BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR AT CAMP COURT SWAT

Service Appeal No. 1496/2019

Date of Institution ... 07.11.2019

Date of Decision ... 07.12.2021

Mst. Bacha Jehan widow of Habib Rahim R/o Village Barh, Maina Tehsil Batkhela, District Malakand. ... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Population Welfare Department at Peshawar and two others. ... (Respondents)

Mst. Bacha Jehan
Appellant ... In Person

Riaz Khan Paindakheil,
Assistant Advocate General ... For Respondents

ROZINA REHMAN ... MEMBER (JUDICIAL)
ATIQ-UR-REHMAN WAZIR ... MEMBER (EXECUTIVE)

JUDGMENT

ATIQ-UR-REHMAN WAZIR MEMBER (E):- Brief facts of the case are that the appellant was appointed as female helper/dai vide order dated 10-08-2005. As per contention of the respondents the appellant tendered resignation, which was accepted vide order dated 01-08-2018, but the appellant denied tendering such resignation. The appellant filed departmental appeal which was not responded, hence the instant service appeal with prayers that the order dated 01-08-2018 may be set aside and pension case of the appellant may be processed in accordance with law.

02. The appellant argued the case in person and has contended that the appellant being an old age and illiterate widow, having pensionable service at her credit, has been deprived of her pensionary benefits, which is illegal, ultra vires and against the established norms of justice, therefore, not tenable in the eye of law; that the appellant tried her best and attended office of respondent No. 3 time and again to be treated in accordance with law and her pension case be processed but it is strange that after superannuation the impugned order has been issued on the basis of so called resignation attributed to the appellant, but the appellant has never ever tendered any resignation from her service; that the impugned order has been passed by exercising the colorful jurisdiction by respondent No. 3, as no one can tender resignation from service after attaining the age of superannuation.

03. Learned Assistant Advocate General for the respondents has contended that the appellant submitted application for her resignation on 31-07-2018, which was accepted on 01-08-2018; that the term superannuation is not applicable to the appellant in the instant case as according to her Service Book, CNIC and other documents produced during her selection, the date of birth of the appellant is 1980, which means that she was 38 years of age at the time of her resignation; that the appellant has been treated in accordance with law and no illegality or irregularity committed on part of the respondents.

04. We have heard learned counsel for the parties and have perused the record.

05. Record reveals that the appellant was appointed as Dai vide order dated 10-08-2005. Nothing adverse is available on record regarding her performance in duty, but the respondents has placed on record an application dated 31-07-2018 on behalf of the appellant, who allegedly had requested for resignation from service which was accepted in one day, i.e. 01-08-2018, but the appellant strongly denied submission of such resignation. It also does not appeal to

prudent mind as to why would she prefer to resign from service having pensionable service at her credit, hence it can safely be inferred that the appellant is an illiterate lady, who was not aware of the official jargons, so the respondents did something wrong with the appellant for the reason best known to them. Placed on record is National Identity Card in respect of the appellant showing her date of birth as 01-01-1958, whereas the date of birth recorded at the time of her appointment is shown as 1980, but the fault does not lie on part of the appellant as she is illiterate and respondents appointed her after observing the codal formalities and the appellant served with respondents for almost 14 years and now at a stage, when she reached her age of superannuation, she was relieved by way of accepting her resignation vide order dated 01.08.2018, which in fact was not tendered by her. In a situation, if her date of birth is accepted as 01.01.1958, then her age of superannuation comes to 31.12.2017. It would be unjust on part of the respondents dealing their own employee in a manner to get rid of her in an unlawful manner.

06. In view of the foregoing discussion, the instant appeal is accepted. The order dated 01.08.2018 is converted into retirement of the appellant and the appellant stands entitled for pensionary benefits with direction to respondents to process her pension case and conclude it within a period of two months. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
07.12.2021

(ROZINA REHMAN)
MEMBER (J)
CAMP COURT SWAT

(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)
CAMP COURT SWAT

ORDER
07.12.2021

Appellant in person present. Mr. Riaz Khan Paindakheil, Assistant Advocate General for respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the instant appeal is accepted. The order dated 01.08.2018 is converted into retirement of the appellant and the appellant stands entitled for pensionary benefits with direction to respondents to process her pension case and conclude it within a period of two months. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
07.12.2021

(ROZINA REHMAN)
MEMBER (J)
CAMP COURT SWAT

(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)
CAMP COURT SWAT

05.10.2021 Nemo for appellant.

Asif Masood Ali Shah learned Deputy District Attorney alongwith Ahmad Yar Assistant Director for respondents present.

Preceding date was adjourned on a Reader's note, therefore, appellant/counsel be put on notice for 07.12.2021 for arguments, before D.B at Camp Court, Swat.

(Atiq ur Rehman Wazir)
Member(E)
Camp Court, Swat

(Rozina Rehman)
Member(J)
Camp Court, Swat

05.01.2021 Due to Covid-19, case is adjourned to 02.03.2021 for the same as before.

Reader

02.03.2021 Appellant in person present.

Noor Zaman Khan Khattak learned District Attorney alongwith Fazal Ghaffar S.C for respondents present.

Lawyers community is on strike, therefore, case is adjourned to 04/5/2021 for arguments before D.B at Camp Court, Swat.

