

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 5795/2021

Date of Institution ... 07.06.2021

Date of Decision ... 27.08.2021

Dr. Haroon Khan, Director, Integrated Health Program, Khyber Pakhtunkhwa.
... (Appellant)

VERSUS

The Government of Khyber Pakhtunkhwa through Chief Secretary Government of
Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and four others.
... (Respondents)

Present:

SYED HAZIQ ALI SHAH,
Advocate

--- For Appellant.

MUHAMMAD RASHID,
Deputy District Attorney

--- For respondents.

MIAN MUHAMMAD
SALAH-UD-DIN

--- MEMBER(Executive)
--- MEMBER(Judicial)

JUDGEMENT.

MIAN MUHAMMAD, MEMBER(E):- Writ petition No 1678-P/2021
instituted before the Peshawar High Court, Peshawar against the impugned order
dated 26.01.2021 and converted into service appeal by the Peshawar High Court,
Peshawar is for adjudication before us.

02. Brief facts of the case leading to the present service appeal are that the
appellant being a Doctor (BS-20) from management cadre was posted as Director
Integrated Health Program Khyber Pakhtunkhwa vide notification dated 17.01.2020.
Subsequently, vide notification dated 26.01.2021 he was transferred from the said

post and was directed to report to Director General Health Services, while additional charge of the project post was assigned to private respondent No.5. The said notification has been impugned and challenged in the instant service appeal.

03. We have heard the arguments of learned counsel for the parties and perused the available record minutely and in details.

04. Learned counsel for the appellant vehemently contended that the impugned notification dated 26.01.2021 has been issued by the authority not competent in such cases. He referred to and relied on serial-3 of Schedule-III of the Khyber Pakhtunkhwa Government Rules of Business 1985. He contended that the Chief Minister is the competent authority to have transferred the appellant whereas in the instant case the impugned notification has been issued by the Secretary Health, rendering it as illegal, arbitrary, unlawful and without jurisdiction. It was further argued that the appellant was not allowed to complete his normal tenure of two years and was arbitrarily transferred after serving as Director Integrated Health Program for only one year. He assailed the authorization of additional charge of the said project post to private respondent No.5, who was already holding an additional charge (look after) of Director General Health since 15.06.2020. He next contended that if the said project was closed on 30.06.2020 under the decision of steering committee dated 24.02.2020 and new project approved by PDWP on 22.12.2020, then how was it possible to assign additional charge of the same to private respondent No.5, vide impugned notification dated 26.01.2021? He agitated that the impugned notification dated 26.01.2021 has been issued by an incompetent authority and is therefore *corum-non-judice*. The fundamental rights of appellant

guaranteed by the Constitution under Article-4,9,18 and 25 have been violated by the respondents. He, therefore, requested that the impugned order being illegal, unlawful, tainted with malafide and issued without any jurisdiction is liable to be set aside.

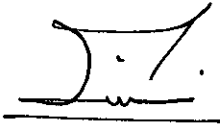
05. The learned Deputy District Attorney started his arguments with the point that the impugned order has been issued by respondent No.2 after having obtained concurrence of the competent authority. It is, therefore, valid, legal and no malafide is reflected on part of the respondent-department. He further added that the project namely Integrated Health Program Khyber Pakhtunkhwa was closed by the Competent forum (PDWP-Provincial Development Working Party) in its meeting dated 22.12.2020 and as such it was deleted from ADP 2021-22. In the light of decision of PDWP, new project namely Integration of Health Services Delivery with Special Focus on MNCH, LHW and Nutrition Program was approved by the competent forum. The new project was to be assigned for execution to another officer to be appointed by the provincial project Selection Committee, therefore, additional charge was assigned for the time being to private respondent no.5 in the said impugned notification. It was further contended that the appellant being on deputation to the project post was directed to report to DG Health and the competent authority therefore, terminated his deputation. In support of his arguments he relied on 2018 PLC (CS) Peshawar 1248 and 2021 SCMR 867. On the question of tenure, he referred to Section-10 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 under which the Competent Authority can transfer a civil servant at any time to any other post provided that his terms and conditions of service are not affected. In support of his arguments, he relied on 2020 PLC (CS) 1207 Supreme Court and 2004 PLC (CS) 705 Supreme Court.

06. Perusal of the record reveals that the project namely "Integrated health Program" was to be closed on 30.06.2020 under the decision of Steering Committee dated 24.02.2020. However, in the said meeting its life period was extended till 31.10.2020 but surprisingly the appellant was allowed to work as Director of the project till the impugned transfer notification was issued on 26.01.2021. So much so that additional charge of the project post was assigned to respondent No.5 which is beyond comprehension. It is astonishing that respondent No. 5 still holds additional charge as Director of the said project which does not reflect in ADP 2021-2022 as per written reply/comments of the respondent department as well as arguments of their learned counsel. As it is a new project to be included in ADP 2021-22 under the decision of PDWP dated 22.12.2020, it was required to be executed through project Director to have been selected by the Provincial Project Selection Committee as required under project Policy 2008.

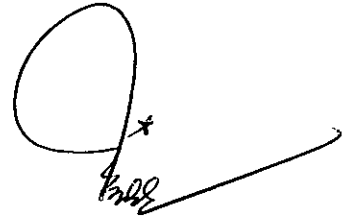
07. No doubt, competent Authority can transfer a civil servant from a particular post before completion of his normal tenure under administrative exigency and in public interest. However, in the instant case the learned counsel for respondents was confronted with the authenticity of impugned notification dated 26.01.2021 while referring to serial No.3 under schedule-III of the Rules of Business (1985). The court provided ample opportunity and adequate time to the learned counsel for respondents and departmental representative to produce approved summary by the Competent Authority (Chief Minister) but they categorically stated at Bar that no such summary could be traced in the respondent-department.

08. As a sequel to the above, the very super structure of the case built up by the respondents crumbles down and does not stand the touchstone of the principle of *curam-non-judice*. Since the impugned notification dated 26.01.2021 is not issued with the tacit concurrence of Chief Minister being competent Authority under serial-3 of the Schedule-III of the Khyber Pakhtunkhwa Government Rules of Business (1985), hence it has no legal validity and is therefore, without any legal effect in the eyes of law. We are therefore, left with no option but to strike down the impugned notification dated 26.01.2021. The instant service appeal is therefore allowed as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
27.08.2021



(SALAH-DU-DIN)
MEMBER(J)

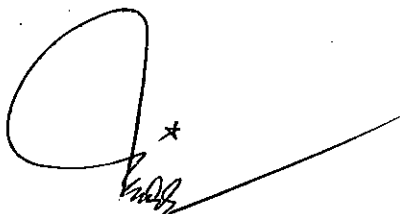


(MIAN MUHAMMAD)
MEMBER(E)

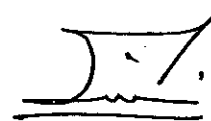
24.08.2021

Appellant alongwith his counsel Syed Hazk Ali Shah, Advocate present. Mr. Muhammad Rasheed, DDA alongwith Mr. Ziaullah, Deputy Secretary (Litigation) and Mr. Jafar Ali, Assistant for the respondents present.

Arguments heard. To come up for order before the D.B on 27.08.2021.

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(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)


A handwritten signature in black ink, consisting of a stylized 'S' followed by a horizontal line and a diagonal stroke.


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

08.07.2021

Appellant alongwith his counsel Syed Hazik Ali Shah, Advocate, present. Mr. Jaffar Ali, Assistant alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Learned counsel for the appellant sought time for submission of memorandum of appeal. Adjourned. The appellant shall submit proper memorandum of appeal within three days and to come up for reply as well as arguments before the D.B on 27.07.2021. In the meanwhile, the impugned transfer order dated 26.01.2021 shall remain suspended till the date fixed.



(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

27.07.2021

Appellant alongwith his counsel Syed Hazik Ali Shah, Advocate, present. Mr. Ziaullah, Deputy Secretary (Litigation) and Mr. Jaffar Ali, Assistant alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Proper memo of appeal has already been submitted by the appellant. Learned Additional Advocate General submitted written reply on behalf of the respondents, copy of which handed over to learned counsel for the appellant. Learned counsel for the appellant sought time for submission of rejoinder. Adjourned. To come up for rejoinder as well as arguments before the D.B on 24.08.2021. In the meanwhile, the impugned transfer order dated 26.01.2021 shall remain suspended till the date fixed. Long date given due to summer vacations.


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

Service Appeal No. 5795/2021

11.06.2021 Appellant present in person. Preliminary arguments heard.

The appellant had approached the Hon'ble Peshawar High Court Peshawar through Writ Petition No. 1678-P/2021 and when the said Writ Petition came up for hearing before the said court, it was diverted to this Tribunal vide order dated 04.06.2021. In compliance with the said order, Deputy Registrar (Judicial) of the Peshawar High Court Peshawar sent the file of the Writ Petition here vide his office letter No. 37103/1563/2021/WP-MN, dated 05.06.2021; and accordingly, the same was registered as Service Appeal No. 5795/2021. The appellant is directed to file the proper memorandum of appeal before the next date. However, the Writ Petition already treated as service appeal 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 for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments on 08.07.2021 before the D.B.

Appellant Deposited
Security & Process Fee

11/6/21

An application has been submitted by the appellant today, seeking interim relief to the extent of suspension of



the impugned transfer order dated 26.01.2021 till final disposal of the main appeal. Notice of the application be given to the respondents. It is there in the memorandum of appeal that charge of the post from which the appellant was transferred, has been assigned to respondent No. 5 in addition to the charge of his own post. For the time-being, it is not clear that the post from which the appellant was transferred, is being occupied by the Respondent No. 5 under dual charge or it stands filled by regular transfer of some other officer. Therefore, the impugned transfer order dated 26.01.2021 is suspended till next date subject to notice to the respondents. If the respondents have any objection to suspension of the impugned order, they may file the same alongwith written reply/comments as already directed herein above.


Chairman

Form-A
FORM OF ORDER SHEET

Court of _____

Case No. 5795 /2021

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	07/06/2021	<p>The present appellant initially went in Writ Petition before the Hon'ble Peshawar High Court and the Hon'ble High Court vide its order dated 04.06.2021 treated the Writ Petition into an appeal and sent the same to this Tribunal for decision in accordance with law. The same may be entered in the Institution Register and put up to the worthy Chairman for further order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	08/06/2021	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on 11/06/2021.</p> <p style="text-align: right;"> CHAIRMAN</p>

Service Appeal No. 5795/2021

Dr. Haroon Khan

Versus


Government of Khyber Pakhtunkhwa through Chief Secretary and others

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4.	Copy of Notification dated 17.01.2020	B	9
5.	Copy of Notification dated 26.01.2021	C	10
6.	Copy of Order dated 15.06.2020	D	11
7.	Copy of Rules	E	12-17
8.	Copy of Representation	F	18-20
9.	Copy of excerpts of KP Rules of Business, 1985	G	21-22
10.	Notice and Court Fee		23
11.	Wakalat Nama		


APPLICANT

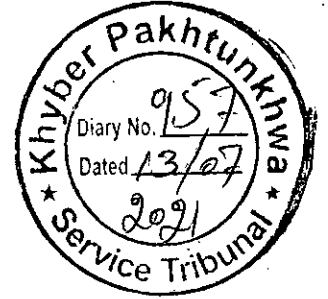
Through


Syed Haziq Ali Shah
Advocate Supreme Courts of Pakistan

BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

①

Service Appeal No. 5795/2021



Dr. Haroon Khan,
Project Director, Integrated Health Project,
Khyber Pakhtunkhwa.

...APPLICANT

Versus

1. **The Government of Khyber Pakhtunkhwa,**
Through Chief Secretary Government of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.
2. **Secretary to Government of Khyber Pakhtunkhwa,**
Health Department,
Civil Secretariat, Peshawar.
3. **Director General,**
Health Services, Khyber Pakhtunkhwa,
Peshawar.
4. **Section Officer (E-V),**
Health Department,
Peshawar.
5. **Dr. Niaz Muhammad.**
Additional Director General (Admin)/ Director General,
Health Services, Khyber Pakhtunkhwa,
Peshawar.

.....Respondents

(2)

**APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974
AGAINST THE ORDER DATED 26.01.2021 WHEREBY
THE APPELLANT HAS BEEN PREMATURELY
TRANSFERRED FROM THE POST OF DIRECTOR
INTEGRATED HEALTH PROGRAM AND TO REPORT
TO THE DIRECTORATE GENERAL HEALTH
SERVICES KHYBER PAKHTUNKHWA AGAINST
WHICH HIS DEPARTMENTAL APPEAL HAS NOT
REPLIED.**

RESPECTFULLY SHEWETH:

1. That the Applicant besides being a law abiding citizen is a civil servant posted as Project Director in the Integrated Health Project.
2. That the Applicant was initially appointed as Medical Officer in the Department of Health, Khyber Pakhtunkhwa. Later on in the year 2008, the Petitioner was inducted in the Health Management cadre and vide Notification dated 08.05.2019 the Petitioner was promoted to BPS-20.
(Copy of Notification dated 08.05.2019 is annexed herewith marked as "A")
3. That the Applicant was transferred to the post of Project Director (BPS-20), in the Integrated Health Program, Khyber Pakhtunkhwa vide Notification dated 17.01.2020.
(Copy of Notification dated 17.01.2020 is annexed herewith marked as "B")
4. That not year has passed when on 26.01.2021 the Petitioner is prematurely transferred from the aforementioned post and has been directed to report to the Directorate General Health Services, Khyber Pakhtunkhwa, Peshawar with immediate effect. Needless to mention that the Respondent No.5 who was already holding the additional charge of Director General, Health Services has yet again been assigned another additional charge of Project Director, Integrated Health Program.

(Copy of Notifications dated 26.01.2021 and 15.06.2019 are annexed herewith marked as "C" and "D" respectively)

3

5. That it is pertinent to mention that as per the posting/ transfer policy of the Government of Khyber Pakhtunkhwa, the period of tenure currently in field is three years, while the Applicant has been transferred prematurely after serving for one year that too by Respondent No.2 who was/ is not competent to do so.

6. That it is also relevant to mention that as per the Khyber Pakhtunkhwa Health (Management) Service Rules, 2008, all program managers/ provincial coordinators are to be filled from amongst the officers of Management Cadre.

(Copy of Rules is annexed herewith marked as "E")

7. That the Applicant filed representation before the competent authority, however the same has not been replied to.

(Copy of Representation is annexed herewith marked as "F")

8. That the Applicant was approached the Hon'ble Peshawar High Court for the redressal of his grievance as this Hon'ble Tribunal was not functional. The Hon'ble High Court was pleased to treat the Writ Petition as appeal and direct the Appellant to appear before this Hon'ble Tribunal on 07.06.2021.

9. That the Applicant aggrieved of the conduct of the Respondents and having no other alternate or efficacious remedy, seeks the indulgence of this Hon'ble Court on the following amongst other grounds:

G R O U N D S

A. **Because** the transfer/posting order is based on mala fide and is inherently illegal, arbitrary, unlawful and without jurisdiction, thus the same is liable to be set-aside.

B. **Because** the Applicant has been treated illegally, unlawfully and against the spirit of the law:

- C. **Because** the fundamental Rights of the Applicant protected under Article 4, 9, 18 and 25 of the Constitution of Islamic Republic of Pakistan 1973 are being violated. (4)
- D. **Because** Respondents have neither the authority to ignore nor override the prescribed rules in vogue, thus the actions of respondents are/is illegal, unlawful, tainted with mala fide and issued without any jurisdiction albeit lawful authority.
- E. **Because** the actions and inactions of the Respondents proclaim their own mala fide.
- F. **Because** the Applicant has got the fundamental right of being treated in accordance with law but the treatment meted out to the Petitioner is on consideration other than legal and he has been deprived of his rights duly guaranteed to him by the constitution of Pakistan.
- G. **Because** the Respondents cannot be allowed under the law to pass any illegal order.
- H. **Because** the impugned notification has been issued without jurisdiction and lawful authority which obviously does not call for the mechanism provided under Article 212 of the Constitution.
- I. **Because** the respondents have transgressed their power and authority by passing the impugned notification.
- J. The Applicant crave for leave to add further grounds at the time of his oral arguments before this Hon'ble Tribunal highlighting further contraventions of the provisions of the Constitution & Laws which adversely affected the Petitioner.

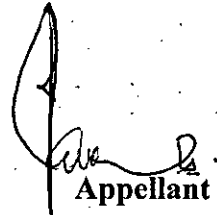
P R A Y E R:

In view of the above, it is humbly prayed that this Hon'ble Tribunal may graciously set-aside the impugned Notification dated 26.01.2021 as the same is illegal, unlawful,

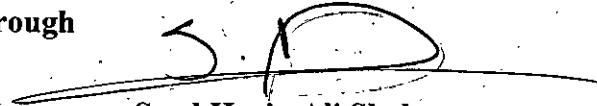
arbitrary, without any lawful authority, void ab initio and ineffective upon the rights of the Applicant .

5

Any other relief deemed appropriate in the circumstance of the case may also be granted.


Appellant

Through


Syed Haziq Ali Shah
Advocate Supreme of Pakistan

BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

6

Service Appeal No. 5795/2021

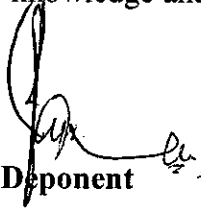
Dr. Haroon Khan

Versus

Government of KP and others


AFFIDAVIT

I, Dr. Haroon Khan S/O Shamsheer Khan R/O House No. 81/E, Old Bara Road, University Town, Peshawar, do hereby solemnly affirm and declare on oath that the contents of accompanied Service Appeal are true and correct to the best of my knowledge and belief and nothing has been intentionally concealed from this Hon'ble Court.


Deponent

CNIC No.

Identified By:


~~Syed Haziq Ali Shah~~
Advocate Supreme Court of Pakistan

BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

(7)

Service Appeal No. 5795/2021

Dr. Haroon Khan

Versus

Government of KP and others

ADDRESSES OF THE PARTIES

Appellant

Dr. Haroon Khan,
Project Director, Integrated Health Project,
Khyber Pakhtunkhwa, Peshawar.

Respondents

1. **The Government of Khyber Pakhtunkhwa,**
Through Chief Secretary Government of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.
2. **Secretary to Government of Khyber Pakhtunkhwa,**
Health Department,
Civil Secretariat, Peshawar.
3. **Director General,**
Health Services, Khyber Pakhtunkhwa,
Peshawar.
4. **Section Officer (E-V),**
Health Department,
Peshawar.
5. **Dr. Niaz Muhammad.**
Additional Director General (Admin)/ Director General,
Health Services, Khyber Pakhtunkhwa,
Peshawar.

Appellant

Through

5.1
Syed Haziq Ali Shah

Advocate Supreme Court of Pakistan



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

A/S

Dated Peshawar, the 8th May, 2019

NOTIFICATION

NO.SOH(E-V)4-20/2019 The Government of Khyber Pakhtunkhwa on the recommendations of the Provincial Selection Board is pleased to promote the following doctors of the Management Cadre from BS-19 to BS-20. on regular basis with immediate effect:-

S.#	NAME OF DOCTOR	S.#	NAME OF DOCTOR
1	Dr.Ghulam Subhani S/O Ghulam Nabi Khan	6	Dr.Rehmanullah S/O Rasool Khan
2	Dr.Abdul Wahid S/O Shamsul Qamar	7	Dr.Ghazali Khan S/O Raza Khan
3	Dr.Fahim Hussain S/O Inayatullah	8	Dr.Janbaz Afridi S/O Gulab Sher
4	Dr.Haroon Khan S/O Shamsheer Khan	9	Dr.Saeed Gul S/O Ziarat Gul
5	Dr.Obaidur Rehman S/O Khalilur Rehman	10	Dr Saifullah Khalid S/O Ghulam Rasool

2. In term of Section 6 (3) of Civil Servants Act, 1973 and Rule 15 (1) of Appointment, Promotion and Transfer Rules, 1989, they will be on probation for a period of one year.
3. The postings/transfers of the above named doctors shall be notified later on.

SECRETARY HEALTH
Govt. of Khyber Pakhtunkhwa

Endst. No. & Date Even

Copy to the:-

1. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
2. Principal Secretary to Governor, Khyber Pakhtunkhwa.
3. Secretary to Govt of Khyber Pakhtunkhwa, Establishment Department.
4. Accountant General, Khyber Pakhtunkhwa
5. Director General Health Services, Khyber Pakhtunkhwa.
6. Director Health Services Marged Districts.
7. PS to Minister Health, Khyber Pakhtunkhwa, Peshawar
8. PS Secretary Health, Khyber Pakhtunkhwa, Peshawar
9. Doctors concerned.

ATTESTED

(FAZAL ALI)
SECTION OFFICER (E-V)



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

13/9

Dated Peshawar the 17th Jan, 2020

NOTIFICATION

NO.SOH(HD)E-V/PT(MANGT/GEN)/2020:- The competent authority (Chief Minister, Khyber Pakhtunkhwa) has been pleased to order transfer of Dr Haroon (BS-20 Management Cadre), Additional Director General Health Services (BS-20) and to post him Director (BS-20) Integrated Health Program, Khyber Pakhtunkhwa with immediate effect & in the best of public interest.

SD/-

SECRETARY TO GOVT: OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Endst: of Even No. & Date of Even:-

NO.SOH(HD)E-V/PT(MANGT/GEN)/2020

Dated Peshawar the 17th Jan, 2020

Copy of the above is forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director General Health Services, Khyber Pakhtunkhwa, Warsak Road, Peshawar.
3. All District Health Officers, in Khyber Pakhtunkhwa, Peshawar.
4. Director Health Services, Merged Areas, Warsak Road Peshawar.
5. Director, Independent Monitoring Unit, Health Department.
6. Chief Health Sector Reforms Unit, Health Department.
7. All Medical Superintendent of DHQ Hospitals in Khyber Pakhtunkhwa.
8. Deputy Director (IT) for up-loading on website.
9. PS to Minister for Health, Khyber Pakhtunkhwa, Peshawar.
10. PS to Secretary Health Department.
11. PS to Spl: Secretary health Department.
12. PAs to Additional Secretaries (Estt / Dev), Health Department.
13. PA to Chief Planning Officer, Health Department.
14. Dr. concerned for information & compliance. Charge assumption / relinquishment may be sent to this department for record.
15. Office Order File.

~~ATTESTED~~

(MUHAMMAD IRFAN USMAN)
SECTION OFFICER (EV)
HEALTH DEPARTMENT

17/01/20



E/1
C/10

**Government of Khyber Pakhtunkhwa,
Health Department**

Dated Peshawar the 26th January, 2021

NOTIFICATION

NO. SOH(HD)/E-V/4-4/2020 The Competent Authority is pleased to transfer Dr. Haroon Khan (BS-20), Director, Integrated Health Program and direct him to report to Directorate General Health Services, Khyber Pakhtunkhwa Peshawar, with immediate effect, in the public interest.


