

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No:-1410/2013

Date of Institution ... 12.09.2013

Date of Decision ... 19.01.2022

Allah Dad Khan T.T Government Primary School Kuza F.R Dera Ismail Khan.  
... (Appellant)

**VERSUS**

Government of Khyber Pakhtunkhwa through Additional Chief Secretary FATA Civil  
Secretariat, Peshawar and others. ... (Respondents)

Tajdar Faisal Mina khel,  
Advocate

... For Appellant

Muhammad Riaz Khan Paindakheil,  
Assistant Advocate General

... For respondents

**AHMAD SULTAN TAREEN** ...

**CHAIRMAN**

**ATIQ-UR-REHMAN WAZIR** ...

**MEMBER (EXECUTIVE)**

**JUDGMENT**

**ATIQ-UR-REHMAN WAZIR MEMBER (E):-**

Brief facts of the case

are that the appellant joined Education Department as Theology Teacher (TT) vide order dated 19-02-1977. His monthly salary was stopped in July 2011 as the date of birth recorded in his service book was 17-02-1950, against which the appellant filed appeal for correction of his date of birth and produced his national identity card to the concerned officials, where date of birth of the appellant was recorded as 17-02-1959. His stance was accepted and his salary for 09 months was released in March, 2012, but again his salary was stopped but in the meanwhile the appellant was serving against the post until 2013. The appellant filed departmental appeal dated 16-05-2013, which was not responded, hence the instant service appeal. The appellant during the course of litigation died on 25-06-2016 and his legal heirs requested for contesting his case, which was accepted by this Tribunal.

His legal heirs prayed that the appellant served until 2013, hence he may be granted pensionary benefits for the period he served with the department.

02. Learned counsel for the appellant has contended that act of the respondents is illegal, unlawful, void and ineffective and the same are against the principle of natural justice; that correct date of birth of the appellant was 17-02-1959 and such stance of the appellant was acceded to by the respondents and due to the reason monthly salary of the appellant for the year 2011-12 were released to the appellant; that all of a sudden the respondents took a U turn and against stopped salary of the appellant, which was illegal and contrary to the norms of natural justice; that the appellant died during the course of litigation and now the legal heirs of the appellant seek the benefits of his retirement for the period he served with the department.

03. Learned Assistant Advocate General for the respondents has contended that according to the service book and Sanad ul faragh certificate, the date of birth of the appellant has been recorded as 17-02-1950, which was admitted by the appellant; that the appellant was informed in writing to submit his service book for pension and his salary was stopped as he reached his age of superannuation on 16-02-2010, but the appellant did not submit his service book for pension, rather he submitted departmental appeal for correction of his date of birth, which was not allowable under the law at such a belated stage.

04. We have heard learned counsel for the parties and have perused the record.

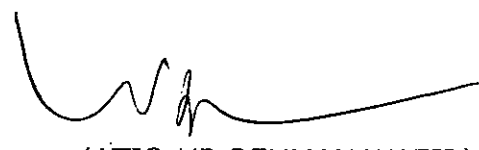
05. Record reveals that the appellant date of birth as per his service book was 17-02-1950, whereas the appellant claimed it as 17-02-1959 and to this effect had submitted his national identity card, where his date of birth is recorded as 17-02-1959. Stance of the appellant was accepted and the appellant was allowed to serve and his salary for the year 2011-12 was also released to him and the appellant served until 2013, when his salary was again stopped. In the meanwhile

the appellant died on 25-06-2016 and now his legal heirs have prayed for his pensionary benefits for the period he served with the department. We have observed that it was laxity on part of the respondents pointing out his date of birth at a stage, when he served for three years with the department and his salary were also released and he was allowed to work against the post. In a situation, civil servant could not be legally asked to refund the differential of salary drawn by him for the post, against which he had been serving under a valid order. Reliance is placed on 2007 PLC CS 364. It was also observed that it was mistake on part of the respondents allowing the appellant to serve beyond the age of superannuation and later on was deprived of his legal dues/benefits due to mistake committed by department, which could not be allowed now to take advantage of its own unjustified act of omission and commission. Reliance is placed on 2002 SCMR 911.

06. We are of the considered opinion that the appellant has not been treated in accordance with law, as he was allowed by the respondents to serve against the post until 2013 and his salary were released inspite of the fact that his date of birth was disputed but stance of the appellant was admitted but later on his salary was again stopped, which however was not warranted. Now the appellant is no more and his legal heirs are contesting his case. In view of the foregoing discussion, the instant appeal is accepted and the appellant is held entitled to the benefits of his service including pensionary benefits until 2013, the period for which he served the department beyond his age of superannuation. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED  
19.01.2022

  
(AHMAD SULTAN TAREEN)  
CHAIRMAN

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

ORDER

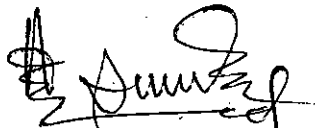
19.01.2022

Learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakheil, Assistant Advocate General for respondent present. Arguments heard and record perused.

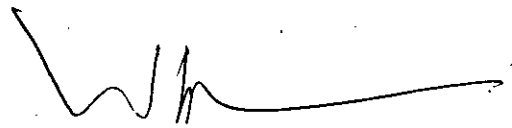
Vide our detailed judgment of today, separately placed on file, the instant appeal is accepted and the appellant is held entitled to the benefits of his service including pensionary benefits until 2013, the period for which he served the department beyond his age of superannuation. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

19.01.2022



(AHMAD SULTAN TAREEN)  
CHAIRMAN



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

17.06.2021

Counsel for the appellant present.

Mr. Javedullah, learned Assistant Advocate General  
for respondents present.

Learned counsel for the appellant submitted an  
application for impleadment as legal heirs for the appellant  
which is placed on file. Due to general strike of the Bar,  
case is adjourned to 01.10.2021 for arguments before the  
D.B.



(Rozina Rehman)  
Member(J)



Chairman

1-10-21

DB is on Tans case to come up

For the same on Dated. 19-1-22

§  
Kiddo

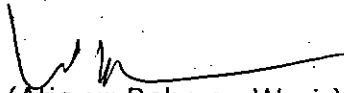
1410/2013

05.03.2021

Counsel for the deceased appellant and Addl. AG alongwith Saleem Khan, Superintendent on behalf of the respondents present.

Former requests for time to submit an amended application on behalf of legal heirs of the deceased appellant due to the reason that the names of some of legal heirs, including widow of the appellant, were inadvertently miss<sup>ed</sup> out of the list. *me*

The needful shall be done on or before next date of hearing. Adjourned to 09.04.2021 for hearing before the D.B.

  
(Atiq-ur-Rehman Wazir)  
Member(E)

  
Chairman

9.4.21

*Due to COVID-19, the case is adjourned to 27.7.2021 for the hearing.*

  
Judge

01.01.2021 Due to winter vacation, the case is adjourned to  
08.2.2021 for the same.

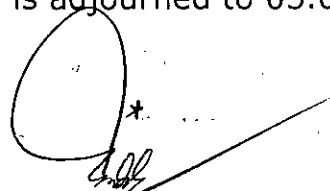
  
Reader

08.02.2021

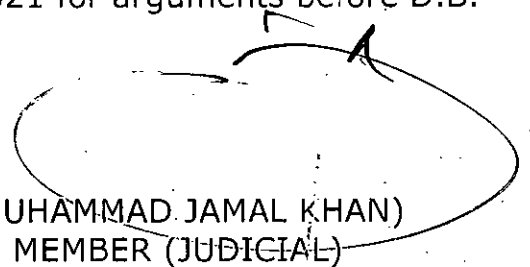
Counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General, for the respondents is also present.

The learned Additional Advocate General argued that he is unable to advance arguments on the ground that in a similar placed Appeal bearing No. 983/2004 in which the same issue is involved in which arguments have been heard by the D.B of this Tribunal and is fixed for order, therefore, he submitted that let a judgment is pronounced in the aforesaid appeal to clarify the point.

On the other hand learned counsel representing the appellant stated that the issue involved in the aforesaid case has already been adjudicated by the D.B of this Tribunal vide judgment made in Appeal No. 461/2016 decided on 27.03.2017 in case captioned Mst. Rukhsana Parveen, Ex-SST, GGMS, Banda Fateh Khan Khel, Kohat-Vs-Secretary, Government of Khyber Pakhtunkhwa, Education E&SE Department, Civil Secretariat, Peshawar, and three other respondents, the copy of which is produced for perusal which is placed on record, the referred to judgment affirms the contention raised by the learned counsel however, a consensus was developed to adjudicate the instant appeal till an order is made in the aforesaid appeal. Accordingly, the appeal is adjourned to 05.03.2021 for arguments before D.B.



