r to Finance Department Circular letter No. BO1/1-22/2007-08/FD dated 29.01.2008, for information & necessary action to:-

- 1). All Administrative Secretaries to Government of NWFP.
- 2). Secretary to Governor, NWFP Peshawar.
- 3). Principal Secretary to Chief Minister, NWFP Peshawar.
- 4). All District Coordination Officers in NWFP.
- 5). All Heads of Attached Department in NWFP.
- 6). The Registrar, Peshawar High Court, Peshawar.
- 7). The Registrar, NWFP Service Tribunal, Peshawar.
- 8). The Secretary Provincial Assembly NWFP, Peshawar.
- 9). The Secretary, Board of Revenue NWFP Peshawar.
- 10). All District Accounts Officers in NWFP.
- 11). All Budget / Section Officer in Finance Department Peshawar.

SECTION OFFICER-1




**GOVT: OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG: DEPARTMENT**

Dated Peshawar, the May 07, 2018

AUTHORITY LETTER

NO.SO (LIT)PHE/HC-101/Peshawar Mr. Allah Nawaz, Sub Divisional Officer No. II Bannu is hereby authorized to attend the Khyber Pakhtunkhwa Service Tribunal, on each date of hearing, in connection with the defense of the case titled as **Appeal NO. 1284/2017 AKRAM KHAN VERUS SECRETARY PHED AND OTHERS**, on behalf of the PHE Department.


**(IHSAN ULLAH)
SECTION OFFICER (LIT)**



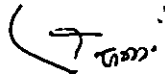
OFFICE OF THE CHIEF ENGINEER (SOUTH)
PUBLIC HEALTH ENGG:DEPTT:KHYBER PAKHTUNKHWA, PESHAWAR
Ph#091-9212984 Fax#091-9210228 E-mail: Ce.s.phed.pr5419@gmail.com

No. 01/94-A/ST /PHE,

Dated Peshawar, the 07/5 /2018

AUTHORITY LETTER

The Sub Divisional Officer PHE Sub Division-II Bannu is hereby authorized to attend the honourable Court of Service tribunal Peshawar in connection with the case titled "Akram Khan Ex-Chowkidar Versus Govt: of Khyber Pakhtunkhwa and others an Appeal No.1284/2017" on behalf of the Department.


Chief Engineer (South)

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
JUDICIAL COMPLEX(OLD), KHYBER ROAD
PESHAWAR.

AUTHORITY

Sub Divisional Officer No.II PHE Bannu is hereby authorized to attend the Honourable Court of Service Tribunal Peshawar on 10-05-2018 at 8.00 A.M on behalf of the under signed and every date of hearing in the following case.

Appeal No.
1284/2017

Title
Mr. Akram Khan VS Public Health Engineering Department


SUPERINTENDING ENGINEER
PHE CIRCLE BANNU



**OFFICE OF THE EXECUTIVE ENGINEER,
PUBLIC HEALTH ENGG: DIVISION BANNU**

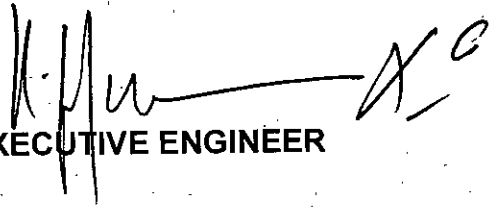
Ph/Fax#0928-9270049, E-mail: xenphedivision.bannu@gmail.com

AUTHORITY

Sub-Divisional Officer PHE Sub Division No.II Bannu is hereby authorized to attend the Honourable Court of Service Tribunal Peshawar on 10-05-2018 at 08:00 A.M on behalf of the undersigned and every date of hearing in the following case.

Appeal No.
1284/2017

Title
Mr. Akram Khan VS Public Health Engineering Department.


EXECUTIVE ENGINEER

No. 2017/AAJ

7/5/2018

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 1284/2017

Akram Khan Ex-Chowkidar

(Appellant)

VERSUS

Secretary to PHE Department & other

(Respondent)

Respectfully Sheweth:-

Preliminaries objection from Respondent No.2 to 6

1. That the appellant has no locus standing and cause of action.
2. That this court has no jurisdiction to adjudicate the matter.
3. That the appellant has not come to this honorable tribunal with clean hand.
4. That the appellant has been estopped by his own conduct to file the appeal.

