

**BEFORE THE HON'BLE SERVICE TRIBUNAL,**  
**KHYBER PAKHTUNKHWA, PESHAWAR**

Service Appeal No. \_\_\_\_\_ of 2021

Nazir Ahmad .....Appellant

**VERSUS**

Government of Khyber Pakhtunkhwa and others

.....Respondents

**AFFIDAVIT**

I, Nazir Ahmad (Appellant), do hereby solemnly affirm and declare that the contents of the above titled Appeal are true and correct to the best of my knowledge and belief. Furthermore, no such like appeal has earlier been filed before this Hon'able Tribunal or elsewhere on this subject matter



DEPONENT

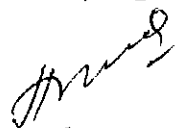
Nazir Ahmad

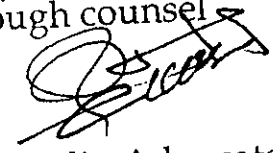
Umar Sadiq Advocate  
High Court

7

filing the instant appeal be condoned in  
the interests of justice.

Appellant/Applicant

  
Through counsel

  
Umar Sadiq Advocate  
High Court

(8)

**BEFORE THE HON'BLE SERVICE TRIBUNAL,**  
**KHYBER PAKHTUNKHWA, PESHAWAR**

Service Appeal No. \_\_\_\_\_ of 2021

Nazir Ahmad .....Appellant/Applicant

**VERSUS**

Government of Khyber Pakhtunkhwa and others  
.....Respondents

**APPLICATION FOR CONDONATION OF**  
**DELAY IN FILING SERVICE APPEAL.**

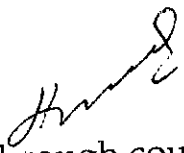
Respectfully Sheweth;

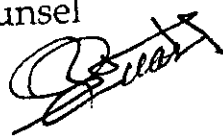
- 1) That the accompanying appeal is being filed before this Hon'ble Tribunal, which is apparently filed after the prescribed thirty days limitation period.
- 2) That the appellant was agitating his remedies in good faith before an esteemed forum, which was later on declared as wrong forum by the apex Court.
- 3) That being so, the delay occasioned as such cannot be used to the detriment of the applicant.
- 4) That it is in the interests of justice that disputes are adjudicated upon merits rather on the technicalities.

It is, therefore, humbly prayed that on acceptance this application, any delay in

No.3 to 4 be directed to release the requisite GP Fund and other Pensionary benefits to the appellant. Any other remedy though may not specifically prayed for, but which the circumstances of the case would demand in the interests of justice, may also be granted.

Appellant

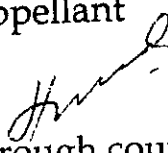
  
Through counsel


  
Umar Sadiq Advocate  
High Court

**CERTIFICATE:**

Certified that no such like appeal has earlier been filed before this Hon'ble Tribunal on the subject matter.

Appellant

  
Through counsel

  
Umar Sadiq Advocate  
High Court

order dated 27-10-2021 (Copy of order dated 27-10-2021 is attached as Annexure "H").

- 13) That consequently, the appellant files this appeal, *inter alia*, on the following grounds:

**GROUND:**

- A) That the impugned omission on behalf of respondents is illegal. Hence, the same is liable to be declared as such and mandamus ought to be issued to respondents for grant of pensionary benefits to the appellant.
- B) That the appellant has served his parent department for a considerable period of time. Furthermore, regular deductions have been made from the appellant towards payment of GP Fund and Pension. The impugned omission of not releasing the benefits arising out of service and the said deductions is extremely harsh for the appellant particularly at this stage of his age.
- C) That the appellant has no source of livelihood for him and his family. Depriving the appellant from his lawful entitlements is tantamount to deprive him from the right to live as guaranteed by Article 9 of the Constitution of the Islamic Republic of Pakistan.
- D) That further grounds, with leave of this Hon'ble Court, would be raised at the time of oral submissions.

It is, therefore, humbly prayed that on acceptance of this petition, respondents

- 8) That regrettably, no progress whatsoever was made, hence the appellant filed another application before the worthy DEO/respondent No.3 (Copy of application dated 27-03-2019 is attached as Annexure "D").
- 9) That again no action was taken on the aforementioned application, hence the appellant filed Departmental Appeal before respondent No.2 (Copy of memo of appeal with courier receipt is attached as Annexure "E").
- 10) That despite the lapse of a considerable amount of time, no response was received, from the concerned quarters regarding the aforementioned appeal. Hence, the petitioner approached the Hon'ble High Court by filing W.P No.57-M/2020 (Copy of memo of petition is attached as Annexure "F").
- 11) That the Hon'ble High Court while admitting the petitioner for regular hearing, called for the comments of respondent No.3, which were filed in due course (Copy of comments is attached as Annexure "G").
- 12) That during the course of proceedings, the case law with regard to enforcement of pensionary rights changed. Earlier, such like matters could be agitated before a High Court, however, as per the recent judgment of the august Supreme Court, cases of pensionary benefits are to be exclusively adjudicated upon by a Service Tribunal. Hence, the above mentioned petition was withdrawn with permission to approach this Hon'ble Tribunal vide

- 2) That later on, the appellant was appointed as CT and subsequently posted as such at Government High School Wadudia Saidu Sharif, Swat. Worth to mention that the appellant's lien period was kept intact by the competent authority vide order dated 07-05-1986 (Copies of orders are attached as Annexure "B").
- 3) That subsequently, the appellant performed his duties as CT till 1997, when he proceeded on extra ordinary leave granted by the competent authority.
- 4) That after arrival from the aforementioned leave, the appellant reported to his department and place of posting, where he was informed that his entire service record is missing.
- 5) That being so, the appellant presented various applications and made oral requests for redressal of his grievances but to no avail.
- 6) That later on, the appellant reached the age of superannuation, however, no proper retirement order was made either by the concerned quarters.
- 7) That subsequently, the appellant started efforts for release of GP fund and pensionary benefits by submitting various written and oral requests including application to District Education Officer (Male), Swat (Copy of written request is attached as Annexure "C").

**BEFORE THE HON'BLE SERVICE TRIBUNAL,**  
**KHYBER PAKHTUNKHWA, PESHAWAR**

Service Appeal No. \_\_\_\_\_ of 2021

Nazir Ahmad s/o Sadbar Khan r/o Faiz Abad Saidu Sharif,  
 Swat.