Consequent upon the above, Dr. Niaz Muhammad, Additional Director General (Admin)/ Director General Health Services Khyber Pakhtunkhwa is hereby assigned additional charge of the post of Director, Integrated Health Program in addition to his present duties, till further orders.

**Secretary Health
Government of Khyber Pakhtunkhwa**

Endst. Of even No. & Date.

Copy to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. Director, Integrated Health Program.
4. Deputy Director (IT), Health Department, with the direction to upload the notification on official website.
5. PS to Minister for Health Department, Khyber Pakhtunkhwa.
6. PS to Secretary Health Department, Khyber Pakhtunkhwa.
7. Doctors concerned.


(Latif Ur Rehman)
Section Officer (E-V)
26.1.21

ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

D/11

NOTE FOR MINISTER HEALTH, KHYBER PAKHTUNKHWA

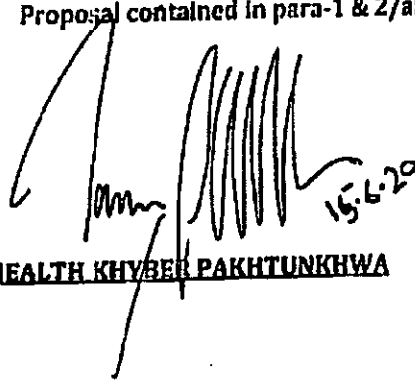
Subject:- POSTING / TRANSFER

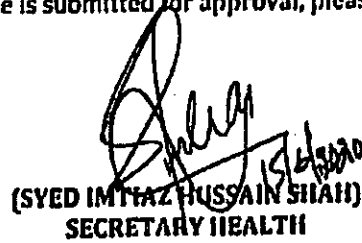
1. In order to maximum utilize the services of health professionals considering their expertise, exigencies and tenure as provided in statutory provision of posting / transfer policy, Health Department submit the following posting / transfer proposal in the best of public interest:-

Sr.#	Name of Dr.	From	To
1.	Dr. Tahir Nadeem (Management Cadre BS-20)	Director General Health Services, Khyber Pakhtunkhwa, Peshawar.	Report to Directorate General Health Services, Khyber Pakhtunkhwa, Peshawar.

2. Consequent upon the above and till posting of full fledged Director General, Health Services, Khyber Pakhtunkhwa Dr. Niaz Muhammad (DS-20), Additional Director General (Admin) already holding look after charge will continue as Director General Health Services, Khyber Pakhtunkhwa until further orders.

3. Proposal contained in para-1 & 2/ante is submitted for approval, please.


15.6.20


(SYED IMTIHAZ HUSSAIN SHAH)
SECRETARY HEALTH

MINISTER HEALTH KHYBER PAKHTUNKHWA

ATTESTED

E/

GOVERNMENT OF THE NORTH-WEST FRONTIER PROVINCE NWFP
HEALTH DEPARTMENT

E/12

NOTIFICATION

Peshawar, dated the 11th DECEMBER, 2008

No. SOH(EV)4 - 20 / 08 : In exercise of the powers conferred by section 26 of the North West Frontier Province Civil Servants Act, 1973 (N.-W.F.P. Act XVIII of 1973), the Governor of the North-West Frontier Province is pleased to make the following rules, namely:

THE NORTH-WEST FRONTIER PROVINCE
HEALTH (MANAGEMENT) SERVICE RULES, 2008.

PART - I
GENERAL

1. **Short title and commencement.** --- (1) These rules may be called the North-West Frontier Province Health (Management) Service Rules, 2008.

(2) They shall come into force at once.

2. **Definitions.**--- In these rules, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say -

- (a) "appointing authority" in relation to a post, means the respective authority specified in para 4 of the North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989;
- (b) "Commission" means the North-West Frontier Province Public Service Commission;
- (c) "Cadre" means Health Management Cadre;
- (d) "Government" means the Government of the North-West Frontier Province;
- (e) "Governor" means the Governor of the North-West Frontier Province;
- (f) "Initial recruitment" means appointment made otherwise than by promotion or transfer;
- (g) "Member of Service" means officer belonging to health management cadre as reflected in schedule I, II & III;

ATTESTED

(h) "PHSA" means Provincial Health Services Academy;

- (i) "Post" means a post specified in the Schedule-I of the rule and such other posts as may, from time to time, be determined by the Government;
- (j) "Schedule" means the schedule appended to these rules; and
- (k) "Service" means the North-West Frontier Province Health (Management) Service.

13

PART-II RECRUITMENTS

3. Number and nature of posts.---The Service shall comprise the posts specified in the Schedule -I and such other posts as may be determined by Government from time to time.
4. Method of Appointment.---Method of appointment, qualifications and other conditions to applicable to a post in the Service shall be such as laid down in the column 3 to 5 of the Schedule - II.
5. Syllabus and examination for appointment by initial recruitment.--- Syllabus and standard for competitive examination for appointment by initial recruitment to the post in BS-17 shall be, as laid down in Schedule-III.

PART-III CONDITIONS OF SERVICE

6. Pre-Service Training & Departmental Examinations.--- (1) On appointment to a post borne on the service in BS-17, every officer so appointed shall complete six months mandatory training including attachment as specified in schedule -IV.

(2) The training shall be followed by departmental examination to be conducted by Provincial Health Services Academy, which will be part of probation period.

7. In-Service Training.---Selection for in-service trainings which are linked with promotion shall be done on seniority basis and those at verge of promotion shall be given priority.

8. Private Practice.--- (1) No Member of Service shall be allowed private practice, in lieu he shall be entitled to non-practicing allowance, at such rate as may be prescribed by Government.

(2) In case of default, the Member shall be liable to disciplinary action under the law.

9. General rule.--- In all matters not expressly provided for in these rules, Members of Service shall be governed by such rules as have been or may hereafter be prescribed by Government from time to time.

ATTESTED

10. One time exercise. --- (1) Notwithstanding anything contained in the provision of these rules, Government shall, as one-time exercise, fill in posts in the Service described in Schedule-I by way of permanent transfer from amongst the Officers of General Cadre in equivalent basic pay scale who have the qualification of Master of Public Health or Postgraduate Diploma in Public Health or Postgraduate Diploma in Hospital Administration or Health Planning & Management or equivalent Master's Degree / Diploma in Health management or allied disciplines and opt for absorption;

Provided that the option once exercised shall be final.

(2) Where the number of officers opting for absorption in Management Cadre is more than the available positions in respective grade, the selection under one time exercise shall be done on the basis of seniority-cum-merit only in the respective grade;

Provided that for determining the suitability of the officers, additional relevant qualifications, trainings/courses in the relevant field and managerial experience, as such, shall be taken into consideration.

11. Deletion of posts.---Posts reflected in the schedule-I shall stand deleted from any other service rules for the time being in force and such rules shall be deemed to have been amended to the above extent:

SECRETARY TO GOVERNMENT OF NWFP
HEALTH DEPARTMENT

Endst. of even No & Date.

Copy to:

1. The Chairman, Public Service Commission, NWFP, Peshawar
2. PS to Minister for Health, NWFP.
3. PS to Chief Secretary, NWFP.
4. PS to Additional Chief Secretary, NWFP.
5. PS to Secretary E&A Department.
6. PS to Secretary Law Department.
7. PS to Secretary Finance Department.
8. Ps to Secretary Health.
9. PA to DGHS NWFP.
10. Computer Programmer, Health Department.

ATTESTED

(ADIL SAEED SAFI)
SECTOIN OFFICER - V

SCHEDULE - I
(Management Cadre)

15

Members of Service in BPS-20:

S.No.	Nomenclature of post	Number of post
1	Director General Health Services, NWFP, Peshawar	01
2	Director (Admn) DGHS NWFP Peshawar	01
3	Director Health Services DGHS NWFP Peshawar	01
4	Medical Superintendent Govt. LRH/KTH/HMC Peshawar	03
5	Medical Superintendent DHQ.Hospitals Kohat, Bannu, DIKhan, Mardan, Swat, Abbottabad	06
6	Medical Superintendent, Mufti Mehmood Memorial Hospital DIKhan	01
7	Medical Superintendent, Khalifa Gul Nawaz Hospital Bannu	01
8	Medical Superintendent, Govt. City Hospital Kohat Road Peshawar	01
9	Medical Superintendent, Sarhad Hospital for Psychiatric Diseases Peshawar	01
10	Medical Superintendent, Ayub Teaching Hospital Abbottabad	01
11	Executive District Officer (Health) Peshawar	01
12	Executive District Officer (Health) Swat	01
13	Executive District Officer (Health) Mardan	01
14	Executive District Officer (Health) Kohat	01
15	Director Provincial Health Services Academy, Peshawar	01
16	Principal Public Health School Hayatabad Peshawar	01
17	Principal Pubic Health School Abbottabad	01
18	MS Mardan Medical Complex	01
	TOTAL:	25

ATTESTED

16

SCHEDULE - I
(Management Cadre)

Members of Service in BPS-19:

S.No.	Nomenclature of post	Number of post
1.	Executive District Officers (Health) in NWFP	20
2.	DDHOs/Coordinators EDO(H) Offices in NWFP	31
3.	Medical Superintendent DHQ.Hospitals in NWFP	17
4.	Medical Superintendent Govt. ID Children Hospital Peshawar	01
5.	Medical Superintendent Police/Services Hospital Peshawar	01
6.	Medical Superintendent Mental & General Hospital Dadar Mansehra	01
7.	Medical Superintendent, City Hospital Lakki Marwat	01
8.	DMS Women and Children Hospital DIKhan,	01
9.	DMS in DHQ. Hospital, Mardan, Swat, Nowshera, Haripur, Abbottabad and DIKhan	06
10.	District TB Control Officer, Peshawar, Mardan, Swabi, DIKhan, Haripur, Battagram, Mansehra, Swat, Chitral, Upper Dir	10
11.	Deputy Administrator Mardan Medical Complex Mardan	01
12.	MS/Incharge Civil/THQ.Hospital Tangi, Shabqaddar, Dargai, Pabbi, Matta, Darosh (Chitral), Rehana, Kulachi	08
13.	SMO I/C Women & Children Hospital Bannu	01
14.	Vice Principal Paramedical Institute, Abbottabad, DIKhan, Swat	03
15.	SMO (Health) Municipal Corporation Peshawar	01
16.	Deputy Directors in DGHS NWFP Peshawar	05
17.	DMS (Stores) Govt. LRH/KTH Peshawar	02
18.	Principal Postgraduate Paramedical Institute Peshawar	01
19.	Deputy Director (HRD) PHSA NWFP	01
20.	Deputy Director(Monitoring and Research) PHSA NWFP	01
21.	Deputy Director(Management) PHSA NWFP Peshawar	01
22.	Course Directors (PH/CDC and Management, Trg.& Development) PHSA NWFP	02

ATTESTED

25.	DMS Ayub Teaching Hospital Abbottabad	01
26.	Director Health Services FATA Peshawar	01
27.	MS AHQ Hospital Parachinar, Ghallanai, Wana, Bajaur	04
	TOTAL:	128

Note: All Program Manager/Provincial Coordinators of Vertical Programs/ Projects & FATA Health positions would be filled from amongst Management Cadre.

~~ATTESTED~~

The Chief Secretary,
Govt. of Khyber Pakhtunkhwa.

(Appellate Jurisdictions)

F/18
Date: 28-01-2021
565 W/S

SUBJECT: DEPARTMENTAL APPEAL UNDER SECTION-22 OF THE KHYBER
PAKHTUNKHWA CIVIL SERVANT ACT 1973

Sir,

With due respect, the instant appeal is submitted under section-22 of the aforementioned Act, to the authority next above the authority who made the illegal posting/transfer notification of the appellant, an officer of BS-20, whose posting/transfer competent authority is the Chief Minister, while the order has been made by the Health Department on its own behalf. This appeal is, therefore, made on the following facts, grounds and prayers given at the end:

Respectfully submitted.

1. That the appellant is a law abiding citizen of Pakistan and belong to District Peshawar.
2. That the appellant was initially appointed as Medical Officer Health Department on 06-11-1989.
3. That the appellant was inducted in to the Health Management cadre in 2008 and now occupy the position in BS-20 in the cadre.
4. That the appellant was posted against the cadre/scheduled post of Project Director Integrated Health Project on 17-01-2020 (F/A).
5. That now the Health Department have issued a notification NO. SOH(HD)E-V/4-4/2020 dated 26-01-2021 (F/B) whereby the appellant was directed to report to the Health Directorate while the incumbent was posted against the cross-cadre position.
6. That as per posting/transfer policy of the Government of Khyber Pakhtunkhwa, the normal tenure of posting is three years (F/C), while the instant transfer of the appellant is pre-mature, hardly completed one year.
7. That as per Schedule-I of the Health Management Cadre Rules 2008 vide Notification NO.SOH(E-V)4-20/08 dated 11-12-2008, "All Program Manager/Provincial Coordinators of Vertical Programme/ Projects & FATA Health positions would be filled from amongst Management Cadre (F/D)".
8. That the appellant belongs to the Health Management Cadre in BS-20 and presently he was working against the scheduled post of his cadre in BS-20. However, the incumbent belongs to the General Cadre and his posting against the mentioned position would mean cross-cadre posting.

D/C

ATTACHED

9. ~~The~~ ~~is~~ is a plethora of court judgments and circulars of the Government of Khyber Pakhtunkhwa, whereby cross-cadre posting has been abandoned. (19)

10. That as per schedule-III of the Khyber Pakhtunkhwa Govt. Rules of Business 1985, posting/transfer of officers in BS-20 shall be made after approval of the Chief Minister Khyber Pakhtunkhwa (F/E) while in the instant case, the Health department has issued the transfer order on its own behalf without following the Rules of Business, thus enlarging its authority and power.

11. That as per PC-I of the Project, the post of the Project Director shall be filled through Provincial Project Selection Committee P & D Department on the basis of merit. For this purpose the Health department has submitted working paper to the P & D Department, comprising the appellant as candidate for the same. However, the working paper is not in line of the prevailing rules, as the PD must be doctor of the Health Management cadre as mentioned in Para-07 above but the panel consists candidate of the General Cadre. Secondly, the Court and also the Establishment department has abandoned posting of officers of the lower grade against positions in the higher grade. The panel also consist candidates of the lower grade. Therefore, the P & D Department may better return the case to the Health department for rectification.

Grounds

- A. The action of the Health department, regarding transfer of the appellant, is illegal, arbitrary, discriminatory and violative of Article-25 and Article-27 of the Constitution of the Islamic Republic of Pakistan.
- B. The instant pre-mature transfer of the appellant is against the existing posting/transfer policy of the Government of Khyber Pakhtunkhwa.
- C. The act of the respondents by which the appellant have been transferred is inconsistent with the Fundamental Rights of the appellant guaranteed under the Constitution of Pakistan 1973.
- D. The Health department have transgressed its power/authority and the appellant have been denied the right to be treated equally.
- E. That valuable rights have been created in favour of appellant after his appointment especially in aftermath of the Health Management Cadre Rules 2008.
- F. That the treatment of the Health Department is violative to the Khyber Pakhtunkhea Rules of Business 1985.
- G. That the Honorable Courts have forbidden cross-cadre posting

~~NOTED~~

The Superior Courts have repeatedly held that where a point of law is decided by the court that cover the cases of other civil servants/employees who have not litigated the good governance require that the benefit of such judgment should also be extended to those who may not be parties to the litigation instead of compelling them to approach any other forum of the same.

20

Secretary
P&D Department
Diary No. 742
Date 28/1/2021

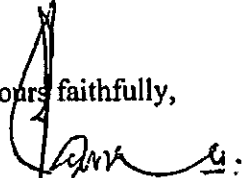
- I. That the Superior Courts have also given wisdom in plethora of judgments that state and Govt. has to be forthright, meaningful, protective and loyal to its employees.
- J. That the appellant crave for leave to add further grounds at the time of personal hearing, if so provided by the appellant authority.

Prayers

In view of the above, it is humbly prayed the appellate authority may graciously be pleased to:

- i. Declare the impugned order dated 26-01-2021 as illegal and to set aside the same, being devoid of any sound justification.
- ii. To direct the Health department not to disturb the appellant till his posting tenure is matured.

Yours faithfully,


(DR HAROON KHAN)
Project Director
Integrated Health Project,
Khyber Pakhtunkhwa.
Address. House No. 81/E Old
Bara Road University Town
Peshawar.
(Contact:03459065613)

Copy for Information:

1. Secretary to Govt. of Khyber Pakhtunkhes Health Department Peshawar.
2. Secretary to Govt. of Khyber Pakhtunkhwa P & D Department with reference to para No. 11/ above for consideration and necessary action.
3. Director General Health Services Khyber Pakhtunkhea.
4. Section Officer (E-V) Health Department Peshawar.

وصال علی شاہ

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9/21

**GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMINISTRATION DEPARTMENT
NOTIFICATION**

Peshawar the, dated 6th April, 1985.

No. SO(O&M) S&GAD/3-3/1985,—In pursuance of the provision contained in Article 139 of the constitution of the Islamic Republic of Pakistan and in suppression of the ²Khyber Pakhtunkhwa Government Rules of Business, 1972, the Governor of the ³Khyber Pakhtunkhwa is pleased to make the following rules:

PART - A — GENERAL

1. SHORT TITLE AND COMMENCEMENT.

- (1) These rules may be called the ⁴Khyber Pakhtunkhwa Government Rules of Business, 1985.
- (2) They shall come into force at once.

2. DEFINITION .--- In these rules, unless the context otherwise requires.

- (a) "*Assembly*" means the Provincial Assembly of the ⁵Khyber Pakhtunkhwa;
- (b) "*Attached Department*" means a Department mentioned in column 3 of *Schedule-I*;
- (c) "*Business*" means all work done by Government;
- (d) "*Cabinet*" means the Cabinet of Ministers appointed under Article 132 of the Constitution and includes the Chief Minister appointed under Article 130 of the Constitution;
- (e) "*Case*" means a particular matter under consideration and includes all papers relating to it and required to enable the matter to be disposed of, viz: correspondence and notes and also any previous papers on the subject or subjects covered by it or connected with it;
- (f) "*Chief Secretary*" means the officer notified as such in the Gazette, who shall in addition to other Departments and functions that may be allotted to him from time to time, be incharge of the ⁶Establishment and Administration Department and shall also be the Secretary to the Cabinet;
- (g) "*Constitution*" means the Constitution of the Islamic Republic of Pakistan;
- (h) "*Department*" means a self-contained administrative unit in the Secretariat responsible for the conduct of business of Government in a distinct and specified sphere, and declared as such by the Government;
- (i) "*Federal Government*" means the Executive Government of the Islamic Republic of Pakistan;
- (j) "*Gazette*" means the official gazette of the ⁷Khyber Pakhtunkhwa.

¹ Subs. Vide the Khyber Pakhtunkhwa Act No. IV of 2011

² Subs. Vide the Khyber Pakhtunkhwa Act No. IV of 2011

³ Subs. Vide the Khyber Pakhtunkhwa Act No. IV of 2011

⁴ Subs. Vide the Khyber Pakhtunkhwa Act No. IV of 2011

⁵ Subs. Vide the Khyber Pakhtunkhwa Act No. IV of 2011

⁶ Substituted vide Establishment & Administration Department letter No. SO(O&M)E&A/8-6/2001, dated 30-05-2001.

⁷ Subs. Vide the Khyber Pakhtunkhwa Act No. IV of 2011

ATTESTED

22

SCHEDULE-III

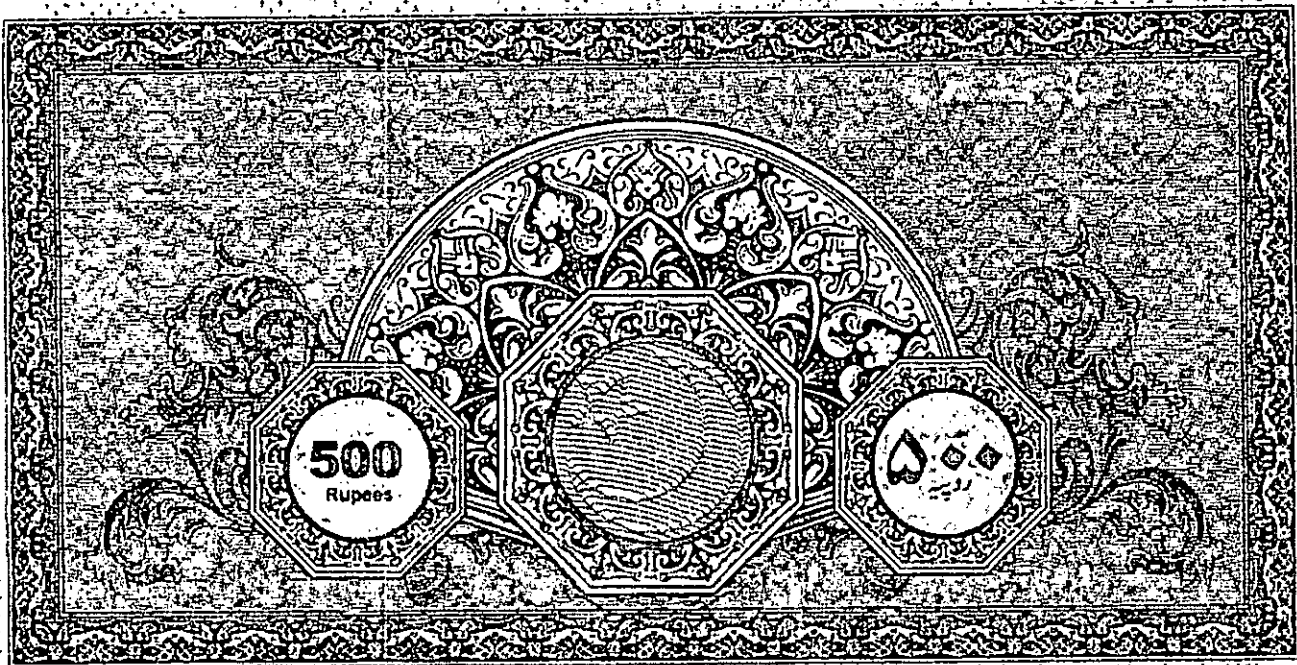
[See Rule 17(1)]

TRANSFER OF OFFICERS

	1	2
S. No	Outside the Secretariat	
1.	Officers of the all Pakistan Unified Group i.e. DMG, PSP Including Provincial Police Officers in BPS-18 and above.	Chief Secretary in Consultation with the Establishment Department and the Department concerned with the approval of the Chief Minister.
2.	Other Officers BPS-17 and above to be posted against scheduled posts, or posts normally held by the APUG, PCS (EG) and PCS (SG)	--do--
3.	Head of Attached Departments and other Officers in BS-19 and above in all Department.	--do--
	In the Secretariat:-	
4.	Secretaries.	Chief Secretary with the approval of Chief Minister.
5.	Other Officers of and above the rank of Section Officers:- (a) Within the same Department. (b) Within the Secretariat from one Department to another.	Secretary of the Department Concerned. Chief Secretary/Secretary Establishment.
6.	Officials upto the rank of Superintendent:- (a) Within the same Department. (b) To and from an Attached Department. (c) Within the Secretariat from one Department to another.	Secretary of the Department Concerned. Secretary of the Department in consultation with Head of Attached Department concerned. Secretary Establishment.

ATTESTED

156647



PAKISTAN COURT FEE

In the Peshawar Hg. Court
favour.

wp. _____ 2021

Dr. Haroon Khan

7/5

Govt of KP and others

~~S. Haziq Ali Shah
(ASC)~~

BEFORE THE HON'BLE PESHAWAR HIGH COURT, PESHAWAR

VAKALATNAMA

Dr. Haroon Khan

Versus

Government of KP and others

I, _____ do hereby appoint, **Syed Haziq Ali Shah, Junaid Zaman and Hamza Tariq Wali Advocates, Peshawar** in the above mentioned Case, to do all or any of the following acts, deeds and things:

- 1- To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard, and any other proceedings arising out of or connected therewith.
- 2- To sign and verify and file or withdraw all proceeding, petitions, appeals, affidavits and applications for compromise or withdrawal, or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defense of the said case at all its stages.
- 3- To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of the proceedings.

AND hereby agree:

That the Advocates shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fees remains unpaid.

In witness whereof I/We have signed this Vakalatnama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this ___ day of April, 2021.


Signature of Executant

Attested & Accepted by:


Syed Haziq Ali Shah
Advocate Supreme Court of Pakistan


Junaid Zaman
Advocate High Court(s)


Hamza Tariq Wali
Advocate High Court(s)

BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

VAKALATNAMA

Dr. Haroon Khan

Versus

Government of KP and others

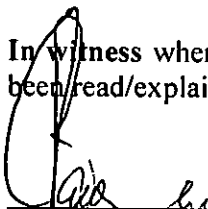
I, Dr. Haroon Khan do hereby appoint, Syed Haziq Ali Shah, Junaid Zaman and Hamza Tariq Wali Advocates, Peshawar in the above mentioned Case, to do all or any of the following acts, deeds and things:

- 1- To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard, and any other proceedings arising out of or connected therewith.
- 2- To sign and verify and file or withdraw all proceeding, petitions, appeals, affidavits and applications for compromise or withdrawal, or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defense of the said case at all its stages.
- 3- To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of the proceedings.

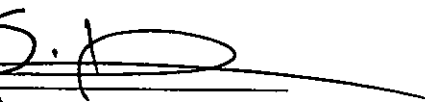
AND hereby agree:

That the Advocates shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fees remains unpaid.

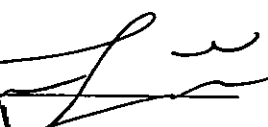
In witness whereof I/We have signed this Vakalatnama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this ___ day of July, 2021.


Signature of Executant

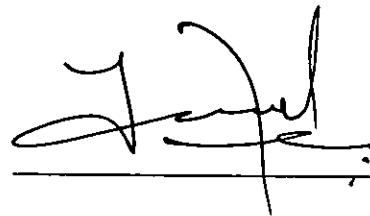
Tested & Accepted by:



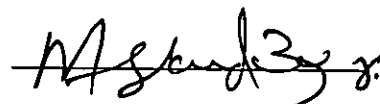
Haziq Ali Shah
ate Supreme Court of Pakistan



Hamza Tariq Wali
High Court(s)



Junaid Zaman
Advocate High Court(s)



Muhammad Saad Wazir
Advocate



(4)

**The
PESHAWAR HIGH COURT
Peshawar**

Ph: No. 091-9210149-58

No. 37103/1563/2021/WP-MN

Dated. 05-June-2021

From

**Deputy Registrar (J),
Peshawar High Court,
Peshawar.**



To

The Khyber Pakhtunkhwa Service Tribunal, Peshawar.

Subject:

Writ Petitions W.P 1678/2021 Title: Dr. Haroon Khan VS Govt of KPK

Sir,

I am directed to send herewith the titled case in original alongwith all annexures & copy of order passed by this Honble Court dated 04.06.2021 for compliance.


Deputy Registrar (J)

Encl: As above.

(10)

PESHAWAR HIGH COURT, PESHAWAR

FORM OF ORDER SHEET

Date of Order or Proceedings	Order/Proceedings with Signature of Judge.
04.06.2021	<p><u>WP No.1678-P/2021</u></p> <p>Present:</p> <p>Syed Haziq Ali Shah, Advocate, for the petitioner.</p> <p>****</p> <p>MUHAMMAD NASIR MAHFOOZ, J.- Since, the Khyber Pakhtunkhwa, Services Tribunal is now functional, therefore, office is directed to send the instant petition in original there to be deemed as an appeal before it. A copy of the instant petition be retained for record. Petitioner is directed to appear before the said Tribunal on 07.06.2021.</p> <p style="text-align: right;"><i>Dr. Zahid</i> JUDGE <i>M</i> JUDGE</p>

URGENT FORM

BEFORE THE HON'BLE PESHAWAR HIGH COURT, PESHAWAR

S. APP: No 5795/2021

Writ Petition No. _____/2021

Dr. Haroon Khan

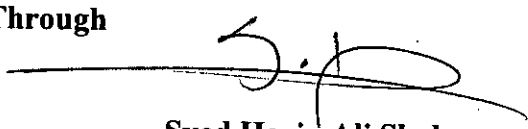
Versus

Government of KP and others

1. Will you kindly treat the accompanying Writ Petition as under and in accordance with the provisions of rules 9, Chapter 3-A rules order of the Hon'ble High Court Lahore Volume V.
2. The Grounds of Urgency are:
 1. That the Petitioner has been prematurely, illegally and unlawfully transferred from his post and before the relinquishment of charge the same needs urgent hearing for arguments on the Interim Relief, which may so kindly be fixed for first available DB.

Petitioner

Through


Syed Haziq Ali Shah
Advocate Supreme Court of Pakistan

Dated: _____/_____/2021

BEFORE THE HON'BLE PESHAWAR HIGH COURT, PESHAWAR

Check List

1	Case Title	Dr. Haroon Khan Vs. Government of Khyber Pakhtunkhwa	
2	Case is duly signed		No
3	The law under which the case is preferred has been mentioned		No
4	Approved file cover is used		No
5	Affidavit is duly attested and appended		No
6	Case and annexure are properly paged and numbered according to index		No
7	Copies of annexure are legible and attested. If not, then better copies duly attested have been annexed		No
8	Certified copies of all the requisite documents have been filed		No
9	Certificate specifying that no case on similar grounds was earlier submitted in this court filed		No
10	Case is within time		No
11	The value for the purpose of court fee and jurisdiction has been mentioned in the relevant column		No
12	Court fee in shape of stamp paper is affixed. [For writ Rs. 500, for other as required]		No
13	Power of attorney is in proper form		No
14	Memo of addresses filed		No
15	List of books mentioned in the petition		No
16	The requisite number of spare copies attached. [Writ Petition-3 Nos, Civil Appeal (SB-1, DB-2), Civil Revision (SB-1, DB-2)]		No
17	Case (Revision/Appeal/Petition etc.) is filed on a prescribed form.		No
18	Power of Attorney is attested by jail authority (for jail Prisoners only).	Yes	

It is certified that formalities/Documentations as required in column 2 to 18 above, have been fulfilled.

Name: Syed Haziq Ali Shah

Signature: _____

Date: 09.04.2021

FOR OFFICE USE ONLY

Case No. : _____

Case Received on: _____

Complete in all respect: Yes/No (If No, the grounds: _____)

Date in Court: _____

Signature: _____
(Reader)

Date: _____

Countersigned: _____
(Deputy Registrar)

[Handwritten Signature]
10/4/2021

BEFORE THE HON'BLE PESHAWAR HIGH COURT, PESHAWAR

Writ Petition No. 1678P/2021

Dr. Haroon Khan

Versus

Government of Khyber Pakhtunkhwa through Chief Secretary and others

INDEX

S.No	Description of documents	Annex	Pages
1.	Writ Petition along with Affidavit		1-6
2.	Addresses of Parties		7
3.	Copy of Notification dated 08.05.2019	A	8
4.	Copy of Notification dated 17.01.2020	B	9
5.	Copy of Notification dated 26.01.2021	C	10
6.	Copy of Order dated 15.06.2020	D	11
7.	Copy of Rules	E	12-17
8.	Copy of Representation	F	18-20
9.	Copy of excerpts of KP Rules of Business, 1985	G	21-22
10.	Notice and Court Fee		23
11.	Wakalat Nama		

FILED TODAY

Deputy Registrar

10 APR 2021

Through

PETITIONER

Syed Haziq Ali Shah
Advocate Supreme Courts of Pakistan

Scanned USB Received

10 APR 2021

Signature

BEFORE THE HON'BLE PESHAWAR HIGH COURT,
PESHAWAR)
OPENING SHEET FOR WRIT BRANCH

Date of Filing: 09.04.2021
District: Peshawar

Case Type: Writ Petition Nature of Original Proceedings: _____
Category Code

Review/Contempt of Court in respect of _____
Writ of:

Heabus Corpus	Prohibition	Mandamus	Qua Warranto	Certiorari
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Form	Date	interlocutory/ Final Order

Case pertains to
SB
DB

Petitioner(s) Name	Dr. Haroon Khan
Mobile No	0345-9065613
Addresses	House No. 81/E, Old Bara Road, University Town, Peshawar
CNIC No	17301-9581857-9
Email Address	

Counsel for Petitioner (s)	Syed Haziq Ali Shah
Mobile No.	03005908460
Address	306-C, City Towers, University Road, Peshawar.
CNIC No.	
Email Address	haziq1@gmail.com, 17301-6465783-9

Respondents	Government of Khyber Pakhtunkhwa,
Addresses	Civil Secretariat, Peshawar

Original Order/ Inaction Complained of	Action/ The Respondents are exceeding their jurisdiction.
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Prayer

- Declare the impugned Notification dated 26.01.2021 as illegal, unlawful, arbitrary, without any lawful authority, void ab initio and ineffective upon the rights of the Petitioner.
- Direct the respondents to forthwith withdraw the impugned Notification dated 26.01.2021.
- Direct the Respondents to treat the Petitioner in accordance with the law.
- Any other relief deemed appropriate in the circumstance of the case may also be granted.

Law/Rules/governing original action/Inaction	the proceedings/ Civil Servants Act	Constitution of Islamic Republic of Pakistan 1973,
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Signature:-

FILED TODAY
Deputy Registrar
10 APR 2021

BEFORE THE HON'BLE PESHAWAR HIGH COURT, PESHAWAR

SA. NO. 5795/2021 (1)

W.P No. 1678P/2021

Dr. Haroon Khan,

Project Director, Integrated Health Project,

Khyber Pakhtunkhwa.

..... Petitioner

Versus

1. **The Government of Khyber Pakhtunkhwa,**
Through Chief Secretary Government of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.
2. **Secretary to Government of Khyber Pakhtunkhwa,**
Health Department,
Civil Secretariat, Peshawar.
3. **Director General,**
Health Services, Khyber Pakhtunkhwa,
Peshawar.
4. **Section Officer (E-V),**
Health Department,
Peshawar.
5. **Dr. Niaz Muhammad.**
Additional Director General (Admin)/ Director General,
Health Services, Khyber Pakhtunkhwa,
Peshawar.

..... Respondents

FILED TODAY

Deputy Registrar

10 APR 2021

**WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF
THE ISLAMIC REPUBLIC OF PAKISTAN.**

RESPECTFULLY SHEWETH:

2

1. **That** the Petitioner besides being a law abiding citizen is a civil servant posted as Project Director in the Integrated Health Project.
2. **That** the Petitioner was initially appointed as Medical Officer in the Department of Health, Khyber Pakhtunkhwa. Later on in the year 2008, the Petitioner was inducted in the Health Management cadre and vide Notification dated 08.05.2019 the Petitioner was promoted to BPS-20.
(Copy of Notification dated 08.05.2019 is annexed herewith marked as "A")
3. **That** the Petitioner was transferred to the post of Project Director (BPS-20), in the Integrated Health Program, Khyber Pakhtunkhwa vide Notification dated 17.01.2020.
(Copy of Notification dated 17.01.2020 is annexed herewith marked as "B")
4. **That** not an year has passed when on 26.01.2021 the Petitioner is prematurely transferred from the aforementioned post and has been directed to report to the Directorate General Health Services, Khyber Pakhtunkhwa, Peshawar with immediate effect. Needless to mention that the Respondent No.5 who was already holding the additional charge of Director General, Health Services has yet again been assigned another additional charge of Project Director, Integrated Health Program.
(Copy of Notifications dated 26.01.2021 and 15.06.2019 are annexed herewith marked as "C" and "D" respectively)
5. **That** it is pertinent to mention that as per the posting/ transfer policy of the Government of Khyber Pakhtunkhwa, the period of tenure currently in field is three years, while the Petitioner has been transferred prematurely after serving for one year that too by Respondent No.2 who was/ is not competent to do so.
6. **That** it is also relevant to mention that as per the Khyber Pakhtunkhwa Health (Management) Service Rules, 2008, all program managers/ provincial coordinators are to be filled from amongst the officers of Management Cadre.
(Copy of Rules is annexed herewith marked as "E")

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Deputy Registrar

10 APR 2021

7. That the Petitioner filed representation before the competent authority, however the same has not been replied to.

(Copy of Representation is annexed herewith marked as "F")

8. That the Petitioner aggrieved of the conduct of the Respondents and having no other alternate or efficacious remedy, seeks the indulgence of this Hon'ble Court on the following amongst other grounds:

G R O U N D S

- A. Because the transfer/posting order is based on mala fide and is inherently illegal, arbitrary, unlawful and without jurisdiction, thus the same is liable to be set-aside.
- B. Because the Petitioner has been treated illegally, unlawfully and against the spirit of the law.
- C. Because the fundamental Rights of the petitioner protected under Article 4, 9, 18 and 25 of the Constitution of Islamic Republic of Pakistan 1973 are being violated.
- D. Because Respondents have neither the authority to ignore nor override the prescribed rules in vogue, thus the actions of respondents are/is illegal, unlawful, tainted with mala fide and issued without any jurisdiction albeit lawful authority.
- E. Because the actions and inactions of the Respondents proclaim their own mala fide.
- F. Because the Petitioner has got the fundamental right of being treated in accordance with law but the treatment meted out to the Petitioner is on consideration other than legal and he has been deprived of his rights duly guaranteed to him by the constitution of Pakistan.
- G. Because the Respondents cannot be allowed under the law to pass any illegal order.

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 Deputy Registrar
 10 APR 2021

- H. **Because** the impugned notification has been issued without jurisdiction and lawful authority which obviously does not call for the mechanism provided under Article 212 of the Constitution. (4)
- I. **Because** the respondents have transgressed their power and authority by passing the impugned notification.
- J. The Petitioner crave for leave to add further grounds at the time of his oral arguments before this Hon'ble Court highlighting further contraventions of the provisions of the Constitution & Laws which adversely affected the Petitioner.

PRAYER:

In view of the above, it is humbly prayed that this Hon'ble Court may graciously be pleased to:

- i. **Declare** the impugned Notification dated 26.01.2021 as illegal, unlawful, arbitrary, without any lawful authority, void ab initio and ineffective upon the rights of the Petitioner.
- ii. **Direct** the respondents to forthwith withdraw the impugned Notification dated 26.01.2021.
- iii. **Direct** the Respondents to treat the Petitioner in accordance with the law.
- iv. **Any** other relief deemed appropriate in the circumstance of the case may also be granted.

Interim Relief:

May it please this Hon'ble Court to suspend the operation of the Notification dated 26.01.2021 till the final disposal of the writ petition, and that no adverse action be taken against the Petitioner.

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Deputy Registrar

10 APR 2021

Through

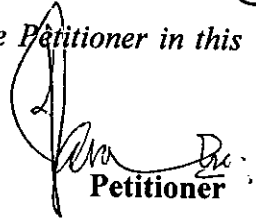

Syed Haziq Ali Shah
Advocate Supreme of Pakistan

Petitioner

CERTIFICATE:

It is certify that no such like writ petition has earlier been filed by the Petitioner in this Hon'ble Court.


5


Petitioner

LIST OF BOOKS:

1. Constitution of Islamic Republic of Pakistan 1973
2. Services Laws
3. Case Laws as per need


Advocate

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Deputy Registrar
10 APR 2021

BEFORE THE HON'BLE PESHAWAR HIGH COURT, PESHAWAR

(6)

Writ Petition No. 1678P /2019-2021

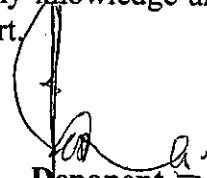
Dr. Haroon Khan

Versus

Government of KP and others

AFFIDAVIT


I, **Dr. Haroon Khan** S/O Shamsheer Khan R/O House No. 81/E, Old Bara Road, University Town, Peshawar, do hereby solemnly affirm and declare on oath that the contents of accompanied writ petition are true and correct to the best of my knowledge and belief and nothing has been intentionally concealed from this Hon'ble Court.

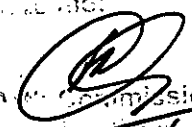

Deponent

CNIC No. 17301-9581857-9 ✓
0345 90656B

Identified By:


Syed Haziq Ali Shah
Advocate Supreme Court of Pakistan

FILED TODAY

Deputy Registrar
10 APR 2021

24387
Certified that the above was verified on solemnly affirmation before me in office, this 09 day of April 21 Haroon Khan s/o Shamsheer Khan Peshawar who was identified by Syed Haziq Ali who is personally and well known to me:

Commissioner
09/04/2021

Madam verified

Reset Password

Logout



online
Verisys
verification system

Online Service for verification of NADRA Identity Cards



Card Verification

Identity Card Number : 17301-9581857-9

Verification Date : April 9, 2021

[Start New Verification](#)



This person has been given exemption of expiry being Senior Citizen and does not require renewal for rest of his or her life.

CNIC Verification

Card Status: Verified

Name	Haroon Khan ہارون خان
Father Name	Shamsher Khan شمشیر خان
Gender	Male
Country of Stay	Pakistan
Citizen Number	17301-9581857-9
DOB	13-02-1963
Issue Date	08-03-2021
Date of Expiry	Lifetime
Card Type	Smart CNIC
Old NIC	13663008421
Present Address	
Permanent Address	مظفر آباد، تحصیل تخت پھانی، ضلع مردان

161 سٹریٹ نمبر، 14 سیکٹر جی-3، پشاور

BEFORE THE HON'BLE PESHAWAR HIGH COURT, PESHAWAR

(7)

Writ Petition No. 1678P 2021

Dr. Haroon Khan

Versus

Government of KP and others

ADDRESSES OF THE PARTIES

Petitioner

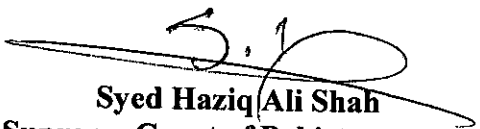
Dr. Haroon Khan,
Project Director, Integrated Health Project,
Khyber Pakhtunkhwa, Peshawar.


Respondents

1. **The Government of Khyber Pakhtunkhwa,**
Through Chief Secretary Government of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.
2. **Secretary to Government of Khyber Pakhtunkhwa,**
Health Department,
Civil Secretariat, Peshawar.
3. **Director General,**
Health Services, Khyber Pakhtunkhwa,
Peshawar.
4. **Section Officer (E-V),**
Health Department,
Peshawar.
5. **Dr. Niaz Muhammad.**
Additional Director General (Admin)/ Director General,
Health Services, Khyber Pakhtunkhwa,
Peshawar.

Petitioner

Through


Syed Haziq Ali Shah
Advocate Supreme Court of Pakistan

FILED TODAY

Deputy Registrar
10 APR 2021



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

A/8

Dated Peshawar, the 8th May, 2019

NOTIFICATION

NO.SOH(E-V)4-20/2019

The Government of Khyber Pakhtunkhwa on the recommendations of the Provincial Selection Board is pleased to promote the following doctors of the Management Cadre from BS-19 to BS-20, on regular basis with immediate effect:-

S.#	NAME OF DOCTOR	S.#	NAME OF DOCTOR
1	Dr.Ghulam Subhani S/O Ghulam Nabi Khan	6	Dr.Rehmanullah S/O Rasool Khan
2	Dr.Abdul Wahid Shamsul Qamar S/O	7	Dr.Ghazali Khan S/O Raza Khan
3.	Dr.Fahim Hussain Inayatullah S/O	8	Dr.Janbaz Afridi S/O Gulab Sher
4.	Dr.Haroon Khan Shamsheer Khan S/O	9	Dr.Saeed Gul S/O Ziarat Gul
5.	Dr.Obaidur Rehman Khalilur Rehman S/O	10	Dr.Saifullah Khalid S/O Ghulam Rasool

2. In term of Section 6 (3) of Civil Servants Act, 1973 and Rule 15 (1) of Appointment, Promotion and Transfer Rules, 1989, they will be on probation for a period of one year.

3. The postings/transfers of the above named doctors shall be notified later on.

SECRETARY HEALTH
Govt. of Khyber Pakhtunkhwa

Endst. No. & Date Even

Copy to the:-

1. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
2. Principal Secretary to Governor, Khyber Pakhtunkhwa.
3. Secretary to Govt of Khyber Pakhtunkhwa, Establishment Department.
4. Accountant General, Khyber Pakhtunkhwa
5. Director General Health Services, Khyber Pakhtunkhwa.
6. Director Health Services Merged Districts.
7. PS to Minister Health, Khyber Pakhtunkhwa, Peshawar
8. PS Secretary Health, Khyber Pakhtunkhwa, Peshawar
9. Doctors concerned.

ATTESTED

(FAZAL AKI)
SECTION OFFICER (E-V)



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

B/9

Dated Peshawar the 17th Jan, 2020

NOTIFICATION

NO.SOH(HD)E-V/PT(MANGT/GEN)/2020:- The competent authority (Chief Minister, Khyber Pakhtunkhwa) has been pleased to order transfer of Dr. Haroon (BS-20 Management Cadre), Additional Director General Health Services (BS-20) and to post him Director (BS-20) Integrated Health Program, Khyber Pakhtunkhwa with immediate effect & in the best of public interest.

SD/-

SECRETARY TO GOVT: OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Endst: of Even No. & Date of Even:-

NO.SOH(HD)E-V/PT(MANGT/GEN)/2020

Dated Peshawar the 17th Jan, 2020.

Copy of the above is forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director General Health Services, Khyber Pakhtunkhwa, Warsak Road, Peshawar.
3. All District Health Officers, in Khyber Pakhtunkhwa, Peshawar.
4. Director Health Services, Merged Areas, Warsak Road Peshawar.
5. Director, Independent Monitoring Unit, Health Department.
6. Chief Health Sector Reforms Unit, Health Department.
7. All Medical Superintendent of DHQ Hospitals in Khyber Pakhtunkhwa.
8. Deputy Director (IT) for up-loading on website.
9. PS to Minister for Health, Khyber Pakhtunkhwa, Peshawar.
10. PS to Secretary Health Department.
11. PS to Spl: Secretary health Department.
12. PAs to Additional Secretaries (Estt / Dev), Health Department.
13. PA to Chief Planning Officer, Health Department.
14. Dr. concerned for information & compliance. Charge assumption / relinquishment may be sent to this department for record.
15. Office Order File.

