

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 280/2018

Date of Institution ... 01.03.2018  
Date of Decision ... 29.03.2022

Mst. Samina Gul W/O Late Maahzullah, Ex-CT Teacher  
Government High School Zaryab Colony, Peshawar.

... (Appellant)

**VERSUS**

Government of Khyber Pakhtunkhwa through Secretary Elementary  
& Secondary Education Department, Khyber Pakhtunkhwa Civil  
Secretariat Peshawar and four others.

... (Respondents)

Muhammad Anwar Khan,  
Advocate

... For appellant.

Kabir Ullah Khattak,  
Additional Advocate General

... For respondents.

Salah-Ud-Din  
Rozina Rehman

... Member (J)  
... Member (J)

**JUDGMENT**

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

**“On acceptance of this appeal, the respondents be  
directed to allow the appellant Family Pension of  
Late Maahzullah Ex-CT Teacher of Education  
Department who died in Jail and was in Government  
service as final order of his removal or dismissal**

from service had not been issued till his death in the judicial lockup. The respondents be directed to pay Family Pension to the appellant”.

2. Brief facts of the case are that late Maahzullah was the husband of appellant who was a permanent Government employee of Education Department and was posted as CT Teacher at Government High School Zaryab Colony Peshawar. He was implicated in a murder case, where-after, he was granted bail before arrest but later on, his bail before arrest was canceled and he was sent to judicial lockup. He was tried in a court of Law and was convicted. He died in jail before filing appeal against the judgment of the Trial Court. He was having total service of nine years and three months, therefore, the appellant being widow, requested for condonation of nine months which was not honored. She also submitted applications for condonation to Director of Education but to no avail. The Finance Department vide letter to Secretary Education had asked for condonation in period of service for the purpose of pension but fiasco, hence, the present service appeal.

3. We have heard Muhammad Anwar Khan Advocate learned counsel for appellant and Kabir Ullah Khattak, learned Additional Advocate General for respondents and have gone through the record and the proceedings of the case in minute particulars.

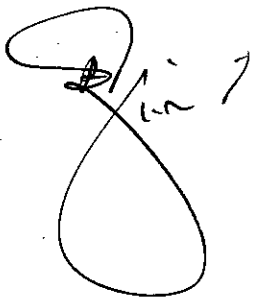
4. Muhammad Anwar Khan Advocate learned counsel appearing on behalf of appellant, inter-alia, submitted that not granting the family pension as claimed by the appellant and by not responding her departmental appeal is against law, facts and natural justice. It was submitted that as per rules, appellant is entitled to family pension but



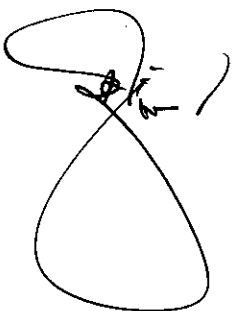
the respondent Department by ignoring all the laws and rules kept the appellant deprived of her legal right. Learned counsel further submitted that her husband had a clean service record throughout his carrier who was never proceeded against departmentally nor there was any bad entry in his service record and that he was going to file appeal against his conviction but died in jail without termination from service, therefore, on acceptance of this appeal, the respondents be directed to condone nine months of service of the deceased and to sanction family pension for the family of the deceased.

5. Conversely, learned AAG submitted that the deceased failed to inform the Department in respect of registration of FIR against him on 03.04.2008 and that he had applied for station leave on 10.04.2008. The Capital City Police informed the Department vide letter dated 13.05.2008 in respect of his involvement, therefore, he was suspended on 18.09.2008. It was further submitted that his qualifying service was nine years, two months and four days while for family pension, ten year service is needed, therefore, the appellant is not entitled for family pension.

6. From the record it is evident that late Maahzullah was serving as CT Teacher at Government High School Zaryab Colony, Peshawar. He was implicated in case FIR No.163 dated 03.04.2008 registered U/S 302 334/34 PPC Police Station Daudzai. Admittedly, he was arrested in the above-mentioned case by the local police and was sent to judicial lockup where he died on 05.03.2009. it is also not disputed that he was suspended from service vide order No.5496-98 dated 18.09.2008 and at the time of his death in Central Jail Peshawar, his



total qualifying service was nine years, two months and four days. From the record, it is crystal clear that the deceased was in Government service and final order of removal or dismissal from service in pursuant to the judgment of the court had not been issued by the respondent Department till his death in the judicial lockup. No doubt, he was convicted by the Trial Court, however, he was entitled to file a criminal appeal before the august Peshawar High Court, Peshawar but in the meanwhile, he died on 05.03.2009 which is evident from his death certificate and which fact is not disputed. Mst. Samina Gul, the present appellant was legally wedded wife of late Maahzullah and out of the wedlock, four children were born. All the four children are in custody of their mother i.e. the present appellant and she repeatedly requested for the grant of family pension in respect of her late husband but fiasco. Admittedly, his total service was nine years, three months and four days while qualifying service for family pension is ten years. Under Notification No.SOS-III (FD) G-112/82 dated 04.11.1982 read with Civil Servants Rule.174-D, competent authority is empowered to grant one year condonation but her repeated requests were not honored. Conditions for the grant of pension do exist in her favor as her husband was a Government servant and his service was pensionable. He had not been dismissed or removed from service till his death in Central Jail, Peshawar. Admittedly, a deficiency of Six months or less in the qualifying service of a Government Servant shall be deemed to have been condoned. A deficiency of more than six months but less than a year, may be condoned by the competent authority but in the instant case despite a




deficiency of nine months in the qualifying service of late Maahzullah, request of his widow was not honored and the said deficiency was not condoned despite the fact that he had not been dismissed or removed from service and admittedly, he was in Government service till his death in the Central Prison, Peshawar.

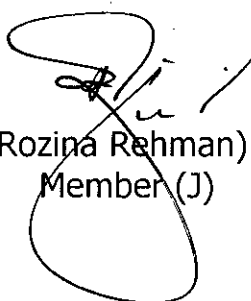
7. The late Maahzullah was never proceeded against departmentally during his lifetime. He was convicted by the Trial Court but his right to appeal was yet to be exercised when in the meanwhile, he died in Central Prison, Peshawar. Disciplinary proceedings never initiated during his lifetime, therefore, the benefits to which legal heirs of a civil servant are entitled, did not abate upon his death. He had admittedly put in nine years, two months and four days service, hence, he being on a permanent post until his death, his widow is entitled to receive pension.

8. Keeping in view the above discussion, instant service appeal is allowed as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

29.03.2022

  
(Salah-ud-Din)  
Member (J)

  
(Rozina Rehman)  
Member (J)

ORDER  
29.03.2022


Appellant present through counsel.

Kabir Ullah Khattak, learned Additional Advocate General alongwith Arshad Ali ADEO for respondents present.

Vide our judgment of today of this Tribunal placed on file, instant service appeal is allowed as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.  
29.03.2022

  
(Salah-Ud-Din)  
Member(J)

  
(Rozina Rehman)  
Member (J)


03.09.2021

Due to summer vacations, the case is adjourned to  
12.01.2022 for the same as before.

  
READER

13.01.2022

Mr. Muhammad Anwar, Advocate for appellant and  
Mr. Kabirullah Khattak, Addl. AG for the respondents  
present. Due to paucity of time arguments could not be  
heard. To come up for arguments on 29.03.2022 before  
the D.B.

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


  
Chairman

01.06.2021

Appellant present through counsel.

Muhammad Adeel Butt learned Additional Advocate General for respondents present.

According to particular and factual position of this appeal, husband of the appellant was a civil servant who died during service. The question of entitlement of the appellant for family pension has to be decided on merits after hearing all the parties but as far as the question of jurisdiction of the Tribunal is concerned, Section-19 of the Khyber Pakhtunkhwa Civil Servants Act, 1974 provides that on retirement from service, civil servant shall be entitled to receive such pension or gratuity as may be prescribed. Sub Section (2) of Section-19 deals with the rights of survival of pension in the terms that in the event of death of a civil servant whether before or after retirement, his family shall be entitled to receive such pension or gravity, as may be prescribed. With this legal position, there remains no doubt that family pension is the part of terms & conditions of service under the law and the appellant has rightly invoked the jurisdiction of this Court. Before parting, it is observed that the constitution of Larger Bench and requirement of reference of this matter to it as mentioned in some previous order sheet has lost the relevancy for reference of this case to the Larger Bench. To come up on 03.09.2021 before D.B.

  
(Rozina Rehman)  
Member (J)

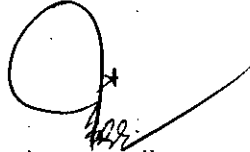
  
Chairman



25.02.2021

Son of the appellant and Muhammad Rashid, DDA for the respondents present.

Due to general strike on the call of Pakistan Bar Council, learned counsel for the appellant is not available. To come up for arguments on 01.06.2021 for hearing before the D.B.



(Mian Muhammad)  
Member(E)



Chairman

02.12.2020

Counsel for appellant present.

Riaz Painsdakhel learned Assistant Advocate General for respondents present.

At the very outset, it came to the knowledge of this Tribunal that relevant documents are missing besides Member copy, therefore, counsel is directed to make sure all the relevant documents including Nikkah Nama of the lady regarding marriage contract after the death of her first husband, Number of children and their ages alongwith proper record from NADRA office, criminal history of the case filed against her Ex-Husband.

Adjourned to 21.01.2021 for record/arguments before D.B.



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



(Rozina Rehman)  
Member (J)

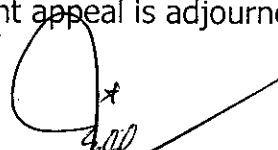
21.01.2021

Counsel for the appellant and Asif Masood Ali Shah, DDA for the respondents present.

In accordance with last order, learned counsel for the appellant has provided the requisite documents which are placed on file.

On 11.11.2019, instant matter was adjourned on the ground that a Larger Bench was constituted to determine the issue regarding the submission of appeal before this Tribunal by a person not being civil servant (legal heir).

The larger Bench has not yet decided the proposition, therefore, instant appeal is adjourned to 25.02.2021.



(Mian Muhammad)  
Member(E)

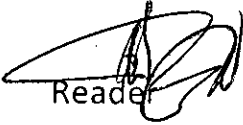


Chairman

15-5 .2020

Due to COVID19, the case is adjourned to

17/8/2020 for the same as before.

  
Reader

07.08.2020

Due to summer vacation case to come up for the same on  
08.10.2020 before D.B.

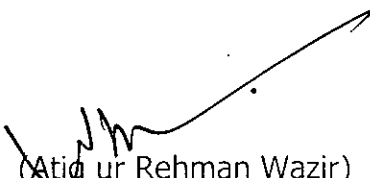
  
Reader


08.10.2020

Counsel for appellant present.

Mr. Muhammad Jan learned Deputy District Attorney  
respondents present.

A request was made for adjournment on behalf of  
appellant. Adjourned. To come up for arguments on  
02.12.2020 before D.B.

  
(Atiq ur Rehman Wazir)  
Member (E)

  
(Rozina Rehman)  
Member (J)

28.11.2019

Due to general strike of the Pakistan Bar Council, the case is adjourned. To come up on 23.01.2020 before D.B.



Member



Member

23.01.2020

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 16.03.2020 for arguments before D.B.



(Hussain Shah)

Member

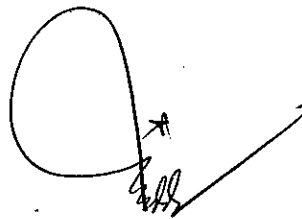


(M. Amin Khan Kundi)

Member

16.03.2020

Clerk to counsel for the appellant present. Addl: AG for respondents present. Due to general strike on the call of Peshawar Bar Council, the instant case is adjourned. To come up for arguments on 15.05.2020 before D.B.



(MAIN MUHAMMAD)

MEMBER

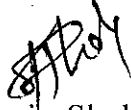



(M. AMIN KHAN KUNDI)

MEMBER

03.07.2019


Junior counsel for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant AG for the respondents present. Junior counsel for the appellant requested for adjournment on the ground that learned senior counsel for the appellant is not available today. Adjourned to 29.08.2019 for arguments before D.B.


  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

29.08.2019

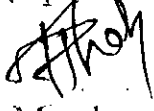
Junior to counsel for the appellant and Mr. Usman Ghani learned District Attorney present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not in attendance. Adjourn. To come up for arguments on 11.11.2019 before D.B.

  
Member

  
Member

11.11.2019


Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney present. Learned DDA stated that a larger bench of this Tribunal has already been constituted to determine the issue that whether a person other than civil servant, can approach this Tribunal by filing service appeal or otherwise. Adjournment requested. Adjourn. To come up for further proceedings/arguments on 28.11.2019 before D.B.


  
Member

  
Member

15.02.2019

Learned counsel for the appellant and Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 03.04.2019 before D.B

  
(Hussain Shah)  
Member

  
(Muhammad Amin Khan Kundi)  
Member

03.04.2019

Learned counsel for the appellant and Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Learned counsel for the appellant requests for adjournment in order to further prepare the brief. Adjourned to 17.05.2019 before D.B

  
Member

  
Chairman

17.05.2019

Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 03.07.2019 for arguments before D.B.

  
(AHMAD HASSAN)  
MEMBER

  
(M. AMIN KHAN KUNDI)  
MEMBER

16.08.2018

Mr. Muhammad Anwar Khan, Advocate counsel for the appellant present. Mr. Arshad Ali, ADO alongwith Mr. Kabirullah Khattak, Addl: AG for respondents present. Written reply submitted on behalf of the respondents which is placed on file. Case to come up for rejoinder if any, and arguments on 15.10.2018 before D.B.

15.10.2018

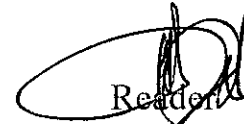
Clerk to counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney for the respondent present. Clerk to counsel for the appellant submitted rejoinder which is placed on file. Due to general strike of the bar, the case is adjourned. To come up on 21.11.2018 before D.B

  
Member

  
Member

21.11.2018

Since 21.11.2018 has been declared as public holiday on account of 12<sup>th</sup> Rabi-ul-Awal. Therefore, the case is adjourn. To come on 11.01.2019 before D.B.

  
Reader

11.01.2019

Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 15.02.2019 before D.B.

