

15.11.2019

Learned counsel for the appellant present. Mr. Usman Ghani learned District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for further proceedings on 20.12.2019 before D.B

  
Member

  
Member


**ORDER**

20.12.2019

Appellant with counsel present. Mr. Muhammad Jan, DDA alongwith Mr. Saleem Javed, Litigation Assistant for respondents present. Arguments heard and record perused.

Vide our detailed judgment of today of this Tribunal placed on file, the appeal is dismissed. Parties are left to bear their own cost. File be consigned to the record room.

Announced:  
20.12.2019

  
(Ahmad Hassan)  
Member



(Muhammad Hamid Mughal)  
Member

1416/18

12.04.2019

Counsel for the appellant and Addl. AG alongwith Abdul Karim Technologist for the respondents present.

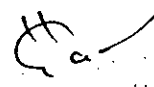
Representative of respondents has submitted parawise reply which is placed on record. To come up for arguments before the D.B. on 28.06.2019. The appellant may furnish rejoinder within a fortnight, if so advised.

  
Chairman

28.06.2019

Appellant in person and Addl: AG alongwith Mr. Abdul Karim, Technologist for respondents present. Appellant submitted an application for adjournment wherein he stated that his counsel was busy before the Peshawar High Court, Peshawar. Adjourned. Case to come up for arguments on 12.09.2019 ~~for arguments~~ before D.B.

  
Member

  
Member

12.09.2019

Appellant with counsel present. Mr. Usman Ghani learned District Attorney alongwith Mr. Abdul Kareem Technologist for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 15.11.2019 before D.B.

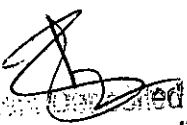
  
(Hussam Shah)  
Member

  
(M Hamid Mughal)  
Member

04.01.2019

Counsel for the appellant Wahab Ali present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was appointed as Junior Clinical Technician Pharmacy BPS-12 in the Health Department vide order dated 06.10.2017. It was further contended that the appellant submitted arrival report on 11.10.2017 and performed the duty for some days however, on 16.10.2017 he was not allowed to perform duty by the competent authority therefore, he filed departmental appeal on 10.01.2018 which was not responded. It was further contended that the appellant also filed various applications to them but despite that the appellant was not allowed to perform duty therefore, the respondent-department is bound to allow the appellant to perform his duty.

The contentions raised by the learned counsel for the appellant need consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 19.03.2019 before S.B.

  
Appellant's Security & Process Fee

  
(Muhammad Amin Khan Kundi)  
Member

19.03.2019

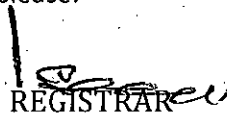

Counsel for the appellant and Mr. Kabirulalh Khatak learned Addl; AG alongwith M/S Abdul Kareem Technologist and Haroon Superintendent for the respondents present. ~~present~~ Written reply not submitted. Representatives of the respondents department seeks time to file written reply/comments. Granted. To come up for written reply/comments on 12.04.2019 before S.B.

  
Member

Form- A  
FORM OF ORDER SHEET

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

Case No. 1416/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	20/11/2018	<p>The appeal of Mr. Wahab Ali presented today by Roaeda 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 20/11/18</p>
2-	22-11-2018	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>4-12-2018</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

*V. A. V. A.*

**BEFORE THE HON'BLE SERVICE TRIBUNAL**  
**PESHAWAR**

In Re S.A No. 1416 /2018

Wahab Ali

**VERSUS**

Secretary to Government of Khyber Pakhtunkhwa Health  
Department Peshawar and Others


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8.	Copy of Departmental appeal	"E"	12
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10.	Wakalat Nama		

Dated: 20/10/2018

  
**APPELLANT**

Through

  
**Roeda Khan**  
Advocate, High Court  
Peshawar..

**BEFORE THE HON'BLE SERVICE TRIBUNAL**  
**PESHAWAR**

In Re S.A No. 1416 /2018

Khyber Pakhtukhwa  
Service Tribunal

Diary No. 1660

Dated. 20/11/2018

Wahab Ali S/O Muhammad Ismail R/o Tehsil Katlang  
District Mardan Junior Clinical Technician Pharmacy  
BPS-12.

....Appellant

**VERSUS**

1. Secretary to Government of Khyber Pakhtunkhwa  
Health Department Peshawar.
2. Director General Health Services Khyber  
Pakhtunkhwa.
3. District Health Officer Abbottabad.
4. Medical Superintendent BBSTH, Abbottabad.

....Respondents

Filed to-day  
Registrar  
20/11/18.

**APPEAL U/S-4 OF THE KHYBER**  
**PAKHTUNKHWA SERVICES TRIBUNAL ACT**  
**1974 THAT THE RESPONDENT DEPARTMENT**  
**MAY KINDLY BE DIRECTED TO**  
**ALLOW/ADJUST THE APPELLANT TO**  
**PERFORM HIS DUTY ON HIS ORIGINAL POST**  
**AS THE RESPONDENT DEPARTMENT**  
**ILLEGALLY RESTRAINED THE APPELLANT**  
**PERFORM HIS DUTY ON HIS ORIGINAL**  
**POSTS.**

Prayer:-

ON ACCEPTANCE OF THIS APPEAL  
THE APPROPRIATE DIRECTION TO  
RESPONDENT DEPARTMENT TO  
ALLOW/ADJUST THE APPELLANT ON  
HIS ORIGINAL POSTS WITH ALL BACK  
BENEFITS AND THAT ANY OTHER  
RELIEF MAY KINDLY BE GRANTED  
DEEMED FIT IN THE CIRCUMSTANCES.

Respectfully Sheweth,

1. That the Appellant was appointed by the competent authority as Junior Technician BPS-12 on 06/10/2017. (Copy of order is annexed as annexure "A").
2. That the appellant got medical fitness with the Respondent department. (Copy of medical fitness is annexed as annexure "B")
3. That the submitted his arrival report with the Respondent department on 11/10/2017. (Copy of arrival report is annexed as annexure "C")
4. That the appellant performed his duty regularly with the Respondent Department

and no complaint ever has been made against the appellant. **(Copy of attendance register is annexed as annexure "D")**

5. That on 16/10/2017 the Respondent Department without any reason not allows the appellant to perform his duty on his post.
6. That the appellant submitted an departmental appeal with the Respondent department on dated 10/11/2017. **(Copy of departmental appeal is annexed as annexure "E")**
7. That the appellant submitted so many applications to the Respondent Department to allow the appellant for his duty but in vain. **(Copy of Applications are annexed as annexure "F, G & H")**
8. That feeling aggrieved the Appellant prefers the instant service appeal before



this Hon'ble Tribunal on the following grounds inter alia:-

**GROUND:-**

- A. That the not allowing of the appellant on his original post is an illegality on the part of the Respondent Department and utter violation of law and rules on the subject.
- B. That the appellant has not been treated according to law and mandatory provisions of law have been violated by Respondents.
- C. That the appellant is a Civil Servant and it is the responsibility of the Department to allow the appellant.
- D. That the appellant has not been removed or dismissed from service so not allowing of the appellant in his job is clear cut malafidely on part of Respondent department.
- E. That not allowing of the appellant is void and not according to law because not allowing of the appellant is an illegality on part of the Respondent department.

F. That the appellant seeks permission of this Hon'ble Tribunal for further additional grounds at the time of arguments.

*It is therefore, most humbly prayed that on acceptance of this appeal the appropriate direction to respondent department to allow/adjust the appellant on his original posts with all back benefits and that any other relief may kindly be granted deemed fit in the circumstances*

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

Dated: 19/11/2018



APPELLANT

Through



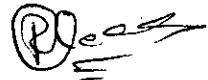
**Roeeda Khan**

Advocate, High Court  
Peshawar.

NOTE:-

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

Advocate.



**BEFORE THE HON'BLE SERVICE TRIBUNAL**  
**PESHAWAR**

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

Wahab Ali

**VERSUS**

Secretary to Government of Khyber Pakhtunkhwa Health  
Department Peshawar and Others

**AFFIDAVIT**

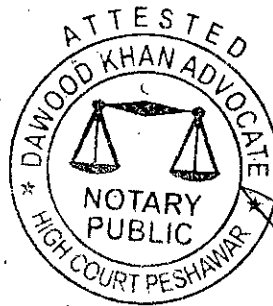
I, Wahab Ali S/O Muhammad Ismail R/o Tehsil Katlang District Mardan Junior Clinical Technician Pharmacy BPS-12, do hereby solemnly affirm and declare that all the contents of the **instant appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Court.

*W Ali*

**DEPONENT**

Identified by:

*Roeeda Khan*  
**Roeeda Khan**  
Advocate High Court  
Peshawar.



20 NOV 2018

*[Signature]*

**BEFORE THE HON'BLE SERVICE TRIBUNAL**  
**PESHAWAR**

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

Wahab Ali

**VERSUS**

Secretary to Government of Khyber Pakhtunkhwa Health  
Department Peshawar and Others

**ADDRESSES OF PARTIES**

***PETITIONER.***

Wahab Ali S/O Muhammad Ismail R/o Tehsil  
Katlang District Mardan Junior Clinical  
Technician Pharmacy BPS-12.

**ADDRESSES OF RESPONDENTS**

1. Secretary to Government of Khyber Pakhtunkhwa  
Health Department Peshawar.
2. Director General Health Services Khyber  
Pakhtunkhwa.
3. District Health Officer Abbottabad.
4. Medical Superintendant BBSTH, Abbottabad.

Dated: 20/11/2018



**APPELLANT**

Through



**Roeda Khan**  
Advocate, High Court  
Peshawar.



Ann 'A'

8

**OFFICE OF THE DISTRICT HEALTH  
OFFICER ABBOTTABAD.****OFFICE ORDER**

On the recommendations of the Departmental Selection Committee during its meeting held on 28.09.2017, the following are hereby appointed as **Junior Clinical Technician Pharmacy BPS-12** in National Pay Scale of **Rs.13320-955-41970** and allowance as admissible under the rules.

S #	Name	Father's Name	Postal Address	Place of Duty
1	Muhammad Naeem Qureshi	Muhammad Saleem	Gohar Ayub Town, Usmanabad Mandian Abbottabad	CD Pawa
2	Muhammad Nisar Khan	Gulzar	Sir Syed Colony House NO.39 Street # 8 Mandian Abbottabad	UD Havelian
3	Areem	Khan Muhammad	Village Ban Kot Tehsil Oghi District Manshra	Type D Hospital Boi
4	Ziafat Hussain Shah	Mukhtiar Hussain Shah	Ban Ser Battal PO Chatarplain Tehsil & District Manshra	Type D Hospital Boi
5	Nehmatullah Khan	Umer Nawaz Khan	Kotka Ghani Zonda Ghaibi Mir Baz Bakar Zai PO Nord Tehsil & District Banu	Type D Hospital Boi
6	Kamran Khan	Parvez	Quarter No.C-01 Officerabad College Colony Saidu Sharif Swat	CD Changla Gali
7	Wahab Ali	Muhammad Ismail	Mohallah Baba Cham Village Shekray Baba Tehsil Katlang District Mardan	CD Plair Bazar
8	Samiullah	Muhammad Rasheed	Amirabad PO Chakdara Tehsil Aden Zai District Dir Lower	CD Khann Kalan

They shall abide by the terms & conditions mentioned below: -

- ✓ You will remain on probation for a period of one year and your further continuous will depend on your satisfactory work & conduct.
- ✓ In case you wish to resign any time, prior one month notice or one month pay will be necessary and you shall continue to serve the Government till your resignation is accepted and communicated to you.
- ✓ You will contribute to General Provident Fund (GPF) and will avail the benefits of GP Fund, Pension, Gratuity etc as per Govt rules & policy.
- ✓ Your service will be subject to your being satisfactory report of verification roll/documents verification.
- ✓ You will have to produce medical certificate of fitness from the Medical Superintendent, BBS (DHQ) Hospital Abbottabad.
- ✓ You will governed by the Rules & Orders relating to Leave/TA, Medical Attendance / Pay etc as may be issued by the Government from time to time.

If above offer of appointment on the terms & conditions mentioned above is accepted then all the concerned are hereby advised to report for duties to the Incharge of Health Facility mentioned against their names on their own expenses within fifteen (15) days of the issuance of this appointment order positively with the remarks that in case of failure in compliance within stipulated period, this offer shall stand automatically cancelled.

**ATTESTED**District Health Officer  
Abbottabad.

No. 18635-39 /Estab/D/Recrt; Dated Abbottabad the

06/10 /2017.

Copy forwarded to the: -

1. Director General Health Services, Khyber Pakhtunkhwa Peshawar.
  2. Incharges of concerned health facilities.
  3. Accounts Section undersigned office.
  4. All concerned on their postal addresses cited above.
  5. Estt; File.
- For information and necessary action.

District Health Officer  
Abbottabad.

Ann "B" (9)

16103-0343976-1

**MEDICAL CERTIFICATE**

Name of official WAHAB ALI

Caste & Race AFGHAN

Father's Name MUHAMMAD ISMAIL

Residence BABA CHAM SHIKRAI BABA KATLANG MARDAN

Date of Birth 23-03-1999 As per CNIC

Exact height by measurement 5 feet 6 inch

Personal marks of identification NIL

Signature of the official [Signature]

Signature of head of office \_\_\_\_\_

Seal of Office \_\_\_\_\_

I do hereby certified that I have examined Mr. Wahab Ali  
a candidate for employment in the office of the DHO Abbottabad  
and can not discover that had any disease commendable or other constitutional  
effection or body infirmity except NIL

I do not consider this as disqualification for employment in the office of the  
DHO AID. His age according to his own statement 24 years  
and by appearance about Twenty Four years.

**ATTACHED**



Left hand thumb and  
Fingers Impressions  
11-10-2-17

[Signature]  
**MEDICAL SUPERINTENDENT**  
**BBSTH, ABBOTTABAD**

Amul "C" (10)

To

District Health Officer  
Abbottabad

SUBJECT: ARRIVAL REPORT

Memo

I pursuance office Order No. 16635-39/Estab/D/RECR'T dated 06-10-2017. I hereby submit my arrival report today on 11-10-2017 for further necessary action.

*W.A.Li*

Wahab Ali  
S/O M. Ismail  
JCT Pharmacy

JCT clinical pharmacy T. 27

*وہاب علی س/و م اسماعیل*  
*cd plair*

- *وہاب علی* Arrival *سے* 11-10-2017 *تاریخ*

*Wahab Ali*  
11-10-2017

*محمد تنویر*  
*سول ڈسٹریکٹ ہیلتھ آفیسر*

*(Signature)*  
**ATTESTED**

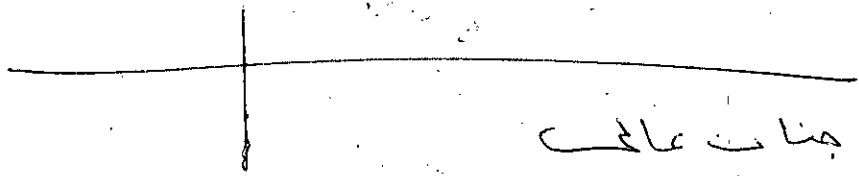




حکومت جناب ڈائریکٹر جنرل پبلنٹس سے جسٹس جیو کو

(Allowing/ad) ڈیپارٹمنٹل ایپل برائے

Allowing/adjustment ایڈجسٹمنٹ



جناب عالی

حسب ذیل نوٹ ارسال ہے۔

1۔ یہ کہ ایڈجسٹمنٹ 10/6 2017 کو ایڈجسٹمنٹ سے

Junior Technician برتے ہوئے تھا۔  
BPS-12

2۔ یہ کہ ایڈجسٹمنٹ باقاعدگی سے ڈیپارٹمنٹل سرانجام دیا گیا تھا۔

3۔ یہ کہ ڈیپارٹمنٹل ایپل برائے 10/6 2017 سے ایڈجسٹمنٹ کو  
ڈیپارٹمنٹل آفیسر سے Allow ایس کر دیا ہے۔

4۔ یہ کہ ایڈجسٹمنٹ کے لئے Removal ہوئے ہیں نہ  
Dismissal ہوئے ہیں۔ اور نہ ہی ایڈجسٹمنٹ کے خلاف  
کوئی کھلی ہوئی ہے۔

لہذا استدعا ہے کہ منظوری ڈیپارٹمنٹل  
ایپل ایڈجسٹمنٹ کو ڈیپارٹمنٹل آفیسر سے Allow کیا جائے

تاریخ 10/11/2017

ایڈجسٹمنٹ  
ایڈجسٹمنٹ

ATTESTED

شمارت صاف ڈاٹر پلٹر ہلنے سے روس حسین بختی خواہ  
Annul 'F' (13)

درخواست بھرا دے  
Allowing adjustment  
سائل

جناب عالی

سائل مس ذیل عرض رسالت ہے -

تراشک ٹک جائے ہے نہ سائل محکمہ ہذا میں  
جوئین ٹکسٹ BPS-12 برٹ بوا تھا اور ڈوٹ

سراٹھ دہ رہا تھا، محکمہ ہذا 2018 سے 6 سے

سائل کو ڈوٹ کے لئے A 110 سے لے کر

دیا۔ سائل کے خلاف کسی قسم کی کوئی عملیت

دی گئی نہ ہے۔

لہذا استوعاف جائے ہے کہ منظور ہے

درخواست ہذا سائل کو ڈوٹ کے لئے A 110

کیا جائے

15  $\frac{3}{018}$

سائل  
WAC  
دفعہ 110

Ⓟ

ATTESTED



(15) "H" Auctr  
خدمت صاب ڈاٹر پبلشر سروس جسٹس سٹیو سٹیو

درخواست بھرا د  
Allowing adjustment  
سائل

جناب عالی

سائل صاب ڈاٹر پبلشر سروس سے -

تراشک ٹک جائے ہے نہ سائل علم ہذا میں

جوئر ٹیلیٹک BPS-12 برٹ بوا تھا اور ڈیٹ

سرا نام دہ رہا تھا۔ علم ہذا 6 <sup>10</sup>/<sub>2018</sub> سے

سائل کو دی ہوئی ہے لے A 110 سے تر

دیا۔ سائل کے خلاف سب قسم کی کوئی کمیلٹ

وغیرہ نہ ہے۔

لہذا استوعا ک جائے ہے کہ منظوری

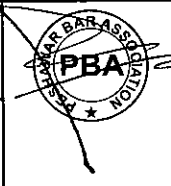
درخواست ہذا سائل کو دی گئی ہے لے A 110

کیا جائے

20 <sup>8</sup>/<sub>2018</sub>

سائل  
ملا  
وہاں علی

ATTESTED



ایڈوکیٹ: P

بار کونسل ایسوسی ایشن نمبر:

رابطہ نمبر: 03339862906

پشاور بار ایسوسی ایشن، خیبر پختونخوا

بعدالت جناب: جج سید سعید علی شاہ

مخاطب: ایڈووکیٹ	دعویٰ:
وہابی محل بنام حلاوت	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:
	باعت تحریر آئکہ

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

المرقوم: 2018-11-21

المعد بد واہ شد المعد بد

مقام رسالہ کے لیے منظور ہے۔

Accepted By P

مقرر

نوٹ: اس وکالت نامہ کی فوٹوکاپی ناقابل قبول ہوگی۔

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 1416/2018

Date of Institution ... 20.11.2018

Date of Decision ... 20.12.2019

Wahab Ali S/O Muhammad Ismail R/o Tehsil Katlang District Mardan Junior  
Clinical Technician Pharmacy(BPS-12). ... (Appellant)

VERSUS

The Secretary to Government of Khyber Pakhtunkhwa, Health Department  
Peshawar and three others. ... (Respondents)

MISS ROEEDA KHAN,  
Advocate

--- For appellant.

MR. MUHAMMAD JAN,  
Deputy District Attorney

--- For respondents

MR. AHMAD HASSAN  
MR. MUHAMMAD HAMID MUGHAL

--- MEMBER(Executive)  
--- MEMBER(Judicial)

JUDGMENT:

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

ARGUMENTS:

02. Learned counsel for the appellant argued that he was appointed as Junior Technician (BPS-12) through order dated 06.10.2017. After completion of codal formalities, he started performing duty. Since 16.10.2017 he was not allowed by the respondents to perform duty. He filed departmental appeal on 10.11.2017 which remained unanswered, hence, the present service appeal. Learned counsel for the appellant further argued that he had not been removed from service so far. So restraining him from duty on the part of the above respondents was serious illegality and not tenable in the eyes of law.

03. Learned Deputy District Attorney argued that appointment order of the appellant dated 10.06.2017 alongwith others was withdrawn by respondent no.3 due to certain shortcomings. Moreover, in the advertisement it was clearly mentioned that candidates belonging to District Abbottabad shall be preferred. Again interviews were conducted on 21.10.2017 and appointment order was issued after obtaining approval of the DPC.

**CONCLUSION:**

04. The appellant was appointed as Junior Technician (BPS-12) vide order dated 06.10.2017 but restrained from performing duty since 10.11.2017. As numerous shortcomings were noticed in the recruitment process, therefore, appointment order of the appellant was withdrawn through order dated 12.10.2017. Fresh interviews of short listed candidates were conducted and candidates recommended for appointments purely on merit on 21.10.2017 by the DSC. However, this order has not been challenged by the appellant in the present service appeal, as such it has become infructuous. It is clarified that service appeal was filed on 21.11.2018, while his appointment order was withdrawn on 12.10.2017. It was very much in the knowledge of the appellant. The present service appeal having become infructuous is not maintainable in its present form. Ample opportunities were provided to the learned counsel for the appellant to respond to our observations but to no avail.

05. As a sequel to the above, the appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.



(MUHAMMAD HAMID MUGHAL)  
Member



(AHMAD HASSAN)  
Member

خدمت جناب حیدر علی صاحب سروسز ٹریڈنگ کمپنی فیڈ بک اور

صاحب ٹاکا

گزارشت ہے کہ مسائل کیپٹل نمبر 141418 کی پیش ہوئی ہے

لیکن مسائل کی وکٹیں دوسری پیش ہو گئی ہیں

پیشہ ورانہ طور پر لہذا آپ صاحب

کو اسٹور ہے کہ تاریخ پیش ٹریڈنگ کی ہے

عین ڈائریکٹوریٹ

ان کے

WAK

ایک جامع و مانع و صحیح عملی و لائحہ عملی ہے

حقائق کا دست فیڈ بک اور کپٹل

ب  
28/2019



**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR**

Appeal No.1416/2018.

Wahab Ali .....Appellant

Versus

Secretary to Government of KPK, Health Department & Others  
.....Respondents

(Appeal No. 1416/2018)

(Parawise Comments on behalf of Respondents)

**INDEX**

S#	Description	Page No.	Annexure
1	Parawise Comments alongwith Affidavit	1 to 4	
2	Copy of the Office Order No. 19008-14 dated 12-10-2017.	5	"A"
3	Copy of the Office Letter No. 19523 dated 17-10-2017.	6 to 7	"B"
4	Copy of the minutes of the meeting of the DSC held on 21-10-2017.	8 to 9	"C"

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

...RESPONDENTS

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL, PESHAWAR**

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Secretary to Government of KPK, Health Department & Others  
.....Respondents

(Appeal No. 1416/2018)

**Parawise Comments on behalf of Respondents**

Respectfully Sheweth,

**Preliminary Objections:**

1. The appellant has no locus standi / cause of action to institute the instant appeal.
2. The appellant is estopped to sue due to his own conduct.
3. The titled appeal is liable to be dismissed on ground of non-joinder of necessary parties.
4. The appellant has not approached this Honourable court with clean hands and concealed material facts.
5. The instant appeal is time-barred.
6. This Honourable Tribunal lacks jurisdiction to entertain the titled appeal.

**Factual Objections:**

1. That the Para 1 of the appeal is subject to proof.
2. That the Para 2 of the appeal is subject to proof.
3. That the Para 3 of the appeal is subject to proof.
4. That the Para 4 of the appeal is subject to proof.
5. That the Para 5 of the appeal is correct to the extent of preventing the appellant from performing his duties.
6. That the Para 6 of the appeal is incorrect, the appellant had not submitted any departmental appeal to the respondents.
7. That the Para 7 of the appeal is incorrect, the appellant had not submitted any applications regarding his grievance to the respondents.
8. That the Para 8 of the appeal needs no comments.

**GROUNDS:**


- A. That the Para A of the appeal is incorrect.
- B. That the Para B of the appeal is incorrect.
- C. That the Para C of the appeal is incorrect. The appointment letter bearing No. 18635-39 dated 10-06-2017 alongwith other appointment letters issued by the Respondent No. 3 were withdrawn by the competent authority due to some clerical mistakes and objections raised by the candidates on criteria applied by the Respondent Department. Therefore the departmental selection committee and Respondent No. 3 as Chairman of the committee decided in good faith and in best public interest to re-call the candidates for interviews.
- D. That the Para D of the appeal is incorrect. It is specifically mentioned in advertisement dated 27-07-2017 in terms and conditions that the candidates domiciled at District


Abbottabad shall be preferred and the appointments shall be made according to the rules / regulations of the Government of KPK. The Departmental selection committee decided in good faith and in public interest to re-call the interviews of short listed candidates on 21-10-2017 at 09:00 am after communication of the said date to all the short listed candidates. The decision was made on complaints lodged by the candidates having higher academic and professional qualifications and after approval accorded by the Director General, Health Services Peshawar for conducting re-interviews of Candidates for the post of Junior Clinical Technician Pharmacy by the Departmental Selection Committee in accordance with the rules and regulations laid down by the Provincial Government purely on merit. (Copies of the Office Order No. 19008-14 dated 12-10-2017 and Office Letter No. 19523 dated 17-10-2017 and minutes of the meeting of the DSC held on 21-10-2017 are annexed as Annexure "A", "B" & "C" respective).


- E. That the Para E of the appeal is incorrect, proper reply had already been furnished in above Paras.
- F. That the Para F of the appeal needs no comments.

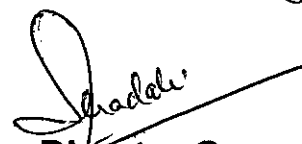
It is, therefore, respectfully prayed that the titled appeal may graciously be dismissed alongwith cost throughout.

**...RESPONDENTS**

  
**1.. District Health Officer,  
 Abbottabad.  
 (Respondent No.3)**

  
**2.. Medical Superintendent,  
 BBSTH, Abbottabad.  
 (Respondent No.4)**

  
**3.. Secretary,  
 Health Department,  
 KPK, Peshawar.  
 (Respondent No.1)**

  
**4.. Director General,  
 Health Services,  
 KPK, Peshawar.  
 (Respondent No.2)**

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL, PESHAWAR**

Appeal No.1416/2018.

Wahab Ali .....Appellant

Versus

Secretary to Government of KPK, Health Department & Others  
 .....Respondents

(Appeal No. 1416/2018)

(Parawise Comments on behalf of Respondents)

**AFFIDAVIT**

I, Abdul Karim, PHC, Technologist (BPS-17), DHO Office, Abbottabad solemnly affirms and declare on oath that the contents of the Parawise Comments are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon' able court.

*Wahab*  
 ...DEPONENT

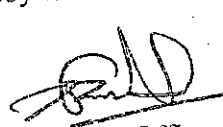
OFFICE ORDER

Whereas, the Departmental Selection Committee conducted interviews of the candidates for appointment of JCT Surgical, JCT Radiology, JCT Pharmacy & PHC Technician MP for EPI on 28.09.2017 and most of the candidate having highest academic & professional highest marks failed to reply the questions to the Departmental Selection Committee during their interviews. Most of the candidates having lowest educational marks passed the interview, hence the Departmental Selection Committee unanimously recommended those candidates for appointment who passed the interview in the larger interest of the Health Department.

Now, some of the candidates having higher academic & professional marks made objection of the criteria applied, therefore the Departmental Selection Committee decided to recall the interviews on 21.10.2017 at 09:00AM.

Therefore, the undersigned as the chairman of the committee that merit should prevailed in best interest of public and all members of the committee have decided in good faith.

In the light of above, all appointment orders of above mentioned categories of paramedics vide this office order No.18601-05, No.18606-11, No.18612-17, No.18618-23, No.18624-29, No.18630-34 & No.18635-39 dated 06.10.2017 are hereby withdrawn from the date of issuance.

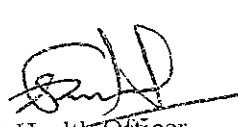
  
District Health Officer  
Abbottabad.

No. 19008-14 /Estab/D/Leave Dated Abbottabad the

12/10 /2017.

Copy forwarded to the: -

1. Director General Health Services, Khyber Pakhtunkhwa Peshawar.
  2. Deputy Commissioner Abbottabad.
  3. All Members of Departmental Selection Committee (Health).
  4. District Accounts Officer, Abbottabad.
  5. Accounts Section undersigned office.
  6. Establishment Section.
  7. All appointed concerned.
- For information and necessary action.

  
District Health Officer  
Abbottabad.



(6) Annex 8

**OFFICE OF THE DISTRICT HEALTH  
OFFICER ABBOTTABAD.**

No. 19523 /Estab/D/DGHS.  
Dated Abbottabad the 17/10/2017.

To,

The Director General Health Services,  
Khyber Pakhtunkhwa, Peshawar.

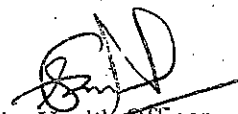
Subject:

Re-Interview of the Candidates for the post of Jr. PHC  
Technician MP for EPI, Jr. Clinical Technician Surgical,  
Radiology and Pharmacy.

Memo:

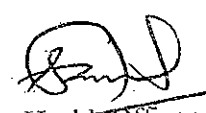
It is bring in your kind honour that the undersigned held interview on 28.09.2017 on subject cited categories of Paramedics but due to some errors in final merit the committee considered it importance to re conduct the interview for merit based selection on 21.10.2017.

Kindly accord necessary approval for re-interview please.

  
District Health Officer,  
Abbottabad.

No. 19524 /Estab/D/DGHS.

Copy forwarded to the Director Admin / HR DGHS Office for information with reference to verbal direction regarding subject cited above please.

  
District Health Officer,  
Abbottabad.

(7)

AM B

**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.

**OFFICE ORDER.**

As approved by the competent authority, Mr. Sheraz Khan Assistant Director (Paramedics), DGHS, KPK, Peshawar is hereby nominated as representative of DGHS KPK to attend the DSC meeting at the office of District Health Officer, Abbottabad as per programme mentioned below: -

20/10/2017	Leave Peshawar	Arrival Abbottabad Night Stay
21/10/2017	To attend the meeting of DSC	Arrival Peshawar.

Sd/xxxxxxxx  
**DIRECTOR GENERAL HEALTH  
SERVICES KPK, PESHAWAR**


No. 16036-40 /AE-VI

Dated Peshawar the 19/10/2017.

Copy forwarded to the: -

01. DHO, Abbottabad.
02. Mr. Sheraz Khan Assistant Director (Paramedics) DGHS, KPK Peshawar.
03. DHIS Cell, DGHS, KPK Peshawar.
04. Accountant, DGHS, KPK Peshawar.
05. P.A to DGHS KPK, Peshawar.

For information and necessary action.

  
\_\_\_\_\_  
**DIRECTOR (H.R.M)  
DIRECTORATE GENERAL HEALTH  
SERVICES, KPK, PESHAWAR.**



**OFFICE OF THE DISTRICT HEALTH  
OFFICER ABBOTTABAD.**

**MINUTES OF MEETING OF THE DEPARTMENTAL SELECTION COMMITTEE (HEALTH)  
HELD ON 21<sup>ST</sup> OCTOBER 2017.**

A meeting of Departmental Selection Committee to interview the short-listed candidates for various vacant positions of paramedics i.e JCT Surgical, JCT Radiology, JCT Pharmacy, PHC Technicians MP for EPI (BPS-12) in District Abbottabad was held on 21.10.2017 in District Health Office, Abbottabad under the Chairmanship of the District Health Officer Abbottabad.

The following attended the meeting;

1. Dr. Shah Faisal Khanzada, DHO, Abbottabad (Chairman).
2. Mr. Sheeraz Khan, Rep of DGHS Office KPK (Member).
3. Mr. Akhtar Nawaz, Office Superintendent, Rep of DC Office Atd (Member).
4. Dr. Talhat Shahzad, Surgeon, BBS Teaching Hospital Atd (Technical Member).
5. Dr. Ajmal Mehmood, Radiologist BBS Teaching Hospital Atd (Technical Member).
6. Dr. Ahmed Faisal District Coordinator EPI (Member).

Meeting started with recitation from the Holy Quran. The DHO Concerned explain the process of advertisement, submission of applications, record maintaing, short listing, which is the duty of DHO Office. He further explained that after advertisement on 28.09.2017, the DSC was held for the mentioned posts and the appointment orders were issued but due to some clerical mistakes and objection on criteria applied. The previous DSC decided to cancel the issued orders and recall the candidates for interviews being competent authority.

The DHO further explain the criteria for selection i.e;

1. Selection will be made as per approved service rules of paramedics.
2. The Candidates Domiciled of District Abbottabad shall be preferred.
3. Selection from other districts will be made on Merit.
4. Higher Qualification marks shall be given in case of holding relevant higher qualification / degree in the respective categories.
5. Experience Marks shall be given on the certificate from a well reputed Institution / Department.

Another DSC was fixed on 21.10.2017 and DGHS & DC were asked to depute their representatives as member of DSC.

The pannel conducted interviews of short listed candidates for various cadres and selection was made after developing a merit list accordingly.

**1. Appointment of Junior Clinical Technician Surgical (BS-12)**

Against 03 vacant position of Junior Clinical Technician Surgical, 33 candidates were short listed, 20 candidates were absent. Rest of candidates were interviewed. One candidate domiciled at Abbottabad has already been appointed / selected at King Abdullah Hospital Mansehra. 03 other candidates were recommended for appointment. The merit list was established as Annex A.

Appointment of Junior Clinical Technician Radiology (BS-12)

Against 08 vacant positions of Junior Clinical Technician Radiology, 30 candidates were short listed out of which 11 were absent. Rest of the candidates were interviewed by the Committee. 02 candidates at Serial No.29 & 30 were holding metric certificate in third division who are not eligible for appointment on the basis of low division. 08 candidates were recommended for appointment including two scoring high marks were recommended subject to age relaxation. Their final merit list was developed as Annex B.

3. Appointment of Junior Clinical Technician Pharmacy (BS-12)


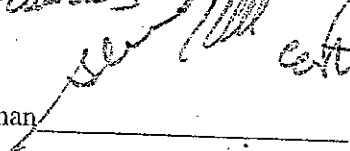
Against 08 vacant positions of Junior Clinical Technician Pharmacy, 34 candidates were short listed out of which 11 were absent. Rest of the candidates were interviewed by the Committee. 08 candidates were recommended for appointment. The merit list was established as Annex C.

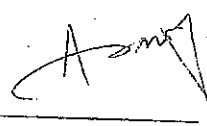
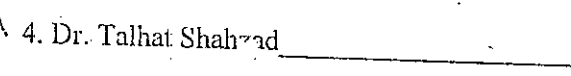
4. Appointment of Junior PHC Technician MP for EPI (BS-12)


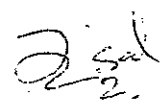
Against 38 vacant positions of Junior PHC Technician MP for EPI, 167 candidates were short listed out of which 40 were absent. Rest of the candidates were interviewed by the Committee. Three candidates were not eligible being third division holder in metric. 38 candidates were recommended for appointment including one under disabled quota. Three scoring high marks were recommended subject to age relaxation. The panel developed a merit list which is attached as Annex -D.

*Subject to Age Relaxation certificate verification and authentication of all documents including expense certificates*

The meeting ended with a vote of thanks.

1. Dr. Shah Faisal Khanzada  2. Mr. Sheeraz Khan 

3. Mr. Akhtar Nawaz  4. Dr. Talhat Shahzad 

5. Dr. Ajmal Mehmood  6. Dr. Ahmed Faisal 

**Dr. Ajmal Mehmood**  
MBBS, DMRD  
District Radiologist  
SBS Teaching Hospital  
Abbottabad