Para-wise reply / comments on behalf of respondents

1. **Para No-1** is correct to the extent to the entry in Service Book vide which the appellant was appointed as Chowkidar on Water Supply Scheme Aral Hathi Khel vide Executive Engineer, Public Health Engg: Division Bannu appointment office order No. 01-05/E-16 on fixed pay basis (1st page of Service Book photo copy attached). **Annexure-A**
2. **Para No-2** of the petition it is stated that Policy for appointment of all Class-IV employee on fixed pay basis introduced with effect from 04/11/1992. Later on, in light of policy 2008 their pay was fixed just like a regular employee from the date of initial appointment. However their salary was fixed from initial appointment. (Finance Department Notification copy attached). **Annexure-B**
3. **Para No-3** is correct.
4. **Para No-4** is correct. In this context FD letter No. BOI/FD/1-22/2008-09 dated 30/07/2008 all the Class-IV fixed pay employees have been regularized in BPS-01 and giving them the status of Civil servant with effect from 01/07/2008 (But not from the date of their appointment) as per provision of section 19 of the Civil servant Act 1973 (read with Civil servants) (Amendment Act 2005. Under the Act ibid. These employees are entitled for contributory, provident Fund (C.P Fund) instead of Pension / Gratuity and G.P.Fund. (Photo copy of Finance Department letter attached). **Annexure-C**

Recently Peshawar High Court Peshawar decided that fix pay employees are regular from 01/07/2008 in writ petition No. 1224/2015 (Photo copy attached).

Annexure-D

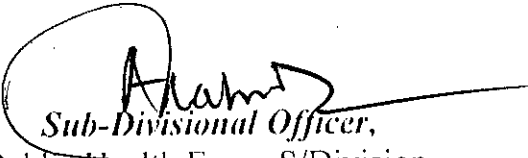
Gratuity case of the petitioner is sent to District Accounts Office Bannu vide this office letter No. 106/E-16 dated 22/01/2016 for collection of gratuity, but the petitioner are not trying to collect the pension gratuity. (Photo copy attached).

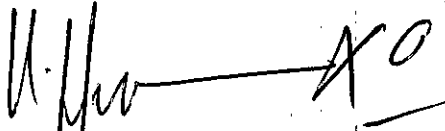
Annexure-E


GROUNDS:-

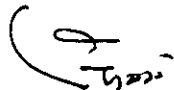
- a). Para No.a is incorrect. Detailed reply has been given in Para No-4.
- b). Para No.b is correct to the extent that the appellants served in the Department of the respondents.
- c). Para No.c is incorrect.
- d). Para No.d is also incorrect.
- e). Para No.e is incorrect.
- f). Para No.f is incorrect.
- g). Para No.g is incorrect.

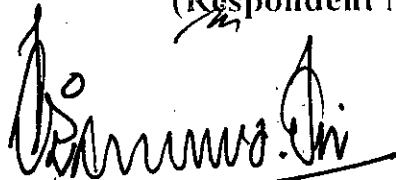
It is humbly prayed that this Honorable court may graciously be pleased to dismiss the service appeal of the appellants against respondents.


Sub-Divisional Officer,
Public Health Engg: S/Division
Bannu
(Respondent No.06)


Executive Engineer,
Public Health Engg: Division
Bannu
(Respondent No.05)


Superintending Engineer,
Public Health Engg: Circle
Bannu
(Respondent No.04)


Chief Engineer (South),
Public Health Engg: Deptt:
K.P.K Peshawar
(Respondent No.03)


Secretary,
Govt: of Khyber Pakhtunkhwa
PHE Department Peshawar
(Respondent No.02)

Ammercur - A

7790
170
7960

SERVICE BOOK

1120
260
11380
260
11640

148-4628

7790
170
7960

1200

P. No. 364892

Name نام اکرم خان

Father's Name والد کا نام شاہد عزیز

Qualification تعلیمیت فولڈا

Designation مقام ڈائریکٹر آف سیکرٹریٹ

Department مکد P.H.D. Ramnagar

Permanent Address مستقل پتہ _____

Signature and Designation of the Head of the office or other Attesting officer in attestation of column 1 to 8

