

03.02.2022

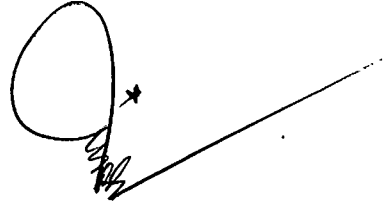
The Tribunal is non-functional, therefore, the case is adjourned to 08.04.2022 before S.B for the same.


Reader

08.04.2022

Counsel for the appellant present.

Learned counsel for the appellant seeks adjournment.
Adjourned. To come up for preliminary hearing on 12.08.2022
before S.B.

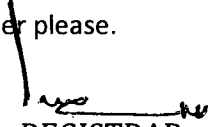

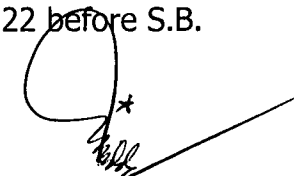

(MIAN MUHAMMAD)
MEMBER(E)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 7497 /2021


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	04/10/2021	<p>The appeal of Mr. Muhammad Zahir Shah resubmitted today by Mr. Khiyal Muhammad Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put up there on <u>03/12/21</u>.</p> <p> CHAIRMAN</p>
	03.12.2021	<p>None for the appellant present.</p> <p>Notices be issued to the appellant and his counsel. Adjourned. To come up for preliminary hearing on 03.02.2022 before S.B.</p> <p> (MIAN MUHAMMAD) MEMBER (E)</p>

The appeal of Mr. Mohammad Zahir Shah son of Malak Abdul Khan, Tehsil Baizai District Mohmand received today i.e. on 01.10.2021 is incomplete on the following score which is returned to the counsel for the appellants for completion and resubmission within 15 days.

- 1- Memorandum of appeal is unsigned which may get signed by appellants. ✓
- 2- Check list is not attached with the appeal. ✓
- 3- Annexures of the appeal may be attested along with copies. ✓
- 4- Certificate be given to the effect that the appellants has not been filed any service appeal earlier on the subject matter before this Tribunal. ✓
- 5- Copy of charge sheet is not attached with the appeal. ✓
- 6- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal. ✓

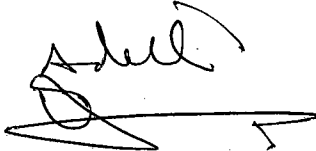
No. 1958 /S.T,

Dt. 04/10 /2021


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Khial Muhammad Mohmand Adv.Pesh.

no charge sheet on inquiry report ^{has been} provided/given
to the appellants.



BEFORE THE HON'BLE KHYBER PAKTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 7497P/2021

Muhammad Zahir Shah

Versus

Director Health Services through Director merged Area Secretariat Warsak
Road, Peshawar etc.

INDEX

S.No.	Description of Documents	Annexure	Pages
1.	<i>Appeal alongwith Affidavit</i>		1-7
2.	<i>Copy of the Service Card</i>	"A"	8
3.	<i>Copy of the Termination Order dated 10.10.2014</i>	"B" & "B/1"	9-10
4.	<i>Copy of the Departmental appeal dated 05.04.2014 & Reminder dated 09.07.2021</i>	"C" & "D"	11-12
5.	<i>Copy of the official letter of the FC Commanding Officer dated 29.11.2018</i>	"E"	13
6.	<i>Copy of the official letter of Director Health Services dated 05.03.2019</i>	"F"	14
7.	<i>Copy of the official letter of Agency Surgeon/respondent No. 2 dated 15.04.2019</i>	"G"	15
8.	<i>Copy of the official letter of respondent No. 3 (BHU)</i>	"H"	16
9.	<i>Wakalatnama</i>		17

Appellant

Through,

Khial Muhammad Mohmand
&
Zeeshan Gul
Advocates, High Court, Peshawar

(1)

BEFORE THE HON'BLE KHYBER PAKTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 7497-P/2021

Muhammad Zahir Shah S/o Malak Abdul Khan R/o
Shinwari Bahadar Kaley, Tehsil Baizai Tribal District
Mohmand.

.....**Appellant**

Versus

1. Director Health Services through Director merged Area Secretariat Warsak Road, Peshawar.
2. District Health Officer DHO (Agency Surgeon) Tribal District Mohmand.
3. In-charge B.H.U (Community Health Centre), Bahadar Kaley, Tehsil Baizai, Tribal District Mohmand.
4. Deputy Commissioner at Ghalanai, Tribal District Mohmand.