(MIAN MUHAMMAD)  
MEMBER (EXECUTIVE)




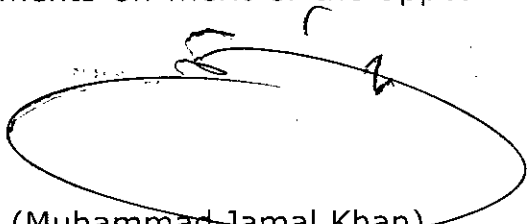
(MUHAMMAD JAMAL KHAN)  
MEMBER (JUDICIAL)

28.09.2020

Learned counsel for appellant is present. Mr. Usman Ghani, District Attorney for the respondents is also present.

The case was fixed for order on restoration application but the perusal of record reveal that by virtue of order dated 13.03.2019 passed by the Bench of this worthy Services Tribunal application for restoration has already been adjudicated and consequently accepted and appeal was restored accordingly and the case was fixed for arguments and since then it has been consistently fixed for the said purpose, therefore, no order afresh could be made in the circumstances. File to come up for arguments on merit of the appeal on 16.11.2020 before D.B.

  
(Atiq-ur-Rehman Wazir)  
Member (Executive)


  
(Muhammad Jamal Khan)  
Member (Judicial)


16.11.2020

Appellant present through representative.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

A request for adjournment was made on behalf of appellant; granted. To come up for arguments on 01.01.2021 before D.B.

  
(Atiq ur Rehman Wazir)  
Member (E)

  
(Rozina Rehman)  
Member (J)



13.03.2020

Abdul Wahab son of the appellant on behalf of appellant present. Mr. Zia Ullah learned Deputy District Attorney present. Son of the appellant seeks adjournment as learned counsel for the appellant is not available. Adjourn. To come up for arguments on 23.04.2020 before D.B.

  
Member

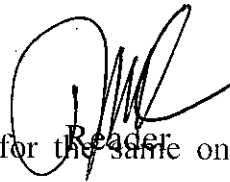
  
Member


23.04.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 05.08.2020 before D.B.

05.08.2020

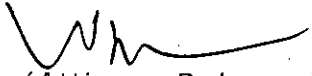
Due to summer vacation case to come up for the same on 11.09.2020 before D.B.

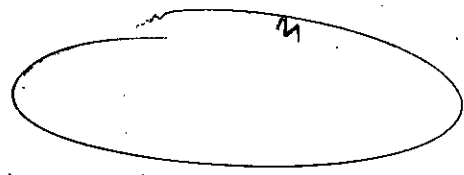
  
Reader

  
Reader

11.09.2020

Learned counsel for the appellant is present. Mr. Riaz Ahmad Pindakheil, Assistant Advocate General for the respondents is also present. Arguments on application for restoration of appeal heard. To come up for order on 28.09.2020.

  
(Attiq-ur-Rehman)  
Member (Executive)


  
(Muhammad Jamal Khan)  
Member (Judicial)

26.12.2019

Learned counsel on behalf for legal heirs of deceased appellant present and stated that application for impleadment of legal heirs of the deceased appellant has already been submitted Copy of the said application was given to the learned DDA. Adjourn. To come up for reply and arguments on the said application on 28.01.2020 before D.B

This may also be observed that vide order dated 05.12.2016 passed in the instant appeal bearing No.1410/2013 , this Tribunal has already consigned the instant service appeal No. 1410/2013 to the record room on the ground that since the appellant has been died, therefore the appeal in hand has become abated. Hence also to come up for arguments on the maintainability of further proceedings in the instant service appeal No. 1410/2013.

  
Member

  
Member

28.01.2020

None for the appellant present. Mr. Muhammad Jan, DDA for respondents present. Due to General Strike of the bar on the call of Khyber Pakhtunkhwa Bar Council, the instant case is adjourned. To come up for further proceedings/arguments on 13.03.2020 before D.B. Appellant be put on notice for the date fixed.

  
Member

  
Member

13.11.2019

Mr. Abdullah son of the appellant present. Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Son of the appellant submitted application for adjournment. Application allowed. Adjourn. To come up for further proceedings on 18.12.2019 before D.B.

  
Member

  
Member

18.12.2019

Junior to counsel for the appellant present. Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Jan Bakht Superintendent present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not in attendance. Being an old case of the year 2013, adjourned by way of last chance. To come up for arguments on 26.12.2019 before D.B.

  
Member

  
Member

12.12.2019

Appellant's application for adjournment for the first time is allowed. The respondent's application for adjournment is not allowed. The respondent's application for adjournment is not allowed.

The respondent's application for adjournment is not allowed. The respondent's application for adjournment is not allowed.

The respondent's application for adjournment is not allowed. The respondent's application for adjournment is not allowed.

03.05.2019

Learned counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 11.07.2019 before D.B.

  
Member

  
Member

11.07.2019

Afsar Khan relative of the legal heirs of the deceased appellant present. Mr. Kabir Ullah Khattak learned Additional Advocate General present. Adjourn. To come up for further proceedings/arguments on 29.08.2019 before D.B.

  
Member

  
Member

29.08.2019

Junior to counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not in attendance. Adjourn. To come up for arguments on 13.11.2019 before D.B

  
Member

  
Member

13.03.2019

Counsel for the applicant and Mr. Ziaullah, DDA for the respondents present.

Instant application for restoration of Service Appeal No. 1410/2013 has been preferred on 12.10.2018 while the order of dismissal of appeal on account of non-prosecution was passed on 28.09.2018.

It is contended in the application that some other appeals involving similar proposition were adjourned to 10.10.2018 while in the appeal of applicant next date of hearing was given as 28.09.2018. The appellant and his learned counsel were under impression that the appeal in question was also adjourned to 10.10.2018.

The application is supported by a duly affirmed affidavit while the ground noted therein appears to be convincing. The application in hand is, therefore, allowed and appeal No. 1410/2013 is restored to its original number on payment of cost of Rs. 1000/-.

To come up for arguments before the D.B on 11.04.2019 before the D.B.

  
Member

  
Chairman

11.04.2019

Clerk to counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney alongwith Haq Nawaz H.C present. Due to general strike of the bar, the case is adjourned. To come up for arguments on 13.05.219 before D.B

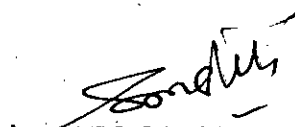
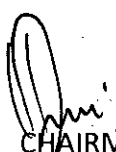


  
Member

  
Member

**Form-A**  
**FORM OF ORDER SHEET**

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

Appeal's Restoration Application No. 383 /2018

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	12.10.2018	<p>The application for restoration of appeal no. 1410/2013 submitted by Mr. Tajdar Faisal Khan Mina Khel Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2	11.02.2019	<p>This restoration application is entrusted to D. Bench to be put up there on <u>11-2-19</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>Mr. Tajdar Faisal Minakhel, Advocate for applicant present.</p> <p>Notice of instant application be issued to respondents for 13.3.2019, on the next date, The original record of appeal No. 1410/2013 be also made available.</p> <p style="display: flex; justify-content: space-between;"> <span data-bbox="568 1663 763 1789"> Member</span> <span data-bbox="1153 1587 1380 1789"> Chairman</span> </p>

BEFORE KHYBER PAKHTUN KHWA SERVICE TRIBUNAL,

PESHAWAR.

*Restoration Application no. 383/18*

C.M.No. \_\_\_\_\_/2018

In S.A No. 1410/2013 along with CM No. \_\_\_\_\_/2017

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 2005

Dated 12-10-18

ALLAH DAD

VS

GOVT. OF KHYBER PAKHTUN KHWA, ETC

PETITION FOR THE GRANT OF ORDER OF  
RESTORATION OF APPLICATION FOR  
RESTORATION OF SERVICE APPEAL No.  
1410/2013 WHICH WAS DISMISSED IN DEFAULT  
ON 28-09-2018 BY THE HON'BLE TRIBUNAL.

**Respectfully Sheweth:**

The petitioners / legal heirs of the appellant most humbly submit as under:

1. That the above captioned appeal was pending in this Hon'ble Tribunal, which was disposed off on 05-12-2016, by the Hon'ble Tribunal.
2. That the plea taken for disposing the above captioned appeal was that the appeal was died during pendency of appeal and the Hon'ble Tribunal holds that the appeal has been abated on the eve of death of appellant.
3. That the petitioners/legal heirs of the deceased civil servant moved an application for the restoration of the main appeal through separate application, which was previously fixed for 17-08-2018.
4. That on 17-08-2018, the Hon'ble Tribunal adjourned the appeal/ application along with two other similar nature appeals titled: Nadir Khan Vs Govt. and Muhammad Ayub Vs Govt. for 10-10-2018 but due to the mistake of the tribunal staff, the date in the above titled Civil Misc. was fixed as 28-09-2018.
5. That on 28-09-2018, the case was taken up but due to the non-appearance of the applicants or their counsel, the same was dismissed in default.

