

Service Appeal No. 685/2014

26.07.2017

Counsel for the appellant present. Mr. Farhaj Sikandar, District Attorney for the respondents also present. Learned counsel for the appellant submitted application for withdrawal of the appeal on the ground mentioned in application. Application is placed on record. Keeping in view the withdrawal application, the appeal in hand dismissed as withdrawn. File be consigned to the record room.

ANNOUNCED

26.07.2017



(Muhammad Amin Khan Kundi)

Member

Camp Court D.I. Khan

In the Court of Service Tribunal KPK
Dikhan
A/No 685/14

Abdul Qayyam vs. Health Deptt.

DOF
M.A.M.
application for withdrawal of
the Service appeal, with
permission of the Court.

26.7.2017

1) That the appeal is pending and is fixed
for today.

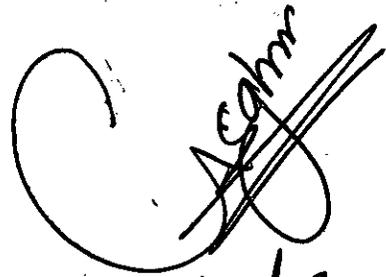
2) That the appellant wants to withdraw the
Subject appeal with permission of the Court
to adhere the matter before Honorable
Peshawar High Court Bench Dikhan.

3) That the Court has ample and
vast Jurisdiction to entertain the
application in hand.

It is therefore humbly
requested to pass an order
regarding withdrawal of
the appeal captioned above,
in the large interest of Justice.

Appellant.

Dated. 26.7.2017.



identified by

Asghar Khan Baloch

AHC

Dikhan

25.01.2017

Mr. Waqar Alam, Advocate on behalf of Mr. Muhammad Asghar Baloch, Advocate appeared and requested for adjournment on the ground that learned counsel for appellant is busy in District Bar Election and seeks adjournment. Adjournment granted. Mr. Farhaj Sikandar, Government pleader for respondents also present. To come up for preliminary hearing on 22.02.2017 before S.B at Camp Court D.I.Khan.


ASHFAQUE TAJ
MEMBER
Camp Court D.I.Khan

22.02.2017

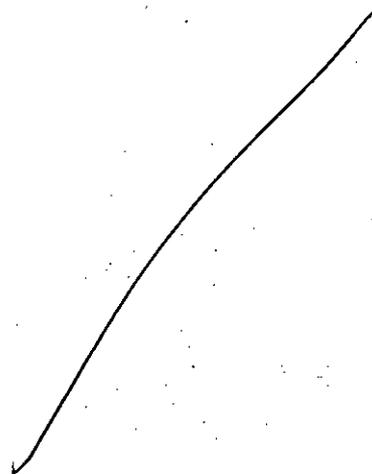
Mr. Asghar Khan Baloch learned counsel for appellant and Mr. Farhaj Sikandar, Government Pleader for respondents present. Learned counsel for appellant seeks adjournment that he is busy in election. Adjourned for preliminary hearing to 29.03.2017 before S.B at Camp Court D.I.Khan.


(ASHFAQUE TAJ)
MEMBER
Camp Court D.I.Khan

29.03.2017

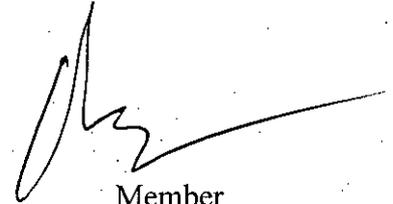
Since tour is hereby cancelled, therefore, the case is adjourned for the same on 26.07.2017.


Reader



30.08.2016

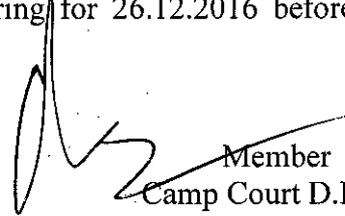
Appellant in person and Mr. Farhaj Sikandar, GP for respondents present. Appellant requested for adjournment. To come up for preliminary hearing on 26.09.2016 at camp court D.I.Khan.



Member
Camp court D.I. Khan

26.09.2016

Appellant in person and Mr. Farhaj Sikandar, Government Pleader for the respondents present. Appellant requested for adjournment. Last opportunity given for preliminary hearing for 26.12.2016 before S.B at Camp Court D.I.Khan.



Member
Camp Court D.I.Khan

26.12.2016

Mr. Muhammad Asghar Baloch, Advocate counsel for appellant and Mr. Farhaj Sikandar, Government Pleader for the respondents present. Learned counsel for appellant submitted fresh Wakalatnama and requested for adjournment. Adjourned. To come up for preliminary hearing on 23.01.2017 before S.B at Camp Court D.I.Khan



ASHFAQUE TAJ
MEMBER
Camp Court D.I.Khan



23.2.2016

Appellant in person present and Mr. Farhaj Sikandar, GP for the respondents present. Counsel for the appellant is not available. To come up for preliminary hearing on 29.3.16 at Camp Court D.I.Khan.



MEMBER
Camp Court, D.I.Khan

29.3.2016

Clerk of counsel for the appellant present and requested for adjournment. Therefore, case is adjourned to

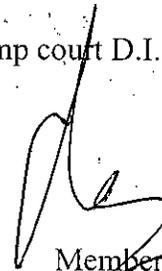
24-5-16 for preliminary hearing at camp court, D.I.Khan.



MEMBER
Camp court, D.I.Khan

24.05.2016

None for the appellant present. Mr. Farkhaj Sikandar, GP for respondents present. Notice be issued to the appellant/counsel for the appellant for preliminary hearing. To come up for preliminary hearing on 30.08.2016 at camp court D.I. Khan.



Member
Camp Court D.I.Khan

685/2014

28.09.2015

Counsel for the appellant present and requested for adjournment. Therefore, case to come up for preliminary hearing on 23-11-15 at camp court, D.I.Khan.


MEMBER
Camp court, D.I.Khan.

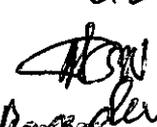
23.11.2015

Counsel for the appellant present. Pre-admission notices be issued to the respondents and case to come up for preliminary hearing on 29-12-2015 at camp court, D.I.Khan.


MEMBER
Camp Court, D.I.Khan

29.12.2015

Since tour to D.I.Khan for the month of December, 2015 has been cancelled, therefore, case is adjourned to 26-1-2016 for the same.


MEMBER
Camp Court, D.I.Khan

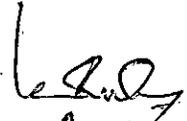
26.01.2016

Appellant in person present. Mr. Farhaj Sikandar, GP present. Fresh notices be issued to the respondents. Appellant is also directed to produce his counsel on the next date. To come up for preliminary hearing on 23.2.16 at camp court, D.I.Khan.


MEMBER
Camp court, D.I.Khan

24-11-2014

Present as before on 29-9-14.
Since the Tribunal is incomplete, therefore
this case is adjourned to 23-2-15 for
preliminary hearing at Camp Court, D.I.K.


Registrar

23-2-15

Appellant with counsel present and heard.
The l/counsel while addressing the court, submitted
that due to stay order in another appeal, appellant
could not be timely promoted as a result of which
peculiar loss happened to the appellant. For further
arguments, the l/counsel requested to grant time ~~to~~ Allowed.
~~to~~ come up for preliminary hearing on 27-4-15 at
Camp Court, D.I.K.


Member
Camp Court, D.I.K.

27.4.2015

Appellant present and stated that his counsel (Abdullah Khan Gandapur) Advocate is not available to-day. He requested for adjournment. Therefore, case to come up for preliminary hearing on 28.09.2015 at camp court, D.I.Khan.


MEMBER
Camp Court, D.I.Khan.

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 685/2014

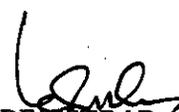
S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	13/05/2014	<p>The appeal of Mr. Abdul Qayyum resubmitted today by Mr. Abdullah Khan Gandapur Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p>
2	15-5-2014	<p>This case is entrusted to Touring Bench D.I. Khan for preliminary hearing to be put up there on <u>26-5-2014</u></p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>
3	26-5-2014	<p>No one is present on behalf of appellant. Fresh notice be issued to appellant/counsel for preliminary hearing on 29-9-2014 at camp court, D.I. Khan</p> <p style="text-align: right;">Member Camp Court, D.I.K.</p>
4	29-9-14	<p>Appellant in person present and requested for adjournment. Case adjourned to 24-11-2014 for preliminary hearing at Camp Court, D.I.K.</p> <p style="text-align: right;"><i>[Signature]</i> Registrar Camp Court, D.I.K.</p>

The appeal of Mr. Abdul Qyyum received today i.e. on 21.04.2014 is incomplete on the following scores which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- ✓ 1- Copy of seniority list is illegible which may be replaced by legible/better one.
- ✓ 2- Annexures of the appeal may be attested.
- ✓ 3- Appeal may be page marked.
- 4- Departmental appeal having no date, be dated.
- 5- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 632 /S.T,

Dt. 22/04 /2014.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Abdullah Khan Gandapur Adv.
High Court Dera Ismail Khan.

Sir,

The objection raised by this Hon'ble Tribunal have be removed. Hence resubmitted to this Hon'ble Tribunal

Five Copies of the said appeal is also enclosed herewith.

Dated.6.5.2014.


Abdullah Khan Gandapur
Advocate High Court.

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

S.T.A. No. 685 2014.

Abdul Qayyum v/S Govtof K.P.K. etc

Index.

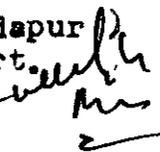
S.No.	Particulars of documents	Annexure	Pages.
1.	Memo and grounds of Appeal.		1-5
2.	Copy of Seniority List.	A	6
3.	Copy of retirement	B	7
4.	Copy of Confidential report for promotion	C	8
5.	Copy of appeal for promotion to Department.		9-11
6.	Wakalatnama.		12


Abdul Qayyum
through Counsel.

Dated. 19.4.2014

(Abdullah Khan Gandapur
Advocate High Court.





①

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR.

S.T.A No. 685 2014

Abdul Qayyum S/O Haji Nasrullah Khan
R/O Mohallah Saeed Abad ,
Near Mahmood Eyes Hospital
D.I.Khan (Ex Chief Blood Bank Technician)
Distt: Headquarter Hospital D.I.Khan
(now retired) 03467848640

Appellant.

V/S

1. Govt of K.P.K through Secretary Health Peshawar.
2. Director General Health Services K.P.K Peshawar.

Respondent

Service Appeal under Section 4 of Service Tribunal Act, 1974 against the orders of Respondent No.2 vide which the other Colleagues of Appellant have been promoted to the B.P.S 17 but the Petitioner was ignored.

Prayer.

On acceptance of the instant Service Appeal the Appellant may kindly be promoted w.e.f. 22.8.2009 to B.P.S 17 from the date of D.P.C meeting was taken place which was due to issuance of Stay on Promotion by this Hon'ble

As-submitted to ~~the~~
and filed.

13/5/14

Tribunal he was not promoted and retired from
Service on 10.9.2010

respectfully Sheweth,

1. That the Appellant was appointed as Laboratory Technician on 23.11.1970 by the Recommendation of Division Health Selection board for which the least required qualification was B.Sc (biology) as at that time Degree in Law:medical Technology was not prescribed in order.
2. That being Senior most incumbent of BPS in Clinical wing Pathology (Blood Bank) the Appellant was promoted as Senior Lab:Technician in 1984 in BPS 12 and then in 1991 as Chief Blood Bank (BPS 16) (Gazetted incumbency) such arrangement continue and recognized.
3. Such posts were to be filled on the basis of Seniority -cumfitness and there was no room for appointment through initial recruitment in BPS 16.
4. The M.M.A Government during 2006 adopted a new service structure of Para-medical but its implementation was deferred untill 2009 . The tentative seniority list were not formally notified.

5. After that the Seniority list was formulated and the Appellant was placed on Serial No.3 (copy of the Seniority list is attached. ANNEXURE A

6. That meeting of D.P.C was Scheduled on 22.5.2009 but it could not resolve its decisions since a status quo from K.P.K service tribunal and after expiry of the stipulated initial period of six months of Stay the matter was kept abeyance without any valid basis and ultimately the said case was decided on 17.5.2012 after the retirement of the Appellant in September 2010. Copy of Retirement ANNEXURE B

- 7 That the Appellant addressed the D.G.Health Services (Respondent No.2.) on many occasions. Copies of the representation are enclosed Annexure K. But these were consigned to Dark corner of Cold Storage and the legitimate expectation of the eligible-cum-fitness incumbents including the Appellant were frustrated due to bureaucratic indifference although Defendants under obligation to convene the D.P.C one in six month or when the vacancies occur.

8. That the Appellant felt the injustice done to the Appellant First that the long duration of D.P.C in 2009 and 2nd neither they informed the affectees.

9. That act of omission i.e. non-convening the D.P.C on regular intervals had caused genuine grievances

(4)

to the Appellant by disentitling him from Promotion due since middle of 2009 and thus the Appellant had been divested for financial gains which were due to such inalienable right of promotion based on seniority - cum-fitness since middle of June 2009

10. Since there were no disqualifications of the Appellant for the promotion. The Appellant had remained vigilant qua his grievance and the respondent/Defendants have remained deliberately indifferent hence the present grievance petition is well within time and competent on all fours and the acts of omissions are thus actionable in writ jurisdiction.

11. That the Counsel of the Appellant may kindly be allowed to raise additional grounds during course of hearing.

It is humbly prayed that the instant Appeal may kindly be accepted as prayed for in the heading of Appeal.

Your Humble Appellant.

A. Qayyum

Abdul Qayyum

through Counsel.

[Handwritten signature]

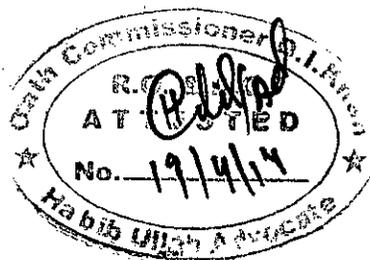
BEFORE THE SERVICE TRIBUNAL K.P.K. PESHAWAR.

ABDUL QAYYUM V/S Govt of K.P.K.

Affidavit.

I, Abdul Qayyum S/O Haji Nasrullah Khan R/O
D.I.Khan do hereby solemnly affirm and declare
on oath that the contents of the appeal are
true and correct to the best of my knowledge and
belief and that nothing has been concealed from
this Hon'ble Court.

A-*[Signature]*
Deponent.



6

Provisional Seniority List of Chief Clinical Technician (Pathology) BPS-16 In Health Department NWFP.

S.No.	Name & Father's Name	Old Nomenclature with BPS	Date of Joining Service a) Lab:Assistant b) Laby:Tech: c) Chief Lab: Technician	New Nomenclature with BPS	Place of Present Posting	Date of Birth/Domicile	Date of Retirement
1.	Sayyar Mohammad S/O Saifur Rehman	Chief Lab:Tech: BPS-16	01-01-1978 10-10-1984 25-11-1990	Chief Clinical Technician (Pathology)BPS-16	KTH Peshawar	15-07-1956 /Charsadda	14-07-2016
2.	Mohammad Mursileen S/O Mohmmad Ibrahim	-do-	14-06-1975 10-05-1979 12-01-1991	-do-	DHQR:Hospital Mardan	02-01-1957/Mardan	01-01-2017
3.	Abdul Qayyum S/O Haji Nasrullah	Chief Blood Bank Technician BPS-16	23-11-1970 15-05-1991	-do-	DHQR:Hospital DIKhan.	10-09-1950/ DIKhan	09-09-2010
4.	Israruddin S/O Baharuddin	Chief Lab:Tech: BPS-16	31-12-1973 19-10-1985 02-11-2003	-do-	KMC Peshawar	20-03-1949/Peshawar	19-03-2009
5.	Mehboob ur Rehman S/O Fazal ur Rehman	-do-	12-12-1978 24-10-1984 02-11-2003	-do-	KMC Peshawar	15-10-1955/Peshawar	14-10-2015
6.	Qazi Mohammad Ali S/O Qazi Mughal Baz.	-do-	20-11-1975 16-02-1984 21-11-2003	-do-	LRH Peshawar	16-07-1953/Peshawar	15-07-2013
7.	M. Siraj S/O Taj Mohammad	-do-	01-09-1965 01-01-1987 31-12-2005	-do-	Saidu Group of Hospital Saidu Sharif	04-05-1950 /Swat	03-05-2010
8.	Habib Khan S/O Roshan Khan	-do-	20-05-1984 05-10-1985 31-12-2005	-do-	DHQR:Hospital KDA Kohat.	18-06-1961/Karrak	17-06-2021.

Nasrullah
2008
2009

Sd/-
Director General Health Services
NWFP Pesahwar.

Handwritten signature and initials



1334 1PF
11 ANNEX 7
B

DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUN KHWA PESHAWAR.

All communications should be addressed to the Director General Health Services Peshawar and not to any official by name

Mail Address: mgfdghs@yahoo.com Office Pht: 091-9210269 Exchange#: 091 9210187, 9210156 Fax #: 091-9210230

Handwritten signature and initials

OFFICE ORDER (Retirement)

Under the powers delegated to me vide Govt. of Khyber Pakhtunkhwa Finance Department Notification No. SO-FD (SOBR-IV) 5-54/Vol-II dated 20.11.1986; sanction to the encashment of 180 days pay in lion of LPR is hereby accorded in favour of Mr. Abdul Qayyum Chief Clinical Technician BPS-16 (Chief Blood Bank Technician BPS-16) attached to DHQ Teaching Hospital DI Khan.

He stood retired from Govt. service with effect from: 09/09/2010.

Sd/xxxxx
DIRECTOR ADMINISTRATION
DGHS, KHYBER PAKHTUNKHWA
PESHAWAR

No. 23969-71 /E-V
Copy forwarded to the:-

Dated 30/9/2010

- 01. MS DHQ Teaching Hospital DI Khan for information w/r to his letter No. 11086 dated 28/08/2010.
- 02. DAO DI Khan.
- 03. Master file.

For information and necessary action.

ASSISTANT DIRECTOR (P)
DGHS, KHYBER PAKHTUNKHWA
PESHAWAR

Handwritten signature

Handwritten date: 29/9/10

*Record Clk
Put up ref.*

*HC & Acct. Clk
Please prepare his 180 days
Pay in lion of LPR Bill to
DAC, DI Khan.*

Handwritten date: 12/x/2010

DIRECTORATE GENERAL HEALTH
SERVICES NWFP, PESHAWAR

No. 12679-35 /AE-VII
Dated 31/10/2009.

ANNEX
E
(8)

1133
26/11/09
11/11/09

To

01. Medical Supdt: DHQ, Hospital, Mardan.
02. Medical Supdt: DHQ, Hospital, DIKhan.
03. Medical Supdt: DHQ, Hospital, KDA, Kohat.
04. Medical Supdt: S.G. of Teaching Hospital, Swat.
05. Medical Supdt: K.T.H. Peshawar.
06. Medical Supdt: L.R.H. Peshawar.
07. Principal, Khyber Medical College, Peshawar.

Attested
A. J. J. J.

SUBJECT: ANNUAL CONFIDENTIAL REPORTS OF PARA MEDICAL STAFF.

Memo:

Please send the Annual Confidential Reports, No Departmental Enquiry certificates and biadata in respect of the following Chief Clinical Technician (Pathology) EPS-16 working under your control, to this Directorate immediately:-

- | | |
|--|--------------------|
| 01. Sayyar Muhammad S/O
Seif-ur-Roman. | Full Service ACRs. |
| 02. Muhammad Masaleen S/O
Muhammad Ibrahim. | Full Service ACRs. |
| 03. Abdul Qayyum S/O
Haji Nasrullah Khan. | Full Service ACRs. |
| 04. Mehboobur Rehman S/O
Fazal Rehman. | Full Service ACRs. |
| 05. Qazi Muhammad Ali S/O
Qazi Mughal Baz. | Full Service ACRs. |
| 06. Ahmad Gul S/O Khan Gul. | Full Service ACRs. |
| 07. Muhammad Siraj S/O
Taj Muhammad. | Full Service ACRs. |
| 08. Habib Khan S/O
Hashim Khan. | Full Service ACRs. |
| 09. Shah Jehan S/O Saeedullah. | Full Service ACRs. |

Office
Signature

ASSISTANT DIRECTOR (P-II)
FOR DIRECTOR GENERAL HEALTH
SERVICES NWFP, PESHAWAR.

Signature
26/11/2009

21/11/09



DGHS

(9)

DIRECTOR GENERAL HEALTH SERVICES KHYBER PAKHTUNKHWA, PESHAWAR
All communications should be addressed to the Director General Health Services Peshawar and not to any official by name.

Office Ph # 091-9210269 Exchange # 091-9210187, 9210196 Fax # 091-9210230
No: 21912 /AE-VII Dated: 02 /09/2010

To

The Medical Superintendent
DHQ Teaching Hospital DI Khan.

Attested
A. Qayyum

Subject: APPEAL/REQUEST FOR PROMOTION.

Dear Sir,

I am directed to refer to your letter No. 10367/PF dated 06.08.2010 on the subject noted above and to say that the case is under trail in the Service Tribunal K,P,K. Peshawar as and when decided the promotion case will be processed.

A. Qayyum
19
Assistant Director (P-II)
Directorate General Health Services,
Khyber Pakhtunkhwa, Peshawar.

get done
in
Revised Clerk
PF, put up ref. 15/9/10
15/9/10
1108/2010

OFFICE OF THE MEDICAL SUPERINTENDENT DHQ TEACHING HOSPITAL DIKHAN

No. 11574-15 /PF Dated DIKhan the 16 /09/2010.

Copy forwarded to the:-

1. Director General Health Services KPK Peshawar for information w/r to his letter referred to above please.
2. Official concerned for information (Abdul Qayyum, Chief Blood Bank Tech: DHQ: Teaching Hospital D.I.Khan)

in
10
M. B. Khan
MEDICAL SUPERINTENDENT
DHQ: TEACHING HOSPITAL
DERA ISRAEL KHAN

To

The Secretary Health,
Khyber Pakhtunkhwa Peshawar.

10

Subject: APPEAL FOR PROMOTION.

Respected Sir,

Respectfully submitted that I got retired as Chief Blood Bank Technician on 10th September 2010 from Health Department, appointed on 23-12-1970 as Lab Technician in Blood Transfusion unit, given to BPS-11 in July 1983 & was promoted as Chief Blood Bank Technician in May 1991.

Sir,

With the approval of service structure in 2006, for paramedics in KPK, for promotion to Clinical Technologist Pathology in Grade-17, I came on No. 3 in the seniority list.

The meeting of Departmental promotion Committee on 22-05-2009 in DGHS Office which would have promoted me to Grade-17 could not take fruit as all its proceeding were stayed held by service tribunal orders.

The hearing proceeding of the seniority fixing case in the Service Tribunal delayed my promotion as the case was in court. In this connection I lodged an application to yours kindness to consider me separately, but the reply was; "the case is in court".

Now Sir, the question is that in 2006, service structure for paramedics was approved. Then after a long and slow process in 2009 we were to be promoted, had there been no jointlist and individual cases would have been considered for promotion, I could have taken the benefit of Grade-17 in may 2009 but due to no fault on my side I could not get Grade-17 till my retirement on 10-09-2010.

With the coming of service Tribunal decision in which it has uploaded its old decision, I request yours goodself to consider my case keeping in view the told facts and notify me promoted on 22-09-2010 to BPS-17.

Yours Obediently,

A. Qayyum
ABDUL QAYYUM

S/O Haji Nasrullah Khan
R/O Moh: P/O Saced Abad
Dera Ismail Khan City

16/8/10

1. Copy to DGHS KPK Peshawar.
2. Copies of promotion of BPS-11 & BPS-16 attached.



DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR

No. 36739 /AE.VII
Dated 21/12 /2012.

(41)

To :

Mr. Abdul Qayyum S/O Haji Nasrullah Khan,
R/O Mohallah, P/O Saeed Abad,
District D.I.Khan.

SUBJECT: APPEAL FOR PROMOTION

Dear Sir,

I am directed to refer to your letter No. nil dated nil addressed to the Secretary to Govt: of Khyber Pakhtunkhwa, Health Department and copy thereof endorsed to this office on the subject noted above and to state that the promotion/ upgradation cases were issued on 02.08.2012, therefore such promotion/ upgradation is not allowed after retirement.

ASSISTANT DIRECTOR (P-II)
DIRECTORATE GENERAL HEALTH
SERVICES KPK, PESHAWAR

JS
20/12/2012

Alloster
A Qureshi