~~ATTESTED~~

(MUHAMMAD IRFAN USMAN)
SECTION OFFICER (EV)
HEALTH DEPARTMENT

Section Officer (EV)

EJ
C/10

**Government of Khyber Pakhtunkhwa,
Health Department**

Dated Peshawar the 26th January, 2021

NOTIFICATION

NO. SOH(HD)/E-V/4-4/2020

The Competent Authority is pleased to transfer Dr. Haroon Khan (BS-20), Director, Integrated Health Program and direct him to report to Directorate General Health Services, Khyber Pakhtunkhwa Peshawar, with immediate effect, in the public interest.


Consequent upon the above, Dr. Niaz Muhammad, Additional Director General (Admin)/ Director General Health Services Khyber Pakhtunkhwa is hereby assigned additional charge of the post of Director, Integrated Health Program in addition to his present duties, till further orders.

**Secretary Health
Government of Khyber Pakhtunkhwa**

Endst. Of even No. & Date.

Copy to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. Director, Integrated Health Program.
4. Deputy Director (IT), Health Department, with the direction to upload the notification on official website.
5. PS to Minister for Health Department, Khyber Pakhtunkhwa.
6. PS to Secretary Health Department, Khyber Pakhtunkhwa.
7. Doctors concerned.


(Latif Ur Rehman)
Section Officer (E-V)
26.1.21

~~ATTESTED~~



**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

D/11

NOTE FOR MINISTER HEALTH, KHYBER PAKHTUNKHWA

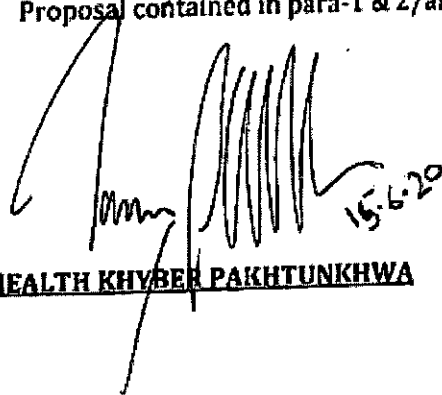
Subject:- **POSTING / TRANSFER**

1. In order to maximum utilize the services of health professionals considering their expertise, exigencies and tenure as provided in statutory provision of posting / transfer policy, Health Department submit the following posting / transfer proposal in the best of public interest:-

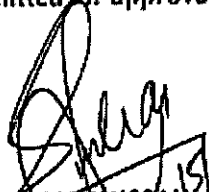
Sr.#	Name of Dr.	From	To
1.	Dr. Tahir Nadeem (Management Cadre BS-20)	Director General Health Services, Khyber Pakhtunkhwa, Peshawar.	Report to Directorate General Health Services, Khyber Pakhtunkhwa, Peshawar.

2. Consequent upon the above and till posting of full fledged Director General, Health Services, Khyber Pakhtunkhwa Dr. Niaz Muhammad (BS-20), Additional Director General (Admin) already holding look after charge will continue as Director General Health Services, Khyber Pakhtunkhwa until further orders.

3. Proposal contained in para-1 & 2/ante is submitted for approval, please.


15.6.20

MINISTER HEALTH KHYBER PAKHTUNKHWA


(SYED IMTIAZ HUSSAIN SHAH)
SECRETARY HEALTH

ATTESTED

E/

E/12

GOVERNMENT OF THE NORTH-WEST FRONTIER PROVINCE NWFP
HEALTH DEPARTMENT

NOTIFICATION

Peshawar, dated the 11th DECEMBER, 2008

No. SOH(EV)4 – 20 / 08 : In exercise of the powers conferred by section 26 of the North West Frontier Province Civil Servants Act, 1973 (N.-W.F.P. Act XVIII of 1973), the Governor of the North-West Frontier Province is pleased to make the following rules, namely:

THE NORTH-WEST FRONTIER PROVINCE
HEALTH (MANAGEMENT) SERVICE RULES, 2008.

PART – I
GENERAL

1. **Short title and commencement.** --- (1) These rules may be called the North-West Frontier Province Health (Management) Service Rules, 2008.

(2) They shall come into force at once.

2. **Definitions.**--- In these rules, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say -

- (a) "appointing authority" in relation to a post, means the respective authority specified in para 4 of the North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989;
- (b) "Commission" means the North-West Frontier Province Public Service Commission;
- (c) "Cadre" means Health Management Cadre;
- (d) "Government" means the Government of the North-West Frontier Province;
- (e) "Governor" means the Governor of the North-West Frontier Province;
- (f) "Initial recruitment" means appointment made otherwise than by promotion or transfer;
- (g) "Member of Service" means officer belonging to health management cadre as reflected in schedule I, II & III;

ATTESTED

(h) "PHSA" means Provincial Health Services Academy;

- (i) "Post" means a post specified in the Schedule-I of the rule and such other posts as may, from time to time, be determined by the Government;
- (j) "Schedule" means the schedule appended to these rules; and
- (k) "Service" means the North-West Frontier Province Health (Management) Service.

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PART-II RECRUITMENTS

3. **Number and nature of posts.**---The Service shall comprise the posts specified in the Schedule -I and such other posts as may be determined by Government from time to time.
4. **Method of Appointment.**---Method of appointment, qualifications and other conditions to applicable to a post in the Service shall be such as laid down in the column 3 to 5 of the Schedule - II.
5. **Syllabus and examination for appointment by initial recruitment.**--- Syllabus and standard for competitive examination for appointment by initial recruitment to the post in BS-17 shall be, as laid down in Schedule-III.

PART-III CONDITIONS OF SERVICE

6. **Pre-Service Training & Departmental Examinations.**--- (1) On appointment to a post borne on the service in BS-17, every officer so appointed shall complete six months mandatory training including attachment as specified in schedule -IV.

(2) The training shall be followed by departmental examination to be conducted by Provincial Health Services Academy, which will be part of probation period.

7. **In-Service Training.**---Selection for in-service trainings which are linked with promotion shall be done on seniority basis and those at verge of promotion shall be given priority.

8. **Private Practice.**--- (1) No Member of Service shall be allowed private practice, in lieu he shall be entitled to non-practicing allowance, at such rate as may be prescribed by Government.

(2) In case of default, the Member shall be liable to disciplinary action under the law.

9. **General rule.** --- In all matters not expressly provided for in these rules, Members of Service shall be governed by such rules as have been or may hereafter be prescribed by Government from time to time.

ATTESTED

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10. One time exercise. --- (1) Notwithstanding anything contained in the provision of these rules, Government shall, as one-time exercise, fill in posts in the Service described in Schedule-I by way of permanent transfer from amongst the Officers of General Cadre in equivalent basic pay scale who have the qualification of Master of Public Health or Postgraduate Diploma in Public Health or Postgraduate Diploma in Hospital Administration or Health Planning & Management or equivalent Master's Degree / Diploma in Health management or allied disciplines and opt for absorption;

Provided that the option once exercised shall be final.

(2) Where the number of officers opting for absorption in Management Cadre is more than the available positions in respective grade, the selection under one time exercise shall be done on the basis of seniority-cum-merit only in the respective grade;

Provided that for determining the suitability of the officers, additional relevant qualifications, trainings/courses in the relevant field and managerial experience, as such, shall be taken into consideration.

11. Deletion of posts.---Posts reflected in the schedule-I shall stand deleted from any other service rules for the time being in force and such rules shall be deemed to have been amended to the above extent:

SECRETARY TO GOVERNMENT OF NWFP
HEALTH DEPARTMENT

Endst. of even No & Date.

Copy to:

1. The Chairman, Public Service Commission, NWFP, Peshawar
2. PS to Minister for Health, NWFP.
3. PS to Chief Secretary, NWFP.
4. PS to Additional Chief Secretary, NWFP.
5. PS to Secretary E&A Department.
6. PS to Secretary Law Department.
7. PS to Secretary Finance Department.
8. Ps to Secretary Health.
9. PA to DGHS NWFP.
10. Computer Programmer, Health Department.

ATTESTED

(ADIL SAEED SAFI)
SECTION OFFICER - V

SCHEDULE – I
(Management Cadre)

15

Members of Service in BPS-20:

S.No.	Nomenclature of post	Number of post
1	Director General Health Services, NWFP, Peshawar	01
2	Director (Admn) DGHS NWFP Peshawar	01
3	Director Health Services DGHS NWFP Peshawar	01
4	Medical Superintendent Govt. LRH/KTH/HMC Peshawar	03
5	Medical Superintendent DHQ.Hospitals Kohat, Bannu, DIKhan, Mardan, Swat, Abbottabad	06
6	Medical Superintendent, Mufti Mehmood Memorial Hospital DIKhan	01
7	Medical Superintendent, Khalifa Gul Nawaz Hospital Bannu	01
8	Medical Superintendent, Govt. City Hospital Kohat Road Peshawar	01
9	Medical Superintendent, Sarhad Hospital for Psychiatric Diseases Peshawar	01
10	Medical Superintendent, Ayub Teaching Hospital Abbottabad	01
11	Executive District Officer (Health) Peshawar	01
12	Executive District Officer (Health) Swat	01
13	Executive District Officer (Health) Mardan	01
14	Executive District Officer (Health) Kohat	01
15	Director Provincial Health Services Academy, Peshawar	01
16	Principal Public Health School Hayatabad Peshawar	01
17	Principal Pubic Health School Abbottabad	01
18	MS Mardan Medical Complex	01
	TOTAL:	25

~~ATTESTED~~

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SCHEDULE – I
(Management Cadre)

Members of Service in BPS-19:

S.No.	Nomenclature of post	Number of post
1.	Executive District Officers (Health) in NWFP	20
2.	DDHOs/Coordinators EDO(H) Offices in NWFP	31
3.	Medical Superintendent DHQ.Hospitals in NWFP	17
4.	Medical Superintendent Govt. ID Children Hospital Peshawar	01
5.	Medical Superintendent Police/Services Hospital Peshawar	01
6.	Medical Superintendent Mental & General Hospital Dadar Mansehra	01
7.	Medical Superintendent, City Hospital Lakki Marwat	01
8.	DMS Women and Children Hospital DIKhan,	01
9.	DMS in DHQ. Hospital, Mardan, Swat, Nowshera, Haripur, Abbottabad and DIKhan	06
10.	District TB Control Officer, Peshawar, Mardan, Swabi, DIKhan, Haripur, Battagram, Mansehra, Swat, Chitral, Upper Dir	10
11.	Deputy Administrator Mardan Medical Complex Mardan	01
12.	MS/Incharge Civil/THQ.Hospital Tangi, Shabqaddar, Dargai, Pabbi, Matta, Darosh (Chitral), Rehana, Kulachi	08
13.	SMO I/C Women & Children Hospital Bannu	01
14.	Vice Principal Paramedical Institute, Abbottabad, DIKhan, Swat	03
15.	SMO (Health) Municipal Corporation Peshawar	01
16.	Deputy Directors in DGHS NWFP Peshawar	05
17.	DMS (Stores) Govt. LRH/KTH Peshawar	02
18.	Principal Postgraduate Paramedical Institute Peshawar	01
19.	Deputy Director (HRD) PHSA NWFP	01
20.	Deputy Director(Monitoring and Research) PHSA NWFP	01
21.	Deputy Director(Management) PHSA NWFP Peshawar	01
22.	Course Directors (PH/CDC and Management, Trg.& Development) PHSA NWFP	02

ATTESTED

25.	DMS Ayub Teaching Hospital, Abbottabad	01
26.	Director Health Services FATA Peshawar	01
27.	MS AHQ Hospital Parachinar, Ghallanai, Wana, Bajaur	04
	TOTAL:	128

Note: All Program Manager/Provincial Coordinators of Vertical Programs/Projects & FATA Health positions would be filled from amongst Management Cadre.

~~ATTESTED~~

(Appellate Jurisdictions)

SUBJECT: DEPARTMENTAL APPEAL UNDER SECTION-22 OF THE KHYBER
PAKHTUNKHWA CIVIL SERVANT ACT 1973

Sir,

With due respect, the instant appeal is submitted under section-22 of the
aforementioned Act, to the authority next above the authority who made the illegal
posting/transfer notification of the appellant, an officer of BS-20, whose posting/transfer
competent authority is the Chief Minister, while the order has been made by the Health
Department on its own behalf. This appeal is, therefore, made on the following facts, grounds
and prayers given at the end:

Respectfully submitted.

1. That the appellant is a law abiding citizen of Pakistan and belong to District Peshawar.
2. That the appellant was initially appointed as Medical Officer Health Department on 06-11-1989.
3. That the appellant was inducted in to the Health Management cadre in 2008 and now occupy the position in BS-20 in the cadre.
4. That the appellant was posted against the cadre/scheduled post of Project Director Integrated Health Project on 17-01-2020 (F/A).
5. That now the Health Department have issued a notification NO. SOH(HD)E-V/4-4/2020 dated 26-01-2021 (F/B) whereby the appellant was directed to report to the Health Directorate while the incumbent was posted against the cross-cadre position.
6. That as per posting/transfer policy of the Government of Khyber Pakhtunkhwa, the normal tenure of posting is three years (F/C), while the instant transfer of the appellant is pre-mature, hardly completed one year.
7. That as per Schedule-I of the Health Management Cadre Rules 2008 vide Notification NO.SOH(E-V)4-20/08 dated 11-12-2008,
"All Program Manager/Provincial Coordinators of Vertical Programme/ Projects & FATA Health positions would be filled from amongst Management Cadre (F/D)".
8. That the appellant belongs to the Health Management Cadre in BS-20 and presently he was working against the scheduled post of his cadre in BS-20. However, the incumbent belongs to the General Cadre and his posting against the mentioned position would mean cross-cadre posting.

O/C

~~ATTN~~

A

9. There is a plethora of court judgments and circulars of the Government of Khyber Pakhtunkhwa, whereby cross-cadre posting has been abandoned. (15)

10. That as per schedule-III of the Khyber Pakhtunkhwa Govt. Rules of Business 1985, posting/transfer of officers in BS-20 shall be made after approval of the Chief Minister Khyber Pakhtunkhwa (F/E) while in the instant case, the Health department has issued the transfer order on its own behalf without following the Rules of Business, thus enlarging its authority and power.
11. That as per PC-I of the Project, the post of the Project Director shall be filled through Provincial Project Selection Committee P & D Department on the basis of merit. For this purpose the Health department has submitted working paper to the P & D Department, comprising the appellant as candidate for the same. However, the working paper is not in line of the prevailing rules, as the PD must be doctor of the Health Management cadre as mentioned in Para-07 above but the panel consists candidate of the General Cadre. Secondly, the Court and also the Establishment department has abandoned posting of officers of the lower grade against positions in the higher grade. The panel also consist candidates of the lower grade. Therefore, the P & D Department may better return the case to the Health department for rectification.

Grounds

- A. The action of the Health department, regarding transfer of the appellant, is illegal, arbitrary, discriminatory and violative of Article-25 and Article-27 of the Constitution of the Islamic Republic of Pakistan.
- B. The instant pre-mature transfer of the appellant is against the existing posting/transfer policy of the Government of Khyber Pakhtunkhwa.
- C. The act of the respondents by which the appellant have been transferred is inconsistent with the Fundamental Rights of the appellant guaranteed under the Constitution of Pakistan 1973.
- D. The Health department have transgressed its power/authority and the appellant have been denied the right to be treated equally.
- E. That valuable rights have been created in favour of appellant after his appointment especially in aftermath of the Health Management Cadre Rules 2008.
- F. That the treatment of the Health Department is violative to the Khyber Pakhtunkhea Rules of Business 1985.
- G. That the Honorable Courts have forbidden cross-cadre posting

ATTACHED

9/21

**GOVERNMENT OF ¹KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMINISTRATION DEPARTMENT
NOTIFICATION**

Peshawar the, dated 6th April, 1985.

No. SO(O&M) S&GAD/3-3/1985,---In pursuance of the provision contained in Article 139 of the constitution of the Islamic Republic of Pakistan and in suppression of the ²Khyber Pakhtunkhwa Government Rules of Business, 1972, the Governor of the ³Khyber Pakhtunkhwa is pleased to make the following rules:

PART - A ----- GENERAL

1. SHORT TITLE AND COMMENCEMENT.

- (1) These rules may be called the ⁴Khyber Pakhtunkhwa Government Rules of Business, 1985.
- (2) They shall come into force at once.

2. DEFINITION .--- In these rules, unless the context otherwise requires.

- (a) "**Assembly**" means the Provincial Assembly of the ⁵Khyber Pakhtunkhwa;
- (b) "**Attached Department**" means a Department mentioned in column 3 of *Schedule-I*;
- (c) "**Business**" means all work done by Government;
- (d) "**Cabinet**" means the Cabinet of Ministers appointed under Article 132 of the Constitution and includes the Chief Minister appointed under Article 130 of the Constitution;
- (e) "**Case**" means a particular matter under consideration and includes all papers relating to it and required to enable the matter to be disposed of, viz: correspondence and notes and also any previous papers on the subject or subjects covered by it or connected with it;
- (f) "**Chief Secretary**" means the officer notified as such in the Gazette, who shall in addition to other Departments and functions that may be allotted to him from time to time, be incharge of the ⁶Establishment and Administration Department and shall also be the Secretary to the Cabinet;
- (g) "**Constitution**" means the Constitution of the Islamic Republic of Pakistan;
- (h) "**Department**" means a self-contained administrative unit in the Secretariat responsible for the conduct of business of Government in a distinct and specified sphere, and declared as such by the Government;
- (i) "**Federal Government**" means the Executive Government of the Islamic Republic of Pakistan;
- (j) "**Gazette**" means the official gazette of the ⁷Khyber Pakhtunkhwa.

¹ Subs. Vide the Khyber Pakhtunkhwa Act No. IV of 2011

² Subs. Vide the Khyber Pakhtunkhwa Act No. IV of 2011

³ Subs. Vide the Khyber Pakhtunkhwa Act No. IV of 2011

⁴ Subs. Vide the Khyber Pakhtunkhwa Act No. IV of 2011

⁵ Subs. Vide the Khyber Pakhtunkhwa Act No. IV of 2011

⁶Substituted vide Establishment & Administration Department letter No. SO(O&M)E&A/8-6/2001, dated 30-05-2001.

⁷ Subs. Vide the Khyber Pakhtunkhwa Act No. IV of 2011

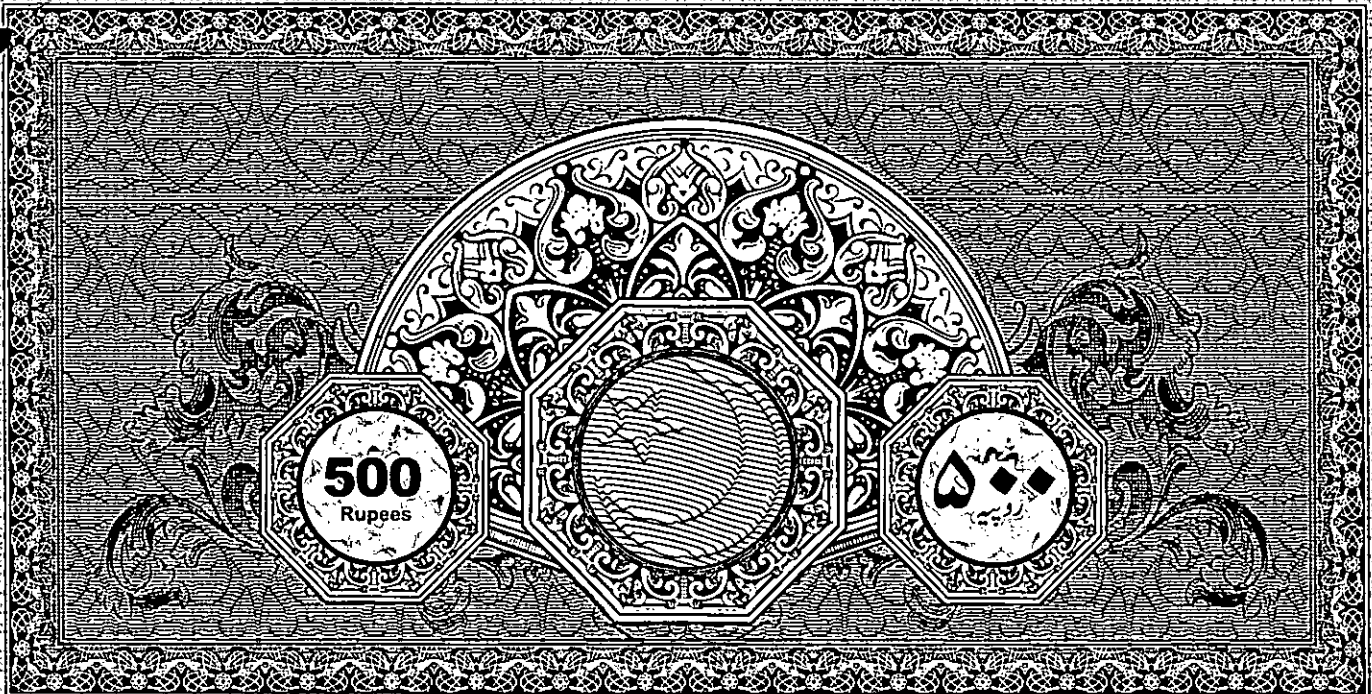
ATTESTED

22

SCHEDULE-III
[See Rule 17(1)]
TRANSFER OF OFFICERS

1	2
S. No	Outside the Secretariat
1.	Officers of the all Pakistan Unified Group i.e. DMG, PSP Including Provincial Police Officers in BPS-18 and above.
	Chief Secretary in Consultation with the Establishment Department and the Department concerned with the approval of the Chief Minister.
2.	Other Officers BPS-17 and above to be posted against scheduled posts, or posts normally held by the APUG, PCS (EG) and PCS (SG)
	--do--
3.	Head of Attached Departments and other Officers in BS-19 and above in all Department.
	--do--
	In the Secretariat:-
4.	Secretaries.
	Chief Secretary with the approval of Chief Minister.
5.	Other Officers of and above the rank of Section Officers:-
	(a) Within the same Department.
	Secretary of the Department Concerned.
	(b) Within the Secretariat from one Department to another.
	Chief Secretary/Secretary Establishment.
6.	Officials upto the rank of Superintendent:-
	(a) Within the same Department.
	Secretary of the Department Concerned.
	(b) To and from an Attached Department.
	Secretary of the Department in consultation with Head of Attached Department concerned.
	(c) Within the Secretariat from one Department to another.
	Secretary Establishment.

