

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 7606/2021

Date of Institution: 18.10.2021

Asyar Mehmood, Drawing Master (BPS-15), in Government Middle School Jabba Daudzai, Nowshera

Versus

District Education Officer (Male), Nowshera. and Four others.

ORDER

03.06.2022

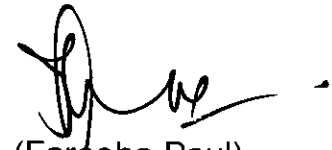
Learned counsel for the appellant present. Mr. Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Learned counsel for the appellant stated at the bar that the grievance of the appellant has been redressed by the department, therefore, he wants to withdraw the instant appeal. In this respect, learned counsel for the appellant submitted an application, which is placed on file.

In view of the above, the appeal in hand stands dismissed as withdrawn. Parties are left to bear their own costs. File be consigned to the record room after its completion.

ANNOUNCED

03.06.2022


(Fareeha Paul)
Member (E)

31.01.2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG alongwith Mr. Farman Shah, Senior Auditor on behalf of respondents No. 2 & 5 present and submitted reply/comments which are placed on file.

Reply/comments on behalf of respondents No. 1, 3 & 4 are still awaited. Learned Additional Advocate General sought time for submission of reply/comments. Granted. To come up for reply/comments before the S.B on 31.03.2022.

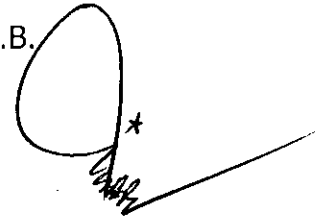


(Atiq-Ur-Rehman Wazir)
Member (E)

31.03.2022

Counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Masood Khan, Litigation Officer for respondents present.

Written reply/comments on behalf of respondents not submitted. Representative of the respondents seeks time to submit the same on the next date. Adjourned. To come up for written reply/comments on 03.06.2022 before S.B.



(MIAN MUHAMMAD)
MEMBER(E)

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

S.A NO. 7606/21

Asyar Mahmood VS Education

Application for withdrawal of the titled appeal

Respected shawithi,

Appellant humbly submits as under

- 1) That the above titled appeal is fixed for hearing today dated 03-06-2022
- 2) That the grievances of the appellant had been sought out and now he doesn't want to proceed the appeal further.

It is therefore most humbly prayed that the above titled appealed may kindly allowed to be with drawn.

Appellant;

through

counsel.

shah faisal Ilyas Advocate Supreme Court

cell: 0300-5850207

Dated. 03/06/2022

07.12.2021

Counsel for the appellant present. Preliminary arguments heard.

Learned counsel for the appellant contended that the appellant being ex-serviceman joined the respondent-department as drawing Master (BS-15) on 08.06.2012. Prior to it, he had joined Pakistan Army as Hawaldar on 09.08.1999. The appellant has been requesting for pay fixation as well as counting of previous service towards pension but in vain. The appellant is aggrieved of the impugned order of respondent No.1 dated 19.08.2019 whereby pension contribution to the tune of Rs. 1,49,040 was directed to be recovered. The same amount was deposited in treasury on 20.08.2019 but despite that, counting of previous service and fixation of pay under FR-22 is pending between respondent No.1 and 2. The appellant approached Peshawar High Court, Peshawar in writ petition No. 6506-P/2019 dated 02.12.2019 which was disposed of under Article-212 on 12.10.2021, hence the instant service appeal filed on 18.10.2021. As there is no original impugned or appellate order to have been challenged and assailed in the service appeal and the question of limitation also arises, learned counsel argued that being recurring cause, he would rely on case laws reported as 1995 PLC (CS) 1026, 2006 PLC (CS) 1124, 2017 SCMR 2066, 2018 PLC (CS) 375 and 2021 SCMR 1151.

The appeal is admitted to regular hearing subject to all just legal objections including limitation. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to respondents for submission of reply/comments. To come up for reply/comments on 31.01.2022 before S.B.

Appellant Deposited
Security & Process Fee


(Mian Muhammad)
Member(E)

Form- A

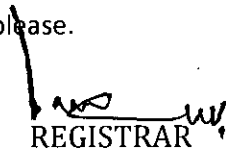

FORM OF ORDER SHEET

Court of _____

Case No.-

7606

/2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	18/10/2021	<p>The appeal of Mr. Asyar Mahmood presented today by Mr. Shah Faisal Ilyas Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put up there on <u>07/12/21</u>.</p> <p> CHAIRMAN</p>

BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR.

Service Appeal No. 7606/2021

Asyar Mahmood.....(Appellant)

V E R S U S

District Education Officer (Male), Nowshera and
others.....(Respondents)

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Service Appeal		1-7
2.	Affidavit		8
3.	Addresses of the Parties		9
4.	Copies of the Reliving Certificate, Service Book Extracts, DPC and Roll of PERS	A,B,C&D	10-30
5.	Copies of Application and Various Office Correspondences	E&F	31-35
6.	Copy of the Sanction Letter and Amount Slip	G&H	36-37
7.	Copy of F.R.22	I	38-39
8.	Copy of Letter dated 16.03.1999	J	40
9.	Copy of Extract of Rule 2.8	K	41
10.	Copy of Letter dated 03.09.2019	L	42
11.	Copies of Writ Petition and comments	M&N	43-53
12.	Copy of order dated 12/10/2021	O	54-55
13.	Wakalat Nama		56

Appellant

Through



Shah Faisal Ilyas

Advocate High Court,
Peshawar.

Cell No. 0300-5850207

Dated: 18/10/2021

BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE

TRIBUNAL, PESHAWAR.

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 7606/2021

Diary No. 7743

Dated 18/10/2021

Asyar Mahmood S/o Fazal Mahmood R/o Village Muhib
Banda, Tehsil Pabbi, District Nowshera, presently posted as
Drawing Master (BPS-15) in Government Middle School Jabba
Daudzai, Nowshera.....(Appellant)

V E R S U S

1. District Education Officer (Male), Nowshera.
2. District Accounts Officer, Nowshera.
3. Secretary Government of Khyber Pakhtunkhwa Administration
Department, Civil Secretariat, Peshawar.
4. Secretary Finance, Government of Khyber Pakhtunkhwa Civil
Secretariat, Peshawar.
5. Accountant General, Khyber Pakhtunkhwa, A.G Office Fort
Road, Peshawar.....(Respondents)

**APPEAL UNDER SECTION 4 OF KHYBER
PUKHTUNKHWA SERVICE TRIBUNAL ACT
1974.**

Respectfully Sheweth:

Filed to-day

Facts giving rise to the instant Service Appeal are as
under:

1. That in the year 1999, appellant joined the service
of Pakistan Army as Havaldar and in the year 2012,

2

The Education Department advertised the post of Drawing Master for various schools for selection. Appellant applied through proper channel to the said post and got succeeded and consequently was appointed as DM (BPS-15). (COPIES OF THE RELIVING CERTIFICATE, SERVICE BOOK EXTRACTS, DPC AND ROLL OF PERS ARE ANNEXURE "A", "B", "C" & "D" RESPECTIVELY).

2. That after joining of service in Education Department, appellant moved several applications for pay fixation, however, last application was submitted on 03.07.2018 to DEO(M) Nowshera vide Diary No.3583 but till date in vain, Correspondence inter-se was made by the officials of the department. (COPIES OF APPLICATION AND VARIOUS OFFICE CORRESPONDENCES ARE ANNEXURE "E" & "F" RESPECTIVELY).

3. That on 19.08.2019, respondent No.1 issued sanction letter with regard of counting of previous regular service in the light of letter No.FD(PRC)1-1/97, dated 16.03.1999, but unluckily pay fixation was not made, however, pension contribution and gratuity was remitted to Khyber Pakhtunkhwa

Government. (COPY OF THE SANCTION LETTER AND AMOUNT SLIP ARE ANNEXURE "G" & "H" RESPECTIVELY).

4. That as per F.R.22(a)(ii), "when appointment to the new post does not involve such assumption, he will draw as initial pay the stage of the time-scale which is equal to his substantive pay in respect of the old post, or, if there is no such stage, the stage next below that pay plus personal pay equal to the difference, and in either case will continue to draw that pay until such time as he would have received an increment in the time-scale of the old post or for the period after which an increment is earned in the time-scale of the new post, whichever is less. But if the minimum pay of the time-scale of the new post is higher than his substantive pay in respect of the old post, he will draw that minimum as initial pay" and likewise in such clause (iii) "when appointment to the new post is made on his own request under rule 15(a) and the maximum pay in the time-scale of that post is less than his substantive pay in respect of the old post, he will draw that maximum as initial pay." (COPY OF F.R.22 IS ANNEXURE "I").

5. That Government of Khyber Pakhtunkhwa also issued a letter No.FD(PRC)1-1/97 dated 16.03.1999, wherein it is also clarified that in case of such like appointments, appellant be treated favourably as per spirit of 10 (1) (i) of Khyber Pakhtunkhwa Civil Services Pay Revision Rules, 1978, but even then pay fixation was not made.(COPY OF LETTER DATED 16.03.1999 IS ANNEXURE "J").

