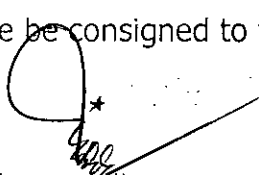


05.10.2021

None present on behalf of the appellant. Mr. Kabirullah Khattak, Addl. AG for the respondents present.

Called several times till last hours of the court but no one appeared on behalf of the appellant, despite proper notice. Therefore, the appeal is dismissed for non-prosecution. File be consigned to the record room.

  
(Mian Muhammad)  
Member(Executive)

  
Chairman

ANNOUNCED  
05.10.2021

31-12 .2020

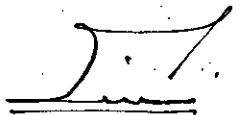
Due to summer vacation, case is adjourned to  
18-3 .2021 for the same as before.

  
Reader

18.03.2021

Nemo for the appellant. Mr. Kabirullah Khattak, Additional Advocate General for respondents present.

On the last date, the proceedings were adjourned upon the strength of Reader's Note. Notices shall, therefore, be issued to appellant/counsel for next date of hearing. Adjourned to 08.06.2021 for arguments before D.B.


  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

  
CHAIRMAN

08.06.2021

Nemo for the appellant. Mr. Ziaullah, Law Officer alongwith Mr. Javed Ullah, Assistant Advocate General for the respondents present.

Notice issued to the appellant not returned back, therefore, fresh notice for prosecution of the appeal be issued to the appellant as well as his counsel and to come for arguments before the D.B on 05.10.2021.

  
(ATIQ-UR-REHMAN WAZIR)  
MEMBER (EXECUTIVE)

  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

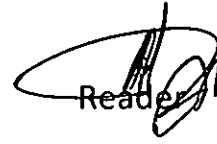
29.10.2020

Proper D.B is on Tour, therefore, the case is  
adjourned for the same on 30.12.2020 before D.B.

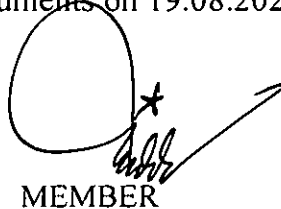


Reader

31.03.2020 Due to public holiday on account of COVID19, the case is adjourned to 10.06.2020 for the same as before.

  
Reader

10.06.2020 None for the appellant present. Mr. Muhammad Jan, DDA for respondents present. Notices be issued to the appellant and his counsel. Adjourned. To come up for arguments on 19.08.2020 before D.B.

  
MEMBER

  
MEMBER

19.08.2020 Due to summer vacations, the case is adjourned to 29.10.2020 for the same.

  
Reader

17.10.2019

Counsel for the appellant and Addl AG alongwith Sher Baz Khan, S.O, Dr. Jamal Nasir, Coordinator and Ahmad Jan, Junior Clerk for the respondents present.

Representatives of the respondents have furnished parawise comments, which are placed on record. The appeal is assigned to D.B for arguments on 24.12.2019. The appellant may submit rejoinder, within a fortnight, if so advised.

  
Chairman

24.12.2019

Learned counsel for the appellant and Mr. Zia Ullah learned DDA present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 13.02.2020 before D.B.

  
Member

  
Member

13.02.2020

None present on behalf of the appellant. Mr. Kabirullah Khattak, Additional AG for the respondents present. Notice be issued to appellant and his counsel for attendance and arguments for 31.03.2020 before D.B.

  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

27.06.2019

Learned counsel for the appellant present. Security and process fee not deposited. Learned counsel for the appellant submitted application for extension of time to deposit the same. Application allowed with direction to deposit security and process fee within 3 days. Thereafter notices be issued to the respondents for written reply/comments. Adjourn. To come up for written reply/comments on 22.08.2019 before S.B.


Appellant Deposited  
Security & Process Fee

3/7

  
Member

22.08.2019

Learned counsel for the appellant present. Mr. Kabirullah Khattak learned Additional Advocate General alongwith Mr. Saleem Javid Litigation Officer for respondent No.3 and Mr. Skindar Hayat EPI Coordinator for respondent No.1 present. Written reply not submitted. Representative of the respondents seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on 20.09.2019 before S.B.

  
(Hussain Shah)  
Member

20.09.2019

Counsel for the appellant and Addl. AG alongwith Ahmad Jan, Junior Clerk for the respondents present.

Representatives of the respondents seek further time. Adjourned to 17.10.2019 on which date the requisite reply/comments shall positively be submitted.

  
Chairman

22.01.2019 Learned counsel for the appellant present. Preliminary arguments heard.

The appellant (Jr. P.H.C Technician MP) reinstated/appointed vide order dated 14.04.2014 has filed the present service appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 for the release of monthly salaries, seniority and other consequential benefits between the year 1996 and his reinstatement.


Points raised need consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit process fee and security within 10 days thereafter notices be issued to the respondents for written reply/comments. To come up for written reply/comments on 11.03.2019 before S.B.

  
Member

11.03.2019 Counsel for the appellant present and requested for time to deposit security and process fee. Request accepted. Learned counsel for the appellant is directed to deposit security and process fee within seven days thereafter, notice be issued to the respondents for written reply/comments for 29.04.2019 before S.B.

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

24.04.2019 Counsel for the appellant present. Security and process fee not deposited. Learned counsel for the appellant seeks time to submit security and process fee. Granted with the direction to submit the same within three days, thereafter notices be issued to the respondents for submission of written reply/comments. Case to come up for further proceedings on 27.06.2019 before S.B.

  
(Ahmad Hassan)  
Member

Form- A  
FORM OF ORDER SHEET

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

Case No. 1158/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	17/09/2018	<p>The appeal of Mr. Shan-e-Mulk resubmitted today by Mr. Khanzada Khan Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR 17/9/18</p>
2-	19-9-2018	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>24-10-2018</u></p> <p style="text-align: right;"><i>[Signature]</i> MEMBER</p>
	23-10-18	<p><i>Due to Retirement of Honorable chairman the Tribunal is non functional therefore the case is adjourned to come up for the same on 11-12-2018</i></p> <p style="text-align: right;"><i>[Signature]</i> Reader</p>
	11.12.2018	<p>Counsel for the appellant present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for preliminary hearing on 22.01.2019 before S.B.</p> <p style="text-align: right;"><i>[Signature]</i> Muhammad Amin Khan Kundi Member</p>




The appeal of Mr. Shan-e-Mulk son of Khaista Bacha Junior Clinical Technician Pharmacy THQ Hospital Saman Bagh Dir Lower received today i.e. on 13.09.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copies of appointment and termination order mentioned in the memo of appeal are not attached with the appeal which may be placed on it.
- 2- Annexures of the appeal may be attested.
- 3- Annexures of the appeal may be flagged.
- 4- Six more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1839 /S.T,

Dt. 13/9 /2018.

  
REGISTRAR 13/9/18  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Khazada Khan Adv. Pesh.

R/low,

Re submitted after doing the  
needful



17/9/18

**BEFORE THE KHYBER PAKHTUNKHWA SENIOR**  
**TRIBUNAL**

Appeal No. 1158 /2018

Shane-e-Mulk .....Appellant

**Versus**

The District Health Officer & others .....Respondents

**I N D E X**

S.No	Description of Documents	Annex	Pages
1.	Appeal with affidavit		1-5
2.	Address of Parties		6
3.	Copy of appointment order dated 09.01.1995 and alongwith better copy	A	7-8
4.	Copy of second appointment alongwith better copy dated 20.04..2001 and arrival report along with better copy dated 25.04.2001	B & C	9-12
5.	Copy of judgment / order dated 05.03.2014, office order dated 14.04.2014 and arrival report dated 15.04.2014	D, E & F	13-17
6.	Copy of departmental appeal (Containing 03 pages) dated 11.05.2018	G	18-20

Dated:- 13-09-18



Appellant

Through:-



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

①

**BEFORE THE KHYBER PAKHTUNKHWA SENIOR  
TRIBUNAL**

Khyber Pakhtunkhwa  
Service Tribunal

Appeal No. 1158 /2018

Diary No. 1432

Dated 13-9-2018

Shan-e-Mulk S/o Khaista Bacha Junior Clinical Technician  
Pharmacy, Tehsil Head Quarter Hospital Saman Bagh, Distt Dir  
(Lower) .....Appellant.

**V E R S U S**

1. The District Health Officer (DHO) Dir Lower at Temargara.
2. The Director General Health Services KPK Peshawar.
3. The Secretary Health KPK Peshawar.
4. The Chief Secretary KPK Peshawar.

.....Respondents

Filed to-day  
Registrar  
13/9/18

**APPEAL U/S 4 OF THE KPK  
SERVICE TRIBUNAL ACT, 1974  
AGAINST THE IMPUGNED ORDER  
DATED 14.04.2014 OF THE  
RESPONDENT NO. 01 TO THE  
EXTENT WHEREIN THE  
APPELLANT HAS BEEN DEPRIVED  
OF HIS MONTHLY SALARIES  
W.E.F 15/04/2014-09/14 (4**

MONTHS AND 15 DAYS) AFTER  
HIS RE-INSTATEMENT ON DATED  
14.04.2014, BACK SALARIES /  
SENIORITY AND OTHER  
CONSEQUENTIAL BENEFITS  
BETWEEN THE FIRST  
TERMINATION DATED 1996 AND  
RE-INSTATEMENT PERIOD DATED  
15.04.2014 WHICH IS ILLEGAL  
AGAINST THE LAW AND FACTS.  
HENCE UN-TENABLE AND LIABLE  
TO BE RE-CONSIDERED,  
CORRECTED AND MODIFIED.

**Respectfully Sheweth:**

1. That the appellant is permanent resident of Cham Khazana U/C Sadhar Kalay, Tehsil Samar Bagh District Lower Dir.
2. That the appellant was appointed as a Dispenser on 09.01.1995 and posted at BHU Kakas U/C Miskini, Tehsil Samar Bagh District Lower Dir. **(Copy of appointment order dated 09.01.1995 and alongwith better copy is attached as Annexure A)**

3. That the appellant was granted only 11 months salaries upto 11.12.1995.
4. That the appellant regularly performed his duty but no salary was granted to him and then was verbally told that you (the appellant) have been terminated from service, but astonishingly, no written termination order was communicated to the appellant.
5. That it is also very pertinent to mention here that on 20.4.2001, the appellant was again adjusted at BHU Pingal District Dir (lower) wherein, the appellant in light of the second appointment dated 20.04.2001, submitted his arrival report at the said station for duty proposes. **(Copy of second appointment alongwith better copy dated 20.04..2001 and arrival report along with better copy dated 25.04.2001 is attached as Annexure B & C respectively)**
6. That the appellant performed his duty regularly for 5-6 months at the said station (BHU Pingal) but no salaries were given to the appellant and again was verbally told that his services were terminated and no written termination order was communicated to the appellant.
7. That on dated 14.04.2014, the appellant was re-instated in service in light of the judgment / order of the Hon'ble

Peshawar High Court / Mingora Bench (Dar-ul-Qaza) Swat dated 05.03.2014 and the appellant submitted his arrival report for duty on dated 15.04.2014 **(Copy of judgment / order dated 05.03.2014, office order dated 14.04.2014 and arrival report dated 14.04.2014 are attached as Annexure D,E & F respectively)**

8. That since the resumption of his duty on 15.04.2014, the appellant started to perform his duty regularly, but was not given his monthly salaries upto 09.2014 (4 months and 15 days).
9. That since the appellant was illegally and twice terminated from service without showing any sufficient cause and no fault and guilt on his part, therefore, is legally entitled for all the consequential benefits i.e. monthly salaries and other ancillary benefits as well as seniority / promotion.
10. That the appellant has also filed departmental appeal on dated 11.05.2018 but if no avail till tilling of the instant appeal before this Hon'ble Tribunal. **(Copy of departmental appeal dated 11.05.2018 as Annexure G)**

**It is therefore most humbly prayed that the respondents may kindly be directed to release**

the monthly salaries of the appellant w.e.f the above mentioned periods and to grant him seniority / promotion as well in the interest of justice equity and fair play.

Any other relief which is deemed fit and appropriate by this Hon'ble Tribunal may also very kindly be granted in favour of the appellant.

*Shamshad*

Appellant

Through

*[Signature]*

**Khanzada Khan**  
Advocate, High Court  
Peshawar

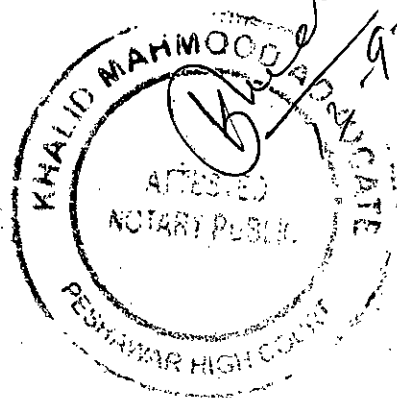
Date: 13-09-18

**AFFIDAVIT**

It is stated on oath that the contents of accompanying appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from the Hon'ble Tribunal.

*Shamshad*

Deponent



**BEFORE THE KHYBER PAKHTUNKHWA SENIOR  
TRIBUNAL**

Appeal No. \_\_\_\_\_/2018

Sane-e-Mulk .....Appellant

**Versus**

The District Health Officer & others .....Respondents

**ADDRESSES OF PARTIES**

**PETITIONER**

Sham-e-Mulk S/o Khaista Bacha Junior Clinical Technician  
Pharmacy, Tehsil Head Quarter Hospital Saman Bagh, Distt Dir  
(Lower)

**RESPONDENTS**

1. The District Health Officer (DHO) Dir Lower at Temargara.
2. The Director General Health Services KPK Peshawar.
3. The Secretary Health KPK Peshawar.
4. The Chief Secretary KPK Peshawar.

Dated:- 13-09-18

Appellant

Through:-

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



①

A

DIRECTOR OF THE DISTRICT HEALTH OFFICE AT TIRUNELVELI

OFFICE ORDER

On 10.10.1954 appointed and licensed  
 vide BMS Cont Order No. 58 dated 9.1.95  
 Mr. Sankar Math of the post of Assistant Sanitary Inspector  
 at BNU Madurai - vacant the vacant post of AS  
 on contractual basis in the interest of public service with immediate  
 effect.

His arrival report should be  
 submitted to this office.

S. S. S. S. S.  
 District Health Officer,  
 D.O. at Tirunelveli.

370-74  
 Tirunelveli, 15/10/1954

- 1. Divisional Director of Milk Services Malabar Division
- 2. Incharge BNU Madurai
- 3. Accounts Clerk of this office.
- 4. (S&AD) Clerk of this office.
- 5. Official concerned for information and /action.

S. S. S. S. S.  
 District Health Officer,  
 D.O. at Tirunelveli.

*Handwritten signature*

OFFICE OF THE DISTRICT HEALTH OFFICER LOWER DIR-AT  
TIMERGARA

OFFICE ORDER

On his first appointment as Dispenser vide Divisional Director Health Swat No.58 dated 09.01.1995, Mr. Shan-e-Mulk S/o Khaista Bacha is hereby adjusted at B.H.U Kakus against the vacant post of L.H.V on contract basis in the interest of public service with immediate effect

Distt; Health Officer

Dir Lower Timergara

Endst No.370-74 dated Timergara 15 /1995

Copy forwarded to the:-

1. Divisional Director Health Services Malakand, Division, Swat.
2. Incharge B.H.U Kakas
3. Accounts Clerk of this office.
4. (sic) Clerk of this office.
5. Official concern for information and necessary action.



Distt; Health Officer

Dir Lower Timergara

8

OFFICE ORDER

According to the order of the Director General Health Services, NWFP, Peshawar bearing order no. 6977-20/14, dated 3.4.2001, the following surplus employees are hereby adjusted temporarily against the vacant post of LHV/LHW/MLL etc. in their own pay scale (HS-5) for the purpose of pay till the availability of their original post.

No.	Name of Dischargee	Posted against the post of category given below in health institution.
1.	Mr. Mohamad Khan	Against LHO, DHO Quetta.
2.	Mr. Bacha Wazir	Against SMT, THU Quetta.
3.	Mr. Azimul Haq	Against LHV, DHO Hajaboo.
4.	Mr. Farooq Khan	Against LHV, DHO Hayasoo.
5.	Mr. Shahid Khan	Against LHV, DHO Salar Khond.
6.	Mr. Abdur Rahman	Against LHV, DHO Salar Khond.
7.	Mr. Nasirullah	Against LHV, DHO Salar Khond.
8.	Mr. Aliqur Rehman	Against LHV, DHO Salar Khond.
9.	Mr. Rahimullah	Against LHV, DHO Salar Khond.
10.	Mr. Bacha Khan	Against SMT, DHO Gulistan.
11.	Mr. Shariq Khan	Against LHV, DHO Salar Khond.
12.	Mr. Muhammad Khan	Against LHV, DHO Salar Khond.

The duration of their pay will be drawn subject to the availability of their vacant post.

District Health Officer,  
Dir Lower at Timor Lorai.

Copy forwarded to the Director General Health Services, NWFP, Peshawar dated 20/04/2001. Copy forwarded to the concerned officials for their necessary action. The employees are hereby directed to submit their immediate effect of their arrival report within a seven days of the receipt of this communication, otherwise the order will be considered as withdrawn.

District Health Officer,  
Dir Lower at Timor Lorai.

Only forwarded to District Accounts Officer, Dir Lower at Timor Lorai for information and necessary action.

District Health Officer,  
Dir Lower at Timor Lorai.

Copy forwarded to the Director General Health Services, NWFP, Peshawar for information with ref. to his order No. an referred above please. The officials concerned at S.No. 1 to 12 are adjusted against the post mentioned above and the remaining two officials at S.No. 13 & 14 may kindly be adjusted somewhere else as there is no more vacancies are available in office of the institution.

District Health Officer,  
Dir Lower at Timor Lorai.

*[Handwritten signature]*

OFFICE OF THE DISTRICT HEALTH OFFICER, DIR LOWER AT TIMERGARAOFFICE ORDER

According to the order of the Director General Health services, NWFP, Peshawar bearing endst: No.6917-20/E.I dated 03.04.2001, the following surplus Dispensers are hereby adjusted temperately against the vacant post of L.H.V/ T.M.T/ M.I etc; in their own pay scale (BPS-6) for the purpose of pay till the availability of their original file.

S.No.	Name of Dispenser	Posted against the post of category given below in health department
1.	Mr. Mohammad Khan	Against ATHS DHQ Office
2.	Mr. Bacha Wazir	Against SMT BHU Ouch
3.	Mr. Aziz-ul-Haq	Against IHV BHU (sic)
4.	Mr. Fazal (sic)	Against IHV BHU Hayasri
5.	Mr. (sic)	Against IHV BHU Biar Kher
6.	Mr. Abdur (sic)	Against IHV MOH Center; Miskini
7.	Mr. Nasiruddin	Against HT BHU (sic)
8.	Mr. Atiqur Rehman	Against HT BHU (sic)
9.	Mr. Raham Badshah	Against LHV BHU Arif Kalai
10.	Mr. Bacha Khan	Against SMT RHC Gul Abad
11.	Mr. Shani Mulk	Against LHV BHU Pingal
12.	Mr. Mohammad (sic)	Against LHV BHU Zindara.

(sic) (sic) the array of their pay will be drawn subject (sic) (sic) to availability of clear vacancies.

Distt; Health Officer  
Dir Lower Timergara

Enst No. \_\_\_\_\_-87/(sic)

Dated Timergara dated 20.04.2001

Copy forwarded to all concerned of (sic) (sic) (Sic) carry notice. They are hereby directed to (sic) their (sic) (sic) (Sic) the same (sic) noted against each their name will (sic) effect. All submit their arrival report within a seven days of the receiving of this communication otherwise the order will be consider as withdrawn.

Distt; Health Officer  
Dir Lower Timergara

No. \_\_\_\_\_

Copy forwarded to District Accountns Officer, at Timergara for information and necessary action.

Distt; Health Officer  
Dir Lower Timergara

No. \_\_\_\_\_

Copy forwarded to the Director General Health Services, NWFP, Peshawar for information with ref to his order No. as referred above please. The officials concerned at S.No.1 to 12 are adjust against the post mentioned above and the remaining Two Officials at S.No.13 & 14 may kindly be adjusted name where also as there is no more vacancies are available in office of this (sic)

Distt; Health Officer  
Dir Lower Timergara

The District Health Officer,  
No. 20, St. Timangara.

(11)

C

Subject:- Public Health

With reference to your office Order No. 2004/2004  
/Dispenser dated 20/4/2004.

I take the honour to submit my answer to  
your letter to you on 20/4/2004 (M) and I

Thanks.

Yours Obediently,

Dr. Shanti Milk  
B. U. Pingli 1/Dist.

*For approval of the  
Public Health Officer  
in/for please  
[Signature]  
[Date]*

*[Signature]*

To,

The District Health Officer,  
Dir, at Timergara

Subject: ARRIVAL REPORT

Sir,

With reference to your office order No.2875-87 (sic) Dispenser dated 20.04.2001.

I have the honour to submit my arrival report for duty at BHU Pingal today on 25.04.2001 (sic) and obligation.

Thanks



Your's Obediently

Mr. Shani Mulk Dispenser  
BHU Pingal L/Dir

(13)

**BEFORE THE PESHAWAR HIGH COURT, MINGORA**  
**BENCH (DAR-UL-QAZA), SWAT**

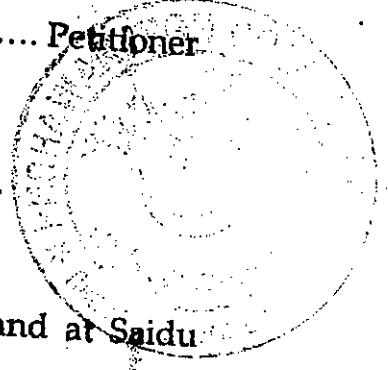
D

W.P.No. 160-M/2013

Shan-e-Mulk Khan S/o Khaista Bacha,  
R/o Village Cham Khazana u/c Sadbar Kalay,  
Tehsil Samar Bagh, District Lower Dir..... Petitioner

**VERSUS**

1. The Executive District Officer (Health) Lower Dir.
  2. The Director General Health Services, KPK.
  3. The Divisional Director Health Services, Malakand at Saidu Sharif, Swat. (Defunct)
  4. The Secretary Health KPK, Peshawar
  5. The Govt. of KPK through Chief Secretary KPK, Peshawar
- .....Respondents



**WRIT PETITION UNDER ARTICLE 199**  
**OF THE CONSTITUTION OF ISLAMIC**  
**REPUBLIC OF PAKISTAN, 1973.**

*Respectfully Sheweth;*

The petitioner humbly states as under:-

- 1) That the petitioner is permanent resident of Village Cham Khazana u/c Sdbar Kalay, Tehsil Samar Bagh, District Lower Dir. (Copy of CNIC is attached)

CTU [Signature]

FILED TODAY

[Signature]  
Additional Registrar

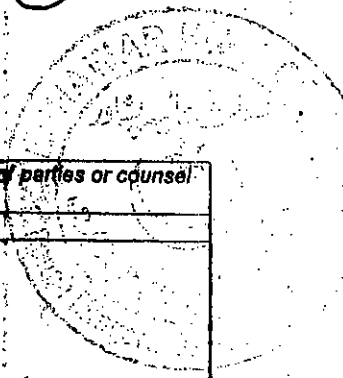
28 MAR 2013

**AWAR HIGH COURT, MINGORA BENCH (DAR-UL-QAZA), SWAT**  
**FORM OF ORDER SHEET**

Court of .....

Case No. .... of .....

(14)



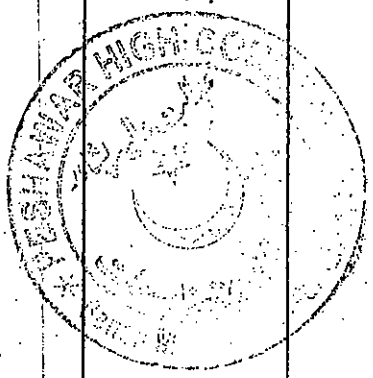
Serial No. of order or proceeding	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary.
	05.3.2014	<p><u>W.P. No.160-M/2013.</u></p> <p>Present: Mr. Khan Zada Khan, advocate for the petitioner.</p> <p>***</p> <p><b><u>ABDUL LATIF KHAN, J.-</u></b> Through the instant constitutional petition, Shan-e-Mulk petitioner has sought the relief against his termination from service, on the ground that his case comes in the ambit of Khyber Pakhtunkhwa Sacked Employees (Reinstatement/Appointment) Act, 2012. However, the petitioner has filed an appeal before the respondents, but the same has not been responded to by the department.</p> <p><u>2.</u> Learned A.A.G., present in Court undertakes to get the petition decided pending before the respondent filed by the petitioner, within a period of one month and on this assurance, the learned counsel for the petitioner is satisfied.</p> <p><u>3.</u> The instant petition is disposed of with the observation that the representation made by the petitioner before the respondents be considered in the</p>

C.O. Mink



light of the prayer made by the petitioner and undertaking given by the learned A.A.G. to decide the matter within a period of one month positively, assigning reasons in support of the order passed by the respondent concerned. The petitioner, if aggrieved, would be at liberty to seek remedy before this Court, if so advised.

Sd/- Abdul Latif Khan - J  
Sd/- Lal Joon Khattak - J



S.No. 781  
Name of Applicant Khoor Zada Khan  
Date of Presentation 05.3.14  
Date of Completion 10.3.14  
No. of Copies 3 P  
Fee of Court 6/-  
Date of Delivery of Copies 10.3.14  
JUDGE  
JUDGE

Certified to be true copy

*[Signature]*

EXCISE OFFICER  
Peshawar High Court, Peshawar - Gazo, Swat  
Authorized Under Article 175 of the Constitution of Pakistan  
10-3-14

Office  
08/03/14

CTU  
*[Signature]*

OFFICE OF THE DISTRICT HEALTH OFFICER DIR LOWER AT TIMERGARA.

OFFICE ORDER.

In compliance the Honorable Peshawar, High Court Bench Mingora (Dar-ul-Qaza) Swat, decision in favour of write Petition , No.160-M/2013 dated 05/03/2014, The service of Mr. Shan-e-Mulk s/o Khaista Bacha JCT (Pharmacy) village Cham Khazana UC Sadbar Kaly Tehsil Samarbagh Dir lower( **Sacked employees Reinstatement/Appointment act,2012**), is hereby re-instated/appointed against the vacant post of Jr. PHC Technician (MP) BPS-09 ,at BHU Shekwali , Lower Dir with immediate effect.

SD/xxxxxxx  
DISTRICT HEALTH OFFICER  
DIR LOWERS.

No. 2116-19 /PF Dated Dir Lower the 14 /04/2014.

Copy forwarded to;-

1. Mr. Shan-e-Mulk s/o Khaista Bacha JCT (Pharmacy) village Cham Khazana UC Sadbar Kaly Tehsil Samarbagh Dir Lower.
2. The Medical Officer Incharge, BHU Shekwali.
3. The District Accounts officer Dir lower.
4. A/clerk of this office.

For information and necessary action.

  
DISTRICT HEALTH OFFICER  
DIR LOWER

No. \_\_\_\_\_ /PF Dated Dir Lower \_\_\_\_\_ /04/2014.

Copy forwarded to;-

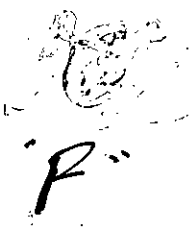
1. The Additional Registrar Peshawar, High Court Bench Mingora (Darula Qaza) Swat.
2. The Additional Advocate General Peshawar High Court Mingora (Darul Qaza) Swat.
3. Director General Health Services Khyber Pakhtunkhwa Peshawar, for information w/r to this office Letter No. 1385/ dated 21/03/2014.

DISTRICT HEALTH OFFICER  
DIR LOWER

CTC  


(11)

(17)

  
P

To  
The DHO Div Lower  
at Timargara.

Subject:- Arrival Report.

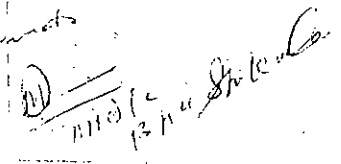
R/sir,  
most respectfully I beg to

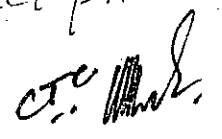
state that I have re-instated on  
my service according to the order  
No 2116-19 on 14/4/2014. I submit  
14/04/2014  
my arrival report today on dated 15-04-14.  
before none. Kindly accept my arrival  
report and oblidged.

Dated: 15-04/2014 your Obediently

Shan-e-mull jet pharmany.

Forwarded in  
original to EDO(H)  
DHO at Timargara

  
11/04/2014

C/O 

(18)

5

To

The Director General Health Services  
KPK, Peshawar

Subject: DEPARTMENTAL APPEAL

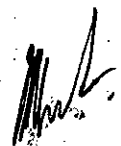
Respected Sir,

The Appellant humbly states:

1. That the appellant is permanent resident of Cham Khazana U/C Sadbar Kalay, Tehsil Samar Bagh District Lower Dir.
2. That the appellant was appointed as a Dispenser on 09.01.1995 and posted at BHU Kakas U/C Miskini, Tehsil Samar Bagh District Lower Dir. (Copy of Order and arrival report is attached).
3. That the appellant was granted only 11 months salaries upto 11.12.1995.
4. That the appellant regularly performed his duty but no salary was granted to him and then was verbally told that you (the appellant) have been terminated from service, but astonishingly, no written termination order was communicated to the appellant.



5. That it is also very pertinent to mention here that on 20.04.2001, the appellant was against adjusted at BHU Pingal District Dir (Lower) wherein, the appellant in light of the said second appointment dated 20.04.2001, submitted his arrival report at the said station for duty purposes.
6. That the appellant performed his duty regularly for 5-6 months at the said station (BHU Pingal) but no salaries were given to the appellant and again was verbally told that his services were terminated and no written termination order was communicated to the appellant.
7. That on dated 14.04.2014, the appellant was re-instated in service in light of the judgment / order of the Hon'ble Peshawar High Court / Mingora Bench (Dar-ul-Qaza) Swat dated 05.03.2014 and the appellant submitted his arrival report for duty on dated 15.04.2014. (Copy attached).
8. That since the resumption of his duty on 15.04.2014, the appellant started to perform his duty regularly, but was not given his monthly salaries upto 09/2014 (4 months and 15 days).
9. That since the appellant was illegally and twicely terminated from service without showing any sufficient cause and no fault and guilt on his part, therefore, is legally entitled for all the consequential benefits i.e. monthly salaries and other ancillary benefits as well as seniority / promotion.



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It is, therefore, humbly requested that the appellant may kindly be granted all the consequential benefits i.e. monthly salaries, ancillary benefits as well as seniority / promotion w.e.f the date of his first illegal termination i.e. December 1995.

Dated: 09.05.2018

Yours obediently,




*Shan-e-Mulk*

**Shan-e-Mulk S/o Khaista Bacha  
Junior Clinical Technican  
Pharmacy, Tehsil Headquarter  
Hospital Samarbagh, District Dir  
Lower.**

D.G. (Health) D/NO. 14806

11/5/18

*[Signature]*

50	48265			
ایڈووکیٹ: خانزادہ خان		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل ایسوسی ایشن نمبر: 880				
رابطہ نمبر: 0300-9175182				

بعدالت جناب: خیبر پختونخواہ سروسز ٹریڈینگز

منجانب: ایڈووکیٹ	دعویٰ: جوابدہ / بینساری
نشانی ملک بنام: آفسیئر خیبر پختونخواہ	علت نمبر:
درغینہ	مورخہ:
	جرم:
	تھانہ:

### باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ


آن مقام **پشاور** کیلئے **خانزادہ خان ایڈووکیٹ** کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کمال اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف 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 داخستہ 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: 11 ستمبر 2018

العبد \_\_\_\_\_ واہد العبد \_\_\_\_\_

مقام: خیبر پختونخواہ سروسز ٹریڈینگز کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی فوٹوکاپی ناقابل قبول ہوگی۔

Attested by: 

Before the HPR Senior Tribunal

Appeal NO 1158/19

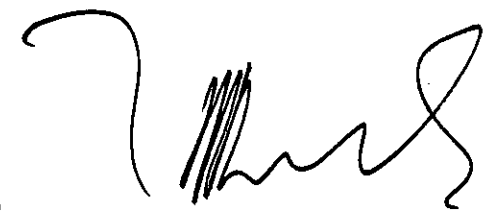
Shan-e-Mulk vs DHO Lower Div.

App. for extension of time for deposit  
of process fee.

Respectfully Sheweth,

- 1- That the above-titled appeal is filed for today
2. That process fee has not yet been deposited due some un-avoidable circumstances.

It is humbly prayed that further time may kindly be granted to do the needful!

  
Appellant

27<sup>6</sup>/<sub>19</sub>





**IN THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL**  
**PESHAWAR.**

**Service Appeal NO. 1158/2018**

Mr. Shan e Mulk JCT Pharmacy THQ Hospital Samar Bagh...Appellant.

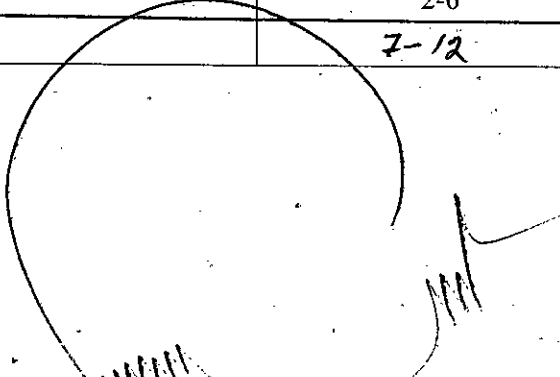
V/S

Government of Khyber Pakhtunkhwa ..... Respondents.

**PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 1,2&3**

**INDEX**

S.No	Description	Annexure	Page No
1	Parawise comments		1
2	Sacked employees Act 2012		2-6
3	<i>Court Judgement</i>		<i>7-12</i>

  
**District Health Officer**  
**Dir Lower.**

**BEFORE THE KHYBER PAKHTUNKWA SERVICES TRIBUNAL, PESHAWAR**

Services appeal No: 1158/2018

Mr. Shan e Mulk Jct Pharmacy THQ Hospital Samar Bagh.....Appellant

VERSUS

Government of Khyber Pakhtunkhwa, Health Department.....Respondents

**Para Wise Comments on Behalf of Respondents No: 1, 2 & 3.**

**Respectfully Shewth:**

**Preliminary Objection:**

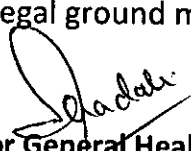
- 1: That the appellant has no cause of action to file the appeal.
- 2: That the appeal has not maintainable in the present form.
- 3: That the appellant is not entitled for any relief according to the sacked employees appointment Act 2012.
4. That the appeal is barred by rules 23 of the KP Service Tribunal rules as the re-instatement order has been issued in implementation of judgement of the High Court.


**Facts:**

- 1: Correct to the extent of appointment.
- 2: Correct: He was appointed on contract basis, however it is pertinent to mention that the salary was paid according to the service period.
- 3: Correct: Needs no comment.
- 4: In-correct: All the employees who were illegally appointed during the period from 1<sup>st</sup> day of November 1993 to 30<sup>th</sup> day of November 1996, were dismissed/removed/terminated from service on various Grounds, giving the reason by the Government, as expressed in the sacked employees appointment Act 2012. Thus, upon completion of contract service length. The employee was not more entitled to get any salary/ benefit from the government treasury.
- 5: The employee was again recruited on contract basis as per government policy, and had been paid all the remunerations accordingly, for the period he served.
- 6: The monthly salary was granted to appellant from 09-01-1995 to 11-12-1995.
- 7: As per orders of Peshawar High Court bench Mingora Dar Ul Qaza Swat on Dated: 05/03/2014, The appellant has appointed on regular basis and as such has was posted at THQ Hospital Samar Bagh for performing of his duty.
- 8: incorrect: The appellant had not been entitled for 4 months salary and it has been categorically stated in the sacked employees Act 2012, that these employees are not entitled for back benefit, promotion and seniority
- 9: The respondent has to go in line with the decision of the honorable Peshawar High Court bench Mingora Dar Ul Qaza swat in writ petition No:159-M/2013 and writ petition No:160-M/2013 wherein the honorable court has had directed to appoint the petitioners in accordance with Khyber Pakhtunkhwa sacked employees appoint Act 2012 which clearly speaks in clause that "**Sacked employees shall not be entitled to claim seniority, promotion and other back benefits and his appointment shall be considered as fresh appointment**".
- 10: As explained forthwith.

**Pray**

In view of the position explained forthwith, it is humbly prayed that the Instant service Appeal based on Malafide Intentions and misleading claims, having no legal ground may kindly be dismissed with cost, please

  
Director General Health  
Services KP  
Respondent No.2

  
Secretary Health  
Khyber Pakhtunkhwa Peshawar  
Respondent No.3

  
District Health Officer  
Dir Lower at Timergara  
Respondent No.1

District Health Officer  
Dir Lower at Timergara

P-2

THE KHYBER PAKHTUNKHWA  
SACKED EMPLOYEES (APPOINTMENT) ACT, 2012.  
(KHYBER PAKHTUNKHWA ACT NO. XVII OF 2012)

CONTENTS

PREAMBLE

SECTIONS

1. Short title, extent and commencement.
2. Definitions.
3. Appointment of sacked employees.
4. Age relaxation.
5. Sacked employees shall not be entitled to claim seniority and other back benefits.
6. Preference on the basis of age.
7. Procedure for appointment.
8. Removal of difficulties.
9. Act to override other laws.
10. Power to make rules.

THE KHYBER PAKHTUNKHWA  
SACKED EMPLOYEES (APPOINTMENT) ACT, 2012.

(KHYBER PAKHTUNKHWA ACT NO. XVII OF 2012)

*[first published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of Khyber Pakhtunkhwa (Extraordinary), dated the 20<sup>th</sup> September, 2012].*

AN  
ACT

*to provide relief to those sacked employees in the Government service, who were dismissed, removed or terminated from service, by appointing them into the Government service.*

WHEREAS it is expedient to provide relief to those sacked employees who were appointed on regular basis to a civil post in the Province of the Khyber Pakhtunkhwa and who possessed the prescribed qualification and experience required for the said post, during the period from 1<sup>st</sup> day of November 1993 to the 30<sup>th</sup> day of November, 1996 (both days inclusive) and were dismissed, removed, or terminated from service during the period from 1<sup>st</sup> day of November 1996 to 31<sup>st</sup> day of December 1998 on various grounds;

WHEREAS the Federal Government has also given relief to the sacked employees by enactment;

AND WHEREAS the Government of the Khyber Pakhtunkhwa has also decided to appoint these sacked employees on regular basis in the public interest;

It is hereby enacted as follows:

1. Short title, extent and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012.

(2) It shall apply to all those sacked employees, who were holding various civil posts during the period from 1<sup>st</sup> day of November, 1993 to 30<sup>th</sup> day of November, 1996 (both days inclusive).

(3) It shall come into force at once.

2. Definitions.--- In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them that is to say,-

P-4

- (a) "civil post" means a post created by the Finance Department of Government for the members of civil service of the Province;
- (b) "Department" means the Department and the Attached Department as defined in the Khyber Pakhtunkhwa Government Rules of Business, 1985, including the Divisional and District Offices working thereunder;
- (c) "Government" means the Government of the Khyber Pakhtunkhwa;
- (d) "Prescribed" means prescribed by rules;
- (e) "Province" means the Province of the Khyber Pakhtunkhwa;
- (f) "rules" means the rules made under this Act; and
- (g) "Sacked employee" means a person who was appointed on regular basis to a civil post in the Province of the Khyber Pakhtunkhwa and who possessed the prescribed qualification and experience for the said post at that time, during the period from 1<sup>st</sup> day of November 1993 to the 30<sup>th</sup> day of November, 1996 (both days inclusive) and was dismissed, removed, or terminated from service during the period from 1<sup>st</sup> day of November 1996 to 31<sup>st</sup> day of December 1998 on the ground of irregular appointments;

3. Appointment of sacked employees--- Notwithstanding anything contained in any law or rule for the time being in force, on the commencement of this Act, all sacked employees subject to section 7, may be appointed in their respective cadre of their concerned Department, in which they occupied civil posts before their dismissal, removal and termination from service:

Provided that the sacked employees shall be appointed against thirty percent of the available vacancies in the said Department:

Provided further that the appointment of sacked employees shall be subject to the medical fitness and verification of their character antecedents to the satisfaction of the concerned competent authority.

4. Age relaxation--- The period during which a sacked employee remained dismissed, removed or terminated from service, till the date of their appointment shall be deemed to have been automatically relaxed and there shall be no further relaxation under any rules for the time being in force.

P-5 (5)

5. **Sacked employees shall not be entitled to claim seniority and other back benefits.**--- A sacked employee appointed under section 3, shall not be entitled to any claim of seniority, promotion or other back benefits and his appointment shall be considered as fresh appointment.

6. **Preference on the basis of age.**--- On the occurrence of a vacancy in the respective cadre of the concerned Department of the sacked employee against the thirty percent available share, preference shall be given to the sacked employee who is older in age.

7. **Procedure for appointment.**---(1) A sacked employee, may file an application, to the concerned Department within a period of six months from the date of commencement of this Act, for his appointment in the said Department:

Provided that no application for appointment received after the due date shall be entertained.

(2) The concerned Department shall maintain a list of all such sacked employees whose applications are received under sub-section (1) in the respective cadres in chronological order.

(3) If any vacancy occurs against the thirty percent available share of the sacked employee in any Department, the senior in age from such sacked employee shall be considered by the concerned Departmental Selection Committee or the District Selection Committee, as the case may be, to be constituted in the prescribed manner, for appointment:

Provided that no willingness or response is received within a period of thirty days, the next senior sacked employee shall be considered for appointment.

(4) The Concerned Departmental Selection Committee or District Selection Committee, as the case may be, will determine the suitability or eligibility of the sacked employee.

(5) If no sacked employee is available against thirty percent vacancy reserved in respective cadre in a Department, then the post shall be filled through initial recruitment.

8. **Removal of difficulties.**--- If any difficulty arises in giving effect to any of the provisions of this Act, the Chief Minister Khyber Pakhtunkhwa may issue such order not inconsistent with the provision of this Act as may appear to him to be necessary for the purpose of removing the difficulty:

Provided that no such power shall be exercised after the expiry of one year from coming into force of this Act.

3

P-6

9. Act to override other laws.---Notwithstanding anything to the contrary contained in any other law or rules for the time being in force, the provisions of this Act shall have overriding effect and the provisions of any other law or rules to the extent of inconsistency to this Act, shall cease to have effect.

10. Power to make rules.--- Government may make rules for carrying out the purposes of this Act.



P-7 (5) 5  
BEFORE THE PESHAWAR HIGH COURT, MINGORA

BENCH (DAR-UL-QAZA), SWAT

W.P.No. 159-M/2013

Muhammad Roz ..... Petitioner

Versus

The Executive District Officer (Health)

Lower Dir at Timergara & others ..... Respondents

ADDRESSES OF THE PARTIES

PETITIONER:

Muhammad Roz Khan S/o Said Arif Khan  
R/o Village Turan u/c Maskini,  
Tehsil Samar Bagh, District Lower Dir  
CNIC No.15302-0986362-1  
Cell No.0301-2205698

ATTESTED

Attested by  
[Signature]  
District Registrar

RESPONDENTS:

1. The Executive District Officer (Health) Lower Dir at Timergara.
2. The Director General Health Services, K.P.K. Near District Courts, Khyber Road, Peshawar.
3. The Divisional Director Health Services, Malakand at Saidu Sharif, Swat. (Defunct)
4. The Secretary Health K.P.K, Civil Secretariat Peshawar.
5. The Govt. of K.P.K through Chief Secretary K.P.K, Peshawar.

MRB  
Petitioner

Through

[Signature]  
Khan Zada Khan  
Advocate,  
High Court, Peshawar

FILED TODAY

[Signature]  
Additional Registrar

P-8 (5)

(2)

**PESHAWAR HIGH COURT, MINGORA BENCH (DAR-UL-QAZA), SWAT**  
**FORM OF ORDER SHEET**

Court of .....

Case No. .... of .....