.....Appellant

**VERSUS**

- 1) Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department at Peshawar.
- 2) Director, Elementary & Secondary Education Department at Peshawar.
- 3) District Education Officer (Male), District Swat at Saidu Sharif.
- 4) District Accounts Officer, Swat at Saidu Sharif.
- 5) Principal, Government High School Wadudia at Saidu Sharif, Swat.

.....Respondents

**APPEAL UNDER SECTION 4 OF THE**  
**KHYBER PAKHTUNKHWA SERVICE**  
**TRIBUNAL ACT, 1974.**

Respectfully Sheweth:

- 1) That the appellant was appointed as Junior Clerk in Divisional Directorate of Education at Swat on 12-03-1984 (Copy of appointment order is attached as Annexure "A").



**BEFORE THE HON'BLE SERVICE TRIBUNAL,**  
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Service Appeal No. \_\_\_\_\_ of 2021

Nazir Ahmad .....Appellant

**VERSUS**

**SCANNED**  
**KPST**  
**Peshawar**

Government of Khyber Pakhtunkhwa and others

.....Respondents

**INDEX**

S. No.	Description	Annexure	Pages No.
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Appellant though Counsel



**Umar Sadiq Advocate**  
**High Court.**

Office: District Courts, Swat.  
Cell# 0345-9514011

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR  
CHECK LIST**

Case Title: Nazir Ahmad vs Court

S.#	Contents	Yes	No
1.	This appeal has been presented by: <u>Umar Sadiq Adv</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2.	Whether Counsel / Appellant / Respondent / Deponent have signed the requisite documents?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3.	Whether Appeal is within time?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.	Whether the enactment under which the appeal is filed mentioned?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5.	Whether the enactment under which the appeal is filed is correct?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6.	Whether affidavit is appended?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.	Whether affidavit is duly attested by competent oath commissioner?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8.	Whether appeal/annexures are properly paged?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9.	Whether certificate regarding filing any earlier appeal on the subject, furnished?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
10.	Whether annexures are legible?	<input type="checkbox"/>	<input type="checkbox"/>
11.	Whether annexures are attested?	<input type="checkbox"/>	<input type="checkbox"/>
12.	Whether copies of annexures are readable/clear?	<input type="checkbox"/>	<input type="checkbox"/>
13.	Whether copy of appeal is delivered to A.G/D.A.G?	<input type="checkbox"/>	<input type="checkbox"/>
14.	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	<input type="checkbox"/>	<input type="checkbox"/>
15.	Whether numbers of referred cases given are correct?	<input type="checkbox"/>	<input type="checkbox"/>
16.	Whether appeal contains cuttings/overwriting?	<input type="checkbox"/>	<input type="checkbox"/>
17.	Whether list of books has been provided at the end of the appeal?	<input type="checkbox"/>	<input type="checkbox"/>
18.	Whether case relate to this Court?	<input type="checkbox"/>	<input type="checkbox"/>
19.	Whether requisite number of spare copies attached?	<input type="checkbox"/>	<input type="checkbox"/>
20.	Whether complete spare copy is filed in separate file cover?	<input type="checkbox"/>	<input type="checkbox"/>
21.	Whether addresses of parties given are complete?	<input type="checkbox"/>	<input type="checkbox"/>
22.	Whether index filed?	<input type="checkbox"/>	<input type="checkbox"/>
23.	Whether index is correct?	<input type="checkbox"/>	<input type="checkbox"/>
24.	Whether Security and Process Fee deposited? on	<input type="checkbox"/>	<input type="checkbox"/>
25.	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? on	<input type="checkbox"/>	<input type="checkbox"/>
26.	Whether copies of comments/reply/rejoinder submitted? on	<input type="checkbox"/>	<input type="checkbox"/>
27.	Whether copies of comments/reply/rejoinder provided to opposite party? on	<input type="checkbox"/>	<input type="checkbox"/>

It is certified that formalities/documentation as required in the above table have been fulfilled.


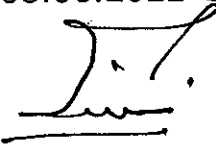
Name: Umar Sadiq Adv  
 Signature: [Signature]  
 Dated: 23-12-2021

Form- A

FORM OF ORDER SHEET

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

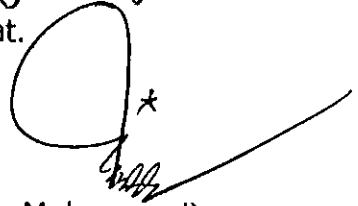
Case No.- 7919/2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	23/12/2021	<p>The appeal of Mr. Nazir Ahmad presented today by Mr. Umar Sadiq Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This case is entrusted to touring S. Bench at Swat for preliminary hearing to be put there on <u>10-5-22</u></p> <p style="text-align: right;">CHAIRMAN</p>
10.05.2022		<p>Nemo for the appellant. Notice for prosecution of the appeal be issued to the appellant as well as his counsel and to come up for preliminary hearing on 08.06.2022 before the S.B at Camp Court Swat.</p> <p style="text-align: right;"> (Salah-Ud-Din) Member (J) Camp Court Swat</p>

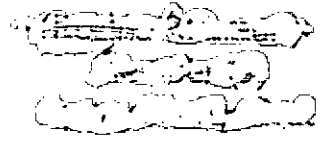
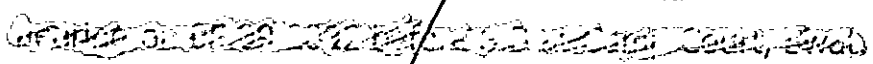
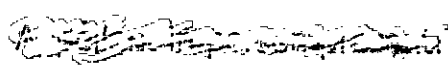
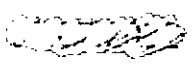
08.06.2022

Clerk of learned counsel for the appellant present.

On the call of Khyber Pakhtunkhwa Bar Council, District Bar Association is observing strike today, therefore, learned counsel for the appellant did not appear before the court. Adjourned. To come up for ~~preliminary hearing~~ on 07.07.2022 before the S.B at camp court Swat.



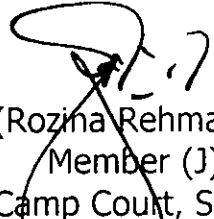
(Mian Muhammad)  
Member (E)  
Camp Court Swat



07.07.2022


Appellant in person present.

He made a request for adjournment as his counsel is not available today. Adjourned. To come up for preliminary hearing on 05.09.2022 before S.B at Camp Court, Swat.