  
Member

  
Member

Service Appeal No. 280/2018

06.07.2018

Counsel for the appellant Mst. Samina Gul present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the husband of the appellant was serving as Drawing Master in Education Department, however, during service he was charged in a murder case and on conclusion of trial he was convicted for life imprisonment. It was further contended that the appeal against the conviction was to be filed before the worthy High Court by the husband of the appellant within time but before filing appeal he died. It was further contended that respondent-department is not paying pension to the legal heirs of the deceased civil servant on the ground that the service of the deceased civil servant was few months less than 10 years, although according to rules the competent authority was required to condone the same. It was further contended that the appellant filed departmental appeal but the same was not responded hence, the present service appeal. It was further contended that refusal on the part of the respondent-department to pay pension to the legal heirs of the deceased appellant is illegal and liable to be set-aside.

The contention raised by the learned counsel for the appellant needs consideration. The appeal is admitted for regular hearing subject to deposit of security and process fee within 10 days thereafter, notice be issued to the respondents for written reply/comments for 16.08.2018 before S.B.

Appellant Deposited  
Security & Process Fee

*MA*  
(Muhammad Amin Khan Kundi)  
Member



04.04.2018

Counsel for the appellant present and seeks adjournment.  
Adjourned. To come up for preliminary hearing on 18.04.2018  
before S.B.

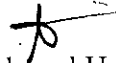


(Ahmad Hassan)

Member

18.04.2018

Counsel for the appellant present and seeks adjournment.  
To come up for preliminary hearing on 09.05.2018 before S.B.



(Ahmad Hassan)

Member

09.05.2018

The Tribunal is non functional due to retirement of the  
Honorable Chairman. Therefore, the case is adjourned. To come up for  
the same on 06.07.2018 before S.B.

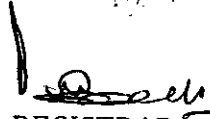




Reader

Form-A  
FORM OF ORDERSHEET

Court of \_\_\_\_\_

Case No. 280/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	01/03/2018	<p>The appeal of Mst. Samina Bibi legal heir of late Maazullah (Ex.C.T Teacher) presented today by Mr. Muhammad Anwar 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 11/3/18</p>
2-	16/03/18.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>19/03/18.</u></p> <p style="text-align: right;"> CHAIRMAN</p>
19.03.2018		<p>Learned counsel for the appellant present and argued that the present service appeal has been preferred by widow of late civil servant Maaz Ullah (Ex-C.T Teacher) for the grant of pensionary benefits to the family of deceased civil servant. Learned counsel for the appellant seeks adjournment to assist on the issue of jurisdiction of this Tribunal in the matter. Pre-admission notice be issued the respondent department for 04.04.2018 before S.B. To come up for preliminary hearing on the date fixed.</p> <p style="text-align: right;"> Member</p>

BEFORE THE KHYBER PAKHTUNKHWA TRIBUNAL  
PESHAWAR

Service Appeal No 280 of 2018

Mst Samina Bibi W/O Late Maazullah Ex- CT Teacher  
Government High School Zaryab Colony Peshawar.

**V E R S U S**

Government of Khyber Pakhtunkhwa through Secretary  
Elementary and Secondary Education, Khyber Pakhtun  
Khwa Civil Secreteriate and Others.

**APPLICATION FOR CONDONATION OF DELAY If Any**

**Respectfully Sheweth:**

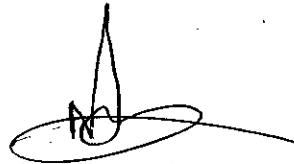
1. That the applicant is filling accompanying appeal in this Honorable Service Tribunal.
2. That the applicant has requested for the Pensionary benefit of her late Husband since his death but till date no action has been taken on her appeals.
3. That departmental appeal has not been rejected on the ground of limitation.
4. That time and again the applicant submitted applications / appeals for family Pension but no reply has been given.

5. That for the reasons above, the delay, if any ought to be condoned.

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

*Samina Gul,*  
Applicant

Through



**Muhammad Anwar Khan**  
**(Pashtun Ghari)**

Advocate High Court,  
Peshawar

Date: \_\_/02/2018

**Affidavit:**

I Mst Samina Gul W/o Late Maazullah R/o Main Gujar Peshawar, applicant do here by solemnly affirm and declare on oath that the contents of the above applicant are true and correct to the best of my knowledge and belief and nothing has concealed from this Honorable Tribunal.

Date: 27/02/2018

*Samina Gul,*  
Deponent



**BEFORE THE KPK SERVICES TRIBUNAL, PESHAWAR**

Service Appeal No. 280 /2018

Mst Samina Gul ..... **Appellant**

**V E R S U S**

Government of Khyber Pakhtun Khwa through Secretary  
Elementary & Secondary Education Department, Khyber  
Pakhtun Khawa Civil Secretariat, Peshawar & others

..... **Respondents**

**I N D E X**

S.No	Description of Documents	Annex	Pages
1.	Grounds of Service Appeal		1-6
2.	Affidavit		7
3.	Addresses of Parties		8
4.	Copies of Service Book & death certificate	A	9-14
5.	Copy of FIR	B	15-16
6.	Copy of Appeals	C	17-20
7.	Copy of Letter 2815 dated 23-7-13	D	21
8.	Copy of Finance Letter	E	22-26
9.	Power of Attorney		27-30
10.	Wakalat Nama		31.

*Samina Gul*  
Appellant

Through

  
**Muhammad Anwar Khan**  
**(Pashton Ghari)**

Advocate High Court,  
Peshawar  
Cell: 0333-9262374

Date: 27/2/2018

**BEFORE THE KPK SERVICES TRIBUNAL, PESHAWAR**

Service Appeal No. 280 /2018

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 289

Dated 01-3-2018

Mst Samina Gul w/o Late Maahzullah,  
Ex- CT Teacher Government High Scholl Zaryab Colony  
Peshawar ..... **Appellant**

**V E R S U S**

1. Government of Khyber Pakhtun Khwa through Secretary Elementary & Secondary Education Department, Khyber Pakhtun Khawa Civil Secretariat, Peshawar
2. Secretary Finance Department, Civil Secretariat, Peshawar
3. Director Elementary & Secondary Education, Near Government Higher Secondary School No 1 Peshawar City.
4. District Education Office (Male), Near Government Higher Secondary School No 1 Peshawar City.
5. District Account Officer, Office of Accountant Gernal, Fort Road Peshawar Cant

..... **Respondents**

Filed to-day

Registrar

1/3/18

Appeal under section 4 of the Khyber Pakhtun Khawa Service Tribunal Act, 1974, against Respondents for not issuing the Family Pension order of Ex- CT Teacher Maahzullah died since 5-3-2009 during Service. The act of Respondents, not to Sanction Family Pension is illegal, un Lawful and based on Malafide and not in accordance with Law.

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**Prayer in Appeal**

*That on Acceptance of this appeal, the Respondents be directed to allow the appellant for Family Pension of Late Maahzullah Ex- CT Teacher of Education Department, died in Jail at that time the Deceased was in Government Service and final order of Removal or dismissal in Consequent upon the Judgment of the court was not issued till his death in the Judicial look up. The Respondents be directed to pay Family Pension to the appellant and such other relief as this Honorable Tribunal may deem fit in the circumstance of the case may also be granted.*

**Respectfully Sheweth:**

Brief Facts of the instant appeal are as under:

1. That the deceased, the Husband of the appellant, being a permanent Government employee of Education Department having being posted as CT

Teacher at Government High School Zaryab Colony Peshawar was implicated in criminal Case of murder due to personal, enmity, being common in area of Khyber Pakhtun Khawa. **(Copies of service book and Death Certificate are attached as Annexure A).**

2. That there after the deceased was granted BBA in the afore said Case and he being on bail having been performed his duties at Government High School Zaryab Colony later on his BBA Cancelled and was sent in Judicial Lock Up. The deceased was not terminated nor dismissed from service till his death. However, after trial the deceased was convicted to rigorous imprisonment and died in jail before final judgment of superior Court against the Judgment of Session Court.
3. That it was worth mentioning to state that the Department was fully aware of the deceased's said criminal case but despite of all these facts, the deceased was not dismissed nor termination till his death in Judicial Look up. **(Copy of FIR is attached as Annexure B).**
4. That the appellant's Husband was having total Service of 9 year and 3 months. The appellant requested for condonation of 9 month but the case is pending.



the Respondents are not going to Sanction Family Pension. **(The copies of Appeals are attached as Annexure C).**

5. that the Respondents No 4 also submitted the requested of Condonation to Director of Education but still no final action has been taken by the High up. **( Copy of letter No 2815 dated 23/7/2013 is attached as Annexure D).**
6. That The Finance Department has also written Letter to Secretary Education for Condonation in period of service for the purpose of pension in respect of deceased. **(Copy of Letter is attached as Annexure E).**
7. That after having been failed departmentally to get any relief with regard sanctioning of Family pension, ultimately the appellant invoked the jurisdiction of this Honorable Tribunal.
8. That as apparent from the application/ Representation of the appellant since death of her husband to the Respondents and also letters submitted by Respondents No2 & 4 for condonation of 9 months service deficiency but all in vain. Though Respondents are morally bound to do the needful.

9. That the appellant being aggrieved submitted representation time to time to the High ups for redressal of her grievances regarding pension but the same has not been entertained.
10. That being aggrieved and dis-satisfied with act of the Respondents not issuing sanction for family Pension, the appellant having no other alternative remedy, seeks indulgence of this Honorable Tribunal, inter alia on the following grounds:

**GROUND S:**

- A. That not granting the family pension as claimed by the appellant and not responding the departmental appeal of the appellant is against Law, Facts, natural, and material on record.
- B. That many such like cases have already been granted the relief by Honorable Court as claimed by the appellant.
- C. That as per rule the appellant is entitled to be granted family pension but the department ignoring all the Laws and ethics, and kept the appellant deprived of her legal benefit. It is injustice and discrimination.

D. That the appellant's husband had a clean service record. Throughout and had not been ever proceeded against departmentally in the past nor there was any bad entry in his service record. Moreover the deceased never envoled in any moral turpitude crime.

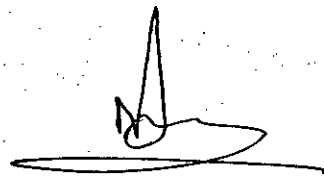
It is, therefore, most humbly prayed that on acceptance of this appeal, this Honorable Tribunal may be pleased to direct the Respondents to condole 9 months of service of the deceased.

- (a) Direct Respondents to sanction Family Pension for the family of the deceased.
- (b) Any other relief deemed fit in the circumstances of the case may also be granted.

*Samina Gul*

Appellant

Through



**Muhammad Anwar Khan**  
**(Pashton Ghari)**

Advocate High Court,  
Peshawar

Date: 27/09/2018

**BEFORE THE KPK SERVICES TRIBUNAL, PESHAWAR**

Service Appeal No. \_\_\_\_\_/2018

Mst Samina Gul .....**Appellant**

**V E R S U S**

Government of Khyber Pakhtun Khwa through Secretary  
Elementary & Secondary Education Department, Khyber  
Pakhtun Khawa Civil Secretariat, Peshawar & others  
.....**Respondents**

**AFFIDAVIT**

I, Mst. Samina Gul Wife of Late Maazullah EX- CT  
Teacher R/o Village Main Gujar Peshawar, do hereby  
solemnly affirm and declare on oath that the contents of  
the accompanying **Service Appeal** are true and correct  
to the best of my knowledge and belief and nothing has  
been concealed from this Hon'ble Court.

*Samina Gul*  
**DEPONENT**



**BEFORE THE KPK SERVICES TRIBUNAL, PESHAWAR**

Service Appeal No. \_\_\_\_\_/2018

Mst Samina Gul

.....**Appellant****V E R S U S**Government of Khyber Pakhtun Khwa through Secretary  
Elementary & Secondary Education Department, Khyber  
Pakhtun Khawa Civil Secretariat, Peshawar & others.....**Respondents****ADDRESSES OF PARTIES****APPELLANT**

Mst Samina Gul w/o Late Maahzullah,

Ex- CT Teacher Government High Scholl Zaryab colony

Peshawar.

**RESPONDENTS**

1. Government of Khyber Pakhtun Khwa through Secretary Elementary & Secondary Education Department, Khyber Pakhtun Khawa Civil Secretariat, Peshawar
2. Secretary Finance Department, Civil Secretariat, Peshawar
3. Director Elementary & Secondary Education, Near Government Higher Secondary School No 1 Peshawar City.
4. District Education Office (Male), Near Government Higher Secondary School No 1 Peshawar City.
5. District Account Officer, Office of Accountant Gernal, Fort Road Peshawar Cant.

*Samina Gul.*  
Appellant

Through



**Muhammad Anwar Khan**  
**(Pashton Ghari)**

Date: 27/09/2018Advocate High Court,  
Peshawar

Annexure - A 9.

9-14.

G.P.F. No. 45886


# SERVICE BOOK

OF

Mr. ABDUL-JALAL S/O  
ABDUL-JALAL

Glass Adzeon  
Peshawar.

Personnel No 2753379

  
**ATTESTED**  
Muhammad Anwar Khan  
(Pushtun Ghari)  
Advocate High Court  
Peshawar

12  
Price : Rs. 10.00

(For use in Police Department only).

Heirs.

- 1.
- 2.
- 3.

Verification Roll No. \_\_\_\_\_ dated \_\_\_\_\_ received back \_\_\_\_\_

Left thumb-impression.

Qualification	Date	Qualifications	Date
1. Passed CCC Exam from BISE Peshawar Under R.No. 2750		First Arts	
2. English Mark obtained 614/850		B. L. or B. A.	
3. Passed Eng. F.S.E. Exam from BISE Peshawar Under R.No. 2260		Leadership examination	
4. Passed BA Exam from University Peshawar Under R.No. 3701	Result declared 21 January 1993	Other qualifications	
5. Passed CT Exam from Allama Iqbal Open University Islamabad	Mark obtained 557/900 (1st Div.)		
Under R.No. D69491 69/19/96	Master of Arts		
1994			
Finger print			
Drill instructing			
Court duties			
5. Passed B.Ed Exam from Allama Iqbal Open University Islamabad Under R. No. EG352619	Mark obtained 557/900 (1st Div.)		
in 1992	Registration No. 92-NPR-0149		

N.B.—line to be drawn under the qualification possessed.

