17th Oct., 2022

Counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Asstt. AG for the respondents present.

Learned counsel for the appellant requests for adjournment in order to further prepare the brief. Last opportunity is granted. To come up for arguments on \$\insertau \mathbb{S}.11.2022\$ before D.B.

(Farceha Paul) Member(E) (Kalim Arshad Khan) Chairman

15^h Noy. 2022

Assistant to learned counsel for the appellant present.

Mr. Kabirullah Khattak, Addl. Advocate General for the respondents present.

Former requested for adjournment due to engagement of learned senior counsel for the appellant before Honourable Peshawar High Court. Adjourned. Being old case of 2019, last chance is given. To come up for arguments on 27.12.2022 before the D.B.

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(FAREEHA PAUL) Member(E)

(ROZINA REHMAN) Member (J)

27-12-22 Due to Winter Vocation The Case

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Roader

junior to counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG alongwith Mr. Muhammad Idrees ADO (Litigation) for the respondents present and submitted reply/comments which are placed on file. To come up for arguments before the D.B on 20.04.2022.

(Atiq-ur-Rehman Wazir) Member(E) Chairman

20th April, 2022

None present for the appellant. Mr. Muhammad Riaz Khan Paindakhel, Asstt. AG for the respondents present.

Notice be issued to appellant and his counsel for the date fixed. Case to come up for arguments on 14.06.2022 before D.B at Camp Court, Abbottabad.

(Mian Muhammad) Member (E) Chairman

14.06.2022

Nemo for appellant. Lawyers are on general strike.

Muhammad Adeel Butt, learned Additional Advocate General for respondents present.

Notice be issued to appellant/counsel for 15.08.2022 for arguments before D.B at Camp Court, Abbottabad.

(Fareeha Paul) Member (E) Camp Court, A/Abad (Rozina Rehman) Member (J) Camp Court, A/Abad 28.06.2021

Miss. Uzma Syed, Advocate, as proxy for learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Miss. Uzma Syed stated at the bar that learned counsel for the appellant has contacted her to make request for adjournment on the ground that learned counsel for the appellant is unable to appear before the Tribunal today due to his illness. Adjourned. To come up for arguments before the D.B on 20.10.2021.

(ATIQ-UR-REHMAN WAZIR) MEMBER (EXECUTIVE)

(SALAH-UD-DIN) MEMBER (JUDICIAL)

20.10.2021

11

Appellant in person present.

Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Mr. Muhammad Idrees ADO (Litigation) for respondents present.

Former made a request for adjournment as his counsel is not available today. Adjourned. To come up for arguments on 07.01.2022 before D.B.

(ATIQ UR REHMAN WAZIR)

MEMBER (E)

(ROZINA REHMAN) MEMBER (J)

29.10.2020

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

The Bar is observing general strike, therefore, the matter is adjourned to 06.01.2021 for hearing before the D.B.

(Atiq-ur-Rehman Wazir) Member Chairman

06.01.2021

Junior counsel for appellant present.

Kabir Ullah Khattak learned Additional Advocate General alongwith Muhammad Idrees Litigation Officer, Wahid Gul ADEO and Muhammad Safwan Assistant Accounts Officer for respondents present.

Former requests for adjournment as senior counsel is not available.

Adjourned to 29.03.2021 for arguments, before D.B.

Member (E)

(Rozina Rehman) Member (J)

29.03.2021

The concerned D.B is not available today, therefore, the appeal is adjourned to 28.06.2021 for the same.

Redder

11.12.2019

Appellant in person and Addl. AG for respondents No. 1 & 2 present. Nemo present for respondents No. 3 to 5.

Fresh notices be issued to respondents No. 3 to 5 by way of last chance. To come up for written reply/comments on 22.01.2020 before S.B.

Chairman '

22.01.2020

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

Respondents No. 1 & 2 have already furnished comments. Respondents No. 3 to 5 have not furnished the requisite reply/comments despite last chance. The matter is posted to D.B for hearing on 01.04.2020. The appellant may furnish rejoinder to comments of respondents No. 1 & 2 within one month, if so advised.

Chairman

01.04.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 24.06.2020 before D.B.

Reader

12.09.2019

Counsel for the appellant and Addl. AG alongwith Zakiullah, Senior Auditor for the respondents present.

Learned AAG requests for time to submit parawise comments of the respondents on the next date of hearing.

Adjourned to 07.10.2019 on which date the requisite reply shall positively be submitted.

Chairman

07.10.2019

Counsel for the appellant and Addl. AG alongwith Zakiullah, Senior Auditor for respondents No. 1 & 2 present.

Representative of respondent No. 1 & 2 requests for time. Fresh notices be issued to the respondents No. 3 to 5. To come up for written reply/comments by way of last chance on 04.11.2019 before S.B.

Chairman

04.11.2019

Counsel for the appellant and Addl. AG alongwith Asghar Mahmood, Senior Auditor for the respondents present.

Representative of respondents No. 1 & 2 has furnished comments on behalf of the said respondents. Learned AAG seeks time to contact the remaining respondents for furnishing comments. Adjourned to 11.12.2019 on which date the requisite reply/comments of respondents 3 to 5 shall positively be submitted.

Chairman

31.05.2019

Counsel for the appellant present.

Contends that the appellant retired from Government service on 04.11.2017 and his papers/documents regarding payment of pension were prepared by respondent No. 5 for onward submission to respondents No. 1 & 2. Despite lapese of considerable period the appellant has not yet been paid anmy amount towards his commutation and monthly pension which is against the mandate of law and Constitution.

Appellant Disposited Security & Reocess Fee

The appeal in hand is admitted for regular hearing. The appellant is directed to deposit security and process fee within days. Thereafter, notices be lissued to respondents. To \come up for written reply/comments on 25.07.2019 before S.B.

Chairman

25.07.2019

Counsel for the appellant and Mr. Zakiullah, Senior Auditor for respondent No. 1 alongwith Mr. Usman Ghani District Attorney for the respondents present.

Representative of respondent No. 1 requests for further time to furnish the requisite reply. Learned District Attorney makes a similar request on behalf of other respondents.

Adjourned to 12.09.2019 before S.B.

Chairmàr

Form- A

FORM OF ORDER SHEET

| Court of | |
|----------|------------------|
| Case No. | 530 /2019 |

| | Case No | 530 /2019 |
|-------|---------------------------|---|
| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
| 1 . | 2 | 3 |
| 1- | 25/04/2019 | The appeal of Mr. Fazal Ghufran presented today by Mr. Muhammad Arif Jan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. |
| | | REGISTRAR >5/4/19 |
| 2- | 26/04/19. | This case is entrusted to S. Bench for preliminary hearing to be put up there on 31/05/19 |
| | * | CHAIRMAN |
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BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL, PESHAWAR

| S.A.No. 530 /2019 |
|---|
| Fazal Ghufran |
| VERSUS |
| Govt. of Khyber Pakhtunkhwa through Secretary E&SE and others |

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| 2. | Application for condonation of delay | - | - |
| 3. | Addresses of the parties. | | 5 |
| 4. | Copy of appointment order alongwith service book | A | 7-20 |
| 5. | Copy of letter dated 04.11.2017 alongwith letter dated 29.09.2017 | В | 21-22 |
| | Carry Frationant and . | 7- | 2 |
| · – | Copy of office order dated 17.01.2018 | | 23_ |
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Through

Muhammad Arif Jan

Advocate High Court 0333-2212213

Appellant

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL, PESHAWAR

| S.A.No/2019 | | |
|--|---|------------|
| Fazal Ghufran, Ex-Drawing Master S/o Ghulam Nabi R/o Dat, Sherakot, Pallas District Kohistan | ٠ | |
| | | ` Annallai |

VERSUS

- 1. Accountant General Khyber Pakhtunkhwa, Peshawar Cantt.
- 2. District Accounts Officer, District Kohistan.
- 3. Govt. of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar.
- 4. Director of Education, Khyber Pakhtunkhwa, Near Govt. High School No.1, G.T Road, Peshawar.
- 5. District Education Officer, District Kohistan

.....Respondents

Appeal u/s 4 of the KPK Service Tribunal Act, against the act, omission and commission of the respondents concerned by way of depriving the appellant from his service benefit (pension and pensionary benefits) being entitled in all respect for which the appellant filed departmental appeal before respondent No.4, which is pending till date.

