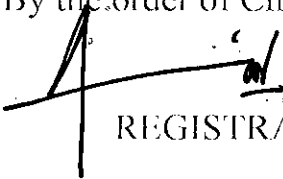


# FORM OF ORDER SHEET

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

**Appeal No.** 2476/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	28/11/2023	<p>The appeal of Mst. Musarat Bibi presented today by Mr. Muhammad Maaz Madni Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____ Parcha Peshai is given to the counsel for the appellant.</p> <p>By the order of Chairman  REGISTRAR</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**

APPEAL NO. 2476 /2023

MUSARAT BIBI

V/S

GOVT. OF KP  
& OTHER

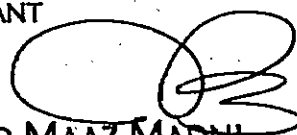
**INDEX**

SNO	DOCUMENTS	DATED	ANNEXURE	PAGE
1.	Memo of appeal		.....	1 - 5
2.	CNIC		A	6
3.	Appointment Order	17.06.2004	B	7
4.	Regularization Order	09.09.2014	C	8 - 9
5.	Letter dated	13.04.2022	D	10
6.	relevant pages of the KP Pension Rules 2021	06.09.2021	E	11 - 14
7.	Departmental Appeal	10.08.2023	F	15 - 16
8.	Wakalatnama	.....	.....	17

Dated: November 27<sup>th</sup>, 2023

APPELLANT

Through:



**MUHAMMAD MAAZ MADNI,**  
ADVOCATE HIGH COURT, PESHAWAR  
TF-291-292, Deans Trade Centre,  
Peshawar Cantt:  
0333-9313113, 0345-9090737  
[muhammad.m3adv@gmail.com](mailto:muhammad.m3adv@gmail.com)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR.**

Service Appeal NO. 2476 /2023

MUSARAT BIBI W/O Raees Khan (LHW® BPS-05),  
r/o Mohallah Sahibzada Banda, Jamal Garhi, Tehsil & District, Mardan  
..... APPELLANT

**VERSUS**

- 1- **GOVERNMENT OF KHYBER,**  
through Secretary (Finance Department),  
Civil Secretariat, Peshawar.
- 2- **DIRECTOR GENERAL HEALTH SERVICES,**  
Khyber Pakhtunkhwa, Warsak Road, Peshawar.
- 3- **THE DISTRICT HEALTH OFFICER,**  
District Mardan.
- 4- **ACCOUNTANT GENERAL, KHYBER PAKHTUNKHWA,**  
Fort Road, Peshawar Cantt:.

.....RESPONDENTS

**APPEAL UNDER SECTION 4 OF THE KHYBER**  
**PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 READ**  
**WITH ALL ENABLING LAWS & RULES AGAINST NOT**  
**RELEASING PENSION & OTHER PENSIONARY BENEFITS TO**  
**THE APPELLANT AS WELL AS NOT COUNTING OF**  
**CONTRACT SERVICE SERVED SINCE 2000 TILL**  
**REGULARIZATION I.E. 01/07/2012 AND AGAINST NOT**  
**TAKING ANY ACTION ON THE DEPARTMENTAL APPEAL**  
**DATED 10/08/2023 OF THE APPEAL WITHIN THE**  
**STATUTORY PERIOD OF 90 (NINETY) DAYS.**

**PRAYER:**

That on acceptance of this appeal the act of the respondent by not releasing the pension and other pensionary benefits to the appellant as well as not counting of contract service served from the Year 2000 till regularization i.e. 01/07/2012 may very kindly be declare as illegal, void abi initio & unconstitutional. That the respondent may be directed to release the pension & other pensionary benefits by calculating the contract service served for sufficient time since 2000 till regularization i.e. 01/07/2012. Any other remedy which this August Tribunal deems appropriate and has not specifically

been asked for that may also be awarded in favor of the appellant.

---

*Respectfully Sheweth,*

**FACTS:**

Brief facts giving raise to the instant appeal are as under:

1. That appellant is the bonafide resident of the District Mardan, was a regular employee of the respondent Department.  
Copy of CNIC is attached as ANNEXURE ..... A.
2. That initially the appellant was appointed as Lady Health Worker in the National Program for Family Planning on contract basis vide order dated 17-06-2004 and has performed her duty quite efficiently whole heartedly till the appellant reached the age of Superannuation on 09/01/2022 and as such the appellant has an unblemished service record of approximately 22 Years.  
Copy of Appointment Order dated 17.06.2004 is attached as ANNEXURE ..... B.
3. That service of the appellant was regularized through an Act "Khyber Pakhtunkhwa Regularization of Lady Health Workers Program and Employees (Regularization and standardization) Act, 2014" accordingly to Section-4 (1) of the said act her services was regularized w.e.f. 1<sup>st</sup> July, 2012 vide respondent no. 3 order dated 09/09/2014.  
Copy of Regularization Order dated 09.09.2014 is attached as ANNEXURE ..... C.
4. That appellant was retired from serviced on attaining the age of superannuation w.e.f. 09/01/2022 with regular service of 09 year 06 months and 08 days respondent no. 3 calculated the service of the appellant from the date of initial appointment in Population Welfare Department (*the copy of which is not available*) with a total service by calculating the contract period is 21 Year 06 months & 23 days and the same was forwarded to respondent No. 2 vide letter dated 13/04/2022 but till date no response has been received.  
Copy of Letter dated 13.04.2022 is attached as Annexure ..... D.

5. That before retirement of the appellant the Provincial Government also introduced Pension Rule "The Rules" Khyber Pakhtunkhwa Civil Servants Pension Rules , 2021 published in the official Gazette of Khyber Pakhtunkhwa on 06-09-2021 according to which "a deficiency of six months or less in the qualifying service of a civil servant shall be deemed to have been condoned at any stage upto thirtieth year;" and in the case of the appellant the appellant has a regular service of 9 years 6 months 08 days but even then pension has not been released nor the previous service has been counted toward pension.

Copy of the relevant pages of the Rules 2021 is attached as Annexure ..... E.

6. That feeling aggrieved from the acts & omission of the respondent by not releasing pension & other pensionary benefits to the appellant, the appellant preferred Department Appeal dated 10-08-2-2023 for the release of pension and counting of contract service but no response has been received after lapse of statutory period of 90 days.

Copy of Departmental Appeal dated 10.08.2023 is attached as Annexure ..... F.

7. That the appellant feeling highly aggrieved and is left with no other remedy but to file the instant service appeal before this Tribunal on the following grounds:

**GROUND:**

- A-** That act & omission on the part of the respondents by not releasing pension & other pensionary benefits as well not counting the contract service since 2000 is against the law, rules, facts, void ab initio, Norms of Natural Justice and materials available on the record hence not tenable in the eye of Law and is liable to be set aside to the extent of the appellant.
- B-** That appellant has not been treated in accordance with law and rules by the respondent Department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C-** That the respondents acted in an arbitrary and malafide manner by not releasing pension & other pensionary benefits as well not counting the contract service since 2000.
- D-** That act & omission on the part of the respondents by not releasing pension & other pensionary benefits as well not counting the contract service since 2000 is against Article 38 (e) of the Constitution of Pakistan, 1973 which is as:

*“state is bound to reduce disparity in the income and earning of the individuals including persons in the various services of Pakistan.*

- E- That act & omission on the part of the respondents by not releasing pension & other pensionary benefits as well not counting the contract service since 2000 is a clear violation of Article-37 of the Constitution of Islamic Republic of Pakistan which is regarding the eradication of social evils in the society and promotion of social justice.
- F- That act & omission on the part of the respondents by not releasing pension & other pensionary benefits as well not counting the contract service since 2000 is a clear violation of the Fundamental Rights as enshrines the Constitution of Pakistan & also against various judgments passed by the Apex Supreme Court of Pakistan.
- G- That act & omission on the part of the respondents by not releasing pension & other pensionary benefits as well not counting the contract service since 2000 as the appellant has a regular service of 09 Year 06 months & 08 days with total service of 21 Years 09 months and 23 days hence the same is against the norm of Natural Justice.
- H- That act & omission on the part of the respondents by not releasing pension & other pensionary benefits as well not counting the contract service since 2000 is against the newly introduced Pension Rules of 2021.
- I- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

Dated: 27-11-2023

APPELLANT


  
MUSARRAT BIBI

Through:

  
MUHAMMAD MAZ MADNI  
Advocate High Court, Peshawar  
0333-9313113, 0314-9965666

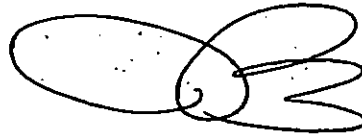
**CERTIFICATE**

No. such like appeal has been filed or pending on the subject matter between the parties before this Honourable Tribunal.