(Mian Muhammad)
Member (E)
Camp Court, Swat

(Rozina Rehman)
Member (J)
Camp Court, Swat

Due to covid-19 therefore to come up for the same on 5/10/21

Reader

03.11.2020 Nemo for appellant.

Muhammad Jan learned Deputy District Attorney alongwith Ahmad Yar Khan AD for respondents present.

Lawyers are on general strike, therefore, case is adjourned to 05.01.2021 for arguments, before DB at Camp Court, Swat.

(Atiq ur Rehman Wazir)
Member (E)
Camp Court, Swat

(Rozina Rehman)
Member (J)
Camp Court, Swat

05.1.2021 Appellant in person present.

_____ .2020 Due to COVID19, the case is adjourned to 05/10/2020 for the same as before.

Reader

05.10.2020 Appellant himself alongwith her counsel are present. Mr. Usman Ghani, District Attorney alongwith representative of the department Mr. Ahmad Yar Khan, AD (Litigation) are also present.

It was during the course of addressing arguments that learned counsel for the appellant felt deficiency of certain documents for which he was allowed time to submit the same however, when the hearing was resumed in the appeal he requested for allowing him time to procure those documents as the same are not in his possession at the moment. Time is allowed. File to come up for needful and arguments on 03.11.2020 before D.B at Camp Court, Swat.

(Mian Muhammad)
Member (Executive)
Camp Court Swat

(Muhammad Jamal Khan)
Member (Judicial)
Camp Court Swat

01.06.2020 Due to COVID-19, the case is adjourned. To come up for the same on 05.08.2020, at camp court Swat.

Reader

03.02.2020 Clerk to counsel for the appellant present. Written reply not submitted. Fazal Ghaffar Senior Clerk, representative of the respondent department presen and seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on 02.03.2020 before S.B at Camp Court, Swat.

Member
Camp Court, Swat

02.03.2020 Appellant in person present. Mr. Usman Ghani learned District Attorney alongwith Sagheer Musharraf A.D present and submitted written reply/comments. Adjourn. To come up for rejoinder if any and arguments on 06.04.2020 before D.B at Camp Court Swat.

Member
Camp Court, Swat.

Due to corona virus tour to Camp Court Swat has been cancelled. To come up for the same on- 01-06-2020

05.12.2019 Learned counsel for the appellant present. Preliminary arguments heard.

The appellant has filed the present service appeal against the order dated 01.08.2018 whereby the resignation tendered by the appellant was accepted w.e.f 01.08.2018. The appellant has challenged the aforementioned order dated 01.08.2018 on the ground that she never ever tendered any resignation from her service and that after attaining the age of superannuation when she, in the month of June 2019, contacted the respondent department for her pension case, she was informed that her services have already been terminated w.e.f 01.08.2018.

Points urged need consideration. The present service appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to the respondents for reply/comments. To come up for written reply/comments on 07.01.2020 before S.B at Camp Court, Swat.

Appellant Deposited
Security & Process Fee
9/12/19

Member
Camp Court, Swat

07.01.2020 Junior counsel for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith Mr. Fazal Ghaffar, Senior Clerk for the respondents present. Written reply on behalf of respondents not submitted. Representative of the department requested for adjournment. Adjourned to 03.02.2020 for written reply/comments before S.B at Camp Court Swat.

(Muhammad Amin Khan Kundi)
Member
Camp Court Swat

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 1496/**2019**

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	07/11/2019	The appeal of Mst. Badshah Jehan presented today by Mr. Sabir Shah Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. REGISTRAR 7/11/19
2-		This case is entrusted to touring S. Bench at Swat for preliminary hearing to be put up there on 5-12-2019 CHAIRMAN

BEFORE KHYBER PAKTHUNKHWA SERVICES TRIBUNAL AT PESHAWAR

Service Appeal No. 1496 of 2019

Mst.Badshah Jehan ...Petitioner

-- VERSUS –

Govt: of KP and others. ...Respondents

INDEX

APPELLANT
Through Counsel

Sabir Shah & Falak Naz Khan
Advocates

Cell No:0300-5746744-03005729001
Off: S-8,9, 2nd Floor, Continental Plaza, Makanbagh, Mingora, District Swat

BEFORE KHYBER PAKTHUNKHWA SERVICES TRIBUNAL AT PESHAWAR

Service Appeal No. 1496 of 2019

Mst. Bacha Jehan widow of Habib Rahim R/o Village Barh, Maina Tehsil Batkhela, District Malakand .

...**Petitioner**

--VERSUS--

1. Government of Khyber Pakhtunkhwa through Secretary Population Welfare Department at Peshawar.
2. Director General, Population Welfare Department at Peshawar.
3. District Population Welfare Officer Malakand at Batkhela.

...**Respondents**

Service Appeal U/S 4 of Service Tribunal Act, 1974 against the order dated 01.08.2018 of Respondent no.3

Respectfully Sheweth;

1- That, the appellant is bonafide resident of Village Barh, Maina Tehsil Batkhela, District Malakand **(Copy of CNIC is annexed as annexure "A").**

2- That, the appellant was appointed as female helper/Dai, vide order dated 10.08.2005 **(Copy of order dated 10.08.2005 is annexed as annexure "B").**

3- That, the appellant continued her service to the satisfaction of her high ups and there is nothing in her negative account of her service.