ATTESTED



PAKISTAN COURT FEE

In the Peshawar High Court
for

wf _____ 2021

Dr. Haroon Khan

vs

CANCELLATION

Date:.....

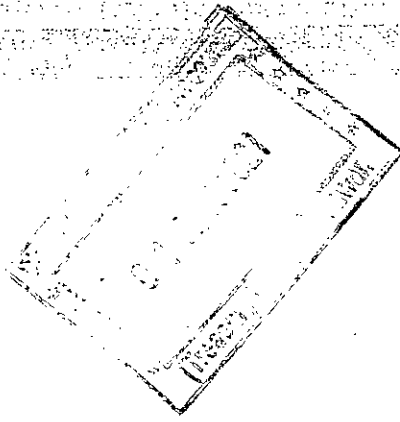
Govt of KP and others

FILED TODAY

Deputy Registrar

10 APR 2021

S. Haziq / Ali Shah
(Asst)



9/2

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Faint, illegible text or stamp.

Handwritten signature or initials.

Faint, illegible text or stamp.

BEFORE THE HON'BLE PESHAWAR HIGH COURT, PESHAWAR

VAKALATNAMA

Dr. Haroon Khan

Versus

Government of KP and others

I, _____, do hereby appoint, **Syed Haziq Ali Shah, Junaid Zaman and Hamza Tariq Wali** Advocates, Peshawar in the above mentioned Case, to do all or any of the following acts, deeds and things:

- 1- To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard, and any other proceedings arising out of or connected therewith.
- 2- To sign and verify and file or withdraw all proceeding, petitions, appeals, affidavits and applications for compromise or withdrawal, or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defense of the said case at all its stages.
- 3- To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of the proceedings.

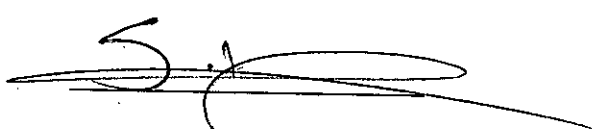
AND hereby agree:

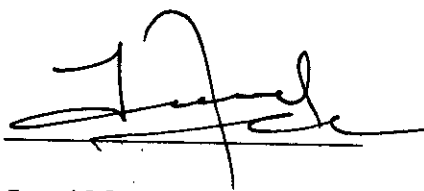
That the Advocates shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fees remains unpaid.

In witness whereof I/We have signed this Vakalatnama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this ___ day of April, 2021.


Signature of Executant

Attested & Accepted by:


Syed Haziq Ali Shah
Advocate Supreme Court of Pakistan


Junaid Zaman
Advocate High Court(s)


Hamza Tariq Wali
Advocate High Court(s)

FILED TODAY

Deputy Registrar

10 APR 2021

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. 5795/2021

Dr. Haroon Khan


-----Appellant

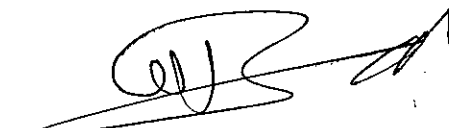
VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary

INDEX.

S.No.	Description of documents	Annexure	Page
01	Parawise Comments		1 to 05
02.	Notification dated	"A"	06
03	Minutes of the steering committee	"B"	07 to 10
04	Minutes of the PDWP meeting	"C"	11 to 16

P.O.-F.

27/07/21


Section officer (Lit-II)
Govt: of Khyber Pakhtunkhwa
Health Department

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. 5795/2021

Dr. Haroon Khan

-----Appellant

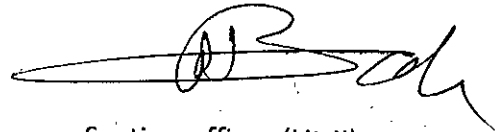
VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary

-----Respondent

AFFIDAVIT.

I Habib Ullah Section Officer (Lit-II) govt. of Khyber Pakhtunkhwa Health Department do hereby solemnly affirm and declare that the joint parawise comments in Service Appeal No.5795/2021 at Page-1-16 is submitted on behalf of respondents is true and correct to the best of my knowledge, belief and that nothing has been concealed from this Hon'ble Court.



Section officer (Lit-II)
Govt: of Khyber Pakhtunkhwa
Health Department

Identified by:-

Add: Advocate General,
Khyber Pakhtunkhwa

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA

SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 5795/2021

Dr Haroon khan Appellant

Versus

Govt. of Khyber Pakhtunkhwa through Chief Secretary and others.....Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

Respectfully Sheweth ;

PRELIMINARY OBJECTIONS:-

1. That the Appellant has got neither cause of action nor locus standi to file the instant Appeal.
2. That the Appellant has filed the instant appeal just to pressurize the respondents.
3. That the instant Appeal is against the prevailing Law and Rules.
4. That the Appeal is not maintainable in its present form.
5. That the Appellant has filed the instant Appeal with mala-fide intention hence liable to be dismissed.
6. That the Appeal is badly time-barred.
7. That the Honorable Tribunal has no Jurisdiction to adjudicate upon the matter.
8. That the instant appeal is bad for mis-joinder of unnecessary and non-joinder of necessary parties.
9. The impugned transfer Notification has been issued in accordance with Section 10 of the Khyber Pakhtunkhwa Civil Servant Act 1973.
10. That the appellant is a regular Civil Servant and was posted under the project policy on deputation basis and the project has already been closed on 30/06/2020, therefore, he has no right to be appointed as Project Director in a new project. even otherwise the

Apex court has laid down the principle that a deputationest has no right to remain posted reported as

“2018 PLC cs Peshawar 1248

2020 PLC cs Peshawar 639

2020 PLC cs Lahore 815”

ON FACTS:

1. Pertains to record however it is worth mentioning that the project was to integrated health services delivery with special focus on Lady Health Worker Program (LHW Program), Maternal, Neonatal & Child Health Program (MNCH), Expanded Program on Immunization (EPI) and Nutrition Program (ASUSAID DFID assisted) which was approved through administrative approval on **18/04/2014** and was to be ended October 2020 however the same was extended up to **31/10/2020** as the Provincial government decided to close the project in a meeting of steering committee dated **24/02/2020** and was deleted from ADP 2021-22. As per project policy of the provincial government a civil servant may be appointed on a project post on deputation therefore the status of the appellatant would be that of deputationest. It's further to clarify that as per instruction of the Provincial Government issued vide letter No. SOR-VI/E&AD/1-25/2007 dated 17/10/2008 clause (i)

“there shall be a Provincial Project Selection Committee and a Departmental Project Committee for recommending deputation of Civil Servants to project posts strictly on merit, keeping in view the job relevance, experience and service record. The constitution of the Committee shall be as under:-

- a. Provincial Project Selection Committee (for BPS 17 & above).
 - i. Additional Chief Secretary Khyber Pakhtunkhwa (Chairman)
 - ii. Secretary Establishment (Member)

- iii. Secretary Finance (Member)
- iv. Secretary P&D (Member)
- v. Secretary of concerned Deptt (Ex-Officio Member)

(Copy of the letter is annexed as A)

2. Pertains to record.
3. Correct to the extent that the appellant was posted as project director in accordance with the project policy of the provincial government by the competent authority.
4. Correct to the extent of transferring the appellant from the post of Project Director, however, the appellant concealed the material facts from this Honorable Tribunal with malafide intention in order to mislead the Honourable Tribunal. In fact the project, in which the appellant was posted has already been closed on dated **31/10/2020** as per decision of Steering Committee meeting held on **24/02/2020** and therefore it was also deleted from ADP 21-22. A new project with name of **Integration of Health Services Delivery with Special Focus on MNCH, LHW & NUTRITION PROGRAMME**, was approved in the PDWP meeting held on dated **22/12/2020** under the Chairmanship of Additional Chief Secretary, P&D Khyber Pakhtunkhwa. It is worth mentioning that the appellant was transferred as he has no right to be posted as Project Director in a new project because the Provincial Government will appoint/post a competent Civil Servant on the post of Project Director in the manner mentioned in para 1 above till the appointment /posting of a new Project Director for the new project additional charge was given to the respondent No 4. (copy of the minutes of the Steering Committee dated **24/02/2020** and minutes of the PDWP dated **22/12/2020** are annexed as annexure B&C).
5. The para is based on malafide, misleading concocted hence denied. Normal tenure as per transfer posting policy is two years, however, the competent authority has been empowered by Section 10 of the Khyber Pukhtunkhwa Civil Servant Act

1973 to transfer a Civil Servant at anytime to any other post even outside his cadre or Province provided his terms & conditions of service is not affected .As per dictum, laid down by the apex court ,in 2020 PLCCS 1207 Supreme Court,

PLACE of servicePrerogatives of employer...Government servant was required to serve any where his employer wanted him to serve; it was not a choice or prerogative of the employee to claim a right to serve at a place that he chose to serve.

Similarly in another judgment reported as 2004 PLC (CS) 705 S.C. It has been laid down that civil servant could not claim posting at a particular station or at the place of his choice. Competent authority, under S 9 of the Punjab civil servant Act 1974, was empowered to transfer any civil servant from one place to other at anytime in exigencies of service or on administrative ground.

6. Incorrect already explained in Para 5.
7. Pertains to record.
8. Incorrect .No vested rights of the appellant has been violated hence the appellant is not an aggrieved person thus having no cause of action to file the appeal however reply on the grounds are as under.

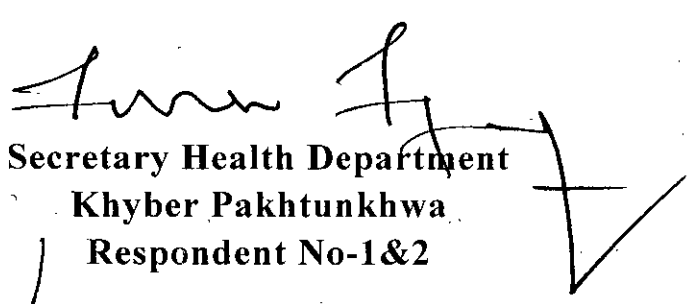
ON GROUNDS:

- A. Incorrect. The impugned transfer/posting Notification is based on law, Rules Principles of Natural Justice hence liable to be maintained by the Honorable Tribunal .
- B. Incorrect the appellant has been treated in accordance with law, Rules and Principles of natural Justice hence liable to be maintained by the Honorable Tribunal.
- C. Correct to the extent that fundamental rights of every citizen have been protected by constitution however no vested right of the appellant has been violated by the respondents.
- D. Incorrect the respondents acted as per law and rules. The impugned transfer posting notification has been issued in accordance with section 10 of Khyber Pukhtunkhwa service Tribunal Act 1973.
- E. Incorrect. The respondents issued the impugned Notification with bona fide motives in accordance with law however the appellant filed the instant appeal with ulterior motives.
- F. Incorrect already replied in para C of the grounds.

- G. Incorrect already replied in preceding Paras.
H. Incorrect already replied in preceding Paras.
I. Incorrect already replied in preceding Paras.
J. The respondents seek permission of this honorable Tribunal to adduce other grounds during final hearing of the case.

It is therefore requested that the appeal of the appellant may kindly be dismissed with cost.

Director General Health Services
Khyber Pakhtunkhwa
Respondent No-3&5


Secretary Health Department
Khyber Pakhtunkhwa
Respondent No-1&2

- (e) If an employee of the project is selected on a post on the non-development side in the prescribed manner, he will be appointed at the initial stage of the relevant Basic Pay Scale, and his pay and service rendered in the project shall not be protected/counted for any purpose including pay, pension and seniority etc.
- (f) During deputation to a project post, the Civil servant may ordinarily vacate the officially allotted residential accommodation. In case he wants to retain it, he shall pay house rent to the government @ 45% of the basic pay last drawn by him as well as 5% maintenance charges thereon according to the prescribed procedure. The same will apply if a civil servant is appointed on a project post through direct recruitment and the government residential accommodation officially allotted to him earlier is in the same station as his station of duty under the project.
- (g) The initial period of deputation will be three years extendable for another two years or till the project life, whichever is earlier.
- (h) A civil servant will not be considered for deputation to a project post unless he has successfully completed the initial as well as extended period of probation. He will also not be considered for deputation unless a period of at least 4 years has elapsed after his return from last deputation to a project.
- (i) There will be a Provincial Project Selection Committee and a Departmental Project Committee for recommending deputation of civil servants to project posts strictly on merit keeping in view the job relevance, experience and service record.

The constitution of the committee shall be as under:-

a. Provincial Project Selection Committee (for BS-17 & above posts).

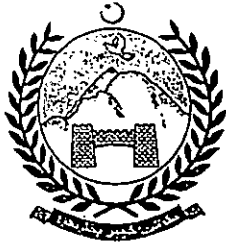
- | | | |
|------|---------------------------------|---------------------|
| i. | Additional Chief Secretary NWFP | Chairman |
| ii. | Secretary Establishment NWFP | Member |
| iii. | Secretary Finance NWFP | Member |
| iv. | Secretary P&D NWFP | Member |
| v. | Secretary of concerned Deptt. | (ex-officio Member) |

b. Departmental Project Selection Committee (for BS-16 & below posts)

- | | | |
|------|---------------------------------------|----------|
| i. | Secretary of the concerned Department | Chairman |
| ii. | Representative of Estab Department | Member |
| iii. | Representative of Finance Department | Member |
| iv. | Representative of P&D Department | Member |

2. The policy contained in this Department letter of even number, dated July 02, 2008 shall stand amended/modified to the above extent.

(Authority; letter No. SOR-VI/E&AD/1-25/2007 Dated 17th Oct. 2008)



Government of Khyber Pakhtunkhwa
Planning & Development Department
(Health Section)

Email: chief_health@hotmail.com
Phone/Fax: 091-9212879

3

No. C/HLT/P&D/IHSDP/2019-20/252-59
Dated: 25th February, 2020

To

1. The Secretaries to Govt: of Khyber Pakhtunkhwa,
 - a. Finance Department
 - b. Health Department
 - c. Population Welfare Department
2. The Director General Health Services,
Khyber Pakhtunkhwa, Peshawar
3. The Project Director,
Integrated Health Project, Peshawar

L.No. 1393
Date 22.2.20
Secretary Health

Subject: **MINUTES OF THE STEERING COMMITTEE MEETING OF THE PROJECT "INTEGRATION OF HEALTH SERVICES DELIVERY WITH SPECIAL FOCUS ON MNCH, LHWS, EPI AND NUTRITION PROGRAM (AUSAID & DFID ASSISTED)".**

Dear Sirs,

I am directed to enclose herewith a copy of the subject minutes of the Steering Committee meeting held on 24-02-2020 under the Chairmanship of Additional Chief Secretary, P&D Department Khyber Pakhtunkhwa for information and further necessary action, please.

Ullah
Research Officer-I (Health)

Copy forwarded for information to:-

1. PS to Additional Chief Secretary P&D Department.
2. PS to Secretary P&D Department.
3. PA to Addl: Secretary P&D Department.

Pofu
S. P. A. ...
3/2

Ullah
Research Officer-I (Health)

PS to Addl: Secy P&D
Pl. Examine and put up
1/12
SP I & P O-I
PS up P.

MINUTES OF THE STEERING COMMITTEE MEETING FOR THE PROJECT
"INTEGRATION OF HEALTH SERVICES DELIVERY WITH SPECIAL FOCUS
ON MNCH, LHWS, EPI AND NUTRITION PROGRAM (AUSAID & DFID
ASSISTED).

The subject meeting was held under the chairmanship of Additional Chief Secretary, P&D Department on 24-02-2020 at 10:00 AM in the Committee Room of P&D Department. List of participant is attached.

The chair welcomed the participants and invited Health Department to present the agenda of the meeting.

The Director General Health Services presented a brief overview of the project. He stated that the project "Integration of Health services delivery with Special focus on MNCH, LHWS, EPI and Nutrition Program (DFAT & DFID assisted)" was initially approved at a cost of Rs. 22.851 billion in 2014 with foreign assistance of Rs. 8.925 billion and PSDP share of Rs. 6.594 billion. However, the PSDP funds were not provided to the IHP project and were released on current side to the LHWS programme. The project was accorded revised approval in 2017 with a cost of Rs. 13.296 billion. The project completion date was 30-06-2018 and the project has been given two times extension till 30-06-2020.

The Director General Health Services presented progress updates of the project and stated that the instant meeting has been convened to discuss exit strategy and additional funds, amounting to Rs.1.771 billion, requirement for payment of staff salaries till June, 2020 and for clearance of pending liabilities of suppliers. Regarding exit strategy, he proposed the following:

- Integrated Health Project may be closed on 30th June 2020.
- Furthermore, the previous experience of regularization of LHWS Program was not very encouraging. The LHWS of the IHP may be continued on contract basis.
- To achieve 100 % coverage of the Rural Population and Urban Slums (total 80% of population approx.), a ten years LHWS programme is proposed to contribute in achieving SDGs, National Health Vision and objectives of Khyber Pakhtunkhwa Health Policy 2018 and to cover:
 - operational costs of all the LHWS and other field staff of the program
 - Salaries of LHWS, LHS and other staff recruited under the IHP Project.
 - Posts of already regularized LHWS/LHS and others falling vacant by attrition will be filled under the program.
- The EPI vaccinators may be regularized in the EPI Program.
- A three years project is also proposed for nutrition on the analogy of LHWS Program.

5

The Chair said that the project has not achieved much of its targets like Children mortality rate, infant mortality rate, deliveries by skilled attendants and increase in contraceptive prevalence rate. He said that the main goal of the project was integration of the four vertical programmes and asked Health department as to whether the goal has been achieved?. The Secretary Health responded that the integration was not successful and the Health department now wants to separate / unbundle the four vertical programmes. He further stated that regularization of LHWs is not a successful model. DG Health Services stated that the LHW is a dying cadre and can only be successful in program mode.

The Chair said that Health department needs to repackage the act/policy regarding LHWs, making them Government servants with no pension beyond retirement, with hire and fire policy, performance based continuation of service and KPIs. He further said that the EPI programme also needs complete revamping as five new polio cases have been reported yesterday.

The meeting discussed different options and agreed that Health Department may regularize the vaccinators in the EPI programme and may bring new project / projects for the LHW, Nutrition assistants and CMWs. The current project will be closed by 30-06-2020. As P&D Department has no savings available in inter-sectoral re-appropriation, therefore, Health Department may arrange additional funds through intra-setoral re-appropriation for payment of salaries of the project employees till 30-06-2020.

After detail discussions, it was decided that:

- i) The project "Integration of Health services delivery with Special focus on MNCH, LHWs, EPI and Nutrition Program (DFAT & DFID assisted)" will be closed by Health department by 30-06-2020. Health department to arrange additional funds through intra-setoral re-appropriation for payment of salaries of the project employees till 30-06-2020. All liabilities should be cleared before 30-06-2020.
 - ✓ ii) Health department will submit new project /s for ADP 2020-21.
 - iii) Health department to conduct 3rd party evaluation of the project and share its report with P&D department.
- H. Ash*
-

LIST OF PARTICIPANTS

6



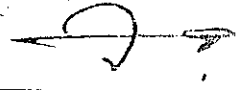
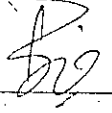


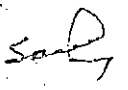
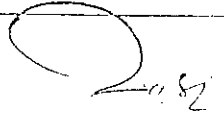
Steering Committee Meeting of the Project "Integration of Health Services."

Date: 24-02-2020

Chaired by: ACS, P&DD

Time: 10:00 AM

Venue: Committee Room of P&D Department

No.	Name	Department/Designation	Signature
1	DR FAHIM KHAN	P.C/UMW. KP.	
2	Dr. Haroon Khan	PD. IHP. DOH. KP	
3	Yahya Akhunda	Secy Health	
4	Dr. Tahir N. Khan	DGHS. KP.	
5	Shoa Gul Khan	Health / CPC	
6	M Naima Khan	AS / PWD	
7	Ashraf Saad Farooq	AS (Ops) FA	
8	Dr Zawal Hebis	D.O Tech Nutrition IHP, KP	
9			
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Government of Khyber Pakhtunkhwa
 Planning & Development Department
 (Health Section)

Email: chief_health@hotmail.com
 Phone/Fax: 091-9212879

No. C/HLT/P&D/PDWP/2020-21/1779-28
 Dated: 24th December, 2020

To

1. The Secretaries to Govt. of Khyber Pakhtunkhwa,
 - i. Finance Department.
 - ii. Health Department.
 - iii. C & W Department.
 - iv. Environment Department
2. Director General, M&E, P&D Department.

Subject: **MINUTES OF THE PDWP MEETING HELD ON 22-12-2020 UNDER THE CHAIRMANSHIP OF ADDITIONAL CHIEF SECRETARY, P&D DEPARTMENT.**

Dear Sir,

I am directed to enclose herewith a copy of the subject minutes of the PDWP meeting held on 22-12-2020 under the Chairmanship of Additional Chief Secretary, P&DD, Khyber Pakhtunkhwa in the Committee Room of P&D Department for information and further necessary action, please.

Encl: (As above)

Yours faithfully,

[Signature]
 24/12/2020
 Research Officer-I (Health)

Copy to:

- Chief Coordination, P&D Department, (Copy of the minutes is enclosed).
- Chief Infrastructure, P&D Department, (Copy of the minutes is enclosed).
- Section Officer-III, Chief Minister's Secretariat, (Copy of the minutes is enclosed).
- PS to Additional Chief Secretary, P&DD, Khyber Pakhtunkhwa.
- PS to Secretary, P&D Department.

[Signature]
 24/12/2020
 Research Officer-I (Health)

Total	984.273	982.976	1967.249
Project:			
	KFW Share (PKR)	ADP Share (PKR)	Total (PKR)
Component-I (IPD)	1291.537	107.362	1398.899
Component-II (OPD)	1845.784	121.465	1967.249
Total	3137.321	228.827	3366.148

Project Scrutiny, Technical/Financial Appraisal in the Pre-PDWP:

The project was approved by ECNEC on 07-10-2013 at a cost of Rs. 1399.156 million (Local share: 165.900, FA (KfW) share: 1233.256) for provision of Health Insurance Services to 21% of the poorest population (100,000 families) of 04 Districts of Chitral, Kohat, Malakand and Mardan. Under the project, only inpatient care is being provided to the beneficiaries. Though the project was approved in 2013, the actual provision of services initiated in February 2016 due to lengthy competitive bidding process for selection of the insurance company, beneficiary's enrolment, empanelment of hospitals, staff training etc.

The KfW share included 88% of total premium cost and allocation of funds for audit, M&E, organizational development and contingency. The local share included 12% of the total premium cost and establishment and operational costs of PIU.

The card utilization rate of inpatient care in these districts is 3-5%.

Now the PIU staff has been regularized and premium cost of the local share is met from provision from current budget.

Now the project is being revised for two years (2020-21 & 2021-22) for inclusion of OPD under the new agreement signed between Health and KfW. KfW will cover 85% (Rs. 1845.784 million) of the premium cost of OPD and 15% by (Rs. 121.465 million) the Provincial Government through this project.