  
ADVOCATE

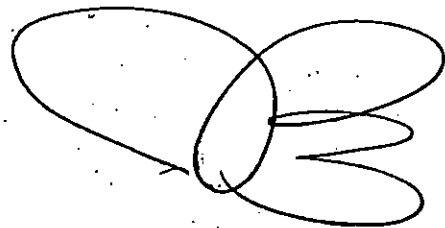
**LIST OF BOOKS:**

1. Constitution of Pakistan, 1973.
2. Service Laws
3. Other relevant case Laws



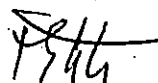
**ADDRESSES OF PARTIES:**

Addresses of parties given in the heading of the service appeal are sufficient for the purpose of service and notices



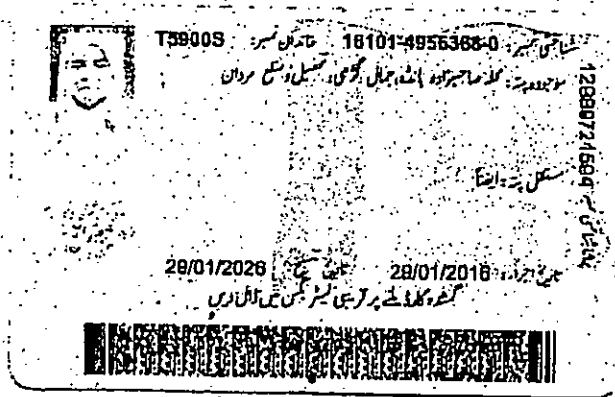
**AFFIDAVIT**

I, MUSARRAT BIBI w/o Raees Khan, do hereby solemnly affirm on oath that the contents of the appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.

  
DEPONENT  
16101-4956368-0

2

A  
=



Handwritten signature or scribble.



7

B

پروگرام برائے خانہ خالی منصوبہ بندی اور بنیادی سہولت

آؤر ہائیڈرو پاور پراجیکٹ

3-2-88

مقامی حکومت اور ضلعی حکومت

رئیس خان

صوبہ

صاحبزادہ امان  
صوبہ سرحد

کوئٹہ

سرگودھا

پروگرام برائے خانہ خالی منصوبہ بندی اور بنیادی سہولت

پراجیکٹ

- 1- آپ کا انتخاب اتنا ہی ضروری ہے جتنے میں سے لیا گیا ہے۔
- 2- پینے پانی اور برقی سہولتوں کے ساتھ ساتھ دیگر سہولتوں کی فراہمی کے لیے پراجیکٹ کے تحت زمین کی خریداری اور تعمیرات کی سہولتیں فراہم کی جائیں گی۔
- 3- پراجیکٹ کے تحت زمین کی خریداری اور تعمیرات کی سہولتوں کے لیے پراجیکٹ کے تحت زمین کی خریداری اور تعمیرات کی سہولتیں فراہم کی جائیں گی۔
- 4- آپ کو پراجیکٹ کے تحت زمین کی خریداری اور تعمیرات کی سہولتوں کے لیے پراجیکٹ کے تحت زمین کی خریداری اور تعمیرات کی سہولتیں فراہم کی جائیں گی۔
- 5- آپ کا انتخاب اتنا ہی ضروری ہے جتنے میں سے لیا گیا ہے۔
- 6- پراجیکٹ کے تحت زمین کی خریداری اور تعمیرات کی سہولتوں کے لیے پراجیکٹ کے تحت زمین کی خریداری اور تعمیرات کی سہولتیں فراہم کی جائیں گی۔
- 7- آپ کو پراجیکٹ کے تحت زمین کی خریداری اور تعمیرات کی سہولتوں کے لیے پراجیکٹ کے تحت زمین کی خریداری اور تعمیرات کی سہولتیں فراہم کی جائیں گی۔
- 8- پراجیکٹ کے تحت زمین کی خریداری اور تعمیرات کی سہولتوں کے لیے پراجیکٹ کے تحت زمین کی خریداری اور تعمیرات کی سہولتیں فراہم کی جائیں گی۔
- 9- آپ کو پراجیکٹ کے تحت زمین کی خریداری اور تعمیرات کی سہولتوں کے لیے پراجیکٹ کے تحت زمین کی خریداری اور تعمیرات کی سہولتیں فراہم کی جائیں گی۔
- 10- پراجیکٹ کے تحت زمین کی خریداری اور تعمیرات کی سہولتوں کے لیے پراجیکٹ کے تحت زمین کی خریداری اور تعمیرات کی سہولتیں فراہم کی جائیں گی۔

پراجیکٹ کے تحت زمین کی خریداری اور تعمیرات کی سہولتوں کے لیے پراجیکٹ کے تحت زمین کی خریداری اور تعمیرات کی سہولتیں فراہم کی جائیں گی۔

