

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.

Execution Petition No. 103 /2023

In

Service Appeal No:- 7142/2021

Muhammad Rahim.....APPLICANT/ PETITIONER

Versus

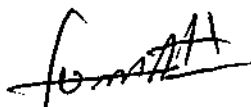
Ameer Sultan Tareen, Secretary Health & others.....RESPONDENTS

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Contents of Execution Petition with Affidavit		1-3
2.	Copy of the order/ judgment of this Honorable Tribunal dated:08.11.2022		4-8
3.	Wakalatnama		9

Through,

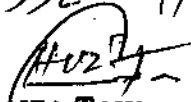
Applicant/ Petitioner



NASRUMINALLAH

0336-9177092

&



HUZAIFA TAHIR

Advocates, High Court.

Dated:24.02.2023

(1)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.

Execution Petition No. 103 /2023
In
Service Appeal No:- 7142/2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 3803

Dated 24-7-2023

Muhammad Rahim s/o Fazal Raheem R/o Shagyali Bala, House No.1, PO
Box, Shaggali Payan, District Peshawar.

..... PETITIONER/APPELLANT

Versus

1. Mr. Ameer Sultan Tareen, Secretary Health Department,
Government of Khyber Pakhtunkhwa, at Civil Secretariat,
Peshawar.
2. Mr. Feroz Shah, District Health Officer, Town-II, Peshawar.
3. Director General AGPR Khyber Pakhtunkhwa, Peshawar
Division, Peshawar.
4. Chairman NADRA, Islamabad.
5. Director General, NADRA, Islamabad.
6. Regional Director NADRA, Head Office, Hayatabad, Peshawar.

.....RESPONDENTS

EXECUTION PETITION FOR
IMPLEMENTATION OF THE
ORDER/JUDGMENT DATED 08.11.2022
OF THIS HONOURABLE TRIBUNAL,
ACCORDING TO WHICH REGARDLESS
WITH THE DISMISSAL OF THE APPEAL
OF THE APPELLANT, THE CERTAIN
RELIEF TO THE EXTENT OF ENTITY OF
THE APPELLANT IS EXTENDED, HENCE
ITS EXECUTION.

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Respectfully Sheweth:

1. That the above titled Service Appeal being filed on behalf of the applicant/ appellant before this Honorable Court, which has been disposed-off as dismissed vide order/ judgment dated: 08.11.2022. **(COPY OF THE JUDGMENT OF THIS HONORABLE TRIBUNAL IS APPENDED HEREWITH)**

2. That in the above judgment of this Honorable Tribunal, the certain relief is extended to the applicant/ appellant, which core citation of the judgment is reproduced "herein" for the deeper consideration of this Honorable Tribunal;

"Having considered the matter from all angles in the light of material available on file, we do not find any merit in the instant appeal which is hereby dismissed. However, **the respondents are directed not to pass any order in respect of recovery because he served the department and was paid accordingly. the pension process be expedited and the same be paid to the appellant according to the law"**

3. That the respondent department is yet reluctant to proceed with the matter of pension allowances and not ready to pay to the applicant/ appellant, in consideration of the throughout unlimited services provided on the part of the applicant/ appellant to his parent department. Moreover the consciousness and reservations is yet attracted, in lieu of recovery of any compensation, on the part

of the respondent department, which otherwise not only effect the legal rights of the applicant/ appellant but rather also would amounts to not execute the order of this Honorable Tribunal in letter and spirit, hence this distinguish execution petition.

4. It is settled as per contents of the relevant portion of order that the certain relief to the applicant/ appellant is rightly been extended by this Honorable Court to which applicant/ appellant is entitled for.

It is, therefore, most humbly prayed that on acceptance of this Execution Petition, the respondents may very kindly please be ordered to execute the order of this Honorable Court dated: 08.11.2022, specially to the extent of legal rights of payment of the pension of applicant/ appellant and not to recover any thing as per order. Any other remedy which deem fit to this Hon'ble tribunal may kindly be granted to the appellant/petitioner.

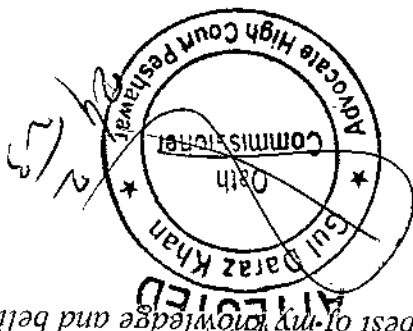
Dated: - 23-Feb-2320

Through:-

Applicant/Appellant
NASRUMALLAH
Advocate, High court
Peshawar.

AFFIDAVIT

I, Muhammad Rahim S/o Fazal Rahim (appellant), do hereby solemnly affirm and declare on oath that the contents of this accompanying Execution Petition are true and correct to the best of my knowledge and belief.



DEPONENT



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BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR.

Service No:- 7142/2021

Muhammad Raheem S/o Fazal Raheem R/o Shagyal Bala, House No 1, PO Box, Shaggali Payan, District Peshawar.

Khyber Pakhtunkhwa Service Tribunal
Appellant

Diary No. 7241

Versus

Dated 13/7/2021

1. Secretary Health Department, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. District Health Officer, Town-II, Peshawar.
3. Director General AGPR Khyber Pakhtunkhwa, Peshawar Division, Peshawar.
4. Chairman NADRA, Islamabad.
5. Director General, ~~NADRA~~ Islamabad.
6. Regional Director NADRA, Head Office, Hayat Abad, Peshawar.

Present to-day
Registrar

..... Respondents

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 TO THE EFFECT THAT THE ACTUAL DATE OF BIRTH OF THE APPELLANT/EMPLOYEE i.e. 01/01/1964 AND THE RESPONDENT DEPARTMENT HAS WRONGLY INCORPORATED THE DATE OF BIRTH OF THE APPELLANT/EMPLOYEE, WHICH NEEDS CORRECTION AND INCORPORATION OF THE ACTUAL DATE OF BIRTH i.e. 01/01/1964 IN SERVICE RECORD INSTEAD OF 01/07/1958.

Respectfully Sheweth:-

1. That the appellant/employee joined the department in the capacity of Chowkidar on 01/09/1987. (Copy attached as

Annexure A).

Submitted to-day
Filed.

Registrar
4/8/2021

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No.7142/2021

Date of Institution ... 13.07.2021
Date of Decision ... 08.11.2022



Muhammad Raheem S/O Fazal Raheem R/o Shagyali Bala, House
No.1 P/O Shaggali Payan, District Peshawar.

... (Appellant)

VERSUS

Secretary Health Department, Government of Khyber
Pakhtunkhwa, Civil Secretariat, Peshawar and five others.

... Respondents)

Present:

NasruminAllah,
Advocate ... For appellant.

Asif Masood Ali Shah,
Deputy District Attorney ... For respondents.

Mrs. Rozina Rehman ... MEMBER (J)

Miss. Fareeha Paul ... MEMBER (E)

JUDGMENT

ROZINA REHMAN, MEMBER: The appellant has invoked the
jurisdiction of this Tribunal through above titled appeal with the prayer
as copied below:

“That on acceptance of this service appeal, the
respondent department may please be directed to
incorporate the actual date of birth of the appellant
as 01.01.1964 in the service record and thereafter the
retirement order bearing endorsement No. 19333-38

ATTESTED

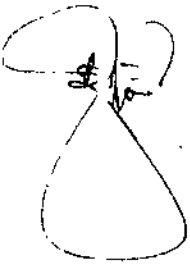
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar


'dated 09.02.2020 may kindly be cancelled/withdrawn and he may be allowed to complete his service upto the age of superannuation, which is 01.01.2024 with all benefits of salaries and arrears.'

2. Brief facts of the case are that the appellant joined the respondent department as Chowkidar on 01.09.1987. His date of birth was 01.01.1964. He came to know about the wrong entry in respect of his date of birth, and therefore, submitted representation for its rectification but to no avail. He filed civil suit for declaration but the same was returned to the appellant in original for presentation before the competent forum. Hence the present service appeal.

3. Mr. NasruminAllah learned counsel for the appellant submitted that the correct date of birth of the appellant was 01.01.1964 and that being illiterate person he was not aware of wrong entry made by the department in his service record without taking into consideration his CNIC. Learned counsel submitted that his salary was stopped and his order of retirement was issued which was wrong, illegal against law and facts because the entry in respect of his date of birth was wrongly made by the department and not by the appellant. He was not afforded any opportunity of personal hearing and he was condemned unheard. Lastly, he submitted that no regular inquiry was conducted into the matter and that CNIC of the appellant was not considered, he therefore, requested that the appeal may kindly be accepted.

4. Conversely, learned Deputy District Attorney submitted that as per service book of the appellant, his date of birth was 01.07.1958



ATTESTED

ALEXANDER
Khyal Khyalukhwa
Service Tribunal
Peshawar

and that his date of birth could not be altered at that stage as per G.F.R.116. He therefore requested for the dismissal of instant service appeal.


5. From the record it is evident that the appellant, Mr. Muhammad Raheem, was appointed as Chowkidar on 24.06.1987. His service book shows his date of birth as 01.07.1958. This entry in the service record was never objected to by the appellant during his service. He filed a civil suit for declaration for correction of his date of birth in his service record and CNIC which plaint was returned to the appellant for presentation before proper forum vide order of learned Sessions Judge dated 15.06.2021. In view of entry in service book regarding his date of birth, the appellant stood retired from government service w.e.f 30.06.2018 vide office order of the District Health Officer dated 09.02.2020 which means that he served the department even after attaining the age of retirement on 30.06.2018. There is nothing on file which could show that any order in respect of recovery was passed against appellant by the competent authority, however, pension was not paid to the appellant till today. The change of date of birth in service record is allowed within two years of entry into service according to G.F.R-116.

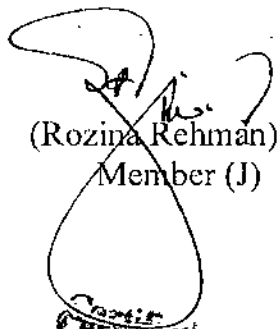
6. Having considered the matter from all angles in the light of material available on file, we do not find any merit in the instant appeal which is hereby dismissed. However, the respondents are directed not to pass any order in respect of recovery because he served the department and was paid accordingly. The pension process be

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

expedited and the same be paid to the appellant according to law.
Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
08.11.2022


(Fareeha Paul)
Member (E)


(Rozina Rehman)
Member (J)


Certified true copy
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 22/2/2023
Number of Pages Page 5
Copying Fee 25/-
Stamp 5/-
Total 30/-
Date of Completion 22/2/2023
Date of Delivery of Copy 22/2/2023

حیرتوں، شروسٹریٹوین لیشن اور

2ء منجانب

بنام امیر سلطان وغیرہ

محمد جم

مورخہ

مقدمہ

دعویٰ Reaction petition

جرم

باعث تحریر آنکے

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

آن مقام سندروسٹریٹوین لیشن اور کیلئے لہر من اللہ، حذیفہ طاہر الہویسٹ

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 ق تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق

زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی

اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا 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 لکھنا یا کہ سند ہے۔

Accept

Huz

2023ء

ص

۶ ماہ

المقوم