

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT SWAT

Service Appeal No. 580/2016

Date of Institution... 27.05.2016

Date of decision... 30.01.2018

Azizur Rahman son of Manjor R/O Shahpur Tehsil Alpuri, District Shangla
presently posted at Swat. ... (Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Health Department,
Peshawar and 4 others. ... (Respondents)

MR. NOOR RAHIM,
Advocate

... For appellant.

MR. MUHAMMAD JAN,
Deputy District Attorney

... For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. GUL ZEB KHAN,

... CHAIRMAN
... MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - Arguments of the learned
counsel for the parties heard and record perused.

FACTS

2. The appellant was initially appointed as Driver on contract basis in the
year, 1994 and later on confirmed on regular basis alongwith other Drivers. The
appellant now has approached through this Appeal for fixation of his pay from the
date of initial appointment.

ARGUMENTS

3. The learned counsel for the appellant argued that this Tribunal in appeals of other Drivers including appeal bearing No. 947/2014 entitled "*Bakhiyarud Din Vs. Government of Khyber Pakhtunkhwa through Secretary Health Department Peshawar and others*" decided on 29.08.2017 and No. 318/2009, entitled "*Mian Siraj Vs. Government of Khyber Pakhtunkhwa through Secretary Health Department and others*" decided on 02.07.2010 extended the same benefits. The learned counsel for the appellant argued that the rule of consistency requires that the appellant shall also be meted with the same treatment as was with his other colleagues. He further contended that the question of limitation would not arise as the cause of action in financial matter is a recurring cause.

4. On the other hand, the learned Deputy District Attorney argued that the appeal was time barred. That there was no original order or appellate order in view of Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974. That the project employees could not be extended the benefit as prayed for by the appellant. That this Tribunal in some other appeals have denied such benefits to the project employees.

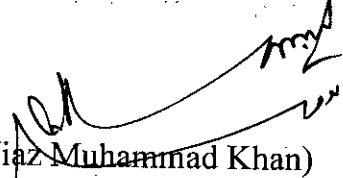
CONCLUSION

5. The matter in hand is financial matter therefore, no limitation runs in such appeals. It is also a settled position of law that no limitation would run in cases of similarly placed employees. Reliance is placed on 2002-PLC(C.S)268. When other colleagues of the appellant have been extended the benefit on the basis of some judgments of this Tribunal then the same could not be denied to the appellant by

the department on the ground that there was no order in his favour. The rule of consistency also demands that the benefit already extended to other colleagues of the appellant shall also be extended to him without decision or other aspects of the appeal.

6. As a sequel to the above discussion, the appeal is accepted and the department is directed to treat the case of the appellant at par with other colleagues of the appellant. Parties are left to bear their own costs. File be consigned to the record room.


(Gul Zeb Khan)
Member


(Niaz Muhammad Khan)
Chairman
Camp Court, Swat

ANNOUNCED

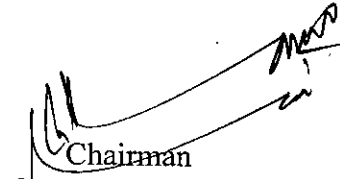
30.1.2018

30.01.2018

Counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Arguments heard and record perused.

This appeal is accepted as per our detailed judgment. Parties are left to bear their own costs. File be consigned to the record room.


Member


Chairman
Camp Court, Swat

ANNOUNCED
30.01.2018

09.08.2017

Appellant alongwith counsel and Mr. Muhammad Zubair, District Attorney alongwith Amjad Ali, Asstt and Hasham Khan, Asstt for the respondents present. Rejoinder submitted. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 09.11.2017 before the D.B at camp court, Swat.

Member

Chairman

Camp court, Swat

09.11.2017

Appellant with counsel (Mr. Imdadullah, Advocate) and Addl, AG alongwith Muhammad Hasham, Assistant and Amjad Ali, Assistant for the respondents present. Wakalatnama placed on file. The newly engaged counsel requested for adjournment. Granted. To come up for arguments on 30.01.2018 before the D.B at camp court, Swat.

Member

Chairman

Camp court, Swat

08.12.2016

Counsel for the appellant present and Wakalatnama submitted. Mr. Tahir Iqbal, Legal Officer, Amjad Ali, Assistant and Taufiqullah, Litigation Officer alongwith Mr. Muhammad Zubair, Sr.GP for the respondents present. Written reply by respondents No. 1, 2 and 5 submitted. Learned Sr.GP relies on the same on behalf of respondents No. 3 & 4. The appeal is assigned to D.B for rejoinder and final hearing for 04.04.2017 at camp court, Swat.

Chairman
Camp court, Swat

04.04.2017

Appellant alongwith his counsel present. Mr. Amjid Ali, Assistant, Mr. Yar Gul, Senior Clerk and Mr. Zakiullah, Senior Auditor with Mr. Muhammad Zubair, Senior Government Pleader for respondents also present. Appellant requested for adjournment on the ground that one senior counsel has died and his counsel is busy in Quran Khawani. Adjourned. To come up for rejoinder and arguments on 09.08.2017 before D.B at Camp Court Swat.

(AHMAD HASSAN)
MEMBER

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

Camp Court Swat

08.24.17

~~Appellant with counsel and with Muhammad Zubair, District
Attorney alongwith Hasham Khan, Asstt. for the respondents
present. Rejoinder submitted. Counsel for the appellant seeks
adjournment. Adjourned. To come up for arguments on
09.11.2017 before D.B at camp court Swat.~~

Member

Chairman
Camp court, Swat

27.6.2016

Counsel for the appellant present. Learned counsel for appellant argued that the appellant is serving as Driver and was initially appointed in the Primary Health Project on 15.02.2000. That services of the appellant and similarly placed employees were regularized with immediate effect vide notification dated 17.5.2008. That the appellant and other employees were entitled to regularization of their services w.e.f. the date of their initial appointments i.e. 15.02.2000 which was not granted constraining other employees to prefer service appeal No. 318/2009 before this Tribunal which was accepted vide judgment dated 02.07.2010. That the appellant is also entitled to similar treatment and that the appellant preferred departmental appeal for his claim on 21.1.2016 which was not responded and hence the instant service appeal on 27.05.2016.

Appellant Deposited
Security & Process Fee

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 08.09.2016 before S.B at Camp court Swat as the case pertains to territorial limits of Malakand Division.


Chairman

08.09.2016




Counsel for the appellant, M/S Yar Gul, Assistant Siddique Ahmad, AAO and Taufiqullah, Litigation Officer alongwith Mian Amir Qadar, GP for respondents present. Requested for adjournment. To come up for written reply/comments on 08.12.2016 before S.B at camp court, Swat.


Chairman
Camp Court, Swat.

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 580/2016


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	31/05/2016	<p>The appeal of Mr. Aziz-ur-Rehman resubmitted today by Mr. Noor Rahim Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2	31-5-16	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>1-6-16</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
01.06.2016		<p>None for the appellant is present. Adjourned for preliminary hearing to 27.06.2016 before S.B.</p> <p style="text-align: right;"> Chairman</p>

The appeal of Mr. Aziz-Ur-Rehman Driver son of Manjor r/o Shahpur Tehsil Aopuri Distt. Shangla received to-day i.e. on 27.05.2016 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellatant.
- 2- Annexure-A of the appeal is illegible which may be replaced by legible/better one.
- 3- One copy/set of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 900 /S.T,

Dt. 27/5 /2016


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Noor Rahim Adv. Pesh.

