

13.03.2015

Appellant in person and Asst: AG for the respondents present. Counsel for the appellant is stated busy before the august Supreme Court of Pakistan. Since temporary injunction has been issued as such the same is adjourned before S.B-II to 18.03.2015. Till then status-quo be maintained.

  
Chairman

18.3.2015

Appellant in person and Asstt. A.G for the respondents present. Due to general strike of the legal fraternity on account of murder of their colleague, counsel for the appellant is not available. Therefore, case is adjourned to 26.3.2015 for preliminary hearing. Till then status quo is extended.

  
MEMBER

26.3.2015

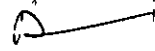
Appellant with counsel present and produced a copy of notification dated 25.3.2015. He submitted before the court that in the light of the aforementioned notification, the present appeal has become infructuous and requested for withdrawal of the appeal. Request is accepted. The appeal is dismissed as withdrawn. File be consigned to the record room.

ANNOUNCED  
26.3.2015

  
MEMBER

09.02.2015

Appellant with counsel and Mr. Kabirullah Khattak, Asst. Advocate General for the respondents present. The learned counsel for the appellant requested for adjournment. Request accepted. To come up for preliminary hearing on 10.02.2015. Till then status-quo be maintained.

  
Member

10.02.2015

Appellant in person present. Counsel for the appellant is not in attendance due to strike of the Bar. Adjourned for preliminary hearing before S.B to 24.02.2015. Till then status-quo be maintained.

  
Chairman.

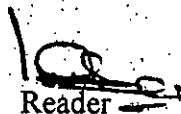
24.02.2015

Malik Faheem, Advocate for learned counsel for the appellant present. Informed the Court that the learned counsel for the appellant is stated busy before the august Supreme Court of Pakistan. Application for Adjournment submitted alongwith cause list. Adjourned for preliminary hearing before S.B to 13.03.2015. Till then status-quo be maintained.

  
Chairman

10.11.2014

Appellant in person and Mr. Muhammad Adeel Butt, AAG for the respondents present. The Tribunal is incomplete. To come up for preliminary hearing on 09.12.2014.

  
Reader

09.12.2014

Appellant in person and Mr. Muhammad Adeel Butt, AAG for the respondents present. The Tribunal is incomplete. To come up for preliminary hearing on 30.01.2015.

  
Reader.

30.01.2015

Appellant with counsel, learned Addl. AG for official respondents No. 1 and 2 and private respondent No. 3 with counsel present.

It was brought to the notice of this Tribunal that Dr. Muhammad Ali Chohan has instituted a fresh appeal which is being assigned to learned Bench-III for preliminary hearing. It would be thus appropriate that the instant appeal as well as the said appeal be heard by one and the same Bench. This appeal is, therefore, entrusted to the said learned Bench for 9.02.2015 with the directions that the freshly instituted appeal be also heard by the said learned Bench on the afore-stated date alongwith the instant appeal. Till then status-quo be maintained.

  
Chairman

28.10.2014

4

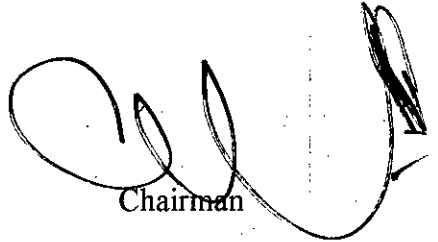
Appellant with counsel, Mr. Muhammad Adeel Butt, AAG for respondent-department and private respondent No.3/petitioner with Mr. Zia-ur-Rehman, Advocate present. Arguments could not be heard on the issues raised in the order sheet dated 16.10.2014, as learned AAG informed that appellate authority in the case of appellant is the Chief Minister with whom he could not establish contact in order to know about the present status/stage of the departmental appeal preferred by the appellant. The learned AAG, therefore, requested for a short adjournment in order to inform the Court/Tribunal about the above fact. Private respondent No.3/petitioner moved application for issuance directions to Dr. Muhammad Iqbal not to pressurize the applicant for handing over charge to him. Dr. Muhammad Iqbal has been transferred from DHQ Hospital Bannu to Kohat as DHO vice the private respondent No.3/petitioner vide impugned notification dated 29.09.2014 whereby the appellant has been transferred from the post of M.S Khyber Teaching Hospital, Peshawar and private respondent No.3/petitioner has been transferred from the post of DHO Kohat and posted as M.S KTH, Peshawar vice the appellant. Notwithstanding the fact that no notice, as such, has been issued so far to private respondent No. 3/petitioner and he has appeared on his own with aforesaid grievance, together with the fact that Dr. Muhammad Iqbal is not a party in the instant appeal, nevertheless, the application of private respondent No.3/petitioner, in essence, involves the question of application of order of status-quo issued vide order dated 16.10.2014. There can be no two opinions that the august High Court suspended the impugned notification dated 29.09.2014, obviously as a whole, which order was further extended and ordered to continue to remain operative in the meantime. Therefore, there should be no doubt that with the suspension of transfer and posting order of the appellant and private respondent No.3/petitioner, the transfer/posting order of Dr. Muhammad Iqbal, made vide the same notification dated 29.09.2014, already suspended by the august High Court vide order dated 02.10.2014 and extended vide order of the Tribunal dated 16.10.2014, is equally applicable to the transfer/posting of Dr. Muhammad Iqbal, as each and every transfer/posting stands suspended with the suspension of the impugned notification dated 29.09.2014. With this clarification, the application is disposed of. To come up for further proceedings/arguments, in view of issues raised in the order sheet dated 16.10.2014, on 29.10.2014.

  
Chairman

29.10.2014

5

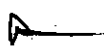
Appellant in person, Mr. Muhammad Adeel Butt, AAG and private respondent No.3 in person present. The learned AAG stated that the departmental appeal is in process and that he would confirm outcome of the departmental appeal as soon as he receives any information with regard to that from the Chief Minister's Secretariat. Arguments could not be heard due to non-availability of learned counsel for the appellant owing to strike of the Bar. The appellant stated that his counsel is proceeding to Islamabad to appear in the august Supreme Court of Pakistan on 30<sup>th</sup> and 31<sup>st</sup> October. The appellant, therefore, requested for adjournment of the case and its fixation after Moharram holidays. The learned AAG proposed that since the appellant is mainly relying on the order of the august High Court dated 16.9.2014, the Tribunal may also refer the case to the respondent-department with the same directions while disposing of the appeal. The appellant, on the other hand, stated that without consultation and advice of his counsel, he is not in a position to respond to the proposal made by the learned AAG. A last chance is given for arguments, on the issues raised in the order sheet dated 16.10.2014, before Primary Bench on 5.11.2014.

  
Chairman

05.11.2014

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Appellant alongwith his counsel and Mr. Kabirullah Kattak, Asst: AG for the respondents present. The learned counsel for the appellant submitted before the Court that the instant appeal has been partly heard by worthy Chairman and requested that it may be transferred to the same Bench for further arguments. This case be put up to the Chairman for further proceedings/order. Parties are directed to appear before the Chairman on 10.11.2014.

  
Member

one from the executive and other from the judiciary, notwithstanding the current status of the learned Member (Judicial). Moreover, the Tribunal is also assumed to continue as a validly constituted Tribunal on the analogy of Article 192 of the Constitution of the Islamic Republic of Pakistan, 1973 where-under 'a High Court shall consist of a Chief Justice and so many other Judges as may be determined by law or, until so determined, as may be fixed by the President'; and that the High Court is never presumed as not validly constituted owing to shortage of Hon'ble Judges as determined/fixed under the said provision of the Constitution as long as the Hon'ble Chief Justice and even a single Hon'ble Judge of the High Court are there to perform their functions.

The learned counsel for the appellant pointed out that number of Hon'ble Judges of the High Court is not determined/fixed in the Constitution, whereas the number of Members of the Tribunal is clearly and unequivocally fixed in the law and that owing to change in the status/position of a learned Member, the Tribunal will, lawfully, not be validly constituted. The learned counsel maintained that in a similar situation, the Hon'ble Peshawar High Court has, while taking cognizance of the situation prevailing in the Tribunal, assumed jurisdiction and directed the respondents not to pass any adverse order affecting the service career of petitioner till the date Service Tribunal Khyber Pakhtunkhwa is legally constituted, vide order dated 16.9.2014 in writ petition No. 2726-P/2014 with I.R., on which reliance has also been placed by the Hon'ble Peshawar High Court in the aforementioned orders while referring the writ petitions to the Tribunal for further order in accordance with law. In order to further augment his arguments, the learned counsel also referred to PLD 2014 Supreme Court 232(b).

Since very important legal questions have been raised with respect to the very constitution of the Tribunal, it would be appropriate to deal with the questions raised at the Bar at the first instance before proceeding further with the appeals, and for the purpose, a pre-admission notice be issued to the learned AAG as well as to the Chief Secretary, Govt. of Khyber Pakhtunkhwa (respondent No. 1) to report about the present status/stage of the departmental appeal preferred by the appellant. In order to ward off the possibility of further legal/administrative complications, the interim relief already granted to the appellant by the Hon'ble High Court shall continue to remain operative in the meantime. To come up for arguments, as above, on 28.10.2014.

