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1664/2023

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BEFORE THE BEFORE THE KHYBER PAKHTUNKHUWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No 1664 Of 2023

Bibi Halima

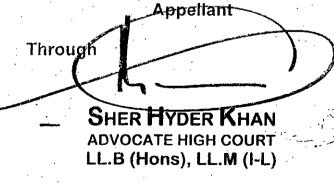
VERSUS

Government of KPK through Chief Secretary & others

INDEX

S.No.	Description of Documents	Annexure	Pages
			,
1.	Grounds of Service Appeal		15
2.	Affidavit		6
3.	Addresses of Parties		7
4.	Copy of CNIC Documents	"A"	8
5.	Copy of Order / Judgment Dated; 20-03-2023	"B"	9
	Supreme Court of Pakistan		•
6.	Copy of Departmental Appeal Dated; 18-04-2023	"C"	1011
7.	Copy of service book	"D"	1219
8.	Copy of Matric Certificate, CNIC and Pay slip	"E"	2024
9.	Wakalat Nama	a prima a solution appropria	25

Dated; 15-08-2023



The Magister & Associates 103, Said Anwar Plaza, Debgari Gardens Peshawar Cantt Ph: 331-2214005 Cell: 0336-9377022

BEFORE THE BEFORE THE KHYBER PAKHTUNKHUWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No 1654 Of 2023

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W/o Nazir Ahmad Resident of Lall House, Mohallah Goldur Chitral Town District and Tehsil Chitral Lower

.....Appellant

VERSUS

- 1. Government of Khyber Pakhtunkhwa through Chief Secretary KPK at Civil Secretariat Peshawar.
- 2. Secretary to Government of Khyber Pakhtunkhwa Elementary and Secondary Education Department, at Civil Secretariat Peshawar.
- 3. Director Elementary and Secondary Education Department, at Civil Secretariat Peshawar.

.....Respondents

APPEAL U/S 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974, AGAINST THE ENTRY IN SERVICE BOOK IN RESPECT OF DATE OF BIRTH OF THE APPELLANT; WHICH IS 20.10.1968 BUT HAS WRONGLY BEEN MENTIONED AS 20.10.1964;

PRAYER:

On acceptance of the instant service appeal the impugned entry in respect of date of birth may please be corrected as 20.10.1968 according to law.

RESPECTFULLY SHEWETH:

Brief facts and grounds giving rise to the instant service appeal are as under;

ON FACTS

- 1. That the names and addresses of the parties have correctly been given in the head note of the instant service appeal, which are sufficient for the purpose of effecting their proper services and citation etc.
- 2. That the appellant is law abiding citizen of Islamic Republic of Pakistan and serving the respondent department in (BPS-19). Copy of CNIC is attached herewith as <u>Annexure "A"</u>
- 3. That the appellant got knowledge of the wrong entry from perusal of the service book and there after filed suit for declaration before the Civil Court for the correction of her date of birth in the service book; but unfortunately, the same has been concurrently dismissed on the ground that the civil court has no jurisdiction to entertain the suit in respect of any entry in service record of a civil servant. However, the august supreme court of Pakistan vide its order dated; 20.03.2023 disposed off appeal of the appellant with the observation that the appellant is at liberty to avail the appropriate remedy before the competent forum. Copy of Judgment Dated; 20-03-2023 is *Annexure "B"*
- 4. That in pursuance to the order/judgment of Supreme Court of Pakistan Dated; 20.03.2023 the appellant submitted departmental appeal before the respondent No. 1 dated; 18.04.2023. Copy of Departmental Appeal Dated; 18-04-2023 is *Annexure "C"*
- 5. That since 18-04-2023 the departmental appeal of the appellant is pending before the respondent No. 1 without any response and

plausible reasons hence; the instant service appeal on the grounds inter alia.

GROUNDS

- **A.** That in action of the respondents is without any justification and basic norms of justice hence; liable to indulgence of the Honorable Tribunal.
- B. That the impugned entry has been made by the officials of the respondent department and there is no role of the appellant in this respect hence; the appellant cannot be deprived of her fundamental rights without any fault. Copy of service book is attached as *Annexure "D"*
- C. That the date of birth of the appellant has been correctly mentioned in her educational testimonials and CNIC but the respondent department has ignored this fact while entering date of birth of the appellant in her service book and though the documents are attached with the departmental appeal but the respondents are reluctant to consider the same. Copy of CNIC, Matric Certificate and Pay slip are attached as Annexure "E"
- D. That the appellant has not been treated in accordance with law, Rules and her rights guaranteed under the law therefore, this conduct of the respondents tantamount to naked violation of the provisions of the Civil Servants laws.
- **E.** That the impugned entry is not backed by any legal or cogent reason and is a classic case of negligence on the part of the respondents and mis-use of authority.
- F. That the acts and omission of respondents is against the principle of the natural justice and fair play.

