

BEFORE THE HONORABLE SERVICE TRIBUNAL PESHAWAR.

Appeal No. 2483/2023


Muhammad Dostan..... Appellant.

Versus

District Education officer (M) District Khyber & Others... Respondents.

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(Muhammad Uzair Ali)
District Education Officer (M)
Khyber at Jamrud

Dated 29/07/2023

next date
2-10-24

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BEFORE THE HONORABLE SERVICE TRIBUNAL PESHAWAR.

Appeal No. 2483/2023

Muhammad Dostan..... Appellant.

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District Education officer (M) District Khyber & Others... Respondents.

Comments on behalf of Respondents No. 1, 2 & 3

(Khyber Pakhtunkhwa
S
Tribunal
Journal

Diary No. 14648

Date 02-08-24

Preliminary objections

- That the appellant has got no cause of action/locus standi to file the instant appeal.
- That Consequent upon attaining superannuation Mr. Muhammad Dostan AT (BPS-16 one step) GMS Qadam Jamrud district Khyber filed an application regarding correction of date of birth after retirement at the age of 60 years. His application for change in Date of Birth dated 27/04/2023 has already been regretted by this office vide No.5676 dated 09/6/2023. **Annexure-A**
- That an original Service Book of Muhammad Dostan recorded at GMS Qadam Jamrud District Khyber shows his date of birth of 09/05/1963 which is twice tempered. **An extended service book, however, clearly un-temperedly states the applicant's date of birth as 09/05/1963, which has been verified by his hand signature and finger prints. Annexure-A & B**
- That an appellant studied in religious institutions and does not have an SSC to establish his date of birth in that his Religious Asnads show contradictory dates of his birth. **Annexure-C**

- That the copy of the Medical Certificate which the applicant has produced himself also bears clearly tempered Date of Birth while original Medical Certificate is not available. **Annexure-D**
- That his application for change in Date of Birth dated 27/04/2023 to 01.07.1963 has already been regretted by this office vide No.5676 dated 09/6/2023. **Annexure-E**
- That the district education office cannot amend/rewrite his Date of Birth at this late/delayed stage. Consequently, the District Education Office issued the appellant's retirement order upon reaching the superannuation age of 60. **Annexure-F**
- That the appellant has not come to this honorable tribunal with clean hands.
- That appellant concealed material facts from this honorable tribunal.
- That the appellant is estopped by his own to bring the present appeal.
- That the appeal is bad due to mis-joinder and non-joinder of necessary parties
- That the appeal is barred by law.

Respectfully Sheweth:

ON FACTS:

1. Pertains to record.
2. Pertains to record.
3. Incorrect. Hence denied. The original Service Book of Muhammad Dostan, recorded at GMS Qadam Jamrud, District Khyber, indicates his date of birth as 09/05/1963, which has been tempered twice. The extended portion of his Service Book clearly shows his date of birth as 09/05/1963, without any evidence of tampering. This entry is duly authenticated by the appellant's own signatures and fingerprints. **Annexure-A & B**. The Medical Certificate exhibits clear tampering with regard to the applicant's date of birth, while the original Medical Certificate is not presently available. **Annexure-D**. The appellant has recently altered his date of birth through NADRA without the involvement or notification of this office. Had his date of birth in his service book was only 1963 he would have been retired conveniently on 1st July, 2023 to his satisfaction. However, as

• That the copy of the Medical Certificate which the applicant has produced himself also bears clearly tampered Date of Birth while original Medical Certificate is not available. Annexure-D

• That his application for change in Date of Birth dated 27/04/2023 to 01/07/1983 has already been rejected by this office vide No 5878 dated 09/05/2023. Annexure-E

• That the district education office cannot amend/write his Date of Birth at this late/delayed stage. Consequently, the District Education Office issued the appellant's retirement order upon reaching the superannuation age of 60. Annexure-F

• That the appellant has not come to this honorable tribunal with clean hands.

• That appellant concealed material facts from this honorable tribunal.

• That the appellant is estopped by his own conduct from presenting the appeal.

• That the appeal is bad due to mis-joinder and non-joinder of necessary parties.

• That the appeal is barred by law.

Respectfully Sheweth:

ON FACTS:

1. Pertains to record.

2. Pertains to record.

3. Incorrect. Hence denied. The original Service Book of Muhammad Dostan, recorded at GMS Qadam Jamrud, District Khyber, indicates his date of birth as 09/05/1983, which has been tampered twice. The extended portion of his Service Book clearly shows his date of birth as 09/05/1983, without any evidence of tampering. This entry is duly authenticated by the appellant's own signatures and fingerprints. Annexure-A & B. The Medical Certificate exhibits clear tampering with regard to the applicant's date of birth, while the original Medical Certificate is not presently available. Annexure-D. The appellant has recently altered his date of birth through NADRA without the involvement or notification of this office. Had his date of birth in his service book was only 1983 he would have been retired conveniently on 1st July, 2023 to his satisfaction. However, as

stated above his of birth has been entered in his service book twice as 9.5.1963 under his signatures: one tempered/overwritten, the other crystal clear without any overwriting.

4. Incorrect. Hence denied. The plea/request of the appellant for change/correction in the date of birth after he already has achieved superannuation cannot be accepted as this office has got no competency at such a belated date to do so. Consequently, his appeal was turned down and order to this effect was explicitly issued by this office. **Annexure-A**
5. Incorrect, hence denied. The request by the appellant to change his date of birth has already been regretted by this office vide No.5676 dated 09/6/2023. The District Education Office issued the appellant's retirement order upon reaching the superannuation age of 60 (09.05.1963 to 09.05.1963) **Annexure-D & E**. As elucidated in para 3 & 4.

Ground:

- A. Incorrect. Hence denied. The respondent department treated the appellant strictly in accordance with laws and rules.
- B. Incorrect. Hence denied. The respondents issued the retirement order in accordance with laws and rules. Moreover, changes in the service book can be made up to two year after taking over the posting. At this belated stage of his retirement, the concerned office has got no competent authority to rewrite or make changes in the employee's service book. Moreover, as per GFR rule-116, clerical mistake can only be corrected by the authority who issued his service book originally.
- C. Incorrect. Hence denied. As elucidated para 3, 4 and 5.
- D. Incorrect. Hence denied. The respondent department has treated the appellant in accordance with laws and rules.
- E. The respondent has already issued the appellant's retirement order, as elucidated in para 5 of **Annexure-E**.
- F. The respondent also seeks of this Hon'ble Tribunal to advance other grounds at the time of hearing the case.

stated above his of birth has been entered in his service book twice as 2.2.1963 under his signature: one temporarily overwritten, the

other crystal clear without any overwriting.

4. Incorrect. Hence denied. The pleader of the appellant for change/correction in the date of birth after he already has achieved superannuation cannot be accepted as this office has got no competency at such a belated date to do so. Consequently his appeal was turned down and order to this effect was explicitly

issued by this office. Annexure-A

5. Incorrect, hence denied. The request by the appellant to change his date of birth has already been rejected by this office vide No. 5878 dated 09/02/2023. The District Education Office issued the appellant's retirement order upon reaching the superannuation age of 59 (09.02.1963 to 09.02.1963) Annexure-D & E. As elucidated

in para 3 & 4.

Ground:

A. Incorrect. Hence denied. The respondent department treated the

appellant strictly in accordance with laws and rules.

B. Incorrect. Hence denied. The respondents issued the retirement order in accordance with laws and rules. Moreover, charges in the service book can be made up to two year after taking over the posting. At this belated stage of his retirement, the concerned office has got no competent authority to rewrite or make changes in the employee's service book. Moreover, as per GFR rule-116, clerical mistake can only be corrected by the authority who issued

his service book originally.

C. Incorrect. Hence denied. As elucidated para 3, 4 and 5.

D. Incorrect. Hence denied. The respondent department has treated

the appellant in accordance with laws and rules.

E. The respondent has already issued the appellant's retirement

order, as elucidated in para 5 of Annexure-E



F. The respondent also seeks of this Hon'ble Tribunal to advance

other grounds at the time of hearing the case.


Pray:

In light of the above stated facts, it is submitted that the case of the appellant may be ordered as dismissed with cost.



Respondent No. 3


(Fakhar Hussain) 23/12/23
District Accounts Officer
District Khyber

23/12/23.

Respondent No.2


(SAMINA ILTAF)
Director of E&SE
Khyber Pakhtunkhwa

Respondent No. 1


Muhammad Uzair Ali
District Education Officer (m)
District Khyber


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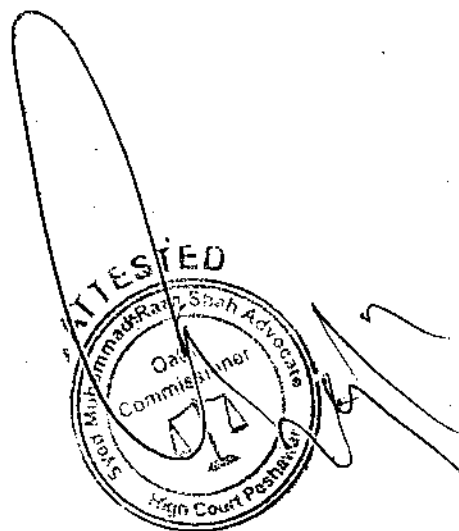
Comments on behalf of Respondents No. 1, 2 & 3

Affidavit

I, Muhammad Uzair Ali District Education Officer Khyber (M) do hereby solemnly affirm and declare that the contents of the accompanying para-wise comments submitted by the respondents is correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Service Tribunal.

It is further state on oath that the answering Respondents have neither been placed ex-parte nor their defence struck off/cast.

(Muhammad Uzair Ali)
District Education Officer (M)
Khyber at Jamrud



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District Education officer (M) District Khyber & Others... Respondents.

Comments on behalf of Respondents No. 1, 2 & 3**Authority Letter**

Mr. Munawar Khan focal Person of (Litigation) District education Officer Khyber is hereby authorized to submit para-wise comments in the court on the behalf of respondent.


(Muhammad Uzair Ali)

District Education Officer (M)

Khyber at Jamrud 

Anx - A

P-7

3

Note:—The entries in this page should be renewed or re-attested at least every five years and the signature to lines 9 and 10 should be dated.

1. Name Mohammad Dostan

2. Race Turkani (Sayyed)

3. Residence village Babara Tehsil Manoga

4. Father's name and residence P/O Lari Sorn Bajaur Agency

5. Date of birth by Christian era as nearly as can be ascertained (19-5-1963) (19-5-1963) ✓
Ninth May N. H 4 Sixty three

6. Exact height by measurement 5' 6"

7. Personal marks for identification A. Sign of wound on the left leg.

8. Left hand thumb and finger impression of (non-gazetted) officer

Little Finger. Ring Finger

Middle Finger. Fore Finger

Thumb.

9. Signature of Government servant. [Signature]

10. Signature and designation of the Head of the Office, or other Attesting Officer. [Signature]
Agency Education Officer,
Hyber Agency at Pabwar.

Attested
C/R

Annex - B

P-8

3

Note:- The entries in this page should be renewed or re-attested at least every five years and the signature to lines 9 and 10 should be dated.

1. Name: Muhammad Dostan

2. Race: Tarkanni (Soyyud)

3. Residence: village: Bahara Tehsil Mawazai
Bajawan A-2

4. Father's name and residence: Muhammad Aman (AS officer)


5. Date of birth by Christian era as nearly as can be ascertained: 09-05-1963
9th May 1963


6. Exact height by measurement: 5 - 6


7. Personal marks for identification: A sign of wound on
the left leg.


8. Left hand thumb and finger impression of (Non-Gazetted) officer:

Little Finger 

Ring Finger 

Middle Finger 

Fore Finger 

Thumb 

9. Signature of Government Servant: 

10. Signature and designation of the Head of the Office, or other Attesting Officer:

Attested
Aiz



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ مَدَارِسُ الْعَرَبِيَّةِ بِبَاكِسْتَانِ وفاق المدارس العربية وباكستان

Annex
P-9



الحمد لله رب العالمين والصلاة والسلام على خاتم الأنبياء والمرسلين، وعلى آله وصحبه أجمعين. أما بعد، فإن رئاسة
وفاق المدارس العربية بباكستان تشهد بأن الشيخ محمد دوستان بن محمد آمان من پشاور
المولود في عام ١٩٦٤/٢١٣٨٤م... قد أتت الدراسة النهائية في دار المعلمين جامعة الهاديه پشاور ونجح في امتحانها النهائي المنعقد
تحت إشراف وفاق المدارس العربية في شعبان ١٩٩٤م بتقدير مقبول... وبغناء على ذلك استحق الشهادة العالمية
ورئيس الوفاق إذ يمنحه هذه الشهادة بوصيه بتقوى الله تعالى - ويسأل الله عز وجل أن يسلك به سبيل العلماء العاملين -
توقيع مدير الجامعة توقيع مدير المدارس توقيع الأمين توقيع رئيس الوفاق



رقم التسجيل: ٢٣٦٦٤
رقم البرق: ٢٢٣
الدرجات: ٢٢٩/٢٠٠
محل الإصدار: المكتبة الرئيسية ملتان
التاريخ: ١٩٩٢/١٤/١٢

Annex
P-9

٢١٢

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

الجامعة الإسلامية

الثقافية الخاصة

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Aux - c
P-10



الحمد لله رب العالمين. والصلاة والسلام على خاتم الانبياء والمرسلين، وعلى آله وصحبه أجمعين. أما بعد، فإن رئاسة
 وفاء المدارس العربية بباكستان، تشهد بان الطالب محمد دوستان بن محمد امان من پشاور
 المولود في عام ١٩٦٧م قد أتم دراسة الثقافة الخاصة في داب العلوم العربية كل هنغار. ونجح في الإمتحان النهائي المنعقد
 تحت إشراف الجامعة المذكورة الملحقه بوفاق المدارس العربية باكستان في ١٤١٣هـ / ١٩٩٢م بتقدير (جيد). وبناء على ذلك استحق الشهادة
 ورئيس الوفاق اذ يمنحه هذه الشهادة يوصيه بتقوى الله تعالى. ويسأل الله عز وجل ان يسلك به سبيل العلماء الصاملين.

Alleged
P-1

رقم التسجيل ٢٠٦٨٢
 رقم الجلوس ٤١٢
 الدرجات ٢٥٩
 محل الإصدار: المكتب الرئيسي للجامعة
 التاريخ: ١٢ / ٣ / ١٩٩٢



مدير الجامعة / مدير

مدير الجامعة
 مدير
 مدير

Aux - c
P-10

MEDICAL CERTIFICATE.

Name..... Mr. Mahammad. Dastan.....
 Race..... Sharna. Misch.....
 Name..... Mr. Mahammad. Dastan.....
 Address..... Village. Baluara. Teh. Mitha.....
 District..... Bijan.....
 Date of Birth. /./7..... 1963.....
 Height by measurement..... 5 - 8.....
 Personal marks of identification.....
 Signature of the Official.....
 Signature of head of office.....

Seal of Office.....

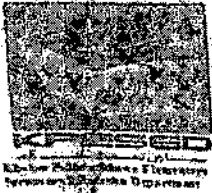
I do hereby certify that I have examined Mr. Mahammad Dastan a candidate for employment in the Office of the Education Dept. Mitha Agency and can not discover that he had any disease communicable or other constitutional affection or bodily infirmity except... Nil.....

I do not consider this as disqualification for employment in the office of the Education Dept..... His age according to his own statement... 24 Yr..... year and by appearance about... twenty five years.....

RIGHT HAND THUMB AND FINGER
 IMPRESSIONS.....

[Signature]
 Medical Superintendent,
 Agency Headquarter Hospital,
 Landikotal,
 MEDICAL SUPERINTENDENT
 Agency Headquarter Hospital,
 Landikotal

[Handwritten Signature]
 Mitha



OFFICE OF THE DISTRICT EDUCATION OFFICER (M)
KHYBER PAKHTUNKHWA

NO. _____ / EDU DATED _____ 2023

Email: DEOKHYBER7777@gmail.com

To

Muhammad Bostan
Arabic Teacher
GMS Qadam Jamrud

Subject:

APPLICATION FOR CHANGE IN DATE OF BIRTH

Memo:

Your application regarding date of birth change in your Service Book at this belated stage of your retirement is regretted.

You are therefore advised in your own interest to apply for retirement considering the date of retirement as per the service book record has already lapsed otherwise this office will proceed into the matter as per law.

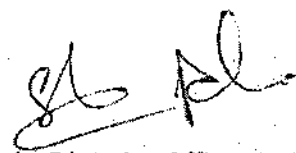
District Education Officer (M)
District Khyber

Endst: No. 5677-80

Dated: 09/6/2023

Copy to the:

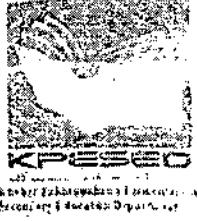
1. ADEO (Secondary).
2. Head Master GMS Qadam Jamrud.
3. Accountant local office for stoppage of his pay.
4. Office Record.


District Education Officer (M)
District Khyber

Attested
A2.

Amx - F

P = 13



OFFICE OF THE DISTRICT EDUCATION OFFICER
KHYBER AT JAMRUD

Email: DEOKHYBER7777@gmail.com

RETIREMENT ORDER.

Consequent upon attaining superannuation (60-years of age) Mr. Muhammad Dostan, AT (SPS-16 one step) S/O Muhammad Aman GMS Qadam Jamrud District Khyber P.No. 00410684 & CNIC No. 17301-4067679-3 is hereby allowed to proceed on retirement from Govt. Service with effect from 08/05/2023 (A.N), with encashment of L.P.R for 365-days. (His total Service is 35-years 11-Months 29-days)

His date of birth according to his Service Book is 09/05/1963 & 1st appointment is 09/05/1987.

NOTE:- Necessary entry of Retirement/Encashment of L.P.R should be made in his service book.

(MUHAMMAD UZAIR ALI)
DISTRICT EDUCATION OFFICER
(MALE) KHYBER

Endst: 11785-90 /File N- 38
Copy forwarded to the:-

Dated Jamrud the 01/11 /2023.

1. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
2. District Account Officer Khyber District at Jamrud.
3. ADEO(Senry) and Pay clerk with the remarks that stop his pay and issue L.P.C for further process of pension..
4. Superintendent local office
5. Data Operator EMIS local office.
6. Official concerned.


DISTRICT EDUCATION OFFICER
KHYBER

Attested
CL2