

12.09.2022

*Counsel was informed telephonically for the date fixed on 21/11/22*

Nemo for appellant.

Asif Masood Ali Shah, Deputy District Attorney alongwith Riaz Khan, SDEO for respondents present.

Notice be issued to appellant/counsel for 24.11.2022 for arguments before D.B.



(Fareeha Paul)  
Member (E)



(Rozina Rehman)  
Member (J)

*21/11/22*

*Due to deletion of the case to come up for the same on 31/1/23*



31.01.2023

Clerk of learned counsel for the appellant present. Mr. Dilawar Khan, SDEO alongwith Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy in the august Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 04.05.2023 before the D.B.



(Fareeha Paul)  
Member (E)



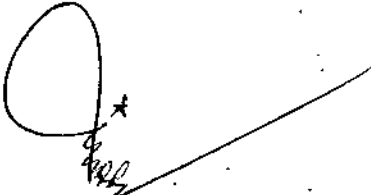
(Salah-ud-Din)  
Member (J)

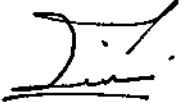
**SCANNED**  
PAINDAKHEL

14.04.2022

Appellant in person present. Mr. Riaz Khan, SDEO (Lachi) and Mr. Naseeb Ur Rehman, Section Officer alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Joint para-wise comments on behalf of respondents submitted, which are placed on file and copy of the same is handed over to the appellant. Adjourned. To come up for rejoinder, if any, as well as arguments on 21.06.2022 before the D.B.


  
(Mian Muhammad)  
Member (E)


  
(Salah-ud-Din)  
Member (J)

21.06.2022

Appellant alongwith his counsel namely Mr. Khurshid, Advocate present and submitted fresh Wakalatnama, which is placed on file. Mr. Riaz Khan, ASDEO alongwith Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Learned counsel for the appellant stated at the bar that he has been newly engaged in the instant appeal and has not gone through the record, therefore, adjournment may be granted. Adjourned. To come up for arguments on 12.09.2022 before the D.B.

  
(Fareeha Paul)  
Member (E)

  
(Salah-ud-Din)  
Member (J)

11.08.2021

Appellant present in person.

I have gone through the memorandum of appeal and documents annexed therewith. Points raised need consideration. The appeal is admitted for full hearing, subject to all just and legal objections including that of limitation to be determined during full hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application, with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 27.12.2021 before the D.B.

Appellant Deposited  
Security & Process Fee

27/12/2022

Chairman

Due to the ~~winter vacation~~ ~~reason~~ the case is adjourned to come up for the same as before on 14/4/22





Reader.

Form- A

FORM OF ORDER SHEET

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

Case No.- 1238 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	20/01/2021	<p>The appeal of Mr. Muhammad Javed resubmitted today by Mr. Arbab Kaleem Ullah 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-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>22/03/21</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	22.03.2021	<p>Appellant present and sought adjournment on the ground that his counsel is busy in the august Peshawar High Court, Peshawar. Adjourned. To come up for preliminary hearing on 27.04.2021 before S.B.</p> <p style="text-align: right;"> (SALAH-UD-DIN) MEMBER (JUDICIAL)</p>
	27.04.2021	<p>Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 11.08.2021 for the same as before.</p> <p style="text-align: right;"> READER</p>

SCANNED  
KPST  
Peshawar

The appeal of Mr. Muhammad Javed son of Rashmin Khan r/o Sirkedal P.O Rehman Abad Kohat received today i.e. on 13/01/2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- ① Copy of appointment order mentioned in para-1 of the memo of appeal is not attached with the appeal which may be placed on it.
- 2- Annexures of the appeal may be attested.
- 3- Copy of departmental appeal is not attached with the appeal which may be placed on it.

No. 62 /S.T,

Dt. 13/01 /2021

*Kaleemullah*  
13/1/2021  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Arbab Kaleemullah Adv. Pesh.

Departmental Appeal is at page no (3)  
Annexure "C" further more order of the Honourable  
High Court is also Attached and Annexed  
at page no (34) to (42)  
Resubmitted after correction.

*[Signature]*  
19/1/2021

Service Book is not Available, at Annexure  
"A" Date of appointment and length of Service  
is mentioned.

*[Signature]*  
19/1/2021

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL  
PESHAWAR

Service Appeal Revision No. 1238 /2021

Muhammad Javed .....Appellant

**Versus**

District Education Officer (Male) Kohat & others..... Respondents

INDEX

S.No.	Description of documents.	Annexure	Pages.
1.	Opening Sheet.		A
2.	Grounds of Appeal		1-6
3.	Addresses of Parties		7
4.	Copy of service book	A	8-11
5.	Copy of application for retirement	B	12
6.	Copy of application and order 30.09.2016	C	13-15
7.	Copy of plaint and order dated 28.06.2019	D-D/1	16-21
8.	Copy of grounds of appeal and order dated 23.11.2019	E-E/1	22-33
9.	Copy of revision petition and order dated 18.12.2020	F-F/1	34-40
10.	Copies of certificate and notice	G-G/2	41-43
11.	Construction details.	H	44-60
12.	Copy of notification dt.08.05.2017	I	61
13.	Wakalatnama.		62

Appellant  
Through  
*Arbab Kaleem Ullah*  
Advocate High Court  
Peshawar

Dated:

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BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL

PESHAWAR

Service Appeal Revision No. \_\_\_\_\_/2021

Muhammad Javed s/o Reshmin Khan

R/o Sirkedal P.O. Rehman Abad,

Tehsil and District Kohat.....Appellant

**Versus**

- 1) District Education Officer (Male) Kohat.
- 2) Sub Divisional Education Officer (Primary) Lachi, Tehsil Lachi District Kohat (male).
- 3) Director Elementary and Secondary Education KPK, Peshawar.
- 4) Secretary Finance, KPK Civil Secretariat, Peshawar.
- 5) District Accounts Officer, Kohat.
- 6) Account Officer DEO (M) Office Kohat..... Respondents

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APPEAL U/S 4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL  
ACT, 1974.

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PRAYER-IN-APPEAL:

On acceptance of this appeal, this Hon'ble Tribunal may be pleased to direct the respondents to:

- i) Make payment in shape of monthly salary from a period 07.01.2016 to 30.09.2016 as per pay slip alongwith adhoc allowance for a period January 2016 to June 2016.

2

- ii) Sanction encashment of LPR of 240 days.
- iii) Pay the amount of Rs.300000/- spent on the construction of boundary wall of the primary school, Janak.

Respectfully Sheweth;

BRIEF FACTS

The appellant humbly submits as under:-

1. That the appellant was appointed in Education Department on 04.10.1990 as a primary school teacher and since then performing his duties. (Copy Annexure "A").
2. That the appellant without any complaints proceeded his service and completed his 25 years serving the education department in different school of District Kohat.
3. That on 07.01.2016 on the basis of service length/ period of the appellant i.e 25 years 3 months, moved an application for his retirement due to some of his domestic and health issues before the office of respondent No.2. (Copy Annexure "B").
4. That the appellant's application moved on 07.01.2016, was accepted on 30.09.2016 vide order No.6845-47 whereas the date of retirement was considered from 07.01.2016. (Copy Annexure "C").
5. That from 07.01.2016 to 30.09.2016, the appellant was an employee of department but unfortunately no salary and other incentives were paid to the appellant for his services, even the appellant was entitled for earned leave but he was kept disentitle by the respondent.



6. That the appellant moved various applications before the respondents for the redressal of his grievance but all in vain.
7. That the appellant filed a suit before the court of Senior Civil Judge, Kohat and prayed for the relief and redressal of his grievance, but being devoid of jurisdiction the plaint of appellant was returned vide order dated 28.06.2019. (Copy of suit and order is Annexure "D and D/1").
8. That feeling aggrieved from the orders of Civil Judge the appellant filed an appeal before the learned ADJ-V, Kohat which was turned down by the learned ADJ-V on the ground of jurisdiction and maintainability. (Copies of grounds of appeal and order are Annexure "E and E/1")
9. That being dissatisfied the appellant approached the hon'ble Peshawar High Court, Peshawar in Revision Petition, which was decided/ allowed in the following terms:

"As the matter pertains to arrears in shape of salaries as well as LPR, which is legal right of the petitioner, but the petitioner has approached to Civil Court having no jurisdiction to decide such matter. Learned counsel for the petitioner requested that he may be allowed to withdraw the plaint with the permission to file writ petition before this court. As such, the prayer of the petitioner is allowed, the impugned judgments are set aside and the plaint filed by the petitioner is returned to him for presentation before competent court of law through competent petition".

(Copy of revision petition and order are attached as Annexure "F and F/1").

(4)

Hence the appellant approaches this hon'ble tribunal in the instant service appeal on the grounds mentioned below:

**GROUND:**

- a) That the rights of appellant have been violated and the hon'ble courts below have got ample jurisdiction to entertain the suit of the appellant.
- b) That the act of respondents is totally illegal and clear violation of the rights of appellant as he was an employee of education department till 30.09.2016, therefore, he is entitled for the monthly salary and other incentives for a period of 09 months i.e. 07.01.2016 to 30.09.2019.
- c) That recovery of salary/ amount and other expenses, does not come under the ambit of terms and conditions, hence the court has got jurisdiction. Furthermore, the appellant is not civil servant now and got retired.
- d) That the appellant was directed by respondent No.2 to complete a boundary wall of GPS Janak, being the headmaster of the school and appellant's retirement was stopped and a fake inquiry was initiated against the appellant, just to harass and humiliate and clearance certificate was not issued inspite of the facts that all work was completed accordingly and after a period of 09 months clearance certificate was issued. (Certificate and Notice annexed as Annexure "G, G/1 and G/2").
- e) That the appellant spent Rs.300000/- on construction of wall from his own, which till date is not yet paid by respondent No.2 even after providing all documents and inspection by various officers. (Construction details is Annexure "H").

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- f) That time and again the appellant requested for his monthly salary and Rs.300000/- spent on construction of boundary wall of the school, but all in vain.
- g) That the appellant length of service is 25 years, 3 months and the appellant was entitled for earned leave as well but the respondent No.1 with some ulterior motives deprived the appellant of earned leaves amounting to 240 days.
- h) That the appellant is deprived from all his rights for which he was entitled that vide notification Ends. No.5716-19 dated 08.05.2017 one employee Mr.Badshah Gul of same service length was granted retirement and LPR was also sanctioned for time period mentioned. (Copy Annexure "I").
- i) That furthermore premature increase in pension has also not been added on the age of the appellant was 44 years plus 25 years service amount to 69, while the target set is 72, so far the reasons the appellant was also entitled for premature increase/increments.
- j) That the appellant approached the Hon'ble High Court in writ petition where it was withdrawn with a direction to approach the proper forum.
- k) That the appellant has not been treated according to rules and regulations and at the old age he has been deprived of his legal rights.
- l) That other grounds will be raised at the time of arguments by the permission of this Hon'ble Court.

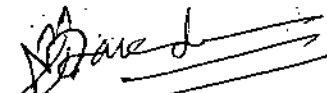
6

**PRAYER:**


It is therefore, most respectfully prayed that on acceptance of this service appeal, this Hon'ble Tribunal may be pleased to direct the respondents to:

- i) Make payment in shape of monthly salary from a period 07.01.2016 to 30.09.2016 as per pay slip alongwith adhoc allowance, for a period January 2016 to June 2016.
- ii) Sanction encashment of LPR of 240 days.
- iii) Pay the amount of Rs.300000/- spent on the construction of boundary wall of the primary school, Janak.

Any other relief or direction expedient in the interest of justice may also be granted to the appellant in the interest of justice.