9	10	11	12	13	14	15	
Signature and Designation of the Head of the office or other Attesting officer in attestation of column 1 to 8	Date of termination or appointment	reason of termination (such as promotion, transfer, dismissal etc.)	Signature of the head of the office or other Attesting officer	Nature and duration of leave taken	Allocation of period of leave of average pay up to four months (or earned leave not exceeding 120 days) to which leave salary is debitable to another Government	Signature of the Head of the office or other attesting Officer	Reference to any recorded punishment or censure, or reward or praised of the Government servants
					چار ماہ کی رخصت کے لئے اوسط تنخواہ کا تین Period Government to which debitable		
دستخط افسر مجاز	تاریخ انقطاع لازمت	وجوہ انقطاع لازمت ترقی بمبارد باہر طرئی	دستخط افسر مجاز	رخصت کی نوعیت دوسیا		دستخط افسر مجاز	سزا یا جزا یا توبیخ یا کارکردگی کا ریکارڈ
				Appointment as a Chowkidar on WSS: Aral Hathi Kher (Gulabichan) on Fixed pay 1200/- per month vide XER PHE: Divn: office order no 01-05/E-10 dt: 19.6.95 and Annual Report of duty consolidated entry of on 27.6.95 increase in basis pay scale of official employed on basic pay scale announced by provincial Govt from time to time with effect from 1-07-97 S/PD Finance Dept notification dt: 21-07-97 increase in pay from 1500/- with effect from 01-03-97			
	04/97 AN	1	FD (PRC) 1-3/97	dt: 02-07-97	1200/-	1500/-	01-03-97
	06/97 AN	2	B-1/1-22/98-99	FD dt: 30-6-99	1500/-	1800/-	01-05-99
	30/97 AN	3	B-1/1-22/94-95	FD dt: 2-8-2000	1800/-	2000/-	01-07-2000
	31/02/98 AN	4	B-1/1-22/2002-3	FD dt: 25-9-2002	2000/-	2500/-	01-07-2002
	30/03/98 AN	5	BoI/1-22/03-04	FD dt: 08-9-03	2500/-	2800/-	01-07-2003
	30/11/04 AN	6	BoI/1-22/04-05	FD dt: 09-9-05	2800/-	3100/-	01-12-2004
	30/06/05 AN	7	BoI/1-22/05-06	FD dt: 21-11-05	3100/-	3500/-	01-07-2005
	31/10/06 AN	8	BoI/1-22/06-07	FD dt: 15-11-06	3500/-	4000/-	01-11-2006

Assistant District Officer
 Works and Services (W & S)
 Bannu

حکومت، صوبہ سرحد
محکمہ خزانہ

مراسلہ نمبر: بی۔ او۔ ۱۷۱-۲۲/۰۸-۲۰۰۷ء۔ ۲۰۰۷ء
✓ مورخہ ۲۹ جنوری، ۲۰۰۸ء

خدمت:

- ۱- تمام انتظامی مستندین حکومت صوبہ سرحد۔
- ۲- مستند برائے گورنر صوبہ سرحد، پشاور۔
- ۳- پرنسپل سٹاف آفیسر برائے وزیر اعلیٰ صوبہ سرحد۔
- ۴- تمام سربراہان ماتحت نگرہ جات صوبہ سرحد۔
- ۵- تمام ضلعی رابطہ افسران صوبہ سرحد۔
- ۶- رجسٹرار پشاور ہائی کورٹ، پشاور۔
- ۷- رجسٹرار، سرحد ٹریبیونل، صوبہ سرحد، پشاور۔
- ۸- سیکرٹری، صوبائی پبلک سرحدس کمیشن، صوبہ سرحد، پشاور۔
- ۹- سیکرٹری اور ڈپٹی ریویونیو، صوبہ سرحد۔

عنوان :- بجٹ تقریر ۰۸-۲۰۰۷ء میں درجہ چہارم کے مقررہ تنخواہ مانے والے (Fixed pay) ملازمین کے لیے سی۔ بی۔ فنڈ کا اعلان۔

جناب عالی!