4- That, the appellant after attaining the age of superannuation contacted the respondent no.3 for her pension case, whereby respondent no.3 replied that the office is processing her case of pension and she has to wait for completion of the process.

5- That, the appellant being an old age illiterate widow time and again approached the office of respondent no.3 for her pension case but on one pretext or the other the appellant's case of pension was not processed.

6- That, in the month of June 2019 when the appellant went to the office of respondent no.3 to inquire about her pension case, she was informed that her services have already been terminated with effect from 01.08.2018 and handed over the impugned order no.3(2)/admn-2018 dated 01.08.2018. **(Copy of the impugned order dated 01.08.2018 is annexed as annexure "C")**

7- That, the appellant filed departmental appeal to the worthy respondent no.2 after receipt of the impugned order but till date was not responded. **(Copy of the departmental appeal is annexed as annexure "D").**

8- That, the appellant having no other having no other adequate and efficacious remedies, but to approach this august tribunal in its appellate jurisdiction inter alia on the following grounds.

GROUNDS:

i. That, the appellant is an old age illiterate widow having pensionable service in her service account has been

deprived of her pensionary benefits vide impunged order dated 01.08.2018 which is illegal, ultra vires, ultra shariah and against the established norms of administration, therefore, is not tenable in the eyes of law.

ii. That, the appellant tried her best and went to the office of respondent no.3, time and again to be treated in accordance with law and her pension case be processed but it is strange enough that after superannuation the impugned order has been issued on the basis of so called resignation attributed to the appellant as the appellant has never ever tendered any resignation from her service.

iii. That, the impugned order is passed by exercising the colourful jurisdiction by respondent no.3, because no one can tender resignation from service after attaining the age of superannuation.

iv. Any other ground not specifically raised will be argued with the prior permission of this August tribunal.

It is therefore very humbly prayed that, on acceptance of this appeal, the impugned orders dated 01-08-2018 may please be declared null & void, upon the rights of the appellant, be set aside and the pension case of the appellant may kindly be processed in accordance with law.

Appellant
Badshah Jehan

Through Counsel

Sabir Shah & Falak Naz Khan
Advocates

BEFORE KHYBER PAKTHUNKHWA SERVICES TRIBUNAL AT PESHAWAR

Service Appeal No. _____ of 2019

Mst. Bacha Jehan widow of Habib Rahim R/o Village Barh, Maina Tehsil Batkhela, District Malakand . ...**Appellant**

--VERSUS--

Government of Khyber Pakhtunkhwa & others

...**Respondents**

Affidavit

It is hereby solemnly affirm and declares on oath that, all the contents of this **service appeal** are true and correct to the best of my knowledge and belief and nothing has been kept concealed intentionally or withheld from this august court.

Deponent

Badshah Jehan
CNIC No. 15402-1387889-0

Identified by:

Sabir Shah & Falak Naz Khan
Advocates
Cell No:0300-5746744-03005729001
Off: S-8,9, 2nd Floor, Continental Plaza, Makanbagh, Mingora, District Swat

BEFORE KHYBER PAKTHUNKHWA SERVICES TRIBUNAL AT PESHAWAR

Service Appeal No. _____ of 2019

Mst.Badshah Jehan ...**Petitioner**

-- VERSUS –

Govt: of KP and others. ...**Respondents**

MEMO OF ADDRESSES OF THE PARTIES

ADDRESS OF PETITIONERS:

Mst. Bacha Jehan widow of Habib Rahim R/o Village Barh, Maina Tehsil Batkhela, District Malakand .

CNIC No: 15402-1387889-0
Cell No: 03409888795

ADDRESSES OF RESPONDENTS:

1. Government of Khyber Pakhtunkhwa through Secretary Population Welfare Department at Peshawar.
2. Director General, Population Welfare Department at Peshawar.
3. District Population Welfare Officer Malakand at Batkhela.

Appellant

Through Counsel

Sabir Shah & Falak Naz Khan
Advocates

Cell No:0300-5746744-03005729001
Off: S-8,9, 2nd Floor, Continental Plaza, Makanbagh, Mingora, District Swat

BEFORE KHYBER PAKTHUNKHWA SERVICES TRIBUNAL AT PESHAWAR

Service Appeal No. _____ of 2019

Mst.Badshah Jehan ...Petitioner

-- VERSUS –

Govt: of KP and others. ...Respondents

Application for condonation of delay if any

Respectfully Sheweth;

The applicant submits as under:

1) That, the titled service appeal is submitted today, wherein no date has been fixed.
2) That, the appeal is well within time but the delay if any, has been occurred may kindly condoned for the reason that the appellant is an aged illiterate widow and the impugned order is patently illegal, therefore no limitation run against a void and illegal order.

In view of the above it is therefore humbly prayed that on acceptance of the instant application, the delay if any, make kindly me condoned.