**ATTESTED**  
 Muhammad Anwar Khan  
 (Pushtun Ghari)  
 Advocate High Court  
 Peshawar

Attested by  
 [Signature]  
 Head Master  
 G.H.S. Ziarat Colony Peshawar

311  
Personal

Note:—The entries

1. Name

Race

Residence

4. Father's name

5. Date of birth  
nearly as

6. Exact height

7. Personal description

8. Left hand  
position of thumb

Little Finger

Middle Finger

Thumb

9. Signature

10. Signature  
of Head of  
Office.

QPRATK IV 8.L / 45886 / en Added by FD III  
Personnel No. 2753379

Note:—The entries in this page should be reviewed or re-attested at least every five years and the Signature by whom reviewed should be dated.

1. Name MR. MAZULLAH  
2. Race MUSLIM  
3. Residence VILLAGE P.O. MIANGUJAR  
TEH. DIST. PESHAWAR.


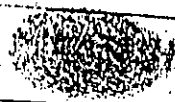



4. Father's name and residence ABDUL-JALAL


5. Date of birth by Christian era as nearly as can be ascertained 11-05-1970  
ELEVEN MAY N.H. SEVENTY.

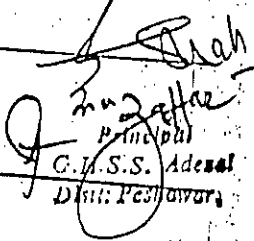
6. Exact height by measurement 5-8

7. Personal marks for identification Mole on chin.

8. Left hand thumb and Finger impression of (non-gazetted) officer

Little Finger.  Ring Finger   
Middle Finger  Fore Finger   
Thumb. 

9. Signature of Government servant 

10. Signature and designation of the Head of the Office, or other Attesting Officer.  
  
Principal  
G.I.S.S. Adenal  
Dist. Peshawar

**ATTESTED**  
Muhammad Anwar Khan  
(Pushun Chari)  
Advocate High Court  
Peshawar

Attested  
Q.S. Awar  
Head Master  
G.I.S. Zaryab Colony  
Peshawar City





CRC No: 100104-09-0001711-04

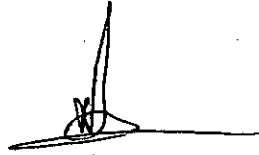
نیشنل ڈسٹریکٹ اینڈ سیشن ایجوکیشن اتھارٹی (اوزارت داخلہ)

اٹھارہ سال سے کم عمر بچوں کا سرٹیفکیٹ

درخواست دہندہ کا نام شہزاد گل درخواست دہندہ کا شناختی کارڈ نمبر 17301-9184751-8

شمار	سید کا نام	والد کا نام	والد کا نام	تاریخ پیدائش یا کتاب	جنس	شناختی کارڈ نمبر
1	شہزاد گل	ممتاز گل	ممتاز گل	13/04/2001	لڑکی	17301-9184751-8
2	شہزاد گل	ممتاز گل	ممتاز گل	23/07/2002	لڑکی	17301-9184751-8
3	شہزاد گل	ممتاز گل	ممتاز گل	10/04/2006	لڑکی	17301-9184751-8
4	شہزاد گل	ممتاز گل	ممتاز گل	15/12/2007	لڑکی	17301-9184751-8

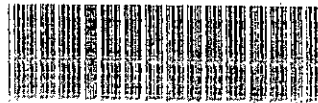
یہ سرٹیفکیٹ کے لئے درخواست دہندہ اور اس کے والدین نے درخواست دی ہے۔  
 - درج شدہ بچے کی عمر اٹھارہ سال ہوتے ہی شناختی کارڈ کے حصول کیلئے درخواست جمع کروائیں۔  
 - اس سرٹیفکیٹ کو مسترد کر دیا جائے گا کیونکہ بچوں کے کارڈ اٹھارہ سال کی عمر کو پہنچنے پر انہی سرٹیفکیٹوں کے سوا کسی اور کے پاس نہیں ہے۔  
 - نواپیدہ بچے کا فوری طور پر اندراج کروائیں اور نیا سیشن سرٹیفکیٹ حاصل کریں۔  
 - حکومت کی تبدیلی کی صورت میں نیا سیشن سرٹیفکیٹ حاصل کریں۔



**ATTESTED**  
 Muhammed Anwar Khan  
 (Pushtun Ghari)  
 Advocate High Court  
 Peshawar

علی ارشد حاکیم  
 دستخط رجسٹرار جنرل

تاریخ اجراء 01/10/2009



173019184751R

# موت کا سرٹیفکیٹ

لٹیکہ: لطیف برادر  
تصویری پشاور نمبر: 218433

یونین کونسل \_\_\_\_\_ موضع میراں گڑھ تحصیل پشاور ضلع پشاور

نمبر	پیدائشی وقت	توفی کا نام شافی کارڈ نمبر	والدین والدین برادر کا نام شافی کارڈ نمبر	توفی کی منصف		توفی کا نام	موت کا وجہ	بیماری	اطلاع کنندہ کا نام ولدیت سوانحیہ نمبر شافی کارڈ نمبر	کیفیت
				موت	بیماری					
1	26/03/2007	5/03/2007	عبدالرحمان	عبدالرحمان	✓	39 سال	طبعی	9-00	10	طبعی موت
						11/05/1970	تاریخ			

ATTESTED

Head Master  
G.B.S. Zaryab Colony  
Peshawar City.

ATTESTED  
Muhammad Iqbal  
Advocate  
in Court  
Peshawar

14

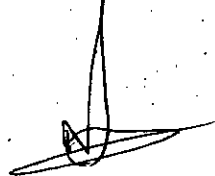
تصدیق کی جاتی ہے کہ موت کا سرٹیفکیٹ مطابق اصل رجسٹر احوال موضع میراں گڑھ ضلع پشاور یونین کونسل \_\_\_\_\_ دستخط Ashtaraif  
 صدر دستخط Ashtaraif صدر دستخط Ashtaraif  
 U/C Nahaqi



سند: ناگر درستی کا دستخط کے لئے جیسی میں لکھ رہا ہوں خود میں  
 کے لئے فرمایا ہے سران کو حوالہ CMO کے لئے - ڈیپارٹمنٹ  
 اور دن رات کے میں جان میں جو با بیان جو اس کے لئے لکھ رہا ہے  
 جو مالا مال ہے اس کے لئے لکھ رہا ہے جو مالا مال ہے اس کے لئے  
 داد دیتے ہوئے اس کے لئے لکھ رہا ہے اس کے لئے لکھ رہا ہے  
 مایوسی میں ہے اس کے لئے لکھ رہا ہے اس کے لئے لکھ رہا ہے  
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سردار الدین  
 11/11/2008  
 03-04-08

**ATTESTED**

  
**ATTESTED**  
 Anwar Khan  
 (Peshawar High Court)  
 Peshawar

دستخط  
 عہدہ

اطلاع کے نیچے اطلاع دہندہ کا دستخط ہوگا یا اس کی مہر یا نشان لگایا جائے گا۔ اور اس پر تحریر کنندہ ابتدائی اطلاع کا دستخط بطور تصدیق ہوگا۔ حروف الف یا ب سرخ روشنائی

انجمن تدریس و تربیت اسلامی پشاور  
گورنمنٹ ایبٹ سکول ذریعہ ایجوکیشن پشاور  
Annexure - C 17  
حساب عالی

درخواست برائے ادا ٹیگس فیسیلیشن (بابت عطا اللہ  
ملائی صاحب گورنمنٹ ایبٹ سکول ذریعہ ایجوکیشن پشاور)

حساب عالی سائلہ جب ذیل عرض بیان کیا  
پیر ۱۰ سائلہ پیر ۱۰ عطا اللہ ملائی صاحب گورنمنٹ ایبٹ سکول ذریعہ ایجوکیشن پشاور  
سائلہ پیر ۱۰ عطا اللہ ملائی صاحب گورنمنٹ ایبٹ سکول ذریعہ ایجوکیشن پشاور  
سائلہ پیر ۱۰ عطا اللہ ملائی صاحب گورنمنٹ ایبٹ سکول ذریعہ ایجوکیشن پشاور  
سائلہ پیر ۱۰ عطا اللہ ملائی صاحب گورنمنٹ ایبٹ سکول ذریعہ ایجوکیشن پشاور

Chapter - I  
Competent Authority  
گورنمنٹ ایبٹ سکول ذریعہ ایجوکیشن پشاور  
گورنمنٹ ایبٹ سکول ذریعہ ایجوکیشن پشاور  
گورنمنٹ ایبٹ سکول ذریعہ ایجوکیشن پشاور

گورنمنٹ ایبٹ سکول ذریعہ ایجوکیشن پشاور  
گورنمنٹ ایبٹ سکول ذریعہ ایجوکیشن پشاور

Samina Gul

17-2-2015

SE 45  
1491

7985 dated 17/2/15

گورنمنٹ ایبٹ سکول ذریعہ ایجوکیشن پشاور  
گورنمنٹ ایبٹ سکول ذریعہ ایجوکیشن پشاور  
گورنمنٹ ایبٹ سکول ذریعہ ایجوکیشن پشاور

Samina Gul

17-2-2015

گورنمنٹ ایبٹ سکول ذریعہ ایجوکیشن پشاور  
گورنمنٹ ایبٹ سکول ذریعہ ایجوکیشن پشاور

0332-9052758  
0332-9270723

ATTESTED  
Muhammad Anwar Khar,  
(Pushtun Gharl)  
Advocate High Court  
Peshawar

The Secy F & S (Education)  
Khyber Pakhtoonkhwa Peshawar.

Sub:- Appeal for condonation of deficiencies in qualifying service and issuance of family pension in respect of Mahazullah (Late) CT teacher in Govt High School Laryab Colony Peshawar.

Srs

I have the honour to state that - appellant - husband was died on 5.3.2009 in judicial lock up being convicted in a FIR case by the court of law.

As a teacher his total service was 9 years & three months, at that time. There was no final removal or dismissal from service was issued till his death.

Consequent upon the judgement of session court, the appellant - husband could have been filed appeal in superior courts against the adverse order but - unfortunately he died prior to file the appeal.

Under notification SoS III (FD) G-112/82 dtd 4-11-82 read with Civil servant 174 - rule 174-D Competent authority is empowered to grant one year condonation.

It is therefore requested that on acceptance of instant appeal the family pension may be allowed.

It is further clarified that the appellant case has already been in process but without any result -

yours. **Samina Gul**  
MSI Samina Gul widow of  
Late Mahazullah CT teacher of  
Fazl-ul-Relma USTAD Mian Gyan  
Peshawar. PH: NO - 0321-9571173

dtd. 30.11.2017  
**ATTESTED**  
Muhammad Anwar Khan  
(Pushtun Ghari)  
Advocate High Court  
Peshawar

Annexure - D 21

74

EXECUTIVE DISTRICT OFFICER  
(E & S. EDUCATION) PESHAWAR.  
No 2815 Dated 23/7/2011

The Directress,  
Elementary & Secondary Education,  
Khyber Pakhtunkhwa Peshawar.

SUBJECT:-

RELAXATION / CONDONATION IN PERIOD OF SERVICE FOR THE  
PURPOSE OF PENSION IN RESPECT TO DECEASED MAAZULLAH CT.

Memo:-

Please refer to your office letter No. 961/E.No. 611/A-15/CT/AT/Condonation/ All  
District Dated 08/07/2011.

I am directed to submit regarding grant of condonation / relaxation in service  
period for the purpose of pension in respect of deceased Maazullah Ex-CT teacher GHS Zaryab Colony  
Peshawar:-

1. That the noted lack was charged in criminal case vide FIR No. 163 dated under section 302/324  
34 PPC at Police Station Daudzai Peshawar.
2. He was arrested in mentioned case by the local police and was put behind bars in central Jail  
Peshawar where in he was died on 05/03/2009.
3. He was suspended from service vide order No. 5496-98 Dated 18/09/2008 the date of registration  
of FIR against the said teacher.
4. At the time of his death in Central Jail Peshawar his total qualifying service was 9<sup>th</sup> years  
02 Months and .04 days which is less than 10 years, a required for the grant of pensionary benefits  
to the family of deceased teacher.

It is therefore submitted that in the light of the above facts and figure that the  
family of deceased teacher entitle for the grant of family pension under the notification of Finance  
Department bearing SOS-III (FD) 4-112/82 Dated 15/12/1982 read with Civil servant rules 474-D on the  
ground that.

- A. Under the noted Notification of Finance Department the competent authority empowered to grant  
condonation of one year.
- B. Deceased was in Govt. service and final order of Removal or Dismissal in consequent upon the  
Judgment of the Court was not issue till his death in the Judicial locks up.
- C. That in case of in convection in the mentioned FIR, he was entitled for filling of criminal appeal  
before the High Court Peshawar, similarly in case of adverse judgment from the Peshawar High  
Court, he could have been file a CPLA/Appeal in the Supreme Court of Pakistan

Now in the wake of the above made submission, it is submitted that keeping in  
view the referred case law as well as law of presumption, the family of the deceased teacher is entitled  
for the grant of pensionary benefits to his family members.

*Attested*



*[Signature]*  
DISTRICT OFFICER (M.A.E.)  
(E & S. EDUCATION) PESHAWAR



Annexure E

22

22-26

GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT  
(REGULATION WING)

NO.FD(SOSR-II)4-44/2010

Dated Peshawar the 12/11/2010

To

The Secretary to Government of Khyber Pakhtunkhwa,  
Elementary & Secondary Education Department Peshawar.

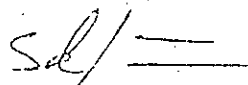
Subject: - RELAXATION/CONDONATION IN PERIOD OF SERVICE  
FOR THE PURPOSE OF PENSION IN RESPECT OF  
DECEASED MAAZ ULLAH C.T.

Dear Sir,

I am directed to refer to your office letter No, AO/6-27/TS/05 dated 01/10/2010 on the subject noted above and to state that the following observations may please be clarified to proceed further in the matter:-

- 1) Whether the accused was re-instated in service by the Competent Authority during his life time or otherwise?
- 2) In case of re-instatement in service whether his case has been closed/finalized; if so relevant documents may be provided?
- 3) Under what Rules condonation in service to complete 10 years service is to be granted especially when the official was convicted in the case?

Yours faithfully,



(WAZIR MUHAMMAD AFCAR)  
SECTION OFFICER (SR.II)



**ATTESTED**  
Muhammad Anwar Khan  
(Pushtun Ghari)  
Advocate High Court  
Peshawar

A GUIDE 23

To

# FINANCIAL RULES

For

## GOVERNMENT SERVANT

PLC 23 page 2007  
14

For Government  
Dep. Appeal

2007 PLC-CS-19  
2007 ML-229



PRINTED  
BY THE  
GOVERNMENT  
OF PUNJAB  
AT THE  
GOVERNMENT  
PRINTING  
WORKS  
LUDHIANA

Amir Badshah Khattak

W

CHAPTER 1

3. 24  
**PENSION RULES**

**Pension:-** Means a periodical payment made by Government in consideration of the services rendered by a Government servant in accordance with rules.

★ The minimum length of service required for pension is ten years while for the gratuity the required length of service is five years or more but less than 10 years.

(a) **Classes of Pension:**

i) *Superannuation Pension:* Granted on completion of age of superannuation which presently is 60 years under the law.

ii) *Retiring Pension:* Granted to a Government servant who is permitted or required by Government to retire after completing qualifying service of 25 years. The retiring pension is also granted to a Government servant who is compulsorily retired under the E & D Rules.

iii) *Invalid Pension:* Awarded to a Government servant who by bodily or mental infirmity is permanently incapacitated by the standing Medical Board or standing invaliding committee or Medical Supdt: as described below:-

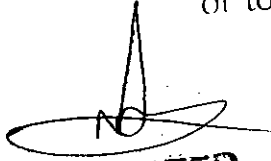
The standing Medical Board or standing invaliding committee in the case of Govt: servants in B-16 and above.

Medical Supdt: DHQ/Services Hospital in case of Govt: servant in B-1 to B-15.

*Note :-* A Government servant should be invalidated within thirty days of the receipt of Medical Certificate or if he is on leave or is granted leave as a special case, on the expiry of such leave whichever may be later.

iv) *Compensation Pension:* Granted on the eve of abolition of a permanent post, if an incumbent of such post is not absorbed in any other service/post.

(b) **Family Pension:** Granted to the family members of a Government servant in case of his/her death during service or to the family of a pensioner in the event of his death.

  
**ATTESTED**  
Muhammad Anwar Khan  
(Punjab High Court)  
Advocate High Court  
Peshawar

- ★ In case the civil servant dies during service, the family pension shall be admissible at the rate 50 % of Gross pension. The gratuity in lieu of one fourth of gross pension on the basis of age of the deceased civil servant according to commutation table will also be paid. If the civil servant dies after retirement, the family pension would be admissible equal to 50 % of the net or reduced pension.
- ★ The widow will get pension for life or till her remarriage. The husband of the deceased female servant will get pension for 10 years.
- ★ In case the civil servant dies, and the widow is also a civil servant, the pension would only cease in case of death or remarriage of the widow.
- ★ Family Includes:-
  - a) Wife/Wives of a male Government servant.
  - b) Husband of the deceased Government servant.
  - c) Widow/widows and children of a deceased son of the Govt: servant.
- ★ If the widow dies, the pension will be admissible to the sons, if any until they attain the age of 21 years and the unmarried daughter, if any, until they are married or attain the age of 21 years, whichever is earlier.
- (c) **Extraordinary Pension:** Is granted in addition to normal pension whose death, injury or disability etc is directly attributed to duty in service.
- (d) **Anticipatory Pension:-**  
If there is an apprehension that finalisation of pension case of a Government servant will be delayed, a pension upto 80 % of the admissible pension may be issued by the competent authority without reference to audit office.
- (e) **Compassionate allowance:-**  
No pension shall be admissible to a civil servant who is dismissed or removed from service for reasons of discipline, but government may sanction compassionate allowance to such a civil servant, not exceeding two thirds of the pension or gratuity which would have been admissible to him had he been invalided from service on the date of such dismissal or removal.

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**Conditions for the Grant of Pension:**

- ★ The service must be under Government.
- ★ The service must be pensionable.
- ★ The servant must be paid out of the consolidated fund.

**Service Qualifying for Pension:**

- ★ All periods of leave, other than extraordinary leave.
- ★ The period of suspension followed by re-instatement.
- ★ Probationary period followed by confirmation.
- ★ Half of period of apprenticeship.
- ★ Military pensionable service which terminates before a pension has been earned in respect of it, when followed by Civil pensionable service, counts as part of such service provided that any bonus or gratuity received in lieu of pension on or since discharge from military service shall be refunded in lumpsum or in monthly instalments not exceeding 36. The military service of the individual concerned and the amount of gratuity paid to him should be verified by reference to the Controller of Military Accounts.
- ★ Time occupied in transit from one appointment to another.
- ★ Period of training during service.
- ★ Periods spent in foreign service if pension contributions are paid.

**Service which does not qualify for Pension.**

- ★ Extraordinary leave (i.e. leave without pay).
- ★ Overstay of joining time or leave.
- ★ Half of the Apprenticeship period.
- ★ Foreign service if pension contributions are not paid.

**Forefeiture of past Service.**

A Government servant forfeits his past service in the following cases:-

- a) Resignation of a post unless it is to take up another post, service in which counts for pension.
- b) Removal or dismissal from service on account of misconduct, insolvency or inefficiency.

**ATTESTED**  
Muhammad Anwar Khan  
(Pushtun Ghari)  
Advocate High Court  
Peshawar

c) Absence from duty without leave.

*Note :-* The pension sanctioning authority may commute retrospectively periods of absence without leave into extraordinary leave.

### Condonation of interruption and deficiencies.

**Interruption:** (a): The Administrative Department may for purpose of pension condone all gaps between qualifying service of a Government servant.

(b): The period of extraordinary leave shall not be treated as qualifying service for pension but only as a bridge between the two periods of qualifying service. Interruption in service due to other reasons may be condoned provided such interruption is not due to any fault or wilful act of the Government servant, like unauthorised absence, resignation or removal from service. Interruption due to removal on account of reduction and retrenchment of the post shall however be deemed to have been condoned. The periods of such interruptions shall not, however, count as qualifying service for pension.

**Deficiency:** (a): A deficiency in qualifying service upto 6 months is automatically condoned.

(b): A deficiency in service for more than 6 months but less than a year can be condoned by a competent authority subject to the following conditions:-

i): The Government servant has died while in service or has retired under circumstances beyond his control, such as on invalidation or abolition of his post, and would have completed another year of qualifying service, if he had not died or retired.

ii): The service rendered by him had been meritorious;

(c): A deficiency of full one year or more cannot be condoned.

Factor

i) Last

ii) Net C

iii) Form

Commute

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**Factors involved in calculation of Pension:-**

i) Last Pay: i.e. Basic pay, additional pay/special pay, personal pay, technical pay, indexed pay, senior post allowance, increment accrued during L.P.R, Dearness allowance, any other addition to pay which may specially be declared by Govt: as emoluments reckoning for pension.

ii) Net Qualifying Service:

iii) Formula of Calculation of pension:

$$\frac{\text{Last pay} \times \text{Service (upto 30 years)} \times 7}{300}$$

300

Plus

Service benefit @ 2 % for each completed year of service in addition to 30 years subject to a maximum of 10 %.

**Commutation:-**

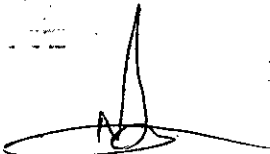
★ An amount upto 50 % of the Gross pension can be commuted at the rate of commutation table with reference to the age of the Government servant on the next birth day.

★ The commuted value of pension shall be restored on outliving the period for which commuted value was paid. In restoration, fraction of a year shown in the commutation table which is less than six months will be ignored and that of six months and more will count as one year.

★ The gratuity has been abolished altogether w.e.f. 1.7.1986. However, the amount surrendered for gratuity before 1.7.1986 shall be restored after outliving the period for which gratuity was allowed.

★ Commutation is not subject to medical certificate if it is asked for within one year of the date of retirement. This is not applicable in the case of invalid pension. In the cases of premature retirement on medical grounds, the requirement of medical examination shall not be waived.

★ A civil servant after attaining the age of 60 years will be allowed commuted value of pension as applicable to the age of 60 years, instead of 61 years.

  
**ATTESTED**  
Muhammad Anwar Khan  
(Pushtun Gharj)  
Advocate High Court  
Peshawar

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**Amount of gratuity in the case of Govt: servant  
having more than five but less than ten year service.**

Gratuity is paid at the rate of one month pensionable emoluments for each completed year of service. In case of death or invalidation, gratuity at the rate of one and half month's emoluments is paid for each completed year of service.

**General Orders:**

- ★ Good conduct during and after service is an implied condition. The pension can be reduced or stopped if the conduct of Govt: servant during service and or after retirement is not satisfactory.
- ★ There is no maximum limit of pension.
- ★ Except with the previous sanction of the Govt., No pensioner shall within a period of two years from the date of his retirement, take part in any election or engage in politics.

**Pension Sanctioning Authority**

- a) The appointing authority can accord sanction of pension for civil servants in Grade-16 and below.
- b) The Secretary of the Department concerned shall have the powers to grant/sanction all kinds of pension, excluding compassionate allowance to civil servants in Grades 17 to 19 who are or have been working under his administrative control immediately before retirement. The extraordinary pension shall be sanctioned with the prior concurrence of Finance Department.
- c) The Chief Secretary shall have powers to accord sanction of pension to Officers in B-20 and above.

**Instructions**

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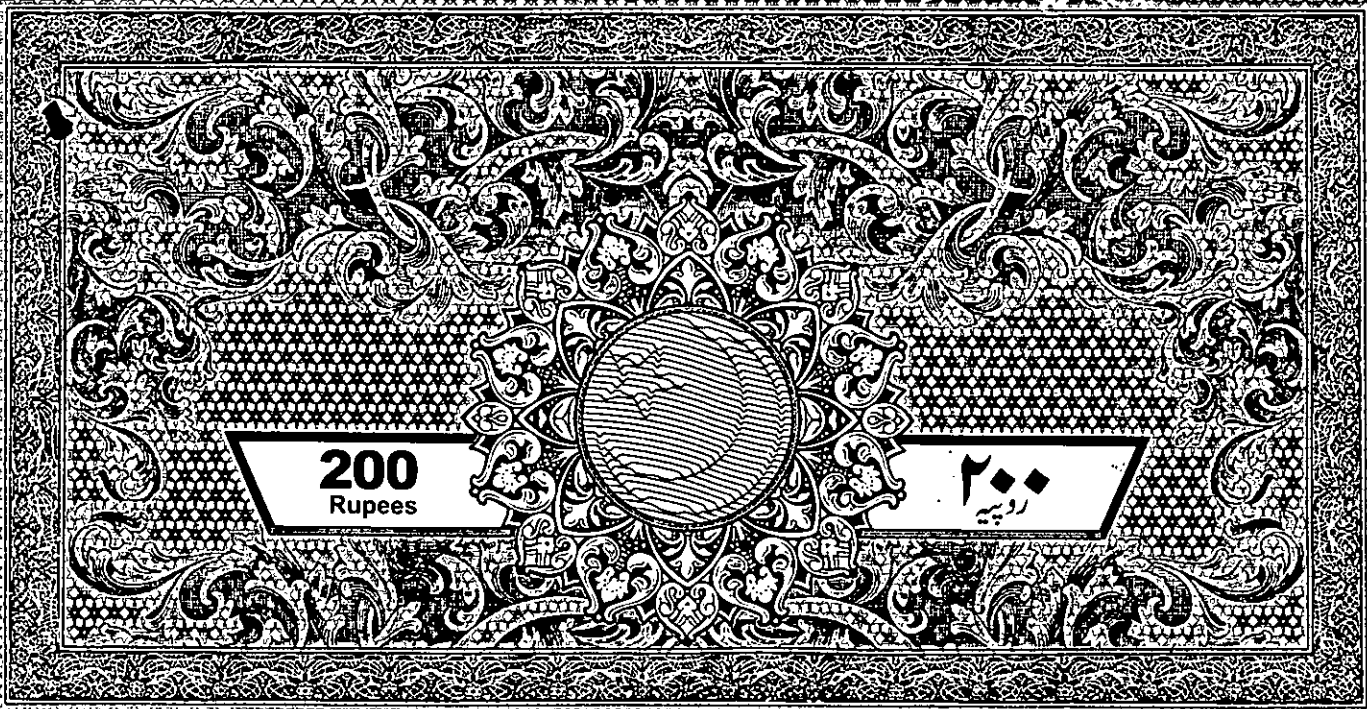
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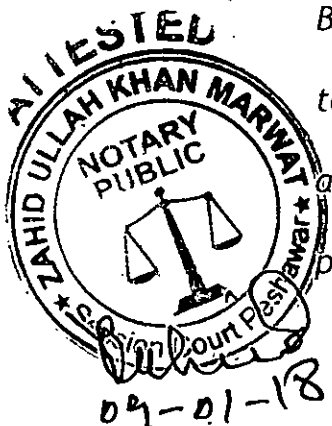


## SPECIAL POWER OF ATTORNEY

For case proceedings

By this special power of attorney, I, SAMINA GUL wife of ~~LATE MAHAR~~  
~~ULLAH~~ R/o Mohallah Miangan, Mian Gujjar, Peshawar, do hereby state  
that I am going to file a service appeal before the learned Services  
Tribunal Peshawar and I being lady and being busy in other matters, is  
unable to appear before the court on each and every date of hearing,  
therefore, to appoint and authorize, constitute Mr. MUHAMMAD BILAL  
JAN S/O NAZIR ULLAH R/O MIAN GUJAR, TEHSIL & DISTRICT PESHAWAR  
as our special attorney and authorize him to do as under in our name  
and on our behalf and under his own signatures: -

