

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Amended Appeal No. 1222/2023

Niaz Rashid Qureshi

versus

Secretary & Others

I N D E X

S. No	Documents	Annex	P. No.
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3.	Regularization order dated 08-06-15	"B"	6
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11.	Order dated 11-10-2023	"J"	28-29

Niaz Rashid
Appellant

Through

Kamran Khan Afridi
Kamran Khan Afridi
Advocate.
Haroon Mansion,
Bazaar, Peshawar.
Ph: 0300-5848545

Dated: 23-01-2024

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

Amended Appeal No.1222/2023

Niaz Rashid Qureshi
S/O Farzand Hussain Qureshi,
Flat No. 228/229, Mohallah
Qureshian, Akora Khattak,
Ex- Driver District Health Office,
Nowshera Appellant

**Khyber Pakhtukhwa
Service Tribunal**
Diary No. 10822
Dated 26/1/24

VERSUS

1. Secretary, Govt. of KP,
Finance Department,
Peshawar.
2. District Health Officer,
Nowshera.
3. District Health Accounts Officer,
Nowshera.
4. Director General, Health Services,
KP, Peshawar Respondents

**AMENDED APPEAL U/S 4 OF THE SERVICE TRIBUNAL
ACT, 1974 AGAINST OFFICE ORDER NO. SOH-VI / HD
DATED 14-12-2022 OF R. NO. 01 WHEREBY PAYMENT
OF PENSIONER BENEFITS OF THE RENDERED SERVICES
WERE REFUSED FOR NO LEGAL REASON.**

Respectfully Sheweth:

1. That appellant was appointed as Driver in District Health Office Peshawar on 15-02-1996 on temporary / fixed pay and his services were regularized on 08-06-2015 with effect from 01-07-2012.
(Copies as annex "A" and "B")

2. That on 13-08-2014, appellant was retired from service on attaining the age of superannuation vide office order dated 08-06-2015. (Copy as annex "C")
3. That it was incumbent upon the department to finalize pensionary benefits of appellant within a month but more than 05 years duration elapsed but his pension was not finalized till date.
4. That in similar circumstances the hon'ble court was pleased to direct respondents in similar like cases to finalize pension as per the judgment of the larger bench vide order dated 22-06-2017. (Copies as annex "D")
5. That on 30-03-2021, appellant filed Writ Petition for award of pensionary benefits for the rendered services which came up for hearing on 11-11-2021 and then the hon'ble court was pleased to treat the Writ Petition as departmental appeal for decision in the light of the judgments of the courts within one month positively. (Copies as annex "E" & "F")
6. That the judgment of the hon'ble court was remitted to respondents for compliance and then Health Department wrote letter to R. No. 01 to honor the order of the hon'ble court vide letter dated 14-12-2022. (Copy as annex "G")
7. That thereafter R. No. 01 regretted the claim of appellant for payment of pensionary benefits vide order dated 02-02-2023. (Copy as annex "H")
8. That on 12-04-2023, appellant submitted application before R. No. 01 to supply copy of order passed on the representation which was handed over to him on 27-04-2023 after expiry of Eid Holidays. (Copy as annex "I")
9. That appellant filed Appeal No. 1222/2023 before this hon'ble Tribunal which came up for hearing on 11-10-2023 and counsel for appellant requested for amendment of the appeal. (Copy as annex "J")

Hence this amended appeal, inter alia, on the following grounds:-


GROUND S :

- a. That appellant served the department till the date of superannuation with the best of his ability and without any complaint.
- b. That pension is a vested right and not a bounty, so the department was legally bound to do the needful within a month what to speak of lapse of 05/06 years.
- c. That when similar relief was extended by the hon'ble court, no justification, whatsoever, exist with the department to not pay pensionary benefits to appellant.
- d. That as per the judgments of the apex court, contract period be counted towards regularization for the purpose of pensionary benefits.
- e. That no reason of none paying of pensionary benefits to appellant but due to malice of the department, such delay was made in the matter.
- f. That the impugned order dated 02-02-2023, is not per the mandate of law as the department was legally bound to consider contract period half for pensionary benefits and in such a situation, appellant is entitled for award of pension.

