


22nd Nov, 2022

Appellant in person present. Mr. Muhammad Adeel Butt

Additional Advocate General for the respondents present.

Appellant requested for adjournment on the ground that he counsel is not available today. Adjourned. To come up for arguments on 18.01.2023 before D.B.

SCANNED
KPST
Peshawar

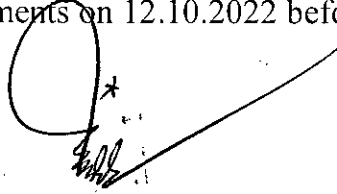

(Fareeha Paul)
Member(E)


(Kalim Arshad Khan)
Chairman

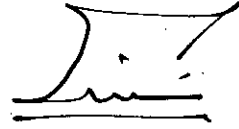
06.07.2022

Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he is not feeling well today. Adjourned. To come up for arguments on 12.10.2022 before the D.B.



(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

12th Oct, 2022

Junior to counsel for the appellant present. Syed Nasser Ud Din Shah, Asst: AG for respondents present.

Junior to counsel for the appellant seeks adjournment on the ground that learned senior counsel is not available today. Last chance is given to the appellant to argue the case failing which the appeal will be decided on the available record without arguments. To come up for arguments on 22.11.2022 before D.B.



(Parceha Paul)
Member (Executive)

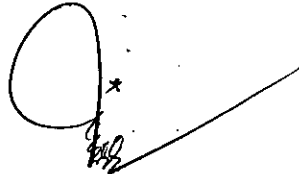


(Kalim Arshad Khan)
Chairman

07.10.2021

Appellant in person present. Mr. Kabirullah Khattak,
Additional Advocate General for respondents present.

Appellant requested for adjournment on the ground
that his counsel is not available today. Granted. To come up
for arguments on 06.01.2022 before the D.B.



(Mian Muhammad)
Member(E)




Chairman

06.01.2022

Appellant in person present. Mr. Kabirullah Khattak,
Addl. AG for the respondents present.

Appellant requested for adjournment on the ground
that his counsel is not available today, due to general strike
of the bar. Adjourned. To come up for arguments before the
D.B on 30.03.2022.



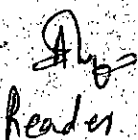
(Atiq-ur-Rehman Wazir)
Member(E)



Chairman

30-3-2022

Proper DB not available the case is adjourned
to come up for the same as before on 6-7-2022


Reader

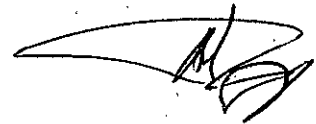
21.12.2020

Appellant is present in person. Mr. Kabirullah Khattak, Additional Advocate General, for the respondents is also present. Due to COVID-19, the case is adjourned to 12.03.2021 for the same.

12.3.2021

D.B 'is not available, therefore the case is adjourned to 16.6.2021 for the same.

Reader



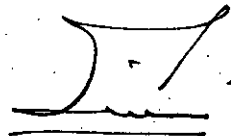
16.06.2021

Appellant in person present. Mr. Riaz Ahmad Paindakheil, Assistant Advocate General for the respondents present.

Appellant stated at the bar that he being lawyer would argue the appeal himself, however he is not feeling well today, therefore, adjournment may be granted. Adjourned. To come up for arguments before the D.B on 07.10.2021.



(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

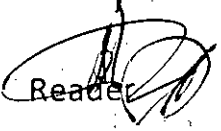


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

_____.2020

Due to COVID19, the case is adjourned to

13/8/2020 for the same as before.


Reader

13.08.2020

Due to summer vacations case to come up for the same on
26.10.2020 before D.B.


Reader

26.10.2020


Proper D.B is on Tour, therefore, the case is
adjourned for the same on 21.12.2020 before D.B.


Reader

12.12.2019

Appellant in person and Mr. Riaz Ahmad Paindakheil,
Assistant AG for the respondents present.

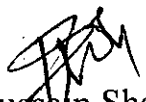
Due to general strike of Khyber Pakhtunkhwa Bar
Council learned counsel for the appellant is not available today.
Adjourned to 11.02.2020 for arguments before D.B.



(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

11.02.2020

Learned counsel for the appellant present. Mr. Muhammad
Jan learned Deputy District Attorney for the respondents present.
Learned counsel for the appellant requested for adjournment.
Adjourned. To come up for further proceedings/arguments on
19.03.2020 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

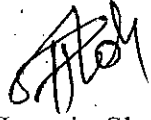
19.03.2020

Appellant in person present. Addl: AG for respondents
present. Due to general strike on the call of Peshawar Bar Council,
the case is adjourned. To come up for arguments on 02.06.2020
before D.B.


(MAIN MUHAMMAD)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

24.07.2019 Appellant in person present. Mr. Muhammad Jan learned Deputy District for the respondents present. Appellant seeks adjournment as his counsel is not in attendance. Adjourned. To come up for arguments on 20.09.2019 before D.B.



(Hussain Shah)
Member



(Mr. Amin Khan Kundi)
Member

20.09.2019 Learned counsel for the appellant present. Mr. Kabirullah Khattak learned AAG present. Learned counsel for the appellant submitted rejoinder which is placed on file. Adjourn. To come up for arguments on 01.11.2019 before D.B.

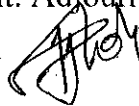


Member



Member

01.11.2019 Appellant in person and Mr. Riaz Ahmad Paindakheil, Assistant AG for the respondents present. Appellant requested for adjournment. Adjourned to 12.12.2019 for arguments before D.B.



(Hussain Shah)
Member



(M. Amin Khan Kundi)
Member

Service Appeal No. 3/2018

14.02.2019

Appellant in person present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Due to strike of Khyber Pakhtunkhwa Bar Council, learned counsel for the appellant is not available today. Adjourned to 26.03.2019 for rejoinder and arguments before D.B.


