

25.03.2021


Counsel for the petitioner and Mr. Kabirullah Khattak learned Additional Advocate General alongwith Haneef Khan Assistant Account Officer for respondents present.

Learned counsel for the petitioner conceded that the payment has been paid to the petitioner.

On the other hand representative of respondent stated at the bar that monthly pension will be released from the 1st date of coming month.

In the circumstances, it will be appropriate to consigned instant proceedings to record with the permission to petitioner to apply for restoration as and when required under the law.

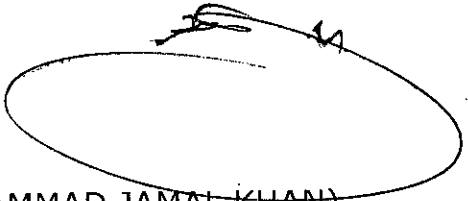
Announced
25.03.2021


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

26.01.2021

Petitioner is present alongwith his counsel Mr. Zafar Ali Khan, Advocate. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Irfan Ullah, Assistant Social Organizer, for the respondents are also present.

Learned Additional Advocate General alongwith representative of the department has submitted documents containing the statement regarding the calculation made, in the pension of petitioner but payment has not been made so far and the case has been submitted to the authority concerned for release of funds for the purpose of disbursement. Both the parties agree that a period of a month has to be given for making requisite payment. Accordingly, the execution petition is adjourned to 25.03.2021 on which date file to come up for implementation report before S.B.

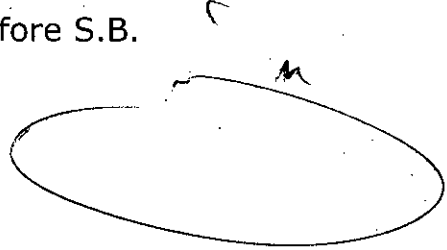


(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

03.11.2020


Nemo for petitioner. Mr. Kabirullah Khattak, Additional Advocate General is present.

Neither implementation report on behalf of respondents submitted nor representative of the department is present, therefore, notice be issued to the respondents for submission of implementation report for 03.12.2020 before S.B.


(Muhammad Jamal Khan)
Member (Judicial)

03.12.2020 Counsel for the petitioner and Addl. AG alongwith Nasib Khan, Section Officer for respondent No. 1, Irfan Anjum, Assistant for respondents No. 2 to 6 and Jamil Shah, Senior Auditor for respondents No. 7 and 8 present.

The representative of respondents No. 2 to 6 has submitted copies of certain documents including the correspondence between the Section Officer (Lit.) Government of Khyber Pakhtunkhwa Public Health Engineering Department and the Chief Engineer (North) PHE Peshawar dated 10.11.2020. It is, inter-alia, noted therein that Finance Department Government of Khyber Pakhtunkhwa notification No. FD(SOSR-II)4-36/2017 dated 22.05.2019 was not extendable to the contract employees.

 Learned counsel for the petitioner, at present, is not able to deny the status of petitioner as contract employee ~~but~~ ^{and} requested for time to assist the Tribunal on the point.

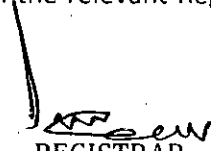


Instant proceedings are, therefore, adjourned to 26.01.2021 before S.B. The office shall make available complete record of Service Appeal No. 1390/2017 on the date fixed.


Chairman

FORM OF ORDER SHEET

Court of _____

Execution Petition No. 118 118/2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	24.08.2020	<p>The Execution Petition submitted by Mr. Abdul Zaiq through Mr. Zafar Ali Khan Advocate may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	18.09.2020	<p>This Execution Petition be put up before S. Bench on <u>18/09/2020</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p>Counsel for the petitioner present. Notices be issued to the respondents for submission of implementation report on 03.11.2020 before S.B.</p> <p style="text-align: right;"> Chairman</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

In Re:

Service Appeal No. 1390/2017

EP No 118/20

Abdul Zaiq.....Petitioner

V E R S U S

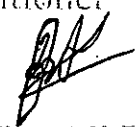
Govt of KPK & othersRespondents

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Application for implementation with affidavit		1-2
2.	Copy of grounds of service appeal and judgment dated 29.05.2019.	A	3-9
3.	Wakalatnama		10

Petitioner

Through:


Zafar Ali Khan
Advocate High Court
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR



In Re:
Service Appeal No. 1390/2017

Abdul Zaiq S/o Abdul Laiq R/o Village Mandozai Tehsil Mandozai District DirPetitioner

V E R S U S

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

APPLICATION FOR IMPLEMENTATION OF JUDGMENT DATED 29.05.2019 IN SERVICE APPEAL NO. 1390 AN ACCORDANCE WITH LAW.

Respectfully Sheweth:


1. That the judgment dated 29.05.2019 passed by this Hon'ble Tribunal. *(Copy of grounds of service appeal and judgment dated 29.05.2019 are attached as annexure A).*
2. That the respondents are not implementing the judgment above is against the law and facts hence, untenable in the eye of law.

3. That the respondents are bound to implement the judgment of this Hon'ble Tribunal.
4. That the petitioner was served in the department honestly and according to law, he is entitled pension and the respondents are not issuing pension are clearly violating this Hon'ble Tribunal judgment.
5. That the petitioner is poor man and no other source of income except the pension.
6. That any other ground would be raised at the time of arguments in this case.

It is therefore requested that on acceptance of this implementation, application the respondents may kindly be directed to implement the judgment dated 29.05.2019 and issued the petitioner pensionary benefit on accordance with law.

عبد الزالق
Petitioner

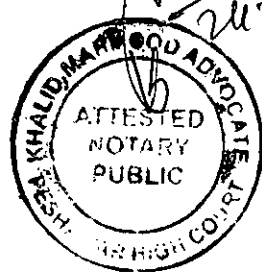
Through:


Zafar Ali Khan
Advocate High Court
Peshawar

AFFIDAVIT: -

It is stated that on oath that the contents of the Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honb'le Court.

عبد الزالق
Deponent



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa Service Tribunal

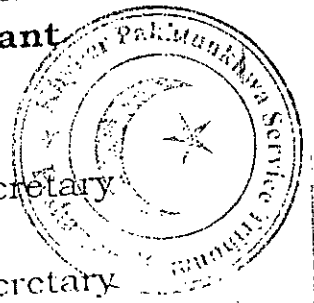
Case No. 428

Dated 15-12-2017

S.A.No. 1390 /2017

Abdul Zaiq S/o Abdul Laiq R/o Village Mandozai Tehsil Munda District Dir **Appellant**

VERSUS



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

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

PRAYER:-

Filed to-day
Registrar
15/12/17.
On acceptance of this appeal, the appellant may kindly be declared entitled for the pension, gratuity and other benefits and direct the respondents to issue pension, gratuity and other benefits immediately.

Respectfully Sheweth:-

Appellant humbly submits as under:-

ATTESTED

ATTESTED

[Signature]
EXAMINER
Khyber Pakhtunkhwa Service Tribunal,
Peshawar


- (4)
1. That appellant was appointed Operator on dated 30.05.1993 in the Public Health Department. **(Copy of the order is attached as Annexure "A")**.
 2. That later on the services of the appellant was regularized, as BPS-01 on 30.08.2008. **(Copy of the Service book is Annexure "B")**.
 3. That the appellant has been retired from service on 04.07.2012 already mentioned in the Service book.
 4. That appellant moved Departmental Appeal to the respondent No.2 for the issuance of pension, gratuity and other benefits on dated 12.09.2017 but still has not been decided by the respondents and the stipulated period has been passed. **(Copy of Departmental Appeal is Annexure "C")**.
 5. That aggrieved with, appellant has come before this Hon'ble Tribunal in this appeal on the following grounds amongst the others for a direction to the respondents to issue pension along with other benefits to the appellant.

GROUND:-

- A. That the respondent is not issuing pension, gratuity and other benefits to the appellant is against the facts and untenable in law.
- B. That the appellant has served in the public Health Department for period of almost 18/19 years, therefore, according to law and rules of services the appellant is entitled for the pension, gratuity and other benefits.
- C. That the respondents failed to appreciate the real point involved in the case in its perspective. Hence has arrived at an incorrect conclusion.
- D. That by not awarding/issuing the pension to the appellant, respondents are violating the terms and conditions of service as well as the service laws and rules.

ATTESTED

ATTESTED


Khyber Pakhtunkhwa

(5)

E. That by not issuing the pension benefits to the appellant, respondents are violating the fundamental rights of the appellant because there is no source of income of appellant except this pension etc.

F. That the respondents by not issuing the pension to the appellant are exercising the powers not vested to them under the law.

G. That the non-disposal of departmental appeal by the respondents is per-versant and against the settled principle of law and Justice.

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

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

عبدالرزاق
Appellant

Through

Zafar Ali Khan
Advocate,
High Court
Peshawar

CERTIFICATE:-

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

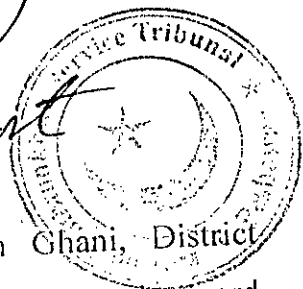
ADVOCATE.

ATTESTED

Certified to be true copy
Khylat Service Peshawar

6

Appeal No. 1390/2017
Abdul Zaig vs Govt




Order

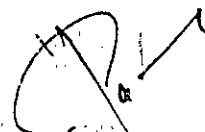
29.05.2019

Appellant with counsel and Mr. Usman Ghani, District Attorney for respondents present. Arguments heard and record perused.

This appeal is also accepted as per detailed judgment of today placed on file in service appeal No. 1389/2017 titled "Shahroom Khan-vs- Government of Khyber Pakhtunkhwa through Secretary Finance Civil Secretariat, Peshawar and seven others." Parties are left to bear their own cost. File be consigned to the record room.

Announced:
29.05.2019


(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

ATTESTED

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Certification: 29.05.19
Number of Pages: 6-00
Copy of Certificate: 6-00
Total: 6-00
Date of Certification: 29.05.19

7

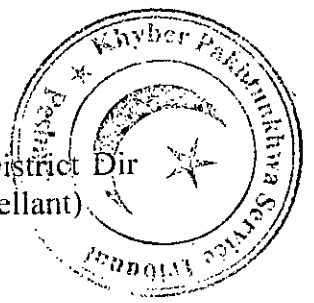
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 1389/2017

Date of Institution ... 15.12.2017

Date of Decision ... 29.05.2019

Shahroom Khan, S/O Faqir Khan R/O Shah Khel Kotki, Tehsil Bagh District Dir Lower. ... (Appellant)



VERSUS

Government of Khyber Pakhtunkhwa, through Secretary Finance Civil Secretariat, Peshawar and seven others. ... (Respondents)

MR. ZAFAR ALI KHAN, Advocate --- For appellant.

MR. USMAN GHANI, District Attorney --- For respondents.

MR. AHMAD HASSAN, --- MEMBER (Executive)
MR. MUHAMMAD HAMID MUGHAL --- MEMBER (Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER:-

This judgment shall dispose of the instant service appeal as well as connected service appeal no. 1390/2017 titled Abdul Zaiq, as similar question of law and facts are involved therein.

