

BEFORE THE HONORABLE SERVICES TRIBUNAL PESHAWAR

Service Appeal No. 1454 / 2022

Mr. Umer Khitab..... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Social Welfare, Special
Education and Women Empowerment Peshawar & Another

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Authority letter



DEPONENT

CNIC No. 17101-0377128-9

Cell No. 0346-9148582

BEFORE THE HONORABLE SERVICES TRIBUNAL PESHAWAR

Service Appeal No. 1454 / 2022

Mr. Umer Khitab..... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Social Welfare, Special Education and Women Empowerment Peshawar & Another

Khyber Pakhtunkhwa
Service Tribunal

AFFIDAVIT

Diary No. 6358

Dated 11/7/2023

I, Nabi Gul, Superintendent (BPS-17) Directorate of Social Welfare, Special Education & Women Empowerment Khyber Pakhtunkhwa Peshawar do hereby solemnly affirm and declare on oath that the contents of the reply on behalf of the respondents are true and correct to the best of my knowledge and belief that nothing has been concealed from this

Honorable Court. *It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defense struck off/cost*

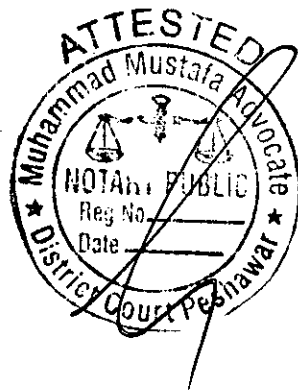
DEPONENT



Nabi Gul
Superintendent (BPS-17)
Directorate of Social Welfare, Special Education &
Women Empowerment Khyber Pakhtunkhwa
Peshawar

CNIC # 17101-0377128-9

Identified by:



BEFORE THE HONOURABLE SERVICE TRIBUNAL PESHAWAR.

SERVICE APPEAL NO. 1454/2022

Mr. Umer Khitab..... (Petitioner)

VERSUS

- 1. Director, Directorate of Social Welfare, Special Education & Women Empowerment Peshawar
- 2. Govt. of Khyber Pakhtunkhwa through Secretary, Social Welfare, Special Education & Women Empowerment Peshawar.....(Respondents)

PARA-WISE COMMENTS/ REPLY ON BEHALF OF RESPONDENT NO. 2

Respectfully Sheweth:

PRE-LIMINARY OBJECTIONS:

- 1. That the appellant has no cause of action to file the present service appeal.
- 2. That the appeal is not maintainable in its present form.
- 3. That the appellant has no locus standi or cause of action to file the present service appeal.
- 4. That the appeal is badly time barred as the appellant has filed the present service appeal after a lapse of approximately twenty-two months.
- 5. The Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act specifically bar the jurisdiction of this Honorable Tribunal.

FACTS:

- 1. Correct to the extent that the Department had advertised various posts of Drivers.
- 2. Pertains to record.
- 3. Pertains to record.
- 4. Incorrect, hence denied. Some local representatives of the concerned District approached the Department for appointment of non-local drivers in their respective Districts, therefore, on the verbal instructions of the

Administrative Department, this Directorate terminated the services of the appellants who were appointed other than their home Districts.


- 5. The factual position has been explained in Para-4 above.
- 6. In response to Para-6, it is stated that the respondent department issued termination order dated 05.08.2021 with copy to all the concerned for their information and necessary action **(Annex-A)**.
- 7. Correct to the extent that the appellant has filed an appeal dated 01.07.2022 after passage of 11 months, however in compliance with Peshawar High Court, Bannu Bench order sheet dated 21.09.2022 in Writ Petition No. 480-B/2022 titled "Noor Muhammad VS Government", the termination order dated 05.08.2021 has been suspended with immediate effect and the appellant is still drawing his regular salary till filing of this service appeal. **(Annex-B). Therefore, the judgment else came in the above titled writ petition will be treated for the appellant.**


GROUND:

- a. Correct to the extent of observing the prescribed procedure in the appellant appointment, but due to the reasons mentioned in Para-4 above, the services of the appellant and his other colleagues were terminated.
- b. Incorrect, hence denied. No notice was necessary as the termination order was based on recruitment other than home district and in such like circumstances, serving of notice is not mandatory.
- c. Incorrect, hence denied. The termination order dated 05.08.2021 was not issued due to any charges against the appellant but in light of the circumstances mentioned in Para-4 of the facts.

- d. Incorrect hence denied. The factual position has been explained in the preceding paras.
- e. Incorrect hence denied. The factual position has been explained in the preceding paras.

It is therefore humbly prayed that keeping in view the above factual position, the instant service appeal may graciously be dismissed with cost.


