


18.07.2022

None present on behalf of the appellant. Notice be issued to the appellant and his counsel for preliminary hearing on 20.09.2022 before S.B.

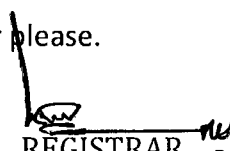

Counsel infor
By Telephone.
11-8-2022


(Mian Muhammad)
Member (E)

Form-A
FORM OF ORDER SHEET

Court of _____

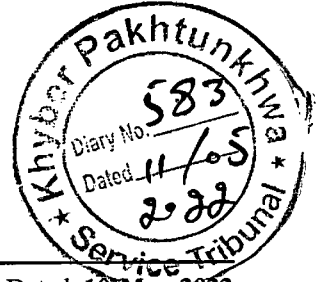
Case No. 760/2022

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	11/05/2022	<p>The present appellant initially went in Writ Petition before the Hon'ble Peshawar High Court Peshawar and the Hon'ble High Court vide its order dated 14.04.2022 treated the Writ Petition into an appeal and sent the same to this Tribunal for decision in accordance with law. The same may be entered in the Institution Register and put up to the worthy Chairman for further order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put up there on <u>13/5/22</u>. Notices shall be issued to appellants and his counsel for the date fixed.</p> <p style="text-align: right;"> CHAIRMAN</p>
2-	12/5/22	
	13.05 2022	<p>Learned counsel for the appellant present and requested for adjournment in order to further prepare the brief. Adjourned. To come up for preliminary hearing before the S.B on <u>18.07.2022</u>.</p> <p style="text-align: right;">(Kalim Arshad Khan) Chairman</p>



The
PESHAWAR HIGH COURT
Peshawar

Ph: No. 091-9210149-58



No. 52025 (1)/1170/2022/WP-MN

Dated. 10-May-2022

From

**Deputy Registrar (J),
Peshawar High Court,
Peshawar.**

To

✓
The Khyber Pakhtunkhwa Service Tribunal, Peshawar.

Subject: Writ Petitions W.P 3396/2021 Title: Samiullah VS Govt of KPK

Memo,

I am directed to send herewith the titled case in original alongwith all annexures and copy of judgment of this Honble Court dated 14.04.2022 for compliance.

Deputy Registrar (J)

10/5/22

Encl: As above.

(5)

JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT

W.P. No.3396-P/2021

Sami Ullah

Vs.

**The Government of Khyber Pakhtunkhwa through
Secretary Health, Peshawar and others**

Date of hearing **14.04.2022**
Petitioner(s) by: **Mr. Mukhtar Ahmad Maneri, Advocate.**
Respondent(s) by: **Mr. Wilayat Khan, AAG.**

JUDGMENT

IJAZ ANWAR, J. This writ petition has been filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, with the following prayer:-

"It is, therefore, respectfully prayed that on acceptance of this writ petition, this Hon'ble Court may be pleased to:

- i. Declare the impugned termination order No.6438-42/DHO NSR dated 15.02.2021 issued by the respondent No.2 as illegal, against the law, rules and policy.*
- ii. Direct the respondents to reinstate the petitioner in service with all back and consequential benefits in light of the peculiar facts and circumstances of the case.*
- iii. Restrain the respondents to disturb the petitioner anymore.*
- iv. Any other relief/s which has not been specifically prayed for but is more conducive and appropriate, may also be granted to the petitioner as deem fit and proper in the circumstances of the case".*

24

2. In essence, initially petitioner was appointed on temporary basis in Peoples Primary Health Initiative (PPHI). Later, he alongwith other colleagues, when

terminated from service, have approached this Court by filing writ petition for their reinstatement and regularization of service which was allowed vide order dated 14.03.2018; however, during the pendency of that writ petition, petitioner was appointed against the post of Mali (BPS-03) under the quota reserved for the employees sons vide Office Order dated 07.07.2017 and reported for duty to Incharge BHU Mughalki, District Nowshera but this fact was not brought into the notice of this Court and when respondents of that petition, approached the Hon'ble Supreme Court of Pakistan by filing Civil Appeal against the order of this Court, it was allowed vide order dated 21.10.2020 and the order of this Court was set-aside. As such, in compliance of the order of the apex Court, petitioner was wrongly terminated from service vide Office Order dated 15.02.2021. In this regard, his application filed to the respondents was not considered. Hence, this writ petition.

3. Comments were called from the respondents who furnished the same, wherein, they opposed the issuance of desired writ asked for by the petitioner.

4. During the course of hearing, learned counsel for the petitioner has referred to appointment letter dated 07.07.2017, according to which, petitioner was appointed under the quota reserved for the employees sons on regular basis; similarly, his plea that earlier he was serving in PPHI on temporary basis and that's why he has submitted a writ

2A
3
/

petition before this Court for his reinstatement and regularization, stood set-aside by the apex Court, still his appointment against the employees sons quota can be retained and made reference to the clarification given by the District Health Officer, Nowshera.

5. In any case, since petitioner was appointed against a regular post vide order dated 07.07.2017, his only remedy lay before the Khyber Pakhtunkhwa Service Tribunal against the order of termination from service. Similarly, petitioner has already availed the departmental remedy; as such, we, instead of dismissing the instant petition, send it to the Khyber Pakhtunkhwa Service Tribunal for treating it as service appeal of the petitioner and to decide it in accordance with law. Office is directed to send the instant petition in original alongwith its annexure to the Khyber Pakhtunkhwa Service Tribunal forthwith, while its copies be retained for the purpose of record. Petitioner is also directed to appear before the said Tribunal on 21.04.2022 for further proceedings.

Announced
Dt:14.04.2022

JUDGE

JUDGE

(DB) Hon'ble Mr. Justice Ijaz Anwar and Hon'ble Mr. Justice Sved Muhammad Attique Shah

Muhammedullah

IN THE PESHAWAR HIGH COURT, PESHAWAR.**OPENING SHEET FOR WRIT BRANCH**

Date of Filing:- 09.08.2021

District:- Peshawar

Case Type: Writ Petition Nature of Original Proceedings: _____Category Code

0	5	4	6		
---	---	---	---	--	--

Review/Contempt of Court in respect of _____

Writ of:

Heabus Corpus	Prohibition	Mandamus	Qua Warranto	Certiorari
------------------	-------------	----------	-----------------	------------

Form	Date	interlocutory/ Final Order

Case pertains to
SB
DB

Petitioner(s) Name	Sami Ullah
Mobile No	0334-5883625
Addresses	Mohallah Maghrabi, Village Mughalki, District Nowshera.
CNIC No	17201-8291751-1
Email Address	Nil

Counsel for Petitioner(s)	<u>Mukhtar Ahmad Maneri Advocate</u>
Mobile No	0333-2156006
Addresses	2, 2nd floor, Juma Khan Plaza, Near FATA Secretariat, Warsak Road, Peshawar.
CNIC No	16202-0997383-9
Email Address	<u>mukhtaradvocate@yahoo.com</u>

Respondents	Govt. Of KPK & others.
Addresses	Civil Secretariat, Peshawar.