Applicant/Appellant

Through Counsel

Sabir Shah & Falak Naz Khan
Advocates

Cell No:0300-5746744-03005729001
Off: S-8,9, 2nd Floor, Continental Plaza, Makanbagh, Mingora, District Swat

(8)

OFFICE OF THE
DISTRICT POPULATION WELFARE OFFICER
MALAKAND AT BATKHELA
****

F.No.3(2)/Admn-2005 Dated Batkhela, the 10 / 08 /2005

To

Bacha Jehan W/O Habib Rahim
Qoom Stanadar Village Brah
Tehsil Dargai , District Malakand

Subject:- OFFER OF APPOINTMENT AS FEMALE HELPER/DAI

Consequent upon on the recommendations of the Departmental Selection Committee , Malakand and with the approval of Competent Authority you are hereby offered appointment on Contract basis as per Government of NWFP Contract Policy 2002 vide Finance Department letter No.FD(SOSR-II)12-1/2002 Dated 26.10.2002 on the following terms and conditions:-

i- You will be paid the Salary equivalent to minimum of pay Scale BPS-1 (2150-65-4100) plus other allowance as admissible to Government servant from time to time.

ii- You will be entitled for annual increment after completion of one year of service falling on 1st December.

iii- You will be entitled for conveyance allowance , house rent allowance,leave TA/DA and medical allowance as per Government rules.

iv- The contract period will be for three years.The contract shall stand automatically terminated on the expiry of the initial contract period. In case of requirement of the job fresh contract would be executed.

v- This contract shall be liable to termination on two months notice or two months salary in lieu thereof.

vi- You will be provided equal opportunity of local training and self enhancement.

vii- You will be entitled to the Benevolent Fund facilities as admissible to Government servants (Rate to be prescribed by the Government).

viii- Contributory provident fund will be 05% of minimum of pay the employee and 05% contribution by the Govt:

ix- You will not contribute to G.P Fund and will not be entitled to pension and gratuity benefits.

x- You will not be entitled to any TA/DA to join duty.

xi- Your appointment will be subject to medical certificate of fitness.Govt:/Competent Authority will be competent to vary or add conditions without notice. The decision of the competent authority will be final and not challengeable before any court of law. The appointment will also subject to verification of your character antecedents by the quarter concerned.

xii- In case you accept the offer of appointment on the above terms and conditions you should report for duty to District Population Welfare Officer, Malakand.

xiii- This offer is valid for 30-days of its issue and shall stand cancel if no response is received or you fail to report for duty within due date.

(DR. HANIF ULLAH)
DISTRICT POPULATION WELFARE OFFICER
MALAKAND AT BATKHELA

Copy to:-

1- The Director General, Government of NWFP , Population Welfare Department Peshawar for information please.
2- The District Accounts Officer , Malakand for information and necessary action please.
3- Accounts Assistant local office for information and necessary action.
4- Personal File

DISTRICT POPULATION WELFARE OFFICER
MALAKAND AT BATKHELA

(9)

OFFICE OF THE
DISTRICT POPULATION WELFARE OFFICER
MALAKAND AT BATKHELA
****

F.No. 3(2)/Admn-2018 Dated Batkhela , the 01 /08/2018

OFFICE ORDER

The Resignation tendered by Mrs. Bacha Jehan Aya Family Welfare centre Kot submitted on 31-07-2018 is hereby accepted w e from 01-08-2018.

(Mr. Hussain Ahmad)
District Population welfare Offic er
Malakand at Batkhela.

Copy to:-

1- PS to DG, PWD, KPK Peshawar for infoormation please.
2- DAO Malakand for information please.
3- Incharge FWC Kot for information.
4- Official concerned for information.
5- P/File.

District Population welfare Offic er
Malakand at Batkhela

Attested

(10)

بحضور جناب ڈائریکٹر جنرل پاپولیشن ویلفیئر ڈیپارٹمنٹ خیبر پختونخوا انجام پشاور

عنوان: اپیل برخلاف حکم محررہ 8/2018 مجریہ 01 جس رو سے سائلہ کو نوکری سے نکال لیا ہے۔

جناب عالی!

درخواست ذیل عرض ہے

1. یہ کہ سائلہ بطور پیلیپر / ذاتی محکمہ بالا میں بعہدہ 10-08/03 کو بھرتی ہوئی

2. یہ کہ سائلہ نے بغیر کسی شکایت کے محکمہ میں اپنی فرائض سرانجام دی

3. یہ کہ سائلہ 60 سال تک پہنچنے کے بعد ڈسٹرکٹ ویلفیئر آفیسر کے پاس حاضر ہو کر پنشن کی درخواست کی جس پر آفیسر متعلقہ نے جواب دیا کہ آپ کا پنشن کا کیس under process ہے۔

4. یہ کہ سائلہ بار بار ضلعی آفیسر کے پاس پنشن کیس لیے گئی کیس کوئی شنوائی نہ ہوئی۔

5. یہ کہ آخری بار جون 2019 میں جب سائلہ اپنی پنشن کیس کیلئے دفتر حاضر ہوئی تو ضلعی آفیسر نے ایسے حکم زیر اپیل تھما کر کہا کہ تمھاری نوکری ختم

Attested

P.T.O

ایک سال پہلے ختم کی ہے۔

6۔ یہ کہ سائلہ ایک بوڑھی بیوہ خاتون ہے اور محکمہ کی تیرہ 13 سال خدمت کی ہے اور کوئی دوسرا ذریعہ معاش نہ ہے۔

اس لیے آپ جناب کے حضور اپیل دائر کر رہی ہے۔

لہٰذا استدعا ہے کہ سائلہ کو برخاستگی کی حکم کو منسوخ فرمایا جائے سائلہ کی پنشن کو حسب ضابطہ منظور کیا جائے

عریضہ

مسماۃ بادشاہ جہان بیوہ حبیب رحیم سورخہ 15-07-2019

T801240

Rupees 50 ۵۰ روپیہ

بیان حلفی

منکہ مسمی بادشاہ جہان بیوہ حبیب رحیم ساکن مینہ بڑہ تحصیل بٹ خیلہ ضلع مردان حلفاً بیان کرتی ہوں کہ میں سائلہ محکمہ بہبود آبادی ضلع مردان میں بحیثیت دائی بھرتی ہوا۔ اور تقریباً 13 سال چوکیدار تک بغیر کسی شکایت میں محکمہ ہذا میں اپنی ڈیوٹی دی۔ میں سائلہ کو میرا سروس رولز واجازت اور لاعلمی مورخہ سال 2018 کو ڈسٹرکٹ پاپولیشن آفیسر مردان نے Terminate اور دیگر نوکریوں سے فارغ کیا۔ سائل کو یہ علم نہ ہے کہ مجھے کوئی نوکری سے برطرف کیا گیا۔ اور میری جگہ غیر قانونی طور پر دوسری خاتون کو نوکری دی گئی ہے۔ جبکہ میری ساتھ سراسر ظلم وزیادتی ہے۔ اور غیر قانونی طور پر میری جگہ دوسری خاتون کو نوکری دی گئی ہے۔ + میرا کوئی بیوہ لاچار عورت ہوں سائل کو کوئی فنڈ پنشن وغیرہ بھی نہیں ملا۔ میرا کوئی ذریعہ معاش بھی نہ ہے۔ لاقانونیت سے میرے ذریعہ معاش میں بڑی رکاوٹ پیدا ہوئی ہے۔ میرے ساتھ انصاف کیا جائے اور مجھے نوکری پر بحال کیا جائے۔ اور جس نے مجھے غیر قانونی طور پر نکال دیا ہے انکے خلاف قانونی کارروائی عمل میں لائی جائے۔ 18/09/19

ATTESTED
Advocate
Date 18-09-2019
CIVIL COURTS DURGAI

من بادشاہ جہان بیوہ حبیب رحیم
15401-1387880

Attested

961
18/9/19

بیان حلفی بادشاہ جہان بیوہ حبیب رحیم ساکنہ منیہ بڑہ تحصیل بٹ خیلہ۔

خود بادشاہ جہان

AMAN ULLAH KHAN
Stamp Vender
Tehsil Courts Dargai
18/09/2019

BEFORE KHYBER PAKTHUNKHWA SERVICES TRIBUNAL AT PESHAWAR

(13)

WAKALAT NAMA

Service Appeal No. _____ of 2019

Titled Mst.Badshah Jehan -- **VERSUS** – Govt: of KP and others.

I **Mst. Bacha Jehan widow of Habib Rahim R/o Village Barh, Maina Tehsil Batkhela, District Malakand** do hereby appoint ***Sabir Shah & Falak Naz Khan & Jamal Shah Advocates*** in the above mentioned case, to do all or any of the following acts, deeds and things:-

1) To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard, and any other proceedings arising out of or connected therewith.

2) To sign and verify and file, petitions, appeals, affidavits and applications as may be deemed necessary or advisable by them for the conduct, prosecution or defense of the said case at all its stages.

3) To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of the proceedings.

4) To do any act necessary or ancillary to the above acts, deed and things.

5) To appoint any other counsel to do any/all of the acts, deeds and things.

6) I/we, shall appear in the court/tribunal on every date of hearing for assistance and if due to my/our non appearance, any adverse judgment/order/decree is passed, they will not be held responsible.

IN WITNESS whereof I/we have signed this Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this **04/11/2019.**

Signature of Executants:

Badshah Jehan
CNIC No. 15402-1387889-0

ACCEPTED BY:

SABIR SHAH,	**FALAK NAZ KHAN**	**JAMAL SHAH**
Advocate, High Court (s)	*Advocate*	*Advocate*

S - 8.9, Continental Plaza, Makanbagh, Mingora Swat Ph: 0946-723356

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, AT CAMP COURT SWAT.

In Service Appeal No.1496 of 2019

Mst.Bacha Jehan widow of Habib Rahim R/O Village Barh, Maina Tehsil Batkhela District Malakand ....**Appellant.**

Versus

1. Government of Khyber of Pakhtunkhawa through Secretary Population Welfare Department at Peshawar.
2. Director General, Population Welfare Department at Peshawar.
3. District Population Welfare Officer Malakand at Batkhela.

.....**Respondents**

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2	Affidavit		3
3	Copy of application for resignation dated 31-7-2018	A	4
4	Acceptance of resignation dated 01-08-2018	B	5
5	Copy of Service Book, CNIC and other records.	C,D &E	6-11

Deponent
Sagheer Musharraf
Assistant Director (Lit)

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, AT CAMP COURT SWAT.

in Service Appeal No.1496 of 2019

Mst.Bacha Jehan widow of Habib Rahim R/O Village Barh, Maina Tehsil Batkhela, District Malakand .....**Petitioner**

Versus

1. Governemtment of Khyber of Pakhtunkhawa through Secretary Population Welfare Department at Peshawar.
2. Director General, Population Welfare Department at Peshawar.
3. District Population Welfare Officer Malakand at Batkhela.

