

# FORM OF ORDER SHEET

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

**Appeal No.** 1963/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	28/09/2023	<p>The appeal of Mr. Rahim Ullah presented today by Mr. Kabir Ullah Khattak Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____ Parcha Peshai is given to the counsel for the appellant.</p> <p style="text-align: right;">By the order of Chairman</p> <p style="text-align: right;">REGISTRAR</p>

**BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER**  
**PAKHTUNKHWA, PESHAWAR.**

Service Appeal No. 19/53 /2023

Rahim Ullah .....(Appellant)

**VERSUS**

Inspector General of Police Khyber Pakhtunkhwa, Peshawar  
and others.....(Respondents)


**I N D E X**


S.No	Description of Documents		Pages
1.	Service Appeal		1-8
2.	Affidavit		9
3.	Addresses of the parties		10
4.	Copies of school leaving certificate, service record and CNIC	A	11-17
5.	Copy of inquiry report	B	18-19
6.	Copies of letter dated 02.03.2022 and retirement notification dated 05.09.2022	C	20-21
7.	Copy of Departmental Appeal	D	22-28
8.	Copy of Writ Petition and order dated 22/05/2023	E	29-33
9.	Wakalat Nama		34

  
Appellant

Through

Dated: 26/09/2023

  
**Kabir Ullah Khattak**  
Cell No. 0300-5842247

&   
**Roeda Khan**  
Advocates High Court,  
Peshawar.

①

**BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER**  
**PAKHTUNKHWA, PESHAWAR.**

Service Appeal No 1963 /2023

Rahim Ullah No. 476, M-Sub Inspector S/o Zer Muhammad  
R/o Mohallah Shalmano Jalala, Tehsil Takhtbhai, District  
Mardan.....(Appellant)

**VERSUS**

1. Inspector General of Police Khyber Pakhtunkhwa, Peshawar.
2. Deputy Inspector General of Police Office at Saidu Sharif,  
Swat.
3. District Police Officer, Dir Lower.
4. District Account Officer Dir Lower.
5. Assistant Account Officer Pay Role-V, at Accountant General  
Office Civil Secretariat, Peshawar.....(Respondents)

**APPEAL U/S 4 OF THE KHYBER**  
**PAKHTUNKHWA SERVICE TRIBUNAL ACT**  
**1973, AGAINST THE ISSUANCE OF THE**  
**IMPUGNED PREMATURE NOTIFICATION**  
**DATED 05/09/2022 W.E.F. 20/03/2020**  
**WHEREBY AGAINST WHICH THE**  
**APPELLANT FILED DEPARTMENTAL**  
**APPEAL ON 18/10/2022 WHICH HAS NOT**  
**BEEN DECIDED WITHIN STATUTORY**  
**PERIOD OF 90 DAYS.**

(2)

**PRAVER:**

On acceptance of this appeal, the impugned premature Notification orders dated 05/09/2022 may kindly be declared as illegal, un constitutional, void ab-initio ineffective upon the rights of the appellant and respondents may also be directed to retired the appellant w.e.f. 21/03/2024 as per CNIC and other documents.

Any other relief not specifically asked for may also graciously be extended in favour of appellant.

**Respectfully Sheweth:**

1. That initially the appellant was appointed as a constable on 28/08/1982 at Dir Police and as such date of birth the appellant is 21/03/1964 according to School Leaving Certificate. (Copies of school leaving certificate, service record & CNIC are attached as annexure "A").
2. That the appellant performed his duties with zeal and due to excellent performance of the appellant

he was finally promoted to the rank of sub inspector (BPS-14) in the year of 2012.

3. That according to the relevant rules for retirement and date of birth of the appellant, the cutoff date for retirement of the ground of superannuation of the appellant was 21.03.2024.
4. That prior to the retiring date i.e. 21.03.2024 of the appellant the respondent No.1 informed the Appellant that his retiring date of the service is 20.03.2020 so, the Appellant approached the concerned authority through written representation where the appellant highlighted the issue that according to school certificates and other service related documents the date of birth of the appellant is 21.03.1964, but inadvertently, only in service role in column of date of birth his date of birth was wrongly mentioned as 21.03.1960.
5. That on the application of the Appellant an inquiry was conducted through DSP Hq, Dir Lower, where through inquiry proceeding the service record and school certificates along with NADRA record the

(4)

date of birth of the Appellant was 21.03.1964 but only in - one document of the service record i.e. service role of the Appellant his date of birth was inadvertently or due to clerical mistake was mentioned as 21.03.1960 hence, through inquiry report the stance of the Appellant regarding his date of birth was confirmed and it was opined that it was the mistake of the department that his date of birth was wrongly mentioned as 21.03.1960 in his service role. (Copy of inquiry report is attached as annexure "B").

6. That according to the inquiry report the respondent No.1 sought guidance from respondent No.5 regarding the issue through letter dated 02.03.2022 but later on without considering the legal aspect of the case and inquiry report the respondent No.5 issued retirement notification of the Appellant through impugned retirement notification No.9094-98/E dated 05.09.2022. (Copies of letter dated 02.03.2022 and retirement notification dated 05.09.2022 is attached as annexure "C").

7. That against the impugned order dated 05.09.2022 Appellant approached the respondent No.4 through written representation but till date no heed was paid to his request nor his representation was decided accordingly to law and rules. (Copy of Departmental Appeal is attached as annexure "D").
8. That the appellant filed Writ Petition No. 1189/2022 before the Hon'ble Peshawar High Court, Mingora Bench (Darul Qaza) Swat which was disposed of vide order dated 22/05/2023 with the direction to appellant to approach concerned forum. (Copy of Writ Petition and order dated 22/05/2023 are attached as annexure "E").
9. That appellant is having available with no alternative, adequate and efficacious remedy for redressal of injustice done to him except, the present petition, inter alia, on the following grounds.

**GROUND:**

- A. That the action and inaction of the respondents are illegal, and against the law and rules.

(b)

B. That according to the date of birth mentioned in NADRA record and school certificates, the exact date of birth of the Appellant is 21.03.1964 but due to the mistake of the department in service role his date of birth is mentioned is 21.03.1960 and the same fact was also further confirmed the inquiry report but the respondents illegally issued retirement notification of the Appellant which is against the law and rules.

C. That that prior to his retirement notification, time and again the issue has been brought by the appellant I notice of the respondents but respondents delayed the process and without any legal justification issued retirement notification of the Appellant.

D. That the respondents are legally bound to adhere to its rules and findings of the inquiry report.



(7)

E. That it is a settle principle of law that nobody should be penalized for the acts of other so, due to the mistake of the department while enter his incorrect date of birth in service record the Appellant was prematurely retired from service without any fault of the Appellant hence the actions and inaction of the respondents are illegal and against the provisions of constitution as well.

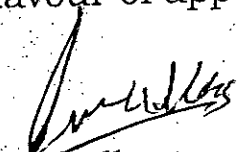
F. That any other ground not raised here may graciously be allowed to be raised at the time of arguments on the instant service appeal.

It is therefore, most humbly prayed that on acceptance of this appeal, the impugned premature Notification orders dated 05/09/2022 may kindly be declared as illegal, un constitutional, void ab-initio ineffective upon the rights of the appellant and respondents may also be directed to retired the

(8)

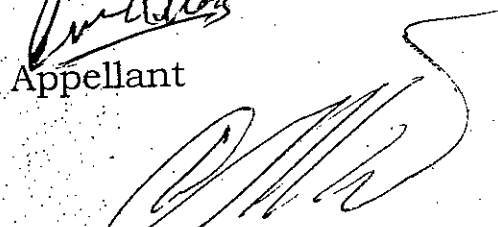
appellant w.e.f. 21/03/2024 as per CNIC and other documents.


Any other relief not specifically asked for may also graciously be extended in favour of appellant.

  
Appellant

Through

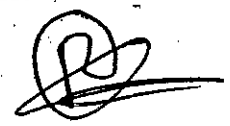
Dated: 26/09/2023.

  
**Kabir Ullah Khattak**

&   
**Roeda Khan**  
Advocates High Court,  
Peshawar.

**NOTE:**

As per information furnished by my client, no such like appeal for the same appellant, upon the same subject matter has earlier been filed, prior to the instant one, before this Hon'ble Tribunal.



**ADVOCATE**

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**BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER  
PAKHTUNKHWA, PESHAWAR.**

Service Appeal No. \_\_\_\_/2023

Rahim Ullah .....(Appellant)

**VERSUS**

Inspector General of Police Khyber Pakhtunkhwa, Peshawar  
and others.....(Respondents)

**AFFIDAVIT**

I, Rahim Ullah No. 476, M-Sub Inspector S/o Zer  
Muhammad R/o Mohallah Shalmano Jalala, Tehsil Takhtbhai,  
District Mardan, do hereby solemnly affirm and declare, that  
all the contents of accompanying **Service Appeal** are true and  
correct to the best of my knowledge and belief and nothing has  
been kept concealed from this Hon'ble Tribunal.



**DEPONENT**

(10)

**BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER  
PAKHTUNKHWA, PESHAWAR.**

Service Appeal No. \_\_\_\_\_/2023

Rahim Ullah .....(Appellant)

**VERSUS**

Inspector General of Police Khyber Pakhtunkhwa, Peshawar  
and others.....(Respondents)

**ADDRESSES OF THE PARTIES**

**APPELLANT:**

Rahim Ullah No. 476, M-Sub Inspector S/o Zer Muhammad  
R/o Mohallah Shalmano Jalala, Tehsil Takhtbhai, District  
Mardan.

**RESPONDENTS:**

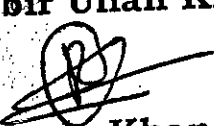
1. Inspector General of Police Khyber Pakhtunkhwa, Peshawar.
2. Deputy Inspector General of Police Office at Saidu Sharif,  
Swat.
3. District Police Officer, Dir Lower.
4. District Account Officer Dir Lower.
5. Assistant Account Officer Pay Role-V, at Accountant General  
Office Civil Secretariat, Peshawar.

  
Appellant

Through

Dated: 26/09/2023

  
**Kabir Ullah Khattak**

&   
**Roeeeda Khan**  
Advocates High Court,  
Peshawar.

78  
"A"  
11  
MATTER MOST URGENT

Through Registered



OFFICE OF THE  
DISTRICT POLICE OFFICER  
DIR LOWER

No. 19762 /DSP HQr, dated 14/12 2021

To: The Principal,  
Ajab Memorial High School Takht Bai.

Subject:- VERIFICATION OF SCHOOL LEAVING CERTIFICATE

Memo:

Photo copy of School Leaving Certificate of SI Rahim Ullah Khan s/o Zia Mohammad of this District Police is sent herewith for verification as to whether the same is genuine or otherwise:-

After doing the needful the same may be returned to this office as soon as possible for further necessary action, please.

Encls: - ( School Leaving Certificate )

For District Police Officer  
District Police Officer,  
Dir Lower at Titiargara


(24)

Verification of SLC.

Certified That Rahimullah Khan  
S/o Zair Mohammad was a regular  
Student of This School.

His date of birth is 21-3-1964  
(21st March N/A/S sixty four) in  
our School Record.

Head Master

  
Head Master  
Ajab Memorial High School  
(F.S.M) Tank, Thal

(13)

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Duplicate

AJAB MEMORIAL HIGH SCHOOL (F.S.M) TAKHT BHAI

SCHOOL LEAVING CERTIFICATE

Pupil's Name Rahimullah Khan File No. ....

No. in Admission Register 6141H Grade of Fee .....

