

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

Service Appeal No. 1222/2023

Niaz Rasheed Qureshi S/o Farzand Hussain Qureshi, R/o Flat no. 228/229, Mohallah
Qureshian, Akora Khattak, Ex Driver DHO, Nowshera. ... (Appellant)


...VERSUS...

Government of Khyber Pakhtunkhwa & others

... (Respondents)

S.NO.	Description of Documents	Annexes	Pages
1.	Para-wise Comments on behalf of Respondent no. 1		1-3
2.	Copy of Contract Order	A	4
3.	Better Copy of Contract Order		4 a
4.	Copy of Regularization Notification	B	5
5.	Copy of Retirement Order	C	6
6.	Affidavit		7
7.	Authority Letter		8

Respondent No. 2


Dr. Muhammad Shoaib
District Health Officer
Nowshera.

*order sheet not
attached!*

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 DISTRICT HEALTH OFFICE
 DISTRICT OF COLUMBIA

RECEIVED 10-15-40

1	AMOUNT PAID	2
2	DATE	3
3	NAME OF PATIENT	4
4	DATE OF BIRTH	5
5	ADDRESS	6
6	PHYSICIAN	7
7	DESCRIPTION OF DISEASE	8

THIS IS TO CERTIFY THAT THE ABOVE IS A TRUE AND CORRECT COPY OF THE ORIGINAL RECORDS OF THE DISTRICT HEALTH OFFICE.

HEALTH OFFICE

DISTRICT OF COLUMBIA, DISTRICT HEALTH OFFICE, 10-15-40

DISTRICT HEALTH OFFICE
 DISTRICT OF COLUMBIA

BEFORE THE HONORABLE BOARD OF HEALTH OF THE DISTRICT OF COLUMBIA

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

Service Appeal No. 1222/2023

1

Niaz Rasheed Qureshi S/o Farzand Hussain Qureshi, R/o Flat no. 228/229, Mohallah Qureshian, Akora Khattak, Ex-Driver District Health Officer, Nowshera.

... (Appellant)

...VERSUS...

1. Secretary Finance, Government of Khyber Pakhtunkhwa, Peshawar.
2. District Health Officer, Nowshera.
3. District Account Officer, Nowshera.
4. Director General Health Department, Khyber Pakhtunkhwa, Peshawar.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 13396

Dated 11-06-2024

... (Respondents)

**PARA-WISE COMMENTS/WRITTEN STATEMENT ON BEHALF
OF THE RESPONDENTS**

Respectfully Sheweth:

Preliminary Objections:

- 1) The appellant has no cause of action to file the instant appeal.
- 2) The appellant has concealed facts from this Hon'ble Tribunal.
- 3) The appellant has not come to this Hon'ble Tribunal with clean hands.
- 4) The instant appeal is not maintainable.
- 5) The appellant is estopped by his own conduct to file the instant appeal.

Facts:

1. Para-1 is correct.
2. Para-2 That the appellant joined the service as driver by the District Health Officer Peshawar on 15-02-1996 on contract basis, (Copy attached as annexure "A"). The regularization promulgated on 25-02-2013 pursuant to the said act, the department issue his regularization act w.e.f 01-07-2012, (Copy attached as annexure "B"). However the age superannuation, the appellant retired from service on 31-08-2014, (Copy attached as annexure "C").
3. Para-3 That the appellant has a total years of Regular service is Two years and Two months dated on 31-08-2014. Hence, not entitled to pensionery Benefits. Furthermore, for grant of pensionery benefit, there is no law which allows the department to consider his contractual period for qualifying service.



1. The defendant is a citizen of the United States of America.
 2. The defendant is a resident of the State of California.
 3. The defendant is a member of the State Bar of California.
 4. The defendant is a member of the State Bar of California.
 5. The defendant is a member of the State Bar of California.
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 7. The defendant is a member of the State Bar of California.
 8. The defendant is a member of the State Bar of California.

Findings:

1. The defendant is a citizen of the United States of America.
2. The defendant is a resident of the State of California.
3. The defendant is a member of the State Bar of California.
4. The defendant is a member of the State Bar of California.
5. The defendant is a member of the State Bar of California.
6. The defendant is a member of the State Bar of California.
7. The defendant is a member of the State Bar of California.
8. The defendant is a member of the State Bar of California.

Preliminary Objections:

Verdict of the Jury:

OF THE VERDICT OF THE JURY (DHOZKONCHENYA)

BY THE COURT (BY THE COURT) (BY THE COURT) (BY THE COURT)

1. The defendant is a citizen of the United States of America.
2. The defendant is a resident of the State of California.
3. The defendant is a member of the State Bar of California.
4. The defendant is a member of the State Bar of California.
5. The defendant is a member of the State Bar of California.
6. The defendant is a member of the State Bar of California.
7. The defendant is a member of the State Bar of California.
8. The defendant is a member of the State Bar of California.

... (Signature) ...

... (Signature) ...

The court hereby certifies that the above is a true and correct copy of the original.
 Dated this 1st day of January, 1955.


... (Signature) ...

... (Signature) ...

BEFORE THE HONORABLE COURT OF THE STATE OF CALIFORNIA

- (2)
4. Para-4 Each and every case has its own facts.
 5. Para-5 is incorrect. That the departmental appeal is not consider because no law is available to entertain the pensionary benefits on 2 years and 2 months service.
 6. Para-6 No comments.
 7. Para-7 The prescribed length of service for eligible of pension is at least 10 years regular service. His service has been regularized w.e.f 01-07-2012 therefore, the appellant has only 02 years and 02 months regular service at his credit, therefore, he is not entitled for pensionary benefits as per prevailing policy of the Provincial Government.
 8. Para 8 As above in Para 3.
 9. No comments.

Grounds:

- 
- A. Correct Subject to availability of the record.
 - B. As per law appellant has not completed her qualifying service of 10 years, hence not eligible for the pensionary benefit from Government.
 - C. Para-C the action of respondents is in accordance with law and nothing is illegal and against the Constitution of Pakistan on the part of Respondent.
 - D. Para-D It is crystal and clear mentioned in the notification. "Term and condition as No.II the staff of the national program for family and primary health care Khyber Pakhtunkhwa, so regularized shall have no pensionary benefits. The issue of the pensioner shall be considered after a firm commitment from the federal government to take in perpetuity the pending liabilities of the staff so regularized
(Copy of the regularization notification attached as annexure B).
 - E. Para-E Incorrect the respondent no 2 has acted in accordance with law, rules and government policies.
 - F. No comments.

It is, therefore, very humbly prayed submitted that the appeal may kindly be dismissed.

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Respondent no. 1



**SECRETARY FINANCE
GOVERNMENT OF KHYBER PAKHTUNKHWA
PESHAWAR**

Amir Sultan Tareen

Respondent no. 2



**DR. MUHAMMAD SHOAIB
DISTRICT HEALTH OFFICER
NOWSHERA**

Respondent no. 3



**DIRECTOR GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR**

Dr. Muhammad Saleem

КНАРГВ Р/МИЛ/АРОМ/БЕГНА/А/В
МЕСТОМ ОБЪЕВТИ РЕАЛИЗАЦИИ

Удобочет no 3

БЕГНА/А/В
СОБЛЮДАЮЩИЙ ИНТЕРЕСЫ/КНИ/АРМ/А
РЕСВЕР/А/В/А/В/А/В

Удобочет no 1

УДОБНОСТЬ
БЕГНА/А/В/А/В/А/В/А/В
ОБЪЕВТИ РЕАЛИЗАЦИИ

Удобочет no 5

DISTRICT HEALTH OFFICER
NOSHARA

S. S. S.

DISTRICT HEALTH OFFICER
PESHAWAR

*Attest
M. A. Khan
A. Khan*

- 1. Provincial Coordinator PM for FP and PIC NW Peshawar.
- 2. Health District Health Officer Noshara.
- 3. Medical Officer H.C. Akora Khattak District Noshara.
- 4. Mr. Shah Zaman Driver H.C. Akora Khattak.
- 5. Mr. Naz Rashed Driver H.C. Akora Khattak.

For information and action.

No. 151/1110 Date 15/2/96
A copy is forwarded to the:

DISTRICT HEALTH OFFICER
PESHAWAR

2. Mr. Naz Rashed is hereby appointed agent the vacant post of Mr. Shah Zaman Driver : RS-46 Contract basis.

1. The notification tendered by Mr. Shah Zaman Driver attached to District Health Officer Noshara under the Public Health Programme for FP and PIC District Noshara is hereby accepted.

OFFICE OF THE DISTRICT HEALTH OFFICER PESHAWAR
OFFICE ORDER

From

(A)



OFFICE ORDER

Anex 'A'

Better Copy

Ya

1. The resignation tendered by Mr Shah Zaman Driver attached to Bueira Niaz Supervisor IHW under the prime Minister Programme for FP end PHC District Nowshera is hereby accepted.

2. Mr Niaz Rashid is hereby appointed against the vacant post of Mr. Shah Zaman Driver BS-04 Contract based.

DISTRICT HEALTH OFFICER
PESHAWAR

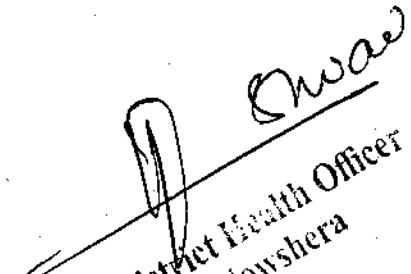
No.151/DHO Pesh Dated 15.02.1996

A Copy is forwarded to the:

1. Provincial Coordinator PM for FP and PHC NWFP Peshawar.
2. Assitt District Health Officer Nowshera.
3. Medical Officer RHC Akora Khattak District Nowshera.
4. Mr Shah Zaman Driver RHC Akora Khattak.
5. Mr Niaz Rashid Driver RHC Akora Khattak.

For information and n/action.

DISTRICT HEALTH OFFICER
PESHAWAR


District Health Officer
Nowshera



Anex 'B'

GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated: 25/02/2013.

NOTIFICATION.

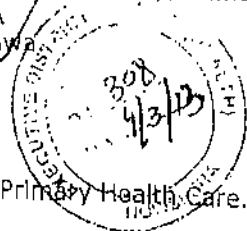
No. 6-165/ECO/PC/H/Vol-IV/2012-13:- Pursuant to orders of the Supreme Court of Pakistan passed in CRL. Original petition No. 15 of 2012 in HRC No. 16360/2008, constitution petition No. 36 of 2012 and CRL original petition No. 73 of 2012 in HRC No. 16360/2008, the competent authority has been pleased to regularize the services of Lady Health Supervisors (LHSs), Account Supervisors, Lady Health Workers (LHWs), Drivers and PMU Staff of the National Program for Family Planning & Primary Health Care, Khyber Pakhtunkhwa w.e.f July 01, 2012 on the following terms and conditions:

- i. Upon regularization, the following staff shall be placed at the minimum basic scales given below:
 - a. Lady Health Supervisors (LHSs) in BPS-7
 - b. Account Supervisors in BPS-7
 - c. Lady Health Workers in BPS-5
 - d. Drivers in BPS-4
 - e. Other PMU staff at Provincial & District level working in their respective scales as on July, 2012.
- ii. The staff of National Program for Family Planning & Primary Health Care, Khyber Pakhtunkhwa so regularized shall have no pensionary benefits. The issue of pension shall be considered after a firm commitment from the Federal Govt to take up in perpetuity the pending liability of the staff so regularized.
- iii. The regularization shall be subject to the revised terms and conditions and organizational structure which the Govt shall firm-up keeping in view the fact that basic legislation of the program is not substantially compromised or altered.
 - 2. Appropriate legislation shall be undertaken to give effect to this order before July 01, 2013 and the specific orders regarding individual employee would be issued separately by the respective competent forum after framing the rule.

[Signature]
Secretary to Govt. of Khyber Pakhtunkhwa
Health Department

Endorsement of even Nos and Date:

1. Principal Secretary to Governor Khyber Pakhtunkhwa.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. Secretary to Govt. of Pakistan, Ministry of National Regulations and Services, Islamabad.
4. Registrar, Supreme Court of Pakistan.
5. All the Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
6. P.S.O to Chief Secretary, Khyber Pakhtunkhwa.
7. P.S.O to Additional Chief Secretary, Khyber Pakhtunkhwa.
8. Director General Health Services, Khyber Pakhtunkhwa
9. Director Health Services, FATA.
10. Provincial Coordinator, National Program for Family Planning & Primary Health Care.
11. Chief Planning Officer, Health Department.
12. All District Health Officers, Khyber Pakhtunkhwa.
13. PS to Secretary Health, Khyber Pakhtunkhwa
14. PS to Special Secretary, Health Department.
15. PA to Additional Secretary (Establishment and Administration) Govt. of Khyber Pakhtunkhwa Health Department.



[Signature]
(Malik Muhammad Ali)
SECTION OFFICER (GENERAL)

[Signature]
District Health Officer
Nowshera

Anex 'C'

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OFFICE OF THE DISTRICT HEALTH OFFICER NOWSHERA
Phone & Fax: 0923-580759 E-Mail: nowshera.edoh@gmail.com

OFFICE ORDER

Mr. Niaz Rasheed (Driver) attached to DPIU Nowshera is hereby retired from service w.e. from 31-08-2014 on attaining the age of superannuation (60-years).

Sd _____
District Health Officer
Nowshera

Date: 9 / 6 / 2015

No. 1655-60 / DHO NSR

Copy forwarded to the:

1. Director General Health Services Khyber Pakhtunkhwa.
2. Provincial Coordinator LHWs Program Khyber Pakhtunkhwa for information with letter No. 889, dated 19-05-2015.
3. District Accounts Office Nowshera.
4. Official concerned.
5. Office record.

[Handwritten signature]
District Health Officer
Nowshera

Attended
[Handwritten signature]
Official

[Handwritten signature]
District Health Officer
Nowshera

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

SERVICE APPEAL NO. 1222/2023

Niaz Rashid Qureshi.....Appellant

Versus

Government of Khyber Pakhtunkhwa & others Respondents.

Affidavit

I, Dr. Muhammad Saleem, Director General Health Services, Khyber Pakhtunkhwa, Peshawar, under the directions of the Competent Authority, do hereby solemnly affirm that the contents of the parawise Comments on behalf of Respondents are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'able Tribunal. It is further stated on oath that in this appeal, the answering respondents have never been imposed cost / fine, neither placed Ex-Parte nor their defense has been struck off.



Muhammad Saleem
Deponent

Respondent No-3




**DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR**

*All communications should be addressed to the Director General Health Services
Peshawar and not to any official by name
Office # 091-9210269 Fax # 091-9210230*

AUTHORITY LETTER

Muhammad Yousaf Jamal Focal Person Litigation Section
Directorate General Health Services Khyber Pakhtunkhwa is hereby
authorized to attend/defend the court cases and file Parawise Comments /
Reply on behalf of the undersigned before the Honorable Khyber
Pakhtunkhwa Service Tribunal and its Camp Courts.


**Director General Health Services
Khyber Pakhtunkhwa, Peshawar**