

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 1389 /2019

SHAH HUSSAIN

V/S

EDUCATION DEPTT:

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APPELLANT

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 1389 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1477

Dated 22/10/2019

Mr. Shah Hussain, PST (BPS-12),
GPS Mothray Dada, Tirah, District Khyber **APPELLANT**

VERSUS

- 1- The Director E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director Education Merged Area Districts, Merged Area Secretariat, Warsak Road, Peshawar.
- 3- The District Education Officer, District Khyber.
- 4- The District Account Officer, District Khyber.

..... **RESPONDENTS**

APPEAL UNDER SECTION- 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 FOR FIXATION OF PAY w.e.f 31-03-2005 i.e. FROM THE DATE ON WHICH THE APPELLANT WAS APPOINTED TO THE POST OF PRIMARY SCHOOL TEACHER AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the appellant may kindly be allowed/granted pay fixation w.e.f 31-03-2005 i.e. from the date on which the appellant was appointed as Primary School Teacher by counting the previous contractual service of the appellant towards regular service. Any other remedy which this august Service Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:

- 1- That appellant is a law abiding citizen of Pakistan and permanently residing at Moda Khel Akhoon Talab, Tehsil Bara, District Khyber.
- 2- That appellant having the requisite qualification and eligibility was initially appointed vide order dated 31.03.2005 as PST (BPS-07 now BPS-12) on contract basis in the community school at district Khyber on the proper recommendation of Departmental Selection

Filed to-day
Registrar
22/10/19

Committee. (Copies of the Education Testimonials & appointment order are attached as annexure.....**A & B**).

- 3- That later on the appellant was appointed/adjusted against regular PST post at GPS Mothry Danda vide order dated 11/07/2009. That till then the appellant performing his duty quite efficiently and up to the entire satisfaction of his superiors. (Copies of the regular appointment order and service book are attached as annexure.....**C & D**).
- 4- That the appellant preferred Departmental Appeal to the respondent No.2 for fixation of his pay w.e.f. the date of his initial appointment i.e. 31.03.2005 in light of the judgment of this august Tribunal dated 2.7.2010 and subsequent order dated 16.7.2012 but the same has not been responded within the stipulated period. Copies of the Departmental appeal, judgment and order are attached as annexure **E, F & G**.
- 5- That appellant having no other remedy prefer the instant appeal on the following grounds amongst the others.

GROUND:

- A- That by not fixing the pay of the appellant w.e.f 31-3-2005 by the respondents is against the law, facts, norms of natural justice and materials on the record.
- B- That appellant has not been treated in accordance with law and rules by the respondent Department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the respondents acted in arbitrary and mala fide manner by not granting/ allowing pay fixation to the appellant w.e. from 31-3-2005.
- D- That similar nature cases has already been decided by this august Service Tribunal in service appeal No.318/2009, decided on 02.07.2010, whereby fixation of pay was granted from the date of initial appointment.
- E- That under Article 38(e) of the Constitution of Pakistan 1973 state is bound to reduce disparity in the income and earnings of the individuals including persons in the various services of Pakistan, thus not allowing pay fixation to the appellant is utter violation of the above mentioned Article.

- F- That under the principle of Consistency reported in 2009 SCMR page 1 and 1996 SCMR Page 1185 the appellant is fully entitled for the relief meted out to other employees of various departments.
- G- That the respondents acted in discriminatory manner by not counting the previous service of the appellant towards regular service/pension.
- H- That not counting the previous service of the appellant the respondents violated Rule 2.3 of the West Pakistan pension Rules, 1963.
- I- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

APPELLANT


SHAH HUSSAIN

THROUGH:


NOOR MOHAMMAD KHATTAK

SHAHZULLAH YOUSAFZAI

&


MIR ZAMAN SAFI
ADVOCATES

ATLANTA NATIONAL COLLEGE UNIVERSITY ISLAMABAD
PROVISIONAL RESULT CARD



Name: SHAH HUSSAIN
 Fathers's Name: GULAT KHAN
 Address: NEW BARA MARKET BLOCK D SHOP NO 6
 BARA KHYBER AGENCY S/KEEPER HAJI GUL
 Tehsil: KHYBER AGENCY
 District: KHYBER AGENCY
 has successfully completed

Roll No. T637932
 Registration No. 06AKR0062
 Final Semester AUT- 2006

PRIMARY TEACHING CERTIFICATE

A-4

The detail of passed courses are as under:

Semester	Course Code	Title of Course	Marks	
			Maximum	Obtained
SPR- 06	0613	PRINCIPLES OF EDUCATION	100	55
3PR- 06	0614	EDUCATIONAL PSYCHOLOGY	100	53
SPR- 06	0615	SCHOOL ORGANIZATION & MANAGEMENT	100	58
3PR- 06	0616	SCHOOL COMMUNITY & PRACTICAL ARTS	100	54
AUT- 06	0611	PRACTICAL WORKSHOP & TEACHING PRACTICE	100	81
AUT- 06	0617	TEACHING OF URDU	100	57
AUT- 06	0618	TEACHING OF MATHEMATICS	100	82
AUT- 06	0619	TEACHING OF SCIENCE & PHYSICAL EDUCATION	100	78
AUT- 06	0620	TEACHING OF ISLAMIAT & SOCIAL	100	66



