

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.1104/2023

Kamal Ud Din Driver (BPS-06), Governor's House Peshawar..... (Appellant)

VS

6. Secretary to Governor, Khyber Pakhtunkhwa

7. Military Secretary to Governor, Khyber Pakhtunkhwa

.....Respondents

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Identified by

Section Officer (MSG)
Governor House, Peshawar.

Section Officer (MSG)
Governor's House
Khyber Pakhtunkhwa

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.1104/2023

Kamal Ud Din Driver (BPS-06), Governor's House Peshawar..... (Appellant)

VS

Secretary to Governor, Khyber Pakhtunkhwa..... (Respondent)

Military Secretary to Governor, Khyber Pakhtunkhwa..... (Respondent)

JOINT PARAWISE COMMENTS ON BEHALF OF THE RESPONDENTS No.6&7.

Respectfully Sheweth.

Preliminary Objections:-

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 10527

Dated 12-1-2024

1. The appellant has not come to this Tribunal with clean hands.
2. The appellant is not an aggrieved person nor has any locus standi to file the present appeal.
3. That the appellant has concealed material facts from this Tribunal.
4. That the appellant is stopped by his own conduct to file the present appeal.
5. That the present appeal is against the prevailing law and rules.
6. That the appellant is not entitled for any relief, he has sought from This Honorable Tribunal.
7. That the present appeal is liable to be dismissed being devoid of any merits.
8. That the present appeal is hopeless time barred, hence liable to be dismissed.
9. That the present appeal is just filed by the appellant to pressurize the respondents for getting illegal in unlawful benefits.
10. That the appellant is just wasting the precious time of this Honorable Tribunal through the instant frivolous appeal.

FACTS:

1. Para 1 is partially correct up to the extent of his appointment and up-gradation in BPS-6 by notification dated 30-06-2015 (**Annex-A**) however, his claim regarding being Civil Servant terms of KP Civil Servant Act, 1973 is denied as the appellant was appointed under the "Terms and Conditions of Garden and Garage Establishment" Rules, 1970 notified on 30-03-1970 by the Military Secretary to Governor who is the Competent Authority to make such appointments which is still in the field governing his terms & conditions of his service. Hence, Khyber Pakhtunkhwa Civil Servants Act, 1973 is not applicable upon him. The relevant part of the said Rules is reproduced below for ready reference (**Annex-B**):
 - i. The Order of Governor West Pakistan "Terms & Conditions of Appointment, confirmation, discharge and retirement etc of the Governor's Household, garden and Garage Establishments" dated 30th March 1970 as produced by appellant is found to be:
 - ii. Applicable to all Governor House as Lahore, Peshawar and Quetta etc.
 - iii. Addressed to Accountant General, West Pakistan.
 - iv. Issued with concurrence of Finance Department Government of West Pakistan.
 - v. Within the scope of Article 176, 177 and 178 of 1962 Constitution of Pakistan.

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2. **Incorrect**, there is a proper service structure under the relevant Rules, 1970 where he can be promoted up to grade 16. The appellant upgraded from BPS-4 to BPS-6 as mentioned in Para 1 in appeal. The appellant has still chances to be promoted to the highest grades under the Terms & Conditions of Garage Establishment as mentioned below:-

TOTAL GARAGE ESTABLISHMENT (14 PERSONS)		
i.	11 Drivers	BPS-6
ii.	2 Driver-cum-Supervisor	BPS-8
iii.	1 Garage Superintendent	BPS-16


3. **Incorrect, hence denied**, as actually, the appellant was appointed under the "Terms and Conditions of Garden and Garage Establishment" Rules, 1970 notified on 30-03-1970 by the Military Secretary to Governor, who is the Competent Authority to make such appointments and seniority list is maintained as per enrollment of drivers.
4. **Incorrect, hence denied**, as no departmental appeal has been received in the office of Military Secretary to Governor, Khyber Pakhtunkhwa in this regard. However, he forwarded directly to Chief Secretary which is against the rules. Military Secretary being competent authority did not receive any appeal, from appellant.
5. **Incorrect, hence denied**, the appellant is not civil servant as already explained in Para-1 above.

Grounds:

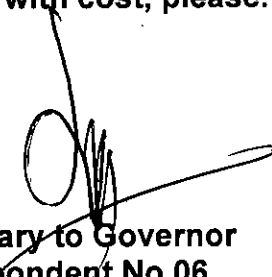
- A. **Incorrect, hence denied**, as the appellant is enjoying all perks & privileges and Job-descriptions at par with Civil Secretariat employees, but being House Hold Establishment of Governor's House, he is not supposed to be considered in the seniority list of any other department, hence cannot be granted seniority at the level of Civil Secretariat. The existing hierarchy/service structure of the Governor House Establishment is appropriate and there is no requirement to either enhance the position or pay grades of the appellant. However, the appellant may apply in any other Government Department or appear in any selection examination for Government Job after obtaining NOC if he so desire.
- B. **Incorrect, hence denied** because Drivers at the level of Civil Secretariat, Peshawar, enjoy proper service structure and service-rules which provide them the opportunities to get promoted up to BPS-16 on seniority-cum fitness basis. However, the said service structure and service-rules are not directly applicable to the appellant being Household Employee of Governor's House, Peshawar. It is well established that the appellant is appointee and household employee of Governor's House, Peshawar. Basically, he seeks inclusion/incorporation of his name in the seniority list of Drivers at the level of Civil Secretariat, Peshawar. Seniority of Drivers at the level of Civil Secretariat is maintained by Administration Department. Case of the appellant was examined in detail which transpired that he is not tenable in the eyes of law. According to Establishment Department advice contained in its letter No.SOR.IV(E&AD)1-5/2008 dated 04-04-2009 (**Annex-C**) the staff appointed by Governor's House, Peshawar itself can neither be termed as regular employee of Civil Secretariat; nor can be placed in seniority meant for regular employees of the Civil Secretariat. On the other hand, cross cadre induction/absorption is also a violation of the Judgment of the August Supreme Court of Pakistan in CRL-89 of 2011.

- C. **Incorrect is laid**, the appellant may be enjoying all perks & privileges or Job-descriptions at par with Civil Secretariat employees, but still he is non Secretariat employee and hence cannot be granted seniority at the level of Civil Secretariat. The existing hierarchy/service structure of the Governor House Establishment is appropriate and there is no requirement to either enhance the position or pay grades of the appellant. However, the appellant may apply in any other Government Department or appear in any selection examination for Government Job after obtaining NOC if they so desire.
- D. **Incorrect, hence denied.** The staff appointed by Governor's House, Peshawar itself can neither be termed as regular employee of Civil Secretariat; nor can be placed in seniority meant for regular employees of the Civil Secretariat. On the other hand, cross cadre induction/absorption is also a violation of the Judgment of the August Supreme Court of Pakistan in CRL-89 of 2011.
- E. **Incorrect, hence denied.** That the Garage Establishment has established hierarchy with sufficient chance to acquire higher grades/posts consist of meager strength, 11 drivers in BPS-06, 02 Drivers cum-Supervisors BPS-08 and 01 (One) Garage Superintendent BPS-16. Being House Hold Establishment of Governor's House, he is not supposed to be considered in the seniority list of any other department, hence cannot be granted seniority at the level of Civil Secretariat. The staff appointed by Governor's House, Peshawar itself can neither be termed as regular employee of Civil Secretariat; nor can be placed in seniority meant for regular employees of the Civil Secretariat. On the other hand, cross cadre induction/absorption is also a violation of the Judgment of the August Supreme Court of Pakistan in CRL-89 of 2011.
- F. **Incorrect, hence denied.** No comments.
- G. **Incorrect, hence denied.** As already explained in proceeding paras.
- H. **Incorrect, hence denied** as already explained in proceeding paras that being employee of the Governor's House, he could not be absorbed in the seniority list of any other department.
- I. **Incorrect, hence denied.** No comments.
- J. The council for the respondent seeks permission to raise additional grounds at the time of arguments.

It is therefore, requested that the appeal being devoid of any merits and badly time barred and devoid of merit may kindly be dismissed with cost, please.


Military Secretary to Governor
Respondent No.07

Lt COL waqas Siddiq


Secretary to Governor
Respondent No.06

Mazhar Iqbal Khan



NOTIFICATION

NO.FD/SO(FR)7-20/2015 The competent authority has been pleased to accord approval for upgradation of pay scales of the following provincial government employees with effect from 01-07-2015:

- a) Two pay scale upgradation will be allowed to all provincial government employees from BS-01 to BS-05.
 - b) One pay scale upgradation will be allowed to all provincial government employees from BS-06 to BS-15.
 - c) Special Compensatory Allowance equal to difference of notional upgradation of BS-16 to BS-17 will be allowed to all provincial government employees in BS-16 in lieu of upgradation.
 - d) Upgradation will be applicable to both pay and allowances with freezing limits and other conditions currently in vogue unless revised by the government.
 - e) Pay fixation on upgradation will be applicable w.e.f. 01-07-2015 or 01-12-2015 on the option to be given by the concerned employee.
 - f) All provincial government employees who have been upgraded en-block or individually in last five years starting from 01-07-2010 or have been granted special allowance / pay equal to 40 % or more of their normal pay shall not be entitled for the instant upgradation.
2. Pay of existing incumbents of the posts shall be fixed in higher pay scales at a stage not above the pay in the lower pay scale.
 3. All the concerned Departments will amend their respective service rules to the same effect in the prescribed manner.
 4. The above upgradation scheme shall not be applicable to employees of Autonomous & Semi Autonomous Bodies and Public Sector Companies.
 5. Explanatory note and subsidiary instructions on the subject will be issued separately.

SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

Section Officer (MSG)
Governor's House
Khyber Pakhtunkhwa

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- 1) PS to Additional Chief Secretary, FATA
 - 2) All Administrative Secretaries Government of Khyber Pakhtunkhwa.
 - 3) Senior Member, Board of Revenue, Khyber Pakhtunkhwa Peshawar.
 - 4) Accountant General, Khyber Pakhtunkhwa, Peshawar.
 - 5) Secretary to Governor, Khyber Pakhtunkhwa, Peshawar
 - 6) Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
 - 7) Secretary Provincial Assembly, Khyber Pakhtunkhwa.
 - 8) All Heads of Attached Departments in Khyber Pakhtunkhwa.
 - 9) Registrar, Peshawar High Court, Peshawar.
 - 10) All Deputy Commissioners, Political Agents, District & Sessions Judges / Executive District C
Khyber Pakhtunkhwa.
 - 11) Chairman, Khyber Pakhtunkhwa, Public Service Commission, Peshawar.
 - 12) Registrar, Service Tribunal Khyber Pakhtunkhwa.
 - 13) Secretary to Govt; of Punjab, Sindh and Baluchistan, Finance Department, Lahore, Karachi and
 - 14) The District Comptroller of Accounts, Peshawar, Mardan, Kohat, Bannu, Abbottabad, Swat
Khan.
 - 15) The Senior District Accounts Officer Nowshera, Swabi, Charsadda, Haripur, Manshera and Dir
 - 16) The Treasury Officer, Peshawar.
 - 17) All District/Agency Accounts Officers in Khyber Pakhtunkhwa / FATA.
 - 18) PSO to Senior Minister for Finance, Khyber Pakhtunkhwa.
 - 19) PSO to Chief Secretary, Khyber Pakhtunkhwa.
 - 20) Director Local Fund Audit, Khyber Pakhtunkhwa Peshawar.
 - 21) PS to Finance Secretary.
 - 22) PAs to All Additional Secretaries/ Deputy Secretaries in Finance Department.
 - 23) All Section Officers/Budget Officers in Finance Department.
 - 24) Mr. Jabir Hussain Bangash, President, Class-IV Association, Civil Secretariat, Khyber Pakht
Peshawar.
 - 25) Mr. Manzoor Khan, President, Civil Secretariat Driver Association Khyber Pakhtunkhwa, Peshawar
 - 26) Mr. Akbar Khan Mohmand; Provincial President, Class-IV Association, Khyber Pakhtunkhwa, Peshawar

(MURAD AHMED)
SECTION OFFICER (FR)

Attested
Amir
Section Officer (MSG)
Governor's House
Khyber Pakhtunkhwa

Annex - B

Legible Copy

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No. MSG:(24-A/68)-70/1955

To

THE ACCOUNTANT GENERAL, WEST PAKISTAN, LAHORE,

Dated Lahore, the 30th March, 1970.

Subject- TERMS AND CONDITIONS OF APPOINTMENT, CONFIRMATION, DISCHARGE AND RETIREMENT ETC. OF THE GOVERNOR'S HOUSEHOLD, GARDENS AND GARAGE ESTABLISHMENTS.

Sir

IN supersession of all previous orders issued on the above subject. the Governor of West Pakistan, has been pleased to order that in the matters of appointment, confirmation, leave, discharge, discipline, retirement from service, grant of pension/gratuity etc., the Governor's household, Gardens, and Garage Establishments will henceforth be governed by the following provisions with effect from the date of issue of these orders-

APPOINTMENTS:

- (1) Appointments to these establishments shall be made by the Military Secretary to the Governor of West Pakistan, or any other officer authorised by him to exercise these powers.
- (2) Age on first appointment to these establishments shall not normally exceed 25 years, but in suitable and deserving cases this age limit can be relaxed by the Military Secretary to the Governor of West Pakistan, or any other officer authorized by him.
- (3) a. On first appointment every member of stall shall have to be medically examined by the Medical Officer, Governor's House Dispensary, Karachi, or the Civil Surgeon of the respective area, where he is appointed and produce medical certificate of fitness as required under the medical rules.
b. The present incumbents of these establishments will also be required to produce medical certificate of fitness as at (a) above. The servants/employees, who may be declared medically unfit, will continue in service subject to the approval by the Military Secretary to the Governor, West Pakistan, on their previous terms and conditions of service and the terms and conditions of service sanctioned herein shall not be applicable to them.

Attended
Amid
Section Officer (MSG)
Governor's House
Khyber Pakhtunkhwa

LEAVE:

- (4) a. An employee/servant of the said establishments, who has continuous service of one year, but not exceeding three years will be granted leave on average pay @ one day for each thirty days of duty period and maximum leave on average pay that may be accumulated shall be 20 days. In addition, he will be entitled to 10 days sick leave on half average pay for each completed year of service on the production of medical certificate. All employees/servants falling in this category will also be entitled to 20 days casual leave during a calendar year.
- b. An employee/servant; who has been on any of the said establishments for a continuous period of more than three years shall be governed by the Leave Rules, 1955, as amended from time to time, as in the case of permanent Government servants in Class IV.

PENSION/GRATUITY:

- (5) a. The members of the aforesaid establishments shall on discharge or retirement from service be entitled to a gratuity not exceeding one half month's pay for each completed year of qualifying service, provided that the qualifying service on discharge or retirement from service, is not less than 10 years and more than 15 years.
- b. All those, who have put in more than 15 years and less than 25 years of service, shall on discharge or retirement from service be entitled, to a gratuity not exceeding one month's pay for each completed year of qualifying service.
- c. The pension/gratuity to all those members of the aforesaid establishments, who have to their credit at the time of their discharge or retirement from service 25 year or more qualifying service, shall on discharge or retirement be entitled to pension-cum-gratuity as admissible to regular Government Servants under the West Pakistan Civil Services Pension Rules, as amended from time to time.
- d. On resignation, one shall be entitled to pension/gratuity.
- (6) An employee/servant, who dies before discharge or retirement, his nominee or nominees and if there is no nominee, his family and if there is no family, his heirs shall be entitled to receive 75% of the amount of gratuity that would have been payable to him under sub paragraph (5) above had he been alive and discharged or retired from service on the

Attested
[Signature]
Section Officer (MSC)
Governor's House
Khyber Pakhtunkhwa



date of his death. If an employee dies after discharge or retirement but has not yet received his gratuity, his nominee or nominees and if there is, no nominee, his family, if there is no family, his heirs shall be entitled to receive 100% of the amount of gratuity that would have been payable to him. The entitlement to pension/ gratuity on death after 25 years of qualifying service will be decided according to the provisions of West Pakistan Civil Services Pension Rules, as amended from time to time.



NOTE:

The qualifying service will start on attaining the age of 18 years and would exclude the period of leave without pay and allowances being counted towards qualifying service. The Military Secretary to the Governor of West Pakistan, or any other officer authorised by him shall have powers to condone the deficiency in or interruptions of service upto a period of six months for the purpose of qualifying service towards gratuity or gratuity-cum-pension, as the case may be, when the service is long and meritorious in the case of deficiency; and provided each spell of service is for a period of more than 5 years in the case of interruption.

- (8) Gratuity or pension-cum-gratuity as the case may be, under subparagraph (5) above may also be granted to an employee/servant, who by physical or mental infirmity is permanently incapacitated for public service or for the particular branch of it to which he belongs.

NOTE:

- (i) Each employee will be required to make nomination in the forms at Annexure 'A' and '13' after having put in ten years service or more. The nomination so made shall be pasted in the Service Book of the individual concerned. In the absence of such nomination being exercised the amount payable shall be disbursed to the nominee or nominees, or family or heirs, as the case may be, of the employee concerned according to the formulae as set out in the West Pakistan Civil Services Pension Rules.
- (ii) An employee/servant, who is discharged from service on any of these establishments as a disciplinary measure shall not be entitled to any gratuity/pension, etc., unless it is otherwise determined and ordered by the punishing authority.



Section Officer (MSG)
Governor's House
Khyber Pakhtunkhwa

MEDICAL FACILITIES:

- (9) The members of the aforesaid establishments drawing pay not exceeding Rs. 150 per mensem shall be entitled to medical facilities on the scale and in the manner as applicable to Class IV Government servants. All those who are drawing pay exceeding Rs. 150 per mensem shall be entitled to medical facilities on the scale and in the manner as applicable to Class III Government servants under the West Pakistan Government Servants (Medical Attendance) Rules, 1959, as amended from time to time.

RENT FREE ACCOMMODATION:

- (10) The employees/servants borne on the said establishment drawing pay not exceeding Rs. 150/- per mensem shall be entitled, subject to availability, to rent-free residential accommodation in the Governor's House Estate and free use of water. The members of these establishments drawing pay exceeding Rs. 150/- per mensem shall be entitled. Subject to availability, to rent free residential accommodation, the next category of accommodation according to their pay above that of applicable to Class IV Government servants. They shall, however, not be required to pay the conservancy charges, if any.

TRAVELLING ALLOWANCE AND OTHER ALLOWANCES:

- (11) a. The members of the aforesaid establishments drawing pay not exceeding Rs. 150/- per mensem shall be entitled to Travelling Allowance/Daily Allowance and Travelling Allowance Concession on the scale and in the manner as applicable to Class IV Government servants and those, who are drawing pay exceeding Rs. 150/- per mensem, shall be entitled to Travelling Allowance and Travelling Allowance concession of Inter Class. Daily Allowance will be admissible to them as applicable to Class III Government servants. The leave travel concession shall be allowed to the extent and under the conditions applicable to Government servants of the corresponding category.
- b. The members of the aforesaid establishments drawing pay not exceeding Rs. 150/- per mensem shall be entitled to other allowances and concessions, etc., on the scale and in the manner applicable to Class V Government servants and those drawing pay exceeding Rs. 150/- per mensem shall be entitled to such as applicable to Class III Government servants

Attended

Amir
Section Officer (MSG)
Governor's House
Khyber Pakhtunkhwa

DISCIPLINE

- (12) The following penalties may, for good and sufficient reasons, be imposed on a member of the aforesaid establishment
- (i) Censure.
 - (ii) Withholding of increment or promotion.
 - (iii) Fine recoverable in cash of an amount not exceeding Rs. 20/- in each case.
 - (iv) Recovery by deduction from pay of whole or part of any pecuniary loss caused to Government by negligence or breach of orders.
 - (v) Suspension.
 - (vi) Reduction to a lower post or time scale, or to a lower stage in the time scale.
 - (vii) Removal from the service, which does not disqualify from future employment.
 - (viii) Dismissal from service, which ordinarily debars from further employment.
- (13) The appointing authority shall be the punishing authority.
- (14) The appellate authority in all cases shall be the Military Secretary to Governor of West Pakistan, who shall be the sole Judge, provided that where a penalty/punishment is imposed by the order of the Military Secretary to Governor West Pakistan, himself, there shall be no appeal. but the employee/servant concerned may appeal for a review of the order.

RETIREMENT FROM SERVICE

- (15) An employee/servant shall retire from service after attaining the age of 55 years or the age of superannuation fixed by the Government of West Pakistan. The extension in service beyond the age of superannuation can be granted by the Military Secretary to Government of West Pakistan, or any other officer, duly authorised by him. in accordance with the policy of Government of West Pakistan adopted for the regular non-gazetted Government Servants.

Attested
Amid
Section Officer (MSG)
Governor's House
Khyber Pakhtunkhwa

DISMISSAL FROM SERVICE

(16) An employee/servant may be dismissed or removed from service-

(i) on the ground of conduct, which has led to his conviction in a criminal charge/conviction:
or

(ii) when the authority empowered to dismiss him from service, is satisfied for one reason or the other that he has rendered himself un-suitable for future service.

DISCHARGE FROM SERVICE

(17) An employee/servant may be discharged from service at any time without any notice.

2. These terms and conditions shall also apply to the similar establishments in the:--

- (1) Office of the Secretary in Governor West Pakistan, Governor's House, Lahore.
- (2) Government House. Peshawar and attached Houses.
- (3) Government House, Quetta and attached Houses.
- (4) Government House. Karachi and attached Houses.
- (5) West Pakistan, Rawalpindi, including Governor's Annexe).
- (6) Government House, Murree and West Pakistan House,

3. These rules have been issued with the concurrence of the Finance Department, Government of West Pakistan. A copy, duly endorsed by the Finance Department, Government of West Pakistan, is being sent to you separately.

Yours obedient servant

M. AFZAL KHAN,
WING COMDR.
Military Secretary to Governor.
West Pakistan,

Attested

Amir
Section Officer (MSG)
Governor's House
Khyber Pakhtunkhwa

To

THE ACCOUNTANT GENERAL, WEST PAKISTAN, LAHORE.

Dated Lahore, the 30th March, 1970.

Subject—TERMS AND CONDITIONS OF APPOINTMENT, CONFIRMATION, DISCHARGES AND RETIREMENT ETC, OF THE GOVERNOR'S HOUSE HOLD, GARDENS AND GARRAGE ESTABLISHMENTS.

Sir,

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APPOINTMENTS

- (1) Appointments to these establishments shall be made by the Military Secretary to the Governor of West Pakistan, or any other officer authorised by him to exercise these powers.
- (2) Age on first appointment to these establishments shall not normally exceed 25 years, but in suitable and deserving cases this age limit can be relaxed by the Military Secretary to the Governor of West Pakistan, or any other officer authorised by him.
- (3) a. On first appointment every member of staff shall have to be medically examined by the Medical Officer, Governor's House Dispensary, Lahore, or the Civil Surgeon of the respective area, where he is appointed and produce medical certificate of fitness as required under the medical rules.
b. The present incumbents of these establishments will also be required to produce medical certificate of fitness as at (a) above. The servants employees, who may be declared medically unfit, will continue in service subject to the approval by the Military Secretary to the Governor, West Pakistan, on their previous terms and conditions of service and the terms and conditions of service sanctioned herein shall not be applicable to them.

