

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 865/2019

Date of Institution ... 01.07.2019

Date of Decision ... 08.08.2019

Akbar Hussain son of Gul Rahman (Ex-Forester Office of the DFO Division Mardan) resident of Fazal Killi District Mardan. ... (Appellant).

VERSUS

The Secretary Forest Department, Khyber Pakhtunkhwa, Peshawar and two others. ... (Respondents)

Present.

Mr. Adam Khan,  
Advocate.

... For appellant

MR. HAMID FAROOQ DURRANI,

... CHAIRMAN

JUDGMENT

HAMID FAROOQ DURRANI, CHAIRMAN:-

1. The appellant is aggrieved from office order No. 69 dated 18.02.2019 by respondent No. 2, whereby, he was retired with effect from 02.03.2019 on reaching superannuation. It is the stance of appellant that his date of birth was wrongly noted in the service record as 03.03.1959 instead of 19.03.1962.
2. Learned counsel for the appellant heard and available record gone through.
3. In the departmental representation as well as instant appeal the appellant has relied solely on School Leaving Certificate issued by Head Master of Government Primary School Salim Khan District Mardan. In the certificate the date of birth of appellant is recorded as 19.03.1962. A close examination of the



certificate would suggest that the same appears to be a manipulated document because the date of its issuance i.e 27.01.2019 fell on a Sunday. The certificate, therefore, is not worthy of credence.

It is also duly noted in the departmental representation that the date of birth in National Identity Card of appellant was recorded as 03.03.1959. However, there is no mention of any attempt on the part of appellant in having the same rectified.

4. The impugned order suggests that on the date of retirement the appellant had put in more than 34 years of service. On the other hand, his representation for correction of date of birth was submitted on 20.02.2019 which was not entertainable at such belated stage in view of judgments reported as 2014-SCMR-1723 and 2012 PLC(C.S) 1412.

5. In view of the above, the appeal in hand is bereft of merits calling for its admission to regular hearing. The same is, therefore, dismissed in limine.

File be consigned to the record room.



(HAMID FAROOQ DURRANI)  
CHAIRMAN



ANNOUNCED  
08.08.2019

## Form- A

## FORM OF ORDER SHEET

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

Case No.- 865/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	01/07/2019	<p>The appeal of Mr. Akbar Hussain presented today by Mr. Muhammad Adam 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 01/07/19</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>08/08/2019</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 865 /2019.

Akbar Hussain VS The Secy; Forest Deptt; etc

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4.	Representation	"C"	6 --
5.	Postal receipt.	"D"	7 --
<del>6.</del>	<del>Vakalat Nama. k</del>	<del>---</del>	<del>8 -- 1</del>
6.	Application for condonation of delay.	---	8

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01.07.2019

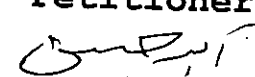
Dated: 21-08.2019 k

Monday


~~Total 89 k~~

9 k

Total - 9  
Petitioner

  
(Akbar Hussain)

Through:-

  
Muhammad Adam Khan  
Advocate Mardan

Before The Service Tribunal, Peshawar.

Appeal No. 865 /2019.

Akbar Hussain S/o Gul Rahman (Ex-Forester office of The D.F.O, Division Mardan) resident of Fazal Killi District Mardan. (Appellant).

Khyber Pakhtukhwa  
Service Tribunal

Diary No. 908

Dated 01-7-2019

Verses

1. The Secretary, Forest Department, K, P, Peshawar.
2. The Divisional Forest Officer, Mardan.
3. The Conservator, ~~of~~ Forest Southern Circle, Peshawar.

(Respondents)

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Appeal under Section-4 of The Service Tribunal Act, 1974 against the order of Respondent No.2 / The D.F.O, contained in Endorsement No.2230-34/E dated 18-02-2019, Whereby illegally considering the date of birth of Appellant as 03-03-1959 instead of 19-03-1962, he is ordered to have attained the age of superannuation (60 years) and retired w.e.f 02-03-2019 instead of 18-03-2022.

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Filed to-day

Registrar

17/7/19

1. That the Appellant, while employed as forester (BPs-10) under The D.F.O/Respondent No.2 was ordered to have attained the age of superannuation on 02-03-2019 and retired vide endorsement No.2230-34/E dated 18-02-2019.

(Copies Annexure- "A" & "B").

2. That the date of birth of Appellant being 19-03-1962, he preferred appeal before The

Conservator/Respondent No.3 on 28-02-2019,  
which is unresponded.

(Copies Annexure- "C" & "D").

The impugned order is illegal, unjustified and against the principles of natural justice, on the following amongst many other grounds:-

GROUNDS :-

- i. That the Respondents have not taken into consideration that the school leaving certificate is an authentic proof in respect of date of birth of a person.
- ii. That the impugned order is supposed to have been issued earlier to the retiring date.
- iii. That according to the date of birth of Appellant as contained in his school leaving certificate i.e 19-03-1962, the Appellant is due to attain the age of superannuation i.e, 60 years on 18-03-2022.
- iv. That the Appellant is entitled to the payment of monthly salaries and other service & financial benefits till 18-03-2022, considering him to be in service till then.
- v. That the Appellant seeks leave of this Honourable Tribunal to claim further grounds also.

