


1st Nov., 2022

Assistant to learned counsel for the appellant present.

Mr. Naseerud Din Shah, Assistant Advocate General for the respondents present.


02. Request for adjournment was made due to engagement of learned senior counsel for the appellant before Hon'ble High Court today. Last opportunity is granted. To come up for arguments on 14.12.2022 before the D.B.

  
(Fareeha Paul)  
Member (E)

  
(Kalim Arshad Khan)  
Chairman

14<sup>th</sup> Dec. 2022

Due to strike of the Bar and Mrs. Rozina Rehman, learned Member (J) being on leave, this matter is adjourned to 03.03.2023 before the D.B. Office is directed to notify the next date on the notice board as well as the website of the Tribunal.

  
(Fareeha Paul)  
Member(E)

SCANNED  
LEARNER  
ROSHANVAI

01.03.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 06.06.2022 for the same as before.



Reader.

6<sup>th</sup> June. 2022

Proper D.B is not available. Therefore, case is adjourned to 23.08.2022 for the same as before.



Reader

23.08.2022

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

Learned counsel for the appellant submitted rejoinder, copy of which handed over to learned Additional Advocate General. Adjourned. To come up for arguments on 01.11.2022 before the D.B.



(Rozina Rehman)  
Member (Judicial)




(Salah-Ud-Din)  
Member (Judicial)

05.04.2021

Appellant Deposited  
Security & Process Fee

Appellant in person present and submitted application for extension of time to deposit security and process fee. Application is allowed. Appellant is directed to deposit security and process fee within 03 days, thereafter, notice be issued to respondent for submission of reply/comments on 12.07.2021 before S.B.



(Atiq Ur Rehman Wazir)  
Member (E)

12.07.2021

Counsel for the appellant and Mr. Kabirullah Khattak, Addl. AG for the respondents present.

Written reply/Comments have been furnished. The appeal is entrusted to D.B for arguments on 19.11.2021.

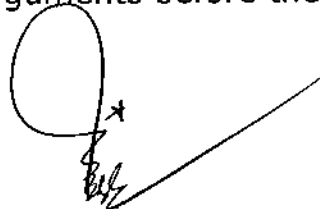


Chairman

19.11.2021

Appellant alongwith her counsel present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Learned counsel for the appellant sought time for submission of rejoinder. Adjourned. To come up for rejoinder as well as arguments before the D.B on 01.03.2022.



(Mian Muhammad)  
Member (E)



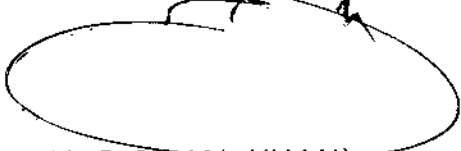
(Salah-Ud-Din)  
Member (J)

13.01.2021

Appellant is present alongwith her counsel Mr. Zahid Gul, Advocate.

The main thrust of the arguments of the learned counsel representing appellant was that being inducted as Charge Nurse in the Health Department in a project she has rendered duties at various stations and is still performing her duties as such, that in-spite of passage of the Act by the Provincial Assembly regularizing the services of those employees inducted into service on contract basis on the one hand and the judgments made by the Hon'ble Peshawar High Court, Peshawar, on the other in three Writ Petitions vide Writ Petitions No. 1662/2007, 1160/2008 vide judgment dated 14.01.2010 and Writ Petition No. 475/2006 decided on 11.07.2007 the services of appellant has not been regularized for which she moved departmental appeal but without any success hence, the present service appeal.

The points so agitated at the bar need consideration. The appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 05.04.2021 before S.B.

  
(MUHAMMAD JAMAL KHAN)  
MEMBER (JUDICIAL)

~~07/04/2021~~ ~~Appellate No. 2717/2021~~

~~07/04/2021~~

~~Learned counsel for the appellant present. - Mr. Kabirullah Bhattak learned AG for respondents present.~~

~~Learned counsel for the appellant submitted application for withdrawal of the instant appeal, wherein the appellant do not want to proceed the case furthermore and want to withdraw it. In this regard signature of the learned counsel for the appellant was also obtained in the margin of order sheet. Consequently the present service appeal is dismissed as withdrawn. No order as to costs. File be consigned to records room.~~

~~ANNOUNCED  
07/04/2021~~

~~(Atiq Ullah Wazir)  
Member (E)~~

01.06.2020. Learned counsel for the appellant present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for preliminary hearing on 06.08.2020 before S.B.

  
(Mian Muhammad)  
Member

06.08.2020 Mr. Zahid Gul, learned counsel for the appellant is present. He is seeking adjournment for non-preparation of the instant appeal. Adjourned to 29.10.2020. File to come up for preliminary hearing before S.B.

  
(MUHAMMAD JAMAL KHAN)  
MEMBER

29.10.2020 Appellant present through representative.

Lawyers are on general strike, therefore, case is adjourned to 13.01.2021 for preliminary hearing, before S.B.

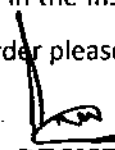


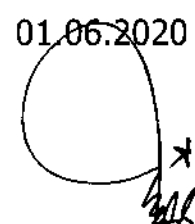
  
(Rozina Rehman)  
Member (J)

Form- A

FORM OF ORDER SHEET

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

Case No.- 3316 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	23/04/2020	<p>The appeal of Mrs. Nasim Begum resubmitted today i.e 23.04.2020 by Mr. Zahid Gul, Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p> REGISTRAR 23/4/2020</p>
2-	06.05.2020	<p>This case is entrusted to S. Bench for preliminary hearing to be put up on <u>06-05-2020</u></p> <p> MEMBER</p>
	06.05.2020	<p>Nemo for the appellant. Adjourn. To come up for preliminary hearing on 13.05.2020 before S.B.</p> <p> Member</p>
	13.05.2020	<p>None for the appellant present. Adjourned. To come up for preliminary hearing on 01.06.2020 before S.B.</p> <p> (Mian Muhammad) Member</p>

SCANNED  
Peshawar

The appeal of Mrs. Nasim Begum d/o Muhammad Razaq Charge Nurse SGTH Swat received today i.e. on 18.03.2020 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

Copy of Judgment of superior court mentioned in para-8 of the memo of appeal is not attached with the appeal which may be placed on it.

No. 968 /S.T.

Dt. 18/3 /2020.

Mr. Zahid Gul Adv. Pesh.

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.



**BEFORE THE HONBLE KHYBER PAKHTUNKHWA**  
**SERVICES TRIBUNAL PESHAWAR**

In Re S.A 3316 /2020

Mrs Nasim Begum

**VERSUS**

Secretary Govt; of KPK, Health Department & Other


**INDEX**

S#	Description of Documents	Annex	Pages
1.	Grounds of Appeal with affidavit		1-9
2.	Affidavit.		10
3.	Addresses of Parties.		11
4.	1 <sup>st</sup> Appointment Letter dated 23/10/2003	"A"	12-13
5.	Copy Of Civil Servants (Amendment) Act 2005	"B"	14-15
6.	Copy Of Second Appointment Letter dated 19/12/2006	"C"	16
7.	Copy of Regular Basis Appointment Order 20/08/2013	"D"	17-18
8.	Copy of Transfer Order 19/12/2013	"E"	19
9.	Copy of Judgments of Superior Courts	"F"	20-37
10.	Copy of Departmental Appeal dated 28/08/2013.	"G"	38-41
11.	Wakalatnama		

Dated : 16/03/2020

Appellant

Through

Zahid Gul   
Advocate, High Court,  
Peshawar.

①

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA  
SERVICES TRIBUNAL PESHAWAR**

In Re S.A \_\_\_\_\_/2020

Mrs. Nasim Begum D/o Muhammad Razaq, Charge  
Nurse, BPS-16, SGTH, Swat.

-----*(Appellant)*

**VERSUS**

1. Secretary Govt; of KPK, Health Department at  
Civil Secretariat, Peshawar.
2. The Director General, Health Services, Khyber  
Pakhtunkhwa, Peshawar.
3. The District Health Officer, District Swat.

