


FORM OF ORDER SHEET

Court of _____

Case No. - _____

620/2023


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	21/03/2023	<p>The appeal of Mr. Zohra Begum resubmitted today by Mr. Muhammad Ayub Khan Shinwari Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____; Parcha Peshi is given to appellant and his counsel.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

The appeal of Mst. Zohra Begum r/o Palai Pul near Charbagh received today i.e. on 07.03.2023 is incomplete on the following score which is returned to the co Counsel for the appellant for completion and resubmission within 15 days.

Annexure-A of the appeal is illegible which may be replaced by legible/better one.

No. 902 /S.T,

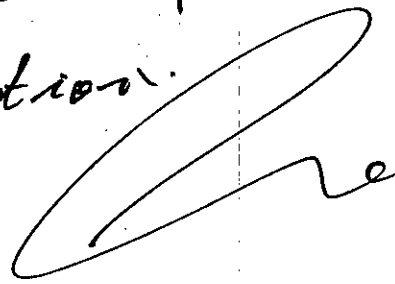
Dt. 08-03 /2023


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

M. Ayub Khan Shinwari Adv.
High Court at Peshawar.

20-3-2023

Re-submitted after
completion.



IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No 620 /2023

Zuhra Begum

.....Appellant

Versus

Government of KPK through Secretary Health & others

.....Respondents

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Dated: / /2023

Appellant,

Through

Muhammad Ayub Khan Shinwari

LL.B; LL.M

ADVOCATE

Supreme Court of Pakistan

CHAMBER

7-A, Haroon Mansion,

Khyber Bazar, Peshawar

Cell: (Clerk) 03219068514

Email: mak_shinwari@yahoo.com

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No 620 /2023

Zohra Begum,
R/o Palai Pul near Charbagh,
Turangzai, Charsadda

.....Appellant

Versus

1. Secretary to Government of Khyber Pakhtunkhwa, Department of Health, Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa, Finance Department, Peshawar.
3. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
4. District Health Officer, Charsadda
5. District Account Officer, Charsadda

.....Respondents

**Service Appeal Under Section 4 of Khyber
Pakhtunkhwa Service Tribunal Act, 1974**

Respectfully Sheweth,

Brief but relevant facts of the case are as follows:

1. That the appellant was appointed as Lady Health Worker in the respondent Department on fixed pay by the competent authority in the prescribed manner after fulfilling all the codal formalities vide appointment order dated 06-07-1994. (Copy of the appointment order is appended herewith as **Annex-A**)
2. That the said contract was extended from time to time. Meanwhile the Government of Khyber Pakhtunkhwa promulgated Khyber Pakhtunkhwa Regulation of lady Health Workers Program and Employees (Regularization

2

and Standardization) Act, 2014 the services of all the contract employees were regularized.

3. That in pursuance of the aforesaid Act the respondents regularized the services of the Appellant and her colleagues vide Office Order dated 24-09-2014. (Copy of Regularization order is appended herewith as **Annex-B**)
4. That now the appellant has retired from service on attaining the age of superannuation with effect from 04-04-2021 vide Office Order dated 24-04-2021 but the respondents are not preparing her pension papers for her monthly pension and other retiring benefits. (Copy of Service Book and Office Order is appended herewith as **Annex-C & D**)
5. That feeling aggrieved of the aforesaid act of respondents, the appellant filed Departmental Appeal which has not been decided yet and the statutory period for deciding the Departmental Appeal has lapsed. (Copy of the Departmental Appeal is filed herewith and annexed as **Annex-E**)

Hence, the instant Service Appeal on the following amongst other grounds:

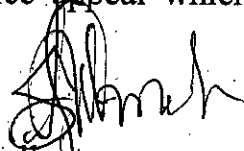
Grounds:

- a. That the impugned act of respondent Department is against the law, illegal, unlawful and without lawful authority.
- b. That the controversy involved in the title Service Appeal has been decided by this Honorable Court in Service Appeal No 1970/2019 vide Judgment dated 15-07-2021. (Copy of Judgment is filed herewith and annexed as **Annex-F**)
- c. That the treatment met to the Appellant is against the fundamental rights of the Petitioners enshrined and protected under the Constitution of Islamic Republic of Pakistan, 1973.
- d. That under the rule 2.3 of West Pakistan Civil Services Pension Rules, 1963, the service of the Appellant with effect from dates of appointment till date of regularization shall be counted for pension or gratuity.
- e. That the treatment met to the Appellant is against the dictums of August Supreme Court of Pakistan and this Honorable Tribunal.
- f. That the treatment met to the Appellant is not only based on discrimination but also the same is based on colorful exercise of powers which is not warranted under law.
- g. That the treatment met to the Appellant is not only against the principles of natural justice but also against the settled principles of administrative law.

h. That the Appellant crave permission of this Honorable Tribunal to rely on other grounds at the time of arguments and produce any additional document if required in support of his Service Appeal.