For service provision of OPD, insurance company will be selected through national competitive bidding as per KPPRA rules.

Diabetes, chronic obstructive Pulmonary Diseases including asthma and Cardiovascular diseases will be covered under OPD services under the project.

Two additional posts in PIU (OPD Coordinator (BS-17) and OPD Assistant (BS-16) have been included along with operational cost of Rs. 5.850 million.

The Finance Department has accorded revenue clearance of the project.

Forum Discussion:

Chairman	The chair asked Health Department regarding selection of the four districts, premium for the OPD services, the rationale behind inclusion of selection of only 04 diseases in OPD services and nature of kfw funding as to whether it is loan or grant.
Health (Sponsors)	Responding to the chair observations, Special Secretary Health stated that the indoor patient health insurance scheme was also started in these 04 districts on pilot basis. However, after its success the health insurance scheme was extended to the whole province. Health Department now also intends to start the OPD services in these 04 districts on pilot basis. The premium for OPD services is calculated at Rs.7388/family. The most common chronic diseases: Diabetes, chronic obstructive Pulmonary Diseases including asthma and Cardiovascular diseases have been included. After evaluation of the pilot project, its extension to other diseases and the rest of the province will be considered. He clarified that KfW financial support is a grant not the loan.
Chief (Health), P&D	As the project involves grant money, Health Department to move summary for approval of Chief Minister, KP as per cabinet decision.

Decisions:

- The project was cleared at a revised cost of Rs. 3366.148 million (KfW share Rs. 3137.321 million ADP share Rs. 228.827 million) for onward submission of CDWP/ECNEC.
- Health Department to move a summary, as per cabinet decision, to the Chief Minister Khyber Pakhtunkhwa for obtaining approval as grant is involved in the project.

Agenda Item No. 5

Name of Project	Integration of Health Services Delivery with Special Focus on MNCH, LHW & Nutrition Program.
Plan Type/Code	ADP No. 816 (2020-21), Code: 200037.
PC-I Status	New / Un-approved

ADP Cost	Rs. 8000.000 million
PC-I Cost	Rs. 7027.226 million
Allocation 2020-21	Rs. 1726.556 million

Project Description:

The instant project is (mainly) extension of the ongoing Integrated Health Project which extended project life expired on 31st October, 2020. EPI component is not included in the new project as it has been shifted to current. The new project have three areas: LHW, MNCH and Nutrition.

Project Objectives:

To improve the health outcomes among women, children and newborns by enhancing coverage and providing access of health and nutrition services to the poor and vulnerable in rural and less developed urban areas through implementation of the minimum health service delivery package (MHSDP) and achievement of minimum service delivery standard (MSDS) in both outreach and facility based services.

Purpose of the Project:

- To improve access to RMNCH and nutrition services of MHSDP at outreach level.
- To improve access to RMNCH and nutrition services of MHSDP at primary care facility level.
- To improve access to nutrition interventions at secondary care level.
- To integrate and strengthen programme management at provincial and district level.
- To introduce E-monitoring & reporting system for collection of good quality data for evidence based decision making.

The above objectives will contribute towards achievement of the performance targets envisaged in the Health Policy Khyber Pakhtunkhwa and Health Sector Strategic Plan.

Breakup of project cost:

S#	Description	Total Cost	%
1	HR Cost	3532.389	50.3
2	HR Training Cost	228.367	3.2
3	Medicine and Supplies / equipment / Contraceptives (LHW/CMW)	2188.629	31.1
4	E-Monitoring	60.378	0.9
5	POL	243.187	3.5
6	TA/DA	110.163	1.6
7	Operations cost (PMU & DMU)	27.831	0.4
8	Nutrition Commodities / Equipment	239.634	3.4
9	Purchase of Vehicle	11.500	0.2
10	Procurement of PIU Equipment	10.985	0.2
11	BCC Cost	42.100	0.6
12	Transfer Grant to PCMC of 50 24/7 RHCs	30.000	0.4
13	Transfer Grant to PCMC of 200 24/7 BHUs	60.000	0.9
14	Cost of Warehousing and Supply Chain	111.106	1.6
15	Operation Cost of MNCH School	36.600	0.5
16	Procurement of Contraceptives for Primary & Secondary Care Health Facilities	94.356	1.3
	Total	7027.226	100%

Project Scrutiny, Technical/Financial Appraisal in the Pre-PDWP:

The instant project is (mainly) extension of the ongoing Integrated Health Project which extended project life expired on 31st October, 2020. EPI component is not included in the new project as it has been shifted to current. The new project have three areas: LHW, MNCH and Nutrition.

Under the new PC-I, the design of the project has been changed with more focus on technical interventions and with devolved management approach.

The major component of the PC-I amounting to Rs. 7027.226 million are Human Resource Cost (50%), Medicine and supplies / equipment / contraceptives (31%), training (3%), POL repair of vehicle (3.4%), nutrition commodities (3.4%), TA/DA (1.6%), warehousing and supply chain (1.57%).

Pre-PDWP outcome:

- Health Department agreed to include LHWs coverage mapping in the PC-I in order to know uncovered areas in a UC or high demand areas for primary Health Care Services. (Rs. 10.00 million allocated in the PC-I for mapping of existing LHW, Coverage)
- Health Department agreed to allocate Rs. 94.300 million for procurement of contraceptives for secondary care and primary health care facilities.

Ambulance Services (Rs. 432.033 million deleted by Department).
 reduced from Rs. 7930.186 million to Rs. 7027.226 million after revenue clearance by the Department.
 Department has agreed for geo mapping of CMWs and the stipend will be paid on maximum period of 03 years.
 Operationalize the PCMCs at the earliest and to formulate proper monitoring funds to be utilized by the PCMCs.

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	<p>Health Department has changed the organizational structure and implementation mechanism to bring unity of command. From the lesson learnt from the last program, the forum believes and is of the opinion that Health Department will not change the design of the project. The governance structure proposed in the PC-I will be kept intact for the project life of the project. The earlier program was a failure as money was spent but we have not improved our health indicators or improved in a manner which may be described as satisfactory. The forum believes that under the new PC-I, the baselines and the indicators have been well established and yearly targets are defined. P&D Department will judge the performance on the basis of the baselines and on the basis of the targets sets in the PC-I. Despite the fact the salaries are not fit charge on the development budget, the forum is agreeing to the project on the development in order to give health department the space to run the program on performance based human resource and also being a necessity as the program is required to reach outreach health services.</p>
Health (Sponsors)	<p>Responding to the chair query regarding difference between the old and the PC-I, Dr. Haroon, Additional Director General Health Services stated that organogram of the project has been changed. In the Previous PC-I, each program had a separate Coordinator, and the Project Director Office was used as a post office. Under the new PC-I, there will be a Project Director with Director Operational, who will look after all the three programs. Proper M&E and MIS systems will be developed under the PC-I to evaluate the performance of the LHWs and CMWs. The program will also be linked with Health IMU.</p>

Decisions:
 The project was approved at a total cost of Rs. 7027.226 million for a period of 03 years.

Agenda Item No. 6	
Name of Project	Establishment of Paramedics college & Male Nursing College in Lakki Marwat (PC-II approved by PDWP on 08-10-2019)
Plan Type/Code	ADP No. 792 (2020-21), Code: 180468
PC-I Status	Ongoing / Unapproved.
ADP Cost	Rs. 1300.00 million.
PC-I Cost	Rs. 2265.73 million.
Allocation 2020-21	Rs. 150.00 million.
Project Description:	
Under the Project Paramedic College and Male Nursing College will be established in Lakki Marwat. The scope of project includes:	
<ol style="list-style-type: none"> 1. Paramedic College (Rs.280.80 million) 2. Male Nursing College (Rs. 280.80 million) 3. 04 hostels (Rs. 745.65 million) 4. Faculty Flats (Rs. 50.59 million) 5. 02 Auditoriums (Rs. 141.76 million) 6. Principals and Vice Principals Flats (Rs. 57.08 million) 7. 04 Admin and Support Staff Flats (Rs. 167.32 million) 8. Class-III and IV (Rs.59.58 million) 9. Main gate and Guard Room (Rs. 12.75) million) 10. Mosque (Rs. 24.97) 11. Boundary Wall (Rs. 37.9 million) 12. Roads (Rs.39.23 million) 13. Overhead Tank, 100000 Galoons (Rs. 25.47 million) 14. Tube Well with Pumping Chamber (Rs.8.56 million) 15. External Electrification (Rs. 40.5 million) 16. Land cost (Rs. 67 million) 	

Brief regarding the Project "Integration of Health Services Delivery with special focus on MNCH, LHW, EPI and Nutrition Program (AUSAID & DFID Assisted)"

Approval: Approved by ECNEC on 12/02/2014.

Duration of the Project: 2014-15 to October 2020.

Total Cost: Rs. 22,851.457 million
(PSDP: Rs 6594.00 million, ADP: Rs 7332.00 million, Donor share Rs. 8925.66 million).

PSDP Funding: The Federal Government was to provide Rs. 6594.00 million but couldn't release the said funds

Administrative Approval: AA issued was on 18/04/2014.

Scope of the Project:

The scope of the project was to integrate the following programs in light of the health sector strategy in order to enhance coverage and access to effective and quality maternal neonatal and child health services including nutrition with the strong focus on value for money and efficiency, especially for the poor and vulnerable:-

- i. Lady Health Workers Program (LHWs Program).
- ii. Maternal, Neonatal & Child Health Program (MNCH)
- iii. Expanded Program on Immunization (EPI)
- iv. Nutrition Program

Cost of Revised PC-I: Rs. 13,926.63 Million.

- **Provincial Govt. Share:** Rs. 5,806.63 Million (41.70%)
- **Donor Share:** Rs. 8,120.00 Million (58.30%)
- **Approval Forum:** ECNEC on 10/07/2017.
- **Duration:** 2016-17 to 2017-18

Revised Administrative Approval: Revised AA issued on 20/09/2017.

• **Extension:**

- i. Two Times Neutral Extension was granted to the project i.e 2018-19 and 2019-20.
- ii. Four months extension i.e 1st July to 30th October was granted at a cost of Rs.576.16 M.

Tenure of Project Directors:-

- i. Dr. Javed Pervez 20-09-2017 to 26-01-2019 (1 year 4 months 6 days)
- ii. Dr. Sahib Gul 06-02-2019 to 12-07-2019 (5 months 6 days)
- iii. Dr. Adbur Rauf Khan 16-07-2019 to 20-01-2020 (6 months 4 days)
- iv. Dr. Haroon Khan 21-01-2020 to 26-01-2021 (1 year 5 days)

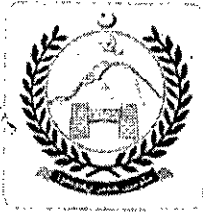
Current Status:

The project remained under execution from 12/02/2014 to 30th October 2020 where the project was closed down. During this period the project was revised one time and accorded cost neutral extension from 2 years and 4 months.

Dr. Haroon remained the 4th Project Director of the project. When the Provincial Government decided to close this project, hence his services were no more required and the project was closed down and deleted from ADP 2021-22.

Closing of the Project:-

Integration of Health Services Delivery with special focus on MNCH, LHW, EPI and Nutrition Program (AUSAID & DFID Assisted)" has been closed on 31/10/2020.



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 1790 /ST

Dated: 08/09 /2021

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262


To

The Secretary Health Department ~~Government of Khyber Pakhtunkhwa~~,
Government of Khyber Pakhtunkhwa
Peshawar.

Subject: JUDGMENT IN APPEAL NO. 5795/2021 DR. HAROON KHAN.

I am directed to forward herewith a certified copy of Judgement dated 27.08.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

C.M No. _____ / 2021

In

Appeal No. 5795 /2021

Dr. Haroon Khan

Versus

Government of Khyber Pakhtunkhwa through Chief Secretary and others

INDEX

S.No	Description of documents	Annex	Pages
1.	Memo of Application		1
2.	Affidavit		2

Petitioner

Through


Syed Haziq Ali Shah
Advocate Supreme Courts of Pakistan

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

C.M No. _____ / 2021

In

Appeal No. 5795 /2021

Dr. Haroon Khan

Versus

Government of Khyber Pakhtunkhwa through Chief Secretary and others

APPLICATION FOR THE GRANT OF TEMPORARY INJUNCTION

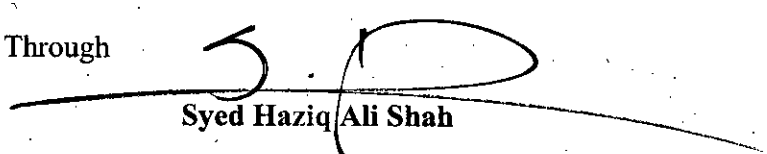
Respectfully Submitted:

1. That the Appellant has filed the above noted Service Appeal before this Hon'ble Tribunal in which no date of hearing is fixed so far. The facts and grounds mentioned in the Appeal may be read as integral part of this application.
2. That the Appellant has a good prima facie case and there is a likelihood of its success.
3. That the balance of convenience also lies in suspending the transfer order dated 26.01.2021, whereby the Appellant has been illegally and unlawfully transferred from the post of Project Director (BPS-20) and has been directed to report to the Directorate General Health Services, Khyber Pakhtunkhwa, Peshawar with immediate effect.
4. That the Appellant would face great hardship , if the transfer order dated 26.01.2021 is not suspended.
5. That there is no legal impediment in allowing the instant application/interim relief.

It is, therefore, prayed that the transfer order dated 26.01.2021 may kindly be suspended till the final disposal of the main Appeal.

Appellant

Through


Syed Haziq Ali Shah

Advocate Supreme Court of Pakistan

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

C.M No. _____ / 2021 .

In

Appeal No. 5795 /2021

Dr. Haroon Khan

Versus

Government of Khyber Pakhtunkhwa through Chief Secretary and others

AFFIDAVIT

I, **Dr. Haroon Khan** S/O Shamsheer Khan R/O House No. 81/E, Old Bara Road, University Town, Peshawar, do hereby solemnly affirm and declare on oath that the contents of accompanied Application are true and correct to the best of my knowledge and belief and nothing has been intentionally concealed from this Hon'ble Court.


Deponent

ATTESTED



E/1
C/10

**Government of Khyber Pakhtunkhwa,
Health Department**

Dated Peshawar the 26th January, 2021

NOTIFICATION

NO. SOH(HD)/E-V/4-4/2020

The Competent Authority is pleased to transfer Dr. Haroon Khan (BS-20), Director, Integrated Health Program and direct him to report to Directorate General Health Services, Khyber Pakhtunkhwa Peshawar, with immediate effect, in the public interest.


Consequent upon the above, Dr. Niaz Muhammad, Additional Director General (Admin)/ Director General Health Services Khyber Pakhtunkhwa is hereby assigned additional charge of the post of Director, Integrated Health Program in addition to his present duties, till further orders.

**Secretary Health
Government of Khyber Pakhtunkhwa**

Endst. Of even No. & Date.

Copy to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. Director, Integrated Health Program.
4. Deputy Director (IT), Health Department, with the direction to upload the notification on official website.
5. PS to Minister for Health Department, Khyber Pakhtunkhwa.
6. PS to Secretary Health Department, Khyber Pakhtunkhwa.
7. Doctors concerned.


(Latif Ur Rehman)
Section Officer (E-V)
26.1.21

~~ATTESTED~~



**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

D/11

NOTE FOR MINISTER HEALTH, KHYBER PAKHTUNKHWA

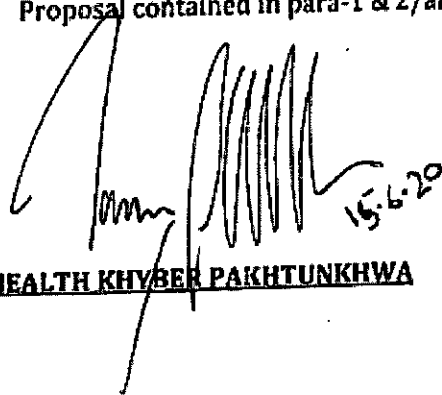
Subject:- **POSTING / TRANSFER**

1. In order to maximum utilize the services of health professionals considering their expertise, exigencies and tenure as provided in statutory provision of posting / transfer policy, Health Department submit the following posting / transfer proposal in the best of public interest:-

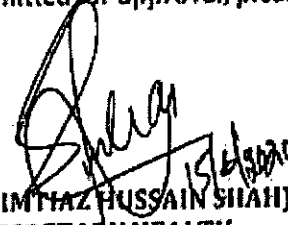
Sr.#	Name of Dr.	From	To
1.	Dr. Tahir Nadeem (Management Cadre BS-20)	Director General Health Services, Khyber Pakhtunkhwa, Peshawar.	Report to Directorate General Health Services, Khyber Pakhtunkhwa, Peshawar.

2. Consequent upon the above and till posting of full fledged Director General, Health Services, Khyber Pakhtunkhwa Dr. Niaz Muhammad (BS-20), Additional Director General (Admin) already holding look after charge will continue as Director General Health Services, Khyber Pakhtunkhwa until further orders.

3. Proposal contained in para-1 & 2/ante is submitted for approval, please.


15.6.20

MINISTER HEALTH KHYBER PAKHTUNKHWA


(SYED IMTIAZ HUSSAIN SHAH)
SECRETARY HEALTH

ATTESTED

E/

E/12

GOVERNMENT OF THE NORTH-WEST FRONTIER PROVINCE NWFP
HEALTH DEPARTMENT

NOTIFICATION

Peshawar, dated the 11th DECEMBER, 2008

No. SOH(EV)4 – 20 / 08 : In exercise of the powers conferred by section 26 of the North West Frontier Province Civil Servants Act, 1973 (N.-W.F.P. Act XVIII of 1973), the Governor of the North-West Frontier Province is pleased to make the following rules, namely:

THE NORTH-WEST FRONTIER PROVINCE
HEALTH (MANAGEMENT) SERVICE RULES, 2008.

PART – I
GENERAL

1. **Short title and commencement.** --- (1) These rules may be called the North-West Frontier Province Health (Management) Service Rules, 2008.

(2) They shall come into force at once.

2. **Definitions.**--- In these rules, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say -

- (a) "appointing authority" in relation to a post, means the respective authority specified in para 4 of the North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989;
- (b) "Commission" means the North-West Frontier Province Public Service Commission;
- (c) "Cadre" means Health Management Cadre;
- (d) "Government" means the Government of the North-West Frontier Province;
- (e) "Governor" means the Governor of the North-West Frontier Province;
- (f) "Initial recruitment" means appointment made otherwise than by promotion or transfer;
- (g) "Member of Service" means officer belonging to health management cadre as reflected in schedule I, II & III;

ATTESTED

(h) "PHSA" means Provincial Health Services Academy;

- (i) "Post" means a post specified in the Schedule-I of the rule and such other posts as may, from time to time, be determined by the Government;
- (j) "Schedule" means the schedule appended to these rules; and
- (k) "Service" means the North-West Frontier Province Health (Management) Service.

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PART-II RECRUITMENTS

3. **Number and nature of posts.**---The Service shall comprise the posts specified in the Schedule -I and such other posts as may be determined by Government from time to time.
4. **Method of Appointment.**---Method of appointment, qualifications and other conditions to applicable to a post in the Service shall be such as laid down in the column 3 to 5 of the Schedule - II.
5. **Syllabus and examination for appointment by initial recruitment.**--- Syllabus and standard for competitive examination for appointment by initial recruitment to the post in BS-17 shall be, as laid down in Schedule-III.

PART-III CONDITIONS OF SERVICE

6. **Pre-Service Training & Departmental Examinations.**--- (1) On appointment to a post borne on the service in BS-17, every officer so appointed shall complete six months mandatory training including attachment as specified in schedule -IV.

(2) The training shall be followed by departmental examination to be conducted by Provincial Health Services Academy, which will be part of probation period.

7. **In-Service Training.**---Selection for in-service trainings which are linked with promotion shall be done on seniority basis and those at verge of promotion shall be given priority.

8. **Private Practice.**--- (1) No Member of Service shall be allowed private practice, in lieu he shall be entitled to non-practicing allowance, at such rate as may be prescribed by Government.

(2) In case of default, the Member shall be liable to disciplinary action under the law.

9. **General rule.** --- In all matters not expressly provided for in these rules, Members of Service shall be governed by such rules as have been or may hereafter be prescribed by Government from time to time.

ATTESTED

10. **One time exercise.** --- (1) Notwithstanding anything contained in the provision of these rules, Government shall, as one-time exercise, fill in posts in the Service described in Schedule-I by way of permanent transfer from amongst the Officers of General Cadre in equivalent basic pay scale who have the qualification of Master of Public Health or Postgraduate Diploma in Public Health or Postgraduate Diploma in Hospital Administration or Health Planning & Management or equivalent Master's Degree / Diploma in Health management or allied disciplines and opt for absorption;

Provided that the option once exercised shall be final.

(2) Where the number of officers opting for absorption in Management Cadre is more than the available positions in respective grade, the selection under one time exercise shall be done on the basis of seniority-cum-merit only in the respective grade;

Provided that for determining the suitability of the officers, additional relevant qualifications, trainings/courses in the relevant field and managerial experience, as such, shall be taken into consideration.

11. **Deletion of posts.**---Posts reflected in the schedule-I shall stand deleted from any other service rules for the time being in force and such rules shall be deemed to have been amended to the above extent:

SECRETARY TO GOVERNMENT OF NWFP
HEALTH DEPARTMENT

Endst. of even No & Date.

Copy to:

1. The Chairman, Public Service Commission, NWFP, Peshawar
2. PS to Minister for Health, NWFP.
3. PS to Chief Secretary, NWFP.
4. PS to Additional Chief Secretary, NWFP.
5. PS to Secretary E&A Department.
6. PS to Secretary Law Department.
7. PS to Secretary Finance Department.
8. Ps to Secretary Health.
9. PA to DGHS NWFP.
10. Computer Programmer, Health Department.

ATTESTED

(ADIL SAEED SAFI)
SECTOIN OFFICER – V

SCHEDULE – I
(Management Cadre)

15

Members of Service in BPS-20:

S.No.	Nomenclature of post	Number of post
1	Director General Health Services, NWFP, Peshawar	01
2	Director (Admn) DGHS NWFP Peshawar	01
3	Director Health Services DGHS NWFP Peshawar	01
4	Medical Superintendent Govt. LRH/KTH/HMC Peshawar	03
5	Medical Superintendent DHQ.Hospitals Kohat, Bannu, DIKhan, Mardan, Swat, Abbottabad	06
6	Medical Superintendent, Mufti Mehmood Memorial Hospital DIKhan	01
7	Medical Superintendent, Khalifa Gul Nawaz Hospital Bannu	01
8	Medical Superintendent, Govt. City Hospital Kohat Road Peshawar	01
9	Medical Superintendent, Sarhad Hospital for Psychiatric Diseases Peshawar	01
10	Medical Superintendent, Ayub Teaching Hospital Abbottabad	01
11	Executive District Officer (Health) Peshawar	01
12	Executive District Officer (Health) Swat	01
13	Executive District Officer (Health) Mardan	01
14	Executive District Officer (Health) Kohat	01
15	Director Provincial Health Services Academy, Peshawar	01
16	Principal Public Health School Hayatabad Peshawar	01
17	Principal Pubic Health School Abbottabad	01
18	MS Mardan Medical Complex	01
	TOTAL:	25

~~ATTESTED~~

16

SCHEDULE – I
(Management Cadre)

Members of Service in BPS-19:

S.No.	Nomenclature of post	Number of post
1.	Executive District Officers (Health) in NWFP	20
2.	DDHOs/Coordinators EDO(H) Offices in NWFP	31
3.	Medical Superintendent DHQ.Hospitals in NWFP	17
4.	Medical Superintendent Govt. ID Children Hospital Peshawar	01
5.	Medical Superintendent Police/Services Hospital Peshawar	01
6.	Medical Superintendent Mental & General Hospital Dadar Mansehra	01
7.	Medical Superintendent, City Hospital Lakki Marwat	01
8.	DMS Women and Children Hospital DIKhan,	01
9.	DMS in DHQ. Hospital, Mardan, Swat, Nowshera, Haripur, Abbottabad and DIKhan	06
10.	District TB Control Officer, Peshawar, Mardan, Swabi, DIKhan, Haripur, Battagram, Mansehra, Swat, Chitral, Upper Dir	10
11.	Deputy Administrator Mardan Medical Complex Mardan	01
12.	MS/Incharge Civil/THQ.Hospital Tangi, Shabqaddar, Dargai, Pabbi, Matta, Darosh (Chitral), Rehana, Kulachi	08
13.	SMO I/C Women & Children Hospital Bannu	01
14.	Vice Principal Paramedical Institute, Abbottabad, DIKhan, Swat	03
15.	SMO (Health) Municipal Corporation Peshawar	01
16.	Deputy Directors in DGHS NWFP Peshawar	05
17.	DMS (Stores) Govt. LRH/KTH Peshawar	02
18.	Principal Postgraduate Paramedical Institute Peshawar	01
19.	Deputy Director (HRD) PHSA NWFP	01
20.	Deputy Director(Monitoring and Research) PHSA NWFP	01
21.	Deputy Director(Management) PHSA NWFP Peshawar	01
22.	Course Directors (PH/CDC and Management, Trg.& Development) PHSA NWFP	02

ATTESTED

25.	DMS Ayub Teaching Hospital Abbottabad	01
26.	Director Health Services FATA Peshawar	01
27.	MS AHQ Hospital Parachinar, Ghallanai, Wana, Bajaur	04
	TOTAL:	128

Note: All Program Manager/Provincial Coordinators of Vertical Programs/Projects & FATA Health positions would be filled from amongst Management Cadre.

~~ATTESTED~~

Chief Secretary,
Government of Khyber Pakhtunkhwa.

(Appellate Jurisdictions)

F/18
PS/AS/Khyber Pakhtunkhwa
Diary No. 565 w/k
Date 28-01-2021

SUBJECT: DEPARTMENTAL APPEAL UNDER SECTION-22 OF THE KHYBER
PAKHTUNKHWA CIVIL SERVANT ACT 1973

Sir,

With due respect, the instant appeal is submitted under section-22 of the
aforementioned Act, to the authority next above the authority who made the illegal
posting/transfer notification of the appellant, an officer of BS-20, whose posting/transfer
competent authority is the Chief Minister, while the order has been made by the Health
Department on its own behalf. This appeal is, therefore, made on the following facts, grounds
and prayers given at the end:

Respectfully submitted.

1. That the appellant is a law abiding citizen of Pakistan and belong to District Peshawar.
2. That the appellant was initially appointed as Medical Officer Health Department on 06-11-1989.
3. That the appellant was inducted in to the Health Management cadre in 2008 and now occupy the position in BS-20 in the cadre.
4. That the appellant was posted against the cadre/scheduled post of Project Director Integrated Health Project on 17-01-2020 (F/A).
5. That now the Health Department have issued a notification NO. SOH(HD)E-V/4-4/2020 dated 26-01-2021 (F/B) whereby the appellant was directed to report to the Health Directorate while the incumbent was posted against the cross-cadre position.
6. That as per posting/transfer policy of the Government of Khyber Pakhtunkhwa, the normal tenure of posting is three years (F/C), while the instant transfer of the appellant is pre-mature, hardly completed one year.
7. That as per Schedule-I of the Health Management Cadre Rules 2008 vide Notification NO.SOH(E-V)4-20/08 dated 11-12-2008,
"All Program Manager/Provincial Coordinators of Vertical Programme/ Projects & FATA Health positions would be filled from amongst Management Cadre (F/D)".
8. That the appellant belongs to the Health Management Cadre in BS-20 and presently he was working against the scheduled post of his cadre in BS-20. However, the incumbent belongs to the General Cadre and his posting against the mentioned position would mean cross-cadre posting.

O/C

ATTN

A

9. There is a plethora of court judgments and circulars of the Government of Khyber Pakhtunkhwa, whereby cross-cadre posting has been abandoned. (15)

10. That as per schedule-III of the Khyber Pakhtunkhwa Govt. Rules of Business 1985, posting/transfer of officers in BS-20 shall be made after approval of the Chief Minister Khyber Pakhtunkhwa (F/E) while in the instant case, the Health department has issued the transfer order on its own behalf without following the Rules of Business, thus enlarging its authority and power.
11. That as per PC-I of the Project, the post of the Project Director shall be filled through Provincial Project Selection Committee P & D Department on the basis of merit. For this purpose the Health department has submitted working paper to the P & D Department, comprising the appellant as candidate for the same. However, the working paper is not in line of the prevailing rules, as the PD must be doctor of the Health Management cadre as mentioned in Para-07 above but the panel consists candidate of the General Cadre. Secondly, the Court and also the Establishment department has abandoned posting of officers of the lower grade against positions in the higher grade. The panel also consist candidates of the lower grade. Therefore, the P & D Department may better return the case to the Health department for rectification.

Grounds

- A. The action of the Health department, regarding transfer of the appellant, is illegal, arbitrary, discriminatory and violative of Article-25 and Article-27 of the Constitution of the Islamic Republic of Pakistan.
- B. The instant pre-mature transfer of the appellant is against the existing posting/transfer policy of the Government of Khyber Pakhtunkhwa.
- C. The act of the respondents by which the appellant have been transferred is inconsistent with the Fundamental Rights of the appellant guaranteed under the Constitution of Pakistan 1973.
- D. The Health department have transgressed its power/authority and the appellant have been denied the right to be treated equally.
- E. That valuable rights have been created in favour of appellant after his appointment especially in aftermath of the Health Management Cadre Rules 2008.
- F. That the treatment of the Health Department is violative to the Khyber Pakhtunkhea Rules of Business 1985.
- G. That the Honorable Courts have forbidden cross-cadre posting

~~ATTACHED~~

9/21

**GOVERNMENT OF ¹KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMINISTRATION DEPARTMENT
NOTIFICATION**

Peshawar the, dated 6th April, 1985.

No. SO(O&M) S&GAD/3-3/1985,---In pursuance of the provision contained in Article 139 of the constitution of the Islamic Republic of Pakistan and in suppression of the ²Khyber Pakhtunkhwa Government Rules of Business, 1972, the Governor of the ³Khyber Pakhtunkhwa is pleased to make the following rules:

PART - A ----- GENERAL

1. SHORT TITLE AND COMMENCEMENT.

- (1) These rules may be called the ⁴Khyber Pakhtunkhwa Government Rules of Business, 1985.
- (2) They shall come into force at once.

2. DEFINITION .--- In these rules, unless the context otherwise requires.

- (a) "*Assembly*" means the Provincial Assembly of the ⁵Khyber Pakhtunkhwa;
- (b) "*Attached Department*" means a Department mentioned in column 3 of *Schedule-I*;
- (c) "*Business*" means all work done by Government;
- (d) "*Cabinet*" means the Cabinet of Ministers appointed under Article 132 of the Constitution and includes the Chief Minister appointed under Article 130 of the Constitution;
- (e) "*Case*" means a particular matter under consideration and includes all papers relating to it and required to enable the matter to be disposed of, viz: correspondence and notes and also any previous papers on the subject or subjects covered by it or connected with it;
- (f) "*Chief Secretary*" means the officer notified as such in the Gazette, who shall in addition to other Departments and functions that may be allotted to him from time to time, be incharge of the ⁶Establishment and Administration Department and shall also be the Secretary to the Cabinet;
- (g) "*Constitution*" means the Constitution of the Islamic Republic of Pakistan;
- (h) "*Department*" means a self-contained administrative unit in the Secretariat responsible for the conduct of business of Government in a distinct and specified sphere, and declared as such by the Government;
- (i) "*Federal Government*" means the Executive Government of the Islamic Republic of Pakistan;
- (j) "*Gazette*" means the official gazette of the ⁷Khyber Pakhtunkhwa.

¹ Subs. Vide the Khyber Pakhtunkhwa Act No. IV of 2011

² Subs. Vide the Khyber Pakhtunkhwa Act No. IV of 2011

³ Subs. Vide the Khyber Pakhtunkhwa Act No. IV of 2011

⁴ Subs. Vide the Khyber Pakhtunkhwa Act No. IV of 2011

⁵ Subs. Vide the Khyber Pakhtunkhwa Act No. IV of 2011

⁶ Substituted vide Establishment & Administration Department letter No. SO(O&M)E&A/8-6/2001, dated 30-05-2001.

⁷ Subs. Vide the Khyber Pakhtunkhwa Act No. IV of 2011

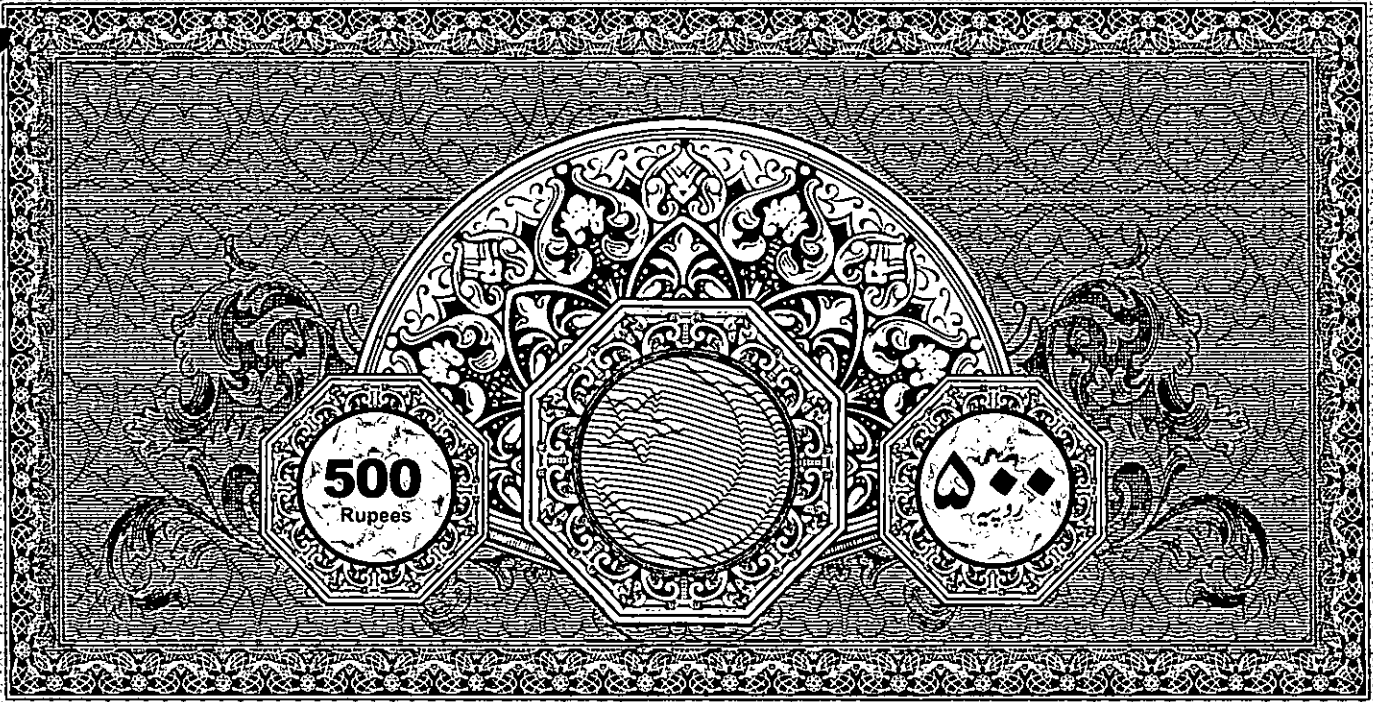
ATTESTED

22

SCHEDULE-III
[See Rule 17(1)]
TRANSFER OF OFFICERS

1	2
S. No	Outside the Secretariat
1.	Officers of the all Pakistan Unified Group i.e. DMG, PSP Including Provincial Police Officers in BPS-18 and above.
	Chief Secretary in Consultation with the Establishment Department and the Department concerned with the approval of the Chief Minister.
2.	Other Officers BPS-17 and above to be posted against scheduled posts, or posts normally held by the APUG, PCS (EG) and PCS (SG)
	--do--
3.	Head of Attached Departments and other Officers in BS-19 and above in all Department.
	--do--
	In the Secretariat:-
4.	Secretaries.
	Chief Secretary with the approval of Chief Minister.
5.	Other Officers of and above the rank of Section Officers:-
	(a) Within the same Department.
	Secretary of the Department Concerned.
	(b) Within the Secretariat from one Department to another.
	Chief Secretary/Secretary Establishment.
6.	Officials upto the rank of Superintendent:-
	(a) Within the same Department.
	Secretary of the Department Concerned.
	(b) To and from an Attached Department.
	Secretary of the Department in consultation with Head of Attached Department concerned.
	(c) Within the Secretariat from one Department to another.
	Secretary Establishment.

ATTESTED



PAKISTAN COURT FEE

In the Peshawar High Court
favour.

wf

_____ 2021

Dr. Haroon Khan

vs

CANCELLATION

Date:.....

Govt of KP and others

FILED *(Signature)*

Deputy Registrar

10 APR 2021

(Signature)
S. Haziq Ali Shah
(Asst)

BEFORE THE HON'BLE PESHAWAR HIGH COURT, PESHAWAR

VAKALATNAMA

Dr. Haroon Khan

Versus

Government of KP and others

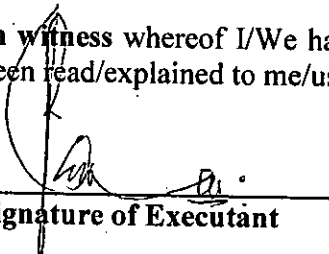
I, _____, do hereby appoint, **Syed Haziq Ali Shah, Junaid Zaman and Hamza Tariq Wali** Advocates, Peshawar in the above mentioned Case, to do all or any of the following acts, deeds and things:

- 1- To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard, and any other proceedings arising out of or connected therewith.
- 2- To sign and verify and file or withdraw all proceeding, petitions, appeals, affidavits and applications for compromise or withdrawal, or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defense of the said case at all its stages.
- 3- To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of the proceedings.

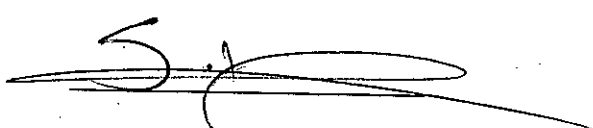
AND hereby agree:

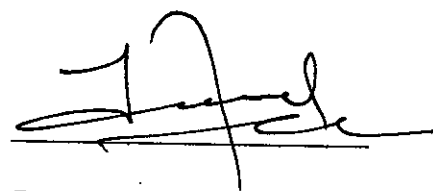
That the Advocates shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fees remains unpaid.

In witness whereof I/We have signed this Vakalatnama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this ___ day of April, 2021.


Signature of Executant

Attested & Accepted by:


Syed Haziq Ali Shah
Advocate Supreme Court of Pakistan


Junaid Zaman
Advocate High Court(s)


Hamza Tariq Wali
Advocate High Court(s)

FILED TODAY

Deputy Registrar

10 APR 2021

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. 5795/2021

Dr. Haroon Khan


-----Appellant

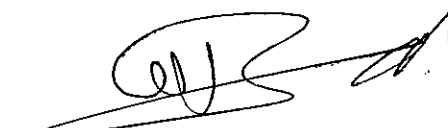
VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary

INDEX.

S.No.	Description of documents	Annexure	Page
01	Parawise Comments		1 to 05
02.	Notification dated	"A"	06
03	Minutes of the steering committee	"B"	07 to 10
04	Minutes of the PDWP meeting	"C"	11 to 16

P.O.F.

27/07/21


Section officer (Lit-II)
Govt: of Khyber Pakhtunkhwa
Health Department

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. 5795/2021

Dr. Haroon Khan

-----Appellant

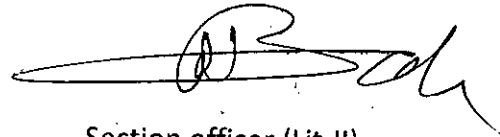
VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary

-----Respondent

AFFIDAVIT.

I Habib Ullah Section Officer (Lit-II) govt. of Khyber Pakhtunkhwa Health Department do hereby solemnly affirm and declare that the joint parawise comments in Service Appeal No.5795/2021 at Page-1-16 is submitted on behalf of respondents is true and correct to the best of my knowledge, belief and that nothing has been concealed from this Hon'ble Court.



Section officer (Lit-II)
Govt: of Khyber Pakhtunkhwa
Health Department

Identified by:-

Add: Advocate General,
Khyber Pakhtunkhwa

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA

SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 5795/2021

Dr Haroon khan Appellant

Versus

Govt. of Khyber Pakhtunkhwa through Chief Secretary and others.....Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

Respectfully Sheweth ;

PRELIMINARY OBJECTIONS:-

1. That the Appellant has got neither cause of action nor locus standi to file the instant Appeal.
2. That the Appellant has filed the instant appeal just to pressurize the respondents.
3. That the instant Appeal is against the prevailing Law and Rules.
4. That the Appeal is not maintainable in its present form.
5. That the Appellant has filed the instant Appeal with mala-fide intention hence liable to be dismissed.
6. That the Appeal is badly time-barred.
7. That the Honorable Tribunal has no Jurisdiction to adjudicate upon the matter.
8. That the instant appeal is bad for mis-joinder of unnecessary and non-joinder of necessary parties.
9. The impugned transfer Notification has been issued in accordance with Section 10 of the Khyber Pakhtunkhwa Civil Servant Act 1973.
10. That the appellant is a regular Civil Servant and was posted under the project policy on deputation basis and the project has already been closed on 30/06/2020, therefore, he has no right to be appointed as Project Director in a new project. even otherwise the

Apex court has laid down the principle that a deputationest has no right to remain posted reported as

“2018 PLC cs Peshawar 1248

2020 PLC cs Peshawar 639

2020 PLC cs Lahore 815”

ON FACTS:

1. Pertains to record however it is worth mentioning that the project was to integrated health services delivery with special focus on Lady Health Worker Program (LHW Program), Maternal, Neonatal & Child Health Program (MNCH), Expanded Program on Immunization (EPI) and Nutrition Program (ASUSAID DFID assisted) which was approved through administrative approval on **18/04/2014** and was to be ended October 2020 however the same was extended up to **31/10/2020** as the Provincial government decided to close the project in a meeting of steering committee dated **24/02/2020** and was deleted from ADP 2021-22. As per project policy of the provincial government a civil servant may be appointed on a project post on deputation therefore the status of the appellatant would be that of deputationest. It's further to clarify that as per instruction of the Provincial Government issued vide letter No. SOR-VI/E&AD/1-25/2007 dated 17/10/2008 clause (i)

“there shall be a Provincial Project Selection Committee and a Departmental Project Committee for recommending deputation of Civil Servants to project posts strictly on merit, keeping in view the job relevance, experience and service record. The constitution of the Committee shall be as under:-

- a. Provincial Project Selection Committee (for BPS 17 & above).
 - i. Additional Chief Secretary Khyber Pakhtunkhwa (Chairman)
 - ii. Secretary Establishment (Member)

- iii. Secretary Finance (Member)
- iv. Secretary P&D (Member)
- v. Secretary of concerned Deptt (Ex-Officio Member)

(Copy of the letter is annexed as A)

2. Pertains to record.
3. Correct to the extent that the appellant was posted as project director in accordance with the project policy of the provincial government by the competent authority.
4. Correct to the extent of transferring the appellant from the post of Project Director, however, the appellant concealed the material facts from this Honorable Tribunal with malafide intention in order to mislead the Honourable Tribunal. In fact the project, in which the appellant was posted has already been closed on dated **31/10/2020** as per decision of Steering Committee meeting held on **24/02/2020** and therefore it was also deleted from ADP 21-22. A new project with name of **Integration of Health Services Delivery with Special Focus on MNCH, LHW & NUTRITION PROGRAMME**, was approved in the PDWP meeting held on dated **22/12/2020** under the Chairmanship of Additional Chief Secretary, P&D Khyber Pakhtunkhwa. It is worth mentioning that the appellant was transferred as he has no right to be posted as Project Director in a new project because the Provincial Government will appoint/post a competent Civil Servant on the post of Project Director in the manner mentioned in para 1 above till the appointment /posting of a new Project Director for the new project additional charge was given to the respondent No 4. (copy of the minutes of the Steering Committee dated **24/02/2020** and minutes of the PDWP dated **22/12/2020** are annexed as annexure B&C).
5. The para is based on malafide, misleading concocted hence denied. Normal tenure as per transfer posting policy is two years, however, the competent authority has been empowered by Section 10 of the Khyber Pukhtunkhwa Civil Servant Act

1973 to transfer a Civil Servant at anytime to any other post even outside his cadre or Province provided his terms & conditions of service is not affected .As per dictum, laid down by the apex court ,in 2020 PLCCS 1207 Supreme Court,

PLACE of servicePrerogatives of employer...Government servant was required to serve any where his employer wanted him to serve; it was not a choice or prerogative of the employee to claim a right to serve at a place that he chose to serve.

Similarly in another judgment reported as 2004 PLC (CS) 705 S.C. It has been laid down that civil servant could not claim posting at a particular station or at the place of his choice. Competent authority, under S 9 of the Punjab civil servant Act 1974, was empowered to transfer any civil servant from one place to other at anytime in exigencies of service or on administrative ground.

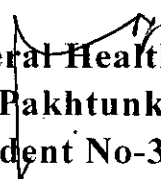
6. Incorrect already explained in Para 5.
7. Pertains to record.
8. Incorrect .No vested rights of the appellant has been violated hence the appellant is not an aggrieved person thus having no cause of action to file the appeal however reply on the grounds are as under.

