29.03.2019

Nemo for appellant. Mr. Ziaullah, DDA for the respondents present.

Due to non-appearance of the appellant on the last date notice was required to be issued to him for hearing today. The requisite notice was accordingly issued to him and a copy has been placed on record. Despite repeated calls upto 3.00 P.M today the appellant is not represented.

Dismissed for non-prosecution.

File be

consigned to the record room.

Member

Chairman

ANNOUNCED 29.03.2019

Counsel for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant AG for the respondents present. Learned counsel for the appellant seeks adjournment to furnish rejoinder. Adjourned. To come up for rejoinder and arguments on 18.10.2018 before D.B.

(Ahmad Hassan) Member

(Muhammad Amin Khan Kundi) Member

18.10.2018

Appellant absent. Learned counsel for the appellant absent. Mr. Riaz Ahmed Paindakhel learned Assistant AG for the respondents present. Adjourned. To come up for arguments on 03-10,2018 before D.B.

(Hussain Shah) Member (Ahmed Hassan) Member

03.12.2018

Counsel for the appellant present. Mr. Ziaullah, Deputy District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for rejoinder and arguments on 23.01.2019 before D.B.

(Ahmad Hassan) Member (Muhammad Amin Khan Kundi) Member

23.01.2019

None present on behalf of the appellant. Mr.Muhammad Jan,

Deputy District Attorney alongwith Mr. Hazrat Shah, Superintendent for
the respondents present. Notice be issued to appellant and his counsel for
attendance and rejoinder as well as arguments for 29.03.2019 before D.B.

(HUSSAIN SHAH) MEMBER

(MUHAMMAD AMIN KHAN KUNDI) MEMBER 17.04.2018 Appellant in person and Addl: AG present. None present on behalf of respondents department. Therefore, fresh notices be issued to the respondents department to attend the court positively. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on 09.05.2018 before S.B.

Member ...

09.05.2018

The Tribunal is non functional due to retirement of the Honorable Chairman. Therefore, the case is adjourned. To come up for the same on 02.07.2018 before S.B.

Reader

02.07.2018

Appellant absent. Mr. Muhammad Jan, DDA alongwith Mr. Jaffar Ali, Assistant (Representative) of the respondents present. Written reply submitted. To come up for rejoinder and arguments on 29.08.2018 before D.B.

Member

13.02.2018

Counsel for the appellant present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was serving in Health Department as Malaria Supervisor. It was further contended that during service he was involved in criminal case under section 377 PPC. It was further contended that the appellant was relieved from service on the allegation of his involvement in criminal case vide order dated 05.10.2017. It was further contended that the appellant filed departmental appeal on 09.10.2017 but the same was not responded hence, the present service appeal on 18.01.2018. It was further contended by learned counsel for the appellant that neither proper inquiry was conducted nor opportunity of personal hearing and defence was provided to the appellant nor the aforesaid criminal trial has been concluded therefore, the impugned order is illegal and liable to be set-aside.

The contentions raised by learned counsel for the

appellant need consideration. The appeal is admitted for regular hearing subject to deposit of security and process fee within 10 days, thereafter notice be issued to the respondents for written reply/comments for 02.04.2018 before S.B.

(Muhammad Amin Khan Kundi) Member

02.04.2018

Appellant De

None present on behalf of appellant. Mr. Kabir Ullah Khattak, Additional: AG for the respondent present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on 17.04.2018 before S.B.

(Ahmad Hassan) Member

Form-A

FORMOF ORDERSHEET

Court of		41 - sa	•
Case No.	65	/2018	 a post

	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	18/1/2018	The appeal of Syed Shamsul Abas presented today by Syed Rehmat Ali Shah Advocate, may be entered in the
		Institution Register and put up to Worthy Chairman for prope
-		order please.
		Sore
	•	REGISTRAR
2-	19/01/18-	This ease is entrusted to S. Rongh for proliminary hearing
		This case is entrusted to S. Bench for preliminary hearing
	• •	to be put up there on 23/01/18.
-		
	,	COURSINE R
	23.01.201	Lawyers community is on strike, therefore the
		case is adjourned. To come up for preliminary hearing on 13.02.2018 Before S.B
		(Muhammad Hamid Mughal)
	•	
	·	MEMBER
	· ·	
	· ·	
	·	MEMBER
		MEMBER
	<u></u>	MEMBER

BEFORETHE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, **PESHAWAR**

Service Appeal No: 65 of 2018

Syed Shamsul Abas

VS Govt of Khyber Pakhtun khwa & othérs

INDEX

S. No	Description of Documents	Annexures	Pages
1	Appeal along with affidavit		1-6
2	Addresses of Parties		7
3	Application for status quo and affidavit		8-9
4	Copy of FIR, Service Coxo.	A	10, 11
· 5	Copy of impugned order dated: 05-10-2017	В	12
6	Copy of departmental appeal	C	13
7	Wakalat nama		14

Appellant

Through

Dated: **16/01/2**018

SYED REHMAT/ALI SHAH

Advoçate High Court, Peshawar. 0346-9467001

BEFORE KHYBER PAKHTUN KHWA, SERVICE TRIABUNAL, PESHAWAR

Service Appeal	No	65	/2018
	_		

SYED SHAMSUL ABAS, Malaria Supervisor, Office of District Health Officer, District Hangu.

_Appellant

Khyber Pakhtukhwa Service Tribunal

VERSUS

1. PROVINCE OF KHYBER PAKHTUNKHWA.

Through Chief Secretary, Civil Secretariat, Peshawar.