RESPECTFULLY SHEWETH:-

- 1. That initially the appellant was appointed against the vacant post of Drawing Master vide order dated 05.04.1999 and was posted at GMS Sanagi, by the Selection Committee after fulfilling all the codal formalities. (Copy of appointment order alongwith service book are Annex "A")
- 2. That the appellant served the department with full devotion and determination and to the entire satisfaction of his superiors, but unfortunately, the appellant was suffered with disease "Sciatica" and permanently incapacitated for further duties.

- 3. That a Medical Board was constituted to determine the condition of the appellant, and after proper examination and treatment, the appellant was found complete and permanently incapacitated for further duties being suffered with his "Right Sciatica". (Copy of letter dated 04.11.2017 alongwith letter dated 29.09.2017 are attached as Annex "B")
- 4. That the appellant after declaring incapacitated by the Medical Board filed an application for LPR on 27.12.2017.
- 5. That vide order dated 17.01.2018, respondent No.3 sanctioned the LPR (180 days) effecting from 04.11.2017 in favour of the appellant keeping in view his fitness for further duties on the basis of report of the Medial Board. (Copy of office order dated 17.01.2018 is Annex "_")
- 6. That the pension papers of the appellant were processed and the appellant after filling-up the required necessary documents and also provided the relevant information regarding his service careers in Black & White to the concerned authority. (Copies of pension papers are Annex "")
- 7. That astonishingly by wrongly calculating the pension, pay, gratuity etc, the appellant was only paid Rs.1,80,000/- in lumsum, however, further Rs.82,000/- were been refund from the appellant as debit amount against the appellant.
- 8. That the appellant filed departmental appeal before respondent No.4 on the subject matter on 21.12.2018, which was received vide Daily Diary No.231 of the same day, but the report was asked from the concerned in which they shows their inabilities to redress the grievance of appellant. (Copies of departmental appeal alongwith other relevant letters are attaché das Annex "E")
- 9. That after lapse of statutory time, the department appeal was not disposed-of, hence the appellant approaches this hon'ble Court on the following amongst other grounds:-

GROUNDS

A. Because the act, omission and commission of the respondents by way of driving the appellant from his legal and fundamental right of pay, pension and pensionary benefits for which the appellant is entitled in all respects is patently illegal, unlawful, without lawful authority of no legal effect, hence the respondents be directed to process the pension papers of the appellant to release all the due amounts without any further delay reason and justification.

- B. Because grievances in respect of pensionary benefits is/ was recurring cause consequently limitation could not come in the way of such relief, reliance is placed in the case of "Abdul Jabbar Vs. GM Railway" in reported judgment of 2018 SCMR 64. But the respondents knowingly the facts intentionally ignored deprived the petitioner from his basic and fundamental right and this act of the respondents is amounts to abuse of law.
- C. Because the guidelines also mentioned and delivered to all concerned in the reported judgment of august Supreme Court of Pakistan "PLD 2007 SC 35", have also been ignored by the authority concerned, hence invites consideration of this hon'ble Tribunal:
- D. That the parent department has got no objection upon the service, pay, allowances and other service benefits like pension etc, which is evident from the record attached, but respondent No.1 without following the law, rules and regulations governing the subject matter not in the position to pay the appellant his due right of pension and pensionary benefits.
- E. Because appellant has served the Govt. Department on regular basis for a long period of 19 years, but due to the acts, commission and omission of the respondents, the appellant has been deprived from his legal and lawful right of pensionary benefits, which is amounts to abuse of process of law
- F. Because the appellant is entitled for double pensionary benefits, who has been declared incapacitated by the medical board, but to facilitate the appellant, the respondents refunded Rs.82,000/from the paid amount of Rs.1,80,000/- and this act of the respondents is amounts to abuse of law.
- G. Because the respondents are bound down under the law to process and prepare the pensionary documents within time, without any delay, reason and justification and to pay the appellant his full emolument for his served period of 19 years for which he is entitled in all respect, but the respondents intentionally deprived the appellant with their dishonest attitude, hence invites the consideration of this hon'ble Court.
- H. Because appellant has been discriminated violating Article 25/27 of the Constitution.
- I. Because the appellant is a poor man and the only bread winner of his whole family moreover, being patient of "Sciatica" is still getting regular medical treatment from his doctor and have no other source of income except the pension and pensionary benefits to feed the mouths of his whole family.

It is, therefore humbly prayed that, on acceptance of this appeal, the respondents may be directed to prepare and process the pension and pensionary documents of the appellant and to pay him his all dues in shape of monthly pension alongwith all gratuities / emoluments in lum sum without any further delay, reason and justification.

Further the respondents may be directed to refund Rs.82,000/- which was deducted wrongly by the respondents out of paid amount of Rs.1,80,000/- in favour appellant.

Any other relief deemed fit may also be graciously granted.

Appellant

Through

Muhammad Arif Jan Advocate High Court

AFFIDAVIT

I, do hereby, solemnly declare on oath that the contents of the **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

DEPONENT

San and Sh

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL, PESHAWAR

| S.A.No/2019 | |
|-------------------------------------|-------------|
| Fazal Ghufran | Petitioner |
| VERSUS | |
| Govt. of Khyber Pakhtunkhwa through | |
| Secretary E&SE and others | Respondents |

APPLICATION FOR CONDONATION OF DELAY IF ANY

Respectfully Sheweth:-

- 1. That the above titled appeal is being filed before this hon'ble Tribunal alongwith instant application.
- 2. That grievances in respect of pensionary benefits is/ was recurring cause consequently limitation could not come in the way of such relief, reliance is placed in the case of "Abdul Jabbar Vs. GM Railway" in reported judgment of 2018 SCMR 64. However, the delay if any is not intentionally.
- 3. That valuable rights of petitioner are involved in the case in hand, which needs decision on merit

It is, therefore, prayed that on acceptance of this application the delay if any caused in filing accompanying appeal may graciously be condoned.

Petitioner

Through

Muhammad Arif Jan Advocate High Court

AFFIDAVIT

I, do hereby, solemnly declare on oath that the contents of the **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL, PESHAWAR

| S.A.No/2019 | · - | |
|------------------------------------|----------|-------------|
| Fazal Ghufran | | Appellant |
| VERSU | US : | |
| Govt. of Khyber Pakhtunkhwa throug | | |
| Secretary E&SE and others | | Respondents |
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MEMO OF ADDRESSES

APPELLANT

Fazal Ghufran, Ex-Drawing Master S/o Ghulam Nabi R/o Dat, Sherakot, Pallas District Kohistan

RESPONDENTS

- 1. Govt. of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar.
- Director of Education, Khyber Pakhtunkhwa, Near Govt. High School No.1, G.T Road, Peshawar.
- 3. District Education Officer, District Kohistan
- 4. District Accounts officer, Kohistan

5. Accountant General Khyber Pakhtunkhwa, Peshawar Cantt.

Through

Muhammad Arif Jan Advocate High Court

Appellant)

Annex-A?

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OFFICE OF THE DISTRICT EDUCATION OFFICER (M/F) DISTRICT KOHISTAN

OFFICE ORDER

Consequent upon the selection by the selection committee in the light of test/ interview on 17.2.99 the following CT/PST/DA Trained/ Untrained (male) candidates are hereby appointed at the schools noted against each in BPS No. 9 1695-97-3060) plus usual allowances as due and admissible under the rules. With effect from the date of Their taking over charge. In the interest of public service.

| S No. | Name of candidate / father | Merit Position | School is which posted | Remarks |
|----------|--|----------------|------------------------|---------------------|
| | name and address | | | |
| 1 | Fazal Ghufran S/o Ghulam R/o Jaud Dubair | | GMS Sanagai | Against vacant post |
| 2 | Gul Samar S?o Dolat Khan r/o Jaud Dubair | | Gheshal/ Kayal | V.P.O |
| 3 | Dushan Gul S/o Fale hear r/o Dubair | | Khanabad | V.O of DM |
| 4 | Akbar | | Harigah | do |
| 5 | Muhammad Ayub S/o Jajail Khan Dubair | | Khwar | do |

Terms & Conditions

- Their service are temporary liable to termination at any time on the one month notice from other side. In case of resignation w/o notice. One month will be forfeited in leave of thereof.
- No TA/DA is allowed to anyone
- Charge report herewith be submitted to all concerned.
- They will be produced age and health certificate from DHO 4. Kohistan
- Their original certificates/ degrees should be re-verified from the 5. concerned board/university before handing/taking of charge.
- charge will not be H. Over to over age/ under age candidates. 6.
- They should not allowed to leve their if they failed in taking over of charge within one month.

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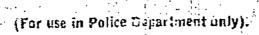
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District Education Officer M/F Kohistan





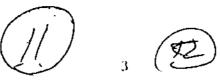
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| | Father's name and residence GHULAM-Nahi |
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HEAD QUARTER HOSPITAL BATTAGRAM. 4932-32 Medi 04.11.2017. Dated - Battagram 79: District Education Officer (Male). Kohistan. MEDICAL BOARD. Subjecti Manne Reference your letter No. 8661 dated 29.09.2017 & this office letter No. 4273-77/SMB dated 02.11.2017 on the subject cited above. Certified that we have carefully examined Mr. Fazal Ghufran S/O Ghulam Nabi, designation DM, GMS Dat Sherakot Palias District Kohistan of your department on 04.11.2017. We consider her completely and permanently incapacitated for further service in consequence of سلمنان فالمتحاث والصانع فكالمحا Her incapacity does not appear to us to have been caused by irregular or intemperate habits. Medical-Suberintendent. hedical Superint DHQ Hospital Battagram Convener 2. Secretary (Medical Specialist) DHO Hespital Battagram. (Modical Superintendent) Medical Superini andent DIFQ Hospital Battagram. L.S. C. Hospield, Medical Specialist, D.H.Q HOSPITAL Battagram 3 Member (District Surgeon) D11Q Hespital Battagram. Surgical Specialist, P.H.O HOSPITAL No. leettagram. Copy forwarded to the Director General Héalth Services, KPK Peshawar for information and record. Medical Superintendent, DHQ Hospital Battagram. Medical Superintandent D.H.Q Hospit d, Battagran Medical Superinter D.H.Q Moorh Fattagrai



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) KOHISTAN

NO 8661 JDEO(M) KH:

To.

Medical Superintendent, DHQ, Hospital Battagram.

Subject:

MEDICAL BOARD

Memo:

Enclosed kindly find herewith an application along with other documents in respect of Mr. Fazal Ghufran S/O Ghulam Nabi DM GMS Dat Sherakot Pallas District Kohistan received from Deputy District Education Officer (M) Kohistan Vide letter No.376 dated 20-09-2017 regarding on the subject cited above.

You are requested to examine the above case through standing Medical Board and opinion thereof may be sent to this office, for further necessary action, supporting documents are also attached for ready reference.

Your co-operation in this regard will be highly appreciated

please.

District Education Officer
(Mule) Kohistan.

Endstt; /No./Estab:_____/DEO(M)

Copy of the above is forwarded to the:-

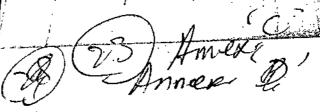
- 1. Director Elementary and Secondary Education Kohistan.
- 2. Deputy District Education Officer(M) Kohistan
- 3. District Accounts Officer Kohistan.

4. Teachers concerned.

District Education Officer (Male) Kohistan.

Attested

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OFFICE OF THE DISTRICT EDUCATION OFFICER (M) KOHISTAN

OFFICE ORDER:-

In exercise of power (under Para 20) delegation of power vide Finance Department Government of Khyber-Pakhtunkhwa letter No. 7760-64 dated 11-02-1980, and in pursuance of delegation of power vested upon by the competent authority, vide Notification No. 1960-2037/F.No.4/Leave cases dated Peshawar the 10-06-2014, as applied and forwarded by Deputy District Education Officer (M)Kohistan vide No. 477 dated 05-01-2018.

Sanction is hereby accorded to grant of Retirement/leave of er cashment in lieu of LPR (180-days) in respect of Mr. Fazal Ghufran DM GMS Dat Sherakot w.e.f. 04-11-2017. He has been considered completely and permanently incapacitated for further service by the Medical Board/Medical Superintendent District Head Quarter Hospital Battagram vide opinion dated 04-11-2017, received from Chairman Standing Medical Board / Medical Superintendent District Head Quarter Hospital Battagram letter No. 4332-32 dated 04-11-2017 and verified vide letter No. 5081 dated 11-12-2017.

Endsit: No. 344-48 F.No.07/Medical Board Dated 17/0/ /2018
Copy of the above is ferwarded to the:-

1. PA to Director E&SE khyber Pakhtunkhwa Peshawar.

2. Deputy District Education Officer (M) Kohistan.

3. District Accounts Officer Kohistan.

4. District Monitoring Officer (IMU) Kohistan.

5. Officials concerned.

District Education Officer
(Male) Kohistan.

District Education Officer (Male) Kohistan.

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OFFICE OF THE DISTRICT EDUCATION OFFICER(MALE) KOHISTA

__/ DEO (M) KH

Dated Kohistan the

To.

District Account Officer, Kohistan.

Subject:-Memo:

PENSION PAPER.

Enclosed please find herewith a Pension Papers along with Service Books in respect of the following officials received from Deputy District Education Officer (M) Kohistan, Sub Divisional Education Officer (M) Pallas and Dassu Kohistan reference letter No. and dated mentioned against their names in favor for further necessary action please.

| | 5. | Name & Designation | School Name | | |
|-------------|------|---|--|---|--|
| į | 9/2. | ! | 1 school Name | DDO Ref: | Date of |
| ا المسمر | 02 | Fazal Gufraan DM | GMS Dat V Sharakot | 489 df 24/01/2018 | Retirement 04/11/2017 |
| | 03 | Sadar Khan Chow Muhammad Afreen PST | GPS Maidan Kolai GPS Badakot | 1408 dt 24/01/2017 1387 dt 23/01/2017 | 01/01/2018 |
| | 05 | Liudai Wali Chow | GPS Ramal GPS Shatyal Bazar GPS Ghazi Abad | 94 df 20/01/2018 124 df 23/01/2018 1347 df 17/01/2018 | 01/01/2018 13/12/2017 01/12/2017 |
| | 07 | Amir Nawab PST | GPS Shamal | 93 df 20/01/2018 | 01/01/2018 |

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Copy of the above is forwarded to the:-

1. Director (E&SE) Khyber Pakhtunkhwa Peshawar.

2. Deputy District Education Officer(M) Kohistan.

Attected

3. Sub Divisional Education Officer (M) Dassu, Pallas Kohistan.

4. Teachers concerned.

DISTRICT EDUÇATION OFFICE (MALE) KOHISTAN



29 A. W. C.

GP FUND FORM 10) P.No. 00 335374

| GP FUND FORM 10) P.NO. <u>00 333374</u> |
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| SPEEDY DISPOSAL OF THE CLAIM OF FINAL PAYMENT OF G.P. |
| SPIEDI DISPOSAL OI TILE Eggel Ghadren |
| FUND ACCOUNT IN RESPECT OF MR. Fogal Glugran |
| i. The actual dated after noon of the subscriber: 64. 11. 2017. |
| 2. The number GP Fund account as assigned by this office: |
| 2. The number Grand decount as a state of the G.P. |
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| no full particulars of advance stating the No and date the Treasury |
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| 8. In case of Leave preparatory weather the Officer desire-lotion which |
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| so the GP Fund KPK Service Rule |
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| Copy submitted to the Esting Accounts Officer, Rollistan to 14.00 |
| of necessary action please. |
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| ATTESTED Signature Dy. Distit Edu. Officer |
| Head of Department Head of Depar |
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LIST OF FAMILY MEMBER

