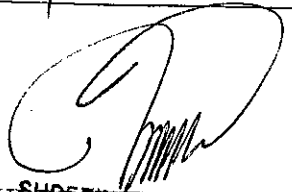


Cost of Rs. 20,000/- received in Service Appeal No. 2452/23

Titled Amwax Khan VS. Police

in the office of Superintendent Vide Order 4/3/2024

Dated: 14/3/2024.



SUPERINTENDENT
Khyber Pakhtunkhwa
Khyber Pakhtunkhwa
Service Tribunal, Peshawar

S.A No. 2452/2023

Anwar Khan vs Govt

04.01.2024



Appellant in person present. Mr. Shams-ur-Rehman, DSP (Legal) alongwith Mr. Muhammad Jan, District Attorney for the respondents present and requested for further time for submission of reply/comments. Adjourned. To come up for reply/comments as well as preliminary hearing on 04.03.2024 before the S.B at Camp Court Swat. Parcha Peshi given to the parties.

SCANNED
KPST
Peshawar

4th Mar, 2024

Naeem Amin

1. Learned counsel for the appellant present, Mr. Muhammad Jan, District Attorney alongwith Mr. Shams Ur Rehman, DSP for the respondents present.

2. Representative of the respondents requested that written reply/comments have been prepared and will be submitted within two days at principal seat Peshawar, therefore an opportunity might be granted to them. As the respondents were required by rules to file reply within 7 days before the date fixed for hearing, which they failed, therefore, opportunity is granted on payment of cost of Rs.20000/- and the written reply/comments should be submitted within a week time. To come up for preliminary hearing on 08.05.2024 before S.B at camp court Swat. P.P given to the parties.

(Salah Ud-Din)

Member (J)

Camp Court Swat

(Kalim Arshad Khan)

Chairman

Camp Court Swat

Adnan Shah, P.A.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR AT CAMP COURT SWAT.

Service appeal No. 2452/2023

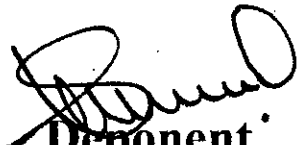
Ex. D.ASI Anwar Khan District Shangla..... (Appellant)

Verses

The Regional Police Officer Malakand Division at Saidu Sharif Swat and others
..... (Respondents)

INDEX

S. NO	DESCRIPTION	ANNEXURE	PAGE NO.
1.	Comments	-	1 to 02
2.	Copy of service record, copy of the letter No.4458/E dated 30.08.2023, office of the DPO Shangla, letter no DAO/SH/Admn:/ 128 dated 07.09.2023, office of DAO Shangla, copy of superannuation order No.281-85/E dated 05.01.2024, office of RPO Malaknad region.	A to D	03 to 08
3.	Copies of punishments awarded sheet	E	09 to 12
4.	Authority Letter	-	13
5.	Affidavit	-	14
TOTAL PAGES		-	14


Deponent
District Police Officer,
SHANGLA.

U

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR AT CAMP COURT SWAT.

Service appeal No. 2452/2023

Ex. D.ASI Anwar Khan District Shangla..... (Appellant)

Verses

The Regional Police Officer Malakand Division at Saidu Sharif Swat and others
..... (Respondents)

PARA WISE REPLY BY RESPONDENTS

Respectfully Sheweth,

PRELIMINARY OBJECTIONS:

1. That the appellant has got no cause of action and locus standi to file the instant appeal.
2. That the appellant has not come to this Honorable Tribunal with clean hands.
3. That the appeal is bad to misjoinder and nonjoinder of necessary parties.
4. That the instant appeal is not maintainable in its present form.
5. That the appellant is precluded from filling the present appeal due to his own conduct.
6. That the appellant has concealed the material fact from this Honorable Tribunal.