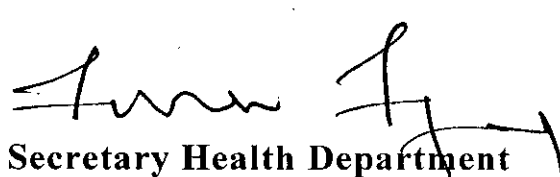
ON GROUNDS:

- A. Incorrect. The impugned transfer/posting Notification is based on law, Rules Principles of Natural Justice hence liable to be maintained by the Honorable Tribunal .
- B. Incorrect the appellant has been treated in accordance with law, Rules and Principles of natural Justice hence liable to be maintained by the Honorable Tribunal.
- C. Correct to the extent that fundamental rights of every citizen have been protected by constitution however no vested right of the appellant has been violated by the respondents.
- D. Incorrect the respondents acted as per law and rules. The impugned transfer posting notification has been issued in accordance with section 10 Of Khyber Pukhtunkhwa service Tribunal Act 1973.
- E. Incorrect. The respondents issued the impugned Notification with bona fide motives in accordance with law however the appellant filed the instant appeal with ulterior motives.
- F. Incorrect already replied in para C of the grounds.

- G. Incorrect already replied in preceding Paras.
H. Incorrect already replied in preceding Paras.
I. Incorrect already replied in preceding Paras.
J. The respondents seek permission of this honorable Tribunal to adduce other grounds during final hearing of the case.

It is therefore requested that the appeal of the appellant may kindly be dismissed with cost.


Director General Health Services
Khyber Pakhtunkhwa
Respondent No-3&5


Secretary Health Department
Khyber Pakhtunkhwa
Respondent No-1&2

- (e) If an employee of the project is selected on a post on the non-development side in the prescribed manner, he will be appointed at the initial stage of the relevant Basic Pay Scale, and his pay and service rendered in the project shall not be protected/counted for any purpose including pay, pension and seniority etc.
- (f) During deputation to a project post, the Civil servant may ordinarily vacate the officially allotted residential accommodation. In case he wants to retain it, he shall pay house rent to the government @ 45% of the basic pay last drawn by him as well as 5% maintenance charges thereon according to the prescribed procedure. The same will apply if a civil servant is appointed on a project post through direct recruitment and the government residential accommodation officially allotted to him earlier is in the same station as his station of duty under the project.
- (g) The initial period of deputation will be three years extendable for another two years or till the project life, whichever is earlier.
- (h) A civil servant will not be considered for deputation to a project post unless he has successfully completed the initial as well as extended period of probation. He will also not be considered for deputation unless a period of at least 4 years has elapsed after his return from last deputation to a project.
- (i) There will be a Provincial "Project" Selection Committee and a Departmental Project Committee for recommending deputation of civil servants to project posts strictly on merit keeping in view the job relevance, experience and service record. The constitution of the committee shall be as under:-

a. Provincial Project Selection Committee (for BS-17 & above posts).

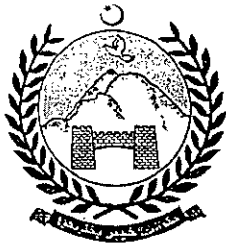
- i. Additional Chief Secretary NWFP Chairman
- ii. Secretary Establishment NWFP Member
- iii. Secretary Finance NWFP Member
- iv. Secretary P&D NWFP Member
- v. Secretary of concerned Deptt. (ex-officio Member)

b. Departmental Project Selection Committee (for BS-16 & below posts)

- i. Secretary of the concerned Department Chairman
- ii. Representative of Estab Department Member
- iii. Representative of Finance Department Member
- iv. Representative of P&D Department Member

2. The policy contained in this Department letter of even number, dated July 02, 2008 shall stand amended/modified to the above extent.

(Authority; letter No. SOR-VI/E&AD/1-25/2007 Dated 17th Oct. 2008)



Government of Khyber Pakhtunkhwa
Planning & Development Department
(Health Section)

Email: chief_health@hotmail.com
Phone/Fax: 091-9212879

No. C/HLT/P&D/THSDP/2019-20/252-59
Dated: 25th February, 2020

3

To

1. The Secretaries to Govt: of Khyber Pakhtunkhwa,
 - a. Finance Department
 - b. Health Department
 - c. Population Welfare Department
2. The Director General Health Services,
Khyber Pakhtunkhwa, Peshawar.
3. The Project Director,
Integrated Health Project, Peshawar

L.No. 1393
Date 22.2.20
Secretary Health

Subject:

MINUTES OF THE STEERING COMMITTEE MEETING OF THE PROJECT "INTEGRATION OF HEALTH SERVICES DELIVERY WITH SPECIAL FOCUS ON MNCH, LHWS, EPI AND NUTRITION PROGRAM (AUSAID & DFID ASSISTED)".

Dear Sirs,

I am directed to enclose herewith a copy of the subject minutes of the Steering Committee meeting held on 24-02-2020 under the Chairmanship of Additional Chief Secretary, P&D Department Khyber Pakhtunkhwa for information and further necessary action, please.

W.ullah
Research Officer-I (Health)

Copy forwarded for information to:-

1. PS to Additional Chief Secretary P&D Department.
2. PS to Secretary P&D Department.
3. PA to Addl: Secretary P&D Department.

W.ullah
Research Officer-I (Health)

Pofu
SPW urgently
S. P. A. Khan
3/2

PSD
PI. Examine and put up
1/12
ADP
SP-I & P-I
PS up P.

Subject: - **MINUTES OF THE STEERING COMMITTEE MEETING FOR THE PROJECT "INTEGRATION OF HEALTH SERVICES DELIVERY WITH SPECIAL FOCUS ON MNCH, LHWs, EPI AND NUTRITION PROGRAM (AUSAID & DFID ASSISTED).**

The subject meeting was held under the chairmanship of Additional Chief Secretary, P&D Department on 24-02-2020 at 10:00 AM in the Committee Room of P&D Department. List of participant is attached.

The chair welcomed the participants and invited Health Department to present the agenda of the meeting.

The Director General Health Services presented a brief overview of the project. He stated that the project "Integration of Health services delivery with Special focus on MNCH, LHWs, EPI and Nutrition Program (DFAT & DFID assisted)" was initially approved at a cost of Rs. 22.851 billion in 2014 with foreign assistance of Rs. 8.925 billion and PSDP share of Rs. 6.594 billion. However, the PSDP funds were not provided to the IHP project and were released on current side to the LHWs programme. The project was accorded revised approval in 2017 with a cost of Rs. 13.296 billion. The project completion date was 30-06-2018 and the project has been given two times extension till 30-06-2020.

The Director General Health Services presented progress updates of the project and stated that the instant meeting has been convened to discuss exit strategy and additional funds, amounting to Rs.1.771 billion, requirement for payment of staff salaries till June, 2020 and for clearance of pending liabilities of suppliers. Regarding exit strategy, he proposed the following:

- Integrated Health Project may be closed on 30th June 2020.
- Furthermore, the previous experience of regularization of LHWs Program was not very encouraging. The LHWs of the IHP may be continued on contract basis.
- To achieve 100 % coverage of the Rural Population and Urban Slums (total 80% of population approx.), a ten years LHWs programme is proposed to contribute in achieving SDGs, National Health Vision and objectives of Khyber Pakhtunkhwa Health Policy 2018 and to cover:
 - operational costs of all the LHWs and other field staff of the program
 - Salaries of LHWs, LHS and other staff recruited under the IHP Project.
 - Posts of already regularized LHWs/LHS and others falling vacant by attrition will be filled under the program.
- The EPI vaccinators may be regularized in the EPI Program.
- A three years project is also proposed for nutrition on the analogy of LHWs Program.

5

The Chair said that the project has not achieved much of its targets like Children mortality rate, infant mortality rate, deliveries by skilled attendants and increase in contraceptive prevalence rate. He said that the main goal of the project was integration of the four vertical programmes and asked Health department as to whether the goal has been achieved?. The Secretary Health responded that the integration was not successful and the Health department now wants to separate / unbundle the four vertical programmes. He further stated that regularization of LHWs is not a successful model. DG Health Services stated that the LHW is a dying cadre and can only be successful in program mode.

The Chair said that Health department needs to repackage the act/policy regarding LHWs, making them Government servants with no pension beyond retirement, with hire and fire policy, performance based continuation of service and KPIs. He further said that the EPI programme also needs complete revamping as five new polio cases have been reported yesterday.

The meeting discussed different options and agreed that Health Department may regularize the vaccinators in the EPI programme and may bring new project / projects for the LHW, Nutrition assistants and CMWs. The current project will be closed by 30-06-2020. As P&D Department has no savings available in inter-sectoral re-appropriation, therefore, Health Department may arrange additional funds through intra-setoral re-appropriation for payment of salaries of the project employees till 30-06-2020.

After detail discussions, it was decided that:

- i) The project "Integration of Health services delivery with Special focus on MNCH; LHWs, EPI and Nutrition Program (DFAT & DFID assisted)" will be closed by Health department by 30-06-2020. Health department to arrange additional funds through intra-setoral re-appropriation for payment of salaries of the project employees till 30-06-2020. All liabilities should be cleared before 30-06-2020.
 - ✓ ii) Health department will submit new project /s for ADP 2020-21.
 - iii) Health department to conduct 3rd party evaluation of the project and share its report with P&D department.
- H. Ash*
-



Government of Khyber Pakhtunkhwa
Planning & Development Department
(Health Section)

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No. C/HLT/P&D/PDWP/2020-21/1779-28
Dated: 24th December, 2020

To

1. The Secretaries to Govt. of Khyber Pakhtunkhwa,
 - i. Finance Department.
 - ii. Health Department.
 - iii. C & W Department.
 - iv. Environment Department
2. Director General, M&E, P&D Department.

Subject: **MINUTES OF THE PDWP MEETING HELD ON 22-12-2020 UNDER THE CHAIRMANSHIP OF ADDITIONAL CHIEF SECRETARY, P&D DEPARTMENT.**

Dear Sir,

I am directed to enclose herewith a copy of the subject minutes of the PDWP meeting held on 22-12-2020 under the Chairmanship of Additional Chief Secretary, P&DD, Khyber Pakhtunkhwa in the Committee Room of P&D Department for information and further necessary action, please.

Encl: (As above)

Yours faithfully,

24/12/2020
Research Officer-I (Health)

Copy to:

- Chief Coordination, P&D Department, (Copy of the minutes is enclosed).
- Chief Infrastructure, P&D Department, (Copy of the minutes is enclosed).
- Section Officer-III, Chief Minister's Secretariat, (Copy of the minutes is enclosed).
- PS to Additional Chief Secretary, P&DD, Khyber Pakhtunkhwa.
- PS to Secretary, P&D Department.

24/12/2020
Research Officer-I (Health)

Total	984.273	982.976	1967.249
Project:			
	KFW Share (PKR)	ADP Share (PKR)	Total (PKR)
Component-I (IPD)	1291.537	107.362	1398.899
Component-II (OPD)	1845.784	121.465	1967.249
Total	3137.321	228.827	3366.148

Project Scrutiny, Technical/Financial Appraisal in the Pre-PDWP:

The project was approved by ECNEC on 07-10-2013 at a cost of Rs. 1399.156 million (Local share: 165.900, KfW share: 1233.256) for provision of Health Insurance Services to 21% of the poorest population (100,000 families) of 04 Districts of Chitral, Kohat, Malakand and Mardan. Under the project, only inpatient care is being provided to the beneficiaries. Though the project was approved in 2013, the actual provision of services initiated in February 2016 due to lengthy competitive bidding process for selection of the insurance company, beneficiary's enrolment, empanelment of hospitals, staff training etc.

The KfW share included 88% of total premium cost and allocation of funds for audit, M&E, organizational development and contingency. The local share included 12% of the total premium cost and establishment and operational costs of PIU.

The card utilization rate of inpatient care in these districts is 3-5%.

Now the PIU staff has been regularized and premium cost of the local share is met from provision from current budget.

Now the project is being revised for two years (2020-21 & 2021-22) for inclusion of OPD under the new agreement signed between Health and KfW. KfW will cover 85% (Rs. 1845.784 million) of the premium cost of OPD and 15% by (Rs. 121.465 million) the Provincial Government through this project.

For service provision of OPD, insurance company will be selected through national competitive bidding as per KPPRA rules.

Diabetes, chronic obstructive Pulmonary Diseases including asthma and Cardiovascular diseases will be covered under OPD services under the project.

Two additional posts in PIU (OPD Coordinator (BS-17) and OPD Assistant (BS-16) have been included along with operational cost of Rs. 5.850 million.

The Finance Department has accorded revenue clearance of the project.

Forum Discussion:

Chairman	The chair asked Health Department regarding selection of the four districts, premium for the OPD services, the rationale behind inclusion of selection of only 04 diseases in OPD services and nature of kfw funding as to whether it is loan or grant.
Health (Sponsors)	Responding to the chair observations, Special Secretary Health stated that the indoor patient health insurance scheme was also started in these 04 districts on pilot basis. However, after its success the health insurance scheme was extended to the whole province. Health Department now also intends to start the OPD services in these 04 districts on pilot basis. The premium for OPD services is calculated at Rs.7388/family. The most common chronic diseases: Diabetes, chronic obstructive Pulmonary Diseases including asthma and Cardiovascular diseases have been included. After evaluation of the pilot project, its extension to other diseases and the rest of the province will be considered. He clarified that KfW financial support is a grant not the loan.
Chief (Health), P&D	As the project involves grant money, Health Department to move summary for approval of Chief Minister, KP as per cabinet decision.

Decisions:

- i. The project was cleared at a revised cost of Rs. 3366.148 million (KfW share Rs. 3137.321 million ADP share Rs. 228.827 million) for onward submission of CDWP/ECNEC.
- ii. Health Department to move a summary, as per cabinet decision, to the Chief Minister Khyber Pakhtunkhwa for obtaining approval as grant is involved in the project.

Agenda Item No. 5

Name of Project	Integration of Health Services Delivery with Special Focus on MNCH, LHW & Nutrition Program.
Plan Type/Code	ADP No. 816 (2020-21), Code: 200037.
PC-I Status	New / Un-approved

ADP Cost	Rs. 8000.000 million
PC-I Cost	Rs. 7027.226 million
Allocation 2020-21	Rs. 1726.556 million

Project Description:

The instant project is (mainly) extension of the ongoing Integrated Health Project which extended project life expired on 31st October, 2020. EPI component is not included in the new project as it has been shifted to current. The new project have three areas: LHW, MNCH and Nutrition.

Project Objectives:

To improve the health outcomes among women, children and newborns by enhancing coverage and providing access of health and nutrition services to the poor and vulnerable in rural and less developed urban areas through implementation of the minimum health service delivery package (MHSDP) and achievement of minimum service delivery standard (MSDS) in both outreach and facility based services.

Purpose of the Project:

- To improve access to RMNCH and nutrition services of MHSDP at outreach level.
- To improve access to RMNCH and nutrition services of MHSDP at primary care facility level.
- To improve access to nutrition interventions at secondary care level.
- To integrate and strengthen programme management at provincial and district level.
- To introduce E-monitoring & reporting system for collection of good quality data for evidence based decision making.

The above objectives will contribute towards achievement of the performance targets envisaged in the Health Policy Khyber Pakhtunkhwa and Health Sector Strategic Plan.

Breakup of project cost:

S#	Description	Total Cost	%
1	HR Cost	3532.389	50.3
2	HR Training Cost	228.367	3.2
3	Medicine and Supplies / equipment / Contraceptives (LHW/CMW)	2188.629	31.1
4	E-Monitoring	60.378	0.9
5	POL	243.187	3.5
6	TA/DA	110.163	1.6
7	Operations cost (PMU & DMU)	27.831	0.4
8	Nutrition Commodities / Equipment	239.634	3.4
9	Purchase of Vehicle	11.500	0.2
10	Procurement of PIU Equipment	10.985	0.2
11	BCC Cost	42.100	0.6
12	Transfer Grant to PCMC of 50 24/7 RHCs	30.000	0.4
13	Transfer Grant to PCMC of 200 24/7 BHUs	60.000	0.9
14	Cost of Warehousing and Supply Chain	111.106	1.6
15	Operation Cost of MNCH School	36.600	0.5
16	Procurement of Contraceptives for Primary & Secondary Care Health Facilities	94.356	1.3
	Total	7027.226	100%

Project Scrutiny, Technical/Financial Appraisal in the Pre-PDWP:

The instant project is (mainly) extension of the ongoing Integrated Health Project which extended project life expired on 31st October, 2020. EPI component is not included in the new project as it has been shifted to current. The new project have three areas: LHW, MNCH and Nutrition.

Under the new PC-I, the design of the project has been changed with more focus on technical interventions and with devolved management approach.

The major component of the PC-I amounting to Rs. 7027.226 million are Human Resource Cost (50%), Medicine and supplies / equipment / contraceptives (31%), training (3%), POL repair of vehicle (3.4%), nutrition commodities (3.4%), TA/DA (1.6%), warehousing and supply chain (1.57%).

Pre-PDWP outcome:

- Health Department agreed to include LHWs coverage mapping in the PC-I in order to know uncovered areas in a UC or high demand areas for primary Health Care Services. (Rs. 10.00 million allocated in the PC-I for mapping of existing LHW, Coverage)
- Health Department agreed to allocate Rs. 94.300 million for procurement of contraceptives for secondary care and primary health care facilities.

Ambulance Services (Rs. 432.033 million deleted by Department).

reduced from Rs. 7930.186 million to Rs. 7027.226 million after revenue clearance by the Department.

Department has agreed for geo mapping of CMWs and the stipend will be paid on a maximum period of 03 years.

Department operationalize the PCMCs at the earliest and to formulate proper monitoring mechanisms to be utilized by the PCMCs.

Conclusion:

Health Department has changed the organizational structure and implementation mechanism to bring unity of command. From the lesson learnt from the last program, the forum believes and is of the opinion that Health Department will not change the design of the project. The governance structure proposed in the PC-I will be kept intact for the project life of the project. The earlier program was a failure as money was spent but we have not improved our health indicators or improved in a manner which may be described as satisfactory. The forum believes that under the new PC-I, the baselines and the indicators have been well established and yearly targets are defined. P&D Department will judge the performance on the basis of the baselines and on the basis of the targets sets in the PC-I. Despite the fact the salaries are not fit charge on the development budget, the forum is agreeing to the project on the development in order to give health department the space to run the program on performance based human resource and also being a necessity as the program is required to reach outreach health services.

Health (Sponsors)

Responding to the chair query regarding difference between the old and the PC-I, Dr. Haroon, Additional Director General Health Services stated that organogram of the project has been changed. In the Previous PC-I, each program had a separate Coordinator and the Project Director Office was used as a post office. Under the new PC-I, there will be a Project Director with Director Operational, who will look after all the three programs. Proper M&E and MIS systems will be developed under the PC-I to evaluate the performance of the LHWs and CMWs. The program will also be linked with Health IMU.

Decisions:

The project was approved at a total cost of Rs. 7027.226 million for a period of 03 years.

Agenda Item No. 6

Name of Project	Establishment of Paramedics college & Male Nursing College in Lakki Marwat (PC-II approved by PDWP on 08-10-2019)
Plan Type/Code	ADP No. 792 (2020-21), Code: 180468
PC-I Status	Ongoing / Unapproved.
ADP Cost	Rs. 1300.00 million.
PC-I Cost	Rs. 2265.73 million.
Allocation 2020-21	Rs. 150.00 million.

Project Description:

Under the Project Paramedic College and Male Nursing College will be established in Lakki Marwat. The scope of project includes:

1. Paramedic College (Rs.280.80 million)
2. Male Nursing College (Rs. 280.80 million)
3. 04 hostels (Rs. 745.65 million)
4. Faculty Flats (Rs. 50.59 million)
5. 02 Auditoriums (Rs. 141.76 million)
6. Principals and Vice Principals Flats (Rs. 57.08 million)
7. 04 Admin and Support Staff Flats (Rs. 167.32 million)
8. Class-III and IV (Rs.59.58 million)
9. Main gate and Guard Room (Rs. 12.75) million)
10. Mosque (Rs. 24.97)
11. Boundary Wall (Rs. 37.9 million)
12. Roads (Rs.39.23 million)
13. Overhead Tank, 100000 Galoons (Rs. 25.47 million)
14. Tube Well with Pumping Chamber (Rs.8.56 million)
15. External Electrification (Rs. 40.5 million)
16. Land cost (Rs. 67.million)

Brief regarding the Project "Integration of Health Services Delivery with special focus on MNCH, LHW, EPI and Nutrition Program (AUSAID & DFID Assisted)"

Approval: Approved by ECNEC on 12/02/2014.

Duration of the Project: 2014-15 to October 2020.

Total Cost: Rs. 22,851.457 million
(PSDP: Rs 6594.00 million, ADP: Rs 7332.00 million, Donor share Rs. 8925.66 million)

PSDP Funding: The Federal Government was to provide Rs. 6594.00 million but couldn't release the said funds

Administrative Approval: AA issued was on 18/04/2014.

Scope of the Project:

The scope of the project was to integrate the following programs in light of the health sector strategy in order to enhance coverage and access to effective and quality maternal neonatal and child health services including nutrition with the strong focus on value for money and efficiency, especially for the poor and vulnerable":-

- i. Lady Health Workers Program (LHWs Program).
- ii. Maternal, Neonatal & Child Health Program (MNCH)
- iii. Expanded Program on Immunization (EPI)
- iv. Nutrition Program

Cost of Revised PC-I: Rs. 13,926.63 Million.

- **Provincial Govt. Share:** Rs. 5,806.63 Million (41.70%)
- **Donor Share:** Rs. 8,120.00 Million (58.30%)
- **Approval Forum:** ECNEC on 10/07/2017.
- **Duration:** 2016-17 to 2017-18

Revised Administrative Approval: Revised AA issued on 20/09/2017.

• **Extension:**

- i. Two Times Neutral Extension was granted to the project i.e 2018-19 and 2019-20.
- ii. Four months extension i.e 1st July to 30th October was granted at a cost of Rs.576.16 M.

Tenure of Project Directors:-

- i. Dr. Javed Pervez 20-09-2017 to 26-01-2019 (1 year 4 months 6 days)
- ii. Dr. Sahib Gul 06-02-2019 to 12-07-2019 (5 months 6 days)
- iii. Dr. Adbur.Rauf Khan 16-07-2019 to 20-01-2020 (6 months 4 days)
- iv. Dr. Haroon Khan 21-01-2020 to 26-01-2021 (1 year 5 days)

Current Status:

The project remained under execution from 12/02/2014 to 30th October 2020 where the project was closed down. During this period the project was revised one time and accorded cost neutral extension from 2 years and 4 months.

Dr. Haroon remained the 4th Project Director of the project. When the Provincial Government decided to close this project, hence his services were no more required and the project was closed down and deleted from ADP 2021-22.

Closing of the Project:-

Integration of Health Services Delivery with special focus on MNCH, LHW, EPI and Nutrition Program (AUSAID & DFID Assisted)" has been closed on 31/10/2020.