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| Person 120 33 53 79 CNIC No. 13403-16 | |
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SECTION (7) ORDERS OF THE SANCTIONING AUTHORITY.

| Constitution of the second second second second second second second second second second second second second |
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| 1. The undersigned is satisfied that the Service of For Grant has been satisfactory. The Grant of full Pension and Gratuity with the audit of the may find to be Admissible under the rules is hereby Sanctional Control of the Control |
| The undersigned is satisfied that the Service of Mr. |
| has been satisfactory and it has been decided that the full Pension and |
| for Grafulty found by the Audit Officer to be admissible under the rules should be recovered by the specific amounts or percentage given below. |
| should be recovered by the special in Pension. |
| Amount or percentage of reduction in Pension |
| Amount or percentage of reduction in Gratuity. |
| Sanction is hereby accorded to the grant of Pension and / or gratuity as |
| sc reduced. |
| 2. The Payment of Pension and 7 or glatolly may communicate before issuing the Pension Payment order the audit |
| officer may kind as certain whether the last pay and no demand certificate have been received by him. In case the past pay certificate and for no demand certificate has/have not been received with pension papers the audit officer should issue P.P.O. subject to the production of the last pay certificate and for and undertaking at the time of first payment of Pension / Gratuity by the Pensioner or his Family (incase he death) to the effect that any demand coming to the notice within a period of one year after the issue of P.P.O. would be recovered from him/her. |
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| Composed by Jan Tarmizee 5. Clerk Education Department Kohilstan, |
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SECTION (4) CALCULATION OF PENSION / GRATUITY

| Length o | of Total Qualifying Service | | |
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| Emolum | enis / Average Emoluments | Rs. | 16120-00: |
| Service i Ampuni Service y | of Gratuity (in case where qualifying s 15 year or more but less then 10 year) of Gratuity on clischarge from tempora where qualifying service is 10 years or mother | ry ore | |
| Grass Pe | nsion | Rs. | 7147-00 |
| Banafit d | of extra Service beyond 30 Year. | Rs. | · · · · · · · · · · · · · · · · · · · |
| Total Per | nsion:- | Rs. | 7147-0 |
| Less 1/4" While in I | h (incase of Family Pension for Death Service) OR | Ŕs., | |
| Less Con | nmuted Portion Pension:- | Rs. | 1787-W |
| Net Pens | sion:- | Rs. | 5360 |
| SECTI | ION (5) CALCULATION OF GRATUITY IN LI | EU OI | E SURRENDERED PENSION |
| Length c | of Total Qualifying Service | | |
| Amsount | of Pension Surrendered | Rs. | 1787 |
| Rate of ((on age | Gratuity for every Rupees Surrendered next Birth day Basis) | Rs. | 25.3728 |
| Lump-Su | m Gratuity Admissible. | Rs. | 5440941- |
| | SECTION (8) COMMUTED VALU | E OF | PENSION |
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Page No.04

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SECTION (2) CALCULATION OF QUALIFYING SERVICE

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- Section (1) particulars of applicant

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Afforted

PERSONAL NO:- 00335374



LAST PAY CERTIFICATE

| i. Last Pay Certificate of :- Fezal | ghugy as | |
|--|--|------------------------|
| Of the 578 Dai Sharch | • | |
| Proceeding to 2 Reliver on | Marking Ev | oand. |
| Proceeding to be great an | - Jeur St. | _ |
| 2. He/ She has been Paid upto:- <u>31. 12.</u> | 2017. | - |
| at the following rates:- | <u>CLASSIFICATION</u> | |
| | | · |
| <u>DEDUCTION</u> | Basic Pay | Rs. 16 120 |
| G.P. FUND Rs. 2890 | H.R.A. | Rs. 1566 |
| | Conv: Allow: | Rs. 2856 |
| E.E. Foundation Rs. 125 Benevolent Fund Rs. 600 | Medical Allow: | Rs. 1500 |
| R. Benefit & Death Cl: Rs. 1052 | Washing Allow | Rs |
| Incerne Tex ROP Rs. 20025 | Dress Allow: | Rs. |
| Re . | Integ: Allow: | Rs. 460 |
| 24692/ | A.R. 2013 5% A.R. 2015 2.50 % | Rs. 3.20 |
| , | A.R. 2016 10 % | Rs. 1687 |
| | A.R. 2017 10 % | Rs. 1612 |
| | U.A.A. | Rs. 1500 |
| • | Grass Total | Rs. 2762 |
| | Deduction | Rs. 24692 |
| | Net Pay | Rs. 9999 |
| on thenoon of 4. Recoveries are to be made from the pa- detailed on the reverse. 5. He / She has been Salary as below. Dealon inpreverse. | ,, 01 11.0 00 10.11.11 | • |
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| Fromat R | | |
| Fromai.5 | | |
| Fromaf | Rs a Month | |
| 5. He / She is entitled to draw the following | J :- | |
| 7. He / She is also entitled to joining time fo | or da | λ2- |
| . 8. The detail to the Income Tax recovered | from him upto the da | te from the |
| beginning of the current year are noted | | |
| | \ | |
| | Signature: | *********** |
| | Dy. مراق المراق u. Officer opistan |
| Dated at2017 | 201.1 | 10 |
| ======================================= | | <u> </u> |
| Re-Composed by Jan Tarmizee S. Cierk Ed | lucation Department Kohistan | N 4. |
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| Alle | Jak B. W. | - |

PENSION FORM TO BE USED IN CASE OF SUPERANNUATION RETIRING /INVALID /
COMPENSATION COMPULSORY RETIREMENT

(%) be issued by the Sanctioning Authority 90 days before superannuation / Retirement of the retiring Government Servant

