


FORM OF ORDER SHEET

Court of _____

Appeal No. 917/2024


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	02/07/2024	<p>The appeal of Mr. Iqbal Khan resubmitted today by Mr. Noor Muhammad Khattak Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 04.07.2024. Parcha Peshi given to the counsel for the appellant.</p> <p>By the order of Chairman  REGISTRAR</p>

The appeal of Mr. Iqbal Khan received today i.e on 01.07.2024 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 respondent no. 2&3 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.

No. 276 /Inst./2024/KPST,

Dt. 1/7 /2024.


OFFICE ASSISTANT
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Noor Muhammad Khattak Adv.
High Court Peshawar

R/SIN

Resubmitted after necessary completion.


2/7/24

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR.

APPEAL No. 917 /2024

IQBAL KHAN

VS

GOVT: OF KP & OTHERS

INDEX

S. NO	DOCUMENTS	ANNEX	PAGE
1.	Memo of Appeal with Affidavit	1 - 3
2.	Application for suspension with affidavit <i>& condonation application</i>		4 - 6
3.	Copy of the Service Book	A	7
4.	Copy of the CNIC of the appellant	B	8
5.	Copy of the SSC Examination Certificate	C	9
6.	Copy of the letter dated 29/08/2022	D	10
7.	Copy of the impugned retirement order dated 05.01.2024	E	11
8.	Copy of the departmental appeal	F	12
9.	Wakalat Nama		13

APPELLANT

THROUGH:

NOOR MUHAMMAD KHATTAK
ADVOCATE SUPREME COURT

①

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

APPEAL NO. 917 /2024

Mr Iqbal Khan, Ex- District Population Welfare Officer,
Population Welfare Department, KP Peshawar.

..... **APPELLANT**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary, Population Welfare Department, Khyber Pakhtunkhwa, Peshawar.

..... **RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE INACTION OF THE RESPONDENTS BY NOT RECTIFYING THE INCORRECT DATE OF BIRTH ERRONEOUSLY ENTERED IN THE SERVICE RECORD OF THE APPELLANT AND AGAINST THE IMPUGNED RETIREMENT ORDER DATED 05-01-2024 WHEREBY THE APPELLANT HAS BEEN PREMATURELY RETIRED FROM SERVICE AS WELL AS AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL DATED 01-02-2022 OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the impugned retirement order dated 05-01-2024 whereby the appellant has been prematurely retired from service may very kindly be set aside and the respondents may please be directed to rectify the incorrect date of birth of the appellant erroneously entered in the service record of the appellant as 20/01/1964 instead of 20/01/1967 and to re-instate the appellant into service with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:
ON FACTS:

1. That initially the appellant was appointed as Projectionist in the respondent department and posted at Mardan however later on he was promoted to the post of District Population Welfare Officer.
2. That the appellant has served the Respondent Department with full zeal & zest since from the date of appointment and as such the appellant has an unblemished service record.
3. That the appellant's date of birth was erroneously recorded as 20.01.1964 instead of 20.01.1967 in the service record of the appellant. Copy of the Service Book is attached as **annexure..... A.**
4. That it is pertinent to mention here that the correct date of birth of the appellant is 20.01.1967 and the same is also evident from the CNIC of the appellant. Copy of the CNIC of the appellant is attached as **annexure..... B.**
5. That the SSC Examination certificate of the appellant is also bearing the same date of birth i.e. 20.01.1967 as mentioned on CNIC however the same has been erroneously recorded as 20.01.1964 in the service record of the appellant which needs to be rectified. Copy of the SSC Examination Certificate is attached as **annexure..... C.**
6. That it is worth mentioning here that the appellant has been also examined by medical board in respect of age assessment wherein the board rendered opinion in favour of the appellant's correct date of birth i.e. 20.01.1967. Copy of the letter dated 29/08/2022 is attached as **annexure..... D.**
7. That the appellant time and again approached the respondents for correction of his date of birth in his service record but to no avail and the in the mean while he was retired from service on the basis of wrong date of birth i.e. 20.01.1964 vide impugned order dated 05.01.2024. Copy of the impugned retirement order dated 05.01.2024 is attached as **annexure..... E.**
8. That feeling aggrieved preferred departmental appeal before the competent authority for redressal of his grievance but all in vain. Copy of the departmental appeal is attached as **annexure.....F.**

3

9. That appellant feeling highly aggrieved and having no other efficacious remedy filed the instant appeal on the following grounds amongst the others.

GROUND:

- A- That the impugned office order dated 05.01.2024 is against the law, facts, norms of natural justice and materials on record hence not tenable and liable to be set aside.
- B- That it has been held in various judgments of the Apex Court that it is not absolute rule that date of birth once recorded in service book cannot be altered or changed.
- C- That appellant has not been treated by respondent Department in accordance with law and rules on the subject noted above and as such the respondent No.3 violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- D- That the impugned order dated 05.01.2024 is based on malafide and arbitrary intentions of the respondents hence not tenable in the eye of law and liable to be set aside.
- E- That according to Article 38 (e) of the Constitution of Pakistan 1973 state is bound to reduce disparity in the income and earnings of individuals including persons in the services of Federation.
- F- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.


APPELLANT
Iqbal Khan

THROUGH:


NOOR MUHAMMAD KHATTAK
ADVOCATE SUPREME COURT


WALEED ADNAN
ADVOCATE HIGH COURT

AFFIDAVIT

I, Iqbal Khan, DPW Officer Lakki Marwat, do hereby solemnly affirm on oath that the contents of the above appeal are true and correct to the best of my knowledge and believe and nothing has been concealed from this Honorable Tribunal.


DEPONENT

4

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

CM No. _____/2024

IN

APPEAL No. _____/2024

IQBAL KHAN

VS

GOVT: OF KP & OTHERS

**APPLICATION FOR SUSPENSION OF OPERATION OF
IMPUGNED RETIREMENT ORDER DATED 05-01-2024, TILL
THE DISPOSAL OF THE MAIN APPEAL.**

R/SHEWETH:

- 1- That the above mentioned appeal along with this application has been filed the appellant before this august Tribunal in which no date has been fixed so far.
- 2- That appellant filed the above mentioned appeal against the inaction of the respondents by not rectifying the incorrect date of birth erroneously entered in the service record of the appellant and against the impugned retirement order dated 05-01-2024 whereby the appellant has been prematurely retired from service.
- 3- That all the three ingredients necessary for the stay is in favor of the appellant.
- 4- That impugned retirement order dated 05-01-2024 had been issued by the respondents in utter disregard of law and prevailing Rules.

It is therefore, most humbly prayed that on acceptance of this application the operation of impugned retirement order dated 05-01-2024 may very kindly be suspended till the disposal of the above mentioned service appeal.


APPELLANT

THROUGH:


**NOOR MUHAMMAD KHATTAK
ADVOCATE SUPREME COURT**

AFFIDAVIT

I, Iqbal Khan, DPW Officer Lakki Marwat, do hereby solemnly affirm on oath that the contents of the above appeal are true and correct to the best of my knowledge and believe and nothing has been concealed from this Honorable Tribunal.


DEPONENT

5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESAHWAR.

SERVICE APPEAL NO _____ / 2024

IQBAL KHAN

V E R S U S

GOVT: OF PAKISTAN & OTHERS

APPLICATION FOR CONDONATION OF DELAY, IF ANY, IN
FILING OF TITLED APPEAL.

Respectfully Sheweth:

- 1) That the appellant has filed an appeal along with this application in which no date has been fixed so far.
- 2) That the appellant prays for the Condonation of delay in filing the above noted appeal on the following grounds inter alia:

GROUND OF APPLICATION:

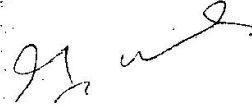
- A- That valuable rights of the appellant are involved in this case hence the appeal deserves to be decided on merit.
- B- That it has been the consistent view of the Superior Courts that cases should be decided on merit rather than technicalities including the limitation. The same is reported in 2004 PLC (CS) 1014 and 2003 PLC (CS) 76.
- C- That the facts and grounds of accompanied service appeal may kindly be considered as integral part and parcel of instant application.
- D- That on the face of it, the applicant/ petitioner has got strong arguable case and is sanguine about its success.

6

It is therefore prayed that on acceptance of this application the delay in filing the above noted appeal may please be condoned.

It is, therefore, most humbly prayed that on acceptance of this application, the delay, if any, in filing the above titled service appeal may kindly be condoned in the interest of justice.

Dated: -06-2024



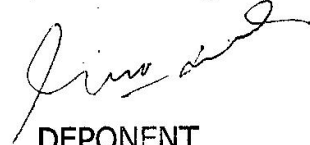
APPELLANT

THROUGH:

**NOOR MUHAMMAD KHATTAK
ADVOCATE SUPREME COURT**

AFFIDAVIT

I, Iqbal Khan, (the appellant), do hereby solemnly affirm on oath that the contents of the above application are true and correct to the best of my knowledge and believe and nothing has been concealed from this Honorable Tribunal.



DEPONENT

A

7

Name _____ (نام)

Nationality and Religion _____ (قومیت اور مذہب)

Address _____ (پستل رہائش)

Father's name and residence _____ (والد کا نام اور رہت)

Date of birth by Christian era as nearly as ascertained _____ (تاریخ پیدائش مطابق مسیحی)

Exact height by measurement _____ (دشواری و قامت)

Special mark for identification _____ (مشان نشاندہ)

Signature of Government servant _____ (سرکاری ملازم کے دستخط)

Signature and designation of the Head of Office, or other Attesting Officer _____ (تصدیق کنندہ افسر کے دستخط اور مشن)

M. J. Khan
 M. J. Khan (M. J. Khan)
 Pakistani (Muslim)
 P. O. Tanolo Khat, Tehsil Dera
 Mr. Mazullah Khan, (As a member)
 (20-1-1964) Twentieth
 Sindh - Feroze
 5-6
 A Scar on the left Foot

Left hand thumb and finger impressions of (None paralled) of _____ (مرد کی صورت میں بائیں اور صورت کی صورت میں دائیں ہاتھ کی انگلیوں کے نشانات)

Ring Finger (چھنگیا) _____ Ring Finger (چھنگیا کے ساتھ کی انگلی)

Middle Finger (انگلی) _____ Middle Finger (انگلی کے ساتھ کی انگلی)

Fore Finger (انگلی شہادت) _____ Fore Finger (انگلی شہادت کے ساتھ کی انگلی)

Thum (انگلی) _____ Thum (انگلی کے ساتھ کی انگلی)

M. 1962

M. J. Khan
 M. J. Khan
 M. J. Khan

The entries in this page should be renewed or re-attested at least every five years and the signatures in lines 9 and 10 should be dated. Finger prints need not be taken after every 5 years under this rule. اس صفحہ کے مندرجات کم از کم ہر پانچ سال بعد تصدیق ہونا ضروری ہیں اور نمبر 9-10 میں دستخطوں کی تاریخ ہونی چاہئے۔ انگلیوں کے نشانات کی تاریخ ہر پانچ سال کے بعد تصدیق کی ضرورت نہیں۔

"B"

8

PAKISTAN National Identity Card

Name: Iqbal Khan

ایقبال خان

Father Name: Maiz Ullah Khan

مبین اللہ خان

Gender: Male Country of Stay: Pakistan

Identity Number: 1101-6426967-9

Date of Birth: 20.01.1967

Date of Issue: 05.10.2022

Date of Expiry: 05.10.2032

Holder's Signature



سجسٹریشن نمبر: 1101-6426967-9

ایقبال خان

مبین اللہ خان



101101446200
155-64-198708

Registrar General of Pakistan

گمشدہ کارڈ ملنے پر قریبی لیٹر بکس میں ڈال دیں

(C) (9)

Roll No. 6022

Serial No. 653429

Board of Intermediate and Secondary Education
Peshawar
Plyher Pakhtunkhwa Pakistan

DUPLICATE-REVISED



B.I.S.E Peshawar

VERIFIED & FOUND CORRECT
(For B.C.C)

19/12/2023

Secondary

SESSION 1982 - SUPPLEMENTARY
(HUMANITIES GROUP)

Certified that Iqbal Khan Son/Daughter Of Muzaffar
Resident of District Bannu

has qualified for award of Secondary School Certificate in the Examination held in September, 1982
as a Private student and obtained 290 marks out of 850 and has been placed in Grade E

Representing Satisfactory. The Candidate passed in the following subjects:

- | | |
|---------------------|---------------------|
| 1. English | 2. Urdu |
| 3. Islamiyat (comp) | 4. Pakistan Studies |
| 5. xxxxxxxxxxxx | 6. General Science |
| 7. Islamic Studies | 8. Pashto |

His/Her date of birth according to Admission Form is January 20, 1967

In Words (Twentyeth January One Thousand Nine Hundred Sixty-Seven)



Asst. Secret

Printed Date & Time December 13, 2023 11:47:57 AM

Secretary

This certificate is issued without attention or errors.

اقبال جان

(10)

ADDITIONAL HOSPITAL DIRECTOR MG HOSPITAL (MTI) BANNU. District Paktunkhwa, Paktistan	
Fax No. 091-1-5 <u>2493</u>	Email: <u>dhqthbannu@gmail.com</u>
Date: <u>29/8/2022</u>	

To: **Deputy Assistant Director**
NAL Registration center
Bannu

Subject: **AGE ASSESSMENT**

M. اقبال جان has examined Mr./Mrs.: اقبال جان
 S/O: مریہی التهان resident of قسمہ پور بون
 on 18/8/2022.

From physical and radiological examination of examinee bearing the following identification marks, my impression is that the individual is aged between 55 to 56 (in words) between فifty five to sixty

Identification marks: 
 The person on: _____



SECRETARY S.M.P.
DHO, MTI BANNU
 District Paktunkhwa

CHAIRMAN S.M.B.
Medical Director
District Paktunkhwa
MTI Bannu

BETTER COPY

PAGE NO 10

OFFICE OF THE ADDITIONAL HOSPITAL DIRECTOR
DHO TEACHING HOSPITAL (MTI) BANNU

No 2493

Dated 29/08/2022

To

Deputy Assistant Director
NADRA Registration Center
Bannu

Subject: AGE ASSESSMENT

Memo

Certificated that the medical board has examined Mr. Mrs Iqbal
Khan S/o Maiz Ullah Jan resident of Jehandu Khel Bannu on 18/08/2002.

From the physical and radiological examination of examinee
bearing the following identification marks and the thumb impression I am
of the opinion that the individual is aged between

55 to 55 in words between Fifty Five to Fifty Six.

Identification marks:

Thumb Impression:-



**GOVERNMENT OF KHYBER PAKHTUNKHWA,
POPULATION WELFARE DEPARTMENT**
02nd Floor, Abdul Wali Khan Multiplex, Civil Secretariat, Peshawar
Email Address: population.establishment@gmail.com
Phone No: 091-9223623

(E)

(11)

Dated Peshawar the 5th January, 2024

NOTIFICATION:

No. SOE (PWD) 1-179/2020/PF *170-A-75-A*
In term of Section 13(1) of the Khyber Pakhtunkhwa Civil Servant Act 1973, Mr. Iqbal Khan (BS-17), District Population Welfare Officer, Lakki Marwat shall stand retired from government service with effect from 19-01-2024 on attaining the age of superannuation as his date of birth is 20-01-1964.

-sd-
SECRETARY
POPULATION WELFARE DEPARTMENT

ENDS: OF EVEN NO. AND DATE:
Copy is forwarded to the:-

1. Director General Population Welfare, Khyber Pakhtunkhwa w/r to letter No. (35)2023/Admn/15414-17 dated 03-01-2024.
2. District Population Welfare Officer, Lakki Marwat.
3. District Accounts Officer, Lakki Marwat.
4. Officer concerned.
5. PS to Secretary, PWD Khyber Pakhtunkhwa.

(SHAH BAKIIT YOUSAFZAI)
SECTION OFFICER (ESTT.)

"F" (12)

The Secretary
Population Welfare Department
Khyber Pakhtunkhwa Peshawar

Subject: **DEPARTMENTAL APPEAL FOR RECTIFICATION OF INCORRECT ENTRY OF DATE OF BIRTH IN SERVICE RECORD.**

Respected Sir,

Most humbly and respectfully it is submitted as under.

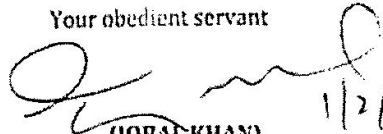
1. That the applicant is serving in Population Welfare Department since 03/07/1986 and at present performing his duty as District Population Welfare Officer Lakki Marwat.
2. That as per NADRA record and educational i.e. HISE record (SSc) date of birth of the applicant is 20/01/1967 however in service record it has erroneously been entered as 20/01/1964.
3. That this in-correct entry is result of clerical mistake which needs rectification after legal justification.
4. That at the earlier stage the applicant did not feel this clerical mistake and erroneous entry of his date of birth as his service book was not in custody of applicant however when the applicant was promoted to BPS-16 as ADPWO and applicant service book was sending to D.A.O Office, the applicant noted this in-correct entry during perusal of his service book.
5. That as and when the applicant got knowledge of this mistakenly and erroneously recorded in-correct entry in his service record, the applicant immediately contacted his quarter for rectification of this clerical error in writing of his date of birth alongwith providing him copies of CNIC and NADRA record and educational testimonial issued by BISE (Board) but they are not willing for rectification this erroneously entered in-correct entry of date of birth. So now the applicant is constrained to approach your worthy office for rectification / correction of this erroneously made clerical mistake.

I hope that your kind sir will very graciously accept and allow my application/request for rectification of D.O.B as prayed in my application.

I shall pray for your long, happy and health life.

Date:- 01/02/2024

Your obedient servant


(IQBAL KHAN)
DPW-Officer Lakki Marwat

1/2/24

BETTER COPY

PAGE NO 12

To

The Secretary
Population Welfare Department
Khyber Pakhtunkhwa, Peshawar.

Subject:- DEPARTMENTAL APPEAL FOR RECTIFICATION OF INCORRECT
ENTRY OF DATE OF BIRTH IN SERVICE RECORD.

Respected Sir

Most humbly and respectfully it is submitted as under

1. That the applicant is serving in Population Welfare Department since 08/07/1986 and at present performing his duty as District Population Welfare officer Lakki Marwat.
2. That as per NADRA record and educational i.e. BISE record (SSC) date of birth of the applicant is 20/01/1967 however, in service record it has erroneously been entered as 20/01/164.
3. That this incorrect entry is result of clerical mistake which needs rectification after legal justification.
4. That at the earlier stage the applicant did not feel this clerical mistake and erroneous entry of his date of birth as his service book was not in custody of applicant, however, when the applicant was promoted to BPS-16 and ADPWO and applicant service book was sending to DA Office, the applicant noted this incorrect entry during perusal of his service book.
5. That as and when the applicant got knowledge of his mistakenly and erroneously recorded his quarter in his service record, the applicant immediately contacted his quarter for rectification of this clerical error in writing of his date of birth alongwith providing his copies of CNIC and NADRA record and educational testimonial issued by BISE (Board) but they are not willing for rectification this erroneously entered incorrect entry of date of birth. So now the applicant is constrained to approach your worthy office for rectification/correction of this erroneously made clerical mistake.

I hope that your kind sir will very graciously accept and allow my application/request for rectification of DOB as prayed in my application.

I shall pray for your long happy and health life.

Your obedient Servant

01/02/2024

Iqbal Khan
DPW-Office Lakki Marwat

13

VAKALATNAMA
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Appeal No 12024

Iqbal Khan

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Govt of KPK etc

(RESPONDENT)
(DEFENDANT)

I/we Iqbal Khan

Do hereby appoint and constitute **Noor Mohammad Khattak Advocate Supreme Court** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. / / 202



Iqbal Khan

CLIENT


ACCEPTED


NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT


WALEED ADNAN


UMAR FAROOQ MOHMAND


MUHAMMAD AYUB


MAHMOOD JAN
ADVOCATES

&

OFFICE:

Flat No. (TF) 291-292 3rd Floor,
Darya Trade Center, Peshawar