LEAVE

- (4) a. An employee/servant of the said establishments, who has continuous service of one year, but not exceeding three years will be granted leave on average pay at one day for each thirty days of duty period and maximum leave on average pay that may be accumulated shall be 20 days. In addition, he will be entitled to 10 days sick leave on half average pay for each completed year of service on the production of medical certificate. All employees servants falling in this category will also be entitled to 20 days casual leave during a calendar year.

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[Signature]
Section Officer (MSG)
Governor's House
Khyber Pakhtunkhwa

- b. An employee/servant, who has been on any of the said establishments for a continuous period of more than three years shall be governed by the Leave Rules, 1955, as amended from time to time, as in the case of permanent Government servants in Class IV.

PENSION/GRATUITY

(5) a. The members of the aforesaid establishments shall on discharge or retirement from service be entitled to a gratuity not exceeding one and a half month's pay for each completed year of qualifying service, provided that the qualifying service on discharge or retirement from service, is not less than 10 years and more than 15 years.

b. All these, who have put in more than 15 years and less than 25 years of service, shall on discharge or retirement from service be entitled, to a gratuity not exceeding one month's pay for each completed year of qualifying service.

c. The pension/gratuity to all those members of the aforesaid establishments, who have to their credit at the time of their discharge or retirement from service 25 years or more qualifying service, shall on discharge or retirement be entitled to pension-cum-gratuity as admissible to regular Government Servants under the West Pakistan Civil Services Pension Rules, as amended from time to time.

d. On resignation, no one shall be entitled to pension/- gratuity.

(6) An employee servant, who dies before discharge or retirement his nominee or nominees and if there is no nominee, his family and if there is no family, his heirs shall be entitled to receive 75% of the amount of gratuity that would have been payable to him under sub-paragraph (5) above had he been alive and discharged or retired from service on the date of his death. If an employee dies after discharge or retirement but has not yet received his gratuity, his nominee or nominees and if there is no nominee, his family, if there is no family, his heirs shall be entitled to receive 100% of the amount of gratuity that would have been payable to him. The entitlement to pension/gratuity on death after 25 years of qualifying service will be decided according to the provisions of West Pakistan Civil Services Pension Rules, as amended from time to time.

NOTE

The qualifying service will start on attaining the age of 18 years and would exclude the period of leave without pay and allowances being counted towards qualifying service.

(7) The Military Secretary to the Governor of West Pakistan, or any other officer authorised by him shall have powers to condone the deficiency in or interruptions of service upto a period of six months for the purpose of qualifying service towards gratuity or gratuity cum pension, as the case may be, when the service is long and mentioned in the case of deficiency and provided each spell of service is for a period of more than 5 years in the case of interruption.

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[Signature]
 Section Officer (MSG)
 Governor's House
 Khyber Pakhtunkhwa

- (8) Gratuity or pension-cum-gratuity, as the case may be, under sub paragraph (5) above may also be granted to an employee/servant, who by physical or mental intirmity is permanently incapacitated for public service or for the particular branch of it to which he belongs.

NOTE

- (i) Each employee will be required to make nomination in the forms at Annex: 'A' and 'B' after having put in ten years service or more. The nomination so made shall be pasted on the Service Book of the individual concerned. In the absense of such nomination being exercised, the amount payable shall be disbursed to the nominee or nominee, or family or heirs, as the case may be, of the employee concerned according to the formulas as set out in the West Pakistan Civil Services Pension Rules.
- (ii) An employee/servant, who is discharged from service on any of these establishments as a disciplinary measure shall not be entitled to any gratuity/pension etc, unless it is otherwise determined and ordered by the punishing authority.

MEDICAL FACILITIES

- (9) The member of the aforesaid establishments drawing pay not exceeding Rs. 150 per mensom shall be entitled to medical facilities on the scale and in the manner as applicable to Class IV Government servants. All those who are drawing pay exceeding Rs. 150 per mensom shall be entitled to medical facilities on the scale and in the manner as applicable to Class III Government servants under the West Pakistan Government Servants (Medical Attendance) Rules, 1959, as amended from time to time.

RENT FREE ACCOMMODATION

- (10) The employees/servants borne on the said establishments drawing pay not exceeding Rs. 150 per mensom shall be entitled, subject to availability, to rent-free residential accommodation in the Governor's House Estate and free use of water. The members of these establishments drawing pay exceeding Rs 150 per mensom shall be entitled, subject to availability, to rent free residential accommodation, the next category of accommodation according to their pay above that of applicable to Class IV Government servants. They shall, however, not be required to pay the conservancy charges, if any.

TRAVELLING ALLOWANCE AND OTHER ALLOWANCES

- (11) (a) The members of the aforesaid establishments drawing pay not exceeding Rs. 150 per mensom shall be entitled to Travelling allowance/Dearness Allowance and Travelling Allowance (Concession) on the scale and in the manner as applicable to Class IV Government Servants and those, who are drawing pay exceeding Rs. 150 per mensom, shall be entitled to Travelling Allowance and Travelling Allowance concession of Inter Class Travelling

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 Section Officer (MSG)
 Governor's House
 Khyber Pakhtunkhwa

under the conditions applicable to Government servants of the corresponding category.

- (b) The members of the aforesaid establishments drawing pay not exceeding Rs. 150 per mensem shall be entitled to other allowances and concessions, etc, on the scale and in the manner applicable to Class IV Government Servants and those drawing pay exceeding Rs. 150 per mensem shall be entitled to such allowances and concessions, etc, on the scale and in the manner as applicable to Class III Government servants.

DISCIPLINE

(12) The following penalties may for good and sufficient reasons, be imposed on a member of the aforesaid establishments :-

- (i) Censure
- (ii) Withholding of increment or promotion.
- (iii) Fine recoverable in cash of an amount not exceeding Rs. 10 in each case.
- (iv) Recovery by deduction from pay of whole or part of any pecuniary loss caused to Government by negligence or breach of order.
- (v) Suspension.
- (vi) Removal from the service, which does not disqualify from future employment.
- (vii) Dismissal from service, which ordinarily debars from future employment.

(13) The appointing authority shall be the punishing authority.

(14) The appellate authority in all cases shall be the Military Secretary to Governor of West Pakistan, who shall be the sole judge, provided that where a penalty/punishment is imposed by the order of the Military Secretary to Governor, West Pakistan himself, there shall be no appeal, but the employee/servant concerned may appeal for a review of the order.

RETIREMENT FROM SERVICE

(15) An employee/servant shall retire from service after attaining the age of 55 years or the age of superannuation fixed by the Government of West Pakistan. The extension in service beyond the age of superannuation can be granted by the Military Secretary to Governor of West Pakistan or any other officer, duly authorised by him, in accordance with the policy of Government of West Pakistan adopted for the regular non-gazetted Government servants.

DISMISSAL FROM SERVICE

(16) An employee/servant may be dismissed or removed from service-

- (i) on the ground of conduct, which has led to his conviction in original charge/conviction;

or

Attested
Section Officer (MSG)
Governor's House
Khyber Pakhtunkhwa

service is satisfied for one reason or the other that he has rendered himself un-suitable for future service.

DISCHARGE FROM SERVICE

(17) An employee/servant may be discharged from service at any time without any notice.

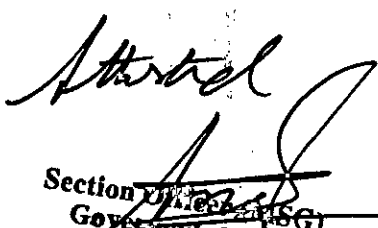
2. These terms and conditions shall also apply to the similar establishment

1. Office of the Secretary to Governor, West Pakistan, Governor's House Lahore.
2. Governor's House, Peshawar and attached Houses.
3. Government House, Quetta and attached Houses.
4. Government House, Karachi and attached Houses.
5. West Pakistan House, Rawalpindi (including Governor's Annexe).
6. Government House, Murree and West Pakistan House, Murree.

3. These rules have been issued with the concurrence of the Finance Department, Government of West Pakistan. A copy, duly endorsed by the Finance Department, Government of West Pakistan, is being sent to you, separately.

Yours obedient servant,

M. AFZAL KHAN,
Wing Comdr
Military Secretary to Governor
West Pakistan


Section Officer (SG)
Governor's House
Khyber Pakhtunkhwa

8/17

8/17

GOVERNMENT OF WEST PAKISTAN
FINANCE DEPARTMENT

No. 766-SH-VI-70, dated Lahore, the 24th April, 1970.

Copies are forwarded, for information and necessary action, to the-

- 1) Accountant General, West Pakistan, Lahore.
- 2) Comptroller, Northern Area, West Pakistan, Peshawar.
- 3) Comptroller, Southern Area, West Pakistan, Karachi.

M. Ismail Tayer
 (M. ISMAIL TAYER)
 Section Officer (SH)-VI.

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Attested
[Signature]

[Signature]

Annex-C

Lea

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GOVERNMENT OF N.W.F.P
ESTABLISHMENT DEPARTMENT
(REGULATION WING)

No.SOR-IV(E&AD)1-5/2008
Dated Peshawar, the April 4th, 2009

To

The Section Officer (Admn)
Administration Department.
Govt of NWFP.

Subject: **ENLISTMENT IN JOINT SENIORITY LIST**

Please refer to your letter No. E&A(AD)4(17)/09 dated 16/3/2009 on the subject noted above.

According to the vice rules meant for the Secretariat employees, the post of Daftari is required to be filled by promotion on the basis of seniority-cum-fitness from amongst the holders of the posts of matriculate Qasids/Naib Qasids with at least three years service' as such the exists no provision for direct recruitment of Daftari in the Civil Secretariat. The Governor's house/secretariat and CMs secretariat are part and parcel of the Civil Secretariat and all posts of these secretariats including house hold staff reflected in the Budget are the Secretariat posts. However, recruitments against certain posts are not regulated under the NWFP Civil Servants Appointment, Promotion & Transfer) Rules, 1989 because such posts are filled up by the MS to Governor office under their own arrangements without observing the laid down procedure. Furthermore, such recruitments are also not made by the appointing authorities declared in the rules ibid.

Therefore, the staff appointed by the Governor's House itself neither can be termed as regular employees of the Secretariat nor their names can be placed on the seniority list meant for the regular employees of the Secretariat. As far as precedent quoted by the Governor's House is concerned, the Administration Department itself will be in better position to know as to how the name of another employee of Governor's House who was not a regular employee of the Secretariat, was included in the seniority list which was meant only for regular employees of the Secretariat,.

Sd/-
(Muhammad Javed Siddiqi)
Section Officer (R-IV)

M. J. Siddiqi

M. J. Siddiqi
Section Officer (MSG)
Governor's House
Khyber Pakhtunkhwa

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The Section Officer (Admin),
Administration Department,
Govt. of N.W.F.P.

SUBJECT: ENLISTMENT IN JOINT SENIORITY LIST

Please refer to your letter No. EE(A) (17)/09 dated 16/3/2009 on the subject noted above.

According to the service rules meant for the Secretariat employees, the post of Daftari is required to be filled by promotion on the basis of "seniority-cum-fitness from amongst the holders of the posts of manjilawar Qasids/Naib Qasids with at least three years service". As such there exists no provision for direct recruitment of Daftari in the Civil Secretariat. The Governor's House/Secretariat and CM's Secretariat are part and parcel of the Civil Secretariat and all posts of these Secretariats including House Hold staff reflected in the Budget are the Secretariat posts. However, recruitments against such posts are not regulated under the NWFP Civil Servants (Appointment, Promotion & Transfer) Rules, 1969 because such posts are filled up by the MS-to-Governor office under their own arrangements without observing the laid-down procedure. Furthermore, such recruitments are also not made by the appointing authorities declared in the rules *ibid*.

Section Officer (MSG)
Governor's House

Therefore, the staff appointed by the Governor's House itself neither can be termed as regular employees of the Secretariat nor their names can be placed on the seniority list meant for the regular employees of the Secretariat. As far as precedent quoted by the Governor's House is concerned, the Administration Department itself will be in better position to know as to how the name of another employee of Governor's House who was not a regular employee of the Secretariat was included in the seniority list which was meant only for regular employees of the Secretariat.

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7/5/09
DEPT

(Muhammad Javed Siddiqi)
Section Officer (R-IV)

6/4/09

Attested

Section Officer (MSG)
Governor's House
Khyber Pakhtunkhwa

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No.1104/2023

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Kam al Ud Din, Driver (BPS-06)

Governor House, Peshawar.....Appellant

Versus

6. Secretary to Governor, Governor House, Peshawar.
7. Military Secretary to Governor, Governor House, Peshawar.

.....Respondents

AFFIDAVIT

I, Mr. Mazhar Irshad Khan, Secretary to Governor Khyber Pakhtunkhwa do hereby solemnly affirm and declare on oath that the contents Joint Para wise comments on behalf of Respondent No. 06 (Secretary to Governor KP) and 07 (Military Secretary to Governor KP) are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honorable Service Tribunal Peshawar.



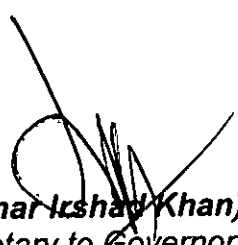
(Mazhar Irshad Khan)
Secretary to Governor,
Khyber Pakhtunkhwa
Principal Secretary to Governor
Khyber Pakhtunkhwa.



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GOVERNOR'S SECRETARIAT,
Khyber Pakhtunkhwa, Peshawar

AUTHORITY LETTER

*It is certified that Mr. Hazrat Ullah, Assistant (BPS-16) Governor House, Peshawar is hereby authorized to submit Joint Para wise Comments on behalf of Secretary to Governor KP, (Respondent No. 06) and Military Secretary to Governor KP, (Respondent No. 07) **Service Appeal No.1104/2023 Case Titled Mr. Kamal Ud Din, Driver (BPS-06) Vs Secretary to Governor KP, (Respondent No. 06) and Military Secretary to Governor KP, (Respondent No. 07)***


(Mazhar Irshad Khan)
Secretary to Governor,
Khyber Pakhtunkhwa