Subject: SANCTION OF PENSION ON SUPERANNUATION RETIRING /INVALID / COMPENSATION AND COMPULSORY RETIREMENT

| Ċ | On attaining the ag | ge of Superannuation / | naving applied for Re | tiring /Invalid/ |
|---------------|--|--|-------------------------------|--|
| Compe | nsatory Pension vic karily vide Notifica | de Application dated . tion No | dated | |
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| Mr / Mrs | :/ AAs. | | \$/OW/OD/O | |
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| വടേക്കി | lly Posted as | | _has retired / has bee | M remined id |
| E salin 🖚 | is due to be fe | TITE HOST | 160110110 comborre. | |
| Govern | nment Service (tick | whichever is applicab | ole) on | _ date affor a value g |
| LPR for | | days / Leave Encashm | nent in lieu of LPR Rs. | |
| ಶಿಚಾಸರ | n Calcula <u>ilon:-</u> | | • | |
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| | • | Commutation | Rs | |
| eration e a s | enefile Eenefile | Net Pension | Rs | |
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| | | iil | Rs | |
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| | | | ear or more but less tha | 2,7 10 70 0.7 |
| :45 | <u> </u> | <i></i> /- | | |
| ì | His / Her date | of Rirth | Date | e of First entry into |
| •, | Government Serv | ice is | and EOL availe | eddays . |
| | Total length of Q | ualifying Service for P | ension is | Year Montos |
| | Days. | , 0 | | · |
| | | nquiry is pending agair | | |
| 3. | Carlified that no r | ecovery is outstanding | g against him/ her. | |
| 냭. | Certified that | | | (. 1 |
| | , | | ly repaid along with int | |
| | ii) An am | ount of Rs. | | ••• |
| | مريامة مريم مازم | | rered from the pension | long with interest is |
| 5 | Obisianain Anticipatory Pensio | g which may be tecor in untal | ension is sanctioned as a | dmissible to him/her |
| ٥. ٥. | Cartified that defic | ciency / disciplinary /crim | ninal case pending aga | inst the aforementioned |
| | refire Govit Servan | t has been finalized. The | eretore final pension pay | ment @ (%) After |
| | adjustment of afree | ady paid amount of an | ticipation Pension and c | commutation amounting |
| | | | ot grass pension) as de | termined by concerned |
| 7 | Accounts Office mo | | ne of retire employee | has been satisfactory |
| ,, | Administrative and | Financial Sanction for s | grant of Pension /Comm | nutation @ <u>*</u> % upto |
| | maximum of 35% a | of grass Pension, if apted | by the retiring Gavt: Sei | rvant determined by the |
| | Accounts Office | | | of Mr./ Mrs/ Ms/ |
| | | | | dsury Account No. |
| | | •• | DCS form enclosed) as a | 5 No. 10 No. 10 No. 10 No. 10 No. 10 No. 10 No. 10 No. 10 No. 10 No. 10 No. 10 No. 10 No. 10 No. 10 No. 10 No. |
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| UNUENTALITY OF A PARSION MILITARY OF |
|--|
| 1. hereby declare that I am not, in respect of any other Pension Military or |
| otherwise except PPO Nodated |
| AmountDepartment_Education. |
| Amount Department Education. Retire on 64. 11. 2017 |
| I do hereby undertake that Government may, within one year from the issue of Pension Payment Order, recover any of its dues from the Pension Granted |
| to me. |
| The land within the years from the date of the working the land of the working the land of the working the land of the working the land of the working the land of the working the land of the working the land of the working the land of the working the land of the working the land of the working the land of the working the land of the working the land of the working the land of the land of the working the land of the working the land of the working the land of the working the land of the working the land of |
| 4. I do hereby declare that I have neither applied for not received differences. |
| application and in respect of which Pension/ Gratuity is claimed herein, nor shall I submit any application hereafter without quoting a reference to this |
| to the order which may be passed thereon. |
| the amount of Pension granica to me |
| afterwards found be in excess of that to which I am entitled under the |
| |
| 6. I do hereby declare that I have not received any Pension or Gratuity in |
| respect of any portion of the service included in this application. (subject to be |
| The horself of the Commence of the commence of |
| Fazwa Par (Fague Gayran) Fazwa Par (Fague Gayran) Name & Designation of Retiring |
| Government Servant/ Pensioner. |
| Dated:A |
| DECOST: Edu. OFFICE / DEPARTMENT (Melo) Kohistan |
| Mote:- Pension to be verified by Pension Sanction Authority/ DDO |
| (important:- Every Pensioner Family Pensioner is bound to proved life certificate / Non Marriage Certificate to his / her bank on or before 10 th March and 10 th September of each year "(Annex-A) |
| |
| |
| Re-Composed by Jan Tarmizee S. Clerk Education Department Kohistan |
| 20000000000000000000000000000000000000 |
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APPLICATION/ CERTIFICATE TO BE GIVEN BY THE PENSIONER FOR PENSION/ GRATUITY COMMUTATION

(to be given by reliring government servant for grant of pension in case superannuation/retiring/ invalid/compensation/compulsory retirement)

| Branci Companion, componer, temente, | |
|---|---------------------------------------|
| To ' | • |
| The District Accounts | |
| The District Accounts Opicer & whisters. | |
| Sir /Madam, | |
| It is submitted that I Fajal ghafram | Father |
| /Huspand Name _ 99 alam Nati Design | • |
| Held Dm BPS 15 on 64.11.2017 | |
| (Please indicate kind of appointment i.e. Regular / Officiating or Actin | g charge / |
| current charge w.e.f. 08.04.1999 CNIC No(copy | attached |
| 13403-7604760-7 Nationality <u>PAKISTANI</u> Pe | rsonal No. |
| 335374 Cell No. (i) (ii) | |
| Gmail Postal Address | · · · · · · · · · · · · · · · · · · · |
| Jag Dobair, Pattan, Gahisten | • |
| that I have Retire Thave been Permitted to Retire from Government Ser | rvice / I am |
| due to Retire / has been Retire Compulsorily on 64.11.8017 | My Pension |
| Commutation / Gratuity may be transferred /credited by the Accoun | ts Office in |
| the Bank / Post Office / Treasury Office NBP | Branch |
| Pallan Account No. 4746-8 | · ~ |
| (DCS Form(where applicable) and List of my Family Members, is enclosed | - 0110C |
| ====================================== | 0,cn.stan |
| Re-Composed by Jan Tarmizee 5. Clerk Education Department Kohistan | -00/8 |
| · · · · · · · · · · · · · · · · · · · | C. |
| Attested | Daniel |
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| | / |



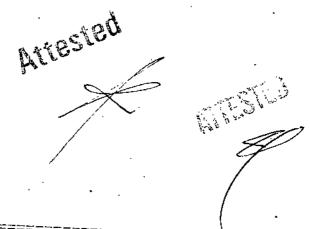


Certificate that the

Official Mr. Fy-c suyram 2m 6ms Dut retired from service w.e.f. 6411.2017
his pay not drawn after retirement as per record of this office.

Les Sois Elles Offices (10) 2018

Drawing & Disbursing Officer.



Composed by Jan Tarmizee S. Clerk Education Department Kohistan





QUALIFYING PENSION PAPER

IN RESPECT OF

| · | • | | : |
|--|------------------------|-----------------|---------------------------------------|
| NAME:- P | Fazol Gho | gran. | |
| father/hu s bán | D NAME:- | Gholam Not | , . Н |
| CNIC NO:- | 13403-7 | 604760-7 | |
| Designation: | | | |
| DEPARTMENT: | Educal | ion. | |
| PERSONAL NO: | 6033537 | , 4 | |
| DATE OF RETIRME | ent/dgath | 1:- 04.11-2017. | · · · · · · · · · · · · · · · · · · · |
| BANK A/C NO: | ¥ 4746 | 6-8 und fe | llan. |
| | ON DISC | du. Officer | |
| Re-Composed by Jan Tarmizee S. Cl Cell No: 0346-9635530 0312-3125530 | lerk Education Departm | -+od | |
| Sanu Stationery Mart Mian Bazar Be | eshain." | | |

Re-Composed by Jon Termizee S. Clark Education Department Kohistan

To,

Director of Education, Khyber Pakhtunkhwa, Near Govt. High School No.1, G.T Road, Peshawar.

23

Subject:

DEPARTMENTAL **IMPUGNED** ACT, COMMISSION OMISSION OF THE COMPETENT AUTHORITY BY WAY OF NON-ISSUANCE OF PENSION AND PENSIONARY BENEFITS FOR WHICH <u>APPELLANT</u> IS ENTITLED APPELLANT COMPLETED HIS19 YEARS OF SERVICE AND THEN MEDICALLY BOARDED OUT.

Annex-E

eal Doll number.

By a. 23/2

Respected Sir;

1. That initially the appellant was appointed against the vacant post of Drawing Master vide order dated 05.04.1999 and was posted at GMS Sanagi, by the Selection Committee after fulfilling all the codal formalities.

2. That the appellant served the department with full devotion and determination and to the entire satisfaction of this superiors, but unfortunately, the appellant was suffered with disease "Sciatica" and permanently incapacitated for further duties.

- 3. That a Medical Board was constituted to determine the condition of the appellant, whereater, proper examination and treatment, the appellant was found complete and permanently incapacitated for further duties being suffered with his "Right Sciatica".
- 4. That the appellant after declaring incapacitated by the Medical Board filed an application for LPR on 27.12.2017.
- 5. That vide order dated 17.01.2018, respondent No.3 sanctioned the LPR (180 days) affecting from 04.11.2017 in favour of the appellant keeping it view his fitness for further duties on the basis of report of the Medial Board.
- 6. That the pension papers of the appellant were processed and the appellant after filling-up the required necessary documents and also provided the relevant information regarding his service careers in Black & White to the concerned authority.

Sign /

1335

NO 2

21/12

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maios. - Jahan



- 7. That astonishingly by wrongly calculating the pension, pay, gratuity etc, the appellant was only paid Rs.1,80,000/- in lum sum, however, further Rs.82,000/- were been refund from the appellant as debit amount against the appellant.
- 8. That the appellant approached time and again to the competent authority regarding his pension and peisonary benefits, but every time he was assured with the delaying tactics.

It is, therefore humbly prayed that, on acceptance of this writ petition, the competent authority may be directed to release the monthly pension & penisonary benefits of the appellant without any further delay, reason and justification.

(Necessary documents are enclosed)

Appellant

Fazal Ghufran, Ex-Drawing Master S/o Ghulam Nabi R/o Dat, Sherakot, Pallas

District Kohistan

0345-81883





No. 2225 /DEO (M) KH

Dated Dassu the $\frac{20/03}{}$ /2019

Fax &Phone # 0998407128 E-Mail: <u>emiskohistan@yahoo.com</u>

To

The Director, Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar

Subject:

APPEAL

Memo;-

Kindly refer to your 7911/F.No.A-10/Vol-II/Appeal dated 29-01-

2019 on the subject cited above.

Medical Officer for proper cheek up from MS District Headquarter Hospital Battagram, this office submit the case for proper cheek up to MS District Headquarter Hospital Battagram vide this office No. 8661 dated 29-09-2017 (letter attached). The concerned Medical Board cheek up the official and declared permanently and completely incapacitated for further service (copy attached)

Whereas in the light of Medical Board this office sanctioned LPR in respect of Fazat Ghufran Ex-DM vide this office No. 344-48 dated 17-01-2018(copy attached).

Whereas the concerned Deputy District Education Officer (M) Kohistan prepared his pension papers and submit to the undersigned for counter signature of Section (7) this office complete the case and submitted to District Accounts Officer Kohistan for further process vide this office letter No. 789 dated 02-02-2018 (copy attached). Thereafter the case is pending in District Account Office Kohistan, this office is unknown about the case and the case is not returned by District Accounts Office Kohistan to this office up till now,

Report is submitted please.

The state of the s

District Education Officer
(Male) Kohistan.

| WAKALAT NAMA |
|--|
| Before the KP Service Tribine Perty |
| No |
| Enzal Chufran (Petitioner) |
| VERSUS |
| AG & oller (Respondent) |
| constitute MUHAMMAD ARIF JAN Advocate, Peshawar as counsel in the above mentioned case, to do all or any of the following acts, deeds and things; |
| To appear, act and plead for me/us in the above mentioned case in this court/tribunal or any other court/tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith. To sign, verify and file Plaint/Written statement or withdraw all proceedings, petitions, suit, appeal revision, review, affidavits and applications for compromise or withdrawal, or for submission to arbitration of the said case, or any other document, as may be deemed necessary or advisable by him for proper conduct, prosecution or deface of the said case at any stage. To receive payment of and issue receipts for all money that may become due and payable to use during the course or on the conclusion of the proceedings. To do and perform all other acts which may be deemed necessary or advisable during the course of the proceedings; AND HEREBY AGREE: To ratify what over the said Advocate may do in the proceedings in my interest. Not to hold the Advocate responsible if the said case is proceeded ex-parte or dismissed is default in consequence of their absence from the court/tribunal when it is called for hearing or is decided against me/us. That the Advocate shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains unpaid. |
| which have been read/explained to me/us and fully understood by me/us thisday of 20 at Peshawar. |
| Signature of Executant. |
| Accepted subject to terms regarding payment of fee. |
| MUHAMMAD ARIF JAN |

Advocate High Court, Peshawar

Office No.210, 2nd Floor
Al-Mumtaz Hotel, Hashtnagari G.T Road Peshawar Mobile: 0333-221 2213

Bc/10/6663

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL, PESHAWAR

The state of the s

S.A No.530-2019

| FAZAL GHUFRAN | PETITIONERS | |
|---------------|-------------|--|
| | VS | |

Government of Khyber Pakhtunkhwa& Others......RESPONDENTS

Writ Petition S.A No.530-2019

PARA-WISE COMMENTS ON BEHALF OFRESPONDENT NO. 01&02

INDEX

| Sr.No | Description of Documents | Annexure | Page # |
|-------|--|----------|-----------|
| 1 | Para-wise comments | | 01-03 |
| 2 | Copy of Finance department Notification | А | 04 |

District Accounts Officer,

Kohistan

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL, PESHAWAR

S.A No.530-2019

| FAZAL | GHUFRAN | PETITIONERS |
|--------------|---------|-------------|
| | • | |

VS

Government of Khyber Pakhtunkhwa & Others......RESPONDENTS

COMMENTS ON BEHALF OF RESPONDENT NO. 01 & 02

Respectfully Sheweth:

Para wise comments on behalf of respondent are submitted as under:

Preliminary Objections:

- 1. That the petitioners did not come to this Honorable Court with clean hands.
- 2. That the petitioners have got no cause of action/locus standi to file the instant writ petition.
- That the honorable Court has got no jurisdiction to entertain the present writ petition as per bar contains in Article 212 of the Constitution of Pakistan 1973. Hence, writ petition in hand is liable to be dismissed without any further proceeding.
- 4. That the writ petition has been filed to pressurize the respondents.
- 5. That the present writ petition is not maintainable due to non-joinder and mis-joinder of necessary parties.
- 6. That the Petitioners have concealed the material facts from this Honorable Court.

Factual Objections:

- 1. That Para No. 1 of the writ petition relates to service record of the petitioners hence needs no comments.
- 2. That Para No. 2 of the writ petition does not relate to answering respondents.
- 3. That Para No. 2 of the writ petition does not relate to answering respondents.
- 4. That Para No. 4 of the writ petition relates to service record of the petitioners hence needs no comments.
- 5. That Para No. 5 of the writ petition relates to service record of the petitioners hence needs no comments.
- 6. That Para No. 6 of the writ petition is correct.
- 7. That Para No. 7 of the writ petition as composed is incorrect. The appellant has received a sum of Rs 180000/- of Gpfund final payment not or neither pension/gratuity and Rs 82000/- was recovered overpayment of pay and allowances allowances due to retirement on 04-11.2017 but the pay of the petition as stopped on 02/2018, copy of service book page no 19 as attached
- 8. That Para No. 8 of the writ petition relates to service record of the petitioners hence needs no comments.
- 9. That Para No. 9 of the writ petition is correct.

GROUNDS

- a. The appellant was appointed on 05-04-1999 on fixed pay on the post of DM (untrained) till retirement no regularization order issued till to date according to FD letter No SOSR-III (FD)4-112/80 VOL-III dated 26.07.1997 temporary Govt Servant having service of 10 years but less than 25 years are only entitled to gratuity at the rate of one month emoluments for each completed year of service subject to maximum of Rs 150000/(compendium of Khyber Pakhtunkhwa service laws and Financial Rules page no 183 attached Annexure A)
- No Comments.
- No Comments.
- d. Already position cleared at Para (a) above in factual objectives.
- e. Already position cleared at Para (a) above in factual objectives.
- Already position cleared at Para (a) above in factual objectives.
- No comments
- h. No comments.
- No Comments.
- No Comments.

It is, therefore solicited that in the light of above stated facts and circumstances the writ

petition in hand may please be dismissed with cost

District Accounts Officer,

Kohistan

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|--|------|--|--------------------|------------------------------------|--|------------------------------|--|-------------------------|--|--|--|
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| White the state of | iurc | Signature and gration of the the office or office or officer attestation of tolumns 1 to | heal ther in | Date of termination of appointment | Reason of termination (such as promotion, transfer, dismissal, etc.) | Signature of the head of the | Nature ard dam- tion of leave taken | leave of upto for which | ion of period of on average pay our months for leave salary is able to another overnment. Government to | head of the office or other attesting officer | Reference in recorded punish or censure, or no market of the Government Se |
| | | - 1 | | | , | | <u>'</u> | rana | which debitable (73) Ser To- | vice Merifice | v.c.f./ 7.4 Acy: Roll |
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competent authority if both the conditions mentioned below were satisfied

- If the Government Servant dies while in service or retires under circumstances beyond this control-such us on becoming the alle or on abolition of his permanent post and his eventual selection for discharge, and but for such contingency he would have completed another year of qualifying service, and
- The service rendered by the Government servant was meritorious. ıb).
- A deficiency of one full year or more shall not be condoned. Rule 2.12 read with para-10 of FD letter No.SO (SR) V-257/67 Dated 27.4.1967

The operation of the concession of condonation of deficiency is not restricted to any particular stage but the condonation of a deficiency at any stage unto the 30th year is permissible. To illustrate this intention a deficiency of six months or less will be deemed to have been condoned so as to make 4 years and 6 months qualifying service as 5 years qualifying service. 24 years and six months qualifying service as 25 years qualifying service and 29 years and six months qualifying service as 30 years qualifying service. Similarly, deficiencies exceeding six months but less than one year may be condoned by the competent authority (Finance Department) at all stages. Subject of course to the conditions prescribed in sub-Para(3) of paragraph 10 of Finance Department's letter No. SO(SR,V)257/67 dated

27.A.1967 (Appendix-I). Governmentot West Paldstan Finance Department letter No.SO(SR-V) 1805/67 dated 29.7.1967.