CREDITS: 5

Total Marks / Obtained 900 / 584

Result Declared on SEPTEMBER 20, 2007

Percentage / Grade 65 B

Date of issue SEPTEMBER 25, 2007


 Controller of Examinations

Disclaimer:

This result card is issued provisionally, errors and omission excepted, as a notice only. Any entry appearing in this card does not itself confer any right or privilege on a candidate for the grant of certificate/degree/diploma, which will be issued under the rules/regulations on the basis of the

AGENCY EDUCATION BOARD, PUNJAB, INDIA
APPOINTMENT ORDER

B-5

Consequent upon the receipt of the order of the Hon'ble Member, Punjab Education Department, Government of Punjab, dated 15/03/2015, for the appointment of 16 teachers to the post of P.T. in B.S. Nat. T.P. fixed for the Government of Punjab in the Communal Schools in Ludhiana District & around Tehsil Shyok Agency with effect from the date of their taking over charge.

S.No	Name / Father Name	Qual.	Name of School	Remarks
01	Shahid D/O Iqbal Hassan	SSC	BCS Vidyalaya, Nihal Sahi	15/03/2015
02	Yahya Amir S/O Sardar Ali	SSC	BCS Nihal Sahi, Nihal Sahi	do
03	Farid Iqbal S/O Kabul Sher	SSC	BCS Nihal Sahi, Nihal Sahi	do
04	Ishan Gul S/O Nabat Khan	SSC	BCS Nihal Sahi, Nihal Sahi	do
05	Royub Khan S/O Bijli Khan	SSC	BCS Nihal Sahi, Nihal Sahi	do
06	Umar Ehsan S/O Ghulam Farid	SSC	do	do
07	Shah Iqbal S/O Ghulam Farid	SSC	BCS Nihal Sahi, Nihal Sahi	do
08	Auliz Khan S/O Mian Gul	SSC	do	do
09	Sardar Noor S/O Gul Muhammad	SSC	BCS Nihal Sahi, Nihal Sahi	do
10	Juna Noor S/O Gul Wali	SSC	do	do
11	Haji Muhammad S/O Aliyah Baz	SSC	BCS Nihal Sahi, Nihal Sahi	do
12	Siraj Akbar S/O Muqem Khan	SSC	BCS Nihal Sahi, Nihal Sahi	do
13	Yar Muhammad S/O Mirza Gul	SSC	BCS Barakat Shah	do
14	Kamran Khan S/O Shah Nawaz	SSC	BCS Nihal Sahi, Nihal Sahi	do
15	Shoukat Khan S/O Khan Bahadar	SSC	BCS Nihal Sahi, Nihal Sahi	do
16	Iqbal Khan S/O Usman Khan	SSC	BCS Nihal Sahi, Nihal Sahi	do

NOTES:

1. The employees shall serve the Government Communal Schools teachers till the date of assumption of charge.
2. They shall devote their whole time to the duties as commanded by the Government.
3. They shall report themselves to the Joint Officers of the Government.
4. They shall motivate the parents to send their children to school.
5. These posts will be not be transferable, however local teachers' preference may be adjusted upon regular transfer of cases to be decided.
6. They shall produce their original certificates from Agency School.
7. Their Original Education Certificates of 10th and 12th should be produced before having assumption of charge of the school.
8. If they fail to report within 15 days of the order, their names will be cancelled.
9. Changes reported by them shall be subject to the discretion of the Government.
10. They shall not be allowed to be engaged in any other business during their service.

Dated 31-03-2015

AGENCY EDUCATION OFFICER KHYBER AGENCY AT JAMRUD.
APPOINTMENT.

C. (6)

Consequent upon the selection of Departmental Selection Committee the following PTC Fresh (Male) local candidates of Tehsil Bara Khyber Agency are hereby appointed against the PTC posts on regular basis (Non pension-able) at the school noted against their name in BPS No (07) of the National Pay Scale@ Rs.(3530-190-9230) PM plus usual allowances as admissible under the Rules in the interest of public service.