Respected Sir

*Needful has been done & he submitted
Please.*

Shams

Dated. 31.5.16

BEFORE HYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.

Service appeal no. 580 /2016
Aziz Ur Rehman S/o Manjor R/o Shapur, Tehsil
Alpuri, District Shangla. Presently posted at swat

.....Appellant

VERSUS

Government of Khyber Pakhtunkhwa through.
Secretary to Government, Khyber Pakhtunkhwa,
Health Department, Peshawar and others

.....Respondents

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Dated: 27/05/2016

Appellant:

Through


Noor Rahim Advocate,
Advocate High Court.

6

**BEFORE HYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR.**

SERVICE APPEAL NO. 580 /2016

Aziz Ur Rehman S/o Manjor R/o Shapur, Tehsil
Alpuri, District Shangla. Presently posted at swat

.....Appellant

N.W.F. Province
Service Tribunal
Sl. No. 539
Date 27-5-2016

VERSUS

- 1) Government of Khyber Pakhtunkhwa through.
Secretary to Government, Khyber Pakhtunkhwa,
Health Department, Peshawar.
- 2) Director Provincial Health Services Academy
Peshawar
- 3) Accountant General Khyber Pakhtunkhwa Peshawar.
- 4) District Account Officer Swat.
- 5) District Health Development Center Swat (DHDC).

.....Respondents

**APPEAL UNDER SECTION 4 OF
THE NWFP / KHYBER
PAKHTUNKHWA SERVICE
TRIBUNAL ACT 1974 FOR
FIXATION OF PAY WITH
EFFECT FROM THE DATE OF
APPOINTMENT AS PER OFFICER
ORDER DATED 15-02-2000 AS IS
DONE THE OTHER EMPLOYIES**

Filed to-day
Registrar
27/5/16

Re-submitted to -day
and filed.
Registrar
31/5/16

6

**AGAINST WHICHH APPELLANT
SUBMITTED DEPARTMENTAL
APPEAL BUT THE SAME IS NOT
RESPONDED DISPITE LAPSE OF
90 DAYS.**

RESPECTED SHEWETH:

- 1) That the appellant namely Aziz Ur Rehman was appointed as driver in District Health Development Center Swat vide office order No. 2050-53-PF dated 8-8-1994 on contract basis in the office of District Health Development Center Swat family health project.
(Copy of order is Annexure "A").
- 2) That thereafter the said project was terminated in December 1999 and the service of the appellant was also terminated.
- 3) That thereafter post of driver was again created in the family health project of the department of health

Government of North West Frontier Province and director health services has issued office order dated 15-2-2000 whereby the appellant was appointed as driver on contract basis and was posted District Health Development Center Swat along with other drivers who were posted in other districts.

(Copy of office order is Annexure "B").

- 4) That thereafter the director general health services Khyber Pakhtunkhwa Peshawar as regularized the service of appellant in BPS-4 with immediate effect vide notification No. 215/PHSA/Admn/ Appointment /2007-08/ 3280-3311 dated 17-05-2008 (copy of Notification is Annexure "C").
- 5) That it is pertinent to mention that the appellant was discriminated and his service was regularized from 17-05-2008 instead of from the date of appointment.

- 6) That other drivers in the said notification their salaries were fixed from their date of appointment i.e. back benefit etc.
- 7) That one Mian Siraj driver approached to this August Court in Service Appeal 318/2009 having same grievances his appeal was accepted vide judgment dated 2-7-2010 with following order

“in view of the above the tribunal deems it appropriate to remand the case of the appellant to the respondent department with the direction to consider his claim with regard to entitlement of fixation of his pay from the date of appointment in the light of the aforesaid letter as well as case of Sahib Ur Rehman Driver strictly in according with the law rule on the subject within a period of two months of the receipt of this order “Copy of the judgment is annexure “D”),

- 8) That the appellant filed petition / appeal before the Director General provincial health service academy Khyber Pakhtunkhwa for his grievances but the same not respond till the date. (copy of petition is annexure "F")
- 9) That the petitioner is also appointed as driver along with other driver whose pay was fixed from the date of appointment and their previous services were counted but the appellant was discriminated.
- 10) That the appellant have no other remedy to except to file to present appeal.
 - i) That other grounds will be argued at the time of arguments with permission of this August Court.

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it is therefore, very humbly prayed that on acceptance of this appeal respondents may kindly be directed to consider his claim with regard entitlement of fixation of his pay from the date of appointment they may further be directed to give all back benefits.

Appellant

Ajiz-ul-Human

AD

Through

N.R.

Noor Rahim Advocate,
Advocate High Court.

NOTE:

No other appeal of similar nature has been filed by the appellant before this august court.

N.R.

ADVOCATE.

Dated: 27/05/2016

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**BEFORE HYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.**

Service appeal no. _____/2016
Aziz Ur Rehman S/o Manjor R/o Shapur, Tehsil
Alpuri, District Shangla. Presently posted at swat

.....Appellant

VERSUS

Government of Khyber Pakhtunkhwa through.
Secretary to Government, Khyber Pakhtunkhwa,
Health Department, Peshawar and others

.....Respondents


AFFIDAVIT

I Aziz Ur Rehman S/o Manjor R/o Shapur,
Tehsil Alpuri, District Shangla. Presently
posted at swat do solemnly affirm and
declare on oath that the contents of this
appeal are correct and nothing has been
concealed or mis-stated from this august
court.

AD

DEPONENT.

IDENTIFIED BY:


Noor Rahim
Advocate High Court
Peshawar.



3

**BEFORE HYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.**

Service appeal no. _____ /2016
Aziz Ur Rehman S/o Manjor R/o Shapur, Tehsil
Alpuri, District Shangla. Presently posted at swat

.....Appellant

VERSUS

Government of Khyber Pakhtunkhwa through.
Secretary to Government, Khyber Pakhtunkhwa,
Health Department, Peshawar and others

.....Respondents

ADDRESSES OF THE PARTIES

Appellant:

Aziz Ur Rehman S/o Manjor R/o Shapur, Tehsil
Alpuri, District Shangla. Presently posted at swat

RESPONDENTS:

1. Government of Khyber Pakhtunkhwa through.
Secretary to Government, Khyber Pakhtunkhwa,
Health Department, Peshawar.
2. Director Provincial Health Services Academy
Peshawar
3. Accountant General Khyber Pakhtunkhwa Peshawar.
4. District Account Officer Swat.
5. District Health Development Center Swat (DHDC).

.....Respondents

Dated: 21/05/2016


Appellant

Aziz-ur-Rehman

Through


Noor Rahim Advocate,
Advocate High Court.

No. 2050/AS/3/11

Date. 08-08-99

OFFICE ORDER

With reference to the application of Mr. Aziz-ur-Rehman S/O Manjer.

is hereby offered a post of District Health Development Centre (DHC) (2200-20-2200)

plus usual allowances as admissible under the rules and sanctioned by the Government, from time to time for the category of staff on the following terms and conditions.

On his first appointment he is hereby posted to Family Health Project (World Bank) District Health Development Centre, Swat.

1. His appointment will be purely temporary and liable to be terminated without any notice being assigned.
2. The service tenure will be subject to the Project life or if decided by the Government otherwise, he will not claim any concession or rights on the completion project schedule and his services will be terminated straight away.
3. If he wishes to resign at any time, he will have to resign in writing by giving a prior notice of one month and continue to serve the project till his resignation is accepted by the competent authority and communicated to his in writing, failing which one month pay will be forfeited to project.
4. He will be governed by such rules and orders as formulated by the Govt. from time to time for the category of staff to which he belongs for the purpose of pay, allowances, TA, Leave and Medical Attendance.
5. His appointment will be subject to Medical fitness, verification of antecedents and production of Domicile of N.W.F.P.
6. He will not claim any pension or gratuity or other financial benefits on termination.
7. He will have to execute a bond on judicial paper worth Rs. 5/- for the above terms and conditions if accepted to him.

If he accepts the offer on the above mentioned terms and conditions, he should report for duty to the _____

District Health Development Centre, Swat.

(Cont.....P/2.....)

10

within 7 days of the receipt of this communication,
failing which the offer will be withdrawn.

sent

PROJECT DIRECTOR
FAMILY HEALTH PROJECT
(W/BANK) NWFP PESHAWAR.

Copy forwarded for information
and necessary action to:-

1. Aziz-ur-Rehman S/O Manjor,
Shah Pur Teh: Alpuri Distt: Swat.
2. Assistant Director,
District Health Development Centre,
Swat.
3. Deputy Director,
Provincial Health Development Centre,
Family Health Project.
4. Accounts Officer,
Family Health Project.

B. A. W. A. S. A.
(PROJECT DIRECTOR)

Attested to be *W*
True Copy

Better Copy Page 1

Office of the project director family health
project world bank bangla No. B2 Arbab
Colony, Abdara Road Peshawar

No. 2050 – 53 PF

Dated 08-08-1994

Office Order

With reference to the application Mr. Aziz Ur Rehman S/o Manjawar is here by offered a post of driver in BPS-4 (1360-38-2230)

Plus usual allowances admissible under the rules and section by the government from time to time for the category of staff on the following terms and condition

On his appointment he is here posted to family health project (world bank) District Health Development Center Swat.

1. His appointment will be purely temporally and liable to be terminated without any notice being assigned
2. The service tenure will be subject by the government otherwise he will not claim any concession or rights on the completion project schedule and his services will be terminated straight away.
3. If he wishes to resign at any time, he will have to resign in writing by giving a prior notice of one month and continue to serve the project till his resignation to accepted by the competent authority and communicated to him in writing falling which one month any will be forelieted to project.
4. He will be governed by such and ordain as formatted by the Govt from time to time for the category of staff be which he belong for the purpose of pay allowances, TA, leave and Medical Allowances.
5. His appointment will be subject to lledical fitnessess, verification of antecedents and production of Domicile of NWFP.
6. He will not claim any pension or gradually of other financial benefits on termination.
7. He will have to execute a bond on judicial paper worth Rs. 5/- for the above terms and conditions if accepted to him.

If he accepts the offer on the above mentioned terms and condition, he should report for duty to the

District Health Development Center, Swat

10

Within 7 days of the receipt of this communication, failing the offer will be withdrawn.

Project Director
Family Health Project
W/Bank NWFP Peshawar

Copy forwarded for information and necessary action.

1. Aziz Ur Rehmand S/o Manjor, Shahh Pur Tehsil Alpuri, District Swat.
2. Assistant Director District Health Development Center. Swat.
3. Deput Director, Provincial Health Development Center Family Health Project.
4. Accounts Officer Family Project.

(Project Director)

OFFICE ORDER

On the creation of posts of drivers for the formations established by the Family Health Project of the Dept of Health, Government of North West Frontier Province, and consequent upon the no objection given by the S&GA Dept., for the continuation of contract of the services of staff employed by the Family Health Project, vide letter no. SOR-11(S&GAD){38}/98 Dated 12.1.2000, the orders of the continuation of contract of the following drivers, against posts shown in the following terms and conditions, is hereby made, for a period of 06 (six) months, from January 01 2000 to June 30 2000 or till such time the posts are filled in by the prescribed government procedure, whichever is earlier.

S.N	NAME OF DRIVER	WORKING IN BPS	PLACE OF WORKING ON 31/12/99	PLACE WHERE ADJUSTED	POST SCALE	REMARKS
	WISAL MOHAMMAD	04	DH&NCU SWABI	PHS/A	04	
	SHAMISURREHMAN	04	PHS/A	PHS/A	04	
	MUHAZ	04	PCU	NIL	NIL	NOT RECOMMENDED BECAUSE OF HIS PREVIOUS POOR PERFORMANCE.
	USMAN ALI	04	PHS/A	PHS/A	04	
	WAZIR KHAN	04	PHS/A	PHS/A	04	
	ANWAR UDDIN	04	D.H.D.C KOHAT	D.H.D.C KOHAT	RS-2500/1 M 1-XLD	
	ILCHMAN RULLAN	04	D.H.D.C DIKHTAN	D.H.D.C DIKHTAN	do	
	JAMIL UREHMAN	04	D.H.D.C ABBOTABAD	D.H.D.C ABBOTABAD	do	
	AMIR UREHMAN	04	D.H.D.C SWAT	D.H.D.C SWAT	do	
	BANISHAR UD'DIN	04	AMBULANCE CAR HMC PESHAWAR	SCHOOL OF NURSING MARDAN	do	
	NADIR	04	D.H.D.C CHITRAL	DHDC CHITRAL	do	
	MIRAN SIRAJ	04	SCHOOL OF NURSING KOHAT	SCHOOL OF NURSING KOHAT	do	
	MOHAMMAD SAEED	04	D.H.D.C ABBOTABAD	SCHOOL OF NURSING SWAT	do	
	MOHAMMAD USMAN	04	D.H.D.C BUNNU	D.H.D.C BUNNU	do	
	Sahib-ur-Renman	04	D.H.D.C MARDAN	D.H.D.C MARDAN	do	
	ABDUL HUSSAIN	04	AMBULANCE CAR CH HANGOO	SCHOOL OF NURSING DIKHTAN	do	

Attested to be True Copy

The above adjustments will be subject to the following terms and conditions:

- Their appointments will be on contract basis for a period of six months.
- They will be governed by the N.W.F.P. Govt. servants (Efficiency disciplinary) rules 1973 and govt. servants conduct rules 1987 or any instructions which may be issued by the govt. from time to time in this regard.
- Their services will be liable to termination at any time without assigning any reason or giving notice during the incumbency of contract period.
- If any one wishes to quit the services he will have to submit in writing a prior notice at least two weeks earlier failing which the pay for the aforesaid period will be forfeited.

- They shall not be entitled to any pension or gratuity for the service rendered by them.
- If they accept the above terms and conditions they should report to their new/existing place of adjustment within a week or at least 10 days, otherwise the offer will be withdrawn and given to next senior person.

No. 442 - S/S/A - 2/1/1984
D.P. 10 - 10 - 1984


Dr. Tasleem Akhtar
Director

Copy forwarded for information and necessary action to:

1. Secretary Health
2. Director Health Services
3. Project Director Family Health Project
4. Vice Principal D.H.D.C Kohat
5. Vice Principal D.H.D.C Swat
6. Vice Principal D.H.D.C Bannu
7. Vice Principal D.H.D.C Chitral
8. Vice Principal D.H.D.C D.I. Khan
9. Vice Principal D.H.D.C Abbotabad
10. Vice Principal D.H.D.C Mardan
11. M.S. DHQ Hospital D.I. Khan
12. M.S. DHQ Hospital Kohat
13. M.S. DHQ Hospital Mardan
14. M.S. DHQ Hospital Swat
15. Provincial co-ordinator HMIS
16. Account Officer D.G.H. S.P.H.S.A
17. Concerned Drivers *Mohammad Saad*


Director

Recd.

Copy

Provincial Health Services Academy

Dept. of Health Govt. of N.W.F.P
Budhni Road Duran Pur Peshawar



☎ # 091-2650861 Fax # 091- 2261249
☎ # 091-2650861 (Exchange)
E-mail: phsa_peshawar@yahoo.com

NOTIFICATION

ANNEXURE

Reference Govt. of NWFP Finance department letter No.BVI/FD/4-48/2007-08/Vol; IV dated 12.5.2008 and Health department Letter No.SO.III/8-90/07(Sahib-ur Rehman) dated 21st January,2008 on the subject noted above.The Director PHSA is pleased to convert the following drivers of PHSA network on fixed pay to regular side BPS(4) with the immediate effect in the light of notification referred above.

The adjustment of drivers are made as mentioned below against their names

S.N.	Name & designation	BPS	Name of Institute.
1	Mr. Muhammad Usman	04	DHDC Bannu.
2	Mr. Aziz ur Rehman	04	DHDC Swat.
3	Mr. Masood Khan	04	DHDC Mardan.
4	Mr. Abdul Ghafoor	04	DHDC Abbottabad.
5	Mr. Nadir	04	DHDC Chitral.
6	Mr. Javed Khan	04	SON Swat.
7	Mr. Mian Siraj	04	SON Kohat. ✓
8	Mr. Bakhtiar ud Din	04	SON Mardan.
9	Mr. Shah Noor	04	SON Bannu
10.	Mr. Wali Jan	04	SON D.I. Khan.
11	Mr. Zafar Islam	04	SON HMC Peshawar.

-Sd/-
DIRECTOR

No.215/PHSA/Admn/ Appintment/2007-08/ 3280-3311 . Dated 17/05/2008.

Copy of above is forwarded to:-

1. Deputy Director Management, PHSA, Peshawar
2. District Accounts Officer, Swat Mardan, Kohat, DIK, Chitral, Abbottabad, Bannu
3. Section Officer-VI Finance department Peshawar
4. Budget Officer Health department Peshawar.
5. Vice Principal SON Swat, Mardan, Kohat, Bannu, D.I. Khan, HMC Peshawar.
6. Vice Principal DHDC Abbottabad, Mardan, Swat, Chitral, Bannu.
7. Officials concerned.

[Signature]
DIRECTOR

noted & file
27/05/08
[Signature]
Attested to be True Copy

of two-months of the receipt of this order

14

BEFORE KPK SERVICE TRIBUNAL,
PESHAWAR.

Execution petition no. 66/2011

Service Appeal No: 318 / 2009

*D
Amr*

MIAN SIRAJ,
Driver, School of Nursing, Kohat.
R/o Village & P.O. Bilitang,
Tehsil & District, Kohat.

Applicant / Appellant

VERSUS

1. Government of K.P.K,
Through Secretary Health, Peshawar.
2. Director,
Provincial Health Services Academy, Peshawar.
3. Accountant General,
K.P.K, Peshawar.
4. District Accounts Officer, Kohat.

Respondents

APPLICATION FOR IMPLEMENTATION OF JUDGMENT
DATED 02.07.2010 IN SERVICE APPEAL NO. 318 / 2009.

Respectfully Sheweth,

Short fact giving rise to present implementation application are as under:-

1. That Applicant / Appellant was filed a Service Appeal No.318 / 2009. the said Appeal was disposed of vide Judgment dated 02.07.2010, copy of the Judgment is enclosed as Annexure-A. The Operative part of the Judgment is reproduced as under: -

"In view of the above, the Tribunal deems it appropriate to remand the case of the appellant to the respondent-department with the direction to considerer his claim with regard to entitlement of fixation of his pay from the date of appointment in the light of the aforesaid letters as well as case of Sahib-ur-Rehman, Driver, strictly in accordance with law/rules on the subject within a period of two months of the receipt of this order"

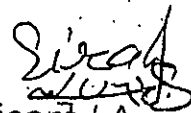
Attested to be True Copy

15

That, the Respondents are not implementing the above said Judgment, hence, this implementation Application


3. That, Justice delayed is justice denied.

It is, therefore, requested that Respondents be directed to implement the decision dated 02.07.2010 without any further delay with such other relief as may deem fit in the circumstances of the case may also be granted.


Applicant / Appellant

Through:

WAQAR AHMAD SETH
(Advocate, Peshawar)


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16

BEFORE KPK SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No: 318 / 2009

Mian Siraj

Vs

Govt of K.P.K etc.

AFFIDAVIT

I, **Mian Siraj** S/o Muhammad Khan, Driver, School of Nursing, Kohat, R/o Village & P.O. Bilitang, Tehsil & District, Kohat, Appellant, do hereby on oath affirm and declare that the contents of the Implementation Application are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honourable Tribunal.

Siraj
Deponent

Identified by:

WAQAR AHMAD SETH
(Advocate, Peshawar)

Attested to be True Copy

17

BEFORE KPK SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No: 318 / 2009

Mian Siraj

Vs

Govt of K.P.K. etc.

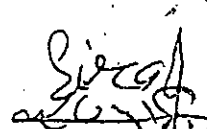
ADDRESSES OF PARTIES.


APPELLANT:

MIAN SIRAJ,
Driver, School of Nursing, Kohat.
R/o Village & P.O. Bilitang,
Tehsil & District, Kohat.

RESPONDENTS

1. Government of K.P.K,
Through Secretary Health, Peshawar.
2. Director,
Provincial Health Services Academy, Peshawar.
3. Accountant General, K.P.K, Peshawar.
4. District Accounts Officer, Kohat.


Appellant / Applicant.


Attested to be True Copy?

Through:

WAQAR AHMAD SETH
(Advocate, Peshawar)

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

SERVICE APPEAL NO.318/2009

Date of institution ... 23.02.2009

Date of decision ... 02.07.2010



Mian Siraj, Driver, School of Nursing, Kohat,
R/o Village & P.O Bilitang,
Tehsil & District, Kohat.

... (Appellant)

VERSUS

1. Government of NWFP (K.P.K) through
Secretary Health Department, Peshawar.
2. Director, Provincial Health Services Academy, Peshawar.
3. Accountant General, NWFP (K.P.K), Peshawar.
4. District Accounts Officer, Kohat. ... (Respondents)

APPEAL U/S 4 OF THE NWFP SERVICE TRIBUNALS ACT, 1974
FOR FIXATION OF PAY WITH EFFECT FROM THE DATE OF
APPOINTMENT AS PER NOTIFICATION DATED 30.7.2008, AS IS
DONE TO THE OTHER EMPLOYEES AGAINST WHICH
APPELLANT SUBMITTED HIS DEPARTMENTAL APPEAL
DATED 10.11.2008 BUT THE SAME IS NOT RESPONDED
DESPITE LAPSE OF 90 DAYS.

Mr. Waqar Ahmad Seth, Advocate.

... For appellant

Mr. Sher Afgan Khattak,

Addl: Advocate General.

For respondents

Mr. Sultan Mehmood Khattak.

..Member

Mr. Noor Ali Khan

Member

JUDGMENT

SULTAN MEHMOOD KHATTAK, MEMBER:-

According to the

averments made in the appeal, the appellant, namely, Mian Siraj, was appointed as Driver in Family Health Project in the year 1994. On winding up of the said Project on 31.12.1999, the Finance Department created posts of Drivers on fixed pay @ Rs. 2500/- per month, without any break. The appellant was accordingly adjusted as Driver in Nursing School, Kohat vide order dated 19.7.1999. At that time number of other employees were appointed on regular basis but the

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Attested to be true Copy


(19)


Appellant was discriminated. Respondent No.1 vide letter dated 21.01.2008 converted the fixed pay employee namely Sahib-ur-Rehman Driver into regular pay scale, who is similarly placed employee like appellant, therefore, respondent No.2 requested for conversion of all other Drivers into regular pay scales. The Finance Department vide letter dated 12.5.2008 gave concurrence for conversion of 14 posts of Drivers on fixed pay into Pay Scale No.4 and in accordance with the said concurrence, Notification was issued by respondent No.2 on 17.5.2008, wherein, the appellant's name appeared at S.No.7, but with immediate effect, whereas pay fixation of other employees was done with effect from the date of appointment. Feeling aggrieved, the appellant submitted his departmental appeal on 09.11.2008, but with no response within the stipulated period, hence this appeal with the prayer that on acceptance of the appeal, the respondents be directed to fix the pay of the appellant from the date of initial appointment instead of 12.5.2008 along with arrears to bring it at par with the length of service with such other relief as may deem fit in the circumstances of the case may also be granted.

2. The respondents have filed their written replies, wherein, they refuted the claim of the appellant and stated that the case of the appellant is different from the case of other employees and that he was appointed in Family Health Project on 6.12.1994 till the project life i.e. 31.12.1999. He was adjusted as Driver at Nursing School on 14.2.2000 as per entry made in his service book on fixed pay @ Rs.2500/-P.M. Moreover, he was brought to regular BPS-4 vide Finance Department's Notification dated 12.5.2008, with immediate effect. As such he is not entitled to the relief claimed by him.

3. Arguments heard and record perused.

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Attested by  Copy

No doubt, the appellant was appointed as Driver in the Family Health Project on 06.12.1994 but before winding up of the Project on 31.12.1999, he was adjusted as Driver in Nursing School Kohat, vide office order dated 19.7.1999. As per entry in the service book, the appellant was later on adjusted as Driver on fixed pay @ Rs.2500/- per month vide order dated 14.2.2000. In the light of Finance Department's letter dated 12.5.2008, the post of the appellant was converted to BPS-4 on regular side, vide Notification dated 17.5.2008 of respondent No.2, but with immediate effect. The main contention of the appellant is that in the light of Finance Department's letter dated 30.7.2008 he is entitled to fixation of his pay from the date of his initial appointment instead of 12.5.2008 like Sahib-ur-Rehman, similarly placed employee. Moreover, respondent No.2 has also addressed a letter dated 15.10.2008 to respondent No.4 in favour of the appellant for fixation of his pay from the date of appointment. However, it was observed that he will not be entitled to arrears upto 30.6.2008.

5. In view of the above, the Tribunal deems it appropriate to remand the case of the appellant to the respondent-department with the direction to consider his claim with regard to entitlement of fixation of his pay from the date of appointment in the light of the aforesaid letters as well as case of Sahib-ur-Rehman, Driver, strictly in accordance with law/rules on the subject within a period of two months of the receipt of this order. The appeal is disposed of in the above terms. Parties are, however, left to bear their own costs. File be consigned to the record.

ANNOUNCED
02.07.2010

(NOOR ALI KHAN)
MEMBER

(SULTAN MEHMOOD KHATAK)
MEMBER

Certified to be true copy -

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar.

Attested to be True Copy

کھنڈی کے طور پر لکھا گیا ہے PHSA غیر مختص خواہش کے تحت
ANNEXURE

کھنڈی کے طور پر لکھا گیا ہے
درخواست لکھی ہے۔ ریگولر انٹرنیشنل آف سروس

مؤرخانہ گزارش کی حالت میں، کمرشل سٹورج 14 ڈرائیورز (فلس سٹیٹ)
پر ڈرائیورز PHSA نے بذریعہ آرڈر 442-58/A-22/PHSA
موضوع 14/2/2008 کو کھنڈی کیا تھا۔ ان میں سے چندریک ڈرائیور کی
"مختص" اور اس کی کھنڈی کے تاریخ ریگولر انٹرنیشنل آف سروس
جس کے بارے میں سب سے پہلے باوجود اسے حق سے محروم ہے۔

(Ann 2)
میں 2008 کو حکم فنانس غیر مختص خواہش کے تحت سروس
8-2007-48/9-FD/BU1 موضوع 12/3/08 کو تمام ڈرائیورز (فلس سٹیٹ)
میں 2008 سے ریگولر انٹرنیشنل آف سروس کا حکم جاری کیا ہے۔ حکم دیگر
کلاس فور اے-1 (فلس سٹیٹ) کو کھنڈی کے تاریخ سے ریگولر
کیا ہے جس کے تحت 1-8-01/8-2007-48/9-FD موضوع 29 صورتی 2008

لینڈ انٹرنیشنل آف سروس کے کمرشل سٹورج دیگر ڈرائیورز کے لیے اس
نیک ورک (Fix Pay) والے کو بھی دیگر کلاس فور اے-1 کے طور پر
کھنڈی کے تاریخ سے ریگولر انٹرنیشنل آف سروس کا حکم جاری کیا ہے۔
العارضی غیر مختص خواہش کے تحت

Process
AS per
A.P.P.

22



**Divisional Health Development Centre
(DHDC) Saidu Sharif Swat**

Ph.# 0946-9240130
Fax.# 0946-9240129

No. 302/DHDC Swat

Dated 21/01/2016

To:

The Director Provincial Health Services Academy
Khyber Pakhtunkhwa, Peshawar

SUBJECT REGULARIZATION OF SERVICE

Sir,

I have the honour to enclosed herewith an application submitted by Mr. Aziz Ur Rehman Driver of DHDC Saidu Sharif Swat (Self Explanatory), requesting for grant of regularization of service from the date of appointment on the analogy of others fixed pay employees being regularised by finance Deptt. Khyber Pakhtunkhwa, Peshawar vide Notification No. BO-1/1-22/2007-08/FD dated 29.01.2008 (copy attached) for further communication to the quarter concerned at earliest please.


Vice Principal
DHDC Swat

Cc

Copy for information to
Mr. Aziz Ur Rehman Driver, DHDC Saidu Sharif Swat with reference to his application dated 20.01.2016

Attested to be True Copy

بعدالت سرس نہ ہوں خیر بختوں فرما
28

عزیز احمد صاحب
بنام گنہ گوار

مورخہ
مقدمہ
دعویٰ
جرم

عزیز احمد صاحب

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کلرواکی متعلقہ
آن مقام کیلئے **نور احمد صاحب** 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 و 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 مختار 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 مذکورہ باختیارات حاصل ہوں گے
اور اس کا ساختہ پر داخہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے
سبب 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 سندر ہے۔

20

ماہ

المرقوم

لکھ دیا

27/5/16

27/5/16

کے لئے منظور ہے۔

مقام

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

Regd.

No.

Appeal No. 580 of 2016

Mr. Aziz ul Rehman Appellant/Petitioner
Versus

Govt of Peshawar, Secretary to Govt Health Dept Respondent
Respondent No. 2

Notice to:

Director Provincial Health Services Academy Peshawar

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 3-9-2016 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this~~

office Notice No. _____ dated _____

Given under my hand and the seal of this Court, at Peshawar this 30/7/16

Day of June 2016

at Camp Court, Sweet.

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

- Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

No. 253

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.



Received a registered* addressed to

Director Peshawar

Initials of Receiving Office *Health Services Peshawar*

Insured for Rs. (in figures)

If insured.

Insurance fee Rs. Ps. (in words) Weight Kilo Grams Name and address of sender Peshawar

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR (AT CAMP COURT SWAT)

Service Appeal No. 580/2016.

Mr. AZIZUR RAHMAN S/O MANJOR

R/O Shapur, Tehsil Alpuri District Shangla, Presently posted at DHDC Swat as Driver.

APPELLANT.

Versus

1. The Secretary to Government of Khyber Pakhtunkhwa, Health Department Peshawar.
2. The Director Provincial Health Services Academy, Peshawar.
3. Accountant General KPK, Peshawar.
4. District Accounts Officer, Swat.
5. District Health Development Centre, (DHDC) Swat.

RESPONDENTS

INDEX

S. No.	Description of Documents	Annex	Pages
1.	Para Wise comments		1-2
2.	Affidavit		3
3.	Project Director Family Health Project office order dated 08.08.1994	"A"	4-5
4.	Director PHSA office order dated 15.02.2000	"B"	6
5.	Director PHSA office order dated 17.05.2008	"C"	7
6.	Finance Department Notification dated 12.05.2008	"D"	8

①

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR (AT CAMP COURT SWAT)

Service Appeal No. 580/2016.

1. **Mr. AZIZUR RAHMAN S/O MANJOR**

R/O Shapur, Tehsil Alpuri District Shangla, Presently posted at DHDC Swat as Driver.

APPELLANT

Versus

1. The Secretary to Government of Khyber Pakhtunkhwa, Health Department Peshawar.
2. The Director Provincial Health Services Academy, Peshawar.
3. Accountant General KPK, Peshawar.
4. District Accounts Officer, Swat.
5. District Health Development Centre, (DHDC) Swat.

RESPONDENTS

PARA WISE COMMENTS OF RESPONDENT NO. 1, 2 & 5 ARE AS UNDER:

Preliminary Objections:

- i. That the appellant has got no cause of action or locus standi to file the instant appeal.
- ii. That appeal is bas is present form.
- iii. That appellant is estopped by his own conduct.

RESPECTFULLY SHEWETH:-

1. In-correct to the extent That the appellant was appointed in Family Health Project on purely temporarily basis and liable to be terminated without any prior notice and subject to the project life with no concession/right on the completion of project life vide office order No. 2050-53/PF dated 08.08.1994 as (Annex-A).
2. No comments.
3. In-correct to the extent that the appellant was appointed on fixed pay (Rs.2500/-) per month vide Director PHSA office order No. 442-58/A-22/PHSA dated 15.02.2000 (Annex-B).
4. In-correct as no order from Director General Health Services, Khyber Pakhtunkhwa Peshawar was received, however, services of appellant was

2

- converted from fixed pay to regular side in (BPS-04) with immediate effect vide Director PHSA office order No. 215/PHSA/Admn/Appointment/2007-08/3280-3311 dated 17.05.2008 attached as (Annex-C) wherein no arrears was mentioned.
5. Incorrect. The posts of drivers were converted from fixed pay into pay scale (BPS-04) in the light of Finance Department letter No. BVI/FD/4-48/2007-08/Vol-IV dated 12.05.2008 attached as (Annex-D).
 6. Incorrect as explained in para-5 above.
 7. No comments.
 8. No comments.
 9. Incorrect. The appellant was not discriminated as explained above.
 10. No comments

PRAYER.

It is, therefore, most humbly prayed that the appeal in hand may kindly be dismissed with cost being baseless.



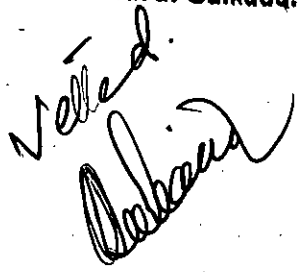
Vice Principal
Divisional Health Development Centre,
Swat
(Respondent No.5)



7-9-16

Director
Provincial Health Services Academy
Khyber Pakhtunkhwa, Peshawar
(Respondent No.2)

Senior Government Pleader
Swat at Gulkada.



Secretary
To Govt: of Khyber Pakhtunkhwa,
Health Department Peshawar
(Respondent No.1)

3

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR (AT CAMP COURT SWAT)**

Service Appeal No. 580/2016.

Mr. AZIZUR RAHMAN S/O MANJOR

R/O Shapur, Tehsil Alpuri District Shangla, Presently posted at DHDC Swat as Driver:

APPELLANT.

Versus

1. The Secretary to Government of Khyber Pakhtunkhwa, Health Department Peshawar.
2. The Director Provincial Health Services Academy, Peshawar.
3. Accountant General KPK, Peshawar.
4. District Accounts Officer, Swat.
5. District Health Development Centre, (DHDC) Swat.

RESPONDENTS

AFFIDAVIT.

I, Mr. Tofeeq Ullah Administrative/Litigation Officer, Provincial Health Services Academy (PHSA), Health Department, Khyber Pakhtunkhwa Peshawar, do hereby solemnly affirm and declare on oath that all the content of Para-wise comments submitted by respondent No. 01, 02 & 05 in response to Service Appeal No. 580/2016. are true and correct to the best of my knowledge and belief that nothing has been concealed from this Honorable court.

Identified by


DEPONENT.

17201-2250671-3

Peshawar

Annex - A

(4)

(9)

Office of the Project Director,
Family Health Project (W/Ward),
Bungalow No. B/2, New Arbab Colony,
Andara Road, Peshawar.

No. 2550/53/PT

Date:

ANNEXURE

OFFICES ORDER

With reference to the application of Mr. Aziz-ur-
Rehman S/O Manjor,
is hereby offered a post of Driver in BS-04 (1200-20-2230)

plus usual allowances as admissible under the rules and
sanctioned by the Government from time to time for the category
of staff on the same terms and conditions.
On his first appointment, he is hereby posted to Family
Health Project (World Bank) District Health Development Centre,
Swat.

1. His appointment will be purely temporary and liable to be terminated without any notice being assigned.
2. The service tenure will be subject to the Project life or if decided by the Government otherwise, he will not claim any concession or rights on the completion project schedule and his services will be terminated straight away.
3. If he wishes to resign at any time, he will have to resign in writing by giving a prior notice of one month and continue to serve the project till his resignation is accepted by the competent authority and communicated to him in writing, failing which one month pay will be forfeited to project.
4. He will be governed by such rules and orders as formulated by the Govt. from time to time for the category of staff to which he belongs for the purpose of pay, allowances, TA, Leave and Medical Attendance.
5. His appointment will be subject to medical fitness, verification of antecedents and production of Domicile of N.W.F.P.
6. He will not claim any pension or gratuity or other financial benefits on termination.
7. He will have to execute a bond on Judicial paper worth Rs. 5/- for the above terms and conditions if accepted to him.

If he accepts the offer on the above mentioned terms and conditions, he should report for duty to the

District Health Development Centre, Swat.

(Cont. P/2)

Attested to be True Copy!

5

10

within 7 days of the receipt of this communication,
failing which the offer will be withdrawn.

gdt

PROJECT DIRECTOR
FAMILY HEALTH PROJECT
(W/BANK)NWFP PESHAWAR.

Copy forwarded for information
and necessary action to:-

1. Aziz-ur-Rehman S/O Manjor,
Shah Pur Teh: Alpuri Distt: Swat.
2. Assistant Director,
District Health Development Centre,
Swat.
3. Deputy Director,
Provincial Health Development Centre,
Family Health Project.
4. Accounts Officer,
Family Health Project.

[Signature]
(PROJECT DIRECTOR)

Attested to be *[Signature]*

Provincial Health Services Academy
 Dept. of Health Govt. of NWFP
 Budhni Road Durand Cantt. Peshawar
 NWFP
 Tel: (091) - 2650838, 2650861, 2650875
 Fax: (091) - 261249
 No. _____
 Date: 12/1/2000

OFFICE ORDER

On the creation of posts of drivers for the formations established by the Family Health Project of the Dept of Health, Government of North West Frontier Province, and consequent upon the no objection given by the S&GA Dept., for the continuation of contract of the services of staff employed by the Family Health Project, vide letter no SOR 11 (S&GAD) (38)/98 Dated 12.1.2000, the orders of the continuation of contract of the following drivers, against posts shown in the following terms and conditions, is hereby made, for a period of 06 (six) months, from January 01 2000 to June 30 2000 or till such time the posts are filled in by the prescribed government procedure, whichever is earlier.

S.NO	NAME OF DRIVER	WORKING IN BPS	PLACE OF WORKING ON 31.12.99	PLACE WHERE ADJUSTED	POST SCALE	REMARKS
1	VISAL MOHAMMAD	04	D.H.NEU SWADIA	D.H.S.A	04	
2	SHAMSUREHMAN	04	D.H.S.A	D.H.S.A	04	
3	IMTIAZ	01	P.G.U	NIL	NIL	NOT RECOMMENDED BECAUSE OF HIS PREVIOUS POOR PERFORMANCE
4	MUSMAN ALI	001	D.H.S.A	D.H.S.A	04	
5	YAZIN KHAN	001	D.H.S.A	D.H.S.A	04	
6	ANVAR KHODIN	001	D.H.D.C KOHAT	D.H.D.C KOHAT	RS-2500/R.M FIXED	
7	MUHAMMAD ALI	04	D.H.D.C D.I.KHAN	D.H.D.C D.I.KHAN	do	
8	QAMIL UREHMAN	04	D.H.D.C ABBOTABAD	D.H.D.C ABBOTABAD	do	
9	AZIZ UREHMAN	04	D.H.D.C SWAT	D.H.D.C SWAT	do	
10	BAKHTIAR UDDIN	04	AMBULANCE CAR HMC PESHAWAR	SCHOOL OF NURSING MARDAN	do	
11	NADIR	04	D.H.D.C CHITRAL	D.H.D.C CHITRAL	do	
12	MIAN SIRAJ	04	SCHOOL OF NURSING KOHAT	SCHOOL OF NURSING KOHAT	do	
13	MOHAMMAD SAHID	04	D.H.D.C ABBOTABAD	SCHOOL OF NURSING SWAT	do	
14	MOHAMMAD USMAN	04	D.H.D.C BUNNU	D.H.D.C BUNNU	do	
15	Sahib-ur-Renman	04	D.H.D.C MARDAN	D.H.D.C MARDAN	do	
16	ABDUL HUSSAIN	04	AMBULANCE CAR CHITRAL	SCHOOL OF NURSING D.I.KHAN	do	

(Signature)
 Attached to be True Copy

NOTIFICATION

ANNEXURE

Reference Govt of NWFP Fiancé department letter No.BVI/FD/4-48/2007-08/Vol; IV dated 12.5.2008 and Health department Letter No.SO.III/8-90/07(Sahib-ur Rehman) dated 21st January,2008 on the subject noted above.The Director PHSA is pleased to convert the following drivers of PHSA network on fixed pay to-regular side BPS(4) with the immediate effect in the light of notification referred above.

The adjustment of drivers are made as mentioned below against their names

S.N.	Name & designation	BPS	Name of Institute.
1	Mr. Muhammad Usman	04	DHDC Bannu.
2	Mr.Aziz ur Rehman	04	DHDC Swat.
3	Mr.Masood Khan	04	DHDC Mardan.
4	Mr. Abdul Ghafoor	04	DHDC Abbottabad.
5	Mr.Nadir	04	DHDC Chitral.
6	Mr.Javed Khan	04	SON Swat.
7	Mr.Mian Siraj	04	SON Kohat. ✓
8	Mr.Bakhtiar ud Din	04	SON Mardan.
9	Mr.Shah Noor	04	SON Bannu
10	Mr.Wali Jan	04	SON DI.Khan.
11	Mr.Zafar Islam	04	SON HMC Peshawar.

-Sd/-
DIRECTOR

No.215/PHSA/Admn/ Appintment/2007-08/ 3286-3311 . Dated 17/05/2008.
Copy of above is forwarded to:-

1. Deputy Director Management, PHSA, Peshawar
2. Distriect Accounts Officer, Swat Mardan, Kohat, DIK, Chitral , Abbottabad, Bannu
3. Section Officer-VI Finance department Peshawar
4. Budget Officer Health department Peshawar.
5. Vice Principal SON Swat ,Mardan, Kohat, Bannu, D.I.Khan, HMC Peshawar.
- ✓ 6. Vice Principal DHDC Abbottabad, Mardan, Swat, Chitral, Bannu.
7. Officials concerned.


DIRECTOR

noted & file
27/05/08
Attested to be True Copy

Amex-D

8

ANNEXURE

GOVERNMENT OF NWFP
FINANCE DEPARTMENT

21

NO.BVI/FD/4-48/2007-08/Vol.IV
Dated Peshawar, the 12th May 2008.

To

The Secretary to Govt. of NWFP,
Health Department, Peshawar.

Subject: CONVERSION OF FIX PAY TO REGULAR.

Dear Sir,

I am directed to refer to your letter No.SOB/HD/1-1/2006-07/PHSA, dated 03.03.2008 on the subjects noted above and to convey the concurrence of this Department for the conversion of 14 No. posts of Drivers on fixed pay into Pay Scale (04) in the following health institutions with immediate effect:-

S.No.	Institution	No. of posts
1	Nursing Schools Mardan, Swat, Kohat, Bannu and DIKhan.	5 (One in each Institution)
2	District Health Development Centre Mardan, Swat, Chitral, Abbottabad and Bannu.	5 (One in each Institution)
3	Director General Health Services.	3
4	Hayatabad Medical Complex, Peshawar.	1
	Total	14

Yours faithfully,

(ABDUS SAMAD)
BUDGET OFFICER-VI

C.C.

1. Accountant General, NWFP, Peshawar.
2. Director General, Health Services, NWFP, Peshawar.
3. Chief Executive, Hayatabad Medical Complex, Peshawar.
4. Director, Provincial Health Services Academy, NWFP, Peshawar.
5. District Accounts Officers, Mardan, Swat, Kohat, Bannu, DIKhan, Chitral & Abbottabad.
6. Principals, Nursing Schools, Mardan, Swat, Kohat, Bannu, DIKhan.
7. Principals, Divisional Health Development Centres, Mardan, Swat, Chitral, Abbottabad & Bannu.

ATTESTED

BUDGET OFFICER-VI

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Handwritten text at the top left, possibly a date or reference number.

Handwritten text across the top, possibly a title or header.

Handwritten text below the top line, including the number '۸۱' and '۱۳۲۵/۱۶'.

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تاریخ آریک

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
(CAMP COURT SWAT)

Aziz Ur Rehman

Versus

The secretary Govt. KPK

Rejoinder on behalf of appellant namely Aziz Ur Rehman

Handwritten signature and date: 9/8/13

Respected shewewth

Rejoinder on preliminary objection

1. Para No.1 Incorrect. The appellant have cause of action.
2. Para No.2 Incorrect.
3. Para No.3 Incorrect.

Rejoinder on Facts:-

Para No. 1 to 3

Need no reply.

Para No.4


As stated in para No.4, the appellant was regularized vide order dated 17.05.2008 but his

claim with regard entitlement of fixation of his pay from the date of appointment wef 08.08.1994(initial appointment)was not fixed till the date, However other employees i.e, Drivers who were appointed along-with the appellat their pay was fixed from the date of initial appointment and this honorable court already decided case of one Sahib Rehman Driver and Main Siraj Driver vide service appeal No.318/2009 decided by this August court vide judgment 02.07.2010 (Copy enclosed). Moreover the department concerned also ignored judgment of supreme court of Pakistan reported (1996 SCMR 1185). Moreover later of Secretary to Govt. of KPK, Health Department dated 22.10.2013 is evident that the appellat is entitle for all its back benefits. In spite of the facts and circumstances of the case the department concerned totally discriminated the appellat.

It is therefore very humbly prayed that on acceptance of this appeal appropriate order may kindly be passed as prayed in the heading of appeal.

Appellant

Dated. 9.8.17

Through 
Advocate

AFFIDAVIT

I Aziz Ur Redman do solemnly affirm and declare on oath that the contents of this rejoinder are correct and nothing has been concealed or misstated.

Identified by
Noor Khan
Asst

AZ
Deponent





GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS &
HUMAN RIGHTS DEPARTMENT

No. SO(OP-II)/LD/5-10/2012
DATED: PESH: THE 22 OCTOBER, 2013

21556-57

To
The Secretary to Government of Khyber Pakhtunkhwa,
Health Department.

4544
Diary No. 22-1-2013
Dated: 23/10/13
Health Department

Subject: CONVERSION OF FIX PAY TO REGULAR/ ADVICE.

Dear Sir,

I am directed to refer to your Department's letter No. SOH-III/8-89/2013 (Hazrat Amen & Others) dated 09-10-2013 on the subject noted above and to state that in the case of Hameed Akhtar Niazi V. The Secretary, Establishment Division, Government of Pakistan and others (1996 SCMR 1185) and subsequent cases of Tara Chand and other Versus. Karachi Water & Sewerage Board, Karachi and others (2005 SCMR 499) and Government of Punjab versus Samina Perveen and others (2009 PLC (C.S)376), the Supreme Court of Pakistan has consistently held, " If Tribunal or the Supreme Court decides a point of law relating to the terms and conditions of a civil servant who litigated, and there were other civil servants, who may not have taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the said decision be extended to other civil servants also, who may not be parties to that litigation, instead of compelling them to approach the tribunal or any other legal forum--- All citizen are equal before law and entitled to equal protection of law as per Art. 25 of the Constitution".

2. The case of Mr. Hazrat Aman has been remanded to the official respondents (Health Department) by the Service Tribunal for consideration in light of Service Tribunal's judgment dated 2.7.2010 in appeal No. 318/2009. The issue involved is administrative in nature and it is the duty of Administrative Department to examine that whether case of Mr. Hazrat Aman is similar to the cases of Mr. Sahib-ur-Rehman and Mian Siraj Drivers and he is similarly placed person like the two other Drivers mentioned above or otherwise?

Yours Faithfully,

SECTION OFFICER (OPINION)

Endst: of even No. & date.

A copy is forwarded to the P.S to Secretary Law, Department.

SECTION OFFICER (OPINION)

SSH
AS
BS-II
23/10/13

So-III

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

In the matter of:-

سزیرا رحمان Appellant

VERSUS

حکومت سوات Respondent

KNOWN ALL to whom these present shall come that I/we, the undersigned appoint

AZIZ-UR-RAHMAN and IMDAD ULLAH
Advocates High Court

Handwritten signature and date 9-11-17

To be the advocate for the سزیرا رحمان in the above mentioned case to do all the following acts, deeds and things or any one of them, that is to say:-

- ❖ To acts, appear and plead in the above mentioned case in this court or any other Court in which the same may be tried or heard in the first instance or in appeal or review or revision or execution or at any other stage of its progress until its final decision.
- ❖ To present pleadings, appeals, cross objections or petitions for execution review, revision, withdrawal, compromise or other petition or affidavits or other documents as shall be deemed necessary or advisable for the prosecution of the said case in all its stages.
- ❖ To withdraw or compromise the said or submit to arbitration any difference or dispute that shall arise touching or in any manner relating to the said case.
- ❖ To receive money and grant receipts therefore, and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.
- ❖ To employ any other Legal Practitioner authorizing him to exercise the power and authorities hereby conferred on the Advocate wherever he may think fit to do so.
- ❖ I understand that the services of aforesaid lawyer are hired irrespective of the outcome of the case.

And I/We hereby agreed to ratify whatever the advocate or his substitute shall to do in the said premises.

And I/We hereby agree not to hold the Advocate or his substitute responsible for the result of the said case in consequences of his absence from the Court when the said case is called up for hearing.

And I/We hereby agree that in the event of the whole or any part of the fee agreed by me/us to be paid to the Advocate remaining unpaid, the Advocate shall be entitled to withdraw from the prosecution of the case until the same is paid.

IN THE WITNESS WHEREOF I/WE hereunto set my/our hand(s) to these present the contents of which have been explained to and understood by me/us, this 1 day of 11 2017.

Handwritten initials AD

(Signature or thumb impression)

(Signature or thumb impression)

(Signature or thumb impression)

Accepted subject to terms regarding fees

سزیرا رحمان / سزیرا رحمان
0346-9866788

(AZIZ-UR-RAHMAN)

(IMDAD ULLAH)

Advocate High Court

Advocate High Court

Office: Khan Plaza, Gulshone Chowk

Office: Khan Plaza, Gulshong Chowk,

G.T. Road Mingora, District Swat.

G.T. Road, Mingora, District Swat

Cell No. 0300 907 0671

Cell No. 0333 929 7746

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No 303 /ST

Dated 08 /02/2018


To

The District Health Development Center,
Government of Khyber Pakhtunkhwa,
Swat.

Subject: **ORDER/JUDGEMENT IN APPEAL NO. 580/2016, MR. AZIZ UR
REHMAN.**

I am directed to forward herewith a certified copy of Judgment/Order dated 30/01/2018 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


**REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.**