ADMISSIBILITY OF PENSIONARY BENEFITS **TEMPORARY** TO GOVERNMENT SERVANTS. (III 1

It is clarified in consultation with the Finance Division, Government of Pakistan that a temporary Government servant discharged from service owing to the abolition of his post or on replacement by a qualified candidate after service of 10 years or more but less than 25 years is entitled to gratuity at the rate of one month's emoluments for each completed year of service subject to a maximum of Rs.150000/-, --- -

FD letter No.SOSR-III(FD)4-1 12/80-Vol:III dated 26.7.97 read with of letter even No. dated 9-2-1999 Route to be

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at Means a periodical payment made by Government in consideration of the service rendered by a Government servant in accordance with the rules. Article 41 of C.S.R. \$1.440

2 CLASSIFICATION OF PENSIONS Pensions are divided into four classes:

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL, PESHAWAR

S.A No.530-2019

| FAZAL GHUFRAN | PETITIONERS |
|--|------------------|
| VS | |
| Government of Khyber Pakhtunkhwa& Others | RESPONDENTS |
| COMMENTS ON BEHALF OF RESPONDENT NO. 01 | <u>L &02</u> |

<u>AFFIDAVIT</u>

I, Mr. AsgharMehmoodSr Auditor of District Accounts Office, Kohistan do hereby solemnly affirm and declare that the contents of forgoing Comments and true according to the best of my knowledge and belief and nothing has been suppressed from this Honorable Court.

DEPONENT

Identified by,

Additional Advocate General, Khyber Pakhtunkhawa Service Tribunal Peshawar

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTHOONKHAWA PESHAWAR

APPEAL NO. 530/2019 '

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VERSUS

Government of KPK & Others

.....Respondent

<u>INDEX</u>

| S.No. | Description of Documents | Annexure | Pages |
|-------|--------------------------|----------|-------|
| 1. | Comments | | 2-4 |
| 2 | Affidavit | | 5 |
| 3 | Authority Letter | | 6 |
| 4 | Pension Paper | "A" | 7-16 |
| 5 | Comments of DAO | "B" | 17-21 |

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBERPUTHOONKHAWA PESHAWAR

APPEAL NO. 530/2019

Fazal Ghufran Ex DM Kohistan

.....Appellant

VERSUS

- 3 🗷 Government of KPK through secretary E&SE KPK
- 4 2) Director Education E&SE KPK
- 5 3) District Education Officer Kolai Palas Kohistan

.....Respondents

Joint Para-wise comments on behalf of respondents No 1 to 5

Respectfully Sheweth:

Preliminary objections

- That the appellant has no cause of action/locus standi to file the instant appeal.
- 2) That the appellant has concealed the material facts from the honorable tribunal
- 3) That the appellant has not come to this honorable tribunal with clean hands.
- 4) That the appellant has filed the instant appeal on mala fide grounds.
- 5) That the appellant appeal is against the prevailing law and rules.
- 6) That the appellant is estopped by his own conduct to file instant appeal.
- 7) That the claim of the appellant is unlawful, hence the appeal is liable to dismissed.
- 8) That the act of the respondent within law and rules. Order dated 31.07.2019 issued after fulfillment of the codal formalities hence appeal is liable to be dismissed.
 - 9) That the appeal of the appellant is badly time barred.

FACTUAL OBJECTIONS

- 1) That Para No.1 of the appeal relates to appellant's service record.
- 2) That Para No.1 of the appeal relates to appellant's service record.
- That Para No.1 of the appeal relates to appellant's service record.
- 4) That Para No.1 of the appeal relates to appellant's record.
- 5) That Para No.1 of the appeal relates to appellant's record.
- 6) That Para No.1 of the appeal relates to appellant's record.
- 7) That Para No 7 of service appeal relates to respondent No. 1 as District Account Officer raised objection and quoted with relevant provision in reply of this para in his comment.

Comments of DAO is Annexed as annexure-A

- 8) That Para No. 8 of Service appeal is incorrect hence denied as the respondent No 5/Education Department had prepared pension papers and proceeded the case and forwarded to District Account Officer.
- 9) That Para No. 9 of Service appeal is incorrect hence denied.

GROUNDS

a) That Para of the ground 'A' is incorrect, hence denied as responded No 5 has already proceeded The pension papers whereas the respondent No 2 has raised the objection on pension papers and quoted with relevant provision in reply of the same para in his comment.



Pension Paper is Annexed as annexure-A

- b) That Para of ground B is incorrect hence denied as reply is given in above Para (a).
- c) That Para of ground C does not relates to answering respondent No 5.
- d) That Para of ground "D" relates to record.
- e) That Para of ground "C" relates to record.
- f) That Para of Ground "F" is Subject to proof.
- g) That Para of Ground "G" is Subject to proof.

- h) That Para of Ground "H" is incorrect hence denied as the appellant has been treated as per rule and Law by respondent No 5.
- i) That the para of ground "I" relates to personal matter of the appellant.
- j) That Para of Ground "J" is legal.

It is therefore humbly prayed that in the light of forgoing comments the appeal may graciously be dismissed with cost throughout.

Respondent No.3

Secretary Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar

Respondent No.4

Director Elementary & Secondary Education
Khyber Pakhtunkhwa PK

Respondent No.5

District eďucatión offider (M) Kolai Palas Kohistan.

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTHOONKHAWA PESHAWAR

APPEAL NO. 530/2019

Fazal Ghufran Ex DM Kohistan

......Appellant

VERSUS

- 3) Government of KPK through secretary E&SE KPK
- 4) Director Education E&SE KPK
- 5) District Education Officer Kolai Palas Kohistan

.....Respondents

AFFIDAVIT

I Muhammad Idrees Assistant District Education Officer (M) do hereby affirm do and declare of oath that contents of Para wise comments are true and correct to the best of my knowledge and believe that nothing has been concealed from this honorable court.

Countersigned

District Education Officer (M) Kolai Pallas Kohistan

ADEO (Litigation)
DEO (M) Kolai Palias

13462-7052179-1

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) KOLAI PALLAS KOHISTAN

AUTHORITY CERTIFICATE

It is certified that Mr. Muhammad Idrees ADEO (Litigation) is hereby authorized to submit the comments in respect of Mr. Fazal Ghufran Ex DM Kohistan in Khyber Pakhtunkhwa Service Tribunal Peshawar on the behalf of District Education Officer (M) Kolai Pallas Kohistan.

District Education Officer
(M) Kolai Pallas Kohistan

Annex -A-(7)

A- Amer- OFFICE OF THE DISTRICT EDUCATION OFFICER (M.

No _____ / DEO (M) KH Date

Dated Kohiston the ________

District Account Officer, Kohistan.

Subject:-

PENSION PAPER.

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Enclosed please find herewith a Pension Papers along with Service Books in respect of the following officials received from Deputy District Education Officer (M) Kohiston, Seib District Education Officer (M) Pallas and Dassu Kohiston reference letter (LD), and dated mentioned against their names in favor for further necessary action pages.

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2. Deputy District Education Officer(M) Kohistan.