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

ARGUMENTS

3. Learned counsel for the appellant argued that he was appointed as Operator on fixed pay vide order dated 03.10.1996. That his services were regularized by awarding BPS-1 vide notification dated 30.07.2008. On reaching the age of

~~ATTESTED~~

ATTESTED

superannuation, he stood retired from government service on 30.06.2011. As pensionary benefits were denied to the appellant, therefore, a departmental appeal on 13.09.2017 was filed, which remained unanswered, hence, the present service appeal. Having rendered more than fifteen years service, he was entitled for grant of pension/gratuity and other financial benefits. Reliance was placed on case law reported as 1999 SCMR 255 and judgments of this Tribunal dated 12.10.2017 and 11.03.2019 rendered in service appeal no. 1055/2014 and 1212/2017 respectively.

4. On the other hand learned District Attorney argued that though his services were regularized w.e.f 01.07.2008 vide notification dated 30.07.2008 but as he had not completed the required length of service, therefore, pensionary benefits and gratuity were not allowed/granted by the respondents. He was treated according to law and rules.

CONCLUSION

5. The appellant joined the respondent-department as Operator on fixed pay vide order dated 03.10.1996. Subsequently, vide notification dated 30.07.2008 his services were regularized by awarding BPS-1 w.e.f 01.07.2008. He stood retired from government service on reaching the age of superannuation on 30.06.2011. As he had not completed qualifying service for award of pensionary benefits, therefore, the same was not granted to the appellant by the respondents. Case of the appellant is covered under Rule-2.2 of West Pakistan Civil Service Pension Rules 1963. This issue has already been exhaustively dealt with by this Tribunal in service appeal no. 1212/2017 decided on 11.03.2019 and service appeal no. 1055/2014 decided on 12.10.2017 and numerous other judgments in various

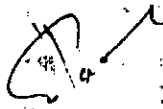
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Khyber Pakhtunkhwa

service appeals. It would not be out of place to mention here that appeal no. 1212/2017 pertained to an employee of the Khyber Pakhtunkhwa Public Health Engineering Department. The present appellant also served in the same department. His case is also covered according to a well settled principle that if a court decides a matter/point of law its benefits be extended to the similar placed persons, even, if they were not part of the litigation. On the strength of aforementioned judgments there is hardly any ambiguity about the entitlement of the appellant for grant of pension/gratuity and connected financial benefits.

6. As a sequel to above, the appeals are accepted and the respondents are directed to finalize the pension case of the appellants and grant pensionary benefits to them from the due date. Parties are left to bear their own costs. File be consigned to the record room.



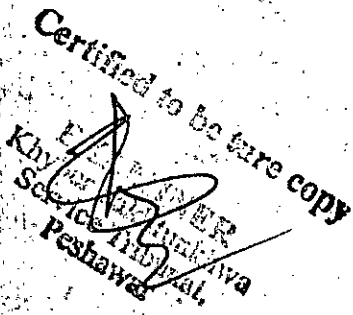
(MUHAMAMD HAMID MUGHAL)
MEMBER



(AHMAD HASSAN)
MEMBER

ANNOUNCED
29.05.2019

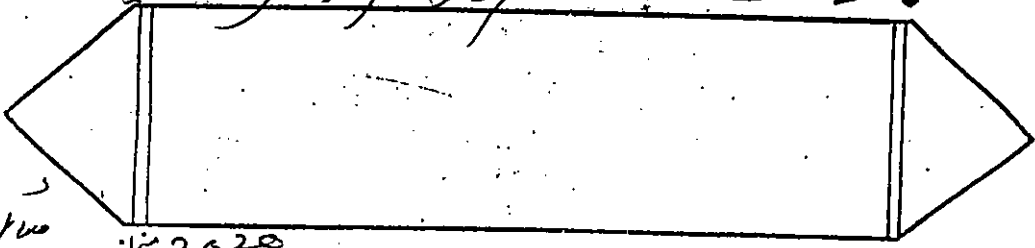
Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar



Date of Presentation of Copy: 03-06-19
 Number of Words: 2400
 Copying Fee: 14.00
 Urgent: _____
 Total: 14.00
 Name of Copy: _____
 Date of Completion of Copy: 14-6-19
 Date of Delivery of Copy: 14-6-19

ATTESTED

بعدالت صبا - نیشنل فریڈوم آف انفارمیشن ایکٹ 2017



موزخہ
مقدمہ
دعویٰ
جرم

Implementation of the provisions of the National Freedom of Information Act, 2017

عبدالرزاق بنام حکومت

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی اور جواب دہی وکل کارروائی متعلقہ
آن مقام کے لیے _____ کیلئے _____ کی طرف سے _____ کے لیے
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو رضی نامہ کرنے و تقرر ثالثتہ فیصلہ بر حلف دینے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیار حاصل ہوں گے اور اس کا ساختہ
پر داخستہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائے التوائے مقدمہ کے سبب سے وہ ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

Accepted by
ATTESTED

المرقوم _____ ماہ _____ 20 _____

العاب _____ واہ العاب _____

کے لئے منظور ہے۔

بمقام

عبدالرزاق

(CNIC-110-15301-1938931-7)



COURT MATTER

124
**GOVT: OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG: DEPARTMENT**
No. SO(LIT)/PHED/40-1/2018/Shahroom
Dated Peshawar, the November 10, 2020

To

The Chief Engineer (North),
PHE Peshawar.

Subject:

SERVICE APPEAL NO. 1389-1390/2017 TITLED "MR. SHAHROOM KHAN & MR. ABDUL ZAIQ VERSUS GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH SECRETARY FINANCE".

I am directed to refer to this department letter of even No. dated 05-07-2019 (F/A) wherein this Department take-up the matter with Law Department for placing before the Scrutiny Committee for its decision. In response, the Law Department letter No. SO(Lit)/LD/9-28(27)PHE/2019/14599-604 dated 23-07-2019 (F/B) furnished minutes of the scrutiny committee dated 17-07-2019 wherein it was decided that the subject case was not a fit case for filing of appeal/CPLA in the Supreme Court of Pakistan and advised that the Administrative Department take-up the matter with Finance Department in light of Notification dated 22-05-2019 issued by the Finance Department, Khyber Pakhtunkhwa (F/C).

2. In light of advice of the Scrutiny Committee Meeting dated 17-07-2019 referred above, the case was taken up with Finance Department for regularization of the contract employees vide this Department letter of even No. dated 01-07-2019, dated 01-08-2019 and dated 24-10-2019 (F/D).

3. In response of above, Finance Department vide letter No. FD/SOSR-II/4-36/2019/68 dated 22-10-2020 informed and stated that Finance Department's Notification No. FD(SOSR-II)4-36/2017 dated 22-05-2019 is **not extendable** to contract employees (F/E).

4. In view of above, the case may be examined and decide in light of Finance Department letter dated 22-10-2020, referred above, please.

Encls: As Above

SECTION OFFICER (Lit)

ENDST: OF EVEN NO. & DATE:

Copy forwarded for information to the: -

1. Executive Engineer PHE Division Dir:Lower.
2. PS to Secretary, PHE Department Peshawar.
3. PA to Additional Secretary, PHE Department Peshawar.
4. PA to Deputy Secretary (Admn), PHE Department Peshawar.

SECTION OFFICER (Lit)

Handwritten notes:
10/11/2020 9:33 AM
11/7



**COURT MATTER
TIME LIMIT CASE**

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

No.SO(LIT)/PHED/40-1/2018/Shahroom
Dated Peshawar, the July 05, 2019

To

The Secretary to Govt of Khyber Pakhtunkhwa,
Law, Parliamentary Affairs & Human Rights Department.

Subject: **FILING OF CPLA IN SUPREME COURT OF PAKISTAN AGAINST THE JUDGMENT OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR IN SERVICE APPEAL NO. 1389-1390/2017 TITLED "MR. SHAHROOM KHAN & MR. ABDUL ZAIQ VS P.H.E."**

Dear Sir,

I am directed to refer to the subject and to enclose herewith a copy of letter No. 02/E-5, dated 28-06-2019, received from the Executive Engineer PHE Division Dir Lower and a copy of Judgment dated 29-05-2019, passed in the captioned Service Appeals by the Service Tribunal, Peshawar which is self-explanatory for information and necessary action.

Precise of the case is that, Mr. Shahroom and Abdul Zaiq were appointed as Operator (BPS-04) on Water Supply Scheme Kotkay and Water Supply Scheme Mandozai District Dir Lower on contract basis for a period of 01 year extendable vide Executive Engineer PHE Division Dir at Timegara Order No. 01/5-E-VI dated 03-10-1996 and Order No. 01/15-E-IV dated 30-05-1993, respectively (**Copies enclosed**). The contract period of the appellants were extended from time to time and at later stage regularized w.e.f 01-07-2008. Both the appellants after attaining the age of superannuation were stand retired from Government Services on 30-06-2011 and 04-07-2012 respectively. Accordingly, the appellants were approached the authority for issuance of pension, gratuity and other benefits but in vain, therefore, both the appellants had filed service appeals in the Khyber Pakhtunkhwa Service Tribunal Peshawar which were decided in their favour vide Judgment dated 29-05-2019 (**Copy enclosed**). The Additional Advocate General, Khyber Pakhtunkhwa, Peshawar vide his letter No. 1466-1476, dated 11-06-2019 and Finance Department, Peshawar vide its letter No. SO(Lit-II)/FD/2-1816/2017 dated 13-06-2019 (**Copies enclosed**) have requested for filing of CPLA against the aforementioned Judgment.

It is pertinent to mention here that in the Finance Department Notification No. FD(SOSR-II)4-36/2017, dated 22-05-2019 (**Copy enclosed**) has given the status of regularization from the date of first appointment instead of date of their regularization was specified only for **Fixed Pay Class-IV employees** while Mr. Shahroom and Abdul Zaiq were appointed on contract basis and their contract period were extended from time to time and at later stage, their services were regularized w.e.f 01-07-2008. The matter was taken up with the Finance Department for advice vide this Department letter No. SO(Lit)/PHED/ 40-1/2018/Shahroom, dated 01-07-2019 (**Copy enclosed**) but their reply is still awaited.

Keeping in view the position explained above, the Law Department is requested to place the subject case before the Scrutiny Committee for its decision, whether it is a fit case for filing of CPLA in the apex Court or otherwise, please.

Yours faithfully,

Encls: As Above

05/07/19
SECTION OFFICER (Lit)

ENDST: OF EVEN NO. & DATE

Copy forwarded for information to the: -

1. Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department Peshawar.
2. Chief Engineer (North), PHE Peshawar.
3. Executive Engineer PHE Division Dir Lower.
4. PS to Secretary PHED, Peshawar.

05/07/19
SECTION OFFICER (Lit)

F/B

SO(Lit) PHE Deptt.
Khyber Pakhtunkhwa
Dairy No. 336
Dated 24-7-19

SO(Lit) PHE Deptt.
Khyber Pakhtunkhwa
Dairy No. 105

(126)
105



GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS AND
HUMAN RIGHTS DEPARTMENT

No.SO(Lit)/LD/9-28(27)PHE/2019/ 14598-60
Dated Peshawar the 23/7/2019

To

1. The Advocate General,
Khyber Pakhtunkhwa, Peshawar.
2. The Secretary to Govt. of Khyber Pakhtunkhwa,
Public Health Engineering Department.
3. The Secretary to Govt. of Khyber Pakhtunkhwa,
Finance Department.