Date of Birth 21-03-1964 (21st March N.H. 8 Sixty Four)

Certificate that Rahimullah Khan Son of Zairullah

Attended the school up to 10-01-80 has paid all sums dues to the school and was allowed on the above date to withdraw his name. He was reading in the 9<sup>th</sup> Class..... and Passed/ Failed in the examination for promotion to the 9<sup>th</sup> Class.

The following particulars are certified to be correct according to the registers of the school and the certificates produced from the previous school.

No.	School	Date of admission	Date of withdrawal	Period of attendance during the current school year		Possible attendances during the current school year	Actual attendances during the current school year	Leave Taken during the current school year
				From	To			
	A/AY H/ School T.Bhai	11/4/1979	10/01/1980	-	-	-	-	-
Total								

Conduct: Good

Prepared by: dl

Checked by: .....

Date of Issue: 11-02-2022

[Signature]  
 Head Master  
 Ajab Memorial High School  
 F.S.M Takht Bhai

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APPENDIX XX (Chapter VII '85)

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Issue

Received Through

School

DISTRICT

LEAVING CERTIFICATE

File No. 210

Pupil's Name

Grade of School

Parent Register

I HEREBY CERTIFY that... has paid all... to the school, and was of... grade at that time...

Table with columns for Name, Date of withdrawal, and other administrative details.

FOR SCHOLARSHIP HOLDERS ONLY

Kind of scholarship... Value... Years of award... Date up to which drawn... By whom payable... Losses taken at each school...

Signature of School Principal

- 2.
3.
4.

Signature of the... class, who left the... school... with transfer certificate No... Dated... has joined the... school... District... His date of birth as entered in the transfer certificate is...



145

Better Copy

APPENDIX XX (Chapter VII 28)

19

\_\_\_\_\_ School \_\_\_\_\_

District \_\_\_\_\_

LEAVING CERTIFICATE

Pupil's name: Rahim Ullah

File No. ....

Date of birth: 21/03/1964 (21th March, Nineteen Sixty Four) Grade of Fee \_\_\_\_\_

join Admission adjusted: 614/H

Certified that Rahim Ullah S/O Zair Muhammad attended this School on 10.01.1980 has paid all sum due to the school and was allowed on the above date to withdraw his name he was reading in the nine class Departmental and PASSED/FAILED in the examination for promotion to the nine class the flowing particulars are certify to be correct according to the register of this school and the certificate produce from previous school attended during the school year.

No	Date of withdrawal	Date of admission	Period of attendance during the current school year	Possible attendance during the currant the school year	attendance during the current the school year	Leave taken during the current school year
				284	162	
	This School					
	This Class					
	This Department					
	Total					

Date of issue: 10.01.80

Head Master

FOR SCHOLARSHIP HOLDER ONLY

Kind of Scholarship ..... Value .....

Year of award ..... Date up to which drawn .....

By whom payable ..... Leave taken at each school .....

1. ....
2. ....
3. ....
4. ....

CERTIFIED that ..... son of ..... and student of the ..... class, who left the ..... school ..... class of ..... school ..... District ..... on ..... his date of birth as entered in the transfer certificate is .....

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# POLICE TRAINING COLLEGE HANGU



Estb 1935

## History Sheet

School Course : Intermediate Belt No. : 430  
 Starting Date : 20.03.2000 Ending Date : 20.09.2000  
 Rank : HC Name : RAHIMULLAH  
 District : DIR/B D.O. Birth : 1964  
 Qualification : Middle  
 Course Merit Position Achieved 70 out of 114

LAW		DRILL		BOARD/Cond
PPC	61 /100	SD	19 /30	30/150
CRPC	58 /100	RF	50 /100	
QS	25 /50	SF	30 /40	
LSL	55 /100	MD	15 /20	
PR	100 /200	TFC	19 /30	
IST	62 /100	PT	14 /20	
MJ	50 /100	UC	7 /10	
PPW	125 /200	GD	15 /20	
FP	53 /100	SIT	7 /10	
GK	27 /50			
PD	25 /50			
SA	55 /100			

Total:- 696/1250 176/280

Overall Percentage is : 53.69

Declared as PASSED

Leave Obtained Nil days Medical Rest : 4 days Absentee Nil days  
 Reward : Nil  
 Punishment : Nil

  
 Commandant  
 Police Training College Hangu.

MARRIAGE AND SERVICE ROLL OF

Name

Or

Date

DISTRICT

DISTRICT

DISTRICT

(16)

Signature

Tribes or Caste

Village or Town

Post and Telegraph Office

Police Station

District

Province

Date of Birth

Height

Chest Measurement

Date of Enrolment

Age on Enrolment

Distinctive Marks

Rahimullah

Zia Mohammad

Jadala  
Taku Bahi  
do

Mardan.

N.W.F.P.

21-3-1960

5-10

34 x 36

28.8.82

7 days 5 months & 22 years

21-3-64 according to SLC

28-8-82  
21-3-86

22

Verification Roll No.

dated

received back and attached to the Raajh Mistal.

Government Service prior to present employment, which is approved for pension service.

Service Department	Rank or Grade	Pay of last Appointment	From	To	PERIOD		
					Years	Months	Days

Cause of and character on discharge from above service.

Reference to orders approving above service for pension service in the Police Department.

I agree to understand that I have been appointed under section 7 of the Police Act (V of 1861), and the purport of that section and the provisions of the Act and of the Rules issued under it and now in force, by which my discipline and conduct are governed, and explained to me. I agree to serve faithfully under the provisions of the said Police Act and to obey all lawful orders issued to me by my Superior Officers and undertake not to resign my appointment within three years from the date of my enrolment; I accept a certificate of appointment issued under section 8 of the Police Act (V of 1861).

Signature.

Roll of impression of fingers and thumb of left hand.

