

21.04.2022

Learned counsel for the appellant present.

Learned counsel for the appellant seeks adjournment. Adjourned. To come up for preliminary hearing on 01.06.2022 before S.B.



(MIAN MUHAMMAD)
MEMBER(E)

1st June, 2022

Counsel for the appellant present.

Pre-admission notice be given to the other side. Case to come up on 14.07.2022 before S.B.

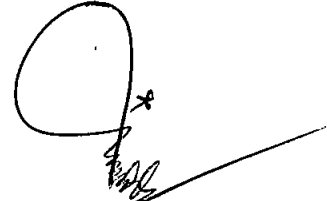


Chairman

14.07.2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Learned Additional Advocate General apprised about the pre-admission notice, as per order sheet dated 01.06.2022. He committed at the Bar that reply of the official respondents will be submitted shortly. Adjourned. To come up for reply as well as preliminary hearing on 05.08.2022 before S.B.



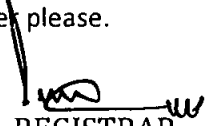

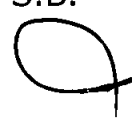
(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 169/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge		
1	2	3		
1-	07/02/2022	<p>The appeal of Mr. Itbar Shah presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>2-</p>	01.04.2022	<p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put there on <u>01-04-2022</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>Junior of learned counsel for the appellant present. Seeks adjournment on the ground that learned senior counsel is not available today due to some domestic engagement. Adjourned. To come up for preliminary hearing on 21.04.2022 before the S.B.</p> <p style="text-align: right;"> Chairman</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. 169 /2022

ITBAR SHAH

V/S

HEALTH DEPTT:

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Dated: _____/02.2022

APPELLANT

Through:

NOOR MOHAMMAD KHATTAK
ADVOCATE

0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2022

Mr. Itbar Shah, Ex-Beshti (BPS 04),
Dispensary Amir Nawaz Deputy District Health office, Sub Division Hasan
Khel Peshawar.**APPELLANT**

VERSUS

- 1- The Director General Health Services Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The District Health Officer Merged Area, Peshawar.
- 3- The Deputy District Health Officer, Sub Division Hassan Khel, Peshawar.

.....**RESPONDENTS**

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 25-6-2020 COMMUNICATED TO THE APPELLANT ON 20-10-2021 WHEREBY THE APPELLANT HAS BEEN REMOVED FROM SERVICE AND AGAINST THE INACTION OF THE RESPONDENTS BY NOT DECIDING THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the impugned order dated 25-06-2020 communicated to the appellant on 20-10-2021 may very kindly be set aside and the appellant may please be re-instated into service with all back benefits. Any other remedy which this august Service Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:

- 1- That appellant was appointed as Behshti (BPS-3) in the respondent department and was serving in the respondent department quite efficiently and to the entire satisfaction of high ups.
- 2- That astonishingly, the appellant during performance of duties at Dispensary Amir Nawaz Deputy District Health office, Sub Division Hasan Khel Peshawar the respondent department orally informed the appellant that services of the appellant has been terminated.

- 3- That time and again the appellant requested for provision of documents to ascertain reasons and grounds of termination but every time appellant was dodged.
- 4- That after strenuous efforts by the appellant, the respondent No.4 has provided/communicated the impugned letter/order dated 26-06-2020 addressed to the respondent No.3 whereby services of the appellant has been removed.
Copy of the impugned letter/order is attached as annexure----- A.
- 5- That the appellant after being disappointed with the attitude and lukewarm response of the respondents, wrote an application dated 27-12-2021 under the RTI Act 2013 to respondent No.4 for provision of required documents so that the appellant may defend himself properly.
Copy of the application is attached as annexure-----B.
- 6- That in response to the above referred application the appellant moved a complaint dated 25-01-2022 to the Chief Information Commissioner Peshawar against the respondents for not providing the requisite information/documents to the appellant.
Copy of complaint dated 25-01-2022 is attached as annexure-----C.
- 7- That feeling aggrieved from the impugned letter/order dated 25-06-2022 communicated to the appellant on 20-10-2021, the appellant preferred departmental appeal but no response has been given by the department till the expiry of the statutory period of ninety days.
Copy of departmental appeal is attached as annexure----- D.
- 8- That appellant, having no other remedy, prefer the instant appeal on the following grounds inter alia as under:

GROUND:

- A- That the impugned orders dated 25-06-2020 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That appellant has not been treated in accordance with law and rules by the respondent Department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the respondents acted in arbitrary and mala fide manner by awarding major penalty of removal from service of the appellant.