- Secretary to Govt. of Khyber Pakhtun Khwa.
 Health Department.
 Civil Secretariat, Peshawar
- 3. Director General Health Services, Khyber Pakhtun Khwa, Peshawar.
- 4. District Health Officer.
 Shaheed Farid Khan DHQ Hospital, District Hangu.

Respondents

Filedto day | Registrar

SERVICE APPEAL UNDER SECTION-4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE INACTION OF RESPONDENT No. 3 WHO FAILED TO DECIDE THE DEPARTMENTAL APPEAL AND AGAINST THE ACTION OF THE RESPONDENT NO. 4 WHO ISSUED IMPUGNED ORDER NO. 3517-22 DATED: 05-10-2017, VIDE WHICH THE APPELLANT WAS RELIEVED FROM HIS DUTIES AND WAS DIRECTED TO REPORT TO THE OFFICE OF DGHS, KHYBER PAKHTUN KHWA AND ALSO ORDERED RECOVERY OF SALARY FOR A PERIOD OF 3 MONTHS AND 8 DAYS FROM HIS PENSION/SALARY.

Prayer:-

(i) On acceptance of the instant appeal the impugned order dated: 05-10-2017 in respect of relieving of petitioner from his duties and reporting to office DGHS may be set aside and the penalty of recovery of monthly salary (for a period of 3 months and 8 days)

may be declared illegal and void and the appellant may kindly be exonerated from the penalty.

(ii) Any action taken pursuant to impugned order 3517-22 Dated: 05-10-2017 be declared void and without lawful authority.

Respectfully Sheweth:

FACTS:-

7

Facts leading to the institution of the instant appeal are as under:-

1. That the appellant was working as Malaria Supervisor in the office of District Health Officer. District Hangu with great zeal and devotion and to the entire satisfaction of his superiors without any complaint.

(COPY OF Service Card is Attached)

2. That the appellant was charges in a false and frivolous case through FIR No. 610 dated: 20-06-2017. Later on the appellant was enlarged on concession of bail vide order dated: 05-07-2017 and till that date, the appellant was behind the bar.

{True Copy of FIR is Attached. marked as Annex-A}

- 3. That after releasing on bail, the appellant resumed his job but the respondent No. 4 orally stopped him from joining his duties till the decision of criminal case. It would be worth mentioning that the no formal order of suspension was issued against the appellant.
- 4. That the appellant after release on bail, performed his duties whole heartedly and also performed his services specially during Muharram days, but soon after performing duties in Muharram, the appellant was informed that an order in respect of his relieving from duties and to join services at DGHS. Peshawar has been passed and also an order of recovery of handsome amount from his salaries has been passed through impugned order dated: 05-10-2017. It would be of axiomatic importance that no inquiry what-so-ever has been conducted, nor any show cause notice was served neither any personal hearing was done and all that have been done in clandestine manner which act on the part of respondent is against the service laws.

{True copy of impugned order is attached, marked as Annex-B}

5. That the appellant filed the department representation/appeal before the Director General Health Services/respondent No. 3 on 09-10-2017 but to no avail.

{True Copy of departmental appeal is attached, marked as Annex-C}

6. That the appellant being dissatisfied and feeling aggrieved from the action and inaction of the respondents and having no other alternate, efficucious and adequate remedy except to file service appeal before this Hon ble Court on the following grounds amongst others.

GROUNDS:-

- A. Because the impugned order of respondents dated: 05-10-2017 is against law, facts, hence liable to be set-aside.
- B. Because it has been incumbent upon the respondents to follow the mandatory provisions of service laws before initiating any action and impose any penalty any civil servant but in the present case, all that have been blatantly violated, hence the impugned order dated: 05-10-2017 is not tenable.
- C. Because no formal inquiry has been conducted nor any statement of allegations has been issued by the respondent, hence the impugned order is nullity in the eyes of law.
- D. Because issuing of impugned order without adopting proper criteria and codal requirements by the respondents is against the worthy ruling of the Hon'ble Superior Courts of Pakistan and therefore, the same are illegal practice and such practice adversely effects efficiency of incumbents and also reduces their confidence and faith in public, hence the impugned order referred above is liable to be un-held on this score also.
- E. Because the appellant had been made victim of discrimination, demerits, partiality and favoritism without any just and reasonable cause thereby offending the fundamental rights of the appellant as provided by the constitution of 1973, hence the impugned orders detailed above are liable to be set at naught.
- F. Because the respondents in utter disregard to the principles of the fairness, merit and transparency, passed the impugned order which is against the law, illegal, unlawful and void ab initio and liable to be turned down.

- G. Because the appellant is very hardworking and punctual in his duty, therefore, no complaint received by the Respondents against the appellant but the Respondents unlawfully and illegally proceeded against the appellant, which is against the law and fundamental rights of the appellant.
- H. Because the appellant was condemned unheard, his departmental appeal was not properly adjudicated in the manner as provided by the law. Further no chance of personal hearing was given to the present appellant in order to redress his grievances which shows the malafide of the Respondents, hence needs interference of this Hon'ble Tribunal.
- 1. Because the present impugned order is illegal, illogical, against facts, without jurisdiction and suffering from material irregularity, hence the same is untenable and liable to be struck down.
- J. Because the Respondents erroneously exercised their powers against judicial principle, and have passed the impugned order and opened a new pandora box in clear violation of Service law, hence, the said impugned order is liable to be set aside, and the appellant may kindly be allowed to resume his services at District Hangu.
- K. The appellant crave for leave of the Hon'ble Tribunal to raise additional grounds at the time of arguments.

PRAYER:-

It is humbly submitted that on acceptance of the present appeal, this Hon'ble Tribunal may graciously be pleased to:

- i. Declare the impugned orders dated: 05-10-2017 of Respondent No. 4 as illegal, unlawful, without lawful authority and void ab initio.
- ii. Exonerate the appellant from the penalty of "recovery of salary for 3 months and 8 days" and it may kindly be withdrawn in the best interest of justice.
- iii. Direct the respondents to allow the appellant to perform his duties at District Hangu.

iv. Any further better relief may also kindly be granted in the circumstances of the appellant's case.

Appellant

Through

Dafed: 16/01/2018

SYED REHMAT ALI SHAH

Advocate High Court, Peshawar.

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR

Service	Appeal	No:	of 2018

Syed Shamsul Abas

VS Govt of Khyber Pakhtun khwa & others

AFFIDAVIT

I. Syed Shamsul Abas, Malaria Supervisor, District Hangu, do hereby solemnly affirm & declare that the contents of the attached appeal are true and correct to the best of my knowledge & belief & nothing has been concealed or withheld from this Honorable Court.

Identified by

Syed Rehmat Ali Shah Advocate High Court. Deponent 1 8 JAN 2018

ATTESTED Muhammad Sadio A

Commissioner Volume Programmes

$\frac{\text{BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,}}{\text{PESHAWAR}}$

Service	e Appeal N	lo:	of 2018	
Syed Shamsul Abas	VS	Govt of Khyb	er Pakhtun khy	va & others
<u>M</u>	EMO OF	ADDRESSI	<u>ES</u>	
SYED SHAMSUL A Officer, District Hangu.	ABAS. Ma	laria Superviso	or, Office of D	istrict Health Appellant
	VE	RSUS		
1. PROVINCE OF Through Chief Secre Civil Secretariat. Pes	tary,	PAKHTUN	∛KHWA,	
2. Secretary to Govt. of Health Department. Civil Secretariat. Pes	•	htun Khwa,		
3. Director General Hea Khyber Pakhtun Khy				
4. District Health Offic Shaheed Farid Khan	•	tal. District Ha		Respondents
	Throu	• •	etlant garas	•
rted: 16/01/2018	`	• •		

SYED REHMAT ALISHAH Advocate High Court, Peshawar. Ď

BEFORE KHYBER PAKHTUN KHWA, SERVICE TRIABUNAL, PESHAWAR

Service Appeal No: of 2	20	18
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Syed Shamsul Abas

VS Govt of Khyber Pakhtun khwa & others

Application for and on behalf of appellant/applicant for restraining the respondents from relieving the applicant from his post or take any adverse action against him and also to prohibit them from deductions from the salary of applicant/appellant and maintaining status quo.

Respectfully Sheweth:

- 1. That the appellant/applicant filed the accompanied service appeal in which no date of hearing is yet fixed.
- 2. That at the time disposal of this application, the appeal and its supportive documents may be considered as integral part of this application.
- 3. That the impugned order has been passed in blatant violation of service laws, so the applicant has a genuine prima facie case in his hand and he is sanguine in respect of his success.
- 4. That there is no legal cavil in passing of restraining order as prayed for and if the respondents are not restrained and status quo is not ordered, the accompanying appeal would become infructuous and meaningless.

It is, therefore, most respectfully prayed that the respondents may kindly be restrained from relieving the applicant or taking any adverse action against him and also restrained them from deductions from salary of applicant/appellant and status quo be maintained till final disposal of main service appeal.

Applicant/Appellant

Through

Dated: 16/01/2018

SYED REHMAT ALI SHAH

Advocate High Court, Peshawar.

BEFORE KHYBER PAKHTUN KHWA, SERVICE TRIABUNAL, PESHAWAR

Service Appeal No: of 201	Service	Appeal No:	of 201 8
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Syed Shamsul Abas

VS Govt of Khyber Pakhtun khwa & others

AFFIDAVIT

I, Syed Shamsul Abas, Malaria Supervisor. District Hangu. do hereby solemnly affirm and declare upon oath that the contents of the application are true and correct to the best of my knowledge & belief and nothing has been concealed or withheld from this Honourable Tribunal.

Identified By: Syed Rehmat All shah, Advocate, High Court, Peshawar.

Deponent

Syed Shamsul Abas

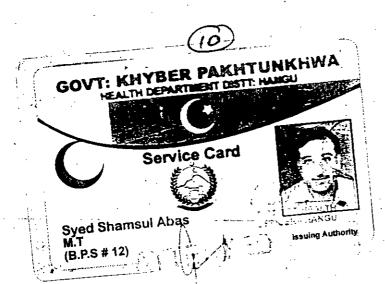
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ATTESTED

Commissioner vocate High Court Pesh?