  
Chairman

16.10.2014

3

Appellant with counsel present. The instant appeal, alongwith service appeals No.1226/2014,1231/2014 and 1232/2014 have been received from the Hon'ble High Court with orders dated 2.10.2014 and 9.10.14, respectively, for 'decision strictly in accordance with law and for considering the competency/maintainability of the appeal during pendency of the representation of the petitioner'. The Hon'ble High Court, in the said orders, directed that the impugned notifications/orders in the respective appeals 'shall remain suspended (till today) and not thereafter'.

At the outset, the learned counsel for the appellant (Mr. Ghulam Mohy-ud-Din Malik, Advocate, Supreme Court of Pakistan) (whose arguments were also adopted by the learned counsel in the aforementioned appeals, also received from the Hon'ble High Court alongwith the instant appeal), contended that after an order by the Hon'ble High Court and receipt of the appeals by the Tribunal from the Hon'ble High Court with the aforementioned orders, this Tribunal is now bound to examine whether the Tribunal is validly constituted in the light of existing law on the subject, as the question of constitution of the Tribunal precedes the matter of constitution of Benches, to which the appeals are then referred for adjudication/order either at the preliminary or final stage. The learned counsel further contended that undoubtedly the law allows only the Chairman or a sole Member to hear and pass order at the preliminary stage but the question would nevertheless be that whether the Tribunal is validly constituted and whether in case of non-constitution of the Tribunal, the Benches i.e Primary or Final Benches could lawfully hear appeals and pass orders, because the NWFP (Khyber Pakhtunkhwa) Service Tribunal Act, 1974, amended through Khyber Pakhtunkhwa Service Tribunal (Amendment) Act, 2013, provides that the Tribunal shall consist of a Chairman and two Members, one of whom is a District and Sessions Judge and the other is a Civil Servant in BPS-20 and above.

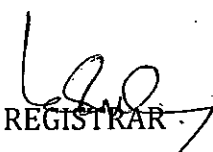

The objection to the constitution of the Tribunal has arisen in the backdrop of down-gradation/reversion of the learned Member (Judicial) of the Tribunal who has been rendered non-functional as he is no longer a District and Sessions Judge to qualify for the position of Member of the Tribunal.

It was also pointed out, during the course of arguments, that though one of the Member has been rendered non-functional by virtue of the subsequent development, as at the time of his appointment as Member of the Tribunal he was a District and Sessions Judge; but the Tribunal is still validly constituted under the assumption that there is a Chairman and two Members,

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 1225/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	13/10/2014	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 02.10.2014 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 preliminary hearing.
2	13/10/2014	<p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on 16.10.2014 as per order of the Hon'ble High Court.</p> <p style="text-align: right;"> CHAIRMAN</p>



THE  
PESHAWAR HIGH COURT  
PESHAWAR



Ph: No. 091-9210149-158  
Ext: No. 364

No. 17328 /Judl:  
Dated Peshawar the 11/10 2014

From

The Additional Registrar (J),  
Peshawar High Court,  
Peshawar.

To

✓ The Chairman,  
KPK Service Tribunal,  
Peshawar.

847  
13-10-14

Subject

Writ Petition No. 2980-P/2014 with Interim Relief.

Dr. Muhammad Ali Chohan, M.S K.T.H

-----Petitioner

Versus

Government of KPK & others

-----Respondents

\*\*\*\*\*

Memo:

I am directed to send herewith the titled case in original alongwith all annexures & copy of judgment dated 02-10-2014, passed by Division Bench of this Court, for compliance. **(Writ Petition is attached).**

  
ADDITIONAL REGISTRAR (J)

10/10/14.

Endst: No. & even dated:

Copy forwarded to:

1. The Chief Secretary, Govt. of KPK, Peshawar.
2. The Secretary Health, Govt. of KPK, Peshawar.
3. Dr. Captain Habib Khattak, Distt. Health Officer, Kohat.

ADDITIONAL REGISTRAR (J)

Encl:

Copy of judgment.



# PESHAWAR HIGH COURT, PESHAWAR

## FORM OF ORDER SHEET

Court of.....

Case No.....of.....

Serial No. of Order of Proceedings	Date of Order of Proceedings	Order or other Proceedings with Signature of Judge.
1	2	3
	<b>ORDER</b> 02.10.2014	<p><u>Writ Petition No.2980-P/2014 with Interim Relief.</u></p> <p>Present: Mr. Ghulam Mohy-ud-Din Malik, Adv: for Dr. Muhammad Ali Chohan, petr.</p> <p>*****</p> <p><b><u>MAZHAR ALAM KHAN MIANKHEL, CJ-</u></b></p> <p>Dr. Muhammad Ali Chohan, petitioner herein, through the instant constitutional petition, has asked for the issuance of an appropriate writ declaring that the Notification dated 29.09.2014 of respondent No.1, whereby, he has been transferred from the post of Medical Superintendent, Khyber Teaching Hospital, Peshawar and has been directed to report the Directorate General, Health Services, Khyber Pakhtunkhwa, being nullity in the eye of law, is of no effect whatsoever.</p> <p>2. We have gone through the available record</p> <p><i>M. J. Khan</i> carefully and considered the submissions made by the</p>

learned counsel for the petitioner.

3. When we questioned the learned counsel for the

petitioner that whether we, in view of bar contained in Article 212 of the Constitution of Islamic Republic of Pakistan, 1973, can embark upon the matter in dispute as it solely comes within the purview of the terms and conditions of service, the learned counsel for the petitioner very frankly conceded the aforesaid position and submitted that since the Service Tribunal is not functioned at the moment, the petitioner was left with no option but to approach this Court, that too, when the order, transferring him has been passed merely on political motivation and mala fide intention and not in the public interest or in the exigencies of service in a very short span of time and, interference of this Court, in the peculiar facts and circumstances of the case, would be rather imperative and even indispensable. Alternate remedy, the learned counsel added, being a rule of procedure and not of law can't limit or restrict the jurisdiction of this Court in the cases of this nature. When we further questioned him that since the Chairman, KPK Service Tribunal is very much there, who, himself, can grant interim relief but when he sensed that he isn't on so strong a wicket, he by

11 → 12

changing his stance, requested that since another Division Bench of this Court vide judgment / order dated 16.09.2014, rendered in the case of Dr. Sharif Ahmad vs. Government (Writ Petition No.2726-P/2014) has by keeping in mind the non-functioning of the Service Tribunal assumed the jurisdiction and restrained the respondents therein qua passing any adverse order affecting the service career of the petitioner therein. We appreciate the efforts of the learned counsel for the petitioner that he is so well-equipped but we too are more vigilant and mindful that the judgment / order, so referred by the learned counsel, was passed in totally different circumstances, which, in the instant matter, can't help him because in that very writ petition, the dispute was over the date of birth of the petitioner therein and vide the impugned order therein, his date of birth was declared / shown as 19.09.1954 instead of 19.09.1956, where-against, his representation was also pending and since, after that order, he was going to retire on 18.09.2014 and because of those constraints, he opted to approach this Court for the interim relief but here the case of the petitioner is, altogether, different from that of the aforesaid case because his transfer order was passed

Me / h

on 29.09.2014 and on the next very day i.e. 30.09.2014, he filed representation before the competent authority and, soon thereafter, i.e. on 01.10.2014, he filed the instant writ petition, which has been fixed for today for hearing. Now the sole question is that when the representation of the petitioner is pending adjudication before the proper forum and hardly three days have passed, whether during its pendency, any Court of competent jurisdiction either Service Tribunal or this Court can assume the jurisdiction, that too, when the petitioner should wait for ninety days for its disposal under the law, the answer, in this regard, would require determination. In this view of the matter, we, without dilating upon the merits of the case and without preempting the jurisdiction of the Service Tribunal, only by confining ourselves upto the interim relief, send the matter to the KPK Service Tribunal / Chairman for decision strictly in accordance with law and for considering the competency / maintainability of the appeal during pendency of the representation of the petitioner and also direct the petitioner to appear there on 16<sup>th</sup> instant for the purpose. Only till then, the impugned Notification dated 29.09.2014 shall remain

21 →

suspended and not thereafter. This writ petition is disposed of in these terms. Needless to remark that this order can't be placed as an authority in the posting / transfer cases of the Civil Servants.

Announced.  
02.10.2014

*M. J. Khan*  
CHIEF JUSTICE

*R. J. Khan*  
JUDGE

(Fayaz)

*g/f/f*  
*24/10/14*

**BEFORE PESHAWAR HIGH COURT PESHAWAR**

W.P No. 2980 P /2014 *Service Appeal No. 1225/2014*

Doctor Muhammad Ali Chohan .....Petitioner

VERSUS

Government of Khyber Pakhtunkhwa and others.....Respondents

**INDEX**

S.No.	Description of documents	Annex	Pages
1.	Writ Petition with Affidavit		1-6
2.	Addresses of Parties		7
3.	Copy of notification dated <i>27.3.2014</i>	A	8-9
4.	Copy of Notification dated July 16, 2014	B	10
5.	Copy of Notification dated September 29, 2014	C	11
6.	Copies of Newspaper Clippings	D	12
7.	Copy of Departmental Appeal	E	13-14
8.	Copy of grounds of W.P No.2726-P/2014	F	15-18
9.	Copy of order dated 16.09.2014 of this Hon'ble Court	G	19-21
10.	Court Fee Rs.500/-		
11.	Wakalatnama		

Dated 01.10.2014

*[Signature]*  
Petitioner

Through

*[Signature]*  
Ghulam Mohy-ud-Din Malik,  
Advocate,  
Supreme Court of Pakistan.

*[Signature]*  
FILED TODAY  
Deputy Registrar  
01 OCT 2014

①

**BEFORE PESHAWAR HIGH COURT PESHAWAR**

W.P No. 2980 / 2014 *service Appeal No. 1225/2014*

Doctor Muhammad Ali Chohan M.S Khyber Teaching Hospital,  
Peshawar , S/O Ghulam Ahmed, R/O House#244 Phase-III Sector  
K-2 Hayatabad Peshawar.....**Petitioner**

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary,  
Civil Secretariat, Peshawar.
2. The Secretary Health, Government of Khyber Pakhtunkhwa,  
Civil Secretariat, Peshawar.
3. Dr. Captain Habib Khattak, Management Cadre, District Health  
Officer, Kohat.....**Respondents**

**WRIT PETITION UNDER ARTICLE 199 OF  
THE CONSTITUTION OF ISLAMIC REPUBLIC  
OF PAKISTAN, 1973.**

**Respectfully Sheweth**

1. That the petitioner belongs to Health Management Cadre, he is  
in BS-20, earlier he was posted as M.S Molvi Amir Shah  
Memorial Hospital Hashtnagri Peshawar City. He was  
transferred and made OSD in the office of Director General  
Health Services Khyber Pakhtunkhwa, Peshawar vide  
notification dated 27.03.2014. (Copy of notification is  
Annexure-A at page 8-9 )
2. That the petitioner was awaiting posting in Health Department  
when in the meanwhile vide Notification No. SO(E-1)E&AD/  
9-133/2014 dated Peshawar the, July 16, 2014, Government of  
Khyber Pakhtunkhwa posted him as Medical Superintendent

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Deputy Registrar

01 OCT 2014



Khyber Teaching Hospital Peshawar against the vacant post.  
(Copy of notification is Annexure-B at page 10 )

3. That hardly after two months of his posting, Respondent No.1 once again vide notification No. SO(E-1)E&AD/9-133/2014 dated Peshawar the, September 29, 2014, transferred him from the post of Medical Superintendent Khyber Teaching Hospital Peshawar to the Directorate General Health Service Government of Khyber Pakhtunkhwa and in his place posted Dr. Captain Habib Khattak, District Health Officer Kohat.  
(Copy of notification is Annexure-C at page // )

4. That as a matter of fact there fell vacant some vacancies of class-IV in the hospital, the local MPA Mr. Yaseen Khalil hailing from the PTI ruling party put all his undue political pressure and influence on the administration of the hospital for appointment of his recommendees/ favourites by ignoring the merit and when he could not be obliged by the administration, on September 9<sup>th</sup>, 2014 he took out procession comprising of workers of his constituency who raised contemptuous and defamatory slogans, criticizing the administration of the hospital, blocking the main Jamrod Road leading from the University Town to Hayatabad Township and thereby created law & order situation in and outside the hospital. The learned MPA who being law maker then became the law breaker.

5. That all the Doctors Associations, Clerks Association of the hospital and Class-III and Class-IV Employees Association condemned the unbecoming behavior, attitude and conduct of the PTI workers of PK-V Peshawar and that of their elected MPA in their respective Press statements.

It appears that under the undue pressure, political influence and interference of Mr. Yaseen Khalil MPA, the

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Deputy Registrar  
01 OCT 2014

petitioner has been transferred and posted as OSD only after about two months of his posting as M.S Khyber Teaching Hospital. (Newspaper clippings are Annexure-D at page 12)

6. That the petitioner feeling aggrieved by his transfer order and posting him as OSD, has submitted departmental appeal to the competent Authority which has not been disposed of as yet. (Copy of Departmental Appeal is Annexure-E at page 13-14)

7. That at the movement due to ninety (90) days period of limitation prescribed for filing of appeal u/s 4 of Khyber Pakhtunkhwa Service Tribunal Act 1974 coupled with the fact that at the movement, the Service Tribunal is not functioning which fact has also been confirmed in the order of this Hon'ble Court dated 16.09.2014 in W.P No.2726-P/2014, title Dr. Sharif Ahmed versus Government of Khyber Pakhtunkhwa. (Copy of grounds of writ petition and order are Annexure-F & G at page 15-21)

The petitioner finding no other adequate, efficacious and speedy remedy, files this constitutional writ petition before this Hon'ble Court, inter alia, on the following grounds:-

**GROUND**

a. That the transfer of the petitioner who is a civil servant in BPS-20 is politically motivated in order to accommodate blue eyed person of a highly placed political person in the Government of KPK.

b. That the petitioner is senior most civil servant in BPS-20, he has served as M.S to the best of his ability, devotion and fairness but has been transferred for no good reason at all.

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Deputy Registrar  
01 OCT 2014

- c. That the frequent transfer of the petitioner from one place to another and sometime posting him as ODS in a short span of time is based on malafide and ulterior motive, void, unlawful and against the posting/transfer policy of the Government of Khyber Pakhtunkhwa. Moreover, the petitioner being in BS-20, the Chief Minister not the Chief Secretary is competent Authority to pass his posting and transfer orders from one place to another so frequently.
- d. That the impugned order has been passed by the learned Chief Secretary Government of KPK in view of background of political influence which amounts to unlawful exercise of powers.
- e. That in the impugned order, no reason whatsoever has been given for taking such a drastic and coercive action causing irreparable loss to the dignity and reputation of the petitioner and thus the impugned order smacks malafide.
- f. That the principles of natural justice, equity and conscious demand that before passing any penal/adverse order in respect of Civil Servants, he should be warned, heard and given opportunity of explaining his position. But in case of the petitioner and in the absence of any complaint against him he has been condemned unheard in violation of principles of natural justice enshrined in Maxim "Audi Alteram Partem"
- g. That the impugned transfer order is made contrary to the relevant rules, against the public interest and without allowing the petitioner to complete his tenure, this Hon'ble Court possesses ample powers to examine such

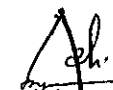
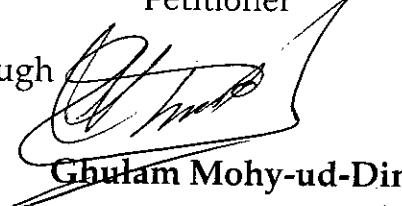
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 Deputy Registrar  
 01 OCT 2014

administrative order by applying the principle of Judicial Review.

It is, therefore, prayed that on acceptance of this writ petition, this Hon'ble Court may graciously declare as void, unlawful, without lawful authority, violative of principles of natural justice, fair play and equity, the impugned order dated Peshawar the September 29, 2014.

Secondly, the competent Authority may be directed to decide the Departmental Appeal of the petitioner within two/three days.

Any other relief which deemed proper and in the interest of justice may also be granted.


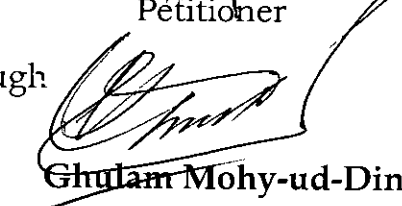
  
Petitioner  
Through   
Ghulam Mohy-ud-Din Malik,  
Advocate,  
Supreme Court of Pakistan.

Interim Relief

May it please your lordship,

By way of interim relief, during pendency of this writ petition, the operation of impugned notification No. SO(E-1)E&AD/9-133/2014 dated Peshawar the, September 29, 2014 may be suspended and respondents be ordered to refrain from taking any adverse action against the petitioner.

FILED TODAY  
Deputy Registrar  
01 OCT 2014

  
Petitioner  
Through   
Ghulam Mohy-ud-Din Malik,  
Advocate,  
Supreme Court of Pakistan.

**CERTIFICATE**

Certified that no such Writ Petition has earlier been filed in this Hon'ble Court on behalf of the petitioner.

**LIST OF BOOKS**

- 1 Constitution of Islamic Republic Of Pakistan, 1973.
- 2 Any other law as per need.

Advocate

**AFFIDAVIT**

I, Doctor Muhammad Ali Chohan M.S Khyber Teaching Hospital, Peshawar , S/O Ghulam Ahmed, R/O House#244 Phase-III Sector K-2 Hayatabad Peshawar (Petitioner) do hereby solemnly declare that the accompanying Writ Petition is true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

*Muhammad Ali Chohan*  
Deponent  
NIC No 12/01-5801254-9

Identified by

*Ghulam Mohy-ud-Din Malik*  
Ghulam Mohy-ud-Din Malik  
Advocate Peshawar.

No: 3271-  
 Certified that the above was verified on solemnly affirmation before me in office, this...*L.S.T.*  
 day of...*October* 200...*by*...*Dr. Muhammad Ali Chohan*  
 s/o...*K.T.H.* to...*Peshawar*  
 who was identified by...*Ghulam Mohy-ud-Din Malik*  
 Who is personally known to me:  
*[Signature]*  
 Oath Commissioner  
 Peshawar High Court, Peshawar.

FILED TODAY  
*[Signature]*  
Deputy Registrar  
01 OCT 2014

**BEFORE PESHAWAR HIGH COURT PESHAWAR**

W.P No. 2980 /2014

Doctor Muhammad Ali Chohan .....Petitioner

VERSUS

Government of Khyber Pakhtunkhwa and others.....Respondents

**ADDRESSES OF PARTIES.**

**PETITIONER**

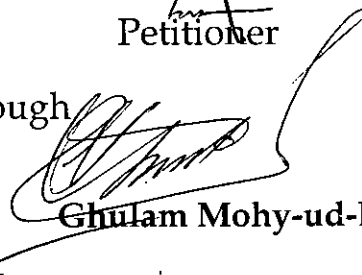
Doctor Muhammad Ali Chohan M.S Khyber Teaching Hospital,  
Peshawar , S/O Ghulam Ahmed, R/O House#244 Phase-III Sector  
K-2 Hayatabad Peshawar.

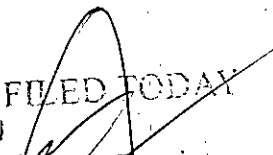
**RESPONDENTS**

1. Government of Khyber Pakhtunkhwa through Chief Secretary,  
Civil Secretariat, Peshawar.
2. The Secretary Health, Government of Khyber Pakhtunkhwa,  
Civil Secretariat, Peshawar.
3. Dr. Captain Habib Khattak, Management Cadre, District Health  
Officer, Kohat

  
Petitioner

Through

  
Ghulam Mohy-ud-Din Malik,  
Advocate,  
Supreme Court of Pakistan.

  
FILED TODAY  
Deputy Registrar  
01 OCT 2014



GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ESTABLISHMENT & ADMINISTRATION  
DEPARTMENT

ANNEXURE

"A"

8

Dated Peshawar, March 27, 2014

**NOTIFICATION**

**NO. SO(E-I)/E&AD/9-133/2014.** Government of Khyber Pakhtunkhwa is pleased to order the posting/transfer of the following officers of Health Department, in the public interest, with immediate effect:-

S. #	NAME OF OFFICERS	FROM	TO
1.	Dr. Muhammad Iqbal Afridi (BS-20 Health Management Cadre)	MS, Govt Lady Reading Hospital, Peshawar.	Director (Admn) office of DGHS, Khyber Pakhtunkhwa, Peshawar, vice Sr. No. 3.
2.	Dr. Sharif Ahmed Khan (BS-20 Health Management Cadre)	Waiting for posting.	MS, Govt, Lady Reading Hospital, Peshawar, vice Sr. No.1.
3.	Dr. Muhammad Zaman Afridi (BS-20 Health Management Cadre)	Director (Admn) office of DGHS, Khyber Pakhtunkhwa, Peshawar.	MS, DHQ Hospital, Kohat, against the vacant post.
4.	Dr. Muhammad Ali Chohan (BS-20 Health Management Cadre)	MS, Molvi Ameer Shah Memorial Hospital, Peshawar.	Report to Director General, Health Services, Khyber Pakhtunkhwa.
5.	Dr. Jamshed Ahmed (BS-20 Health Management Cadre)	MS, Khalifa Gul Nawaz Teaching Hospital, Bannu.	MS, Molvi Ameer Shah Memorial Hospital, Peshawar, vice Sr. No.4.
6.	Dr. Ali Ahmed (BS-20 Health Management Cadre)	MS, Police & Services Hospital, Peshawar.	Director (PH) Office of DGHS, Khyber Pakhtunkhwa, against the vacant post.
7.	Dr. Sadiqur Rehman (BS-20 General Cadre)	Chief Medical officer, Benazir Bhutto, Shaheed Hospital, Abbottabad.	DHO, Abbottabad, vice Sr. No. 12
8.	Dr. Fawad Khan (BS-19 Health Management Cadre)	Waiting for posting.	MS, Khyber Teaching Hospital, Peshawar, in his own pay and scale, against the vacant post.
9.	Dr. Ashoor Khan (BS-19 Health Management Cadre)	Coordinator (PH) o/o DHO, Peshawar.	MS, Police & Services Hospital, Peshawar, vice Sr. No.6.
10.	Dr. Muhammad Khan (BS-19 Health Management Cadre)	MS, DHQ Hospital, Charsadda.	MS, DHQ Hospital, Tank, against the vacant post.
11.	Dr. Muhammad Shafiq (BS-19 Health Management Cadre)	MS, DHQ Hospital, Swabi.	MS, DHQ Hospital, Charsadda, vice Sr. NO.10.
12.	Dr. Zafeer Hussain (BS-19 Health Management Cadre)	DHO, Abbottabad.	MS, Ayub Teaching Hospital, Abbottabad, in his own pay and scale, vice Sr. No. 14.
13.	Dr. Ihsanullah (General Cadre BS-19)	MS, DHQ Hospital Shangla (under transfer as PMO Saidu Group of Teaching Hospitals, Swat).	Retained as Principal Medical Officer, DHQ Hospital, Shangla.

Attested

to be true copy



(9)

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

PAGE-II

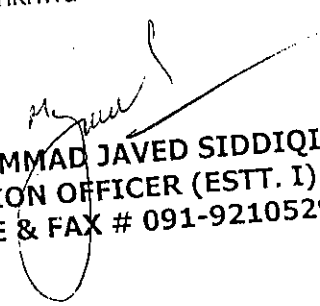
14.	Dr. Iftikhar Ahmed (SMO BS-20)	MS, Ayub Teaching Hospital, Abbottabad.	Services placed at the disposal of Chief Executive Ayub Teaching Hospital, Abbottabad, for further posting.
15.	Dr. Iftikhar Ahmed (BS-19 Health Management Cadre.	Incharge Hospital Charsadda.	THQ, Tangi, MS, DHQ, Hospital, Swabi, vice Sr. No. 11.

**CHIEF SECRETARY  
GOVERNMENT OF KHYBER PAKHTUNKHWA**

**Endst: No. & date even**

Copy forwarded to the:-

1. Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. Secretary to Govt. of Khyber Pakhtunkhwa, Health Department.
4. Divisional Commissioners concerned.
5. Accountant General, Khyber Pakhtunkhwa.
6. Deputy Commissioners of concerned Districts.
7. Director General Health Services, Khyber Pakhtunkhwa.
8. Chief Executive, of all concerned Hospitals.
9. Medical Superintendent of all concerned Hospitals.
10. District Accounts Officer, Bannu, Kohat, Abbottabad, Charsadda, Tank, Swabi, Shangla and Swat.
11. PS to Chief Secretary, Khyber Pakhtunkhwa
12. P.S. to Secretary Establishment, Khyber Pakhtunkhwa
13. Officers concerned.
14. Manager, Govt Printing Press Peshawar.

  
**(MUHAMMAD JAVED SIDDIQI)  
SECTION OFFICER (ESTT. I)  
PHONE & FAX # 091-9210529**

ZIA.UL.HAQ/\*\*

Attested  
to be true copy





**ANNEXURE "B"**

(10)

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

Dated Peshawar, July 16, 2014

**NOTIFICATION**

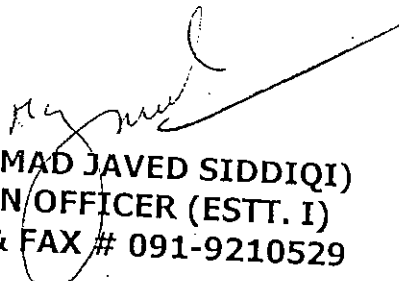
**NO. SO(E-I)/E&AD/9-133/2014.** Government of Khyber Pakhtunkhwa is pleased to post Dr. Muhammad Ali Chohan (BS-20 Health Management Cadre), awaiting posting in Health Department, as MS, Khyber Teaching Hospital, Peshawar, against the vacant post, in the public interest, with immediate effect:-

**CHIEF SECRETARY  
GOVERNMENT OF KHYBER PAKHTUNKHWA**

**Endst: No. & date even**

Copy forwarded to the:-

1. Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. Secretary to Govt. of Khyber Pakhtunkhwa, Health Department.
4. Commissioner Peshawar Division, Peshawar.
5. Accountant General, Khyber Pakhtunkhwa.
6. Director General Health Services, Khyber Pakhtunkhwa.
7. Chief Executive, Khyber Teaching Hospital, Peshawar.
8. Medical Superintendent of Khyber Teaching Hospital, Peshawar.
9. District Accounts Officer, Peshawar.
10. PS to Chief Secretary, Khyber Pakhtunkhwa
11. P.S. to Secretary Establishment, Khyber Pakhtunkhwa
12. Officers concerned.
13. Manager, Govt Printing Press Peshawar.

  
(MUHAMMAD JAVED SIDDIQI)  
SECTION OFFICER (ESTT. I)  
PHONE & FAX # 091-9210529

Salman/\*\*

**Attested**

**to be true copy**

**ANNEXURE**

GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT

DATED PESHAWAR, THE SEPTEMBER 29, 2014

**NOTIFICATION**

**NO.SO(E-I)E&AD/9-133/2014.** Government of Khyber Pakhtunkhwa is pleased to order posting/transfer of the following officers of Health Department, in the public interest, with immediate effect:-

S.#	NAME OF OFFICER	FROM	TO
1.	Dr. Muhammad Ali Chohan (Management Cadre BS-20)	Medical Superintendent, Khyber Teaching Hospital Peshawar	Report to Directorate General Health Services, Khyber Pakhtunkhwa.
2.	Dr. Capt. Habib Khattak (Management Cadre BS-20)	District Health Officer, Kohat	Medical Superintendent, Khyber Teaching Hospital Peshawar, vice Sr. No. 1.
3.	Dr. Muhammad Iqbal (Management Cadre BS-20)	Attached to DHQ Hospital, Bannu	District Health Officer, Kohat, vice Sr. No. 2.

**CHIEF SECRETARY  
GOVERNMENT OF KHYBER PAKHTUNKHWA**

**ENDST. NO. & DATE EVEN**

Copy forwarded to the:-

1. Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. Secretary to Govt. of Khyber Pakhtunkhwa, Health Department.
4. Divisional Commissioners, Peshawar, Kohat and Bannu.
5. Accountant General, Khyber Pakhtunkhwa.
6. Director General Health Services, Khyber Pakhtunkhwa.
7. Deputy Commissioners, Peshawar, Bannu and Kohat.
8. Chief Executive, Govt. LRH/KTH/HMC, Peshawar.
9. District Health Officers, Bannu and Kohat.
10. Medical Superintendents of all concerned hospitals mentioned above.
11. District Accounts Officers, Bannu and Kohat.
12. PS to Chief Secretary, Khyber Pakhtunkhwa.
13. PS to Secretary Establishment, Khyber Pakhtunkhwa.
14. Officers concerned.
15. Manager, Govt Printing Press Peshawar.

**Attested**

to be true copy

(MUHAMMAD JAVED SIDDIQI)  
SECTION OFFICER (ESTT- I)

M-S

26<sup>th</sup> Sep 2014 ✓

ANNEXURE 'D'

121

The News International, Friday, September 26, 2014

# PTI workers' vandalism at KTH draws flak

Tauseef-ur-Rahman

PESHAWAR: The vandalism by the Pakistan Tehreek-e-Insaf (PTI) workers at the Khyber Teaching Hospital (KTH) on Wednesday drew flak from the medical fraternity and employees of the hospital who demanded the government to take stern action against the protestors.

The Provincial Doctors Association, Malgari Doctaran, People's Doctor Forum, Clerks Association of the hospital and Class-III and Class-IV employees' associations condemned the hooliganism and vandalism by PTI workers led by a party MPA, Yasin Khalil for misbehaving with senior staff of the hospital on Wednesday.

The PTI workers of PK-5 Peshawar constituency gathered outside the hospital and protested against the alleged appointment of 'outsiders' on a number of Class-IV posts. They blocked the road for some time and later entered the hospital, waving flags of PTI and chanting slogans against hospital administration.

The hospital's chief executive (CE) and medical superintendent (MS) were not present

in the hospital as they had gone to attend the meeting of standing committee of Khyber Pakhtunkhwa Assembly on health. A delegation of protestors headed by Yasin Khalil met Director Administration Dr Iqbal Afridi, who was informed that the MS had recruited people from outside Peshawar district. They said it was the right of the people living near the hospital to be recruited on the Class-IV posts.

The secretary health reportedly took notice of the issue and rumours were spread that Dr Mohammad Ali Chohan, the MS of the hospital, had been made Officer on Special Duty (OSD). However, the order to this effect has not been issued yet.

Sources said the PTI MPA Yasin Khalil was demanding appointment of people from his constituency and a few days ago he had a meeting with the hospital administration to reinforce his demand. The hospital administration asked the MPA to contact minister for health and chief minister about the issue.

The doctors' associations and employees union expressed concern over the possi-

ble removal of the MS on the pressure of Yasin Khalil and demanded an inquiry into the incident.

When contacted, Dr Chohan said on Thursday the recruitment of employees was made according to the law and prescribed rules and regulations.

Dr Ihsan Tarabi, general secretary of People's Doctor Forum (PDF), condemned the incident and termed it hooliganism. "If they have some reservation, they should contact the relevant quarters instead of protesting within the premises of the hospital," he remarked.

The PDF leader said: "If this practice starts, then the police stations and any other government department will not be safe and people will start attacks to press for their demands."

Dr Saeedur Rahmat, president of the Malgari Doctaran, the doctors' wing affiliated with Awami National Party (ANP), said responsible people should not adopt such steps. He said PTI is ruling Khyber Pakhtunkhwa and its workers and leaders bring bad name to their government by interfering in government affairs in such

aggressive manner.

He said use of force and humiliation of government employees could not solve problems. "If PTI workers have concerns, they should approach the proper forum instead of misbehaving with the employees," he added.

When contacted, Yasin Khalil refuted the allegation that he misbehaved with any employee of the hospital. "I came to control the angry workers and convinced them to talk to relevant officers instead of protesting on the road," he contended.

He said it was the right of local people to be recruited on Class-IV positions, but the MS of the hospital had made appointments on his own. "We checked the documents and it was found that all the appointments were illegal and no formal procedure was adopted for the purpose," he alleged.

The PDA KTH unit demanded proper inquiry into the incident and asked the health department to register a police case against Yasin Khalil for disrupting the official work of doctors and creating public unrest in the premises of the hospital.

*For information plz*

Attested

to be true copy

*ppp p. no. 07-1*

ANNEXURE E

13

8997  
30/9/14

To,

The Honorable Chief Minister,  
Government of Khyber Pakhtunkhwa,

THROUGH PROPER CHANNEL.

Subject:- **APPEAL/REPRESENTATION AGAINST THE ORDER DATED THE SEPTEMBER 29, 2014 PASSED BY THE GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH ESTABLISHMENT DEPARTMENT, TRANSFERRING THE APPELLANT FROM THE POST OF M.S KHYBER TEACHING HOSPITAL PESHAWAR TO THE POST OF O.S.D IN THE DIRECTORATE GENERAL HEALTH DEPARTMENT.**

Respectfully Sheweth

1. That the appellant was posted as Medical Superintendent (M.S) Khyber Teaching Hospital Peshawar vide order dated July 16<sup>th</sup>, 2014 against the vacant post. Consequent upon the above said order, the appellant assumed the charge of the post on 19.07.2014. (Copies of order and charge assumption notification are Annexure- A & B)
2. That vide notification dated 29<sup>th</sup> September 2014, the appellant has been transferred and posted as OSD in the office of Director General Health Services KPK after a short span of two months and 10 days. (Copy of notification is Annexure-C)
3. That the impugned order is illegal, unsustainable and liable to be set aside, inter alia, on the following grounds:-

GROUNDS


- a. That the transfer of the appellant who is a civil servant in BPS-20 is politically motivated in order to accommodate blue eyed person of a highly placed person from the Government of KPK.

politically motivated

- b. That the appellant is senior most civil servant in BPS-20, he has served as M.S to the best of his ability, devotion and fairness but has been transferred for no good reason at all.
- c. That the transfer of the appellant in such short span of time under political influence is void, illegal, against the posting/transfer policy of the government of KPK.
- d. That the impugned order has been passed by the learned Chief Secretary Government of KPK in view of background of political influence which amounts to unlawful exercise of powers.
- e. That in the impugned order, no reason whatsoever has been given for taking such a drastic and coercive action causing irreparable loss to the dignity and reputation of the appellant and thus the impugned order smacks malafide.
- f. That the Chief Secretary in case of the appellant is not competent Authority to pass the impugned order.

It is, therefore, prayed that the impugned order dated Peshawar the September 29, 2014 passed by the Chief Secretary, Government of Khyber Pakhtunkhwa may graciously be cancelled.

Appellant

  
(Dr. Muhammad Ali Chohan)  
Medical Superintendent KTH  
Peshawar

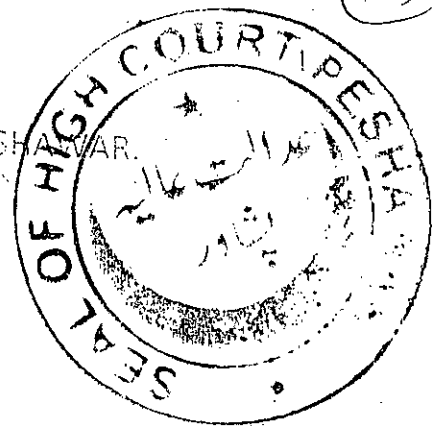
Dated 30.09.2014

ANNEXURE <sup>7<sup>th</sup></sup>

157

BEFORE THE PESHAWAR HIGH COURT PESHAWAR.

WRIT PETITION NO. 2726/2014.



Dr. Sharif Ahmed,  
Medical Superintendent,  
Lady Reading Hospital Peshawar. ....Petitioner.

VERSUS

- 1- The Govt: of KPK Through The Chief Secretary Civil Secretariat Peshawar.
- 2- The Chief Secretary KPK, Govt: of KPK, Civil Secretariat Peshawar.
- 3- The Secretary Health Deptt: Govt: of KPK Civil Secretariat Peshawar.
- 4- The D.G Health Services, KPK Near Judicial complex Peshawar.
- 5- The Accountant General, KPK Gunner Road Peshawar Cantt.

..... Respondents.

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF PAKISTAN 1973 AS AMENDED UP TO DATE.

R.SHEWETH.

Brief facts of the petition are as under:

- 1- That the petitioner is the citizen of Pakistan and has every legal and constitutional right duly protected under Law of the Land.
- 2- That the petitioner joined the Health deptt: in the year 1983 and with the passage of time the petitioner was promoted to BPS-18 in the year 1990, BPS-19 in the year 2006 and BPS-20 in the year 2012. The petitioner is now a days is working as Medical Superintendent LRH Peshawar. All the dates are recorded in the seniority list which is already attached as Annexure - E.

FILED TODAY

Deputy Registrar

10 SEP 2014

ATTESTED

EXAMINER

Peshawar High Court

- 3- That in the year 2006 the petitioner filed a civil suit for correction of his date of birth as 19.9.1956 and the same was decreed in his favour on 26.9.2006 by the competent civil court. Copy of the order is attached as Annexure – A.
- 4- That then the petitioner also applied to the Deptt: for correction through a proper application on 28.4.2007 and the same was forwarded to the secretary of the Deptt: on 16.5.2007. Copies of the application and forwarding letter are attached as Annexure – B&C.
- 5- That after the proper approval of the competent authority, the petitioner's date of birth was corrected as 19.9.1956 and the change was also sent to the respondent No. 5 accordingly. Thus since then the petitioner's date of birth in pay roll of the Accountant general and AGPR was shown as 19.9.1956 and similarly the same date of birth was also recorded in various seniority lists issued since 2007 till 2013. Copies of some of pay roll and seniority list of 2013 are attached as Annexure – D & E.
- 6- That to the utmost surprise of the petitioner, an order has been issued on 15.7.2014 in which the date of birth of the petitioner has been shown as 19.9.1954 instead of 19.9.1956 without giving any chance of hearing to the petitioner prior to affecting his service career. Copy of the order is attached as Annexure – F.
- 7- That , however the petitioner has filed representation against that order on 25.8.2014 which is still pending and not decided so far. Copy of the representation is attached as Annexure – G.
- 8- That as the matter is to be agitated before the KPK Service Tribunal but due to apathy of the respondents they put the petitioner to wait till 90 days as per section 4 of the KPK service Tribunals Act 1974 and if the petitioner opt to wait then the main appeal of the petitioner which is yet to be filed after complying with section 4 of the Service Tribunals Act, would become infructuous because the petitioner will stand retire on 18.9.2014 and the ninety days will be completed on 25.11.2014.
- 9- That since the petitioner will suffer a lot and will remain without remedy in the meantime, therefore he is constrained

FILED TODAY

Deputy Registrar

10 SEP 2014

ATTESTED  
 EXAMINED  
 Roshawar  
 10 SEP 2014

to file the present petition on the following grounds amongst the others.

GROUND:

- A- That the order dated. 15.7.2014 is against the law, rules, norms of justice, principles of fair play and material on record, therefore not tenable.
- B- That the petitioner's date of birth was corrected in the year 2007 and after the lapse of 7 year passing such order is not legally tenable under the principles of Locus Poententiae because valuable rights are accrued in favour of petitioner.
- C- That the order dated. 15.7.2014 is also malafide because it has been passed at the back of petitioner without any prior notice to him and also the timing so to make the petitioner unable to agitate his claim before a proper forum in time and to make his claim becomes infructuous.
- D- That sitting over the appeal of petitioner is also an illegal act on the part of the respondent and also the violation of the august Supreme Court of Pakistan Judgment reported as 2011 SCMR-01, wherein it is held that the Govt; authorities are duty bound to decide the appeal/representation in time expeditiously with reasons.
- E- That in similar situation this august Court has also passed a strict order in W.P No. 2088/2011 on 7.9.2011 by discouraging such act of the Govt; authorities and the concerned authority was directed to decide the representation within two days positively. Copy of the judgment is attached as Annexure - H.
- F- That the petitioner has been taken by surprise by passing such like order and that too without proving him right of defense either departmentally or before a legal forum. Such actions of the authorities have been deprecated in Judgment reported as 2005 PLC-303 passed by this august Court.
- G- That having no other adequate remedy the petitioner is constrained to file present writ petition in the prevailing circumstances.
- H- That the petitioner seeks permission tom advance other grounds and proofs at the time of hearing

2 TC

FILED TODAY

Deputy Registrar

10 SEP 2014

ATTORNEY GENERAL  
 FEDERAL GOVERNMENT  
 ISLAMABAD



I- It is therefore most humbly prayed that on acceptance of this writ petition, the august Court may please to:

- (i)- Declare the order dated. 15.7.2014 as illegal, unlawful, without lawful authority, violation of principles of justice, fair play and equity and ineffective upon the rights of petitioner.
- (ii)- Direct the respondents to pass an order on appeal/representation of petitioner within 2 days so he may be able to agitate the matter before competent court of law.
- (iii)- Any other remedy not specifically prayed for that may also be granted in favour of petitioner.

**INTERIM RELIEF:**

The august Court is requested in the prevailing circumstances to restrained the respondents from passing any adverse order affecting service career of the petitioner till the decision of main writ petition or till filing appeal before competent forum so his basic appeal would not become infructuous. Or suspend the operation of order dated, 15.7.2014 till filing appeal before competent forum after complying with the requirements of the section 4 of the Service Tribunal Act 1974.

PETITIONER

DR. SHARIF AHMED

THROUGH:

*M. Asif Yousafzai*  
M. ASIF YOUSAFZAI

ADVOCATE.

**Verification:**

It is verified that no other earlier similar writ petition has been filed between the parties.

**List of books:**

- 1- Constitution of Pakistan 1973.
- 2- KPK Service Tribunals Act 1974.
- 3- 2011 SCMR-01
- 4- 2005 PLC (Service) 303.
- 5- Any other case law as per need.

FILED TODAY

Deputy Registrar

10 SEP 2014

ATTESTED

EXAMINER  
Peshawar High Court.

30 SEP 2014

## PESHAWAR HIGH COURT PESHAWAR

## ORDER SHEET

Serial No. of Order or Proceedings	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary
1	2	
	16.9.2014	<p data-bbox="676 563 1150 614"><u>W.P No. 2726-P/2014 with I.R.</u></p> <p data-bbox="676 690 794 728">Present:</p> <p data-bbox="858 779 1382 861">Mr. Muhammad Asif Yousu zai, Advocate, for the petitioner.</p> <p data-bbox="858 899 1382 980">Syed Qaiser Ali Shah, AAG for Provincial Government.</p> <p data-bbox="847 1065 954 1090">*****</p> <p data-bbox="655 1141 1273 1200"><u>YAHYA AFRIDI, J:-</u> Petitioner,</p> <p data-bbox="655 1225 1382 1365">through the instant petition seeks issuance of appropriate writ, praying that;</p> <p data-bbox="724 1403 1294 1556"><i>“ It is therefore most humbly prayed that on acceptance of this writ petition, the august Court may please to;</i></p> <p data-bbox="724 1569 1294 1798"><i>(i) declare the order dated 15.7.2014 as illegal, unlawful, without lawful authority, violation of principles of justice, fair play and equity and ineffective upon the rights of petitioner.</i></p> <p data-bbox="724 1811 1294 2002"><i>(ii) Direct the respondents to pass an order on appeal/representation of petitioner within 02 days so he may be able to agitate the matter before competent Court of law. ”</i></p> <p data-bbox="647 2084 1358 2219">2. The brief and essential facts are that, the petitioner is serving in Health</p>

ATTESTED  
EXAMINER  
Peshawar High Court.  
30 SEP 2014

department as Medical Superintendent, in 2006 filed a civil suit for correction of his date of birth as 19.9.1956 which was accordingly decreed in his favour on 26.9.2006 which was also corrected by the department in his service record as well as payroll and AGPR; that on 15.7.2014 the department issued an order in which the date of birth of the petitioner was shown as 19.9.1954 instead of 19.9.1956, affecting his career service; that the petitioner filed representation which is still pending; that as the matter was to be agitated before the proper forum i.e. Khyber Pakhtunkhwa Service Tribunal but the petitioner was kept to wait for 90 days as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 due to which the main appeal to be filed after complying section 4 of Act, would become infructuous as the petitioner will retire on 18.9.2014.

3. As the Service Tribunal is not

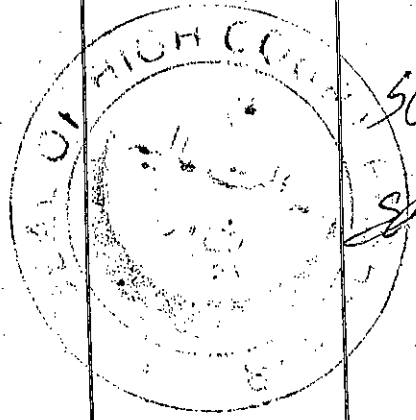
ATTESTED  
 CLERK  
 RESPECTABLE COURT

*[Handwritten signature]*

functioning, which fact was also confirmed by the learned AAG present in Court, hence this Court would assume the jurisdiction and direct the respondents not to pass any adverse order affecting the service career of petitioner till the date Service Tribunal Khyber Pakhtunkhwa is legally constituted.

wo

The instant writ petition is disposed of in the above terms.



50/1 Yaqiya Abbidi  
JUDGE  
Sh. Ghulamullah Khan  
JUDGE

Announced on;  
16<sup>th</sup> of September, 2014.

CERTIFIED TO BE TRUE COPY

Examiner  
Peshawar High Court, Peshawar  
Authorized under Rule 57 of  
The General Clauses Act Order 1984  
30 SEP 2014

4371

Date of Presentation of Application 30-9-14

No. of Pages 78

Copying fee 14.00

Date of Preparation of Copy 30-9-14

Date Given For Delivery 30-9-14

Date of Delivery of Copy 30-9-14

By M. A. Khan

\*Zaishad\*

8/11/2014

**BEFORE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA**  
**PESHAWAR**

Service Appeal No. \_\_\_\_\_/2014

Doctor Muhammad Ali Chohan .....Appellant

VERSUS

Government of Khyber Pakhtunkhwa and others.....Respondents

**APPLICATION FOR ADJOURNMENT**

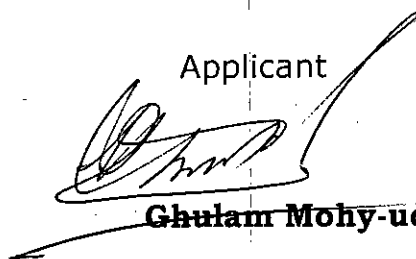
**Respectfully Sheweth:**

- 1 That the above noted Service Appeal is fixed before this Hon'ble Court for today i.e. 24/02/2015.
- 2 That the undersigned represents the Appellant but due to fixation of his cases before the Apex Court, at Islamabad, he is unable to attend this Hon'ble Court. (Copy of Cause List is attached)
- 3 That the petitioner Dr. Muhammad Ali Chohan himself on account of Heart Attack was admitted in Cardiology Ward KTH on 16.02.2015 and was discharged on 21.02.2015. The Doctor of Cardiology ward has advised him complete bed rest, therefore, he himself is unable to attend the court and may graciously be exempted.

**It is, therefore, respectfully prayed that title case may kindly be adjourned to another convenient date.**

Dated 24/02/2015

Applicant



**Ghulam Mohy-ud-Din Malik,**  
Advocate,  
Supreme Court of Pakistan  
Counsel for Appellant

1	CrI.P.57/2015 (Enhancement of Sentence / Sessions)	Mst. Bibi Gulfareen v. Muhammad Abid & another	Syed Rifaqat Hussain Shah, AOR Mr. Talat Mahmood Zaidi, ASC
2	CrI.P.59/2015 (Life Imprisonment / Sessions)	Zahid Mehmood v. The State & another	Syed Rifaqat Hussain Shah, AOR Mr. Muhammad Sharif Janjua, ASC
3	CrI.P.60/2015 (NAB/Ehtesab Cases / Others)	Fasih-uz-Zaman v. Director General (NAB) thr. Deputy Prosecutor General, NAB, KPK, Peshawar	Syed Rifaqat Hussain Shah, AOR Mr. Ishaq Ali Qazi, ASC
4	CrI.P.63/2015 (Cases Against Remand order)	Sher Daraz v. The State & another	Syed Rifaqat Hussain Shah, AOR Mr. Taufiq Asif, ASC
and	CrI.P.64/2015 (Cases Against Remand order)	Sher Daraz v. The State & another	Syed Rifaqat Hussain Shah, AOR Mr. Taufiq Asif, ASC
5	CrI.A.119/2014 (Life Imprisonment/Sessions) (S.J.)	Malik Aqeel Ahmad v. The State	Mr. Muhammad Siddique Khan Baloch, AOR Addl. P.G. Sindh Mr. Ali Akbar (Late), AOR Mr. Anwar Hussain, ASC
6	CrI.A.121/2014 (Life Imprisonment/Sessions) (S.J.)	Ghulam Mustafa v. The State	Jaffar Raza Khan, ASC Notice to P.G. Sindh
7	CrI.A.378/2014 (Life Imprisonment/Sessions) (S.J.)	Mazhar Khan v. The State	Syed Rifaqat Hussain Shah, AOR A.A.G. Punjab
8	C.A.235-L/2012 (Service Laws Matters/Promotion) (S.J.)	Govt. of Punjab thr. Secy. Irrigation & power Deptt. Lahore v. Muhammad Gulzeb Farid Bhatti etc	Addl. A.G. Punjab Rao Muhammad Yusuf Khan, AOR R - In Person Mian Ghulam Hussain, AOR Malik Noor Muhammad Awan, ASC
and	C.A.236-L/2012 (Service Laws Matters/Absence without Leave) (S.J.)	Govt. of Punjab thr. Secy. Irrigation & power Deptt. Lahore v. Muhammad Mouzam Ali Sheikh, etc	Addl. A.G. Punjab Rao Muhammad Yusuf Khan, AOR R - Notice Mrs. Tasneem Amin, AOR Hafiz Tariq Naseem, ASC Malik Anjad Pervuiz, ASC
and	C.A.237-L/2012 (Service Laws Matters/Promotion) (S.J.)	Govt. of Punjab, etc v. Riaz-ul-Haq, etc	Mrs. Tasneem Amin, AOR Hafiz Tariq Naseem, ASC Addl. A.G. Punjab Mr. M. A. Qureshi, AOR Rao Muhammad Yusuf Khan, AOR Ch. Bashir Hussain Khalid, ASC
and	C.A.238-L/2012 (Service Laws Matters/Promotion) (S.J.)	Govt. of Punjab, etc v. Khalid Mahmood, etc	Mrs. Tasneem Amin, AOR Hafiz Tariq Naseem, ASC Addl. A.G. Punjab Mr. M. A. Qureshi, AOR Rao Muhammad Yusuf Khan, AOR Bashir Hussain Khalid, ASC
and	C.A.239-L/2012 (Service Laws Matters/Promotion) (S.J.)	Govt. of Punjab, etc v. Sohail Anwar Mann, etc	Mrs. Tasneem Amin, AOR Addl. A.G. Punjab Rao Muhammad Yusuf Khan, AOR Ch. Bashir Hussain Khalid, ASC Hafiz Tariq Naseem, ASC
and	C.A.240-L/2012 (Service Laws Matters/Promotion) (S.J.)	Govt. of Punjab, etc v. Imtiaz Ahmad, etc	Mrs. Tasneem Amin, AOR Mr. M. A. Qureshi, AOR Rao Muhammad Yusuf Khan, AOR Ch. Bashir Hussain Khalid, ASC Hafiz Tariq Naseem, ASC
and	C.A.241-L/2012 (Service Laws Matters/Promotion) (S.J.)	Govt. of Punjab, etc v. Malik Sarfraz Ahmad, etc	Mrs. Tasneem Amin, AOR Addl. A.G. Punjab Mr. M. A. Qureshi, AOR Rao Muhammad Yusuf Khan, AOR Ch. Bashir Hussain Khalid, ASC Hafiz Tariq Naseem, ASC
and	C.A.242-L/2012 (Service Laws Matters/Promotion) (S.J.)	Govt. of Punjab, etc v. Tauseef Anwar, etc	Mrs. Tasneem Amin, AOR Hafiz Tariq Naseem, ASC Addl. A.G. Punjab Rao Muhammad Yusuf Khan, AOR Ch. Bashir Hussain Khalid, ASC
and	C.A.243-L/2012 (Service Laws Matters/Promotion) (S.J.)	Govt. of Punjab, etc v. Ahmad Ali, etc	Mrs. Tasneem Amin, AOR Addl. A.G. Punjab Mr. M. A. Qureshi, AOR Rao Muhammad Yusuf Khan, AOR Ch. Bashir Hussain Khalid, ASC Hafiz Tariq Naseem, ASC

9	C.A.661/2013 (Pre-emption Cases/Others) (S.J.)	Mst. Shazia Ishtiaq v. Muhammad Aslam Khan	Chaudhry Akhtar Ali, AOR Gul Zarin Kayani, Sr. ASC Mr. M. S. Khattak, AOR Malik Mehmood Akhtar, ASC
10	C.A.976/2013 (Pre-emption Cases) (S.J.)	Syed Ghulam Abbas Shirazi v. Ghulam Hussain Sandhu	Mr. M. S. Khattak, AOR Ch. Afrasiab Khan, ASC Mr. Arshad Ali Ch, AOR Ch. Muhammad Anwar Bhindar, Sr. ASC
11	C.A.981/2013 (Service Laws Matters/Seniority) (D.B.)	Dr. Riffat Kamal v. Federation of Pakistan thr. Secretary Health/Secretary, Capital Administration & Development Division (CADD), Islamabad & others	Syed Rifaqat Hussain Shah, AOR Mr. M. Aftab Alam Rana, ASC R - In Person
and	C.A.982/2013 (Service Laws Matters/Seniority) (D.B.)	Dr. Asma Afridi v. Federation of Pakistan thr. Secretary Health/Secretary, Capital Administration & Development Division (CADD), Islamabad & others	Syed Rifaqat Hussain Shah, AOR Mr. M. Aftab Alam Rana, ASC R - In Person R Ex-Parte
and	C.A.983/2013 (Service Laws Matters/Seniority) (D.B.)	Dr. Roshan Parveen v. Federation of Pakistan thr. Secretary Health/Secretary, Capital Administration & Development Division (CADD), Islamabad & others	Syed Rifaqat Hussain Shah, AOR Mr. M. Aftab Alam Rana, ASC R - In Person R Ex-Parte
and	C.A.984/2013 (Service Laws Matters/Seniority) (D.B.)	Dr. Fouzia Sabih v. Federation of Pakistan thr. Secretary Health/Secretary, Capital Administration & Development Division (CADD), Islamabad & others	Syed Rifaqat Hussain Shah, AOR Mr. M. Aftab Alam Rana, ASC R - In Person R Ex-Parte
12	C.A.1488/2013 (Service Laws Matters) (S.J.) (C.O.)	Chief Minister Govt. of KPK thr. Local Govt. & others v. Mr. Abdul Latif Ex-Atol, TMA & others.	Addl. A.G. KPK Mian Saad Ullah Jandoli, AOR R Ex-Parte Haji M. Zahir Shah, AOR Mr. Ghulam Mohyu-ud-Din Malik, Sr. ASC
and	C.A.1489/2013 (Service Laws Matters) (S.J.)	Chief Minister Govt. of KPK thr. Secy. Local Govt. & others v. Muhammad Rehman Khattak & others	Addl. A.G. KPK Mian Saad Ullah Jandoli, AOR R Ex-Parte Mr. Muhammad Zahoor Qureshi, AOR Mr. Ghulam Mohyu-ud-Din Malik, Sr. ASC

DEPARTMENT OF CARDIOLOGY  
KHYBER TEACHING HOSPITAL  
PESHAWAR

DISCHARGE LETTER

Associate Prof & Incharge  
**Dr. Amber Ashraf**  
MBBS, FCPS (Med) FCPS (Card)  
Master in Health Professional Education

Assistant Professor  
**Dr. Sadiq Shah**  
MBBS, FCPS (Card)

Assistant Professor  
**Dr. Muhammad Fahim**  
MBBS, FCPS (Med), FCPS (Card)

Registrar  
**Dr. Noor Ul Hadi**  
MBBS, FCPS-I

**Dr. Rehman Saeed**  
MBBS FCPS (Card)

**Dr. Kashif**  
MBBS, FCPS (Card)

SMO  
**Dr. Ijaz Latif**  
MBBS  
**Dr. Muhammad Ilyas**  
MBBS  
**Dr. Javed Shah**  
MBBS  
**Dr. Ahmad Shah**  
MBBS

TMO  
**Dr. Alam**  
**Dr. Asfandyar**

- سگریٹ نوشی دل کے مریض کیلئے زہر قاتل ہے۔
- اپنی زندگی کی شمع روشن رکھنے کیلئے سگریٹ نوشی سے پرہیز کیجئے۔
- روزانہ ورزش ڈاکٹر کی ہدایت کے مطابق کریں۔
- بیسار خوری سے پرہیز کریں۔
- دوائی ڈاکٹر کی ہدایت کے مطابق استعمال کریں۔



مشکل یا جمعرات کے دن

9:30 بجے صبح اوپی ڈی میں تشریف لائیں۔

برائے مہربانی یہ کارڈ ہمراہ لائیں۔

اس کارڈ کو صاف اور محفوظ رکھیں۔

TREATAN 4,8,16mg  
(Candesartan)

TREATAN-D  
(Candesartan+Hydrochlorothizide 12.5mg)

Name of Patient **DR MOHD ALI CHOHAN** Ward/Bed No: **CARDIOLOGY PR#1**

Admission No: **97806215** Weight: \_\_\_\_\_

Date of Admission: **16/2/2015** Date of Discharge: **21/2/2015**

Diagnosis: **DM/AF (New onset) → Chemically cardioverted.**  
**IHD/IMPAIRED LV function/LRTE.**

S K Received Yes-No **No**

Sig. M.O. **Asif** Sig. H.O. \_\_\_\_\_



2  
DISCHARGE SUMMARY

NT-ProBNP = 1555 pg/ml

PT  
Patient = 14  
Control = 13  
INR = 1.05

aPTT  
Control = 30  
Patient = 31

3  
INVESTIGATION

Cardiac Enzyme

Trop I = 0.027 ng/ml.  
CPK = 76  
LDH = 457.9

2. Trop I
3. Fasting Lipid Profile Ch HDL  
TG LDL
4. FBC  
Hb 14.4 TLC 8000 N 63  
L 27 M 02 E 08 ESR 38

5. Urine: R/E S. creat = 0.74 Na<sup>+</sup> = 136.9  
RBS = 114 - 273 - 168 K<sup>+</sup> = 4.29
6. Blood Urea Urea = 15 Cl = 104.4  
HbA1C = 5.2% Hep B & Hep C
7. Blood Sugar fT<sub>4</sub> = 18.61 SGPT = 54  
T<sub>3</sub> total = 1.69 all phos = 158  
TSH = 0.906 Total Bil = 0.6
8. S. Creatinine
9. HbA1C

10. OTHERS \_\_\_\_\_

11. ECG AF <sup>chemically</sup>  $\rightarrow$  converted to sinus rhythm

IHD (Basal anterior hypokinesia)  
impaired LV systolic function.  
moderate PAH, moderate MR.

12. CxR (PA view)  $\rightarrow$

13. Echo LA=4 LV=  $\frac{4.9}{3.9}$  RVSP=50

CT chest: Bil minimal pl. effusion  
i minimal cardiomegaly  
especially left ventricle.

14. Cor Angiography \_\_\_\_\_

## TREATMENT IN HOSPITAL

INJ. ROCIPHEN 2gm  $\frac{1}{10}$  in 100cc plasaline  
 $\frac{1}{10}$  OD.

INJ. LASIX 40mg  $\frac{1}{10}$  OD

INJ. CLEXANE 80mg  $\frac{1}{6}$  B.D

TAB. DISPRIN 300mg  $\frac{1}{2}$  x OD

TAB. PLAVIX 75mg 1 x OD

TAB. EZIDAY 25mg  $\frac{1}{4}$  x OD

TAB. MEROL 25mg 1 x B.D

TAB. XPLENDED 20mg 1 x OD

ATEM NEB 1cc QID

CLENIL NEB 1cc B.D

INS. HUMULIN R) according to  
glucose scale

TAB. CARDARON 1 x TABS (Started on 17/2)

6

## TREATMENT IN HOSPITAL

7

گھر کیلئے علاج

## TREATMENT FOR HOME

CAP. ANGIOCARD SR 2.5  
① گولی پ.م. + ① گولی شام - باوی  
پ.م. ۴ پ.م. ۲

TAB. PLAVIX 75mg  
① گولی روزانہ - پ.م. باوی

TAB. CALAN 40mg  
روزانہ باوی — ① + ① + ①

TAB. EZIDAY 50mg  
① گولی روزانہ - باوی

TAB. LASIX 20mg  
① گولی روزانہ - پ.م. (باوی)

TAB. ZOPENT 40mg  
① گولی روزانہ - دل کو  
۲ ہفتہ

8  
گھر کیلئے علاج

TREATMENT FOR HOME

TAB. DIAMICRON MR 60mg  
① گولی روزانہ — ۴ (باری)

TAB. SITAGLUMET 50/500  
① + ① — ۴ (باری)

TAB. CARDARONE 200mg  
1+1+1  
Started on (7/2/15)

① گولی روزانہ — 3 دفعہ  
100mg  
(Total 300mg)

5 دن کے بعد  
کے

9  
Follow Up

① نصفہ بعد دوبارہ  
معاشرے کے لئے نشرونیف لائیں

مگر 5 دن  
دوبارہ معاشرے  
کے لئے  
re-adjust cardarone  
then

Complete bed rest for 10 days  
Ambuashy

Dr. Amber Ashraf  
MBBS, FCPS (Med)  
FCPS (Card), MHPE  
I/C & Associate Professor  
Cardiology Department  
KMC-KTH, Peshawar