.....**Respondents.**

APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER NO. 2865-68-(ASM) DATED 10.10.2014 PASSED BY THE RESPONDENT NO. 2, WHEREBY THE APPELLANT HAS BEEN TERMINATED FROM THE POST OF CHOWKIDAR (BEHESHTI) AGAINST WHICH THE APPELLANT FILED DEPARTMENTAL APPEAL ADDRESSED TO THE RESPONDENTS, BUT THE SAME HAS YET NOT BEEN RESPONDED AS WELL AS REMINDER.

PRAYER:

On acceptance of this appeal, the impugned order dated 10.10.2014 of the respondent No. 2 may kindly be set aside and the appellant may please be Re-instated on his post with all back benefits/Consequently relief including seniority.

Respectfully Sheweth:

On Facts:-

1. That the appellant was initially appointed as Chowkidar (Beheshti) on dated 07.10.2004 by the respondent No. 2 at Basic Health Unit/ Community Health Centre at his Village Bahadur Kaley Tehsil Baizai, Tribal District Mohmand. (Copy of the Service Card an **Ann-A**).
2. That the appellant served in the office of respondent No. 3 / BHU for a sufficient long period of 10 years and rendered his meritorious services with honesty as well as with entire satisfaction of his superiors.
3. That the appellant during the course of employment performed his official duty with every zeal and zest and till, no complaint reported or otherwise even moved against the appellant.
4. That the appellant was hit by a grave grief, suddenly, whereas the appellant was terminated from the roll of the respondent on absence from the place of duty vide order dated 10.10.2014, which is not only unlawful and unwarranted. (Copy of the Termination Order is **Ann-B & B/1**).

5. That in this regards the appellant moved departmental appeal and reminder to the respondent, but the same are still not been responded for the reason best known to them. (Copy of the Departmental Appeal and Reminder are **Ann- C & D**).
6. That it is evident from official correspondence, whereas the respondents also admit the innocence of the appellant, regarding discrimination committed with him. (Copy of the official correspondence are **Ann E, F & G**).
7. That the respondents still taking official duty from appellant, which is obvious from the official letter of respondent No.3. (Copy of the official letter is **Ann- H**).
8. That the appellant feeling aggrieved from the impugned order dated 10.10.2014 approaches this Hon'ble Tribunal for redressal of his grievances inter alia on the following:

GROUND:

- A.** That the appellant has not been treated in accordance with law as well as fundamental rights guaranteed by the constitutional, 1973.

B. That no regular inquiry has been conducted nor any dispensation order ever issued, even then the appellant has been terminated from the roll of the respondent/BHU, which is against the governing laws and natural justice.

C. That no proper procedure has been adopted, no charge sheet as well as no statement of allegation even issued to the appellant.

D. That as per mode and manner, no show cause/ final show causes notices or personal hearing have been given to the appellant, which is mandatory provision under the law, so all the basic links are missing to brought the real facts, they just passed an order in a hasty manner to make points scoring.

E. That no right of defense has been given to the appellant, but terminated from the service without any plausible reason which appealable to a prudent mind.

F. That the respondents issued the impugned order in a slip shot manner, and yardstick has been used to treat the innocent appellant.

(6)

G. That the act of the respondents is clearly violation of the Article 10-A as well as 25 of constitution of Pakistan .

H. That it is the well established principle of law that no one could be condemn unheard, so being violated the policy and governing laws of the land.

I. That from every angle, the impugned order of termination is unlawful, void and not tenable in the eyes of law against the right of the appellant, liable to be set aside and by doing so, the appellant is entitled to be reinstated in to service with all back benefits.

J. That the appellant seeks permission of this Hon'ble Court to advanced other relevant grounds at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of this appeal, the impugned order dated 10.10.2014 of the respondent No. 2 may kindly be set aside and the appellant may please be Re-instated on his post with all back

(7)

benefits/Consequently relief including seniority.

Any other relief if not specifically asked for, may also be extended to the appellant for the best interest of justice.

Appellant

Through,



Khiyal Muhammad Mohmand

&

Zeeshan Gul

Advocates, High Court, Peshawar

AFFIDAVIT:

I, Muhammad Zahir Shah S/o Malak Abdul Khan R/o Shinwari Bahadar Kaley, Tehsil Baizai Tribal District Mohmand, do hereby affirm and declare on oath that the contents of the instant Appeal are true and correct to the best of my knowledge and belief.

Zahir
Deponent

8

Am → A



Government of Punjab

Service Card

Muhammad Zahir Shah
Behishti



Issuing Authority

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Father Name:	Abdul Khan
D.O.B:	1972
D.O. Applt:	07-10-2004
Cell No:	0300-9049018
B.Group:	A+ve
Station:	B.H.U. Bahadar Kali Mohmand Agency
Address:	Village Shinwari Bahadar Kali Tehsil Uper Mohmand Distt: Mohmand Agency
CNIC:	21408-2273528-5



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ATTESTED
to be a true copy
Advocate

(9)

Am-B



OFFICE OF THE AGENCY SURGEON MOHMAND AT GHALLANAI

OFFICE ORDER

The following employees at the strength of health facilities Mohmand Agency are hereby terminated with immediate effect, as they failed to physically verify themselves inspite of 15 days notice in Daily Mashriq and Daily Aaj dated 15-09-2014, moreover they were directed so many times in shape of explanations to be punctual but in vain.

S.No	Name and Designation	Place of Duty
1	Rabana LHV	RHC Bahai Dag
2	Bushra LHV	RHC Atta Jawar
3	Aziz EPI Technician	CHC Khan Baig
4	Noor Jehan Dai	CHC Mazreena
5	Najia Rukhsar Dai	CHC Karwanzai
6	Lal Zar Ward Orderly	CHC Karwanzai
7	Khair Gul Behishti.	CHC Karwanzai
8	Niaz Ali Chowkidar	CHC Karwanzai
9	Qasam Ward Orderly	CHC Landai Shah
10	Khaist Gul Chowkidar	CHC Landai Shah
11	Zahida Habib LHV	CHC Shamsah
12	Nasir Ali Dispenser	CHC Spinki Tangi
13	Habib Rehman Ward Orderly	CHC Atmar Khel
14	Sher Wali Behishti	CHC Atmar Khel
15	Dilawar Wardorderly	CHC Koda Khel
16	Nazir jan Chowkidar	CHC Koda Khel
17	Rehman Ullah Chowkidar	CHC Bahadar Kallay
✓ 18	Zahir Shah Chowkidar	CHC Bahadar Kallay
19	Noor Jehan Dai	CHC Bobak Kore
20	Ramzan Chowkidar	CHC Bobak Kore
21	Kamil Chowkidar	RHC Ekknghund

22	Miraj Gul MT	BHU Dab Kore
23	Farkhana Yasmin LHV	BHU Sapary
24	Nishat Dai	BHU Sapary
25	Saira Khan Dai	CHC Darwazgai
26	Hilal Wardorderly	CHC Darwazgar
27	Nadir Behishti	CD Soor Brudge
28	Qayum Chowkidar	CHC Yakh Dand
29	Yamen Gul LHV	BHU Prang Ghar
30	Sher Zameen Behishti	BHU Prang Ghar
31	Muslim W/O	BHU Prang Ghar
32	Bakht Munir Chowkidar	CHC Kotagai
33	Rehmat Bibi Dai	CHC Manai


Agency Surgeon
Mohmand Agency

No: 2865-68/ASM

Copy to the:

1. Director Health Services FATA Peshawar.
2. Political Agent Mohmand Agency.
3. Agency Accounts Officer Mohmand at Ghallanai.
4. All above Concerned.

Dated Ghallanai: 10/10/2014


Agency Surgeon
Mohmand Agency

Am - 13

(1)

بخدمت جناب ڈائریکٹر سٹیٹ سروسز ٹریڈنگ اور سٹورکٹ

عنوان: درخواست برائے بحال ملازمت

جناب عالی!

مورننگ گزارش ہے کہ سائل آپ کے زیر سایہ چیف ایڈمنسٹریٹو آفیسر کے پاس پوسٹ پر تعینات تھا۔ سائل کو مورخہ 10/10/2014 آرڈر نمبر 2865-68 ڈیفیریٹنگی وائیزیفیکیشن کے دوران نوکری سے نکال دیا گیا تھا۔ سائل اپنی ڈیوٹی نہایت ایمانداری سے انجام دینے رہا تھا۔ لیکن وہاں پر Militancy کی وجہ سے ہم نے اپنا گھر چھوڑ دیا اسلئے آفس نے اخبار میں جو اشتہار جاری کیا تھا اور اس کا ہمیں پتہ نہیں تھا اس لئے ہمارا Termination ہو گیا۔ سائل کی آپ جناب سے عاجزانہ گزارش ہے کہ ہماری نوکری بحال کرنے کا حکم صادر فرمایا جائے۔ سائل تاحیات جناب کے بلند اقبالی اور ترقی کیلئے دعا گو رہے گا۔
آپ کی عین نوازش ہوگی۔

ال عارض

طاہر شاہ ولد عبدالملک 3079

کیوٹی سٹیٹ سروسز ٹریڈنگ اور سٹورکٹ، بہادر علی تحصیل بائرنی

5-11-2014

ATTESTED
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Advocate

Reminder

بخدمت جناب ڈائریکٹر ہیلتھ سروسز بڑا بنبلو ڈسٹرکٹ

درخواست برائے بحال ملازمت

عنوان:

جناب عالی!

مودبانہ گزارش ہے کہ سائل ڈیزین کوٹہ پر آپ کے زیر سایہ چوکیدار کی پوسٹ پر تعینات تھا۔ سائل کو مورخہ 10/10/2014 آرڈر نمبر 2565-68 کو فزکلی و ریٹیکیشن کے دوران نوکری سے نکال دیا تھا۔ سائل اپنی ڈیوٹی نہایت ایمانداری سے انجام دیں رہا تھا۔ لیکن وہاں پر Militancy کی وجہ سے ہم نے اپنا گھر چھوڑ دیا اسلئے آفس نے اخبار میں جو اشتہار جاری کیا تھا اور اس کا ہمیں پتہ نہیں تھا اس لئے Termination ہو گیا۔ بعد میں 9 نومبر 2018 کو کمانڈنٹ آفیسر ضلع مہمند نے ڈائریکٹر ہیلتھ سروسز کو سائل کی دوبارہ بحالی کیلئے لیٹر بھیجا اور کہا کہ سائل اپنی ڈیوٹی دوبارہ سرانجام دے رہا ہے اسی لیٹر کی روشنی میں ڈائریکٹر ہیلتھ سروسز مرجر ایریا ورسک روڈ، پشاور نے ایجنسی سرجن کو ایک لیٹر نمبر 2553 مورخہ 05.03.2019 بھیجا اور سائل کے تمام دستاویزات طلب کیے۔ اسی لیٹر کے جواب میں ایجنسی سرجن نے لیٹر نمبر 2195 مورخہ 15.04.2019 ڈائریکٹر ہیلتھ سروسز کو بھیجا اور کہا کہ سائل کے دوبارہ بحالی پر ہمیں کوئی اعتراض / Objection نہ ہے۔ سائل اب بھی بدستور اپنی ڈیوٹی سرانجام دے رہا ہے مگر کوئی تنخواہ وغیرہ تاحال نہیں ملی۔ اس طرح سائل کی ڈیوٹی بجا آوری BHU لیٹر مورخہ 09.04.2021 فائل پر بطور ثبوت موجود ہے۔ من سائل نے اس سے پہلے ڈیپارٹمنٹل اپیل جمع کیا ہے جو کہ تاحال جواب طلب ہے۔ اب اسی ریمائنڈر (Reminder) کے ذریعے حکام بالا کی توجہ مبذول کرانا چاہتا ہے کہ من سائل کو اپنی پوسٹ پر بحال کر کے تنخواہ جات Seniority اور دیگر مراعات فی الفور Release کیا جائے تاکہ سائل بمعہ خاندان عمر بھر احسان مند اور دست بدعا رہے۔ (تمام دستاویزات لف درخواست ہیں)۔

المرقوم 09.07.2021

الخارص

ظاہر شاہ ولد عبدل ملک

کیونٹی ہیلتھ سینٹر،

بہادر کالے، تحصیل بیڑی ضلع مہمند

RESTRICTED

13

A

31 FF Regt (KARRAR)
Ops Area
Mohmand Agency
Tel Mil: 8700 - 33909
8728 / Proj / 1 / Q
29 Nov 2018

To: Director Health Services Tribal District Mohmand
Deputy Commissioner Tribal District Mohmand
Information: Office of the Surgeon Tribal District Mohmand.
Subject: Re-Instatement - Chowkidar Post

Office of the Surgeon Mohmand Agency letter number 2865-68/ASM dated 10 October 2014 refer.

1. It is intimated that Mr. Zahir Shah was appointed as Chowkidar at CHC Bahadur Kaley Tribal District Mohmand. The said Chowkidar left his home town during militancy in Mohmand Agency in 2014. During this militancy the said Chowkidar was called for duty at CHC Bahdur Kaley but he was found absent from duty as he had left the area due to threats to his life. A calling letter was also issued to the individual, but he could not receive the calling letter due to militancy. Resultantly he was terminated form service.

2. Presently, the said CHC has been made functional with the effort of Pakistan Army and Mr Zahir Shah. He has also joined his duty at said CHC and approach through, attach application for re-instatement. Therefore, it is requested that Mr Zahir Shah may please be re-instated at CHC Bahadur Kaley.

3. Your cooperation in this regard will be highly appreciated, please.

~~ATTESTED~~
to be true copy
Advocate

Major
For Commanding Officer
(Syed Khalid Shah)

RESTRICTED

14

Am → F

DIRECTORATE OF HEALTH SERVICES

MERGED AREA SECRETARIAT WARSAN ROAD PESHAWAR

PH # 091-9210210 FAX # 091-9212100

No. 253

/DHS/ADMIN

DATED: 5/3/2019

To

The Agency Surgeon,
Tribal District Mohmand at Chaffanai.

Subject: RE-INSTATEMENT - CHOWKIDAR POST

Enclosed please find herewith a letter No.8728/Proj/1/Q dated 29-11-2018 on the subject noted above received from Syed Khaid Shah Major for Commanding Officer 31 FF Regt Kanan Ops Area Tribal District Mohmand.

You are directed to offer your comments and also provide a copy of appointment order and other service documents in respect of Mr. Zahir Shah Ex-Chowkidar, to enable this Directorate to proceed further in the matter.

Director Health Services,
Merged Areas, Peshawar.

ATTESTED
to be true copy
Advocate

5/3/19



OFFICE OF THE AGENCY SURGEON
MOHMAND TRIBAL DISTRICT

No. 2195 /ASM

Dated: 11/04/2019

To

The Director Health Services
Merged Areas Warsak Road Perhwar

Subject:

RE INSTATEMENT CHOWKIDAR POST.


Sir

Your kind attention is invited to your good office letter No.2553/DHS/Admin dated:05/03/2019 on the subject noted above.

I have the honor to state that Mr Zahir Shah ex-chowkidar was terminated from service vide this office letter No.2805-68/ASM, dated:10/10/2014 on account of failure to appear before the committee constituted for physical verification of staff (Copy Attached).

Now this office has no objection on the reinstatement of Mr Zahir Shah ex-Chowkidar attached to CHC Bahadar Kalay Mohmand Tribal District.

The required document is attached.


Agency Surgeon
Mohmand Tribal District

ATTACHED
to be the copy
Advocate

Amir - H. 2

(16)

TO WHOM IT MAY CONCERN




Being In-charge of the Community Health Center (BHU Bahadur Kalay Surran), I can say that Mr. Muhammad Zahir Shah S/o Malak Abdul Khan is an employee Class-IV, performing his duty as well in duty time.

[Handwritten Signature] 9/4/2021

In-Charge Community Health Center
Basic Health Unit Bahadur Kalay, (Surran)

ATTESTED
to be true copy
Advocate

73

قیمت 50 روپے	84087			
ایڈوکیٹ: <i>Atif Ahmad</i>		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل / ایسوسی ایشن نمبر:				
رابطہ نمبر: 0322-9887361				

بعدالت جناب: جسٹس سروس ٹریڈینگ کورپوریشن

مخانب: <i>Appellant</i>	دعوی:
	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:
بامث تحریر آنکہ	

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی مصلحتاً
 آن مقام *پشاور* کیلئے *ضمانت* کے لئے *ضمانت* کے لئے *ضمانت* کے لئے *ضمانت* کے لئے *ضمانت* کے لئے
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو
 راضی نامہ کرنے و تقریر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری کی طرفہ یا اپیل کی برآمدگی اور مسموعی، نیز
 دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کاروائی کے واسطے اور وکیل یا مختار قانونی نوایں کے ساتھ ہر ماہ اپنے مختار ہوگا اور صاحب
 مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخلہ منظور و قبول ہوگا
 دوران مقدمہ میں جو خرچہ ہر جانہ اتوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دروہ یا حد سے
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے



مقام *پشاور* کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی فونو کاپی ناقابل قبول ہوگی۔
Atif Ahmad
Atif Ahmad
Atif Ahmad

پشاور - خیبر پختونخواہ - 73

"A"

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

No.

APPEAL No. 7497 of 20 21

Muhammad Zahid Shah

Appellant/Petitioner

Versus

Director Health Services KPK

RESPONDENT(S)

✓
Notice to Appellant/Petitioner

Muhammad Zahid Shah S/o

Muhammad Abdul Wahab S/o Shauqat

Bahadur Kaley Tehsil Baizai Tribal Distt.
Mohmand.

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 3/2/22 at 9:00 am.

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.



Registrar,

J Khyber Pakhtunkhwa Service Tribunal,
Peshawar.