Left little	Left ring	Left middle	Left index	Left thumb

1	2	3	4	5
<p>Appointed, promoted, suspended, reduced, discharged, dismissed, resigned or died</p>	<p>To what grade and pay Appointed, promoted or reduced</p>	<p>Date</p>	<p>No. of District Order</p>	<p>Full Signature of Superintendent of Police</p>
<p>Appointed as Temporary Const at Rs 260/- PM w.e. From 28.8.82</p> <p>Service from 28.8.82 to 30.11.82 vide No 749 1.9.82</p> <p>As has been Verified from the Police Accounts Rolls Kept on Record in this office</p> <p>Department of Police District Timoruga</p>	<p>Pay fixed Provisionally at (460/-) in Basic Pay Scale No 2 = 460-12-700 w.e. 7.12.82</p> <p>As Const (at Rs 12/-) raising his pay to Rs (460/-) to (472/-) w.e. 7.12.83</p>	<p>28.8.82</p> <p>30.11.82</p> <p>1.9.82</p> <p>30.11.82</p>	<p>No 749</p> <p>1.9.82</p> <p>30.11.82</p>	<p>Full Signature of Superintendent of Police</p> <p>28/8/82</p> <p>30/11/82</p> <p>1/9/82</p> <p>30/11/82</p>

7. TRANSFERS BEYOND THE DISTRICT.

1	2	3	4
<p>Date</p>	<p>From</p>	<p>To</p>	<p>Authority for transfer</p>
<p>9.5.80 F.N</p>	<p>DIR</p>	<p>P.T.S Hangu</p>	<p>J.G. of Police N.W.F. P. Reshaw A.</p>

(17)

حکومت پاکستان

قلمی شناختی کارڈ

16102-8925482-7



نام: رحیم شاہ

پتہ: مود

وہ گاؤں: منگھو

امین سائز آجور شہتی سولت: نانہ بھٹن بولم

تاریخ: 21/03/1964

دستخط کارڈ

رشتہ: اسد حسین

شناختی نمبر: 16102-8925482-7

نام: VL6W1Q

تاریخ: 12/08/2014

تاریخ: 12/08/2024

12963-169885



مسئلہ پر: ایضاً

تاریخ: 12/08/2024

تاریخ: 12/08/2014

گنہگار کھانے پر آجی شہر گیس میں کٹاں دیں



بحوالہ مشمولہ نوٹس نمبری 14/EC-17512 مورخہ 25.10.021 بجاریہ جناب DPO صاحب ضلع دیر پائین معروض ہوں۔

SI رحیم اللہ نمبر، M/476، حال ہی میں CTD خیبر پختونخوا، پشاور سے بحوالہ چھٹی آرڈر نمبری E/80571-60 مورخہ 05-07-2021 بجاریہ ریجنل پولیس آفیسر، ملاکنڈ سوات آرڈر اینڈسٹ کے ذریعے ٹرانسفر پر موصول ہو کر اس کے سرس ریکارڈ میں کچھ تبدیلیاں پائی گئیں یعنی سرس رول میں دہری تاریخ پیدائش 21.03.1960 اور 21.03.1964 درج ہے۔ اس کے اس ریکارڈ میں درج تاریخ پیدائش کے مطابق SI مذکورہ مورخہ 20.03.2020 کو ریٹائرمنٹ کی عمر کو پہنچ چکا ہے جبکہ دوسری تاریخ پیدائش کے مطابق وہ 20.03.2024 کو ریٹائر ہو جائے گا۔ اور اس کے ساتھ ساتھ اس کے ریکارڈ CTD خیبر پختونخوا، پشاور و تھ فوجی مثل موصول ہوا اور نہ SI مذکورہ کے میڈیکل سرٹیفکیٹ ریکارڈ میں موجود ہے۔

جنس پر جناب DPO صاحب نے مذکورہ نوٹس نمبری بالا جاری کر کے ساتھ ہی مذکورہ کے متعلق انکوائری رپورٹ طلب کرنے کی خاطر نوٹس بمعہ دیگر کاغذات بلاتے انکوائری من DSP ہیڈ کوارٹر کو حوالہ ہوئی۔

سب ضابطہ انکوائری شروع ہو کر دوران انکوائری فوجی مثل کلرک LHC محمد انعام اور ساتھ ہی SI مذکورہ کے بیانات قلمبند ہو کر لف انکوائری اور قابل ملاحظہ ہے۔

نتیجہ و تحقیق

SI مذکورہ نے آج مورخہ 14.02.022 کو اپنا فوجی مثل دفتر حذا لا کر پیش کیا۔ SI مذکورہ کا فوجی مثل ملاحظہ ہو کر ذیل اہم پوائنٹ ہائے گئے