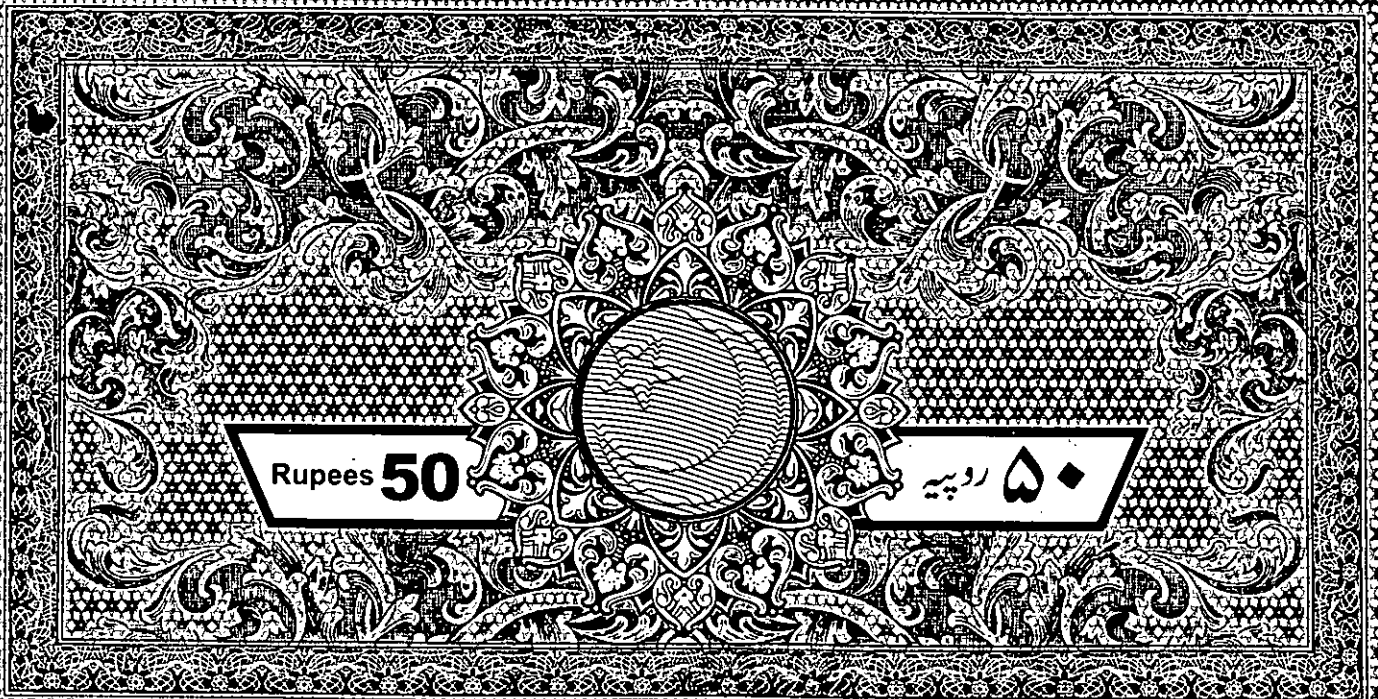
1. To appear on my behalf before any court of law including  
Services Tribunal and its superior forums, Civil, Sessions, High  
Courts, Supreme Court of Pakistan, any authority including  
NADRA, Investigating, Ministry of Interior, Police, FIA, Special  
Branch, IB, Tax authority, Customs authority, Cantonment  
Board, in any case, to sign all the documents, papers and things  
to appoint advocates for the case to withdraw powers from him  
and to appoint others to record statements of witnesses and to  
produce any documentary evidence or proof and to do all the



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TREASURY OFFICE  
02 JAN 2018  
PESHAWAR

Minister of Treasury  
Date: 23/1/1998  
Akhtar Gul Shannad

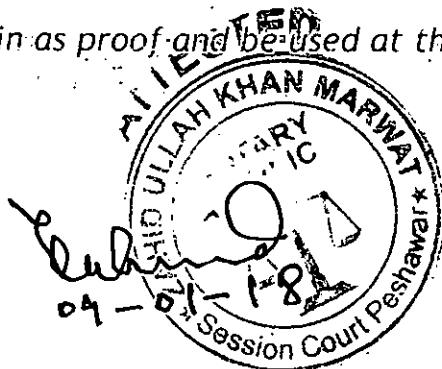


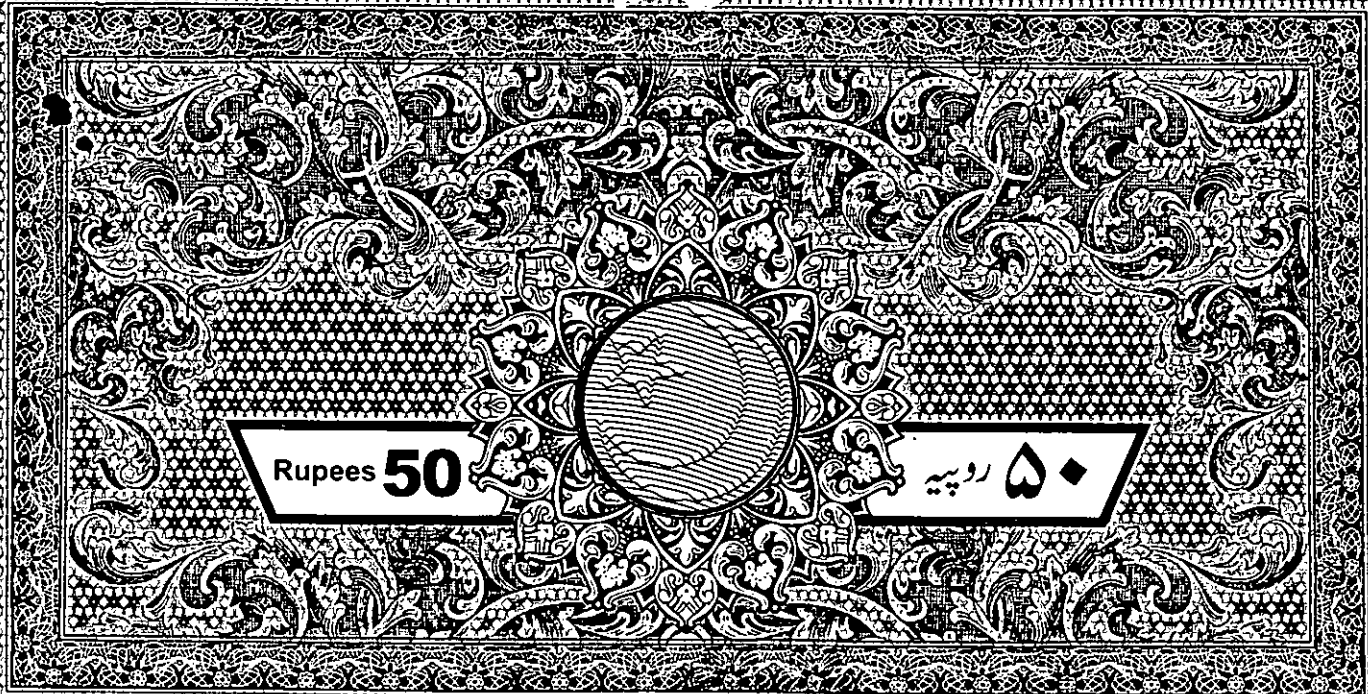
Rupees **50**

۵۰ روپیہ

- attendance in the concerned courts of law and to do all the need full in that connection. To give statements on my behalf.
2. That our said attorney is authorized to be my attorney in any future litigation / cases.
  3. To file appeal, review, revisions, leave to appeal, writs, applications, misc. applications, statements, written statement and all other deeds and things, right from the original court to appellate, revisional, High court and Supreme Court of Pakistan, or any other authority, to sign all the deeds and things to appoint advocates for any Court of law / Authority and to do the needful in that connection.
  4. To do all the other acts, deeds and things which are not specifically mentioned here but which shall be needed to be done legally and in legal faith in accordance with the circumstances of the cases.

So in witness whereof this special power of attorney is executed to remain as proof and be used at the time of need.





Rupees **50**

۵۰ روپیہ

**SPECIAL POWER OF ATTORNEY**

For case proceedings

ATTORNEY EXECUTANTS

SAMINA GUL

Samina Gul

CNIC NO. 17301-9184751-8

ACCEPTED BY / ATTORNEY HOLDERS

MUHAMMAD BILAL JAN

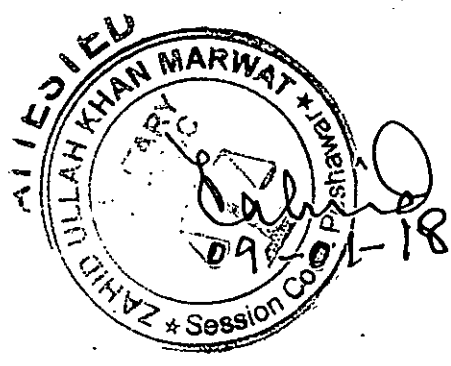
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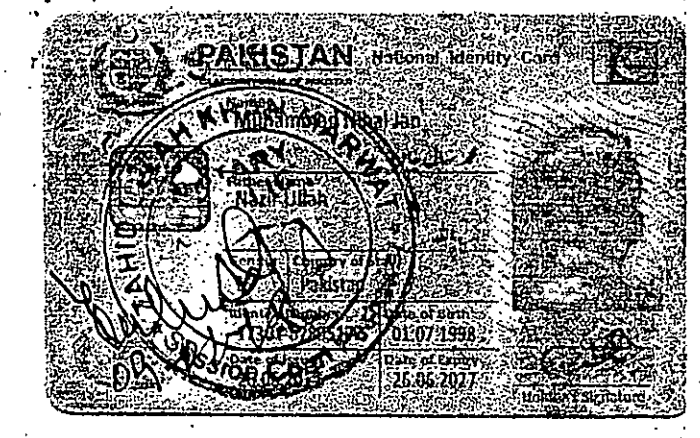
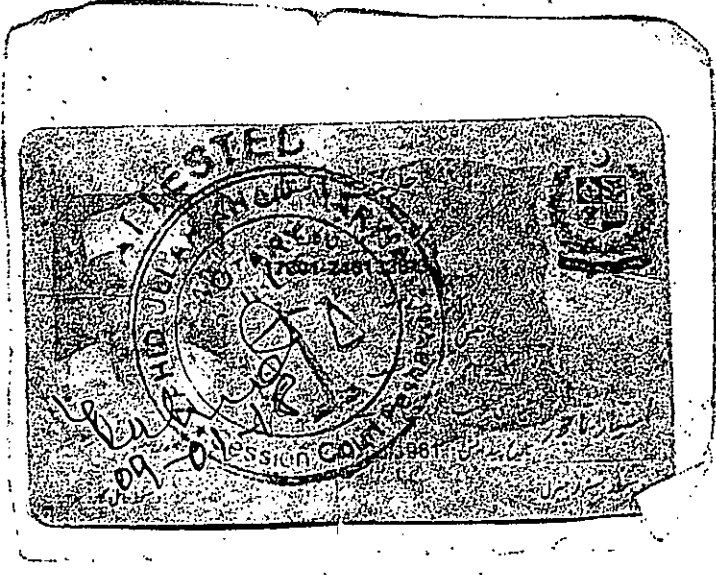
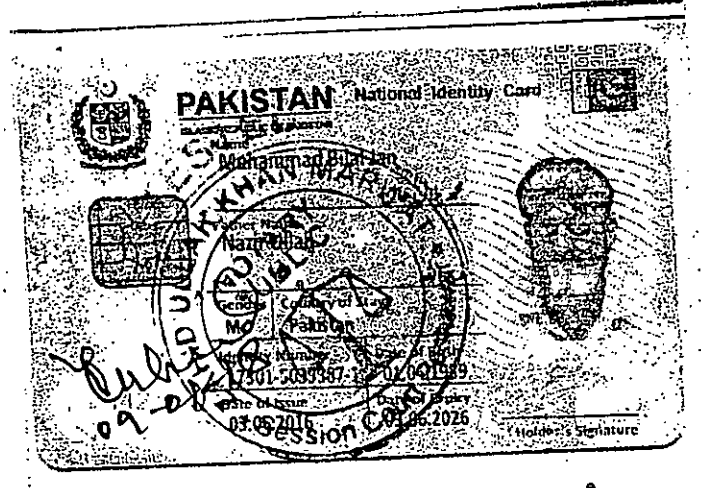
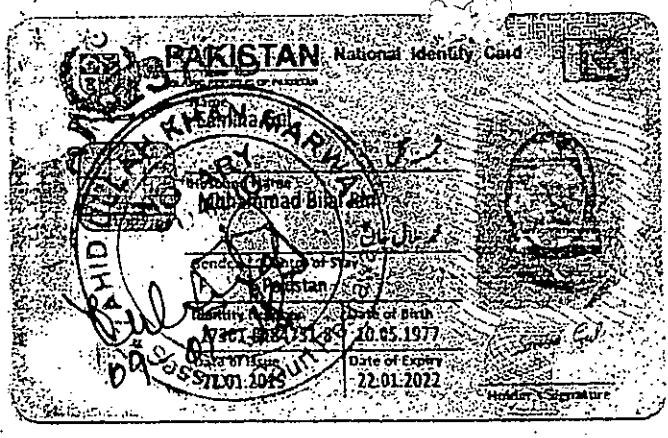
WITNESSE

1. Muhammad Nihal Jan  
S/O Nazir ulla  
Mian Cufar Peshawar  
CNIC # 17301-6780517-5

2. Nazir ulla  
S/O Muhammad Nozeef  
Mian Cufar Peshawar  
CNIC # 17301-2461338-3



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*(Signature)*  
**ATTESTED**  
 Muhammad Anwar Khan  
 (Pushtun Ghari)  
 Advocate High Court  
 Peshawar

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Registrar General of Pakistan

گمشدہ کارڈ ملنے پر قریبی لیو بکس میں ڈال دیں

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Registrar General of Pakistan

گمشدہ کارڈ ملنے پر قریبی لیو بکس میں ڈال دیں

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Registrar General of Pakistan

گمشدہ کارڈ ملنے پر قریبی لیو بکس میں ڈال دیں

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Registrar General of Pakistan



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ایڈوکیٹ: محمد الفیضان		
بار کونسل ایسوسی ایشن نمبر: BC-10-8797	پشاور بار ایسوسی ایشن، خیبر پختونخواہ	
رابطہ نمبر: 0333 9262374		

بعدالت جناب:

مخانب: سمانہ مینہ گل	دعویٰ:
<p>بینام</p> <p>سید زری ایجوکیشن ڈیون</p>	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:
<b>باعت تحریر آنگہ</b>	

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ

آن مقام کیلئے محمد الفیضان ایڈووکیٹ کو وکیل مقرر کیا گیا ہے۔

کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 27/2/2018

العبد العبد واہ شد العبد

مقام کیلئے منظور ہے۔

Attested

Accepted

نوٹ: اس وکالت نامہ کی نوٹ کو کاپی ناقابل قبول ہوگی۔

Accepted and attested

*[Signature]*

*[Signature]*

ATTESTED

Muhammed Anwar Khan

(Pushtun Ghari)

Advocate High Court

Peshawar

Samina Dlt.

