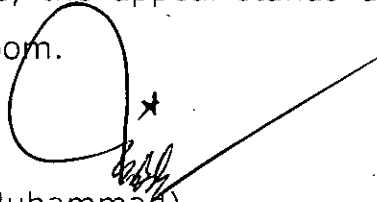


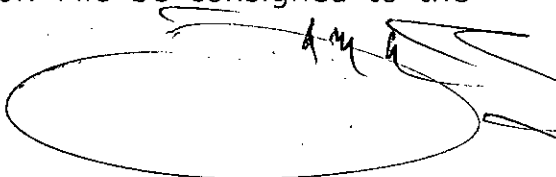
10.09.2020

Mr. Fida Muhammad Yousafzai, Advocate for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General alongwith representative of the department Mr. Fazle Khaliq, ADEO are also present.

The learned Additional Advocate General for the respondents submitted that the prayer made by the appellant for allowing him pension and pensionary benefits has already been allowed/sanctioned by virtue of office order dated 28.06.2019 efficacious with effect from 11.12.2017 therefore, the appeal in hand stands disposed as nothing remains to be adjudicated. He submitted the copy of the office order which is made part of record.

The perusal of record evidently reflect that prayer in the service appeal has been made for payment of pension and other pensionary benefits which has been sanctioned and accordingly allowed by the District Education Officer (Female) Swabi, by virtue of the office order bearing endorsement No. 3265-G dated 28.06.2019 meaning thereby that the requisite relief has already been granted and consequently sanctioned by the competent authority in favour of the appellant therefore, the grievance of the appellant has been addressed. Therefore, the appeal stands disposed of. File be consigned to the record room.


(Mian Muhammad)
Member (Executive)


(Muhammad Jamal Khan)
Member (Judicial)

ANNOUNCED
10.09.2020

24.02.2020

Appellant absent. Learned counsel for the appellant present. Mr. Riaz Khan Paindakheil learned Assistant Advocate General alongwith Sajid Superintendent present, submitted copy of order dated 28.06.2019 and stated that in the light of the said order, the grievance of the appellant has been redressed. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for further proceedings/arguments on 27.03.2020 before D.B. Appellant be put to notice for the date fixed.


Member


Member

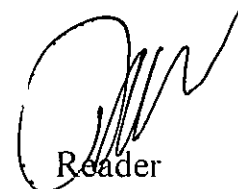
27.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 17.06.2020 before D.B.


Reader

17.06.2020

Due to Covid-19, the case is adjourned. To come up for the same on 10.09.2020 before D.B.


Reader

12.09.2019

Appellant in person and Addl. AG alongwith Muhammad Shafique, Senior Clerk on behalf of the respondents present.

Representative of the respondents again requests for time to furnished parawise comments of the respondents. Adjourned to 07.10.2019 on which date the requisite reply/comments shall positively be submitted.


Chairman

07.10.2019

Junior to counsel for the appellant and Addl. AG alongwith Sajid Superintendent for respondent No. 6 present.

Representative of respondent No. 6 requests for time. Fresh notices be issued to the respondents No. 1 to 5. To come up for written reply/comments on 07.11.2019 before S.B.


Chairman

07.11.2019

Counsel for the appellant and Addl. AG alongwith Abdul Ghaffar Superintendent and Sajid Superintendent for the respondents present.

Representative of the respondents seek further time for submission of requisite reply. Last opportunity granted. To come up for written reply/comments on 18.12.2019 before S.B.


Chairman

11.06.2019

Counsel for the appellant present.

Contends that the appellant was appointed on contract basis in the year 1994 and his service was regularized in 2008. He retired on attaining superannuation on 11.12.2017 but was denied the pension benefits by the respondents on the pretext that the service of appellant was regularized without consequential benefits. It was also stated that by virtue of regularization of appellant he could not claim salaries and other emoluments as a regular employee from the date of his appointment but, for all intents and purposes, the service rendered by the appellant on contract basis was to be counted towards his qualification for pension.

The appeal in hand is admitted for regular hearing in view of the arguments of learned counsel. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 25.07.2019 before S.B.

Appellant deposited
Security & Process Fee

17/6/19


Chairman

25.07.2019

Appellant in person and Mr. Usman Ghani, District Attorney alongwith Muhammad Shafique Senior Clerk for the respondents present.



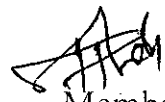
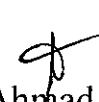
Representative of the respondents requests for further time. To come up for written reply/comments on 12.09.2019 before S.B.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 298/2019

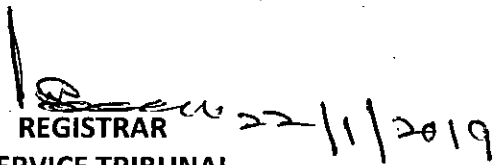
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	26/2/2019	<p>The appeal of Mr. Afsar Khan resubmitted today Mr. Asad Zeb Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 26/2/19</p>
2-	01/03/19	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>21/03/19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	21.03.2019	<p>Nemo for the appellant. Due to general strike of the bar, the case is adjourned. To come up for preliminary hearing on 23.04.2019 before S.B.</p> <p style="text-align: right;"> Member</p>
	23.04.2019	<p>None for the appellant present. Due to general strike of the bar, the case is adjourned. Case to come up for preliminary hearing on 11.06.2019 before S.B.</p> <p style="text-align: right;"> (Ahmad Hassan) Member</p>

The appeal of Mr. Mr.Afsar Khan son of Aman Khan Ex-Chowkidar Govt. Primary School Razar Swabi received today i.e. on 22.01.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures of the appeal may be attested.
- 2- Copy of retirement order mentioned in the memo of appeal is not attached with the appeal which may be placed on it.

No. 139 /S.T,

Dt. 22/1 /2019.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

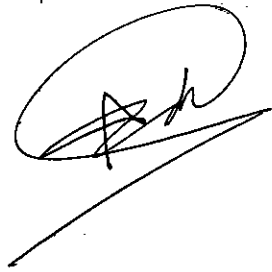
Mr. Asad Zeb Khan Adv. Pesh.

R/sir,

Objection seen and removed.

Retirement order is not available nor communicated to appellant and despite earnest efforts, the respondents failed to provide the same.

Appeal is hereby re-submitted for fixation.