ڈائریکٹر پراجیکٹ  
آؤر ہائیڈرو پاور پراجیکٹ  
سرگودھا

کامیاب

- 1- پراجیکٹ کے تحت زمین کی خریداری اور تعمیرات کی سہولتوں کے لیے پراجیکٹ کے تحت زمین کی خریداری اور تعمیرات کی سہولتیں فراہم کی جائیں گی۔
- 2- آپ کو پراجیکٹ کے تحت زمین کی خریداری اور تعمیرات کی سہولتوں کے لیے پراجیکٹ کے تحت زمین کی خریداری اور تعمیرات کی سہولتیں فراہم کی جائیں گی۔
- 3- پراجیکٹ کے تحت زمین کی خریداری اور تعمیرات کی سہولتوں کے لیے پراجیکٹ کے تحت زمین کی خریداری اور تعمیرات کی سہولتیں فراہم کی جائیں گی۔

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صوبہ سرحد  
رئیس خان  
صوبہ سرحد  
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صوبہ سرحد  
کوئٹہ

BETTER COPY - (7)

نیشنل پروگرام برائے خاندانی منصوبہ بندی اور بنیادی صحت

آرڈر برائے انتخاب لیڈی ہیلتھ ورکر

نمبر 302-9298 مورخہ 17/06/2000 ای ڈی او ہیلتھ آفس مردان

مسماة مسرت بی بی زوجہ ادختر رئیس خان

تحصیل مردان ضلع مردان صوبہ سرحد کو بنیادی مرکز صحت ادیبی مرکز صحت اسول ہسپتال کورنیکہ

کی سیلکشن کمیٹی کی سفارش پر بطور لیڈی ہیلتھ ورکر معاوضتی بنیاد پر منتخب کر دیا گیا ہے۔

شرائط برائے انتخاب

۱۔ آپ کا انتخاب ابتدائی طور پر پندرہ ماہ کیلئے عمل میں لایا گیا ہے۔

۲۔ پہلے بارہ ہفتہ میں متعلقہ ٹریننگ سنٹر میں آپ کو ٹریننگ دی جائے گی۔ ٹریننگ ہفتہ میں پانچ دن (پیر، منگل، بدھ،

جمعرات اور جمعہ) کو ہوگی۔

۳۔ ٹریننگ کے بعد اگلے بارہ آپ کو اپنے متعلقہ علاقہ میں کام کرنا ہوگا۔ ہر ماہ تین ہفتہ کام کرنے کے بعد چوتھے ہفتہ متعلقہ

ٹریننگ سنٹر میں رپورٹ ٹریننگ کیلئے آنا ہوگا۔

۴۔ آپ کو بارہ ہفتہ ٹریننگ کے دوران بچاس (-/50) روپے یومیہ اور اس کے بعد سولہ سو (-/1600) روپے ماہوار

اعزاز دیا جائیگا۔

۵۔ آپ کا انتخاب آپ کے مستقل رہائشی علاقہ کیلئے ہے۔ اور دوران ٹریننگ و کام آپ کی کہیں تبدیلی (ٹرانسفر) نہیں ہوگی۔

۶۔ دوران ٹریننگ و کام متعلقہ انچارج مرکز صحت آپ کی کارکردگی کو زیر رکھے گا۔ جس کی رپورٹ وہ وقتاً فوقتاً پہنچائے گا۔

۷۔ انتخاب کے بعد جب بھی پتہ چلا کہ آپ کے انتخاب کے کوائف صحیح نہیں ہیں یا پروگرام کے دوران کسی وقت بھی آئی کی

کارکردگی غیر تسلی بخش ہوئی تو آپ کو بغیر کسی نوٹس کے فارغ کر دیا جائیگا۔ اس سلسلہ میں آپ کسی قسم کی قانونی چارہ جوئی کی حقدار نہیں

ہوگی۔

۸۔ اگر آپ کی کارکردگی تسلی بخش رہی تو آپ کے انتخابی معاہدہ میں توسیع ہوتی رہے گی۔

۹۔ آپ کو پروگرام کے دوران جاری ہونے والی تمام ہدایات پر عمل کرنا ہوگا۔

۱۰۔ آپ کو ہدایت کی جاتی ہے کہ آپ یکم جولائی ۲۰۰۲ء صبح 8:00 بجے بنیادی مرکز صحت کورنیکہ رپورٹ کریں۔ اگر

آپ مقرر وقت پر حاضر ہونے سے قاصر رہے تو آپ کا انتخاب خود بخود ختم سمجھا جائے گا۔

(8)