-----*(Respondents).*

**SERVICE APPEAL U/S 4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT,  
1974, FOR REGULARIZATION OF THE  
SERVICES OF THE APPELLANT DATED  
23/10/2003 TILL 20/08/2013 ON THE  
BASIS OF EQUALITY AND EQUAL  
PROTECTION OF LAW IN THE LIGHT OF  
JUDGMENT RENDERED BY THE AUGUST  
PESHAWAR HIGH COURT PESHAWAR IN  
W.P NO: 1662/2007, 1166/2008,  
1160/2008 DECIDED 14/01/2010 AND  
UPHELD BY THE AUGUST SUPREME COURT  
OF PAKISTAN VIDE C.P NO: 170-P TO 172-P  
& 668-P OF 2010.**

3

**PRAYER:**

**ON ACCEPTANCE OF THE INSTANT APPEAL, APPROPRIATE DIRECTIONS BE ISSUED TO THE RESPONDENTS TO REGULARIZE THE SERVICES OF THE APPELLANT FROM 23/10/2003 TILL 20/08/2013 IN THE LIGHT OF JUDGMENT RENDERED BY THE HON'BLE PESHAWAR HIGH COURT, PESHAWAR WITH ALL BACK BENEFITS ON THE BASIS OF RULE OF CONSISTENCY & EQALLY BEFORE THE LAW.**

**Respectfully Sheweth:**

1. That in the year 2003 advertisement was floated through press, inviting applications for charge nurse. Appellant being qualified in terms of advertisement applied for the same and after going through selection process, the Departmental Selection Committee held on 18/09/2003 recommended her and finally she was appointed as Charge Nurse PBS-14 by the Director Health Services Fata Peshawar vide order dated 23/10/2003 (Annexure "A").
2. That in pursuance of the order ibid, appellant assumed the charge of her duties at Agency

3

Surgeon Kurram Parachinar, thereafter appellant started performing her duties to the entire satisfaction of high-ups. Moreover, respondents also maintained her service book wherein necessary entries were also entered from time to time and she was also allowed all the facilities & privileges as admissible to other regular employees.

3. That in the year 2002 the government has introduced a contract policy and hence all the appointments thereafter were made under the same policy, similarly, the appellant was also appointed under the same contract policy.
4. That in the year 2005, the government decided to grant regularization to all those employees who were appointed under the contract policy of 2002 and in this respect the Provincial Assembly passed an Act, 2005 (Annexure "B") whereby Section 19 of the NWFP Civil Servants Act, 1973 was substituted and accordingly all those

(4)

employees who were appointed in the Provincial manner or after the 1<sup>st</sup> July, 2001 till the commencement of this Act were declared to be regular civil servants for all intents & purposes except for the purpose of pension & gratuity. Thus under the Act *ibid*, all the employees selected and appointed on contract basis stood automatically regularized by operation of law.


5. That appellant after the completion of three years period of contract basis, advertisement was floated and appellant again applied for Charge Nurse (BPS 14) post and appellant was again appointed for as Charge Nurse BPS-14 on contract basis for a period of three years by the Chief Executive Lady Reading Hospital Peshawar vide order dated 19/12/2006. (Second Appointment Letter is attached as Annexure "C")

6. That some posts of Charge Nurse BPS-16 were advertised by the Public Service Commission and thus appellant was compelled to apply for the same and after undergoing the selection process,

5

she was recommended & appointed as Charge Nurse vide order dated 20/08/2013 and continued on the same post without termination of the services. (Copy of Regular Basis Appointment Order is Annexure "D")

7. That during service LRH Peshawar, appellant was transferred from LRH Peshawar to SGTH Swat vide letter dated 19/12/2013 and till now appellant is performing her duties there to the entire satisfaction of high-ups. (Transfer Order is Annexure "E")

8. That in identical case under similar circumstances, the male/ female nurses of District Dir Lower and Malakand who were also terminated under the same ground of project employment and who were similarly appointed the way back in the 2003 & 2004, approached the August Peshawar High Court, Peshawar in W.P No: 1662/2007,  & 1160/2008 which were allowed vide judgment dated 14/01/2010 on the strength of similar other judgment in writ

6

petition No: 475/2006 title Miss Shagufta Sayed Vs The Government of NWFP & Others decided on 11/07/2007 and the same was subsequently upheld by the August Supreme Court of Pakistan vide C.P 170-P/2011. (Judgments of Superior Court are attached as Annexure "F")

9. That accordingly all the terminated Male/ Female Nurses were not only reinstated into service but also declared regular employees under the Act IV of 2005 and they were also allowed back benefits by the department. As the case of appellant was identical in nature, therefore, when the appellant came to know about the decision, she also preferred departmental appeal to Respondent No.1 but the same was not disposed of within the statutory period, hence this service appeal inter-alia on the following grounds:- (Departmental Appeal is attached as Annexure "G")

**GROUNDS:**

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject

6

and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully refused to regularize the services of the appellant, which is unjust, unfair and hence not sustainable in the eye of law.

B. That the appellant was unaware of the judgments aforesaid and just now she came to know about the same. As the case of appellant is identical on all fours with that of other employees of the Department working in similar manner who were granted relief by the August Peshawar High Court, Peshawar, therefore, appellant is also entitled to the same relief under the principle of consistency and equality as laid down in the case of "*Hameed Akhtar Niazi...Vs....The Secretary, Establishment Division, Govt. of Pakistan and others*" reported in 1996 SCMR 1185 and "*Tara Chand and Others ... Vs.... Karachi Water and Sewerage Board, Karachi & Others*" reported in 2005 SCMR 499 and another judgment reported in 2009 SCMR1.



(8)

c. That the appellant has been discriminated because similarly placed employees serving in identical circumstances have been regularized with all back benefits whereas the appellant has been refused the same benefit which is violative of Article 4 & 25 of the Constitution of the Islamic Republic of Pakistan, 1973.

d. That appellant was appointed on Contract basis under the Contract Policy of 2002 and stood regularized by the operation of law and therefore, she was entitled for regularization of her previous service on the analogy of other colleagues similarly regularized.

e. That appellant all along during her previous service has been treated as regular employee, she has been extended all the facilities of a regular employee and furthermore, her contract period was not further extended after the promulgation of the Act-IX of 2005 which by itself reflects that the services of appellant were regular and not of any project.

(9)

F. That appellant would like to offer some other grounds during the course of arguments.

*It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.*

*Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.*

Dated: 16/03/2020

Petitioner

Through

Zahid Gul

Advocate, High Court  
Peshawar

**NOTE:-**

No such like appeal for the same appellant upon the same subject matter has earlier been filed by me before this Hon'ble Tribunal.

Advocate.

(10)

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA  
SERVICES TRIBUNAL PESHAWAR**

In Re S.A \_\_\_\_\_/2020

Mrs Nasim Begum

**VERSUS**

Secretary Govt; of KPK, Health Department & Other

**AFFIDAVIT**

I, Mrs. Nasim Begum D/o Muhammad Razaq, Charge Nurse, BPS-16, SGTH, Swat, do hereby solemnly affirm and declare that all the contents of the accompanied **appeal** is true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Tribunal.


Nasim Begum

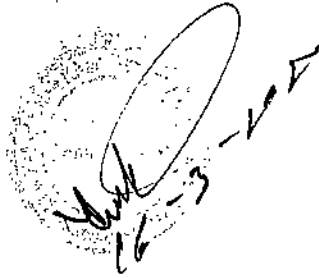
**DEPONENT**

CNIC: 15601-4540543-4

CELL NO: 0346-9049994

Identified By:

Zahid Gul   
Advocate High Court  
Peshawar.



(11)

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA  
SERVICES TRIBUNAL PESHAWAR**

In Re S.A. \_\_\_\_\_/2020

Mrs Nasim Begum

**VERSUS**

Secretary Govt; of KPK, Health Department & Other

**ADDRESSES OF PARTIES**

**APPELLANT.**

Mrs. Nasim Begum D/o Muhammad Razaq, Charge  
Nurse, BPS-16, SGTH, Swat.

**RESPONDENTS:**

1. Secretary Govt; of KPK, Health Department at  
Civil Secretariat, Peshawar.
2. The Director General, Health Services, Khyber  
Pakhtunkhwa, Peshawar.
3. The District Health Officer, District Swat

**Dated: 16/03/2020**

**Appellant**

Through

**Zahid Gul**  
**Advocate, High Court,**  
**Peshawar.**

(12)

Annexure 'A'

**DIRECTORATE HEALTH SERVICES, FATA,  
WARSAK ROAD, PESHAWAR.**

Tel No: 091-9211109-9212207.

Fax: 091-9211109

DIHS FATA Admn.

**Appointment Letter**

Consequent upon the approval of Departmental Selection committee held on  
18.09.2003

Mr./Mrs. Daseem Begum D/O, W/O. Muhammad Kazim

Resident of: SWAT

Is here by appointed as Charge Nurse *BPS Na-14* plus usual allowances admissible under the rules.

His appointment will be subject to the following terms and conditions:-

1. That your appointment is on the contract basis for period of three years and your services are liable to be terminated at any time with out any notice or resign being assigned.
2. That you are declared medically fit for Govt. service.
3. The post is not transferable, and you must serve for three years on the said post.
4. That you will be governed by such rules and orders as may be issued by the Government of NWFP, from time to time for the category of the Government servant to which he/she belong.
5. That if you wish to resign, at any time, you will resign in written with 30 days notice or you will forfeit one month pay, in lieu thereof and will continue to serve the government till the acceptance of your resignation by the competent authority.
6. That you will be posted any where in FATA / FR.
7. That you will not be entitled to any TA / DA for Medical examination and joining the first appointment.
8. The offer is subject to the availability of vacant post.
9. If you accept the post on above terms and conditions you should report to

*Accepted*  
*[Signature]*

Agency Surgeon Kurram within 15 days. The offer will be cancelled if you fail to report for duty within above mention period.