26-2-2019

BEFORE KHYBER PAKHTUN KHWA, SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 298 /2019

Afsar Khan _____ Appellant

Versus

Govt. of Khyber Pakhtun Khwa and others _____ Respondents

INDEX

S.No	Description of documents	Annex	Pages
1	Writ Petition		1-5
2	Affidavit		6
3	Addresses of Parties		7
4	Copy of appointment order dated: 04-05-1994	A	8
5	Copy of service book	B	9-18
6	Copy of application dated: 18-01-2018	C	19
7	Copy of covering letter dated: 22-01-2018	D	20
8	Copy of Writ petition and order/judgment dated: 06-12-2018	E & F	21-27
9	Wakalat Nama		28

Plid m

APPELLANT

Through

Asad Zeb Khan

Asad Zeb Khan

Advocate High Court

Al-haaj Plaza, Yousaf Abad,
Dalazak Road, Peshawar

0346-9800565

Dated:-18/01/2019

①

**BEFORE KHYBER PAKHTUN KHWA, SERVICE TRIBUNAL,
PESHAWAR**

Service Appeal No. 298 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 93

Dated 22/1/2019

Afsar Khan S/O Aman Khan, Ex-Chowkidar, Govt. Primary School, (Female)
Razār, Swabi (Afsar Khan Kotay, Sikandari, Tehsil Razar, District Swabi)

Appellant

VERSUS

1. **Govt. of Khyber Pakhtun Khwa** through Chief Secretary, Peshawar.
2. Secretary Elementary and Secondary Education Department, Govt. of Khyber Pakhtun Khwa, Peshawar.
3. Director, Elementary and Secondary Education, Peshawar.
4. District Education Officer (Female) District Swabi.
5. Sub-Divisional Education Officer (Female), Razar, District Swabi.
6. Secretary Finance, Govt. of Khyber Pakhtun Khwa, Peshawar.

Respondents

SERVICE APPEAL UNDER SECTION-4 OF THE SERVICE TRIBUNAL
ACT, 1974 AGAINST THE ACT OF THE RESPONDENTS WHO FAILED
TO PAY PENSION AND PENSIONARY BENEFITS TO THE
APPELLANT AND ALSO AGAINST THEIR INACTION TO DECIDE
THE APPEAL.

Prayer:-

ON ACCEPTANCE OF THE INSTANT APPEAL THE
RESPONDENTS MAY KINDLY BE DIRECTED TO PAY PENSION
AND PENSIONARY BENEFITS TO THE APPELLANTS.

Respectfully Sheweth:

The appellant most humbly advances his grievance as under:-

FACTS:-

1. That the appellant was appointed as Chowkidar in Education Department vide appointment order dated: 04-05-1994 on contract basis.

Filed to-day
Registrar
22/1/2019

Re-submitted to-day
and filed.

22/1/2019

②

{True copy of appointment order is attached, marked as **Annex-A**}

2. **That** the appellant was later on regularized into service with effect from his initial date of appointment vide office order date: 09-07-2008 in light of the finance department notification dated: 29-01-2008.

{True copy of service book is attached, marked as **Annex-B**}

3. **That** the appellant got retired from his service on attaining age of superannuation on 11-12-2017.

4. **That** the appellant, after retirement was waiting for his pensionary benefits and to this effect, he duly submitted his pension papers to the respondents. The respondents were trying to delay the matter on one pretext or the other, so the appellant being compelled of the situation, was having no other remedy but to approach the respondent/ District Education Officer (Female) Swabi with an application for payment of pension and pensionary benefits vide application dated: 18-01-2018.

{True copy of application dated: 18-01-2018 is attached, marked as **Annex-C**}

5. **That** the respondent No. 5 duly send the application of the appellant to the respondent No. 4 along with covering letter dated: 22-01-2018 but since then the appellant was waiting for the reply of that very application. It would be most important to mention that the appellant belongs to poor family and he is the supporter of his family and is waiting for his genuine and basic right of payment of pension.

{True copy of letter dated: 22-01-2018 is attached, marked as **Annex-D**}

6. That the appellant feeling dissatisfied from the inaction of the respondents, approached to the Hon'ble Peshawar High Court Peshawar through writ petition No. 2497-P/2018 which was disposed off by the Hon'ble Court with directions to the respondents to ^{decide} appeal of the appellant within fortnight. But to no avail.

{True copy of writ petition and judgment dated: 06-12-2018 are attached, as mark **Annex-E & F**}

7. That the appellant feeling aggrieved and dissatisfied with the actions and inactions of the respondents, and having no other alternate remedy, seeks the indulgency of this Hon'ble Court on the following among other grounds.

Grounds:

- A-** Because the action and inaction of the respondents proclaims their own malafide.
- B-** Because it has been settled by the Apex Court of Pakistan that whenever contract employment is converted into regular employment then the contract period would be counted towards service for the purpose of calculation of pension and other financial benefits, but the respondents in blatant violation of the directions of the Hon'ble Court are denying the basic right of the appellant which is illegal, unlawful, unwarranted and void ab initio.
- C-** Because, the action and inaction of the respondents vide which they are not paying the pensionary benefits to the appellant is without any just and probable cause, which act of the respondents is against law, arbitrary, discriminatory and violative of Article 4 & 2-A of the Constitution.

- D- **Because**, the impugned action and inaction of the respondents is based on malafide, hence the act of the respondents is arbitrary and capricious.

- E- **Because** the appellant is unnecessarily and unreasonably vexed, his previous service has not been counted towards his pension, so the action of the Respondents is against law, justice, equity and fair play. Mala fide is apparent from the record.

- F- **Because** the respondents while dealing with the pension case failed to appreciate the previous record of appellant.

- G- **Because** the Hon'ble Superior Courts of Pakistan in plethora of judgments held that the pension must be given/paid to the employee within one month of his retirement but in the case of present appellant, he has been made rolling stone, as he is running from pillar to post since last five months but to no avail.

- H- **Because** appellant is fairly and squarely deserves to be paid full amount of pension.

- I- **Because** action of the Respondents is highly discriminatory set against the current of Article 4 and 25 of the Constitution of the Islamic Republic of Pakistan, 1973. The appellant humbly demands to be treated in accordance with law as enshrined in the 1973 Constitution.

- J- **Because** the act of the respondents is in contravention of the Article 25 & 27 of the Constitution.

- K- **Because** the act of the respondents by which the appellant has been deprived from his genuine and legal right is inconsistent with the

(5)

fundamental rights guaranteed to the appellant under the Constitution 1973.