It is, therefore, most humbly prayed that on acceptance of the amended appeal, order dated 02-02-2023 of R. No. 01 be set aside and the contract period be counted towards regularization for the purpose of pensionary benefits and appellant be awarded pensionary benefits of the rendered services hence forthwith, with such other relief as may be deem proper and just in circumstances of the case.


Appellant

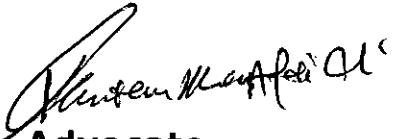
Through


Kamran Afridi
Advocate.

Dated 23-01-2024

CERTIFICATE:

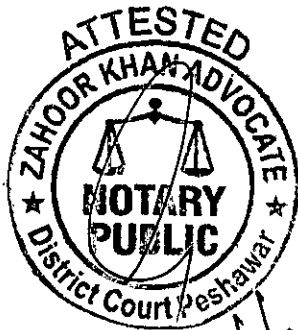
As per instructions of my client, Amended Appeal in Service Appeal No. 1222/23 has been filed by the appellant before this Hon'ble Tribunal.


Advocate

AFFIDAVIT

I, Niaz Rashid Qureshi (appellant), do hereby solemnly affirm and declare that contents of Service Appeal are true and correct to the best of my knowledge and belief


DEPONENT







BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S.A No. 1222 / 2023

Niaz Rashid Qureshi
S/O Farzand Hussain Qureshi,
Flat No. 228/229, Mohallah
Qureshian, Akora Khattak,
Ex-Driver District Health Office,
Nowshera Appellant

Khyber Pakhtunkhwa
Service Tribunal
Case No. 5454
Dated 19/5/2023

VERSUS

1. Secretary, Govt. of KP,
Finance Department,
Peshawar.
2. District Health Officer,
Nowshera.
3. District Health Accounts
Officer, Nowshera Respondents

**APPEAL U/S 4 OF THE SERVICE TRIBUNAL ACT, 1974
AGAINST OFFICER ORDER NO. SOH-VI / HD dated
14-12-2022 of R. No. 01 WHEREBY PAYMENT OF
PENSIONARY BENEFITS OF THE RENDERED
SERVICES WERE REFUSED FOR NO LEGAL REASON:**

Respectfully Sheweth:

1. That appellant was appointed as Driver in District Health Office Peshawar on 15-02-1996 on temporary / fixed pay and his services were regularized on 08-06-2015 with effect from 01-07-2012. (Copies as annex "A" & "B")

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

S.A #.1222/2023

11th Oct. 2023

Miraj Rashid Qureshi



1. Learned counsel for the appellant present.
2. He made a request for adjournment in order to make application for amendment in the appeal. He may make the said application which, if filed, will be decided on its own merits. Adjourned. To come up for amended appeal/preliminary hearing on 21.11.2023 before S.B. P.P given to the parties.

Mutazem Shah

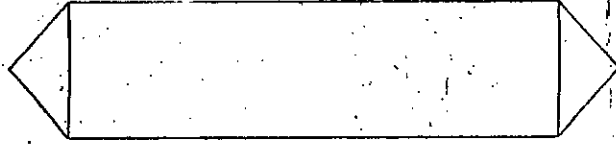
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(Kalim Arshad Khan)
Chairman

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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بعد التمسك - Services



2024ء پنجاب Appellate
 سید الفکر حسین بنام حکومت

مورخہ 20/11/24
 مقدمہ ایس اے
 دعویٰ
 جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دی مکمل کارروائی متعلقہ راجہ
 کیلئے کھار انصاف ایس اے
 آن مقام کیسے اور مقرر کر کے قرار کیا جاتا 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 پر حلف دیے جواب دی اور اقبال دعویٰ اور
 بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضعی دعویٰ اور درخواست ہر قسم کی تصدیق
 زرائیں پر دستخط کرانے 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۔ از بصورت ضرورت
 مقدمہ مذکور 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 بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے
 اور اس کا ساختہ پر داختم منظور قبول ہوگا دوران مقدمہ میں ہر خرچہ ہر جانہ التوائے مقدمہ کے
 سبب سے وہ ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں
 گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

سید الفکر حسین

Nisbah

2024

ماہ جنوری

الرقوم 24

الع د گ و الع

کے لئے منظور ہے۔

Attested

Accepted

Signature