

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

Dated

4076  
7/3/2023

Restoration Service Appeal No.549/2022 in SA No.6355/2020

Muhammad Younas S/O Shah Dad Khan, R/O Mohallah Miangan V&PO Tordher,  
Tehsil Lahor, District Swabi..... **Appellant**

**VERSUS**

1. Govt: of Khyber Pakhtunkhwa, through Secretary Elementary & Secondary Education Department, Civil Secretariat, Peshawar.
2. Secretary Finance, Government of Khyber Pakhtunkhwa Civil Secretariat, Peshawar
3. The Director Elementary and Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
4. The District Education Officer (Female) Swabi.
5. The Sub Divisional Education (Female) Tehsil Lahor, District Swabi.....**Respondents**

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**DISTRICT EDUCATION OFFICER  
(FEMALE) SWABI**

**District Edu. Officer  
(Female) Swabi**

(OT)

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**REPLY ON BEHALF OF THE RESPONDENT No.4**

Respectfully Sheweth,

**PRELIMINARY OBJECTIONS.**

1. That the appellant was appointed on fixed pay, contract basis employee, hence the appeal is not maintainable.
2. That the appellant till retirement on superannuation was not placed on regular Establishment, hence the Civil Service Pension rules shall not apply to him, hence the Appeal is not maintainable.
3. That there is not a single day Civil Service existed on part of the appellant, hence the Appeal is not maintainable due to rule 1.5 of Govt: Servants pension rules 1963
4. That the total service which was rendered on contract basis and was less than five years. Hence the appeal is not maintainable.
5. That the appellant claims pension of his non personable service after a long period of 21 years, hence the instant appeal is badly barred by time and hit by the principle of laches, hence not maintainable.
6. That the appellant was a contract fixed pay employee, he is not a Civil Servant, hence the Service Appeal is not maintainable.

**Facts:**

Admitted to the extent that the appellant was appointed against Chowkidar post in fixed pay contract basis on 28.02.1997., he was retired from service on superannuation dated 30.06.2000. His total length of fixed pay contract service was 03 years, 04 months and 02 days. He was not a Civil Servant, therefore, his qualifying service for pension is Zero years. According to West Pakistan Civil Servants Pension rules 1963 rule 4.4, "Amount of full pension will be granted after a qualifying service not less than 10 years". Now, there is not a single day qualifying service existed on part of the appellant. Therefore, he is not entitled for grant of pension. The reply in Service appeal No.6355/2020 has already been submitted. The appellant were given ample opportunities

by the Honourable Service Tribunal vide dated 21/04/2021, 10/08/2021, 07/10/2021, 07/12/2021, 24/01/2022, 22/03/2022, 06/04/2022, 27/06/2022 & 03/08/2022 but the appellant did not make <sup>his</sup> ~~his~~ admission. Therefore, on the last date i.e. 03/08/2022 the service appeal was dismissed <sup>in</sup> ~~and~~ default. Now after restoration the appellant remains absent. Government servant pension rules, 1963 can not apply on the appellant. The comments already filed vide Diary No. 287 dated 17/11/2021 in SA No. 6355/2020 may please be considered the integral part and parcel of the instant restoration Service Appeal to avoid repetition.

Hence the appellant is not a Civil Servant, therefore, it is earnestly requested that the service appeal may be very graciously be dismissed with special compensatory cost in favour of the department, due to lack of jurisdiction and frivolous litigation.

DISTRICT EDUCATION OFFICER  
 (FEMALE) SWABI  
 (Respondent No. 4 & 5)  
 District Edu. Officer  
 (Female) Swabi

**Affidavit**

**I Sofia Tabssum do hereby solemnly affirm declare on oath that the contents of the para wise comments submitted by respondents is true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.**

DISTRICT EDUCATION OFFICER  
 (FEMALE) SWABI  
 District Edu. Officer  
 (Female) Swabi

