

633/2014

24.01.2017

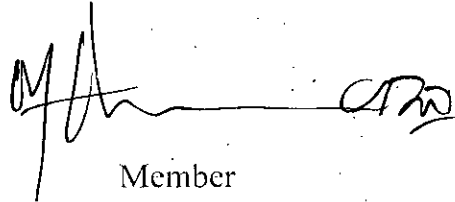
Counsel for the appellant and Mr. Usman Ghani, Senior Government Pleader for respondents present.

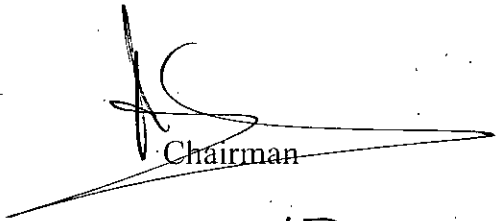
Mst. Farakh Naz D/O Abdul Manan hereinafter referred to as the appellant has preferred the instant service appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against impugned order dated 07.01.2013 vide which her services were terminated and where-against her departmental appeal was also not responded constraining the appellant to prefer the instant service appeal on 30.04.2014.

Arguments of the learned counsel for the parties heard and record perused.

Appointment order of the appellant dated 14.05.1997 would suggest that the appellant was not a civil servant within the meaning of Civil Servants Act, 1973 read with Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 and the fact that her services were terminated prior to enforcement of the Khyber Pakhtunkhwa Regulation of Lady Health Workers Program and Employees (Regularization and Standardization Act, 2014 which stood enacted on 02.07.2014 as such the appeal of the appellant, being a contract employee, is not competent and entertainable.

Dismissed for the above reasons. Parties are left to bear their own costs. File be consigned to the record room.


Member


Chairman

ANNOUNCED

24.01.2017

24.01.17

21.09.2016

None present on behalf of the appellant. Mr. Ziaullah, GP for respondents present. Fresh notice be issued to appellant and his counsel for arguments for 24-1-17 before D.B.



MEMBER



MEMBER

21.09.2016




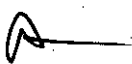
7 12.02.2015

Counsel for the appellant and Mr. Sabir Khan, SO for respondents No. 1 to 4 alongwith Addl: A.G present. Written reply submitted on behalf of respondents No. 1 to 4. None present for respondents No. 5 and 6. Proceeded ex-parte. The case is assigned to D.B for rejoinder and final hearing for 24.08.2015.

24.08.2015

None for the appellant present. Mr. Kabeerullah Khattak, Asstt. AG for the respondents present. Fresh notice be issued to appellant and her counsel. To come up for arguments on 27-01-2018.


Chairman




MEMBER


MEMBER

27.1.2016

Counsel for the appellant and Assistant AG for respondents present. Learned counsel for the appellant requested for adjournment. Adjourned for final hearing before D.B to 13.5.2016.

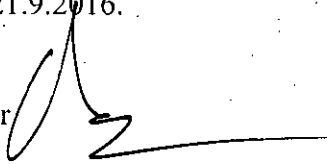

Member


Chairman

13.05.2016

None present of behalf of the appellant and his counsel and Assistant AG for respondents present. Notice be issued to the appellant and his counsel for the date fixed. To come up for arguments on 21.9.2016.

Member



Member




3
03.07.2014

Counsel for the appellant (Mr. Taimoor Khan, Advocate) present and requested for adjournment. Request accepted. To come up for preliminary hearing on 18.07.2014.



Member

4
18.07.2014

Counsel for the appellant present. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. Against the impugned order dated 07.01.2014, she filed departmental appeal on 20.01.2014, which has not been responded within the statutory period of 90 days, hence the present appeal on 30.04.2014. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notices be issued to the respondents. To come up for written reply/comments on 27.10.2014.


Member

Appellant Deposited
Security & Process Fee
Rs. 240/- Bank
Receipt is Attached with File.


21/7

5
18.07.2014

This case be put before the Final Bench I for further proceedings.


Chairman

6
27.10.2014

No one is present on behalf of the appellant. M/S Yar Gul, Senior Clerk for respondent No. 3 and Sheharyar, Assistant for respondent No. 4 with Mr. Muhammad Adeel Butt, AAG for the respondents present. Written reply has not been received. To come up for written reply/comments, positively, on 12.02.2015.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 633/2014


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	07/05/2014	<p>The appeal of Mst. Farakh Naz resubmitted today by Mr. Mukhtiar Ahmad Khan Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p>
2	12-5-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>3-7-2014</u></p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>

The appeal of Mst. Farakh Naz d/o Abdul Manan received today i.e. on 30.04.2014 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Appeal may be got signed by the appellant.
- 2- ~~one~~ copy/set of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 679 /S.T,

Dt. 29/4 /2014.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Mukhtiar Ahmad Adv. Swabi

BEFORE THE PROVINCIAL SERVICE TRIBUNAL
K.P.K , PESHAWAR

Service Appeal NO _____ OF 2014

Mst Farakh Naz - - - - - (Appellant)

VERSUS

District Health Officer Swabi and others

- - - - - (Respondents)

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5	Better copy of appointment order	"A1"	10-12
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8	Wakalat nama (In original)		16

Dated : 30-04-2014

Appellant

Through :-



MUKHTAR AHMAD KHAN Advocate
High Court
at Judicial Complex Swabi
Cell No

BEFORE THE PROVINCIAL SERVICE TRIBUNAL
K.P.K , PESHAWAR

Service Appeal NO 633 OF 2014

Mst Farakh Naz daughter of Abdul Manan resident of
village Sheikh Jana at present village Spin Kani Tehsil
Razar District Swabi.

(Appellant)

~~30/4/2014~~
642
30/4/2014

VERSUS

1. District Health Officer Swabi.
2. Provincial Coordinator National Program for FP & PHC
Khyber Pakhtunkhwa, Peshawar.
3. Director of Health Department Khyber Pakhtunkhwa,
Peshawar.
4. Ministry of Health through secretary health Khyber
Pakhtunkhwa, Peshawar.
5. District Account Officer District Swabi.
6. Deputy Commissioner Swabi.

-----{ Respondents }

SERVICE APPEAL UNDER SECTION 4 SERVICE
TRIBUNAL ACT, 1974 AGAINST THE ORDER NO
16-19/EDO (HEALTH) SWABI DATED THE
07.01.2013 OF THE RESPONDENT NO.1 VIDE WHICH
APPELLANT WAS ILLEGALLY TERMINATED FROM HER
SERVICES.

PRAYER -IN - APPEAL :-

By accepting this service appeal ,
impugned order of termination of respondent No.1 be set
aside by declaring the same as illegal, nul & void and
directions may kindly be issued to the respondents for
reinstatement of the appellant.

~~30/4/14~~

re-submitted to
and filed.

[Signature]
7/5/14

Respectfully Sheweth :-

Brief facts of the case leading to the present appeal are :-

FACTS :-

1. That appellant joined services in the respondent department as lady health worker in the year 1997.

{ Copy of Appointment order is attached as annexure "A" }

2. That since then appellant was performing her duties in her catchments area /RHC Sheikh Jana to the entire satisfaction of her immediate superiors and service record of the appellant shows no complaints whatsoever from any concerned quarter against her.

3. That in compliance with the judgment of the honourable apex court of Pakistan , Government of Pakistan has regularized the services of lady health workers in the year 2013 and appellant is one out of those whose services have been regularised.

4. That after having been married in the adjacent village, appellant has continued performing her duties without any interruption by her life-partner .Appellant also has never raised any objection in assuming duty in her new location.