S.No	Name/Father Name	Posted at	Remarks
01	Hafeezullah Amin S/o Zari Jan BCS Said Rasan Kili Khagur Teerah.	GPS AllaDhand Bara Khyber Agency.	Against vacant PTC post
02	Muhammad Ashfaq s/o Haji Sikandar Khan	GPS Kaga Ghara Bra Khyber Agency.	--do--
03	Najeebullah S/o Shahbaz Khan	GPS Zafar Kili Tirah Khyber Agency.	--do--
04	Shamsudin S/o Sultan Muhammad	GPS Choor Lakka Bara Khyber Agency.	--do--
05	Khan Sher S/o Sabz Ali Khan	GPS Tandil Bughdad Khel Bara Khyber Agency.	--do--
06	Musafar Shah S/o Khial Noor	GPS Sarkai Kamar Bara Khyber Agency.	--do--
07	Mukharif Shah S/o Abdul Wahab	GPS Ghari Kamar Khel Bara Khyber Agency.	--do--
08	Shah Hussain S/o Gulat Khan BCS Habib Shah Killi	GPS Mothray Dada Nika Aka Khel Teerah Khyber Agency.	--do--
09	Jalalud Din S/o Shamsu Din BCS Shakirullah Killi Sepah	GPS Hukam Khan Kili Bara Khyber Agency.	--do--
10	Shah Muhammad S/o Shah BCS Haji Muhammad Killi Teerah	GPS Benay Arbab Kili Bara Khyber Agency.	--do--
11	Arif Khan S/o Alam Khan	GPS Benay Arbab Kili Bara Khyber Agency.	--do--
12	Rehman Gul S/o Abdul Amin BCS Haji Rasool Din Killi Teerah	GPS Stori Khel Almas Kili Bara Khyber Agency.	--do--
13	Rahim Shah S/o Khial Badshah	GPS Stori Khel Almas Kili Bara Khyber Agency.	--do--
14	Misal Khan S/o Fazali Rahim	GPS Mothray Dada Nika Aka Khel Teerah Khyber Agency.	--do--
15	Javed Iqbal S/o Hazrat Gul BCS Koki Khel zioddin Mastak	GPS Sarkai Kamar Bara Khyber Agency.	--do--
16	Amanullah S/o Asmatullah	GPS Ghari Kamar Khel Bara Khyber Agency.	--do--
17	Muhammad Akber s/o Hanif Gul	GPS Khurmatang Bara Khyber Agency.	--do--

TERMS AND CONDITIONS.

1. The Appointee will take over charge on 1/9/2009 (after the reopening of schools after summer vacations) at their respective schools. Charge report should be submitted to all concerned.
2. The appointment of the candidates is made purely on temporary basis and is liable to terminate without assigning any notice.
3. If the candidate wishes to resign his post he will be give one month prior notice or his pay for one month will be forfeited in lieu thereof.
4. Their documents, Date of birth, NIC and Domicile certificate should be checked before handed over charge of the post and attested copies thereof may be kept on record of the school/office.
5. They should produce their Health and Age certificate from the Agency Surgeon concerned.

21/07/2009

21/07/2009

6. They may not be handed over charge if he is below 18-years and above 36-years.
7. If they fails to report their arrival within 15-days of the issue of this appointment order then it will be treated as cancelled.
8. No salary may be drawn before the verifications of all the testimonials from the quarter concerned.
9. If any technical legal flaw is pointed out, the appointment will stand as cancelled.
10. They will not be entitled for pension/commutation and G.P. Fund emoluments as per Govt: policy. However they are entitled for C P Fund.

(HASHIM KHAN)
AGENCY EDUCATION OFFICER
KHYBER AGENCY AT JAMRUD.

Endst: No 3360-3324/Estab:/C-6/Vol-III/Khy.

Dated Jamrud the 11/7/2009

Copy of the above is forwarded to the:-

1. Director of Education FATA (NWFP) Peshawar.
2. Political Agent Khyber Agency at Peshawar.
3. Agency Accounts Officer Khyber at Jamrud.
4. Agency Surgeon Khyber Agency at Landi Kotal
5. Principal/Headmasters concerned.
6. EMIS Computer cell local office.
7. Candidates concerned.

AGENCY EDUCATION OFFICER
KHYBER AGENCY AT JAMRUD

۱۱ - ۷ - ۲۰۰۹
گورنر کراچی

D-7


CM

(For use in Police Department only).

The entries should be

Heirs, Passed FA Examination from BISE Peshawar under Roll NO-83380 marks obtained 665 out of 1100-verified from authority concerned vide letter NO-839 dt: 19-7-2008.

Passed BA Exam: from Aligarh Muslim University of Peshawar under roll No. AF443205 marks obtained 699/1200 verified from authority concerned vide letter no-F 1-5/Ver/43932 dated 05 Nov. 2014.

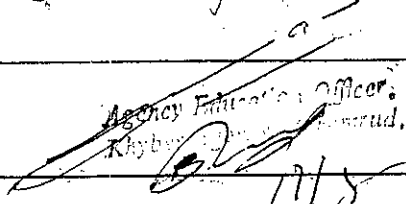
Verification Roll No.  dated _____ received back _____
 Agency Education Officer
 Khyber Agency at Jamrud,
 Agency Education Officer
 Khyber Agency at Jamrud

Name: _____
 Race: _____
 Residence _____

Father's _____
 Date of birth nearly as _____

Left Thumb Impression


Passed SSC Examination from BISE Peshawar under Roll NO-85196 marks obtained 521 out of 850.