(11)

Aux-C

9.9.16 مورخہ

دفتر ڈسٹرکٹ ہیلتھ آفیسر مردان

13796 نمبر

پیر پختونخوا ریگولیشن آف ایڈی ہیلتھ ورکروں پروگرام اینڈ ایمپلائز (ریگولر ائزیشن اینڈ سٹینڈرڈائزیشن) ایکٹ مجریہ 2014 کی سق نمبر (1) کے تحت معاہدہ کی بنیاد پر کام کرنے والے درج ذیل ملازمین کی ملازمت کو مورخہ 2012-07-01 سے مستقل بنیاد پر باقاعدہ سور کیا جاتا ہے۔ ان کی ملازمت کی قیود و شرائط مندرجہ بالا ایکٹ اور اس کے تحت بنائے جانے والے قواعد کے مطابق ہوں گی۔

نمبر	نام ملازم	والد کا نام	شوہر کا نام	عہدہ	تاریخ تقرری	مرکز صحت کا نام	منطقہ علاقہ کا نام
1	Qabil Shaheen	Nabi Gul		LHS	29/07/2003	BHU Jamal Garhi	Jamal Garhi
2	Shahnaz	Noor Mohammad		LHW	30/11/1995	BHU Jamal Garhi	Sobidar Killi V P O Jamal Garhi
3	Zaringar		Abdur Rouf	LHW	30/11/1995	BHU Jamal Garhi	Ead Gah Korona V P O Jamal Garhi
4	Nusrul		Misal Khan	LHW	27/03/1996	BHU Jamal Garhi	Sardar Korona V P O Jamal Garhi
5	Iftikhar	Aslam Khan		LHW	01/07/1996	BHU Jamal Garhi	Mohallah Darmandona V P O Jamal Garhi
6	Rubina		Dr. Akbar shah	LHW	01/08/1998	BHU Jamal Garhi	Hat Korona V P O Jamal Garhi
7	Rabia Begum		Sher Bahadar	LHW	01/03/2001	BHU Jamal Garhi	Khan Palo V P O Jamal Garhi
8	Afsar Jehan	Taib Shah		LHW	01/03/2001	BHU Jamal Garhi	Khatak Palo V P O Jamal Garhi
9	Rifat Begum		Nisaruddin	LHW	01/03/2001	BHU Jamal Garhi	Gulbahar V P O Jamal Garhi
10	Sajida Begum	Akbar Ali		LHW	01/03/2001	BHU Jamal Garhi	Amir Abad ( Farsh) V P O Jamal Garhi
11	Shabana Begum	Ahmad Shah		LHW	01/03/2001	BHU Jamal Garhi	Shah Abad V P O Jamal Garhi
12	Nighat Ara		Munir Khan	LHW	01/03/2001	BHU Jamal Garhi	Amir Abad V P O Jamal Garhi
13	Dilshad Begum		Gohar Rehman	LHW	20/12/2001	BHU Jamal Garhi	Mohallah Center Korona V P O Jamal Garhi
14	Kamishan		Safir Rehman	LHW	20/12/2001	BHU Jamal Garhi	Gul Bahar V P O Jamal Garhi
15	Jahan Ara		Amir Ali Khan	LHW	01/01/2002	BHU Jamal Garhi	Mohallah Khatak Palo V P O Jamal Garhi
16	Nahced		Jahanzeb	LHW	01/01/2002	BHU Jamal Garhi	Mohallah Madni Masjid V P O Jamal Garhi
17	Hussan Zeba		Afzan Khan	LHW	20/03/2002	BHU Jamal Garhi	Village Sodian Banda V P O Jamal Garhi
18	Warida Begum	Badshahi		LHW	01/07/2004	BHU Jamal Garhi	Arakh Palo Jy P O Jamal Garhi
19	Musarrat Bibi		Raies khan	LHW	01/07/2004	BHU Jamal Garhi	Sahib Zada Banda V P O Jamal Garhi
20	Nisar Bibi		Mukhtaur Ali	LHW	01/07/2004	BHU Jamal Garhi	Center Korona V P O Jamal Garhi
21	Secma Gul		Hukam Khan	LHW	01/08/2005	BHU Jamal Garhi	Mianz Palo V P O Jamal Garhi
22	Shuziu		Lal Bahadar	LHW	01/08/2005	BHU Jamal	Peta Kali V P O

*[Signature]*  
ADVOCATE  
SUPREME COURT

*[Signature]*

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Shuhi Lal	Jehan Zeb	LHW	22/08/2005	Garhi BHU Jamal Garhi	Jamal Garhi Srekh Banda V P O Jamal Garhi
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مذکورہ بالا ایکٹ کی شق نمبر 2 میں تفویض کردہ اختیارات کو بروئے کار لاتے ہوئے کمیونٹی سے منسلک ملازمین کو مندرجہ ذیل بنیادی تنخواہ کے سکیل میں رکھا جا رہا ہے۔

بنیادی تنخواہ کا سکیل	عہدہ کا نام	نمبر
7	لیڈی ہیلتھ سپروائزر	
5	لیڈی ہیلتھ ورکر	
4	ڈرائیور	

*[Handwritten Signature]*

ڈسٹرکٹ ہیلتھ آفیسر مردان

نقل برائے اطلاع:

- 1- پروانشل کوارٹینئر لیڈ: ہیلتھ ورکرز پروگرام خیر پختونخوا، پشاور۔
- 2-
- 3-

*[Handwritten Signature]*

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Amex- 9



DISTRICT HEALTH OFFICER  
MARDAN (Khyber Pakhtunkhwa)  
Ph: # (0937) 9230039 Fax: # (0937) 9210283  
Email: mardandho@pksdhs.gov.pk

Addressed to the District Health Officer, Mardan and not to be official by name

No. 1011/2022 /DHO dated: 01/01/2022

9

Director General Health Services,  
Khyber Pakhtunkhwa, Peshawar.

LHW/LHS (G/P) K/c

(THROUGH PROPER CHANNEL)

Subject: REQUEST OF LHWs FOR COUNTING OF TEMPORARY/FIXED SERVICE FOR THE PURPOSE OF PENSION AND GRATUITY

It is stated that the following Ex-LHWs submitted their applications which are self explanatory, requesting for counting of their fixed/ temporary service for the purpose of pension and gratuity for your kind information and necessary action please.

Personal Number	Name Of Ex-LHW	Date of Appointment	Date of Regularization	Date of Retirement (Superannuation)	Length of Service
794834	Khulida Begum	25.09.2001	01.07.2012	08.05.2021	19 Years, 07 Months, 14 Days.
794836	Imtiyaz Begum	25.09.2021	01.07.2012	01.03.2020	18 Years, 05 Months, 07 Days.
795034	Musarat Bibi	17.06.2000	01.07.2012	09.01.2022	21 Years, 06 Months, 24 Days.
802337	Nusrat Begum	01.07.1995	01.07.2012	28.02.2021	25 Years, 06 Months, 27 Days.

District Health Officer  
Mardan

Copy forwarded to:

1. Provincial Coordinator LHW Program Khyber Pakhtunkhwa Peshawar
2. District Coordinator LHW Mardan
3. Official concerned

District Health Officer  
Mardan

BETTER COPY:

16

DISTRICT HEALTH OFFICER,  
MARDAN (KHYBER PAKHTUNKHWA)

Director General Health Services,  
Khyber Pakhtunkhwa, Peshawar  
(Through: Proper Channel)

Subject: **REQUEST OF LHWS FOR COUNTING OF TEMPORARY/  
FIXED PAY SERVICE FOR THE PURPOSE OF PENSION  
AND GRATUITY**

It is stated that the following Ex-LHWs submitted their application which are self explanatory, requesting for counting of their fixed/temporary service for the purpose of pension and gratuity for your kind information and necessary action, please.

Personal No.	Name of ex-LHW	Date of appointment	Date of regularization	Date of retirement (superannuation)	Length of Service
795031	Musarat Bibi	17.06.2000	01.07.2012	09.01.2022	21 Year, 06 Months, 23 Days

District Health Officer,  
Mardan

Copy forwarded to:

1. Provincial Coordinator LHW Program Khyber Pakhtunkhwa Peshawar
2. District Coordinator LHW Mardan
3. Official Concerned

District Health Officer,  
Mardan

(11)

ANNEX - <sup>9</sup> E <sup>4</sup>

EXTRAORDINARY  
GOVERNMENT



REGISTERED NO. PIII  
GAZETTE

**KHYBER PAKHTUNKHWA**

Published by Authority

PESHAWAR, MONDAY, 06<sup>th</sup> SEPTEMBER, 2021.

GOVERNMENT OF KHYBER PAKHTUNKHWA FINANCE DEPARTMENT

**NOTIFICATION**

Dated Peshawar, the 05<sup>th</sup> September, 2021

No. FCSR-II/PD/2-4/2021.—In exercise of the powers conferred by section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973), the Chief Minister of Khyber Pakhtunkhwa is pleased to make the following rules, namely:

**KHYBER PAKHTUNKHWA CIVIL SERVANTS PENSION RULES, 2021**

**Chapter-I**  
**Preliminary**

1. Short title and commencement— (1) These rules may be called the Khyber Pakhtunkhwa Civil Servants Pension Rules, 2021.

(2) These rules shall come into force at once.

2. Definitions.—In these rules, unless the context otherwise requires:-

- (a) "Act", means the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973);
- (b) "Accounts Officer", means an officer, who keeps the accounts of Government and includes the Accountant General, Khyber Pakhtunkhwa, District Comptrollers of Accounts and District Accounts Officers and any other officer, who keeps Government accounts;
- (c) "competent authority" means the authority to appoint civil servants in various basic pay scales respectively;
- (d) "commutation", means the advance payment of 35% of gross pension to the pensioner for the specific period as specified under these rules, which shall be restorable when the paid amount is recovered;

12

- (c) "family" means-
- (i) wife in the case of male civil servant or husband in case of female civil servant, for life time or till re-marriage;
  - (ii) children as per detail given below; who were dependent upon the deceased civil servant or pensioner;
    - (a) unmarried daughters, life time or till marriage;
    - (b) disabled and retarded children, for life time and without age limit;
    - (c) widowed or divorced daughters, for life time or till remarriage;
    - (d) son(s) upto the age of 21 years; and
    - (e) in case of non-existence of any of the above family members, to the father or failing the father to the mother subject to the condition that they were wholly dependent upon the deceased civil servant or pensioner and have no other source of income.
- (d) "family pension", means a compassionate grant paid to the family at the rate of hundred percent (100%) of the pension;
- (g) "gratuity", means the amount as specified by Government and paid to the family of a civil servant who dies while in service;
- (h) "gross pension" means the pension before surrender of the amount for commutation of gratuity;
- (i) "net pension" means the pension being drawn, minus medical allowance;
- (j) "pension" means a periodical payment, made by Government, in consideration of past service, rendered by a civil servant;
- (k) "pensioner", means a civil servant retired from service and receiving pension or a member of the family of a deceased civil servant in case of family pension;
- (l) "Pension Form" means the Pension Form appended to these rules; and



13

Chapter-II  
Service Qualifying for Pension

3. Conditions of qualification.—(1) The service of a civil servant does not qualify for pension unless it conforms to the following conditions:

- (a) the service shall not be less than ten years;
- (b) the service must be paid by Government from the Provincial Consolidated Fund;
- (c) the service of a probationer who is subsequently confirmed in a permanent post without interruption qualifies for pension;
- (d) the time spent by a civil servant in approved training shall count as service qualifying for pension; however, the period of training before actual appointment to a civil post shall not count for pension;
- (e) all leave, other than extra ordinary leave counts as qualifying service for the purpose of pension;

Explanation: The period of extraordinary leave shall not be treated as qualifying service for pension but only as a bridge between the two periods of qualifying service.

- (f) the period of suspension, followed by reinstatement, shall be deemed to have been the period as qualifying for pension, regardless of the fact whether the civil servant was or was not allowed full pay and allowances for the period of suspension;
- (g) time spent by a civil servant on deputation in another Government or autonomous body working under Government;
- (h) military pensionable service which ceases before a pension has been earned in respect of it, when followed by civil pensionable service, counts as part of such service;
- (i) if a permanent post, on which a civil servant holds a lien, is abolished, under circumstances entitling him to get a compensation pension or gratuity, his service thereafter in a temporary post, under Government, qualifies for pension; and
- (j) for the purpose of grant of pension for the service in an autonomous or semi-autonomous body, the pay drawn and the effective service, rendered by a civil servant in an autonomous or semi-autonomous body, the authorized capital of which is wholly subscribed by the Federal or Government in a post, appointment to which is by law, required to be made and salary of which is required to be fixed by the Federal Government or Government shall be treated as pay

14

(2) Subject to any special law or rules, for the time being in force, the service of a civil servant begins to qualify for pension, when he takes over charge of the post to which he is first appointed.

(3) The past service of a civil servant, for the purpose of pension, shall not be counted in the following cases:

- (a) resignation of a post unless it is to take up another post or service which counts for pension;
- (b) removal or dismissal from service; and
- (c) absence from duty without leave.

Note: However, the authority which has the powers to sanction leave may commute the absence from duty without leave into extra ordinary leave retrospectively.

(4) The following are deficiencies, which may be condoned:

- (a) a deficiency of six months or less in the qualifying service of a civil servant shall be deemed to have been condoned at any stage up to thirtieth year;
- (b) a deficiency of more than six months but less than a year, may be condoned by the Finance Department of Government; and
- (c) a deficiency of one full year or more shall not be condoned.

(5) The pension sanctioning authority may condone all gaps between periods of qualifying service of a civil servant as per following criteria:

- (a) first criteria: if a civil servant has the following broken spells of temporary or officiating service:
  - (i) ten years and four months, followed by break;
  - (ii) three years and two months followed by break; and
  - (iii) twelve years and six months.

The first and third spells are qualifying for pension and therefore can be counted as twenty two years and ten months qualifying service. The second spell being not qualifying shall not be counted and shall be treated as a gap in between first and third spells of service. The gap between two spells of qualifying service may be condoned;

OR

(15)

Before The Honorable Director General Health, Peshawar, KP.

Musarat Bibi w/o Raees Khan s/o Ghobzada  
Banda Jamal Gahri Distt: Mardan. "F"  
ANN: F

Subject: Application for the counting of the  
Temporary / contractual period of services of  
the petitioner to the extent of the  
pension benefits and gratuity etc.

Respectfully Shrook,

1 - That the petitioner is the permanent resident  
of Distt: Mardan and belongs to a very poor  
family and is an old aged lady.

2 - That the petitioner was initially appointed  
District Population Welfare Deptt. in the year  
3-2-2000 but later on her services were  
rendered to the District Health Department  
Mardan as LHW in the year 2004 through an  
Executive Order.

3 - That the services of the petitioner were regularized  
from 2012 through an official notification and  
treated as government servant.

4 - That the petitioner got retired from her service  
on 9/07/2022 on attaining the age of superannuation  
i.e. 60 years.



5- That the petitioner approaches to the concerned authorities for the grant of pension benefits and gratuity and other benefits but the same was declined due to some issue directly to the petitioner to file an application for the grant of such benefits.

6- That there are numerous UHWs who got retired from her services and got the pension benefits in the light of the judgments rendered by the Peshawar High Court.

It is therefore very humbly prayed that on acceptance of this application, the petitioner may kindly be granted the concession of counting her contractual/temporary period of service for the grant of her pension benefits and gratuity and other benefits as rendered to other UHWs in the light of Peshawar High Court Peshawar in the best interest of justice.

Musarat Bibi - - Petitioner

Phone 0313-8683827

Dated: 10/8/2023

# (POWER OF ATTORNEY)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

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

MUSARRAT BIBI

VS

GOVT. OF KP & OTHERS

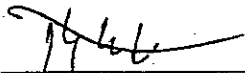
I, Musarrat Bibi do hereby nominated and appointed **MUHAMMAD MAAZ MADNI**, Advocate High Court, Peshawar, to be counsel in the above matter for me/us and on my/our behalf as agreed to appear, plead, act and answer in the above court or any appellate court or any court to which the business is transferred in the above matter as and is agreed to sign and file petition, appeals, statements, accounts, exhibits, compromises or other documents whatsoever, in connection with the said matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc and to apply for and issue summons and other writs or subpoena and to apply for and get issued any arrest, attachment or other execution, warrants or order and to conduct any proceedings that may arise there out; and to apply for and receive payment of any or all sums or submit the above matter to arbitration, and to employ an other legal practitioner authorizing him to exercise the power and authorities hereby conferred on the advocate whenever he may think fit to do so.

AND to do all acts legally necessary to manage and conduct the said case in all respects whether herein specified or not, as may be proper and expedient.

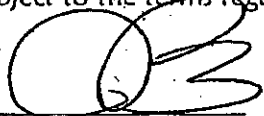
AND I/WE hereby agree to ratify and confirm all lawful acts done on my/our behalf; under or by virtue of these present or of the usual practice in such matter. PROVIDED always that I/WE undertake at the time of calling of the case by the court I/MY authorized agent shall inform the advocate and make him appear in the court, if the case, may be dismissed in default, it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us.

IN WITNESS WHERE OF I/We hereunto set MY/OUR hand to these presents, the contests of which have been explained to and understood by ME/US this 27<sup>th</sup> day of Nov 2023.

EXECUTANT

  
(Musarrat Bibi)

Accepted subject to the terms regarding fees:



**MUHAMMAD MAAZ MADNI,**

ADVOCATE HIGH COURT, PESHAWAR

BC No.(BC-11-1460)

CNIC No. 17101-9263898-1

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OFFICE: **TF-291, 292,** Deans Trade Centre, Peshawar Cantt.:  
0333-9313113, 0345-9090737, 0314-9965666