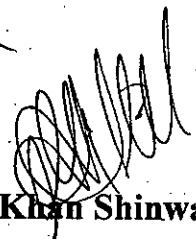
It is, therefore, prayed that on acceptance of the title Service Appeal, the impugned Notification may kindly be set aside and the respondents may kindly be directed to prepare and process the pension papers of the appellant for monthly pension and other pension benefits along with arrears and back benefits.

Any other relief, deemed fit and appropriate by this Honorable Tribunal, in the circumstances of the service appeal which has not been prayed for, may graciously be granted.



Appellant,

Through



Muhammad Ayub Khan Shinwari
Advocate Supreme Court.

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IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No _____/2023

Zuhra Begum

.....Appellant

Versus

Government of KPK through Secretary Health & others

.....Respondents

Affidavit

I, Zohra Begum, R/o Palai Pul near Charbagh, Turangzai, Charsadda 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 Honorable Court.



[Handwritten Signature]
Deponent

Government of N.W.F.P.,
Office of the Distt: Population Welfare Officer,
Cafilla Road Tehkal Fayan Peshawar.

F.No. 10(11)/FWC-93-VBPDW:

Dated Peshawar, the 17/11/94, 1994.

To,

Zuhra Begum
Atte Abdul Qayyum Shah
Abdullah Shah

Subject:- ENROLLMENT AS FAMILY PLANNING WORKER.

Memo:

Reference your application and interview.

You are enrolled as Family Planning Worker for Village

Abdullah Shah U.C. Nari Tehsil Chakadde under Village
Based Family Planning Worker Post.

1. You will be paid retainer fee Rs. 1000/- (Rupees One Thousand only) per month from the date you join the training. During training period you will be given Rs. 750/- per month in addition to retainer's fee.

2. You will be provided a sign board to be installed outside on your residence.

3. Your enrollment is temporary and can be discontinued earlier if your work is found unsatisfactory.

4. Your main responsibilities are as under :-

- To register eligible couples in your village.
- to visit 10-15 eligible couples every working day and ensure a revisit every two months.
- to provide Family Planning Services in the village through regular home visits.
- to refer motivated clients to nearest service outlet for IUD insertion, contraceptive surgery and initial dose of Injections.
- to provide treatment for common ailments.
- to assist MGN and P.W. Centre Staff in arranging IUD Camps in your village.
- to keep close liaison with Influential Women in the village including WIRAs.
- to submit monthly progress report.

5. If the above conditions are accepted, please report for training at Training Centre

on 16-11-94

ATTESTED

DISTT. POPULATION WELFARE OFFICER,
PESHAWAR.

cc :-

1. Director General, Population Welfare Directorate, Islamabad for favour of his kind information please.
2. Divisional Director, Peshawar, Population Welfare Deptt: for information please.
3. Tehsil Population Welfare Officer, Chakadde for information please.
4. Incharge Training Centre, Chakadde for information and necessary action pl.
5. Account Section, (Tehsil) for information & action pl.

M. Nazif/***

DISTT. POPULATION WELFARE OFFICER,
PESHAWAR.

5

Better Copy

Office of the Distt Population Welfare Officer,
Qafilla Road Tehkal Payan Peshawar

F. No. 10 (11)/FWC-93-VBFPW: Dated Peshawar the, 17 March, 1994

To,

Zuhra Begum
W/o Abdul Qayum Shah
Abdullah Shah

Subject: ENROLLMENT AS PLANNING WORKER

Memo:-

Reference your application and interview:-

You are enrolled as Family Planning Worker for Villager Abdullah Shah
U.C _____ Tehsil Charsadda under village Family Planning Worker.

You will be paid retainer Fee Rs. 1000/- (Rupees One Thousand Only) per month from the date you joining the training. During the training period you will be given Rs. 750/- per month in addition to retainer's fee.

2. You will be provided as sign board to be installed outside on your a residence.
3. Your enrollment as temporary and can be discontinued earlier if your work is found unsatisfactory.
4. Your main responsibilities are as under:-

To register eligible couples in your village.

To visit (1) 15 eligible counless every working and ensure requisit every two months.

To provide Family Planning Service in the village through regular home visits.

To refer motivated clients to nearest service outlet for IUD insertion contractive surgery and initial dose of Injectable.

to provide treatment for common ailments.

to assist and F.W entre staff in arranging JUD Camps in your village.

to keep close liaison with the influential Women in the village including TRAs.

to submit monthly progress report.

5. If the above conditions are accepted please report for training at Training Centre
Tehsil Complex on 06. . 1994

DISTRICT POPULATION OFFICER
PESHAWAR

CC:

1. Director General Population Officer Directorate, NWFP.
2. Peshawar for favour of his information please.
3. Divisional Director, Peshawar Population Welfare Deptt for information please.
4. Tehsil Population Welfare Officer _____ please.
5. Incharge Training Centre _____ for information.
6. Account Section for information & n/action.

DISTRICT POPULATION OFFICER
PESHAWAR

Brought on permanent basis w.e.b 01.7.2017



4-Annex B

دفتر ڈسٹرکٹ ہیلتھ آفیسر چارسدہ

تاریخ: 24/9/2017

نمبر: 359-93

خیرہ پختونخوا ریڈیویشن آف میڈی ہسپتال کے زیر پرکراہی اینڈ ایڈجسٹمنٹ (ریگولر انڈسٹریل سٹینڈرڈ انڈسٹری) ایکٹ ۲۰۱۳ کی شق نمبر (۱) کے تحت معاہدہ کی بنیاد پر کام کرنے والے درج ذیل ملازمین کی ملازمت کو کم جولائی ۲۰۱۷ سے مستقل بنیاد پر باقاعدہ طور پر کیا جاتا ہے۔ ان کی ملازمت کی قبولیت اور شرائط مذکورہ بالا ایکٹ اور اس کے تحت بنائے جانے والے قواعد کے مطابق ہوں گی۔

نمبر شمارہ	نام ملازمین	دینہ کا نام	شعبہ نام	بنیادی سکیل	مہدہ	تاریخ تقرری	مرکز صحت کا نام	مختلاف علاقہ کا نام
1	شمسہ بیگم		مختیار احمد	7	لیڈی ہیلتھ سپروائزر	01/09/1996	اقمانی	اقمانی
2	زرتاج بیگم		راشدی	7	لیڈی ہیلتھ سپروائزر	25/10/2004	اقمانی	اقمانی
3	زہرہ بیگم		قیوم شاہ	5	لیڈی ہیلتھ ورکر	06/07/1994	اقمانی	اقمانی
4	بتیس بیگم		رفیق الدین	5	لیڈی ہیلتھ ورکر	06/02/1996	اقمانی	اقمانی
5	ریہال منون		شبیبہ	5	لیڈی ہیلتھ ورکر	06/02/1996	اقمانی	اقمانی
6	رفیقا اختر		برایت شاہ	5	لیڈی ہیلتھ ورکر	06/02/1996	اقمانی	اقمانی
7	کوثر بیگم		ایوب جان	5	لیڈی ہیلتھ ورکر	06/02/1996	اقمانی	اقمانی
8	علیہ		اقبال خان	5	لیڈی ہیلتھ ورکر	02/03/1996	اقمانی	اقمانی
9	جیلہ		غلام حسن	5	لیڈی ہیلتھ ورکر	02/03/1996	اقمانی	اقمانی
10	شمس بیگم		مختار	5	لیڈی ہیلتھ ورکر	02/03/1996	اقمانی	اقمانی
11	سیما گل		سید ملک	5	لیڈی ہیلتھ ورکر	02/03/1996	اقمانی	اقمانی
12	سردارا		سیدنا اللہ	5	لیڈی ہیلتھ ورکر	02/03/1996	اقمانی	اقمانی
13	شمسہ جمال		محمد زمان	5	لیڈی ہیلتھ ورکر	02/03/1996	اقمانی	اقمانی
14	آسیہ		فضل احسان	5	لیڈی ہیلتھ ورکر	02/03/1996	اقمانی	اقمانی
15	آزاد پروین		مشتاق	5	لیڈی ہیلتھ ورکر	13/02/1998	اقمانی	اقمانی
16	کوثر بیگم		شہزاد	5	لیڈی ہیلتھ ورکر	01/04/1998	اقمانی	اقمانی
17	فرزانہ		شہزاد	5	لیڈی ہیلتھ ورکر	01/04/1998	اقمانی	اقمانی
18	علیہ بیگم		محمد علی	5	لیڈی ہیلتھ ورکر	13/07/1998	اقمانی	اقمانی
19	سیما گل		محمد علی	5	لیڈی ہیلتھ ورکر	13/07/1998	اقمانی	اقمانی
20	حسن رانا		محمد علی	5	لیڈی ہیلتھ ورکر	16/06/1999	اقمانی	اقمانی
21	ناہید بیگم		حیات	5	لیڈی ہیلتھ ورکر	06/04/2002	اقمانی	اقمانی
22	رازین		محمد رشید	5	لیڈی ہیلتھ ورکر	15/03/2002	اقمانی	اقمانی
23	پروین بیگم		امین اللہ	5	لیڈی ہیلتھ ورکر	15/03/2002	اقمانی	اقمانی

ATTESTED



24	روبینہ	سابہ	5	لیڈی ہیلتھ ورکر	12/03/2003	اتمازئی	اتمازئی
25	زوبیدہ	اقباب	5	لیڈی ہیلتھ ورکر	01/07/2004	اتمازئی	اتمازئی
26	فرح دیا	شاہ پرویز خان	5	لیڈی ہیلتھ ورکر	01/08/2005	اتمازئی	اتمازئی
27	انتیاز بیگم	محمد آصف کمال	5	لیڈی ہیلتھ ورکر	01/08/2005	اتمازئی	اتمازئی
28	نالدہ سعید	اجمل خان	5	لیڈی ہیلتھ ورکر	01/08/2005	اتمازئی	اتمازئی
29	نصرت رحمن	حامد	5	لیڈی ہیلتھ ورکر	01/08/2005	اتمازئی	اتمازئی
30	آمنہ	مشعل خان	5	لیڈی ہیلتھ ورکر	01/08/2005	اتمازئی	اتمازئی
31	جان سوز	کنایت انڈ	5	لیڈی ہیلتھ ورکر	01/08/2005	اتمازئی	اتمازئی
32	رودیا گل	اسحاق	5	لیڈی ہیلتھ ورکر	01/08/2005	اتمازئی	اتمازئی
33	فریدہ ناز	عابد علی	5	لیڈی ہیلتھ ورکر	01/08/2005	اتمازئی	اتمازئی
34	سائرہ ظہور	حسین انڈ	5	لیڈی ہیلتھ ورکر	16/12/2006	اتمازئی	اتمازئی
35	مینہ گل	دورمان	5	لیڈی ہیلتھ ورکر	09/04/2007	اتمازئی	اتمازئی
36	داسیہ	سیارمان	5	لیڈی ہیلتھ ورکر	16/04/2007	اتمازئی	اتمازئی
37	شبیہ نور	محمد رؤف	5	لیڈی ہیلتھ ورکر	16/04/2007	اتمازئی	اتمازئی
38	بخت مینہ	محمد زمان	5	لیڈی ہیلتھ ورکر	16/04/2007	اتمازئی	اتمازئی
39	نگار سلطانہ	کنایت انڈ	5	لیڈی ہیلتھ ورکر	16/04/2007	اتمازئی	اتمازئی
40	شبیہ حبیب	چہا شیرمان	5	لیڈی ہیلتھ ورکر	03/09/2009	اتمازئی	اتمازئی
41	راشدگی	محمد سیار	4	ڈرائیور	16/08/2007	اتمازئی	اتمازئی
42	منیاز احمد	محمد	4	ڈرائیور	28/11/2007	اتمازئی	اتمازئی

ڈسٹرک ہیلتھ آفیسر چارسدہ

ڈسٹرک ہیلتھ آفیسر چارسدہ

نقل برائے اطلاع:

- ۱۔ رجسٹرار پیریم گورنمنٹ آف پاکستان، اسلام آباد۔
- ۲۔ ڈائریکٹر جنرل ہیلتھ سروسز، خیبر پختونخوا ایشیاء۔
- ۳۔ سیکشن لیڈنگیشن، ہیلتھ ڈیپارٹمنٹ آف ایشیاء۔
- ۴۔ PS ٹوبیکوٹری صحت خیبر پختونخوا ایشیاء۔
- ۵۔ ڈسٹرکٹ اکاؤنٹس آفیسر چارسدہ۔
- ۶۔ متعلقہ ایجنسز میڈیکل آفیسر۔
- ۷۔ متعلقہ ملازم ملازمہ۔

ATTESTED

SERVICE BOOK

Amree c. 8 ht
12/4/21

Received M
26-04-2021
ht

Personel No. 793048

OF 793048

جی 793048 جی

NO. SHED ABULLA SAH

Designation _____

Department _____

ATTESTED

9

Zuhra Begum

Afghani

Village Palyjude Karam

Utmanjua Tehsil and Dist. Chitral

D/S SYED ABDULLAH SHAIKH

Name and residence:

W. Abdul Bayum

Date of birth by Christian era as far as can be ascertained:

MS-04-1961

Exact height by measurement:

5' - 6"

Personal marks for identification:

A Black mole on the hand

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

Little Finger:



Ring Finger:



Middle Finger:



Fore Finger:



Thumb:



ATTESTED

Signature of Government Servant:

Zuhra

Signature and designation of the Head of the Office, or other Attesting Officer:

(M) and
District Officer
Chitral

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
I.S. Dary	"	"	Pcy	Rs. 1100/ Rs. 1600/		15.3.2003 2003	Zabla
	"	"	"	Rs. 1700/		17.2004	
	"	"	"	Rs. 1800/ Rs. 1900/		2005 2006	
	"	"	"	Rs. 2600/		2007	
	"	"	"	Rs. 3090/		2008	
	"	"	"	Rs. 3190/ Rs. 3090/		2000 2010	

ATTESTED

Date of termination or appointment	Reason (such as promotion, transfer, dismissal, etc.)	Signature of the head of the office or other attesting officer.	Name and dura- tion 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	Ref. No. of G.O. No. of Govt. Serv.
				Period	Government to which debitable	

Appointed as Village and
 against the vacant post of
 on Fixed Salary of Rs. 5000/-
 from 8.12.2001.

(Signature)

District Health Officer
 Charsadda

Annual Increment Allowed

District Health Officer
 Charsadda

Annual Increment Allowed

District Health Officer
 Charsadda

ATTESTED

Pay Fixed as per...

District Health Officer
 Charsadda

Pay Fixed as per...

District Health Officer
 Charsadda

Annual Increment Allowed

(Signature)

Name of post	Whether substantive or officiating and whether permanent or temporary	Officiating state (i) substantive appointment or (ii) whether service counts for pension under Art 37(1) C.S.R.	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the term 'Pay'	Date of Appointment	Signature of Government
8590-1000-21190 L.H.W.			11	Pay Rs = 10570		12/16/11	
560-25360 L.H.W.			4	Rs = 10360		17/17/11	
			4	Rs = 10760		17/17/11	
			5				
			5				
			5				

Office of the ²⁰¹⁷ General
Khyber Pakhtunkhwa

Pay Fixed in the Revised Basic Pay Scale
R.P.S 6985-300-17185

Pay Fixed @ Rs 7657/-
8590-420-21190

Pay Fixed @ Rs 9350/-
R.P.S/0260-500-25200

Pay Fixed @ Rs 12269/-
01-07-2015

ATTESTED

[Handwritten signature]



GOVERNMENT OF KHYBER PUKHTOONKHWA
OFFICE OF THE
DISTRICT HEALTH OFFICER
CHARSADDA

PHONE: 9220158
FAX: 9220148

Annex D 16

Person No. 793048

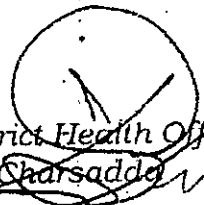
OFFICE ORDER

Mst. Zuhra Begum Lady Health Worker BPS-05 attached to BHU Utmanzai Charsadda is hereby retired from service on 04/04/2021 (AN) after completion of 08 years 09 months and 04 days, qualified service.

Sd/-
District Health Officer,
Charsadda

No 4132-36 /DHIO Charsadda Dated 26/4/2021

1. District Accounts Officer Charsadda.
 2. MO I/C BHU Utmanzai
 3. Accounts Section DHIO Charsadda.
 4. LHW Concerned
 5. Official Concerned
- For information & N/Action.


District Health Officer,
Charsadda

ATTESTED

W. W. Chishti
14/12/21
D. No 46570/B
14/12/21
18/12/21

محکمہ صحت، پنجاب سیکرٹری، ہیلتھ ڈیپارٹمنٹ، پشاور، خیبر پختونخواہ

عنوان: پنشن لگایا جاتا ہے

جناب عالی، یہ درج ذیل مندرجہ ذیل شخص کو ہر ماہ 27 سال سے

L.H.W. امتحان فی چار سہ ماہی B.H.U. امتحان فی ماہ 6-7-94 سے

سے 21-4-21 تک باقاعدگی سے ڈیوٹی ایمانداری اور خدمت سے

انجام دے رہا تھا۔

جناب سیکرٹری، تاریخ پیدائش 1961-4-5 پر سنل نمبر 000793048

تاریخ Arrival 1994-7-6 ڈیوٹی سے 27 سالہ پشاور

2021-4-4 سے

یہ تقریباً 27 سالہ آئی کیو ایس کی خدمت سے ہے۔ اب یہ 65 سال عمر

پورا ہونے کے لیے جو B.H.U. چار سہ ماہی کے کوالہ نمبر 34-4132 ہونے

2021-4-24 پشاور ڈیپارٹمنٹ ہاؤس میں ہے۔

یہ سیکرٹری پنشن کیس میں پیش کیا گیا ہے اور اس کو صرف بنیادی

مختص 9 سال کا 28340 روپے (ایک لاکھ اٹھائیس ہزار روپے سو چالیس)

روپے دیئے ہیں۔ اور ماہوار پنشن پیش کیا گیا ہے۔ اس سے جب متعلقہ دفتر

سے دریافت کیا گیا تو جواب ملا کہ سروس میں کم ہے۔ لہذا ماہوار پنشن

میں بل سکتی اس بات B.H.U. چار سہ ماہی B.G. ہیلتھ سروس سیکرٹری

ہیلتھ KPK کو درخواست دی گئی ہے اور وہی شہادتیں ہیں جو

لینڈ اسٹیٹمنٹ ہے۔ یہ سب کو بھیجا گیا ہے۔

2022-11-25 کو ہر ماہ 27 سالہ L.H.W. امتحان فی

B.H.U. چار سہ ماہی

Copy forward to
D.G. Health Services
KPK Peshawar

Annex 1B Annex A

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR



Service Appeal No 1970

Slary No. 1784

Date 06/12/2019

Bibi Razia Begum,
R/o Rab Nawaz Khan Korouna,
Sardheri, Charsadda

.....Appellant

Versus

- ✓ 1. Secretary to Government of Khyber Pakhtunkhwa, Department of Health, Peshawar.
 - ✓ 2. Secretary to Government of Khyber Pakhtunkhwa, Finance Department, Peshawar.
 - ✓ 3. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
 - ✓ 4. District Health Officer, Charsadda
 - ✓ 5. District Account Officer, Charsadda
- Respondents

Service Appeal Under Section 4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974

Respectfully Sheweth,

Brief but relevant facts of the case are as follows:

- 1. That the appellant was appointed as Lady Health Worker in the respondent Department on fixed pay by the competent authority in the prescribed manner after fulfilling all the codal formalities vide appointment order dated 07-02-1996. (Copy of the appointment order is appended herewith as Annex-A)
- 2. That the said contract was extended from time to time. Meanwhile the Government of Khyber Pakhtunkhwa promulgated Khyber Pakhtunkhwa Regulation of lady Health Workers Program and Employees (Regularization and Standardization) Act, 2014 the services of all the contract employees were regularized.
- 3. That in pursuance of the aforesaid Act the respondents regularized the services of the Appellant and her colleagues vide Office Order dated 24-09-2014. (Copy of Regularization order is appended herewith as Annex-B)
- 4. That now the appellant has retired from service on attaining the age of superannuation with effect from 14-04-2019 but the respondents are not preparing her pension papers for her monthly pension and other retiring benefits. (Copy of Service Book is appended herewith as Annex-C)

Filed to-day
Registrar

Re-submitted to-day
and filed.

Registrar
19/12/19

ATTESTED

Registrar
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

ATTESTED

19. \$ B

5. That feeling aggrieved of the aforesaid act of respondents, the appellant filed Departmental Appeal which has not been decided yet and the statutory period for deciding the Departmental Appeal has lapsed. (Copy of the Departmental Appeal is filed herewith and annexed as Annex-D)

Hence, the instant Service Appeal on the following amongst other grounds:

Grounds:

- a. That the impugned act of respondent Department is against the law, illegal, unlawful and without lawful authority.
- b. That the treatment met to the Appellant is against the fundamental rights of the Petitioners enshrined and protected under the Constitution of Islamic Republic of Pakistan, 1973.
- c. That under the rule 2.3 of West Pakistan Civil Services Pension Rules, 1963, the service of the Appellant with effect from dates of appointment till date of regularization shall be counted for pension or gratuity.
- d. That the treatment met to the Appellant is against the dictums of August Supreme Court of Pakistan and this Honorable Tribunal.
- e. That the treatment met to the Appellant is not only based on discrimination, but also the same is based on colorful exercise of powers which is not warranted under law.
- f. That the treatment met to the Appellant is not only against the principles of natural justice but also against the settled principles of administrative law.
- g. That the Appellant crave permission of this Honorable Tribunal to rely on other grounds at the time of arguments and produce any additional document if required in support of his Service Appeal.

It is, therefore, prayed that on acceptance of the title Service Appeal, the impugned Notification may kindly be set aside and the respondents may kindly be directed to prepare and process the pension papers of the appellant for monthly pension and other pension benefits along with arrears and back benefits.

Any other relief, deemed fit and appropriate by this Honorable Tribunal, in the circumstances of the service appeal which has not been prayed for, may graciously be granted.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Peshawar
Appellant,
Through
Muhammad Ayub Khan Shinwari
Advocate Peshawar.

ATTESTED

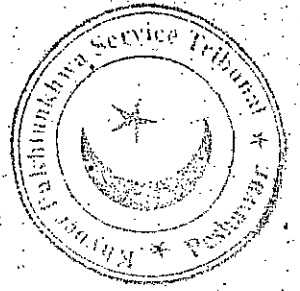
20 A

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.**

Service Appeal No. 1970/2019

Date of Institution ... 06.12.2019

Date of Decision ... 15.07.2021



Bibi Razia Begum,
R/o Rab Nawaz Khan Korouna,
Sardheri, Charsadda

... (Appellant)

VERSUS

Secretary to Government of Khyber Pakhtunkhwa, Department of
Health, Peshawar and four others.

... (Respondents)

MR. MUHAMMAD AYUB KHAN SHINWARI,
Advocate

--- For appellant.

MR. MUHAMMAD ADEEL BUTT,
Additional Advocate General

--- For respondents.

MR. SALAH-UD-DIN
MR. ATIQ-UR-REHMAN WAZIR

--- MEMBER (JUDICIAL)
--- MEMBER (EXECUTIVE)

JUDGMENT

SALAH-UD-DIN, MEMBER:-

Precise facts forming the background of the instant service appeal are that the appellant was appointed as Lady Health Worker on fixed pay vide Notification dated 07.02.1996 and the contract of service was extended from time to time. On promulgation of Khyber Pakhtunkhwa Regulation of Lady Health Workers Program and employees (Regularization and Standardization) Act 2014, the services of the appellant were regularized with effect from 1st July 2012, however on attaining the age of superannuation on 14.04.2019, the appellant was retired vide office order bearing No. 4064-68 DHO Charsadda dated 20.05.2019 without

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

ATTESTED

pensionary benefits. The appellant filed departmental appeal, however the same was not responded within the statutory period of ninety days, therefore, she filed the instant service appeal for redressal of her grievance.

2. Learned counsel for the appellant has argued that the appellant was though initially appointed as Lady Health Worker on fixed pay vide Notification dated 07.02.1996, however her services were regularized with effect from 1st July 2012 through promulgation of Khyber Pakhtunkhwa Regulation of Lady Health Workers Program and employees (Regularization and Standardization) Act 2014, and in view of rules 2.2 and 2.3 of the West Pakistan Civil Services Pension Rules, 1963, the appellant was entitled to grant of pensionary benefits; that for the purpose of pensionary benefits the period of service of the appellant shall be considered from the date of her first appointment and not from the date of regularization of her services. In the last he requested that as the appellant is having more than ten years service as required for accruing of pensionary benefits, therefore, the appeal in hand may be allowed and the appellant may be granted pensionary benefits. Reliance was placed on 2019 PLC (C.S) 1065 as well as unreported judgments of worthy Peshawar High Court, Peshawar in Writ Petition No. 521-D of 2018 titled "Dr. Bashir Ahmad Versus Govt. of Khyber Pakhtunkhwa through Secretary Finance, Peshawar and others" and Writ Petition No. 1188-P of 2014 titled "Baghi Shah Versus Government of Khyber Pakhtunkhwa through Secretary Finance, Civil Secretariat, Peshawar KPK and others".

3. On the other hand, learned Additional Advocate General for the respondents, while opposing the arguments advanced by the learned counsel for the appellant, has contended that the appellant was initially appointed on fixed pay and her services were regularized with effect from 1st July 2012; that the appellant stood retired on 14.04.2019 and as such, she has performed duties as regular Lady Health Worker only for a period of about 06 years and 09 months, while pensionary benefits could be granted to a civil servant, in case of completion of ten years or more regular service; that the appellant was having less than ten years

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

ATTESTE

regular service, therefore, she is not entitled to grant of pensionary benefits.

4. Arguments heard and record perused.

5. A perusal of the record would show that the appellant was initially appointed as Lady Health Worker on fixed pay vide appointment order dated 07.02.1996, however after promulgation of Khyber Pakhtunkhwa Regulation of Lady Health Workers Program and employees (Regularization and Standardization) Act 2014, the services of the appellant were regularized with effect from 1st July 2012. The appellant stood retired on 14.04.2019, however she has not been granted pensionary benefits. Now the question, which requires determination is as to whether for pensionary benefits, the services of the appellant shall be considered from the date of her initial appointment or from the date of regularization of her services? In order to appreciate the controversy in a proper way, it would be advantageous to reproduce rules 2.2 and 2.3 of the West Pakistan Civil Services Pension Rules, 1963, which are as below:-

" 2.2 Beginning of Service- Subject to any special rules the service of Government servant begins to qualify for pension when he takes over charge of the post of which he is first appointed.

*Rule 2.3 Temporary and officiating service —
Temporary and officiating service shall count for pension as indicated below:-*

- (i) *Government servants borne on temporary establishment who have rendered more than five years continuous temporary service for the purpose of pension or gratuity; and*
- (ii) *Temporary and officiating service followed by confirmation shall also count for pension or gratuity".*

6. A bare perusal of the above mentioned rules would make it clear that when a government servant is regularized, his total

ATTESTED

MEMBER
Member of Tribunal
Services Tribunal
Kashmir

ATTESTED

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length of service is to be computed from the date he joined the service, whether temporary or otherwise. In this view of the matter, the length of service of the appellant shall be counted from the date of her initial appointment i.e 07.02.1996 for the purpose of pension and gratuity. August Supreme Court of Pakistan in its judgment reported as 2015 PLC (C.S) 296 titled "Secretary to Government of Punjab, Finance Department Versus M. Ismail Tayer and 269 others, has graciously held that the pensionary benefits is not a bounty or ex-gratia payment but a right acquired in consideration of past service. Such right to pension is conferred by law and cannot be arbitrarily abridged or reduced except in accordance with such law as it is the vested right and legitimate expectation of retired civil servant.

7. In light of the above discussion, the appeal in hand is accepted and the respondents are directed to grant pensionary benefits to the appellant by processing and finalizing her pension case within a period of three months. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
15.07.2021

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

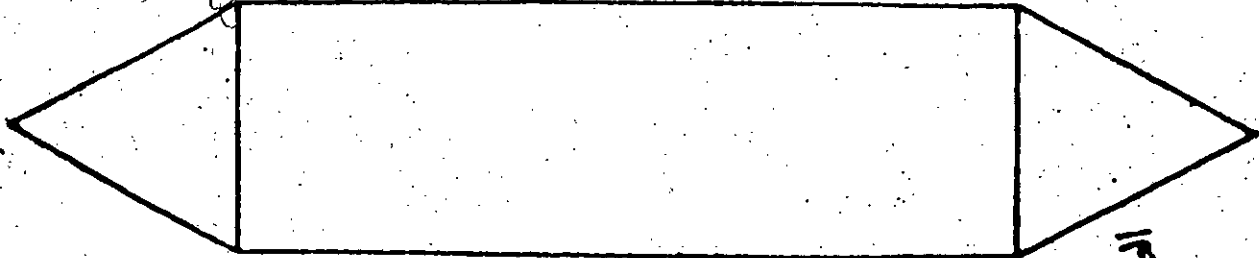
(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

Certified to be true copy
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 22/10/2021
Number of Pages 2500
Copies 30-
Fees 30-
Date of Issuance of Copy 3/11/21
Date of Delivery of Copy 3/11/21

ATTESTED

بعد التخصا - روس ٹریڈ سوسائٹی



سید منجانب
میرہ سید علی بنام گومیسٹری

موز
مقدم
دعوی
جزم

باعث تحریر آنکہ

مقدم مذکور عنوان بالا میں اپنی طرف سے واسطے پیروی درجواب وہی دیکل
کارروائی متعلقہ آن مقام کے لئے محمد الوہاب صاحب سید صاحب کے
مقررہ کر کے اتار کیا جاتا ہے کہ صاحب موصوف کو مقدم کی کل کارروائی کا کامل اختیار ہوگا نیز
دیکل صاحب کو کرنے راضی نامہ و تقررات و فیصلہ برطرف دیے جواب وہی اور اقبال دعویٰ اور
بصورت دگری کرنے اجراء اور دوسری چیک و روپیہ اور طرہی دعویٰ اور درخواست ہر قسم کی تصدیق
ذرا ہی پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا دگری یکطرفہ یا اپیل کی برآمدگی اور سبھی
نیز دگر کرنے اپیل لگانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ اور بصورت ضرورت مقدم مذکور
کے کل یا جزوی کارروائی کے واسطے اور دیکل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جلد مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ
پداختہ منظور و قبول ہوگا۔ اور دوران مقدمہ میں جو خرچہ دہر جائز اتوائے مقدمہ کے سبب سے ہوگا۔
اسکے مستحق دیکل صاحب موصوف ہوں گے۔ نیز بقایا و خرچہ کی دھولی کرنے کا بھی اختیار ہوگا۔ اگر
کوئی تاریخ پیش مقام دورہ پر ہو یا بعد سے باہر ہو تو دیکل صاحب پابند نہ ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا ذکات نامہ لکھنا کہ مستند رہے۔

ATTESTED

المترجم 7 ماہ صاحب
دکراش

کے لئے منظور ہے۔

Judge
بقام میرہ سید علی