(HUSSAIN SHAH)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

26.03.2019

Learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney for the respondents present. Learned counsel for the appellant requests for adjournment. Adjourned. To come up for arguments on 10.06.2019 before D.B.


(Hussain Shah)
Member


(Muhammad Amin Khan khudi)
Member

10.06.2019

Appellant in person and Mr. Muhammad Jan, DDA for the respondents present.

Appellant requests for time to furnish rejoinder to the comments submitted by the respondents. Adjourned to 24.07.2019 for arguments before the D.B. The appellant may submit rejoinder within one month.


Member


Chairman

11.09.2018

Since 12th September 2018 has been declared as public holiday, by the Provincial Government on account of 1st Mukharram-ul-Haram, therefore the case is adjourned to 07.11.2018 for reply before S.B.


Chairman

07.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 21.12.2018. Written reply not received.


READER

21.12.2018

No one present on behalf of appellant. Mr. Kabirullah Khattak learned AAG alongwith Abdur Rehman DSP present and submitted written reply. Adjourn. To come up for rejoinder/arguments on 14.02.2019 before D.B.


Member

10.04.2018

Appellant in person and Addl: AG alongwith Mr. Abdur-Rahman, DSP (Legal) for the respondents present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on 25.04.2018 before S.B.



Member

25.04.2018

The Tribunal is non functional due to retirement of the Honorable Chairman. Therefore, the case is adjourned. To come up for the same on 21.06.2018 before S.B.



Reader

21.06.2018

Appellant in person and Mr. Kabirullah Khattak, Additional AG for the respondents present. Representative of the department is not in attendance therefore, notice be issued to the respondents with the direction to direct the representative to attend the court and submit written reply on the next by way of last chance. Adjourned. To come up for written reply/comments on 02.08.2018 before S.B.



(Muhammad Amin Khan Kundi)

Member

02.08.2018

Appellant ~~Habibullah Rehman~~ in person present. Mr. Abdur Rehman, DSP alongwith Mr. Kabirullah Khattak, Addl: AG for respondents present. Written reply not submitted. Representative of the respondents made a request for adjournment. Granted. To come up for written reply/comments on 12.09.2018 before S.B.



Chairman

08.02.2018

Counsel for the appellant present. Preliminary arguments heard and case file perused. The appellant joined the police department as prosecuting Sub Inspector on 08.03.1967. Due to certain domestic problems he tendered resignation and discharge certificate was issued to him on 24.01.1979. He has more than 11 years service at his credit. As pensionary benefits were not granted to him so he filed departmental appeal on 06.10.2017 which was disposed of on 17.11.2017, hence, the instant service appeal. Being a pensionary matter so limitation would not affect the cause of action. In support of his arguments he also relied on unreported judgment of Supreme Court of Pakistan dated 17.03.2011 and judgment of this Tribunal dated 23.02.2010 passed in service appeal no. 1621/2008.

Appellant Deposited
Security & Process Fee

Points urged need consideration. Admit, subject to limitation. The appellant is directed to deposit of security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 26.03.2018 before S.B.

(AHMAD HASSAN)
MEMBER

26.03.2018

Appellant in person present. Mr. Kabir Ullah Khattak, Addl: AG for the respondent present. Written reply not submitted. Learned Additional AG requested for adjournment. Adjourned. To come up for written reply and comments on 10.04.2018 before S.B.

Member

[REDACTED]

Member

Form-A
FORM OF ORDERSHEET

Court of _____
Case No. 3/2018


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	1/1/2018	<p>The appeal of Mr. Hafiz Habib-ur-Rehman resubmitted today by him, may be entered in the Institution Register and put up to Worthy Chairman for proper order please. ben</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR 01/01/18</p>
2	04/01/18.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>15/01/18.</u></p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>
	15.01.2018	<p>Counsel for the appellant present and requested for adjournment. Adjourned. To come up for preliminary hearing ^{on} 08.02.2018 before S.B.</p> <p style="text-align: right;"><i>[Signature]</i> (Muhammad Amin Khan Kundi) Member</p>

The appeal of Hafiz Habib-ur-Rehman Ex-Prosecuting Sub-Inspector of Police received today i.e. on 18.12.2017 is incomplete on the following score which is returned to the appellant for completion and resubmission within 15 days.

- 1- Annexures of the appeal may be attested.
- 2- Annexures of the appeal may be flagged.
- 3- Appeal may be page marked according to the Index of the appeal.
- 4- Copy of impugned order and departmental appeal against its are not attached with the appeal which may be placed on it.
- 5- Copy of rejection order of departmental appeal mentioned in para-6 of the memo of appeal is not attached with the appeal which may be placed on it.
- 6- Annexure-A of the appeal is illegible which may be replaced by legible/better one.
- 7- Address of respondent no. 4 is incomplete which may be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.

No. 2695 /S.T,

Dt. 18/12 /2017


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Hafiz Habib-ur-Rehman Adv. Pesh.

Sir
Compliance duly made
Appeal file is resubmitted
for further proceedings,
A/Rahman
12.1.2018

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

IN RE:
Pension Appeal No. 03 / of 2018

Habib Ur Rehman son of Mian Abdul Karim... .. Appellant


VESUS

Government of Khyber Pakhtunkhwa through
Secretary Home and Tribal Affairs Department
and others... .. Respondents

I N D E X

S.No	Description of documents	Annexures	Pages
1.	Contents of Pension Appeal		1 - 5
2.	Affidavit		0 - 6
3.	Memo of Addresses		0 - 7
4.	Discharge Certificate of the appellant	'A'	0 - 8
5.	Departmental Appeal dated 06.10.2017	'B'	0 - 9
6.	Reply of the I.G.P Peshawar consists of 3 sheets	'C'	10 - 12
7.	Copy of Certificate issued by the Bar Council	'D'	0 - 13
8.	Copy of Certificate issued by KPK Bar Council	'E'	0 - 14

Dated: 17.12.2017

Appellant

(Hafiz Habib Ur Rehman)
Advocate High Court,
Peshawar.
Cell # 0333-9234186

(1)

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

Pension Appeal No. _____ / of 2018

Habib Ur Rehman son of Mian Abdul Karim,
Ex. Prosecuting Sub Inspector, a Civil Servant
in the Police Force, presently residing in
House # 523, Street # 15, Sector E/3,
Phase-I, Hayatabad Peshawar...