-----Sd-----  
Director Health Services,  
FATA, NWFP, Peshawar

No. 1716-1720 / DIHS / FATA / Admn.

Date: 23 / 10 / 2003

Copy forwarded to the :-

1. Deputy Director (Admn) DIHS FATA NWFP, Peshawar.
2. Concern Agency Surgeons / Medical Superintendent.
3. Concern Agency Account Officer.
4. Official concerned.

*[Signature]*  
Director Health Services,  
FATA, NWFP, Peshawar.

*[Signature]*  
Agency Surgeon  
Kurram, Peshawar

(13)

Better Copy

**DIRECTORATE HEALTH SERVICES. FATA,**  
**WARSAK ROAD, PESHAWAR.**

Tel No: 091-9212109, 9212207.

Fax: \_\_\_\_\_

DHS FATA Admn

**APPOINTMENT LETTER**

Consequent upon the approval of Departmental Selection Committee held on.  
18.09.2008

Miss/ Mr. Naseem Begum D/o, W/o Muhammad Razaq

Resident of: SWAT

Is hereby appointed as Charge Nurse BPS No.14 plus usual allowances as admissible under the rules.

His/ Her appointment will be subject to the following terms and conditions:-

1. That your appointment is on the contract basis for period of three years and your services are liable to be terminated at any time without any notice or reason being assigned
2. That you are declared medically fit for Govt. service.
3. That post is not transferable, and you must serve for three years on the said post.
4. That you will be governed by such rules and orders as may be issued by the Government of NWFP, from time to time for the category of the Government servant to which he/she belong.
5. That if you wish to resign at any time, you will resign in written with 30 days notice or you will forfeit one month pay, in lieu thereof and will continue to serve the government till the acceptance of your resignation by the competent authority.
6. That you will be posted anywhere in FATA/ FR.
7. That you will not be entitled to any TA/ DA for Medical examination and joining the first appointment.
8. The offer is subject to the availability of vacant post.
9. If you accept the post on above terms and conditions you should report to Agency Surgeon Kurram within 15 days. The offer will be cancelled if you fail to report for duty within above mentioned period.

*Attest*  
*[Signature]*

.....Sd.....  
**Director Health Services**  
**FATA, NWFP, PESHAWAR**

No: 1716-1720 / DHS/ FATA/ Admn

Dated 23/10/2003

Copy forwarded to the:-

1. Deputy Director (Admn) DHS/ FATA NWFP, Peshawar.
2. Concern Agency Surgeons/ Medical Superintendent.
3. Concern Agency Account Officer.
4. Official concerned.

**Director Health Services**  
**FATA. NWFP. Peshawar.**

(14)

Annexure "B" Annex "D"

(10) 761

(12)

Regularization of Services Laws

No. PA/NWFP/Legis/90/3199:---The North-West Frontier Province Employees on contract Basis (Regularization of Services) (Amendment) Bill, 1990 having been passed by the Provincial Assembly of the North-West Frontier Province on the 21<sup>st</sup> February, 1990, and assented to by the Governor of North-West Frontier Province on the 24<sup>th</sup> February, 1990 is hereby published as an Act of the Provincial Legislature of the North-West Frontier Province.

Preamble:---WHEREAS it is expedient to amend the North-West Frontier Province Employees on Contract Basis (Regularization of Services) Act, 1989 (N.W.F.P. Act No. VIII of 1989), for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement.---(1) This Act may be called the North-west Frontier Province Employees on contract Basis (Regularization of Services)(Amendment) Act,1990..  
(2) It shall come into force with effect from 13th November,1989.

2. Substitution of Section 4 of NWFP Act No. VIII of 1989.---In the North-West Frontier Province Employees on Contract basis (Regularization of Services) Act,1989 (N.W.F.P Act No. VIII of 1989), section 4 shall be substituted by the following new section and shall always be deemed to have been so substituted:--

4. (1) Notwithstanding anything contained in any law for the time being enforce, any Civil Servant, who is or has been appointed or deemed to have been appointed against any post in any Government Department under section 3 of this Act shall be deemed to have been regularly appointed from the date of his continuous officiation, subject to eligibility, according to the service rules applicable to the post, verified by the administrative Secretary of the Department concerned.

Provided that if any Civil servant is aggrieved regarding his eligibility, he shall have one right of appeal to the Chief Secretary, Government of North-West Frontier Province, and his decision in the case shall be final;

Provided further that if there is any gap in service of any Civil Servant between this enactment and the date of appointment under section 3 of this Act, due to termination of contractual service only, the same shall be deemed to have been condoned as extraordinary leave without pay.

(2) The inter se seniority of the Civil Servants under this Act shall be determined by the Government, according to the service rules in vogue.

**North-West Frontier Province  
Civil Servants (Amendment) Act, 2005**

(N.W.F.P. Act No. IX of 2005)

An Act further to amend the North-West Frontier Province Civil Servants Act, 1973

[Gazette of N.W.F.P., Extraordinary, Page No. 202-203, 23rd July, 2005]

No. PA/NWFP/Legis:1/2005/20440.---The North-West Frontier Province Civil Servants (Amendment) Bill, 2005 having been passed by the Provincial Assembly of North-West Frontier Province on the 5<sup>th</sup> July, 2005 and assented to by the Governor of the North-West Frontier Province on 12<sup>th</sup> July, 2005 is hereby published as an Act of the Provincial Legislature of the North-West Frontier Province.

*[Handwritten signature]*

**Preamble.**---WHEREAS it is expedient further to amend the North-West Frontier Province Civil Servant Act, 1973 (N.W.F.P. Act No. XVIII of 1973), for the purpose hereinafter appearing;

It is hereby enacted as follows:---

**1. Short title and commencement.**---(1) This Act may be called the North-West Frontier Province Civil Servants (Amendment) Act, 2005.

(2) It shall come into force at once.

**2. Amendment of section 19 of N.W.F.P. Act No. XVIII of 1973.**--- In the North-West Frontier Province Civil Servants Act, 1973 (N.W.F.P. Act No. XVIII of 1973), for section 19 the following shall be substituted, namely:

**19. Pension and gratuity.**---(1) On retirement from service, a civil servant appointed on regular basis in the prescribed manner before the commencement of the North-West Frontier Province Civil Servants (Amendment) Act, 2005 (hereinafter referred to as the said Act), shall be entitled to receive such pension or gratuity as are admissible to him under the West Pakistan Civil Service Pension Rules:

Provided that in the event of the death of such a civil servant, whether before or after retirement, his family shall be entitled to receive such pension, or gratuity or both, as admissible under the said rules.

(2) A person though selected for appointment in the prescribed manner to a service post on or after the 1st day of July, 2001, till the commencement of the said Act, but appointment on contract basis, shall, with effect from the commencement of the said Act, be deemed to have been appointed on a regular basis. All such persons and the persons appointed on regular basis to a service post in the prescribed manner after the commencement of the said Act shall, for all intents and purposes be civil servant, except for the purpose of pension or gratuity. Such a Civil servant shall be entitled to receive such amount contributed by him towards Contributory Provident Fund, along with the contributions made by Government to his account in the said fund; in the prescribed manner:

Provided that in the event of death of such a civil servant, whether before or after retirement, his family shall be entitled to receive the said amount, if it has already not been received by the deceased civil servant.

(3) No pension to a civil servant, who is otherwise entitled to it, shall be admissible to him, if he is dismissed or removed from service for reasons of discipline, but Government may sanction compassionate allowance to such a civil servant, not exceeding two-third of the pension or gratuity which would have been admissible to him had he been invalidated from service on the date of dismissal or removal.

Provided that a civil servant referred to in sub-section (2), in case of such dismissal or removal, may, in addition to his own contributions to the Contributory Provident Fund, be allowed an account of such compassionate allowance, a sum not exceeding two-third of Government contributions in his account.

(4) If the determination of the amount of pension or gratuity admissible to a civil servant is delayed beyond one month of the date of his retirement or death, he or his family, in any case may be, shall be paid provisionally such anticipatory pension or gratuity as may be determined by the prescribed authority; according to the length of service of the civil servant which qualifies for pension or gratuity; and any over payment on such provisional payment shall be adjusted against the amount of pension or gratuity finally determined as payable to such civil servant or his family.

Attache







(17)

Annexure 'D'

DIRECTORATE  
GENERAL HEALTH SERVICES  
KHYBER PAKHTUNKHWA PESHAWAR

All communications should be addressed to the Director General Health Services Peshawar and not to any official by name.

OFFICE ORDER.

