

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1213/2016

Date of Institution ... 30.11.2016

Date of Decision ... 11.01.2022

Syed Murad Ali Shah son of Ali Gohar resident of Village Gohar Abad Aman Kot Tehsil & District Swabi, EX-Class-iv GPS Gohar Abad Aman Kot Swabi.

... (Appellant)

VERSUS

Director of Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.

... (Respondents)

Yaqoob Khan
Advocate

... For Appellant

Muhammad Riaz Khan Paindakheil,
Assistant Advocate General

... For respondents

AHMAD SULTAN TAREEN
ATIQU-UR-REHMAN WAZIR

...
...

CHAIRMAN
MEMBER (EXECUTIVE)

JUDGMENT

ATIQU-UR-REHMAN WAZIR MEMBER (E):- Brief facts of the case are

that the appellant was appointed as Class-IV vide order dated 01-02-1996. During the course of his service, the appellant was charged in FIR U/Ss 302/324 PPC Dated 25-01-2008 and was arrested. During the course of trial, the appellant was exonerated of the criminal charges vide judgment dated 24-04-2012. After acquittal the appellant came to know that he has been dismissed from service vide order dated 26-04-2011, against which the appellant filed departmental appeal followed by service appeal No. 1636/2014, which was decided vide judgment dated 13-10-2015 and his case was remanded to the departmental appellate authority with direction to decide his appeal strictly on merit and in accordance

with law. The appellate authority considered his appeal and penalty of dismissal was converted into compulsory retirement and his absence period with effect from 25-01-2008 to 08-05-2012 was treated as extra ordinary leave without pay vide order dated 03-03-2016. The appellant filed appeal for his arrears and pensionary benefits vide application dated 29-09-2016, which was not responded within the statutory period, hence the instant service appeal with prayers that the impugned order dated 03-03-2016 may be modified to the extent that his service may be considered as 17 years and 4 months as qualified service on attaining the age of superannuation on 31-05-2013.

02. Learned counsel for the appellant has contended that the appellant is entitled for his pensionary benefits on the basis of completion of his 17 years and 4 months, whereas the respondents refused pensionary benefits under the plea that the appellant was appointed on fixed pay, hence such period does not qualify for the benefits of pension; that the appellant was dismissed from service on account of his involvement in criminal case, but the appellant was exonerated of the charges by the competent court of law, hence there remains no ground to penalize the appellant anymore; that penalty of dismissal of the appellant was converted into compulsory retirement by the appellate authority, which was subsequently refused; that as per CSR 371-A coupled with the judgment of apex court reported as 1997 SCMR 1477 and 1996 SCMR 1185, once a benefit granted to the civil servant by a tribunal or Court, such benefits shall also be extended to other civil servants, who might not be litigant in that case, therefore the appellant is entitled for pensionary benefits on the analogy of relief already granted by this tribunal as well as the apex court; that the appellant was initially appointed on contract basis on fixed pay but his services were regularized, hence as per Rule 2.2 of west Pakistan pension rules, 1963, the services of the government servant begin to qualify for pension, when he takes over charge of the post to which he is first appointed; that according to rule 2.3 of the rules *ibid*, temporary and

officiating service shall count for pension if he has rendered more than five years continuous temporary and officiating service followed by confirmation shall also count for pension or gratuity; that since the appellant is unable to get any job due to the reason that he is now overage, hence keeping in view his long un-blemished service, he may be granted relief of pensionary benefits.

03. Learned Assistant Advocate General for the respondents has contended that the appellant was appointed on contract basis and on fixed salary and as per Finance Department notification dated 04-11-1992; that the appellant was appointed on the condition of non-pensionable service and the appellant accepted all the conditions during his appointment; that the appellant was charged in an FIR, thus he went in hiding for a longer period, due to which the appellant was proceeded against as per law and rule and was dismissed from service vide order dated 26-04-2011; that as per judgment of the service tribunal, the appeal of the appellant was considered and major penalty of dismissal was converted into major penalty of compulsory retirement but later on it was found that the appellant is not entitled for pensionary benefits as per terms and conditions of his service.

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

05. Record reveals that the appellant was appointed as Chowkidar vide order dated 01-02-1996 but his appointment order does not contain any provision debarring him from pensionary benefits. The appellant has served against the post for longer time until his age of superannuation, which shows that appointment of the appellant was not on contract, rather the appellant continuously served until his dismissal. His service book is placed on record, which shows that the appellant has been granted annual increments periodically until his dismissal. Moreover, Section 19 of Civil Servant Act, 1973 was amended by the Khyber Pakhtunkhwa Civil Servant (Amendment) Act, 2013 and the person selected for appointment on

contract basis was declared to be deemed as regular employee and subsequently were held entitled for pensionary benefits.

06. Regarding the question of entitlement of the appellant to the pension, we would like to reproduce the relevant rules of the pension rules, 1963 as under:

2.2. Subject to any special rules, the services of the government servant begins to qualify for pension when he takes over charge of the post to which he is first appointed.

2.3. Temporary and officiating service shall count for pension as indicated below:-

(i) government servant borne on temporary establishment who have rendered more than five years continuous temporary service for the purpose of pension or gratuity; and

(ii) Temporary and officiating service followed by confirmation shall also count for pension or gratuity.

The rules *ibid* reveals that service of the government servant begins to qualify for pension from the very first day of his/her taking over charge, irrespective of the fact whether his/her appointment and entry into service was temporary or regular. It is also clear from sub-rule-(i) that continuous temporary service of a civil servant shall also be counted for the purpose of pension or gratuity and by virtue of sub rule-(ii) temporary and officiating service followed by confirmation shall be counted for pension or gratuity.

07. The august Supreme Court of Pakistan in its judgment reported as PLD 1973 SC 514 have held that "it must now be taken as well settled that a person who enters government service has also something to look forward after his retirement to what are called retirement benefits, grant of pension being the most valuable of such benefits. It is equally well settled that pension like salary of a civil servant is no longer a bounty but a right acquired after putting in satisfactory service for the prescribed minimum period. A fortiori, it cannot be reduced or


refused arbitrarily except to the extent and in the manner provided in the relevant rules.”

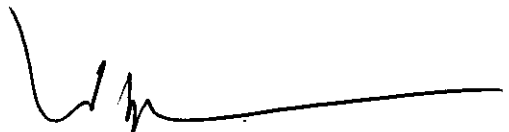
08. In the instant case, the appellant served continuously for almost 17 years, initially on contract and followed by regular service and as per pension rules, 1963 the appellant has qualified the prescribed service for pensionary benefits, therefore the objection raised by the respondents is not tenable. This tribunal vide judgment dated 12-10-2017 in Service Appeal No 1055/2014 had granted relief in similar case. To this effect the judgments 2015 PLC (CS) 296, PLD 1973 SC 514, PLD 2016 SC 534 also refers. Moreover the respondents already converted his penalty of dismissal into compulsory retirement, which cannot be taken back so easily, rather the appellants has otherwise developed vested right over his pensionary benefits.

09. In view of the foregoing discussion, the instant appeal is accepted. The impugned order dated 03-03-2016 is modified to the extent that the period with effect from 05-01-2008 to 08-05-2012 is treated as on duty with pay, as the appellant was exonerated of the charges and under FR-54, the absence period is considered as on duty. Respondents are directed to finalize the pension case of the appellant for the entire period of service of the appellant with all ancillary benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

11.01.2022


(AHMAD SULTAN TAREEN)
CHAIRMAN


(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

ORDER

11.01.2022

Learned counsel for the appellant present. Mr. Muhammad Riaz

Khan Paindakheil, Assistant Advocate General for respondents present.

Arguments heard and record perused.

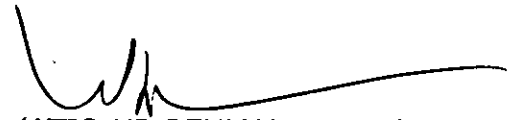
Vide our detailed judgment of today, separately placed on file, the instant appeal is accepted. The impugned order dated 03-03-2016 is modified to the extent that the period with effect from 05-01-2008 to 08-05-2012 is treated as on duty with pay, as the appellant was exonerated of the charges and under FR-54, the absence period is considered as on duty. Respondents are directed to finalize the pension case of the appellant for the entire period of service of the appellant with all ancillary benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

11.01.2022



(AHMAD SULTAN TAREEN)
CHAIRMAN

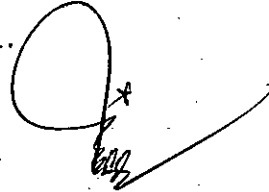


(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

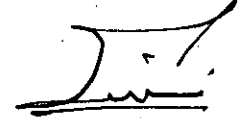
26.08 .2021

Nemo for the appellant present. Mr. Usman Ghani, District Attorney alongwith Mr. Fazal Khalid, ADEO for respondents present.

Previous date was changed on Reader note, therefore, notice of prosecution of appeal be issued to the appellant as well as his counsel. Adjourned. To come up for arguments before the D.B on 17.11.2021.



(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)

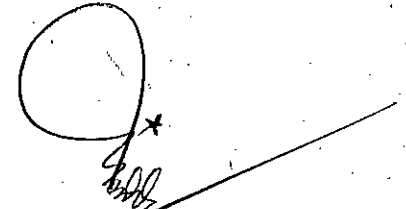


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

17.11.2021

Learned counsel for the appellant present. Mr. Murad Ali, ADEO alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

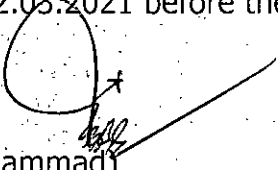
The learned Member (Judicial) Mr. Salah-ud-Din is on leave, therefore, arguments could not be heard. Adjourned. To come up for arguments before the D.B on 11.01.2022.



(Mian Muhammad)
Member (E)

17.12.2020 Counsel for the appellant and Mr. Muhammad Jan, DDA alongwith Fazle Khaliq, ADEO for the respondents present.

Former requests for adjournment due to pre-occupation before the Honourable High Court today. Adjourned to 12.03.2021 before the D.B.


(Mian Muhammad)
Member(E)


Chairman


12.03.2021

Nemo for parties.

Muhammad Rasheed learned Deputy District Attorney present.

Both the parties be put on notice for 30/04/2021 for arguments, before D.B.


(Mian Muhammad)
Member (E)


(Rozina Rehman)
Member (J)

*Noted
Counsel for appellant
Jan 12/3/2021*

30.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 26.08.2021 for the same as before.


Reader

26.08 .2021

Nemo for the appellant present. Mr. Usman Ghani, District Attorney for respondents present.

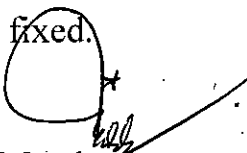
Previous date was changed on Reader note, therefore, notice of prosecution be issued to the appellant as well as his counsel. Adjourned. To come up for arguments before the D.B on 17.11.2021.

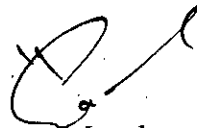
(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

12.02.2020

Appellant absent. Learned counsel for the appellant absent. Mr. Usman Ghani, District Attorney alongwith Mr. Fazal Khaliq, ADEO for respondents present. Adjourned To come up for arguments on 25.03.2020 before D.B. Appellant and his counsel be put on notice for the date fixed.


Member


Member

Panel is incomplete as learned member (J) is on leave, therefore, the case is adjourned, To come up for the same on - ²¹ ~~20~~ - 08 - 2020


Reader

24.08.2020

Due to summer vacation case to come up for the same on 23.10.2020 before D.B.


Reader

23.10.2020

Junior to counsel for the appellant and Mr. Muhammad Jan, DDA for the respondents present.

The Bar is observing general strike, therefore, the matter is adjourned to 17.12.2020 for hearing before the D.B.


(Mian Muhammad)
Member


Chairman

29.04.2019

Counsel for the appellant and Mr. Ziaullah, DDA alongwith Fazle Khaliq, ADO for the respondents present.

Once again learned counsel for the appellant requests for adjournment due to his over occupation in many cases today. Adjourned to 12.07.2019 on which date the matter shall positively be argued.


Member


Chairman

12.07.2019

Counsel for the appellant and Addl: AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. Case to come up for arguments on 26.09.2019 before D.B.


Member


Member

26.09.2019

Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 10.12.2019 for arguments before D.B.


(HUSSAIN SHAH)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

10.12.2019

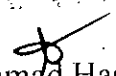
Lawyers are on strike on the call of Khyber Pakhtunkhwa Bar Council. Adjourn. To come up for further proceedings/arguments on 12.02.2020 before D.B.


Member


Member

25.09.2018

Learned counsel for the appellant present. Mr. Ziaullah, Deputy District Attorney alongwith Mr. Fazle Khaliq, ADO for the respondents present. Learned counsel for the appellant made a request for adjournment. Granted. Case to come up for arguments on 07.11.2018 before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

07.11.2018


Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 24.12.2018.


Reader

24.12.2018

Appellant in person present. Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith Mr. Fazle Khaliq, ADO for the respondents present. Appellant requested for adjournment on the ground that his counsel is not available today. Adjourned. To come up for arguments on 15.02.2019 before D.B.


(Ahmad Hassan)
Member


(Muhammad Amin Khan Kundi)
Member

15.02.2019

Appellant in person and Mr. Muhammad Riaz Paindakhel, Asstt. AG alongwith Fazle Khaliq, ADO for the respondents present.

Appellant requests for adjournment due to engagement of his learned counsel in many cases before the Honourable High Court today.

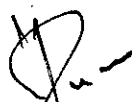
Adjourned to 29.04.2019 before the D.B.


Member


Chairman


10.04.2018 Counsel for the appellant and Mr. Ziaullah, DDA
alongwith Mr. Fazal Khaliq, ADO for respondents present.
Counsel for the appellant seeks adjournment. Adjourned. To
come up for arguments on 05.06.2018 before D.B.