.....**Respondents**

PARA-WISE REPLY/COMMENTS ON BEHALF OF THE RESPONDENTS.

Respectfully Sheweth,

PRELIMINARY OBJECTIONS.

1. That the appellant has got not locus standi to file the instant appeal.
2. That the Tribunal has no jurisdiction to adjudicate the matter.
3. That the instant appeal is bad in the eye of law.
4. That the appeal is based on distortion of facts and is not maintainable in its present form.
5. That the appellant has come to the Tribunal with un-cleaned hands.
6. That the appellant has been estopped by his own conduct to file the appeal.
7. That the appellant has no cause of action or locus standi.

ON FACTS:

1. Correct.
2. Correct.
3. Pertains to record hence needs no comments.
4. Incorrect. Verbatim is based on distortions of facts. The appellant submitted an application for her resignation on 31.07.2018 **(Flag-A)** which was accepted on 01.08.2018 **(Flag-B).** Moreover the term superannuation is not applicable to the appellant in the instant case as according to the service book, National Identity card and other relevant record produced during her selection, the date of birth of Mst. Bacha

Jehan is 1980 which means that she was 38 years old at the date of her resignation **(Flag-C, D & E)**.

5. Incorrect. As explained in Para 4 above.
6. Incorrect. As explained in para 4 above.
7. No comments.
8. No comments.

On Ground:

1. Incorrect. All action taken according to Law, Rules and Regulation as explained in Para 4 of the facts above.
2. Incorrect. The appellant concealed the fact from this honorable Court that she submitted her resignation application which was accepted as explained in Para 4 of the facts above.
3. Incorrect. As explained ground 1 above.
4. The respondent may also be allowed to raise further additional grounds at the time of arguments.

PRAYER:-

Keeping in view the above, it is prayed that the instant appeal may kindly be dismissed with cost.

District
Population Welfare Officer
Malakand
Respondent No. 3

Director General,
Directorate General Population Welfare
Khyber Pakhtunkhwa Peshawar
Respondent No. 2

17.02.20
Secretary
Population Welfare Department
Government of Khyber Pakhtunkhwa
Respondent No. 1

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, AT CAMP COURT SWAT.

In Service Appeal No.1496 of 2019

Mst.Bacha Jehan widow of Habib Rahim R/O Village Barh, Maina Tehsil Batkhela, District Malakand ..... **Appellant.**

Versus

4. Government of Khyber of Pakhtunkhawa through Secretary Population Welfare Department at Peshawar.
5. Director General, Population Welfare Department at Peshawar.
6. District Population Welfare Officer Malakand at Batkhela.

.....**Respondents**

Counter Affidavit

I Mr. Sagheer Musharraf, Assistant Director (Litigation), Directorate General of Population Welfare Department do solemnly affirm and declare on oath that the contents of para-wise comments/reply on behalf of the respondents No 1,2 & 3 are true and correct to the best of my knowledge and available record and nothing has been concealed from this Honorable Tribunal.

Deponent
Sagheer Musharraf
Assistant Director (Lit)
CNIC 17301-1642774-9

24 / 19

بخدمت جناب ضلعی آفیسر محکمہ بہبود آبادی ضلع ملاکنڈ سٹیشن

درخواست برائے استعفیٰ

جناب عالی!

مودبانہ گزارش کیا جاتا ہے کہ گھریلو مسائل کی وجہ سے مزید نوکری نہیں کر سکتی۔

اسلئے میں مورخہ یکم اگست 2018 سے اپنی نوکری سے استعفیٰ دینا چاہتی ہوں۔

لہٰذا استدعا کیجاتی ہے کہ مورخہ 1 اگست 2018 کا استعفیٰ منظور کرکے مشکور فرمائیں۔

Admin/AA
Pl. Process
01/08

عارضہ

آپکا تابع فرمانہ

باچا جہان

باچا جہان والی فلاحی مرکز کوٹ۔

31/7/18

① گواہ

② گواہ

انچارج فلاحی مرکز

رحمان ورود

زبیدہ بی بی FWW

25 20

OFFICE OF THE
DISTRICT POPULATION WELFARE OFFICER
MALAKAND AT BATKHELA
****

F.No. 3(2)/Admn-2018

Dated Batkhela , the 01 /08/2018

OFFICE ORDER

The Resignation tendered by Mrs. Bacha Jehan Aya Family Welfare centre Kot submitted on 31-07-2018 is hereby accepted w e from 01-08-2018.

01/08

(Mr. Hussain Ahmad)
District Population welfare Offic er
Malakand at Batkhela.

Copy to:-

1- PS to DG, PWD, KPK Peshawar for infoormation please.
2- DAO Malakand for information please.
3- Incharge FWC Kot for information.
4- Official concerned for information.
5- P/File.

District Population welfare Offic er
Malakand at Batkhela.

(For use in Police Department only).

26/21

Heirs,

1.

2.

3.

Verification Roll No. dated received back

Left thumb-impression.