On the recommendation of Khyber Pakhtunkhwa Public Service Commission, the following Nurses are hereby appointed as Charge Nurses BPS-16 @ Rs. 10,000-800-34,000, plus usual allowances as admissible under the rules, on regular basis and posted against the vacant post in the Hospitals mentioned against their names with immediate effect :-

S.No.	Name with Father's Name	Place of Posting.	Remarks
01	Saima Bibi D/O Abdul Wahab	Govt. ERH Peshawar	Against the vacant post
02	Tahira Bibi D/O Abdul Khaliq	Govt. ERH Peshawar	Against the vacant post
03	Quratulam D/O Shabir Ahmad	Govt. ERH Peshawar	Against the vacant post
04	Zobia Kala Khan D/O Kala Khan	Govt. ERH Peshawar	Against the vacant post
05	Sadia D/O Gul-e-Sadbaig	Govt. ERH Peshawar	Against the vacant post
06	Nazia Nasir D/O Nasir Joseph	Govt. ERH Peshawar	Against the vacant post
07	Sana Javed D/O Javed Stephen	Govt. ERH Peshawar	Against the vacant post
08	Sanudia Hassan D/O Rasool Badshah	Govt. ERH Peshawar	Against the vacant post
09	Rukhsana Waris D/O Waris Khan	Govt. ERH Peshawar	Against the vacant post
10	Iram Naz D/O Tahir Shah	Police Services Hospital, Peshawar	Against the vacant post
11	Nasim Begum D/O Mohammad Razaq	Govt. ERH Peshawar	Against the vacant post
12	Humaira Jabeen D/O Khalid Pervaiz	HMC Peshawar	Against the vacant post

Their appointment in the Health Department Govt. of Khyber Pakhtunkhwa will be subject to the following terms and conditions -

01. They will be on probation initially for a period of one year extendable for a further period not exceeding one year.
02. Their Services can be dispensed with during the probation period, if their work and conduct found unsatisfactory
03. Their appointment will be subject to medical fitness and verification of character and antecedents/Educational qualification etc by the respective Medical Supdt. District Health Officer from the concerned Board Faculty etc
04. They will not be entitled to any TA/DA for medical examination and joining their first place of appointment
05. They will be governed by such Rules and orders as may be issued by the Government from time to time for the category of Government Servants to which they belong

*[Handwritten Signature]*

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- 06. They are liable to be posted served any where in Khyber Pakhtunkhwa P.A.F.A
- 07. They will complete normal tenure at their places of 1st posting as per Government rules.
- 08. They will submit an undertaking on judicial stamp paper stating that the documents submitted with application form are genuine and not fake. Moreover they have not been dismissed from Service by any Govt. or semi Govt organization.
- 09. If they wish to resign from Service, they will resign in writing by giving prior notice of one month OR deposit one month pay in lieu of one month's advance notice, in the Government treasury. However they will continue to serve the Government till their resignation is accepted by the competent authority.

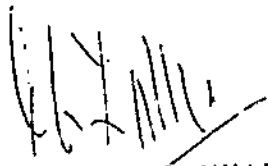
If the above terms and conditions are acceptable to them, they should submit arrival report in the institutions mentioned against their names for duty within (14) days of the issuance of this order.

Sd  
DIRECTOR GENERAL HEALTH  
SERVICES, K.P.K. PESHAWAR.


No. 20236-43 I.II. Dated Pesh. The 20/8 2013

Copy forwarded to the:-

- 01. Secretary to Govt. of Khyber Pakhtunkhwa Health Department Peshawar
  - 02. Secretary Khyber Pakhtunkhwa Public Service Commission, Peshawar
  - 03. Medical Superintendent Govt. Lady Reading Hospital, Peshawar
  - 04. Medical Superintendent Police Services Hospital, Peshawar
  - 05. Accountant General Khyber Pakhtunkhwa Peshawar.
  - 06. DA-concerned, DGHS office Peshawar.
  - 07. Charge Nurse concerned.
  - 08. Medical Superintendent HMC Peshawar.
- For information and necessary action.

  
DIRECTOR GENERAL HEALTH  
SERVICES KHYBER PAKHTUNKHWA  
PESHAWAR.

20/8/13

Attended  




**DIRECTORATE  
GENERAL HEALTH SERVICES  
KHYBER PAKHTUNKHWA PESHAWAR**

Annexure "E"

**OFFICE ORDER.**

All communications should be addressed to the Director General Health Services Peshawar and not to any official by name.

E-Mail Address: [mg@dghs.kpwa.gov.com](mailto:mg@dghs.kpwa.gov.com)  
Office Ph# 091-9210260  
Exchange# 091-9210187, 9210190  
Fax # 091-9210230

Mrs. Nasim Begum D/O Mohammad Razaq, Charge Nurse BPS-16 Govt. LRH Peshawar under transfer at the disposal of DHO Swat vide this Directorate office order bearing Endst. No. 31026-29/E.II dated 07-11-2013, is hereby posted in SGTH Swat against the vacant post of Charge Nurse, in the interest of public Service with immediate effect.

Sd/-  
DIRECTOR GENERAL HEALTH  
SERVICES, KPK PESHAWAR.

No. 35678-82 /E.II, Dated Pesh. The 19/12 /2013

Copy forwarded to the:-

- 01. Medical Supdt. Govt. LRH Peshawar.
- 02. Medical Supdt. SGTH Swat.
- 03. District Health Officer, Swat w/r to his letter No. 10429, dated 08.11.2013.
- 04. DAO, Swat.
- 05. DA-concerned, DGHS NWFP Peshawar.

For information and necessary action.

*mm*  
19/12/13

DEPUTY DIRECTRESS (NURSING),  
DGHS KHYBER PAKHTUNKHWA  
PESHAWAR.

*E.II*

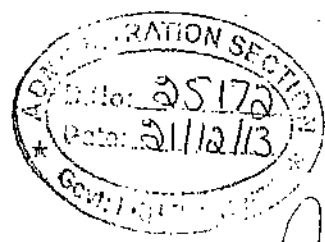
*Z*  
19/12/13

Lady Reading Hospital Peshawar.  
No. 44718-20 /E-II, Dated, 24/12 2013.  
Copy forwarded to the:-

- 1- CNS LRH Peshawar.
- 2- Budget & Accounts Office: LRH Pesh.
- 3- Charge Nurse Concerned.

for information and action.

Medical Superintendent  
Lady Reading Hospital Peshawar



*Alsh*  
*2013*

*[Handwritten signature]*

*[Handwritten signature]*  
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Annexure "F"

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JUDGMENT SHEET  
IN THE PESHAWAR HIGH COURT  
PESHAWAR  
JUDICIAL DEPARTMENT

W.P. No. 1160 of 2008

JUDGEMENT

Date of hearing 14-1-2010

Appellants: (Raj Muhammad etc) by Mr. M. Ibrahim Advocate.

Respondents: (F.D.O etc) by Mr. Qaiser Rasheed A.A.C.

15/1/10

ABDUL AZIZ KUNDLI: Pursuant to an advertisement appearing in Daily "Aaj" Peshawar dated 25.5.2004, the petitioners Raj Muhammad and 12 others being eligible applied for the post of Nurses and after due process of test and interview, they were appointed as Male Nurses (BPS-14) vide orders dated 16.8.2004, issued by District Coordination Officer, Buner (respondent No.2). Their appointment was on contract basis, initially for a period of three years and liable to automatic termination. However, in case the job is required to be continued, a fresh contract was to be executed.

M. Ibrahim

2. Later on the case of the petitioners was considered for regularization of their service and ultimately DCO Buner vide his order dated 19.04.2007 pursuant to

ATTESTED  
EXAMINER  
Peshawar High Court

Attest

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Government of NWFP E&A Department  
Circular letter No.SO-VI/E&AD/1-13/2005  
dated 10.8.2003, regularized the services of  
the petitioners with effect from 17.8.2004.

3. It appears that some  
correspondence took place between the official  
respondents and a stand was taken that the  
petitioners have been appointed against a  
scheme "Improvement and Standardisation of  
DHQ Hospital, Daggar, Buner" and it was  
proposed that the petitioners be adjusted  
against the newly approved posts.

4. Notwithstanding the fact that the  
petitioners were regular employees of the  
department, respondent No.3 i.e. Director  
General (Health) NWFP, Peshawar, vide his  
letter dated 7.7.2008 directed that the  
employees appointed against the post created  
under ADP scheme stand automatically  
terminated on completion of the scheme and  
on receipt of this letter Medical Supdt: DHQ  
Hospital, Buner i.e. respondent No.5 treated  
this as a termination letter of the petitioners  
and accordingly he endorsed the same to the  
petitioners for their information and  
compliance.

*Mirza*

*Attested*

ATTESTED  
CHIEF CLERK  
E&A DEPARTMENT  
PESHAWAR

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5. This forced the petitioners to approach this court through this writ petition and as an interim relief the following relief was prayed for :-

"Graciously, the respondents may be restrained from filling the vacancies till final disposal of the writ petition."

6. The writ petition was taken up for hearing on 30.7.2008, and while ordering clubbing of the same with W.P.No.1662/2007, status quo was ordered to be maintained.