  
(Rozina Rehman)  
Member (J)  
Camp Court, Swat

05.09.2022


Appellant in person present and requested for adjournment on the ground that his counsel is not available today due to strike of lawyers. Adjourned. To come up for preliminary hearing on 05.10.2022 before the S.B at Camp Court Swat.

  
(Salah-Ud-Din)  
Member (Judicial)  
Camp Court Swat

05.10.2022

Learned counsel for the appellant present and heard.

Let pre-admission notice be issued to the respondents through registered post for submission of written reply. Adjourned. To come up for submission of written reply as well as preliminary hearing on 08.11.2022 before the S.B at Camp Court Swat.

  
(Salah-Ud-Din)  
Member (J)  
Camp Court Swat

**SCANNED**  
**KPST**  
**Peshawar**

8<sup>th</sup> Nov, 2022

Appellant in person present. Mr. Muhammad Riaz Khan Paindakhel, learned Asst: AG for respondents present.

The respondents were directed to submit reply which has not been so far. They are directed to submit written reply within fifteen days at principal seat Peshawar. Learned Asst: AG shall inform them and ensure submission of the reply on the next date. To come up for written reply/comments as well as preliminary hearing on 05.12.2022 before S.B at camp court Swat.

SCANNED  
KPST  
Peshawar

9

(Kalim Arshad Khan)  
Chairman

5.12.2022

Tour is hereby cancelled, therefore the case is adjourned to 2.1.2023 for the same as before.

Camp Court Swat

  
Reader

02.01.2023

Nemo for appellant.

Riaz Khan Paindakhel learned Assistant Advocate General alongwith Fazli Khaliq Deputy DEO for respondents present.

It was on 08.11.2022 when respondents were directed to submit written reply but till today reply was not submitted. Last chance is given for submission of written reply failing which their right for submission of written reply shall be deemed as struck off. To come up for written reply/preliminary hearing on 06.02.2023 before S.B at camp court Swat.

02.01.2023

Nemo for appellant.

Riaz Khan Pindakhel learned Assistant Advocate General alongwith Fazli Khaliq Deputy DEO for respondents present.

It was on 08.11.2022 when respondents were directed to submit written reply but till today reply was not submitted. Last chance is given for submission of written reply failing which their right for submission of written reply shall be deemed as struck off. To come up for written reply/preliminary hearing on 06.02.2023 before S.B at camp court Swat.

**SCANNED**  
**KPST**  
**Peshawar**



(Rozina Rehman)  
Member (J)  
(Camp Court Swat)

**BEFORE THE HON'BLE SERVICE TRIBUNAL,**  
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Service Appeal No. \_\_\_\_\_ of 2021

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Government of Khyber Pakhtunkhwa and others  
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**ADDRESSES OF THE PARTIES**

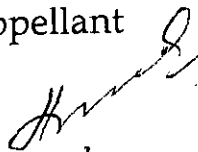
**APPELLANT:**

Nazir Ahmad s/o Sadbar Khan r/o Faiz Abad Saidu Sharif, Swat.  
(NIC#15602-0469654-9) (Cell#0340-5854212)

**RESPONDENTS:**

- 1) Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department at Peshawar.
- 2) Director, Elementary & Secondary Education Department at Peshawar.
- 3) District Education Officer (Male), District Swat at Saidu Sharif.
- 4) District Accounts Officer, Swat at Saidu Sharif.
- 5) Principal, Government High School Wadudia at Saidu Sharif, Swat.

Appellant



Through counsel



Umar Sadiq Advocate  
High Court.



(10)

Ann  
"A"

DIRECTOR OF THE DEPARTMENT OF EDUCATION MALAKAND DIVISION SWAT (SWAT)

MEMORANDUM

Mr. Saad Ahmad S/O Mr. Saad Khan B. So residence of Fais  
Saad Khan (Swat) is hereby appointed temporarily in S-5 S No. 520-  
520 as Junior Clerk against vacant Senior Clerk Post in this Director-  
ate in the interest of public service from the date of taking over charge.

TERMS AND CONDITIONS

1. Medical report should be submitted to all concerned.
2. No S.A/D.A is allowed being first appt. under the rules.
3. The appointment is purely temporary and subject to termination at any time without notice/reasons or promotion of S/Clerk against the said post.
4. The appointment is subject to the production of Health and Age certificate from the Civil Surgeon concerned.
5. He should not be handed over charge if his age exceeds 30 years or below 18 years.

(MUNEER KHAN)

DIRECTOR OF EDUCATION (HEADQUARTERS)  
MALAKAND DIVISION  
SWAT, SWAT

Reference No. 9315-18 Staff, dated Saad Sharif, the 14/3 1984.

Copy of the above is forwarded for information to the-

- 1.- Director of Educational I.S.E.V.P.P, Peshawar.
- 2.- Cashier Local Directorate.
- 3.- P.A to B.E Local Directorate.
- 4.- Candidate Concerned.

*Muneer Khan*  
A.D.S.O

FOR/ DIRECTOR OF EDUCATION (S)  
MALAKAND DIVISION  
SWAT, SWAT

14/3  
84

C.T-C  
*[Signature]*

(11)

Ann  
"B"

APPOINTMENT / ADJUSTMENTS.

The following candidates/teachers are hereby temporarily appointed adjusted as CT/SV/PET/D.Ms posts Grs. 620/- P.M. fixed M.EPS No. 9 plus usual allowances as due and admissible to them under the rules at the schools and posts noted against each in the interest of public service with effect from the date of their taking over charge on the terms and conditions given below:-