(Ahmad Hassan)
Member


(M. Hamid Mughal)
Member


05.06.2018 Clerk to counsel for the appellant present. Mr. Kabir Ullah
Khattak, learned Additional Advocate General alongwith Abdul
Ghafar Superintendent for the respondents present. Clerk to counsel
for the appellant seeks adjournment as learned counsel for the
appellant is not in attendance. Adjourned. To come up for arguments
on 07.08.2018 before D.B


(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

07.08.2018 Learned counsel for the appellant and Mr. Zia Ullah learned
Deputy District Attorney present. Learned counsel for the appellant seeks
adjournment. Adjourned. To come up for arguments on 25.09.2018 before
D.B


(Muhammad Hamid Mughal)
Member


(Muhammad Amin Kundi)
Member

05.10.2017

Counsel for the appellant and Mr. Muhammad Jan, DDA alongwith Mr. Fazal Khaliq, ADO for respondents present. Counsel for the appellant requested that similar nature of appeals have been fixed on 20.12.2017, therefore the same may also be clubbed with the said appeal. Adjourned. To come up for 20.12.2017 alongwith the connected appeals before D.B.

(MUHAMMAD HAMID MUGHAL)
MEMBER

(AHMAD HASSAN)
MEMBER

20.12.2017

Counsel for the appellant and Mr. Muhammad Jan, DDA alongwith Fazle Khaliq, ADEO . for the respondents present. Counsel for the appellant seeks adjournment. To come up for arguments on 16.2.2018 before the D.B.

Member

Chairman

16.02.2018

Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Fazle Khaliq, ADO for the respondents present. Learned DA requested for adjournment. To come up for arguments on

10.04.2018 before the D.B. *The counsel for appellant requests that similar cases were decided by Mr. M. Hamid Mughal. This appeal may be fixed before Mr. M. Hamid Mughal.*

Member

Chairman

1213/2016

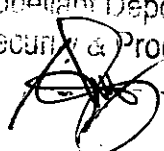
08.03.2017

Mr. Yaqoob Khan learned counsel for appellant and Mr. Muhammad Adeel Butt, Additional AG for respondents present. Preliminary arguments heard. On last date query was made that where is the impugned order to which effect today arguments is forwarded that since pensionary benefits has been denied to appellant so it is a recurring cause of action and that they had moved a department appeal against denial.

Point raised needs consideration, so the appeal is admitted for regular hearing subject to deposit of security and process fee within 10 days.

Mr. Fazle Khaliq, ADEO for respondent who was put on notice due to pre-admission notice present, also submitted written reply through learned Additional AG. To come up for rejoinder and arguments on 08.06.2017 before D.B.


Appellant Deposited
Security & Process Fee




(ASHFAQUE TAJ)
MEMBER

08.06.2017

Appellant present in person. Mr. Muhammad Adeel Butt, Additional for the respondents present. Appellant requested for time to file rejoinder. Requested accepted. To come up for rejoinder and arguments on 05.08.2017 before D.B.

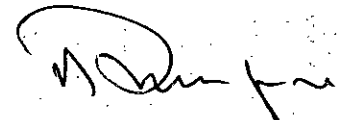

(Muhammad Amin Khan Kundi)
Member


(Gul Zeb Khan)
Member

1213/2016

03.01.2017

Counsel for appellant present. Preliminary arguments heard. The learned counsel pressed that pensionary benefits have been deprived despite the fact that he was compulsory retired from service. Query to the effect that where is the impugned order the learned counsel replied that representation was moved for not receiving pensionary benefits and so far no reply within stipulated period of 90 days was received resulting into this service appeal. Pre-admission notice be issued to the state to clarify the point. To come up for preliminary arguments on 08.02.2017 before S.B.


(ASHFAQUE TAJ)
MEMBER

08.02.2017

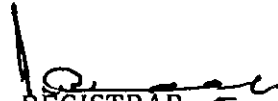
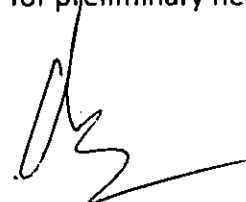
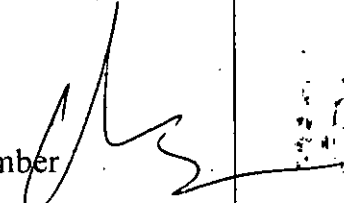
Appellant in person and Asst: AG alongwith Mr. Fazal Khaliq, ADO for respondents present. Appellant requested for adjournment. Request accepted. To come up for preliminary hearing on 08.03.2017 before S.B.


(MUHAMMAD AAMIR NAZIR)
MEMBER

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1213/2016

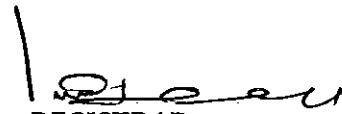
S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	06/12/2016	<p>The appeal of Syed Murad Ali Shah resubmitted today by Mr. Yaqub Khan Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>19-12-16</u>.</p> <p style="text-align: right;"> MEMBER</p>
2-	19.12.2016	<p>Counsel for the appellant present. Counsel for the appellant requested for adjournment. Request accepted. To come up for preliminary hearing on 03.01.2017 before S.B.</p> <p style="text-align: right;">Member </p>

The appeal of Syed Murad Ali Shah Ex-Class-IV GPS Gohar Abad Aman Kot Swabi received today i.e. on 30.11.2016 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of order dated 03-03-2016 of the appeal is illegible which may be replaced by legible/better one.
- 2- Annexures of the appeal are not in sequence which may be annexed serial wise as mentioned in the memo of appeal.

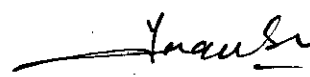
No. 1985 /S.T,

Dt. 1/12 /2016


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. ~~Yaqub~~ Khan Adv. Mardan.

Sir,
objections removed, completed and
re-submitted please.


Yaqub Khan
Advocate.

5/12/2016

Before the Service Tribunal KPK Peshawar

Service Appeal No. 1213/2016

Syed Murad Ali ShahAppellant

v/s

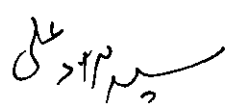
Director of E & SE, KPK Peshawar etcRespondent

INDEX

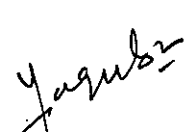
S.No	Descriptions	Annex:	Pages	
			From	to
1	Grounds of appeal		1	3
2	Copy of order dated 01/02/1996 & svc Book	"A"	4	11
3	Copy of charge report	"B"	-	12
4	Copy of Copy of appeal and order dated 13/10/2015	"C"	13	21
5	Copy of order dated 03/03/2016	"D"	-	22
6	Copy of departmental appeal dated 20/08/2016	"E"	23	25
7	Wakalat Nama			

Dated 28/11/2016

Appellant


S. Murad Ali Shah

Through


Yaqoob Khan advocate High courts
at Distt: courts Mardan.

Before the Service Tribunal KPK Peshawar

①

Service Appeal No. 12/13/2016

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1230

Dated 30-11-2016

Syed Murad Ali Shah son of Ali Gohar resident of village Gohar Abad
Aman Kot Tehsil & District Swabi, Ex-Class-iv GPS Gohar Abad, Aman
Kot SwabiAppellant

v/s

1. Director of E & SE, KPK Peshawar
2. D.E.O (M) (P) Swabi
3. Secretary Education KPK, Peshawar.Respondent

Appeal U/S-4 of KPK Service Tribunal Act 1974 , against order of respondent No.1 dated 03/03/2016 , whereby, appellant is retired from service without pensionary benefits for which appellant filed a department appeal / representation for granting of pensionary benefit on the completion of his service i-e 17 years and 4 months with respondent department till super nation of age i-e 60 years on his retirement vide order dated 03/03/2016, while appellant is entitle for pensionary benefits.

Respected Sir,

Appellant Humbly submits as under

Filed to-day

Registrar

30/11/16

1. That appellant was appointed as class-iv in GPS Ali Gohar Aman Kote vide order dated 01/02/1996. (Copy of order dated 01/02/1996 ^{see Book} is attached herewith as Annex: "A").

Re-submitted to -day
and filed.

Registrar

6/12/16

2. That appellant taken over the charge of his service and performed his duty with the entire satisfaction of his superiors. (Copy of charge report is hereby attached as Annex: "B").

- 3. That appellant was charged under section 302/324/34-ppc vide FIR No.100 dated 25/01/2008, police station Kalu Khan Swabi, appellant was arrested and trial was conducted and later on the appellant was declared innocent and was acquitted of the charge vide order/ judgment of Sessions Judge Swabi dated 24/04/2012 and after acquittal, the appellant approached for duty before the respondent on 20/08/2012 but instead the said respondent handed over termination order dated 26/04/2011 on 20/08/2012, which is illegal, against law and facts, against which appellant, approached to this Hon'able court for re-instatement of appellant, which was accepted and case was remanded back to Director of E &SE of KPK Peshawar vide order dated 13/10/2015. *(Copies of appeal and order dated 13/10/2015, are attached as Annex: "C")*.
- 4. That director of E & SE of KPK Peshawar accepted appeal of appellant and dismissal order is converted in to compulsory retirement along with period of absence is treatment as leave without pay vide order dated 03/03/2016. *(Copy of order is attached as Annex: "D")*.
- 5. That appellant approached to the respondent No.2 for granting of his arrear and pensionary benefit through application dated 29/09/2016 but in vain. *(Copy of application is attached as Annex: "E")*.
- 6. That the appellant is entitled for his pensionary benefit on the basis of completion of his 17 years and 4 months rendered qualified service on the following grounds.

GROUND:

- A. That order of respondent No.1 dated 03/03/2016 is illegal, against law and facts.
- B. That the appellant is entitled for his pensionary benefit on the basis of completion of his 17 years and 4 months rendered qualified service.
- C. That as per 371-A of C.S.R couple with the judgment of Apex Supreme Court of Pakistan titled as "Ameer Muhammad Vs Afghan Refugees" ~~SCMR~~ 1997 (S.C) page 1477 and as per reported

judgment of Apex Supreme Court of Pakistan 1996 SCMR 1185, once a benefit is given to the civil servants by service Tribunal or Supreme Court of Pakistan for the good governance that benefits can be extended other civil servants too , who may not be litigant in that case. Therefore, appellant is entitled for pensionary benefits.

It is, therefore, humbly prayed that on acceptance of this appeal, order of respondent No.1 dated 03/03/2016 may please be modified to the extent of appellant may please be granted his pensionary benefits on the completion of his 17 years and 4 months qualified service on his retirement on super nation of 60 years age. Any other relief may also be graciously awarded.

Dated 28/11/2016

S. Murad Ali Shah

Appellant _____

S. Murad Ali Shah

Yaqoob Khan

Through _____

Yaqoob Khan advocate High courts at Distt: courts Mardan.

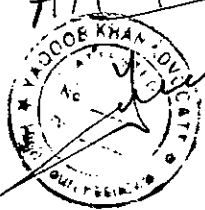
AFFIDAVIT

I, do hereby solemnly affirm and declare on oath that all the contents of the instant appeal are true and correct to the best of my knowledge and belief.

Deponent _____

S. Murad Ali Shah

Attested



Better Copy

Ans A

(4)

BEFORE THE SUB DIVISION EDUCATION OFFICER MALE PRIMER SWABI

APPOINTMENT CONTRACT BASIS

Mr. Said Murad Ali s/o Ali Gohar village & PO Arice

Tehsil and District Swabi is hereby appointed as contract chowkidar @ Rs.1200/- P.M. fixed against the newly created post in GPS Gohar Abad. As per Govt: Rules whereof the date of taking over charge on the following term and condition.

- a. His appointment is purely on contract basis and liable to termination at any time without assign without any reason or notice.
- b. He will not be allowed to take over charge in case his age is less than 18 years or above 45 years.
- c. It he failed to take over charge of the post within 15 days of the issue of this order will stand cancelled.
- d. In case he wishes to resign of his post he will have to give one month's prior notice or forfeit one month pay in lieu thereof to Govt.
- e. Charge report should be submitted to all concerned.

ISA KHAN
SUB DIVISION EDUCATION OFFICER
MALE PRIMERY SWABI.

Emd st No. 271-A / Apptt:C.IV/ dated Swabi 1-2-1996

Copy of the above is forwarded to the:-

1. DEO (M) Pri Swabi.
2. ASDEO (H)
3. Head Teacher of the concerned School.
4. Condidate concerned.
5. ASOHE (A)

Sd/-

SUB DIVISION EDUCATION OFFICER
MALE PRIMERY SWABI

Attested to be
true copy:-

Yarub

OFFICE OF THE SUB DIVISION EDUCATION OFFICER MALÉ PRIMER SWABI

Annex A
(4)

ON CONTRACT BASIS

Mr. Sand Murad Mir 90 Ali Gohar Village: 50 Arar

Tehsil and District Swabi is hereby appointed as contract candidate @ Rs. 120/- P.M.

against the newly created post in UPS Gohar Abad under Govt. Rules

from the date of taking over charge on the following term and conditions:-

- a. His appointment is purely on contract basis and liable to termination at any time without assignment without any reason or notice.
- b. He will not be allowed to take over charge in case his age is less than 18 Years or above 45 years.
- c. If he failed to take over charge of the post within 15 days of the issue of this order will stand cancelled.
- d. In case he wishes to resign of his post he will have to give one month's prior notice or forfeit one month's pay in lieu thereof to Govt.
- e. Charge report should be submitted to all concerned.

ISA KHAN
SUB DIVISION EDUCATION OFFICER
MALÉ PRIMER SWABI

Order No. 271-A / Addtts: C. IV / dated Swabi / 12-1-1956

Copy of the above is forwarded to:-

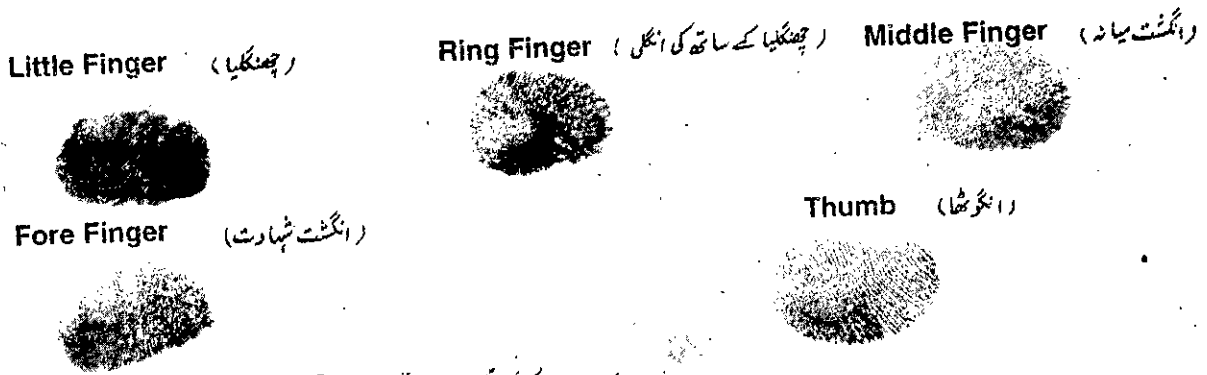
- 1. DED (M) Pri Swabi.
- 2. ASDHO (H)
- 3. Head Teacher of the concerned school.
- 4. Candidate concerned.

ISA KHAN
SUB DIVISION EDUCATION OFFICER
MALÉ PRIMER SWABI



- (5)
1. Name (نام) Said Mirad Ali
 2. Nationality and Religion Pakistani - Islam
 3. Residence (مستقر رہائش) Sohar Abad (Anwar Kot)
 4. Father's name and residence Ali Sahar
(والد کا نام اور پتہ)
 5. Date of birth by Christian era as nearly as can be ascertained 11/6/1953
(تاریخ پیدائش مطابق مسیحی عیسوی)
 6. Exact height by measurement 5-6
(قد و قامت)
 7. Personal mark of identification NIL
(نشانی شناخت)

8. Left hand/right hand thumb and finger-impressions of (Non-gazetted officer)
(مرد کی صورت میں بائیں اور عورت کی صورت میں دائیں ہاتھ کی انگلیوں کے نشانات)



9. Signature of Govt. Servent (سرکاری ملازم کے دستخط)
سید علی

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

10. Signature and designation of the Head of the Office or other Attesting officer
(تصدیق کنندہ افسر کے دستخط اور پتہ)

Note : The entries in this page should be renewed or re-attested at least every five years and the signatures in lines 9 and 10 should be dated. Finger prints need not be taken after every 5 years under this rule.

اس صفحہ کے مندرجات کم از کم پانچ سال بعد تجدید ہونا ضروری ہیں اور نمبر 9 و 10 میں دستخطوں کے نیچے تاریخ ہونی چاہیے انگلیوں کے نشانات کے لئے ہر پانچ سال کے بعد کی تصدیق کی ضرورت نہیں۔

Attested

9	10	11	12		13	14	15
Signature and designation of the Head of the office or other attesting officer in attestation of column 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 of average pay up to four months (or earned leave not exceeding 120 days) to which leave salary is debitible to another Government	Signature of the Head of the office or other attesting Officer	Reference to any recorded punishment or censure, or reward or praised of the Government servants
دستخط افسر مجاز	تاریخ انقطاع ملازمت	دعوات انقطاع ملازمت ترقی تبادل یا بطرفی	دستخط افسر مجاز	رخصت کی نوعیت دھیاد	چار ماہ کی رخصت کے لئے اوسط تنخواہ کا تین Period Government to which debitible	دستخط افسر مجاز	سزا یا جزا یا غیر مناسب کارکردگی کا ریکارڈ
J. Saubhan S.D.E.O. (M) Swabi					Appointed as Checkdov at 475 under Abad against vacant post order NO 276-A dated 1.2.96 D.E.O. (M) PVY Swabi his order on F-1X Checkdov		
						J. Saubhan S.D.E.O. (M) Swabi	
						Attested [Stamp]	

7

401

1	2	3	4		5		6	7	8
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 rule 3-20 of C.S.R. (Pb.) Volume II	Pay in substantive position		Additional pay for officiating		Other emoluments falling under the term pay	Date of appointment	Signature of Government servant
	عارضی مستقل یا قائم مقام	اگر عارضی ہے تو کیا وہ رول کے مطابق پیش کش کا مستحق ہے	تخواری بطور عارضی ملازمت	زائد تخواری بطور قائم مقام	ساوائے تخواری دیگر اڈنس		تاریخ تقرری	دستخط سرکاری ملازم	
			Rs.	Ps.	Rs.	Ps.			
Pay fixation in the light of F. depul									
Chowkidar Bps (1245-35-1770)									
					R 1245/-		1-12-1998	میرزا علی	
					R 1250/-		1-12-98	میرزا علی	
					R 1315/-		1-12-98	میرزا علی	
					R 1350/-		1-12-1998	میرزا علی	
					R 1385/-		1-12-99	میرزا علی	
					Rs 1420/-		1-12-2000	میرزا علی	
B-1 Pay revised 2001					R 1455/-		1-12-2001	میرزا علی	
1870-55-3520					R 2260/-		1-12-2001 Revised	میرزا علی	
					R 2255/-		1-12-2002	میرزا علی	
					R 2310/-		1-12-2003	میرزا علی	
					R 2365/-		1-12-2004	میرزا علی	
B-1 Revised 2005									
(2150-65-4110)					R 2735/-		1-7-2005	میرزا علی	
					R 2800/-		1-12-2005	میرزا علی	
					R 2885/-		1-12-2006	میرزا علی	
BPs-1 Revised 2007									
(2475-75-4715)					R 3300/-		1-7-2007	میرزا علی	
					R 3375/-		1-12-2007	میرزا علی	

B-2
(2530-85-5080)

do

do

اڈنس

اڈنس

اڈنس

Rs 3380/-

Next stage in B-2

R 3465/-

3550/-

1-7-2007 (up graded one step)

1-9-2007 special in

1-12-2007 AT/moren

8	9	10	11	12	13		14	15
Signature of Government servant	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		Signature of the Head of the Office or the Attesting Officer	Refer any rec. punishment, Censure, reward, praise or Government Serv. etc.
					Nature and duration of leave taken	Allocation of periods of leave on average pay upto four months (or earned leave not exceeding 120 days) for which leave salary is debitable to an other Government.		
						Period	Government to which debitable	
			①					
S.D.E.O. (M) Swabi	S.S. Al-Jedani	02/11/1996						on long useful absence from service, the services of the official are discontinued from the date of absence viz 25-1-2008 vide P.D.O. Swabi 110-416-9 P.W.10184 dated 21-01-11.
S.D.E.O. (M) Swabi	S.S. Al-Jedani	30/11/96	Annual increment					
S.D.E.O. (M) Swabi	S.S. Al-Jedani	30/11/97	Increment					
S.D.E.O. (M) Swabi	S.S. Al-Jedani	30/11/98	Increment					
S.D.E.O. (M) Swabi	S.S. Al-Jedani	30/11/99	Increment					
S.D.E.O. (M) Swabi	S.S. Al-Jedani	30/11/2000	Increment					
S.D.E.O. (M) Swabi	S.S. Al-Jedani	30/11/2001	Increment					
S.D.E.O. (M) Swabi	S.S. Al-Jedani	30/11/2002	Increment					
S.D.E.O. (M) Swabi	S.S. Al-Jedani	30/11/2003	Increment					
S.D.E.O. (M) Swabi	S.S. Al-Jedani	30/11/2004	Increment					
S.D.E.O. (M) Swabi	S.S. Al-Jedani	30/11/2005	Increment					
S.D.E.O. (M) Swabi	S.S. Al-Jedani	30/11/2006	Increment					
S.D.E.O. (M) Swabi	S.S. Al-Jedani	30/11/2007	Increment					
S.D.E.O. (M) Swabi	S.S. Al-Jedani	30/11/2008	Increment					
S.D.E.O. (M) Swabi	S.S. Al-Jedani	30/11/2009	Increment					
S.D.E.O. (M) Swabi	S.S. Al-Jedani	30/11/2010	Increment					
S.D.E.O. (M) Swabi	S.S. Al-Jedani	30/11/2011	Increment					
S.D.E.O. (M) Swabi	S.S. Al-Jedani	30/11/2012	Increment					
S.D.E.O. (M) Swabi	S.S. Al-Jedani	30/11/2013	Increment					
S.D.E.O. (M) Swabi	S.S. Al-Jedani	30/11/2014	Increment					
S.D.E.O. (M) Swabi	S.S. Al-Jedani	30/11/2015	Increment					
S.D.E.O. (M) Swabi	S.S. Al-Jedani	30/11/2016	Increment					
S.D.E.O. (M) Swabi	S.S. Al-Jedani	30/11/2017	Increment					
S.D.E.O. (M) Swabi	S.S. Al-Jedani	30/11/2018	Increment					
S.D.E.O. (M) Swabi	S.S. Al-Jedani	30/11/2019	Increment					
S.D.E.O. (M) Swabi	S.S. Al-Jedani	30/11/2020	Increment					
S.D.E.O. (M) Swabi	S.S. Al-Jedani	30/11/2021	Increment					
S.D.E.O. (M) Swabi	S.S. Al-Jedani	30/11/2022	Increment					
S.D.E.O. (M) Swabi	S.S. Al-Jedani	30/11/2023	Increment					
S.D.E.O. (M) Swabi	S.S. Al-Jedani	30/11/2024	Increment					

120

NAME OF POST

ملازمت کا نام

Whether substantive or officiating and whether permanent or temporary

ملازمت کی نوعیت
(i) اساسی ہے یا قائم مقام
(ii) مستقل ہے یا عارضی

If officiating State—
(i) substantive appointment or
(ii) whether service counts for pension under rule 3 20 of C.S.R. (Pb.) volume II

اگر قائم مقام ہے تو اساسی ملازمت کا حساب لگایا جائے اور اگر عارضی ہے تو ملازمت سے متعلقہ قواعد و ضوابط کے مطابق پیش قدمی کی جائے گی

Pay in substantive post

اساسی ملازمت کی تنخواہ

Rs. Ps.

Additional Pay for officiating

قائم مقامی کی تنخواہ میں اضافی تنخواہ

Rs. Ps.

Other emoluments falling under the term "Pay"

تنخواہ کی مدد میں شامل ہونے والی دیگر یافت

Date of appointment

تاریخ تقرری

The period from 25-1-2008 to 8-5-12 has been treated as E.O.L. without pay vide Director (E & SE) office Encl No 497-502 dt 3-3-2016



B-2

(3035-100-6035)

7/08 4235/ Presumptive

12/2008 4235/ do

12/009 4235/ do

12/2010 4235/ do

B-2 Revised B-241
(4910-170-10010)

7/2011 6940/ do

do 12/11 6940/ do

do 8/2012 6940/ do

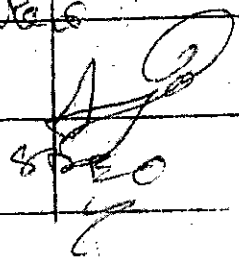
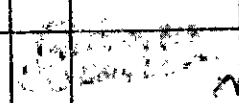
do 9/12 6940/ do

do 1/2012 7110/ do

do 31/5/2012 7170/ do

(Retirement)

all entries of pay (revised) are attested

8	9	10	11	12	13		14	15	
					LEAVE <i>رخصت</i>				
Signature of Government servant	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	Nature and duration of leave taken	Allocation of periods of leave on average pay upto four months (or earned leave not exceeding 120 days) for which leave salary is debit to an other Government.	Signature of the Head of the Office or the Attesting Officer	Reference to any recorded punishment to Censure, or reward or praise of the Government Servant	
					Period	Government to which debit to			
سرکاری ملازم کے دستخط	سربراہ دفتر یا کسی افسر مجاز کے دستخط	تاریخ انقطاع ملازمت	وجہ انقطاع ملازمت	سربراہ دفتر یا کسی افسر مجاز کے دستخط	میں ادارہ رخصت رخصت	کسی دیگر حکومت کے کھاتے میں قابل مجاز یا جاریہ ملک کی رخصت کی صورت میں	سربراہ دفتر یا کسی افسر مجاز کے دستخط	مذکورہ مندرجہ بالا ملازم کی طرف سے انعام یا تادیب کا حال	
					Director of elementary and SE SE of P1 Notifications Endorsed vide No 497 SO2 of 3-3 2016 modified the order of termination issued by EDO (E) Swabi and ordered for compulsory retirements of the official. The period of absence has been treated as EOL without pay.				
					Sub Divisional Officer (IA) Education Office, Pazzar (Swabi)				
					Attested				
					all entries at S.No 13 to 20 attested.				

Handwritten signature or name at the top center.

Aux B

(12)

Handwritten text, possibly a date or reference number: 1-2/96

Handwritten text, possibly a name or title: ...

Handwritten text, possibly a name or title: ...

Handwritten text, possibly a name or title: ... No 13 1-2/96

Handwritten signature or name: ...

Handwritten word: Attached

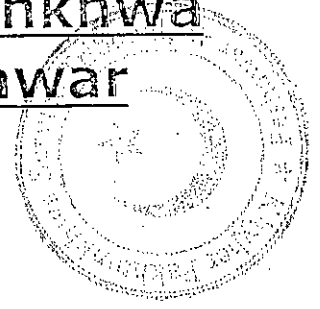
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Aux c

(13)

**Before the Khyber Pakhtunkhwa
Services Tribunal Peshawar**

Appeal No. 630/ 2014



Syed Murad Ali Shah S/o Ali Gohar Bacha,
Ex-Class-IV, Govt. Primary School Gohar Kothai Aman Kot, Swabi
R/o Village Ali Gohar Kothai, Amankot Tehsil and District Swabi.
..... (Appellant)

VERSUS

1. Director of (E&SE) Khyber Pakhtunkhwa, Peshawar.
 2. Deputy Commissioner, Swabi.
 3. D.E.O. (E & SE), Swabi.
- (Respondents)

AMENDED
APPEAL U/S 4 OF KPK SERVICE TRIBUNAL ACT,
1974, AGAINST THE ORDER OF RESPONDENT
NO.3 DATED 20/01/2014 AND ORDER DATED
26/04/2011, WHEREBY APPELLANT IS
DISMISSED FROM SERVICE, WHICH IS
ILLEGAL, AGAINST LAW AND FACTS.

ATTENDED
[Handwritten signature]

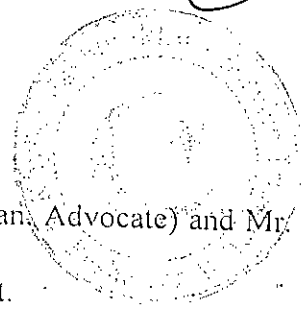
Sir,

Appellant humbly submits as under: -

1. That appellant was appointed as Class-IV in GPS Ali Gohar Kotei
vide order dated 01/02/1996.

(Copy of order dated 01/02/1996 is attached as
annexure "A")

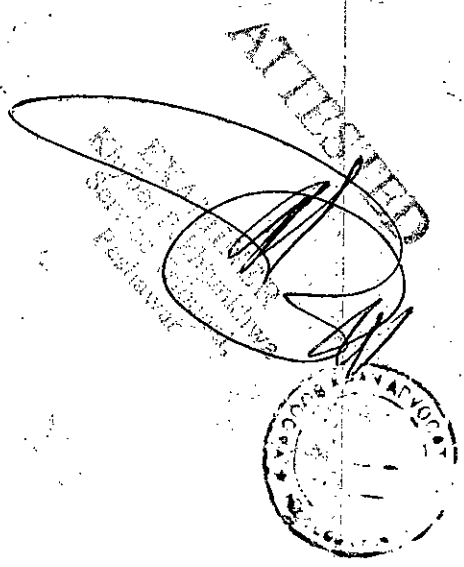
Labrarly
Attended
[Handwritten signature]



13.10.2015

Appellant with counsel (Yaqoob Khan Advocate) and Mr Muhammad Jan, GP for respondents present.

2. Arguments heard and record perused.
3. Appellant, Murad Ali Shah, Ex-Chowkidar, GPS, Gohar Abad, Swabi was dismissed from service vide impugned order dated 24.04.2011 and his departmental appeal was also rejected by DEO (M), Swabi vide his order dated 20.01.2014. hence this amended appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act-1974.
4. From perusal of the record it transpired that the appellant was charged in a murder case where-after he remained absconder and arrested and faced trial. He was acquitted by the learned Trial Court vide his order dated 24.07.2012.
5. It is the contention of the learned counsel for the appellant that neither charge sheet or show cause notice was served upon him nor inquiry was conducted and that appellant remained absolutely unaware of any disciplinary proceedings against him. That when he was acquitted by the Trial Court and approached Departmental Authorities, he was informed that he has been dismissed from service.
6. Conversely, it was submitted by learned Government Pleader that since the appellant was absconder therefore, the proceedings of enquiry was being a futile exercise, has been done



away by the Departmental Authority. He submitted that notice were issued followed by publication in the news paper and as the appellant did not respond therefore. he was dismissed from service.

7. From perusal of the record it transpired that the Director Education Peshawar being the appellate authority instead of deciding departmental appeal of the appellant returned the same to DEO (M), Swabi vide his order dated 15.04.2013 to decide the same which step of the Director Was not according to law and rules. Evidently, rejection of departmental appeal by DEO vide his order dated 20.01.2014 was passed by authority which was not competent. Moreover, the order was not a speaking one in the contemplation of Clause 24-A of the General Clauses Act, 1897. The Tribunal is of the considered view that appeal of the appellant being decided ^{by} incompetent authority vide impugned order dated 26.04.2014, cannot be maintained, hence the same is set aside. The case is remanded to the departmental appellate authority with the direction to decide appeal of the appellant strictly on merits in accordance with law and rules within a period of two months after receipt of this order. Parties are left to bear their own costs. File be consigned to the record.

Certified True Copy
[Signature]

ANNOUNCED
13.10.2015

SPJ
Member

SPJ
Member

Date	03.11.2015
No.	1200
	8
	2
	10

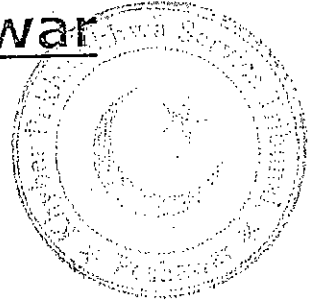
Date	03.11.2015
Date	03.11.2015

Attested
[Signature]
[Stamp]

(16)

**Before the Khyber Pakhtunkhwa
Services Tribunal Peshawar**

Appeal No. 630/ 2014



Syed Murad Ali Shah S/o Ali Gohar Bacha,
Ex-Class-IV, Govt. Primary School Gohar Kothai Aman Kot, Swabi
R/o Village Ali Gohar Kothai, Amankot Tehsil and District Swabi.
..... (Appellant)

VERSUS

1. Director of (E&SE) Khyber Pakhtunkhwa, Peshawar.
 2. Deputy Commissioner, Swabi.
 3. D.E.O. (E & SE), Swabi.
- (Respondents)

AMENDED

**APPEAL U/S 4 OF KPK SERVICE TRIBUNAL ACT,
1974, AGAINST THE ORDER OF RESPONDENT
NO.3 DATED 20/01/2014 AND ORDER DATED
26/04/2011, WHEREBY APPELLANT IS
DISMISSED FROM SERVICE, WHICH IS
ILLEGAL, AGAINST LAW AND FACTS.**

Sir,

Appellant humbly submits as under: -

1. That appellant was appointed as Class-IV in GPS Ali Gohar Kotei vide order dated 01/02/1996.

(Copy of order dated 01/02/1996 is ^{already} attached as annexure "A")

Attested



2. That appellant taken over the charge of his service and performed his duty with the entire satisfaction of his superiors.

already
(Copy of charge report is attached as annexure "B")

3. That appellant was charged u/s 302/324/34 PPC vide FIR No.100 dated 25/01/2008, Police Station Kalu Khan Swabi, appellant was arrested and trial was conducted and later on the appellant was declared innocent and was acquitted of the charge vide order/judgment of Sessions Judge Swabi, dated 24/04/2012.

already
(Copy of order/judgment dated 24/04/2012 is attached as annexure "C")

4. That after acquittal, the appellant approached for duty before the respondent No.3 on 20/08/2012 but instead the said respondent handed over termination order dated 26/04/2011 on 20/08/2012, which is illegal, against law and facts.

already
(Copy of dismissal order dated 26/04/2011 is attached as annexure "D")

5. That appellant approached respondent No.1 through representation dated 29/08/2012 upon which respondent No.3 asked report regarding the enquiry of the case from SDEO (M), Swabi who submitted his report vide letter No.94 dated 30/01/2013, stating therein that after dismissal of the appellant his case was sent to EDO (E&SE) Swabi vide letter dated 06/02/2008

ATTACHED
Khalid Khan Swabi
District Swabi

Attested
Khalid Khan Swabi
District Swabi

alongwith necessary documents but his suspension has not been received by them till now.

(Copy of the departmental appeal/enquiry report regarding matter is ^{already} attached as annexure "E/1").

6. That it is pertinent to mention here that departmental appeal was filed before respondent No.1 which was referred to Respondent No.3 through office of respondent No.1 which was brought into the notice of respondent No.2 vide letter dated 29/03/2012 and vide letter dated 15/04/2013 respondent No.3 was directed to decide the matter as per rules and policy.

(Copy of letter dated 29/03/2013 and 15/04/2013 are ^{already} attached as annexure "F" & "F/1" respectively).

7. That finally appellant approached before august Peshawar High Court, Peshawar to decide the departmental appeal of appellant which was accepted vide order/judgment of Peshawar High Court, Peshawar dated 12/11/2013.

(Copy of writ petition and order is ^{already} attached as annex: "G")

8. That Respondent No.3 has forwarded departmental appeal of appellant to Respondent No.1 vide letter dated 29/03/2013, who returned the same to respondent No.3 with the directions that case of appellant be decided as per rule/policy vide letter dated 15/04/2013 but respondent No.3 has rejected the departmental

[Handwritten signature and scribble]

Attended
[Circular stamp]

appeal of appellant vide order dated 20/01/2014, which is illegal, against law and facts.


(Copy of letters are attached as annexure "H").

- 9. That appellant had already filed service appeal before this Hon'able Tribunal and during pendency of appeal, the appellant received appellate order dated 20/01/2014, upon which the appellant filed application for filing of amended appeal, which was ^{filed} allowed, hence the instant amended appeal before this Hon'able Tribunal.
- 10. That impugned orders of Respondent No.3 dated 20/01/2014 and 26/04/2011 are illegal, against law and facts on the following grounds: -

GROUND:

- A. That absence of appellant is not willful but in fact he was behind the bar due to lodging of FIR against the appellant.
- B. That appellant has been declared innocent and falsely charged and after conducting trial the appellant is acquitted by Session Judge Swabi vide order/judgment dated 24/04/2012 and appellant was kept behind the bar in Jail for conducting of trial of Criminal case but for the same period appellant was placed absent by respondent department, due to which appellant is terminated from service on his absence.

ATTESTED
 P. I. B. K. ...
 ...
 ...

Attested


- C. Because appellant being innocent, but received double punishments, firstly kept jail and secondly dismissed from service for the period in which he was behind the bar, which is illegal, against the law and facts.
- D. That order of respondent No.3 is illegal, against law and facts and without lawful authority, hence not tenable and liable to set aside.
- E. That neither show cause notice nor charge sheet along with statement of allegations nor opportunity of personal hearing has been given to the appellant, therefore, solely on this ground order of respondent No.3 is liable to be set aside.
- F. That no any regular inquiry has been conducted against appellant by respondent No.3 as competent authority.
- G. That appellant has at his credit 12 years of unblemished record of service and no complaint, whatsoever, has been received from any person against the appellant.
- H. That all the proceedings initiated /conducted and concluded are without lawful authority, unauthorized officer and at back of the appellant because appellant was in jail during the concluding of proceedings, hence order of respondent No.3 is not tenable but liable to be set aside.
- I. That the punishment as imposed is too harsh keeping in view the unblemished service record of the appellant.

Accepted

J. That appellant is equipped with F.A. qualification with high merits; therefore appellant is entitled for reinstatement in service.

K. That the appellant seeks permission of this august Tribunal to agitate additional grounds at the time of hearing.

It is, therefore, humbly prayed that on acceptance of this amended appeal, the order of respondent No.3 dated 20/01/2014 and 26/04/2011 may please be set aside and appellant may please be reinstated in service with all back benefits. Any other relief deemed fit may also be graciously awarded.

Signature
Appellant

Dated: 08/04/2014

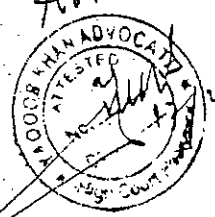
Through Counsel: *Yaqoob Khan*
Yaqoob Khan Advocate
Peshawar High Court,
Peshawar
at District Courts, Mardan
Cell: 0321-9309427

AFFIDAVIT

I, Syed Murad Ali Shah, appellant solemnly affirm and verify that the contents of the appeal are true and correct to the best of my knowledge and belief and nothing has been concealed or kept secret from this Hon'able Tribunal.

Dated: 08/04/2014

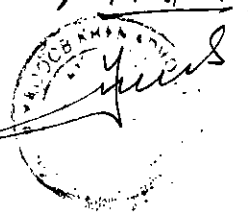
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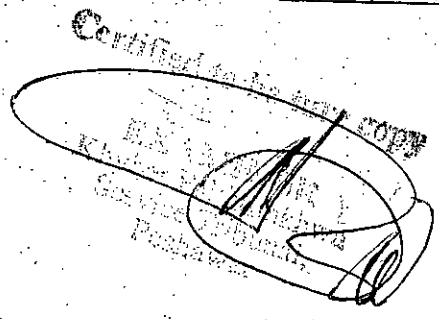
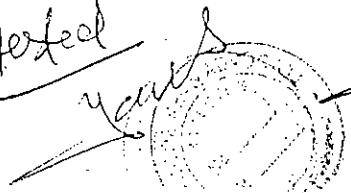
Deponent

Signature

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Attested



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Date of Delivery of Copy 03-11-2015

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Ann D

DIRECTORATE OF E&SE DEPARTMENT KPK PESHWAR

(22)

Notification

1. **Whereas** Syed Murad Ali Shah Chawokidar GPS Gohar Abad Aman Kot Distt: Swabi was well fully absented from duty form 25/01/2008 with in the meaning of rule 9 of E & D rules 2011
2. **And whereas** he has been charged in a criminal case U/S-302/324/34-ppx vide FIR No.100 dated 25/01/2008 registered at police station Kalu khan District Swabi & Acquitted of the charges vide judgment dated 24/04/2012 passed by the Hon'able District and Session judge Swabi
3. **And Whereas** as required under rule-9 of the E &D Rules 2011 three notices under registered cover were issued to him by the then executive Distict Officer (S L) swabi on his home address directing im to resume duty within fifteen days of the issuance of the notice but he did not respond.
4. **And Whereas** as required under the rules ibid a final notice was published in the leading of newspaper Mashriq Peshawar dated 22/02/2011 by the ADO S & L Distt: Swabi on charges of well full and unauthorized absence from official duty with effect from 25/01/2008 directing him to resume duty within fifteen days of the publication of the final sow cause notice , but neither he respondent to the notice nor resume duty.
5. **And whereas** after observing all codal formalities are required under the E & D rules 2011 major penalty at dismissal from service was imposed upon Syed Murad Ali Shah Chowkidar/ Class-iv GPS Gohar Abad Aman kot District Swabi by the ten executive District Officer S& L District Swabi vide notification No/416 G/No. 84 dated 26/4/2011 read with rule (b) (iv) of he E & D rules 2011.
6. **AND WEREAS** the aggrieved chowkidar/ class-iv filed a departmental appeal dated 29/08/2012 against his dismissal from service notification dated 26/4/2011 which was rejected by the District Education officer (m) Swabi in lieu which Rule (2)(a)U/S-17 of E & D Rules 2011.
7. **AND WEREAS** subsequently Syed Murad Ali Shah Ex-Chawkidar /class-iv GPS Gohar Abad Aman Kot District Swabi Filed a service Appeal No.1636/2014 against his dismissal from service notification dated 26/04/2011 before the Honorable Khyber Pakhtunkhwa service Tribunal Peshawar which he has been remanded to the department vide judgment dated 13/10/2015 with the directions to the appellate authority to decide the case of he appellant strictly on merit in accordance with law and rules.
8. **AND WEREAS** consequent upon attaining the age of superannuation, the appellants has stood retired from Govt service on attaining 60 years of age having qualifying service on his credit for more than 10 years against the post occupied by him before his dismissal from service in the respondent department and is liable for he grant of superannuation pension U/s-19 of civil servants Act 1973 read with Article 458 of civil servants Regulation (CSR).

NOW THEREFORE, in compliance of the judgment dated 13/10/2015 passed by the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar and in exercise of the powers conferred upon the undersigned under S-17 read with rule © of Khyber Pakhtunkhwa Govt servants (efficiency) and disciplinary rules 2011, the dismissal of service order in respect of Syed Murad Ali , Ex-Shawokidar/ class-iv GPS Gohar Abad Aman Kot Distict Swabi, issued by the then executive District Officer (S & L) Swabi is hereby modified and converted in to compulsory retirement from service U/S-14 read with rule (b)(2) of the Khyber Pakhtunkhwa rules 2011. His absence period from official duty with effect from 25/01/2008 to 08/05/2012 is treated as extra ordinary leave with out pay.

Sd x x x x
Director (E & SE) Department
KPK Peshawar

End: sment No.497-502/AD /Murad Ali shah/ Swabi dated 03/03/2016
Copy forwarded to all the concern

Sd x x x x
Asstt: Director (E & SE)
Department KPK Peshawar

*Attested
Murad*

DIRECTORATE OF E&SE DEPARTMENT KHYBER PAKHTUNKHWA, PESHAWAR.

Aux D
22

NOTIFICATION

- 1 WHEREAS, Syed Murad Ali Shah, Chowkidar GPS Gohar Abad Aman kot, District Swabi was willfully absented from duty wef 25-01-2008 within the meaning of Rule-9 of E&D Rules, 2011.
- 2 AND WHEREAS, he has been charged in a criminal case U/S- 302/ 324/34/PPC vide FIR No: 100 dated 25-03-2008 registered at Police Station Kalu Khan District Swabi & acquitted of the charges vide judgment dated 24-04-2012 passed by the Honorable District & Session Judge, Swabi.
- 3 AND WHEREAS, as required under rule-9 of the E&D Rules, 2011, three Notices under registered cover were issued to him by the then Executive District Officer(S&L) Swabi on his home address directing him to resume duty within fifteen days of the issuance of the Notices but he did not respond.
- 4 AND WHEREAS, as required under the Rules ibid, a final Notice was published in the Leading Newspaper Daily Moshir, Peshawar dated 22-2-2011 by the Executive District Officer (S&L) District Swabi on charges of his willful & unauthorized absence from official duty wef 25-01-2008 directing him to resume duty within 15-days of the publication of the final Show Cause Notice, but neither he responded to the Notice nor resumed duty.
- 5 AND WHEREAS, after observing all codal formalities as required under the E&D Rules, 2011, major penalty of Dismissal from Service was imposed upon Syed Murad Ali Shah Chowkidar / Class-IV GPS Gohar Abad, Aman Kot District Swabi by the then Executive District Officer (S&L) District Swabi vide Notification No: 416-G/No: 84 dated 26-04-2011 U/S-4 read with Rule (b) (IV) of the E&D Rules 2011.
- 6 AND WHEREAS, the aggrieved Chowkidar / Class-IV filed a Departmental Appeal dated 29-8-2012 against his Dismissal from Service Notification dated 26-4-2011, which was rejected by the District Education Officer(M) Swabi in line with Rule-(2)(a) U/S-17 of E&D Rules 2011.
- 7 AND WHEREAS, subsequently, Syed Murad Ali Shah Ex-Chowkidar / Class-IV GPS Gohar Abad Aman Kot District Swabi filed a Service Appeal No: 1636/ 2014, against his Dismissal from Service Notification dated 26-4-2011 before the Honorable Khyber Pakhtunkhwa, Service Tribunal Peshawar, which he has been remanded to the Department vide judgment dated 13-10-2015 with the directions to the appellate authority to decide the case of the appellant strictly on merit in accordance with law & Rules.
- 8 AND WHEREAS, consequent upon attaining the age of Superannuation, the appellant has stood retired from Govt. Service on attaining 60-years of age having qualifying Service on his credit for more than 10-years against the post occupied by him before his Dismissal from Service in the Respondent Department & is liable for the grant of superannuation pension U/S-19 of Civil Servants Act 1973, read with Article 45B of Civil Servants Regulation (CSR).

NOW THEREFORE, in compliance of the Judgment dated 13-10-2015, passed by the Honorable Khyber Pakhtunkhwa, Service Tribunal, Peshawar and in Exercise of the Powers conferred upon the undersigned under U/S-17, read with Rule-(C) of Khyber Pakhtunkhwa, Govt. Servants (Efficiency & Discipline) Rules, 2011, the Dismissal of Service Order in respect of Syed Murad Ali Shah, Ex-Chowkidar / Class-IV GPS Gohar Abad Aman Kot District Swabi, issued by the then Executive District Officer (S&L) Swabi, is hereby modified & converted in to compulsory retirement from service U/S-14 read with Rule(b) (ii) of the Khyber Pakhtun-khwa, E&D Rules 2011. His absence period from official duty wef 25-01-2008 to 8-5-2012 is treated as Extra Ordinary Leave without pay.

Director
(E&SE) Department Khyber
Pakhtunkhwa, Peshawar.

1147-502
Under No: /AD(Lit: II) S. Murad Ali Shah /Swabi Dated Peshawar the 3/3 /2016

Copy forwarded for information & n/action to the:-

- 1 Registrar Khyber Pakhtunkhwa, Service Tribunal, Peshawar.
- 2 Deputy Director (H&A), Local Directorate.
- 3 District Education Officer (M) Swabi.
- 4 SDO(M) District Swabi.
- 5 Official concerned.
- 6 PA to Director local office.

Asstt. Director (Admin.)
(E&SE) Department, Khyber
Pakhtunkhwa, Peshawar.

Attested

Before the Director Schools KPK Peshawar

Anx E

(23)

Syed Murad Ali Shah son of Ali Gohar resident of

.....Appellant

v/s

D.E.O (M) (P) Swabi

.....Respondent

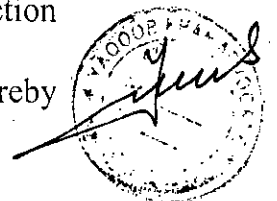
Appeal / Representation for granting of pensionary benefit on the completion of his service i-e 17 years and 4 months with respondent department till super nation of age i-e 60 years on his retirement vide order dated 03/03/2016.

Respected Sir,

Appellant Humbly submits as under

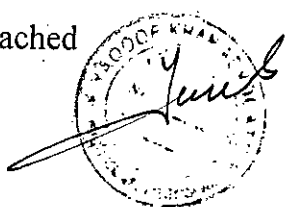
1. That appellant was appointed as class-iv in GPS Ali Gohar Kotei vide order dated 01/02/1996. (Copy of order dated 01/02/1996 is attached herewith).
2. That appellant taken over the charge of his service and performed his duty with the entire satisfaction of his superiors. (Copy of charge report is hereby attached).

Attested



3. That appellant was charged under section 302/324/34-ppc vide FIR No.100 dated 25/01/2008, police station Kalu Khan Swabi, appellant was arrested and trial was conducted and later on the appellant was declared innocent and was acquitted of the charge vide order/ judgment of Sessions Judge Swabi dated 24/04/2012 and after acquittal, the appellant approached for duty before the respondent on 20/08/2012 but instead the said respondent handed over termination order dated 26/04/2011 on 20/08/2012, which is illegal, against law and facts, against which appellant, approached to this Hon'able court for re-instatement of appellant, which was accepted and case was remanded back to Director of E & SE of KPK Peshawar vide order dated 13/10/2015. (Copies of judgment dated 24/04/2012 and dismissal order dated 26/04/2011, order dated 13/10/2015 are attached herein).

4. That director of E & SE of KPK Peshawar accepted appeal of appellant and dismissal order is converted in to compulsory retirement along with period of absence is treatment as leave without pay vide order dated 03/03/2016. (Copy of order is attached herewith).

Attested


5. That appellant approached to the respondent No.2 for granting of his arrear and pensionary benefit

through application dated 29/09/2016 but in vain.
(Copy of application is attached).

- 6. That the appellant is entitled for his pensionary benefit on the basis of completion of his 17 years and 4 months rendered qualified service.

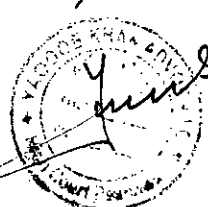
It is, therefore, humbly prayed that appellant may please be granted his pensionary benefits on the completion of his ^{service i.e.} 17 years and 4 months qualified service. already rendered with Respondent's department.
 Dated *20/8/2016*

وہ کے
 Your's obediently,

 (appellant)
 S. Muad Ali Shah

Through *Yaqub*

 Yaqoob Khan advocate High courts at
 Distt: courts Mardan.

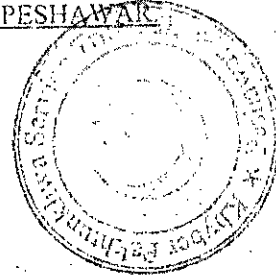
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

26

Appeal No. 1721/2011

Date of Institution - 19.10.2011
Date of Decision - 20.01.2012



Nameer Khan, Ex-Laboratory Attendant GHS Badar-Banda Mardan
.....(Appellant)

VERSUS

D.C.O Mardan,
E.D.O (E&SE) Khyber Pakhtunkhwa, Peshawar,
Government of K.P.K through Secretary (E&SE) Peshawar.
.....(Respondents)

KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

APPEAL AGAINST THE ORDER DATED 21.06.2008, RECEIVED BY THE
APPELLANT ON 25.6.2011, WHEREBY HE HAS BEEN REMOVED FROM
SERVICE.

Mr. Yaqoob Khan, Advocate.....For appellant.
Mr. Tahir Iqbal Khattak A.G.P.....For Respondents.

SYED MANZOOR ALI SHAHMEMBER

JUDGMENT

SYED MANZOOR ALI SHAH, MEMBER. This appeal has been filed by the
appellant against the order dated 21.06.2008, received by the appellant on 25.6.2011,
whereby he has been removed from service.

2. Brief facts of the case are that the appellant was appointed as Laboratory
Attendant vide order dated 28.10.1990. He requested for long leave w.e.f. 1.7.2006 till
25.6.2011 which was verbally sanctioned and allowed the application dated 20.6.2008.
On 25.6.2011 he reported for duty but he was informed that he has been removed from
service vide the impugned order dated 21.6.2008 received by him on 25.6.2011. The
appellant preferred a departmental appeal but the same was rejected vide order dated
25.06.2011. Hence, the instant appeal.

3. Arguments heard and file perused.

4. The learned counsel for the appellant argued that the absence of the appellant
was not willful but in fact he was on long leave without pay. The legal procedure prior



to terminating the services of the appellant was not adopted, such as service of charge sheet/statement of allegations, show cause notice etc No regular inquiry has been conducted against the appellant and he has been condemned unheard The respondents were legally bound to give publication through media/press about the absence of the appellant. The appellant had already submitted his application for the grant of earned leave but the fate of his application was not communicated to him. The appellant has been punished without affording an opportunity of personal hearing. The learned counsel for the appellant relied on the judgment passed in the case of Amir Muhammad Vs. Commissioner Afghan Refugees, in which it is obviously mentioned that every civil servant whose services are covered by under Article 371-A of CSR who has more than 10 years will be entitled to the pensionary benefits for the qualifying service. The learned counsel stated that since the appellant has also rendered more than 16 years service, he may be allowed pensionary benefits for the service rendered by him.

5. The AGP argued that no leave application has been submitted by the appellant. The appellant was willfully absent from duty and codal formalities for removal from service have been adopted. Consequently, he was removed from service.

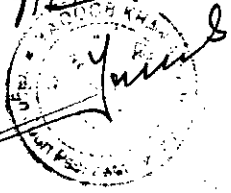
6. The Tribunal observes that legal procedure for terminating the services of the appellant as required under the law/rules has not been observed by the respondents. If the where-about of the appellant was not known then the respondents were legally bound to give publication in the press for his absence, the appellant approached the respondents with a departmental appeal but they did not consider the same

7. In view of the above, the appeal is remanded in limine to the respondent department to consider his case for compulsory retirement as the appellant has served the department for more than 16 years and according CSR 371-A, quoted by the learned counsel for the appellant, his case for the grant of pensionary benefits for the service rendered by him may be considered. File be consigned to the record.

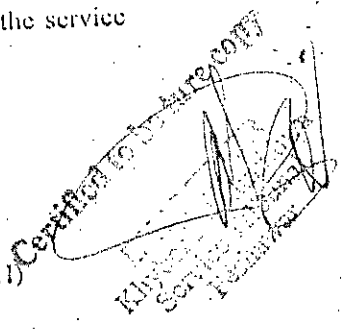
ANNOUNCED.
20.01.2012.

(SYED MANZOOR ALI SHAH)
MEMBER

Attested
Yunus



CERTIFICATE OF AUTHORITY
KHUSHI KHAN
Secretary



بعد الت

کورٹ فیس

مورخہ: 30 نومبر 2016ء منجانب ریلوے

مقدمہ: سید مراد علی بنام: ڈیپٹی کمشنر آف سٹولنز اور

دعویٰ: ریل

جرم:

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام ریل کے لئے لہو خان ریل وکسٹ مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی نکل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرانے اجراء اور وصولی چیک روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زراں پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری ایک طرفہ یا اپیل کی برآم ہوگی اور منسوخ دائر کرنے کی اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مذکور کے عمل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اسکا ساختہ برداشت منظور و قبول ہوگا اور دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی

مقدمہ مذکورہ لہذا وکالت نامہ لکھ دیا کہ سندر ہے

المرقوم 30 نومبر 2016ء

واہشہ

بمقام: () کے لئے منظور ہے

Attested & Accepted

Inquiry



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No.1213/2016

Said Murad Ali Shah S/O Ali Gohar Ex-Chowkidar, GPS Gohar Abad Swabi,
Resident of Village Gohar Abad Aman Kot Tehsil & District Swabi . **Appellant**

VERSUS

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

INDEX

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DISTRICT EDUCATION OFFICER

(MALE) SWABI
Distt: Education Officer
(Male) Swabi

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No.1213/2016

Said Murad Ali Shah S/O Ali Gohar Ex-Chowkidar, GPS Gohar Abad Swabi,
Resident of Village Gohar Abad Aman Kot Tehsil & District Swabi . **Appellant**

VERSUS

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

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS 01 TO 03

Respectfully Sheweth,

PRELIMINARY OBJECTIONS.

1. That the instant Appeal is badly time barred and not maintainable.
2. That the Appellant has no locus standi or cause of action to file the instant Appeal .
3. That the Appellant has not come to the Tribunal with clean hands.
4. That the Appellant concealed the material facts from the Honourable Tribunal.
5. That the Appellant has filed the instant Appeal just to pressurize the respondents.
6. That the Appellant is estopped by his own conduct to file the instant appeal.
7. That the instant Appeal is against the prevailing laws and rules.

ON FACTS.

1. Admitted to the extent that the appellant was appointed as Chowkidar on contract basis, fixed salary in GPS Gohar Abad Aman Kot (Swabi) vide order dated 01.02.1996. As per Government of NWFP Finance Department No.B1/2-1/92-93/FD dated Peshawar, the 04.11.1992 which states, " in future the non education cadre posts in the Education Department such as Chowkidars, Naib Qasids, Malis, Water Carriers, Sweepers etc; be filled on contract basis, in order to rid the Provincial Exchequer of the extra burden on account of future pensionery liabilities." These posts be filled in on fixed salaries basis. That the appellant was appointed in Education Department and the appellant accepted all the terms and conditions without any agitation before taking over charge till retirement. (Annexure-A attached).
2. That it mandatory for a civil servant to perform his duty with entire satisfaction of his superiors, otherwise he would have to be proceeded under E&D Rules, 2011. He was proceeded under E&D Rules,2011 when he was absconded w.e.f 25.01.2008 and was dismissed form service vide order dated 24.04.2011
3. Incorrect, hence denied, the appellant was absconded w.e.f. 25.01.2008 and was dismissed from service vide order dated 24.04.2011 and his departmental appeal was also rejected by the DEO (M) Swabi vide his order dated 20.01.2014. The appellant was charged in murder case where-after he remained absconder, arrested and faced trial. He acquitted by the learned trial

Court vide his order dated 24.07.2012 . On the basis of rejection of departmental appeal by DEO(M) Swabi, who was not the appellate authority but the competent authority. Hence the Service Tribunal remanded the case to the departmental appellate authority with the direction to decide appeal of the appellant strictly on merit in accordance with law and rules with in a period of two months of receipt of this order. The Director E&SE Department Khyber Pakhtunkhwa Peshawar converted the dismissal order into compulsory retirement and his absence period from official duty w.e.f. 25.01.2008 to 08.05.2012 treated as Extra Ordinary Leave with out pay. That the appellant is not entitled for pensionary benefits because the period of service for such cadre, w.e.f. 01.07.1992 to 30.06.2008 has been declared by the Government non pensionable. There are three conditions service qualifying for pension. As per pension rule 2.1 the service of a Government servant does not qualifying for pension unless it conforms to the following three conditions.

- First- The service must be under Government.
- Second- The service must not be Non-Pesnionable
- Third- The service must be paid by Government from the Provincial consolidated Fund.

The service rendered by the appellant does not conform all the above said three conditions. His qualifying service is less than 10 years. Hence he is not entitled for pensionary benefits. (Annexure B attached).


4. Admitted to the extent that Director E&SE Department Khyber Pakhtunkhwa Peshawar accepted appeal of appellant and dismissal order was converted into compulsory retirement alongwith period of absence w.e.f. 25.01.2008 to 08.05.2012 treated as Extra Ordinary Leave with out pay.
5. That the appellant is not entitled for pensionary benefits because the period of service for such cadre, w.e.f. 01.07.1992 to 30.06.2008 has been declared by the Government non pensionable. There are three conditions service qualifying for pension. As per pension rule 2.1 the service of a Government servant does not qualifying for pension unless it conforms to the following three conditions.
 - First- The service must be under Government.
 - Second- The service must not be Non-Pesnionable
 - Third- The service must be paid by Government from the Provincial consolidated Fund.The service rendered by the appellant does not conform all the above said three conditions. His qualifying service is less than 10 years. Hence he is not entitled for pensionary benefits. (Annexure B attached).
6. Incorrect, hence denied, the total length of service of the appellant till compulsory retirement is 11 years, 11 months and 24 days but he has not a single day qualifying service for pensionary benefits. All the said service was on contract basis, fixed salary. Hence the appellant has no cause of action to file the instant appeal and the appeal in hand is liable to be dismissed on the following grounds.


GROUND.

- A. Incorrect, hence denied, the order of respondent No.1 dated 03.03.2016 is legal with law and facts.
- B. Incorrect, hence denied. the service rendered by the appellant was on contract basis, fixed salary. The contact service is not count towards qualifying service for pensionary benefits. Hence the appellant is not entitled for pensionary benefits.

Incorrect, hence denied, the respondents have never given pensionary benefits to civil servants having qualifying service less than 10 years. It will be discrimination if the respondents allow the pensionary benefits to the appellant. The Court judgments presented by the appellant for ready reference having no relevancy to the case in hand, because there is not involved any identical question of law. Hence the appellant is not entitled for pensionary benefits.

In wake of the above submissions, it is requested that this Honourable Tribunal may graciously be pleased to dismiss the instant appeal with cost in favour of the respondents.


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

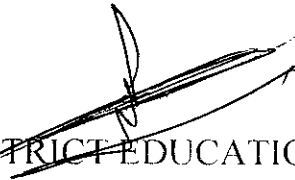

Director E&SE Khyber Pakhtunkhwa
Peshawar


Director
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

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
(MALE) SWABI
Distt: Education Officer
(Male) Swabi

Phone No: 812072

DIRECTORATE OF PRIMARY EDUCATION
N.W.F.P. (HAYATABAD) PESHAWAR.

No.F-1/Director/PA/M&A/ Appointment
of persons to posts on contract
basis
Dated Peshawar the 7.12.1992.

To

- 1-35. All the District Education Officers (M&F),
Primary,
in N.W.F.P.
36-92. All Sub-Divisional Education Officers (M&F),
in N.W.F.P.

Subject:- APPOINTMENT OF PERSONS TO POSTS ON CONTRACT BASIS.

Memo:-

I am directed to enclose a photo stat copy of Services and General Administration Department Government of NWFP, No:SORI (S&GAD)4-7/86 dated 9th; April, 1988 regarding appointment of persons to posts on contract basis and a copy of Government of NWFP Education Department Memo:No:SO(G)/Edu:/6-147/KC/92 dated 22.11.1992 regarding recruitment to the posts of Non-Education cadre in the Education Department and direct you to make appointments of chowkidars sanctioned for primary schools W.E.F. 1.7.1992 in the light of the instruction contained in the above referred memorandum.

Encl:- As above.

[Signature]
ADDITIONAL DIRECTOR-I
PRIMARY EDUCATION NWFP

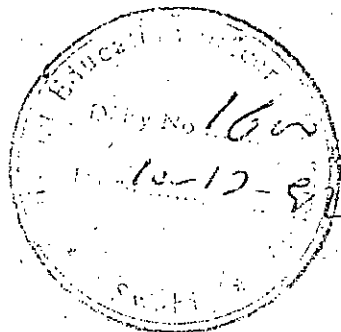
Endst.No: & date as above.

Copy forwarded to the:-

1. Secretary to Government of NWFP, Education Department, Peshawar.
2. P.A. to Director Education (Primary) NWFP, Local Office.

[Signature]
ADDITIONAL DIRECTOR-I
PRIMARY EDUCATION NWFP

M.A.



[Signature]
Superintendent,
Distt. Edu. Officer
(Female) Swabi.

11/32
55
GOVERNMENT OF N.W.F.P.
EDUCATION DEPARTMENT.

NO. SOG/EDU/6-147/K.C/92
Dated Pesh: the 22-11-1992

- 1. The Director of Education (Colleges), NWFP.
- 2. The Director of Education (Secondary), NWFP.
- 3. The Director of Education (Primary), NWFP.
- 4. The Director of Education (FATA), NWFP.
- 5. The Director of Education (Technical), NWFP.
- 6. The Director, Bureau of Curriculum Dev: & Educational Extension Services, NWFP, Abbottabad.
- 7. All the Project Directors of Education in NWFP.

AD(PED) II
AD(SNE)

29/11/92

12(B&A)

MEMORANDUM CONCERNING COSTS OF NON-EDUCATION CADRE
IN THE EDUCATION DEPARTMENT.

I am directed to refer to this Department letter of even number dated 30th June, 1992 on the subject cited above and to enclose herewith a copy of Government of NWFP, Finance Department letter No. ET/2-1/92-93 WD dated 2-11-1992 containing the revised policy of the Provincial Government to the effect that the following categories of jobs in Primary Schools, BHUs, RHCs, Water Supply Schemes and G.O. Developments will henceforth be filled in on fixed salary basis:-

- 1. Chowkidar.
- 2. Mali.
- 3. Bahishti.
- 4. Cooks and cleaners.
- 5. Village man.

1. Budget provision will be made available/reflected under the Commissions and Services - 2260.00-payment to the other for the services rendered in the respective departments budget, on the basis of the actual work done which will be spent only for payment of salaries to the staff of these categories of employees.

2. The employees employed for the categories of employees will be recruited on contract.

3. The concerned appointing authorities are required to maintain separate/complete record of these employees.

4. In view of the above, the Government of NWFP, Education Department has decided to lift the temporary ban on appointment imposed under the Department letter of even number dated 30th June, 1992.

(Contd.....P/2)

Superintendent
Distt: Edu. Officer
(Female) Swabi.

Page-2. ✓

6. The Director, Primary Education may please submit demand for budget allocation under Commodities and Services (596000-Payment to the Other for Services rendered), to meet the over-all expenditure for taking up with Finance Department on urgent basis.

Nasrullah Jan
(Nasrullah Jan) ✓
Addl:Secretary Education-I

Endst:No.SOG/EDU/5-147/KC/92 Date 22-11-1992

Copy of the above is forwarded for information to :-

1. PS to Secretary to Govt; of NWFP, Finance Department.
2. Addl:Secretary-IX, Education Department, Govt; of NWFP.
3. PS to Secretary Education, NWFP.

(Nasrullah Jan)
Addl:Secretary Education-I

GOVERNMENT OF NWFP
FINANCE DEPARTMENT

NO. BI/2-1/92-93/ED

Dated Pesh., the 1/11/92

PI

*This is an
imp. letter
To
AS I with
AS II*

The Secretary to Government of NWFP,
Education Department.

2. The Secretary to Government of NWFP,
Health & SW Department.

3. The Secretary to Government of NWFP,
Public Health Engineering Department.

4. The Secretary to Government of NWFP,
C&W Department.

AS I / AS II

*Applics only to
Chowkidars in Primary
Schools in Edu. Deptt.
Please note with reference
to DE (P) Sir, to all
depts. or orgs. Also
instructs to all depts.
to place their
posts on contract basis
in future the non-education
cadre posts in the
Education Department
such as Chowkidars,
Naib Qasida, Mali,
Water Carriers,
Sweepers etc. be filled
on contract basis in
order to rid the
Provincial exchequer
of the extra burden
on account of future
pensionary liabilities.*

APPOINTMENTS OF SPECIFIED CATEGORIES
OF STAFF ON FIXED SALARIES.

I am directed to state that the Provincial Cabinet in
its meeting held on 21/10/92 had inter-alia decided that :-

2. On reconsideration the Government has now decided that
the Cabinet decision referred to above may be applied to similar
jobs in some other Departments as well. Accordingly, the
following categories of jobs in Primary Schools, BHUs, RHCs,
Water Supply Schemes and C&W Department will henceforth be
filled in on fixed salary basis :-

- i. Chowkidar.
- ii. Mali.
- iii. Bhishti.
- iv. Coolie in Road Gang.
- v. Valve Man.

*City ground
AS I
10/11/92*

ASE-I

SO(S)

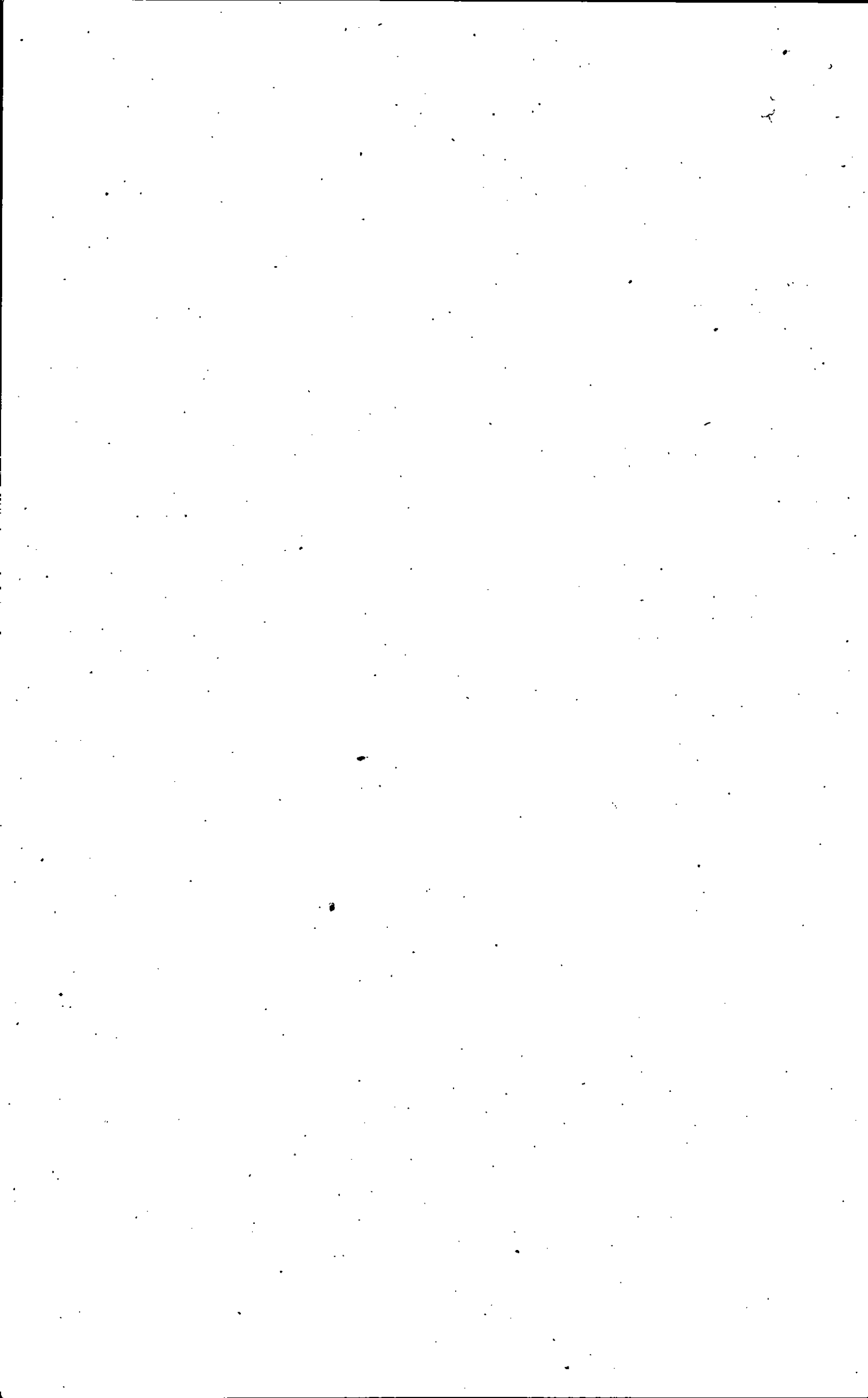
*PC: put up
10/11
11/11/92*

*194
15/11/92*

*ASST-
CCOR*

*234
15711
367
10-11-92*

Sup. Student
Distt: Edu Officer
(Female) Swabi.



3. The above instructions would apply to the requirements for such jobs whose number would be sanctioned by the Finance Department. Budgetary provision will be made available/reflected under the Commodities and Services (596000 Payment to the other for Services rendered) in the respective department budget on the basis of sanctioned jobs and will be spent only for payment of salaries to these categories of employees.

4. The monthly wages fixed for the above categories of employees will be Rs 1000/- per month.

5. The Departments/Appointing Authorities are also requested to observe the following :-

- a) Maintain complete record of such appointments.
- b) Restrict the appointment of employees for seasonal maintenance work to the period when their services are actually required.

Yours obediently;

(ADDUS SAMAD KHAN)
DEPUTY SECRETARY (B&C)

Enclt No. & date given

Copy forwarded for information & necessary action to:-

1. Accountant General, NWFP, Peshawar.
2. All District Accounts Officers in the Province.

(ADDUS SAMAD KHAN)
DEPUTY SECRETARY (B&C)

Enclt No. & date given

Copy forwarded to :-

1. All Additional Secretaries.) Finance Department
2. All Deputy Secretaries.)
3. All Section Officers/)
- Budget Officers.)

(MOHULLAH KHAN)
BUDGET OFFICER-1

5967
57/11

**West Pakistan Civil Services Pension Rules,
1963**

[Gazette of West Pakistan, Extraordinary, 21st June, 1963]
Notification No. (SO)(SR)(III)-947/63, DATED 7th June, 1963]

**CHAPTER-I
GENERAL**

- 1.1. Short title** – These rules may be called the West Pakistan Civil Services Pension Rules.
- 1.2. Commencement** – These rules shall have effect from the 14th October, 1955.
- 1.3. Extent of application** – Unless in any case it be otherwise expressly provided, by these Rules shall apply to:-
- (i) All Government servants under the rule-making control of the Government of West Pakistan who entered Government service on or after the 14th October, 1955.
 - (ii) All Government servants who were in service on and before 14th October, 1955 unless they opt to continue to be governed by the existing rules applicable to them;
 - (iii) All pensioners who retired from Government service after the 14th October, 1955 but before the date of publication of these rules, if they opt to be governed by these rules.
- Note-(1) In the case of Government servants or pensioners who were in service on and before the 14th October, 1955 but died before the publication of these rules, it will be assumed that they opted for these rules.
- Note-(2) These rules would continue to remain in force in Khyber Pakhtunkhwa by virtue of Article 19 of the Province of West Pakistan (Dissolution) Order 1970 (President's Order No. 1 of 1970).
- 1.4. Option** – Government servants and pensioners mentioned in clauses (ii) and (iii) of Rule 1.3 above may exercise option within a period of 6 months from the date of publication of these rules in the West Pakistan Gazette. The option shall be communicated in writing to the Accounts officer concerned as well as the Appointing Authority in the case of Gazetted or retired Gazetted Officers, and to the Appointing Authority in the case of Non-Gazetted or retired Non-Gazetted staff and the option once so exercised shall be final. Government servants who fail to exercise option within the stipulated period shall be assumed to have opted for the West Pakistan Civil Services Pension Rules.

Note-(1) Government servants who were in pensionable services on 1st July, 1966 were given option to exercise in favour or otherwise of the West Pakistan Civil Services Pension Rules, 1963/Revised Rules and Rates 1967 vide West Pakistan Letter No. S.O. (SR)-V-257/67, dated 27th April, 1967, Appendix-I).

Note-(2) The Accounts Officer should acknowledge the receipt of option communicated to him by Gazetted Servants.

1.5 These rules shall not apply to-

- (i) Government servants paid from contingencies or borne on Work-charged Establishment;
- (ii) Government servants engaged on contract which contains no stipulation for pension under these rules;
- (iii) Any person for whose appointment and conditions of service, special provision is made by or under any law for the time being in force;
- (iv) Any Government servant or class of Government servants who may be excluded by a competent authority from the application of these rules;
- (v) Any Government servant who holds a post which has been declared by a competent authority to be Non-pensionable;
- (vi) Any person whose whole time is not retained for public service but is merely paid for work done, such as Government Pleaders and Law Officers not debarred from private practice;
- (vii) Any person who is not paid from the Provincial Consolidated Fund, but is paid from a fund held by Government as a Trustee, or from a local fund or is remunerated by fees for the grant of a tenure of land or of any other source of revenue or of a right to collect money.

1.6.

- (i) **Definitions**- Unless expressly specified otherwise in these rules, terms defined in Chapter-I of the West Pakistan Traveling Allowance Rules have the same meaning when used in these rules.
- (ii) **Pension**-Except when the term "Pension" is used in contradistinction to gratuity, pension includes gratuity.
- (iii) **Class IV service** means any kind of service which may be specially classed as such by Government.
- (iv) **Superior Service**-Superior Service means any kind of service which is not Class-IV Service.
- (v) **Ordinary Pension**-Ordinary pension means pension other than extraordinary pension and includes special additional pension.
- (vi) **Full pension**-Full pension means the amount of ordinary pension admissible including 1/4th of the surrendered portion of the pension.

1.7

In any case where pension or gratuity is not admissible under these rules, a competent authority may grant pension which will, not save in most exceptional circumstances, exceed Rs. 100 a month or a gratuity not exceeding the equivalent value of that amount; provided that the general spirit of the rules is observed.

West Pakistan Civil Services Pension Rules

1.8

(a) Good conduct is an implied condition of every kind of pension. Government may withhold or withdraw a pension or any part of it if the pensioner be convicted of serious crime or be found to have been guilty of grave misconduct either during or after the completion of his service, provided that before any order to this effect is issued, the procedure regarding imposition of the penalty of removal from service shall be followed.

(b) Government reserve to themselves the right of recovery from the pension of Government pensioner on account of losses found in judicial or departmental proceedings to have been caused to Government by the negligence, or fraud of such Government pensioner during his service, provided that such departmental proceedings shall not be instituted after more than a year from the date of retirement of the Government pensioner.

(c) In case the amount of pension granted to a Government servant be after wards found to be in excess of that to which he is entitled under the rules, he shall be called upon to refund such excess.

(d) Except with the previous sanction of the Provincial Government, no pensioner shall, within a period of two years from the date of his retirement take part in any election or engaged in political activity of any kind.

In future all Civil Servants who are under enquiry be excluded from the enquiry proceedings under the E&D Rules after attaining the age of superannuation and they may be allowed full pensionary benefits as provided under the rules. However it has further been decided that if some pecuniary loss caused to the Government is likely to be proved against a Government Servant who superannuates before decision of the case against him, an FIR should be lodged against him for judicial proceedings immediately after the date of superannuation and exclusion of his name from the departmental enquiry.

NO.SOR-II(S&GAD)3-29/97-Vol-II
GOVERNMENT OF KHYBER PAKHTUNKHWA
SERVICES & GENERAL ADMN. DEPARTMENT
Dated Peshawar, the 22nd August 1998.

1.9. No pension may be granted to a Government servant dismissed or removed for misconduct, corruption, subversive activities or inefficiency, but if, he deserves special consideration he may be granted a compassionate allowance not exceeding 2/3rd of the pension which would have been admissible to him had he retired on invalid pension.

1.10. Any of these rules may for reasons to be recorded in writing be relaxed in individual cases by a competent authority if it is satisfied that strict application of the rules will cause hardship to the individual.

◆ Added by Finance Department (West Pakistan) Notification No. FD (SR-V) 1286/65, dated 15th June, 1965.

Note:- No pension shall be admissible to a civil servant who is dismissed or removed from service for reasons of discipline, but Government may sanction compassionate allowance to such a civil servant, not exceeding two third of the pension or gratuity which would have been admissible to him had he been invalidated from service on the date of such dismissal or removal.

Section 19(3) of the Khyber

Pakhtunkhwa Civil Servants Act, 1973

CHAPTER - II
SERVICE QUALIFYING FOR PENSION

2.1 Conditions of Qualifications - The service of a Government Servant does not qualify for pension unless it conforms to the following three conditions: -

First - The Service must be under Government.

Second - the service must not be Non-pensionable.

Third - the service must be paid by Government from the Provincial Consolidated Fund.

* **Note - (1)** For the previous service of displaced Government servants which qualifies for pension see Chapter - VII.

* **Note - (2)** Service rendered after retirement on superannuation pension/retiring pension shall not count for pension or gratuity.

2.2 Beginning of service - Subject to any special rules the service of Government servant begins to qualify for pension when he takes over charge of the post to which he is first appointed.

2.3 Temporary and officiating service - Temporary and officiating service shall count for pension as indicated below: -

(i) Government servants borne on temporary establishment who have rendered more than five years continuous temporary service shall count such service for the purpose of pension or gratuity; and

(ii) Temporary and officiating service followed by confirmation shall also count for pension or gratuity.

2.4 Service in a temporary post on abolition of a permanent post - If a permanent post, on which a Government servant holds a lien, is abolished under circumstances entitling him to get a compensation pension or gratuity, his service thereafter in a temporary post under Government qualifies for pension.

* Note (1) and (2) Substituted vide notification No. SO(SR) V-915/65 Dated 6th May, 1965

West Pakistan Civil Services Pension Rules**2.5 Apprentices and probationers –**

- (1) One-half of the period of apprenticeship qualifies for pension.
- (2) The service of a probationer who is subsequently confirmed in a permanent post without interruption qualifies for pension.

2.6 Training – The time spent by a Government servant in approved training shall count as service qualifying for pension.

*Note: – The period of training before actual appointment to Government service shall not count for pension.

2.7 Leave – All leave (other than extraordinary leave) counts as qualifying service for purposes of pension.**2.8 Military Service –** (1) Military pensionable service which terminates before a pension has been earned in respect of it, when followed by Civil pensionable service, counts as part of such service provided that any bonus or gratuity received in lieu of pension on or since discharge from military service shall be refunded in lump sum or in monthly installments not exceeding 36. The military service of the individual concerned and the amount of gratuity paid to him should be verified by reference to the Controller of Military Accounts.

(2) Persons who joined the Armed Forces on or after the outbreak of World War-II, and rendered whole time satisfactory service in Government Forces under the British Rule in India and Pakistan and were appointed in a Civil pensionable post on or before the 18th July, 1949 shall be allowed to count such War Service not exceeding five years rendered between the 3rd September, 1939, and the 1st April, *1946, for purpose of civil Pension and they shall not be required to refund military bonus or gratuity.

@Note – In the case of a civil employee who has rendered satisfactory paid military service in the World War-II, in addition to military service pensionable under the military Rules, before or after such war service but who did not earn a pension by his war service in conjunction with his other military service, that portion of the military service which was rendered before or after the war service shall be dealt with in accordance with the provisions of sub-rule (1). The war service portion (i.e. the period of service rendered between 3rd September, 1939, and 1st April, 1946) shall, however, be dealt with under sub-rule (1) or (2) as the Government servant may opt in this behalf, subject, of course, to the limitation prescribed in the respective sub-rule. If the war service is counted under sub-rule (1), the whole of it shall count, but if it is counted under sub-rule

* Substituted *Vide* notification No. SO(SR) V-3027/64, dated 9th January, 1965.

@ Inserted by Government of West Pakistan Notification No. SO(SR) V-1274/68, dated 24th May, 1968.

(2) only completed years upto a maximum of five years shall count and the residue of war service shall not be counted under sub-rule (1).

If the entire military service, including war service is dealt with under sub-rule (1), the whole of the gratuity received in lieu of pension (but not that given as a reward of war service) shall have to be refunded by the Government servant concerned. If, however, the portion which was war service is dealt with under sub-rule (2) and the rest of the military service before or after the war under sub-rule (1). The amount of gratuity which the Government servant will refund in respect of the latter portion shall bear the same proportion to the total amount of gratuity received in lieu of pension the period dealt with under sub-rule (1) bears to the total period of military service, including the period of war service.

For the purpose of this note it is immaterial whether or not there was a break between the war service and other military service.

2.9 Deputation - Time spent by a Government servant holding pensionable post on deputation to (1) another Government (2) foreign service, or (3) service in a temporary or non-pensionable post under Government counts for pensions as if it were a time spent under the Government.

Note: Rule of Proportion. The 'Rule of proportion' and the other associated rules and accounting instructions shall continue to be operative and the apportionment of pensionary liability between the various Departments and Federal / Provincial Governments, as the case may be, shall be made by the audit and Accounts Officer issuing a Pension Payment Order. Finalization of pension cases shall not be held up on this account. If there is any dispute with regard to the apportionment of pensionary liability, the matter should be sorted out by the Audit and Accounts Officers involved. The authorities concerned are required to forward the pension case of the retired government servants to the audit office concerned. Complete in all respects and with the documents mentioned in (Annex).

No. SOSR-III(FD)4-36/75(Vol-II), FD-
Khyber Pakhtunkhwa,
Dated Peshawar, the 28th April, 1991.

2.10 Suspension - If a Government servant is suspended from service pending enquiry into his conduct, the period of suspension counts for pension if it is immediately followed by reinstatement, unless the Government servant reinstated with forfeiture of a part of his pay or allowances for the period of suspension.

2.11 Forfeiture of Past Service - A Government servant forfeits his past service in the following cases: -

- (a) Resignation of a post unless it is to take up another post service in which counts for pension.
- (b) Removal or dismissal from service.
- (c) Absence from duty without leave.

Note - The authority which sanctions the pension may commute retrospectively periods of absence without leave into extraordinary leave.

Note - In case of a civil servant, who, with the proper concurrence of the competent authority leaves service under the Government of Khyber Pakhtunkhwa and seeks absorption/employment under an autonomous, semi-autonomous/local body, where service is pensionable, the Government, if it is so requested, will be liable to share pensionary liability for the period of service rendered by such civil servant under the Government in accordance with the Government rules.

GOVERNMENT INSTRUCTIONS.

Service in an Autonomous or Semi-Autonomous Body. For the purpose of grant of pension under these orders, the pay drawn and the effective service rendered by a Government servant in an autonomous or semi-autonomous body, the authorized capital of which is wholly subscribed by the Central and/or a Provincial Government, in a post, appointment to which is, by law, required to be made and the salary of which is required to be fixed by the Central or a Provincial Government shall be treated as pay drawn and effective service rendered in a post in Government service.

2.12 Condonation of interruptions and deficiencies. - (1) The Administrative Department may for purposes of pension condone all gaps between [Periods of qualifying service] of a Government Servant.

(2) The Administrative Department may condone deficiency in qualifying service for pension upto six months provided the service is meritorious and the condonation, if allowed will bring the service upto 25 completed years of qualifying service.

CHAPTER-III

DIFFERENT KINDS OF ORDINARY PENSION AND CONDITIONS FOR THEIR GRANT

3.1 Classification of Pensions - Pensions are divided into four classes:-

- (a) Compensation Pension.
- (b) Invalid Pension.
- (c) Superannuation Pension.
- (d) Retiring Pension.

Note - Special additional pension is also granted to certain classes of Government Servants under special circumstances.

* Inserted vide notification No. F.D.SR.-III/4-112/80, dated 22-11-1980.

@ Para-9 of the Government of West Pakistan Finance Department letter No. SO (SR)-V-257/67 dated 27th April 1967 (Appendix-I)

@ [] Substituted by Finance Department Notification No. SO(SR) V-174/68, dated 24th May, 1968.

Three Hundred Fifty-Five Only	355				550
Eighty-One	81	20	61		100
Forty-Eight	48	12	36		100

3.2 Compensation Pension - If a permanent Government servant is selected for discharge owing to the abolition of his permanent post or owing to a change in the nature of the duties of that post, he shall, unless he is appointed to another post the conditions of which are deemed to be at least equivalent to those of his own, have the option:-

- (a) of taking any compensation pension and/or gratuity to which he may be entitled for the service he has already rendered; or
- (b) of accepting another post or transfer to another establishment even on a lower pay if offered and continuing to count his previous service for pension.

3.3 Invalid Pension - (I) An invalid pension is awarded on his retirement from Government service before reaching the age of superannuation to a Government servant who by bodily or mental infirmity is permanently incapacitated for further service on production of a Medical Certificate prescribed in sub-rule (3):

**2) A government servant who wishes to retire on invalid pension, should apply to his Head of Office or Department/Attached Department who should direct him to present himself before a Medical Board or an invaliding Committee or a Medical Officer for obtaining a Medical Certificate of incapacity for further service in the following form:-

"Certified that I (we) have carefully examined A. B., son of C.D., a _____, in the _____. His age is by his own statement, _____ years. I (we) consider A.B. to be completely and permanently incapacitated for further service of any kind (or in the Department to which he belongs) in consequence of _____ (here state disease or cause).

Note—(1) If the incapacity does not appear to be complete and permanent, the certificate should be modified accordingly and the following addition should be made:-

I am (we) are of opinion that A.B., is fit for further service of a less laborious character than that which he has been doing (or may after resting for _____ months, be fit for further service of a less laborious character than that which he has been doing).

Note—(2) a Medical Certificate from a Medical Board or an Invaliding Committee shall be required in the case of Gazetted Government Servant.

Note—(3) A Government servant who has submitted a Medical Certificate of incapacity for further service should be invalided from service within 30 days of receipt of the Medical Certificate, or if he is on leave or is granted leave as a special case, on the expiry of such leave, whichever may be later.

Note (3) Amended vide Govt. of Khyber Pakhtunkhwa, Finance Department Notification No.FD-SR-III/4-112/73 dated 9-12-1991 as under

**Amended vide Govt. of Khyber Pakhtunkhwa Finance Department No. SOSR-III(FD)4-59/88 dated 4-5-1988.

West Pakistan Civil Services Pension Rules

- (i) In Sub-rule (2) for the words 'Medical Officer' the words "Medical Superintendent, District Headquarter Hospital/Services Hospital" shall be substituted.
- (ii) Note (2) shall be substituted by the following:-
 "Note (2) A medical certificate from a Medical Board or an Invaliding Committee shall be required in the case of government servants in BPS-16 and above and from the Medical Superintendent of the District Headquarter/Services Hospital, in the case of government servants in BPS-1 to BPS-15".

@3.4 Superannuation Pension – A Superannuation pension is granted to a Government servant who.—

- (a) retired prior to the 21st day of June, 1960, on attaining the age of fifty five years;
- (b) retired at any time during the period between the 21st day of June 1960 and 30th day of March, 1966, on or after attaining the age of sixty years; and
- © retires or is retired after the 30th day of March, 1966 on or after attaining the age of fifty five * years.

3.5 Retiring Pension – A retiring pension is granted to a Government servant, who not being eligible for superannuation pension.—

- i) opts to retire after 25 years qualifying service or such less time as may for any special class of Government servant be prescribed; or
- [] (i) a. is compulsorily retired, by the competent authority, after 25 years qualifying service;
- (ii) is compulsorily retired from service by the authority competent to remove him from service on grounds of inefficiency, misconduct or corruption; or
- [] (iii) retired from Government service on or after 21st June, 1960, but before 31st March, 1966 on or after attaining the age of 55 years.

CHAPTER-IV AMOUNT OF ORDINARY PENSIONS

SECTION-1 GENERAL.

- 4.1.** (1) The amount of pension that may be granted is determined by length of completed years of qualifying service of a Government servant as set forth in rule 4.4.

© Substituted vide Notification No. SO(SR)V-1235/67, dated 18th July, 1967.

* Age of superannuation extended to 60 years vide Khyber Pakhtunkhwa Civil Servants (Second) Ordinance 1977, with effect from 22.11.1976

[] Clause (ia) inserted and clause (iii) substituted vide Notification No. SO(SR)V-1235/67, dated 18th July, 1967.

- (2) Pension is fixed in rupee and should be calculated to the nearest paisa.

4.2. (1) If the service of a Government servant has not been thoroughly satisfactory, the authority sanctioning the pension may make such reduction as it may think proper in the amount of pension.

(2) The special additional pension admissible under rule 4.5 is not given as a matter of course, but only where the service rendered is approved as satisfying the standard of work and conduct required in the special conditions of the post held for which special additional pension is admissible.

4.3 If a Government servant has held more than one post in respect of each of which, if he had held it separately and alone, pension would have been admissible to him, the pension admissible to him is the sum of the several pensions which would have been admissible to him if he had held each post separately and alone. The consolidated pension shall, however, be subject to the maximum limit prescribed in rule 4.4.

SECTION-II-Amount of full Pension

4.4 **Amount of full pension:-**(1) After a qualifying service of not less than 10 years, full Superannuation, retiring, invalid or compensation pension may be granted not exceeding the maximum limits prescribed below:-

Completed years of qualifying service	Scale of pension expressed as fraction of average emoluments	Maximum limit of pension Per annum
10	10/50	2500
11	11/50	2800
12	12/50	3100
13	13/50	3400
14	14/50	3700
15	15/50	4000
16	16/50	4300
17	17/50	4600
18	18/50	4900
19	19/50	5200
20	20/50	5500
21	21/50	5800
22	22/50	6100
23	23/50	6400
24	24/50	6700
25 and over	25/50	7000

Note- For Government servants who opted or were deemed to have opted for pensionary benefits admissible under the Government of West Pakistan Circular No. S.O. (SR) V-257/67, dated 27th April, 1967 para 4 Annexure-I (Appendix-I).

REVISED PENSION TABLE.

Completed years of qualifying service	Scale of pension expressed as fraction of average emoluments
10	70/300
11	77/300
12	84/300
13	91/300
14	98/300
15	105/300
16	112/300
17	119/300
18	126/300
19	133/300
20	140/300
21	147/300
22	154/300
23	161/300
24	168/300
25	175/300
26	182/300
27	189/300
28	196/300
29	203/300
30 and above	210/300

Note:- Any amount in excess of Rs.1000/- PM calculated in accordance with the scale shown in column-(2) of this table shall be reduced by 50%.

Annexure-I of Govt. of Khyber Pakhtunkhwa Finance Department letter No.SO(SR-III)FD/4-199/77 dated 10-2-77 (Appendix-VI).

Note.- The figures in the Note raised to Rs. 2,000 P.M with effect from 1-7-1980 Vide Government of KHYBER PAKHTUNKHWA Finance Department Letter No.SO (SR-III) F.D. 4-199/80 dated 9-8-1980 (Appendix-XXX)

According to the existing rules/instructions, pension is calculated at the rate of 70% of average emoluments on completion of 30 years qualifying service. Where qualifying service is less than 30 years but not less than 10 years, the pension is calculated at the percentage applicable according to length of service. Any amount of pension in excess of Rs. 2500/- is reduced by 50%. The provincial Government have been pleased to direct that with effect from the 1st July, 1985, the reduction by 50% of the pension in excess of 2500/- shall not be applied in the case of those Government Servants who retire on or after 1.7.1985. In all such cases the pension shall be calculated at the rate of 70% of average emoluments or other percentage rate applicable according to length of qualifying service without applying any reduction.

ANNEXURE-I
FD, Khyber Pakhtunkhwa.

مراسلہ نمبر: بی۔ او۔ ا۔ ا۔ ۱۱۱۔ ۶۸/۲۲۔ ۲۰۰۷۔ ۲۰۰۷ ایف۔ ڈی
مورخہ ۲۹ جنوری، ۲۰۰۸ء

بخدمت:

- ۱۔ تمام انتظامی معتمدین حکومت صوبہ سرحد۔
- ۲۔ معتمد برائے گورنر صوبہ سرحد، پشاور۔
- ۳۔ پرنسپل سٹاف آفیسر برائے وزیر اعلیٰ صوبہ سرحد۔
- ۴۔ تمام سربراہان ماتحت نکلہ جات صوبہ سرحد۔
- ۵۔ تمام ضلعی رابطہ افسران صوبہ سرحد۔
- ۶۔ رجسٹرار پشاور ہائی کورٹ، پشاور۔
- ۷۔ رجسٹرار، سرحدس ٹریبونل، صوبہ سرحد، پشاور۔
- ۸۔ سیکرٹری، صوبائی پبلک سروس کمیشن، صوبہ سرحد، پشاور۔
- ۹۔ سیکرٹری بورڈ آف ریونیو، صوبہ سرحد۔

عنوان:- بجٹ تقریر ۰۸۔۲۰۰۷ میں درجہ پنجم کے مقررہ تنخواہ پانے والے (Fixed pay) ملازمین کے لیے سی۔ پی۔ ٹنڈ کے اعلان۔

جناب عالی!

مجھے ہدایت کی گئی ہے کہ عنوان بالا کا حوالہ دیتے ہوئے عرض کروں کہ صوبائی حکومت نے تمام درجہ چہارم (مقررہ تنخواہ Fixed pay) پانے والے ملازمین کو یکم جولائی ۲۰۰۸ء سے این۔ ڈبلیو۔ ایف۔ پی سول ملازمین ایکٹ ۱۹۷۳ء کے تحت سول ملازمین کا درجہ دیگر بنیادی سہا (BPS-1) دینے کی منظوری دے دی ہے۔

۲۔ مذکورہ ملازمین کی تنخواہوں کا تین (Fixation of pay) کی بھرتی کے تاریخ (Date of Appointment) سے کیا جائے گا۔ تاہم یہ ملازمین تنخواہوں اور دوسرے وغیرہ کی مد میں کسی قسم کی بقایا جات (arrears) کے حقدار نہیں ہوں گے۔

۳۔ اس سلسلے میں پہلے سے جاری شدہ تمام پالیسی ہدایات یکم جولائی ۲۰۰۸ء سے منسوخ تصور

Joint Letter Officer
(Finance) S. J. J.

نقل برائے اطلاع:

- (۱) اکاؤنٹس جنرل، صوبہ سرحد بمبئی ڈسٹرکٹ، سواتیہ مندرجہ ذیل کے ذمہ داران کے ذریعے بنایا جائے۔
- (۲) جملہ ایگزیکٹو ڈسٹرکٹ آفیسرز، فنانس اینڈ پیمنٹس، صوبہ سرحد۔
- (۳) جملہ ضلعی آفیسران حساب داران، صوبہ سرحد۔

میزانیا فسر (۱) محکمہ خزانہ

تظہیر نمبر و تاریخ: ایضاً:

نقل برائے اطلاع:

- (۱) نجی معتمد برائے چیف سیکرٹری صوبہ سرحد۔
- (۲) جملہ اضافی معتمدين و نائب معتمدين محکمہ خزانہ، صوبہ سرحد۔
- (۳) جملہ بجٹ آفیسرز، سیکشن آفیسرز محکمہ خزانہ، صوبہ سرحد۔
- (۴) ڈائریکٹران، F.M.I. محکمہ خزانہ، صوبہ سرحد۔
- (۵) نجی معتمد برائے فنانس سیکرٹری صوبہ سرحد۔

میزانیا فسر (۱) محکمہ خزانہ

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (ELEMENTARY & SECONDARY EDUCATION) SWABI.

Distt: No. 175-82 (M&F) APPOINTMENT FILE/DA:8/DATE: 9/7/98.

Necessary action to be taken by the office is forwarded for information &

- Deputy District Officer (M/F) Swabi/Lahor & Topi.
- Principal/Headmaster/Headmistress GHSS, GGHSS, GHS & GHB (Distt: Swabi)
- District Account Officer Swabi.
- District Officer, Social Office.
- MO (Establishment) District Office.
- Supdt: (M&F) Local Office.
- Darling Asstt: District Office.

EXECUTIVE DISTRICT OFFICER
ELEMENTARY & SECONDARY EDUCATION SWABI.

9/7/98