7. In their comments, respondents 1 and 2 have taken the plea that the petitioners had been appointed under the ADP Scheme posts and since the D.G. Health Services had directed termination of services of those appointed against the said posts, therefore petitioners were endorsed the said directions for information and compliance.

8. While the petitioners were still working as contract employees, when the Government of NWFP through NWFP, Civil Servants (Amendment) Act, 2005 (IX of 2005) substituted the original section 19 of the said Act by the following new section:-

"19. Pension and gratuity.-(1) On retirement from service, a civil servant appointed on regular basis in the prescribed manner before the commencement of the North-West

*Mirza*

ATTESTED  
EXAMINER  
North West High Court

*Attested*

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Frontier Province Civil Servants (Amendment) Act, 2005 (hereinafter referred to as the said Act), shall be entitled to receive such pension or gratuity as are admissible to him under the West Pakistan Civil Service Pension Rules:

Provided that in the event of death of such a civil servant, whether before or after retirement, his family shall be entitled to receive such pension, or gratuity, or both as admissible under the said rules.

(2) A person though selected for appointment in the prescribed manner to a service or post on or after the 1st day of July, 2001, till the commencement of the said Act, but appointed on contract basis, shall, with effect from the commencement of the said Act, be deemed to have been appointed on regular basis. All such persons and the persons appointed on regular basis to a service or post in the prescribed manner after the commencement of the said Act shall, for all intents and purposes be civil servant except for the purpose of pension or gratuity. Such a civil servant shall, in lieu of pension and gratuity, be entitled to receive such amount contributed by him towards the Contributory Provident Fund, alongwith the contributions made by Government to his account in the said Fund, in the prescribed manner.

Provided that in the event of death of such a civil servant, whether before or after retirement, his family shall be entitled to receive the said amount, if it has already not been received by such deceased civil servant.

(3) No pension to a civil servant, who is otherwise entitled to it, shall be admissible to him if he is dismissed or removed from service for reasons of discipline, but Government may sanction compassionate allowance to such civil servants, not exceeding two-third of the pension or gratuity which would have been admissible to him had he been

*M. H. Khan*

ATTESTED  
EXAMINER  
Muhammad Hashim Khan

*Attest*  
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invalidated from service on the date of such dismissal or removal.

Provided that a civil servant referred to in sub-section (2), in case of such dismissal or removal, may, in addition to his own contributions to the Contributory Provident Fund, be allowed, on account of such compassionate allowance, a sum not exceeding two-third of Government contributions in his account.

(4) If the determination of the amount of pension or gratuity admissible to a civil servant is delayed beyond one month of the date of his retirement or death, he or his family, as the case may be, shall be paid provisionally such anticipatory pension or gratuity as may be determined by the prescribed authority, according to the length of service of the civil servant which qualified for pension or gratuity and any over payment on such provisional payment shall be adjusted against the amount of pension or gratuity finally determined as payable to such civil servant or his family."

9. Petitioners' case is that on no point of time the official respondents treated them as employees of a project or under the ADP Scheme; that the posts were advertised on contract basis and so were they appointed on contract and then vide order dated 19.4.2007 regularized with effect from 17.08.2004 and were since then holding regular posts and treated as such; that even if the said orders are taken out of consideration, then with the promulgation of N.W.F.P., Civil Servants (Amendment) Act, 2005 (Act IX of 2005) they

*Mishra*

ATTESTED

EXAMINER  
Maharaj Behl Commission

*Mishra*

*[Signature]*

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like other employees of other departments of the Provincial Government of N.W.F.P. automatically became regular employees and that the subsequent actions of the respondents and ultimate termination of the petitioners was an act based on malafide, without lawful authority and jurisdiction.

10. There is no denial of the fact that petitioners are appointees after the target date of 1st July, 2001 on contract basis and were in active service when the amendment aforesaid was brought in the relevant law.

11. In somewhat similar circumstances this Court has vide judgment dated 11/7/2007 passed in writ petition No.1731/2006 titled "Ms. Shagufta Syed and three others Vs. Government of N.W.F.P. and three others" exhaustively dealt with this proposition and issued writs. The said judgment has been consistently followed and there is no reason to deviate from the same.

*M. J. Khan*

12. Consequently, this W.P. No. 1160 of 2008 is allowed, the impugned actions and orders of the respondents are declared to be without lawful authority and jurisdiction. Petitioners are declared to be regular employees on their respective posts both

ATTESTED  
EXAMINER  
Peshawar High Court

*M. J. Khan*

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under the orders issued by competent authority and in terms of sub-section 2 of section 19 of N.W.F.P. Civil Servants Act, 1973 (as it was amended vide Act IX of 2005). Parties to bear their own costs.

Dt. 14.1.2010.

Sdt- Dost. Muhammed Ishaq  
Sdt- Abdul Aziz Kundi - 5

Office  
26/1

CERTIFIED TO BE TRUE COPY

Examiner  
Peshawar High Court Peshawar  
Authorized Under Section 76 Amd. Ord.

\*M. Gul\*

22-1-11  
Please Recd  
Adil Raza  
26/1

No. 10347  
Date of Presentation of Application 22-1-11  
No of Pages 21  
Copying Fee /  
Urgent Fee /  
Total 16.00  
Date of Preparation of Copy 22-1-11  
Date of Delivery of Copy 22-1-11  
Received By /

Attest  
[Signature]



to regularize the services of the appellant w.e.f 03.09.2003 till 25.01.2011 on the basis of equality and equal protection of law in the light of judgment of the august Peshawar High, Peshawar in Writ Petition No. 1662/2007, 1666/2008 and 1160/2008 decided on 14.01.2010 and upheld by the august Supreme Court of Pakistan vide C.P 170-P to 172-P & 668-P of 2010 with all consequential back benefits.

3. Brief facts giving rise to the instant appeal are that the appellant was appointed as Male Nurse (BPS-14) by respondent No.1 on the approval of respondent No.2 vide order dated 03.09.2003. It will not be out of context to mention that vide letter dated 15.01.2002 issued by the Government all the Provincial Cadre Posts in BPS-15 & below of the Health Department were converted into District Cadres. That in pursuance of the order ibid, appellant assumed the charge of his duties in DHQ Hospital Battagram after submitting his Arrival Report. That in the year 2002 the Government had introduced a Contract Policy and hence all the appointments there-after were made under the same Policy similarly the appellant were also appointed under the same Contract policy and it was specifically mentioned in the appointment order that the appointments of appellant would be governed under the same contract policy. That in the year 2005 the Government decided to grant regularization to all those employees who were appointed under the Contract Policy of 2002 and in this respect the Provincial Assembly passed an Act i.e. the NWFP Civil Servants (Amendment) Act, 2005 (hereinafter referred to

ATTESTED  
 Khair Muhammad  
 Secretary, Peshawar

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as Act-IX of 2005) whereby Section -19 of the NWFP Civil Servants Act, 1973 was substituted and accordingly all those employees who were appointed in the prescribed manner on or after the 1<sup>st</sup> July, 2001 till the commencement of the Act were declared to be regular civil servants for all intents and purposes except the Pension & Gratuity. Thus under the Act all the employees selected and appointed on contract basis stood regularized by operation of law and appellant alongwith others were regularized by the competent authority vide order dated 22.05.2008. That the appellant was issued two months notice vide letter dated 01.05.2008 for termination of his service on the ground that the service of appellant was that of project which stood expired in June 2008. In the meanwhile the said post was advertised alongwith others by Khyber Pakhtunkhwa Public Service Commission and accordingly appellant was relieved from his service in accordance with the Notice *ibid*. That in identical case under similar circumstances, the Male/Female Nurses of District Dir Lower and Malakand who were also terminated under the same ground of project employment and who were similarly appointed the way back in the year 2003 and 2004 alongwith the appellant approached the august Peshawar High Court, Peshawar in W.P No. 1662/2007, 1166/2008 which were allowed vide judgment dated 14.01.2010 on the strength of similar other judgment in W.P No. 475/2006 titled "Miss Shagufta Syed-vs-Government of NWFP and others" decided on 11.07.2007 and the same was subsequently upheld by the august Supreme Court of Pakistan vide C.P 170-P to 172-P & 668-P of 2010 decided on

Public Service Commission  
Peshawar

M/S

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15.03.2011. That the appellant preferred departmental appeal on 14.07.2011 which was duly forwarded to respondent No.3 vide letter dated 14.07.2011 but till date no positive response was received by the appellant, hence this appeal.

4. The learned counsel for the appellant argued that respondents had not treated the appellant in accordance with law/rules and policy on the subject and acted in violation of Article-4 of the Constitution of Islamic Republic of Pakistan, 1973. He further argued that the case of the appellant was identical on all fours with that of other employees of the department working in similar manner who were granted relief by the august Peshawar High Court, Peshawar therefore appellant was also entitled to the same relief under the principle of consistency and equality as laid down in the case of "Hameed Akhtar Niazi..vs..The Secretary, Establishment Division, Govt. of Pakistan and others reported in 1996 SCMR 1185 and Tara Chand and others..vs..Karchi Water and Sewerage Board, Karachi and others" reported in 2005 SCMR 499 and another judgment reported in 2009 SCMR 1. He further argued that the appellant was appointed on contract basis under the contract policy 2002 and was extended all facilities of regular employees during his contract appointment, his contract period was not further extended after the promulgation of the Act-IX of 2005 which by itself reflected that the appellant was regular employee and not a project employee. He prayed that the appeal may be accepted and service of the appellant w.e.f

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Peshawar

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03.09.2003 to 25.01.2011 may be regularized in light of similar treatment given to similarly placed persons in W.P No. 1662/2007, 1666/2008 and 1160/2008 decide on 14.01.2010 and upheld by the august Supreme Court of Pakistan vide C.P No. 170-P to 172-P and 668-P of 2010 with all consequential back benefits.

5. The learned Government Pleader resisted the appeal and argued that every case had its own merits and case of the appellant was not at par the cases of other employees decided in the cited Writ Petitions. He further argued that the appellant was a project employee appointed in a developmental scheme and his services were dispensed with on completion of the said scheme. The appellant was relieved from the project service for which proper notice was given to him and was then appointed by the Public Service Commission as Male Nurse vide order dated 22.01.2011 whose terms and conditions of appointment he accepted as a fresh employee, the said order was never challenged hence the present appeal besides being time barred was devoid of any merits and may be dismissed.

6. Arguments of learned counsels for the parties heard and record perused with their assistance.

7. From perusal of the record and hearing of the arguments of the counsels for the parties, it transpired that the appellant was appointed on contract basis on a developmental scheme but the terms and condition of the said appointment were not

APPROVED  
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their own costs. File be consigned to the record.

8. Our this single judgment will also dispose of in the same manner appeals No. 1325/2013 titled Mst. Maryam Bahadar, No. 1905/2010 titled Hassan Nawab and No. 1907/2010 titled Wazir Ahmad, where common question of law and facts are involved.

Certified to be true copy  
3-12-2015  
EX. JUDGE  
Kyber Peshawar  
Service Tribunal,  
Peshawar

Announced  
3-12-2015

Sd/- Abdul Latif,  
Member

Sd/- Pir Bakhsh Shah,  
Member

Date of Presentation of Application 10-12-15  
Number of Wards 2800  
Copying Fee 16 00  
Urdu 2 00  
Total 18 00  
Signature [Signature]  
Date of Copy 10-12-15  
Date of Delivery 10-12-15

Attest  
[Signature]

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL.

Service Appeal No. 1001/2014

Date of Institution... 08.07.2014

Date of decision... 08.01.2018

Samina Begum Charge Nurse, BMC Shah Mansoor, Swabi. ... (Appellant)

Versus1. The Secretary Government of Khyber Pakhtunkhwa Health Department  
Peshawar and two others. ... (Respondents)Mr. Khalid Rahman, ... For appellant.  
Advocate.Mr. Kabeerullah Khattak, ...  
Addl. Advocate General ... For respondents.MR. NIAZ MUHAMMAD KHAN, ... CHAIRMAN.  
MR. GUL ZEB KHAN, ... MEMBERJUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - This judgment shall also dispose of connected service appeals 1489/2010 Khalida Durrani, No. 1490/2010 Khalida Azim, No. 1491/2010 Shabana Gul, No. 1591/2010 Shabo Gul, No. 1593/2010 Shazia Akbar Shah, No. 1595/2010 Nasreen Begum, No. 1596/2010 Bibi Maryam, No. 1597/2010 Zebun Nisa, No. 1598/2010 Dil Nara Begum, No. 1601/2010 Sumayia Nawab, No. 930/2014 Mst. Nazish Begum, No. 931/2014 Mst. Bibi Amina, No. 932/2014 Mst. Sadaqat, No. 1002/2014 Mst. Maryam Bibi, No. 1003/2014 Mst. Foiza, No. 1004/2014 Mst. Shaken, No. 1005/2014 Mst. Irshad Bibi, No. 1006/2014 Mst. Aqila Naz, No. 1007/2014 Mst. Gulzar Begum, No. 1008/2014 Mst. Yasmeen, No. 1009/2014 Mst. Saieda Naz as in all the appeals common questions of law and facts are involved.

*Attest*  
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2. Arguments of the learned counsel for the parties heard and record perused.

### FACTS

3. The appellants were appointed in the respondent department on 14.2.2005 in pursuance of an advertisement published in the year, 2003. During their service, the Khyber Pakhtunkhwa Civil Servants (Amendment) Act, 2005 was promulgated on 23<sup>rd</sup> July, 2005. The appellants continued their service till 2008 when they were informed by the department that their posts were project posts and their services would be terminated. That in the meanwhile, the said posts were re-advertised to be filled through Khyber Pakhtunkhwa Public Service Commission. The appellants in order to save their services applied through Public Service Commission and got appointed in 2008 on regular basis. The appellants are still serving in the department. The controversy in the present appeals is whether their service stood regularize by dint of law through the amendments mentioned above.

### ARGUMENTS

4. The learned counsel for the appellants argued that the appellants alongwith other persons were appointed in the year, 2005 in District Swabi and also in some other districts of the Province. That one of the appointees (Miss Nusrat) in District Swabi (also appointed alongwith the appellants on 14.2.2005) did not apply for appointment through Public Service Commission and her services were terminated. That she knocked the door of this Tribunal but with no success. That finally she approached the august Supreme Court of Pakistan and got relief from the august Supreme Court of Pakistan vide judgment dated 31.12.2010 in Civil Petition No. 326-P/2009. That the august Supreme Court of Pakistan held the services of the said Miss Nusrat regularized under Section 19(2) of the Act mentioned above. That similarly placed persons approached this Tribunal in service appeal No. 1815/2011

*Alhuda*  
(\*)

entitled "*Pir Maab Shah Vs. EDO (Health) Baitagram and others*" decided on 3.12.2015 and this Tribunal directed the department to reconsider their cases in the light of the judgment of the august Supreme Court of Pakistan qua the treatment of similarly placed persons. The learned counsel for the appellants also relied upon a combined judgment of this Tribunal in Service Appeal No. 531/2013 entitled "*Mst. Rahmat Pass Vs. Secretary Government of Khyber Pakhtunkhwa Health Department Peshawar and others*" decided by this Tribunal on 5.10.2016 with similar directions to the department. Learned counsel for the appellant also relied upon an unreported judgment of august Supreme Court of Pakistan in Civil Petitions Nos. 170-P. to 172-P and 668-P. of 2010, entitled "*Government of NWFP(now Khyber Pakhtunkhwa) Vs. Raj Muhammad and others*", decided on 15.3.2011 wherein the august Supreme Court of Pakistan while relying upon *Miss Nusrat's* case mentioned above granted relief to the then appellants.

5. Arbab Yasar Hayat, Advocate and Mr. Haroonur Rashid, Advocate, learned counsels for the appellants in connected appeals also adopted the arguments of Mr. Khalid Rahman, Advocate.

6. On the other hand, the learned A.A.G argued that the present appeals are not maintainable as there was no original or appellate order within the meaning of Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974. In this regard, he relied upon a judgment reported as 2006-SCMR-1630. He further argued that the appellants were employed against the Project posts and they could not be regularized under the Amended Act mentioned above. That the appellants by themselves opted to appear before the Public Service Commission and had been estopped to agitate the issue of their project/contract employment.

Attest  
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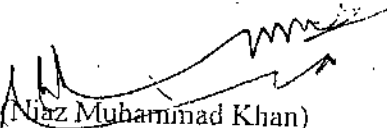
CONCLUSION

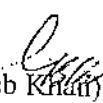
7. It is now a settled principle of administrative law that similarly placed employees are to be dealt with similarly. So much so that no limitation runs against similarly placed employees. Reliance is placed on 2002-PLC(C.S) 268.

8. Coming to the original or appellate order, the advertisement of the posts against which the appellants were working to be filled through Public Service Commission was itself an original order. The appellants filed departmental appeals on different dates. As held above no limitation runs in such like cases and this Tribunal has the jurisdiction to decide the appeals.

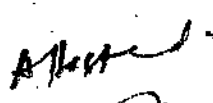
9. The cases mentioned by the learned counsel for the appellants in his arguments appear to be similar to that of the cases of the present appellants. This Tribunal had in other cases mentioned above by accepting the appeals directed the department to reconsider the cases of the appellants if similarly placed persons at par with them.

10. In view of the above, the present appeals are accepted and the department is directed to examine the same in accordance with law and rules as to whether the present appellants are similarly placed person and if so treat them similarly. The department is directed to decide the same within a period of ninety days from the date of receipt of this judgment. Parties are left to bear their own costs. File be consigned to the record room.

  
(Niaz Muhammad Khan)  
Chairman

  
(Gul Zeb Khan)  
Member

ANNOUNCED  
08.1.2018

  
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1001/2014

08.1.2018

Counsel for the appellant and Addl. AG for the respondents present. Arguments heard and record perused.

This appeal is accepted as per our detailed judgment of today. Parties are left to bear their own costs. File be consigned to the record room.

*[Signature]*  
Member

*[Signature]*  
Chairman

ANNOUNCED  
08.01.2018

*[Handwritten marks]*

Annexure "4"

(38)

Dated - 29.8-2013  
Daisy No 3899  
Sec - Health  
Office Peshawar

To,

The Secretary,  
Govt of Khyber Pakhtunkhwa  
Health Department, Civil Secretariat,  
Peshawar.

Subject:

**DEPARTMENTAL APPLICATION FOR  
REGULARIZATION OF SERVICES OF THE  
APPELLANT DATED 23/10/2003 TILL  
20/08/2013 ON THE BASIS OF EQUALITY  
AND EQUAL PROTECTION OF LAW IN THE  
LIGHT OF THE JUDGMENT RENDERED BY  
THE AUGUST PESHAWAR HIGH COURT  
PESHAWAR IN A WRIT PETITION NO:  
1662/2007, 1166/2008, 1160/2008  
DECIDED ON 14/01/2010 AND UPHELD BY  
THE AUGUST SUPREME COURT OF  
PAKISTAN VIDE C.P-170-P AND 172-P &  
668-P OF 2020.**

**RESPECTED SIR!**

I have the honour to submit an departmental application for your favorable consideration on the following facts & grounds:-

1. That in the year 2003 advertisement was floated through press, inviting applications for charge nurse. Appellant being qualified in terms of advertisement applied for the same and after going through selection process, the Departmental Selection Committee held on 18/09/2003 recommended her and finally she was appointed as Charge Nurse PBS-14 by the Director Health Services Fata Peshawar vide order dated 23/10/2003.

*Attest*  
*[Signature]*

2. That in pursuance of the order ibid, appellant assumed the charge of her duties at Agency

Surgeon Kurram Parachinar, thereafter appellant started performing her duties to the entire satisfaction of high-ups. Moreover, respondents also maintained her service book wherein necessary entries were also entered from time to time and she was also allowed all the facilities & privileges as admissible to other regular employees.

3. That in the year 2002 the government has introduced a contract policy and hence all the appointments thereafter were made under the same policy, similarly, the appellant was also appointed under the same contract policy.
4. That in the year 2005, the government decided to grant regularization to all those employees who were appointed under the contract policy of 2002 and in this respect the Provincial Assembly passed an Act, 2005 whereby Section 19 of the NWFP Civil Servants Act, 1973 was substituted and accordingly all those employees who were appointed in the Provincial manner or after the 1<sup>st</sup> July, 2001 till the commencement of this Act were declared to be regular civil servants for all intends & purposes except for the purpose of pension & gratuity. Thus under the Act *ibid*, all the employees selected and appointed on contract basis stood automatically regularized by operation of law.

*Attest*  
*[Signature]*



(40)

5. That appellant after the completion of three years period of contract basis, advertisement was floated and appellant again applied for post and appellant was again appointed for as Charge Nurse BPS-14 on contract basis for a period of three years by the Chief Executive Lady Reading Hospital Peshawar vide order dated 19/12/2006.
6. That some posts of Charge Nurse BPS-16 were advertised by the Public Service Commission and thus appellant was compelled to apply for the same and after undergoing the selection process, she was recommended & appointed as Charge Nurse vide order dated 20/08/2013 and continued on the same post without termination of the services.
7. That the appellant was unaware of the Judgments aforesaid and just now she came to know about the same. As the case of appellant is identical on all fours with that of other employees of the Department working in similar manner who were granted relief by the August Peshawar High Court, Peshawar, therefore, appellant is also entitled to the same relief under the principle of consistency and equality as laid down in the case of "*Hameed Akhtar Niazi....Vs....The Secretary, Establishment Division, Govt. of Pakistan and others*" reported in 1996 SCMR 1185 and *Tara Chand and Others ... Vs.... Karachi Water and Sewerage Board,*

Attested



(41)

Department working in similar manner who were granted relief by the August Peshawar High Court, Peshawar, therefore, appellant is also entitled to the same relief under the principle of consistency and equality as laid down in the case of "*Hameed Akhtar Niazi....Vs....The Secretary, Establishment Division, Govt. of Pakistan and others*" reported in 1996 SCMR 1185 and "*Tara Chand and Others ... Vs.... Karachi Water and Sewerage Board, Karachi & Others*" reported in 2005 SCMR 499 and another Judgment reported in 2009 SCMR1.

It is, therefore requested that on the acceptance of this Departmental Application, the service of the appellant may graciously be regularized 20/10/2003 till 20/08/2013 in the light of the judgment deliver by the August Peshawar High Court, Peshawar cited above with all back benefits.

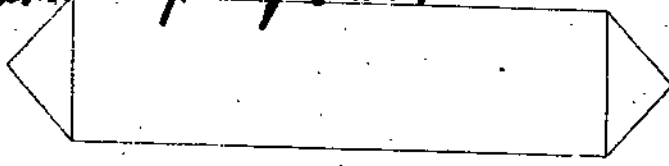
Your Faithfully

*Attested*  
*[Signature]*

Nasim Begum  
Charge Nurse  
SGTH, Swat

*Nasim Begum*

Dated: 28/08/2013



2020ء منجانب

بنام

صداقت نسیم شمیم صاحبہ سیکرٹری محکمہ

مورخہ

مقدمہ

دعویٰ

جرم

### باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ کے لئے  
آن مقام نشاندہ کیلئے

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت 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۔ از بصورت ضرورت  
مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے  
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے  
اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے  
سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں  
گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

2020ء

ماہ مارچ

الرقوم 16

العراق

کے لئے منظور ہے۔

مقام

Nasim Begum

صداقت نسیم شمیم صاحبہ سیکرٹری محکمہ

صداقت نسیم شمیم

Before The Service Tribunal KPK Peshawar

Mst Naseem Begum

vs

Health Deptt

APPLICATION FOR Extension of Timing to  
DEPOSITE REGISTRATION FEE

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Sib

① That the above title appeal is pending  
before this honorable tribunal which  
is fixed today dated 5-4-21

② That appellat was unaware for  
the depositing of fee.

It is requested to extension of  
timing for deposit the require  
fee accordingly.

Dated 5-4-21

Appellant

through

Zahid Gul Advocate

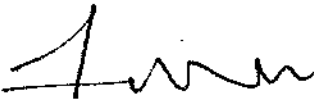
of the Preliminary Objections, the matter has already been decided by this Honorable Court which got finality.

**ON GROUNDS:**

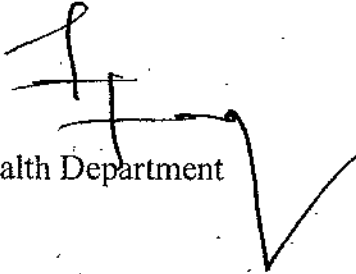
- A. Incorrect. The appellant has been treated in accordance with law and rules.
- B. Incorrect. As per dictum laid down by the apex court is that law helps vigilant and not indolent. Ignorance of law does not extent period of limitation. Hence the instant appeal being time barred is liable to dismissed.
- C. Incorrect. Each and every case has different facts and circumstances and as per dictum laid down by Supreme Court is that each case is to be decided on its own merit. However, is it worth mentioning that the matter has already been decided by this Honorable Court vide its Judgment dated 12/11/2019 case titled Dr. Alif Jan and others versus Secretary Health Khyber Pakhtunkhwa whereby the Honorable Court dismissed all the appeals filed by similarly placed doctors.
- D. Incorrect as per paras above.
- E. Incorrect as per paras above.
- F. No comments being legal. However, the replying respondents seek permission of this Honorable Court to adduce other grounds during final arguments of the appeal.

**PRAYER:**

It is therefore humbly prayed that on acceptance of the comments, the instant appeal of the appellant may very graciously be dismissed with costs.



Secretary to Govt. of  
Khyber Pakhtunkhwa Health Department  
**Respondent No. 01**



Director General Health Services,  
Khyber Pakhtunkhwa  
**Respondent No. 02**



District Health Officer Swat  
**Respondent No. 03**

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA

SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 3316 OF 2020

Nasim Begum.....Appellant

**Versus**

Govt. of Khyber Pakhtunkhwa and others.....Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

Respectfully Sheweth:

Preliminary Objections:-

1. That the appellant has got neither cause of action nor did locus standi to file the instant appeal.
2. That the appellant has filed the instant appeal just to pressurize the respondents.
3. That the instant appeal is against the prevailing Law and Rules.
4. That the appeal is not maintainable in its present form and also in the present circumstances of the issue.
5. That the appellant has filed the instant appeal with mala-fide intention hence liable to be dismissed.
6. That the appellant has not come to the Tribunal with clean hands.
7. That the appeal is time barred.
8. That the Honorable Tribunal has already adjudicated the matter vide its Judgment dated 12/11/2019 case titled "Dr. Alif Jan and others Vs Secretary Health Khyber Pakhtunkhwa" whereby the Honorable Court dismissed all the appeals filed by similarly placed doctors, hence the instant appeal is hit by Rule-23 of the Khyber Pakhtunkhwa Service Tribunal Rules 1974.
9. That the instant appeal is bad for mis-joinder of unnecessary and non-joinder of necessary parties..

ON FACTS:

1. Pertains to record. However, it is worth mentioning that she was appointed on contract basis for a period of three years.
2. Pertains to record.
3. Pertains to record. However the appellant was not appointed under that policy.
4. Correct to the extent of regularization Act, 2005, however, case of the appellant did not come within the purview of the Act, hence the appellant was not regularized.
5. Pertains to record. However, the appellant admits in para that she was not regularized under the regularization Act, 2005 that's why she applied for another contract appointment.
6. Correct to the extent that she was appointed as Charge Nurse vide order dated 20/08/2013 on the recommendation of Khyber Pakhtunkhwa Public Service Commission.
7. Pertains to record.
8. Pertains to court judgment; however, case of the appellant is totally different from those contract employees who were terminated from service and subsequently reinstated and regularized on direction of the Honorable Court, however the appellant was appointed on the recommendation of Public Service Commission.
9. Incorrect. The appellant is not similarly placed person. The departmental appeal annexed with the appeal is badly time barred. Furthermore, as stated in Para No. 8

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA**

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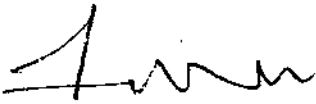
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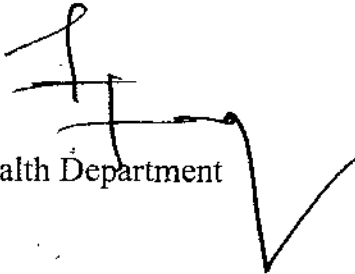
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**Respondent No. 02**



District Health Officer Swat  
**Respondent No. 03**



18.	Firdous Jehan Assistant Professor of Islamiyat, GGDC, Takht-e-Nasrati(Karak)	GGC, Takht-e-Nasrati (Karak)	A.V.P as Principal On acting charge basis
19.	Alia Mustafa Assistant Professor of Islam: GGC, Ekka Ghund	Placed at the disposal of D.E.FATA	Against V/post On acting charge basis
20.	Farah Naz Assistant Professor of Chem: GGC, Haripur	GGC, Khalabat Township (Haripur)	Against V/post
21.	Tayyaba Bibi Assistant Professor of H/Eco., GGC, Pabbi	GGDC Takhtbai Mardan	Against V/post
22.	Naila Aman Assistant Professor of Pak Study, GGC, Surani Bannu	GPGGC, Bannu	A.V.P
23.	Nusrat Shaheen Assistant Professor of Islam: GFC(W), Peshawar	GGC, Karak	Against V/post On acting charge basis
24.	Itrat Fatima Assistant Professor of History, GGC, Jamrud Khyber Agency	GGC, Manki (Swabi)	Against V/post On acting charge basis
25.	Bushra Zaheen Mona Assistant Professor of History, G.T.B.G.C, Charsadda	GGC Kernal Sher Kallay Swabi	Against V/post On acting charge basis
26.	Shaista Islam Assistant Professor of Physics, GGC, Ekka Ghund	GGC, Nowshera	Against V/post
27.	Syeda Zoonah Ali Assistant Professor of Pol:Sc, GGC No.1 Mansehra	GGC No.1 Mansehra	Against V/post
28.	Yasmeen Begum Assistant Professor of Islam: GGC No.1 Abbottabad	GGC, No.1 Abbottabad	Against V/post On acting charge basis
29.	Saira Ilyas Assistant Professor of Pak Study, GGC, No. 2 Abbottabad	GGC No.2 Abbottabad	Against V/post
30.	Shakeela Tariq Assistant Professor of Urdu, GGC, Sheikh Maltoon Mardan	GGC, Sheikh Maltoon (Mardan)	Against V/post On acting charge basis
31.	Zakia Ilyas Assistant Professor of English, GGC, Kanju Swat	GGC, Kanju (Swat)	Against V/post On acting charge basis
32.	Azra Khatoon Assistant Professor of Urdu, GGC, Havelian.	GGC, Havelian (Abbottabad)	Against V/post On acting charge basis
33.	Nida Bukhari Assistant Professor of Chem: GGC, Hayatabad Peshawar	GGDC Mathra Peshawar	Against V/post
34.	Saima Azhar Assistant Professor of Botany, GGC, No. 1 Abbottabad	GGC, Mankarai (Haripur)	Against V/post
35.	Rukhsana Bibi Assistant Professor of English, GGC, Sarai Saleh	GGC, Sarai Saleh (Haripur)	Against V/post On acting charge basis
36.	Najma Assistant Professor of History, GGC, Khawaza khela (Swat)	GGC, Khawaza Khela (Swat)	Against V/post On acting charge basis
37.	Mussarat Jabeen Assistant Professor of Zoology, GGC, Chitral.	GGC, Booni Chitral	As Incharge Principal Against V/post
38.	Rubina Masood Assistant Professor of English, GGC No.1 D.I.Khan	GGC No.1 DIKhan	Against V/post On acting charge basis
39.	Zahida Khatoon Assistant Professor of Pol:Sc GGC, Mathra Peshawar	Placed at the disposal of D.E.FATA.	Against V/post
40.	Noreen Haleem Assistant Professor of Urdu, GGC, Peshawar	GGC, Nowshera	Against V/post On acting charge basis
41.	Rehana Yasmin Assistant Professor of Urdu, GFC(W), Peshawar	GCGC, Peshawar	Against V/post On acting charge basis
42.	Shaheen Begum Assistant Professor of Stats, GGC, Parachinar.	Placed at the disposal of D.E.FATA.	Against V/post On acting charge basis
43.	Irum Naz Assistant Professor of Chemistry GPGGC, Haripur.	GPGGC, Haripur	Against V/post On acting charge basis
44.	Sadia Rana Assistant Professor of H/Eco: GGC, K.D.A Kohat	GGC, KDA, Kohat	Against V/post
45.	Shakila Begum Assistant Professor of Isl. GPGGC, Kohat	GPGGC, Kohat	Against V/post On acting charge basis
46.	Tabassum Ara Assistant Professor of Physics, G.T.B.G.C, Charsadda	G.G.D.C No.1, Charsadda	Against V/post On acting charge basis
47.	Nusrat Shaheen Assistant Professor of Psychology, GGC, Kanju Swat	GGC, Kanju (Swat)	Against V/post
48.	Mussarat Begum Assistant Professor of History, GGC, Maneri (Swabi)	GGC, Maneri (Swabi)	Against V/post On acting charge basis
49.	Kausar Shabana Assistant Professor of Urdu GFC(W), Peshawar	GGDC Manki	Against V/post On acting charge basis

**LIST OF D.B CASES FIXED BEFORE MR. SALAH-UD-DIN MEMBER  
(JUDICIAL) AND ROZINA REHMAN MEMBER (JUDICIAL)  
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.**

**23.08.2022 (TUESDAY)**

**ARGUMENTS.**

S.No.	Appeal No.	Appellants Name	Department	Next Date
1.	33/2018	M. Sajid	Police	
2.	43/2019	Saeed Khan	SMBR	
3.	342/2019	Sabit Khan	C&W	
4.	763/2019	Javed Khan	SMBR	
5.	1145/2019	Abdul Munir	Education	
6.	635/2020	Sikandar Khan	Education	
7.	887/2020	Jan Baz	D.C	
8.	3316/2020	Mst. Nasim Begum	Health	
9.	5673/2020	Muhammad Hayat	Higher. Edu	
10.	6345/2020	Rehman Gul (1)	Education	
11.	8140/2020	Akhtar Zaman (1)	Education	
12.	1066/2021	Niaz Ali	Education	
13.	1620/2021	Fazal Rabi	Education	
14.	3190/2021	Naimat Ullah (1)	Police	
15.	4978/2021	Amin-ul-Haq	Education	
16.	4988/2021	Amir Muhammad	Wildlife	
17.	4989/2021	Amin-ur-Rehman	Education	
18.	7760/2021	Mst. Farzana Hassan	Education	
19.	7763/2021	Mst. Naila Gul	Education	
20.	7845/2021	Said Wali	Police	
21.	915/2022	Zulfiqar Ali Khan	Prosecution	
22.	Review 470/2022	Naeema Shaheen	Education	

READER