6. That as per Military Accounts Clause-9,Rule-2.8"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."(COPY OF EXTRACT OF RULE 2.8 IS ANNEXURE "K").

7. That in the same situation pay protection is issued to one Mr. Muhammad Riaz Ex-Master in Pak-Studies (BS-17) at Cadet College Wana South Waziristan, now appointed as SS (Pak Studies) BS-17 at GHSS Chamtar Mardan, vide letter No.SO(SM)E&SED/7-1/2019/Pay protection, dated 03.09.2019. (COPY OF LETTER DATED 03.09.2019 IS ANNEXURE "L").

8. That thereafter the appellant filed Writ Petition No. 6506-P/2019 before the Hon'ble Peshawar High Court, Peshawar, and in preliminary hearing in motion the Hon'ble Court directed to respondents for submission of comments, which was duly submitted by the respondents. (Copies of Writ Petition and comments are attached as annexure "M" & "N").

9. That thereafter the Hon'ble Peshawar High Court, Peshawar dismissed the Writ Petition in Limine for its being not maintainable vide order dated 12/10/2021. (Copy of order dated 12/10/2021 are attached as annexure "O").

6

10. That appellant being aggrieved and having no other efficacious and alternative remedy approaches this Honourable Court, inter alia, on the following grounds:

GROUND:

A. That the act of the respondents by not re-fixing the salaries of appellant is in violation of law, rules on the subject, thus the act of the respondents may graciously be declared as illegal, void-ab-initio.

B. That appellant being entitled for the said relief was neglected just for no reason. The act of the respondents is in violation of settled law, therefore, needs interference of this Honourable Court.

C. That in the same situation repay fixation is already issued/ granted to another employee, so, the same by not issuing to appellant amounts to discrimination, which is prohibited by the constitution.

D. That the act of the respondents is in violation of the fundamental rights of appellant, safeguarded by the

Constitution of Islamic Republic of Pakistan, 1973, thus on this score too this Honourable Tribunal has the ample power to entertain the instant writ petition.

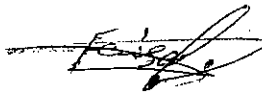
E. That the provision of equal treatment as per law and at par with other citizens is violated in the instant case, thus needs interference of this Hon'ble Court.

It is, therefore, most humbly prayed that on acceptance of this Service Appeal, appellant pay/ salary be re-fixed as per provision of FR 22 with all benefits with such other relief as may be deemed proper and fit in circumstances of the case.

Any other relief, this Honourable Court deems proper/ appropriate may also be issued/ granted.


Appellant

Through



Shah Faisal Ilyas
Advocate High Court,
Peshawar.

Dated: 22/09/2021

BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. _____/2021

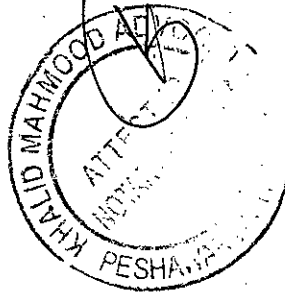
Asyar Mahmood.....(Appellant)

VERSUS

District Education Officer (Male), Nowshera and others.....(Respondents)

AFFIDAVIT

I, Asyar Mahmood S/o Fazal Mahmood R/o Village Muhib Banda, Tehsil Pabbi, District Nowshera, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.



Asyar Mahmood
DEPONENT
CNIC: 17201-2149553-7
Cell: 0331-7699156

9

BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR.

Service Appeal No. _____/2021

Asyar Mahmood.....(Appellant)

V E R S U S

District Education Officer (Male), Nowshera and
others.....(Respondents)

ADDRESSES OF THE PARTIES

APPELLANT:

Asyar Mahmood S/o Fazal Mahmood R/o Village Muhib
Banda, Tehsil Pabbi, District Nowshera, presently posted as
Drawing Master (BPS-15) in Government Middle School Jabba
Daudzai, Nowshera.

RESPONDENTS:

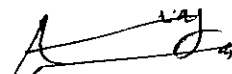
1. District Education Officer (Male), Nowshera.
2. District Accounts Officer, Nowshera.
3. Secretary Government of Khyber Pakhtunkhwa Administration
Department, Civil Secretariat, Peshawar.
4. Secretary Finance, Government of Khyber Pakhtunkhwa Civil
Secretariat, Peshawar.
5. Accountant General, Khyber Pakhtunkhwa, A.G Office Fort
Road, Peshawar.

1. D.O.

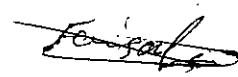
2.

3. J.L.

Dated: 18/10/2021


Appellant

Through


Shah Faisal Ilyas
Advocate High Court,
Peshawar.

671352



Stamp by the Record Office

FORM 100-1-08/2010-10,000 Reels

10
**TERMINATION OF SERVICE
CERTIFICATE**

(To be filled in by Record Office/unit in both
language)
Combatants & non-combatants (enrolled).



This certificate must be preserved with due
care. If it is lost, Officer Incharge of Regiment/
Corps concerned be informed immediately
stating cause of loss who will then issue PAFY-
1964 A in lieu thereof at his discretion.



اس سرٹیفکیٹ کو احتیاط سے سنبھال کر رکھیں۔
گم ہونے کی صورت میں متعلقہ آفیسر انچارج ریگیمینٹ کو فوری
طور پر بمعدہ وجوہات گمشدگی مطلع کریں جو اپنی صوابدید کے
مطابق تبادلہ پی اے ایف وائی 1964 اے سے جاری
کریں گے۔

ATTESTED

ATTESTED

Certificate of Service

1. No. 3840075
2. Rank L/HAV
3. Name Asrar Mahmood ✓
4. NIC No. 17201-2149553-7
5. Unit/Corps. 156 Lt. Ad. (Snn) Regt
6. Father's Name. Fajal Mahmood ✓
7. Address
 - a. House/Street No.
 - b. Ward/Sector/Area
 - c. Village/Town/Mohallah. Gull Amrogh Ghari
 - d. Post Office & Post Code. Pabbi Mohib
 - e. Nearest Railway Station with distance. Pabbi
 - f. Police Station. Pabbi
 - g. Tehsil & District. Muzishera
 - h. Telephone No with Code/Mobile No.
 - J. E-Mail Address.

نوٹری کی سند

- ۱۔ نمبر
- ۲۔ عہدہ
- ۳۔ نام
- ۴۔ قومی شناختی کارڈ نمبر
- ۵۔ پینٹ اکوڈ
- ۶۔ والد کا نام
- ۷۔ پتہ
- ۸۔ مکان اور گلی نمبر
- ۹۔ وارڈ۔ سیکٹر۔ ایریا
- ۱۰۔ گاؤں۔ ٹاؤن۔ محلہ
- ۱۱۔ پوسٹ آفس اور پوسٹ کوڈ
- ۱۲۔ نزدیکی ریلوے اسٹیشن اور فاصلہ
- ۱۳۔ تقاضہ
- ۱۴۔ تحصیل اور ضلع
- ۱۵۔ ٹیلیفون نمبر محلہ ایریا کوڈ۔ موبائل نمبر
- ۱۶۔ ای۔ میل ایڈریس

Bandu Pabbi

ATTESTED

8. Description at the time of completion of this form:-

- a. Date of birth 16-3-1979
 b. Age at the time of enrolment 20 Yrs, 4 months, 24 Days
 c. Distinctive marks Mole on Rt Palm

9. Date of enrolment 9-8-1999

10. Transferred to reserve on NA

11. Discharged/Dismissed on 8-6-12

12. In consequence of * Disch from
svc being permanently absorbed
 after serving 12 years 9 months

* Insert the condition from which a person discharged on medical grounds is suffering as entered in the proceedings of Medical Board in PAFY-1948.

۸۔ اس دستاویز کو پُر کرنے وقت سکدوش کے خود خال

الف۔ تاریخ پیدائش

ب۔ بھرتی ہونے کے وقت عمر

ج۔ نمایاں نشانات

۹۔ بھرتی ہونے کی تاریخ

۱۰۔ ریزرو میں منتقل ہونے کی تاریخ

۱۱۔ سکدوش اسمزول ہونے کی تاریخ

۱۲۔ سکدوش اسمزول کی وجوہات *

In an apt. civ. side the Army

حاضر زوری سال

* جسمانی نااہلی کی بنا پر سکدوش ہونے کی صورت میں یہاں میڈیکل بورڈ کی تشخیص کا کردہ بیماری درج کریں۔

Fateh

ATTESTED

3

27 days with colours and
years months
days in the reserve.