Secretary to Govt. of Khyber
Pakhtunkhwa
Social Welfare, Special Education &
Women Empowerment Department
(Respondent No. 2)


Director
Social Welfare, Special Education &
Women Empowerment
Khyber Pakhtunkhwa
(Respondent No. 1)

Annex A

S



**Government of Khyber Pakhtunkhwa
Directorate of Social Welfare, Special Education &
Women Empowerment Jamrud Road Peshawar**

Dated Peshawar the 05 /08/2021**ORDER.**

No. E-17/35/DSW/ 7691-7705 In pursuance of the verbal directives of the Administrative Department dated 02.08.2021 regarding termination of the Drivers who were recruited other than their home districts, the services of the following drivers are hereby terminated with immediate effect.

S.No.	Name, Father's Name & Address of Official	Place of Posting
1	Noor Muhammad S/O Khwaja Muhammad, Ghazni Khel Lakki Marwat	MR & PH Center, Karak
2	Umar Khitab S/O Inayat Ullah, Mohallah Qureshan PO Tajuri Lakki Marwat	District Office, Social Welfare, Karak
3	Hidayat Ullah S/O Raza Khan, Pahar Khel Pacca Lakki Marwat	Community Development Center, Chakdara, Dir Lower
4	Hikmat Ullah S/O Inayat Ullah, Jangal Khel Lakki Marwat	District Office, Social Welfare, D.I Khan
5	Behram Khan S/O Muhammad Jan, Ghazni Khel Tatar Khel Lakki Marwat	District Office, Social Welfare, Tank
6	Jameel Khan S/O Aziz Khan, Agri Khanzad Khel Khero Khel Pacca Lakki Marwat	Directorate of Social Welfare, Peshawar
7	Ahmad Ali S/O Sarwar Jan, Lakki Marwat	District Office, Social Welfare, Lower Chitral
8	Sajjad Ali S/O Gul Zarif, Lakki Marwat	District Office, Social Welfare, Malakand

Sd/---
Director
(Social Welfare, SW, SE)

Copy forwarded to:

- 1- The Accountant General, Khyber Pakhtunkhwa.
- 2- The District Accounts Officer, Karak, Dir Lower, D.I Khan, Tank, Mansehra, Chitral Lower & Malakand.
- 3- The District Officer, Social Welfare, Karak, Dir Lower, D.I Khan, Tank, Mansehra, Chitral Lower & Malakand.
- 4- The Incharge Institutions concerned.
- 5- The PS to Secretary, Social Welfare, Khyber Pakhtunkhwa.
- 6- The PA to Director, Social Welfare, Khyber Pakhtunkhwa.
- 7- The Ex-officials concerned.

Deputy Director
Administration

*Revised
AD (L/A)*



Government of Khyber Pakhtunkhwa
Directorate of Social Welfare, Special Education
& Women Empowerment, Jamrud Road, Peshawar.

Dated Peshawar the 21/09/2022.

ORDER

No. DSW/Lit/1-492/ 311-19. In compliance with Peshawar High Court, Bannu Bench order sheet dated 21-09-2022 in W.P No. 480-B/2022, this office order bearing No. DSW/7691-7705 dated 05-08-2021 is hereby suspended with immediate effect till further orders.

--Sd/--
Director
Social Welfare, SE & WE,
Khyber Pakhtunkhwa.

Copy to:

1. The Concern District Accounts Officers.
2. The Registrar, Peshawar High Court, Bannu Bench w/r to order sheet dated 21-09-2022 in W.P No. 480-B/2022.
3. The Concern District Officers, Social Welfare, Khyber Pakhtunkhwa.
4. The Section Officer (Litigation), Social Welfare, SE & WE, Khyber Pakhtunkhwa.
5. The Assistant Director (Litigation), Social Welfare, SE & WE, Khyber Pakhtunkhwa.
6. The Concern Incharge, Institutes / Centers / Offices.
7. P.A to Director, Social Welfare, Khyber Pakhtunkhwa, Peshawar.
8. The Petitioner Mr. Noor Muhammad S/O Khwaja Muhammad.
9. Personal files.

Assistant Director
(Establishment-I)

Attested
Special

AD-Lit

E-P/121



GOVERNMENT OF KHYBER PAKHTUNKHWA
DIRECTORATE OF SOCIAL WELFARE, SPECIAL
EDUCATION & WOMEN EMPOWERMENT, OPPOSITE
ISLAMIA COLLEGE JAMRUD ROAD, PESHAWAR.

7

No. DSW/Lit/2-71 2678
Dated the Peshawar 26/6 06/2023

AUTHORITY LETTER

Mr. Nabi Gul, Superintendent (BPS-17) Directorate of Social Welfare, Special Education & Women Empowerment Khyber Pakhtunkhwa Peshawar is hereby authorized to submit reply on behalf of Respondent No. 1 in **Service Appeal No. 1454/2022** titled Mr. Umer Khitab **VERSUS** Govt of Khyber Pakhtunkhwa in the Honorable Service Tribunal Khyber Pakhtunkhwa Peshawar. He is also authorized to attest the affidavit on behalf of respondents and attend the Honorable Court on each date of hearing.

DIRECTOR

Social Welfare, Special Education &
Women Empowerment
Khyber Pakhtunkhwa
(Respondent No. 1)