

Sir,
I want to withdraw the instant appeal
with the permission to file a fresh
one if need be. M 20/02/2020

0.02.2020

Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Ahmad-ud-Din, ADEO for the respondents present. Learned counsel for the appellant requested for withdrawal of the present service appeal with the permission to file fresh service appeal if needed be. In this regard signature of learned counsel for the appellant was obtained at the margin of order sheet as a token of proof. Accordingly, the present service appeal is dismissed as withdrawn with the permission to file fresh service appeal if needed subject to limitation and all legal objections. File be consigned to the record room.

ANNOUNCED
20.02.2020

Muhammad Amin
(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

12.11.2019

Junior to counsel for the appellant and Addl. AG for the respondents present.

Learned AAG requests for time to contact the respondents and submit the requisite reply/comments on the next date.

Adjourned to 29.11.2019 on which date reply/comments shall positively be submitted.


Chairman

29.11.2019

Counsel for the appellant present. Mr. Usman Ghani, District Attorney present.

Despite the request of learned AAG on the last date of hearing, the respondents have not submitted reply/comments.

Adjourned to 10.1.2020 on which date the respondents shall positively furnish reply/comments. Notices be accordingly issued to the respondents.


Chairman

10.01.2020

Appellant present in person. Nemo for the respondents.

Fresh notices be issued to the respondents by way of last opportunity. To come up for written reply/comments on 20.02.2020 before S.B.


Chairman

I want to withdraw the instant appeal with the permission to file a fresh appeal if need be.
U.S.
20/1/2020

14.10.2019

Counsel for the appellant present.

Contends that the appellant applied for his retirement on medical grounds due to severe diabetes and amputation of left leg. He was referred to a medical board which recommended the retirement of appellant on medical grounds. The DEO (Male) Chitral/respondent No. 3, on the other hand, directed the appellant to apply for premature retirement which was not his case. The departmental appeal submitted on 04.07.2019 remained un-responded, hence the present appeal.

In view of the available record, instant appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to the respondents for submission of written reply/comments on 29.10.2019 before S.B.

The appeal is accompanied by an application for restraining the respondents from issuing premature retirement order of appellant. Notice of the application be also given to the respondents for the date fixed. In the meanwhile premature retirement order of the appellant shall not be issued by the respondents.

Chairman



29.10.2019

Appellant absent. No one present on behalf of respondents. Fresh notices be issued to the respondents for reply/comments. Adjourn. To come up for written reply/comments on 12.11.2019 before S.B. Appellant be also put to notice for the date fixed.

Member



Appellant Deposited
Security & Process Fee

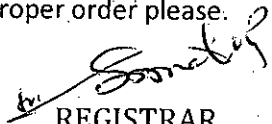

24/10

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 1222/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	07/10/2019	<p>The appeal of Mr. Fazal Rabbi presented today by Mr. Noor Muhammad 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-	10-10-19	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>14-10-2019</u></p> <p> CHAIRMAN</p>

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

APPEAL No. 1222 /2019

FAZAL RABBI

V/S

EDUCATION DEPTT:

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5.	Letter	C	9.
6.	Opinion	D	10- 11.
7.	Impugned order	E	12.
8.	Departmental Appeal	F	13.
9.	Vakalatnama	-----	14.

APPELLANT

THROUGH:


**NOOR MOHAMMAD KHATTAK,
ADVOCATE**

ROOM NO. 3, UPPER FLOOR,
NEW ISLAMIA CLUB BUILDING,
KHYBER BAZAR, PESHAWAR CITY
0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 1222 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1345

Dated 07-10-2019

Mr. Fazal Rabbi, Sweeper,
Govt: High School Sweer, District Chitral.....**APPELLANT**

VERSUS

- 1- The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The District Education Officer (Male), District Chitral.

.....**RESPONDENTS**

**APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED
ORDER DATED 03.07.2019 ISSUED BY THE RESPONDENT
NO.3 REGARDING PRE-MATURE RETIREMENT OF THE
APPELLANT INSTEAD OF RETIREMENT ON MEDICAL
GROUND AND AGAINST NO ACTION TAKEN ON THE
DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE
STATUTORY PERIOD OF NINETY DAYS.**

PRAYER:

That on acceptance of this appeal the impugned order/letter dated 03.07.2019 may very kindly be set aside and the respondents may be directed to retire the appellant on medical ground in light of the opinion of standing medical board dated 17.06.2019. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

- 1- That appellant is the employee of the respondent Department and has served the respondent Department as Sweeper for more than 30 years quite efficiently and upto the entire satisfaction of his superiors.
- 2- That during service the appellant suffered by disease of Diabetes and the appellant started treatment the above said disease but the appellant undergone above knee amputation, thus due to the left leg amputation the appellant become unable to continue his duty. Copy of the medical prescriptions are attached as annexure.....**A.**
- 3- That after amputation of leg the appellant submitted an application before the respondent No.3 for retirement on medical ground. That the respondent No.3 forwarded the said application of the appellant

Filed to-day
07/10/19
Registrar

to the Medical Superintendent, District Head Quarter Hospital, Chitral for constituting Medical Board and the same was constituted on 17.06.2019. Copies of the application and letter are attached as annexure.....**B & C.**

4- That the Standing Medical Board has medically examined the appellant and the same was of the opinion that the appellant no more fit for Government service and recommend him for retirement on medical ground. Copy of the opinion is attached as annexure.....**D.**

5- That in light of the opinion of the Standing Medical Board the appellant time and again requested the respondents to retire the appellant on medical ground but the respondent No.3 has issued the impugned order dated 03.07.2019 for pre-mature retirement instead the retirement on medical ground. Copy of the impugned order is attached as annexure.....**E.**

6- That feeling aggrieved from the impugned order dated 03.07.2019 the appellant preferred Departmental appeal before the appellate authority but no reply has been received so far. That appellant feeling aggrieved and having no other remedy filed the instant service appeal on the following grounds amongst the others. Copy of the Departmental appeal is attached as annexure.....**F.**

GROUND

A- That the impugned order dated 03.07.2019 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.

B- That appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973.

C- That the respondents are acted in arbitrary and malafide manner while issuing the impugned order dated 03.07.2019 for pre-mature retirement instead of retirement on medical ground.

D- That the respondent Department inspite knowing the fact that due to amputation of leg the appellant is not able to perform any kind of duty issued the impugned order dated 03.07.2019 regarding pre-mature retirement of the appellant.

E- That the standing medical board has been given opinion that appellant is not fit for government service but the respondent Department by ignoring the opinion of standing medical board issued the impugned order dated 03.07.2019.

F- That in light of the opinion of standing medical board the appellant is fully entitle for retirement on medical board, but the respondent No.3 malafidely issued the impugned order dated 03.07.2019.

G- That the petitioner seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

Dated: 07.10.2019

APPELLANT


FAZAL RABBI

THROUGH:


NOOR MOHAMMAD KHATTAK

&


MIR ZAMAN SAFI
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

C.M. NO. _____/2019

IN

SERVICE APPEAL No. _____/2019

FAZAL RABBI

VS

EDUCATION DEPTT:

APPLICATION FOR RESTRAINING THE RESPONDENTS
FROM ISSUING PRE-MATURE RETIREMENT ORDER OF
THE APPELLANT TILL THE DISPOSAL OF THE ABOVE
MENTIONED APPEAL

R/SHEWETH:

- 1- That the above mentioned appeal along with this application has been filed the appellant before this august service Tribunal in which no date has been fixed so far.
- 2- That appellant filed the above mentioned appeal against the impugned order dated 03.07.2019 whereby the respondents are pre-maturely retiring the appellant instead of retirement on medical ground.
- 3- That all the three ingredients necessary for the stay is in favor of the appellant.
- 4- That the act of the respondents regarding pre-mature retirement of the appellant is falling in utter violation of law and prevailing Rules.

It is therefore, most humbly prayed that on acceptance of this application the respondents may very kindly be restrained from issuance of the order regarding pre-mature retirement till the disposal of the above mentioned service appeal.

Dated: 07.10.2019

APPLICANT

FAZAL RABBI

THROUGH:

NOOR MOHAMMAD KHATTAK

&

MIR ZAMAN SAFI
ADVOCATES

اس وقت کے ہمارے لائیں

A-5

OUT - DOOR PATIENT'S TICKET

Institution: _____
 District: _____

Yearly OPD NO: 3487

Name: قصیر دانی
 Father / Husband's Name _____
 Age 50 Sex M Address _____
 Health Problem / Diagnosis: _____
 Patient Seen by: _____

Date (s)	History / Clinical Finding / Action Taken
19-4-19	<p>Diabetic foot</p> <hr/> <p>FBS</p> <hr/> <p>RFIS TURB</p> <hr/> <p>Refers to endocrinology ward HMC through <u>_____</u> (D)</p>