- D- That after removal, the respondent department despite constant contacts has not provided the required documents to the appellant which is against the norms of justice and fair play.
- E- That act of respondent department regarding removal of appellant without any just cause is nothing else but just to accommodate its blue eyed which tantamount to nepotism and favoritism and against the law of the land and objectives of Maqasade- Shari'a the basic unit of the Islamic Welfare State of Pakistan.
- F- That it is important to mention here that it is the consistent view of the apex court that no major punishment be awarded to a civil servant without conducting regular inquiry and intimating its outcome to the appellant enabling him to defend himself properly.
- G- That no charge sheet and statement of allegation has been served on the appellant prior to the issuance of the impugned order dated 25-06-2020
- H- That no show cause notice nor chance of personal hearing has been provided to the appellant before the issuance of the impugned order dated 25-06-2020
- I- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

Dated: _____

APPELLANT

Itbar Shah
ITBAR SHAH

THROUGH:

Noor Mohammad Khattak
NOOR MOHAMMAD KHATTAK

Kamran Khan
KAMRAN KHAN

Umar Farooq Mohmand
UMAR FAROOQ MOHMAND

Said Khan
SAID KHAN

&
KHANZAD GUL
ADVOCATES

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. _____/2022

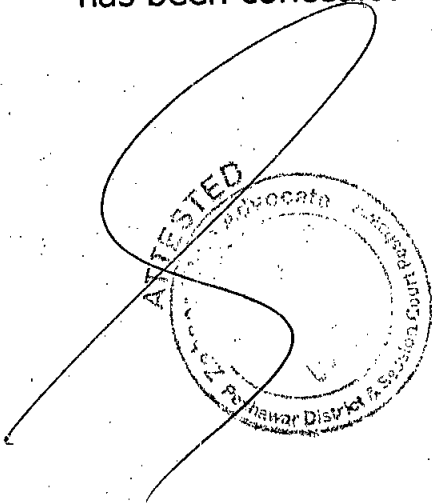
ITBAR SHAH

VS

HEALTH DEPTT:

AFFIDAVIT

Stated on oath that the contents of the accompanying service appeal are correct to best of my knowledge and belief and nothing has been concealed from this Honorable Service Tribunal.



[Handwritten Signature]
DEPONENT

CERTIFICATE:

Certify that no earlier service appeal has been filed by the appellant in the instant matter before this Honorable Service Tribunal.

[Handwritten Signature]
CERTIFICATION

OFFICE OF THE DEPUTY DISTRICT HEALTH OFFICER SUB
DIVISION HASSAN KHEL PESHAWAR

Tawas Khan Colony near Ailama iqbal public school ring road Peshawar

No: 1845-94
DDHO/Admin/Pesh

Date 25/06/2020

ANNEX "A" (5)

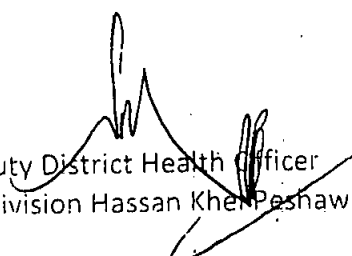
The Director Health Services
Merged Areas Peshawar

Subject: TERMINATION OF MR. ITBAR SHAH BESHTI CD AMIR NAWAZ DDHO SDHK
PESHAWAR

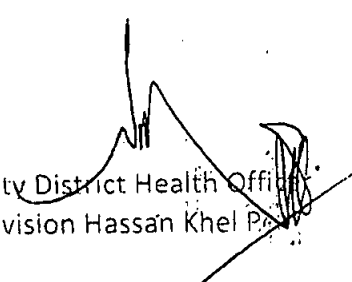
Sir

Reference to this office letter no 1759-61/DDHO/SDHK/Pesh dated 19/06/2020, he was directed to appear the undersigned for personal hearing within 3 days but you failed to do so, After lapsing the time period you didn't reply to the undersigned or come to the office.

It is further added that it has come into the notice of the undersigned that he is long absent. Therefore the undersigned is pleased to remove him from his services under E&D Rules section 11(19).


Deputy District Health Officer
Sub Division Hassan Khel Peshawar

Copy Forward to the:
1. Assistant Commissioner Sub division Hassan khel, Peshawar


Deputy District Health Officer
Sub Division Hassan Khel Peshawar

ANNEX B

(6)

Dated: 27/12/2021

To,

The Deputy District Health Officer,
Sub Division Hassa Khel,
Peshawar.

Subject: Request for information under RTI Act 2013

Dear Sir,

With reference to RTI act 2013, the following information/documents are requested from your good office.

1. Appointment letter of the undersigned
2. Charge sheet
3. Show Cause Notice issued to undersigned
4. Inquiry report, and ToR of the inquiry committee
5. Name and designation of the inquiry committee, chairman and members
6. Termination letter/order of a competent authorities
7. Dispatch register copy of the explanation letter/letters issued (from 1 Jan 2020 to 31 Jan 2021)

It is hope that you will provide the requisite information within stipulated time.

Sincerely your



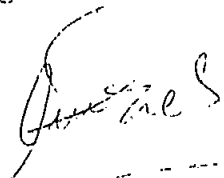
Aitbar Shah

CNIC: 17301-9795465-1

Cell: 0333-9305475 / 03129305475

Address: Mohalla Alladad Khel, Dak Khana Kohi Hassan Khel, Sub Division Hassan Khel,
District Peshawar.

Received



27-12-21

KP-RTI COMMISSION	15/01/2022
Diary No:	1079
Date:	25-01-2022
Section:	

To

The Chief Information Commissioner,
KP Right to Information Commission,
Peshawar.

Subject: Complaint against request for Information under RTI Act 2013.

Respected Sir,

It is stated that I have submitted an information request to the Deputy District Health Officer (DDHO), Sub Division Hassan Khel, Peshawar on 27/12/2021 (copy attached). I waited for the period as stipulated in the "Khyber Pakhtunkhwa Right to Information Act 2013" for the provision of information. However the requested information was not provided to me till date by the DDHO Office. Therefore I lodge a complaint with KPRTI Commission against the DDHO Office for non-provision of information under RTI Act 2013 please provide me the requested information details:

1. Appointment letter of the undersigned
2. Charge sheet
3. Show Cause Notice issued to undersigned
4. Inquiry report, and ToR of the inquiry committee
5. Name and designation of the inquiry committee chairman and members
6. Termination letter/order of a competent authorities
7. Dispatch register copy of the explanation letter/letters issued (from 1 Jan 2020 to 31 Jan 2021)

Thanks

Yours Sincerely,

Aitbar Shah

CNIC: 17301-9795465-1

Cell: 0333-9305475 / 03129305475

Address: Mohalla Alladad Khel, Dak Khana Kohi Hassan Khel, Sub Division Hassan Khel,
District Peshawar.

محکمہ جہاں انجمنی سرحدوں میں جہاں انجمنی

غوالہ درخواست گزار و کالی نوکری کے لئے جہاں انجمنی
سرحدوں میں

جہاں انجمنی : گراؤں کی بنیاد ہے کہ سائل (Behisht)

صاحبان کے لئے سائل ڈسٹریکٹ کے صدر نوکری میں
سب ڈویژن میں سائل درانز سے ولازنگ ہے اور اس سے
نی علی گھاٹ سے سائل نوکری سے بہت سارے کام کیا
نوکری سے نہ جاسکی کی وجہ قانونی کارروائی ہوئی ہے وہ کسی
سے سے نہیں ہے کسی اور طرفہ کارروائی اور سائل باہر سے کام کیا
گیا ہے جو کہ ظلم اور نہ لبرٹی ہے

لہذا صاحبان بالا سے پھر دانہ اپیل ہے کہ سائل
کو اپنی نوکری ولازنگ میں بحال کر کے اور جہاں انجمنی
و مشورہ سے فراہم کیا جائے تاکہ سائل کو سب سے

24/10/2015

درخواست گزار : اعتبار شاہ

اعتبار شاہ

Behisht

صدر نوکری ڈسٹریکٹ

CNIC # 17301-9785465-1

Nicb # 0333-9305475

کاغذی اطلاع
سکریٹری محکمہ K.P. ایچ ڈی
1

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO: _____ OF 2022

Itbar Shah (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Health Deptt = (RESPONDENT)
(DEFENDANT)

I/We Itbar Shah

Do hereby appoint and constitute **NOOR MUHAMMAD KHATTAK Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2022

Itbar Shah
CLIENTS

ACCEPTED

NOOR MUHAMMAD KHATTAK

KAMRAN KHAN

SAID KHAN

HAIDER ALI

&

KHANZAD GUL
ADVOCATES

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD, PESHAWAR.

No.

Appeal No. 169 of 20 22

H. bas Shah Appellant/Petitioner

Versus

The Director General Health KPK Respondent

Respondent No. 2

Notice to: — the Distt. Health Offices Merged Area Peshawar.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 16/7/22 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Pre-Admission Notice

Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No.....dated.....~~

Given under my hand and the seal of this Court, at Peshawar this 21st

Day of June 20 22

Registrar,
Khyber Pakhtunkhwa Service Tribunal.
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
 2. Always quote Case No. While making any correspondence.

“B”

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD, PESHAWAR. *S.B*

No.

Appeal No. *169* of 20*22*

Abdul Ghani Appellant/Petitioner

Versus

the Director General Health KPH Respondent

Respondent No. *3*

Regd

Notice to: — *the Deputy Dist Health Officer Sub Division Hassan Uhel Peshawar.*

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on *14/7/22* at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of *Pre-Admission Notice* appeal is attached. Copy of appeal has already been sent to you vide this

office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this *2nd* *14*

Day of *June* 20*22*

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
 2. Always quote Case No. While making any correspondence.

“B”

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR,
JUDICIAL COMPLEX (OLD), KHYBER ROAD, P.B
PESHAWAR.**

No.

Appeal No. 169 of 20 22

Ikbar Shah Appellant/Petitioner

Versus

The Director General Health UPM Respondent

Respondent No. 1

Notice to: —

The Director General Health Deptt.
UPM Peshawar.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 16/7/22 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Pre-Admission Notice

Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this~~

office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this 26

Day of June 20 22

**Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.**

- Note:
1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
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