FACTS:-

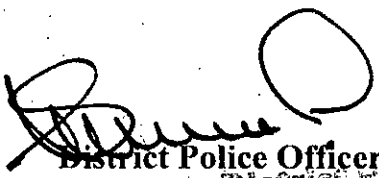
1. That appellant has got no cause of action and locus standi to file instant appeal.
2. Incorrect, the appellant was initially enlisted as constable in the office of superintendent of Police District Kohistan, as per his service record his date of birth is recorded as 02.01.1964. (*copy of service record is enclosed as annexure "A"*)
3. Para 03 of appeal is incorrect and misleading at the time of initial enlistment, the date of birth of appellant was incorporated in the service record as 02.01.1964, however after long service appellant submitted application for correction for his date of birth. The office of respondent of No.02 sought guidance from the office of respondent No.03 in response to which it has been intimated that the date of birth once recorded in service book cannot be altered. Moreover, as per Police Rule 9.7 alteration in age may only be made within two years of entry in to the government service. (*copy of the letter No. 4458/E dated 30.08.2023, office of the DPO Shangla and letter no DAO/SH /Admn: / 128 dated 07.09.2023, are here by enclosed as annexure B and C*)
4. Para No.04 of appeal is incorrect, reply already given in the proceeding Para. Appellant as per entry of his date of birth in the service record. Retired on superannuation w.e.f 01.01.2024, (A.N) vide Respondent No. 01 order No.281-85/E dated 05.01.2024, (*copy of order is enclosed as annexure D*)
5. Para No. 05 of appeal is not only incorrect, but also misleading having no footing to stand on.
6. Para No. 06 is Incorrect, detail reply already given vide para above.
7. That appellant has got no cause of action to file the instant appeal. Appellant after qualifying service retired on superannuation and he was treated as per law/rules.
8. Para No. 08 of the appeal is Incorrect and misleading. Appellant has got no cause of action.
9. Para No. 09 of appeal is incorrect, and misleading.


GROUNDS:

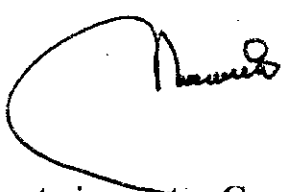
- I. Incorrect, petitioner was treated as per law/ rules and the acts of Respondents are legal lawful and accordance with relevant rules.
- II. Incorrect, the date of birth once entered in character and service roll cannot be altered such alteration may only be made after special enquiry if applied within two years of entry of Police official into service under Police Rule 9.7.
- III. Incorrect, reply already given vide para above.
- IV. Incorrect, appellant was treated as per law/rules.
- V. Incorrect, detail reply already given vide Para above.
- VI. Incorrect, there are some bad entries in his service record. *(Copies of punishment are enclosed as annexure E).*
- VII. Incorrect, detail reply already given in above Para.
- VIII. That respondent may also be allowed to raise additional grounds at the time of hearing of appeal.

PRAYERS:

It is humbly prayed that an acceptance of these parawise comments the service appeal may please be dismissed with cost please.


 District Police Officer
 Shangla
 Respondent No.02
 Sajjad Ahmad Sahidzada (PSP)
 (Incumbent)


 District Account Officer
 Shangla
 Respondent No.03
 Zahoor Khan
 (Incumbent)


 Deputy inspector General of Police Malakand Range
 Respondent No.01
 Muhammad Ali khan (PSP)
 (Incumbent)
 Regional Police Officer,
 Malakand Region,
 Saidu Sharif. Swat.

CHARACTER AND SERVICE ROLL OF
 CONSTABULARY NO. () in
 DITTO () in
 DITTO () in

Eligible copy:
 DISTRICT.
 DISTRICT.
 DISTRICT.

1	Name	Father's name	Tribe or cast	Village or town	Post office	telegraph	Police station	District	Province	Date of birth	Height	Chest measure	Date of Enrolment	Age at Enrolment	Distinctive Marks
	Anwar khan	Bakhtiar	Main	Lilonai	Do-do	Alpurai	Swat	N.W.F.P	2.01.1964	5ft10inch	34X35	02.01.1984	20 years	Nil	
2	Verification Roll No. _____ dated _____ received back and attached to the Fuji Misal.														
3	Government service prior to present employment which is approved for pension service.														
	Service or department	Rank or Grade	Pay of last Appointment	From	To	PERIOD									
	Cause of and character on discharge from above service.														

Agreement.—I understand that I have been appointed under section 7 of the Police act (v of 1861), and the purport of that section and provisions of the Act and of the Rules issued under it and now in force, by which my discipline and conduct are governed, have been explained to me. I agree to serve faithfully under the provisions of the said Police Act and to obey all lawful orders issued to me by my Superior Officers and undertake not to resign my appointment within three years from the date of my enrolment. I have received a certificate of appointment issued under section 8 of the Police Act (v of 1861).

Date


signature..

-sd-

superintendent of police
kohistan.

5. Rolled impression of fingers and thumb of left hand.

Left little	Left ring	Left middle	Left index	Left thumb
Finger print	Finger print	Finger print	Finger print	Finger print

Attested


(4)

ANNEXURE (B)



Ph#: 0996-850015
Fax#: 0996-850002

Email: dposhangla@yahoo.com

OFFICE OF THE DISTRICT POLICE OFFICER SHANGLA
No. 4458 /E, Dated Alpuri the, 30/08 2023

To

The District Account Officer,
Shangla

SUBJECT: CLARIFICATION OF DATE OF RETIREMENT REGARDING DASI ANWAR KHAN NO.328

Memorandum

1. Please refer the subject cited above.
2. It is submitted that this office have no idea regarding the date of Retirement of DASI Anwar Khan No. 328 owing to the following point.
 - i) The date of birth in his service Roll has been recorded on first page as 02.01.1964,
 - ii) The date of birth in his long roll is 1965 and
 - iii) In the CNIC is 1966.
3. In view of above, this office may please be guided regarding the date of retirement, so that this office would be able to proceed further in the matter, please.

Encl: Original Service roll along-with service book.

District Police Officer,
Shangla



5

ANNEXURE (C)

Office of the
District Accounts Officer
Shangla at Alpuri
Ph # 0996-850773-850120
E-Mail- daoshangla@gmail.com

No. DAO/SH/Admn: / 128

Dated: 07.09.2023

To

The District police Officer,
Shangla.

3168
08/09
/023

Subject: CLARIFICATION OF DATE OF RETIREMENT REGARDING DASI ANWAR KHAN NO. 328.

Kindly refer to your office letter No. 4458 dated 30.08.2023 on the subject noted above.

In this regard, your kind attention is invited to Rule-116, of G.F.R. read with Establishment Department KP Notification No. SOR-II (S&GAD) 5 (40)/ 87 dated 15.02.1989, which postulate that Date of Birth of Govt: servants once recorded in their Service Books cannot be altered.

Therefore, the matter may be considered in light of the rules ibid please.

Enclose: As above

**DISTRICT ACCOUNTS OFFICER
SHANGLA AT ALPURI**

EC
For complemented
Drookli

(6)

General, etc., in making over charge of his function in connection with the Charitable Endowments and other Trust Accounts is laid down in Appendix 16.

DATE OF BIRTH

116. Every person newly appointed to a service or a post under Government should at the time of the appointment declare the date of his birth by the Christian era with as far as possible confirmatory documentary evidence such as matriculation certificate, municipal birth certificate and so on. If the exact date is not known, an approximate date may be given. The actual date or the assumed date determined under para. 117 should be recorded in the history of service, service book, or any other record that may be kept in respect of the Government servant's service under Government and once recorded, it cannot be altered, except in the case of a clerical error, without the previous orders of the Local Administration.

Note 1. - Ministries/Division of the Federal Government exercise the powers of a Local Administration for the purpose of this rule.

Note 2. - Heads of departments are authorised to exercise this power in the case of non-gazetted Government servants under their control.

117. (1) If a Government servant is unable to state exact date of birth but can state the year, or year and month of birth, the 1st July or the 16th of the month, respectively, may be treated as the date of his birth.

(2) If he is only able to state his approximate age, his date of birth may be assumed to be the corresponding date after deducting the number of years representing his age from his date of appointment.

(3) When a person who first entered Military employ is subse-


Change in the recorded date of birth of the civil servants

I am directed to say that under the existing rules, immediately after his induction into service, every civil servant is required to declare the date of his birth by the Christian era with as far as possible confirmatory/conclusive evidence such as matriculation certificate, municipal birth certificate and so on. This is supplemented by the opinion of the Civil Surgeon/Standing Medical Board. The departments after full satisfaction with age and on the basis of medical examination of the new entrant in the department, enter the same in an authentic document i.e Service Book/ History of Service etc. the said document is maintained by the Department/Audit and is always checked periodically.

2. The date of birth of a civil servant as recorded in his service documents remains constantly in his knowledge. This is reiterated in his ACRs and the Seniority of an officer is an official act and according to law, it is presumed to be correct. GFR-116 also provides that the date of birth once recorded cannot be altered except in the case of clerical error, without the previous orders of the local Administration. Despite this, certain Government Servants are complacent with the state of affairs and sleep over their rights for decades knowing fully about their dates of birth entered in their Service Books etc. It would therefore be too much to accept such a belated claim from a Civil Servant that he was born on a date other than the one entered in his service documents and that the delay in representation was due to ignorance of the alleged erroneous entry. After all, there is always attached a finality to decisions taken by competent authorities.

3. I am, accordingly directed to request, that all concerned may please be informed in clear terms that in future a request for an alteration in the recorded date of birth of a Government servant may only be entertained by the Appointing Authority in the case of officers in BS-17 and above and by the Administrative and only if the Government servant applies for it within two years from the date of his entry into Government service.

(Authority; No.SOR.II(S&GAD)5(40)/87, dated 15th February,1989)

Attested


(7)A

150 ESTA CODE [Establishment Code Khyber Pakhtunkhwa]

Change in the recorded date of birth of the civil servants

I am directed to say that under the existing rules, immediately after his induction into service, every civil servant is required to declare the date of his birth by the Christian era with as far as possible confirmatory/conclusive evidence such as matriculation certificate, municipal birth certificate and so on. This is supplemented by the opinion of the Civil Surgeon/Standing Medical Board. The department after full satisfaction with age and on the basis of medical examination of the new entrant in the department, enter the same in an authentic document i.e. Service Book/History of Service etc. The said document is maintained by the Department/Audit and is always checked periodically.

2. The date of birth of a civil servant as recorded in his service documents remains constantly in his knowledge. This is reiterated in his ACRs and the Seniority List issued by the department from time to time. The preparation of service record of an officer is an official act and according to law, it is presumed to be correct. GFR-116 also provides that the date of birth once recorded cannot be altered except in the case of clerical error, without the previous orders of the Local Administration. Despite this, certain Government Servants are complacent with the state of affairs and sleep over their rights for decades knowing fully about their dates of birth entered in their Service Books etc. It would therefore be too much to accept such a belated claim from a Civil Servant that he was born on a date other than the one entered in his service documents and that the delay in representation was due to ignorance of the alleged erroneous entry. After all, there is always attached a finality to decisions taken by competent authorities.

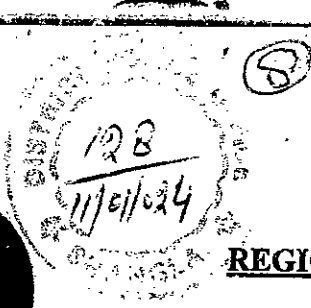
3. I am, accordingly, directed to request that all concerned may please be informed in clear terms that in future a request for an alteration in the recorded date of birth of a Government servant may only be entertained by the Appointing Authority in the case of officers in BS-17 and above and by the Administrative Department in the case of civil servants in BS-16 and below, after special enquiry and only if the Government servant applies for it within two years from the date of his entry into Government service.

(Authority; No.SOR.II(SS&GAD)5(40)/87, dated 15th February, 1989)

Criteria/modalities for classifying death/ incapacitation of civil servants in the line of duty for the purpose of compensation.

1. DEFINITIONS

(a) Civil Servant. Civil Servant means the same as defined in the Government of NWFP Civil Servants Act, 1973. However, the employees of Federal Government serving in Provincial Government would also be considered civil servants in the above mentioned meaning for the purpose of this letter.




ANNEXURE (D)

OFFICE OF THE
REGIONAL POLICE OFFICER, MALAKAND
ATSAIDU SHARIF SWAT.
Ph: 0946-9240381 & Fax No. 0946-9240390
Email: digmalakand@yahoo.com

ORDER

On attaining the age of sixty years, Driver ASI Anwar Khan No.58/M of Shangla District is hereby allowed to proceed on superannuation pension with effect from 01-01-2024 (AN). He should deposit all Government belongings with the relevant stores.


Regional Police Officer,
Malakand at Saidu Sharif, Swat
3-1-24

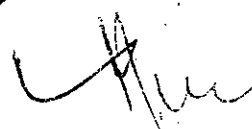
No. 281-85 /E,

Dated 05-01-2024.

Copy for information and necessary action to the:-

1. Assistant Inspector General of Police, Establishment, CPO, Peshawar.
- ✓ 2. District Police Officer, Shangla.
3. District Accounts Officer, Shangla.
4. Pension Clerk at Region Office, Swat.
5. Assistant Secret, Region Office, Swat.

EC/PC



OB NO-03

dated - 05-01-2024

① charges Absent from duty 2 days. ANNEXURE (E)
punish. 2 days leave with out pay.
sp/kt-

~~charges~~
② charges: A departmental enquiry initiated against.
punish. : fine
one day Absent from duty & charges
are not returned. fine.
O.P. No. 178
19-05-86. sp/kt-

③ charges: Absent from duty 05 days
punish. 05 days l.w. o.p. and assigned to be core
part in future.
O.P. No. 356
14-12-87. sp/kt-

④ charges: Absent from duty
punish.: 01 day l.w. o.p.
O.P. No. 44
12-02-87. sp/kt-

⑤ charges: Absent from duty 01 day
punish.: warning
O.P. No. 117
13-04-87- Attested
sp/kt-

SP/Klein
87
18/4/93
Attached

⑪ charges: Absent from duty 10 hours
punish: one hour E/D etc.

SP/Klein
88
27-06-93

⑩ charges: Absent from duty 12 hours 10 minutes
punish: one day E/D etc.

SP/Klein
86
11-04-93

⑨ charges: Absent from duty 22 hours 45 minutes
punish: 02 hours E/D etc.

SP/Klein
83
04-04-91

~~charges: Absent from duty
punish: 08 hours E/D etc.
and fine 125/01~~

SP/Klein
89
29-11-92

⑧ charges: Absent from duty 02 hours 10 minutes
punish: Absence paid, counted as 1 hour
and warned to be careful in future.

(16) Charge: Absented from duty on 2.2.02 and 15 hours

Punish: - warned -

OB No. 29
A/8/2002

SP/Shangla
h

(17) Order: suspended ⁽⁴⁸⁾ OB No 141 dt 11-11-02

District Police Officer
SHANGLA

Re-instated from the date

of suspension.

OB No - 20, dt: 16-02-2002

District Police Officer
SHANGLA

(18) Charge: A proper departmental enquiry conducted against const/ Anwar Khan No. 8 B

with charge sheet No. 44/E, dt. 02.11.02

Punish: - on recommendation of 2 officers

The absence period from 05-06-02

to 13-05-2002 is hereby condoned

and Medical Leave and pay released.

T 18/11/02

Ms 272820/2

(Signature)

OB No. 125

Dt: 07-11-2002

Attested

District Police Officer,
SHANGLA

Charge 2 That while you parked at police line from
 according to DPO. courts at Alpuria plain
 DPO. Shengla at Alpuria p. office memo no.
 1643/E dt. 07/03/2017 during your visit to
 District courts at Alpuria plain clothes
 you was told by Security Inspector Naushad
 Khan to take visiting card to security point
 of view but you refused and dis obey
 the order of Security Inspector/super
 office which created security problem among
 the general public which is gross misconduct
 on your part.

Punishment Awarded Warned to be care
 full in future and to
 enquiry filed.

OBD/0 770
 18-4/9/17

[Signature]
 DPO. Dis-

Affected
[Signature]

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

Service Appeal No: 2454/2023.


Ex D.ASI Anwar Khan (Appellant)


Versus

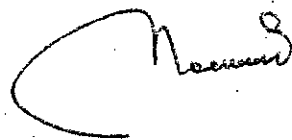
The Regional Police Officer Malakand Division at Saidu Sharif Swat & Others
..... (Respondents)

AUTHORITY LETTER

I Shams ur Rahman inspector legal Alpurai Shangla, is hereby authorized to appear on behalf of respondents below before the Honorable Court. He is authorized to submit all the required documents and replies etc to the Honorable Court.


District Police Officer
Shangla, District Police Officer,
Respondent No.02 HANGLA.
Sajjad Ahmad Sahidzada (PSP)
(Incumbent)


District Account Officer
Shangla
Respondent No:03
Zahoor Khan
(Incumbent)


Deputy inspector General of Police Malakand Range
Respondent No.01
Muhammad Ali khan (PSP)
(Incumbent)
Regional Police Officer
Malakand Region,
Saidu Sharif, Swat

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA (CAMP COURT) AT SWAT

Service Appeal No: 2454/2023.


Ex: D.ASI Anwar Khan (Appellant)

Versus

The Regional Police Officer Malakand Division at Saidu Sharif Swat & Others.....
..... (Respondents)

Affidavit

I Sajjad Ahmad Sahibzada District Police officer Shangla do hereby solemnly affirm and stated on oath that whole contents of this service appeal are true and correct to the best of my knowledge and belief nothing has been concealed from this Honorable Tribunal Court. It is further stated on oath that answering respondents have neither place expiate nor their defense struck off/cost/.


Sajjad Ahmad Sahibzada (PSP)
District Police Officer, Office
Shangla
DISTRICT POLICE OFFICE
SHANGLA