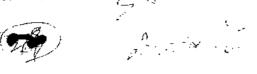
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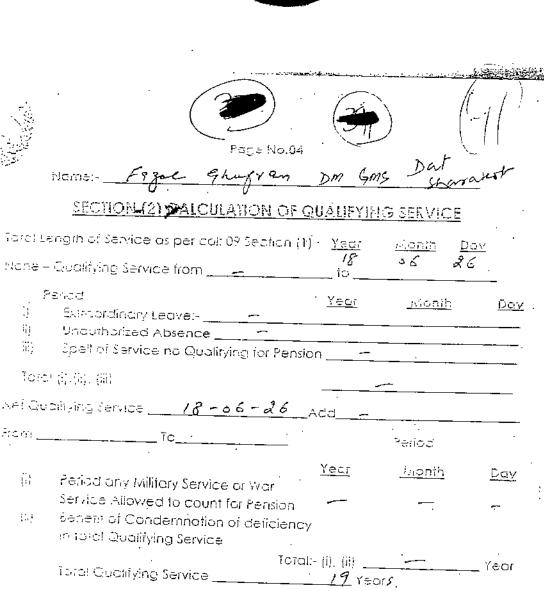




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OFFICE OF THE DISTRICT EDUCATION OFFICER(M) KOHISTAN

No. 2225 _/DEO (M) KH

Dated Dassu the 201

Fax &Phone # 0998407128

Τo

The Director, Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar

Subject:

<u>APPEAL</u>

Memo:-

Kindly refer to your 7911/F.No.A-10/Vol-II/Appeal dated 29-01-2019 on the subject cited above.

It is submitted that the appellant submitted application forwarded by Medical Officer for proper cheek up from MS District Headquarter Hospital Battagram. this office submit the case for proper cheek up to MS District Headiguarter Hospital Battograms wide this office No. 8661 dated 29-09-2017(lefter attached). The concerned Madical Board cheek up the official and declared permanently and completely incommunated for former service (copy attached)

Whereas in the light of Medical Board this office can asoned LPR in respect of Fazal Ghufran Ex-DM vide this office No. 344-43 parea (Trans2018(copy entached).

Whereas the concerned Deputy District Education Officer (M) Kohistan prepared his pension papers and submit to the underlighed for counter signature of Section (7) this office complete the case and submitted it. District Accounts Citi, en Rohiston, for runther process vide this office letter No. 789 Galact 11-00-2018 (copy otroched). The reprise the case is pending in District Account Office (1.1.1.1.1) this office is unknown about the case and the case is not returned by Biggist Acquaints Office Kohiston to this office up till nove.

Report is submitted please.

District Education Officer (Male) Kohistan.

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PESHAWAR.

FAZAL GHUFRAN...

Government of Khyber Pakhtunkhwa& Others......RESPONDENTS

Writ Petition S.A No.530-2019

PARA-WISE COMMENTS ON BEHALF OFRESPONDENT NO. 01&02

| Sr.No | Description of Documents | Annexure | Page |
|-------|----------------------------|----------|----------|
| 1 | Para-wise comments | | 01-03 |
| 2 | Copy of Finance department | A | 04 |
| | Notification | | <u> </u> |

District Accounts Officer,

Kohistan





BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL, PESHAWAR

S.A No.530-2019

| • | PETITIONER! |
|---------------|-----------------|
| FAZAL GHUFRAN | |

VS

Government of Khyber Pakhtunkhwa & Others.....RESPONDENTS

COMMENTS ON BEHALF OF RESPONDENT NO. 01 & 02

Respectfully Sheweth:

Para wise comments on behalf of respondent are submitted as under:

Preliminary Objections:

- 1. That the petitioners did not come to this Honorable Court with clean hands.
- 2. That the petitioners have got no cause of action/locus standi to file the instant writ petition.
- 3. That the honorable Court has got no jurisdiction to entertain the present writ petition as per bar contains in Article 212 of the Constitution of Pakistan 1973. Hence, writ petition in hand is liable to be dismissed without any further proceeding.
- 4. That the writ petition has been filed to pressurize the respondents.
- 5. That the present writ petition is not maintainable due to non-joinder and mis-joinder of necessary parties.
- That the Petitioners have concealed the material facts from this Honorable Court.



Factual Objections:

- 1. That Para No. 1 of the writ petition relates to service record of the petitioners hence needs no comments.
- 2. That Para No. 2 of the writ petition does not relate to answering respondents.
- 3. That Para No. 2 of the writ petition does not relate to answering respondents.
- 4. That Para No. 4 of the writ petition relates to service record of the petitioners hence needs no comments.
- 5. That Para No. 5 of the writ petition relates to service record of the petitioners hence needs no comments.
- 6. That Para No. 6 of the writ petition is correct.
- 7. That Para No. 7 of the writ petition as composed is incorrect. The appellant has received a sum of Rs 180000/of Gpfund final payment not or neither pension/gratuity and Rs 82000/- was recovered overpayment of pay and allowances allowances due to retirement on 04-11.2017 but the pay of the petition as stopped on 02/2018, copy of service book page no 19 as attached
- 8. That Para No. 8 of the writ petition relates to service record of the petitioners hence needs no comments.
- 9. That Para No. 9 of the writ petition is correct.





GROUNDS

- a. The appellant was appointed on 05-04-1999 on fixed pay on the post of DM (untrained) till retirement no regularization order issued till to date according to FD letter No SOSR-III (FD)4-112/80 VOL-III dated 26.07.1997 temporary Govt Servant having service of 10 years but less than 25 years are only entitled to gratuity at the rate of one month emoluments for each completed year of service subject to maximum of Rs 150000/(compendium of Khyber Pakhtunkhwa service laws and Financial Rules page no 183 attached Annexure A)
- b. No Comments.
- c. No Comments.
- d. Already position cleared at Para (a) above in factual objectives.
- e. Already position cleared at Para (a) above in factual objectives.
- f. Already position cleared at Para (a) above in factual objectives.
- g. No comments
- h. No comments.
- i. No Comments.
- i. No Comments.

It is, therefore solicited that in the light of above stated facts and circumstances the writ petition in hand may please be dismissed with cost

District Accounts Officer,

\ Kohistan



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competent authority it both the conditions mentioned below-were satisfied

- If the Government Servant dies while in service, or retires under circumstances beyond: his control-suchtes on becoming invalid or on a) abolition of his permanent post and his eventual selection for discharge, and but for such contingency he would have completed another year of qualifying service, and --
- The service rendered by the Government servant was meritorious. b)
- A deficiency of one full year or more shall not be condined. Rule 2.12 read with para-10 of FD letter No.SO (SR) V-257/67 Dated 27.4.1967

The operation of the concession of condonation of deficiency is not restricted to any particular stage but the condonation of a deficiency at any stage unto the 30th year : permissible. To illustrate this intention a deficiency of six months or less will be deemed to have been conduced so as to make 4 years and 6 months qualifying service as 5 years qualifying service. 24 years and six months qualifying service as 25 years qualifying service. and 29 years and six manths qualifying service as 3ft years qualifying service. Similarly, deficiencies exceeding six months but less than one year may be condoned by the competent authority (Finance Department), atrall stages. Subject-of course-to-the conditions prescribed in sub-Para(3) of paragraph 10 of Finance Department's letter No. SO(SR,V)257/67 dated

27.4.1967 (Appendix-ILGovenimento) West Pakistan Finance Department letter NoSO(SR-V) 1815/67 dated 29.7 1967.

BENEFITS ADMISSIBILITY OF PENSIONARY - GOVERNMENT SERVANTS. (*) -1

It is clarified in consultation with the Finance Division! Government of Pakistan that a temporary. Government servant discharged from service owing to the abolition of his account replacement by a qualified candidate after service of 10 years or more but less than 25 and a entirled to gratuity at the rate of one month's emoluments for each completed year at service subject to a maximum-or Rs.150000/-. - - -FD effer No SOSR-III(FD)4-1 12/80-Vol.1II dated 26,7.97 read with of letter-even No. dated to 2

PART-2 DIFFERENT KINDS OF ORDINARY PENSION AND CONDITIONS FOR THEIR GRANT THE ST AT MAN THE TO PERSON AND THE SERVICE OF SERVICE

PENSION "

* Means a periodical payment/imade by Government in tean aderation of the Vervice rendered by a Government servant in accordance with the rules. Article 41:of C.S.R.: 11

CLASSIFICATION OF PENSIONS Pensions are divided into four classes;