S.No.	Name	From	To	Remarks.
1.	Ghulam Hussain, CT.	GHS:Kabal(Swat)	GMS:Odigram(Swat)	Against vacant CT post.
2.	Fazal Wadud CT.	GMS:Sersenai(Swat)	GHS:Kabal(Swat)	Vice S.No.1.
3.	Abdul Aziz, CT.	GHS:Totano Bandai.	GMS:Sersenai(Swt)	V.S.No.2.
4.	Usman Ghani, CT.	GMS:Bydal(Swat)	GMS:Ahingaro Dherai.	Against vacant CT post.
5.	Khalilur Rahman CT.	GMS:Meragai(Swt).	GHS:Kokarai(Swt)	Vice S.No.5.
6.	Mohammad Karam CT.	GMS:Peshmal(Swt)	GMS:Meragai(Swt)	Vice S.No.9.
7.	Muammar, CT.	GHS:Swigalal(Swt)	GHS:Nawakalei(Swt)	v.S.No.3.
8.	Syed Bahram Shah, P.T.C.	GHS:Shagai(Swat)	GHS:No.3. Mingora.	Against vacant CT post.
9.	Shah-i-Mulk, CT.	GHS:Nawakalei(Swt)	GHS:Shamozai(Swt)	-do-
10.	Bakht Jehan, CT.	GHS:Ghalegai(Swt)	GMS:Manyar(Swt)	-do-
11.	Saifur Rahman, CT.	GHS:Parrai(Swt).	GHS:Ghalegai(Swt)	V.S.No.10.
12.	Mohammad Pervez, CT	GHS:Jowar(Swt)	GHS:Parrai(Swt).	V.S.No.11.
13.	Bakht Zada CT.	GHS:Matiltan(Swt).	GHS:Chuprial(Swt).	Against vacant CT post.
14.	Mohammad Yunus, CT.	GHS:Nagrai(Swat).	GMS:Kulyarai(Swat)	-do-
15.	Hussain Ahmad, CT(Agrl.)	GHS:Shamozai	GHS:Khawazakhele	-do-
16.	Mohammad Riaz S/O Mohammed Nawaz R/O Chamtalal. (Candidate).	GMS:Dherai(Chamla)	GMS:Shalpin(Swat)	-do-
17.	Tej Mohammad CT.	GMS:Dherai(Chamla)	GHS:Cherbagh(Swat)	-do-
18.	Usman Rasool S/O Sahib Rasool R/O Kurie(Bunir). Candidate.	GMS:Langaw(Bunir)	GHS:NO.2 Mingora.	-do-
19.	Ali Haider S/O Sani Gul, MA. (No.2 Mingora) R/O Mingora. Candidate.	GHS:NO.2 Mingora.	GHS:Wadudia	-do-
20.	Nazir Ahmad B.Sc: Junior Clerk Divl: Directorate of Edu: Mkd: Div:	Saidu Sherif.	GHS:Wadudia	-do-
21.	Wakil Zada S/O Raziq R/O Nawakille. Candidate.	GHS:Chanzai(Swat)	GHS:Chanzai(Swat)	-do-
22.	Ghulam Rahman S/O Mustahib, R/O Swat. Candidate.	GMS:Anghapur(Swat)	GMS:Anghapur(Swat)	-do-
23.	Mohammad Ibrahim, Jr: Clerk Divl: Directorate of Edu: Mkd: Div:	GHS:Jowar(Swat)	GHS:Jowar(Swat)	Vice S.No:12.
24.	Khalid Mahmood S/O Mohammad Faridoon A.S.I. Police Station Mingora.	GHS:Shekolei(Swat)	GHS:Shekolei(Swat)	Against vacant CT post.
25.	Raza Shah S/O Bunir Shah R/O Parona(Jambil)Swat. Candidate.	GMS:Koz-Pan(Swt)	GMS:Koz-Pan(Swt)	-do-
26.	Amir Rahman B.Sc: DM: GHS:Nagrai.	GHS:Nawagai(Swat).	GHS:Nawagai(Swat).	-do-
27.	Merroof Shah S/O Shahinshah B.Sc: R/O Kenju. Candidate.	GHS:Jowar(Swat).	GHS:Jowar(Swat).	V.S.No.29.
28.	Rahman Shah CT.	GHS:Jowar.(Swat)	GHS:Swigalal(Swt)	V.S.No.7.
29.	Ghulam Sarwar CT on return from leave.	GHS:Shamozai(SWT)	GHS:Shamozai(SWT)	Against vacant CT post.
30.	Mohammad Sher Ali B.Sc: SV	GHS:Bagra(SWT)	GHS:Shawar(SWT)	-do-
31.	Mohammad Iqbal S/O Gulbostan M.Sc: B.Ed GHS:Wadudia. (Candidate).	GHS:Bagra(SWT)	GHS:Bagra(SWT)	V.S.No.30.
32.	Ali Mohammed B.Sc: B.Ed R/O Telash(Dir). Candidate.	GHS:Gadezai(Swat)	GHS:Gadezai(Swat)	Against vacant CT Post.
33.	Fazal Mohammad S/O Haji Mohammad B. So R/O Odigram(Swat).	GHS:Marlung(Swat)	GHS:Marlung(Swat)	-do-
34.	Abdullah S/O Muhammad Kamal B.Sc: GHS:Batara(Swat)	GHS:Batara(Swat)	GHS:Batara(Swat)	-do-

C.T.C  
L

TERMS & CONDITIONS.

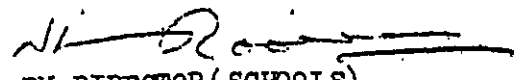
- ...-5-...
1. Charge reports should be submitted to all concerned.
  2. No TA/DA etc; is allowed.
  3. No joining time is allowed except transit days.
  4. The appointments are purely temporary and subject to termination at any time without notice and assigning any reasons. In case of resignation they shall have to submit one month's prior notice to the Department or forfeit one month's pay in lieu thereof to the Government.
  5. They should produce their health and age certificate from the Civil Surgeon concerned.
  6. The Heads of the Institutions are required to check the academic/professional certificates of the candidates before handing over charge to the candidates concerned.
  7. In case the candidates failed to take over charge within 15 days from the date of issue of this letter, their appointment shall stand automatically cancelled.
  8. The verification roll of character antecedents should be obtained from the candidates concerned on the prescribed proforma and it should be submitted to the Police authorities for further verification and then submitted to this office for record.
  9. The Heads of the Institutions are required that the candidates should not be handed over charge if their age exceed 33 years or below 18 years.

(S. ABU SAIED)  
DIRECTOR OF EDUCATION,  
MALAKAND DIVISION,  
SAIDU SHARIF, SWAT.

Endst: No. 9354-9654 /A-3/Grl: Transfer/Dated SaSdu. Sharif, the 30/4/91  
Appointment: CT/SV/PET/DM.

Copy of the above is forwarded for information and necessary action to:

1. The Director of Education (Schools) N.W.F.P. Peshawar.
- 2-8. All Distt: Education Officers (M&F) in Malakand Division.
- 9-22. All the Sub-Divl: Education Officers (M&F) in Malakand Division.
- 23-26. All the Distt: /Agency Accounts Officer in Malakand Division concerned
- 27-170. All the Headmasters of High/Middle Schools (M&F) in Malakand Division
- 171-292. All the candidates concerned.
293. P.A. Local Directorate.