- **G.** That the instant appeal relates to terms and conditions of civil servant and this honorable tribunal has been vested with statutory power to entertain the matter.
- H. That the respondents violated Article, 4 of the Constitution of Islamic Republic of Pakistan, 1973 with its heading "Rights of Individual to be dealt with in accordance with the Law" it is mandatory for respondents to comply with law and rules in fair, equal and lawful manner as well as prohibitory for them to act in a manner which is not admissible in law/rules; hence their such act with effect to compel the Appellant for retirement is totally void.
- I. That from very prospect of the Constitution of Islamic Republic of Pakistan, 1973 and policies governing the subject Respondents have no excuse at all to avoid vested rights of the Appellant in matter of performance of service.
- J. That according to Article, 25 of the Constitution of Islamic Republic of Pakistan, 1973 all citizens are equal before Law and are entitled to equal protection of Law but the respondents violated this Article of the Constitution.
- K. That act of respondents with effect to deny right to service of Appellant and their omission to protect the same is; against Article, 27 of the Constitution of Islamic Republic of Pakistan, 1973 with its heading "Safe Guard against discrimination in services".
- L. That the petitioner seeks leave of this Honorable Court to argue/raise additional grounds at the time of arguments.

It is therefore; humbly submitted on acceptance of the instant service appeal the impugned entry in respect of date of birth may please be corrected as 20.10.1968 according to law. Any such relief which this honorable court deems proper and just be granted to the Appellant against the respondents keeping in view the circumstances of the case.

Dated; 15-08-2023

Appellant

Counsel

SHER HYDER KHAN ADVOCATE HIGH COURT LL.B (Hons), LL.M (I-L)

The Magister & Associates 103, Said Anwar Plaza, Dabgari Gardens Peshawar Cantt Ph: 091-2214005 Cell: 0336-9377022

CERTIFICATE;

It is certified that no other service appeal on the same subject has been filed before this Honourable Tribunal.

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BEFORE THE BEFORE THE KHYBER PAKHTUNKHUWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No

Of 2023

Bibi Halima

VERSUS

Government of KPK through Chief Secretary & others

AFFIDAVIT;

I, Bibi Halima W/o Nazir Ahmad Resident of Lall House, Mohallah Goldur Chitral Town District and Tehsil Chitral Lower Appellant; do hereby solemnly affirm and declaré on Oath that the contents of the accompanying Application for temporary injunction along with interim relief; are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Honourable Tribunal.

Deponent Bibi Halima W/o Nazir Ahmad

Werified by;

SHER HYDER KHAN ADVOCATE HIGH COURT LL.B (Hons), LL.M (I-L)



BEFORE THE BEFORE THE KHYBER PAKHTUNKHUWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No

Of 2023

Bibi Halima

VERSUS

Government of KPK through Chief Secretary & others

ADDRESSES OF PARTIES

APPELLANT

Bibi Halima

W/o Nazir Ahmad Resident of Lall House, Mohallah Goldur Chitral Town District and Tehsil Chitral Lower

RESPONDENTS

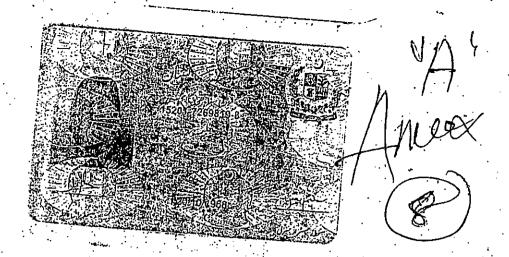
- 1. Government of Khyber Pakhtunkhwa through Chief Secretary KPK at Civil Secretariat Peshawar.
- 2. Secretary to Government of Khyber Pakhtunkhwa Elementary and Secondary Education Department, at Civil Secretariat Peshawar.
- 3. Director Elementary and Secondary Education Department, at Civil Secretariat Peshawar.