Serial No. of order or proceeding 1	Date of Order or Proceedings 2	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary. 3
	05.3.2014	<p><u>W.P. No:159-M/2013.</u></p> <p>Present: Mr. Khan Zada Khan, advocate for the petitioner.</p> <p style="text-align: center;">***</p> <p><u>ABDUL LATIF KHAN, J.-</u> Through the instant constitutional petition, Muhammad Roz Khan petitioner has sought the relief against the order dated 31.7.1996 with regard to termination from service, on the ground that his case comes in the ambit of Khyber Pakhtunkhwa Sacked Employees (Reinstatement/Appointment) Act, 2012. However, the petitioner has filed an appeal before the respondents, but the same has not been responded to by the department.</p> <p><u>2.</u> Learned A.A.G., present in Court undertakes to get the petition decided pending before the respondent filed by the petitioner, within a period of one month and on this assurance, the learned counsel for the petitioner is satisfied.</p> <p><u>3.</u> The instant petition is disposed of with the observation that the representation made by the</p>

P-9 5

(20)

petitioner before the respondents be considered in the light of the prayer made by the petitioner and undertaking given by the learned A.A.G. to decide the matter within a period of one month positively, assigning reasons in support of the order passed by the respondent concerned. The petitioner, if aggrieved, would be at liberty to seek remedy before this Court, if so advised.

sd. Abdul Latif Khan -  
sd. P. A. J. ...

JUDGE  
JUDGE

S.No. 843  
Name of Applicant Dr. Javid Iqbal  
Date of Presentation of Application 05-3-14  
Date of Completion 13-3-14  
Time of Copies 9 P.M.  
Date of Receipt of Copies 18/-  
Date of Delivery of Copies 13-3-14

Office  
06/03/14

[Signature]  
13/3/14

P-10  
⑤ 6 (13)

BEFORE THE PESHAWAR HIGH COURT, MINGORA

BENCH (DAR-UL-QAZA), SWAT

W.P.No. 160-M/2013

Shan-e-Mulk Khan ..... Petitioner

Versus

The Executive District Officer (Health)

Lower Dir & others..... Respondents

ADDRESSES OF THE PARTIES

PETITIONER:

Shan-e-Mulk Khan S/o Khaista Bacha.  
R/o Village Cham Khazana u/c Sadbar Kalay,  
Tehsil Samar Bagh, District Lower Dir.,  
CNIC No.15303-8261447-5  
Cell No.0301-2205698

RESPONDENTS:

1. The Executive District Officer (Health) Lower Dir. *MA*
2. The Director General Health Services, KPK. *PESHAWAR.*
3. The Divisional Director Health Services, Malakand at Saidu Sharif, Swat. (Defunct)
4. The Secretary Health KPK, Peshawar
5. The Govt. of KPK through Chief Secretary KPK, Peshawar

*[Signature]*  
Petitioner

Through

*[Signature]*  
Khan Zada Khan  
Advocate,  
High Court, Peshawar

FILED TODAY

Additional Registrar

20 MAR 2013

P-11 (B)

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SHAWAR HIGH COURT, MINGORA BENCH (DAR-UL-QAZA), SWAT  
FORM OF ORDER SHEET

Court of .....

Case No. .... of .....

Serial No. of order or proceeding 1	Date of Order or Proceedings 2	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary. 3
	05.3.2014	<p><u>W.P. No.160-M/2013.</u></p> <p>Present: Mr. Khan Zada Khan, advocate for the petitioner.</p> <p style="text-align: center;">***</p> <p><u>ABDUL LATIF KHAN, J.-</u> Through the instant constitutional petition, Shan-e-Mulk petitioner has sought the relief against his termination from service, on the ground that his case comes in the ambit of Khyber Pakhtunkhwa <u>Sacked Employees (Reinstatement/Appointment) Act, 2012.</u> However, the petitioner has filed an appeal before the respondents, but the same has not been responded to by the department.</p> <p><u>2.</u> Learned A.A.G., present in Court undertakes to get the petition decided pending before the respondent filed by the petitioner, within a period of one month and on this assurance, the learned counsel for the petitioner is satisfied.</p> <p><u>3.</u> The instant petition is disposed of with the observation that the representation made by the petitioner before the respondents be considered in the</p>

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light of the prayer made by the petitioner and undertaking given by the learned A.A.G. to decide the matter within a period of one month positively, assigning reasons in support of the order passed by the respondent concerned. The petitioner, if aggrieved, would be at liberty to seek remedy before this Court, if so advised.

Sd. Abdul Latif Khan  
Sd. Iqbal Jinnah

No. 842

JUDGE

Name of Petitioner: Dr. Farid Khan

Date of Filing: 5.3.14

Date of Hearing: 13.3.14

No. of Copies: 8 P

JUDGE

Fee Charged: 16/-

Date of Delivery of Copies: 13.3.14

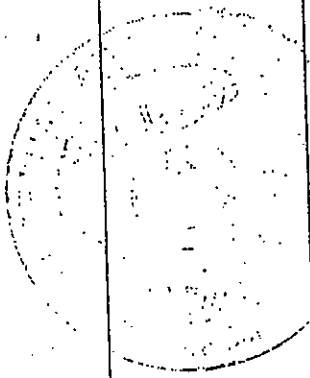
Certified to be true copy

EXAMINER

Peshawar High Court, Bilingers Dar-ul-Qaza, Swat  
Amended Form No. 87 of 2006 as amended by Order 1988

13/3/14

07716  
08/03/14



18.03.2021

Nemo for the appellant. Mr. Kabirullah Khattak, Additional Advocate General for respondents present.

On the last date, the proceedings were adjourned upon the strength of Reader's Note. Notices shall, therefore, be issued to appellant/counsel for next date of hearing. Adjourned to 08.06.2021 for arguments before D.B.

(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

CHAIRMAN

08.06.2021

Nemo for the appellant. Mr. Ziaullah, Law Officer alongwith Mr. Javed Ullah, Assistant Advocate General for the respondents present.

Notice issued to the appellant not returned back, therefore, fresh notice for prosecution of the appeal be issued to the appellant as well as his counsel and to come for arguments before the D.B on 05.10.2021.

(ATIQ-UR-REHMAN WAZIR)  
MEMBER (EXECUTIVE)

(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

**BEFORE THE KHYBER PAKHTUNKHWA SENIOR**  
**TRIBUNAL**

Appeal No. 1158 /2018

Shane-e-Mulk .....Appellant

**Versus**

The District Health Officer & others .....Respondents

**I N D E X**

S.No	Description of Documents	Annex	Pages
1.	Appeal with affidavit		1-5
2.	Address of Parties		6
3.	Copy of appointment order dated 09.01.1995 and alongwith better copy	A	7-8
4.	Copy of second appointment alongwith better copy dated 20.04..2001 and arrival report along with better copy dated 25.04.2001	B & C	9-12
5.	Copy of judgment / order dated 05.03.2014, office order dated 14.04.2014 and arrival report dated 15.04.2014	D, E & F	13-17
6.	Copy of departmental appeal (Containing 03 pages). dated 11.05.2018.	G	18-20

Dated:- 13-09-18

*Shane Mulk*

Appellant

Through:-

*Khazada Khan*

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



①

**BEFORE THE KHYBER PAKHTUNKHWA SENIOR  
TRIBUNAL**

**Khyber Pakhtunkhwa  
Service Tribunal**

Appeal No. \_\_\_\_\_/2018

Diary No. 1432

Dated 13-9-2018

Shan-e-Mulk S/o Khaista Bacha Junior Clinical Technician  
Pharmacy, Tehsil Head Quarter Hospital Saman Bagh, Distt Dir  
(Lower) .....Appellant.

**VERSUS**

1. The District Health Officer (DHO) Dir Lower at Temargara.
2. The Director General Health Services KPK Peshawar.
3. The Secretary Health KPK Peshawar.
4. The Chief Secretary KPK Peshawar.

.....Respondents

**APPEAL U/S 4 OF THE KPK  
SERVICE TRIBUNAL ACT, 1974  
AGAINST THE IMPUGNED ORDER  
DATED 14.04.2014 OF THE  
RESPONDENT NO. 01 TO THE  
EXTENT WHEREIN THE  
APPELLANT HAS BEEN DEPRIVED  
OF HIS MONTHLY SALARIES  
W.E.F 15/04/2014-09/14 (4**

Filed to-day

Registrar

13/9/18

MONTHS AND 15 DAYS) AFTER  
HIS RE-INSTATEMENT ON DATED  
14.04.2014, BACK SALARIES /  
SENIORITY AND OTHER  
CONSEQUENTIAL BENEFITS  
BETWEEN THE FIRST  
TERMINATION DATED 1996 AND  
RE-INSTATEMENT PERIOD DATED  
15.04.2014 WHICH IS ILLEGAL  
AGAINST THE LAW AND FACTS.  
HENCE UN-TENABLE AND LIABLE  
TO BE RE-CONSIDERED,  
CORRECTED AND MODIFIED.

Respectfully Sheweth:

1. That the appellant is permanent resident of Cham Khazana U/C Sadhar Kalay, Tehsil Samar Bagh District Lower Dir.
2. That the appellant was appointed as a Dispenser on 09.01.1995 and posted at BHU Kakas U/C Miskini, Tehsil Samar Bagh District Lower Dir. (Copy of appointment order dated 09.01.1995 and alongwith better copy is attached as Annexure A)

3. That the appellant was granted only 11 months salaries upto 11.12.1995.
4. That the appellant regularly performed his duty but no salary was granted to him and then was verbally told that you (the appellant) have been terminated from service, but astonishingly, no written termination order was communicated to the appellant.
5. That it is also very pertinent to mention here that on 20.4.2001, the appellant was again adjusted at BHU Pingal District Dir (lower) wherein, the appellant in light of the second appointment dated 20.04.2001, submitted his arrival report at the said station for duty proposes. **(Copy of second appointment alongwith better copy dated 20.04..2001 and arrival report along with better copy dated 25.04.2001 is attached as Annexure B & C respectively)**
6. That the appellant performed his duty regularly for 5-6 months at the said station (BHU Pingal) but no salaries were given to the appellant and again was verbally told that his services were terminated and no written termination order was communicated to the appellant.
7. That on dated 14.04.2014, the appellant was re-instated in service in light of the judgment / order of the Hon'ble

Peshawar High Court / Mingora Bench (Dar-ul-Qaza) Swat dated 05.03.2014 and the appellant submitted his arrival report for duty on dated 15.04.2014 **(Copy of judgment / order dated 05.03.2014, office order dated 14.04.2014 and arrival report dated 14.04.2014 are attached as Annexure D,E & F respectively)**

8. That since the resumption of his duty on 15.04.2014, the appellant started to perform his duty regularly, but was not given his monthly salaries upto 09.2014 (4 months and 15 days).

9. That since the appellant was illegally and twice terminated from service without showing any sufficient cause and no fault and guilt on his part, therefore, is legally entitled for all the consequential benefits i.e. monthly salaries and other ancillary benefits as well as seniority / promotion.

10. That the appellant has also filed departmental appeal on dated 11.05.2018 but if no avail till tiling of the instant appeal before this Hon'ble Tribunal. **(Copy of departmental appeal dated 11.05.2018 as Annexure G)**

**It is therefore most humbly prayed that the respondents may kindly be directed to release**

5

the monthly salaries of the appellant w.e.f the above mentioned periods and to grant him seniority / promotion as well in the interest of justice equity and fair play.

Any other relief which is deemed fit and appropriate by this Hon'ble Tribunal may also very kindly be granted in favour of the appellant.

*Shamshul*

Appellant

Through

*Muhammad*

**Khanzada Khan**  
Advocate, High Court  
Peshawar

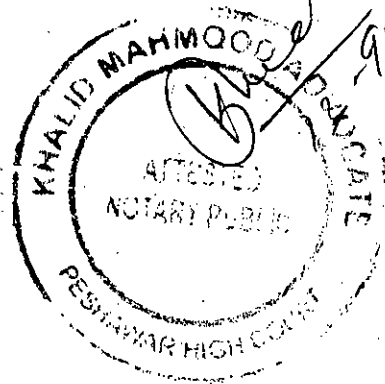
Date: 13-09-18

**AFFIDAVIT**

It is stated on oath that the contents of accompanying appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from the Hon'ble Tribunal.

*Shamshul*

Deponent



6

**BEFORE THE KHYBER PAKHTUNKHWA SENIOR  
TRIBUNAL**

Appeal No. \_\_\_\_\_/2018

Sane-e-Mulk .....Appellant

**Versus**

The District Health Officer & others .....Respondents

**ADDRESSES OF PARTIES**

**PETITIONER**

Sham-e-Mulk S/o Khaista Bacha Junior Clinical Technician  
Pharmacy, Tehsil Head Quarter Hospital Saman Bagh, Distt Dir  
(Lower)

**RESPONDENTS**

1. The District Health Officer (DHO) Dir Lower at Temargara.
2. The Director General Health Services KPK Peshawar.
3. The Secretary Health KPK Peshawar.
4. The Chief Secretary KPK Peshawar.



Dated:- 13-09-18

Appellant



Through:-

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

① A

OFFICE OF THE DISTRICT HEALTH OFFICER, TIRUPATI

OVERSEAS LETTER

On the 1st appointment and dispensary

The District Officer is 50 / Date: 9.1.95  
M. B. M. son of M. B. M. M. B. M.  
M. B. M. M. B. M. M. B. M.  
on account basis in the interest of public service with M. B. M.

Arrival report should be submitted to this office.

District Health Officer,  
Tirupati

50-74

Divisional Director of Health Services, Tirupati  
Accounts Officer M. B. M.  
Clerk of this office  
Official concerns  
for information and action

District Health Officer,  
Tirupati

*M. S.*

OFFICE OF THE DISTRICT HEALTH OFFICER LOWER DIR AT

8

TIMERGARA

OFFICE ORDER

On his first appointment as Dispenser vide Divisional Director Health Swat No.58 dated 09.01.1995, Mr. Shan-e-Mulk S/o Khaista Bacha is hereby adjusted at B.H.U Kakus against the vacant post of L.H.V on contract basis in the interest of public service with immediate effect

Distt; Health Officer

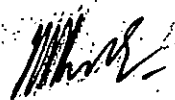
Dir Lower Timergara

Endst No.370-74

dated Timergara 15 /1995

Copy forwarded to the:-

1. Divisional Director Health Services Malakand, Division, Swat.
2. Incharge B.H.U Kakus
3. Accounts Clerk of this office.
4. (sic) Clerk of this office.
5. Official concern for information and necessary action.



Distt; Health Officer

Dir Lower Timergara



8

OFFICE ORDER

According to the order of the Director General Health Services, NWF, Postwar, bearing order no. 6977-00/01 dated 2001, the following surplus dispensation use therapy adjusted against the vacant post of HIV/HTV/MTV at the pay scale (HS 26) for the purpose of pay to fill the availability their original post.

No.	Name of Dispersed	Posted against the post category	Pay Scale
1.	Mr. Mohamad K. ...	Against AMO	HS 26
2.	Mr. Baohu ...	Against SMP	HS 26
3.	Mr. Azimul ...	Against HTV	HS 26
4.	Mr. Jazam ...	Against HTV	HS 26
5.	Mr. SHAHID ...	Against HTV	HS 26
6.	Mr. Abdur ...	Against HTV	HS 26
7.	Mr. Nasir ...	Against HTV	HS 26
8.	Mr. Aliqur ...	Against HTV	HS 26
9.	Mr. Rahau ...	Against HTV	HS 26
10.	Mr. Baohu ...	Against SMP	HS 26
11.	Mr. Shan ...	Against HTV	HS 26
12.	Mr. Mohamad ...	Against HTV	HS 26

The amount of their pay will be drawn subject to the availability of other vacant posts.

District Health Officer  
D/Lower at Timor-Leste

Dated: Timor-Leste, 20/04/2001

Copy of this order is hereby directed to the concerned officials in the name of the posts noted against each their name with a view to effect their arrival promptly in the service. If any of the above officials fail to communicate otherwise, the order will be considered as withdrawal.

District Health Officer  
D/Lower at Timor-Leste

Only forwarded to District Accounts Officer, at Timor-Leste for information and necessary action.

District Health Officer  
D/Lower at Timor-Leste

Copy forwarded to the Director General Health Services, NWF, for information with a view to the order as referred above please. The officials concerned are to be to 12 months against the post mentioned above and the remaining two (02) years at H.No. 13 e. 14 may kindly be utilized some other else as there is no more vacation are available. Place of the order is as follows.

District Health Officer  
D/Lower at Timor-Leste

*[Handwritten signature]*

OFFICE OF THE DISTRICT HEALTH OFFICER, DIR LOWER AT TIMERGARAOFFICE ORDER

According to the order of the Director General Health services, NWFP, Peshawar bearing endst: No.6917-20/E.1 dated 03.04.2001, the following surplus Dispensers are hereby adjusted temperately against the vacant post of L.H.V/T.M.T/ M.I etc; in their own pay scale (BPS-6) for the purpose of pay till the availability of their original file.

S.No.	Name of Dispenser	Posted against the post of category given below in health department	
1.	Mr. Mohammad Khan	Against ATHS	DHQ Office
2.	Mr. Bacha Wazir	Against SMT	BHU Ouch
3.	Mr. Aziz-ul-Haq	Against IHV	BHU (sic)
4.	Mr. Fazal (sic)	Against IHV	BHU Hayasri
5.	Mr. (sic)	Against IHV	BHU Biar Kher
6.	Mr. Abdur (sic)	Against IHV	MOH Center; Miskini
7.	Mr. Nasiruddin	Against HT	BHU (sic)
8.	Mr. Atiqur Rehman	Against HT	BHU (sic)
9.	Mr. Raham Badshah	Against LHV	BHU Arif Kalai
10.	Mr. Bacha Khan	Against SMT	RHC Gul Abad
11.	Mr. Shani Mulk	Against LHV	BHU Pingal
12.	Mr. Mohammad (sic)	Against LHV	BHU Zindara

(sic) (sic) the array of their pay will be drawn subject (sic) (sic) to availability of clear vacancies.

Distt; Health Officer  
Dir Lower Timergara

Enst No. \_\_\_\_\_-87/(sic)

Dated Timergara dated 20.04.2001

Copy forwarded to all concerned of (sic) (sic) (Sic) carry notice. They are hereby directed to (sic) their (sic) (sic) (Sic) the same (sic) noted against each their name will (sic) effect. All submit their arrival report within a seven days of the receiving of this communication otherwise the order will be consider as withdrawn.

Distt; Health Officer  
Dir Lower Timergara

No. \_\_\_\_\_  
Copy forwarded to District Accounts Officer, at Timergara for information and necessary action.

Distt; Health Officer  
Dir Lower Timergara

No. \_\_\_\_\_  
Copy forwarded to the Director General Health Services, NWFP, Peshawar for information with ref to his order No. as referred above please. The officials concerned at S.No.1 to 12 are adjust against the post mentioned above and the remaining Two Officials at S.No.13 & 14 may kindly be adjusted name where also as there is no more vacancies are available in office of this (sic)

Distt; Health Officer  
Dir Lower Timergara

The District Health Officer,  
Sic, at Timergara.

(11)

C

Subject:-

ARRIVAL REPORT.

Sic,

With reference to your office Order No. 2575-89  
/Dispensar dated 20/4/2001.

For duty at

I have the honour to submit arrival report  
for duty at Timergara on 25/4/2001 and enclosing

Thanks...

Yours Sincerely,

B. U. Pingal / Dir.

*[Faint handwritten notes and signatures]*

*[Handwritten signature]*

Better Copy

(12)

To,

The District Health Officer,  
Dir, at Timergara

Subject: ARRIVAL REPORT

Sir,

With reference to your office order No.2875-87 (sic) Dispenser dated  
20.04.2001.

I have the honour to submit my arrival report for duty at BHU Pingal today on  
25.04.2001 (sic) and obligation.

Thanks

Your's Obediently

Mr. Shani Mulk Dispenser  
BHU Pingal L/Dir

(13)

**BEFORE THE PESHAWAR HIGH COURT, MINGORA  
BENCH (DAR-UL-QAZA), SWAT**

D

W.P.No. 160-N/2013

Shan-e-Mulk Khan S/o Khalista Bacha,  
R/o Village Cham Khazana u/c Sadbar Kalay,  
Tahsil Samar Bagh, District Lower Dir.....

Petitioner

**VERSUS**

1. The Executive District Officer (Health) Lower Dir.
2. The Director General Health Services, KPK.
3. The Divisional Director Health Services, Malakand at Saidu Sharif, Swat. (Defunct)
4. The Secretary Health KPK, Peshawar
5. The Govt. of KPK through Chief Secretary KPK, Peshawar

.....Respondents

**WRIT PETITION UNDER ARTICLE 199  
OF THE CONSTITUTION OF ISLAMIC  
REPUBLIC OF PAKISTAN, 1973.**

*Respectfully Sheweth;*

The petitioner humbly states as under:-

- 1) That the petitioner is permanent resident of Village Cham Khazana u/c Sdbar Kalay, Tehsil Samar Bagh, District Lower Dir. (Copy of CNIC is attached)

FILED TODAY

Additional Registrar

28 MAR 2013

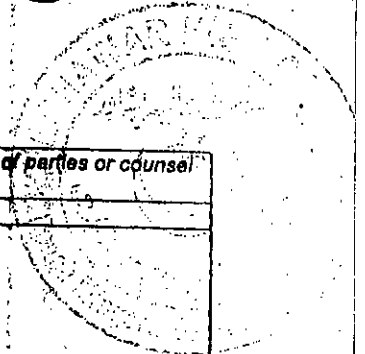
CTC [Signature]

**AWAR HIGH COURT, MINGORA BENCH (DAR-UL-QAZA), SWAT**  
**FORM OF ORDER SHEET**

Court of .....

Case No. .... of .....

(14)

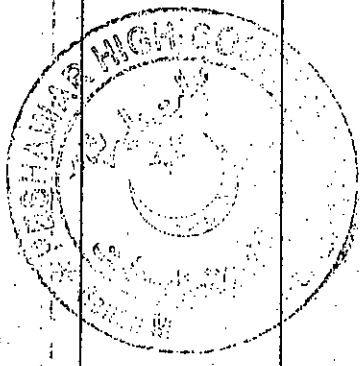


Serial No. of order or proceeding	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary.
	05.3.2014	<p data-bbox="486 617 813 667"><u>W.P. No.160-M/2013.</u></p> <p data-bbox="486 693 1252 793"><b>Present:</b> Mr. Khan Zada Khan, advocate for the petitioner.</p> <p data-bbox="901 793 957 819">***</p> <p data-bbox="502 869 1356 1524"><u>ABDUL LATIF KHAN, J.-</u> Through the instant constitutional petition, Shan-e-Mulk petitioner has sought the relief against his termination from service, on the ground that his case comes in the ambit of Khyber Pakhtunkhwa Sacked Employees (Reinstatement/Appointment) Act, 2012. However, the petitioner has filed an appeal before the respondents, but the same has not been responded to by the department.</p> <p data-bbox="486 1537 1348 1927"><u>2.</u> Learned A.A.G., present in Court undertakes to get the petition decided pending before the respondent filed by the petitioner, within a period of one month and on this assurance, the learned counsel for the petitioner is satisfied.</p> <p data-bbox="486 1965 1340 2205"><u>3.</u> The instant petition is disposed of with the observation that the representation made by the petitioner before the respondents be considered in the</p>

15

light of the prayer made by the petitioner and undertaking given by the learned A.A.G. to decide the matter within a period of one month positively, assigning reasons in support of the order passed by the respondent concerned. The petitioner, if aggrieved, would be at liberty to seek remedy before this Court, if so advised.

s/d. Abdullah Khan - J  
s/d. Lal Joon Khan - J



S.No. 781  
Name of Applicant Khadizad Khan  
Date of Filing of Application 5.3.14  
Date of Completion 10.3.14  
No. of Copies 3-9  
Fee Collected 6/-  
Date of Delivery of Copies 10.3.14

JUDGE

JUDGE

Certified to be true copy

Signature  
Peshawar High Court, Ferozpur-Gaza, Swat  
Authorized Under Section 10 of the Court Fees Act, 1910  
10-3-14

0776  
08/03/14

CTU  
Signature

OFFICE OF THE DISTRICT HEALTH OFFICER DIR LOWER AT TIMERGARA.

OFFICE ORDER.

(16)

E

In compliance the Honorable Peshawar, High Court Bench Mingora (Dar-ul-Qaza) Swat, decision in favour of write Petition , No.160-M/2013 dated 05/03/2014, The service of Mr. Shan-e-Mulk s/o Khaista Bacha JCT (Pharmacy) village Cham Khazana UC Sadbar Kaly Tehsil Samarbagh Dir lower( Sacked employees Reinstatement/Appointment act,2012), is hereby re-instated/appointed against the vacant post of Jr. PHC Technician (MP) BPS-09 ,at BHU Shekwali , Lower Dir with immediate effect.

SD/xxxxxxx  
DISTRICT HEALTH OFFICER  
DIR LOWERS.

No. 2116-19 /PF Dated Dir Lower the 14 /04/2014.

Copy forwarded to:-

1. Mr. Shan-e-Mulk s/o Khaista Bacha JCT (Pharmacy) village Cham Khazana UC Sadbar Kaly Tehsil Samarbagh Dir Lower.
2. The Medical Officer Incharge, BHU Shekwali.
3. The District Accounts officer Dir lower.
4. A/clerk of this office.

For information and necessary action.

DISTRICT HEALTH OFFICER  
DIR LOWER

No. \_\_\_\_\_ /PF Dated Dir Lower \_\_\_\_\_ /04/2014.  
Copy forwarded to:-

1. The Additional Registrar Peshawar, High Court Bench Mingora (Darula Qaza) Swat.
2. The Additional Advocate General Peshawar High Court Mingora (Darul Qaza) Swat.
3. Director General Health Services Khyber Pakhtunkhwa Peshawar, for information w/r to this office Letter No. 1385/ dated 21/03/2014.

DISTRICT HEALTH OFFICER  
DIR LOWER

CTU  
Mh



(11)

(17)

To

The DHO Div Lower  
at Timargara.

Subject:- Arrival Report

R/sir,

most respectfully I beg to

state that I have re-instated on  
my service according to the order

No 2116-19 on 14/4/2014. I submit  
14/04/2014

my arrival report today on dated 15-04-14.  
before none. Kindly accept my arrival  
report and oblige.

Dated: 15-04/2014 your Obediently

Shan-e-mull Jett pharmany

Forwarded to EDO(H)  
on 13/4/2014  
DHO at Timargara

11/04/14  
13/4/2014

CTO

(18)

5

To

The Director General Health Services  
KPK, Peshawar

Subject:

DEPARTMENTAL APPEAL

Respected Sir,

The Appellant humbly states:

1. That the appellant is permanent resident of Cham Khazana U/C Sadbar Kalay, Tehsil Samar Bagh District Lower Dir.
2. That the appellant was appointed as a Dispenser on 09.01.1995 and posted at BHU Kakas U/C Miskini, Tehsil Samar Bagh District Lower Dir. (Copy of Order and arrival report is attached).
3. That the appellant was granted only 11 months salaries upto 11.12.1995.
4. That the appellant regularly performed his duty but no salary was granted to him and then was verbally told that you (the appellant) have been terminated from service, but astonishingly, no written termination order was communicated to the appellant.



5. That it is also very pertinent to mention here that on 20.04.2001, the appellant was against adjusted at BHU Pingal District Dir (Lower) wherein, the appellant in light of the said second appointment dated 20.04.2001, submitted his arrival report at the said station for duty purposes.
6. That the appellant performed his duty regularly for 5-6 months at the said station (BHU Pingal) but no salaries were given to the appellant and again was verbally told that his services were terminated and no written termination order was communicated to the appellant.
7. That on dated 14.04.2014, the appellant was re-instated in service in light of the judgment / order of the Hon'ble Peshawar High Court / Mingora Bench (Dar-ul-Qaza) Swat dated 05.03.2014 and the appellant submitted his arrival report for duty on dated 15.04.2014. (Copy attached).
8. That since the resumption of his duty on 15.04.2014, the appellant started to perform his duty regularly, but was not given his monthly salaries upto 09/2014 (4 months and 15 days).
9. That since the appellant was illegally and twicely terminated from service without showing any sufficient cause and no fault and guilt on his part, therefore, is legally entitled for all the consequential benefits i.e. monthly salaries and other ancillary benefits as well as seniority / promotion.



20

It is, therefore, humbly requested that the appellant may kindly be granted all the consequential benefits i.e. monthly salaries, ancillary benefits as well as seniority / promotion w.e.f the date of his first illegal termination i.e. December 1995..

Dated: 09.05.2018

Yours obediently,

*Shan-e-Mulk*

Shan-e-Mulk S/o Khaista Bacha  
Junior Clinical Technican  
Pharmacy, Tehsil Headquarter  
Hospital Samarbagh, District Dir  
Lower.

D.G (Health) D/NO. 14806

11/5/18

*M.S.*

**IN THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL**  
**PESHAWAR.**

**Service Appeal NO. 1158/2018**

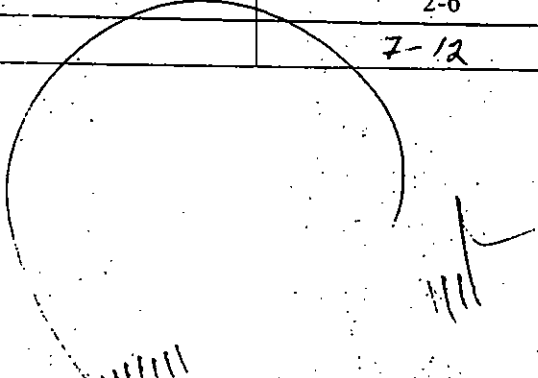
Mr. Shan e Mulk JCT Pharmacy, THQ Hospital Samar Bagh... Appellant.  
V/S

Government of Khyber Pakhtunkhwa ..... Respondents.

**PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 1,2&3**

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1	Parawise comments		1
2	Sacked employees Act 2012		2-6
3	<i>Court Judgement</i>		<i>7-12</i>

  
**District Health Officer**  
**Dir Lower.**

Services appeal No:1158/2018

Mr. Shan e Mulk Jct Pharmacy THQ Hospital Samar Bagh.....Appellant

VERSUS

Government of Khyber Pakhtunkhwa, Health Department..... Respondents

Para Wise Comments on Behalf of Respondents No: 1, 2 & 3.

Respectfully Shewth:

Preliminary Objection:

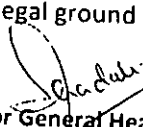
- 1: That the appellant has no cause of action to file the appeal.
- 2: That the appeal has not maintainable in the present form.
- 3: That the appellant is not entitled for any relief according to the sacked employees appointment Act 2012.
4. That the appeal is barred by rules 23 of the KP Service Tribunal rules as the re-instatement order has been issued in implementation of judgement of the High Court.


Facts:

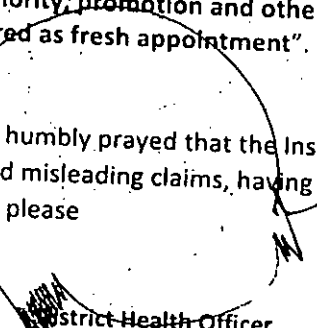
- 1: Correct to the extent of appointment.
- 2: Correct: He was appointed on contract basis, however it is pertinent to mention that the salary was paid according to the service period.
- 3: Correct: Needs no comment.
- 4: In-correct: All the employees who were illegally appointed during the period from 1<sup>st</sup> day of November 1993 to 30<sup>th</sup> day of November 1996, were dismissed/removed/terminated from service on various Grounds, giving the reason by the Government, as expressed in the sacked employees appointment Act 2012. Thus, upon completion of contract service length. The employee was not more entitled to get any salary/ benefit from the government treasury.
- 5: The employee was again recruited on contract basis as per government policy, and had been paid all the remunerations accordingly, for the period he served.
- 6: The monthly salary was granted to appellant from 09-01-1995 to 11-12-1995.
- 7: As per orders of Peshawar High Court bench Mingora Dar Ul Qaza Swat on Dated: 05/03/2014, The appellant has appointed on regular basis and as such has was posted at THQ Hospital Samar Bagh for performing of his duty.
- 8: incorrect: The appellant had not been entitled for 4 months salary and it has been categorically stated in the sacked employees Act 2012, that these employees are not entitled for back benefit, promotion and seniority
- 9: The respondent has to go in line with the decision of the honorable Peshawar High Court bench Mingora Dar Ul Qaza swat in writ petition No:159-M/2013 and writ petition No:160-M/2013 wherein the honorable court has had directed to appoint the petitioners in accordance with Khyber Pakhtunkhwa sacked employees appoint Act 2012 which clearly speaks in clause that "Sacked employees shall not be entitled to claim seniority, promotion and other back benefits and his appointment shall be considered as fresh appointment".
- 10: As explained forthwith.

Pray

In view of the position explained forthwith, it is humbly prayed that the Instant service Appeal based on Malafide Intentions and misleading claims, having no legal ground may kindly be dismissed with cost, please

  
Director General Health  
Services KP  
Respondent No.2

  
Secretary Health  
Khyber Pakhtunkhwa Peshawar  
Respondent No.3

  
District Health Officer  
Dir Lower at Timergara  
Respondent No.1

P-2

THE KHYBER PAKHTUNKHWA  
SACKED EMPLOYEES (APPOINTMENT) ACT, 2012.

(KHYBER PAKHTUNKHWA ACT NO. XVII OF 2012)

CONTENTS

PREAMBLE

SECTIONS

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THE KHYBER PAKHTUNKHWA  
SACKED EMPLOYEES (APPOINTMENT) ACT, 2012.

(KHYBER PAKHTUNKHWA ACT NO. XVII OF 2012)

*[first published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of Khyber Pakhtunkhwa (Extraordinary), dated the 20<sup>th</sup> September, 2012].*

AN  
ACT

*to provide relief to those sacked employees in the Government service, who were dismissed, removed or terminated from service, by appointing them into the Government service.*

WHEREAS it is expedient to provide relief to those sacked employees who were appointed on regular basis to a civil post in the Province of the Khyber Pakhtunkhwa and who possessed the prescribed qualification and experience required for the said post, during the period from 1<sup>st</sup> day of November 1993 to the 30<sup>th</sup> day of November, 1996 (both days inclusive) and were dismissed, removed, or terminated from service during the period from 1<sup>st</sup> day of November 1996 to 31<sup>st</sup> day of December 1998 on various grounds;

WHEREAS the Federal Government has also given relief to the sacked employees by enactment;

AND WHEREAS the Government of the Khyber Pakhtunkhwa has also decided to appoint these sacked employees on regular basis in the public interest;

It is hereby enacted as follows:

1. Short title, extent and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012.

(2) It shall apply to all those sacked employees, who were holding various civil posts during the period from 1<sup>st</sup> day of November, 1993 to 30<sup>th</sup> day of November, 1996 (both days inclusive).

(3) It shall come into force at once.

2. Definitions.--- In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them that is to say,-



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- (5)
- (a) "civil post" means a post created by the Finance Department of Government for the members of civil service of the Province;
  - (b) "Department" means the Department and the Attached Department as defined in the Khyber Pakhtunkhwa Government Rules of Business, 1985, including the Divisional and District Offices working thereunder;
  - (c) "Government" means the Government of the Khyber Pakhtunkhwa;
  - (d) "Prescribed" means prescribed by rules;
  - (e) "Province" means the Province of the Khyber Pakhtunkhwa;
  - (f) "rules" means the rules made under this Act; and
  - (g) "Sacked employee" means a person who was appointed on regular basis to a civil post in the Province of the Khyber Pakhtunkhwa and who possessed the prescribed qualification and experience for the said post at that time, during the period from 1<sup>st</sup> day of November 1993 to the 30<sup>th</sup> day of November, 1996 (both days inclusive) and was dismissed, removed, or terminated from service during the period from 1<sup>st</sup> day of November 1996 to 31<sup>st</sup> day of December 1998 on the ground of irregular appointments;

3. **Appointment of sacked employees.**--- Notwithstanding anything contained in any law or rule for the time being in force, on the commencement of this Act, all sacked employees subject to section 7, may be appointed in their respective cadre of their concerned Department, in which they occupied civil posts before their dismissal, removal and termination from service:

Provided that the sacked employees shall be appointed against thirty percent of the available vacancies in the said Department:

Provided further that the appointment of sacked employees shall be subject to the medical fitness and verification of their character antecedents to the satisfaction of the concerned competent authority.

4. **Age relaxation.**--- The period during which a sacked employee remained dismissed, removed or terminated from service, till the date of their appointment shall be deemed to have been automatically relaxed and there shall be no further relaxation under any rules for the time being in force.

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5. Sacked employees shall not be entitled to claim seniority and other back benefits.— A sacked employee appointed under section 3, shall not be entitled to any claim of seniority, promotion or other back benefits and his appointment shall be considered as fresh appointment.

6. Preference on the basis of age.— On the occurrence of a vacancy in the respective cadre of the concerned Department of the sacked employee against the thirty percent available share, preference shall be given to the sacked employee who is older in age.

7. Procedure for appointment.—(1) A sacked employee, may file an application, to the concerned Department within a period of six months from the date of commencement of this Act, for his appointment in the said Department:

Provided that no application for appointment received after the due date shall be entertained.

(2) The concerned Department shall maintain a list of all such sacked employees whose applications are received under sub-section (1) in the respective cadres in chronological order.

(3) If any vacancy occurs against the thirty percent available share of the sacked employee in any Department, the senior in age from such sacked employee shall be considered by the concerned Departmental Selection Committee or the District Selection Committee, as the case may be, to be constituted in the prescribed manner, for appointment:

Provided that no willingness or response is received within a period of thirty days, the next senior sacked employee shall be considered for appointment.

(4) The Concerned Departmental Selection Committee or District Selection Committee, as the case may be, will determine the suitability or eligibility of the sacked employee.

(5) If no sacked employee is available against thirty percent vacancy reserved in respective cadre in a Department, then the post shall be filled through initial recruitment.

8. Removal of difficulties.— If any difficulty arises in giving effect to any of the provisions of this Act, the Chief Minister Khyber Pakhtunkhwa may issue such order not inconsistent with the provision of this Act as may appear to him to be necessary for the purpose of removing the difficulty:

Provided that no such power shall be exercised after the expiry of one year from coming into force of this Act.

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9. Act to override other laws:--Notwithstanding anything to the contrary contained in any other law or rules for the time being in force, the provisions of this Act shall have overriding effect and the provisions of any other law or rules to the extent of inconsistency to this Act, shall cease to have effect.

10. Power to make rules:-- Government may make rules for carrying out the purposes of this Act.

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(12)

BEFORE THE PESHAWAR HIGH COURT, MINGORA

BENCH (DAR-UL-QAZA), SWAT

W.P.No. 159-M/2013

Muhammad Roz ..... Petitioner

Versus

The Executive District Officer (Health)

Lower Dir at Timergara & others ..... Respondents

ADDRESSES OF THE PARTIES

PETITIONER:

Muhammad Roz Khan S/o Said Arif Khan  
R/o Village Turan u/c Maskini,  
Tehsil Samar Bagh, District Lower Dir  
CNIC No.15302-0986362-1  
Cell No.0301-2205698

ATTESTED

RESPONDENTS:

1. The Executive District Officer (Health) Lower Dir at Timergara.
2. The Director General Health Services, K.P.K. Near District Courts, Khyber Road, Peshawar.
3. The Divisional Director Health Services, Malakand at Saidu Sharif, Swat. (Defunct)
4. The Secretary Health K.P.K, Civil Secretariat Peshawar.
5. The Govt. of K.P.K through Chief Secretary K.P.K, Peshawar.

*MAK*  
Petitioner

Through

*[Signature]*  
Khan Zada Khan  
Advocate,  
High Court, Peshawar

FILED TODAY

*[Signature]*  
Additional Registrar

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(2)

**PESHAWAR HIGH COURT, MINGORA BENCH (DAR-UL-QAZA), SWAT**  
**FORM OF ORDER SHEET**

Court of .....

Case No. .... of .....

Serial No. of order or proceeding 1	Date of Order or Proceedings 2	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary. 3
	05.3.2014	<p><u>W.P. No: 159-M/2013.</u></p> <p>Present: Mr. Khan Zada Khan, advocate for the petitioner.</p> <p style="text-align: center;">***</p> <p><u>ABDUL LATIF KHAN, J.-</u> Through the instant constitutional petition, Muhammad Roz Khan petitioner has sought the relief against the order dated 31.7.1996 with regard to termination from service, on the ground that his case comes in the ambit of Khyber Pakhtunkhwa Sacked Employees (Reinstatement/Appointment) Act, 2012. However, the petitioner has filed an appeal before the respondents, but the same has not been responded to by the department.</p> <p><u>2.</u> Learned A.A.G., present in Court undertakes to get the petition decided pending before the respondent filed by the petitioner, within a period of one month and on this assurance, the learned counsel for the petitioner is satisfied.</p> <p><u>3.</u> The instant petition is disposed of with the observation that the representation made by the</p>

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petitioner before the Respondents be considered in the light of the prayer made by the petitioner and undertaking given by the learned A.A.G. to decide the matter within a period of one month positively, assigning reasons in support of the order passed by the respondent concerned. The petitioner, if aggrieved, would be at liberty to seek remedy before this Court, if so advised.

sd. Abdul Latif Khan  
sd. P. A. L. J. [Signature]

JUDGE

S. No. 843  
Name of Applicant: P. A. L. J. [Signature]  
Date of Presentation: 05.3.14  
Date of Completion: 13.3.14  
Time of Completion: 9. P.  
[Signature]  
Date of Completion: 13.3.14

[Signature]  
JUDGE

Office  
06/03/14

[Signature]

13/3/14

P-10 (5) 6 (13)

BEFORE THE PESHAWAR HIGH COURT, MINGORA

BENCH (DAR-UL-QAZA), SWAT

W.P.No. 160-M/2013

Shan-e-Mulk Khan .....

Petitioner

Versus

The Executive District Officer (Health)

Lower Dir & others..... Respondents

ADDRESSES OF THE PARTIES

PETITIONER:

Shan-e-Mulk Khan S/o Khaista Bacha.  
R/o Village Cham Khazana u/c Sadbar Kalay,  
Tehsil Samar Bagh, District Lower Dir.  
CNIC No.15303-8261447-5  
Cell No.0301-2205698

RESPONDENTS:

1. The Executive District Officer (Health) Lower Dir. *MA*
2. The Director General Health Services, KPK. *PESHAWAR.*
3. The Divisional Director Health Services, Malakand at Saidu Sharif, Swat. (Defunct)
4. The Secretary Health KPK, Peshawar
5. The Govt. of KPK through Chief Secretary KPK, Peshawar

*[Signature]*  
Petitioner

Through

*[Signature]*  
Khan Zada Khan  
Advocate,  
High Court, Peshawar

FILED TODAY

Additional Registrar  
20 MAR 2013

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SHAWAR HIGH COURT, MINGORA BENCH (DAR-UL-QAZA), SWAT  
FORM OF ORDER SHEET

Court of .....

Case No..... of .....

Serial No. of order or proceeding	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary.
1	2	3
	05.3.2014.	<p><u>W.P. No.160-M/2013.</u></p> <p>Present: Mr. Khan Zada Khan, advocate for the petitioner.</p> <p style="text-align: center;">***</p> <p><u>ABDUL LATIF KHAN, J.-</u> Through the instant constitutional petition, Shan-e-Mulk petitioner has sought the relief against his termination from service, on the ground that his case comes in the ambit of Khyber Pakhtunkhwa <u>Sacked Employees (Reinstatement/Appointment) Act, 2012</u>. However, the petitioner has filed an appeal before the respondents, but the same has not been responded to by the department.</p> <p><u>2.</u> Learned A.A.G., present in Court undertakes to get the petition decided pending before the respondent filed by the petitioner, within a period of one month and on this assurance, the learned counsel for the petitioner is satisfied.</p> <p><u>3.</u> The instant petition is disposed of with the observation that the representation made by the petitioner before the respondents be considered in the</p>



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light of the prayer made by the petitioner and undertaking given by the learned A.A.G. to decide the matter within a period of one month positively, assigning reasons in support of the order passed by the respondent concerned. The petitioner, if aggrieved, would be at liberty to seek remedy before this Court, if so advised.

Sd. Abdul Latif Khan  
Sd. Jalaluddin Khan

No. 842

JUDGE

Name of Plaintiff: Dr. Javid Khan

Date of Filing: 5.3.14

Date of Disposal: 13.3.14

No. of Copies: 8 P

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EXAMINER

Peshawar High Court, Binger, Dargah-Qaza, Swat  
Number of Pages: 01 of 02. Printed at Odor, 1984

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