Original Order/ Action/ Inaction Complained of	_____
---	-------

Prayer	It is, therefore, respectfully prayed that this honorable court may be pleased to; <ul style="list-style-type: none"> i. Declare the impugned termination order No. 6438-42/DHO NSR dated 15.02.2021 issued by the respondent No. 2 as illegal, against the law, rules, policy. ii. Direct the respondents to reinstate the petitioner in service with all back and consequential benefits in light of the peculiar facts and circumstances of the case. iii. Restrain the respondents to disturb the petitioner anymore. iv. Any other relief/s which has not been specifically prayed for but is more conducive and appropriate, may also be granted to the petitioner as deem fit and proper in the circumstances of the case.
--------	---

Law/Rules/governing the original proceedings/ action/Inaction	<u>Article 199 Constitution of Islamic Republic of Pakistan, 1973</u>
---	--

FILED TODAY
Deputy Registrar
09 AUG 2021

Signature:-
RE-FILED TODAY
Deputy Registrar
11 AUG 2021

IN THE HONORABLE PESHAWAR HIGH COURT,
PESHAWAR

WP.No. 3396/2021

Sami Ullah *Appeal no. 760/2022* Petitioner
Versus

Government of KP & others..... Respondents

I N D E X.

S.No.	Description of documents	Annexure	Pages
1.	Memo of Writ Petition		1-8
2.	Affidavit in support of writ petition.		9
3.	Addresses of the parties		10
4.	Copy of CNIC of the petitioner	A	11
5.	Copy of Domicile Certificate of the petitioner	B	12-13
6.	Copy of List of retired employee sons	C	14-15
7.	Copy of office order dated 07.07.2017	D	16
8.	Copy of Office Order in respect of arrival of the petitioner	E	17
9.	Copy of arrival report dated 08.07.2017 of the petitioner	F	18
10.	Copy of termination order dated 15.02.2021.	G	19
11.	Copy of letter dated 19.03.2021.	H	20
12.	Copy of letter dated 03.06.2021.	I	21
13.	Copy of letter dated 25.06.2021.	J	22
14.	Copy of judgment of WP.No.1008-P/2017, dated 14.03.2018	K	23-29
15.	Copy of judgment of Apex Court dated 21.10.2020.	L	30-36
16.	Court Fee of Rs.500/-		37-38
17.	Wakalatnama		39

Peshawar.

Dated: 09-08-2021.

FILED TODAY

Deputy Registrar

09 AUG 2021 Through:

Petitioner

29-40

Scanned USB Received
09 AUG 2021
Signature

RE-FILE TODAY

Deputy Registrar

11 AUG 2021

Mukhtar Ahmad Maneri
Advocate Supreme Court of Pakistan
Office # 2, 2nd Floor, Juma Khan Plaza, Near
Directorate of Health KPK, Warsak Road,
Peshawar. Tel:091-5200710. Mob: 0333-215-6006
Email: mukhtaradvocate@yahoo.com

Amaad Nasir Kundi
Advocate High Court, Peshawar.

1

IN THE HONORABLE PESHAWAR HIGH COURT,
PESHAWAR

Writ Petition No 33967 /2021

Appeal No. 760/2022

Sami Ullah S/O Abdul Ghaffar
R/o Mohallah Maghrabi, Village Mughalki,
District Nowshera..... Petitioner.

Versus.

1. The Government of Khyber Pakhtunkhwa,
Through Secretary Health, Civil Secretariat, Peshawar,
2. District Health Officer, District Nowshera.
3. The Director General, Health Services,
Attached Department Complex, Khyber Road, Peshawar.
..... Respondents

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

Respectfully Sheweth: -

Having no alternate and efficacious remedy available, the petitioner knocks the door of this honorable court on inter alia the following amongst other facts and grounds;

FACTS LEADING TO WRIT PETITION

1. That the petitioner is permanent resident of District Nowshera having all the rights guaranteed under the law and Constitution of The Islamic Republic of Pakistan, 1973.

Copies of CNIC and Domicile Certificate are attached herewith and marked as Annexure A & B respectively.

2. That the petitioner was appointed against the vacant post as per list under Employee Son's Quota vide his appointment order No. 8541-44/DHO NSR dated 07.07.2017 issued by the respondent No. 2.

FILED TODAY
Deputy Registrar
09 AUG 2021

Copies of list & office order dated 07.07.2017 are attached herewith and marked as annexure C & D respectively.

3. That after the above-mentioned appointment order vide office order No. 8559-62 / DHO NSR of even date (07.07.2021) the petitioner was directed to give arrival report to Incharge BHU Mughalki of District Nowshera and as such he reported to the concerned BHU vide his arrival report dated 08.07.2017.

Copies of office order in respect of arrival and arrival report dated 08.07.2017 are attached herewith and marked as annexure E & F respectively.

4. That the petitioner was performing his duties to the entire satisfaction of his high ups when the respondent No. 2 vide his Office Order No. 6438-42 /DHO NSR dated 15.02.2021 he (petitioner) was terminated from service purportedly in light of the judgment of Honorable supreme court of Pakistan dated 21.10.2020 and in compliance of the directions of respondent No. 1 letter dated 03.11.2020 as such.

Copy of termination order dated 15.02.2021 is attached herewith and marked as annexure G.

5. Since the case of the petitioner was entirely different because he was appointed on the basis of quota reserved for retired employee son's which has categorically been mentioned in his appointment order dated 07.07.2017 (Annexure-D above) while the termination order has been issued on the basis of the judgment of the honorable Supreme Court of Pakistan dated 21.10.2020 as such the petitioner moved an application to the respondent No. 1 regarding clarification / rectification in a respect of his appointment against employee son's quota which was duly forwarded by the respondent No. 1 to the respondent No. 2 vide letter No. SOH(Lit-1)12(1)1628/2018/2265 dated 19.03.2021.

Copy of letter dated 19.03.2021 is attached herewith and marked as annexure H.

FILED TODAY
Deputy Registrar
09 AUG 2021

6. In response to the letter of the respondent No. 1 mentioned above, the respondent No. 2 vide his reply No. 8116/DHO NSR dated 03.06.2021 clarified that the petitioner was appointed on the basis of employee son's quota but due to his earlier litigation before this honorable court he was terminated by the respondent No. 2 as such it has become abundantly clear that his termination was issued on wrong premises.

Copy of letter dated 03.06.2021 is attached herewith and marked as annexure- I.

7. That in reply to letter dated 03.06.2021 of the respondent No. 2 (Annexure-I) the respondent No. 1 vide his letter No. SOH(Lit-I)12(1)1628/2018 dated 25.06.2021 wherein the issue of rectification in appointment against employee son's quota has further been clarified in unequivocal terms i.e., the judgment dated 21.10.2020 of the honorable Supreme Court of Pakistan in C.A. No. 265/2020 has no effect on appointment as Mali/Class-IV against Employee Son's Quota made under Policy of Provincial Government Circulated vide Notification No.SOR-1(S&GAD)4-1/80(Vol-III) dated 23.05.2000 governing the recruitment under quota reserved for appointment of children of retiring Class-IV Government Servants on superannuation , hence the termination order is bases on misconception and wrong premises and liable to set-aside.

Copy of letter dated 25.06.2021 is attached herewith and marked as annexure J.

FILED TODAY
Deputy Registrar
09 AUG 2021 8.

That it is very pertinent to mentioned here that earlier the petitioner was appointed in the Peoples Primary Health Initiative in short PPHI and when he along with number of other employees got terminated the petitioner and others have invoked the constitutional jurisdiction of this honorable court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 by filing a Writ Petition which was allowed

vide judgment dated 14.03.2018 passed in WP No. 1008-P/2017.

Copy of judgment dated 14.03.2018 is attached herewith and marked as annexure K.

9. That during pendency of the above mentioned Writ petition the petitioner was appointed as Mali (BPS-03) against the Employee Son's Quota vide *Annexure-D* above but inadvertently this fact could not be brought on record as such when the judgment of this honorable was set-aside by the honorable apex court of Pakistan, the present petitioner was also subjected to compliance of the judgment of the honorable Apex Court of Pakistan i.e. termination from service vide *Annexure-G* above, hence this Writ petition for appropriate Writ directions.

Copy of judgment of Apex Court dated 21.10.2020 is attached herewith and marked as annexure- L.

10. That the petitioner having no alternate, efficacious, adequate remedy, knocks the door of this honorable court by invoking extraordinary writ jurisdiction of this honorable court on inter alia the following grounds;

GROUNDS :-

- a. That the respondents have not treated the petitioner in accordance with law, rules and policy on the subject and acted in violation of Article 4, 9 and 25 of the Constitution of the Islamic Republic of Pakistan, 1973 which is unjust, unfair and against the principle of natural justice.
- b. That the petitioner is permanent resident of District Nowshera having all the rights guaranteed under the law and constitution of The Islamic Republic of Pakistan, 1973 and was appointed against the vacant post as per list under Employee Son's Quota vide appointment order No. 8541-

FILED TODAY
Deputy Registrar
09 AUG 2021

44/DHO NSR date 07.07.2017 issued by the respondent No. 2 and he was directed to give arrival report to Incharge BHU Mughalki District Nowshera as such he reported to the concerned BHU, hence the entire process has been carried out in accordance.

c. That the petitioner was performing his duties to the entire satisfaction of his high ups when the respondent No. 2 has issued his termination order in light of the judgment of Honorable supreme court of Pakistan irrespective of the fact that case of the present petitioner is entirely different because he was appointed on the basis of quota reserved for retired employee son's which has categorically been mentioned in his appointment order dated 07.07.2017 (Annexure-D above) while termination order has been issued on the basis of the judgment of the honorable Apex Court dated 21.10.2020 as such the petitioner moved an application to the respondent No. 1 regarding rectification in respect of his appointment against employee son's quota which was duly forwarded by the respondent No. 1 to the respondent No. 2 and in response thereof the respondent No. 2 vide has clarified that the petitioner was appointed through reserved quota but the petitioner has earlier filed a writ petition as by that particular time he performing his duties PPHI and like other employees of PPHI he has also impugned his termination order by the PPHI authorities.

d. It is very pertinent that in reply to letter dated 03.06.2021 of the respondent No. 2 (Annexure-I) the respondent No. 1 vide his letter dated 25.06.2021 in respect of rectification in appointment against employee son's quota has further been clarified in unequivocal terms i.e., the judgment dated 21.10.2020 of the honorable Supreme Court of Pakistan in C.A. No. 265/2020 has no effect on appointment as

FILED TODAY
Deputy Registrar
09 AUG 2021

Mali/Class-IV against Employee Son's Quota made under Policy of Provincial Government Circulated vide Notification No. SOR-1(S&GAD)4-1/80(Vol-III) dated 23.05.2000 governing the recruitment under quota reserved for appointment of children of retiring Class-IV Government Servants on superannuation, hence the termination order is based on misconception and issued on wrong premises as such liable to set-aside.

e. Because earlier the petitioner was appointed in the project of Peoples Primary Health Initiative in short PPHI and when he along with number of other employees of the project were then terminated the petitioner along with other employees have invoked the constitutional jurisdiction of this honorable court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 by filing a Writ Petition against their termination which was allowed vide judgment dated 14.03.2018 passed in WP No. 1008-P/2017 and that during the pendency of his writ petition the petitioner was appointed as Mali (BPS-03) against the Employee Son's Quota vide Annexure-D above but inadvertently this fact could not be brought on record as such when the judgment of this honorable was set-aside by the honorable apex court of Pakistan, the present petitioner was also subjected to compliance of the judgment of the honorable apex court of Pakistan i.e. terminated from service vide Annexure-G above, hence this Writ petition for appropriate Writ directions.

f. As urged in the preceding paras, the petitioner was appointed on the basis of Retired Employees' Son Quota reserved but astonishingly the respondents on the one hand admitted that the judgment of the apex court has got nothing to do with the 25% quota duly reserved and guaranteed under Khyber Pakhtunkhwa Civil Servants (Appointment Promotion &

Transfer) Rules, 1989 as such his termination has wrongly been issued by the respondents, hence they committed gross illegality and irregularity liable to be set aside by this honorable court.

- g. That the petitioner urges other grounds at the time of hearing this writ petition with the kind permission of this Honorable Court, hence this writ petition with the following prayers;

RPAYER;

It is, therefore, respectfully prayed that on acceptance of the instant writ petition, this honorable court may be pleased to;

- i. Declare the impugned termination order No. 6438-42 /DHO NSR dated 15.02.2021 issued by the respondent No.2 as illegal, against the law, rules, policy.
- ii. Direct the respondents to reinstate the petitioner in service with all back and consequential benefits in light of the peculiar facts and circumstances of the case.
- iii. Restrain the respondents to disturb the petitioner anymore.
- iv. Any other relief/s which has not been specifically prayed for but is more conducive and appropriate, may also be granted to the petitioner as deem fit and proper in the circumstances of the case.

FILED TODAY
Deputy Registrar
09 AUG 2021

INTERIM RELIEF:

That in the meanwhile this honorable court may be pleased to suspend the operation of the impugned termination order No. 6438-42 /DHO NSR dated 15.02.2021 issued by the respondent No.2 till the

8

decision of this writ petition in the best interest of
justice, equity and law.

Peshawar.

Dated:09-08-2021

Through

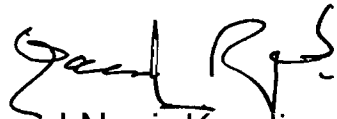
Petitioner



Mukhtar Ahmad Maneri

Advocate Supreme Court of Pakistan
Office # 2, 2nd Floor, Juma Khan Plaza, Near
Directorate of Health KPK, Warsak Road,
Peshawar. Tel:091-5200710. Mob: 0333-215-6006
Email: mukhtaradvocate@yahoo.com

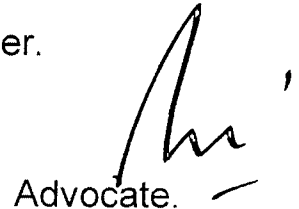
&



Amaal Nasir Kundi,
Advocate High Court, Peshawar.