**Before the Khyber Pakhtunkhwa Service Tribunal Peshawar**

Appeal No.280/2018.

Mst.Samina Gul.....Appellant.

**VERSUS**

The Secretary to Government of Khyber Pakhtunkhwa,  
Elementary & Secondary Education Peshawar & others.....Respondents.

**(Reply on Behalf of Respondent No. 05)**

**Respectfully Sheweth:-**

Para No. 01 to 10.

Being an Administrative matter, the issue relates to Respondent No. 1, 2,3& 4. Hence, they are in a better position to redress the grievances of the Appellant. The Pension case of the Appellant when received to this office will be dealt in accordance with the rules. Besides, the Appellant has raised no grievances against this office.

Keeping in view the above mentioned facts, it is humbly prayed that the Appellant may be directed to approach Respondent No. 1, 2, 3 & 4 for the satisfaction of her grievances and the appeal in hand may be dismissed with cost.

  
**ACCOUNTANT GENERAL  
KHYBER PAKHTUNKHWA**



**BEFORE THE KPK SERVICES TRIBUNAL, PESHAWAR**

Rejoinder

In

Service Appeal No.280/2018

Mst Samina Gul .....Appellant

**VERSUS**

Govt of KPK and others .....Respondents

**INDEX**

S.No	Description of Documents	Annex	Pages
1.	Rejoinder		1-2
2.	Affidavit		3
3.	Copy of Judgment	A	4-14
4.	Copy of letter and Finance Rules	B	15-19



**Muhammad Anwar Khan**

**(Pashtun Ghari)**

Advocate High Court,  
Peshawar

Cell: 0333-9262374

Date:   /  /10/2018

BEFORE THE KPK SERVICES TRIBUNAL, PESHAWAR

Rejoinder

In

Service Appeal No.280/2018

Mst Samina Gul

.....Appellant

**VERSUS**

Govt of KPK and others

.....Respondents

Rejoinder to the Reply of Respondent No 1 to 4

Respectfully Sheweth:

The appellant Submits as under:

That all the preliminary objections raised by the respondents are incorrect, false, irrelevant, with out lawful authority and vexatious.

**Fact:**

1. Para No 1 is admitted as correct so no comments.
2. Para No 2 of the Reply is incorrect where as that of Appeal is correct. The Husband of Appellant was innocent and died in Jail before finalizing the Punishment by the Superior Courts, more over the so called crime is also not a crime of moral turpitude and this Honorable Service Tribunal already decided such like cases. (**Copy of Judgment is attached as Annexure A**).
3. Para No 3 is also incorrect. The Crime was not committed by The Husband of Appellant. Later on the Department has been informed and was suspended and received salary in suspension period in jail till his death.
4. Para No 4 is correct upto extended that total service of the husband of Appellant was nine years three months and four days rest of the Para is incorrect. In sudden death case the condonation up to one year is allowed by the

competent authority as per Finance Department Notification SOS-III (FD) 4-112/82 dated 15/12/1982 read with civil Rules 17-1-D. 2

5. Para No 5 of the Respondents is incorrect and Para No 5 of the Appeal is correct. Para No 5 of the Appeal is for request of condonation of qualifying service but reply submitted by the Respondents has no connection with Para No 5.
6. Para No 6 is admitted as correct so no Comments.
7. Para No 7 of reply is incorrect. The Appellant is aggrieved person and have a cause of action.
8. Para No 8 of the respondents is incorrect. Respondents No 2 & 4 are agreed for condonation of 9 months service deficiency and also superiors Court decided family pension on less than 10 years service. **(The letter of respondents and Finance Rules are attached as Annexure B).**
9. Para No 9 of reply is incorrect. The Respondents till date have not Sanction 9 months condonation.
10. Para No 10 of Reply of Respondents is incorrect.

**Grounds:**

- A. Para A of the Reply is incorrect. The Respondents have not acted according Law and rules of Finance Department Notification. SOS III (FD) 4-112/82 dated 15/12/1982 read with Civil Service Rule 17-1-D.
- B. Reply of Ground B by Respondents is incorrect.
- C. Para No C of the Respondents is incorrect and the Para C of the Appeal is correct.
- D. Para D is admitted as correct by the Respondents so no comments. More over the deceased has not been terminated till his death.

*It is therefore most humbly prayed that in light of Foregoing facts the Respondents may be directed to pay all dues in according with Civil Servant pension rules.*

Date: 15/10/2018

*Samina Gul*  
Appellant

Through

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

**BEFORE THE KPK SERVICES TRIBUNAL, PESHAWAR**

Rejoinder

In

Service Appeal No.280/2018

Mst Samina Gul .....Appellant

**VERSUS**

Govt of KPK and others .....Respondents

**AFFIDAVIT**

I, Mst. Samina Gul Wife of Late Maazullah EX- CT Teacher R/o Village Main Gujar Peshawar, do hereby solemnly affirm and declare that the contents of the accompanying **Rejoinder** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

*Samina Gul*  
**DEPONENT**

BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 49/2006

Date of Institution... 24.01.2006  
Date of Decision..... 17.01.2006

Said Akbar, S.V Teacher, S/O Sanobar  
R/O village & P.O Land Arbab,  
Tehsil & District, Peshawar.....(Appellant)

VERSUS

1. Government of NWFP through Secretary Education(Schools & Literacy) NWFP, Peshawar.
2. Director Education(Schools & Literacy) NWFP, Peshawar.
3. Executive District Officer(Schools & Literacy) NWFP, Peshawar.

MR. JAVED A. KHAN, Advocate  
MR. USMAN GHANI, A.C.P.

For appellant  
For respondents.

MR. MUHAMMAD UMAR AFRIDI,  
MR. ADALAT KHAN KHATTAK,

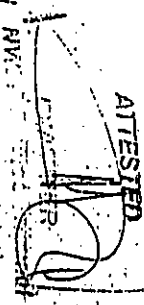
MEMBER.  
MEMBER.

JUDGMENT

MUHAMMAD UMAR AFRIDI, MEMBER: This appeal has been filed by Mr. Said Akbar, S.V Teacher, son of Sanobar R/O village and post office Landi Arbab, Tehsil and District, Peshawar under section-4 of the NWFP Service Tribunals Act, 1974 wherein it has been prayed that on the acceptance of the appeal, the appellant may kindly be assigned his job/reinstatement in service with all back benefits permissible under the law and rules.

2. Brief facts of the case are that the appellant namely Said Ahmad joined Education Department as Senior Vernacular Teacher and was initially posted at Government High School, Deh Bahadar by the I. Divisional Director (Schools) Peshawar vide his office order No.46658-62 dated 20.10.1986, where after he took over the charge of the post on 21.10.1986. The appellant along with some other persons got implicated in a criminal case registered under section 302/324/34-QDO vide FIR No. 528 dated 21.7.1993 at Police Station Bhanja Mari Peshawar. The appellant was tried by Additional Sessions Judge, Peshawar and was awarded life Imprisonment vide judgment dated 8.4.1996. Fine was also imposed under different sections of law. After having served the sentence, the appellant was released from jail on 12.1.2001. Thereafter the elders of the village in several sessions with both the parties patched up the matter through compromise on 13.10.2003.

3. The appellant, while facing trial, was placed under suspension vide order No:8519-22, dated 4.11.1993. Then the respondent department vide order No.8778-83, dated 1.8.1994 transferred and posted one Mahmood Ahmad Jan to Government High School Deh Bahadar in place of the appellant and lien of the appellant was against the post of Government High School Sheikh Muhammadi. The respondent department did not bother to initiate any disciplinary action against the appellant till his release. The appellant through compromise with his enemies approached his department several times for acceptance of his arrival which was not accepted. He ultimately approached the Provincial Education Minister to intercede in his case and gave him relief. The respondent department conducted an enquiry on 10.5.2005 which was more a report than the enquiry. It was suggested in the enquiry that the matter may be referred to the law department for an appropriate action/guidance under the prevailing rules. The respondent department vide No. SO

ATTESTED  


45/05/Vol:111/reinstatement, dated 5.12.2005, referred the case to the Establishment Department for advice. The Establishment Department vide its No.SOR-1(FRAD)1-19/81(Vol-II), dated 24.12.2005 enquired the respondent department to indicate rules under which a convicted person could be reinstated in service. The Establishment Department further advised the respondent department not to refer such like cases for advice which were quite clear. It was further advised that the respondent department should also avoid the shifting of responsibility to others. The appellant while having no other remedy preferred this appeal.

4. Notices were issued to the respondents for filing their written replies. They filed their written replies and contested the appeal. The appellant also filed his rejoinder in rebuttal.

5. Arguments heard and record perused.

6. The counsel for the appellant argued that the appellant was suspended on 4.11.1993 by the respondent department. The department did not initiate any further action till date. Even the suspension was not extended. The appellant therefore, was still civil servant and needed to be posted some where. He further argued that any civil servant if not convicted for moral turpitude could continue his service. It was also argued that the FACT of the case of one Zahir Shah decided by the Hon'ble Tribunal vide its judgment dated 29.12.2004 in appeal No.453/2004 were almost similar to the case of the appellant. The counsel for the appellant committed that the appellant would not claim the back benefits. Therefore, the counsel for the appellant requested for acceptance of the appeal on the same lines.

7. The Additional Government Pleader, on the other hand, argued that the appellant was suspended on 4.11.1993 while he preferred

ATTESTED  
[Signature]

his departmental appeal on 24.4.2001. The present appeal preferred by the appellant on 24.1.2006 was therefore, time barred and could not be maintained as such. He further argued the Hon'ble Tribunal had got no jurisdiction to entertain the present appeal as no punishment was awarded to the appellant. It was also argued that as far as suspension was concerned, it was not punishment as defined under the law. He requested for dismissal of the appeal.

8. After having heard the arguments of both the sides and having perused the record, the Tribunal is of the view that law should equally treat all the citizens of the country. It further agrees to the views of the learned counsel for the appellant that the case of the appellant should be treated at par with that of Zahir Shah already decided by the Tribunal. The main point of the case is that the appellant should not suffer for the slackness of the respondent department. Had the respondent department initiated the departmental proceedings in time, the position of the case would have been totally different to-day. Since the department kept silent over the case therefore, the benefit should go to the appellant. In view of the aforementioned position the Service Tribunal accepts the appeal of the appellant and directs the respondent department to accept the arrival of the appellant with immediate effect. His absence shall be treated as extra-ordinary leave (Leave without pay). Moreover, the appellant shall not claim his back benefits. No order as to costs. File be consigned to the record.

ANNOUNCED.  
17.1.2007

*M. Umar Afridi*  
(MUHAMMAD UMAR AFRIDI)  
MEMBER

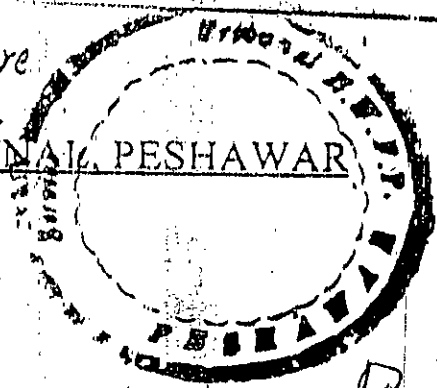
*Adalat Khan Khattak*  
(ADALAT KHAN KHATTAK)  
MEMBER



(11)

Annexure  
"C"

BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR



Service Appeal No. 453/2004

Date of institution 16.6.2004

Date of Decision 29.12.2004

Zahir Shah, SET, Govt High School  
Zarki Nasrati, resident of Village Zarki Nasrati  
District Karak.

.....Appellant

**VERSUS**

1. Government of NWFP through  
Secretary Schools & Literacy, NWFP  
Peshawar.
2. Director of Education  
Schools & Literacy, NWFP, Peshawar
3. Executive District Officer,  
Schools & Literacy, Karak.

.....Respondents

Abdul Hameed  
Advocate

...For Appellant

Mr. Sultan Mehmood,  
Govt. Pleader

...For Respondents

Mr. Abdul Sattar Khan.  
Mr. Azmat Hanif Orakzai

Chairman  
Member

JUDGMENT

AZMAT HANIF ORAKZAI:- This is an appeal filed by  
Zahir Shah SET, GHS Zarki Nasrati, District Karak u/s 4 of the

ATTESTED

NWFP Service Tribunal  
Peshawar  
EXAMINER

NWFP Service Tribunal Act, 1974 wherein it has been prayed that the respondent No.1 & 3 be directed to re-instate the appellant against his original post of SET at GHS Zarki Nasrati. (5)

2. Briefly stating the factual matrix of the case is while serving as SET at GHS, Zarki Nasrati, District Karak was implicated in a criminal case registered under sections 324/427/34 PPC, vide FIR No.107 dated 24/7/2000 at Police Station Takht-i-Nasrati District Karak. The appellant was tried by Judicial Magistrate, Karak and sentenced to seven years R.I. u/s 324 PPC, Five years R.I. u/s 337-F(v). Similarly u/section 427 PPC a fine of Rs.9,800/- was imposed on him for payment as compensation to the complainant for repair of his tractor which had allegedly been damaged by the appellant. Against his conviction order the appellant filed a criminal appeal before the Peshawar High Court which was dismissed by the Honourable Court, however sentences of 7 years R.I. u/s 324 PPC, and 5 years R.I. u/s 337-F(v) PPC awarded to the appellant were reduced to four years each, respectively. The appellant thereupon filed a criminal petition before the Supreme Court of Pakistan which too was dismissed vide judgment dated 19/12/2003. During the pendency of trial, the respondent department surprisingly did not initiate any disciplinary action against the appellant, and that he continued to draw his salary till 30/04/2002. His salary was

ATTESTED  
EXAMINER  
NWFP Service Tribunal  
Peshawar.