... Appellant

VERSUS

1. Government of Khyber Pakhtunkhwa
through Secretary Home and Tribal
Affairs Department, Civil Secretariat,
Peshawar.
2. Secretary Finance Department
Khyber Pakhtunkhwa, Civil Secretariat,
Peshawar.
3. Inspector General of Police
Khyber Pakhtunkhwa, Peshawar.
4. Additional I.G (Investigation), KPK
C.P.O Peshawar... .. Respondents

APPEAL FOR THE GRANT OF PENSION OF THE
APPELLANT FOR RENDERING SERVICE FOR A
PERIOD OF 11 YEARS, 10 MONTHS AND 7 DAYS
AS A PROSECUTING SUB-INSPECTOR FROM THE
DATE OF JOINING SERVICE I.E. 8TH MARCH 1967
TILL THE DATE OF HIS DISCHARGE FROM
SERVICE ON TENDERING RESIGNATION I.E. 15TH
OF JANUARY 1979 WITH FULL BACK BENEFITS.

Respectfully Sheweth:

The appellant humbly submits as under:-

FACTS.

1. That the appellant was appointed on 8th March 1967 as a Prosecuting
Sub-Inspector in the Police Force and after his appointment he was

(2)

deputed for training to undergo the prescribed training at Sehala (Rawalpindi) i.e. the Police Training College where on completion of his 6 months training period was returned to his District Kachhi (a District in Quetta Balochistan) which District was the District of his initial recruitment where the appellant served for more than 3 years.

2. That in the year 1971, the appellant was got transferred from the Province of Quetta Balochistan to the Province of N.W.F.P, the Province so named earlier.
3. That the appellant, when reported for duty to the Province of N.W.F.P, was posted to District Mardan where the appellant was deputed to Swabi Sub-Division, where after completing his period of tenure, was transferred to Peshawar, where he was posted to Charsadda Sub-Division and worked there in the Sub-Divisional Courts at Charsadda. At Charsadda the appellant had served for more than 3 years and after that was further transferred to the Martial Law Courts where the appellant satisfactorily performed his duties in the Martial Law Courts for more than 8/9 months and thereafter was transferred to the Police Training College Hangu, where he was teaching Law Faculties to the PSI Class and various other trainee classes as well for a period of 3 months.
4. That the appellant after staying for 3 months at Police Training College Hangu, was then posted to the Crimes Branch Peshawar where the appellant was so busy in his domestic problems that he could not discharge his official duties in the department as efficiently as was performing earlier that he tendered his resignation, which was accepted and the appellant was issued his Discharge Certificate by the Crimes Branch Peshawar which is annexed as annexure 'A'. This Certificate annexure 'A' ostensibly shows:-

- (i) The date of joining service in the Police Force;
- (ii) The length of his service in the Police Force; and

(3)

(iii) The date of discharge of the appellant from the Police Force.

5. That the appellant has served in various capacities in the Police Department and has also earned Commendation Certificates.
6. That the appellant has filed a departmental appeal to the worthy Inspector General of Police to grant him his pension for the period which he had rendered in the Police Force but the Police Chief regretted the grant of pension of the appellant with the reply which is enclosed for the perusal of this Honourable Tribunal. (Copies of the Departmental Appeal dated 06.10.2017 and reply of the Police Chief dated 17.12.2017 are annexed as annexure 'B & C' respectively).

In view of the above facts, the Discharge Service Certificate (Annexure A) clearly shows that the appellant had served in the Department for 11 Years 10 Months and 7 Days as a Civil Servant and the appellant is, therefore, entitled to the grant of his Pension inter alia on the following grounds:-

GROUND:

- a. That the appellant was enrolled on 8th of March 1967 in District Katchi (the District of Quetta Balochistan Province) and was deputed for training to undergo his 6 Months period of Training at Sehala (Rawalpindi) and on completion of his training he returned to his District Katchi for his duty where serving for more than 3 years, was got transferred to NWFP Province, the then Province so called and the appellant reported for duty in the Office of IGP at Peshawar.
- b. That the appellant was transferred from Peshawar to District Mardan where at Mardan, the appellant was posted to the Swabi Sub-Division in the year 1971, where the appellant after serving for more than 3 years was again reposted to Peshawar wherefrom he was posted to Charsadda Sub-Division where he

(4)

served for more than 3 years at Charsadda in various Courts, when he was then posted to Martial Law Courts in the year 1977 and served there in the Martial Courts for more than 8/9 months.

- c. That in the year 1978, the appellant was posted to Police Training College Hangu where the appellant had taught various Law Faculties to the PSI class and other trainee classes as well.
- d. That the appellant stayed in the Police Training College Hangu for more than 3 months when he was then transferred to the Crimes Branch Peshawar. The appellant during his service in the Crimes Branch Peshawar, tendered his resignation from service in the year 1979 where his resignation was accepted and the appellant was relieved from his service and he was issued his Discharge Service Certificate. (The Discharge Certificate of the appellant is annexed as annexure 'A').
- e. That the appellant has served in various capacities viz. conducting prosecution in Sub-Divisional Courts, Martial Law Courts and teaching various faculties in Police Training College Hangu and thus served for more than 11 Years 10 Months and 7 Days as a Civil Servant.
- f. That when the appellant realized that he cannot discharge his official duties in the department for the reason stated earlier he tendered his resignation to the authority, which was accepted and he was relieved from the post of Prosecuting Sub-Inspector and he was issued his Discharge Certificate.
- g. That when the appellant collected his Discharge Certificate from the Police Force, he applied to the N.W.F.P Bar Council to enroll him as Member of the Bar of NWFP and accordingly on the request of appellant he was issued a Certificate authorizing him to appear and plead as an Advocate in the

(6)

BEFORE THE CHAIRMAN KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

Service Appeal No. _____ / of 2017

Habib Ur Rehman son of Mian Abdul Karim... ... Appellant

VERSUS

Government of Khyber Pakhtunkhwa through
Secretary Home and Tribal Affairs Department
and others... ... Respondents

AFFIDAVIT

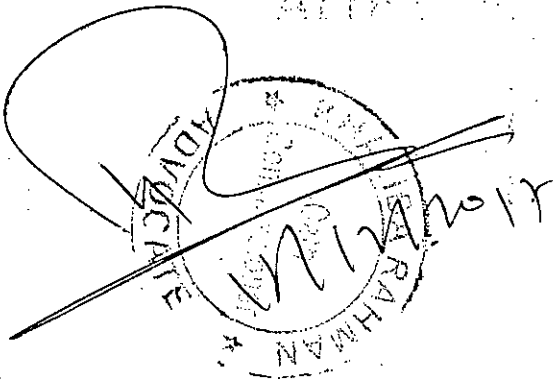
I, Hafiz Habib Ur Rehman son of Mian Abdul Karim resident of House # 523, Street # 15, Sector E/3, Phase-I, Hayatabad Peshawar, do hereby solemnly affirm and declare that the contents of the accompanying Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

Deponent



(Hafiz Habib Ur Rehman)
Advocate High Court,
Peshawar.

Dated: .10.2017



(7)

BEFORE THE CHAIRMAN KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

IN RE:

Pension Appeal No. _____ / of 2017

Habib Ur Rehman son of Mian Abdul Karim... .. Appellant

VESUS

Government of Khyber Pakhtunkhwa through
Secretary Home and Tribal Affairs Department
and others... .. Respondents

MEMO OF ADDRESSES

Habib Ur Rehman son of Mian Abdul Karim,
Ex. Prosecuting Sub Inspector, a Civil Servant
in the Police Force, presently residing in
House # 523, Street # 15, Sector E/3,
Phase-I, Hayatabad Peshawar... .. Appellant

VERSUS

1. Government of Khyber Pakhtunkhwa
through Secretary Home and Tribal
Affairs Department, Civil Secretariat,
Peshawar.
2. Secretary Finance Department
Khyber Pakhtunkhwa, Civil Secretariat,
Peshawar.
3. Inspector General of Police
Khyber Pakhtunkhwa, Peshawar.
4. Additional IG (Investigation), K.P.K
CPO Peshawar... .. Respondents

Appellant

Dated: 17.12.2017

(Hafiz Habib Ur Rehman)
Advocate High Court,
Peshawar.

(8)

BETTER COPY

Form No. 14-12(2)
DISCHARGE CERTIFICATE

Police Department

Peshawar District

Descriptive Roll Ex. PSI Habib ur Rehman

- (1) Provincial Range or Constabulary No. **P/112**
- (2) Name and parentage: **Habib ur Rehman s/o Abdul Karim**
- (3) Caste : **Afghan/Khattak**
- (4) Village Police Station and District: **Dak Ismail Khel PS**
Pabbi Distt: Peshawar
- (5) Height : **5-7**
- (6) Age on date of Discharge:

<u>Years</u>	<u>Months</u>	<u>Days</u>
35	6	29
- (7) Distinctive Remarks: **Scar on the Right side of the Forehead**
- (8) Character: **Good**
- (9) Cause of discharge and date (note also medals and decorations held, if any).

Resignation w/e from 15-1-1979

Dated: 24.1.1979

Assistant Inspector General of Police
Crimes NWFP, Peshawar

*Attested to be a
True copy. 1/1/2018*

To whom it may concern.

Certified that **Mr. Habib ur Rehman Ex. PSI**
has resigned from the Police Force from the Post of PSI w/e from 15-1-1979
having served as follows:-

Police Service:-

	<u>Years</u>	<u>Months</u>	<u>Days</u>
As PSI from 8-3-1967 to 15-1.1979	11	10	7
As / /		/	
As / /		/	
Previous Service in Other Government Department:			
As / /		/	
As / /		/	
As / /		/	
Total:	<hr/>		
Grand Total of Service:	11	10	7

Paid on account of clothing money.....
He has received a true and just account of his pay and arrears of pay from
his first enrolment upto this date and all claims against him by Government
have been settled in full.

Dated: 24.1.1979

Assistant Inspector General of Police
Crimes NWFP, Peshawar

(9)

To: The Inspector General of Police,
Khyber Pakhtunkhwa,
PESHAWAR

Subject: DEPARTMENTAL APPEAL FOR THE GRANT OF PENSION
ON SERVICES RENDERED BY THE APPELLANT IN THE
POLICE FORCE AS A PROSECUTING SUB-INSPECTOR
FOR MORE THAN 11 YEARS

Respected Sir,

1. That the appellant Habib Ur Rehman was enrolled as a Prosecuting Sub-Inspector in the Police Department as a Civil Servant on 8th March 1967 and after his enrolment he was deputed to undergo the prescribed training in the Police Training College Sehala (Rawalpindi) and on completion of the aforesaid training, the appellant reported in District Kachi of Quetta/Balochistan Province wherein he was initially recruited.
2. That the appellant after serving for more than 3 years was got transferred from Quetta Balochistan to the Province of NWFP, the then Province so called of the country.
3. That in the year 1978, the appellant was transferred to Police Training College Hangu where he had taught PSI Class and various other classes where serving for about 3 months, was then posted to the Crimes Branch Peshawar.
4. That the appellant while posted in Crimes Branch Peshawar, tendered his resignation which was accepted and accordingly he was issued his Discharge Service Certificate. (A copy of the Discharge Service Certificate is annexed). According to the Discharge Service Certificate, the appellant has served as a Civil Servant for 11 Years, 10 Months and 7 Days.

It is, therefore, humbly prayed that appropriate orders may be issued to the officer concerned to prepare the pension documents of the appellant to secure the ends of justice.

Dated: 06.10.2017

*Attested to be
a True Copy
Hafiz
11/10/2018*

Appellant

Hafiz
(Hafiz Habib Ur Rehman)
Advocate High Court,
Peshawar.
Cell # 0333-9234186



(110)

Letter 2017/11/11

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar

No. 4254 /E-III, Dated Peshawar, the 17/11/2017.

To The Hafiz Habib Ur Rehman Advocate Peshawar,
R/o Phase-I Hayatabad House No. 523 Sector No. E-3,
Peshawar

Subject:- DEPARTMENT - APPEAL FOR THE GRANT OF PENSION ON
SERVICE RENDERED BY THE APPELLANT IN THE POLICE POST
AS PROSECUTING SI FOR MORE THEN 11 YEARS.

Memo:-

Please refer to your application dated 06.10.2017 on the subject noted above.

In this connection copy of Finance Department Peshawar Pension Rules 2-11,
received from Addl: IGP/Investigation vide his office letter No. 9538/PC/Inv: dated
23.10.2017 is enclosed herewith for your information.

(SYED ZIA ALI SHAH)

Registrar

For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar

17/11

Attested to be
a true copy.

Mahmud

11/11/2018

(11)

GOVERNMENT OF NORTH-WEST FRONTIER PROVINCE
FINANCE DEPARTMENT



NORTH-WEST FRONTIER PROVINCE
CIVIL SERVANTS PENSION
RULES AND ORDERS

(Updated upto 15th July, 2006)

*Attested to
be a true copy
H. R. Khan
11/10/18*

(12)

allowances for the period of suspension. In other words, the mere act of reinstatement should be deemed to have rendered the period of suspension as qualifying for pension.

Para-1 (j) of F.D. N.-W.F.P. Letter
No. SO (SR-III FD-1-36/76
Dated 4th June, 1977 (Appendix-III)

2.11 Forfeiture 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.
- (c) Absence from duty without leave.

Note - The authority which sanctions the pension may commute retrospectively periods of absence without leave into extraordinary leave.

Note - In case of a civil servant, who, with the proper concurrence of the competent authority leaves service under the Government of NWFP and seeks absorption/employment under an autonomous, semi-autonomous/local body, where service is pensionable, the Government, if it is so requested, will be liable to share pensionary liability for the period of service rendered by such civil servant under the Government in accordance with the Government rules.

GOVERNMENT INSTRUCTIONS.

^aService in an Autonomous or Semi-Autonomous Body. For the purpose of grant of pension under these orders, the pay drawn and the effective service rendered by a Government servant in an autonomous or semi-autonomous body, the authorized capital of which is wholly subscribed by the Central and/or a Provincial Government, in a post, appointment to which is, by law, required to be made and the salary of which is required to be fixed by the Central or a Provincial Government shall be treated as pay drawn and effective service rendered in a post in Government service.

2.12 Condonation of interruptions and deficiencies. - (1) The Administrative Department may for purposes of pension condone all gaps between ^b[Periods of qualifying service] of a Government Servant.

(2) The Administrative Department may condone deficiency in qualifying service for pension upto six months provided the service is meritorious and the condonation, if allowed will bring the service upto 25 completed years of qualifying service.

^a Inserted *vide* notification No.F.D.SR.-III/4-112/80, dated 22-11-1980.
^b Para-9 of the Government of West Pakistan Finance Department letter No. SO (SR)-V-257/67 dated 27th April 1967 (Appendix-I)
^c [] Substituted by Finance Department Notification No. SO(SR) V-174/68, dated 24th May, 1968.

*Attested to
be a true copy
H. Lalwani
27/1/08*

(13)

No. 777

N. W. F. P.
Bar
Council

I ABDUL JABBAR Secretary of
the N. W. F. P. Bar Council
do hereby certify that

MR. HABIBUR RAHMAN

Son/daughter of ABDUL KARIM
resident of CHARSADDA enrolled on 08-2-1979

has paid the Annual Fee for the year 19 81. as provided by
Rule 71 (2) of the Legal Practitioners and Bar Council
Rules, 1969 and that he/she is entitled to practise during the
year 1981 in the courts subordinate to the High Court.



By Order of the Bar Council

Attested to be
a true copy
11/1/81
Secretary.



(14)

KHYBER PAKHTUNKHWA BAR COUNCIL

1ST FLOOR G-BLOCK, CIVIL SECRETARIATE KHYBER ROAD PESHAWAR

Ph: 091-9212415 Fax: 091-9213914
E-mail: support@kpbarcouncil.com URL: www.kpbarcouncil.com

ADVOCATE DUES REPORT

Print Date: 5-Jul-2013

Advocate No:- bc-11-2553
 Advocate Name MIAN HABIB UR RAHMAN
 Father Name:- MIAN ABDUL KARIM
 NIC :- 17301-8191575-9
 Address:- H.NO.523 E-3, STREET NO.15 PHASE 1, HAYAT ABAD, PESHAWAR. 0333-9234186,
 091-5813366
 Date of Birth:- 16-Jun-1943
 Practice Place: PESHAWAR
 Date of Enrollment

Lower Courts:- 08-Feb-1979 High Court:- 26-Mar-1981
 Clearance in old Record: 1981
 Remarks: Dues according to age

Benevolent Fund Details

B. F Payable upto Year 2013:	33540
Benevolent Fund Paid:	33540
Remaining BF upto 2013 :	0

General Fund Details

G.F Payable upto Year 2013:	0.00
General Fund Paid:	0.00
Remaining GF upto 2013:	0

Bar Council Total Dues: 0



MOOR UL AMIN
ASSISTANT ACCOUNTANT

Deposits Details:

DATE	R: NO	Description	Account	Amount
05-Jul-2013	KB13-2722	BF 1982-13, DEPO; COPY	Relief Fund (B.Fund)	3354
05-Jul-2013	KB13-2722	BF 1982-13, DEPO; COPY	Security Fund (B.Fund)	30186

Dues cleared upto

2013.

Attested to be a True copy. M. Rahim 1/11/018

Note: Error or omission are subject to correction by Bar Council office on production of deposits receipts.

"B"

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

No.

Appeal No.....3..... of 20 18.

Mr. Habib ul Rehman Appellant/Petitioner
Versus

Government of Khyber Pakhtunkhwa Respondent
Respondent No.....2.....

Notice to: - *Secretary, Finance Deptt
KPK, Peshawar*

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on.....*9/3/2018*..... at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....*8/3/18*.....
Day of.....*Feb*.....20*18*..

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

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

No.

Appeal No.....3..... of 20/2,

Ms. Hafiz, No. 10, Peshawar Appellant/Petitioner

Versus

Mr. Khalid Ahmad, Peshawar Respondent Hafiz

Respondent No.....2.....

Notice to: - Inspector - Peshawar Police
KPK Peshawar

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 26-3-2018 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this 26/3/2018

Day of Feb, 2018

23/2

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

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

No.

3
1167 of 2018
Appel/No..... of 20
Appellant/Petitioner

Versus
Respondent
Respondent No.....

Notice to: Additional Public Administration
P.O. 1167 of 2018

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on..... 05-3-2018..... at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No..... dated.....

Given under my hand and the seal of this Court, at Peshawar this.....
Day of.....20

28

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

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

No.

Appeal No..... of 20

..... Appellant/Petitioner

M. A. Hashmi, vs. Peshawar

..... Respondent

Government of Punjab
Respondent No..... I

Notice to: —

Government of Punjab

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on.....*05-3-2018*.....at **8.00 A.M.** If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing **4 copies** of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....

Day of.....20

1-05

18

20th

one
05/3/18

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

BEFORE THE HONORABLE KPK SERVICE TRIBUNAL PESHAWAR

Service Appeal No.03/2018

Habib-Ur-Rehman.....(Appellant)

Versus

Provincial Police Officer (IGP) KPK and others.....(Respondents)

Subject:- PARAWISE COMMENTS ON BEHALF OF RESPONDENTS ARE AS UNDER.

Respectfully Sheweth!

Preliminary Objections:-

1. That the appeal is not based on facts.
2. That the appellant has got no cause of action and locus standi to file the appeal.
3. That the appeal is not maintainable in the present form.
4. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
5. That the appellant is estopped by his own conduct to file the appeal.
6. That the appeal is barred by law and limitation.
7. That the appellant has not come to this Honorable tribunal with clean hands.
8. That the appellant has failed to enclose duly signed and certified copies of his service record with the appeal.

FACTS:-

1. It pertains to Balochistan Province. Furthermore, no such record of appointment of appellant as prosecuting sub-Inspector Police force is available.
2. No such record of transfer of appellant from Province of Balochistan to NWFP (Khyber Pakhtunkhwa) is available in the office of respondent).
3. Neither the service record nor other relevant record of posting of appellant is available in Police Office.
4. Nothing available on record.
5. Nothing available on Police record.
6. Correct to the extent that appellant filed departmental appeal to the Respondent No. 03 for grant of pension which was examined and communicated to appellant vide letter No. 4254/E-II dated 17.11.2017 with pension Rules 2.11 according to this Rules a Government servant forfeits his past service in the following cases.
 - a. Resignation of a post unless it take up another post/service in which counts for pension.
 - b. Removal or dismissal from service.
 - c. Absence from duty without leave.

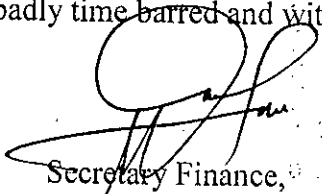
Note:- The Authority which sanctions the pension may commute retrospectively periods of absence without leave into extraordinary leave.


Note:- In case of a Civil Servant who with the proper concurrence of the Competent Authority leaves service under the Government of NWFP and seeks absorption / employment under an autonomous semi autonomous /local body where service is pensionable the Government if it is so requested, Will be liable to share pensionary liability for the period of service rendered by such Civil Servant under the Government in accordance with the Government rules. The appellant is not entitled to pension in accordance with law and rules, particularly after the lapse of more than three decades.


GROUNDS:-


- a. Nothing available on Police record about the appointment of appellant as PSI or transfer to NWFP (KPK) Province from Balochistan Province.
- b. No such record of posting /transfer of appellant is available in CPO or other Police offices.
- c. Nothing available on Police record. The appellant failed to enclose proof of his service record duly signed and certified.
- d. As above.
- e. Not anything about transfer/posting available on record.
- f. No such record is available in Police offices. Furthermore, after a lapse of more than three decades the appellant is not entitled for pension in accordance with law and rules. The appellant is also estopped by his own conduct.
- g. Not related to respondents.
- h. Not related to respondents.

In view of the above, it is humbly prayed that on acceptance of Para-wise comments the instant service appeal may kindly be dismissed being meritless, badly time barred and without any footings.


Secretary Finance,
Government of Khyber Pakhtunkhwa,
Peshawar.
(Respondent No.02)


Chief Secretary,
Government of Khyber
Pakhtunkhwa, Peshawar.
(Respondents No.01)


Addl: Inspector General of Police,
HQrs: Khyber Pakhtunkhwa,
Peshawar.
(Respondents No.04)


Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.
(Respondents No.03)

BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR.

Service Appeal No. 03/2018.

Habib-ur-Rehman.....(Petitioner)

VERSUS

Provincial Police Officer, KP and others (Respondents)

AFFIDAVIT

I, Abdur Rehman DSP Legal CPO, Peshawar do here by solemnly affirm on oath that the contents of accompanying comments on behalf of Respondents No. 1 to 4 is correct to the best my knowledge and belief. Nothing has been concealed from this Honorable Tribunal.

DEPONENT



Abdur Rehman,
DSP/Legal CPO, Peshawar
CNIC No. 17102-1175519-1

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

In Re:
Service Appeal No. 03 / of 2018

Habib-Ur-Rehman son of Mian Abdul Karim... ... Appellant

VERSUS

Provincial Police Officer (IGP) KPK and others... ... Respondents

REJOINDER OF THE APPELLANT.

Respectfully Sheweth:

Rejoinder on behalf of the appellant to the comments of respondents is as under:-

PRELIMINARY OBJECTIONS:

1. That the appeal is based on real facts.
2. That the appellant has got a cause of action.
3. That the appeal is maintainable in the present form.
4. That the appeal is not hit by misjoinder or non joinder of necessary parties.
5. That the appeal is not estopped by the self conduct of the appellant.
6. That the appeal is not barred by the law of limitation.

7. That the appellant has come to this Honourable Court with clean hands.
8. That there is no need of attaching any service record or any other document when the Discharge Certificate is with the appellant and the same is attached with the Appeal.

ON FACTS:

1. It is correct that the appellant was initially recruited in the Province of Balochistan and then was transferred to the Province of N.W.F.P, presently called "K.P.K". In this Province after serving for more than 7 years, tendered his resignation and after accepting his resignation, was relieved from Police Force.
2. That the non availability of the letter of transfer from the Province of Balochistan to the Province of NWFP (KPK) is not necessary to the length of service of the appellant but the necessary document counting for the length of service of the appellant is his "Discharge Certificate" which denotes the entire service of the appellant, which had been issued to the appellant by the Department and the same has been filed with the appeal.
3. That it was the duty of last serving establishment to maintain the document of posting or any other document of the appellant which is not necessary for the grant of Pension of the appellant.
4. That the availability of the record is the responsibility of the department.

5. That it is the slackness of the Police Department.
6. That the rules and the circumstances quoted by the respondent are not applicable to the grant of pension of the appellant.

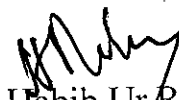
GROUNDINGS:

- a. That it is always the duty of the Police Department to maintain any move of the appellant from one place to another and the real document determining the length of service of the appellant is the Discharge Certificate which had been issued to the appellant through the Government Procedure.
- b. That it is not the responsibility of the appellant to trace any document pertaining to posting or transfer in the CPO or in the Police Office but the real document of the appellant is his Discharge Certificate.
- c. That the document which was required for the grant of Pension or calculating the length of service is the Discharge Certificate of the appellant which has already been attached with the Pension Appeal.
- d. Already answered.
- e. Already answered.
- f. Already answered.

- g. That when the appellant was relieved from Police Department, he was issued his Discharge Certificate from the department. On receiving the Discharge Certificate of the appellant, the appellant submitted an application to the Secretary Bar Council for the issuance of a certificate from the Council for his appearance in the subordinate Courts and for that purpose the original Discharge Certificate was attached with that application. Accordingly the appellant was issued a certificate for his appearance in the subordinate Courts and afterwards he was also issued another certificate from the Bar Council for his appearance in the Peshawar High Court. Both the certificates are already enclosed with the Pension Appeal and in view of the service of the appellant in the legal Forum saved considerable period in the issuance of the certificate for his appearance in the Peshawar High Court.
- h. That the preceding para denotes the relation of the Discharge Certificate.

In view of the above it is humbly submitted that the comments filed by the respondent are baseless and it is further prayed that the appellant may very graciously be granted his Pension for a period of service which he has rendered in the Police Force as a Civil Servant with full back benefits.

Appellant


(Hafiz Habib Ur Rehman)
Advocate High Court,
Peshawar.

Dated: 20.09.2019

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

In Re:
Service Appeal No. 03 / of 2018

Habib-Ur-Rehman son of Mian Abdul Karim... ... Appellant

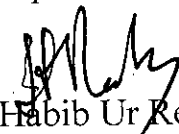
VERSUS

Provincial Police Officer (IGP) KPK and others... ... Respondents

AFFIDAVIT

I, Hafiz Habib Ur Rehman son of Mian Abdul Karim, resident of House # 523, Street # 15, Sector E/3, Phase-I, Hayatabad 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 Honourable Court.

Deponent


(Hafiz Habib Ur Rehman)
Advocate High Court,
Peshawar.

Heard in 2011

75

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

For Appellant

Present:

MR. JUSTICE NASIR-UL-MULK
MR. JUSTICE AMIR HANI MUSLIM

**CIVIL PETITION NO. 211-P OF 2008 AND
CIVIL PETITIONS NO. 482-P TO 494-P OF 2010**

(on appeal from the judgment of the K.P.P. Service Tribunal,
Peshawar dated 25.06.2008, 23.02.2010, passed in Appeals No.
1239/07, 1621/08, 17/09, 1451, 1480, 1513, 1514, 1534 to
1536, 1547, 1548, 1590 and 1591 of 2008)

Government of NWFP (now KPK) through
Chief Secretary and others (in all cases)
... Petitioners

VERSUS

Dr. Syed Iftikhar Ali Shah etc.
Dr. Taj Muhammad
Dr. Pervez Khan
Dr. Almas Afridi
Dr. Mian Naushad Ali
Dr. Akbar Said Jan
Dr. Zahoor Ahmed Khan
Dr. Hazrat Ullah Khattak
Dr. Saeedullah
Dr. Mohammad Tariq
Dr. Jehanzeb Khan
Dr. Gulalai Wali Khan
Dr. Faiz Mohammad
Dr. S. Karamat Ali Shah

(in CP 211-P/08)
(in CP 482-P/10)
(in CP 483-P/10)
(in CP 484-P/10)
(in CP 485-P/10)
(in CP 486-P/10)
(in CP 487-P/10)
(in CP 488-P/10)
(in CP 489-P/10)
(in CP 490-P/10)
(in CP 491-P/10)
(in CP 492-P/10)
(in CP 493-P/10)
(in CP 494-P/10)
... Respondents

For the Petitioners:

Mr. Lal Jan Khattak, Addl. AG
(in all cases)

For the Respondents:

Mr. Waqar A. Seth, ASC.
(in all cases) Mr. Mir Adam Khan, AOR.

