FORM OF ORDER SHEET

Court of _____

Case No.- 610/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	20/03/2023	The appeal of Mr. Hazrat Ali resubmitted today by Mr. Muhammad Anwar Khan Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____. Parcha Peshi is given to appellant/counsel for the date fixed. By the order of Chairman REGISTRAR

The appeal of Mr. Hazrat Ali son of Wazeef Ullah Belt no. 1630 received today i.e. on 16.03.2023 is incomplete on the following score which is returned to the co Counsel for the appellant for completion and resubmission within 15 days.

1- Address of appellant is incomplete be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
2- Copy of contract appointment order mentioned in para-1 of the memo of appeal (Annexure-A) is not attached with the appeal.
3- Annexure-F of the appeal is illegible which may be replaced by legible/better one.
4- Certificate be furnished that whether any appeal on the subject matter has earlier been filed in this Tribunal.

No. 971 /S.T,

Dt. 17/3 /2023

REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Muhammad Anwar Khan Adv.
High Court at Peshawar.

Resubmitted after compliance.
Contract order copy is on Page
No 8 & 9.

20/3/2023

M. Anwar Khan

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Mr. Hazrat Ali S/o Hazifullah

APPLICATION FOR HEARING THE ABOVE TITLE APPLICANT'S SERVICE APPEAL IN PESHAWAR AS ALL THE PRINCIPALS RESPONDENTS ARE IN PESHAWAR.

Respectfully Sheweth:

It is humbly requested that the preliminary hearing of the above applicants may please be honor to hear in Peshawar.

Dated: 16/03/2023

Muhammad Anwar Khan
Advocate, High Court,
Peshawar.

BEFORE THE KPK SERVICES TRIBUNAL, PESHAWAR

Service Appeal No. 610 /2023

Mr. Hazrat Ali S/o Wazeef Ullah

.....**Appellant**

VERSUS

Government of KPK through Chief Secretary & Others

.....**Respondents**

INDEX

S.No	Description of Documents	Annex	Pages
1.	Grounds of Service Appeal		1-4
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3.	Addresses of Parties		6
4.	Copy of contract appointment orders	A	7-9
5.	Copy of regular appointment order	B	10-11
6.	Copy of Application/ Appeal	C	12-13
7.	Copy of Supreme Court Judgments	D	14-21
8.	Copy of Service Tribunal Judgment	E	22-24A
9.	Copy of Pension rules for qualifying service	F	25
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Appellant

Through

Muhammad Anwar Khan
(Pashton Ghari)
Advocate High Court,
Peshawar

Date: 14/3/2023

BEFORE THE SERVICES TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No. 610 /2023

(D)

SPO Hazrat Ali S/o Wazeef Ullah, Belt No 1630,
R/o Post office Kalkot, Tehsil Kalkot, District Upper Dir.Employee of Deputy Inspector General of Police Malakand Region Malakand.

.....Appellant

VERSUS

1. Govt of Khyber Pakhtunkhwa, Through Chief Secretary Khyber Pakhtunkhwa, Civil Secreteriate Peshawar.

2. The Deputy Inspector General of Police Malakand Region Malakand.

3. The Provincial Police Officer Khyber Pakhtunkhwa, Civil Secreteriate Peshawar..

.....Respondents

Appeal u/s 4 of the Khyber Pakhtun Khwa Service Tribunal Act, 1974 against the order dated 1-3-2020 of The Respondents No. 3, whereby Appellant service has been Regularized from contract Service. The Regulization order dated 1-3-2020 may be considered w.e.f, 01-08-2009 instead of 1-03-2020.

Prayer in Appeal

On Acceptance of the instant appeal, The Respondents may be directed to count the Temporary Services of Appellant with effect from his initial recruitment dated 01-08-2009 toward his regular service for the purpose of grant of pension and he may be allowed pension and other back benefits.

(2)

Respectfully Sheweth:

The appellant submits as under:

1. That the Appellant has been appointed as SPO (Special Police Officer) in Police Department on fixed Pay Rs. 15000/- PM in the Year 2009 in prescribe manner. **(Copy of contract Order is attached as Annexure A)**
2. That the August supreme court of Pakistan also Regularized the contract service as a regular service and also counted the contract service for seniority as per Supreme Court judgments and judgment of Punjab service tribunal Reported in 2019 PLC (CS) 103.

3. That the Appellant has been Regularized by the Respondents w.e.f 1/03/2020 instead of date of initial appointment of the Appellant. **(Copy of regular appointment order is attached as Annexure B)**

4. That the Appellant requested to the Respondents for counting the contract service into Regular service with all back benefits but all in vain. **(Copy of application/ Appeal is attached As Annexure C).**

5. That the August supreme court of Pakistan also Regularized the contract service as a regular service and also counted the contract service for seniority as per Supreme Court judgments and judgment of Punjab service tribunal Reported in 2019 PLC (CS) 103. **(Copies of judgments of**

supreme court and service tribunal are attached respectively as Annexures D and E).

GROUNDS:

A) *That the Petitioner has not been treated in accordance with law and his rights secured and guaranteed under the law have been badly violated.*

B) *That the same is against the natural justice also.*

C) That the Appellant remained temporary employee of the Respondents, since 2009, the Appellant was regularized on 1-3-2020 thus in view of the provision contained in Article 371-A of the CSR the Appellant is also entitled that his contract services be counted for the purpose of pension.

D) That the Temporary service followed by confirmation/ regular appointment gave the Appellant a right that his service be considered as regular service. **(Copy of rules 2.1 is attach as annexure F.)**

E) *That the Respondents are using different yard stick and are violating the provision of their own Law/ rules/ calendar and the constitution of Islamic Republic of Pakistan 1973.*

F) *That the Appellant may kindly be allowed to advance additional arguments at the time of hearing the instant Service Appeal.*

It is, therefore, most humbly prayed that on acceptance of the instant service appeal, the

impugned regularization order dated 01.03.2020 may very graciously be consider w.e.f his initial appointment i.e. 21/07/2009 instead of 01-03-2020 with all back benefits.

Any other remedy which is deemed fit by this Honorable Tribunal in the interest of justice, may also be granted in favour of appellant.

Appellant

Through

Muhammad Anwar Khan
(Pashton Ghari)
Advocate High Court

Date: 14/3/2023

Certificate:-

It is certify that no such like Service Appeal has earlier been filed by the Petitioner in this Honorable Court.

Advocate.

5

BEFORE THE KPK SERVICES TRIBUNAL, PESHAWAR

Service Appeal No._____/2023

Mr. Hazrat Ali S/o Wazeef Ullah

.....**Appellant**

V E R S U S

Government of KPK through Chief Secretary & Others

.....Respondents

AFFIDAVIT

I, Mr. Hazrat Ali S/o Wazeef Ullah, Belt No 1630, R/o Post office Kalkot, Tehsil Kalkot, District Upper Dir., do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Tribunal.