L- Because the respondents have transgressed its powers and the appellant has been denied the fundamental right of being treated equally.

M- Because the appellant crave for leave to add further grounds at the time of their oral arguments before this Hon'ble Tribunal highlighting further contraventions of the provisions of the service law and constitution which adversely affected the appellant.

PRAYER

In view of the above, it is humbly prayed that this Hon'ble Tribunal may graciously be pleased to:

- (I) **Direct** the respondents to pay pension and other pensionary benefits to the appellant, forthwith.
- (II) **Declare** the action and inaction of the respondents vide which they are not paying the pension to the appellant as illegal, unlawful, discriminatory and void ab initio.
- (III) **Declare** that the previous service of the appellant would be deemed to be regular for the purpose of pay and pension.
- (IV) **Any** other relief deemed appropriate in the circumstances, not specifically for, may also be given to the appellant.

Alze M
Appellant

Through

Dated: 18-01-2019

ASAD
ASAD ZEB KHAN
Advocate, High Court,
Peshawar

6

BEFORE KHYBER PAKHTUN KHWA, SERVICE TRIABUNAL,
PESHAWAR

Service Appeal No. _____ /2019

Afsar Khan _____ Appellant

Versus

Govt. of Khyber Pakhtun Khwa and others _____ Respondents

AFFIDAVIT

I, **Afsar Khan** S/O Aman Khan, Ex-Chowkidar, Govt. Primary School, (Female) Razar, Swabi (Afsar Khan Kotay, Sikandari, Tehsil Razar, District Swabi) do hereby solemnly affirm and declare upon oath that the contents of the titled service appeal are true and correct to the best of my knowledge & belief and nothing has been concealed or withheld there from.

Identified by:

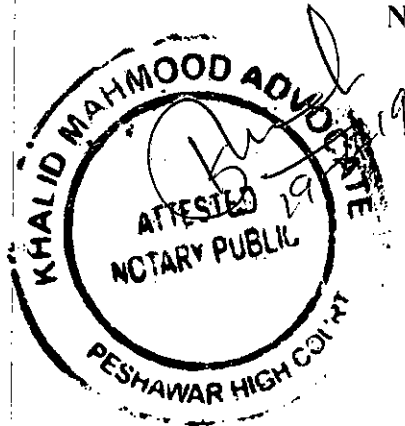
Asad Zeb Khan

ASAD ZEB KHAN
Advocate, High Court,
Peshawar.

Afsar Khan

Deponent

N.I.C No. 16202-105795-9



(7)

**BEFORE KHYBER PAKHTUN KHWA, SERVICE TRIABUNAL,
PESHAWAR**

Service Appeal No. _____ /2019

Afsar Khan _____ Appellant

Versus

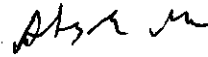
Govt. of Khyber Pakhtun Khwa and others _____ Respondents

ADDRESSES OF THE PARTIES

Afsar Khan S/O Aman Khan, Ex-Chowkidar, Govt. Primary School, (Female)
Razar. Swabi (Afsar Khan Kotay, Sikandari, Tehsil Razar, District Swabi)
_____ Appellant

VERSUS


1. **Govt. of Khyber Pakhtun Khwa** through Chief Secretary, Peshawar.
 2. Secretary Elementary and Secondary Education Department, Govt. of Khyber Pakhtun Khwa, Peshawar.
 3. Director, Elementary and Secondary Education, Peshawar.
 4. District Education Officer (Female) District Swabi.
 5. Sub-Divisional Education Officer (Female), Razar, District Swabi.
 6. Secretary Finance, Govt. of Khyber Pakhtun Khwa, Peshawar.
- _____ Respondents



Appellant

Through

Dated: 18-01-2019


ASAD ZEB KHAN
Advocate, High Court,
Peshawar.

OFFICE OF THE SUB-DIVISIONAL EDUCATION OFFICER (FEMALE) SWABI

APPOINTMENT ORDER

OFFICE ORDER.

Mr. Afsar Khan SON of Mr. Aman Khan of Village Mikandari Dagal is hereby appointed against the chowkidar post at the rate of Rs. 1200/- per month in the Govt. Girls Primary School Mikandari Dagal from the date of taking over charge in the interest of public service.

TERMS AND CONDITIONS

- 1;- His appointment has been made on contract basis for one year.
2;- Agreement for the appointment prescribed by the department is attached.
3;- He will govern with the terms and conditions mentioned in the agreement as under.
I. His appointment is temporary and liable to be terminated at any time without assigning any reason and notice.
II. In case of resignation he will give one month prior notice to the department & forfeit one month pay in lieu thereof to the Govt.
III. He is required to produce Health and age certificate from the D.H.Q. Swabi before taking over charge.
4;- He should not be allowed to take over charge if his age is less than 13 years or not more than 45 years at the time of appointment.
5;- He should produce National identity card for verification.
6;- He should also produce Domicile Certificate before taking over charge.
7;- He should be directed to take over charges within 15 days of the issue of this order, otherwise the appointment shall stand cancelled.
8;- Charge reports should be sent to all concerned in duplicate

(MISS HAROON JAN ABBASSI)
S.D.E.O (FEMALE) SWABI.

Endst.No. 3552-58 No. E/B-20/Class IV Apptt, dt. Swabi th. 4/11/94

- Copy of the above is forwarded for information and necessary action to the:
1;- Director of Primary Education NWFP, Hayat Abad, Peshawar.
2;- District Education Officer (Female) Primary Swabi.
3;- District Accounts Officer Swabi.
4;- Allaga ASDEC (Female) Local Office.
5;- Accountant Local Office.
6;- Candidate concerned.

Shaukat/

DISTRICT EDUCATION OFFICER (FEMALE) PRIMARY SWABI

Accepted

"B"

Note:- The entries on this page should be renewed or re-attested at least every five years and the Signature to lines 9 and 10 should be dated.