  
Appellant

Through

  
**Arbab Kaleem Ullah**  
Advocate High Court  
Peshawar

(7)

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL

PESHAWAR

Service Appeal.Revision No. \_\_\_\_\_/2021

Muhammad Javed .....Appellant

**Versus**

District Education Officer (Male) Kohat & others..... Respondents

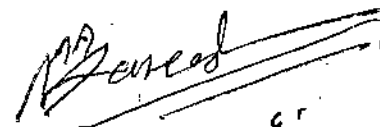
ADDRESSES OF THE PARTIES

APPELLANT:

Muhammad Javed s/o Reshmin Khan  
R/o Sirkedal P.O. Rehman Abad,  
Tehsil and District Kohat

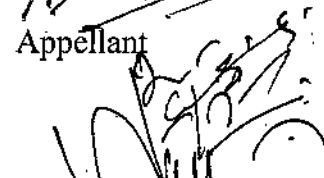
RESPONDENTS:

- 1) District Education Officer (Male) Kohat.
- 2) Sub Divisional Education Officer (Primary) Lachi; Tehsil Lachi  
District Kohat (male).
- 3) Director Elementary and Secondary Education KPK, Peshawar.
- 4) Secretary Finance, KPK Civil Secretariat, Peshawar.
- 5) District Accounts Officer, Kohat.
- 6) Account Officer DEO (M) Office Kohat



Appellant

Through

  
Arbab Kaleem Ullah  
Advocate High Court  
Peshawar

ANNEX "A"

8

PART - II

ANNEX = "A"

(To be completed by the Office/Department receiving the application for pension)

SECTION (I) - PARTICULARS OF APPLICANT

- \*1. Name of civil servant..... MUHAMMAD JAYED.....
- \*2. Father's name..... RESHMIN KHAN.....
- \*3. Nationality..... PAKISTANI.....
- \*4. Postal address..... VILLAGE SARKI DAL REHMAN ABAD KOHA
- 5. Post held on the date of retirement/death and DPS..... PSHT BPS-15
- 6. Date of birth..... 24-02-1972
- 7. Date of
 

Commencement of service.....	<u>04-10-1990</u>
Retirement/death.....	<u>07-01-2016</u>
Application for Pension.....	<u>08-01-2016</u>
- 8. Length of service
 

	<u>Y</u>	<u>M</u>	<u>D</u>
From <u>04-10-1990</u> To <u>07-01-2016</u>	<u>25</u>	<u>03</u>	<u>04</u>
From To			
From To			
Total:—	<u>25</u>	<u>03</u>	<u>04</u>
- 9. Date of commencement and ending of each spell of military service, if any:
 

	<u>Y</u>	<u>M</u>	<u>D</u>
From To	—	—	—
From To	—	—	—
Total:—	—	—	—
- 10. Government under which service has been rendered in chronological order:
 

Government of <u>KPK</u> .....	from <u>4<sup>th</sup></u>	to <u>7<sup>th</sup></u>	i.e. <u>25-03-94</u>
Government of .....	from <u>1990</u>	to <u>2016</u>	i.e. ....
Government of .....	from	to	i.e. ....
Total: <u>25-03-04</u>			
- 11. Class of pension or gratuity applied for..... Retiring Pension
- 12. Average Emoluments/Emoluments last drawn..... Rs. 23655/-
- 13. Proposed gross pension/gratuity..... Rs. 13798-75
- 14. Proposed family pension.....
- 15. Proposed gratuity in lieu of 35% pension of..... Rs. 4829-56
- 16. Proposed value of commutation..... Rs. 1302317-89
- 17. Proposed net pension..... Rs. 8969-19
- \*18. Place of District Accounts Office  
Treasury/Sub-Treasury..... KOHAT
- 19. Date from which pension is to commence..... 08-01-2016 FN

Signature of Head of Office/Department.....

\*Batches No. 1, 2, 3, 4 and 5 should be made in equal hours.

ATTESTED TO BE TRUE COPY

S.D.E.O (M) Piry Lachi (Kohat)

1/5 (M) 0.2.16 (Kohat) Idara

**SECTION (2) CALCULATION OF QUALIFYING SERVICE**

Total length of service as per Col. 10 of Section (1)	Y	M	
	25	03	
Non-qualifying Service from			
			to
(i) Extraordinary leave.....	Y	M	Period
(ii) Unauthorised absence.....	0	01	
(iii) Spell of service not qualifying for Pension			
Total (i), (ii) & (iii):-		01	0
Net qualifying service.....	25	01	0
Add..... from..... to			
			Period
(i) Periods, if any, Military service or War. Service allowed to count for pension.	Y	M	D
(ii) Benefit of condonation of deficiency in total qualifying service.			
Total (i) & (ii):-			
Total qualifying service.....	25	01	0

**SECTION (3) (a) CALCULATION OF "AVERAGE EMOLUMENTS"**

Statement of emoluments during the last 36/12 months in case the post has not been held on regular basis.

Period		Duration Months and Days		Monthly Rate of Emoluments		Amount Drawn	
From	To	M	D	Rs.	Pk.	Rs.	Ps.

*Last Pay Drawn @ Rs. 23655/-*

Total emoluments for 36/12 months are  
Therefore "Average Emoluments" work out to Rs. 36/12 = Rs. P.M.

**SECTION (3) (b) STATEMENT OF PAY/EMOLUMENTS LAST DRAWN IN CASE THE POST IS HELD ON REGULAR BASIS**

(a) Pay.....	Rs. 23655-00
(b) Senior Post Allowance.....	Rs.
(c) .....	Rs.
(d) .....	Rs. /
(e) .....	Rs.
Total:-	23655-00

**SECTION (4) CALCULATION OF PENSION/GRATUITY**

Length of total qualifying service.	25 years.
Emoluments/Average Emoluments.	Rs. ....
Amount of gratuity (in case where qualifying service is 5 years or more but less than 10 years.	Rs. ....
Amount of gratuity on discharges from temporary service where qualifying service is 10 years or more but less than 20 years.	Rs. ....

19

Gross Pension 23655x25x7 Rs. 13798-75  
 Benefit of extra service beyond 30 years. Rs. -  
 Total Pension Rs. 13798-75  
 Less 1/4th (in case of family pension for death while in service) Rs. -  
 or  
 Less commuted portion of Pension. @ 35% Rs. 4829-56  
 Net Pension Rs. 8969-19

**SECTION (5) CALCULATION OF GRATUITY IN LIEU OF SURRENDERED PENSION (IN CASE OF FAMILY PENSION FOR DEATH WHILE IN SERVICE)**

Length of total qualifying service. 25 Years.  
 Amount of pension surrendered. Rs. -  
 Rate of gratuity for every rupee surrendered (on age next birth day basis). Rs. -  
 Lump-sum gratuity admissible. Rs. -

**SECTION (6) COMMUTED VALUE OF PENSION**

(i) Amount of pension to be commuted. Rs. 4829-56  
 (ii) Age next birth day. 44 years.  
 (iii) Rate of commuted value for every one rupee (on age next birth day basis). Rs. 22-47/3  
 (iv) Commuted value of pension. Rs. 1302317-89

**SECTION (7) ORDERS OF THE SANCTIONING AUTHORITY**

1. The undersigned is satisfied that the service of Muhammad JAYRO has been satisfactory. The grant of full pension and/or gratuity which the Audit Officer may find to be admissible under the rules is hereby sanctioned. PSHT

OR

The undersigned is satisfied that the service of α has not been satisfactory and it has been decided that the full pension and/or gratuity found by the Audit Officer to be admissible under the rules should be reduced by the specific amount or percentage given below:—

Amount or percentage of reduction in pension..... α  
 Amount or percentage of reduction in gratuity..... α

Sanction is hereby accorded to the grant of pension and/or gratuity as so reduced.

2. The payment of pension and/or gratuity may commence from 28-01-2016 F. Before issuing the pension payment order, the Audit Officer may kindly ascertain whether the Last Pay and No Demand Certificate have been received by him. In case the Last Pay Certificate and/or No Demand Certificate has/have not been received with the pension papers, the Audit Officer should issue P.P.O. subject to the production of the last pay certificate and/or an undertaking at the time of first payment of pension/gratuity, by the pensioner, or his family (in case of his death) to the effect that any demand coming to the notice within a period of one year after the issue of P.P.O. would be recovered from him/her.

Signature.....  
 Designation DISTRICT EDUCATION OFFICER (MALE) ROHAT

ATTESTED  
 COPY

Nigam  
 S.D.E.O (M) Pny

11/10

11

11/10

11/10  
11/10  
11/10  
11/10





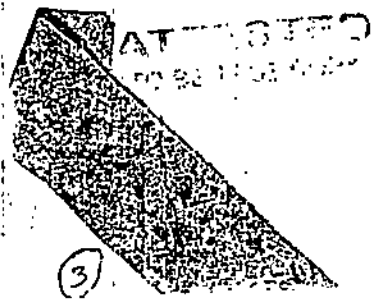
PART - III

(For use in the Accountant-General's Office)

- I. The calculations contained in the preceding pages have been checked.
- II. Length of qualifying service accepted in Audit.....
- III. Reasons for difference; if any, between this and the length of qualifying service worked out by the Department.
- IV. Amount of pension/gratuity. Rs.....
- V. Reasons for discrepancy, if any, between this amount and that calculated by the Department. Rs.....
- VI. Amount of family pension. Rs.....
- VII. Reasons for discrepancy, if any, between this amount and that calculated by the Department. Rs.....
- VIII. Amount of gratuity in lieu of 1/4th of pension surrendered. Rs.....
- IX. Amount of commutation for the pension commuted. Rs.....
- X. Reasons for discrepancy, if any, between this amount and that calculated by the Department. Rs.....
- XI. Amount of net pension payable. Rs.....
- XII. The pension will commence from .....
- XIII. Allocation of the pension and gratuity:
 

	Pension	Gratuit
Government of.....		
Government of.....		
Government of.....		
Defence Estimates.....		
Total:—		
- XIV. Anticipatory pension of Rs..... (Rupees.....) per month, granted with effect from..... vide P.P.O. No..... under rule..... to be adjusted in the final P.P.O.
- XV. Amount of pension surrendered for gratuity. Rs.....
- XVI. Amount of original pension commuted. Rs.....
- XVII. Checked with the L.P.C. and "No Demand Certificate" Rs.....
- XVIII. P.P.O. issued vide No..... dated.....

Assistant Accountant General  
Assistant Accounts Officer.



3

3

1-50  
34

10

# LAST PAY CERTIFICATE

Pay Certificate of Muhammad Javed PSHT  
 of SPS Tanak Kohat  
 retiring to Retired from Service  
 has been paid upto 07-01-2016 AN

at the following rates:-

Pay:-	Rs. 23655-00
HRA:-	Rs. 1566-00
CA:-	Rs. 2856-00
M.A:-	Rs. 1500-00
Change Compensation Allowance:-	AR2010 - Rs. 4357-00
	AR2013 - Rs. 2642-00
	AR2014 - Rs. 1760-00
	AR2015 - Rs. 2365-00

deductions:-  
 EPF Total - Rs. 40689-00  
 EPF @ Rs. 19657-00 Loan @ Rs. 22007-00 B.F @ Rs. 1807-00  
 ASIS @ Rs. 131-00 SLS @ Rs. 1157-00 DEEF @ Rs. 1007-00 PM

made over charge of the Office of Post of PSHT  
At SPS Tanak Kohat  
 the After noon of 07-01-2016

recoveries are to be made from the pay of the Government servant as detailed on the reverse.  
P No 00163364  
 has been paid leave salary as detailed below. Deductions have been made as noted on reverse:

from	to	at Rs.	a month
from	to	at Rs.	a month
from	to	at Rs.	a month

is entitled to draw the following:-  
 is also entitled to joining time for \_\_\_\_\_ days.

**ATTESTED**  
 TO BE TRUE COPY

details to the Income Tax recovered from him upto the date from the beginning of the year are noted on the reverse.

Signature  
 (M) Pr  
 Kohat



Annexes "B"

119

Annex

"B" (12)

موصوفہ لکڑی کے کٹے ہوئے ٹکڑے 10/90 سے 4/04 سے کھیت پر انگری  
 کول ٹیگر تقریباً 1000 سے زیادہ حجم رکھتا ہے۔ ان کے ذریعہ زمین پر ان کی خلیج  
 مختلف سوراخوں میں فراخ انداز انجام دیتا ہے۔ ان کی وسیع کھیت لکڑی  
 سے کام لیتا ہے۔ جبکہ یہ زمین پر ان کی کھیت میں خاصی  
 وقت محسوس کرتا ہے۔ لکڑی کے ٹکڑے 16/07 تک 2 سال  
 میں کھیت پر ان کی فراخ انداز کے ذریعہ زمین پر ان کی  
 فراخ انداز کے ذریعہ زمین پر ان کی فراخ انداز کے ذریعہ  
 کے کارروائی کو عمل میں لیا جائے گا۔ ان کے ذریعہ زمین پر ان کی  
 لکڑی 2016/07 سے زمین پر ان کی فراخ انداز کے ذریعہ

Apnt  
 Process The Case  
 as Per Policy  
 subject to clearing  
 returns.

Head Master  
 Govt Primary School  
 TANAK (Kona)

11/12/16  
 11/12/16

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Annex "C" (13)

صورت حال سیکرٹری جنرل پاکستان سٹیٹ بینک کے سامنے پیش کیا گیا ہے۔

موجودہ سال 2016ء کے ختم ہونے پر 07/07/2016ء تک  
میں ملنے والی دستخط کرنا ہے۔ ریٹائرمنٹ کا نام۔

سالانہ ریسورس 2016ء کے لئے جانے ستمبر 2016ء کو  
ریٹائرڈ ہو جائے گا۔

اس کے ساتھ ساتھ ریٹائرمنٹ کے لئے سب سے پہلے 2016ء  
میں درخواست دی جائے گی اور اس کے بعد 2016ء  
میں اس کے لئے درخواست دی جائے گی۔

2016ء کے لئے درخواست دی جائے گی۔  
اس کے ساتھ ساتھ اس کے لئے درخواست دی جائے گی۔

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اس کے ساتھ ساتھ اس کے لئے درخواست دی جائے گی۔

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FORM 3 (PEN)

PART - I

(To be filled in and signed by the applicant himself/herself)

APPLICATION FOR PENSION AND/OR GRATUITY.

To

The District Education  
officer (Male)  
Kohat

Sir,

I have the honour to say that I  have retired  
 have been permitted to retire from service  
 am due to retire  
on (date) 07-01-2016 AN

I, therefore, request that the pension/gratuity admissible under the rules may kindly be sanctioned to me.

2. I declare that I have neither applied for nor received any pension or gratuity for any portion of this service, nor shall I submit any application hereafter without quoting a reference to the application and to the orders which may be passed on.

3. Should the amount of the pension and/or gratuity granted to me be afterwards found to be in excess of that to which I am entitled under the rules, I hereby undertake to refund any such excess.

4. I wish to draw/do not wish to draw gratuity in lieu of one fourth of my pension.

5. I wish to commute my pension to the extent of Rs.....

6. I wish to draw my pension from the District Accounts Office/Treasury/  
Sub-Treasury/National Bank of Pakistan Branch at KOHAT (Place).

