


# FORM OF ORDER SHEET

Court of \_\_\_\_\_

**Appeal No. 565/2024**


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	17/04/2024	<p>The appeal of Mr. Muhammad Farooq resubmitted today by Mr. Abdullah Qazi Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 19.04.2024. Parcha Peshi given to the counsel for the appellant.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

The appeal of Mr. Muhammad Farooq received today i.e on 27 .03.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- According to sub-rule-4 of rule-6 of Khyber Pakhtunkhwa Service Tribunal rules 1974 respondents no. 1, 4 & 5 are un-necessary/improper parties, in light of the rules ibid and on the written direction of the Worthy Chairman the above mentioned respondent number be deleted/struck out from the list of respondent.
- 2- Appeal has not been flagged/marked with annexures marks.
- 3- Three copies/sets of the appeal along with annexures i.e. complete in all respect for Tribunal and one for each respondent may also be submitted with the appeal.

No. 695 /S.T.

Dt. 27-03 /2024.

  
27/3/24

REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Abdullah Qazi Adv.  
High Court Peshawar.

*Resubmitted after doing the needful.*



*28/4/2024*

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 565/2024

Muhammad Farooq -----Appellant

**VERSUS**

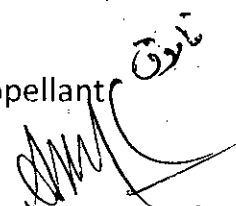
Government of Khyber Pakhtunkhwa & others-----Respondents

**I N D E X**

S.No.	Description of Documents	Annex	Pages
1.	Service Appeal alongwith Affidavit		1-5
2.	Copy of the Appointment Order	A	6-7A
3.	Copy of the Regularization Act	B	8-12
4.	Copy of the Order dated 17.06.2016	C	13-14
5.	Copy of the Application alongwith Covering Letter	D	14-15
6.	Copy of the Order dated 29/09/2022	E	16-24
7.	Copy of the Order dated 23/05/2023	F	25-30
8.	Copy of the Application.	G	31
9.	Wakalatnama		

Through

Appellant

  
**Abdullah Qazi**  
Advocate High Court

## BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 565 /2024

Muhammad Farooq, Ex-Driver, BHU Zaida, National Programme for Family Planning & Public Health Care, District Swabi.

-----Appellant

**VERSUS**

1. Director General, Health Services, Ex-FATA Secretariat, Warsak Road Peshawar.
2. District Health Officer, Sawabi at Shah Mansoor, District Sawabi.
3. District Account Officer at Shah Mansoor, District Sawabi.

-----Respondents

**APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST INACTION AND OMISSION OF THE RESPONDENTS TO CONSIDER THE APPELLANTS CONTRACT PERIOD FOR THE BENEFITS OF PAY PROTECTION AND PENSION WITH EFFECT FROM THE FIRST APPOINTMENT TILL REGULARIZATION AND AGAINST NOT DECIDING/NOT PROVIDING ORDER/INFORMATION ON THE APPLICATION/ DEPARTMENTAL APPEAL OF THE APPELLANT, WITHIN STATUTORY PERIOD OF 90 DAYS.**

**PRAYER**

ON THE ACCEPTANCE OF THIS SERVICE APPEAL RESPONDENTS MAY PLEASE BE DIRECTED TO CONSIDER THE TEMPORARY SERVICE PERIOD WITH EFFECT FROM THE FIRST APPOINTMENT, TILL REGULARIZATION OF THE APPELLANT FOR THE BENEFITS OF PAY PROTECTION AND PENSION TILL RETIREMENT AND ONWARDS. ANY OTHER REMEDY WHICH THIS TRIBUNAL DEEMS FIT AND PROPER MAY ALSO BE AWARDED IN THE FAVOUR OF APPELLANT.

**Respectfully Sheweth:**

The Appellant very humbly submits as under:

**FACTS**

1. That the appellant was appointed as Driver on contract/fixed pay basis in health department for national program on immunization/ national program for family planning and public health care vide order bearing No.1366-70/A-4/DHO dated 12/07/1999. (Copy of the Appointment Order is annexed as annexure 'A')
2. That the services of all the employees of national program on Immunization /National Program for family planning and public health care were regularized, vide regularization Act, 2014. (Copy of the Regularization Act is attached as annexure 'B').
3. That the appellant got retired from his service on attaining the age of superannuation w.e.f. 13.06.2016, vide order bearing No.5042-A/NA/DHO/Swabi dated 17.06.2016. (Copies of the Order are attached as annexure 'C').
4. That after the retirement the appellant approached the respondents for payment of all after service/retirement benefits

including pensionary benefits, but the respondents kept the matter pending and were/are reluctant to redress the grievance of the appellant, despite the fact that the Hon'ble Peshawar High Court has rendered several Judgments in similar matter/similar nature cases copies of which were provided to the respondents, but to no avail. (Copy of the Application alongwith Covering Letter is attached as annexure 'D').

5. That feeling aggrieved from the treatment and inaction of the respondents, the appellant filed a Writ Petition before the Hon'ble Peshawar High Court, Peshawar, which was disposed off in terms of order dated 29/09/2022. (Copy of the Order is attached as annexure 'E')
6. That as the respondents were not taking any action in the matter/case of the appellant, therefore, a contempt petition was filed in the Hon'ble Peshawar High Court, which was disposed off vide order dated 23/05/2023. (Copy of the Order is attached as annexure 'F').
7. That the appellant approached the office of respondent No.2 For provision of the order/decision taken in the case of appellant (copy of application is attached as annexure 'G'), but no order was provided to the appellant. The appellant was informed that the case is under process and the appellant will be informed soon. The appellant also filed another application before respondent No.2 which was also not decided/no information regarding the case of the appellant was provided within the statutory period, hence the instant appeal is being filed on the following amongst other;

#### **GROUND**

- A. That depriving the appellant from the legal right of benefits of pay protection and pensionary benefits is against the law, rules and norms of justice.

- B. That since the appellant has about 18 years temporary service at his credit which has not been counted towards his pay and pension protection which is causing huge loss to the appellant.
- C. That the inaction of the respondents and not counting his previous service of about 18 years towards pay and pension is against the law, rules, regulations and principle of justice fair play equity and equality.
- D. That as per pension rules No 2.3, the temporary and officiating service followed by confirmation/ regularization will be counted towards pension and pay protection, but the same has been totally violated in the case of the appellant.
- E. That this Hon'ble Court has already decided writ petitions Nos. 1188-P/2014, 361-P/2013, 3221-P/2013, 5585-P/2018, thus the appellant is also entitled for the same relief.
- F. That the inaction/omissions/delay of the respondents and the treatment meted out to the appellant, from the respondent's side is illegal, unconstitutional and against the law, rules and notification applicable to the matter.
- G. That as per law the appellant is legally entitled to all kind of pensionary benefits, for the service he has rendered and vested rights of the appellant are involved in the matter.
- H. That the inaction/omissions/delay of the respondents in not granting the after service/ retirement benefits including pensionary benefits to the appellant is illegal, unlawful, unconstitutional and against the Law, rules and notification applicable to the case of the appellant, despite the fact that the respondents were provided with various judgments of the Peshawar High Court, Peshawar regarding the same nature cases.

- I. That the respondents have flouted the constitutionally guaranteed rights of the appellant and enshrine in Art 4 and 25 of the constitution of Islamic Republic of Pakistan 1973, by depriving them from after service pensionary benefits.
- J. That if the respondents are allowed to get on with their noncompliance of the Law/ Rules/ Judgments, the same would be culminating in depriving the appellant from his inviolable rights.
- K. That the clear cut law/rules of the respondents department and its non-compliance on their part, negating the rights of the appellant shows malafide on the part of the respondents, too.
- L. That any other Ground will be raised at the time of arguments, with the prior permission of this Hon'ble Court.

It is, therefore, most humbly prayed that on acceptance of this service appeal, the respondents may please be directed to prepare the pension papers/ documents of the appellant and submit the same to the concerned quarter and to grant the appellant all the after service/ retirement benefits including pensionary benefits.

Any other remedy not specifically asked for may also be granted if deemed just, fit and appropriate in the circumstances of the case.

Through

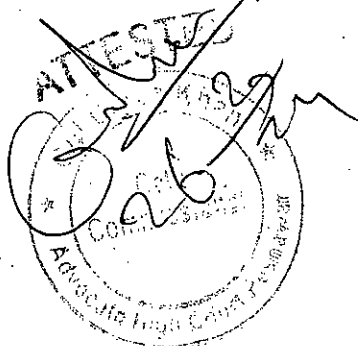
Appellant

Abdullah Qazi

Advocate High court

**AFFIDAVIT**

It is hereby affirm and declare on oath that the contents of the instant Appeal are true correct to the best of my knowledge and belief nothing has been added wrong.



DEPONENT

DEPONENT



# Office Order

(70)

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Annex A.  
(6)

Subject:- Appointment Order for the post of Driver under Prime Minister's Programme For Family Planning and Primary Health Care.

On the recommendation of selection committee, Muhammad Farooq DI/ND B/O MUHAMMAD YAQOUB  
of village/mohalla Village: Zaida Tahsil Swabi is  
hereby appointed as Driver at BHU ZAIDA w.e.f. 12 JULY 99 on  
the following terms and conditions :

1. The appointment will be purely on contract basis.
2. The appointment will be initially for one year. However, it is extendable subject to satisfactory performance.
3. He will be paid the salary as per provincial rules for the driver (BPS-4) on monthly basis.
4. The appointment is strictly non-transferable.
5. If he wishes to resign, he will serve one month's notice or will deposit one month's salary in lieu of notice.
6. He will be maintain a vehicle for field duties of the supervisor. He will be responsible for proper record on log book and maintenance of the vehicle. In case of misuse of vehicle, strict action will be taken against him.
7. In case of any accident, if found guilty of negligence, proper recovery will be made from him alongwith appropriate disciplinary action.
8. NC TA/DA will be allowed during field visits within the district of posting.
9. He will be entitled for 20 days casual/sick leave in a year. He will obtain sanction of leave from district PIU through his Incharge field Supervisor.
10. He will have to produce the medical fitness certificate from Medical Superintendent, DHQ Hospital, SWABI.
11. No TA/DA will be allowed on account of joining duty.

ATTESTED

(37)

**BETTER COPY**

6/A

**Office Order**

**Subject:- Appointment Order for the post of Driver under Prime Minister's Programme For Family Planning and Primary Health Care.**

On the recommendation of selection committee, Mr. MUHAMMAD FAROOQ S/O MUHAMMAD YAQOOB of village/mohalla Village: Zaida Tahsil Swabi is hereby appointed as Driver at BHU Zaida w.e.f 12 JULY 99 on the following terms and conditions:

1. The appointment will be purely on contract basis.
2. The appointment will be initially for one year. However, it is extendable subject to satisfactory performance.
3. He will be paid the salary as per provincial rules for the driver (BPS-4) on monthly basis.
4. The appointment is strictly non-transferable.
5. If he wishes to resign, he will serve one month's notice or will deposit one month's salary in lieu of notice.
6. He will maintain a vehicle for field duties of the supervisor. He will be responsible for proper record of log book and maintenance of the vehicle. In case of misuse of the vehicle, strict action will be taken against him.
7. In case of accident, if found guilty of negligence, proper recovery will be made from him alongwith appropriate disciplinary action.
8. NO TA/DA will be allowed during field visits within the district of posting.
9. He will be entitled for 20 days casual/sick leave in a year. He will obtain sanction of leave from District PIU through his Incharge field Supervisor.
10. He will have to produce the medical fitness certificate from Medical Superintendent, DHQ Hospital SWABI.
11. NO TA/DA will be allowed on account of joining duty.

**ATTESTED**

**ATTESTED**

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- 12. His services will not be governed under the Civil Servants Act 1993, but will act under the terms and conditions of this contract and on other terms that will be communicated to him from time to time. He will be bound to follow these terms which will not be challengeable at any forum including courts.
- 13. His services can be terminated at any time without assigning any reason or notice.
- 14. If he accepts the offer on the above terms and conditions, he is directed to report for duty to the office of District Health Officer SAWABI within 14 days from the date of issuance of office order failing which this offer will stand cancelled.

No. 1366-70/A-4/DHO Date 12-7-99

District Health Officer  
District Health Officer

- 1. National Coordinator, Prime Minister's Programme for Family Planning and Primary Health Care, 14-D, Feroze Centre, West Blue Area, Islamabad.
- 2. Provincial Programme Coordinator, Prime Minister's Programme for Family Planning and Primary Health Care,
- 3. District Coordinator, Prime Minister's Programme for Family Planning and Primary Health Care.
- 4. The Accountant
- 5. Official concerned.

*[Signature]*  
District Health Officer  
SAWABI

Credits/ salary's department letters

**ATTESTED**

FOR THE EXTRAORDINARY GAZETTE ISSUE OF  
THE KHYBER PAKHTUNKHWA

(44) Annex - B

PROVINCIAL ASSEMBLY SECRETARIAT  
KHYBER PAKHTUNKHWA

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NOTIFICATION

Dated Peshawar, the 2<sup>nd</sup> 07 2014.

No.PA/Khyber Pakhtunkhwa/Bills/2014/ 351 The Khyber Pakhtunkhwa Regulation of Lady Health Workers Program and Employees (Regularization and Standardization) Bill, 2014 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 24<sup>th</sup> June, 2014 and assented to by the Governor of the Khyber Pakhtunkhwa on 29<sup>th</sup> June, 2014 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

**THE KHYBER PAKHTUNKHWA REGULATION OF LADY HEALTH  
WORKERS PROGRAM AND EMPLOYEES (REGULARIZATION  
AND STANDARDIZATION) ACT, 2014**

(KHYBER PAKHTUNKHWA ACT NO. XXVI OF 2014)

(First published after having received the assent of the Governor of the  
Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa.  
(Extraordinary), dated the 02/07/2014).

(Here print as in the accompaniment).

*N. M. A. A.*

SECRETARY,

Provincial Assembly of Khyber Pakhtunkhwa.

No. and date (as per notification above).

A copy of the above notification with the accompaniment is forwarded to the Manager, Government Stationery and Printing Department, Peshawar, with the request to publish the same in the extraordinary issue of the Khyber Pakhtunkhwa Government Gazette of today's date and distribute copies thereof immediately in accordance with the list given overleaf.

Proof should be sent to this Secretariat before publication.

*N. M. A. A.*

SECRETARY,

Provincial Assembly of Khyber Pakhtunkhwa

E.No. PA/Khyber Pakhtunkhwa /Bills/2014/ 352-56 Dated 2 07 2014

A copy of the above is forwarded to :-

1. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. The Secretary to Government of Khyber Pakhtunkhwa, Health Department.
3. The Secretary to Government of Khyber Pakhtunkhwa, Law Department.
4. The Director Information, Khyber Pakhtunkhwa.
5. The Director I.T/ Special Secretary Provincial Assembly of Khyber Pakhtunkhwa.

*N. M. A. A.*

SECRETARY,

Provincial Assembly of Khyber Pakhtunkhwa

ATTENDED

AN  
ACT

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*to regulate the status of Lady Health Workers Program in the Province of the Khyber Pakhtunkhwa and to regularize and standardize the services of employees of the said program*

WHEREAS in pursuance of the Constitution (Eighteenth Amendment) Act, 2010, the subject of Health has been devolved to the Provinces and as such Lady Health Workers Program run by Federal Government for supporting the family planning and primary health care was devolved to the Provinces accordingly;

AND WHEREAS in the Lady Health Workers Program, the community based workers have a special nature of job, for the execution of which they have to remain continuously embedded with their local catchment population;

AND WHEREAS it is obligatory to maintain the original concept and design of the Lady Health Workers Program, to ensure the presence of community embedded employees for effective service delivery to the people of the area;

AND WHEREAS it is expedient to regulate the status of Lady Health Workers Program in the Province of the Khyber Pakhtunkhwa and to regularize and standardize the services of the employees of the said program.

It is hereby enacted as follows:-

1. Short title, application and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Regulation of Lady Health Workers Program and Employees (Regularization and Standardization) Act, 2014.

(2) It shall apply to all persons employed or to be employed in Lady Health Workers Program, in the Province of the Khyber Pakhtunkhwa.

(3) It shall come into force at once except section 4, which shall come in to force on 1<sup>st</sup> July, 2012.

2. Definitions.---In this Act, unless there is anything repugnant in the subject or context,-

- (a) "catchment population" means the local population for which a Community Embedded Employee of the Program is appointed or posted and regularly resides therein;
- (b) "Community Embedded Employee" means a Program employee residing and working within his defined catchment population for which he was appointed or posted;
- (c) "District Program Implementation Unit" means the Management Unit of the Program at District level;
- (d) "Government" means the Government of the Khyber Pakhtunkhwa;
- (e) "prescribed" means prescribed by rules;
- (f) "Program" means the Lady Health Workers Program devolved to the Province and which was previously run by the Federal Government under the name of the National Program for Family Planning and Primary Health Care;
- (g) "Program employee" means an employee of the Program, whose service is regularized under this Act and includes persons to be appointed after the commencement of this Act;

ATTESTED

- (h) "Province" means the Province of the Khyber Pakhtunkhwa; (144) C-2 (10)
- (i) "Provincial Program Implementation Unit" means the Management Unit of the Program at Provincial level; and
- (j) "rules" mean rules made under this Act.

3. **Status of Program.**---(1) On commencement of this Act, the National Program for Family Planning and Primary Health Care, shall be deemed to be a Program of Government to be known as the Lady Health Workers Program.

(2) The purpose of the Program shall be to provide preventive, curative, rehabilitative and promotive health care services to the catchment population in the Province.

(3) The Program shall continue for such a period as Government may determine.

(4) After coming into force of this Act, Government may appoint persons to various posts in the Program on contract basis and there shall be no regular appointment in the Program.

(5) The appointment under sub-section (4) shall be made in accordance with the criteria and manner as may be prescribed.

4. **Regularization.**---(1) On commencement of this Act, all the Program employees, who were appointed in the Program on contract or fixed monthly stipend basis before 1<sup>st</sup> July 2012, and holding the said post till the commencement of this Act, shall stand regularized with effect from 1<sup>st</sup> July, 2012:

Provided that the services of such Program employees shall be deemed to have been regularized under this Act only on the publication of their names in the official Gazette:

Provided further that the posts of the Program fallen vacant on account of death, retirement, resignation, dismissal, termination or otherwise shall be filled-in on contract basis.

(2) The Program employees regularized under this Act shall be placed in the relevant Pay Scales corresponding to the civil servants or as may be determined by Government.

(3) The seniority of the Program employees regularized under this Act shall be determined in a manner as may be prescribed.

(4) A Program employee, whose services are regularized under this Act, shall retire from service, on the option of the Program employee and on such date as requested by the Program employee, after completion of twenty five years of qualifying service or on the completion of sixteenth year of age.

(5) A Program employee, whose service is regularized under this Act, shall be entitled to such pensionary and retirement benefits as may be determined by Government.

5. **Mechanism of recruitment for Community Embedded Employees.**---(1) For filling a post of Community Embedded Employee, the appointing authority shall cause to verify and ensure in the prescribed manner that person, who is to be appointed against such post, shall be a regular resident of his catchment population.

(2) The Provincial Program Implementation Unit shall oversee and monitor the process and finding of the verification, carried out by the appointing authority under sub-section (1), before a person is appointed against post of Community Embedded Employee.

(3) The Community Embedded Employee shall perform his duties within the catchment population of his residence; provided that Government may adjust a Community Embedded Employee in another area in certain circumstances to be prescribed.

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(4) Notwithstanding anything contained in other provisions of this Act, the services of the Community Embedded Employees, whose services are regularized under this Act, or other Community Embedded Employees to be appointed after the commencement of this Act, shall be liable to termination, if the employee-

- (a) has unlawfully ceased to be a regular resident within or has become a non-resident for his catchment population; or
- (b) is involved in any other engagement or a practice which is not in accordance with the laid down and approved policy of the Program; or
- (c) has ceased to be efficient in the performance of official duties; or
- (d) has proved guilty of gross misconduct.

(5) A Community Embedded Employee, whose service is terminated under sub-clause (a) or (b) of sub-section (4) of this Act may be reinstated into service in a manner as may be prescribed:

Provided that this opportunity of reinstatement shall not be given more than once throughout the tenure of a Community Embedded Employee's service:

Provided further that-

- (a) no salary or allowances shall be paid to the re-instated employee for the period spent under termination; and
- (b) payment made, if any, to the terminated employee being re-instated, which was not allowed during or for the period spent under termination, is recovered from the employee.

6. Posting, transfer and adjustment of Program employees.---Notwithstanding anything contained in other provisions of this Act, the Program employees, except the Community Embedded Employees, may be transferred to perform duty anywhere in the Province.

7. Disciplinary action.---Disciplinary cases against the Program employees shall be dealt with in a manner as may be prescribed.

8. Application of Government rules.---The Program employees shall be dealt in accordance with the provisions of this Act and rules; provided that if no specific rules are available on any matter, the Government rules shall be applicable to such Program employees.

9. Public servants.---All Program employees shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860 (Act No. XLV of 1860).

10. Power to make rules.---Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

11. Saving.--- Any rules, orders or instructions in respect of any terms and conditions of services of Program employees duly made or issued by an authority competent to make them and in force immediately before the commencement of this Act shall, in so far as such rules, orders or instructions are not inconsistent with the provisions of this Act, be deemed to be rules made under this Act.

12. Removal of difficulties.---If any difficulty arises in giving effect to any of the provisions of this Act, Government may make such order, not inconsistent with the provisions of this Act, as may appear to be necessary for the purpose of removing the difficulty:

Provided that no such power shall be exercised after the expiry of one year from the commencement of this Act.

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13. **Repeal---** The Khyber Pakhtunkhwa Regulation of Lady Health Workers Program and Employees (Regularization and Standardization) Ordinance, 2014 (Khyber Pakhtunkhwa Ord. No. VI of 2014) is hereby repealed.

**BY ORDER OF MR. SPEAKER  
PROVINCIAL ASSEMBLY OF KHYBER  
PAKHTUNKHWA.**

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**(AMANULLAH)**  
Secretary  
Provincial Assembly of Khyber Pakhtunkhwa

**ATTESTED**





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## OFFICE OF THE DISTRICT HEALTH OFFICER SWABI

Email ID: [edohealthswabi@yahoo.com](mailto:edohealthswabi@yahoo.com)  
Office Tel: 0938-300053

### OFFICE ORDER

On completion of sixty year age of Mr. Muhammad Farooq Driver BPS-04 BHU Zaida is hereby stand retired from service with effect from 13.06.2016 AN, as his date of birth is 14.06.1956.

—sd—  
DISTRICT HEALTH OFFICER  
SWABI

No. S042-A/NM DHO Swabi

Dated: 17-6-2016

Copy forwarded to the:-

1. District Account officer Swabi
2. Incharge BHU Zaida
3. Account Section NP DHO office Swabi
4. Official Concerned

DISTRICT HEALTH OFFICER  
SWABI

ATTESTED



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**OFFICE OF THE DISTRICT HEALTH OFFICER SWABI**

Email ID: [edohealthswabi@yahoo.com](mailto:edohealthswabi@yahoo.com)  
Office Tel: 0938-300053 & Fax 0938-300051

No. 10021/N-2/DHO

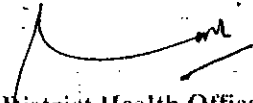
Swabi Date: 2-10-18

To

The Provincial Coordinator  
LHW Program KPK Peshawar

**SUBJECT: APPLICATION FOR BENEFIT OF PENSION**

Please find enclosed herewith an application along with relevant documents in respect of Mr. Muhaminad Farooq Ex-Driver BHU Zaida (the content is self explanatory) for favorable consideration.

  
District Health Officer  
Swabi

**ATTESTED**



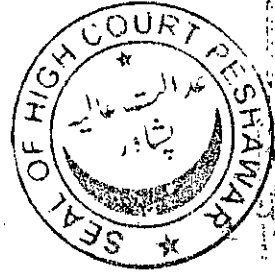
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**BEFORE THE PESHAWAR HIGH COURT, PESHAWAR**

Writ Petition No. 2641/P/2021



1. Jawad Khan S/o Umbaras Khan, Ex-Account Supervisor, Office of the District Health Officer, Swabi at Lahor.
2. Mst. Sadia, LHW (BPS-5), BHU Tarakai, Tehsil & District Swabi.
3. Faqir Gul, Ex-Driver, National Programme, BHU, Tarakai, Tehsil & District Swabi.
4. Hasham Khan, Ex-Driver, BHU Tordher, National Programme for Family Planning & Public Health Care, District Swabi.
5. Muhammad Farooq, Ex-Driver, BHU Zaida, National Programme for Family Planning & Public Health Care, District Swabi.
6. Hamayun S/o Sher Khan, Ex-Driver, National Programme for Family Planning & Public Health Care, DHO Office, District Swabi.

.....PETITIONERS

**VERSUS**

*Impleaded  
Court order dt  
2/9/21.*

*Distt Accounts  
officer Swabi  
at Shah  
Mansoor.*

*Accountant  
General K.P.  
Peshawar*

*Provincial Coordinator  
& Public Health Care*

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

2. Director General, Health Services, Warsak Road, Peshawar.

3. District Health Officer, Swabi, at Tehsil Headquarter Hospital Lahor, District Swabi.

Secretary, Finance Department, Govt. of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.

**FILED TODAY**  
*[Signature]*  
Deputy Registrar

*LHW Program for Family Planning  
K.P. Peshawar*

**RESPONDENTS**

**ATTESTED**  
**EXAMINER**  
*[Signature]*  
Peshawar High Court  
Peshawar

*Shawq*  
**17**

**WRIT PETITION UNDER ARTICLE 199**  
**OF THE CONSTITUTION OF ISLAMIC**  
**REPUBLIC OF PAKISTAN 1973.**

**Respectfully Sheweth:**

The petitioners very humbly submit as under:-

1. That the petitioners were appointed on contract/ fixed pay basis in Health Department for National Programme on Immunization/ National Programme for Family Planning & Public Health Care on various posts on the dates mentioned below and after <sup>of about</sup> rendering 17 to 20 years of services, got retired on various dates, details of which are given as under:-

S.#	Name	Designation	No./Date of Appointment	No./Date of Retirement
1.	Jawad Khan	Account Supervisor	0586-87/PC 07.12.1998	822-26/DHO 05.09.2014
2.	Mst. Sadia	LHW	7555-60/DHO 14.05.1997	8279-74/N-2 24.07.2018 w.e.f 30.06.2018
3.	Faqir Gul	Driver	12.12.1998	(3177-81/PR 24.08.2017 w.e.f 30.06.2017
4.	Hasham Khan	Driver	1835-36/EDD(H)Swabi 28.07.2007	135/N-2 29.08.2017 w.e.f 30.06.2017
5.	M. Farooq	Driver	1366-70/A-4/DHO 12.07.1999	5042-A/N2/DHO/Swabi 17.06.2016
6.	Hamayun	Driver	2854-57/DHO 21.03.1996	

(Copy of the Appointment/Retirement Orders are annexed as annexure "A").

**ATTESTED**  
**EXAMINER**  
Peshawar High Court  
Peshawar

2. That the services of all the employees of National Programme on Immunization/National Programme for Family Planning & Public Health Care were regularized, vide Regularization Act, 2014. (Copy of the Regularization Act is attached as annexure "B").
3. That the petitioners were retired from their services on attaining the age of superannuation on the respective dates mentioned in para No.1.
4. That after the retirement, the petitioners approached the respondents for payment of all after service/ retirement benefits including pensionary benefits, but the respondents kept the matter pending and are reluctant to redress the grievance of the petitioners, despite the fact that this Hon'ble Court has rendered several judgments in similar matter/ case of the petitioners, copies of which were provided to the respondents, but to no avail.
5. That the petitioners feeling aggrieved of the inaction of the respondents and having no other adequate and efficacious remedy, are constrained to invoke the constitutional jurisdiction of this Hon'ble Court, inter alia, on the following grounds;

ATTESTED  
EXAMINER  
Peshawar High Court  
Peshawar

**GROUND S:**

- A. That the acts/omissions/delay of the respondents and the treatment meted out to the petitioners, from the respondents' side is illegal, unconstitutional and against the law, rules and notification applicable to the matter.
- B. That as per law the petitioners are legally entitled to all kind of pensionary benefits, for the services they have rendered and vested rights of the petitioner are involved in the matter.
- C. That the acts/omissions/delay of the respondents in not granting after service/ retirement benefits including pensionary benefits to the petitioners is illegal, unconstitutional and against the law, rules and notification applicable to the matter.
- D. That the respondents have flouted the constitutionally guaranteed rights of the petitioner as enshrined in Article 4 & 25 of the Constitution of Islamic Republic of Pakistan, 1973. By depriving them from their after service pensionary benefits.
- E. That if the respondents are allowed to get on with their non-compliance of the law/rules/judgments,

**ATTESTED**  
EXAMINER  
Peshawar High Court  
Peshawar

the same would be culminating in depriving the petitioners from their inviolable rights.

- F. That the clear cut law/rules of the respondents' department and its non-compliance on their part, negating the rights of the petitioners shows malafide on the part of the respondents, too.
- G. That this Hon'ble Court has rendered several judgments regarding similar cases of the employees of National Programme in W.P.No. 5561-P/2019 & W.P.No. 428-P/2021 thus the petitioners are also entitled to be dealt with equally. (Copy of Judgments are attached as annexure "C").
- H. That despite having been approached by the petitioners time and again for redressal of their grievance, the respondents have turned their deaf ears towards their request.
- I. That any other ground will be raised at the time of arguments, with the prior permission of this Hon'ble Court.

It is, therefore, most humbly prayed that on acceptance of this Writ Petition, the respondents may please be directed to prepare the pension


ATTESTED  
EXAMINER  
Peshawar High Court  
Peshawar



papers/ documents of the petitioners and submit the same to the concerned quarter and to grant the petitioners all the after service/ retirement benefits including pensionary benefits.

Any other remedy not specifically asked for may also be granted if deemed just, fit and appropriate in the circumstances of the case.

Through Petitioners

  
**ABDULLAH QAZI**  
 Advocate High Court

Dated: 01.06.2021

**CERTIFICATE:**

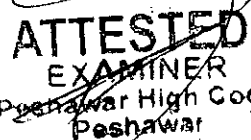
Certified on instructions of my client that no such like **Writ Petition** has earlier been filed by the petitioner before this Hon'ble Court.

  
 ADVOCATE

**LIST OF BOOKS:**

1. Constitution of Islamic Republic of Pakistan, 1973.
2. Any other law books according to need

  
 ADVOCATE

  
**ATTESTED**  
 EXAMINER  
 Peshawar High Court  
 Peshawar

papers/ documents of the petitioners and submit the same to the concerned quarter and to grant the petitioners all the after service/ retirement benefits including pensionary benefits.

Any other remedy not specifically asked for may also be granted if deemed just, fit and appropriate in the circumstances of the case.

Petitioners  
Through

  
**ABDULLAH QAZI**  
Advocate High Court

Dated: 01.06.2021

**CERTIFICATE:**

Certified on instructions of my client that no such like **Writ Petition** has earlier been filed by the petitioner before this Hon'ble Court.

  
ADVOCATE

**LIST OF BOOKS:**

1. Constitution of Islamic Republic of Pakistan, 1973.
2. Any other law books according to need

  
ADVOCATE

**ATTESTED**  
**EXAMINER**  
Peshawar High Court  
Peshawar

**IN THE PESHAWAR HIGH COURT, PESHAWAR**

C.M No. \_\_\_\_\_/2021

In

W.P. No. \_\_\_\_\_/2020

Jawad Khan. . . . . **PETITIONER**

**VERSUS**

Govt. of Khyber Pakhtunkhwa & others. . . . **RESPONDENTS**

**AFFIDAVIT**

I, Jawad Khan S/o Umbaras Khan R/o Mohallah Baso Khel, Village Kala, Tehsil & District Swabi, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been kept secret or concealed from this Hon'ble Court.

Identified by:

*[Signature]*  
**Abdullah Qazi**  
Advocate High Court

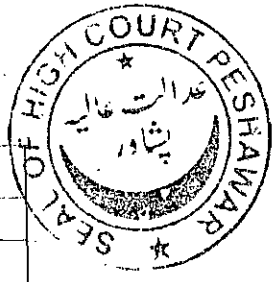
*[Signature]*  
**DEPONENT**  
CNIC: 16201-7584783-1 ✓  
Cell: 0810-8344455

No. <u>27802</u>
Certified that the above was verified on solemn affirmation before me in open court on the <u>21</u> day of <u>Jan</u> 20 <u>24</u> by <u>Jawad Khan</u> s/o <u>Umbaras Khan</u> R/o <u>Baso Khel</u> who was identified by <u>Abdullah Qazi</u>
Who is personally known to me:
<i>[Signature]</i> Oath Commissioner Peshawar High Court, Peshawar <u>01/06/2024</u>

**CERTIFIED TO BE TRUE COPY**  
*[Signature]*  
**EXAMINER**  
Peshawar High Court, Peshawar  
Authorized Under Article 8, 7 of  
the Oath Commissioners Act 1984  
**21 MAR 2024**

**PESHAWAR HIGH COURT, PESHAWAR.**

**FORM OF ORDER SHEET**



Date of Order of Proceedings	Order or other Proceedings with Signature of Judge.
1	2
29.09.2022	<p><b><u>W.P No. 2641-P/2021</u></b></p> <p>Present: Mr. Abdullah Qazi, Advocate for petitioners.</p> <p>Mr. Rab Nawaz Khan, Addl. AG alongwith Waleed (Litigation Officer) for respondents.</p> <p>***</p> <p><b><u>MOHAMMAD IBRAHIM KHAN, J.-</u></b> Before this petition is taken up for hearing, learned counsel for the petitioner states that if the application of the petitioner pending before the respondent No. 2 is taken up for its disposal on merit, he will not press this petition any more. Hence, the request is entertained. Let, the respondents No.2 shall by all means, decide the matter pending before him within one month positively. If later, the petitioner is aggrieved from the said order, he may further seek his grievance from the court, if so desired.</p> <p>2. In view of above this petition stands disposed of accordingly. Copy of this order be communicated to the respondent.No. 2 for compliance.</p> <p><b><u>Announced</u></b> 29.09.2022</p> <p style="text-align: right;"><i>[Signature]</i> <b>JUDGE</b></p> <p style="text-align: right;"><i>[Signature]</i> <b>JUDGE</b></p>

380/4

Date of Presentation: 9-P 21-03-2024

No of Pages: 36

Copying fee: 36/-

Total: 36/-

Date of Presentation: 21-03-2024

Date of Receipt: 21-03-2024

\*Muhammad Fiaz, D.B\* Hon'ble Mr. Justice Mohammad Ibrahim Khan, J  
 Hon'ble Mr. Justice S.M Attique Shah, J

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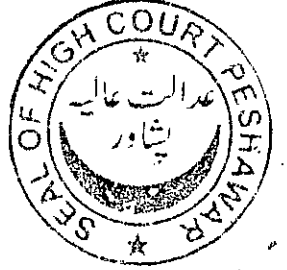
*[Signature]*  
EXAMINER  
Peshawar High Court, Peshawar  
Authorized Under Article 8, 7 of  
the Oath-taking-Shahadat Act 1984  
21 MAR 2024

**IN THE PESHAWAR HIGH COURT, PESHAWAR**

C.O.C No. \_\_\_\_\_/2022

In

W.P No.2641-P/2021



1. Jawad Khan S/o Umbaras Khan, Ex-Account Supervisor, Office of the District Health Officer, Swabi at Lahor.
2. Mst. Sadia, LHW (BPS-5), BHU Tarakai, Tehsil & District Swabi.
3. Faqir Gul, Ex-Driver, National Programme, BHU, Tarakai, Tehsil & District Swabi.
4. Hasham Khan, Ex-Driver, BHU Tordher, National Programme for Family Planning & Public Health Care, District Swabi.
5. Muhammad Farooq, Ex-Driver, BHU Zaida, National Programme for Family Planning & Public Health Care, District Swabi.
6. Hamayun S/o Sher Khan, Ex-Driver, National Programme for Family Planning & Public Health Care, DHO Office, District Swabi. . . . .PETITIONERS

**VERSUS**

Ms. Shaheen Afridi, Director General, Health Services, Old FATA Secretariat, Warsak Road, Peshawar. . . . . RESPONDENT/CONTEMNOR

**PETITION FOR IMPLEMENTATION OF ORDER DATED 29.09.2022 PASSED BY THIS HON'BLE COURT, AND INITIATION OF CONTEMPT OF COURT PROCEEDINGS AGAINST THE RESPONDENT/CONTEMNOR.**

**Respectfully Sheweth:**

The petitioners very humbly submit as under:-

**ATTESTED**  
EXAMINER  
Peshawar High Court  
Peshawar

1. That the petitioners filed a writ petition before this Hon'ble Court, which was disposed off vide order dated 29.09.2022, in the following terms:-

**"Before this petition is taken up for hearing, learned counsel for the petitioner states that if the application of the petitioner pending before the respondent No.2 is taken up for its disposal on merit, he will not press this petition any more. Hence, the request is entertained. Let, the respondent No.2 shall by all means, decide the matter pending before him within one month positively. If later, the petitioner is aggrieved from the said order, he may further seek his grievance from the court, if so desired.**

**In view of the above this petition stands disposed of accordingly. Copy of this order be communicated to the respondent No.2 for compliance."**

(Copy of Order is attached as annexure "A").

2. That through an application, the petitioners submitted, an attested copy of the above order, in the office of District Health Officer Swabi for its onward communication/compliance to the contemnor/respondent.

(Copy of the Application is attached as annexure "B").

3. That the petitioner also visited the office of respondent/contemnor, requesting for implementation of the order of this Hon'ble Court, but to no avail.

It seems that the Health Department, has also started acting/adopting on the process of bureaucratic setup of the country, as they have started considering themselves above the law and has been treating their lower-scale-officials as their slaves and thus if the later dare seek interference of the court for their legal rights, the former, invariably respond with applying of dally delaying and chicanery.

4. That the non-compliance of the order of this Hon'ble Court by the respondents, tantamount to the contempt of court, attracting the consequence applicable of Article 204 of the constitution of Islamic Republic of Pakistan, 1973 and all other enabling provisions of law on the subject.

**ATTESTED**  
**EXAMINER**  
 Peshawar High Court  
 Peshawar

5. That the respondent/contemnor is liable to be treated strictly so that it may become a deterrent for the likeminded person. Needless to mention here that leniency shown by this Hon'ble Court in such like matters has been misunderstood and misconstrued by the contemnors, rather they got too encouraged and too berserk, to disobey the court order.
6. That any other ground will be raise at the time of arguments, with the prior permission of this Hon'ble Court.

In view of the above said facts, it is therefore, prayed that on acceptance of this petition;

- i. This Hon'ble Court may be pleased to direct the respondents to implement the order of this Hon'ble Court and/or initiate contempt of court proceedings against the respondents and punish them according to law;
- ii. Any other remedy not specifically asked for may also be granted if deemed just, fit and appropriate in the circumstances of the case.

Petitioners

Through

  
ABDULLAH QAZI  
Advocate High Court

Dated: 08.11.2022

**ATTESTED**  
EXAMINER  
Peshawar High Court  
Peshawar

**IN THE PESHAWAR HIGH COURT, PESHAWAR**

C.O.C No. \_\_\_\_\_/2022

In

W.P No.2641-P/2021

Jawad Khan & others. .... PETITIONERS

**VERSUS**

Ms. Shaheen Afridi, D.G, Health Services, Old FATA Secretariat, Warsak Road, Peshawar. ....RESPONDENTS

**AFFIDAVIT**

I, Jawad Khan S/o Umbaras Khan, Ex-Account Supervisor, Office of the District Health Officer, Swabi at Lahor, do hereby solemnly affirm and declare on oath that the contents of the accompanying **C.O.C Petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Identified By:

**ABDULLAH GAZI**  
Advocate High Court

**DEPONENT**  
CNIC: 16202-7584783-1 ✓  
Cell: 0310-8344455

**CERTIFIED TO BE TRUE COPY**  
EXAMINER  
Peshawar High Court, Peshawar  
Authorized Under Article 8, 7 of  
the Qanoon-e-Shahadat Act 1984  
21 MAR 2024

2293  
Certified that... was verified...  
affirmation before me in office this...  
day of... M.V.K...  
s/o Umbaras Khan...  
who was identified by...  
who is personally known to me...  
Abdullah Gazi  
08/11/2022



1953  
 EXHIBIT  
 ATTACHED

<p>       which decides the case of petitioners by not        constitution &amp; committee for the purpose        been complied with in order and spirit of        the directions of the Hon'ble Court has        been made reply wherein it has been stated        2. Respondents have filed their        1953        23.02.53 rendered in WP No. 241-        of the judgment order of the Court dated        against the respondents for non-compliance        initiating contempt of court proceedings        the Contempt of Court Act 1952 in        Pakistan 1952 read with sections 2 &amp; 4 of        the constitution of Islamic Republic of        This is an application under Article 50 of     </p>	<p> <b>MOHAMMAD IBRAHIM KHAN, I</b>        ***        Advt. Ad for respondents        Mr. Muhammad Iqbal Khan        for petitioners        Present: Mr. Abdullah Qazi, Advocate     </p>
<p>23.02.53</p>	<p>1953 COC No. 33-1953 in WP No. 241-</p>
<p>Date of Order</p>	<p>Order or other proceedings with signature of Judge</p>

FORM OF ORDER SHEET

BESHAWAR HIGH COURT, BESHAWAR

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entitling them for pensionary benefits as they have less than 10 years regular/qualifying services.

3. Perusal of record transpires that after receipt of the judgment/order of this court, the respondents-department have constituted a committee for looking into the grievances of the petitioners, which after scrutinizing their cases, dismissed the same by declaring them not entitled for pensionary benefits due to less regular/qualifying services hence, the respondents have complied with the judgment/order of this court in letter and spirit. Accordingly, this petition stands dismissed.

4. If the petitioners aggrieved from the order of respondents, being civil servant, they may approach Services Tribunal for redressal of their grievances if so advised.

Announced  
23.05.2023

Senior Puisne Judge

JUDGE

\*Muhammad Fiaz\* \*D.B\* Hon'ble Mr. Justice Mohammad Ibrahim Khan, J  
Hon'ble Mr. Justice Ijaz Anwar, J

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CERTIFIED TO BE TRUE COPY

EXAMINER  
Peshawar High Court, Peshawar  
Authorized Under Article 8.7 of  
the Qanun-e-Shahadat Act 1984

-21 MAR 2024

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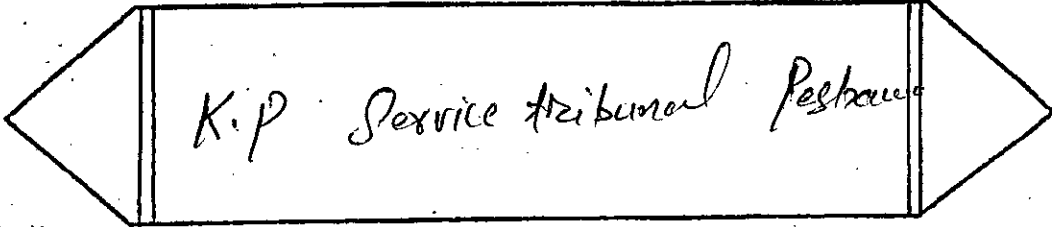
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## بعدالت



2024ء پنجاب ایڈیلبرسٹن  
محمد فاروق بنام حکومت و سیکرٹری

موزخہ  
مقدمہ  
دعویٰ  
جرم

## باعث تحریر آنکھ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ  
آن مقام مشاور کیلئے عبداللہ عاززی ایڈووکیٹ  
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 ثالثتہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ 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 لانا اپنے بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ  
پرداختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب 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 وکالت نامہ لکھد یا کہ سند ہے۔

المرقوم 2 \_\_\_\_\_ ماہ \_\_\_\_\_ 2024ء

\_\_\_\_\_ واہ العب \_\_\_\_\_

کے لئے منظور ہے۔

مشاور

فادون  
مقام  
\_\_\_\_\_