{True copy of CM along with order dated: 28-09-2018 is attached, as mark AA-1 & AA-2}

6. That the applicants and their counsel was under impression that the same is fixed with the above referred two appeals on 10-10-2018 and when the applicant and their counsel appears before the tribunal on 10-10-2018, they were informed by the tribunal that their application has been dismissed on 28-09-2018.
7. That the valuable rights of the applicants (legal heirs of appellant) are attached with the subject appeal, therefore, the restoration of the appeal and its decision on merits is the need of hour and in the best interest of justice.
8. That the instant petition for restoration of the application for restoration of appeal is well within time, as the applicants got knowledge of the same on 10-10-2018 and proprietary demands that the same should be accepted and the appeal may be restored.

**IT IS, THEREFORE, MOST HUMBLY SUBMITS  
THAT WHILE ACCEPTING THE INSTANT  
APPLICATION, ORDER OF RESTORATION OF  
APPLICATION FOR RESTORATION OF  
SERVICE APPEAL MAY KINDLY BE PASSED.**

Dated: 11-10-2018

Through

Applicants



Counsel

Tejdar Faizul Kher

Mine Khel

Advocate

High Court

Peshawar



BEFORE KHYBER PAKHTUN KHWA SERVICE TRIBUNAL,  
PESHAWAR.

C.M No. \_\_\_\_\_/2018  
In S.A No. 1410/2013 along with CM No. \_\_\_\_\_/2017

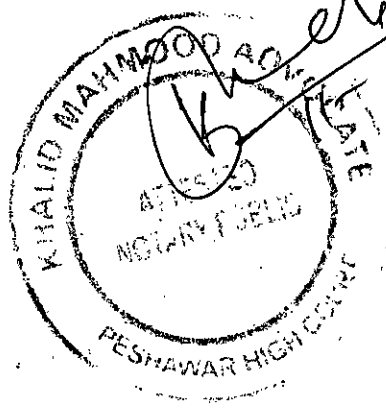
Allah Dad

VS

Govt. of Khyber Pakhtun Khwa, ETC

**AFFIDAVIT**

I, Abdul Wahab s/o Allah Dad, do hereby solemnly affirms and declare upon oath that the contents of the instant application are true and correct to the best of my knowledge and belief and nothing has been kept concealed or with-held from this Hon'ble Tribunal.



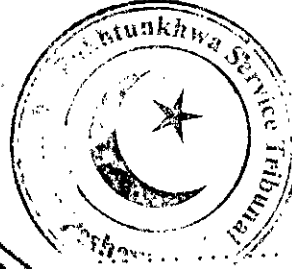
Abdul Wahab  
Deponent

(1)

**BEFORE KPK SERVICE TRIBUNAL,**  
**PESHAWAR.**

Service Appeal No: 15410 / 2013

Allah Dad Khan  
T.T Govt. Primary School Kuza  
F.R Daira Ismael Khan



Appellant

Versus

1. Government of KPK  
Through Additional Chief Secretary FATA  
Civil Secretariat, Peshawar.
2. Secretary Education FATA,  
FATA Secretariat, Peshawar.
3. Agency Education Officer

F.R. <sup>Tank</sup> Tank Road, Zafarabad, D.I Khan ..... Respondents

**APPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNAL ACT, 1974, SEEKING CORRECTION IN DATE OF BIRTH AS 17.02.1959 INSTEAD OF 17.02.1950 AND DIRECTION FOR RESPONDENTS TO THE EFFECT THAT APPELLANT BE PAID HIS MONTHLY SALARY ALONGWITH ALLOWNCES SINCE MARCH, 2012.**

28.09.2018

Neither appellant nor his counsel present. Mr. Daud Jan. Supdt alongwith Mr. Kabirullah Khattak. Addl. AG for respondents present. Called for several times but no one appeared on behalf of the appellant, therefore, the appeal in hand is hereby dismissed in default. File be consigned to the record room.

Announced:  
28.09.2018

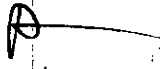
Certified to be  
Khy. E.  
Sd/-

*Yunus Mairani*  
(M. Amin Khan Kundi)

Date of Presentation of Appeal 12/10/18  
Number of Words 4000  
Copying Fee 4000  
Urgent 1  
Total 4000  
Name of Copyist [Signature]  
Date of Completion of Copy 12-10-18  
Date of Delivery of Copy 12-10-18

11.08.2016

Agent to counsel for the appellant and Mr. Murtaza, Stenographer alongwith Additional AG for respondents present. Due to general strike of the Bar learned counsel for the appellant is not in attendance today before the Court, therefore, case is adjourned for arguments to 5-12-16 before D.B.

  
Member

  
Member

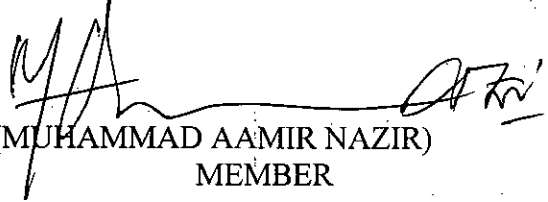
05.12.2016

*Judicial*  
Mr. Afsar Khan, *Judicial* counsel for the appellant and Mr. Kabirullah Khan Khattak, Assistant Advocate General for the respondents present. *Judicial* counsel for the appellant submitted death certificate of the appellant which is placed on file. Since the appellant has been died therefore, the appeal in hand has become abated. File be consigned to the record room.

ANNOUNCED

05.12.2016

  
(ASHFAQUE TAJ)  
MEMBER

  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

13

13.07.2015

Counsel for the appellant and Mr. Daud Jan, Supdt. along with Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 1.9.2015 before S.B.

  
Chairman

14

01.09.2015

Appellant in person and Mr. Daud Jan, Supdt. along with Assistant A.G for respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 23.11.2015 before S.B.

  
Chairman

23.11.2015

Counsel for the appellant and Mr. Daud Jan, Supdt. along with Addl: A.G for respondents present. Para-wise comments on behalf of respondent No. 3 submitted while learned Addl: A.G relies on the same on behalf of respondents No. 1 and 2. The appeal is assigned to D.B for rejoinder and final hearing for 11.4.2016.

  
Chairman

11.04.2016

Junior to counsel for the appellant and Mr. Kabirullah Khan Khattak, Assistant AG for respondents present. Junior to counsel for the appellant submitted that he does not want to submit rejoinder. To come up for arguments on ~~11-8-16~~.

  
Member


  
Member

11.

23.2.2014

None is available on behalf of the appellant.

Mr. Kabeerullah Khattak, AAG for the respondents present. Notices be issued to appellant and his counsel. To come up for preliminary hearing on 14.4.2015.



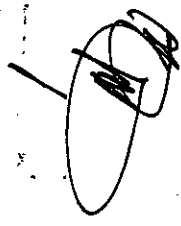
Member

12.

14.04.2015

Counsel for the appellant and Assistant A.G for respondents present. Learned counsel for the appellant argued that the appellant was appointed as T.T in the years 1977. That his salary was stopped with effect from July 2011 and, on query, the appellant was informed that he stood retired from service on attaining the age of superannuation. That the date of birth of the appellant is 17.2.1959. That the appellant preferred departmental appeal on 16.5.2013 which was not responded and hence the instant service appeal on 12.9.2013.

Appellant Deposited  
Security & Process Fee



That the appellant is entitled to receive the salary and withholding of the same without any written order is without lawful authority.

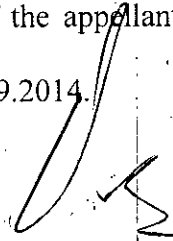
Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 13.7.2015 before S.B.

  
Chairman

8.

13.08.2014.


Counsel for the appellant and Mr. Muhammad Jan, GP for the respondents present. Preliminary arguments partly heard. The matter pertains to date of birth of the appellant. The appellant alleged that his actual date of birth is 17.02.1959 which had been wrongly entered as 17.02.1950. Since the service record is not available on file, the learned GP is directed to contact the respondents for production of complete record of the appellant. To come up for further preliminary hearing on 29.09.2014.

  
Member

9.

29.09.2014

Counsel for the appellant and Mr. Kabirullah Khattak, Asst: Advocate General for the respondents present. The learned AAG requested for time to contact the respondents for production of complete record of the appellant. To come up for preliminary hearing on 04.12.2014.

  
Member

10.

Reader Note:

04.12.2014

No one is present on behalf of the appellant. Mr. Kabirullah Khattak, Asst: Advocate General for the respondents present. Since the Tribunal is incomplete, therefore, case is adjourned to 23.02.2015 for the same.

  
Reader

6.

05.05.2014

Clerk of counsel for the appellant and Mr. Ziaullah, GP for the respondents present. Clerk of counsel for the appellant requested for adjournment due to general strike of the Bar. To come up for preliminary hearing on 10.06.2014.