English
 Pushto
 Urdu
 Agency Education Officer,
 Khyber Agency at Jamrud,


Qualification Date
 Qualification Date
 First Arts
 B.L. or B.A.
 Pleadershp examination

Exact height _____
 Personal _____
 Left hand of (Non-G) _____

Passed BIC Examination from AIOU Islamabad under Roll NO. 7637932 Session AOT-2006 marks obtained 584 out of 900 verified from authority concerned vide letter NO-1396 dt-20/9/2007.

Drill Instructing
 Court Duties
 Reserve Duties
 Agency Education Officer
 Khyber Agency at Jamrud,


Training School Final examination
 Other qualifications—



Little Finger _____
 Middle Finger _____
 Thumb: _____
 Signature _____
 Signature Head of the Officer _____

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

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

8

Name: Shah Hussain

Race: Aka Wala

Residence: Village Aka Wala Mada Wala Tehsil Bara



Father's name and residence: Gulab Khan
as above



Date of birth by Christian era as nearly as can be ascertained: 3-4-1987
3rd April N-H Eighty Seven

Exact height by measurement: 5-2


Personal marks for identification: Black male face (lt)

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

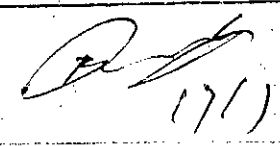
Little Finger:  Ring Finger: 

Middle Finger:  Fore Finger: 

Thumb: 

Signature of Government Servant: Shah Hussain 

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


(171)

W

1	2	3	4	5	6	7	8	9
Name of post	Whether substan- tive 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 Appoin'tment	Signature of Government Servant	Signature and Designa- tion of the head of the offi- ce or other attesting officer in attestation of columns 1 to 8
PTZ Post at B.S. Khan Kan Khan Mandali			Rs = 2220/PM Fixed			8 ⁴ / ₀₅		
		B = 7	Rs = 2555-1410-6755					Agency F Khyber
			Rs = 2555/PM			1 ⁷ / ₀₅		
			Rs = 2555/PM			1 ¹² / ₀₅		
			Rs = 2555/PM			1 ¹² / ₀₆		
			Rs = 2940/-			1 ⁷ / ₀₇		A.E.O. Khyber
			Rs = 2940/-			1 ¹² / ₀₇		A.E.O. Khyber
			Rs = 3530/PM			1 ⁷ / ₀₈		A.E.O. Khyber
			Rs = 3530/PM			1 ¹² / ₀₈		A.E.O. Khyber
			Rs =					

9

10	11	12	13		14
			Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is payable to another Government	
Signature of Head of the Office Installation of	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 applicable
	30/6/05	R/Pay	<i>[Signature]</i>	Appointed against PTC post in PPS No- 70/RS-2220/PM Ford plus usual allowances as admissible under the rules for the project period on contract basis for three years viz AFO vide PPS No- 870-73 dt 31-3-05	
Agency Education Officer, Khyber Agency at Jamrud	30/4/05	A/MC NIL	<i>[Signature]</i>		
	30/11/06	A/MC NIL	<i>[Signature]</i>		
	30/6/07	R/Pay	<i>[Signature]</i>	SERVICES VERIFIED From 8-4-05 to 30-11-06 From the Pay Bill & other record of this office.	
	30/11/07	A/MC NIL	<i>[Signature]</i>	Agency Education Officer, Khyber Agency at Jamrud	
	30/6/08	R/Pay	<i>[Signature]</i>	SERVICES VERIFIED From 1-12-06 to 31-7-09 From the Pay Bill & other record of this Office.	
	30/11/08	A/MC NIL	<i>[Signature]</i>	Agency Education Officer, Khyber Agency at Jamrud	
	31/09	Appointed against Regular PTC Post	<i>[Signature]</i>	Appointed/adjusted against Regular PTC post in PPS No- 70/RS-3539/PM vide AFO PPS Order No. 3300-3324 dt 11-7-2009	

Agency Education Officer
Khyber Agency at Jamrud.

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 Designation of the head of the office or other attesting officer in attestation of columns 1 to 8
P.Te post		BPS No. 7 (RS			3530-190-9230)			
BPS Jirband			Rs. 3530/-			1 ⁸ / ₂₀₀₉ sl 5		A.E.O. Khyber
do			Rs. 3720/-			1 ¹² / ₂₀₀₉ sl 5		A.E.O. Khyber
do								A.E.O. Khyber
do		BPS No. 9 (RS			3820-230-10720)			
do			Rs. 3820/-			1 ⁸ / ₂₀₀₉ sl 5		A.E.O. Khyber
do			Rs. 3820/-			1 ¹² / ₂₀₀₉ sl 5		A.E.O. Khyber
do			Rs. 4050/-			1 ¹² / ₂₀₁₀ sl 5		A.E.O. Khyber
do		Revised BPS No. 9 (RS			6200-330-17600)			
do			Rs. 6580/- P.M			1 ⁷ / ₂₀₁₁ sl 5		A.E.O. Khyber
do			Rs. 6960/-			1 ¹² / ₂₀₁₁ sl 5		A.E.O. Khyber
do			Rs. 7340/-			1 ¹² / ₂₀₁₂ sl 5		A.E.O. Khyber
do			Rs. 7720/-			1 ¹² / ₂₀₁₃ sl 5		A.E.O. Khyber
do			Rs. 8100/- P.M			1 ¹² / ₂₀₁₄ sl 5		A.E.O. Khyber

8	9	10	11	12	13		14	15
					Leave			
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.	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 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
					Period	Government to which debitable		
	30/11/2009	mer.			Pay not allowed during 18 days & same 1 day for 2009			
	1/8/2009	Allowed B-9-PA 2nd Div.			19/09/09			
	30/11/2009	mer. NIL			Allowed BPS No. 9 on passing F.A. Examination in 2nd division on 1-8-2009. vide AEO Regd. Endst. No. 7193-95 dt 18/12/09			
	30/11/2010	B/mer.			Agency Education Officer Khyber Agency at Jamrud.			
	30/6/2011	R/Pay.			SERVICES VERIFIED From 1-8-09 TO 30-11-2010 From the Pay Bill & other records of this Office.			
	30/11/2011	mer.			Agency Education Officer Khyber Agency at Jamrud.			
	30/11/2012	mer.			SERVICES VERIFIED From 1-12-2011 TO 30-11-2012 From the Pay Bill & other records of this Office.			
	30/11/2013	A/mer.			Agency Education Officer Khyber Agency at Jamrud.			
	30/11/2014	A/mer.			SERVICES VERIFIED From 1-12-2012 TO 30-11-2013 From the Pay Bill & other records of this Office.			
					Agency Education Officer Khyber Agency at Jamrud.			

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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 Designation of the head of the office or other attesting officer in attestation of columns 1 to 8
		Revised BPS 9 (2015-495-22865)					sls	A.E.O. Khyber
		Rs 20490/- pm				1/15	sls	A.E.O. Khyber
		Rs 10985/- pm				1/15	sls	A.E.O. Khyber
		Revised BPS 9 (9260-610-28160)					sls	A.E.O. Khyber
		Rs 13520/- pm				1/18	sls	A.E.O. Khyber
		Upgrade BPS 12 (7000-500-22000)						A.E.O. Khyber
		Rs 7500/-				1/12	sls	A.E.O. Khyber
		pre-manual inc Rs 8000/-				2/12	sls	A.E.O. Khyber
		Rs 8500/-				1/13	sls	A.E.O. Khyber
		Rs 9000/-				1/14	sls	A.E.O. Khyber

P.T.O

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8 Nature of Government Servant	9 Signature and Designation of head of the office or 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 incurred punishment or bonus or reward or pension 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		
	A.E.O. Khyber.	30/6/15	R/Pay					
	A.E.O. Khyber.	30/11/15	A/Inc					
	A.E.O. Khyber.	30/6/16	R/Pay	A.E.O. Khyber.				
	A.E.O. Khyber.	1/12/12	upgrade BPS 12					
	A.E.O. Khyber.	2/12/12	pre-mature Inc					
	A.E.O. Khyber.	30/11/13	A/Inc					
	A.E.O. Khyber.	30/11/14	A/Inc					
	A.E.O. Khyber.	30/6/2015	revisior	A.E.O. Khyber.				

Service received
From 12/2013 to 30-11-2014 from
the pay bills and other record of this office

Asst: Agency Education Officer
Khyber Agency, at Jamrud

UNDER TAKING
I, J. Ghani Khan do hereby give an undertaking to the effect that if any over payment is made on the basis of award of BPS 12, I shall be responsible for its recovery and give my Designation: 12

ATTESTED

1 Name of post	2 Whether substantive or officiating and whether permanent or temporary.	3 If officiating state (i) substantive appointment (ii) whether service counts for pension under Art. 371 C.S.R.	4 Pay of substantive post	5 Additional Pay for officiating	6 Other emolument falling under the term 'Pay'	7 Date of Appointment	8 Signature of Government Servant	9 Signature and Designation of the head of the office or other attesting officer in attestation of columns 1 to 8
			BPS 12 (9055-650-28935) sl 3					
			Rs 11655/-			17/15	sl	A.E.O. Khyber
			Rs 12305/-			113/15	sl	A.E.O. Khyber
			BPS 12 (11140-800-35740)					
			Rs 15740/-			17/16	sl	A.E.O. Khyber
			Rs 15940/-			12/16	sl	A.E.O. Khyber
			Revised BPS No 12 (13320-960-42140)					
			Rs 19080/-			17/2017	sl	A.E.O. Khyber
			Rs 20040/-			12/2018	sl	A.E.O. Khyber
			Rs 21000/-			12/2018	sl	A.E.O. Khyber

8 Signature of Government 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
		30/6/15	R1 pay						
	A.E.O. Khyber.	30/11/15	R1 me						
	A.E.O. Khyber.	30/6/16	R1 pay						
	A.E.O. Khyber.	30/11/16							
		30/6/17	TR No - 1247 dt 1/11/16 upgraded to BAS 12 w.e - 7/12/16 to 30/9/16						
		30/11/17	PSS = 103338/2						
		30/11/18							

Signature of Government Servant
Khyber Agency of Servant

To

E - (13)

The Director, Education Merged Area Districts,
Merged Area Secretariat, Warsak Road, Peshawar.

**Subject: DEPARTMENTAL APPEAL FOR FIXATION OF PAY w.e.f
31-03-2005 TILL 11.07.2009**

Respected Sir,

With due respect it is stated that I was initially appointed before your good self Department vide order dated 31.03.2005 as PST (BPS-07) on contract basis at boy's community school Khan Zar Khan, District Khyber on the proper recommendation of Departmental Selection Committee. After appointment I have submitted my arrival report and started performing duty at the concerned station quite efficiently and upto the entire satisfaction of my superiors. During service on contract basis I was appointed/adjusted against regular PST post at GPS Mothray Dada, Tirah, District Khyber vide order dated 11/07/2009 and till then I am performing my duty with all zeal and zest. Respected Sir, the previous service i.e. w.e.f. 31.03.2005 till my regularization has not been counted. That I am fully entitle for pay fixation for the period w.e.f. 31.03.2005 till 11.07.2009 which has already been awarded to other employees on the judgment of the Honorable Service Tribunal, Peshawar. I am feeling aggrieved from the inaction of the concerned authority by not fixing the my pay w.e.f. 31.03.2005 till 11.07.2009 preferred this Departmental appeal before your good self.

It is therefore, most humbly prayed that on acceptance of this Department appeal my pay may very kindly be fixed as regular service w.e.f 31.03.2005 till 11.07.2009.

Dated: 26.06.2019.

Attended
of

Your Obediently

SHAH
SHAH HUSSAIN

PST GPS Mothray Dada, Tirah,
District Khyber

② - ⑩
F - ⑭

BETTER COPY OF ANNEXURE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 318/2009

Date of institution.....21.02.2009

Date of Decision.....02.07.2010 ✓

Mian Siraj, Driver, School of Nursing, Kohat.
Village & P/O Bilitang Tehsil and District Kohat.....Appellant

VS

- 1- Government of NWFP (K.P.K) through Secretary Health Department Peshawar.
- 2- Director provincial Health Services Academy, Peshawar.
- 3- Accountant General, NWFP (K.P.K), Peshawar.
- 4- District Accounts Officer, Kohat.....Respondents

APPEAL UNDER SECTION 4 OF THE NWFP SERVICE TRIBUNAL ACT 1974 FOR FIXATION OF PAY WITH EFFECT FROM THE DATE OF APPOINTMENT AS PER NOTIFICATION DATED 30-7-2008 AS IS DONE TO THE OTHER EMPLOYEES AGAINST WHICH APPELLANT SUBMITTED HIS DEPARTMENTAL APPEAL DATED 10-11-2008 BUT THE SAME IS NOT RESPONDED DESPITE LAPSE OF 90 DAYS.

Mr. Waqar Ahmad Seth, Advocate

.....For appellant

Mr. Sher Afghan Khattak, Addl: Advocate General

.....For Respondents

Mr. Sultan Mehmood khattak

.....Member

Mr. Noor Ali Khan

.....Member

JUDGMENT

SULTAN MEHMOOD KHATTAK MEMBER:- According to the appointments made in the appeal, the appellant namely Mian Siraj was appointed as Driver in Family Health Project in the year 1994. On winding up of the said project on 31-12-1999, the Finance Department created posts

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of Drivers on fixed pay of Rs. 2500/- per month, without any break. The appellant was accordingly appointed as Driver Nursing School Kohat vide order dated 19-7-1999. At that time number of other employees were appointed on regular basis but the same was discriminated. Respondent No. 1 vide letter dated 21-1-2008 for the fixed employee namely Sahib-Ur-Rehman Driver into regular who is similarly placed employee like appellant, therefore respondent is requested for conversion of all other Drivers into regular pay scales. The Finance Department vide letter dated 12-5-2008 gave concurrence for conversion for the posts of Drivers on fixed pay into pay scale No.1 and in accordance with the said concurrence. Notification was issued by respondent No.2 on 17-5-2008, wherein the appellants name appeared at S. No. 7, but with immediate effect, whereas pay fixation of other employees was done with effect from the date of appointment. Feeling aggrieved the appellant submitted his departmental appeal on 09-11-2008, but with no response within the stipulated period, hence this appeal with the prayers that on acceptance of the appeal the respondents be directed to fix the pay of the appellant from the date of initial appointment in dated of 12-5-2008 along-with arrears to bring it at par with the length of service with such other relief as may deem fit-in the circumstances of the case may also be granted.

