

Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
<p>07.02.2018</p> <p><i>Mughal</i></p>		<p align="center"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></p> <p align="center">Appeal No. 1248/2016</p> <p>Date of Institution ... 19.12.2016 Date of Decision ... 07.02.2018</p> <p align="center">Amir Muhammad S/O Ghulam Nabi R/O Moh, Awan Abad, Yar Hussain Tehsil Lahore District Swabi.</p> <p align="right">-----Appellant</p> <p>1. District Education Officer (Male) Swabi. 2. Government of Khyber Pakhtunkhwa, Education Department through Secretary Education (Male), Civil Secretariat Peshawar.</p> <p align="right">-----Respondent</p> <p align="center"><u>JUDGMENT</u></p> <p align="center"><u>MUHAMMAD HAMID MUGHAL, MEMBER:</u> - Learned counsel for the appellant and Mr. Muhammad Jan, Learned Deputy District Attorney on behalf of the respondents present.</p> <p>3. Appellant has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 against the respondents and made impugned the order dated 08.12.2016 whereby his representation for amendment of his Date of birth in the service record was regretted.</p> <p>4. Learned counsel for the appellant argued that the appellant joined government service as Chowkidar in the Education Department District Swabi in the year 1998. Further argued that the</p>

appellant was born in the year 1961 however in his old CNIC and service record his date of birth has been mentioned as 1957. Further argued that the appellant applied for the correction of date of birth and in this respect appeared before the team of doctors at KMC i.e Department of Forensic Medicine and Toxicology Peshawar and consequently a certificate was issued to him vis a vis Assessment of his Natural Age . Further argued that in the light of Age Assessment Certificate the Nadra Authorities declared appellant's date of birth as 01.08.1961, by issuing new CNIC. Further argued that the appellant approached for the correction of mistake in his service book regarding his date of birth but his representation was rejected. Learned counsel for the appellant stressed with vehemence that the respondent department may be directed to enter 01.08.1961 as the date of birth in the service record of the appellant.

5. As against that learned DDA while opposing the present appeal and relying upon the judgment of august Supreme Court C.P No.14-Q of 2013, decided on 23rd January 2013, argued that the appellant has challenged his date of birth as mentioned in his service record at the verge of his retirement hence the present appeal is liable to be dismissed. Further argued that even the Age Assessment Certificate relied upon by the appellant does not suggest that the year of birth as mentioned in the service record of the appellant is incorrect. Further argued that as per GFR No.116, date of birth of a civil servant once recorded in service book cannot be altered.

CONCLUSION.

6. The appellant joined his service in the year 1998 however he has challenged his year of birth as recorded in his service book in the year 2016. In support of his plea to the effect that his year of birth is 1961 instead of year 1957, the appellant relies upon Age Assessment Certificate (Annex-G). Perusal of the Age Assessment Certificate would show that the same was issued in the year 2016 and in that certificate age of the appellant was assessed as fifty five (55) to sixty (60) years. On the other hand according to the service record appellant's birth year is 1957, hence as per service record the age of appellant was fifty nine (59) years in the year 2016. In the given scenario there is no contradiction in between the approximate age of the appellant, as mentioned in the Age Assessment Certificate, and the age as given in his service record. Learned counsel for the appellant remained unable to make out the case for amendment of the date of birth of the appellant in his service record at the verge of his retirement.

7. As a sequel to above the present appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room after its completion.

ANNOUNCED

07.02.2018



(Gul Zeb Khan)
MEMBER



(Muhammad Hamid Mughal)
MEMBER

29.11.2017

Counsel for the appellant and Addl: AG alongwith Fazal Khaliq, ADO for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 07.02.2018 before D.B.



Member


Chairman

07.02.2018

Learned counsel for the appellant present. Mr. Muhammad Jan, Learned Deputy District Attorney for the respondents present. Vide our separate judgment of today of this Tribunal placed on file the present appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room after its completion.


(Gul Zeb Khan)
Member


(Muhammad Hamid Mughal)
Member

06.03.2017

Clerk to counsel for the appellant and Mr. Fazal Khaliq ADEO (Male) alongwith Addl; AG for the respondents present. Written reply submitted. To come up for rejoinder and arguments on 05.07.2017.


(MUHAMMAD AAMIR NAZIR)
MEMBER

05. 05.07.2017


Counsel for the appellant and Mr. Muhammad Adeel Butt, Additional AG for the respondent present. Counsel for the appellant requested for time to file rejoinder. Request accepted. To come up for rejoinder and arguments on 23.08.2017 before D.B.


(Gul Zeb Khan)
Member


(Muhammad Hamid Mughal)
Member

23/8/2017

Clerk of counsel for the appellant and Mr. Adeel Butt, AAG the respondents present. Arguments could not be heard due to non availability of DB. To come up for rejoinder and arguments on 29/11/2017 before DB.


(GUL ZEB KHAN)
MEMBER

27.12.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was appointed as Chowkidar in the year 1998. That at the time of his appointment his date of birth was recorded as year 1957. That apart from the appellant another brother of the appellant is also shown as born in 1957. That for correction of the said date of birth appellant applied NADRA and after enquiry the correct date of birth of the appellant was sorted out as 01.08.1961. That on the basis of the said correction by NADRA, appellant submitted departmental appeal dated 01.12.2016 to the appellate authority which was rejected on 08.12.2016 and hence the instant service appeal on 20.12.2016.

That the correct date of birth appellant is 01.08.1961 and as such the service record of the appellant maintained by the respondents is liable to correction and that the appellant entitled to serve till the attaining the age of superannuation.

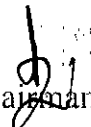
Appellant Deposited
Security & Process Fee

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 01.02.2017 before S.B.


Chairman

01.02.2017

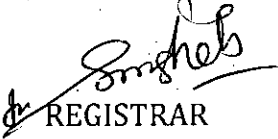
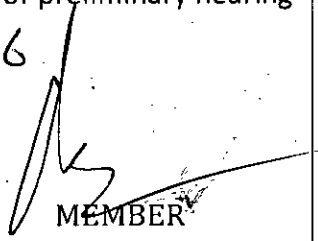
Counsel for the appellant and Mr. Hameedur Rahiman, AD alongwith Asstt. AG for the respondents present. Requested for adjournment. To come up for written reply/comments on 06.03.2017 before S.B.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1248/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	20/12/2016	<p style="text-align: center;">The appeal of Mr. Amir Muhammad resubmitted today by Mr. Shahn Asghar Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	21-12-2016	<p style="text-align: center;">This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>27-12-2016</u></p> <p style="text-align: right;"> MEMBER</p>

LJ

The appeal of Mr. Amir Muhammad son of Ghulam Nabi r/o Moh.Awan Abad Yar Hussain Swabi received today i.e. on 19.12.2016 is incomplete on the following score which is returned to the counsel for the appellants for completion and resubmission within 15 days.

- 1- Annexures of the appeal may be attested.
- 2- Annexures of the appeal may be flagged.

No. 2110 /S.T,

Dt. 20/12 /2016

Amir
REGISTRAR

SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

R/sir Compliance of the Submissions for
Mr. Shan Asghar Adv. Pesh. *and resubmitted*

ACE

~~CONFIDENTIAL~~
BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

Appeal No. 1248 of 2016

Amir Muhammad *Appellant*

VERSUS

1-District Education Officer (Male) Swabi.

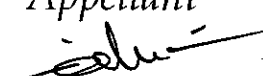
2- Govt of Khyber Pakhtunkhwa, Education
Department through Secretary Education (Male),
Civil secretariate Peshawar.

... .. *Respondents*

INDEX

S.No.	Description of documents	Annexure	Pages
1.	Memo of appeal		1-5
2.	Affidavit		6
3.	Application for Temporary Injunction		7-9
4.	Copy of Mutation	"A"	10
5.	Copy of appointment latter and charge report	"B,C"	11-12
6.	Copies of CNICs	"D,E,F"	13-15
7.	Copy of age assessment report	"G"	16-17
8.	Copy of Correct and New CNIC	"H"	18
9.	Copy of impugned order dated 12/08/2016	"I"	19
10.	Copy of departmental appeal with covering letter	"J"	20
11.	Wakalat Nama	In original	21

Dated 19/12/2016

Appellant
Through 
Shan Asghar
Advocate High Court,
Peshawar.

①

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.**

Khyber Pakhtunkhwa
Service Tribunal

Appeal No. 1248 Of 2016

Diary No. 1301

Dated 19-12-2016

Amir Muhammad S/O Ghulam Nabi R/O Moh, Awan
Abad, Yar Hussain Tehsil Lahore Dist Swabi.

... .. Appellant

VERSUS

- 1- District Education Officer (Male) Swabi.
- 2- Govt of Khyber Pakhtunkhwa, Education
Department through Secretary Education (Male),
Civil secretariate Peshawar.

... .. Respondents

**APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT 1974, AGAINST THE
IMPUGNED ORDER DATED 08/12/2016
ISSUED BY RESPONDENT NO.1, WHEREBY
THE APPELLANT RECTIFICATION/
REPRESENTATION HAS BEEN REJECTED
AND DIRECTION TO THE RESPONDENTS
FOR THE CORRECTION OF DATE OF
BIRTH OF APPELLANT I.E 01.08.1961 IN
APPELLANT'S SERVICE BOOK/SERVICE
RECORD AND OF THE EXPECTED DATE
OF RETAIRMENT I.E2017 MAY BE
DECLAERED NULL AND VOID.**

Filed to-day

Registrar

Re-submitted to -day
and filed.

Somehels
20/12/16
Registrar

Prayer in Appeal:

On acceptance of the instant appeal, the impugned orders of respondent No 1 may be set aside/cancelled / varied and the respondents may be directed to amend /enter correct date of birth of appellant in service book/record and the service may kindly be

②

extend according new CNIC/ Date of birth. Any other relief as deemed proper in the circumstances of the case may also be allowed to the appellant to meet the ends of justice.

Respectfully Sheweth:

Brief facts leading to the instant appeal are as under: -

- 1) That the appellant donated land measuring TWO Kanal to education department/ provincial Govt vide mutation No.448 dated 30/01/1969 in consideration of which the appellant was promised to appointed as chowkedar in the same school.
(Copy of mutation attached annexure A)*
- 2) That the appellant was appointed as Chawkedar on contract basis in BPS 1@1200/- per Month vide order dated 07/01/1998 at Yar Husain vide SDEO (M) Lahore endorsement No 27 /F.NO 18/AFPTT/TFR/CL-IV Dated- 07/01/1998.
(Appointment Latter and Charged Report Attached as annexure B,C)*
- 3) That the appellant is illiterate person, the date of birth mentioned in his service book /record according to his old CNIC, 1957 instead of 1961 and same is also wrongly mention/entered in CNIC/ NADRA record of elder brothers of the appellant, furthermore the date of birth of the appellant along with his two elder brothers are of same year i.e. 1957 and the birth is shown with the unnatural delay of two months.
(Old CNIC of appellant and CNICs of appellants brothers attached as annexure D,E,F)*

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- 4) That after the knowledge of said mistake of NADRA, keeping in mind the required process and procedure for correction of date of birth Appellant appeared before the team of doctors at KMC i.e. department of forensic medicine and toxicology Peshawar. After complete examination they issued to appellant an age assessment certificate showing Appellant natural age. In the light of assessment certificate, NADRA authorities declared appellant date of birth as 01/08/1961. Which is neither incongruent with my appearance and natural age nor contradicts the age of any of my siblings.
(Copy of Age assessment report of DFMT, KPK attached as annexure G)
- 5) That NADRA issued new CNIC to the appellant of correct date of birth i.e. 01/08/1961. (Copy of New and Correct CNIC Attached as Annexure H)
- 6) That the appellant approached to the concern authority/office to the correction of the said mistake in service book / record. But the departmental appeal/rectification of D.O.B in accordance with new CNIC but the same was rejected vide order dated 08.12.2016.

(Copy of impugned order of respondent no 1 dated 08/12/2016 Attached as annexure I)
- 7) That being aggrieved from the aforesaid impugned order, appellant approached this Hon'ble court on the following ground.

Grounds:

- A) That the impugned orders of respondent No1 is illegal, unjust, discriminatory and based on malafide against the rules and regulations,

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pertaining to the matter, hence liable to be cancelled/set aside/varied and interfered.

- B) That the appellant, throughout his 19 years long service, has performed his duties with utmost of his capabilities and to the entire satisfaction of his superiors*
- C) That the impugned order of respondent No.1 is the result of malafide.*
- D) That the impugned order will effect the pensionary benefits of the appellant and his service career, therefore, are liable to be set aside/cancelled /varied.*
- E) That the appellant was promised to appoint on permanent base but it was later on revealed that the said appointment was made on contract basis which also effect the pensionary benefits of the appellant.*
- F) That there are sufficient reasons for taking lenient action in the case of the appellant keeping in view his previous clear record and lengthy service.*
- G) That the impugned order dated 08/12/2016 is illegal, malafide, without jurisdiction and without lawful authority and is liable to be set aside.*
- H) That the appellant was promised to appoint on permanent base but was appointed on contract base, hence, the impugned orders need to be interfered with by this Hon'ble Tribunal.*
- I) That the appellant donated an expensive piece of land mesring of TWO kanal, (value now a days 80, 00,000/-) to the provincial GOVT, hence the matter is liable of lenient view and special relief.*

(5)

J) That the appellant seeks to raised any other ground with the permission of this Hon'ble Tribunal.

It is, therefore, most humbly prayed that On acceptance of the instant appeal, the impugned orders dated 08/12/2016 of respondent No 1 may be set aside/cancelled/ varied and the respondents may be directed to amend /enter correct date of birth of appellant in service book/record. Any other relief as deemed proper in the circumstances of the case may also be allowed to the appellant to meet the ends of justice.

Any other relief as deemed proper in the circumstances of the case may also be allowed to the appellant to meet the ends of justice.

Dated. 19/12/2016

Appellant

Through



Shan Asghar
Advocate High Court,
Peshawar.

6

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.**

Appeal No. _____ of 2016

*Amir Muhammad S/O Ghulam Nabi R/O Moh, Awan
Abad, Yar Hussain Tehsil Lahore Dist Swabi.*

... .. Appellant

VERSUS

3- District Education Officer (Male) Swabi.

4- Govt of Khyber Pakhtunkhwa, Education
Department through Secretary Education (Male),
Civil secretariate Peshawar.

... .. Respondents

Affidavit

I, Amir Muhammad S/O Ghulam Nabi R/O
Moh, Awan Abad, Yar Hussain Tehsil Lahore
Dist Swabi do hereby solemnly affirm and declare
on oath that the contents of the accompanying
appeal are true and correct to the best of my
knowledge and belief and nothing has been
concealed from this Hon'ble Tribunal.

DEPONENT

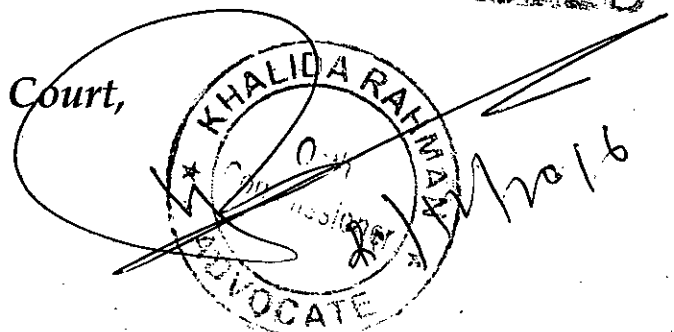
Identified by



**Shan Asghar
Advocate High Court,
Peshawar.**



ALLEGED



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. _____ Of 2016

Amir Muhammad S/O Ghulam Nabi R/O Moh, Awan Abad, Yar Hussain Tehsil Lahore Dist Swabi.

... .. Appellant

VERSUS

- 1- District Education Officer (Male) Swabi.
- 2- Govt of Khyber Pakhtunkhwa, Education Department through Secretary Education (Male), Civil secretariate Peshawar.

... .. Respondents

APPLICATION FOR TEMPORARY INJUNCTION TO THE EFFECT THAT THE RESPONDENTS MAY KINDLY BE RESTRAINED FROM THE RETIREMENT OF THE APPELLANT/APPLICANT ACCORDING TO HIS OLD CNIC TILL FINAL DISPOSAL OF THE APPEAL.

Respectfully Sheweth:



- 1) *That the instant appeal is to filed before this Hon'ble Court, in which next date of hearing is not fixed yet.*
- 1) *That the appellant /applicant has a good prima facie case in his favour, because the said mistake was done by the NADRA authorities and they have rightly corrected the same. Furthermore being donatee of the valuable land measuring 2 Kanals in favor of the respondents, appellant /applicant having prima facia case.*
- 2) *That the balance of convenience also lies in favor of appellant /applicant because the NADRA authorities issued new and correct CNIC to the*

appellant/Applicant and the respondent are bound to enter the same in his service book /service record according with appellant /applicant new and correct CNIC.

- 3) That if the respondents are not restrained from the retirement / termination of appellant/applicant from job in 2017 then the plaintiffs /applicants will suffer irreparable loss.

It is, therefore, humbly prayed that on acceptance of this application the temporary injunction may kindly be granted in favor appellant / applicant and the respondent may kindly be directed to restrain from the termination /retirement of the appellant/applicant till final disposal of the appeal. Any other relief which has not specifically been mentioned and prayed for may also be ordered in favor of plaintiffs against the respondents/ defendants.

Dated 19 / 12 /2016

Plaintiff
Through  
Shan Asghar
Advocate High Court
Peshawar.

(9)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.**

Appeal No. _____ of 2016

*Amir Muhammad S/O Ghulam Nabi R/O Moh, Awan
Abad, Yar Hussain Tehsil Lahore Dist Swabi.*

... .. Appellant

VERSUS

1- District Education Officer (Male) Swabi.

2- Govt of Khyber Pakhtunkhwa, Education
Department through Secretary Education (Male),
Civil secriatate Peshawar.

... .. Respondents

ADDRESSES OF THE PARTIES

Appellant

*Amir Muhammad S/O Ghulam Nabi R/O Moh,
Awan Abad, Yar Hussain Tehsil Lahore Dist
Swabi..*

Respondents

1- District Education Officer (Male) Swabi.

2- Govt of Khyber Pakhtunkhwa, Education
Department through Secretary Education (Male),
Civil secriatate Peshawar.

... .. Respondents

Dated 19/12/2016

Appellant

Through

Shan Asghar

Advocate High Court,



ردیف	تاریخ	محل وقوع	مساحت	ملاحظات	تاریخ	محل وقوع	مساحت	ملاحظات	تاریخ	محل وقوع	مساحت	ملاحظات
1	13/12/13	ورق شیر	1	مجموعه زمین	13/12/13	ورق شیر	1	مجموعه زمین	13/12/13	ورق شیر	1	مجموعه زمین
2	13/12/13	ورق شیر	1	مجموعه زمین	13/12/13	ورق شیر	1	مجموعه زمین	13/12/13	ورق شیر	1	مجموعه زمین
3	13/12/13	ورق شیر	1	مجموعه زمین	13/12/13	ورق شیر	1	مجموعه زمین	13/12/13	ورق شیر	1	مجموعه زمین
4	13/12/13	ورق شیر	1	مجموعه زمین	13/12/13	ورق شیر	1	مجموعه زمین	13/12/13	ورق شیر	1	مجموعه زمین
5	13/12/13	ورق شیر	1	مجموعه زمین	13/12/13	ورق شیر	1	مجموعه زمین	13/12/13	ورق شیر	1	مجموعه زمین
6	13/12/13	ورق شیر	1	مجموعه زمین	13/12/13	ورق شیر	1	مجموعه زمین	13/12/13	ورق شیر	1	مجموعه زمین
7	13/12/13	ورق شیر	1	مجموعه زمین	13/12/13	ورق شیر	1	مجموعه زمین	13/12/13	ورق شیر	1	مجموعه زمین
8	13/12/13	ورق شیر	1	مجموعه زمین	13/12/13	ورق شیر	1	مجموعه زمین	13/12/13	ورق شیر	1	مجموعه زمین
9	13/12/13	ورق شیر	1	مجموعه زمین	13/12/13	ورق شیر	1	مجموعه زمین	13/12/13	ورق شیر	1	مجموعه زمین
10	13/12/13	ورق شیر	1	مجموعه زمین	13/12/13	ورق شیر	1	مجموعه زمین	13/12/13	ورق شیر	1	مجموعه زمین
11	13/12/13	ورق شیر	1	مجموعه زمین	13/12/13	ورق شیر	1	مجموعه زمین	13/12/13	ورق شیر	1	مجموعه زمین
12	13/12/13	ورق شیر	1	مجموعه زمین	13/12/13	ورق شیر	1	مجموعه زمین	13/12/13	ورق شیر	1	مجموعه زمین
13	13/12/13	ورق شیر	1	مجموعه زمین	13/12/13	ورق شیر	1	مجموعه زمین	13/12/13	ورق شیر	1	مجموعه زمین
14	13/12/13	ورق شیر	1	مجموعه زمین	13/12/13	ورق شیر	1	مجموعه زمین	13/12/13	ورق شیر	1	مجموعه زمین
15	13/12/13	ورق شیر	1	مجموعه زمین	13/12/13	ورق شیر	1	مجموعه زمین	13/12/13	ورق شیر	1	مجموعه زمین

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Signature or initials at the bottom right of the page.

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Annexure **B**

POINTMENT ON CONTRACT BASIS.

OFFICE ORDER.

Mr. Amir Muhammad S/O Shulan Nakh
Village & P.O. Y/Hassan Sub. Allah Daud Khel Tehsil Lalo, District Swabi is hereby
appointed as Chowkidar on contract basis @ Rs-1200/- fixed against newly
created post at G.P.S. Amir Ahmad Zam Y/Hassan as per Govt. rules with effect
from 01-01-1998 on the following terms and conditions:-

1. His appointment is purely on contract basis and liable to termination at any time without assigning any reasons or notice.

2. He will not be allowed to take over charge in case his age is less than 18 Years or above 45 Years.

3. If he failed to take over charge of the post within fifteen days of the issue of this order will stand cancelled.

4. In case he wishes to resignation of his post he will have to give one month prior notice or for a diet one month pay in lieu thereof to Govt.:

5. Charge report should be submitted (in duplicate) to this office.

(AMIR BAFLOO DAR)
SUB-DIVISIONAL EDUCATION OFFICER,
(MALE) LAHOR.

Endst. No. 27 / F.No. 18/LP/14/Tfn/C-IV Dated Lahor. the 7-1-98

Copy forwarded to the:-

1. The District Education Officer (Male) Faisalabad Swabi.

2. The District Accounts Officer Swabi.

3-4. ASDEO (H) & (A) Local Office.

Head Teacher G.P.S. Amir Ahmad Zam Y/Hassan

Candidate Concerned.

M. H. Q. Dar 5/1/98
SUB-DIVISIONAL EDUCATION OFFICER
(MALE) LAHOR

INTIAZ.

Annular "G" 189

18

Office Of The Medical Superintendent DHQ Teaching Hospital Swabi

Telephone & Fax #: 0938-221267

No. 2909/R-6 /DHQ Teaching Hospital Swabi Dated: 17-10-2016

To

The Manager,
NADRA Swabi.

Subject:

AGE ASSESSMENT CERTIFICATE IN R/O MR. AMEER
MUHAMMAD S/O GHULAM NABI

Memo;

Enclosed find herewith age assessment certificate in original in respect of Mr. Ameer Muhammad S/O Ghulam Nabi received from forensic department Khyber Medical College Peshawar, for further necessary action.

[Signature]
Medical Superintendent
DHQ Teaching Hospital
Swabi
17/10/16

DEPARTMENT OF FORENSIC MEDICINE & TOXICOLOGY
KHYBER MEDICAL COLLEGE PESHAWAR
NOT VALID FOR COURT PROCEEDINGS

7

NO 64./FM/KMC/2016

DATED 04/10/2016

69

ATTESTED

From:-

The Head,
Department of Forensic Medicine,
Khyber Medical College,
Peshawar.

To

The Medical Superintendent,
Police and Services Hospital,
Peshawar. DHQ Hospital
Swabi

SUBJECT:- AGE ASSESSMENT

MEMO:

Reference your letter No 2322/R-6 dated 06/10/16 regarding assessment of age in respect of Ameer Mohammad son/daughter of Ghulam Nabi Resident of Swabi

Bearing the following identification marks:-

- 1- A black mole 2 cm below left eye (0.2 x 0.2 cm in size) blackish brown in color
- 2- Another black mole 2 cm below right eye (0.1 x 0.1 cm in size) black in color

He/she was examined for assessment of age. From physical examination, secondary sex character, dental status and x-rays, his/her age is 55 - 60 years.

(Fifty five to Sixty years)

Dr. Kaleem MLO KMC
Medical Superintendent
DHQ Teaching Hospital
Swabi



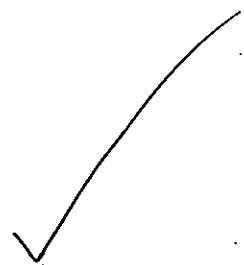
For HEAD
DEPARTMENT OF FORENSIC MEDICINE
KHYBER MEDICAL COLLEGE PESHAWAR
HEAD
DEPARTMENT OF FORENSIC MEDICINE
KHYBER MEDICAL COLLEGE PESHAWAR

Amir Muhammad P 19

OFFICE OF THE DISTRICT EDUCATION
OFFICER (MALE) SWABI.
No 11783 Correction in D.O.B: File No.1-13/C-IV

Dated 08/12 /2016

To,



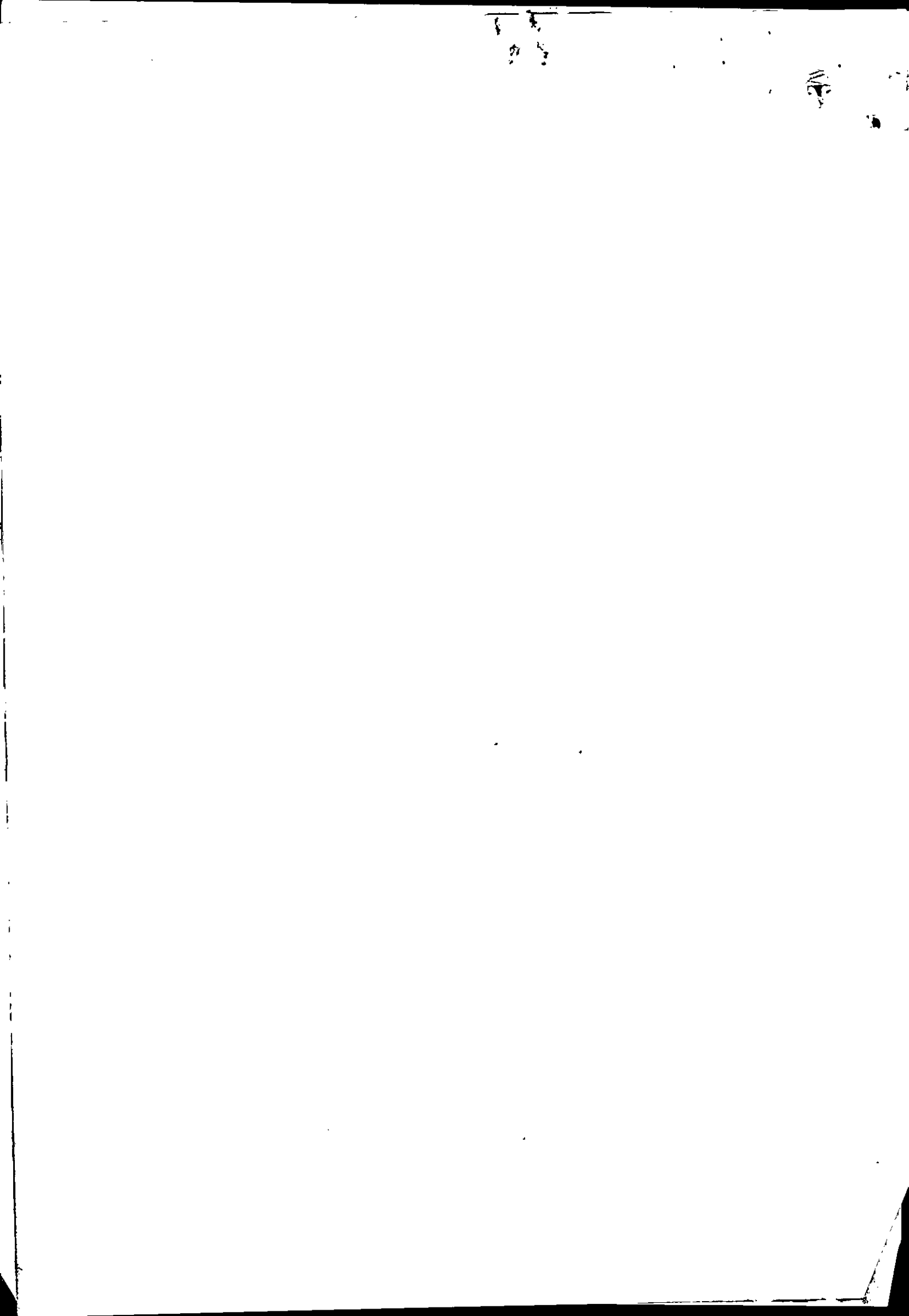
The Sub Divisional Education Officer (Male)
Razzar Distt: Swabi

Subject: - CORRECTION IN DATE OF BIRTH

Memo:-

You are hereby directed to inform Mr. Amir Muhammad Chowkidar GPS, Awan Abad Yar Hussain that as per rules change in date of birth is possible for consideration with cogent reason within initial (02) years of service. After that no change can be made. His date of birth as per his service Book is 1957 which is not changeable at the neck of retirement.

DISTRICT EDUCATION OFFICER
(MALE) SWABI



Dist. Swabi
Date 11/12/16

Amir J
Page 20

To,

The SDEO (M) Razzar,
Elementary & Secondary Education,
Swabi.

Subject: Rectification of D.O.B in accordance with new CNIC.

R/Sir,

With due regard and veneration I beg to state that I have been serving at GPS, Awanabad Yarahussain against the post of Chowkidar since January 07, 1998. My date of birth according to my service book and old CNIC is 1957 which contradicts my natural age and appearance. Keeping in mind the required process and procedure for recorection of my date of birth I appeared before a team of doctors at KMC (Deptt of Forensic Medicine & Toxicology) Peshawar. After complete examination they issued me an age assessment certificate showing my natural age. In the light of that assessment certificate NADRA authorities declared my date of birth as 01/08/1961, which is neither incongruent with my appearance and natural age nor contradicts the age of anyone of my siblings.

It is therefore, you are requested to issue orders for amendment of my date of birth in my service book and obliged.

Copies of necessary documents & proofs are attached herewith.

Forw. by SDEO (M) Razzar

Circle Officer (GPS) Yarahussain Swabi

Forwarded to DEO (M) Razzar for rectification of date of birth
November 25, 2016

S.D.E.O (M) Razzar (Swabi)

Yours affectionately,
Amier Muhammad Khan
Chowkidar, GPS,
Awanabad Yarahussain

10 روپے



70983

ایڈووکیٹ/دستخط: _____

بار کونسل ابار ایسوسی ایشن نمبر: BC: 10-7747

رابطہ نمبر: 0333 8125557

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: سروس ٹریبینٹول خیبر پختونخواہ 05 جنوار

منجانب: اسپیدانٹ	دعویٰ: سپیدانٹ
اصغر محمد ولد غلام نبی خان	علت نمبر: _____
اعوان آبار، حاج حسین - نئی پور، صوابی	موضوع: _____
بنام	جرم: _____
دستور ایجوکیشنل انصاف و عدلیہ	تھانہ: _____

بابت تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ آن مقام حلیہ اور کیلئے نشان اصغر محمد ولد کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر حالت و فیصلہ برصفت دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں ہر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہو گا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا سامنے پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا وہ وکیل موصوف وصول کرنے کا حقدار ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ مندر ہے۔

المرقوم: 19/12/18

_____ مقام
 _____ کے لئے منظور ہے۔

Attested & Accepted



کون اسپیدانٹ

نوٹ: اس وکالت نامہ کی فونوکاپی ناقابل قبول ہوگی

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No.1248 of 2016

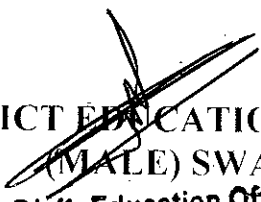
Amir MuhammadAppellant

VERSUS

1. District Education Officer (Male) Swabi
2. Govt:of Khyber Pakhtunkhwa Education Department through Secretary
E&SE Department Khyber Pakhtunkhwa Peshawar.....**Respondents**

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2	Reply of application for temporary injunction	-	04
3	Registration policy NADRA	-	05


DISTRICT EDUCATION OFFICER
(MALE) SWABI
Distt. Education Officer
(Male) Swabi

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No.1248 of 2016

Amir Muhammad **Appellant**

VERSUS

1. District Education Officer (Male) Swabi
2. Govt:of Khyber Pakhtunkhwa Education Department through Secretary E&SE Department Khyber Pakhtunkhwa Peshawar..... **Respondents**

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS 01 TO 2

Respectfully Sheweth,

PRELIMINARY OBJECTIONS.

1. That per Registration policy NADRA, D.O.B (Up to 5 years) Imp Notes: 1. Applicant having age 45 and above will not be entertained for age change, hence the instant appeal is not maintainable in the present form and also in the present circumstances of the issue.
2. That the instant Appeal is badly time barred and not maintainable.
3. That the Appellant has no locus standi or cause of action to file the instant Appeal
4. That the Appellant has not come to the Tribunal with clean hands.
5. That the Appellant concealed the material facts from the Honourable Tribunal.
6. That the Appellant has filed the instant Appeal just to pressurize the respondents.
7. That the Appellant is estopped by his own conduct to file the instant appeal.
8. That, the Appeal is not maintainable in the present form and also in the present circumstances of the issue.
9. That the instant Appeal is against the prevailing laws and rules.

FACTS

1. Admitted to the extent. that the appellant donated two (02) Kanal land for the construction of GPS Awan Abad Ziam Yar Hussain and was appointed as Chwokidar in the same school. It is worth mentioning at that time no commitment has been made by the Elementary and Secondary Education Department for the appointment of Class IV.
2. Admitted to the extent. that the appellant was appointed as Chowkidar on contract basis in BPS-01 @ Rs. 1200/- per month. as per Government of Khyber Pakhtunkhwa Peshawar. at that time recruitment policy. He accepted all the terms and conditions of his appointment without any agitation up till now. He took over charge willingly.
3. That the appellant admits. the date of birth mentioned in his service book/record according to his old CNIC. is 1957."Seeking amendment in date of birth by Civil servant when nearing superannuation deprecated" same is reported in 1999 SCMR 861. Hence the case at present stage is time barred and is liable to be dismissed.
4. Incorrect, hence denied, as per age assessment report of the team of doctors at KMC i.e. department of forensic medicine and toxicology Peshawar his age in 55-60 years in the light of assessment certificate, NADRA authorities wrongly declared the appellant date of birth as 01.08.1961. This date of birth is not justified by the assessment certificate. because 55-60 years age does not mean

55 years 02 months 13 days . The logic of the NADRA authorities is beyond understanding. Moreover the appellant wants to extend his service which is against facts and law.

5. Incorrect, hence denied, the NADRA has issued new CNIC to the appellant with change date of birth 01.08.1961 without any justification law, rule and policy. The NADRA issued new CNIC on 08.11.2016 while the appellant is going to retire on 30.06.2017 on superannuation/completion of his service. Moreover as per registration policy of NADRA date of birth up to 05 years, **important note: applicant having age 45 and above will not be entertained for age change.** This act of NADRA is beyond understanding.
(Registration Policy NADRA is attached as Annexure-A).
6. That the competent authority rightly rejected the amendment/alteration in date of birth. "Service rules regarding correction of age within two years from entry into service are apparently sound and logical. Civil servant can not be normally permitted to awake from deep slumber and dramatically in his date of birth, when about to retire. Development of tendency whereby unwarranted claims, attempting to show error in "date of birth" being asserted towards retiring age by fabricating or manipulating documents in that behalf deprecated. Grievance agitated by Civil Servant does not make out any substantial question of law having public importance".
Reliance is placed on 1998 SCMR 801. "Service book of Civil Servant being the most authentic record with regard to entries regarding date of birth".
Reliance is placed on 1998 SCMR 1302. His date of birth recorded in his Service Book is 1957 which is authentic/correct with his signature as well as signature of the competent authority. Hence the instant appeal is not maintainable and liable to be dismissed.
7. Incorrect, hence denied, the order dated 08.12.2016 is according to law, rule and policy of the Government of Khyber Pakhtunkhwa and also per decisions of the Apex Court. No violation is made out by the respondent while issuing the said order. Hence the appellant has no cause of action to file the baseless and merit less appeal and the appeal in hand is liable to be dismissed with the following grounds.

GROUND.

- A. Incorrect, hence strongly denied the impugned order of respondent No.1 is legal, just and in accordance with law, rule and policy. Presently prevailing in the province of Khyber Pakhtunkhwa and also per judgment of the Apex Court.
- B. That the appellant performed his duties about 19 years and he was paid salaries and enjoyed all other facilities in eve of performing duties. Now he is going on retirement on 30.06.2017 on the superannuation/completion of his service.
- C. Incorrect, hence strongly denied, the impugned order of the respondent is legal, just and in accordance with law, rule and policy presently prevailing in the Province of Khyber Pakhtunkhwa.
- D. Incorrect, hence denied, "Plea of Civil Servant with regard to wrong entry of date of birth, when raised after remaining in service for a long period, would not carry any weight. Civil Servant can not make application for change in his date of birth after two years of joining service. Authenticity of date of birth recorded in documents, when Civil Servant joined service could not be challenged belatedly". Reliance is placed on 2004 PLC (CS)1162. Hence the change of date of birth at this stage is not possible.

- E. Incorrect, hence strongly denied. at that time no commitment/promise has been made by the Elementary and Secondary Education Department for the appointment on permanent base or other type . His appointment was made on contract basis fix according to the government of Khyber Pakhtunkhwa at that time prevailing policy. Furthermore he has accepted all the terms and conditions of appointment and never agitated against these terms and conditions and took over charge and signed the charge reports and all other necessary documents.
- F. Incorrect, hence denied, no one has the right to take lenient action and change the date of birth of the appellant in view of his previous clear record and lengthy service while the appellant wants to extend his service.
- G. Incorrect, hence strongly denied, the impugned order of respondent on dated 08.12.2016 is in the legal frame work of presently prevailing policy in the Province of Government of Khyber Pakhtunkhwa. The detail has already been given in the above paras.
- H. Incorrect, hence strongly denied, at that time no commitment/promise has been made by the Elementary and Secondary Education Department for the appointment on permanent or adhoc or contract basis. His appointment was made in accordance with Government prevailing policy at that time.
- I. Incorrect, hence denied land donation is not liable of lenient view and special relief. " The Apex Court in 2015 CLC 1564 has categorically observed that the policy of making appointments against land grants is tantamount to the sale of public office for property and further that it was not only against the constitution but also not conducive to public interest. We reiterate that such appointments are void ab-intio. In view of the verdict how the appellant is liable of lenient view and special relief.
- J. That the respondents also seek the permission of Honourable Tribunal to advance further grounds/points at the time of arguments.

In wake of the above submission, it is requested that this Honourable Service Tribunal may graciously be pleased to dismiss the instant application in favour of the respondent department.

~~District Education Officer
(Male) Swabi~~

Secretary Elementary & Secondary Education
Department Govt:of KPK

AFFIDAVIT

We do hereby solemnly affirm and declare on oath that the contents of the comments are true and correct to the best of our knowledge and belief, nothing has been concealed from this Honourable Tribunal.

~~DISTRICT EDUCATION OFFICER
Dist. Education Officer
(Male) Swabi~~

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No.1248 of 2016

Amir Muhammad **Appellant**

VERSUS

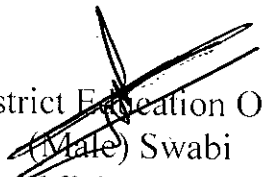
1. District Education Officer (Male) Swabi
2. Govt:of Khyber Pakhtunkhwa Education Department through Secretary E&SE Department Khyber Pakhtunkhwa Peshawar..... **Respondents**

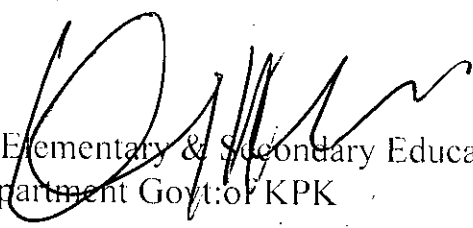
Reply of application for temporary injunction.

Respectfully Sheweth,

1. That the respondents have filed the accompanied reply before this Honourable Service Tribunal in which next date of hearing is 01.02.2017.
2. Incorrect, hence denied, the appellant in person never agitated the matter of his correction in the date of birth mentioned in his Service Book/record according to his old CNIC is 1957. Furthermore "seeking amendment in date of birth by Civil Servant ~~is not possible~~ superannuation deprecate" Reliance is place on 1999 SCMR 861. "Civil Servant can not seek alteration in his date of birth at the verge of his retirement". Same is reported in 2015 SCMR 456. Furthermore donation of land can not create any right in change of his date of birth. Hence the petitioner has got no prima facie case.
3. Incorrect, hence strongly denied, the balance of convenience lies in favour of respondents because NADRA authorities have not any power to make any alteration/amendment when a person crosses the age limit beyond 45 years. This amendment/alteration in the CNIC is question mark on the part of NADRA authorities.
4. Incorrect, hence denied, if the respondents are restrained from the retirement/termination of the appellant from his job in 2017 then respondents will suffer irreparable loss.

In wake of the above submission, it is requested that this Honourable Service Tribunal may graciously be pleased to dismiss the instant application in favour of the respondent department.


District Education Officer
(Male) Swabi
Dist: Education Officer
(Male) Swabi


Secretary Elementary & Secondary Education
Department Govt:of KPK



Registration Policy

Annexure - A

Version: RP-4.0.0

Series: RP-2015

Date of Issue: 30-Aug-2016

Revision: 2nd

Product Document Requirement

Modification of National Identity Card (S/CNIC-S/NICOP/CRC)

<p>Name: Definition: Change mean name is being transferred from "A" to "B". The need for a name change may result from change of religion or simply a desire to have another different name. Anything which doesn't affect applicant's given name should not be considered name change and no document(s) will be required.</p>	<p>a. Original S/CNIC-S/NICOP/CRC of applicant AND b. Affidavit as per format attested by Oath commissioner /Certificate from Dar-Ul-Afta (due to religion change only) AND c. Attestation of CNICF from any blood/immediate relative.</p> <p>Exceptions /Remarks:</p> <p>I. Above mentioned document(s) are for modification only, for correction in name no document(s) is required and every possible measure shall be used to facilitate applicant. II. Applicant neither can revert back to his/her previous name nor can modify name for 2nd time. Not female applicant (modified name with husband /father). III. Once applicant modifies his/her name, all dependents shall also modify their registration document (if required).</p>
<p>Parent(s) info: Definition: Change mean parent's name is being transferred from "A" to "B". Anything which doesn't affect applicant's parent's given name should not be considered name change and no document(s) will be required.</p>	<p>For correction in parent name only, whether parent are alive or deceased</p> <p>a. Original S/CNIC-S/NICOP/CRC of applicant AND b. Original S/CNIC-S/NICOP/CRC of parent & presence of parent.</p> <p>Exceptions /Remarks:</p> <p>I. If parent are CNIC holder but physically not available, applicant has to ensure presence of any sibling(s). II. If sibling(s) are CNIC holder but physically not available, applicant has to ensure presence of any immediate relative(s). III. Case shall not be entertained for modification of parent info whether parent are alive or deceased.</p>
<p>D.O.B: (Upto 5 Years) Imp notes: 1: Applicant having age 45 and above will not be entertained for age change. 2: Downward domain (CNIC to CRC) change is not allowed. 3: 2nd time change in D.O.B is not allowed.</p>	<p>a. Original S/CNIC-S/NICOP/CRC AND b. Matric/Equivalent Certificate or Mark sheet or Passport or Medical Certificate or Physical appearance (for minors only).</p> <p>Exceptions /Remarks:</p> <p>I. Applicant is allowed to change D.O.B upto one year (366 days) without any documents, if he/she has un-natural age with other sibling(s). II. OIC to ensure that Family composition may not be affected. III. No document is required for addition of day and month only in D.O.B. IV. No document is required, when applicant wants to modify D.O.B. on S/CNIC/CRC as per D.O.B. on S/NICOP & vice versa. V. No document is required for unrealistic age change e.g. (difference between appearance and D.O.B. on ID is more/less than 25 years). VI. Mark sheet is valid for 3 years only from date of issuance. VII. Regional DGS to evaluate and forward the case of applicants having age 45 and above to HQ for approval from DG (Ops) before processing through NIS.</p>

(Signature)
Dissemination Officer
(Male) Swabi