It is prayed that on acceptance of this Appeal, the impugned order may be ordered to set-aside and the Appellant to be considered in service with monthly salaries and all relevant service and financial

benefits till 18-03-2022, the actual date of birth of the Appellant.

The costs of this Appeal may also be awarded in favour of Appellant against the Respondents.

Dated: -~~27-06-2019~~ <sup>h</sup>  
01.07.2019  
(Monday).

**Appellant**

*(Handwritten signature of Akbar Hussain)*

(Akbar Hussain)

Through:- *(Handwritten signature of Muhammad Adam Khan)*  
Muhammad Adam Khan  
Advocate, Mardan.

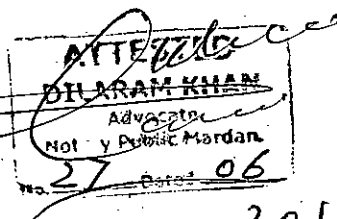
**AFFIDAVIT**

I, Akbar Hussain/The Appellant, do hereby state on solemn affirmation that the contents of this Appeal are true and correct to the best of my knowledge and belief.

**Deponent**

*(Handwritten signature of Akbar Hussain)*

(Akbar Hussain)



P/4

A 4

ANNEXURE

OFFICE ORDER No. 69 DATED MARDAN THE 18 10 /2019  
BY MR. TARIQ KHADIM DIVISIONAL FOREST OFFICER MARDAN FOREST  
DIVISION MARDAN.

ATTESTED

AD. FOREST OFFICER

Mr. Akbar Hussain Forester BPS-10 is hereby retired from Government service on superannuation basis after attaining the age of sixty year with effect from the afternoon of 02-03-2019 after rendering 34 years 10 months and 26 days qualifying service. He is also allowed encashment of Leave Salary equal to 365 days pay in lieu of Leave Preparatory to Retirement (LPR) as admissible to him vide Rules-20 of the NWP (now KPK) Civil Servant Leave Rules 1981 as amended vide Government of Khyber Pakhtunkhwa Finance Department Notification No.FT-SO(SR-V)5-54/81 Vol:III dated 15-04-1988 and No.SO (FR)FD-592/2005/Vol-5 dated 13-12-2012.

Sd/-  
DIVISIONAL FOREST OFFICER  
MARDAN FOREST DIVISION  
MARDAN

No. 2230-36 /E

Copy forwarded to:

1. The Conservator of Forests Southern Circle Peshawar for favour of information please.
2. The Director Budget & Accounts Environment Department Government of Khyber Pakhtunkhwa Peshawar for favour of information.
3. Divisional Accountant for information and necessary action.
4. ✓ Official concerned.
5. Personal File.

DIVISIONAL FOREST OFFICER  
MARDAN FOREST DIVISION  
MARDAN



~~1/8~~ 1/9  
**VAKALAT NAMA**

In the Court of Service Tribunal Peshawar

Appeal No. \_\_\_\_\_ of 20018

Akbar Hussain

(Petitioner)  
(Plaintiff)  
(Appellant)

**VERSUS**

The Secy; Forest Deptt etc;

(Respondent)  
(Defendant)

I/We Akbar Hussain the  
above noted Petitioner do

hereby appoint and constitute **Muhammad Adam Khan, Advocate Mardan** as  
Counsel in subject proceedings and authorize him to appear, plead etc., compromise, withdraw or  
refer to arbitration for me/us, as my/our Advocate in the above noted matter, without any liability  
for his default and with the authority to engage/appoint any other Advocate/Counsel at my/our  
behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated: 27.06.2018.

ADAM KHAN  
Advocate  
No. BC-69-0600  
B.A LLB Advocate  
High Court Mardan

(Signature of Client)

Accepted

B.A LLB Advocate  
High Court Mardan

P/8 (E)

Before The Service Tribunal, Peshawar.

Appeal No.                      /2014.

**Akbar Hussain**      V/S      **The Secy; Forest Deptt; etc;**

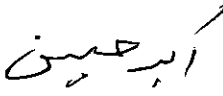
Application for the condonation of delay.

1. That the Appellant, miscalculated the point of limitation and considered the last date for institution of the captioned Appeal as 28.06.2019 instead of 27.06.2019.
2. That the Appellant, while travelling from Mardan to Peshawar, on 28-06-2018 for the institution of the captioned Appeal, arrived a bit late & being Friday this Honourable Tribunal had been closed.
3. That being Saturday & Sunday on 29<sup>th</sup> and 30<sup>th</sup> June, 2019. The captioned Appeal is being instituted today on 01-07-2019 i.e, late by four days, on account of the facts, as mentioned above.
4. That the valuable rights of the Appellant are involved in the matter.


It is prayed that period of four days, which lapsed in the institution of the captioned Appeal may be condoned in favour of Appellant.

Dated: 01.07.2019.

Appellant

  
(Akbar Hussain)

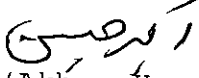
Through:


  
Muhammad Adam Khan  
Advocate Mardan

Affidavit

I Akbar Hussain / The Appellant do hereby state on Solmn affirmation that the contents of this Application, are true and correct to the best of my knowledge and belief.

Deponent

  
(Akbar Hussain)

  
**ATTESTED**  
**DILARAM KHAN**  
Advocate  
Notary Public Mardan  
No. 01/07/2019  
2019