

BEFORE THE HONORABLE KHYBER PAKHTOONKHW
SERVICE TRIBUNAL, PESHAWAR.

Appeal No ¹⁸³ ----- 2022

Ghulam Rasool Son of Sheer Muhammad, Chowkidar,
Government Primary School, Gandori, District Battagram.
(Resident Of Ajmeera, Tehsil & District Battgram).

... Petitioner

VERSUS

Government of Khyber Pakhtunkhawa, Through Secretary
Education, Peshawar and other

...Respondents

APPEAL

INDEX

S#	Description	Annexure	Page #
1)	Memo of Appeal along with affidavit & Certificate		1-7
2)	Copy of the stay applicaion		8-9
3)	Copies of the application and medical History	A&B	10-21
4)	Copies of letter and application	C&D	22-23
5)	Copies of the letters	E&F	24-26
6)	Copy of the appeal	G	27
7)	copies of the writ petition and order	H	28-33
8)	Copy of Retirement order	I	34-35
9)	Vakalatnama		36

Appellant

Dated 22/01/2022

Through:


(NAZAKAT ALI TANOLI)
ADVOCATE HIGH COURT
ABBOTTABAD.

①

**BEFORE THE HONORABLE KHYBER PAKHTOONKHWA
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Appeal No ----- 2022

Ghulam Rasool Son of Sheer Muhammad, Chowkidar,
Government Primary School, Gandori, District Battagram.
(Resident Of Ajmeera, Tehsil & District Battgram).

V E R S U S

... APPELLANT

- 1) Government of Khyber Pakhtunkhawa, Through Secretary Education, Peshawar.
- 2) Director, Elementary and Secondary Education, Peshawar.
- 3) District Education Officer (Male), Battgram.
- 4) Sub-Divisional Educational Officer (Male), Battgram.
- 5) Headmaster, Government Primary School, Gandori, District Battgram
- 6) District Accounts Officer Battgram.

.....RESPONDENTS

SERVICE APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHAWA SERVICE TRIBUNAL 1974, AGAINST THE ORDER AND DECISION NO.3242 DATED 11/06/2021 PASSED BY RESPONDENT NO.3, VIDE WHICH THE APPLICATION OF THE APPELLANT WAS TURN DOWN FOR THE RETIREMENT ON MEDICAL GROUND AND APPEAL AGAINST NOTIFICATION NO. AO/E&SE/627/KPR/MISC, DATED 11/12/2018 BE DECLARED ULTRA VIRES OF CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973 AND BE DECLARED AS VIOLATIVE OF THE FUNDAMENTAL RIGHTS GUARANTEED BY THE CONSTITUTION UNDER ARTICLES 4, 25 AND 27 OF THE CONSTITUTION.

=====

PRAYER:- ON ACCEPTANCE OF THE APPEAL RESPONDENTS BE DIRECTED TO ISSUE THE RETIREMENT ORDER OF THE APPELLANT ON

MEDICAL GROUNDS RATHER ON PREMATURE BASIS AND RELEASE ALL THE PENSIONARY ALLOWANCES WITH ALL BENEFITS AS PER LAW FROM THE DATE OF THE APPLICATION AND FURTHER PRAYED THAT NOTIFICATION NO .AO/E&SE/627/KPR/MISC, DATED 11/12/2018 BE DECLARED ULTRA VIRES OF CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973 AND ANY OTHER RELIEF WHICH THIS WORTHY COURT MAY DEEM APPROPRIATE IN THE GIVEN CIRCUMSTANCE IN THE FAVOR OF APPELLANT.

Respectfully Sheweth,

1. That appellant was appointed as chowkidar (class-IV) in respondents department on 15/03/1988.
2. That in spite of being illiterate, appellant has served the department with his utmost zeal, enthusiasm, honesty and with full dedication and the entire career of more than 32 years of appellant is praise worthy.
3. That appellant being persistent of kidney ~~disease~~ and unable to perform his duty submitted an application on 08/10/2020 for retirement on medical grounds. (Copies of the application and medical history are attached as **Annexure A & B**).
4. That on 26/3/2021 respondent No 3 vide letter No 643 seeks explanation from respondent No 4 regarding appellant application for retirement and appellant again submitted an application for retirement and constitution of medical board. (Copies of letter and application are attached as **Annexure C&D**).
5. That vide letter no 3242 dated 11/06/2021 respondent No 3 disallowed the application of the appellant while directing the respondent no 4 not to process the case of the appellant on the medical ground rather retirement on premature basis, while referring the notification no AO/E&SE/627/KPR/MISC, DATED 11/12/2018. (Copies of the

3

letters are attached as Annexure E&F respectively.)

6. That being aggrieved appellant filed departmental appeal for consideration for retirement on medical ground on 08/10/2021 but till date respondents not passed any order on the same. (Copy of the appeal is attached as **Annexure G**).
7. That appellant challenged the order dated 11/06/2021 before Peshawar high court Abbottabad Bench, which was dismissed being not pressed .(copies of the writ petition and order are annexed as **Annexure H**).
8. That being aggrieved the impugned letters /orders is being assailed on the following amongst other grounds:-

GRUNDS:-

- a. That the impinged letters are wrong ,illegal ,against the law , facts, policy arbitrary, fanciful, preserve , without lawful authority , based on malafide, discriminatory and against the norms of justice , hence liable to be struck down.
- b. That, impugned order passed by respondents is void ab-initio, unlawful, beyond and without authority, result of exercise of colorful, arbitrary, fanciful authority, bias, mala fide, discriminatory, favoritism and nepotism, therefore, not sustainable, thus, bound to be struck down.
- c. That the Articles ~~4~~, 25 & 27 of the Constitution of Pakistan ensure elimination of every sort of exploitation promotes equality of citizens and negates discrimination in services. However, the very act of the Respondents No.2 is against the constitutionally guaranteed rights.

(4)

- d. That the impugned notification is illegal and unlawful, coram –non judice, based upon mala–fide and ulterior motive hence, liable to be set aside / revised / modified.
- e. That the appellant has been treated discriminately against the Art.25 of the constitution of Pakistan, 1973 hence not tenable because other government departments issued retirement orders on the medical grounds. Copy of the same is attached as **Annexure I**).
- f. That as per rule of propriety appellant should be benefited by extending equal treatment as per other government department orders.
- g. That when policy and law was in conflict with any provision of law or was violative of the fundamental rights the same could be called question in constitutional jurisdiction of High Court.
- h. That, the appellant has been left without any remedy and this appeal is only the hope and remedy to the rights of the appellant and if this appeal is not allowed the loss of the appellant would not be covered and appellant is being made victim without any fault.
- i. That orders of the respondents are against the dictum of the superior court as apex court held that law demands and dictates in giving right rather denying thereof mere technicalities or assumptions.
- j. That office memorandum could not be considered as rules framed under the civil servant act hence impugned order is illegal and liable to be set aside and cannot affect the valuable rights of the appellant.
- k. That the impugned letters and conduct of the implementation is void ab-initio, unlawful, beyond to the authority, null and void result of malafide, exercise of authority, without opportunity of being

(5)

heard, against the rights of the appellant thus liable to be struck down.

- i. That various other grounds would be agitated after seeking permission by this august court, during the course of arguments.
- m. That appeal is well within time.

it is, therefore, on acceptance of the appeal respondents be directed to issue the retirement order of the appellant on medical grounds rather on premature basis and release all the pensionary allowances with all benefits as per law from the date of the application and further prayed that notification No .AO/E&SE/627/KPR/MISC, dated 11/12/2018 be declared ultra vires of constitution of Islamic republic of Pakistan 1973 and any other relief which this worthy court may deem appropriate in the given circumstance in the favor of appellant.



PETITIONER

Dated: - 18/01/2022

Through:

**(Nazakat Ali Tanoli)
Advocate High Court,
Abbottabad.**

VERIFICATION:-

Verified that the contents of the appeal are true and correct to the best of our knowledge and belief and that nothing material has been suppressed from this Hon'ble Court.

Dated:-18/01/22



Appellant

6

**BEFORE THE HONORABLE KHYBER PAKHTOONKHWA
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... Petitioner

V E R S U S

Government of Khyber Pakhtunkhawa, Through Secretary
Education, Peshawar and other


... Respondents

APPEAL

AFFIDAVIT

I, Ghulam Rasool Son of Sheer Muhammad, Chowkidar,
Government Primary School, Gandori, District Battagram.
(Resident Of Ajmeera, Tehsil & District Battgram). *Appellant* do
hereby solemnly affirm and declare on Oath that the contents of instant
Appeal are true and correct to the best of my knowledge and belief and
nothing has been concealed from this Hon'ble Court.

Dated: -18/01/2022


...APPELLANT

7

BEFORE THE HONORABLE KHYBER PAKHTOONKHWA
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... Petitioner

V E R S U S

Government of Khyber Pakhtunkhawa, Through Secretary
Education, Peshawar and other

... Respondents

APPEAL

CERTIFICATE

It is certified that no such like appeal has been
field by the appellant nor pending or decided by
any tribunal.



Appellant

Dated.18/01/2022

Through:

(NAZAKAT ALI TANOLI)
Advocate High Court,
Abbottabad



**BEFORE THE HONORABLE KHYBER PAKHTOONKHWA
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V E R S U S

Government of Khyber Pakhtunkhawa, Through Secretary
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APPEAL

**APPLICATION FOR ISSUE DIRECTIONS TO RESPONDENTS FOR
CONSTITUTION OF MEDICAL BOARD AND BE RESTRAINED FROM
TAKING ANY ADVERSE ACTION AGAINST THE PETITIONER/APPELLANT
TILL FINAL DISPOSAL OF INSTANT APPEAL.**

Respectfully Sheweth,

1. That appeal is bang filed before this august Tribunal and the contents and subject of memo of appeal may please be considered as an integral part of the present application.
2. That the Petitioner/ appellant is fully qualified to meet the ingredients of this application, the appeal is prima facie and their is likelihood of the success of appeal and in case the application is not accepted and order as prayed for is not passed the petitioner will face the irreparable loss and appeal would become infractious.
3. That, serious question of use of inherent jurisdiction meant for the administration of justice and protection of petitioner's rights

9

and putting bar on the unlawful, wrong orders is involved.

It is, therefore, humbly prayed on acceptance of the present application respondents be directed to constitute the medical board and be restrained from taking adverse action till disposal of the appeal.

...APPELLANT

AFFIDAVIT:-

I, Appellant do hereby solemnly affirm and declare on oath that the contents of foregoing Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

DEPONENT

بند اب جات ایسا ڈویژن ایجوکیشن آفیسر صاحب بہ

مردانہ

ذات عالی

موردہ گزراؤں کے مسائل گورنمنٹ پرائمری سکول گندوڑی میں بحیثیت چوکیدار تعینات ہے۔ مسائل کی تقرری بحیثیت چوکیدار مورخہ 15-03-1988 کو ہوئی ہے۔ جس کے تحت سے مسائل کا کل پروردگی تقریباً 32 سال ہو چکا ہے اور مسائل کا کل عمر 59 سال ہے۔

گزارش ہے کہ مسائل عمر کی تقاضے اور صحت ٹھیک نہ ہونے کی وجہ سے مسائل پروردگی کو ختم ہونے کے لئے گزارش ہے کہ مسائل عمر کی تقاضے اور صحت ٹھیک نہ ہونے کی وجہ سے مسائل پروردگی کو ختم ہونے کے لئے گزارش ہے کہ مسائل عمر کی تقاضے اور صحت ٹھیک نہ ہونے کی وجہ سے مسائل پروردگی کو ختم ہونے کے لئے۔

آپ کی خدمت میں گزارش ہے کہ مسائل کی ریٹائرمنٹ کے سبب نیکل روزانہ تحت 31-10-2020 سے سکندریں لگائی جائیں۔ اور مسائل کا کیس متعلقہ اتھارٹی کو ارسال کیا جائے۔ (مزید کاغذات ملت ہیں)

عین نوادہ ہونگی

Handwritten notes and signatures on the left side of the page, including a date 19/10/2020.



العارض غلام رسول ولد شیر محمد

تاریخ پیدائش: 26-03-1962

تاریخ تقرری: 15-03-1988

چوکیدار گورنمنٹ پرائمری سکول گندوڑی

شناختی کارڈ نمبر: 13202-0274252-7

Handwritten signature and stamp of Nazakat Ali Tariq, Advocate High Court, Abbottabad.

(11)

ANNEX (B)

Dr. Syed Abbas Ali Shah

M.B.B.S (Gold Medalist-Pak)

M.D (USA)

M.R.C.P (London, UK)

MEDICAL SPECIALIST



ہوا شانی

ڈاکٹر سید عباس علی شاہ

ایم بی بی ایس (گولڈ میڈلسٹ - پاک)

ایم ڈی (امریکہ)

ایم آر سی پی (لنڈن، انگلینڈ)

میڈیکل سپیشلسٹ

Patient Name:

Cekulam Rasoal

Age:

55y

Date:

26/8/21

Clinical Notes

Rxo

Back pain

radiating left lumbar &

left leg pain

(1) Tab Eperon 50mg

جی 30 - 1+

(2) Tab Tacolit 50g

جی 30 - 1

(3) Cap Felden 20g

جی 30

(4) Cap Achif 40g

جی 30

(5) Cap pure-D

8L 1 سے جی 30

w/s - N

① CBC

② Urine R/E

③ X-Ray thoracic spine (Ap/Lat)

④ S. Creatinin

Tab Escrow-D

جی 30 - 1

Signature and stamp of Dr. Syed Abbas Ali Shah

پچھٹی روز اتوار تکلیف سے بچنے کیلئے فون کر کے نمبر حاصل کریں۔ کلینک آتے وقت پرانے کاغذات ساتھ لائیں۔

شفیق میڈیکل سنٹر منڈیاں ایبٹ آباد۔

0312-5422896

(12)

21114

DHQ HOSPITAL BATTAGRAM

OUT DOOR PATIENT TICKET

OPD No. 6903 Chit Fee Rs. 10/-
 Name: Jay / Das Age _____ Sex _____
 Father / Husband Name: [Signature]
 Provisional Diagnosis: _____

Date	Clinical finding / Investigation / Treatment / Referred / test findings.
<p>14/10/80 14/10/80 14/10/80</p>	<p>Rx 100mg / 120/80 14/10/80 to back / 5 days</p>
<p>14/10/80</p>	<p>CBC - WBC H-pylori S-Amylase Urine/E</p>

Attested
[Signature]

(13)

No.

Rs. 5

OUT PATIENTS DEPARTMENT

NAME سید محمد علی

YEARLY NO 99330

DATE

DISEASE 15 JUL 2010

FACE VALUE RUPEES

لی بکٹ 9-203

لی

لی ڈیفر

لی - 11

لی مینس

لی - 11

Recd

Noted by
Admission Court
Attached

14

DHQ HOSPITAL BATTAGRAM

OUT DOOR PATIENT TICKET

OPD No. 5708

Chit Fee Rs: 10/-

Name: Jyoti Age 21 Sex F

Father Name Govind

Provisional Diagnosis. _____

Date	Clinical finding / Investigation / Treatment / Referred / test findings
17/11/18	<p>RA</p> <p>2-10/18</p> <p>Pyrexia</p> <p>Joint pain</p>
18/11/18	<p>RA</p> <p>2-10/18</p> <p>Pyrexia</p> <p>Joint pain</p>

M. S. D.

[Signature]

Dr. M. S. D.

Orthopedic Surgeon

No.

OUT-PATIENTS DEPARTMENT

NAME J. S. Ve

YEARLY NO 36113

DATE 01/04/2020

DISEASE _____

FACE VALUE RUPEES

— Inf. R/L I-L Nothing
— 1/2 Gonorrhea 1 day Penicillin

— 1/2 Ceftriaxone
2 gm IM
SM

— 1/2 Dicyclo 1 gm
SM

- Actin
- URE
- M.P.
- TLC

✓

Attested
[Signature]
Munsif Ali Tanoli
District High Court
Abbottabad



AL SHIFA

PROF. DR. MUHAMMAD JEHANZEB
MBBS, DMRD, MCPS, FCPS (Pak)
Head of Radiology Department
Ayub Medical College and
Teaching Hospital Abbottabad

پروفیسر ڈاکٹر محمد جہانزیب
ایم بی بی ایس، ڈی ایم آر ڈی، ایم سی پی ایس،
ایف سی پی ایس (پاک)
ہیڈ آف ریڈیالوجی ایوب میڈیکل کالج اینڈ ٹیچنگ ہسپتال ایبٹ آباد

Name = 10 - ABUL-BAKAR Age 50 Years.
Ref. By Dr. Date 05-2-2019
Study

ULTRASOUND REPORT

FINDING:

LIVER: has normal size and parenchymal echogenicity. Biliary channels are not dilated. No focal lesion seen.

GALL BLADDER: has normal size, has normal wall thickness. No calculi, sludge or mass seen in the lumen.

Portal vein: Normal CBD: Normal

SPLEEN: is normal size. No cyst, mass seen.

Midline: Normal

KIDNEYS: Both kidneys have normal size and parenchymal echogenicity. No hydronephrosis or calculi seen on either side.

Urinary Bladder: wall is normal in thickness, has smooth appearance. No stone, mass seen. *A top echogenic area seen at mid pole of the kidney - Re-Lut stone crystal*

No ascites seen.
No abdominal lymphadenopathy noted.

Prostate: 23 gm

IMPRESSION=

Normal Study

TI / Mwanha para (and) by Sehabat

Ray and Ultra Sound Centre Behind Mid City CNG Mandian, Mansehra Road, Abbottabad

Not Valid for Court

Attended
[Signature]

17

Dr. Syed Abbas Ali Shah

M.B.B.S (Gold Medalist - Pak)

M.D (USA)

M.R.C.P (London, UK)

MEDICAL SPECIALIST



ہوالشانی

ڈاکٹر سید عباس علی شاہ

ایم بی بی ایس (گولڈ میڈلسٹ - پاک)

ایم ڈی (امریکہ)

ایم آر سی پی (لندن، انگلینڈ)

میڈیکل سپیشلسٹ

Patient's Name Chulam Rasool Age 30y Date 25/2/2020

Clinical Notes

LBA

re-bending & movement

(Tea-2oc) ↓ Appetite
Te 2/2day

Bp = 110/80

adv

Isometric back exercise

Rx

(1) Tab Epcron

1+1

(2) Tab Muscor 4mg

1+0+1

(3) Tab Xiharapid 8mg

1+1

(4) Cap Mecpod 407

1+1+1

110

Inj SD3 1/2M

2.1 - 2.1

110/80

2.0 - 2.0

Tab Esc Grow-D

1+1+1

Attested
Nazam ul Haq
Advocate High Court
Abbottabad

چھٹی بروز اتوار تکلیف سے بچنے کے لیے فون کر کے نمبر حاصل کریں
کلینک آتے وقت پرانے کاغذات ساتھ لائیں
شفیق میڈیکل سنٹر منڈیاں ایبٹ آباد

0316-9198749

(18)

Surgeon

Dr. Bahri Rome Khan

MBBS, MCPS, FCPS

General & Laparoscopic Surgeon

Assistant Professor

Ayub Medical College &

Ayub Medical Complex Abbottabad



FREE

سرجن

ڈاکٹر بحر روم خان

ایم بی بی ایس۔ ایم سی پی ایس۔ ایف سی پی ایس

جنرل اینڈ لاپروسکوپک سرجن

اسسٹنٹ پروفیسر

ایوب میڈیکل کالج اینڈ

ایوب میڈیکل کمپلیکس ایبٹ آباد

Name Shulam Rasool Age 65 Sex M Date 5/2/19

Cl

Pain (R) Colonic
mea

O/E (R) Colonic
mea Tender
- Abd Soft

- R

Tab - Augmentin plus

1-1-1

- Cap Cefixim 400

NW D

- Tab Riam 400

1-1-1

PTU

- Tab Tonoflav P

Syr Kola C

2-2

کالینک: اعوان پلازہ منڈیاں ایبٹ آباد رابطہ نمبر: 0346-5359861

Handwritten signature

Handwritten text

19

Dr. Arshad Rasheed

MBBS, FCPS-1

Medical Specialist



ڈاکٹر ارشد رشید

ایم بی بی ایس، ایف سی بی ایس 1

میڈیکل سپیشلسٹ

Pt. Name.

- *Samra*

Age

Sex

M

Date 20 JAN 2019

Tab: Axcin - 500
1+1. (48)

Tab: Noren - 50mg
1+1

caps: Protonix - 40mg
1+1

Ureteral Pn.
also Polyuria

سنگ پتھریل اور پالیوریا
کی کمی

پانی، گھسی اور گھی میں تلی ہوئی
خوراک سے پرہیز

پانی زیادہ

Contact: 0344-1894013/0300-5634035

RBS = 20mg/l
Done Free

Art 9 (C)
Nazam Ali Yousfi
Advocate High Court
Abbottabad

20

ATIF CLINICAL LABORATORY



Main Karakuram Highway Riaz Market Opp. District Head Quarter Hospital Batagram. Ph # 0333-5041401

Patient Name: Ghulam Rasool Date of Test: 20-1-2019
Lab No: _____ Consultant: _____

URINE EXAMINATION

PHYSICAL	CHEMICAL	MICROSCOPIC
Quantity <u>20ml</u>	Albumin <u>NIL</u>	Red Cells <u>NIL</u> HPF
Colour <u>Yellow</u>	Sugar <u>NIL</u>	Pus Cells <u>04-06</u> HPF
PH <u>6-0</u>	Bile Salts	Epith Cells <u>HPF</u> HPF
Sp. Gravity <u>1012</u>	Bile Pigment <u>NIL</u>	Calcium Oxalat <u>HPF</u> HPF
	Urobilinogen	Granular Cast HPF
	Ketone Bodies	Uric Acid HPF
	Blood <u>NIL</u>	Urates
		Other <u>NIL</u>

SEMENOLOGY

PHYSICAL	(N. VALUE)	RESULT	MICROSCOPIC	(N. VALUE)	RESULT
Volume			Sperm Motility	60	%
Colour			Active Motile		%
Viscosity			Sluggish Motile		%
PH			Non Motile		%
Liquifaction Time		minutes	Sperm Morphology About		%
			Total Sperm Count 60-150 Million/ml		
			Pus Cell's		

Remarks _____

[Signature]
PATHOLOGIST

[Handwritten notes]
A.E.S. L
←

24

Dr. Nasir Khan Jadoon

M.B.B.S, D.M.R.D. (Q.A.U-1), M.D. (U.S.A)
Fellowship infectious Diseases (Kentucky U.S.A)

X-Ray & Ultrasound Specialist

Cenna Lab X-Ray & Ultrasound Centre

Shifa Poly Clinic

Shafiq Plaza, Mandian Mansehra Road
Abbottabad.
Ph: # 0992-383848
Timings: 3:30 to Isha

Opp: DHQ Hospital Link Road
Abbottabad.
Ph: # 0992-336020
Timings: 2:00 to 3:30 p.m.

Name

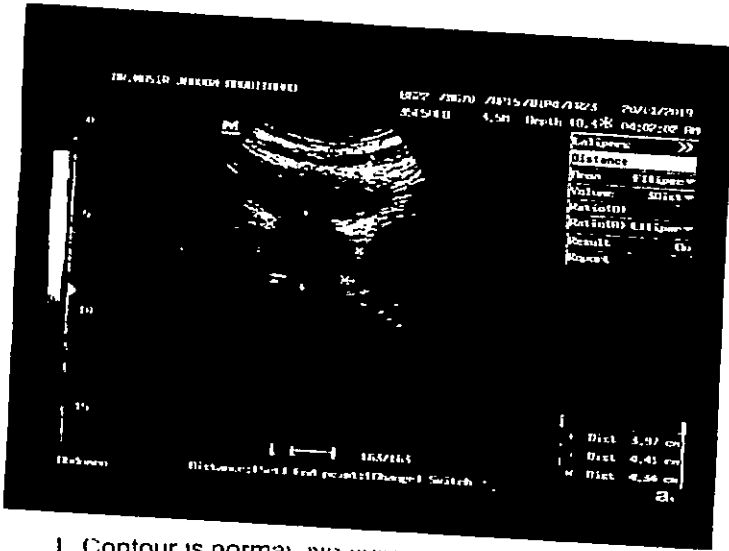
[Handwritten signature]

Date:

Referred By

Thanks for referral

[Handwritten signature]



Report

Subphrenic areas appear clear.
Intra-hepatic venous channels & biliary channels are not dilated.
Portal vein is of normal caliber.

Contour is normal. No fluid in pouch of Douglas.

Right & Left Diaphragmatic Excursions are normal. No pleural effusion on either side seen.

Biliary System:

Gall Bladder is normally distended.
No Cholecystitis, cholelithiasis, sludge or mass seen.
CBD is of normal caliber.
No dilatation of intrahepatic biliary radicles seen.

No pericholecystic fluid seen.

Vessels: inferior vena cava, hepatic veins, portal vein and aorta and of normal diameters and appearances. No areas of abnormal dilatation or stenoses seen.

Spleen: Size is normal. Splenic Idex < 45. Parenchymal texture is normal. No focal defects seen.

Pancreas: Size and Texture is normal. No focal defect are seen. Main Pancreatic duct is not dilated

Right Kidney: The Kidney is normal in contour, size and echopattern. No focal defect, calculus, hydronephrosis or loss of corticomedullary margins noted. Parenchymal thickness is normal on right side. Perinephric area is

DR. NASIR KHAN JADOON
0992-383848

کلیف ٹی ایم سی ایم ایف
P.T.O

[Handwritten signature]

Nazakat Ali Taseeli
Advocate High Court
Abbottabad

Left Kidney: The kidney is normal in contour, size and echopattern. No focal defect, calculus, hydronephrosis or loss of corticomedullary margins noted. Parenchymal thickness is normal on left side. Perinephric area is clear.

Adrenal Glands: Not enlarged

Urinary Bladder: Normally distended UB. No Cystitis, Calculus, mass or congenital anomaly seen. Post micturition Bladder Urine Volume = _____ mls (within normal limits)

Prostate: (in males) Size Normal. Texture is normal. No calcification in the gland seen. No focal defects.

Uterus: Texture is normal. It is anteflexed. No focal defect. Gestation or RPOC's seen. Endometrial line is clearly seen. No Adnexal mass seen. No fluid in cul de sac seen.

No ascites seen. No para aortic or mesenteric lymphadenopathy noted.

Obstetrics:	Fetal movements also appear normal.
A single alive fetus in the gravid uterus is seen in _____ presentation	No apparent fetal anomaly seen.
Placenta _____	Back towards _____ side.
Liquor _____	GS/CRL/BPD _____ cm. FL _____ cm
Fetal Cardiac activity appears normal	POG _____ weeks _____ days.
	Fetal Wt: _____ EDD _____

Comments:

Normal Abc and
palm scan.
UTI PUD
GI infections
are not excluded



ANNEX C



OFFICE OF THE DISTRICT EDUCATION OFFICER
DISTRICT BATTAGRAM



emrbattagram@gmail.com



emrbattagram



099-746-102-33



No. 1643

Dated Battagram: 26/03/2021

To: Sub Divisional District Education Officer (M)
Battagram

Subject: APPLICATION FOR RETIREMENT

Memo

Reference to your letter No 2232 dated 08/10/2020 on subject cited above and to state whether the said letter regarding medical board as recorded in application or premature retirement. Hence the case is returned *for resubmission after clarification* explain

22/03/2021
DISTRICT EDUCATION OFFICER
(MALE) BATTAGRAM

Asif

محکمات جناب سید عزیز گل ایڈووکیٹ ایڈریس سید عزیز گل

23

ANNEX

عنوان: درخواست برائے ریٹائرمنٹ (میریٹ فیل لورڈ)

5

جناب عالی

موجودہ نمائندگی گزارش دیکھنے کے لیے مسائل 1965 گنڈوٹی میں جنسٹس چوگندار
 قضیات کے مسائل کی تقرری مورخہ 20/3/88 سے ہے۔ مسائل کا عمل
 سرورس 32 سال ہو چکا ہے اور پھر 6 سال سے ہے۔
 گزارش دیکھ کر بڑھتی ہوئی عمر کے لحاظ سے اور جسٹس کی فراموشی کی وجہ
 سے مسائل مزید ڈیوٹی ادا کرنے کے معاملہ میں۔ لہذا 20/10/31 میں
 مسائل کے ریٹائرمنٹ (میریٹ فیل لورڈ) کے احکامات پر تیار فرمائیں
 میں کی گزارش ہوگی

القاریں

علامہ رسول ولد شیراز

تاریخ بدلتی - 20/3/88

تاریخ تقرری - 15/3/88

چوگندار GPS گنڈوٹی

شناختی کارڈ - 13202-0271032-7

آئی ڈی

Advocate
 Abbudhadda

OFFICE OF THE DISTRICT EDUCATION OFFICER (M)
BATTAGRAM

No. 3262

EB/EP/ Bated: 27/2/2021

The Sub-Divisional District Education Officer (M)
Battagram

Subject: **CASE OF MR. GHULAM RASOOL CHOWKIDAR GPS GANDORI**

Memo:

Reference to your letter No. 7808 Bated: 04/05/2021 on subject cited above to state that Mr. Gulam Rasool Chowkidar GPS Gandori the applicant concerned was appointed on 15-03-1988 his service is more than qualifying service i.e. 26 years completed.

He is directed to apply for retirement on premature basis as the Government instructions are to discourage retirement on medical grounds. Provincial directorate and department is not entertaining cases of retirement on medical grounds.

As per directions/policy of Government the teacher he asked to whether apply for retirement on other grounds except medical ground or if he is ill he should apply for leaves on medical grounds as per instructions of government.

In future no such cases to be sent to this office and government instructions be complied with in letter and spirit.

[Signature]
DISTRICT EDUCATION OFFICER (M)
BATTAGRAM

Encl: No. _____ Dated: _____ 2021

Copy for information to:

1. The Official Concerned.
2. Office copy.

[Signature]
District Education Officer (M)
Battagram

[Signature]
District Education Officer (M)
Battagram

025

ANN X

F

GOVT. OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

No. AOP/AN/27/1111/MS
Dated Peshawar, the December 11, 2011

To

- i. The Director,
Elementary & Secondary Education,
Khyber Pakhtunkhwa, Peshawar.
- ii. The Director,
Curriculum & Teachers Education,
Khyber Pakhtunkhwa, Abbottabad.
- iii. The Director,
P.T.E. Khyber Pakhtunkhwa,
Peshawar.
- iv. The Directorate of Education,
Merged Districts Secretariat,
Khyber Pakhtunkhwa, Wazirabad Peshawar.
- v. All District Education Officers (Male & Female),
in Khyber Pakhtunkhwa.

PA/DO/11/11/11
12/11/11
11/11/11

SUBJECT: RETIREMENT ON MEDICAL GROUNDS

I am directed to refer to the subject noted above and to state that cases of retirement on medical grounds may not be processed if a civil servant has sufficient length of service and is eligible for premature retirement. If such a civil servant apply for retirement on medical grounds, he may be discouraged and advised to apply for premature retirement.

[Signature]
(ADMINISTRATIVE)
SECTION OFFICER (ACCOUNTS)

Ends of evn No. & Date:

Copy forwarded to the:

- 1. PS to Secretary, E&SE Department Khyber Pakhtunkhwa.
- 2. PS to Special Secretary, E&SE Department Khyber Pakhtunkhwa.
- 3. PA to Additional Secretary (Estt) E&SE Department Khyber Pakhtunkhwa.
- 4. PA to Deputy Secretary (Admin) E&SE Department Khyber Pakhtunkhwa.

[Handwritten mark]

[Signature]
SECTION OFFICER (ACCOUNTS)

[Handwritten notes and signatures]
4/11/11
12/11/11
11/11/11
12/11/11
11/11/11

No. 1111/11/11
Advocate High Court
Abbottabad

26

Better copy

**Govt of Khyber Pakhtunkhawa
Elementary and secondary education department
No .AO/E&SE/6/27/kpk/Misc.
Dated Peshawar, December 11, 2018**

To

1. The director Elementary and secondary education,
Khyber Pakhtunkhawa, Peshawar.
2. The director ,curriculum and teacher education Khyber
Pakhtunkhawa ,Abbottabad
3. The director ,PITE Khyber Pakhtunkhawa, Peshawar
4. The directorate of education ,
Merged districts secretaries
5. All district education officers, (Male and female)
In Khyber Pakhtunkhawa, Peshawar

Subject: RETIRMENT OF MEDICAL GROUNDS

I am directed to refer to the subject noted above and to state that cases of retirement of medical grounds may not be processed If a civil servant ha sufficient length of service and is eligible for premature retirement, if such a civil servant apply for retirement on medical ground, he may be discouraged and advised to apply for premature retirement.

Section officer (Accounts)

Copy forwarded to the.

1. PS to Secretary ,E&SE

Atta SID
PS

کمیٹی صاب Do میں انجمن سٹیٹ

صا۔ عالی

مفتوں " اوپن ہر خلاف ڈی جی پی آر ریٹائرمنٹ

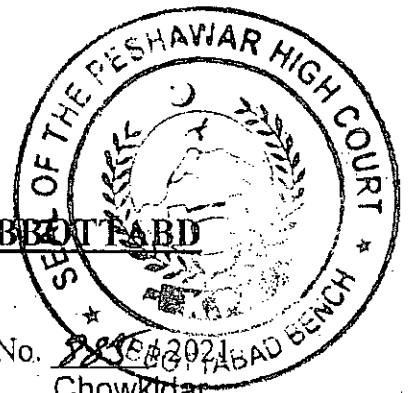
گزارش جسے سائنس ٹرینڈرز کے ذریعے GPS ٹکنالوجی میں کمیٹی
 جو کئی بار فراہم سرانجام دیا گیا ہے۔ حالیہ کچھ مہینوں سے سائنس
 ٹرینڈرز اور جوڑوں کے عارضہ میں مبتلا ہے۔ سکول اور
 گھر کے مابین فاصلہ بھی زیادہ ہے۔ اور سائنس اجمیرہ ٹاکنالوجی
 روزانہ 5 کلومیٹر راستہ میں چل کر طے کرتا ہے۔ سائنس نے
 لوجہ علالت میڈیکل ریٹائرمنٹ کی درخواست دائر کی تھی جو ہم
 آج تک کی طرف سے نامعلوم ہوئی ہے۔ سائنس کا مطالبہ ترقی میں
 ہے اور سائنس ڈی جی پی آر ریٹائرمنٹ کے ذریعہ جزیل سے اختلاف کرتا ہے
 لہذا آپ کے خدمت میں میڈیکل ریٹائرمنٹ کی اپیل کی جاتی ہے
 تاکہ سائنس قرار واقعی اپنے حق کو پاسکے۔ اس سلسلے میں سائنس
 نے عدالت عالیہ لٹنیاوریا کی کورٹ اسٹیک ایڈوائس میں ایک ریٹائرمنٹ
 بھی دائر کر رکھی ہے۔ امید کرتا ہوں کہ آج تک اپیل پر ہمہ درانہ
 غور فرمائیں گے

المرفوعہ: 08/10/21

العارض
 علامہ اسرار ولد شعیب خان
 اجمیرہ GPS ٹکنالوجی

Ali
 Advocate
 108

28



BEFORE THE PESHAWAR HIGH COURT ABBOTABAD BENCH.

W.P. No. ~~2236~~ 2021

Ghulam Rasool Son Of Sheer Muhammad , Chowkdar,
Government Primary School, Gandori, District Battagram.
(Resident Of Ajmeera, Tehsil & District Battgram)

... Petitioner

MAX
(H)

VERSUS

- 1) Government Of Khyber Pakhtunkhawa, Through Secretary Education, Peshawar
- 2) Director, Elementary And Secondary Education, Peshawar
- 3) District Education Officer (Male), Battgram
- 4) Sub-Divisional Educational Officer (Male), Battgram
- 5) Headmaster , Government Primary School, Gandori, District Battgram
- 6) District Accounts Officer Battgram.

...RESPONDENTS

WRIT PETITION UNDER ARTICLE 199 OF
CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN
1973 AS AMENDED UPTO DATE

Certified to be True Copy
EXAMINER
25 OCT 2021
Peshawar High Court Atd. Bench
Authorized Under Se: 75 Evid Ordas

PRAYER:-

ON ACCEPTANCE OF THE INSTANT WRIT PETITION
NOTIFICATION NO .AO/E&SE/627/KPR/MISC, DATED
11/12/2018 BE DECLARED ULTRA VIRES OF CONSTITUTION
OF ISLAMIC REPUBLIC OF PAKISTAN 1973 AND BE
DECLARED AS VIOLATIVE OF THE FUNDAMENTAL RIGHTS
GUARANTEED BY THE CONSTITUTION AND FURTHER
PRAYED THAT RESPONDENTS BE DIRECTED NOT TO ISSUE

No. 4499
29-07-21

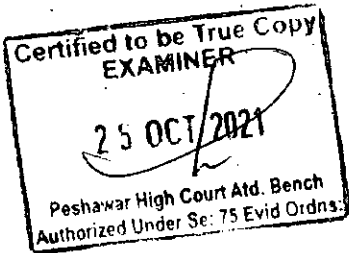
FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTABAD BENCH
29/7/21

29

RETIREMENT ORDER OF PETITIONER ON PREMATURE BASIS, RESPONDENTS BE DIRECTED TO CONSTITUTE A MEDICAL BOARD AND ISSUE RETIREMENT ORDER ON MEDICAL GROUNDS ALONG WITH ANY OTHER RELIEF WHICH THIS WORTHY COURT MAY DEEM APPROPRIATE IN THE GIVEN CIRCUMSTANCE IN THE FAVOR OF PETITIONER.

Respectfully Sheweth,

1. That petitioner was appointed as chowkidar (class-IV) in respondents department on 15/03/1988.
2. That in spite of being illiterate, petitioner has been serving the department with his utmost zeal, enthusiasm, honesty and with full dedication and the entire career of more than 32 years of petitioner is praise worthy.
3. That petitioner being persistent of kidney dieses and unable to perform his duty submitted an application on 08/10/2020 for retirement on medical grounds. (Copy of the application is attached as **annexure A**).
4. That on 26/3/2021 respondent No 3 vide letter no 643 seeks explanation from respondent no 4 regarding petitioner application for retirement , petitioner again submitted an application for retirement and constitution of medical board . (Copies of letter and application are attached as annexure B&C).
5. That vide letter no 3242 dated 11/06/2021 respondent no 3 disallowed the application of the petitioner while directing the respondent no 4 not to process the case of the petitioner on the medical ground rather retirement on premature basis, while referring the notification no AO/E&SE/627/ KPR/MISC, DATED



FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
29/7/21

11/12/2018. (Copies of the letters are attached as annexure D&E respectively.)

6. That feeling aggrieved and having no other appropriate and efficacious remedy available to the petitioners, the petitioners knocks the door of this honorable court inter-alia on the following grounds:-

GROUND S:-

- a. That the impinged letters are wrong ,illegal ,against the law , facts, policy arbitrary, fanciful, preserve , without lawful authority , based on malafide, discriminatory and against the norms of justice , hence liable to be struck down
- b. That, impugned order passed by respondents is void ab-initio, unlawful, beyond and without authority, result of exercise of colorful, arbitrary, fanciful authority, bias, mala fide, discriminatory, favoritism and nepotism, therefore, not sustainable, thus, bound to be struck down.
- c. That the Articles 3, 25 & 27 .of the Constitution of Pakistan ensure elimination of every sort of exploitation promotes equality of citizens and negates discrimination in services. However, the very act of the Respondents No.2 is against the constitutionally guaranteed rights.
- d. That the impugned notification is illegal and unlawful, coram – non judice, based upon mala-fide and ulterior motive hence, liable to be set aside / revised / modified.
- e. That the petitioner has been treated discriminately against the Art.25 of the constitution of Pakistan, 1973 hence not tenable because other government departments issued retirement orders on the medical grounds. Copy of the same is attached as annexure F).
- f. That when policy and law was in conflict with any provision of law or was violative of the fundamental rights the same could be called question in constitutional jurisdiction of High Court.

Certified to be True Copy
 EXAMINER
 25 OCT 2021
 Peshawar High Court Atd. Bench
 Authorized Under Sec: 75 Evid Ordns:

FILED TODAY
 ADDITIONAL REGISTRAR
 PESHAWAR HIGHT COURT
 ABBOTTABAD BENCH
 29/7/21

g. That, the Petitioner left without any remedy and this Writ Petition is only the hope and remedy to the rights of the Petitioners and if Writ is not issued the loss of the Petitioner would not be covered and Petitioner is being made victim without any fault.

h. That, Court fees stamp worth Rs.500/- is attached with the Petition and requisite pre submission notices has been served upon the respondents. (Copies of the notice and rescript are attached as annexure G.)

i. That various other grounds would be agitated after seeking permission by this august court, during the course of arguments.

it is, therefore, humbly prayed that on acceptance of the instant writ petition notification NO .AO/E&SE/627/KPR/MISC, dated 11/12/2018 be declared ultra vires of constitution of Islamic republic of Pakistan 1973 and be declared as violative of the fundamental rights guaranteed by the constitution and further prayed that respondents be directed not to issue retirement order of petitioner on premature basis, respondents be directed to issue retirement order on medical grounds and constitute a medical board along with any other relief which this worthy court may deem appropriate in the given circumstance in the favor of petitioner.


Interim Relief:

It is further requested as an interim relief that respondents be directed to constitute the medical board as per application of the petitioner and not to take any adverse action against the petitioner till the final disposal of the instant writ petition.

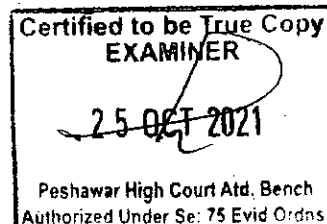
Dated :- 27/07/201

PETITIONER

Through:


(Nazakat Ali Tanoli)
Advocate High Court,
Abbottabad.

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
29/7/21



BEFORE PESHAWAR HIGH COURT ABBOTTABAD BENCH

W.P.No. 885/2021

Ghulam Rasool Son Of Sheer Muhammad , Chowkidar, Government Primary School, Gandori, District Battagram. (Resident Of Ajmeera, Tehsil & District Battgram)

... Petitioner

VERSUS

Director, Elementary & Secondary Education Peshawar & other

.....Respondents

WRIT PETITION

AFFIDAVIT

I, Ghulam Rasool S/O Sheer Muhammad R/o R/O Ajmeera Tehsil & District Battagram, CNIC No 13202-0274252-7 petitioner do hereby solemnly affirm and declare that the contents of foregoing writ petition are true and correct as stated by my client and nothing has been suppressed from this Honourable Court.

13202-0274252-7

DEPONENT

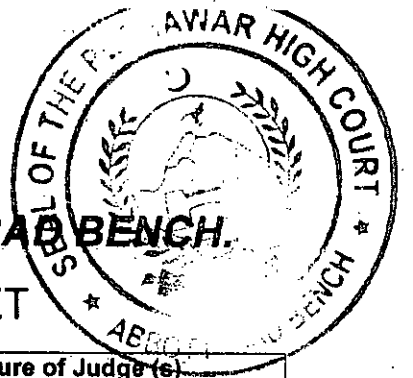


AFFIDAVIT

S# 4974/306 Receipt No: ...
I, Ghulam Rasool, S/O Sheer Muhammad, R/o Ajmeera, Tehsil & District Battagram, do hereby solemnly affirm and declare that the contents of foregoing writ petition are true and correct as stated by my client and nothing has been suppressed from this Honourable Court.

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
29/7/21

Certified to be True Copy
EXAMINER
25 OCT 2021
Peshawar High Court Atd. Bench
Authorized Under Sec 75 Evid Ordns.



PESHAWAR HIGH COURT, ABBOTTABAD BENCH.
FORM OF ORDER SHEET

Date of Order of Proceedings	Order or other Proceedings with Signature of Judge (s)
1	2
19.10.2021	<p><u>W.P.No.885-A/2021.</u></p> <p>Present: Mr. Nazakat Ali Tanoli, Advocate for the petitioner.</p> <p style="text-align: center;">***</p> <p><u>MOHAMMAD IBRAHIM KHAN, J.-</u> Learned counsel for the petitioner stated at the bar that on the instruction of his client he does not press this petition. Dismissed being not pressed.</p> <p style="text-align: right;"><i>[Signature]</i> JUDGE</p> <p style="text-align: right;"><i>[Signature]</i> JUDGE</p>

Certified to be True Copy
EXAMINER
25 OCT 2021
Peshawar High Court Atd. Bench
Authorized Under Sec: 75 Evid Ordns.

RECORDED

34

AALX

[Handwritten mark]

General Bazar Tehsil & District Battagram

PROVISION OF INFORMATION UNDER KP RTI ACT

With reference to your letter No. NIL dated 26.02.2021, the requisite information is provided as follows for your information.

S.No	Name	Father Name	Department	Date of Birth	Date of Medical Board
01	Mr. Pervez Khan	Mr. Sabit Ullah	DEO (M) Battagram	28.05.1959	13.02.2019
02	Mr. Abdul Hakeem	Mr. Gul Muhammad	DHO Office Battagram	1960	20.11.2019
03	Mr. Talizar	Mr. Janas Khan	DEO (M) Battagram	01.09.1960	25.05.2019
04	Mr. Faqeer Muhammad	Mr. Abdul Rasool	DEO (M) Battagram	1960	19.09.2019
05	Mr. Jehanzeb	Mr. Wazeer Khan	DEO (M) Battagram	25.03.1961	14.10.2020
06	Mr. Mir Afam Khan	Mr. Babu Zay	DEO (F) Upper Kohistan	1962	14.10.2020
07	Mr. Zarposh	Mr. Toni Badshah	DHO Hospital Battagram	1960	17.06.2020
08	Ms. Dunya Zari	Mr. Abdul Akbar	DHO Hospital Battagram	01.01.1963	14.10.2020
09	Mr. Wali Muhammad	Mr. Sheesh	Executive Engineer Hazara Irrigation Davison Abbottabad	1962	14.10.2020

Medical Superintendent
DHO Hospital Battagram
No. & date given above
Copy forwarded to the

Assistant Registrar, KP Information Commission Peshawar.

[Handwritten signature]

Medical Superintendent
DHO Hospital Battagram

BETTER COPY

35

To

Samad Khan R/O Geroli Bazar Tehsil and District Battagram.

Subject PROVISION OF INFORMATION UNDER KP-RTI ACT

With reference to your letter No .NIL dated 26-02-2021 , the requisite information submitted as follow for your information.

S.No	Name	Father name	Department	Date of birth	Date of medical Board
1	Mr.Pervaiz khan	Mr. Sabit ullah	DEO(M).Battagram	28/05/1959	13.02.2019
2	Mr.Abdul Hakeem	Mr.Gul Muhammad	DHO Office Battaragam	1960	20.11.2019
3	Mr.Talizar	Mr.Janas Khan	DEO(M) Battagram	01.09.1960	25.05.2019
4	Mr Faqeer Muhammad	Mr.Abdul Rasool	DEO(M) Battagram	1960	19-02-2019
5	Mr Jehanzeb	Wazeer Khan	DEO(M) Battagram	25-03-1961	14.10.2020
6	Mr .Mir Alam Khan	Babu zay	DEO(F) Upper Kohistan	1962	14.10.2020
7	Mr.Zarposh	Toni Badshah	DHQ Hospital Battagram	1960	17.06.2020
8	MS Dunya Zari	Abu Akbar	DHQ Hospital Battagram	01.01.1963	14.10.2020
9	Mr.Wali Muhammad	Mr.Sheesh	Executive engineer Abbottabad	1962	14.10.2020

Medical Superintendent

DHQ Hospital Battagram

No & Date Even above

Copy forwarded to the

1. Assistant Registrar ,KP Information Commission Peshawar

Handwritten signature
Advocate High Court
Abbottabad

S.No. 159811

Name of Advocate

DBA NO.

TBA NO.

BC No.

11 - 3081



R.s.200/=

ذات نامہ
Sardar Anwar Masood
Finance Secretary
District Bar Association
Abbotabad

36

بعدالت صاحبہ سوسائٹی لٹڈ
عنوان: صدر عدالت
منجانب: Appellant
باعت تحریر آنکہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے بیرونی وجوہات کے لئے پیشی یا تفسیر مقدمہ کے مقام پر اس کے لئے
کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا ہوں گا اور بروقت پکارے
جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا۔ اگر پیشی پر مظہر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ
سے کسی طور پر میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طور پر ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف صدر مقام پکھری کے
علاوہ کسی جگہ یا پکھری کے اوقات سے پہلے یا چھپے یا بروز تعطیل بیرونی کرنے کے ذمہ دار نہ ہوں گے اور مقدمہ پکھری کے علاوہ کسی اور جگہ
سماعت ہونے پر یا بروز تعطیل یا پکھری کے اوقات کے آگے چھپے چھپن ہونے پر مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے
کسی معاوضہ کے ادا کرنے یا جمانے کے واسطے کسی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پر داخستہ صاحب موصوف
مثل کردہ ذات منظور و مقبول ہوگا اور صاحب موصوف کو عرض دعویٰ یا جواب دعویٰ اور درخواست اجراء کے 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 کرنے اور رسید دینے اور داخل کرنے
اور ہر قسم کے بیان دینے اور اس پر ثانی و راضی نامہ و فیصلہ بر حلقہ کرنے کے اقبال دعویٰ دینے کا بھی اختیار ہوگا اور بصورت جانے پیر و نجات
از پکھری صدر اپیل و برآمدگی مقدمہ یا منسوخ ڈگری یکطرفہ درخواست حکم آئینی یا قریبی یا گرفتاری قبل از گرفتاری و اجراء کے ڈگری بھی صاحب
موصوف کو بشرط ادائیگی علیحدہ محتاجہ بیرونی کا اختیار ہوگا اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکور یا اس کے
کسی جزوی کاروائی کے یا بصورت اپیل کسی دوسرے وکیل کو اپنے بجائے یا اپنے ہمراہ مقرر کریں اور ایسے وکیل کو بھی ہر امر میں
وہی اور ویسے اختیارات حاصل ہوں گے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ جو کچھ ہر جانتا تو اپڑے گا وہ صاحب موصوف
کاتق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کر دے 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 برخلاف نہیں ہوگا۔

Shulam Rasseel
Appellant

مورخہ: 07/19
دن ماہ سال

لہذا وکالت نامہ لکھ دیا ہے کہ سند ہے۔

نوٹ: وکالت نامہ کی فونو کالی قابل قبول نہ ہوگا
Talat Ali
Talat Ali
Nazakat Ali Tanoli
Advocat High Court
Abbottabad

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Service Appeal No. 183 of 2022

Ghulam Rasool S/O Sheer Muhammad.....Appellant

VERSUS

**District Education Officer (Male) Battagram and
others.....Respondents**

Index

S. No	Description /Documents	Annexure	Pages
1	Comments		1 to 3
2	Affidavit		4

Respondent

①

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR

Service Appeal No. 183 of 2022

Ghulam Rasool S/O Sheer Muhammad.....Appellant

VERSUS

**District Education Officer (Male) Battagram and
others.....Respondents**

**Joint Para-wise Comments /Reply on behalf of
Respondents NO. 1 to 5**

Respectfully Sheweth:

Preliminary Objections

1. That the appellant has no cause of action/locus standi to file the instant appeal.
2. That the appellant has concealed the material facts from this Hon'ble Tribunal.
3. That the appellant has not come to this Hon'ble Tribunal with clean hands.
4. That the appellant has filed the instant appeal on malafide grounds.
5. That the appellant's appeal is against the prevailing law and rules.
6. That the appellant is estopped by his own conduct to file instant appeal.
7. That the claim of the appellant is unlawful; hence the instant appeal is liable to be dismissed.
8. **That the appellant has been appointed as Chowkidar (Class - IV) in the year 1988 and served the department for 32 years till 2020 and has completed more than qualifying service for retirement and pensionary benefits ; hence demand of the appellant to grant him retirement on medical ground cannot be proceeded as he has sufficient length of service for premature retirement.**
9. **That the appellant was of the age of 59 years at the time of submission of application for retirement on medical ground and completed the qualifying length of service, hence in the light of referred Notification (annexed as annexure: "E" of the appeal) about not processing the cases of retirement on medical ground if a civil servant has sufficient length of service and is eligible for premature retirement and appellant has**

completed more than qualifying service i.e 26 years and appellant served 32 years; hence the application of the appellant was rejected.

ON FACTS

1. Para No. 1 of the appeal is Correct, pertaining to the appointment of the appellant hence needs no comments.
2. Para No. 2 of the appeal is related to the service record; hence needs no comments.
3. Para No. 3 of the appeal is Correct and related to the application of appellant for retirement of medical ground although appellant has been appointed as Chowkidar (Class -IV) in the year 1988 and served the department for 32 years till 2020 and has completed more than qualifying service for retirement and pensionary benefits; hence demand of the appellant to grant him retirement on medical ground is not entertain able.
4. Para No. 4 is correct; hence needs no comments.
5. Para No. 5 of the appeal is correct. Application of the appellant was disallowed as per directions of Notification No. AO/E&SE/627/KPR/MISC Dated 11/12/2018 (attached with the appeal as *annexure 'E'*) as the appellant has completed the sufficient length of service and has qualifying service for pensionary benefits that is why appellant case was proceeded as premature retirement rather on medical ground.
6. Para No.6 is correct, detailed reply given in preceding para.
7. Para No.7 needs no comments relates to the case history of the appellant.
8. Para No. 10 is incorrect. The appellant has no cause of action to file instant appeal.

ON GROUNDS:

- a. Ground "a" of the appeal as composed is incorrect and denied. The impugned letters are not against the law and facts of the case and not liable to be struck down.
- b. Ground "b" of the appeal is incorrect. Detailed reply is given in the above paras.
- c. Ground "c" of the appeal is correct. Act of the respondents is not against the constitutionally guaranteed rights of the appellant. Detailed reply is given in the above paras.
- d. Ground "d" of the appeal as composed is incorrect. Hence denied detail reply given in preceding paras.
- e. Ground "e" of the appeal is incorrect, hence denied detail reply given in preceding paras.

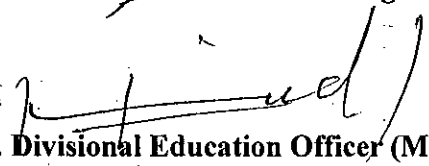
- f. Ground "f" of the appeal as composed is incorrect. Respondents followed the instructions/ directions of the department and no discrimination was made.
- g. Ground "g" of the appeal is incorrect, hence denied detail reply given in preceding paras.
- h. Ground "h" of the appeal is incorrect, as replied in the preceding paras.
- i. Ground "i" of the appeal is incorrect, as replied in the preceding paras.
- j. Ground "j" of the appeal is incorrect, as replied in the preceding paras.
- k. Respondents followed the directions of the department. As replied in the above paras.
- l. Respondent seek gracious permission of this honorable Tribunal to raise other legal and factual grounds during the course of arguments.
- m. Appellant has no cause of action.

It is therefore most humbly prayed that on acceptance of above para wise comments, the appeal of the appellant may graciously the dismissed.


Respondent No.5


Head Master GPS Gandori Battgram.

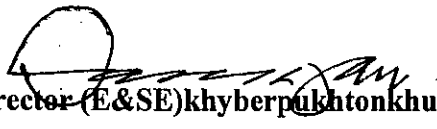
Respondent No.4


Sub. Divisional Education Officer (Male)
Battagram.


Respondent No.3


District Education officer (Male)
Battagram.

Respondent No.2


Director (E&SE) Khyberpukhtonkhuwa
Peshawar.

Respondent No.1


Secretary (E&SE) Khyber pukhtonkhuwa
Peshawar.

BEFOR THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 183 of 2022

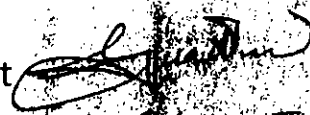
Ghulam Rasool S/O Sher Muhammad.....Appellant

VERSUS

District Education Officer (Male) Battagram and others.....
Respondents

AFFIDAVIT

I, Gul Badshah Deputy District Education Officer (Male) Battagram do hereby affirm and declare on oath that content of the accompanying joint para-wise comments on behalf of respondent no. 1 to 5 are true and correct to the best of my knowledge and belief that nothing has been concealed from this Honorable Tribunal.

Defendant 
CNIC: 1320307386625