


FORM OF ORDER SHEET

Court of _____

Appeal No. 568/2024

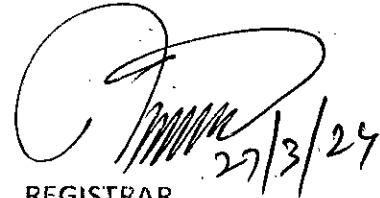
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	17/04/2024	<p>The appeal of Mst. Sadia resubmitted today by Mr. Abdullah Qazi Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 19.04.2024. Parcha Peshi given to the counsel for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

The appeal of Mst. Sadia 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- Copy of first appointment order mentioned in the memo of appeal is not attached with the appeal be placed on it.
- 3- Appeal has not been flagged/marked with annexures marks.
- 4- 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. 694 /S.T.

Dt. 27-03 /2024.



REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Abdullah Qazi Adv.
High Court Peshawar.

Resubmitted after doing the needful. It is further submitted that appointment of the appellant is not in dispute & this is not material. The case may please be placed before the tribunal.

*AMC
Abdullah Qazi
Advocate
04/04/2024*

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 568/2024

Mst. Sadia

-----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 Regularization Act <i>3 order dt 19⁹ 2014</i>	A	6-10
3.	Copy of the Order dated 24.07.2018	B	12-
4.	Copy of the Application alongwith Covering Letter	C	13-14
5.	Copy of the Order dated 29/09/2022	D	15-23
6.	Copy of the Order dated 23/05/2023	E	24-29
7.	Copy of the Application	F	30
8.	Wakalatnama		31

Through

Appellant

Abdullah Qazi
Abdullah Qazi

Advocate High Court

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. SB8/2024

Hasham Khan, Ex-Driver, BHU Tordher, 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 Lady Health Worker (LHW) 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.7555-60/DHO dated 14/05/1997.
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 'A').
3. That the appellant got retired from her service on attaining the age of superannuation vide order bearing N.8270-74/N-Z DHO Sawabi, dated 24.07.2018 w.e.f 30.06.2018. (Copies of the Order are attached as annexure 'B').
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 'C').

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 'D')
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 'E').
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 'F'), 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.

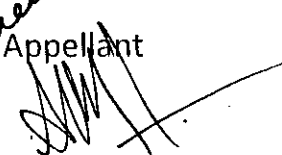
- B. That since the appellant has more than 21 years temporary service at her credit which has not been counted towards her pay and pension protection which is causing huge loss to the appellant.
- C. That the inaction of the respondents and not counting her previous service of about 21 years towards 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 her 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

Green
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.



Green
DEPONENT

FOR THE EXTRAORDINARY GAZETTE ISSUE OF
THE KHYBER PAKHTUNKHWA

(44) A Annex - A
6

PROVINCIAL ASSEMBLY SECRETARIAT
KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 2 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 24th June, 2014 and assented to by the Governor of the Khyber Pakhtunkhwa on 29th 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).

Nuneez

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.

Nuneez

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.

Nuneez

SECRETARY,

Provincial Assembly of Khyber Pakhtunkhwa

ATTESTED

AN
ACT

44 B 7

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 1st 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; (44) 2 (8)
- (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 1st July 2012, and holding the said post till the commencement of this Act, shall stand regularized with effect from 1st 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 sixtieth 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.

ATTESTED

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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:

ATTESTED

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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

(AMANULLAH)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa

ATTESTED

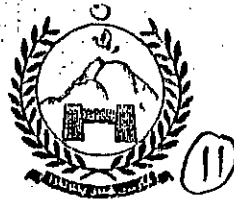
(19)

Office Of The District Health Officer Swabi

Email ID: edohealthswabi@yahoo.com

Office Tel & Fax: 0938-280008, 280204

A B Khan PC-II



No. 1085-1104 /DHO (H) Swabi Dated: 19/08/2014.

NOTIFICATION

In terms of schedule 4(1) read with 1st Provision there under, of Khyber Pakhtunkhwa Regulation of Lady Health Workers Programme and Employees (Regularization and Standardization) Act 2014, services of the following Lady Health Workers Programme employees of District Swabi Khyber Pakhtunkhwa are hereby regularized w.e.f 1st July 2012. Their terms and conditions of service will be governed under the Khyber Pakhtunkhwa Regulation of Lady Health Workers Programme and Employees (Regularization) and standardization Act 2014 and rules to be made there under:-

S/No	Name of Community Embedded Employee	Father Name	Husband Name	Date of Appointment	FLCF	Name of Catchment Area
1	Abida, LHS		Hamayoun Khan	10-7-1994 01-10-1996	BHU Tarakai	Tarakai
2	Saila, LHS		Saleh Muhammad	05/1/2007	-do-	Tarakai
3	Anwara, LHW	Sher Afzal		03/12/1995	-do-	Arakh
4	Amreya, LHW	Rahim Ullah		01/1/1996	-do-	Ali Khan Khel
5	Basmeen, LHW		Lalq Zada	20/8/1996	-do-	Tarakai
6	Naazia Begum, LHW		Jehanzeb Khan	23/12/1996	-do-	Turlandi
7	Shaheen Akhtar, LHW		Saeed Ullah Khan	29/1/1997	-do-	Tarakai
8	Gul Naaz, LHW		Ayaz Ali	01/2/1997	-do-	Tarakai
9	Aneela Naaz, LHW		Sher Aslam	13/2/1997	-do-	Tarakai
10	Tasreen Begum, LHW		Shad Ali	13/2/1997	-do-	Arakh
11	Saadia, LHW		Fareed Gul	01/8/1997	-do-	Dhabi Khel
12	Jameyat, LHW	Abdul Qadir		01/8/1997	-do-	Qumargal
13	Roobi Saraj, LHW		Abdul Hayat	01/8/1997	-do-	Rashkal
14	Nishat, LHW	Sher Khan		01/8/1997	-do-	Tarakai
15	Ambarcen, LHW		Wisal Khan	01/8/1997	-do-	Cham
16	Tasreen, LHW		Muhammad Ali	01/8/1997	-do-	Nazim Abad
17	Rafsoon, LHW		Salam Khan	01/8/1997	-do-	Ali Khan Khel
18	Roobi Shahid, LHW		Shahid	01/8/1997	-do-	Dhabi Khel
19	Saharqat, LHW	Umer Dad Khan		01/8/1997	-do-	Tarakai

In exercise of powers conferred under the sub section (2) of the section ibid, the above community embedded employees are placed in the following pay scale as mentioned against their respective designations.

Name of Post	Basic Pay Scale
Lady Health Supervisor	07 (5800-320-15400)
Lady Health Worker	05 (5400-260-13200)
Drivers	04 (5200-230-12100)

Sd/-
District Health Officer
Swabi

No. 1085-1104 /DHO Swabi

Dated: 19/08/2014

Copies forwarded to:

1. Registrar Supreme Court of Pakistan
2. Director General Health Services Khyber Pakhtunkhwa Peshawar
3. PS to Secretary Health Govt of Khyber Pakhtunkhwa Peshawar
4. Provincial Coordinator Lady Health Workers Programme Khyber Pakhtunkhwa Peshawar
5. District Coordinator Lady Health Workers Programme for FP&PHC Swabi
6. I/C Health Facility Concerned
7. Official concerned

District Health Officer
Swabi

A B Khan
Abdulbaseer_khan4u@hotmail.com

ATTESTED



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Amree - B

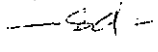
OFFICE OF THE DISTRICT HEALTH OFFICER SWABI

(12)

Email ID: edohsalthswabi@yahoo.com
Office Tel: 0938-300053

OFFICE ORDER

Mst. Saadia LHW BPS-05 BHU Tarakai is hereby stand retired from service with effect from 30.06.2018 AN, on attaining the age of sixty years as her date of birth is 1958.

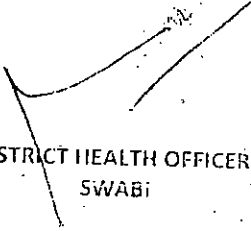

DISTRICT HEALTH OFFICER
SWABI

No 8270-74/M-2 DHO Swabi

Dated: 24-7-2018

Copy forwarded to the:-

1. District Account officer Swabi
2. Incharge BHU Tarakai
3. Account Section NP DHO office Swabi
4. LHS Concerned
5. LHW Concerned


DISTRICT HEALTH OFFICER
SWABI

ATTESTED

Annex-2



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OFFICE OF THE DISTRICT HEALTH OFFICER SWABI

Email ID: edohealthswabi@yahoo.com
Office Tel: 0938-300053 & Fax 0938-300051

No. 4650/A-2-16 /DHO


Swabi Date: 17-9-2018

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 Mst.Sadia w/o Farid Gul Ex- LHW (the content is self explanatory) for favorable consideration.


District Health Officer
Swabi

ATTESTED


ATTACHED

Form No. 10
M/10/127
30/6/17
25/06/2018
2018

LHS-5915904

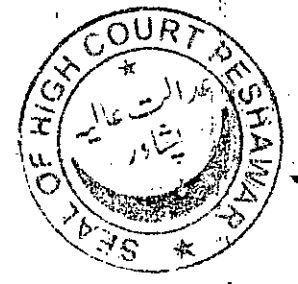
Handwritten notes in Urdu script, possibly a signature or official statement.

Handwritten notes in Urdu script, including dates like 01/08/2018 and 08/08/1958, and other illegible text.

Handwritten notes in Urdu script at the bottom of the page, including a circled number (14) and a signature.

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

Writ Petition No. 2641/2021



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

K.P. Peshawar

Deputy Registrar

RESPONDENTS

ATTESTED

EXAMINER

Peshawar High Court
Peshawar

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 rendering ^{of about} 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-Z 24.07.2018 w.e.f 30.06.2018
3.	Faqir Gul	Driver	12.12.1998	13177-81/PR 24.08.2017 w.e.f 30.06.2017
4.	Hasham Khan	Driver	1835-36/EDD(H)Swabi 28.07.2007	135/N-Z 29.08.2017 w.e.f 30.06.2017
5.	M. Farooq	Driver	1366-70/A-4/DHO 12.07.1999	5042-A/NZ/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").

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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;

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Peshawar High Court
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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,

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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

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Peshawar High Court
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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
 Peshawa 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 Pctitioners

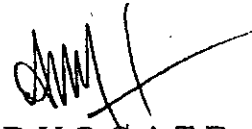

ABDULLAH QAZI

Advocate High Court

Dated: 01.06.2021

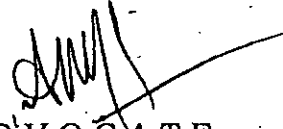
CERTIFICATE:

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

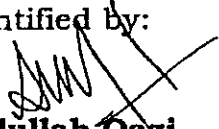
Jawad Khan. **PETITIONER**

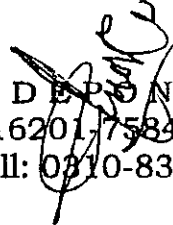
VERSUS


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

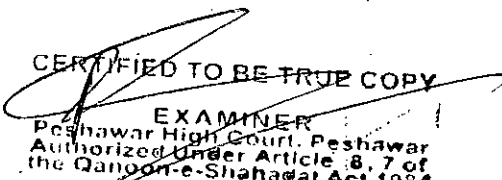
AFFIDAVIT

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:

Abdullah Qazi
Advocate High Court

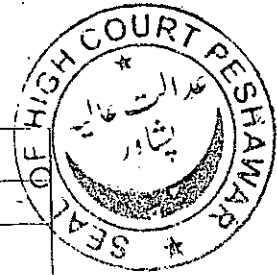

DEPONENT
CNIC: 162017584783-1 ✓
Cell: 0810-8344455

Not: 27203
Certified that the above was verified on solemn affirmation before me in the presence of the day of 21st 2021 by Jawad Khan s/o Umbaras Khan R/o Mohallah Baso Khel who was identified by Abdullah Qazi who is personally known to me:

Oath Commissioner
Peshawar High Court, Peshawar
01/06/2021

CERTIFIED TO BE TRUE COPY

EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 18, 7 of
the Qanun-e-Shahadat 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><u>W.P No. 2641-P/2021</u></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 style="text-align: center;">***</p> <p><u>MOHAMMAD IBRAHIM KHAN, J.-</u> 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><u>Announced</u> 29.09.2022</p> <p style="text-align: right;"><i>[Signature]</i> JUDGE</p> <p style="text-align: right;"><i>[Signature]</i> JUDGE</p>

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

38015

Date of Presentation of 21-03-2024
 No of Pages 9-P
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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

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:-

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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^e 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

RECEIVED
EXCISE
TAX
OFFICE

Date: 02.11.2022

Advocate High Court
ABDULLAH QAZI

[Handwritten Signature]
Petitioner

Through

- ii. in the circumstances of the case, also be granted if deemed just, fit and appropriate. Any other remedy not specifically asked for may be granted according to law.
- i. proceedings against the respondents and punish Hon'ble Court and punish contempts of court respondents to implement the order of this Hon'ble Court may be directed to direct the parties that on acceptance of this petition:

In view of the above said facts, it is therefore,

Court:

- e. arguments, with the prior permission of this Hon'ble Court that any other ground will be raised at the time of order.
- 1. encouraged and too persist, to disobey the court misconsidered by the contemptors, rather they got too like matters has been misunderstood and that leniency shown by this Hon'ble Court to such the unknown person. Needless to mention here stated strictly so that it may become a deterrent for
- 2. that the respondent/contemnor is liable to be

(50)

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 QAZI
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 Qasim-e-Shariatat Act 1984
2.1 MAR 2024

2293
Certified that I was solemnly
affirmation before in office this 08
day of M.V. Jawad Khan
s/o Umbaras Khan
who was identified by
Abdullah Qazi
Who is person
Oath Commission
08/11/2022

PESHAWAR HIGH COURT, PESHAWAR.

FORM OF ORDER SHEET



Date of Order of Proceedings	Order or other Proceedings with Signature of Judge.
1	2
23.05.2023	<p><u>COC No. 23-P/2023 in W.P No. 2641-P/2021</u></p> <p>Present: Mr. Abdullah Qazi, Advocate for petitioners.</p> <p>Mr. Muhammad Farooq Afridi, Addl. AG for respondents.</p> <p>***</p> <p><u>MOHAMMAD IBRAHIM KHAN, J.-</u></p> <p>This is an application under Article 204 of the constitution of Islamic Republic of Pakistan, 1973 read with sections 3 & 4 of the Contempt of Court Act, 2012 for initiating contempt of court proceedings against the respondents for non-compliance of the judgment/order of this Court dated 29.09.2022 rendered in W.P No.2641-P/2021.</p> <p>2. Respondents have filed their para-wise reply wherein, it has been stated that the directives of this Hon'ble Court has been complied with in letter and spirit by constitution a committee for the purpose, which decided the case of petitioners by not</p>

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Peshawar High Court
Peshawar

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

38022
Date of Presentation of Application..... 21-03-2024
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Date of Delivery of Copy..... 21-03-2024
Presented By..... 11/10

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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20/11/2023

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Subject: ...

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بجرائت

Service Tribunal Peshawar

2024ء سب ایپلٹس

سعدیہ بیگم حکومت

موزخہ

مقدمہ

دعویٰ

پریم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دیکل کارروائی متعلقہ

آئی مقام پشاور کیلئے عبداللہ جمالی ایڈووکیٹمقرر کر کے اتر کر کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا مکمل اختیار ہوگا۔ نیز
دیکل صاحب کو واضح نامہ کرنے و تقریر حالت و فیصلہ بر حلف دینے جو اس دہی اور اقبال دعویٰ اور

بہ صورت ڈگری کرنے اجراء اور وصولی چیک و دروپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق

زرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یا لٹرنہ یا ایجن کی براندگی اور منسوخی

نیز دائر کرنے ایجنٹ ٹرانس و لٹرنہ دہی دہی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور

کے کل یا جزوی کارروائی کے واسطے اور دیکل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقریر کا اختیار

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

پر واختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جانہ التوائے مقدمہ کے سبب سے دہوگا۔

کوئی تاریخ پیشی مقام زورہ پر ہو یا حد سے باہر ہو تو دیکل صاحب پابند ہوں گے۔ کہ پیروی

مذکور کریں۔ لہذا بجرائت نامہ لکھ دیا کہ مندر ہے۔

المترجم 2 ماہ فروری 2024

+ سعدیہ

اسے منظور ہے۔

پشاور

مقام
absolutely
accepted
M.A.