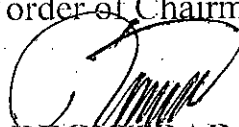


FORM OF ORDER SHEET

Court of _____

Appeal No. 456/2024

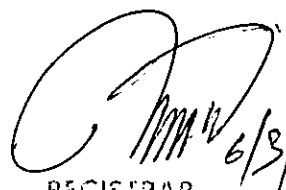
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	27/03/2024	<p>The appeal of Dr. Muhammad Ali Jan resubmitted today by Malik Akhtar Ali Khan Advocate. It is fixed for preliminary hearing before touring Single Bench at Swat on 07.05.2024. Parcha Peshi given to the counsel for the appellant.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

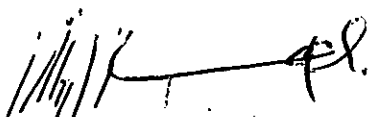
محمد علی خان

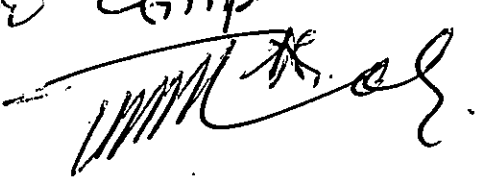
Appeal of Mr. Muhammad Ali Jan received today i.e on 05.03.2024 is incomplete following score which is returned to the counsel for the appellant for completion and submission within 15 days.


- ✓ According to sub-rule 4 of rule-6 of Khyber Pakhtunkhwa Service Tribunal rules 2012 respondent Nos. 1 & 3 unnecessary/improper parties, in light of the rules ibid on the written direction of the Worthy Chairman the above mentioned respondent number 1 & 3 deleted/struck out from the list of respondents.
- ✓ The list of the appellants is incomplete
- ✓ The memorandum of appeal is unsigned.
- ① The appeal has not been flagged/marked with annexures marks.
- ② The names of appellants referred to in the memo of appeal are not attached with the appeal be placed on it.
- ✓ Copy of appointment order attached with the appeal is illegible which may be replaced by legible/better one.

SIF
6/3


6/3/24
REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.


SIF

Submitted after completion
of removing all objections

18/3/2022

22/3/2024 ⇒ Resubmitted after filing judgment rendered
in Appeal No 542/2019. decided on 28-4-2022
and also filed regularization order

22/4/2024.

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

Service Appeal No. 456 /2024

Dr. Muhammad Ali Jan Appellant

VERSUS

Govt of Khyber Pakhtunkhwa & Others Respondents

INDEX

S.#	Description of Documents	Annex	Pages
1	Service Appeal	1	5
2	Affidavit		6
3	Address of the Parties		7
4	Copy of Appointment Order		8
5	Copy of Departmental Appeal		9
6	Wakalatnama Regularization order		10-11

⑦ Plaintiff of this Honorable Court.

Appellant

Through

Malak Akhtar Ali Khan

Advocate at Mardan

Cell: 0302-8192993

0346-4984757

Dated: _____

(1)

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

Service Appeal No. 456/2024

Dr. Muhammad Ali Jan,

Ex-Medical Officer,

Category-C Hospital, Khwaza Khela Swat..... **Appellant**

VERSUS

Secretary to Govt of Khyber Pakhtunkhwa, Health Department,
Civil Secretariat, Peshawar.

..... **Respondents**

**APPEAL U/S 4 OF THE SERVICE TRIBUNAL ACT, 1974
AGAINST THE DECISION OF RESPONDENTS NO.1
WHEREBY THEY HAD NOT CONSIDERED THE CONTRACT
PERIOD OF APPELLANT SERVICES W.E.F 18.12.1995 TO
01.07.2001, WHEREBY HIS CONTRACT PERIOD ABOUT 5/6
YEARS WAS NOT CONSIDERED FOR PENSIONERY BENEFITS
AND LENGTH OF SERVICE, IN VIOLATION OF THE JUDGMENT
OF HONORABLE SUPREME COURT OF PAKISTAN LAID DOWN
IN 2008 SCMR PAGE-380, 1998 SCMR 969 AND 1993 SCMR
906.**

Respectfully Sheweth:

1. That on 28.12.1995, the appellant was appointed as Medical Officer (BPS-17) on contract basis, in the Health

②

Respectfully Sheweth:

1. That on 28.12.1995, the appellant was appointed as Medical Officer (BPS-17) on contract basis, in the Health Department under supervision of respondent No.1.
2. That the appointment on contract basis as stopgap arrangement.
3. That in government of Khyber Pakhtunkhwa Civil Servants Amendment Act, 2013, the appellant was regularized w.e.f 01.07.2001.
4. That the intervening period w.e.f 18.12.1995 upto 01.07.2001 was not considered for pensionery benefits and length of service.
5. That the appellant filed W.P.No.358/2017 before Peshawar High Court Peshawar, whereby appellant was directed to approach service tribunal for his grievances, which may kindly be considered as departmental appeal.
6. That appeal No. 541 of 2019 decide by this Honorable Court with the direction that the appellant is entitled to

(2)

the Pensionery benefit for the for the intervening period from 1995 to 2001. (copy of judgment is attached)

GROUNDS:

- A. That the act of respondent No.1 is illegal, against wrong and clear violation of authoritative judgment of Apex Supreme Court of Pakistan, therefore needs to be struck down.
- B. That respondent No.1, while the intervening period of appellant w.e.f 18.12.1995 till 01.07.2001 for the purpose of pensionery benefits and lengthy of service, is unjustified, illegal as there was neither any break in his services neither nor adverse remarks against him. As the appellant was performing the similar duty, same responsibility, and same obligation no different in his duties, responsibility and obligation to that of regular employees/doctors duly appointed by competent authority. Such ignorance of intervening period is not permissible in the eye of law reliance is placed on *PLD 1970 Quetta 115*.

4

- C. That in view judgments reported as 1993 SCMR 906 and 1998 SCMR 969, period during which appellant held post on contract / adhoc basis shall be considered for move over pensioner benefits and length of service, but the same was wrongly denied to the appellant.

- D. That in view of 2018 SMCR 380 that any civil servant works on temporary adhoc/ contract basis for 10 years in BPS-17 shall be entitled to be promoted to BPS-18. Meaning thereby contract period shall be considered from seniority move over etc. but respondents by ignoring such authoritative judgment of apex court have committed gross illegalities.

- E. That the judgments of apex court are binding on all organs of the country and are under legal obligation to follow the verdict of apex court.

- F. That is was held in PLD 1970 Quetta 1 that when there is no difference in performing duty of Medical Officer on contract basis as to that compare of regular basis appointment. Because contract and regular Medical Officers perform similar duty, same responsibility and

3

similar obligation.

G. That in view of 2021 SCMR 1546, that the appellant is entitled to the pensionary benefits.

H. That the appellant seeks leave of this Honorable Tribunal to agitate further grounds at the time of hearing.

It is, therefore, most humbly prayed that on acceptance of this appeal, this Honorable Tribunal may be pleased to direct the respondents to consider the intervening period of appellant services w.e.f 18.12.1995 till 01.07.2001 for the purpose of pensionary benefits and length of service alongwith back benefits.

Appellant

Through

Malak Akhtar All Khan
Advocate at Mardan

Dated: _____

CERTIFICATE:

As per instruction / information provided to me by my client, it is certified that ~~no~~ such like Service Appeal has earlier been filed fore this Honorable Tribunal, on the subject matter. *That already*

Appellant appeal has been dismissed with the observation that Appellant is entitled to Pensionary Benefits.

ADVOCATE

8

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

Service Appeal No. _____/2024

Dr. Muhammad Ali Jan Appellant

VERSUS

Govt of Khyber Pakhtunkhwa & Others Respondents

AFFIDAVIT

I, Dr. Muhammad Ali Jan, Ex-Medical Officer, Category-C Hospital, Khowza Khela Swat, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Honorable Tribunal.

M. Ali Jan
DEPONENT

GOVT OF KHYBER PAKHTUNKHWA
Date
Signature
23
24

2

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

Service Appeal No. _____/2024

Dr. Muhammad Ali Jan Appellant

VERSUS

Govt of Khyber Pakhtunkhwa & Others Respondents

ADDRESSES OF THE PARTIES

APPELLANT:

Dr. Muhammad Ali Jan,
Ex-Medical Officer,
Category-C Hospital, Khwaza Khela.

RESPONDENTS:

- (1) Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
- (2) Secretary to Govt of Khyber Pakhtunkhwa, Health Department, Civil Secretariat, Peshawar.
- (3) Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department, Civil Secretariat, Peshawar.

Through

M. Ali Jan
Appellant

Malak Akhtar Ali Khan

Malak Akhtar Ali Khan
Advocate at Mardan

Dated: _____

8

DIRECTORATE GENERAL HEALTH SERVICES, N.W.F.P., PESHAWAR.

NO: 32867/E-I.

DATE: 18/11/1995.

To,

Dr. Muhammad Ali Khan
S/o Buzand Khan

SUBJECT: OFFER OF APPOINTMENT ON CONTRACT BASIS.

Medical Officer/Woman Medical Officer/Dental Surgeon.

The Competent authority hereby appoint you as Medical Officer/Woman Medical Officer/Dental Surgeon in the Health Department, N.W.F.P., on contract basis in B-12 for a period of one year or till the availability of Public Service Commission selected/return of original in absent from leave/deputation whichever is earlier, on the terms and conditions laid down in the attached Agreement Deed. You shall be posted to Chitral District with contract appointment not transferable.

2. This contract appointment is subject to your physical fitness for which you will appear before the Medical Board constituted for the purpose.
3. If you accept the offer of appointment on contract basis as a Medical Officer/Woman Medical Officer/Dental Surgeon, the attached Agreement Deed should be filled in and signed by you and should report at your own expense.
4. If you fail to report for appointment as stated in para-3 above, within Ten (10) days, the offer of appointment on contract basis will be deemed to have been withdrawn automatically and no further correspondence shall be entertained in this respect.

(DR. AZHAT KHAN AFRIDI)
DIRECTOR GENERAL HEALTH SERVICES, N.W.F.P., PESHAWAR.

NO 32867/E-I.

DATED PESHAWAR THE 18/11/1995.

Copy forwarded to the :-

1. Secretary to Govt. of N.W.F.P., Health Deptt. Peshawar for information with reference to his letter No. 60(H)IV/3-18/93, dated 16th Nov 1995.
 2. Divisional Director Health Services, Hazara
 3. District Health Officer/Dental Surgeon, Kohistan
 4. Accountant General, N.W.F.P. Peshawar.
 5. Accountant General, N.W.F.P. Peshawar.
 6. District Agency Accounts Officer, Kohistan
- for information and necessary action please.

(DR. AZHAT KHAN AFRIDI)
DIRECTOR GENERAL HEALTH SERVICES, N.W.F.P., PESHAWAR.

9

9

The Secretary to Health Department
Civil Secretariat Peshawar.

Through: Proper Channel

Subject: **DEPARTMENTAL APPEAL / REPRESENTATION**

Respected Sir,

- (1) That the appellant was appointed in Health Department as Medical Officer on 18-12-1995 on contract basis.
- (2) That the appellant served the department without any break on contract basis till dated.
- (3) That there is no adverse remarks or any complaint against the present appellant.
- (4) That on the appellant was regularized with effect from 01-07-2001.
- (5) That the appellant was serving since 18-12-1995 therefore appellant should have been regularized from initial appointment i.e. 18-12-1995.
- (6) That in view of judgment of APEX Court 2014 SCMR 1289, 2018 SCMR 380 seniority will be reckoned from initial appointment whether that appointment is on adhoc basis, contract or temporary basis.

It is therefore humbly prayed that on acceptance on this appeal, the appellant intervening period of contract may kindly be consider for seniority and other benefits available under the law to the petitioner.

-12-2023 -
M. Ali Jan
Dr. Muhammad Ali Jan
SMO THQ Pacha Kalay Distt: Buner



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar the 17th October, 2017

NOTIFICATION

NO. SO(E)H-II/3-18/2016: In pursuance of Judgment of Peshawar High Court Peshawar dated 18-11-2008 in Writ Petition No. 1510 of 2007 read with sub section 2 of Section 2 of the Khyber Pakhtunkhwa, Civil Servant (Amendment) Act, 2005 (Khyber Pakhtunkhwa Act no. IX of 2005) and provision under sub section 4 of section 19 of Civil Servant (Amendment) Act 2013 coupled with the regularization order of appellants and similarly placed w-a-f 2005, the services of following doctors (appellants as well as similarly placed) are hereby regularized with effect from dates as mentioned against each:

S. #	Name of Doctor	D.O.B / Domicile	Date of Initial Appointment on contract basis	Date of Regularization under Act 2005
1.	Dr. Bakht Zada S/O, Gul Muhammad, MBBS	01.01.1959 / Swat	23.11.1995	01-07-2001
2.	Dr. Dawa Khan S/O Badshah Khan MBBS	01.09.1951 / Swat	23.11.1995	01-07-2001
3.	Dr. Haroon Nasir Khattak S/O Rab Nawaz MBBS	Karak/ 1.3.1966	23.11.1995	01-07-2001
4.	Dr. Yousaf Khan S/O Said Rehman MBBS	Mardan/ 14.3.1968	23.11.1995	01-07-2001
5.	Dr. Riaz Ahmed S/O Rohmatullah MBBS	Mohmand A15.8.1951	23.11.1995	01-07-2001
6.	Dr. Alamgir Khan S/O Darwesh Khan, MBBS	16.04.1962 /Mohmand. A	23.11.1995	01-07-2001
7.	Dr. Muhammad Ajmal Khan S/O Zarin Khan MBBS	Mohmand ag 10.04.67	23.11.1995	01-07-2001
8.	Dr. Fazal Rehman S/O Muhammad Amir Khan, MBBS/ MPH	28.04.1966 /Mohmand Agency	23.11.1995	01-07-2001
9.	Dr. Mustafa S/O Behramand, MD	01.03.1961 / Swat	24.11.1995	01-07-2001

Signature

Secretary
Health Department
Govt. of Khyber Pakhtunkhwa

666	Dr Muhammad Fayyaz S/O Muhammad Ayaz	15.04.1978 / Swat	08.03.2005	08.03.2005
667	Dr. Jehanzeb s/o Abdul Samad Jan MBBS	Dir(L) 3.12.1973	08.03.2005	08.03.2005
668	Dr. Adil Khan s/o Fazli Subhan MBBS	30.12.1978 / Charsadda	08.03.2005	08.03.2005
669	Dr. Ajab Khan s/o Ismail Khan MBBS	Charsadda / 25.02.1979	08.03.2005	08.03.2005
670	Dr. Farhana d/o Hussain Ahmad MBBS	L/Dir / 07.08.1978	08.03.2005	08.03.2005
671	Dr. Muhammad Zubair s/o Muhammad Bashir M.D	Swat / 01.04.1976	08.03.2005	08.03.2005
672	Dr. Raz Muhammad s/o Badshah Muhammad M.D	Dir(L) 15.3.1977	08.03.2005	08.03.2005
673	Dr. Mushtaq Ahmad s/o Badshahul Mulk M.D	Dir (L) / 24.10.1978	08.03.2005	08.03.2005
674	Dr. Fazal Wahid S/O Khana Gul, MD	11.02.1971 / Dir	08.03.2005	08.03.2005
675	Dr. Nizamud Din s/o Qalandar Khan MBBS	Dir(L) / 10.3.1971	08.03.2005	08.03.2005
676	Dr. Umar Hakeem s/o Abdul Karim Khan MBBS	Bajaur / 28.4.1971	08.03.2005	08.03.2005
677	Dr. Nisar Ahmad s/o Amir Muhammad M.D	Dir(L) / 1.2.1971	08.03.2005	08.03.2005
678	Dr. Sher Muhammad s/o Sakhi Murad MBBS	NW Agency / 08.08.1976	08.03.2005	08.03.2005
679	Dr. Naeemullah s/o Abdullah MBBS	01.02.1981 / Swat	08.03.2005	08.03.2005
680	Dr. Akhtar Ali s/o Sarfaraz Khan MBBS	Swat / 25.10.1977	08.03.2005	08.03.2005

Section Officer
Govt. of Khyber Pakhtunkhwa,
Health Department.

Note: Any omission/error will be rectified after verification.

SECRETARY HEALTH

Endt No of even and date.

1. Registrar, Peshawar High Court Peshawar.
2. Accountant General, Khyber Pakhtunkhwa.
3. Director General, Health Services, Khyber Pakhtunkhwa.
4. PSO to Chief Secretary, Khyber Pakhtunkhwa.
5. Coordinator PMRU, O/O Chief Secretary, Khyber Pakhtunkhwa.
6. All District Health Officers in Khyber Pakhtunkhwa.

P.T.O

Scanned by CamScanner

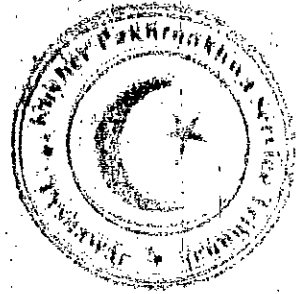
u

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.

Service Appeal No. 541/2019

Date of Institution ... 03.04.2019

Date of Decision ... 28.04.2022



Dr. Mustafa, Medical Officer, Category-C Hospital Khawaza Khila, Swat.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary and four others.

(Respondents)

MALIK AKHTAR ALI KHAN,
Advocate

For appellants.

MR. NASEER-UD-DIN SHAH,
Assistant Advocate General

For respondents.

MR. SALAH-UD-DIN
MR. MIAN MUHAMMAD

MEMBER (JUDICIAL)
MEMBER (EXECUTIVE)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- This single judgment is aimed at the disposal of the instant as well as connected Service Appeals bearing No. 542/2019 titled "Mohammad Ali Jan Versus Government of Khyber Pakhtunkhwa through Chief Secretary and four others", 543/2019 titled "Dr. Fazal Subhan Versus Government of Khyber Pakhtunkhwa through Chief Secretary and four others", 544/2019 titled "Dr. Jamil Ahmad Versus Government of Khyber Pakhtunkhwa through Chief Secretary and four others", 545/2019 titled "Dr. Bakht Zada Versus Government of Khyber Pakhtunkhwa through Chief Secretary and four others", 546/2019 titled "Dr. Faridoon Khan Versus Government of Khyber Pakhtunkhwa through Chief Secretary and four others", 1054/2019 titled "Sardeep Kumar Versus Government of Khyber Pakhtunkhwa through Chief Secretary and four others" and 1055/2019 titled

ATTENDED
[Signature]

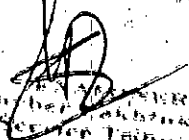
✓ "Dr. Abdul Ghafoor Versus Government of Khyber Pakhtunkhwa through Chief Secretary and four others", as common questions of law and facts are involved in all the above mentioned appeals.

2. Briefly stated the facts as alleged by the appellants in their appeals are that the appellants namely Dr. Mustafa, Dr. Muhammad Ali Jan, Dr. Fazal Subhan, Dr. Jamil Ahmed, Dr. Bakht Zada and Dr. Sardeef Kumar were appointed as Medical Officers on contract basis in the year 1995, while the appellants namely Dr. Faridoon and Dr. Abdul Ghafoor were also appointed as Medical Officers on contract basis in the year 1999. On promulgation of Khyber Pakhtunkhwa Civil Servants (Amendment) Act, 2005, their services were regularized with effect from 01.07.2001, however the intervening period of their contract services till 01.07.2001 was not considered for the purpose of seniority, therefore, the appellants filed Writ Petition No. 3518-P/2017 before the august Peshawar High Court, Peshawar, which was dismissed vide judgment dated 30.10.2018, being not maintainable, however it was observed that petitioners may approach the Services Tribunal for redressal of their grievance, hence the instant service appeals.

3. Notices were issued to the respondents, but they failed to submit reply/comments, despite several opportunities being given to them, therefore, the appeals were fixed ultimately for arguments.

4. Learned counsel for the appellants has contended that the contract period with effect from the date of initial appointment of the appellants till 01.07.2001 is legally required to be counted towards seniority and promotion of the appellants as seniority is reckoned from the date of initial appointment; that the appellants were performing similar duties being performed by the regular appointed Medical Officers, therefore, the period of their contract service shall be counted towards seniority; that according to Rules 2.2 and 2.3 of the West Pakistan Civil Services Pension Rules, 1963, the period of contract service shall be counted towards pensionary benefits of the appellants; that in light of numerous judgments

ATTESTED


 CHIEF CLERK
 SERVICES TRIBUNAL
 PESHAWAR

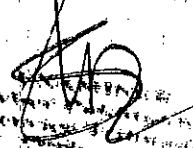
of worthy apex court, contract period shall be considered for the purpose of seniority but the respondents have wrongly and illegally ignored the judgments of worthy apex court; that the contract services of the appellants were without any break, which fact has not been considered by the respondents and resultantly, juniors to the appellants have become their seniors. Reliance was placed on 2018 SCMR 380, 1998 SCMR 969, 1991 SCMR 1765, 1993 SCMR 609; PLD 1970 Quetta 115 and unreported judgment dated 23.09.2020 passed by august Supreme Court of Pakistan in Civil Appeal No. 411 of 2020 titled "Additional Chief Secretary FATA, Peshawar and others Versus Sultan Muhammad and others".

5. On the other hand, learned Assistant Advocate General for the respondents has contended that the services of the appellants were regularized with effect from 01.07.2001 vide Notification dated 17.10.2017, which has not been challenged by the appellants through filing of departmental appeals within the statutory period of 30 days, therefore, the appeals are not at all maintainable; that the departmental appeals were allegedly filed by the appellants in the year 2018 and 2019, which are badly time barred, rendering their service appeals liable to be dismissed on this score alone; that the contract period of services of the appellants could not be counted for the purpose of their seniority as their seniority shall be counted with effect from the date of regularization of their services; that the seniority of the appellants has rightly been reckoned from the date of regularization of their services, therefore, the appeals in hand may be dismissed with costs. Reliance was placed on 2022 SCMR 448 and 2019 PLC (C.S) 740.

6. We have heard the arguments of learned counsel for the appellants as well as learned Assistant Advocate General for the respondents and have perused the record.

7. A perusal of the record would show that some of the appellants were appointed as Medical Officers (BPS-17) on contract basis in the year 1995, while some were appointed as such in the year 1999. In view of sub-section 2 of Section 2 of

ATTESTED



14

the Khyber Pakhtunkhwa Civil Servants (Amendment) Act, 2005 and the proviso under sub-section-4 of Section-19 of Civil Servants (Amendment) Act, 2013 as well as judgment dated 18.11.2018 passed by august Peshawar High Court, Peshawar in Writ Petition No. 1510 of 2007, Government of Khyber Pakhtunkhwa Health Department issued Notification dated 17.10.2017, whereby services of the appellants were regularized with effect from 01.07.2001. The core issue requiring determination is that as to whether the period of contract service of the appellants could be counted towards their seniority or not? In order to properly appreciate the controversy in question, it would be advantageous to go through para-1 (a) and (b) of Section-17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, which is reproduced as below:-

"Seniority.---(1) The seniority *inter se* of civil servants [appointed to a service, cadre or post] shall be determined...

- (a) In the case of persons appointed by initial recruitment, in accordance with the order of merit assigned by the Commission [or, as the case may be, the Departmental Selection Committee;] provided that persons selected for appointment to post in an earlier selection shall rank senior to the persons selected in a later selection; and
- (b) In the case of civil servants appointed otherwise, with reference to the dates of their continuous regular appointment in the post; provided that civil servant selected for promotion to a higher post in one batch shall, on their promotion to the higher post, retain their *inter-se* seniority as in the lower post".

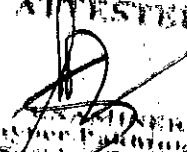
Explanation-I, ---.....

Explanation-II, ---.....

Explanation-III, ---.....

(2).....

[(3).....]

ATTESTED

 Director, Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

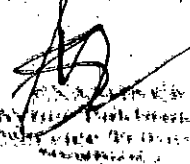
8. While going through clause-b of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules,

1989, it is clear that the period of contract services of the appellants could not be counted for the purpose of seniority. Moreover, Section-8 of Khyber Pakhtunkhwa Civil Servants Act, 1973 also provides that seniority in a post service or cadre to which a civil servant is promoted, shall take effect from the date of regular appointment to that post. It is by now well settled that services rendered by an employee on ad-hoc or contract basis cannot be counted for the purpose of their seniority as the same will be counted from their regular appointment. Wisdom in this respect derived from the judgment of august Supreme Court of Pakistan reported as 2022 SCMR 448. The appellants have themselves mentioned in para-2 of their respective appeals that their appointment on contract basis was a stop gap arrangement. Furthermore, according to para (1) of offer of appointment, the appellants were appointed for a period of one year or till the availability of selectees of Public Service Commission or return of original incumbents from leave/deputation, whichever is earlier. The appellants were not even falling within the category of civil servants prior to their regularization on 01.07.2001. The appellants thus cannot claim their seniority vis-à-vis the Medical Officers, who were appointed on regular basis during the period during which the appellants were serving on contract basis. The judgments relied upon by learned counsel for the appellants are distinguishable and could not in any way foster the claim of the appellants regarding counting of their contractual period of employment for the purpose of their seniority.

9. One of the plea taken by learned counsel for the appellants is that as the period of contract service could be counted towards pensionary benefits in view of rules 2.2 and 2.3 of Pension Rules, therefore, the same has to be considered for the purpose of seniority also. Rules 2.2 and 2.3 of the West Pakistan Civil Services Pension Rules, 1963, are reproduced as below:-

" 2.2 Beginning of Service- Subject to any special rules, the service of Government servant begins to qualify for pension when he

ATTESTED



takes over charge of the post to which he is first appointed:

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

- (i) Government servants borne on temporary establishment who have rendered more than five years continuous temporary service for the purpose of pension or gratuity; and
- (ii) Temporary and officiating service followed by confirmation shall also count for pension or gratuity.

Impo

10. While going through the above mentioned reproduced Pension Rules, it is evident that the period of contract employment could be considered only for the purpose of counting qualifying service for pensionary benefits and not for the purpose of seniority or any other benefits.

11. Consequently, the appeal in hand as well as connected Service Appeals bearing No. 542/2019, 543/2019, 544/2019, 545/2019, 546/2019, 1054/2019 and 1055/2019, being devoid of any merits stand dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
28.04.2022

(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

Number of copies 26/00

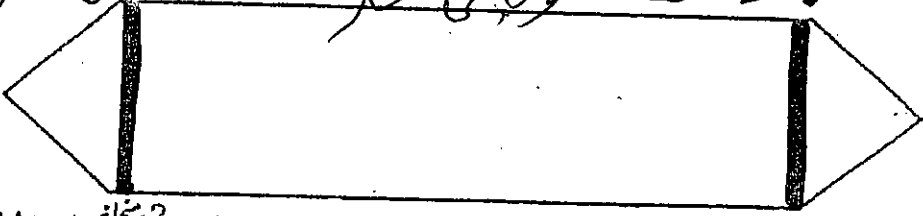
Number of copies 26/

Number of copies 26/

03/10/22

03/10/22

بعدالت صوبائی حکومت کے سرپرستوں کے سامنے



2. پنجاب حکومت کے سرپرستوں کے سامنے
 ڈاکٹر محمد علی کا کھٹام
 صوبائی حکومت کے سرپرستوں کے سامنے

موزخہ
 مقدمہ
 دعویٰ
 جرم

باعث تحریر آئندہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی ہر عمل کاروائی متعلقہ
 آن مقام کے لیے ~~صوبائی حکومت کے سرپرستوں کے سامنے~~

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
 وکیل صاحب کو راشنی نامہ کرنے و تقرر ثالثتہ فیصلہ برحلف دینے جواب دہی اور اقبال دعویٰ اور
 بہ صورت ڈگری کرنے اجراء اور وصولی چیک دروپیہا عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
 زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی 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 ساختہ
 پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔
 کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
 مذکور کریں۔ لہذا ادکالت نامہ لکھ دیا کہ سند ہے۔

الرقوم _____ ماہ _____ 20

واحد العباد

کے لئے منظور ہے۔

بمقام