7. The following documents, duly attested, are enclosed:

- (a) Three specimen signatures of mine/two sets of my thumb and finger impressions on the prescribed form.
- (b) Three photographs of mine.

Your Obedient Servant,

Signature *Muhammad Javed*  
MUHAMMAD JAVED  
S/O RESHMIN KHAN  
W/O.....  
D/O.....

Post held on the date of retirement EX-PSHT  
GRS Jamak Kohat

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Date.....

\*Delete in-applicable alternative.

*M. Javed*  
S.O.E.O (M) Prg

15

15

TO BE SUBSTITUTED BY EVEN NO. & DATE



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) KOHAT  
RETIREMENT/ SANCTION

In exercise of powers conferred under (Rules 3 of Khyber Pakhtunkhwa Civil service delegation of power Rules 1962 read with FD Notification No.SOR-I (S&GAD) 1-46/80 dated 19-04-1982, Sanction is hereby accorded to the grant of retirement from service in respect of Muhammad Javed PSHT GPS Janak Kohat wef 07-01-2016 (AN) as due and admissible to him under the rules ibid.

Necessary entry to this effect should be made in his service book accordingly

DISTRICT EDUCATION OFFICER

Emst.No. 6845-47 dated 30, 09 /2016

Copy to the:-

- 1. District Accounts Officer Kohat
- 2. DMO IMU Kohat
- 3. SDEO (M) Lachi

*[Signature]* 18/11/2016

DY DISTRICT EDUCATION OFFICER  
(MALE) KOHAT

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100. Return 28-6-19  
reason for return

Handwritten signature and text in Urdu.

Want of Jurisdiction Annexed

Handwritten signature

MAJ. JUDGE  
Civil Judge-VI SCD  
Kohat

10/2/19



Rehmatullah Wazir  
Civil Judge-VIJM  
Kohat

Handwritten text in Urdu, likely a list of names or cases, including 'نام', 'ڈاکٹر اکبر', 'ڈاکٹر محمد...', 'ڈاکٹر...', 'ڈاکٹر...', 'ڈاکٹر...', 'ڈاکٹر...', 'ڈاکٹر...', 'ڈاکٹر...'. There is a large handwritten 'D' in the center.

دکتر محمد...

دکتر...

دکتر...

دکتر...

دکتر...

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دکتر...

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10 JUL 2019  
EXAMINED  
COPING BRANCH KOHAT



تاریخ 30 جون 2016 کو درج ذیل کے لئے  
کام تمام ہو گیا ہے۔

کمیٹی کے مقابلہ میں 07/07/2016

کام تمام ہو گیا ہے۔

کام تمام ہو گیا ہے۔

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کام تمام ہو گیا ہے۔

Shahidullah Khan  
Civil Judge  
Kohat

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10 JUL 2019  
EXAMINED  
GORING RANGH KOHAT

دعوتی کے لئے درخواست کی ہے۔ اس کے لئے درخواستی رقم 16/2/07

12/2/07

Process میں درخواست کی ہے۔ اس کے لئے درخواستی رقم 16/2/07  
دعوتی کے لئے درخواست کی ہے۔ اس کے لئے درخواستی رقم 16/2/07  
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LAZIR CIVIL SUPPLY VILVA KOHAL

دعوتی کے لئے درخواست کی ہے۔ اس کے لئے درخواستی رقم 16/2/07  
دعوتی کے لئے درخواست کی ہے۔ اس کے لئے درخواستی رقم 16/2/07  
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دعوتی کے لئے درخواست کی ہے۔ اس کے لئے درخواستی رقم 16/2/07

5. ...

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BRANCH KOHAL

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لکھنؤ میں دو درجہ کے سرکاری نوکری کے لئے

۱۳/۲/۰۱  
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Rehmatullah Wazir  
Civil Judge-V/JM

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SHERI  
Oath Court, Jhansi  
Dist. Court, Kohat

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Annex D1 (20)

7/29/11

Suit No. 210/1

Title: "Muhammad Javed Vs DEO Kohat & Others"

Order-26  
28.06.2019



بعد استحضار صورت  
مقدمہ 2/19  
ممنون محمد ادریس  
28/6/19  
15/7/19  
ممنون محمد ادریس

Plaintiff in person along with the counsel present. Defendants through representative present.

This order pertains to return of the plaint in the instant suit under Order III Rule 10 of Civil Procedure Code-1908.

Perusal of the record shows that the plaintiff has brought the instant suit for declaration and permanent injunction against the defendants to the effect that the plaintiff was PSIT in the department of Elementary and Secondary Education KP. He has alleged that he has been retired from service vide order No.6845-476 on 07-01-2016, while his date of retirement was 30-09-2016, therefore his retirement is illegal and against the principles of justice and is ultravires and in excess of the authority conferred upon the defendants. He has also submitted that the defendants be directed to consider his retirement from 30-09-2016 and pay him all his outstanding dues and arrears with increase that are outstanding against them. He has also sought recovery of Rs.300,000/- that he has incurred from his own pocket for the construction of the boundary wall of the primary school.

Both the parties were directed to appear before the court and assist the court that whether this court has got jurisdiction to entertain the instant suit or not.

Arguments heard and record perused.

Counsel for the plaintiff has argued that the plaintiff is no more a government servant, therefore he can come to this court too sought this relief against the Department of Elementary and Secondary Education KP and this court has got the jurisdiction to entertain the instant suit. Counsel for the defendants has submitted that the matter in question pertains to the service of the plaintiff and it is the jurisdiction of the service tribunal to entertain the instant suit. he has also submitted that if the plaintiff is aggrieved from his order of retirement, he is suppose too invoke the

TAMKEEN OAZI  
Civil Judge-IV/SCMO  
Kohat

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Suit No. 210/1

Title " Muhammad Javed Vs DEO Kohat & others"

Order. 26 Plaintiff in person along with the counsel present. Defendants through  
28.06.2019 representative present.

This order pertains to return of the plaint in the instant suit under Order VII Rule 10 of Civil Procedure Code 1908.

Perusal of the record shows that the plaintiff has brought the instant suit for declaration and permanent injunction against the defendants to the effect that the plaintiff was PSITT in the department of Elementary and Secondary Education KP. He has alleged that he has been referred from service vide order No.6848-476 on 07.01.2016. while his date of retirement was 30.09.2016, therefore his retirement is illegal and against the principles of justice and is ultra vires and in excess of the authority conferred upon the defendants. He has also submitted that the defendants be directed to consider his retirement from 30.09.2016 and pay him all his outstanding dues and arrears with increase that are outstanding against them. He has also sought recovery of Rs.300,000/- that he has incurred from his own pocket for the construction of the boundary wall of the primary school.

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8/2/011

jurisdiction of High Court under Article 199 of the constitution of Islamic Republic of Pakistan.

From the arguments of the learned counsels for the parties and perusal of the available record and from the contents of the plaint, this court is of the view that this court has not got the jurisdiction to entertain the instant suit as the matter is related to the retirement of a government service, which is the jurisdiction of the service tribunal. Reliance has been placed on 1995 SCMR 584 & PLD 1996 SC 292, wherein it is stated that adjudication by a court without jurisdiction is a determination *coram non iudice*. This court is of the humble view that the present petitioner has asserted that this court has not got the jurisdiction to entertain the instant suit.

In the light of arguments advanced by the counsels for the parties and from the perusal of the record, this court is of the view that the provisions of Order VII Rule 10 are mandatory in nature and where at any stage of the suit the trial court arrived at a decision that the suit should have been instituted in any other court having jurisdiction, the mandatory provisions of Order VII Rule 10 would be attracted and the court must abstain from proceeding any further and embarking on the matter in the case. Therefore the plaint is hereby returned to the plaintiff for want of jurisdiction. The plaintiff is therefore directed to submit the same before the appropriate forum. Moharrar of the court is directed to make entries in the relevant register.

File be consigned to the record room after necessary completion and compilation.

Announced  
28-06-2019

*Tamkeen Qazi*  
Tamkeen Qazi  
Civil Judge-IV/Judge SCMO  
Kohat

**TAMKEEN QAZI**  
Civil Judge-IV/SCMO  
Kohat

**ATTESTED**

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EXAMINED  
CORRESPONDENCE

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Jurisdiction of High Court Article 199 of the constitution of Islamic Republic of Pakistan.

From the arguments of the learned counsels for the parties and perusal of the available record and from the contents of the plaint, this court is of the view that this court has not got the jurisdiction to entertain the instant suit, as the matter is related to the retirement of a government service, which is the jurisdiction of the service tribunal. Reliance has been placed on 1995 SCMR 584 & PLD 1996 SC 292, wherein it is stated that adjudication by a court without jurisdiction is a determination coram non iudice. This court is of the humble view that the present petitioner has asserted that this court has not got the jurisdiction to entertain the instant suit.

In the light of arguments advanced by the counsels for the parties and from the perusal of the record, this court is of the view that the provisions of Order VII Rule 10 are mandatory in nature and where at any stage of the suit the trial court arrived at a decision that the suit should have been instituted in any other court having jurisdiction, the mandatory provisions of Order VII Rule 10 would be attracted and the court must abstain from proceeding any further and embarking on the matter in the case. Therefore the plaint is hereby returned to the plaintiff for want of jurisdiction. The plaintiff is therefore directed to submit the same before the appropriate forum. Moharrar of the court is directed to make entries in the relevant register.

File be consigned to the record room after necessary completion and compilation.

Announced  
28.06.2019

Tamkeen Qazi  
Civil Judge-IV/ Judge SCMO,  
Kohat

Annexes E

(22)

IN THE COURT OF SESSIONS JUDGE, KOHAT

Appeal No. \_\_\_\_\_/2019

Muhammad Javed s/o Reshmin Khan

R/o Sirkedal P.O. Rehman Abad,

Tehsil and District Kohat.....Appellant

Versus

- 1) District Education Officer (Male) Kohat.
- 2) Sub Divisional Education Officer (Primary) Lachi, Tehsil Lachi District Kohat (male).
- 3) Director Elementary and Secondary Education KPK, Peshawar.
- 4) Secretary Finance, KPK Civil Secretariat, Peshawar.
- 5) District Accounts Officer, Kohat.
- 6) Account Officer DEO (M) Office Kohat..... Respondents

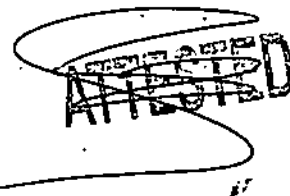
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APPEAL AGAINST THE ORDER OF  
LEARNED CIVIL JUDGE-IV, KOHAT  
THROUGH WHICH THE SUIT OF THE  
PLAINTIFF WAS DISMISSED ON  
JURISDICTION AND NOT ON MERITS.

---

Respectfully Sheweth:

1. That the appellant was appointed in Education Department on 04.10.1990 as a primary school teacher and since then performing his duties. (Copy Annexure "A").





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2. That the appellant without any complaints proceeded his service and completed his 25 years serving the education department in different school of District Kohat.
3. That on 07.01.2016 on the basis of service length/ period of the appellant i.e 25 years 3 months, moved an application for his retirement due to some of his domestic and health issues before the office of respondent No.2. (Copy Annexure "B").
4. That the appellant's application moved on 07.01.2016, was accepted on 30.09.2016 vide order No.6845-47 whereas the date of retirement was considered from 07.01.2016. (Copy Annexure "C").
5. That from 07.01.2016 to 30.09.2016, the appellant was an employee of department but unfortunately no salary and other incentives were paid to the appellant for his services, even the appellant was entitled for earned leave but he was kept disentitled by the respondent.
6. That the appellant moved various applications before the respondents for the redressal of his grievance but all in vain.
7. That the appellant filed a suit before the court of Senior Civil Judge, Kohat and prayed for the relief and redressal of his grievance, but being devoid of jurisdiction the plaint of appellant was returned vide order dated 28.06.2019. (Copy of suit and order is Annexure "D and D/1").
8. That feeling aggrieved from the order of Civil Judge the appellant approaches this hon'ble court in appeal on the grounds mentioned below:

ATTORNEY

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GROUND:

- a) That the rights of appellant has been violated and the hon'ble court has got ample jurisdiction to entertain the plaint.
- b) That the act of respondents is totally illegal and clear violation of the rights of appellant as he was an employee of education department till 30.09.2016, therefore, he is entitled for the monthly salary and other incentives for a period of 09 months i.e. 07.01.2016 to 30.09.2019.
- c) That recovery of salary/ amount and other expenses, does not come under the ambit of terms and conditions, hence the court has got jurisdiction. Furthermore, the appellant is not civil servant now and got retired.
- d) That the appellant was directed by respondent No.2 to complete a boundary wall of GPS Janak, being the headmaster of the school and appellant's retirement was stopped and a fake inquiry was initiated against the appellant, just to harass and humiliate and clearance certificate was not issued inspite of the facts that all work was completed accordingly and after a period of 09 months clearance certificate was issued. (Certificate and Notice annexed as Annexure "E, E/1 and E/2").
- e) That the appellant spent Rs.300000/- on construction of wall from his own, which till date is not yet paid by respondent No.2 even after providing all documents and inspection by various officers. (Construction details is Annexure "F").
- f) That time and again the appellant requested for his monthly salary and Rs.300000/- spent on construction of boundary wall of the school, but all in vain.
- g) That the appellant length of service is 25 years, 3 months and the appellant was entitled for earned leave as well but the

~~ATTESTED~~

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respondent No.1 with some ulterior motives deprived the appellant of earned leaves amounting to 240 days.

- h) That the appellant is deprived from all his rights for which he was entitled that vide notification Ends. No.5716-19 dated 08.05.2017 one employee Mr.Badshah Gul of same service length was granted retirement and LPR was also sanctioned for time period mentioned. (Copy Annexure "G").
- i) That furthermore premature increase in pension has also not been added on the age of the appellant was 44 years plus 25 years service amount to 69, while the target set is 72, so far the reasons the appellant was also entitled for premature increase/increments.
- j) That the appellant approached the Hon'ble High Court in writ petition where it was withdrawn with a direction to approach the proper forum.
- k) That the appellant has not been treated according to rules and regulations and at the old age he has been deprived of his legal rights.
- l) That other grounds will be raised at the time of arguments by the permission of this Hon'ble Court.

**PRAYER:**

It is therefore, most respectfully prayed that on acceptance of this appeal the respondents may please be directed to:

- i) Make payment in shape of monthly salary from a period 07.01.2016 to 30.09.2016 as per pay slip alongwith adhoc allowance for a period January 2016 to June 2016.
- ii) Sanction encashment of LPR of 240 days.

ATTORNEY  
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iii) Pay the amount of Rs.300000/- spent on the construction of boundary wall of the primary school, Janak.

Any other relief or direction expedient in the interest of justice may also be granted to the appellant in the interest of justice.

Through

Appellant

Arbab Kaleem Ullah  
Advocate High Court

Date: 14.09.2019

~~ATTESTED~~

Annexes E1

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E/1

IN THE COURT OF AMANULLAH KHAN, ADDITIONAL  
DISTRICT JUDGE-V/MCAC, KOHAT

Civil Appeal No.80/13 of 2019

Date of institution: 09.10.2019

Date of decision: 23.11.2019



Muhammad Javed s/o Reshmin Khan r/o Sirkedal P.O Rehman Abad,  
Tehsil and District Kohat.

(Appellant)

Versus

District Education Officer (Male), Kohat & 5 others.

(Respondents)

JUDGMENT

1. This judgment shall decide the instant appeal, filed against the impugned judgment and decree dated 28.06.2019 of the learned Civil Judge-IV, Kohat, wherein the suit of the appellant retained under order 7 rule 10 Civil Procedure Code 1908.

2. Appellant has brought the instant suit for declaration and permanent injunction against the respondents to the effect that the appellant was teacher in the department of elementary and secondary education, Khyber Pakhtunkhwa. Appellant retired from service vide order No-6845-476 on 07.01.2016, whereas notification was issued on 30.09.2016, therefore, his retirement is illegal and against the principles of justice. Respondents be directed to consider his retirement from

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30.09.2016 and pay him all the outstanding dues and arrears with increase that are outstanding against them. He has also sought recovery of Rs 300,000/- that he has incurred from his own pocket for the construction of the boundary wall of the primary school.

3. Learned trial court heard the parties on point of jurisdiction to entertain the instant suit or not.

4. Arguments heard and record perused.

5. Before this appellant moved august Peshawar High Court Peshawar, the writ petition was withdrawn on the request of learned counsel for appellant before Peshawar High Court Peshawar, on the condition to move proper forum. This was the point from where the present appellant/petitioner de-track.

6. Instead of moving to learned Service Tribunal, the learned counsel for appellant followed shortcut by filing a civil suit, which was rightly non maintainable due to want of jurisdiction by learned trial judge Kohat. Admittedly this appeal is time barred but this court would like to dilate upon the matter of jurisdiction of competent authority so that this time, plaintiff/appellant could approach the proper forum.

7. Counsel for the appellant has argued the appellant is no more a government servant, therefore, he can come to this court too sought this relief against the department of elementary and secondary education KP and this court has got the jurisdiction to entertain the instant suit. Government pleader for the respondents submitted that the

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matter in question pertains to the service of the appellant and it is the jurisdiction of the service tribunal to entertain the instant suit, he also submitted that if the appellant is aggrieved from the order of retirement, he is suppose too invoke the jurisdiction of Service Tribunal.

8. The issue relating to jurisdiction of Civil Court in matter of terms and conditions of civil servants came before the august Supreme Court of Pakistan in case titled National Assembly Secretariat..vs..Manzoor Ahmad (2015 SCMR 253), wherein it was elaborately discussed in the terms that "admittedly respondent No.1 is a civil servant and therefore, he could not have approached the High Court under Article-199, of the Constitution of Islamic Republic of Pakistan, 1973, for the redressal of his grievance which pertains to terms and conditions of servant in view of bar contained in Article 212 of the Constitution of Islamic Republic of Pakistan, 1973.....".

9. The claim of appellant with regard to issuance of direction to issue fresh notification of retirement from service falls within the jurisdiction of Service Tribunal. The Supreme Court of Pakistan in case Iqan Ahmad's case (PLD 1980 Supreme Court 153) was pleased to hold that: "As to the ground concerning the non-maintainability of the petition, the High Court has held, and it is also the case of the petitioner, that the effect of the Rules is that it has altered the terms and conditions of service. This being so, the bar of Article 212 of the Constitution would be applicable with full force as in that exercise the question of

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vires of the Rules vis-avis section 25 of the Act would necessarily be considered. In this behalf the High Court has relied on the statement of law enunciated in Muhammad Hashim Khan and others v. Province of Baluchistan and others (3) and Fazal Elahi Ejaz and others v. Government of the Punjab and others.

10. It is apparent on record that in case, proviso (b) to section 4 of the Service Tribunals Act, 1973, will not be applicable and appeal shall lie to the Service Tribunal.

11. Appellant with the aid of the court seeks to change the date of retirement-notification, for which an appeal will lie to the Service Tribunal. The same principle was reiterated by the august Supreme Court of Pakistan in case titled I.A. Sharwani and others...versus...Government of Pakistan through Secretary, Finance Division, Islamabad and others (1991 SCMR 1041) in following terms:-

"From the above-quoted Article 212 of the Constitution and section 4 of the Act, it is evident that the jurisdiction of the Courts is excluded only in respect of the cases in which the Service Tribunal under subsection (1) of section 4 has the jurisdiction. It must, therefore, follow that if the Service Tribunal does not have jurisdiction to adjudicate upon a particular type of grievance, the jurisdiction of the Courts remains intact. It may again be pointed out that the Service Tribunal has jurisdiction against a final order, whether original or appellate, made by a departmental authority in respect of any terms and



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conditions of service. The question, therefore, arises, whether the relevant enactments/notifications containing the provision for payment of enhanced pension, which have been denied to the pensioners, can be treated as a final order, original or appellate, passed by a departmental authority in respect of any terms and conditions of service...."

12. From the above-cited cases, it is evident that it has been consistently held *inter alia* by Superior Courts that a civil servant if is aggrieved by a final order, whether original or appellate, passed by a departmental authority in respect of his terms and conditions, his remedy, if any, is by way of an appeal before the Service Tribunal even where the case involves vires of a particular Service Rule or a notification or the question, and matter relating to terms and conditions of a order of civil servant, the same can be treated as an order in terms of subsection (1) of section 4 of the Act in order to file an appeal before the Service Tribunal. However, in the present case, the petitioners' case is founded solely on the date of notification of retirement order.

13. The ratio *desindi* of the principle, mentioned above was consistently followed in case titled *Khalid Mahmood Watto...VS...Government of Punjab and others (1998 SCMR 2280)*, *Government of the Punjab and others...VS...Muhammad Zafar Bhatti and others (PLD 2004 SC 317)* and *Peer Muhammad...VS...Government of Balochistan through Chief Secretary and others (2007 SCMR 54)*. This Court has also recently followed the

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said principle in Mushraf Shah's case ( 2015 PLC (CS) 2015) in terms that the apex Court in some cases has clearly vested the tribunal with exclusive jurisdiction in matters with regard to terms and conditions of civil servants whether the impugned actions and inactions of the departmental authority did not have a formal " final order". It was further held that the services tribunals are competent to adjudicate upon the question of "vires of Rules framed by the department, even if the same were challenged on the basis of violating the fundamental rights of the civil servant."

14. In essence, the principle laid down by the august Supreme Court of Pakistan with regard to jurisdiction of Civil Court and the service tribunal is that the services tribunals are fully competent to entertain and decide the cases wherein vires of the service rules or notification even challenged on the touchstone of being violative of the fundamental rights of the civil servants.

15. For what has been discussed above, I have no hesitation to hold that the claim of appellant falls in terms and conditions of service enumerated in Chapter-2 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, wherein the jurisdiction of this Court is expressly barred by Article 212 of the Constitution of Islamic Republic of Pakistan, 1973, and according to Section 4 of Khyber Pakhtunkhwa Service Tribunal Act, falls in that tribunal domain.

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16. In view of the constitutional bar as well as following the wisdom of the august Supreme Court of Pakistan, this Court has got no jurisdiction to entertain the instant petition. Resultantly, the instant appeal is dismissed in limine for want of jurisdiction, and the order of the learned trial court is maintained. Copy of this order be placed on trial court file. Cost to follow the event.

File of this court be consigned to the District Record Room after necessary completion and compilation.

Given, under my hand and Seal of this Court, this 23<sup>rd</sup> day of November, 2019.

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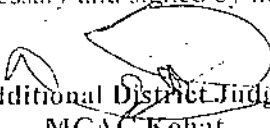
*Announced  
23<sup>rd</sup> November, 2019*



(Amanullah Khan)  
Additional District Judge-V,  
MCAC Kohat

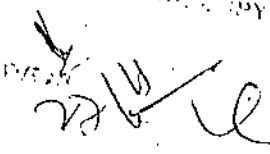
CERTIFICATE

Certified that this judgment consists of 07 pages. Each page has been checked, corrected where ever necessary and signed by me.



Additional District Judge-V,  
MCAC Kohat

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DATE: 23/11/2019



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Given, under my hand and Seal of this court, this 23<sup>rd</sup> day of November, 2019.

SEAL

Announced  
23<sup>rd</sup> November, 2019

Amanullah Khan  
Additional District Judge-V,  
MCAC Kohat

**CERTIFICATE**

Certified that this judgment consist of 07 pages. Each page has been checked, corrected where ever necessary and signed by me.

Amanullah Khan  
Additional District Judge-V,  
MCAC Kohat

Annexes 'F' (34)

BEFORE THE PESHAWAR HIGH COURT PESHAWAR

Civil Revision No. 119P/2020

Muhammad Javed s/o Reshmin Khan

R/o Sirkedal P.O. Rehman Abad,

Tehsil and District Kohat.....Petitioner

**Versus**

- 1) District Education Officer (Male) Kohat.
- 2) Sub Divisional Education Officer (Primary) Lachi, Tehsil Lachi District Kohat (male).
- 3) Director Elementary and Secondary Education KPK, Peshawar.
- 4) Secretary Finance, KPK Civil Secretariat, Peshawar.
- 5) District Accounts Officer, Kohat.
- 6) Account Officer DEO (M) Office Kohat..... Respondents

REVISION PETITION U/S 115 C.P.C  
AGAINST THE ORDERS OF LEARNED  
CIVIL JUDGE-IV KOHAT AND LEARNED  
ADJ-V, KOHAT THROUGH WHICH THE  
SUIT AND APPEAL OF THE PETITIONER  
WAS DISMISSED ON THE GROUND OF  
JURISDICTION AND MAINTAINABILITY  
AND NOT ON MERIT.

PRAYER-IN-REVISION:

On acceptance of this Civil Revision the orders of  
the trial court and appellate court may please be set  
aside and respondents may please be directed to:

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Deputy Registrar  
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EXAMINER  
Peshawar High Court

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- i) Make payment in shape of monthly salary from a period 07.01.2016 to 30.09.2016 as per pay slip alongwith adhoc allowance for a period January 2016 to June 2016..
- ii) Sanction encashment of LPR of 240 days.
- iii) Pay the amount of Rs.300000/- spent on the construction of boundary wall of the primary school, Janak.

Respectfully Sheweth;

BRIEF FACTS

The petitioner humbly submits as under:-

1. That the petitioner was appointed in Education Department on 04.10.1990 as a primary school teacher and since then performing his duties. (Copy Annexure "A").
2. That the petitioner without any complaints proceeded his service and completed his 25 years serving the education department in different school of District Kohat.
3. That on 07.01.2016 on the basis of service length/period of the petitioner i.e 25 years 3 months, moved an application for his retirement due to some of his domestic and health issues before the office of respondent No.2. (Copy Annexure "B").
4. That the petitioner's application moved on 07.01.2016, was accepted on 30.09.2016 vide order No.6845-47 whereas the date of retirement was considered from 07.01.2016. (Copy Annexure "C").

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EXAMINER Deputy Registrar  
Peshawar High Court  
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5. That from 07.01.2016 to 30.09.2016, the petitioner was an employee of department but unfortunately no salary and other incentives were paid to the petitioner for his services, even the petitioner was entitled for earned leave but he was kept disentitle by the respondent.
6. That the petitioner moved various applications before the respondents for the redressal of his grievance but all in vain.
7. That the petitioner filed a suit before the court of Senior Civil Judge, Kohat and prayed for the relief and redressal of his grievance, but being devoid of jurisdiction the plaint of petitioner was returned vide order dated 28.06.2019. (Copy of suit and order is Annexure "D and D/1").
8. That feeling aggrieved from the orders of Civil Judge the petitioner filed an appeal before the learned ADJ-V, Kohat which was turned down by the learned ADJ-V on the ground of jurisdiction and maintainability. (Copies of grounds of appeal and order are Annexure "E and E/1")
9. That feeling aggrieved from the order of ADJ-V, Kohat the petitioner approaches this hon'ble court in the instant Revision Petition on the grounds mentioned below:

**GROUND:**

- a) That the rights of petitioner have been violated and the hon'ble courts below have got ample jurisdiction to entertain the suit of the petitioner.
- b) That the act of respondents is totally illegal and clear violation of the rights of petitioner as he was an employee of education

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Peshawar High Court

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department till 30.09.2016, therefore, he is entitled for the monthly salary and other incentives for a period of 09 months i.e. 07.01.2016 to 30.09.2019.

- c) That recovery of salary/ amount and other expenses, does not come under the ambit of terms and conditions, hence the court has got jurisdiction. Furthermore, the petitioner is not civil servant now and got retired.
- d) That the petitioner was directed by respondent No.2 to complete a boundary wall of GPS Janak, being the headmaster of the school and petitioner's retirement was stopped and a fake inquiry was initiated against the petitioner, just to harass and humiliate and clearance certificate was not issued inspite of the facts that all work was completed accordingly and after a period of 09 months clearance certificate was issued. (Certificate and Notice annexed as Annexure "F, F/1 and F/2").
- e) That the petitioner spent Rs.300000/- on construction of wall from his own, which till date is not yet paid by respondent No.2 even after providing all documents and inspection by various officers. (Construction details is Annexure "G").
- f) That time and again the petitioner requested for his monthly salary and Rs.300000/- spent on construction of boundary wall of the school, but all in vain.
- g) That the petitioner length of service is 25 years, 3 months and the petitioner was entitled for earned leave as well but the respondent No.1 with some ulterior motives deprived the petitioner of earned leaves amounting to 240 days.

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Peshawar High Court

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- h) That the petitioner is deprived from all his rights for which he was entitled that vide notification Ends. No.5716-19 dated 08.05.2017 one employee Mr.Badshah Gul of same service length was granted retirement and LPR was also sanctioned for time period mentioned. (Copy Annexure "H").
- i) That furthermore premature increase in pension has also not been added on the age of the petitioner was 44 years plus 25 years service amount to 69, while the target set is 72, so far the reasons the petitioner was also entitled for premature increase/ increments.
- j) That the petitioner approached the Hon'ble High Court in writ petition where it was withdrawn with a direction to approach the proper forum.
- k) That the petitioner has not been treated according to rules and regulations and at the old age he has been deprived of his legal rights.
- l) That other grounds will be raised at the time of arguments by the permission of this Hon'ble Court.

**PRAYER:**

It is therefore, most respectfully prayed that on acceptance of this Revision Petition the orders of the trial court and appellate court may please be set aside and respondents may please be directed to:

- i) Make payment in shape of monthly salary from a period 07.01.2016 to 30.09.2016 as per pay slip alongwith adhoc allowance for a period January 2016 to June 2016.

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High Court

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ii) Sanction encashment of LPR of 240 days.

iii) Pay the amount of Rs.300000/- spent on the construction of boundary wall of the primary school, Janak.

Any other relief or direction expedient in the interest of justice may also be granted to the petitioner in the interest of justice.

Through

Petitioner

*Arbab Kaleem Ullah*  
Advocate High Court  
Peshawar

VERIFIED TO BE TRUE COPY  
Examiner,  
Peshawar High Court, Peshawar  
Authorized Under Article 87 of  
the Qanun-e-Shahadat Order 1988

24 DEC 2020

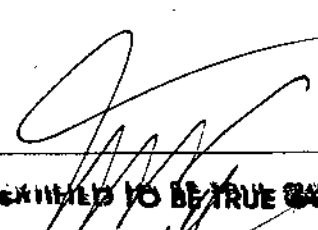
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Deputy Registrar

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Annexes "F1" (40)

**PESHAWAR HIGH COURT, PESHAWAR**  
FORM OF ORDER SHEET

Date of Order or Proceedings	3
1	2
18.12.2020	<p><u>CR No.119-P/2020.</u></p> <p><i>Present: Arbab Kaleem Ullah, Advocate, for the petitioner</i></p> <p>*****</p> <p><u>IKRAMULLAH KHAN, J.-</u> Through the instant revision petition, petitioner has questioned the judgment dated 23.11.2019, rendered by learned Additional District Judge-V, Kohat, whereby the appeal filed by the petitioner against the judgment dated 28.06.2019, passed by learned Civil Judge-IV, Kohat was dismissed.</p> <p>2. As the matter pertains to arrears in shape of salaries as well as LPR, which is legal right of the petitioner, but the petitioner has approached to Civil Court having no jurisdiction to decide such matter. Learned counsel for the petitioner requested that he may be allowed to withdraw the plaint with the permission to file writ petition before this Court. As such, the prayer of the petitioner is allowed, the impugned judgments are set aside and the plaint filed by the petitioner is returned to him for presentation before competent Court of law through competent petition.</p> <p>3. Therefore, this petition is allowed in above terms.</p> <p><u>Announced:</u> 18.12.2020</p> <p style="text-align: right;"><b>JUDGE</b></p> 



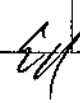
\*Ihsan\*  (SB) Hon'ble Mr. Justice Ikrumullah Khan

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Examined  
Peshawar High Court, Peshawar  
Authorized under Article 177 of  
the Constitution of Pakistan Order 188

24 DEC 2020

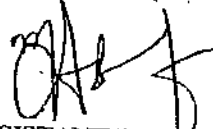
Annexes "G" (41)

"G"

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) KOHAT

COMPLETION CERTIFICATE

Certified that Boundary Wall under conditional Grant for the year 2014-15 has been completed, but 9'X9' Brick columns are constructed instead of RCC columns under the supervision of PTC at Govt: Primary School Janak (Kohat).

 13/6/2016

ASSISTANT DISTRICT EDUCATION  
OFFICER (P&D) MALE KOHAT

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Annexes G 1

(49)

OFFICE OF THE DISTRICT EDUCATION  
OFFICER (MALE) KOHAT

NO. \_\_\_\_\_ /P&D/CG/2014-15

DATED KOHAT THE 6-6 /2016

To

The Sub Divisional Education Officer  
(Male) Lachi

Subject:- CONSTRUCTION OF B/WALL AT GPS JANAK

Memo:-

Reference your office letter No. 1687 Dated 24-5-2016.

In response to your above letter, it is to inform you that if you <sup>are</sup> satisfied with the work done by the Head Teacher GPS Janak being enquiry Officer, deputed by the than District Education Officer (Male) Kohat, the undersigned will have no objection as far as clearance of the work done by the Head Teacher concerned.

ASSISTANT DISTRICT EDUCATION  
OFFICER (P&D) MALE KOHAT

Endst: No. 4089

Copy of the above is forwarded for information to:-

1/  
Head Teacher GPS Janak (Kohat)

ASSISTANT DISTRICT EDUCATION  
OFFICER (P&D) MALE KOHAT

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Annex G2

(13)

OFFICE OF THE SUB: DIVISIONAL EDUCATIONAL OFFICER (MALE) LACHI

No. 1687

Dated: 24-5-16

To

District Education Officer,  
(M) Kohat.

Subject: CONSTRUCTION OF BOUNDARY WALL AT GPS JANAK.

Reference to your letter no 3428 dated 10-05-2016 the undersigned visited GPS Janak & recorded the following findings on boundary wall.

S. No	Indicators	As per Standard specification	As per Actual	Remarks
1	Area	2 Kanal	(110*100 ) Square f=2 Kanal	
2	Height of Boundary Wall	8 feet	Front side(westward) has 8 Feet while other side have average height of 7.4 Feet	
3	Angle iron with Barbed wire	2Feet Angle iron with barbed wire	Okay	
4	RCC Column	RCC Column size 9*9 on 10 width		Missing
5	Plaster & Kunda Teep		Inside plastered with front side Kunda teep.	As directed by concerned authority

Keeping in view the above findings reflected in self explanatory attached Colour photographs the undersigned further seek guidance whether to process or withheld pension papers of concerned teacher.

*ME JUS*  
SUB: DIVISIONAL EDUCATIONAL OFFICER  
(MALE) LACHI

*C/C*

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سید عزیز ۱۵

سید عزیز

مدرسہ ۰۹/۲۰۱۵ء تا مدرسہ ۰۹/۱۵ سترے / مدرسہ  
(مدرسہ ۰۹/۱۵ء تا ۰۹/۱۷)

فائزہ شین کبریٰ اور دیگر مدرسہ دور کا مسئلہ (۶۹۰۰۰) اور  
درست چیتھ میں PTC اور درست سیکرٹری کی PTC  
قولہ کیلئے کہ سائز مسٹر پیر اور مدرسہ دور  
تقسیم کیا گیا اور کچھ کا کوئی ٹھکانہ نہیں ہے  
کیا نقدی عباتی ہے تاکہ بر وقت مدرسہ دور سترے  
اندر

عظیم حسین صاحب

سیکرٹری کے نام سے

- ۱- زرین خان - زرین خان
- ۲- بی بی بی بی - Nasy
- ۳- ملتان خان - ملتان خان
- ۴- اکیبر علی - اکیبر علی

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۱۱/۱۱/۱۱

آج سے ۰۸/۱۵ تک ۱۱/۱۱ تک  
مکمل طور پر جاری کیے گئے ہیں۔ ورنہ  
بمقام اسٹاکس ایکسچینج کے ذریعے  
۱۱/۱۱/۱۱ تک جاری کیے گئے ہیں۔  
ورنہ ایکسچینج میں ۲۰۰۰ (دو سو) روپے  
کے ۲۰۰۰ روپے کا فرق ہے۔  
۱۱/۱۱/۱۱ تک جاری کیے گئے ہیں۔  
تاکہ بروکر کے ذریعے۔

اسم -  
محمد رفیق  
محمد رفیق

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دیباچہ - جس کا علم

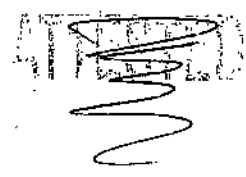
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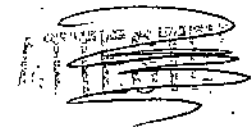
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آج ہفتہ 08-05-2015 کو ایم جی ایم ماسٹر PS جانک ا  
 مسٹری امیر اللہ خان شکر درہ کے مابین یہ بات طے ہوئی  
 عادی داری کا مکمل کام 8F تک اور باقی لہہ انٹرونی بیسٹر کا  
 125000 روپیہ منسلک ہوا۔ جب بھی کام پوری ہو گا  
 تو مسٹری امیر اللہ کو مبلغ 50000 روپیہ سے مع مزید اور ادا کر  
 کام مکمل ہونے پر یہ کام بطور رسید عمل میں لایا جائیگا  
 تاکہ بروقت ضرورت سنبھالے۔

مسٹری امیر اللہ خان

امیر اللہ

مسٹری امیر اللہ خان  
 مسٹری امیر اللہ خان



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2015-6

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مستعمل

PRC 2015-6

Page

15-1				موسم			
مکان	پ	تاریخ	تفصیلات	مکان	پ	تاریخ	تفصیلات
Wood	Wood	07	16000/-	Wood	Wood	03-30/16	113 2/8
"	"	08	"	"	"	"	"
24000/-	24000/-	08	24000/-	"	24000/-	"	PRC 2015-6
22000/-	22000/-	08	22000/-	"	22000/-	08	PRC 2015-6
"	"	"	"	"	"	"	"
60000/-	60000/-	10	60000/-	"	60000/-	10	PRC 2015-6
"	"	"	"	"	"	"	"
22000/-	22000/-	11	22000/-	"	22000/-	11	PRC 2015-6
"	"	"	"	"	"	"	"
15000/-	15000/-	16	15000/-	"	15000/-	16	PRC 2015-6
"	"	"	"	"	"	"	"
1250000/-	1250000/-	17	1250000/-	"	1250000/-	17	PRC 2015-6

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### قراچی اور وزیر ایسٹ ڈویژن

پتہ: مرکزی درمیانی قیمت پر دستیاب ہے

04-9/15-05

کوہاٹ روڈ شکر درہ

تعداد: 34000

لاپے	نرخ	تفصیل	تعداد
		بیکری اینٹ	34000
8		حساب فی اینٹ	
		8 x 24000	
		192000	
		کرام ٹریڈنگ	
		منفع 60000	
		252000	

[Signatures and stamps]  
 [Official stamps and handwritten notes]  
 [Additional signatures and stamps]

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Handwritten signature/initials

کیٹر



Date 16-9-05

Cell: 0300-6464519

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16190 - 2 - 163 x 92 = 20

Handwritten notes and signatures on the lined paper, including a large scribble and the number 16190.

RAFIQUE INDUSTRY

Nūmanpura St # 4 Gondlanwalā Road Grw. Ph: 055-4444717  
Email: rafique\_ind97@yahoo.com

ATTN: STEEL  
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# مظاہر ایگزیکٹو آرگنائزیشن چانک

رجمن گل واٹر سیلا نمبر 0347-2843640

☆ ایگزیکٹو آرگنائزیشن کے لیے ☆

Regd # DD/SWK/7456

Tractor No. PPR 8602

Date: 30-03-16

Phone No: \_\_\_\_\_

Name: \_\_\_\_\_

S. No	Detail	Quantity	Rate	Price
	شکل نمبر 8	20000	800	16000
		TOTAL		16000

Contractor Signature \_\_\_\_\_

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میزان

5000

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2000

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4000

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8000

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15-16-2008  
 15-16-2008

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کیش قبل

کیش بعد

کیش بعد

کیش قبل

کیش بعد

کیش قبل	کیش بعد	تاریخ	مقدار	نوع	کیش قبل	کیش بعد	تاریخ	مقدار	نوع
16000/-	16000/-	06	16000/-	01/15/09	16000/-	16000/-	06	2008/3/15	01/15/09
4000/-	4000/-	01	4000/-	01/15/09	4000/-	4000/-	01	کیش 02/14	01/15/09
16190/-	16190/-	05	16190/-	16/15/09	16190/-	16190/-	05	Barbed wire	16/15/09
96000/-	96000/-	04	96000/-	04/15/09	96000/-	96000/-	04	کیش 12000	04/15/09
30000/-	30000/-	04	30000/-	04/15/09	30000/-	30000/-	04	کیش 12000	04/15/09
96000/-	96000/-	04	96000/-	04/15/09	96000/-	96000/-	04	کیش 12000	04/15/09
30000/-	30000/-	04	30000/-	04/15/09	30000/-	30000/-	04	کیش 12000	04/15/09
16190/-	16190/-	05	16190/-	16/15/09	16190/-	16190/-	05	Barbed wire	16/15/09
4000/-	4000/-	01	4000/-	01/15/09	4000/-	4000/-	01	کیش 02/14	01/15/09
16000/-	16000/-	06	16000/-	01/15/09	16000/-	16000/-	06	2008/3/15	01/15/09

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58

کیش سیدو

### اعجاز اینڈ برادرز سٹیشنری ایجنسی

شکر درہ

329

نام

قسم مال

2397016 x 530	سینک	46
23970	کاپی	4
24920	کراؤٹ / 1000	4

نوٹس  
دستخط  
دستخط

دستخط

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اعجاز اینڈ برادرز سیمنٹ ایجنسی

شماره 330

تاریخ 6-9-65

نام: محمد علی احمد  
رقم: 5000/-  
قسم: مال

26000/-	5000/-	50	سیمنٹ	50
/				
			4500/-	
			31000/-	
26000/-	لوال			

دستخط الخازن محمد علی احمد  
دستخط مقرر محمد علی احمد

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سرمنبر (3)

ماہیہ صاویز خانہ

رقم	نیت	تفصیل	تعداد
97000		ایڈ کڈ سٹیڈ	
4000		دروازہ	
1000		بہرے سہولت	
3000		رنگ ٹیٹ (سائیکل)	
4200		انفرام	
39200		کل	
97200		پتہ	
PTC		پتہ	

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2015/16

BOUNDARY WALL

Subd. 146

151

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جران	پ	سہیل	تفصیل	تاریخ	جران	پ	سہیل	تفصیل	تاریخ
23920	23920	01	23920	01/09	23920	23920	01	Subd. 146	01/09
		"					"		
1000/-	1000/-	01	1000/-		1000/-	1000/-	"	Subd. 146	
<del>26000/-</del>	<del>26000/-</del>	<del>02</del>	<del>26000/-</del>	<del>08/09</del>	<del>26000/-</del>	<del>26000/-</del>	<del>02</del>	<del>Subd. 146</del>	<del>08/09</del>
4500/-	4500/-	"	4500/-	"	4500/-	4500/-	"	Subd. 146	"
<del>17000/-</del>	<del>17000/-</del>	<del>03</del>	<del>17000/-</del>	<del>08/09</del>	<del>17000/-</del>	<del>17000/-</del>	<del>03</del>	<del>Subd. 146</del>	<del>08/09</del>
4000/-	4000/-	"	4000/-	"	4000/-	4000/-	"	Subd. 146	"
1000/-	1000/-	"	1000/-	"	1000/-	1000/-	"	Subd. 146	"
3000/-	3000/-	"	3000/-	"	3000/-	3000/-	"	Subd. 146	"
4200/-	4200/-	"	4200/-	"	4200/-	4200/-	"	Subd. 146	"

TO BE RECORDED

80

56



Regd # 00/SW/77456

سیل سبیلہ 07  
مظاہرہ پراپرٹی ایڈجسٹمنٹ  
ریجنل واٹر سپلائی  
0347-2843640

پرائیویٹ سہولت فراہم کرنے والے ادارے

Tractor No: PRP 8602

ریجنل آبادگرورمنٹل اڈون اگھات

Date: 05-04-16

Phone No: \_\_\_\_\_

Name: \_\_\_\_\_

S. No	Detail	Quantity	Rate	Price
①	ریٹ گیارڈنگ	117	2000/-	239000/-
		TOTAL		239000/-

دستخط  
دستخط

Contractor Signature: *[Signature]*

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کیش

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غیر منقولہ

0314  
5685384

### ڈرائیور عزیز ایسٹ ڈیپارٹمنٹ

ہمارے ہاں کرش، ریت، لکڑی، رعایتی قیمت پر دستیاب ہے

31-03/16

کوہاٹ روڈ شکر درہ  
نمبر 58  
تاریخ 31-03-16

تعداد	تفصیل	نرخ	روپے
11000	ایسٹ		77000/-
	77000/- = 7 x 11000		
	مقررہ قیمت پر		
	مبلغ 26000/-		
	97000/-		
	مقررہ رقم		197000/-

دستخط  
دستخط

مقررہ رقم

197000/-

دستخط

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گورنمنٹ ہوائی اڈا ملتان

505

8-2015-15

تعمیرات

اولیٰ

موسمی

میزان	رقم	تعداد	تفصیل خرچ	تاریخ	میزان	رقم	تعداد	تفصیل آراء	تاریخ
22000/-	44000/-	08	22000/-	01/09	22000/-	44000/-	07	22000/-	01/15
"	"	"	"	"	"	"	"	"	"
4000/-	4000/-	"	4000/-	07/09	4000/-	4000/-	"	4000/-	07/15
4000/-	4000/-	"	4000/-	14/09	4000/-	4000/-	"	4000/-	14/09
4000/-	4000/-	"	4000/-	09/09	4000/-	4000/-	"	4000/-	09/15
"	"	"	"	"	"	"	"	"	"
77000/-	77000/-	09	77000/-	03/15	77000/-	77000/-	8	77000/-	03/16
26000/-	26000/-	"	26000/-	"	26000/-	26000/-	"	26000/-	"
27500/-	27500/-	10	27500/-	03/16	27500/-	27500/-	09	27500/-	03/16
"	"	"	"	"	"	"	"	"	"

AT 505  
TRUE COPY

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Annex I

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) KOHAT

RETIREMENT/ SANCTION

Sanction is hereby accorded to the grant of retirement from service in respect of Mr. Bad Shah Gul PSHT GPS Rakwar (Kohat) wef 02-06-2017 (AN) and encashment of LPR wef 15-08-2016 to 02-06-2017 (287) days with pay as due and admissible to him under the rules ibid.

Necessary entry to this effect should be made in his service book accordingly

DISTRICT EDUCATION OFFICER

Endsl.No. 5716-19 dated 08 / 05 /2017

Copy to the:-




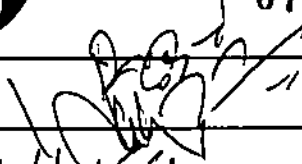
1. District Accounts Officer Kohat
2. DMO IMU Kohat
3. SDEO (M) Lachi
4. DEMIS Local Office

*(Signature)* 08/5/17  
DY DISTRICT EDUCATION OFFICER  
(MALE) KOHAT

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ATTESTED

(69)

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ایڈوکیٹ: 		پشاور بار ایسوسی ایشن، خیبر پختونخواہ
بار کونسل ایسوسی ایشن نمبر: 1561-11-11		
رابطہ نمبر: 0345-901110		

بعدالت جناب: سرورس ٹریبونل پشاور


منجانب: <u>Plaintif</u> محمد جاوید بنام ڈسٹرکٹ ایجوکیشن 2 فیصلہ کورٹ مظہرہ	دعویٰ: <u>سرورس اپیل</u> علت نمبر: مورخہ: جرم: تھانہ:
--	---

**باعث تحریر آگے**

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

آن مقام پشاور کیلئے ارباب کلیم اللہ 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 داخستہ 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

محمد جاوید وکلم ریٹیرین خان

Attested by  


المرقوم: 5/1/2024  
 العبادت پشاور  
 مقام

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE  
TRIBUNAL PESHAWAR

Service Appeal No. 1238 of /2021

Muhammad Javed ..... Appellant

Versus

District Education Officer (Male) Kohat & others ..... Respondents

INDEX

S. No	Description of documents	Annexure	Pages
1	Reply / Comments		1-3
2	Application for Retirement	A	4
3	Complaint on Appellant & Detail of Embezzlement	B	5-8
4	Enquiry Report	C	9-10
5	Teacher Attendance Register	D	11-17
6	Bank Statement of GPS Janak	E	18
7	KPK Civil Servant Revised Leave Rule 1981	F	19-21
8	Affidavit	G	22

①

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

Muhamamd Javed s/o Reshmin Khan

Appellant

VS

District Education Officer (M) Kohat and others

Respondents

**JOINT PARA-WISE COMMENTS ON BEHALF OF RESPONDENTS SERVICE APPEAL**  
**NO. 1238 OF 2021**

**PRELIMINARILY OBJECTIONS**

1. That the appellant has got no cause of action/locus standi.
2. That the instant service appeal is badly time barred.
3. That the appellant has concealed materials facts from the Hon' able Tribunal in the service appeal.
4. That the instant service appeal is against the relevant provisions of law.
5. That the appellant has not come to this Hon' able Tribunal with clean hands.
6. That the appellant is estopped by his own conduct to file the instant appeal.
7. That the instant service appeal is not maintainable in the present form & circumstance the case.
8. That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.

**REPLY ON FACTS:-**



- 1) Para No.1 of the facts to the extent of appointment of appellant Pertains to record and rest of Para is incorrect. The appellant has taken retirement on 07-01-2016 on his own request (Annexure A).
- 2) Para No. 2 of the facts is incorrect. The appellant has proceeded the complaints from Chairman of Parent Teacher Council and Teacher of the school regarding embezzlement of PTC fund of the school (Annexure B).
- 3) Para No. 3 of the facts pertains to record, however the appellant has taken retirement on his own request.
- 4) Para No. 4 of the facts is correct, however the appellant was proceeded in Departmental enquiry regarding his embezzlement. (Annexure C).
- 5) Para No. 5 of the facts is incorrect, he is not employee of the Department w.e.f 07-01-2016 to 30-09-2016, because he has not performed any duty after apply for retirement and then Sub Divisional Education Officer (M) Primary Lachi Kohat has reported him absent, So "No Service, No Pay" (Annexure D).

- 6) Para No. 6 of the facts is incorrect. The appellant was facing the Departmental Enquiry due to which retirement order issued after completion of his enquiry.
- 7) Para No. 7 pertains to record.
- 8) Para No. 8 pertains to judicial record.
- 9) Para No. 9 pertains to judicial record. However, appellant has no locus standi/couse of action.

**GROUND**

- (a) Para "a" of the ground is incorrect. There is no violation of the Rules and Policy of the Govt: from the respondents. Moreover, the respondents have given all benefits/Rights of the retirement to appellant as per rules in Policy of the Govt:.
- (b) Para "b" of the ground is totally incorrect. He is not entitled for the Monthly Salary w.e.f 07-01-2016 to 30-09-2016, because he was reported absent by the then SDEO (M) Primary Lachi Kohat. Therefore "No Service, No. Pay". Detail reply is given in Para 5 and 6 above.
- (c) Para "C" of the ground is legal and the appellant admitted that neither he is a civil servant nor the ~~is~~ pertains to "terms and conditions" of service.
- (d) Para "d" of the grounds is incorrect. The enquiry was initiated on the complaint of Chairman of Parent Teacher Council and teacher regarding the incomplete work, without Govt: specification and embezzlement done by appellant.
- (e) Para "e" of the grounds is incorrect. The respondents Department had granted fund Rs, 366000/- for making Boundary wall through Parent Teacher Council Committee. (Record attached as Annexure-E)
- (f) Para "f" is totally incorrect. Detail reply is given in Para E ibid. Moreover, the Hon' able Tribunal has no jurisdiction to adjudicate upon the matter.
- (g) Para "g" of the grounds is incorrect .The appellant is not entitled for Retirement Earned Leave and Leave preparatory to retirement according to the Khyber Pakhtunkhwa Civil Servant Revised Leave Rules, 1981 Rule No 20 No.FD SO(SR-IV)5-54/80-Vol-II dated 26-02-1986.

**Clarification:-** The Civil Servants seeking retirement on voluntarily basis should be treated equally and the option should not be necessary if they want to encash

their LPR. However, a Civil Servant who wants to proceed on retiring pension shall have to wait for 365-days after qualifying service of 25 years for the purpose of Encashment of LPR.