Qualification	Date	Qualifications	Date
English		First Arts	1- primary passed 2- one year Dai course completed
Pashtu		B. L. or B. A.	
Urdu		Pleadership examination	
Plan-drawing		Training School Final examination	
Finger print		Other qualifications—	
Drill instructing			
Court duties			
Reserve duties			

Distt. Population Welfare Officer Malakand at Batkhela

N.B.—Line to be drawn under the qualificatio possessed.

27

Note:—The entries in this [illegible] should be renewed or re-attested at least every five years and the Signature to lines 9 and 10 should be dated.

1. Name .. .. Mrs. Basha Jehan 27

2. Race .. .. Muslim / Pakistani

3. Residence .. Village Brah Malakand Agency

4. Father's name and residence .. Mr. Darwish

5. Date of birth by Christian era as nearly as can be ascertained .. 1980 According to NIC

6. Exact height by measurement .. 5'-5"

7. Personal marks for indentification ..

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

10. Signature and designation of the Head of the Office, or other Attesting Officer. ..

Distt. Population Welfare Officer
Malakand at Batkhela

1	2	3	4	5	6	7	8
Name of Post	Whether substantive or officiating and whether permanent or temporary	If Officiating, state (i) Substative 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 Serv
B-4 (6230-300-15730)	R/Contract	—	9430/-	—	—	1/12/2015	
B-4 (8280-370-19380)	—do—	pay Revised	11610/-	—	—	1/07/2016	
—do—	—do—	—	11980/-	—	—	01/12/2016.	
B-4 (9900-440-23100)	—do—	pay Revised	14300/-	—	—	01/07/2017	

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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 of appointment	Reason of termination (such as promotion, transfer, dismissal, etc.)	Signature of the head of the office or other attesting Officer	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: Period	Government to which debitable	Signature of the head of the office or other attesting officer	Reference to recorded punish or censure, or r or praise of Government Se
District Population Welfare Officer Malakand At Batkhela		pre-mature increment granted on upgradation	District Population Welfare Officer Malakand At Batkhela			I Mrs: Bacha Jehan Aya is here by undertaking / ~~exercise~~ my option that may pay may be fixed in BPS-8 after availing annual increment in 1/12/2015 on account of my upgradation BPS-4		
T/6 4/12 Pcl 9430/04 on 1/12/2015	DISTRICT ACCOUNTS OFFICER							
District Population Welfare Officer Mkd: at Batkhela		Pay Refixed.	Distt: Population Welfare Officer Mkd: at Batkhela				Service verified from 1-12-2015 to 30-11-2016.	
		Increment granted					District Population Welfare Officer	
		pay Refixed according to revise 2017.						
			District Population Welfare Officer Malakand at Batkhela					
			Resigned from Service w.e.f. from 01.08.2018 vide This office letter No. 3(2)/Admn-2018 Dated 01.8.018					
						Distt: Population Welfare Officer Malakand at Batkhela		

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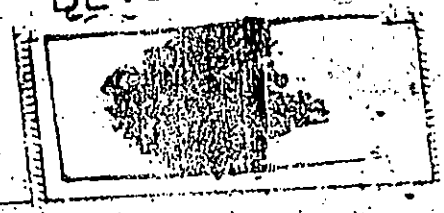
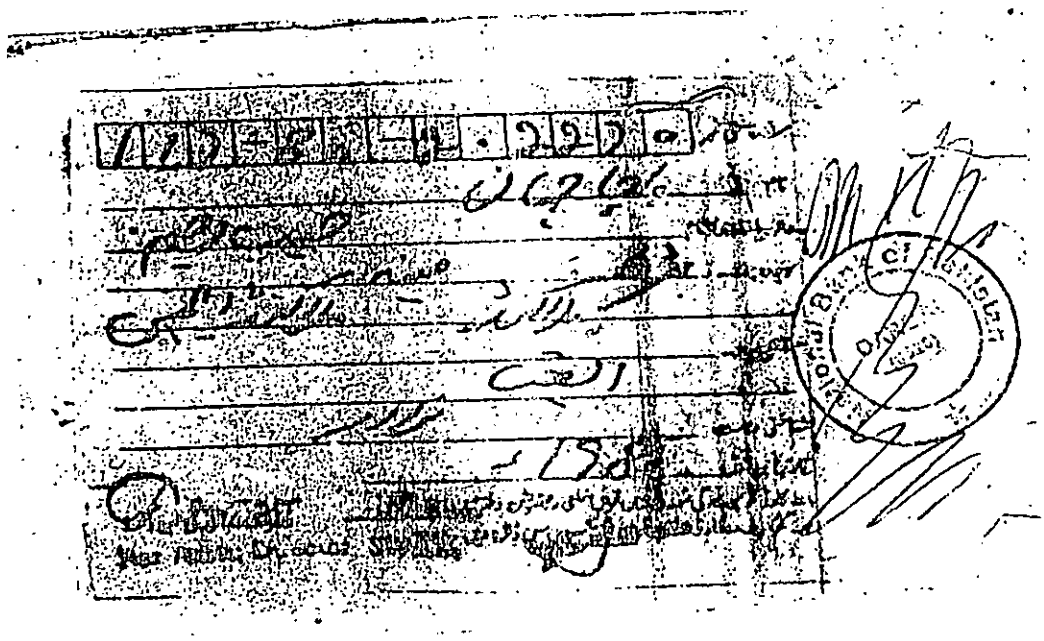
حکومت پاکستان

