

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.**

**BEFORE: KALIM ARSHAD KHAN ... CHAIRMAN  
RASHIDA BANO ... MEMBER (Judicial)**

*Service Appeal No.765/2017*

Date of presentation of Appeal.....10.07.2017  
Date of Hearing.....03.07.2023  
Date of Decision.....04.07.2023

**Syed Rahmat Shah S/O Syed Ahmad Shah Municipal Inspector  
TMA Town-III, Peshawar.....Appellant**

Versus

1. **The Government** of Khyber Pakhtunkhwa Peshawar through Secretary Local Government.
2. **Town Municipal Administration** Town III, through TMO Town III, Peshawar.
3. **District Nazim**, Peshawar.
4. **Nazim Town-III**, Peshawar.....(*Respondents*)

Present:

Mr. Saif Ullah Khalil, Advocate.....For the appellant

Mr. Asif Masood Ali Shah, Deputy District Attorney.....For respondents.

.....  
**APPEAL UNDER SECTION 4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974  
AGAINST THE ORIGINAL ORDER DATED 22.03.2017  
AND AGAINST THE APPELLATE ORDER DATED  
20.06.2017 VIDE WHICH THE APPEAL OF THE  
APPELLANT HAS BEEN DISMISSED.**

-----  
**JUDGMENT**

**KALIM ARSHAD KHAN CHAIRMAN:** Brief facts of the case are that appellant was appointed as Sanitation Inspector; that during service, the



appellant was involved in enmity with other persons, due to which a number of FIRs were registered against the appellant and others and as such due to family crises and enmity the appellant submitted an application for grant of leave but the same was not granted; that the appellant had no other option but to file application for premature retirement on 12.01.2016; that the said application was allowed vide order dated 22.03.2016 and the appellant went on LPR; that during this period the criminal cases were compromised, as such the appellant intended to continue his service and in this respect the appellant filed an application on 23.11.2016 for withdrawal of his LPR, which was dismissed vide order dated 22.03.2017; that the appellant preferred departmental appeal against the order dated 22.03.2017 which was also dismissed vide order dated 22.06.2017; that during this period, the respondents was also issued retirement order of the appellant on 22.03.2017, hence, the present service appeal.

02. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant.

03. We have heard learned counsel for the appellants and learned Deputy District Attorney for the respondents.

04. The Learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Deputy



District Attorney controverted the same by supporting the impugned order(s).

05. It is the case of the appellant that he had earlier submitted application for LPR due to enmity and family problems and on resolution of the same before maturity of LPR, the appellant submitted an application for withdrawal of the said LPR. He relied on 1984 PLC (CS) 1085. As against that the stance of the official respondents is that vide notification dated 01.10.1981 of the Finance Department, the request of the appellant could not have been considered. Relevant part of the notification is as under:-

*"If a Government servant withdraw his application for premature retirement or modifies the date of retirement, before its acceptance by the competent authority, the application or the date of retirement shall be deemed to have been withdrawn or modified, as the case may be"*

06. The appellant however further relies on a letter of the Government of Khyber Pakhtunkhwa Finance Department dated 05.09.2018 vide which the Government of Khyber Pakhtunkhwa adopted the Federal Government policy of withdrawal of request of LPR after sanction/notification subject to the following condition:-


- i. He/she may withdraw his/her option of voluntary retirement before retirement mature.
- ii. It is binding on a government servant to return any amount of leave pay recovered by him/her in lieu of encashment of LPR for that period.




iii. Later on, on attaining the age of superannuation if he/she again opts for 365 days leave encashment in lieu of 365 days LPR such option of an individual may be treated as a fresh case and he/she will be allowed encashment of LPR in toto."

07. The adoption letter dated 05.09.2018 of Khyber Pakhtunkhwa Finance Department superseded the Finance Department's earlier letter dated 01.10.1981 and further stated that the cases already decided thereunder should not be reopened/reconsidered. The appellant had submitted application for withdrawal on 06.12.2016 i.e. much earlier than the adoption of policy of the Federal Government by the province of Khyber Pakhtunkhwa, therefore, the request of the appellant appears to have rightly been declined. We find no merit in this appeal and it is thus dismissed. Cost shall follow the event. Consign.

08. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 04<sup>th</sup> day of July, 2023.*

  
**KALIM ARSHAD KHAN**  
Chairman

  
**RASHIDA BANO**  
Member (Judicial)


**ORDER**

4<sup>th</sup> July, 2023

1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for respondents present.
2. Vide our detailed judgement of today placed on file, we find no merit in this appeal and it is thus dismissed. Costs shall follow the event. Consign.
3. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 4<sup>th</sup> day of July, 2023.*



(Rashida Bano)  
Member(Judicial)



(Kalim Arshad Khan)  
Chairman

*\*Adnan Shah, P.A\**

S.A No.765/2017

03<sup>rd</sup> July, 2023

1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah learned Deputy District Attorney for the respondents present.
2. Arguments heard. The appellant bases his claim on the letter of the Finance Department dated 05.09.2018, whereas, the respondents contend that in view of Notification dated 01.10.1981 of the Finance Department, the claim of the appellant could not be acceded to. We would like to direct the Deputy District Attorney to produce copy of the letter dated 01.10.1981 relied upon by the respondents, by tomorrow i.e. 04.07.2023 before the D.B
3. Adjourned accordingly. P.P given to the parties.



(Rashida Bano)  
Member (J)



(Kalim Arshad Khan)  
Chairman

\*Mutazem Shah\*

26-12-2022

Due to winter vacation, The case is adjourned to 28-3-23 before the the same.



Reader.

28<sup>th</sup> March, 2023

Appellant in person present. Mr. Muhammad Jan, District Attorney for the respondents present.

Appellant requested for adjournment on the ground that his counsel is busy in the august Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 29.05.2023 before the D.B. Parcha Peshi given to the parties.

SCANNED  
KUST  
Peshawar



(Salah-ud-Din)  
Member (J)



(Kalim Arshad Khan)  
Chairman

29<sup>th</sup> May, 2023

SCANNED  
KUST  
Peshawar

1. Appellant in person present. Mr. Fazal Shah Mohmand, Additional Advocate General for the respondents present.

2. Appellant requested for adjournment on the ground that his counsel is busy before Hon'ble Peshawar High Court, Peshawar. Last chance is given. Adjourned. To come up for arguments on 03.07.2023 before D.B. P.P given to the parties.



(Muhammad Akbar Khan)  
Member (E)



(Kalim Arshad Khan)  
Chairman

10.10.2022

Junior to counsel for the appellant present. Mr. Muhammad Adcel Butt, Additional Advocate General for respondents present.

Junior to learned counsel for the appellant requests for adjournment due to engagement of learned senior counsel for the appellant in Hon'ble High Court today. To come up for arguments on 15.12.2022 before D.B.

(Fareeha Paul)  
Member (E)

(Kalim Arshad Khan)  
Chairman

Late Diary

10<sup>th</sup> Oct, 2022

Despite direction for fixation of the cases for the shortest possible dates, the office has fixed this case for a longer date. The Reader of the court is warned to be careful in future. The date fixed in this case is accelerated to 15.11.2022. Notices be issued to the parties and their counsel for the date fixed.

(Fareeha Paul)  
Member (E)

(Kalim Arshad Khan)  
Chairman

15<sup>th</sup> Nov. 2022

Assistant to learned counsel for the appellant present.

Mr. Kabirullah Khattak, Addl. Advocate General for the respondents present.

Former requested for adjournment due to engagement of learned senior counsel for the appellant before Honourable Peshawar High Court. Adjourned. Being old case of 2017, last chance is given. To come up for arguments on 26.12.2022 before the D.B.

(FAREEHA PAUL)  
Member(E)

(ROZINA REHMAN)  
Member (J)

*Counsel was informed telephonically for the date fixed on 10/11/22*

SCANNED  
KPSTI  
Peshawar



25.11.2021

Proper DB is not available, therefore, the case is adjourned to 28/2/22 for the same <sup>as</sup> before ~~D.B.~~

  
Reader

28-2-22

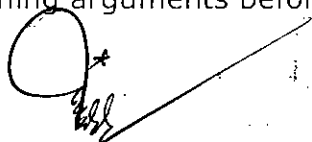
Due to retirement of the Hon. Bk  
Chairman the case is adjourned  
on 14-6-22

  
Reader

14.06.2022

Appellant in person present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Appellant sought adjournment on the ground that his counsel is not available today due to strike of Lawyers. Adjourned. To come up for remaining arguments before the D.B on 15.08.2022.



(MIAN MUHAMMAD)  
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

15.8.22


Due to summer vacation, the case  
is adjourned to 10.10.22 for the same.


  
Reader

30.08.2021

Nemo for the appellant. Mr. Muhammad Adeel Butt,  
Additional Advocate General for the respondents present.

Previous date was changed on Reader Note, therefore,  
notice for prosecution of the appeal be issued to the appellant as  
well as his counsel and to come up for arguments as well as  
production of relevant record before the D.B on 25.11.2021.

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

  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

11.01.2021

Appellant with counsel present.

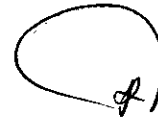
Kabir Ullah Khattak learned Additional Advocate General alongwith Niaz Muhammad Supervisor for respondent No.1 and Legal Advisor for respondents No.2 to 4 present.

Certain necessary documents are not available today. Therefore, a request was made for adjournment in order to produce relevant documents on or before the next date of hearing.

Adjourned to 12.03.2021 before D.B for full arguments and production of relevant record.



(Mian Muhammad)  
Member (E)



(Rozina Rehman)  
Member (J)

12-3-2021

*D.B is not available, therefore the case is adjourned to 28-4-2021 for the same.*

28-4-2021

*due to COVID-19, the case is adjourned to 30-8-2021 for the same.*

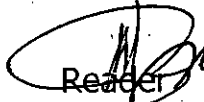
29.06.2020

Due to COVID-19, the case is adjourned to 24.08.2020 for the same.

  
Reader

24.08.2020

Due to summer vacation case to come up for the same on 03.11.2020 before D.B.


  
Reader

03.11.2020

Junior to counsel for the appellant and Addl. AG for the respondents present.

The Bar is observing general strike, therefore, the matter is adjourned to 11.1.2021 for hearing before the D.B.

  
(Mian Muhammad)  
Member

  
Chairman

19.12.2019


Lawyers are on strike as per the decision of Peshawar Bar Association. Adjourn. To come up for further proceedings/arguments on 17.02.2020 before D.B.

  
Member

  
Member

17.02.2020

Appellant in person present. Mr. Riaz Paindakhel learned Assistant AG alongwith Mr. Niaz Muhammad Clerk for the respondents present. Appellant requested for adjournment as his counsel is not available today. Adjourned. To come up for arguments on 02.04.2020 before D.B.

  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

2.4.2020

As per Public Holiday on account of COVID-19, the case is adjourned. To come up for same on 29.6.2020.



26.02.2019

Appellant in person and Mr. Muhammad Jan,  
Deputy District Attorney for the respondents present.

Appellant requests for adjournment due to non-availability of learned counsel. Adjourned to 13.05.2019 before the D.B.




Member



Chairman

13.05.2019

Nemo for the appellant. Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Due to leave of the worthy Chairman the case is adjourned to 23.07.2019 for arguments before D.B.

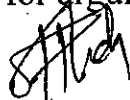


(Hussain Shah)

Member

23.07.2019

Appellant in person and Mr. Ziaullah, Deputy District Attorney for the respondents present. Appellant requested for adjournment on the ground that his counsel is not available today. Adjourned to 09.10.2019 for arguments before D.B.



(HUSSAIN SHAH)

MEMBER

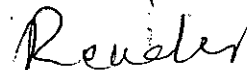


(M. AMIN KHAN KUNDI)

MEMBER

9-10-2019

*Due to tour of Honble Member to camp court so the case is adjourned to 18-12-2019*



Recorder


22.10.2018


Neither appellant nor his counsel present. Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Due to retirement of Hon'ble Chairman, the Tribunal is incomplete. To come up for same as before on 06.12.2018.

  
Reader

06.12.2018

Clerk to counsel for the appellant present. Mr. Kabirullah, Addl: AG for respondents present. Clerk to counsel for the appellant seeks adjournment as counsel for the appeal was busy before the Hon'ble Peshawar High Court. Adjourned. Case to come up for arguments on 22.01.2019 before D.B.


  
(Ahmad Hassan)  
Member

  
(M. Amin Khan Kundi)  
Member

22.01.2019

Learned counsel for the appellant and Mr. Usman Ghani learned District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 26.02.2019 before D.B

  
(Hussain Shah)  
Member

  
(Muhammad Amin Khan Kundi)  
Member

03.05.2018

The Tribunal is non functional due to retirement of the Honorable Chairman. Therefore, the case is adjourned. To come up for the same on 28.06.2018 before S.B.



Reader

28.06.2018

Counsel or the appellant present. Mr. Muhammad Jan, DDA for the respondents presents. None present on behalf of respondents No. 1 & 3. Therefore, fresh notices be issued to the respondents No. 1 & 3 to attend the court positively. Written reply not submitted on behalf of respondents despite last opportunity. Requested for further adjournment. Another last opportunity is extended. ~~To come up for reply/comments on 12.8.2018 before S.B. in court packets. To come up for reply/comments on behalf of respondents No. 1 & 3 on 20.10.2018 before S.B.~~



Member

29.08.2018

Appellant in person and Mr. Kabirullah Khattak, Additional AG for the respondents present. Written reply by respondents No. 2 & 4 already submitted, while no one is present on behalf of respondents No. 1 & 3 nor written reply submitted despite last opportunity. As such, their right of filing of written reply is struck off. To come up for rejoinder and arguments on 22.10.2018 before D.B.

  
(Ahmad Hassan)  
Member



30.01.2018

Appellant in person and Asst: AG for official respondents and clerk to counsel for 2 and 4 present. Written reply on behalf of respondents no. 2 and 4 submitted. Notices be issued to respondents no. 1 and 3. Last opportunity granted to respondent no. 1 and 3. To come up for written reply/comments on - 01/03/18 before S.B.

(Ahmad Hassan)  
Member(E)


01.03.2018

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Written reply by respondents No. 2 and 4 already submitted. Written reply by 1 & 3 not submitted despite last opportunity hence, last opportunity is further extended subject to payment of cost of Rs. 1000/- which shall be borne by respondents No. 1 & 3 from their own pockets. Notice be also issued to respondents No. 1 & 3 for filing of written reply. Adjourned. To come up for written reply/comments and cost of Rs. 1000/- on behalf of respondents No. 1 & 3 on 29.03.2018 before S.B.

  
(Muhammad Amin Khan Kundi)  
Member

29.03.2018

Appellant in person and Mr. Kabir Ullah Khattak, Additional AG for the respondent present. Written reply by respondents No. 2 and 4 already submitted. None present on behalf of respondent No. 1 & 3. Therefore, notices be issued to the respondent No. 1 & 3 for attendance. Written reply not submitted on behalf of respondent No. 1 & 3 despite extension of last opportunity and cost of Rs. 1000/-. Another last opportunity is extended subject to payment of further cost of Rs. 2000/- which shall be borne by the respondents from their own pockets. To come up for written reply/comments on behalf of respondent No. 1 & 3 with cost of Rs. 2000/- on 03.05.2018 before S.B.

  
Chairman

Service Appeal No. 765/2017

20.11.2017

Counsel for the appellant present. Mr. Riaz Paynda Khel, Assistant AG for the respondents also present. Representative of the department is not in attendance therefore, notice be issued to the respondents with the direction to direct the representative to attend the court and submit written reply on the next date. Adjourned. To come up for written reply/comments on 14.12.2017 before S.B.

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER


14.12.2017

Appellant in person and Asst: AG alongwith Mr. Haseeb Ahamd, Establishment Assistant for respondents present. Written reply not submitted. Mr. Shafiullah, Advocate filed wakalat nama on behalf of respondents no. 2 and 4. To come up for written reply/comments on 01.01.2018 before S.B.

  
(AHMAD HASSAN)  
MEMBER

01.01.2018

Clerk of the counsel for appellant present and Assistant AG present. Representative of the department is not in attendance therefore, notice be issued to the respondents with the direction to direct the representative to attend the court and submit written reply on the next date. Adjourned. Another last opportunity granted. To come up for written reply/comments on 30.01.2018 before S.B.

  
(Gul Zeb Khan)  
Member (E)

CANCELLED  
KPST  
Peshawar

11.09.2017

Appellant in person present and requested for adjournment on the ground that his counsel is not available today. Adjourned. To come up for preliminary hearing on 04.10.2017 before S.B.

*MA*  
(Muhammad Amin Khan Kundi)  
Member

04.10.2017

Counsel for the appellant present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was serving in Town Municipal Administration Town-III, Peshawar as Inspector. It was further contended that after serving 30 years appellant submitted application for retirement to the competent authority and the same was allowed with the direction to continue his service during LPR period and consider himself retired after completion of LPR period vide order dated 22.03.2016. It was further contended that before expiry of LPR period the appellant submitted application to the competent authority to withdraw the retirement order as he filed application due to unavoidable circumstances and now he want to continue his service but the said application was filed on 02.03.2017. It was further contended that later on the appellant submitted departmental appeal on 21.03.2017 but the same was also regretted on 22.06.2017 and hence the present service appeal. It was further contended that since the LPR period of the appellant was not expired therefore, he can withdraw is earlier application for retirement but the competent authority has illegally declined the application and directed him to continue his service.

Appellant Deposited  
Security & Process Fee



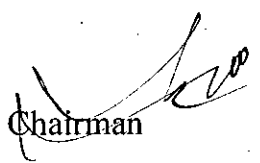

The contentions raised by learned counsel for the appellant need consideration. The appeal is admitted for regular hearing subject to deposit of security and process fee within 10 days, thereafter notice be issued to the respondents for written reply/comments for 20.11.2017 before S.B.

*MA*  
(Muhammad Amin Khan Kundi)  
Member

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 765/2017


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	17/07/2017	<p>The appeal of Syed Rehmat Shah resubmitted today by Mr. Saifullah Khalil Advocate, may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	24-7-2017	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>31-07-2017</u></p> <p style="text-align: right;"> CHAIRMAN</p>
31.07.2017		<p>Counsel for the appellant seeks adjournment. Granted. To come up for preliminary hearing on 22.08.2017 before S.B.</p> <p style="text-align: right;"> Chairman</p>
	22/8/2017	<p>Clerk of counsel for the appellant present and requested for adjournment as his counsel is not available due to strike of the bar. To come up for preliminary hearing on 11/9/2017 before SB.</p> <p style="text-align: right;"> (GUL ZEB KHAN) MEMBER</p>

The appeal of Syed Rahmat Shah son of Syed Ahmad Shah Municipal Inspector TMA Town-III Peshawar received today i.e. on 10.07.2017 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellant.
- 2- Annexures of the appeal may be flagged.
- 3- Copy of LPR Sanction order dated 12.2.2016 mentioned in para-3 of the memo of appeal is not attached with the appeal which may be placed on it. Annexure-B is the repatriation order not a LPR sanctioned order.
- 4- Copy of impugned order dated 22.6.2017 mentioned in the heading of the appeal is not attached with the appeal which may be placed on it.
- 5- Annexures of the appeal are not in sequence which may be annexed serial wise as mentioned in the memo of appeal.
- 6- Two more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1670 /S.T,

Dt. 11/7 /2017

  
REGISTRAR 11/7/17  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

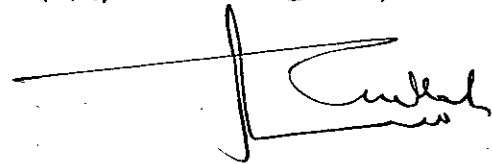
Mr. Saifullah Khalil Adv. Pesh.

Sir

17-7-17

The case file is corrected.

Re-submitted please. There is no other order with appellant except Anx-F dated 22-6-17.




BEFORE THE HONOURABLE SERVICES TRIBUNAL KHYBER  
PAKHTUNKHWA, PESHAWAR

Services Appeal No. 765 /2017

SYED RAHMAT SHAH  
VERSUS  
Govt of Khyber Pakhtunkhwa etc

INDEX

S.No	Description	Annexure	Pages
1.	Grounds of appeal		1-4
2.	Affidavit		5
3.	Addresses of parties		6
4.	Copy of application	A	7
5.	Copy of order dated <del>22/03</del> /2016	B	8-8a
6.	Copy of application and departmental Order dated 22/03/2017	C, D	9-11
7.	Copy of appeal and appellate order	E & F	12-13
8.	order of retirement	G	14
9.	Wakalat Nama		15

Appellant  
Through   
SAIF ULLAH KHALIL (SENIOR  
Advocate, High court Peshawar

Cell # 0300 5941431

Office Address: - Zabeel Palace Hotel, G.T. Road, Peshawar

BEFORE THE HONORUABLE SERVICES TRIBUNAL KHYBER

PAKHTUNKHWA PESHAWAR

Services appeal No. 765 /2017

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 791

Dated 10-7-2017

SYED RAHMAT Shah S/o Syed Ahmad Shah Municipal Inspector TMA  
Town-III, Peshawar.

... APPELLANT

VERSUS

1. Government of Khyber Pakhtunkhwa, Peshawar through Secretary Local Government.
- ✓2. Town Municipal Administration Town III, through TMO Town III, Peshawar.
3. District Nazim, Peshawar.
- ✓4. Nazim Town-III, Peshawar.

... RESPONDENTS

APPEAL UNDER SECTION 4 OF THE KHYBER

PAKHTUNKHWA SERVICES TRIBUNAL ACT 1971

AGAINST THE ORIGINAL ORDER DATED 22/03/2017

AND AGAINST THE APPELLATE ORDER DATED

20/06/2017 VIDE WHICH THE APPEAL OF THE

APPELLANT HAS BEEN DISMISSED

Filed to-day

Registrar

10/7/17

Re-submitted to -day  
and filed.

Registrar

17/7/17

**PRAYER:**

ON ACCEPTANCE OF THIS APPEAL BOTH THE  
IMPUGNED ORDERS MENTIONED ABOVE MAY VERY  
KINDLY BE SET ASIDE AND THE APPLICATION OF THE  
APPELLANT DATED 23/11/2016 FOR WITHDRAWL OF  
HIS LPR MAY VERY KINDLY BE ALLOWED AND THE  
APPELLANT MAY VERY KINDLY BE RE-INSTATED IN  
SERVICE AND BE ALLOWED TO CONTINUE HIS SERVICE  
TILL REACHING THE AGE OF SUPERNUATION

**RESPECTFULLY SHEWETH,**

The appellant submit as under: -

1. That the appellant joined the defendant's department as Sanitation Inspector and completed 30 years service.
2. That during service period the appellant family was involved in enmity with other persons, due to which a number of FIRs were registered against the appellant and others and as such due to family crises and above enmity the appellant submitted applications for the grant of Leave as he was apprehending life danger at the hands of his enemies, but the leave was not granted, as such there was no option with the appellant but to file an application for premature retirement, which application was filed on 12/01/2016. (Copy of application is annexure A).
3. That the said application was allowed vide order dated 12/02/2016 and the appellant went on LPR. (Copy of order dated 12/02/2016 is annexure B).



4. That during this period the criminal cases were compromised, as such the appellant intended to continue his service, and in this respect the appellant filed an application on 23/11/2016 for withdrawal of his LPR, which was dismissed vide order dated 22/03/2017. (Copy of application and departmental Order dated 22/03/2017 are annexure C & D, respectively).
5. That thereafter the appellant impugned the order dated 22/03/2017 before respondent no.3 being the appellate authority through a departmental appeal which was also dismissed vide order dated 22/06/2017. (Copy of appeal and appellate order are annexure E & F, respectively).
6. That during this movement the order of retirement of the appellant was also issued by the respondents dated 22/03/2017, which is annexure G.
7. That the appellant impugns both the above orders before this Honourable Tribunal through instant appeal on the following grounds inter alia:

**Grounds:**

- A. That both the impugned orders of the respondents are against the law and facts, hence liable to be set aside.
- B. That the appellant submitted application for LPR due to his enmity and family problems, which was resolved and as such before maturity of LPR the appellant submitted an application for withdrawal of the said LPR, which is will within time and the appellant has a right to continue his service after withdrawal of his LPR,


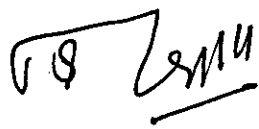
Reliance is placed in 1984 PLC (C.S) 1085.

- C. That as the final order of retirement was not issued before which the appellant's final application for withdrawal of his LPR, as such the respondents were bound to accept the same and to allow the appellant to continue his service.
- D. That the appellant has excellent service record and as such the appellant wants to serve the department till the age of superannuation.
- E. That the appeal in hand as well as departmental appeal is within time.
- F. That other points be raised at the time of arguments with the permission of this Honorable Court.

It is, therefore, most humbly prayed that on acceptance of this appeal both the impugned orders mentioned above may very kind very kindly be set aside and the appellant may very kindly be re-instated in service along with all back benefits, so that the appellant may continue his services till the age of his superannuation.

Dated: 05/07/2017

← Appellant  
 Through Khalil  
SAIF ULLAH KHALIL (SENIOR)  
Advocate, High Court Peshawar

**CERTIFICATE:**

Certified that no such like appeal has earlier been filed before this Honorable Court.

  
 Advocate

6

BEFORE THE HONOURABLE SERVICES TRIBUNAL KHYBER  
PAKHTUNKHWA, PESHAWAR

Services Appeal No. \_\_\_\_\_/2017

SULTAN MUHAMMAD

VERSUS

Govt of Khyber Pakhtunkhwa etc

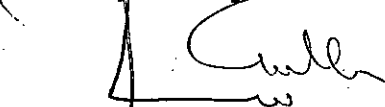
AFFIDAVIT

I, SYED RAHMAT Shah S/o Syed Ahmad Shah Municipal Inspector TMA Town-III, Peshawar do hereby solemnly affirm and declare on oath that the contents of the instant appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

  
Deponent

17301-5304542-

Identified by:



Saif Ullah Khalil (Senior),

Advocate, High Court Peshawar



26

BEFORE THE HONORUABLE SERVICES TRIBUNAL KHYBER  
PAKHTUNKHWA PESHAWAR

Services appeal No. \_\_\_\_\_/2017

SYED RAHMAT SHAH

VERSUS

Government of Khyber Pakhtunkhwa etc

ADDRESSES OF PARTIES

**ADDRESS OF APPELLANT:**

SYED RAHMAT Shah S/o Syed Ahmad Shah Municipal Inspector TMA  
Town-III, Peshawar.

**ADDRESSES OF RESPONDENTS:**

1. Government of Khyber Pakhtunkhwa, Peshawar through  
Secretary Local Government.
2. Town Municipal Administration Town III, through TMO Town III,  
Peshawar.
3. District Nazim, Peshawar.
4. Nazim Town-III, Peshawar.

Through

Appellant

  
SAIF ULLAH KHALIL (SENIOR)

Advocate, High court Peshawar

7

151

A

WSSP

حساب زون ڈی

حساب عالی

L.P.R دن (365) برائے

تعمیراتی کاموں کے لیے کہ تدریجی طور پر 2 سال کے کارڈیشن سے  
 انسٹیٹیوٹ خدمات سے فراہم کیے جائیں۔ اس وقت درخواست گزار  
 ڈون ڈی میں کیا اگر ریاضوں اور بن مشین سے سٹیڈی (365) کیا  
 L.P.R کے ساتھ ساتھ ریاضوں، اس کے بعد بن مشین سے ریاضوں  
 کے ساتھ ساتھ، لیڈ ویب صاحبان سے گنڈہ میں ہے کہ درخواست  
 گزار کو L.P.R کے تحت مندرجہ ذیل کے تیار کیا جائے

میں ترمیم کی گئی

ایک سالہ مدت

12/1/2016

OFFICE OF THE ZONAL MANAGER ZONE-D, WSSP

Dairy No. 894 Dated 12/01/2016

1 Manager (Admn & Accounts)	5 Assistant Recovery Officer
2 Manager (SWM)	6 Asstt: Manager (Fleet Management)
3 Manager (W & WWM)	7 HO & Other Zone
4 Manager (Customer Services)	8 Documents Controller

For / n/a.

12/1/16

Attest

[Signature]

for the case of LPR  
 id Rehmata Shish Working  
 SP Zone-D as per rules/policies  
 Valter attached. 12/1/16.

next page pls

[Signature]

8

ANX - B

**OFFICE OF THE TOWN MUNICIPAL ADMINISTRATION TOWN-III**  
**PESHAWAR**

No. \_\_\_\_\_ / TMO/T-III/2016

Dated Pesh: the \_\_\_\_\_

To

Syed Rehmat Shah s/o Syed Ahmad Shah,  
Municipal Inspector, TMA Town-III, Peshawar.

**SUBJECT: CONTINUATION OF SERVICE IN LPR.**

Your written request on account of service during LPR period, is hereby accorded, therefore you are directed to continue your service during LPR period and consider your self retirement after completion of LPR period.

Town Municipal Officer  
TMA Town-III Peshawar

No. ~~3964-7~~ TMO/T-III/2016

Dated Pesh: the 29-3-16

Copy to:-

- The Town Officer (Finance), TMA Town-III, Peshawar.
- The RAD(Audit), TMA Town-III, Peshawar.
- The Administrative Officer, TMA Town-III, Peshawar.
- The Establishment Assistant concerned.
- Official concerned.

163

Town Municipal Officer  
TMA Town-III Peshawar

Attest

Signed

116

8a

OFFICE OF THE TOWN MUNICIPAL ADMINISTRATION TOWN-III,  
PESHAWAR

Dated the Peshawar \_\_\_/\_\_\_/2016

CORRINGENDUM

In continuation to this office letter No.3964-67/TMO/T-III/2016 dated 22-03-2018, the wording **continue service during LPR** may be read as availing LPR (without duties).


TOWN MUNICIPAL OFFICER  
TMA TOWN-III, PESHAWAR

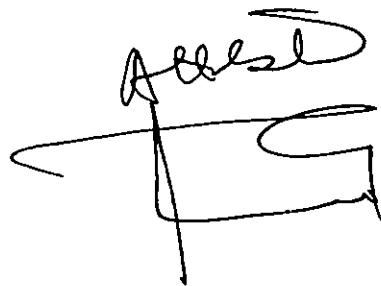
No. 4082-86/TMO/T-III/Pesh

Dated 4/4/2016

Copy to:-

- The Town Officer (F), TMA Town-III, Peshawar.
- The RAD (Audit), TMA Town-III, Peshawar.
- The Admn Officer, TMA Town-III, Peshawar.
- Establishment Assistant concerned.
- Official concerned.

  
TOWN MUNICIPAL OFFICER  
TMA TOWN-III, PESHAWAR



27

9

کریمنٹ ٹائم کے ساتھ ساتھ  
مذاہرتیہ رپورٹ کے ساتھ

مذہرتیہ

مذہرتیہ رپورٹ کے ساتھ ساتھ  
مذہرتیہ رپورٹ کے ساتھ ساتھ  
مذہرتیہ رپورٹ کے ساتھ ساتھ  
مذہرتیہ رپورٹ کے ساتھ ساتھ  
مذہرتیہ رپورٹ کے ساتھ ساتھ

مذہرتیہ رپورٹ کے ساتھ ساتھ

مذہرتیہ رپورٹ کے ساتھ ساتھ

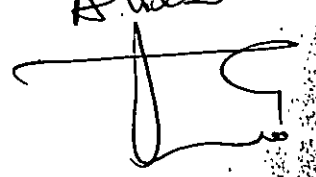
مذہرتیہ رپورٹ کے ساتھ ساتھ  
مذہرتیہ رپورٹ کے ساتھ ساتھ  
مذہرتیہ رپورٹ کے ساتھ ساتھ

مذہرتیہ رپورٹ کے ساتھ ساتھ

570  
TMO

FRM n/a pt.

06/12/2016

Attest  


2162  
7/12/2016

Office Of The  
Notary Public  
No. 118  
Date 28/11/16

101  




256  
TMO

FRM n/a pt.

For report



(10)

Ref application received from Syed Rehmat Shah Municipal Inspector TMA Town - III for withdrawal of his retirement/LPR orders.

After checking of P/file it has been found that vide o/o No. 3764-67/TMO/T-III/2016. Dt: 22-3-16, The competent authority has been accepted his request for LPR w.e.f 12-2-2016 and Pre-mature retirement on the basis of completion of about 28 years of qualifying service.

Presently he is on LPR and will be retired from service on 11-2-2017.

Now he is requesting for withdrawal of retirement order. As per finance department Notification No. FD-SOSR-III/4/81. Dt: 01-10-1981

" If a Government servant withdraws his application for Pre-mature retirement or modifies the Date of retirement, before its acceptance by the competent authority the application or the date of retirement shall be deemed to have been withdrawn or modified as the case may be "

In light of above Notification Pre-mature retirement already been accepted by the competent authority, thus under the rules after acceptance of the authority he is not intitled to withdraw or modify his application for retirement.

Service Book along with P/file is submitted for appropriate action please.

Attest

O.S The report of E/A Council as above is in detail, however legal opinion of RAD may be obtained P/s

For comment.

30/11/17

6/2/2017

38

30

31

32

33

34

35

36

# بخدمت جناب ڈسٹرکٹ ناظم پشاور

L.P.R لینے درخواست

Please process as per leave for compassionate reasons

سائل حسب ذیل ہیں۔ 27-03-17  
1. یہ کہ سائل آپ کے زیر مانیہ عرصہ 29/30 سال سے بحیثیت سیکریٹری انچارج اپنی خدمات سر انجام دے رہا تھا۔  
2. یہ کہ سائل نے بوجہ دشمنی اور خاندانی کشیدگی مورخہ 12/01/2016 کو LPR کی درخواست دی تھی۔

(FIR No. 559, dated 09/07/2013, FIR No. 348, dated 14/07/2013, FIR No. 1039, dated 16/12/2013, FIR No. 1070, dated 27/12/2013)

3. یہ کہ اب سائل کی دشمنی ختم ہو گئی ہے اور اب رہائی مانگنے کی وجہ سے سائل نے مورخہ 07/12/2016 کو اپنی LPR دائیں لینے کے لئے مستحکم ہاتھ لگائے ہیں اور درخواست گزار کی تھی لیکن سائل کی درخواست پر کوئی عمل درآمد کیا گیا اور سائل کو درخواست مورخہ 02/03/17 کو واپس کر دی گئی۔

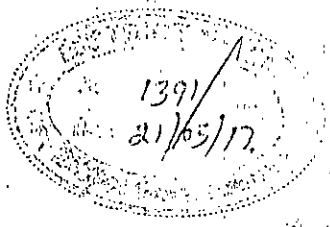
4. یہ کہ سائل کی دشمنی ختم ہو گئی ہے اور سائل کو کفالت میں رکھنا مناسب ہے۔ کیونکہ سائل کا اہلیہ بچوں کے ساتھ رہ رہا ہے۔ سائل نے اپنی درخواست کے بعد سائل کے کفالت میں رہا ہے۔  
5. یہ کہ سائل نے LPR واپس کی درخواست اندر میعاد کی تھی۔

6. یہ کہ درخواست واپس لے کر اندر میعاد ہونے کی وجہ سے قانون میں واپس کی کوئی ممانعت نہ ہے کیونکہ سائل کی LPR مکمل نہ ہوئی تھی اور LPR کا عرصہ سروں ہی کا مانا جاتا ہے۔

7. یہ کہ سائل نے مورخہ 02/12/2016 کو LPR کی واپس کی درخواست گزار کی تھی لیکن سائل کی درخواست پر بغیر کوئی عمل درآمد کے بغیر زیر آرڈر مورخہ 02/03/2017 کو داخل دفتر کی گئی اسلئے اپیل طحا کی ضرورت پیش آئی۔  
(کامیابی آرڈر رٹف حذرا ہے)

لہذا استدعا ہے کہ بذریعہ نکلانہ اپیل لٹا آرڈر بغیر مورخہ 02/03/2017 منسوخ کر کے اپیل منظور فرماتے ہوئے سائل کی LPR واپس کی کٹیم صادر فرمایا جائے اور سائل کی LPR کی عرصہ earned leave with full pay کا کٹیم صادر فرمایا جائے اور سائل کو اجازت دی جائے کہ سائل کو کفالت میں رکھنے کے لئے اپنی درخواست سر انجام دے۔

المو: 21/03/2017



\_\_\_\_\_

سید رحمت شاہ سیکریٹری انچارج میونسپل ٹاؤن - پشاور

موبائل: 0349-8919157

Attested

# خدمت جناب ڈسٹرکٹ ناظم پشاور

اپیل برائے واپس لینے درخواست L.P.R

جناب عالی! سائل حسب ذیل عرض رساں ہے

- 1 یہ کہ سائل آپ کے زیر سایہ عرصہ 29/30 سال سے بحیثیت سینٹری انسپکٹر اپنی خدمات سرانجام دے رہا تھا۔
  - 2 یہ کہ سائل نے بوجہ دشمنی اور خاندانی کشیدگی مورخہ 12/01/2016 کو LPR کی درخواست دی تھی۔
- (FIR No. 559, dated 09/07/2013, FIR No. 348, dated 14/07/2013, FIR No. 1039, dated 16/12/2013, FIR No. 1070, dated 27/12/2013
- ہذا ہے)
- 3 یہ کہ اب سائل کی دشمنی ختم ہو گئی ہے اور اب راضی نامہ ہونے کی وجہ سے سائل نے مورخہ 07/12/2016 کو اپنی LPR واپس لینے کے لئے محترم ناظم ٹاؤن-III کو درخواست گزاری تھی لیکن سائل کی درخواست پر کوئی عمل درآمد نہ کیا گیا اور سائل کو درخواست مورخہ 02/03/2017 کو واپس کر دی گئی۔
  - 4 یہ کہ سائل کی دشمنی ختم ہو چکی ہے اور سائل کو سخت مالی مشکلات کا سامنا ہے۔ کیونکہ سائل کا بغیر تنخواہ کے کوئی دوسرا ذریعہ معاش نہیں ہے۔ اور سائل کے چھوٹے چھوٹے بچے زیر تعلیم ہیں اور انکی کفالت سائل کے ذمہ ہے۔
  - 5 یہ کہ سائل نے LPR واپسی کی درخواست اندر میعاد کی تھی۔
  - 6 یہ کہ درخواست واپسی LPR اندر میعاد ہونے کی وجہ سے قانون میں واپسی کی کوئی ممانعت نہ ہے کیونکہ سائل کی LPR مکمل نہ ہوئی تھی اور LPR کا عرصہ سروس ہی کا مانا جاتا ہے۔
  - 7 یہ کہ سائل نے مورخہ 02/12/2016 کو LPR کی واپسی کی درخواست گزاری تھی لیکن سائل کی درخواست پر بغیر کوئی عمل درآمد کئے بغیر زیر آرڈر مورخہ 02/03/2017 کو داخل دفتر کی گئی اسلئے اپیل لھذا کی ضرورت پیش آئی۔

لہذا استدعا ہے کہ بذریعہ حکمانہ اپیل لھذا آرڈر نمبر مورخہ 02/03/2017 منسوخ کر کے اپیل منظور کرتے ہوئے

سائل کی LPR واپسی کا حکم صادر فرمایا جائے اور سائل کی LPR کا عرصہ earned leave with full pay کا حکم صادر فرمایا جائے اور سائل کو اجازت دی جائے کہ سائل اپنی مذکورہ نوکری بحال کر کے اپنی ڈیوٹی سرانجام دے۔



المرقوم: 21/03/2017

سائل

سید رحمت شاہ سینٹری انسپکٹر میونسپل ٹاؤن-III، پشاور

موبائل: 0349-8919157

Ref. PUC at flag "A"

F<sub>n</sub>

It is submitted that the applicant Mr. Syed Rehmat Shah has already been retired from service w.e.f. 12-02-2016 upon expiry of LPR period.

Refer to his application Para 33-35/N/S may kindly perused please.

205 (172)  
O.S

[Signature]  
11/5/17

The above report is in accordance  
submitted for further order as per

[Signature]  
29/5/2017

[Signature]  
29/5/2017

T-452  
29/5/17

[Signature]

2803  
27/11/17  
[Signature]

A copy report of S/A  
The LPR period has already been  
expired on 12/2/17. There is  
request of the app. regarding  
regretted at this stage.

As recommended above.

[Signature]  
29/5

2144  
7/07/17  
[Signature]

2011  
9/6/17  
[Signature]

SIST. No. 234

[Signature]  
07/06/2017

Regretted

S38

20/6/2017  
Pension Assst.

4533  
21/6/17  
[Signature]

IMO

[Signature]

[Signature]  
20/6/2017  
Pension Assst.

[Signature]  
27/7/17

(14)

4 G 2



OFFICE OF THE TOWN MUNICIPAL ADMINISTRATION TOWN-III,  
PESHAWAR

Dated the Peshawar \_\_\_/\_\_\_/2017

OFFICE ORDER

As the LPR period has been expired on 11-02-2017, therefore, the undersigned is pleased to retire the official namely Syed Rehmat Shah s/o Syed Ahmad Shah, Municipal Inspector, TMA Town-III, Peshawar from service w.e.f. 12-02-2017. He will be entitled for all pension benefits as admissible under the rules.

Town Municipal Officer,  
TMA Town-III, Peshawar.

No. 6765-68 /TMO/T-III/Pesh

Dated 29.13 /2017

Copy to:-

- The Town Officer (F), TMA Town-III, Peshawar.
- The Admn Officer, TMA Town-III, Peshawar.
- Establishment, Assistant concerned.
- Official concerned.

Town Municipal Officer,  
TMA Town-III, Peshawar.

Attest

ایڈوکیٹ: سید اللہ خلیل ایڈووکیٹ	پشاور بار ایسوسی ایشن، خیبر پختونخواہ
بار کونسل ایسوسی ایشن نمبر: BC-10-7499	96013
رابطہ نمبر: 0313-5941431	

بعدالت جناب: سروس ٹرا بیجیونل جج - S.T.J صاحب پشاور

مخانب: Petitioner	دعوی:
سید رحمت شاہ	علت نمبر:
بنام	مورخ:
حکومت وٹیر	جرم:
	تھانہ:

**باعث تحریر آنکہ**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ  
آن مقام پشاور کیلئے سید اللہ خلیل ایڈووکیٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کمال اختیار ہوگا، نیز وکیل صاحب کو  
راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق  
زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز  
دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی  
کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب  
مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا  
دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے  
باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 6-07-17

العبد \_\_\_\_\_ گواہ شد \_\_\_\_\_ العبد

مقام پشاور کے لیے منظور ہے۔

PW Appellant

**PESHAWAR HIGH COURT PESHAWAR**  
**ORDER SHEET**

Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary
11.3.2017.	Departmental Appeal No. 06/2016. 2
	<p>Present: Mr. Saifullah Khalil, Appellant. Representative of respondent.</p> <p>*****</p> <p><b>WAQAR AHMAD SETH, J:-</b> Syed Azmat Shah, hereinafter called the appellant has filed this departmental appeal against the order bearing No. 8060 dated 8.11.2016 whereby his application for withdrawal of LPR application was turned down.</p> <p>2. Brief facts of the case are that, appellant due to domestic problems / enmity moved application for Leave Preparatory Retirement, which was accepted with effect from 5.1.2016 to 4.1.2017, however, after laps of more than nine months, appellant submitted another application for withdrawal of LPR application, which was declined, hence the instant appeal.</p> <p>3. Perusal of record reveals that appellant due to domestic problems submitted Leave Preparatory</p>



**ATTESTED**  
EXAMINER  
Peshawar High Court  
30 MAR 2017

Retirement application to the District & Sessions Judge, Peshawar which was accepted on 8.1.2016 with effect from 5.1.2016 to 4.2017 with order that appellant will stand retire from service with effect from 4.1.2017.

In the meantime, appellant resolved issues and on 28.9.2016, moved an application for withdrawal of his LPR application, which was declined, but after lapse of more than one month and on 30.11.2016, filed the instant departmental appeal which came up for hearing today i.e after the retirement is matured. On the issue office memorandum bearing No. F.1(1)R-4/2007-Vol-II(Pt) dated Islamabad October 6, 2015 is worth perusal which reads as under:-

**Subject: CLARIFICATION OF WITHDRAWAL OF REQUEST OF LPR/RETIREMENT AFTER SANCTION/NOTIFICATION.**

The undersigned is directed to refer to Finance Division's O.M. No.F.1(1)R-4/2007-(Vol.II) dated 17.11.2011 on the above subject and to state that it has been decide in consultation with Establishment Division that Government Servant can withdraw option of voluntary retirement, during the period for which encashment has been applied/granted, subject to the following conditions:-

- i. He/She may withdraw his/her option of voluntary retirement before retirement matures;
- ii. It is binding on a government servant to return any amount of leave pay received by him/her, in lieu of encashment of LPR for that period;
- iii. Later on, on attaining the age of superannuation, if he/she again opts for 365 days leave encashment in lieu of 365 days LPR, such option of an

**ATTESTED**  
EXAMINER  
Peshawar High Court  
30 MAR 2017



individual may be treated as a fresh case and he / she will be allowed encashment of LPR in toto.

4. It was the prerogative / authority of the appointing authority / District & Sessions Judge, Peshawar, to accept the plea of appellant in the changed scenario, but he failed to do so and consequently appellant filed departmental appeal but unfortunately the same remained pending and during that period, retirement of the appellant matured, therefore, the delay, so occurred cannot be attributed to the appellant in any way, because he had moved the withdrawal within time.

In the case of Noor Ahmad vs Division Forest Officer, Faisalabad and another, reported in 1984

PLC (C.S) 1085, it has been held as under:-

—Retirement-Withdrawal of application for leave preparatory to retirement-Civil servant moved for grant of leave preparatory to retirement subject to some condition. LPR granted but condition not fulfilled. Request for cancellation of LPR not accepted- Held: Civil servant, who moves for LPR or seeks retirement but due to change in circumstances withdraws same while in service, can be permitted to do so. Civil servant directed to be considered in service from date he changed his mind to withdraw application.

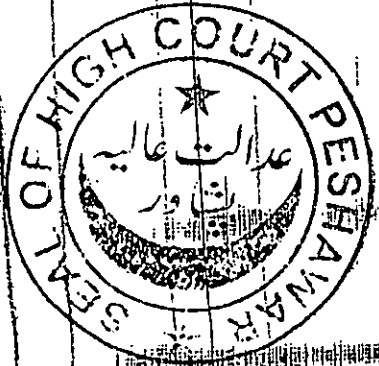
**ATTESTED**  
EXAMINER  
Peshawar High Court  
30 MAR 2017

5. For the reasons recorded hereinabove, this departmental appeal is allowed, appellant be considered in service from the date when he submitted withdrawal application, but subject to observing, all - codal formalities.

*100/2009/2000*

*ATM - J*

JUDGE



CERTIFIED TO BE TRUE COPY

Examiner  
Peshawar High Court, Peshawar  
Authorized Under Article 117 of  
The Constitution of Pakistan Order 1904

30 MAR 2017

No. *20464*  
 Date of Presentation of Application *11/3/17*  
 No of Pages *5*  
 Copying fee *500/-*  
 Urgent Fee *500/-*  
 Total *1000/-*  
 Date of Presentation of Copy *30/3/17*  
 Date Given For Delivery *30/3/17*  
 Date of Delivery of Copy *30/3/17*  
 Witnessed By *G. B. Crake*

Tariq Jan.



# DISTRICT JUDICIARY, KHYBER PAKHTUNKHWA, PESHAWAR


Ph# 091-9210099 Fax# 091-9212419  
eMail: scPeshawar@yahoo.com  
web: SessionsCourtPeshawar.gov.pk

No. \_\_\_\_\_  
Dated Peshawar \_\_\_\_\_

## OFFICE ORDER

In compliance with the order dated 11/03/2017 of august Peshawar High Court, Peshawar in Departmental Appeal No. 06/2016; Syed Azmat Shah, the then Stenographer of this Sessions Division is hereby reinstated in Service with effect from 28/09/2016.


The intervening period i.e. from 28/09/2016 to 30/03/2017 shall be treated as Earned Leave with full pay.



  
District & Sessions Judge,  
Peshawar.

No.106 (OO) 2774-77 Dated Peshawar, the 31/03 /2017.

Copy forwarded for information/necessary action to:

1. The Accountant General, KPK Peshawar
2. The Accountant, Sessions Court, Peshawar
3. The ACC, Sessions Court, Peshawar
4. Official concerned by name.

  
District & Sessions Judge,  
Peshawar

50 روپے	 	16649
ایڈوکیٹ: <u>Muashh</u>	پشاور بار ایسوسی ایشن، خیبر پختونخوا	
بار کونسل ایسوسی ایشن نمبر: 9543-10-bc		
رابطہ نمبر: 03169933050		

بعدالت جناب: سروس ٹریڈنگ سہیل اختر پختونخوا پشاور

مخاطب: <u>سول ایجوکیشن، ۶، سید رحمت شاہ</u>	دعویٰ: <u>سروس ٹریڈنگ</u>
بنام <u>جنوبی منڈی سول ایجوکیشن بورڈ پشاور</u>	علت نمبر:
<u>خبر پختونخوا پشاور ولاس</u>	مورخہ:
	جرم:
	تھانہ:

**باعث تحریر آگہ**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ

آن مقام پشاور کیلئے سید محمد علی شاہ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 14/12/2017

العبد سید محمد علی شاہ العبد

مقام پشاور کے لیے منظور ہے۔

Accepted by Muashh

نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔

Muashh  
Advocate Peshawar

MUHAMMAD ALI ARBAB  
Nazim  
TMA Town III Peshawar

3. Para no:3 is correct.

4. In reply to para no: 04 it is submitted that application for grant of LPR was accepted on 22/03/16 and after a lapse of 10 months the appellant submitted another application for withdrawal of LPR which was regretted (Annexure -C) in the light of finance department notification dated 1-10-81 (Annex -D) where in it has been clearly mentions that.

“If a govt servant withdraw his application for premature retirement or modify that the date of retirement, before its acceptance by the competent authority, the application or the date of retirement shall be deem to have been withdrawn or modify as the case may be”.

5. Para no:5 pertains to record.

6. Correct to the extent of retirement order dated 22-03-17, hence the same has not been impugned before the departmental appellate authority, hence the order dated 22-03-17 got finality and cannot be questioned.

7. The appellant has got no cause of action to file this instant appeal.

## GROUNDS

- A. In-correct, the impugned orders has been passed by adopting are process of law, hence sustainable and liable to be upheld.
- B. In correct detail reply has been given in para. 04 of facts.
- C. In correct. As per finance deptt notification and appex court Judgments, the appellant had the option to withdrawn application for the grant of LPR before acceptance, but after acceptance of application the same got finality and can not be modify or withdrawn.
- D. As replied in Para C.
- E. Incorrect, the appeal is barred by law and time
- F. That other points will be raised at the time of arguments with the permission of Court.

It is requested that the appeal may be dismiss with cost.

Respondents No.2 and 4

Through

*Shafiullah*

SHAFIULLAH ADVOCATE  
LEGAL ADVISOR UTC  
PESHAWAR.

## VERIFICATION

I Shafiullah Advocate Counsel for respondent No 2 and 4 do here solemnly affirm and declare that the contents of above reply are true and correct to the best of my knowledge. Nothing concealed for this hon'able court.

*Shafiullah*

Deponent

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

Syed Rehmat Shah

.....Petitioner

**VERSUS**

Govt of KPK and others

.....Respondents

**WRITTEN COPY ON BEHALF OF  
RESPONDENT NO: 2 & 4 .**

**Respected Sheweth:-**

**Preliminary objection**

- 1) The appellant has got no cause of action
- 2) The appeal is barred by law.
- 3) The appeal is not maintainable.
- 4) The appeal is bail for non-juvenile and mis-joiner.

**On Facts**

1. Para no 1 pertains to record.
2. In reply to para no: 2, it is submitted that the appellant with his won free will filed and application for the grant of LPR (Annexure – A) which was accepted vide order dated 22/03/16 (Annexure – B)

3. Para no:3 is correct.

4. In reply to para no: 04 it is submitted that application for grant of LPR was accepted on 22/03/16 and after a lapse of 10 months the appellant submitted another application for withdrawal of LPR which was regretted (Annexure -C) in the light of finance department notification dated 1-10-81 (Annex -D) where in it has been clearly mentions that.

“If a govt servant withdraw his application for premature retirement or modify that the date of retirement, before its acceptance by the competent authority, the application or the date of retirement shall be deem to have been withdrawn or modify as the case may be”.

5. Para no:5 pertains to record.

6. Correct to the extent of retirement order dated 22-03-17, hence the same has not been impugned before the departmental appellate authority, hence the order dated 22-03-17 got finality and cannot be questioned.

7. The appellant has got no cause of action to file this instant appeal.



## GROUNDS

- A. In-correct, the impugned orders has been passed by adopting are process of law, hence sustainable and liable to be upheld.
- B. In correct detail reply has been given in para. 04 of facts.
- C. In correct. As per finance deptt notification and appex court Judgments, the appellant had the option to withdrawn application for the grant of LPR before acceptance, but after acceptance of application the same got finality and can not be modify or withdrawn.
- D. As replied in Para C.
- E. Incorrect, the appeal is barred by law and time
- F. That other points will be raised at the time of arguments with the permission of Court.

It is requested that the appeal may be dismiss with cost.

**Respondents No.2 and 4**

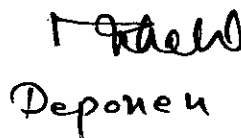
Through



**SHAFIULLAH ADVOCATE  
LEGAL ADVISOR UTC  
PESHAWAR.**

## **VERIFICATION**

**I Shafiullah Advocate Counsel for respondent No 2 and 4 do here solemnly affirm and declare that the contents of above reply are true and correct to the best of my knowledge. Nothing-concealed for this hon'able court.**



Deponer

1984 P L C (C. S.) 1085

[Service Tribunal Punjab]

*For Appellant*

Present: S. Abdul Jabbar Khan, Chairman, Malik Zawwar Hussain and Abdul Hamid Chaudhry, Members

NOOR AHMAD

versus

DIVISIONAL FOREST OFFICER, FAISALABAD AND ANOTHER

Case No. 183/1680 of 1982, decided on 28th July, 1982.

Civil service-

Retirement-Withdrawal of application for leave preparatory to retirement-Civil servant moved for grant of leave preparatory to retirement subject to some condition-L. P. R. granted but condition not fulfilled-Request for cancellation of L. P. R. not accepted-Held: Civil servant who applies for L. P. R. or seeks retirement but due to change in circumstances withdraws same while in service can be permitted to do so-Civil servant directed to be considered in service from date he applied in his mind to withdraw application for L. P. R.

SC 584; AIR 1956 All. 153 ; P L D 1956 S C (Pak.) 105 ; P L D 1956 S C (Pak.) 504 Quetta 4 and P L D 1981 Kar. 56 ref.

In Cheema for Appellant.

Abdul Hamid Cheema, District Attorney for Respondents.

28th July, 1982.

**KHAN (CHAIRMAN).** -Noor Ahmad has filed this appeal under section 4 of the Service Tribunals Act, 1974, against the order passed by the D. F. O., Faisalabad on 14th December, 1982, which he has been directed to proceed on L. P. R. till 14th December, 1982. He has impleaded D. F. O., Faisalabad and Conservator of Forests,

that the appellant joined Forest Department in December, 1949 and has rendered 30 years service in the Department. The appellant learnt from source that if he gets 10% pension on 30 years service are given more than 10% pension. Thinking this, he made an application to the D. F. O., Faisalabad that if 10% pension is granted under the rules the appellant is willing to proceed on L. P. R. What the D. F. O. without taking in consideration the conditions of service passed an order Annexure "D" asking him to proceed on L. P. R. The appellant, in view of the said order, moved the D. F. O., for cancellation of the order. The order was cancelled by the S. D. F. O. Toba Tek Singh in view of his good conduct. The appellant then made a representation to the Conservator of Forests, Faisalabad, who was disappointed by the attitude of respondent No. 1 but the

3. We have heard the learned counsel for the appellant as well as learned District Attorney represented by the Department and have perused the record of this case carefully with their assistance.

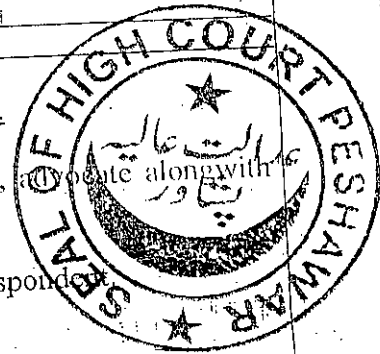
4. It is on the record that the appellant moved for L. P. R. with the request that 10% increase in his pension and moved for cancellation of the same immediately when it was revealed to him that his request was not acceded to. In view of these two established facts the argument of the learned counsel is liable to succeed which is based on the verdict of this Tribunal given in the judgment of Nooruz Zaman v. Inspector-General Prisons etc. dated 15th February, 1982 in which this Tribunal has held that if a civil servant moves for his L. P. R. or asks for his retirement otherwise but later on due to change in the circumstances he withdraws the same while in service, he can be permitted to do so. The law so laid down by this Tribunal would be applicable in the case of the appellant as well. which itself is based on Jai Ram v. Union of India, Full Bench Supreme Court of India A I R 1954 S C 584, A I R 1956 All. 153, P L D 1973 Quetta 4, P L D 1981 Kar. 56 at p. 60, P L D 1956 S C (Pak.) 504 and P L D 1956 S C (Pak.) 105.

In view of the said judgment of this Tribunal we proceed to accept the appeal of the appellant in the direction that he should be considered in service from the date he changed his mind to draw his application of L. P. R. However, there will be no order as to costs.

Appeal accepted.

**PESHAWAR HIGH COURT PESHAWAR**  
**ORDER SHEET**

Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary
11.3.2017:	<p style="text-align: right;">2</p> <p>Departmental Appeal No. 06/2016.</p> <p>Present: Mr. Saifullah Khalil, <i>Opente alongwith</i> appellant. Representative of respondent</p> <p style="text-align: center;">*****</p> <p><b><u>WAQAR AHMAD SETH, J:-</u></b> Syed Azmat Shah, hereinafter called the appellant has filed this departmental appeal against the order bearing No. 8060 dated 8.11.2016 whereby his application for withdrawal of LPR application was turned down.</p> <p>2. Brief facts of the case are that, appellant due to domestic problems / enmity moved application for Leave Preparatory Retirement, which was accepted with effect from 5.1.2016 to 4.1.2017, however, after laps of more than nine months, appellant submitted another application for withdrawal of LPR application, which was declined, hence the instant appeal.</p> <p>3. Perusal of record reveals that appellant due to domestic problems submitted Leave Preparatory</p>



**ATTESTED**  
**EXAMINER**  
Peshawar High Court  
30 MAR 2017

Retirement application to the District & Sessions Judge, Peshawar which was accepted on 8.1.2016 with effect from 5.1.2016 to 4.2017 with order that appellant will stand retire from service with effect from 4.1.2017.

In the meantime, appellant resolved issues and on 28.9.2016, moved an application for withdrawal of his LPR application, which was declined, but after lapse of more than one month and on 30.11.2016, filed the instant departmental appeal which came up for hearing today i.e after the retirement is matured. On the issue office memorandum bearing No. F.1(1)R-4/2007-Vol-II(Pt) dated Islamabad October 6, 2015 is worth perusal which reads as under:-

Subject: CLARIFICATION OF WITHDRAWAL OF REQUEST OF LPR/RETIREMENT AFTER SANCTION/NOTIFICATION.

The undersigned is directed to refer to Finance Division's O.M. No.F.1(1)R-4/2007-(Vol.II) dated 17.11.2011 on the above subject and to state that it has been decide in consultation with Establishment Division that Government Servant can withdraw option of voluntary retirement, during the period for which encashment has been applied/granted, subject to the following conditions:-

- i. He/She may withdraw his/her option of voluntary retirement before retirement matures;
- ii. It is binding on a government servant to return any amount of leave pay received by him/her, in lieu of encashment of LPR for that period;
- iii. Later on, on attaining the age of superannuation, if he/she again opts for 365 days leave encashment in lieu of 365 days LPR, such option of an

**ATTESTED**  
EXAMINER  
Peshawar High Court

30 MAR 2017

individual may be treated as a fresh case and he / she will be allowed encashment of LPR in toto.

4. It was the prerogative / authority of the appointing authority / District & Sessions Judge, Peshawar, to accept the plea of appellant in the changed scenario, but he failed to do so and consequently appellant filed departmental appeal but unfortunately the same remained pending and during that period, retirement of the appellant matured, therefore, the delay, so occurred cannot be attributed to the appellant in any way, because he had moved the withdrawal within time.

In the case of Noor Ahmad vs Division Forest Officer, Faisalabad and another, reported in 1984

PLC (C.S) 1085, it has been held as under:-

—Retirement-Withdrawal of application for leave preparatory to retirement-Civil servant moved for grant of leave preparatory to retirement subject to some condition. LPR granted but condition not fulfilled. Request for cancellation of LPR not accepted- Held: Civil servant, who moves for LPR or seeks retirement but due to change in circumstances withdraws same while in service, can be permitted to do so. Civil servant directed to be considered in service from date he changed his mind to withdraw application.

ATTESTED  
EXAMINER  
Peshawar High Court  
30 MAR 2017





## DISTRICT JUDICIARY, KHYBER PAKHTUNKHWA, PESHAWAR

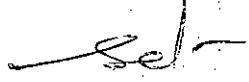
Ph#091-9210099 Fax#091-9212419  
eMail: scPeshawar@yahoo.com  
web: SessionsCourtPeshawar.gov.pk

No. \_\_\_\_\_  
Dated Peshawar \_\_\_\_\_

### OFFICE ORDER

In compliance with the order dated 11/03/2017 of august Peshawar High Court, Peshawar in Departmental Appeal No. 06/2016; Syed Azmat Shah, the then Stenographer of this Sessions Division is hereby reinstated in Service with effect from 28/09/2016.


The intervening period i.e. from 28/09/2016 to 30/03/2017 shall be treated as Earned Leave with full pay.

  
District & Sessions Judge,  
Peshawar.

No.106 (OO) 2774-77 Dated Peshawar, the 31/03 /2017.

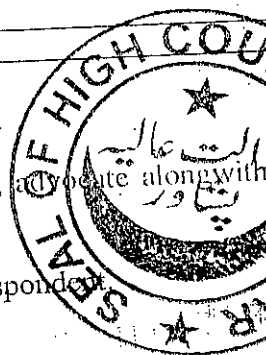
Copy forwarded for information/necessary action to:

1. The Accountant General, KPK Peshawar
2. The Accountant, Sessions Court, Peshawar
3. The ACC, Sessions Court, Peshawar
4. Official concerned by name.

  
District & Sessions Judge,  
Peshawar



**PESHAWAR HIGH COURT PESHAWAR**  
**ORDER SHEET**

Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary
11.3.2017.	Departmental Appeal No. 06/2016. 2
	Present: Mr. Saifullah Khalil,  Advocate along with Representative of respondent *****
	<p><b><u>WAOAR AHMAD SETH, J:-</u></b> Syed Azmat Shah, hereinafter called the appellant has filed this departmental appeal against the order bearing No. 8060 dated 8.11.2016 whereby his application for withdrawal of LPR application was turned down.</p> <p>2. Brief facts of the case are that, appellant due to domestic problems / enmity moved application for Leave Preparatory Retirement, which was accepted with effect from 5.1.2016 to 4.1.2017, however, after laps of more than nine months, appellant submitted another application for withdrawal of LPR application, which was declined, hence the instant appeal.</p> <p>3. Perusal of record reveals that appellant due to domestic problems submitted Leave Preparatory</p>

**ATTESTED**  
**EXAMINER**  
Peshawar High Court  
30 MAR 2017

Retirement application to the District & Sessions Judge, Peshawar which was accepted on 8.1.2016 with effect from 5.1.2016 to 4.2017 with order that appellant will stand retire from service with effect from 4.1.2017.

In the meantime, appellant resolved issues and on 28.9.2016, moved an application for withdrawal of his LPR application, which was declined, but after lapse of more than one month and on 30.11.2016, filed the instant departmental appeal which came up for hearing today i.e after the retirement is matured. On the issue office memorandum bearing No. F.1(1)R-4/2007-Vol-II(Pt) dated Islamabad October 6, 2015 is worth perusal which reads as under:-

**Subject: CLARIFICATION OF WITHDRAWAL OF REQUEST OF LPR/RETIREMENT AFTER SANCTION/NOTIFICATION.**

The undersigned is directed to refer to Finance Division's O.M. No.F.1(1)R-4/2007-(Vol.II) dated 17.11.2011 on the above subject and to state that it has been decide in consultation with Establishment Division that Government Servant can withdraw option of voluntary retirement, during the period for which encashment has been applied/granted, subject to the following conditions:-

- i. He/She may withdraw his/her option of voluntary retirement before retirement matures;
- ii. It is binding on a government servant to return any amount of leave pay received by him/her, in lieu of encashment of LPR for that period;
- iii. Later on, on attaining the age of superannuation, if he/she again opts for 365 days leave encashment in lieu of 365 days LPR, such option of an

**ATTESTED**  
EXAMINER  
Peshawar High Court  
30 MAR 2017

individual may be treated as a fresh case and he / she will be allowed encashment of LPR in toto.