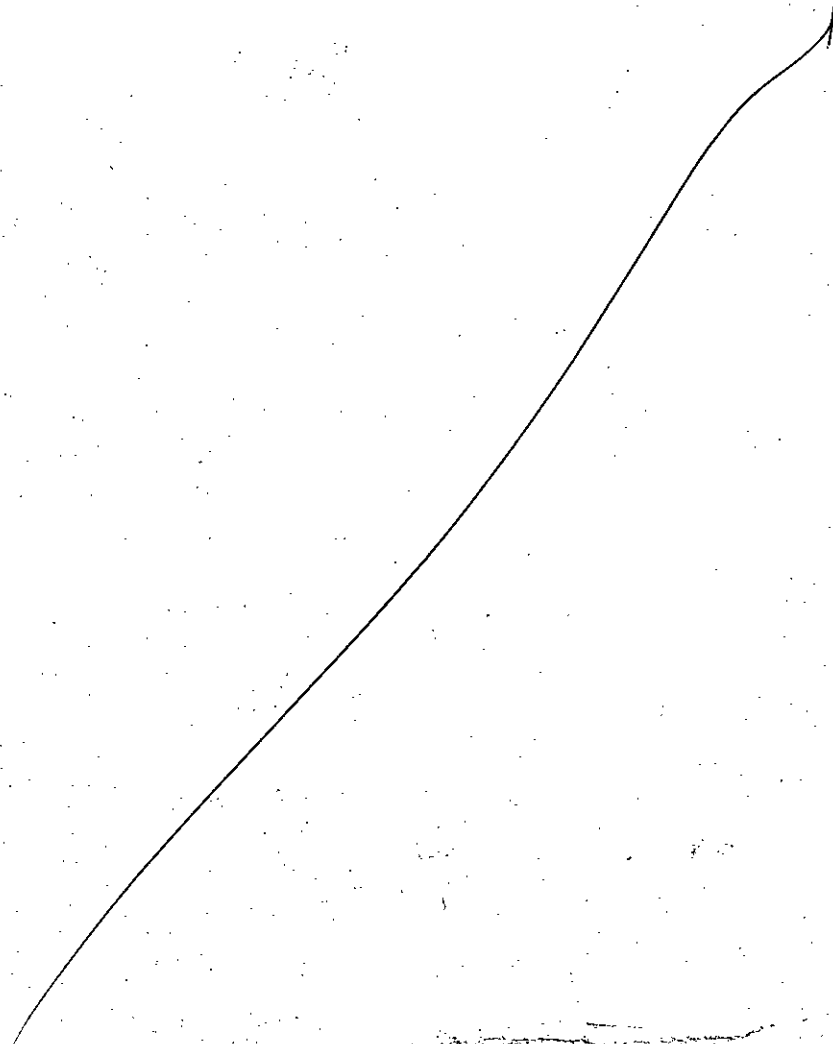
  
Member

7.

10.06.2014

Junior to counsel for the appellant and Mr. Ziaullah, GP for the respondents present. Junior to counsel for the appellant requested for adjournment. Request accepted. To come up for preliminary hearing on 13.08.2014.

  
Member



3. 23.12.2013

Counsel for the appellant present. Since the appellant prayed for correction of his Date of Birth as 17.02.1959 instead of 17.02.1950, therefore, it would be <sup>appropriate to</sup> served upon the respondents <sup>with</sup> pre-admission notice so as to produce the relevant record <sup>to</sup> determine <sup>the</sup> matter in issue. Pre-admission notice be issued to the respondents/GP for preliminary arguments on 19.02.2014.

  
Member

4. 19.02.2014

No one is present on behalf of the appellant. Mr. Zia Ullah, GP for the respondents present. Notices be issued to the appellant/counsel for the appellant. To come up for preliminary hearing on 09.04.2014.

  
Member

5. 09.04.2014

Counsel for the appellant present and Mr. Ziaullah, GP for the respondents present. Preliminary arguments partly heard. During the course of arguments the learned counsel for the appellant requested for adjournment. Request accepted. To come up for preliminary hearing on 05.05.2014.



  
Member



Form- A  
FORM OF ORDER SHEET

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

Case No. 1410/2013


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	11/10/2013	<p>The appeal of Mr. Allah Dad Khan resubmitted today by Mr. Sulman Fayaz Mir Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	24-10-2012	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>23-12-2013</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Allah Dad Khan T.T. GPS Kuza F.R ,D.I.Khan received today i.e. on 12/09/2013 is incomplete on the following scores which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Address of respondent No.3 is incomplete which may be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- Appeal may be got signed by the appellant.
- 3- In the memo of appeal places have been left blank which may be filled in.
- 4- Annexures of the appeal may be attested.
- 5- Copy of impugned order is not attached with the appeal may be placed on it.

No. 1284/S.T.

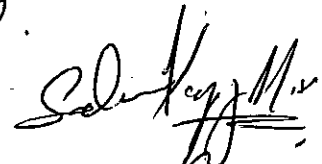
Dt. 17/09/2013.

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Salman Fayaz Mir Adv. Pesh.

27/9/13.

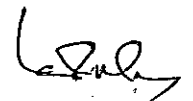
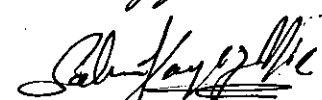
Respected sir I have approached the office for confirmation of the date pertaining to case several times but today I have got the file from the concern office having some objections over it which can not be removed at right now as it is the last date of resubmitting the filing. kindly grant me extension for resubmission of the file so that objections can be removed.

  
SALMAN FAYAZ MIR  
Adv High Court

Time is extended upto 18th Oct. 2013.

11/10/13

Objections No.1-4 are removed after doing the needful. while objection No.5 can't be remove as the respondents have not responded to the departmental appeal hence there is no order whatsoever.

  
7/10/13  


**BEFORE KPK SERVICE TRIBUNAL,**  
**PESHAWAR.**

Service Appeal No: 1410 / 2013

Allah Dad Khan

Versus

Govt. of K.P.K etc

**I N D E X**

S.No.	Description of Documents	Annexure	Page No
1.	Memo of Service Appeal		1-3
2.	Affidavit		4
3.	Addresses Sheet		5
4.	Copy of <i>Madrassa</i> Certificate	A	6
5.	Copy of <i>Sanad</i>	A-1	7
6.	Copy of Departmental Representation	B	8
7.	N.I.C photocopy of Appellant	C, C-1	9-10
8.	Wakalatnama In original		

Appellant,

Through:



**Salman Fayaz Mir**  
Advocate High Court

①

**BEFORE KPK SERVICE TRIBUNAL,**  
**PESHAWAR.**

Service Appeal No: 1410 / 2013

1340  
12/19/13

Allah Dad Khan  
T.T Govt. Primary School Kuza  
F.R Daira Ismael Khan

..... Appellant

Versus

1. Government of KPK  
Through Additional Chief Secretary FATA  
Civil Secretariat, Peshawar.

2. Secretary Education FATA,  
FATA Secretariat, Peshawar.

3. Agency Education Officer

~~Star/Arif/...~~  
F.R. Tank Road, Zafarabad, D.I Khan -

..... Respondents

APPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNAL  
ACT, 1974, SEEKING CORRECTION IN DATE OF BIRTH AS  
17.02.1959 INSTEAD OF 17.02.1950 AND DIRECTION FOR  
RESPONDENTS TO THE EFFECT THAT APPELLANT BE PAID  
HIS MONTHLY SALARY ALONGWITH ALLOWNCES SINCE  
MARCH, 2012.

~~Star/Arif/...~~  
12/9/13

Prayer: That on acceptance of this service appeal Appellant date  
of Birth in the Service Record be corrected as 17.02.1959 instead of  
17.02.1950, and appellant be paid his monthly salary alongwith  
allowances since march, 2012, with such other relief as may deem fit  
in the circumstances of the case

re-submitted to ~~453~~  
and filed.

~~Star/Arif/...~~

Respectfully Sheweth,

Short facts, giving rise to present Service Appeal, are as under:

1. That, appellant was appointed as T.T Teacher on 19.02.1977.
2. That in July, 2011 the monthly salary of the appellant was stopped and when appellant inquired about the same he was informed that his date of Birth has been mentioned as 14.09.1950 in the service book.
3. That appellant provided his National Identity Card Copy to the concern officials and after complete satisfaction, which took almost 9 months, his salary was released and appellant was given assurance that actual date of birth will be entered in his Service Book and he was paid salary for 09 months in March 2012 (Copy of school certificate and sanad is **Annexure A, A-1**).
4. That thereafter the appellant continued to perform his duties as T.T Teacher, and he has regularly been paid his monthly salary since March, 2012, but astonishingly once again without any prior notice or any other reason the appellant's monthly salary was stopped.
5. That it is pertinent to mention here that the actual date of Birth of the appellant is 14.09.1959, according to which his date of retirement is 14.09.2019.
6. That, Appellant time and again provided his correct date of Birth to the Respondents 1 to 3 but they failed to rectify the same, therefore, Appellant served / submitted his Departmental Appeal / Representation before Respondent No.3, on 16.05.2013 copy of the same is attached as **Annexure-B**.
7. That, Respondent No.3 failed to decide the Departmental Appeal / Representation, within requisite time, hence this Service Appeal on the following amongst other grounds: -

**GROUND S:**

- A. That, the very act of the Respondents is illegal, unlawful, void and ineffective.
- B. That, the same are against the principals of natural justice, also.

Counsel  
S

and correct, therefore, Appellant was under the bonafide belief that the same might have communicated to the concern Officials.

- D. That once the issue pertaining to the date of birth has been resolved by the respondent No. , keeping in view his original date of birth as per N.I.C and other relevant documents, he has been paid 09 months salary and then he was paid for next 13 months then now the very act of the respondent No . is just to humiliate and harras the appellant .
- E. That, probably due to some misunderstanding Appellant date of Birth is wrongly entered in the Service Record as 17.02.1950 instead of 17.02.1959 and the said wrong entry in the Service Book is effecting Appellant's service carrier and terms & condition of service. It is important to mention here that the date of Birth as recorded in the NADRA is 17.02.1959, copy of the N.I.C. is attached as Annexure-C & C-1.
- F. That *sanad* as provided was obtained by the appellant on 02.09.2975 at the age of 16 years. It is pertinent to mention here that the said *sanad* is equal to matric certificate and appellant obtained the same at the age of 16 years.

It is, therefore, requested that subject Appeal be accepted as prayed for.

المدعي

Appellant,

Through:



M. Saeed Anjum  
Advocate High Court

Salman Fayaz Mir  
Advocate High Court



**BEFORE KPK SERVICE TRIBUNAL,**  
**PESHAWAR.**

Service Appeal No: \_\_\_\_\_ / 2013

Allah Dad Khan

Versus

Govt. of K.P.K etc

**AFFIDAVIT**

I, Allah Dad Khan Son of Gul Dad Khan Resident of Kirri Haider District Tank do hereby on oath affirm and declare that the contents of the Service Appeal are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honourable Tribunal.

الله داد خان

Deponent

Identified by



Advocate

R.O.A.C  
Attested



**Amjad Saeed Awan**  
Advocate High Court  
Oath Commissioner  
Dist. Bar Tank.

5

**BEFORE KPK SERVICE TRIBUNAL,**  
**PESHAWAR.**

Service Appeal No: \_\_\_\_\_ / 2013

Allah Dad Khan

Versus

Govt. of K.P.K etc

**ADDRESSES OF PARTIES.**

**APPELLANT:**

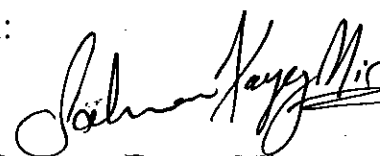
Allah Dad Khan  
T.T Govt. Primary School Kuza  
F.R Daira Ismael Khan

**RESPONDENTS**

1. Government of KPK  
Through Additional Chief Secretary FATA  
Civil Secretariat, Peshawar.
2. Secretary Education FATA,  
FATA Secretariat, Peshawar.
3. Agency Education Officer  
~~Tank Road~~ Zafar Abad, Dera Ismail Khan.

Appellant,

Through:



**Salman Fayaz Mir**  
Advocate High Court



مدارث چھوڑنے کا سرٹیفکیٹ

نام سکول: فورنٹ پرائمری سکول کرسی خیر  
 نام طالب علم: طالب علم / طالبہ  
 تاریخ پیدائش (ہندسوں میں): 17-2-1959  
 نمبر رجسٹر داخلہ: 374  
 قوم: ہندی  
 سکونت: کرسی خیر  
 تعلیم: افسار معلم ڈیپارٹمنٹ سکول خیر  
 والدین: دلہت / سترہ زوری سن آئین سورسٹ

تصدیق کی جاتی ہے کہ مندرجہ بالا طالب علم / طالبہ جو اس مدرسہ میں مورخہ 1971ء تک پڑھتا رہا / پڑھتی رہی ہے، مدرسہ ہذا کی کل رقیں جو اس کے ذمہ واجب الادا تھیں، ادا کر دی ہیں اور اسے تاریخ مندرجہ بالا پر اپنا نام خارج کرانے کی اجازت دے دی گئی ہے۔

یہ طالب علم / طالبہ جماعت دہم حصہ پڑھی میں پڑھتا رہا تھا / پڑھتی رہی تھی اس کا امتحان جماعت دہم حصہ پڑھی کے مطابق ترقی دینے کے لئے لیا گیا۔ جس میں اسے اعلیٰ قرار دیا گیا یا اس نے بوجہ تعلیمی مدرسہ چھوڑنے کا سرٹیفکیٹ چاہا تھا۔ اس کا چال چلن اس کا چال چلن

رقم میں کورس سرٹیفکیٹ دیا گیا۔

مدرسہ ہذا میں داخل ہونے کی تاریخ		مدرسہ ہذا میں خارج ہونے کی تاریخ	
17-2-1965	31-3-1971	31-3-71	11-4-70

داخل کرنے والے کا نام اور طالب علم / طالبہ کے ساتھ رشتہ	انچارج مدرسہ	صدر معلم / صدر معلمہ

تاریخ اجراء: \* \* \* \* \*  
 صرف سکارشپ پانے والے طلباء و طالبات کے لئے \* \* \* \* \*

قسم سکارشپ: کس تاریخ تک ادا کیا گیا؟  
 سکارشپ کی مقدار: کون سا ہے؟  
 تاریخ ادائیگی: \* \* \* \* \*

از دفتر صدر معلم / معلمہ: سکول: افسار / افسارہ  
 طالب علم / طالبہ: جماعت: داخلہ نمبر: کے متعلق ذیل کو آف سے مطلع کیجئے۔  
 تصدیق کی جاتی ہے کہ مندرجہ بالا کو آف در سلسلہ ولد / بہت داخلہ نمبر: جماعت:  
 مدرسہ ہذا کے ریکارڈ کے مطابق صحیح کر کے واپسی ارسال ہیں۔  
 دستخط صدر معلم / معلمہ

مقابل فروخت: نظامت تعلیمات قبائلی علاقہ جات (ثالث) صوبہ سرحد  
 سولہ پرچہ جات، فارم، رجسٹریٹ اور سکول، منقرہ مرکز، (غزالی، بلیکیشنز، چار سڈہ ٹاؤن)

Attested

P-25  
P-25  
P-25  
سنہ ۱۳۷۵ھ  
بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ  
سند الفراع العظمى

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ وَحَاقِي الْأَرْضِ الْمَلِكِ الْقُدُّوسِ الْعَزِيزِ الْحَكِيمِ وَهُوَ الَّذِي بَعَثَ فِي الْأُمَمِ مُرْسَلًا  
مِّنْهُم مَّا يَلْمِزُهَا فِي آيَاتِهِ وَيُرِيدُ لَهَا جَهَنَّمَ أَجْرًا وَاللَّيْلُ وَالنَّهَارُ وَاللُّجُجُ وَاللَّيَالِي وَاللَّيَالِي وَاللَّيَالِي وَاللَّيَالِي وَاللَّيَالِي وَاللَّيَالِي  
الْعَدُوَّ وَالْجَابِ وُزْنُهُ عَلَى السَّكِينِ عَلَى الْأَرْضِ مِنْ أَرْضِي الْحِكْمَةِ وَصَلَ لَهَا بِعُقْدٍ رَاعَى إِلَيْهِ وَأَعْيَابِهِ الْفَاعِلِينَ الرُّبِّيَّ الْقَابِ  
أَمَّا السُّبْحُ فَانِّ الْآخِ الصَّاحِ الْبَارِ الْمَوْجِدِ الْأَوْجَانِ بِنِ كَلِّ وَأَوْجَانِ النِّعَمِ بِطَبْخِي دُرِّ سَبُونِ سَاكِنِ بِنِ كَلِّ بِحَسْبِ خَدَّيْهِ  
لَيْنِ أَرِيهِ سَيَّاسِ الْخَانِ قَدْ دَخَلَ هَذِهِ الْمَدْرَسَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ  
وَرَبَّيْنَهَا الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ  
رَبِّهَا مِنْ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ  
عِنْدَ مَسْجِدِ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ  
لَمْ يَسْتَغْفِرْ لَهَا إِلَّا بِعَيْنِ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ  
عِذَا وَمَا لَيْفُنْ وَإِنِ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ  
شَرِيحًا عَمَّا أَحَدَثَتْهُ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ  
دَرْعَةً لِحُكْمِ الدُّنْيَا وَرَبَّيْنَهَا الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ  
بُرُوجِ اللَّهِ وَالْمَرْجُومَةِ أَنَّ لَا يَسْتَعِيدُ الْأَسَاقِدَةَ وَأَرْكَانِ هَذِهِ الْمَدْرَسَةِ فِي دَعْوَاتِهِ الصَّالِحَةِ  
وَأَخْرَجَ عَرَفَانَ إِنْ الْوَاسِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ الْبَارِعَةَ

تصديقاً  
بناری شریف، مسلم نصرف، تم تصدیق شریف، ابن صاحبہ وائی واوو؛

امضات العلماء  
مجلس اسلام  
امضات العلماء  
بنی اسلان  
اقول انام  
Date of Birth 17-2-1959  
تاریخ اجراء ۲۵ شیبان ۱۳۷۵ھ  
مطابق ۲۸ ستمبر ۱۹۵۵ء  
F.R.S.D.I. Khan + Baruchin date of  
D.I. Khan  
28/3/77

بخدمت جناب ایجنسی ایجوکیشن آفیسر ایف۔ آر۔ ٹانک / ڈیرہ اسماعیل خان۔

(8)

محکمانہ اپیل

عنوان :-

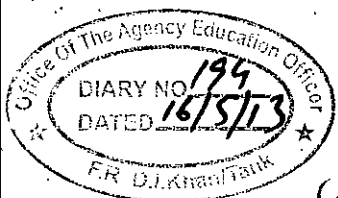
جناب عالی! سائل حسب ذیل عرض رساں ہے۔

- (1) یہ کہ سائل کی تعیناتی بطور T.T ٹیچر مورخہ 19/02/77 کو ہوئی اور سائل شب سے اپنی خدمات سرانجام دیتا آ رہا ہے۔
- (2) یہ کہ جولائی 2011ء سے سائل کی تنخواہ بلاوجہ روک دی گئی تھی اور معلومات کرنے پر بتایا گیا کہ سائل کی تاریخ پیدائش 14/09/1950 ہے اور اسی طرح سائل کی عمر 60 سال مکمل ہو چکی ہے۔ جس پر سائل نے متعلقہ عملہ کو اپنی اصل شناختی کارڈ پیش کیا اور شناختی کارڈ میں درست تاریخ پیدائش مورخہ 17/02/1959 کے مطابق درستی کرنے کی استدعا کی جس پر سائل کی 09 ماہ کی تنخواہ مارچ 2012 تک دوبارہ جاری کر دی گئی اور سائل کو یقین دہانی کرائی گئی کہ تاریخ پیدائش شناختی کارڈ کے مطابق درست کر دی گئی ہے۔ نقل شناختی کارڈ لف ہے۔
- (3) یہ کہ سائل بدستور T.T ٹیچر ڈیوٹی سرانجام دیتا چلا آ رہا ہے۔ لیکن عرصہ 13 ماہ سے سائل کو تنخواہ کی ادائیگی نہیں کی گئی ہے اور نہ ہی منگمہ کی طرف سے سائل کو کوئی نوٹس / چھٹی جاری کی گئی ہے اور نہ ہی تنخواہ کی بندش کی کوئی وجہ بیان کی گئی ہے۔ ہدیں وجہ اپیل اندر میعاد ہے۔
- (4) یہ کہ سائل کی مدت ملازمت / ساٹھ سال پورا ہونے میں تاجال 6 سال کا عرصہ باقی ہے اور سائل کی تنخواہ غلط اور بلاوجہ روکی گئی ہے۔

لہذا استدعا ہے کہ سائل کی تنخواہ جاری فرمانے کا حکم صادر فرمایا جاوے اور سائل کی درست تاریخ پیدائش مطابق شناختی کارڈ مورخہ 17/02/1959 کے مطابق ریٹائرمنٹ کا حکم صادر فرمایا جاوے۔

Attested  
A

مورخہ: 16/05/2013



اللہ داد خان T.T گورنمنٹ ہائی سکول کوئٹہ F.R ڈیرہ (سائل)

ہر امری

# وکالت نامہ

قیمت ایکرو پیہ	کورٹ فیس
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Before N.P.K Service Tribunal عدالت جناب

Appellant منجانب

Allah Dad Khan بنام Court of N.P.K

Service Appeal دعویٰ یا جرم

تفصیل دعویٰ یا جرم

## باعث تحریر آنکہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف واسطے بیرونی وجوہاتی برائے پیشی یا تصفیہ مقدمہ بمقام *Kashan*

سزا خان ضیاض میر ایڈووکیٹ محمد سعید احمد اعوان ایڈووکیٹ ہائی کورٹ

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے۔ کہ میں ہر پیشی پر خود یا بذریعہ مختیار خاص روز بروز عدالت حاضر ہوتا رہوں گا۔ اور ہر وقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دیکر حاضر عدالت کروں گا۔ اگر پیشی پر منظر حاضر نہ ہوں۔ اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور میرے برتلاف ہو گیا۔ تو صاحب موصوف اسکے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پکپہری کے علاوہ کسی جگہ یا پکپہری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل بیرونی کرنے کے ذمہ دار نہ ہوں گے۔ اور مقدمہ صدر پکپہری کے علاوہ اور جگہ ساعت ہونے یا بروز تعطیل یا پکپہری کے اوقات کے آگے پیچھے پیش ہونے پر منظر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختانہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پر داخست صاحب موصوف مثل کردہ ذات خود منظور و قبول ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ، یا جواب دعویٰ یا درخواست اجرائے ڈگری و نظر ثانی اپیل نگرانی و ہر قسم درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کرانے اور ہر قسم کاروبار وصول کرے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور اس پر ثالثی یا راضی نامہ و فیصلہ بر حلف کرنے، اقبال دعویٰ کا بھی اختیار ہوگا، اور بصورت ضرورت ہونے تاریخ پیشی مقدمہ مذکورہ بیرون از پکپہری صدر بیرونی مقدمہ مذکورہ نظر ثانی و اپیل و نگرانی و برآمدگی مقدمہ یا منسوفی ڈگری کی طرف یا درخواست حکم امتناعی یا ترقی یا گرفتاری قبل از فیصلہ اجرائے ڈگری بھی صاحب موصوف کو بشرط ادا ایسی علیحدہ مختانہ بیرونی کا اختیار ہوگا۔ اور تمام ساختہ پر داخست صاحب موصوف مثل کردہ ذات خود منظور و قبول ہوگا۔ اور بصورت ضرورت صاحب موصوف کو یہ اختیار ہوگا کہ مقدمہ مذکورہ یا اس کے کسی جزو کی کارروائی یا بصورت درخواست نظر ثانی اپیل یا نگرانی یا دیگر معاملہ مقدمہ مذکورہ کسی دور یا ہر قسم کے اختیار حاصل ہوں یا ہر شرط کو اپنے بجائے یا اپنے ہمراہ مقرر کریں۔ اور ایسے مشیر قانون کو بھی ہر امر میں وہی اور ویسے اختیارات حاصل ہوں صاحب موصوف کو حاصل ہیں۔ اور دوران مقدمہ میں جو کچھ ہر جانب التوا پڑے گا۔ وہ صاحب موصوف کا حق ہوگا۔ مگر صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا۔ تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی بیرونی نہ کریں۔ اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے خلاف نہیں ہوگا۔ لہذا وکالت نامہ لکھنا یا ہے۔ تاکہ مستدر ہے۔

Accepted  
Sd/-  
M. A. Khan

M. A. Khan

20

مضمون وکالت نامہ سن لیا ہے۔ اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

اللہ داد خان  
Appellant

**BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Appeal No: 1410/2013

Allah Dad Khan T.T GPS Kuza FR DI Khan .....Appellant.

**VERSUS**

1. Government of KPK through Additional Chief Secretary FATA Civil Secretariat Peshawar.
2. Secretary Education FATA, FATA Secretariat Peshawar.
3. Agency Education Officer FR DI Khan.....Respondents.

**Para-wise comments on behalf of respondent No: 3.**

**Preliminary Objections.**

**Respectfully Sheweth:**

1. That the appellant has got no cause of action to file the instant appeal.
2. That the appellant has not come to this Honourable Tribunal with clean hands.
3. That the appellant has concealed material facts from this Honourable Tribunal.
4. That the appellant is estopped by his own conduct to bring the present appeal.
5. That the appeal is bad due to mis-joinder and non-joinder of necessaries parties.
6. That the appeal is bad due to mis-joinder and non-joinder of necessary parties.

**On Facts:**

1. No comments. Pertains to record.
2. Incorrect. According to Service Book and sanadul Farah certificate the date of birth of the appellant is 17/2/1950. It is further pointed out that in this regard the appellant has given an undertaking on stamp paper that his actual date of birth is 17/2/1950 (Photocopy of service book undertaking on stamp paper are attached as Annexure (A/B)).
3. Incorrect. In this regard the appellant has given an undertaking and himself admitted that my correct date of birth is 17/2/1950 and 17/2/1959 has wrongly been recorded in my service book.
4. Incorrect. As explained in Para No. 3 above.
5. Incorrect. As explained in Para-2 above.
6. Incorrect. The appellant himself admitted that if there is any payment made to the appellant may be deducted from my pension. It is further pointed out that in this regard a letter has been sent to the appellant by name to submit his service book for pension as pay has already been stopped due to sixty years age copy attached as (Annexure-C).
7. Incorrect. As explained in Para-6 above.

**Grounds:**

- a. Incorrect. According to the available official record the respondents has not taken any action which is against the law and natural justice.
- b. Incorrect. As explained in Para-A.
- c. Incorrect. In this regard Agency Education Officer FR Tank has issued a letter to appellant vide No. 69 dated 11/11/2013 that your salary has been stopped due to sixty years age.
- d. Incorrect. According to the undertaking on stamp paper, sanadul Farah certificate and service book the appellant is not entitle for further payment of salaries.
- e. Incorrect. NIC record relates to NADRA not to Education Department.
- f. Incorrect. As replies in above paras.

In light of the above facts it is humbly requested to please dismiss the appeal having no legal grounds.

Respondent NO.3




Agency Education Officer  
FR DI Khan

**AFFIDAVIT**

We the above respondents do hereby declare and affirm on oath that the above comments are true and correct to the best of our Knowledge and belief that nothing has been concealed from this Honorable Tribunal.

Respondent NO.3



Agency Education Officer  
FR DI Khan

Handwritten notes at the top of the page, possibly including a name or title.

51A53

P-3

P-3

The entries in this page should be renewed or re-attested at least every five years, and the signature in lines 9 and 10 should be dated.

- 1. Name ... *Allah Dad*
- 2. Race ... *Muslim (Pak)*
- 3. Residence ... *Vill; Ping Teh, Waa (FR) Dthman*
- 4. Father's name and residence ... *Cal dad of*
- 5. Date of birth by Christian era as nearly as can be ascertained  
*DOB removed from Health of certificate* ... *17.2.1959 Seventeenth Feb. N. fifty nine.*
- 6. Exact height by measurement - *Shak*
- 7. Personal marks for identification ... *DOB removed from Health of certificate*
- 8. Left hand thumb and finger impression of (non-gazetted) officer ...
  - Little Finger. ... Ring Finger
  - Middle Finger. ... Fore Finger
  - Thumb
- 9. Signature and Government servant ... *Handwritten signature*
- 10. Signature and Government servant ... *Handwritten signature*

Handwritten signature in Urdu script.

Handwritten signature in Urdu script.

1 Name of post	2 Whether substantive or officiating, and whether permanent or temporary.	3 If officiating, state— (i) substantive appointment or (ii) whether service counts for pension under Art. 371, C. S. R.	4 Pay in substantive post.	5 Additional pay for officiating	Other emoluments falling under the term "Pay"	Date of appointment	Signature of Government servant
Theology teacher B.P.S. Nishpazai Off/Per FR. DM Revised Grade (6) 315-12-399/14-525			167/-		-	19.2.77 FN	[Signature]
T.T. G.P.S. Nishpazai (R.D. 1.1.64)	Off/Temp.		351/-	Per.		1-5-77	[Signature]
- DO -	- do -		363/-			1-12-77	[Signature]
T.T. G.P.S. Domarada	- do -		363/-			2-9-78	[Signature]
- DO -	- do -		375/-			1-12-78	[Signature]
<del>DO - DO</del>	<del>- DO -</del>		<del>387/-</del>				
T.T. G.P.S. Domarada	Off/Temp.		399/-			1/12/78	[Signature]

3

If officiating, state—  
(i) substantive appointment or  
(ii) whether service counts for pension under Art. 371, C. S. R.

Whether substantive or officiating, and whether permanent or temporary.

Name of post

Signature of Government servant

Date of appointment

Additional pay for officiating

Other emoluments falling under the term "Pay"

Pay in substantive post.

Whether substantive or officiating, and whether permanent or temporary.

Name of post

If officiating, state—  
(i) substantive appointment or  
(ii) whether service counts for pension under Art. 371, C. S. R.

Whether substantive or officiating, and whether permanent or temporary.

Name of post

If officiating, state—  
(i) substantive appointment or  
(ii) whether service counts for pension under Art. 371, C. S. R.

Whether substantive or officiating, and whether permanent or temporary.

Name of post

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Whether substantive or officiating, and whether permanent or temporary.

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Whether substantive or officiating, and whether permanent or temporary.

Name of post

If officiating, state—  
(i) substantive appointment or  
(ii) whether service counts for pension under Art. 371, C. S. R.

Whether substantive or officiating, and whether permanent or temporary.

Name of post

If officiating, state—  
(i) substantive appointment or  
(ii) whether service counts for pension under Art. 371, C. S. R.

Whether substantive or officiating, and whether permanent or temporary.

Name of post



(P-4)

10/77 = 351/-

(P-4)

1	2	3	4	5	6	7	8
Name of post	Whether substantive or officiating, and whether permanent or temporary.	If officiating, state— (i) substantive appointment or (ii) whether service counts for pension under Art. 371, C. S. R.	Pay in substantive post	Additional pay for officiating	Other emoluments falling under the term "Pay"	Date of appointment	Signature Govt./Inm Arvat
Theology teacher B.P. Nishpaizi Off/Temp FR. DM Revised Grade (6) 315-12-399/14-525 T.T.	Off/Temp		167/-		-	19-2-77 FN	
G.P.S. Nishpaizi (RR) D. 1-10-68 T.T.	Off/Temp		351/-	Perm.		1-5-77	
- DO -	- do -		363/-			1-12-77	
T.T. G.P. Domanada	- do -		363/-			2-1-78	
- DO - DO -	- do -		375/-			1-12-78	
<del>DO - DO</del>	<del>DO</del>		<del>367/-</del>				
T.T. G.P. Domanada	Off/Temp		399/-			1/12 75	

PAY FIXATION PROFORMA OF GOVT. SERVANTS INTRODUCED WITH EFFECT FROM 1.5.1977  
 N.W.F.P. No. FD (SO) P.R.C/1-2/77. (PAY FIXATION CELL)  
 No. SO (SR-I) FD-2-45/75-III Dated 21-7-77.

Name of Government Servant  
 No. SO (SR-I) FD-2-45/75-III Dated 21-7-77.  
 No. SO (SR-I) FD-2-45/75-III Dated 21-7-77.

1. Name of Government Servant Allah Dad
2. Designation of the post T.T. G.P.S Nishapora (F.R) D.I. Khan
3. Notional scale of pay on 30.4.77 (6) 165-8-205/10-255/10-315
4. Revised National pay scale on 1.5.1977 (6) 315/12-399/14-525
5. Present amoluments.
 

(a) Basic pay	Rs. <u>165/-</u>	Pm.
(b) Dearness/allow:	Rs. <u>35/-</u>	4
(c) Special Dearness allow:	Rs. <u>50/-</u>	6
(d) Addl: D. A.	Rs. <u>25/-</u>	4
(e) Total (a) to (d)	Rs. <u>275/-</u>	
6. 10% on/5 (e) above
7. Total (5 + 6)
8. Teaching Allowance
9. Grand Total (Colum No. 7 + 8)
10. Pay fixed in the Revised National scale of pay on 1.5.1977.
11. Date of next increment and pay on 1-12-77 Rs. 363/-

PAY FIXED IN THE REVISED NATIONAL SCALE OF PAY (RULES, 1977)  
 OF Rs. 315-12-399/14-525

Nahmat Shah  
 District Inspector of Schools,  
 (F.R) D.I.KHAN

ACCOUNTS OFFICER  
 ACCOUNTANT GENERAL

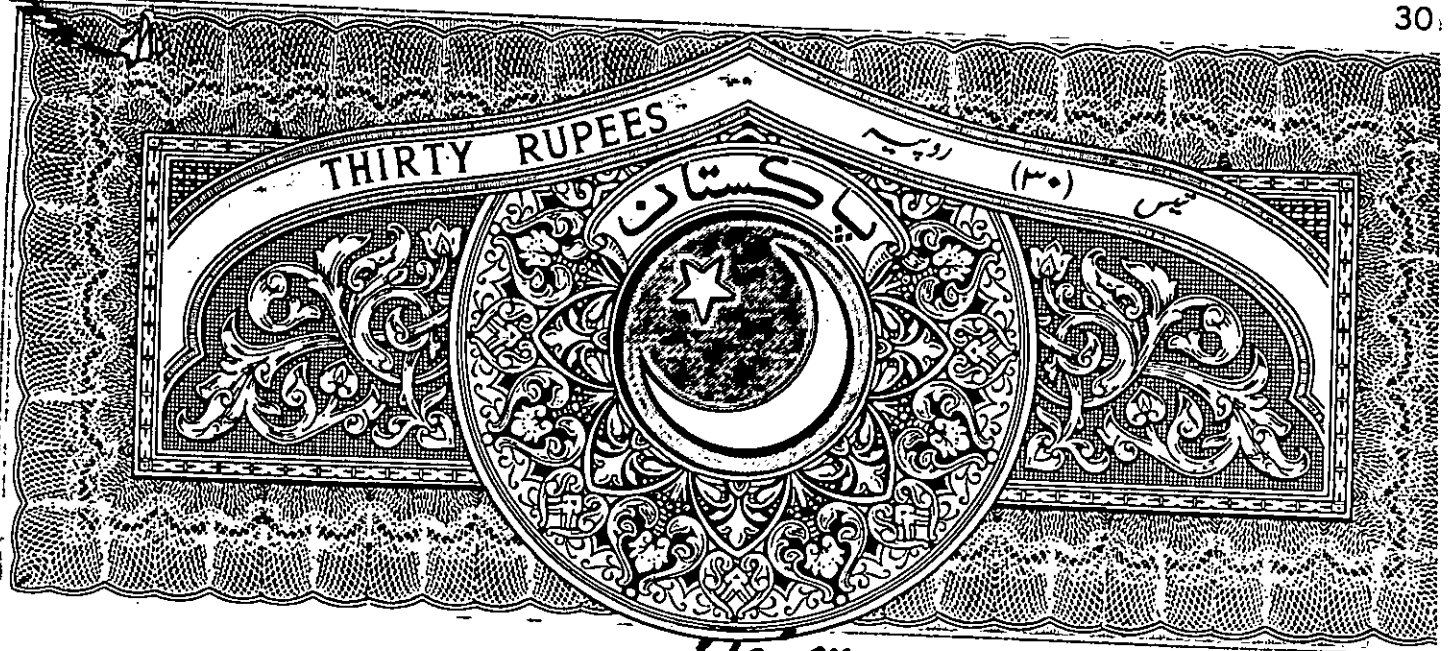
Allah Dad UNDER TAKING here by undertake to make good any over-  
 payment made to me as a result of incorrect fixation of pay in the Revised National  
 scale of pay. The same may be recovered from my pay or Pension, if and when detached.

Signature of Govt. servant  
 (Designation) T.T.

Nahmat Shah  
 District Inspector of Schools,  
 (F.R) D.I.KHAN

D.I. Khan  
 11/1/80





پاکستان

منجہ سے کسی اقتدار و فائز و ملکہ و داد و عین توں جہنمی لکھنے لکھی ہوئی ہے  
 کھنٹی و قلعہ نامہ لکھنے لکھی ہے جو کہ سن ۱۹۵۶ء میں لکھی گئی ہے  
 جس میں تاریخ پیدائش ۱۷۰۲-۱۹۵۶ء سے جو کہ سن ۱۹۵۶ء میں لکھی گئی ہے  
 دیکھا کہ اس میں لکھا ہے کہ اس میں تاریخ پیدائش ۱۷۰۲-۱۹۵۶ء سے جو کہ سن ۱۹۵۶ء میں لکھی گئی ہے  
 میں علی سے ۱۷۰۲-۱۹۵۶ء لکھی گئی ہے جس میں تاریخ پیدائش ۱۷۰۲-۱۹۵۶ء سے جو کہ سن ۱۹۵۶ء میں لکھی گئی ہے  
 لکھی گئی ہے جس میں تاریخ پیدائش ۱۷۰۲-۱۹۵۶ء سے جو کہ سن ۱۹۵۶ء میں لکھی گئی ہے  
 لکھی گئی ہے جس میں تاریخ پیدائش ۱۷۰۲-۱۹۵۶ء سے جو کہ سن ۱۹۵۶ء میں لکھی گئی ہے  
 لکھی گئی ہے جس میں تاریخ پیدائش ۱۷۰۲-۱۹۵۶ء سے جو کہ سن ۱۹۵۶ء میں لکھی گئی ہے

۱۷۰۲-۱۹۵۶ء سے جو کہ سن ۱۹۵۶ء میں لکھی گئی ہے  
 لکھی گئی ہے جس میں تاریخ پیدائش ۱۷۰۲-۱۹۵۶ء سے جو کہ سن ۱۹۵۶ء میں لکھی گئی ہے  
 لکھی گئی ہے جس میں تاریخ پیدائش ۱۷۰۲-۱۹۵۶ء سے جو کہ سن ۱۹۵۶ء میں لکھی گئی ہے  
 لکھی گئی ہے جس میں تاریخ پیدائش ۱۷۰۲-۱۹۵۶ء سے جو کہ سن ۱۹۵۶ء میں لکھی گئی ہے

اللہ داد خان

اللہ داد خان

Read at  
 DOST MUHAMMAD ADVANI  
 Auth. Cent.

100

69

Dated DIKhan the 4/1 /2013

From;

The Agency Education Officer,  
FR DIKhan.

To

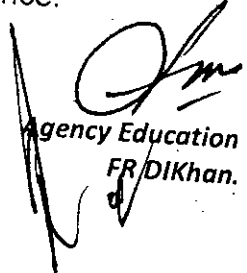
Mr. Allah Dad  
Ex; TT, GPS *Kog (PH/DI)*

Subject;

Retirement.

Memo;

It is once again you are directed to submit your service book for pension purpose as your pay has already been stopped due to sixty years age. You will held responsible for all consequence.

  
Agency Education Officer  
FR DIKhan.

(D)

سندھ عیسوی ۱۹۵۰ء

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

وزیرتہ المجاہدہ رحمتیہ لاہور

بازار انارکھی لاہور

افذخ العلم من الهدی

سندھ

P-25

P-25

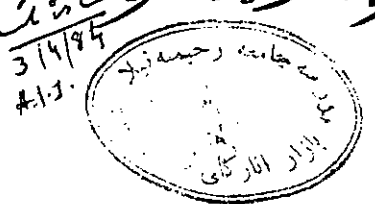
P-25

يُنَجِّحُ ظِلْمًا مَا فِي السَّمَوَاتِ وَمَا فِي الْأَرْضِ الْمَلِكُ الْقَدُّوسُ الْعَزِيزُ الْحَكِيمُ هُوَ الَّذِي بَعَثَ فِي الْأُمَمِينَ نُبُؤًا  
 نَهَضُوا عَلَيْهِمْ آيَاتِهِ وَبَيَّنَّ لَهُمْ دِينَهُمْ وَاللَّهُ عَلِيمٌ خَبِيرٌ وَأَنْ كَانُوا مِنْ قَبْلُ لَكُمْ فِي ضَلَالٍ مُّبِينٍ وَتَحَمَّدُ ظِلْمًا الْعَزِيزُ الرَّحِيمُ خَدَّ الْعَقْبُ  
 لَعْدًا وَالنَّابِيطُ وَنَصَبَهُ عَلَى الْفَضْلِ مِنْ أَوْتَى الْحِكْمَةِ وَضَلَّ لِحَابِطِ مُحَمَّدٍ وَعَلَى إِلَيْهِ رَاغِبًا بِهِ الظاهرين أنزل الناب إلى  
 فالبعده فان الأخ الصالح البار المولود لمراد خان بن گل داود خان القوم بھٹنی در سپرون ساکن بینگ بمجلس بمثلہ  
 لیسار ڈیرہ اسماعیل خان قد دخل هذه المدرسه الجامعه الشريفة التي تتفجر ومضما نيايغ العلوم الدينية لفرز خوار واصلها  
 بتسبب فيها الاثمين بمحققها فقرر فيها الكتب المنسوخة بتفصيلها وبذل جفده في طلبها وتخصيها فلما فرغ في سنة  
 طلب من اللجاجة اجزائة بالتحديث والتدريس والتعليم وتبليغ الدين القويم وكتب له هذه الورقة مستدا يكون  
 ما عنده مستدا الحاجة مستدا ولو ضمه والله الموفق اذ ان الله في السر والعلانية وان ربي من تعاليمها  
 فضا وما لطن وان لا يفتح رتبة التثنية ليعلمها تلاوة في اليد وان يكون مقتضيا لا تار الحنف الصالحين  
 شجبا عما احده شته المبتدعة في الدين وان لا يباهي بالعلم العلماء ولا يجاري به السفهاء ولا يحمله  
 رتبة لظنول الدنيا ويتبع السنة ويستعمل بنشر الاحكام الشرعية ومطالعة الكتب الدراسية خالصته  
 لوجه الله والمرفوض منه ان لا يفتي الا سائده واز كان هذه المدرسه في وعمراته الصالحة ط  
 واخر دعوان ان الحمد لله رب العالمين والصلاة والسلام على خير خلقه محمد وآله واصحابه اجمعين ط

تفصيلت  
 بجاری شریف، مسلم شریف، ترمذی شریف، ابن ماجہ و ابی داؤد!

امضات العلماء  
 فخر الاسلام عبدالکبر  
 اقطر الانام مرزا گل محمد

Date of Birth 17-2-1950



امضات العلماء  
 محمد رفیع الرحمن  
 لال انام محمد اسرار محمد  
 F.R.S. Di. Khan & Banu Khan  
 D.I. Khan

Agency Education Officer

# Death Certificate

Name: ALLAH DAD ENO: 1244/20-5-2016


Father Name: GUL DAD

R/O: KIRRI HAIDAR

CNIC: 12201-1897169-1

Cause of death: Recieved dead, Probably Sudden death.

Dated as: 25/06/2016.

  
25/6/16  
Authorized medical officer  
Medical Officer  
D.H.Q Hospital  
D.H.Q Hospital



**KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR**

No. 1024 /ST

Dated: 13-5- /2022

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281  
Fax:- 091-9213262


To

The District Education Officer Male,  
Government of Khyber Pakhtunkhwa,  
D.I.Khan.

Subject: JUDGMENT IN APPEAL NO. 1410/2013 MR. ALLAH DAD KHAN.

I am directed to forward herewith a certified copy of Judgement dated 19.01.2022 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR