

11.06.2018

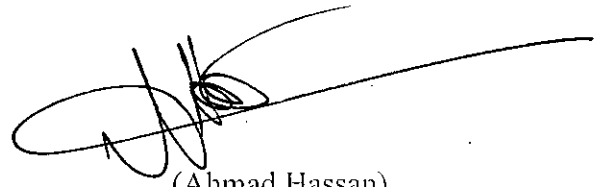
Appellant Syed Roidar Shah in person present. Mr. Kabirullah Khattak, Addl. AG for the respondents present. Appellant made a verbal request that his counsel has gone abroad. Granted. To come up for preliminary hearing on 18.07.2018 before S.B.


Chairman

18.07.2018

Counsel for the appellant and Addl: AG for respondents present. Counsel for the appellant requested for withdrawal of the instant appeal. In this respect his signature also obtained on the margin of the order sheet. Request accepted and the appeal in hand is therefore, dismissed as withdrawn. File be consigned to the record room.

ANNOUNCED:
18.07.2018


(Ahmad Hassan)
Member

5, Counsel for the Appellant want to withdraw the instant appeal and connected appeals, as the matter has been determined outside the country.



H. Bilal Khan Adv.

Service Appeal No. 532/2018

02.05.2018

Appellant in person and Mr. Kabirullah Khattak, Additional AG for the respondents present. The Tribunal is non-functional due to retirement of our Hon'ble Chairman. Therefore, the case is adjourned. To come up for same on 17.05.2018.


Reader

17.05.2018

Junior to counsel for the appellant Mr. Shumail Ahmad Butt, Advocate present and requested for adjournment. Granted. To come up for preliminary hearing on 04.06.2018 before S.B.


Chairman

04.06.2018

Appellant present. Learned Addl: AG also present. Appellant submitted an application for adjournment. Adjourned. To come up for arguments on 11.06.2018 before S.B.


Member

18.04.2018



Counsel for the appellant present. Preliminary arguments heard and case file perused. Learned counsel for the appellant argued that previously service appeal no. 458/2017 filed in this Tribunal was dismissed vide judgment dated 30.11.2017. On a query from this Tribunal learned counsel for the appellant confirmed that an appeal has been filed against the said judgment of this Tribunal in Supreme Court of Pakistan, which is pending adjudication. He further contended that respondent no.2 decided departmental appeal of class-IV employees of the Lady Reading Hospital vide order dated 05.01.2018. Directions were conveyed for withdrawal of reliving orders and release of salary. On the same analogy order dated 01.02.2016, 09.02.2016, 10.02.2016 and 17.02.2016 pertaining to the case of the appellant was also withdrawn through order dated 24.01.2018. As a sequel to above the appellant submitted arrival report on 09.02.2018 and started performing duty at LRH. That astonishingly vide order dated 29.01.2018, order dated 24.01.2018 was withdrawn. Feeling aggrieved he filed departmental appeal on which date is not mentioned but the same was rejected on 2.03.2018, hence, the instant service appeal. Learned counsel for the appellant when confronted on the point that this issue has already been decided by this Tribunal vide judgment dated 30.11.2017. The same order impugned in the previous service appeal was withdrawn by the competent authority, on 24.01.2018, as such the present appeal is hit by Rule-23 of Khyber Pakhtunkhwa Service Tribunal Rules 1974 because it had become a closed and past transaction. In response he argued that order dated 24.01.2018 gave a fresh cause of action and valuable rights of the appellant had accrued. Hence, the principle of locus-poenitentiae is also attracted in this case. Through the present appeal impugned order dated 29.01.2018 has been challenged in this Tribunal. Let pre-admission notice be issued to the learned Adll: AG to assist the Tribunal. To come up for further preliminary hearing on 02.05.2018 before S.B.


(Ahmad Hassan)
Member

Form-A
FORM OF ORDERSHEET

Court of _____

Case No. 532/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	16/04/2018	<p>The appeal of Syed Roisdar Shah presented today by Mr. Shamail Ahmad Butt Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p> REGISTRAR</p>
2-	17/04/18.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>18/04/18.</u></p> <p> MEMBER</p>

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 532/2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 576

Dated 16/04/2018

Syed Roidar Shah,

Clinical Technician (Pharmacy),

(President Provincial Paramedic Association as well as President

Paramedical Association Lady Reading Hospital),

Presently posted at MTI, LRH,

Peshawar.

.....Appellant

Versus

1. **Government of Khyber Pakhtunkhwa,**
Through Secretary, Health Department,
Civil Secretariat, Peshawar.
2. **Directorate General Health Services,**
Through Director General,
Attached Department Complex,
Khyber Road, Peshawar.
3. **Secretary Establishment,**
Government of Khyber Pakhtunkhwa,
Peshawar.
4. **Hospital Director,**
MTI, Lady Reading Hospital,
Peshawar.

.....Respondents

Filed to-day
16/04/2018
Registrar

**SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED APPELLATE
ORDER NO. SOH-III/8-60/2018(ROIDAR SHAH & OTHERS) DATED
20/03/2018 BY VIRTUE OF WHICH THE APPEAL FILED BY THE
APPELLANT DATED 06.02.2018 WAS REGRETTEED.**

May it please this Honorable Court

1. That the Appellant is a civil servant appointed on **02.08.1987** against a vacant post at Lady Reading Hospital, Peshawar and has started his career with zeal and dedication and served the public at large on several positions since his appointment to the best of his abilities and full satisfaction of his superiors, consequently since around three decades he is performing his duties at the

aforesaid hospital. Presently he is working as Clinical Technician (Pharmacy). It is pertinent to mention here that the **Appellant is also the President of Provincial Paramedical Association as well as President Paramedical Association LRH, Peshawar**, a representative body and the provincial chapter of Pakistan Para-Medic Association as well as the Appellant is elected President of Para Medical Association Lady Reading Hospital, Peshawar. Furthermore the Appellant is the member of the governing body of faculty and all the administrative, management and general control of the faculty vests in the governing body.

(Copies of notification as President PPMA etc are annexure "A")
(Copy of KP Faculty of Paramedical, Allied Health Sciences Act is Annex "A-1")

2. That the parent national level body is registered under the Societies Registration Act, 1960, the provincial chapter is also a duly recognized body since 09.09.1970, while its constitution has been approved by Respondent No. 1 Government w.e.f. 09.08.1992.

(Copies of the documents of registration etc are Annexure "B")

3. That upon promulgation of Khyber Pakhtunkhwa Province Medical Teaching Institutions Reforms Act, 2015 (Khyber Pakhtunkhwa Act No. IV of 2015), Para Medic Association, LRH, Peshawar filed a Writ Petition No. 2643-P/2015 questioning creation of surplus pool, asked for directorship for the Paramedics in the Boards of Governor of MTI and questioned the clause of "till further order".

(Copy of the Writ Petition # 2643-P/2015 is Annexure "C")

4. That this Writ Petition was taken up for hearing alongside numerous other writ petitions by a larger Bench so specially constituted to deal with matters of vires of the Act, 2015 ibid and other related issues. It is a matter of record that while dismissing other Petitions against the vires of the Act, Writ Petition No. 2643-P/2015 was partially accepted in Judgment and Order of the Honorable Larger Bench dated 23.12.2015 as this Honorable Court while acknowledging and appreciating the merits of the matters agitated by paramedics, allowed their plea against "further orders" and their representation in Board of Governors.

5. That seeking enforcement of constitutional rights through a Constitutional Petition was not taken in good grace either by the Respondents or for that matter by the Chairman Board of Governor, LRH Peshawar, who is championing the cause of so-called reforms in MTIs and is acting as quasi advisor to the Respondent Government. He had been heard saying numerously that he would make sure that no one can stay in MTIs if he is challenging him or questioning his wisdom and authority.

6. That while momentarily parting from the discussion at hand, it is significant to point out that while misinterpreting a certain part of the Judgment of the larger Bench dated 23.12.2015, Respondent No. 1 Government through a Notification No. SO(R-II)/E&D/1-6/2009 dated 08.02.2016, while purportedly exercising powers under Section 4 of the West Pakistan Essential Services (Maintenance) Act, 1958 and in total defiance to the very intent and spirit of the Act, 2015 has issued direction to all the persons working or engaged in the Medical Teaching Institutes not to leave their place of duty without prior permission of the competent authority.

(Copy of the Notification under Essential Services Act is Annexure "D")

(Copy of the WP Essential Services (Maintenance) Act, 1958 is Annexure "E")

7. That meanwhile, Government took certain steps to dissolve Post Graduate Medical Institute (PGMI) that greatly disturbed the concerned doctors. Demands were also being raised for grant of health professional allowance. In this backdrop, Respondent No. 1 issued the Notification under Essential Services Act. While displeased with this Notification and so-called imposition of emergency amongst other issues, doctors working in these Hospitals and MTIs started protesting against the Government. This agitation aggravated further and some health professionals primarily led by doctors announced strike on 09.02.2016. The fact of strike, led by doctors was also widely reported both in print and electronic media.

(Copies of press clippings are Annexure "F")

8. That after a couple of days of negotiations, all the demands of doctors were

4

acceded to and they were all let off, without any proceedings but the poor low-paid paramedics who had no visibility whatsoever in the so-called strike and had not been concerned actually with any ER or OTs are being punished without the mandate of law.

(Copies of the news reporting calling off of the strike are Annexure (4))

9. That while seized of an opportunity to get rid of office bearers and some of the members of Para Medical Association, and while actuated with clear mala fide and political agenda, Respondents instead of proceeding against doctors, chose to victimize low-paid employees while showing more loyalty to the Chairman Board of Governors LRH, issued an office order bearing No. 2267.84/AE-VI DATED 09/02/2016 wherein he transferred the appellant and several others of their duties in absolute ignorance and violation of attending law and circumstances. It is important to point out that the appellant is a permanent civil servant and office bearer of the association at several levels therefore cannot be left at the mercy of Respondents and there most influential political figure whom have no authority to issue any order or treat the appellant in any manner, in grave infraction and defiance of the law on question. Thus the Appellant, along with other office bearers, was thus ordered to be transferred out of his concerned MTI to a far flung place of the Province by virtue of Office Orders dtd 09.02.2016 issued by Respondent No. 2. The Office Orders read as:

“On their involvement in illegal activities contrary to the conduct rules 1987, as well as essential services (maintenance) Act 1958 and subsequent relieving from MTI/LRH Peshawar on account of strike/agitation, leaving the patients in emergency and operation theaters crying for survival; the following staff stand transferred.....”

(Copy of the transfer order is Annexure (4))

10. That the appellant, while was having no other remedy, filed departmental appeal No. 341/16/PPMA-KPK dated 23.02.2016 to the Respondent. No.1 being Competent Authority in hope that he will get relief from that forum

but in vain consequently the Appellant along with many others while aggrieved with the Transfer orders made under the garb of Essential Service (Maintenance) Act, 1958 or otherwise challenged the same before the Honorable Peshawar High Court by way of *W.P. No. 557-P/2016 titled as "Johar Ali and Others vs Government of Khyber Pakhtunkhwa etc"* wherein interim relief was granted to the Appellant along with many others which remained intact for over a year or so but the case was heard by a Division Bench of the Peshawar High Court on 25.04.2017 wherein they have heard the arguments at length but unfortunately the aforesaid petition was dismissed while holding that the Appellant and others are civil servants and their grievances relate to the terms and conditions of the service therefore the appropriate remedy for seeking the redressal of their grievance is Services Tribunal.

(Copy of the Departmental Appeal is annexure "I")

(Copy of WP.557-P/2016 & Judgment dated 25.04.2017 is Annexure "J")

11. That soon after the decision rendered by this Honorable Court in W.P 557-P/2016, the Respondent No.4 issued relieving order No. 6308-15/HD/LRH dated 05.05.2017 of the Appellant and directed him to report to the office of Respondent No.2. It is of significance importance that Respondent No.4 is not a competent Authority to relieve the Appellant therefore his act of relieving the Appellant is in total defiance of the law and policy.

(Copy of the Relieving Order is Annexure "K")

12. That it is also worthwhile to point out that in the year 2009 Appellant, while selected as president paramedical association LRH, was allotted a separate office by the then Chief Executive of the Aforesaid hospital wherein he is easily accessible to all the association members as well as the Appellant use the place for office purposes. It is a policy of the provincial government, duly circulated in the Esta Code that Office Bearers shall not normally be transferred during the currency of their office therefore the Appellant rights are protected as per policy and is thus not transferrable outside Lady Reading Hospital but the Respondent No. 2 issued Transfer and Posting

Order of Appellant, while ignoring the aforesaid policy and settled legal position qua union member employees, to District Kohat.

(Copy of the allotment of the office to PMA is Annexure "E")

(Copy of the Government policy is Annexure "B")

13. That it is also of great importance to mention here that paramedical association has been given due representation by the Government as vide letter No. SOH(III)/HD/3-5/Paramedics/2016 dated 17.10.2016 it has been circulated to several departments related to health that wherever there is a meeting related to paramedics so representation of at least two of their office bearers be ensured, which can be reflected from minutes of the meeting headed by Special Secretary for Health Department where two of the office bearers, including the Appellant, attended the meeting.

(Copy of the notification and minutes are Annexure "N")

14. That it is also important to point out before this honorable Tribunal that due to the afore stated strikes etc 39 employees of Ayub Teaching Hospital and certain others were also transferred out to far flung areas of the province but due to the intervention of the Special Assistant to Chief Minister, Mushtaq Ahmad Ghani the transfer orders of all the 39 employees were recalled and they were remained at their earlier places of work.

(Copy of the Order pertaining to ATH is Annexure "O")

15. That consequent upon the decision rendered by the Honorable Peshawar High Court, Appellant, who had bonfidely believed that their remedy was genuinely claimed before the High Court and thus he had sought remedy before the wrong forum, consequently filed a Service Appeal No. 458-P/2017 before the honorable Service Tribunal along with application for condonation of delay but unfortunately the same was dismissed by this honorable Tribunal while not condoning the delay that too when the Appellant had bonafidely and diligently pursued his remedy before High Court as he was transferred in the garb of punishment allegedly for violation of KP Essential Services (Maintenance) Act, 1958, which is not terms and conditions ipso jure.

(Copy of the Appeal 458-P/2017 and Order thereupon is Annexure "P")

16. That, on the other side, the Honorable Peshawar High Court has intervened in a similar matter and has magnanimously passed a Judgment and Order dated 15.11.2017 in WP.555-D/2017, while rescued the Appellant and held as:

“it clearly indicates that for all intents and purposes, the Petitioner was a Government Servant according to his appointment order and was to be dealt with in accordance with the Government rules and MTI has nothing to do with his services particularly when the Petitioner has not joined MTI and thus, the impugned order dated 09.05.2017 is not sustainable.

6. For the reasons mentioned above, we allow this petition and declare the impugned order dated 09.05.2017 as illegal, without jurisdiction and ineffective upon the rights of petitioner...”.

Besides, this Honorable Tribunal has also intruded and rescued the Appellant in a similar nature case through service appeal No. 480-P/2017 dated 15.12.2017 and consequently allowed the appeal and impugned transfer order was set aside.

(Copy of the Order in WP 555-D/2017 is Annexure “Q”)
(Copy of the Order of this Honorable Court is Annexure “R”)

17. That in addition to the above, the Respondent No.2 while deciding the departmental appeals of the class VI employees of the Lady Reading Hospital elaborately discussed all the above legal and factual points and thereafter accepted the appeal of the class VI employees. It is important to mention here that the Respondent No.2 also admits that the terms and conditions of civil servants are protected under section 16 of the MTI Act, 2015. He further admitted that if this practice continues so it will lead to unmanageable situation for the provincial exchequer.

(Copy of the Order of appeal acceptance of Class-IV is annexure “S”)

18. That, subsequent to the above, a note was moved on departmental appeal of the Appellant for cancellation of the transfer order issued by the

Respondent, wherein it has been mentioned that the civil servants are to be dealt in accordance with the government rules and MTI has nothing to do with them accordingly the para concerned was approved and resultantly Notification No. 1092-98/AE-VI dated 24.01.2018 was issued wherein the competent authority accepted the departmental appeals and cancelled the impugned transfer orders.

(Copy of the order dated 24.01.2018 is Annexure "B")

19. That thereafter the Appellant took a sigh of relief and believed that justice has prevailed thus started performing his duties with more zeal and enthusiasm than earlier but the above act was not taken in good grace by the Chairman BOG so he started pressurizing the Respondent No.2 to undo the same which he can't being *functus officio* but most shockingly the Respondent No.2 without having authority revoked the order dated 24.01.2018 vide illegal office order No. 18920-912 /E-V dated 29.01.2018.

(Copy of the order dated 29.01.2018 is Annexure "C")

20. That the Appellant while gravely aggrieved with the illegal order dated 29.01.2018 filed a departmental appeal to Respondent No.1 on 06.02.2018 but most unfortunately the same was regretted vide letter No. SOH-III/8-60/2018 (Roidar Shah & Others) dated the Peshawar 20.03.2018 (hereinafter to be called as impugned order for facility of reference).

(Copy of the Departmental Appeal is Annexure "D")

(Copy of the Order dated 20.03.2018 is Annexure "E")

21. That the Appellant while feeling gravely dissatisfied and aggrieved of the impugned order dated 29.01.2018 and 20.03.2018.

Hence this appeal inter-alia on the following grounds:-

Grounds warranting this Appeal:

- a. **Because** the impugned appellate orders dated 29.01.2018 and 20.03.2018 are illegal, unlawful, without lawful authority and thus of no legal effect.
- b. **Because** the impugned orders are passed without any legal or plausible

justification and are therefore liable to be reversed.

- c. **Because** the Respondent No.2 being *Functus Officio* has got no authority whatsoever to pass such an illegal order.
- d. **Because** the departmental appeal of the Appellant has once been accepted thus its annulment on the whims of the Chairman BOG Lady Reading Hospital is illegal, unlawful and without lawful authority.
- e. **Because** in similar nature case the Honorable Peshawar High Court, Peshawar in its Judgment and Order dated 15.11.2017 has rescued the Appellant therein while stating therein that the civil servants are to be dealt in accordance with the Government Rules and not under the MTI and by the MTI hierarchy.
- f. **Because** similar stance has been adopted by this Honorable Tribunal in Service Appeal No. 480/2017 while rescuing the Appellant.
- g. **Because** the impugned proceedings are due to malafide on the part of Respondents and are liable to be reversed on this score as well.
- h. **Because** the Respondents are travelling way beyond the scope and approach adopted for others thus the approach adopted for the Appellant is hit by the Article 10-A and 25 of the Constitution.
- i. **Because** the Appellant is an office bearer of the employees association and leaves no stone unturned for the betterment of their fraternity therefore he cannot be transferred at single stroke of pen.
- j. **Because** 39 other employees of Ayub Teaching Hospital were transferred due to the same reason but their transfer order was cancelled on the next day because they realized that civil servants as well as office bearers cannot be transferred during their tenure as a punishment. The Chairman and BOG of

the AMC Teaching Hospital MTI have not shown undue obduracy and vendetta whereas the Chairman of the MTI LRH has been abusing his position and close relationship with Mr. Imran Khan (Chairman PTI) and thus is browbeating and hoodwinking the government officials with impunity.

- k. **Because** the Appellant is elected President of the Provincial Paramedical Association as well as President Paramedical Association Lady Reading Hospital therefore his rights are guaranteed and protected under the laws.
- l. **Because** the misgivings of the Respondents against the Appellant is utterly out of place as the Appellant has not resorted to any illegal activities, so alleged against him.
- m. **Because** no provision of the Essential Service (Maintenance) Act, 1958 mandates any transfer. In fact, the Respondents, while posting the Appellant out is committing an offense under the aforesaid Act, 1958.
- n. **Because** once the Essential Services (Maintenance) Act, 1958 is notified, no employer can order transfers at all.
- o. **Because** impugned orders are passed in tone and tenor of "punishment". No minor or major punishment can be imposed without due process of law.
- p. **Because** the impugned orders are passed in total disregard of the KP Efficiency and Discipline Rules, 2011.
- q. **Because** most surprisingly the Appellants who are neither doctors nor care-givers relating to emergency or for that matter operation theaters are being allegedly prosecuted and punished for so called patients crying for survival. How Office Assistants, Sweepers, Masalchi, bearers, lift operators and a few clinical technicians are answerable for strike staged and held under the

leadership of doctors.

- r. **Because** the very act of letting off the doctors and choosing to prosecute only low-paid employees and that too as a punishment for approaching this honorable court is not only smacked with partiality, unfairness and nepotism but is a clear violation of Article 4, 5, 25, 37 and 38 of the Constitution.
- s. **Because** the Constitution of the Islamic Republic of Pakistan confers right on every citizen of forming of an association as well as grants freedom of assembly in the form of protest or otherwise thus the impugned order is violative of Article of 16 and 17 of the Constitution, 1973.
- t. **Because** as held numerously by superior judiciary including the apex Supreme Court of Pakistan, no civil servant can be transferred except for public interest whereas the impugned transfer order is clearly having a color of punishment and is done on so called administrative ground rather than public interest.
- u. **Because** as narrated in facts, appellant is office bearer of Para Medical Association. It is a policy of the provincial government, duly circulated in the Esta Code that Office Bearers shall not normally be transferred during the currency of their office to avoid unfair labour practices.
- v. **Because** the Respondents are acting in a manner clearly reeking highhandedness, caprice and victimization.
- w. **Because** the Respondents are bent to illegally discriminate amongst health care providers and paramedics without any reasonable justification or classification.
- x. **Because** the impugned orders are made with sole purpose of creating terror and deterrence in heart of doctors by making the Appellant as mere guinea pig and scapegoat for no fault on their part.

- y. **Because** recently the apex Supreme Court of Pakistan, while suspending a Judgment of the Honorable Balochistan High Court, has acknowledged the right of peaceful protest and agitation for rights of the government employees and declared any clog on it as excessive and illegal.

- z. **Because** Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned transfer order, which is unjust, unfair and hence not sustainable in the eyes of law.

- aa. **Because** neither ESTA Code provisions does permit the Respondents to pass the impugned transfer order nor the Khyber Pakhtunkhwa Government Servants (Conduct) Rules, 1987.

- bb. **Because** even otherwise, as is apparent on the face of records, impugned order is actuated with intent mala se as the Respondents are hell bent to get rid of the appellant at any costs solely on political considerations.

- cc. **Because** since the Appellant is admittedly President of the PPMA who cannot be transferred out of his place of duty since completion of his office tenure as per Policy.

- dd. **Because** the impugned transfer order is clearly motivated with mala fide rather than made in public interest. As the record suggests, the appellant and his colleagues are victimized for ulterior motives of the Chairman Board of Governors, Lady Reading Hospital.

- ee. **Because** even the KP MTI Act, 2015 also protects the services of Appellant.

- ff. **Because** in similar circumstances, the Honorable Peshawar High Court and Honorable Services Tribunal has allowed relief in aid of justice.

gg. **Because** neither the Khyber Pakhtunkhwa Government Servants (Conduct) Rules, 1987 nor the Essential Services (Maintenance) Act, 1958 empowers the Respondents to pass the impugned orders.

hh. **Because** the Appellate authority after accepting the appeal of the Appellant vide order dated 24.01.2018 had nullified the transfer orders earlier issued. Once deciding the appeal, the appellate authority was no more seized with the lis and had no legal authority whatsoever to again reverse the said orders on 29.01.2018 and once again decide the matter against the Appellant.

ii. **Because** the impugned order dated 29.01.2018 and that the consequent refusal of appeal/representation are illegal, unlawful, without lawful authority and thus of no legal effect.

jj. **Because** once the transfer orders were vacated upon accepting the appeal of the Petitioner and others, cancelling the appellate order amounted to transfer order afresh which was never made in the public interest but was clearly because of the pressure and duress exercised by the Chairman BOG MTI LRH.

kk. **Because** once the earlier transfer orders were cancelled, the Appellant was restored to his original position and could only be transferred in public interest. On the contrary, the Appellant was effectually retransferred without being done in public interest when the Appellate authority, under the duress and pressure of Chairman BOG MTI, cancelled and withdrawn his appellate order on 29.01.2018 which order is clearly smacked with mala fide of law and fact.

ll. **Because** the terms and condition of the Appellant and other civil servants are duly saved by virtue of Section 16 of the MTI Reforms Act, 2015 (as amended from time to time) and he cannot be adversely effected because of the revengeful attitude of the Chairman BOG.

mm. **Because** the impugned order dated 29.01.2018 is without jurisdiction and is clearly a colorful exercise of authority.

nn. **Because** appellant will raise other grounds at the time of arguments with the prior permission of the Court.

It is therefore most humbly prayed that on acceptance of the instant appeal, the impugned Appellate order NO. SOH-III/8-60/2018 (ROIDAR SHAH & OTHERS) Dated 20/03/2018 by virtue of which the Appeal filed by the appellant dated 06.02.2018 was regretted may graciously be set aside along with original impugned order dated 29.01.2018 and the Appellant may kindly be brought back to his position prior to 09.02.2016. Any other relief not specifically asked for may also be granted to the appellant if deemed fit, just and appropriate.

S.R. Shah
Appellant

Through

Shumail Ahmad Butt
Shumail Ahmad Butt,
Advocate Supreme Court of
Pakistan,
&
H Bilal Khan
Advocate High Court,
Peshawar.

Dated: 09/03/2018

AFFIDAVIT

I, Syed Roidar Shah, Clinical Technician (Pharmacy), Presently posted at MTI, LRH, Peshawar, do hereby solemnly declare that the accompanying Appeal is true and correct to the best of my Knowledge and belief and nothing has been concealed from this Honorable Tribunal.

S.R. Shah
= DEPONENT





BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____/2018

Addresses of the Parties

Appellant


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

Respondents

1. Government of Khyber Pakhtunkhwa,
Through Secretary, Health Department,
Civil Secretariat, Peshawar.
2. **Directorate General Health Services,**
Through Director General,
Attached Department Complex,
Khyber Road, Peshawar.
3. **Secretary Establishment,**
Government of Khyber Pakhtunkhwa,
Peshawar.
4. **Hospital Director,**
MTI, Lady Reading Hospital,
Peshawar.

Appellant

Through


Shumail Ahmad Butt,
Advocate Supreme Court of
Pakistan,

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____/2018

Syed Roidar Shah

Versus

The Govt. of KPK and Others

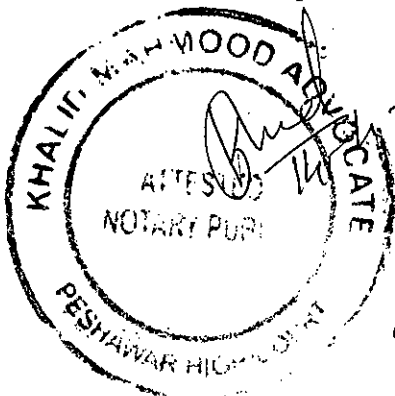
Application for Interim Relief in shape of suspension of Operation of Impugned Appellate order dated 29.01.2018 and 20.03.2018

May it please this Honorable Court:

The Applicant/ Appellant very humbly submit as under:

- 1) That the Applicant/ Appellant has filed the above-titled Appeal before this honorable Tribunal today in which no date of hearing has yet been fixed.
- 2) That the Applicant/ Appellant has got a prima facie case and is very much sanguine of its success.
- 3) That balance of convenience has got a clear verge in favor of the applicant/ Appellant.
- 4) That content of the accompanying Appeal may kindly be considered as integral part and parcel of this application.

It is therefore most humbly prayed that on acceptance of this Application the impugned appellate orders date 29.01.2018 and 20.03.2018 may graciously be suspended till final decision of the Appeal.



AFFIDAVIT -
That the contents of this application are true & correct and nothing has been concealed from this Honorable Court
A. P. M. S. = deponent

Through

Appellant

[Signature]
 Shumail Ahmad Butt,
 Advocate Supreme Court of Pakistan,
 &
 H Bilal Khan
 Advocate High Court

[Signature]
 H. Bilal Khan

CHAIRMAN ELECTION COMMITTEE PPMA KPK

Ref. No. 01/16/PPMA-KPK.

DATE: 20-12-2016.

NOTIFICATION

In pursuance of series of meetings of the conciliatory committee and written agreement dated 28-09-2016 between Syed Roidar Shah and Fazal Hakim panel, in response of which five member's impartial and fully authorized supervisory/election committee was constituted for completion/conduct of the local election of the Paramedical Association in some Districts, Agencies and units in the Province of Khyber Pakhtunkhwa.

The aforementioned committee, after holding the election of the subject Districts, Agencies and Units, as per unanimous arrival of the above referred agreement, all the Executive members of the Provincial Executive Council, exercised their right of vote (vote of confidence) to elect their Provincial Cabinet through secret ballot on 10-12-2016, at ZAB PGPI, Peshawar and resultantly all the cabinet members of Syed Roidar Shah Panel have been elected as Provincial Cabinet, Divisional Vice-Presidents and Vice-President for FATA for a period of four years commenced from 10-12-2016 by obtaining majority votes of the total electorate.

Therefore, apropos to the above, the undersigned (Chairman), on approval of the committee/members of the election/supervisory committee are pleased to announce/notify the newly elected cabinet as below;

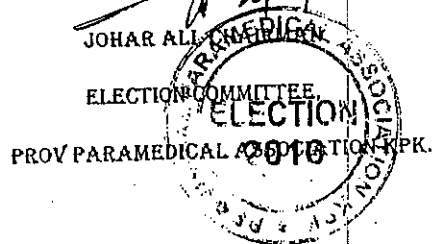
NAMES AND POSTS OF THE NEWLY ELECTED PROVINCIAL CABINET ARE AS UNDER.

- | | | |
|-----|------------------------|--------------------------|
| 1. | PRESIDENT. | MR. SYED ROIDAR SHAH |
| 2. | S.V. PRESIDENT. | MR. ISAM GUL MOMAND |
| 3. | V. PRESIDENT I. | MR. ANWAR KHAN |
| 4. | V. PRESIDENT II. | MR. HIDAYAT UR RAHMAN |
| 5. | SECRETARY GENERAL | MR. LUQMAN GUL ORAKZAI |
| 6. | ADD. GENERAL SECRETARY | MR. SIAMS UT TAJ |
| 7. | JOINT SECRETARY | MR. HAJI BASHIR AHMAD |
| 8. | FINANCE SECRETARY | MR. SAJAD AHMAD |
| 9. | PRESS SECRETARY | MR. PARVEZ KHAN |
| 10. | CO. ORDINATION SEC. | MR. TAJ MOHAMMAD |
| 11. | OFFICE SECRETARY | MR. RAHMAT ULLAH KHATTAK |

PROVINCIAL VICE PRESIDENTS FOR ALL DIVISIONS AND FATA.

- | | | |
|-----|--------------------|------------------------------|
| 12. | PESHAWAR DIVISION | MR. MUJAHIDE AZAM |
| 13. | MARDAN DIVISION | MR. SHARAFAT ULLAH YOUSAFZAI |
| 14. | HAZARA DIVISION | MR. QAZI TANVIR AHMAD |
| 15. | MALAKAND DIVISION | MR. SAADAT KHAN |
| 16. | KOHAT DIVISION | MR. JANAS KHAN |
| 17. | BANNU DIVISION | MR. AFSAR ZAMAN |
| 18. | D.I. KHAN DIVISION | MR. M. SALIM AWAN |
| 19. | FATA | MR. M. ZAHID KHAN ORAKZAI |

20/12/2016
 JOHAR ALLI



Copy for Information & n/a to:

- Honorable Governor Khyber Pakhtunkhwa.

(Contd. on page 2)

12

CHAIRMAN ELECTION COMMITTEE PPMA KPK

Ref. No. 01/16/PPMA-KPK.

DATE: 20-12-2016.

2. Honorable Chief Minister KPK.
 3. Honorable Speaker Prov. Assembly KPK.
 4. Honorable Health Minister, KPK.
 5. Honorable Finance Minister, KPK.
 6. Honorable Chief Secretary KPK.
 7. Honorable Secretary Health, KPK.
 8. Honorable Secretary Finance, KPK.
 9. Honorable Secretary Establishment KPK.
 10. Honorable Director General Health Services KPK.
 11. Honorable Director General Health Services Fata, KPK.
 12. Honorable Inspector General of Police KPK.
 13. All Honorable Deputy Commissioners in KPK.
 14. All Honorable DPOs in KPK.
 15. All Distt. Nazims KPK.
 16. All Political Agents Fata KPK
 17. Honorable V.C. KMU Hayat Abad Peshawar KPK.
 18. Honorable Director (PHSA) Prov. Health Services Academy, KPK.
 19. Honorable Director Health Care Commission, KPK.
 20. All Directors Hospital/ Medical MTIs KPK.
 21. All Medical Superintendents KPK and Fata.
 22. All District Health Officers KPK.
 23. All Agency Surgeons Fata KPK.
 24. Principal ZAB PGPI. Peshawar.
 25. Principals PIMTs Abbott Abad, Swat, DI Khan.
 26. President/ General Secretary All Pakistan Paramedical Staff Association Islam Abad.
 27. President/Secretary General& Cabinet, Prov. Paramedical Association KPK.
 28. President/ General Secretary, All Govt. Employees Co Ordination Council KPK.
 29. President PHECC Lady Reading Hospital Peshawar.
- All Presidents & General Secretaries PMA, MTIs, Distt. Agencies, DHQ Hospitals and units in KPK.
- All News Papers.
30. Office File.

13

20/12/2016

JOHAR CHAIRMAN
 ELECTION COMMITTEE
 ELECTION
 2016
 PROV PARAMEDICAL ASSOCIATION KPK.

Handwritten signature

PROVINCIAL PARAMEDICAL ASSOCIATION KHYBER PAKHTUNKHWA

19

Registration # 2317-19-B/II Date: 9th September 1970

President
JOHAR ALI
Bsc(H) Radiology
Cell: 0334-9105846

Chairman
SIRAJ-UD-DIN BURKI
Bsc(H) Dialysis, L.L.B
Cell: 0333-9150606

Secretary General
SYED ROIDAR SHAH
Bsc(H) Physiotherapy, M.A
Cell: 0333-9131180

Date: 8/6/16

Ref: # 27/16/PPMA

نوٹیفکیشن

صوبائی پیرامیڈیکل ایسوسی ایشن صوبہ خیبر پختونخوا کے اعلان کردہ ایکشن شیڈول کے مطابق پیرامیڈیکل ایسوسی ایشن لیڈی ریڈنگ ہسپتال کے چار سالہ انتخابات کیلئے اعلان کردہ شیڈول کے مطابق مقررہ تاریخ تک ایک ہی گروپ (سیدر و سیدار شاہ ہسپتال) نے ایکشن کمیٹی کے پاس اپنے کاغذات نامزدگی داخل کرائیں جب کے ان کے مقابلے میں کسی فرد یا گروپ نے کاغذات جمع نہیں کرائیں لہذا آئین کے مطابق (سیدر و سیدار شاہ ہسپتال) کے تمام امیدواران کو 02-06-2016 سے بلا مقابلہ منتخب قرار دیا جاتا ہے۔

انتخابات کے امیدواران کے نام اور پتے درج ذیل ہیں۔

- | | | |
|--------------------------------------|-------------------------------|-------------------------------------|
| (۱) صدر: سیدر و سیدار شاہ | (۲) سینئر نائب صدر: محمد عاصم | (۳) نائب صدر اول: ذمرد گل |
| (۴) نائب صدر دوم: چراغ | (۵) جنرل سیکرٹری: محمد ریاض | (۶) ایڈیشنل جنرل سیکرٹری: بخش التاج |
| (۷) جوائنٹ سیکرٹری: احسان اللہ درانی | (۸) فنانس سیکرٹری: صائمہ یوسف | (۹) پریس سیکرٹری: اکبر حسین |
| (۱۰) رابطہ سیکرٹری: سیددشاہ | (۱۱) آفس سیکرٹری: دو جاہت خان | |

مندرجہ بالا منتخب عہدیداران صوبائی پیرامیڈیکل ایسوسی ایشن صوبہ خیبر پختونخوا کے آئین اور قواعد و ضوابط کے پابند ہونگے اور صوبائی تنظیم کے ہدایات کے مطابق پیرامیڈیکل سٹاف کے مفادات کیلئے جدوجہد کریں گے۔

کاپی برائے اطلاع

- 1- جناب ذر رحمت صاحب صوبہ خیبر پختونخوا۔
- 2- جناب سیکرٹری ایٹھ صاحب صوبہ خیبر پختونخوا۔
- 3- جناب ڈائریکٹر جنرل ایٹھ صوبہ خیبر پختونخوا۔
- 4- جناب ڈپٹی کمشنر صاحب ضلع پشاور۔
- 5- ڈائریکٹر ہسپتال MTI لیڈی ریڈنگ ہسپتال پشاور۔
- 6- ڈائریکٹر میڈیکل MTI لیڈی ریڈنگ ہسپتال پشاور۔
- 7- ڈی ایم ایس ایس MTI لیڈی ریڈنگ ہسپتال پشاور۔
- 8- چیف فیزیالیز MTI لیڈی ریڈنگ ہسپتال پشاور۔
- 9- نرس MTI-HR لیڈی ریڈنگ ہسپتال پشاور۔
- 10- MTI, OPD & Ambulatory Services لیڈی ریڈنگ ہسپتال پشاور۔
- 11- آئی سی ڈی اینڈ امبولٹری سروسز MTI لیڈی ریڈنگ ہسپتال پشاور۔
- 12- جناب صوبائی چیئرمین / صدر پی پی ایم اسٹے خیبر پختونخوا۔
- 13- صوبائی نائب صدر پی پی ایم اسٹے پشاور ڈویژن۔
- 14- ڈسٹریکٹ صدر / جنرل سیکرٹری پیرامیڈیکل ایسوسی ایشن LRH۔
- 15- پریس 13- آفس ریکارڈ

لقمان گل، چیئرمین ایکشن کمیٹی
MTI لیڈی ریڈنگ ہسپتال پشاور

126

**FOR THE EXTRAORDINARY GAZETTE ISSUE OF
THE KHYBER PAKHTUNKHWA**

**PROVINCIAL ASSEMBLY SECRETARIAT
KHYBER PAKHTUNKHWA**

NOTIFICATION

Dated Peshawar, the 14/10/2016.

No.PA/Khyber Pakhtunkhwa/Bills/2016/ 10337 The Khyber Pakhtunkhwa Faculty of Paramedical and Allied Health Sciences Bill, 2016 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 26th September, 2016 and assented to by the Governor of the Khyber Pakhtunkhwa on 6th October, 2016 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

**THE KHYBER PAKHTUNKHWA FACULTY OF PARAMEDICAL AND ALLIED HEALTH
SCIENCES ACT, 2016
(KHYBER PAKHTUNKHWA ACT NO. XXII OF 2016)**

(First published after having received the assent of the Governor of the
Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa.
(Extraordinary), dated the 14 /10/2016).

(Here print as in the accompaniment).

Numerical

SECRETARY,

Provincial Assembly of Khyber Pakhtunkhwa.

No. and date (as per notification above).

A copy of the above notification with the accompaniment is forwarded to the Manager, Government Stationery and Printing Department, Peshawar, with the request to publish the same in the extraordinary issue of the Khyber Pakhtunkhwa Government Gazette of today's date and distribute copies thereof immediately in accordance with the list given overleaf.

Proof should be sent to this Secretariat before publication.

Numerical

SECRETARY,

Provincial Assembly of Khyber Pakhtunkhwa

E.No. PA/Khyber Pakhtunkhwa/Bills/2016/ 10337-42 Dated 14/10/2016

A copy of the above is forwarded to:-

1. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. The Secretary to Government of Khyber Pakhtunkhwa, Health, Department.
3. The Secretary to Government of Khyber Pakhtunkhwa, Law Department.
4. The Director Information, Khyber Pakhtunkhwa.
5. The Director I.T/ Special Secretary Provincial Assembly of Khyber Pakhtunkhwa.

Numerical

SECRETARY,

Provincial Assembly of Khyber Pakhtunkhwa

Asst. Secy

21

Annex B

No. 1301/PMA-1 dated Peshawar the 03/10/1992.
From

The Director Health Services;
N.W.F. Province, Peshawar.

To
Provincial President,
Para Medical Association,
Peshawar.

SUBJECT: APPROVAL OF REVISED CONSTITUTION.

Memo:

The revised constitution submitted by you for approval, has been approved by the Government of NWFP, Health, Social Welfare and Population Welfare Department, Peshawar vide letter No. SO(SW)6-35/92, dated 9th August, 1992.

However it may be noted that because of increasing work load and responsibilities, Director Health Services, NWFP, Peshawar, will not be able to continue as patron of Para Medical Association.

[Signature]
DIRECTOR HEALTH SERVICES
N.W.F. PROVINCE, PESHAWAR.

[Signature]
Director Health Services
Khyber Pakhtunkhwa

RECEIVED
9
ADVANCED

[Signature]
A. Akhtar
Advocate

Approved vide Govt-

Letter No 50 (S.W) 6-35/92 dated Peshawar the 9th August 1992

62

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

دستورائیک

Secretary Director Health Services

صوبائی پیرامیڈیکل ایسوسی ایشن صوبہ سرحد

محکمہ صحت شہاک مغربی سرحد صوبہ

دفعہ 1 ایسوسی ایشن کا نام :- اس تنظیم کا نام صوبائی پیرامیڈیکل ایسوسی ایشن صوبہ سرحد محکمہ صحت شمال مغربی سرحدی صوبہ ہوگا۔ یہ ایسوسی ایشن غیر سیاسی تنظیم ہوگی جس کا کسی بھی سیاسی تنظیم سے کوئی تعلق نہیں ہوگا۔

دفعہ 2 ایسوسی ایشن کے اغراض و مقاصد :- صوبہ سرحد کے تمام تحصیلوں، ضلعوں، ایجنسیوں سید کوٹریز ہسپتال سول سپرنٹنڈنٹ ڈی، ایچ، او کی تمام روڈل ہیلتھ سنٹر، پیرامیڈیکل سکولوں، پبلک ہیلتھ سکولوں، بی ایچ او جیات شہید ہسپتال، خیبر میڈیکل کالج، جیات آباد پبلکس، ڈسپنسریوں، ایوب میڈیکل کالج، میڈی ریڈنگ ہسپتال، پوسٹ گریجویٹ میڈیکل انسٹیٹیوٹ میں تمام پیرامیڈیکل سٹاف کو منظم کرنا۔ ممبرز کا ان کے تمام جائز حقوق کا تحفظ کرنا۔ درپیش مسائل کو آفسران بالا تک پہنچانا ان سے حل کروانا، ممبران میں تفریق اور منفی رجحانات ختم کروانا، اخوت اور بھائی چارہ قائم کرنا آپس میں یا آفسران کے ساتھ پیدا شدہ کسی بھی دشمنی، الجھن یا غلط فہمی کو افہام و تفہیم کے ساتھ رفع کرنا سٹاف کے اقتصادی معاشرتی اخلاقی حالت کو بہتر بنانا اسلامی معاشرے میں صحیح مقام دلانا ممبران کو برصغیر کی عملی سیاست سے دور رکھنا وقت ضرورت حسب تقاضائے حالات قانونی مدد کرنا کسی بھی ممبر کے ساتھ کسی بھی ممبردار کے ساتھ نا انصافی، الجھن اور زیادتی کا سدباب کرنا اور رکھن تحفظ دینا۔ اس کے علاوہ ایسے تمام کام کرنا جن سے پیرامیڈیکل سٹاف کے حقوق کی حفاظت اور بہتری مقصود ہو، ایسوسی ایشن اپنے ممبران کی آمدنی میں شراکت میں اضافے کے لئے قانون کے اندر رہتے ہوئے جائز ذرائع بھی تلاش کرے گی۔ تاکہ ان کے / ان کی معاشی حالت درست ہو۔ اور ساتھ ہی ان کی معاشرتی اور اقتصادی حالت کو سونوارنے کیلئے منصوبہ بندی کرنا شامل ہوگی۔

دفعہ 3 ایسوسی ایشن :- ڈائریکٹر محکمہ صحت صوبائی پیرامیڈیکل ایسوسی ایشن کا پٹر ان ہوگا PMA-1 dated Pesh. the 03/10/92

دفعہ 4 ممبرز شپ :- پیرامیڈیکل سٹاف کا ہر وہ ملازم جو سیلکھ ڈیپارٹمنٹ کے ممبرانٹ اسٹیبلشمنٹ (Establishment) کے ذمے میں آسکتا ہے۔ (سروریلوٹ) دونوں ممبر بن سکتے ہیں۔

- (i) پیرامیڈیکل سٹاف ایسوسی ایشن کا متعلقہ ممبر ممبر شپ فارم پُر کر کے ایسوسی ایشن کے ممبر بن سکتے ہیں۔
- (ii) ممبر شپ فارم پُر کرتے وقت فیس داخلہ 50 روپیہ اور ماہانہ چندہ دس روپیے ادا کرنا ہوگا۔ نیر ممبر شپ ایک دفعہ دے گی۔
- (iii) ایسوسی ایشن کے ممبر کو ایسوسی ایشن ہذا کے تمام شرائط، قواعد و ضوابط کی پابندی کرنا لازمی ہوگی۔
- (iv) ممبر شپ کا فیس کا پاس فیصد حصہ ممبر فیلچ / ایجنسی / سید کوٹری ہسپتال صوبائی ایسوسی ایشن کو دینے کا پابند ہوگا اور ممبر شپ کا ریکارڈ صوبائی تنظیم کے حوالہ کرے گا جس پر صوبائی تنظیم سسر دار ممبر جاری کرے گی۔
- (v) ممبر شپ سے گریڈ چارجنگ کیلئے ممبر شپ ہوگا / ہوگی، مگر پُر پانچ سے گریڈ امتحانہ تک کیلئے ممبر شپ ہوگا / ہوگی۔

پیرامیڈیکل سٹاف کے (Establishment) کے ذمے میں آتا ہو ممبر بن سکتے ہیں۔

ذیلی دفعہ 2 :- E.P.A سٹاف اور لیریا سٹاف پیرامیڈیکل ایسوسی ایشن کے ممبر بن سکتے۔ اور نہ ان کو ممبر بننے کی اجازت ہوگی۔

29

صوبائی کابینہ مندرجہ ذیل عہدیداران پر مشتمل ہوگی۔

- (۱) صدر (۲) سینیئر نائب صدر (۳) نائب صدر اول (۴) نائب صدر دوم (۵) سیکرٹری جنرل (۶) ایڈیشنل سیکرٹری جنرل
- (۷) جوائنٹ سیکرٹری (۸) فنانس سیکرٹری (۹) پریس سیکرٹری (۱۰) آفس سیکرٹری (۱۱) ریلیٹ سیکرٹری

[Handwritten signature]

changes in clause 09 may be considered as communicated in letter No 50(SW) 6-35/92 dated 22.4.92 and the 07.10.92

صوبائی کابینہ مندرجہ ذیل عہدیداران پر مشتمل ہوگی۔ بشرطیکہ منتخب ہونے پر صوبے کے سینیئر عہدیداران میں اپنی تبدیلی کرانے کا رگ۔ یا اگر اس کا پوسٹ سٹیڈ کو آرڈر میں نہ ہو۔

توزیدیک ترین اسٹیشن کو اپنا تیا دلہ کرانے کا رگ ایسا کرنا لازمی ہے۔ یہ صورت پیرا میڈیکل سٹاف کی سہولت کے خاطر ہے اگر ایسا نہ کیا گیا تو تین مہینوں کے اندر اندر اس کا عہدہ خود بخود ختم تصور ہو جائے گا اور پھر دوبارہ الیکشن ہوگا اسی عہدے پر

خاص کر پیرا میڈیکل عہدیداران (۱) صدر (۲) سیکرٹری جنرل (۳) فنانس سیکرٹری (۴) آفس سیکرٹری (۵) پریس سیکرٹری (۶) ریلیٹ سیکرٹری (۷) جوائنٹ سیکرٹری

موجود ہونا از حد ضروری ہے۔ ڈیپارٹمنٹ کے افسران بالا میں ان عہدیداروں کو سینیئر عہدیداروں میں رکھنے کے پابند ہوں گے۔

صوبائی کابینہ - ڈویژنل کابینہ - ضلعی/ایجنسی/سٹیڈ کو آرڈر ہسپتال کابینوں کے اختیارات اور حدود کار۔

صوبائی کابینہ اپنے ممبروں کی انفرادی اور اجتماعی تکالیف کوئی الامکان رفع کرنے کے لئے ہر وقت کوشاں رہے گی۔

PROVIDED THAT THE SECRETARY TO GOVT. MEDICAL SERVICES DEPT. IS NOT A MEMBER OF THE BOARD.

(ii) ضلعی کابینہ اپنے ممبروں کی مقامی تکالیف اور سرکاری انتظامیہ کی جانب سے کسی غیر قانونی اور انسانی عزت نفس کے خلاف کام سے سید باب کی کوشش کرے گی۔

(iii) ضلعی کابینہ دستور میں دیئے گئے وجوہات کی بنا پر دستور نہ کے مطابق ضلع کے تمام ممبران کے خلاف تادیبی کارروائی کرنے کی مجاز ہوگی۔

(iv) ہر ممبر کو اپنے خلاف تادیبی یا انضباطی کارروائی کے حکم کے خلاف ضلعی کابینہ سے اپیل کا حق حاصل ہوگا۔ اگر ضلعی کابینہ اس کا اپیل مسترد کرے تو پھر اس کو ڈویژن اور بعد میں صوبائی کابینہ سے اپیل کرنے کا حق حاصل ہوگا ہر ممبر کو

(v) صوبائی کابینہ کا فیصلہ آخری اور قطعی ہوگا۔

(vi) اگر کوئی ضلعی کابینہ ضلعی کابینہ سے کسی تادیبی صورت میں ڈویژنل حدود اور بعد میں صوبائی حدود سے مداخلت کی اپیل کی جاسکتی ہے۔

(vii) ضلعی کابینہ کوئی ایسا اقدام کرنے کی مجاز نہ ہوگی جو کہ ڈویژنل یا صوبائی کابینہ کے اختیارات کے خلاف ہو یا دستور کی خلاف ورزی ہو۔

(viii) ضلعی کابینہ ہر کام میں ڈویژنل اور صوبائی کابینہ کے فیصلوں کی پابند ہوگی۔

(ix) ضلعی کابینہ ضلعی مطالبات کے بارے میں ضلعی حکام سے گفت و شنید کرنے کے واہدہ ذمہ دار ہوگی۔

ذیل دفعہ میں صوبائی کابینہ کے اختیارات و حدود کار:-

ایجنسی کابینہ کے اختیارات و حدود کار وہیں ہوں گے جو ضلعی کابینہ کے بھی ہوں گے۔

سٹیڈ کو آرڈر ہسپتال کابینہ کے اختیارات و حدود کار:-

ذیل دفعہ میں ڈویژنل تنظیم کے اختیارات و حدود کار:-

(i) ڈویژنل تنظیم کابینہ اپنے تمام ڈویژنل ممبروں کو اگر ضلعی کابینہ/ایجنسی کابینہ/سٹیڈ کو آرڈر ہسپتال کابینہ سے ان کی تمام تکالیف انفرادی، اجتماعی مسئلوں میں ناکام رہی، متنازعہ کے حل کرنے میں مداخلت کریگی

(ii) ضلعی، ایجنسی، سٹیڈ کو آرڈر ہسپتال کابینہ کی طرف سے دی گئی کسی بھی درخواست پر غور کریگی اور فیصلہ دے گی۔

(۱۱) ڈویژنل کابینہ ڈویژنل مطالبات ڈویژنل حکام سے گفت و شنید کرنے کے واحد ذمہ دار ہوگی۔

(۱۲) ضلعی ایجنسی، ہیڈ کوارٹر ہسپتال اور ڈویژنل کابینہ کو یہ اختیارات برقرار رکھنا چاہئے کہ وہ ڈائریکٹر سیکرٹری سٹیٹ چیف سیکرٹری، وزیر اور وزیر اعلیٰ اور برصغیر اور دیگر حکام بالائے گفت و شنید کرے۔ اگر ایسا کیا گیا تو وہ اپنے اختیارات سے تجاوز کرے گا اور اس کے خلاف تادیبی کارروائی کی جائے گی۔

ذیلی دفعہ ۷ صوبائی کابینہ کے اختیارات دھرو دکارہ۔

(۱۳) صوبائی کابینہ، ضلعی، ایجنسی، ہیڈ کوارٹر ہسپتال، ڈویژنل کے کابینہ کے کسی بھی فیصلہ کو بطور نگران اعلیٰ کا عدم قراردادیکر منسوخ کر سکے گا یا اس میں ترمیم بھی کر سکے گا۔

(۱۴) صوبائی کابینہ، ضلعی، ایجنسی، ہیڈ کوارٹر ہسپتال، ڈویژنل کے کابینہ کے کسی بھی فیصلہ کی خلاف ورزی کی گئی، اپیل پر غور کر سکے گا اور فیصلہ دے سکے گا۔

(۱۵) صوبائی کابینہ کے کسی بھی فیصلہ یا فیصلوں کے خلاف صوبائی ایگزیکٹو باڈی سے اپیل کی جاسکے گی۔ جو کہ پندرہ دن کے اندر داخل کی جاسکے گی اور ایگزیکٹو باڈی کا سادہ اکثریتی فیصلہ آخری ہوگا۔

(۱۶) صوبائی کابینہ کے فیصلہ یا فیصلوں کی پابندی تمام ایمریٹریکل سٹاف کے میمبروں، ضلعی، ایجنسی، ہیڈ کوارٹر ہسپتال ڈویژنل کی کابینوں پر لازمی ہوگی۔

(۱۷) صوبائی کابینہ ایسی ایجنسیوں کے مشترکہ مطالبات پر حاکم بنا کر سے گفت و شنید کرنے کی واحد ذمہ دار ہوگی۔

(۱۸) ایسی ایجنسیوں کی دستوری اور قانونی ذمہ داری صوبائی کابینہ پر ہوگی۔

(۱۹) ایسی ایجنسیوں کے دستوری اور قانونی اختیار صوبائی تنظیم کو ہونگا۔

(۲۰) صوبائی کابینہ، ضلعی، ایجنسی، ہیڈ کوارٹر ہسپتال یا ڈویژنل کی کابینہ کی کوئی بھی ذمہ داری عارضی یا مستقل طور پر سونپ سکے گی۔

ذیلی دفعہ ۸ - تادیبی کارروائی کے سلسلہ میں متعلقہ فرد/افراد کو اپنے خلاف عائد کردہ الزام/الزامات کے رد کے لئے صفائی کا مکمل اختیار حاصل ہوگا۔ اور اس ضمن میں جو بھی ثبوت الزام الیہ پیش کرنا چاہے کر سکے گا۔ تادیبی کارروائی کلی طور تحریری ہوگی اور ترمیم پیش کردہ شہادت بھی باقاعدہ تحریر کی جا کر مکمل ریکارڈ کو ہم سال عرصہ کے لئے محفوظ رکھا جائیگا۔

ذیلی دفعہ ۹ - میٹھا داپیل - ہر سطح پر تادیبی کارروائی کے سناٹے جانے کے ۱۵ دن کے اندر متعلقہ فرد اپنی سزا کے خلاف اپیل دائر کرے گا۔ واضح رہے کہ سزا کا فیصلہ تحریری طور پر متعلقہ شخص کو فیصلہ سنانے کے بعد ہی دیا جائیگا۔ اگر کسی وجہ سے فیصلہ کی نقل حاصل نہ کر سکا۔ تو اس صورت میں زائد المیعا داپیل داخل کرتے وقت ہمراہ اپیل ایک درخواست ہمراہ معافی میٹھا داخل کرے گا۔ جس میں وہ جملہ وجوہات مذکور ہونگے۔ جو کہ ہر وقت اپیل کے ادخال میں مانع ہوتے ہیں اور اگر ایسی فورم نے سفمانہ مواپری سوچ میں مذکورہ وجوہ کو معقول اور کامل سمجھے تو زائد المیعا دی کو درگزر کر کے اپیل کی سماعت کرتے ہوئے اپنا فیصلہ سنائے گا۔ جس میں ایسی فورم حکم معترضہ کو منسوخ کرنے اس میں ترمیم کرنے یا اسے بحال رکھنے کی مجاز مختار ہوگی۔

دفعہ ۱۱ صوبائی ایگزیکٹو باڈی کی تشکیل

ذیلی دفعہ ۱۲ صوبائی کابینہ کے تمام ممبروں

(۱) تمام ضلعی، ایجنسیوں، ہیڈ کوارٹر ہسپتالوں، ڈویژنل کابینوں کے تمام صدور یا جنرل سیکرٹری صاحبان پر

مستقل ہوگی

وضاحت

ضلع کے تمام صدر اور جنرل سیکرٹری سے ضلعی/ایجنسی/ہیڈ کوارٹر/ڈویژن کی سطح پر کابینہ کے منتخب صدر اور جنرل سیکرٹری صاحبان مراد ہیں صوبائی ایگزیکٹو باڈی کی تشکیل یہ طریقہ اس لئے اختیار کیا گیا ہے کہ پیرامیٹر لیکل سٹاف کے برابر ہی ڈپٹی سیکرٹری ضلع ہسپتالوں کے پورے چھوٹے ٹکڑوں میں بھی ہوئی ہے۔ اور اس وجہ سے ایک ہی وقت ایک ہی دن میں ایک ہی جگہ پر کئی اکٹھی نہیں ہو سکتی ہے۔ یہ صرف عوام کی خاطر کی گئی ہے۔ کیونکہ ہمارا واسطہ زیادہ تر دکھی انسانیت کے ساتھ ہوتا ہے۔ کہ ہماری وجہ سے عوام کو زیادہ تکلیف نہ پہنچے۔ لیکن اس طریقہ سے تشکیل پائی ہوئی ایگزیکٹو باڈی منتخب نمائندوں پر مشتمل ہوگی۔ اس لئے اس کی نائنہ حیثیت ہوگی۔

ذیلی دفعہ ۲ صوبائی ایگزیکٹو باڈی کے اختیارات و فرائض :-

- (۱) صوبائی ایگزیکٹو باڈی ایسوسی ایشن ہڈ کے جذب امور میں مختار عمل ہوگی۔
- (۲) صوبائی ایگزیکٹو باڈی صوبائی کابینہ کے فیصلوں کو کالعدم کر سکے گی۔

(۳) صوبائی ایگزیکٹو باڈی اپنے صوبائی صدر اور سیکرٹری جنرل کی نئی مدت عدم اعتماد کی تحریک پر منظور کرنے اور فیصلہ دینے کی مجاز ہوگی۔

(۴) صوبائی ایگزیکٹو باڈی صوبائی کابینہ کی آرڈر شدہ سالانہ افراجات کی منظوری بھی دے گی۔

ذیلی دفعہ ۳ (۱) صوبائی کابینہ اور صوبائی ایگزیکٹو کے ممبر صوبائی ممبرانوں کے انتخابات تک صوبائی ایگزیکٹو باڈی کے ممبر رہیں گے۔ بشرطیکہ ان سے کوئی بھی آئندہ انتخابات میں حصہ نہ لینا چاہتا ہو۔ بصورت دیگر اس کا مہدہ ایگزیکٹو باڈی سے ختم تصور ہوگا۔

(۲) انتخابات کے بعد یا ضمنی انتخابات کے بعد صدر یا لاخفوق نے منتخب ممبرانوں کے ممبر یا ممبروں کو حاصل نہیں گے۔

(۳) انتخابات کے بعد سابق صوبائی کابینہ کے تمام ممبرانوں اور ممبروں کے تمام اختیارات جو اسے حاصل تھے، خود بخود ختم ہو جائیں گے۔

(۴) یہ اطلاع ضلع-ایجنسی-ہیڈ کوارٹر اور ڈویژن کے ممبرانوں پر بھی ہوگی۔

دفعہ ۳ صوبائی ممبرانوں کے فرائض و اختیارات :-

ذیلی دفعہ ۱ (۱) صوبائی صدر ایسوسی ایشن کے جذب امور کے نگران عملی ہوگی۔

(۲) ایسوسی ایشن ہڈ میں شامل تمام تعلقوں-ایجنسیوں-ہیڈ کوارٹر-ہسپتالوں اور ڈویژن کے کابینوں کو ایسوسی ایشن کے معاملات میں ہدایات دے سکیں گے۔

(۳) ضلع-ایجنسی-ہیڈ کوارٹر اور ڈویژن کے کسی بھی ممبر یا تمام کابینہ سمیت ممبر یا ممبروں کو کسی بھی بد عنوانی یا انتظامی دستخطی، انتظامی گڑبڑ یا ان کا آپس کی نا انصافی پر جو ایسوسی ایشن کے مفاد کے خلاف ہو معطل کر سکے گا۔

(۴) معطل شدہ ممبر یا ممبر کی جگہ صوبائی کابینہ دوسرا ممبر یا ممبر نامزد کر سکے گی۔

(۵) صدر سیکرٹری جنرل کے مشورہ سے ایسی ضلع-ایجنسی-ہیڈ کوارٹر یا ڈویژن کیلئے جن کے ممبر یا ممبر معطل کر دیئے گئے ہوں نگران کابینہ نامزد کرنے کے مجاز ہوں گے۔

(۶) نگران کابینہ کے خدمت کار کر دی کسی بھی صورت میں ۱۰۰ دن یعنی پچھبیس سے زیادہ نہیں ہوگی۔

(۷) صدر سیکرٹری جنرل کابینہ کے مشورہ سے نگران کابینہ کیلئے اسات رکنی کونسل میں نامزد کرنے کے مجاز ہوں گے۔ جو کسی بھی صورت میں ۱۰۰ دن سے زیادہ نہیں ہوگی۔

(۸) صدر کو سیکرٹری جنرل کے مشورہ سے حکم نامہ کرنے کا اختیار ہوگا۔

(۹) صدر کا حکم اس وقت تک مؤثر و قابل قبول نہیں رہے گا جب تک ایگزیکٹو باڈی سے اس کو کالعدم قرار نہ دیا جائے۔

~~21~~

(27)

(X) صدر کے کسی بھی فیصلہ یا فیصلوں کے خلاف ایگزیکٹو باڈی سے اپیل کی جاسکے گی۔ بزکمز روز فیصلہ 5 اور اندر داخل ہر گا۔

(XI) صدر کوئی ایسا حکم نافذ کر سکیں گے جو دستور ہذا کی کسی شق یا ایگزیکٹو باڈی کے کسی فیصلہ یا فیصلوں کے خلاف ہو۔

(XII) صوبائی صدر تمام صوبائی کابینہ اور ایگزیکٹو باڈی کے تمام اجتماعات کی صدارت کر سکیں گے۔ ماسوائے وہ جبکہ دستور ممانعت کی ہو۔ صوبائی صدر تمام ضلعوں۔ ایجنسیوں۔ ہیڈ کوارٹرز۔ ہسپتالوں اور ڈویژنل کابینوں اور اجتماعات کی صدارت کر سکیں گے۔

(XIII) صدر کو کسی بھی اجتماع میں اظہار رائے کیلئے دو ووٹوں کا حق حاصل ہوگا۔

ذیلی دفعہ 2: سینیئر نائب صدر :- صدر کی غیر موجودگی میں صدر کے لحاظ سے اجلاس کی صدارت کریگا۔ صوبائی صدر کیسے ایسوسی ایشن کے فرائض انجام دینے میں مدد دینگے۔

ذیلی دفعہ 3: نائب صدر اول :- (i) سینیئر نائب صدر کی غیر موجودگی میں اختیارات ان کے پاس ہوں گے۔ صدر اور نائب صدر کے کام میں مدد دینگے۔ یا اور بھی جو کہ صدر ایسوسی ایشن کے کاروبار اور مزید بہتر مفاد میں ان پر فرائض عائد کریں گے وہ کام بھی انجام دیں گے۔

(ii) نائب صدر دوم :- نائب صدر دوم کے فرائض اور ڈیوٹی وہی ہوں گی جو نائب صدر اول کے ہیں۔

ذیلی دفعہ 4: سیکرٹری جنرل :- (i) سیکرٹری جنرل ایسوسی ایشن میں تمام ممبران کا فیصلے۔ ایجنسی۔ ہیڈ کوارٹرز۔ ڈویژنل وار الگ الگ فہرستیں رکھیں گے۔

(ii) تمام ضلعوں اور ایجنسیوں کے ممبروں کے مستقل و عارضی پتہ جات (ایڈریس) کیڈر اور دیگر کو آٹھ ایک رجسٹر میں درج کریں گے۔

(iii) ایسوسی ایشن کے مفاد میں ہر قسم کے اجتماعات بلائے اور ایجنڈا تیار کرنے کا ذمہ دار ہوگا۔

(iv) ہر اجلاس کی کاروائی، کاروائی رجسٹر میں درج کرنے کا ذمہ دار ہوگا۔

(v) تمام ضلعوں اور ایجنسیوں ہیڈ کوارٹرز ہسپتالوں اور ڈویژنل تنظیموں کو انتظامی معاملات میں ہدایات دیں گے۔ اور ایسوسی ایشن کے تمام خط و کتابت کا ذمہ دار ہوگا۔ اور ایسا کہی ریکارڈ محفوظ رکھے گا۔

(vi) سیکرٹری جنرل صدر کے مشورے سے کسی بھی ضلع ایجنسی یا ہیڈ کوارٹرز کی ایگزیکٹو باڈی کے اجلاس کو معطل کر سکتا ہے۔ ایک ممبر یا تمام ممبران کو بوجہ درخواست یا نامزد کر سکتا ہے۔

(vii) سیکرٹری جنرل کسی بھی ضلعی یا ایجنسی کے ایگزیکٹو باڈی کو بوجہ درخواست کر سکتا ہے۔

(viii) سیکرٹری جنرل صدر کے مشورے سے کسی بھی ضلعی۔ ایجنسی۔ ہیڈ کوارٹرز یا ڈویژنل کے ممبران کو ایسوسی ایشن ہذا کے منافی سرگرمیوں پر معطل کر سکتا ہے۔ اور اس کی جگہ ممبر نامزد کر سکتا ہے۔

ذیلی دفعہ 5: ایڈیشنل سیکرٹری جنرل :- (i) سیکرٹری جنرل کی غیر موجودگی میں سیکرٹری جنرل کے تمام اختیارات سنبھالنے کا۔

اور سیکرٹری جنرل کا دست راست (معاون) ہوگا۔ سیکرٹری جنرل کی ہدایت پر ان کے فرائض میں مدد دیں گے۔

جوائنٹ سیکرٹری :- (i) جوائنٹ سیکرٹری کی ڈیوٹی وہی ہوں گی جو ایڈیشنل سیکرٹری جنرل کی ہے۔

ذیلی دفعہ 6: سنیئر سیکرٹری :- (i) صوبہ کی تمام رقوم اپنی تحویل میں رکھے گا۔

(ii) جو کہ صوبائی کابینہ کے فیصلے کے مطابق پیر ایڈریٹل ایسوسی ایشن کے نام پر تمام رقوم بنک میں جمع کرے گا۔

(iii) آمدنی اور خرچ کا باقاعدہ رجسٹر میں درج کر کے ریکارڈ رکھے گا۔ نیز تمام دوچیز محفوظ رکھے گا۔

(vi) آمدنی اور خرچ کا سالانہ گوشوارہ تیار کرنے کا اور اس کی آڈٹ کرانے کا۔

(v) ضلعو ایجنسیوں ہیڈ کوارٹر اور ڈویژن کی آمدنی و خرچ کا آڈٹ بذات خود یا اپنے نمائندے کے ذریعے ایک ہفتہ کے نوٹس پر کرانے کا۔

(vi) خرابی کو بیک سے رقم نکالنے کیلئے اپنے دستخط کے ہمراہ صدر یا سیکرٹری جنرل اور دستخط لینا ضروری ہوگا۔ اور آڈٹ دونوں دستخطوں پر کئے گا۔

(vii) چیک بک خرابی کے توہین میں ہوگی۔

ذیلی دفعہ ۷: پریس سیکرٹری :- ایسوسی ایشن ہذا کے تمام نشر و اشاعت اور پریس میں بیانات اور اجلاس میں آخر کاروائی کے بیانات اور اطلاعات کا ذمہ دار ہوگا۔ اور جہد ریکارڈ اپنے پاس محفوظ رکھے گا۔

ذیلی دفعہ ۸: انس سیکرٹری :- سیکرٹری جنرل اور صدر کے ہدایات کے مطابق ایسوسی ایشن کے ریکارڈ کی حفاظت کرے گا۔

ذیلی دفعہ ۹: رابطہ سیکرٹری :- رابطہ سیکرٹری پریس سیکرٹری کا معاون ہوگا۔ اور اس کے ساتھ کام میں ہاتھ بٹائے گا اور تمام صوبے کے ساتھ رابطہ رکھے گا۔ تمام صوبے کو اطلاع میٹنگ کے سلسلے میں اس کی ذمہ داری ہوگی۔

ذیلی دفعہ ۱۰: ضلعی عہدیداروں کے فرائض و اختیارات :-

(i) ضلعی عہدیداروں کے فرائض و اختیارات اپنے اپنے ضلعوں کی حد تک مندرجہ ذیل فرق کے ساتھ دیے ہوں گے۔ جو صوبائی عہدیداروں کے ضلعوں پر ہیں۔

(ii) تمام ضلعوں کے تمام عہدیدار صوبائی عہدیداروں کے ہدایات کے پابند ہوں گے۔

(iii) ضلعوں کے صدر کو اپنی سرپرستی اور ضابطہ کی پابندی کرانے کا مکمل اختیار حاصل ہوگا۔

(iv) ضلعوں کے جنرل سیکرٹری اپنے اپنے ضلعوں کے ممبروں کی فہرست ضروری کوائف اور ڈپلیکیٹ ممبر شپ فارم صوبائی سیکرٹری جنرل کو ارسال کریں گے۔ اور ریکارڈ اپنے پاس رکھیں گے۔

(v) ضلع کا خرابی صوبے کے صدر کی رقم کو صوبائی کابینہ کو دینے کا پابند ہوگا۔

(vi) ضلعی خرابی اپنے ضلع کے چندے سے رس فیصد چندہ اپنے ڈویژن کے صدر کو دے گا۔ اور ۳۳ صوبائی خرابی کو دینے کا پابند ہوگا۔

ذیلی دفعہ ۱۱: ایجنسی ایسوسی ایشن کے عہدیداروں کے فرائض و اختیارات :-

ایجنسی عہدیداروں کے فرائض و اختیارات دیے ہوئے ہیں جو ضلع کے ہیڈ کوارٹر ہسپتالوں کے عہدیداروں کے فرائض و اختیارات ہیں۔

ذیلی دفعہ ۱۲: ڈویژن کے عہدیداروں کے فرائض و اختیارات :- (i) ڈویژن کے عہدیداروں کے فرائض و اختیارات اپنے اپنے ڈویژنوں کی حد تک مندرجہ ذیل فرق کے ساتھ دیے ہوئے ہیں جو صوبائی عہدیداروں کے ضلعوں اور ایجنسیوں اور ہیڈ کوارٹر ہسپتالوں پر ہیں۔

(ii) ڈویژن کے تمام عہدیدار ان صوبائی عہدیداروں کے ہدایات اور فیصلوں کے پابند ہوں گے۔

(iii) ڈویژن کے صدر ما جان کو اپنے ضلعوں، ایجنسیوں اور ہیڈ کوارٹر ہسپتالوں پر متعلقہ قوانین، ضوابط کی پابندی کرانے کا مکمل اختیار حاصل ہوگا۔

ذیلی دفعہ ۱۳: ایسیل تحریک عدم استماد :- (i) تحریک عدم اعتماد کی درخواست عہدیداروں کے علاوہ ایگزیکٹو باڈی کے ممبروں

Table with multiple columns and rows, likely a ledger or record book.

کے ممبروں کے دو تہائی افراد کے دستخطوں سے دی جاسکے گی۔

(vi) کابینہ کے ممبروں کے ساتھ اگر کوئی ممبر یا ممبرانہ تحریر کے ممبروں کے دستخط لازمی ہوتے۔
(vii) ضلع ایجنسی، سیدکوٹ اور ڈوئین اور صوبائی ممبر یا ممبرانہ کے ممبروں کے خلاف جس باڈی کو بھی یعنی ضلع، ایجنسی، سیدکوٹ اور ڈوئین اور صوبائی باڈی ہو۔ دستور ہذا کے مطابق عدم اعتماد درخواست پر غور کرنے کا اختیار ہوگا۔ عدم اعتماد کی درخواست اس باڈی کے صدر کو دی جائے گی۔ ماسوائے اس کے دستور ہذا کی کسی اور طریقہ کی وضاحت کی ہو۔

(viii) عدم اعتماد کی درخواست وصول ہوتے ہی متعلقہ صدر پندرہ دن کے اندر اندر متعلقہ باڈی کا اجلاس طلب کرے گا۔

(ix) اگر کابینہ میں گورنر، سیکرٹری اور ایسوسی ایشن پریزیڈنٹ کیلئے مسٹاف کے متنازعہ کے لئے کام نہیں کر سکتا تو پھر کابینہ میں بھی اس سے عدم اعتماد کا نوٹ پاس ہو سکتا ہے۔ اس میں ایگزیکٹو کو ضرورت نہیں ہوگی۔

(x) جس ممبر یا ممبرانہ کے خلاف درخواست دی گئی ہو۔ متعلقہ صدر اجلاس کے دن تاریخ وقت سے اس ممبر یا ممبرانہ کو تحریری طور پر مطلع کرے گا۔
(xi) جس ممبر یا ممبرانہ کے خلاف درخواست دی گئی ہو اس کو عدم اعتماد کی درخواست میں لگانے کے لئے تمام الزامات کے جوابات اور حقائق پیش کرنے کا حق ہوگا۔ مگر نوٹ دینے اور حذرت کرنے کا حق نہیں ہوگا۔ تحریک عدم اعتماد منظور ہوجانے کی صورت میں متعلقہ ممبر یا ممبرانہ کو اس وقت سے اپنے ممبرانہ سے برطرف سمجھا جائے گا۔

(xii) برطرف شدہ ممبر یا ممبرانہ کی جگہ اگر صدر نے تو سینیئر نائب صدر وغیرہ وغیرہ۔ یعنی بلحاظ ممبرانہ دوسرے نمبر کا ممبر یا ممبرانہ عارضی طور پر کام کرتا رہے گا۔ یہ ممبرانہ انتخابات سے 40 دن (ساتھ دن) کے اندر پر کیا جائے گا۔

(xiii) اگر صدر کے علاوہ اور ممبرانہ برطرف ہو جائیں تو ایسی صورت میں ایسی اجلاسیں جس میں فیصلہ ہوا ہو اس کا پابندی نہیں ہے۔ ممبر یا ممبرانہ کو برطرف شدہ ممبر یا ممبرانہ کی جگہ عارضی طور پر نامزد کیا جاسکتا ہے بعد میں یہ ممبرانہ انتخابات سے برطرف کیا جائے گا۔

(xiv) اگر کوئی بھی ممبر یا ممبرانہ ضلعی، ایجنسی، سیدکوٹ اور ڈوئین یا صوبائی ہو۔ ماسوائے صدر اور جنرل سیکرٹری کے استعفیٰ دینا چاہے تو تحریری طور پر اپنے اپنے صدر کو دینے کے لئے استعفیٰ وصول ہوتے ہی صدر کو فوراً اپنے کابینہ کا اجلاس پندرہ دن کے اندر اندر طلب کرے گا تاکہ مذکورہ استعفیٰ پر غور کریں۔ اور اس پر فیصلہ کیا جائے۔ ایسا کرنا صدر کو ضروری ہے۔

(xv) صوبائی صدر اگر استعفیٰ دینا چاہے تو صوبائی سیکرٹری جنرل کو تحریری طور پر دے گا۔ صوبائی سیکرٹری جنرل پندرہ دن کے اندر اندر صوبائی کابینہ اور ایسوسی ایشن میں شامل تمام ضلعوں اور ایجنسیوں کے سیدکوٹ اور ڈوئین کے کابینوں کے صدر اور ممبرانہ کا مشترکہ اجلاس طلب کرے گا تاکہ استعفیٰ پر غور کیا جاسکے اور فیصلہ ہو سکے۔

(xvi) صوبائی سیکرٹری جنرل اگر استعفیٰ دینا چاہے تو صوبائی صدر کو تحریری طور پر دینے کے اور شش ماہ (سندھ، بلوچستان، گلگت و بلتستان) کے ضلعوں، ایجنسیوں، سیدکوٹ اور ڈوئین کے صدر و ممبرانہ اگر استعفیٰ دینا چاہیں تو وہ اپنا استعفیٰ صوبائی صدر کو دینے کے ساتھ صوبائی صدر کو ضروری ہے استعفیٰ وصول ہوتے ہی صوبائی کابینہ اور اس ضلع، ایجنسی، سیدکوٹ اور ڈوئین کے صدر اور ڈوئین کابینہ کا مشترکہ اجلاس طلب کریں گے۔ تاکہ اس پر غور ہو سکے اور فیصلہ دے سکے۔ ایسا کرنا صوبائی صدر کو ضروری ہے۔

(xvii) اگر صدر کو ممبرانہ جنرل سیکرٹری کے ایک مرتبہ استعفیٰ مسترد کرنے کا اختیار ہوگا۔ لیکن اگر دوسری مرتبہ بھی استعفیٰ پیش کیا گیا تو صدر کو ضروری ہے استعفیٰ منظور کرنا اور اجلاس بلا کر لازمی ہوگا۔

30

ذیلی دفعہ ۷۱: جس کے استعفیٰ پر غور ہو گا اس کو اجلاس کی صدارت کرنے کا حق نہیں ہو گا۔

ذیلی دفعہ ۷۲: جسے ایک استعفیٰ منظور نہیں ہوا استعفیٰ دینے والا بدستور کام کرتا ہے۔

ذیلی دفعہ ۷۳: اگر فیصلہ کرنے والی باڈی نے استعفیٰ منظور کر لیا ہو تو ایسی صورت میں استعفیٰ دینے والے کو اس فیصلہ کو تسلیم کرنا پڑے گا۔

ذیلی دفعہ ۷۴: (۱) استعفیٰ منظور ہوجانے کے بعد خالی جگہ کو پُر کرنے کا طریقہ وہی ہوگا۔ جو کہ دستور میں عدم اعتدال کی تشریح سے خالی ہونے والی جگہ کا ہے۔ اور اسی طریقہ پر عمل درآمد کے لئے وہ تمام اختیارات جو کہ عدم اعتدال کی تشریح پر غور کرنے اور فیصلہ

کرنے والی باڈی کو دستور ہذا کے مطابق حاصل ہیں وہی اختیارات استعفیٰ منظور کرنے والے باڈی کو بھی ہوں گی۔

(۲) ضلعی ایجنسی ہیڈ کوارٹر یا ڈویژن اور صوبائی کابینہ کے نامزد ممبر اگر استعفیٰ دینا چاہیں تو اپنے اپنے صدر کو تحریری استعفیٰ دیں گے۔

اور مذکورہ صدر صاحبان کو ان کے استعفیٰ منظور کرنے یا مسترد کرنے اور ان کی جگہ پر دوسرا ممبر نامزد کرنا اختیار ہوگا۔

(۳) اگر کوئی ممبر یا راجسٹیبلٹی پرنسپل یا ایجوکیشنل آفیسر یا کسی جگہ عارضی طور پر آدمی لیا جائے گا۔ صدر اور سیکرٹری بذیل اس کے مشورے سے مشورے سے

ذیلی دفعہ ۷۵: ممبر بننے کی اہلیت۔ نا اہلیت ممبروں کے حقوق اور قانونی مشیر۔

ذیلی دفعہ ۷۶: دستور ہذا میں دیئے گئے ہر کیڈر میں کام کرنے والا ایسوسی ایشن کا ممبر بن سکتا ہے۔ ایسے اہلکار (افراد) ایسوسی ایشن

ہذا کے ممبر نہیں بن سکتے خواہ وہ دستور میں دیئے گئے کسی بھی کیڈر سے تعلق رکھتے ہوں جو کسی ایسی ایسوسی ایشن کے ممبر ہوں

جس کے اغراض و مقاصد اور طریقہ کار ایسوسی ایشن ہذا سے مختلف ہوں اور اس تنظیم سے علیحدہ ایسوسی ایشن ہو۔

ذیلی دفعہ ۷۷: ممبروں کے حقوق: (۱) ایسوسی ایشن کا ممبر جو باقاعدہ چھوڑا اور اس کا حق ہو سکتا ہے۔ صدر یا راجسٹیبلٹی پرنسپل یا ایجوکیشنل آفیسر

ہیڈ کوارٹر۔ ڈویژنل یا صوبائی ہوا ایک ہفتہ کی تحریری نوٹس پر مشتبہ اور آئین و خروج کا رجسٹر اڈانہ کر کے آئے۔

اگر ضلعی رجسٹر ہو تو ضلعی صدر ایجنسی ہو تو ایجنسی صدر۔ ہیڈ کوارٹر ہیڈ کوارٹر مشتبہ آئے کے صدر۔ ڈویژنل ہیڈ کوارٹر

صدر یا صوبائی ہیڈ کوارٹر صدر کو درخواست دے گا۔ صوبائی ممبر مشتبہ کا رجسٹر اور آئین و خروج کا رجسٹر ضلعی ایجنسی

ہیڈ کوارٹر اور ڈویژنل یا صدر یا جنرل سیکرٹری ملاحظہ کر سکتا ہے۔ ان کے ممبر

(۲) ایسوسی ایشن کا ممبر جو چھوڑا اور اس کے اپنے اپنے ایگریگٹو باڈی کی ٹیکنیک میں کوٹ دینے کا اہل ہوگا۔ صدر کی اجازت سے

وہ کسی بھی قسم کا سوال جو کہ ایسوسی ایشن سے متعلق پوچھ سکتا ہے۔ اور اپنا ہر قسم کی تکلیف خواہ وہ اس ادارے

سے ہو جس میں وہ ملازم ہو۔ خواہ ذاتی ہو صدر سے رجوع کر سکتا ہے۔

ذیلی دفعہ ۷۸: قانونی مشیر: (۱) ایسوسی ایشن کا ایک قانونی مشیر ہوگا۔ ہر ذیلی قانونی کارروائی جو صوبائی صدر یا سیکرٹری

جنرل قانونی مشیر کو کرنے کے لئے دینگے اس کے مطابق قانونی مشیر کا قانونی کرنے کا۔

(۲) قانونی مشیر کے لئے الاؤنس یعنی ماہانہ فیس وغیرہ کا فیصلہ صوبائی کابینہ کرے گی۔

دفعہ ۷۹: ایسوسی ایشن کا ریکارڈنگ (۱) ضلع۔ ایجنسی۔ ہیڈ کوارٹر ڈویژن اور صوبائی ریکارڈنگ متعلقہ سیکرٹری جنرل

کے تحویل میں ہوگا۔

(۲) ضلع کے ممبر مشتبہ فارم مذکورہ ضلع یا ایجنسی کے جنرل سیکرٹری کے پاس ہوں گے۔ جبکہ اس کی ڈیپلیٹ کیٹ کا پی او اور

نہرست صوبائی سیکرٹری جنرل کے پاس ہونگے۔ ضلعی اور ایجنسی ہیڈ کوارٹر کے جنرل سیکرٹری ممبر مشتبہ فارم کے ساتھ ایک

رجسٹر میں ممبر کا نام ولدیت، عارضی، مستقل پتہ جات کی گوری کا نام درج کرے گا۔ صوبائی سیکرٹری ممبران

اپنے ضلعوں اور ایجنسیوں، ہیڈ کوارٹر ہسپتال کے تنظیموں سے موصولہ ممبروں کو اپنے رجسٹر میں درج کرے گی۔

۳۳

اور اس پر سلسلہ وار نمبر شپ جاری کرنے کا اور متعلقہ ضلعوں ایجنسیوں اور سپر کوارٹر کے جنرل سیکرٹریوں کو آگاہ کرے گا۔

دفعہ ۲۱ ایسوسی ایشن کا فنڈ :- (i) رکنیت کا فیس یعنی ممبر شپ کا فیس۔ ماہانہ چندہ، ہسٹوری چھوڑنے کی غلطیاں وغیرہ کی شکل میں حاصل کئے جائیں گے۔

(ii) ایسوسی ایشن کے فنڈ ضائع۔ ایجنسی۔ ہیڈ کوارٹر۔ ڈویژن ایک ہزار روپیہ اور صوبائی سطح پانچ ہزار روپیہ ہر سال کی صورت میں بینک میں جمع کریں گے۔

(iii) ایسوسی ایشن ہزاروں اکاؤنٹ صدر یا جنرل سیکرٹری اور فنانس سیکرٹری کے دستخط سے ہوگا۔

(iv) چیک پر فراہمی کے ساتھ صدر یا جنرل سیکرٹری کے دستخط لازمی ہوں گے۔

(v) روزمرہ کے اخراجات کے لئے صوبائی صدر پانچ سو روپے، صوبائی سیکرٹری جنرل چار سو روپے، پینے کی بوتلی اور خزانچی تین سو روپے، یومیہ نقد اپنے پاس رکھ سکیں گے۔

(vi) آفیس، ایجنسی، ہیڈ کوارٹر، ہسپتال اور ڈویژنل کے صدر تین سو روپے، یومیہ جنرل سیکرٹری اور خزانچی دو سو روپے یومیہ اپنے پاس رکھ سکیں گے۔

دفعہ نمبر ۲۲۔ ایسوسی ایشن کے فنڈز مندرجہ ذیل مدارات پر خرچ ہو سکیں گے۔
ذیلی دفعہ (i)۔ راجہ آٹو پیٹر کا فیس

(ii)۔ راجہ احمد یاروں کے ایسوسی ایشن کے سلسلے میں اخراجات

(iii)۔ بیماری، مشوری، عارضاتی اور مصیبت کے وقت میں امداد

(iv)۔ پمفلٹ، رسالہ، حیات، میگزین، پریسٹرز مختلف طباعت (اشاعت) کے اخراجات

(v)۔ سٹیشنری، ڈاک کے اخراجات، ٹیلی فون، ٹیلی گرام وغیرہ

(vi)۔ جلسہ رجسٹر، تقریبات

(vii)۔ یونین کے اہلکاروں کے مہمان نوازی پر خرچہ

(viii)۔ آفس کیلئے فیس وغیرہ

(ix)۔ دوری رینڈن ڈی ایسوسی ایشن، کی امداد، فیڈریشن کی فیس وغیرہ

(x)۔ راجہ ارقت نواتین کے مطابق اخراجات

(xi)۔ قانونی مشیر کی فیس وغیرہ اگر قانونی مشیر نہ ہو تو پھر دوسری صورت میں یونین کے مقدمات کے سلسلے میں وکیل کی فیس کی ادائیگی۔

ذیلی دفعہ ۲۔ اخراجات کی منگوری۔

(i)۔ صوبائی اخراجات کی منگوری صوبائی کابینہ اور ضلعی ایجنسی، ہیڈ کوارٹر، ہسپتال ڈویژن کے

اخراجات کی منگوری متعلقہ کابینہ سے کی جائے گی۔

76-

(vi) اگر آمدنی پچاس ہزار سے زیادہ ہو تو آرڈر چارٹرڈ اکاؤنٹنٹ سے کرایا جائے گا۔ بصورت دیگر صوبائی کابینہ کے صدر سیکرٹری، جنرل اور خزانچی پر مشتمل ایک کمیٹی، ان ایجنسیوں کے ایڈوائزڈ آرڈرز کے آرڈر کریشن کے۔ یا اگر صوبائی صدر مصروف ہو تو صوبائی کابینہ کے مشورے سے دوسرا ممبر نامزد کریں گے۔

(vii) سالانہ آمدنی و خرچ میں خستہ خود برد ثابت ہونے پر کسی بھی تنظیم میں متعلقہ صدر، جنرل سیکرٹری یا فنانس سیکرٹری کے خلاف دستور ہذا کے مطابق کارروائی کی جائے گی۔ تاہم یہی کارروائی خود برد اور متعلقہ عہدیدار سے معذوری خود برد کی رقم کی واپسی شامل ہوگی۔ اور ملک کے کسی بھی تازن کے تحت کارروائی شامل ہوگی۔

دفعہ ۲۳ فنانس کی تقسیم
(viii) ممبر شپ کی نیس مبلغ پچاس روپے ہوگی جس کی پچاس فیصد ۵۰ صوبائی کابینہ کرایا کیا جائے گا۔

(ix) ہر ضلع، ایجنسی، ایڈوائزڈ آرڈر ہسپتال اپنے فنڈ کا ۱۰٪ دس فیصد اپنے ڈویژن کرایا ۳۳ فیصد صوبائی کابینہ کرایا کرنے کا پابند ہوگا۔

(x) ہر ممبر یا کابینہ چندہ کی رسید طلب کریگا۔ اور اسے باقاعدہ رسید دی جائے گی۔

(xi) ضلع، ایجنسی، ایڈوائزڈ آرڈر ہسپتال کی کابینہ صوبائی کابینہ کو ہر مہینے کی ۱۵ (پندرہ) تاریخ تک چندہ دے گا۔ اور رسید وصول کرے گا۔

دفعہ ۲۴ انتخابات

(i) صوبائی اور ڈویژن کے انتخابات ایک ہی دن نہیں ہوں گے۔

(ii) انتخابات حقیقی بیلیٹ پیپر کے ذریعے ہوں گے۔

(iii) ہر ضلع، ایجنسی، ایڈوائزڈ آرڈر ہسپتال کا صدر صوبائی کابینہ کو ورٹ دینے کا حقدار ہوگا۔ خیبر میڈیکل کالج حیات شہید ہسپتال، ایڈوائزڈ آرڈرنگ ہسپتال، ایرب میڈیکل کالج (دیکلیکس)، حیات آباد کپلیکس یا اس ایڈوائزڈ آرڈر ہسپتال جہاں پر پیر میڈیکل سٹاف کی رجسٹرڈ نمبر ۱۰۰ دسویں ہوں اور دستور ہذا میں ایک ورٹ کی حیثیت سے ایس ایس ایشن بنانے کا حق دی ہو۔ تو ان کا صدر ورٹ دینے کا حقدار ہوگا۔

(iv) چونکہ صدر ہر ضلع میں مختلف ضلعوں، ایجنسیوں، ایڈوائزڈ آرڈر ہسپتال اور دیگر ممبر مختلف ہوتے ہیں۔ اس لئے ایک ہی دن پر الیکشن کرانا نامناسب ہے۔ اور مشکل ہے۔ اس لئے اس کی تاریخ کے خاطر ایسا نامکن ہے۔

۱۳

(۷) کابینہ کی میعاد چار سال ہوگی۔ اور ہر چار سال بعد الیکشن ہوا کرے گی۔ اور ایسی وقت سے کابینہ کی میعاد شمار ہوگی۔ جس تاریخ پر الیکشن ہوا ہو۔ تاہم الیکشن میں تاخیر ہونے کی صورت میں الیکشن کی تاریخ زیادہ سے زیادہ ۹۰ دن یعنی تین ماہ کی توسیع سے نہیں ہوگی۔ انتخابات کسی صورت میں ۹۰ دن یعنی تین ماہ سے زیادہ ملتوی نہیں ہوں گے۔

(۷۱) انتخابات کیلئے ایک الیکشن کمیٹی ایگزیکٹو باڈی کے اجلاس میں تشکیل دی جائے گی جس کا ایک الیکشن چیئر مین ہوگا۔ اور وہ مختار عمل ہوگا۔ اس کمیٹی میں ایک پریزیڈنٹ ایک آفیسر ایک سٹیٹ پریزیڈنٹ ایک آفیسر اور ڈپٹی آفیسر ہوں گے۔ ضلعوں، ایجنسیوں، ہیڈ کوارٹرز، سٹیٹوں کا الیکشن چیئر مین ہر ڈویژن کا صدر ہوگا۔ جبکہ وہ صوبائی صدر کو جواب دہ ہوگا۔ اس کے مشوروں کا پابند ہوگا۔ ضلعوں، ایجنسیوں، ہیڈ کوارٹرز، سٹیٹوں کے الیکشن صوبائی مجسٹریٹرن کابینہ کے زیر نگرانی ہوں گے۔ اور باقاعدہ صوبائی کابینہ سے اجازت طلب کرے گا۔ جس ضلع، ایجنسی، ہیڈ کوارٹر، سٹیٹ، یا کسی صوبائی کابینہ کے فرقی یا اجازت کے بغیر الیکشن منعقد کیا وہ الیکشن قابل قبول نہیں ہوگا۔ اور نہ صوبائی ایجنسی ایسٹ اس کے کسی فعل، کام، ذمہ دار ہوگا۔ اور نہ صوبائی الیکشن میں ووٹ پرل کر سکے گا۔ اور نہ ووٹ پرل کرنے کا حقدار ہوگا۔

(۷۱۱) انتخابی کمیٹی الیکشن سے ۳۰ دن پیش دن پہلے تشکیل دی جائے گی۔ اور انتخابات کا عمل مکمل ہونے کے بعد الیکشن کمیٹی کے اختیارات خود بخود ختم ہو جائیں گے۔
(۷۱۱۱) گریڈ ایک سے گریڈ (۴) چار تک علیحدہ انتخابات ہوں گے۔ اور علیحدہ ایجنسی ایشن ہوگا۔
(۱۸) گریڈ (۵) پانچ سے گریڈ اٹھارہ تک ایک علیحدہ ایجنسی ایشن ہوگی۔ اور علیحدہ انتخابات ہوں گے۔ اور ہر جیٹڈ میمورنڈم پرل کر سکے گا۔ یعنی پیرامیڈیکل سٹاف کا ہر جیٹڈ میمورنڈم ہوگا۔
دفعہ ۲۵ :- انتخابات ضابطے

(۱) صوبائی، ضلعی، ایجنسی، ہیڈ کوارٹر، سٹیٹ الیکشن کمیٹی اپنے اپنے انتخابی حلقوں کے مقرر کردہ انتخابی پروگرام کا اعلان کریں اور یہ اعلان ایگزیکٹو باڈی میں ہوگا۔
(۱۱) اعلان ایک مہینہ یعنی ۳۰ دن پہلے الیکشن کے دن سے کیا جائے گا۔
(۱۱۱) الیکشن کے تاریخ سے ۳۰ دن پہلے رجسٹریشن بند ہوگا۔ کسی قسم کا غیر رجسٹرڈ نہیں ہوگا۔ اور نہ غیر رجسٹرڈ شدہ میمورنڈم پرل کرنے کا حقدار ہوگا۔

(۱۷) امیدواروں سے درخواستیں الیکشن کی تاریخ سے ۱۵ دن پہلے وصول کیے جائیں گے یعنی کاغذات نامزدگی کے لئے کم از کم ۱۵ دن پیش ہوں گے۔
(۷) امیدواروں سے درخواستیں الیکشن چیئر مین وصول کریں گے۔

(vi) ایسوسی ایشن کا ہر وہ ممبر جو باقاعدہ چندہ ادا کرتا ہو۔ ضلع ایجنسی ہیڈ کوارٹر ہسپتال ڈویژن اور صوبائی کی ہر کھمبہ کے لئے درخواست دے سکتا ہے۔

(vii) ہر امیدوار اپنے درخواست پر خزانچی سے یہ باقی کی تصدیق کرائے گا بصورت دیگر

درخواست مسترد ہوگی۔ اور ساتھ ہی آخری مہینے کے چندے کا رسید منسلک کرتے کا پابند ہوگا۔

(ix) ہر درخواست دہندہ اگر درخواست واپس لینا چاہے تو ایکشن سے دس دن قبل واپس لے سکتا ہے۔

(x) ہر ورڈ خزانچی سے چندہ کی یہ باقی کی تصدیق حاصل کرے گا۔ بصورت دیگر ورڈ سپینے کا مستحق نہیں ہوگا۔

(xi) امیدواروں کے ناموں کا اعلان ایکشن سے دس دن پہلے کیا جائے گا۔

(xii) کوئی بھی امیدوار جسکی درخواست مسترد کر دی گئی ہو ۵ دن کی میعاد میں انتخابی کیشن کے پیرین سے درخواست کر سکتا ہے۔

(xiii) انتخابات کے بعد دس دن کے اندر اندر انتخابی کیشن کے چیرمین سے عذر داری کی درخواست کی جا سکتی ہے۔

(xiv) اپیل کنندہ کو ہر قسم کی دستاویزی ثبوت گواہوں کے نام تیزت میں پیش کرنے ہوں گے۔

(xv) کیشن کا فیصلہ حتمی ہوگا۔ اور اس کے خلاف کسی بھی ایگزیکٹو یا ڈی سے اپیل نہ کی جا سکتی گی۔

(xvi) صوبائی صدر ضلعوں ایجنسیوں، ہیڈ کوارٹر ہسپتالوں کا ایکشن کیشن کا چیرمین ہوگا۔ بشرطیکہ وہ خود ایکشن چیرمین نہ ہو۔ وگرنہ دوسرا ایکشن چیرمین مقرر کرے یا صوبائی صدر کے حکم کے مطابق ایکشن کیشن کا چیرمین اور مقرر ہوں گے۔

(xvii) صوبائی صدر اور سیکرٹری جنرل کے ہمدوں کے لئے ایکشن فیس ایک ہزار روپے ہوں گے اور باقی ہمدوں کے لئے ایکشن فیس پانچ سو روپے ہوں گے۔

(xviii) ضلع ایجنسی، ہیڈ کوارٹر ہسپتال ڈویژن کے صدر اور جنرل سیکرٹریوں کے ہمدوں کے لئے ایکشن فیس پانچ سو روپے اور باقی ہمدوں کے لئے تین سو روپے ہوں گے۔

(xx) کسی بھی امیدوار پر اعتراض داخل کرتے وقت ایکشن کے دوران فیس چھپیں روپے ہوگا جو ناقابل واپس ہوگا۔

(+) انتخابات بذریعہ بیلٹ پیپر اور بیلٹ بکس ہوں گے۔
دفعہ ۲۲- انتخابی کیشن (۲۰) صوبائی انتخابات کے لئے ایکشن متعلقہ صوبہ کی ایکریڈیٹو پارٹی تشکیل دینگے۔
جو تین ممبروں پر مشتمل ہوگی جس کا نگران اعلیٰ کیشن کا چیرمین ہوگا۔

(ii) امیدوار کی درخواست، مشرد ہونے کی اپیل کا فیصلہ کیشن کو انتخابات سے چار دن پہلے ہر حال میں کرنا ہوگا۔

(iii) انتخابات کے بعد عذر داری کو اپیل کا فیصلہ ہندو دن کے اندر اندر ہر حال میں کیشن کو کرنا ہوگا۔

35

(۱۶) ان کیش اپنی کاروائی کا طریقہ کار تعیین کرنے میں آزاد ہوگا۔ لیکن دستور صذا کے ضابطوں اور فیصلہ یا فیصلوں کے مطابق ہوگا۔

(۱۷) ایکشن کیشن انتخابی پروگرام کے وقت سے پہلے قائم ہوگا۔ اور کوئی اپیلی نہ ہونے کی صورت میں انتخابات دس دن کے بعد از خود ختم ہو جائے گا۔ لیکن اگر انتخابات کے معاملہ میں ایپیل کی گئی ہو تو پھر اپنے اجلاس پندرہ دن کے بعد (از خود ختم ہو جائیگی) لیکن کیشن کو اپنا فیصلہ ہر حال میں اپنی مدت ختم ہونے سے ایک روز پہلے دینا ہوگا۔

دفعہ ۲ ایسوسی ایشن کا کورم :- (۱۸) ایسوسی ایشن کے ہر اجلاس کا کورم متعلقہ ممبروں کی دو تہائی ہے۔ حاضر ممبروں پر مشتمل ہوگا۔ (۱۹) تمام فیصلے اکثریت رائے سے ہونگے۔ سوائے دستور میں ترامیم یا کسی ایسے فیصلے کے جسکی نشاندہی دستور بذرائع کر دی ہو۔

(۲۰) سنگائی صورت میں کسی بھی ایگزیکٹو باڈی کی اجلاس سات دن کی نوٹس پر بلا یا جاسکتا ہے اور ایسی طرح کا بینہ کی اجلاس اپنی سران کی نوٹس پر بلا یا جاسکتا ہے۔ سنگائی حالت میں کسی بھی وقت ایگزیکٹو باڈی یا کا بینہ کی اجلاس بلا جا سکتے۔

(۱۷) صوبائی ایگزیکٹو باڈی کا اجلاس ہر چھ مہینے کے بعد ہوگا۔

(۱۸) ضلعی ایجنسی۔ ہیڈ کوارٹر ہسپتال۔ ڈویژن۔ صوبائی کا بینہ کے اجلاس ہر مہینے ہوا کریں گے۔

(۱۹) ہر ضلع۔ ایجنسی۔ ہیڈ کوارٹر ہسپتال۔ ڈویژن اپنے صوبائی مطالبات ہر مہینے کی ۲۵ تاریخ سے قبل صوبائی سیکرٹری جنرل کو پہنچائینگے۔ اور وہ صوبائی اجلاس میں زیر غور آئیں گے۔ بصورت دیگر اگلے مہینے کے اجلاس میں شامل کیا جائے گا۔ پیشگی مطالبات کی شکل میں ضلعی یا ایجنسی۔ ہیڈ کوارٹر کی کا بینہ اپنا ایک با اختیار نمائندہ صوبائی اجلاس میں بھیج سکتا ہے۔

(۱۷) صوبائی ایگزیکٹو باڈی کا اجلاس ہر ڈویژن ہیڈ کوارٹر میں ہر چھ مہینے کے بعد باری باری بلایا جائے گا۔

(۱۸) صوبائی ایگزیکٹو باڈی کا اجلاس ہر سال ماہ دسمبر کو مرکزی صوبائی دفتر میں بلایا جائے گا۔ سنگائی اجلاس کس بھی وقت بلایا جاسکتا ہے۔

دفعہ ۲۸ دستور میں تو ایم ۱۔ (۱) دستور میں کوئی ترمیم نہیں ہوگا۔ تاہم کوئی اضافہ یا معمولی ردوبدل کیلئے صوبائی ایگزیکٹو باڈی کے دو تہائی ممبروں کی ووٹ کی منظوری سے ہوگا۔ (۲) ایگزیکٹو باڈی سے مراد ہاں ضلع۔ ایجنسی۔ ڈویژنل ہیڈ کوارٹر ہسپتال کے صدر صاحبان اور صوبائی کا بینہ کے صدر مداران مراد ہیں۔

(۱) ترامیم کی ضرورت ہو تو ایسی صورت میں ایگزیکٹو باڈی صوبائی کا بینہ اور قانونی مشیر متعلقہ ترمیم کرنے کے مجاز ہوں گے۔ (۲) فاسل منظوری ڈیپارٹمنٹ دے گی۔

دفعہ ۲۹ ایسوسی ایشن کی معزولی :- (۱) صوبائی ایگزیکٹو باڈی کے اجلاس میں جو کم از کم پندرہ روز کیہ نوٹس پر اس مقدمہ کے لئے بلایا جائے ایسوسی ایشن کے توڑنے کا فیصلہ دو تہائی اکثریت کیا جاسکتا ہے۔

(۱) ایسوسی ایشن توڑنے کا فیصلہ ہونے پر اسی اجلاس میں ایسوسی ایشن کے فنڈز اور دیگر اثاثوں کے متعلق بھی فیصلہ ہوگا۔

(۲) ہر انتخاب کے بعد تمام امیدوار تمام اختلافاً بغیر جوائنٹ کے دوران بیدار ہوتے ہوں یکر طور پر ختم کرینگے بکہ دونوں امیدوار پیرا میٹرک ایسوسی ایشن اور سٹاف دونوں کی نلاج و بہبود کے لئے کام کریں گے۔ جیتا ہوا امیدوار ایک امیدوار کی حیثیت سے اور ہار ہوا امیدوار عام ممبر کی حیثیت سے کام کریگا۔ اگر کوئی امیدوار انتخاب کے بعد اپنے حریف کے خلاف انتقامی کاروائی۔ ذہنی پریشانی یا ذاتی نقصان رسانی کا مرتکب پایا گیا اور ان پر نفسی یا جسمی تباہی ہوگی تو کا بینہ میں ان کا عہدہ اور رکنیت دونوں ختم کر دی جائے گی۔ اور اسے اپیل کی حق سے بھی محروم کر دیا جائے گا۔

یہ فیصلہ ہوگا۔ تاکہ کوئی امیدوار پر اپنے عہدہ سے ذاتی فائدہ اٹھا کر کسی کے متعلق انتقامی کاروائی اپنے ذہن میں

یہ لائے کیونکہ اس سے ایسوسی ایشن کے مفاد کو خطرہ پہنچنے کا اندیشہ ہو سکتا ہے۔

(۱۷) ہر کابینہ ضلع۔ ایجنسی۔ ہیڈ کوارٹرز ڈویژن اور صوبائی کے کسی عہدیدار پر شک گزرتا، کہ وہ پیر ایڈیٹریل تنظیم یا اس کے دونوں کے لئے کام نہیں کرتا اور ان کے خلاف سازشوں میں مصروف ہے۔ اجلاس میں باقاعدہ طور پر شرکت نہیں کرتا یا دوسری تنظیم سرگرمیوں سے منہ موڑنے کی کوشش کر رہا ہے تو کابینہ کا ایک سنگائی اجلاس صدر یا جسٹس سیکرٹری، بلاکرس یا فورڈ کرے گا۔ اگر پہلی یا جرم ثابت ہو جائے تو اس پر کابینہ عدم اعتماد کرے گا اور وہاں پہلے دو ٹوں کی اکثریت سے عدم اعتماد کرے گا، اور اس کو جرم ثابت کرنے کے لئے اسے اس پر اسے اکثریت سے منتخب کرنے کا۔

(۱۷) اگر کابینہ کے کسی عہدیدار خواہ وہ ضلعی ایجنسی۔ ہیڈ کوارٹرز سپر۔ ڈویژن یا صوبائی کی ہو مسلسل کابینہ کی تین اجلاسوں میں شرکت نہیں کیا تو وہ از خود اپنے عہدے سے ختم تصور ہوگا۔
دفعہ ۳۳ عہدیدار کی تبدیلی کی صورت حال :-

(۱) ایسوسی ایشن کے کسی بھی عہدیدار کو ایک جگہ سے دوسری جگہ تبدیل نہیں کیا جائے گا اگر وہ ہیڈ کوارٹرز سے دور ہو تو اس کو ہیڈ کوارٹرز یا قریب ترین سٹیشن کو تبدیل کیا جائے گا۔

۱۸- اگر متعلقہ ادارہ کسی بھی عہدیدار کو استقامی طور پر کسی دوسری جگہ تبدیل کرے تو ایسوسی ایشن اس کی ذمہ داری ہوگی۔

پرنسپل ایسا کرنے سے بد نظمی ہے چینی اور بے اتفاق کیساتھ ساتھ ایسوسی ایشن کے مفاد کو بھی نقصان پہنچے گا۔

(۱۹) صوبائی انتخابات کے بعد تمام عہدیدار پشاور کے ہیڈ کوارٹرز ڈیپٹی ریڈنگ ہسپتال میں خود بخود تبدیل ہو جائیں گے۔

اور کسی عہدیدار کی پوسٹ ہیڈ کوارٹرز ہسپتال ڈیپٹی ریڈنگ میں نہ ہر ان کو پشاور کے قریب ترین جگہ پر تبدیل کر دیا جائے گا۔

۲۰ اس طرح ہر ضلع، ایجنسی، ہیڈ کوارٹرز ہسپتال ڈویژن پر مشتمل نمبر (۱۱) کا اطلاق ہوگا۔ اور ڈیپارٹمنٹ اس پر سختی سے عملدرآمد کرے گا۔

دفعہ ۳۴ ایکشن کمیٹی

(۱) ہر سال شروع کرنے سے پہلے ایک ایکشن کمیٹی ایگزیکٹو کمیٹی باڈی بنائے گی، اس میں صدر سرگرمی تمام اضلاع، ایجنسیوں

ہیڈ کوارٹرز ہسپتالوں، ڈویژنل کابینوں سے ایک ایک نمبر لیا جائے گا، اور صوبائی کابینہ سے تمام عہدیداروں اس کے روبرو جائے گا۔

اس ایکشن کمیٹی کا سربراہ اور نگران اعلیٰ ایکشن کمیٹی کا چیئرمین ہوگا۔

۲۱ ہر سال کا فیصلہ صوبائی ایگزیکٹو کمیٹی کرے گا۔ ہر سال کے دوران تمام اختیارات ایکشن کمیٹی کو منتقل ہوجائیں گے، ہر سال اور

ہر سال ختم کرنے کا اعلان ایکشن کمیٹی کے چیئرمین اپنے ممبروں کے صلاح و مشوروں سے کرے گا، اس دوران صوبائی تنظیم کا ایکشن ختم ہو

جائے گا، جب ہر سال ختم ہوجائے تو ایکشن کمیٹی از خود ختم ہوجائے گی اور صوبائی کابینہ کو دوبارہ اختیارات حاصل ہوجائے گی، نیز ہر سال کے

دوران ایکشن کمیٹی سے کسی فیصلے کے خلاف کارروائی کرنے کا اختیار صوبائی ایگزیکٹو کمیٹی کو حاصل ہوگا۔

دفعہ ۳۵ ایکشن کمیٹی

ایکشن کمیٹی کے دوران جو نہیں ایکشن کمیٹی کے ساتھ جمع کئے جاتے ہیں، اس میں سے ایکشن کمیٹی کے اجراءات نکال کر باقی ماندہ

کو ۳۳ صوبائی کابینہ ۱۰ فیصد ڈویژنل کابینہ اور باقی ۵۷ فیصد جتنے ہوئے کابینہ کو دیں گے۔

۸۱-

دفعہ ۳۲ فیروز پور میں پیرامیڈیکل ایسوسی ایشن کے فرائض سے عوزی :-

ہر شخص پیرامیڈیکل سٹاف کا رولڈ نمبر ہو یعنی اس نے اپنا رولڈ نمبر اپنے فیلڈ ایجنسی میں کرنا چاہیے اور وہ پیرامیڈیکل سٹاف کے فرائض سے محروم ہوگا۔ اور نہ ایسوسی ایشن کو چاہیے کہ اس کا مدد کریں۔

دفعہ ۳۲ چیمبر میں :- (۱) صوبائی پیرامیڈیکل ایسوسی ایشن کا ایک چیمبر بنی ہوگا۔

(۲) صوبائی ایگزیکٹو کمیٹی کے اہل اس کا صدر بن کر گیا جن کی سربراہی کے فرائض صوبائی سیکرٹری جنرل سرانجام دے گا۔

(۳) کسی بھی تنظیم میں صدر پیدا ہونے کی صورت میں مصالحتی کردار ادا کرے گا۔

(۴) گریڈ I سے گریڈ ۱۸ تک تمام پیرامیڈیکل سٹاف کو منظم اور متحد کریگا۔

ذیلی دفعہ ۳۲ طریقہ انتخاب :- (۱) صوبائی ایسوسی ایشن کے بعد صوبائی کابینہ اور ڈیپارٹمنٹل صدر صاحبان صوبائی پیرامیڈیکل ایسوسی ایشن کا انتخاب کریں گے۔ (۲) چیمبر میں کا ہندہ صرف صوبائی سطح پر ہوگا۔ اور کسی بھی فیلڈ ایجنسی میں ایسوسی ایشن کو رولڈ نمبر دینا اور ڈیپارٹمنٹل سطح پر نہیں ہوگا۔

سراج الدین بڑکی

چیمبر میں آئین کی کمیٹی

صوبائی پیرامیڈیکل ایسوسی ایشن صدر ہونے پر

In the Peshawar High Court, Peshawar

Annex 'C'



Writ Petition No. 2643

Para-Medical Association
Khyber Pakhtunkhwa Health Department,
Government Lady Reading Hospital,
Peshawar,
through its President and General Secretary.

..... Petitioners

Versus

1. Government of Khyber Pakhtunkhwa,
Through Secretary to the Government,
Health Department, Health Secretariat,
Khyber Road, Peshawar.
2. Lady Reading Hospital (LRH),
Through Hospital Director,
Asmai Gare, Peshawar.
3. LRH Board of Governors,
Through its Chairman,
LRH, Peshawar.
4. Coordinator, Health Sector Reform Unit,
Health Department,
Government of Khyber Pakhtunkhwa,
Khyber Road, Peshawar.

..... Respondents

Writ Petition under Article 199

Of the Constitution of Islamic Republic of Pakistan, 1973

FILED TODAY
Deputy Registrar
24 JUL 2015

ATTESTED
EXAMINED
Peshawar High Court
22 JAN 2015

P. K. S.

May it please this Honorable Court

The Petitioner very humbly implores for permission to plead its grievances at the hands of respondents and seek solace thereto, as follows:

Facts leading to this Writ Petition:

1. That the Petitioner is a representative body and the provincial chapter of Pakistan Para-Medic Association. While the parent national level body is registered under the Societies Registration Act, 1960, the provincial chapter is also a duly recognized body since 09.09.1970, while its constitution has been approved by Respondent No. 1 Government w.e.f. 09.08.1992.

(Copies of the documents of registration/recognition etc are Annexure "A")

2. That as the name implies and alluded to earlier, the Petitioner Association represents para-medical staff working in different institutions offering healthcare services in the Province. Its membership includes health technicians, technologists, radiologists, anesthetists, pathologists, lab assistants, pharmacists, pharmacologists, surgical technicians, emergency care-givers, physiotherapists, dietetics, and all those working in various fields supplementing and supporting doctors and other health care providers in various adjunctive roles.

3. That being the biggest Hospital of the Province, hundreds of paramedics work at Respondent No. 2 Lady Reading Hospital in different capacities and categories. This myriad of paramedic staff can be broadly categorized in two main categories. One category is comprised of those paramedics, who had been servings as employees of the erstwhile Management Council, formed through promulgation of Khyber Pakhtunkhwa Medical and Health Institution and Regulation of Health Care Services Ordinance, 2002 and the other category comprises of those, who hail from the civil service and thus retain their status as civil servants. It is also a matter of record that no option was given and/or offered within stipulated time to the civil servants to opt for service of the medical teaching institute concerned. Petitioner association represents both categories of paramedical staffers.

FILED TODAY
Deputy Registrar
24 JUL 2015

ATTESTED

EXAMINER

39

83.

Dated
2

That Respondent No. 1 Government has been in habit of trying different recipes of change at the public health institutions. In the garb of reforms, successive regimes have been implementing various ill-conceived and totally alien models of transformations, mostly imported or imitated without appreciating the ground realities and without understanding the local dynamics in correct perspective. Previously one of these models was introduced through promulgation of the Medical and Health Institutions Reforms Act, 1999 (N.-W.F.P. Act No. XII of 1999), which was later substantially changed through yet another scheme under the aegis of the North-West Frontier Province Medical Health Institutions and Regulation of Health-Care Services Ordinance, 2002 (N.W.F.P. Ordinance No. XLVII Of 2002). Without commenting upon the intent behind these reforms, these models could not deliver to the expectation of the masses and rather created mere confusion and duplicity of chain of command. Even present regime, soon after its installation, instead of finding a well-thought out plan to ensure service delivery, started treading the same old and well-beaten path and rather than improving and finding a best suited model, imported yet another potpourri, a ragbag of ill-conceived changes and a hodgepodge of recipes that might be suitable for highly corporatized hospitals of west, Europe and America but for a country like Pakistan and more importantly for a poor province like ours, is nothing but a miscellany of rubbish.

5. That repeating the same old mistakes, instead of truly reforming the health sector, a hotchpotch mélange of change has been prescribed by promulgating the Khyber Pakhtunkhwa Province Medical Teaching Institutions Reforms Act, 2015 (Khyber Pakhtunkhwa Act No. IV of 2015) hereinafter referred as "the Act, 2015", for facility of reference.

(Copy of the Act is annexed as Annexure "B")

6. That being an imported remedy, without realization of ground realities and without understanding that healthcare is still a "social good" and considered a state responsibility in poor Khyber Pakhtunkhwa where more than 39% of masses still live beneath the poverty line, the Act, 2015 toes a line, where Medical Institutions are goaded and pushed towards ultimate "privatization". While infested with countless other follies, equivocations and shortcomings, the Act 2015 deals with existing employees including paramedics, working in these hospitals in a inane and dimwitted manner. Subsections (2) and (3) of Section 16 of the Act, 2015 inter alia provide:

ATTESTED
 EXAMINER
 Public Health

[Handwritten signature]

(2) Before the commencement of this Act, all administrative and teaching staff recruited by the Management Council in the prescribed manner under the Khyber Pakhtunkhwa Medical and Health Institutions and Regulation of Health Care Services Ordinance, 2002, shall be considered as employees of the concerned Medical Teaching institution and shall continue to serve the Medical Teaching Institution on the same terms and conditions as applicable to them immediately before the issuance of the notification under sub-section (3) of section 1 till further orders.

(3) On commencement of this Act, all the civil servants serving in an existing Medical Teaching Institution shall be given an option either to continue to serve the Medical Teaching Institutions as civil servant or may opt for the employment of the Medical Teaching Institution. The option shall be exercised within a period of ninety days after the commencement of this Act. Those employees, who do not opt for their absorption in the Medical Teaching Institution so notify, shall serve the Medical Teaching Institution concerned on their existing terms and conditions. (Emphasis supplied).

7. That the terms and conditions of employees of these Hospitals including LRH were previously protected under Section 34(2) of the repealed NWFP Medical Health Institutions and Regulation of Health-Care Services Ordinance, 2002 which read:

“Notwithstanding the repeal of the Act and Ordinance under sub-section (1), all employees serving in connection with the affairs of the Medical Institutions and public Health Institutions shall continue to serve the said institutions on the existing terms and conditions, under the supervision and control of the respective management appointed for the said institutions under this Ordinance”.

8. That it was also previously held by the judiciary, while interpreting and examining various provisions of the NWFP Medical Health Institutions and Regulation of Health-Care Services Ordinance, 2002 that LRH happens to be an autonomous Institute, whose employees were not transferrable outside the Hospital.
9. That despite this clear legal position and in total disregard to the provisions of the General Clauses Act, 1897 and the West Pakistan General Clauses Act, 1956, sub-section (2) of section 16 of the Act, 2015 qualifies the protection to the terms and conditions of employees of Medical Teaching Institute by "further orders" of some unidentified authority.
10. That Respondents have been threatening time and again that in case of any genuine criticism or opposition, they would change the terms and conditions of erstwhile Management Council employees by "further orders", which is a clear violation of law and the fundamental rights of the members of the Petitioner Association.
11. That soon after promulgation of the Act, 2015 and constitution of the Respondent No. 3 Board of Governors, the Chairman thereto has started acting as a despot, in a whimsical and autocratic manner. Respondent No. 3 Board purportedly floated as set of so-called Rules under the Act, 2015 without undergoing necessary codal formalities. Most surprisingly these rules were not even vetted by the Law Department, which is a requirement under the Rules of Business, 1985.
(Copy of the letter from Law Department is Annexure "C")
12. That beside running the affairs of the hospital in capricious manner, and caring least about the requirements of law, the Board of Governors thereafter floated an Employee Handbook under the so-called Regulations, where it has been ordained that employees are required to work in two shifts stretching over 12 hours and 30 minutes each. Requiring employees including members of the Petitioner Association for such long inhumane working hours is not only against the legal mandate but would result in grave effect on the performance, as such long taxing work shift is definitely going to impact the abilities of caregivers and paramedics.
(Copy of the letter from Law Department is Annexure "D")

That most unintelligibly, although Act, 2015 provides for a Hospital Director as head of the administration, a Medical Director as head of the Doctors, a Nursing Director

as head of the nursing staff and a Finance Director, yet despite being one of the major stakeholders, neither nay representation is provided to the paramedics in the Board of Governors nor any directorship is offered to them. Considering the importance as well as peculiarity of their jobs there should have been a Paramedical Director in a Medical Teaching institute as well.

14. That furthermore the conduct of the Respondents and more particularly of Respondent No. 3 is creating unnecessarily tense work environ, unbecoming of a care-giving institute beside fanning an air of mistrust amongst the employees, workers and more particularly members of the Petitioners working at LRH, Peshawar. This ill-fated and most unfortunate row amongst the Board, Hospital Management and Employees is definitely creating undesirable heartburn and distastefulness amongst doctors and paramedics alike. Many other stakeholders have already challenged and questioned these development in this Honorable Courts and a number of writs are pending. While impelled by circumstances, general body of the Petitioners has also resolved unanimously to approach this honorable court.

(Copy of the letter from Law Department is Annexure "E")

15. That similarly, although a clear protection is provided to government servants under Section 16(3) of the Act, 2015 that they shall continue to render services in the medial teaching institution on the same terms and conditions, yet lately, Respondent No. 4 has issued a Letter No. 786/III/24.06.2015 with an alarming subject of "Withdrawal of civil servants from MTIs", proposing therein to create a "surplus pool" in Health Department with a view to withdraw all civil servants from MTIs and placing them in the so-called surplus pool.

(Copy of the letter from Law Department is Annexure "F")

16. That feeling gravely dissatisfied and aggrieved of the conduct of the Respondents in threatening the MTI employees to change terms and conditions through "further orders", forcing them to work in inhumanely long working shifts of more than 12 hours, not providing them any representation in Board of Governors through a Paramedic Director and last but not the least, proposing to create surplus pool and placement in the aforesaid pool in total disregards of their present terms and conditions (collectively described hereinafter as "impugned acts and omissions" for facility of reference), Petitioner, while having no other efficacious and adequate

remedy, is constrained to invoke constitutional jurisdiction of this Honorable Court, on following grounds and reasons, amongst others:

~~88~~

Grounds warranting issuance of appropriate writ(s):

- a. Because the impugned acts and omissions are illegal, unlawful, without lawful authority, without jurisdiction and thus of no legal effect.
- b. Because members of the Petitioner Association cannot be treated in total disregard of law.
- c. Because it is well settled the terms and conditions of the paramedics and other employees of the medical teaching institutes cannot be varied to their disadvantage by so-called "further orders".
- d. Because the terms and conditions of the employees of medical teaching institutes and more particularly of LRH stood protected by Ordinance, 2002. Act, 2015 while repealing the Ordinance, 2002, cannot take away the vested rights and interests of the employees, including members of the Petitioner Association.
- e. Because employees cannot be stripped of or for that matter deprived of any beneficial term or condition of their service by way of any administrative order.
- f. Because employees are to be governed in terms of all the beneficial rules and regulations in view of protection given by the law as well as fundamental rights.
- g. Because the Act, 2015 is absolutely silent about the authority, who would be competent to issue such further orders.
- i. Because it has been numerously held by the superior judiciary that once a right stands accrued, same cannot be rescinded, withdrawn or taken back in view of doctrine of estoppel and *locus poenitentiae*.

TODAY
2015

ATTESTED
EXAMINER
Punjab High Court

Attested
2

Because even otherwise the impugned acts and omissions and more particularly the threatened action of varying the terms and conditions through "further orders" is clearly infracting and transgressing Section 6 of the General Clauses Act.

~~89~~

- j. Because Article 240 of the Constitution has also been violated.
- k. Because impelling anybody to serve beyond 8 hours is utterly illegal and unlawful and is violative of Article 9 read with Articles 3 and 14.
- l. Because even otherwise regulations provide for an 8 hours 30 mins shift, whereas Handbook unduly insist on utterly inhumane and very long shifts of over twelve hours, which can result in serious consequences, even for patients' sake.
- m. Because while providing a medical and nursing director and ignoring altogether a paramedic director is a clear instance of utter disregard of Article 25 of the Constitution. State functionaries have purposefully discriminated the paramedical staff.
- n. Because paramedics are important stakeholders in any given medical institution and not providing them a representation in Board of Governors at all would leave the Board unbalanced and not fully representative of all necessary stakeholders.
- o. Because so far as the matter of "surplus pool" and proposed "withdrawal" is concerned, the proposed action is utterly without jurisdiction and a clear instance of administrative highhandedness and imperiousness on part of the Executive, liable to be checked and quashed in judicial review.
- p. Because the Act, 2015 itself protects the terms and conditions of those who do not opt for MTI service and thus Respondents are not at liberty to create a surplus pool or withdraw any employee from MTI and place him/her in infamous surplus pool.
- q. Because the LRH is an independent and autonomous institute and thus its staff irrespective of his/her status is not liable to be withdrawn or transferred to any other place including the so-called surplus pool.

ATTESTED

EXAMINER
Peshawar High Court

[Handwritten signature]

DAY
MIS

46

Because the proposed impugned action of Respondent No. 4 is clearly meant to induct blue-eyed favorites in disregard of the merit, once the present employees are taken care of and stashed in a surplus pool.

~~98~~

- s. Because impugned acts and omissions are meant to cause heavy financial loss to the provincial exchequer.
- t. Because the impugned acts and omissions are a calculated attempt to expose the Petitioner association and its members to a disadvantageous situation all along.
- u. Because the impugned acts and omissions are not based on merit and fair play but are merely politically influenced.
- v. Because the impugned acts and omissions are against the principles of policy.
- w. Because the impugned acts and omissions are colorable exercise of jurisdiction meant to frustrate a number of constitutional and legal rights.
- x. Any other grounds, at the time of hearing.

IT IS THEREFORE very humbly prayed that on acceptance of this Writ Petition, this Honorable Court may very magnanimously hold, declare and order that:

- I. Respondents are not entitled to adversely change the terms and conditions of the paramedical staff of LRH through any further order.
- II. Respondents or for that matter Hospital Management working under Hospital Director LRH or otherwise, shall not obligated the member of the Petitioner Association (all paramedical staff), except in case of any emergency, to work in any shift beyond eight working hours.
- III. Respondents are bound and obligated to allow meaningful representation of the Petitioner Association on the Board of Governors of LRH hospital through appointment of a Paramedical Director or otherwise.

TODAY
Registrar
UL 2015

ATTESTED
EXAMINER
Peshawar High Court

[Handwritten signature]

Impugned Letter No. 786/III/24.06.2015 of even date is illegal, unlawful, without lawful authority and thus of no legal effect.

(47)

Handwritten signature

- V. Costs throughout.
- VI. Interim Relief: In view of all the ingredients of interim relief, the Respondents may be restrained from withdrawing any paramedical staff from LRH or placing them in surplus pool or otherwise acting in a manner prejudicial to them by any further orders till the disposal of the main writ petition.
- VII. Any other relief, not specifically prayed, may also graciously be granted, if appears just, necessary and appropriate.

PETITIONER

Through

July 22, 2015

Handwritten signature of Shumail Ahmad Butt

Shumail Ahmad Butt,
Advocate, Peshawar
TF 39, 3rd Floor,
Deans Trade Center,
Saddar Road, Peshawar Cantt.

ATTESTED

EXAMINER
Peshawar High Court

Handwritten signature

DAY
Star
2015

EXTRAORDINARY
GOVERNMENT

REGISTERED NO. P.III
G A Z E T T E

48

KHYBER PAKHTUNKHWA

Published by Authority
PESHAWAR, MONDAY, 8TH FEBRUARY, 2016

GOVT. OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMN: DEPARTMENT
(REGULATION WING)

ORDER

Dated Peshawar, the 8th February, 2016

No. SO (R-II)/E&AD/1-6/2009 In exercise of the powers conferred by Section 4 of the West Pakistan Essential Services (Maintenance) Act, 1958 (WP, Act No. XXXIV of 1958), read with Notification No. SO(R-II)/E&AD/1-6/2009 dated 08.02.2016, the Government of Khyber Pakhtunkhwa is pleased to direct all persons working or engaged in the Medical Teaching Institution established under the Khyber Pakhtunkhwa Medical Teaching Institutions Act, 2015 or to all the Medical Teaching Institutions to any other health facility imparting services in the public Sector including Administrative, Curative, Rehabilitative, Preventive, Primitive and Supportive Services partially or fully funded from the general exchequer and are direct or indirect control of Government shall not leave their place of duty without prior permission of the competent authority and shall not abandon or discontinue the official duties in the best Public Interest for a period of three months, from the date of issuance of this order and nay employee found to have violated this Order shall be subject to Criminal Prosecution under the West Pakistan Essential Services (Maintenance) Act, 1958.

Sd/-
CHIEF SECRETARY,
GOVT. OF KHYBER PAKHTUNKHWA

THE WEST PAKISTAN ESSENTIAL SERVICES, (MAINTENANCE) ACT,
1958

CONTENTS
Preamble.
Sections.

~~98~~

49

1. Short title, extent and commencement.
2. Definitions.
3. Employment to which this Act, applies.
4. Power to order persons engaged in certain employments to remain in specified areas.
5. Offences.
6. Regulation of wages and conditions of services
7. Penalties and procedure.
8. Bar of legal proceedings
9. Saving of effect of laws imposing liability to national service
10. Repeal.

*West Pakistan Act, XXXIV of 1958
 THE WEST PAKISTAN ESSENTIAL SERVICES (MAINTENANCE), ACT,
 1958
 [24th April, 1958]

Whereas it is expedient to provide for the maintenance of certain essential services in West Pakistan:

Preamble

It is hereby enacted as follows:-

1. (1) This Act may be called the West Pakistan Essential Services (Maintenance) Act, 1958.

Short title
extent and
commencement

2["(2) It extends to the whole of the 3[North-West Frontier Province], except the tribal Areas]"

(3) It shall come into force at once

commencement

2. In this Act unless there is anything repugnant in the subject or context:-

Definitions

- (i). "employment" means any service for which remuneration is received.
- (ii). "essential service" means a service to the employment of which this Act, applies;
- (iii). "Government" means the Government of 4[North-West Frontier Province].

3. 5[(1) This Act shall apply to all employment under the Government or any agency set up by it or a local authority or any service relating to transport or civil defence.

Employment to
which this Act
applies

This Act has been extended to the District of Karachi subject to certain modification, West Pakistan Laws (Extension to Karachi) Ordinance. 1964 (Ordinance No. VII of 1964)

See, the S.2

schedule, with effect from 25th May, 1964

1. For Statement of Objects and Reasons see Gazette of West Pakistan, 1957, Extraordinary and for Proceedings in Assembly, see West Pakistan Assembly Debates, Vol. III, pp 1327 to 1336
2. Subs, by W.P Ord. VII of 1964, s ? Sen
3. In section I its sub-section (2) for the words " Province of West Pakistan", the words "North-West Frontier Province", Subs, by N.W.F.P Adpt, of Laws Order, 1975.
4. In section 2, in clause (iii) for the words "West Pakistan", the words "North-West Frontier Province", Subs ibid.

30
So

1(2) Government may by notification in the official Gazette, apply this Act to the employment in any autonomous body, including a University, the Board of Intermediate and Secondary Education, the Board of Technical Education or any part thereof]

Power to order4- persons engaged in certain employments to remain in specified areas (1). The Government or an officer authorized in this behalf by the Government may 2[if the public interest so required] general or special order direct that any person or person engaged in any employment or class of employment to which this Act applies shall not depart out of such area or areas and for such period not exceeding three months as may be specified in such order

(2). An order made under sub section (1) shall be published in such manner as the Government, or the officer making the order, considers best calculated to bring it to the notice of the persons affected by the order"

Offences

5. Any person engaged in any employment or class of employment to which this Act, applies who__

(a). disobeys any lawful order given in the course of such employment, or attempts to persuade any person, to disobey any such order or

(b). Without reasonable excuse abandons such employment or absents himself form work, or,

(c). departs from any area specified in an order under sub-section (1) of section 4 without the consent of the Government of the authority making that order, and any employer of a person engaged in an employment or class of employment to which this Act applies who without reasonable excuse__

(1). Discontinues the employment of such person, or

(2). By closing an establishment in which such person is engaged, causes the discontinuance of his employment or

(3). Discontinues or causes the discontinuance of an essential service is guilty of an offence under this Act.

1. Sub-section (2). Ins. By N.W.F.P.Act VI of 1974

2. Ins. By W.P Ord. No. XXXIV of 1965

Explanation. 1__The fact that a person apprehends that by continuing in this employment he will be exposed to increased physical danger is not reasonable excuse within the meaning of clause (b).

51

Explanation 1. A person abandons his employment within the meaning of clause (b) with not standing that it is an express or implied term of his contract of employment that he may terminate his employment on giving notice to his employer of his intention to do so, so terminates his employment without the previous consent of his employer.

6. (1). The Government may make rules regulating or empowering specified authorities to regulate the wages and other conditions of service of persons or of any class of persons engaged in any employment of class of employment to which this Act applies.

Regulation of wages and conditions of services

7. (1). Any person found guilty of an offence under this Act, shall be punishable with imprisonment for a term which may extend to one year and shall also be liable to a fine.

Penalties and procedure

(2). Where the person accused of an offence under this Act is a company or other body corporate every director, manager, secretary or other officer thereof shall unless he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of the offence, be liable to the punishment provided for the offence.

(3). No court shall take cognizance an offence under this Act except upon complaint in writing made by an officer empowered by the Government in this behalf.

8. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith, done or intended to be done under this Act, or the rules made there under.

Bar of legal proceedings

9. Nothing contained in this Act, or in any declaration or order made there under, shall have effect in derogation of any provision of law which is or may be for the time being in force, imposing upon a person engaged in an imposing employment or class of

Saving of effect of law liability to national services

employment to which this Act applies any liability to be called up for national service or to undertake employment in the national service.

Repeal

10. The North-West Frontier Province Essential Service (Maintenance Act, 1946 and the West Pakistan Essential Services (Maintenance) ordinance, 1957 are hereby repealed

ABIC CERTIFIED

پیشہ ورانہ معیار کے ساتھ

پیشہ ورانہ معیار کے ساتھ

Daily KHABRAIN

روزنامہ

ایڈیشن: امتنان سٹی

شمارہ 183

پتلا 19

مکمل 29، 1437، 9 نومبر 2016، 28، 2072 ب صفحات 12 قیمت 12 روپے

ہسپتال کی صورت میں ڈاکٹروں کو نوکری سے فارغ اور توہین عدالت کا مقدمہ بھی دائر کرنے کی دہائی

پیشہ ورانہ معیار کے ساتھ

جوڈا کر بیلیٹ ریٹائرمنٹ ایکٹ کے تحت نوکری نہیں کرے وہ اتنے دیریں، لازمی سروس ایکٹ کا نفاذ حکومت کی ذمہ داری، عدالت نے بھی اس ایکٹ کے حق میں فیصلہ دیا تھا، سو باقی

وفاقی حکومت کی جانب سے لائی گئی اس کے خلاف عدالت نے فیصلہ دیا تھا، عدالت نے بھی اس ایکٹ کے حق میں فیصلہ دیا تھا، سو باقی



پیشہ ورانہ معیار کے ساتھ

آئی اے کے ملازمین کی ہسپتال کو کام بنانے کیلئے لازمی سروس ایکٹ کے نفاذ کی نیت اور اس معاملے پر شدت احتجاج کرنے والی ٹیبلٹ ہسپتال میں تحریک خضاب کی حکومت کی لازمی سروس ایکٹ کی مانی گئی ہے اور سوسائٹی کے سرکاری ہسپتالوں میں ڈاکٹروں کی ہسپتال روکنے میں اس ایکٹ کو ناکام بنانے کا ارادہ رکھتا ہے۔ سوشل ورکرز کے حوالہ پر اس کے برعکس انٹرنسٹ خلاب کرنے والے لازمی سروس ایکٹ کے خلاف اعلان کیا اور صرف ایشیا دکھایا کہ وہ ان حکومت کی جانب سے لائی گئی اس کے خلاف نفاذ کا باج نہیں دیکھتا۔ ہسپتال کو کام کرنے سے ہی کیونکہ ہم نے یہ فیصلہ بنا اور انٹرنسٹ کے حکم کی روٹی میں لیا ہے۔ انٹرنسٹ کو کام کرنے کی اس ایکٹ کی مدد میں نفاذ ہے اس کی نفاذ کارروائی کی جائے اس سروس میں ڈاکٹر ہسپتال میں کر سکیں گے اور جس نے ہسپتال کے عارضی حکم کی نفاذ میں نفاذ لائی تو اس کی خلاف کارروائی ہوگی، ویسے ڈاکٹر کو کارروائی جاری کیا جائے گا اور ڈاکٹروں سے نفاذ کے ساتھ ساتھ ان کی خلاف توہین عدالت کے مقدمے بھی قائم کرینگے کیونکہ انٹرنسٹ کے حکم کے باوجود ہسپتال توہین عدالت کے ذریعے ہی آئے گی۔

ہسپتال کو کام کرنے کے لئے ہسپتال کو کام بنانے کیلئے لازمی سروس ایکٹ کے نفاذ کی نیت اور اس معاملے پر شدت احتجاج کرنے والی ٹیبلٹ ہسپتال میں تحریک خضاب کی حکومت کی لازمی سروس ایکٹ کی مانی گئی ہے اور سوسائٹی کے سرکاری ہسپتالوں میں ڈاکٹروں کی ہسپتال روکنے میں اس ایکٹ کو ناکام بنانے کا ارادہ رکھتا ہے۔ سوشل ورکرز کے حوالہ پر اس کے برعکس انٹرنسٹ خلاب کرنے والے لازمی سروس ایکٹ کے خلاف اعلان کیا اور صرف ایشیا دکھایا کہ وہ ان حکومت کی جانب سے لائی گئی اس کے خلاف نفاذ کا باج نہیں دیکھتا۔ ہسپتال کو کام کرنے سے ہی کیونکہ ہم نے یہ فیصلہ بنا اور انٹرنسٹ کے حکم کی روٹی میں لیا ہے۔ انٹرنسٹ کو کام کرنے کی اس ایکٹ کی مدد میں نفاذ ہے اس کی نفاذ کارروائی کی جائے اس سروس میں ڈاکٹر ہسپتال میں کر سکیں گے اور جس نے ہسپتال کے عارضی حکم کی نفاذ میں نفاذ لائی تو اس کی خلاف کارروائی ہوگی، ویسے ڈاکٹر کو کارروائی جاری کیا جائے گا اور ڈاکٹروں سے نفاذ کے ساتھ ساتھ ان کی خلاف توہین عدالت کے مقدمے بھی قائم کرینگے کیونکہ انٹرنسٹ کے حکم کے باوجود ہسپتال توہین عدالت کے ذریعے ہی آئے گی۔

101-

(5)

پشاور ایکسپریس

پشاور ایکسپریس آج کی تاریخ 16 نومبر 2016ء

پشاور، پاکستان

شماره 32

جلد 27

12 سہ ماہی

10 نومبر 2016ء

1437 مکتوبہ 12 جیلے

عمران خان

پاکستان کی تاریخ ساز اور انقلابی قیادت ہیں۔ ان کی قیادت میں پاکستان نے تاریخی کامیابیوں کا سلسلہ جاری رکھا ہے۔ ان کی سربراہی میں پاکستان کی معیشت ترقی پزیر ہو رہی ہے اور ملک کو عالمی سطح پر تسلیم کیا جا رہا ہے۔ ان کی قیادت میں پاکستان کی عسکریت پسندی ختم ہو رہی ہے اور ملک کو امن و امان کا ماحول مل رہا ہے۔ ان کی قیادت میں پاکستان کی نوجوان نسل کو تعلیم اور روزگار کی مواقع مل رہے ہیں۔ ان کی قیادت میں پاکستان کی عورتوں کی حق شناسی ہو رہی ہے اور ان کی تعلیم اور روزگار کے مواقع مل رہے ہیں۔ ان کی قیادت میں پاکستان کی معیشت ترقی پزیر ہو رہی ہے اور ملک کو عالمی سطح پر تسلیم کیا جا رہا ہے۔ ان کی قیادت میں پاکستان کی عسکریت پسندی ختم ہو رہی ہے اور ملک کو امن و امان کا ماحول مل رہا ہے۔ ان کی قیادت میں پاکستان کی نوجوان نسل کو تعلیم اور روزگار کے مواقع مل رہے ہیں۔ ان کی قیادت میں پاکستان کی عورتوں کی حق شناسی ہو رہی ہے اور ان کی تعلیم اور روزگار کے مواقع مل رہے ہیں۔

ڈاکٹر زکریا خان

ڈاکٹر زکریا خان نے پاکستان کی تاریخ ساز اور انقلابی قیادت میں پاکستان کی معیشت ترقی پزیر ہو رہی ہے اور ملک کو عالمی سطح پر تسلیم کیا جا رہا ہے۔ ان کی قیادت میں پاکستان کی عسکریت پسندی ختم ہو رہی ہے اور ملک کو امن و امان کا ماحول مل رہا ہے۔ ان کی قیادت میں پاکستان کی نوجوان نسل کو تعلیم اور روزگار کے مواقع مل رہے ہیں۔ ان کی قیادت میں پاکستان کی عورتوں کی حق شناسی ہو رہی ہے اور ان کی تعلیم اور روزگار کے مواقع مل رہے ہیں۔

برطانیہ کی فوجی

برطانیہ کی فوجی پاکستان کی سرحدوں پر موجود ہے۔ ان کی موجودگی پاکستان کی سلامتی کو خطرے میں ڈال رہی ہے۔ پاکستان کی فوجیوں نے ان کی موجودگی کو شدید مذمت کی ہے اور ان کی روانگی کا مطالبہ کیا ہے۔ پاکستان کی حکومت نے ان کی موجودگی کو شدید مذمت کی ہے اور ان کی روانگی کا مطالبہ کیا ہے۔ پاکستان کی فوجیوں نے ان کی موجودگی کو شدید مذمت کی ہے اور ان کی روانگی کا مطالبہ کیا ہے۔

لازمی ہروز ایکٹ 16

لازمی ہروز ایکٹ 16 ایک تاریخی اور انقلابی اقدام ہے۔ اس کے ذریعے پاکستان کی معیشت ترقی پزیر ہو رہی ہے اور ملک کو عالمی سطح پر تسلیم کیا جا رہا ہے۔ اس کے ذریعے پاکستان کی عسکریت پسندی ختم ہو رہی ہے اور ملک کو امن و امان کا ماحول مل رہا ہے۔ اس کے ذریعے پاکستان کی نوجوان نسل کو تعلیم اور روزگار کے مواقع مل رہے ہیں۔ اس کے ذریعے پاکستان کی عورتوں کی حق شناسی ہو رہی ہے اور ان کی تعلیم اور روزگار کے مواقع مل رہے ہیں۔

برطانیہ کی فوجی

برطانیہ کی فوجی پاکستان کی سرحدوں پر موجود ہے۔ ان کی موجودگی پاکستان کی سلامتی کو خطرے میں ڈال رہی ہے۔ پاکستان کی فوجیوں نے ان کی موجودگی کو شدید مذمت کی ہے اور ان کی روانگی کا مطالبہ کیا ہے۔ پاکستان کی حکومت نے ان کی موجودگی کو شدید مذمت کی ہے اور ان کی روانگی کا مطالبہ کیا ہے۔ پاکستان کی فوجیوں نے ان کی موجودگی کو شدید مذمت کی ہے اور ان کی روانگی کا مطالبہ کیا ہے۔

پشاور ایکسپریس

پشاور ایکسپریس آج کی تاریخ 16 نومبر 2016ء

پشاور، پاکستان

شماره 32

جلد 27

12 سہ ماہی

10 نومبر 2016ء

1437 مکتوبہ 12 جیلے



Attest
Attest

ایڈیٹر عبدالواحد یوسفی



جلد 27 جلد 12 فروری 2016ء 3 جنوری 1437ھ 12 ستمبر 2015ء ایڈیشن نمبر 34

ڈاکٹر ایڈیٹر عبدالواحد یوسفی

وزیر اعلیٰ ہاؤس میں حکومت اور ملت اسلامیہ اور کوآرڈینیٹیشن کونسل کے ڈاکٹر ایڈیٹر عبدالواحد یوسفی کا دائرہ تمام اعلیٰ ملازمین تک بڑھانے سمیت 5 مطالبات منظور کر دیے گئے۔

ایڈیٹر عبدالواحد یوسفی نے وزیر اعلیٰ ہاؤس میں حکومت اور ملت اسلامیہ اور کوآرڈینیٹیشن کونسل کے ڈاکٹر ایڈیٹر عبدالواحد یوسفی کا دائرہ تمام اعلیٰ ملازمین تک بڑھانے سمیت 5 مطالبات منظور کر دیے گئے۔

ڈاکٹر ایڈیٹر عبدالواحد یوسفی
ایڈیٹر عبدالواحد یوسفی نے وزیر اعلیٰ ہاؤس میں حکومت اور ملت اسلامیہ اور کوآرڈینیٹیشن کونسل کے ڈاکٹر ایڈیٹر عبدالواحد یوسفی کا دائرہ تمام اعلیٰ ملازمین تک بڑھانے سمیت 5 مطالبات منظور کر دیے گئے۔

Anti-Used
Advocates

Adheres

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

Annex H
60 0001
87
88
85

OFFICE ORDER:-

On their involvement in illegal activities contrary to the conduct rules 1987, as well as essential services (maintenance) act 1958 and subsequent relieving from MTI/LRH Peshawar on account of strike/ agitation, leaving the patients in emergency and operation theaters crying for survival; the following staff stand transferred and posted in the institutions mentioned against each:-

S.No	Name & Designation	From	To	Remarks
01.	Bilqees Rana (Charge Nurse BS-16)	MTI, LRH, Peshawar.	THQ, Hospital Chota Lahore Swabi	Against vacant post.
02.	Aziz Shabeen (Charge Nurse BS-16)	MTI, LRH, Peshawar.	DHQ, Hospital Battagram	Against vacant post.
03.	Mr. Murad Ali Office Assistant BS-16	MTI, LRH, Peshawar.	At the disposal of DHO Torghar.	Against vacant post.
04.	Muhammad Azim (Clinical Technician Cardiology BS-14)	MTI, LRH, Peshawar.	DHQ, Hospital, KDA, Kohat	Against vacant post.
05.	Johar Ali (Clinical Technician Radiology BS-14)	MTI, LRH, Peshawar.	Saidu Group of Hospitals, Saidu Sharif Swat.	Against vacant post.
06.	Shamsul Taj (JCT Surgical BS-12)	MTI, LRH, Peshawar.	Saidu Group of Hospitals, Saidu Sharif Swat.	Against vacant post.
07.	Roidar Shah (JCT, Pharmacy BS-12)	MTI, LRH, Peshawar.	Services placed at the disposal of DHO, Kohat.	Against vacant post.
08.	Mr. Muhammad Ali S/O Lakhur Khan Ward orderly BS-04	MTI, LRH, Peshawar.	Saidu Group of Hospitals; Saidu Sharif Swat.	Against vacant post.
09.	Sartaj S/O Muhammad Khan Lift Operator BS-04	MTI, LRH, Peshawar.	Saidu Group of Hospitals; Saidu Sharif Swat.	Against vacant post.
10.	Shahid Masih Ghori S/O Waris Masih Sweeper BS-02	MTI, LRH, Peshawar.	Saidu Group of Hospitals, Saidu Sharif Swat.	Against vacant post.
11.	Ishaq Bitta S/O Bitta Masih Sweeper BS-02	MTI, LRH, Peshawar.	Saidu Group of Hospitals; Saidu Sharif Swat.	Against vacant post.
12.	Munavar Lal Sweeper BS-02	MTI, LRH, Peshawar.	Saidu Group of Hospitals, Saidu Sharif Swat.	Against vacant post.