DEPONENT

6

BEFORE THE KPK SERVICES TRIBUNAL, PESHAWAR

Service Appeal No._____/2023

Mr. Hazrat Ali S/o Wazeef Ullah

.....**Appellant**

V E R S U S

Government of KPK through Chief Secretary & Others

.....Respondents

ADDRESSES OF PARTIES

APPELLANT

Mr. Hazrat Ali S/o Wazeef Ullah, Belt No 1630,
R/o Post office Kalkot, Tehsil Kalkot, District Upper Dir.

RESPONDENTS

1. Govt of Khyber Pakhtun Khwa, Through Chief Secretary Khyber Pakhtun Khwa, Civil Secreteriate Peshawar.

2. The Deputy Inspector General of Police Malakand Region Malakand.

3. The Provincial Police Officer Khyber Pakhtun Khwa, Civil Secreteriate Peshawar.

Appellant

Through

Muhammad Anwar Khan
(Pashton Ghari)
Advocate High Court

Date: 14/3/2023

7

Annexure A 7-9

OFFICE ORDER.

Consequent upon their selection by Joint team consisting of Officers, Civil Administration, Special Branch, Police and Army Authority have been pleased to approve the following candidates as Special Police force in Dir Upper District on the following term and condition with effect from 15.12.2009.

S.No	Name	F/Name	Residence	SPO No.
1.	Amin Khan	Chamrali	Serai Bebyawar	SPO-601
2.	Noor Zada	Muhibullah	Sharingal	SPO-602
3.	Alamgir	Sartaj	Shalgah	SPO-603
4.	Nasar Khan	Fazal Rabi	Sharingal	SPO-604
5.	Muhd: Rafiq	Zainul Abdidin	Daskor Bala	SPO-605
6.	Sadam Hussain	Hazrat Yousaf	Amrait	SPO-606
7.	Said Bahadar	Muhd: Zarin	Matarr	SPO-607
8.	Liaqat Ali	Shalyar	Bandai	SPO-608
9.	Ali Rehman	Said Habib	Panakot	SPO-609
10.	Awrang Zeb	Mian Hazrat Shah	Mian Banda	SPO-610
11.	Sardaraz Khan	Muhd: Shah Khan	Patrak	SPO-611
12.	Ijaz Ahmad	Sherin Muhd:	Patrak	SPO-612
13.	Shahidin	Juma Khan	Patrak	SPO-613
14.	Shujat Ali	Ajdar Khan	Patrak	SPO-614
15.	Wilayat Khan	Rasul Muhd:	Seyah Jabar	SPO-615
16.	Rehmanul Haq	Muhd: Zaminul Haq	Ingaro Cham Jabar	SPO-616
17.	Majid Khan	Ambar Khan	Akhagram	SPO-617
18.	Khaista Bacha	Asfandyar	Akhagram	SPO-618
19.	Asadullah	Bahadar Khan	Miana Doag	SPO-619
20.	Riaz	Mutabar Khan	Mian Doag	SPO-620
21.	Najmu Din	Habib Ahmad	Miana Doag	SPO-621
22.	Akhtar Ayub	Sulatam Muhd:	Miana Doag	SPO-622
23.	Sultan Alam	Haji Sabdar Salam	Mian Doag	SPO-623
24.	Hayat Khan	Ajbar Khan	Kalkot	SPO-624
25.	Lajbar	Noor Akbar	Kalkot	SPO-625
26.	Ibrahim	Sher Baz	Kalkot	SPO-626
27.	Usman Alam	Manjawar	Kalkot	SPO-627
28.	Khan Zamin	Gul Zamin	Kalkot	SPO-628
29.	Bacha Zada	Muhd: Nagin	Kalkot	SPO-629
30.	Inayatul Haq	Sher Afzal	Kalkot	SPO-630
31.	Ibadur Rehman	Faqir Muhd:	Kalkot	SPO-631
32.	Laiq Zada	Badshah Gay	Kalkot	SPO-632
33.	Saeedullah	Fazal Rehman	Kalkot	SPO-633
34.	Khisro Parvez	Muhd: Zahir Shah	Kandaw	SPO-634
35.	Nazir	Ghulam Sakhi	Kandaw	SPO-635
36.	Muhd: Islam	Hazrat Ullah	Gurrlai	SPO-636
37.	Shafiullah	Rozi Khan	Maluk Khwar	SPO-637
38.	Muhd: Rehman	Abdur Rahim	Anarkun	SPO-638
39.	Muhd: Umar	Barkat Khan	Shat Bala	SPO-639
40.	Ali Rehman	Muhd: Raza Khan	Shat Bala	SPO-640
41.	Gul Baz Khan	Habib Khan	Suna	SPO-641
42.	Awran Zeb	Fida Ali	Shat Bala	SPO-642
43.	Zia ur Rehman	Itbar Khan	Maluk Khwar	SPO-643
44.	Shah Islam	Gul Azim	Hayagay	SPO-644
45.	Arshad Khan	Abbas Khan	Hayagay	SPO-645
46.	Taj Muhammad	Hakim Khan	Hayagay	SPO-646
47.	Khail Gul	Mazullah	Hayagay	SPO-647

948	Shakir Rahman	965	SPF	10-01-2010
949	Hussain Bahadar	966	SPF	30-12-2014
950	Sher Zaman Khan	967	SPF	02-12-2010
951	Muhd: Zia Khan	968	SPF	22-01-2013
952	Muhd: Shahid	969	SPF	10-01-2010
953	Abdul Hadi	970	SPF	30-12-2014
954	Mehtab Wali	971	SPF	02-12-2010
955	Hazrat Ali discharged	972	SPF	28-05-2013
956	Shahid Rashid	973	SPF	02-12-2010
957	Sulaiman	974	SPF	30-04-2015
958	Syed Muhammad	975	SPF	17-05-2010
959	Zahid Khan	976	SPF	02-12-2010
960	Wahid Ullah	977	SPF	02-12-2010
961	Muhd: Sajid Khan	978	SPF	02-12-2010
962	Gul Wazir	979	SPF	02-12-2010
963	Asif Khan	980	SPF	02-12-2010
964	Muhd: Islam	981	SPF	02-12-2010
965	Sultanat Khan	982	SPF	02-12-2010
966	Rahmat Faqir	983	SPF	02-12-2010
967	Badshah Muhd:	984	SPF	02-12-2010
968	Kachay Khan	985	SPF	02-12-2010
969	Muhammad Riaz	986	SPF	13-08-2013
970	Bakht Munir	987	SPF	07-11-2014
971	Muhd: Waqas	988	SPF	07-11-2014
972	Muhd: Siyar Khan	989	SPF	02-12-2010
973	Abdullah Khan	990	SPF	02-12-2010
974	Izzat Gul	991	SPF	02-09-2011
975	Sikandar Syed	992	SPF	02-12-2010
976	Dilawar Syed	993	SPF	02-12-2010
977	Mahmood Shah	994	SPF	02-12-2010
978	Ajmal Khan	995	SPF	02-12-2010
979	Asad Ali	996	SPF	02-12-2010
980	Sabir Gul	997	SPF	24-10-2011
981	Abd ur Rahman	998	SPF	02-12-2010
982	Sana Ullah	999	SPF	07-11-2014
983	Farid Gul	1000	SPF	11-07-2012
984	Zahid Gul	1001	SPF	02-12-2010
985	Hanzala	1002	SPF	24-11-2011

