30.05.2019

Appellant alongwith counsel and Addl. AG alongwith Ghulam Sarwar, Litigation Assistant for the respondents present.

The representative of respondents has submitted a certificate dated 10.04.201\( \text{19} \) alongwith copy of pay rolls. It is noted in the certificate that arrears of pay have been released in favour of the appellant.

The appellant on the other hand acknowledges the receipt of salary for the period 01.07.2018 upto date.

In view of the developments, in terms of payment of outstanding salary to the appellant, instant appeal has become infructuous and is, therefore, disposed of according. File be consigned to the record room.

Chairman

Announced 30.05.2019

10.1.2019

Appellant alongwith counsel and Addl. AG alongwith Hazrat Shah, Supdt. for the respondents present.

Representative of the respondents states that the requisite reply is in the process of preparation and will be positively submitted on the next date. 06.03.2019 before S.B.

07.03.2019 Appellant in person present. M/S Saleem Javed Junior clerk Litigation Officer and Bilal Khan representative of the respondent department present. Written reply not submitted. Representative of the respondents seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on 16.04.2019 before S.B

Member

Khan present. Awal counsel Appellant with 16.04.2019 Superintendent representative of the respondent department present and seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on 30.05.2019 before S.B.

Member

Contends that the appellant was performing his duty as Ward Orderly at DHQ Hospital Nowshera when on 01.07.2018 his salary was stopped without any reason. He submitted a departmental appeal on 10.07.2018 which remained un-responded till date submissions of further applications 01.08.2018 and 13.10.2018. That he had duly submitted reply to the show cause notice wherein all the allegations contained in the notice were denied. The appellant-also, relied on extracts from attendance register pertaining to the months of September and October, 2018 wherein he has been shown present at duty place of his posting. It is the contention of the learned counsel for the appellant that stoppage of salary of appellant is against the law and without lawful authority while the appellant has been condemned unheard.

In the light of the above, the appeal in hand merits admission for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Notices be issued to the respondents for written reply/comments on 10.01.201 before S.B.

Chairman

Appellant Deposited
Security Process Fee

### Form- A

### FORM OF ORDER SHEET

Court-of	المجاري والمهامع أمامه ويهاميهم فياردن	المراجعة وفالوحاة فالمحال والإراز والإراز	general services and	والمعاملين ويوري	41.01
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Case No		1321 <b>/2018</b>			

	Case No	1321 <b>/2018</b>
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	18/10/2018	The appeal of Mr. Bakht Munir resubmitted today by Roeeda  Khan Advocate may be entered in the Institution Register and put up
		to the Worthy Chairman for proper order please.  REGISTRAR
2-	17-11-2018	This case is entrusted to S. Bench for preliminary hearing to be put up there on 26-11-18.
		CHAIRMAN
,		
	:	

This is an appeal filed by Mr. Bakhat Munir today on 15.10.2018 against the nonpayment of monthly Salaries against which he preferred/made a departmental appeal on 01-08-2018 the period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 which is premature as laid down in an authority reported as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellant/counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action.

No. 2 104 /S.T,

Dt. 16 (2018

Roeeda Khan Adv. Pesh.

REĞISTRAF SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

Re-submitted compilario

# BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR

#### Bakht Munir

#### **VERSUS**

Medical superintendent DHQ Hospital Nowshera and Others

**INDEX** 

S#	Description of Documents	Annex	Pages
1.	Grounds of Petition.		1.6
2.	Affidavit.		7
3.	Addresses of parties		8
4.	Copies of the order	"A"	Q
5.	Copy of medical fitness	"B"	10
6.	Copy of attendance register is attached	"C"	11,112
7.	Copies of the departmental appeal	"D"	13
8.	Copy of Applications	"E & F"	16,15
9.	Copy of Show cause Notice	"G"	از ا
10.	Copy of Reply	"H"	17
11.	Wakalat Nama		, T

Dated: 12/10/2018

APPELLANT

Through

Please

Roeeda Khan

Advocate, High Court

Peshawar.

# BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR

In Re S.A No. 1321 /2018

Diary No. 15-10-2018

Bakht Munir S/O Mukhtiyar ward attendant DHQ Hospital Nowshera.

....Appellant

#### **VERSUS**

- 1. Medical superintendent DHQ Hospital Nowshera.
- 2. District Health Officer Nowshera.

3 secretary to Government of KPKHeally De priment

4) Director General health ... Respondents posture

Servicent per perhause

APPEAL U/S-4 OF THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT 1974 FOR DIRECTING THE RESPONDENTS TO RELEASE THE MONTHLY SALARIES OF APPELLANT W.E.F 01/07/2018 TILL DATE AND ONWARDS AND AGAINST NOT TAKING ANY ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN STATUTORY PERIOD OF NINETY DAYS.

Personal VIIII

#### Prayer:

Re-submitted to -day

Gegistrar

ON ACCEPTANCE OF THIS APPEAL
THE RESPONDENTS MAY BE
DIRECTED TO RELEASE THE
MONTHLY SALARIES OF APPELLANT
FROM 01/07/2018 TILL DATE AND
ONWARDS WITH ALL ARREARS. ANY
OTHER REMEDY WHICH THIS AUGUST

# TRIBUNAL DEEMS FIT THAT MAY ALSO BE ONWARD TRIBUNAL DEEMS FIT THAT MAY ALSO BE GRANTED IN FAVOUR APPELLANT.

#### Respectfully Sheweth,

- 1. That the Appellant was appointed by the competent authority as ward attendant on 10/09/2013. (Copy of order is annexed as annexure "A").
- 2. That the appellant got medical fitness with the Respondent department. (Copy of medical fitness is annexed as annexure "B")
- 3. That the appellant performed his duty regularly with the Respondent Department and no complaint ever has been made against the appellant. (Copy of attendance register is annexed as annexure "C")
- 4. That on 01/07/2018 the salary of the appellant has been stopped without any reason by the Respondent Department.

- 5. That the appellant submitted an departmental appeal with the Respondent department on dated 10/07/2018. (Copy of departmental appeal is annexed as annexure "D")
- 6. That the appellant submitted applications on dated 01/08/2018 and 13/10/2018 to the Respondent Department for the release of his salary but in vain. (Copy of Applications is annexed as annexure "E & F")
- 7. That the Respondent also issued a show cause notice against the appellant. (Copy of Show cause Notice is annexed as annexure "G")
- 8. That the appellant submitted reply of show cause notice where the appellant denied all the allegation level against the appellant.

  (Copy of reply is annexed as annexure "H")

9. That feeling aggrieved the Appellant prefers the instant service appeal before this Hon'ble Tribunal on the following grounds inter alia:-

#### GROUNDS:-

- A. That not paying monthly salaries to appellant and not taking any action on the departmental appeal of appellant within statutory period of ninety days by Respondents are against the norms of justice, material on record and principles of fair play.
- B. That the appellant has not been treated according to law and rules and has been deprived from her legal right of monthly salaries for no good grounds.
- C. That as evident from the appointment order that the same was passed after proper recommendations of committee, therefore

the appellant took over charge of the post and started performing her duties.

Therefore the appellant is fully entitled to monthly salaries.

- D. That the appellant is still in service and performing his duties, therefore under section 17 of the civil servants Act 1973, the appellant is fully entitled to his claim.
- E. That non-payment of monthly salaries to appellant without following any codal formalities is an act of arbitrariness on the part of Respondent which cannot be protected and remain in field under the norms of justice.
- F. That the appellant seeks permission to advanced other grounds and proofs at the time of hearing.
- G. That the Respondent department also violated article of 25-A of the Constitution of Islamic Republic of Pakistan.

- H. That the Respondent department also violated the well settle principal of law "work done pay done".
- I. That any other ground not raised here may graciously be allowed to be raised at the time full of arguments on the instant service appeal.

It is therefore, most humbly prayed that on acceptance of this appeal the respondents may be directed to release the monthly salaries of appellant from 01/07/2018 till date and onwards with all arrears. Any other remedy which this august tribunal deems fit that may also be granted in favour appellant

Any other relief not specifically asked for may also graciously be extended in favour of the Appellant in the circumstances of the case.

Dated: 12/10/2018

APPELLANT

Through

Roeeda Khan Advocate, High Court

Peshawar.

NOTE:-

As per information furnished by my client, no such like appeal for the same petitioner, upon the same subject matter has earlier been filed, prior to the instant one, before this Hon'ble Tribunal.

Advocate.

# BEFORE THE HONBLE SERVICE TRIBUNAL PESHAWAR

In	Re	S.A	No.		 . /	2018
					 	_~ ~ ~

Bakht Munir

#### **VERSUS**

Medical superintendent DHQ Hospital Nowshera and Others

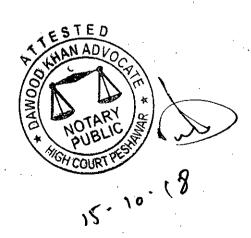
#### **AFFIDAVIT**

I, Bakht Munir S/O Mukhtiyar ward attendant DHQ Hospital Nowshera, do hereby solemnly affirm and declare that all the contents of the instant appeal are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Court.

**DEPONENT** 

Roeeda Khan
Advocate High Court

Peshawar.



# BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR

In	Re	S.A	No.		/2018
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Bakht Munir

#### **VERSUS**

Medical superintendent DHQ Hospital Nowshera and Others

#### **ADDRESSES OF PARTIES**

#### PETITIONER.

Bakht Munir S/O Mukhtiyar ward attendant DHQ Hospital Nowshera.

#### ADDRESSES OF RESPONDENTS

1. Medical superintendent DHQ Hospital Nowshera.

2. District Health Officer Nowshera.

Dated: 12/10/2018

**APPELLANT** 

Through

Roeeda Khan

Advocate, High Court

Peshawar.



### OFFICE OF THE DISTRICT HE ALTH OFFICER NOWSHERA

### OFFICE ORDER

On recommendation / approval of departmental selection constructed Mr. Bakhat Munir S/O Mukhtiar Gul Resident of Village Manal. F () Ziar Fall Sahib, District Nowshera is herby appointed as Ward Attendant BPS-02 @ 49 10 170 10000 against the vacant post under the control of DoH Nowshera with the following terms and conditions.

- 1. The appointment shall be subject to the Medical fitness and initially on probation for a period of 01-years
- 2. The services can be dispensed with during the probation pe ed or unsatisfactory performance.
- 3. The appointment will be governed by such rules and order assued because Government from time to time.
- 4. In case of acceptance, he should submit his arrival report within 07 hars

Sd\_ District Health Officer Nowshera

No. 7936 -33/ DHO NSR

Date: 10/9/2013

Copy forwarded to the:

1. Senior District Accounts Officer Nowshera.

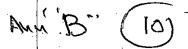
2. Accounts Section DHO Office Nowshera.

Mr. Bakhat Munir S/O Mukhtiar Gul Resident of Village Manai Village Villag

Office record.

District Health Officer Nowshera

P





### D.H.Q. Hospital, Nowshera Medical Certificate

NIC No: 17201-9874528-7

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Daily Attendance Register of the Paramedical class II NIGHT STORE
For the month of Cottobers 2018 Serial Name Father's Name Rank 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 NO.of Remarks SALEEN KHAN MNPP SHAH FAHAD AT PP WATID ULLAH MN DANISH : M.N PPPPPP

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OFFICE OF THE MEDICAL SUPERITENDENT

DHQ HOSPITAL NOWSHERA.

No. /D.H.Q, Hosp. Dated: 4 /09/2018.

To,

Bakht Munir ward Attendant,
DHQ, Hospital Nowshera.

Subject:- SHOW CAUSE NOTICE.

Memo:

On different complaints received to the undersigned that you are absent from duty from a long period, in this regard an enquiry was conducted by the two senior doctors Dr. Riwayat Shah & Dr Afzal Asghari According to the facts finding enquiry you are found absent from duty from

June 2015 (before my tenure).

So you are directed to explain that why you should not be terminated from service and the amount of pay received by you should not be recovered from you. Your reply of this show cause should be submitted within one week after receiving of this letter.

No. 9603-5 /D.H.Q,Hosp.

MEDICAL SUPÉRINTENDENT D.H.Q, HOSPITAL NOWSHERA Dated: 4 /09/2018

. Copy forwarded to:

- 1. All the concerned.
- 2. Accountant of this office to calculate the amount of pay received by Bakht Munir Ward attendant during the absent period
- 3. Office record.

MEDICAL SUPERINTENDENT D.H.Q HOSPITAL NOWSHER Am G"

#### Reply to Show Cause Notice.

- Reference to Show Cause Notice 9602/DHQ Hospital dated 04.09.2018 received on 19.09.2018 :-
- Isubmit my reply of show cause notice as under:
- It is completely incorrect that I am absent from June 2015. In Show cause notice, dated 19.09.2018, I was shown absent from duty on 13.09.2018 so it means that the Show Cause Notice is based on malafide and without jurisdiction.
- That no inquiry whatsoever has been conducted in my presence the alleged inquiry has not been provided to me, neither the petitioner was associated with inquiry proceeding nor any opportunity of defense has been extended to the petitioner.
- No opportunity of cross examination was provided to the petitioner.
- That the specific procedure provided in E&D Rules 2011 Rule-9 has been violated and no notice and publication has so far been issued.
- ❖ That I was regularly receiving my salary up to 1<sup>st</sup> July 2018 and later on it was stopped without any reason.
- That still I am regularly performing my duty and have never been. remained absent from official duty.
- ❖ It is requested that Show Cause Notice having not been based on reason, may very kindly be filed and the salary of the petitioner may be released

Bakht Munir

الخن المنام دعوي جرم باعث تحريرآنك

> مقد مه مندرجه عنوان بالا میں این طرف ہے واسطے پیروی و جواب دہی وکل کار <u>وائی</u> متعلقه Its leveloure Them? ج آن مقام د العد مقرر کر کے اقرار کیاجا تا ہے۔ کہ صاحب موصوف کومقد مہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وكيل صاحب كوراضي نامه كرنے وتقرر ثالث وفيصله برحلف ديجے جواب دہي اورا قبال دعويٰ اور بصورت ڈگری کرنے اجراءاور وصولی چیک وروپیارعرضی دعویٰ اور درخواست ہرشم کی تصدیق

زرایں پردسخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیردی یاڈ گری مکطرفہ یا پیل کی برامد گی اورمنسوخی نیز دائر کرنے اپیل نگرانی ونظر ٹانی و پیروی کرنے کا مخار ہوگا۔ازبصورت ضرورت

مقدمه مذکور کے کل یا جزوی کاروائی کے واسطے اوروکیل یا مختار قانونی کواپنے ہمراہ یا اپنے بجائے

تقرر کا ختیار ہوگا۔اورصاحب مقرر شدہ کوبھی وہی جملہ مذکورہ بااختیارات حاصل ہوں گے

اوراس کاساختہ پر داختہ منظور وقبول ہوگا دوران مقدمہ میں جوخر چہ ہرجانہ التوائے مقدمہ کے

سبب سے وہوگا کوئی تاریخ پیشی مقام دورہ پر ہو یا حدے باہر ہوتو وکیل صاحب پابند ہوں

گے۔ کہ پیروی مذکور کریں ۔لہذا و کالت نامہ لکھدیا کہ سندر ہے۔

2018ء

کے لئے منظور ہے۔

چوک مشتگر ی پشاور ٹی نون: 2220193 Mob: 0345-9223239

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### OFFICE OF THE MEDICAL SUPERINTENDENT, DHQ HOSPITAL NOWSHERA

Phone & Fax: 0923-9220023

E-Mail: dhqnowshera4306@gmail.com

No. 1610 - 14 DHQ NSR

Date: 62 / 03 /2019

The District Accounts Officer, Nowshera.

ubject:

REQUEST FOR RELEASE OF PAY.

Enclose please find herewith an application in respect of Mr. Bakhat Munir (Ward Attendant) BPS-04 attached to DHQ Hospital Nowshera, wherein he has requested for release of his salary for further proceeding. (Source Attached)

Medical Superintendent, DHQ Hospital, Nowshera

ven No. & Date:

opy forwarded to the:

Registrar, Khyber Pakhtunkhwa Services Tribunal, Judicial Complex (Old) Khyber Road Peshawar for information w/r appeal No. 1321 of 2018.

Secretary to Govt. Of Khyber Pakhtunkhwa Health Department, Peshawar.

Director General Health Services Khyber Pakhtunkhwa Peshawar.

District Health Officer Nowshera.

Accord Section

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Medical Superintendent, DHQ Hospital, Nowshera

Medical Superintendent, D.H.Q Hospital Nowshera

Cut Reder

The Medical Superinsenders, Due suspiral, Novembers. REQUEST FOR RELIEASE OF PAY. I have the honor to Susmit that I am working as word Attendent under your line Sutrol. My Salay was Stopped due to Some unknown my Salay along net is before allowances on Numarition formers as "I suffer badly in 19st novem due to Stoppage of Sarany. Reline of Pay. Your's Swenly 120

Day 07/03/2019.

MR. Bounat Munion, (wand theredone) Due Hospital, nowhere.

## OFFICE OF THE MEDICAL SUPERINTENDENT, DHQ HOSPITAL NOWSHERA

Phone & Fax: 0923-9220023

E-Mail: dhqnowshera4306@gmail.com

No. 1832 / DHQ.NSR

Date: 10 /04/2019

#### **CERTIFICATE**

Mukhtiar Gul (Ward Attendant) attached to DHQ Hospital Nowshera (Copy of Pay Slip is attached for ready reference).

Medical Superintendent, DHQ Hospital, Nowshera

#### Government of Khyber Pakhtunkhwa

District Accounts Office Nowshera District Accounts Office 10 and 19 (March-2019)



#### of Mr BAKHT MUNIR d/w/s of MUKHTIAR GUL

0707168 CNIC: 1720198745287

Length of Service: 05 Years 06 Months 021 Days

ATTENDANT

80814324-GOVERNMENT OF KHYBER PAKH

Wage type

Hill

Of District Headquarter Hospital Nowshera

GPF Section: 001 Interest Applied: No

Cash Center:

**GPF** Balance

27,339.00

Pay Scale Type: Civil

3501 Benevolent Fund 1

Pay Stage: 4

Amount

-300.00

0.00

Pay scale	e: BPS For - 2017	Pay Scale Type: Civil BPS: 04	Pay Stage: 4
The state of the s	Amount	Wage type	Amount
000 U 12 4c Phi 111 114 41 5 124	11,660.00	1000 House Rent Allowance	1,458.00
12 III For Walls hince 2005	1,785.00	1300 Medical Allowance	1,500.00
214 (15% Adho) Relief All-2013 (15%)	262.00	2199 Adhoc Relief Allow @10%	183.00
12 miles 13 miles (12016 10%)	939.00	2224 Adhoc Relief All 2017 10%	1.166.00

Amount

-830.00

-451.00

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	Description	Principal amount	Mi Deduction	Balance
Deductions - Income, Tax		į		
Pavalilli Tiripio	Recovered till March-2019:	0.00 Exempted: 0	7007 Recoverat	ole: 0.00
Gross F. (Rs.). 1. 18,	953.00 Deductions: (Rs.):	-1,581.00 N	) et Pay: (Rs.): 17,3	372.00
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Lease 11.1 Opening.	Balance: Availed:	Earned:	Balance:	
Period : Address [F]	1. 18		lità	

Domicile: NW - Khyber Pakhtunkhwa

Email:

Housing Status: No Official

#### Government of Khyber Pakhtunkhwa

District Accounts Office Nowshera Monthly Salary Statement (April-2019)



Personal Information of Mr BAKHT MUNIR d/w/s of MUKHTIAR GUL

Personnel-Number: 00707168

CNIC: 1720198745287

Date of Birth: 02.05.1994

Entry into Govt. Service: 12.09.2013

NTN:

Length of Service: 05 Years 07 Months 020 Days

**Employment Category: Active Permanent** 

Designation: WARD ATTENDANT

80814324-GOVERNMENT OF KHYBER PAKH

DDO Code: NR4306-District Headquarter Hospital Nowshera GPF Section: 001

Cash Center:

34,809.00

Payroll Section: 001 GPF A/C No:

Interest Applied: No

**GPF Balance:** 

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil

BPS: 04

	Wage type	Amount	Wage type	Amount
0001	Basic Pay	11,660.00	1000 House Rent Allowance	1,458.00
	Convey Allowance 2005	1,785.00	1300 Medical Allowance	1,500.00
2148	- " 0 1 11 0 0 1 0	262.00	2199 Adhoc Relief Allow @10%	183.00
2 <u>146</u> 2211	Adhoc Relief All 2016 10%	939.00	2224 Adhoc Relief All 2017 10%	1,166.00
5002		10,368.00	5011 Adj Conveyance Allowance	14,280.00
		12,000.00	5309 Adj. 15% Adhoc Allowance	2,096.00
5012	Adj Adhoc Relief All 2018	9,328.00	5801 Adj Basic Pay	93,280.00
	Adj Adhoc Relief All 2015	1,464.00	5975 Adj Adhoc Relief All 2016	7,512.00
	Adj Adhoc Relief All 2017	9,328.00		0.00_

#### Deductions - General

Wage type	Amount	Wage type	Amount
	-830.00	3501 Benevolent Fund	-300.00
3004 GPF Subscription - Rs 830	-451.00	6001 Adj Benevolent Fund	-2,400.00
4004 R. Benefits & Death Comp:		6217 Adj R. Ben & Death Comp:	-3,608.00
6075   Adj GPF	-6,640.00	021/ [Au] K. Dell & Death Comp.	2,000.00

#### Deductions - Loans and Advances

			13-1
Loan Description Pri	ncipal amount	Deduction	Balance

**Deductions - Income Tax** 

Payable:

0.00

Recovered till April-2019:

0.00

Exempted: 0.00

Recoverable:

0.00

Gross Pay (Rs.):

178,609.00

Deductions: (Rs.):

-14,229.00

Net Pay: (Rs.):

164,380.00

Payee Name: BAKHT MUNIR

Account Number: Bank Details:, ,

Leaves:

Opening Balance:

Availed:

Earned:

Balance: .

Permanent Address:

City: NOWSHERA

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email:

#### KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1069 /ST

Dated 12 / 6 / 2019

To

The Medical Superintendent District Headquarter Hospital, Government of Khyber Pakhtunkhwa,

Nowshehra.

Súbject: -

JUDGMENT IN APPEAL NO. 1321/2018, MR. BAKHT MUNIR.

I am directed to forward herewith a certified copy of Judgement dated 30.05.2019 passed by this Tribunal on the above subject for strict compliance.

Engl: As above

REGISTRAR KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.