


10.06.2024 1. Clerk of counsel for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present.

2. Lawyers are on strike, therefore, the case is adjourned. To come up for arguments on 11.06.2024 before D.B. P.P given to parties.

  
(Fareeha Paul)  
Member (E)

  
(Rashida Bano)  
Member (J)

Kaleemullah


S.A No.420/2017


ORDER

11<sup>th</sup> June. 2024 1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Miss. Parkha Aziz, Legal Advisor for the respondents present.

2. Vide our detailed judgment of today placed on file, this appeal has no merits and is dismissed with costs. Consign.

3. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 11<sup>th</sup> day of June, 2024.*

  
(Muhammad Akbar Khan)  
Member (E)

  
(Kalim Arshad Khan)  
Chairman

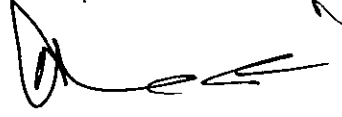
\*Mutazem Shah\*

*Service Appeal No. 420/2017 titled "Sahibzada Farman Ullah Khan Vs. Director General Excise, Taxation & Narcotics Control Department, Khyber Pakhtunkhwa, Peshawar and others" declared on 11.06.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mr. Muhammad Akbar Khan, Member Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar.*

*and impugned judgment of Service Tribunal allowing change of date of birth of respondent was set aside."*

8. In view of the above, this appeal has no merits and is dismissed with costs. Consign.

9. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 11<sup>th</sup> day of June, 2024.*



**KALIM ARSHAD KHAN**  
Chairman



**MUHAMMAD AKBAR KHAN**  
Member (Executive)

*\*Muazzem Shah\**

*the verge of his retirement or otherwise in a suit---Mode of correction in the date of birth of a civil servant is provided under Rule 12A of the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973, which is part of the terms and conditions of service of a civil servant and cannot be resorted to through the civil suit---No provision exists in Federal Civil Servant Rules or laws which may permit an alteration in the date of birth except in the case of a clerical error, and no condition is endorsed or jotted down stating that the correction should be applied for within two years."*

7. Reliance can also be placed on 2022 SCMR 9 titled "INSPECTOR GENERAL OF POLICE, BALOCHISTAN, QUETTA and others versus MOHIBULLAH", according to which, the Supreme Court has found that:

*"At the time of joining service when the character and service roll of the respondent was prepared, his date of birth was mentioned as 20.01.1960 and it was for the first time in a letter of November, 2019 that the respondent came up with a plea that his date of birth as mentioned on his CNIC was 1961, without providing any exact date of his birth---Rule 11 of the Balochistan Civil Servants (Appointment, Promotion and Transfer) Rules, 2009 clearly provided that date of birth once entered in the service record would not be altered and if any alteration was to be sought, the same had to be done within a period of two years of joining the service and not thereafter---Appeal was allowed*

of date of birth of the appellant was 49-50 years, which also came to be 1967 and not 1965. Except in the heading of appeal, the appellant has nowhere disclosed that he was a civil servant except a slight hint in paragraph-3 that his date of birth was recorded as 04.01.1965 in the service book. Under the prevalent rules a civil servant can get his date of birth corrected or changed within two years of his first entry into service and after passage of two years, correction or change cannot be made under any circumstances except the clerical error, whereas, this is a case of change of date of birth, wherein, the appellant has neither disclosed that he was a civil servant or that he had been appointed on such and such date or that he had attempted to get the date of birth changed within two years of his first entry into service. Therefore, he does not seem to be having any sound case. Learned counsel for the appellant relied on 2008 SCMR 255 titled "*Administrative Committee of High Court of Sindh through Registrar, High Court of Sindh, Karachi and another versus ARJUN RAM K. TALREJA and another*". While, the learned counsel for respondents relied on 2022 SCMR 1305 titled "*MANZAR ZAHOOR versus LYARI DEVELOPMENT AUTHORITY and another*".

6. The Supreme Court of Pakistan in the above judgment has held as under:

*"Civil Servant (Appointment, Promotion and Transfer) Rules, 1973---Civil Servant cannot seek alteration in his date of birth at*

was recorded as his date of birth in the Secondary School Certificate which was also incorporated in his service book. Therefore, he filed a civil suit in the court of learned Senior Civil Judge, Peshawar which was dismissed on 17.12.2015 for want of jurisdiction. For the purpose of correction of date of birth in his service record, the appellant filed departmental appeal on 20.02.2017, which was rejected on 23.02.2017, hence, the instant service appeal.

2. On receipt of the appeal and its admission to full hearing, the respondents were summoned, who put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant.

3. We have heard learned counsel for the appellant and learned Deputy District Attorney for the respondents.

4. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Deputy District Attorney controverted the same by supporting the impugned order(s).

5. It is to be observed at the very outset that the contents of the appeal, as framed, appear to us to be more than a civil suit, rather a service appeal. The learned counsel for appellant has contended that date of birth of the appellant was recorded as 25.12.1967 in the School Leaving Certificate, while in the Maric Certificate, it was recorded as 04.01.1965; that the medical report/assessment



**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**  
**MUHAMMAD AKBAR KHAN ... MEMBER(Executive)**

***Service Appeal No. 420/2017***

Date of presentation of Appeal.....30.03.2017  
Date of Hearing.....11.06.2024  
Date of Decision.....11.06.2024

**Sahibzada Farman Ullah Khan · S/O Sahibzda Rizwanullah,**  
**Assistant Excise & Taxation Officer-V, Peshawar.....(Appellant)**

Versus

1. **Director General Excise, Taxation & Narcotics Control Department, Khyber Pakhtunkhwa, Peshawar**
2. **Controller of Examination, Board of Intermediate & Secondary Education, Peshawar.....(Respondents)**

Present:

Mr. Arbab Saiful Kamal, Advocate.....For the appellant  
Mr. Asif Masood Ali Shah, Deputy District Attorney ....For respondents

----

**SERVICE APPEAL UNDER SECTION 4 OF THE  
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
ACT, 1974 AGAINST OFFICE ORDER  
NO.1911/ESTB/P.FILE, DATED 23.02.2017 OF  
RESPONDENT NO.1 WHEREBY DEPARTMENTAL  
APPEAL OF APPELLANT WAS REJECTED FOR NO  
LEGAL REASON.**

**JUDGMENT**



**KALIM ARSHAD KHAN CHAIRMAN:** Appellant's case in brief is that he was admitted in the Government Higher Secondary School, Ghalanai, Mohmand Agency; that his date of birth was recorded in the School Leaving Certificate, as 25.12.1967 and the same was allegedly found in the record of Town Committee Tangi. That it was not known how 04.01.1965