

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Amended Service.

Mst Razia Begum

VERSUS

Govt: of KPK & Others

I N D E X

S#	Description of Documents	Annexure	Page#
1.	Writ Petition		1-7
2.	Affidavit		8
3.	Memo of Addresses		9
4.	Copy of Appointment Order	"A"	10
5.	Copy of Office Order dated 19/09/2014	"B"	11
6.	Copy of Office Order dated 19/03/2018	"C"	12
7.	Copy of Application	"D"	13
8.	Other Documents	"E"	14-21
9.	Notice		22
10.	Wakalat Nama & Power Of Attorney		23-24

Dated: 19/10/2023

Zasran
Appellant

Through

Javed Iqbal Gulbela
Javed Iqbal Gulbela
ASC

①

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Amended service Appeal

Khyber Pakhtunkhwa
Service Tribunal
Peshawar
10443
Dated 08/01/2024

Mst Razia Begum LHW (BPS-5) W/o Roshan Khan R/o
Mohabat Khel, Tehsil & District Peshawar.

.....Appellant

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Health at Civil Secretariat Peshawar.
2. Director General, Health Service, Khyber Pakhtunkhwa, Peshawar.
3. Provincial Coordinator for LHW's Program, Khyber Pakhtunkhwa, Peshawar.
4. Accountant General, Khyber Pakhtunkhwa, at Mall Road, Peshawar.

.....Respondents

**APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICES
TRIBUNAL ACT 1974 FOR
EXTENDING THE
REGULARIZATION ANTI-
DATEDLY W.E.F INITIAL DATE
OF ENTRY IN SERVICE BACK IN
1994 WITH ALL BACK
BENEFITS.**

Respectfully Sheweth,

1. That the Appellant is a naturally born bonafide citizen of the Islamic Republic of Pakistan & hails from respectable family.

2. That it was in backdrop that the Appellant got on to the rolls of the Respondent Department as "LHW" back in the year 1994 and has always performed her duties with full zest and devotion and have never left any stone unturned in performance of her duties and due to the same, was appraised on certain junctures for her work, ethic and behavior. **(Copy of Appointment Order is annexed herewith as Annexure "A")**

3. That before coming onto the main crux of the instant case, and coming down to the grounds of the instant Appeal, it will be of equal importance to mention here that the services of "LHW" Lady Health Workers got regularized vide Office Order No: 10130-134/DHO/DPIU dated 19/09/2014 of the Office of District Health Office. **(Copy of impugned Office Order dated 19/09/2014 is annexed herewith as Annexure "B")**.

4. That the Appellants being one of the Senior and Oldest Employee amongst her colleagues attained the age of superannuation on 01/03/2018 and in accordance of the same, her services got relived from the rolls of the L.H.W's

Program for District Peshawar vide Office Order No: 8282-90/DHO.DPI dated 19/03/2018 of the Office of District Health Officers Peshawar. (Copy of Office Order dated 19/03/2018 is annexed herewith as Annexure "C").

5. That now coming on the main epitome of the instant case, the Appellant having served the respondent department for (24) twenty four long years and despite having served this department for more than 2 decades, got regularized w.e.f 2012, without any pension or pensionary benefits.
6. That the grievance, the solace and redressal of which the Appellant is seeking from this Hon'ble Tribunal is that the Appellant was appointed on 01/01/1994 and later got regularized on 19/09/2014 with effect from 01/07/2012 and later got retired on superannuation on 01/03/2018 as the Appellant's date of birth is 01/03/1958.
7. That in this regard, the Appellant moved applications to different high-ups for redressal of her grievances and for giving anti dated regularization since their

induction, but all ended up in fiasco. (Copy of Application is annexed as Annexure "D")

8. That from the above mentioned episode, the grievances that came into existence, having no other efficacious remedy available elsewhere, and forum to be addressed at, the Appellants approach this Hon'ble Court inter-alia:-

Grounds:-

- A. That the Appellant is naturally born bonafide citizen of the Islamic Republic of Pakistan and is fully and equally, on equality basis, entitled to all basic and fundamental rights as enshrined in the fundamental law of the land, interpreted, guaranteed and enforced by the laws and law Courts of the land.
- B. That none of the Appellants would get any pensionary benefits arising out of their regularization of services, as none of them would have sufficient length of service on their disposal as per pension rules. And besides the above, the Appellant is appointed years back since 1994 etc, but was regularized in and after 2012 so were deprived of any pension etc.
- C. That where the service was regularized, so the same is the ample proof that not only the induction of the Appellant into

service of the Respondent Department was proper, but was against sanctioned and budget oriented posts.

D. That where the service of the Appellants were regularized and they are being kept at bay from any pensionary benefits under the alleged notion of less-approved service, then no fruition of regularization can be availed by the Appellant, which is not the theme or ultimate object of regularization of any service; so by virtue of this established position on the subject of regularization the non-awarding of pensionary benefits under the notion of general principle and law on pensions is not allowed and warranted; but if it is the case, then certainly the Appellant is mandatorily entitled for anti-dated seniority/regularization since their induction into service.

E. That where the appointment of the Appellant was against sanctioned and budgetary posts; & the mode of appointment was fair and transparent, where the services of the Appellant is continuous, and without any break or with negligible and malicious break then certainly the anti-date seniority of the Appellant is a fundamental right.

F. That even otherwise too, Apex Court of the Homeland have repeatedly held the view that in such like cases anti-date seniority or regularization should be cherished goal of any legislation

pertaining to the subject of regularization.

G. That besides the above, the Appellant have at least a period of more than 24 years of service on her part, which she had rendered towards the Respondent Department and is regularized since 2012 or upwards which for itself is injustice and unfair.

H. That above all the Appellant is at the fading age of her life and unable to be onto other service or job at the age of her life and when she even do not get any pensionary benefits, so what would be the outcome in terms of her ailing health, poverty, scarcity and dependant families and her needs.

I. That from all prospective the Appellant is entitled to be extended the fruition and benefits of pension and any deficiency in length of service towards pensionable service can safely be swayed in period of regular service by extending the regularization anti-dately w.e. f initial induction into service.

J. That any other ground not raised here may graciously be allowed to be raised at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of the instant Appeal;

i. The impugned Office Order No.10130-136/DHO/DPIU of the Office of District Health Officer Peshawar, Health Department Khyber Pakhtunkhwa, dated 19-09-2014 may

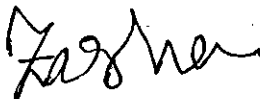
(7)

kindly be modified to the extent of regularization/effectivity date i.e. 1st July 2012, with date of initial appointment i.e. 29-09-1994, with all back benefits.

- ii. It is further prayed that if "prayer I" is not feasible, then the services of the appellant from date of initial appointment i.e. 29-09-1994 up to date of regularization i.e. 1st July 2012 may kindly be counted towards pension and pensionary benefits etc. of the Appellant in the best interest of justice.

Any other ground not specifically asked for, may graciously be extended in favor of the Appellant, in circumstances of the case.

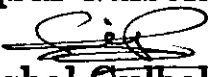
Dated :19/10/2023



Appellant

Through


Javed Iqbal Gulbela
(ASC)


Saghir Iqbal Gulbela
Advocates, High Court,
Peshawar

NOTE:-

As per information of my client, no such like amended appeal for the same petitioner, upon the same subject matter has earlier been filed, prior to the instant one, before this Hon'ble Court.


Advocate.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Amended Service Appeal

Mst Razia Begum

VERSUS

Govt: of KPK & Others

AFFIDAVIT

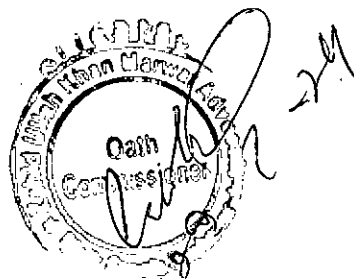
I, Zarshan Khan S/o Roshan Khan R/o Mohabat Khel, Tehsil & District Peshawar (Special Attorney for the Appellant), do hereby solemnly affirm & declare on oath that all contents of instant Amended Service Appeal are true and correct to the best of my knowledge & belief and nothing has been kept concealed from this Hon'ble Tribunal.

Zarshan
DEPONENT

CNIC: 17301-7406831-9

Identified By

Javed Iqbal Gulbela
Javed Iqbal Gulbela
ASC.



Appeal No. 2335/2021, Razia Begum vs Govt

5th Oct 2023



1. Junior to counsel for the appellant present. Mr. Asad Ali Khan, Assistant Advocate General for the respondents present.

2. Learned counsel for the appellant wants to make an application for amendment in the prayer of appeal. He may do so within a week, which will be decided on its own merits. To come up for arguments on 25.01.2024 before the D.B. P.P given to the parties.

(Muhammad Akbar Khan)
Member (E)

Adnan Shah

(Kalim Arshad Khan)
Chairman

Certified to be true copy

EXHIBITION
Khayr Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 19-10-23

Number of Words 17

Copying Fee 5/-

Urgent 5/-

Total 10/-

Name of Copyist Shafiq

Date of Completion of 19-10-23

Date of Delivery of 18-10-23