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Anx (A) F/Name Chairm Ibrahm
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R/ Address 0133-9657926

Contact 0332-962908



فكر مبر ٢٢٠ ٥٠ (1) ابترائي اطلاعي لورك P14101-6784178-9 وَالْمِينَ الْمِدَانَي اطلاع نسبت مرم قابل دست الذارى يوليس داور فاشره زير دند مه الجموع منا بطرفو مدارى 35 80768 5 350 0333 9181366. مَّارِيُّ وَوَعِ مِ<u>66 مِهِ وَقِيلَ مِي ١١٠ حَ</u> 610 20 من 20 وقل 30:17 جا ليرى 17 من 10 18 ج المراع دوقت ركورك جابى ولرين عان ولرحدر وال فعر لقريما مرا سال المراكز لأ والمحارث اطلاع دمينده ومتغيث المنظمة على المراكب المارك المراكب المارك المراكب الم والفاوقون فاسترتفار سفاوسيب لِدُوانَ مِو تفيش كِم معلق كُم مي الراطلاع درج سرسدى داستر دا ما ما ما والمحين توقف بوابو تووجر سان كرو-فالزيرواكي كالرائح ووقت البت لافي اطلاع ينجدوج كرواس ومن الي كريري حراس محاس فرير عالی در کان میں سے مرسن کافیار در مل کالی وجول مور ذیل ہے فررتھا) مئی دوران تست سر دیجی کا گوچی کا میں دوران تست سر دیجی کا کو میں اور کی کا اور کا در کا د ويت المدر ولالات كان ميم عدد كارت لعرب وراجسال ملوق بوكر ولالت كال ول رورك المارات الرحل والمسراء والمسراء والمارات المارات والمارات المارات والمارات المارات والمارات المارات والمارات و رور المرابع المعلى المرابع الم والمسال المساحل من الماري والمرار مول رورط مين ديري مار كو ماريع كورس المساحة من المراح المرا و الله المال المالي المربي المربي المالية المربي ال E CPC LA BA ATO PAR mut 6 2017

Ĵ.

/ Dated Hanguithe



OFFICE ORDER

In light of recommendations of enquiry report and consequent upon personnel hearing of Mr. Shams Ul Abbas Malaria Supervisor BPS-12, the said official is hereby relieved from his govt: duties with immediate effect. His absence period (03 months 08 Days) may also be recovered from his pension/salary, while recommendations of enquiry committee "as attached" may also be implemented. The official concerned is directed to report to DGHS rlliyber Pakhtunkhwa Peshawar.

Sa. 3517-22 PF /dated 05/10/17 v forwarded to:-

DISTRICT HEALTH OFFICER

1. Director General Hearth Services, Govit of Khyber Pukhitunkwa Peshawai Acinformation and action please --

- 2. District Nazim Hangu for information please.
- 3. Deputy Commissioner Hangu for information please
- 4. Medical Superintendent Shaheed Farid Khan DHQ Hospital Henga for information please.
- 5. Enquiry Committee for information with reference to their recommendations as quoted above.

Mr. Simms Ul. Abbas Malaria Superviso: for information and complimace.

FRICT HEALTH OFFICER

بسم الله الرحمن الرحيم،

بحضور جناب ڈائر یکٹر جزل صاحب محکمہ صحت خیبر پختونخوا، پشاور

برخلاف غیرقانونی کٹوتی از ماہوار تخواہ (تین ماہ ، آٹھ دن) بلا دجہ از ما ہوار شخواہ سائل/ملیریاسپروائزرD.H.Q میپتال ضلع هنگو

جناب عالی گذارش اینکه

سائل بطورملیریاسپروائز رسال 1991 سے محکمہ صحت شلع ھنگو کے مقام D.H.Q ہینال ھنگومیں ملازمت کررہا ہوں۔ ید کہ مور ندہ 2017-06-20 کوسائل کے خلاف ایک بے بنیاد ٹنی بردروغ FIR تھا نہ ٹی ھنگو میں درج ہوکر سائل اپنی گرفتاری کے بعد عدالت سے 2017-07-05 كور ہاہوا۔انشاءاللەمقدمەكى با قاعدہ ساعت كىصورت ميں باعز ت برى ہوجاؤ نگا۔

سر کرنی چاہی ایک کی فوری بعد ہیتال جاکرائی ڈیوٹی شروع کرنی چاہی ، D.H.O صاحب هنگونے سائل کوذاتی طور پر بالا کرکہا کہ تم فی الحال (فیصله عدالت تک) ملازمت کیلیے مہیتال مت آؤ،البته گھر پرموجوز (جو اسکی بھی وقت شہیں ڈیوٹی کیلیے بلا تھے ہیں۔اور ماہوار تنخواہ

بيكه سائل گذشة قريباً دوماه مع متواتر بائيوميٹرك مشين پررواز نه حاضري بھى لگار اېول-

سيك سائل كوعرصة قريباً تين ماه بعد، D.H.O صاحب هنگونے محرم الحرام ميں زُرِ نَى سرانجام دينے كيلتے بلايا، سائل نے دُيو نَى سرانجام دى۔ جسكے بعد سائل کھلم ہوا، کے سائل کی تخواہ سے کل مبلغ-/96000 روپے کی کثوتی کا تھم صادر ہو چکا ہے۔ سائل کواس تخواہ کثوتی کا کوئی تھم نامہ یاسر کاری

چھٹی حوالہ ہیں گا گئے ہے۔

یے کہ مائل کواب سرکاری ملازمت بمقام D.H.Qھنگوسے Relieved کیا گیا۔ے۔ يد كسائل كامقدمه عدالت ميں زير تجويز ہے، اور ابھى تك سائل پر الزام ہے، سائل پر لوئى جرم ثابت نبيں ہوا ہے۔

يكرساكل عرصه 25سال سے زائد محكم صحت ميں خدمات سرانجام دے رہا ہوں۔

میکه بال بچ دار ہوں، کرامیہ کے مکان میں سکونت پذیر ہوں،اور تین سکول جانے والے بچوں سمیت اپنی،زوجہ ام اورا پنے بچوں کا واحد فیل ہوں۔ سپکرسائل کوکوئی Suspension Letter یا کسی بھی صورت کوئی اطلاع نہیں دی گئی ہے، اور نہ ہی کسی ا^{نک}وائری میں بلایا ہے، اور نہ ہی کسی ا^{نکو}ائری ر پورٹ کی قل فراہم کی گئے ہے۔

بیکسائل کو بغیر کسی گناہ/ جرم ثابت کے ،اتی بوی قم سے حروم کیا گیا،اور ساتھ ہی مقالی علاقہ سے بیڈل اور المیان علاقہ میں بے عزت اور بدنام كما كما جكى دجه المال اورمائل كالل خانه انتائى ونى كوفت/مشكلات يس بتلاءين-

میکسائل کی بے گناہی انشاءاللہ عدالت میں ثابت ہوجائے گی۔

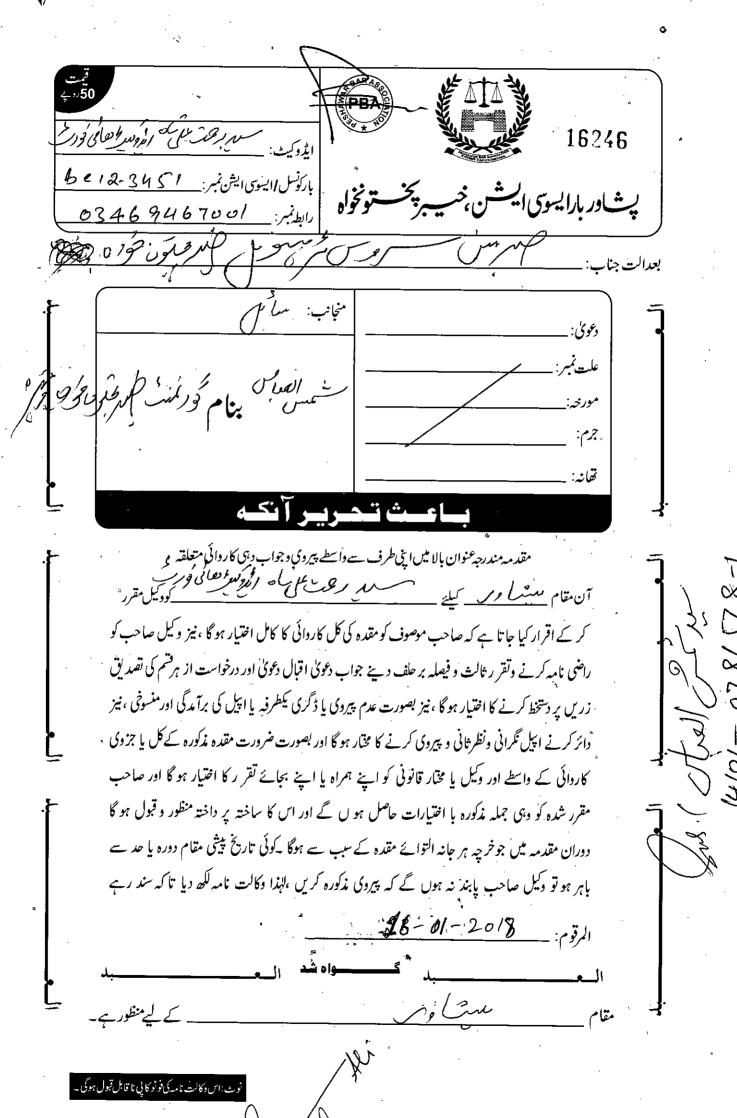
استدعاہے۔ کے سائل کی تخواہ سے بلاوجہاور غیر قانونی تخواہ کثوتی رو کئے گے احکامات صادر فرمائے جا کیں۔مور خد 17-9-Oct

سأئل/مليرياسپردائزر

سيدشس العباس ولدسيدغلام ابراجيم سكنه فتنجانو كليه هنكوحال كوباث 1-14101-0781578 رابط نمبر 9809001-0332

Dated 9-10-2017

Ano.D



BEFORE THE HONOURABLE KHYBER PAKHTUN KHAWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No 65 2018

SYED SHAMSUL ABAS Malaria supervisor, Office of the District health officer District Hangu

(Appellant)

VERSUS

- 1. Province of Khyber Pakhtunkhawa, through Chief Secretary Civil Secretariat, Peshawar.
- 2. Secretary to the Govt of Khyber PakhtunKhawa Health Department Khyber Pakhtukhawa Peshawar.
- 3. Director General, Health Services, Khyber Pakhtunkhawa, Peshawar.
- 4. District Health Officer Hangu.

(Respondents)

Preliminary Objections:

- 1. That the present appeal is beyond the jurisdiction of this honourable Tribunal.
- 2. That the appellant has concealed material facts from the honourable Tribunal.
- 3. That the appellant has not come to this tribunal with clean hands.
- 4. That the appellant has got no case of action.
- 5. That the appellant has no locus standi for this case.
- 6. That the present appellant is not maintainable in its present form.

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS 1-4

RESPECTFULLY SHEWETH,

- 1. Admitted to the extent that the appellant was working as Malaria Supervisor in office of the District Health Officer Hangu.
- 2. Pertain to record.
- 3. Incorrect as stated, that the appellant has been suspended vide DHO office letter No 3605-08/Inay/dated 21.6.2017 (Annexed A)
- 4. In correct, proper departmental enquiry has been conducted and the accused has been called for personnel hearing "enquiry (annexed B)" The accused was also found absent from duties as pointed out through biometric record with effect from 21-6-2017 to 19-09-2017. (Annexed C).
- 5. Incorrect, response in connection with department appeal has already been made vide this office letter no. 4288/enquiry dated 07/11/2017 "Annexed D"
- Not concern. Hence no comments.

GROUNDS

- A. In correct, the appellant has been treated in accordance with law.
- B. In correct, as explained in Para 4 of fact.
- C. In correct, that proper and impartial enquiry has been conducted
- D. In correct, that the order issued with proper criteria and codal requirements.
- E. In correct, as explained in Para D.
- F. In correct the appellant was treated in accordance with law.
- G. In correct, that the appellant was preceded with E& D Rules 2011.
- H. In correct that proper enquiry has been conduted while reply has also been made against departmental appeal.
- I. In correct, as explained in Para D.
- J. In correct all the proceedings conducted against the appellant were according to the civil services E&D rules 2011. Further, he was awarded punishment in light of recommendation of enquiry committee.
- K. Not concern. Hence no comments.

Some other grounds may be adduced at the time of hearing.

It is therefore humbly prayed that the instant appeal may graciously be dismissed

with cost.

Enclosure

District Health Officer

Hangu

(Respondent no.4)

Director Scheral Health Services Khyber Pakhtunkhwa Peshawar (Respondent no.3)

Secretary Health Govt: of Khyber Pakhtunkhwa Peshawar

(Respondent no.2)

OFFICE OF THE DISTRICT HEALTH OFFICER DISTRICT HANGU 3605-08/Frand Dated Hangu the 2

OFFICER ORDER

Mr Shamsul Abbas Malaria Supervisor is herby suspended from his duty with immediate effect in light of complaint lodged / FIR lodged by Haji Wilyat Khan S/O Haider Khan age 70 years Umar Abad Hangu regarding sexual intercourse / sodomy with his grandson named Rehmat Ullah S/O Nawab Khan aged 12 years in OPD Block DHQ Hospital Hangu.

Subsequently the following inquiry committee is herby constituted in order to conduct fact finding enquiry, probe into the matter while submit detail report within 07 days positively.

- 1. Dr Syed Muhammad Samin DHO Hangu.
- 2. Dr Imran Khan EPI Coordinator Hangu.

SD DISTRICT HEALTH OFFICER

Ref: # 3605 - 08. Winaud Dated Hangu the 21/6117

- 1. District Nazim Hangu for information please.
- 2. Deputy Commissioner Hangu for information pleases.
- 3. Medical Superintendent Shaheed Farid Khan Hospital DHQ Hospital Hangu for
- 4. Enquiry Committee for information and compliance.
- 5. Haji Wilayat Khan S/O Hider Khan for information with the request to liaise with

6. Shams UI Abbas Malaria Supervisor DHQ Hospital Hangu for information with the instruction to appear before the enquiry committee

> DISTRICT HEALTH OFFICER HANGU

Address: District Secretariat: Near Govt: Degree College District Hangu: PH # +92-925-623034-35-Fax-+92-925-(Page 1 of 1)

ENQUIRY REPORT

Incompliance to District Health Officer Hangu office Order no. 3605-08 dated 21/06/2017 regarding the enquiry in light of complaint lodged by Haji Wilyat Khan s/o Haider Khan age 70 years Umar Abad Hangu regarding sexual intercourse/sodomy with his grandson named Rehmat Ullah s/o Nawab Khan aged 12 years by Mr. Shams Ul Abbas Malaria Supervisor DHQ Hospital Hangu

SCOPE OF THE ENQUIRY

I the undersigned was directed to probe into the matter precisely and submit the report.

COMPLAINT

Complaint lodged by Haji Wilyat Khan s/o Haider Khan age 70 years Umar Abad Hangu regarding sexual intercourse/sodomy with his grandson named Rehmat Ullah s/o Nawab Khan aged 12 years by Mr. Shams Ul Abbas Malaria Supervisor DHQ Hospital Hangu

DISCUSSION/WRITTEN STATEMENT

In view of the self Explanatory statements of

- - 2. Haji Wilyat Khan s/o Hider Khan (Annexed-II)
 - 3. Hafiz Salman s/o Muhammad Khan (Annexed-III)
 - 4. Mufti Muhammad Imran s/o Muhammad Afzal (Annexed-IV)
 - 5. Zakria s/o Nawab Khan (Annexed-V)
 - 6. Shamsul Abbas Malaria Supervisor (Annexed-VI)
 - 7. Dr. Fazal Mula MS Shaheed Farid Khan DHQ Hospital Hangu,Mr. Gulap Khan and Mr. Syed Ahmed Junior Clerks (Annexed-VII)
 - 8. OPD Register and Biometric Attendance Sheet (Annexed-VIII)
 - 9. FIR (Annexed-IX)
 - 10. Medical Report (Annexed-X)
 - 11. Photo Copy of Peshawar High Court Judgment "Annexed-XI)
 - 12. Photo copy of Previous Enquiry Report "Annexed-XII)
 - 13. Thoroughly verbal discussion with MS DHQ Hospital Hangu and Mr. Noor Khan Driver, Mr. Ayaz ASI City Police Station Hangu
 The following are concluded.

CONCLUSION

- 1. The sexual/sodomy attempt by Mr. Shams Ul Abbas Malaria Supervisor on Rehmat Ullah s/o Nawab Khan aged 12 years is confirmed from the written self explanatory statement of Hafiz Suliman s/o Muhammad Khan and Mufti Muhammad Imran s/o Muhamad Afzal as Shamsul Abbas, his brother named Shah Ali Asgher and his friend Noor Khan shown excused to the said victim and offered amount in order to do settlement and avoid FIR, which shows the consent of sexual assault of Shams Ul Abbas.
- 2. Mr. Ayaz Khan ASI City Police Station Hangu stated verbally that he collected dirty cloths of said victim and sent for DNA test for confirming of sodomy.
- 3. Medical Report shows that no semen was seen in the rectum in time of examination; however, for rectum examination, proctoscopy required which is impossible without general anesthesia while no such process has been conducted for rectum examination, so the medical report also needs attention.
- 4. Shams UI Abbas Malaria Supervisor admitted in his own written statement that the victim concerned approached him twice and demanded for money, which shows that they both have some relation before.

- 5. Victim Rehmat Ullah was asked by Shams Ul Abbas to come inside OPD Room and he gave him two OPD chits and also asked him to come back to OPD room for giving him bandages which indicates the intention of Shams Ul Abbas.
- 6. Noor Khan Driver DHO Office Hangu verbally confirmed before enquiry committee that he tried to resolve the said matter with the victim's family being friend of Mr. Shams Ul Abbas and his brother Shah Ali Asgher, however, the said driver refused to give written statement.
- 7. Shamsul Abbas issued two numbers of OPD chits vide OPD no. 7351 dated 20-6-2017, second OPD no. 7368 dated 20-06-2017 which is fake number as crossed checked with main OPD register and Eye OPD register, as main OPD register shows name of Ms Hayat Bibi while Eye OPD shows name of Rehmat Ullah, which illustrates that Mr. Shamsul Abbas issued multiple OPD chits on same OPD number.

8. All hospital staff are not agree to give statements in favor of Mr. Shams UI Abbas Malaria Supervisor nor they authenticate his ethics, while verbally all employees are confirming that Shamsul Abbas is habitual of such practice.

9. Shamsul Abbas was performing duties in OPD without official order of MS DHQ Hospital Hangu as his name was not found in duty Rota of June, 2017, so, MS DHQ Hospital Hangu didn't provide duty Rota and verbally stated that he doesn't know the real place of duty of Shams UI Abbas.

FINDINGS/RECOMMENDATION

1. Before imposing the penalty, the department authorities are requested to please call Mr. Shams Ul Abbas for personnel hearing.

2. Mr. Shams Ul Abbas Malaria Supervisor violated the decorum of hospital and his practice is against medical ethics, so, he must not be permitted to resume his duties in the hospital.

- 3. Medial Report has not been conducted as per the protocol of MLC, thus, no decision may be taken in light of current Medical Report while enquiry may also conducted against the concerned Medical Officer.
- 4. Clear embezzlement was found in issuance of OPD chits, so, an appropriate special audit of OPD charges of previous 3 months may be made through anti corruption department.
- 5. MS DHQ Hospital Hangu may also be asked to be vigilant in performance of his duties while give close attention to the performance of entire staff duties in order to circumvent such practice inside the premises of hospital and save the decorum of hospital and medical ethics.
- 6. Shams UI Abbas Malaria Supervisor must be dealt in light of Honorable Peshawar High Court judgment no. 4963/Judl dated 9-12-2014 "attached" clause Para. 8 wherein it was announced that the category of deterrent punishment, so that, in future no one holding the post of the nature and in light of enquiry recommendations already conducted against Mr. Gul Zali ExzMcdigal Technician "enquiry attached".

Dr. Imran Khan

Coordinator EPI, DHO Office Hangu

Dr. Syed Muhamunad Samin District Health Officer Hangu

(Annexed-I) iloi cu من منه راد الله والرفال فال فال فالم الله والم post de Go D. Og C'Sin y Sie -670 and 35 gr /3/3/3/ 20/6/2017 outil 2/1/2 - Ces (1/2) uheo (2) أول المحل - العرو والربي بي الما كلي - أفي 10003. Vsw 2 2/3 OPD 00 11 viv 25 i on 6 led 20 1 1/2 1/18 -0,9 W/6/2, 8/2 W.C. W10223 V 25 i W1/5 الله و دی می می الله و دی الله Weishilline ilw. & 89 100 ju de 36 60 jul vio 1/20/ 101-0/2 L gies i) Jul 3 ps الله الفارنا الفارنا المروح أرون مي 35.00 0 5 52 12 ils. i

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(Annexed-II) uh

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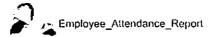
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Government of Khyber Pakhtunkhwa, Health Department Attendance Status Report

From 21-06-2017 To 19-09-2017

Name: shamsul abbas, Father Name: ghulam ibrahim

Designation: Malaria Supervisor BPS: 12, Department: OPD,

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OFFICE OF THE DISTRICT HEALTH OFFICER HANGUARD PH # +92-925-621508-35-Fax #+92-925-623773 E-mail: edohealthhangu@gmail.com, Ref: # 4288 / Eargy Dated Hangu the 7/11/17

To,

The Director General Health Services, Govt: of Khyber Paktunkhwa Peshawar

Subject:

Application

Dear Sir,

With reference to your good office letter no. 17447/AE-VI dated 30/10/2017, I have the honor to state that Mr. Shams UI Abbas PHC Tech MP has been suspended vide this office order no. 3605-08/enquiry dated 21/06/2017 "as attached". However, the said official found absent with effect from 21/06/2017 till 19-09-2017, (03 months 8 days.) biometric attendance attached for ready reference.