CERTIFICATE.

Certified as per the instructions of the petitioner; that this is the first writ petition between the parties on the subject and no such like other writ petition has earlier been filed by the him against the respondents in this Honorable Court or any other bench of this honorable court in respect of subject matter.



Advocate.

BOOKS:

1. Constitution of the Islamic Republic of Pakistan 1973.
2. KP Civil Service (Appointment Promotion & Transfer) Rules 1989.
3. ESTA CODE.
4. Case law if any.

FILED TODAY
Deputy Registrar
09 AUG 2021

IN THE HONORABLE PESHAWAR HIGH COURT,
PESHAWAR.

WP.No. 3396 F /2021

Sami UllahPetitioner

Versus

Government of KP & others.....Respondents

AFFIDAVIT

I, Sami Ullah S/O Abdul Ghaffar R/o Mohallah Maghrabi, Village Mughalki, District Nowshera do hereby solemnly affirm and declare on oath that the contents of the accompanying Writ Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this August Court.

[Handwritten Signature]

Deponent

CNIC # 172018291751-1 ✓

MOB: 03345883625

Identified by me,

[Handwritten Signature]

Mukhtar Ahmad Maneri
Advocate Supreme Court of Pakistan

FILED TODAY
[Circular Stamp]
Deputy Registrar
09 AUG 2021

No: 3260²

Certified that the above was verified on solemn affirmation before me in the presence of Sami Ullah on the 09 day of Aug 2021 at Nowshera s/o Abdul Ghaffar who was Maghrabi Mohallah Maghrabi Who is present Maneri

[Handwritten Signature]
09/08/2021

IN THE HONORABLE PESHAWAR HIGH COURT,
PESHAWAR.

WP.No. 3396-F /2021

Sami Ullah Petitioner

Versus

Government of KP & others

..... Respondents

ADDRESSEES OF THE PARTIES;

ADDRESS OF THE PETITIONER

Sami Ullah S/O Abdul Ghaffar
R/o Mohallah Maghrabi, Village Mughalki,
District Nowshera.

ADDRESS OF THE RESPONDENTS


1. The Government of Khyber Pakhtunkhwa,
Through Secretary Health, Civil Secretariat, Peshawar,
2. District Health Officer, Nowshera.
3. The Director General, Health Services,
Attached Department Complex, Khyber Road, Peshawar
Peshawar.

Dated: 09-08-2021.

Petitioner

Through:


FILED
Deputy Registrar
09 AUG 2021



Mukhtar Ahmad Maneri

Advocate Supreme Court of Pakistan
Office # 2, 2nd Floor, Juma Khan Plaza, Near
Directorate of Health KPK, Warsak Road,
Peshawar. Tel: 091-5200710. Mob: 0333-215-6006
Email: mukhtaradvocate@yahoo.com

&





Amaal Nasir Kundi,
Advocate High Court, Peshawar.



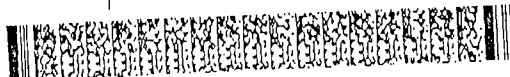
11

A

حکومت پاکستان
 قومی شناختی کارڈ
 17201-8291751-1
 محمد ارشد حکیم
 تاریخ پیدائش: 01/01/1991
 رجسٹرڈ آفس: لاہور

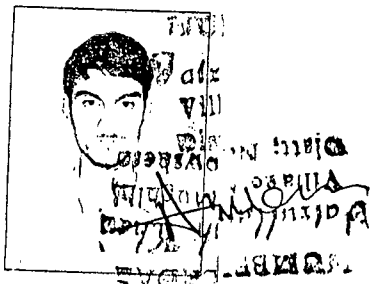
قومی شناختی کارڈ: 17201-8291751-1
 نام: محمد ارشد حکیم
 تاریخ پیدائش: 01/01/1991
 رجسٹرڈ آفس: لاہور
 تاریخ اجراء: 30/09/2009
 تاریخ منقطع: 31/08/2021
 کٹنگ کارڈ سے برقی ایسٹریٹس میں تین ڈال دس

کا
۱۰

12

B



S. No. 899

OFFICE OF THE DEPUTY COMMISSIONER DISTRICT NOWSHERA
KHYBER PAKHTUNKHWA

(DOMICILE CERTIFICATE)

I Declare that I was born of parents who are permanently domiciled in Khyber Pakhtun Khwa
having belonged to it by birth / setteled in it.

I belong by birth to village / Mohallah..... Mughalki.....
Taluk..... Nowshera..... District..... Nowshera.....

1201-324617-7

Signature  Assistant
Date..... 9-5-2013.....

Pursuance to the declaration dated..... 9-5-2013.....

Filled by Mr/Ms/Ms..... Samiullah..... S/DAY of..... Abdul Samiullah.....

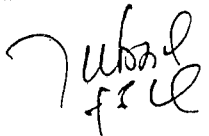
Domiciled in the Khyber Pakhtunkhwa it is here by Certified that the said..... Samiullah.....

is born of parents who are permanent resident of the Khyber Pakhtunkhwa having belonged to
it by birth / setteled in it.


I have satisfied my self from ~~my personal knowledge~~ / ✓ overleaf verification that
the above declaration is true and certified.

This..... 13..... day of..... May..... 2013

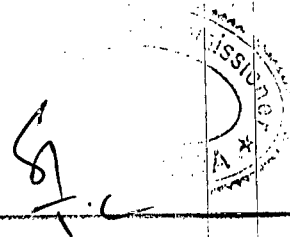
COUNTER SIGNED BY



DEPUTY COMMISSIONER NOWSHERA


ASSISTANT COMMISSIONER
NOWSHERA

2013
14-5-13



تصدیق کی جاتی ہے کہ مسیح الامتہ محمد اختر ازہرہ عبدالغفور
 ساکن محلہ مٹھلا گاؤں اشہر مٹھلا ضلع لوشہرہ کا رہائشی و پیدائشی

سکونتی باشندہ ہے۔ اور اس کے والدین اشوہر بھی علاقہ مذکورہ کے رہائشی و پیدائشی و سکونتی باشندگان ہیں۔ میں ان کو ذاتی طور پر جانتا ہوں۔
 رپورٹ عرض ہے۔

BERDAA
 Sahuliah Khan
 Village Mughla
 Dist. Nowshera

نام تصدیق کنندہ مفتی اللہ خان مٹھلا

جناب عالی! مفتی اللہ خان مٹھلا اذاتی طور پر جانتا اجاتی ہوں کہ

مسیح الامتہ محمد اختر ازہرہ عبدالغفور بمسجد والدین
 موضع مٹھلا تحصیل لوشہرہ ضلع لوشہرہ خیرہ پختون خواہ
 کے پیدائشی، رہائشی و سکونتی باشندگان ہے رپورٹ عرض ہے۔

