

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 164/2018

Date of institution ... 06.02.2018

Date of judgment ... 05.03.2020

Mrs. Fazilat Bibi W/O Aslam Khan,
LHV (Jr. PHC Technician), Cat-D Hospital, Wari Dir (Upper).
... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Health Department, Peshawar.
2. The Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. The District Health Officer, District Dir (Upper).
... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 26.09.2017 WHEREBY THREE PUNISHMENT WERE IMPOSED ON THE APPELLANT IN UTTER VIOLATION OF LAW AND RULES AND AGAINST THE APPELLATE ORDER DATED 19.12.2017 COMMUNICATED TO THE APPELLANT ON 17.01.2018 WHEREBY THE STOPPAGE OF THREE ANNUAL INCREMENTS WAS CONVERTED INTO TWO ANNUAL INCREMENTS.

Mr. Noor Muhammad Khattak, Advocate .. For appellant.
Mr. Ziaullah, Deputy District Attorney .. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI .. MEMBER (JUDICIAL)
MR. MIAN MOHAMMAD .. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Counsel
for the appellant and Mr. Ziaullah, Deputy District Attorney
alongwith Mr. Saleem Javed, Litigation Officer for the
respondents present. Arguments heard and record perused.

M. Amin
5-3-2020

2. Brief facts of the case as per present appeal are that the appellant was serving in Health Department as Junior PHC Technician. She was imposed ^{minor} major penalties

1. Stoppage of three annual increments without accumulative effect .

2. The period from 01.01.2017 to 31.08.2017 was treated as leave without pay.

3. She was directed not to perform private practice which was banned by the Provincial Government in the hospital premises.

4. She was directed to report for duty at category "D" hospital Wari with immediate effect till further order.

5. She will immediately vacate the quarter in the premises of category "D" hospital Wari.

6. She was warned to be careful in future, in case of failure drastic action will be taken against her and there will be no excuse.

Vide order dated 26.09.2017 by the competent authority on the allegation of misconduct. The appellant filed departmental appeal on 15.11.2017 which was partially accepted and the aforesaid penalties were converted into stoppage of two annual increments instead of three increments, she should give an affidavit on stamp paper to the effect that she will not run the clinic in the Government Hospital Premises in future and she was warned to be careful in future and instructed to get prior permission before leave the hospital vide order dated 19.12.2017 hence, the present service appeal on 06.02.2018.

M. M. M.
8.3.2020

3. Respondents were summoned who contested the appeal by filling written reply/comments.

4. At the very outset learned counsel for the appellant contended that under FR-29, the respondent-department was bound to fix specific period for stoppage of annual increments but the respondent-department has imposed penalty of stoppage of two annual increments without mentioning of any specific period, therefore, it was vehemently contended that the respondent-department has violated the mandatory provisions of FR-29. It was also contended that the appellant has already given an affidavit on stamp paper that she will not run private clinic in government hospital premises in future and prayed for acceptance of appeal.


5. On the other hand, learned Deputy District Attorney opposed the contention of learned counsel for the appellant and contended that the departmental authority has already taken lenient view and has rightly imposed the penalty of stoppage of two annual increments and prayed for dismissal of appeal.

6. Perusal of the record reveals that the appellant was imposed aforesaid ^{minor} ~~major~~ penalties mentioned in the order dated 26.09.2017 on the allegation of her misconduct. The record further reveals that the appellant filed departmental appeal which was partially accepted and the aforesaid penalties were converted into stoppage of two annual increments and giving affidavit on stamp paper to the effect that she will not run the private clinic in the government hospital premises in

M. P. Amin
15.3.2020

future. As per learned counsel for the appellant that an affidavit on stamp paper to the effect that she will not run the private clinic in the government hospital premises in future has already been furnished by the appellant to the respondent department, so far as stoppage of two annual increments is concerned, the respondent-department was bound to mention any specific period for stoppage of two annual increments under Fundamental Rule 29 but the respondent-department has not mentioned any specific period for stoppage of two annual increments and they have violated the Fundamental Rule 29, therefore, the same is illegal. As such, we partially accept the appeal, set-aside the impugned order and convert the penalty of stoppage of two annual increments into stoppage of two annual increments for a period of two years. The appeal is disposed of in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
05.03.2020



(MIAN MOHAMMAD)
MEMBER



(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

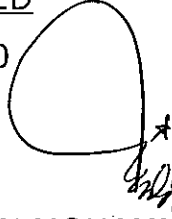
05.03.2020

Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney alongwith Mr. Saleem Javed, Litigation Officer for the respondents present. Arguments heard and record perused.

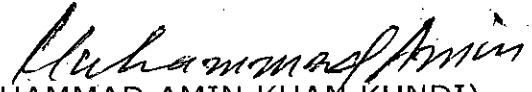
Vide our detailed judgment of today consisting of four pages placed on file, we partially accept the appeal, set-aside the impugned order and convert the penalty of stoppage of two annual increments into stoppage of two annual increments for a period of two years. The appeal is disposed of in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

05.03.2020



(MIAN MOHAMMAD)
MEMBER



(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

29.11.2019


Appellant in person present. Addl: AG for respondents present. Appellant seeks adjournment as his counsel is not available today. Adjourn. To come up for arguments on 20.01.2020 before D.B.



Member


Member

20.01.2020

Due to general strike on the call of the Khyber Pakhtunkhwa Bar Council, learned counsel for the appellant is not available today. Mr. Usman Ghani learned District Attorney for the respondents present. Adjourned to 05.03.2020 for arguments before D.B.

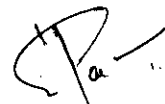

(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

07.05.2019


Husband of the appellant on behalf of appellant present. Mr. Mian Amir Qadir learned District Attorney alongwith Javid Saleem SO present. Learned counsel for the appellant has not approached from Peshawar. Husband of the appellant requested for hearing of the present service appeal at Principal Seat Peshawar as learned counsel for the appellant is practicing at Peshawar. Representative of the respondent department also arrived from Peshawar. Consequently request of the husband of the appellant is accepted. Adjourn. To come up for arguments on 17.07.2019 before D.B at Principal Seat Peshawar.


Member


Member
Camp Court, Swat.

17.07.2019


Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Mr. Hashmat Bakhsh, Coordinator for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 08.10.2019 for arguments before D.B.


(HUSSAIN SHAH)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

8-10-2018


*Due to tour of Honble Member
to camp court Swat the case
is adjourned to 29-11-2018*


Reader

07.01.2019


None present on behalf of the appellant. Mr. Mian Amir Qadir, District Attorney for respondents present. Notice be issued to appellant and her counsel for attendance and arguments for 01.04.2019 before D.B at Camp Court Swat.



(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member
Camp Court Swat

01.04.2019

Mr. Aslam Khan, husband of the appellant and Mr. Mian Ameer Qadir, District Attorney alongwith Mr. Javed Saleem, Litigation Officer for the respondents present. Husband of the appellant seeks adjournment on the ground that learned counsel for the appellant is not available today. Adjourn. To come up for arguments on 06.05.2019 before D.B at Camp Court Swat.

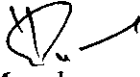

(M. Amin Khan Kundi)
Member
Camp Court Swat


(M. Hamid Mughal)
Member
Camp Court Swat

06.05.2019

Appellant absent. Learned counsel for the appellant absent. Mr. Mian Amir Qadir learned District Attorney present. Adjourn. To come up for arguments on 07.05.2019 before D.B at Camp Court, Swat.


Member


Member
Camp Court, Swat.

30.07.2018

Mr. Kamran Khan, Advocate put appearance on behalf of Mr. Noor Muhammad Khattak, Advocate, counsel for the appellant. Mr. Kabirullah Khattak, Addl: AG for respondents present. Written reply/comments not submitted. Last chance is given to the respondents to submit written reply/comments on 04.09.2012 before S.B at camp court Swat.


Chairman

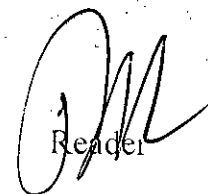
04.09.2018

None for the appellant present. M/S Amjid Ali, Assistant and Jafar Ali, Assistant alongwith Mr. Usman Ghani, District Attorney for respondents present. Written reply submitted on behalf of the respondents. Case to come up for arguments on 05.11.2018 before D.B at camp court Swat.

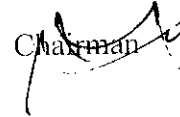

Chairman
Camp Court Swat

05.11.2018

Due to retirement of the Hon'ble Chairman Service Tribunal is incomplete. Tour to Camp Court Swat has been cancelled. To come up for the same on 07.01.2019 at camp court Swat.


Reader

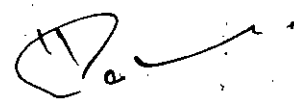
24.04.2018 Clerk of the counsel for appellant and Addl: AG for the respondents present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on **07.05.2018** before S.B.


Chairman

07.05.2018 The Tribunal is non functional due to retirement of the Honorable Chairman. Therefore, the case is adjourned. To come up for the same on **26.06.2018** before S.B.


Reader

26.06.2018 Junior counsel for the appellant present. Mr. Muhammad Jan, DDA for the respondent present. Written reply not submitted. Requested for adjournment. Adjourned. Last opportunity is granted. To come up for written reply/comments on **30.07.2018** before S.B.


Member

19.02.2018

Learned counsel for the appellant present. Preliminary arguments heard and case file perused.

Learned counsel for the appellant argued that the appellant is serving as Lady Health Visitor (B-12) since 1995. That while serving at Category-D Hospital, Wari Dir (Upper), the appellant was served with the impugned order dated 26.09.2017 whereby a past & closed transaction was opened against her and resultantly three penalties were imposed on the appellant without conducting regular inquiry in the matter and without providing opportunity of personal hearing. Further argued that the appellant was served with the appellate order of respondent No. 2 dated 19.12.2017 (claimed to have communicated on 17.01.2018) whereby the stoppage of three annual increments were converted into two annual increments with cumulative effect. That no charge^{sheet} and statement of allegation has been served on the appellant before issuing the impugned order dated 26.09.2017. That no show cause notice has been served on the appellant. That no chance of personal hearing/defense was given to the appellant. That no inquiry was conducted in the matter which is necessary in punitive actions as per Supreme Court Judgments. That the appellant preferred departmental appeal on 24.11.2017 which was not responded within the statutory period of 90 days.

Points raised need consideration. Admitted for regular hearing subject to all legal objections including limitation. The appellant is also directed to deposit security and process within (10) days, whereafter notice be issued to the respondents department for written reply/comments on 09.04.2018 before S.B.


(Gul Zeb Khan)
Member

09.04.2018



Appellant absent. Clerk of the counsel present on behalf of appellant. Mr. Kabir Ullah Khattak, Addl: AG alongwith Dr. Ibrar Muhammad, Dental Surgeon for the respondents present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on 24.04.2018 S.B.


Member

Appellant Deposited
Security & Process Fee

Form-A
FORM OF ORDERSHEET

Court of _____
Case No. 164/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	06/02/2018	<p>The appeal of Mst. Fazeelat Bibi presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	08/02/18.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>19/02/18.</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 164 /2018

FAZEELAT BIBI

VS

HEALTH DEPTT:

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APPELLANT

THROUGH:


NOOR MUHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 164 /2018

Khyber Pakhtunkhwa
Service Tribunal

Mrs. Fazilat Bibi W/O Aslam Khan,
LHV (Jr. PHC Technician), Cat-D Hospital, Wari Dir (Upper)

Diary No. 177
Dated 6-2-2018

..... **APPELLANT**

VERSUS

- 1- Government of Khyber Pakhtunkhwa through Secretary (Health) Department, Peshawar.
- 2- The Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
- 3- The District Health Officer, District Dir (Upper).

..... **RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 26-09-2017 WHEREBY THREE PUNISHMENTS WERE IMPOSED ON THE APPELLANT IN UTTER VIOLATION OF LAW AND RULES AND AGAINST THE APPELLATE ORDER DATED 19-12-2017 COMMUNICATED TO THE APPELLANT ON 17.1.2018 WHEREBY THE STOPPAGE OF THREE ANNUAL INCREMENTS WAS CONVERTED INTO TWO ANNUAL INCREMENTS

PRAYER:

Filed to-day
Registrar
6/2/18

That on acceptance of this appeal the impugned orders dated 26-09-2017 and 19-12-2017 may very kindly be set aside and the respondents may be directed to restore the Annual Increments of the appellant with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

- 1- That appellant is the bonafide resident of Tehsil Wari District Dir (Upper) and an employee of the respondent's Department and is serving as Lady Health Visitor (Jr. PHC Technician) (BPS-12) since 1995. That right from appointment till date the appellant has served the Department quite efficiently, honestly and up to the entire satisfaction of her high ups.
- 2- That appellant while serving at Category-D Hospital Wari Dir (Upper) the appellant was served with the impugned order

date 26-09-2017 whereby a past & closed transaction was opened against the appellant and resultantly three penalties were imposed on the appellant without conducting regular inquiry in the matter and without opportunity of personal hearing was provided to the appellant. Copy of the impugned order is attached as **Annexure A.**

3- That feeling aggrieved from the impugned order dated 26-09-2017 the appellant filed Departmental Appeal before Respondent No.2 being appellate authority for the appellant. Copy Departmental Appeal is attached as **Annexure B.**

4- That the said Departmental Appeal of the appellant was forwarded to Respondent No.3 vide Respondent No.2 letter dated 24-11-2017 for comments and detail report on the subject matter, which was replied vide letter dated 06-12-2017 by respondent no. 3. Copy is attached as Annexure **C&D.**

5- That astonishingly the appellant was served with the appellate order of respondent no.2 dated 19-12-2017 communicated to appellant on 17.1.2018 whereby the stoppage of three annual increments were converted into two annual increments with cumulative effect. Copy is attached as Annexure **E.**

6- That appellant feeling aggrieved and having no other remedy preferred the present appeal on the following grounds amongst the others.

GROUND:

A- That the impugned orders dated 26-09-2017 and 19-12-2017 are against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.

B- That the appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents have violated Article 4 & 25 of the Constitution of Islamic Republic of Pakistan 1973.

C- That the impugned orders dated 26-09-2017 and 19-12-2017 has not been issued by the respondents in accordance with law and Rules.

D- That no charge sheet and statement of allegation has been served on the appellant before issuing the impugned order dated 26.9.2017.

- E-** That no show cause notice has been served on the appellant before issuance of the impugned order dated 26.9.2017.
- F-** That no chance of personal hearing/defense was given to the appellant while issuing the impugned orders dated 26-09-2017 and 19-12-2017 by the respondent.
- G-** That no proper inquiry was conducted in the matter which is as per Supreme Court Judgments is necessary in punitive actions against the appellant.
- H-** That, the appellant has been discriminated in the matter while issuing the impugned orders dated 26-09-2017 and 19-12-2017.
- I-** That the stoppage of annual increments with cumulative effect is not permissible under the law and Rules.
- J-** That the 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: 25-01-2018

APPELLANT

Fazilat
FAZILAT BIBI

THROUGH:

lf
NOOR MOHAMMAD KHATTAK

&
**MUHAMMAD MAAZ MADNI
ADVOCATES,
HIGH COURT, PESHAWAR**



Health Department

Dir Upper.

OFFICE OF THE DISTRICT HEALTH
OFFICER DISTRICT DIR UPPER

No. 4970-76/ PF, the 26/09/2017.
(011-880516 & 0911-881075) Email: edohdiru@yahoo.com

OFFICE ORDER.

In exercise of Power delegated to the undersigned vide Establishment Department Notification No. SOR-I (S&GAD) 1-201/98, dated, 7th September 1998, duly Endorsed by Director General Health Services Khyber Pakhtunkhwa Peshawar letter No. 4747-714/Personal, dated, 20-04-2015.

Mrs. Fazilat Begum PHC Technician (MCH) posted to Category "D" Hospital Wari Dir Upper, Charges leveled against her are as under:-

1. Whereas:- She was posted to Category "D" Hospital Wari since her appointment during the year 1995 and has performed her duties in the said Health facility till the sanctioned leave.
2. Whereas:- A written complaint against Mrs. Fazilat Begum has submitted by Mr. Sher Ali S/o Yousaf Khan r/o Dislore District Dir Upper regarding mismanaging of her wife during delivery of his wife. In light of complaint the enquiry committee was constituted comprising of Lady Doctor Saira Rashid WMO and Mr. Zia Ullah Drug Inspector, vide disciplinary proceeding order No. 25-29-dated, 08-01-2016, Charge Sheet Order No. 30 dated, 08-01-2015 in which the allegations were communicated to the accused Mrs. Fazilat Begum.
3. Whereas:- The Enquiry report was received to the office of undersigned on 25-01-2016, in which the enquiry committee recommended that Mrs. Fazilat Begum and Mrs. Gul Rana Dai may be compulsory retire/ terminated and may be requested District Police Officer for lodging FIR under the Sections 269,275,276 of the PPC and 322 of PPC.
4. Whereas:- The Show notice were served upon her vide order No. 289-96 dated, 27-01-2016, in which the recommendations of Enquiry Committee were communicated to the accused Mrs. Fazilat Begum. After detail correspondence reply of the Show Cause notice was received to the office of undersigned on dated, 16-02-2016, which was not satisfactory.
5. Whereas:- The Accused Mst. Fazilat Begum were involved in mall practice as well as private practice in the premises of the Hospital, the Hospital Management

Attested
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(5)

as well as District Administration issued repeatedly instructions to her to stop illegal practice in the premises of the hospital but in vain.

6. Whereas:- Mst:- Fazilat Begum availed one year EOL with the condition that after completion of her leave she will report to District Health Office for further posting in the District.
7. Whereas:- During the leave period she was sitting in Govt: accommodation in the premises of the Hospital at Category "D" Hospital Wari and carried out illegal private practice in the front of Labour Room, in spite of repeated warning she still performed illegal private practice.
8. Whereas:- After Completion of one year EOL Mrs. Fazilat Begum was posted to Category "D" Hospital Patrak due to non-availability of vacant post at Category "D" Hospital Wari, because another LHV has been posted to Category "D" Hospital Wari to minimize the work load of lady patients, but after arrival the accused Mrs. Fazilat Begum insisting for posting to Category "D" Hospital Wari to carry out the illegal private practice in the premises of the Hospital.
9. Whereas:- The Accused were posted to RHC Nehag Bandai vide this office order No. 150-52 dated, 01-02-2017, with the conditions that to perform her duties regularly in case of failure single day absenteeism disciplinary proceedings will be initiated against her, but she still insisting for posting at Category "D" Hospital Wari to carry out illegal practice in the premises of the Hospital to failed the well-equipped and furnished Government Labour Room which is providing 24/7 Services to the needy female patients of the area.
10. Whereas:- The Accused Mrs. Fazilat Begum are residing in the Government Accommodation and not vacating the Govt: residence to be allotted to deserving obedient officials of the Hospital because there is acute shortage of residences in the hospital.
11. Whereas:- The Accused is not performing her duties at RHC Nehag Bandai, this office issued explanation but till date single reply has not received to this office. The Incharge RHC Nehag Bandai have also telephonically informed the office of the undersigned that she is not interested in Government duty and after arrival she not coming to the Hospital for duty.
12. Whereas:- The Accused is still residing in Government accommodation at Category "D" Hospital Wari and performing illegal private practice in the premises of the Hospital to interrupt in Government Labour Room and she want to failing of Government writ in the Hospital.

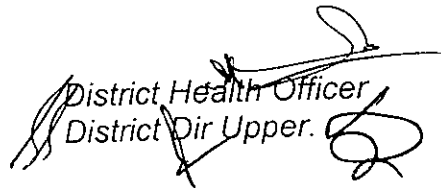
Now, therefore, after completion of all codal formalities and on ascertaining the facts that the Charges leveled against the accused have been proved.

Attested
by

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Now, I Dr. Iftikhar Ahmad District Health Officer District Dir Upper, being competent authority in exercise of the power under Rule-4 (1) (a), the following Minor Penalties are hereby imposed Mrs. Fazilat Begum PHC Technician (MCH) attached to RHC Nehag Bandai Dir Upper, till the final decision of honorable Courts, High Court Bench Darul Qaza Swat, District and Session Judge Court Wari and Service Tribunal Camp Court Swat.

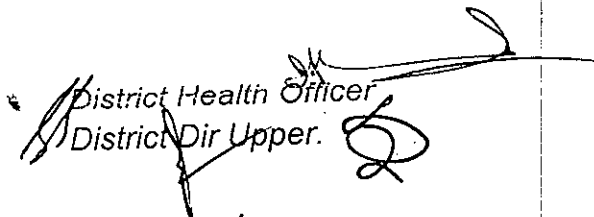
1. Three Annual Increments are hereby stopped without accumulation.
2. The period from 01-01-2017 to 31-08-2017 is hereby treated as leave without pay.
3. She is directed do not perform private practice which is band by the Provincial Government in the Hospital premises.
4. She is directed to report for duty at Category "D" Hospital Wari with immediate effect till further order.
5. She will immediately vacate the quarter in the premises of Category "D" Hospital Wari.
6. She is warned to be careful in future, in case of failure drastic action will be taken against her and there will be no excuse.


District Health Officer
District Dir Upper.

No. & Date Even.

Copy to:-

1. The Director General Health Services Khyber Pakhtunkhwa Peshawar.
2. The Deputy Commissioner Upper Dir.
3. The District Accounts Officer Upper Dir.
4. The Account Clerk of this office.
5. The Incharge Category "D" Hospital Wari District Dir Upper for information with the direction that her arrival report acceptances subject to the condation that she will vacate the quarter first and then her arrival should be accepted.
6. The Incharge RHC Negh Bandi Dir Upper.
7. Mrs. Fazilat Begum PHC Technician (MCH) RHC Nehag Bandai Dir Upper for information and strict compliance.


District Health Officer
District Dir Upper.


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(B)

SIV
B-7

BEFORE THE DIRECTOR GENERAL HEALTH SERVICES KHYBER
PAKHUTUNKHWA, PESHAWAR.

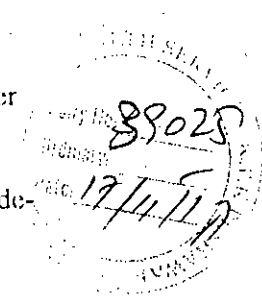
Fazilat Bibi LHV Category "D" Hospital Wari Upper Dir.....Appellant.

Subject: Departmental appeal against the DHO upper Dir vide his office order No 4970-76/PF, Dated 26/09/2017.

The applicant being innocent, felt herself aggrieved from impugned order vide-
Supra, on the following grounds:

ON FACTS:

- 1: That all the allegations leveled against the appellant, started from the application of Mr Sher Ali, Departmental inquiry against the appellant, private practice within the premises of hospital and absence from duty at RHC Nihag etc, all are baseless and having no locus-standi.
- 2: That applicant was granted errand leave w.e.f. 01/01/2016 to 31/12/2016.
- 3: That inquiry against the appellant and midwife Gul Rana was initiated on 08/01/2016 during earned leave of the appellant, wherein the midwife was compulsorily retired from service as the then DHO upper Dir was well aware about the innocence of the appellant and to that effect he requested the D.G Health vide his office letter No 684 DHO/inq:file dated 24/02/2016 to initiate disciplinary action against the lady Dr Shabana (incharge labor room) as negligence has been committed by the said lady Dr not the appellant. (DHO letter attached as annexure "A")
- 4: That in the impugned order the appellant has been deprived from her salary w.e.f 01/01/2017 to 31/08/2017 which is evident from DHO Dir upper letter No. 4855-60/explan, (I) Dated 20/09/2017 wherein the appellant was remained absent only for 21 days. (DHO letter attached as annexure "B")
- 5: That the real accused in the case has been escaped, not only by the inquiry Officers but the authorities also remained silent.
- 6: That in the same inquiry the midwife was compulsorily retired within two months, while to escape the lady Dr Shaban the appellant has been punished after lapse of two years. It is also worth mentioning here that despite the DHO letter, requesting categorically for action against lady Dr Shabana, to your good office but till date no action, against her, has been taken by the reasons best known to your good office.



Put up
17/11/17

Attested
G

concerned did not attend the emergency patient well in time although she was informed by the Labor Room Staff but she simply replied telephonically for the referral procedure giving

ON GROUNDS:

- A: That the impugned order is far from the legal, ethical and professional grounds. The law of the land is strange from such orders.
- B: That the rules of natural justice are badly violated by the DHO Dir upper in the impugned order.
- C: That the fundamental and basic human rights of the appellant has been violated by the impugned order.
- D: That the impugned order is drastic violation of the Civil Servant Act 1973.
- E: That the impugned order is far away from the inquiry against the appellant. The initial inquiry's statement of allegation says one story while the final order is the combination of multi irrelevant and concocted stories from which the smell of bias and grudges reflects.
- F: That the impugned order badly affected the morale of the appellant which is tantamount to kill the very essence of health department.
- G: That the impugned order is against the established norms and rules.
- H: That the impugned order is the violation of F.R 26.

PRAYER:

It is, therefore humbly prayed that this departmental appeal may please be accepted in the best interest of public and appellant.

Dated 15/11/2017.

Appellant

Mst: Fazilat Bibi
LHV catt: "D" hospital
Wari, upper Dir.

Attested
[Signature]

concerned did not attend the emergency patient well in time although she was informed by the Labor Room Staff but she

DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA, PESHAWAR.



C-9

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. 18275 /AE-VI

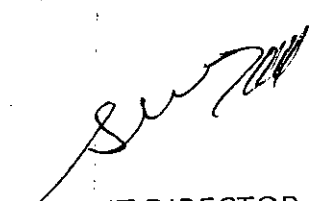
Dated 24 // /2017

To

The District Health Officer,
Dir Upper.

Subject: - **DEPARTMENTAL APPEAL AGAINST DHO UPPER DIR VIDE OFFICE ORDER
NO.4970-76/PF, DATED 26/09/2017..**

I am directed to refer to the subject noted above and to enclose Departmental Appeal in respect of Mst.Fazilat Bibi LHV attached to Category-D Hospital, Warai Dir Upper for your comments and detail report.


ASSISTANT DIRECTOR (PARAMEDICS)
DGHS KHYBER PAKHTUNKHWA
PESHAWAR.

Attested
13

9/11/17



Health Department
Dir Upper.

OFFICE OF THE DISTRICT HEALTH
OFFICER DISTRICT DIR UPPER

No. 6719 / the 6/12/2017.
(Off: 0944-880516 & 0944-881075) Email: edohdiru@yahoo.com

D - 10

To,

The Director General Health Services
Khyber Pakhtunkhwa Peshawar.

Subject:- DEPARTMENTAL APPEAL AGAINST DHO UPPER DIR VIDE OFFICE
ORDER NO. 4970-76/PF, DATED 26-09-2017.

Sir,

Please refer to your letter No. 12275/AE-VI, dated 24-11-2017, on the subject noted above.

It is submitted that as per complaint of Mr. Sher Ali Shah against Mst. Fazilat Bibi LHV working under the control of the undersigned since long, the disciplinary proceeding initiated against the appellant Mst. Fazilat Bibi LHV under E&D Rules 2011, enquiry committee were constituted and Charge Sheet, Show Cause notice issued to her as per rules. The enquiry report is attached in which the Enquiry Committee recommended that "due to lack of interest in Government duties, the services of the accused is not more required to the Health Department and should be declared as in the capacity of compulsory retirement/termination".

After fulfillment of all codal formalities, the undersigned reduced the major penalties (compulsory retirement/termination) to minor penalties i.e stoppage of 03 annual increments without accumulation on sympathetic ground and the absent period at RHC Nehagh Bandi with effect from 01-01-2017 to 31-08-2017 has been considered as Leave Without Pay to regularized her service broken period, because she was not performing her duty at RHC Nehagh Bandi after submission of arrival report availing of one year leave.

The report is sent herewith for favorable consideration and further necessary action please.


District Health Officer
District Dir Upper

Attended
G

حکومت جناب ڈائریکٹر ہیلتھ سروسز چیئر تختہ خواہ پشاور

درخواست: برائے عطاء کرتے آرڈر

E-11

جناب عالی!

مؤدبانہ گزارش کی جاتی ہے کہ سائلہ آپ

کے زیر سائز Category-D ہسپتال وارڈی میں بطور LHV کام کر رہی ہوں۔ سائلہ کو مورم 26.9.2017 کو ایک آرڈر موصول ہوا تھا جس کے خلاف میں نے آپ کی خدمت میں ٹیڈ پیارٹمنٹل اپیل فائل کی تھی جس کے متعلق ابھی تک مجھے کچھ نہیں ملا ہے۔ لیکن مجھے اپنے دفتر سے معلوم ہوا ہے کہ میرے ڈیپارٹمنٹل اپیل پر آرڈر نکل چکا ہے اسلئے! آپ صاحبان کی خدمت میں التماس ہے کہ مجھے اپیل پر جو آرڈر نکلے اسکی کاپی فراہم کی جائے۔ مشکور رہوں گی۔

العار هن

آپکی تالیعدار

فصیلت بی بی

Category D, LHV

ڈر

Attested
A

المرقومہ 17/01/2018

**DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA, PESHAWAR.**



12

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.

OFFICE ORDER.

WHEREAS the following minor penalties have been imposed upon Mst.Fazeelat Bibi PHC Technician (MCH) attached to DHO Upper Dir, vide his office order No.4970-76, dated 26/09/2017.

1. Stoppage of three Annual Increments without accumulation.
2. The period from 1/1/2017 to 31/8/2017 treated as leave without pay.
3. Not performing of private clinic which is banned by the Provincial Government in the Hospital, premises..
4. To report for duty at Category-D Hospital Wari (Upper Dir).
5. To immediately vacate the quarter in the Category-D Hospital Warai (Upper Dir).
6. Warned to be careful in future, in case of failure drastic action will be taken against her and they will be no excuse..

AND WHEREAS, she has submitted appeal to DGHS KP (being appellent authority).

Now, therefore, an exercise of powers, conferred the punishment awarded by the DHO Upper Dir are considered and converted as under:-

1. Stoppage of two Annual Increments instead of three increments.
2. She should give an affidavit on stamp paper to the effect that she will not run the clinic in Government Hospital premises in future.

She is hereby warned to be careful in future and instructed to get prior permission before leave the hospital.

Attested
Sp

No. 20274 - 78 /AE-VI

Sd/xxxxxxxxx
DIRECTOR GENERAL HEALTH
SERVICES KPK, PESHAWAR.

Dated Peshawar the 19 / 12 / 2017.

Copy forwarded to the: -

- 1) District Health Officer, Dir Upper.
- 2) Deputy Commissioner Upper Dir.
- 3) District Accounts Officer, Upper Dir.
- 4) DA concerned.
- 5) Official concerned.

For information and necessary action.

[Signature]
DIRECTOR GENERAL HEALTH SERVICES,
KHYBER PAKHTUNKHWA, PESHAWAR.

18/11

VAKALATNAMA

IN THE COURT OF Khyber Pakhtunkhwa Service Tribunal
Peshawar
OF 2018

Fajeelat Bibi

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Health Deptt.

(RESPONDENT)
(DEFENDANT)

I/We Fajeelat Bibi

Do hereby appoint and constitute **NOOR MOHAMMAD 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. 6 / 2 / 2018

£3.

CLIENT

1/2

ACCEPTED

**NOOR MOHAMMAD KHATTAK
(ADVOCATE)**

Muhammad Manzoor Admi
Advocate

OFFICE:

Room No.1, Upper Floor,
Jamia Club Building, Khyber Bazar,
Peshawar City.

Phone: 091-2211391

Mobile No. 0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE, TRIBUNAL,
PESHAWAR.

Service Appeal No. 164/2018.

Mrs. Fazilat Bibi W/O Aslam Khan LHV (Junior PHC Technician)
Category "D" Hospital Wari Dir Upper.....(Petitioners).

VERSUS

1. Government of Khyber Pakhtunkhwa Through Secretary (Health) Government of Khyber Pakhtunkhwa Peshawar.
2. The Director General Health, Services Khyber Pakhtunkhwa Peshawar.
3. The District Health Officer Dir Upper(Respondents).

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 to 3.

Respectfully Sheweth:

PRELIMINARY OBJECTIONS.

1. That the Appellant have neither cause of action nor locus standi.
2. That the Appeal is not maintainable in its present form.
3. That the Appellant has not come to the Tribunal with clean hand.
4. That the Service Appeal hit principle of laches.
5. That the Appeal is bad for non Joinder and mis joinder of unnecessary parties.
6. That the appeal is badly time barred.
7. That the honorable tribunal has no jurisdiction to adjudicate the matter.

FACTS:

1. Correct to the extent that she is bonified resident of Tehsil Wari and serving in Health Department as LHV since, 1995, but it is incorrect that she has served efficiently and honestly as she is not interested in her job.
2. **Incorrect.** As proper procedure under E&D Rules were followed in the matter, Charge sheet issued, enquiry conducted, show cause issued and she was called for personal hearing as it is evident from her reply of Show Cause and personal hearing

(Copy of Letters are attached as Annexure-"A" and Copy of Show Cause as Attached as Annexure-"B").


3. **Correct** to the extent that after passing the impugned order on 26-09-2017, the appellant submitted appeal before respondent No. 2.
4. **Pertains to Record**
5. **Correct** to the extent that Minor penalty was imposed upon appellant due to her negligence and the said penalty was reduced by the competent authority into the stoppage of three increments was reduced to two increments with accumulation effect.
6. **No comments** however the reply on the ground are as under


GROUNDS.


- A. **Incorrect.** The orders issued on 26-09-2017 and 19-12-2017 is quite justified as per law and tenable are implemented on appellant as she is not interesting in her job as evident from her past service record and negligence's during duty hours.
- B. **Incorrect.** The appellant was treated per law and rules, regulations framed for Government Servants, action taken is per prescribed rules regulations under E&D rules 2011.
- C. **In correct.** The orders issued on 26-09-2017 and 19-12-2017 have been issued according to efficiency and discipline Rules 2011 framed by Government of Khyber Pakhtunkhwa.
- D. **Incorrect.** Proper Charge Sheet, Statement of Allegations etc. have been Issued before issuing of final order where in imposed minor penalties on appellant, (Copy of Charge Sheet and Statement of Allegations are Attached as Annexure-"C").
- E. **Incorrect.** Proper enquiry committee was constituted on the written complaints under E&D Rules 2011, the appellant was heard which shows her presence at the time of conduction of enquiry, show cause notice was issued to the appellant, the appellant submitted proper reply to the show cause notice which is a crystal clear proof that she was present all the time during the process of disciplinary proceeding. (Copy of Show Cause already Annexed "B".)
- F. **Incorrect.** The personal hearing was held in the office of DHO Dir Upper and the appellant submitted written reply of Show Cause during personal hearing (Copy of reply is attached as Annexure-"D").

- G. Incorrect.** As Explained above in succeeding Paras; enquiry was conducted through enquiry committee under E&D Rules 2011, (Coy of Enquiry report is attached as Annexure-“E”).
- H. Incorrect.** No discrimination has been made during the whole process in the matter, proper procedures under E&D Rules 2011 have been followed time to time. It is brought in to the notice of honorable Court that minor penalties in shape of stoppage of 03 increments were imposed upon the appellant, the appellant namely Fazilat Bibi LHV submitted an appeal to competent authority ie. Director General Health Services Khyber Pakhtunkhwa, the competent authority reduced the penalty up to 02 increments instead of 03 Annual increments, but is important to mention here that she was posted to Category “D” Hospital Wari for which she was insisting, but she has not been performing her duties and absent from, duties which shows her lack of interest in Government Job, she is not interested in her job. Series of explanations have been called from appellant (Copies of Explanations are attached as Annexure-“F”), in-spice of repeated correspondence of explanation she did not reply single explanation, so finally the disciplinary proceeding under E&D Rules-2011 is once again initiated. The enquiry committee constituted, disciplinary proceedings (Copy attached as Annexure-“G”) and statement of allegations (Copy attached as Annexure-“H”), were issued for further necessary action.
- I. Incorrect.** The stoppage of increment came into minor penalty and permissible under E&D Rules 2011 at Rule No. 4 (1) Sub Section (a) (ii) (Copy of the Rule is attached as Annexure-“I”).

In the light of above, it is prayed that Service appeal may kindly be dismissed with cost.


District Health Officer
District Dir Upper.
(Respondent No.3).


Director General Health Services
Khyber Pakhtunkhwa Peshawar.
(Respondent No.2).


Secretary Health
Govt: of Khyber Pakhtunkhwa
Peshawar.
(Respondent No. 1).

ANWAR SA

(5)

the 11/02/2016.

No 430-31 /P.F District Health Officer Dated Dir Upper

From,
The District Health Officer
District Dir Upper

To,

1. Mrs. Fazeelat Junior PHC Technician (MCH)/LHV
Category "D" Hospital Wari.
2. Mrs. Gul Rana Dai Category "D" Hospital
Wari Dir Upper

Subject:- SHOW CAUSE.
Memo,

With reference to the Show Cause issued vide this office letter No. 289-96/Inquiry, dated 27-01-2016.

You both were directed for written defense, if any, should reached to the office of the undersigned within Seven days of the receipt of Show Cause vide Para No. 6 already communicated to you on dated 27-01-2016.

You both are finally directed for written defense, if any, should reached to this office within Seven days after receipt of this letter, failing which it shall be presumed that you have no defense put in and in that case Ex-parte shall follow against you.

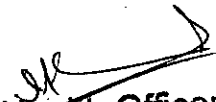
It is also once again communicated that intimate that whether you desired to be heard in person.

(copy of Charge Sheet is attached).

District Health Officer
District Dir Upper

No 432 /

Copy of the above along with Charge Sheet are sent herewith to the Incharge Category "D" Hospital Wari Dir Upper for information with the direction to communicate the said documents to Mrs. Fazeelat LHV & Mrs. Gul Rana Dai through Peon Book and put her signature on the Peon Book under intimation to this office for further necessary action.


Distt: Health Officer
District Dir Upper

District Health Officer
District Dir Upper

oll

8

No 2897 /P.F District Health Officer Dated Dir Upper
From,

the 16 /01/2016.

The District Health Officer
District Dir Upper


To,

The Senior Medical Officer
Category "D" Hospital Wari

Subject:- SHOW CAUSE NOTICE.
Memo,

Enclosed find herewith Show Cause in respect of Mrs. Fazeelat LHV and Mrs. Gul Rana Dai Category "D" Hospital Wari are sent herewith with the remarks that the said Show Cause must be handover to the accused officials through peon Book and take their signature for office record and further necessary action.

District Health Officer
District Dir Upper


Distt: Health Officer
District Dir Upper

AWNBK-5B (7)

SHOW CAUSE NOTICE.

I, Dr. Iftikhar Uddin District Health Officer Dir Upper as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, do hereby serve you both, Mrs. Fazeelat Junior PHC Technician (MCH)/LHV & Mrs. Gul Rana Dai as follows:-

1. That consequent upon the completion of inquiry conducted against you by the inquiry committee for which you were given opportunity of hearing vide communication NO. 30/Enquiry dated, 08-01-2016, No. 31/Enquiry dated, 08-01-2016 and No. 25-29/Enquiry, dated 08-01-2016.
2. Ongoing through the findings and recommendations for inquiry committee, the material on record and other connected papers including your defense before the inquiry committee.
3. I am satisfied that you have committed the following acts of omission specified in Rule-5(1) (a) with rule-7 of the said rules:-
 - a. That the patient namely Shamim W/o Sher Ali G4 P3 was admitted on 30-11-2015 in Labor Room (MCH) Wari with Labor pain. Her routine checkup and Lab investigations was done and found normal. On ultrasound examination the baby was alive with active cardiac activity the patient was hand over to the staff on duty with alive baby intact uterus and ordered and patient finding was mentioned on OPD slip. According to patient attendant Mrs. Fazelat Junior PHC Technician (MCH) was attending her private patient at her home during duty hours. Dai Gul Rana was left in the Labor Room who give Inj: Syntocinon IV+IM and Tab: Misoprostol orally which caused rupture of the uterus and other obstetrical complication. At 7:00 PM the patient was badly unstable and was referred to DHQ Hospital Timergar and she was diagnosed rupture uterus so STAH was done and dead Male Baby was delivered. Several times LHV and Dai were informed about the risks of Inj: Syntocinon and Tab: Misopristal before delivery. But they never obeyed the Seniors Orders. Further reported that to stop the said Mal-Practice in Labor Room as well as inside the Hospital premises which is quite against the Government Rules. As per report of the Incharge and WMO Incharge of Labor Room that Mrs. Fazeelat Junior PHC Technician (MCH) and Gul Rana Dai are totally responsible for mishandling of the said patient, and also recommended strict action against them for the benefits of the patients, otherwise Mal-Practice will create big problem in future.
 - b. By reasons of the above, you both appear to be guilty of miss-conduct under rules 3 (a) and (b) of the Khyber Pakhtunkhwa, Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in rule-4 of the rules ibid.
4. As a result therefore, I, as competent authority, have tentatively decided to impose upon the Major Penalties of the following recommendation of enquiry committee under rule-4 (b) (ii) & (iii) of the E&D Rules 2011.

a. According to the written communication of the District Health Officer Dir Upper vide letter No.5138-43/RHC dated 03/12/2015, all of the official staff were directed to stop their illegal/mal practice in the public premises but the official under inquiry were not in the position to do so and willful to keep continue their illegal/mal practice in the public premises so that giving the perception of the disobedience, negligence, misconduct, clear violation of the District Health Administration, casual behavior and materialism. This act of the concerned officials lead to a huge mishap, meaning the loss of the humanity and their life time happiness so their services are also no more required to the Health Department and should be declared as in the capacity of compulsory retirement/Termination due to lack of interest in sensitive official duty not a casual one. By this way the under inquiry staff may be replaced by an efficient fellows instead of idle one.

b. So in the light of the above solid facts/charges both of the officials should be dragged to the August Court by requesting the District Police Officer Dir Upper for lodging FIR under the Sections 269,275,276 of the PPC to avoid the Drug Abuse and self medication phenomenon in the future.

As in prime of shy this mishap has been occurred intentionally due to the Drug Abuse so the above FIR should also be supported by adding the Section 322 of the PPC.

JK
Distt: Health Officer:
District Dir Upper

- c. As the above mentioned Hospital is Category "D" Hospital in nature so in future a full pledge Labor Room in the hospital have been established by the District Health Office and a duty Rota for all the female staffs have also be maintained by the Incharge Medical Officer of the Hospital and provide the best medical services round the clock to this far flung and hilly area and the ratio of the complaints raising against the female staff will be also discouraged.
 - d. The Incharge Medical Officer and Gynea Head must also be directed to keep a keen eye on their staff for the purpose of maintaining discipline and good working relation among them.
 - e. The above legal and departmental action against the said officials should be taken as soon as possible under the rules to discourage the others from Drug Abuse and self-medications while such kind of action will be the precedent case for the future.
 - f. The recommendations of the inquiry committee should be complied with full spirits against the defaulters of the Health Department as this is one of the sensitive and responsible job as well as in the interest of the public at large.
5. You both are therefore, required to show cause as to why the aforesaid penalties should not be imposed upon you and also intimate whether you desired to be heard in person.
 6. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.
 7. A copy of the findings of the inquiry committee is enclosed.

No. 289-96 /Inquiry, Dated District Dir Upper,

District Health Officer
District Dir Upper

the 27 /01/2016.

Copy to:-

1. The Director General Health Services Khyber Pakhtunkhwa Peshawar for information please.
2. The Deputy Commissioner District Dir Upper for information please.
3. The Senior Medical Officer Category "D" Hospital Wari for information and necessary action.
4. Mrs. Fazeelat Junior PHC Technician (MCH)/LHV Category "D" Hospital Wari District Dir Upper for information.
5. Mrs. Gul Rana Dai Category "D" Hospital Wari Dir Upper for information.
6. The Accounts Clerk of this office.

District Health Officer
District Dir Upper

SK
Distt: Health Officer
District Dir Upper

ANNEX C

9

SHEET.

CH

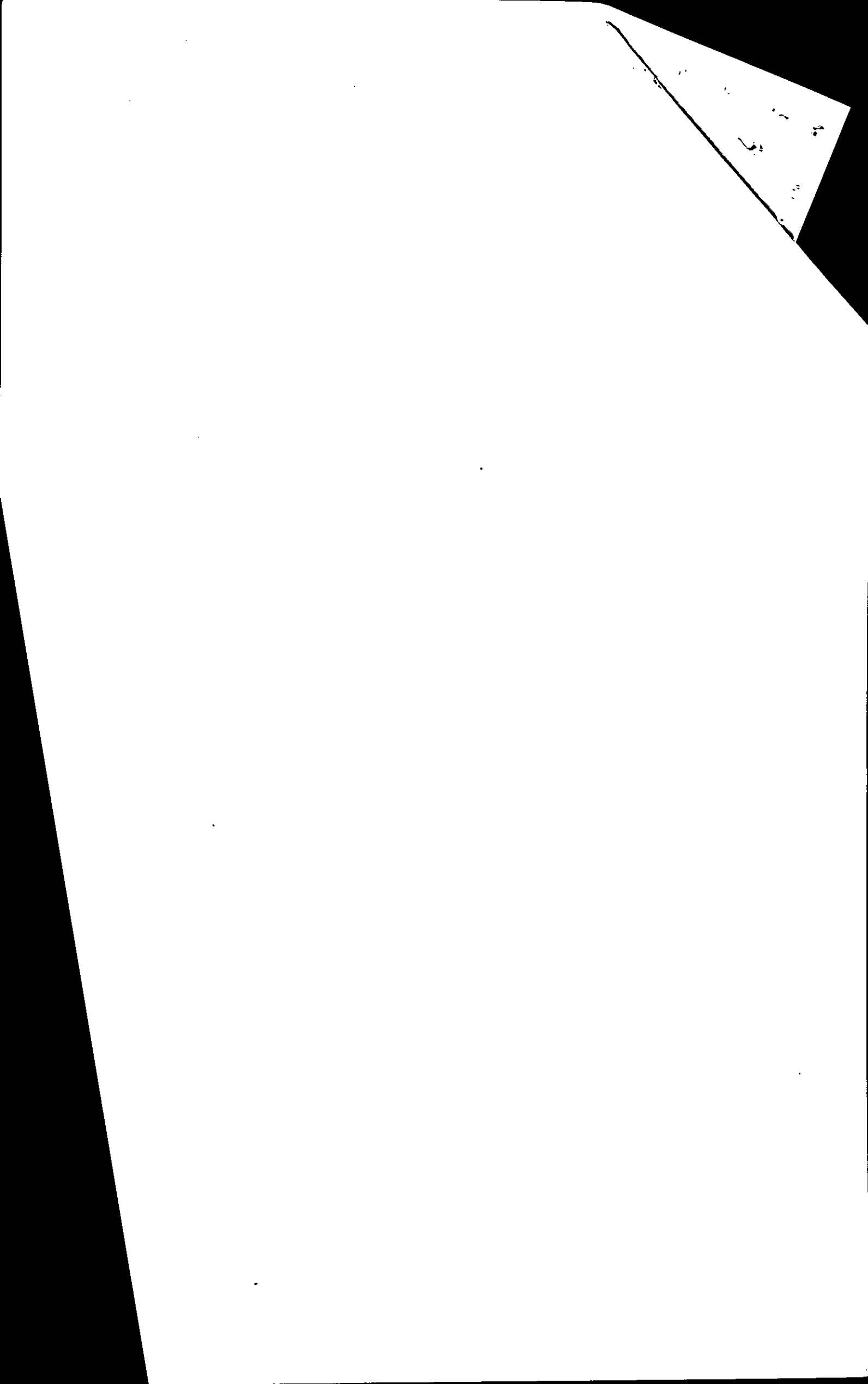
I, Dr. Iftikhar Uddin District Health Officer Dir Upper as competent authority hereby charge you (Mrs. Fazeelat Junior PHC Technician (MCH) Category "D" Hospital Wari Dir Upper and (Mrs. Gul Rana Dai Category "D" Hospital Wari Dir Upper) as follows:-

That you both, while posted as Junior PHC Technican (MCH) and Dai to Category "D" Hospital Wari Dir Upper committed the following irregularities:

- a. The Senior Medical Officer Incharge Category "D" Hospital Wari submitted report of Dr. Shabna WMO Incharge Labor Room Category "D" Hospital Wari duly recommended for further necessary action vide letter No. 369 dated, 03-12-2015, regarding mismanagement of Patient Namely Shamim W/o Sher Ali.
- b. That patient namely Shamim W/o Sher Ali G4 P3 was admitted on 30-11-2015 in Labor Room (MCH) Wari with Labor pain. Her routine checkup and Lab investigations was done and found normal. On ultrasound examination the baby was alive with active cardiac activity the patient was hand over to the staff on duty with alive baby intact uterus and ordered and patient finding was mentioned on OPD slip. According to patient attendant Mrs. Fazelat Junior PHC Technician (MCH) was attending her private patient at her home during duty hours. Dai Gul Rana was left in the Labor Room who give Inj: Syntocinon IV+IM and Tab: Misopristal orally which caused rupture of the uterus and other obstetrical complication. At 7:00 PM the patient was bitally unstable and was reffered to DHQ Hosptial Timergar and she was diagnosed rupture uterus so STAH was done and dead Male Baby was delivered. Several time LHV and Dai were informed about the risks of Inj: Syntocinon and Tab: Misopristal before deliver. But they never obeyed the Seniors Orders. Further reported that to stop the sa Mal-Practice in Labor Room as well as inside the Hospital premises which quite against the Government Rules. As per report of the Incharge and W Incharge of Labor Room that Mrs. Fazeelat Junior PHC Technician (MCH) Gul Rana Dai are totally responsible for mishandling of the said patient, and recommended strict action against them for the benefits of the pati otherwise Mal-Practice will create big problem in future.

[Signature]

**Distt: Health Officer
District Dir Upper**



2. By reasons of the above, you both appear to be guilty of miss-conduct under rules 3 (a) and (b) of the Khyber Pakhtunkhwa, Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in rule-4 of the rules ibid.
3. You both are therefore required to submit your written defense within seven days of the receipt of this Charge Sheet to the Enquiry Committee.
4. Your written defense, if any, should reach to the Enquiry Committee within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte shall follow against you.
5. Intimate whether you desire to be heard in person.
6. A Statement of allegations is enclosed.

[Signature]
 District Health Officer
 District Dir Upper

Mrs. Fazeelat Junior PHC Technician (MCH)
 Category "D" Hospital Wari Dir Upper.
 No. 30 /Enquiry
 Dated 8 /01/2015.

[Signature]
 District Health Officer
 District Dir Upper

Mrs. Gul Rana Dai
 Category "D" Hospital Wari Dir Upper.
 No. 31 /Enquiry
 Dated 8 /01/2015.

[Signature]
 District Health Officer
 District Dir Upper

No. 32 /Enquiry File: Dated District Dir Upper, the 8 /01/2016

Copies of the Charge Sheet and Disciplinary Action proceedings are sent to Incharge Category "D" Hospital Wari Dir Upper for information and with the direction to deliver the said documents to the accused's through peon book and take their signatures.

[Signature]
 District Health Officer
 District Dir Upper

[Signature]
 Distt: Health Officer
 District Dir Upper

(11) 'C'

DISCIPLINARY ACTION.

1. I, Dr. Iftikhar Uddin District Health Officer Dir Upper as competent authority am of the opinion that Mrs. Fazliat Junior PHC Technician (MCH) and Mrs. Gul Rana Dai attached to Category "D" Hospital Wari Dir Upper, has rendered himself liable to be proceeded against as they committed the following acts/omissions within the meaning of rule 3 (a) and (b) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS:

- a. The Senior Medical Officer Incharge Category "D" Hospital Wari submitted report of Dr. Shabna WMO Incharge Labor Room Category "D" Hospital Wari duly recommended for further necessary action vide letter No. 369 dated, 03-12-2015, regarding mismanagement of Patient Namely Shamim W/o Sher Ali.
- b. That patient namely Shamim W/o Sher Ali G4 P3 was admitted on 30-11-2015 in Labor Room (MCH) Wari with Labor pain. Her routine checkup and Lab investigations was done and found normal. On ultrasound examination the baby was alive with active cardiac activity the patient was hand over to the staff on duty with alive baby intact uterus and ordered and patient finding was mentioned on OPD slip. According to patient attendant Mrs. Fazelat Junior PHC Technician (MCH) was attending her private patient at her home during duty hours. Dai Gul Rana was left in the Labor Room who give Inj: Syntocinon IV+IM and Tab: Misopristal orally which caused rupture of the uterus and other obstetrical complication. At 7:00 PM the patient was bitally unstable and was referred to DHQ Hosptial Timergar and she was diagnosed rupture uterus so STAH was done and dead Male Baby was delivered. Several time LHV and Dai were informed about the risks of Inj: Syntocinon and Tab: Misopristal before delivery. But they never obeyed the Seniors Orders. Further reported that to stop the said Mal-Practice in Labor Room as well as inside the Hospital premises which is quite against the Government Rules. As per report of the Incharge and WMO Incharge of Labor Room that Mrs. Fazeelat Junior PHC Technician (MCH) and Gul Rana Dai are totally responsible for mishandling of the said patient, and also recommended strict action against them for the benefits of the patients, otherwise Mal-Practice will create big problem in future.


Distt: Health Officer
District Dir Upper

12

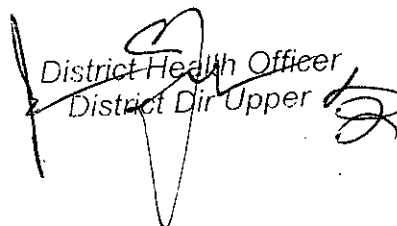
2. For the purpose of inquiry against the said accused's with reference to the above allegations in inquiry committee, consisting of the following, is constituted under the rule 10(1)(a) of the ibid rules:
 - a. Mr. Zia Ullah Drug Inspector Dir Upper.
 - b. Dr. Saira Rasheed WMO Category "D" Hospital Barawal.
3. The inquiry committee shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused's, record its findings and make, within thirty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused's.
4. The accused's and a well conversant representative of the Category "D" Hospital Wari shall join the proceedings on the date, time and place fixed by the inquiry committee.

Sd/xxxxxxxxxxxxxxxxxx
District Health Officer
District Dir Upper

No. 25-29 /Enquiry, Dated District Dir Upper, the 8 /01/2016.

1. Mr. Zia Ullah Drug Inspector Dir Upper, for initiating proceedings against the accused's under the provision of Khyber Pakhtunkhwa Govt: Servants (E & D Rules 2011).
2. Dr. Saira Rasheed WMO Category "D" Hospital Barawal, for initiating proceedings against the accused under the provision of Khyber Pakhtunkhwa Govt: Servants (E & D Rules 2011).
3. The Incharge Category "D" Hospital Wari Dir Upper, with the direction to produce the relevant record/ documents before the enquiry officers on the date, time and place to be fixed for the purpose, the accused may also be directed to appear before the enquiry committee on the date, time and place fixed by him.
4. Mrs. Fazeelat Junior PHC Technician (MCH), Category "D" Hospital Wari Dir Upper. She is directed to appear before the enquiry committee on the date, time and place to be fixed for the purpose of enquiry.
5. Mrs. Gul Rana Dai Category "D" Hospital Wari Dir Upper. She is directed to appear before the enquiry committee on the date, time and place to be fixed for the purpose of enquiry.


Distt: Health Officer
District Dir Upper


District Health Officer
District Dir Upper

ANNEX CD (13)

IN HONOR OF DOCTOR IFTIKHAR UDDIN DISTRICT HEALTH OFFICER
DIR UPPER

REPLY TO SHOW CAUSE NOTICE SUBMITTED AS BELOW.

a) It is true that patient namely **Shameem** was admitted on 30-11-2015 in Gynae Ward Teh: Headquarter Hospital Wari in connection with her delivery case. She was admitted by lady Doctor Shabana RHC, Wari who was authorized medical officer to admit or refuse admission.

As for as, administration of stated medicine is concerned, it is related medicine (Dose) in delivery process and helpful to safe delivery. Reliance in this regard "Pharma Guide 22nd Edition Drugs.com". It is wrong to say that **Miss. Fazelat** LHV is a junior one but rather a senior professional in the relevant field having twenty one (21) years experience in the relevant field. The inquiry report shows that patient herself insisted to be admitted in Gynae Ward. Though, according to **Dr. Shabana** labor of the patient was pre-,mature, no negligence has been committed by me and charges leveled against me is absolutely baseless.

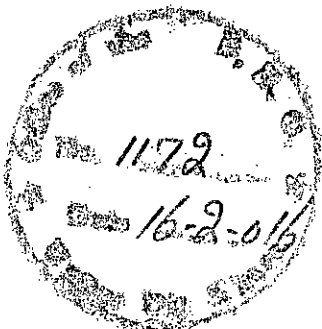
b) It is incorrect to say that I am guilty of the charges leveled against me. The charges are motivated and conspired".

c) As for as private practice in hospital premises are concerned, the attitude of the high ups is extremely discriminatory and unfortunately we the LHVs become their easy prey everywhere just for nothing. The allegations of malpractice, child smuggling is highly condemnable. The inquiry report is not supported by any cogent evidence and is completely based on mala-fide.

d) It is also incorrect to say that I remain absent from duty on the stated day. I perfectly performed my duty of the day stated and only kept absent for prayer and never committed negligence. As for as the criminal liability is concerned, I did perform my duty in good faith and with great zeal and enthusiasm. Having due care and caution and having the consent of patient and also under the kind supervision of a qualified lady Medical Officer Lady **Dr. Shabana** and hence under the law not criminally liable.

Submitted for consideration, please.

Dated 03-02-2016



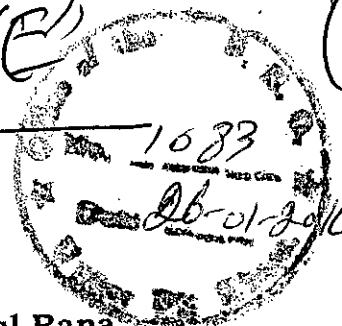
JK
Distt: Health Officer
District Dir Upper

Obediently, yours

Fazeelat 3.2.16
Fazeelat Begum, LHV
RHC Wari.
Upper Dir

ANNEX - (E)

14



To
The District Health Officer,
District Dir Upper.

Subject; **Inquiry against Mst. Fazeelat Begum LHV & Gul Rana Dai in THQ Wari Dir Upper.**

Memo;

Kindly refer to your office order No.25-29/Inquiry dated 08/01/2016 DHO District Dir Upper, regarding above cited subject, the undersigned inquiry committee probed the officials concerned and also evaluated the complaint against them by visiting the concerned T.H.Q of Wari, also a duty performance report of the concerned official given by the Incharge Medical Officer of T.H.Q Wari of the incident day dated on 30/11/15 of the Gynea ward is attached, for the purpose of revealing the solid fact of the accused officials and were attached for the fact finding reports.

MAIN ALLEGATIONS/CHARGES.

According to the to the complainant the one of the lady staff naming Fazeelat Begum as well as Gul Rana working as L.H.V & Dai respectively in T.H.Q Hospiat Wari Dir Upper is involved in the mal practice of charging extra fees from the poor patients in respect of Drug abusing phenomenon during the official duty. In addition to this, the mentioned staff also charges the extra fees for the delivery cases in the hospital premises, demanding heavy charges from the poor patients without any proper receipts/records while threatening them that no medical services will be provided in the case if the said amount was not paid to them.

Another striking complaint against them is that during official time the said LHV is also involved in the attending the patients in her private clinic adjacent to the Gynea Ward situated in the said Hospital while a well organized referral system has also been established among the under complaint L.H.V and different touts like Gul Rana etc, for collecting the money from pitiable patients who cannot afford even the simple and nominal charges of the OPD and advising them to visit her clinic unnecessarily after every 10 days till the delivery of the baby. During the official time the said LHV remains absent from her duty for attending the patients at her private Clinic situated in the hospital while directing the attendants of the patients for prescribing of the massive dose of the medicines and dispensing through the Gul Rana Dai to the patients.

The above phenomenon shows that the patient who are needed to be provided them the extraordinary health care are left on the petty of a Dai who cannot write her name instead of yearsly service in the health department so how she may provide well in time health care services to the patient who are at the step of death and life.

According to the documentary proof, at the time of examination the patient was the holder of alive male baby with normal cardiac activity but due to the drug abusing of the accused staff, the uterus of the patient has been ruptured while the patient was neither managed nor referred properly through any documentation and at last the laparotomy process of the patient has been made in the Timergara Hospital while it was also supported by Sub Total Abdominal Hysterectomy(STAH) instead of normal delivery by giving birth of a dead male baby.

Keeping in view all of the above, the pregnancy/delivery process is basically a physiologic phenomenon and not a pathologic one and can be treated properly in the presence of the skilled and find hands.

But unfortunately the above case of the delivery became a dual murder one of the male baby and other is the loss of the motherhood of a young lady for ever because she lost the blessing of the motherhood for ever born and remained to be no more fertile in the future.

[Signature]
Distt. Health Officer
District Dir Upper

The complainant added further that he was contacted by the concerned under inquiry staff for the offer of a new born female baby so that to keep quiet on the matter of the dead male baby and the given female baby will be replaced by a new male baby later on whenever a chance of the male baby is availed.

The above statement of the complainant shows a heinous crime against the humanity and also a kind of the human smuggling instead of the organ smuggling and this activity is also superior to the organ smuggling which is alarming situation of the Human Right violation.

During the inquiry process the inquiry committee also inspected the official residence of the accused LHV in the presence of the Incharge THQ Wari Dr. Kamil so it was found that a delivery room inside the residence has been arranged and equipped with the medical facilities for the purpose of the health care requirements. Some of the public were also waiting outside the accused official residence, when they were asked on the spot about their objective so they replied that they are attendants with their patients to attend the clinic of the LHV Fazeelat Begum.

A sign board was also fixed on the official residence of the accused LHV with the display of the Maternity Home in the public jurisdiction.

The DHO Dir Upper has already also communicated and warned the all official staff to avoid the medical practices in the all Health institutions of Public premises vide letter No.5138-43/RHC dated 03/12/2015, but the official under inquiry did not take the matter concerned seriously so giving the perception of state in a state and also a clear violation for the orders of the District Health Executive.

Miss Fazeelat Begum L.H.V and Gul Rana were heard by person but they did not explain their position properly due to contradiction in their statements and also denied up to some extent from the some of the allegations so far rose against them. The under inquiry LHV Fazeelat Begum told the Inquiry Officers that she joined duty on 2;00 p.m and was all the time on duty station except prayer time while patient Shamim was already admitted in Labor room. She examined her P/V findings which were os-2-3cm but no documentation was done. She gave Inj; Sposfan at that time to the patient by adding a list of medicine including Cotton, Cytotect,Inj; Spasfan and Inj Synthocinon and gave to Dai Gul Rana for handing over to the attendants. She also told to the inquiry committee that another delivery process for a male baby was also done on the same day i.e dated on 30/11/2015 and no mishap has occurred in that procedure. The second patient was also admitted at 5; 30 p.m and she remained busy in the management of the second patient. During this activity the patient Shamim,s finding was OS fully. She gave instruction to Dai Gul Rana to drip up patient so she did so and also did controlled ARM (Artificial Rupture Membrane). At 6.00 p.m further progress stopped so the accused LHV informed Dr.Shabana and she advised to refer the patient. At time of referral the patient was stable but no written referral was given to the patient. The accused Dai Gul Rana told the Inquiry Officers that she had duty on 2.00 p.m and patient Shamim was already admitted in Labor room. She passed IV line and administered inj sposfan. She added further that no list of medicines was received from the accused LHV and the patient was not drip up in our duty hours. According to the statement of accused Dai at 7.00 p.m only Nospa and sposfan was given through IV. She told the inquiry committee that at the time of referral the patient was stable. Patient membrane ruptured itself not by us. They also fixed the responsibility up to some extent on the patient's shoulder due to the hip hazard and panic behavioral pattern.

Both of them also told the Inquiry Committee that they told Dr.Shabana that the patient is problematic and what we should so she advised them for referral. The record was also evaluated for the purpose of the birth

Distt: Health Office
District Dir Upper

After the inquiry of the both accused officials Lady Doctor Shabana was also contacted so she replied that the accused staff told her that the patient has massive bleeding with high presenting part and had become vitally unstable. So she advised them to refer her urgently.

The Inquiry Committee also visited the residence of the suffered lady patient and recorded her statement which as follow,

The Ultra sound was done 10 ^{days} back by the Lady Doctor Shabana not on the incidence day i.e 30/11/2015. She was thoroughly examined by the Lady Doctor Shabana and told her that she is in labor but not in advance labor so she advised to go home and to come back with required labor but the patient decided the admission.

At 2.00 p.m Dai Gul Rana came and passed IV line by second prick but the accused LHV Fazeelat neither examined her nor gave a list of medicines to Gul Rana for handing to the Mother in Law of Patient.

Medicines were brought by the attendants and accused Dai Gul Rana gave her oral whit tablet meaning from medicine list while Fazeelat was not present at that critical time of dispensing the emergency medicines. The entire environment of the female staff in the Gynea Ward of THQ Wari Dir Upper is totally artificially fabricated, non cooperative, engineered materialistic and manoeuvred.

Opinion and Conclusion.

The inquiry committee recommended as follow.

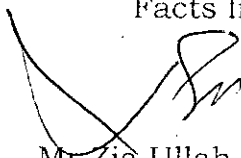
- 1) According to the written communication of the District Health Officer Dir Upper vide letter No.5138-43/RHC dated 03/12/2015, all of the official staff were directed to stop their illegal/mal practice in the public premises but the official under inquiry were not in the position to do so and willful to keep continue their illegal/mal practice in the public premises so that giving the perception of the disobedience, negligence, misconduct, clear violation of the District Health Administration, casual behavior and materialism. This act of the concerned officials lead to a huge mishap, meaning the loss of the humanity and their life time happiness so their services are also no more required to the Health Department and should be declared as in the capacity of **compulsory retirement/Termination** due to lack of interest in sensitive official duty not a casual one. By this way the under inquiry staff may be replaced by an efficient fellows instead of idle one.
- 2) So in the light of the above solid facts/charges both of the officials should be dragged to the August Court by requesting the District Police Officer Dir Upper for lodging **FIR under the Sections 269,275,276 of the PPC** to avoid the Drug Abuse and self medication phenomenon in the future.
As in prime of shy this mishap has been occurred intentionally due to the Drug Abuse so the above FIR should also be supported by adding the **Section 322 of the PPC.**
- 3) As the above mentioned Hospital is Category D in nature so in future a **full pledge Labor Room** in the hospital should be declared by the District Health Office and a duty Rota for all the female staffs should be also maintained by the Incharge Medical Officer of the Hospital to provide the best medical services round the clock to this far flung and hilly area and the ratio of the complaints raising against the female staff will be also discouraged.
- 4) The **Incharge Medical Officer and Gynea Head** must also be directed to keep a keen eye on their staff for the purpose of

[Signature]
Distt. Health Officer
District Dir Upper

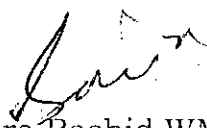
- 5) The above legal and departmental action against the said officials should be taken as soon as possible under the rules to discourage the others from Drug Abuse and self medications while such kind of action will be the precedent case for the future.
- 6) The recommendations of the inquiry committee should be complied with full spirits against the defaulters of the Health Department as this is one of the sensitive and responsible job as well as in the interest of the public at large.

(Copies of all required documents are attached)

Facts finding report is submitted please.



Mr. Zia Ullah
Drug Inspector (BPS 17)
District Dir Upper
Inquiry Officer



Dr. Saira Rashid WMO (BPS 17)
Category D Hospital Barawal Dir
District Dir Upper
Inquiry Officer

Mr. Muhammadullah

for - 19
25/11


Distt: Health Officer
District Dir Upper

Health Department

Dir Upper

ANNEX F

18
OFFICE OF THE DISTRICT HEALTH
OFFICER DISTRICT DIR UPPER

No 2202-05/H-07, the 28/03/2018.

(Off: 0944-880516 & 0944-881075) Email: edohdiru@yahoo.com

To,


Mst. Fazilat Bibi PHC Technician
MCH/LHV Categ: "D" Hospital Wari.

Subject:-
Memo,

ABSENT FROM DUTY/EXPLANATION THEREOF.

In continuation of this office letter No. 1312-18/PF Fazilat, dated 06-02-2018, & No1895-98/H-07, dated 02-03-2018, in which you were finally called by the reason of well full absenteeism and without proper approval/sanctioned leave from the competent authority, your this act is quite against the Government rules.

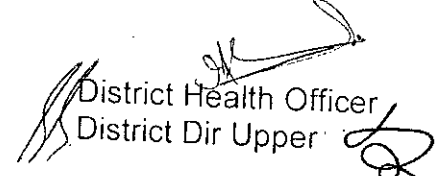
Therefore, you are finally directed to explain your position within three days positively, in case of failure disciplinary action will be initiated against you under E&D Rules 2011 and there will be no excuse.


District Health Officer,
District Dir Upper

No. & date even:-

Copy forwarded to:-

1. The District Account Officer District Dir Upper.
2. The Incharge Category "D" Hospital Wari District Dir Upper.
3. The Account Section of this office for information and further necessary action.


District Health Officer,
District Dir Upper


Distt: Health Officer
District Dir Upper

Health Department

Dir Upper.

19
OFFICE OF THE DISTRICT HEALTH
OFFICER DISTRICT DIR UPPER

No 1895-98 /II-07, the 02/03/2018.
(Off: 0944-880516 & 0944-881075) Email: edohdiru@yahoo.com

To,

Mst. Fazilat Bibi PHC Technician
MCH/LHV Categ: "D" Hospital Warr.

Subject:- ABSENT FROM DUTY/EXPLANATION THEREOF.
Memo,

Reference to the Incharge Category "D" Hospital Wari letter No. 752/Clarification staff, dated 06-02-2018, and this office called explanation vide letter No. 1312-18/PF Fazilat, dated 06-02-2018.

You are absent from your place of duty since 1st January 2018 to till date without proper approval/sanctioned leave from the competent authority which shown a great negligence and lack of interest in Government duty, your this act is quite against the Government rules.

In this connection you are once again directed to explain your position within three days positively, in case of failure why not disciplinary action should be initiated against you under E&D Rules and there will be no excuse.




District Health Officer
District Dir Upper 

No. & date even:-

Copy forwarded to:-

1. The District Account Officer District Dir Upper for information with the request to stop her pay immediately till the regular performance of her duty at Category "D" Hospital Wari.
2. The Incharge Category "D" Hospital Wari District Dir Upper.
3. The Account Section of this office for information and further necessary action.


Distt: Health Officer
District Dir Upper


District Health Officer
District Dir Upper 

20

F

**OFFICE OF THE DISTRICT HEALTH
OFFICER DISTRICT DIR UPPER**

No. 1312-18/PF Fazilat, the 06/02/2018.
(OIE: 0911-880516 & 0911-881075) Email: edohdiru@yahoo.com

Department
Dir Upper.

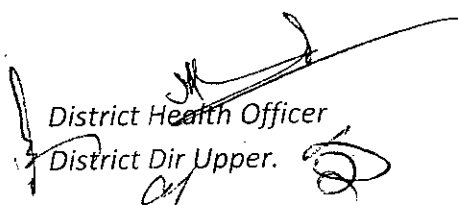
To,

Mst. Fazilat Bib PHC Technician (MCH)
Category "D" Hospital Wari Dir Upper.

Subject:- Willful Absentees Explanation Thereof.
Memo,

With reference to Incharge Category "D" Hospital Wari Dir Upper letter No. 752/Clarification Staff dated, 06-02-2018, on the subject noted above, stating therein that you are absent from your place of duties since 1st January 2018 without proper permission of the competent authority nor any sanctioned leave.

Your this act is quite against the prescribed policy of the Government, therefore you are directed to explain your position within three days after receipt of this explanation immediately in case of failure disciplinary proceedings will be initiated against you under E&D Rules 2011 and there will be no excuse. The matter may be treated as most urgent and your reply with in stipulated period should reach to this office for further necessary action.

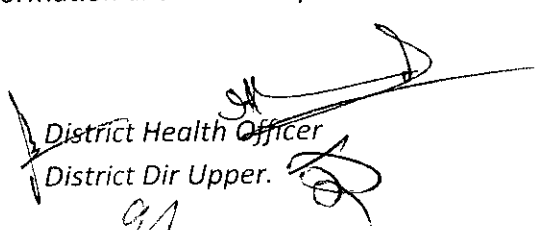

District Health Officer
District Dir Upper.

No. and Date Even:-

Copy forwarded to:-

1. The Director General Health Services Khyber Pakhtunkhwa Peshawar.
2. The Zilla Nazim Upper Dir.
3. The Deputy Commissioner Upper Dir.
4. The District Accounts Officer Upper Dir.
5. The Incharge Category "D" Hospital Wari Dir Upper for information w/r to his letter No, refer above it is further informed that Mst. Hameeda Dai was retired from service on age superannuation with effect from 31-12-2017.
6. The Accounts Section of this office for information and necessary action.


Distt: Health Officer
District Dir Upper


District Health Officer
District Dir Upper.

Amir - 67

(21)

OFFICE OF THE DISTRICT HEALTH

OFFICER DISTRICT DIR UPPER

No. 3972-75/PF, the 4/6/2018.

(Off: 0944-880516 & 0944-881075) Email: edohdiru@yahoo.com

Department

Upper.

DISCIPLINARY ACTION.

1. I, Dr. Iftikhar Ahmad District Health Officer Dir Upper as competent authority am of the opinion that Mrs. Fazliat Junior PHC Technician (MCH/LHV) attached to Category "D" Hospital Wari Dir Upper, has rendered himself liable to be proceeded against as they committed the following acts/omissions within the meaning of rule 3 (a) and (d) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS:

- a. During the previous disciplinary proceeding against the accused namely Mst. Fazeelat PHC Technician MCH/LHV, the following penalties were imposed upon her under E&D rules 2011.
- Three annual increments were stopped without accumulation.
 - The period from 01-01-2017 to 31-08-2017 was treated as leave without pay.
 - She was directed to stop private practices in the premises of the Hospital.
 - She was directed to report for duty to Category "D" Hospital Wari on 26-09-2017.
 - She was directed to vacate the quarter of the hospital.
- b. After issuance of office order vide this office letter No. 4970-76/PF, dated 26-09-2017, in which the above mentioned penalties have been imposed upon her, but she submitted an appeal to appellant authority i.e Director General Health Services Khyber Pakhtunkhwa, the appellant authority reduced the stoppage of two annual increments instead of 03 vide competent authority order No. 20274-87/AE-VI, dated 19-12-2017.
- c. Since 1st January 2018 to till date, the accused is absent from duty without proper sanctioned leave from the competent authority as reported by the Incharge Category "D" Hospital Wari vide letter No. 752/ Clarification, dated 06-02-2018, in response of reporting of the Incharge of Category "D" Hospital Wari, the office of the undersigned called explanations vide letter No. 1312-18/PF, dated 26-02-2018 and No. 1895-98/H-07, dated 02-03-2018 and No. 2202-05/H-07, dated 27-03-2018, in which you were directed to explain your position within three days with the condition that in case of failure why not strict disciplinary proceeding should be initiated against the accused under E&D Rules 2011 but till date no reply even single explanation has been received to this office so far and continuously absence from duty without proper sanctioned leave which is against the rules regulations.

[Signature]
Distt. Health Officer
District Dir Upper

2. For the purpose of inquiry against the said accused's with reference to the above allegations an inquiry committee, consisting of the following, is constituted under the rule 10(1)(a) of the ibid rules:

- a. Dr. Nazar Muhamamd Coordinator LHW District Dir Upper.
- b. Dr. Jehan Zeb Deputy Medical Superintendent Category "D" Hospital Wari.
- c. Dr. Iftikhar Ahmad Coordinator DHIS District Dir Upper.

22

**OFFICE OF THE DISTRICT HEALTH
OFFICER, DISTRICT DIR UPPER**

No 3975-80 / PF, the 4 / 6 / 2018.

(Off: 0944-880516 & 0944-881075) Email: edohdiru@yahoo.com

3. The inquiry committee shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused's, record its findings and make, within fifteen days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused's.
4. The accused's and a well conversant representative of the Category "D" Hospital Wari shall join the proceedings on the date, time and place fixed by the inquiry committee.

Sd/xxxxxxxxxxxxxxxxxxx

District Health Officer

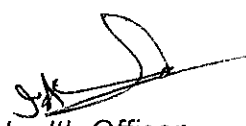
District Dir Upper

No. & date even:-

Copy forwarded to:-

1. The Director General Health Services Khyber Pakhtunkhwa Peshawar.
2. The Deputy Commissioner District Dir Upper.
3. Dr. Nazar Muhamamd Coordinator LHW District Dir Upper, for initiating proceedings against the accused's under the provision of Khyber Pakhtunkhwa Govt: Servants (E & D Rules 2011).
4. Dr. Jehan Zeb Deputy Medical Superintendent Category "D" Hospital Wari, for initiating proceedings against the accused under the provision of Khyber Pakhtunkhwa Govt: Servants (E & D Rules 2011).
5. Dr. Ifikhar Ahmad Coordinator DHIS District Dir Upper, for initiating proceedings against the accused under the provision of Khyber Pakhtunkhwa Govt: Servants (E & D Rules 2011).
6. The Incharge Category "D" Hospital Wari Dir Upper, with the direction to produce the absent record/ documents before the enquiry officers on the date, time and place to be fixed for the purpose, the accused may also be directed to appear before the enquiry committee on the date, time and place fixed by him.
7. Mrs. Fazeelat Junior PHC Technician (MCH), Category "D" Hospital Wari Dir Upper. She is directed to appear before the enquiry committee on the date, time and place to be fixed for the purpose of enquiry.


Distt: Health Officer
District Dir Upper


District Health Officer
District Dir Upper

ANNEX - 4

(23)

OFFICE OF THE DISTRICT HEALTH
OFFICER DISTRICT DIR UPPER

No. 4049-5/1 PF, the 4/6/2018.

(Off: 0944-880516 & 0944-881075) Email: edohdiru@yahoo.com

CHARGE SHEET.

1. I, Dr. Iftikhar Ahmad District Health Officer Dir Upper as competent authority, hereby charge you (Mrs. Fazeelat Junior PHC Technician (MCH/LHV) Category "D" Hospital Wari Dir Upper Category "D" Hospital Wari Dir Upper) as follows:-

That you, while posted as Junior PHC Technician (MCH/LHV) to Category "D" Hospital Wari Dir Upper committed the following irregularities:

- a. During the previous disciplinary proceeding against the accused namely Mst. Fazeelat PHC Technician MCH/LHV, the following penalties were imposed upon you under E&D rules 2011.
 - Three annual increments were stopped without accumulation.
 - The period from 01-01-2017 to 31-08-2017 was treated as leave without pay.
 - She was directed to stop private practices in the premises of the Hospital.
 - She was directed to report for duty to Category "D" Hospital Wari on 26-09-2017.
 - She was directed to vacate the quarter of the hospital.
- b. After issuance of office order vide this office letter No. 4970-76/PF, dated 26-09-2017, in which the above mentioned penalties have been imposed upon you, but you submitted an appeal to appellant authority i.e Director General Health Services Khyber Pakhtunkhwa, the appellant authority reduced the stoppage of two annual increments instead of 03 vide competent authority order No. 20274-87/AE-VI, dated 19-12-2017.
- c. Since 1st January 2018 to till date, you are absent from your place of duty without proper sanctioned leave from the competent authority as reported by the Incharge Category "D" Hospital Wari vide letter No. 752/ Clarification, dated 06-02-2018, in response of reporting of the Incharge of Category "D" Hospital Wari, the office of the undersigned called explanations vide letter No. 1312-18/PF, dated 26-02-2018 and No. 1895-98/H-07, dated 02-03-2018 and No. 2202-05/H-07, dated 27-03-2018, in which you are directed to explain your position within three days, in case of failure why not strict disciplinary proceed should be initiated against you under E&D Rules 2011, but till date no reply even single explanation has been received to this office so far and continuously absence from duty without proper sanctioned leave which is against the Government rules
- d. By reasons of the above, you appear to be guilty of miss-conduct under rules 3 (a) and (b) of the Khyber Pakhtunkhwa, Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in rule-4 of the rules ibid.
- e. You are therefore required to submit your written defense within seven days of the receipt of this Charge Sheet to the Enquiry Committee.
- f. Your written defense, if any, should reach to the Enquiry Committee within the specified period. failing which it shall be presumed that you have no defense to put in and in that case ex-parte shall follow against you.
- g. Intimate whether you desire to be heard in person.
- h. Statement of allegations is enclosed.

Distt. Health Officer
District Dir Upper

District Health Officer
District Dir Upper

No. & date even:-

Copy forwarded to:-

1. The Incharge Category "D" Hospital Wari Dir Upper along with Charge Sheet & Disciplinary Proceeding for information and with the direction to deliver the said documents to the accused's through peon book and take their signatures.
2. Mst. Fazeelat PHC Technician Multipurpose MCH/LHV Category "D" Hospital Wari Dir Upper

District Health Officer

4. **Penalties.**---(1) The following are the minor and the major penalties, namely:

(a) Minor penalties:

- (i) Censure;
- (ii) Withholding, for a specific period, promotion or increment subject to a maximum of three years, otherwise than for unfitness for promotion or financial advancement, in accordance with the rules or orders pertaining to the service or post:

Provided that the penalty of withholding increments shall not be imposed on a Government servant who has reached the maximum of his pay scale:

- (iii) Recovery of the whole or any part of any pecuniary loss caused to Government by negligence or breach of order;

(b) Major penalties:

- (i) Reduction to a lower post or pay scale or to a lower stage in a time scale, for a maximum period of 5 years provided that
- (ii) Compulsory retirement;
- (iii) Removal from service; and
- (iv) Dismissal from service.

in restriction to original post / scale, Government Govt. servant will be placed below his erstwhile junior promoted to higher post, during subsistence of period of penalty.

(2) Dismissal from service under these rules shall disqualify a Government servant from future employment under Government.

(3) Any penalty under these rules shall not absolve a Government servant from liability to any other punishment to which he may be liable for an offence, under any other law, committed by him while in service.

5. **Initiation of proceedings.**---(1) If on the basis of its own knowledge or information placed before it, the competent authority is of the opinion that there are sufficient grounds for initiating proceedings against a Government servant under these rules it shall either:-

- (a) proceed itself against the accused by issuing a show cause notice under rule 7 and, for reasons to be recorded in writing, dispense with inquiry:

Provided that no opportunity of showing cause or personal hearing shall be given where-

- (i) the competent authority is satisfied that in the interest of security of Pakistan or any part thereof, it is not expedient to give such an opportunity; or
- (ii) a Government servant has entered into plea bargain under any law for the time being in force or has been convicted on the charges of corruption which have led to a sentence of fine or imprisonment; or

gm
Distt. Housing Officer
Dist. of Dibrugarh

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1265/ST

Dated 17 / 06 / 2020

To

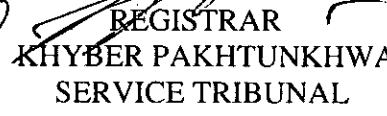
The District Health Officer,
Government of Khyber Pakhtunkhwa,
Dir Upper.

Subject: -

JUDGMENT IN APPEAL NO. 164/2018, Miss. Fazilat Bibi.

I am directed to forward herewith a certified copy of Judgement dated 05.03.2020 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.