2. The respondents have filed their written reply, wherein they refuted the post of the appellant and stated that the case of the appellant is different from the case of other employees and that he was appointed in Family Health Project on 6-12-1994 till the project life i.e. 31-12-1999. He was adjusted as Driver at Nursing School on 14-2-2000 as per entry made in his service book on fixed pay of Rs. 3500/-P-M. Moreover he was brought to regular BPS-4 vide Finance Department's Notification dated 12-5-2008, with immediate effect. As such he is not entitled to the relief claimed by him.

Arguments heard and record perused.

3. As ^{no} doubt the appellant was appointed as Driver in the Family Health Project on 06-12-1991 but before winding up the project on 31-12-1999, he was appointed as Driver in Nursing School Kohat vide office order dated 19-7-1999. As per entry in the service book the appellant was later on adjusted as Driver at fixed pay @ Rs. 2500/- per month vide order dated 14-2-2000. In the light of Finance Department's letter dated 12-5-2008, the post of the appellant was

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reverted to BPS-4 on regular side, vide Notification dated 17-5-2008 of respondent No.2, but with immediate effect. The main contention of the appellant is that in the light of Finance Department's letter dated 30-7-2008 he is entitled to fixation of his pay from the date of his initial appointment instead of 12-5-2008 the Sahib-Ur-Rehman, similarly placed employee. Moreover, respondent No.2 has also addressed a letter dated 15-10-2008 to respondent No.4 in favor of the appellant for fixation of his pay from the date of appointment. However, it was observed that he will not be entitled to arrears up to 30-6-2008.

4. In view of the above the Tribunal deems it appropriate to remand the case of the appellant to the respondent Department with the direction to consider his claim with regard to entitlement of fixation of his pay from the date of appointment in the light of the aforesaid letters as well as case of Sahib-Ur-Rehman Driver, strictly in accordance with law/rules on the subject within a period of one month of the receipt of this order. The appeal is disposed of in the above terms. Parties are, however, left to bear their own costs. File be consigned to the record.

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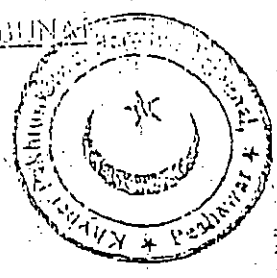
Case (A)

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THE PAKISTAN CIVIL SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 315/2009

Date of institution ... 23.02.2009
Date of decision ... 02.07.2010



Mian Siraj, Driver, School of Nursing, Kohat,
Kohat Village & P.O. Bilitang,
Tehsil & District, Kohat.

(Appellant)

VERSUS

Government of NWFP (K.P.K.) through
Secretary Health Department, Peshawar,
Director, Provincial Health Services Academy, Peshawar,
Accountant General, NWFP (K.P.K.) Peshawar,
District Accounts Officer, Kohat. ... (Respondents)

APPEAL UNDER SECTION 4 OF THE NWFP SERVICE TRIBUNALS ACT, 1974
FOR FIXATION OF PAY WITH EFFECT FROM THE DATE OF
APPOINTMENT AS PER NOTIFICATION DATED 30.7.2008, AS IS
DONE TO THE OTHER EMPLOYEES AGAINST WHICH
APPELLANT SUBMITTED HIS DEPARTMENTAL APPEAL
DATED 10.11.2008 BUT THE SAME IS NOT RESPONDED
DESPITE LAPSE OF 90 DAYS.

Mr. Waqar Ahmad Sethi, Advocate;
Mr. Ghous Afgan Khattak,
Addl. Advocate General.

For appellant

For respondents

Mr. Sultan Mahmood Khattak,
Mr. Ghous Ali Khan

Member
Member

JUDGMENT

SULTAN MAHMOOD KHATTAK, MEMBER:-

According to the

statements made in the appeal, the appellant, namely, Mian Siraj, was appointed as driver in Family Health Project in the year 1994. On winding up of the said project on 31.12.1999, the Finance Department created posts of Drivers on fixed pay of Rs. 2500/- per month, without any break. The appellant was accordingly appointed as Driver in Family Health Project vide order dated 19.7.1999. At that time, number of other employees were appointed on regular basis but the

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... was discriminated. Respondent No.1 vide letter dated 21.01.2008
... the fixed pay employee, namely, Salib-ur-Rehman Driver into regular
... who is similarly placed employee like appellant, therefore, respondent
... requested for conversion of all other Drivers into regular pay scales. The
... Department vide letter dated 12.5.2008 gave concurrence for conversion
... of Drivers on fixed pay into Pay Scale No.4 and in accordance with
... the said concurrence. Notification was issued by respondent No.2 on 17.5.2008,
... wherein, the appellant's name appeared at S.No.7, but with immediate effect,
... whereas pay fixation of other employees was done with effect from the date of
... appointment. Feeling aggrieved, the appellant submitted his departmental appeal
... on 19.11.2008, but with no response within the stipulated period, hence this
... appeal with the prayer that on acceptance of the appeal, the respondents be
... directed to fix the pay of the appellant from the date of initial appointment
... instead of 12.5.2008 along with arrears to bring it at par with the length of
... service with such other relief as may deem fit in the circumstances of the case
... may also be granted.

The respondents have filed their written replies, wherein, they refused the
... of the appellant and stated that the case of the appellant is different from
... the case of other employees and that he was appointed in Family Health project
... on 6.12.1994 till the project life i.e. 31.12.1999. He was adjusted as Driver at
... Nursing School on 14.2.2000 as per entry made in his service book on fixed pay
... BPS-4/PA. Moreover, he was brought to regular BPS-4 vide Finance
... Department's Notification dated 12.5.2008, with immediate effect. As such, he is
... not entitled to the relief claimed by him.

Arguments heard and record perused.

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In doubt, the appellant was appointed as Driver in the Family Health Project on 06.12.1998 but before winding up of the Project on 31.12.1999, he was appointed as Driver in Muslim School Kohat, vide office order dated 19.7.1999. As per entry in the service book, the appellant was later on adjusted as Driver at fixed pay @ Rs.2500/- per month vide order dated 14.2.2000. In the light of Finance Department's letter dated 12.5.2008, the post of the appellant was upgraded to BPS-1 on regular scale vide Notification dated 17.5.2008 of respondent No.2, but with immediate effect. The main contention of the appellant is that in the light of Finance Department's letter dated 30.7.2008 he is entitled to fixation of his pay from the date of his initial appointment instead of 12.5.2008 like Suhib-ur-Rehman, similarly placed employee. Moreover, respondent No.2 has also addressed a letter dated 15.10.2008 to respondent No.4 in favour of the appellant for fixation of his pay from the date of appointment. However, it was observed that he will not be entitled to arrears upto 30.6.2008.

5. In view of the above, the Tribunal deems it appropriate to remand the case of the appellant to the respondent-department with the direction to consider his claim with regard to entitlement of fixation of his pay from the date of appointment in the light of the aforesaid letters as well as case of Suhib-ur-Rehman, Driver, strictly in accordance with law/rules on the subject within a period of two months of the receipt of this order. The appeal is disposed of in the above terms. Parties are, however, left to bear their own costs. File be consigned to the record.

APPOINTED
07.07.2010

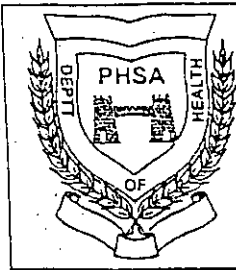
(MOOR ALI KHAN)
MEMBER

(GULFAM MEHMOOD KHATK)
MEMBER

Attested
[Signature]

Certified true copy
Khyber Pakhtunkhwa
Service Tribunal

ATTESTED
[Signature]



Provincial Health Services Academy

Dept: of Health Govt. of Khyber Pakhtunkhwa
Budhni Road Duran Pur Peshawar,
☎ # 091-2650861, 2260109; Fax # 091- 2261249
E-mail: phsa_peshawar@yahoo.com

To be substituted by even No. & date.

OFFICE ORDER

Ex-post facto approval is hereby accorded to regularize the services of the following driver of Nursing School Kohat with effect from the date of appointment i.e. 06/12/1994 as ordered by the honorable Services Tribunal, Peshawar judgment dated 02/07/2010 in Service Appeal No. 318/2009 on the analogy of Mr. Sahib-ur-Rahman Driver, vide Finance Department letter No. BVI/FD/4-48/2007/08 dated 12/05/2008 and Secretary Health letter No. SO-III/ 8-90/07 (Sahib-ur-Rahman) dated 21/01/2008. However, arrear of pay & allowances will be admissible from 14/02/2000.

Name	Designation	Date of appointment
Mr. Mian Siraj	Driver	06/12/1994

-sd-
DIRECTOR

F/No. 215/PHSA/Admn/Appointment/2012-13/5517-20

Dated . 16/07/2012

Cc:

1. District Accounts Officer, Kohat.
2. Vice Principal, School of Nursing Kohat for compliance under intimation to this office.
3. Registrar, Services Tribunal Pakhtunkhwa Peshawar.
4. Mr. Mian Siraj Driver, School of Nursing Kohat.

ATTESTED

DIRECTOR

VAKALATNAMA

Before the KP Service Tribunal, Peshawar

OF 2019

Shah Hussain

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Education Deptt:

(RESPONDENT)
(DEFENDANT)

I/We Shah Hussain

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2019

Shah Hussain

CLIENT

ACCEPTED

NOOR MOHAMMAD KHATTAK

SHAHZULLAH YOUSAFZAI

&

**MIR ZAMAN SAFI
ADVOCATES**

OFFICE:

Flat No.3, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.

Mobile No.0345-9383141