SECY PHED
Dairy No. 1922
Dated 23/07/19

Subject:

Service Appeal No.1389/2017 Shahroom Khan Vs Government of Khyber Pakhtunkhwa through Secretary Finance. alongwith connected Service Appeal No.1390/2017 Abdul Zaiq.

Dear Sir,

I am directed to refer to Government of Khyber Pakhtunkhwa Public Health Engineering Department letter No.SO(Lit)/PHED/40-1/2018/Shahroom, dated 05-07-2019 on the subject noted above and to forward herewith minutes of the meeting held on 17-07-2019 in Law Department (which are self explanatory) for perusal and further necessary action, please.

Put up please
ABSK
24/7/19
SO (Lit)

Yours faithfully,

SECTION OFFICER (Lit)

Endst: No.& Date Even.

Copy is forwarded to the:

1. PS to Secretary Law Department Khyber Pakhtunkhwa.
2. PA to Solicitor Law.

SECTION OFFICER (Lit)



F/B 127 70

GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS AND
HUMAN RIGHTS DEPARTMENT

MINUTES OF THE SCRUTINY COMMITTEE MEETING.

(AGENDA ITEM NO. 16)

SERVICE APPEAL NO. 1389/2017 SHAHROOM KHAN VS GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH FINANCE ALONGWITH CONNECTED SERVICE APPEAL NO. 1390/2017 ABDUL ZAIQ.

A meeting of the Scrutiny Committee was held on 17.07.2019 at 12:00 hours in the office of Additional Secretary (Opinion) Law Parliamentary Affairs & Human Rights Department under his Chairmanship to determine the fitness of the subject case for filing of Appeal/CPLA in the Supreme Court of Pakistan. Additional Advocate General (Mr. Mujahid Ali Khan) was also present during the meeting being representative of Advocate General Khyber Pakhtunkhwa.

2. The Chairman of the Committee invited the representatives of PHE Department Mr. Irfan Ullah ASO alongwith Noor Muhammad SO (Lit), to apprise the Committee about the background of the case which they did accordingly and stated that the appellants filed the subject Service Appeals with the prayer that the appellants may be declared entitled for the pension, gratuity and other benefits. The Khyber Pakhtunkhwa Service Tribunal accepted the Appeals and directed the respondents to finalize the pension case of the appellant and grant pensionary benefits to them from the due date vide its order dated: 29.05.2019. Now, the Department intended to file CPLAs against the judgment on the following grounds:

GROUND/DISCUSSIONS:

3. The grounds as proffered by the representative of the Department were that the Court has ignored the record and material facts placed before it. The Scrutiny Committee raised a query that whether the case of the appellants has been sent to Finance Department upon which the representative stated that the case has been sent to Finance Department but no decision has yet come from Finance Department. The representative stated that the Finance Department has asked to file CPLA in the Apex Court of Pakistan. The Scrutiny Committee observed that the contract employees are more entitled than fixed pay employees. The Scrutiny Committee also observed that the Finance Department has already issued Notification on 22.05.2019. The Scrutiny Committee advised the Administrative Department that in pursuance of Notification dated: 22.05.2019 of Finance Department, send the matter to Finance Department for further course of action.

DECISION:

4. Hence in view of above it was decided with consensus by the Scrutiny Committee that the subject case was not a fit case for filing of Appeal/CPLA in the Supreme Court of Pakistan with further advise to the Administrative Department to tackle the matter with the Finance Department in the light of Notification dated: 22.05.2019 issued by the Finance Department Khyber Pakhtunkhwa.


WASIMA JAMIL
SOLICITOR

F/C 122

TO BE SUBSTITUTED BEARING SAME NO. & DATE.



**GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)**

Dated Peshawar the 22-05-2019

NOTIFICATION

No.FD(SQSR-II)4-36/2017. In pursuance of the judgement of Peshawar High Court Abbottabad Bench in Writ Petition No. 627-A/2018 dated: 18.12.2018 and Judgements of various Lower Courts as well as supersession of Finance Department policy letter No.BO-I/1-22/2007-08/FD dated: 29.01.2008, the Competent Authority has been pleased to accord sanction of regularization of Fixed Pay Class-IV employees appointed on the basis of policies issued vide Finance Department notifications No. B-1/2-1/92-93/I dated: 04.11.1992 and No.B-I/1-22/94-95/FD Vol-II dated: 24.07.1999 by extending them the status of civil servant as per Civil Servant Act 1973 from the date of their first appointments instead of the date of their regularization w.e.f 01.07 2008 in their respective entities in the best of public interest.

SECRETARY TO GOVERNMENT
OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

Ends: No & date even

Copy for information and necessary action is forwarded to the.

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


(MOAZZAM KHAN)
Section Officer (SR-II)



**COURT MATTER
TIME LIMIT CASE**

FID
129
78
**GOVT: OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG: DEPARTMENT
No.SO(LIT)/PHE/40-1/2018/Shahroom
Dated Peshawar, the July 01, 2019**

To  The Secretary to Govt of Khyber Pakhtunkhwa,
Finance Department, Peshawar.

Subject: **FILING OF CPLA IN SUPREME COURT OF PAKISTAN AGAINST THE JUDGMENT OF
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR IN SERVICE APPEAL NO.
1389-1390/2017 TITLED "MR. SHAHROOM KHAN & MR. ABDUL ZAIQ VS P.H.E."**

Dear Sir,

I am directed to your office Notification No. FD(SOSR-II)4-36/2017 dated 22-05-2019 and to enclose herewith a copy of Service Tribunal Peshawar Judgment dated 29-05-2019 passed in the captioned service appeals, which is self-explanatory for information and necessary action.