586	Muhammad Nabi	Hazrat Umar	Thall	Kalkot	SPC
587	Abdul Shakor	Said Faqir	Thall	Kalkot	SPC
588	Aziz Ullah	Aman Ullah	Lamotai	Kalkot	SPC
589	Jamshid	Sajad Khan	Lamotai	Kalkot	SPC
590	Muhd: Nawaz	Mirza Khan	Lamotai	Kalkot	SPC
591	Noor Rehman	Abdul Qayum	Lamotai	Kalkot	SPO
592	Rahim Ullah	Mahib Ullah	Lamotai	Kalkot	SPO
593	Izzat Faqir	Umar Faqir	Lamotai	Kalkot	SPO-
594	Saif ur Rehman	Muhammad Ayub	Lamotai	Kalkot	SPO-
595	Wazir Muhd:	Taza Khan	Lamotai	Kalkot	SPO-
596	Habib Khan	Ajim Khan	Lamotai	Kalkot	SPO-
597	Muhammad Afzal	Toor Bacha	Lamotai	Kalkot	SPO-
598	Aman Ullah	Mahabat Khan	Thall	Kalkot	SPO-
599	Sami Ullah	Abdullah	Lamotai	Kalkot	SPO-5
600	Sultan Zarin	Jumma Faqir	Thall	Kalkot	SPO-6

TERM AND CONDITION

- The appointees will be on contract for 2 years in service and on adhoc Basis for not more ther. 2 year in a stretch with no pension gratuity benefits and that the competent Author may terminate from servic as Special Police Officer with out showing any reason and notice.
- The appointees shall not demand or mark and excuse for only emolument of Rs, 10,000 rupees per month.
- The appointees shall wear the uniform issued by the department and responsible for, maintainence and safty of weapon issued by the department.
- The appointees shall be responsible before any senior Police Officer for any act of cowardice or irregularity, indiscipline or misconduct.
- The appointees shall not leave the job with out a prior notice of 2 month as per rule.
- The appointees shall not invole in any political or criminal activities.
- The appointees shall undergo the basic training fixed by the superior Officer.
- The appointees shall not try to chang or convert the mater of duty.

CB No 783
Dt: 29-8 /2009.

District Police Officer,
Dir Upper.

No /EB, Dated Dir Upper, the /2009.

Copy of above is submitted for information to the:-

1. Provincial Police Officer N.W.F.P, Peshawar.
2. Deputy Inspector General of Police Region III Saidu Sharif Swat.

District Police Officer,
Dir Upper

Attested

Annex B – 10 – 11

Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department
Dated Peshawar the April 8th, 2020

NOTIFICATION

No.SO(Budget)/FD/15-29/2016 Vol-II: In pursuance of the provisions contained in Section 5 read with Section 5 of the Khyber Pakhtunkhwa Special Police Officers (Regularization of Services) Act, 2019 (Khyber Pakhtunkhwa Act No.XXVII of 2019) and on the recommendation of Provincial Police Officer, Khyber Pakhtunkhwa and approval of the Provincial Cabinet, the Home and Tribal Affairs Department is pleased to notify herewith regularization of the following Special Police Officers (SPOs) working in District Dir Upper under DDO Code DA4015- Law & Order Dir Upper as Constables (BPS-07) with effect from 01-05-2020:

S.No	Name	Father Name	Belt No.
1	Mohammad Rahim Khan	Toti Rahman	1
2	Toti Rahman	Gul Sher Rahman	2
3	Saba Gul LSPF	Shamsher	3
4	Habib Ullah	Abdul Latif Khan	4
5	Badshah Rahman	Shad Mohammad Khan	7
6	Akber Ali shah	Haji Bahadar	9
7	Saz Bahadar	Mohammad	10
8	Ibrar Hussain	Gul Nawaz Khan	11
9	Rasool Wali	Said Hazrat	13
10	Ali Akbar	Bazir Khan	14
11	Anwar Zada	Anwar Khan	15
12	Sher Badshah	Asfandyar Khan	16
13	Badshah Rawan	Sher Zada	18
14	Darvish Khan	Pinda Mand Khan	19
15	Sadam Hussain	Itbar Said	20
16	Muzafar Khan	Mohammad Khaliq	21
17	Gulab Gul	Amir Khan (Husband	22
18	Khalid Khan	Mohammad Khan	23
19	Mohd Nazir	Akbar Zada	24
20	Nasib Ullah Khan	Rahim Ullah Jan	25
21	Khan Bacha	Mohammad Yousaf	27
22	Zakir Ullah	Mohammad Amin Khan	28
23	Abdur Rahman	Jehan Badshah	29
24	Ali Muhd Khan	Sher Mohammad Khan	30
25	Zarshed Khan	Jamshed Khan	31
26	Asghar Khan	Sultan	32
27	Aziz ur Rahman	Aman Ullah	33
28	Hazrat Ali	Wazif Ullah	34

Attested

Annex B – 10 – 11

Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department
Dated Peshawar the April 8th, 2020

NOTIFICATION

No.SO(Budget)/HD/15-29/2016 Vol-I: In pursuance of the provisions contained in Section 3 read with Section 5 of the Khyber Pakhtunkhwa Special Police Officers (Regularization of Services) Act, 2019 (Khyber Pakhtunkhwa Act No.XXVII of 2019) and on the recommendation of Provincial Police Officer, Khyber Pakhtunkhwa and approval of the Provincial Cabinet, the Home and Tribal Affairs Department is pleased to notify herewith regularization of the following Special Police Officers (SPOs) working in District Dir Upper under DDO Code DA4015- Law & Order Dir Upper as Constables (BPS-07) with effect from 01-03-2020:

S.No	Name	Father Name	Belt No.
1	Mohammad Rahim Khan	Toti Rahman	1
2	Toti Rahman	Gul Sher Rahman	2
3	Saba Gul LSPF	Shamsher	3
4	Habib Ullah	Abdul Latif Khan	4
5	Badshah Rahman	Shad Mohammad Khan	7
6	Akber Ali shah	Haji Bahadar	9
7	Saz Bahadar	Mohammad	10
8	Ibrar Hussain	Gul Nawaz Khan	11
9	Rasool Wali	Said Hazrat	13
10	Ali Akbar	Bazir Khan	14
11	Anwar Zada	Anwar Khan	15
12	Sher Badshah	Asfandyar Khan	16
13	Badshah Rawan	Sher Zada	18
14	Darvish Khan	Pinda Mand Khan	19
15	Sadam Hussain	Itbar Said	20
16	Muzafar Khan	Mohammad Khaliq	21
17	Gulab Gul	Amir Khan (Husband	22
18	Khalid Khan	Mohammad Khan	23
19	Mohd Nazir	Akbar Zada	24
20	Nasib Ullah Khan	Rahim Ullah Jan	25
21	Khan Bacha	Mohammad Yousaf	27
22	Zakir Ullah	Mohammad Amin Khan	28
23	Abdur Rahman	Jehan Badshah	29
24	Ali Muhd Khan	Sher Mohammad Khan	30
25	Zarshed Khan	Jamsheed Khan	31
26	Asghar Khan	Sultan	32
27	Aziz ur Rahman	Aman Ullah	33
28	Hazrat Ali	Wazif Ullah	34

Attested

566	Mati Ullah	Sami Ur Rahman	627
567	Khan Zamin	Gul Zamin	628
568	Badshah Zada	Mohammad Nagib Khan	629
569	Inayat ul Hag	Sher Afzal Khan	630
570	Qazi Mohi[illegible]	Aurang Zeb	631
571	Layaq Zada	Fazal Haleem	632
572	Saeed ullah	Fazal Rahman	633
573	Khesro	Muhammad Zahir Shah	634
574	Ubaid Ali Khan	Talib Mand Khan	635
575	Farid Khan	Bakht Jehan Khan	636
576	Shafi Ullah	Rozi Khan	637
577	Muhd; Rahman	Abdur Rahim	638
578	Muhd; Umar	Barkat Jan	639
579	Ali Rahman	Mohammad Raza Khan	640
580	Sahib Zada	Akbar Zada	641
581	Zia Ullah	Abdul Hamid	642
582	Said Rohullah	Bahadar Khan	644
583	Ihsan ul Haq	Gul Azim Khan	646
584	Khyal Muhammad	Maaz Ullah Khan	647
585	Amjad Khan	Aziz Jan	648
586	Irshad Ahmad	Sherin Zada	649
587	Arshad Iqbal	Bashir	650
588	Kamran Hasan	Zahir Shah	145
589	Dilawar Khan	Fazal Qayum	254
590	Abdul Kabir	Bashir Ahmad	483
591	Imad Akbar	Missal Khan	564

Secretary to Govt. of Khyber Pakhtunkhwa
Home & Tribal Affairs, Department

Endst. No. & date even

Copy forwarded for information to:

1. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa, Peshawar.
2. Accountant General, Khyber Pakhtunkhwa, Peshawar.
3. The Provincial Police Officer, Khyber Pakhtunkhwa.
4. The Regional Police Officer, Malakand.
5. The District Police Officer, Dir Upper.
6. The District Accounts Officer, Dir Upper.
7. PS to Home Secretary, Khyber Pakhtunkhwa.

SECTION OFFICER (BUDGET)

O/C No. 808
22-04-2020

Attested

Annexure C

12-13

بحضور جناب آئی جی پی صاحب خیبر پختونخواہ پشاور

درخواست برائے عطائیگی Back Benefit از 2009ء و

Contract Back Service شامل فرمانے

برائے پنشن Period

جناب عالی! سائل حسب ذیل عرض رساں ہے۔

1۔ یہ کہ سائل 2009ء میں SPO بھرتی ہوئے تھے اور پشاور ہائی کورٹ نے 2017ء میں مستقل کرنے کا فیصلہ فرمایا تھا۔

2۔ یہ کہ محکمہ پولیس نے یکم مارچ 2020ء کو مستقل کرنے کا آرڈر فرمایا ہے۔

لہٰذا استدعا ہے کہ سائل کو بمطابق قانون بھرتی کی تاریخ سے Regular کرنے کا حکم صادر فرمایا جاوے۔

العارض

12-12-22

[illegible] 1630 [illegible]

عزت مآب جناب انسپکٹر جنرل پولیس خیبر پختونخوا پشاور

درخواست ہمراہ آرڈر فرمانے کہ Permanent

جناب عالی۔

1 کہ لف سائل 2009 میں بحیثیت
سپیشل پولیس فورس بھرتی ہوئے تھے۔
2 کہ لف سائل کو سال 1-3-2010 میں
ریگولر کیا گیا ہے
3 کہ لف سائل کو سال 2009 سے لیکر
1-3-2010 تک سروس ریگولر فرمانے کا حکم صادر
فرمایا جائے

الف
11-5-2020

حضرت علی ولد وطیع اللہ سکنہ 1630 سکنہ ڈوگہ ڈاکخانہ
کلاکوٹ ڈسٹرکٹ اپر دیر۔

Annexure
14 – 21

P L D 2016 Supreme Court 534

Present: Anwar Zaheer Jamali, C.J., Mian Saqib Nisar, Amir Hani Muslim, Iqbal Hameedur Rahman and Khilji Arif Hussain, JJ

Civil Appeal No.1072/2005

CHAIRMAN, PAKISTAN RAILWAY, GOVERNMENT OF PAKISTAN, ISLAMABAD and others---Appellants

Versus

SHAT JEHAN SHAH---Respondent

(On appeal against the judgment dated 29-12-2003 passed by the Federal Service Tribunal, Islamabad in Appeal No.6(P)/CS/2003)

Civil Appeal No.686/2012

Mst. ROBINA SHAHEEN---Appellant

Versus

DIRECTOR EDUCATION (E&SC) KHYBER PAKHTUNKHWA and others---Respondent

(On appeal against the judgment dated 9-4-2012 passed by the KPK Service Tribunal, Peshawar, in Appeal No.1539/2009).

Civil Appeals Nos. 1072 of 2005 and 686 of 2012, decided on 14th April, 2016.

(a) Interpretation of statutes ---

----When a word had not been defined in the statute, its ordinary dictionary meaning was to be looked at.

(b) Words and phrases ---

----"Count"---Definition.

Chambers 21st Dictionary and Oxford Advanced Learner's Dictionary of Current English 7th Edn. ref.

(c) Civil Service Regulations (CSR)---

----Art. 371-A---Pensionary benefits---Government servants rendering temporary service in a temporary establishment for more than five years---Entitlement to grant of pensionary benefits within the meaning of Art.371-A of the Civil Service Regulations (CSR)---Scope---Article 371-A of the Civil Service Regulations (CSR) would not ipso facto or simpliciter allow government servants rendering temporary service in a temporary establishment for more than five years to be entitled to grant of pension, rather such period would only be counted towards such government servants' pension if otherwise entitled to pension. Mir Ahmad Khan v. Secretary to Government and others (1997 SCMR 1477) declared to be per incuriam]

Service rendered for more than five years as contemplated by Article 371-A of the Civil Service Regulations (CSR) would only be added, included, or taken into account for the purposes of pensionary benefits, and not make such government servant qualify for pension per se. Article 371-A of Civil Service

Attested
Advocate

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Regulations (CSR) by itself did not provide for the entitlement for the purposes of pension, rather it was restricted to the counting of the period of a minimum of five years which had been rendered by the temperary employee that once he was appointed on a permane nt basis, such period (of five years) shall be taken into account for the object of calculating his entitlement to pension with respect to the requisite minimum period under the law.

Mir Ahmad Khan v. Secretary to Government and others 1997 SCMR 1477 declared to be per incuriam

Article 371-A cannot be used as a tool to bypass the conditions for qualifying service of pensionary benefits, and such government servant had to fulfill the minimum number of years for grant of pension. This was due to the use of the word "count" as opposed to "qualify" or "eligible" in Article 371-A of the Civil Service Regulations (CSR).

It was absurd, ludicrous and inconceivable that a government servant, who was in regular employment, would become entitled to pension after serving the minimum years of qualifying service as prescribed by the law, whereas while interpreting Article 371-A of the Civil Service Regulations (CSR), a government servant who had served as a temporary employee could be given preference over a regular employee, and after a minimum service of only five years would automatically become entitled to pension. Holding so would be against the object and spirit of the concept of pension.

PLD 2013 SC 829 ref.

(d) Civil Service Regulations (CSR)---

---Art. 371-A---Pensionary benefits---Government servants rendering temporary service in a temporary establishment---"Temporary establishment"---Meaning---Temporary establishment could be said to mean an organisation or institution which was not permanent, rather effective for a certain period only.

Hafiz S.A. Rehman, Senior Advocate Supreme Court for Appellants (in C.A. No.1072 of 2005).

Riaz Shirpao, Advocate Supreme Court and Mir Adam Khan, Advocate-on-Record for Appellant (in C.A.No.686 of 2012).

Abdur Rehman Siddiqui, Advocate Supreme Court for Respondent (in C.A. No.1072 of 2005).

Ijaz Anwar, Advocate Supreme Court and M.S. Khattak, Advocate-on-Record for Respondent No.5 (in C.A.No.686 of 2012).

Waqar Ahmed Khan, Addl. A.G. (on behalf of Khyber Pakhtunkhwa).

Dates of hearing: 14th and 15th March, 2016.

JUDGMENT

MIAN SAQIB NISAR, J:- These appeals, by leave of the Court, involve a similar question of law, hence are being disposed of together. The key question involved herein is whether persons who have rendered more than five years' service in a temporary establishment are entitled to the grant of pensionary benefits within the meaning of Article 371-A of the Civil Service Regulations (CSR), and a re-visitation of the judgment of this Court reported as Mir Ahmad Khan v. Secretary to Government and others (1997 SCMR 1477).

Civil Appeal No.1072/2005:

2. This appeal entails the facts in that the respondent was appointed as an Assistant Executive Engineer

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in any way fall within the meaning and purview of "temporary establishment". Thus the respondent could not rely upon Article 371-A of the CSR. Besides, if hypothetically speaking Pakistan Locomotive Factory Risalpur was a temporary establishment, even then the respondent would not be able to take the benefit of Article 371-A (supra) as he otherwise does not qualify for pensionary benefits having wit been subsequently taken into permanent employment, which is sine qua non for the grant thereof.

8. Adverting to the law laid down in the case of Mir Ahmad Khan (supra) wherein it was held:-

> "Admittedly the appellant put in more than ten years' temporary service before his services were terminated he was, therefore, entitled to pensionary benefits under Regulation 371-A(i) of Civil Service Regulations."

In light of the discussion in paragraph No.6, the judgment delivered in Mir Ahmad Khan's case (supra) is declared to be per incuriam.

9. In view of the foregoing, we find that the respondent was not entitled to the grant of pensionary benefits in terms of Article 371-A of the CSR, and the learned Service Tribunal had erroneously allowed him pension by wrongly relying upon the case of Mir Ahmad Khan (supra) which is declared to be per incuriam.

10. The above are the detailed reasons for our short order of even date whereby the appellants' appeal was accepted and the impugned judgment was set aside, which reads as follows:-

> "We have heard the arguments of learned ASCs for the parties. For the reasons to be recorded later, this appeal is allowed, the impugned judgment of the Federal Service Tribunal dated 29.12.2003 is set aside and the service appeal preferred by the respondent is dismissed."

Civil Appeal No.686/2012:

11. The brief facts of the instant appeal are that the appellant was a Professional Teaching Certification (PTC) Teacher in the Commissionerate for Afghan Refugees, Peshawar (Commissionerate), from 28.2.1987 to 17.1.2005, i.e. approximately 18 years. During her employment at the Commissionerate, she applied for two months leave on 20.1.2004, after which she was appointed as a PTC Teacher in the Schools and Literacy Department, Government of Khyber Pakhtunkhwa (department) and she assumed charge of her post on 25.11.2004 and tendered her resignation with the Commissionerate on 10.1.2005. Thereafter she filed a departmental appeal to respondent No.1 claiming that her 18 years' service with the Commissionerate be counted for the purposes of her pension, which (departmental appeal) was accepted vide order dated 24.6.2008. However, the said order stated that her 10 years' service be counted towards calculation of her pension, as opposed to 18 years; which the appellant was dissatisfied with thus she filed a corrigendum application for correction of the said mistake. However, in response, the department on 20.7.2009 informed the appellant that her prior service with the Commissionerate could not be counted towards her pension. Aggrieved, the appellant filed an appeal before the learned Khyber Pakhtunkhwa Service Tribunal which was dismissed vide the impugned judgment dated 9.4.2012 whereafter she approached this Court. Leave was granted on 5.7.2013 in the following terms:-

> ".....Prima facie, it is difficult to understand that admittedly when the petitioner had served for a period of about 18 years in the Commissionerate and thereafter joined the Education Department and initially the Education Department had also accepted her claim allowing computing of her previous service for the purpose of pension then what prevailed with the department subsequently in disallowing continuity. In view of the judgment cited by the learned counsel in the case of Zafar Shah (2003 SCMR 686) in such like circumstances, continuity for the purpose of extending the benefit of pension is permissible.
>
> 3. Inter alia, to examine this aspect of the case, leave to appeal is granted in this case...."

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Subsequently on 19.9.2013, it was decided that this case was to be heard along with Civil Appeal No.1072/2005 before the larger bench as they both involved similar questions of law.

12. Learned counsel for the appellant primarily submitted that the time spent at the Commissionerate is to be counted towards her pension in terms of Article 371-A of the CSR.

13. On the other hand, learned counsel for the respondents stated that due to the special facts and circumstances prevalent at that time, the decision rendered in the case of Mir Ahmad Khan (supra) is good law, however in the instant matter, the appellant is not entitled to inclusion of the period she spent as an employee of the Commissionerate for the purposes of pensionary benefits for the reason that she was in fact a project employee of a non-governmental organisation called Basic Education for Afghan Refugees (BEFARe), and not an employee of the Federal Government, and that she had resigned from the Commissionerate on 10.1.2005 after which she joined the department.

14. Learned Additional Advocate General, KPK adopted the arguments of Mr. Hafiz S. A. Rehman, learned counsel for the appellants in Civil Appeal No.1072/2005.

15. Heard. The appellant's main grievance is that the eighteen years she spent at the Commissionerate be counted towards her service at the department for the purposes of the grant of pensionary benefits as per Article 371-A of the CSR, suffice it to say that the Commissionerate for Afghan Refugees does not in any way fall within the meaning of "temporary establishment" as defined in Civil Appeal No.1072/2005 above to mean an organisation or institution which is not permanent, rather effective for a certain period only as described. Even otherwise, the appellant's service with the department was temporary and on a contract basis, and there is nothing on the record which suggests that she was subsequently confirmed or made permanent within the department. Therefore keeping in view the interpretation of Article 371-A of the CSR explained above with regard to Civil Appeal No.1072/2005 in that the said article would not ipso facto allow government servants rendering temporary service in a temporary establishment for more than five years to be entitled to grant of pension, rather such period would only be counted towards such government servants' pension if otherwise entitled to pension, we are of the opinion that the appellant is not entitled to pensionary benefits as claimed by her.

16. In light of the above, we find no infirmity in the impugned judgment warranting interference by this Court, therefore this appeal is dismissed as being devoid of merit.

MWA/C-6/S Appeal dismissed.

(18)

2018 S C M R 64

[Supreme Court of Pakistan]

Present: Gulzar Ahmed and Sajjad Ali Shah, JJ

ABDUL JABBAR and others---Appellants

Versus

GENERAL MANAGER (PERSONNEL) PAKISTAN RAILWAYS and others---Respondents

Civil Appeals Nos. 17-K to 42-K of 2017, decided on 16th November, 2017.

(Against the consolidated order dated 26.8.2016 passed by the Federal Service Tribunal Islamabad in 94(K)CS/16 to 119(K)CS/16).

(a) Civil Servants (Appeal) Rules, 1977---

----R.4(1)---Appeal from an 'order' passed by an authority---"Order"---Scope---For preferring an appeal in terms of R. 4 of the Civil Servants (Appeal) Rules, 1977, there had to be an order altering, interpreting to a civil servant's disadvantage, reducing or withholding his maximum pension and allowances---In such grievances/proceedings no particular form of order was required and even pension fixation notices could be treated as an order for the purposes of availing the remedy of appeal under R. 4 of the Civil Servants (Appeal) Rules, 1977.

(b) Civil Servants (Appeal) Rules, 1977---

----Pensionary rights, claim for---Limitation---Grievance in respect of pensionary benefits was a recurring cause, consequently, limitation could not come in the way of such relief---Where, however, such pensionary benefit was altered or interpreted to the disadvantage of a civil servant or his pension was reduced or his maximum pension was withheld including an additional pension admissible to him under the rules then his grievance to that extent had to be regulated in terms of R. 4(1) of the Civil Servants (Appeal) Rules, 1977.

Chief Executive Progressive Paper Ltd. The Chairman National Press Trust, Islamabad v. Sh. Abdul Majeed 2005 PLC (C.S.) 149 ref.

Muhammad Khalil Dogar, Advocate Supreme Court and Mazhar Ali B. Chohan, Advocate-on-Record for Appellants (in all cases).

Sanaullah Noor Ghouri, Advocate Supreme Court and Ms. Raana Khan, Advocate-

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(19)

on-Record for Respondents.

Date of hearing: 16th November, 2017.

ORDER

SAJJAD ALI SHAH, J.---The appellants who are retired civil servants have impugned the order of the Service Tribunal dated 26.8.2016 declining the reckoning of increment by way financial relief of Rs. 300/- per month in the monthly salary for computing, pensionary emoluments from the date of retirement for want of impugned order as required by section 4(1)(a) of the Service Tribunals Act, 1973.

2. Briefly, the Prime Minister's Secretariat on 11.3.1997 issued an U.O. No.16(P)PMDIR/931/97 in compliance of Prime Minister's address to the Nation on 23.2.1997 regarding financial relief of Rs.300/- per month to the low paid employees. The appellants were allowed such relief till the date of their retirement but such benefit was not included in their last pay for commuting pension and other post-retirement benefits on the ground that it was an ad hoc relief. It appears that the appellants, in the year 2016, filed departmental appeals and after getting no response approached the Service Tribunal. The Tribunal, after hearing the parties, through the impugned order, dismissed their appeals by holding that "there is a yawning gap of over eighteen years since the appellant retired w.e.f. Feb, 1998. The appellant should have come within the statutory period as prescribed under Rule-4 of the Service Tribunals Act, 1973, when came to know that Rs.300/- per month announced by the Prime Minister had not been computed in the pensionary benefits" and that "it is admitted position that in the is at hand there is no impugned order; hence, appeal filed by the appellant is hit by section 4(1)(a) of the Service Tribunal Act, 1973. When there is no impugned order, there should be no representation or appeal, hence, as a corollary no appellate order":-

3. Leave was granted by this Court vide order dated 27.1.2017 which reads as under:-

> "that the non or deficient grant of pension is a recurring cause of action and thus to hold that the petitioners have been sleeping over their rights since long; besides that they have failed to avail any departmental remedy such as that of appeal or representation is misconceived because no departmental appeal to a retired employee for pensionary benefits is available under the law and thus a civil servant aggrieved of the short payment or non-payment of the pensionary benefits can directly approach the learned Service Tribunal for the claim of their pensionary benefits. Leave is granted to consider the above."

4. Learned ASC for the appellants contended that this Court in the case of Managing Director, Pakistan Railways, Carriage Factory, Islamabad v. Muhammad Asghar (2008 SCMR 1037) has held that the increase of Rs.300/- per month announced by the Prime

Minister in his address to the nation granting financial relief to the low paid employees was neither ad hoc nor a temporary relief and was liable to be included for calculating pension and other post-retirement benefits and, therefore, the Tribunal has erred in rejecting the appellants' claim for want of the impugned order. Per counsel since the pensionary benefit being terms and conditions of the service and available under the law, therefore, the civil servants aggrieved of short payment or non-payment of pensionary benefits could directly approach the Service Tribunal to claim such benefits or their short fall and that there was no requirement of any impugned order.

5. On the other hand, learned counsel for the respondents initially tried to argue that the relief so allowed in consequent to the Prime Minister's address was an ad hoc relief but in view of the pronouncement of this Court in the case of Managing Director, Pakistan Railways, Carriage Factory, Islamabad (supra), did not press this argument, however, contended that the claim is hit by laches and, therefore, was rightly declined. It was lastly submitted that since such relief was discontinued w.e.f. 1.12.2001 vide Finance Division's O.M. No.F(1)(5)IMP 2001 dated 4.9.2001 on introducing revised pay scales, therefore, the employees who retired after 1.12.2001 were not entitled to such benefit. However, the entitlement of the appellants to the relief claimed was not disputed on factual plane.

6. In response, learned ASC for the appellants submitted that none of the appellant retired after 1.12.2001, therefore, such submission is not even relevant for the purposes of instant controversy.

7. We have heard the contentions of learned counsel for the respective parties and have perused the record. The procedure to be followed by a civil servant in case where his conditions of service in respect of pay, allowances or pension are altered, interpreted to his disadvantage, reduced or withheld etc. is detailed in section 4(1)(a) to (c) of the Civil Servants (Appeal) Rules, 1977, which reads as under:-

> "4.(1) A civil servant shall be entitled to appeal to the appellate authority from an order passed by an authority which -
>
> (a) alters to his disadvantage, his conditions of service, pay, allowances or pension; or
>
> (b) interprets to his disadvantage the provisions of any rules whereby his conditions of service, pay, allowances or pension are regulated; or
>
> (c) reduces or withholds the maximum pension, including an additional pension, admissible to him under the rules governing pensions; or
>
> (d) ...."