13. Total non-qualifying service Nil

14. Character as assessed vide AR (I) 172

Excellent

15. Fit for fit for civ employment **

Yes

16. Date of completion of reserve liability

NA

17. Medals, decorations or Intiazi Sanad

(1) Tamgha-e-Istislah

(2) 10 yrs service medal

** Soldiers awarded unsatisfactory gradings of character will not be recommended for civil employment.

3

دن اور ریزرو میں رہنے کی
مدت سال
مہینے دن

۱۳۔ ملازمت میں شمار نہ ہونے والی مدت

۱۳۔ چال چلن برطابق اے آر (آئی) نمبر ۱۷۲

۱۵۔ سول ملازمت کے لئے موزوں / غیر موزوں ہے **

۱۶۔ ریزرو میں رہنے کی مدت کب ختم ہوگی

۱۷۔ تمغہ جات، اعزازات، اسناد تحسین یا امتیازی سند

** غیر تعلق بخش چال چلن کے حامل افراد کو سول ملازمت کے لئے نااہل تصور کیا جائے گا۔

ATTESTED

21. Pay and Allowances drawn at the time of discharge/release/retirement:-

a. Pay 12840/- pm

b. Allowances 10707/- pm

22. CERTIFICATES:-

a. Highest Military Education Certificates:-

(1) Education MR-I, OCU-I

(2) Army Trade OCU

b. Highest Civil Education B.A.

23. Details of Wife

a. Name SUMAYA Begum

b. Date of Birth.....

c. NIC No.....

۲۱۔ تنخواہ اور الاءنسز جو نوکری سے سبکدوش ہونے وقت بل رہے تھے۔

الف۔ تنخواہ ماہانہ

ب۔ الاءنسز ماہانہ

۲۲۔ استاد

الف۔ فوج کی اعلیٰ ترین استاد

(۱) تعلیم

(۲) فوجی ٹریڈ

ب۔ سول تعلیم کا اعلیٰ ترین معیار

۲۳۔ بیوی کے کوائف

الف۔ نام

ب۔ تاریخ پیدائش

ج۔ قومی شناختی کارڈ کا نمبر

ATTESTED

ATTESTED

ATTESTED

15

27. Signature of ^(Rel) JCO Def. Centre (RW)
Rank Mal Name Onais Siddiqui
Station Mahy Cantt. Date 22-12-12

28. The contents of paras 24 & 25 have been fully explained to me.

Date Signature of JCO/OR

Station

9

دستخط کاڈنگ آفیسر

ریٹک نام

ایشن تاریخ

پیرا نمبر ۲۴ اور ۲۵ میں جو کچھ لکھا ہوا ہے۔ اس کی تفصیل مجھے اچھی طرح بتادی گئی ہے۔

تاریخ دستخط جے او او آر

مقام

Faisal

ATTESTED

Faisal

ATTESTED

16

12

Any person finding this certificate is requested to forward it to the

OIC records * *AAO Cer. (No)*

Station: *Malik Cantt Karachi*



Sincerely

Enter Trg Centre/Record and Cantt Unit etc

12

اگر یہ سرٹیفکیٹ کسی صاحب کومل جائے تو وہ براہ مہربانی اسے نیچے دیکھے پتے پر پہنچادیں۔

آفیسر انچارج

مقام

Fauz

یہاں پر مندرجہ بالا کارڈ و جماعتی اور یونٹ کا نام لکھیں۔

Fauz

ATTESTED

17
(For use in Police Department only).

Heirs,

Left Thumb Impression

passed D.M. Trg. Course

Qualification	Date	Qualification
English	passed S.Sc in 1995 CA	R. No. 127127 marks 462/850 BISE Feshawar Result Decl. on 28.7.2001
Urdu	passed Intermediate in 1997	Head Master G.S. Mall Newsheera
Man-drawing	R. No. 168512 marks 569/1100 BISE, Feshawar Result Decl. on 28.7.2001	Training School Final examination
Finger Print	passed BA in 1988 (S.S.)	Head Master G.S. Mall Newsheera
Drill Instructing	R. No. 8502 marks 269/550 University of Feshawar	
Court Duties	Result Decl. on 20-05-2000.	
Reserve Duties		Head Master G.S. Mall Newsheera

ATTESTED

N.B - Line to be drawn under the qualification possessed.

ATTESTED

Note: The entries on this page should be renewed or re-attested at least every five years and the Signature to lines 9 and 10 should be dated.

1. Name: MR. Asyar Mahmood

2. Race: Afssani

3. Residence: Village Mohib Banda P.O Pabbi
Tehsil and District Nowshera

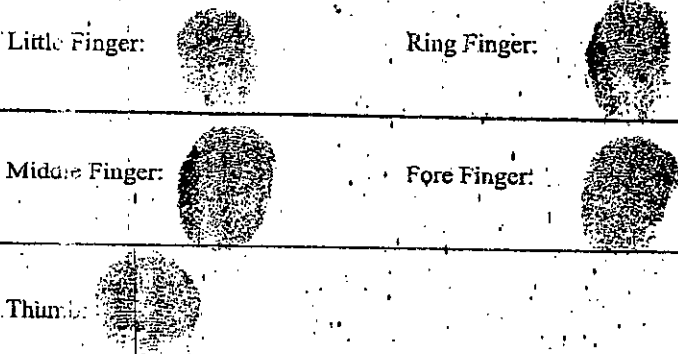
4. Father's name and residence: Mr. Fazl-E-Mahmood

5. Date of birth by Christian era as nearly as can be ascertained: (16-03-1979)
Sixteen March NINETEEN SEVENTY NINE

6. Exact height by measurement: 5-8

7. Personal marks for identification: Hole on nose

8. Left hand thumb and Finger impression of (Non-Gazetted) officer.



9. Signature of Government Servant: [Signature]

[Signature]
ATTESTED

10. Signature and designation of the Head of the office, or other Attesting Officer:

[Signature]
Notary Public
[Signature]

[Signature]
ATTESTED

9	10	11	12	13		14
				Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitible to another Government	
Signature and Designation of the head of the office or other attesting officer in attestation of columns 1 to 8	Date of termination or appointment	Reason of termination (such as promotion, transfer, dismissal, etc.)	Signature of the head of the office or other attesting officer	Period	Government to Which debitible	Reference to the punishment certificate or certificate of release of Government Servant
<p>Head Master S. Mali Khel Bala Nowshera</p> <p>21/11/12</p> <p>Subzidi</p>	<p>Head Master S. Mali Khel Bala Nowshera</p>	<p>Head Master S. Mali Khel Bala Nowshera</p>	<p>Head Master S. Mali Khel Bala Nowshera</p>	<p>Service verified w.e.f 1/12/2012 to 28/2/2013 from the Arz. Rcd. of other record of this school</p>	<p>Head Master S. Mali Khel Bala Nowshera</p>	<p>Service verified w.e.f 30/5/2012 to 30/11/2012 from the Arz. Rcd. & other record of this school.</p>
<p>Head Master S. Mali Khel Bala Nowshera</p>	<p>Head Master S. Mali Khel Bala Nowshera</p>	<p>Head Master S. Mali Khel Bala Nowshera</p>	<p>Head Master S. Mali Khel Bala Nowshera</p>	<p>Head Master S. Mali Khel Bala Nowshera</p>	<p>Head Master S. Mali Khel Bala Nowshera</p>	<p>Head Master S. Mali Khel Bala Nowshera</p>

ATTESTED

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1	2	3	4	5	6	7	8
Name of Post	Whether substantive or officiating and whether permanent or temporary.	If officiating, state (i) substantive appointment, or (ii) Whether service counts for pension under Art. 371 C.S.R.	Pay in substantive post	Additional pay for officiating	Other emolument falling under the term "pay"	Date of Appointment	Signature of Government servant
REVISED ENTRIES DUE TO BPS NO-15							
DM			Pay in BPS NO: 09 on 30-05-2012	Rs. 6200/- P.M			
GIMS			Pay in BPS NO: 15 on 01-12-2012	Rs. 8500/- P.M			
D. G. H. R. I.			Pay on 01-12-2012	Rs. 8500/- P.M			
N. S. S. A. S. G. A.			Pay on 01-12-2013	Rs. 9200/- P.M			
			Pay on 01-12-2014	Rs. 9900/- P.M			
			Revised BPS No. 15 Rs. (10985-905-38135) NEE 01-07-2015				
			Pay on 01-07-2015	Rs. 12795/- P.M			
			Pay on 01-12-2015	Rs. 13700/- P.M			
			Revised BPS No. 15 Rs. (13510-1120-47110) NEE 01-07-2016				
			Pay on 01-07-2016	Rs. 16870/- P.M			
			Pay on 01-12-2016	Rs. 17990/- P.M			
			Revised BPS No. 15 Rs. (16120-1330-56020) NEE 01-07-2017				
				Rs. 21440/- P.M		01/07/2017	
				Rs. 22770/- P.M		12/2017	
DM				Rs. 22770/- P.M		10/18	