4. It was the prerogative // authority of the appointing authority / District & Sessions Judge, Peshawar, to accept the plea of appellant in the changed scenario, but he failed to do so and consequently appellant filed departmental appeal but unfortunately the same remained pending and during that period, retirement of the appellant matured, therefore, the delay, so occurred cannot be attributed to the appellant in any way, because he had moved the withdrawal within time.

In the case of Noor Ahmad vs Division Forest Officer, Faisalabad and another, reported in 1984

PLC (C.S) 1085, it has been held as under:-

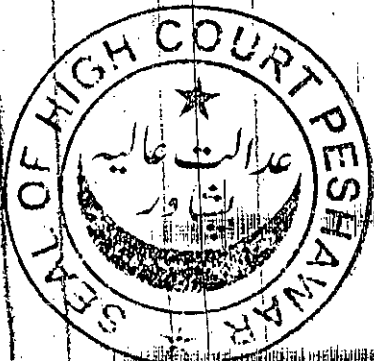
—Retirement-Withdrawal of application for leave preparatory to retirement-Civil servant moved for grant of leave preparatory to retirement subject to some condition. LPR granted but condition not fulfilled. Request for cancellation of LPR not accepted- Held: Civil servant, who moves for LPR or seeks retirement but due to change in circumstances withdraws same while in service, can be permitted to do so. Civil servant directed to be considered in service from date he changed his mind to withdraw application.

ATTESTED  
EXAMINER  
Peshawar High Court  
30 MAR 2017

5. For the reasons recorded hereinabove, this departmental appeal is allowed, appellant be considered in service from the date when he submitted withdrawal application, but subject to observing all codal formalities.

*1st/2nd/3rd/4th/5th*

JUDGE



CERTIFIED TO BE TRUE COPY

Examiner  
Peshawar High Court, Peshawar  
Authorized Under Article 117 of  
The Qanun-e-Shahadat Order 1984

30 MAR 2017

No. 20164  
 Date of Presentation of Application 11/3/17  
 No of Pages 5  
 Copying fee 50/-  
 Urgent Fee 50/-  
 Total 100/-  
 Date of Preparation of Copy 30/3/17  
 Date Given For Delivery 30/3/17  
 Date of Delivery of Copy 30/3/17

Tariq Jan.



## DISTRICT JUDICIARY, KHYBER PAKHTUNKHWA, PESHAWAR


Ph#091-9210099 Fax#091-9212419  
eMail: scPeshawar@yahoo.com  
web: SessionsCourtPeshawar.gov.pk

No. \_\_\_\_\_  
Dated Peshawar \_\_\_\_\_

### OFFICE ORDER

In compliance with the order dated 11/03/2017 of august Peshawar High Court, Peshawar in Departmental Appeal No. 06/2016; Syed Azmat Shah, the then Stenographer of this Sessions Division is hereby reinstated in Service with effect from 28/09/2016.


The intervening period i.e. from 28/09/2016 to 30/03/2017 shall be treated as Earned Leave with full pay.

  
District & Sessions Judge,  
Peshawar.

No.106 (OO) 2774-77 Dated Peshawar, the 31/03 /2017.

Copy forwarded for information/necessary action to:

1. The Accountant General, KPK Peshawar
2. The Accountant, Sessions Court, Peshawar
3. The ACC, Sessions Court, Peshawar
4. Official concerned by name.

  
District & Sessions Judge,  
Peshawar

1984 P L C (C. S.) 1085

[Service Tribunal Punjab]

Present: S. Abdul Jabbar Khan, Chairman, Malik Zawwar Hussain and Abdul Hamid Chaudhry, Members

NOOR AHMAD

versus

DIVISIONAL FOREST OFFICER, FAISALABAD AND ANOTHER

Case No. 183/1680 of 1982, decided on 28th July, 1982.

**Civil service-**

-- Retirement-Withdrawal of application for leave preparatory to retirement-Civil servant moved for grant of leave preparatory to retirement subject to some condition-L. P. R. granted but condition not fulfilled-Request for cancellation of L. P. R. not accepted-Held: Civil servant who moves for L. P. R. or seeks retirement but due to change in circumstances withdraws same while in service, can be permitted to do so-Civil servant directed to be considered in service from date he changed his mind to withdraw application for L. P. R.

A I R 1954 S C 584; A I R 1956 All. 153 ; P L D 1956 S C (Pak.) 105 ; P L D 1956 S C (Pak.) 504 ; P L D 1973 Quetta 4 and P L D 1981 Kar. 56 ref.

Abdur Rehman Cheema for Appellant.

Haroon-ur-Rashid Cheema, District Attorney for Respondents.

Date of hearing : 28th July, 1982.

**JUDGMENT**

**S. ABDUL JABBAR KHAN (CHAIRMAN).** -Noor Ahmad has filed this appeal under section 4 of the Punjab Service Tribunals Act, 1974, against the order passed by the D. F. O., Faisalabad on 26th November, 1981 by which he has been directed to proceed on L. P. R. till 14th December, 1982 and retire thereafter. He has impleaded D. F. O., Faisalabad and Conservator of Forests, Sargodha, as respondents.

2. Brief facts of the case are that the appellant joined Forest Department in December, 1949 and rendered more than 30 years service in the Department. The appellant learnt from source that a civil servant who retires after 30, years service are given more than 10% pension. Thinking this concession as advantageous to him, he made an application to the D. F. O., Faisalabad that if 10% pension is admissible to him under the rules the appellant is willing to proceed on L. P. R. What actually happened in his case is, that the D. F. O. without taking in consideration the conditions mentioned in the application, passed an order Annexure "D" asking him to proceed on L. P. R. The appellant immediately after receiving the said order, moved the D. F. O., for cancellation of the same. His application was recommended by the S. D. F. O. Toba Tek Singh in view of his good record of service. He again moved the S. D. F. O., Toba Tek Singh for cancellation of his L. P. R. and the same was recommended. The appellant then made a representation to the Conservator of Forest, respondent No. 2 after he was disappointed by the attitude of respondent No. 1 but the same is still pending. Hence this appeal.

3. We have heard the learned counsel for the appellant as well as learned District Attorney represented by the Department and have perused the record of this case carefully with their assistance.

4. It is on the record that the appellant moved for L. P. R. with the request that 10% increase in his pension and moved for cancellation of the same immediately when it was revealed to him that his request was not acceded to. In view of these two established facts the argument of the learned counsel is liable to succeed which is based on the verdict of this Tribunal given in the judgment of Nooruz Zaman v. Inspector-General Prisons etc. dated 15th February, 1982 in which this Tribunal has held that if a civil servant moves for his L. P. R. or asks for his retirement otherwise but later on due to change in the circumstances he withdraws the same while in service, he can be permitted to do so. The law so laid down by this Tribunal would be applicable in the case of the appellant as well, which itself is based on Jai Ram v. Union of India, Full Bench Supreme Court of India A I R 1954 S C 584, A I R 1956 All. 153, P L D 1973 Quetta 4, P L D 1981 Kar. 56 at p. 60, P L D 1956 S C (Pak.) 504 and P L D 1956 S C (Pak.) 105.

5. In view of the said judgment of this Tribunal we proceed to accept the appeal of the appellant with the direction that he should be considered in service from the date he changed his mind to withdraw his application of L. P. R. However, there will be no order as to costs.

M. I.

Appeal accepted.

1984 P L C (C. S.) 1085

[Service Tribunal Punjab]

Present: S. Abdul Jabbar Khan, Chairman, Malik Zawwar Hussain and Abdul Hamid Chaudhry, Members

NOOR AHMAD

versus

DIVISIONAL FOREST OFFICER, FAISALABAD AND ANOTHER

Case No. 183/1680 of 1982, decided on 28th July, 1982.

**Civil service-**

-- Retirement-Withdrawal of application for leave preparatory to retirement-Civil servant moved for grant of leave preparatory to retirement subject to some condition-L. P. R. granted but condition not fulfilled-Request for cancellation of L. P. R. not accepted-Held: Civil servant who moves for L. P. R. or seeks retirement but due to change in circumstances withdraws same while in service, can be permitted to do so-Civil servant directed to be considered in service from date he changed his mind to withdraw application for L. P. R.

A I R 1954 S C 584; A I R 1956 All. 153 ; P L D 1956 S C (Pak.) 105 ; P L D 1956 S C (Pak.) 504 ; P L D 1973 Quetta 4 and P L D 1981 Kar. 56 ref.

Abdur Rehman Cheema for Appellant.

Haroon-ur-Rashid Cheema, District Attorney for Respondents.

Date of hearing : 28th July, 1982.

**JUDGMENT**

**S. ABDUL JABBAR KHAN (CHAIRMAN).** -Noor Ahmad has filed this appeal under section 4 of the Punjab Service Tribunals Act, 1974, against the order passed by the D. F. O., Faisalabad on 26th November, 1981 by which he has been directed to proceed on L. P. R. till 14th December, 1982 and retire thereafter. He has impleaded D. F. O., Faisalabad and Conservator of Forests, Sargodha, as respondents.

2. Brief facts of the case are that the appellant joined Forest Department in December, 1949 and rendered more than 30 years service in the Department. The appellant learnt from source that a civil servant who retires after 30, years service are given more than 10% pension. Thinking this concession as advantageous to him, he made an application to the D. F. O., Faisalabad that if 10% pension is admissible to him under the rules the appellant is willing to proceed on L. P. R. What actually happened in his case is, that the D. F. O. without taking in consideration the conditions mentioned in the application, passed an order Annexure "D" asking him to proceed on L. P. R. The appellant immediately after receiving the said order, moved the D. F. O., for cancellation of the same. His application was recommended by the S. D. F. O. Toba Tek Singh in view of his good record of service. He again moved the S. D. F. O., Toba Tek Singh for cancellation of his L. P. R. and the same was recommended. The appellant then made a representation to the Conservator of Forest, respondent No. 2 after he was disappointed by the attitude of respondent No. 1 but the same is still pending. Hence this appeal.



3. We have heard the learned counsel for the appellant as well as learned District Attorney represented by the Department and have perused the record of this case carefully with their assistance.

4. It is on the record that the appellant moved for L. P. R. with the request that 10% increase in his pension and moved for cancellation of the same immediately when it was revealed to him that his request was not acceded to. In view of these two established facts the argument of the learned counsel is liable to succeed which is based on the verdict of this Tribunal given in the judgment of Nooruz Zaman v. Inspector-General Prisons etc. dated 15th February, 1982 in which this Tribunal has held that if a civil servant moves for his L. P. R. or asks for his retirement otherwise but later on due to change in the circumstances he withdraws the same while in service, he can be permitted to do so. The law so laid down by this Tribunal would be applicable in the case of the appellant as well, which itself is based on Jai Ram v. Union of India, Full Bench Supreme Court of India A I R 1954 S C 584, A I R 1956 All. 153, P L D 1973 Quetta 4, P L D 1981 Kar. 56 at p. 60, P L D 1956 S C (Pak.) 504 and P L D 1956 S C (Pak.) 105.