- (1) فوجی مثل میں بھرتی آرڈر پر بوقت بھرتی مورخہ 20.03.1982 کو SI مذکورہ کا عمر 22 سال درج شدہ ہے۔ جو کہ بحوالہ آرڈر بک نمبر 749 مورخہ 01.09.1982 بک نمبر 76 الاٹ ہو کر اندراج موجود ہے لیکن فوجی مثل سے میڈیکل چٹ عدم موجود پایا گیا۔ اور ساتھ ہی SI مذکورہ کا درخواست برائے بحیثیت ریکرڈ بھرتی میں ریکارڈ میں موجود ہے جس میں کلاس نہم تک تعلیم یافتہ کا ذکر کیا گیا ہے۔ درخواست SI + آرڈر بک نمبری 749 مورخہ 01.09.1982 نقل کاپی ہمراہ لف انکوائری حذا ہے۔
- (2) اسی طرح دفتر OHC میں لاگ رول ملاحظہ ہو کر بمطابق لاگ رول SI مذکورہ کا تاریخ بھرتی مورخہ 20.03.1982 جبکہ عمر بائیس 22 سال تحریر شدہ ہے۔ لاگ رول کا نقل کاپی ہمراہ لف انکوائری حذا ہے۔
- (3) SI مذکورہ کا سرس بک ملاحظہ ہو کر بوقت بھرتی بمطابق تاریخ پیدائش 21.03.1960 مذکورہ کا عمر 22 سال، 05 ماہ، 07 دن تحریر شدہ ہے۔ سرس بک میں کلاس نہم کالیونگ سرٹیفکیٹ بھی ریکارڈ پر موجود ہے جس میں SI مذکورہ کا تاریخ پیدائش 21.03.1964 تحریر شدہ ہے۔ نقل کاپی لف انکوائری حذا ہے
- (4) SI مذکورہ کے تاریخ پیدائش کے ویری فیکشن کی خاطر چھٹی انگریزی نمبری 19762/DSP/HQrs مورخہ 14.12.021 عجب میسول صافی سکول تحت بھائی کے پرنسپل صاحب کو بھیجوائی جا کر بواہی جواب موصول ہو کر تحریر ہوا ہے کہ SI مذکورہ کا بمطابق سکول ریکارڈ 21.03.1964 تاریخ پیدائش درج ہونا تحریر کیا ہے اور ساتھ سرٹیفکیٹ کا ڈوپلیکٹ کاپی بھی ارسال کی ہے۔ (ویری فیکشن تحریر بمعہ ڈوپلیکٹ سرٹیفکیٹ ہمراہ لف انکوائری حذا ہے)۔
- (5) سرس بک میں لف شدہ کلاس نہم کالیونگ سرٹیفکیٹ جس میں SI مذکورہ کا تاریخ پیدائش 21.03.1964 تحریر ہوا ہے۔ بوقت بھرتی لاگ رول میں SI مذکورہ کا تاریخ پیدائش کا اندراج بدوران بھرتی شاید سہو اور درج کیا گیا ہو۔ اور اصل پیدائش تصور کرنا درست ہو گا اور مذکورہ کا ساٹھ سالہ سرس بک مورخہ 21.03.2024 کو اختتام پذیر ہو گا۔ مگر 1982 کے دور میں محکمہ پولیس کے ملازمت کے لئے تعلیم کا شرط نہیں ہوتا تھا۔

(6) اس کے علاوہ SI مذکورہ کا قومی شناختی کارڈ ملاحظہ ہو کر شناختی کارڈ میں تاریخ پیدائش 21.03.1964 تحریر شدہ ہے۔

(7) SI مذکورہ کے (بدوران پولیس ٹریننگ) سکول ہسٹری شیٹ میں عمر 19 سال اور ساتھ ہی لوئر کورس اور انٹر میڈیٹ کورس کے ریزلٹ کارڈ سرٹیفکیٹ تاریخ پیدائش صرف 1964 اور کلاس 8<sup>th</sup> تک تعلیم یافتہ درج شدہ سروس بک کے صفحات/ریکارڈ پر موجود ہیں۔

جناب والا :- SI مذکورہ کا سروس بک ملاحظہ ہو کر بوقت بھرتی بمطابق تاریخ پیدائش 21.03.1960 مذکورہ کا عمر 22 سال، 05، 07 دن تحریر شدہ ہے۔ سروس بک سے لائنگ رول میں بھی اندراج کیا گیا ہوں۔ اور یہ بھی ہو سکتا ہے کہ شاید SI مذکورہ بوقت بھرتی جو کہ اس وقت تعلیم یافتہ ہونا شرط نہیں تھا۔ ریکروٹ بھرتی ہو چکا ہو گا لیکن تعلیم کے متعلق سکول سرٹیفکیٹ بعد میں پیش کیا ہوں۔ لیکن اس وقت دفتری عملہ نے مذکورہ SI کے ریکارڈ درست کرنے کا موقع نہ سہوارہ چکا ہو گا۔ کیونکہ سروس بک کے ریکارڈ میں SI مذکورہ کا نم لیونگ سرٹیفکیٹ جہاں کیا گیا ہے جس پر کوئی اندازہ نہیں لگایا کہ یہ اس نے بوقت بھرتی پیش ہو۔ بلکہ بمطابق نم لیونگ سرٹیفکیٹ اور پولیس ٹریننگ سکول یعنی ریکروٹ کورس سے لیکر انٹر میڈیٹ کورس تک کے ریزلٹ کارڈ اور ریکارڈ میں مذکورہ کا تاریخ پیدائش 1964 درج ہوا ہے۔ (نقل ہائے سرٹیفکیٹ کلاس نم بعد ہنگو کاغذات سرٹیفکیٹ ہائے ہمراہ لف انکوائری ہذا ہیں۔ اسکے علاوہ SI مذکورہ کا CNIC ملاحظہ ہو کہ سال 2014 میں ناراد دفتر سے ایٹو کیا گیا ہے اور جس میں SI مذکورہ کا تاریخ پیدائش سکول ریکارڈ کے مطابق یعنی 21.03.1964 درج ہے۔ اس کے ساتھ SI مذکورہ کے تاریخ پیدائش کے ویری فیکشن کی خاطر چھٹی انگریزی نمبری DSP/HQrs/19762 مورخہ 14.12.021 عجب میورل حائی سکول تحت بھائی کے پرنسپل صاحب کو بھیجوائی جا کر بواپسی جواب موصول ہو کر SI مذکورہ کا بمطابق سکول ریکارڈ 21.03.1964 تاریخ پیدائش درج ہونا تحریر کیا گیا۔ ساتھ سرٹیفکیٹ کا ڈوپلیکیٹ کاپی بھی ارسال کی ہے۔ (ویری فیکشن تحریر بمعہ ڈوپلیکیٹ سرٹیفکیٹ ہمراہ لف انکوائری ہذا ہے)۔