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9 Signature and Designation of the head of the office or other attesting officer in attestation of columns 1 to 8	10 Date of termination or appointment	11 Reason of termination (such as promotion, transfer, dismissal, etc.)	12 Signature of the head of the office or other attesting officer	13 Leave		14 Signature of the head of the office or other attesting officer.	15 Reference to any recorded punishment or censure, or reward or praise of the Government Servant	
				Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government.			
					Period			Government to Which debitable
							<p>SERVICE VERIFIED</p> <p>W.E.F. 1-12-2016 to 30-11-2017</p> <p>from the acc roll and other record of this office</p> <p><i>[Signature]</i> By. DEO (M) Nowshera</p>	
							<p>SERVICE VERIFIED</p> <p>W.E.F. 1-12-2017 to 30-11-2018</p> <p>from the a... and other record...</p> <p><i>[Signature]</i> By. DEO (M) Nowshera</p>	
	30/06/2017	Scale raised	<i>[Signature]</i> By. DEO (M) NSR					
<i>[Signature]</i> By. DEO (M) NSR	30/11/2017	Transferred to GHS Jambhanda vide D.O. No. 1740-NS dated 08/01/18	<i>[Signature]</i> By. DEO (M) NSR					
<i>[Signature]</i> By. DEO (M) NSR	09/01/2018		<i>[Signature]</i> By. DEO (M) NSR					
<i>[Signature]</i> Deputy District Education Officer Male Nowshera	30/11/2018		<i>[Signature]</i> By. DEO (M) NSR				<p>ATTESTED</p>	

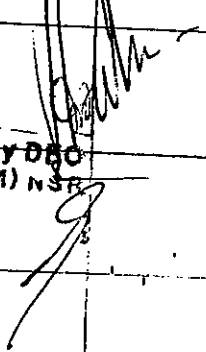
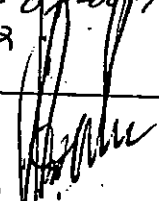
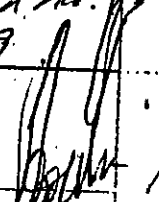

[Signature]
ATTESTED

1	2	3	4	5	6	7	8	
Name of Post	Whether substantive or officiating and whether permanent or temporary.	If officiating, state (i) substantive appointment, or (ii) Whether service counts for pension under Art. 37A C.S.J.	Pay in substantive post	Additional pay for officiating	Other emolument falling under the term "pay"	Date of Appointment	Signature of Government servant	
DM at EMS Jabba Doreedgan		DM = BPS-15				12 12/2018	[Signature]	
			Rs. 24100/- PM				[Signature]	
		Revised Entry in the light of pay protection						[Signature]
		BPS-09 (3820-230-10720)					[Signature]	
		B-07 29-05-2012	Rs. 12840-				[Signature]	
		B-09 30-05-2012		13040-			[Signature]	
		one pre-mature wts		13420-			[Signature]	
		BPS-15 1/7/12 (8500-700-29500)					[Signature]	
		1/7/12			Rs. 14100-		[Signature]	
		one pre-mature wts			Rs. 14800-		[Signature]	
		1/12/12			14800-		[Signature]	
		1/12/13			15500-		[Signature]	
		1/12/14			18200-		[Signature]	
P. Kewind		1/7/15			20940-		[Signature]	
		1/12/15			21845-		[Signature]	
P. Kewind		1/07/16			26950-		[Signature]	
		1/12/16			28070-		[Signature]	
P. Kewind		1/9/17			33400-		[Signature]	
		1/12/17			34740-		[Signature]	
		1/12/18			36070-		[Signature]	

District Education Officer
(Male) Nowshera

[Signature]
ATTESTED

ATTESTED

9	10	11	12	13		14	15
				Leave			
				Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government		
Nature and Designation of the head of the office or other attesting officer in attestation of columns 1 to 8 By DDO (M) NSR 	Date of termination or appointment	Reason of termination (such as promotion, transfer, dismissal etc.)	Signature of the head of the office or other attesting officer	Period	Government to which debitable	Signature of the head of the office or other attesting officer	Remarks
				Pay Protection Order under The Civil Servant Act 1973 and Rules 10(C)(15) of Pay Revision Rules and Finance Deptt. Lett. No. FD (P) 11/87 dated 16/03/99. Order issued P.D. (M) No. 562-65 dated 19/08/2019. Duration of Previous Service 29-05-2012 to 09-04-1999 to 29-05-2012.			
						 District Education Officer (Male) Nowshera	
						 District Education Officer (Male) Nowshera	
						 District Education Officer (Male) Nowshera	

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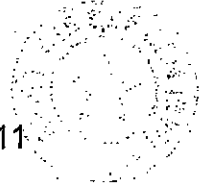
27

DEPARTMENTAL PERMISSION CERTIFICATE

Number 3840075 Lance Havildar Operator Communication Unit
Asyar Mehmood belongs to Army Air Defence Corps and permitted to apply for
Appointment as School Teacher in local Govt School.

Sta: Malir Cantt

Date: 22 Jul 2011



Muhammad Zia Ul Haq
Brig
OIC Records
(Muhammad Zia Ul Haq)

Fauz

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RESTD
NOMINAL ROLL OF PERS COMPLETING OF MAX SVC
UNIT: 156 LT AD (SAM) REGT

Ser	Army No, Rank and Name	CI	Med Cat	Date of			LPR		NQS
				Birth	Enr	SOS	MONTHS	DAYS	
1.	3840075 L/HAV OCU (Y-3) ASYAR MAHMOOD	PTN	AYE	16-03-1979	09-8-1999	08-06-12	-	-	Nil

CAUSE OF DISCH

"DISCH FROM SVC BEING PERMANENTLY ABSORBED IN AN APPOINTMENT OUTSIDE THE ARMY (GOVERNMENT OF EDUCATION DEPARTMENT) IN THE LT OF MEMO NO 7661/7768/EDOE&SENSR/PST (M&F) DATED 25 MAY 2012 READ IN CONJUNCTION WITH AR (I) 171 (O)".

NOTE:-

- a. In case of any query in call up notice issued, be comm to these Records imed.
- b. Indl tel no and CNIC no should be mentioned on PAFY-1923.
- c. Combing of sheet roll regarding pension docus should be cleared before desp of disch docus to these Records.
- d. CSD clearance cert must be att with disch docus.
- e. Home address / date of birth on sheet roll must be match with CNIC.
- f. Pub fresh cas regarding re-nomination for pension purpose.
- g. All ACRs (in original) desp with disch docus.
- h. Cert regarding clearance cert of bank loan before retirement must be fwd alongwith disch docus.
- j. Clearance cert regarding almt of spec compassionate loan if drawn from concerned frm duly signed from PP&A Dte GHQ Rwp.

[Signature]
**Maj
 BC
 564 Lt AD (SAM) Bty**

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[Signature]

RESTD

خدمت جناب DEO صاحب ایلمینٹری اینڈ سیکنڈری ایجوکیشن نوشہرہ

عنوان 1- بنیادی تنخواہ کی منتقلی اور ملازمت سے تسلسل

Repay fixation and service conjunction

جناب عالی!

ہوڈبانہ گزارش کہ معلم اسپار محمود یاک

آری سے N.O.C نے کمر محلکہ تعلیم میں بہ حیثیت ڈرائیونگ

ماسٹر مؤرخہ 30 مئی 2018ء کو شمولیت اختیار کی۔

چونکہ سائل 9 اگست 1999ء کو یاک آری میں شامل ہوا تھا۔

آری نے برائے تسلسل ملازمت سائل کو L.P.C ، NOC

اور Conjunction letter جاری کیا۔

لہذا اب قانونی تقاضے پورے کرتے ہوئے سائل کو گزشتہ

آری سروس اور بنیادی تنخواہ دینے کے احکامات صادر فرمائیں۔

سائل تاحیات دعا گور رہے گا۔

العارض

Forwarded To DEO (M) NSR
11/2 A for N/A Pl.
HEAD MASTER
G.M.S Jabba Daudzai
Dist. Nowshera

معلم اسپار محمود، ڈرائیونگ ماسٹر
گورنمنٹ ٹیچنگ سکول، جبہ داؤد زئی، نوشہرہ

3583 03-07-2018

مؤرخہ: 03-07-18

ATTESTED

[Signature]

ATTESTED



OFFICE OF THE
DISTRICT EDUCATION OFFICER (MALE)
NOWSHERA

(Office Phocce#0923-9220228, Fax#0923-9220228)

No: 9174-76 DEO (M)/Estt: Branch/NSR/ Dated: 01/04/2019
To,

The District Accounts Officer
Nowshera.

Subject: - GUIDE LINE / OPINION.

Memor:-

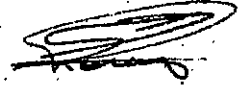
It is stated that Mr. Asyar Mehmood has been appointed as Drawing Master (BPS-15) through proper channel from Pak army on 30-May-2012 through ETEA. He has taken NOC and LPC from Pak Army and join Education Department since 30-05-2012. He has taken Gratuity from his previous Department Now he want to return / refund the gratuity amount of Rs. 149040 according to the pension Rules, chapter-08, section-09, Page No 159 in the account head C02241 and wants ex-service and pay protection. It is therefore requested to guide this office about the case please.

(ATTAULLAH KHAN)
District Officer Education (M)
Nowshera

Even No. & date.

Copy of the above is forwarded for information to the:-

- 1 Principal school Concerned
- 2 Official concerned
- 3 Office file


District Education Officer
(Male)Nowshera


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33
Office of the
Accountant General
Fort Road, Khyber Pakhtunkhwa
Peshawar Pakistan
Phone: 091 9211250-54

No.H-24(110)/Nowshera/1598

Dated: 30.04.2019

To

The District Accounts Officer
NOWSHERA

Subject: GUIDE LINE / OPINION

Please refer to your Memo No.DAO/NSR/Admn/786 dated: 23.04.2019 on the subject.

2. In this regard it is stated that as per pension Rule (2.8) 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 C.M.A. So, the applicant may be advised to take-up the case through administration department with CMA accordingly.

Enclosed: (01)

Accounts Officer (HAD)

ATTESTED

ATTESTED



OFFICE OF THE
DISTRICT ACCOUNTS OFFICER
NOWSHERA.

Phone&Fax: 0923-9220119

No. DAO/NSR/Pension/ 34

Dated: 15/05/2019

To

The District Education Officer (Male),
Nowshera.

Subject: GUIDE LINE/OPTION:

Memo: Reference to your Memo No.5174-76 dated 01/04/2019.

The Military service of the individual concerned and the amount of Gratuity paid to him should be verified from the ^{Controller} Combined Military Accounts through the Administrative Department accordingly to proceed further as per prevailing rules.


DISTRICT ACCOUNT OFFICER
NOWSHERA


ATTESTED


ATTESTED

35



OFFICE OF THE
DISTRICT EDUCATION OFFICER (MALE)
NOWSHERA

PHONE # 0923-9220228 , FAX # 0923-9220228

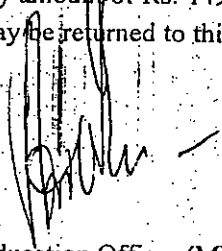
No. 2577/19 /Estab: /DEO (M)/NSR// Dated: NSR the 10 /06/2019

To,

The Controller
Military Accounts Karachi Cantt.


Subject: GRADUITY VERIFICATION.

Reference to District Account's Officer Nowshera Letter No. DAO/NSR/Pension /34 dated: 15-05-2019, on the subject cited above, It is submitted that Mr,Asyar Mahmood L/Hav No: 3840073 has been appointed in Education Department through ETEA Test on DM Post at GMS Jabba Daud zai (NSR) through proper channel . It is requested that his graduity amount of Rs: 149040/- and other related record may be verified from the concerned quarters and may be returned to this office in earliest please.


District Education Officer (M)
Nowshera.

Copy forwarded for information to:-

- 1: Official Concerned


District Education Officer (M)
Nowshera.


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**OFFICE OF THE
DISTRICT EDUCATION OFFICER (MALE)
NOWSHERA**

(Office Phone#0923-9220228, Fax#0923-9220228)

SANCTION:

The Competent authority has been pleased to count the previous regular service in favour of the following as allowed /admissible to him under the civil servant Act 1973 and rule 10(1) (1) of pay revision rules and finance department letter No.FD (PRC) 1-1/97 dated: 16-03-1999. According to pension rules 8/8.2, the Gratuity amount of Rs.1, 49,040 will be recovered in lump sum to KPK Government.

S.No	Name & Designation	School	Previous place of Service	Duration of previous Service	Endstt: No
1	Mr. Asyar Mahmood DM	GMS Jabba Daudzai	Pakistan Army	09-08-1999 to 29-05-2012	No.7661-7768/EDO E&SE NSR/DM (M&F) Estab: Branch dated: 25-05-2012

District Education Officer (Male)
Nowshera

Endstt: No. 562-65

Dated Nowshera the 19/8 /2019

Copy forwarded to the:

1. District Account Officer Nowshera
2. Deputy District Education Officer (Male) Nowshera
3. Principal/Headmaster Concerned
4. Official Concerned.

District Education Officer (Male)
Nowshera

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ATTESTED

ORIGINAL
National Bank of Pakistan
Nowshera Cantt Br. (0382)

Handwritten signature

GS&PD, NWFP, 1557 F.S., 10,000P. of 100-30.1.50 (18)

(This portion to be transmitted by the Bank Agent to the Treasury Officer in support of the credit in his daily account).

NR 7145

NBP Nowshera
Cantt Br (0382)
23 AUG 2019
RECEIVED BY CASH

THE MANAGER, STATE BANK OF PAKISTAN,

National Nowshera Cantt

dated the 20 of 08 2019

Received from the bearer the sum of Rs. 149040/-
to be credited to Government account under the head 602241-Graduity
on account of pension Contribution & Graduity Recovery

Signature and full official designation of the officer ordering the money to be paid in.

STATE BANK OF PAKISTAN

National Nowshera Cantt

Dated the 20 of 08 2019

QUADRUPLER
National Bank of Pakistan
Nowshera Cantt Br (0382)
RECEIVED BY CASH

Received from the Asyar Mahmood
the sum of Rs. 149040/-
to be credited to Government account under the head 602241-Graduity
on account of pension Contribution & Graduity Recovery

Manager

This portion to be returned to the payee receipted by the Agent.

Note.—The Bank Agent is instructed not to return both portion of the invoice are carefully in.

NBP Nowshera
Cantt Br (0382)
20 AUG 2019
RECEIVED BY CASH

See reverse

L.W.F.P. A&T 200

Handwritten signature

ATTESTED

Handwritten signature

ATTESTED

38

Audit Instructions—

(1) A Government servant who is treated as on duty during a course of instruction or training and who, at the time when he was placed on such duty, was drawing higher pay on account of an officiating appointment may on every occasion during the period of instruction or training when he would have held that officiating appointment but for such instruction or training, be allowed to draw pay equivalent to what he would have drawn had he been holding the officiating appointment.

[Para. 2(i), Chap. IV, Sec. I of Manual of Audit Instructions (Reprint).]

(2) The expressions "the pay of his substantive appointment" and "the pay of any officiating appointment" occurring in F. R. 20 should be taken to mean "the pay which the Government servant drew in the post which he held substantively" and "the pay which the Government servant drew in the post in which he officiated" respectively. In neither case is there any restriction on the *kind* of 'pay' to be drawn and the expressions should therefore be held to include special pay, if any, which the Government servant drew in the post which he held substantively, or in an officiating capacity.

[Para. 2(ii), Chap. IV, Sec. I of Manual of Audit Instruction (Reprint).]


F. R. 21. Time-scale pay.—Rules 22 to 29 inclusive and Rule (31) apply to time-scales of pay generally. They do not, however, apply to any time-scale sanctioned by the late Secretary of State in Council in so far as they are inconsistent with terms specially so sanctioned for such time-scale.

F. R. 22. The initial substantive pay of a Government servant who is appointed substantively to a post on a time-scale of pay is regulated as follows:—

(a) If he holds a lien on a permanent post, other than a tenure post, or would hold a lien on such a post had his lien not been suspended;

(i) When appointment to the new post involves the assumption of duties or responsibilities of greater importance (as interpreted for the purposes of rule 30) than those attaching to such permanent post, he will draw as initial pay the stage of the time-scale next above his substantive pay in respect of the old post;

(ii) when appointment to the new post does not involve such assumption, he will draw as initial pay the stage of the time-scale which is equal to his substantive pay in respect of the old post, or, if there is no such stage the stage next below that pay plus personal pay equal to the difference,


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and in either case will continue to draw that pay until such time as he would have received an increment in the time-scale of the old post or for the period after which an increment is earned in the time-scale of the new post, whichever is less. But if the minimum pay of the time-scale of the new post is higher than his substantive pay in respect of the old post, he will draw that minimum as initial pay.

- (iii) when appointment to the new post is made on his own request under rule 15(a) and the maximum pay in the time-scale of that post is less than his substantive pay in respect of the old post, he will draw that maximum as initial pay.

Exception.—Telegraph Masters and Telegraphists of the Pakistan Posts and Telegraphs Department who are at their own request transferred from "General Service" to "Station Service" and whose substantive pay in the General Service Scale is higher than the maximum pay of the time-scale of the Station Service sanctioned for the Station to which they are transferred will, in addition to the maximum pay in the time-scale of such Station Service, draw personal pay equal to the difference between the two.

- (b) If the conditions prescribed in clause (a) are not fulfilled he will draw as initial pay the minimum of the time-scale.

Provided, both in cases covered by clause (a) and in cases, other than cases of re-employment after resignation from the public service (or after removal from the public service for inefficiency, misconduct or as a disciplinary measure,) covered by clause (b), that if he either—

- (1) has previously held substantively or officiated in—

- (i) the same post, or
 (ii) a permanent or temporary post on the same time-scale, or
 (iii) a permanent post other than a tenure post, on an identical time-scale, or a temporary post on an identical time-scale, such post being on the same time-scale as a permanent post, or

- (2) is appointed substantively to a tenure post on a time-scale identical with that of another tenure post which he has previously held substantively or in which he has previously officiated,

ATTESTED

*Inserted with effect from 7th January, 1952 by G.P., M.F. Notification No. F. 2041(3)-R. 11/53, dated the 5th September, 1953.

ATTESTED

40
(COPY)

GOVERNMENT OF N.W.F.P
FINANCE, EXCISE & TAXATION DEPTT.

No.FD(PRC)1-1/97
Dated Peshawar the March 16, 1999

To:

1. All Administrative Secretaries to Govt. of NWFP. Peshawar.
2. The Senior Member Board of Revenue, NWFP.
3. The Secretary to Governor NWFP, Peshawar.
4. The Secretary to Chief Minister, NWFP.
5. The Secretary, Provincial Assembly, NWFP.
6. All Heads of Attach Department NWFP.
7. All the Commissioner/ Deputy Commissioner/ Political Agents/ District & Session Judges NWFP.
8. The Registrar Peshawar High Court, Peshawar.
9. The Chairman, Service Tribunal NWFP, Peshawar.
10. The Chairman, NWFP Public Service Commission.
11. The Secretary Board of Revenue NWFP, Peshawar.

Subject :- FIXATION OF PAY ON APPOINTMENT TO A HIGHER POST FROM A LOWER POST BY INITIAL RECRUITMENT

Sir,

I am directed to refer to the subject noted above and to say that rule 10(1) (i) of the NWFP, Civil Services Pay Revision Rules, 1978 provides that subject to the provisions of rule 11 thereof, where in Civil Servant is promoted from a lower to a higher post in Revised National Pay Scale 2 to 19 where the stage in the Revised National Pay Scale of the higher post, next above the pay of the Civil Servant concerned in the Pay Scale of the Lower post gives a Pay Increase equal to or less than a full increment of the pay scale of the higher post, the initial pay in the Revised National Pay Scale of the higher post shall be fixed after allowing a premature increment in the Revised National Pay Scale of the higher post.

2. It has been observed that in some cases the Government Servants, holding lower posts secure appointment to higher posts by initial recruitment. They are deprived of the benefits available to the promotees in terms of rule 10 (1) (i) of the NWFP, Civil Services Pay Revision Rules 1978 referred to above. They are thus treated less favorably than those who are appointed to a higher post by promotion in normal course. This creates an anomalous situation.

3. It has, therefore, been decided that rule 10 (1) (i) of the NWFP, Civil Services Pay Revision Rules, 1978 shall also equally apply in the cases where appointment to a higher post from a lower post is made by initial recruitment.

Jalal
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Fazal
ATTESTED

9. **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. Rule, 2.8

10. **Deputation:-** Time spent by a Civil servant holding pensionable post on deputation to (1) another Government (2) foreign service, or (3) service in a temporary or non-pensionable post under Government counts for pensions as if it were a time spent for the Government. Rule 2.9

11. **Suspension:** All periods of suspension followed by reinstatement should qualify for pension regardless of the fact whether the Civil servant was or was not allowed full pay and allowance for the period of suspension. In other words, the mere act of reinstatement should be deemed to have rendered the period of suspension as qualifying for pension.

Rule 2.10 read with para-1(i) of F.D. THE KHYBER PAKHTUNKHWA letter No. SO(SR.III)FD-4-3676 dated 4-6-1977 (Appendix-III).

Decision: A Govt. servant who dies during the period of suspension, the intervening period between the date of suspension and death would qualify for pension.

No. SOS R III (FD)4-3676/Vol-Iv dated 26-6-2000

12. **WORK CHARGED/CONTINGENT PAID EMPLOYEES.**

The continuous service rendered by them prior to their being brought on regular footing with effect from 1.7.1973 and 1.7.1974, as the case may be, will qualify for pension provided that the service rendered from 1.10.1957 shall qualify for pension in full and that continuous service rendered before that date shall count in half.

DR. SO(SR.III)FD/4-17675/V-II, Dated 19.3.1987.

13. **ADHOC APPOINTMENT**

Adhoc service followed by confirmation qualifies for pension under section 2(i) (b) of the Civil Servants Act.

14. **FORFEITURE OF PAST SERVICE.**

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

- a) Resignation of a post unless it is to take up another post, service in which counts for pension.
- b) Removal or dismissal from service.
- c) Absence from duty without leave.

Note: - The authority, which sanctions the pension, may commute retrospectively periods of absence without leave into extra-ordinary leave. Rule 2.11.

15. **CONDONATION OF INTERRUPTIONS.**

The Administrative Department may for purposes of pension condone all gaps between (periods of qualifying services) of a Government servant. Interruption

[Signature]
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[Signature]
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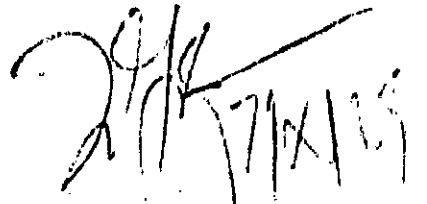
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

42

No. SO(SM)E&SED/7-1/2019/Pay protection
Dated Peshawar the 03rd September, 2019

To

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



Subject:

APPLICATION FOR PAY PROTECTION OF MR. MUHAMMAD RIAZ,
EX-MASTER IN PAK-STUDIES (BS-17) AT CADET COLLEGE WANA
SOUTH WAZIRISTAN, NOW APPOINTED AS SS (PAK STUDIES) BS-17
AT GHSS CHAMTAR MARDAN

I am directed to refer to your letter No. 3043/3-G Corr dated 23-08-2019 on the subject noted above and to enclose herewith a copy of Finance Department Policy No. FD(SR-1)12-1/2011 dated 04-06-2011, which is self-explanatory.

2449

3-8-19

2- In light of the above policy the competent authority has approved the fixation / protection of pay on appointment from one post to another post in respect of Mr. Muhammad Riaz Ex-Master in Pak-Studies (BS-17) at Cadet College Wana South Waziristan, now appointed as SS (Pak Studies) BS-17 at GHSS Chamtar Mardan, therefore, the case may be taken up with the concerned DEO (M) under intimation to this Department, please.

Encl. As above.

(SHAHID RAFIQ)
SECTION OFFICER (SCHOOLS MALE)

OFFICE OF THE DIRECTOR ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA, PESHAWAR

Encls: No. 1

Dated: 27/9 /2019.

- Copy forwarded to:-
Mardan - 0120
1. DEO (Male) Mardan - 0120 with the remarks to remove the deficiencies mentioned as above immediately.
 2. P.A. to Director (E&SE) Khyber Pakhtunkhwa, Peshawar.

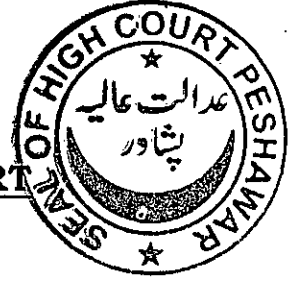
Assistant Director (Estab.)
Directorate of Elementary & Secondary
Education Khyber Pakhtunkhwa, Peshawar

ATTESTED

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ATTESTED

1 43
BEFORE THE HON'BLE PESHAWAR HIGH COURT
PESHAWAR



6506P

Writ Petition No. _____/2019

Asyar Mahmood S/o Fazal Mahmood
R/o Village Muhib Banda,
Tehsil Pabbi, District Nowshera. **PETITIONER**

VERSUS

1. District Education Officer (Male), Nowshera.
2. District Accounts Officer, Nowshera.
3. Secretary Administration, Civil Secretariat, Peshawar.
4. Secretary Finance, Civil Secretariat, Peshawar.
5. Accountant General, Khyber Pakhtunkhwa, A.G Office
Fort Road, Peshawar. **RESPONDENTS**

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

Fetwa
ATTESTED

Respectfully Sheweth:

Compendium of facts out of which the present
constitutional petition arises are as under:-

FILED TODAY
Deputy Registrar
02 DEC 2019

ATTESTED
EXAMINER
Peshawar High Court

1. That the petitioner is law abiding citizen of Pakistan, thus having the protection of laws of the land and Constitution of Islamic Republic of Pakistan, 1973.
2. That in the year 1999, petitioner joined the service of Pakistan Army as Havaldar and in the year 2012, Elementary & Secondary Education Department advertised the post of Drawing Master for various schools, upon which petitioner applied through proper channel and got succeeded and consequently was appointed as DM (BPS-15). **(COPIES OF THE TERMINATION OF SERVICE CERTIFICATE, SERVICE BOOK EXTRACTS, DPC AND ROLL OF PERS ARE ANNEXURE "A", "B", "C" & "D" RESPECTIVELY).**

[Signature]

ATTESTED

3. That after joining of service in Education Department, petitioner moved several applications for repay fixation, however, last application was moved on 03.07.2018 to DEO(M) Nowshera vide Diary No.3583 but till date in vain, however, correspondence were made by the officials on that. **(COPIES OF APPLICATION AND VARIOUS OFFICE CORRESPONDENCES ARE ANNEXURE "E" & "F" RESPECTIVELY).**

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Deputy Registrar
02 DEC 2019

ATTESTED
EXAMINER
Peshawar High Court

4. That on 19.08.2019, vide Endst. No.562-65, respondent No.1 issued sanction letter with regard of counting of previous regular service in the light of letter No.FD(PRC)1-1/97, dated 16.03.1999, but unluckily pay fixation was not done, however, pension contribution and gratuity were recovered to Khyber Pakhtunkhwa Government. **(COPY OF THE SANCTION LETTER AND AMOUNT SLIP ARE ANNEXURE "G" & "H" RESPECTIVELY).**

Fido
ATTESTED

5. That as per F.R.22(a)(ii), "when appointment to the new post does not involve such assumption, he will draw as initial pay the stage of the time-scale which is equal to his substantive pay in respect of the old post, or, if there is no such stage the stage next below that pay plus personal pay equal to the difference, and in either case will continue to draw that pay until such time as he would have received an increment in the time-scale of the old post or for the period after which an increment is earned in the time-scale of the new post, whichever is less. But if the minimum pay of the time-scale of the new post is higher than his substantive pay in respect of the old post, he will draw that minimum as initial pay" and

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Deputy Registrar
02 DEC 2019

May
ATTESTED
EXAMINER
Peshawar High Court

likewise in such clause. (iii) “when appointment to the new post is made on his own request under rule 15(a) and the maximum pay in the time-scale of that post is less than his substantive pay in respect of the old post, he will draw that maximum as initial pay.”

(COPY OF F.R.22 IS ANNEXURE “I”).

6. That Government of Khyber Pakhtunkhwa also issued a letter No.FD(PRC)1-1/97 dated 16.03.1999, wherein it is also clarified that in case of such like appointments petitioner be treated favourably as per spirit of 10 (1) (i) of Khyber Pakhtunkhwa Civil Services Pay Revision Rules, 1978, but even than pay fixation was not done. **(COPY OF LETTER DATED 16.03.1999 IS ANNEXURE “J”).**

ATTESTED

7. That as per Military Accounts Clause-9, Rule-2.8 “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

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Deputy Registrar
02 DEC 2019

ATTESTED
EXAMINER
Peshawar High Court

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.” (COPY OF EXTRACT OF RULE 2.8 IS ANNEXURE “K”).

8. That in the same situation pay protection is issued to one Mr. Muhammad Riaz Ex-Master in Pak-Studies (BS-17) at Cadet College Wana South Waziristan, now appointed as SS (Pak Studies) BS-17 at GHSS Chamtar Mardan, vide letter No.SO(SM) E&SED/ 7-1/ 2019/ Pay protection, dated 03.09.2019. (COPY OF LETTER DATED 03.09.2019 IS ANNEXURE “L”).

9. That petitioner being aggrieved and having no other efficacious and alternative remedy approaches this Honourable Court, inter alia, on the following grounds;

[Handwritten signature]

ATTESTED

GROUND S:-

A. That the act of the respondents by not re-fixing the salaries of petitioner is in violation of law, rules on the subject, thus the act of the respondents may graciously be declared as illegal, void-ab-initio.

FILED TODAY
Deputy Registrar
02 DEC 2019

ATTESTED
Reserve High Court

- B. That petitioner being eligible for the said relief was neglected just for no reason. The act of the respondents is in violation of settled law, therefore, needs interference of this Honourable Court.
- C. That in the same situation repay fixation is already issued/ granted to another employee, so, the same not issuing to petitioner amounts to discrimination, which is prohibited by the constitution.
- D. That the act of the respondents is in violation of the fundamental rights of petitioner, safeguarded by the Constitution of Islamic Republic of Pakistan, 1973, thus on this score too this Honourable Court has the ample power to entertain the instant writ petition.
- E. That the provision of equal treatment as per law and at par with other citizens is violated in the instant case, thus needs interference of this Hon'ble Court.
- F. That the petitioner seeks permission to raise/ argue additional points of law and facts at the time of arguments.

ATTESTED

FILED TODAY
 Deputy Registrar
 02 DEC 2019

ATTESTED
 EXAMINER
 Peshawar High Court

It is, therefore, most humbly prayed that on acceptance of this Writ Petition and exercise of extraordinary constitutional jurisdiction, this Honourable Court may graciously be pleased to direct respondents for repay fixation of petitioner.

Any other relief, this Honourable Court deems proper/ appropriate may also be issued/ granted.

Through Petitioner

Faisal
ATTESTED

Faisal

Shah Faisal Ilyas
Advocate,
High Court, Peshawar

Dated: 02.12.2019

CERTIFICATE:

Certified on instructions of my client that petitioners have not previously moved this Hon'ble Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 regarding the instant matter.

Faisal
ADVOCATE

LIST OF BOOKS:

1. Constitution of Pakistan, 1973.
2. Any other law books according to need.

Faisal
ADVOCATE

[Signature]
EXAMINED TO BE TRUE COPY
Examiner
Peshawar High Court, Peshawar
Authorized Under Article 87
Dastgir-e-shahadat Order 1988
16 OCT 2021

FILED TODAY
Deputy Registrar
02 DEC 2019

BEFORE THE HON'BLE PESHAWAR HIGH COURT
PESHAWAR

Writ Petition No. _____/2019

Asyar Mahmood. **PETITIONER**

VERSUS

DEO (Male), Nowshera & others. **RESPONDENTS**

AFFIDAVIT

I, Asyar Mahmood S/o Fazal Mahmood R/o Village Muhib Banda, Tehsil Pabbi, District Nowshera, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Writ Petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

Identified By:

Shah Faisal Ilyas
Advocate,
High Court, Peshawar

DEPONENT
CNIC: 17201-2149553-7
Cell: 0331-7699156

EXAMINED TO BE TRUE COPY
Examiner,
Peshawar High Court, Peshawar
Authorized Under Article 87 of
the Constitution of Pakistan Order 1973

16 OCT 2021

FILED TODAY
Deputy Registrar

02 DEC 2019

No. 15089
Certified that the above was verified on solemn affirmation before me in office this 3rd day of Nov 2019 Asyar Mahmood s/o Fazal Mahmood Nowshera who was identified by Shah Faisal who is personally known to me.
Oath Commissioner
Peshawar High Court, Peshawar.

ATTESTED

BEFORE THE HON'BLE PESHAWAR HIGH COURT
PESHAWAR

Writ Petition No. 6506P /2019

Asyar Mahmood. **PETITIONER**

VERSUS

DEO (Male), Nowshera & others. **RESPONDENTS**

ADDRESSES OF THE PARTIES

PETITIONER:

Asyar Mahmood S/o Fazal Mahmood
R/o Village Muhib Banda,
Tehsil Pabbi, District Nowshera.

RESPONDENTS:

1. District Education Officer (Male), Nowshera.
2. District Accounts Officer, Nowshera.
3. Secretary Administration, Civil Secretariat, Peshawar.
4. Secretary Finance, Civil Secretariat, Peshawar.
5. Accountant General, Khyber Pakhtunkhwa, A.G Office
Fort Road, Peshawar.

td
ATTESTED

FILED TODAY
[Signature]
Deputy Registrar
02 DEC 2019

Petitioner
Through

[Signature]

Shah Faisal Ilyas
Advocate,
High Court, Peshawar

Dated: 02.12.2019

[Signature]
Examined
Peshawar High Court, Peshawar
Authorized Under Article 173
of the Constitution of Pakistan
[Signature]

16 OCT 2021

52

01

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR.



Writ Petition No. 6506/2019

ASAYAR MAHMOOD VS DISTRICT EDU OFFICER (M) NOWSHERA

Para-wise comments on behalf of
Respondents no 1

RESPECTFULLY SHEWETH;

Para 1 to 9;

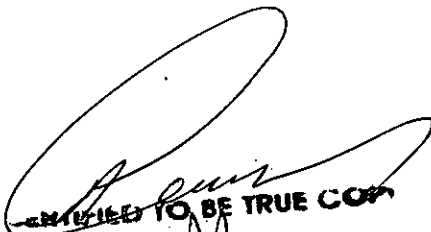
As the respondent no- 1 already has been issued sanction vide letter no 562-65 dated 19/8/2019.in respect of petitioner, and to count the previous regular service. (Copy of the sanction letter attached as Annexure A).

That the matter in hand is concerned with Respondent No 2,4&5.they will be in better position to satisfy the grievances of the petitioner, besides the petitioner has raised no grievances against Respondent No-1.

Keeping in view the above mentioned facts it is therefore, humbly prayed that the name of Respondent No 1 may be deleted from the list of Respondents.

District Education officer (M)
Nowshera

ATTESTED


EXAMINED TO BE TRUE COPY

Examined
Peshawar High Court, Peshawar
Authorized Under Article 87 of
the Quran-e-shahadat Order 198

16 OCT 2021

FILED
Deputy Registrar
29 JUL 2021

Before the Peshawar High Court Peshawar

Mahmood Asyar Muhammad Writ Petition No.6506-P/2019Petitioner.

V/S

District Education Officer (Male) Nowshera others.....Respondents

(Reply on behalf of Respondent No.2 & 5)

Respectfully Sheweth:-

Para 1 to 9:-

After the detail scrutiny of the case it is submitted that the matter in hand is totally administrative in nature and Respondent No. 1 , 3 & 4 as well as Controller of Military Accounts are in better position to satisfy the grievances of the Petitioner. Besides the Petitioner has raised no grievances against Respondent No.2 & 5.