9

B

Name: Absar Khan

Race: Mughlan

Residence: Vill: SIKANDARI P.O: Dargu
Talsil & Distt: Swabi

4. Father's name and residence: Aman Khan AS above

5. Date of birth by Christian era as nearly as can be ascertained: 12-12-1957
(12nd December N.H 2 fifty seven)


6. Exact height by measurement: 5-4

7. Personal marks for identification: A scar on right eye brow

8. Left hand thumb and Finger impression of (Non-Gazetted) officer:


Little Finger:  Ring Finger: 

Middle Finger:  Fore Finger: 

Thumb: 

9. Signature of Government Servant: Absar Khan

10. Signature and designation of the Head of the office, or other Attesting Officer: Deputy District Officer (Female) Swabi

Attested


(Signature)

1	2	3	4	5	6	7	8	9
Name of Post	Whether substantive or officiating and whether permanent or temporary.	If officiating, state (i) substantive appointment, or (ii) whether service counts under Art. 371 C.S.R.	Pay in substantive post	Additional pay for officiating	Other emolument falling under the term "pay"	Date of Appointment	Signature of Government servant	Signature and of the head c (Other attes in attest column:
Fixed Champ post at PS. Sirkandani (Dargan)	Fixed	-	Rs. 1200/- PM			4/94	<i>(Signature)</i>	
BPS No: 1 K-12	Revised pay of 1-5-1994	due to award BPS-1.					<i>(Signature)</i>	
BPS No: 1 K-12	pay in BPS No: 1 on 1-5-1994	Rs. 920/-					<i>(Signature)</i>	
BPS No: 1 K-12	pay fixed in BPS No: 1 on 1-6-1994	Rs. 1245/-					<i>(Signature)</i>	
	Annual increment on 1-12-94	Rs. 1280/-					<i>(Signature)</i>	
	Annual increment on 1-12-95	Rs. 1315/-					<i>(Signature)</i>	
	Annual increment on 1-12-96	Rs. 1350/-					<i>(Signature)</i>	
	Annual increment on 1-12-97	Rs. 1385/-					<i>(Signature)</i>	
	Annual increment on 1-12-98	Rs. 1420/-					<i>(Signature)</i>	
	Annual increment on 1-12-99	Rs. 1455/-					<i>(Signature)</i>	
	Annual increment on 1-12-2000	Rs. 1490/-					<i>(Signature)</i>	
BPS No: 1 K-12	Annual increment on 1-12-2001	Rs. 1525/-					<i>(Signature)</i>	
	pay fixed in BPS No: 1 on 1-12-2001	Rs. 2310/-					<i>(Signature)</i>	
	Annual increment on 1-12-2002	Rs. 2365/-					<i>(Signature)</i>	
BPS No: 1 K-12	Annual increment on 1-12-2003	Rs. 2420/-					<i>(Signature)</i>	
	Annual increment on 1-12-2004	Rs. 2475/-					<i>(Signature)</i>	
	pay fixed in BPS-1 on 1-7-2005	Rs. 2865/-					<i>(Signature)</i>	
BPS No: 1 K-12	Annual increment on 1-12-2005	Rs. 2930/-					<i>(Signature)</i>	
	Annual increment on 1-12-2006	Rs. 2995/-					<i>(Signature)</i>	
	pay fixed in BPS-1 on 1-7-2007	Rs. 3450/-					<i>(Signature)</i>	
BPS No: 1 K-12	Annual increment on 1-12-2007	Rs. 3550/-					<i>(Signature)</i>	
	Annual increment on 1-12-2007	Rs. 3550/-					<i>(Signature)</i>	
			3525/- PM				<i>(Signature)</i>	
Adon	Adon					11/2/07	<i>(Signature)</i>	
BPS No: 1 K-12	Annual increment on 1-12-2007	Rs. 3550/-					<i>(Signature)</i>	
	Annual increment on 1-12-2007	Rs. 3550/-					<i>(Signature)</i>	
			4230/-				<i>(Signature)</i>	
			4230/-				<i>(Signature)</i>	
			4260/-			11/7/08	<i>(Signature)</i>	
			4335/-			11/10/08	<i>(Signature)</i>	

Affected
(Signature)

9 Signature and Designation of the head of the office or other attesting officer in attestation of columns 1 to 8	10 Date of termination or appointment	11 Reason of termination (such as promotion, transfer, dismissal, etc.)	12 Signature of the head of the office or other attesting officer	13 Leave		14 Signature of the head of the office or other attesting officer.	15 Reference to any recorded punishment or censure, or reward or praise of the Government Servant
				Nature and dura- tion of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debtible to another Government		
<i>[Signature]</i> Dy. Dist. Officer (Female) Swabi	30/08	Revised BPS	<i>[Signature]</i>	Appointed against fixed class in contract basis @ B 1200/- p.m fixed under D.B.O (F) p.m. Swabi Endst. No: 3552-58 dated 4/5/1994		<i>[Signature]</i> Deputy District Officer (Female) Swabi	
							Service verified with to 30/11/07 from Reg. Roll & other Record of this Office.
				Amended BPS No: 1 1st appointment without back benefit prior to 1-7-2008 with final Departmental Notification No: B-0-1/ 1-22/2007-08/F.D dated 29/1/2008 and EDO, E.P.S. order Swabi endst. No. 175-82 dated 9/1/2008		<i>[Signature]</i> Dy. Dist. Officer Elementary & Secy: Edu (Female) Swabi	
							30/11/07
<i>[Signature]</i> Dy. Dist. Officer Elementary & Secy: Edu (Female) Swabi	30/08	Revised BPS	<i>[Signature]</i>				
<i>[Signature]</i> Dy. Dist. Officer Elementary & Secy: Edu (Female) Swabi	30/11/08	1st/11/08 1st/11/08	<i>[Signature]</i>				
<i>[Signature]</i> Dy. Dist. Officer Elementary & Secy: Edu (Female) Swabi	11/09		<i>[Signature]</i>				

Attested
[Signature]

~~1007~~

1	2	3	4	5	6	7	8
Name of Post	Whether substitutive or officiating and whether permanent or temporary.	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R.	Pay in substantive post	Additional pay for officiating	Other emolument falling under the term "pay"	Date of Appointment	Signature of Government servant
Chauhan P.S. Sikanandar (Dugai) Distt. Sikanandar	B-1 - 2970-90-570						
- do -	- do -		R. 4410/- PM			1/12/09	M. K. Sharma
BPS No: 1	R. 4800-150-9300					1/12/10	M. K. Sharma
- do -	- do -		R. 7350/- PM			7/2011	M. K. Sharma
- do -	- do -		R. 7500/- PM			1/12/2011	M. K. Sharma
- do -	- do -		R. 7650/- PM			1/12/2011	M. K. Sharma
<p>Revised Entry w.e.f 1-7-2007 due to up-grade date basic pay scale.</p> <p>BPS No: 1 R. 2150-65-4100 pay in BPS No: 1 on 30-6-2007 R. 2995/- PM R.B.P. No: 1 R. 2475-75-4725 pay fixed in BPS-1 on 1-7-2007: -- R. 3450/- PM BPS No: 2 R. 2580-85-4825 pay fixed in BPS No: 2 on 1-7-2007: R. 3465/- PM one Spl. increment on 1-9-2007: - R. 3530/- PM Annual increment on 1-12-2007 R. 3635/- PM R.B.P. No: 2 R. 3035-100-6070 pay fixed in RBPS-2 on 1-7-2008: - R. 4335/- PM Annual Inc: on 1-12-2008: - R. 4435/- PM - do - on 1-12-2009: - R. 4535/- PM - do - on 1-12-2010: - R. 4635/- PM R.B.P.S. No: 2 R. 4900-170-10000 pay fixed in RBPS No: 2 on 1-7-2011 R. 7620/- PM - do - A/Inc. on 1-12-2011 R. 7790/- PM Annual increment on 1-12-2012 R. 7960/- PM</p>							
Sub P.S. Sikanandar (Dugai)	Regular		R. 7960/- PM			1/12/2012	M. K. Sharma

Signature of the holder of other post in all cases

Sub-Post Element

Sub-Post Element

Sub-Post Element

Sub-Post Element

AKH et al

No of servant	9 Signature and Designation of the head of the office or other attesting officer in attestation of columns 1 to 8	10 Date of termination or appointment	11 Reason of termination (such as promotion, transfer, dismissal, etc.)	12 Signature of the head of the office or other attesting officer	13 Leave		14 Signature of the head of the office or other attesting officer.	15 Reference to any recorded punishment or censure, or reward or praise of the Government Servant	
					Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government			
						Period			Government to Which debitable
14	[Signature]	30/11/2010	Abse	[Signature]					
15	[Signature]	30/6/2011	Abse	[Signature]					
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17	[Signature]	30/6/2011	Abse	[Signature]					
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1	2	3	4	5	6	7	8	9
Name of Post	Whether substantive or officiating and whether permanent or temporary.	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R.	Pay in substantive post	Additional pay for officiating	Other emolument falling under the term "pay"	Date of Appointment	Signature of Government servant	Signature and other particulars in effect column
Chow 9975 Sikanter Diyari			B. 8130/-	/		12/15/2013	Allegor	
De			A. 8300/-	/		12/2014	Allegor	
		BFS-2 (AC-6335-220-12935)						
De			B. 10735/-	/		12/2015	Allegor	
De			A. 10955/-	/		12/2015	Allegor	
		(Enrolled w.e.f 1-7-2014 (Premature Jm.) 1A-2 (4407-170-10000)						
			Pay on 1-7-14 8300/-					
			A/GM- 1-12-14 8470/-					
		(B-02 (6335-220-12935)						
			Pay on 1-7-15 10955/-			12/2015	Allegor	
			A/GM. 1-12-15 11175/-			12/2015	Allegor	
4235/8		Office of the Accountant General Khyber Pakhtun Khwa Peshawar						
7458/11		Pay fixed in the revised basic pay scales A. 1900/20 10000/-						
16739/15		Pay Band 2450/- w.e.f. 01-07-2011 B.S.P.S. 6352/220/- B Pay Band 10735/- 10100/-						
		Date of Next Increment is on 01/12/2015						
		Accounts Officer Pay Fixation Party Peshawar						

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9	10	11	12	13		14	15
				Leave			
				Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government		
Signature and Designation of the head of the office or other attesting officer in attestation of columns 1 to 8	Date of termination or appointment	Reason of termination (such as promotion, transfer, dismissal, etc.)	Signature of the head of the office or other attesting officer.	Period	Government to which debitable	Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure, or reward or praise of the Government Servant
DDA S-D-E-O (F) SWABI	12/2014	A/mc	DDA S-D-E-O (F) SWABI				
DDA	6/30/2015	P. Scull revised	DDA			DDA	
DDA	11/30/2015	A/mc	DDA				
DDA							4
					340		36000/-
					3		17/18
DDA S-D-E-O (F) SWABI	30/11/2015	A/mc	DDA S-D-E-O (F) SWABI				
DDA	02/12/2015	up-ended to B-04 (option)	DDA S-D-E-O (F) SWABI				

AA-03

12A

1	2	3	4	5	6	7	8
Name of Post	Whether substantive or officiating and whether permanent or temporary.	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R.	Pay in substantive post	Additional pay for officiating	Other emolument falling under the term "pay"	Date of Appointment	Signature of Government servant
Chief of CP 8105	(P.O.S. No - 4 / 6730 - 300 - 1573A)						
Sikandar Diga	pay on 02-12-2015 Premature PM 2		11230/- 300/-				
	Total pay on 2/12/15 =		11530/-			02/12/2015	
	(Revised B-04 / 8280 - 270 - 19380)						
-Do-	-Do-		Rs. 14200/-			17/2016	
-Do-	-Do-		Rs. 14570/-			12/2016	
	(Revised B-04 / 9900 - 440 - 23100)						
-Do-	-Do-		Rs. 17380/-			12/2016	
-Do-	-Do-		Rs. 17820/-			01/12/2017	

AMH/LD

nature of the he other in at col.

Signature of Government servant

17/2016

12/2016

12/2016

01/12/2017

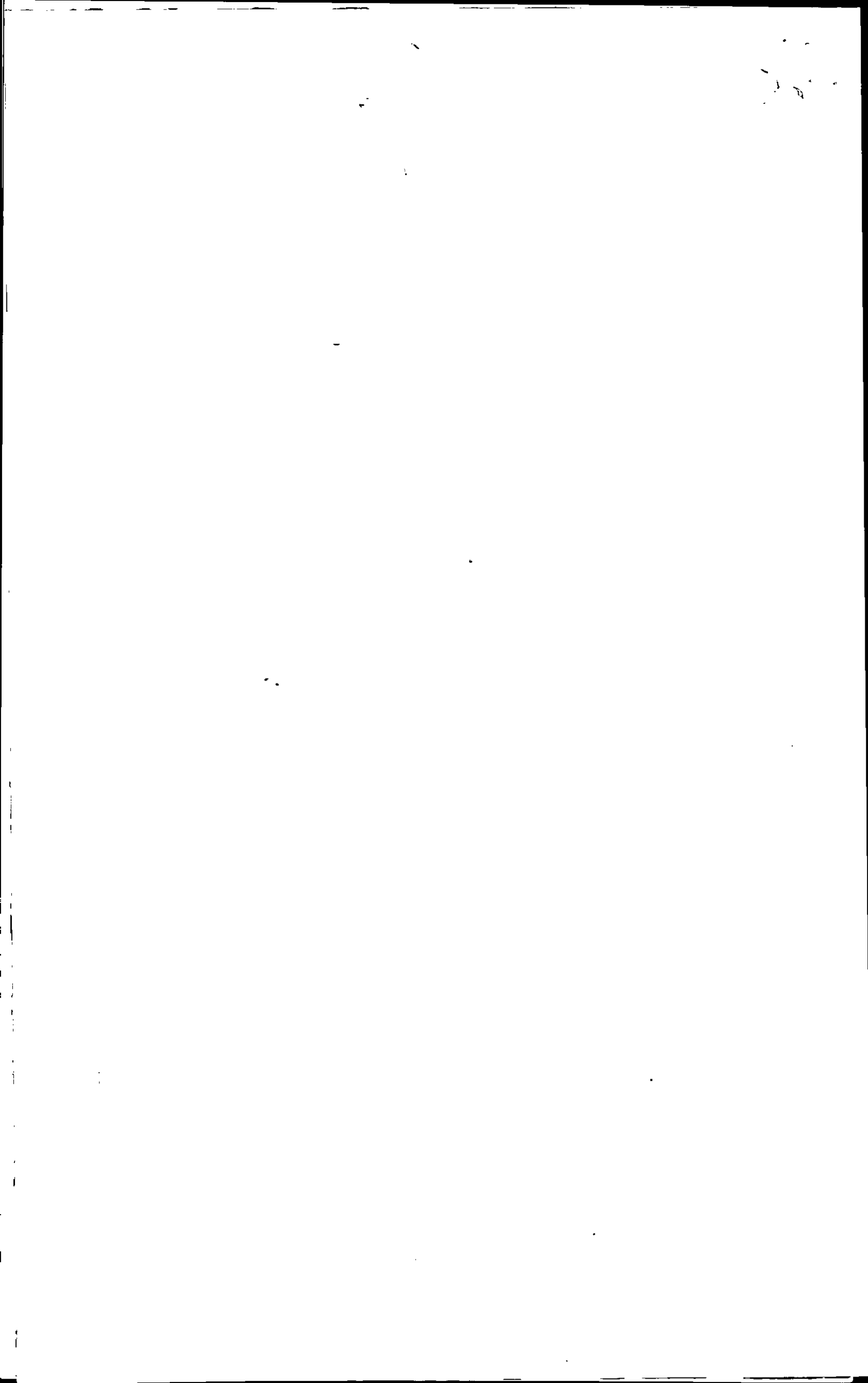
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8	9	10	11	12	13		14	15
Signature and Designation of the head of the office or other attesting officer in attestation of columns 1 to 8	Date of termination or appointment	Reason of termination (such as promotion, transfer, dismissal, etc.)	Signature of the head of the office or other attesting officer.	Leave		Signature of the head of the office or other attesting officer.	Reference to any recorded punishment or censure, or reward or praise of the Government Servant	
				Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitible to another Government			
					Period			Government to which debitible
Shahid (F) SDO	30/6/2016	Pay Scale Revision	Shahid		Up-Graded to BPS 10-01 vide Govt. Notification No. FD/50 (FR) 7-20/2015 dated 30/6/16			
Shahid	30/4/201	A/Snc	Shahid		(OPTION)			
Shahid	30/6/2017	Pay Scale Revision	Shahid		Mr. Ahsan Khan Chowdhury got pay re-fixation of pay in B-01 on 27/12/2015 on allowed/admissible basis FR-23			
Shahid	30/11/2017	A/Snc	Shahid		Under-Testing			
Shahid	Retired from Services	11/12/2017	Shahid		I, Mr. Ahsan Khan, Clerk hereby under take that if any over payment is made to me in connection with the proposed award of pay in a detected violation the same will be paid from my pay/ Pension/ Gratuity etc.			

Attested



To,

THE HON'BLE DISTRICT EDUCATION OFFICER
(FEMALE), DISTRICT SWABI,
Khyber Pakhtun Khwa, Peshawar.

Subject: PAYMENT OF PENSION AND PENSIONARY
BENEFITS.

Worthy Sir,

Most respectfully, the applicant submits as under:-

1. That the applicant was working as Chowkidar at Govt. Primary School (Female) Razar, District Swabi and got retired on 14-12-2017 after attaining age of superannuation.
2. That after retirement, the applicant duly submitted his papers/ documents for grant of pension and other pensionary benefits, but till date no response what-so-ever has been made by the department.
3. That it is an unalienable right of applicant that he should be awarded all his due financial benefits accrued to him from the service so rendered.
4. That the applicant was a permanent employee of the department since his initial date of appointment and under the law, he is entitled for all pensionary benefits.
5. That the applicant through this application most respectfully submitted that an appropriate order may very graciously be passed in respect of payment of pension and other pensionary benefits in favor of applicant.

The applicant will be highly obliged.

Dated: 18-01-2018

Applicant

Afsar Khan
Ex-Chowkidar
Govt. Primary School,
(Female) Razar, Swabi.

Attested
D



OFFICE OF THE SUB DIVISIONAL EDUCATION OFFICER
(FEMALE) RAZZAR DISTRICT SWABI

(18) (20) "D"

Ref: No. 71 File No. Retirement

Dated: 22/01/2018

To,

The District Education Officer
(Female) Swabi.

SUBJECT: PAYMENT OF PENSION AND PENSIONARY BENEFITS

Memo:

Reference to the subject cited above, Mr. Afsar Khan Chowkidar BPS-04 GGPS Sikandari Dagi is retired from service wef: 11-12-2017

His retirement sanction is sent to your, respective office letter No: 53 Dated: 19-01-2018 without pension benefits due to less qualifying service.