Attended
 G



LADY READING HOSPITAL
MEDICAL TEACHING INSTITUTION
PESHAWAR, KP

Patient Identification

Fazla Razi

6

From: Chitral

MScW

8/5/19

MR# 219000043492

DISCHARGE SUMMARY

Attending Physician: Dr. Tilm Ahmad

Clinical Service: A & E

Date of Admission: 22/04/19

Date of Discharge: 08/05/19

Secondary Diagnosis (es): Grade IV left side Diabetic foot with Ascending infection

Procedures / Operations: left Above knee joint Amputation done on 25/04/19

Consultation:

Brief History & Hospital: Previously healthy man known Type II Diabetic presented to us in A & E with left side Gargantuan diabetic foot with Ascending left leg infection. It was foul smelling & had a heavy dirty pus draining from it for which we performed A & A

Discharge Medication:

Insulin - R 16 + 16 + 16
NPH 14 + 14
Tab Avelox 500mg (1) (1) (1) (1)
Tab Nurokyl 400mg (1) (1) (1) (1)
Tab Paracetamol 500mg (1) (1) (1) (1)

Activity & Dietary Instruction:

Follow-up Instruction:

Nurse:

Doctor:

Signature

DR. TILM AHMAD RAZA
HOD Surgical Department
Assistant Prof. Surgical C Unit
Signature TI LRH.

I have read and understand the given instructions.

Patient / Responsible Person's Name

Discharge summary

CASE SUMMARY

⑦

PATIENT'S NAME: Mr. Fazal Rabi
 RELATIONSHIP WITH GOVT SERVANT: Self
 NAME OF THE GOVT SERVANT: Mr. Fazal Rabi
 DESIGNATION: Sweeper at GHS Swees
 DEPARTMENT: DEO (M) office Chitral
 ADDRESS: Village Swees Tehsil District Chitral
 ATTENDANT REQUIRED: One attendant is allowed with the patient for hospitalization at Peshawar.

BRIEF HISTORY:

DM
 e Head
 chul 3/12

INVESTIGATIONS DONE:

→ Blood sugar 130 f
 → urine ~~33~~ 60 f
 → med on p

TREATMENT GIVEN:

by mixed 30 16M
 180

REASON OF REFER:

DM + Head
 need e 7 Brain
 Refr to ~~at~~ 1/11/16
 new sign
 Attested
 of

C/S med

MEDICAL SUPERINTENDENT
 DHO HOSPITAL CHITRAL

4/30/16



DR. RUKNUD DIN
 Medical-Specialist
 DHO: Hospital Chitral

حکومت صاحب DEO صاحب (مردان) ورنال

مدرسہ صاحب صدر میاں صاحبہ نور احمد صاحبہ سکول سٹوڈنٹس

(8) B

مدرسہ صاحبہ - درجہ اولیٰ مراد صاحبہ فیکلٹیشن بدین صاحبہ

بچے دوران لکچر و سعاد ثانی طور پر سیزہ

مقررہ ہے



صاحب عالی

مطلب ہے - ایک فرد کے تحت سے میرا میں لکچر Sweeper

آفسن طور پر آئیہا میں سبھی انجام دیا ہے صاحبہ آفٹیکل حوزہ
میں میں سے سبھی کی میں نظر ڈالوں کے شور سے صاحبہ
مدرسہ صاحبہ کو کماٹ دیا گیا - اور میں نے آئیہا میں سے

میں نے میں سے مقررہ ہے
میں نے میں سے مقررہ ہے
میں نے میں سے مقررہ ہے
میں نے میں سے مقررہ ہے

2019/5/28
آئیہا میں سے مقررہ ہے
میں نے میں سے مقررہ ہے
میں نے میں سے مقررہ ہے

Forwarded to DEO(M) for necessary action please

Handwritten signature and stamp of the District Education Officer, Chitral.

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151
191
2199
2224
educati
4 Gi
in
R.

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) CHITRAL.
PHONE NUMBER 0943-412627. EMAIL ADDRESS. deomchitral@mail.com.

No. 11183 /EB (M) M-1/Medical Board dated Chitral the 30/05/2019.

To,

The Medical Superintendent,
District Head Quarter Hospital
Chitral.