مجھے ہدایت کی گئی ہے کہ عنوان بالا کا حوالہ دیتے ہوئے عرض کروں کہ صوبائی حکومت نے تمام درجہ چہارم کے مقررہ تنخواہ (Fixed pay) مانے والے ملازمین کو یکم جولائی ۲۰۰۸ء سے این۔ ڈبلیو۔ ایف۔ پی۔ سول ملازمین ایکٹ ۱۹۷۳ء کے تحت سول ملازمین کا درجہ دیکر بنیادی سکیل تا (BPS-1) دینے کی منظوری دی ہے۔

۲- مذکورہ ملازمین کی تنخواہوں کا تین (Fixation of pay) ان کی بھرتی کے تاریخ (Date of Appointment) سے کیا جائے گا۔ تاہم یہ ملازمین تنخواہوں اور الاؤنسز وغیرہ کی مدتوں کسی قسم کی بقایا جات (arrears) کے مقدار نہیں ہوں گے۔

۳- اس سلسلے میں پہلے سے جاری شدہ تمام پالیسی رہدایات یکم جولائی ۲۰۰۸ء سے مشورہ تصور ہوں گے۔

آپ کا مخلص

سزا شرافت خان ربانی
سی۔ بی۔ مستند (سی۔ بی۔ ۵)

AMNESIA 7/2

GOVERNMENT OF NWFP
FINANCE DEPARTMENT

No. BO1/FD/1-22/2008-09/
Dated Peshawar, the 30/7/2008

To

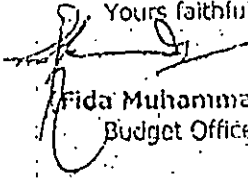
The Accountant General,
NWFP, Peshawar.

Subject: BUDGET SPEECH 2007-08 CONVERSION OF FIXED PAY CLASS-IV
INTO REGULAR BPS-1 CP FUND SCHEME.

Dear-Sir,

I am directed to refer to your letter No.H.24(85)/Kohistan/Vol-II/851 dated 18/6/2008 on the subject noted above and to clarify that all the Class-IV Fixed Pay Employees have been regularized in BPS-1 giving them the status of Civil Servant with effect from 1st July, 2008 (but not from the date of their appointments) as per provision of Section 19 of the Civil Servant Act, 1973 (read with Civil Servants (Amendment) Act, 2005). Under the Act ibid, these employees are entitled for Contributory Provident Fund (C.P. Fund) instead of Pension/Gratuity and G.P. Fund. Since length of service of the employees was at variance, therefore, in order to meet the demand of natural justice, fixation of pay has been allowed to them with effect from the dates of appointment bringing their salaries at par with the respective length of service. However, they shall not be entitled for arrears of pay and allowances as clarified in the instructions. So, it is confirmed that they are entitled for CP Fund instead of Pension/Gratuity and GP Fund, unless otherwise provided in the relevant Rules/Regulations.

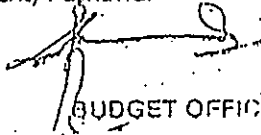
Yours faithfully,


Fida Muhammad
Budget Officer-I

Enclt No. & Date even:

Copy is forwarded w/r to Finance Dept's circular letter No. BO1/1-22/2007-08/FD dated 29/1/2008, for information & necessary action to:-

- 1) All Administrative Secretaries to Government of NWFP
- 2) Secretary to Governor, NWFP, Peshawar
- 3) Principal Secretary to Chief Minister, NWFP, Peshawar
- 4) All District Coordination Officers in NWFP
- 5) All Heads of Attached Departments in NWFP
- 6) The Registrar, Peshawar High Court, Peshawar
- 7) The Registrar, NWFP Service Tribunal, Peshawar
- 8) The Secretary Provincial Assembly, NWFP, Peshawar
- 9) The Secretary, Board of Revenue, NWFP, Peshawar
- 10) All District Accounts Officers in NWFP
- 11) All Budget/Section Officers in Finance Department, Peshawar


BUDGET OFFICER-I

OFFICE OF THE ACCOUNTANT GENERAL NWFP PESHAWAR

No.H-24(113)/RBPS-2006-07/Prov. Corresponds file/ 906 Dated: 07-08-2008

Copy of the above is forwarded for information and necessary action to all concerned.

1. All DAOs/AAOs in NWFP.
2. All Payrolls Section (-).
3. Pns to DAGs.
4. Pension (M).

201
A/1
20/7

Judgment Sheet

PESHAWAR HIGH COURT
PESHAWAR

(Judicial Department)

Writ Petition No. 1224-P/2015

Habib ur Rehman

Versus

Chief Secretary to Govt: of KPK and others.