دستخط پٹواری حلقہ دستخط گروا اور سرکل
 13-5-2013

۲

تصدیق شد
 دستخط تحصیل
 13/5
 2013

S. No	Name of Applicant	Father Name	Retirement Date & year	REMARKS
1	Assa Ali	Zarb Ali Khan	1997 (Died After retirement)	0332-9939400 (Nandrak)
2	Mr. Shahid Ali Khan	Waheed Gul	24-08-2002 (died)	Not appointed in Saudi Arabia
3	Mr. Abbas Ali	Zahid Ur Rehman	22-03-2003 (Died during service on 22-03-2003)	(Appointed as Sweeper) He applied for the post under deceased son quota on 30-08-2016 and also before 06-Month before the above date. (03005943958)
4	Mr. Zar Muhammad	Taj Muahmmad	01-01-2004	
5	Mr. Fazal Mabood	Faith M. Khan	01-04-2004	
6	Mr. Zahid Husain	Abdul Munaf (Naib Qasid)	2005 (Pension Papers not received)	
7	Mr. Ishfaq Ali	Afsar Khan	01-08-2006	(Ward Orderly at PPHI)
8	Mr. Muhammad Umair Khan	Hazrat Gul (Chowkidar)	01-01-2009	0302596131
9	Mr. M. Dawood	Abdul Majeed (Mali)	07-01-2009	Over Age
10	Mr. Habib Ullah	Abdullah Jan (Sanitary Patrol)	04-10-2009	
11	Mr. Ali Gohar	Tila Khan (Chowkidar)	30-06-2010	
12	Mr. Rehman Khan	Anqan Khan (Sweeper)	30-06-2011	
13	S/O Mr. Niaz Wali	BHU Meru Banda (Chowkidar)	01-07-2011	Not Applied yet for Sons Quota (He Filed Case in Court & Service Tribunal as well)

C³

14

0

8
12

S. No.	Name of Applicant	Father Name	Retirement Date & year	Remarks
1.	Asad Ali	Zarb Ali Khan	1997 (Died after retirement)	0332-9939400 (Nadrak)
2.	Mr. Shahid Ali Khan	Waheed Gul	21.08.2002 (died)	Not appointed in Saudi Arabia
3.	Mr. Abbas Ali	Zahid Ur Rehman	22.03.2003 (Died during service on 22.03.2003)	(Appointed as Sweeper). He applied for the post under deceased sons quota on 30.08.2016 and also before 06-Months before the above date (03005943958)
4.	Mr. Zar Muhammad	Taj Muhammad	01.01.2004	
5.	Mr. Fazal Mabood	Faith M. Khan	01.04.2004	
6.	Mr. Zahid Hussain	Abdul Munaf (Naib Qasid)	2005 (Pension Papers not received)	
7.	Mr. Ishfaq Ali	Afsar Khan	01.08.2006	(Ward Orderly at PPHI)
8.	Mr. Muhammad Umair Khan	Hazrat Gul (Chowkidar)	01.01.2009	0302596131
9.	Mr. M. Dawood	Abdul Majeed (Mali)	07.01.2009	Over Age
10.	Mr. Habib Ullah	Abdullah Jan (Sanitary Patrol)	04.10.2009	
11.	Mr. Ali Gohar	Tila Khan (Chowkidar)	30.06.2010	
12.	Mr. Rehman Khan	Amaan khan (Sweeper)	30.06.2011	
13.	S/o Mr. Niaz Wali	BHU Mera Banda (Chowkidar)	01.07.2011	Not applied d yet for Sons Quota (He Filed Case in Court & Service Tribunal as well)

S
T.c

	Mr. Sami Ullah	Abdul Ghaffar	16/5/2013	BHU Mughalkai
15	Mr. Noor Ul Amin	Faqir Khan (Ward Orderly)	23-12-2014	(Name of Fazal Amin changed to Noor Ul Amin)
15	Mr. Ravaic Khan	Basmina (Dai)	10-11-2014 (Disease Sons Quota)	
16	Mrs. Salman Gul	Saeed Gul (Behishti)	31-01-2015	PPHI
17	M. Noshad	Tajamal Bibi	14-03-2015	
18	Mr. Farooq	Taza Gul (Behishti)	June 2015	
19	Yasir Ali Shah	S/O Noor Bibi (Dai)		Pirpai
20	Mr. Aziz Ur Rahman	Gul Mast Khan	Retired in Dec 2016	PPHI BHU Gandheri
21	Mrs. Nuzhat	Nazrana	Retired in 2014	
22	Mst. Tamnana	Abdur Rashid	Retired in June 2017	BHU Dagi Qadeem

69
T-C

14.	Mr. Sami Ullah	Abdul Ghaffar	16/5/2013	BHU Mughalkai
15.	Mr. Noor Ul Amin	Faqir Khan (Ward Orderly)	23.12.2014	(Name of Fazal Amin changed in Noor Ul Amin)
16.	Mr. Ravaic Khan	Basmina (Dai)	10.11.2014 (Deceased Son Quota)	
17.	Mr. Salam Gul	Saeed Gul (Behishti)	31.01.2015	PPIII
18.	M. Noshad	Tajamal Bibi	14.03.2015	
19.	Mr. Farooq	Taza Gul (Behishti)	June 2015	
20.	Yasir Ali Shah	S/O Noor Bibi (Dai)		Papai
21.	Mr. Aziz Ur Rehman	Gul Mast Khan	Retired in Dec 2016	PPHI BHU Gandheri
22.	Mrs. Nuzhat	Nazrana	Retired in 2014	
23.	Mst. Tammana	Abdur Rashid	Retired in June 2017	BHU Dagi Qadeem

5
T.c



16

D

OFFICE OF THE DISTRICT HEALTH OFFICER NOWSHERA

Phone & Fax: 0923-580759

E-Mail: nowshera.edoh@gmail.com

OFFICE ORDER

On recommendation / approval of departmental selection committee, Mr. Sami Ullah S/O Abdul Ghaffar Resident of Mohallah Magharabi, Village Mughalki District Nowshera is hereby appointed as Mali, BPS-03 against the vacant post under employee son's quota under the control of DoH District Nowshera with the following terms and conditions.

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

Sd _____
District Health Officer
Nowshera

8541-44

No. _____ / DHO NSR

Date: 07/07/2017.

Copy forwarded to the:

1. Senior District Accounts Officer Nowshera.
2. Mr. Sami Ullah S/O Abdul Ghaffar Resident of Mohallah Magharabi, Village Mughalki District Nowshera.
3. Incharge Accounts Section DHO Office Nowshera.
4. Office record.


District Health Officer
Nowshera

17

(E)

OFFICE OF THE DISTRICT HEALTH OFFICER NOWSHERA

Phone & Fax: 0923-580759

E-Mail: nowshera.edoh@gmail.com

OFFICE ORDER

On arrival to this office on 07-07-2017, Mr. Sami Ullah (Mali) newly appointee is hereby directed to report to Incharge BHU Mughalki District Nowshera for official duty in the interest of public.

82559-62

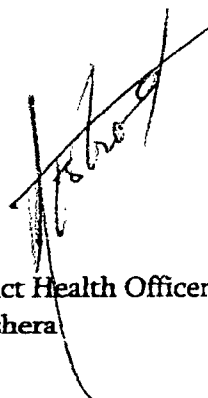
No. _____ / DHO NSR

Sd _____
District Health Officer
Nowshera

Date: 07/07/2017

Copy forwarded to the:

1. Incharge BHU Mughalki Nowshera.
2. Incharge Accounts Section DHO office Nowshera.
3. Official concerned.
4. Office record.