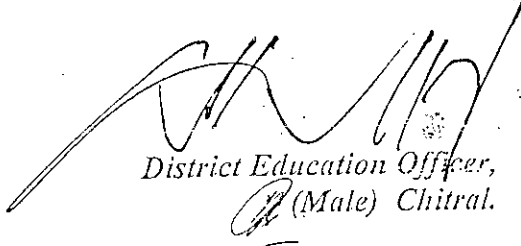
Subject:-
Memo:

CONSTITUTION OF MEDICAL BOARD.

An application along with other relevant documents submitted by Mr. Fazal Rabbi S/O Abd Ul Ghani Sweeper Govt High School Sweer District Chitral is enclosed herewith.

Therefore, it is, requested to arrange Medical Board to examine the health of the above named official and result be intimated to this office for further necessary action, please.

(Encl: as above.)

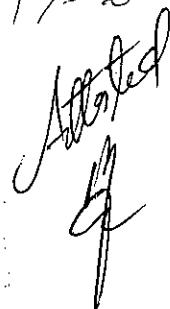

District Education Officer,
(Male) Chitral.

Endst: NO. _____ /EM (M) M-1 Dated Chitral the _____ / _____ /2019.

Copy forwarded for information to the:

1. Headmaster GHS Sweer.
2. Mr. Fazal Rabbi Sweeper GHS Sweer with ref to your application dated 20/05/2019 and with the remarks to appear before the Medical Board as and when date & time fixed by Medical Superintendent DHQ Hospital Chitral positively.

17-6-2019



51 _____
District Education Officer,
(Male) Chitral

OFFICE OF THE MEDICAL SUPERINTENDENT
DISTRICT HEADQUARTER HOSPITAL CHITRAL
Phone & Fax No: +92-943-412634
E-mail: dhqhchitral@gmail.com



No. 1741 /DHQH/M-2

Dated 7th /06/2019

To,

The District Education Officer,
Male, Chitral.

D-10

Subject: MEDICAL BOARD.

Sir,

With reference to your letter No. 11183EB(M)m-1(Medical Board), dated: 30/05/2019, enclosed please find herewith a medical board proceeding in respect of Mr. Fazal Rabbi S/O Abdul Ghani, Sweeper at GHS Sweer, Chitral for information and further necessary action please:-

2367
18/6/19

J. J. Khan
MEDICAL SUPERINTENDENT
DHQ HOSPITAL CHITRAL

EB Secondary
For N/A please
17/06/2019
Attested

11



MEDICAL BOARD:

A meeting of the Standing Medical Board was convened today on 17/06/2019 at 10:00AM in the office of the undersigned in order to examine Mr. Fazal Rabbi S/O Abdul Ghani, Sweeper at GHS Sweer, attached DEO male Chitral.

After thorough physical examination and in the light of his previous investigation/ medical records and his present health condition the board is of the opinion that the aforementioned official is suffering from Diabetes for more than 10 years. He ^{has} undergone above knee amputation (L) leg and his response to treatment is not satisfactory.

Keeping in view of her present health condition the board is of the opinion that he is not fit for further service and the board recommends his retirement on medical ground.

Members:

1. Dr. Rukn-ud Din,
Chief District Specialist, Physician
DHQ Hospital Chitral.
Dr. Rukn-ud Din
Chief District Specialist (Physician)
DHQ Hospital Chitral

2. Dr. Anwar UD Din,
Surgical Specialist,
DHQ Hospital Chitral.
DR. ANWAR UD DIN
Surgical Specialist
DHQ Hospital Chitral

Chairman:

Dr. Faiz Ul Mulk,
Medical Superintendent,
DHQ Hospital Chitral.
MEDICAL SUPERINTENDENT
D.H.Q. HOSPITAL, CHITRAL

Attested
[Signature]

E-12



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) CHITRAL.
PHONENUMBER 0943-412627 EMAIL
ADDRESS deomchitral@gmail.com.

No. 13143 /EB M) P-6/Pension/C-IVs dated Chitral the 3 / 7 /2019.

To:

Mr. Fazal Rabbi
Sweeper GHS Sweer.

Subject:- MEDICAL BOARD.

Memo:

With reference to letter received from the Medical Superintendent District Head Quarter Hospital Chitral vide No. 1741/DHQH/M-2 dated 17/06/2019 (copies attached) on the subject cited above.

According to the decision of Medical Board your present health condition is not fit for further service.

As per your service book record you have completed 31 Years 06 Months and 13 days service and have sufficient length of service for retirement.

