

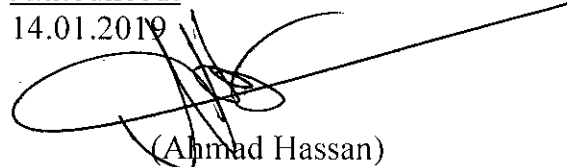
14.01.2019

None for the appellant present. Dr. Azad Khan, Litigation Officer and Mr. Hazrat Shah, Supdt alongwith Mr. Kabirullah Khattak, Addl. AG for respondents present.

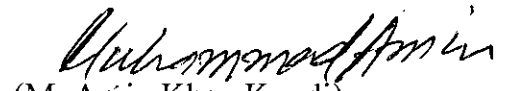
Called for several times but no one appeared on behalf of the appellant, therefore, the appeal in hand is hereby dismissed in default. File be consigned to the record room.

Announced:

14.01.2019



(Ahmad Hassan)
Member



(M. Amin Khan Kundi)
Member

14/1/19

939/18

13.12.2018

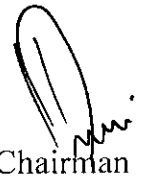
Appellant in person, Mr. Muhammad Riaz Painsa Khel, Assistant A.G alongwith Hazrat Shah, Superintendent for the official respondents and counsel for private respondent No. 4 present.

Reply on behalf of respondent No. 4 has been submitted which is placed on file.

To come up on 01.01.2019 for arguments on appeal as well as application for suspension of impugned notification.



Member



Chairman

01.01.2019

Appellant in person. Mr. Ziaullah, DDA alongwith Dr. Azar Khan, Medical for the respondents present.

Appellant requests for adjournment as his learned counsel is not available being indisposed.

Adjourned to 14.01.2019 for arguments before the D.B.



Member



Chairman

19.09.2018

Counsel for the appellant and Mr. Kabirullah Khattak Addl: AG alongwith Mr. Hazrat Shah Superintendent for the official respondents present. Written reply on behalf of respondents submitted. To come up for rejoinder arguments on 25.10.2018 before D.B.


(Muhammad Amin Kundi)
Member

25.10.2018

Due to retirement of Hon'ble Chairman, the tribunal is defunct. Therefore, the case is adjourned. To come up for same on 13.11.2018.


READER

12.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 27.11.2018.


READER

27.11.2018

Counsel for the appellant Mr. Muhammad Jan, DDA for the official respondents and counsel for private No. 4 present.


Learned counsel for private respondent time to furnish requisite reply to within fortnight. To come application on 13.1


Member

Appeal No. 939/2018
Dr. M. Taus Khan vs Govt

13/8/2018

Counsel for the appellant and Mr. Pinda Khel, Assistant Advocate General for official respondents No. 1 to 3 present. Counsel for private respondent No. 4 also present. Written reply by the respondents not submitted and Assistant AG requested for adjournment. Adjourned. To come up for written reply/comments on 4/9/2018 before SB. Status-quo be maintained till further order.


(Muhammad Amin Khan Kundi)
Member

04.09.2018

Appellant in person present. Mr. Hazrat Shah Superintendent on behalf of respondents No.1 to 3 while Dr. Azad on behalf of respondent No.4 present. Written reply not submitted. Adjournment requested. Adjourned. To come up for written reply/comments on 17.09.2018 before S.B


Member

17.09.2018

Appellant in person present. Dr. Azad, Litigation Officer alongwith Mr. Kabirullah Khattak, Addl: AG for respondents present. Mr. Saadullah Marwat, Advocate submitted wakalat nama on behalf of private respondent no.4. Written reply not submitted. Representative of the respondents sought some time to submit written reply. Granted. Case to come up for written reply/comments on 19.09.2018 before S.B.


(Ahmad Hassan)
Member

8/8/2018

Appellant with counsel and Mr. Kabirullah, Khattak, AAG for official respondents No. 1 to 3 present. Counsel for private respondent No. 4 also present. On the previous date notice of interim application was issued to the respondent and was directed to submit reply and arguments on the said application. Today private respondent No. 4 submitted replication of the application of interim relief. Arguments heard and record perused.

Brief fact of the present service appeal is that the appellant was serving in health department as District Health Officer Lakki Marwat. He was transferred from Lakki Marwat and placed his services at the disposal of Director General Health Service Khyber Pakhtunkhwa vide order dated 12/4/2018. Later on private respondent Dr. Abdul Gul Management Cadre BPS-19 was transferred against the post of District Health Officer Lakki Marwat vide order dated 18/5/2018. The appellant filed departmental appeal against the order dated 12/4/2018 on 17/4/2018, which was not responded, hence present service appeal. The appellant also submitted application for suspension of impugned notification and notification dated 18/5/2018 on the ground mentioned in the application and prayed for acceptance of the said application. Reply of the said application submitted by private respondent No. 4 today.

M. Asim
8.8.2018

Learned counsel for the appellant contended that appellant was serving in health department and he was transferred to the post of

District Health Officer Lakki Marwat vide order dated 10/3/2017. It was further contended that normal tenure as per transfer posting policy is 2 years. But appellant has been malifidely transferred before his normal tenure. It was further contended that the appellant was transferred on political influence and in this respect he stated that copy of impugned order has also been forwarded to Private Secretary to Minister Health Khyber Pakhtunkhwa. It was further contended that appellant has not relinquished the charge so far and in case the impugned order is not suspended and the appellant relinquish the charge. The present service appeal will be become infructuous. Therefore, prayed for acceptance of interim application.

*M. Khan
8.8.2018*

On the other hand Additional Advocate General assisted by learned counsel for private respondent No. 4 opposed the contention of learned counsel for appellant and contended that the appellant was transferred from the post of District Health Officer Lakki Marwat and his service was placed at the disposal of Director General Health Service Khyber Pakhtunkhwa vide order dated 12/4/2018. It was further contended that lateron private respondent was transferred from Management Cadre and was posted as District Health Officer Lakki Marwat vide order dated 18/5/2018. It was further contended that the appellant has not filed any departmental appeal against the transferred order dated 18/5/2018, therefore, the present appeal is not maintainable. It was further contended that the private respondent has assumed the charge. It was further contended that there was complain against the present

appellant. Therefore the appellant has rightly been transferred and prayed for dismissal of interim application.

Perusal of the record reveals that the appellant was transferred against the District Health Officer Lakki Marwat vide order dated 10/3/2017. According to Transfer Posting Policy the normal tenure is 2 years, but the appellant has been transferred after one year, therefore the appellant has been transferred before his normal tenure. It is also the claim of the appellant that he has not relinquished the charge so far. There is also nothing on the record in shape of documentary proof about the relinquish of the charge of post of appellant. Moreover, transfer should not be made as punishment on the ground of complaint. Therefore, status-quo be maintained till further order. To come up for written reply of respondents on 13/8/2018.


MEMBER

02.08.2018

Appellant present. Learned counsel for the appellant present. Preliminary arguments heard.

In the present service appeal the appellant has made impugned his transfer/posting order dated 12.04.2018 whereby he was transferred from the post of District Health Officer Lakki Marwat and his services were placed at the disposal of Director General Health Services Khyber Pakhtunkhwa. Learned counsel for the appellant argued inter alia that the impugned order is based on political victimization, malafide and ulterior motives; that the appellant was transferred out before the completion of normal tenure as mentioned in the transfer posting policy.

Points raised need consideration. The present appeal is admitted for regular hearing subject to all just 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 28.08.2018 before S.B.

Annexed with the main appeal is an application for interim relief. Notice of the said application be also given to the respondents for the date fixed. To also come up for reply and arguments on the said application on the date fixed.



Appellant Deposited
Security & Process Fee



Member

Form- A
FORM OF ORDER SHEET

Court of _____
Case No. 939/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge.
1	2	3
1-	27/07/2018	<p>The appeal of Dr. Muhammad Taus Khan presented today by Mr. Muhammad Adnan Sher 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 27/7/18</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>02/8/2018</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

17

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No: 939 / 2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1205

Dated 27/7/2018

Dr. Muhammad Taus Khan

Presently Posted as OSD Health Department (KP)

..... APPELLANT

VERSUS

1. Government of Khyber Pakhtunkhwa

Through Chief Secretary KP
Civil Secretariat, Peshawar

2. Secretary Health (Khyber Pakhtunkhwa)

Civil Secretariat, Peshawar

3. Director General Health (KP)

Civil Secretariat, Peshawar

4. Dr. Abdul Gul

District Health Officer Lakki Marwat,
District Lakki Marwat

..... RESPONDENTS

Filed to-day

Registrar

27/7/18

SERVICE APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT, 1974

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No: 439/2018

Dr. Muhammad Taus Khan

VERSUS

Govt of KP & Others

INDEX

S. No	Documents	Annexure	Page No.
1.	Service Appeal	--	01-05
2.	Application for Suspension	--	06
3.	Affidavit		07
4.	Copies of Notifications	" <u>A</u> "	8-10
5.	Copies of the <i>impugned notification</i> & subsequent Notification dated 18.05.2018	" <u>B</u> ", " <u>B-1</u> "	11-12
6.	Copy of the order of posting/ transfer of staff & Summary	" <u>C</u> ", " <u>C-1</u> "	13-15
7.	Copy of the departmental appeal	" <u>D</u> "	16-17
8.	Copy of the judgment dated 14.06.2018	" <u>E</u> "	18
9.	<i>Wakalatnama</i>	--	19


APPELLANT

Dated: 4-7, 2018

Through


MUHAMMAD ADNAN SHER
Advocate High Court, Peshawar

Respectfully Sheweth;

1. That the appellant is Senior Member Health Services (Management Cadre) in the Health Department Khyber Pakhtunkhwa and served on different posts in the Province of Khyber Pakhtunkhwa. (Copies of Notifications are hereby annexed as Annexure "A").
2. That the appellant was serving as District Health Officer Lakki Marwat when Respondent No. 2 transferred him from Lakki Marwat *vide* Notification NO. SOH (E-V) 1-131/ dated 12.04.2018 (*hereinafter referred to as impugned notification*) and placed his services at the disposal of Respondent No. 3 while Respondent No. 4 has been posted as DHO Lakki Marwat *vide* Notification NO. SOH(EV)1-910/2014 dated 18.05.2018. (Copies of the *impugned notification* and subsequent Notification are hereby annexed as Annexures "B" & "B-1" respectively).
3. That prior to the issuance of the *impugned notification*, some reshuffling in the ministerial staff of the office of DHO Lakki Marwat was made which annoyed some political figures and ultimately they succeeded in getting posted out the appellant in issuance of the *impugned notification* on the verbal directions of Ex-Chief Minister which is absolutely against the law and principles of natural justice. (Copies of the order of posting/ transfer of staff and summary are hereby annexed as Annexures "C" & "C-1" respectively).
4. That the appellant being aggrieved by the *impugned notification*, the appellant filed departmental appeal to the authority however the same remain undecided (Copy of the departmental appeal is hereby annexed as Annexure "D") and this attitude forced the appellant to approach hon'ble Peshawar High Court, Peshawar in W.P No. 2250-P/ 2018 and the same was disposed of *vide* judgment dated 14.06.2018 with directions to the concerned respondent to decide departmental appeal of the petitioner within fourteen days positively. (Copy of the judgment dated 14.06.2018 is hereby annexed as Annexure "E").
5. That despite clear cut direction of the hon'ble Peshawar High Court, Peshawar the respondents turned a deaf ear to the said directions and kept the same in cold storage till date and such conduct itself establishes *malafide* on the part of the respondents.

6. That the appellant being aggrieved by the action of Respondents and having no other alternate or efficacious remedy, files instant appeal *inter alia* on the following grounds;

GROUNDS;

- I. That the *impugned notification* is absolutely void, illegal and against the vested right of the appellant, hence liable to be struck down at once.
- II. That the *impugned notification* is otherwise not tenable in the eyes of law as the same is based on political victimization and influence and therefore *void ab initio*.
- III. That despite the fact that the appellant has an unblemished service record and satisfactory performance throughout his career, issuance of the *impugned notification* transpires malafide and ulterior motives of the respondents and therefore the same is liable to be set aside at the very outset.
- IV. That even otherwise, the respondents are unwilling to implement the clear cut directions of the honb'le High Court, Peshawar in its judgment dated 14.06.2018 which act of the respondents leave no doubt that the appellant is intentionally penalized and punished for his upright and honest character which is not warranted by law at all.
- V. That the appellant is at the verge of retirement and at this stage, and issuance of *impugned notification* is utter violation of the provincial government own policy, which discourages transfer of such civil servants who are near to the age of their retirement.
- VI. That the appellant has not yet relinquished his charge nor assumed any fresh charge but even then Respondent No. 4 has been posted as DHO Lakki Marwat which act of the Respondent No. 2 is absolutely void, illegal and without any authority.
- VII. *Without prejudice to the above and in addition thereto*, the respondents have violated the principle of natural justice i.e. "*audi altrem partem*" while issuing the *impugned notification* as he has not only been condemned unheard but no opportunity of personal hearing whatsoever given and the same is therefore not maintainable.

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- VIII. *Without prejudice to the above and in addition thereto*, the treatment meted out the present appellant would otherwise discourage other officers to take appropriate action against their subordinate staff for inappropriate activities which would paralyze the departments as a whole and such practice is highly discouraged by law of the land.
- IX. That the Constitution of Pakistan, 1973 guarantees the fundamental right of every citizen to be treated in accordance with law however issuance of the *impugned notification* is absolutely in violation to Article 4 of the Constitution of 1973.
- X. Besides, Article 25 of the Constitution of Islamic Republic of Pakistan, 1973 ensures equality of all the citizens and discourages any discrimination in services in Article 27 however in the case of the appellant, both the Articles have been violated by the respondents and so the *impugned notification* is liable to be set aside on this score alone.
- XI. Any other ground that may be raised at the time of hearing of this service appeal.

It is, therefore, respectfully prayed that on acceptance of the present appeal, this hon'ble Tribunal may be pleased to;

- a. **Declare *impugned notification*** dated 12.04.2018 and Notification NO. SOH(EV)1-910/2014 dated 18.05.2018 as null and void and the same be set aside **AND**
- b. *Any other* relief deemed fit and proper may kindly be granted in the given circumstances of the case.

Dated: _____, 2018



APPELLANT



Through



MUHAMMAD ADNAN SHER
Advocate High Court, Peshawar

Interim Relief;

By way of interim relief, this hon'ble Tribunal may be pleased to suspend the *impugned notification* dated 12.04.2018 and Notification dated 18.05.2018 till final disposal of subject service appeal.


COUNSEL

6

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No: / 2018

Dr. Muhammad Taus Khan

VERSUS

Govt of KP & Others

**APPLIACATION FOR SUSPENSION OF *impugned notification &*
NOTIFCATION DATED 18.05.2018**

Respectfully Sheweth;

1. That the instant application may be considered as part and parcel of the enclosed service appeal pending adjudication before this hon'ble Tribunal in which date is yet to be fixed.
2. That the applicant/ appellant has got a *prima facie* case and sanguine about its success.
3. That the balance of convenience also tilts in favor of the applicant/ appellant.
4. That if the interim relief as prayed for in the heading of application is not granted, the applicant/ appellant will suffer irreparable loss.

It is, therefore, respectfully prayed that on acceptance of this application, impugned notification dated 12.4.18 and Notification dated 18.5.18 may graciously be suspended.

[Signature]

APPLICANT/ APPELLANT

Dated: _____, 2018

Through

[Signature]
MUHAMMAD ADNAN SHER
Advocate High Court, Peshawar

7B

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No: / 2018

Dr. Muhammad Taus Khan

VERSUS

Govt of KP & Others

AFFIDAVIT

I, **Muhammad Taus Khan** son of Rangeen Khan, Resident of Zakori Town near Tauseef Abad Chowk, Daraban Road, Dera Ismail Khan, do hereby declare and affirm on oath;

1. That the contents of this application along with service appeal are true and correct to the best of my knowledge and belief &
2. That nothing has been concealed from the august court, which it is necessary to disclose.





DEPONENT

ANNEX

"A" 8



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar the 30th June, 2016

NOTIFICATION

NO.SOH(E-V)1-131/2016

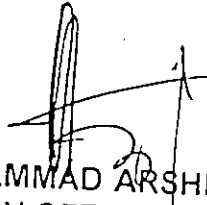
The Competent Authority is pleased to order the posting/transfer of Dr. Tawas Khan (BS-18) Member of Service attached to Hayatabad Medical Complex, Peshawar against the vacant post of Deputy DHO DIKhan (BS-19) in his own pay and scale in the public interest with immediate effect.

SECRETARY HEALTH
Govt. of Khyber Pakhtunkhwa

Endst. No. & Date Even

Copy to the:-

1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. Director General, Health Services, Khyber Pakhtunkhwa
3. Hospital Director Hayatabad Medical Complex, Peshawar.
4. Medical Director Hayatabad Medical Complex, Peshawar.
5. District Health Officer DIKhan.
6. District Accounts Officer DIKhan
7. Deputy District Health Officer DIKhan.
8. PS to Minister Health Khyber Pakhtunkhwa .
9. PS to Secretary Health Department.
outer Programmer Health Department
or concerned.


(MUHAMMAD ARSHID)
SECTION OFFICER (E-V)

BETTER COPY





CORRIGENDUM

GOVERNMENT OF KHYBER
PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar the 25th September, 2016

NOTIFICATION

NO.SOH(E-V)2-248/2009

The Competent Authority is pleased to order transfer of Dr. Tariq Masood (BS-19) MS Mufti Mehmood Memorial Hospital DIKhan and post him against the vacant post of Principal Public Health School DIKhan in the public interest with immediate effect.

On his promotion to BS-19) Dr. Tawas Khan (BS-19) Deputy DHO DIKhan is hereby posted/transferred against the vacant post of MS DHQ Hospital (BS-20) in his own pay and scale with immediate effect in the public interest.

Consequent upon the above Dr. Faziur Rehman Vice Principal Gomal Medical College DIKhan is hereby relieved of the additional charge of the post of MS DHQ Hospital DIKhan.

SECRETARY HEALTH
Govt. of Khyber Pakhtunkhwa

Endst. No. & Date Even

Copy to the:

1. Accountant General Khyber Pakhtunkhwa
2. Chairman Board of Governor MMM Teaching Hospital DIKhan
3. Director General, Health Services, Khyber Pakhtunkhwa
4. MS MMM Teaching Hospital DIKhan.
5. MS DHQ Hospital DIKhan
6. District Health Officer DIKhan .
7. Principal Public Health School DIKhan.
8. Deputy District Health Officer DIKhan.
9. Vice Principal Gomal Medical College DIKhan.
10. District Accounts Officer DIKhan.
11. PS to Minister Health Khyber Pakhtunkhwa.
12. PS to Secretary Health Department.
13. Computer Programmer Health Department
14. Doctor concerned.

-sd-

(MUHAMMAD ARSHID)
SECTION OFFICER (E-V)

(12) ~~11~~

BETTER COPY

ANNEX "B" / 11

GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar the 12th April, 2018

NOTIFICATION

No. SOH(E-V)1-131/2016 The competent authority, is pleased to transfer Dr. Muhammad Taus Khan Management Cadre BS-19 District Health Officer Lakki Marwat and place his services at the disposal of Director General Health Services, Khyber Pakhtunkhwa with immediate effect in the public interest.

2. Consequent upon, the above Dr. Esa Khan medical Superintendent BS-19 DHQ Hospital Lakki Marwat is hereby authorized to look after the post of District Health Officer Lakki Marwat till further orders.

Secretary Health
Govt. Of Khyber Pakhtunkhwa

Endst. No. & Date Even

Copy to the:

1. Accountant General Khyber Pakhtunkhwa, Peshawar
2. Director General, Health Services, Khyber Pakhtunkhwa
3. District Health Officer Lakki Marwat
4. MS DHQ Hospital Lakki Marwat
5. District Accounts Officer Lakki Marwat
6. PS to Minister Health Khyber Pakhtunkhwa
7. PS to Secretary health Department
8. PS to Special Secretary Health Department
9. PS to Computer Programmer Health Department
10. Doctor concerned.

ANNEX "B-1" / 12



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar the 18th May, 2018

NOTIFICATION

NO.SOH(E-V)1-910/2014 The Competent Authority (Chief Minister Khyber Pakhtunkhwa) is pleased to order posting/transfer of Dr. Abdu Gul Management Cadre BS-19 attached to Director General Health Services Khyber Pakhtunkhwa, against the vacant post of District Health Officer Lakki Marwat BS-20 in his own pay and scale, with immediate effect in the public interest.

2. Consequent upon the above Dr. Essa Khan Medical Superintendent BS-19 DHQ Hospital Lakki Marwat is hereby relieved from the additional charge of the post of District Health Officer Lakki Marwat.

SECRETARY HEALTH
Govt. of Khyber Pakhtunkhwa

Endst. No. & Date Even

Copy to the:-

1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. Director General, Health Services, Khyber Pakhtunkhwa.
3. District Health Officer Lakki Marwat
4. MS DHQ Hospital Lakki Marwat
5. District Accounts Officer, Lakki Marwat
6. PS to Minister for Health Khyber Pakhtunkhwa.
7. PS to Secretary Health Department.
8. PS to Special Secretary Health Department
9. Computer Programmer Health Department
10. DHIS Cell DGHS Office, Peshawar.
11. Doctor concerned.

(MUHAMMAD IRFANUDDIN)
SECTION OFFICER (E-V)

ANNEX "C" / 13

**DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUN KHWA PESHAWAR**

E-Mail Address: dgshk@peshawar.gov.pk Office Phn 091-9210269 Fax Phn 091-9210187, 9210196 091-9210230



OFFICE ORDER

As per report of DHO Bannu vide his report No. 2076-79/PF dated 26.12.2017 and DHO Lakki Marwat letter No. Nil dated 04.01.2018, the following posting/transfer of Ministerial staff are hereby ordered on administrative grounds with immediate effect.

S.NO	NAME & DESIGNATION	FROM	TO	REMARKS
01.	Mr. Zafar Junior Clerk ✓	DHO office Lakki Marwat	DHO office Bannu	Vice S.No. 02
02.	Mr. Faheem Khan Junior Clerk	DHO office Bannu	DHO office Lakki Marwat	Vice S.No. 01
03	Mr. Ihsanullah ✓ Sub: Accountant BS-09	DHO office Lakki Marwat	DHO office Bannu	Against any vacant post for the drawal of pay
04	Mr. Baz Muhammad Khan Statistical Assistant	DHO office Bannu	KGH Teaching Hospital Bannu	Against the vacant post.
05	Mr. Naeem Khan Junior Clerk	DHO office Bannu	DHO office Lakki Marwat	The DHO Lakki Marwat should relieve his substitute unwilling worker /longest stay
06	Mr. Abdullah Shah Driver ✓	DHO office Lakki Marwat	DHO office Bannu	-do-

NB: Arrival/Departure reports should be submitted to this Directorate for record.

Sd/xxxxxxx
DIRECTOR GENERAL HEALTH SERVICES, K.P.K PESHAWAR.
Dated 22/01/2018

No. 1139-47 /Personnel

Copy forwarded to the:-

1. P.S to Secretary to Govt. of Khyber Pakhtunkhwa Health Department Peshawar.
2. Hospital Director KGH Teaching Hospital Bannu.
3. DHO Lakki Marwat.
4. DHO Bannu.
5. DAO Bannu/Lakki Marwat.
6. PA to DGHS, Khyber Pakhtunkhwa.
7. DHIS Cell DGHS, KPK Peshawar.
8. Officials concerned.

For information and necessary action.

DIRECTOR GENERAL HEALTH SERVICES, K.P.K PESHAWAR.
22/01/18

10/10/10



Answer 'C-2' / 14

GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

SUMMARY FOR CHIEF MINISTER KHYBER PAKHTUNKHWA

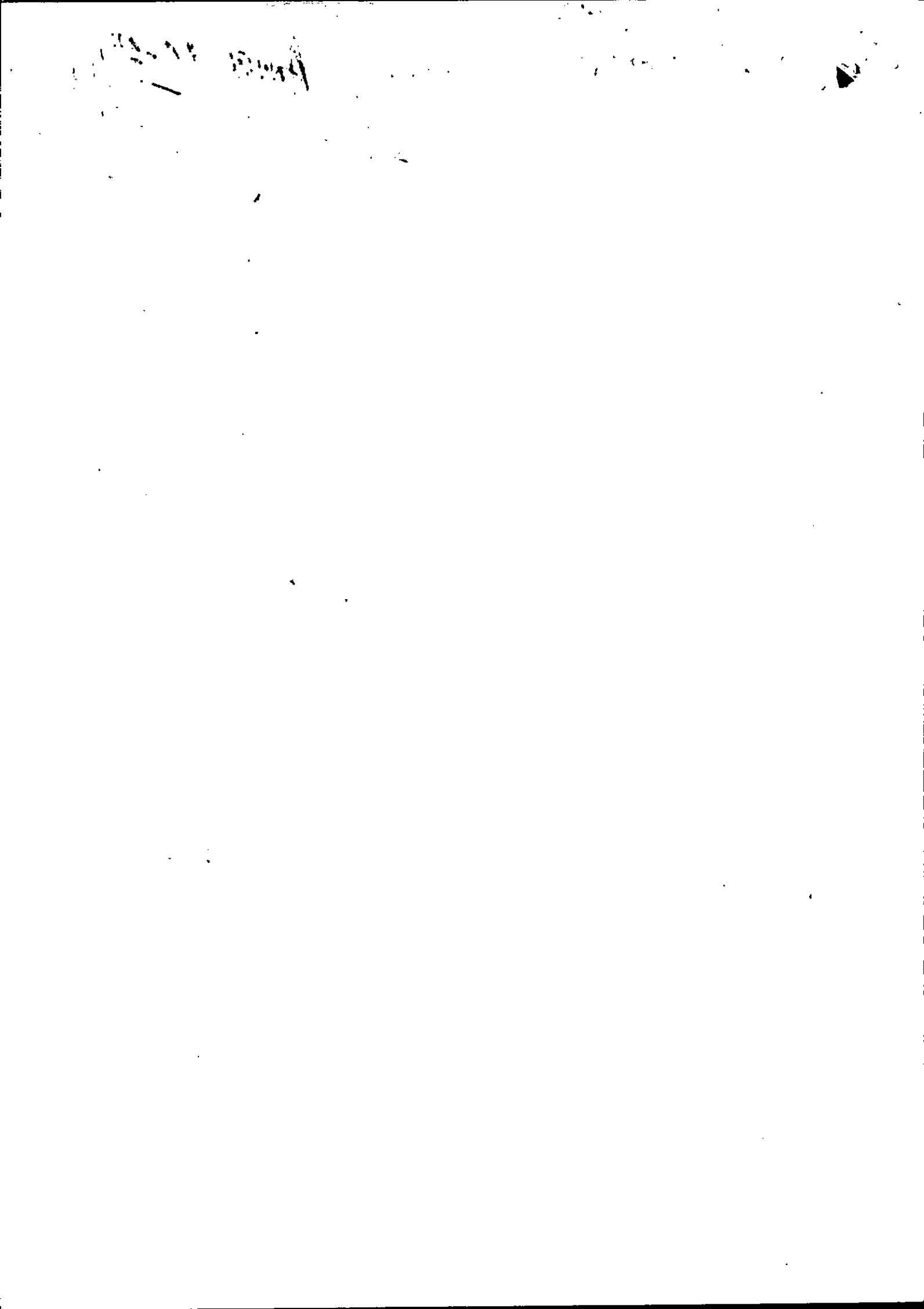
SUBJECT: WRIT PETITION NO. 2250-P/2018 DR TAWAS KHAN VS
GOVERNMENT OF KHYBER PAKHTUNKHWA HEALTH
DEPARTMENT.

The Peshawar High Court Peshawar in its judgment dated 14.06.2018 in Writ Petition No 2250-P/2018 has directed Health Department that the Departmental Appeal of Dr Tawas Khan, Ex-District Health Officer Lakki Marwat (now attached to Director General Health Services Khyber Pakhtunkhwa) may be decided within fourteen days positively as per posting/transfer policy (Annex-I)

2 Dr Tawas Khan, Management Cadre, BS 19 was posted as District Health Officer Lakki Marwat vide Health Department Notification dated 10.03.2017 (Annex-II). On 12.01.2018 District Administration of Lakki Marwat has intimated the Health Department that Coordination Council announced boycott of the then upcoming Polio Campaign in District Lakki Marwat and has demanded that Dr Tawas Khan, the then District Health Officer Lakki Marwat may be transferred out (Annex-III). The issue got impetus due to the allegations and counter allegations by the parties involved. Moreover, as and when the status quo gets disturbed to any side such issues happens as a byproduct.

3. In order to properly probe into the matter keeping in view the complexity of the issue, Health Department has notified an inquiry committee comprising of Dr Shad Ali, Management Cadre, BS-20 working as Additional Director General DGHS Office, Peshawar and Dr Muhammad Saleem, Management Cadre, BS-19 working as Director Implementation, DGHS Office, Peshawar with the following Terms of Reference (Annex-IV)

4. Consequently, the inquiry committee submitted the requisite inquiry report to Health Department wherein it has been recommended *inter alia* that Dr Tawas Khan, the then District Health Officer, Lakki Marwat along with other officials of District Health Office, Lakki Marwat may be transferred out on administrative grounds immediately (Annex-V) However, the Health Department has referred the case to the inquiry committee vide this Department letter placed at Annex-VI reasoning therein that some facets of the ToRs have not been covered by the committee therefore they may be addressed before submission of the report to the authority for a final decision.



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5. On the other hand, the issue acquired an unmanageable magnitude and therefore a separate Note to Chief Secretary was moved to involve Anti Corruption Directorate in the matter. Copy of the Note is placed at Annex-VII

6. However, the E-Chief Minister, Khyber Pakhtunkhwa has verbally directed Health Department that the doctor concerned may be transferred out immediately. So, Health Department complied with the orders of the Chief Minister, Khyber Pakhtunkhwa and ex-post facto approval was obtained consequently. Copy of the approved summary and Notification may be seen at Annex-VIII and it is apt to mention here that the Dr Tawas Khan was not transferred out of District Lakki Ma. at as result of the above two inquiries so conducted, but on the orders of Chief Minister Khyber Pakhtunkhwa.

7. In the light of above, Chief Minister, Khyber Pakhtunkhwa may pass orders on the appeal of the said doctor on the grounds mentioned hereinabove and in the documents attached herewith please.

Muhammad Abid Majeed
(Muhammad Abid Majeed)
Secretary Health

~~Minister for Health
Khyber Pakhtunkhwa.~~

Abdus Salam
5 / 7 / 13

Secretary Establishment
Govt of Khyber Pakhtunkhwa.

MR. AKBAR JAN MARI
Minister for Health & Population
Khyber Pakhtunkhwa

Chief Secretary
Khyber Pakhtunkhwa.

Chief Minister
Khyber Pakhtunkhwa.

To,

THE HON'BLE CHIEF SECRETARY
KHYBER PAKHTUN KHWA,
PESHAWAR.

(Through Proper Channel)

Subject: DEPARTMENTAL REPRESENTATION /APPEAL
AGAINST THE IMPUGNED TRANSFER ORDER
DATED: 12-04-2018 VIDE WHICH THE APPELLANT IS
TRANSFERRED FROM THE POST OF DHO, LAKKI
MARWAT AND DIRECTED TO APPEAR BEFORE DG
HEALTH.

Worthy Sir,

With reference to the subject cited above, the appellant most respectfully submitted as under:

1. That the appellant is a member of Service (BS-19) of Health Management Cadre and presently is working as DHO, Lakki Marwat.
2. That the appellant is in promotion zone to BPS-20 and in this regard is undergoing four months mandatory training required for promotion to BPS-20. The appellant stands at the top of the seniority list of the cadre in BPS-19.
3. The appellant was posted as DHO Lakki Marwat on 10-03-2017 vide Health Department Notification No. SOH (E.V) 1-131/2016.
4. That the appellant since his posting as DHO, made a lot of improvement in the Health delivery system in the District i.e. Polio Program/RI etc. However, the appellant was all at once was transferred from the post vide Health Department Notification dated: 12-04-2018 without assigning any

(17)

reason for the transfer and that too before completion of normal tenure as prescribed under the law and rules.

5. That the duties of DHO of the District have been assigned to a Doctor of the General Cadre in deviation of the rules of Management Cadre. Transfer before completion of tenure on a post is also in deviation of Supreme Court judgments and policy of Provincial Govt.
6. That the appellant is at the verge of his retirement and according to the policy, a Govt. servant who is at the verge of his retirement should not be disturbed/transferred.

In view of the above, it is, therefore, requested that the impugned transfer order referred to above may graciously be cancelled/withdrawn by allowing the appellant to complete his normal tenure of posting over there as per judgment of the Apex Court and policy of the Provincial Govt.

Appellant

Dated: 17-04-2018

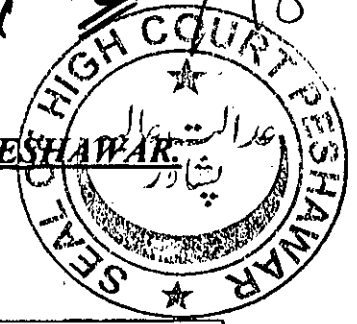
3


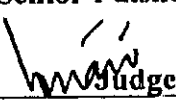
Dr. Muhammad Taus Khan
Member of Service (BPS-19),
Health Department,
DHO, Lakki Marwat.

ANNEX "E" / 18

PESHAWAR HIGH COURT, PESHAWAR.

ORDER SHEET



Date of Order/ Proceedings	Order or other Proceedings with Signature of Judge.
<u>14/06/2018.</u>	<p><u>WP No. 2250-P/2018</u></p> <p><u>Present:</u> M/s Abdul Latif Afridi & Asad Zeb Khan, Advocates, for the petitioner.</p> <p>Syed Qaiser Ali Shah, AAG, for the respondents.</p> <p><u>WAOAR AHMAD SETH, J.:</u> Petitioner, through the instant Writ Petition, has prayed for issuance of an appropriate writ declaring the impugned order dated 12.04.2018 of respondent No.2 as illegal, unlawful, without lawful authority and void ab-initio.</p> <p>2. Learned counsel for the petitioner argued the case at length but finally he stated at the bar that petitioner will be satisfied if respondent No.1 is directed to decide his departmental appeal within a period as specified by the Court. The learned AAG has got no objection on issuance of aforesaid direction.</p> <p>3. In view of the above, this Writ Petition is disposed of with direction to respondent No.1 to decide departmental appeal of the petitioner within fourteen (14) days positively as per posting & transfer policy.</p> <p style="text-align: right;"> Senior Puisne Judge</p> <p style="text-align: right;"> Judge</p>

Waqar Shah BS-2010 Justice Waqar Ahmad Seth & Justice Ms. Musarrat Hameed.




CERTIFIED TO BE TRUE COPY

EXAMINER
Peshawar High Court, Peshawar
Authorised Under Article 8.7 of
The Qanun-e-Shahadat Order 1984

19 JUN 2018

Handwritten marks and scribbles at the top left of the page.

No. 26168
Date of Presentation of Application 19/6/18
No of Pages 01
Copying Fee 1
Urgent Fee Rs 9/-
Total Rs 9/-
Date of Preparation of Copy 19/6/18
Date of Delivery of Copy 19/6/18
Received By Dr. Paul Kumar

50	  
ایڈوکیٹ: M. ANWAR SHAH	44072
بار کونسل ایسوسی ایشن نمبر: 2380	پشاور بار ایسوسی ایشن، خیبر پختونخواہ
رابطہ نمبر: 0391-334-321	

بعدالت جناب:

مناجب: ایسیلاٹ	دعوی: Service Demand
عجلت نمبر:	
مورخہ:	
جرم:	
تھانہ:	

محکمہ سروس خالص بنام حکومت خیبر پختونخواہ

باعت تحریر آئکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ
 آپ مقام لیسٹا، کیلئے محمد عبدالرشید صاحب کو وکیل مقرر
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو
 راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعوی اقبال دعوی اور درخواست از ہر قسم کی تصدیق
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز
 دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
 مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا
 دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا گیا کہ سند رچے

المرقوم: 2018-07-09

المقام لیسٹا

واہ شد

کے لیے منظور ہو گیا

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No: / 2018

Dr. Muhammad Taus Khan

VERSUS

Govt of KP & Others

**APPLICATION FOR EARLY HEARING/ FIXATION OF INSTANT SERVICE
APPEAL**

Respectfully Sheweth;


1. That the subject Service Appeal has been admitted for full hearing and fixed before this hon'ble Tribunal along with an application for interim relief for arguments on 28.8.2018.
2. That the appellant has challenged his transfer order (*impugned notification*) in the subject appeal being in utter violation of law and the respondents are pressurizing the appellant to relinquish charge. In such a case, the purpose of instant appeal would become infructuous and futile. Hence this application.

It is, therefore, respectfully prayed that on acceptance of this application, the subject service appeal may kindly be fixed for early hearing in the interest of justice.

APPLICANT/ APPELLANT

Dated: 03/____, 2018

Through


Aamir Khan
Advocate High Court

put up to the court with
reluctant appeal.

La new
3/8/18

Leadu

put up with
file
2/8/18

MS
3/8-2018

File permiss
Application is allowed
Notice to the respondents of 08-08-2018
2/8/18

قیمت 50 روپے	45245			
ایڈوکیٹ: <u>Aamir Zeb Khattak</u>		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل ایسوسی ایشن نمبر: <u>BC-13-4412</u>				
رابطہ نمبر: <u>0333/9095905</u>				

بعدالت جناب: حیدر علی خان و ستر پیرویل سٹاؤر

منجانب: <u>سائل</u>	دعویٰ: <u>Early Hearing Appeal</u>
<u>ڈاکٹر محمد طاہر س خان</u>	علت نمبر: _____
<u>بنام</u>	مورخہ: _____
<u>گورنمنٹ آف خیبر پختونخواہ</u>	جرم: _____
	تھانہ: _____

باعت تحریر آگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطہ پیروی و جواب دہی کاروائی متعلقہ
 آن مقام سٹاؤر کیلئے عام زب شد (ٹی سی ایل) ایڈووکیٹ کو پبیل مقرر
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو
 راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز
 دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
 مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا
 دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

Attested
 Accepted
 Aamir Zeb Khattak

المرقوم: 03/08/2018

_____ واہ شد _____
 _____ مقام _____ کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No: / 2018

Dr. Muhammad Taus Khan

VERSUS

Govt of KP & Others

APPLICATION FOR EARLY HEARING/ FIXATION OF INSTANT SERVICE
APPEAL

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1. That the subject Service Appeal has been admitted for full hearing and fixed before this hon'ble Tribunal along with an application for interim relief for arguments on 28.8.2018.
2. That the appellant has challenged his transfer order (*impugned notification*) in the subject appeal being in utter violation of law and the respondents are pressurizing the appellant to relinquish charge. In such a case, the purpose of instant appeal would become infructuous and futile. Hence this application.

It is, therefore, respectfully prayed that on acceptance of this application, the subject service appeal may kindly be fixed for early hearing in the interest of justice.



APPLICANT/ APPELLANT

Dated: _____, 2018

Through



Aamir Khan
Advocate High Court



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

10

Dated Peshawar the 10th March, 2017

NOTIFICATION

NO.SOH(E-V)1-131/2016 The Competent Authority is pleased to order the posting/transfer of Dr. Muhammad Taus Khan (BS-19) Member of Service (waiting for posting) against the post of District Health Officer Lakki Marwat (BS-20) in his own pay and scale in the public interest with immediate effect.


Consequent upon the above Dr. Abdul Ghaffar PMO (BS-19) is hereby relieved from the Additional charge of the post of District Health Officer Lakki Marwat.

SECRETARY HEALTH
Govt. of Khyber Pakhtunkhwa

Endst. No. & Date Even

Copy to the:-

1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. Director General, Health Services, Khyber Pakhtunkhwa
3. District Health Officer Lakki Marwat.
4. Hospital Director DHQ Hospital DIKhan.
5. Medical Director DHQ Hospital DIKhan.
6. District Accounts Officer DIKhan.
7. District Accounts Officer Lakki Marwat.
8. PS to Minister Health Khyber Pakhtunkhwa.
9. PS to Secretary Health Department.
10. Computer Programmer Health Department
11. Doctor concerned.


SECTION OFFICER (E-V)

S#: 1
 Paki
 Para #: 00049718 Buckle: 0
 Name: DR ABDU GUL
 DISTRICT HEALTH OFFICER
 CNIC No. 1730116308051
 GPF Interest Applied
 19 Active Permanent

P Sec: 009 Month: July 2018
 LK6066 - District Health Officer La
 DISTRICT HEALTH OFFICER L
 NTN:
 GPF #: JM 021060
 Old #:

		LK6066
PAYS AND ALLOWANCES:		
0001-Basic Pay		86,650.00
1000-House Rent Allowance		8,856.00
1210-Convey Allowance 2005		5,000.00
1538-Non - Practising Allowance		4,000.00
1947-Medical Allow 15% (16-22)		3,650.00
1985-Health Professional Allow		96,000.00
2148-15% Adhoc Relief All-2013		1,975.00
2199-Adhoc Relief Allow (10%)		1,331.00
2211-Adhoc Relief All 2018 10%		6,985.00
Gross Pay and Allowances		231,789.00
DEDUCTIONS:		
IT Payable 89,957.79	Deducted 8,179.00	TAX: (3609) 8,179.00
GPF Balance 1034,046.00		Subrc: 7,180.00
1501-Benevolent Fund		800.00
4004-R. Benefits & Death Comp:		3,810.00

S#: 2
 Paki
 Para #: 00049718 Buckle: 0
 Name: DR ABDU GUL
 DISTRICT HEALTH OFFICER
 CNIC No. 1730116308051
 GPF Interest Applied
 19 Active Permanent

P Sec: 009 Month: July 2018
 LK6066 - District Health Officer La
 DISTRICT HEALTH OFFICER L
 NTN:
 GPF #: JM 021060
 Old #:

		LK6066
PAYS AND ALLOWANCES:		
2224-Adhoc Relief All 2017 10%		8,666.00
2247-Adhoc Relief All 2018 10%		8,666.00

Gross Pay and Allowances		231,789.00
DEDUCTIONS:		
IT Payable 89,957.79	Deducted 8,179.00	
GPF Balance 1034,046.00		Subrc:
Total Deductions		19,969.00
		211,820.00

D.O.B
 16.01.1957
 20 Years 09 Months 001 Days

LFP Quota:
 ALLIED BANK LIMITED Khyber Bazar Peshawa
 PLS00000001575-3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.939/2018

Dr. Muhammad Taus Khan.....Appellant

Versus

1. Secretary to Govt of Khyber Pakhtunkhwa Health Department.
2. Chief Secretary Khyber Pakhtunkhwa.....Respondents:

PARA-WISE COMMENTS ON BEHALF OF RESPONDENT NO. 1,2 and3

PRELIMINARY OBJECTIONS:

1. That the Appeal is incompetent and not maintainable in its present forum.
2. That the Appellant has neither cause of action nor locus standi
3. That the Appellant has filed the appeal in non proper form and may be dismissed.
4. That the Tribunal has no jurisdiction.
5. That the Appellant has not come to the Tribunal with clean hands.
6. That the Appeal is time barred.

FACTS.

1. Correct to the extent that the Appellant is a regular employee of the Health Department. He belongs to the Health Management Cadre in BS-19.
2. Pertains to record. However the appellant was posted and transferred in the public interest.
3. Correct to the extent that the Appellant was posted as District Health Officer Lakki Marwat on 10.03.2017. Thereafter due to various claims and counter claims, the Chief Secretary Khyber Pakhtunkhwa has approved proceedings through Anticorruption. It is also added here that the Deputy Commissioner Lakki Marwat intimated Health Department vide his letter dated 13.01.2018 that all employees Coordination Council in its meeting held on 12.01.2018 announced boycott of the upcoming Polio campaign in District Lakki and demanded the posting/transfer of the Appellant from the post of DHO Lakki Marwat upon which the Deputy Commissioner Lakki Marwat has requested that the Appellant may be transferred from the post of DHO Lakki Marwat (Annex-I). In response to the above situation Health Department conducted fact finding inquiry through Dr.Shad Ali Management Cadre BS-20 Additional Director General DGHS Office and Dr.Muhammad Saleem Director (Implementation) DGHS Office.

The inquiry officers/committee has also recommended the posting/transfer of the Appellant on administrative grounds **(Annex-II)**.

4. Incorrect. The appellant did not file ~~the~~ any Departmental appeal/review appeal before the proper forum which is in the instant case Chief Minister Khyber Pakhtunkhwa according to the Rules of Business, 1985.
5. Correct to the extent that the appellant filed writ Petition No 2250-P/2018 in the Peshawar High Court, Peshawar in the subject case. The honorable Court in its order dated 14.06.2018 directed Health Department that the appeal of the Petitioner may be considered according to the posting/transfer policy 2009 within 14-days. Consequently Health Department submitted summary to the Chief Minister Khyber Pakhtunkhwa being the competent authority in the instant case, however approval is awaited while in the meanwhile the appellant filed the instant appeal before this honorable Court without waiting the ^{come} out of the said summary.
6. No comments.

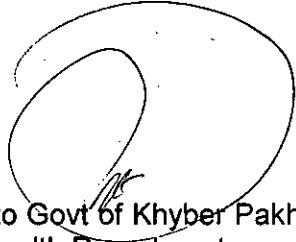
GROUNDS.


- i. Incorrect. The impugned order is according to the rules and law. Section 10 of the Civil Servant Act provides every civil servant shall be liable to serve anywhere within or outside the Provinces in any post under the Federal Government or any Provincial Government or local authority **(Annex-III)**
- ii. Incorrect. As mentioned in Para-3 above. The performance of the appellant while working against the post of DHO Lakki Marwat is not satisfactory due to this reasons Health Department issued posting/transfer order of the appellant as per direction of the then Chief Minister Khyber Pakhtunkhwa being competent authority.
- iii. Incorrect as mentioned in Para-B above. The performance of the Appellant is not satisfactory and there is no any other remedy to transfer the appellant immediately from the post of DHO Lakki Marwat.
- iv. Incorrect. The Peshawar High Court Peshawar in its judgment directed Health Department that the appeal of the Petitioner may be decided according to the posting/transfer policy.

- v. Incorrect. The Petitioner was transferred from the post of Deputy DHO DIKhan at their own request. Health Department has also of the view at that time that the Petitioner will perform his duty efficiently during his posting as District Health Officer Lakki Marwat, however as mentioned in Para-3, the performance of the appellant during this period is not found satisfactory. Health Department has remained tumultuous during the past three months. The appellant has been treated according to the posting/transfer policy 2009.
- vi. Incorrect as mentioned in Para-3 the District Administration of District Lakki Marwat has repeatedly requested Health department that the Performance of the appellant is not satisfactory. As mentioned in the fact finding inquiry report conducted by Dr. Shad Ali Management Cadre BS-20 Additional Director General DGHS Office and Dr. Muhammad Saleem Director (Implementation) DGHS Office, the doctors and paramedics observed strike against the harsh attitude of the appellant. The inquiry officers have recommended the transfer out of the appellant on administrative grounds.
- vii. Incorrect. The impugned order has been passed in according to the Appointment, Promotion and Transfer Rules, 1989.
- viii. Incorrect. As mentioned in Para-3 above there is no violation in the impugned Notification, the appellant has been treated as per merit.
- ix. Incorrect. There is no political victimization in the instant case. The Petitioner has been transferred due to the reasons as mentioned in Para-3 above.
- x. Incorrect. The Petitioner is not at the verge of retirement. The Petitioner will retire from service on 02.02.2020. The Petitioner belongs to the Health Management Cadre in BS-19 while the post of District Health Officer Lakki Marwat falls to the share of Health Management Cadre in BS-20.
- xi. No comments

It is, therefore, requested that the appeal of the appellant may kindly be dismissed with cost.

Chief Secretary
Khyber Pakhtunkhwa
Department
(Respondent No.2)


Secretary to Govt of Khyber Pakhtunkhwa
Health Department
(Respondent No.1 & 2)


Director General
Health Services Khyber Pakhtunkhwa
(Respondent No.03.)



Amir
①

OFFICE OF THE

DEPUTY COMMISSIONER

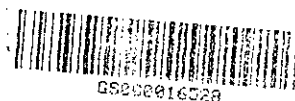
LAKKI MARWAT (KHYBER PAKHTUNKHWA) Ph# 0969-538330-31 Fax# 538333
email: deputycommissioner@lakki-marwat.gov.pk facebook: www.facebook.com/deputycommissionerlakki-marwat website: www.lakki-marwat.gov.pk

No. 14 / PA

Dated: 13 / 01 / 2018

To:

The Secretary
Health Department
Khyber Pakhtunkhwa Peshawar



Subject: SPECIAL SITUATION REPORT DATED: 11.01.2018

Memo:

In continuation of this office letter No. 901/PA dated: 02.01.2018, No: 911/PA dated: 05.01.2018 and No. 10/PA dated: 11.01.2018 on the subject noted above and to inform that All Employees Coordination Council in its meeting held on 11.01.2018, decided to withdraw the boycott of upcoming public campaign, if the undersigned conveys their concern to the higher authorities. In this regard, a letter was sent on 14.01.2018 to the Commissioner Bannu Division (copy of this letter is in your good office).

Now again the All employees Coordination Council in its meeting held on 12.01.2018, announced boycott of the upcoming public campaign, unless the Deputy Commissioner issue a letter to the Health Department for the transfer of Dr. Taus Khan DHO Lakki Marwat (copy of this report of Special Branch is enclosed).

As the issue of the transfer of DHO is lingering on and it is creating a lot of problems, therefore, it is requested that if possible, Dr. Taus Khan DHO Lakki Marwat may be transferred so that the issue may be resolved permanently.

PS/Governor
Khyber Pakhtunkhwa

D# 187
Dated 17/1/18

Deputy Commissioner
Lakki Marwat

Even No. & Date:

Copy forwarded to:

1. The Commissioner Bannu Division
2. The Coordinator Emergency Operation Centre Khyber Pakhtunkhwa Peshawar

Pr. Sec / Secretary S.S.
Zw n. a / iqbal
17/1

AM
Deputy Commissioner
Lakki Marwat

Governor
Khyber Pakhtunkhwa

DS
Pr Sec
18/1/18



OFFICE OF THE
COMMISSIONER
BANNU DIVISION

P.O. Box 12, Postal Code 28100

Bannu

NO. 26 /PC/Gen/18

Dated, Friday, January 12, 2018

Phone: 0928-9270044 & 021114

Fax: 0928-9270041

E-mail : commissioner@bannu.gov.pk

MOST IMMEDIATE/BY FAX

To

The Deputy Commissioner, Lakki Marwat.

Subject: INFORMATION REPORT

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith copy of letter No. 877-80/ID dated 12-01-2018 received from Deputy Inspector General of Police, Special Branch, , Khyber Pakhtunkhwa P. Division which is self explanatory for information and further appropriate or necessary action please.

PS to Commissioner
Bannu Division

635

26.1.18

Secretary Health 7:32 PM (39 minutes ago)

shamim print out attachment as well as email

From: Ayub Rose <drayubrose@yahoo.com>
Sent: Thursday, January 25, 2018 10:49 PM
To: Abid Majeed
Subject: Fw: Enquiry Report DHO Lakki Marwat 02.01.2018

Sir. FYI & further n/a please.

Best. Ayub

Sent from Yahoo Mail on Android

----- Forwarded message -----

From: "muhammad saleem" <saarcuk@yahoo.co.uk>
To: "M. Ayub Rose" <drayubrose@yahoo.com>
Cc:

Sent: Thu, 25 Jan 2018 at 10:24 pm

Subject: Fw: Enquiry Report DHO Lakki Marwat 02.01.2018

Dear Sir,

Please find with the forwarded mail the Inquiry Report about DHO Lakki Marwat, this is a detailed report, in response to this report the Department has sent some observations which have been addressed in the 2nd report which is enclosed in the follow-up email, thanks

Regards,

Dr. Muhammad Saleem

Director Implementation,

DG Health Office, Khyber Pakhtunkhwa, Peshawar

Cell # 0333-9119385

E - 1/2 Zidi

On Wednesday, 10 January 2018, 10:58, Kamran Nasir <kamran_dghs@yahoo.com> wrote:

ASE
Dear Sir
g. cite
Call me if
Ho & book IOS
for your presence
Aug

**DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR**



All communications should be addressed to the Director General Health Services Peshawar and not to any official by name.
DC Office Ph. (091) - 9210269 Kachangan Ph. (091) - 9210187 Fax Ph. (091) - 9210230

No. 01 / Admn

Dated: 02.01.2018

To

The Secretary to Govt. of
Khyber Pakhtunkhwa
Health Department, Peshawar.

Attention: - Section Officer (General)

Subject: - ENQUIRY REGARDING DHO LAKKI MARWAT & OTHERS
EMPLOYEES.

Dear Sir,

Reference your Notification No. E&A/HD/1-1/2016 dated:
27.12.2017 on the subject noted above, enclosed please find here with a
copy of the inquiry report for favor of further necessary action please.

Yours faithfully,

Shadali
2.1.18
Additional Director General (Admn)
DIRECTORATE GENERAL HEALTH
SERVICES KHYBER PAKHTUNKHWA PESHAWAR

Enquiry against DHO Lakki Marwat, Dr Taus Khan

Authority: Authorized by Notification No: ESA/HDI-1/2016, Secretary Health Govt of Khyber Pakhtunkhwa.(Annexure-1).

Background:

1. Doctors and Paramedics observed strike in **Government** City Hospital Lakki on Saturday dated 23-12-2017 against the harsh attitude of the DHO Lakki Marwat.
2. The protesting employees wore black bands while the doctors did not examine the patient up to 1000 hours which confronted the ailing people with great problem.
3. The paramedics and other hospital employees stayed away from duty causing problems to the patients and their attendants.
4. The strike call was given by local chapter of Paramedics, Young Doctors Association, Clerks and other employees of the Health department district Lakki Marwat.
5. The President of Young Doctors Association, The President Paramedics and others held a meeting in the hospital premises and announced to observe strike for three days against DHO Dr Taus Khan for treating Doctors and paramedics inhumanly.
6. The DHO Lakki Marwat Dr Taus Khan in his statement to the "Daily Express Peshawar", "Daily 92 Peshawar", "Daily Jang Rawalpindi", "Daily Ausaf Peshawar" termed the Strike unreasonable and warned that the employees have no right to interfere in the Management matters. He stated that neither he will bow down to any pressure nor he will accept dictation from any one. He further added that the recruitment of class IV employees is according to rules and regulations and he is ready to defend himself at every forum. He warned that those employees who have locked the offices or has taken away the office equipment / furniture shall face the disciplinary action. (Annexure-2)

Procedure:

The DHO Lakki Marwat Dr Taus Khan was informed vide Letter No: 6810-14/ coord/enquiry Lakki Marwat Dated 27-12-2017, then letter No: 6818-24/coord/enquiry/Lakki Marwat Dated 28-12-2017. The letters were faxed to the DHO and the DHO and Office Clerk were also informed on telephone. (Annexure-3)

We, Dr. (Capt) Shad Ali ADG (Admin and Dev) and Dr. Muhammad Saleem, Director (Implementation) have visited DHO Office Lakki Marwat, have called the aggrieved group and recorded their statements as follow:

Statements:

(1) Statement of Saffi ur Rehman Incharge Assistant DHO Office: (Annexure -4)

I solemnly state that I am working as Incharge Assistant (BPS 16) in DHO Office Lakki. After the arrival of DHO Lakki I became a psychic case. Whenever I give him legal advice, his reply is

Shad Ali 27.12.17
Saleem 28/12/17

Marwat is recommended

~~you~~ you are part of the anti-group and refuses my advice. The DHO is using delaying tactic in office work and the people are forced to visit the office time and again for their routine work. The DHO has stopped the pay of the absent employees which is illegal.

Cross Examination:

Full Name Saffi Ur Rehman Designation: Office Assistant Incharge BPS -16

Tenure in DHO Office Lakki: 8 year and 8 Month.

Resident of Dallo Khel at a Distance of 5 Km from Lakki City.

Q. What do you mean by mental patient and how you became mental?

Answer: I am always in tension. Having no documentary proof i.e had never consulted Psychiatrist nor had taken any medicines.

Q. You say that cutting of pay for absentee is illegal, how?

Answer: Not having solid answer while the finance rules are that salary is paid for duty and the employee that is absent shall not be paid. (Annexure-5)

Q. Do you agree with the rule?

Answer. Yes.

(2) Statement of Dr Ibrahim Iqbal SMO City Hospital (Annexure-6)

The DHO Dr Taus Khan is doing illegal action and is teasing the employees. He has declared city hospital Lakki Marwat as category C which is illegal. He has appointed MS BPS 19 and DMS BPS 18 on his own orders. When asked about this action from DHO, he replied that Secretary Health has given him powers verbally. He is rude with classified senior doctors. He is interfering in city hospital affairs. He is always doing general transfers. He is demanding huge money from candidate for employment. There are so many other complaints.

Cross Examination:

Full Name; Dr Ibrahim Iqbal
Marwat

Designation: SMO BPS 18 City Hospital Lakki

Tenure: 9-10 year in city Hospital Lakki Marwat

Q. what are Illegal Actions?

- Delaying tactics- not doing official work in time

Shahid
2-1-18
Shahid
07/01/18

Section Officer (E-V)

Official Recommendation

- The City Hospital Lakki is renamed as **Category C Hospital**
- Appointed / nominated MS and DMS with **Secretary Health orders / consent**
- Taking share in city hospital (There is **no documentary proof**)

(3) Joint Statement of LHS (LHS Fatima, LHS Gul Shana, LHS Minhass Jabeen)
(Annexure-7)

The LHS's stated the following in a joint statement,

- PPIU Peshawar had allotted posts for LHW's in all Districts of Kp but due to no micro plan from DHO Lakki Marwat we have **lost these posts**
- The LHWs posted in October 2016, **seven out of them** are not paid their salary till date and 2 of them are terminated without any reason.
- The pay is lying in the bank but the DHO is **not paying them**.
- The LHWs are not paid their polio Campaign payment and money is deducted from them on the recommendation of WHO monitors.
- The LHWs are compelled to perform their duties in **other union councils**.
- There is no budget for proper/ in time repair of LHWs vehicles.

(4) Statement of Dr Kifayat Ullah EPI Coordinator Lakki Marwat. (Annexure-8)

It is stated that DHO Dr Taus khan has spent approximately **10 months** in Lakki. On, his arrival he was totally unaware of the district health services. I have given him full support. I have prepared whatsapp group for him. I have found him **inexperienced**, having harsh attitude with staff and community. He has low knowledge in EPI /PEI programs and did not hear others expert opinion. He is delaying office work / files, even doctor's arrival etc. He is taking incharge / OPD share from all health centers. He stopped TMO Trained surgery experts' doctors from surgeries in City Hospital. As a result surgical ward admissions and surgeries decreased.

I am EPI Coordinator according to Secretary Health order No; SO (E) H-11/4-1/2016 but the DHO adjusted other doctors by his own orders on 23-11-2017. He mentioned in his general orders that Dr Kifayat Ullah is DHIS Coordinator along with extra duty of EPI Coordinator. Although, Dr. Yousaf is DHIS Coordinator.

In my opinion DHO Dr. Taus Khan is **inexperienced**, having harsh attitude with the staff, lack of supportive behavior, misusing his authority and lacking managerial skills.

(5) Statement of Abdul Majeed S/o Abdul Hameed (Annexure-9)

I Mr. Abdul Majeed S/o Abdul Hameed was serving as Dhobi in health department. In September 2017 the posts of Multipurpose were advertised in District Lakki. I applied through proper channel. The selection order was issued to me. I was called by DHO Taus Khan in his office and demanded for bribe within 2 days. I paid rupees 400,000/- to Dr Taus Khan, in the

Handwritten signature and date: 2.1.18
Handwritten signature and date: 02/01/18

(C-V)

is recommended particularly:-
-andiv-

presence of Ihsan Ullah Accountant and Zafar Clerk Junior clerk. I was given my selection order No: 09-14/E-5/EPI dated 24-10-2017 (copy attached). I submitted my arrival on the same day and date and started my duty. On 4-12-2017 my selection order was withdrawn/cancelled, vide letter No; 15-20/E-5/ EPI dated the 10-11-2017 (copy Attached), reason being that I was overage. My complete record was scrutinized before the selection process. Therefore it is requested that I may be reinstated and the amount given to DHO may be recovered.

(6) Statement of Zafar Iqbal Junior Clerk (Annexure-10)

From the date, Dr. Taus Khan is appointed as DHO we are in problem. He is inexperienced and is delaying official work intentionally. For monthly salary and other legal work, he is demanding money and if it is not paid then he delays the work. Recently 3 employees who were appointed, one of them Mr. Abdul Majeed s/o Abdul Hameed had paid an amount of Rs=400000/- in my presence and later on he was dismissed. He is demanding from everyone who is legally eligible for appointment. Those who have retired long ago their pension cases are not yet decided. He has maintained his own dispatch register (Copy attached). He is always abusing us.

(7) Statement of Ihsan Ullah Khan Accountant DHO Office Lakki (Annexure-11)

I am working as Accountant BPS 9 in DHO office Lakki Marwat. I have always worked for integrity and honor of the office. I have always guided DHO in account matters. The DHO never weighted my advice rather doubted my intentions. He appointed Class IV and technician without our consent / advice. He never appointed deceased son and never followed the court decisions. He appointed Abdul Majeed who was working as Dhobi in the department and is a qualified technician through proper channel. Later on his appointment order was withdrawn as he was overage. He accepted Rs=400,000/- in my presence from Abdul Majeed / Abdul Hameed for the appointment and later on he was terminated. He did not return the money to Abdul Majeed. (Annexure-9)

(10) Statement of Kaleem Ullah Marwat President Paramedical Association Lakki Marwat. (Annexure-12)

- 9 months back on the arrival of DHO Taus Khan, I have invited him for dinner which he neither accepted nor rejected.
- With the passage of time the paramedics started coming to me with their problems. They used to complain that on 30 minute late on duty, the amount for 7-10 days is deducted from our pay and also our pay is stopped.
- We discussed these with DHO but in vain.
- We staged a protest/ strike against DHO demanding; (a) Stop deduction from pay (b) Stop illegal transfers (c) do not stop the pay of the employees.

Ihsan Ullah
2-11-18
Kaleem Ullah
02/10/2018

SECRET (E-V)

Marwat is recommended particularly.

- On the strike call the DHO and the DC heard us. We demanded that our day salary be deduction for one day absentee. Both DC and DHO agreed on our proposal of one day deduction and the DHO also promised to return their salary.
- Upon the occurrence of Polio case reported from UC Tapan, the paramedic staff Mr. Khair Ullah was transferred while the UNICEF & WHO workers were not punished.
- I applied for GP fund advance but after month my case is not processed.
- Then my pay was stopped for no offence.
- He started torturing us. Next month the pay of many of the class UC paramedics and LHWs was stopped.
- Again we went to DHO and requested to solve our problems but all in vain.

Our demands from DHO:

- The amount of IPV campaign is Rs=36800/- per UC while we are paid Rs=25000/- per UC.
- The amount for Pick and drop in each polio campaign is Rs=2400/- per day and for 4 days is 2400X4=9600 and for 26 union councils it is 9600X 26= 250000, is not paid to workers.
- Unbefitting behavior of the DHO
- Delay in official procedures
- Illegal deduction from pay/ illegal transfers and stoppage of pay

(11) Similar demand are forwarded by President All Government Employees Coordination Council District Lakki Mr Saeed Khan (Annexure-13) and Tanq Saeed President Paramedic Lakki Marwat. (Annexure-14)

(12) Statement of Muhammad Daulat Khan S/O Khan Zaman Union Council Polio Office and Ex- President Marwat student Federation University Campus Peshawar.

(Annexure-15)

- There is a powerful Mafia in DHO office that is always against fair and honest DHO.
- All the doctors are busy in their private clinics and no one is coming for duty due to this Mafia.
- If some officer incharge warns them and take action against them, then they start black mailing them.
- The DHO is honest and fair person.

Statement of Dr. Azad Khan EPI Coordinator (Annexure 16) Statement of Dr Mehtab Ahmad M/o Litigation (Annexure-17), statement of Dr Muhammad Nisar Khan President YDA , Dr

Signature
2.11.18
Signature
02/10/2018

Section Officer (E-V)

... of all the ... staff of the UNO Office ...
... Marwat is recommended particularly:-
... issued ...

Ans; For 4-5 months after my appointment I was unaware of the share and these peoples used to take the share then I was told that where there is no specialist the DDO can take the share and I am taking it.

Q: There is no pay for the LHWs posted in October 2016?

Ans; These LHWs were posted before my tenure. The actual situation is that there vacancies for 93 LHWs while they recruited 98. Five of them were surplus. They were terminated after proper enquiry from provincial coordinator. Now the LHWs are taking their pay regularly.

Q: Are the LHWs are forced to perform duty away from their settlement area?

Ans: This happens only in the polio campaigns and the decisions of this deployment are always taken in the DPEC meeting.

Q; Have you stopped the TMOs from doing surgeries in City Hospital?

Ans; Yes. Legally they are not authorized. If the department permits them then I will allow them.

Q: Have you appointed Dr Azad as EPI coordinator by your own orders?

Ans: Dr. Kifayat Ullah was working as EPI coordinator before my arrival. When one polio case was reported from District Lakki, Dr Kifayat Ullah refused to work as EPI coordinator. When I checked his personal file there was no order of Dr Kifayat Ullah as EPI Coordinator from Secretary Health or DGHS. I discussed this with Dr. Akram Shah Provincial EPI Coordinator and he advised me to depute some willing person as EPI coordinator and I did accordingly.

Q; You have appointed Abdul Majeed / Abdul Hameed Dhobi as MT and then you terminated him why?

Ans: Mr Abdul Majeed S/o Abdul Hameed was working in the department as Dhobi. He applied for the post of MT (Multipurpose) through proper channel. He was above 40 year in age and was top on merit. The clerical staff told me that DHO can give age relaxation for two year apart from the 10 years' service which he has done in health department. Latte I came to know that I cannot do like this. That is why his order was withdrawn.

Q; Mr Abdul Majeed / Abdul Hameed says that you have taken Rs=400000/- for the appointment and Mr. Ghafoor Shah says that you have taken Rs=300000/- for appointment?

Ans: It just allegation and-not true.

Shahidi
2-1-18
Saleem
27/01/2018

Shahidi (E-V)

Transfer of all the ministerial staff
Sanwat is recommended

(13) Mr Ghafoor Shah S/o Gul Faraz in his statement says that he has paid Rs=300000/- Via Waheed Ullah Driver to DHO for the appointment of his wife as LHV who was PPHI employee. I also withdrew my case from Banpu High Court on the surety of DHO that he will appoint my wife but appointment order is still awaited. (Annexure-20)

(14) Mr Juma Khan S/o Khan Gul in his statement said that he was declared unfit by SMB but pension case still pending. The DHO was demanding Rs=100,000/- for my pension and appointment of my son. I have paid Rs=50000/- and will pay Rs=50000 in the next 5 days. (Annexure -21)

(15) Shafi Ullah S/O Rustam Khan (Annexure-22), Mr Haroon U Rahseed S/O Habib U Rehman (Annexure -23) and Mr Nafees U Din S/o Ali Sher (Annexure -24) has also complained of delaying tactics by the DHO in employment.

(16) Mr Habib U Rehman S/O Abdur Raheem (Annexure-25), Mr Muhammad Ayub (annexure-26), Mr Fakhar ud Din (annexure-27), Rehan Ullah S/O Muhammad Ilyas (Annexure-28) are also attached herewith in which they complained about the delay in appointments.

Conclusion:

1. The environment for the DHO Dr Taus Khan is hostile. Everyone whether they are from the general public or from the Health Department is against him.
2. The ministerial staff of the DHO office and some of the employees of the city hospital are behind all this agitation and press releases.
3. There are some serious allegations against DHO like taking bribe for employment or other routine office work for which there are no documentary proofs. If the aggrieved party has proofs / evidences then they should register the case with the police / Anti-Corruption Department.

Recommendations:

- 1) Transfer of the DHO Lakki Marwat Dr Taus Khan is recommended on administrative grounds for mishandling the situation and not taking sufficient steps to resolve the issues.
- 2) Transfer of all the ministerial staff of the DHO office Lakki Marwat is recommended particularly;
 - (a) Mr. Safi Ullah Head Clerk / Office Assistant BPS 16.
 - (b) Mr. Bismillah Jan Junior Clerk.
 - (c) Mr. Zafar Junior Clerk
 - (d) Mr. Sana Ullah Junior Clerk
 - (e) Mr. Abdullah Driver
 - (f) Mr. Muhammad Asif BPS 9

S. Ullah
2.1.19
S. Ullah
02/01/19

Chief Officer (E-V)

Transfer of all the ministerial staff is recommended

3) The Following Doctors are also recommended to be transferred to some other Districts /Divisions;

- (a) Dr Azad EPI Coordinator Lakki Marwat
- (b) Dr. Ibrahim Iqbal SMO City Hospital Lakki Marwat
- (c) Dr Atta-U Rehman MO City Hospital Lakki Marwat
- (d) Dr Tariq Saleem Coordinator LHWs Program Lakki Marwat
- (e) Dr Kifayat Ullah DHIS Coordinator Lakki Marwat.

Shad Ali
2.1.18

Dr. (Capt) Shad Ali
Add: Director General (Admin & Dev)
Directorate General Health Services
Khyber Pakhtunkhwa

Saleem
02/01/2018

Dr. Muhammad Saleem
Director (Implementation)
Directorate General Health Services
Khyber Pakhtunkhwa

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(3) Seniority on initial appointment to a service, ⁷[cadre] or post shall be determined as may be prescribed.

(4) Seniority in a post, service or cadre to which a civil servant is promoted shall take effect from the date of regular appointment to that post;

Provided that civil servants who are selected for promotion to a higher post in one batch shall, on their promotion to the higher post, retain their inter-se-seniority as in the lower post.

(5) The seniority lists prepared under sub-section(1), shall be revised and notified in the official Gazette at least once in a calendar year, preferably in the month of January.

9. **Promotion:-**(1) A civil servant possessing such minimum qualifications as may be prescribed, shall be eligible for promotion to a ¹⁰[higher] post for the time being reserved under the rule for departmental promotion in ¹¹[] the service or cadre to which he belongs.

(2) A post referred to in sub-section (1) may either be a selection post or a non selection post to which promotion shall be made as may be prescribed-

- (a) in the case of a selection post, on the basis of selection on merit; and
- (b) in the case of non-selection post, on the basis of seniority-cum-fitness.

F 10. **Posting and Transfer:-** Every civil servant shall be liable to serve anywhere within or outside the province, in any post under the Federal Government, or any Provincial Government or Local authority, or a corporation or body set up or established by any such Government: }

Provided that nothing contained in this section shall apply to a civil servant recruited specifically to serve in a particular area or region:

Provided further that, where a civil servant is required to serve in a post outside his service or cadre, his terms and conditions of service as to his pay shall not be less favourable than those to which he would have been entitled if he had not been so required to serve.

11. **Termination of service:-** (1) The service of a civil servant may be terminated without notice-

- (i) During the initial or extended period of his probation:

Provided that, where such civil servant is appointed by promotion on probation or, as the case may be, is transferred from one [service], cadre or post to another [service], cadre or post, his service shall not be so terminated so long as he

⁷ The word "grade" substituted by NWFP Ordinance No. IV of 1985.

⁸ Sub section (4) of Sec-8 substituted by NWFP Ordinance No. IV of 1985.

⁹ Sub section (5) of Sec-8 added by NWFP Act No. 1 of 1989

¹⁰ The word "higher" inserted by NWFP Ordinance No. IV of 1985.

¹¹ The words "the higher grade of" omitted by NWFP Ordinance No. IV of 1985.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESAHWAR

Appeal No.939/2018

MOHAMMAD TAUS KHAN

VS

HEALTH DEPTT:


REPLY ON BEHALF OF PRIVATE RESPONDENT NO.4
(Mr. ABDU GUL, DISTRICT HEALTH OFFICER,
DISTRICT LAKKI MARWAT) IN RESPONSE TO THE
APPLICATION SUBMITTED BY THE APPELLANT FOR
THE GRANT OF STATUS QUO

R/SHEWETH:

- 1- Correct to the extent that the appeal of the appellant is pending for adjudication before this august Service Tribunal and is fixed for 8.8.2018 while the rest of the para is incorrect and misconceived.
- 2- Incorrect and misconceived. That the appellant cannot satisfy all the three necessary ingredients under order 39 rules 1 and 2 which is must according to the Supreme Court judgments.
- 3- Incorrect and misconceived. That after issuance of the order dated 12.4.2018 subsequent order dated 18.5.2018 whereby the replying respondent was posted against the post in question and as such the appellant was relieved from the charge of District Health Officer, District Lakki Marwat and such the replying respondent took over the charge of the said post vide dated 23.5.2018, therefore the balance of convenience lies in favour of the replying respondent and not in favour of appellant. Moreover the appellant has failed to challenged the posting order dated 18.5.2018 before the appellate authority, therefore in light of section-4 of the service Tribunal Act, 1974 read with Rule-3 of the Civil Servant Appeal Rules, 1986 the present appeal is not maintainable and is liable to be set aside. Copy of the charge report is attached as annexure R.
- 4- That as the order has been passed by a proper Government authority, therefore under 56 (d) of Specific Relief Act such orders can not be stayed/suspended.

It is therefore most humbly prayed that on acceptance of this reply the application of the appellant may kindly be dismissed with cost.

RESPONDNET NO.4


ABDU GUL

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

3



OFFICE OF THE DISTRICT HEALTH OFFICER LAKKI MARWAT

District Health Officer
Lakki Marwat
Dated 23/5/2018

No. 3717 /PF

To

The Director General Health
Services Khyber Pakhtunkhwa
Peshawar

SUBJECT: CHARGE REPORT FORM (ARRIVAL)

Reference Govt of Khyber Pakhtunkhwa Health Department Notification No
SOH(E-V)1910/2014 Dated 18.05.2018

I have the honor to enclose herewith the Charge Report form (Arrival Report)
each in duplicate in respect of Dr. Abdul Gul District Health Officer Lakki Marwat
BPS-19 for your further necessary action please.

Encl As above.

District Health Officer
Lakki Marwat

No. 3718-92 /PF

Copy along with a copy of charge report form is forwarded to the

- 1. P.S to Secretary Health Govt: of Khyber Pakhtunkhwa Peshawar
 - 2. Section Officer E-V Health Deptt: Khyber Pakhtunkhwa Peshawar
 - 3. District Accounts Officer Lakki Marwat.
 - 4. Accountant DHO Office Lakki Marwat.
 - 5. Officer Concerned.
- For information & necessary action

District Health Officer
Lakki Marwat

4

CERTIFICATE OF TRANSFER OF CHARGE

1. Certified that we have on the forenoon of the day respectively made over and received charge of District Health Officer BPS 19 w.e.f. 23-05-2018 (F.N), vide Notification No. SOH(F.N)-910-2018 Dated: 18-05-2018.

2. Particulars of cash and important secret and confidential documents handed over are noted in the reverse:

Station Fakki Marwat.

Signature of Relieved
Govt. Servant.
Designation.

Signature of the Relieving
Govt. Servant: Dr. Abdul Gul
Designation: District Health Officer BPS-19

Dated: 23-05-2018 (F.N)





5

OFFICE OF THE
DEPUTY COMMISSIONER

LAKKI MARWAT (KHYBER PAKHTUNKHWA) Ph# 0969-538330-31 Fax# 538333
email: dclakkiarwat@hotmail.com facebook: www.facebook.com/dclakkiarwat website: www.lakkiarwat.gkp.pk

No. 15 / PA

Dated: 13 / 01 / 2018

To:

The Commissioner
Bahnu Division

Subject: SPECIAL SITUATION REPORT DATED: 13.01.2018

Memo:

In continuation of this office letter No. 901/PA dated: 02.01.2018, No. 911/PA dated: 05.01.2018 and No. 10/PA dated: 11.01.2018 on the subject noted above and to inform that today on 13.01.2018, a delegation of All Employees Coordination Council alongwith Mr. Iqbal Hussain District Nazim Lakki Marwat met the undersigned to discuss the matter of call of boycott of the upcoming polio campaign. On the persistent demand of the Council, a letter was issued to the Secretary Health Department Khyber Pakhtunkhwa for transfer of Dr. Taus Khan DHO Lakki Marwat.

Subsequently, the President All Employees Coordination Council in the presence of all office bearers and District Nazim announced the withdrawal of boycott of the upcoming polio eradication campaign in the district and pledged that they will actively participate in the polio campaign.

Deputy Commissioner
Lakki Marwat

Even No. & Date:

Copy forwarded to:

1. Secretary Health Department Government of Khyber Pakhtunkhwa Peshawar
2. PSO to Chief Secretary Khyber Pakhtunkhwa Peshawar
3. Coordinator Emergency Operation Centre Khyber Pakhtunkhwa Peshawar

Deputy Commissioner
Lakki Marwat

ATTESTED



OFFICE OF THE NAZIM, DISTRICT GOVERNMENT, LAKKI MARWAT
(KHYBER PAKHTUNKHWA)

6

No. 104-8 /DN/LM/ Health Dated Lakki Marwat 13/01/2018

To:- The Secretary,
Health Department Khyber Pakhtunkhwa,
Peshawar.

Subject: SPECIAL SITUATION REPORT DATED 11.01.2018

Reference this office letters Nos. 8-10/DN/LM dated 01.01.2018, No. 11-12/DN/LM dated 01.01.2018, 59-62/DN/LM dated 05.01.2018, 73-77/DN/LM dated 09.01.2018.

It is submitted that on final dead line/call for polio boycott by All Employees Coordination Council Lakki Marwat for 15.01.2018 against the transfer of DR Taus Khan DHO Lakki Marwat, the undersigned called all the members of the council and after lengthy discussion in the office of Deputy Commissioner Lakki Marwat, they were convinced that the District Administration will approach the Provincial Government for his immediate transfer from the district thus they withdraw the polio boycott decision subject to the transfer of Dr Taus Khan, DHO Lakki Marwat.

However, on their demand, the Deputy Commissioner Lakki Marwat vide letter No. 14/PA dated 13.01.2018, also approached your honour for his transfer out from the district.

The detailed facts of the issues have already been conveyed to your honour vide letters cited above, however, the council further demand that their peaceful agitation of All Employees Coordination Council Lakki Marwat will continue till the transfer of the DHO concerned.

Keeping in view the situation explained above, the District Government is pleased to again place the request for the transfer of Dr Taus Khan DHO Lakki Marwat from the district in the interest of public.

Therefore, I request your kind honour that Dr Taus Khan, District Health Officer Lakki Marwat may kindly be transferred out from District Lakki Marwat as his services are no longer required, so that the issue is settled once for all.

Your cooperation in this regards will be highly appreciated please.

ATTESTED

Nazim
District Government
Lakki Marwat.

Copy forwarded to:-

1. The Chief Secretary Khyber Pakhtunkhwa.
2. The Commissioner Bannu Division Bannu.
3. The Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
4. The Deputy Commissioner Lakki Marwat.

Nazim
District Government,
Lakki Marwat.

7

**OFFICE OF
THE COMMISSIONER
BANNU DIVISION**

Phone: 0928-0270044 & 0270220
NO. P.O. 2746/18
Dated: February, 2018
E-mail: commissioner@bannu.com.pk

The Secretary to Government of Khyber Pakhtunkhwa,
Health Department, Peshawar

**Subject: PROTEST OF GOVERNMENT EMPLOYEES
COORDINATION COUNCIL OF DISTRICT LAKKI
MARWAT FOR THE TRANSFER OF DHO LAKKI MARWAT**

Memo: The Coordination Council of Government Employees in District Lakki Marwat are on strike from last two months against the alleged corruption, mal practice and misbehavior of DHO Lakki Marwat and demanding his transfer. In this regard Coordination all government employees have boycotted Polio Campaign in mid January last month however after negotiations and assurance by Deputy Commissioner Lakki Marwat the strike was called off. Now again Coordination Council has decided to boycott forth coming Polio Campaign commencing from 2nd week of February, 2018.

In this regard Coordination Council of all Government Employees Lakki Marwat (15 Nos) in presence of Deputy Commissioner Lakki Marwat called upon Commissioner Bannu Division and presented their demand for transfer of DHO Lakki Marwat. The Coordination Council of employees stated that D.G Health Services Khyber Pakhtunkhwa vide his No: 01/Admn dated 02/01/2018 through an inquiry has endorsed their view point and has recommended for transfer of DHO Lakki Marwat.

The matter was discussed at length and it was observed that DHO Lakki Marwat has certain behavior issues which prompted this agitation and boycott by government servants. Keeping in view the aforementioned recommendations of the D.G Health Services Department Khyber Pakhtunkhwa vide his above mentioned inquiry may be implemented in the best interest of general public.

(Signature)
Sayed Abul Fiaz Siddiqi
Commissioner
Bannu Division

CC for information to:
The Deputy Commissioner Lakki Marwat w/fo above

VAKALATNAMA

IN THE COURT OF Khyber Pakhtunkhwa Service
Tribunal OF 2018

Mohammad Taus Khan (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Health Dept. and other (RESPONDENT)
(DEFENDANT)

I/we Abdul Gul, Respondent No. 4,
Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. 8 / 8 / 2018

Abdul Gul
CLIENT

Abdul Gul
ACCEPTED

NOOR MOHAMMAD KHATTAK

Muhammad MAAZ MADNI
MUHAMMAD MAZ MADNI
ADVOCATES

OFFICE:

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

Phone: 091-2211391

Mobile No.0345-9090737, 03339-9313113

بعد الت بنجاب سرس ٹریبونل صوبہ خیبر پختونخوا اپنہ

مذکورہ محمد طامس خانی بنام محمد صحت وغیرہ
R.No. 4 (ڈاڈ عبدالگل)

دعویٰ اپیل

باعث شکریہ ایسکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام اپنہ و
کے لئے سعد اللہ خان مروت ایڈووکیٹ ہائی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف
کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحب کو کرنے رضی نامہ و تقریر ثالث و فیصلہ بر حلف دینے
جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور عرضی دعویٰ اور درخواست
پر قسم کی تصدیق اور اس پر دستخط کرانے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ اور بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا نمائند قانونی کو اپنے ہمراہ یا اپنی بجائے تقریر کا اختیار ہوگا
اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پر واختہ منظور قبول
ہوگا و دوران مقدمہ میں جو خرچہ و ہرجانہ التواء مقدمہ کے سبب سے ہوگا اس کے مستحق وکیل صاحب
موصوف ہوں گے نیز بقایا و خرچہ کی وصولی کرنے کا یہی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ
پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکور کریں۔

لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم 9/16
18

العبد العبد العبد

محمد نواز
ایڈووکیٹ

سعد اللہ خان مروت
ایڈووکیٹ

ڈاڈ عبدالگل

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. 939/2018

MUHAMMAD TAUS KHAN

VS

HEALTH DEPTT:

REPLY ON BEHALF OF PRIVATE RESPONDENT NO.4
(MR. ABDU GUL), DISTRICT HEALTH OFFICER,
DISTRICT LAKKI MARWAT IN RESPONSE TO THE
APPEAL FILED BY THE APPELLANT

R/SHEWETH:

PRELIMINARY OBJECTIONS:

1. That the appellant has got no cause of action/locus standi to file the instant appeal.
2. That the appellant has not come to this Honorable Tribunal with clean hands.
3. That the appellant has concealed materials facts from this Honorable Tribunal.
4. That the instant appeal is not maintainable in its present form.
5. That the appeal is bad due to Non-Joinder & Mis-Joinder of necessary parties.
6. That the appeal is not maintainable U/S 10 of the Civil Servant Act 1973.
7. That the appeal of the appellant is badly time barred.
8. That the appellant is estopped by his own conduct to file the instant appeal.

ON FACTS:

1. Relates to the record hence need no comments.
2. Correct to the extent that the appellant was transferred from Lakki Marwat vide Notification dated 12.04.2018 and as his services were placed at the disposal of the Director General Health Services, Khyber Pakhtunkhwa, Peshawar. That the Director General Health Services, transferred the replying respondent to the post of District Health Officer, Lakki Marwat in the best interest of public service and as such there is no malafide involve in the transfer of appellant.

3. Incorrect and misconceived. That after issuance of the order dated 12.4.2018 a subsequent order dated 18.5.2018 was issued whereby the replying respondent was posted against the post in question and as such the appellant was relieved from the charge of District Health Officer, District Lakki Marwat and resultantly the replying respondent took over the charge of the said post vide dated 23.05.2018. Moreover, the appellant has failed to challenged the posting order dated 18.5.2018 of the replying respondent before the appellate authority, therefore in light of section-4 of the service Tribunal Act, 1974 read with Rule-3 of the Civil Servant Appeal Rules, 1986 the present appeal is not maintainable and liable to be set aside. Copy of the record is attached as annexure.....R.
4. Incorrect and misconceived. As mentioned in the above Para that the appellant has failed to challenged the posting order dated 18.5.2018 of the replying respondent before the appellate authority, therefore in light of section-4 of the service Tribunal Act, 1974 read with Rule-3 of the Civil Servant Appeal Rules, 1986 the present appeal is not maintainable.
5. Incorrect and misconceived hence denied.
6. Incorrect and misconceived hence denied.

GROUND:

- I- Incorrect and misconceived. That the order dated 12.4.2018 and 18.5.2018 has been issued by the competent authority in accordance with law, rules and policy in vogue.
- II- Incorrect and misconceived. That transfer of the appellant is in accordance with section-10 of the Civil servant Act 1973 and as such the same has been issued in the best interest of public service.
- III- Incorrect and misconceiving. That during performing his duty as District Health Officer, Lakki Marwat Number of complaints have been received by the competent authority against the appellant.
- IV- Incorrect and misconceiving hence denied.
- V- Incorrect and misconceiving hence denied.
- VI- Incorrect and misconceiving hence denied.

VII- Incorrect and misconceiving hence denied.


VIII- Incorrect and misconceiving hence denied.

IX- Incorrect and misconceiving hence denied.

X- Incorrect and misconceiving hence denied.

It is therefore, most humbly prayed that on acceptance of this reply the appeal of the appellant may kindly be dismissed with cost.

PRIVATE RESPONDENT NO.4


ABDUGUL

THROUGH:


**NOOR MOHAMMAD KHATTAK
ADVOCATE**



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar the 18th May, 2018

NOTIFICATION

NO.SOH(E-V)1-910/2014 The Competent Authority (Chief Minister Khyber Pakhtunkhwa) is pleased to order posting/transfer of Dr. Abdu Gul Management Cadre BS-19 attached to Director General Health Services Khyber Pakhtunkhwa, against the vacant post of District Health Officer Lakki Marwat BS-20 in his own pay and scale, with immediate effect in the public interest.

2. Consequent upon the above Dr.Essa Khan Medical Superintendent BS-19 DHQ Hospital Lakki Marwat is hereby relieved from the additional charge of the post of District Health Officer Lakki Marwat.

SECRETARY HEALTH
Govt. of Khyber Pakhtunkhwa

Endst. No. & Date Even

Copy to the:-

1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. Director General, Health Services, Khyber Pakhtunkhwa.
3. District Health Officer Lakki Marwat
4. MS DHQ Hospital Lakki Marwat
5. District Accounts Officer, Lakki Marwat
6. PS to Minister for Health Khyber Pakhtunkhwa.
7. PS to Secretary Health Department.
8. PS to Special Secretary Health Department
9. Computer Programmer Health Department
10. DHIS Cell DGHS Office, Peshawar.
11. Doctor concerned.

ATTESTED

(MUHAMMAD IRFANUDDIN)
SECTION OFFICER (E-V)



OFFICE OF THE DISTRICT HEALTH OFFICER LAKKI MARWAT

Email: dholakki@yahoo.com

Ph#: 0969-510472

Fax#: 0969-510474

Dated: 23/5/2018

5

No. 3717 /PF

To

The Director General Health
Services Khyber Pakhtunkhwa
Peshawar.

SUBJECT: CHARGE REPORT FORM (ARRIVAL)

Sir,

Reference Govt. of Khyber Pakhtunkhwa Health Department Notification No. SOH(E-V)1-910/2014 Dated: 18-05-2018.

I have the honor to enclose herewith the Charge Report form (Arrival Report) each in duplicate in respect of Dr. Abdu Gul District Health Officer Lakki Marwat BPS-19 for your further necessary action please.

Encl: As above.

District Health Officer
Lakki Marwat

No. 3718-22/PF

Copy along with a copy of charge report form is forwarded to the:

1. P.S to Secretary Health Govt: of Khyber Pakhtunkhwa Peshawar.
 2. Section Officer E-V Health Deptt: Khyber Pakhtunkhwa Peshawar.
 3. District Accounts Officer Lakki Marwat.
 4. Accountant DHO Office Lakki Marwat.
 5. Officer Concerned.
- For information & necessary action.

District Health Officer
Lakki Marwat

ATTESTED

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District Health Officer
Lakki Marwat