It is further added that he is retired from service wef: 11-12-2017 as Chowkidar BPS-04 GGPS Sikandari Dagi

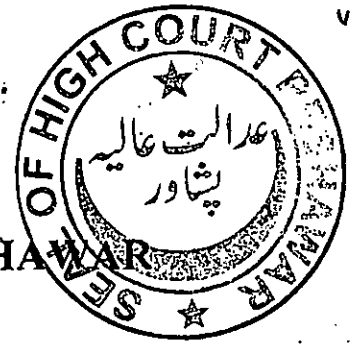
Encl:

- 1) Self-made application by the applicant attached.

(Signature)
 Sub Divisional Education Officer
 (Female) Razzar Swabi:
 SDEO (F) Primary
 Razzar (Swabi)
 7

o/copy

Attest
(Signature)



IN THE PESHAWAR HIGH COURT, PESHAWAR

Writ Petition No: 2497F /2018

**Afsar Khan S/O Aman Khan, Ex-Chowkidar, Govt. Primary School, (Female)
Razar, Swabi (Afsar Khan Kotay, Sikandari, Tehsil Razar, District Swabi)**
Petitioner

VERSUS

1. Govt. of Khyber Pakhtun Khwa through Chief Secretary, Peshawar.
2. Secretary Elementary and Secondary Education Department, Govt. of Khyber Pakhtun Khwa, Peshawar.
3. Director, Elementary and Secondary Education, Peshawar.
4. District Education Officer (Female) District Swabi.
5. Sub-Divisional Education Officer (Female), Razar, District Swabi.
6. Secretary Finance, Govt. of Khyber Pakhtun Khwa, Peshawar.

Respondents

WRIT PETITION

UNDER ARTICLE 199 OF THE CONSTITUTION OF THE
ISLAMIC REPUBLIC OF PAKISTAN 1973

Respectfully Sheweth:

The petitioner most humbly advances his grievance as under:-

ATTESTED
EXAMINER
Peshawar High Court
17 JAN 2019

FACTS:-

1. That the petitioner was appointed as Chowkidar in Education Department vide appointment order dated: 04-05-1994 on contract basis.
{True copy of appointment order is attached, marked as Annex-A}
2. That the petitioner was later on regularized into service with effect from his initial date of appointment vide office order date: 09-07-

FILED TODAY
Deputy Registrar

12 MAY 2018
WP2497-2018- Afsar Khan vs Govt KP Full PG 29

2008 in light of the finance department notification dated: 29-01-2008.

{True copy of service book is attached, marked as Annex-B}

3. That the petitioner got retired from his service on attaining age of superannuation on 11-12-2017.

4. That the petitioner, after retirement was waiting for his pensionary benefits and to this effect, he duly submitted his pension papers to the respondents. The respondents were trying to delay the matter on one pretext or the other, so the petitioner being compelled of the situation, was having no other remedy but to approach the respondent/ District Education Officer (Female) Swabi with an application for payment of pension and pensionary benefits vide application dated: 18-01-2018.

{True copy of application dated: 18-01-2018 is attached, marked as Annex-C}

5. That the respondent No. 5 duly send the application of the petitioner to the respondent No. 4 along with covering letter dated: 22-01-2018 but since then the petitioner is waiting for the reply of that very application. It would be most important to mention that the petitioner belongs to poor family and he is the supporter of his family and is waiting for his genuine and basic right of payment of pension.

{True copy of letter dated: 22-01-2018 is attached, marked as Annex-D}

6. That the petitioner feeling aggrieved and dissatisfied with the actions and inactions of the respondents, and having no other alternate remedy, seeks the indulgency of this Hon'ble Court on the following among other grounds.

FILED TODAY

Deputy Registrar
High Court

ATTESTED
EXAMINER

12 MAY 2018

17 JAN 2019

Grounds:

- A- **Because** the action and inaction of the respondents proclaims their own malafide.

- B- **Because** it has been settled by the Apex Court of Pakistan that whenever contract employment is converted into regular employment then the contract period would be counted towards service for the purpose of calculation of pension and other financial benefits, but the respondents in blatant violation of the directions of the Hon'ble Court are denying the basic right of the petitioner which is illegal, unlawful, unwarranted and void ab initio.

- C- **Because**, the action and inaction of the respondents vide which they are not paying the pensionary benefits to the petitioner is without any just and probable cause which act of the respondents is against law, arbitrary, discriminatory and violative of Article 4 & 2-A of the Constitution.

- D- **Because**, the impugned action and inaction of the respondents is based on malafide, hence the act of the respondents is arbitrary and capricious.

- E- **Because** the Petitioner is unnecessarily and unreasonably vexed, his previous service has not been counted towards his pension, so the action of the Respondents is against law, justice, equity and fair play. Mala fide is apparent from the record.

- F- **Because** the respondents while dealing with the pension case of present petitioner failed to appreciate the previous record of petitioner.

ATTESTED
 EXAMINER
 Peshawar High Court
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 Deputy Registrar
 12 MAY 2018

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G- Because the Hon'ble Superior Courts of Pakistan in plethora of judgments held that the pension must be given/paid to the employee within one month of his retirement but in the case of present petitioner, the petitioner has been made rolling stone, as he is running from pillar to post since last five months but to no avail.

H- Because Petitioner is fairly and squarely deserves to be paid full amount of pension.

I- Because action of the Respondents is highly discriminatory set against the current of Article 4 and 25 of the Constitution of the Islamic Republic of Pakistan, 1973. The Petitioner humbly demands to be treated in accordance with law as enshrined in the 1973 Constitution.

J- Because the act of the respondents is in contravention of the Article 25 & 27 of the Constitution.

K- Because the act of the respondents by which the petitioner has been deprived from his genuine and legal right is inconsistent with the fundamental rights guaranteed to the petitioner under the Constitution 1973.

L- Because the respondents have transgressed its powers and the petitioner has been denied the fundamental right of being treated equally.

M- Because the petitioner crave for leave to add further grounds at the time of their oral arguments before this Hon'ble Court highlighting further contraventions of the provisions of the constitution which adversely affected the petitioner.

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Deputy Registrar
12 MAY 2018

PRAYER ATTESTED
EXAMINER
Peshawar High Court
17 JAN 2019

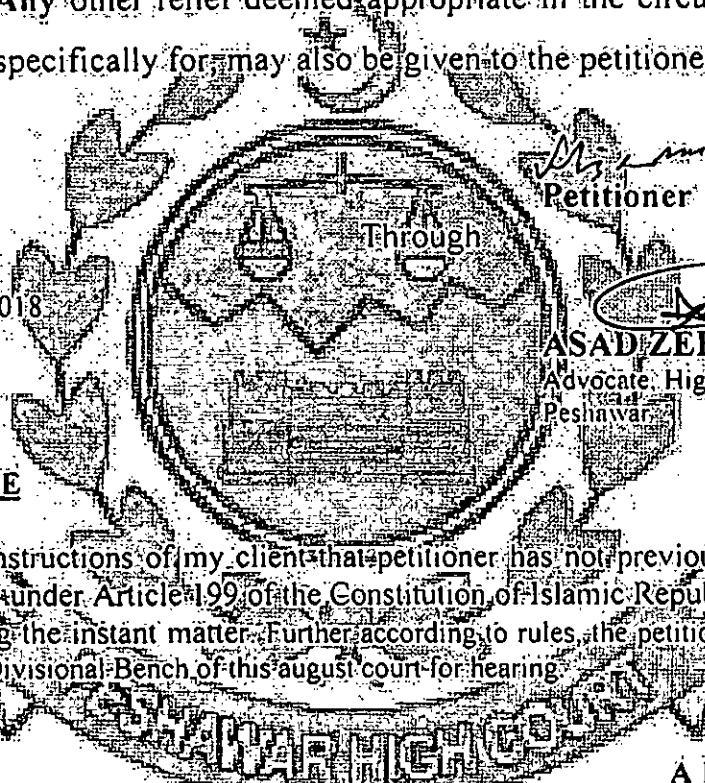
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In view of the above, it is humbly prayed that this Hon'ble Court may graciously be pleased to:

- (I) Direct the respondents to pay pension and other pensionary benefits to the petitioner, forthwith.
- (II) Declare the action and inaction of the respondents vide which they are not paying the pension to the petitioner as illegal, unlawful, discriminatory and void ab initio.
- (III) Any other relief deemed appropriate in the circumstances, not specifically for, may also be given to the petitioner.

Dated: 10-05-2018



Petitioner

ASAD ZEB KHAN
Advocate High Court,
Peshawar

CERTIFICATE

Certified on instructions of my client that petitioner has not previously moved this Hon'ble Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 regarding the instant matter. Further according to rules the petition may kindly be placed before Divisional Bench of this august court for hearing.

ADVOCATE

LIST OF BOOKS.

- 1. Constitution of Islamic Republic of Pakistan, 1973.
- 2. Case laws according to need.
- 3. Any other law books according to need.

ADVOCATE

FILED TODAY
Deputy Registrar
12 MAY 2018

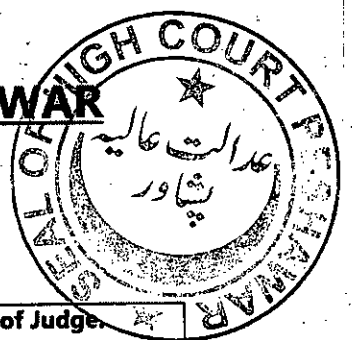
ATTESTED
EXAMINER
Peshawar High Court
17 JAN 2019

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F

PESHAWAR HIGH COURT, PESHAWAR

ORDER SHEET



Date of Order of Proceedings	Order of other Proceedings with Signature of Judge.
1	2
06.12.2018	<p>WP No.2497-P of 2018.</p> <p>Present: Mr. Asad Zeb Khan, Advocate for the petitioner.</p> <p>Mr. Rab Nawaz Khan, AAG for the respondents.</p> <p>*****</p> <p>IKRAMULLAH KHAN, J. - Through the instant petition, under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner has prayed for the following relief: -</p> <p>"(I) Direct the respondents to pay pension and other pensionary benefits to the petitioner, forthwith. (II) Declare the action and inaction of the respondents vide which they are not paying the pension to the petitioner as illegal, unlawful, discriminatory and void ab initio. (III) Any other relief deemed appropriate in the circumstances, not specifically asked for, may also be given to the petitioner".</p> <p>02. Apparently and admittedly petitioner is a retired civil servant, however, he had filed an Appeal to the concerned authority, which is still pending.</p> <p>03. So, this petition is disposed of with</p>

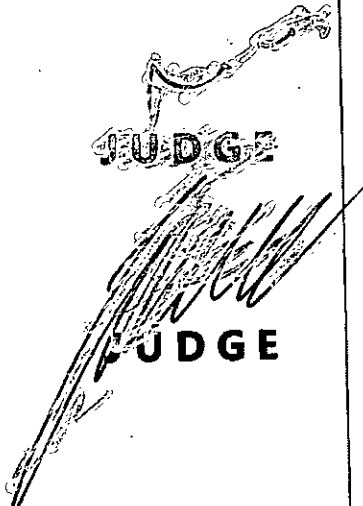
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ATTESTED
EXAMINER
Peshawar High Court
17 JAN 2019

directions to the departmental appellate authority to decide the appeal of the petitioner within a fortnight positively. However, the petitioner would be at liberty to invoke the jurisdiction of competent forum, if he is not satisfied by the decision of the departmental appellate authority.

ANNOUNCED.
06.12.2018.

JUDGE



JUDGE

CERTIFIED TO BE TRUE COPY
EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 8.7 of
The Qanun-e-Shahadat Order 1988
17 JAN 2019

No. 2033
Date of Presentation of Application 17/01/19
No of Pages 07-12
Copying Fee 1
Urgent Fee 1
Total RS 287
Date of Preparation of 17/01/19
Date of Delivery of Copy 17/01/19
Received By Majeed
Not

DB-Hon'ble Mr. Justice Ikramullah Khan & Hon'ble Justice Ishtiaq Ibrahim

Himayat

28

قیمت 50 روپے	1702	  
7	ایڈوکیٹ: اسد زیب خان ایڈووکیٹ بار کونسل ایسوسی ایشن نمبر: رابطہ نمبر: 034769800565	

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: جسٹس مسٹر محمد رفیق سومرو لٹریٹورل لٹریچر

مخائب:	دعویٰ:
Appellant	
	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:
باعت تحریر آنکہ	

اسد زیب خان بنام گورنمنٹ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ

آن مقام جسٹس مسٹر محمد رفیق سومرو کیلئے اسد زیب خان ایڈووکیٹ نے درخواست کی ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت 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 اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم:

(Signature)

Attached and Accepted by

مقام