All the above staff are directed to report at their places of posting within three days positively:

Sd/xxxxxx
DIRECTOR GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA, PESHAWAR
Dated Peshawar. 09/02/2016

To 2267/AB-VI

- Copy forwarded to:-
01. Hospital Director, MTI, LRH, Peshawar, for information w/r to communication made by him regarding subject vide his letter o.68/HD/LRH dated 09-02-2016. He is requested to relieve all the above employees by stopping their salaries.
 02. Medical superintendent, DHQ, Hospital KDA, Kohat.
 03. Medical Superintendent SPTH, Teaching Hospital, Swat.
 04. DHO Torghar.
 05. Medical superintendent, DHQ, Hospital Battagram.
 06. DHO Swabi.

They are directed to submit their arrival reports through Fax

DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR

OFFICE ORDER:-

On their involvement in illegal activities contrary to the conduct rules 1987, as well as essential services (maintenance) act 1958 and subsequent relieving from MTI/LRH Peshawar on account of strike/agitation, leaving the patients in emergency and operation theaters crying for survival; the following staff stand transferred and posted in the institutions mentioned against each:-

S.No.	Name & designation	From	To	Remarks
1.	Bilqees Rana (Charge Nurse BS-16)	MTI, LRH, Peshawar	THQ, Hospital Chota Lahore Swabi	Against vacant post
2.	Aster Shaheen (Charge Nurse BS-16)	MTI, LRH, Peshawar	DHQ, Hospital Battagram	Against vacant post
3.	Mr. Murad Ali Office Assistant BS-16	MTI, LRH, Peshawar	At the disposal of DHQ Torghar	Against vacant post
4.	Muhammad Asim (Clinical Technician Cardiology BS-14)	MTI, LRH, Peshawar	DHQ, Hospital KDA, Kohat	Against vacant post
5.	Johar Ali (Clinical Technician Radiology BS-14)	MTI, LRH, Peshawar	Saidu Group of Hospitals, Saidu Sharif Swat	Against vacant post
6.	Shamsur Taj (JCT Surgical BS-12)	MTI, LRH, Peshawar	Saidu Group of Hospitals, Saidu Sharif Swat	Against vacant post
7.	Roidar Shah (JCT, Pharmacy BS-12)	MTI, LRH, Peshawar	Services placed at the disposal of DHQ Kohat	Against vacant post
8.	Mr. Muhammad Ali, S/o Lakhar Khan War Orderly BS-04	MTI, LRH, Peshawar	Saidu Group of Hospitals, Saidu Sharif Swat	Against vacant post
9.	Sartaj S/o Muhammad Khan Lift Operator BS- 04	MTI, LRH, Peshawar	Saidu Group of Hospitals, Saidu Sharif Swat	Against vacant post
10.	Shahid Masih Ghori S/o Waris Masih Sweeper BS-02	MTI, LRH, Peshawar	Saidu Group of Hospitals, Saidu Sharif Swat	Against vacant post
11.	Ishaq Butta S/o Butta Masih Sweeper BS-02	MTI, LRH, Peshawar	Saidu Group of Hospitals, Saidu Sharif Swat	Against vacant post
12.	Munawar Lal Sweeper BS-02	MTI, LRH, Peshawar	Saidu Group of Hospitals, Saidu Sharif Swat	Against vacant post

All the above staff are directed to report at their places of posting within three days positively.

Sd/-

DIRECTOR GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA, PESHAWAR

No. 2267-84/AE-VI

Dated Peshawar 09.02.2016

Copy forwarded to:-

- Hospital Director, MTI, LRH, Peshawar, for information w/r to communication made by him regarding subject vide his letter 0.68/HD/LRH dated 09.02.2016. He is requested to relieve all the above employees by stopping their salaries.
- Medical superintendent, DHQ, Hospital KDA, Kohat. They are directed
- Medical Superintendent, SGTH, Teaching Hospital, Swat.
- DHQ Torghar.
- Medical superintendent, DHQ, Hospital Battagram
- DHQ Swabi

To submit their
arrival reports
through Fax

(S)

SSA

122

- 07. District Account Officer Torghar.
- 08. District Account Officer Swabi.
- 09. District Account Officer Battagram.
- 10. District Account Officer, Kohat.
- 11. District Account Officer, Swat.
- 12. Assistant Director, P-II, Directorate General Health Services, Khyber Pakhtunkhwa, Peshawar.
- 13. Assistant Director, P-III, Directorate General Health Services, Khyber Pakhtunkhwa, Peshawar.
- 14. Assistant Director, (Nursing) Directorate General Health Services, Khyber Pakhtunkhwa, Peshawar.
- 15. PS to Minister for Health, Khyber Pakhtunkhwa, Peshawar.
- 16. PS to Secretary Health, Khyber Pakhtunkhwa, Peshawar.
- 17. PA to Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
- 18. Officials Concerned.
- 19. DAs Concerned.

DIRECTOR GENERAL HEALTH SERVICES
 KHYBER PAKHTUNKHWA, PESHAWAR

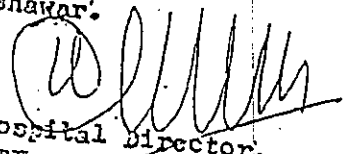
09/10


11/2
 09/21/16

MTI, Lady Reading Hospital, Peshawar

Copy forwarded to:- No. 5662-70/LRH/E-III, Dated 11/02/2016

- 01. The Director General Health Services, KPR, Peshawar.
 - 02. The Budget & Account Officer, MTI, LRH with the remarks to stop their sal.
 - 03. The Deputy, Medical Superintendent, MTI, LRH, Peshawar.
 - 04. The Chief Nursing Superintendent (Admin.), MTI, LRH, Peshawar.
 - 05. The Director Human Resource, MTI, LRH, Peshawar.
 - 06. The I/O I.T. Department, MTI, LRH, Peshawar.
 - 07. Officials concerned, MTI, LRH, Peshawar.
 - 08. P.A to Medical Director, MTI, LRH, Peshawar.
 - 09. P.A to Hospital Director, MTI, LRH, Peshawar.
- Rest: ~~On instruction and necessary~~ action.
 relieved from this Institute
 with immediate effect.


 Hospital Director,
 MTI, LRH Peshawar.

Approved


Amex 'I' 57

PROVINCIAL PARAMEDICAL ASSOCIATION KHYBER PAKHTUNKHWA

Registration#: 12317-19-E III, Dated: 9th September, 1970

President

JOHAR ALI

Bsc(H) Radiology

Cell: 0334-9105846

Chairman

SIRAJ-UD-DIN BURKI

Bsc(H) Dialysis, L.L.B

Cell: 0333-9150606

Secretary General

SYED ROIDAR SHAH

Bsc(H) Physiotherapy, M.A

Cell: 0333-9131180

Ref: # : 341/16/PPMA-KPK

Date: 23/02/2016

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

Through: Proper channel.

SUBJECT: APPEAL FOR CANCELLATION OF TRANSFER ORDERS OF OFFICE BEARERS IN RESPECT OF VARIOUS CATEGORIES OF PARAMEDICS, NURSES, CLASS-IV, CLERKS AND SANITATION STAFF.

esp. Sir,

We, the cabinet members of Provincial Paramedical Association, Khyber Pakhtunkhwa have the honour to state that various categories of subject staff of Health Department, Khyber Pakhtunkhwa working in MTT's including Lady Reading Hospital and Khyber Teaching Hospitals, Peshawar have been transferred on 01-02-2016. & 11-02-2016 (majority of them are office bearers of various Associations), (copies attached), as a result of punishment on account of peaceful protest throughout the Province of all staff including teaching faculty, doctors etc, but only subject categories have been transferred including **Paramedics, Nurses, Class-Iv, Clerks And Sanitation Staff.**

Similarly above categories of 39 numbers of staff were also transferred from Ayub Teaching Hospital & Complex, Abbottabad (copies attached), but later on their transfers have been cancelled by the worthy Chief Minister, & Health Department, Khyber Pakhtunkhwa on recommendation of Mr. Mushtaq Ghani, Advisor to CM for Information & Higher Education, KPK (copies attached).

It is therefore, humbly requested to your good self to kindly cancel transfer orders of the above mentioned staff and office bearers of various associations in the best interest of employees, institution and public and for smooth functioning of health institutions.

Thanking you in anticipation.

Copy for information and n/a to:

1. Director General Health Services KPK.

Sincerely yours,

S. P. Shah
Syed Roidar Shah

Secretary General, PPMA, KPK

President PMA, LRH

President Health Employees

Coordination Council LRH,

Cell # 0333-9131180

D.No.
5703
24-2-16


P. 10.

1- Johar Ali. Jankar


2- Raial Shah. N.P. 11/1


3- Samrul. Singh.


4- Shamset-Taj 

5- M. Riaz Barbi 

6- M. Asim. K Singh


7- Mumtaz Ali. 

8- M. Ali. 


9- Santaj 

10- Shahid Masih Khori. 

11- Mumtaz Lal. 

12- Mujahid Azam. 

13- Shah Billa. 

14- Jmdad Ullah. 


15- Ziaqat. 

16- Humayun. Humayun.

17- Noor Rehman. 

18- Niaz. M. 

19- Yaqoob Masih. 

20- Roshul Amin. 


21- Gulshan Ara. Gulshan

22- Sajida Parveen - Sajida

23 - Sumbal Firdus. B.

24- Asler Shaheen. A. Shaheen

25- Balgees Rana. 

25- Balgees Rana. 

25- Balgees Rana. 

25- Balgees Rana. 

Annex J

In the Peshawar High Court, Peshawar

(58)

Writ Petition No. 557 - P/2016



1. Johar Ali,
Clinical Technician (Radiology),
President Paramedical Association,
MTI, LRH, Peshawar.
2. Roidar Shah,
Junior Clinical Technician (Pharmacy),
President, Para Medical Association (LRH),
General Secretary Provincial Association,
Lady Reading Hospital,
Peshawar.
3. Isam Gul son Gul Mehr,
Clinical Technologist (Surgical),
Senior Vice President,
Provincial Paramedical Association,
MTI, LRH, Peshawar.
4. Shamsut Taj,
Junior Clinical Technician (Surgical),
Finance Secretary,
Provincial Para Medical Association,
MTI, LRH, Peshawar.
5. Riaz Burki,
Junior Clinical Technician (Pathology),
Secretary General, Para Medical Association,
Lady Reading Hospital,
Peshawar.
6. Muhammad Asim,
Clinical Technician (Cardiology),
Vice President, Para Medical Association,
MTI, LRH, Peshawar.
7. Mr. Murad Ali,
Office Assistant,
MTI, LRH, Peshawar.
8. Mr. Muhammad Ali S/O Lakhar Khan,
Ward Orderly,
MTI, LRH, Peshawar.

ATTESTED
EXAMINER
Peshawar High Court
30 DEC 2017

FILED TODAY
Deputy Registrar

17 FEB 2016

~~Khan Muhammad Khan,~~
Generator, MTI, LRH, Peshawar.

Mahid Masih Ghorri S/O Waris Masih
Sweeper, MTI, LRH, Peshawar.

Ishaq Butta S/O Butta Masih,
Sweeper, MTI, LRH, Peshawar.

2. Munawar Lal,
Sweeper, MTI, LRH, Peshawar.

3. Mujahid Asam,
Junior Clinical Technician (Pharmacy),
MTI, KTH, Peshawar.

14. Imdadullah
Junior Clinical Technician (Pathology),
MTI, KTH, Peshawar.

15. Ziaqatullah,
Ward Orderly,
MTI, KTH, Peshawar.

16. Humayun,
Ward Orderly,
MTI, KTH, Peshawar.

17. Noor Rehrnan,
Bearer, MTI, KTH, Peshawar.

18. Niaz Muhammad,
Masalchi, MTI, KTH, Peshawar.

19. Yaqoob Masih,
Sweeper, MTI, KTH, Peshawar.

20. Roohul Amin,
Muslim Sweeper, MTH, KTH, Peshawar.

Versus

1. Government of Khyber Pakhtunkhwa,
Through Secretary, Health Department,
Civil Secretariat, Peshawar.

2. Director General Health Services,
Directorate General Health Services,
Attached Department Complex,
Khyber Road, Peshawar.

3. Secretary Establishment,
Government of Khyber Pakhtunkhwa,
Peshawar.

..... Petitioners

..... Respondents

FILED TODAY
Deputy Registrar
17 FEB 2016

ATTESTED
EXAMINER
Peshawar High Court
30 DEC 2017

(59)

94
(60)

Writ Petition under Article 199
Of the Constitution of Islamic Republic of Pakistan, 1973

May it please this Honorable Court

- 46 -

Petitioners very humbly seek to invoke constitutional jurisdiction of this Honorable Court, as under:

Facts leading to this Writ Petition:

1. That the Petitioners No. 1, 2 and 3 are the President, General Secretary and Senior Vice President of Provincial Paramedical Association, Peshawar, a representative body and the provincial chapter of Pakistan Para-Medic Association. Petitioners No. 5 and 6 are the General Secretary and Vice President of Paramedic Association of LRH whereas Petitioner No. 4 is the Secretary Finance of the Provincial Para Medic Association. While the parent national level body is registered under the Societies Registration Act, 160, the provincial chapter is also a duly recognized body since 09.09.1970, while its constitution has been approved by Respondent No. 1 Government w.e.f. 09.08.1992.

(Copies of the documents of registration etc are Annexure "A")

2. That Petitioner No. 6 to 20 are para-medical staff working in different low-paid categories at Medical Teaching Institutes namely LRH and KTH and are amongst the members of the Provincial Paramedic Association. All the Petitioners have not opted MTI service and thus are working in direct control and supervision of Respondents.

3. That upon promulgation of Khyber Pakhtunkhwa Province Medical Teaching Institutions Reforms Act, 2015 (Khyber Pakhtunkhwa Act No. IV of 2015), Para Medic Association, LRH, Peshawar filed a Writ Petition No. 2643-P/2015 questioning creation of surplus pool, asked for directorship for the Paramedics in the Boards of Governor of MTI and questioned the clause of "till further order".

(Copy of the Writ Petition # 2643-P/2015 is Annexure "B")

4. That this Writ Petition was taken up for hearing alongside numerous other writ petitions by a larger Bench so specially constituted to deal with matters of vires of the Act, 2015 ibid and other related issues. It is a matter of record that while dismissing other Petitions against the vires of the Act, Writ Petition No. 2643-P/2015 was partially accepted in Judgment and Order of the Honorable Larger Bench dated 23.12.2015 as this Honorable Court while acknowledging and appreciating the merits of the matters agitated by paramedics, allowed their plea against "further orders" and their representation in Board of Governors.

ATTESTED

EXAMINER
Peshawar High Court

30 DEC 2017

3. That seeking enforcement of constitutional rights through a Constitutional Petition was not taken in good grace either by the Respondents or for that matter by the Chairman Board of Governor, LRH Peshawar, who is championing the cause of so-called reforms in MTIs and is acting as quasi advisor to the Respondent Government. He had been heard saying numerously that he would make sure that no one can stay in MTIs if he is challenging him or questioning his wisdom and authority.

6. That while momentarily parting from the discussion at hand, it is significant to point out that while misinterpreting a certain part of the Judgment of the larger Bench dated 23.12.2015, Respondent No. 1 Government through a Notification No. SO(R-II)/E&D/1-6/2009 dated 08.02.2016, while purportedly exercising powers under Section 4 of the West Pakistan 'Essential' Services (Maintenance) Act, 1958 and in total defiance to the very intent and spirit of the Act, 2015 has issued direction to all the persons working or engaged in the Medical Teaching Institutes not to leave their place of duty without prior permission of the competent authority. Petitioners reserve their rights to question the validity of this Notification at appropriate stage separately.

(Copy of the Notification under Essential Services Act is Annexure "C")
(Copy of the WP Essential Services (Maintenance) Act, 1958 is Annexure "D")

7. That meanwhile, Government took certain steps to dissolve Post Graduate Medical Institute (PGMI) that infuriated concerned doctors. Demands were also being raised for grant of health professional allowance. In this backdrop, Respondent No. 1 issued the Notification under Essential Services Act. While displeased with this Notification and so-called imposition of emergency amongst other issues, Doctors working in these Hospitals and MTIs started protesting against the Government. This agitation aggravated further and some health professionals primarily led by doctors announced strike on 09.02.2016. The fact of strike, led by doctors was also widely reported both in print and electronic media.

(Copies of press clippings are Annexure "E")

8. That while seized of an opportunity to get rid of office bearers and some of the members of Para Medical Association, and while actuated with clear mala fide and political agenda, Respondents instead of proceeding against doctors, chose to victimize low-paid employees. Petitioners were thus ordered to be transferred out of their concerned MTIs to far flung places of the Province by virtue of separate Office Orders dated 09.02.2016 issued by Respondent No. 2. Petitioner No. 5, who was a signatory of WP No. 2643-P/2015 was punished separately through a transfer order dated 01.02.2016. The very

ATTESTED

EXAMINER
Peshawar High Court

30 DEC 2017

language of the office orders for transfer is smacked with color of highhandedness, caprice and falsity. The Office Orders read:

"On their involvement in illegal activities contrary to the conduct rules 1987, as well as essential services (maintenance) act 1958 and subsequent relieving from MTV/LRH Peshawar on account of strike/agitation, leaving the patients in emergency and operation theaters crying for survival; the following staff stand transferred....."

(Copies of the transfer orders are Annexure "F")

9. That after a couple of days of negotiations, all the demands of doctors were acceded to and they were all let off, without any proceedings but the poor low-paid paramedics who had no visibility whatsoever in the so-called strike and had not been concerned with any ER or OTs are being punished without the mandate of law.

(Copies of the news clippings reporting calling off of the strike are Annexure "G")

10. That even previously this Honorable Court has intervened and through interim relief prevented adverse action against Petitioner(s) who are being victimized for their stance against the Government.

(Copy of the WP and Interim Order of the Court is Annexure "H")

11. That the transfer orders of the Petitioners in garb of Essential Service (Maintenance) Act, 1958 or otherwise (heremafter referred to as "impugned order" for facility of reference only) are illegal, unlawful and without lawful authority hence this petition.

12. That feeling gravely dissatisfied and aggrieved of the impugned orders, while having no other efficacious or adequate remedy, the Petitioners are constrained to invoke constitutional jurisdiction of this Honorable Court, on following grounds and reasons, amongst others:

Grounds warranting this Writ Petition:

a. Because the impugned orders are illegal, unlawful, without lawful authority and thus of no legal effect.

b. Because neither the Khyber Pakhtunkhwa Government Servants (Conduct) Rules, 1987

ATTESTED

**EXAMINER
Peshawar High Court**

30 DEC 2017

43

49-63

For the Essential Services (Maintenance) Act, 1958 empowers the Respondents to pass the impugned orders.

- c. Because even otherwise, as is apparent on the face of records, impugned orders are actuated with intent mala se as the Respondents are hell bent to get rid of the Petitioners at any costs solely on political considerations.
- d. Because the misgivings of the Respondents against the Petitioners are utterly out of place as the Petitioners have not resorted to any illegal activities, so alleged against them.
- e. Because no provision of the Essential Service (Maintenance) Act, 1958 mandates any transfer. In fact, the Respondents, while posting the Petitioners out are committing an offense under the aforesaid Act, 1958.
- f. Because once the Essential Services (Maintenance) Act, 1958 is notified, no employer can order transfers at all.
- g. Because impugned orders are passed in one and tenor of "punishment". No minor or major punishment can be imposed without due process of law.
- h. Because the impugned orders are passed in total disregard of the KP Efficiency and Discipline Rules, 2011.
- i. Because most surprisingly the Petitioners who are neither doctors nor care-givers relating to emergency or for that matter operation theaters are being allegedly prosecuted and punished for so called patients crying for survival. How Office Assistants, Sweepers, Masalchi, bearers, lift operators and a few clinical technicians are answerable for strike staged and held under the leadership of doctors.
- j. Because the very act of letting off the doctors and choosing to prosecute only low-paid employees and that too as a punishment for approaching this honorable court is not only smacked with partiality, unfairness and nepotism but is a clear violation of Article 4, 5, 25, 37 and 38 of the Constitution.
- k. Because as narrated in facts, a number of Petitioners are office bearers of Para Medical Association. It is a policy of the provincial government, duly circulated in the Est: Code that Office Bearers shall not normally be transferred during the currency of their office.

ATTESTED
 EXAMINER
 Peshawar High Court
 30 DEC 2017

to avoid unfair labour practices.

(Copy of the Relevant Letter/Policy is Annexure "I")

~~50~~

(69)

- i. Because similarly most of the Petitioners are low-paid Class IV employees who cannot be transferred out of their home district/district of domicile.
- m. Because the impugned orders are clearly motivated with mala fide rather than made in public interest. As the record suggests, the Petitioners are victimized for ulterior motives.
- n. Because even the KP MTI Act, 2015 also protects the services of the Petitioners and thus they are not liable to be punished through impugned orders.
- o. Because the Respondents are acting in a manner clearly recking highhandedness, caprice and victimization.
- p. Because the impugned orders is arbitrary, despotic and whimsical without having any legal or factual basis.
- q. Because the Respondents are bent to illegally discriminate amongst health care providers and paramedics without any reasonable justification or classification.
- r. Because in similar circumstances, this Honorable Court has allowed interim relief in aid of justice.
- s. Because the impugned orders are made with sole purpose of creating terror and deterrence in heart of doctors by making the Petitioners as mere guinea pigs and scapegoats for no fault on their part.
- t. Because even before the notification under Section 4 of the Act, 1958 some of the Petitioners were being issued show cause notices under the same Act, clearly establishing the intent mala se of the Respondents and their resolve to dislodge the petitioners by hook or by crook.
- u. Because recently the apex Supreme Court of Pakistan, while suspending a Judgment of the Honorable Balochistan High Court, has acknowledged the right of peaceful protest and agitation for rights of the government employees and declared any clog on it as excessive and illegal.

(Copy of the press clippings reporting Supreme Court judgment are Annexure "J")

- v. Any other grounds at the time of hearing.

ATTESTED
EXAMINER
Peshawar High Court
30 DEC 2017

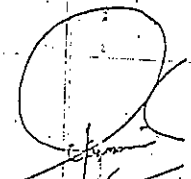
65

IT IS THEREFORE very humbly prayed that on acceptance of this Writ Petition, the Honorable Court may very magnanimously hold, declare and order that:

- I. The impugned transfer orders of the Petitioners are illegal, unlawful, without lawful authority and thus of no legal effect and hence liable to be set aside and reversed.
- II. The Respondents shall not dislodge the Petitioners, proceed against them adversely interfere with their legal or fundamental rights in garb of the West Pakistan Essential Services (Maintenance) Act, 1958.
- III. Costs throughout.
- IV. Interim Relief: In view of all the requisites for interim relief, operation of the impugned orders for transfer may very kindly be suspended till the final disposal of this Writ Petition.
- V. Any other relief, not specifically prayed, may also graciously be granted, if appears just necessary and appropriate.

PETITIONERS

Through


Shumail Ahmad Butt,
Advocate Supreme Court

CERTIFICATE

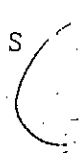
It is certified that no writ Petition has earlier been filed by the Petitioners in respect of this cause of action in this or any other Honorable Court.

LIST OF BOOKS

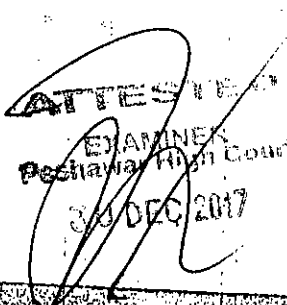
1. Constitution of Islamic Republic of Pakistan, 1973
2. The West Pakistan Essential Services (Maintenance) Act, 1958
3. The Khyber Pakhtunkhwa Government Servants (Conduct) Rules, 1987

PETITIONERS

Through


Shumail Ahmad Butt,
Advocate Supreme Court

ATTESTED
EXAMINER
Peshawar High Court


30 DEC 2017

OFFICE OF THE HOSPITAL DIRECTOR

Leady Reading Hospital Medical Teaching Institution, Peshawar
 Phone # 0092-919211402 Fax: 0092919211401 www.lrh.gov.pk


OFFICER ORDER

Employees earlier transferred to DG Health Service but their cases were in court. Now the court has dismissed their Writ Petitions No. 557-P/2016 and W.P No. 593-P/2016 being not maintainable (copy attached) thus the following employees are hereby relieved and directed to report to DG Health Services Khyber Pakhtunkhwa for further posting with immediate Effect.

1. Mr. Johar Ali, Clinical Technician (Radiology)
2. Mr. Roidar Shah, Clinical Technician (Pharmacy)
3. Mr. Isam Gul Clinical Technologist (Surgical)
4. Mr. Shamsul Taj, Clinical Technician (Surgical)
5. Mr. Riaz Barki, Clinical Technician (Pathology)
6. Mr. Muhammad Asim, Clinical technician (Cardiology)
7. Mr. Murad Ali, Office Assistant
8. Mr. Muhammad Ali, Ward Orderly
9. Mr. Sartaj, Lift Operator
10. Mr. Shahid Masih, Sweeper
11. Mr. Ishaq Buta, Sweeper
12. Mr. Munawar Lal, Sweeper
13. Mr. Faramosh, Ward Orderly
14. Mr. Tahir Kan, Dhobi
15. Mr. Muhammad Waris, Ward Orderly
16. Mr. Hayat Khan, Behishti
17. Mr. Fazle Moula, Attendant
18. Mr. Roaid Khan War Orderly
19. Mr. Noor Rahim, Ward Orderly
20. Mr. Mahabat Khan, Ward Orderly
21. Ms. Fatima Bibi Charge Nurse
22. Mr. Asif Khan, Naib / Qasid
23. Ms. Aster Shaheen, Charge Nurse
24. Ms. Sumbal Firdous, Charge Nurse
25. Ms. Bilqees Rana, Charge Nurse
26. Ms. Sajida Parveen, Charge Nurse

Sd/-
Hospital Director
Lady Reading Hospital, MTI Peshawar

No. 6308-15/HD/LRH

Dated: 05.05.2017

Copy forwarded for information and necessary action to:-

1. Director General Health Services Khyber Pakhtunkhwa Peshawar
 2. P.S to Senior Minister for Health Govt. of Khyber Pakhtunkhwa Peshawar
 3. P.S to Secretary to Khyber Pakhtunkhwa Health Department Peshawar
 4. Director Finance
 5. Budget and Account Officer
 6. All of the above mentioned Officials
 7. Secretary to BoGs
 8. P.A to Hospital Director
- Leady Reading Hospital, MTI Peshawar
 Leadly Reading Hospital, MTI Peshawar
 Leadly Reading Hospital, MTI Peshawar
 Leadly Reading Hospital, MTI Peshawar
 Leadly Reading Hospital, MTI Peshawar
 Leadly Reading Hospital, MTI Peshawar

Sd/-
Hospital Director
Lady Reading Hospital, MTI Peshawar

Annex 2

(67)

LADY READING HOSPITAL, PESHAWAR

OFFICE ORDER

AB

As per decision taken in the oath taking ceremony of Paramedical staff held in Lady Reading Hospital Auditorium on 8th April 2009, and subsequent minutes of the meeting issued vide this office letter bearing No. 9604-9/LRH/PA, dated 14/04/2009. The place previously called PCO adjacent to ramp of OPD, is hereby allotted to Paramedical Association Lady Reading Hospital, Peshawar to use for office purposes.

Sd-
Chief Executive
Lady Reading Hospital,
Peshawar

30/4/2009

No. 10869-76 /LRH

Copy forwarded to the:

1. RMO
2. Director Finance
3. DMS (Admn)
4. DMS (Zone III)
5. PA to Chief Executive
6. PA to Medical Superintendent
7. Syed Roidar Shah, President PMA LRH, Peshawar
8. AD works

For information and n/action.

AC
Medical Superintendent
Lady Reading Hospital,
Peshawar

AB
30/4/2009

BETTER COPY

Annex 'M'

SERVICES AND GENERAL INFORMATION DEPARTMENT
(SERVICES WING)

No. IV S&GAD) B(467) 198 V. VII.

Dated Peshawar the 7th July, 1998.

(68)

- 1- All Administrative Secretaries to Govt. of N.W.F.P.
- 2- All Commissioners in NWFP.
- 3- Secretary to Governor, NWFP.
- 4- All Heads of Attached Department in NWFP.
- 5- All Deputy Commissioners/ Political Agents in NWFP.
- 6- Secretary, Board of Governor, NWFP
- 7- Secretary, NWFP, Public Service Commission, Pesh
- 8- All Districts and Commissions Judges NWFP.
- 9- Registrar, Peshawar High Court, Peshawar.

SUBJECT :- TRANSFER OF OFFICE BEARERS OF ASSOCIATIONS.

Sir,

I am directed to refer to this Department letter No. SOR.I(S&GAD) 3-43-4/86 dated 25.3.1986 on the subject noted above and to request once again that the office bearers of the Service Association should not ordinarily be transferred for the year for which they are office bearers as such.

Your Obedient Servant,

Sd/-

SECTION OFFICER (SERVICES.IV)

[Handwritten signature]

Annex N
108-
69

SUBJECT: MINUTES OF THE MEETING REGARDING DIFFERENT ISSUES RELATED TO PROVINCIAL PARAMEDICS ASSOCIATION HELD ON 16TH AUGUST, 2016 AT 1400 HRS UNDER THE CHAIRMANSHIP OF SPECIAL SECRETARY HEALTH.

A meeting on the subject matter was held under the chairmanship of the Special Secretary Health, Khyber Pakhtunkhwa in his office on 16th August, 2016 at 1400 hrs. The following attended the meeting.

• Special Secretary Health	Chairman
• Deputy Secretary-II Health Department	Member
• The Chief Executive Officer, Health Care Commission Khyber Pakhtunkhwa	Member
• The DGHS, KPK, Peshawar.	Member
• The Deputy Director (Public Health), DGHS, Office, Peshawar.	Member
• The Chief Executive Officer, Khyber Pakhtunkhwa Medical Faculty, Peshawar.	Member
• Principal, ZAB, PGPI, Peshawar.	Member
• Section Officer (III), Health Department	Member
• Assistant Director (Paramedics) DGHS, Office, Peshawar	Member
• Syed Roidar Shah, President PPMA, KPK LRH, Peshawar	Member
• Luqman Gul, Secretary General, PPMA, KPK LRH.	Member

The meeting started with the recitation of verses from the Holy Quran. The Chair welcomed the participants and started discussion. The Section Officer-III Health Department briefed the forum about the agenda of the meeting. A detail discussion was held on the following points and decisions were taken.

1. Completion of the remaining proposal/summary processed in 2014 of paramedics for up gradation.

The paramedical association raised some reservations regarding the up gradation of paramedics wherein it was pointed out only 25% work has been done in the instant matter. The remaining 75% work regarding up gradation of paramedics is still pending with Health Department and has not yet been materialized.

Decision:- After threadbare discussion it was agreed upon that a committee under the chairmanship of Deputy Secretary-II will be constituted consisting of the following:-

- Deputy Director (Public Health)
- Section Officer-III
- Assistant Director (Paramedics)
- President PPMA, KPK
- Secretary General PPMA, KPK.

The committee will look into the matter in near future to devise modalities in order to redress the reservation of paramedical association regarding the up-gradation.

2. Establishment of Paramedical Council and issue related to Examination system of Medical Faculty.

The paramedical association demanded for the Establishment of Paramedical Council on the analogy of Nursing Council, PMDC etc.

Decision:- It was agreed upon that a committee to look into the matter would be formed headed by Chief Executive Officer of Khyber Pakhtunkhwa Medical Faculty comprising of the following members

- Deputy Director (Public Health)
- Section Officer-III
- Assistant Director (Paramedics)

Attended

پشاور ایبٹ آباد اسلام آباد اور کراچی سے بیک وقت شائع ہونیوالا کثیر الاشاعت قومی روزنامہ

دن کی خدمات آج کا نصب العین

روزنامہ

پشاور
پاکستان

ایڈیٹر
عبدالواحد یوسفی

سمات 42

جلد 27 جہز 18 فروری 2016 9 جمادی الاول 1437 12 ربیع الثانی 1437 شمارہ 40

Annex

Handwritten signature

110

ایوب ٹیچنگ ہسپتال کے 39 ہر تالی ملازمین کے تباہ کن منسوخ

مشاق احمدی کی روزمرہ اور ڈی جی محبت سے ملاقات کے منسوخ کرانے ہسپتال انتظامیہ اور ملازمین کے تباہ کن

ایبٹ آباد (بزرگ رپورٹ) روزمرہ اور ڈی جی محبت کے ملازمین اور ہسپتال انتظامیہ کے مابین جادوں کی وجہ سے روزمرہ ملازمین تباہ کر رہے تھے جس کے خصوصی اطلاعات و نشریات و اخبار ایکٹویشن مشاق احمدی نے پیدا ہوئے اور ملازمین کو شکست دیا احمدی نے ایوب ٹیچنگ ہسپتال کے 39 ملازمین کے کوارڈینیشن کونسل کی طرف سے کی جانے والی ہڑتال پر ہو گیا تھا اور ملازمین نے ہڑتال کر دی تھی، مشاق جادوں کے احکامات منسوخ کرانے جس کے بعد ہسپتال انتظامیہ نے 39 ہڑتالی ملازمین کے ایبٹ آباد احمدی سے ملازمین (بالی صفحہ 10 ایڈیشن 88)

فرج حلیل کا گواہت کا تادولہ

منسوخ کرتے ہیں

پشاور (بزرگ رپورٹ) عدالت عالیہ نے فرج حلیل کی ایبٹ آباد کے منسوخ کرانے کا حکم دیا اور منسوخ کرانے کے لئے سیکرٹری (بالی صفحہ 10 ایڈیشن 88)

ایڈیشن 88 تباہ کن منسوخ

اور ہسپتال انتظامیہ کے درمیان تنازعہ حل کرانے کے لئے روزمرہ اور ڈی جی محبت کے منسوخ کرانے کے احکامات کی اور 39 ملازمین کے تادولہ منسوخ کرانے کے تادولوں کی منسوخ کا احاطہ طور پر نوٹیفیکیشن بھی جاری کر دیا گیا ہے۔ جادوں کی منسوخ بر ملازمین نے مشاق احمدی کا شکریہ ادا کرتے ہوئے آل ایبٹ آباد کراچی میں کونسل ایوب ٹیچنگ ہسپتال نے یقین دہانی کرائی ہے کہ ہسپتال کی بہتری اور مریمینوں کو علاج معالجے کی سہولیات فراہم کرنے کے لئے ہسپتال کا ہر روز ہر وقت اور جگہ بہ جگہ کرانے۔

ایڈیشن 88 حکم نامہ معطل

محبت اور ہر تالی روز آف کو روز سے جرات باجگ برافین لیا ہے اور محبت کی تادولہ منسوخ کرانے کے احکامات کے ذریعہ ہسپتال محبت اللہ کا کابینہ اور محبت کے احکامات کو ہٹانے کے لئے درخواست گزار کو اسے حقوق کے لئے آواز اٹھانے کی یاد دہانی میں صوبائی حکومت نے گواہت تبدیل کر دیا ہے جبکہ وہ ایم لی آئی کا ملازم ہے اور سیکرٹری محبت کے پاس اس کے تادولے کا اعتبار ہی نہیں ہے۔

Handwritten signature

Annex¹⁰
72BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

Appeal No. 458/2017

Date of Institution ... 12.05.2017

Date of Decision ... 30.11.2017



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

VERSUS

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

... (Respondents)

MR. SHUMAIL AHMAD BUTT,
Advocate

--- For appellant.

MR. MUZAMMIL KHAN,
Legal Advisor

... For respondent no.4

MR. JAVED IQBAL GULBELA,
Legal Advisor

--- For respondent no.4.


MR. USMAN GHANI,
District Attorney
respondents.

--- For official

MR. NIAZ MUHAMMAD KHAN,
MR. AHMAD HASSAN,

... CHAIRMAN
... MEMBER(Executive)

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar


72-A

JUDGMENT**NIAZ MUHAMMAD KHAN, CHAIRMAN.-**

-15-

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

ATTESTED


EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

72-B

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

- 16 -

FACTS

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

ARGUMENTS

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

ATTESTED

EXAMINER
Peshawar
Service Tribunal

72C

- 17 -

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

ATTESTED

EX AMPLIFIED
Peshawar
Tribunal

72-D

-187-

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

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

ATTESTED

EXAMINER
West Pakistan
Essential Services
Tribunal
Shawar

72-E
1972

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

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

ATTESTED

EXAMINED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

72-F

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

CONCLUSION.

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

EXAMINED
BY
OFFICE
REGISTRAR

EXAMINED
BY
OFFICE
REGISTRAR

72-9

- 21

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

ATTESTED

EXAMINER
Vice-Chairman
Tribunal
Lahore

72-11

-22-

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

ATTESTED

EX-10
 By/for Pak
 Service T
 Peshawar

72-I
-237

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

ATTESTED

EXAMINER
Vice-Chief Justice
Peshawar

728

- 26 -

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

ATTESTED

EX-107
Khyber Pakhtunkhwa
Civil Servants Tribunal,
Peshawar

72-K

-25-

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

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

(NIAZ MUHAMMAD KHAN)
CHAIRMAN

(AHMAD HASSAN)
MEMBER

ANNOUNCED
30.11.2017

Certified to be true copy

Approved For Reporting

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 458 /2017

Amber P

-28- *(72)*

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

.....Appellant

Versus

1. Government of Khyber Pakhtunkhwa,
Through Secretary, Health Department,
Civil Secretariat, Peshawar.
2. Directorate General Health Services,
Through Director General,
Attached Department Complex,
Khyber Road, Peshawar.
3. Secretary Establishment,
Government of Khyber Pakhtunkhwa,
Peshawar.
4. Hospital Director,
MTI, Lady Reading Hospital,
Peshawar.

.....Respondents

SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED TRANSFER ORDER. NO. 2267.84/AE-VI DATED 09/02/2016 WHEREBY THE APPELLANT HAS BEEN TRANSFERRED FROM MTI, LRH, PESHAWAR TO DISTRICT KOHAT WHERE HIS SERVICES WERE PLACED AT THE DISPOSAL OF DISTRICT HEALTH OFFICER KOHAT.

May it please this Honorable Court

1. That the Appellant is a civil servant appointed on 02.08.1987 against a vacant post at Lady Reading Hospital, Peshawar and has started his career with zeal and dedication and served the public at large on several positions since his appointment to the best of his abilities and full satisfaction of his superiors, consequently since around three decades he is performing his duties at the aforesaid hospital. Presently he is working as Clinical Technician (Pharmacy). It is pertinent to mention here that the Appellant is also the President of Provincial Paramedical Association as well as President Paramedical Association LRH, Peshawar, a representative body and the provincial chapter of Pakistan Para-Medic Association as well as the Appellant is elected President of Para Medical Association Lady Reading Hospital, Peshawar. Furthermore the Appellant is the member of the governing body of faculty and all the administrative, management and general control of the faculty vests in the governing body.

(Copies of notification as President PPMA etc are annexure "A")
 (Copy of KP Faculty of Paramedical, Allied Health Sciences Act is Annex "A-1")

2. That the parent national level body is registered under the Societies Registration Act, 1960, the provincial chapter is also a duly recognized body since 09.09.1970, while its constitution has been approved by Respondent No. 1 Government w.c.f. 09.08.1992.

(Copies of the documents of registration etc are Annexure "B")

3. That upon promulgation of Khyber Pakhtunkhwa Province Medical Teaching Institutions Reforms Act, 2015 (Khyber Pakhtunkhwa Act No. IV of 2015), Para Medic Association, LRH, Peshawar filed a Writ Petition No. 2643-P/2015 questioning creation of surplus pool, asked for directorship for the Paramedics in the Boards of Governor of MTI and questioned the clause of "till further order".

(Copy of the Writ Petition # 2643-P/2015 is Annexure "C")

4. That this Writ Petition was taken up for hearing alongside numerous other writ petitions by a larger Bench so specially constituted to deal with matters of vires of the Act, 2015 ibid and other related issues. It is a matter of record that while dismissing other Petitions against the vires of the Act, Writ Petition No. 2643-P/2015 was partially accepted in Judgment and

Order of the Honorable Larger Bench dated 23.12.2015 as this Honorable Court while acknowledging and appreciating the merits of the matters agitated by paramedics, allowed their plea against "further orders" and their representation in Board of Governors.

5. That seeking enforcement of constitutional rights through a Constitutional Petition was not taken in good grace either by the Respondents or for that matter by the Chairman Board of Governor, LRH Peshawar, who is championing the cause of so-called reforms in MTIs and is acting as quasi advisor to the Respondent Government. He had been heard saying numerously that he would make sure that no one can stay in MTIs if he is challenging him or questioning his wisdom and authority.

6. That it is worth mentioning that Appellant being low paid staff working as Clinical Technician Pharmacy at Medical Teaching Institute namely Lady Reading Hospital and has not opted MTI service and is thus working in direct control and supervision of Respondents No.1 to 3 as amended Section 16 of Khyber Pakhtunkhwa Medical Teaching Institutions Reforms Act, 2015 states that all civil servants serving in MTIs may within a period to be notified by the Government, opt for employment of MTI, their service structure, promotion and disciplinary matters etc but fortunately or otherwise the period has not been yet notified by the Government.

(Copy of the MTI Amended Act, 2015 is Annexure "D")

7. That while momentarily parting from the discussion at hand, it is significant to point out that while misinterpreting a certain part of the Judgment of the larger Bench dated 23.12.2015, Respondent No. 1 Government through a Notification No. SO(R-II)/E&D/1-6/2009 dated 08.02.2016, while purportedly exercising powers under Section 4 of the West Pakistan Essential Services (Maintenance) Act, 1958 and in total defiance to the very intent and spirit of the Act, 2015 has issued direction to all the persons working or engaged in the Medical Teaching Institutes not to leave their place of duty without prior permission of the competent authority.

(Copy of the Notification under Essential Services Act is Annexure "E")

(Copy of the WP Essential Services (Maintenance) Act, 1958 is Annexure "F")

29

(75)

8. That meanwhile, Government took certain steps to dissolve Post Graduate Medical Institute (PGMI) that wound up concerned doctors. Demands were also being raised for grant of health professional allowance. In this backdrop, Respondent No. 1 issued the Notification under Essential Services Act. While displeased with this Notification and so-called imposition of emergency amongst other issues, Doctors working in these Hospitals and MTIs started protesting against the Government. This agitation aggravated further and some health professionals primarily led by doctors announced strike on 09.02.2016. The fact of strike, led by doctors was also widely reported both in print and electronic media.

(Copies of press clippings are Annexure "G")

9. That That after a couple of days of negotiations, all the demands of doctors were acceded to and they were all let off, without any proceedings but the poor low-paid paramedics who had no visibility whatsoever in the so-called strike and had not been concerned with any ER or OTs are being punished without the mandate of law.

(Copies of the news reporting calling off of the strike are Annexure "H")

10. That while seized of an opportunity to get rid of office bearers and some of the members of Para Medical Association, and while actuated with clear mala fide and political agenda, Respondents instead of proceeding against doctors, chose to victimize low-paid employees while showing more loyalty to the Chairman Board of Governors LRH, issued an office order bearing No. 2267.84/AE-VI DATED 09/02/2016 wherein he transferred the appellant and several others of their duties in absolute ignorance and violation of attending law and circumstances. It is important to point out that the appellant is a permanent civil servant and office bearer of the association at several levels therefore cannot be left at the mercy of Respondents and there most influential political figure whom have no authority to issue any order or treat the appellant in any manner, in grave infraction and defiance of the law on question. Thus the Appellant, along with other office bearers, was thus ordered to be transferred out of his concerned MTI to a far flung place of the Province by virtue of Office Orders dtd 09.02.2016 issued by Respondent No. 2. The Office Orders read:

“On their involvement in illegal activities contrary to the conduct rules 1987, as well as essential services (maintenance) Act 1958 and subsequent relieving from MTI/LRH Peshawar on account of strike/agitation, leaving the patients in emergency and operation theaters crying for survival; the following staff stand transferred.....”

(Copy of the transfer order is Annexure “I”)

11. That the appellant, while was having no other remedy, filed departmental appeal bearing No. 341/16/PPMA-KPK dated 23.02.2016 to the Respondent. No.1 being Competent Authority in hope that he will get relief from that forum but in vain as over a year has been passed and yet no fruitful result has been given to the appellant and still his Departmental Appeals/Representations is pending before the Departmental Authority who was under legal obligation to decide the same within statutory period.

(Copy of the Departmental Appeal is annexure “J”)

12. That the Appellant along with many others were aggrieved of the Transfer orders made under the garb of Essential Service (Maintenance) Act, 1958 or otherwise (hereinafter referred to as “impugned orders” for facility of reference only) challenged the same before the Honorable Peshawar High Court by way of *W.P. No. 557-P/2016 titled as “Johar Ali and Others vs Government of Khyber Pakhtunkhwa etc”* wherein interim relief was granted to the Appellant along with many others which remained intact for over a year or so but the case was heard by a Division Bench of the Peshawar High Court on 25.04.2017 wherein they have heard the arguments at length but unfortunately the aforesaid petition was dismissed while holding that the Appellant and others are civil servants and their grievances relate to the terms and conditions of the service therefore the appropriate remedy for seeking the redressal of their grievance is Services Tribunal.

(Copy of the WP.557-P/2016 and Judgment dated 25.04.2017 is Annexure “K”)

13. That soon after the decision rendered by this Honorable Court in W.P 557-

P/2016, the Respondent No.4 issued relieving order No. 6308-15/HD/LRH dated 05.05.2017 of the Appellant and directed him to report to the office of Respondent No.2. It is of significance importance that Respondent No.4 is not a competent Authority to relieve the Appellant therefore his act of relieving the Appellant is in total defiance of the law and policy.

(Copy of the Relieving Order is Annexure "L")

14. That it is also worthwhile to point out that in the year 2009 Appellant, while selected as president paramedical association LRH, was allotted a separate office by the then Chief Executive of the Aforesaid hospital wherein he is easily accessible to all the association members as well as the Appellant use the place for office purposes. It is a policy of the provincial government, duly circulated in the Esta Code that Office Bearers shall not normally be transferred during the currency of their office therefore the Appellant rights are protected as per policy and is thus not transferrable outside Lady Reading Hospital but the Respondent No. 2 issued Transfer and Posting Order of Appellant, while ignoring the aforesaid policy and settled legal position qua union member employees, to District Kohat.

(Copy of the allotment of the office to PMA is Annexure "M")

(Copy of the Government policy is Annexure "N")

15. That it is also of great importance to mention here that paramedical association has been given due representation by the Government as vide letter No. SOH(III)/HD/3-5/Paramedics/2016 dated 17.10.2016 it has been circulated to several departments related to health that wherever there is a meeting related to paramedics so representation of at least two of their office bearers be ensured, which can be reflected from minutes of the meeting headed by Special Secretary for Health Department where two of the office bearers, including the Appellant, attended the meeting.

(Copy of the notification and minutes are Annexure "O")

16. That even previously the Honorable Peshawar High Court as well as this Honorable Forum has intervened and through interim relief prevented adverse action against Petitioner(s)/Appellant who are being victimized for their stance against the Government or who are office bearers of association.

(Copy of the Order of this Honorable Court is Annexure "P")

31

17. That it is also important to point out before this honorable Tribunal that due to the afore stated strikes etc 39 employees of Ayub Teaching Hospital were also transferred out to far flung areas of the province but due to the intervention of the Special Assistant to Chief Minister, Mushtaq Ahmad Ghani the transfer orders of all the 39 employees were recalled and they were remained at their earlier places of work.

(Copy of the Order pertaining to ATH is Annexure "Q")

18. That feeling gravely dissatisfied and aggrieved of the impugned order

Hence this appeal inter-alia on the following grounds:-

Grounds warranting this Appeal:

- a. *Because* the impugned order is illegal, unlawful, without lawful authority and thus of no legal effect.
- b. *Because* the impugned transfer order is passed without any legal or plausible justification and is therefore liable to be reversed.
- c. *Because* the Appellant has been allotted office at the Lady Reading Hospital for the betterment of their fraternity therefore he cannot be transferred at single stroke of pen.
- d. *Because* 39 other employees of Ayub teaching Hospital were transferred due to the same reason but there transfer order was cancelled on the next day because they realized that civil servants as well as office bearers cannot be transferred during their tenure.
- e. *Because* the Appellant is elected President of the Provincial Paramedical Association as well as President Paramedical Association Lady Reading Hospital therefore his rights are guaranteed and protected under the laws.
- f. *Because* the misgivings of the Respondents against the Appellant is utterly out of place as the Appellant has not resorted to any illegal activities, so alleged against him.
- g. *Because* no provision of the Essential Service (Maintenance) Act, 1958 mandates any transfer. In fact, the Respondents, while posting the Appellant out is committing an offense under the aforesaid Act, 1958.

Act, 1958 empowers the

h. *Because* once the Essential Services (Maintenance) Act, 1958 is notified, no employer can order transfers at all.

~~33~~

- i. *Because* impugned orders are passed in tone and tenor of "punishment". No minor or major punishment can be imposed without due process of law.
- j. *Because* the impugned orders are passed in total disregard of the KP Efficiency and Discipline Rules, 2011.
- k. *Because* most surprisingly the Petitioners who are neither doctors nor caregivers relating to emergency or for that matter operation theaters are being allegedly prosecuted and punished for so called patients crying for survival. How Office Assistants, Sweepers, Masalchi, bearers, lift operators and a few clinical technicians are answerable for strike staged and held under the leadership of doctors.
- l. *Because* the very act of letting off the doctors and choosing to prosecute only low-paid employees and that too as a punishment for approaching this honorable court is not only smacked with partiality, unfairness and nepotism but is a clear violation of Article 4, 5, 25, 37 and 38 of the Constitution.
- m. *Because* the Constitution of the Islamic Republic of Pakistan confers right on every citizen of forming of an association as well as grants freedom of assembly in the form of protest or otherwise thus the impugned order is violative of Article of 16 and 17 of the Constitution, 1973.
- n. *Because* as held numerously by superior judiciary including the apex Supreme Court of Pakistan, no civil servant can be transferred except for public interest whereas the impugned transfer order is clearly having a color of punishment and is done on so called administrative ground rather than public interest.
- o. *Because* as narrated in facts, appellant is office bearer of Para Medical Association. It is a policy of the provincial government, duly circulated in the Esta Code that Office Bearers shall not normally be transferred during the currency of their office to avoid unfair labour practices.
- p. *Because* the Respondents are acting in a manner clearly reeking highhandedness, caprice and victimization.
- q. *Because* the Respondents are bent to illegally discriminate amongst health

Essential Services (Maintenance) Act, 1958 empowers the

11 7 11

care providers and paramedics without any reasonable justification or classification.

34

r. *Because* the impugned orders are made with sole purpose of creating terror and deterrence in heart of doctors by making the Appellant as mere guinea pig and scapegoat for no fault on their part.

s. *Because* recently the apex Supreme Court of Pakistan, while suspending a Judgment of the Honorable Balochistan High Court, has acknowledged the right of peaceful protest and agitation for rights of the government employees and declared any clog on it as excessive and illegal.

(Copy of the press clippings reporting Supreme Court judgment are Annexure "R")

t. *Because* Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned transfer order, which is unjust, unfair and hence not sustainable in the eyes of law.

u. *Because* neither ESTA Code provisions does permit the Respondents to pass the impugned transfer order nor the Khyber Pakhtunkhwa Government Servants (Conduct) Rules, 1987.

v. *Because* even otherwise, as is apparent on the face of records, impugned order is actuated with intent mala se as the Respondents are hell bent to get rid of the appellant at any costs solely on political considerations.

w. *Because* since the Appellant is admittedly President of the PPMA who cannot be transferred out of his place of duty since completion of his office tenure as per Policy.

x. *Because* the impugned transfer order is clearly motivated with mala fide rather than made in public interest. As the record suggests, the appellant and his colleagues are victimized for ulterior motives of the Chairman Board of Governors, Lady Reading Hospital.

y. *Because* even the KP MTI Act, 2015 also protects the services of Appellant.

z. *Because* in similar circumstances, the Honorable Peshawar High Court and Honorable Services Tribunal has allowed relief in aid of justice.

aa. *Because* neither the Khyber Pakhtunkhwa Government Servants (Conduct) Rules, 1987 nor the Essential Services (Maintenance) Act, 1958 empowers the

WNO 17101886 11477

Respondents to pass the impugned orders.

35

bb. *Because* appellant will raise other grounds at the time of arguments with the prior permission of the Court.

It is therefore most humbly prayed that on acceptance of the instant appeal, the impugned transfer order. No. 2267.84/AE-VI DATED 09/02/2016 and relieving order No. 6308-15/HD/LRH dated 05.05.2017 may graciously be set aside. Any other relief not specifically asked for may also be granted to the appellant if deemed fit, just and appropriate.

S. P. Shah
Appellant

Through

Shumail Ahmad Butt,
Advocate Supreme Court of
Pakistan,
&
H Bilal Khan
Advocate High Court,
Peshawar.

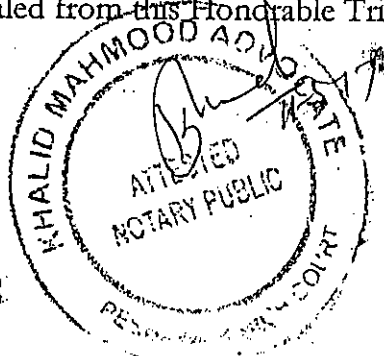
Dated: 16/05/2017

AFFIDAVIT

I, Syed Roidar Shah, Clinical Technician (Pharmacy), (President Provincial Paramedic Association as well as President Paramedical Association Lady Reading Hospital), Presently posted at MTI, LRH, Peshawar, do hereby solemnly declare that the accompanying Appeal is true and correct to the best of my Knowledge and belief and nothing has been concealed from this Honorable Tribunal.

Advocate

Identified by



S. P. Shah
DEPONENT

ID No 1710188611477

Annex 3

①

82

BEFORE THE HONOURABLE PESHAWAR HIGH COURT
BENCH DERA ISMAIL KHAN

Writ Petition No. 555-D / 2017

Fatchullah Khan

Son of Muhammad Aslam r/o Garra Ashiq Khan P.O. Jatta, District Dera Ismail Khan, CNIC # 12101-2121343-3.

(PETITIONER)

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Secretary Health Department KPK, Peshawar.
2. Director General Health, Khyber Pakhtunkhwa, Peshawar.
3. Chairman Board of Governors, Medical Teaching Institutions, Dera Ismail Khan.
4. Hospital Director, Medical Teaching Institution, DHQ, MMM Teaching Hospital Dera Ismail Khan.
5. Medical Superintendent, DHQ Teaching Hospital, Dera Ismail Khan.

(RESPONDENTS)

Filed today 3257
At: Registrar
13/06/17

WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF
PAKISATN, 1973, AGAINST THE ILLIGAL
TERMINATION OF PETITIONER BY THE
RESPONDANTS.

Prayer:

On acceptance/issuance of this Writ petition this Honorable Court is humbly requested to declare the order 9725-27/ dated 09/05/2017 issued by respondent No. 4 is against law, rules, and ineffective upon the rights of petitioner and the respondent may please ordered to reinstatement the services of the petitioner with all back benefits.

... CIVIL Servant Act 1973, and API Rules 1989
... on local basis and they cannot be inter District
... transferred because to avoid violation of permanent residential rights of other
... Districts for their appointment. Ex-cadre transfer/ appointment/ deputation has
... already been handled.

IN THE PESHAWAR HIGH COURT, D.I.KHAN BENCH

FORM OF ORDER SHEET

Date of order or proceedings (1)	Order or other proceedings with signature of Judge(s). (2)
15.11.2017	<p><u>W.P.No.555-D/2017 with C.M.No.610-D/2017.</u></p> <p><u>Present:-</u> M. Asghar Khan Baloch, Advocate for the petitioner. ***</p> <p><u>MUHAMMAD AYUB KHAN, J.-</u> Through the instant constitutional petition, the petitioner Fatchullah seeks the following relief:-</p> <p><i>"It is therefore respectfully prayed that on acceptance/issuance of this writ petition this Honourable Court is humbly requested to declare the impugned termination order No.9725-24 dated 09.5.2017 issued by respondent No.4 against law, rules and ineffective upon the rights of petitioner and the respondents may please ordered to reinstate the services of the petitioner with all back benefits."</i></p> <p>2. As per averments of the petition, on the recommendation of Departmental Selection Committee, the petitioner was appointed as Ward Orderly by Medical Superintendent, DHQ Teaching Hospital, D.I.Khan on 01.4.2016. He was performing his duties when all of a sudden, his</p>

83

15/11/17

local basis and they cannot be inter District
ation of permanent residential rights of other
ready been banned by Supreme Court of Pakistan 2013 SCMR 1357
cadre transfer/ appointment/ deputation has
ostly above named Class-IV having de
pointed on Provincial basis

services were terminated by Hospital Director, MTI DHQ/MMM Teaching Hospitals, D.I.Khan, hence the instant petition.

3. The learned counsel for the petitioner vehemently contended that the petitioner was appointed by Medical Superintendent, DHQ Teaching Hospital, D.I.Khan on the recommendation of Department Selection Committee and on promulgation of the Khyber Pakhtunkhwa Medical Teaching Institutions Reforms Act, 2015, he did not join MTI, therefore, Hospital Director had no authority to issue his termination order.

4. We have heard the arguments of learned counsel for the petitioner and have gone through the available record.

5. The arguments advanced by learned counsel for the petitioner at the bar are not without force. The petitioner was appointed by Medical Superintendent, DHQ Teaching Hospital, D.I.Khan As per condition No.4 of appointment order of the petitioner *he will be governed by such Rules and orders as may be issued by Government from time*

(84)

[Handwritten signature]

Permanent residential rights of other District
iii. Ex-cadre transfer/ appointment/ deputation has
Supreme Court of Pakistan 2013 SCMR 1357.

Mostly above named Class-IV having domicile of Peshawar and other were
appointed on Provincial based Hospital against their quota. According

to time for the category of Government servant to which he belongs." It clearly indicates that for all intents and purposes, the petitioner was a Government servant according to his appointment order and was to be dealt with in accordance with Government rules and MTI has nothing to do with his services particularly when the petitioner has not joined MTI and thus, the impugned order dated 09.5.2017 is not sustainable.

85

6. For the reasons mentioned above, we allow this petition and declare the impugned order dated 09.5.2017 as illegal, without jurisdiction and ineffective upon the rights of petitioner. However, the competent authority is at liberty to proceed with the report of staff of the Trauma Centre mentioned in the impugned order.

Announced
Di: 15.11.2017.
Habib/*

IKRAMULLAH KHAN
JUDGE

MUHAMMAD AYUB KHAN
JUDGE

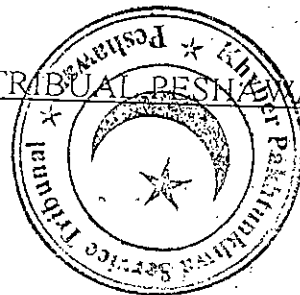
Office
27/11

cannot be inter District permanent residential rights of other X-cadre transfer/ appointment/ deputation has Court of Pakistan 2013 SCMR 1357.

iii. Mostly above named Class-IV having domicile of Peshawar and other appointed on Provincial based Hospital against their qua-

Annex 'R'

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR



86

Appeal No. 480/2017

Date of Institution ... 18.05.2017

Date of Decision ... 15.12.2017

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

... (Appellant)

VERSUS

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

MR. TAIMUR ALI KHAN,
Advocate

--- For appellant.

MR. USMAN GHANI,
District Attorney

--- For respondents.

MR. AHMAD HASSAN,
MR. MUHAMMAD AMIN KHAN KUNDI

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

JUDGMENT

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

ATTESTED

FACTS

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

2. The brief facts are that the appellant is serving as Medical Officer Peshawar KTH. Due to some administrative issues the appellant was illegally relieved by the incompetent authority vide order dated 03.11.2016 and his pay was also illegally stopped. Hospital Director tendered resignation on 05.10.2016, while transfer order was issued on 03.11.2016, despite the fact he was not competent to pass such orders. He was transferred to Department of Health, Peshawar on 03.11.2016.

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

ARGUMENTS

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

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

ATTESTED

(Handwritten initials)

CONCLUSION.

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

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

Certified to be true copy

(Signature)
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

Date of Presentation of Application 19/12/17
 Number of Words 1250
 Copying Fee 8
 Urgent 2
 Total 10
 Name of Copyist *(Signature)*

DIRECTORATE GENERAL HEALTH SERVICES

KHYBER PAKHTUN KHWA PESHAWAR

E-Mail Address: mg@nhs.uk office Ph# 091-9210269 Exchange# 091-9210187, 9210196 Fax # 091-9210230
No. 636-709 / Personnel Dated: 5/01/2018



Amex's
89

To,

1. Hospital Director MTI/LRH Peshawar.
2. Hospital Director MTI/KTH Peshawar.

Subject: DEPARTMENTAL APPEALS AGAINST RELIEVING ORDERS OF CLASS-IV STAFF OF MTI/LRH STAFF.

Sir,

Kindly refer to your miscellaneous relieving orders regarding Civil Servant Class-IV who were initially appointed by the competent authority of your MTI/LRH Peshawar in past to report at DGHS office for their further posting, along with their Departmental Appeals against their relieving orders.

The following Class-IV submitted Departmental Appeals/arrival reports.

S.No.	Name of Appellant	Relieving order No.
1	Roaid Khan S/o Sher Baz Khan Ward orderly	1422-31/HD/LRH dated 15.12.2017
2	Muhabat Khan S/o Hasham Khan Ward orderly	1432-39/HD/LRH dated 15.12.2017
3	Noor Rahim S/o Abdul Kabir Ward orderly	1416-23/HD/LRH dated 15.12.2017
4	Munawar Lal S/o Lal Din Sweeper	1456-63/HD/LRH dated 15.12.2017
5	Muhammad Ali S/o Lal Khan Ward orderly	1392-99/HD/LRH dated 15.12.2017
6	Hayat Khan S/o Taza Khan Behishli	1628-35/HD/LRH dated 21.12.2017
7	Faramosh S/o Dost Muhammad W/orderly	1409-16/HD/LRH dated 15.12.2017
8	Muhammad Asif S/o Muhammad Jano Najo Qasid	1644-51/HD/LRH dated 21.12.2017
9	Mr. Ishaq Bota S/o Buta Masih Sweeper	1448-55/HD/LRH dated 15.12.2017
10	Tahir Khan S/o Syed Khan Dhobi	1620-27/HD/LRH dated 21.12.2017
11	Fazal Maula S/o Fazal Rahim Attendant	1634-43/HD/LRH dated 21.12.2017
12	Sartaj S/o Muhammad Khan Lift Operator	1501-08/HD/LRH dated 18.12.2017
13	Shahid Masih S/o Waris Masih Sweeper	1440-47/HD/LRH dated 15.12.2017
14	Muhammad Waris S/o Abdul Wahab W/orderly	1400-08/HD/LRH dated 15.12.2017
15	Mr. Hamyun S/O Ghulam Rabani Ward Orderly	51240-57/KTH/HRD dated 22.12.17
16	Mr. Niaz Muhammad S/O Sher Muhammad Masalchi	51240-57/KTH/HRD dated 22.12.17
17	Mr. Yaqoob Masih S/O Rehmat Masih Sweeper	51240-57/KTH/HRD dated 22.12.17
18	Mr. Rooh ul Amin S/O Gul Habib M Sweeper	51240-57/KTH/HRD dated 22.12.17

I Director General Health Services Khyber Pakhtunkhwa Peshawar being competent authority for considering departmental appeals of Class-IV Civil Servant who were initially appointed by competent authority of concerned MTI/ LRH in past, and accept all above referred departmental appeals and direct all the Class-IV to report back to MTI/LRH & KTH for their duties on the following amongst other grounds:-

- The above named Class-IV Civil Servants were appointed by your good self in past and they served under your control since their initial appointment according to relevant Law & Rules of initial recruitment.
- According to Khyber Pakhtunkhwa Civil Servants Rules 1973 and APT Rules 1989 the Class-IV shall be appointed on local basis and they cannot be inter District transferred because to avoid violation of permanent residential rights of other Districts for their appointment. Ex-cadre transfer/ appointment/ deputation has already been banned by Supreme Court of Pakistan 2013 SCMR 1357.
- Mostly above named Class-IV having domicile of Peshawar and other were appointed on Provincial based Hospital against their quota. According to relevant

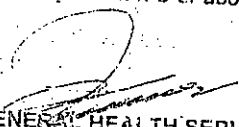
entitled for 25% Son quota of retired employees against the Class-IV post in same Hospital.

- 90
- iv. The Section-16 of MTI Act 2015 is also allowed to serve name in their concerned MTI Hospital on the term & condition of Civil Servant. The Section 11A Khyber Pakhtunkhwa Civil Servant Act 1973 is not applicable in this case.
 - v. However, the authority of MTIs can initiate disciplinary proceeding against Class-IV found of mis-conduct and any Class-IV/official if himself apply for his transfer it will be consider as per Law and according to availability of vacant post.
 - vi. They cannot be relieved prior obtaining NOC of the undersigned/ competent authority to adjust them further, also there is no single vacant post of Class-IV is available in District Peshawar and their adjacent Districts, so their relieving orders and stopping of their salaries is illegal and violation of their fundamental right.
 - vii. Similarly, the other 09-MTIs of Khyber Pakhtunkhwa are also relieving their Class-IV without any reason if this practice will continue all over the Province will lead to Provincial exchequer to an un-manageable situation.
 - viii. Mostly above named Class-IV approached Peshawar High Court Peshawar in writ petition No. 1914-F/2016, who in decision dated 17.11.2016 has also directed to adjust them locally. But as narrated above in para-IV there is no single vacant post in District Peshawar or their adjacent District even in all over the Khyber Pakhtunkhwa because of large number of appointments of Class-IV by the present Government, we are also facing litigation about them.
 - ix. The Peshawar High Court Peshawar D.I.Khan Bench in writ petition No.555-D/2017 has decided on 15.11.2017 (copy attached). The last sentence of para-5 is hereby reproduced below:-

"It clearly indicates that for all intents and purposes, the petitioner was a Government servant according to his appointment order and was to be dealt with in accordance with Government rules and MTI has nothing to do with his services particularly when the petitioner has not joined MTI and thus, the impugned order dated 09.05.2017 is not sustainable".

- x. The Service Tribunal Khyber Pakhtunkhwa has also decided the service appeal No. 480-P/2017 dated 15.12.2017 in similar nature case (copy attached).
- xi. Supreme Court of Pakistan in 2009 SCMR 1 decided that when a question of law pertaining to terms and conditions of Civil Servant has been decided by Service Tribunal and Supreme Court of Pakistan its benefits shall be extended those Civil Servants who were not party in litigation process to avoid unnecessary litigation.

In the light of all above mentioned, on acceptance of their Departmental appeals you are requested to withdraw above mentioned orders in column 3 of above table and release their salaries with all arrears.


DIRECTOR GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR.

C.c

1. Secretary to Government of Khyber Pakhtunkhwa Health Department Peshawar w/r to discussion regarding subject cited above for information and further necessary action please.
2. All concerned Class-IV appellants mentioned above. They are directed to report to their respective original place of posting.

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



Mux
CT
90

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

OFFICE ORDER.

As approved by the competent authority, the transfer orders of the following officials issued vide this Directorate bearing Endorsement No.2017-24/E-V, dated 1/2/2016, No.2308-20/AE-VI, dated 10/02/2016, No.2267-84/AE-VI, dated 9/2/2016, and No.2456-69/AE-VI, dated 17/2/2016, and No.2441-55/AE-VI, dated 17/02/2016, are hereby cancelled, in the interest of public.

1. Muhammad Riaz Burki. Clinical Technician Pathology.
2. Muhammad Asim, Clinical Technician Cardiology.
3. Johar Ali, Clinical Technician Radiology.
4. Shamas-ul-Taj, Clinical Technician Surgical.
5. Roidar Shah, Clinical Technician Pharmacy.
6. Mujahid Azam, Clinical Technician Pharmacy.
7. Imdadullah, Clinical Technician Pathology.
8. Murad Ali, Office Assistant.

Arrival/ Departure reports should be furnished to this Directorate for record.

Sd/xxxxxxxxx

**DIRECTOR GENERAL HEALTH
SERVICES KPK, PESHAWAR.**

No. 1492-99 /AE-VI,

Dated Peshawar the 29 / 01 / 2018.

Copy forwarded to the: -

- 1) Secretary to Government of Khyber Pakhtunkhwa Health Department Peshawar for information.
- 2) Hospital Director MTI/KTH/LRH Peshawar w/r to their office order No.1492-99/ dated 18/12/2017, No.1509-16/ dated 18/12/2017, No.1533-40/ dated 19/12/2017, 1582-89/ dated 20/12/2017, No.1532-25/ dated 19/12/2017, No.51240-57/ dated 22/12/2017, No.51240-57/ dated 232/12/2017 and No.1549-56/ dated 19/12/2017. They are requested to withdraw the relieving orders of the above officials with the remarks that they are Civil Servants and according to their appointment orders and will be dealt with in accordance with Government rules. However, the MTI can recommend the Civil Servants for initiating disciplinary action against them if they are guilty of misconduct.
- 3) Accountant General KP Peshawar.
- 4) DHIS Cell DGHS KPK Peshawar.
- 5) Supdt: Promotion Cell (to correct the place of posting of official concerned in the seniority list)
- 6) DA concerned.
- 7) Officials concerned.

For information and necessary action.


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

22/01

149

According to para 5 of the abated judgement of Peshawar High Court Peshawar in a pt similar case (Cmtd. (at Flag) "Government servants according to their appointment orders and will be dealt with in accordance with Government Rules and MTI has nothing to do with their services particularly, when the petitioners have not joined MTI and thus the impugned order dated, is not sustainable"

92

150

In light of the above, it is suggested that the transfer order (issued by Mr. Swatani) may be cancelled and also the HD of MTI / R. + Peshawar be directed not to relieve them being civil servants?

For perusal/order

15/01

152

AD (Paramedics) For perusal and further order pl?

15/1/18

153

AD (HRM)

15/1

154

AD/HR

For approval M

155

AD/HR

15/1/18

156

FD added for Permasel / approved

157

AD(P-3) Aways

158

Dir. (HRM)

22/01

159

ADG(HR)

~~Signature~~
22/1/01

Fr. Synthesis M

160

~~OGS~~

~~Signature~~
23/01

23-11-01

156

FD added for Perasad / approved

157

AD(P-3) Aways

158

Dir (HRM)

↓
22/01

159.

ADG(HR)

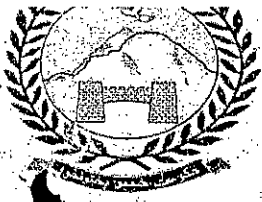
~~ADG~~
22/11/01

Fr signat Mf

160

~~DDMS~~
and
23/01

20-11-01



DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUN KHW A PESHAWAR

E-Mail Address: nwfrdghs@yahoo.com office Ph#091-9210269
Exchange# .091-9210187, 9210196 Fax # 091-9210230

OFFICE ORDER

In compliance to order dated 25.04.2017, of Peshawar High Court Peshawar in writ petition 429-P/2016 and Khyber Pakhtunkhwa Service Tribunal Peshawar order dated 30.11.2017, in service appeal No. 458/2017, all the departmental appeals in respect of the following officers/ officials along-with similar placed other officers/officials are not maintainable on account of Principal of Res-judicata under CPC Rule-11 in the eye of Law.

1. Mr. Isam Gul Clinical Technologist Surgical
2. Muhammad Riaz Barki C.T Pathology
3. Muhammad Asim C.T Cardiology
4. Johar Ali C.T Radiology
5. Shamsul Taj C.T Surgical
6. Roadar Shah C.T Pharmacy
7. Mujahid Azam C.T Pharmacy
8. Imdadullah C.T Pathology
9. Murad Ali office Assistant

Moreover, they belong to provincial cadre and have also completed their normal tenure in their respective MTIs institutions and this Directorate Office Orders and Government of Khyber Pakhtunkhwa Health Deptt: Notifications regarding their posting / transfer ultimately attained at its finality.

They are strictly directed to comply the office orders No. 2267-84/AE-VI dated 09.02.2016, No. 2308-20/AE-VI dated 10.02.2016, No. 2017-24/E-V dated 01.07.2016, and Govt: of KP Health Department Notification No.SOH(E-III)1-1/2016 dated 15.02.2016, without fail.

Consequently, this Directorate office order bearing Endst: No. 1092-98/AE-VI dated 24.01.2018, is hereby withdrawn ab-initio.

However, it is pertinent to mention here that the Class-IV staff relieved/repatriated by HD MTI/LRH/KTH shall remain in their respective institutions vide this Directorate letter No. 686-709/Personnel dated 05.01.2018 and No. 870-72/Admn/DGHS KP dated 10.01.2018 being low paid employees of Hospital cadre.

Sd/xxxxxxx

DIRECTOR GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR.

Dated 28/01/2018.

No. 1898-912 /E-V

Copy forwarded to the:-

1. Secretary to Govt: Of Khyber Pakhtunkhwa Peshawar.
2. Hospital Director MTI LRH Peshawar.
3. Hospital Director MTI/KTH Peshawar.
4. M.S DHQ Hospital D.I Khan.
5. DHO Kohistan.
6. M.S Saidu Group of Teaching Hospital Swat.
7. DHO Swabi.
8. M.S DHQ Hospital Battagram.
9. DHO Torghar.
10. M.S DHQ Hospital KDA Kohat.
11. DHO Kohat.
12. PS to Minister for Health Khyber Pakhtunkhwa Peshawar.
13. Officers/officials concerned.

For information and necessary action.

DIRECTOR GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR

The Secretary,
Health Department,
Government of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.

Without Prejudice

Annex 'V'

94

Subject: - APPEAL/ REPRESENTATION FOR CANCELLATION OF
THE OFFICE ORDER No. 1898-912/E-V DATED 29/01/2018

Respected Sir:

The Undersigned very earnestly submits his Appeal/ representation against the order dated 29.01.2018 passed by Director General Health Services, Khyber Pakhtunkhwa vide which the departmental appeals of various categories of employees, of the Health Department who are working in Medical Teaching Institution namely Lady Reading Hospital, have been termed as not maintainable. The Appellant would humbly submit his appeal against the order dated 29.01.2018, passed by Director General Health Services while lacking jurisdiction, on the following grounds amongst many others:

1. The Undersigned is a civil servant appointed on 02.08.1987 against a vacant post at Lady Reading Hospital, Peshawar and has started his career with zeal and dedication and served the public at large on several positions since his appointment to the best of his abilities and full satisfaction of his superiors. It is pertinent to mention here that the Undersigned/ appellant is also the President of Provincial Paramedical Association as well as President Paramedical Association LRH, Peshawar, a representative body and the provincial chapter of All Pakistan Para-Medical Staff Association, Peshawar. Furthermore the Appellant is the member of the governing body of Khyber Pakhtunkhwa Faculty of Paramedical and Allied Health Sciences, and all the administrative, management and general control of the faculty vests in the governing body.
2. It is worth mentioning that Undersigned being low paid staff working as Clinical Technician Pharmacy at Medical Teaching Institute namely Lady Reading Hospital and has not opted MTI service and is thus working in direct control and supervision of your good self and Director General Health Services.
3. Meanwhile, Government took certain steps to dissolve Post Graduate Medical Institute (PGMI) that wound up concerned doctors. Demands were also being raised for grant of health professional allowance. In this backdrop, your good self issued the Notification under Essential Services Act. While displeased with this Notification and so-called imposition of emergency amongst other issues, Doctors working in these Hospitals and MTIs started protesting against the Government. This agitation aggravated further and some health professionals primarily led by doctors announced strike on 09.02.2016. The fact of strike, led by doctors was also widely reported both in print and electronic media. (Copies of press clippings are Attached)
4. After a couple of days of negotiations, all the demands of doctors were acceded to and they were all let off, without any proceedings but the poor low-paid paramedics who had no visibility whatsoever in the so-called strike and had not been concerned with any ER or OTs are being punished without the mandate of law. (Copies of news reporting calling off strike is annexed)
5. While seized of an opportunity to get rid of office bearers and some of the members of Para Medical Association, and while actuated with clear mala fide and political agenda, instead of proceeding against doctors, chose to victimize low-paid employees, issued an office order bearing No. 2267.84/AE-VI DATED 09/02/2016 wherein DGHS transferred the appellant and several others of their duties in absolute ignorance and violation of attending law and circumstances. It is important to point out that the undersigned is a permanent civil servant and office bearer of the association at several levels therefore cannot be left at the mercy of DGHS and their most influential political figure whom have no authority to issue any order or treat the appellant in any manner, in grave infraction and defiance of the law on question. Thus the Appellant, along with other office bearers, was thus ordered to be transferred out of his concerned MTI to a far flung place of the Province by virtue of Office Orders

95

It is a policy of the provincial government, duly circulated in the Esta Code that Office Bearers shall not normally be transferred during the currency of their office therefore the undersigned rights are protected as per policy and is thus not transferrable outside Lady Reading Hospital but the DGHS issued Transfer and Posting Order of Undersigned, while ignoring the aforesaid policy and settled legal position qua union member employees.

7. The Undersigned, while having no other remedy, filed departmental appeal bearing No. 341/16/PPMA-KPK dated 23.02.2016 to the DGHS, which was not entertained.

Recently I have been relieved from LRH, MTI, vide office order No. 1492-99/HD/LRH dated 18-12-2017, subsequently I have submitted another appeal vide diary No. 1603, dated 12-01-2018 to the DGHS being competent authority, which was accepted by the DGHS, being competent authority; The DGHS, issued office order No. 1092-98/AE-VI dated 24/01/2018, and cancelled the earlier transfer order thus the undersigned was remain to serve at his place of duty MTI, LRH. (Copy of the appeal acceptance order is annexed).

8. The undersigned started performing his duties with more zeal and excellence but astonishingly came to know that DGHS being Functus Officio, while pressurized by the Chairman Board of Governors LRH and in absolute ignorance and violation of attending law and circumstances again issued another order No. 1898-912/E-V dated 29/01/2018, by virtue of which he termed the appeals of the Undersigned and others as not maintainable while wrongly applying and interpreting the principle of Res-Judicata as none of the forums mentioned in the order dated 29/01/2018 have decided the matter on merit as Peshawar High Court dismissed the writ petition for want of jurisdiction whereas the Services Tribunal dismissed the same on limitation therefore it can be stated with certainty that the principle of Res-Judicata is not attracted in the instant matter.

9. Besides merit of the case it is also important to point out before this honorable Tribunal that due to the afore stated strikes etc. 39 employees of Ayub Teaching Hospital were also transferred out to far flung areas of the province but due to the intervention of the Special Assistant to Chief Minister, Mushtaq Ahmad Ghani the transfer orders of all the 39 employees were recalled and they were remained at their earlier places of work therefore the undersigned and others also needs the same treatment and shall not be discriminated. (Copy of the Order pertaining to ATH is Annexed)

10. The very act of letting off the doctors and choosing to prosecute only low-paid employees and that too as a punishment is not only smacked with partiality, unfairness and nepotism but is a clear violation of Article 4, 5, 25, 37 and 38 of the Constitution.

11. The Constitution of the Islamic Republic of Pakistan confers right on every citizen of forming of an association as well as grants freedom of assembly in the form of protest or otherwise thus the impugned order is in violation of Article of 16 and 17 of the Constitution, 1973.

12. It is held numerously by superior judiciary including the apex Supreme Court of Pakistan, no civil servant can be transferred except for public interest whereas the impugned order is clearly having a color of punishment and is done on so called administrative ground rather than public interest.

It is therefore most humbly prayed that on acceptance of this Appeal/ representation the order dated 29.01.2018 No. 1898-912/E-V may very kindly be recalled and set aside and consequently the Appellant may kindly be restored to their position prior to 09.02.2016

Appellant

S. P. Shah

SYED ROIDAR SHAH, Cl. Tech. Pharmacy, LRH
Prov. President Paramedical Association KPK.
President Paramedical Association LRH, MTI.

DGHS
re put up
w/ copy



**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

No. SOH-III/8-60/2018(Roidar Shah & Others)

Dated the Peshawar 20th March, 2018

Amexw
96


To

Mr. Syed Roidar Shah,
Clinical Technician (Pharmacy), LRH, Peshawar,
President, Provincial Paramedical Association, Khyber Pakhtunkhwa,
& President Paramedical Association,
LRH, Peshawar & Others.

SUBJECT: APPEAL FOR RESTORATION OF DGHS OFFICE ORDER NO. 1092-98/AF-VI, DATED: 24-01-2018 THROUGH CANCELLATION OF DGHS OFFICE ORDER NO. 1898-912/E-V, DATED: 29-01-2018.

I am directed to refer to your appeal/application dated: 06-02-2018 on the subject noted above and to state that the subject appeals regarding restoration of DGHS office order No. 1092-98/AF-VI, dated; 24-01-2018 through cancellation of DGHS office No. 1898-912/E-V, dated: 29-01-2018 of the following officials/officers are hereby regretted.


1. Muhammad Riaz Barki, C.T Pathology. ✓
2. Muhammad Asim C.T Cardiology.
3. ✓ Johar Ali, C.T Radiology. ✓
4. Shamsul Taj, C.T Surgical. ✓
- ✓ 5. Roidar Shah, C.T Pharmacy. ✓
6. Mr. Isam Gul, Clinical Technologist Surgical. ✓
7. Mujahid Azam, C.T Pharmacy. ✓
8. Imdadullah C.T Pathology. ✓
9. Murad Ali, Office Assistant. ✓


Section Officer-III

Endst: even no & date.

Copy forwarded to:-

1. Directorate General, Health Services, Khyber Pakhtunkhwa, Peshawar.
2. PS to Secretary Health, Khyber Pakhtunkhwa.


Section Officer-III