Background of the case is that, Mr. Shahroom and Abdul Zaiq were appointed as Operator on Water Supply Scheme Kotkay and WSS Mandozai Dir Lower respectively on contract basis for a period of 01 year vide Executive Engineer PHE Division Dir at Timergara Order No. 01/5-E-VI dated 03-10-1996 and Order No. 01/15-E-IV dated 30-05-1993, respectively (**Copies enclosed**). The contract period of the appellants were extended from time to time and at later stage were regularized w.e.f 01-07-2008. Both the Appellants, after attaining the age of superannuation, were stand retired from Govt. Services on 30-06-2011 and 04-07-2012, respectively. Accordingly, the appellants were approach the authority for the Issuance of pension, gratuity and other benefits but in vain. Therefore, both the appellants had filed service appeals in the Service Tribunal Peshawar for Pension and allied benefits which was decided in their favour vide Judgment dated 29-05-2019 (**Copy enclosed**). The Judgment of PHC Abbottabad Bench dated 18-12-2018 as mentioned in the Finance Department Notification dated 22-05-2019 as referred above, which says in para 4 of the Judgment: - in view of the Rule 2.3 of West Pakistan Civil Services Pension Rules, 1968, the petitioner is to be paid pensionary benefits from the date of his first appointment. It is well settled law, when any employee in contract is absorbed into regular employment, and there is no break in his service, then period of contract employment has to be considered for counting length of service of pensionary benefits etc. Reliance is placed on 2010 PLC 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".

Valuable advice of the Finance Department in the instant matter is solicited whether sanction of regularization from the date of first appointment has been specified **only for Fixed Pay Class-IV employees** as mentioned in the above referred Notification dated 22-05-2019 is also applicable on those employees who were appointed on Contract and Adhoc, at later stage, their services were regularized for the purpose of pension benefits or otherwise.

Yours faithfully,



SECTION OFFICER (Lit)

Encls: As Above

ENDST: OF EVEN NO. & DATE:

Copy forwarded for information to the: -

1. Secretary, Law Department Khyber Pakhtunkhwa, Peshawar.
2. Chief Engineer (North), PHE Peshawar.
3. Executive Engineer PHE Division Dir Lower.
4. PS to Secretary PHED, Peshawar.


01/07/2019



MOST IMMEDIATE
COURT MATTER
TIME LIMIT CASE

GOVT: OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG: DEPARTMENT
(No.SO(LIT)/PHE/40-1/2018/Shahroom
Dated Peshawar, the August 01, 2019

FIP

130

107

To

The Secretary to Govt of Khyber Pakhtunkhwa,
Finance Department, Peshawar.

Attention: Section Officer (SOSR-II)

Subject: SERVICE APPEAL NO. 1389-1390/2017 TITLED "MR. SHAHROOM KHAN & MR. ABDUL ZAIQ VERSUS GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH SECRETARY FINANCE"

Dear Sir,

I am directed to refer to this Department letter No: SO(Lit)/PHE/40-1/2018/Shahroom dated 01-07-2019 followed by reminder of even No. dated 19-07-2019 on the captioned subject and to enclose herewith a copy of letter No. SO(Lit)/LD/9-28 (27)PHE/2019/14599-604/WE dated 23-07-2019 alongwith its enclosure received from Section Officer (Lit), Government of Khyber Pakhtunkhwa, Law Parliamentary Affairs and Human Rights Department Peshawar, which is self-explanatory for information and necessary action please.

2. It is, therefore, requested to direct the concerned officer to take necessary action in light of decision of the scrutiny committee so that to avoid any embarrassment situation / COC from the concerned Court of Law.

Yours faithfully,

01/08/2019
SECTION OFFICER (Lit)

Encls: As Above

ENDST: OF EVEN NO. & DATE:

Copy forwarded for information to the: -

1. Secretary, Law Department Khyber Pakhtunkhwa, Peshawar.
2. Chief Engineer (North), PHE Peshawar.
3. Executive Engineer PHE Division Dir Lower.
4. PS to Secretary PHED, Peshawar.

Handwritten notes:
1 - 4 - 2019
AISO
97

01/08/2019
SECTION OFFICER (Lit)



COURT MATTER

F/D (131)
**GOVT: OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG: DEPARTMENT**
No. SO(LIT)/PHED/40-1/2018/Shahroom
Dated Peshawar, the October 24, 2019

To

The Secretary to Govt of Khyber Pakhtunkhwa,
Finance Department, Peshawar.

Attention: Section Officer (SR-II)

Subject: **SERVICE APPEAL NO. 1389-1390/2017 TITLED "MR. SHAHROOM KHAN & MR. ABDUL ZAIQ VERSUS GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH SECRETARY FINANCE"**

Dear Sir,

113
I am directed to refer to your office letter No. SOSR-II/4-36/2019-68 dated 02-10-2019 on the subject noted above and to state that the notification referred to in the aforementioned letter does not cover pension/regularization cases of Mr. Shahroom and Mr. Abdul Zaiq as the same pertains to the category of contract employees whereas the notification clearly mentions category of Fixed Pay Employees.

2. It is, therefore, once again requested to please do the needful as have already been requested vide this office letter of even No. dated 21-08-2019. (copy enclosed for ready reference).

Yours faithfully,

Encls: As Above

ENDST: OF EVEN NO. & DATE:

Copy forwarded for information to the: -

1. PS to Secretary Law Department, Peshawar.
2. PS to Secretary PHED, Peshawar.

ok SECTION OFFICER (Lit)

SECTION OFFICER (Lit)

A. Zaiq
24/10/2019



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

NO.FD/SOSR-II/4-36/2019/68
Dated Peshawar the 22.10.2020

SECY PHED

To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Public Health Engineering Department.

File No 1462

Dated 26-10-20

Subject:- SERVICE APPEAL NO. 1389-1390/2017 TITLED "MR. SHAHROOM KHAN & MR. ABDUL ZAIQ VERSUS GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH SECRETARY FINANCE".

Dear Sir,

I am directed to refer to your department's letter No. SO(Lit)PHED/40-1/2018/Shahroom dated 24.10.2019 on the subject noted above and to state that this department's Notification No. FD(SOSR-II)4-36/2017 dated 22.05.2019 is not extendable to contract employees.

Yours faithfully,



(BARKAT KHAN)
SECTION OFFICER (SR.II)

Encl: As above

SO(Lit)
S
24/10

Pl. put upon file

S/c


28/10

Section Officer (SR-II)



OFFICE OF THE
EXECUTIVE ENGINEER
PHE DIVISION DIR LOWER.

No: 01 / AC-17

Dated Timergara the 10 / 11 / 2020



pephedirlower@gmail.com



Public Health Engineering Department Dir Lower



@PHEDDirLower



+92-945-9250075

To,

In Charge Pay Fixation Party
Khyber Pakhtunkhwa Peshawar.

Subject: REQUEST FOR GRANTING FIXATION OF PENSIONARY BENEFITS FOR MR. ABDUL ZAIQ OPERATOR BPS-05 AND MR. SHAH ROOM KHAN OPERATOR BPS-05 (SA NO.1389-90/2017 PHE DIVISION DISTRICT DIR LOWER.

With reference to the above quoted subject, and in light of the decisions of the Honorable Services Tribunal, dated 29/05/2019 (Documents attached as annexure –I and II) for ready reference.

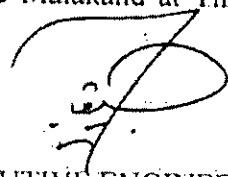
It is therefore requested that the fixation may kindly be granted at the earliest⁰⁵ possible. The mater may be treated urgently being a court matter, please.

Encl: As above,

/
EXECUTIVE ENGINEER

Copy to:-

1. The Superintending Engineer Public Health Engineering Circle Malakand at Timergara for information please.


EXECUTIVE ENGINEER



OFFICE OF THE
EXECUTIVE ENGINEER
PHE DIVISION DIR LOWER.

No: 06 / Ac-17

Dated Timergara the 30/12/2020

acpphdirlower@gmail.com [Public Health Engineering Department Dir Lower](https://www.facebook.com/PublicHealthEngineeringDepartmentDirLower) [PHEDDirLower](https://twitter.com/PHEDDirLower) 92-915-9250075

To:

Distt: Account Officer
Dir Lower.

Subject: PENSION PAPER OF MR. SHAH ROOM KHAN S/O FAQIR KHAN
OPERATOR(BPS-05) WSS. SHAHI KHIL KOTKAL.

Pension paper in respect of Mr. Shah Room Khan S/O Faqir Khan Operator Wss. Shahi Khil Kotkal alongwith documents dully countersigned sent herewith for further necessary action at your end please.

DETAIL OF DOCUMENTS.

- | | |
|--|--------|
| 1. Service book in original. | 1 No. |
| 2. Pension papers. | 2 Nos. |
| 3. Attested Photographs. | 2 Nos. |
| 4. Attested CNIC. | 2 Nos. |
| 5. Outstanding Certificate. | 2 Nos. |
| 6. Specimen Signature. | 2 Nos. |
| 7. Thumb and finger impressions. | 2 Nos. |
| 8. Undertaking Certificate. | 2 Nos. |
| 9. Deceleration certificate. | 2 Nos. |
| 10. No demand certificate. | 2 Nos. |
| 11. Legal Hear certificate original. | 1 No. |
| 12. Last pay certificate. | 2 Nos. |
| 13. Bank Forms original. | 1 No. |
| 14. Order No. <u>06 /Ac-17</u> dated: <u>01-10-2019.</u> | 1 No. |

574
14/01/2021
14/1

Executive Engineer
Public Health Engg. Division
Dir Lower

SUPERANNUATION

CNIC 1802119102025

FOR STOPPED INT FROM

01.07.2011

B PAY

7740,

B PAY

11

PIR

70

DISTRICT ACCOUNTS OFFICER (P&A) THIRUVARUR

NAME	MAH ROOM	I/NAME	TAQIR BHAI	EX	OPERATION NO.		
D.O.R	30	6	2011	D.O.R	30	6	2011
D.O.A	6	10	1996	D.O.B	1	7	1993
T SERVICE	7	8	14	AGE	29	-1	60

N.Q.S

IN SERVICE CELL

LAST BASIC PAY RS

5420 5761

USUAL INCREMENT RS

161

TOTAL BASIC PAY RS

5420

5420	15	7	1897.00
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GROSS PENSION 1897.00

35% COMMUTED 663.95

65% NET PENSION 1233.05

75% FAMILY PENSION

COMPUTATION AT THE AGE OF 60 YEARS			
64.1%	12	12 1719	98572

PERIOD	RATE	TOTAL INCREASE	PENSION DUE
01.07.2010	15%	184.96	1418.01
01.07.2011	15%	450.00	3450.00
01.07.2012	20%	690.00	4140.00
01.07.2013	15%	621.00	4761.00
01.07.2014	10%	500.00	5500.00
01.07.2015	10%	600.00	6600.00
01.07.2016	10%	650.00	7260.00
01.07.2017	10%	726.00	7986.00
01.07.2018	10%	798.60	8784.60
01.07.2019	10%	1000.00	11000.00
MEDICAL	01.07.2010	25%	750.00
	01.07.2015	25%	187.50
			937.50

ENH: 3000

ENH: 5000

ENH: 6000

ENH: 10000

TOTAL PENSION WITH MEDICAL

11938

UNPAID PENSION

FROM	TO	MONTHS	PENSION	DIFF.	TOTAL
01.07.2011	30.06.2012	12.00	3450	/	41400
01.07.2012	30.06.2013	12.00	4140	/	49680
01.07.2013	30.06.2014	12.00	5000	/	60000
01.07.2014	30.06.2015	12.00	6000	/	72000
01.07.2015	30.06.2016	12.00	6600	/	79200
01.07.2016	30.06.2017	12.00	7260	/	87120
01.07.2017	30.06.2018	12.00	7986	/	95832
01.07.2018	30.06.2019	12	10000	/	120000
01.07.2019	30.06.2020	12	11000	/	132000
01.07.2020	31.12.2020	6	11000	/	66000
					803232

UNPAID MEDICAL

FROM	TO	MONTHS	PENSION	TOTAL
01.07.2011	30.06.2015	48	938	45024
01.07.2015	31.12.2020	66	938	61908
				0
				106932

TOTAL

910164

511856 - 986716

17/11 to 12/11 - 11856

Attested -

Executive Engineer
Public Health

Handwritten signature
District Accounts Officer
Thiruvārūr

25.1.2021, 18/11



OFFICE OF THE
EXECUTIVE ENGINEER
PHE DIVISION DIR LOWER.

No: 08 / Ac-17

Dated Fimergara the 30/12/2020

scophedirlower@gmail.com

Public Health Engineering Department Dir Lower

@PHEDirLower

92-915-9250075

To,

Dist: Account Officer
Dir Lower.

Subject: PENSION PAPER OF MR.ABDUL ZAIQ S/O ABDUL IAIQ
OPERATOR (BPS-05) WSS.MANDEZO.

Pension paper in respect of Mr.Abdul Zaiq S/O Abdul Iaiq Operator Wss. Mandezo alongwith documents dully countersigned sent herewith for further necessary action at your end please.

DETAIL OF DOCUMENTS.

1. Service book in original.	1 No.
2. Pension papers.	2 Nos.
3. Attested Photographs.	2 Nos.
4. Attested CNIC.	2 Nos.
5. Outstanding Certificate.	2 Nos.
6. Specimen Signature.	2 Nos.
7. Thumb and finger impressions.	2 Nos.
8. Undertaking Certificate.	2 Nos.
9. Deceleration certificate.	2 Nos.
10.No demand certificate.	2 Nos.
11.Legal Hear certificate original.	1 No.
12.Last pay certificate.	2 Nos.
13.Bank Forms original.	1 No.
14.Order No. <u>05 /Ac-17</u> dated: <u>01-10-2019.</u>	1 No.

Handwritten signatures and dates:
14/11
25/12

Signature of Executive Engineer
Executive Engineer
Public Health Engg. Division
Dir Lower

CALCULATION OF AVERAGE EMPLOYMENT

MATHEZO MUNDA DIR LOWER

SUPERANUATION

CNIC 1530119389317

PAY STOPPED WEF FROM

01.08.2012

B.PAY

8000

G.PAY

16443

FROM

PHE

TO

DISTRICT ACCOUNTS OFFICER DIR LOWER AT TIMERGARA

NAME

ABDUL ZIAQ

F/NAME

ABDUL LAIQ

EX:

PUMP OPERATOR

D.O.R

4 7 2012

D.O.R 4 7 2012

D.O.A

7³⁰ 56 1993

D.O.B 5 7 1952

T.SERVICE

4 19

AGE -1 0 60

N.Q.S

N.SERVICE

CELL#

LAST BASIC PAY RS: 9560

USUAL INCREMENT RS 260

TOTAL BASIC PAY RS 9820

9820	19	7	4353.53
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GROSS PENSION 4353.53

35% COMMUTED 1523.74

65% NET PENSION 2829.80

75% FAMILY PENSION

COMMUTATION AT THE AGE OF 60 YEARS			
1523.74	12	12.3719	226218

14321 = 211897

PERIOD	RATE	TOTAL INCREASE	PENSION DUE
01.07.2010	15%	424.47	3254.27
01.07.2011	15%	488.14	3742.41
01.07.2012	20%	748.48	4490.89
01.07.2013	15%	673.63	5164.52
01.07.2014	10%	516.45	5680.97
01.07.2015	10%	600.00	6600.00
01.07.2016	10%	660.00	7260.00
01.07.2017	10%	726.00	7986.00
01.07.2018	10%	798.60	8784.60
01.07.2019	10%	1000.00	11000.00
MEDICAL	01.07.2010	25%	813.57
	01.07.2015	25%	203.39
			1016.96

ENH: 6000

ENH: 10000

TOTAL PENSION WITH MEDICAL

12017

UNPAID PENSION

FROM	TO	MONTHS	PENSION	DIFF.	TOTAL
05.07.2012	31.07.2012	0.87	4491		3912
01.08.2012	30.06.2013	11.00	4491		49401
01.07.2013	30.06.2014	12.00	5165		61980
01.07.2014	30.06.2015	12.00	6000		72000
01.07.2015	30.06.2016	12.00	6600		79200
01.07.2016	30.06.2017	12.00	7260		87120
01.07.2017	30.06.2018	12.00	7986		95832
01.07.2018	30.06.2019	12	10000		120000
01.07.2019	30.06.2020	12	11000		132000
01.07.2020	31.12.2020	6	11000		66000
					767445
UNPAID MEDICAL					
05.07.2012	31.7.2012	0.87	814		708
01.08.2012	30.06.2015	35	814		28490
01.07.2015	31.12.2020	66	1017		67122
					95320
TOTAL					863765

Prop in part allowan
= 57/12 to 31/12 = 14321

Attested

Executive Engineer
Public Health

Handwritten signature and date

District Accounts Officer
Dir Lower Timergara

Scanned with MOBILE BANNER

31-12-20
1-7-0
6-5