DISTRICT HEALTH OFFICER HANGU

Address: District Secretariat: Near Govt: Degree College District Hangu: PH # +92-925-623034-35-Fax-+92-925-623773 E-mail: edohealthhangu@gmail.com, (Page 1 of 1)



DIRECTORATE GENERAL HEALTH SERVICES KHYBER PAKHTUNKHWA, PESHAWAR.



Office Ph# 091 - 9210269 Exchange# 091 - 9210187, 091 - 9210196, Fax #091 - 9210230 All communications should be addressed to the Director General Health Services Peshawar and not to any official by name.

No.17497 / AE-VI.

To

Dated 30//0/2017

The District Health Officer, Hangu

Subject: -

APPLICATION.

I am directed to refer to the subject noted above and to enclose an application in respect of Mr. Shamsul Abbas PHC Technician (MP) working under your control which is self explanatory for furnishing your comments urgently so as to proceed further.

DIRECTOR GENERAL HEALTH SERVICES KHYBER PAKHTUNKHWA PESHAWAR.

ضور جناب ڈائر کیٹر جنرل صاحب محکمہ صحت خیبر پختو نخوا، پیثاور برخلاف غیرقانونی کٹوتی از ماہوار شخواہ (تبین ماہ، آٹھے دن) بلادجہ از ما وارتخواه سائل/مايرياسپر دا نزر D.H.Q ميټال ضلع هنگو جناب عالى گذارش اينك سائل بناور ملیریاسپر دا تزرسال 1991 ہے محکمہ صحت ضلع ھنگو کے مقام D.H.Q ہپتال ھنگومیں ملازمت کررہا ہوں۔ یک مورند 2017-06-20 کوسائل کے خلاف ایک بے بنیادی بردروغ FIR تھانہ ٹی ھنگومیں درج ہوکر سائل اپنی گرفتاری کے بعد عدالت سے 2017-07-05 كور ہا ہوا۔انشاءاللە مقدمەكى با قاعدہ ساعت كى صورت ميں باعز ت برى ہوجا وُ نگا۔ یک بیائل نے اپنی رہائی کی فوری بعد ہپتال جا کراپی ڈیوٹی شروع کرنی جاہی ، تن D.H.O صاحب بھٹکونے سائل کوذاتی طور پر بلا کرکہا کہ تم في الحال (فيصله عد الت تك) ملازمت كيليم سبتال مت آؤ، البيته كهر برموجودر بهو بمسى بهي ونت تهمين دُيو في كيليم بلاسكته بين _ادر ما بوار تخواه . وصول کیا کرو۔ يكه منائل گذشة قرياده ماه سے متواتر بائيوميٹرک مشين پررواز نه فاضری بھی لگار ہا ہوں۔ بركة سأل كوعرصة قريبا نين ماه بعد، D. H. O صاحب هنگونے محرم الحرام بين ڈييل سرانجام دينے کيليے بلايا، سائل نے ڈيوٹی سرانجام دی۔ جسکے بعد سائل کوئم ہوا، کہ سائل کی تنخواہ ہے کل ملغ-/96000رو لیا کی کٹوتی کا حکم صا در ہو چکا ہے۔ سائل کواس تنخواہ کٹوتی کا کوئی حکم نامہ یا سرکار ک چینی حوالے ہیں کی گئے ہے۔ ر کرسائل کواب سرکاری ما زمت بمقام D.H.Q هنگوے Relieved کیا گیا ہے۔ یے بسائل کا مقد معدالت میں زیر تجویز ہے، اور ابھی تک سائل پرالزام ہے، سائل پرکوئی جرم نابت نہیں ہوا ہے۔ (3 بركه سأئل عرصه 25 سال سے زائد محكمه صحت میں خدمات سرانجام دے رہا ہوں۔ بیکہ بال بچے دار ہوں ، کراہیے مکان میں سکونت پذیر ہوں ، اور نین سکول جانے والے بچوں سمیت اپنی ، زوجہ ام اور اپنے بچوں کا واحد فیل ہول۔ پیکہ بال بچے دار ہوں ، کراہیے کے مکان میں سکونت پذیر ہوں ، اور نین سکول جانے والے بچوں سمیت اپنی ، زوجہ ام اور ا (2 کے سائل کوکو کی Suspension Letter یا سی جھی صورت کوئی اطلاع نہیں دی گئی ہے، اور نہ ہی کسی انگوائری میں بلایا ہے، اور نہ ہی کسی انگوائری یک سائل کو بغیرس گناہ/ جرم نابت کے ،اتی بوی قم سے محروم کیا گیا،اور ساتھ ہی مقامی علاقہ سے بیڈ ل اور اہلیان علاقہ میں بے عزت اور بدنام رايورٺ کي نقل فراڄم کي گئي ہے۔ كَيَا كَيَا حِبَلَ وجِهِ مِن مَا مِن الرِّسائل كِي اللَّ خاندانتها لَى وَانْ كُونْت مُنْكَات مِن بِتلاء مِن ا بركيه بأخل كى بے گناہى انشاءاللہ عدالت ميں ثابت ہوجا ئيگی۔ استارعا ہے۔ کیسائل کی تنخواہ سے بلا دجہاور غیر قانونی تنخواہ کموتی رو کئے کے ایکا مات صادر فرمائے جا کیس مورخہ استارعا ہے۔ کیسائل کی تنخواہ سے بلا دجہاور غیر قانونی تنخواہ کموتی رو کئے کے ایکا مات صادر فرمائے جا کیس مورخہ مأتل/مليرياسيروائزر سيتمس العباس ولدسيدغاام ابراتبهم سكنية تنجانو كليهمتكوهاك 1-14101-0781578 رابط نبر 9809001-0332