لہذا اگر SI مذکورہ کے جملہ ریکارڈ وغیرہ ملاحظہ کیا جائے تو یہ درست ہے کہ SI مذکورہ کا بوقت بھرتی تاریخ پیدائش 21.03.1960 تحریر اور درج ہوا ہے۔ اسوائے سروس بک اور لائنگ رول کے دیگر سکول ریکارڈ تعلیمی اسناد، ہنگو (PTC) ریکارڈ، بمطابق CNIC ریکارڈ وغیرہ اندراجات میں اور ساتھ ہی عجب میورل حائی سکول سے موصول شدہ ویری فیکشن بمعہ ڈوپلیکیٹ سرٹیفکیٹ کی روشنی میں SI مذکورہ کے تاریخ پیدائش 21.03.1964 درست تسلیم کرنا مناسب رہے گا۔

DSP / HQrs

تیسر گرہ ضلع ویرہا تین

S.P. (H.Qrs)

Timergara

Dir (Lower)

24/02/2022



OFFICE OF THE  
DISTRICT POLICE OFFICER  
DIR LOWER

No. 2673 /EC, dated 2-3 /2022

To: - The Regional Police Officer,  
Malakand at Saidu Sharif Swat

Subject: GUIDANCE  
Memo:

It is submitted that Sub Inspector Rahim Ullah No.476/M was received on transfer from CTD Khyber Pakhtunkhwa to this District wide Region Office Swat Order Endst: No. 8057-60/E dated 05-07-2021. According to his 1<sup>st</sup> date of birth recorded in his Service Record he has already been attained the age of superannuation on 20-03-2020 and according to 2<sup>nd</sup> date of birth he will be retire from service w.e.f 20-03-2024 (*photocopy of service Roll of 1<sup>st</sup> page is enclosed*).

In this regard he was issued a written Notice No.171512-14/EC dated 25-10-2021 that you have already attained the age of superannuation on 20-03-2020, if you have any documented proof/record regarding 2<sup>nd</sup> date of birth may be provided to this office for further scrutiny. Otherwise you will be responsible for the said lacunas but he could not bother to provide any documentary proof/record to this office (*copy enclosed*) but he submitted an application for retiring pension and was submit to Region Office Swat vide this Office Memo: No.18177/EC dated 05-11-2021 but the same was returned to this office vide Region Office Swat Memo: No.13624/E dated 16-11-2021 with remarks that (*the date of birth of the applicant may be clarified and communicate to Region Office to proceed further into the matter*) (*copy enclosed*).

In light of above observed remarks, on 29-11-2021, an enquiry was conducted by the undersigned and Mr. Fakhar-e-Alam Acting DSP/Hqrs: Dir Lower was appointed as enquiry officer to probe further into the matter. The enquiry officer in his finding stated that after thorough scrutiny of educational documents it reveals that correct date of birth of the SI Rahim Ullah No.476/M may be consider is 21-03-1964 (*copy enclosed*)

It is therefore, requested that this office may kindly be guided to alter the date of birth of SI Rahim Ullah No.476/M from 21-03-1960 to 21-03-1964 at this stage or otherwise, please.

Enclosed (05)

Irfan Ullah Khan (PSP)  
District Police Officer  
Dir Lower

SI مذکورہ کا تاریخ پیدائش کا اندراج بدوران بھرتی شاید ہو اور ج کیا گیا ہو۔ اور اصل پیدائش تصور کرنا درست ہو گا اور مذکورہ کا ساٹھ سالہ عمر  
21.03.2024 کو اختتام پذیر ہوگا۔ مگر 1982 کے دور میں محکمہ پولیس کے ملازمت کے لئے تعلیم کا شرط نہیں ہوتا تھا۔





OFFICE OF THE  
REGIONAL POLICE OFFICER, MALAKAND  
ATSAIDU SHARIF SWAT.

Ph: 0946-9240381 & Fax No. 0946-9240390

Email: [digmalakand@yahoo.com](mailto:digmalakand@yahoo.com)

(21)

ORDER

As per request of the District Police Officer, Dir Lower vide Memo No.8639/EC, dated 27-07-2022 and opined by AIG/Legal, CPO, Peshawar vide Memo: No.1251/E-III, dated 06-07-2022, according to the recorded date of birth of Sub-Inspector Rahim Ullah No.476/M of Dir Lower District i.e. 21-03-1960, he had attained the age of superannuation on 20-03-2020 (AN), therefore, he is retired from service on superannuation pension with effect from 20-03-2020 (AN). He should deposit all Government belongings with the relevant stores.

5201  
09.9.2022  
S. DIG. MALAKAND

*F. Asghar*  
Regional Police Officer,  
Malakand Region Swat

No. 9094-98 /E,  
Dated 5-9-2022.

\*\*\*\*\*

Copy for information and necessary action to the:-

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar with reference to CPO, Peshawar Memo: No. quoted above.
2. District Police Officer, Dir Lower with reference to his office Memo: No. quoted above. His Service Roll and Service Book (81 Sheets) in original received with the memo: under reference are returned herewith for record in your office, the receipt of which may be acknowledged, please.
3. District Accounts Officer, Dir Lower.
4. Pension Clerk at Region Office, Swat.
5. Assistant Secret, Region Office, Swat.

Encl. S. Roll  
S. Book

OB No. 825  
dt 6-9-2022

OB/EC/PO/PC

District Police Officer,  
Dir Lower at Timergara

'D' (22)

No- 3848/PS.  
dt 18/10/22

**BEFORE THE INSPECTOR GENERAL OF POLICE KHYBER**  
**PAKHTUNKHWA**

Rahim Ullah No. 476/M, Sub Inspector,

Presently performing his duties as Sub Inspector in Dir Lower  
Police,

R/o Mohalla, Shalmano, Jalala, Tehsil Takhbahi, District  
Mardan.

**Subject: DEPARTMENTAL APPEAL AGAINST THE ORDER**  
**DATED 05.09.2020 TO WHICH THE APPELLANT WAS**  
**PREMATURELY RETIRED FROM SERVICE**

Respected Sir,

Brief facts leading to the institution of the present petition are:

1. That initially the appellant was appointed as a constable on 28.08.1982 at Dir Police and as such date of birth the appellant is 21.03.1964 according to School leaving certificate. **(Copies of school leaving**

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certificates and service record are attached as annexure "A")

2. That the appellant performed his duties with zeal and zest and due to excellent performance of the appellant, he was finally promoted to the rank of sub inspector (BPS-14) in the year of 2012.
3. That according to the relevant rules for retirement and date of birth of the appellant, the cutoff date for retirement of the ground of superannuation of the appellant was 21.03.2024.
4. That prior to the retiring date i.e. 21.03.2024 of the Appellant the DPO Dir Lower informed the Appellant that his retiring date of the service 20.03.2020 so, the Appellant approached the concerned authority through written representation where the Appellant highlighted the issue that according to school certificates and other service related documents the

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date of birth of the Appellant is 21.03.1964 but inadvertently only in service role in column of date of birth his date of birth was wrongly mentioned as 21.03.1960.

5. That on the application of the Appellant an inquiry was conducted through DSP Hq Dir Lower where through inquiry proceeding the service record and school certificates along with NADRA record the date of birth of the Appellant was 21.03.1964 but only in one document of the service record i.e. service role of the Appellant his date of birth was inadvertently or due to clerical mistake was mentioned as 21.03.1960 hence, through inquiry report the stance of the Appellant regarding his date of birth was confirmed and it was opined that it was the mistake of the department that his date of birth was wrongly mentioned as 21.03.1960 in his service role. **(Copy of inquiry report is attached as annexure "B")**

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6. That according to the inquiry report the DPO Dir Lowersought guidance from regional police officer Malakand regarding the issue through letter dated 02.03.2022 but later on without considering the legal aspect of the case and inquiry report the Regional Police Officer Malakand issue retirement notification of the Appellant through impugned retirement notification NO. 9094-98/E dated 05.09.2022. **(Copies of letter dated 02.03.2022 and retirement notification dated 05.09.2022 is attached as annexure "C")**

**GROUND:-**

- A. That the actions and inactions of the department are illegal, and against the law and rules.
- B. That according to the date of birth mentioned in NADRA record and school certificates the exact date of birth of the Appellant is 21.03.1964 but due to

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the mistake of the department in service role his date of birth is mentioned is 21.03.1960 and the same fact was also further confirmed the inquiry report but the department illegally issued retirement notification of the Appellant which is against the law and rules.

C. That prior to his retirement notification, time and again the issue has been brought by the appellant in notice of the department but without any plausible explanation the department delayed the process and without any legal justification issued retirement notification of the Appellant.

D. That the department are legally bound to adhere to its rules and findings of the inquiry report.

E. That it is a settle principle of law that nobody should be penalized for the acts of other so, due to the mistake of the department while enter his incorrect date of birth in service record the

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Appellant was prematurely retired from service without any fault of the Appellant hence the actions and inaction of the department are illegal and against the provisions of constitution as well.

**In view of the above submissions,** it is therefore very humbly prayed that, on acceptance of the present application, directions may kindly be issue,

- i) Impugned retirement notification NO. 9094-98/E dated 05.09.2022 may kindly be declared against the law and rules.
- ii) Department may kindly be further be directed to allow the Appellant to perform his duties against the post of Sub inspector BPS-14.
- iii) And to release monthly salaries of the appellant.

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*Rahim Ullah*

**Applicant**

Rahim Ullah No. 476/M, Sub Inspector,  
Presently performing his duties as Sub  
Inspector in Dir Lower Police,  
R/o Mohalla, Shalmano, Jalala, Tehsil  
Takhbahi, District Mardan.



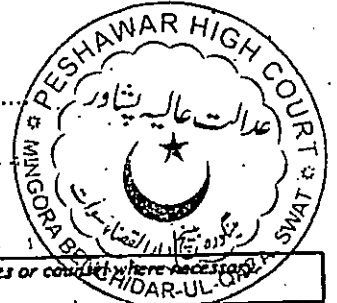
1 'E' (29)

**PESHAWAR HIGH COURT, MINGORA BENCH**  
**(DAR-UL-QAZA), SWAT**

**FORM OF ORDER SHEET**

Court of .....

Case No. .... of .....



Serial No. of order or proceeding.	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary.
	17.05.2023	<p><u>W.P.No.1189-M/2022</u> <u>(Rahim Ullah Vs. District Police Officer Dir Lower and others)</u></p> <p>Present: <u>Mr. Shams-ul-Hadi, Advocate for Petitioner.</u> <u>Mr. Inayatullah Khan, A.A.G for official Respondents.</u></p> <p style="text-align: center;">***</p> <p><u>MUHAMMAD NAEEM ANWAR, J.</u>- Through instant petition filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, Rahim Ullah, the petitioner, who remained the employee of the police department of District Dir Lower as constable w.e.f. 28.08.1982, when he was appointed as constable subsequently, promoted to the rank of Sub-Inspector till 20.03.2020, has challenged the order of the Regional Police Officer, Malakand Region at Saidu Sharif, Swat dated 05.09.2022 whereby he was retired from service on attaining the age of superannuation.</p> <p>2. In essence, grievance of the petitioner is that his correct date of birth according to his School Leaving Certificate is 21.03.1964 but in the record of the</p>

**ATTESTED**  
Examiner  
Peshawar High Court Bench  
Mingora Dar-ul-Qaza, Swat.

respondents, it was wrongly incorporated as 21.03.1960, which requires correction. It was further alleged by him that correct entry regarding his date of birth has been maintained by the National Database and Registration Authority (NADRA) in their record, wherein it was correctly mentioned as 21.03.1964, thus, the impugned retirement order dated 05.09.2022 is ineffective upon his rights. In support of his contention, he has made a reliance on his School Leaving Certificate issued on 11.02.2022 by the Head Master of Ajab Memorial High School (F.S.M) Takht Bhai and his CNIC issued on 12.08.2014.

3. Respondent No.1 (District Police Officer, Dir Lower) in pursuance of the directions of this Court furnished his parawise comments, wherein issuance of writ in favour of the petitioner was resisted on legal and factual aspect.

3. Arguments heard and record perused.

5. Undisputedly, the petitioner remained a civil servant w.e.f. 28.08.1982 when he was appointed as constable in the police department and it is also indisputable that in the Service Book of the petitioner, his date of birth was incorporated as 21.03.1960. It is reflected from the record that school history sheet of the petitioner has been placed on service record, which also pertains to the year 1960. The

**ATTESTED**  
 Examiner  
 Peshawar High Court Bench  
 Mingora Dar-ul-Qadim, SWAT

question through instant petition was as to whether the appointment/retirement being based upon the date of birth of the petitioner/civil servant does fall within terms and conditions of service and if so, wherefrom the petitioner could get the appropriate relief? The matter relating to the date of birth or alteration therein of civil servant has specifically been inserted in Civil Servants (Appointment, Promotion and Transfer), Rules, 1973 (Federal) vide SRO No.521(1)/2000 dated 31.07.2000 through rule 12-A of the Rules of 1973 pertaining to alteration in date of birth, which reads as under:

"Alteration in the date of birth: The date of birth once recorded at the time of joining government service shall be final and thereafter no alteration in the date of birth of a civil servant shall be permissible"

This rule and SRO has been practically adopted by the provincial government as well, but unfortunately no amendment has been brought in KPK, (Appointment, Promotion and Transfer) Rules, 1989. However, for all practically purposes the two years from the date of initial appointment, for the purpose of correction in date of birth, is applicable to the case of petitioner. Reliance in this respect is placed on the case of "Ghafoor Khan Vs. Secretary to Government of Khyber Pakhtunkhwa Education Department Peshawar and 4 others" (2018

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 Examiner  
 Peshawar High Court Bench  
 Mingora District Court Swat.

PLC (CS) N 44: In consonance with the date of birth of the petitioner as incorporated in his Service Book, he has attained the age of superannuation on 20.03.2020 and as such has been retired from service w.e.f. 20.03.2020 (afternoon) through the impugned order. This question has been resolved by the apex Court in the case of "Mr. Khalid vs. Chief Secretary, Punjab" (1994 SCMR 1633) wherein it was held that:

"Admittedly, while taking the Competitive Examination the petitioner had himself declared his date of birth to be 2-6-1930. He remained in service for about 35 years thereafter his name together with his declared date of birth appeared in the gradation lists and civil lists periodically published by the Provincial Government. He did not object to the incorrect publication of his date of birth till a few years before his retirement."

Reliance may also be placed on the cases of "Haq Nawaz Kayani Vs. The Province of Punjab" (1998 SCMR 801), "Pakistan Broadcasting Corporation Vs. Subedar Major (Rtd) Abdul Razaq" (1998 SCMR 602), "Syed Iqbal Haider Vs. Federation of Pakistan" (1998 SCMR 1494), and "Ali Azhar Khan Baloch and others Vs. Province of Sindh and others" (2015 SCMR 456).

6. Thus, the alteration of the date of birth of the petitioner who is a civil servant, being the matter pertaining to the terms and conditions of service, could not be

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Examiner  
Peshawar High Court Bench  
Mingora, District Swat.

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entertained and adjudicated upon by this Court, with specific reference that during entire service, the petitioner has not paid any heed to it and now he has been retired from service, as such, this petition is hereby dismissed, being not maintainable, however, it is obvious from the contents of the petition qua the alleged date of birth, the matter pertains to financial benefits in terms of setting aside of the impugned retirement order of the petitioner for availing the status of a civil servant till 2024, the petitioner may approach to the appropriate forum for redressal of his grievance, if so advised.

Date of Announcement

17.05.2023

Date of Writing Judgment

22.05.2023

JUDGE

S.No. 12  
 Name of Applicant M. M. Shahid  
 Date of Presentation of Applicant 17.5.23  
 Date of Completion of Copies 25.5.23  
 No. of Copies 12  
 Urgent Fee 58/-  
 Fee Charged 58/-  
 Date of Delivery of Copies 25/5/23

JUDGE

Certified to be true copy

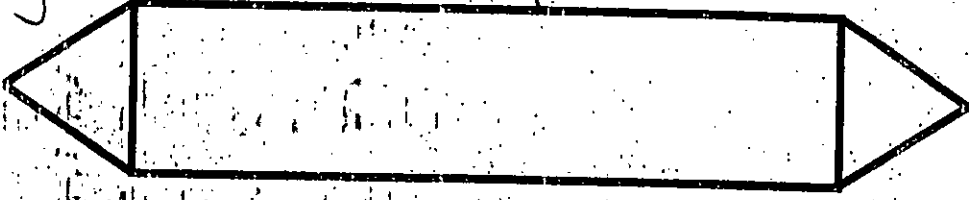
EXAMINER

Swat High Court, Mingora/Dar-ul-Qaza, Swat.  
Authorized Under Article 17 of Qanun-e-Shahadat Order, 1984

25/5/23

office . . . 1. 23

# بعدالت حساب سروسے کے اختتام کے بعد



2023ء منجانب اسٹیٹ

مورخہ

مقدمہ

دعویٰ

جرم

## باعث تحریر آنکے

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

کیلئے لکھنا، روکنا

آن مقام

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 کی تقریر ثالث و فیصلہ پر حلف دیے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی بردگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا محتاج 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 مذکور با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ ہوں گے سب سے وہوگا۔ 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۔

2023ء

ماہ

المرقوم

واہ العبد

Accepted

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