

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.9137/2020

Date of Institution ... 10.08.2020
Date of Decision ... 13.09.2021

Ahmad Ullah Son of Zafar Ali (Driver), Staff Training Institute
Benevolent Fund Building Peshawar Cantt.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through its Secretary
Administration Civil Secretariat Peshawar and Seven others.

... (Respondents)

Murtaza Khan Durrani,
Advocate

... For Appellant.

Usman Ghani,
District Attorney

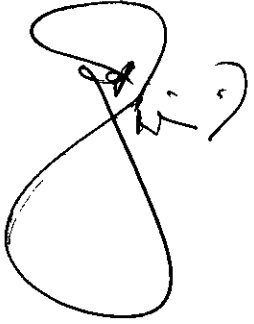
... For Respondents.

AHMAD SULTAN TAREEN
ROZINA REHMAN

... CHAIRMAN
... MEMBER (J)

JUDGMENT

ROZINA REHMAN, MEMBER (J): Brief facts of the case are that appellant was appointed as Chowkidar on Contract Basis in S.T & I.T Department vide order dated 03.08.2009 in the Project I.T Professional Training Center for Unemployed I.T Graduates and Government Employees. He joined his duties on 05.10.2009 and he remained as Chowkidar on Contract Basis w.e.f 05.10.2009 to 21.02.2012. On the recommendation of Departmental Selection Committee, he was appointed as Driver on Fixed Pay/Contract Basis on 21.02.2012 and after 9 years of continuous service, he was



regularized through Employees (Regularization of Services) Act, 2018 and his service was regularized w.e.f 1st July, 2018 in Staff Training Institute. He filed departmental appeal with prayers to count his 10 years continuous service for promotion and pensionary benefits but his request was turned down. He then filed writ petition for redressal of his grievance and vide order of the august Court, dated 25.06.2020, he was directed to file service appeal before the competent forum, hence, the present service appeal.

2. We have heard Murtaza Khan Durrani Advocate appearing on behalf of appellant and Usman Ghani learned District Attorney for the respondents and have gone through the record and the proceedings of the case in minute particulars.

3. Learned counsel for appellant contended that the impugned order is illegal, arbitrary and without jurisdiction which is based on discrimination. He contended that it is settled law that when an employee is regularized, his total length of service is to be computed from the day he joined the service. Reliance was placed on 2021 S.C.M.R 116;2019 P.L.C (C.S) 1065 and 2010 P.L.C (C.S) 354.

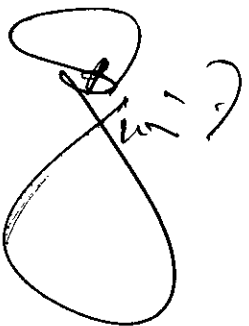
4. Conversely learned District Attorney submitted that in the light of Khyber Pakhtunkhwa (Regularization of Services) Act, 2018, the services of 24 employees including the appellant were regularized w.e.f 01.07.2018. He submitted that the appellant filed an application, wherein, he had requested the Director to count his project service w.e.f 05.10.2009 to 01.07.2018 for the purpose of promotion and pension and that his application was processed and disposed of on



the ground that Regularization Act, 2018 provides regularization of the employees to be regularized with immediate effect and therefore, pursuant to that all contract employees were regularized with immediate effect.

5. It is a matter of record that appellant was initially appointed on Contract Basis as Chowkidar on 03.08.2009. On the recommendation of Departmental Selection Committee, he was appointed as Driver on Contract Basis on 21.02.2012 and accordingly, he submitted his arrival report on 21.02.2012. It is also not denied that his service was regularized vide Notification No. SOE-IV (4) (E&AD)/5-09-2009 dated 18.10.2018 w.e.f July, 1st, 2018 in Staff Training Institute. He then submitted an application for inclusion of previous Government service but his request was denied on the ground that previous service could not be counted for pension or gratuity as service rendered on Contract Basis, shall not qualify for the same.

6. There is no denial of the fact that appellant was initially appointed on Fixed Pay and subsequently his services were regularized, hence, in view of the Rule 2.3 of West Pakistan Civil Services Pension Rules, 1968, the appellant is to be paid pensionary benefits from the date of his first appointment. It is well settled law, when any employee on contract is absorbed into regular employment, and there is no break in his service, then period on contract employment has to be considered for counting length of service of pensionary benefits etc. Reliance is placed on 2010 P.L.C 354, wherein, it is held that:




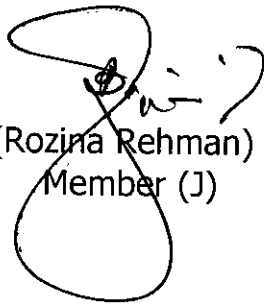
"When an employee was regularized, his total length of service, was to be computed from the day he joined the service that could be temporary or otherwise. Even period of an employee of daily wages would be counted for the purpose of computing pensionary benefits".

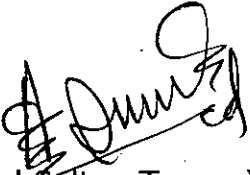
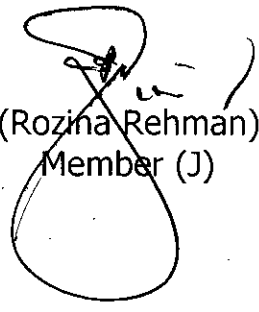
07. Therefore, while considering the above, we are not inclined to hold a different view, therefore, while accepting this appeal, we direct the respondents to pay all the pensionary benefits to the appellant by counting his service from the date of his initial appointment i.e. 03.08.2009. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

13.09.2021


(Ahmad Sultan Tareen)
Chairman


(Rozina Rehman)
Member (J)


S.No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	13.09.2021	<p><u>Present:</u></p> <p>Murtaza Khan Durrani, Advocate ... For Appellant.</p> <p>Usman Ghani, District Attorney ... For Respondents</p> <p>Vide our detailed judgment of today of this Tribunal placed on file, while accepting this appeal, we direct the respondents to pay all the pensionary benefits to the appellant by counting his service from the date of his initial appointment i.e. 03.08.2009. Parties are left to bear their own costs. File be consigned to the record room.</p> <p><u>ANNOUNCED.</u> 13.09.2021</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  (Ahmad Sultan Tareen) Chairman </div> <div style="text-align: center;">  (Rozina Rehman) Member (J) </div> </div>

21.01.2021

Counsel for appellant present.

Noor Zaman Khattak learned District Attorney for respondents present.

Written reply is still awaited. Representative of respondents is not in attendance. Case is adjourned on the request of learned District Attorney for submission of written reply/comments. To come up for written reply/comments on 16.03.2021 before S.B.



(Rozina Rehman)
Member (J)

16.03.2021

Due to tour of Camp Court Abbottabad and shortage of Members at Principal Bench Peshawar, the case is adjourned to 25.05.2021 before S.B.



Reader

25.05.2021

Counsel for the appellant and Mr. Kabirullah Khattak, Addl. AG alongwith Sultan Shah Superintendent and Farman Shah, Senior Auditor for the respondents present.

Respondents have furnished written reply/comments. The appeal is assigned to D.B for arguments on 13.09.2021.



Chairman

02.10.2020

Counsel for the appellant present.

Learned counsel argued that the appellant was appointed through order dated 06.08.2009. His appointment was made as Chowkidar on contract basis. On 18.10.2018, the service of appellant was regularized as Driver w.e.f. 01.07.2018. The respondents, however, denied the appellant service benefits from the date of his first appointment on contract basis. The appellant in view of judgment reported as 2019-PLC(C.S)1065 is entitled to the pension etc. from the date of appointment on contract basis.

In view of available record and arguments of learned counsel, instant appeal is admitted to regular hearing subject to all just exceptions. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 30.11.2020 before S.B.


Appellant Deposited
Security & Process Fee
28/10/20


Chairman

30.11.2020

Appellant in person alongwith Mr. Murtaza Khan Durrani, Advocate, are present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents is also present.

Written reply on behalf of respondents not submitted. Learned Additional Advocate General is directed to ensure presence of representative of the department and submit reply on the next date. Adjourned to 20.01.2021 on which date file to come up for written reply/comments before S.B.




(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 9137/2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	10/08/2020	<p>The appeal of Mr. Ahmadullah presented today by Mr. Murtaza Khan Durrani Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR,</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>07/10/2020</u></p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

**BEFORE THE KHYBER PAKHUTNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No. 9137 of 2020

Ahmad Ullah Appellant

VERSUS

Govt of Khyber Pakhtunkhwa through its Secretary
Administration Civil Secretariat Peshawar and others

..... Respondents


Index

S.No.	Description of documents	Annexure	Pages
1.	Service Appeal		1-6
2.	Affidavit		7
3.	Addresses of the parties		8
4.	Copy of departmental appeal dated 03/08/2009	"A"	9
5.	Copy of appointment order dated 21/02/2012	"B"	10-11
6.	Copy of impugned order dated 29/10/2019	"C"	12-14
7.	Copy of order dated 26/12/2019	"D"	15
8.	Copy of order dated 25/06/2020 of Hon'ble PHC	"E"	16-22
9.	Wakalat Nama	In original	23

Dated 10/08/2020

Appellant

Through


Murtaza Khan Durrani
Advocate High Court,
Peshawar
Cell # 0301-5913110

①

BEFORE THE KHYBER PAKHUTNKHWA SERVICE
TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 9137 of 2020

Diary No. 8393

Dated 10-8-2020

Ahmad Ullah Son of Zafar Ali (Driver), Staff Training
Institute Benevolent Fund Building Peshawar Cantt.

... .. Appellant

VERSUS

- ✓1- Govt of Khyber Pakhtunkhwa through its Secretary
Administration Civil Secretariat Peshawar.
- ✓2- Govt of Khyber Pakhtunkhwa through its Secretary
Establishment Deptt: Civil Secretariat Peshawar
- ✓3- Secretary Information & Technology, Civil Secretariat
Peshawar.
- ✓4- Director Staff Training Institute Benevolent Fund
Building Peshawar Cantt.
- ✓5- Director Information & Technology, Khyber
Pakhtunkhwa, Peshawar.
- ✓6- Section Officer (Admin) Administration Deptt: Civil
Secretariat Peshawar.
- ✓7- Section Officer (Admin) Staff Training Institute
Benevolent Fund Building Peshawar Cantt.
- 8- Accountant General Khyber Pakhtunkhwa Peshawar

... .. Respondents

Filed to-day

Registrar

10/8/2020

APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974, AGAINST THE
IMPUGNED ORDER NO.SO(ADMIN)
E&AD/4(04)/STI/AHMAD ULLAH DATED

(2)

26/12/2019 OF RESPONDENT NO.1to6 WITH REGARD TO DEPARTMENTAL APPEAL OF THE APPELLANT WITH REGARD TO COUNT THE CONTRACT SERVICE OF THE APPELLANT W.E.F 05/10/2009 TILL HIS REGULARIZATION I.E. 1ST JULY 2018 FOR PENSIONARY BENEFITS AND PROMOTION HAS BEEN DISMISSED.

Prayer in Appeal:

On acceptance of this service appeal the impugned orders of the respondents No.1 and 6 be declare as illegal, arbitrary, whimsical, fanciful, void-ab-initio, null and void, without jurisdiction, without lawful authority, against law and be set aside and the contract service of the appellant w.e.f. 05/10/2009 till his regularization i.e. 1st July 2018 be counted for pensionary benefits and promotion.

Any other relief which deems proper and appropriate in the circumstances of the case may also be awarded to the appellant.

Respectfully Sheweth:

- 1) That on dated 03/08/2009 the appellant was appointed as Chowkidar on contract basis in ST&IT Department vide order Directorate of IT/NWFP/appointment/09/27-2 dated 03/08/2009 in the "Project IT Professional Training Centre for unemployed IT Graduates and Govt Employee" by the respondent No.5 and the appellant has joined his duties on 05/10/2009. (Copy of the appointment order is annexed as Annexure "A").

- 3
- 2) That without any break in his service the appellant remained as Chowkidar on contract basis w.e.f. 05/10/2009 till 21/02/2012.
 - 3) That on 21/02/2012 on the recommendation of the departmental selection committee the appellant was appointed as Driver on fix pay / contract basis by the respondent No.5 in the Project and the appellant has joined his duty on the same day. (Copy of appointment order and joining report are annexed as Annexure "B&C).
 - 4) That after 9 years continues service of the appellant, the "The IT Professional Centre" was regularized through employees regulation of Service Act, 2018 and the appellant's service was regularized w.e.f. 1st July 2018 in "Staff Training Institute " vide Notification No.SOE-V(E&AD)/5-09/2009 dated 18/10/2018.
 - 5) That after completion of 10 years continues service, pay scale of the petitioner is still in BPS-5 whereas pay scale of driver post is commonly in BPS-6.
 - 6) That the appellant has filed departmental appeal before the respondent No.4 with the prayer to count his 10 years continues service for

promotion and pensionary benefits which was forwarded to respondent No.2 vide Letter NO. DD(STI)E&AD/01(3)/2019-20-20/59 dated 29/10/2019. (Copy of the letter is annexed as Annexure "C").

7) That on 26/12/2019 the impugned order was passed by the respondent No.1. (Copy of the impugned order is annexed as Annexure "D").

8) That the appellant has filed writ petition No.1497-P/2020 before the Peshawar High Court Peshawar for redressal of his grievance and vide judgment and order dated 25/06/2020 the appellant has been directed by the Court to file the present service appeal before the competent Court of law. (Attested Copies of judgment and order of Hon'ble Court High Court along with writ petition are annexed as Annexure "E").

9) That now the appellant feeling aggrieved from the impugned order and there is no other adequate remedy, hence the present appeal is being filed before this Hon'ble Tribunal on the following amongst other grounds:

5

GROUND:

- A) That the impugned order is illegal, arbitrary, without jurisdiction, without lawful authority, against law and is based on discrimination which is liable to be set aside.
- B) That it is settle law that when an employee is regularized his total length of service is to be computed from the day he joined the service that could be temporary or otherwise. Even period of an employee of daily wages would be counted for the purpose of computing pensionary benefits.
- C) That the pension is vested rights and legitimate expectation of civil servant which cannot be arbitrary abridged or reduced.
- D) That the impugned order is also against the civil services pension rules.
- E) That the Peshawar High Court Peshawar has been pronounced a judgment in writ petition No.627-A/2018 (Sher Afzal Khan VS Govt of Khyber Pakhtunkhwa and others) 2019 PLC (CS) 1065 declared the pension (As right to pension is conferred by law and cannot be arbitrarily abridged or reduced in except in accordance with law as it is the vested right and legitimate expectations of retired civil servant, therefore, copy of this judgment circulated to the Secretary Finance & Accountant General of Khyber

6

Pakhtunkhwa to issue direction to all the heads of the department and Districts Accounts Officer in Khyber Pakhtunkhwa to strictly follow the decisions pronounced by the Apex Court as well as this Court in numbers of judgment on the issue).

F) That the above judgment is a judgment in rem and is also applicable in the appellant's case.

G) That any other ground will be raised at the time of hearing of this appeal with prior permission of this Hon'ble Tribunal.

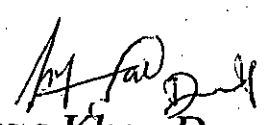
It is, therefore, humbly prayed that on acceptance of this service appeal the impugned orders of the respondents No.1 and 6 be declared as illegal, arbitrary, whimsical, fanciful, void-ab-initio, null and void, without jurisdiction, without lawful authority, against law and be set aside and the contract service of the appellant w.e.f. 05/10/2009 till his regularization i.e. 1st July 2018 be counted for pensionary benefits and promotion.

Any other relief which deems proper and appropriate in the circumstances of the case may also be awarded to the appellant.

Dated 10/08/2020


Appellant

Through


Murtaza Khan Durrani
Advocate High Court,
Peshawar.

7

**BEFORE THE KHYBER PAKHUTNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No. _____ of 2020

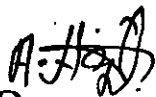
Ahmad Ullah Appellant

VERSUS

Govt of Khyber Pakhtunkhwa through its Secretary
Administration Civil Secretariat Peshawar and others
... .. Respondents

Affidavit

I, Ahmad Ullah Son of Zafar Ali (Driver),
Staff Training Institute Benevolent Fund
Building Peshawar Cantt do hereby solemnly
affirm and declare on oath that the contents of the
accompanied service appeal are true and correct to
the best of my knowledge and belief and nothing
has been concealed or withheld from this Hon'ble
Tribunal.


Deponent



8

BEFORE THE KHYBER PAKHUTNKHWA SERVICE
TRIBUNAL PESHAWAR

Service Appeal No. _____ of 2020

Ahmad Ullah Appellant

VERSUS

Govt of Khyber Pakhtunkhwa through its Secretary
Administration Civil Secretariat Peshawar and others

... .. Respondents

ADDRESSES OF THE PARTIES


Appellant

Ahmad Ullah Son of Zafar Ali (Driver), Staff
Training Institute Benevolent Fund Building
Peshawar Cantt.

Respondents

- 1- Govt of Khyber Pakhtunkhwa through its
Secretary Administration Civil Secretariat
Peshawar.
- 2- Govt of Khyber Pakhtunkhwa through its
Secretary Establishment Deptt: Civil Secretariat
Peshawar
- 3- Secretary Information & Technology, Civil
Secretariat Peshawar.
- 4- Director Staff Training Institute Benevolent
Fund Building Peshawar Cantt.
- 5- Director Information & Technology, Khyber
Pakhtunkhwa, Peshawar.
- 6- Section Officer (Admin) Administration Deptt:
Civil Secretariat Peshawar.
- 7- Section Officer (Admin) Staff Training Institute
Benevolent Fund Building Peshawar Cantt.
- 8- Accountant General Khyber Pakhtunkhwa
Peshawar

Dated / 08/2020

A. Hayat
Appellant
Through 
Murtaza Khan Durrani
Advocate High Court,
Peshawar.



GOVERNMENT OF NWFP
DIRECTORATE OF INFORMATION TECHNOLOGY

H.No. 1/B Chinar Road, University Town, Peshawar
Tel: 091-9216889, 9218428
www.nwfp.gov.pk

Dated: August 3rd 2009

ORDER

No: Directorate of IT/NWFP/Appointment/09/ 27-2 / The competent authority is pleased to appoint the following candidates on contract basis with immediate effect as per detail given below:-

Sno	Name	Father Name	Post	Salary PM	Project
1.	Fazal Wahid	Gul Zameer	Naib Qasid	7000/-	Establishment of IT Directorate
2.	Shahid Gul	Muhtaj Gul	Naib Qasid	8000/-	IT Professional Training Center for IT Graduates & Govt. Employees
3.	Khalid Khan	Noor Habib	Sweeper	-do-	
4.	Muhammad Taimur Khan	Muhammad Sadiq	Chowkidar	-do-	
5.	Ahmad Ullah	Zafar Ali	Chowkidar	-do-	

The terms and conditions of his service are as under:-

- 1) His appointment shall initially be for one year and will be renewed on yearly basis subject to the improvement in performance / duties.
- 2) His appointment will purely be on contract basis and his services can be terminated on 14 days notice without any reason being assigned at any time irrespective the fact that he is holding a post other than one to which he was originally recruited or on the payment of 14 days salary in lieu of the notice or on the winding up of the project which ever is earlier.
- 3) In case he wishes to resign at any time, one month's notice will be necessary or in lieu thereof one month pay shall be forfeited.
- 4) He will be governed by such rules, orders and instructions relating to leave, TA, Medical Charges etc as may be issued by the Government for the category of Government servants to which he belong.
- 5) He will produce a Fitness/Medical Certificate from the Medical Superintendent Peshawar.
- 6) His appointment to the above post will not confer on him any right of regular appointment/ absorption against the said post or any other post and nor his service will be counted towards seniority /Promotion/ pension.
- 7) His appointment is subject to the verification of character and antecedents to the satisfaction of the appointing authority. His services will be liable to be terminated without any notice if he is not found fit subsequently.
- 8) He will not contribute to GP Fund / CP Fund and will not be entitled to pension, gratuity benefits in light of the E&A Department (Regulation Wing) No. SOR-VI/E&AD/1-25/2007 dated 2nd July 2008.
- 9) The official is required to report for duty within 15 days of the receipt of this order.

-Sd-

Director-IT
Directorate of Information Technology
NWFP

Endst: of Even No. and Date:

Copy forwarded to the:

1. Accountant General, NWFP, Peshawar.
2. Section Officer (Estab.), ST&IT Department
3. Accountant, Directorate of IT.
4. PA to Director-IT
5. Official Concerned.

Assistant Director-IT
Directorate of Information Technology
NWFP



Government of Khyber Pakhtunkhwa Directorate of Information Technology

Unit No. TF/204-210, 3rd Floor, Deans Trade Center, Opp. FC Gate, Islamia Road, Peshawar Cantt.
Contact: 091-9211789-92. Fax: 091-9211790
http://www.khyberpakhtunkhwa.gov.pk

No. Directorate/IT/KP/Appoint/Driver-ITEC/12/ 1599-3
Dated: February 21, 2012

To

Mr. Ahmad ullah S/o Zafar Ali.

Subject: OFFER OF APPOINTMENT AS DRIVER ON FIXED PAY/CONTRACT BASIS.

On the recommendation of the Departmental Selection Committee the Competent Authority has been pleased to offer you the subject post on fixed pay of Rs. 10,000/- PM in the Project "IT Excellence Center" Khyber Pakhtunkhwa.

Terms and Conditions of your service will be as under:-

- i. Your fixed pay contract appointment will be for the remaining/extended period of the Project. On completion of the project your services shall be stand terminated.
- ii. Your appointment will be purely on contract basis and if your performance is found unsatisfactory, your services shall be terminated on 15 days notice or on payment of 15 days salary in lieu thereof.
- iii. You will work against the subject post for which you are recruited and will not be transferred to any other post in the project or any other project under the same department/government.
- iv. You will produce an undertaking that during the employment, you will be held responsible for the losses (accruing to the project due to you and shall be held answerable therefore).
- v. You will produce a Medical Fitness Certificate from any government Hospital.
- vi. Your appointment will not confer on you any right for regular appointment/absorption against the post of Driver nor your services will count towards seniority/promotion/pension.
- vii. Your posting/duty station may be changed by the competent authority as per the requirement of the Project.

If the above terms and conditions are acceptable to you, you are advised to report for duty to the undersigned within 10 days of the issue of this offer, failing which this offer shall stand cancelled.

Director-IT

Copy forwarded to:-

1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. PS to Secretary ST&IT Department.
3. Section Officer (Estab.) ST&IT Department.
4. Accountant, Directorate of IT.

Assistant Director-IT

To

Director,
IT- Directorate
Peshawar.

11
12

Subject: ARRIVAL REPORT

Dear Sir,

This is in reference to Office Order No. Directorate/IT/KP/Appoint/Driver-ITEC/12/589-3/ dated 21/02/2012. I have been appointed as Driver in project ITEC Peshawar. I hereby give my Joining after noon.

Submitted for your information and further necessary action please.

Dated: 21-02-2012

Sincerely Yours,

[Handwritten signature]

A-#9
Ahmad Ullah

B
2/12
MIZ

ATTESZLI
[Handwritten signature]



Govt: of Khyber Pakhtunkhwa
Establishment & Administration Department
Staff Training Institute
Benevolen: Fund Building near Janz Bakers, Peshawar Cantt.
Ph:091-9211929 & Fax 091-9213718

No. DD (STI) EGAD/1(3)/2019-20 / 59
Dated: - October 29, 2019

To

Secretary Establishment,
Government of Khyber Pakhtunkhwa.

Subject:

**REQUEST FOR INCLUSION OF PREVIOUS GOVERNMENT
SERVICE FOR UPGRADATION IN RESPECT OF MR. AHMED
ULLAH DRIVER STI.**

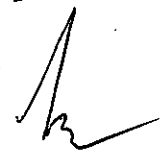
Sir:

I am directed to refer to the subject noted above and enclose herewith an application in respect of Mr. Ahmed Ullah Driver of this institute which is self-explanatory for further process please.


Section Officer (Admn.)
Staff Training Institute

Copy for information forwarded to Director Staff Training Institute E&Ad
Department.


Section Officer (Admn.)
Staff Training Institute

ATTESTED


13

To

The Director
Staff Training Institute

Subject: 10 Years Service in KP Government

With due respect it is stated that, I Ahmadullah (Driver STI) was appointed in government service on October 05, 2009 in ST & IT department vide appointment No: Directorate of IT/NWFP/Appointment/09/27-2 dated August 03, 2009 in the project titled "IT Professional Training Center for unemployed IT Graduates & Govt. employee" on contract basis (copy attached).

Moreover after 9 years of continuous service, the "IT Professional Training Center" was regularized through Employees Regularization of Services Act, 2018 and my service was regularized vide notification No. SOE-V(E&AD)/5-09/2009 dated 18-10-2018 w.e.f July 01, 2018 in Staff Training Institute.

Furthermore after completion of 10 years continuous service, my pay scale is still BS-05 whereas driver post is commonly in BS-06.

It is therefore requested that my previous service may be counted for promotion & pension purpose. I shall be very thankful for your kind consideration in the matter please.

Sincerely

A. Ahmadullah
Ahmadullah
Driver, Staff Training Institute

*A. Ahmadullah to
Director for v/a
my
25/10*

*BSA
SOA*

AHMAHULLAH

A

Government of Khyber Pakhtunkhwa
Accountant General Khyber Pakhtunkhwa, Peshawar
Monthly Salary Statement (September-2019)



14

Personal Information of Mr AHMADULLAH d/w/s of ZAFARALI
 Personnel Number: 00473705 CNIC: 2130396985483
 Date of Birth: 15.07.1961 Entry into Govt. Service: 05.10.2009

NTN:
 Length of Service: 09 Years 11 Months 027 Days

Employment Category: Active Temporary

Designation: DRIVER 80824834-GOVERNMENT OF KHYBER PAKH

DDO Code: PR8028-STAFF TRAINING INSTITUTE PESHAWAR.

Payroll Section: 005 GPF Section: 002 Cash Center: GPF Balance: 13,590.00

GPF A/C No: Interest Applied: No Vendor Number: 30264671 - AHMADULLAH 219761154 UBL 1929

Pay and Allowances: Pay scale: BPS For - 2017 Pay Scale Type: Civil BPS: 05 Pay Stage: 0

Wage type	Amount	Wage type	Amount
0001 Basic Pay	10,260.00	1001 House Rent Allowance 45%	2,255.00
1210 Convey Allowance 2005	1,932.00	1300 Medical Allowance	1,500.00
1567 Washing Allowance	150.00	1580 Overtime Allowance	2,000.00
2211 Adhoc Relief All 2016 10%	181.00	2224 Adhoc Relief All 2017 10%	1,026.00
2247 Adhoc Relief All 2018 10%	1,026.00	2264 Adhoc Relief All 2019 10%	1,026.00

Deductions - General

Wage type	Amount	Wage type	Amount
3005 GPF Subscription	-890.00	3501 Benevolent Fund	-600.00
4004 R. Benefits & Death Comp:	-690.00		0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax
 Payable: 0.00 Recovered till SEP-2019: 0.00 Exempted: 0.00 Recoverable: 0.00

Gross Pay (Rs.): 21,356.00 Deductions: (Rs.): -2,180.00 Net Pay: (Rs.): 19,176.00

Payee Name: AHMADULLAH
 Account Number: 219761154
 Bank Details: UNITED BANK LIMITED, 211939 DEANS TRADE CENTRE DEANS TRADE CENTRE, PESHAWAR CANIT

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address: City: PESHAWAR Domicile: - Housing Status: No Official
 Temp. Address: City: Email: hassanahmeddoit@gmail.com

ATTACHED



GOVERNMENT OF KHYBER PAKHTUNKHWA
ADMINISTRATION DEPARTMENT

No.SO(Admn)E&AD/4(04)/STI/Ahmadullah
Dated: 26-12-2019

To

The Section Officer (Admn),
Staff Training Institute
Establishment & Administration Department

Subject:

**REQUEST FOR INCLUSION OF PREVIOUS GOVERNMENT
SERVICE FOR UP-GRADATION IN RESPECT OF MR. AHMAD
ULLAH DRIVER STI**

I am directed to refer to your letter No.DD(STI)E&AD/1(3)/2019-20/59 dated 29-10-2019 on subject noted above and to state that previous service of Mr. Ahmad Ullah, Driver cannot be counted for pension or gratuity as services rendered on contract basis shall not qualify for the same. However, his pay may be fixed in light of Finance Department letter No.FD(SOSR-I)12-7/2014 dated 06-02-2014 (copy enclosed). Moreover, the project staff regularized under Khyber Pakhtunkhwa (Regularization of Service) Act, 2018 shall be placed in the attached formations as per Cabinet decision dated 09-05-2019.

Encls: as above

A copy is forwarded to:-

- 1) PS to Secretary Administration Department
- 2) PA to Deputy Secretary Administration

SECTION OFFICER (ADMN)

SECTION OFFICER (ADMN)

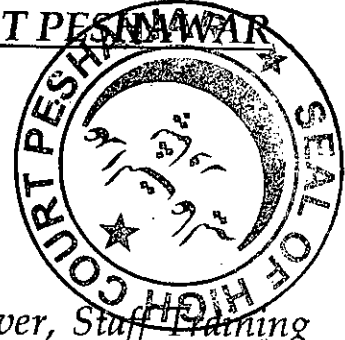
ATTESSED

D

E-16

BEFORE THE PESHAWAR HIGH COURT PESHAWAR

Writ Petition No. 1497P of 2020



Ahmad Ullah Son of Zafar Ali, Driver, Staff Training Institute Benevolent Fund Building Peshawar Cantt.
R/o

..... Petitioner

VERSUS

- 1- Govt of Khyber Pakhtunkhwa through its Secretary Administration Deptt: Civil Secretariat Peshawar.
- 2- Govt of Khyber Pakhtunkhwa through its Secretary Establishment Deptt: Civil Secretariat Peshawar.
- 3- Secretary Information Technology Civil Secretariat Peshawar.
- 4- Director, Staff Training Institute, Benevolent Fund Building Peshawar Cantt.
- 5- Director Information Technology Khyber Pakhtunkhwa, Peshawar.
- 6- Section Officer, (Admin) Administration Deptt: Civil Secretariat Peshawar
- 7- Section Officer, (Admin) Staff Training Institute Benevolent Fund Building Peshawar Cantt.
- 8- Accountant General Khyber Pakhtunkhwa Peshawar.

..... Respondents

FILED TODAY

Deputy Registrar

11 FEB 2020

**WRIT PETITION UNDER ARTICLE 199 OF
THE CONSTITUTION OF THE ISLAMIC
REPUBLIC OF PAKISTAN, 1973 AS
AMENDED UPTO DATE**

Prayer

ATTESTED

**EXAMINER
Peshawar High Court**

- 2
- 17
- i- To declare the impugned order No.SO(Admin) E&AD/4(04)STI/Ahmad Ullah Dated 26/12/2019 of Respondents No.1to6 null and void, illegal, arbitrary, without jurisdiction, without lawful authority and is ineffective upon the rights of the petitioner and is liable to be set aside.
 - ii- To give directions to the respondents to count the contract service rendered by the petitioner w.e.f 05/10/2009 till his regularization i.e. 1st July 2018 for pensionery benefits and promotion.
 - iii- Any other relief which deems proper and appropriate in the circumstances of the case may also awarded to the petitioner.

Respectfully Sheweth:

The petitioner submits as under:

- 1- That on dated 03/08/2009 the petitioner was appointed as Chowkidar on contract basis in ST&IT Deptt: Vide order No. Directorate of IT/NWFP/ appointment /09/27-2 dated 03/08/2009 in the " Project IT Professional Training Centre for unemployed IT Graduates and Govt Employee" by the respondent No. 5 And the petitioner has joined his duties on 05/10/2009.

FILED TODAY
Deputy Registrar
11 FEB 2020

ATTESTED
EXAMINER
Peshawar High Court

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12

(Copy of the appointment order is annexed as Annexure "A").

2- That without any break in his service the petitioner remained as Chowkidar on contract basis w.e.f 05/10/2009 till 21/02/2012.

3- That on 21/02/2012 on the recommendation of the departmental selection Committee the petitioner was appointed as Driver on fixed pay/ contract basis by the respondent No. 5 in the project "IT Excellence Centre" and the petitioner had jointed his duties on the same date. (Copy of appointment order and joining report are annexed as Annexure "B").

4- That after 9 years continues service of the petitioner, the "IT Professional Centre " was regularized through employees regulation of Service Act, 2018 and the petitioner's service was regularized w.e.f 1st July 2018 in "Staff Training Institute" vide notification No.SOE-V(E&AD)/5-09/2009 dated 18/10/2018.

FILED TODAY
Deputy Registrar
11 FEB 2020

ATTESTED

EXAMINER
Peshawar High Court

4 19

5- That after completion of 10 years continuous service, pay scale of the petitioner is still in BPS-5 whereas pay scale of driver post is commonly in BPS-6.

6- That the petitioner has filed departmental appeal before the Respondent No.4 with the prayer to count his 10 years continuous services for promotion and pensionary benefits which was forwarded to respondent No. 2 vide Letter No.DD(STI)E&AD/01(3)/2019-20/59 dated 29/10/2019.(Copy of the Letter is annexed as Annexure "C").

7- That on 26/12/2019 the impugned order was passed by the respondent No. 1 (Copy of the impugned order is annexed as Annexure "D").

8- That there is no other efficacious and adequate remedy provided by law, hence the instant writ petition on the following grounds amongst others:

FILED TODAY
Deputy Registrar
11 FEB 2020

ATTESTED
EXAMINER
Peshawar High Court

5 90
GROUND:

A) That the impugned order is illegal, arbitrary, without jurisdiction, without lawful authority, against law and is based on discrimination which is liable to be set aside.

B) That it is settled law that when an employee is regularized his total length of service is to be computed from the day he joined the service that could be temporary or otherwise. Even period of an employee of daily wages would be counted for the purpose of computing pensionary benefits.

C) That the pension is vested rights and legitimate expectation of civil servant which cannot be arbitrarily abridged or reduced.

D) That any other grounds will be raised at the time of hearing of this Writ petition before this Hon'ble Court.

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Deputy Registrar
11 FEB 2020

ATTESTED

EXAMINER
Peshawar High Court

D

(21)

It is, therefore, most humbly prayed that on acceptance of this Writ petition, the impugned impugned order No.SO(Admin) E&AD/4(04) STI/Ahmad Ullah Dated 26/12/2019 of Respondent No. 1 be declared null and void, illegal, arbitrary, without jurisdiction, without lawful authority and is ineffective upon the rights of the petitioner and is liable to be set aside. And the respondents may also be directed to count the contract service rendered by the petitioner w.e.f 05/10/2009 till his regularization i.e. 1st July 2018 for pensionery benefits and promotion.

Any other relief which deems proper and appropriate in the circumstances of the case may also awarded to the petitioner.

Dated 10/02/2020

A. H. J.
Petitioner

Through

M. F. D.
Murtaza Khan Durrani
Advocate,
High Court, Peshawar

Certificate;

Certified that as per instruction of my client no such like writ petition has earlier been filed before this Hon'ble Court.

M. F. D.
Advocate

List of Books:

- 1- Constitution of the Islamic republic of Pakistan, 1973.
- 2- University Rules
- 3- Other law books as per needs

M. F. D.
Advocate

FILED TODAY

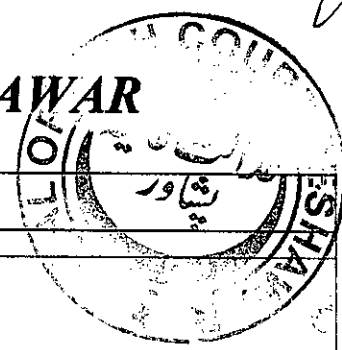
Deputy Registrar


11 FEB 2020

ATTESTED

M. F. D.
EXAMINER
Peshawar High Court

PESHAWAR HIGH COURT, PESHAWAR
FORM OF ORDER SHEET



Date of Order or Proceedings	3
1	2
25.06.2020	<p><u>WP No.1497-P/2020.</u></p> <p>Present: Mr. Murtaza Khan Durrani, Advocate, for the petitioner.</p> <p align="center">*****</p> <p><u>IKRAMULLAH KHAN, J.-</u> Through the instant writ petition, petitioner has prayed for the following relief:</p> <p>“It is, therefore, most humbly prayed that on acceptance of this writ petition, the impugned order No.SO(Admn) E & Adjourned to a date in office/4(04) STI/Ahmad Ullah dated 26.12.2019 of respondent No.1 be declared null and void, illegal, arbitrary, without jurisdiction, without lawful authority and is ineffective upon the rights of the petitioner and is liable to be set aside. And the respondents may also be directed to count the contract service rendered by the petitioner w.e.f. 05.10.2009 till his regularization i.e. 1st July 2018 for pensionary benefits and promotion.”</p> <p>2. Petitioner is a regular civil employee and his grievance squarely fall within the terms and conditions of civil service, therefore, in view of Article 212 of the Constitution of Islamic Republic of Pakistan, 1973, this Court cannot entertain matters whose terms and conditions pertain to civil service. Therefore, this petition is disposed of with direction to the petitioner to approach to competent Court of law for the redressal of his grievance.</p> <p><u>Announced:</u> 25.06.2020</p> <p align="right">  JUDGE JUDGE </p>

*Ihsan *

(DB) Hon'ble Mr. Justice Ikramullah Khan & Hon'ble Mr. Justice Ijaz Anwar

No. 40271

Date of Presentation of Application. 26/6/2020

No of Pages. 7-19

Copying fee. 28

Total. 28

Date of Preparation of Copy. 13/7/2020

Date of Delivery of Copy. 13/7/2020

Received By. [Signature]

[Signature]

PESHAWAR HIGH COURT, PESHAWAR
Authorised by Article 237 of
the Constitution of Pakistan Order 1984

13 JUL 2020

KPK SERVICE TRIBUNAL PESHAWAR.

D. 9134/2020.

13/9/2021

Mad Ullah VERSUS Govt of Khyber Pakhtunkhwa
Through Secretary
Administration & others

REJOINDER ON BEHALF OF THE
APPELLANT

Respectfully Sheweth:

Preliminary objections:

That all the preliminary objections raised by the respondents in their Para-wise comments are illegal, wrong, incorrect and are denied. The appellant has a genuine case of action and his appeal does not suffer from any formal defect whatsoever.

On facts:

- 1) Needs no comments
- 2) Needs no comments
- 3) Needs no comments
- 4) Needs no comments
- 5) Needs no comments
- 6) Incorrect. The impugned orders of the respondents are illegal, arbitrary, whimsical, fanciful, void-ab-initio, without jurisdiction, without lawful authority and against

IN THE KPK SERVICE TRIBUNAL PESHAWAR.

S.A No.9134/2020

13/9/2021

Ahmad Ullah VERSUS Govt of Khyber Pakhtunkhwa
Through Secretary
Administration & others

REJOINDER ON BEHALF OF THE
APPELLANT

Respectfully Sheweth:

Preliminary objections:

That all the preliminary objections raised by the respondents in their Para-wise comments are illegal, wrong, incorrect and are denied. The appellant has a genuine case of action and his appeal does not suffer from any formal defect whatsoever.

On facts:

- 1) Needs no comments
- 2) Needs no comments
- 3) Needs no comments
- 4) Needs no comments
- 5) Needs no comments
- 6) Incorrect.. The impugned orders of the respondents are illegal, arbitrary, whimsical, fanciful, void-ab-initio, without jurisdiction, without lawful, authority and against the

law; West Pakistan Civil Services pension Rules 1963, Chapter-II " Service Qualifying for pension" Rules 2.3 is very much clear.

"2.3 Temporary and officiating services: the temporary and officiating service shall count for pension as indicated below:"

- i- Government Servants borne on temporary establishment who have rendered more than five years continuous temporary services shall count such service for the purpose of pension or gratuity; and
- ii- Temporary and officiating service followed by confirmation shall also count for pension or gratuity;

Furthermore, 2021 SCMR P-116, 2019 PLC (SC) P-1065, PLC 2010 (SC) Page-358/etc supported the stance of the appellant. So the impugned orders of the respondents be set aside and the contract service of the appellant w.e.f. 05/10/2009 till his regularization i.e. 1st July 2018 be counted for pensionary benefits.

- 7) That Para No.7 is incorrect.
- 8) That Para No.8 of the comments is incorrect while Para No.8 of the appeal is correct.
- 9) That Para No.9 of the appeal is correct.

GROUND:

- A) Para A of the appeal is correct which Para A of the comments is incorrect.
- B) Para B of the appeal is correct which Para B of the comments is incorrect.
- C) Para C of the appeal is correct.

Rules 2.3 of West Pakistan Civil Servants pension Rules 1963 and the law laid down by the Superior Courts supported the stance of the appellant. Para C of the comments is incorrect. Details reply has been given in the preceding Paras.

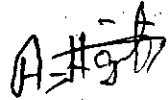
- D) Para D of the appeal is correct while Para D of the comments is incorrect. Details reply has been given in the preceding Paras.
- E) Para E needs no comments.

F) Para F of the appeal is correct, while Para F of the comments is incorrect.

G) Needs no comments.

It is, therefore, most humbly prayed that on acceptance of the appeal and rejoinder, the relief as prayed for may be granted to the appellant to meet the ends of justice.

Dated 11/09/2021



Appellant

Through



Murtaza Khan Durrani
Advocate, High Court
Peshawar.

IN THE KPK SERVICE TRIBUNAL PESHAWAR.

S.A No.9134/2020

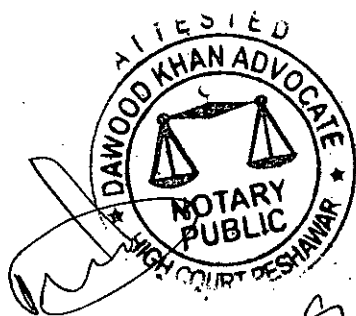
Ahmad Ullah VERSUS Govt of Khyber Pakhtunkhwa
Through Secretary
Administration & others

Affidavit

I, Ahmad Ullah Son of Zafar Ali R/o Kunj Alizai,
PO Parachinar, Tehsil Upper Kurram, District Kurram
do hereby solemnly affirm and state on oath that all
contents of appeal and rejoinder are true and correct to
the best of my knowledge and belief and nothing wrong
has been stated by me in the matter.

A. H. S.

DEPONENT



11-09-21

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

SERVICE APPEAL NO: 9137/2020

Ahmad Ullah s/o Zafar Ali, Driver, Staff Training Institute, Benevolent Fund Building, Peshawar Cantt;(Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Administration, Civil Secretariat, Peshawar.
2. Government of Khyber Pakhtunkhwa through Secretary Establishment, Civil Secretariat, Peshawar.
3. Government of Khyber Pakhtunkhwa through Secretary Science Technology & IT Department, Civil Secretariat, Peshawar.
4. Director Staff Training Institute , Benevolent Fund Building , Peshawar Cantt.
5. Director Information Technology, Khyber Pakhtunkhwa, Peshawar.
6. Section Officer (Admn), Administration Department, Civil Secretariat, Peshawar.
7. Section Officer (Admn) Staff Training Institute , Benevolent Fund Building , Peshawar Cantt.
8. Accountant General, Khyber Pakhtunkhwa.(Respondents)

JOINT PARAWISE COMMENTS FOR / ON BEHALF OF THE
RESPONDENTS NO. 01 TO 07.

Respectfully Sheweth,

PRELIMINARY OBJECTIONS.

1. The appellant has got no cause of action and locus staudi.
2. The appeal is not maintainable in the present form. As such this Honorable Tribunal has no jurisdiction to entertain the instant appeal.
3. The appeal is not based on facts.
4. The appellant has not come to the Tribunal with clean hands.
5. The appeal is bad for mis-joinder and non-joinder of necessary parties.
6. The appellant has concealed material facts from this Honorable Tribunal.
7. That the appellant is estopped by his own conduct to file the instant appeal.
8. That the appeal is badly time barred.


ON FACTS:

1. Pertains to record.
2. Pertains to record.
3. Pertains to record.
4. Correct to the extent that in light of Khyber Pakhtunkhwa (Regularization of Services) Act, 2018, the services of 24 employees , including the appellant, of the Directorate of IT's Project " The IT Professional Centre" were regularized w.e.f 01-07-2018 (under PR-8028 in STI) vide Notification No.SOE-V(E&AD)/5-09/2009 dated 18-10-2018 **(Annex-I)**.
5. Pertains to record.
6. In reply, it is submitted that the appellant filed an application in October, 2019 to Director Staff Training Institute whereby he (the appellant) had requested him (The Director STI) to count his project services w.e.f 05-10-2009 to 01-07-2018 for the purpose of promotion and pension **(Annex-II)**. His application was processed and disposed off on the ground that the said regularization Act, 2018 provides regularization of the employees to be regularized with immediate effect, and therefore pursuant to that all the contract employees were regularized with immediate effect. And that: previous service of the official cannot be considered for the purpose of pension or gratuity because services rendered on contract basis shall not qualify for the same; and that pay of the official may be fixed in light of Finance Department letter No. FD (SOSR-I)12-7/2014 dated 06-02-2014. And that in light of Cabinet decision dated 09-05-2019, the project staff regularized under Khyber Pakhtunkhwa (Regularization of Services) Act, 2018, is to be placed in the attached formation **(Annex-III)**.
7. Detail reply given in Para-6 ibid.
8. Pertains to record.
9. The appellant has no locus standi and cause of action to invoke the jurisdiction of this Hon'ble Tribunal in the matter.

REPLY ON GROUNDS OF DEPARTMENTAL APPEAL:

- A. **Incorrect.** The impugned letter / order bearing No. SO(Admn)E&AD/4(04)/STI/Ahmedullah dated 26-12-2019 was passed by Respondent No.1 strictly under the provision of the Act and consultation with Regulation Wing, Establishment Department (**Annex-III**). Therefore, it is legal, and lawful.
- B. **Incorrect.** Detailed reply has been given in Para-6 *ibid*.
- C. **Incorrect.** Matters / rules pertaining to Pension are clear and not disputed. As Provincial government's existing policy regarding protection of pay of regularized contract employees notified vide Finance Department letter No.FD (SOSR-1)12-7/2014 dated 06-02-2014, pay of the regularized contractual employees will be protected subject to condition , inter alia, that services rendered on contract basis shall not qualify for pension / gratuity (**Annex-IV**). Moreover, Regulation Wing, Establishment Department has specifically advised in the instant case that previous project service of the appellant cannot be counted for the purpose of pension or gratuity because services rendered on contract basis shall not qualify for the same; and that pay of the official may be fixed in light of Finance Department letter No. FD (SOSR-I)12-7/2014 dated 06-02-2014.
- D. **Incorrect.** The impugned order / letter is not against the Pension Rules. The Pension Rules are applicable to the appellant after his regularization.
- E. Pertains to record.
- F. Needs to be proved.
- G. Any other ground deem appropriate, shall be raised during the arguments with permission of Hon'ble Tribunal.

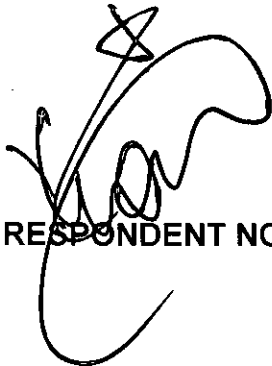
It is humbly prayed that appeal may be dismissed with cost.



RESPONDENT NO. 1



RESPONDENT NO. 2



RESPONDENT NO. 3



RESPONDENT NO. 4



RESPONDENT NO. 5



RESPONDENT NO. 6



RESPONDENT NO. 7

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(Establishment Wing)

NOTIFICATION

Dated Peshawar, the 18th October, 2018

No. SOE-V(E&AD)/5-09/2009: In pursuance of Section-5 (iv) of "The Khyber Pakhtunkhwa Employees Regularization of Services Act, 2018" the Provincial Government is pleased to notify the regularization of services of the following employees of the project "IT Professional Training Center for Unemployed IT Graduates and Government Employees" in Staff Training Institute under DDO code PR-8028 w.e.f 01-07-2018.

S#	Name	Designation with BPS
1.	Mr. Khurram Shahzad	I.T Officer / Desktop (BS-17)
2.	Mr. Arbab Shah-E-Rome	I.T Officer / Web (BS-17)
3.	Mr. Amir Habib	I.T Officer / Web (BS-17)
4.	Mr. Ghulam Sarwar Khan	I.T Officer / Desktop (BS-17)
5.	Mr. Waheed Khan	I.T Officer / Web (BS-17)
6.	Mr. Asif Saeed	I.T Officer / Desktop (BS-17)
7.	Mr. Abdul Basit Muhammad	I.T Officer / Network (BS-17)
8.	Mr. Ahmad Faraz Khan	I.T Officer / Network (BS-17)
9.	Mr. Sajjad Jaffar	I.T Officer / Web (BS-17)
10.	Mr. Noor Zaman	I.T Officer / Desktop (BS-17)
11.	Mr. Asim Shahzad	I.T Officer / Network (BS-17)
12.	Mr. Muhammad Kashif Ali	I.T Officer / Web (BS-17)
13.	Mr. Mujahid Khan	I.T Officer / Desktop (BS-17)
14.	Mr. Shaukat Mehmood	I.T Officer / Network (BS-17)
15.	Mr. Sikandar Bakht	I.T Officer / Network (BS-17)
16.	Mr. Aftab Ahmed	I.T Officer / Desktop (BS-17)
17.	Mr. Mehran Tahir	I.T Officer / Web (BS-17)
18.	Mr. Noman Zaman	Assistant Accountant (BS-16)
19.	Mr. Shakil Jan	Assistant Coordinator (BS-16)
20.	Mr. Adnan Samin Khan	Assistant Coordinator (BS-16)
21.	Mr. Ahmad Ullah	Driver (BPS-05)
22.	Mr. Shahid Gul	Naib Qasid (BPS-03)
23.	Mr. Hassan Mehmood	Sweeper (BPS-03)
24.	Mr. Miraj Gul	Chowkidar (BPS-03)

SECRETARY ESTABLISHMENT
GOVT: OF KHYBER PAKHTUNKHWA

Endstt: No. & Date Even.

Copy forwarded to the following for information:-

1. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
2. Accountant General, Khyber Pakhtunkhwa, Peshawar.

3. Director, Staff Training Institute, Administration
4. PS to Chief Secretary, Khyber Pakhtunkhwa.
5. Section Officer (Budget & Dev), Administration Department.
6. PS to Secretary, Finance Department.
7. PS to Secretary, Establishment Department.
8. PS to Secretary, Administration Department.
9. PS to Secretary, Law, Parliamentary Affairs & Human Rights
10. PS to Secretary, ST&IT Department.
11. Manager, Government Printing Press, Peshawar
12. PS to Special Secretary (Estt), Establishment Department.
13. PA to Additional Secretary (Reg), Establishment Department.
14. PA to Deputy Secretary (Estt), Establishment Department.
15. Officers / Officials concerned.



(SHAJIB MUHAMMAD KHAN)
SECTION OFFICER (E-V)

Annex-II

The Director
Staff Training Institute

Subject: 10 Years Service in KP Government

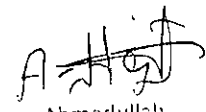
With due respect it is stated that, I Ahmadullah (Driver STI) was appointed in government service on October 05, 2009 in ST & IT department vide appointment No: Directorate of IT/NWFP/Appointment/09/27-2 dated August 03, 2009 in the project titled "IT Professional Training Center for unemployed IT Graduates & Govt. employees" on contract basis (copy attached).

Moreover after 9 years of continuous service, the "IT Professional Training Center" was regularized through Employees Regularization of Services Act, 2018 and my service was regularized vide notification No. SOE-V(E&AD)/5-09/2009 dated 18-10-2018 w.e.f July 01, 2018 in Staff Training Institute.

Furthermore after completion of 10 years continuous service, my pay scale is still BS-05 whereas driver post is commonly in BS-06.

It is therefore requested that my previous service may be counted for promotion & pension purpose. I shall be very thankful for your kind consideration in the matter please.

Sincerely



Ahmadullah
Driver, Staff Training Institute

*At send to
Rcta for v/a
my
25/10*

*DBA
SOA*



Annex iv

GOVERNMENT OF KHYBER PAKHTUNKHWA
ADMINISTRATION DEPARTMENT

No.SO(Admn)E&AD/4(04)/STI/Ahmadullah
Dated: 26-12-2019

To

The Section Officer (Admn),
Staff Training Institute
Establishment & Administration Department

27/12/19

Subject: REQUEST FOR INCLUSION OF PREVIOUS GOVERNMENT SERVICE FOR UP-GRADATION IN RESPECT OF MR. AHMAD ULLAH DRIVER STI

I am directed to refer to your letter No.DD(STI)E&AD/1(3)/2019-20/59 dated 29-10-2019 on subject noted above and to state that previous service of Mr. Ahmad Ullah, Driver cannot be counted for pension or gratuity as services rendered on contract basis shall not qualify for the same. However, his pay may be fixed in light of Finance Department letter No.FD(SOSR-I)12-7/2014 dated 06-02-2014 (copy enclosed). Moreover, the project staff regularized under Khyber Pakhtunkhwa (Regularization of Service) Act, 2018 shall be placed in the attached formations as per Cabinet decision dated 09-05-2019.

Encls: as above

A copy is forwarded to:-

27/12/19

- 1) PS to Secretary Administration Department
- 2) PA to Deputy Secretary Administration

27-12-19

SECTION OFFICER (ADMN)

26/12/19

SECTION OFFICER (ADMN)

24/12/19



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

NO. FD (SOSR-1) 12-7/2014

Dated Peshawar the 6th February, 2014

To:

1. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
3. The Secretary to Governor, Khyber Pakhtunkhwa
4. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa.
6. The Secretary Finance FATA, FATA Secretariat, Peshawar
7. All Heads of Attached Departments in Khyber Pakhtunkhwa.
8. All Divisional Commissioners in Khyber Pakhtunkhwa.
9. All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa
10. The Registrar, Peshawar High Court, Peshawar.
11. The Chairman, Public Service Commission, Khyber Pakhtunkhwa.
12. The Chairman, Services Tribunal, Khyber Pakhtunkhwa.
13. The Accountant General, Khyber Pakhtunkhwa, Peshawar.

Subject: PROTECTION OF PAY OF CONTRACT EMPLOYEES ON
REGULARIZATION / APPOINTMENT ON REGULAR BASIS.

Dear Sir,

In pursuance to the Finance Division's Office Memorandum No.7(9)R-I/2012 dated 31st May, 2013, the competent authority is pleased to allow the pay protection to non-Gazetted contract employees on their regularization / appointment on regular basis with immediate effect subject to the following conditions:-

- i) That the contract appointment has been made on standard terms and conditions, circulated by this Provincial Government as amended from time to time.
- ii) That the contract employee has applied through proper channel and has been properly relieved by the appointing authority. This condition shall not apply in case of regularization on the same post.
- iii) That regularization / regular appointment has been made with the approval of competent authority.
- iv) That there is no break / interruption between contract service and regular service.
- v) That the service rendered on contract basis shall not qualify for pension / gratuity.
- vi) That in case of regular appointment in lower grade, pay shall not be protected

Yours faithfully,


(RAZAULLAH KHAN)

Add: Secretary (Regulation)

P.T.O

Endst: No .FD (SOSR-1) 12-7 /2014

Dated 6th Feb, 2014

Copy for information & necessary action to the:-

1. The Director, Treasuries & Accounts, Khyber Pakhtunkhwa.
2. All the District Comptroller of Accounts in Khyber Pakhtunkhwa.
3. The Director, Local Fund Audit, Khyber Pakhtunkhwa, Peshawar.
4. The Director, FMIU, Finance Department.
5. The Treasury Officer, Peshawar.
6. The Secretary, Board of Revenue, Khyber Pakhtunkhwa.
7. All the District & Agency Accounts Officers in Khyber Pakhtunkhwa / FATA.



(MASOOD KHAN)

Deputy Secretary (Reg-II)

Endst: No. & Date Even

Copy for information is forwarded to:-

1. All the Section Officers / Budget Officers in Finance Department, Khyber Pakhtunkhwa, Peshawar.
2. The Private Secretary to Senior Minister for Finance, Khyber Pakhtunkhwa.
3. The Private Secretary to Secretary / P.As to Special Secretary / Additional Secretaries / Deputy Secretaries in Finance Deptt.



(Wazir Muhammad Afgar)
Section Officer (SR-1)

Before the Khyber Pakhtunkhwa Service Tribunal Peshawar

Appeal No.9137/2020.

Mr. Ahmad Ullah.....Appellant.

VERSUS

The Secretary to Government of Khyber Pakhtunkhwa,
Administration Department Peshawar & others.....Respondents.

(Reply on Behalf of Respondent No. 08)

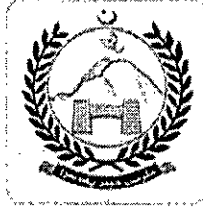
Respectfully Sheweth:-

Para No. 01 to 09:-

Being an Administrative matter, the issue relates to other Respondents. And they are in a better position to redress the grievances of the Appellant. Besides, the Appellant has raised no grievances against Respondent No.08.

Keeping in view the above mentioned facts, it is therefore humbly prayed that the Appellant may be directed to approach to his Administrative Department for the satisfaction of his grievances and the appeal in hand having no merits may kindly be dismissed with cost.

For 
**ACCOUNTANT GENERAL
KHYBER PAKHTUNKHWA**



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 2011 /ST

Dated: 11/10 /2021

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

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

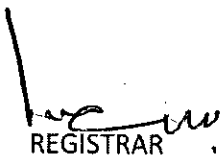
To

The Secretary Administration Department,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: JUDGMENT IN APPEAL NO. 9137/2020 MR. AHMAD ULLAH.

I am directed to forward herewith a certified copy of Judgement dated 13.09.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

West Pakistan Civil Services Pension Rules, 1963

Chapter	Subject
Chapter-I.	General.
Chapter-II.	Service qualifying for Pension.
Chapter-III.	Different kind of ordinary pension and condition for the same.
Chapter-IV.	Amount of ordinary pensions/gratuity.
Chapter-V.	Application for grant of pension.
Chapter-VI.	Anticipatory pension/gratuity.
Chapter-VII.	Grant of pensionary benefits to displaced Government servants.
Chapter-VIII.	Commutation of Civil Pension.
Chapter-IX.	Re-employment of Civil/Military Pensioners.
Chapter-X.	Extra Ordinary Pension.

West Pakistan Civil Services Pension Rules, 1963

[Gazette of West Pakistan, Extraordinary, 21st June, 1963]
Notification, No. (SO)(SR)(III)-947/63, DATED 7th June, 1963]

CHAPTER-I GENERAL

1. Short title - These rules may be called the West Pakistan Civil Services Pension Rules.

2. Commencement - These rules shall have effect from the 14th October, 1955.

3. Extent of application - Unless in any case it be otherwise expressly provided, by these Rules shall apply to:

- (i) All Government servants under the rule-making control of the Government of West Pakistan who entered Government service on or after the 14th October, 1955.
- (ii) All Government servants who were in service on and before 14th October, 1955 unless they opt to continue to be governed by the existing rules applicable to them;
- (iii) All pensioners who retired from Government service after the 14th October, 1955 but before the date of publication of these rules, if they opt to be governed by these rules.

Note-(1) In the case of Government servants or pensioners who were in service on and before the 14th October, 1955 but died before the publication of these rules, it will be assumed that they opted for these rules.

Note-(2) These rules would continue to remain in force in Khyber Pakhtunkhwa by virtue of Article 19 of the Province of West Pakistan (Dissolution) Order 1970 (President's Order No. 1 of 1970).

Option - Government servants and pensioners mentioned in clauses (ii) and (iii) of Rule 1.3 above may exercise option within a period of 6 months from the date of publication of these rules in the West Pakistan Gazette. The option shall be communicated in writing to the Accounts officer concerned as well as the Appointing Authority in the case of Gazetted or retired Gazetted Officers, and to the Appointing Authority in the case of Non-Gazetted or retired Non-Gazetted staff and the option once so exercised shall be final. Government servants who fail to exercise option within the stipulated period shall be assumed to have opted for the West Pakistan Civil Services Pension Rules.

Note:- 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 third of the pension or gratuity which would have been admissible to him had he been invalidated from service on the date of such dismissal or removal.

Pakhtunkhwa Civil Servants Act, 1973

Section 19 of the Khyber

CHAPTER - II SERVICE QUALIFYING FOR PENSION

2.1 **Conditions of Qualifications** - The service of a Government Servant does not qualify for pension unless it conforms to the following three conditions:-

First - The Service must be under Government;

Second - the service must not be Non-pensionable.

Third - the service must be paid by Government from the Provincial Consolidated Fund.

* Note - (1) For the previous service of displaced Government servants which qualifies for pension see Chapter - VII.

* Note - (2) Service rendered after retirement on superannuation pension/retiring pension shall not count for pension or gratuity.

2.2 **Beginning of service** - Subject to any special rules the service of a Government servant begins to qualify for pension when he takes over charge of the post to which he is first appointed.

2.3 **Temporary and officiating service** - Temporary and officiating service shall count for pension as indicated below:-

(i) Government servants borne on temporary establishment who have rendered more than five years continuous temporary service shall count such service for the purpose of pension or gratuity; and

(ii) Temporary and officiating service followed by confirmation shall also count for pension or gratuity.

2.4 **Service in a temporary post on abolition of a permanent post** - If a permanent post, on which a Government servant holds a lien, is abolished under circumstances entitling him to get a compensation pension or gratuity, his service thereafter in a temporary post under Government qualifies for pension.

* Note (1) and (2) Substituted vide notification No. SO(SR) V-915/65 Dated 6th May, 1965

Apprentices and probationers -

(1) One-half of the period of apprenticeship qualifies for pension.

(2) The service of a probationer who is subsequently confirmed in a permanent post without interruption qualifies for pension.

Training - The time spent by a Government servant in approved training shall count as service qualifying for pension.

* Note - The period of training before actual appointment to Government service shall not count for pension.

Leave - All leave (other than extraordinary leave) counts as qualifying service for purposes of pension.

Military Service - (1) 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 lump sum or in monthly installments 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.

(2) Persons who joined the Armed Forces on or after the outbreak of World War-II, and rendered whole time satisfactory service in Government Forces under the British Rule in India and Pakistan and were appointed in a Civil pensionable post on or before the 18th July, 1949 shall be allowed to count such War Service not exceeding five years rendered between the 3rd September, 1939, and the 1st April, 1946, for purpose of civil Pension and they shall not be required to refund military bonus or gratuity.

* Note - In the case of a civil employee who has rendered satisfactory paid military service in the World War-II, in addition to military service pensionable under the military Rules, before or after such war service but who did not earn a pension by his war service in conjunction with his other military service, that portion of the military service which was rendered before or after the war service shall be dealt with in accordance with the provisions of sub-rule (1). The war service portion (i.e. the period of service rendered between 3rd September, 1939, and 1st April, 1946) shall, however, be dealt with under sub-rule (1) or (2) as the Government servant may opt in this behalf, subject, of course, to the limitation prescribed in the respective sub-rule. If the war service is counted under sub-rule (1), the whole of it shall count, but if it is counted under sub-rule

Substituted vide notification No. SO(SR) V-3027/64, dated 9th January, 1965.
Inserted by Government of West Pakistan Notification No. SO(SR) V-1274/68, dated 4th May, 1968.