District Health Officer
Nowshera

6
12

18

(F)

The Medical Officer

BHEI Maghalka

Sir,

with reference to this office letter no
41-44 Mr Sami Ullah S/O Abdul Ghaffar
has been arrived to BHEI Maghalka on
8/17/17. I have advised on this to BHEI

Maghalka.

I shall be very thankful for this.

Yours sincerely



Mr Sami Ullah

Mali

BHEI Maghalka

Date 8/17/17

S
T.C

19

(G)



OFFICE OF THE DISTRICT HEALTH OFFICER NOWSHERA

Phone & Fax: 0923-580759

E-Mail: nowshera.edoh@gmail.com

No. _____ / DHO NSR

Date: ____/____/2021

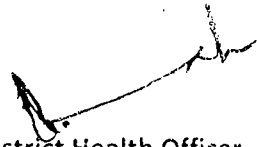
Office Order

In the light of Honorable supreme Court judgment dated 21/10/2020 and Secretary Health Khyber Pakhtunkhwa letter No.SOH(Lit-1)12(1)1-1/2020 dated 03/11/2020 , Mr.Sami Ullah S/O Abdul Ghaffar Mali working under the control of the undersigned are hereby terminated from their service with immediate effect.

Sd _____
District Health Officer
Nowshera

No. 6638-42 /DHO NSR Dated 15/02 /2021

- 1 PS to Secretary Health Khyber Pakhtunkhwa Peshawar.
- 2 PA to Director General Health Services Khyber Pakhtunkhwa Peshawar.
- 3 DAO Nowshera
- 4 Account Section DHO Office Nowshera.
- 5 Official concerned.


District Health Officer
Nowshera





20
GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

(H)

No. SOH(Lt-I)12(1)1020/2016/2245
Dated Peshawar the 19/03/2021

To
The District Health Officer
Nowshera

Subject - APPLICATION FOR RECTIFICATION IN APPOINTMENT
AGAINST EMPLOYEES SON QUOTA

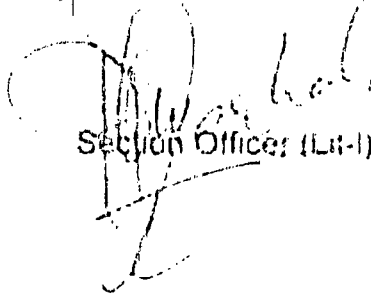
I am directed to refer to the subject noted above and to enclose herewith an application received from Mr Sami Ullah S/O Abdul Ghafar Resident of Mohallah Magarabi, Village Mughalki District Nowshera for further necessary action and report in the matter please.

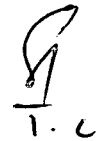
2 Being court matter may please be treated as most urgent

Enc: AS Above


(HAFEEZ-UR-REHMAN SHAH)
Section Officer (Lt-I)

Copy forwarded for information to the PS to Secretary Health


Section Officer (Lt-I)


T.C

21

I



OFFICE OF THE DISTRICT HEALTH OFFICER NOWSHERA

Phone & Fax: 0923-580759

E-Mail: nowshera.edoh@gmail.com

No. 8116 / DHO NSR

Date: 03/06/2021

To

The Honorable Secretary Health
Khyber Pakhtunkhwa

Subject: **Application for rectification in appointment against Employee Son Quota**

Respected Sir,

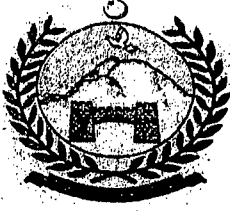
Reference letter No.SOH(Lit-1)12(1)1628/2018/2265 dated 19/03/2021 on the subject captioned above, I have the honor to state that the Official concerned terminated due to Honorable Supreme Court Judgment and your good office directive SOH(Lit-1)12(1)1-1/2020 dated 03/11/2020.

Sir It is also to mention that the concerned Official appointed through son Quota but due to name in Wirt petition Mr.Sami Ullah terminated by this Office as he has not been withdraw his name from Court case.

In the said matter this office need your worthy guideline.

(All the relevant documents are attached)


District Health Officer
Nowshera



22 (J)

GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

No. SOH(Lit-I)12(1)1628/2018
Dated Peshawar the 25.06.2021.

To,

The District Health Officer
Nowshera

Subject:- APPLICATION FOR RECTIFICATION IN APPOINTMENT
AGAINST EMPLOYEES SON QUOTA

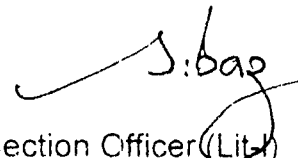
I am directed to refer to your letter No. 8116/DHO NSR dated 03-06-2021 on the subject noted above and to state that the Judgment dated 21-10-2020 of the Supreme Court of Pakistan in C.A NO. 265/2020 has no effect on appointment as Mali / Class-IV against the employee son quota made under the policy of the Provincial Govt. circulated vide notification No. SOR-1(S&GAD) 4-1/80 (Vol-III) dated 23-05-2000 governing the recruitment under quota reserved for appointment of children of retiring Class -IV Government servants on superannuation.

Yours Faithfully


Section Officer (Lit-I)

Copy forwarded for information to the:-

1. PS to Secretary Health.
2. PA to Deputy Secretary (Litigation) Health Department.


Section Officer (Lit-I)



IN THE PESHAWAR HIGH COURT, PESHAWAR

W.P No. 1008-P/2017

impleadment
a Petitioner
in the Court
of the dt. 7/8/17
1. Bahthia Al.
2. Rambal Ullah
3. Mst. Zeenat Bibi
4. Mudassir Khan
5. Azmat Ali
6. Anila
7. HU Chakid
8. Mst. Mansura