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however, stopped by the department from 1/5/2002 onwards. After undergoing the imprisonment period he reported for duty before the Headmaster GHS Zarki Nasrati on 28/1/2004 however, the latter refused to allow him to resume his duty for want of any explicit approval from Director, S&L. Feeling aggrieved with the decision of the Headmaster he filed an appeal/representation, on 17/2/2004 before Director, Education (S&L)/respondent No.2 for his posting/adjustment. The appellant received no response from the Director Education within ninety days, hence the instant appeal on the following grounds:-

- a. A government servant was eligible to be re-instated in service by the competent authority after undergoing the punishment of imprisonment, provided that he was not convicted for an offence constituting moral turpitude.

---

- b. The appellant had been charged for an offence u/s 324 PPC i.e. attempted murder which was a common phenomenon in a district like Karak.
- c. That the appellant had a clean record of service and that he had never been proceeded against departmentally in the past nor was there any bad entry in his service record.

ATTESTED

NWFP Service Tribunal  
Peshawar

~~SECRET~~ 14

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d. That the appellant was the sole supporter of his family and that he had served the department for thirty long years, hence he deserved to be given the assignment which he previously was performing.

3. After preliminary hearing, the respondents filed their replies and the case was argued by Counsel of the appellant as well as GP for the State. Counsel for the appellant stated that the appellant who had a clean record of service was implicated in a criminal case u/s 324 PPC due to a family feud which is not very uncommon in a place like District Karak. As a consequence thereof he was sentenced to imprisonment, and imposition of fine. After undergoing his imprisonment period the appellant reported for duty on 28/1/2004 before the School authorities of GHS Zarki Nasrati, District Karak but he was refused a job. The Counsel further contended that while criminal proceedings were in process against the appellant, no action was initiated against the appellant by the department, and that he continued to draw salary till his conviction. Now that he had undergone the sentence period he had a right to be re-instated in service as it was a policy of the government that a civil servant was entitled to reinstatement after serving the conviction period provided that he was not convicted for an offence

ATTESTED

EXAMINER  
NWFP Service Tribunal  
Peshawar.

of moral turpitude. Attempted murder did not fall in the category of moral turpitude as was clear from letter dated 3/12/2003 of the Establishment Department (Annexure-F). The Counsel also contended that there were instances in the recent past relating to District Karak where government functionaries who had been convicted for offences other than offences of moral turpitude had been re-instated into service by the competent authorities. In this connection he cited the examples of one Irshad Ahmed, Radiographer (BPS-6) who was re-instated by DCO, Karak vide his order dated 9/4/2002, and Mr. Raqib Khan, CT Teacher who had been convicted u/s 302 PPC but was re-instated in service by EDO, S&L, Karak vide his order dated 5/5/2003. The Counsel also produced a letter dated 26/5/2004 from EDO S&L Karak addressed to Director S&L NWFP, Peshawar wherein the appellant had been recommended for re-instatement into service after undergoing the sentence period.

4. The GP on the other hand stated that after the registration of a criminal case against the appellant the department did not initiate any disciplinary action against the appellant, for unexplained reasons. The appellant had been drawing salary during the trial period despite the fact that he did not perform official duty. This Payment made to him illegally be recovered from him.

ATTESTED  
EXAMINER  
NWFP Service Tribunal  
Peshawar.

The GP further argued that the appellant after being convicted was not fit enough to be entrusted with the task of teaching students any more. The plea of the appellant therefore did not deserve any consideration, and the instant appeal be dismissed.

5. I have gone through the case file, and have carefully listened to the arguments advanced by both sides. In the instant case, the appellant who otherwise had a clean record of service got implicated in a criminal case of attempted murder due to personal enmity, being very common in the area. He was sentenced to rigorous imprisonment, and fined too. After undergoing his sentence period, and payment of fine, he reported hence back for duty, but he was denied service in his old school. He filed a departmental appeal which too elicited no response within the stipulated time period. In the instant case, I tend to agree with the learned Counsel for the appellant, and direct the respondent department to accept his arrival, and post him at an appropriate station, preferably away from the place where he has a blood feud with his opponents. The respondent department is further directed to verify from record if the appellant actually performed duty during the period from 24/7/2000 to 30/4/2002 i.e. his trial period for which he received salary from government exchequer. I am stressing on this because respondents No.1 & 2 in their replies have

ATTESTED  
EXAMINER  
JNVFP Service Tribunal  
Peshawar.

(17)

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stated that illegal payment was made to him as he had not performed official duty during the afore-mentioned period. If the plea of the respondents on this account stands proved, then necessary recovery will have to be made from him. The instant appeal is disposed of in limine in the above terms. No order as to costs. File be consigned to the record.

ANNOUNCED  
29.12.2004

*M. Hanif*  
(AZMAT HANIF ORAKZAI)  
MEMBER

*[Signature]*  
EXAMINER,  
MVP Service Tribunal,  
Rahwar,

Date of Presentation of Applicant	4/1/05
Number of Words	2800
Copying Fee	16-00
Urgent	2-00
Total	18-00
Name of Copyist	
Date of Completion of Copy	4/1/05
Date of Delivery of Copy	4/1/05

Annexure - B 15-190

EXECUTIVE DISTRICT OFFICER  
(E & S. EDUCATION) PESHAWAR  
No 2815 Dated 23/7/2011

The Directress,  
Elementary & Secondary Education,  
Khyber Pakhtunkhwa Peshawar.

SUBJECT:-

RELAXATION / CONDONATION IN PERIOD OF SERVICE FOR THE  
PURPOSE OF PENSION IN RESPECT TO DECEASED MAAZULLAH CT

Memo:-

Please refer to your office letter No.961/F.No.611/A-15/CT/AT/Condonation All District Dated 08/07/2011.

I am directed to submit regarding grant of condonation / relaxation in service period for the purpose of pension in respect of deceased Maazullah Ex-CT teacher GHS Zauyab Colony Peshawar:-

1. That the noted lack was charged in criminal case vide FIR No. 163 dated under section 302/324/34 PPC at Police Station Daudzai Peshawar.
2. He was arrested in mentioned case by the local police and was put behind bars in central Jail Peshawar where in he was died on 05/03/2009.
3. He was suspended from service vide order No.5496-98 Dated 18/09/2008 the date of registration of FIR against the said teacher.
4. At the time of his death in Central Jail Peshawar his total qualifying service was 9<sup>th</sup> years 02 Months and 04 days which is less than 10 years, a required for the grant of pensionary benefits to the family of deceased teacher.

note sub -

It is therefore submitted that in the light of the above facts and figure that the family of deceased teacher entitled for the grant of family pension under the notification of Finance Department bearing SOS-III (FD) 4-112/82 Dated 15/12/1982 read with Civil servant rule 174-D on the ground that.

Under the noted Notification of Finance Department the competent authority empowered to grant condonation of one year. Deceased was in Govt. service and final order of Removal or Dismissal in consequent upon the Judgment of the Court was not issue till his death in the Judicial locks up. That in case of in conviction in the mentioned FIR, he was entitled for filing of criminal appeal before the High Court Peshawar, similarly in case of adverse judgment from the Peshawar High Court, he could have been file a CPLA/Appeal in the Supreme Court of Pakistan.

Now in the wake of the above made submission, it is submitted that keeping in view the referred case law as well as law of presumption, the family of the deceased teacher is entitled for the grant of pensionary benefits to his family members.

*Arrested*

*M. H. Khan*  
DISTRICT OFFICER (E & S. EDUCATION) PESHAWAR



Annexure E

22

GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT  
(REGULATION WING)

16

NO.FD(SOSR-II)4-44/2010  
Dated Peshawar the 12/11/2010

The Secretary to Government of Khyber Pakhtunkhwa,  
Elementary & Secondary Education Department Peshawar.

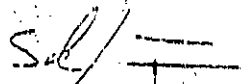
Subject: RELAXATION/CONDONATION IN PERIOD OF SERVICE  
FOR THE PURPOSE OF PENSION IN RESPECT OF  
DECEASED MAAZ ULLAH C.T.

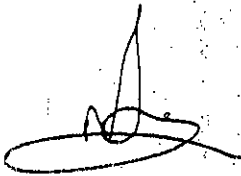
Dear Sir,

I am directed to refer to your office letter No. AC/6-27/18/05  
dated 01/10/2010 on the subject noted above and to state that the following  
observations may please be clarified to proceed further in the matter:-

- 1) Whether the accused was re-instated in service by the  
Competent Authority during his life time or otherwise?
- 2) In case of re-instatement in service whether his case has been  
closed/finalized; if so relevant documents may be provided?
- 3) Under what Rules condonation in service to complete 10 years  
service is to be granted especially when the official was  
convicted in the case?

Yours faithfully,

  
(WAZIR MUHAMMAD AFCAR)  
SECTION OFFICER (SR.II)

  
**ATTESTED**  
Muhammad Anwar Khan  
(Pushtun Qari)  
Advocate High Court  
Peshawar

moral turpitude

~~22~~

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694

Sl. No. 143

A reference is invited to the Establishment Division's O.M. No. P. 19/11/49-Est (S.E.), dated the 20th December, 1949, and it is stated that a certain amount of confusion has arisen from the words "considered as resulting from" which occur in item (i) of that Office Memorandum. These words, as they stand, are capable of being interpreted as if a person who is detained under the Public Safety Act will be governed by the provisions of Article 194, Civil Service Regulations, as it stands. The position, however, is that Article 194 does not strictly apply to such cases, but the intention is that, when a person is detained under the Public Safety Act, his pay and allowances should on the analogy of the provisions of Article 194, be regulated as if he was committed to prison. In order to make this intention clear it has been decided that the words "considered as resulting from" referred to above may be replaced by the words "treated as period spent under".

[Authority.—O.M. No. 27/41/52-SE-II, dated the 7th December, 1954.]

✓ Removal from service as a result of conviction in Court of Law.

Sl. No. 144

Attention is invited to the Establishment Division's O.M. No. 13/24/59-SE-II, dated 21st March, 1959 (Annexure) on the above mentioned subject and it is stated that the instructions contained therein have been reviewed in the Establishment Division and in supersession of these instructions, it has been decided that in future all Government servants convicted of a criminal charge involving moral turpitude should be dismissed from Government service. For this purpose, Government Servants (Efficiency and Discipline) Rules, 1973 provide for dispensation of the normal disciplinary procedure.

2. The Ministries and Divisions are requested to bring the above position to the notice of all concerned for strict compliance in future.

[Authority.—O.M. No. 2/2/73-DI, dated the 13th April, 1976.]

\* Replaces original clause "considered as resulting from".

Convicted Government servant by the Court

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ANNEXURE (For information)

Copy of Establishment Division O.M. No. 3/24/59-SE.1, dated the 21st March, 1959.

References have been received from time to time from Ministries and Divisions etc. enquiring whether a Government servant convicted by a Court of Law can be removed or dismissed from service or reduced in rank straightway or it is necessary to give him a show cause notice before passing final orders in the matter.

2. This question has been given due consideration in the Establishment Division who are of the view that as a general principle if a Government servant is convicted in a Court of Law he does not automatically lose his employment under Government. But if in the opinion of the authority competent to pass orders of dismissal, removal or reduction in rank grounds which led to his conviction are good and sufficient for imposing any of these penalties, that authority can pass such an order. If however, the competent authority considers that a lesser penalty or no penalty at all is called for in the circumstances of the case (such as minor or technical nature) there is no bar to that authority taking a decision accordingly.

3. If it is decided to award the penalty of dismissal, removal or reduction in rank it is not necessary to give a show cause notice to the person concerned vide Article 181 (2) proviso (a) of the late Constitution or Rule 55 of the Civil Services (Classification, Control and Appeal) Rules [Article 177 (1) (b) of the 1962 Constitution or Rule 6 of the Efficiency and Discipline Rules, 1960 may be referred to in the present context]. The order of removal, dismissal or reduction can be passed by the competent authority taking into consideration the grounds of conduct which led to the conviction of the person concerned in the Court of Law. The removal, dismissal or reduction in such cases takes effect from the date of orders and not from the date of verdict passed by the Court.

**Strictures passed by Courts against Government servants.**

Sl. No. 145

The question whether strictures passed by Courts of Law against a Government servant render him liable to departmental action has been

A GUIDE



18

To

# FINANCIAL RULES

For

## GOVERNMENT SERVANT

*PLC 23 page 14*

*2007 PLC 23 19*

*2007 PLC 23 22*

*For Government  
Dept. of P. & M.*



ATTESTED  
Muhammad Anwar Khan  
(Pushkun Ghari)  
Advocate High Court  
Peshawar

Amir Badshah Khattak

19

c) Absence from duty without leave.

Note :- The pension sanctioning authority may commute retrospectively periods of absence without leave into extraordinary leave.

### Condonation of interruption and deficiencies.

Interruption: (a): The Administrative Department may for purpose of pension condone all gaps between qualifying service of a Government servant.

(b): The period of extraordinary leave shall not be treated as qualifying service for pension but only as a bridge between the two periods of qualifying service. Interruption in service due to other reasons may be condoned provided such interruption is not due to any fault or wilful act of the Government servant, like unauthorised absence, resignation or removal from service. Interruption due to removal on account of reduction and retrenchment of the post shall however be deemed to have been condoned. The periods of such interruptions shall not, however, count as qualifying service for pension.

Deficiency: (a): A deficiency in qualifying service upto 6 months is automatically condoned.

(b): A deficiency in service for more than 6 months but less than a year can be condoned by a competent authority subject to the following conditions:-

i): The Government servant has died while in service or has retired under circumstances beyond his control, such as on invalidation or abolition of his post, and would have completed another year of qualifying service, if he had not died or retired.

ii): The service rendered by him had been meritorious;

(c): A deficiency of full one year or more cannot be condoned.

i)

ii) Neiii) Fc

Comm

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★

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Mst: Samina Gul widow/o Maazullah vs Government

✓ Reply on behalf of respondents No.1, 2, 3 & 4

Respectfully Sheweth:

The respondents submit below:-

Preliminary Objections:-

1. That the appellant has got no cause of actions / locus standi.
2. That the instant appeal is badly time barred.
3. That the instant appeal is not maintainable in its present form.
4. That the instant appeal is bad for mis-joinder and non-Joinder of the necessary parties.
5. That the appellant has not come with clean hands with this honorable tribunal.
6. That the instant appeal is barred by law.