5. That appellant has served in the adventurous project of polio vaccination in the troubled areas of the province at the risk of her life to save the lives of innocent souls not for monetary gains but out of sheer national enthusiasm and when in lieu of the same services of the appellant were regularised, respondent No.1 with a single stroke of pen without assigning any reason has terminated services of the appellant without providing any opportunity of being heard. The impugned order of termination is liable to be set aside, amongst others, on the following grounds:

{Copy of termination order attached as annexure "B" }

6. That aggrieved of the termination order of respondent No.1, appellant filed a departmental appeal before the competent authority but no order was passed by the authority on the departmental appeal within the prescribed period of 90 days hence this appeal.

7. That the impugned order of termination is liable to be set aside, amongst others, on the following grounds.

GROUNDS:-

- A. That the impugned order of termination of services of the appellant is against law and facts and ,therefore not tenable in the eyes of law.
- B. That though services of lady health workers including appellant have been regularised, yet proper procedure according to law was not adopted by respondent No.1 and in a whimsical and capricious manner has imposed the major penalty of termination of services upon the appellant.
- C. That before passing the order in question, neither was the appellant charge sheeted nor any show-cause notice was given to the appellant nor any inquiry was conducted into the matter but in illegal and unjust manner appellant was proceeded against. No opportunity of hearing was provided to the appellant in order to defend herself which is against the principle of natural justice i.e aude alterem partem .
- D. That order of termination is not reason based one and the only allegation levelled against the appellant is that "her husband is not allowing her new location" but it was not for the husband but appellant who could decide whether to continue her services or not .In departmental representation, an

affidavit of no objection by the husband of the appellant was submitted before respondents No 1 & 2 to that effect.

E. That aggrieved by the order of respondent No.1, appellant has made departmental representation before respondents No.1 & 2 for redressal of her grievances but no order has yet been passed by the appellate authority.

F. That the appellant enjoys unblemished service record and has never been charge sheeted or any allegation against her, hence this appeal with the following prayer.

It is therefore, very humbly prayed that this honourable court may be pleased and allow the appeal and set aside the impugned order and restore her on service.


Dated : 30/04/2014

Appellant




Through :-

MUKHTAR AHMAD KHAN Advocate
High Court
at Judicial Complex Swabi

Asif

 MA - ASIF YOUSAFZAI
 Adv.

BEFORE THE PROVINCIAL SERVICE TRIBUNAL
K.P.K , PESHAWAR

Service Appeal NO _____ OF 2014

Mst Farakh Naz - - - - - (Appellant)

VERSUS

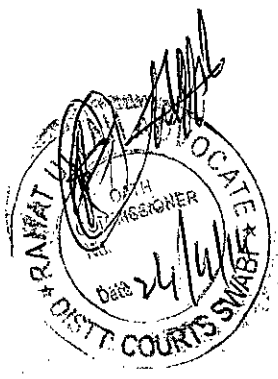
District Health Officer Swabi and others
----- (Respondents)

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AFFIDAVIT

I, Mst Farakh Naz daughter of Abdul Manan resident of village Sheikh Jana at present village Spin Kani Tehsil Razar District Swabi, do hereby solemnly declare and affirm that contents of the Writ Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable court.

Deponent
Mst Farakh Naz



**BEFORE THE PROVINCIAL SERVICE TRIBUNAL
K.P.K , PESHAWAR**

Service Appeal NO _____ OF 2014

Mst Farakh Naz ----- (Appellant)

VERSUS

District Health Officer Swabi and others

----- (Respondents)

=====

CORRECT ADDRESSES OF THE PARTIES

ADDRESSES OF THE APPELLANT

Mst Farakh Naz daughter of Abdul Manan resident of village Sheikh Jana at present village Spin Kani Tehsil Razar District Swabi.

ADDRESSES OF THE RESPONDENTS

1. District Health Officer Swabi at Bacha Khan Medical Complex Shahmansoor District Swabi .
2. Provincial Coordinator National Program for FP & PHC Khyber Pakhtunkhwa, Peshawar.
3. Director of Health Department Khyber Pakhtunkhwa, Peshawar.
4. Ministry of Health through secretary health Khyber Pakhtunkhwa, Peshawar.
5. District Account Officer District Swabi District Swabi.
6. Deputy Commissioner Swabi District Swabi .

Dated : 30 -04-2014

Petitioner

Through :-

**MUKHTAR AHMAD KHAN Advocate
High Court
at Judicial Complex Swabi**

OFFICE OF THE DISTRICT HEALTH OFFICER SWABI.

OFFICE ORDER

Subject:-

APPOINTMENT ORDER FOR LADY HEALTH WORKER UNDER PRIME MINISTER'S PROGRAMME FOR FAMILY PLANNING AND PRIMARY HEALTH CARE.

On the recommendation of selection Committee Miss/Mrs. Miss Farah Naz D/O W/O Abdul Manan of Village Shaikh Jana Mohalla Wiki Khalil, Tehsil Swabi is hereby appointed as Lady Health Worker (LHW) in BHU Shaikh Jana W.E.F. 14/5/1997

on the following terms and conditions:-

1. The appointment will be purely on contract basis.
2. The appointment will be initially for one year. However it extendable subject to satisfactory performance.
3. After selection, she will be trained for a duration of 15 months. In the first 03 months, she will attend training at the Health Centre for 05 days a week, while during the next 12 months, she will work in her catchment area for 03-weeks every months and will attend the training session at the health centre in the 4th week of every month.
4. She will be paid Rs. 50/- per day during initial three months of training and subsequently she will be given a stipend of Rs. 1200/- per month.
5. She will have to work in this programme for atleast one year after completion of training for which she will have to give surety bond at the time of joining training on stamp paper of Rs. 50/- If she wishes to resign within this period, she will have to deposit the whole amount of salary which she has received during training and service until acceptance of resignation.
6. On expiry of surety bond period if she wishes to resign, she will serve one months notice or will deposit one month salary in lieu of notice.
7. The post is non transferable and the services will be terminated if the LHW move out of her area of appointment.
8. She will be required to establish a health house in her residence and maintain it according to the requirements of the programme. She will work closely with the local community and establish a local health committee and a women group with the assistance of the Field Supervisor and Health Centre staff.
9. She will ensure her presence during the field visits of supervisors and will arrange home visits for them.
10. She will be required to open a bank account in the branch of bank nearest to the training centre. The Branch will be identified by the District P.I.U. Her salary will be disbursed through this bank.
11. She will keep a proper record of supply and receipt from the health centre and will also maintain a proper record of consumption of the supplies and will provide this to the health centre every month at the time of receiving new supplies.
12. She will maintain a proper record of the money being earned through sale of contraceptive (condoms and pills). She will be required to submit the details of money every month to the Health Centre. If she is found guilty of wrong reporting or selling the contraceptives


 ATTESTED

- ... will submit a monthly report of her activities on the prescribed form to the health Centre regularly.
14. She will be entitled for 20-days casual Leave in a year. However, there will be no leave during training, and if she sustain herself un-authorisably, her services will be terminated. She will be required to take the sanction of leave from the health centre.
15. She will be entitled for 20 days maternity leave at one time which will commence 10 days before the delivery date until 10 days after delivery. After this, she will resume her duties from her health ~~centre~~ house and then start field visits not later than one month from the date of delivery.
16. TA/DA will not be admissable on account of attending training or undertaking any field visit.
17. If at any time it is established that she has given wrong information on her qualification, age, place of residence and other criteria, her services will be terminated without any notice and the amount spend on her training and salary will be recovered.
18. Her services will not be governed under the Civil Servants Act 1973, but under the terms and condition of this contract and any other terms that may be communicated to her from time to time. She will be bound to follow these terms which will not challengeable at any forum including Courts.
19. Her Services can be terminated at any time ~~xxx~~ without assigning any reasons or notice.
20. If she accepts the offer on the above terms and conditions, she is directed to report for training at Shankh Jana on 19/5/87 failing which the offer will stand cancelled.