Appellant

Through,

SHER HYDER KHAN ADVOCATE HIGH COURT LL.B (Hons), LL.M (I-L)

The Magister & Associates 103, Said Anwar Plaza, Dabgari Gardens Peshawar Cantt Ph: 091-2214005 Cell: 0336-9377022





IN THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

PRESENT:

Mr. Justice Sardar Tariq Masood Mr. Justice Athar Minallah

C.M.A. No. 585 of 2023

In

Civil Petition No.98-P of 2014

(On appeal against the judgment dated 22.11.2013 of the Peshawar High Court, Circuit Court, Chitral passed in C.R. No. 09 of 2012 with C.M. No. 12 of 2012)

Mst. Haleema Bibi

Applicant (s)

Versus

Chairman Board of Intermediate & Secondary Education, Peshawar and others

... Respondent(s)

For the applicant(s):

Mr. Muhammad Ajmal Khan, ASC/AOR

(Through video link from Peshawar)

Respondent(s):

Not represented

Date of hearing:

20.03.2023

ORDER

SARDAR TARIQ MASOOD, J.

C.M.A. No. 585 of 2023

For the reason mentioned in the instant application, same is allowed and the main petition is restored to its original number.

Civil Petition No.98-P of 2014

In view of para No. 5 of the impugned order, learned counsel for the petitioner, in order to avail appropriate remedy before any appropriate forum, wishes to withdraw this petition which is dismissed as such.



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Annexue"C" Sectrapry EXSE

191-4-2023

THE CHIEF SECRETARY
GOVERNMENT OF KHYBER PAKHTUNKHWA
AT Civil SECRETARIATE PESHAWAR

SUBJECT: DEPARTMENTAL APPEAL / REPRESENTATION FOR RECTIFICATION OF DATE OF BIRTH OF THE APPELLANT IN HER SERVICE BOOK AS 20.10.1964 INSTEAD OF 20.10.1968 WHICH WAS WRONGLY BEEN ENTERED IN HER SERVICE BOOK DUE TO CLERICAL MISTAKE.

RESPECTFULLY STATED;

Facts and Grounds giving rise to the instant departmental appeal are as under;

- 1. That the appellant is serving in the Elementary and Secondary Education Department, Government of Khyber Pakhtunkhwa, since 1989.
- 2. That the correct date of birth of the appellant is 20.10.1968, while in her service book, it has wrongly been mentioned as 20.10.1964. correct dated of birth as mentioned her Original Metric Certificate (Passed in 1982) along with Computerized National Identity Card Annexed.
- 3. That for correction / rectification of date of birth in her service record the appellant instituted suit for declaration before the court of Civil Judge Chitral which has been concurrently dismissed on the technical ground of Jurisdiction, however the Honorable Supreme Court of Pakistan vide its judgment Dated; 03-02-2023 disposed off the appeal with the direction to approach proper forum for redressal of her grievance. Hence; the instant departmental appeal. Copy of the



Judgment - Dated; 03-02-2023 of Honorable Supreme Court of Pakistan Annexed.

- 4. That the correct date of birth of the appellant is 20.10.1968 but it has been inadvertently entered as 20.10.1964 which is against the fact and needs to be rectified.
- 5. That valuable rights of the appellant are involved in the instant matter, hence; the correction of date of birth of the appellant will be no adverse effects upon the rights of anyone.
- 6. That it is the mandate of Law correction / rectification of any wrong entry can be done in any stage of proceedings for the better administration of justice.

It is therefore; most humbly submitted that 20.10.1968 as correct date of birth of the appellant may please be entered in her service book according to law.

Dated: 18-04-2023

Yours faithfully

BIBI HALIMA

DEO (Female) Chitral Lower Cell No. 0340-9907034



2 0 APR 1992

SERVICE BOOK.

Name:

Mst:Bibi Haleema.

Father's Name

Mr. Abdur Rabi.

Designation

S.B.T

Qualification:

B.A Bed.

Department

Education Deptt: (F) Chitral.

Date of Apptt:

01/10/1989.

Present Duty

Govt: Girls High School Chitral.

Addressed:

Village Goldoor Teh: & Distt: Chitrel.

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House Phone No 2890 = 2990

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Signature of Government servant

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

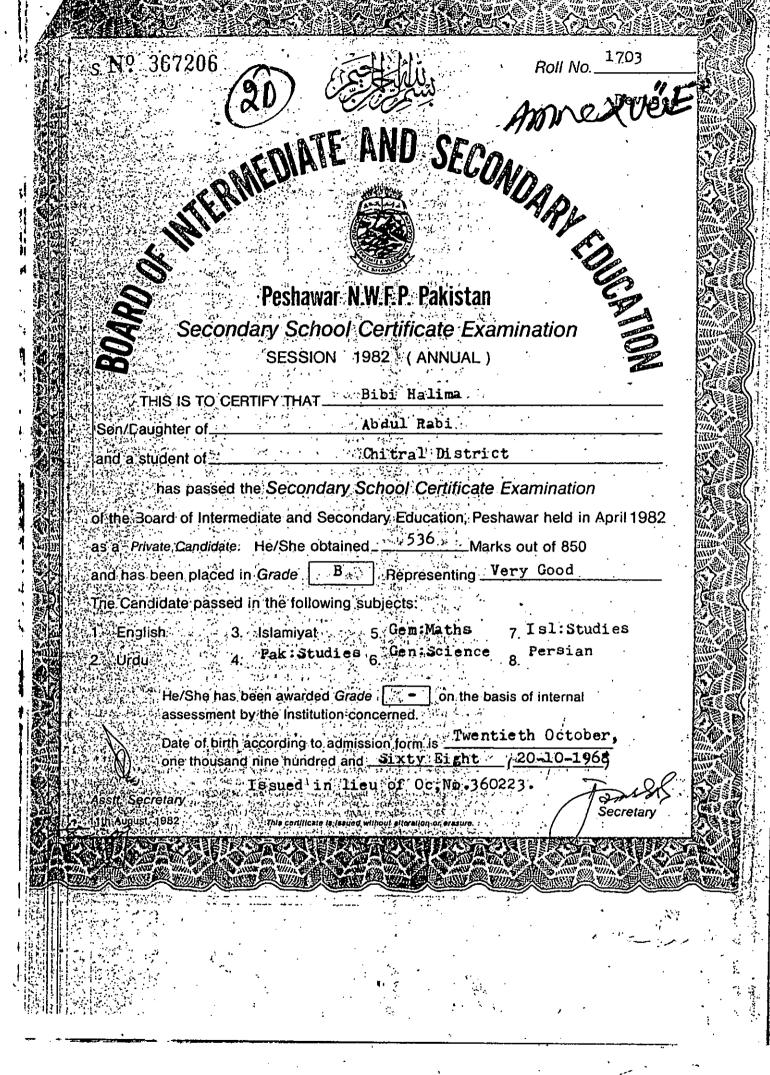
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Chitral

P Sec:001 Month: March 2023

CL6160 -District Education Officer

DISTRICT EDUCATION OFFICE Pers #: 00340736 Buckle:

Name: BIBI HALIMA NAZIR NTN:

DISTRICT EDUCATION OFFICE GPF#: EDUCL'003767

CNIC No.1520172698198 Old #:

GPF Interest Applied

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CL6160 -19 Active Temporary

PAYS AND ALLOWANCES:

164,850.00 0001-Basic Pay

13,284.00 1001-House Rent Allowance 45% . 1919-UAA-CHITRAL 40%(17-22) 4,500.00 4,067.00 1947-Medical Allow 15% (16-22) 2,125.00 2148-15% Adhoc Relief All-2013 2199-Adhoc Relief Allow @10% 1,429.00 11,842.00 2315-Special Allowance 2021 2341-Dispr. Red All 15% 2022KP 16,202.00 2347-Adhoc Rel Al 15% 22(PS17) 16,202.00

Gross Pay and Allowances 234,501.00

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GPF Balance 1780,681.00 7,180.00 1,500.00 3501-Benevolent Fund 3666-Turkiy/Syriia EQ Ded KPK 6,544.00 270.00 3990-Emp.Edu. Fund KPK

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Total Deductions

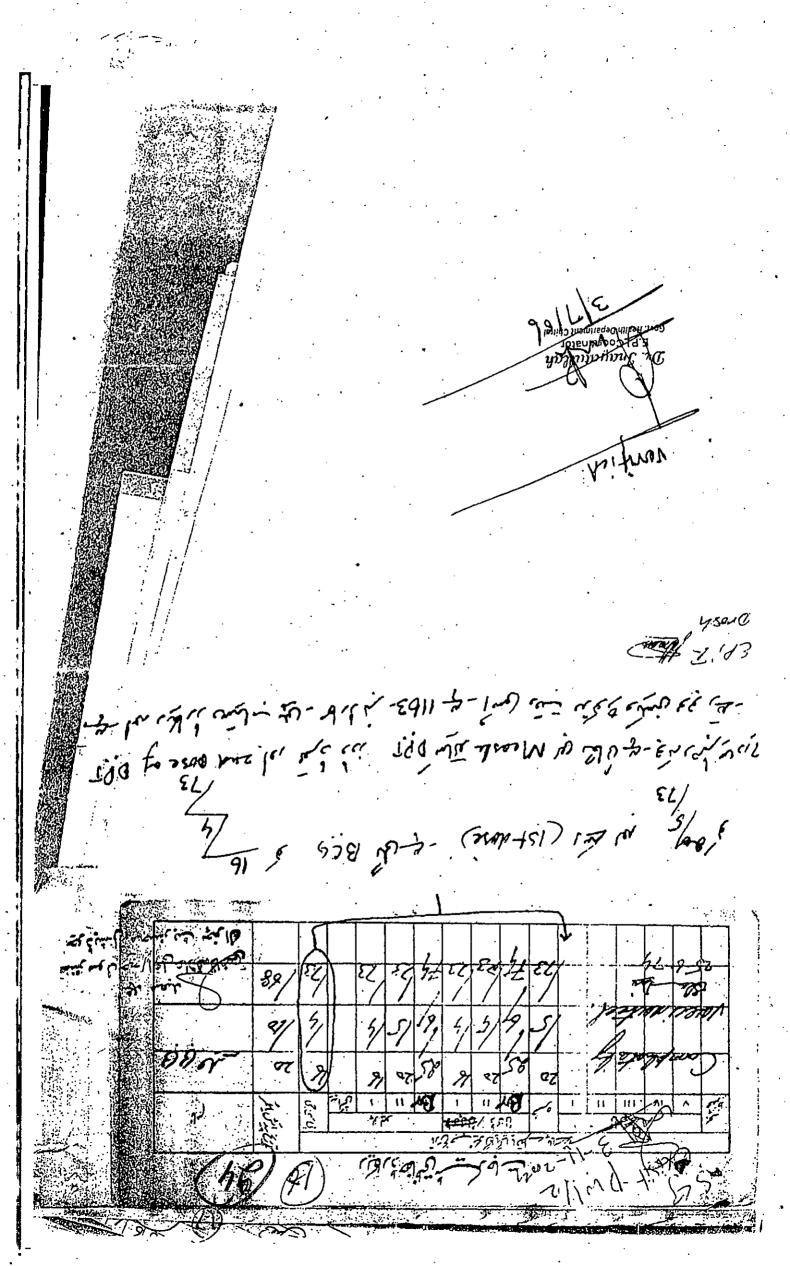
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20.10.1968 HABIB BANK LIMITED CHITRAL

28 Years 10 Months 021 Days 09757900414701





WAKALAT NAMA

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO.

/2023

(Petitioner) (Plaintiff) (Appellant)

Bibi Halima

(Accused)

VERSUS

THE GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH CHIEF SECRETARY, KPK AND OTHERS

(Respondents)
(Defendant)
(Opponent)
(Complainant)

- I, Bibi Halima W/o Nazir Ahmad Resident of Lall House, Mohallah Goldur Chitral Town District and Tehsil Chitral Lower, (APPELLANT), The above named appellant hereby appoints and constitute SHER HYDER KHAN, ADVOCATE HIGH COURT, PESHAWAR, as counsel for (Appellant) in the above mentioned case, to do all or any of the following acts, deeds and things:-
 - 1- To appear, act and plead for me/us in the above-mentioned case in this Court/Tribunal or any other court/tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
 - 2- To sign, verify and file or withdraw all proceedings, petitions, appeals, revision, review affidavits and applications for compromise or withdrawal, or for submission to arbitration of the said case, or any other document, as may be deemed necessary or advisable by him for the conduct, prosecution or defense of the said case at any stages.
 - 3- To receive payment of and issue receipts for all money that may be or become due and payable to us during the course or on the conclusion of the proceedings. To do all other acts and things this may be deemed necessary or advisable during the course of the proceedings.

AND HEREBY AGREE:-

- a) To ratify whatever the said Advocate may do in the proceedings.
- b) Not to hold the Advocate responsible if the said case be proceeded ex-parte or dismissed in default in consequence of their absence from the Court/Tribunal when it is called for hearing.
- c) That the Advocate shall be entitled to withdraw from the prosecution of the said case if the whole OR any part of the agreed fee remains unpaid.

In witness whereof I/We have signed this power of Attorney/Wakalat Nama hereunder the contents of which have been read/explained to me/us and fully understood by me / us this 15-08-2023 at Peshawar.

pted subject to term regarding payment of fce.

SIGNATURE OF APPELLANT
(Bibi Halima)

SHER HYDER KHAN ADVOCATE HIGH COURT LL.B (Hons), LL.M (I-L)