8. Perusal of the reproduced provision reflects that a civil servant has to file an appeal

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respondents on two counts; firstly, that after determination of this controversy by this Court in above referred case where the respondents unsuccessfully had challenged the inclusion of such financial relief towards pensionary benefits, it was their bounden duty to include such benefit at least in the cases of employees who, like the present appellants, were entitled to such relief even if their argument of discontinuation of such relief on 1.12.2001 i.e. upon introduction of revised pay scales is accepted Secondly, neither the representation of the appellants was rejected by the respondents on the ground of being barred by time nor the Service Tribunal gave any specific finding or held the petition barred by time.

14. In the instant case the employees of the respondent/Pakistan Railways who were granted relief by this Court in the case of Managing Director, Pakistan Railways, Carriage Factory, Islamabad (supra) had preferred representation by treating the pension fixation notices as an order interpreting the financial relief of Rs.300/- P.M. to their disadvantage. The Tribunal accepted their appeal by redressing their grievances and directing the respondent/Pakistan Railways to include the financial relief of Rs.300/- P.M. allowed by the Prime Minister in reckoning their pensionary benefits which order was maintained by this Court in the judgment referred and reproduced above. Following their colleagues, the appellants herein instead of filing appeal in terms of Rule 4 of the Civil Servants (Appeal) Rules, 1977, had moved the representation to the appellate authority which could be treated as an un-responded appeal, had approached the Tribunal which, in our opinion, appears to be sufficient compliance of section 4(1)(1) of the Service Tribunals Act, 1973 specially when the claim of the appellants was backed by the judgment of this Court.

15. In the foregoing circumstances, all these appeals are allowed and the respondent/Pakistan Railways is directed to include the financial relief of Rs. 300/- P.M. for computing post retirement benefits. Parties to bear their own costs.

MWA/A-36/SC

Appeals allowed.

Attested

Case Judy

Annex E 22-24

2019 P L C (C.S.) 103

[Punjab Service Tribunal]

Before Justice (R) Abdul Sami Khan, Chairman

FAREEHA REHMAN and others

Versus

PROVINCE OF PUNJAB through Secretary Higher Education and others

Service Appeals Nos. 2730 to 2742, 2946 to 2978 and 4058 to 4065 of 2016, decided on 19th July, 2018.

Punjab Service Tribunal Act (IX of 1974)---

----S. 4---Constitution of Pakistan, Art.25---Regularization in service---Back benefits---Discrimination---Appellants were lecturers appointed on contract basis for a period of 3 years---Grievance of appellants was that similarly placed other lecturers had been regularized---Validity---Appellants were appointed as female lecturers through departmental selection committee on contract basis for a period of 3 years---Contract services of appellants were extended from time to time without any break for about 15 years---Appellants were met with discriminatory treatment as same was established from facts and documentary evidence relied upon by appellants that other employees of Government of Punjab through different orders/notifications were regularized---Claim of appellants that their employments should have been regularized from date of initial appointments was refused which showed that they had been dealt with discrimination---Service Tribunal set aside orders passed by authorities as appellants were entitled for regularization from date of initial appointment as lecturers---Appeal was allowed in circumstances.

Muhammad Aslam Awan, Advocate Supreme Court v. Federation of Pakistan and others" reported as 2014 SCMR 1289 rel.

Muhammad Sajid Khan Tanoli for Appellant (in Appeals Nos.2730 to 2742 of 2016 and 2946 to 2978 of 2016).

Rizwana Anjum Mufti for Appellant (in Appeals Nos.4058 to 4065 of 2016).

Muhammad Arshad Naseer District Attorney.

ORDER

JUSTICE (R) ABDUL SAMI KHAN, CHAIRMAN.----Since common questions of law and facts are involved in the following appeals which are being disposed of through this single judgment:-

I) Fareeha Rehman v. Province of the Punjab through Secretary Higher Education Department and others (Service Appeal No.2730/2016).

II) Raheela Ghafoor v. Province of the Punjab through Secretary Higher Education Department and others (Service Appeal No.2731/2016).

III) Zomra Ilyas v. Province of the Punjab through Secretary Higher Education Department and others (Service Appeal No.2732/2016).

IV) Andleeb Iqbal v. Province of the Punjab through Secretary Higher Education Department and others (Service Appeal No.2733/ 2016).

V) Noreen Akhtar v. Province of the Punjab through Secretary Higher Education Department and others (Service Appeal No.2734/ 2016).

VI) Anjum Iqbal v. Province of the Punjab through Secretary Higher Education Department and others (Service Appeal No.2735/ 2016).

VII) Huma Khanum v. Province of the Punjab through Secretary Higher Education Department and others (Service Appeal No.2736/ 2016).

L) Shazia Jabeen v. Province of the Punjab through Secretary Higher Education Department and others (Service Appeal No.4061/ 2016).

LI) Rizwana Nazir v. Province of the Punjab through Secretary Higher Education Department and others (Service Appeal No.4062/ 2016).

LII) Farzana Khan v. Province of the Punjab through Secretary Higher Education Department and others (Service Appeal No.4063/ 2016).

LIII) Uzma Tariq v. Province of the Punjab through Secretary Higher Education Department and others (Service Appeal No.4064/ 2016).

LIV) Ghazala Naz v. Province of the Punjab through Secretary Higher Education Department and others (Service Appeal No.4065/ 2016).

2. Appellants filed instant appeals under section 4 of the Punjab Service Tribunal Act, 1974 praying that the appellants may be regularized in their services w.e.f. their date of initial appointments with all back pensionary and other benefits and their previous length of service about 15 years be considered as a regular employee and seniority may also be fixed from the date of original appointments and the probation period may also be considered as regular service by way of setting aside the impugned order dated 9.5.2016.

3. Briefly, the departmental authorities established eight colleges during the period from 1998-1999 and the Director of Education (Colleges), Rawalpindi recruited 70 female lecturers along with other staff on contract basis through Departmental Selection Committee for a period of three years with the approval of the competent authority. The Higher Education Department extended their contract services from time to time but they were not regularized despite rendering long service without break. It is also mentioned that the services of other lecturers recruitment by the respondent department during this period were regularized gradually.

Appellants along with other female lecturers filed Writ Petitions Nos.2713/2009 and 2722/2009 in the Lahore High Court, Rawalpindi Bench, Rawalpindi for regularization of their services. The said writ petitions were accepted vide orders dated 4.4.2012 with the following direction:--

"For the reasons supra, both the writ petition are accepted and the respondents are directed to regularize the petitioners with immediate effect within a period of two months".

Thereafter, the respondent department filed I.C.A. No.155/2012 assailing the judgment dated 4.4.2012 which was dismissed vide order dated 16.5.2013, hence the judgment of the Hon'ble Lahore High Court, Rawalpindi Bench, Rawalpindi has attained finality.

In compliance of the order of the Hon'ble Lahore High Court, Rawalpindi Bench, Rawalpindi, appellants along with other lecturers who were on the strength of Higher Education Department on 4.12.2014 were regularized into government service with immediate effect vide Notification No.SO(CE-III)61-2/2009 dated 4.12.2014 and not from the date of their initial appointments.

Aggrieved of the notification dated 4.12.2014, appellant preferred departmental appeals which were not decided and later on, appellants filed Service Appeals Nos. 1788, 1790 to 1800 of 2015 and 2050 to 2090 of 2015 which were decided by this Tribunal vide order dated 18.2.2016 with direction to the Secretary, Higher Education Department, Government of the Punjab, Lahore to decide the pending representations/departmental appeals of the appellants within a period of 30 days.

In deference to the same, the Secretary, Higher Education Department, Government of the Punjab, Lahore vide order dated 9.5.2016 decided the representations/ departmental appeals of the appellants and refused the claim of the appellants as prayed. Hence these appeal.

4. I have considered the arguments of both parties and perused the record.

5. It is established from the record that the appellants were appointed as female lecturers through

Departmental Selection Committee in the year, 1998-99 on contract basis for a period of three years. The contract services of the appellants were extended from time to time without any break for about 15 years.

6. It has been noticed that the appellants were met with discriminatory treatment which is established from the facts and documentary evidence relied upon by the learned Counsel for the appellants that the other employees of the Government of the Punjab through different orders/ notifications were regularized but the claim of the appellants that their employment may be regularized from the date of initial appointments was refused which shows that they have been dealt with discrimination by the Higher Education Department, Government of the Punjab.

In this regard I may observe here that it has been settled by the Hon'ble Supreme Court of Pakistan that seniority of a civil servant was to be reckoned from the date of initial appointment and not from the date of conformation or regularization.

7. In this regard reliance can easily be placed on the judgment of the Full Bench of the Hon'ble Supreme Court of Pakistan titled as "Muhammad Aslam Awan, Advocate Supreme Court v. Federation of Pakistan and others" reported as 2014 SCMR 1289 held as under:-

> "civil servant---Seniority of---Reckoned from date of initial appointment---In service matters, while considering the seniority of civil servants, the seniority was reckoned from the date of initial appointment and not from the date of confirmation or regularization".

8. For what has been discussed above, I came to the conclusion that the appellants were entitled for regularization from the date of their initial appointments as Lecturers, hence these appeals are allowed by setting the impugned orders.

MH/2/PST
Appeal allowed.

Attested

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Annex F

SERVICE QUALIFING FOR PENSION 24 A

1. **Conditions of Qualifications :-** The service of a Government servant does not qualify for pension unless it conforms to the following three conditions:-

First:- The Service must be under Government.

Second:- The service must not be Non-pensionable.

Third:- The service must be paid by Government from the Provincial consolidated fund.

Rule.2.1.

SERVICE RENDERED AFTER RETIRMENT ON SUPERANNUATION PENSION.

Service rendered after retirement on superannuation pension/retiring pension shall not count for pension or gratuity. Note below Rule - 2.1

3. **Beginning of service: Subject** to any special rules, the services of civil servant being to qualify for pension when he takes over charge of the post to which he is first Rule 2.2.

4. Temporary and officiating service:- Temporary and officiating service shall court for pension as indicated below:-

(i) Civil servants borne on temporary establishment who have rendered more than five years continuous temporary service shall count such service for the purpose of pension or gratuity: and

(ii) Temporary and officiating service followed by confirmation shall be count for pension or gratuity .Rule 2.3.

CLARIFICATION OF PHRASE - QUALIFYING DERVICE

Temporary and officiating service followed by confirmation or temporary/officiating service exceeding five years qualifies for pension.

Some confusion seems to exist in some quarters as to how condonation of interruptions between two spells of temporary /officiating service may be regulated under rule 2.12 (1) of the West Pakistan civil services pension Rule. According to Rule 2.3 ibid temporary and officiating service followed by confirmation or temporary/ officiating service of more than five years counts for pension / gratuity.

The provisions of rule 2.12(1) take cognizance of only those cases where the government servant had prior to the interruption period of qualifying service towards pension/gratuity. The condonation of interruptions in service with a view to allowing past Non- qualifying temporary /officiating service to qualify for pension gratuity under rule 2.3 is not permissible.

In words condonation of interruption for pension gratuity in temporary officiating service is permissible only where the broken period of temporary officiating service is qualifying i.e. it exceeds five years or is followed by confirmation.

Where neither condition is fulfilled condonation of interrupt is not permissible.

To make it more clearly the following illustrations are given:-

WAKALAT NAMA

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IN THE COURT OF KP Service Tribunal Peshawar

Hazrat Ali S/o Waseef ullah ..... VERSUS Chief Sectary & others .....

Accused/
Petitioner/ ✓
Appellant/
Plaintiff.

✓ Respondent/
Defendant/
Complainant

FIR No..... Dated: ..... Police Station: .....
Charge U/s.....

KNOW ALL to whom these presents shall come that I the undersigned appoint:

Muhammad Anwar Khan, (Pushton Ghari), *Advocate, High Court, Peshawar* (herein after called the advocate) to be the Advocate for the Appellant/Petitioner in the above mentioned case, to do all the following acts, deeds and things or any of them, that is to say:

1) To act and plead in the above mentioned case in this court or any other Court in which the same may be tried or heard in the first instance or in appeal or review or execution or in any other stage of its progress until its final decision.
2) To sign, verify and present pleadings, appeals, cross - objections, petitions for execution, review, revision, withdrawal, compromise or other petition or affidavits or other documents as shall be deemed necessary or advisable for the prosecution of said case in all its stages.
3) To withdraw or compromise in the said case or submit to arbitration any difference or dispute that shall arise touching or in any manner relating to the said case.
4) To receive money and grant receipts therefore and to do all other acts and things which may be necessary to be done for the progress and the course of the prosecution of the said case.
5) To engage any other Legal practitioner authorizing him to exercise the power and authorities hereby conferred on the Advocate whenever he may think fit to do so.

AND I hereby agree to ratify whatever the Advocate or his substitute shall do in the promises.
AND I hereby agree not to hold the Advocate or its substitute responsible for the result of the said case and in consequence of his absence from the court when the said case is called up for hearing.
AND I hereby that in the event of the whole or any part of the fee agreed by me to be paid to the Advocate remaining unpaid, He shall be entitled to withdraw from the prosecution of the said case until the same is paid.

IN WITNESS WHEREOF I hereunto set my hand to these presents the contents of which have been explained to and understood by me, this 12 day of 3 2023

Accepted.

Muhammad Anwar Khan, (Pushton Ghari)
Advocate High Court, Peshawar
Cell No:- 0333-9262374

Signature/ thumb impression of party / parties.

Office Address:- Law Chamber No 127, New Bar Room, Judicial Complex, Peshawar