

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Appeal No. 947/2014

Date of Institution ... 23.12.2015

Date of Decision ... 29.08.2017

Bakhtiyar ud Din son of Jalal ud Din, R/O village and P/O Jaroba, Nowshera posted at Public Health Services School, Nishtar Abad, Peshawar. ... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary, Health Department, Peshawar and 3 others. ... (Respondents)

MR. M. AYUB KHATTAK,,
Advocate

For appellant.

MR. ZIAULLAH,
Deputy District Attorney.

...

For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. AHMAD HASSAN

...

CHAIRMAN
MEMBER

JUDGMENT

NIAZ MUIHAMMAD KHAN, CHAIRMAN.- Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The appellant was initially appointed on contract basis in the year, 1996 and later on confirmed on regular basis alongwith other Drivers. The appellant through this appeal had sought the prayer that his fixation of pay should be made from the date of his initial appointment.

ARGUMENTS


3. The learned counsel for the appellant relied upon a decision of this Tribunal dated 02.07.2010 in service appeal No. 318/2009 which was passed in favour of appellant Mian Siraj, Driver who was also appointed alongwith the appellant. The learned counsel for the appellant argued that the rule of consistency requires that the appellant should also be meted with the same treatment as with his other colleagues. He further argued that not only Mian Siraj but many other colleagues of the appellant have been given the same benefit. The learned counsel for the appellant further argued that the question of limitation in this appeal does not arise as the cause of action in financial matters accrues each month.

4. On the other hand, the learned Deputy District Attorney argued that the appeal is time barred. That there is no original or appellate order against which the appellant approached this Tribunal. That the decision of Mian Siraj was passed in his favour as he had approached the Tribunal well within time.

CONCLUSION.

5. As the matter is one of the financial loss therefore, no limitation runs in such appeals. When the other colleagues of the appellant have been extended the benefit on the basis of judgment of this Tribunal, then the same could not be denied to the appellant by the department on the ground that there is no order in his favour. The rule of consistency demands that the benefit already extended to other colleagues of the appellant should also be extended to him without resorting to technicalities. He here been no judgment of this Tribunal as referred to above, we would have gone into details of technicalities.

6. As a sequel to the above discussion, the appeal is accepted and the department is directed to treat the case of the appellant at par with other colleagues. Parties are left to bear their own costs. File be consigned to the record room.



(AHMAD HASSAN)
MEMBER



(NIAZ MUHAMMAD KHAN)
CHAIRMAN

ANNOUNCED
29.08.2017

29.08.2017

Appellant alongwith counsel and Mr. Ziaullah, Deputy District Attorney for the respondents present. Arguments heard and record perused.

This appeal is accepted as per our detailed judgment of today. Parties are left to bear their own costs. File be consigned to the record room.

Member

Chairman

ANNOUNCED

29.08.2017

16.08.2016

Counsel for the appellant and Addl: AG for respondents present. Rejoinder submitted, copy of which is placed on file. To come up for arguments on 01.12.2016.

Member

Member

01.12.2016

Counsel for the appellant and Assistant AG for respondents present. The D.B is incomplete due to relinquishment of charge by Judicial Member. To come up for arguments on 24.3.17

Member

24.03.2017

Appellant with counsel Mr. Adeel Butt, Addl: AG for the respondents present. Argument could not be heard due to incomplete bench. To come up for final hearing on 31.07.2017 before D.B.

Chairman

31.07.2017

Counsel for the appellant present. Mr. Zakiullah, Senior Auditor alongwith Mr. Kabirullah Khattak, Assistant AG for the respondents also present. On the request of learned counsel for the appellant case is adjourned for arguments to 29.08.2017 before D.B.

(Ahmad Hassan)
Member

(Muhammad Amin Khan Kundi)
Member

03.12.2015

Appellant with counsel, M/S Hasham Ali, Senior Clerk and Ansar Ahmad, AAO alongwith Addl: A.G for respondents present. Written reply by respondents No.3 & 4 submitted while request for further adjournment made on behalf of respondents No.1 & 2. Last opportunity is extended subject to payment of cost of Rs.500/- which shall be borne by respondents No.1 & 2 from their own pockets. To come up for written reply/comments on behalf of respondents No.1 & 2 and cost on 23.2.2016 before S.B.


Chairman

23.02.2016

Appellant in person, M/S Abid Akhtar, Litigation Assistant and Ansar Ahmed, AAO alongwith Addl: A.G for respondents present. Comments on behalf of respondents No. 1 and 2 submitted while respondents No. 3 and 4 have already submitted written reply. Cost of Rs. 500/- paid to the appellant and receipt thereof obtained. The appeal is assigned to D.B for rejoinder and final hearing for 8.6.2016.


Chairman

08.06.2016

Counsel for the appellant and Mr. Ansar Ahmed, AAO alongwith Addl: AG for respondents present. Rejoinder not submitted and requested for further time to file rejoinder. To come up for rejoinder and arguments on 16.8.16


MEMBER


MEMBER

12.03.2015

Appellant Deposited
Security & Process Fee



Counsel for the appellant present. Learned counsel for the appellant argued that the appellant is employed as Driver in Provincial Health Services Academy, Peshawar and was initially appointed on 18.08.1994 and was subsequently regularized vide notification dated 17.05.2008. That similarly placed employees regularized vide the afore stated notification were granted financial benefits while appellant deprived of the same. That the appellant preferred departmental representation on 13.03.2014 which was not responded and hence the present service appeal on 14.07.2014.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 26.06.2015 before S.B.


Chairman

26.06.2015

Appellant in person and Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 1.10.2015 before S.B.


Chairman

01.10.2015

Appellant with counsel and Mr. Ansar Ahmed, AAO for respondent No. 3 alongwith Addl: A.G. for all respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 3.12.2015 before S.B.


Chairman

3.

03.10.2014

Appellant in person present, and requested for adjournment due to pre-occupation of his counsel in the Peshawar High Court, Peshawar. Request accepted. To come up for preliminary hearing on 28.11.2014.



Member

4.

Reader Note:

28.11.2014

Clerk of counsel for the appellant present. Since the Tribunal is incomplete, therefore, case is adjourned to 01.01.2015 for the same.



Reader

5.

Reader Note:

01.01.2015

Clerk of counsel for the appellant present. Since the Tribunal is incomplete, therefore, case is adjourned 12.03.2015 for the same.





Reader

MS

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 947/2014


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	14/07/2014	<p>The appeal of Mr. Bakhtiyar-ud-Din Shah resubmitted today by Mr. Muhammad Ayub Khattak Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	16-7-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>3-10-2014</u></p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Bakhtiyar-ud-Din Driver, Public Health Service School Nishtar Abad received today i.e. on 07.07.2014 is incomplete on the following scores which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellant.
- 2- Address of respondent No. 4 is incomplete which may be completed according to Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 3- Annexures- A & B of the appeal are illegible which may be replaced by legible/better one.
- 4- Annexures of the appeal may be attested.
- 5- Six more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1043 /S.T,

Dt. 8/7 /2014.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Muhammad Ayub Khattak Adv. Pesh.

PTD

Re-submitted after completion.

Muhammad Ayub

14.7.2014

178

178

**Before the Khyber Pakhtunkhwa Services Tribunal,
Peshawar**

Service Appeal No. 947 of 2014

Bakhtiyar-ud-Din

Versus

Government of KPK & Others

INDEX

S. No.	Description of documents	Annexure	Page #
1.	Memorandum of Appeal with verification		1 to 3
2.	Copy of the Appointment letter	"A"	4 to 5
3.	Copy of the Office order	"B"	6
4.	Copy of Notification	"C"	7
5.	Copy of the representation & notice	"D"	8, 8,
6.	Wakalatnama		9

APPELLANT

Through

M. Ayub Khattak

M. Ayub Khattak,

Advocate, Peshawar

①

**Before the Khyber Pakhtunkhwa Services Tribunal,
Peshawar**

Service Appeal No. 947 of 2014

Khyber Pakhtunkhwa
Services Tribunal
Peshawar
Case No. 952
Dated 07-7-2014

Bakhtiyar-ud-Din son of Jalal-ud-Din,
Resident of Village & P.O. Jaroba, Tehsil & District Nowshera,
Posted at Public Health Services School,
Nishtar Abad, Peshawar

..... Appellant

Versus

- 1) **Government of KPK,**
Through Secretary Health Department, Peshawar
- 2) Director Provincial Health Services Academy, Peshawar
- 3) Accountant General KPK, Peshawar.
- 4) District Accounts Officer, *..Peshawar*

..... Respondents

**APPEAL UNDER SECTION 4 OF THE
KPK SERVICES TRIBUNAL ACT, 1974**

read with other enabling provisions of law for fixation of the
Pay of the Appellant with effect from the date of his initial
appointment as per notification dated 30.07.2008 as is done to
other employees against which Appellant submitted his
Departmental Appeal dated 13.03.2014, which has neither
been responded nor accepted despite lapse of 90 days.

7/7/14
PRAYER IN APPEAL

On acceptance of this Appeal the Pay of the Appellant may
kindly be ordered to be fixed on regular side from the date
of his initial appointment in accordance with the similarly
placed other employees like Sahib Ur Rehman etc. and be
released to the Appellant from the date of his initial
appointment.

re-submitted to 40
and filed.

14/7/14

RESPECTFULLY SHEWETH:

The Appellant very earnestly submits as under:

Brief Facts of the case

1) That the Appellant was employed as Driver in Provincial Health Services Academy at Peshawar in BPS-4 in the Year 1994.

(Copy of the Appointment letter is annexure "A")

2) That later on vide office order dated 14.02.2000 while referring to letter dated 12.01.2000 the Appellant services were further continued and he was appointed as Ambulance Driver at School of Nursing Mardan in the same pay scale 04.

(Copy of the office order is annexure "B")

3) That later on the Petitioner Services was converted by the Respondent No.2 through Notification dated 17.05.2008 on fixed pay to regular side alongwith others with immediate effect.

(Copy of the notification is annexure "C")

4) That it is pertinent to mention here that the pay fixation of other similarly placed employees was done from the date of their date of appointment and they are getting their pay from the date of their initial appointment but the Appellant has not only been deprived from the benefit of this notification and has been deprived of his fixed pay to regular side but also he has not been accorded the same treatment as the other similarly placed employees and he has continuously been deprived of his bread and butter.

5) That keeping in view the facts and circumstances of the case the Appellant has been discriminated and his constitutionally guaranteed right are sabotaged and has not been treated in accordance and in consonance with the principles of propriety and Justice.

6) That against this continued unjust, illegal and unlawful treatment the Appellant previously made so many a time verbal requests but afterwards

3

has made written departmental Representation to the Respondent on 13.03.2014.

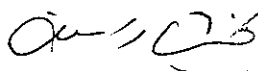
(Copy of the departmental Appeal is annexure "D")

- 7) That despite lapse of statutory period the Respondents have not accorded to the legal submissions raised in the departmental Appeal of the Appellant, hence this Appeal inter-alia on the following grounds:-

Grounds warranting this Appeal

- a) Because the impugned negation of the rights of the Appellant by the Respondents is illegal, unlawful, erroneous and untenable in the eyes of Law.
- b) Because depriving the Appellant from his constitutionally protected rights and by not allowing the Appellant his pay on regular side and that too not from the date of his initial appointment is highly discriminatory and unlawful as the others have been granted with such like treatment.
- c) Because the Respondents have acted in a Partisan and biased manner.
- d) Because the impugned acts of the Respondents are nullity in the eyes of law and could not be sustained and are liable to be corrected forthwith.
- e) Because the impugned acts of the Respondents are perverse in nature and certainly would result in an injustice to the Appellant if left to continue in the same manner.
- f) Any other grounds in the best interest of Justice and in need.

It is therefore most humbly prayed that on acceptance of this Appeal, the relief prayed in the heading of the Appeal may kindly be allowed. Any other remedy not specifically asked for may also be granted if deemed just, fit and appropriate in the circumstances of the case.



APPELLANT

Through




M. Ayub Khattak,

Advocate, Peshawar

Verification

It is verified on oath that the contents of this Appeal in hand are true and correct and nothing therein is false.


Deponent

17201- 2298182-5

« Belleveopy
s clubed »

PC A 9)

Office of the Project Director,
Family Health Project (W/Bank)
Pohgalow Ho. B/2 New Arbab colony
Alkara road, Peshawar.

No. 3521-23/PE

Date. 18-08-1994

OFFICE ORDER

With reference to the application of Mr. Bakhtiar-ud-Din S/O Jalal-ud-Din.

is hereby offered a post of Driver in BPS-04 (1360-58-2230)

plus usual allowances as admissible under the rules and sanctioned by the Government from time to time for the category of staff on the following terms and conditions.

On his first appointment he is hereby posted to Family Health Project (World Bank) Training Hostel PHDC, Peshawar.

1. His appointment will be purely temporary and liable to be terminated without any notice being assigned.
2. The service tenure will be subject to the Project life or if decided by the Government otherwise. he will not claim any concession or rights on the completion project schedule and his services will be terminated straight away.
3. If he wishes to resign at any time, he will have to resign in writing by giving a prior notice of one month and continue to serve the project till his resignation is accepted by the competent authority and communicated to his in writing, failing which one month pay will be forfeited to project.
4. He will be governed by such rules and orders as formulated by the Govt from time to time for the category of staff to which he belongs for the purpose of pay, allowances, TA, Leave and Medical Attendance.
5. His appointment will be subject to medical fitness, verification of antecedents and production of Domicile of H.W.F.P.
6. He will not claim any pension or gratuity or other financial benefits on termination.
7. He will have to execute a bond on judicial paper worth Rs. 5/- for the above terms and conditions if accepted to him.

If he accepts the offer on the above mentioned terms and conditions, he should report for duty to the Training Hostel PHDC, Peshawar.

(Cont. 1/2

Attested
to be true
copy
mandi agub

5

.....U/2.....
within 7 days of the receipt of this communication,
failing which the offer will be withdrawn.

scd -

PROJECT DIRECTOR
FAMILY HEALTH PROJECT
(W/BAHK)HWEP PESHAWAR.

Copy forwarded for information
and necessary action to:-

- ✓ 1. Bakhtiar-ud-Din S/O Jalal-ud-Din,
Vill: & P.O. Jaroba, Teh: & Distt:
Nowshera.
- 2. Deputy Director,
Provincial Health Development Centre,
Family Health Project, Peshawar.
- 3. Accounts Officer,
Family Health Project.

Bakhtiar
(PROJECT DIRECTOR)

*Attested to be true
copy
Munir Ayub*

Attended to
be true copy
Mansur Ahmad

A

(4)

Office of the Project Director
Family Health Project (W/Bank)
Bungalow No. B/2 New Arbab Colony,
Abdara Road, Peshawar.

No. 3021-23/PF
Date: 18.08.1994

OFFICE ORDER

With reference to the application of Mr. Bakhtiar-ud-Din S/o Jalal-ud-Din.

Is hereby offered a post of Driver in BPS-04 (1360-58-2230) plus usual allowances as admissible under the rules and salary sanctioned by the Government from time to time for the category of staff on the following terms and conditions.

On his first appointment he is hereby posted to Family Health Project (World Bank) Training Hospital PHDC, Peshawar.

1. His appointment will be purely temporary and liable to be terminated without any notice being assigned.
2. The service tenure will be subject to the project life or if decided by the Government otherwise, he will not claim any concession rights on the completion project schedule and his services will be terminated straight away.
3. If he wishes to resign at any time, he will have to resign in writing by giving a prior notice of one month and continue to serve the project till his resignation is accepted by the competent authority and communicated in his in writing, failing which one month pay will be forfeited to project.
4. He will be governed by such ruled and orders as terminated by the govt. from time to time for the category of staff to which he belongs for the purpose of pay, allowances, leave and medical allowances.
5. His appointment will be subject to medical illness, verification of antenceudels and production of domicile of NWFP.
6. He will not claim any pension or gratuity of other financial benefits on termination.
7. He will have to execute a bond on judicial paper worth Rs. 5/- for the above terms and conditions if accepted to him.

If he accepts the offer on the above mentioned terms and conditions, he should report for duty to the Training Hostel PHDC, Peshawar

5

within 7 days of the receipt of this communication, failing which the offer will be withdrawn.

PROJECT DIRECTOR
FAMILY HEALTH PROJECT
(W/BANK) NWFP PESHAWAR

Copy forwarded for information
And necessary action to:

- 1) Bakhtiar-ud-Din S/o Jalal-ud-Din
Village & P.O. Jaroba, Teh: & Distt. Nowshera
- 2) Deputy Director,
Provincial Health Development Centre,
Family Health Project, Peshawar
- 3) Accounts Officer,
Family Health Project, Peshawar

(PROJECT DIRECTOR)

*All stated to be true
copy
mad ayub*

to be reviewed

B

6

Provincial Health Services Academy
 Dept. of Health Govt. of N.W.F.P.
 Budhmi Road Duran Pur Peshawar
 N.W.F.P.
 Tele. #091-2650858, 2650861, 2650875
 Fax #091-261249

No. _____ Date: 12/1/2000

OFFICE ORDER:

On the creation of posts of drivers for the formations established by the Family Health Project of the Dept. of Health, Government of North West Frontier Province, and consequent upon the no objection given by the S&GA Dept. for the continuation of contract of the services of staff employed by the Family Health Project, vide letter no SOR-11 (S&GAD) (38)/98 Dated 12.1.2000, the orders of the continuation of contract of the following drivers, against posts shown, in the following terms and conditions, is hereby made, for a period of 06 (six) months from January 01 2000 to June 30 2000 or till such time the posts are filled in by the prescribed government procedure, whichever is earlier.

NO.	NAME OF DRIVER	WORKING IN BPS	PLACE OF WORKING ON 31.12.99	PLACE WHERE ADJUSTED	POST & SCALE	REMARKS
	WISAL MOHAMMAD	04	DH&NEU SWAT	P.H.S.A	04	
	S. JAMES UR REHMAN	04	P.H.S.A	P.H.S.A	04	
	AZIZ UR REHMAN	04	P.C.U	NI	NI	NOT RECOMMENDED BECAUSE OF HIS PREVIOUS WORK PERFORMANCE
	USMAN ALI	04	P.H.S.A	P.H.S.A	04	
	AZIZ KHAN	04	P.H.S.A	P.H.S.A	04	
	ANWAR UD DIN	04	D.H.D.C KOHAT	D.H.D.C KOHAT	RS-2500/P.M. FIXED	
	REHMAT ULLAH	04	D.H.D.C D.I.KHAN	D.H.D.C D.I.KHAN	--do--	
	JAMIL UR REHMAN	04	D.H.D.C ABBOTABAD	D.H.D.C ABBOTABAD	--do--	
	AZIZ UR REHMAN	04	D.H.D.C SWAT	D.H.D.C SWAT	--do--	
10.	BAKHT AWAZ UD DIN	04	AMBULANCE CAR HMC PESHAWAR	SCHOOL OF NURSING MARDAN	--do--	
11.	NADIR	04	D.H.D.C CHITRAL	DHDC CHITRAL	--do--	
12.	MIAN SIRAZ	04	SCHOOL OF NURSING KOHAT	SCHOOL OF NURSING KOHAT	--do--	
13.	MOHAMMAD SAEED	04	D.H.D.C ABBOTABAD	SCHOOL OF NURSING SWAT	--do--	
14.	MOHAMMAD USMAN	04	D.H.D.C BUNNU	D.H.D.C BUNNU	--do--	
15.	Sahib-ur-Renman	04	D.H.D.C MARDAN	D.H.D.C MARDAN	--do--	
16.	ABDUL HUSSAIN	04	AMBULANCE CAR CH HANGUO	SCHOOL OF NURSING D.I.KHAN	--do--	

[Handwritten signature]

*Adjusted to be true copy
 Ahmad Syed*

The above adjustments will be subject to the following terms and conditions:

- ◆ Their appointments will be on contract basis for a period of six months.
- ◆ They will be governed by the N.W.F.P Govt. servants (Efficiency disciplinary) rules 1973 and govt servants conduct rules 1987 or any instructions which may be issued by the govt from time to time in this regard.
- ◆ Their services will be liable to termination at any time without assigning any reason or giving notice during the incumbency of contract period.
- ◆ If any one wishes to quit the services he will have to submit in writing a prior notice at least two weeks earlier failing which the pay for the aforesaid period will be forfeited.
- ◆ ~~They shall not be entitled to any pension or gratuity on the service rendered by them.~~
- ◆ If they accept the above terms and conditions they should report to their new/existing place of adjustment within a week or at least 10 days, otherwise the offer will be withdrawn and given to next senior person.

No: 442-SB/A-2/PHSA

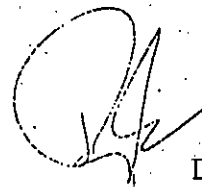
Date: ~~10-02-2023~~



Dr. Faleem Akhtar
Director

Copy forwarded for information and necessary action to:-

1. Secretary Health
2. Director Health Services
3. Project Director Family Health Project
4. Vice Principal D.H.D.C Kohat
5. Vice Principal D.H.D.C Swat
6. Vice Principal D.H.D.C Bannu
7. Vice Principal D.H.D.C Chitral
8. Vice Principal D.H.D.C D.I.Khan
9. Vice Principal D.H.D.C Abbotabad
10. Vice Principal D.H.D.C Mardan
11. M.S DHQ Hospital D.I.Khan
12. M.S DHQ Hospital Kohat
13. M.S DHQ Hospital Mardan
14. M.S DHQ Hospital Swat
15. Provincial co ordinator HMIS
16. Account Officer D.G.H.S/P.H.S:A
17. Concerned Drivers *Bakhtiar ul-Din*



Director

Provincial Health Services Academy
Deptt: of Health Govt. of N.W.F.P.
Budhni Road, DuranPur, Peshawar
N.W.F.P.

Tele: 091-2650858, 2650861, 2650875
Fax: 091-261249

Handwritten notes:
B
All should be
true copy
analysis

No. 3021-23/PF

Date: ___ / ___ /2000

OFFICE ORDER

On the creation of posts of drivers for the formations established by the Family Health Project of the Dept. of Health, Government of North West Frontier Province, and consequent upon the no objection given by the S&GA Dept. for the continuation of contract of the service of staff employed by the Family Health Project, vide letter No. SOR-11(S&GAD)(38)/98-Dated 12.01.2000, the orders of the continuation of contract of the following drivers against posts shown, in the following terms and conditions, is hereby made, for a period of 06(six) months from January 01.2000 to June 30,2000 or till such time the posts are filled in by the prescribed government procedure, whichever is earlier;

S. No.	Name of Driver	Working in BPS	Place of Working on 31.12.99	Place where Adjusted	Post & Scale	Remarks
1	Wisal Mohammad	04	DH&NEU Swabi	PHSA	04	
2	Shams-ur-Rehman	04	PHSA	PHSA	04	
3	M. Ijaz	04	P.C.U	NIL	NIL	Not Recommend because of previous PC performance
4	Usman Ali	04	PHSA	PHSA	04	
5	Aziz Khan	04	PHSA	PHSA	04	
6	Anwar ud Din	04	DHDC KOHAT	DHDC KOHAT	Rs. 2500/-	
7	Rehmat Ullah	04	DHDC D.I.KHAN	DHDC D.I.KHAN	- do -	
8	Jamil-ur-Rehman	04	DHDC ABBOTT	DHDC ABBOTT	- do -	
9	Aziz-ur-Reman	04	DHDC SWAT	DHDC SWAT	- do -	
10	Bakhtiar-ud-Din	04	AMBULANCE CAR HMC PESHAWAR	SCHOOL OF NURSING MARDAN	- do -	
11	Nadir	04	DHDC CHITRAL	DHDC CHITRAL	- do -	
12	Mian Siraj	04	SCHOOL OF NURSING KOHAT	SCHOOL OF NURSING KOHAT	- do -	
13	Mohammad Saeed	04	DHDC ABBOTT	SCHOOL OF NURSING SWAT	- do -	
14	Mohammad Usman	04	DHDC BANNU	DHDC BANNU	- do -	
15	Sahib-ur-Rehma	04	DHDC MARDAN	DHDC MARDAN	- do -	
16	Abdul Hussain	04	AMBULANCE CAR ON HANGOO	SCHOOL OF NURSING D.I.KHAN	- do -	

Accepted to be
true copy
-madhyad.

(6)

The above adjustments will be subject to the following terms and conditions:

- Their appointments will be on the basis for a period of six months.
- They will be governed by the N.W.F.P. Govt. servants (Efficiency disciplinary) rules 19 and Govt servants conducts rules 1987 or any instructions which may be issued by the govt. from time to time in this regard.
- Their services will be liable to termination at any time without assigning any reason or giving notice during the incumbency of contract period.
- If any one wishes to quit the services he will have to submit in writing a prior notice at least two weeks earlier failing which the pay for the aforesaid period will be forfeited.
- They shall not be entitled to any pension or gratuity for the service rendered by them.
- If they accept the above terms and conditions they should report to their new / existing place of adjustment within a week or at least 10 days, otherwise the offer will be withdrawn and given to next senior person.

No. 442-58/A-22/P.....

Copy forwarded for information and necessary action to:

1. Secretary Health
2. Director Health Services
3. Project Director Family Health Project
4. Vice Principal DHDC Kohat
5. Vice Principal DHDC Swat
6. Vice Principal DHDC Bannu
7. Vice Principal DHDC Chitral
8. Vice Principal DHDC D.I.Khan
9. Vice Principal DHDC Abbottabad
10. Vice Principal DHDC Mardan
11. M.S. DHQ Hospital, D.I.Khan
12. M.S. DHQ Hospital, Kohat
13. M.S. DHQ Hospital, Mardan
14. M.S. DHQ Hospital, Swat
15. Provincial Co-Ordinator HMIS
16. Account Officer DHS/PHSA
17. Concerned Driver (Bakhtiar-ud-Din)

NOTIFICATION

Reference Govt of NWFP Fiancé department letter No.BVI/FD/4-48/2007-08/Vol; IV dated 12.5.2008 and Health department Letter No.SO.III/8-90/07(Sahib-ur Rehman) dated 21st January,2008 on the subject noted above.The Director PHSA is pleased to convert the following drivers of PHSA network on fixed pay to regular side BPS(4) with the immediate effect in the light of notification referred above.

The adjustment of drivers are made as mentioned below against their names

S.N.	Name & designation	BPS	Name of Institute.
1	Mr. Muhammad Usman	04	DHDC Bannu.
2.	Mr.Aziz ur Rehman	04	DHDC Swat.
3	Mr.Masood Khan	04	DHDC Mardan.
4	Mr. Abdul Ghafoor	04	DHDC Abbottabad.
5	Mr.Nadir	04	DHDC Chitral.
6	Mr.Javed Khan	04	SON Swat.
7	Mr.Mian Siraj	04	SON Kohat.
8	Mr.Bakhtiar ud Din	04	SON Mardan.
9	Mr.Shah Noor	04	SON Bannu
10.	Mr.Wali Jan	04	SON DI.Khan.
11	Mr.Zafar Islam	04	SON HMC Peshawar.

-Sd/-
DIRECTOR

No.215/PHSA/Admn/ Appintment/2007-08/ 3280-3311. Dated 17/05/2008.
Copy of above is forwarded to:-

1. Deputy Director Management, PHSA, Peshawar
2. Distinct Accounts Officer, Swat Mardan, Kohat, DIK,Chitral , Abbottabad, Bannu
3. Section Officer-VI Finance department Peshawar
4. Budget Officer Health department Peshawar.
5. Vice Principal SON Swat ,Mardan, Kohat, Bannu, D.I.Khan, HMC Peshawar.
6. Vice Principal DHDC Abbottabad, Mardan, Swat, Chitral, Bannu.
7. Officials concerned.

DIRECTOR

Attested to be true copy
maid ayub

(8)

C

D

Receipt & Registration
is clubbed as D,

To

The Director,
Provincial Health Services Academy,
Peshawar.

Subject: REPRESENTATION REGARDING THE FIXATION OF PAY OF
BAKHTIAR-UD-DIN S/O JALAL-UD-DIN AS A DRIVER IN BPS-4
Ja

Respected Sir,

The Petitioner begs to submit the following representation before your honour:

- 1) That the petitioner was employed as Driver in Provincial Health Services Academy at Peshawar in BPS-4 in the year 1994. (Copy of appointment letter is attached)
- 2) That later on the petitioner services was converted by the Director Provincial Health Services Academy through a notification dated 21.01.2008 on fixed pay to regular side alongwith others with immediate effect. (Copy of notification is attached)
- 3) That till date the petitioner has been deprived of his fixed pay to regular side while the others employees are getting the same as Mian Siraj (Driver) School of Nursing at Kohat. (Copy of the judgment is attached)
- 4) That keeping in view the facts and circumstances the petitioner has been discriminated and has not been treated equally for the reason know best to the above cited department.
- 5) That one Sahib-ur-Rehman, Driver pay from the date of his initial employment.
- 6) That petitioner pay fixation has been withheld so far, for the reason known best to them.

It is, therefore, prayed that on acceptance of this representation the petitioner fixation of pay may kindly be ordered accordingly.

Your's Obediently,

Bakhtiyar-ud-Din
S/o Jalal-ud-Din
Public Health Services School
Nishter Abad, Peshawar

Muhammad Ayub
Muhammad Ayub

Attested to be
true copy
Muhammad Ayub

Dated: 13.03.2014

(9)

Before the Khyber P. Service Tribunal
Peshawar

بعدالت



Appellant

اپیلانٹ

بنام Bakhtyar - ud - Din
versus

Govt of K P K through Secretary
Health and others

باعث تحریر آنکے

سورٹ 13 مارچ

مقدمہ

دعویٰ

جرم

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

آن مقام *Muhammad Ayub Khattak* - Peshawar

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز

وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دیئے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق

ذرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرفہ یا اپیل کی براہدگی اور منسوخی

نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور

کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار

ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساتھ

پرواختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ دہر جائے التوائے مقدمہ کے جب سے دہرگا۔

کوئی تاریخ پیشی مقام دورہ پر ہونا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی

مذکور کریں۔ لہذا وکالت نامہ لکھنڈیا کہ سندر ہے۔

Attested

2014 March

ہا

13

المقوم

accepted

واہ

Muhammad Ayub

کے لئے منظور ہے۔

Peshawar

مقام

کینا ایس

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No.947/2014

Bakhtiyar-ud-Din.....Appellant.

V/S

Government of Khyber Pakhtunkhwa, through
Secretary Health Department, Peshawar, & others.....Respondents.

(Reply on behalf of respondent No.3)

Respectfully Sheweth:-

- 1). Approved by record hence no comments.
- 2). Approved by record hence no comments.
- 3). Relates to respondent No. 2 hence, no comments.
- 4). Relates to respondent No. 2 hence, no comments.
- 5). No Comments.
- 6). Respondent No. 2 is in better position to show the status of the case.
- 7). No Comments.

Being an Administrative matter the issue totally relates to respondent No.1 & 2. Hence,they are in a better position to satisfy the grievances of the appellant. Besides, the appellant has raised no grievances against this office.


ACCOUNTANT GENERAL
KHYBER PAKHTUNKHWA

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

Service Appeal No. 947 of 2014.

Mr. Bakhtiar Ud Din S/O Jalal Ud Din

Posted at Public Health School Nishtarabad as Driver. **APPELLANT.**

VERSUS

1. The Secretary Health, Government of Khyber Pakhtunkhwa, Peshawar.
2. The Director Provincial Health Services Academy, Peshawar.
3. Accountant General KPK, Peshawar.
4. District Accounts Officer.

..... **RESPONDENTS**

PARA WISE COMMENTS OF RESPONDENT NO. 1 & 2 ARE AS UNDER:-

Preliminary Objection:-

- i. That the Appellant has got no cause of action or locus standi to file the instant appeal.
- ii. That appeal is bad in present form.
- iii. That appellant is estopped by his own conduct.

RESPECTFULLY SHEWETH:-

1. In-correct. That the appellant was employed by Family Health Project (World Bank) purely on temporary basis vide Project Director Family Health Project (W/Bank) Office Order No. 3021-23/PF dated 18-08-1994. Attached as **(Annex-A)**.
2. In-correct. The appellant was adjusted against the post of driver on fix pay @ Rs. 2500/= per month for the period of six months extendable for time and again Director Provincial Health Services Academy, Health Department Office Order No. 442-58/A-22/PHSA dated: 12/01/2000. Attached as **(Annex-B)**.
3. In-correct with the extent that the appellant was converted from fix pay to regular side with immediate effect and not from the date of initial appointment vide Director Provincial Health Services Academy Office vide Notification No. 215/PHSA/Admn:/Appointment/2007-08/3280-3311 dated: 17/05/2008.
4. In-correct with context as explained in para 3 above.
5. In-correct with context as explained in para 4 above.
6. In-correct the application was unsigned; appellant has no cause of action.
7. The appellant has no cause of action.

GROUNDS WARRANTING THIS APPEAL:-

- a) Denied for want of knowledge.
- b) Denied. The appellant has not been discriminated as he was converted from fix pay to regular side with immediate effect vide office order No. 215/PHSA/Admn/ Appointment/2007-08/3280-3311 dated: 17/05/2008 **(Annex-C)** and Finance Department letter No. BOI/FD/1-22/2008-09/ dated: 30/07/2008 **(Annex-D)**.

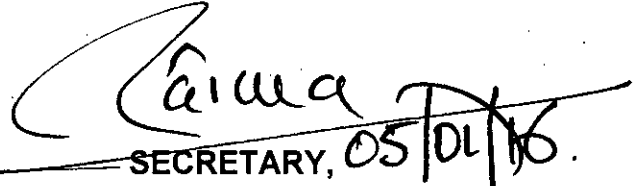
- c) Denied for want of knowledge.
- d) Denied for want of knowledge
- e) Denied for want knowledge.
- f) No comments.

PRAYER.

It is, therefore, most humbly prayed that the appeal in hand may kindly be dismissed as he has actually misguided the court.


DIRECTOR,

Provincial Health Services Academy,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No. 2).


SECRETARY, 05/01/16.

Government of Khyber Pakhtunkhwa,
Health Department, Peshawar.
(Respondent No.1)

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

Service Appeal No. 947 of 2014.

Mr. Bakhtiar Ud Din S/O Jalal Ud Din
Posted at Public Health School Nishtarabad as Driver. **APPELLANT.**


VERSUS

Government of Khyber Pakhtunkhwa, Peshawar & others (RESPONDANTS).

AFFIDAVIT

I, Mr. Tofeequllah, Administrative/Litigation Officer, Provincial Health Services Academy, Health Department, Khyber Pakhtunkhwa Peshawar, do hereby solemnly affirm and declare on oath that the contents of the accompanying parawise comments on behalf of respondent No. 1 & 2 are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honorable Court.

Identified by


DEPONENT.
17201-2250671-3

Additional Advocate General,
Khyber Pakhtunkhwa,
Service Tribunal,
Peshawar.

(A)

(4)

B/C

"Better copy
> checked"

cc A 99

Office of the Project Director,
Family Health Project (W/World Bank)
Bdgalow Ho. B/2 New Arbab colony
Aminara road, Peshawar.

No. 321-23/PE

Date. 18-08-1994

OFFICE ORDER

With reference to the application of Mr. Bakhtiar-ud-Din S/O Jalal-ud-Din.

is hereby offered a post of Driver in BPS-04 (1560-52-2230)

plus usual allowances as admissible under the rules and functions by the Government from time to time for the category of staff on the following terms and conditions.

On his first appointment he is hereby posted to Family Health Project (World Bank) Training Hostel PHDC, Peshawar.

1. His appointment will be purely temporary and liable to be terminated without any notice being assigned.
2. The service tenure will be subject to the Project life or if decided by the Government otherwise. he will not claim any concession or rights on the completion project schedule and his services will be terminated straight away.
3. If he wishes to resign at any time, he will have to resign in writing by giving a prior notice of one month and continue to serve the project till his resignation is accepted by the competent authority and communicated to his in writing, failing which one month pay will be forfeited to project.
4. He will be governed by such rules and orders as formulated by the Govt. from time to time for the category of staff to which he belongs for the purpose of pay, allowances, TA, Leave and Medical Attendance.
5. His appointment will be subject to medical fitness, verification of antecedents and production of Residic of U.S.F.P.
6. He will not claim any pension or gratuity or other financial benefits on termination.
7. He will have to execute a bond on judicial paper worth Rs. 5/- for the above terms and conditions if accepted to him.

If he accepts the offer on the above mentioned terms and conditions, he should report for duty to the

Training Hostel PHDC, Peshawar.

(Cont. ... P/2 ...)

Attested
to be true
copy
Amir Ayub

(5)

157


within 7 days of the receipt of this communication,
failing which the offer will be withdrawn.

Self -

PROJECT DIRECTOR
FAMILY HEALTH PROJECT
(W/BAHR)HWFP PESHAWAR.

Copy forwarded for information
and necessary action to:-

- ✓ 1. Bakhtiar-ud-Din S/O Jalal-ud-Din,
Vill: & P.O. Jaroba, Teh: & Distt:
Nowshera;
2. Deputy Director,
Provincial Health Development Centre,
Family Health Project, Peshawar.
3. Accounts Officer,
Family Health Project.


(PROJECT DIRECTOR)

Attested to be true
copy
Munir Ayub

Be the copy (A) 27 (u) 51
Office of the Project Director
Family Health Project (W/Bank)
Bungalow No. B/2 New Arbab Colony,
Abdara Road, Peshawar.

No. 3021-23/PF
Date: 18.08.1994

OFFICE ORDER

With reference to the application of Mr. Bakhtiar-ud-Din S/o Jalal-ud-Din.

Is hereby offered a post of Driver in BPS-04 (1360-58-2230) plus usual allowances as admissible under the rules and salary sanctioned by the Government from time to time for the category of staff on the following terms and conditions.

On his first appointment he is hereby posted to Family Health Project (World Bank) Training Hospital PHDC, Peshawar.

1. His appointment will be purely temporary and liable to be terminated without any notice being assigned.
2. The service tenure will be subject to the project life or if decided by the Government otherwise, he will not claim any concession rights on the completion project schedule and his services will be terminated straight away.
3. If he wishes to resign at any time, he will have to resign in writing by giving a prior notice of one month and continue to serve the project till his resignation is accepted by the competent authority and communicated in his in writing, failing which one month pay will be forfeited to project.
4. He will be governed by such rules and orders as terminated by the govt. from time to time for the category of staff to which he belongs for the purpose of pay, allowances, leave and medical allowances.
5. His appointment will be subject to medical illness, verification of antecedents and production of domicile of NWFP.
6. He will not claim any pension or gratuity of other financial benefits on termination.
7. He will have to execute a bond on judicial paper worth Rs. 5/- for the above terms and conditions if accepted to him.

If he accepts the offer on the above mentioned terms and conditions, he should report for duty to the Training Hostel PHDC, Peshawar

5

19/12

within 7 days of the receipt of this communication, failing which the offer will be withdrawn.

PROJECT DIRECTOR
FAMILY HEALTH PROJECT
(W/BANK) NWFP PESHAWAR

Copy forwarded for information
And necessary action to:

- 1) Bakhtiar-ud-Din S/o Jalal-ud-Din
Village & P.O. Jaroba, Teh: & Distt. Nowshera
- 2) Deputy Director,
Provincial Health Development Centre,
Family Health Project, Peshawar
- 3) Accounts Officer,
Family Health Project, Peshawar

(PROJECT DIRECTOR)

bellowsy's checked

B

6

Provincial Health Services
 Deptt. of Health Govt. of NW.F.
 Budhni Road Duran Pur Peshawar
 Peshawar
 Tele: #091-2650858, 2650861, 2650875
 Fax: #091-261219

24

OFFICE ORDER

No. _____ Date: 12/20/00

On the creation of posts of drivers for the formations established by the Family Health Project of the Deptt. of Health, Government of North West Frontier Province, and consequent objection given by the S&GA Deptt. for the continuation of contract of the services of staff employed by the Family Health Project, vide letter no SOR-11 (S&GAD) (88)/98 Dated 12.1.2000, the orders of the continuation of contract of the following drivers, against posts shown, in the following terms and conditions, is hereby made, for a period of 06 (six) months from January 01, 2000 to June 30, 2000 or till such time the posts are filled in by the prescribed Government procedure, whichever is earlier.

NO.	NAME OF DRIVER	WORKING IN BPS	PLACE OF WORKING ON 31.12.99	PLACE WHERE ADJUSTED	POST & SCALE	REMARKS
	WISAL MOHAMMAD	04	D.H.D.C SWAT	P.H.S.A	04	
	SHANES UR REHMAN	04	P.H.S.A	P.H.S.A	04	
		04	P.C.U	N.I.C	N.I.C	NOT RECOMMENDED BECAUSE OF HIS PREVIOUS POOR PERFORMANCE
	USMAN ALI	04	P.H.S.A	P.H.S.A	04	
	AZIZ KHAN	04	P.H.S.A	P.H.S.A	04	
	ANWAR UD DIN	04	D.H.D.C KOHAT	D.H.D.C KOHAT	RS-2500/P.M. FIXED	
	REHMAT ULLAH	04	D.H.D.C D.I.KHAN	D.H.D.C D.I.KHAN	--do--	
	JAMIL UR REHMAN	04	D.H.D.C ABBOTABAD	D.H.D.C ABBOTABAD	--do--	
	AZIZ UR REHMAN	04	D.H.D.C SWAT	D.H.D.C SWAT	--do--	
	BAKHT FARUQ DIN	04	AMBULANCE CAR HMC PESHAWAR	SCHOOL OF NURSING MARDAN	--do--	
11.	NADIR	04	D.H.D.C CHITRAL	D.H.D.C CHITRAL	--do--	
12.	MIAN SIRAJ	04	SCHOOL OF NURSING KOHAT	SCHOOL OF NURSING KOHAT	--do--	
13.	MOHAMMAD SAIED	04	D.H.D.C ABBOTABAD	SCHOOL OF NURSING SWAT	--do--	
14.	MOHAMMAD USMAN	04	D.H.D.C BUNNU	D.H.D.C BUNNU	--do--	
15.	Sahib-ur-Rehman	04	D.H.D.C MARDAN	D.H.D.C MARDAN	--do--	
16.	ABDUL HUSSAIN	04	AMBULANCE CAR CH HANGUO	SCHOOL OF NURSING D.I.KHAN	--do--	

Dark

Adjusted to be true as per manual

The above adjustments will be subject to the following terms and conditions:

- ◆ Their appointments will be on contract basis for a period of six months.
- ◆ They will be governed by the N.W.F.P. Govt. servants (Efficiency disciplinary) rules 1973 and govt servants conduct rules 1987 or any instructions which may be issued by the govt from time to time in this regard.
- ◆ Their services will be liable to termination at any time without assigning any reason or giving notice during the incumbency of contract period.
- ◆ If any one wishes to quit the services he will have to submit in writing a prior notice at least two weeks earlier failing which the pay for the aforesaid period will be forfeited.
- ◆ ~~They shall not be entitled to any pension or gratuity for the services rendered by them.~~
- ◆ If they accept the above terms and conditions they should report to their new/existing place of adjustment within a week or at least 10 days, otherwise the offer will be withdrawn and given to next senior person.

No: 442-SS/A-22/PHSA

D.t: ~~18/02/2023~~

Copy forwarded for information and necessary action to:-

1. Secretary Health
2. Director Health Services
3. Project Director Family Health Project
4. Vice Principal D.H.D.C Kohat
5. Vice Principal D.H.D.C Swat
6. Vice Principal D.H.D.C Bannu
7. Vice Principal D.H.D.C Chitral
8. Vice Principal D.H.D.C D.I.Khan
9. Vice Principal D.H.D.C Abbotabad
10. Vice Principal D.H.D.C Mardan
11. M.S DHQ Hospital D.I.Khan
12. M.S DHQ Hospital Kohat
13. M.S DHQ Hospital Mardan
14. M.S DHQ Hospital Swat
15. Provincial co ordinator HMIS
16. Account Officer D.G.H.S/P.H.S.A
17. Concerned Drivers *Bakhtawar*



Dr. Pasleem Akhtar
Director



Director

23

B

6

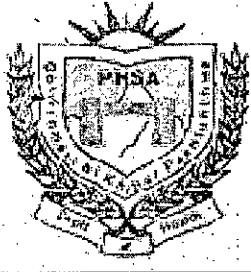
Provincial Health Services Academy
Deptt: of Health Govt. of N.W.F.P.
Budhini Road, DuranPur, Peshawar
N.W.F.P.
Tele: 091-2650858, 2650861, 2650875
Fax: 091-261249

No. 3021-23/PF
Date: ___/___/2000

OFFICE ORDER

On the creation of posts of drivers for the formations established by the Family Health Project of the Dept. of Health, Government of North West Frontier Province, and consequent upon the no objection given by the S&GA Dept. for the continuation of contract of the service of staff employed by the Family Health Project, vide letter No. SOR-11(S&GAD)(38)/98-Dated 12.01.2000, the orders of the continuation of contract of the following drivers against posts shown, in the following terms and conditions, is hereby made, for a period of 06(six) months from January 01.2000 to June 30,2000 or till such time the posts are filled in by the prescribed government procedure, whichever is earlier;

S. No.	Name of Driver	Working in BPS	Place of Working on 31.12.99	Place where Adjusted	Post & Scale	Remarks
	Wisal Mohaimmad	04	DH&NEU Swabi	PHSA	04	
	Shams-ur-Rehman	04	PHSA	PHSA	04	
3	M. Ijaz	04	P.C.U	NIL	NIL	Not Recommend because of previous PC performance
4	Usman Ali	04	PHSA	PHSA	04	
5	Aziz Khan	04	PHSA	PHHA	04	
6	Anwar ud Din	04	DHDC KOHAT	DHDC KOHAT	Rs. 2500/-	
7	Rehmat Ullah	04	DHDC D.I.KHAN	DHDC D.I.KHAN	- do -	
8	Jamil-ur-Rehman	04	DHDC ABBOTT	DHDC ABBOTT	- do -	
9	Aziz-ur-Reman	04	DHDC SWAT	DHDC SWAT	- do -	
10	Bakhtiar-ud-Din	04	AMBULANCE CAR HMC PESHAWAR	SCHOOL OF NURSING MARDAN	- do -	
11	Nadir	04	DHDC CHITRAL	DHDC CHITRAL	- do -	
12	Mian Siraj	04	SCHOOL OF NURSING KOHAT	SCHOOL OF NURSING KOHAT	- do -	
13	Mohammad Saeed	04	DHDC ABBOTT	SCHOOL OF NURSING SWAT	- do -	
14	Mohammad Usman	04	DHDC BANNU	DHDC BANNU	- do -	
15	Sahib-ur-Rehman	04	DHDC MARDAN	DHDC MARDAN	- do -	
16	Abdul Hussain	04	AMBULANCE CAR ON HANGOO	SCHOOL OF NURSING D.I.KHAN	- do -	



Provincial Health Services Academy (PHSA)

Health Department, Government of Khyber Pakhtunkhwa,
Near Northern Bypass, Duranpur Road Peshawar.

☎ # 091- 2614124

Fax #: 091- 2614360.

Exchange ☎ #: 091-2614223, 2614224

Website: www.phsa.edu.pk, E-mail: info@phsa.edu.pk.

No.43/PHSA/Admn:/Court Cases/2015-16/

Dated: /12/2015.

To

The Secretary,
Government of Khyber Pakhtunkhwa,
Health Department, Peshawar.

Attention: Section Officer (Litigation-II)

1-1-16
SUB: SERVICE APPEAL NO. 947/2014 MR. BAKHTIAR-UD-DIN VERSUS
SECRETARY HEALTH & OTEHRS.

R/Sir,

I am directed to forward find herewith photocopy of parawise comments along with enclosure on the above subject case for your signature for submission in the Khyber Pakhtunkhwa Service Tribunal Peshawar, for favor of further necessary action.

No.43/PHSA/Admn:/Court Cases/2015-16/ 5185-87

ADMINISTRATIVE OFFICER

Dated: 21 /12/2015.

Copy forwarded for information to:

1. Registrar Khyber Pakhtunkhwa, Service Tribunal, Peshawar.
2. PA to Director PHSA.

ADMINISTRATIVE OFFICER

o/c

(5)

25/10

The above adjustments will be subject to the following terms and conditions:

- Their appointments will be on the basis for a period of six months.
- They will be governed by the N.W.F.P. Govt. servants (Efficiency disciplinary) rules 19 and Govt servants conducts rules 1987 or any instructions which may be issued by the govt. from time to time in this regard.
- Their services will be liable to termination at any time without assigning any reason or giving notice during the incumbency of contract period.
- If any one wishes to quit the services he will have to submit in writing a prior notice at least two weeks earlier failing which the pay for the aforesaid period will be forfeited.
- They shall not be entitled to any pension or gratuity for the service rendered by them.
- If they accept the above terms and conditions they should report to their new / existing place of adjustment within a week or at least 10 days, otherwise the offer will be withdrawn and given to next senior person.

No. 442-58/A-22/P.....

Copy forwarded for information and necessary action to:

1. Secretary Health
2. Director Health Services
3. Project Director Family Health Project
4. Vice Principal DHDC Kohat
5. Vice Principal DHDC Swat
6. Vice Principal DHDC Bannu
7. Vice Principal DHDC Chitral
8. Vice Principal DHDC D.I.Khan
9. Vice Principal DHDC Abbottabad
10. Vice Principal DHDC Mardan
11. M.S. DHQ Hospital, D.I.Khan
12. M.S. DHQ Hospital, Kohat
13. M.S. DHQ Hospital, Mardan
14. M.S. DHQ Hospital, Swat
15. Provincial Co-Ordinator HMIS
16. Account Officer DHS/PIISA
17. Concerned Driver (Bakhtiar-ud-Din)

NOTIFICATION

Reference Govt of NWFP Finance department letter No.BVI/FD/4-48/2007-08/Vol; IV dated 12.5.2008 and Health department Letter No.SO.III/8-90/07(Sahib-ur Rehman) dated 21st January,2008 on the subject noted above.The Director PHSA is pleased to convert the following drivers of PHSA network on fixed pay to regular side BPS(4) with the immediate effect in the light of notification referred above.

The adjustment of drivers are made as mentioned below against their names:

S.N.	Name & designation	BPS	Name of Institute.
1	Mr. Muhammad Usman	04	DHDC Bannu.
2	Mr.Aziz ur Rehman	04	DHDC Swat.
3	Mr.Masood Khan	04	DHDC Mardan.
4	Mr. Abdul Ghafoor	04	DHDC Abbottabad.
5	Mr.Nadir	04	DHDC Chitral.
6	Mr.Javed Khan	04	SON Swat.
7	Mr.Mian Siraj	04	SON Kohat.
8	Mr.Bakhtiar ud Din	04	SON Mardan.
9	Mr.Shah Noor	04	SON Bannu
10	Mr.Wali Jan	04	SON DI.Khan.
11	Mr.Zafar Islam	04	SON HMC Peshawar.

-Sd/-
DIRECTOR

No.215/PHSA/Admn/Appintment/2007-08/3280-3311 Dated 17/11/2008.

Copy of above is forwarded to:-

1. Deputy Director Management, PHSA, Peshawar
2. District Accounts Officer, Swat Mardan, Kohat, DIK, Chitral, Abbottabad, Bannu
3. Section Officer-VI Finance department Peshawar
4. Budget Officer Health department Peshawar.
5. Vice Principal SON Swat, Mardan, Kohat, Bannu, D.I.Khan, HMC Peshawar.
6. Vice Principal DHDC Abbottabad, Mardan, Swat, Chitral, Bannu.
7. Officials concerned.

DIRECTOR

Attached to be true copy
mand syud

ANNEXURE

GOVERNMENT OF NWFP
FINANCE DEPARTMENT

NO.BVI/FD/4-48/2007-08/Vol.IV
Dated Peshawar, the 12th May 2008.

(21)

To

The Secretary to Govt. of NWFP,
Health Department, Peshawar.

Subject: CONVERSION OF FIX PAY TO REGULAR.

Dear Sir,

I am directed to refer to your letter No.SOB/HD/1-1/2006-07/PHSA, dated 03.03.2008 on the subjects noted above and to convey the concurrence of this Department for the conversion of 14 No. posts of Drivers on fixed pay into Pay Scale (04) in the following health institutions with immediate effect:-

S.No.	Institution	No. of posts
1	Nursing Schools Mardan, Swat, Kohat, Bannu and DIKhan.	5 (One in each Institution)
2	District Health Development Centre Mardan, Swat, Chitral, Abbottabad and Bannu.	5 (One in each Institution)
3	Director General Health Services.	3
4	Hayatabad Medical Complex, Peshawar.	1
	Total	14

Yours faithfully,

(ABDUS SAMAD)
BUDGET OFFICER-VI

C.C.

1. Accountant General, NWFP, Peshawar.
2. Director General, Health Services, NWFP, Peshawar.
3. Chief Executive, Hayatabad Medical Complex, Peshawar.
4. Director, Provincial Health Services Academy, NWFP, Peshawar.
5. District Accounts Officers, Mardan, Swat, Kohat, Bannu, DIKhan, Chitral & Abbottabad.
6. Principals, Nursing Schools, Mardan, Swat, Kohat, Bannu, DIKhan.
7. Principals, Divisional Health Development Centres, Mardan, Swat, Chitral, Abbottabad & Bannu.

ATTESTED

BUDGET OFFICER-VI

BEFORE THE MEMBER PARLIAMANTARY,
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 947 of 2014.

Mr. Bakhtiar Ud Din S/O Jalal Ud Din

Posted at Public Health School Nishtarabad as Driver..... APPELLANT.

VERSUS

1. The Secretary Health, Government of Khyber Pakhtunkhwa, Peshawar.
2. The Director Provincial Health Services Academy, Peshawar.
3. Accountant General KPK, Peshawar.
4. District Accounts Officer.

RESPONDENTS

PARA WISE COMMENTS OF RESPONDENT NO. 1 & 2 ARE AS UNDER:-

RESPECTFULLY SHEWETH:-

1. In-correct. That the appellant was employed by Family Health Project (World Bank) purely on temporary basis vide Project Director Family Health Project (W/Bank) Office Order No. 3021-23/PF dated 18-08-1994. Attached as (**Annex-A**).
 2. In-correct. The appellant was adjusted against the post of driver on fix pay @ Rs 2500/= per month for the period of six months extendable for time and again Directr Provincial Health Services Academy, Health Department Office Order No. 442-58/A-2: PHSA dated: 12/01/2000. Attached as (**Annex-B**).
 3. In-correct with the extent that the appellant was converted from fix pay to regular side with immediate effect and not from the date of initial appointment vide Directr Provincial Health Services Academy Office vide Notification No. 215/PHSA/Admr Appointment/2007-08/3280-3311 dated: 17/05/2008.
 4. In-correct with context as explained in para 3 above.
 5. In-correct with context as explained in para 4 above.
 6. In-correct the application was unsigned; appellant has no cause of action.
- The appellant has no cause of action.

GROUND S WARRANTING THIS APPEAL:-

- a) Denied for want of knowledge.
- b) Denied. The appellant has not been discriminated as he was converted from fix pay to regular side with immediate effect vide office order No. 215/PHSA/Admr/ Appointment/2007-08/3280-3311 dated: 17/05/2008 (**Annex-C**) and Finance Department letter No. BOI/FD/1-22/2008-09/ dated: 30/07/2008 (**Annex-D**).
- c) Denied for want of knowledge.
- d) Denied for want of knowledge.
- e) Denied for want knowledge.
- f) No comments.

PRAYER.

It is, therefore, most humbly prayed that the appeal in hand may kindly be dismissed as he has actually misguided the court.

In Preliminary Objection of 7/3.

DIRECTOR,
Provincial Health Services Academy,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No. 2).

That the Appellant has got no cause of action as locus standi & file the instant appeal.

SECRETARY,
Government of Khyber Pakhtunkhwa,
Health Department, Peshawar.
(Respondent No.1)

3) That the Appellant is estopped
by his own conduct.

to)

called subject
to corrections. Also
please attach the
relevant second affidavit
a counter Affidavit

[Handwritten Signature]

23/

Asst. Attorney General
(Service Division) K.P.K
Peshawar

2

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

Service Appeal No. 947 of 2014.

Mr. Bakhtiar Ud Din S/O Jalal Ud Din
Posted at Public Health School Nishtarabad as Driver. APPELLANT.


VERSUS

Government of Khyber Pakhtunkhwa, Peshawar & others (RESPONDANTS).

AFFIDAVIT

I, Mr. Tofeequllah, Administrative/Litigation Officer, Provincial Health Services Academy, Health Department, Khyber Pakhtunkhwa Peshawar, do hereby solemnly affirm and declare on oath that the contents of the accompanying parawise comments on behalf of respondent No. 1 & 2 are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honorable Court.

Identified by


DEPONENT
17201-2250671-

Additional Advocate General,
Khyber Pakhtunkhwa,
Service Tribunal,
Peshawar.

BEFORE THE HONOURABLE
SERVICES TRIBUNAL, KPK PESHAWAR

Service Appeal No947/2014

Bakhtiar-ud-Din _____

Appellant

V E R S U S

Govt. of Khyber Pakhtunkhwa and others _____

Respondents

**Replication on behalf of appellant in the above
noted appeal.**

Respectfully Sheweth,

The appellant begs to submit the following reply.

Preliminary Objections:

That the preliminary objection taken by the respondents needs no reply.

On Facts:

1-2) In reply to Para No. 1 and 2 it is submitted that the appellant is serving under the respondents No. 1 and 2 as explained fully in the appeal.

- 3) Para No. 3 of the written reply is incorrect.
- 4) Para No. 4 of the written reply is incorrect and Para No. 4 of the appeal is correct. In proof of the Para No. 4 of the appeal a judgment of this August Tribunal is attached with reply.
- 5) That due to reply to Para No. 4 of written statement Para No. 5 to 7 need no further reply.

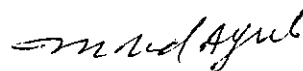
On Grounds:

The grounds need no reply as the answering respondents have stated that whatever has been written in grounds of appeal the respondents have got no knowledge and judgment of this August court has been annexed with the replication.

It is, therefore, prayed that on acceptance of this reply the appeal may kindly be proceed.

Appellant

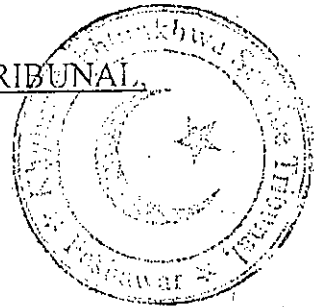
Through



Muhammad Ayub Khattak
Advocate, High Court,
Peshawar

Dated: 12.08.2016

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.



SERVICE APPEAL NO.318/2009

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

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

... (Appellant)

VERSUS

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

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

Mr. Waqar Ahmad Seth, Advocate.
Mr. Sher Afgan Khattak.
Addl: Advocate General.

.... For appellant
For respondents

Mr. Sultan Mehmood Khattak.
Mr. Noor Ali Khan

..Member
Member

JUDGMENT

SULTAN MEHMOOD KHATTAK MEMBER:-

According to the

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

GOVERNMENT OF NWFP
FINANCE DEPARTMENT

No. BO1/FD/1-22/2008-09/
Dated Peshawar, the 30/7/2008

27

ANNEXURE

To


The Accountant General,
NWFP, Peshawar.

Subject: BUDGET SPEECH 2007-08 CONVERSION OF FIXED PAY CLASS-IV
INTO REGULAR BPS-1 CP FUND SCHEME.

Dear Sir,

I am directed to refer to your letter No.H.24(85)/Kohistan/Vol-II/851 dated 18/6/2008 on the subject noted above and to clarify that all the Class-IV Fixed Pay Employees have been regularized in BPS-1 giving them the status of Civil Servant, with effect from 1st July, 2008 (but not from the date of their appointments) as per provision of Section 19 of the Civil Servant Act, 1973 (read with Civil Servants (Amendment) Act, 2005). Under the Act ibid, these employees are entitled for Contributory Provident Fund (C.P. Fund) instead of Pension/Gratuity and G.P. Fund. Since length of service of the employees was at variance, therefore, in order to meet the demand of natural justice, fixation of pay has been allowed to them with effect from the dates of appointment bringing their salaries at par with the respective length of service. However, they shall not be entitled for arrears of pay and allowances as clarified in the instructions. So, it is confirmed that they are entitled for CP Fund instead of Pension/Gratuity and GP Fund, unless otherwise provided in the relevant Rules/Regulations.

Yours faithfully,

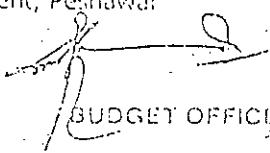

Fida Muhammad
Budget Officer-I

Endst No. & Date even:

Copy is forwarded w/r to Finance Dept's circular letter No. BO1/1-22/2008-08/FD dated 29/1/2008, for information & necessary action to:-

- 1) All Administrative Secretaries to Government of NWFP
- 2) Secretary to Governor, NWFP, Peshawar
- 3) Principal Secretary to Chief Minister, NWFP, Peshawar
- 4) All District Coordination Officers in NWFP
- 5) All Heads of Attached Departments in NWFP
- 6) The Registrar, Peshawar High Court, Peshawar
- 7) The Registrar, NWFP Service Tribunal, Peshawar
- 8) The Secretary Provincial Assembly, NWFP, Peshawar
- 9) The Secretary, Board of Revenue, NWFP, Peshawar
- 10) All District Accounts Officers in NWFP
- 11) All Budget/Section Officers in Finance Department, Peshawar


ATTESTED


BUDGET OFFICER-I

9-14

16/8/08
5/8/08

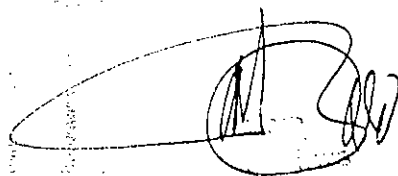
مستعمل کیلئے
مستعمل کیلئے
مستعمل کیلئے
مستعمل کیلئے
مستعمل کیلئے

Appellant was discriminated. Respondent No.1 vide letter dated 21.01.2008 converted the fixed pay employee namely Sahib-ur-Rehman Driver into regular pay scale, who is similarly placed employee like appellant, therefore, respondent No.2 requested for conversion of all other Drivers into regular pay scales. The Finance Department vide letter dated 12.5.2008 gave concurrence for conversion of 14 posts of Drivers on fixed pay into Pay Scale No.4 and in accordance with the said concurrence, Notification was issued by respondent No.2 on 17.5.2008, wherein, the appellant's name appeared at S.No.7, but with immediate effect, whereas pay fixation of other employees was done with effect from the date of appointment. Feeling aggrieved, the appellant submitted his departmental appeal on 09.11.2008, but with no response within the stipulated period, hence this appeal with the prayer that on acceptance of the appeal, the respondents be directed to fix the pay of the appellant from the date of initial appointment instead of 12.5.2008 along-with arrears to bring it at par with the length of service with such other relief as may deem fit in the circumstances of the case may also be granted.

2. The respondents have filed their written replies, wherein, they refuted the claim of the appellant and stated that the case of the appellant is different from the case of other employees and that he was appointed in Family Health Project on 6.12.1994 till the project life i.e. 31.12.1999. He was adjusted as Driver at Nursing School on 14.2.2000 as per entry made in his service book on fixed pay @ Rs.2500/-P.M. Moreover, he was brought to regular BPS-4 vide Finance Department's Notification dated 12.5.2008, with immediate effect. As such he is not entitled to the relief claimed by him.

3. Arguments heard and record perused.

ATTACHED



A handwritten signature is written over a circular stamp. The signature is in dark ink and appears to be 'M. S. S. S.'. The stamp is partially obscured by the signature.

4. No doubt, the appellant was appointed as Driver in the Family Health Project on 06.12.1994 but before winding up of the Project on 31.12.1999, he was adjusted as Driver in Nursing School Kohat, vide office order dated 19.7.1999. As per entry in the service book, the appellant was later on adjusted as Driver on fixed pay @ Rs.2500/- per month vide order dated 14.2.2000. In the light of Finance Department's letter dated 12.5.2008, the post of the appellant was converted to BPS-4 on regular side, vide Notification dated 17.5.2008 of respondent No.2, but with immediate effect. The main contention of the appellant is that in the light of Finance Department's letter dated 30.7.2008 he is entitled to fixation of his pay from the date of his initial appointment instead of 12.5.2008 like Sahib-ur-Rehman, similarly placed employee. Moreover, respondent No.2 has also addressed a letter dated 15.10.2008 to respondent No.4 in favour of the appellant for fixation of his pay from the date of appointment. However, it was observed that he will not be entitled to arrears upto 30.6.2008.

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

Sd/- Sultan Mohi-ud-Din
Sd/- Noor Ali

ANNOUNCED
 02.07.2010

Certified to be true copy

Hyderabad
 Service Tribunal
 Peshawar

Date of Presentation of Application: 6-3-2010
 No. of ... 1200
 ... 8
 ... 2
 ... 10



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

No. 2072 /ST Dated: 31 / 8 /2017

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

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


To,

The Director Provincial Health Services Academy,
Government of Khyber Pakhtunkhwa,
Peshawar.

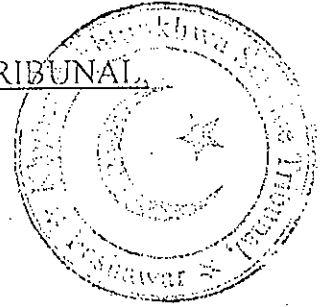
Subject: - JUDGMENT IN APPEAL NO. 947/2014, BAKHTIYAR UD DIN.

I am directed to forward herewith a certified copy of judgment dated
29/08/2017 passed by this tribunal on the above subject for strict compliance.

Encl: as above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.



SERVICE APPEAL NO.318/2009

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

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

... (Appellant)

VERSUS

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

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

Mr. Waqar Ahmad Seth, Advocate.
Mr. Sher Afgan Khattak,
Addl: Advocate General.

.... For appellant
For respondents

Mr. Sultan Mehmood Khattak.
Mr. Noor Ali Khan

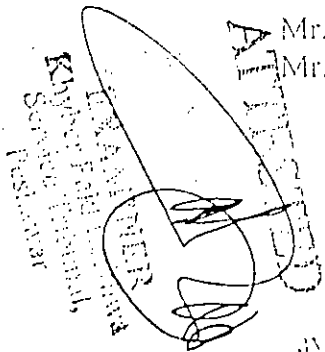
..Member
Member

JUDGMENT

SULTAN MEEMOOD KHATTAK MEMBER:-

According to the

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

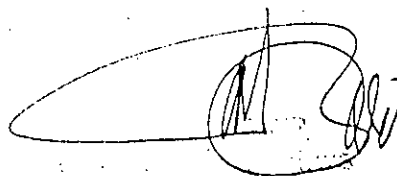


appellant was discriminated. Respondent No.1 vide letter dated 21.01.2008 converted the fixed pay employee namely Sahib-ur-Rehman Driver into regular pay scale, who is similarly placed employee like appellant, therefore, respondent No.2 requested for conversion of all other Drivers into regular pay scales. The Finance Department vide letter dated 12.5.2008 gave concurrence for conversion of 14 posts of Drivers on fixed pay into Pay Scale No.4 and in accordance with the said concurrence, Notification was issued by respondent No.2 on 17.5.2008, wherein, the appellant's name appeared at S.No.7, but with immediate effect, whereas pay fixation of other employees was done with effect from the date of appointment. Feeling aggrieved, the appellant submitted his departmental appeal on 09.11.2008, but with no response within the stipulated period, hence this appeal with the prayer that on acceptance of the appeal, the respondents be directed to fix the pay of the appellant from the date of initial appointment instead of 12.5.2008 along-with arrears to bring it at par with the length of service with such other relief as may deem fit in the circumstances of the case may also be granted.

2. The respondents have filed their written replies, wherein, they refuted the claim of the appellant and stated that the case of the appellant is different from the case of other employees and that he was appointed in Family Health Project on 6.12.1994 till the project life i.e. 31.12.1999. He was adjusted as Driver at Nursing School on 14.2.2000 as per entry made in his service book, on fixed pay @ Rs.2500/-P.M. Moreover, he was brought to regular BPS-4 vide Finance Department's Notification dated 12.5.2008, with immediate effect. As such he is not entitled to the relief claimed by him.

3. Arguments heard and record perused.

ATTORNEY GENERAL



11/11/2008

4. No doubt, the appellant was appointed as Driver in the Family Health Project on 06.12.1994 but before winding up of the Project on 31.12.1999, he was adjusted as Driver in Nursing School Kohat, vide office order dated 19.7.1999. As per entry in the service book, the appellant was later on adjusted as Driver on fixed pay @ Rs.2500/- per month vide order dated 14.2.2000. In the light of Finance Department's letter dated 12.5.2008, the post of the appellant was converted to BPS-4 on regular side, vide Notification dated 17.5.2008 of respondent No.2, but with immediate effect. The main contention of the appellant is that in the light of Finance Department's letter dated 30.7.2008 he is entitled to fixation of his pay from the date of his initial appointment instead of 12.5.2008 like Sahib-ur-Rehman, similarly placed employee. Moreover, respondent No.2 has also addressed a letter dated 15.10.2008 to respondent No.4 in favour of the appellant for fixation of his pay from the date of appointment. However, it was observed that he will not be entitled to arrears upto 30.6.2008.

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

Sd/- Sultan Mahmood Chhattola
Sd/- Muzeeb Ali Khan

ANNOUNCED
 02.07.2010

Certified to be true copy

EXAMINER
 Khuzdar Police Station
 Service Tribunal,
 Peshawar

Date of Presentation of Application 6-3-2010
 Number of Pages 1200
 Charges 8
 Fees 2
 Total 10