It is further added that as per instruction of the Honorable Secretary to Government of Khyber Pakhtunkhwa Elementary and Secondary Education Department Peshawar vide letter No. AO/E&SE/6-27/LPR/Misc dated Peshawar the 11/12/2018, you are eligible for premature retirement (copy attached).

Therefore, your service book is returned and directed to apply for premature retirement with effect from 17/06/2019.

(Encl service book)

Attested
[Signature]

[Signature]
District Education Officer
(Male) Chitral

Endst: No. _____

Dated ____ / ____ /2019.

Copy to Head Master GHS Sweer for further necessary action.

[Signature]
District Education Officer
(Male) Chitral

The Director (E&SE) Department,
Khyber Pakhtunkhwa, Peshawar

F-13

Subject: DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER DATED 03.07.2019 ISSUED BY THE DEO (MALE) CHITRAL.

Respected Sir,

With due respect it stated that I am the employee of your good self Department and has served the Department as Sweeper for more than 30 years quite efficiently and upto the entire satisfaction of my superiors. During service the applicant was suffered by disease of Diabetes and the doctor of DHO Chitral referred me to Lady Reading Hospital, Peshawar for treatment. That treatment in LRH was started, but the applicant was undergone above knee amputation, thus due to the left leg amputation the applicant become unable to further performing his service in GHS Sweer. That after amputation of leg the applicant submitted an application for retirement on medical ground which was forwarded to the Medical Superintendent, District Head Quarter Hospital, Chitral for constituting Medical Board and the same was constituted on 17.06.2019. That the Standing Medical Board has medically examined the applicant and came to the opinion that the applicant is no more fit for Government service and recommend for retirement on medical ground. Respected Sir, in light of the opinion of the standing medical board the applicant time and again requested the concerned authority for retirement on medical ground but the concerned authority has issued the impugned order dated 03.07.2019 for pre-mature retirement instead the retirement on medical ground. That applicant feeling aggrieved from the impugned order dated 03.07.2019 preferred the instant Departmental appeal before your good self.

Dated: 04.07.2019

APPLICANT

Fazal Rabbi
FAZAL RABBI (Sweeper)
GHS Sweer, District Chitral

Attested
[Signature]

130

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) CHITRAL LOWER

Phone No. 0943412627. Email.deomchitral@gmail.com

No. _____/EB(M)/D-5/Deputation. Dated ____/____/2020.

OFFICE ORDER

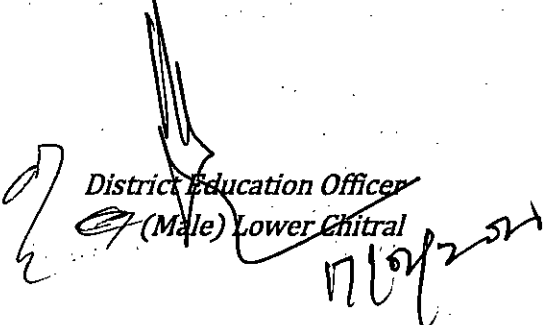
Mr. Ahmadu-Din ADEO office of the undersigned is hereby deputed to attend the Honorable Khyber Pakhtunkhwa Service Tribunal, Peshawar Judicial Complex(Old),Khyber Road Peshawar for hearing in the case titled Fazal Rabbi Versus Secretary (Elementary & Secondary Education and others on behalf of the undersigned.

(Muzafar Ali Khan)
District Education Officer
(Male) Lower Chitral

Endst: No. 1671-74 /EB(F)/Deputation Dated Chitral the 7 / 02 /2020

Copy forwarded to the:-

- 1 Honorable Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar..
- 2 Director of Elementary Secondary Education Khyber Pakhtunkhwa Peshawar.
- 3 District Accounts Officer, Chitral
- 4 Officer concerned


District Education Officer
(Male) Lower Chitral

VAKALATNAMA

Before the KP Service Tribunal, Peshawar

OF 2019

Fazal Rabbi

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Educators Dept.

(RESPONDENT)
(DEFENDANT)

I/We Fazal Rabbi

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. 07/10/2019


CLIENT


ACCEPTED
NOOR MOHAMMAD KHATTAK

SHAHZULLAH YOUSAFZAI

KAMRAN KHAN

&


MIR ZAMAN SAFI
ADVOCATES

OFFICE:

Flat No.3, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.

Mobile No.0345-9383141