It is Pertinent to mention here that in light of District Education officer (M) Nowshera letter No.5174-76, dated: 01/04/2019, and District Accounts Officer Nowshera letter No.34, dated: 15/05/2019 read with letter No.1598, dated: 30/04/2019 issued by Respondent No.5, the Administrative Department of the Petitioner has not yet submitted any claim in this regard to Respondent No.2, as and when received Respondent No.2 will be processed and finalized under the rules and law (Annex-A, B & C).

the case

Keeping in view the above mentioned facts it is, therefore, humbly prayed that the name of Respondent No. 2 & 5 may be deleted from the list of Respondents

DISTRICT ACCOUNTS OFFICER NOWSHERA

ACCOUNTANT GENERAL KHYBER PAKHTUNKHWA

16 OCT 2021

FILED TODAY Deputy Registrar 29 MAR 2021

ATTESTED

PESHAWAR HIGH COURT PESHAWAR
ORDER SHEET



Date of Order or Proceedings 1	Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary 2
12.10.2021	<p><u>Writ Petition No. 6506-P/2019.</u></p> <p>Present: Mr. Shah Faisal Ilyas, advocate for the petitioner.</p> <p>Mr. Mujahid Ali Khan, Addl. AG on behalf of respondents.</p> <p>*****</p> <p><u>LAL JAN KHATTAK, J.-</u> Asyar Muhammad petitioner through the petition in hand filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 has prayed to this Court for issuance of a writ directing the respondents to re-fix his pay.</p> <p>2. Arguments heard and available record gone through.</p> <p>3. Admittedly the petitioner is a civil servant and pay or its fixation or even re-fixation thereof is one of the terms and conditions of his service which is the exclusive jurisdiction of Tribunal where the aggrieved person can well agitate the issue qua the terms and conditions of his/her service. Under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973 jurisdiction of this court to entertain a case relating to the terms and conditions of service of a civil servant is barred.</p> <p>4. Keeping in view the bar contained in Article</p>

Gain

[Signature]
ATTESTED

May
ATTESTED
EXAMINER
Peshawar High Court

212 of the Constitution and availability of the alternate forum for redressal of the petitioner's grievance, this writ petition is hereby dismissed in limine for its being not maintainable before this court.

[Signature]
JUDGE

[Signature]
JUDGE

[Signature]
EXHIBIT TO BE TRUE COPY

Examination
Peshawar High Court, Peshawar
Authorised Under Article 87 of
the Quran-e-Mahfud Order 1973

16 OCT 2021

NO. 10524
Date of Presentation of Application 16/10/21
No of Pages 12
Copying fee 140
Total 140
Date of Preparation of Copy 16/10/21
Date of Delivery of Copy 16/10/21
Received By [Signature]

[Signature]
ATTESTED

W A K A L A T N A M A

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

BC-09-1400

Service Appeal No. _____/2021

Asyar Mahmood _____

(Appellant)

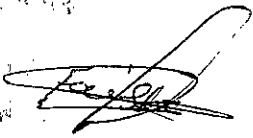
V E R S U S

District Education Officer (Male), Nowshera & Others (Respondent)

I, Asyar Mahmood S/o Fazal Mahmood R/o Village Muhib Banda, Tehsil Pabbi, District Nowshera.

The above noted SERVICE APPEAL do hereby appoint and constitute *Shah Faisal Ilyas Advocate High Court and Federal Shariat Court of Pakistan* to appear. Plead, act, compromise, withdraw or refer to arbitration to me/ us as my/ our Counsel in the above noted matter, I/ we also authorized the said Counsel to file appeal, revision, review, application, and make any miscellaneous application in Criminal/ Civil matters or arising out of the matter and to withdraw and receive in my/ our behalf all sums and amounts deposited on my/ our account in the above noted matter.

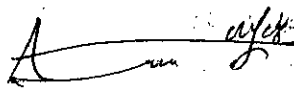
ATTESTED & ACCEPTED



Shah Faisal Ilyas

Advocate High Court,
Peshawar

Office: 17-B, Haroon Mension
Khyber Bazar, Peshawar City.
Cell: 0300-5850207



CLIENT

Asyar Mahmood

BEFORE THE HONORABLE KHYBER
PAKHTUKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal NO. 7606/2021

Asyar Mahmood.....Appellant

Versus

District Education Officer(Male) Nowshera & Others.....Respondent

JOINT PARAWISE REPLY ON BEHALF OF RESPONDENT NO 2 & 5

PRELIMINARY OBJECTION: -

1. That the appellant has no locus standi and cause of action
2. That the claim is not based on fact
3. That the appeal is based on malafide to be dismissed
4. That the appeal in hand is barred by law

RESPECTFULLY SHEWETH:

- 1 Relates to record, however liable to be proved by the appellant.
- 2 Relates to Respondent No 1 and they are in better position to show the status of the case.
- 3 As in above Para 2
- 4 According to Finance Department letter no FD(PRC)1-1/97 Dated 16-03-1999 the government servants upon initial recruitments from lower post to the higher post are entitled for fixation of Pay according to Rule 10(1)(1) of the Pay Revision Rule 1978.
- 5 That according to the general principal and Finance Department instruction, the benefits of pay protection will only be admissible to employees whose organization have adopted scheme of basic pay scale on their appointment in government offices, provided they have applied for the post through proper channel.

- 6 Respondent No 2 & 5 are maintaining the official record of Gazzeted officer and for non-gazzeted staff entries in the service book is recorded by the department concerned. Necessary correction in the SAP System is made through source form duly submitted by the department.
- 7 No comments.
- 8 No comments.
- 9 No comments.
- 10 No comments.

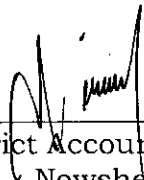
GROUND:

- A. That according to the existing practice the Department make pay fixation entries in the service book of the appellat
- B. That the administrative department of the appellat has not yet submitted any case to Respondent NO 2
- C. No comments
- D. Relates to Respondent No 1 hence needs no comments
- E. No comments


PRAYER:

Keeping in view the above mentioned facts it is therefore humbly prayed that the appeal in hand having no merits may kindly be dismissed.

Respondent No 2


District Accounts Officer
Nowshera

Respondent No 5


Accountant General
Khyber Pakhtunkhwa
Peshawar

Dy: DEO (Male) Nowshera		FOR THE MONTH OF		Mar-22	Dated		
Centre #	6079	Description:		Dy: DEO (Male) Nowshera	Page No.		
Personal #	691889	Employee Name		Asyar Mehmood	CNIC No.		
	BPS-15	Description:		DM	Salary Status Start Stop		
General Data Change		Change in Payment/Deductions				GMS Jabba Daudzai	
Info Type	Field ID	New Contents	Wage Tape	Rupees	Effective Type	Remarks	
			0001-Pay	40,060		Arrear of pay & allowances on account of pay protection vic	
			1000-HRA	0		DEO (Male) Nowshera order Ednst No. 562-65 Dated 19/08	
	10% 2016	2211-AR		2,807		has not been drawn previously. It is further added that no ne	
		2148-AR		810		investigation of arrear claim due to pay fixation has already	
		2199-AR		546		made in service book on 01/03/2022 by pay fixation party G	
		4100-Pay		1,057,840	(+) Adjusted	of Khyber Pakhtunkhwa on page 11 of the service book. It is	
	10% 2017	4325-AR		67,298	(+) Adjusted	efore requested that arrear of pay & allowances may kindly	
	10% 2018	4365-AR		53,865	(+) Adjusted	honoured please	
	20% 2012	4106-AR		38,092	(+) Adjusted		
	15% 2013	4110-AR		49,560	(+) Adjusted		
	10% 2014	4152-AR		13,440	(+) Adjusted		
	10% 2015	4308-AR		21,177	(+) Adjusted	1,413,370	
	10% 2016	4326-AR		61,824	(+) Adjusted		
	10% 2019	4383-AR		39,501	(+) Adjusted		
	10% 2021	5336-AR		10,773	(+) Adjusted		
Dy: DEO (Male) Nowshera		Audited/ Checked by				Verified by	

10-220
 2/11/22

[Signature]
 Dy: DEO (Male) Nowshera
[Signature]
 Verified by

Account Office Nowshera
Credit Advice to Bank - (PAYROLL)
DATE - 18.04.2022

Page: 01
Date/Time: 19/04/2022/10:14
User Name: 50486881

NATIONAL BANK OF PAKISTAN

Branch code: 230572 Branch: PABBI

City: Nowshera

Per. No.	Name	CNIC	Account No.	Amount
00001880	ASYAR MEHMOOD	1720121495537	3311184813	1,402,000
Bank Branch Total				1,402,000

Amount in words: ONE MILLION FOUR HUNDRED TWO THOUSAND FIVE HUNDRED NINETY SEVEN RUPEES