Sami Ullah S/o Abdul Ghaffar, Behishti, BHU - Mughal Kai District Nowshera

Shakir Ullah S/o Pervez Khan, Chokidar, BHU, Saleh Khan, District Nowshera

Mst. Zeenat Bibi W/o Zafeer Gul, Dai; BHU, Banda Mallahan District Nowshera

Mudassir Khan S/o Akbar Husain, Chowkidar, BHU Salekh Khana District Nowshera

1. Azmat Ali S/o Muzhar Ali R/o Kamada, Bahad, District Nowshera
2. Anila P.O. Bahad, District Nowshera
3. Mst. Mansura R/o Bahad, District Nowshera
4. HU Chakid R/o Bahad, District Nowshera
5. Mst. Mansura R/o Bahad, District Nowshera
6. HU Chakid R/o Bahad, District Nowshera
7. Mst. Mansura R/o Bahad, District Nowshera
8. HU Chakid R/o Bahad, District Nowshera
9. Mst. Mansura R/o Bahad, District Nowshera
10. HU Chakid R/o Bahad, District Nowshera
11. Mst. Mansura R/o Bahad, District Nowshera
12. HU Chakid R/o Bahad, District Nowshera
13. Mst. Mansura R/o Bahad, District Nowshera
14. HU Chakid R/o Bahad, District Nowshera
15. Mst. Mansura R/o Bahad, District Nowshera
16. HU Chakid R/o Bahad, District Nowshera
17. Mst. Mansura R/o Bahad, District Nowshera
18. HU Chakid R/o Bahad, District Nowshera
19. Mst. Mansura R/o Bahad, District Nowshera
20. HU Chakid R/o Bahad, District Nowshera
21. Mst. Mansura R/o Bahad, District Nowshera
22. HU Chakid R/o Bahad, District Nowshera
23. Mst. Mansura R/o Bahad, District Nowshera
24. HU Chakid R/o Bahad, District Nowshera
25. Mst. Mansura R/o Bahad, District Nowshera
26. HU Chakid R/o Bahad, District Nowshera
27. Mst. Mansura R/o Bahad, District Nowshera
28. HU Chakid R/o Bahad, District Nowshera
29. Mst. Mansura R/o Bahad, District Nowshera
30. HU Chakid R/o Bahad, District Nowshera
31. Mst. Mansura R/o Bahad, District Nowshera
32. HU Chakid R/o Bahad, District Nowshera
33. Mst. Mansura R/o Bahad, District Nowshera
34. HU Chakid R/o Bahad, District Nowshera
35. Mst. Mansura R/o Bahad, District Nowshera
36. HU Chakid R/o Bahad, District Nowshera
37. Mst. Mansura R/o Bahad, District Nowshera
38. HU Chakid R/o Bahad, District Nowshera
39. Mst. Mansura R/o Bahad, District Nowshera
40. HU Chakid R/o Bahad, District Nowshera
41. Mst. Mansura R/o Bahad, District Nowshera
42. HU Chakid R/o Bahad, District Nowshera
43. Mst. Mansura R/o Bahad, District Nowshera
44. HU Chakid R/o Bahad, District Nowshera
45. Mst. Mansura R/o Bahad, District Nowshera
46. HU Chakid R/o Bahad, District Nowshera
47. Mst. Mansura R/o Bahad, District Nowshera
48. HU Chakid R/o Bahad, District Nowshera
49. Mst. Mansura R/o Bahad, District Nowshera
50. HU Chakid R/o Bahad, District Nowshera
51. Mst. Mansura R/o Bahad, District Nowshera
52. HU Chakid R/o Bahad, District Nowshera
53. Mst. Mansura R/o Bahad, District Nowshera
54. HU Chakid R/o Bahad, District Nowshera
55. Mst. Mansura R/o Bahad, District Nowshera
56. HU Chakid R/o Bahad, District Nowshera
57. Mst. Mansura R/o Bahad, District Nowshera
58. HU Chakid R/o Bahad, District Nowshera
59. Mst. Mansura R/o Bahad, District Nowshera
60. HU Chakid R/o Bahad, District Nowshera
61. Mst. Mansura R/o Bahad, District Nowshera
62. HU Chakid R/o Bahad, District Nowshera
63. Mst. Mansura R/o Bahad, District Nowshera
64. HU Chakid R/o Bahad, District Nowshera
65. Mst. Mansura R/o Bahad, District Nowshera
66. HU Chakid R/o Bahad, District Nowshera
67. Mst. Mansura R/o Bahad, District Nowshera
68. HU Chakid R/o Bahad, District Nowshera
69. Mst. Mansura R/o Bahad, District Nowshera
70. HU Chakid R/o Bahad, District Nowshera
71. Mst. Mansura R/o Bahad, District Nowshera
72. HU Chakid R/o Bahad, District Nowshera
73. Mst. Mansura R/o Bahad, District Nowshera
74. HU Chakid R/o Bahad, District Nowshera
75. Mst. Mansura R/o Bahad, District Nowshera
76. HU Chakid R/o Bahad, District Nowshera
77. Mst. Mansura R/o Bahad, District Nowshera
78. HU Chakid R/o Bahad, District Nowshera
79. Mst. Mansura R/o Bahad, District Nowshera
80. HU Chakid R/o Bahad, District Nowshera
81. Mst. Mansura R/o Bahad, District Nowshera
82. HU Chakid R/o Bahad, District Nowshera
83. Mst. Mansura R/o Bahad, District Nowshera
84. HU Chakid R/o Bahad, District Nowshera
85. Mst. Mansura R/o Bahad, District Nowshera
86. HU Chakid R/o Bahad, District Nowshera
87. Mst. Mansura R/o Bahad, District Nowshera
88. HU Chakid R/o Bahad, District Nowshera
89. Mst. Mansura R/o Bahad, District Nowshera
90. HU Chakid R/o Bahad, District Nowshera
91. Mst. Mansura R/o Bahad, District Nowshera
92. HU Chakid R/o Bahad, District Nowshera
93. Mst. Mansura R/o Bahad, District Nowshera
94. HU Chakid R/o Bahad, District Nowshera
95. Mst. Mansura R/o Bahad, District Nowshera
96. HU Chakid R/o Bahad, District Nowshera
97. Mst. Mansura R/o Bahad, District Nowshera
98. HU Chakid R/o Bahad, District Nowshera
99. Mst. Mansura R/o Bahad, District Nowshera
100. HU Chakid R/o Bahad, District Nowshera

Government of Khyber Pakhtunkhwa, through Secretary Health, Civil Secretariat, Peshawar

- 2. The Director General Health Department, Khyber Road, Peshawar
- 3. District Health Officer, District Nowshera
- 4. District Support Manager (PPHI), DS & M, Nowshera Khyber Pakhtunkhwa

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

PRAYER-IN-WRIT-PETITION

On acceptance of this Writ Petition, an appropriate writ may please be issued declaring the petitioners were fit and eligible having the required qualification and experience gone through all the rigors

FILED TODAY
Deputy Registrar
04 MAR 2017

Handwritten initials

24

B

(7)

41

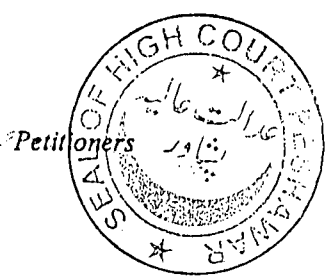
**IN THE PESHAWAR HIGH COURT,
PESHAWAR,
[Judicial Department].**

Writ Petition # 1008-P/2017
With C.Ms. No.93-P/2017 and 291-P/2018

Sami Ullah and others.

Versus

*Govt of Khyber Pakhtunkhwa through,
Secretary Health, Peshawar and others.*



Respondents

For Petitioners :- Mr. Zartaj Anwar, Advocate.
For Respondents :- Mr. Muhammad Riaz Khan, AAG.
Date of hearing: 14.03.2018

JUDGMENT

ROOH-UL-AMIN KHAN, J:- Through C.Ms. No.93-P of 2017 and 291-P of 2018, applicants named in the applications, seek their impleadment as petitioners in the main writ petition on the ground of having similar grievance against the respondents as that of the petitioners in the writ petition. The applications are supported by an affidavit. No prejudice would be caused to the case of either party, therefore, the applications are allowed and the applicants in both the applications be arrayed as petitioners in the main writ petition. The office shall make the necessary entry in the memorandum of writ petition and relevant Register.