BE 715509





91

مدرسہ چھوڑنے کا سرٹیفکیٹ

نمبر 195

نام طالب علم: مسماۃ بادشاہ جہاں — نمبر فائل

تاریخ پیدائش: [illegible]

نمبر رجسٹر داخلہ: [illegible]

تصدیق کیا جاتا ہے کہ مسماۃ بادشاہ جہاں ولد [illegible] نے مدرسہ ہذا میں [illegible] تاریخ 25/10/1995 تک پڑھا اور مدرسہ کی کل واجبات جو اس کے ذمہ واجب الادا تھیں ادا کر دی ہیں اور اس کے تاریخ سند حاصل کرنے کے بالائے [illegible] میں پڑھتا تھا۔ اور اپنا نام خارج کرانے کی اجازت دی گئی۔ جماعت [illegible] میں [illegible] درجہ کے مطابق

ان طلباء کی صورت میں جو مدرسہ کے کسی حصہ کی مقررہ پڑھائی کے اختتام پر چھوڑیں: اس کا امتحان لیا گیا جس میں یہ پاس ہوا / فیل ہوا — اپریل / مئی

جماعت سپیشل [illegible] کے لئے

مضامین جن میں طالب علم فیل ہوا: [illegible]

ان طلباء کی صورت میں جو مدرسہ کے کسی حصہ کی مقررہ پڑھائی کے اختتام پر چھوڑیں: اس کا امتحان ترقی دینے کے لئے جو اسے دی گئی [illegible] دیکھا گیا تھا۔

جس کا وعدہ کیا گیا

پڑھ چھوڑیں

تصدیق کیا جاتا ہے کہ مندرجہ ذیل اندراج اس مدرسہ کے رجسٹروں اور ان سرٹیفکیٹوں کے مطابق صحیح ہیں جو اس نے ان مدرسوں سے حاصل کئے ہیں جہاں اس تعلیمی سال میں اس سے پہلے تعلیم پائی تھی۔

نمبر	مدرسہ	داخل ہونے کی تاریخ: سکول میں	داخل ہونے کی تاریخ: درجہ میں	داخل ہونے کی تاریخ: جماعت میں	خارج ہونے کی تاریخ	سال مدرسہ میں حاضری کی مدت: از	سال مدرسہ میں حاضری کی مدت: تا	حاضریاں جتنی سال میں ہوئی ان کی تعداد	حاضریاں جتنی سال میں ہوئی ان کی تعداد	رخصت جو سال مدرسہ میں لی گئی
1	G.H.S.	مدرسہ								
2	KOT					15/7	25/10	/	/	/
3	MIG				25/10/1995	16/7/1994	19/7/1995			
4	Agency		میزان							

تاریخ اجراء: 20/12/1995

صرف سکالرشپ پانے والوں کی صورت میں

سکالرشپ کی مقدار: /

کس تاریخ تک ادا کیا گیا: /

رخصت جو ہر ایک مدرسہ میں لے چکا ہے: /

کس سال عطا ہوا: /

کون دیتا ہے: /

تعلیم سکالرشپ 95

1 — 2 — 3

نوٹ: عام طور پر مدرسہ چھوڑنے کے سرٹیفکیٹ کے لئے درخواست مدرسہ سے علیحدہ ہونے کے ایک ماہ کے اندر ہونی چاہئے بصورت ان طلباء کے جنہوں نے مڈل سکول کا امتحان دیا ہو۔ ایک ماہ نتیجہ نکلنے کی تاریخ سے گنا جاتا ہے بعد گزرنے ایک ماہ کے مدرسہ چھوڑنے کے سرٹیفکیٹ کے لئے لوازمی آٹھ آنے فیس چارج ہوگی۔ اگر مدرسہ چھوڑنے کا سرٹیفکیٹ گم ہو جائے اور نئے سرٹیفکیٹ کے لئے درخواست دی جائے تو نئے سرٹیفکیٹ کیلئے دو روپے آٹھ آنے فیس کے چارج

تصدیق کیا جاتا ہے: جو جماعت — طالب علم — ولد — سے مدرسہ چھوڑنے کا سرٹیفکیٹ نمبر — ضلع — سکول — ضلع — سکول — کی جماعت میں داخل دیا گیا ہے

مورخہ: 19 — پڑھ کر چلا گیا — ہیڈ ماسٹر

اسکی تاریخ پیدائش

This Certificate issued to mrs. Badshah Jehan D/o Darwesh Gul is fake, not found in school record

MEDICAL OFFICER
Incharge
BASIC HEALTH UNIT
Trah Mkd: Agency

W/o A.W.R Wahab Gul

PRINCIPAL GHSS Kot

KHYBER PAKHTUNKWA
SERVICE TRIBUNAL, PESHAWAR

No. 2599 /ST

Dated: 27/12/2021

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

To

The District Population Welfare Officer,
Government of Khyber Pakhtulnkhwa,
Malakand at Batkhela.

Subject: **JUDGMENT IN APPEAL NO. 1496/2019 MST. BACHA JEHAN.**

I am directed to forward herewith a certified copy of Judgement dated 07.12.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR