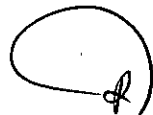


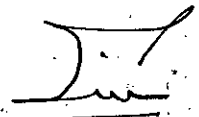
17.01.2022

Appellant in person present. Mr. Kabir Ullah Khattak, Additional Advocate General for official respondents No. 1 to 3 present. Private respondent No.4 is also in person present.

Appellant requested for adjournment on the ground that his counsel is not available today as he is busy in other Courts. Private respondent No.4 is also seeking adjournment on the ground that his counsel is busy in the august Supreme Court. Instant appeal is regarding transfer, however, the same is pending adjudication since year 2019, therefore, appellant as well as private respondent No.4 shall make sure the appearance of their respective counsel on the next date. Adjourned. To come up for arguments on 14.03.2022 before D.B at Camp Court, Abbottabad.



(Rozina Rehman)
Member (J)
Camp Court A/Abad




(Salah-Ud-Din)
Member (J)
Camp Court A/Abad


15.06.2021 Due to cancellation of tour, Bench is not available. Therefore, case to come up for the same as before on 29.09.2021.


Reader

29.09.2021 Appellant in person, Mr Muhammad Riaz Khan Paindakhel, Mr. Muhammad Riaz Khan, Paindakhel, Asstt. AG for official respondents and counsel for private respondent No. 4 present.

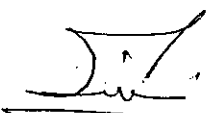
Appellant seeks adjournment as his learned counsel is not in attendance. Request is accorded. To come up for arguments on 11.10.2021 before the D.B at Camp court, Abbottabad


(Rozina Rehman)
Member(Judicial)
Camp Court, A/Abad


Chairman
Camp Court, A/Abad

11.10.2021 Appellant in person present. Mr. Muhammad Adeel Butt, Additional Advocate General for official respondents No. 1 to 3 and private respondent No. 4 in person present.

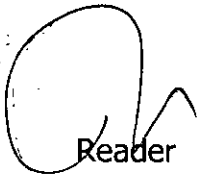
Lawyers are on strike therefore, arguments could not be heard. To come up for arguments before the D.B on 17.01.2022 at Camp Court Abbottabad.


(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT ABBOTTABAD


CHAIRMAN
CAMP COURT ABBOTTABAD

14.12.2020

Due to Covid-19, case is adjourned to 15.03.2021 for the same as before.



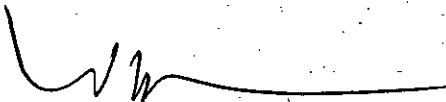
Reader

15.03.2021

Learned counsel for the appellant present.

Riaz Khan Paindakheil learned Asst. AG alongwith Nisar Khan Assistant for respondents present.

Learned counsel for the appellant requested for adjournment; granted. To come up for arguments on 15.06.2021 before D.B at Camp Court, Abbottabad.



(Atiq-Ur-Rehman Wazir)
Member (E)
Camp Court A/Abad



(Rozina Rehman)
Member (J)
Camp Court, A/Abad

22.01.2020

Mr. Zahid Anwar, brother of the appellant on behalf of the appellant present. Mr. Ziaullah, DDA alongwith Mr. Abdul Karim, Technologist and Mr. Amjid Ali, Assistant for the respondents present. Due to general strike of the bar on the call of Khyber Pakhtunkhwa Bar Council, the case is adjourned. To come up for further proceedings/arguments on 20.02.2020 before D.B at camp court Abbottabad.


Member


Member
Camp Court A/Abad

20.2.2021

Due to covid ,19 case to come up for the same on 14/4/19 at camp court abbottabad.


Reader

Due to summer vacation case to come up for the same on 19/10/20 at camp court abbottabad.

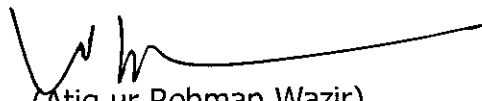

Reader


19.10.2020

Appellant in person present.

Usman Ghani learned District Attorney for official respondents present. Private respondent No.4 in person present.

Lawyers are on general strike therefore case is adjourned. To come up for arguments on 14.12.2020 before D.B at Camp Court, Abbottabad.


(Atiq ur Rehman Wazir)
Member (E)
Camp Court, A/Abad


(Rozina Rehman)
Member (J)
Camp Court, A/Abad

23.10.2019

Counsel for the appellant present. Mr. Usman Ghani, District Attorney present. M/S Abdul Karim Technologist and Amjad Ali, Assistant for the respondents present and furnished reply of the respondents, placed on record. To come up for rejoinder if any, and arguments before D.B on 17.12.2019 at camp court, Abbottabad.

Member
Camp court, A/Abad

17.12.2019

Counsel for the appellant present. Mr. Ziaullah, Deputy District Attorney alongwith M/S Amjid Ali, Assistant, Abdul Karim, Technologist and Usman Bashir, District Accounts Officer (Mansehra) for the official respondents present. None present on behalf of private respondent No. 4 therefore, notice be issued to private respondent No. 4 and his counsel for attendance and arguments for 22.01.2020 before D.B at Camp Court D.I.Khan.

(Hussain Shah)
Member
Camp Court Abbottabad

(M. Amin Khan Kundi)
Member
Camp Court Abbottabad

~~22.01.2020~~

~~Counsel for the appellant present. Mr. Ziaullah, Deputy District Attorney alongwith Mr. Abdul Karim, Technologist and Mr. Amjid Ali, Assistant for the respondents present. Due to general strike of the bar on the call of Khyber Pakhtunkhwa Bar Council, the case is adjourned. To come Appellant for further notice in the court on 20.02.2020 before D.B at camp court Abbottabad.~~


~~Member~~

~~Member~~

~~Camp Court A/Abad~~


09.07.2019

Counsel for the appellant and Mr. Muhammad Bilal Khan, Deputy District Attorney alongwith M/S Amjid Ali, Assistant on behalf of respondent No. 1, Naeem, Assistant Director on behalf of respondent No. 2, Abdul Karim, Technologist on behalf of respondent No. 3 and private respondent No. 4 in person present. Written reply on behalf of respondents not submitted. Requested for further adjournment. Adjourned to 16.09.2019 for written reply/comments before S.B at Camp Court Abbottabad.


(Muhammad Amin Khan Kundi)
Member
Camp Court Abbottabad

16.09.2019

Appellant alongwith counsel present. Muhammad Bilal Khan, Deputy District Attorney alongwith M/S Amjid Ali, Assistant on behalf of official respondents No. 1 & 2, Abdul Karim, Technologist on behalf of official respondent No. 3 and private respondent No. 4 in person present. Representatives of official respondents No. 1 to 3 submitted written reply while private respondent No. 4 requested for further adjournment for filing of written reply. Case to come up for written reply/comments on behalf of private respondent No. 4 on 23.10.2019 before S.B at Camp Court Abbottabad.


(Muhammad Amin Khan Kundi)
Member
Camp Court Abbottabad

Shaukat Khan 490/19

21.06.2019

Counsel for the appellant present.

Contends that during the period 29.11.2016 to 01.01.2019 the appellant was thrice transferred while the transfer order dated 01.01.2019 was passed upon the recommendations of Minister Health, Government of Khyber Pakhtunkhwa to accommodate respondent No. 4. The said fact is clear from the contents of impugned office order itself. Such dislocation/transfer of appellant was alien to the law/rules/policy issued by the Provincial Government.

In view of the above facts, the appeal in hand is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 09.07.2019 before S.B at camp court, Abbottabad.

Appellant Deposited
Security & Process Fee

21/6/19

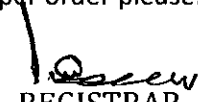

Chairman
Camp Court, A/Abad



Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 490/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	11/04/2019	<p style="text-align: center;">The appeal of Mr. Shaukat Khan received today by post through Abdul Saboor Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 11/4/19</p>
2-	12-4-19	<p style="text-align: center;">This case is entrusted to touring S. Bench at A.Abad for preliminary hearing to be put up there on <u>21-06-19</u></p> <p style="text-align: right;"> CHAIRMAN</p>

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

SERVICE APPEAL NO. 490 /2019

Shoukat Khan son of Daud Khan , Junior Pharmacy Technician
Civil Dispensary, RHC, Nathia Gali, Tehsil and District
Abbottabad.....**APPELLANT**

VERSUS

Govt. of Khyber Pakhtunkhwa, through Secretary Health
Khyber Pakhtunkhwa, Peshawar etc.....**RESPONDENTS**

SERVICE APPEAL

INDEX

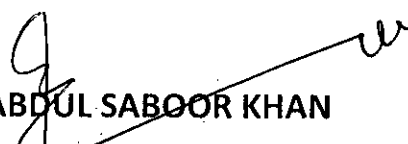
S.#	Description	Page #	Annexures
1.	Service appeal alongwith affidavit	1 to 8	
2.	Copy of order Dated: 29/11/2016	9	"A"
3.	Copy of office order dated: 27/08/2018 alongwith better copy	10-11	"B"
4	Copy of departmental appeal	12-13	"C"
5	Copy of office order dated: 17/09/2018	14	"D"
6	Copy of impugned office order dated: 01/01/2019	15	"E"
7	Copy of departmental representation	16-17	"F"
9	Wakalatnama	18	

Dated:10/04/2019


SHOUKAT KHAN

.....**APPELLANT**

THROUGH


ABDUL SABOOR KHAN
ADVOCATE HIGH COURT

P-01

BEFORE THE SERVICE TRIBUNAL, KHYBER

PAKHTUNKHWA, PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 603

Dated 11/4/2019

SERVICE APPEAL NO. 490 /2019

Shoukat Khan son of Daud Khan , Junior Pharmacy Technician
Civil Dispensary, RHC, Nathia Gali, Tehsil and District
Abbottabad.....**APPELLANT**

VERSUS

1. Govt. of Khyber Pakhtunkhwa, through Secretary Health
Khyber Pakhtunkhwa, Peshawar.
2. Director General Health, Khyber Pakhtunkhwa
Peshawar.
3. District Health Officer, Abbottabad.
4. Muhammad Zameer, CD Danna Tatrila, Tehsil and
District Abbottabad.

.....RESPONDENTS

Filed to-day
Registrar
11/4/19

**SERVICE APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT,
1974, FOR DECLARATION TO THE EFFECT THAT OFFICE ORDER
BEARING NO.42-47/ESTAB/D/O:O DATED ABBOTTABAD
01/01/2019 ISSUED BY RESPONDENT NO.3, WHEREBY THE
SERVICES OF APPELLANT HAS BEEN TRANSFERRED
FROM CIVIL DISPENSARY DANNA TATRILA-II, RHC.**

NATHIAGALI IS ILLEGAL, UNLAWFUL AGAINST LAW AND NORMS OF JUSTICE, WITHOUT LAWFUL AUTHORITY AND IS INEFFECTIVE UPON THE RIGHTS OF THE PRESENT APPELLANT.

=====

PRAYER;- ON ACCEPTANCE OF INSTANT SERVICE APPEAL THE IMPUGNED OFFICE ORDER DATED 01/01/2019 MAY GRACIOUSLY BE SET ASIDE AND RESPONDENT BE DIRECTED TO RESTORE THE PREVIOUS POSITION OF APPELLANT BY POSTING HIM AT CIVIL DISPENSARY DANA TATRILA. ANY OTHER RELIEF WHICH THIS HONOURABLE COURT DEEMS FIT AND PROPER IN THE CIRCUMSTANCES OF THE CASE MAY ALSO BE GIVEN TO THE APPELLANT.

=====

Respectfully Sheweth:-

That the facts forming the background of the instant service appeal are appended below;-

1. That the appellant is permanent residing at Village Tatrila Union Council Nagri Bala Tehsil and District, Abbottabad.
2. That the appellant has served as Junior Pharmacy Technician at Civil Dispensary Dana Tatrila for the last One and Half year. Copy of order is annexed as Annexure "A".
3. That vide office order dated 27/08/2018 the appellant was transferred from Civil Dispensary Dana Tatrila to Civil Dispensary Harri Khaiteer Union Council Dewal Manal. Copy of office order dated 27/08/2018 is annexed as Annexure "B".
4. That feeling aggrieved, the appellant preferred departmental representation/ appeal before respondent No. 2. Copy of department appeal is annexed as Annexure "C".
5. That during the pendency of departmental appeal, the respondent No. 3 by canceling the office order dated 27/08/2018 again

posted the appellant at Civil Dispensary Dana Tatrila Abbottabad. Copy of office order dated 17/09/2018 is annexed as Annexure "D".

6. That just after Three and Half months and issues of order dated 17/09/2018, the respondent 3 again transfer the appellant from Civil Dispensary Dana Tatrila to RHC Nathiagali vide impugned office order dated 01/01/2019. Copy of impugned office order dated 01/01/2019 is annexed as Annexure "E".

7. That the appellant again filed departmental representation but no heed was paid. Copy of departmental representation is annexed as Annexure "F".

8. That feeling aggrieved, the present appellant seeks indulgence of this Honourable Tribunal for setting aside the impugned office order dated 01/01/2019, inter-alia on the following amongst other grounds;-

GROUND S;-

a) That the impugned office order dated 01/01/2019 issued by respondent No.

3 is illegal, unlawful, without lawful authority and his liable to be set aside.

- b) That the impugned office order is the result of misuse of powers by the respondent No. 3.
- c) That the appellant had served almost 18 years of his service at far flung areas of District Abbottabad and on the request of his co-villagers, the appellant was transferred at his home station on the ground that since appellant is the resident of Dana Tatrila and due to his transfer in his village he will be available to inhabitants of area round the clock. Therefore the impugned order is liable to be set aside.
- d) That the impugned order dated 01/01/2019 is also liable to be set aside on the ground that the appellant has not completed his tenure at the said station.

e) That the respondent No. 3 transferred the appellant vide impugned order just to facilitate the person of his choice, hence the impugned order is not maintainable the eye of law.

f) That, the respondent No.3 transferred/ posted the appellant without mentioning any reasons, under political pressure, ignoring all the rules and regulations on the subject, only to accommodate their well wisher(s) and blue eyed, which is not only against the law/ rules on the subject but is in violation of Article 4, 8 and 25 of the constitution *ibid*.

g) That the respondents have not treated the petitioner in accordance with law, rules and policy on the subject and acted in violation of Article-4 of the Constitution of Islamic Republic of Pakistan 1973 and unlawfully refused to promote the petitioner which is

P. (7)

Unjust, unfair, illegal, hence not sustainable in the eyes of law.

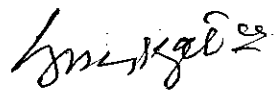
h) That, other grounds shall be urged at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of instant service appeal, the impugned office order dated: 01/02/2019 may graciously be set aside and respondent No.3 be directed to restore the previous position of appellant by posting him at Civil Dispensary Danna Tatrila. Any other relief which this Honourable Court deems fit and proper in the circumstances of the case may also be given to the appellant.

INTERIM RELIEF

It is, further humbly prayed that in the meanwhile, the operation of the impugned order dated: 01/01/2019 may graciously be suspended.

Dated:10/04/2019



SHOUKAT KHAN

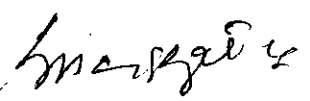
.....APPELLANT

THROUGH


ABDUL SABOOR KHAN
ADVOCATE HIGH COURT

VERIFICATION

Verified on oath that the contents of foregoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed or suppressed from this Honourable tribunal.



SHOUKAT KHAN

.....APPELLANT

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

Service Appeal No. _____/2019

Shoukat Khan son of ~~Malik~~ Daud Khan, Junior Pharmacy Technician Civil
Dispensary, Danna Tatrila Tehsil and District, Abbottabad.

Shoukat Khan
...APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa, through Secretary Health Khyber
Pakhtunkhwa Peshawar & others.

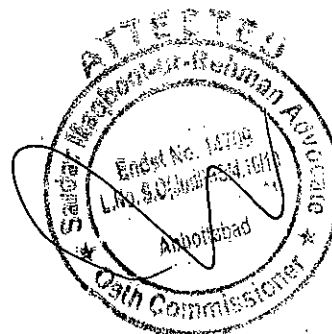
....RESPONDENTS

SERVICE APPEAL

AFFIDAVIT

I, Shoukat Khan son of Malik Daud Khan, Junior Pharmacy Technician
Civil Dispensary, Danna Tatrila Tehsil and District, Abbottabad, do hereby
solemnly affirm and declare that the contents of foregoing service appeal are
true and correct to the best of my knowledge and belief and nothing has been
concealed therein from this Honourable Court.

Shoukat Khan
DEPONENT





Approved
10/4/2019

A-9
Amna A

OFFICE ORDER

Consequent upon the recommendations of the Inquiry Committee vide No.784/DPIU dated 24.11.2016, partial modification in this office No.16211-15 dated 04.10.2016 is hereby made and the following posting / transfer of Junior Clinical Technicians Pharmacy is hereby made in public interest with immediate effect.

S #	Name of Official	From	To Remarks	Remarks
1	Mr. Mansha Khan	Under-transfer to CD Danna Tatrila	Retained at CH Ayubia	
2	Mr. Zameer Ahmed	Under-Transfer to CH Ayubia	CD Hari Khaitar	Vice No.2 below
3	Mr. Shaukat Khan	CD Hari Khaitar	CD Danna Tatrila	Vice No.1 above

Note: Compliance report must reach to this office within stipulated period.

Sd/....
District Health Officer
Abbottabad.

No. 18732-35 /Estab/D/Posting Trans. Dated Abbottabad the

29/11/2016.

Copy forwarded to me: -

1. Incharge, CH Khanaspur, Ayubia.
 2. Accounts Section undersigned office.
 3. Officials concerned.
 4. Estt; File.
- For information and necessary action.

District Health Officer
Abbottabad.

District Health Officer Link Road, Abbottabad.

Phone # 992-9310192

Fax # 992-9310196

edohabd@yahoo.com

Abbottabad.

9141304
0333

OFFICE OF THE DISTRICT HEALTH
OFFICER, ABBOTTABAD.

P-10

Annex B


12/4/19

OFFICE ORDER


As per recommendations of the Medical Specialist to Mr. Muhammad Zamcer who is suffering from post TB Lungs / Fibrosis and shortness of breath. Therefore, on compassionate and medical grounds, the following posting / transfer of JCTs Pharmacy is hereby made in the public interest with immediate effect.

S#	Name	From	To	Remarks
1	Mr. Muhammad Zamcer	CD Hari Khattar	CD Danna Tatrila	Vice No. 2 below
2	Mr. Shoukat Khan	CD Danna Tatrila	CD Hari Khattar	Vice No. 1 above

Note: Departure / arrival reports must reach within stipulated period.


District Health Officer,
Abbottabad.

No. 17072-75 / Estab/D/O Dated Abbottabad, the 27 / 08 / 2018.
Copy forwarded to the:-
1. DMO IMI, Abbottabad.
2. Accounts Section undersigned office.
3. Officials concerned.
4. Estt File.
For information and necessary action.


District Health Officer,
Abbottabad.

Admitted
10/24/19

P-11

Annex B

BETTER COPY

OFFICE OF THE DISTRICT HEALTH OFFICER ABBOTTABAD

OFFICE ORDER

As per recommendation of the Medical Specialist to Mr. Muhammad Zameer who is suffering from post iB lungs. Fibrosis and shortness of breath. Therefore, on compassionate and medical grounds, the following posting/ transfer of JCTs Pharmacy is hereby made in the public interest with immediate effect.

S.#	Name	From	To	Remarks
1.	Mr. Muhammad Zameer	CD Hari Khaitar	CD Danna Tarrila	Vice No.2 below
2.	Mr. Shoukat Khan	CD Danna Tatrila	CD Hari Khaitar	Vice NO.1 above

Note: Departure arrival reports must reach within stipulated period.

District Health Officer

Abbottabad

No.17072-75 /Estab/D/O:O Dated: Abbottabad the 27/08/2018

Copy forwarded in the:

1. DMO (M) Abbottabad
2. Accounts Session undersigned office.
3. Officials concerned.
4. Estt: file

For information and necessary action.

Allsted
15/4/19

بخدمت جناب ڈائریکٹر جنرل ہیلتھ صاحب محکمہ صحت، پشاور

P. (12)

Amna

شوکت خان ولد محمد داؤد خان، جو نیر فارمی ٹیکنیشن سول ڈسپنسری ڈنہ تزیلا، ساکنہ تزیلا تحصیل ضلع، ایبٹ آباد۔

--- اپیلانٹ

بنام

25/4/19
03/9/19

1- محمد ضمیر ولد کالا خان، ساکنہ تزیلا تحصیل ضلع، ایبٹ آباد۔

2- ڈی ایچ او ایبٹ آباد

--- رسپانڈنٹس

اپیل برخلاف آفس آرڈر نمبر 75-17072 مورخہ 27/08/2018

جناب عالی! مروجبات اپیل ذیل عرض ہے۔

1- یہ کہ سائل گاؤں تزیلا یونین کونسل نگری بالا تحصیل ضلع، ایبٹ آباد کارہاشی ہے۔ اور اپنے گاؤں میں عرصہ ڈیڑھ سال سے بطور سول ڈسپنسری ڈنہ تزیلا تعینات ہے۔ اور اپنے فرائض اچھے طریقے سے سرانجام دے رہا ہے۔

2- یہ کہ سائل کو مورخہ 27/08/2018 کو آفس آرڈر نمبر 75-17072 ملا جس کے تحت سائل کو سول ڈسپنسری ہاڑی کھیتر یونین کونسل دیوال منال ٹرانسفر کر دیا گیا ہے۔

3- یہ کہ سائل نے گزشتہ 18 سال یونین کونسل دیوال منال میں ہی اپنی ڈیوٹی سرانجام دی ہے۔ جبکہ سائل کی جگہ جس شخص کو ٹرانسفر کر کے ڈنہ تزیلا ڈسپنسری میں لایا گیا ہے وہ تقریباً 32 سال مذکورہ یونین کونسل نگری بالا میں سروس کر کے ٹرانسفر ہوا تھا۔

وجوہات اپیل :-

i- یہ کہ سائل کو گزشتہ 18 ماہ میں بار بار آفس آرڈر جاری کر کے ٹرانسفر کر دیا جاتا ہے۔ جبکہ سائل

کے موجودہ مقام پر ڈیوٹی Tenure آفس پورا ہوا۔

ii- یہ کہ سائل بار بار ٹرانسفر ہونے کی وجہ سے اپنی ڈیوٹی سرانجام دینے میں مشکلات کا شکار ہے۔

iii- یہ کہ مخالف فریق سیاسی اثر و رسوخ رکھتا ہے۔ اور اپنی من چاہی ملازمت کے لیے دوسروں کے قیمتی حقوق کی تلافی کرتا ہے۔

iv- یہ کہ مخالف فریق کا رویہ ڈنہ تتریلایونین کونسل کے لوگوں کے ساتھ انتہائی برا رہا ہے۔ نیز اپنی ڈیوٹی بھی صحیح طریقے سے انجام نہیں دے رہا۔

v- یہ کہ سائل اپنے گاؤں میں ڈیوٹی انجام دے رہا ہے جس کی وجہ سے ڈیوٹی دینی آسان ہے اور لوگوں کو فائدہ حاصل ہو رہا ہے۔ اور لوگ سائل کے رویہ سے انتہائی خوش ہیں۔

vi- یہ کہ سائل مقامی آدمی ہے اور گزشتہ 20 سال دور دراز مقام پر ڈیوٹی دیتا رہا ہے۔

لہذا استدعا ہے کہ اپیل منظور فرماتے ہوئے سائل کو سول ڈپنٹری ڈنہ تتریلایونین کونسل نگری بالا میں برقرار رہنے کا حکم صادر فرمایا جائے۔ اور سائل کو بار بار آرڈر جاری نہ کیا جائے۔

المرقوم: 29/8/2018

شوکت خان

(اپیلانٹ)

بذریعہ وکیل خود

پتہ فریقین:

جناب عالی!

پتہ فریقین عنوان اپیل میں درست

طور پر درج ہے۔

المرقوم: 29/8/2018 ایبٹ آباد

تصدیق:

با اقرار صالح تصدیق کی جاتی ہے کہ جملہ مراتب

اپیل تا حد علم و یقین میرے صحیح و درست ہیں اور

کوئی امر عدالت ہذا سے مخفی یا پوشیدہ نہ رکھا گیا ہے۔

المرقوم: 29/8/2018 ایبٹ آباد

شوکت خان (اپیلانٹ)

بذریعہ وکیل خود

شوکت خان (اپیلانٹ)

OFFICE OF THE DISTRICT HEALTH
OFFICER ABBOTTABAD.

P-14

Amended
19/11/18
OFFICE ORDER

Amir

Whereas, the posting / transfer of JCT's Pharmacy was made vide order bearing No.17072-75 dated 27.08.2018 on medical plea of Mr. Muhammad Zamir who wanted to work at a station as low altitude due to his illness as recommended by the Medical Specialist to him. But, it has been observed by the undersigned and reported by the IMU that no service delivery is offered to the community at CD Danna Tatrila & CD Hari Khaitar as well as both the official have adopted ways & means to create circumstances which have hampered services to the ailing community. The charge of Dispensaries has also not been made by the officials.

Therefore, partial modification is made in this office order bearing No.17072-75 dated 27.08.2018 as follows: -

S #	Name	From	To	Remarks
1	Mr. Shokat Khan	Under-transfer to CD Hari Khaitar	Retained at CD Danna Tatrila	
2	Mr. Muhammad Zameer	Under-transfer to CD Danna Tatrila	RHC Nathiagali	
3	Mr. Shokat Ali	RHC Nathiagali	CD Hari Khaitar	

[Signature]
District Health Officer
Abbottabad.

No. 18352-57/Estab/D/Canc: Dated Abbottabad the

17/9 /2018.

Copy forwarded to the: -

1. DMO, IMU, Abbottabad.
 2. Incharge, RHC Nathiagali.
 3. Accounts Section undersigned office.
 4. Officials concerned.
 5. Estt: File.
- For information and necessary action.

[Signature]
District Health Officer
Abbottabad.

OFFICE OF THE DISTRICT HEALTH OFFICER ABBOTTABAD.

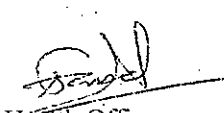
OFFICE ORDER

As per Appeal to Minister Health Khyber Pakhtunkhwa, Peshawar Diary No. 911 dated 26.09.2018, Section Officer -- III Government of Khyber Pakhtunkhwa Health Department Peshawar Letter No. SOH-III/8-60/2018(Muhammad Zameer) dated 16.10.2018 and Director General Health Services, Khyber Pakhtunkhwa, Peshawar Letter No. 9487-88/AE-VI dated 05.11.2015 & letter No.10702-3/AE-VI dated 03.12.2018, and as per recommendations of the Medical Specialist to Mr. Muhammad Zameer who is suffering from post TB Lungs / Fibrosis and shortness of breath. As per appeal of the applicant he needs to be placed at his home station to look after his health due to chronic condition. Therefore on compassionate grounds considering his request in line of opinion by Medical Specialist, the partial modification of this office order No.18352-57 dated 17.09.2018 is hereby made as following.

S#	Name	From	To	Remarks
1	Mr. Muhammad Zameer	RHC Nathiagali	CD Danna Tatila	Vice No. 2 below
2	Mr. Shoukat Khan	CD Danna Tatila	RHC Nathiagali	Vice No.1 above

The above officials are directed immediately taken / handed over charge on the station mentioned above to keep continuing of services to the community, if any official not complying with this office order shall face disciplinary proceedings as per E&D rules 2011.

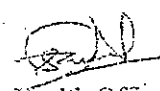
Note: Departure / arrival reports must reach within three days positively.


District Health Officer,
Abbottabad.

No. 42-147 /Estat/DHO/O Dated Abbottabad, the 01/10/2019.

Copy forwarded to the:-

1. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
2. DMO LMO Abbottabad.
3. Accounts Section undersigned office.
4. Officials concerned.
5. DHE Cell.
6. For information and necessary action.


District Health Officer,
Abbottabad.

بخدمت جناب ڈائریکٹر جنرل (DG) صاحب محکمہ ہیلتھ، خیبر پختونخوا۔ پشاور

محکمانہ ایپیل

عنوان

بابت منسوخ غیر قانونی آرڈر نمبر 42-47 مورخہ 01/01/2019 جاری کردہ ڈسٹرکٹ ہیلتھ آفیسر، ایبٹ آباد

Annex (F)

جناب عالی! موزجات ایپیل ذیل عرض ہیں:-

- 1- یہ کہ سائل محکمہ ہیلتھ ایبٹ آباد میں سال 1998ء میں بطور ڈسپنسر بھرتی ہوا۔
- 2- یہ کہ سائل نے اپنی تقرری کے بعد عرصہ 18 سال تک دوردراز علاقہ جات میں اپنی ڈیوٹی بطریق احسن سرانجام دی۔
- 3- یہ کہ سائل کے 18 سال کا طویل عرصہ غیر مقامی اسٹیشن پر گزارنے کی وجہ سے جناب DHO صاحب ایبٹ آباد نے ایک انکوائری کمیٹی بھیجی جس نے موقع پر جا کر عوام سے پوچھ گچھ کی اور عوام نے انکوائری کمیٹی سے مطالبہ کیا کہ شوکت ڈسپنسر (من سائل) کو اپنی مقامی ڈسپنری میں تعینات کیا جائے کیونکہ شوکت مقامی آدمی ہے اور وہ 24 گھنٹے عوام کو سہولت فراہم کر سکتا ہے اس طرح بڑی تنگ کے بعد عوام کے پُر زور مطالبہ پر مورخہ 29/01/2016 کو بذریعہ آفس آرڈر نمبر 35-18732 سائل کو اپنی مقامی ڈسپنری (سول ڈسپنری ڈنہ تزیلہ) ٹرانسفر کر دیا گیا۔
- 4- یہ کہ مقامی ڈسپنری میں تعینات ہوئے سائل کو ابھی تقریباً 5 ماہ ہی ہوئے تھے کہ سائل کو ایک بار پھر مورخہ 08/05/2017 کو آفس آرڈر نمبر 61-9358 کے تحت بغیر کسی قانونی جواز کے سابقہ سول ڈسپنری (ہاڑی کھیتر) تبدیل کر دیا گیا جو کہ سائل کے ساتھ سراسر نا انصافی کی گئی۔
- 5- یہ کہ سائل ایک بار پھر کافی کوشش کرنے کے بعد مذکورہ غیر قانونی ٹرانسفر آرڈر کینسل کروا کر دوبارہ اپنے مقامی اسٹیشن (سول ڈسپنری ڈنہ تزیلہ) تعینات ہو گیا مگر 3/4 ماہ بعد سائل کو ایک بار پھر اپنے مقامی اسٹیشن سے ٹرانسفر کر دیا گیا۔
- 6- یہ کہ سائل کے مقامی لوگوں نے ایک بار پھر تنگ و دو کر کے سائل کو واپس اپنے مقامی اسٹیشن پر تعینات کروا یا مگر ایک بار پھر 3/4 ماہ کے بعد ہی سائل کو مورخہ 17/11/2017 کو آرڈر نمبر 63-1560 کے تحت جناب DHO صاحب نے تبدیل کر دیا مگر مقامی لوگوں نے سائل کے بار بار کے ٹرانسفر آرڈرز سے ناراضگی کا اظہار کرتے ہوئے ایک بار پھر کوشش کر کے سائل کو دوبارہ اپنے مقامی اسٹیشن پر تعینات کروایا۔

جناب عالی! سائل کے بار بار ٹرانسفر آرڈرز ہونے کی وجہ سے سائل شدید ذہنی دباؤ کا شکار ہو رہا ہے اور سائل شدید مشکلات سے دوچار ہے

28/11/19

مگر محکمہ ہیلتھ کے ارباب اختیار کو مسائل کی مشکلات سے کوئی سروکار نہیں ہے اور مسائل کو بے گناہ ذہنی نارچر کیا جا رہا ہے۔ (جملہ ٹرانسفر آرڈرز اپیل ہذا کے ساتھ برائے ملاحظہ لطف ہیں)

7- یہ کہ مسائل کا حالیہ ٹرانسفر آرڈر نمبر 42-47 مورخہ 01/01/2019 کو ہوا ہے جس کے تحت مسائل کو غیر قانونی طور پر سیاسی اثر رسوخ کے ذریعے سول ڈسپنری ڈنہ تزیلہ سے RHC منتھیا گلی ٹرانسفر کر دیا گیا ہے اور مسائل کی جگہ پر محمد ضمیر نامی ڈسپنر، جو کہ عرصہ تقریباً 30 سال تک اپنے مقامی اسٹیشن ڈنہ تزیلہ تعینات رہا تھا، اسی کو ایک بار پھر سیاسی سفارش کی بنیاد پر تعینات کر دیا گیا ہے جو کہ مسائل کے ساتھ سراسر ظلم اور نا انصافی ہے اور مذکورہ ٹرانسفر آرڈر سراسر، خلاف قانون، خلاف واقعات اور بددیہتی ہے جو کہ قابل منسوخی ہے۔

8- یہ کہ محمد ضمیر ایک پنا اثر ڈسپنر ہے جس کے سیاسی شخصیات کے علاوہ محکمہ ہیلتھ کے اعلیٰ افسران تک بھی رسائی ہے اور اسی بنیاد پر مذکورہ ڈسپنر محمد ضمیر مسائل کو بار بار ٹرانسفر کروا رہا ہے جبکہ بہ مطابق قانون کسی شخص کی بار بار ٹرانسفر بددیہتی کے زمرے میں آتی ہے۔ بدیں وجہ مذکورہ بالا غیر قانونی آرڈر مورخہ 01/01/2019 قابل منسوخی ہے جسے منسوخ فرمایا جا کر مسائل کی دادرسی فرمائی جاوے۔

9- یہ کہ کوئی بھی آرڈر جو سیاسی اثر رسوخ کی بنیاد پر حاصل کیا جاوے تو ایسا آرڈر حاصل کرنے والا سرکاری ملازم Misconduct کا مرتکب گردانہ جاتا ہے اور غیر قانونی آرڈر غیر قانونی ہی ہوتا ہے۔

10- یہ کہ مذکورہ بالا آرڈر مورخہ 01/01/2019 بھی محض سیاسی اثر رسوخ کا نتیجہ ہے کیونکہ مسائل کا Tenure بھی مکمل نہیں ہوا تھا، اسلئے مذکورہ آرڈر قابل منسوخی ہے اور اس ضمن میں اعلیٰ عدلیہ کے واضح احکامات ہیں کسی بھی سیاسی شخصیت کی سفارش پر کسی بھی سرکاری ملازم کی ٹرانسفر یا تعیناتی نہیں کی جاسکتی۔ بدیں وجہ مذکورہ آرڈر قابل منسوخی ہے۔

لہذا، استدعا ہے کہ مذکورہ بالا غیر قانونی ٹرانسفر آرڈر نمبر 42-47 مورخہ 01/01/2019 کو منسوخ فرمایا جا کر مسائل کو اپنے مقامی اسٹیشن سول ڈسپنری ڈنہ تزیلہ میں اپنے فرائض منصبی سرانجام دینے کا موقع فراہم کیا جائے اور انصاف کے تقاضے پورے کے جائیں۔

المرقوم: 02/01/2019

اپیل کنندہ:

Shahid

شوکت خان (ڈسپنر) سول ڈسپنری ڈنہ تزیلہ، ضلع ایبٹ آباد

نوٹ: جملہ ٹرانسفر آرڈرز کی کاپیاں برائے ملاحظہ اپیل ہذا کے ساتھ لطف ہیں۔

P-17-A

Signature of Booking Official

For instruction see reverse.

No. 140 RP-51 (PD)
(Rev)

Received a Registered Parcel Registered Insured

Rs. _____

Postage
Registration Fee
Acknowledgement Fee
Insurance Fee
Late Fee

Addressed to _____ Total _____

If Insured { Weight _____ Kg
Value Rs _____
Sender's Name and Address _____

Signature of Booking Official _____

For instruction see reverse.

3 1/19

3 JAN 19
Date stamps of Booking Office.

وکالت نامہ

P (18)

K.P.K Service Tribunal (سروکاروں کی سروس ٹریبونل)

موتی خان کوٹہ
 دعویٰ یا جرم Service appeal منجانب Appellant
 باعث تخریر آنگہ

اندریں مقدمہ عنوان اپنی طرف سے برائے پیر ذی وجوہد ہی مقام

عبدالعبید اللہ

کو بدیں شرط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختیار حاصل رو برو عدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارے جانے وکیل صاحب موصوف کو اطلاع دے کر حاضر کروں گا۔ اگر کسی پیشی پر منظر حاضر نہ ہوا اور غیر حاضری کی وجہ سے کسی طور پر مقدمہ میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پکھری کے علاوہ کسی اور جگہ پکھری کے مقرر اوقات سے پہلے یا بروز تعطیل بیرونی کرنے کے مجاز نہ ہوں گے۔ اگر مقدمہ مقامی پکھری کے علاوہ کسی اور جگہ سماعت ہو یا پکھری کے اوقات کے آگے یا پیچھے سماعت ہونے پر منظر کو کوئی نقصان پہنچے تو صاحب موصوف ذمہ دار نہ ہوں گے۔ اور صاحب موصوف کو عرضی دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل نگرانی دائر کرنے نیز ہر قسم کی درخواست پر دستخط تصدیق کرنے کا بھی اختیار ہوگا۔ نیز ہر قسم کی درخواست پر دستخط تصدیق کرنے کا بھی اختیار ہوگا۔ اور رسید دینے اور داخل کرنے کا ہر قسم کا بیان دینے اور پسرٹا لشی و راض نامہ و دستبرداری و اقبال دعویٰ کا اختیار ہوگا۔ اور بصورت اپیل و برآمدی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم امتحانی یا فیصلہ قبل از ڈگری و اجراء ڈگری بھی صاحب موصوف کو بشرط ادا سنگی علیحدہ مختیار نہ کرنے کا مجاز ہوگا۔ اور بصورت ضرورت بدوران مقدمہ یا اپیل و نگرانی کسی دوسرے وکیل یا پیر مشر کو بجائے خود یا اپنے ہمراہ مقرر کریں۔ اور ایسے مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہوں گے جیسے صاحب موصوف کو، پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی بیرونی نہ کریں۔ اور ایسی حالت میں میرا مطالبہ صاحب موصوف کے برخلاف نہیں ہوگا۔ جتنے کل ساختہ پرواختہ موصوف مثل ذات خود منظور و قبول ہوگا۔ لہذا وکالت نامہ لکھ دیا ہے کہ سائنڈر ہے مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

سورہ ۱۰/۴/۱۹

عبدالعبید اللہ

ATTESTED & ACCEPTED

موتی خان کوٹہ
 Appellant.

Advocate High Court
 Mansehra
 ۱۰/۴/۱۹

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Appeal No.490/2019.

Shoukat Khan

.....Appellant

Versus

Government of KPK, through Secretary Health KPK Peshawar & Others

..... Respondents

(Appeal No. 490/2019)

(Written Statement on behalf of Respondents no. 1 to 3)

INDEX

S#	Description	Page No.	Annexure
1	Written Statement alongwith Affidavit	1 to 5	
2	Copy of the medical certificate	5	"A"
3	Certificate issued by BBSTH	6	"B"
4	Certificate of ATH	7	"C"
5	Copy of Application	8	"D"
6	Copies of Office Order dated 14.09.2018 and 17.09.2018	9-10	"E" & "F"
7	Copies of Show cause notice dated 21.01.2019 and 18.02.2019	11-12	"G" & "H"
8	Copy of explanation dated 21.06.2019	13	"I"

Dated ____ / ____ /

...RESPONDENTS

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

Appeal No.490/2019.

Shoukat Khan

.....Appellant

Versus

Government of KPK, through Secretary Health KPK Peshawar & Others

..... Respondents

(Appeal No. 490/2019)

Written Statement on behalf of Respondents no. 1 to 3

Respectfully Sheweth,

Preliminary Objections:

1. The appellant has no locus standi / cause of action to institute the instant appeal.
2. The appellant is estopped to sue due to his own conduct.
3. The titled appeal is liable to be dismissed on the grounds of non-joinder of necessary parties and misjoinder of unnecessary parties.
4. The appellant has not approached this Honourable Tribunal with clean hands and concealed material facts from this Honourable Tribunal.
5. The instant appeal is time-barred.
6. This Honourable Tribunal lacks jurisdiction to entertain the titled appeal.
7. The appellant in prayer of the instant appeal seeks setting aside of the impugned order dated 01-01-2019 whereas in the para "g" of the grounds he solicited for promotion, for which he neither mentioned facts nor grounds. The appellant is not clear in his mind regarding nature of his case which demands outright rejection of the titled appeal.
8. The transfer/ posting is not a vested right of the employee, he has to serve anywhere in the province, therefore, the titled appeal is liable to be dismissed.

Factual Objections:

1. That the Para 1 of the appeal is subject to proof.
2. That the Para 2 of the appeal is correct to the extent of service of the appellant as Junior Pharmacy Technician at Civil Dispensary Danna Tatrila but the total tenure is more than two years.
3. That the Para 3 of the appeal is correct, it is pertinent to mention here that the appellant transfer to Civil Dispensary Hari Khaitar from Civil Dispensary Danna Tatrila, in place of respondent no.4 was purely on medical & compassionate grounds, due to the fact that the respondent no.4 was suffering from post T.B Lungs fibrosis and shortness of breath and advised by Registrar Medical A ward, ATH, ATD duly endorsed by the District Physician and Medical Superintendent Benazir Bhutto Shaheed Teaching Hospital, Abbottabad to avoid travelling to high altitudes / mountainous areas in order to avert respiratory failure. Furthermore the respondent no.4 has to cover area towards high altitude, approximately 50 Km while travelling for Civil Dispensary Danna Tatrila, his home station, to Civil Dispensary Hari Kaithar, including two hours walk upto Kutlian. Additionally his wife is also a cardiac patient, in need of respondent no.4 personal attention. (Copies of the medical certificate dated 29.11.2017, certificate issued by BBSTH Abbottabad dated 17.04.2017 and 11.06.2018 and certificate issued by the ATH Abbottabad dated 28.11.2017 are annexed as annexure "A" "B" & "C" respectively.
4. That the Para 4 of the appeal is subject to proof.
5. That the Para 5 of the appeal is correct to the extent of cancellation of office order dated 17-08-2018 which was due to reason that the appellant not only exerted political pressure but also failed to provide service to the ailing community at Civil Dispensary Danna Tatrila. (Copies of the application dated 06.09.2018 and office order dated 14-09-2018 and 17.09.2018 are annexed as annexure "D" "E" & "F").
6. That the Para 6 of the appeal is correct to the extent of transfer of the appellant from Civil Dispensary Danna Tatrila to the rural health centre Nathigali vide order dated 01-01-2019 in place of the respondent no.4 who in turn was transferred to the Civil Dispensary Danna Tatrila on medical and compassionate grounds and following the recommendation of the Registrar Medical A ward ATH Abbottabad endorsed by the General Physician and Medical Superintendent, BBSTH, Abbottabad. Based on diagnosis of post T.B Lungs / Fibrosis and shortness of breath, advising him to

refrain from travelling to high altitude / mountainous areas due to his chronic condition.

7. That the Para 7 of the appeal is subject to proof.
8. That the Para 8 of the appeal is incorrect, the appellant is not an aggrieved person.

GROUND:

- a. That the Para a of the appeal is incorrect,
- b. That the Para b of the appeal is incorrect.
- c. That the Para c of the appeal is incorrect, the appellant not only disobeyed the office orders of transfer of the competent authority but fail to provide service to the local community of the area where he was posted, consequently he was served with show cause notice dated 17-01-2019 for his willful absence from duty thus committing misconduct and inefficiency on receipt of report of incharge senior medical officer, rural health centre, Nathiagali and final show cause notice dated 21-01-2019 but the appellant instead exerted political pressure by submitting applications marked by the senior politician for cancellation of order dated 01-01-2019

Afterwards although the appellant submitted his arrival report in rural health centre Nathiagali on 01-02-2019, after one month of the transfer order dated 01-01-2019 but was found absent by the respondent no.3 on his visit to rural health centre Nathiagali, consequently he was served an explanation letter dated 21-06-2019 which is an ample proof of the fact that appellant always wished to perform duties on his own place of choice and not in the interest of public. (Copies of the show cause notice dated 21.01.2019 and 18.02.2019 and explanation dated 21.06.2019 are annexed as annexure "G" "H" and "I".)

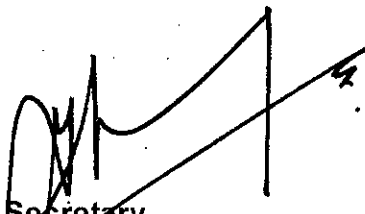
- d. That the Para d of the appeal is incorrect, the appellant can be transferred to anywhere within the province, it is not his vested right to demand posting at a place of his choice.
- e. That the Para e of the appeal is incorrect, proper reply had already been furnished in above Paras.
- f. That the Para f of the appeal is incorrect, the appellant was transferred in the best public interest in place of respondent

no.4 who was transferred on medical and compassionate grounds.

g. That the Para g of the appeal is incorrect, the appellant in prayer of the instant appeal seeks setting aside of the impugned order dated 01-01-2019 whereas in the para "g" of the grounds he solicited for promotion, for which he neither mentioned facts nor grounds. The appellant is not clear in his mind regarding nature of his case which demands outright rejection of the titled appeal.

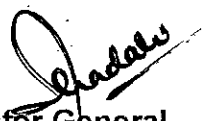
h. That the Para h of the appeal requires no comments.

It is, therefore, respectfully prayed that the titled appeal may graciously be dismissed alongwith cost throughout.




1. Secretary,
Health Department,
KPK, Peshawar.
(Respondent No.1)

...RESPONDENTS



2. Director General,
Health Services,
KPK, Peshawar.
(Respondent No.2)



3. District Health Officer,
Abbottabad.

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

Appeal No.490/2019.

Shoukat Khan

.....Appellant

Versus

Government of KPK, through Secretary Health KPK Peshawar & Others

..... Respondents

(Appeal No. 490/2019)

(Written Statement on behalf of Respondents no. 1 to 3)

AFFIDAVIT

I, Abdul Karim, PHC, Technologist (BPS-17), DHO Office, Abbottabad solemnly affirms and declare on oath that the contents of the Parawise Comments are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon' able court.

Karim
...DEPONENT

BEFORE THE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA PESHAWAR

Appeal No. 490/2019

Shaukat Khan

VERSUS

Govt. KPK & Others

REPLY ON BEHALF OF RESPONDENT NO.4


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4	Copy of Cancellation of transfer orders of respondent No.4 Dated 17-09-2018	23	
5	Copy of Departmental Appeal to DG Health Dated 26-09-2018 and Reminder Dated 23-11-2018	24-27	R4, R5
6	Reply of DG Health Office to DHO Abbottabad Dated 05-01-2018 , 21-12-2018	28-29	
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Dated 23/10/2019

Through


...RESPONDENT NO. 4


(HAJI SABIR HUSSAIN TANOLI)
Advocate Supreme Court of Pakistan
Abbottabad

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

Appeal No. 490/2019

Shaukat Khan

VERSUS

Govt. of KPK & Others

SERVICE APPEAL

REPLY ON BEHALF OF RESPONDENT NO. 4

Respectfully Sheweth;-

PRELIMINARY OBJECTION;-

1. The appellant has no locus standi to file the present appeal.
2. The appellant has concealed important material facts from this Honourable Tribunal. Hence, the appeal is liable to be dismissed.
3. That appellant has not come to the Honourable Tribunal with clean hands.
4. The appellant has not arrayed necessary parties.

5. That appellant is estopped to file service appeal and the appeal of the appellant is time barred.
6. That impugned order is made by the appellate authority on appeal preferred by the respondent No. 4 which has not been challenged hence attained finality.

Facts:-

1. Para No. 1 is correct but Mr. Muhammad Zamir respondent No. 4 is also permanent resident of Village Tatreela, UC Nagribala. Respondent No. 4 is more experienced than appellant as he is senior in age, length of service and near to retirement. Besides this majority of the people of village are in favour and support of respondent No. 4. Copy of the application made by the villagers is annexed as Annexure "R-1".
2. Para No. 2 is incorrect, the appellant was transferred from CD Hari Khaitar to his home town CD Danna Tatreela on ~~31/08~~ 31/08/2019 since more than two years. (Charged)
3. Para No. 3 is also correct, it is further submitted that respondent No. 4 is suffering from shortness of breath due to post pulmonary fibroses. Therefore, as per advice of medical specialists, though respondent No. 4 is fit for service but he cannot be transferred in far flung area, i.e Hari Khaitar

or Nathiagali due to acute distress ailment. Besides spouse of the respondent No. 4 is now suffering from complete paralysis and she cannot move on her own, therefore, being genuine case the department accommodated respondent No. 4 near his home. After acceptance of respondent No. 4 appeal No. 27805, dated 26/09/2018. As a precedent, Service Tribunal Rawalpindi Bench gave similar relief to a medical officer on medical grounds which are similar to respondent No. 4. Copy of medical certificate of respondent No. 4 and his wife are annexed as Annexure "R-2" and "R-3" and appeal of respondent No. 4 and reminder are annexed as Annexure "R-4" and "R-5".

- i. *Respondent NO. 4's first transfer order dated 17/11/2017 vide No. 21560-63 was cancelled from CD Danna Tatreela to CH Sherwan vide order No. 01-04, dated 01/01/2018 which was far flung and backward area even ten times away from CD Hari Khaitar.*
- ii. *Second transfer order from CH Danna Tatreela to RHC Nathiagali vide No. 17072-75, dated 27/08/2018 was cancelled again vide No. 18352-57, dated 17/09/2018.*

iii. *Both of these above orders were cancelled and respondent No. 4 was transferred to remote station, inspite of his genuine medical grounds with DHO Abbottabad did not wanted to cancel above two orders but he had to do so by the influence of appellant.*

iv. *When respondent No. 4's above two orders were cancelled due to political pressure by the appellant, then he had to appeal to DG Health appeal NO. 27805 dated 26/09/2018 as last hope which was allowed on merit.*

4. Para No. 4 is incorrect as the mentioned transfer order was already cancelled on 17/09/2018, hence, no need of appeal of the appellant to Secretary Health, dated 29/08/2018 to process further.

5. Para No. 5 was in favour of appellant as he is transferred back to his home station CH Danna Tatreela but prior to that transfer order he was reluctant to relinquish the charge at CD Danna Tatreela and due to political pressure respondent NO. 4 having genuine case is being deprived of his legal rights. Meanwhile, he was issued a show

cause notice for not giving the charge to respondent No. 4.

6. Para No. 6 is incorrect, order dated .01/01/2019 where respondent No. 4 was transferred from RHC Nathiagali to CD Danna Tatreela after his appeal to DG Health Appeal No. 27805 dated 26/09/2018.
7. Para No. 4 is incorrect, as respondent No. 4's appeal already accepted on genuine medical grounds of his own and his wife.
8. Para No. 8 of the appellant has concealed material facts from this Honourable Court, the transfer order of 01/01/2019 was legal and on compassionate grounds;-

GROUND S;-

- a) Para "a" of the grounds is incorrect, hence denied, reply has already been given in para No. 3 and 5 above. Impugned order is legal and lawful as it was issued by respondent No. 3, who is the competent authority for appointment and transfer of health employees up to BPS-16 within the district.

- b) Para No. "b" is incorrect hence denied as respondent No. 3 has power of posting, transfer upto Grade-16 and transfer was done under the direction of DG Health on acceptance of appeal.
- c) Para No. "c" relates to service record but the respondent No. 4 has been transferred on purely medical grounds. respondent No. 4 has also performed duty at out stations like CH Khaira Gali, CH Nathia Gali, CH Kasala, CD Hari Khaitar etc, but now his health is not allowing him to travel to high altitude, mountainous area which is injurious for his health, and as also advised by medical specialist to avoid such activities cause respiratory failure.

10 dispensaries were donated by Nawaz Sharif for Hazara Division in 1998 and Hari Khaitar dispensary was one of them. The appellant was appointed in Nawaz Sharif Dispensary in Hari Khaitar on the basis of fake/ forged documents and later on these

dispensaries were merged in health department after 2008. His documents were found objectionable and his salary was stopped for three months, record could be verified from DHO Office, Abbottabad. Moreover, respondent No. 4 is also available to inhabitants round the clock and majority of them are in his favour/support.

- d) Para "d" is incorrect hence denied. The appellant has also worked more than 2 years in CD Danna Tatreela. Respondent No. 4 was transferred on genuine medial grounds and also completed more than two years outstation.

Answering respondent would like to quote dozens examples of Paramedics Staff and clerical staff whose tenure are more than ten years at the same station who are working under DHO Abbottabad following.

- i. *Khan Afsar, Pharmacy Technician BHU Nagri Bala Tutial 10 years.*
- ii. *Mr. Dildar, CD Dakhtan Tatreela 12 years.*
- iii. *Mr. Nazir CD Kasala 10 years.*
- iv. *Mr. Hanif, BHU Ziarat Masoom 10 years.*
- v. *Mr. Ihtesham, Namal 10 years*

All clerks working in DHO Office Abbottabad more than 20 years tenure in this station. Only respondent NO. 4 is targeted of his tenure although he has genuine medical problems. The above mentioned information may be verified form DHO Office Abbottabad.

- e) Para "e" is incorrect hence denied the transfer is on genuine medical grounds.
- f) Para "f" is incorrect hence denied. Reply has been given in preceding Para No. 3 & 5.

- g) Para "g" is incorrect hence denied. DG Health after his satisfaction accepted appeal of respondent No. 4 and treated him according to rules and procedures of service

Appellant know well about the difficulty of Muhammad Zamir and his family. He feels that its his insult to be transferred from CD Danna Tatreela to RHC Nathiagali, otherwise he has no problem in performing duty at RHC Nathiagali only two days in a week which is also just 30 minutes drive from his home.

It is therefore, prayed that appeal of the appellant may graciously be dismissed with cost.

Dated: 23/10 /2019

Through

A. Tanoli
...RESPONDENT No. 4

(Haji Sabir Hussain Tanoli)
(HAJI SABIR HUSSAIN TANOLI)
Advocate Supreme Court of Pakistan,
Abbottabad

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

Appeal No. 490/2019

Shaukat Khan

VERSUS

Govt. of KPK & Others

REPLY ON BEHALF OF RESPONDENT NO. 4

AFFIDAVIT

I _____,
do hereby affirm and declare on oath that the contents of foregoing reply are true
and correct to the best of my knowledge and belief and nothing has been
concealed from this Honourable Court.

Muhammad Zameer
DEPONENT
Muhammad Zameer

11

بخدمت جناب ڈسٹرکٹ ہیلتھ آفیسر صاحب ایسٹ آباد

Annex "A"

عنوان: درخواست برائے منسوخی تبدیلی فارمیسی ٹیکنیشن محمد ضمیر

جناب عالی!


• مودبانہ گزارش ہے کہ بول ڈسپنری ڈنہ تتریلہ عرصہ دراز سے موجود ہے۔ گاؤں ہڈا اور ارد گرد کی بہت بڑی آبادی اس ڈسپنری سے مستفید ہے۔

• محمد ضمیر فارمیسی ٹیکنیشن اس گاؤں کا مقامی ہے جو کہ (Qualified) ہے ڈسپنر کورس کے علاوہ فارمیسی بی کا حامل بھی ہے اور نہایت ایمانداری اور فرض شناسی سے اپنی ڈیوٹی سرانجام دے رہا ہے۔ پوری عوام دن رات مستفید ہو رہی ہے، عوام اس کی کارکردگی سے بالکل مطمئن ہے اور اس کی یہاں دروان ملازمت میں کبھی بھی اس کے خلاف کوئی شکایت نہیں ہوئی ہے۔ اس کا چال چلن اور کردار نہایت اچھا ہے۔ گاؤں کے لوگوں کے ساتھ رویہ اچھا ہے اور عوام اس کے کام سے بہت خوش ہیں۔

• محمد ضمیر کی زوجہ فاج کی مرثیہ ہے، جو نہ چل سکتی ہے اور نہ ہی بول سکتی ہے اور اس کی دیکھ بھال کرنا بھی اسی کو ہی کرنی پڑتی ہے جبکہ یہ خود بھی لمبے اور دور دراز سفر کے قابل نہیں ہے۔

لہذا جناب سے گزارش ہے کہ اس کی تبدیلی گاؤں تتریلہ سے باہر برائے بہبود عوام، بیوی کی بیماری، اپنی صحت اور انسانی ہمدردی کی بنا پر ہرگز نہ کی جائے۔

جناب کی عین نوازش ہوگی۔


District Health Officer
Vic Tatreela U.P. A.D.

العارض

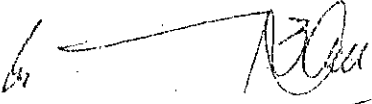
ابلیان ڈنہ تتریلہ بذریعہ شرافت خان ناسب ناظم وچ کونسل تتریلہ

نوٹ: معززین و اہلیان تتریلہ کی دستخط شدہ لسٹ ہمراہ منسلک ہے۔

عبدالحق حفیظ - خطیب جامع مسجد تتریلہ



سردار محمد اعظم - چیرمین وکل زون ملکی تتریلہ


Sardar Muhammad Azam
Chairman
L.Z.C. Tatreela
Code No. 3061116

12

دستی

شماره کارگزار

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طارق ولد نورزمان

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ارشد ولد الباس

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محمد ولد ارشد

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سید محمد

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محمد عبد الباق

الباس

محمد الباس ولد نورزمان خان 37404-0258157-9

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محمد احمد

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Vic Tatrila U/c Nagrbal

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14

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13101-0873167-1 = ③ محمد اسحق

FARAD = ④ فراد خان

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13101-6209697-5 = ⑥ وایبر خان

13101-1836218-7 = ⑦ زلفی

13101-4238665-1 = ⑧ شاہد خان

⑨ ندیم احمد

Sharafat Khan
Naib Nazim
Vic Tarnia U/c Nagribata

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⑰ وکیل

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Shahzad

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03459566785- = ㉙ محمد

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محمد يوسف

محمد

سجاد خان

سجاد خان

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Amir Khan

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عمران خان

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سجاد خان

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محمد حمزة

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Saeed Ahmed

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Vic Tairila U/c Nagri

سعید احمد

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Charariat

محمد سیراب

Naib Nazim Vic Tairila U/c Nagri

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Fahad Ahmed

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ناذیم احمد

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سعید احمد

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(17)

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حسن زینت

W. Nazam

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W. Nazam

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محمد عیوب

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ارحمان عیوب

W. Nazam
Najib Nazam
W/o Tahiria U/o Naghma

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M.A.S.H

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W. Nazam

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محمد ارحمان

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W. Nazam

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محمد ارحمان



**AYUB TEACHING HOSPITAL
ABBOTTABAD**



FILTER OUT PATIENT DEPARTMENT

18

Form R 2

B. Code No:	M. ZAMIR	S.No:	017	Book No:	K046080002839
Patient Name:	Male	M.R No:		Patient Yearly No:	29-11-2017 09:22:32
Patient Sex:	64 Year(s)	Date & Time:		O.P.D:	CAR - OPD
Patient Age:		Computer Operator:			K0460000001977
Address:					
Amount:	10.00				

Token# 024

MEDICAL CERTIFICATE

It is certified that Mr. Muhammed Zamir S/O Kala Khan is suffering from post TB Lunge/Lungs fibrosis and he has shortness of breath, which is exacerbated by walking long distances, traveling and residing at high altitude hilly area. He is recommended for light duty (to avoid traveling, walking for long distances.) to avoid risk of respiratory failure.

Verified
[Signature]
SR
MAD
REGISTRAR
MEDICAL 'A' WARD
ATH Abbottabad

[Signature]
REGISTRAR
MEDICAL 'A' WARD
ATH Abbottabad
[Signature]
Dr. A. Usaidi
Resident Medical Officer
Ayub Teaching Hospital
Abbottabad

[Signature]
Dr. Imran Farooq
Resident Medical Officer
Ayub Teaching Hospital
Abbottabad



**BENAZIR BHUTTO SHAHEED
TEACHING HOSPITAL
ABBOTTABAD**

Out Patient Department

FACE VALUE **RS. 10/-**

19

Patient's Name: Jadid S.No. _____
Yearly No: 122650 Dated: 17-11-2017

Mr. Muhammad Zamir
S/o. Kala Khan is suffering
from Post-TB Pulmonary fibrosis
with shortness of breath.
It is advisable to
avoid to travel to high
altitudes / mountainous areas.

17/11/18
District Physician
B.B.S. Teaching Hospital
Abbottabad
B.B.S. Teaching Hospital
Abbottabad



**BENAZIR BHUTTO SHAHEED
TEACHING HOSPITAL ABBOTTABAD**

Out Patient Department

Patient's Name: Jadid S.No. B 25312
Yearly No: 39730 Dated: 11/6/2018

To whom It may concern

Mr. Muhammad Zamir
S/o. Kala Khan is suffering
from Post-TB Pulmonary fibrosis

In addition to the
medical treatment he is
advised to avoid travelling
to high altitudes / mountainous
areas.

11/6/18
Medical Superintendent
B.B.S. Teaching Hospital
Abbottabad

11/6/2018
District Physician
B.B.S. Teaching Hospital
Abbottabad

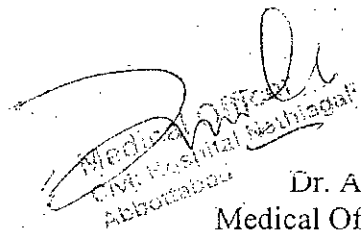
20

18

15

CERTIFICATE

It is to certify that **Mr. Muhammad Zamir** S/O Kala Khan, Pharmacy Technician is suffering from shortness of breath due to post pulmonary TB/Fibrosis. He is working under my supervision since 17 September 2018. During his tenure, he remained punctual and performed all sort of duties assigned to him.


Medical Officer
Civil Hospital Nathiagali
Abbottabad

Dr. Awais
Medical Officer
Civil Hospital, Nathiagali.

Dated: 15-11-2018



Annexure R 3

AYUB TEACHING HOSPITAL

ABBOTTABAD

FILTER OUT PATIENT DEPARTMENT

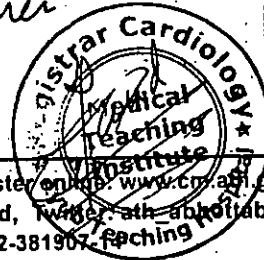


21

B: Code No:	Dil Jan	S.No:	63	Book No:	6312
Patient Name:	Female	M.R No:			K0400000751025
Patient Sex:	48 Year(s)	Patient Yearly No:			28-11-2017 09:27:36
Patient Age:		Date & Time:			CAR - OPD
Address:	10.00	O.P.D:			K0460000001977
Amount:		Computer Operator:			

Token# 049

Certified that Dil Jan w/o Mohamud Zameer is a diagnosed case of Coronary artery disease (CAD). Had Coronary Intervention (PCI) last year e Start to LAD but still she is symptomatic and had chest pain off and on she needs her husband to be posted at Near by Station to look after her



DT. DIRECTOR (ADMIN)
 Medical Teaching Institution
 ATH Abbottabad

In case of any complaint register on www.ath.gov.pk
www.ath.gov.pk, www.facebook.com/athabbottabad, www.ath.gov.pk, info@ath.gov.pk
 PABX:0992-381907, Faxing

District Health Officer
Abbottabad.

22

Annex R 3

DEPARTMENT OF NEUROLOGY
AYUB TEACHING HOSPITAL
ABBOTTABAD

TO WHOM IT MAY CONCERN

It is to certify that *Mrs. Dil Jan w/o Muhammad Zameer* is suffering from right side Hemiplegia and under my treatment. She is unable to carry out her daily activities and is aphasic (cannot speak).

She needs a regular care until she is recovered.

Assistant Prof.
DR. JAWAD HUSSAIN
Dr. Jawad Hussain
F.C.P.S. (Neurology)
Ayub Teaching Hospital Abbottabad
ATHC Abbottabad

for
DY. DIRECTOR (ADMIN)
Medical Teaching Institution
ATH Abbottabad
16-05-2019



OFFICE OF THE DISTRICT HEALTH
OFFICER ABBOTTABAD


23

OFFICE ORDER

Whereas, the posting / transfer of JCT's Pharmacy was made vide order bearing No.17072-75 dated 27.08.2018 on medical plea of Mr. Muhammad Zamir who wanted to work at a station as low altitude due to his illness as recommended by the Medical Specialist to him. But, it has been observed by the undersigned and reported by the IMU that no service delivery is offered to the community at CD Danna Tatrila & CD Hari Khaitar as well as both the official have adopted ways & means to create circumstances which have hampered services to the ailing community. The charge of Dispensaries has also not been made by the officials.

Therefore, partial modification is made in this office order bearing No.17072-75 dated 27.08.2018 as follows: -

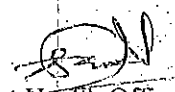
S #	Name	From	To	Remarks
1.	Mr. Shokat Khan	Under-transfer to CD Hari Khaitar	Retained at CD Danna Tatrila	
2.	Mr. Muhammad Zameer	Under-transfer to CD Danna Tatrila	RHC Nathiagali	
3.	Mr. Shokat Ali	RHC Nathiagali	CD Hari Khaitar	


District Health Officer
Abbottabad.

No. 18352--57/Estab/D/Canc. Dated Abbottabad the 17/9 /2018.

Copy forwarded to the: -

1. DMO, IMU, Abbottabad.
 2. Incharge, RHC Nathiagali.
 3. Accounts Section undersigned office.
 4. Officials concerned.
 5. Estt. File.
- For information and necessary action.


District Health Officer
Abbottabad.

The Director General Health Services
Peshawar, Khyber Pakhtunkhwa.

Annex 2
R-54

Date #27805 RSTI

26-09-2018

23

24

Subject: Departmental Appeal against cancellation of impugned order No 18352-57/Estab/D/Canc. Dated:17/09/2018, The Applicant has been transferred from Civil Dispensary Danna Tatreela to CH Nathiagali.

Sir,

1. Reference is made to your impugned transfer Order No 18352-57/Estab/D/Canc. Dated: 17/09/2018 copy of impugned order is attached.
2. As per new order no. 18352-57/Estab/D/Canc/, Dated 17-09-2018, you have pointed out about report of IMU for cause of cancellation of order that no service delivery is offered to the community at CD Danna Tatreela, and Hari Khaitar. I have already submitted my arrival report on time and an application that Mr. Shaukat purposefully did not hand over registers to me. I was present at my duty at CD Danna but services were hampered due to Mr. Shaukat and you have not taken any action against him and he is retained at Danna Tatreela as a favor for not obeying your orders.
3. It is submitted that applicant is suffering from shortness of breath due to Post-Pulmonary TB Fibrosis with shortness of breath and has been advised by district medical specialist of Benazir Bhutto Shaheed Hospital and Ayub Teaching Hospital Abbottabad, not to travel long distance as well as not to travel to high altitude or in hilly areas to avoid respiratory distress and cyanosis.
4. The applicant was transferred from civil dispensary (CD) Hari Khaitar to Civil Dispensary Danna Tatreela purely on medical grounds vide order No. 17072-75/Estab/D/O:O dated 27-08-2018. Copy of medical certificate and transfer order dated 27/08/18 are attached.
5. The applicant has now again been transferred from civil dispensary Danna Tatreela to CH, Nathiagali due to political and bureaucratic pressure of some officials of secretariat.
6. Place of present posting Nathiagali has more tough environment then CD Hari Khaitar as my medical conditions will become worse here. My transfer was on the basis of medical grounds as I can't travel to far flung and high-altitude area.
7. District medical specialist of both the hospitals clearly advised applicant disease will exacerbate by walking long distance, traveling and residing at high altitude. In impugned, order all of the advises were ignored and transferred applicant to hilly, tough and known cold area Nathiagali which will exponentially aggravate the disease of the applicant.
8. It is worth to mention here that wife of the applicant is also cardiac patient and she needs proper look after to avoid heart attack. No one other than me is available at home to take care of her. In this regard, medical record of the wife of the applicant is also attached.
9. In view of the above, it is humbly submitted that impugned transfer order no 18352-57/Estab/D/Canc. Dated: 17/09/2018 from CD Danna Tatreela to CH Nathiagali may graciously be set-aside so as to enable the applicant to serve at Danna Tatreela with peace of mind and devotion.

Yours Obediently

Muhammad Zameer

Muhammad Zameer
Junior Pharmacy Technician
Civil Dispensary Danna Tatreela
District Abbottabad
c/o Mauzoor Ahmed
Physiology Department, Ayub Medical College ATD.

To

Health Minister
KPK

29

23
25

911
26.9.18
17.9.18

Subject: Appeal against cancellation of impugned order No 18352-57/Estab/D/Canc. Dated: 17/09/2018
The Applicant has been transferred from Civil Dispensary Danna Tatreela to CH Nathiagali.

Sir,

- Reference is made to your impugned transfer Order No 18352-57/Estab/D/Canc. Dated: 17/09/2018 copy of impugned order is attached.
- As per new order no 18352-57/Estab/D/Canc/, Dated 17-09-2018, you have pointed out about report of IMU for cause of cancellation of order that no service delivery is offered to the community at CD Danna Tatreela and Hari Khaitar. I have already submitted my arrival report on time and application that Mr. Shaukat purposefully did not hand over registers to me. I was present at my duty at CD Danna but services were hampered due to Mr. Shaukat and you have not taken any action against him and he is retained at Danna Tatreela as a favor for not obeying your orders.
- It is submitted that applicant is suffering from shortness of breath due to Post-Pulmonary TB Fibrosis with shortness of breath and has been advised by district medical specialist of Benazir Bhutto Shaheed Hospital and Ayub Teaching Hospital Abbottabad, not to travel long distance as well as not to travel to high altitude or in hilly areas to avoid respiratory distress and cyanosis.
- The applicant was transferred from civil dispensary (CD) Hari Khaitar to Civil Dispensary Danna Tatreela purely on medical grounds vide order No. 17072-75/Estab/D/O:O dated 27-08-2018. Copy of medical certificate and transfer order dated 27/08/18 are attached.
- The applicant has now again been transferred from civil dispensary Danna Tatreela to CH Nathiagali due to political and bureaucratic pressure of some officials of secretariat.
- Place of present posting Nathiagali has more tough environment then CD Hari Khaitar as my medical conditions will become worse here. My transfer was on the basis of medical grounds as I can't travel to far flung and high-altitude area.
- District medical specialist of both the hospitals clearly advised applicant disease will exacerbate walking long distance, traveling and residing at high altitude. In impugned, order all of the advice were ignored and transferred applicant to hilly, tough and known cold area Nathiagali which exponentially aggravate the disease of the applicant.
- It is worth to mention here that wife of the applicant is also cardiac patient and she needs proper look after to avoid heart attack. No one other than me is available at home to take care of her. In this regard medical record of the wife of the applicant is also attached.
- In view of the above, it is humbly submitted that impugned transfer order no 18352-57/Estab/D/Canc. Dated: 17/09/2018 from CD Danna Tatreela to CH Nathiagali may graciously set-aside so as to enable the applicant to serve at Danna Tatreela with peace of mind and devotion.

SECRETARY HEALTH, KPK
Please approach
the concerned authority
to do the needful
as per law/policy/
rules and regulations.

Yours Obediently

Muhammad Zameer
Junior Pharmacy Technician
Civil Dispensary Danna Tatreela
District Abbottabad
c/o Manzoor Ahmed,
Physiology Department, Ayub Medical College ATD.
Cell No. 03465633154

Minister for Health
- Pakhunkhwa

Annexure
R-5

26

Reminder By Fax
Dated: 23-11-2018

The Director General,
Health Services KP
Peshawar.

Subject: DEPARTMENTAL APPEAL AGAINST CANCELLATION OF TRANSFER ORDER, IMPUGNED ORDER NO 18352-57/ESTAB/D/CANC. DATED: 17/09/2018 THE APPLICANT HAS BEEN TRANSFERRED FROM CIVIL DISPENSARY DANNA TATREELA TO CH NATHIAGALI.

Sir,

Reference to my appeal No 27805, Dated 26/09/2018, Submitted by Hand. My appeal is pending since 26/09/2018. It is requested to please take action on my application and may be conveyed in writing. Facts are stated as under.

1. The applicant was transferred from Civil dispensary (CD) Hari Khaitar to Civil Dispensary Danna Tatreela purely on medical grounds vide order No. 17072-75/Estab/D/O:O dated 27-08-2018. Copy of medical certificate and transfer order dated 27/08/18 are attached.

It is submitted that applicant is performing all sorts of duty punctually although I am suffering from shortness of breath due to *Post-Pulmonary TB Fibrosis*. I have been advised by district medical specialist of Benazir Bhutto Shaheed Hospital and Ayub Teaching Hospital, Abbottabad not to TRAVEL long distance to avoid respiratory distress and cyanosis.

It is also worth to mention here that wife of the applicant is also a severe cardiac patient and she needs proper look after to avoid heart attack, complications. No one else is available at home to take care of her. In this regard, medical record of the wife of the applicant is also attached.

According to a Service Tribunal decision, once the transfer was done on basis of genuine difficulties of civil servant, the transfer order can't be cancelled. Copy of court judgment is enclosed.

2. Further details are that DHO Abbottabad Office issued a cancellation of Order No 18352-57/Estab/D/Canc. Dated: 17/09/2018 (copy of impugned order is also attached). Applicant was again transferred after 20 days from civil dispensary Danna Tatreela to CH Nathiagali due to malafide intentions of politicians and bureaucratic pressure of some officials to favor a blue eyed employee.

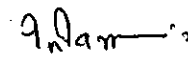
This malafide intention was exposed when on my transfer from civil dispensary (CD) Hari Khaitar to Civil Dispensary Danna Tatreela vide order No. 17072-75/Estab/D/O:O dated 27-08-2018, as mentioned above, I was not handed over with record registers by M. Shaukat, Jr. Pharmacy Technician; to hinder my official duties. It caused a lot of trouble to local people for which, I filed an application with DHO Abbottabad but no action was taken against him and instead as a favor he was again transferred back to this CD Danna Tatreela.

That present station of my posting, Nathiagali has more tough environmental then CD Hari Khaitar as I have to travel for at least an hour and it worsen my medical conditions here. Although my transfer was on the basis of medical grounds as I can't travel to far flung and high-altitude area.

I am genuinely facing a difficult situation in view of the appellant illness and domestic problems. I am not in position to leave CD Danna Tatreela, which is my local station. Dispensary is at 5 minutes walking from my home. The same type of the relief was granted by court to Medical Officer in Rawalpindi (Copy of judgment Enclosed).

In view of the above, it is humbly submitted, that impugned transfer order no 18352-57/Estab/D/Canc. Dated: 17/09/2018 from CD Danna Tatreela to CH Nathiagali is malafide and it may graciously be set-aside so as to enable the applicant may serve at Danna Tatreela with peace of mind and devotion. I shall be very thankful to you for this favor.

Yours Obediently


Muhammad Zameer
Junior Pharmacy Technician
Civil Dispensary Danna Tatreela
District Abbottabad
C/O Manzoor Ahmed
Physiology Department,
Ayub Medical College ATD.
Cell No. 0346-5633154
Fax no. 0992-380328

**DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA, PESHAWAR.**

29



425

Fax #091 - 9210230

Ph# 091 - 9210269
Communications should be addressed to the Director General Health Services Peshawar and not to any official by name.

Exchange# 091 - 9210187, 091 - 9210196.

No. 9487-88 /AE-VI,

Dated 05 /11/2018

The District Health Officer,
Abbottabad.

District Health Officer
* 92/11/18
PF

Subject: - APPEAL AGAINST CANCELLATION OF IMPUGNED ORDER NO.18352-57/ESTAB/D/CANE, DATED 17/09/2018, THE APPLICANT HAS BEEN TRANSFERRED FROM CIVIL DISPENSARY DANNA TATREELA TO CIVIL HOSPITAL, NATHIAGALI.

I am directed to refer to the subject noted above and to enclose herewith an appeal received from Section Officer-III, Govt. of Khyber Pakhtunkhwa, Health Department Peshawar in respect of Mr. Muhammad Zameer, Clinical Technician (Pharmacy) BPS-12, which is self explanatory for further necessary action as per rules.

[Signature]
DEPUTY DIRECTOR (PARAMEDICS)
DGHS KHYBER PAKHTUNKHWA,
PESHAWAR.

C.C. Section Officer-III, Government of Khyber Pakhtunkhwa Health Department Peshawar w/r reference to his letter No.SOH-III/8-60/2018(Muhammad Zameer), dated 16/10/2018.

[Signature]
[Signature]



By Fax

To,

District Health Officer,
Abbottabad.

28

Subject: **Request for Transfer from Civil Dispensary Hari Khaitar to Civil Dispensary Danna Tatreela purely on Medical Grounds**

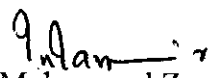
Respected Sir,

With reference to your **Letter No. 11841 Dated 19-06-2018** I have already submitted my fresh medical certificate on 11-06-2018 (copy enclosed herewith) which is recommended by district medical physicians of Benazir Bhutto Shaheed Hospital Abbottabad and Ayub Teaching Hospital Abbottabad duly attested by Medical Superintendent of both hospital. My wife is also serious ill cardiac patient and needs full time care by the husband as recommended by the cardiologist of ATH (Copy enclosed).

According to the election commission there is no ban on transfer/posting across the country. Posting transfer can be done irrespective of permission from the Election Commission of Pakistan. I have consulted the local office election commission is Abbottabad. As per suggestions, there is no legal restrain for transfer on genuine medical ground. I also solemnly declare that this transfer will not affect any official adversely and I will not take part in any political activity during or after the elections.

So, it is kindly requested to transfer me from CD Hari Khaitar to CD Danna Tatreela, purely on medical grounds and kindly send a copy of transfer order to Secretary Election Commission Islamabad for information only.

Yours Obediently,


Muhammad Zamir,
Junior Pharmacy Technician,
C/o Manzoor Ahmed Physiology,
Department, AMC Abbottabad.
Contact: 0346-5633154
Dated; 03-07-2018



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169

505

**OFFICE OF THE DISTRICT HEALTH
OFFICER ABBOTTABAD.**

No. 703 /Estab/D/DGHS.

Dated Abbottabad the 08 /01 /2019.

To,


The Director General Health Services
Khyber Pakhtunkhwa, Peshawar.

Subject:

Appeal against Cancellation of Impugned order No.18352-57 dated 17.09.2018, the applicant has been transferred from CD Danna Tatrila to CH Nathiagali.

Sir,

With reference to your good office letter No. 13342/AE-VI dated 21.12.2018 on the subject cited above, enclosed please find herewith a copy of this office order No. 42-47/Estab/D/Posting dated 01.01.2019 is attached herewith for your information and further necessary action please.


District Health Officer,
Abbottabad.

District Health Officer, Link Road, Abbottabad.

Phone # 0992-9310192

Fax # 0992-9310196

edohabd@yahoo.com

(31)

(507)

(1)

OFFICE OF THE DISTRICT HEALTH OFFICER ABBOTTABAD.


OFFICE ORDER

As per Appeal to Minister Health Khyber Pakhtunkhwa, Peshawar Diary No. 911 dated 26.09.2018, Section Officer – III Government of Khyber Pakhtunkhwa Health Department Peshawar Letter No. SOH-III/8-60/2018 (Muhammad Zameer) dated 16.10.2018 and Director General Health Services, Khyber Pakhtunkhwa, Peshawar Letter No. 9487-88/AE-VI dated 05.11.2015 & letter No.10702-3/AE-VI dated 03.12.2018, and as per recommendations of the Medical Specialist to Mr. Muhammad Zameer who is suffering from post TB Lungs / Fibrosis and shortness of breath. As per appeal of the applicant he needs to be placed at his home station to look after his health due to chronic condition. Therefore on compassionate grounds considering his request in line of opinion by Medical Specialist, the partial modification of this office order No.18352-57 dated 17.09.2018 is hereby made as following.

S#	Name	From	To	Remarks
1	Mr. Muhammad Zameer	RHC Nathiagali	CD Danna Tatrila	Vice No. 2 below
2	Mr. Shoukat Khan	CD Danna Tatrila	RHC Nathiagali	Vice No.1 above

The above officials are directed immediately taken / handed over charge on the station mentioned above to keep continuing of services to the community, if any official not complying with this office order shall face disciplinary proceedings as per E&D rules 2011.


Note: Departure / arrival reports must reach within three days positively.


District Health Officer,
Abbottabad.

No. 47 - 47

/Estab/D/O;O Dated Abbottabad, the 01 / 01 / 2019.
Copy forwarded to the:-

1. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
 2. DMO IMU Abbottabad.
 3. Accounts Section undersigned office.
 4. Officials concerned.
 5. DHIS Cell.
- For information and necessary action.


District Health Officer,
Abbottabad.

Court whereby transfer order was suspended being nullity in law, was set aside by Labour Appellate Tribunal in exercise of revisional jurisdiction. ¹

Appeal to Service Tribunal, Expeditious disposal of. Service Tribunal, in some cases, had taken the view that during the pendency of appeals, civil servants gain sufficient time to remain posted at a station and appeals become innoxious. Such practice was not consistent with the principles of law and justice. Appeals relating to posting and transfer should be decided on merits and not merely on the consideration of period consumed in disposal of the appeals. Supreme Court observed that for the ends of justice, except for extraordinary compelling reasons, appeals relating to the transfer of civil servants should be expeditiously disposed of by the Service Tribunal. ²

Genuine difficulties of civil servant. Appellant opposing his transfer on ground that he was suffering from depression and was under regular treatment (Military Hospital, Rawalpindi). Appellant was genuinely facing a difficult situation. In view of appellant's illness and domestic problems he was not in a position to leave present station of duty i.e. Rawalpindi at least for a period of two or three years. Request of appellant to allow him to revert back to his old cadre of Medical Officer in same grade was granted in circumstances. ³

Transfers of low paid employees condemned. Authorities had not acted fairly and reasonably in abiding by their policy decision as the transfer order could have been held in abeyance or cancelled rather than insisting its compliance to the disadvantage and inconvenience of low-paid employee. Supreme Court observed that the Authorities, instead of causing hardship and inconvenience to an employee with long service spreading over 25 years, should have adopted just, fair and reasonable attitude in dealing with his employees rather than to adopt attitude of rigidity having harsh bureaucratic tendency. ⁴ Tribunal terming it as height of manifestation of irresponsibility and condemning it. Tribunal accepting appeal and setting aside transfer orders. ⁵

Political interference in posting and transfer.

Approaching members of the Assemblies etc., Statutory bar. No Government servant shall, directly or indirectly, approach any Member of the National Assembly or Provincial Assembly or any other non-official person to intervene on his behalf in any matter. ⁷

¹ 1990 PLC 371 (Labour Appellate Tribunal, Punjab).

² 2012 PLC (C.S.) 538 (S.C. AJ&K).

³ 1983 PLC (C.S.) 718. See also 1998 PLC (C.S.) 1004 (F.S.T.).

⁴ 2003 PLC (C.S.) 1027 (S.C.).

⁵ 1996 PLC (C.S.) 129 = NLR 1995 TD (Service) 74.

⁷ For more information, see Chapter "Constitutional Jurisdiction" caption "Appointments and political influence" caption "Transfer and Posting" and Chapter "Appointments to service of Pakistan" caption "Political influence, fraud, nepotism and favouritism in appointments".

⁸ Rule 16 of The Government Servants (Conduct) Rules, 1964.



Deprecated by Supreme Court. Members of Legislative Assemblies have no business to recommend the transfer of the Government Officials.

Transfer of officers is required to be affected on the basis of administrative guidelines. The power of transferring an officer cannot be wielded arbitrarily *à la carte* or an exercise against efficient and independent officer or at the instance of politicians whose work is not done by the concerned authority. In the administration the concerned officers must have freedom from fear of being harassed by repeated transfers ordered at the instance of some one who has nothing with the business of administration.

Officer on special duty (O.S.D.)

Nature. O.S.D. stands for 'Officer on Special Duty', a designation which came to be reserved for Officers who were on the wrong side of the Ministry. There was no special duty to perform and the object was to place them in an unimportant position.

O.S.D. stands for 'Officer on Special Duty', a designation which came to be reserved for Officers who were on the wrong side of the Ministry. There was no special duty to perform and the object was to place them in an unimportant position. Late Mr. Justice M.R. Kayani on 17th March, 1958, addressed the C.S.P. Association Dinner, later published in his book titled "Not at the Truth" at page 46 with caption "The Officer on Special Duty". Following is an extract from this speech:

"This year's special text was an institution called the O.S.D. or Special Duty Officer, which disinfects the mind, a superlative class of C.S.P. where you get pay without doing any work. But the modern O.S.D. is not so ingenious, for in three months he sits idle, not knowing what to do with his three thousand and five hundred. Over burdened with three thousand by way of O.S.D. allowance. This three thousand is the straw that breaks the camel's back, because in three months he becomes a veritable camel groaning and grumbling. Sir, I went to visit an O.S.D. on a Friday afternoon on January and found him sleeping in a cold bedroom. He had forgotten the use of the sun, in whose glorious warmth the happier people does away their Friday afternoons. My heart went out to him. Tears came into my eyes. I did not wake him, but I did the next best thing: I prayed for him. My prayer is the sincerest desire of the soul, and soon thereafter he got promoted to Stenographer. This is a great achievement; that an O.S.D. should be able to become a Stenographer after two and a half months, even though he has become a camel in the meantime, and I am convinced that the West Pakistan Government could

accomplished it v
go pray
Legal effect s
Post of O.S.D.
function as a civil ser
civil servant not
post usually has
number of reasons
Where Go
misconduct such
and his case be
indefinitely
Extraneous to
tantamount to pen
the Civil Se
Promotion and Tran
competent authority
the power to order h
term O.S.D
servants Act, 1974
Promotion and Tr
Government that G
than 30 days as O.S
interests of pub
service benefits
Posting has
considerably long
ensure the eliminat
single from each
servant cannot be
performance thou
tracts from an ad
Association Dinner
5:52 With caption
/CS/533 (Quetta
703 PLJ (C.S.) 95
PLJ (C.S.) 22
D/2011/SC/963
PLJ (C.S.) 53
703 PLJ (C.S.) 95

1. PLJ 2004 SC (AJ&K) 119 = 2004 PLJ (C.S.) 1036 [S.C. AJ&K]
2. 2001 (8) SCALE 35. See also 1996 PLJ (C.S.) 42.

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To,

Dated - 2-11-2017

The District Health Officer,
Abbottabad.

Subject:- REQUEST FOR TRANSFER FROM CIVIL DISPENSERY HARI KATHER
TO CIVIL DISPENSERY DINNA TATREELA DISTRICT ABBOTTABAD
PURELY ON MEDICAL GROUND.

Sir,

1. Respectfully it is submitted that applicant is suffering from post T.B. pulmonary fibrosis causing shortness of breath.
2. I have been advised by Medical Specialist of Benazir Bhutto Shaheed Hospital and Medical Specialist of Ayub Teaching Hospital Abbottabad not to travel long distance, walking, and travelling, on high altitude mountainous hilly area to avoid respiratory distress and cyanosis.
3. Presently I am working for the last two years in Civil Dispensary Hari Kather. Civil Dispensary Hari Kather which is 30 miles away from my residence.
4. It is also to bring to your kind notice that there is no public transport available to travel from Tatreela to Hari kather. To pick up the vehicle I have to travel by foot at least two hours up to Kutlian. I am unable to walk long distance due to my health conditions and long journey which takes two hours from one side is also injurious to my health
5. It is not out of place to mentioned here that wife of the applicant is also a cardiac patient, she needs proper look after as well. No one else is available at home to take care of her. In this regard, medical record of wife of the applicant is also attached herewith.
6. I have already submitted number of applications to district health Officer Abbottabad and Director General Health services KPK. But no action has been taken so far on my genuine request.
7. In view of the above, it is humbly requested that considering the applicant owns and wife health conditions, I may please be transferred from Civil Dispensary Hari Kather to Civil Dispensary Dinna Tatreela purely on medical grounds. The applicant could serve at near his home station with peace of mind and devotion.

Yours Obediently,

Muhammad Zamir
MUHAMMAD ZAMIR
JUNIOR PHARMACY TECHNICIAN
CIVIL DISPENSERY HARI KATHER
C/O MANZOOR AHMED
MEDICAL TECHNOLOGIST
PHYSIOLOGY DEPTT:
AYUB MEDICAL COLLEGE
ABBOTTABAD.
CELL. 03465633154.



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OFFICE OF THE DISTRICT HEALTH
OFFICER ABBOTTABAD.

No. 91060 /Estab/D/Misc.


Dated Abbottabad the 14/11/2017.

Mr. Muhammad Zameer
JCT Pharmacy
Civil Dispensary Hari Khaitar Abbottabad.

Subject: Request for Transfer from Civil Dispensary Hari Khaitar to
Civil Dispensary Danna Tatrila / Dhakran Tatrila Nagri Bala
District Abbottabad.

Memo:

With reference to your application dated 02.11.2017 with regard to the subject cited above, you are directed to report to the Medical Specialist, BBS Teaching Hospital Abbottabad for medical opinion duly countersigned by the Medical Superintendent BBS Teaching Hospital Abbottabad.


District Health Officer,
Abbottabad.

No. /Estab/D/Misc

Copy forwarded to the Medical Superintendent BBS Teaching Hospital Abbottabad for information please.

District Health Officer,
Abbottabad.

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OFFICE OF THE DISTRICT HEALTH OFFICER ABBOTTABAD.


OFFICE ORDER

Whereas, Mr. Muhammad Zameer S/o Kala Khan, JCT Pharmacy attached to Civil Dispensary Hari Khaitar is insisting for his transfer from Civil Dispensary Hari Khaitar to Civil Dispensary Danna Tatrila on medical grounds. He has been found to be suffering from Pulmonary Fibrosis and has been advised to avoid traveling to high altitude by District Specialist duly endorsed by the Medical Superintendent BBS Teaching Hospital Abbottabad dated 17.11.2017. Therefore, the undersigned accords the approval of transfer of the applicant from CD Hari Khaitar to CD Danna Tatrila on medical grounds.

Consequent upon the above, the following posting / transfer of JCT Pharmacy is hereby made with immediate effect.

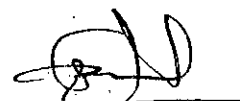
S#	Name	From	To	Remarks
1	Mr. Muhammad Zameer	CD Hari Khaitar	CD Danna Tatrila	On medical grounds
2	Mr. Shokat Khan	CD Danna Tatrila	CD Hari Khaitar	Vice No. 1 above

Note: Compliance report must reach to this office within stipulated period.


District Health Officer
Abbottabad.

17/11/2017.

No. 21560-63
Estab/D/Posting Trans: Dated Abbottabad the
Copy forwarded to the: -
1. Accounts Section undersigned office.
2. Officials concerned.
3. Estt; File.
For information and necessary action.


District Health Officer
Abbottabad.

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OFFICE OF THE DISTRICT HEALTH OFFICER ABBOTTABAD.



OFFICE ORDER

Partial modification is hereby made in this office posting / transfer order bearing No.21560-63 dated 17.11.2017 is hereby made on the following grounds.

1. The situation at Danna Tatrila is worsening due to public demand & service delivery is being effected to the patients upon which no compromise be made.

2. Whereas Mr. Muhammad Zameer has already spent 2 decades at this station but where now his health status does not permit him to stay and travel to high altitude as recommended by the District Specialist Abbottabad.

Therefore, keeping in the line, opinion of District Specialist BBS Teaching Hospital Abbottabad the following posting are made with immediate effect in the best interest of public.

S #	Name	From	To	Remarks
1	Mr. Muhammad Zameer	CD Hari Khaitar	CH Sherwan	Against vacant post He is directed to join duties at Sherwan CH immediately, as Sherwan is warm/ hot station favoring his health status.
2	Mr. Shokat Khan	Under-transfer from CD Danna Tatrila	CD Hari Khaitar	Retained at CD Danna Tatrila

Furthermore it is recommended that Mr. Muhammad Zameer be subjected to medical board.

Note: Compliance report must reach to this office within stipulated period.

Sd/-
District Health Officer
Abbottabad.

No. 01 - 04 /Estab/D/Posting Trans; Dated Abbottabad the
Copy forwarded to the:

01/01/2018

1. Incharge, CH Sherwan.
 2. Accounts Section undersigned office.
 3. Officials concerned.
 4. Estt; File.
- For information and necessary action.

District Health Officer
Abbottabad.