5. In view of the said judgment of this Tribunal we proceed to accept the appeal of the appellant with the direction that he should be considered in service from the date he changed his mind to withdraw his application of L. P. R. However, there will be no order as to costs.

M. I.

Appeal accepted.



**GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT**



Finance Department Civil Secretariat Peshawar | HRD/Finance/Accounts/Genl | Facebook.com/GovPKPD | Twitter.com/GovPKPD  
No.FD(SOSR-II)/4-36/2018. Dated Peshawar the 5/09/2018

To

1. All Administrative Secretaries, Government of Khyber Pakhtunkhwa
2. The Senior Member Board of Revenue, Khyber Pakhtunkhwa.
3. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
4. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. All Commissioners / Deputy Commissioners of Khyber Pakhtunkhwa.
6. Registrar Peshawar High Court.
7. Chairman Public Service Commission, Khyber Pakhtunkhwa.
8. Chairman Service Tribunal, Khyber Pakhtunkhwa.
9. All Head of Attach Departments, Khyber Pakhtunkhwa.

Subject: **CLARIFICATION OF WITHDRAWAL OF REQUEST OF LPR/RETIRED AFTER SANCTION / NOTIFICATION.**

Dear Sir,

In pursuance of Finance Division Government of Pakistan O M No F.1(1)R-4/2007-Vol-II(PI) dated 6.10.2015, the Competent Authority has been please to approve / adopt the Federal Government Policy with regard to the subject issue as envisaged in the O M cited above which provides that a Government servant can withdraw option of voluntary retirement during the period for which encashment has been applied / granted subject to the following conditions:-

- i. He/She may withdraw his/her option of voluntary retirement before retirement matures; -
- ii. It is binding on a government servant to return any amount of leave pay received by him/her, in lieu of encashment of LPR for that period.
- iii. Later on, on attaining the age of superannuation, if he / she again opts for 365 days leave encashment in lieu of 365 days LPR, such option of an individual may be treated as a fresh case and he / she will be allowed encashment of LPR in toto.

This supersedes Finance Department, letter No.SOSR-II/4-92/81 dated 01.10.1981, and the cases already decided thereunder shall not be reopened / reconsidered.

SECRETARY TO GOVERNMENT  
OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT

Encls: No. & Date Even.

Copy is forwarded for information to

1. The Secretary to Government of Punjab, Sindh and Balochistan, Finance Department.
2. The Accountant General, Khyber Pakhtunkhwa, Peshawar.

(ABDUL MALIK)  
DEPUTY SECRETARY (REG-II)

Encls: No. & Date Even.

Copy is forwarded for information and necessary action to:

1. Director Treasuries & Accounts, Khyber Pakhtunkhwa
2. All District Comptroller & Accounts in Khyber Pakhtunkhwa
3. Director Local Fund Audit, Khyber Pakhtunkhwa
4. Director FMU, Finance Department, Khyber Pakhtunkhwa
5. All District / Agency Accounts Officers in Khyber Pakhtunkhwa
6. All Section Officers/Budget Officers in Finance Department
7. The Private Secretary to Minister Finance, Khyber Pakhtunkhwa.
8. The Private Secretary to Secretary / PAs to Special Secretary, Additional Secretaries / Deputy Secretaries in Finance Department
9. The Section Officer (Reg-4) Government of Pakistan, Finance Division, (Regulation Wing with reference to his letter referred above
10. HR Finance Department (Assistant Director Web)

(NAEEM TABASSUM)  
SECTION OFFICER (SR-II)

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

Syed Rehmat Shah

.....Petitioner

**VERSUS**

Govt of KPK and others

.....Respondents

**WRITTEN COPY ON BEHALF OF  
RESPONDENT NO: 2 & 4 .**

**Respected Sheweth:-**

**Preliminary objection**

- 1) The appellant has got no cause of action
- 2) The appeal is barred by law.
- 3) The appeal is not maintainable.
- 4) The appeal is bail for non-juvenile and mis-joiner.

**On Facts**

1. Para no 1 pertains to record.
2. In reply to para no: 2, it is submitted that the appellant with his won free will filed and application for the grant of LPR (Annexure – A) which was accepted vide order dated 22/03/16 (Annexure – B)



**GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT**

Finance Department Civil Secretariat Peshawar | Peshawar Finance Department | Facebook.com/GovKPTD | Twitter.com/GovKPTD

No.FD(SOSR-II)/4-35/2018

Dated Peshawar the 5/09/2018

To

1. All Administrative Secretaries, Government of Khyber Pakhtunkhwa.
2. The Senior Member Board of Revenue, Khyber Pakhtunkhwa.
3. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
4. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. All Commissioners / Deputy Commissioners of Khyber Pakhtunkhwa.
6. Registrar Peshawar High Court.
7. Chairman Public Service Commission, Khyber Pakhtunkhwa.
8. Chairman Service Tribunal, Khyber Pakhtunkhwa.
9. All Head of Attach Departments, Khyber Pakhtunkhwa.

Subject: CLARIFICATION OF WITHDRAWAL OF REQUEST OF LPR/RETIRED AFTER SANCTION / NOTIFICATION.

Dear Sir,

In pursuance of Finance Division Government of Pakistan O M No F 1(1)R-4/2007-Vol-II(P1) dated 6 10 2015, the Competent Authority has been please to approve / adopt the Federal Government Policy with regard to the subject issue as envisaged in the O M cited above which provides that a Government servant can withdraw option of voluntary retirement during the period for which encashment has been applied / granted subject to the following conditions -

- i. He/She may withdraw his/her option of voluntary retirement before retirement matures;
- ii. It is binding on a government servant to return any amount of leave pay received by him/her, in lieu of encashment of LPR for that period.
- iii. Later on, on attaining the age of superannuation, if he / she again opts for 365 days leave encashment in lieu of 365 days LPR, such option of an individual may be treated as a fresh case and he / she will be allowed encashment of LPR in toto.

This supersedes Finance Department, letter No.SOSR-III-92/81 dated 03 10 1981 and the cases already decided thereunder shall not be reopened / reconsidered.

SECRETARY TO GOVERNMENT  
OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT

Encls: No. & Date Even.

Copy is forwarded for information to

1. The Secretary to Government of Punjab, South and Balochistan Finance Department
2. The Accountant General, Khyber Pakhtunkhwa, Peshawar

(ABDUL MALIK)  
DEPUTY SECRETARY (REG-II)

Encls: No. & Date Even.

Copy is forwarded for information and necessary action to:

1. Director Treasuries & Accounts, Khyber Pakhtunkhwa
2. All District Comptroller & Accounts in Khyber Pakhtunkhwa
3. Director Local Fund Audit, Khyber Pakhtunkhwa
4. Director PMIU, Finance Department, Khyber Pakhtunkhwa
5. All District / Agency Accounts Officers in Khyber Pakhtunkhwa
6. All Section Officers/Budget Officers in Finance Department.
7. The Private Secretary to Minister Finance, Khyber Pakhtunkhwa
8. The Private Secretary to Secretary / PAs to Special Secretary, Additional Secretaries / Deputy Secretaries a Finance Department
9. The Section Officer (Reg-4) Government of Pakistan, Finance Division, (Regulation Wing with reference to his letter referred above
10. HR Finance Department (Assistant Director Web)

(NAEEM TABASSUM)  
SECTION OFFICER (SR-II)

No. FD-SOSR.III/4-92/81  
Dated Peshawar, the 1st October, 1981

From:

GOVERNMENT OF NWFP,  
FINANCE DEPARTMENT.

To

The Secretary to Government NWFP,  
Finance Department, Peshawar.

1. All Administrative Secretaries to Govt. of NWFP.
2. All Heads of Attached Departments NWFP.
3. All Commissioners of Divisions in N.W.F.P.
4. All Deputy Commissioners/Political Agents in NWFP.
5. All District and Session Judges in N.W.F.P.
6. The Registrar, Peshawar High Court, Peshawar.
7. The Chairman, NWFP Public Service Commission, Peshawar.
8. The Chairman, NWFP Service Tribunal, Peshawar.

Subject:- WITHDRAWAL OF APPLICATION FOR VOLUNTARY RETIREMENT  
FROM GOVERNMENT SERVICE AFTER COMPLETING 25 YEARS  
QUALIFYING SERVICE FOR PENSION.

Sir,

I am directed to refer to the subject noted above and to say that according to paragraph 8 of the former Government of West Pakistan Finance Department letter No. SO(SR)-V-257/67, dated 27.4.1967 subject to the provisions of the Essential Service Maintenance Act, all Government Servants shall have the right to retire on a retiring pension after completing 25 years qualifying service; provided that a Government servant, who intends to retire before attaining the age of superannuation shall, at least three months before the date on which he intends to retire, submit a written intimation to the authority which appointed him, indicating the date on which he intends to retire. Such an intimation, once submitted, shall be final and shall not be allowed to be modified or withdrawn.

2. In pursuance of Establishment Division, O.N.No.23/2/81.CV (B) dated 12th April, 1981 as adopted by the Government of N.W.F.P. Services and General Administration Department vide letter No.SOR.II (S&GAD)5-3/79(Vol:II), dated 12th August, 1981 it has been decided that the words "Such an intimation once submitted, shall be final and shall not be allowed to be modified or withdrawn" occurring in paragraph 8 of above mentioned letter shall be deleted and substituted by the following words:-

"If a Government servant withdraws his application for premature retirement or modifies the date of retirement, before its acceptance by the competent authority, the application or the date of retirement shall be deemed to have been withdrawn or modified, as the case may be."

Your obedient servant,

(MUHAMMAD AMIN),  
ADDITIONAL SECRETARY-I  
FINANCE DEPARTMENT. 1/2/81

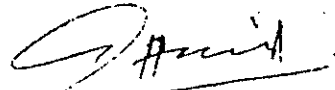
-: 2 :-

Enclst:  
No. FD-SOSR.III/4-92/81

Dated Peshawar, the 1st October, 1981.

Copy is forwarded to:-

1. The Martial Law Secretariat Zone 'B', Peshawar.
2. All Autonomous and Semi-Autonomous Bodies in NWFP.

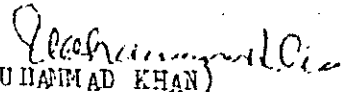


(ABDUL HAMID KHAN),  
Deputy Secretary (Regulations),  
Finance Department.

Enclst: No. FD-SOSR.III/4-92/81, Dated Peshawar, the 1st October, 1981

Copy is forwarded to:-

1. The Accountant General, N.W.F.P., Peshawar.
2. All District/Agency Accounts Officers in NWFP.
3. The Treasury Officer, Peshawar.
4. The Principal Office, National Bank of Pakistan, Peshawar  
Cantt: Zonal Office National Bank of Pakistan, Peshawar,  
Mardan, Abbottabad and Bannu.



(MULHAMAD KHAN)  
SECTION OFFICER (SR.III),  
FINANCE DEPARTMENT.

TAJ