District Health Officer
Swabi.

No. 7490-95/14 DHO

Swabi

Dated the

16/5/1987

Copy forwarded to the:

1. National Coordinator, Prime Minister's Programme for Family Planning and Primary Health Care, 14-D Feroze Centre, West Blue Area, Islamabad.
2. Provincial Programme-Coordinator PM Programme for FP & PNC N.W.F.P. Peshawar.
3. District Coordinator, PM, Programme for FP & PNC District Swabi.
4. The Accountant/Dealing Asstt: PM Programme for FP & PNC District Swabi.
5. Official concerned.

for information and n/action.


[Signature]
DISTRICT HEALTH OFFICER
SWABI.

BETTER COPYOFFICE OF THE DISTRICT HEALTH OFFICER SWABIOFFICE ORDER

Subject:- APPOINTMENT ORDER FOR LADY HEALTH WORKER UNDER
PRIME MINISTER'S PROGRAMME FOR FAMILY PLANNING
AND PRIMARY HEALTH CARE.

On the recommendation of Selection Committee Miss/Mrs.
Miss Farah Naz D/o Abdul Manan of Village Shaikh Jana
Mohallah Niki Khsil, Tehsil Swabi is hereby appointed as
Lady Health Worker (LHW) in B.H.U Shaikh Jana
W.E.F. 14/5/1997 on the following terms and conditions:-

1. The appointment will be purely on contract basis.
2. The appointment will be initially for one year. However it extendable subject to satisfactory performance.
3. After selection, she will be trained for a duration of 15 months. In the first 03 months, she will attend training at the Health Centre for 05 days a week, while during the next 12 months, she will work in her catchment area for 03-weeks every months and will attend the training session at the health centre in the 4th week of every month.
4. She will be paid Rs.50/- per day during initial three months of training and subsequently she will be given a stipend of Rs.1200/- per month.
5. She will have to work in this programme for atleast one year after completion of training for which she will have to give surety bond at the time of joining training on stamp paper of Rs.50/-. If she wishes to resign within this period, she will have to deposit the whole amount of salary which she has received during training and service until acceptance of resignation.
6. On expiry of surety bond period if she wishes to resign, she will serve one months notice or will deposit one month salary in lieu of notice.
7. The post is non transferable and the services will be terminated if the LHW move out of her area of appointment.


ATTESTED

Contd'....P/2.

(2)

8. She will be required to establish a health house in her residence and maintain it according to the requirements of the programme. She will work closely with the local community and establish a local health committee and a women group with the assistance of the Field Supervisor and Health Centre staff.
9. She will ensure her presence during the field visits of supervisors and will arrange home visits for them.
10. She will be required to open a bank account in the branch of bank nearest to the training centre. The Branch will be identified by the District P.I.U. Her salary will be disbursed through this bank.
11. She will keep a proper record of supply and receipt from the health centre and will also maintain a proper record of consumption of the supplies and will provide this to the health centre every month at the time of receiving new supplies.
12. She will maintain a proper record of the money being earned through sale of contraceptive (condoms and pills). She will be required to submit the details of money every month to the Health Centre. If she is found guilty of wrong reporting or selling the contraceptive
for recovery of the amount involved.
13. She will submit a monthly report of her activities on the prescribed form to the health centre regularly.
14. She will be entitled for 20-days casual leave in a year. However, there will be no leave during training, and if she sustain herself un-authorizedly, her services will be terminated. She will be required to take the sanction of leave from the health centre.
15. She will be entitled for 20 days maternity leave at one time which will commence 10 days before the delivery date until 10 days after delivery. After this, she will resume her duties from her health house and then start field visits not later than one month from the date of delivery.


ATTESTED

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Better copy

(3)

16. TA/DA will not be admissible on account of attending training or undertaking any field visit.
17. If at any time this established that she has given wrong information on her qualification, age, place of residence and other criteria, her services will be terminated without any notice and the amount spend on her training and salary will be recovered.
18. Her services will not be governed under the Civil Servants Act 1973, but under the terms and condition of this contract and any other terms that may be communicated to her from time to time. She will be bound to follow these terms which will not challengeable at any forum including Courts.
19. Her services can be terminated at any time without assigning any reasons or notice.
20. If she accepts the offer on the above terms and conditions, she is directed to report for training at Sheikh Jana on 19/5/97 failing which the offer will stand cancelled.

Sd/-
District Health Officer
Swabi.

No.7490-95/V-4/DHO

Swabi dated the 14/5/1997

Copy forwarded to the:-

1. National Coordinator, Prime Minister's Programme for Family Planning and Primary Health Care, 14-D Feroze Centre, West Blue Area, Islamabad.
2. Provincial Programme-Coordinator PM Programme for FP & PHC N.W.F.P. Peshawar.
3. District Coordinator, PM, Programme for FP & PHC District Swabi.
4. The Accountant/Dealing Asstt: PM Programme for FP & PHC District Swabi.
5. Official concerned.

for information and n/action.


ATTESTED

Sd/-
DISTRICT HEALTH OFFICER,
SWABI.

OFFICE OF THE DISTRICT HEALTH OFFICER SWABIOFFICE ORDER

As reported by LHS and verified by S MOIC, LHW Farrakh Naaz D/O Abdul Manan having Bank Account No. 8109-0 HBL Shewa Adda attached to RHC Sheikh Jana has got marriage out of her catchment area and become NR. Her husband not allow her new location. As per programme policy she is hereby terminated from services with immediate effect

She is hereby directed to deposit all the kit items along with accessories with supervisor concerned.

SD/-
DISTRICT HEALTH OFFICER
SWABI


NO 16-19 /EDO (HEALTH) SWABI


DATED The 07 / 1 /2013

Copy forwarded to the:-

1. Provincial Coordinator National Programme for FP&PHC Khyber Pakthunkhwa Peshawar.
2. SMOIC RHC Sheikh Jana
3. LHS /LHW concerned
(for information and n/action)


DISTRICT COORDINATOR


DISTRICT HEALTH OFFICER
SWABI


ATTESTED

بخدمت جناب پراونشل کوارڈینیٹر نیشنل پروگرام فار FP & PHC خیبر پختونخواہ پشاور


ڈیپارٹمنٹل اپیل برخلاف ارڈر نمبر EDO/Health/19-96 صوابی مورخہ 07.01.2013 جس کے ذریعے ایپلانٹ کو نوکری سے برخاست لگائی ہے۔

جناب عالی! اپیل ڈیپارٹمنٹل ذیل عرض ہے۔

ایپلانٹ مسماة فرح ناز دختر عبدالمنان موضع شیخ جانہ تحصیل رزر ضلع صوابی کی مستقل رہائشی ہے جسکی حال ہی میں موضع سپین کانی تحصیل رزر ضلع صوابی میں شادی ہوئی ہے۔

ایپلانٹ سال 1997 سے ادارہ نیشنل پروگرام برائے FP & PHC خیبر پختونخواہ سے بطور LHW وابستہ ہوں اور اپنی ڈیوٹی کی انجام دہی میں حتی الوسع کوئی کوتاہی نہیں بھرتی ہے اور فرائض منصبی میں متعلقہ آفران بالا کو مطمئن کرنے کیلئے کوئی دقیقہ فروگذاشت نہیں کیا ہے۔

