

07.08.2019

Counsel for the appellant and Mr. Muhammad Jan, DDA alongwith Inayatullah, ADO and Muhammad Shakeel Senior Clerk for the respondents present.

The respondents No. 2 to 4 have submitted comments wherein, inter-alia, it is stated that the answering respondents are ready to extend pensionary benefits to the appellant in the light of notification dated 17.05.2018, however, the appellant has not submitted application for the purpose. The representative of respondent No. 1 has produced copy of notification dated 22.05.2019 whereby the status of civil servant has been extended to the officials from the date of their first appointment instead of date of regularization.

In view of the reply of respondents No. 2 to 4 and stance of respondent No. 1 in terms that the issue agitated by the appellant has already been settled, the appeal in hand is disposed of with the directions to the respondents to process the case of appellant for payment of requisite pension and other allowable emoluments at the earliest but not beyond three months from submission of requisite documents/particulars by the appellant. The appellant, on the other hand, is required to fulfill all the codal formalities and submit the requisite information/documents/application to the concerned respondents at the earliest.

File be consigned to the record room.


Chairman

Announced:
07.08.2019

20.06.2019

Appellant in person and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Sajid, Superintendent for the respondents present. Written reply on behalf of respondents not submitted. Representative of the department requested for further adjournment. Adjourned to 07.08.2019 for written reply/comments before S.B.




(Muhammad Amin Khan Kundi)
Member

12.04.2019

Counsel for the appellant present.

Contends, inter-alia that through the office order dated 09.08.2016 the appellant was not considered entitled for pension benefits as his regular service was less than 10 years. In the same order, on the other hand, the total length of service of appellant was acknowledged as 22 years one month and ten days. Further contended that the date of first appointment of the appellant was 29.04.1994 and his service was regularized on 01.07.2008. His service before regularization was, therefore, to be counted for pension benefits.

In view of the above, 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. To come up for written reply/comments on 2.05.2019 before S.B.


Appellant Deposited
Security & Process Fee


Chairman

02.05.2019

Appellant in person and Mr. Usman Ghani, District Attorney for the respondents present.




Learned District Attorney requests for time to procure written reply from the respondents. Adjourned to 20.06.2019 for written reply/comments of the respondents.


Chairman

FORM OF ORDER SHEET

Court of _____

Case No. 112/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	24/1/2019	<p>The appeal of Mr. Sardar Ali presented today by Mr. Muhammad Asif 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 24/1/19 </p> <p>2-</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>7-3-19</u>.</p> <p style="text-align: right;">  CHAIRMAN </p>
07.03.2019		<p>Appellant in person present and request for adjournment as his counsel is not in attendance. Adjourned. To come up for preliminary hearing on 12.04.2019 before S.B.</p> <p style="text-align: right;">  (Muhammad Amin Khan Kundi Member </p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL.

PESHAWAR

S.A.No. 112 /2019

Sardar Ali..... Appellant

VERSUS

Government of Khyber Pakhtunkhwa,
through Secretary Finance Civil Secretariat, Peshawar & others
..... Respondents

INDEX

S.No.	Description of documents.	Annexure	Pages.
1	Memo of appeal.		1-4
2	Affidavit.		5
3	Addresses of the parties.		6
4	Copy of appointment letter	A	7
5	Copy of service book	B	8-13
5	Copy of appeal	C	14
6.	Copy of retirement order	D	15
7	Copy of Charge report	E	16
8.	Wakalatnama		17

Yer

Appellant

Through

M. Asif
Muhammad Asif

Advocate Supreme Court

Off: 214 Syed Ahmad Ali Building
Near Taj Autos, Sunehri Masjid
Road, Peshawar Cantt.

