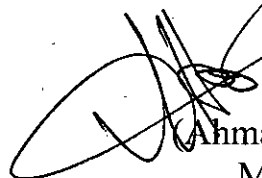



11.07.2019

Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney present. Learned counsel for the appellant stated that the grievance of the appellant has been redressed and seeks withdrawal of the present service appeal.

In view of above, the present service appeal is hereby dismissed as withdrawn. No order as to costs. File be consigned to the record room.

  
(Ahmad Hassan)  
Member

  
(Muhammad Hamid Mughal)  
Member

ANNOUNCED.  
11.07.2019

*as the grievance of the appellant was redressed. I want to wish the appellant.*

04.03.2019

Counsel for the appellant present. Mr. Ziaullah, Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 16.04.2019 before D.B.

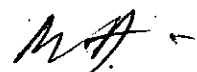
  
(M. HAMID MUGHAL)  
MEMBER

  
(M. AMIN KHAN KUNDI)  
MEMBER

16.04.2019


Learned counsel for the appellant and Mr. Riaz Paindakhel learned Assistant Advocate General for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 14.06.2019 before D.B.

  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

14.06.2019

Due to general strike by the Pakistan Bar Council, the case is adjourned. To come up for arguments on 11.07.2019 before D.B.

  
Member

  
Member

22.10.2018


Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 06.12.2018.

  
Reader

06.12.2018

Counsel for appellant. Mr. Amin Ayub, Advocate, junior to counsel for respondents No. 1 to 4 and Addl. AG for respondent No. 5 present.


Comments on behalf of respondents No. 1 to 4 have been submitted. The appellant may furnish rejoinder to the comments within fortnight, if so advised. Adjourned 02.1.2019 for hearing before the D.B. Respondent No. 5 may submit reply within fortnight, if necessary.

  
Chairman

02.01.2019


Learned counsel for the appellant and Mr. Kabirullah Khattak learned AAG present. Learned counsel submitted rejoinder which is placed on file and seeks adjournment. Adjourn. To come up for arguments on 04.03.2019 before D.B.

  
Member

  
Member

30.08.2018

Counsel for the appellant and Mr. Kabirullah Khattak AAG, for the respondents present. Written reply not submitted by the respondents. Learned Additional AG, requested for time to file written reply/comments. Granted. To come up for written reply/comments on 17.09.2018 before S.B.

  
(Muhammad Amin Kundi)  
Member

17.09.2018

Appellant in person present. Mr. Kabirullah, Addl: AG for respondents present. Written reply not submitted. Learned AAG sought some time to submit the same on the next date of hearing. Granted but as a very last chance. Case to come up for written reply /comments on 24.09.2018 before S.B.

  
(Ahmad Hassan)  
Member

24.09.2018

Counsel for the petitioner Mr. Taimur Khan, Advocate present. Mr. Kabirullah Khattak, AAG for the respondents present. On previous date very last chance was given to the respondents to submit comments but failed. As such notice be given to respondents as to why their defence should not be struck off on the next date. Case to come up for written reply on 12.10.2018 before S.B.

  
Chairman

12.10.2018

Clerk of counsel for the petitioner present. Mr. Amjad Ali, Assistant alongwith Mr. Kabirullah Khattak for the respondents present and made a request for further adjournment. Granted but as a very last chance. To come up for written reply/comments on 22.10.2018 before S.B.

  
Chairman

08.06.2018

Learned counsel for the appellant present. Preliminary arguments heard.

The appellant has preferred the present appeal for the release of his salaries.

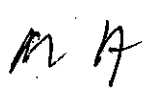
Points raised need consideration. Admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days thereafter notices be issued to the respondents for written reply/comments. To come up for written reply comments on 08/08.2018 before S.B.

Appellant Deposited  
Security & Process Fee

  
Member

08.08.2018




Learned counsel for the appellant and Mr. Kabirullah Khattak, AAG for the respondents present. Written reply not submitted learned Additional Advocated General requested for time to file written reply/comments. Granted. To come up for written reply/comments on 30.08.2018 before S.B.

  
Muhammad Amin Khan Kundi  
Member

Form-A  
FORM OF ORDERSHEET

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

Case No. 711/2018


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	24/05/2018	<p>The appeal of Dr. Jamshed Saeed resubmitted today by Mr. Muhammad Asif Yousafzai Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	28/05/18.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>08/06/18.</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p style="text-align: center;"></p>

The appeal of Mr. Jamshed Saeed SMO.KTH, Peshawar received today i.e. on 04.05.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Index of the appeal may be prepared according to Khyber Pakhtunkhwa Service Tribunal Rules 1974.
- 2- Memorandum of appeal may be got signed by the appellant.
- 3- Annexures of the appeal may be attested.
- 4- Annexures of the appeal may be flagged.
- 5- Annexures of the appeal are not in sequence which may be annexed serial wise as mentioned in the memo of appeal.
- 6- Copy of judgment of this Tribunal dated 03.5.2017 mentioned in para-1 of the memo of appeal is not attached with the appeal which may be placed on it.
- 7- Seven more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 962 /S.T,


Dt. 7/5 /2018.

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Taimur Ali Khan Adv. Pesh.

*Respected Sec.*

- 1- Removed
- 2- Removed
- 3- Removed
- 4- Removed
- 5- Removed
- 6- copy of judgment dated is wrongly inadvertently typed as 3.5.2017 but the actual date is 25-4-2017 which is attached as Annexure A.
- 7- Removed

*Resubmitted after compliance*  


**BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR**

Appeal No. 711 /2018

Dr. Jamshed Saeed V/S BOG through Chairman MTI, KTH etc.

**INDEX**

S.No.	Documents	Annexure	Page No.
1.	Memo of appeal	----	01-03
2.	Copy of judgment dt; 25.04.2017	A	04-12
3.	Copy of order sheet dt: 18.05.2017	B	13-14
4.	Copy of judgment dt:15.12.2017	C	15-18
5.	Copy of letter dt: 19.12.2017	D	19
6.	Copy notification dt: 15.11.2017	E	20-26
7.	Copy of notification 20.12.2017	F	27
8.	Copy of arrival report	G	28
9.	Copy of departmental appeal	H	29
10.	Copy of writ petition	I	30-33
11.	Vakalat Nama	----	34

  
APPELLANT

THROUGH:

  
(TAIMUR ALI-KHAN)  
ADVOCATE HIGH COURT  
&

(ASAD MAHMOOD)  
ADVOCATE HIGH COURT

Room No. Fr-8, 4<sup>th</sup> Floor,  
Bilour Plaza, Peshawar Cantt:  
Contact No. 033-9390916



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

Appeal No. 711 /2018

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 660

Dated 04-5-2018

Mr. Jamsheed Saeed, SMO, (BPS-18)  
Khyber Teaching Hospital, Peshawar.

APPELLANT

VERSUS

1. The Board of Governor through its Chairman MTI, Khyber Teaching Hospital, Peshawar.
2. The Hospital Director, MTI, Khyber Teaching Hospital, Peshawar.
3. The Medical Director, MTI, Khyber Teaching Hospital, Peshawar.
4. The Director Finance, MTI, Khyber Teaching Hospital, Peshawar.
5. The Secretary Health, KPK, Civil Secretariat, Peshawar

RESPONDENTS

.....  
APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNALS ACT, 1974 FOR DIRECTING THE RESPONDENTS TO RELEASE THE SALARY OF THE APPELLANT WITH EFFECT FROM 01.01.2017 TILL DATE AND ONWARD AND NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

Filed to-day  
Registrar  
4/5/18

PRAYER:

Re-submitted to day  
and filed.

Re-submitted to day  
and filed.  
Registrar  
26/5/18

THAT THE ACCEPTANCE OF THIS APPEAL, THE RESPONDENTS MAY PLEASE BE DIRECTED TO RELEASE THE SALARY OF THE APPELLANT WITH EFFECT FROM 01.01.2017 TILL DATE AND ON WARD. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

**RESPECTFULLY SHEWETH:**

**FACTS:**

1. That the appellant is a civil servant and was posted as Medical Officer (BPS-17) in the MTI, KTH Peshawar. The appellant was illegally relieved by the respondent No.2 vide order dated 03.11.2016, against which he filed writ petition No. 4193/2017 in the Peshawar High Court Peshawar along with interim relief, the Honorable Peshawar granted status quo in the favour of the appellant, but the salary of the appellant was stopped on 01.01.2017 by the respondents without any reason. The said writ petition was later on dismissed for want of jurisdiction on 25.04.2017 and then the appellant filed service appeal No. 480/2017 in the KPK Service Tribunal along with suspension application. The august Service Tribunal suspended the impugned orders on 18.05.2017 and finally the service appeal was decided in the favor of the appellant on 15.12.2017. **(Copy of judgment dated 25.04.2017, order sheet dated 18.05.2017 and judgment dated 15.12.2017 are attached as Annexure-A,B&C)**
2. That in the compliance of judgment dated of 15.12.2017, respondent No.5 wrote a letter to respondent No.2 on dated 19.12.2017 and requested that the Medical Director, MTI, KTH office order dated 03.11.2016 regarding repatriation of the petitioner to health department may be withdrawn ab initio being void. **(Copy of letter dated 19.12.2017 is attached as Annexure-D)**
3. The appellant was promoted to the post of Senior Medical Officer (BPS-18) vide notification dated 15.12.2017 along with other doctors and retain his service in Khyber Teaching Hospital Peshawar against the vacant post of BS-18 vide notification dated 20.12.2017 by respondent No.5 being competent authority. **(Copies of order dated 15.12.2017 and 20.12 2017 are attached as Annexure-E&F)**
4. That in compliance of order dated 20.12.2017, the appellant submitted his arrival report on 26.12.2017, but respondents No.1-4 neither accepted the arrival report of the appellant nor release his salary till date. **(Copy of arrival report is attached as Annexure-G)**
5. That the appellant filed departmental appeal on 09.01.2018 through mail to accept his arrival report and also for release of his salary as his salary was blocked w.e.from 01.01.2017, but no action has been taken by the respondents No.1-4 on his departmental appeal after the lapse of statutory period of ninety days. **(copy of application is attached as Annexure-H)**
6. That as the arrival report of the appellant was not accepted by the respondents, therefore he filed Writ Petition No.1919/2018 in the Honorable Peshawar for acceptance of his arrival report, however the

salary is relating to terms and conditions, therefore he wants to file this service appeal for release of salary w.e from 01.01.2017 till date and onward on the following grounds amongst the others. **(Copy of writ petition No.1919/2018 is attached as annexure-I)**

**GROUND:**

- A) That action of respondents No.1-4 not to release the salary of the appellant w.e.from 01.01.2017 to till date and not taking action on his departmental appeal within the statutory period of ninety days are unlawful, illegal, unconstitutional and violation of fundamental right guaranteed by the constitution, therefore, not tenable.
- B) That not releasing the salary of the appellant without any cogent reason is the violation of Section -17 of the Civil Servant Act 1973.
- C) That not releasing the salary of the appellant amount to force labour which is violation of Article-11 of the Constitution of Pakistan.
- D) That not releasing the salary of the appellant without showing any reason shows the arbitrary manner of the respondents No.1-4.
- E) That the appellant was not treated according to law and rules and has been deprived from his legal right of salary in fanciful manner.
- F) 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.



**APPELLANT**

Dr. Jamshed Saeed

THROUGH:



**(TAIMUR ALI KHAN)**

**ADVOCATE HIGH COURT**

**&**

**(ASAD MAHMOOD)**

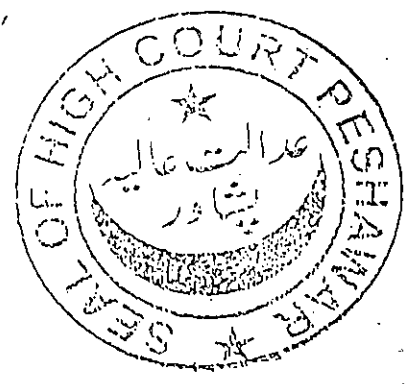
**ADVOCATE HIGH COURT**

A (4) "Amber P" (S)

JUDGMENT SHEET

IN THE PESHAWAR HIGH COURT,  
PESHAWAR.  
JUDICIAL DEPARTMENT

Writ Petition No. 429-P/2016.



JUDGMENT

Date of hearing: 25.4.2017

Petitioner (Farrukh Jalil) by M/s Mian Muhibullah Kakakhel & Saifullah Muhib, Advocates.

Respondent (Director General Health Services, Peshawar and another) by Mian Arshad Jan, AAG.

WAQAR AHMAD SETH, J.- Through this single judgment, we propose to dispose of instant Writ Petition as well as connected Writ Petitions No. 557-P, 593-P, 4193-P/2016, 184-P, 517-P & 667-P/2017 as common questions of law and facts are involved therein.

Attested  
S

Writ Petition No. 429-P/2016

2. In essence, case of the petitioner is that he was appointed as Male Nurse in Lady Reading Hospital, Peshawar, however, vide impugned order dated 1.2.2016, he was transferred and posted at DHQ

RECEIVED  
JUDICIAL DEPARTMENT  
PESHAWAR HIGH COURT  
25/4/2017

Hospital KDA, Kohat against the vacant post, which

ATTESTE:  
EXAMINER  
Peshawar High Co.

(5)

(28)

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order has now been impugned through the instant Writ Petition and prayed for setting aside of the same being illegal, without jurisdiction and without lawful authority.

Writ Petition No. 557-P/2016

3. In essence, petitioners No. 1 to 3 are the President, General Secretary and Senior Vice President of Provincial Paramedical Association, Peshawar while petitioners No. 5 & 6 are the General Secretary & Vice President of Paramedic Association of LRH whereas petitioner No. 4 is the Secretary Finance of Provincial Para Medic Association and petitioners No. 7 to 20 are para-medical staff working in different low-paid categories at Medical Teaching Institutes, namely, Lady Reading Hospital and Khyber Teaching Hospital, however, vide impugned orders dated 1.2.2016 & 9.2.2016, they were transferred to far flung places of the Province; which orders have now been impugned through the instant Writ Petition and sought the following prayer:-

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ADMITTED  
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- I. *The impugned transfer orders of the petitioners are illegal, unlawful, without lawful authority and thus of no legal effect and hence liable to be set aside and reversed.*
- II. *The Respondents shall not dislodge the petitioners, proceed against them adversely or interfere with their legal or fundamental rights in garb of the West Pakistan Essential Service (Maintenance) Act, 1958.*
- III. *Costs throughout*

Amended Writ Petition No.593-P/2016

4. In essence, case of the petitioners is that they were appointed as Nurses in Lady Reading Hospital, Peshawar some 25/27 years back, however, vide impugned office orders dated 9.2.2016 & 11.2.2016, they were transferred to DHQ Hospital Battagram, DHQ Teaching Hospital, D.I.Khan & THQ Hospital Chota Lahor Swabi, which orders have been impugned before this Court through Writ Petition. During the course of hearing i.e. on 25.2.2016, Mr. Abdul Latif Yousafzai, worthy Advocate General, present in Court in different matters, was put to notice, who after seeking fresh instructions, stated that the impugned transfer orders were recalled and instead the

*Admitted*  
*S*

*[Signature]*

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petitioners were to DHQ Hospital, Nowshera vide transfer orders dated 24.2.2016; hence, the learned counsel for the petitioners sought adjournment to amend the Writ Petition. Subsequently, the petitioners have filed the instant amended writ petition by challenging the aforesaid modification notification dated 24.2.2016, whereby they were transferred to DHQ Hospital, Nowshera and prayed that the impugned transfer orders and its modification notifications dated 24.2.2016 be set aside being illegal, without jurisdiction and without lawful authority.

Attested  
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Writ Petition No. 4193-P/2016

5. In essence, case of the petitioner is that he \_\_\_\_\_  
is serving as Medical Officer, Khyber Teaching \_\_\_\_\_  
Hospital, Peshawar, however, vide impugned orders \_\_\_\_\_  
dated 3.11.2016 & 5.11.2016, not only the petitioner's \_\_\_\_\_  
services were repatriated to his parent department but \_\_\_\_\_  
also allotted his Room No. 13 Old Doctor Hostel to Dr. \_\_\_\_\_  
Tahira Iqbal Trainee Registrar (Gynae-A Unit); hence, \_\_\_\_\_  
the petitioner has impugned the above said orders \_\_\_\_\_

ATTESTED  
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through the instant Writ Petition and prayed for setting  
aside of the same being illegal, without jurisdiction and  
without lawful authority.

Writ Petition No. 184-P/2017

6. In essence, case of the petitioner is that he is serving as Medical Officer in the Khyber Teaching Hospital, Peshawar since 8.8.1994 till date, however, he was received an office order dated 29.12.2016, whereby his services were rendered back to Health Department; hence, the petitioner has filed the instant Writ Petition by impugning the above said office order and prayed for setting aside of the same being illegal, without jurisdiction and without lawful authority.

Attested  
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Writ Petition No. 517-P/2017

7. In essence, case of the petitioner is that he is serving as Medical Officer in Khyber Teaching Hospital, Peshawar, however, vide office order dated 30.1.2017, the services of petitioner were rendered back to Health Department, which order has now been

Attested  
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impugned through the instant Writ Petition and sought the following prayer:-

- i. To declare the impugned Office Order No. 3497-3510/KTH/E dated 30.1.2017 of respondent No.1 (Annex "A") as without lawful authority and of no legal effect.
- AND
- ii. To restore the Office Order No. 23097-106/KTH/E dated 18.10.2016 of respondent No.1 (Annex "B").
- iii. To restrain the respondents from implementing the impugned order and to stop the salary of the petitioner and to eject him from his allotted accommodation of Room No. 09 Old Doctors Hostel, KTH, Peshawar.
- iv. To direct the respondents to frame fair and transparent policy regulating the relieving of civil servant from KTH to Health Department.
- v. To restrain the respondents from arbitrary exercise of powers, and policy based on making pick and choose, discrimination in relieving/transfer of the civil servants from KTH to Health Department.
- vi. Any other remedy which this august court deems fit and just in the circumstances of the case, may also be granted in favour of petitioner".

Accepted  
/s/

ATTACHED  
/s/

Writ Petition No. 667-P/2017

8. In essence, case of the petitioner is that she is serving as Charge Nurse (BPS-16) in Khyber Teaching Hospital, Peshawar since 13.3.1993, however, vide office order dated 14.11.2016, her services were

ATTACHED

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rendered back to Health Department Khyber Pakhtunkhwa for further posting. Subsequently, on 2.1.2017, respondent No.3 wrote a letter to respondent No. 1 to withdraw the above said office order and allow the petitioner to continue her duties as Charge Nurse in KTH Peshawar on humanitarian grounds. In response thereof, respondent No.1 vide letter dated 14.1.2017 communicated that all the post of Charge Nurses in BPS-16 have been filled through advertisement and presently there is no vacant post to adjust the petitioner; hence, the petitioner has filed the instant Writ Petition by impugning the transfer order dated 14.11.2016 and refusal order dated 14.1.2017 of respondent No.1 and prayed for setting aside of the same being illegal, without jurisdiction and without lawful authority.

Writ Petition No. 1167-P/2017

Alleged

ATTORNEY  
Ch

9. In essence, case of the petitioner is that he is serving as Medical Officer in Khyber Teaching Hospital, Peshawar since 8.8.1994 till date, however, he was received an office order dated 29.12.2016, whereby

his services were rendered back to Health Department, Khyber Pakhtunkhwa; hence, the petitioner having no other remedy has filed the instant Writ Petition by impugning the office order dated 29.12.2016 and prayed for setting aside of the same being illegal, without jurisdiction and without lawful authority.

10. Arguments heard and record perused.

✓ 11. Admittedly, the petitioners are civil servants and their grievances relate to the terms and conditions of service, the appropriate remedy for seeking their redressal, would surely be the Services Tribunal.

12. This Court is barred under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973 to take cognizance in the matter relating to the terms and conditions of service of a civil servant. The Apex Court in the case of I.A Sharwani and others vs. Government of Pakistan through Secretary, Finance Division, Islamabad and others (1991 SCMR 1041) and recently in Ali Azhar Khan Baloch's case (2015

Admitted  
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(12)

(3)

SCMR 456), has again laid down that the issue relating to the 'terms and conditions' of service cannot be entertained by a High Court either in its constitutional jurisdiction or in its original civil jurisdiction being barred under Article 212 of the Constitution.

13. In view of the above, all these Writ Petitions being not maintainable are hereby dismissed.

*Handwritten signature*  
JUDGE

Announced  
25.4.2017

*Handwritten signature*  
JUDGE

*Attested*  
*[Signature]*

\*Nawab Shah\*

*Large handwritten signature*  
CERTIFIED TO BE TRUE COPY  
Examiner  
Nawab High Court, Nawab  
Authenticated Under Article 217 of  
The Constitution of Order 1984  
03 MAY 2017

26772

26447

No. \_\_\_\_\_

Date of Presentation of Application \_\_\_\_\_

No of Pages \_\_\_\_\_

Copying fee \_\_\_\_\_

Urgent Fee \_\_\_\_\_

Total \_\_\_\_\_

Date of Preparation of Copy 03-5-17

Date Given For Delivery 03-5-17

Date of Delivery of Copy 03-5-17

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29/4/17

**ATTACHED**  
*[Signature]*

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 480 /2017

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 523

Dated 18/5/2017

Dr. Jamshed Saeed, Medical Officer  
KTH, Peshawar

.....(Appellant)

**VERSUS**

1. The Secretary Health K.P.K, Peshawar.
2. The Director General Health K.P.K, Peshawar.
3. The Secretary Finance, KPK, Peshawar.

.....(Respondents)

APPEAL UNDER SECTION 4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974  
AGAINST ILLEGAL RELIVING ORDER DATED  
03.11.2016 WHEREBY THE APPELLANT WAS  
ILLEGALLY RELIVED FROM THE SERVICE AND  
AGAINST NOT TAKING ANY ACTION ON THE  
DEPARTMENTAL APPEAL OF THE APPELLANT  
WITH IN STATUTORY PERIOD OF 90 DAYS.

**PRAYER:**

THAT ON ACCEPTANCE OF THIS APPEAL, THE  
IMPUGNED ORDER DATED 03.11.2016 MAY BE SET  
ASIDE AND ALSO DECLARE THE ORDER 03.11.2016  
AS UNLAWFUL, POLITICALLY MOTIVATED AND  
NOT PASSED BY THE COMPETENT AUTHORITY  
AND MAY ALSO BE DIRECTED TO RELEASE THE  
PAY OF THE APPELLANT. ANY OTHER REMEDY  
WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND  
APPROPRIATE THAT MAY ALSO BE AWARDED IN  
FAVOUR OF APPELLANT.

Filed to-day

Registrar

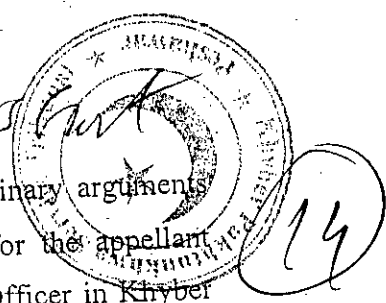
18/5/2017

**ATTESTED**

**ATTESTED**

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Appeal No. 480/2017  
Dr. Jamshed Saeed vs Govt



18.05.2017

Counsel for the appellant present. Preliminary arguments heard and case file perused. Learned counsel for the appellant argued that the appellant is serving as Medical Officer in Khyber Teaching Hospital. Due to some administrative issues the appellant was illegally relived by the incompetent authority vide order dated 03.11.2016 and his pay was also illegally stopped. Hospital Director tendered resignation on 05.10.2016, while transfer was issued on 03.11.2016, though he was not competent to pass such orders. He preferred departmental appeal on 10.11.2016 and also filed writ petition no 4193-P/2016, which was dismissed vide judgment dated 25.04.2017. There-after he filed the instant appeal. Through Notice dated 06.05.2017 he was also directed to vacate the room allotted to him in Doctors Hostel. He also submitted an application for suspension of impugned order dated 03.11.2016 and 06.05.2017.

Points urged need consideration. Admit subject to all legal objections and deposit security, process fee within 10 days, thereafter notices be issued to the respondents for written reply/comments for 20.06.2017 before S.B. The impugned orders are suspended till the date fixed.

Sd/- Ahmad Hassan,  
Member

Certified to be true copy  
EXAMINED  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Appeal: 22-5-17  
Number of Copies: 6  
Copying Fee: 800  
Urgent: 2/-  
Total: 8/-  
Name of Comptroller: [Signature]  
Date of Completion of Copy: 22-5-17  
Date of Delivery of Copy: 22-5-17

ATTACHED  
[Signature]

C 15

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

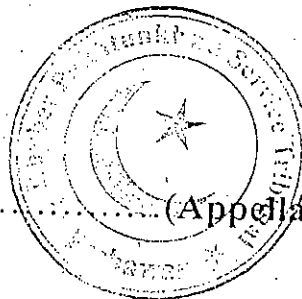
APPEAL NO. 480 /2017

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 523

Dated 18/5/2017

Dr. Jamshed Saeed, Medical Officer  
KTH, Peshawar



.....(Appellant)

VERSUS

1. The Secretary Health K.P.K, Peshawar.
  2. The Director General Health K.P.K, Peshawar.
  - ③ The Secretary Finance, KPK, Peshawar.
  4. Hospital Director MTL, KTH, Peshawar.
- .....(Respondents)

*impleaded  
order dated  
19-07-2017  
Respondent  
No 3 Ex. part 1  
25-10-17*

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST ILLEGAL RELIVING ORDER DATED 03.11.2016 WHEREBY THE APPELLANT WAS ILLEGALLY RELIVED FROM THE SERVICE AND AGAINST NOT TAKING ANY ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITH IN STATUTORY PERIOD OF 90 DAYS.

PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 03.11.2016 MAY BE SET ASIDE AND ALSO DECLARE THE ORDER 03.11.2016 AS UNLAWFUL, POLITICALLY MOTIVATED AND NOT PASSED BY THE COMPETENT AUTHORITY AND MAY ALSO BE DIRECTED TO RELEASE THE PAY OF THE APPELLANT. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

Filed to-day

Registrar

18/5/2017

ATTESTED

*[Signature]*  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

ATTESTED  
*[Signature]*

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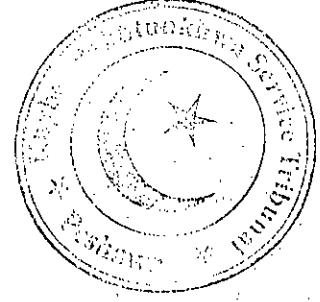
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 480/2017

Date of Institution ... 18.05.2017  
Date of Decision ... 15.12.2017



Dr. Jamshed Saeed, Medical Officer, KTH, Peshawar. ... (Appellant)

VERSUS

1. The Secretary Health Khyber Pakhtunkhwa, Peshawar and 3 others. ... (Respondents)

MR. TAIMUR ALI KHAN,  
Advocate

--- For appellant.

MR. USMAN GHANI,  
District Attorney

--- For respondents.

MR. AHMAD HASSAN,  
MR. MUHAMMAD AMIN KHAN KUNDI

... MEMBER(Executive)  
... MEMBER(Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER. - Arguments of the learned counsel for the parties heard and record perused.

ATTESTED  
  
MEMBER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

FACTS

2. The brief facts are that the appellant is serving as Medical Officer in KTH. Due to some administrative issues the appellant was illegally relieved by the incompetent authority vide order dated 03.11.2016 and his pay was also illegally stopped. Hospital Director tendered resignation on 05.10.2016, while transfer order was issued on 03.11.2016, despite the fact he was not competent to pass such orders. He preferred departmental appeal on 10.11.2016 and also filed Writ Petition on 4193-P/2016 in Peshawar High Court, Peshawar which was

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dismissed vide judgment dated 25.04.2017 for want of jurisdiction. hence, the instant service appeal on 24.05.2017.

### ARGUMENTS

3. Learned counsel for the appellant argued that vide impugned order dated 03.11.2016 he was relieved of his duties from KTH Peshawar by Hospital Director MTI, KTH. He further argued that the Hospital Director was not competent to pass such orders. Being a civil servant posting/transfer of the appellant was the domain of Health Department. It is further substantiated by the fact that initial posting order of the appellant dated 03.05.2007 was issued by the Health Department. Moreover, under Section-13 of the Khyber Pakhtunkhwa Medical Teaching Institution Reforms Act, 2015 the Hospital Director does not enjoy powers of postings/transfers. He also relied on Section-16 of the above Act. In addition to above the Health Department vide order dated 06.10.2017 clarified that civil servants working in MTIs, cannot be dislodged from MTIs by Medical Director/Hospital Director/Dean but can be repatriated by Health Department only with the approval of the competent authority.

4. On the other hand learned District Attorney argued that through impugned order dated 03.11.2016 service of the appellant were placed at the disposal of the Health Department being a civil servant as such it is not posting/transfer order. As his services were more required in KTH and after having completed normal tenure of posting was repatriated to his parent department. That he has not been absorbed in MTI, KTH. Under Section-10 of Civil Servant Act, 1973, a civil servant is required to serve anywhere in the province, hence, there is no illegality in the said order.

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Khyber Pakhtunkhwa

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CONCLUSION.

5. Careful perusal of record would reveal that vide order dated 03.05.2007 the appellant was posted as Medical Officer by respondent no.1. There is hardly any confusion about the status of the appellant being a civil servant and respondent no.1 is competent to issue posting/transfer order. It has not been disputed by the learned counsel for the respondents. Moreover, under Section-13 of the Khyber Pakhtunkhwa Medical Teaching Institution Reforms Act, 2015 Hospital Director does not enjoy powers of posting/ transfer. As order has been issued by the incompetent authority so the same is void ab-initio. Hence, no limitation runs against a void order. Our stance is further substantiated by the Health Department letter dated 06.10.2017. Moreover, powers pertaining to appointment terms and conditions of service etc. of employees borne on the strength of the MTI are vested in Board of Governors as provided in Section-7 of the above Act.

6. As a sequel to above, the appeal is accepted and the impugned order is set aside. Parties are left to bear their own costs. File be consigned to the record room.

*Sd/- Ahmad Hassan, Member*  
*Sd/- Amin Khan Kundi, Member*

(MU)

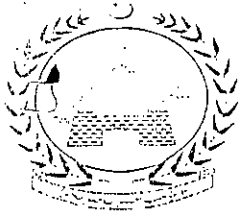
ANNOUNCED  
15.12.2017

Certified to be true copy

EX-100  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

ATTENDED

*J*



GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT


No. SO (E) H-II/11-3/2017 (Dr. Jamshed Saeed)  
Dated Peshawar, the 19<sup>th</sup> December 2017

To

The Hospital Director,  
Medical Teaching Institution,  
Khyber Teaching Hospital,  
Peshawar.

Subject: JUDGMENT/ORDER IN APPEAL NO.480/17, MR. DR. JAMSHED SAEED, MEDICAL OFFICER, BS-17.

I am directed to refer to the Judgment of the Khyber Pakhtunkhwa Service Tribunal, Peshawar in the above captioned case dated 15.12.2017 and to request that the Medical Director, MTI KTH office order dated 03.11.2016 regarding reappointment of Dr. Jamshed Saeed s/o Saeed Ahmad Medical Officer BS-17 to Health Department may be withdrawn ab initio being void, please.


  
(Jibreel Raza)  
Section Officer (E-II)

Endst: No. & Date Even

Copy to the:

1. Director General Health Services, Khyber Pakhtunkhwa.
2. PS to Secretary Health, Khyber Pakhtunkhwa
3. PA to Additional Secretary (E), Health Department.

Section Officer (E-II)

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GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT

Dated Peshawar, the 15<sup>th</sup> November, 2017

NOTIFICATION

NO.SOH(E-V) 4-22/2017

The Government of Khyber Pakhtunkhwa on the recommendations of the Provincial Selection Board is pleased to promote the following doctors of General Cadre from BS-17 to BS-18 on regular basis with immediate effect:-

S.No.	NAME OF DOCTOR	S.NO.	NAME OF DOCTOR
1	Dr.Farida Mujahid	28	Dr.Nisar Ahmad
2	Dr.Iqbal Hussain	29	Dr.Shehla Aman
3	Dr.Niaz Muhammad	30	Dr. Zuhra Nasir D/O Nasir Shah
4	Dr.Noor Hanan	31	Dr. Afshan Saleem D/O Muhammad Saleem
5	Dr.Noor Muhammad	32	Dr.Aneela Azam
6	Dr. Muhammad Tahir Jan	33	Dr. Saima Gulam D/O Gulam Khan
7	Dr.Jan Hussain	34	Dr. Saeeda Rabbani D/O Muhammad Hussain
8	Dr.Muhammad Khalil Akhtar	35	Dr. Hamida Nasir Shah W/O Dr.Syed Nasir Shah
9	Dr.Akbar Khan	36	Dr. Samina Karim D/O Abdul Karim
10	Dr.Muhammad Naeem	37	Dr. Ghazala Shaheen D/O Syed Muhammad Shah
11	Dr.Afzal Hussain	38	Dr. Sabina Naz D/O Salimullah Khan
12	Dr.Gul Nawaz	39	Dr. Fatah Naz D/O Jaffar Khan
13	Dr.Waseem Kashif	40	Dr. Syeda Nusrat Shah D/O Saad Badshah
14	Dr.Akhtar Ali Shah	41	Dr. Rabia Mehar(Waheed) D/O Mehar Dil Khan
15	Dr.Aminullah	42	Dr. Zakia Abid D/O Abid Ali
16	Dr.Shabir Ahmad	43	Dr. Sofia Khan
17	Dr.Qaiser Zaman	44	Dr. Zahida Parveen D/O Amir Nawaz
18	Dr.Mumtaz Muhammad	45	Dr. Zahida Bibi D/O Shamsul Abrar
19	Dr.Muhammad Ayub	46	Dr. Syeda Shahnaz Jabeen D/O Syed Israrullah Shah
20	Dr.Yasir Murad	47	Dr. Muhammad Nazir S/O Muhammad Yousaf
21	Dr.Nasir Hussain	48	Dr. Manzoor Ahmad Khan S/O Bahadar Khan
22	Dr.Hamid-ur-Rehman	49	Dr. Liaqat Ali S/O Mir Alam
23	Dr.Abdul Malik	50	Dr. Jamshed Saeed Sherani S/O Saeed Ahmad Shisani
24	Dr.Ihsan-ul-Haq	51	Dr. Fazal Ghalcor S/O Muhammad Amin
25	Dr.Syed Gul Syed Hussain	52	Dr. Muhammad Haroon Shahid S/O Hasham Khan
26	Dr.Fazal-ur-Rehman	53	Dr. Syed Tahir Ali Shah S/O Syed Mehtab Hussain
27	Dr.Faramoz	54	Dr. Tariq Muhammad Saeed S/O Muhammad Saeed

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55	Dr. Abdul Karim S/O Mir Abbas Khan	92	Dr. Muhammad Jamil Khan s/o Fazal Mabeed
56	Dr. Alamzeb S/O Aurangzeb	93	Dr. Dildar Khan S/O Abdul Ghaffar
57	Dr. Abdul Hameed S/O Saadullah	94	Dr. Abdur Rehman S/O Abdullah Khan
58	Dr. Gul Nawaz Khan S/O Sarfaraz Khan	95	Dr. Raz Muhammad S/o Mohib Ali Khan
59	Dr. Haroon Zaffar S/O Muhammad Zaffar	96	Dr. Ejaz Ahmad S/O Muhammad Aslam
60	Dr. Khalil Ur Rehman	97	Dr. Ghulam Farooq S/O Prof. Azir ur Rehman
61	Dr. Nazar Muhammad S/O Bakht Sar	98	Dr. Muhammad Ishaq Khan S/O Junais Khan
62	Dr. Tariq Khan S/O Adalat Khan	99	Dr. Habib Gul S/O Haji Inzar Gul
63	Dr. Rehmat Saleem Khan S/O Khan Muhammad	100	Dr. Rashid Ahmad S/O Haji Taj Muhammad
64	Dr. Alam Khan S/O Feroz Khan	101	Dr. Ifikhar Ali S/O Prof. Rehman Gul
65	Dr. Malik Khushi Muhammad S/O Malik Faqir Muhammad	102	Dr. Muhammad Dost Khan s/o Zahir Gul
66	Dr. Riaz Shahid S/O Rahmat Khan	103	Dr. Ghulam Farooq s/o Sultan Jan
67	Dr. Zahir Shah S/O Sarwar Khan	104	Dr. Muhammad Hayat s/o Meen Akbar
68	Dr. Taj Muhammad S/O Nurab Din	105	Dr. Nasruminallah s/o Sarfaraz Khan
69	Dr. Muhammad Tahir Aziz S/O Azizur Rehman	106	Dr. Syed Touseef Ali shah s/o Syed Farman shah
70	Dr. Khalil Ur Rehman s/o Ali Rehman	107	Dr. Shahid Alam S/O Abdul Hanan
71	Dr. Inayatullah s/o Khalid Khan	108	Dr. Khalilur Rehman S/O Abdul Hamid
72	Dr. Mansoor Ahmad Khan s/o Muhammad Sehrab Khan	109	Dr. Sahib Gul Orakzai S/O Malik Deen Orakzai
73	Dr. Shaikat Ali s/o Khan Bahadar	110	Dr. Insanul Haq S/O Samiullah
74	Dr. Naseer Hassan s/o Nazir Hussain	111	Dr. Matiullah S/O Fazal-E-Moula
75	Dr. Jamaluddin s/o Rahim Din	112	Dr. Said Zaman S/O Bakht Zaman
76	Dr. Muhammad Rehman s/o Bacha Khan	113	Dr. Syed Shaida Hussain Bukhari S/O Fida Hussain Shah
77	Dr. Rafiullah Khan s/o Baiquees Khan	114	Dr. Sheikh Muhammad Farooq Azam S/O Sheikh Muhammad Bashir Gohar
78	Dr. Akmal Khan s/o Ayub Khan	115	Dr. Syed Imtiaz Ali Shah S/O Syed-Sikandar Shah
79	Dr. Fawad Aslam s/o Muhammad Aslam Khan	116	Dr. Zarin Khan S/O Khan Zailah Khan
80	Dr. Imtiaz Khan s/o Aman Khan	117	Dr. Najibullah Khan S/O Zabardast Khan
81	Dr. Nisar Ahmad	118	Dr. Ashfaq Hussain Bangash S/O Khadim Hussain
82	Dr. Meusa Khan	119	Dr. Shafiullah Khan S/O Saidul Wahab
83	Dr. Muhammad Tariq s/o Haleem Khan	120	Dr. Nazir Ahmad S/O Shah Jehan
	-----	121	Dr. Muhammad Ajmal Khalil s/o Khalilur Rehman
84	Dr. Naveed Iqbal s/o Muhammad Ghulam	122	Dr. Muhammad Hashim S/O Ghazi Marjan
85	Dr. Wajid Ahmad s/o Rehman Gul	123	Dr. Rafiullah S/O Haji Khan Zada
86	Dr. Zakauilah Khan s/o Meher, Dil	124	Dr. Ijaz Akber S/O Mir Akbar
87	Dr. Muhammad Akail Rauf s/o Abdur Rauf	125	Dr. Javed Iqbal S/O Muhammad Qasim
88	Dr. Waqas Khattak s/o Asadullah Khattak	126	Dr. Sher Aslam Shah S/O Pir Salim Khan
89	Dr. Khalid Mehmood Afridi s/o Khan Wah	127	Dr. Jamshed Qadar S/O Maj. Qadar Gul
90	Dr. Kamran Durrani s/o Bashir Durrani	128	Dr. Muhammad Sadiq S/O Haji Daraz Gul
91	Dr. Rizwan ullah Khan s/o Habibullah	129	Dr. Ajmal Khan S/O Sultan Khan

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130	Dr. Muhammad Javed Iqbal S/O Allah Diyva	166	Dr. Miraj Gul s/o Sahib Din
131	Dr. Jamshed Alam S/O Rustam Khan	167	Dr. Syed Anwar Hussain s/o Noor Saad Mian
132	Dr. Nayyar-uz- Zaman S/O Malikur Rehman	168	Dr. Daryab Wali Khan s/o Nazar Wali Khan
133	Muhammad Ishaq s/o Taj Ali	169	Dr. Darya Khan s/o Mula Khan
134	Dr. Nasir Jamal S/O Gul Manan	170	Dr. Azizullah Khan s/o Ihsanullah Khan
135	Dr. Jehanzeb S/O Muhammad Bashir	171	Dr. Ahmad Shah Arbab s/o Arbab Humayun Khan
136	Dr. Adil Saidullah S/O Saidullah Jan	172	Dr. Fazal Rabbi s/o Haji Badshah
137	Dr. Badshah Khan S/O Rais Khan	173	Dr. Iqbal Hussain s/o Nowsherawan
138	Dr. Hamidullah S/O Muhammad Salim	174	Dr. Sultan Mahmood S/O Said Khitab
139	Dr. Yasin Muhammad S/O Syed Afzal	175	Dr. Fayyaz Ahmad S/O Mirajud Din
140	Dr. Arshad Ali	176	Dr. Iqbal Ahmad S/O Khaista Bacha
141	Dr. Ijaz Ahmad Khan S/O Said Karim	177	Dr. Sibghatullah Khan S/O Abdulah Shah
142	Dr. Khalilur Rehman S/O Abdul Rehman	178	Dr. Mahboob Alam S/O Shah Bahadar
143	Dr. Khalilur Rehman S/O Abdul Jamil	179	Dr. Niaz Ali Khan S/O Raza Khan
144	Dr. Muhammad Asad Khan S/O Muhammad Ayub Khan	180	Dr. Inayatullah Khan S/O Sheikh Fand Khan
145	Dr. Hamidullah S/O Syed Amin Khan	181	Dr. Shujaat Ali Shah
146	Dr. Mubarak Shah S/O Qadam Khan	182	Dr. Zaheer Muhammad S/O Nisar Muhammad
147	Dr. Shahzad Iqbal S/O Muhammad Iqbal	183	Dr. Muhammad Atif S/O Khwaja Muhammad Khan
148	Dr. Imran Khan S/O Muhammad Siraj	184	Dr. Mansoor Qasim S/O Muhammad
149	Dr. Sajjad Akbar s/o Said Akbar	185	Dr. Rehmatullah Jan S/O Malik Ghazi Marjan
150	Dr. Shah Jehan s/o Painda Khan	186	Dr. Muhammad Farooq Gul S/O Gul Muhammad
151	Dr. Munawar s/o Moulvi Hassan	187	Dr. Muhammad Younas Khan S/O Abdul Sattar Khan
152	Dr. Muhammad Usman s/o Tajamul Hussain	188	Dr. Zahid Hussain S/O Ali Zaman
153	Dr. Sarfaraz Khan s/o Hajjat Din	189	Dr. Sahib Gul S/O Munir Gul
154	Dr. Ramzan Ali s/o Haji Mirjan Ali	190	Dr. Muhammad Hayat Khan S/O Bad Shah Gul
155	Dr. Sherzada s/o Ahmad	191	Dr. Sardar Ali S/O Mardan Ali
156	Dr. Zafar Iqbal s/o Muhammad Amin	192	Dr. Syed Muhammad Tanq Shah S/O Ghulam Mustafa Shah
157	Dr. Abdul Hadi s/o Mirajuddin	193	Dr. Shuja Ahmad S/O Shaukat Ali
158	Dr. Akhtar Nawaz s/o Muhammad Amir Khan	194	Dr. Habibullah Khan S/O Hamidullah Khan
159	Dr. Karimullah Khan s/o Sakhi Jan	195	Dr. Ashiq Muhammad S/O Muhammad Ishaq
160	Dr. Sanauallah s/o Waridullah	196	Dr. Sher Zali S/O Bahadar Khan
161	Dr. Haroon Zafar s/o Zafar Ahmad Shah	197	Dr. Mumtaz Ali S/O Ashraf Khan
162	Dr. Lalzada s/o Bakhtiar Khan	198	Dr. Fida Hussain S/O Haji Kifayat Hussain
163	Dr. Muhammad Mamoon s/o Muhammad Usman	199	Dr. Azimullah S/O Darya Khan
164	Dr. Pervez Khan s/o Habibur Rehman	200	Dr. Arshad Hussain S/O Nijat Hussain
165	Dr. Basit Ijaz s/o Ijaz Ahmad	201	Dr. Mumtaz Ahmad S/O Zarbab Khan
	-----	202	Dr. Amir Rafiq S/O Muhammad Rafiq Khattak

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203	Dr. Syed Amir Hamza S/O Syed Akhroonzada Gadoon	240	Dr. Muhammad Mustafa Alam S/O Nasrullah Jan
204	Dr. Syed Umair Hussain S/O Syed MAJid Hussain	241	Dr. Saadullah Khan S/O Ayub Khan
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206	Dr. Tikka Khan Orakzal S/O Gula Khan	243	Dr. Saghir Ahmad S/O Noor Elahi
207	Dr. Ali Shah S/O Fazli Ghaffoor	244	Dr. Jamafuddin S/O Muhammad Din
208	Dr. Mujahid Hussain Bangash S/O Iqbal Hussain Bangash	245	Dr. Khalid Mehmood S/O Rehmatullah
209	Dr. Shakeel Ahmad S/O Ghulam Murtaza Tahir	246	Dr. Yousaf Jan s/o Karam Khan
210	Dr. Gul Nazar S/O Samandar	247	Dr. Bakht Zada S/O Gul Muhammad
211	Dr. Jamshed Ali S/O Liaqat Ali	248	Dr. Fazal Subhan S/O Ghulam Nabi
212	Dr. Nadar Khan S/O Qadar Khan	249	Dr. Bakht Zamin S/O Wali Dad
213	Dr. Muhammad Faheem S/O Muhammad Shafiq	250	Dr. Ajmal Khan s/o Zulqadar Khan
214	Dr. Sanaullah Khan S/O Shawar Khan	251	Dr. Sharifullah s/o Muhammad Zaman Khan
215	Dr. Abdul Wahab S/O Abdul Ghaffar (late)		-----
216	Dr. Pir Muhammad S/O Habibur Rehman	252	Dr. Kamran Yousaf s/o Yousaf Khan
217	Dr. Farman Ali S/O Muhammad Nasim	253	Dr. Khairun Nabi
218	Dr. Muhammad Sayyar S/O Mukaram Shah	254	Dr. Amjad Ali Shah S/O Mian Muhammad Ali Sheh
219	Dr. Muhammad Noman Yousaf S/O Muhammad Yousaf	255	Dr. Tahir Hussain S/O Ghulam Hussain
220	Dr. Saood Anwar S/O Shah Hussain	256	Dr. Muhammad Tariq S/O Wazir Jang
221	Dr. Muhammad Tufail S/O Sahib Jan	257	Dr. Mustafa S/O Behramand
222	Dr. Muhammad Zaib S/O Haji Said Ghani	258	Dr. Muhammad Noor S/O H.M. Islam Khan
223	Dr. Sajjad Ahmad S/O Waheedullah	259	Dr. Ibrahim Iqbal S/O Saleh Khan, MBBS
224	Dr. Saeedur Rehman S/O Haji Fazli Rehman	260	Dr. Zaffar Ali Shah s/o Said Badshah
225	Dr. Muhammad Tahir Khan S/O Faiz Muhammad Khan	261	Dr. Fida Muhammad S/O Zarin Khan, MD
226	Dr. Aminullah S/O Bawar Khan	262	Dr. Aziz Khan s/o Jaffar Khan
227	Dr. Ghani Khan S/O Abdul Qayyum	263	Dr. Rab Nawaz S/O. Muhammad Nawaz
228	Dr. Inayat Khan S/O Sarwar Khan	264	Dr. Muhammad Kamal S/O Muhammad Sharif
229	Dr. Amir Sher S/O Pir Muhammad Khan	265	Dr. Sher Jan s/o Musharaf Khan
230	Dr. Muhammad Arif Khan S/O Gulbar Khan	266	Dr. Riaz Ali S/O Ser Bahadar
231	Dr. Anwar Ali Khan S/O Sardar Ali Khan	267	Dr. Muhammad Parvez Khan s/o Muhammad Nasir
232	Dr. Ijaz Ahmad S/O Bashir Ahmad	268	Dr. Noor Muhammad s/o Ahmad Saeed
233	Dr. Nadar Ali Shuja S/O Shujaud Dullah	269	Dr. S.M. Taimur Shah s/o Pir Feroz Shah
234	Dr. Niaz Ahmad S/O Bakhtiyar	270	Dr. Sajid Khan s/o Ghafcor Khan
235	Dr. Ikramullah Khan S/O Khuda Bakhsh	271	Dr. Muhammad Azhar Shah S/O Israrul Arifeen
236	Dr. Muhammad Zubair S/O Ghuncha Gul	272	Dr. Farid Hassan S/O Wazir Hassan
237	Dr. Muhammad Shafiq Afridi S/O Haji Fazal Karim	273	Dr. Izzat Khan S/O Rasool Khan
238	Dr. Rehmat Elahi S/O Muhammad Qarib	274	Dr. Muhammad Zahid s/o Qaiser Ahmad
239	Dr. Fazalur Rehman Bangash S/O Abdur Rehman Bangash	275	Dr. Abdul Jalil S/O Mohibullah

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276	Dr. Gulab Khan S/O Inayatullah	313	Dr. Nasreen Haider D/O Haider Khan
277	Dr. Muhammad Mehdi s/o Sardar Ali Khan	314	Dr. Niaz Ali S/O Fazal Hadi
278	Dr. Muhammad Ayub Khan s/o Badshah Gul	315	Dr. Gul Sanga Imran D/O Matiullah Nashad
279	Dr. Muhammad Karim S/O Samiullah Khan	316	Dr. Muhammad Salim Khan S/O Sarfaraz Khan
280	Dr. Hanif Afzal S/O Sher Afzal	317	Dr. Nadia Ashiq D/O Muhammad Ashiq Khan
281	Dr. Wali Muhammad S/O Gul Ghanir Khan	318	Dr. Muhammad Tariq Kamal S/O Sheikh Abdul Malik
282	Dr. Rozat Shah S/O S. Mursalin Shah	319	Dr. Mustafa Abbas S/O Talib Ali
283	Dr. Azizur Rehman S/O Shah Tareen	320	Dr. Sadaf Zahoor D/O anoor ul Haq Aziz
284	Dr. Jamil Ahmad S/O Abdullah	321	Dr. Shamsul Qamar D/O Muhammad Hanif
285	Dr. Said Muhammad S/O Ali Bal Khan	322	Dr. Ziaulhaq S/O Aman Ullah
286	Dr. Tasneem Fatima d/o Muhammad Aslam Malik	323	Dr. Tarannum Taj D/O Rahmat Jee
287	Dr. Zaffar Ali S/O Amir Ghawas	324	Dr. Saira Gulzar D/O Attaullah Jan
288	Dr. Tehmina Jalil d/o Abdul Jalil	325	Dr. Shaukat Saleem Khan S/O Saleem Khan
289	Dr. Muhammad Gul S/O Rehmat Gul	326	Dr. Robina Karim D/O Fazal Karim
290	Dr. Aurangzeb Afridi S/O Ghulam Hussain	327	Dr. Muhammad Ishaq S/O Abdul Karim
291	Dr. Mumtaz Hussain S/O Asghar Hussain	328	Dr. Jalal Mohyuddin S/O Ghulam Mohyuddin
292	Dr. Muhammad Jawad s/o Iftikhar Khan		-----
293	Dr. Farkhanda d/o Fahim Dil	329	Dr. Nabeela Mehmood D/O Mehmood Khan Khattak
294	Dr. Muhammad Riaz S/O Muhammad Aslam	330	Dr. Muhammad Habeel S/O Mushtaq Ahmad Dar
295	Dr. Habib-ur-Rehman S/O Abdul Aziz	331	Dr. Sher Bahadar S/O Fazal Ahmad
296	Dr. Inayatullah S/O Saifullah Khan	332	Dr. Fahad Ajmal S/O Muhammad Ajmal
297	Dr. Abbas Khan S/O Ajab Khan	333	Dr. Muhammad Ali Khan S/O Saib Muhammad Malik
298	Dr. Muhammad Munib S/O SHis Ali Khan	334	Dr. Rahat Ara D/O Ghulam Jan
299	Dr. Akram Khan S/O Arbab Khan	335	Dr. Ghareebullah S/O Yaqub Khan
300	Dr. Nawab Khan S/O Aslam Khan	336	Dr. Tariq Jafri S/O Abdul Jalil Shaheed
301	Dr. Azam Khan Afridi S/O Abdul Aziz	337	Dr. Abdul Hameed Khan S/O Abdul Majeed Khan
302	Dr. Shah Kamin S/O Nowserawan	338	Dr. Fauzia Habib D/O Habib ur Rehman Khattak
303	Dr. Rahim Nawaz S/O Mir Dari Khan	339	Dr. Musa Khan S/O SHiszada
304	Dr. Azhar Azeem	340	Dr. Mushtaq Ahmad S/O Haji Fazal Khan
305	Dr. Muhammad Shafiq	341	Dr. Tariq Aziz S/O Shakirullah
306	Dr. Muhammad Shah Rawan	342	Dr. Walayat Khan S/O Kamin Badshah
307	Dr. Zill-e-Huma D/O Ajab Khan	343	Dr. Syeda Uzma Saeed D/O Syed Saeedul Haq
308	Dr. Aya Khan S/O Jamal Din	344	Dr. Muhammad Yasser Sharif S/O Muhammad Sharif
309	Dr. Fazal wahab S/O Abdul Ghaffar	345	Dr. Muhammad Kashif Iltaf S/O Muhammad Iltaf
310	Dr. Muhammad Shoaib S/O Shamim Khan	346	Dr. Sahibzada Hilal Ahmad S/O S. Naseer Ahmad
311	Dr. Sumaira Sardar D/O Sardar ul Islam	347	Dr. Zarshad Ahmad S/O Pir Muhammad
312	Dr. Atifullah Khan S/O Arif Ullah Khan	348	Dr. Hassan Nasir S/O SHis Akbar Shah

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	Dr. Nusrat Ara D/O Abdullah Jan	386	Dr. Wazir Khan S/O Rukam Khan
350	Dr. Nusrat Ara D/O Abdullah Jan	387	Dr. Munir Taj S/O Taj Malook
351	Dr. Azmat Ali S/O Muhammad Arzal	388	Dr. Muhammad Salman Khan S/O Muhammad Akbar Khan
352	Dr. Manzoor Ahmad S/O Rustam Khan	389	Dr. Zulfiqar Ali S/O Ijaz Hussain Awan
353	Dr. Ali Bashir S/O Bashir Hussain	390	Dr. Mohabat Ali Khan S/O Abdul Baqi
354	Dr. Shabir Ahmad S/O Juma Khan	391	Dr. Syed Munqadullah S/O Syed Mahidullah
355	Dr. Shafqat Younas Tanooli S/O Muhammad Younas	392	Dr. Liaqat Ali S/O Shah Bali Jan
356	Dr. Muhammad Ibrahim Khan S/O Abdul Halim Khan	393	Dr. Jehanzeb S/O Munawar Khan
357	Dr. Shaukat Hussain S/O Bagh Zamin	394	Dr. Farmanullah Khan S/O Jamil Ullah Khan
358	Dr. Muhammad Naeem S/O Habibullah Khan	395	Dr. Muhammad Tahir Iqbal S/O Muhammad Iqbal
359	Dr. Tariq Mascod S/O Sher Azam Khan	396	Dr. Qazi Yasir Imdad S/O Qazi Imdad Hussain
360	Dr. Muhammad Safdar Qureshi S/O Muhammad Sarwar Quresh	397	Dr. Roshan Zada S/O Syed Latif
361	Dr. Nosheen Rehman D/O Qazi Zia Ur Rehman	398	Dr. Shahid Mehmood S/O Sardar Muhammad Aslam
362	Dr. Najeebullah s/o Mehboobur Rehman	399	Dr. Samiullah s/o Najeebullah
363	Dr. Akhtar Munir S/O Murad Khan	400	Dr. Lal Badshah S/O Pirzad Gul
364	Dr. Naheed Akhtar D/O Khuna Gul	401	Dr. Shafiullah S/O Muhammad Gul
365	Dr. Anjum Afroz D/O Muhammad	402	Dr. Haroon Nasir Khattak S/O Rab Nawaz
366	Dr. Kamran Ali S/O Abdul Hameed	403	Dr. Gohar Zaman S/O Minhajuddin
367	Dr. Erum Qayyum S/O Syed Qayyum	404	Dr. Abdul Wali S/O Izzat Khan
368	Dr. Gohar Zaman S/O Muhammad Zaman	405	Dr. Mumnoon Elahi S/O Muhammad Khurshid
369	Dr. Mazhar Hayat S/O Malik Hazrat Mir	406	Dr. Rafiullah S/O Arsala Jan
370	Dr. Shah Baraz Khan S/O Gulzar Khan	407	Dr. Alif Jan S/O Amir Jan
371	Dr. Rubina Bangash D/O Jan Hussain Bangash	408	Dr. Sir biland Khan S/O Ghulam Gillani
372	Dr. Raza Ali Orakzai S/O Liaqat Ali Orakzai	409	Dr. Zahiddin s/o Yousaf Khan
373	Dr. Syeda Nargis Jabeen D/O Israrullah Shah	410	Dr. Rab Nawaz Khan Afridi s/o Haji Said Jan Afridi
374	Dr. Sheraz Ahmad S/O Rashid Ahmad	411	Dr. Sardeep Kumar s/o Hukamchand
375	Dr. Muhammad Zamin Khan S/O Hayat Khan	412	Dr. Khalida Yasmeen D/O Haji Ali Hussain
376	Dr. Lubna Rasool D/O Abdul Rasool	413	Dr. Robina Wazir D/O Haji Mumtaz
377	Dr. Arshiya Ilyas D/O Muhammad Ilyas	414	Dr. Rowish d/o Ahmad Jan
378	Dr. Sadia Asif D/O Muhammad Asif	415	Dr. Muhammad Riaz S/O Ghulam Rasool
379	Dr. Fazal Gul S/O Haji Musa Khan	416	Dr. Noshaba Naheed D/O Manzoor Ahmed
380	Dr. Lubna Hayat D/O Fazal Hayat Taj	417	Dr. Muhammad Arif s/o Chand Badshah
381	Dr. Muhammad Amin Khan S/O Muhammad Usman Khan	418	Dr. Asif Rahim s/o Abdul Rahim
382	Dr. Nouman Khan S/O Nasir Khan	419	Dr. Abdullah Khan s/o Abdul Mastan
383	Dr. Muhammad Zubair S/O Iltikhar Ahmad Bhatti	420	Dr. Raz Muhammad s/o Badshah Muhammad
384	Dr. Muhammad Ismail S/O Said Muhammad	421	Dr. Fazal Wahid s/o Khan Gul
385	Dr. Sultan un Nisa D/O Hafiz Muhabat Khan	422	Dr. Mushtaq Ahmad s/o Badshahul Muik

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423	Dr. Nizamuddin s/o Qaandar Khan	446	Dr. Shahzad Gul s/o Muhammad Sharfeeq
424	Dr. Nisar Ahmad s/o Amir Muhammad	447	Dr. Mast Ali Khan s/o Majani
425	Dr. Khizar Hayat s/o Pir Muhammad	448	Dr. Latzada Khan s/o Umar Gul
426	Dr. Rukhsana d/o Malik Farukh Sair Khan	449	Dr. Abdul Aziz s/o Abdur Rashid
427	Dr. Ajab Khan s/o Ismail Khan	450	Dr. Sher Umar Khan s/o Fateh Khan
428	Dr. Khalid Javed s/o Zulfiqar Khan	451	Dr. Abdul Haleem Afridi s/o Fazal Shah
429	Dr. Abdul Sattar Khan s/o Rukam Khan	452	Dr. Said Ameen Shah s/o Abdullah Shah
430	Dr. Ayub Khan s/o Umar Gul	453	Dr. Ijaz Ajmal Khan s/o Ajmal Khan
431	Dr. Muhammad Farooq s/o Muhammad Raziq Mehmood	454	Dr. Mursaha d/o Muhammad Afzal
432	Dr. Naeemullah s/o Abdullah	455	Dr. Manzoor Ahmad s/o Abdul Wadood
433	Dr. Khalid Hafeez s/o Hibzur Rehman	456	Dr. Shazia Gul d/o Masood Ahmad
434	Dr. Irshat Jehan d/o Shamsul Wahab	457	Dr. Roobina Gul d/o Badshah Gul
435	Dr. Nazar Wali s/o Syed Awaiz	458	Dr. Rifat Shaheen d/o Qazi Ahmad
436	Dr. Naseerullah s/o Umar Kabal	459	Dr. Shaheen Mehtab d/o Mumtaz Khan
437	Dr. Muhammad Ayaz Khan s/o Haji Amir Nawab	460	Dr. Faridoon Mehmood Khan s/o Mehmood Khan
438	Dr. Saleemuddin s/o Haji Shah Bakht Rawan	461	Dr. Syed Badshah s/o Musafar Khan
439	Dr. Fazal Hadi s/o Juma Gul	462	Dr. Abdul Ghafoor s/o Badshah Khan
440	Dr. Qasim Abbas s/o Saifur Rehman	463	Dr. Fazal Raziq s/o Fazal Maula
441	Dr. Hakim Zada s/o Purdas Khan	464	Dr. Naheed Sultana d/o Muhammad Akram
442	Dr. Nusrat Begum d/o Qazi Abdul Mateen	465	Dr. Saeedur Rehman s/o Ashtar Khan
443	Dr. Nasreen Begum d/o Awal Saddam	466	Dr. Fayyaz Ali s/o Qaiser Khan
444	Dr. Muhammad Shafeeq s/o Raza Khan	467	Dr. Shakirullah s/o Fazal Ghafoor s/o Muhammad Amin
445	Dr. Wali Khan s/o Mameer Khan	468	Dr. Faheem Ul Haq s/o Muhammad Ishaq
	-----	469	Dr. Fahad Khalid Umerzai s/o Khalid Khan Umerzai

2. In term of Rule 6 (3) of Civil Servants Act, 1973 and Rule 15 (1) of Appoi230ntment, Promotion and Transfer Rules, 1989, they will be on probation for a period of 231one year extendable for another year.

3. The postings/transfers of the above named doctors shall be notified later on.

SECRETARY HEALTH  
Govt of Khyber Pakhtunkhwa

Endst.No & Date Even.

Copy to the:-

1. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
2. Principal Secretary to Governor, Khyber Pakhtunkhwa.
3. Secretary to Govt of Khyber Pakhtunkhwa, Establishment Department
4. Director General Health Services, Khyber Pakhtunkhwa.
5. Director Health Services FATA, Peshawar
6. PS to Minister Health, Khyber Pakhtunkhwa, Peshawar
7. PS Secretary Health, Khyber Pakhtunkhwa, Peshawar
8. Officers/doctors concerned.

(JIGREEL RAZA)  
SECTION OFFICER (E-V)

*Ar*



F 27

GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT

Dated Peshawar, the 20<sup>th</sup> December, 2017

**NOTIFICATION**

**NO.SOH(E-V)4-22/2017**

Upon promotion to BS-18 in the General Cadre vide Notification of even number dated 15.11.2017, the competent authority is pleased to retain Dr.Jamshed Saeed Sherani SMO BS-18 at S.No.50 attached to Khyber Teaching Hospital Peshawar in the S.H.Hospital against the vacant post of BS-18 with immediate effect in the public interest.

**SECRETARY HEALTH**  
**Govt.of Khyber Pakhtunkhwa**

**Endst. No. & Date Even**

Copy to the:-

1. Accountant General, Khyber Pakhtunkhwa
2. Director General Health Services, Khyber Pakhtunkhwa.
3. Hospital/Medical Director KTH Peshawar
4. PS to Minister Health Khyber Pakhtunkhwa
5. PS Secretary Health, Khyber Pakhtunkhwa, Peshawar
6. Officer/doctor concerned.

  
(JIBREEL RAZA)  
SECTION OFFICER (E-V)

**ATTESTED**



5 (28)

GOVERNMENT OF KHYBER PAKHTUNKHWA PESHAWAR  
CERTIFICATE OF TRANSFER OF CHARGE

It is certified that I DR JAM SAIED SAEED SAIF RANI  
Have this day 26/12/2017 taken over charge of the office 3 mo - 5 ps - 18  
relinquished

F 23

No. SOH (E-V) 422 / 2017 Dated 20/12/2017  
transferring Mr on Permission  
S 20 / BPS-18  
Particulars of Cash and important/Secret/Confidential document handed over/taken are noted on the reverse.

Signature of relieved  
Government Servant

Designation

Signature of Government  
Servant receiving  
charge

Destination

*[Signature]*

Date 26/12/2017

Date 20

To, The Accountant General  
K P K, Peshawar

The charge on the office of  
Accountant General from Mr.

No. 563  
The date 26/12/17 of the  
after 26/12/17

Signature

Designation

*[Signature]*

Handwritten initials/signature

Request for court order implementation.

1 message

Handwritten 'H' and circled '29'

jamshedsherani1975 <jamshedsherani1975@gmail.com>  
To: faisal@skm.org.pk

Tue, Jan 9, 2018 at 12:39 AM

Dear sir Dr Faisal Sultan

I hope my email finds you in best of health; I am once again writing to you in person to show you the highhandedness and personal prejudice of the KTH administration against me.

I have recently won a Court Case through the Honorable Servical Tribunal against my illegal transfer orders by the then HD of KTH. The court has clearly mentioned in the order that order was illegal and declared it null and void. Subsequently the Health Department, Government of KP, has given me promotion into BPS-18 and sent me back to KTH in light of the Court Order.

However the administration instead of fulfilling the court order, is using delaying tactics tantamounting to Contempt of Court and is contemplating to pitch the Board of Governors against me, by placing the Court case in front of the BoGs. This is the excuse being given by them that we have kept your order for BoGs to approve. They know it very clearly that its a Court implementation order and there cannot be a way to delay it. This seems like a clever game to pitch BoG so that if there is any Contempt of Court proceedings it should be directed against BoGs. Moreover in its previous meetings even the BoGs had decided that in any prejudice matters the decision of the court will be accepted in toto.

Therefore I humbly request you to intervene in this matter personally as this is almost going to take an ugly turn because already my salary was blocked for more than an year on one and different pretexts and now the administration is hell bent to force me to proceed to Contempt of Court against the management.

I pray that my order by Honorable Court be accepted and my placement order back into KTH be accepted immediately without any delay so I can start my work back in best of public interest.

Thanks and kind regards  
Dr Jamshed Saeed  
President AMOF/PDA KTH

Sent from my Samsung Galaxy smartphone.

ATTESTED

Handwritten signature

I (38)

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR.

Writ Petition No. \_\_\_\_\_/2018

Mr. Jamsheed Saeed, SMO, (BPS-18)  
Khyber Teaching Hospital, Peshawar.

PETITIONER

VERSUS

1. The Board of Governor through its Chairman MTI, Khyber Teaching Hospital, Peshawar.
2. The Hospital Director, MTI, Khyber Teaching Hospital, Peshawar.
3. The Medical Director, MTI, Khyber Teaching Hospital, Peshawar.
4. The Secretary Health, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.

RESPONDENTS

.....  
WRIT PETITION UNDER ARTICLE 199 OF THE  
CONSTITUTION OF THE ISMLAIC REPUBLIC OF  
PAKISTAN 1973 AS AMENDED UPTO DATE.

RESPECTFULLY SHEWETH:

Brief facts giving rise to present petition are as under:-


1. That the petitioner is law abiding citizens of Pakistan and have legal and constitution right duly protected under the law of land.
2. That the petitioner is a civil servant and was posted as Medical Officer (BPS-17) in the MTI, KTH Peshawar. The petitioner was illegally relieved by the respondent No.2 vide order dated 03.11.2016 and his salary was also stopped against which he filed writ petition No. 4193/2017 which was dismissed for want of jurisdiction on 25.04.2017 and directed the petitioner to approach proper forum and then he filed service appeal No. 480/2017 in the KPK Service Tribunal along with suspension application which was decided in the favor of the petitioner on 15.12.2017 in which the Honourable Tribunal clarified that civil servant working in MTIs, Cannot be dislodged from MTIs by Medical Director/ Hospital Director/Dean but can be repatriated by Health Department only with the approval of the competent authority. (Copy of judgment dated 15.12.2017 is attached as Annexure-A)

ATTESTED  
Or

3. That in the compliance of judgment dated of 15.12.2017, respondent No.4 wrote a letter to respondent No.2 on dated 19.12.2017 and requested that the Medical Director, MTI, KTH office order dated 03.11.2016 regarding repatriation of the petitioner to health department may be withdrawn ab anitio being void. **Copy of letter dated 19.12.2017 is attached as Annexure-B)**
4. The petitioner was promoted to the post of Senior Medical Officer (BPS-18) vide notification dated 15.12.2017 along with other doctors and retain his service in Khyber Teaching Hospital Peshawar against the vacant post of BS-18 vide notification dated 20.12.2017 by respondent No.4 being competent authority. **(Copies of order dated 15.12.2017 and 20.12 2017 are attached as Annexure-C&D)**
5. That in compliance of order dated 20.12.2017, the petitioner submitted his arrival report on 26.12.2017, but no action has been taken by the respondent No.1-3 on his arrival report till date. **(Copy of arrival report is attached as Annexure-E)**
6. That the petitioner also filed application on 09.01.2018 through mail to accept his arrival report but no action has also been taken on his application by the respondent No.1-3 till date. **(copy of application is attached as Annexure-F)**
7. That as the petitioner has no other remedy except to file this writ petition for his redressal of his grievance on the following grounds amongst the others.

**GROUND:**

- A) That action of respondent No. 1-3 of not accepting the arrival report of the petitioner is unlawful, illegal, unconstitutional and discriminatory.
- B) That as per letter dated 06.10.2017, civil servant working in MTI cannot be dislodged from MTIs by Medical Director/ Hospital Director/Dean, but can be repatriated by Health Department only with the approval of the competent authority and Secretary Heath (Respondent No.4) being competent authority has retained the service of the petitioner in Khyber Teaching Hospital Peshawar against the vacant post of BS-18, therefore the respondents No. 1-3 are legally bound to accept the arrival of the petitioner and allow him to work on his post. **(Copy of letter dated 06.10.2017 is attached as Annexure-G)**
- C) That the petitioner is a civil servant and being a civil servant his posting transfer is the domain of Heath department and respondent No.1-3 are not the departmental authority and are not having any



**INTERIM RELIEF:**

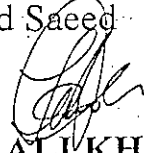
The respondents may be restrained from passing any adverse order against the petitioner detrimental to his service rights till the disposal of main writ petition.



**PETITIONER**

Dr. Jamshed Saeed

THROUGH:

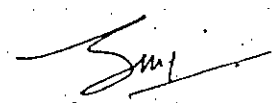


**(TAIMUR ALI KHAN)**

**ADVOCATE HIGH COURT**

**VERIFICATION:**

It is verified that no other Writ Petition earlier has been filed between the present parties, except the present one.



**DEPONENT**

**LIT OF BOOKS:**

1. Constitution of the Islamic Republic of Pakistan, 1973.
2. MTI, Act 2015.
3. Any other case law as per need.

**NOTE:** Prior Notice along with the copies of the Writ Petition has already been given to the respondents as per amended High Court's Rules dated. 23.02.2016



**(TAIMUR ALI KHAN)**

**ADVOCATE HIGH COURT**

**ATTESTED**





**VAKALAT NAMA**

NO. \_\_\_\_\_/2018

IN THE COURT OF Service Tribunal Peshawar

Dr. Tamsheed Saeed (Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS


Chairman through its BOB (Respondent)  
(Defendant)

I/We, Dr. Tamsheed Saeed.

Do hereby appoint and constitute **Taimur Ali Khan, Advocate High Court 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 costs.

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. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated \_\_\_\_\_/2018

  
(CLIENT)

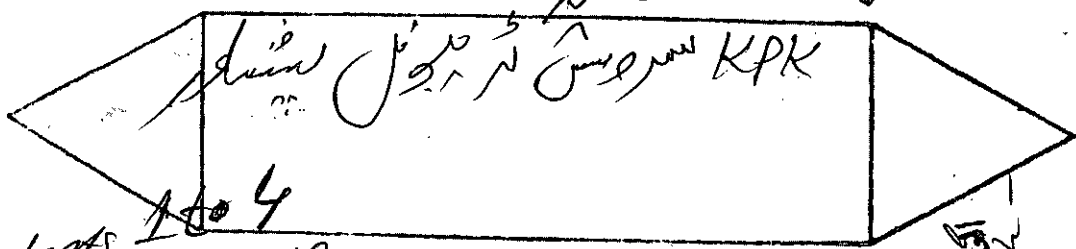
ACCEPTED

  
**TAIMUR ALI KHAN**  
Advocate High Court

**OFFICE:**

Room # FR-8, 4<sup>th</sup> Floor,  
Bilour Plaza, Peshawar,  
Cantt: Peshawar  
Cell: (0333-9390916)

# بہالت عالیہ



Respondents 104  
2018

مقدمہ نمبر 711/18  
مقدمہ نمبر 711/18  
مقدمہ نمبر 711/18

## باعث تحریر نامہ

مقدمہ نمبر 711/18  
مقدمہ نمبر 711/18  
مقدمہ نمبر 711/18

Chairman Board of Governors  
MTH, KTH, Peshawar

Medical Director, MTH, Peshawar  
Hospital Director, MTH, Peshawar

HOSPITAL DIRECTOR  
Medical Teaching Institution  
KTH, KMC, KCD  
Peshawar

Medical Director  
Teaching Institution  
MTH, Peshawar

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بقام  
ہسپتال

**BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No.711/2017

Dr. Jamshed Saeed

VS

Hospital Director KTH etc.

.....  
**REJOINDER ON BEHALF OF APPELLANT**  
.....

**RESPECTFULLY SHEWETH:**  
**REPLY TO FACTUAL BRIEF.**

1. It is correct that the appellant is a civil servant and civil servant can be served in MTI as per section-16 of MTI Act 2015. Moreover many civil servants working in MTI were promoted/adjusted in the institution.
2. Incorrect. The appellant did not conceal any facts from this august Service Tribunal. Moreover on promotion the appellant was posted in MTI by the competent authority and the appellant also submitted his arrival report but respondent No.2 did not accept his arrival till date.
3. Incorrect. The appellant was illegally relieved by the respondent No.2 vide order dated 03.11.2016, against which he filed writ petition No. 4193/2017 in the Peshawar High Court Peshawar along with interim relief, the Honorable Peshawar granted status quo in the favour of the appellant , but the salary of the appellant was stopped on 01.01.2017 by the respondents without any reason. The said writ petition was later on dismissed for want of jurisdiction on 25.04.2017 and then the appellant filed service appeal No. 480/2017 in the KPK Service Tribunal along with suspension application. The august Service Tribunal suspended the impugned orders on 18.05.2017 and finally the service appeal was decide in the favor of the appellant on 15.12.2017. The appellant was then promoted to the post of SMO BPS-18 and posted in MTI by the competent authority and in the pursuance of that order, the appellant also submitted his arrival report but respondent No.2 did not accept his arrival till date and did not allow him to work, therefore the appellant should not be punished for the fault of others and cannot be deprived his legal right of salary in arbitrary manner.

4. Incorrect. The appellant is a civil servant and as per letter dated 06.10.2017, his competent authority is Secretary Health which posted him in MTI KTH.
5. Incorrect. Many Management cadre civil servants are working in the MTI KTH. (Copy of orders are attached as Annexed R-1)

**Preliminary Objections:**

- I. Incorrect. The appellant has good cause of action to file the instant appeal.
- II. Incorrect. The appellant did not conceal any fact from this august Service Tribunal and come this Honorable Tribunal with clean hands.
- III. There are many cases where there is no original or appellate order but in interest of justice, this august Service Tribunal allowed the cases.
- IV. Incorrect. The appellant filed departmental appeal which is attached as Annexure-H with the appeal.
- V. Incorrect. The appellant has filed writ petition No.1919/2018 for his acceptance of his arrival which was also mentioned in the appeal. Moreover this august Service Tribunal suspended the impugned reliving order and during the pendency of appeal, the respondent passed the order whereby the service of the appellant was placed at the disposal of FATA despite the fact that impugned order was suspended by this august Service tribunal, which also shows the malafide of the respondents.

**FACTS:**

1. Pertain to record, however it is pertinent to mentioned here that on 30.11.2017 the counsel for the appellant was not prepare to argue the case and requested for adjournment which was allowed by the this august Service Tribunal in the presence of the representative of the respondents as well as counsel for the respondents which means that they were aware about the next date of hearing in the Case of the appellant and plea of absence on the date of hearing has no legal justification.
2. Pertain to record. However the appellant did not conceal any material facts from this august service Tribunal.
3. Incorrect. The appellant being a civil servant and his competent authority i.e secretary Health posted him in MTI KTH.

4. Incorrect. The appellant is a civil servant and as per letter dated 06.10.2017, his competent authority is Secretary Health which posted him in MTI KTH. Moreover he also informed his high ups about his salary on which Director Administration of DG Health Services KP, Peshawar wrote a letter on 20.12.2018 to respondent No.2 that DG Health Service took serious notice on the issue of the appellant which was also endorsed by the Secretary Health being competent authority on 28.12.2018. Moreover he did not forego his promotion as in time he submitted his arrival report which was not accepted by respondent No.2 till date which compelled the appellant to file writ petition No.1919/2018 for acceptance of his arrival. **(Copy of letter dated 06.10.2017 and letter dated 20.12.2018 are attached as annexure-R-2&3)**
5. Incorrect. the appellant did not preferred to remain absent from duty as he submitted his arrival report to respondent No.2 in time which was not accepted by the respondent No.2 till date on which he filed writ petition No.1919/2018 in Honorable High Court Peshawar which means that the appellant did all effort on his part to accept his arrival and allow him to work on his post, but respondent No.2 in arbitrary manner did not accept his arrival till date. Moreover the Secretary Health being competent authority of the appellant posted him in MTI KTH and the respondent No.2 is legally bound to accept his arrival report.
6. Incorrect. Many civil servants were adjusted/ posted in MTI, while the appellant was discriminated by not treating equally, which is violation of Article-25 of the Constitution of Pakistan. Moreover he did not remain absent from his duty, but respondent No.2 did not accept his arrival report and did not allow him to work on his post.

#### **GROUND:**

- A) Incorrect hence denied as detailed reply has already been given in the above paras of the rejoinder.
- B-D. Incorrect. The appellant was illegally relieved by the respondent No.2 vide order dated 03.11.2016, against which he filed writ petition No. 4193/2017 in the Peshawar High Court Peshawar along with interim relief, the Honorable Peshawar granted status quo in the favour of the appellant , but the salary of the appellant was stopped on 01.01.2017 by the respondents without any reason. The said writ petition was later on dismissed for want of jurisdiction on 25.04.2017 and then the appellant filed service appeal No. 480/2017 in the KPK Service Tribunal along with suspension application. The august Service Tribunal suspended the impugned orders on 18.05.2017 and finally the service appeal was decide in the favor of the appellant on

15.12.2017. The appellant was then promoted to the post of SMO BPS-18 and posted in MTI by the competent authority and in the pursuance of that order, the appellant also submitted his arrival report but respondent No.1 still not accepted his arrival and did not allow him to work, due to which he filed writ petition for acceptance of his arrival which means that the appellant did not remain absent from his duty and did all his effort on his part to allow him to work on his post, therefore the appellant should not be punished for the fault of others and cannot be deprived his legal right of salary in arbitrary manner.

- E. incorrect. The appellant has not been treated in accordance with law and rules.
- F. incorrect. Hence denied.

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



**APPELLANT**


Through:



**(TAIMUR ALI KHAN)  
ADVOCATE HIGH COURT.**

**AFFIDAVIT**

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.




**DEPONENT**



COOPERATION CERTIFICATE

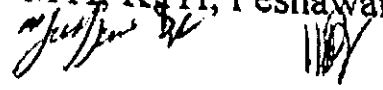
It is to certify that Dr. Ali Asghar S/O Abdul Akbar Khan is working at  
Medical Officer-BPS-17 (Civil Service) in this institution.

Upon promotion to the post of Senior Medical Officer, BPS-18, this institution has  
no objection for posting him to this institution against the vacant post of Senior  
Medical Officer, BPS-18.



Hospital Director  
MTL, KTH, Peshawar.

HOSPITAL DIRE  
Medical Teaching In  
KTH, KMC, K  
Peshawar





**MEDICAL TEACHING INSTITUTION**  
**KHYBER TEACHING HOSPITAL, PESHAWAR**  
Office of the Medical Director

No. 51001


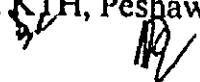
/KTH/HRD

Dated 20/12/2017

**NO OBJECTION CERTIFICATE**

This is to certify that **Dr. Rehmat Ullah Jan S/O Malik Ghazi Marjan** is working as Medical Officer, BPS-17 (Civil Servant) in this institution.

Upon promotion to the post of Senior Medical Officer, BPS-18, this institution has no objection on his posting to this institution against the vacant post.

  
**Medical Director**  
**MTI, KTH, Peshawar.**  






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

Email Address: khyberpakhtunkhwadghs@yahoo.com  
Phone: (Office): 0919213120 (Exchange): 0919210187, 9210196

R-3

All communications should be addressed to the Director General Health Services Peshawar and not to any official by name.

No. 20569-72 / E. I

Dated: 20/12/2018

To,

The Hospital Director,  
Medical Teaching Institute, KTH Peshawar.

Subject: TRANSFER/ POSTING OF DR. JAMSHED SAEED, SMO, BPS-18.

Dr. Jamshed Saeed (Civil Servant, BPS-17) has approached the Director General Health Services Khyber Pakhtunkhwa through an appeal wherein he has stated that he was transferred from Medical Teaching Institution KTH Peshawar vide order No. 28495-505/KTH/E. dated: 03-11-2016 and his services were placed at the disposal of Health Department Khyber Pakhtunkhwa.

The doctor concerned preferred an appeal before the Honorable Services Tribunal Khyber Pakhtunkhwa and he was granted relief against his transfer by the Services Tribunal. In the meanwhile the government of Khyber Pakhtunkhwa promoted him to the post of Senior Medical Officer (SMO, BPS-18) and placed his services in the said hospital i.e. MTI KTH Peshawar complying the orders of the Honorable Court.

In his appeal the doctor concerned requested for his salaries and allowances which has not been paid to him since the date of his impugned transfer vide order mentioned above duly consider null & void by the Honorable Court. The Director General Health Services Khyber Pakhtunkhwa has taken a serious notice of this anomaly and has been pleased to desire that the right of the employee may kindly be restored in accordance with the directives of the Honorable Services Tribunal Khyber Pakhtunkhwa copy attached.

An early response to this communication is requested please.

HD  
21/12/18  
M. on priority  
20/12/18  
Secretary Health  
Govt. Of Khyber Pakhtunkhwa

(DR. JAMAL ABDUL NASIR)  
Director Administration  
Directorate General Health Services  
Khyber Pakhtunkhwa, Peshawar

Copy forwarded to the;

1. PS to Secretary Health Khyber Pakhtunkhwa.
2. PA to Director General Health Services Khyber Pakhtunkhwa.
3. Officer concerned.

Director Administration  
Directorate General Health Services  
Khyber Pakhtunkhwa, Peshawar



Government of Khyber Pakhtunkhwa  
Health Department

Re-2.

No. SOH-1/HD/3-45/2017  
Dated Pesh: the 6<sup>th</sup> Oct, 2017

To

1. The Hospital Director,  
DHQTH/MMMTH, MTI, D.I.Khan
2. The Medical Director MTI,  
DHQTH/MMMTH, MTI, D.I.Khan
3. The Dean,  
Gomal Medical College, D.I.Khan

**SUBJECT:- HUMAN RESOURCE MANAGEMENT WITH IN MTIs AND TRANSFER/POSTING OF CIVIL SERVANTS IN MTIS**

I am directed to refer to the subject noted above and to state that in the light of MTI Act 2015 and till date clinical faculty and other staff concerned with clinical functions/health care activities of attached teaching hospitals of the medical college have to report to the Medical Director who is responsible for all clinical functions/health care activities of the MTI.

2. The Dean heads the Medical College and Academic Council has to prescribe and set principles for teaching research, training, development of curriculum, undertaking scholarly activity, ensuring ethical and moral standard, students affairs and admission in colleges, therefore, the Dean has got nothing to do with the clinical staff working in the attached teaching hospitals.

3. The Hospital Director is responsible for non clinical functions but not management which includes transfer postings of the clinical faculty and other staff related with clinical functions/health care activities of the hospital. He is responsible only for "maintenance and development" of human resource but not management of such staff.

4. Civil Servants working in MTIs, cannot be dislodged from MTIs by Medical Director/Hospital Director/Dean but can be repatriated by Health Department only with the approval of the competent authority.

The above instructions and legal positions may be followed in letter and spirit.

  
(M. Aslam Khan)  
Section Officer-I

Endst. No and date even

C.C.

1. Secretary to Boards of Governor, of MTI, D.I.Khan
  2. Director Finance MTI, D.I.Khan.
- For information and necessary action.

  
Section Officer-I

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 711 /2018

Dr. Jamshed Saeed .....Appellant

VERSUS

Board of Governor etc..... Respondents

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Respondents No.1-4  
(Hospital Director)

Through

**Khaled Rahman**  
Advocate  
Supreme Court of Pakistan  
3-D, Haroon Mansion,  
Khyber Bazar, Peshawar:  
Off: 091-2592458  
Cell # 0345-9337312

Dated: 12 /10/2018

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 711 /2018

Dr. Jamshed Saeed .....Appellant

VERSUS

Board of Governor etc ..... Respondents

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**PARA WISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 to 4.**

---

Respectfully Sheweth,

**FACTUAL BRIEF.**

1. That the appellant is civil servant of KP Health Department and cannot be promoted/adjusted against the post of autonomous institution where no post is available and advance information for not posting of civil servant is communicated to the Department. (**Annex-PC/1**).
2. He was promoted to BPS-18 by the Health Department during the pendency of his earlier appeal due to which his appeal was infructuous but this fact was kept hidden from the honorable court that too this institution letter No. 29391-3/KTH dated 09-09-2017 in his case. (**Annex- PC/2**).
3. That the appellant is absent from duty since 03-11-2016 till date, running his illegal businesses so on the pretext and involvement of this honourable court, the appellant wants regularization of his absent period and his promotion to BPS-18 which is not acted upon in time and forgone.
4. That the appellant civil servant re-posting in his case is not in public interest and is against the philosophy of MTI Reform Act 2015 being

unwilling worker and problem employee for the reforms which is evident from the compliant addressed to Chief Secretary, Govt: of Khyber Pakhtunkhwa vide No. 17392/KTH/HD Dated 08-06-2018  
(Annex- PC/3)

5. Recently his name is incorporated in the Management Cadre list of Health Department vide Notification No. SOH (E-V) 4-20/2018 dated 10-09-2018 which again stop his induction due to non availability of Management Cadre post in the autonomous institution. (Annex- PC/4)

**Preliminary objections.**

- I. That the appellant has got no cause of action and locus standi to file the instant service appeal.
- II. That the appellant has not approached to this honorable Tribunal with clean hands and have concealed important facts.
- III. That the appeal is not maintainable as the appellant has not called in question any order whether original or appellate which is the condition for exercise of jurisdiction by this Hon'ble Tribunal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.
- IV. That the appellant has not filed any Departmental Appeal which is also a condition for preferring the Service Appeal before the Service Tribunal as per Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 read with Section 22 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-3 of the Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986.
- V. That the appellant is estopped by his own conduct to file the appeal in hand because the matter is sub-judice before the Hon'ble Peshawar High Court Peshawar in WP No.1919/2018 which is pending whereby

he has challenged the order of the answering Respondent of non-acceptance of his arrival report because at the relevant time appellant did not perform his duties while being at the disposal of the FATA Health Department.

**PARAWISE REPLY.**

1. Incorrect hence emphatically denied. The Hon'ble Peshawar High Court Peshawar did not suspend the order dated 03.11.2016 rather issued only status quo order dated 10.11.2016 (*Annex:- PC/5*). It is significant to mention here that the answering Respondents had already issued the relieving order. The answering Respondents vide office order dated 29.04.2017 (*Annex:- PC/6*) directed appellant to report to Health Department. Moreover, the Writ Petition of the appellant and his other colleagues were dismissed vide Judgment dated 25.04.2017 (*Annex:- PC/7*). The concluding para of the cited judgment is reproduced herein below:-

*11. Admittedly, the petitioners are civil servants and their grievances relates to the terms and conditions of service, the appropriate remedy for seeking their redressal would surely be the Service Tribunal.*

*12. This Court is barred under Article-212 of the Constitution of the Islamic Republic of Pakistan, 1973 to take cognizance in the matter relating to the terms and conditions of service of civil servant. The Apex Court in the case of I.A. Sherwani and others ..VS.. Government of Pakistan through Secretary, Finance Division, Islamabad and others (1991 SCMR 1041) and recently in Ali Asghar Khan Balch's case (2015 SCMR 456), has again laid down that the issue relating to the 'terms and conditions' of Service cannot be entertained by High Court either in its constitutional jurisdiction or in its original civil jurisdiction being barred under Article-212 of the Constitution.*

**13. In view of the above, all these Writ Petitions being not maintainable are hereby dismissed.”**

Pursuant to the judgment *ibid*, appellant and his other colleagues invoked the Jurisdiction of this Hon'ble Tribunal by way of Service Appeals which were contested by the answering respondent by filing Replies thereto.

All the appeals including that of appellant were enlisted for hearing on 30.11.2017 before a Bench comprising of the worthy Chairman and another Hon'ble Member as is evident from the Cause List (*Annex:- PC/8*). After lengthy arguments and discussing all the legal aspects of the cases vide consolidated judgment dated 30.11.2017 (*Annex:- PC/9*) all the appeals were dismissed. The concluding para of the consolidated judgment is reproduced herein below:-

**“8. This Tribunal is therefore, of the view that no sufficient cause has been shown by the appellants in pursuing their cases before a wrong forum and the application for condonation of delay cannot be accepted. All these appeals being time barred are dismissed. Parties are left to bear their own costs. File be consigned to the record Room.”**

To the utter surprise of the Answering Respondents, subsequently the service appeal of the appellant was again listed and heard on 15.12.2017 by another Bench of this Hon'ble Tribunal comprising of the worthy Members as by then the worthy Chairman had gone for Camp Court at Mingora Swat and without hearing and in absence of the answering Respondents, the appeal was allowed vide judgment dated 15.12.2017 (*Annex:- PC/10*). Appellant intentionally and deliberately failed to bring into the notice of the Hon'ble Tribunal the fact of earlier judgment as well as the Notice to the answering Respondents during the course of arguments being necessary. It is also important to add that the Respondents are Autonomous Institution constituted under the Khyber Pakhtunkhwa Medical

Teaching Institutions Reforms Act, 2015 and is represented through a counsel, therefore, the learned Govt. Pleader/Additional Govt. Pleader had no role in the cases of autonomous Institutions. It is also further added being essential that appellant during the pendency of appeal has been promoted to BPS-18 by the Khyber Pakhtunkhwa Health Department vide Notification dated 15.11.2017 being civil servant and thus in that context his appeal before the Hon'ble Tribunal stood infructuous as after the promotion he had to be posted/adjusted and this issue was brought into the notice of the Hon'ble Tribunal and proper recorded in Order Sheet dated 20.11.2017.

2. Pertains to record. However, it is submitted that appellant has procured the judgment of this Hon'ble Tribunal dated 15.12.2017 under a patent and deliberate misrepresentation etc. by concealing the crucial facts having bearing on the decision of the case, therefore, Answering Respondents have filed an application No 160 2018 under 12(2) CPC wherein after admission, notice has been issued to the appellant.
3. Incorrect hence empathetically denied. Detailed reply has already been submitted in the precedent Paras. In fact appellant was promoted to BPS-18 by the Health Department during the pendency of his earlier appeal and not after the decision of the Hon'ble Tribunal. Moreover, the Health Department has got no authority to issue the posting of the Petitioner in the Khyber Teaching Hospital being an independent institution operating under the law with full autonomy.
4. Incorrect. The appellant was fully in knowledge about the non acceptance of his arrival and status of his case. Mere submission leaving/arrival report never make him entitled for acceptance and salary when he deliberately failed to inform the department of health about non acceptance of his arrival than too upon promotion to BPS-18 for which acceptance of his arrival/charge assumption was



mandatory requirement under the Civil Servant Act 1973. As per rules invoked he has foregone his promotion to BPS-18 in the Department of Health and is required for resubmission of his case to Provincial Selection Board.

5. Incorrect. The appellant himself is making admission of non acceptance of his arrival and absence from the scene then why he failed to report to the parent Health Department hence vehemently denied. As a matter of fact the appellant deliberately failed to report to Health Department for further posting and he preferred to remain absent on the pretext of the pending appeal in the Service Tribunal to regularize his absence and release of salary from the Department. Moreover, the answering Respondents were not bound under the law to accept the arrival due to his bad service history as described in the factual brief.
6. Incorrect hence vehemently denied. No Departmental appeal has been filed by the appellant. The appellant himself making admission of his non acceptance of arrival and thus absence from the department. so far release of salary is concerned as term & condition of his service neither his arrival was accepted nor an autonomous institution on mare posting can processed his case for release of salary due to non availability of post nor bound to regularized his absence from duty from the parent department of health rather in such type of cases disciplinary action under civil servant Act be initiated on account of his long absence from the department of health. The appellant only aim is to involve the honorable court for his misconduct which he committed during service. So far writ petition in the Peshawar High Court is concerned the same is attempt to lingering on his case while on the same ground the Peshawar High Court has already dismissed his Writ Petition on 25-04-2017 for want of jurisdiction, therefore, the instant appeal is not maintainable.

**GROUND.**

- A. Incorrect hence vehemently denied. Detailed reply has already been given in the above paras.
- B-D. Incorrect hence denied. Appellant has not performed any duties, which he admit in his appeal therefore, no violation of Section 17 of the Civil Servants Act, 1973 and Article 11 of the Constitution of Islamic Republic of Pakistan 1973 has been made.
- E. Incorrect hence denied. Appellant has been treated in accordance with law and Rules.
- F. Incorrect hence denied.

It is, therefore, humbly prayed that on acceptance of this reply, the appeal of appellant may graciously be dismissed with heavy costs.

Through

**Respondents No.2 to 4**

**Khaled Rahman,**  
Advocate, *[Signature]*  
Supreme Court of Pakistan

**Dated: \_\_\_/10/2018**

**Counter Affidavit**

Verified as per instructions that the contents of this reply are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

*[Signature]*  
Counsel

Annex-Pe/1

MTI, KHYBER TEACHING HOSPITAL, PESHAWAR

OFFICE OF THE HOSPITAL DIRECTOR

8

No. 51187-88 /KTH/HRD

DATED: 16-12- /2017

To

The Secretary to Govt: of Khyber Pakhtunkhwa  
Health Deptt: Peshawar.

Attention: Section Officer-V

SUBJECT: REQUEST FOR NOT POSTING OF CIVIL SERVANTS ALREADY RELIEVED FROM KTH AND RECENTLY PROMOTED FROM BPS-17 TO BPS-18 AS SMO.

Sir,

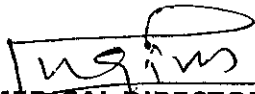
Reference office letter No. SO (E) H-II/4-1/2017 dated 23-08-2017 on the subject cited above.

It is submitted that the following Medical Officers, who are relieved from this institution to Health Department after completion of tenure and now promoted by Department of Health from BPS-17 to BPS-18 as SMO may not be posted because of non availability of vacant post. Moreover, their services are not required in this institution.

- i. Dr. Jamshed Saeed, Medical Officer (civil servant) already relieved on 03-11-2016 and posted by Health Department to DHS FATA.
- ii. Dr. Rashid Ahmad, Medical Officer (civil servant) already relieved on 30-01-2017.

It is pertinent to mention that the above named doctors wants to misguide on the plea of KPK Service Tribunal judgment in which the promotion of the above officers are kept hidden and time barred appeal, without representation of KTH as principal respondent.

The KPK Service Tribunal judgment will be placed before Board of Governor (BoG), MTI, KTH for necessary action as incorporated in the judgment.

  
MEDICAL DIRECTOR  
MTI, KTH, PESHAWAR

No. 51187-88 /KTH

Copy to Hospital Director, MTI, KTH, Peshawar.

*Attended*



  
MEDICAL DIRECTOR  
MTI, KTH, PESHAWAR



MEDICAL TEACHING INSTITUTION  
KHYBER TEACHING HOSPITAL, PESHAWAR

9

No. 29391-3/KTH

Dated 09/09/2017

To,  
The Director General Health Services,  
Khyber Pukhtoonkhwa Peshawar.

ANNEX-P/2

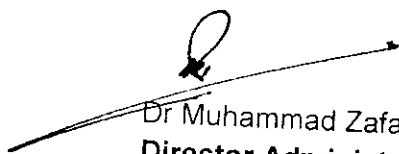
Subject: Promotion from MO, BPS-17 to BPS-18 on submission of bogus PERs.

R/ Madam,

I want to bring into your notice that one Medical Officer BPS-17 (Civil servant) Namely Dr Jamshed Saeed has bypassed the undersigned as counter signing Officer for three years period and has wrongly submitted PERs of the period 2012 to 2014, which needs to be returned back to the undersign for rectification. Brief fact of the case is that I was Medical Superintendent Khyber Teaching Hospital with effect from 2011 to 2014. Under the autonomy Rules 2001, during this period I was the reporting officer for the Administration staff and counter signing Officer for the officers performing duties in wards/ units of the hospital. I have come to know that Dr Jamshed Saeed now relieved from MTI, KTH has submitted bogus PERs of the 3 years period when I was Medical superintendent KTH and has made an attempt to deceive the department in his promotion to BPS-18.

It is therefore requested that instructions may please be issued to PER section to check his case and his PERs of the above mentioned period be sent back to the undersigned as required under the rules for counter signature.

Dated: 06-09-2017

  
Dr Muhammad Zafar Afridi,  
Director Administration,  
MTI, KTH, Peshawar.

Copy to,


1. PS to Secretary Health, Govt of Khyber Pukhtoonkhwa, Peshawar.
2. Hospital Director, MTI, KTH, Peshawar.
3. Medical Director, MTI, KTH, Peshawar.

See file

Aliya  
EST: WAD  
13/9/17

D. No. 12723  
Dt. 11-9-17  
HOSPITAL DIRECTOR OFFICE  
Khyber Teaching Hospital  
Peshawar

1719 12/9/17  
D.No. Dated  
Establishment Section II

Attested  




MEDICAL TEACHING INSTITUTION  
KHYBER TEACHING HOSPITAL, PESHAWAR

(10)

Annex-P43

Office of the Hospital Director

No. 17392 /KTH/HD

DATED: 08-6- /2018

To

The Chief Secretary  
Govt: of Khyber Pakhtunkhwa,  
Peshawar.

Through: Proper Channel.

SUBJECT: COMPLAINT AGAINST DR. JAMSHED SAEED SHERANI, SMO, RECENTLY PROMOTED TO BPS-18, (CIVIL SERVANT/ UNDER PROBATION) ON ACCOUNT OF MISCONDUCT.

R/Sir,

Enclosed please find herewith a complaint against Dr. Jamshed Saeed, SMO (civil servant under probation) on the subject cited above for instruction and further necessary action under the rules.

HOSPITAL DIRECTOR  
MTI, KTH, PESHAWAR.



**MEDICAL TEACHING INSTITUTION**  
**KHYBER TEACHING HOSPITAL, PESHAWAR**

OFFICE OF THE HOSPITAL DIRECTOR

(11)

To

The Chief Secretary,  
Govt: of Khyber Pakhtunkhwa,  
Peshawar.

SUBJECT:

COMPLAINT AND REQUEST FOR INITIATION OF DISCIPLINARY ACTION  
AGAINST

DR. JAMSHED SAEED SHERANI, SMO, RECENTLY PROMOTED TO BPS-18,  
(CIVIL SERVANT/ UNDER PROBATION) FOR USING ABUSIVE/DAROGATORY  
LANGUAGE AGAINST THE SENIORS PUBLISHING BASELESS NEWS BOTH IN  
PRINT ELECTRONIC & SOCIAL MEDIA,

**TO DEFAME**

MANAGEMENT OF THE HOSPITAL, AN ATTEMPT TO BLACKMAIL/HARASS  
THE HOSPITAL ADMINISTRATION BY WRITING BASELESS COMPLAINTS TO  
HIGH UPS / MEDIA, TO DEGRADE THE MANAGEMENT, MTI REFORM  
PROCESS, CROSSING ALL LIMITS OF DISCIPLINE/CONDUCT, LIABLE TO BE  
PROCEEDED UNDER KP EFFICIENCY & DISCIPLINARY RULES 2011, ON  
ACCOUNT OF BREACH OF DISCIPLINE AND MISCONDUCT.

**BRIEF FACTS OF THE CASE.**

Dr. Jamshed Saeed, MO (BPS-17) A civil servant, a known Conspirator against Reforms Act 2015, involved openly in politics, a self Proclaimed President of "All Medical Officers Forum" (illegal / un-registered) leading a group of 2-3 members of unwilling workers, not performed duty during his stay at KTH, running 01-Private Surgical Centre (Doctor Surgical Hospital) at University Town and 01-Paramedic Institute at Distt: Nowshera, having bad service history in KTH, involved in anti institutional subversive activities, making baseless complaints to NAB and every corner of the society, publish baseless complaints in the Print, Electronic & Social Media to blackmail the management for his personal agenda/gains.

Dr. Jamshed Saeed was posted in KTH on 03-05-2007 and was relieved on 03.11.2016 from KTH after completion of 09-years tenure by the Ex-Hospital Director Brig: Dr. Fazle Akbar due to his involvement, in instigating staff for strike against MTI reforms in the hospital and publishing baseless news both Print and Electronic Media.

After relieving from KTH, Dr. Jamshed Saeed MO (BPS-17), filed Writ Petition in the Peshawar High Court Peshawar challenging the repatriation orders, which was defended and finally the Writ Petition was Dismissed on 25.04.2017 along with others.

After dismissal of Writ Petition, he was posted by Health Department as MO (BPS-17), at the disposal of FATA vide No. SO (E)-II/4-1/2017/P dated 14-06-2017 and he failed to submit arrival and remained absent from the place of posting and was running his Private Surgical Centre at University Town and his Paramedical Institute at Nowshera on full time basis.

He filed an appeal in the KP Service Tribunal on the same grounds which was fixed along with other employees of KTH which was argued by legal advisor of KTH in the Court of Chairman Service Tribunal and dismissed through a consolidated Judgment dated 30.11.2017 on the grounds of maintainability "Time barred".

Contd: P/2

He managed to detach his case (clubbed with others and dismissed) and fix before bench of Member Tribunal and the case was decided in his favour without representation of KTH, and thus successful and obtaining judgment in his favour fraudulently against which an appeal under section 12(2) CPC is filed by KTH. During the pendency of appeal in Tribunal he was promoted by the Health Department to BPS-18 vide Notification No. SOH (E-V) 4-22/2017 dated 15-11-2017, S.No.50 (during pendency of appeal). His acceptance of arrival was placed before Board of Governor MTI KTH dated 01.06.2018, but being subjudice case in KP service Tribunal and Peshawar High Court Peshawar his arrival was not accepted.

Dr. Jamshed Saeed, (civil servant under probation), with the canavance of some miscreants has started a propaganda campaign against the Management/ Administration of the hospital with the aim to blackmail the management to accept his arrival during pendency of writ petition and appeal against the judgment order dated 15-12-2017.

It is pertinent to mention that since his reliving from institution dated 03-11-2016 till date including his transfer by Health Department to FATA vide No. SO (E)-II/4-1/2017/P dated 14-06-2017, he remained absent for the period and was running Private Surgical Centre at University Town Peshawar and disobeying the orders. Moreover his 03-years annual confidential reports are bogus as he avoided countersignature of PERs and promoted on bogus PERs.

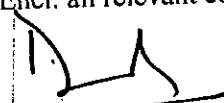
He has committed the following irregularities and thus his conduct is prejudicial to good order or service discipline and unbecoming of Government Servant and a gentleman.

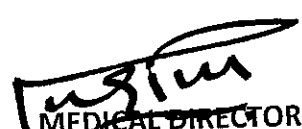
1. Involved in unauthorized Private Business by running surgical centre near the hospital and kidnapping hospital patients to private centre and paramedics school at Nowshera Distt: .
2. Living beyond his means.
3. Unauthorized communication of official documents and information to the Press Electronic and Social Media to defame the management, introducing himself as President of unregistered All Medical Officer Forum.
4. Exercising extraneous pressure of by involving media defaming government initiative i.e. MTI Reforms.
5. Unauthorized publication in the press embarrassing the hospital management/ government.
6. Insulting seniors and disobedience of lawful orders, instigating staff for strike and bringing bad name to the institution.


Dr. Jamshed has written baseless complaints to high ups and has published defamatory news in Print, Electronic and Social Media, against the hospital management as self proclaimed President of All Medical Officers Forum and has committed violation of discipline liable to be proceeded under the Khyber Pakhtunkhwa E&D Rules 2011 on account misconduct.

It is therefore humbly requested that keeping in view of all the irregularities and breach of discipline, strict disciplinary action under E & D Rules 2011 on account of misconduct may please be initiated in the best interest of institution and government.

Encl: all relevant complaints, press cuttings and Facebook messages attached.

  
HOSPITAL DIRECTOR  
MTI, KTH, PESHAWAR

  
MEDICAL DIRECTOR  
MTI, KTH, PESHAWAR

  
DIRECTOR ADMINISTRATION  
MTI, KTH, PESHAWAR

Copy to:

1. Secretary to Govt: of Khyber Pakhtunkhwa, Health Department.
2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. Secretary to Chairman, Board of Governor, MTI, KTH, KMC, KCD, Peshawar.
4. All members Board of Governors, MTI, KTH, KMC, KCD, Peshawar.



GOVERNMENT OF KHYBER PAKHTUNKHWA

HEALTH DEPARTMENT

13

ANPA-244

Dated Peshawar the 10<sup>th</sup> September, 2018

**NOTIFICATION**

**No.SOH(E-V)4-20/2018** In Continuation of this Department Notification of even number dated 07<sup>th</sup> May, 2018, the competent authority (Chief Minister Khyber Pakhtunkhwa) is pleased to induct the following doctors of the General Cadre, on their option, into the Health Management Cadre having the requisite qualification.

2. Their inter se seniority will be determined in the new Cadre in terms of Section-8 of the Khyber Pakhtunkhwa Civil Servant Act, 1973 and Rule-17 of the Appointment, Promotion Transfer Rules, 1989.

S.#	NAME OF DOCTOR	FATHER NAME
1.	Dr.Khan Bahadar BS-19	Gul Akbar
2.	Dr.Muhammad Usman Shah BS-18	Muhammad Zahir Shah
3.	Dr.Shiraz Ahmad BS-18	Rashid Ahmad
4.	Dr.Shafqatullah BS-17	Amir Hamza
5.	Dr.Fayyaz Ali Roomi BS-17	Humayun Roomi
6.	Dr.Muhammad Javed Khan BS-20	Shah Zaman Khan
7.	Dr.Syed Gul Hussain Syed BS-18	Syed Shah Jehan
8.	Dr.Wasiullah BS-18	Shakirullah
9.	Dr.Jameel Ahmad BS-18	Abdullah
10.	Dr.Farman Ali BS-18	Muhammad Naseem
11.	Dr.Waseem Ahmad BS-19	Qazi Muhammad Saleem
12.	Dr.Irfanuddin BS-17	Habibul Mukhtar
13.	Dr.Shaukat Saleem Khan BS-18	Saleem Khan
14.	Dr.Sardar Aurangzeb BS-19	Sardar Muhammad Ashraf
15.	Dr.Shah Faisal BS-19	Ronaq Zaman
16.	Dr.Zahir Shah BS-19	Bahadar Khan
17.	Dr.Irshad Ali BS-17	Muhammad Razaq
18.	Dr.Muhammad Farooq Gul BS-18	Gul Muhammad
19.	Dr.Muhammad Alamgir BS-17	Nisar Muhammad
20.	Dr.Bakht Belanad BS-17	Fazal Rehman
21.	Dr.Khalid Khan BS-17	Shah Muhammad Khan
22.	Dr.Jamaluddin BS-18	Muhammad Din
23.	Dr.Sherin Muhammad BS-17	Bacha Muhammad
24.	Dr.Saeedullah Khan BS-19	Mukarram Khan
25.	Dr.Erum Qayum BS-17	Syed Qayum
26.	Dr.Nazar Muhammad BS-18	Bakht Sar
27.	Dr.Zeeshan BS-17	Said Ali Khan
28.	Dr.Fakhr-e-Alam BS-17	Sultan Room
29.	Dr.Hammad BS-18	Said Badshah
30.	Dr.Muhammad Arif Khan BS-18	Amir Nawaz Khan
31.	Dr.Waqar Ahmad BS-17	Mehboob Ali
32.	Dr.Sagheer Ahmad BS-18	Noor Elahi
33.	Dr.Ikramullah BS-17	Yar Jan
34.	Dr.Muhammad Sadiq BS-18	Muhammad Anis
35.	Dr.Humera Semab BS-17	Malik Khan Muhammad
36.	Dr.Kamran Yousaf BS-18	Muhammad Yousaf
37.	Dr.Muhammad Wali Ali BS-17	Muhammad Anam
38.	Dr.Naseeb Gul BS-17	Haseeb Gul
39.	Dr.Muhammad Mudassar Iqbal Khan BS-17	Muhammad Iqbal Khan

Section Officer  
Health Department  
Khyber Pakhtunkhwa



40.	Dr.Naik Muhammad BS-18	Khawaja Muhammad
41.	Dr.Sohrab Ali BS-17	Azizullah Khan
42.	Dr.Noor Islam BS-17	Sheraz Gul
43.	Dr.Saeeda Bibi BS-18	Daud Khan
44.	Dr.Muhammad Hayat BS-19	Muhammad Amir
45.	Dr.Muhammad Sajjad BS-17	Muhammad Saeed
46.	Dr.Muhammad Arif BS-18	Gulbar Khan
47.	Dr.Ataullah BS-17	Khair Muhammad
48.	Dr.Khizar Hayat BS-18	Pir Muhammad Khan
49.	Dr.Jamshid Saeed BS-18	Saeed Ahmad
50.	Dr.Sallem Khan BS-17	Muhammad Akbar Khan
51.	Dr.Tariq Khan BS-19	Rasool Khan
52.	Dr.Muhammad Tahir Khan BS-18	Faiz Muhammad Khan
53.	Dr.Muhammad Umar BS-18	Gul Muhammad
54.	Dr.Ghani-ur Rehman BS-19	Abdul Ghani
55.	Dr.Mian Habib-ur-Rehman BS-19	Mian Fazlur Rehman
56.	Dr.Syed Rehmat Ali BS-17	Mian Gul Zada
57.	Dr.Muhammad Kashif Shahid Khan BS-17	Jamandos Khan
58.	Dr.Shahzada Muhammad Haider-ul-Mulk BS-19	Shahzada Muta-ul-Mulk
59.	Dr.Daud Khan BS-18	Muhammad Rahim Khan

(14)

SECRETARY HEALTH  
Govt. of Khyber Pakhtunkhwa

Endst. of Even No. & Date.

Copy to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar
2. PSO to Chief Minister Khyber Pakhtunkhwa Peshawar
3. PSO to Chief Secretary Khyber Pakhtunkhwa
4. Director General Health Services, Khyber Pakhtunkhwa
5. Director General Provincial Health Services Academy Peshawar
6. All Medical/Hospital Directors of MTIs in Khyber Pakhtunkhwa
7. All District Health Officers in Khyber Pakhtunkhwa
8. All Medical Superintendents in DHQ Hospitals Khyber Pakhtunkhwa
9. All District Accounts Officers in Khyber Pakhtunkhwa
10. PS to Minister Health Khyber Pakhtunkhwa.
11. PS to Secretary Health Department
12. PS to Special Secretary, Health Department.
13. Manager Govt Printing Press Khyber Pakhtunkhwa for publishing in the official gazette
14. Computer Programmer Health Department.
15. Doctor concerned.

(MUHAMMAD IRFANUDDIN)  
SECTION OFFICER(E-V)

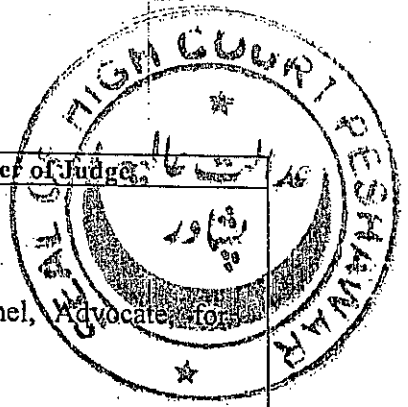
Section Officer (E-V)  
Health Department  
Khyber Pakhtunkhwa

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ANARX-PC/5

**PESHAWAR HIGH COURT, PESHAWAR.**

**FORM 'A'**  
**FORM OF ORDER SHEET**



Date of order.	Order or other proceedings with the order of Judge
10.11.2016	<p><u>W.P. No.4193-P/2016 with I.R.</u></p> <p>Present: Mian Mohibullah Kakakhel, Advocate for the petitioner.</p> <p>*****</p> <p>By way of this petition, Office Order dated 03.11.2016, issued by Hospital Director, MTI, KTH, Peshawar, has been questioned by the petitioner. Though in the impugned order word "repatriated" has been used which in substance appears to be a transfer order as petitioner was not on deputation. However, to clarify the above ambiguity and answer the crucial question that whether the officer who issued the impugned order, had authority to issue such order, we would like to call the comments of the respondents so as to reach this Court within a week.</p> <p>Since, Director General and Secretary Health, KPK, are necessary party therefore, they be</p>

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(M.Siraj P.S.)

**ATTESTED**  
**EXAMINER**  
Peshawar High Court  
01 FEB 2017

PC/5

A

impleaded in the panel of the respondents with red ink  
and also call for their comments so as to reach this  
Court within a week.

Interim Relief.

Notice for 23.11.2016. Till then status quo

to be maintained.

*Sh. Muzafar Khan Khan*  
*Sh. Muzafar Khan Khan*

J

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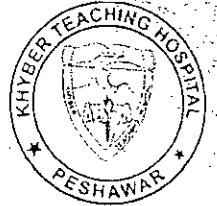
Examiner  
Peshawar High Court, Peshawar  
Authorized Under Article 87 of  
The Constitution of Pakistan Order 1984

11 FEB 2017

*12/11/16*

MEDICAL TEACHING INSTITUTION  
KHYBER TEACHING HOSPITAL, PESHAWAR  
OFFICE OF THE HOSPITAL DIRECTOR

APPROX-PC/6



No. \_\_\_\_\_/KTH/PS

(17) Dated 29/4 /2017

OFFICE ORDER

Dr. Jamshed Saeed S/O Saeed Ahmad Sherani (Civil Servant), Ex-Medical Officer (BPS-17) filed writ petition No. 4193-P/2016 against repatriation/relieving order vide No. 28495-505/KTH/E dated 03-11-2016 in which post relieving status quo was granted. The Honourable Peshawar High Court Peshawar vide consolidated Judgement dated 25-04-2017, dismissed the writ petition. He is directed to report to Health Department, Khyber Pakhtunkhwa for further posting.

Hospital Director  
Medical Teaching Institution  
KTH, Peshawar

No. 13826-55/KTH/PS

9/2

22/5/17

Copy to: -

1. Secretary to Govt. of Khyber Pakhtunkhwa, Health Department, Peshawar.
2. Director General Health Service, Khyber Pakhtunkhwa, Peshawar.
3. Registrar Peshawar High Court Peshawar w/r to the detail judgement dated 25-04-2017 in W/P No. 429-P/2016.
4. Medical Director, MTI-KTH, Peshawar.
5. Incharge Litigation, MTI-KTH, Peshawar.
6. Director Administration, MTI-KTH, Peshawar.
7. Director Finance, MTI, KTH, Peshawar.
8. Senior Media & Protocol Manager, MTI-KTH, Peshawar.
9. Account Officer, MTI, KTH, Peshawar.
10. Audit Officer, MTI, KTH, Peshawar.
11. Manager Human Resource, MTI-KTH, Peshawar.
12. Incharge IT, MTI-KTH, Peshawar
13. Warden Doctors Hostel to allot his retiring room from waiting list.
14. Establishment Section-II, MTI-KTH, Peshawar.
15. Doctor Concerned.

Hospital Director  
Medical Teaching Institution  
KTH, Peshawar

9/2

22/5/17

ANARX-PC/7

~~ANARX-A'~~

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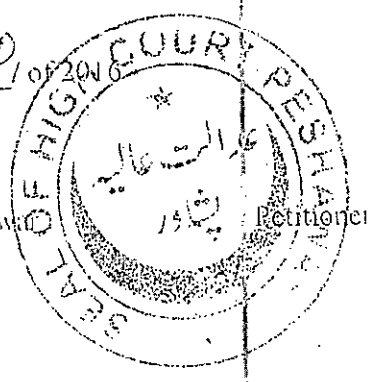
(18)

~~Attorney at Law H.D. S.~~

IN THE PESHAWAR HIGH COURT, PESHAWAR

W.P. No. 429-P of 2016

Farrukh Jalil son of Gulzar Masih Naz  
Male Nurse, Lady Reading Hospital, Peshawar



Petitioner

VERSUS

1. Director General Health Services  
Khyber Pakhtunkhwa, Peshawar.
2. Secretary Health, Khyber Pakhtunkhwa,  
Peshawar.

Respondents

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

Respectfully Sheweth:

1. That the petitioner belongs to Christian Minority of the Khyber Pakhtunkhwa and hails from a very respectable family.
2. That the petitioner was appointed as a Male Nurse in Lady Reading Hospital Peshawar, way back and his services are governed by Medical Teaching Institutions Act (MTI) 2015. He, therefore, is an Institutional Employee.
3. That the recent unrest and protest of the Doctors on 30.01.2016 a meeting was held by the petitioner and other staff and some Doctors

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EXAMINER  
PESHAWAR HIGH COURT  
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JUDGMENT SHEET

IN THE PESHAWAR HIGH COURT,  
PESHAWAR.  
JUDICIAL DEPARTMENT

Writ Petition No. 429-P/2016

JUDGMENT



Date of hearing: 25.4.2017

Petitioner (Farrukh Jalil) by M/s Mian Muhsinullah  
Kakakhel & Saifullah Muhib, Advocates.

Respondent (Director General Health Services, Peshawar  
and another) by Mian Arshad Iqbal, AAG.

WAOAR AHMAD SETH, J.- Through this single judgment, we propose to dispose of instant Writ Petition as well as connected Writ Petitions No. 557-P, 593-P, 4193-P/2016, 184-P, 517-P & 667-P/2017 as common questions of law and facts are involved therein.

Writ Petition No. 429-P/2016

2. In essence, case of the petitioner is that he was appointed as Male Nurse in Lady Reading Hospital, Peshawar, however, vide impugned order dated 1.2.2016, he was transferred and posted at DHQ Hospital KDA, Kohat against the vacant post, which

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Peshawar High Court  
27 APR 2017

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order has now been impugned through the instant Writ Petition and prayed for setting aside of the same being illegal, without jurisdiction and without lawful authority.

Writ Petition No. 557-P/2016

3. In essence, petitioners No. 1 to 3 are the President, General Secretary and Senior Vice President of Provincial Paramedical Association, Peshawar while petitioners No. 5 & 6 are the General Secretary & Vice President of Paramedic Association of LRH whereas petitioner No. 4 is the Secretary Finance of Provincial Para Medie Association and petitioners No. 7 to 20 are para-medical staff working in different low-paid categories at Medical Teaching Institutes, namely, Lady Reading Hospital and Khyber Teaching Hospital, however, vide impugned orders dated 1.2.2016 & 9.2.2016, they were transferred to far flung places of the Province; which orders have now been impugned through the instant Writ Petition and sought the

following prayer:-

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Peshawar High Court

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- I. The impugned transfer orders of the petitioners are illegal, unlawful, without lawful authority and thus of no legal effect and hence liable to be set aside and reversed.
- II. The Respondents shall not dislodge the petitioners, proceed against them adversely or interfere with their legal or fundamental rights in garb of the West Pakistan Essential Service (Maintenance) Act, 1958.
- III. Costs throughout

Amended Writ Petition No.593-P/2016

4. In essence, case of the petitioners is that they were appointed as Nurses in Lady Reading Hospital, Peshawar some 25/27 years back, however, vide impugned office orders dated 9.2.2016 & 11.2.2016, they were transferred to DHQ Hospital Battagram, DHQ Teaching Hospital, D.I.Khan & THQ Hospital Chota Lahor Swabi, which orders have been impugned before this Court through Writ Petition. During the course of hearing i.e. on 25.2.2016, Mr. Abdul Latif Yousafzai, worthy Advocate General, present in Court in different matters, was put to notice. who after seeking fresh instructions, stated that the impugned transfer orders were recalled and instead the

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petitioners were to DHQ Hospital, Nowshera vide transfer orders dated 24.2.2016; hence, the learned counsel for the petitioners sought adjournment to amend the Writ Petition. Subsequently, the petitioners have filed the instant amended writ petition by challenging the aforesaid modification notification dated 24.2.2016, whereby they were transferred to DHQ Hospital, Nowshera and prayed that the impugned transfer orders and its modification notifications dated 24.2.2016 be set aside being illegal, without jurisdiction and without lawful authority.

Writ Petition No. 4193-P/2016

5. In essence, case of the petitioner is that he is serving as Medical Officer, Khyber Teaching Hospital, Peshawar, however, vide impugned orders dated 3.11.2016 & 5.11.2016, not only the petitioner's services were repatriated to his parent department but also allotted his Room No. 13 Old Doctor Hostel to Dr. Tahira Iqbal Trainee Registrar (Gynae-A Unit); hence, the petitioner has impugned the above said orders

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through the instant Writ Petition and prayed for setting aside of the same being illegal, without jurisdiction and without lawful authority.

Writ Petition No. 184-P/2017

6. In essence, case of the petitioner is that he is serving as Medical Officer in the Khyber Teaching Hospital, Peshawar since 8.8.1994 till date, however, he was received an office order dated 29.12.2016, whereby his services were rendered back to Health Department; hence, the petitioner has filed the instant Writ Petition by impugning the above said office order and prayed for setting aside of the same being illegal, without jurisdiction and without lawful authority.

Writ Petition No. 517-P/2017

7. In essence, case of the petitioner is that he is serving as Medical Officer in Khyber Teaching Hospital, Peshawar, however, vide office order dated 30.1.2017, the services of petitioner were rendered back to Health Department, which order has now been

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Peshawar High Court  
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impugned through the instant Writ Petition and sought the following prayer:-

- i. To declare the impugned Office Order No. 3497-3510/KTH/E dated 30.1.2017 of respondent No.1 (Annex "A") as without lawful authority and of no legal effect.
- AND
- ii. To restore the Office Order No. 23097-106/KTH/E dated 18.10.2016 of respondent No.1 (Annex "B").
- iii. To restrain the respondents from implementing the impugned order and to stop the salary of the petitioner and to eject him from his allotted accommodation of Room No. 09 Old Doctors Hostel, KTH, Peshawar.
- iv. To direct the respondents to frame fair and transparent policy regulating the relieving of civil servant from KTH to Health Department.
- v. To restrain the respondents from arbitrary exercise of powers, and policy based on making pick and choose, discrimination in relieving/transfer of the civil servants from KTH to Health Department.
- vi. Any other remedy which this august court deems fit and just in the circumstances of the case, may also be granted in favour of petitioner".

Writ Petition No. 667-P/2017

8. In essence, case of the petitioner is that she is serving as Charge Nurse (BPS-16) in Khyber Teaching Hospital, Peshawar since 13.3.1993, however, vide office order dated 14.11.2016, her services were

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rendered back to Health Department Khyber Pakhtunkhwa for further posting. Subsequently on 2.1.2017, respondent No.3 wrote a letter to respondent No. 1 to withdraw the above said office order and allow the petitioner to continue her duties as Charge Nurse in KTH Peshawar on humanitarian grounds. In response thereof, respondent No.1 vide letter dated 14.1.2017 communicated that all the post of Charge Nurses in BPS-16 have been filled through advertisement and presently there is no vacant post to adjust the petitioner; hence, the petitioner has filed the instant Writ Petition by impugning the transfer order dated 14.11.2016 and refusal order dated 14.1.2017 of respondent No.1 and prayed for setting aside of the same being illegal, without jurisdiction and without lawful authority.

Writ Petition No. 1167-P/2017

9. In essence, case of the petitioner is that he is serving as Medical Officer in Khyber Teaching Hospital, Peshawar since 8.8.1994 till date, however, he was received an office order dated 29.12.2016, whereby

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his services were rendered back to Health Department, Khyber Pakhtunkhwa; hence, the petitioner having no other remedy has filed the instant Writ Petition by impugning the office order dated 29.12.2016 and prayed for setting aside of the same being illegal, without jurisdiction and without lawful authority.

10. Arguments heard and record perused.

11. Admittedly, the petitioners are civil servants and their grievances relate to the terms and conditions of service, the appropriate remedy for seeking their redressal, would surely be the Services Tribunal.

12. This Court is barred under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973 to take cognizance in the matter relating to the terms and conditions of service of a civil servant. The Apex Court in the case of LA Sharwani and others vs. Government of Pakistan through Secretary, Finance Division, Islamabad and others (1991 SCMR 1041) and recently in Ali Azhar Khan Baloch's case (2015

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SCMR 456), has again laid down that the issue relating to the 'terms and conditions' of service cannot be entertained by a High Court either in its constitutional jurisdiction or in its original civil jurisdiction being barred under Article 212 of the Constitution.

13. In view of the above, all these Writ Petitions being not maintainable are hereby dismissed.

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*14/6/2017*  
JUDGE  
JUDGE



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*29/6/17*

No. 26624  
Date of Presentation of Application 28/6/17  
Fees 10/-  
Copy of law 10/-  
Regent Fee 10-00  
Total 10-00  
Date 28/6/17  
Signature [Signature]

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Annex-PC/8

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List of D.B -I Cases fixed for 30.11.2017, before the Chairman and Mr. Ahmad Hassan(E) KPK Service Tribunal Peshawar.

ARUGMENTS

1. 640/15	Issa Dad (29)	Education
2. 537/17	Sartaj (8)	Health
3. 465/17	Shams ul Taj (5)	do
4. 532/17	Rooh ul Amin (5)	do
5. 480/17	Dr. Jamshed Saeed	do
6. 479/10	Dr Rashid Ahmad (1)	do
7. 458/17	Syed Roidar shah	do
8. 1104/16	Mehnaz Begum	Health
9. 723/15	Neelam	do
10. 1384/15	Fazal-I- Qadir	do
11. 846/15	Dr Qaser Zaman (1)	do
12. 284/04	Sher Kamal (2)	Education
13. 673/15	Umbaras khan	SMBR
14. 1942/11	Muhammad Nawaz	Education
15. 640/11	Ghazala Abreen (4)	Education
16. 349/14	Mashaal khan	Education
17. 693/14	Din Mohammad	do
18. 1356/09	Mumlikat	do
19. 20/14	Zabta Khan	Education
20. 1160/10	Noor Rahim	do
21. 1830/11	Awal Badshah	Health
22. 850/13	Dr Ali Raza	do
23. 1380/13	Amina Jan	do
24. 1498/13	Dr Misal khan (1)	do
25. 150/14	Dr Abdul Ghafoor	Finance
26. 704/16	Hazrat Younas	Health
27. 805/16	Amir Hussain	do
28. 1134/14	Dr Rizwan Ullah	Health
29. 1388/14	M Ijaz	SMBR
30. 1178/16	Sajid Saleem	Education
31. 512/17	Ikram Ullah	do
32. 620/17	Shanabaz Khan	Evornit
33. 694/17	Dr Hussain Ahmad	Education
34. 667/16	Zenat Ara	Health
35. 304/17	Khan Mir	Education
36. 262/17	Mahajra	Police
37. 284/17	Muhammad Zaman	Education
38. 1071/12	Mujeeb ur Rehman (1)	do

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ANNEX-PC/9

~~ANNEX E~~

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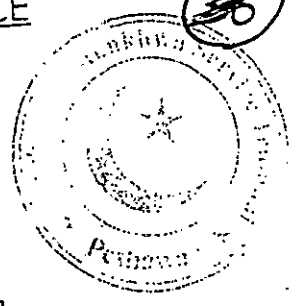
(36)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 458/2017

Date of Institution ... 12.05.2017

Date of Decision ... 30.11.2017



Syed Roidar Shah,  
Clinical Technician(Pharmacy),  
(President Provincial Paramedic Association as well as  
President Paramedical Association Lady Reading Hospital),  
Presently posted at MTI,LRH, Peshawar. ... (Appellant)

VERSUS

1. The Govt: of Khyber Pakhtunkhwa through Secretary,  
Health Department, Civil Secretariat, Peshawar and 3  
others. ... (Respondents)

MR. SHUMAIL AHMAD BUTT,  
Advocate

--- For appellant.

MR. MUZAMMIL KHAN,  
Legal Advisor

... For respondent no.4

MR. JAVED IQBAL GULBELA,  
Legal Advisor

--- For respondent no.4.

MR. USMAN GHANI,  
District Attorney  
respondents.

--- For official

MR. NIAZ MUHAMMAD KHAN,  
MR. AHMAD HASSAN,

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By  
Chairman

CHAIRMAN  
MEMBER(Executive)

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**JUDGMENT**

**NIAZ MUHAMMAD KHAN, CHAIRMAN.-**

This judgment shall dispose of the instarit service appeal as well as connected service appeals no. 465/2017 entitled Shams-Ut-Taj, no. 466/2017 entitled Murad Ali, no. 467/2017 entitled Muhammad Ali, no. 468/2017 entitled Muhammad Riaz Barki, no. 469/2017 entitled Shahid Masih Gharui, no. 470/2017 entitled Mujahid Azim, no. 532/2017 entitled Rooh-ul-Amin no. 533/2017 entitled Niaz Muhammad, no. 534/2017 entitled Yaqoob Masih, no. 535/2017 entitled Hamayun, no. 536/2017 entitled Noor Rehman, 537/2017 entitled Sartaj, no. 538/2017 Imdad Ullah, no. 539/2017 entitled Johar Ali, no. 540/2017 entitled Ms. Sajida Parveen, no. 541/2017 entitled Ms. Gulshan Ara, no. 542/2017 entitled Ms. Sumbal Firdous, no. 543/2017 entitled Ms. Aster Shaheen, no. 544/2017 entitled Bilqees Rana, no. 511/2017 entitled Muhammad Asim, no. 527/2017 entitled Isam Gul and no. 552/2017 entitled Farrukh Jalil as similar questions of law and facts are involved therein.

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2. Arguments of the learned counsel for the parties heard and record perused.

FACTS

3. The appellants were transferred through an order dated 09.02.2016 against which they filed departmental appeals on 23.02.2016 and then the appellants filed writ petition on 17.02.2016 and the worthy Peshawar High Court, Peshawar through its judgment dated 25.04.2017 dismissed the writ petition on the ground of jurisdiction in view of Article-212 of the Constitution of the Islamic Republic of Pakistan and thereafter they filed the instant service appeals on 12.05.2017.

ARGUMENTS

4. Learned counsel for the appellant argued that delay in filing present service appeals was due to confusion qua jurisdiction of the Service Tribunal. As in the impugned transfer orders there was mention of a law i.e. West Pakistan Essential Services (Maintenance) Act 1958, which misled the appellants in choosing the forum for redressal. That the appellants in good faith believed that the above mentioned Act did not fall within the terms and conditions of the civil

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servants and therefore, this Tribunal had no jurisdiction. That the appellants then bonafidely, in good faith and with due diligence preferred writ petition for redressal of their remedy before the worthy Peshawar High Court but unfortunately the same could not hold good for their lordships of the Peshawar High Court and the Peshawar High Court vide order dated 15.07.2017 dismissed the writ petition for want of jurisdiction. He further argued that alongwith the memorandum of appeals before this Tribunal the appellants filed applications for condonation of delay under Section-14 of the Limitation Act 1908. He next contended that under Section-14 of the Limitation Act pursuing remedy before wrong forum with due diligence and good faith is an established ground for condonation of delay. He next contended that such good faith and due diligence can be gathered from the circumstances of the case argued by him above. The circumstances were such in nature which would result in presuming that the appellants were misled and then they knocked the door of the Hon'ble Peshawar High Court. The learned counsel for the appellants in order to augment his stance relied upon the judgments reported as 2017 PLC (C.S) 692 and 2007 PLC (C.S) 870. The learned counsel for

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the appellant then also argued the appeal on merits by highlighting that the Government was not authorized under the West Pakistan Essential Services (Maintenance) Act, 1958 to transfer the appellants as the said law was in force at that time. He particularly referred to Section-4 of the Act in this regard. He then went on to argue that in accordance with the transfers/postings policy of the Government, the office Bearers of the Association could not be transferred. That most of the appellants are Office Bearers. That some of the appellants are menials which could also not be transferred out of the District as per the Policy of the Provincial Government. That the impugned orders speak on their own that all transfers were made as punishment which is not approved by law and also by so many judgments of the Superior Courts. That the impugned orders are therefore, void orders and no limitation, at all, shall run against the void orders which is an admitted position of law at present.

5. On the other hand Legal Advisor for respondents argued that the present appeals are hopelessly time barred. That the judgment pressed into service by the learned counsel for the appellants reported as 2017 PLC (C.S) 692 was passed under dissimilar circumstances as in the same judgment the writ

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was sent back to the departmental authority for treating the same as departmental appeal which is not the case here. Learned Legal Advisor also relied upon judgment reported as 2010 SCMR 1982 in support of his arguments that limitation is an issue which should be taken seriously and not lightly. The learned Legal Advisor further argued that filing of departmental appeal by the appellants on 23.02.2016 itself manifests that the appellants knew that the matter was of one of the terms and conditions of civil servants, and after the filing of that departmental appeal, appellants were bound to have had recourse to Section-4 of the Khyber Pakhtunkhwa Service Tribunal 1974 but instead the appellants filed the writ petition before the Peshawar High Court which was not allowed.

6. The learned District Attorney for official respondents argued that the very departmental appeal is defective as the same was filed by all the appellants jointly and under Rule-3(2) of the Khyber Pakhtunkhwa Government Servants (Appeal) Rules, 1986 joint appeal is not allowed. He further argued that the application for condonation of delay is moved under Section-14 of the Limitation Act 1908 but under section-9 of the Khyber Pakhtunkhwa Service Tribunal Act,

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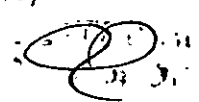
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1974 Section-14 is not applicable in the proceedings before this Tribunal. That this Tribunal has already given judgments in two appeals No. 1395/2013 entitled "Momin Khan-vs-Government" and No. 1396/2013 entitled "Zaheerullah-vs-Government" on 28.11.2017 in which the effect of judgment reported as 2017 PLC(C.S) 692 has been discussed and the period was not condoned due to pursuing the case before wrong forum. He further argued that the appellants were to explain each and every day delay which has not been done by the appellants.

**CONCLUSION.**

7. This Tribunal is first to decide whether the present appeals are within time and if not then this Tribunal cannot discuss the merits of the appeals. The pivotal question for determination to reach the conclusion is whether pursuing a case before a wrong forum is a valid ground for condonation of delay in appellate jurisdiction. The application for condonation of delay is moved under section-14 of the Limitation Act, 1908. Though Section-14 is not applicable in the proceedings before this Tribunal. The august Supreme Court of Pakistan in the judgment of Larger Bench reported as 2016 PLD 872 while discussing the applicability of Section-14



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of the Limitation Act has decided that provision of Section-14 of the Limitation Act are not applicable in all appeals even before the normal Civil Courts. But again in the said very judgment it is held that wherever Section-5 of the Limitation Act is applicable then the reasons given in Section-14 of the Act can be taken into consideration for deciding the sufficient cause. In the said very judgment the august Supreme Court of Pakistan while discussing many judgments of the august Supreme Court of Pakistan prior to 2016 has resolved the issue once for all by declaring many judgments as *per incurium*. In the judgment of the larger Bench the august Supreme Court of Pakistan has allowed the condonation on the ground of pursuing the remedy in good faith and due diligence and the august Supreme Court of Pakistan has further held in that very judgment that pursuing case in wrong forum *per se* cannot be presumed to be pursuing in good faith and due diligence unless the valid and sufficient reasons are given in the application for condonation of delay which misled the party or for that matter their counsel for choosing wrong forum. The judgment relied upon by the counsel for the appellant reported as 2007 PLC(C.S) 870 is also discussed in the judgment of larger Bench mentioned

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above. This judgment has now merged in to the judgment of the larger Bench. Now we are to see whether the appellants have mentioned any ground in the application for condonation of delay which misled them or their counsel to choose wrong forum. If we go through the applications for condonation of delay in these appeals there is only general mention of the appellants pursuing the case innocently and bonafidly. No particulars of the circumstances which misled the appellants to choose the wrong forum are mentioned. The learned counsel for the appellants today added the ground which misled the appellants for choosing the wrong forum but this ground is not available in the applications for condonation of delay. The august Supreme Court of Pakistan in that very judgment has also cited certain examples of misleading the counsel or his client by formulating two questions on this very subject. In question No.2 regarding wrong advice of the counsel for the appellant pursuing the remedy before the wrong forum their lordship have added that the person seeking condonation of delay must explain delay of each and every day and should establish that the delay was caused by reasons beyond control of that person (or counsel) and that he was not indolent, negligent or careless in initiating and

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○ pursuing the actionable right which had accrued in his favour.

Mere incompetence of the counsel, inadvertence, negligence or ignorance of law is held to be no ground. One of such examples given by their lordships is that of drawing the wrong decree sheet by the trial court as to valuation for the purpose of appeal due to which a counsel was misled into choosing the appellate forum was a valid ground. In this very judgment *actus-curiae per se* has not been approved to be a sweeping ground for condonation of delay while answering question no. 3. So in the light the judgment of the Larger Bench the appellants have failed to mention the specific ground in the application for condonation which misled them or their counsel for approaching a wrong forum. Secondly, if the arguments of the learned counsel for the appellants are made part of this application then we are to see whether that ground really misled the appellants or their counsel to approach the proper forum. As discussed above the crux of the arguments of the learned counsel for the appellant is that the appellants/counsel were misled in believing because the impugned order had mentioned Act of 1958 which Act was not part of the terms and conditions of the civil servants and hence, they approached the worthy Peshawar High Court. If

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we go through the impugned order the said order has simply transferred the appellants. The transfers are very much part of the terms and condition of the civil servants under the Khyber Pakhtunkhwa Civil Servants Act 1973. If any civil servant is transferred wrongly or in exercise of any of the powers given other than the Khyber Pakhtunkhwa Civil Servants Act, 1973 the matter still remains that of transfer. There arises no question of any misleading that how transfer on the basis of a law/rules other than Civil Servants Act or Rules there-under fell outside the purview of this Tribunal. Every day the civil servants are transferred on the basis of wrong notifications, by applying wrong law or rules which give cause of action to the Civil Servants to challenge the same before this Tribunal. Mentioning of any right or wrong law never misleads any person if the net outcome of the order is transfer. So far as judgment reported as 2017 PLC (C.S) 692 is concerned that judgment has got no application to the present appeal for the reason that in the said judgment the departmental authority was directed to consider the writ petition as departmental appeal. Secondly in this judgment the judgment of larger Bench was not considered. And if there is any discordance between judgments of the august Supreme

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Court of Pakistan the one of larger Bench shall prevail. The learned counsel has also not been able to convince this Tribunal that how the transfer orders are void and no limitation shall run in these appeals. All illegal orders are not void orders as is jurisprudentially settled. The objection of learned District Attorney as to joint appeal is not fatal as no penal consequences are mentioned and at the most it is directory.

8. This Tribunal is therefore, of the view that no sufficient cause has been shown by the appellants in pursuing their cases before a wrong forum and the application for condonation of delay cannot be accepted. All these appeals being time barred are dismissed. Parties are left to bear their own costs. File be consigned to the record room.

SDF

(NIAZ MUHAMMAD KHAN)  
CHAIRMAN

SDF

(AHMAD HASSAN)  
MEMBER

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30.11.2017

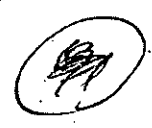


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ANNEX-PC/10

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 480/2017

Date of Institution ... 18.05.2017

Date of Decision ... 15.12.2017



Dr. Jamshed Saeed, Medical Officer, KTH, Peshawar.

(Appellant)

VERSUS

1. The Secretary Health Khyber Pakhtunkhwa, Peshawar and 3 others.  
(Respondents)

MR. TAIMUR ALI KHAN,  
Advocate

--- For appellant.

MR. USMAN GHANI,  
District Attorney

--- For respondents.

MR. AHMAD HASSAN,  
MR. MUHAMMAD AMIN KHAN KUNDI

MEMBER (Executive)  
MEMBER (Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER - Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The brief facts are that the appellant is serving as Medical Officer in KTH. Due to some administrative issues the appellant was illegally relieved by the incompetent authority vide order dated 03.11.2016 and his pay was also illegally stopped. Hospital Director tendered resignation on 05.10.2016, while transfer order was issued on 03.11.2016, despite the fact he was not competent to pass such orders. He preferred departmental appeal on 10.11.2016 and also filed Writ Petition on 4193-P/2016 in Peshawar High Court, Peshawar which was

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dismissed vide judgment dated 25.04.2017 for want of jurisdiction. hence, the instant service appeal on 24.05.2017.

### ARGUMENTS

3. Learned counsel for the appellant argued that vide impugned order dated 03.11.2016 he was relieved of his duties from KTH Peshawar by Hospital Director MTI, KTH. He further argued that the Hospital Director was not competent to pass such orders. Being a civil servant posting/transfer of the appellant was the domain of Health Department. It is further substantiated by the fact that initial posting order of the appellant dated 03.05.2007 was issued by the Health Department. Moreover, under Section-13 of the Khyber Pakhtunkhwa Medical Teaching Institution Reforms Act, 2015 the Hospital Director does not enjoy powers of postings/transfers. He also relied on Section-16 of the above Act. In addition to above the Health Department vide order dated 06.10.2017 clarified that civil servants working in MTIs, cannot be dislodged from MTIs by Medical Director/Hospital Director/Dean but can be repatriated by Health Department only with the approval of the competent authority.

4. On the other hand learned District Attorney argued that through impugned order dated 03.11.2016 service of the appellant were placed at the disposal of the Health Department being a civil servant as such it is not posting/transfer order. As his services were more required in KTH and after having completed normal tenure of posting was repatriated to his parent department. That he has not been absorbed in MTI, KTH. Under Section-10 of Civil Servant Act, 1973, a civil servant is required to serve anywhere in the province, hence, there is no illegality in the said order.

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Peshawar

CONCLUSION.

5. Careful perusal of record would reveal that vide order dated 03.05.2007 the appellant was posted as Medical Officer by respondent, no.1. There is hardly any confusion about the status of the appellant being a civil servant and respondent no.1 is competent to issue posting/transfer order. It has not been disputed by the learned counsel for the respondents. Moreover, under Section-13 of the Khyber Pakhtunkhwa Medical Teaching Institution Reforms Act, 2015 Hospital Director does not enjoy powers of posting/ transfer. As order has been issued by the incompetent authority so the same is void ab-initio. Hence, no limitation runs against a void order. Our stance is further substantiated by the Health Department letter dated 06.10.2017. Moreover, powers pertaining to appointment terms and conditions of service etc. of employees borne on the strength of the MTI are vested in Board of Governors as provided in Section-7 of the above Act.

6. As a sequel to above, the appeal is accepted and the impugned order is set aside. Parties are left to bear their own costs. File be consigned to the record room.

(AHMAD HASSAN)  
MEMBER

(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

ANNOUNCED  
15.12.2017

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Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar