

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
CAMP COURT SWAT.

Service Appeal No. 438/2018

Date of Institution ... 21.03.2018

Date of Decision ... 06.03.2019

Mukhtiar Ahmad, Junior PHC Technician, Basic Health Unit Meragai,  
District Swat. ... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Health, Civil  
Secretariat Peshawar and three others. ... (Respondents)

DR. ADNAN KHAN,  
Advocate

-----  
--- For appellant.

MIAN AMIR QADAR,  
District Attorney

--- For respondents

MR. HAMID FAROOQ DURRANI  
MR. AHMAD HASSAN,

--- CHAIRMAN  
--- MEMBER(Executive)

JUDGMENT

HAMID FAROOQ DURRANI, CHAIRMAN:-

Instant judgment shall also dispose of appeal No. 423/2018 (Samiullah-  
vs-Government of Khyber Pakhtunkhwa and others) and appeal No. 424/2018  
(Zain Ul Abiddin-vs- Government of Khyber Pakhtunkhwa and others). The  
appellants in all the appeals are aggrieved of orders passed against them,  
whereby, minor penalty of withholding of annual increments for three years  
with non-accumulative effect, was imposed upon them on different  
dates.



2. We have heard learned counsel for the appellants and learned District Attorney on behalf of the respondents.

Learned counsel for the appellant<sup>s</sup> argued that no departmental proceedings by way of proper enquiry were ever undertaken against the appellants before imposition of impugned penalty upon them. It was further stated that in all the cases the dates of issuance of show cause notices and the dates of issuance of impugned orders were manipulated through overwriting. In the said regard reference was made to the case of Mukhtiar Ahmad (438/2018), wherein, the impugned order was purportedly passed on 29.11.2014 while in Para-5, thereof, it was noted that the appellant was heard in person on 08.01.2015.

Learned District Attorney, on the other hand, could not controvert from the record the fact that enquiry proceedings were not held against the appellant. However, the appeals were vehemently contested by him on legal points including that of delay in submission of appeals.

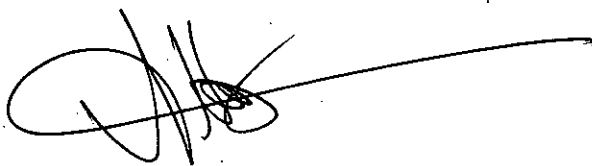
3. The record is depictive of the fact that the respondents, while submitting Para-wise comments to the appeals in hand, have not taken the matter worth its seriousness. In response to Para-5 of the memoranda of appeals, wherein, it is claimed that the appellants were proceeded against without observance of legal formalities and due process of law, it was stated that the Para was correct, however, it was added that the officials were penalized after observance of codal formalities. No documentary evidence of

such proceedings was though made part of the reply. In Para-6 of the memoranda it was stated that the show cause notices were issued to the appellants after passing of the impugned order. The said claim was also conceded by the respondents in the corresponding Para(6) of Para-wise comments submitted by them.

It is not the case of respondents that proper enquiry was dispensed with through specific orders to that effect.

4. In view of the above and also the fact that there are over-writings in the dates of show cause notices, besides other discrepancies in all the cases, we are constrained to allow the appeals in hand. Resultantly, the impugned orders of imposition of minor penalty against the appellants are set aside. The respondents shall, however, be at liberty to proceed against the appellants but only in accordance with law and rules. If they opt to do so, the de-novo proceedings shall be concluded within a period of thirty days from the receipt of copy of instant judgment.

Parties are left to bear their respective costs. File be consigned to the record room.

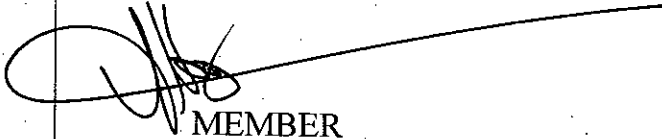



(AHMAD HASSAN)  
Member



(HAMID FAROOQ DURRANI)  
Chairman  
Camp court Swat


ANNOUNCED  
06.03.2019

S.No. of proceedings	Date of Order or proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	06.03.2019	<p style="text-align: center;"><u>Present</u></p> <p>Dr. Adnan Khan, Advocate ... For appellant</p> <p>Mian Amir Qadar, District Attorney ... For respondents</p> <p>Vide our detailed judgment of today, we allow the appeal in hand. Resultantly, the impugned order of imposition of minor penalty against the appellant is set aside. The respondents shall, however, be at liberty to proceed against the appellant but only in accordance with law and rules. If they opt to do so, the de-novo proceedings shall be concluded within a period of thirty days from the receipt of copy of instant judgment.</p> <p>Parties are left to bear their respective costs. File be consigned to the record room.</p> <div style="display: flex; justify-content: space-around; align-items: flex-end;"> <div style="text-align: center;">   MEMBER </div> <div style="text-align: center;">   CHAIRMAN  Camp court, Swat. </div> </div> <p style="text-align: center;"><u>ANNOUNCED</u> 06.03.2019</p>

04.12.2018

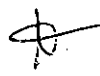
Irfan Muhammad Advocate present on behalf of appellant. Mr. Usman Ghani learned District Attorney alongwith Mr. Amjid Ali Assistant for the respondents present. Irfan Muhammad Advocate requested for adjournment on the ground that learned counsel for the appellant is not in attendance. Adjourn. To come up for arguments on ~~06.01.2019~~ before D.B at Camp Court Swat.


  
Member

  
Member  
Camp Court, Swat

10.01.2019

Clerk of counsel for the appellant present. Mr. Fazal Amin, Litigation Assistant alongwith Mr. Mian Ameer Qadir, District Attorney for the respondents present. Clerk of counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant has gone to Peshawar. Adjourned. To come up for rejoinder and arguments on 06.03.2019 before D.B at Camp Court Swat.

  
(Ahmad Hassan)  
Member

  
(M. Amin Khan Kundi)  
Member  
Camp Court Swat

06.08.2018

Appellant in person and Mr. Naeem Assistant Director for the respondents present. Due to summer vacations the case is adjourned. To come up for the same on 04.09.2018 at camp court Swat



Reader

04.09.2018

Appellant ~~Muhammad Ahmad~~ in person present. M/S Fazal Amin, Assistant, Amjid Ali, Assistant and Jafar Ali, Assistant Mr. Usman Ghani, District Attorney for respondents present. Written reply not submitted. Representative of the respondents sought some time to submit written reply/comments. Granted. Case to come up for written reply/comments on 02.10.2018 before S.B at camp court Swat.



Chairman  
Camp Court Swat

02.10.2018

Petitioner with counsel present. Mr. Amjad Ali, Assistant and Mr. Fazal Amin, Litigation Assistant alongwith Mr. Usman Ghani, District Attorney present. Written reply submitted on behalf of the appellant which is placed on file. Case to come up for rejoinder and arguments on 04.12.2018 before the D.B at camp court, Swat.



Member  
Camp Court Swat

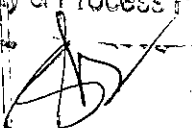
08.06.2018


Appellant Mukhtiar Ahmad in person alongwith Dr. Adnan Khan, Advocate present and heard.

Contends that without affording him opportunity of hearing, the appellant was imposed minor penalty of withholding of annual increments for three years with cumulative effect.

Points raised need consideration. The appeal is admitted to regular hearing subject to all legal objections if raised by the respondents. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 4.07.2018 before S.B at camp court, Swat.

Appellant Deposited  
Security & Process Fee



  
Chairman  
Camp Court, Swat

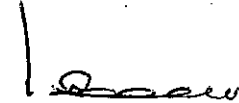

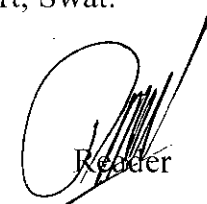
04.07.2018

Appellant Mukhtiar Ahmad in person present. Mr. Iqbal DSV alongwith Mr. Usman Ghani learned District Attorney for respondents present. Written reply not submitted. Representative of the respondents seeks time to file written reply/comments. Granted. To come up for written reply/comments on 06.08.2018 before S.B at camp court Swat.

  
Chairman  
Camp Court, Swat

Form-A  
FORM OF ORDERSHEET

Court of \_\_\_\_\_  
Case No. 438/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	03/04/2018	<p>The appeal of Mr. Mukhtiar Ahmad resubmitted today by Dr. Adnan Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 3/4/18</p>
2-	11-4-18	<p>This case is entrusted to touring S. Bench at Swat for preliminary hearing to be put up there on <u>11-5-18</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	09.05.2018	<p>Due to retirement of the Worthy Chairman, the Tribunal become non-functional. To come up for the same on 08.06.2018 before the S.B at camp court, Swat.</p> <p style="text-align: right;"> Recorder</p>

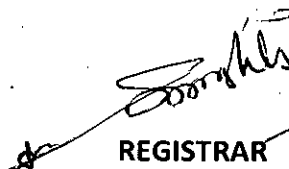


The appeal of Mr. Mukhtiar Ahmad Junior PHC Technician EPI BHU Meragai Distt. Swat received today by i.e. on 21.03.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of show cause notice in respect of appellant is not attached with the appeal which may be placed on it.
- 2- Copy of rejection order of departmental dated 6.3.2018 mentioned in para-13 of the appeal is not attached with the appeal.

No. 610 /S.T,

Dt. 21/03 /2018

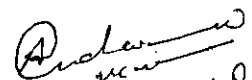
  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Dr. Adnan Khan Adv.  
High Court Swat.

R/S = Resubmitted After the Completion.

① Show cause notice is Annex B  
Page - No. 9 and 10 is already annex.

② Departmental appeal has not responded to para 13 is clear in this respect.

  
27-3-18

**BEFORE THE HON'BLE SERVICE TRIBUNAL,**  
**KHYBER PAKHTUNKHWA, PESHAWAR**

Service Appeal No. 438 of 2018


Mukhtiar Ahmad..... *Appellant*

VERSUS


Government of Khyber Pakhtunkhwa and others

.....*Respondents*

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*MA 3 dr.*  
Appellant through Counsel

  
Dr. Adnan Khan, Barrister-at-Law  
Office: Adnan Law Associates,  
Opp. Grassy ground Mingora Swat.

**BEFORE THE HON'BLE SERVICE TRIBUNAL,**  
**KHYBER PAKHTUNKHWA, PESHAWAR**

Service Appeal No. 438 of 2018

Mukhtiar Ahmad, Junior PHC Technician, Basic Health Unit  
Meragai, District Swat.

..... Appellant

**VERSUS**

- 1) Government of Khyber Pakhtunkhwa through Secretary Health,  
Civil Secretariat Peshawar. Khyber Pakhtunkhwa  
Service Tribunal
- 2) Director General, Health Services Peshawar. Diary No. 434
- 3) District Health Officer Swat at Gulkada Saidu Sharif. Dated 21-3-2018
- 4) District Coordinator, EPI District Swat at Saidu Sharif.

..... Respondents

APPEAL UNDER SECTION 4 OF THE  
KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL ACT, 1974, AGAINST  
IMPOSITION OF MINOR PENALTY OF  
WITHHOLDING ANNUAL INCREMENTS  
FOR THREE YEARS WITH NON-  
ACCUMULATIVE EFFECT.

Filed by  
Sooresh Day  
Registrar  
21/3/18

Respectfully Sheweth:

- 1) That appellant is an employee of Health Department, currently serving as Junior Technician PHC multipurpose.
- 2) That appellant has long lasting experience of supervising EPI teams under the World Health Organization's programme for immunization.

- 3) That in December 2014, during Anti-Polio campaign of WHO, certain mistakes were noted to have been occurred by a polio team under the supervision of the appellant.
- 4) That consequently, appellant alongwith two other individuals namely Zain-ul-Abideen and Sami Ullah were proceeded disciplinary under the E & D Rules.
- 5) That without fulfilling the requirements of due process and the law, respondent No.3 vide order dated 29-12-2014, issued the impugned office order, whereby the penalty of withholding annual increment for three years with non-accumulative effect was imposed upon appellant (Copy of order dated 29-12-2014 is attached as Annexure "A").
- 6) That after issuance of the impugned order, Show Cause was issued vide order dated 02-01-2015 (Copy of show cause is attached as Annexure "B").
- 7) That the impugned order was not communicated to appellant in time. Rather appellant came to know about it getting his salary from the corresponding month.
- 8) That appellant being aggrieved with the impugned order, preferred Departmental Appeal on 07-04-2015, which was forwarded to respondent No.2 through letter dated 10-04-2015 (Copy of departmental appeal alongwith letter are attached as Annexure "C" & "D" respectively).
- 9) That the Departmental Appeal was remitted to respondent No.3 by respondent No. 2 for reconsideration of the matter.

- 10) That in the meanwhile, respondent No.4 also reported to respondent No.3 that performance of the appellant has significantly improved and the said respondent has got no objection if the impugned order is revisited and the withheld increment release to appellant (Copy of letter dated 04-10-2017 is attached as Annexure "E").
- 11) That during the intervening period respondents No.3 and 4 awarded best area Incharge certificate to appellant considering his extra ordinary performance in Polio campaign (Copy of certificate is attached as Annexure "F").
- 12) That respondent No.3, on the appellant's appeal remanded to him, reported to respondent No.2 that withdrawal of the impugned order is beyond his limit and that respondent No.2 may decide the case at his own level (Copy of letter dated 31-07-2017 is attached as Annexure "G").
- 13) That since then, appellant has been waiting for the outcome of appeal pending before respondent No.2. In this respect an application for acceleration of the matter and decision thereupon was made on 06-03-2018 (Copy of <sup>application</sup> ~~letter~~ dated 06-03-2018 is attached as Annexure "H").
- 14) That despite the above mentioned request, the departmental appeal has not been decided yet. Hence, this appeal, *inter alia*, on the following grounds:

**GROUND:**

- A) That the impugned order is illegal, unconstitutional, malafide and *corum-non-judice*, hence the same is liable to be set aside.

- B) That the initial matter was reported by Dr. Iftikhar Uddin DPMT, who reported allegations against the present appellant, one Mr. Zain-ul-Abideen and Haroon Rashid. Ironically, when it came to imposition of penalty, Haroon Rashid being the blue eyed was replaced by Mr. Sami Ullah, another appellant before this Hon'ble Tribunal (Copy of complaint is attached as Annexure "I").
- C) That the mandatory requirement of proper show cause alongwith statement of allegations has not been fulfilled in the instant case. The same is apparent from the fact that the alleged show cause notice bears a date in the year 2015, while the impugned order was made in December 2014.
- D) That likewise, no inquiry whatsoever has been conducted in the instant matter.
- E) That appellant has never been associated with any inquiry nor he has been provided the opportunity of personal hearing. This fact is manifest from Para No. 5 of the impugned order itself, where it has been held that appellant was heard on 08-04-2015. Needless to say that the impugned order was made prior to the said date i.e 29-12-2014.
- F) That on factual side as well, appellant is not responsible for the alleged mistake attributed to him during polio campaign. In fact, because of inclusion of untrained volunteers in one of the five teams under the supervision of appellant, on a certain house instead of 2+2/2, 4/4 was written, which created some hurdles in tracing out the immunized children. However, the mistake was neither so glaring nor was the appellant directly responsible for the same. Furthermore,

because of the said mistake, neither any child has left un-immunized nor any polio case has been surfaced in the area. These submissions were put before respondent No.3 but to no avail (Copy of written submissions are attached as Annexure "J").

- G) That further grounds with leave of this Hon'ble Tribunal will be raised at the time of oral submissions.

Therefore, it is humbly prayed that on acceptance of this appeal, the impugned order be declared as *void ab initio* and the same may be set aside. Consequently, the increments withheld by respondent No.3 be released to appellant from the date of its withholding. Any other remedy though may not specifically prayed for but which circumstances of the case would, in the interests of justice demand may also be granted.

*MALZ dr.*

Appellant through counsel

*Adnan Khan*

Dr. Adnan Khan, Barrister-in-Law.

**CERTIFICATE:**

Certified that no such like appeal has earlier been filed before this Hon'ble Tribunal on the subject matter.

Appellant through counsel

*Adnan Khan*

Dr. Adnan Khan, Barrister-in-Law.

6

**BEFORE THE HON'BLE SERVICE TRIBUNAL,  
KHYBER PAKHTUNKHWA, PESHAWAR**

Service Appeal No. \_\_\_\_\_ of 2018

Mukhtiar Ahmad..... *Appellant*

VERSUS

Government of Khyber Pakhtunkhwa and others

.....*Respondents*

**ADDRESSES OF THE PARTIES**

**APPELLANT:**

Mukhtiar Ahmad, Junior PHC Technician, Basic Health Unit Meragai,  
District Swat.

NIC# 15602-8052012-5

Cell#- 03429613685

**RESPONDENTS:**

- 1) Government of Khyber Pakhtunkhwa through Secretary Health, Civil Secretariat Peshawar.
- 2) Director General, Health Services Peshawar.
- 3) District Health Officer Swat at Gulkada Saidu Sharif.
- 4) District Coordinator, EPI District Swat at Saidu Sharif.

*M. Ahmad*  
Appellant through counsel

*Adnan Khan*  
Dr. Adnan Khan, Barrister-in-Law.



7

BEFORE THE HON'BLE SERVICE TRIBUNAL,  
KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No. \_\_\_\_\_ of 2018

Mukhtiar Ahmad..... *Appellant*

VERSUS

Government of Khyber Pakhtunkhwa and others

.....*Respondents*

AFFIDAVIT

I, **Mukhtiar Ahmad** (Appellant), do hereby solemnly affirm and declare that the contents of the above titled Appeal are true and correct to the best of my knowledge and belief. Furthermore, no such like appeal has earlier been filed before this Hon'ble Tribunal or elsewhere on this subject matter

DEPONENT

TESTED  
Tariq Aziz Advocate  
CHIEF COMMISSIONER  
District Court Peshawar  
Licence No-2457  
No. 216 Date 9/10/2018

M. AL

Mukhtiar Ahmad

15602-8052012-5



8

Annex "A"

Phone NO: 0940-9240137, Fax NO: 0940-9240213

Email: edohswat@yahoo.com

Dated: 23/12/2014

No. /

OFFICE ORDER.

1. WHEREAS disciplinary proceeding under E&D rules 2011 Act, initiated against Mr. Mr. Mukhtayar Ahmad JPHCT (MP) EPI attached BHU: Meragai swat for (reasons irregular and un satisfactory performance in polio campaign in December, 2014)
2. AND WHEREAS show Cause Notice under section 3 of Khyber Pakhtunkhwa under E& D rules 2011, was served upon him.
3. AND WHEREAS an enquiry was conducted against him through inquiry committee as per provision of section -05, E&D rules 2011.
4. AND WHEREAS Show Cause Notice was served upon him to which he replied.
5. AND WHEREAS he was personally heard on 8/1/2015, by the competent authority but could not prove himself as innocent.
6. Therefore I Dr. Said Ali Khan District Health Officer Swat being competent authority in exercise of powers conferred under Khyber Pakhtunkhwa Govt: E&D rules 2011, am pleased to imposed minor penalty of with holding annual increment for three (3) years. with non accumulative effect upon " Mr. Mukhtyar Ahmad Jr. PHCT (MP) EPI attached to BHU: Meragai swat with immediate effect.

Sd/xxxxxx  
DISTRICT HEALTH OFFICER  
DISTRICT SWAT AT GULKADA.

No. 1191-75 / 2014  
Copy forwarded to the:-

- 01- Deputy Commissioner Swat for information please.
- 02- District Account Officer swat for information please.
- 03- Account Section of this office for information and compliance .
- 04- The above named official concerned for information.
- 05- Medical officer I/C BHU: Meragai Swat for information.

DISTRICT HEALTH OFFICER  
DISTRICT SWAT AT GULKADA.

*M. S. C.*  
C.T.C  
*Ru*

9

Ann "B"



OFFICE OF THE DISTRICT HEALTH OFFICER  
GULKADA DISTRICT SWAT

Phone No: 0946-9240139, Fax No: 0946-9240215  
Email: edohswat@yahoo.com

Dated: 02/11/2015

No. 60 105-4

To,


The Incharge ✓  
CD:Kokarai swat

Subject:-

SHOW CAUSE NOTES

Memo

Enclosed please find herewith Show Cause Notes in duplicate for information and to serve it upon Mr. Mukhtayar Ahmad Jr. PHCT (MP) EPI attached to CD:Kokarai swat and returned one copy of as token of receipt duly signed by the concerned official.

  
DISTRICT HEALTH OFFICER  
DISTRICT SWAT AT GULKADA

01/11/2015  
8207

All-Ed

2007  
28/11/2017

C.T.C  
Mu



10

## OFFICE OF THE DISTRICT HEALTH OFFICER

GULKADA DISTRICT SWAT

Phone No: 0946-9240139, Fax No: 0946-9240215

Email: edulswat@yahoo.com

No. /

Dated: /12/2014

### SHOW CAUSE NOTICE

I Dr. Said Ali Khan District Health Officer Swat is a competent authority, under the Khyber Pakhtunkhwa Govt: Servants (efficiency and Disciplinary) rules, 2011, do hereby serve you Mr. Mukhtyar Ahmad JPHC Tech (MP) EPI attached to BHU: Meragai swat as follows.

1- (i) The consequent upon the completion of inquiry conducted against you by the inquiry officer

Dr. Ifitkhar uddin DPMT, I am satisfied that you have committed the following acts/omissions specified in rule 3 of the said rules (a)

(a)- Irregularities by making fake /bogus entries in various clusters of UC Mergai in December polio Campaigns 2014.

2- As result thereof, I as competent authority have tentatively decided to impose upon you all or one of the following minor penalties under rules 4 of the said rules (1) (a)

(i) Censure.

(ii) Withholding for a specific period, promotion or increments subject to a maximum of three years, otherwise than for unfitness for promotion or financial advancement in accordance with the rules or orders pertaining to the Service or post:

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

(iii) Recovery of the whole or any part of any pecuniary loss caused to Govt: by negligence or breach of order:

3- You are thereof, required to show Cause as to why the aforesaid penalty/penalties should not be imposed upon you and also intimate, whether you desired to be heard in person.

4- If no reply to this notice is received within fifteen days of its delivery, it shall be presumed That you have no defence to put in, and in that case an ex-parte action shall be taken against You.

5- a copy of the of the inquiry report is attached.

DISTRICT HEALTH OFFICER  
DISTRICT SWAT AT GULKADA.

**CERTIFIED TO  
BE TRUE COPY**

Barrister

*Dr. Adnan Khan*  
Advocate High Court

(11)

Am, C

خدمت جناب ڈائریکٹر جنرل ہیلتھ سروس پشاور

عنوان: اپیل برائے تین سالہ انگریز منٹ کٹوتی  
جناب عالی! کو سہاگت۔ جناب ڈسٹرکٹ ہیلتھ آفیسر صاحب ضلع سوات

نہایت اداب کے ساتھ گزارش کی جاتی ہے کہ سائیل بحیثیت PHC ٹیکنیشن اپنی فراہم BHU میرہ گئی نہایت دیانتداری سے سرانجام دے رہے ہوں۔

(۱) ٹیم نے 2+2 کے بجائے 4/4 لکھا تھا۔

(۲) ٹیم کو ایمر جنسی میں لگایا تھا۔

(۳) اس کا سارا ذمہ داری ایراے سپروائزر پر لگایا۔ ٹیم کی غلطی کی وجہ سے ایراے سپروائزر سے تین سالہ انگریز منٹ کٹوتی ہے۔

(۴) بحوالہ DHO سوات چھٹی نمبر 1191-95CS4/EPI دسمبر 2014 پولیو گیم میں تین سالہ انگریز منٹ کٹوتی ہے۔

(۵) جتنے پولیو گیم ہوئے ہیں اس میں ایراے کارکردگی نہایت اچھی اور قلمی بخش ہے۔

لہذا آپ صاحبان کی خدمت نہایت عاجزانہ استدعا کی جاتی ہے کہ مسائل کی سزا معاف فرمائے تاکہ مواد فراہم ہو سکاں تا حیات ایک  
بسی زیست کے لئے دعا گو ہے گا۔

مختیار احمد جوٹیمیر PHC ٹیکنیشن  
BHU میرہ گئی سوات  
تاریخ: 07-04-2015

All set  
C.T.C  
D

DHO Sot  
10/4/2015



12

Amr D 3581/ED  
14/4/15

**OFFICE OF THE DISTRICT HEALTH OFFICER  
GULKADA DISTRICT SWAT**

Phone No: 0946-9240139, Fax No: 0946-9240215

Email: edohswat@yahoo.com

Dated: 10/4/2015

No. 3844 /cs 4

TO,

The Director General Health  
Services Khyber Pakhtunkhwa  
Peshawar.

Subject:- APPEAL  
Memo

I have the honor to submit herewith an appeal in original in respect of Mr. Mukhtayar Ahmad Jr. PHCT (MP) EPI attached to BHU: Meragai swat under the control of the undersigned (which is self explanatory) for favour of further necessary action please.

*[Signature]*  
(DISTRICT HEALTH OFFICER)  
DISTRICT SWAT AT GULKADA.

NO \_\_\_\_\_

Copy forwarded to Mr. Mukhtayar Ahmad Jr. PHCT (MP) EPI for information.

(DISTRICT HEALTH OFFICER)  
DISTRICT SWAT AT GULKADA.

Rahman Ali/  
1042015

*D.G.H.S KPK  
Please do the  
needful*

*[Signature]*

Private Secretary  
Senior Minister for Health  
& Information Technology  
Khyber Pakhtunkhwa

*All set*

*C.T.C  
Am*

*1  
out*

2037  
4/10/2017

13

Ann. 'E'

To  
The District Health  
Officer Swat  
Subject: APPEAL FOR RELEASE OF 03  
ANNUAL INCREMENTS

Honorable Sir,

Reference to the Subject cited  
above, performance of Mr. Mukhtiar  
Ahmad PHC Technician (MP/EPI) BS-12,  
has markedly improved.

This office has no objection if  
the 03 Annual increments are  
released per law.

No 277/EPI Swat.  
dated: 25/09/2017.

*[Signature]*  
District Coordinator  
(E.P.I.) District Swat  
District Coordinator  
EPI Swat

Dated: 25-09-2017

*[Handwritten notes]*  
Sir,  
Dial up for  
of DO for  
a accordingly  
full  
DHO

*[Signature]*  
C.T.C  
*[Signature]*



# CERTIFICATE

*Best Area Incharge*

*awarded to*

*Mr. Mukhtiar Ahmad*

*on his extraordinary performance as Area Incharge*

*During Low Season SIAs of Polio Eradication Initiative (2015-16)*

*at UC Kokarri District Swat.*

District Coordinator EPI  
District Swat

District Health Officer  
District Swat

Deputy Commissioner  
District Swat



Ann 'G'

(15)

**OFFICE OF THE DISTRICT HEALTH OFFICER  
GULKADA DISTRICT SWAT**

Phone No: 0946-9240139, Fax No: 0946-9240215

Email: edohswat@yahoo.com

Dated: 31 / 7 / 2017

No. 10706 / PCE

To,

The Director General Health  
Services Khyber Pakthunkhwa  
Peshawar.

Subject:-  
R/Madam

APPEAL FOR RECONSIDERATION AND SANCTION OF INCREMENTS.

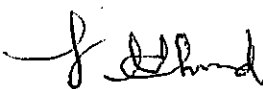
Reference your letter No. 7796/AE-VI and No. 7804/AE-VI dated  
20/6/2017, on the subject cited above.

I have the honor to state that the cases of the following officials were initiated on  
the report of the then DPMT (copy attached).

Explanations and show cause notice were issued under the rules (copy attached)  
action were taken in the light of the referred procedures under E&D rules 2011.

Now as the cases withdrawal of the orders are beyond the limit of the  
undersigned. Therefore you are requested to decide the cases on your own level  
please.

- 01- Mr. Samiullah PHC Technician (MP) EPI BHU: Qalagai Swat.
- 02- Mr. Zainul Abiddin PHC Tech (MP) EPI CD: Amankot Swat.
- 03- Mr. Mukhtayar Ahmad PHC Tech (MP) EPI BHU: Meragai Swat.

  
District Health Officer  
District Swat at Gulkada.

ATTSU  
C.T.C  
M



To  
The District Health Officer  
District Swat

Subject: Irregularities in the December polio Campaigns

Sir

The following irregularities were noted in December 2014 polio campaign in District Swat.

- UC Islampur  
Area Incharge Zainulabdeen: EPI technician  
Team No2. Team leader: Badshahi Mulk

According to the micro plan team 2 have to cover the children of Amoo, Murghazar on day 3, with a total 17 houses and 78 children. It was found that the team had covered the area on day 1 rather than day 3, with one member and without security. The second member of the team a volunteer is the son of the Area In charge. Nine children were found no team in a cluster of seven houses. When the matter was further probed, it was found that there are only 23 children below 5 years in these 17 houses. When asked about the exaggerated number of children in the micro plan from the team leader, he put the blame on the area in charge and informed the DPMT, UPEC Chairman and MO "that I several times asked the area in charge not to put so much children in this area. But the area incharge never listened to me and put so many children".

On the direction of your good office I verified the clusters of the Area In charge in the presence of UPEC chairman Saeed and MO Dr Naveed and found the cluster of Amoo taken by the area Incharge fake. When asked the area Incharge to take us to his other cluster took by him in the adjacent area known as Dabba. The area Incharge admitted in front of UPEC chairman and MO that the other cluster is also fake.

When asked the area incharge zainul abdeen to attend the evening meetings to discuss the micro plans in the evening. He failed to do so.

In tour plan the Area Incharge has shown that he has checked the area of team 2. But according to the tele sheets he has never visited this team.

- UC kokarai  
Area Incharge: Mukhtair (EPI Technician)

On 25<sup>th</sup> December 2014 the cluster of Area Incharge Mukhtair of UC Kokarai was checked. I along the UPEC Chairman Dr Adnan and UC secretary checked the cluster of choo, tangay and found it fake. When asked the Area Incharge to take the team to his other two clusters taken on the same day that is 24<sup>th</sup> December, he admitted in presence of UPEC Chairman and UC secretary that his other two clusters are also fake.

*Handwritten signature: A. I. S. / C.T.C. / M*

*Handwritten notes:*  
O.S.  
Plz issue notice to Tech Haroon  
to zainul abdeen EPI Tech.  
Mukhtair EPI Tech.  
23/11/14

- UC Kokaral  
 Area In charge: Haroon Rasheed *EPJ Tech.*  
 Team No. 4  
 Team Leader: Umer zaib

along UC secretary and UPEC chairman visited the area of team 4, day 3 and found that one member of the team has visited the area without security and has covered day 3 area on day 2. When this was inquired from the area Incharge he called the team leader on phone and asked him, why he was alone on day 2 and without security. Ironically when the tele sheet of day 2 of the team was checked it was signed by the area Incharge at 2:05 noon. When asked from the area Incharge if you have signed and seen the team on day 2 at 12 noon how come you are asking the team on cell phone that if it was a one member or without security, when you have personally visited the team. He has no answer and all the evidence showed that he has not visited the team and has signed the tele sheet in the health facility or at home.

Dr Iftikhar Uddin  
 DPMT

*Handwritten:*  
 All-SCU  
 C.T.C  
*Signature*

بھنور جناب ڈسٹرکٹ ہیلتھ آفیسر صاحب ضلع سوات

عنوان: رحم درخواست برائے نظر ثانی بر احکامات بسلسلہ انضاتی کاروائی تین سالہ انگریزیمٹس کی کوئی۔

جناب عالی!

مؤدبانہ گزارش کیجاتی ہے کہ آپ صاحبان نے اپنے احکامات 1191-95CS4/EP مورخہ: 29-12-2014 کے تحت مسائل سے سالانہ انگریزیمٹس برائے تین سالہ کاٹنے کا فیصلہ صادر کیا ہے۔

جناب عالی! آپ صاحبان نے دسمبر 2014 کے پولیو کے خلاف مہم میں ڈبلیو، ایچ او کے نمائندہ کی رپورٹ، جس میں گھر پر چاکنگ کی غلطی نوٹ کر لی گئی تھی، پر میرے خلاف کاروائی عمل میں لائی تھی۔

جناب عالی! حقیقت احوال یہ ہے کہ مذکورہ مہم میں مسائل کے زیر کنٹرول کام کرنے والے ٹیموں کے تعداد پانچ تھی۔ اور ایک ٹیم لیڈر جناب عبداللہ شاہ سکول مدرس کے پاؤں میں موج آنے جبکہ ایک ٹیم ممبر جناب سیف الرحمان سکول چوکیدار کے دوران مہم بھانجے کی انتقال کی وجہ سے پولیو مہم کی ڈیوٹی کی ادائیگی سے قاصر رہے تھے۔ اور ہمیں ایمر جنسی میں دورضا کاروں کو ٹیم میں شامل کرنا پڑا تھا، گوکہ ٹیم کو ٹریڈنگ دے دی گئی تھی۔ تاہم ٹیم نیا ہونے کی بناء پر ٹیم سے اس حد تک کمزوری سرزد ہوئی کہ گھر کے دروازے پر 2/2+2 کے بجائے 4/4 لکھا جس سے دو مہمان بچوں کا پتہ چلانے میں دشواری پیش آئی۔

جناب عالی!

مسائل گذشتہ گیارہ سال سے بحیثیت ایریا سپروائزر اسی علاقے میں کام کرتا چلا آیا ہے مذکورہ تنازعہ راولڈ کے بعد بھی پانچ مہمات میں بحیثیت ایریا سپروائزر کام کرتا چلا آیا ہے اور کسی قسم کی کمی یا کوتاہی سامنے نہیں آئی ہے۔ اور نہ تنازعہ راولڈ میں علاقے میں کوئی بچہ پولیو کے قظروں سے محروم پایا گیا ہے اور نہ اس حلقہ میں اب تک کوئی پولیو کیس سامنے آیا ہے۔

جناب عالی! چونکہ مذکورہ غلطی مسائل کی نہیں تھی اور اگر ٹیم کی ناتجربہ کاری کو پیش نظر رکھا جائے تو غلطی اتنی بڑی بھی نہیں تھی کہ اس سے سرف نظر نہ کیا جاسکے۔

لہذا مؤدبانہ التجا کیجاتی ہے۔ کہ مسائل کی رحم درخواست قبول فرما کر اپنے مذکورہ بالا احکامات پر نظر ثانی کر کے واپس لے لیں۔

میں یقین دلاتا ہوں کہ مسائل کی انسانی بس کی حد تک کوشش رہی گی کہ آئندہ کسی قسم کی شکایت کا موقع نہ دیں۔

میں تازیت دعا گو رہوں گا۔

شکریہ

العاض صاحب

مختار احمد J-PHC Technicain

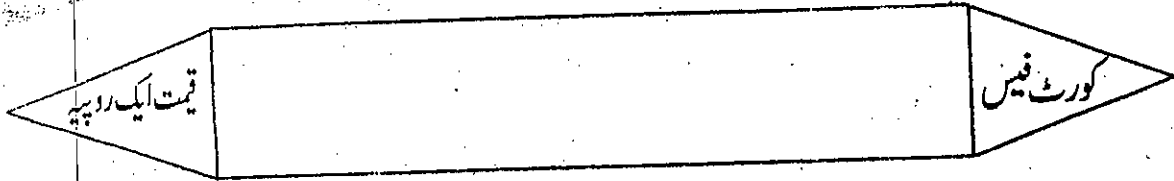
ملٹی پریز (ای پی آئی)

میرہ گئی BHU سوات

2014

ATC  
C.T.C  
سوات

# بعدالت خیرہ نخواستہ سروا سرینول لیسٹاور



مورخہ 20 مارچ 2018ء منجانب ایڈوائس  
مقدمہ مختار احمد  
دعویٰ سروا اپیل  
جرم  
باعت تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ آن مقام لیسٹاور / محکمہ کورٹ سوات لکھنے بسیر سہر ڈاکٹر عدنان خان مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کوراضی نامہ و تقرر ثالث و فیصلہ پر حلف دینے جواب دی اور اقبال دعویٰ اور درخواست ہر قسم کی تصدیق زرا اور اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری ایک طرف یا اپیل کی برآمد ہوگی اور منسوخ مذکور کے نسل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقررہ شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اس کا ساختہ برواختہ منظور و قبول ہوگا۔ اور دوران مقدمہ میں جو خرچہ و ہر جانہ التوا بے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ ہر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا کہ سند ہے

المرقوم 20 ماہ مارچ 2018ء

گواہ شدہ العبد

Attested & Accepted

کے لئے منظور ہے

بمقام منورہ سوات / لیسٹاور

Barrister  
Dr. Adnan Khan  
Advocate High Court

مختار احمد لیسٹاور

M. A. Khan

**BEFORE THE KP SERVICE TRIBUNAL PESHAWAR**

**SERVICE APPEAL NO. 438 OF 2018**

Mukhtiar Ahmad.....Appellant

**Versus**

Govt. of Khyber Pakhtunkhwa and others.....Respondents

**Respectfully Sheweth:**

**PARAWISE COMMENTS ON BEHALF OF RESPONDENTS**

**Preliminary Objections:-**

1. That the appellant has got neither cause of action nor locus standi to file the instant appeal.
2. That the appeal is bad for non-joinder and mis-joinder of necessary parties.
3. That the appeal is not maintainable under section 4 of Khyber Pakhtunkhwa Service Tribunal Act 1974.
4. That the appellant has not come to the Tribunal with clean hands.
5. That the appeal is badly time barred.

**ON FACTS:**

- 1) Para No. 1 is correct to the extent that appellant is employee of Health Department.
- 2) Pertain to record.
- 3) Para No.3 is correct according to words used therein.
- 4) Para No.4 is also correct as such the disciplinary acts were taken against them.
- 5) Para No.5 is correct. As the official was penalized after observing all codal formalities as the Official was reported with low performance in Polio as stated in evening meeting of District Polio committee and minutes of the meeting. Consequently, inquiry was ordered vide letter Nil. Dated 24/12/2014 (Annex-A). The inquiry committee recommended that disciplinary action may be initiated against official after issuing Final Show Cause Notice. As a result, minor penalty was imposed upon him in the form of withholding Increments. Then official submitted appeal to Director General Health Service Khyber Pakhtunkhwa Peshawar for withdrawing the penalty but which was rejected on the ground that Polio being issue of national emergency where no excuses are permitted (Annex-B).


- 6) Para No.6 is correct to the extent of issuing of show cause notice. |
- 7) Para No.7 is concerned the impugned order was communicated to the appellant well within time.
- 8) Para No.8 is correct to the extent of Departmental appeal was filed.
- 9) Para No.9 is correct. The said Departmental appeal was remitted
- 10) Para No. 10 is correct to the extent of good performance. Best Area Incharge certificate was awarded to the appellant.
- 11) That is in correct to the extent of by accepting the instant reply the appeal in hand may kindly be dismissed with heavy costs.
- 12) Para No.12 is in correct. Departmental appeal was rejected. Copy enclosed.

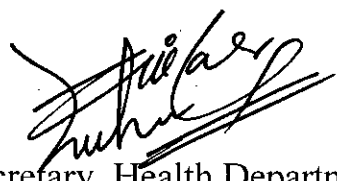
**Grounds:**

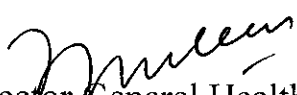
- A) Para (a) is in correct. The impugned order is in accordance with Law and Rules.
- B) Para (b) is in correct. The appellant had proceeded in accordance with law and rules and no discrimination has been made.
- C) Para (c) is in correct. All formalities fulfilled.
- D) Para (d) is in correct: - Proper inquiry was conducted.
- E) Para (e) is in correct: - All formalities fulfilled.
- F) Para (f) is in correct: - As the official was properly proceeded as per rules after conducting inquiry.
- G) Para (g) is correct upto the extent giving opportunity of hearing the appellant, if he has lawful arguments whereas the appellant has no prima facie case, the appeal may kindly be dismissed with costs.

**Prayer:**

Keeping in view of the above, it is prayed that the instant appeal may graciously be dismissed with cost.

  
District Health Officer Swat.  
**Respondent No. 01**

  
Secretary, Health Department,  
Khyber Pakhtunkhwa, Peshawar.  
**Respondent No. 02**

  
Director General Health Services,  
Khyber Pakhtunkhwa, Peshawar.  
**Respondent No. 03**  
AD(P-III)/DHO Swat



To

The District Health Officer  
District Swat

Subject: Irregularities in the December polio Campaigns

Sir

The following irregularities were noted in December 2014 polio campaign in District Swat.

- UC Islampur
- Area Incharge Zahulabdeen: EPI technician
- Team No2. Team leader: Badshahi Mulk

According to the micro plan team 2 have to cover the children of Amoo, Murghazar on day 3, with a total 17 houses and 78 children. It was found that the team had covered the area on day 1 rather than day 3, with one member and without security. The second member of the team a volunteer is the son of the Area in charge. Nine children were found no team in a cluster of seven houses. When the matter was further probed, it was found that there are only 23 children below 5 years in these 17 houses. When asked about the exaggerated number of children in the micro plan from the team leader, he put the blame on the area in charge and informed the DPMT, UPEC Chairman and MO "that I several times asked the area in charge not to put so much children in this area. But the area incharge never listened to me and put so many children".

On the direction of your good office I verified the clusters of the Area In charge in the presence of UPEC chairman Saeed and MO Dr Naveed and found the cluster of Amoo taken by the area Incharge fake. When asked the area Incharge to take us to his other cluster took by him in the adjacent area known as Dabba. The area Incharge admitted in front of UPEC chairman and MO that the other cluster is also fake.

When asked the area incharge zainul abdeen to attend the evening meetings to discuss the micro plans in the evening. He failed to do so.

In tour plan the Area Incharge has shown that he has checked the area of team 2. But according to the tele sheets he has never visited this team.

- UC kokarai
- Area Incharge: Mukhtair (EPI Technician)

On 25<sup>th</sup> December 2014 the cluster of Area Incharge Mukhtair of UC Kokarai was checked. I along the UPEC Chairman Dr Adnan and UC secretary checked the cluster of choo, tangay and found it fake. When asked the Area Incharge to take the team to his other two clusters taken on the same day that is 24<sup>th</sup> December, he admitted in presence of UPEC Chairman and UC secretary that his other two clusters are also fake.

*O.S. P/O issue to general section EPI Tech: Haroon*  
*Adnan EPI Tech*  
*Adnan EPI Tech*  
*Adnan EPI Tech*  
*Adnan EPI Tech*  
*Adnan EPI Tech*

committee recommended that disciplinary action may be initiated against official. As a result, minor penalty was imposed upon him

in the form of withholding increments. Then official submitted

*After issuance of Final order how cause notice*

UC Kokarai  
Area In charge: Haroon Rasheed  
Team No. 4  
Team Leader: Umer zaib

*EPJ Tech.*

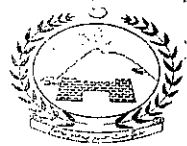
Along UC secretary and UPEC chairman visited the area of team 4, day 3 and found that one member of the team has visited the area without security and has covered day 3 area on day 2. When this was inquired from the area Incharge he called the team leader on phone and asked him, why he was alone on day 2 and without security. Ironically when the tele sheet of day 2 of the team was checked it was signed by the area Incharge at 2:05 noon. When asked from the area Incharge if you have signed and seen the team on day 2 at 12 noon how come you are asking the team on cell phone that if it was a one member or without security, when you have personally visited the team. He has no answer and all the evidence showed that he has not visited the team and has signed the tele sheet in the health facility or at home.

Dr Iftikhar Uddin  
DPMT

committee recommended that disciplinary action may be initiated against official. As a result, minor penalty was imposed upon him in the form of withholding increments. Then official submitted

*After issuing  
Final show cause notice*

DIRECTORATE GENERAL HEALTH SERVICES  
KHYBER PAKHTUNKHWA, PESHAWAR.



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.

*Handwritten notes:*  
09/11/17  
C.H.O.

No. 18339 /AE-VI

Dated 27 /11/2017

To

The District Health Officer,  
Swat.

Subject: - APPEAL RELEASE OF 03 ANNUAL INCREMENTS.

I am directed to refer your letter No. 14276/EPI, dated 5/10/2017, on the subject noted above and to state that Polio Eradication Initiative has been declared National Emergency by Prime Minister of Pakistan and accountability regarding poor performance in National Immunization Days is an integral part of NEAP(National Emergency Action Plan).

*Signature*  
ASSISTANT DIRECTOR (PARAMEDICS)  
DGHS KHYBER PAKHTUNKHWA,  
PESHAWAR.

*Handwritten initials:* W/M

*Handwritten notes:*  
Print up by  
of 20. The  
a case  
DHO

*Handwritten note:* File please

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DIRECTORATE GENERAL HEALTH SERVICES  
KHYBER PAKHTUNKHWA, PESHAWAR.

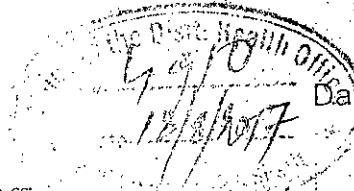


Office PHH 091 - 9210230 Exchange/H 091 - 9210187, 091 - 9210196,

Fax #091 - 9210230

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

No. 9955 / AE-VI,



Dated 11 / 18 / 2017

To  
The District Health Officer,  
Swat.

Subject - APPEAL RELEASE OF 03 ANNUAL INCREMENTS.

I am directed to refer to the subject noted above and to enclose a copy of an application in respect of Mr. Mukhtiar Ahmad, PHC Technician (MP/EPI) BS-12, working under your control which is self explanatory for furnishing your comments urgently so as to proceed further.

ASSISTANT DIRECTOR (PARAMEDICS)  
DGHS, KHYBER PAKHTUNKHWA,  
PESHAWAR

Co: EPI  
Cm: EPI  
DHO

The Director General,  
Health Services, Khyber Pakhtunkhwa  
Peshawar.

24603

01-08-17

Subject: - Appeal release of 03 annual increment.  
R/Sir,

I have the honour to state that I am working as Junior PHC Technician (EPI) BHU Meragai Swat on regular basis, during EPI campaign of the area in 2014 a person of WHO visited of this area and he noted some mistake made by the other team members (new) the home they marked the figure on a door i.e. 2+2 / 2 instead of 4/4. due to which we don't not the quantity of guest Childrens at that home.

The matter was reported to the District Health Officer, Swat and accordingly as stated by the DHO Swat due to my non satisfactory performance in polio campaign in December 2014 I was awarded penalty of withholding annual increments for 03 years with non accumulative effect.

It is stated that in this regard no enquiry has been conducted no my statement has been taken as well as no charge sheet has been issued to me, except show cause notice.

Keeping in view the above it is requested that the above 03 increments stopped during December 2014 may please be released to me on humanitarian ground.

Yours faithfully

*Mukhtiar Ahmad*  
Mukhtiar Ahmad S/O Saif Ud Din  
Junior PHC Technician (EPI)  
BHU Meragai Swat

*Dir EPI / DD EPI*  
*Case 2 be put up*

*Dr*

*my*

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 465 /ST

Dated 20 - 3 - / 2019

To


The District Health Officer,  
Government of Khyber Pakhtunkhwa,  
Swat at Gulkada Saidu Sharif

Subject: -

JUDGMENT IN APPEAL NO. 438/2018, MR. MUKHTAIR AHMAD & OTHERS.

I am directed to forward herewith a certified copy of Judgement dated 06.03.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.