Office No.091-5279292

Cell: 0302-8885187

0311-1934339

Dated: 23.01.2019

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL

PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 105

Dated 24-1-2019

S.A.No. 112 /2019

Sardar Ali son of Rehan Shah
R/o Mohallah Dheri Koroona, Risalpur Cantt,
Tehsil and District Nowshera Appellant

VERSUS

- 1) Government of Khyber Pakhtunkhwa, through Secretary Finance, Finance Department, Civil Secretariat, Peshawar.
- 2) Government of Khyber Pakhtunkhwa, through Secretary Education, Education Department, Civil Secretariat, Peshawar.
- 3) Director Elementary and Secondary Education, near Govt. Higher Secondary School No.1 G.T. Road, Peshawar City.
- 4) District Education Officer (male), District Education Office, Nowshera.
- 5) Accountant General, Accountant General Office, Fort Road, Peshawar Cantt.
- 6) Senior District Account Officer, District Account Office, Nowshera.
..... Respondents

Filed to-day
Registrar
24/1/19

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORAL REFUSAL OF RESPONDENTS OF NOT ISSUING PENSION AND PENSIONARY BENEFITS TO THE APPELLANT FROM THE DATE OF RETIREMENT i.e. 01.06.2015 AND APPEAL FILED ON 22.10.2018 HAS NOT SINCE BEEN DECIDED/ REPLIED WHILE STATUTORY PERIOD OF 3 MONTHS HAVE EXPIRED.

Prayer:

On acceptance of this appeal, the respondents may kindly be directed to release/ issue pension and pensionary benefits to the appellant from the date of retirement i.e. 01.06.2015 by setting aside oral refusal of the respondents regarding issuing pension and pensionary benefits to the appellant.

Respectfully Sheweth;

Appellant humbly submits as under:

- 1) That appellant was appointed as Class-IV Chowkidar in Govt. ~~GHS~~ Primary School Khan Koroona, Tehsil and District Nowshera on 29. 4.1993 and took charge against a vacant post of Chowkidar on fixed pay after producing medical certificate. (Copy of appointment letter is Annexure "A").
- 2) That later on the services of the appellant was confirmed/ regularized in BPS-1 w.e.f. 01.07.2008 and retired on 01.06.2015 in BPS-04. (Copy of service book is Annexure "B").
- 3) That after retirement appellant was confident that as appellant has served the department for more than 22 years of service, therefore, after due process pension and pensionary benefits would be granted/ released to the appellant.
- 4) That after some time appellant inquired from the respondents regarding pension and pensionary benefits on which appellant was informed that the issue is under consideration and when the same issue is decided pension and pensionary benefits would be released to all the retired persons.
- 5) That on again inquiry appellant was informed that Peshawar High Court Peshawar has decided the issue of pension and pensionary

benefits and it would take some time because to a lot of persons pension has to be issued.

- 6) That a few months ago when appellant again inquired from the office, appellant was informed that pension and pensionary benefits have been released to persons who have filed writ petitions and have served more than 10 years regular service.
- 7) That appellant filed appeal to the respondent No.4 but statutory period of 3 months have been expired but upto now neither the pension and pensionary benefits have been released nor the appeal has been decided. (Copy of appeal is Annexure "C").
- 8) That aggrieved with, appellant has come before this Hon'ble Tribunal in this appeal on the following grounds amongst the others for release of pension and pensionary benefits to the appellant.

GROUND:

- a. That the oral order of refusal of respondents of not granting/ releasing pension and pensionary benefits to the appellant is against law and facts. Hence untenable in the eyes of law.
- b. That by not deciding the appeal of appellant regarding pension and pensionary benefits to the appellant respondents are exercising the powers not vested to them under the law.
- c. That respondents failed to appreciate the fact that appellant after joining the service was retired on superannuation i.e. on 60 years of age and thus has served the department for more than 21 years and is entitled for pension and pensionary benefits.
- d. That respondents failed to appreciate the fact that under the law an employee who served in the department for more than 10 years is entitled for pension and pensionary benefits.

- e. That under the law for granting/ releasing pension and pensionary benefits, the period of service, temporary and regular both are counted.
- f. That respondents under the law were bound to decide the case of appellant in the light of decision of Hon'ble Peshawar High Court, Peshawar.
- g. That respondents failed to appreciate the real point involved in the case in its perspective. Hence has arrived at an incorrect conclusion.
- h. That the oral refusal of respondents of not releasing/ granting pension and pensionary benefits to the appellant is perversant and against the settled principle of law and justice and as such is liable to be set aside.

It is, therefore, requested that on acceptance of this appeal, respondents may kindly be directed to release pension and pensionary benefits to the appellant from the date of retirement along with any other remedy which deems fit and necessary and not specifically asked for may also be awarded with costs.

Shi

Appellant

Through *Mohammad Asif*
Muhammad Asif
 Advocate,
 Supreme Court of Pakistan
 Off: 214 Syed Ahmad Ali Building
 near Taj Autos, Sunehri Masjid
 Road, Peshawar Cantt.
 Cell: 0302-8885187
 Off: 091-5279292

CERTIFICATE:

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

Mohammad Asif

5

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,

PESHAWAR

S.A.No. _____/2019

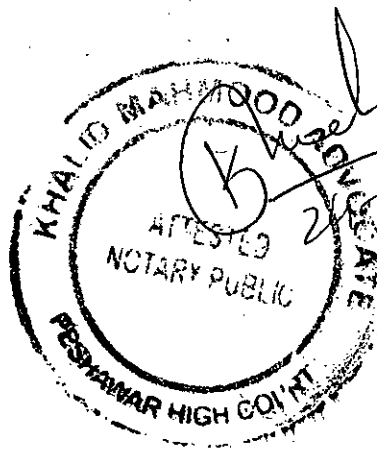
Sardar Ali..... *Appellant*

VERSUS

Government of Khyber Pakhtunkhwa,
through Secretary Finance Civil Secretariat, Peshawar & others
.....*Respondents*

AFFIDAVIT

I, Sardar Ali son of Rehan Shah R/o Mohallah Dheri Korona, Risalpur Cantt, Tehsil and District Nowshera do hereby affirm and declare on oath that the contents of the accompanying **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this hon'ble court.



Sher
Deponent

6

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR

S.A.No. _____ /2019

Sardar Ali..... Appellant

VERSUS

Government of Khyber Pakhtunkhwa,
through Secretary Finance Civil Secretariat, Peshawar & others
..... Respondents

ADDRESSES OF THE PARTIES

APPELLANT:


Sardar Ali son of Rehan Shah
R/o Mohallah Dheri Korona, Risalpur Cantt,
Tehsil and District Nowshera

RESPONDENTS:

- 1) Government of Khyber Pakhtunkhwa, through Secretary Finance, Finance Department, Civil Secretariat, Peshawar.
- 2) Government of Khyber Pakhtunkhwa, through Secretary Education, Education Department, Civil Secretariat, Peshawar.
- 3) Director Elementary and Secondary Education, near Govt. Higher Secondary School No.1 G.T. Road, Peshawar City.
- 4) District Education Officer (female), District Nowshera.
- 5) Accountant General, Accountant General Office, Fort Road, Peshawar Cantt.
- 6) Senior District Account Officer, District Account Office, Nowshera.


Appellant

Through


Muhammad Asif
Advocate Supreme Court

7

**OFFICE OF THE SUB DIVISIONAL EDUCATION OFFICER, (Male)
NOWSHERA**

OFFICE ORDER

Mr. Sardar Ali S/o Rehan Shah resident of Risalpur candidate is hereby appointed as class IV Chowkidar/ N/Qasid on Rs: 600/-PM fixed under the rules with effect from the date of his taking over charge at Govt Primary School Mohd Khan Koruna against the vacant post of under the following terms and conditions

1. Charge reports should be submitted to all concerned.
2. NO TA/DA is allowed.
3. No joining time is allowed what is absolutely necessary for the transit.
4. The appointment is purely on temporary basis & subject to the termination at any time and without any notice.
5. He/ Should produced his health & age certificate for the concerned civil Surgeon with in 7 days of reporting arrival a duty as required under the rules FR 10 Sr.4
6. In case the condition fails to take over charge with in 7 days from the date of issue of this order his apptt: will stand automatically cancelled.
7. The candidate should not be handover charge if his age is set between 18-45 years.
8. The pay scale and service rules would be subject to the revision in accordance with the orders to be passed by the Govt from time to time.
9. He will photo copies of the relevant documents in national Identity card Domicile etc to this office at the time of taking over charge.
10. He will be dealt with under the E & D if he violated Govt: Rules and regulation.

Muhammad Usman Khan
Sub Divisional Education Officer
(male) Nowshera

Endst No. 10201-4/C-IV, dated the 29.4.1993

Copy of the above is forwarded to the:

1. ASDEO concerned.
2. Head Teacher Concerned
3. Pay Clerk Concerned.
4. DAO Nowshera.
5. MPA concerned.

SD/-
District Education Officer (M)
Primary Nowshera

Sub
ATTESTED

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

Annex B

1. Name: Sardar Ali

(9)

2. Race: Yousaf Zai

3. Residence: Mohi Dheray Koroma Rival Pur Cantt.

4. Father's name and residence: Rehan Shah

5. Date of birth by Christian era as nearly as can be ascertained: 1st July N.H 9 Fifty Five


(1955) 01-07-1955


6. Exact height by measurement: 5-6

Date

7. Personal marks for identification: Wound mark on left leg

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

Little Finger: 

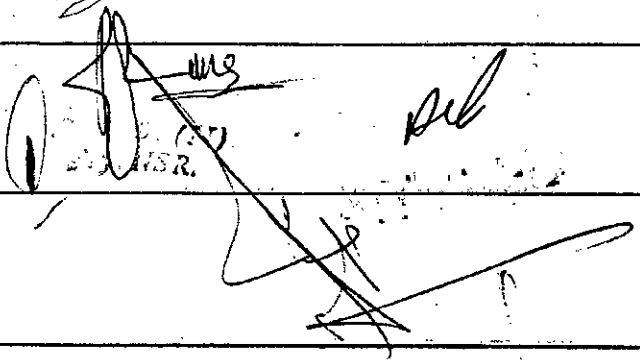
Ring Finger: 

Middle Finger: 

Fore Finger: 

Thumb: 

9. Signature of Government Servant: 

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

9	10.	11	12	13		14	15	
				Leave				
Signature and Designation of the head of the office or other attesting officer in attestation of columns 1 to 8	Date of termination or appointment	Reason of termination (such as promotion, transfer, dismissal, etc.)	Signature of the head of the office or other attesting officer	Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government		Signature of the head of the office or other attesting officer.	Reference to any recorded punishment or censure, or reward or praise of the Government Servant
					Period	Government to Which debitable		
<i>D. D. O. (IT) Pry. NSR.</i>					<i>Appointment against Choukri Fixed Pay from the office of the SDEO Mysore Sd/- 10201-04 dated 29-4-93</i>			
<i>D. D. O. (IT) Pry. NSR.</i>							<i>[Signature]</i> <i>D. D. O. (IT) Pry. NSR.</i>	
<i>D. D. O. (IT) Pry. NSR.</i>								
<i>D. D. O. (IT) Pry. HSR.</i>								
<i>D. D. O. (IT) Pry. HSR.</i>						<i>Service Verified w.e.f. 25-93 to 30/11/99 from the Ass. Roll and other office records.</i>	<i>[Signature]</i>	
<i>D. D. O. (IT) Pry. HSR.</i>								
<i>D. D. O. (IT) Pry. HSR.</i>								
<i>D. D. O. (IT) Pry. HSR.</i>						<i>Service Verified w.e.f. 1-12-99 to 30/11/06 from the Ass. Roll and other office records.</i>	<i>[Signature]</i>	
<i>D. D. O. (IT) Pry. HSR.</i>								
<i>D. D. O. (IT) Pry. HSR.</i>						<i>Service Verified w.e.f. 1-12-06 to 30/11/08 from the Ass. Roll and other office records.</i>	<i>[Signature]</i>	

ATTESTED

	2	3	4	5	6	7	8	9
Post	Whether substantive or officiating and whether permanent or temporary.	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R.	Pay in substantive post	Additional pay for officiating	Other amount falling under the term "pay"	Date of Appointment	Signature of Government Servant	Signature and Date of the head of the office or other attesting authority in attestation columns 1
	Revised entries in BPS-01							
			Pay on 2-5-93			Rs. 920/-		
			" 1-12-93	App. ment		Rs. 946/-	Sly	
			" 1-6-94	Scale Revised		Rs. 1280/-		
			" 1-12-94	A/L		Rs. 1315/-	Sly	
			" 1-12-95	"		Rs. 1350/-		
			" 1-12-96	"		Rs. 1385/-	Sly	
			" 1-12-97	"		Rs. 1420/-		
			" 1-12-98	"		Rs. 1455/-	Sly	
			" 1-12-99	"		Rs. 1490/-		
			" 1-12-2000	"		Rs. 1525/-	Sly	
			" 1-12-2001	A/L		Rs. 1560/-		
			" 1-12-2001	Scale Revised		Rs. 2365/-	Sly	
			" 1-12-2002	A/L		Rs. 2420/-		
			" 1-12-2003	"		Rs. 2475/-	Sly	
			" 1-12-2004	"		Rs. 2530/-		
			" 1-7-2005	SI Revised		Rs. 2930/-	Sly	
			" 1-12-2005	A/L		Rs. 2995/-		
			" 1-12-2006	"		Rs. 3060/-	Sly	
			" 1-7-2007	SI Revised		Rs. 3525/-		
			" 1-12-2007	A/L		Rs. 3600/-	Sly	
			" 1-7-2008	SI Revised		Rs. 4320/-		
			" 1-12-2008	A/L		Rs. 4410/-	Sly	

ATTESTED

[Signature]
 MEMBER

1	2	3	4	5	6	7	8	9
Name of Post	Whether substantive or officiating and whether permanent or temporary.	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R.	Pay in substantive post	Additional pay for officiating	Other emolument falling under the term "pay"	Date of Appointment	Signature of Government servant	nature and Designation of the head of the other attesting authority in attestation columns 1 to
<i>Received Entry in the Ledger of B/S-02 and some other accounts 1/19/07</i>								
	A-①	01-07-2007				3525		
	B-②	01-07-2007				3550		
	SP/1000	01-08-2007				3635		
		12/2007				3770		
		7/08				4435		
		17/08				4535		
		18/09				4635		
		17/10				4735		
		7/2008				7790		
		17/08				7860		
		17/08						
		17/08						
		17/08						
		17/08						
		17/08						
		17/08						
		17/08						
		17/08						

[Handwritten signature]

Amount paid 1/08

*3035-1000-6500
4435-1000-10000 B2
4900-1700-10000 B2
7174*

ATTESTED

[Handwritten mark]

گفتاورہا۔ ڈسٹرکٹ ایجوکیشن افسر صاحبہ۔ سید نوشہرہ
Annex C

ضامی 1

گزارش کی جاتی ہے کہ میں صرف 6/2015 کو

گریڈ 4 میں پکیرا رکھی ہوئی ہے۔

اور میں 2012 سے زیادہ جلازول کی ہے

لیکن نا اعلیٰ پینشن میں ملی ہے۔ کئی دفعہ ملے بھی

درخواستیں دی گئی ہیں۔ استدعا ہے کہ

پینشن جلازول جاری فرمایا جائے

2018-10-22

سرخار علی ولد ارمان شاہ صاحب صاحبہ راجپور کنڈل کھنڈ ضلع

نوشہرہ

Attested



1
Annex D
15

OFFICE OF THE
DISTRICT EDUCATION OFFICER (MALE)
NOWSHERA

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

OFFICE ORDER.

Under the provision Government of Khyber Pakhtunkhwa Finance Department letter No.FD (SR-IV) Vol.II dated 24/08/1983.

Mr. Sardar Ali Chowkidar GPS Muhammad Khan Koroona (NSR) is hereby retired from Govt Service w.e.f 01-06-2015 superannuation. He is entitled for only lump sum gratuity of one month Basic pay per completed year having regular service w.e.f 01-07-2008. His regular service is less than 10 years.

S#	Name of Official	Date of Retirement	Date of Birth	D/O 1 st Apptt: on fixed	Transfer to Regular Service	Total Length of service Y-M-D	Remarks
01	Mr. Sardar Ali Chowkidar GPS Muhammad Khan Koroona Nowshera P.No. 00341433	01-06-2015	1955	29-04-1993 On fixed pay	01-07-2008	22-01-10	Retire from Govt: Service on Superannuation

District Education Officer (Male)
Nowshera

08/08/2016

Endst: No 51431/46 /DEO (M) NSR/EA-S/ Retirement of PST/ Dated Nowshera the 08/08/2016.

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

- 1: Senior District Account Officer, Nowshera.
- 2: Sub Divisional Education Officer (Male), Nowshera
- 3: ADO Circle concerned
- 4: Official concerned.

ATTESTED

-sd-
District Education Officer (Male)
Nowshera

Anne + E

جان بھادری

(16)

الم سر دور میں سکھنے کے لیے جان بھادری

آئی کے ٹورس کی کمیٹی کو لکھا کہ جی پ ایس میں جان بھادری

بجلی کے ڈیوٹی کے لیے نوٹس، آرڈر 4-10201-10

29-4-93 کو ملے ہیں۔

آئی کے ٹورس کے لیے جان بھادری 2-5-93

جی پ ایس میں جان بھادری

دستخط جان بھادری

دستخط جان بھادری

Slip

Verified charge
Receipt

Centre Incharge:
Govt. Primary School
Risalpur Distt: Nowshera

ATTESTED

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 112/ 2019

Mr. Sardar Ali Appellant

VERSUS

Govt KPK and others Respondents

Respectfully Sheweth

Written comments on behalf of respondents are as under.

Preliminary Objections

- 1. That the appellant has no cause of action to file the instant appeal.**
- 2. That this Honorable Tribunal has got no jurisdiction to entertain the present appeal.**
- 3. The present appeal is bad for mis-joinder and non-joinder of necessary parties.**
- 4. That the appellant is estopped by his own conduct, by deed and by law to file the instant appeal.**
- 5. That the instant appeal is barred by law.**
- 6. That the appeal is time barred.**
- 7. The appellant has no locus standi to file the instant appeal.**

Factual Objections:-

- 1. Pertains to record.**
- 2. Pertains to record.**
- 3. Pertains to record. However the appellant was appointed on fixed pay and not on regular basis.**
- 4. No Comments.**
- 5. No Comments.**
- 6. Incorrect. The secretary (E & SE) Govt of KPK Peshawar have issued notification Vide No. S.O (Lit-1)/E&SE/1-1/2012 dated 17-5-2018, which is general in nature and applicable to all class iv employees In the light of that said notification the appellant is entitled for pensionary benefits.**
- 7. Incorrect. The answering respondents are ready to extend pensionary benefits to the appellant in the light of notification dated 17-5-2018 but no appeal was submitted to answering respondents.**
- 8. No Comments.**

GROUNDS

- A. Incorrect. The appellant will act in the light of notification dated 17-5-2018.
- B. Incorrect. No appeal was submitted by the appellant.
- C. Incorrect. As explained in the above para's.
- D. Incorrect. As explained in the above para's.
- E. No comments.
- F. Incorrect. As explained in the above para's.
- G. Incorrect. As explained in the above para's.
- H. Incorrect. As explained in the above para's.

It is, therefore, requested that appropriate order may please be passed in the instant Service Appeal.

Respondent No. 2



Secretary

E & S Education Khyber Pakhtunkhwa
Peshawar

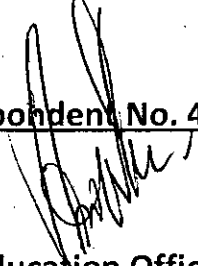
Respondent No. 3



Director

E & S Education Khyber Pakhtunkhwa
Peshawar

Respondent No. 4



District Education Officer

(Male) Nowshera

GOVERNMENT OF KHYBER PAKHTUNKHWA

Elementary and Secondary Education Department

Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar

NO.S.O (LIT-I)/E&SE/1-1/2012/

Dated Peshawar the 17-5 -2018

To

1. Director,
Elementary & Secondary Education,
Khyber Pakhtunkhwa Peshawar
2. All District Education officers(M/F)
Khyber Pakhtunkhwa.

**SUBJECT: IMPLEMENTATION OF PESHAWAR HIGH COURT
JUDGEMENTS REGARDING GRANT PENSIONARY BENEFITS
TO CLASS IV EX FIXED PAY EMPLOYEES**

I am directed to refer to the subject noted above and to state that all the subject cases may be disposed off in light of para 13 of the judgement of Peshawar High Court dated 22-6-2017(copy enclosed). It is further stated that all such cases may be examined in light of prevailing pension rules and the employees who have rendered minimum length of service, which is 25 years in normal cases and ten years in special /family pension cases. Service rendered by officials under contract, adhoc etc shall be counted towards pension provide such officials were regularized at later stage and pension was denied to them on the ground of not fulfilling criteria of minimum time as regular employee.

However, this Department may be kept informed of the day to day proceedings.



Section officer (Lit-I)

Endst.NO & date as above.

Copy to:-

1. Advocate General KPK
2. Addl Registrar Peshawar High Court.
3. P.A to Spl: Secretary (Legal).



Section officer (Lit-I)



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

Dated Peshawar the 22-05-2019

NOTIFICATION

No.FD(SOSR-II)4-36/2017. In pursuance of the judgement of Peshawar High Court Abbottabad Bench in Writ Petition No. 627-A/2018 dated: 18.12.2018 and Judgements of various Lower Courts as well as supersession of Finance Department policy letter No.BO-I/1-22/2007-08/FD dated: 29.01.2008, the Competent Authority has been pleased to accord sanction of regularization of Fixed Pay Class-IV employees appointed on the basis of policies issued vide Finance Department notifications No. B-I/2-1/92-93/I dated: 04.11.1992 and No.B-I/1-22/94-95/FD Vol-II dated: 24.07.1999 by extending them the status of civil servant as per Civil Servant Act 1973 from the date of their first appointments instead of the date of their regularization w.e.f 01.07.2008 in their respective entities in the best of public interest.

SECRETARY TO GOVERNMENT
OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

Endst: No & date even

Copy for information and necessary action is forwarded to the.

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


(MOAZZAM KHAN)
Section Officer (SR-II)



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

Dated Peshawar the 22-05-2019

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SECRETARY TO GOVERNMENT
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FINANCE DEPARTMENT

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(MOAZZAM KHAN)
Section Officer (SR-II)



GOVERNMENT OF KHYBER PAKHTUNKHWA
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SECRETARY TO GOVERNMENT
OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

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(MOAZZAM KHAN)
Section Officer (SR-II)

Mr. Sardar Ali Appellant

VERSUS

Govt KPK and others Respondents

Respectfully Sheweth

Written comments on behalf of respondents are as under.

Preliminary Objections

- 1. That the appellant has no cause of action to file the instant appeal.**
- 2. That this Honorable Tribunal has got no jurisdiction to entertain the present appeal.**
- 3. The present appeal is bad for mis-joinder and non-joinder of necessary parties.**
- 4. That the appellant is estopped by his own conduct, by deed and by law to file the instant appeal.**
- 5. That the instant appeal is barred by law.**
- 6. That the appeal is time barred.**
- 7. The appellant has no locus standi to file the instant appeal.**

Factual Objections:-


- 1. Pertains to record.**
- 2. Pertains to record.**
- 3. Pertains to record. However the appellant was appointed on fixed pay and not on regular basis.**
- 4. No Comments.**
- 5. No Comments.**
- 6. Incorrect. The secretary (E & SE) Govt of KPK Peshawar have issued notification Vide No. S.O (Lit-1)/E&SE/1-1/2012 dated 17-5-2018, which is general in nature and applicable to all class iv employees In the light of that said notification the appellant is entitled for pensionary benefits.**
- 7. Incorrect. The answering respondents are ready to extend pensionary benefits to the appellant in the light of notification dated 17-5-2018 but no appeal was submitted to answering respondents.**
- 8. No Comments.**

GROUNDS

- A. Incorrect. The appellant will act in the light of notification dated 17-5-2018.
- B. Incorrect. No appeal was submitted by the appellant.
- C. Incorrect. As explained in the above para's.
- D. Incorrect. As explained in the above para's.
- E. No comments.
- F. Incorrect. As explained in the above para's.
- G. Incorrect. As explained in the above para's.
- H. Incorrect. As explained in the above para's.

It is, therefore, requested that appropriate order may please be passed in the instant Service Appeal.

Respondent No. 2


Secretary

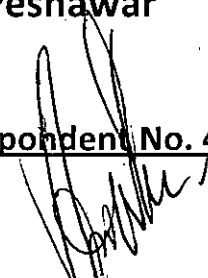
E & S Education Khyber Pakhtunkhwa
Peshawar

Respondent No. 3


Director

E & S Education Khyber Pakhtunkhwa
Peshawar

Respondent No. 4


District Education Officer
(Male) Nowshera

GOVERNMENT OF KHYBER PAKHTUNKHWA

Elementary and Secondary Education Department

Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar

NO.S.O (LIT-I)/E&SE/1-1/2012/

Dated Peshawar the 17-5 -2018

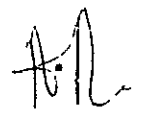
To

1. Director,
Elementary & Secondary Education,
Khyber Pakhtunkhwa Peshawar
2. All District Education officers(M/F)
Khyber Pakhtunkhwa.

SUBJECT: IMPLEMENTATION OF PESHAWAR HIGH COURT
JUDGEMENTS REGARDING GRANT PENSIONARY BENEFITS
TO CLASS IV EX FIXED PAY EMPLOYEES

I am directed to refer to the subject noted above and to state that all the subject cases may be disposed off in light of para 13 of the judgement of Peshawar High Court dated 22-6-2017(copy enclosed). It is further stated that all such cases may be examined in light of prevailing pension rules and the employees who have rendered minimum length of service, which is 25 years in normal cases and ten years in special /family pension cases. Service rendered by officials under contract, adhoc etc shall be counted towards pension provide such officials were regularized at later stage and pension was denied to them on the ground of not fulfilling criteria of minimum time as regular employee.

However, this Department may be kept informed of the day to day proceedings.


Section officer (Lit-I)

Endst.NO & date as above.

Copy to:-

1. Advocate General KPK
2. Addl Registrar Peshawar High Court.
3. P.A to Spl: Secretary (Legal).


Section officer (Lit-I)

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1503 /ST

Dated 26 / 8 / 2019

To


The District Education Officer Male,
Government of Khyber Pakhtunkhwa,
Nowshehra.

Subject: -

JUDGMENT IN APPEAL NO. 112/2019, MR. SARDAR ALI.

I am directed to forward herewith a certified copy of Judgement dated 07.08.2019x passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.