ایپلانٹ کی جب شادی موضع سپین کانی میں ہوئی تو اس کا تبادلہ موضع شیخ جانہ سے موضع سپین کانی (جو کہ RHC شیخ جانہ کے دائرہ کار میں آتا ہے) کرایا گیا۔ چونکہ ایپلانٹ نے ساہا سال تک اپنے آبائی گاؤں شیخ جانہ میں اپنی ڈیوٹی انجام دی تھی اور اپنے دائرہ کار میں تمام گھرانوں سے واقف تھی اور اسی واقفیت کے بناء پر اسی ہی ایریا میں ڈیوٹی انجام دینے میں سہل محسوس کرتی تھی۔ اس لئے آپ صاحبان سے اپنے پرانے ایریا یعنی موضع شیخ جانہ میں بدستور رہنے کیلئے استدعا کرنے اپنے شوہر کی معیت میں آئی اور آپ صاحبان نے میری استدعا منظور بھی کی لیکن بد قسمتی سے RHC شیخ جانہ سے متعلقہ لیڈی ہیلتھ سپروائزر نے میرے ساتھ ایسے جملوں کا تبادلہ کیا جو کہ میرے شوہر کو ناگوار گزرے اور غیر ارادی طور پر اُسکے منہ سے LHS کے جملوں کے جواب میں مجھ سے مشاورت کئے بغیر میری طرف سے ایسی نوکری جاری نہ رکھنے کا کہا اور اس کے الفاظ کو بنیاد بنا کر میری برخاستگی کا ارڈر صادر کیا گیا ہے جو کہ بلجوهات ذیل قابل منسوخی ہے۔



ATTESTED

i۔ ایپلانٹ نے جان جھوٹوں میں ڈال کر کئی سالوں سے تاحال پولیو ویکسینیشن جسے پُرخطر مہم میں بھرپور حصہ لیا ہے۔

ii۔ عدالت عظمیٰ پاکستان کے تاریخی فیصلے کی روشنی میں LHWs کی خدمات کے پیش نظر انکی ملازمت Regularized کی گئی ہے۔ اور سروس لاء کے مطابق کسی ملازم یا ملازمہ جو کہ Regularized ہو کی سروس بغیر تین عدد اظہار وجوہ نوٹس ہائے کے ختم نہیں کی جاسکتی ہے۔ ایپلانٹ کو اسکی نوکری ختم کرنے سے پہلے ایک بار بھی اپنی پوزیشن واضح کرنے کے لئے اظہار وجوہ نوٹس (show cause) نہیں دیا گیا۔ جو کہ فطرت کے مسلمہ اصول کے نظر انداز کرنے کے مترادف ہے۔ کسی کو سُننے بغیر مورد الزام ٹھیرایا نہیں جاسکتا ہے۔

iii۔ ایپلانٹ کا شوہر ہائی بلڈ پریشر کا مریض ہے۔ کیونکہ اسکی پہلی بیوی سرطان کی موزی مرض سے اس دنیا سے رخصت کر گئی ہے۔ اور اس کے چھوٹے چھوٹے کمسن بچے پیچھے رہ گئے ہیں جبکہ وہ بذات خود نوکری کے سلسلے میں بیرونی ملک مقیم رہتا ہے۔ اُس کے گھر میں اسکے والدین جوان العمر بھائی اور بہنوں کے قبل از وقت اموات سے اُنکو ذہنی طور پر مفلوج کر دیا ہے۔ اگر میری نوکری چھوڑنے کیلئے اس نے میری طرف سے کچھ کہا ہو تو اول اس کا سبب RHC شیخ جانہ سے متعلق LHS کے نازیبا الفاظ تھے اور دوسرا سبب اسکی معمول زندگی۔ لیکن اس کے الفاظ میری برخاستگی از نوکری سے غیر متعلقہ ہیں۔ قانون قدرت اور قانون مروجہ ریاست کسی بے گناہ انسان کو کسی اور کے جرم کی پاداشت میں سزا نہیں دیتا ہے۔ میں اپنی نوکری شوق اور لگن سے جاری رکھنا چاہتی ہوں۔ جس سے میں نے کبھی انکار نہیں کیا ہے اور میاں بیوی کے باہمی مشاورت اور افہام و تفہیم سے میرا شوہر کبھی بھی میری فرائض منصبی کی ادائیگی میں مداخلت نہیں کرے گا۔

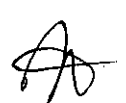
استدعا کی جاتی ہے کہ ڈیپارٹمنٹل ایپل ہذا کو منظور فرمائی جا کر حکم برخاستگی بالا واپس لے کر ایپلانٹ کو اپنی نوکری پر بحال کرنے کا حکم صادر فرما کر مشکور فرمایا جاوے

تحریر: 20.01.2014



العبد

مسماة فرح ناز دختر عبد المنان زوجہ امیر محمد سکندہ شیخ جانہ
حال پین کانی تحصیل رز و ضلع صوابی


ATTESTED

LHW CODE NO 35202907

RHC SHEIKH JANA

وکالت نامہ

بعدالت براؤنیشن سروسز انٹرنیشنل خصوصاً جنرل مینجمنٹ سروسز
 سماہ فرخ ناز (ایڈووکیٹ) بنام
 منجانب ایڈووکیٹ دعویٰ یا جرم سروسز انٹرنیشنل

تھانہ باعث تحریر آنکلاف آئی آر تاریخ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے بیرونی وجود ہی بمقام منجانب کیلئے

..... + ۸۷ Asif Younis Adv. + ۸۷ Asif Younis Adv. منجانب منجانب منجانب

کو بدیں شرط وکیل مقرر کیا ہے میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا اور بروقت
 پکارے جانے مقدمہ جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کرونگا، اگر پیشی پر من
 مظہر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے خلاف ہو گیا تو صاحب موصوف اس
 کے کسی طرح ذمہ دار نہ ہونگے، نیز وکیل صاحب موصوف صدر مقام پکھری سے کسی اور جگہ یا پکھری کے
 مقررہ اوقات سے پہلے یا پیچھے یا بروز تعطیل بیرونی کرنے کے ذمہ دار ہونگے، اگر مقدمہ علاوہ صدر پکھری
 کے کسی اور جگہ سماعت ہونے یا بروز تعطیل سے پکھری کے اوقات کے آگے پیچھے پیش ہونے پر من مظہر کو کوئی
 نقصان پہنچے تو اس کی ذمہ داری اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختار نامہ واپس کرنے کے بھی
 صاحب موصوف ذمہ دار ہونگے، مجھ کو کل ساختہ پرواختہ صاحب موصوف مثل کردہ ذات خود منظور قبول ہوگا
 اور صاحب موصوف کو عرضی دعویٰ و جواب دعویٰ اور درخواست اجراء ڈگری و نظر حانی اپیل و نگرانی ہر قسم کی
 درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرانے اور ہر قسم کا روپیہ
 وصول کرنے اور رسید دینے اور داخل اور ہر قسم کے بیان دینے اور سپرد ثالثی و راضی نامہ کو فیصلہ پر خلاف
 کرنے، اقبال دعویٰ دینے کا بھی اختیار ہوگا اور بصورت اپیل برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ
 درخواست حکم انتہائی یا ترقی یا گرفتاری قبل اجراء ڈگری بھی موصوف کو بشرط ادائیگی علیحدہ مختار نامہ بیرونی کا
 اختیار ہوگا اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا، یا مقدمہ مذکورہ یا اس کے کسی جزو کی
 کارروائی کے واسطے یا بصورت اپیل، اپیل کے واسطے کسی دوسرے وکیل یا بیرسٹر کو بجائے اپنے یا پانے ہمراہ
 مقرر کریں اور ایسے مشیر قانون کو ہر امر میں وہی اور ویسے ہی اختیارات حاصل ہونگے جیسے کہ صاحب
 موصوف کو حاصل ہیں اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑے گا وہ صاحب موصوف کو پورا اختیار ہوگا
 کہ مقدمہ کی بیرونی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ بھی صاحب موصوف کے برخلاف نہیں ہوگا،
 لہذا یہ مختار نامہ لکھ دیا تاکہ سند ہے۔

مورخہ مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

دستی فرخ ناز
 ایڈووکیٹ

Attested & Accepted
 Mm
 Advocate

BEFORE THE NWFP SERVICE TRIBUNAL

APPEAL NO. 633/2014

Mst. Farrah Naaz LHW D/O Abdul Manan , resident of village Sheikh Jana at present village Spin Kani , Tehsil Razar , District Swabi

----- (Appellant)

Versus

1. District Health Officer Swabi
2. Provincial Coordinator National Programme for FP&PHC Khyber Pakthunkhwa, Peshawar.
3. Director General Health Services Khyber Pakthunkhwa, Peshawar
4. Ministry of Health through secretary health Khyber Pakhtunkhwa, Peshawar
5. District Accounts Officer District Swabi.
6. Deputy Commissioner Swabi.

----- (Respondents)

WRITTEN STATEMENT ON BEHALF OF THE RESPONDENTS

PRELIMINARY OBJECTIONS

Respected Sheweth:-

1. That the Appellant has no cause of action/locus stand.
2. That the Appellant has deliberately concealed the material facts from this Honorable Tribunal, hence liable to be dismissed.
3. That the Appellant has not come to the Honorable Service Tribunal with clean hands.
4. That the instant Appeal is against the prevailing Law and Rules.
5. That the Appeal is not maintainable in the present from and also in the present circumstances of the ~~case~~.
6. That the appeal is time barred.
7. That the honorable tribunal has got no jurisdiction to entertain this appeal.

FACTS:-

1. Correct to the extent that the appellant was appointed, but on contract basis.
2. Correct to the extent that she was a Lady Health Worker of average performance.
3. In-correct. The act of Regularization of all Lady Health Workers programme staff has been issued during July 2014 by Govt: of Khyber Pakhthunkhwa vides Regularization and Standardization Act 2014 vides Notification No. PA/Khyber Pakhtunkhwa bills/2014/35 dated 02 July 2014 (Annex-A) and the LHW concerned was terminated from service before the regularization notification i.e. on 07th January 2014.
4. In-correct. She got marriage out of her Catchment Area i.e. from Mohallah Neko Khel Union Council Sheikh Jana to Village Spin Kani Union Council Asota and she was terminated due to NR (Not residential), according to programme policy and Para No.7 appointment order. (Annex-B).

On completion of her leave period i.e. on 06 December 2013 she did not apply for adjustment till the receiving of written report of lady health supervisor and Medical Officer in-charge concerned (Annex-C). The District Health Officer called her to attend the office for personal hearing vide this office letter No. 1597/DHO dated 04 December 2013 (Annex-D).

5. Correct to the extent that the Lady Health worker concerned performed her duties assigned to her in her catchment area according to her job description. During personal hearing along with her husband, the Respondent No. 1 explained her that if she is willing to continue her duties she should apply for necessary adjustment and to continue duties at her new location and in case of at previous location an affidavit should be given that the LHW concerned that she will continue to reside permanently at previous location according to programme policy but she along with her husband declined to do so and replied to Respondent No. 1 that the

LHW should be terminated. Thus the LHW was terminated vide this office letter No. 16-19/EDO dated 07/01/2014. (Annex-E).

6. Correct. Departmental appeal received from appellant was sent to Provincial Coordinator National Programme for FP&PHC Khyber Pakhtunkhwa, Peshawar being competent authority for reinstatement/reappointment vide this office letter No. 2521/DHO dated 03/03/2014.(Annex-F).

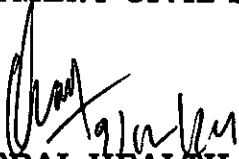
GROUND:

- A. In-correct. Termination orders was issued according to Para-7 of the Programme policy as mentioned in Appointment order (Annex-B).
- B. In-correct as she has been terminated on the ground of NR (Non Residential) as per Programme Policy and at the time of termination she was not a regularized Govt: servant.
- C. In-correct as per para-A mentioned above.
- D. Incorrect. She has not been terminated on the grounds that "her husband is not allowing her new location" but due to "NR". Detail reply has been given in para-5 of the facts.
- E. As mentioned para-6.
- F. As mentioned in the above paras.

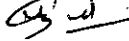
It is therefore requested that the appeal may kindly be dismissed with cost.



**SECRETARY GOVT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT CIVIL SECRETARIATE PESHAWAR**



**DIRECTOR GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR**



**PROVINCIAL COORDINATOR
NATIONAL PROGRAMME FOR FP&PHC
KHYBER PAKHTUNKHWA PESHAWAR**



**DISTRICT HEALTH OFFICER
SWABI**

BEFORE THE NWFP SERVICE TRIBUNAL

APPEAL NO. 633/2014

Mst. Farrah Naaz LHW D/O Abdul Manan , resident of village Sheikh Jana at present village Spin Kani , Tehsil Razar , District Swabi

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----- (Respondents)

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**DISTRICT HEALTH OFFICER
SWABI**

Annex 'A'

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. P.III
GAZETTE

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, WEDNESDAY, 2ND JULY, 2014.

PROVINCIAL ASSEMBLY SECRETARIAT,
KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 2nd July, 2014.

No. PA/Khyber Pakhtunkhwa/Bills/2014/351.—The Khyber Pakhtunkhwa Regulation of Lady Health Workers Program and Employees (Regularization and Standardization) Bill, 2014 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 24th June, 2014 and assented to by the Governor of the Khyber Pakhtunkhwa on 29th June, 2014 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA REGULATION OF LADY HEALTH WORKERS PROGRAM AND EMPLOYEES (REGULARIZATION AND STANDARDIZATION) ACT, 2014

(KHYBER PAKHTUNKHWA ACT NO. XXVI OF 2014)

*(First published after having received the assent of the Governor of the
Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa,
(Extraordinary), dated the 2nd July, 2014).*

AN
ACT

*to regulate the status of Lady Health Workers Program in the Province of the Khyber
Pakhtunkhwa and to regularize and standardize the services of employees
of the said program*

WHEREAS in pursuance of the Constitution (Eighteenth Amendment) Act, 2010, the subject of Health has been devolved to the Provinces and as such Lady Health Workers Program run by Federal Government for supporting the family planning and primary health care was devolved to the Provinces accordingly;

AND WHEREAS in the Lady Health Workers Program, the community based workers have a special nature of job, for the execution of which they have to remain continuously embedded with their local catchment population;

(2)

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AND WHEREAS it is obligatory to maintain the original concept and design of the Lady Health Workers Program, to ensure the presence of community embedded employees for effective service delivery to the people of the area;

AND WHEREAS it is expedient to regulate the status of Lady Health Workers Program in the Province of the Khyber Pakhtunkhwa and to regularize and standardize the services of the employees of the said program.

It is hereby enacted as follows:-

1. Short title, application and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Regulation of Lady Health Workers Program and Employees (Regularization and Standardization) Act, 2014.

(2) It shall apply to all persons employed or to be employed in Lady Health Workers Program, in the Province of the Khyber Pakhtunkhwa.

(3) It shall come into force at once except section 4, which shall come in to force on 1st July, 2012.

2. Definitions.---In this Act, unless there is anything repugnant in the subject or context,-

- (a) "catchment population" means the local population for which a Community Embedded Employee of the Program is appointed or posted and regularly resides therein;
- (b) "Community Embedded Employee" means a Program employee residing and working within his defined catchment population for which he was appointed or posted;
- (c) "District Program Implementation Unit" means the Management Unit of the Program at District level;
- (d) "Government" means the Government of the Khyber Pakhtunkhwa;
- (e) "prescribed" means prescribed by rules;
- (f) "Program" means the Lady Health Workers Program devolved to the Province and which was previously run by the Federal Government under the name of the National Program for Family Planning and Primary Health Care;
- (g) "Program employee" means an employee of the Program, whose service is regularized under this Act and includes persons to be appointed after the commencement of this Act;
- (h) "Province" means the Province of the Khyber Pakhtunkhwa;
- (i) "Provincial Program Implementation Unit" means the Management Unit of the Program at Provincial level; and
- (j) "rules" mean rules made under this Act.

KHYBER PAKHTUNKHWA GOVERNMENT, EXTRAORDINARY, 2nd JULY, 2014. 19

3. **Status of Program.**---(1) On commencement of this Act, the National Program for Family Planning and Primary Health Care, shall be deemed to be a Program of Government to be known as the Lady Health Workers Program.

(2) The purpose of the Program shall be to provide preventive, curative, rehabilitative and promotive health care services to the catchment population in the Province.

(3) The Program shall continue for such a period as Government may determine.

(4) After coming into force of this Act, Government may appoint persons to various posts in the Program on contract basis and there shall be no regular appointment in the Program.

(5) The appointment under sub-section (4) shall be made in accordance with the criteria and manner as may be prescribed.

4. **Regularization.**---(1) On commencement of this Act, all the Program employees, who were appointed in the Program on contract or fixed monthly stipend basis before 1st July 2012, and holding the said post till the commencement of this Act, shall stand regularized with effect from 1st July, 2012:

Provided that the services of such Program employees shall be deemed to have been regularized under this Act only on the publication of their names in the official Gazette:

Provided further that the posts of the Program fallen vacant on account of death, retirement, resignation, dismissal, termination or otherwise shall be filled-in on contract basis.

(2) The Program employees regularized under this Act shall be placed in the relevant Pay Scales corresponding to the civil servants or as may be determined by Government.

(3) The seniority of the Program employees regularized under this Act shall be determined in a manner as may be prescribed.

(4) A Program employee, whose services are regularized under this Act, shall retire from service, on the option of the Program employee and on such date as requested by the Program employee, after completion of twenty five years of qualifying service or on the completion of sixtieth year of age.

(5) A Program employee, whose service is regularized under this Act, shall be entitled to such pensionary and retirement benefits as may be determined by Government.

5. **Mechanism of recruitment for Community Embedded Employees.**---(1) For filling a post of Community Embedded Employee, the appointing authority shall cause to verify and ensure in the prescribed manner that person, who is to be appointed against such post, shall be a regular resident of his catchment population.

(2) The Provincial Program Implementation Unit shall oversee and monitor the process and finding of the verification, carried out by the appointing authority under sub-section (1), before a person is appointed against post of Community Embedded Employee.

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(3) The Community Embedded Employee shall perform his duties within the catchment population of his residence; provided that Government may adjust a Community Embedded Employee in another area in certain circumstances to be prescribed.

(4) Notwithstanding anything contained in other provisions of this Act, the services of the Community Embedded Employees, whose services are regularized under this Act, or other Community Embedded Employees to be appointed after the commencement of this Act, shall be liable to termination, if the employee-

- (a) has unlawfully ceased to be a regular resident within or has become a non-resident for his catchment population; or
- (b) is involved in any other engagement or a practice which is not in accordance with the laid down and approved policy of the Program; or
- (c) has ceased to be efficient in the performance of official duties; or
- (d) has proved guilty of gross misconduct.

(5) A Community Embedded Employee, whose service is terminated under sub-clause (a) or (b) of sub-section (4) of this Act may be reinstated into service in a manner as may be prescribed: Provided that this opportunity of reinstatement shall not be given more than once throughout the tenure of a Community Embedded Employee's service:

Provided further that-

- (a) no salary or allowances shall be paid to the re-instated employee for the period spent under termination; and
- (b) payment made, if any, to the terminated employee being re-instated, which was not allowed during or for the period spent under termination, is recovered from the employee.

6. **Posting, transfer and adjustment of Program employees.**---Notwithstanding anything contained in other provisions of this Act, the Program employees, except the Community Embedded Employees, may be transferred to perform duty anywhere in the Province.

7. **Disciplinary action.**---Disciplinary cases against the Program employees shall be dealt with in a manner as may be prescribed.

8. **Application of Government rules.**---The Program employees shall be dealt in accordance with the provisions of this Act and rules; provided that if no specific rules are available on any matter, the Government rules shall be applicable to such Program employees.

9. **Public servants.**---All Program employees shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860 (Act No. XLV of 1860).

10. **Power to make rules.**---Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

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KHYBER PAKHTUNKHWA GOVERNMENT, EXTRAORDINARY, 2nd JULY, 2014. 21

11. **Saving.**--- Any rules, orders or instructions in respect of any terms and conditions of services of Program employees duly made or issued by an authority competent to make them and in force immediately before the commencement of this Act shall, in so far as such rules, orders or instructions are not inconsistent with the provisions of this Act, be deemed to be rules made under this Act.

12. **Removal of difficulties.**---If any difficulty arises in giving effect to any of the provisions of this Act, Government may make such order, not inconsistent with the provisions of this Act, as may appear to be necessary for the purpose of removing the difficulty:

Provided that no such power shall be exercised after the expiry of one year from the commencement of this Act.

13. **Repeal.**--- The Khyber Pakhtunkhwa Regulation of Lady Health Workers Program and Employees (Regularization and Standardization) Ordinance, 2014 (Khyber Pakhtunkhwa Ord. No. VI of 2014) is hereby repealed.

BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER PAKHTUNKHWA

(AMANULLAH)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa

Annex B

OFFICE OF THE DISTRICT HEALTH OFFICER SWART.

OFFICE ORDER

Subject:- APPOINTMENT ORDER FOR LADY HEALTH WORKER UNDER PRIME MINISTER'S PROGRAMME FOR FAMILY PLANNING AND PRIMARY HEALTH CARE.

On the recommendation of selection Committee Miss/Mrs. Miss Farah Naz D/O W/O Abdul Manan of Village Shaikh Jana Mohalla Wiki Khal, Tehsil Swabi is hereby appointed as Lady Health Worker (LHW) in BRD Shaikh Jana W.E.F. 14/5/1997 on the following terms and conditions:-

1. The appointment will be purely on contract basis.
2. The appointment will be initially for one year. However it extendable subject to satisfactory performance.
3. After selection, she will be trained for a duration of 15 months. In the first 03 months, she will attend training at the Health Centre for 05 days a week, while during the next 12 months, she will work in her catchment area for 03 weeks every months and will attend the training session at the health centre in the 4th week of every month.
4. She will be paid Rs. 50/- per day during initial three months of training and subsequently she will be given a stipend of Rs. 1200/- per month.
5. She will have to work in this programme for atleast one year after completion of training for which she will have to give surety bond at the time of joining training on stamp paper of Rs. 50/- If she wishes to resign within this period, she will have to deposit the whole amount of salary which she has received during training and service until acceptance of resignation.
6. On expiry of surety bond period if she wishes to resign, she will serve one months notice or will deposit one month salary in lieu of notice.
7. The post is non transferable and the services will be terminated if the LHW move out of her area of appointment.
8. She will be required to establish a health house in her residence and maintain it according to the requirements of the programme. She will work closely with the local community and establish a local health committee and a women group with the assistance of the Field Supervisor and Health Centre staff.
9. She will ensure her presence during the field visits of supervisors and will arrange home visits for them.
10. She will be required to open a bank account in the branch of bank nearest to the training centre. The Branch will be identified by the District P.I.U. Her salary will be disbursed through this bank.
11. She will keep a proper record of supply and receipt from the health centre and will also maintain a proper record of consumption of the supplies and will provide this to the health centre every month at the time of receiving new supplies.
12. She will maintain a proper record of the money being earned through sale of contraceptive (condoms and pills). She will be required to submit the details of money every month to the Health Centre. If she is found guilty of wrong reporting or selling the contraceptives

- ... recovery of the amount.
13. She will submit a monthly report of her activities on a form to the health Centre regularly.
 14. She will be entitled for 20-days casual leave in a year. However, there will be no leave during training, and if she herself un-authorisedly, her services will be terminated. She will be required to take the sanction of leave from the health Centre.
 15. She will be entitled for 20 days maternity leave at one time which will commence 10 days before the delivery date until 10 days after delivery. After this, she will resume her duties from the health ~~centre~~ house and then start field visits not later than one month from the date of delivery.
 16. TA/DA will not be admissible on account of attending training or undertaking any field visit.
 17. If at any time it is established that she has given wrong information on her qualification, age, place of residence and other criteria, her services will be terminated without any notice and the amount spent on her training and salary will be recovered.
 18. Her services will not be governed under the Civil Servants Act 1973, but under the terms and condition of this contract and any other terms that may be communicated to her from time to time. She will be bound to follow these terms which will not be challengeable at any forum including Courts.
 19. Her Services can be terminated at any time ~~with~~ without assigning any reasons or notice.
 20. If she accepts the offer on the above terms and conditions, she is directed to report for training at Shukh Jara on 19/5/87 failing which the offer will stand cancelled.

Gd/
District Health Officer
Swabi.

No. 7490-3510/14 Swabi Dated the 16/5/1987

Copy forwarded to the:

1. National Coordinator, Prime Minister's Programme for Family Planning and Primary Health Care, 14-D Teroze Centre, West Blue Area, Islamabad.
2. Provincial Programme-Coordinator PM Programme for FP & PNC N.W.F.P. Peshawar.
3. District Coordinator, PM, Programme for FP & PNC District Swabi.
4. The Accountant/Dealing Asstt: PM Programme for FP & PNC District Swabi.
5. Official Concerned.

for information and n/action.

16/5/87
DISTRICT HEALTH OFFICER
SWABI.

ان کے ساتھ حساب و سرکاری کارڈ دیا گیا
سنیل سہوکار

حساب کا نام
RHC شیعہ خانہ

نور شیعہ خانہ

میں ایک لکھنؤ میں شادی ہوئی ہے
اس کی وجہ سے وہ اپنی لہجہ سے
RHC میں ہے

Farah Nazki
070

Abdul Mannan

A/c No. 8109-0
H31515000
A1000

Statements prepared by P.A. Farah Nazki
Call her on weather statement
2/1/14
RHC
Forwarded to DHO
Saeed

As per statement of Mrs
she is unwell at her new address
and can be terminated as
H.S Per programme policy.

Terminable
As a case of RHC
The case provided further
to removed as per
2/1/14

MEDICAL OFFICER
UC RHC Shiekhjane
District Saeed

Original on 20/12/13

Office Of The District Health Officer Swabi

Email ID: edohealthswabi@yahoo.com

Office Tel & Fax: 0938-221606, 224604

A B Khan PC-II



No. 1597 /DHO (H) Swabi Dated: 04 / 12 2013.

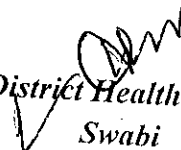
To

Miss Farrakh Naaz LHW.
RHC Sheikh Jana

Subject: NR REPORT

Memo;

It is to inform you that you have got marriage out of your catchment area i.e from Union Council Sheikh Jan to Unision Council Asota as reported by LHS and verified by Medical Officer Incharge RHC Sheikh Jana. As per programme policy you became NR. However you are hereby directed to attend the office of the undersigned along with your Lady Health Supervisor concerned for personal hearing, if you are willing to perform your duties at your new location, otherwise you will be terminated from service due to NR.

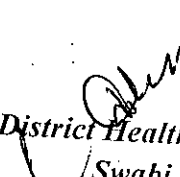

District Health Officer
Swabi

No. 1598-99 /DHO Swabi

Dated 04 / 12 /2013.

Copy forwarded to:

1. SMO I/C RHC Sheikh Jana
2. Lady Health Supervisor concerned
(for information and n/action)


District Health Officer
Swabi

A B Khan
Abdulbaseer_khan4u@hotmail.com

Annex "E"

OFFICE OF THE DISTRICT HEALTH OFFICER SWABI

OFFICE ORDER

As reported by LHS and verified by SMOIC, LHW Farrakh Naaz D/O Abdul Manan having Bank Account No. 8109-0 HBL Shewa Adda attached to RHC Sheikh Jana has got marriage out of her catchment area and become NR. Her husband not allow her new location. As per programme policy she is hereby terminated from services with immediate effect

She is hereby directed to deposit all the kit items along with accessories with supervisor concerned.

SD/-
**DISTRICT HEALTH OFFICER
SWABI**

NO 16-19 /EDO (HEALTH) SWABI

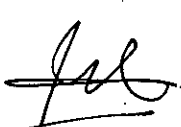
DATED The 07/1/2014

Copy forwarded to the:-

1. Provincial Coordinator National Programme for IP&PHC Khyber Pakthunkhwa Peshawar.
2. SMOIC RHC Sheikh Jana
3. LHS /LHW concerned
(for information and n/action)


DISTRICT COORDINATOR


**DISTRICT HEALTH OFFICER
SWABI**

Received by 
Asa Zana,

Annex "E"

No 252 /DHO Swabi

Dated The 03/3/2014

From : The District Health Officer
Swabi

To : The Provincial Coordinator
National Programme for FP&PHC
Khyber Pakthunkhwa Peshawar

Subject:- TERMINATION OF LHW

It is submitted that LHW Farrakh Naaz D/O Abdul Manan attached to RHC Sheikh Jana granted 20 days leave for her marriage for the period from 17 November to 06 December 2013 according to programme policy.

On completion of her leave period the concerned LHS reported her in writing duly endorsed by SMOI/C the LHW has got marriage out of her catchment area i.e. at village Spinkani Union Council Asota and become NR.

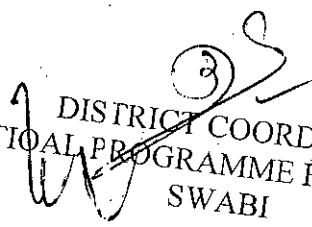
The undersigned endorsed remarks on report to call the LHW for personal hearing and if she is willing to perform duties at her new location, she should be adjusted. (Photo copy) attached.

On 02 January 2014 she along with her husband and LHS concerned attended the office and her husband agreed to do her duties at her previous location not in Spinkani. The undersigned directed them to give an affidavit that the LHW will be permanently resided at Sheikh Jana as per programme policy, but her husband declined to do so and replied to the undersigned that they are unable to give affidavit and she should be terminated.

On 07 January 2014 after lapse of a period of 02 months this office issued termination orders vide no. 16-19/EDO (Health) Swabi dated 07 January 2014 (photo copy) attached herewith.

Now the LHW concerned submitted her appeal along with an affidavit to the undersigned, is sent herewith in original for further necessary action.


DISTRICT HEALTH OFFICER
SWABI


DISTRICT COORDINATOR
NATIONAL PROGRAMME FOR FP&PHC
SWABI

بخدمت جناب ڈسٹرکٹ ہیلتھ آفسیر صاحب صوابی

ڈیپارٹمنٹل اپیل برخلاف ارڈر نمبر Health/EDO/19-96 صوابی مورخہ 07.01.2013
جس کے ذریعے ایپلانٹ کو نوکری سے برخاست لگی ہے۔

جناب عالی! اپیل ڈیپارٹمنٹل ذیل عرض ہے۔

ایپلانٹ مسماة فرح ناز دختر عبدالمنان موضع شیخ جانہ تحصیل رز و ضلع صوابی کی مستقل رہائشی ہے جسکی حال ہی میں موضع سپین کانی تحصیل رز و ضلع صوابی میں شادی ہوئی ہے۔

ایپلانٹ سال 1997 سے ادارہ نیشنل پروگرام برائے FP & PHC خیبر پختونخواہ سے بطور LHW وابستہ ہوں اور اپنی ڈیوٹی کی انجام دہی میں حتی الوسع کوئی کوتاہی نہیں بھرتی ہے اور فرائض منصبی میں متعلقہ آفسران بالا کو مطمئن کرنے کیلئے کوئی دقیقہ فرو گزاشت نہیں کیا ہے۔

ایپلانٹ کی جب شادی موضع سپین کانی میں ہوئی تو اس کا تبادلہ موضع شیخ جانہ سے موضع سپین کانی (جو کہ RHC شیخ جانہ کے دائرہ کار میں آتا ہے) کر لیا گیا۔ چونکہ ایپلانٹ نے ساہا سال تک اپنے آبائی گاؤں شیخ جانہ میں اپنی ڈیوٹی انجام دی تھی اور اپنے دائرہ کار میں تمام گھرانوں سے واقف تھی اور اسی واقفیت کے بناء پر اسی ہی ایریا میں ڈیوٹی انجام دینے میں سہل محسوس کرتی تھی۔ اس لئے آپ صاحبان سے اپنے پرانے ایریا یعنی موضع شیخ جانہ میں بدستور رہنے کیلئے استدعا کرنے اپنے شوہر کی معیت میں آئی اور آپ صاحبان نے میری استدعا منظور بھی کی لکین بد قسمتی سے RHC شیخ جانہ سے متعلقہ لیڈی ہیلتھ سپروائزر نے میرے ساتھ ایسے جملوں کا تبادلہ کیا جو کہ میرے شوہر کو ناگوار گزرے اور غیر ارادی طور پر اُسکے منہ سے LHS کے جملوں کے جواب میں مجھ سے مشاورت کے بغیر میری طرف سے ایسی نوکری جاری نہ رکھنے کا کہا اور اس کے الفاظ کو بنیاد بنا کر میری برخاستگی کا آرڈر صادر کیا گیا ہے جو کہ بوجوہات ذیل قابل منسوخی ہے۔

F. B. - for report.

MA

i۔ ایپلانٹ نے جان چھوڑنے میں ڈال کر کئی سالوں سے تاحال پولیو ویکسینیشن جسے پرخطر قرار دیا گیا ہے۔

ii۔ عدالت عظمیٰ پاکستان کے تاریخی فیصلے کی روشنی میں LHWs کی خدمات کے پیش نظر انکی ملازمت Regularized کی گئی ہے۔ اور سروس لاء کے مطابق کسی ملازم یا ملازمہ جو کہ Regularized ہوگی سروس بغیر تین عدد اظہار وجوہ نوٹس ہائے کے ختم نہیں کی جاسکتی ہے۔ ایپلانٹ کو اسکی نوکری ختم کرنے سے پہلے ایک بار بھی اپنی پوزیشن واضح کرنے کے لئے اظہار وجوہ نوٹس (show cause) نہیں دیا گیا۔ جو کہ فطرت کے مسلمہ اصول کے نظر انداز کرنے کے مترادف ہے۔ کسی کو سُننے بغیر مورد الزام ٹھہرایا نہیں جاسکتا ہے۔

iii۔ ایپلانٹ کا شوہر ہانی بلڈ پریشر کا مریض ہے۔ کیونکہ اسکی پہلی بیوی سرطان کی موزی مرض سے اس دنیا سے رخصت کر گئی ہے۔ اور اس کے چھوٹے چھوٹے ٹکسن بچے پیچھے رہ گئے ہیں جبکہ وہ بذات خود نوکری کے سلسلے میں بیرونی ملک مقیم رہتا ہے۔ اُس کے گھر میں اسکے والدین جوان العمر بھائی اور بہنوں کے قبل از وقت اموات سے، اُنکو ذہنی طور پر مفلوج کر دیا ہے۔ اگر میری نوکری چھوڑنے کیلئے اس نے میری طرف سے کچھ کہا ہو تو اڈیل اس کا سبب RHC شیخ جانہ سے متعلق LHS کے نازیبا الفاظ تھے اور دوسرا سب اسکی معمول زندگی۔ لیکن اس کے الفاظ میری برخاستگی از نوکری سے غیر متعلقہ ہیں۔ قانون قدرت اور قانون مروجہ ریاست کسی بے گناہ انسان کو کسی اور کے جرم کی پاداشت میں سزا نہیں دیتا ہے۔ میں اپنی نوکری شوق اور لگن سے جاری رکھنا چاہتی ہوں۔ جس سے میں نے کبھی انکار نہیں کیا ہے اور میاں بیوی کے باہمی مشاورت اور افہام و تفہیم سے میرا شوہر کبھی بھی میری فرائض منصبی کی ادائیگی میں مداخلت نہیں کرے گا۔

استدعا آج جاتی ہے کہ ڈیپارٹمنٹل اپیل ہذا کو منظور فرمائی جا کر حکم برخاستگی بلا واپس لے کر ایپلانٹ کو اپنی نوکری پر بحال کرنے کا حکم صادر فرما کر مشکور فرمایا جاوے

تحریر: 20.01.2014

العبد

مسماة فرح ناز دختر عبدالمنان زوجہ امیر محمد سکند شیخ جانہ

حال: پان کانی تحصیل رز و ضلع صوابی

LHW CODE NO 352(12907

RHC SHEIKH JANA



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

Service Appeal No. 633/2014

Farrah Naz

VS

Health Deptt:

.....

REJOINDER ON BEHALF OF APPELLANT

.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-6) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

1. Admitted correct. Hence no comments.
2. Admitted correct by the respondents that she worked as lady health worker but of good performance as no compliant has been filed against the appellant.
3. Incorrect. While para 3 of the appeal is correct.
4. Not replied according to para 4 of the appeal. Moreover para 4 of the appeal is correct.
5. First portion of para 5 is admitted correct by the respondents hence no comments, while the rest of the para is incorrect as it was not replied according to remaining portion of para 5. Hence denied.
6. Admitted correct by the respondents that the appellant filed department, but it is not responded in statutory period of time.


GROUNDS:

- A. Incorrect. The impugned order of termination of service of the appellant is against the law and facts, therefore not tenable and liable to be set aside.
- B. Incorrect. The appellant was Govt: regularized servant and respondent No.1 has not adopted proper procedure according to law and rules in the termination the appellant.
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- D. Incorrect. While para D of the appeal is correct.
- E. As mentioned in para 6 of the rejoinder.
- F. Not replied according to para F of the appeal. Moreover para F of the appeal is correct.

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

APPELLANT
Farrah Naaz

Through:


(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.




DEPONENT

**BEFORE THE KHYBER PAKHTUNKHWA,
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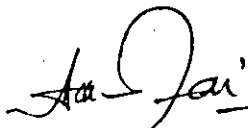
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