  
DY: DIRECTOR (SCHOOLS),  
FOR/DIRECTOR OF EDUCATION,  
MALAKAND DIVISION,  
SAIDU SHARIF, SWAT.

C.T.C  
↓

محترم جناب قلمی قور پرنسپل صاحب، گورنمنٹ ہائی اسکول، 99 دودو بہ سید شریف سوات  
سوات۔ ریکارڈ کی عطائیں

جناب عالی!

گزارش کی جاتی ہے کہ محبت ملکر ڈیوٹی ٹیلڈ میں  
تفصیلات تھا۔ اس کے بعد میرا ٹرانسفر CT پوسٹ پر  $3\frac{4}{86}$  کو  
شمارہ میرا اور خارج 1997 میں بیان ڈیوٹی سرانجام دے رہا تھا  
جو فہرستہ رقم دیکھی ہو گی۔ چونکہ ہندہ کو GPF Fund اور  
ایئر ریکارڈ کو اشد ضرورت ہے۔

کیونکہ آپ صاحبان میری فرمائش کے لیے میرا ریکارڈ  
بسیار ترقی کا حکم صادر فرمائیں۔ تاکہ میں اپنا GPF Fund  
دفتر میں سکاؤں آپ صاحبان کا شکور رہوں گا

العارض

ایکتابتاج خرمان

نذیر احمد آئی

گورنمنٹ ہائی اسکول، 99 دودو بہ سید شریف

مورخہ 5-3-2019

Sr. sb.

Kindly provide the applicant  
photo/copies of any record, if  
available in the office record.

C.T.C

Principal  
Govt. C.M.H.S. Wadulla  
Saidu Sharif, Swat.

05/03/2019

(15)

(15)

A<sup>111</sup>  
D<sup>11</sup>

Before the Worthy District Education Officer (Male) Swat

Subject: Application for Release of GP Fund and Pensionary Benefits

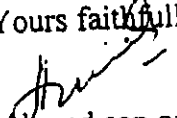
Respected Sir,

Submitted as under:

1. That I was appointed as Junior Clerk in Divisional Directorate on 12-03-1984 (Copy of order is attached).
2. That later on I was appointed as CT and subsequently posted as such at Government High School Wadudia Saidu Sharif Swat. Worth to mention that my lien period was kept intact by the competent authority vide order dated 07-05-1986 (Copies of orders are attached).
3. That subsequently I performed my duties as CT till 1997, when I proceeded on extra ordinary leave granted by the competent authority.
4. That after arrival from the aforementioned leave, I reported to my department and place of posting, where I was informed that my entire service record is missing.
5. That being so, I presented various applications and made oral requests for redressal of my grievances but to no avail.
6. That later on, I reached the age of superannuation, however, no proper retirement order was made either by the concerned quarters.
7. That subsequently, I started my efforts for release of GP fund and pensionary benefits by submitting various written and oral requests (Copies of written requests are attached).
8. That regrettably, no progress whatsoever has been made in the instant matter as yet.

It is humbly requested that while accepting this application, the subject benefits may be ordered to be released to me as per my entitlement.

Yours faithfully,

  
Nazir Ahmad son of Sadbar Khan  
Ex-CT, Govt. High School, Wadudia  
Saidu Sharif Swat.

27/3/19

Copy for information:

Principal Wadudia High School Saidu Sharif, Swat.

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**BEFORE THE DIRECTOR, ELEMENTARY &  
SECONDARY EDUCATION KHYBER  
PAKTHUNKHWA AT PESHAWAR.**

Departmental Appeal  
Dated: 20-09-2019

**APPEAL FOR RELEASE OF GP FUND AND  
PENSIONARY BENEFITS**

Respected Sir,

Submitted as under:

- 1) That I was appointed as Junior Clerk in Divisional Directorate on 12-03-1984 (Copy of order is attached).
- 2) That later on, I was appointed as CT and subsequently posted as such at Government High School Wadudia Saidu Sharif, Swat. Worth to mention that my lien period was kept intact by the competent authority vide order dated 07-05-1986 (Copies of orders are attached).
- 3) That subsequently, I performed my duties as CT till 1997, when I proceeded on extra ordinary leave granted by the competent authority.
- 4) That after arrival from the aforementioned leave, I reported to my department and place of posting, where I was informed that my entire service record is missing.
- 5) That being so, I presented various applications and made oral requests for redressal of my grievances but to no avail.

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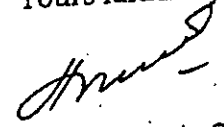
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- 6) That later on, I reached the age of superannuation, however, no proper retirement order was made either by the concerned quarters.
- 7) That subsequently, I started my efforts for release of GP fund and pensionary benefits by submitting various written and oral requests including application to District Education Officer (Male), Swat (Copies of written requests are attached).
- 8) That regrettably, no progress whatsoever has been made in the instant matter as yet.

It is, therefore, humbly requested that while accepting this appeal, the subject benefits may be ordered to be released to me as per my entitlement.

Yours faithfully



Nazir Ahmad s/o Sadbar Khan  
Ex-CT, Govt: High School Wadudia  
Saidu Sharif, Swat.

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Shipper's Account #

Consignment # 191001574175

PEW

Sales Tax Invoice

DOMESTIC

Origin: Mex, Destination: Gm

Pieces: 1, Weight: 1

Shipper Information: Name: M&P, Address: Alameda, Mexico

Consignee Information: Name: The Director, Address: E. Benito Juarez, S. Gonzalez

Dimensions of Shipment: Length, Width, Height, Total Weight

Service Type: Overnight, Special Handling, Second Day, Same Day, Sunday/Holiday

Insurance: Do You Require Coverage? YES NO Ins. Premium: Declared Value:

Shipment Contents: I confirm & affirm that I have understood and agree on all the rates, notes and terms and conditions stated hereafter and that all details given herein are true and correct.

Collection By: Code: 439 Date: 30/9/19 Time: NTN: 0860540-8

Table with columns: CASH, CREDIT, Charged Rates, Other Charges, Insurance, Taxes, Total Amount

Customer Care: +92-21 111 202 202 | contact@mulphilog.com

Handwritten notes: CF-C, CF-C, E



**BEFORE THE PESHAWAR HIGH COURT,  
MINGORA BENCH/ DARUL QAZA, SWAT**

**(ORIGINAL JURISDICTION)**

Writ Petition No. 57- -M of 2020.