NO.FD.SO(SR-IV)5-54/80/Vol-II, dated 20-11-1986

COMMENTARY:- Under the above clarification Encashment of LPR is admissible on completion of 26 years qualifying service. (Annexure-F)

- (h) Para "h" of the ground is incorrect. The appellant is not deprived from his rights. While all rights/benefits of retirement have been given to him as per law/rules. Furthermore, Mr. Bad Shah Gul PSHT has got retirement on Superannuation Pension of age 60 years & he was entitled for Encashment of LPR.
- (i) Para "i" of the ground is incorrect. As already discussed in Para "h".
- (j) Para "j" of the ground is legal and pertains to record.
- (k) Para "k" of the ground is incorrect. The appellant was treated as per Rules and regulations of the Govt.: Appellant have been given all Rights/Benefits for which he was entitled.
- (l) The respondents be allowed to raise additional grounds during arguments.

It is, therefore, most respectfully prayed that the appeal being not maintainable and devoid of merits, may please be dismissed with costs.

Respond No 1  
DEO (M) KOHAT  
District Education Officer  
(Male) Kohat

Respond No 2  
SDEO (M) LACHI KOHAT

Respond No 3  
DIRECTOR E&SED KPK  
PESHAWAR

Respond No 4  
SECRETARY FINANCE, KPK  
CIVIL SECRETARIAT, PESHAWAR

Respond No 5  
DISTRICT ACCOUNTS OFFICER  
KOHAT

Respond No 6  
ACCOUNT OFFICER DEO (M)  
KOHAT





حضور صاحب ایس ڈی ای او صاحب پیرائری سکول مردانہ لاپی (کراچی)

Annexure  
"B"

(5)

جناب عالی

گزارش کی جاتی ہے کہ فنڈ ٹیچر محمد جاوید ایک عرصہ سے QPS ہانگ میں ڈیوٹی دے رہا ہے۔ جو انتہائی افسوس ناک ہے۔ اس عرصہ میں اس نے سکول کا نظام تباہ و برباد کیا ہے۔ گفتگوں کیلئے آنا سکول سے حل ہی جانا ناقص ٹرینیس کارڈ کردگی کو روز کا معمول بنا ہی اب تو سکول کا PTC فنڈ بھی خورد خورد کرنے پر مجبور ہوا ہے۔ جس پر اہلیان ہانگ کے لوگ سخت برہم ہو گئے۔ کیونکہ اس نے جعلی رسیدیں بنا کر سکول کا PTC فنڈ ہارپ کر لیا۔

جناب عالی اہلیان ہانگ کا کہنا ہے کہ مدرس محمد جاوید 15 کلو میٹر دور سے آتا ہے۔ حکمی دعوے سے سکول کا نظام تباہ و برباد ہے۔ اور میں PTC اصفہان دعوے سے کہہ رہا ہوں کہ اس نے جعلی رسیدیں بنا کر PTC فنڈ ہارپ کر لیا ہے۔ رسیدیں درخواست کے ساتھ منسلک ہے۔

لہذا جناب عالی میری رائے اس کے ساتھ قانونی کارروائی کیا جائے تاکہ آئندہ PTC فنڈ بچ جائے۔  
عین نوازش ہوگی؟

العارض

شہناز کارڈنر

منجانب اہلیان ہانگ دستخط

14301-3208293-3

① چیرمین PTC محمد یوسف

14301-2027760-1

② اصفہان PTA

14302-5274039-3

③ لیاقت علی خان

سناغ کارڈ نمبر

دستخط

ایم پی ایس خان

14301-2002010-1

DIAS KHAN

14301-5116473-3

اسلم دنگان

5 حضرت خان

14301-8086936-9

آمن

6 فتح خان

14302-2454622-9

سجاد رحمان

7 شاد رحمان

14301-1941749-9

ایم پی ایس

8 محمد نعمان

3

6

~~Q. No. - 1~~

OFFICE OF THE SUB: DIVISIONAL EDUCATIONAL OFFICER (MALE) LACHI

No. 1796

Dated: 16-1-14

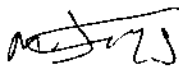
To

The District Education officer  
(Male) Kohat

Subject: DETAIL HISTORY OF EMBEZZEMENT & IRREGULARITES IN  
CONDITIONAL GRANT FOR CONSTRUCTION OF BOUNDERY WALL  
IN GPS JANAK

Memo:

Please find the attached detail history of the subject mentioned case along with pictures & vouchers for further departmental proceeding against PSHT & PTC Chairman GPS Janak & further direction to the undersigned.

  
SUB: DIVISIONAL EDUCATIONAL OFFICER  
(MALE) LACHI .

OFFICE OF THE SUB: DIVISIONAL EDUCATIONAL OFFICER (MALE) LACHI

DETAIL HISTORY

The undersigned through letter no 309 dated 29/6/2015 with a copy to your good office has directed head teacher GPS Janak to stop the construction of boundary wall as, as per telephonic direction of ADEO P& D code formalities of concerned school's has not been completed . Furthermore the concerned head teacher was also directed to complete the same on priority bases. Consequently the undersigned on January 13, 2016 visited GPS Janak & after thorough discussion with concerned head teacher & PTC chairman found that concerned head teacher has issued RS: 275000/ out of 6,63000 to PTC Chairman for purchase of various material & the left over amount was with concerned teacher. The undersigned recorded the following facts.

1. Presently the school comprise of two class rooms & veranda with total area of approximately 2 Kanal 9 Marley square feet.
2. An amount of RS 6, 63000/- has been approved for the construction of boundary wall under conditional grant through DEO M Kohat letter no 2940-46 dated 22/5/15
3. So far boundary wall of 111' \*113' with average height of 6' only from two sides have been constructed. While only foundation of 1' depth of the other two sides has been laid. The quality & quantity of the work done is too much inferior & is not as per specification.
4. The boundary wall constructed so far, is not as per specification as RCC column at size of 9" \* 9" on 10' width has been missed. (Picture attached).
5. Main Gate at size of 8'\*8' & side door 6'&2.5" & barbed wire of size 200 feet has been purchased.
6. Approximately 3000 bricks are available.

- (8)
7. As per PTC Chairman he has only RS 20,000 out of 2, 75000 while as per head teacher he has only an amount of 23000/ in school bank i-e total balance is 43000/-only
  8. As per undersigned information more than 50 % utilized bricks has been purchased at local village at the rate of 5 rupee per brick & has been claimed for RS 7 rupees per brick /. Furthermore the quality of bricks is too much poor & these bricks have been used already.

**KEY FINDINGS.**


1. Only 40 % work has been completed & the same is not as per specification. Only 43000/ out of approved - are in balance & 60 % work is yet to be started. The vouchers of the utilized amount is fake ,bogus & are attached for ready reference
2. There is no record of RS 18000 rupees allocated for petty repair & CRC for last two years.

**Action Taken**

1. School's PTC account has been freeze & concerned bank manager has been directed through letter no 1177-78 dated 14/1/2016 to stop all kind of transaction till further order.
2. Concerned PSHT has submitted application for retirement with effect from January 7, 2016 & DAO Kohat has been asked for stoppage of pay.
3. In case of his retirement all kind of financial benefits of concerned PSHT will be stopped till further direction from your good office.

**Recommendation**

Strict disciplinary action after thorough investigation against concerned PSHT & PTC Chairman should be initiated.

  
SUB: DIVISIONAL EDUCATION OFFICER  
(MALE) LACHI .

OFFICE OF THE SUB DIVISIONAL EDUCATION OFFICER (MALE) PRIMARY LACHINo. 1758/ADated 30/6/2016

To

The District Education Officer,  
Kohat.

Subject: COMPLAINT/ENQUIRY NO. 181 DATE, 21/6/2016


Reference to your letter no 4720 dated 27/6/2016 regarding the subject case it is stated that the allegations level by the complainant is totally fake & baseless. In fact he hides his willful negligence & deliberate misuse of public money allocated for the construction of boundary wall under supervision of School's PTC fund. Detail history of the case is as under.

1. An amount of Rs=663000/- has been sanctioned/allocated & released for the construction of boundary wall under the supervision of school's PTC at GPS Janak.
2. On January 13, 2016 the undersigned visited GPS Janak to monitor ongoing construction of boundary wall & was shocked to know that only 40% work was completed & as per complainant (the then Head Teacher) only 43000 /- out of allocated 666300 /- are in balance. More over the work done was not according to specification which has been communicated by ADEO P & D Kohat to all concerned. Detail report as of 13/1/2016 is attached for ready reference. (Copy attached at Annex 1). (The said reports along with pictures were sent your good office through letter no 1196 dated 16/1/2016).
3. PSHT Mohammed Javed (Complainant) application for retirement was forwarded to your good office through letter # 1214 dated 19-01-2016 for sanction (copy attached at Annex 2&3)
4. Through letter # 455 dated 22-01-2016 your good office directed the undersigned that the pension case of the complainant will be processed subject to (1) the verification of service from 01-12-2007 to 07-01-2016 (2) nothing is pending against the complainant (3) a certificate may be provided by ADEO (P&D) that the allocated amount has been used judiciously and the work is according to the specifications. (copy of the letter is attached Annex 4) so far observation in Para 3 is pending as ADEO P&D is not in position to issue clearance certificate covering the observations as mentioned in para 3 of the attached letter (Statement showing that allocated amount has been used judiciously & the work is as per specification). Moreover ADEO (P&D) has issued conditional completion certificate (Attached at Annex 5).
5. Manager of concerned Bank branch has been asked by the office of undersigned through letter # 1177-78 dated 14-01-2016 to stop all kind of withdrawal from school PTC account (copy attached at Annex 5) so as to stop further misuse of money.
6. Through letter # 1239 dated 27-01-2016 self explanatory application of the complainant was forwarded to your good office for further necessary action. (copy attached at Annex 7&8)

7. Through letter # 1357 dated 05-03-2016 self explanatory application of the complainant was forwarded to your good office for further necessary action (copy attached at Annex 9& 10)
8. As per direction of your office through letter # 3428 dated 10-05-2016 (copy attached at annex 11) the undersigned visited the mentioned school and submitted report to your good office through letter # 1687 dated 24-05-2016 (copy attached at annex 12) with the request to guide the undersigned whether to process or withheld the pension papers of concerned teacher. In this connection ADEO P&D ambiguous statement were addressed through letter 1728-29 dated 07-06-2016 (Copy attached at 13) with the remarks that ADEO (P&D) is the relevant officer to decide whether or not the work done is according to specifications & as per Para 3 of letter no 455 dated 22/1/2016 annexed as 4 ADEO P&D will have to issue certificate that the work done is according to the specification & the amount has been used judiciously.
9. Instructions of your good office regarding transparent use of fund through parents teacher council (copy attached at 14 )has been communicated to all head teachers including the complainant for strict implementation.
10. As per in charge head teacher of GPS Janak an amount of Rs=4361/- out of Rs=18000/- are outstanding against the complainant(Copy attached at annex 15)
11. Keeping in view the observation mentioned at para-3 of your letter number 455 dated 22-01-2016 annexed at 4, report of undersigned annexed at 12 and the conditional certificate of ADO P&D annexed at 5, the undersigned has asked your office for guidance through letter no 1753 dated 18/6/2016 (copy Attached at 16) which is still pending.

The undersigned has reported and communicated all the available information and applications of the complainant to the high ups for further necessary action as per rule but the issuance of clearance certificate from ADEO P& D with clear statement that the allocated amount has been used judiciously & work done is according to the specification is yet to be received from the quarter concerned.

Further more the complainant allagations are fake, baseless & it is requested that strict disciplinary proceeding under E& D rules may be initiated against him.

  
 Sub Divisional Education Officer  
 (Male) Primary Lachi Kohat.







# رجسٹر حاضری مدرسین گورنمنٹ پرائمری اسکول جہانک

بابت ماہ

مارچ 2016

محمد عبدالرشید  
چوکیدار

نام / صفحہ

عہدہ / دفتر

تاریخ	آمد	دستخط	رہائی	دستخط	آمد	دستخط	رہائی	دستخط	آمد	دستخط	رہائی	دستخط	تاریخ	تعداد
1	8/30	اصغر	1/35	اصغر	P	-	P	-					1	P
2					P	-	P	-					2	P
3	8/30	اصغر	1/35	اصغر	P	-	P	-					3	P
4	8/30	اصغر	1/35	اصغر	P	-	P	-					4	P
5	8/30	اصغر	1/35	اصغر	P	-	P	-					5	P
6	8/30	اصغر	1/35	اصغر	P	-	P	-					6	P
7					L	-	P	-					7	P
8	8/30	اصغر	1/35	اصغر	P	-	P	-					8	P
9	8/30	اصغر	1/35	اصغر	P	-	P	-					9	P
10					P	-	P	-					10	P
11	8/30	اصغر	1/35	اصغر	P	-	P	-					11	P
12	8/30	اصغر	1/35	اصغر	P	-	P	-					12	P
13					P	-	P	-					13	P
14					P	-	P	-					14	P
15					P	-	P	-					15	P
16					P	-	P	-					16	P
17					P	-	P	-					17	P
18	8/30	اصغر	1/35	اصغر	P	-	P	-					18	P
19	8/30	اصغر	1/35	اصغر	P	-	P	-					19	P
20					P	-	P	-					20	P
21	8/30	اصغر	1/35	اصغر	P	-	P	-					21	P
22	13/30	اصغر	12/30	اصغر	P	-	P	-					22	P
23					P	-	P	-					23	P
24	8/30	اصغر	1/35	اصغر	P	-	P	-					24	P
25					P	-	P	-					25	P
26					P	-	P	-					26	P
27					P	-	P	-					27	P
28	8/30	اصغر	1/35	اصغر	P	-	P	-					28	P
29	8/30	اصغر	1/35	اصغر	P	-	P	-					29	P
30	8/30	اصغر	1/35	اصغر	P	-	P	-					30	P
31	8/30	اصغر	1/35	اصغر	P	-	P	-					31	P

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Team Manager  
Primary School  
Jehank

*(Handwritten signature)*  
22/3/16

06	06	0							04	03	01	
-	-	-							-	-	-	
01	01	0							04	03	01	







رجسٹر حاضرین مدرسین

نام		بابت ماہ		2016		2016		بابت ماہ		
Chaukidaar										
روز	آمد	دستخط	رہائی	دستخط	آمد	دستخط	رہائی	دستخط	آمد	
1	P	-	P	-					اصفر	7/30
2	P	-	P	-					اصفر	7/30
3	P	-	P	-					اصفر	7/30
4	P	-	P	-					اصفر	7/30
5	P	-	P	-					اصفر	7/30
6	P	-	P	-					اصفر	7/30
7	P	-	P	-					اصفر	7/30
8	P	-	P	-					اصفر	7/30
9	P	-	P	-					اصفر	7/30
10	P	-	P	-					اصفر	7/30
11	P	-	P	-					اصفر	7/30
12	P	-	P	-					اصفر	7/30
13	P	-	P	-					اصفر	7/30
14	P	-	P	-					اصفر	7/30
15	P	-	P	-					اصفر	7/30
16	P	-	P	-					اصفر	7/30
17	P	-	P	-					اصفر	7/30
18	P	-	P	-					اصفر	7/30
19	P	-	P	-					اصفر	7/30
20	P	-	P	-					اصفر	7/30
21	P	-	P	-					اصفر	7/30
22	P	-	P	-					اصفر	7/30
23	P	-	P	-					اصفر	7/30
24	P	-	P	-					اصفر	7/30
25	P	-	P	-					اصفر	7/30
26	P	-	P	-					اصفر	7/30
27	P	-	P	-					اصفر	7/30
28	P	-	P	-					اصفر	7/30
29	P	-	P	-					اصفر	7/30
30	P	-	P	-					اصفر	7/30
31	P	-	P	-					اصفر	7/30

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روز	آمد	دستخط	رہائی	دستخط	آمد	دستخط	رہائی	دستخط	آمد
8	6	-							05 04 01

## National Bank of Pakistan

## Account Statement

Annexure, "E" (18)

Account Title(s) PTAGPS BANK

Address: VILL JANAK PO SHAKARDARA  
TEH DISTT KOHAT

Postal Code:

Branch Code/Name: 1743 Faqirabad Branch

Region Name: Dara Iamaj Khan

Statement Printing Date: 10-Apr-2019

User: C0314593

Branch: 1743

Terminal: VDI-PSH

Town:

District:

City: KOHAT

Province/State: KH. PAKHTOON

Country: PAKISTAN

Product Name: PLS Savings Account

Currency: PKR

CIF No: 11164101

Account No: 3111676050

IBAN: PK03NBPA1743003111676050

B-F Balance: 0.00

From: 01-Jan-2014

To: 10-Apr-2019

No.	Date	Particulars	Instno	Memo	Debit	Credit	Ba
1	15-Jan-2014	PROFIT/LOSS	21987	01	0.00	491.00	1.0
2	15-Jan-2014	WH.TAX	21988	01	45.10	0.00	1.6
3	27-Jun-2014	TRANSFER	13	27	0.00	21,397.00	23.0
4	16-Jul-2014	PROFIT/LOSS	21987	01	0.00	75.00	23.1
5	16-Jul-2014	WH.TAX	21988	01	7.50	0.00	23.1
6	26-Dec-2014	CASH	332812	26	18,000.00	0.00	5.1
7	09-Jan-2015	PROFIT/LOSS	21987	01	0.00	788.00	5.9
8	09-Jan-2015	WH.TAX	21988	01	78.80	0.00	5.8
9	12-Feb-2015	TRANSFER	22	12	0.00	22,000.00	27.8
10	07-Apr-2015	CASH	1	07	0.00	1,500.00	29.3
11	10-Jun-2015	TRANSFER	1	10	0.00	663,600.00	692.9
12	10-Jul-2015	PROFIT/LOSS	21983	01	0.00	2,314.00	695.2
13	10-Jul-2015	WH.TAX	21984	01	231.40	0.00	695.0
14	18-Aug-2015	CASH	332813	18	20,000.00	0.00	675.0
15	18-Aug-2015	CASH	332814	18	100,000.00	0.00	575.0
16	20-Aug-2015	CASH	332815	20	50,000.00	0.00	525.0
17	28-Aug-2015	CASH	332816	28	60,000.00	0.00	465.0
18	31-Aug-2015	CASH	332817	31	100,000.00	0.00	365.0
19	07-Sep-2015	CASH	332818	07	120,000.00	0.00	245.0
20	14-Sep-2015	CASH	332819	14	235,000.00	0.00	10.0
21	11-Jan-2016	GROSS PROFIT		01	0.00	5,579.73	15.0
22	25-Mar-2016	TRANSFER			0.00	22,000.00	38.0
23	16-Jul-2016	GROSS PROFIT		01	0.00	539.30	38.5
24	28-Dec-2016	CASH WITHDRAWAL	332821		35,000.00	0.00	3.5
25	12-Jan-2017	CASH WITHDRAWAL	332822		3,500.00	0.00	

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# 1 [Khyber Pakhtunkhwa] Civil Servants Revised Leave Rules, 1981

No. FD. SO (SR-IV) 5-54 / 80 (Vol:II) dated 17-12-1981.---In exercise of the powers conferred by section 26 of the 2 [Khyber Pakhtunkhwa] Civil Servants Act, 1973 (3 [Khyber Pakhtunkhwa] Act XVIII of 1973) and in supersession of this Department's Notification No. FD.SO(SR-IV) 1-17/78, dated the 20<sup>th</sup> November, 1979, the Governor of the 4 [Khyber Pakhtunkhwa] is pleased to make the following rules namely:--

1. **Short title, commencement and application.**---(1) These rules may be called the 5 [Khyber Pakhtunkhwa] Civil Servants Revised Leave Rules, 1981.
- (2) They shall come into force at once.
- (3) They shall apply to all Civil Servants under the rule making authority of the Governor except those who opted not to be governed by the 6 [Khyber Pakhtunkhwa] Civil Servants Leave Rules, 1979.

2. **Admissibility of Leave of Civil Servant.**---Leave shall be applied for, expressed and sanctioned in terms of days and shall be admissible to a civil servant at the following rate and scale:--

- (i) A civil servant shall earn leave only on full pay. It shall be calculated at the rate of four days for every calendar month of the period of duty rendered and credited to the leave account as "leave on fully pay" duty period of 15 days or less in a calendar month, for the purpose. If a civil servant proceeds on leave during a calendar month and returns from it during another calendar month and the period of duty in either month is more than 15 days, the leave to be credited for both the incomplete months will be restricted to that admissible for one full calendar month only.

(ii) The provisions of clause (i) will not apply to vacation departments. A civil servant of a vacation department may earn leave on full pay as under:--

- (a) When he avails himself of vacation in a calendar every calendar month of year. As for a civil servant in non-vacation Department himself of the full for that year; and vacation.
- (b) When during any year he is prevented from availing vacation.
- (c) When he avails himself of only a part of the vacation. As in (a) above plus such as the number of days of vacation not taken bears to the full vacation.

1 Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.  
 2 Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.  
 3 Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.  
 4 Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.  
 5 Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.  
 6 Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.

Amendments "F"  
(14)



18. **Commencement and end of Leave-** Instead of indicating whether leave starts/ends in the forenoon or afternoon, leave shall commence from the day following that on which a Civil Servant hands over the charge of his post. It shall end on the day preceding that on which he resumes duty.

19. **Absence after the expiry of Leave-**Unless his leave is extended by the leave sanctioning authority, a Civil Servant who remains absent (except for circumstances beyond his control) after the end of his leave shall not be entitled to any remuneration for the period of such absence, and double the period of such absence shall be debited against his leave account. Such debit shall if there is insufficient credit in the leave account, be adjusted against future accumulations. Such double debit shall not preclude any disciplinary action that may be considered necessary under any rule for the time being in force, after affording reasonable opportunity to Civil Servant concerned to indicate his position.

20. **Encashment of Leave preparatory to retirement:** 1) Where a civil servant opts not to avail the leave preparatory to retirement admissible to him under rule 14, he shall be allowed leave salary for the period for which leave preparatory to retirement is admissible, subject to a maximum of \*365 days. For the purpose of lump sum payment in lieu of leave preparatory to retirement only the senior post allowance will be included in the leave pay so admissible. The payment of leave pay in lieu of leave preparatory to retirement may be made to the Civil Servant either in lump sum at the time of retirement or may at his option, be drawn by him month-wise, in arrears, for and during the period L.P.R.

2) Encashment of leave preparatory to retirement (LPR) not exceeding \*[365] days shall be effective from the first day of July, 2012 and shall, for the entire period of leave refused or opted for encashment, be applicable to a civil servant retired, as the case may

be, retiring on or after the first day of July, 2012, provided such leave is available at his credit to a maximum of three hundred and sixty-five days.

(3) If at any time during such period, leave is granted on account of ill health supported by medical certificate or for performance of Hajj, the amount of cash compensation on account of leave pay shall be reduced by an amount equal to the leave pay for the period of leave so granted.

(4) Leave pay for the purpose of encashment of LPR shall be computed on the basis of pay and allowances reckonable towards pension as shown in the last pay certificate of a civil servant".

Rule-20 substituted vide FD No.SOSR (IV)5-54/80-Vol-II,dated 24.8.1983.& the figures "180 days substituted for "[365]" days vide FD No.SO FR 5-92/2005/ Vol-V,dated 13/12/2012.

Government Decision: It has now been decided that;

- a) Unless a civil servant opts to proceed on LPR or submits an application for LPR, he may be deemed to have opted for encashment of LPR according to the rules; and
- b) On receipt of a request from a civil servant deemed to have opted for encashment of LPR, the authority competent to sanction LPR, will issue formal sanction for the payment of cash compensation.

No.FD SO(SR-IV)5-54/80-Vol-II dated 26.2.1986

Clarification:- The Civil Servants seeking retirement on voluntarily basis should be treated equally and the option should not be necessary if they want to encase their LPR. However, a civil servant who wants to proceed on retiring pension shall have to wait for 365 days after qualifying service of 25 years for the purpose of encashment of LPR.

NO.FD.SO(SR-IV)5-54/80/Vol-II, dated 20.11.1986.

COMMENTARY:-Under the above clarification encashment of LPR is admissible on completion of 26 years qualifying service.

Decision: A civil servant may either draw leave pay for the period for which leave is admissible subject to a maximum of 365 days in lump sum after retirement or on month-to-month basis during such period as under:

- a) Leave pay may be drawn at any time for which duty has already been rendered; and
- b) The rate of pay shall be the rate admissible at the time the leave pay is drawn. This order shall take with immediate effect. NO.FD.SO(SR-IV)5-54/80-Vol-III,dated 12.4.1988.

21. In-service Death etc: 1) In case a Civil servant dies, or is declared permanently incapacitated for further service by a Medical Board, while in service, a lump sum payment equal to leave pay up to "[365] days out of the leave at his credit shall be made to his "family" as defined for purposes of the family pension or, as the case may be, to the civil servant.

For the purpose of lump sum payment to the family of civil servant who dies while in service only the "Senior Post Allowance" will be included in the "leave Pay" as admissible. Rule-21 substituted vide...

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE  
TRIBUNAL PESHAWAR

22

Annexure "G"

Service Appeal No. 1238/2021

Muhammad Javed

Versus

District Education officer (M) Kohat

AFFIDAVIT

I, Riaz Khan SDEO (M) Lachi Kohat do hereby solemnly affirm and declare that the contents of the instant reply are true and correct and nothing has been kept back or concealed from this Honourable Tribunal.



DEPONENT  
S.D.E.O (M)  
Primary Lachi Kohat

50 روپے

26155



ایڈوکیٹ:   
 بار کونسل / ایسوسی ایشن نمبر: 16-6642-BC   
 رابطہ نمبر: 0333-966662

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

سروس ٹرانسپل کیشنز: بعدات جناب:

مخانب: <b>سائل</b>	دعویٰ: <b>Recovery</b>
<p>محرم جاوید ملک</p> <p>بنام</p> <p>ڈسٹرکٹ ایجوکیشن کونسل پشاور</p>	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:
<b>باعث تحریر آنکہ</b>	

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

آن مقام **محرم جاوید ملک** خورشید، ندرا ایسٹ ضلع فیصل آباد میں مقرر

کر کے قرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو

راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف 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 مستثنیٰ، نیز

دائرہ گزرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار 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 کوئی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا سناختہ پروا خستہ منظور و قبول ہوگا

دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے

باہر ہو تو وکیل صاحب یا بندہ ہوں گے کہ پیروی مذکورہ کریں، اپنے ہاتھ لکھ دیا تاکہ سند رہے

الرقوم: **محرم جاوید ملک**

PESHAWAR BAR ASSOCIATION  
KHYBER PAKHTUNKHWA

attested  
Accepted  
2023/06/26  
Nisara

محرم جاوید ملک

آفیسر

محرم جاوید ملک کی پیشینگی کی کاپی

نوٹ: اس وکالت نامہ کی کوئی ناقابل قبول ہوگی۔