Date of Hearing:

17.03.2011

JUDGMENT

NASIR-UL-MULK, J. :- The respondents in all these

petitions were doctors serving in the teaching hospitals Peshawar,
when on 12.02.2002 by a Notification issued by the Governor,
N.W.F.P. banned private practice by doctors serving in the
Government Hospitals including teaching staff and introduced a new
system called Institution Based Practice (IBP), allowing the doctors to

ATTESTED

[Signature]
Assistant Registrar
Supreme Court of Pakistan
Islamabad

[Signature]
Attested
Page

carry on their private practice in their respective hospitals where they were posted and consequently had to close up their private clinics. The contents of this Notification were subsequently incorporated by an amendment made on 29.03.2002 in the N.W.F.P. Medical and Health Institution Reform Act, 1999. Upon induction of this new System, the doctors affected were by Memo dated 09.04.2002 given the options:-

1. Whether they would like to join Institution Based Practice in the evening and from which date and
2. Whether they would like to continue in Government service or opt for retirement.

Thus all the doctors were asked to fill up proforma giving their options.

2. Taking up the first petition filed against Dr. Syed Iftikhar Ali Shah. He opted for retiring pension with a note that his response be considered in the light of conditions of retirement package agreed by the Government. Subsequent to this response dated 27.04.2002, the respondent submitted resignation of 10.05.2002, stating that since he did not have the qualifying service (25 years) he would tender resignation. This was accordingly accepted. A number of doctors, including the present respondents, subsequently sought retiring pension and after they were declined, they approached the Service Tribunal. The appeals of the present respondents were accepted by the Tribunal on different dates and it was held that the qualifying service for pensionary benefits was 20 years under Section 13 of the N.W.F.P. Civil Servants Act, 1973 and not 25 years as maintained by the Government. The respondent, Dr. Syed Iftikhar Ali Shah, had at the time of his resignation 24 years 4 months and 27 days service in his credit. It is not disputed that all the respondent doctors in these petitions have served the Government for more than

APPROVED
 Assistant Registrar
 Supreme Court of Pakistan
 Peshawar

Attested
 Nazim

20 years before their resignations. The Government of Kyber Pakhtunkhwa has filed these petitions for leave to appeal, assailing the judgments of the Tribunal.

3. Mr. Lal Jan Khattak, Additional Advocate General, KPK appearing for the petitioners, referred to the West Pakistan Civil Services Pension Rules, 1963 and submitted that according to Rules 2.11 and 3.1, the qualifying service for pension is 25 years and not 20 years as held by the Tribunal. He next contended, with the reference to the said Rules as well as Section 19 of the N.W.F.P. Civil Servants Act, 1973, that pensionary benefits can be granted only on retirement and not upon resignation, whereas all the respondents had resigned from their posts.

4. Responding to the above contention, Mr. Waqar Ahmed Seth, ASC, representing the respondents, submitted that Section 13 of the N.W.F.P. Civil Servants Act, 1973 and not the West Pakistan Civil Services Pension Rules, 1963 are applicable to the Government of K.P.K. That according to the said provision, 20 and not 25 years is qualifying service for entitlement of pensionary benefits. The learned counsel argued that the respondents had initially opted for retirement in line with the offer of the Provincial Government and it was on account of misconstruction of Rules by the relevant Authority that the respondents were compelled to tender resignations under the misconception that being short of 25 years service they were not entitled to pension.

5. Section 13 of the N.W.F.P. Civil Servants Act provides that a civil servant shall retire upon completion of 20 years service, qualifying for pension or upon completion of 60 years of age. Initially the early retirement was 25 years of service but by amendment in N.W.F.P. Civil Servants (2nd Amendments) Ordinance, 2001, 25 years was substituted by 20 years. Thus for the Province of K.P.K. the

ATTESTED

[Signature]
 Assistant Registrar
 District Court of Peshawar

[Signature]
 Attested
 Registrar

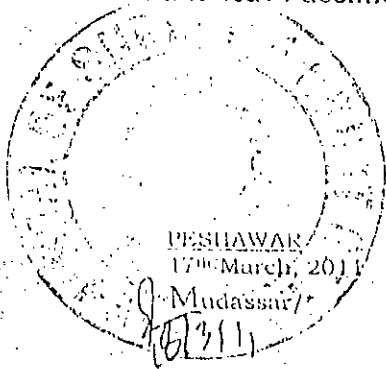
Amended - VIII (79)

qualifying service for pension is 20 years and not 25 years as stated in the West Pakistan Civil Services Pension Rules, 1963.

6. As regards the question of resignation by the respondents as stated above, the options given by the Government to the doctors selecting the second option was for retirement. Obviously the Government could not have asked its employees to tender resignations. It was in response to and in line with this proposal that the respondent, Dr. Syed Iftikhar Ali Shah, had first applied for retiring pension. That option was never withdrawn by the Government. The respondent had to tender resignation due to the misconception by the Authorities of the Rules that the qualifying service for pension was 25 year. In this background the first response opting for retirement would be relevant and not the subsequent application tendering resignation.

7. In the light of above, the Tribunal had rightly granted the relief to the respondents. These petitions are, therefore, dismissed and leave declined.

Attended report



sd/- Nasir-ul-Mulk, J.

sd/- Amir Hamid Muslim, J.

Certified to be true copy

*Assistant Registrar
Supreme Court of Pakistan
Peshawar.*

"Not approved for reporting"

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.....	<i>26/02/2011</i>
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