Nazir Ahmad s/o Sadbar Khan r/o Faiz Abad Saidu Sharif,  
Swat.

.....Petitioner

VERSUS

- 1) Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department at Peshawar.
- 2) Director, Elementary & Secondary Education Department at Peshawar.
- 3) District Education Officer (Male), District Swat at Saidu Sharif.
- 4) District Accounts Officer, Swat at Saidu Sharif.  
Principal, Government High School Wadudia at Saidu Sharif,  
Swat.

.....Respondents

**WRIT PETITION UNDER ARTICLE 199 OF  
THE CONSTITUTION OF THE ISLAMIC  
REPUBLIC OF PAKISTAN:**

**TESTED**  
Examiner  
Peshawar High Court Bench  
Mingora Darul-Qaza, Swat.

**Respectfully Sheweth:-**

- 1) That the petitioner was appointed as Junior Clerk in Divisional Directorate of Education at Swat on 12-03-1984 (Copy of appointment order is attached as Annexure "A").

**LED TODAY**

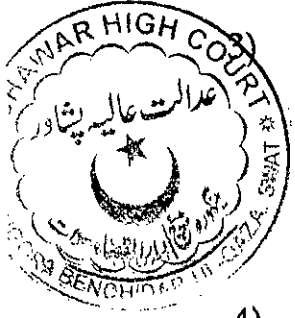
**09 JAN 2020**

**Additional Registrar**

- 2) That later on, the petitioner was appointed as CT and subsequently posted as such at Government High School Wadudia Saidu Sharif, Swat. Worth to mention that the

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petitioner's lien period was kept intact by the competent authority vide order dated 07-05-1986 (Copies of orders are attached as Annexure "B").



That subsequently, the petitioner performed his duties as CT till 1997, when he proceeded on extra ordinary leave granted by the competent authority.

4) That after arrival from the aforementioned leave, the petitioner reported to his department and place of posting, where he was informed that his entire service record is missing.

5) That being so, the petitioner presented various applications and made oral requests for redressal of his grievances but to no avail.

**ATTESTED**  
Examiner  
Swat High Court Bench  
Mingora Dar-ul-Qaza, Swat.

6) That later on, the petitioner reached the age of superannuation, however, no proper retirement order was made either by the concerned quarters.

7) That subsequently, the petitioner started efforts for release of GP fund and pensionary benefits by submitting various written and oral requests including application to District Education Officer (Male), Swat (Copy of written request is attached as Annexure "C").

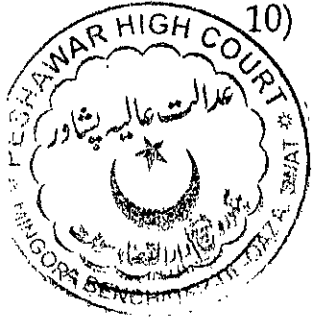
8) That regrettably, no progress whatsoever was made, hence the petitioner filed another application before the worthy DEO/respondent No.3 (Copy of application dated 27-03-2019 is attached as Annexure "D").

**FILED TODAY**

09 JAN 2020

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9) That again no action was taken on the aforementioned application, hence the petitioner filed Departmental Appeal before respondent No.2 (Copy of memo of appeal with courier receipt is attached as Annexure "E").



10) That despite the lapse of a considerable amount of time, no response has been received from the concerned quarters regarding the aforementioned appeal. Hence, being left with no legal remedy, the petitioner files this petition, *inter alia*, on the following grounds:

**GROUND:**

A) That the impugned omission on behalf of respondents is illegal. Hence, the same is liable to be declared as such and mandamus ought to be issued to respondents for grant of pensionary benefits to the petitioner.

B) That there exists no final order whatsoever within the meaning of the Civil Servants Act and the Rules made there under. Being so, the matter does not fall within the jurisdiction of Service Tribunal and this Hon'ble Court is the sole forum to issue mandamus in the instant matter.

C) That the petitioner has served his parent department for a considerable period of time. Furthermore, regular deductions have been made from the petitioner towards payment of GP Fund and Pension. The impugned omission of not releasing the benefits arising out of service and the said deductions is extremely harsh for the petitioner particularly at this stage of his age.

ATTESTED

Examiner

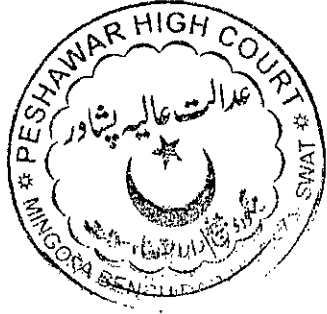
Peshawar High Court Bench  
Mingora Dar-ul-Qaza, Swat.

FILED TODAY

09 JAN 2020


Additional Registrar

- D) That the petitioner has no source of livelihood for him and his family. Depriving the petitioner from his lawful entitlements is tantamount to deprive him from the right to live as guaranteed by Article 9 of the Constitution of the Islamic Republic of Pakistan.
- E) That further grounds, with leave of this Hon'ble Court, would be raised at the time of oral submissions.



It is, therefore, humbly prayed that on acceptance of this petition, mandamus be issued to the respondents for release of GP Fund and other Pensionary benefits to the petitioner. Any other remedy though may not specifically prayed for, but which the circumstances of the case would demand in the interests of justice, may also be granted.

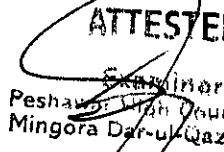
Petitioner  
Through counsel

  
Dr. Adnan Khan Barrister-at-Law,  
Advocate Supreme Court of Pakistan.

**FILED TODAY**

09 JAN 2020

Additional Registrar

**ATTESTED**  
  
Examiner  
Peshawar High Court Bench  
Mingora Dar-ul-Qaza, Swat.

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**BEFORE THE PESHAWAR HIGH COURT MINGORA BENCH / DARULQAZA SWAT**

Writ petition No. 57-M/2020

Nazir Ahmad S/O Sadbar Khan R/O Faiz Abad Saidu Sharif, District Swat.

.....Petitioner

**Versus**

1. Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Department at Peshawar.
2. Director Elementary and Secondary Education Khyber Pakhtun Khwa Peshawar.
3. District Education officer (Male) Swat.
4. District Accounts Officer, Swat at Saidu Sharif.
5. Principal Government High School Wadudia at Saidu Sharif, Swat.

.....respondents

*Vatted*  
Additional Advocate  
Khyber Pakhtun Khwa  
at District Swat

**Parawise Comments on Behalf of the Respondent No. 3**

**Respectfully shewith**  
**Preliminary objections**

1. That the petitioner is not an aggrieved person within the meaning of Article 199 of the constitution of Islamic republic of Pakistan.
2. The instant Writ Petition is hit by laches.
3. That the petitioner has no cause of action / locus standi.
4. That the petitioner has not come to this honourable court with clean hands.
5. That the petitioner has filed this instant writ petition just to pressurize the respondents.
6. The present petition is liable to be dismissed for non-joinder/miss joinder of necessary parties.
7. That the instant Writ petition is against the prevailing law and rules.
8. That the petitioner has filled this instant Writ petition on malafide motives.
9. That the instant Writ petition is not maintainable in the present form, and above in the present circumstances of the issue.
10. That the petitioner has concealed the material facts from this honourable court.
11. That the fact in issue pertains to the terms and conditions of the service, hence, the jurisdiction of this honourable court is specifically ousted under the expressed provisions of Article: 212 of the constitution

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**FACTS**

**FILED TODAY**

29 JUL 2020

2. That the Para No.2 is correct to the extent of the appointment of the Petitioner as CT and his lien, but it is worth to mention here that the Petitioner was temporarily appointed/ adjusted as CT. His appointment was on temporary basis and not on regular basis as clear from his appointment order.
3. That the Para No.3 is incorrect and not admitted. The Petitioner has not annexed any order whether he was on sanctioned leave or otherwise?
4. That the Para No.4 is incorrect and not admitted. He neither submitted arrival report nor attended his place of duty. If he was on Extra-ordinary leave, then on arrival back, he should submit his arrival report to the leave sanctioning authority for his adjustment at any needy school. In fact the Petitioner willfully remained absent for more than 22 years.
5. That the Para No.5 is incorrect and not admitted. The Petitioner has not submitted any application to the respondent department for his posting or redressal of his grievances. If he had any grievances, he should have filed representation/ appeal to the respondent department for the redressal of his grievances within the stipulated time.
6. That the Para No.6 is quite astonishing. The Petitioner was temporarily appointed/ adjusted as CT and he remained absent for more than 22 years and was not in service, then how can he claim that he reached the age of superannuation and claims service benefits?
7. That the Para No.7 is correct to the extent of the application of the Petitioner for provision of record to the Principal, the rest of the Para is incorrect and not admitted. The Petitioner cannot be granted any service benefits under the expressed provisions of the rules. According to the ESTA code, after 5 years of continues absence, services of a civil servant shall automatically stand terminated under FR-18 and Rule 12 of the NWFP Civil Servants Revised Leave Rules, 1981. In the light of Rule 12 ibid, a willful absence of more than five years shall not be converted into leave without pay. (Relevant pages Additional Registrar of ESTA code as Annexure A)
8. That the Para No.8 is correct to the extent of the application, the rest of the Para is incorrect and not admitted. As stated in the above Para, the Petitioner was on temporary post as well as he remained absent for such a long period. Therefore he is not entitled to be granted any service benefits.
9. That the Para No.9 is the repetition of the above Paras, hence no comments.
10. That the Para No. 10 is incorrect and not admitted. The Petitioner

**FILED TODAY**

29 JUL 2020

Additional Registrar of ESTA code as Annexure A

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for his grievances (if any) within the stipulated time and then the learned service tribunal has the exclusive domain to resolve the matters founded on the terms and conditions of the service. Thus, the instant Writ petition of the petitioner is bereft of any merit hence liable to be dismissed inter-alia following grounds.

**GROUND**

- A. That the Para No. (A) is incorrect and not admitted. The Petitioner is not entitled to be granted pensionary benefits and the Petitioner wants to give undue loss to the exchequer for his own fault.
- B. That the Para No. (B) is incorrect and denied. Detail reply of this Para has been given in the preliminary objections as well as in the foregoing Paras.
- C. That the Para No.(C) is correct to the extent of the deductions of GP fund only, no deductions are made for pension from any employee.
- D. That the Para No.(D) is irrelevant, hence no comments.
- E. That the Para No.(E) is legal, hence no comments. However respondents also seek leave of this Honourable Court to raise further grounds at the time of arguments.

It is, therefore, very humbly prayed that the instant writ petition of the petitioner may be dismissed with cost in favour of the respondents.

DISTRICT EDUCATION OFFICER (M)  
SWAT AT GULKADA

**FILED TODAY**  
29 JUL 2020  
Additional Registrar

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**BEFORE THE PESHAWAR HIGH COURT MINGORA BENCH / DARULQAZA SWAT**

Writ petition No. 57-M/2020

Nazir Ahmad S/O Sadbar Khan R/O Faiz Abad Saidu Sharif, District Swat.

.....Petitioner

**Versus**

1. Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Department at Peshawar.
2. Director Elementary and Secondary Education Khyber Pakhtun Khwa Peshawar.
3. District Education officer (Male) Swat.
4. District Accounts Officer, Swat at Saidu Sharif.
5. Principal Government High School Wadudia at Saidu Sharif, Swat.

..... respondents

**AFFIDAVIT**

I, Bakht Rahman litigation officer Office of the DEO (M) Swat do hereby solemnly affirm and declare on oath on the directions and on behalf of the Respondent No. 3, that the contents of the comments are true and correct to the best of my knowledge and belief and nothing has been kept secret from this august court.

**Additional Advocate General  
Khyber Pakhtun Khwa  
at Dar-ul-Qaza, Swat.**

**Bakht Rahman  
Litigation officer O/O DEO (M) Swat**

**FILED TODAY**

**29 JUL 2020**

**Additional Registrar**

S.No 2646  
 Certified that the above was verified on solemn affirmation before me on this 29th day of Jul 2020 by Bakht Rahman S/o Haizet Rahman R/O Swat who was identified by A.A.G.  
 \_\_\_\_\_ Who is personally known to me.

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**ADDL: REGISTRAR  
Peshawar High Court  
Mingora Bench/Dar-ul-Qaza, Swat.**





OFFICE OF THE  
DISTRICT EDUCATION OFFICER (MALE)  
Swat (Cell # 0946 9240209-228)

27



AUTHORITY LETTER

Mr. Bakht Rahman litigation officer office of the DEO (M) Swat is hereby authorized to Submit the Para wise comments in W.P No.57-M/2020 titled Nazir Ahmad Versus Government of KPK and others in Peshawar High Court Mingora Bench/ darul Qaza Swat on behalf of respondent No.3.

*Nazir Ahmad*  
15/10/20

DISTRICT EDUCATION OFFICER  
(M) SWAT AT GULKADA

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### Withdrawals of Resignation.

#### Acceptance of resignation and willful absence for more than five (5) years.

Under the existing practice, even a temporary Government servant is required to sign an undertaking containing inter alia the following provisions:-

- (a) I understand that my employment under Government is temporary and that my services may be terminated by Government at any time, without assigning any reasons, by giving a notice for a period not less than 14 days or payment, in lieu of the notice, of a sum equivalent to my pay for 14 days or for the period by which the notice falls short of 14 days;
- (b) I agree that I wish to terminate my services under Government at any time, I shall resign in writing and shall thereafter continue to serve Government until my resignation is accepted.
- (c) I also understand that if I absent myself from duty without resigning in writing or before the acceptance by Government of my resignation, I shall be liable to disciplinary action, which may involve disqualification from future employment under Government.

2. It has however, come to notice that in certain cases Government servants have tendered resignations and without waiting for acceptance have left their jobs unauthorisedly and kept themselves absent for years. The departments on their part failed to initiate any action against such employees in time with the result that they subsequently reported for duty after the passage of long periods on one excuse or the other.

3. It has also been noticed that liberal relaxations are being granted under FR.18 in cases of willful absence from duty for more than 5 years without cogent/convincing reasons whereas according to the rules ibid a Government servant remains no more a Government employee after willful absence for five years.

4. The matter has been considered and it has been decided that:-

- (a) After tendering resignation, a Government Servant shall not leave his job until the acceptance of his resignation by the Competent Authority nor shall he be granted any leave. In case one leaves his job without acceptance of his resignation he shall be treated as absconder and disciplinary action should invariably be initiated against him.
- (b) Resignation tendered by a Government servant shall either be accepted or rejected by the Competent Authority within the stipulated period of not more than 30 days of its submission and acceptance/rejection thereof be communicated to the Government servant concerned accordingly.
- (c) After 5 years of continuous absence, services of a Civil Servant shall automatically stand terminated under FR:18 and Rule 12 of the NWFP Civil

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Servants Revised Leave Rules, 1981. In the light of Rule 12 *ibid*, a willful absence of more than five years shall not be converted into leave without pay.

5. It is therefore, requested that the above instructions may be brought to the notice of all concerned for strict compliance in future.

(Authority: S&GAD's letter No. SOXII(S&GAD)6(37)/89, dated 3rd Oct., 1989).

#### **Determination of seniority of officials who are allowed to withdraw their resignation**

A question has arisen whether a Government servant who resigned and has subsequently been allowed to withdraw his resignation should be assigned seniority and given other benefits which would have accrued to him had he not resigned.

2. When a resignation tendered by a Government servant has been accepted and the acceptance has been communicated to him, it becomes final. There can be no question of allowing him to 'withdraw' the resignation.

3. Where a Government servant who has tendered resignation withdraws it before it is accepted by the competent authority, or where, after the acceptance but before the acceptance is communicated to him, he is allowed to withdraw the resignation, he continues in the post held by him without a break and the question of re-fixation of his seniority, etc. does not arise.

4. Where an appellate authority finds that the resignation was not tendered voluntarily or that it is otherwise null and void, the appellate authority may re-instate the Government servant concerned. On re-instatement the Government servant shall be regarded as having continued in service throughout.

5. If a Government servant, whose resignation has been accepted and communicated to him, is appointed to Government service thereafter, such appointment shall be regarded as a fresh appointment. The seniority, pension, leave, etc. of such a Government servant shall be fixed in accordance with the rules applicable to him as if this appointment was his first appointment to Government service.

6. There may, however, be cases in which it may not be fair to treat such a re-employed Government servant as a new recruit and it is proposed to give him any benefit in relaxation of the rules, the orders of the Government should invariably be obtained.

(Authority S&GAD letter No. SOXII/2-96/59, dated 24.12.59)

#### **Preparation/issuance of seniority list of Government Servants**

I am directed to say that sub-section (1) of Section 8 of the NWFP Civil Servants Act, 1973, *inter alia* provides that for proper administration of service, cadre or post, the appointing authority shall cause to prepare a seniority list of the members for the time being of such service, cadre or post. Similarly, the note below clause (c) of sub-rule (2) of the rule 6 of the NWFP Service Tribunals Rules, 1974, enjoins upon the appointing authority or any other authority which has been delegated the powers to make decision regarding seniority of

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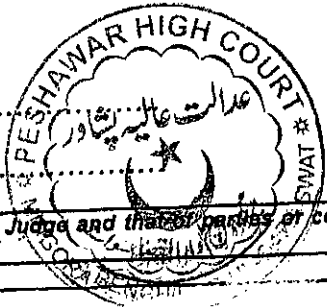


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Amir H

**PESHAWAR HIGH COURT, MINGORA BENCH (DAR-UL-QAZA), SWAT**

**FORM OF ORDER SHEET**



Court of .....

Case No..... of.....

1	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary.
	27-10-2021	<p><u>W.P No. 57-M/2020</u></p> <p><b>Present:</b> Barrister Dr. Adnan Khan for the petitioner. Mr. Sohail Sultan, Assistant A.G for the respondents.</p> <p>*****</p> <p><u>ISHTIAQ IBRAHIM, J.-</u> At the very outset, learned counsel for petitioner requested for withdrawal of the instant writ petition in order to approach a proper forum. The writ petition in hand is therefore dismissed as withdrawn. However, petitioner would be at liberty to approach the appropriate forum, if so advised.</p> <p><u>Announced</u> <u>Dt: 27.10.2021</u></p> <p style="text-align: right;">JUDGE</p> <p style="text-align: right;">JUDGE</p>

S No. 06

Name of Applicant [Signature]

Date of Presentation of Applicant 4-4-2021

Date of Completion of Copies 4-11-2021

No of Copies 05

Urgent Fee [Signature]

Fee Charged 207

Date of Delivery of Copies 4-4-2021

**Certified to be true copy**

[Signature]

**EXAMINER**

Peshawar High Court, Mingora/Dar-ul-Qaza, Swat  
Authorized Under Article 87 of Qanoon-e-Shahadat Order 1984

Office 20/10/21