Date of hearing. 10.01.2018

Petitioner By *Shahid Khan Advocate*

Respondents. By *Officer addn Govt of KPK AA 9*

JUDGMENT

MUSARR AT HILALI:- The instant writ petition has been filed by the petitioner under Article 199 of the Islamic Republic of Pakistan, 1973 praying that a writ may be issued to respondents to release the pension and pensionary benefits to the petitioner without any further delay.

2. Brief facts, as per averments of the writ petition are that the petitioner worked as Chowkidar in the Education Department from 1.09.1998 to 11.5.2012

and at the age of 60, a sanction letter regarding his retirement from Executive District Office (E&S) Education Mardan was issued on 01.05.2012. That despite of fulfillment of all the codal formalities, the respondents are reluctant to release the pension and pensionary benefits to the petitioner. Feeling aggrieved with the actions of respondents, the instant writ petition has been filed.

Arguments of learned counsel for the parties heard and record perused.

3. The case of petitioner is that he served the respondent department from 01.09.1998 till 11.5.2012, however, on his retirement, he was not paid pension till date. Comments were called from the respondents which were accordingly submitted wherein they have submitted that since the petitioner was a fix pay employee, therefore, he is not entitled to the pension/pensionary benefits as per the relevant rules/policy. The same has been clarified by the letter of Government of NWFP Finance Department. No. BO

Draw

ATTESTED
EXAMINER
Peshawar High Court
23 JAN 2018

1/FD/1-22/2008-09 dated 30.07.2008 addressed to the Accountant General, NWFP, Peshawar in the following terms:-

~~All the Class-IV fixed Pay Employees have been regularized in BPS-1 giving them the status of Civil Servant with effect from 1st July 2008 (but not from the date of their appointments) as per provision of Section 10 of the Civil Servant Act, 1973 (read with Civil Servants (Amendment) Act, 2005) Under the Act in bid, these employees are entitled for Contributory Provident Fund (C.P. Fund) instead of Pension/Gratuity and G.P. Fund.~~

4. In view of the above, the petitioner being fix pay employee is not entitled to the relief prayed for i.e. release of pension and pensionary benefits. In the circumstances, the instant writ petition being devoid of merit stands dismissed.



Announced on;
Dated. 10.01.2018

(Signature)

JUDGE

(Signature)

11

JUDGE

No. 6414
Date of Presentation of Application 11/1/18
No of Pages 4-7
Copying Fee _____
Urgal Fee _____
Total 16-00
Date of the receipt of Copy 03/1/18

D.B Hon'ble Mr. Justice Waqar Ahmad Seth and Hon'ble Justice Muzarat Hilali

CERTIFIED TO BE TRUE COPY
Peshawar Bench
23 JAN 2018

Ammechure-E

OFFICE OF THE EXECUTIVE ENGINEER
PUBLIC HEALTH ENGG: DIVISION BANNU.

NO 1067 /E-16/PHE

Dated at Bannu 22/01/2018

To

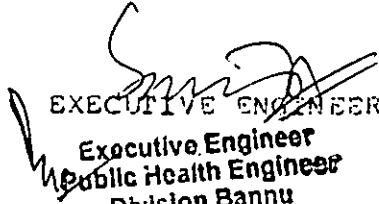
The District Account Officer,
Bannu.

Subject:- PENSION PAPERS IN RESPECT OF MR. AKRAM KHAN
CHOWKIDAR OF THIS DIVISION.

The pension papers in respect of above named Chowkidar complete in all respect along with original Service Book (in two parts) is sent herewith for favour of further necessary action please.

DA:

Pension papers with
Original Service Book.


EXECUTIVE ENGINEER
Executive Engineer
Public Health Engineer
Division Bannu

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 1284/2017

Akram Khan Ex-Chowkidar

(Appellant)

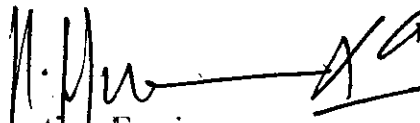
VERSUS

Secretary to PHE Department & other

(Respondent)

INDEX

S.No	Particular of Documents	Annexure	Page
1	Affidavit	---	01
2	Para-Wise comments	---	02-03
3	1 st Page of S/Book	Annexure-A	04-06
4	FD Urdu Notification	Annexure-B	07
5	Finance Deptt: fixed Pay. regularization Notification from 01/07/2008.	Annexure-C	08
6	Peshawar High Court Peshawar decision	Annexure-D	09-12
7	Letter to DAO Bannu collection of Pension / Gratuity.	Annexure-E	13


Executive Engineer,
Public Health Engg: Division
Bannu

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 1284/2017

Akram Khan Ex-Chowkidar

(Appellant)

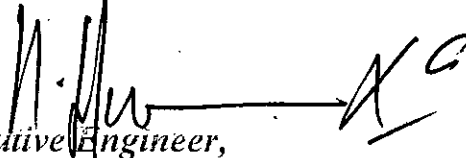
VERSUS

Secretary to PHE Department & other

(Respondent)

AFFIDAVIT

I Mr. Khan Muhammad Khan Executive Engineer, Public Health Engineering Division Bannu solemnly declares on oath that the contents of the Para-wise reply are true and correct to the best of my knowledge and belief and that the nothing has been concealed from the Honourable Court.


Executive Engineer,
Public Health Engg. Division
Bannu
(Respondents), 5

Before the Khyber Pakhtunkhwa Service Tribunal Peshawar

Appeal No. ¹²⁸⁴1248/2017

Akram Khan.....Appellant.

V/S

Government of Khyber Pakhtunkhwa through Secretary Finance Peshawar
and others.....Respondents.

(Para wise reply on behalf of Respondent No.8)

Preliminary Objections.

- 1). That the Appellant have no cause of action.
- 2). That the Appellant have no locus standi.
- 3). That the Appeal in hand is not maintainable.
- 4). That the instant Appeal is time barred.
- 5). That the identical case Writ Petition No. 1224-P/2015 Habib-Ur-Rehman V/S Provincial Government of KPK, has already been dismissed by the Peshawar High Court Peshawar (Annex-A).
- 6). That writ petition No.1188-P/2014, titled Baghi Shah v/s Secretary Finance Department Peshawar and others, Provincial Government of Khyber Pakhtunkhwa has filed CPLA in the Apex Court (Annex-B).

Respectfully Sheweth:-

- Para 1:- Proved by record, however liable to be proved by the Appellant.
- Para 2 Correct, that the Appellant was regularized with effect from 1st July, 2008 (but not from the date of his appointment) in light of Finance Department Peshawar notification No.BOI/FD/1-22/2008-09, dated 30.07.2008. Hence he had not completed the qualifying Service for pension that is 10 years (Annex-C).
- Para 3:- Proved by record , however liable to be proved by the Appellant.
- Para 4:- As mentioned in para "2" above the Appellant is not entitled for pension.
- Para 5:- As mentioned in para "2" Above the Appellant is not entitled for pension.



GROUNDS:-

- A:- That Respondent No.8 , is bound to follow the rules and instructions issued by the Provincial Government of Khyber Pakhtunkhwa from time to time.
- B:- Incorrect , to the extent that the Appellant has not completed the qualifying service for pension that is 10 years.
- C:- Incorrect, that in light of Finance Department Peshawar vide letter No. BO/FD/1-22/2008-09, dated 30.07.2008 the appellant was regularized with effect from 01.07.2008. Hence the Appellant did not complete the qualifying service for pension and not entitled for any pension under the rule.
- D:- Incorrect. As mentioned in Para "A" above , Respondent No.8 has not violated any rule or law.
- E:- That an identical case Writ Petition No. 1224-P/2015 Habib-Ur-Rehman V/S Provincial Government of KPK, has already been dismissed by the Peshawar High Court Peshawar. Hence the Appellant is not entitled for pension.
- F:- As mentioned in Para "A" above.
- G:- Relates to respondent No. 2 , Hence no comments .

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


ACCOUNTANT GENERAL
KHYBER PAKHTUNKHWA

BETTER COPY

GOVERNMENT OF NWFP
FINANCE DEPARTMENT
No. BO1/FD/1-2/2008-09
Dated Peshawar, the 30/07/2008

To,

The Accountant General,
NWFP, Peshawar.

Subject:- **BUDGET SPEECH 2007-08 CONVERSION OF FIXED PAY CLASS-IV INTO REGULAR
BPS-1 CP FUND SCHEME.**

Dear sir,

I am directed to refer to your letter No. H.24(85)/ Kohistan /Vol-II/851 dated 18.06.2008, on the subject noted above and to clarify that all the class-IV Fixed Pay Employees have been regularized in BPS-1 giving them the status of Civil Servant, with effect from 1st July, 2008 (but from the date of their appointments) as per Provision of Section 19 of the Civil Servant Act, 1973 (read with Civil Servants (Amendment) Act, 2005): Under the Act ibid, these employees are entitled for Contributory Provident Fund (CP Fund) instead of Pension / Gratuity and GP Fund. Since length of service of the employee was at variance, therefore, in order to meet the demand of natural justice, fixation of pay has been allowed to them with effect from the dates of appointment bringing their salaries at par with the respective length of service. However, they shall not be entitled for arrears of pay and allowances as clarified in the instructions. So, it is confirmed that they are entitled for CP Fund instead of Pension / Gratuity and GP Fund, unless otherwise provided in the relevant Rules / Regulations.

Yours faithfully,

(Fida Muhammad)
Budget Officer-1

Endst:No. & Date even:

Copy is forwarded w/r to Finance Department Circular letter No. BO1/1-22/2007-08/FD dated 29.01.2008, for information & necessary action to:-

- 1). All Administrative Secretaries to Government of NWFP.
- 2). Secretary to Governor, NWFP Peshawar.
- 3). Principal Secretary to Chief Minister, NWFP Peshawar.
- 4). All District Coordination Officers in NWFP.
- 5). All Heads of Attached Department in NWFP.
- 6). The Registrar, Peshawar High Court, Peshawar.
- 7). The Registrar, NWFP Service Tribunal, Peshawar.
- 8). The Secretary Provincial Assembly NWFP, Peshawar.
- 9). The Secretary, Board of Revenue NWFP Peshawar.
- 10). All District Accounts Officers in NWFP.
- 11). All Budget / Section Officer in Finance Department Peshawar.

SECTION OFFICER-1

ASST. ACCOUNTS OFFICER
O/o A.G. Khyber Pakhtunkhwa

PENSION ROLL DATA SHEET & PENSION SLIP

Date of issue : 29.06.2022
 Type : FRESH
 ID Number : 00364892-01
 Pensioner ID : 00364892
 Pension Register No:5207/BU-PR
 Pensioner's Name : AKRAM KHAN
 Father / Husband name : SHAH WAZIR
 Designation: CHOWKIDAR
 NIC No.: 1110165311133
 Grade / Scale : 01
 Department,Min: EXECUTIVE ENGINEER PUBLIC
 Pensioner's Type: SELF
 Pension Type: SUPERANNUATION
 Date of Birth : 01.07.1955
 Date of appointment:16.06.1995
 Date of retirement: 30.06.2015
 Date of Death:
 Date of commencement :01.07.2015
 Date of Restoration :30.06.2027
 Accounts office ID :BU
 Accounts office Name :Bannu
 Province :Khyber Pakhtunkhwa
 Length of Qualifying Service :20 years,0 months,14 days
 EPF Number :
 No. and Date of sanction of pension / Letter No. :
 and the date of the other Audit and Accounts officer authorising
 the Pension/Gratuity/Commutation
 Permanent Address:PATOOL KHEL DOMEL BANNU
 93314010181

Note :
 Age : 60 years
 Last Drawn pay/Emoluments(Rs.): 8470.00
 Gross Pension(Rs.) : 3952.67
 1/4th Surrendered Portion (Rs.) :
 Commuted Portion (Rs.) : 1383.43
 Net Pension (Rs.) : 2569.24
 Net Family Pension (Rs.) : 0.00
 Amount of Commutation(Rs.) : 205388.00
 With Held Amount (Rs.) : 0.00
 Life Time Arrears (Rs.) : 0.00
 Arrears Of Pension (Rs.) : 0.00
 Special Additional Pension (Rs.) : 0.00
 Commutation Percentage : 35.00
 Commutation Table value : 12.37
 Recovery on A/C of :
 Debitable to Govt :Khyber Pakhtunkhwa
 Total Net Share
 Federal : 0.00 Punjab : 0.00
 Sindh : 0.00 NWFP : 0.00
 Balochistan : 0.00 Military : 0.00
 AJK : 0.00 Autonomous : 0.00

is also entitled to the following increases

Period	Increase % or amount	Increase Amount	W.E.F.
01.07.2010	15.00%	385.39	01.07.2015
01.07.2010	Rs. 45.50	45.50	01.07.2015
01.07.2011	15.00%	450.02	01.07.2015
01.07.2012	20.00%	690.03	01.07.2015
01.07.2013	15.00%	621.03	01.07.2015
01.07.2013	Rs. 239.00	239.00	01.07.2015
01.07.2014	10.00%	500.02	01.07.2015
01.07.2014	Rs. 500.00	500.00	01.07.2015
01.07.2015	10.00%	600.02	01.07.2015
01.07.2016	10.00%	660.03	01.07.2015
01.07.2017	10.00%	726.03	01.07.2015
01.07.2018	10.00%	798.63	01.07.2015
01.07.2018	Rs. 1215.40	1215.40	01.07.2015
01.07.2019	10.00%	1000.03	01.07.2015
01.07.2021	10.00%	1100.04	01.07.2021
01.07.2021	Rs. 0.00	0.00	

PENSION SLIP

Month: June
 Year: 2022

Pension roll details

Wage Type	Wage Type Text	Amount
1559	Payment	13037.00
0100	Monthly Pension - Self	2569.00
0101	Pension Increases - Self	9531.00
1599	Medical Allow - Pensioner	750.00
1600	Med. All. 2015 Pensioner	187.00

Bank Details

Bank Account Number : 13734-00-1
 Bank Branch : LAKKI GATE BRANCH BANNU
 LAKKI GATE BRANCH BANNU
 Payment Mode :KHYBER BANK LIMITED

0332-9276298

فول کوئیٹنگ ریٹرن

29/6/2022

TO BE SUBSTITUTED BEARING SAME NO. & DATE.



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

Dated Peshawar the 22-05-2019

NOTIFICATION

No.FD(SOSR-II)4-36/2017. In pursuance of the judgement of Peshawar High Court Abbottabad Bench in Writ Petition No. 627-A/2018 dated: 18.12.2018 and Judgements of various Lower Courts as well as supersession of Finance Department policy letter No.BO-I/1-22/2007-08/FD dated: 29.01.2008, the Competent Authority has been pleased to accord sanction of regularization of Fixed Pay Class-IV employees appointed on the basis of policies issued vide Finance Department notifications No. B-I/2-1/92-93/I dated: 04.11.1992 and No.B-I/1-22/94-95/FD Vol-II dated: 24.07.1999 by extending them the status of civil servant as per Civil Servant Act 1973 from the date of their first appointments instead of the date of their regularization w.e.f 01.07.2008 in their respective entities in the best of public interest.

SECRETARY TO GOVERNMENT
OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

Endst: No & date over:

Copy for information and necessary action is forwarded to the.

1. The Additional Chief Secretary (P&D), Khyber Pakhtunkhwa.
2. The Provincial Police Officer, Khyber Pakhtunkhwa.
3. The Accountant General Khyber Pakhtunkhwa.
4. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
6. All Administrative Secretaries Government of Khyber Pakhtunkhwa.
7. All Deputy Commissioners in Khyber Pakhtunkhwa.
8. All Heads of Attached Departments in Khyber Pakhtunkhwa.
9. The Director Treasuries & Accounts Khyber Pakhtunkhwa.
10. The Director, Local Fund Audit, Khyber Pakhtunkhwa.
11. Director, FMIU, Finance Department.
12. Budget Officer-XI, Finance Department.
13. Budget Officer-I, Finance Department with reference to their letters quoted above.
14. All District Controller of Accounts Khyber Pakhtunkhwa.
15. All District Account Officers in Khyber Pakhtunkhwa.
16. PS to Chief Secretary, Khyber Pakhtunkhwa.
17. PS to Secretary Finance, Khyber Pakhtunkhwa.
18. PS to Special Secretary Finance Department, Khyber Pakhtunkhwa.
19. PA to Additional Secretary (Regulation), Finance Department.