On Facts:-

1. Para No.1 pertain to record.
2. Reply to Para No.2 it is submitted that after F.I.R the appellant husband did not inform the department that F.I.R lodged against him. F.I.R was lodged on 03.04.2008, furthermore the appellant husband applied for station leave on 10.04.2008 in the meanwhile he got B.B.A on 28.04.2008 from the session court, then he informed his concerned Headmaster regarding the F.I.R, the headmaster of the concerned school informed the E.D.O office vide letter No.1089 Dated.23.07.2008. The capital city police also informed the department vide letter No.4653/SRC/P-13 Dated. 13.05.2008 Peshawar. The department suspend the accused on 18.09.2008 (FIR, Headmaster Letter, Police Letter and Suspension Order are Annex-A,B,C &D)
3. That para No.3 is incorrect and misleading the appellant husband did not inform the department against his FIR and said criminal case .
4. Reply to Para No.4, it is submitted that the appellant husband's qualifying service is nine years, two months and four days while for family pension need ten years service.
5. Para No.5 is incorrect and misleading the Headmaster of the concerned school informed the high ups vide letter No.1689 dated 14.03.2015 that the appellant remarried. (Letter of the Headmaster as Annex-E)
6. That para No.6 pertain to record.
7. That para No.7 is incorrect and misleading the appellant has no cause of action to knock at the door of this honorable tribunal.
8. Para No.8 has already been discussed in the above paras.
9. Para No.9 reply has been given in the above paras.
10. That para No.10 is incorrect the appellant has no cause of action to file the present appeal.

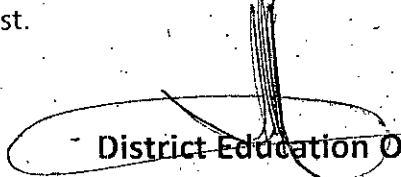
*Irrelevant  
Ans. in  
Para 5  
is for conduct  
of not for Remarried*

15-1  
18

Grounds:-

- A. Ground A is incorrect and misleading the respondents are bound to act according to law and rules
- B. Ground B is also incorrect these cases did not apply on the appellant case
- C. Ground C is incorrect and misleading the services of the appellant husband's less than ten years so he is not entitle for family pension.
- D. Ground D is pertain to record.

It is therefore very humbly prayed <sup>that</sup> on the acceptance of this reply, the instant appeal may very kindly be dismissed with cost.

  
District Education Officer,

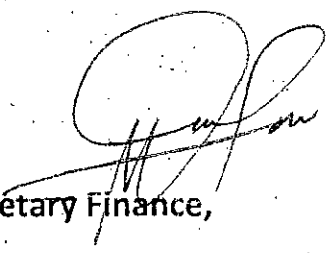
(Male) Peshawar.

Secretary,

(E&SE) Khyber Pakhtunkhwa, Peshawar.

  
Director,

(E&SE) Khyber Pakhtunkhwa, Peshawar.

  
Secretary Finance,

Khyber Pakhtunkhwa, Peshawar.

Hearing Date 21<sup>st</sup>  
21

Appeal No 280/2018  
Mst Samira Bibi vs Secty Sd. J.  
Submitted by Appealant

## فارم نمبر ۲

(دیکھئے قاعدہ نمبر ۱۰۸)

مسلم خاندانی قوانین کے آرڈیننس مجربہ ۱۹۶۱ء و ہشتم ۱۹۶۱ء کے تحت وضع کئے ہوئے قواعد کے قاعدہ نمبر ۸، نمبر ۱۰ کے تحت مجوزاً

# فارم نکاح نامہ

- ۱:- وارڈ کا نام 34 ٹاؤن ایونین ٹوئینہ جدید تحصیل اتھانہ قلعہ گڑھ اور ضلع جھنگ اور جس میں شادی وقوع پذیر ہوئی۔
- ۲:- دولہا اور اس کے والد کا نام معان کی محمد جلال خان ولد شہزاد احمد سکونت بالترتیب
- ۳:- دولہا کی عمر 1989-04-05 سال گجر خیل و فتح پور
- ۳:- ڈولہن اور اس کے والد کا نام معان کی { محمد علی بیگم بیگم معین الدین خان ولد معین الدین خان کھنڈا (بیوہ) سکونت بالترتیب
- ۵:- آیا ڈولہن کنواری ہے یا بیوہ مطلقہ 10-05-1922
- ۶:- ڈولہن کی عمر (بیوہ موجود ہے)
- ۷:- اگر ڈولہن کی طرف سے کوئی وکیل مقرر کیا گیا ہے تو اس کا نام معول دیت و سکونت
- ۸:- ڈولہن کے وکیل کے تقرر کے بارے میں گواہوں کے نام معول دیت و سکونت اور ان کی ڈولہن کے ساتھ رشتہ داری۔
- ۹:- اگر دولہا کی طرف سے کوئی وکیل مقرر کیا گیا ہے تو اس کا نام معول دیت و سکونت
- ۱۰:- دولہا کے وکیل کے تقرر کے بارے میں گواہوں کے نام معول دیت و سکونت
- ۱۱:- شادی کے گواہوں کے نام معول دیت و سکونت
- ۱۲:- شادی سرانجام پانے کی تاریخ 2013-03-29
- ۱۳:- مہر کی رقم دو لاکھ روپے نقد اور دو لاکھ روپے طوائی زینت
- ۱۳:- مہر کی رقم معجل ہے اور کتنی معجل عنبر اللہ
- ۱۵:- آیا مہر کا کچھ حصہ شادی کے موقع پر ادا کیا گیا اگر کیا گیا ہے تو کس قدر۔
- ۱۶:- آیا پورے مہر یا اس کے کسی حصے کے عوض میں کوئی جائیداد لگنی ہے اگر لگنی ہے تو اس جائیداد کی صراحت اور اسکی قیمت فریقین کے مابین طے پائی ہے۔
- ۱۷:- خاص شرائط اگر کوئی ہوں



۱۸۔ آیا شوہر نے طلاق کا حق بیوی کے تفویض کر دیا ہے  
اگر کر دیا ہے تو کوئی شرائط کے تحت

۱۹۔ آیا شوہر کے طلاق کے حق پر کسی قسم کی پابندی لگائی  
گئی ہے۔

۲۰۔ آیا شادی کے موقع پر نان و نفقہ وغیرہ کے  
متعلق کوئی دستاویز تیار کی گئی ہے اگر کی گئی ہے  
تو اس کے مختصر مندرجات۔

۲۱۔ آیا دولہا کے یہاں پہلے سے کوئی بیوی موجود ہے۔  
اگر ہے تو آیا اس نے دوسری شادی کرنے کیلئے مسلم خاندانی  
قوانین کے آرڈیننس ۱۹۶۱ کے تحت ٹائی کونسل سے اجازت نامہ حاصل کر لیا ہے

۲۲۔ نمبر تاریخ مراسلہ جس کے ذریعے ٹائی کونسل نے دولہا  
کو دوسری شادی کرنے کی اجازت دی ہے۔

۲۳۔ نکاح خواں کا نام اور ولدیت معہ پتہ

۲۴۔ شادی کو درج رجسٹر کرانے کی تاریخ

۲۵۔ فیس رجسٹریشن جو ادا کی گئی

دولہا کے وکیل کے تقرر کے گواہان کے دستخط

دولہا یا اس کے وکیل کے دستخط

(۱)

(۲)

دولہن کے وکیل کے تقرر کے گواہان کے دستخط

دولہن کے وکیل کے دستخط

دولہن کے دستخط

۱۷۳۰۱-۲۳۵۰۷

(۱)

(۲)

Samina Gul

نکاح خواں کے دستخط

Amir

۱۷۳۰۱-۹۴۱۴۱۷۸-۷

شادی کے گواہان کے دستخط

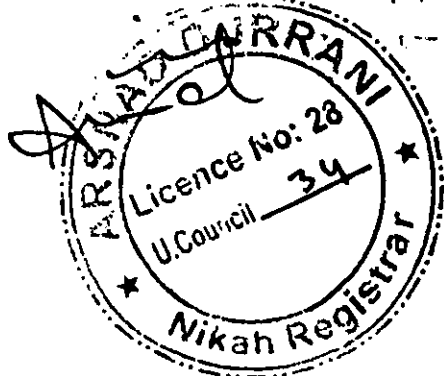
(۱)

نکاح رجسٹرار کے دستخط اور مہر

۱۷۳۰۱-۰۹۴۲۶۹۴-۳

Amir

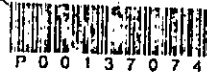
(۲)



عدنان سٹیشنری مارٹ

چوک مشنگری پشاور سٹی فون: 2220193

Mob: 0345-9223239



P 0 0 1 3 7 0 7 4

CNIC No: 109104-09-0001711-04

حکومت پاکستان  
نیشنل ایڈمیسٹریشن ریٹرنسٹیشن اتھارٹی (وزارت داخلہ)  
اشارہ نمبر: مل-ت-کم عمر بچوں کا سرٹیفکیٹ

17301-9184751-8

درخواست دہندہ کا شناختی کارڈ نمبر

شہید محسن

درخواست دہندہ کا نام

تاریخ پیدائش	جنس	پتہ	نمبر شناختی کارڈ	نمبر شناختی کارڈ	نمبر شناختی کارڈ	نمبر شناختی کارڈ
13/04/2001	لا	پشاور	17301-9184751-8	17301-3493422-3	17301-7857688-9	17301-7857688-9
23/07/2002	لا	پشاور	17301-9184751-8	17301-3493422-3	17301-4156562-4	17301-4156562-4
19/04/2006	لا	پشاور	17301-9184751-8	17301-3493422-3	17301-0727845-8	17301-0727845-8
15/12/2007	لا	پشاور	17301-9184751-8	17301-3493422-3	17301-8289067-7	17301-8289067-7

- اس لیٹی کے مندرجہ بالا اشارہ نمبر سے کم عمر 4 بچوں کا اندرون ہمارے ریکارڈ میں موجود ہے۔
- درج شدہ پہلے عمر اشارہ نمبر سے ہم شناختی کارڈ کے حصول کیلئے درخواست جمع کروائیں۔
- اس سرٹیفکیٹ کو سنبھال کر کہیں کی گئے بچوں کے گورنمنٹ اسکول کی عمر کو پہنچنے پر اپنی سبوں سے حوالہ سے جاری کئے جائیں گے۔
- مزید سہولتوں کی طور پر اندرون کروائیں اور نیا شناختی کارڈ حاصل کریں۔
- گوانت کی تبدیلی کی صورت میں نیا شناختی کارڈ حاصل کریں۔

پانچ آرشد حکیم  
سٹپ رائٹرز جنرل  
تاریخ اجراء: 01/10/2009

ملک پاکستان  
ڈاکٹریٹ میں  
سیاں گورنمنٹ و سٹیٹ پشاور



1730191847518

Handwritten signature and stamp at the bottom right.



حکومت خیبر پختونخوا  
Government Of Khyber Pakhtunkhwa



اندراج وفات سرٹیفکیٹ

Death Registration Certificate

Form No: W11007028

دفتر اندراج: یونین کونسل نعلی

Tracking No: 093410018338  
CRMS No: 0934-20-10174

CRD/M REG #

Deceased Person's Details

متوفی کے کوائف

Name: MA/ULLAH KHAN	نام: مزارا خان
Nationality: Pakistani	قومیت: پاکستانی
CRP No: 17301 3493422-3	شناختی کارڈ نمبر: 17301-3493422-3
Date of Birth: 11 May 1970	تاریخ پیدائش: 11-May-1970
Sex: Male	جنس: مرد
Religion: ISLAM	مذہب: اسلام
Date of Death: 05-March-2009	تاریخ وفات: 05-March-2009
Date of Burial: 05-March-2009	تاریخ تدفین: 05-March-2009
Place of Burial: CENTRAL JEL PESHAWAR	جائے تدفین: سنٹرل جیل پشاور
Nature of Death: Normal	کیفیت وفات: طبی
Place of Burial: SHAHED RABA QABRISTAN	جگہ تدفین: شہید بابا قبرستان

Parental Information

والدین کی معلومات

Name: AHDIJ JARAL	نام: عبد الجبار
CRP No: SONIA BIBI	شناختی کارڈ نمبر: روجید بی بی
	علاقہ: پشاور

Address

Village: Mian gujar, Village MIAN GUJAR	پتہ: ميان گجر، گاؤں ميان گجر
District: PESHAWAR	تفصیل: پشاور
District: PESHAWAR	ضلع: پشاور

Applicant's Details

درخواست گزار کی معلومات

Name: SAKHINA GUI	نام: شہینہ گل
CRP No: 17301 9184751-8	شناختی کارڈ نمبر: 17301-9184751-8
Relationship: WIFE	متوفی سے رشتہ: بیوی

Information of Burial/Last rite by

تدفین یا آخری رسومات کنندہ کی معلومات

Name: SAKHINA GUI	نام: شہینہ گل
CRP No: 17301 9184751-8	شناختی کارڈ نمبر: 17301-9184751-8
Relationship to Deceased: WIFE	متوفی سے رشتہ: بیوی
Date of Burial: 17 January-2020	تاریخ تدفین: 17-January-2020
Date of Last Rite: 17 January-2020	تاریخ آخری رسومات: 17-January-2020
Nature of Burial: Normal	اندراج کیفیت: نارمل



Secretary  
Village Council Mian Gujar-No.239  
(UC) Nahaqi-72

The Certificate can be verified at <https://crms.nadra.gov.pk/verify>

\*W11007028\*



**KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL, PESHAWAR**

No: 1132 /ST Dated: 24/5 /2022

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281  
Fax:- 091-9213262

To

District Education Officer(M)  
Peshawar.

Subject: JUDGMENT IN APPEAL NO. 280/2018 Mst. Samina Gul Legal Heir of Late Maahzullah Ex-CT Teacher.

I am directed to forward herewith a certified copy of judgment dated 29.03.2022 passed by this Tribunal on the above subject for compliance please.

Encl:As above

  
REGISTRAR

**KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL**  
**PESHAWAR**