Roohul Amin

2. By invoking the constitutional jurisdiction of this Court under Article 199 of the Constitution of Islamic

CERTIFIED TRUE COPY
[Signature]
02.03.2018

S

25

8

Republic of Pakistan, 1973, (the Constitution), the petitioners seek issuance of the following writ:-

"To direct declare the act of respondents with regard to termination of the petitioners from service as illegal, unlawful and without lawful authority and to direct the respondents to re-instate the petitioners in service and regularized their service.

Any other remedy deem appropriate by this Court, if not specifically asked for."

3. The petitioners, serving in various Basic Health Units (BHUs) of the Province of Khyber Pakhtunkhwa against different posts, seek regularization of their service on the basis of similarly placed employees as well as in light of judgment dated 09.01.2018, rendered by this Court in Writ Petition No.440-P/2017. In essence, their grievance is that on the recommendation of the duly constituted Selection Committee and acceptance of the offer of appointment by the Khyber Pakhtunkhwa People's Primary Healthcare Initiative (PPHI) District Support Unit (DSU), they were appointed in various BHUs of the Province on contract basis and the contract was extended from time to time but when they requested for regularization of their service, the respondents-department terminated their service. Petitioners alleged that the sole reason of their termination from service and refusal of regularization is that the respondents want to compensate

looked

*8
T.C*

ATTESTED
EXAMINER
Peshawar High Court
2 APR 2018

their blue eyes, thus, the act of the respondents being in flagrant violation of the law and merit policy is liable to be declared as illegal and unlawful. They prayed that since other similarly placed employees of the same department, have already been regularized, therefore, on the principle of a like to be treated alike, they may also be dealt with the same treatment.

4. Respondents have filed their comments, wherein they have denied the stance of the petitioners by asserting that the petitioners were working in a Non-Governmental Organization (NGO) under Sarhad Rural Support Program (SRSP), therefore, they being not civil servants, could not claim regularization.

5. Having heard the arguments of learned counsel for the parties, the controversy agitated in the instant writ petition has already been dealt with by this Court in its judgment dated 08.03.2017, rendered in Writ Petition No. 2050-P/2016, titled, "Dr. Arab Khan etc Vs Govt of KPK through Secretary Health KPK, Peshawar and others" followed by judgment dated 09.01.2018, passed Writ Petition No.440-P/2017, titled, "Shah Zaib Vs Govt of Khyber Pakhtunkhwa through Secretary Health, Peshawar and others". For the sake of convenience, the operative part of the judgment dated 09.01.2018 is reproduced below:-

Looked into

*S
T.C*

ATTEST
2018

"During the course of arguments learned counsel for the petitioner produced an attested copy of a judgment of this Court dated 08.03.2017, rendered in various writ petitions and placed in Writ Petition No. 2050-P/2016, titled, "Dr. Arab Khan etc Vs Govt of KPK through Secretary Health KPK, Peshawar and others" and contended that through the judgment (supra), this Court while deciding the writ petitions of the petitioners/ Class-IV employees, Medical Technicians, Bahesties, Sweepers and doctors, appointed under the SRSP, have cancelled their termination orders, issued by the respondents and have ordered regularization of their services. He requested that the case of the petitioner, being at par with the petitioners of the aforesaid writ petitioners, is entitled, to the same treatment.

When learned AAG was confronted with the judgment (supra), he could not wriggle out of the situation.

In this view of the matter, we, while following the ratio of judgment of this Court passed in Writ Petition No.2050-P/2016 decided on 08.03.2017, allow this writ petition, with the direction to the respondents to reinstate the petitioner in service from the date of his termination and issued a proper order of his regularization against the post of Chowkidar."

6. Learned counsel for the petitioners draw the attention of this Court to the judgment of the august apex Court dated 22.02.2017, rendered in Civil Appeal No.1870 to 1872 of 2016, whereby the appeals filed by the Provincial Government against the judgment of this Court

Learned Counsel

SI
T.C

ATTESTED
EXAMINER
Peshawar High Court
2018

has been dismissed and the regularization order of other colleagues of the petitioners, has been upheld. Operative part of the judgment (supra is reproduced, which read as under:-

"Pursuant to advertisement dated 07.06.2007, respondents were appointed on contract for one year on 01.08.2007. Contract was extended from time to time. Consequent upon promulgation of NWFP (now KPK) Employees (Regularization of Service Act, 2009) many contract employees were regularized. Respondents who were denied such entitlement filed writ petitions, subject matter of instant appeals, on the strength of earlier judgments rendered in writ petitions, as mentioned in Para 4 of the impugned judgment, were allowed.

Heard the arguments of the learned counsel for appellants. He was not able to point out any factual or legal infirmity in the judgment of the learned Tribunal, we do not find any merit in these appeal which are accordingly dismissed."

7. The case of the present petitioners being exactly similar with that of the petitioners of the above writ petitions, thus, we see no reason to form a view different from the one already expressed by this Court in the judgments (supra) as we are fortified by the principles laid down by the Hon'ble Supreme Court in of Hameed Akhtar Niaz (1996 SCMR 1185) and case titled, "Government of

Looked Sam

ST
T. C

[Signature]

29

6

12

Punjab through Secretary Education Civil Secretariat
Lahore and others Vs Sameena Parveen and other (2009
SCMR 01). Following the ratio of judgments (supra), this writ petition is also allowed and the respondents are directed to reinstate the petitioners in service from the date of their termination and issued a proper order of their regularization against their respective posts.

Announced:
14.03.2018

Sirej Afidi P.S.

DB of Mr. Justice Rooh-ul-Amin Khan and Mr. Justice Ikramullah Khan.



CERTIFIED TRUE COPY

Presented by: Advocate General Sindh
The Government of Sindh, Karachi-75100

02 MAY 2018

No. 18998
Date of Filing 17/5/18
No of Pages 18
Copies 707
Urgent 707
Date of Receipt 02/5/18
Received by Mah buz

S
T.C

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

MR. JUSTICE GULZAR AHMED, HCJ
MR. JUSTICE FAISAL ARAB
MR. JUSTICE IJAZ UL AHSAN

CIVIL APPEAL NOS. 228 TO 306 & 91-P TO 100-P OF 2020

(Against the judgments dated 18.02.2014, 26.06.2014, 26.09.2017, 23.11.2017, 14.10.2014, 17.02.2015, 29.09.2015, 07.10.2015, 12.11.2015, 03.02.2016, 04.02.2016, 09.02.2016, 27.09.2016, 06.09.2016, 20.10.2016, 13.10.2015, 11.01.2017, 02.02.2017, 17.05.2017, 12.04.2017, 04.10.2017, 22.11.2017, 20.11.2017, 23.11.2017, 22.1.2017, 05.12.2017, 25.10.2017, 30.11.2017, 11.01.2017, 17.01.2018, 14.03.2018, 01.03.2018, 17.04.2018, 04.04.2018, 10.04.2018, 15.05.2018, 05.10.2017, 17.07.2018, 04.04.2018, 21.06.2018, 04.09.2018, 11.10.2018, 01.11.2018, 08.11.2018, 14.11.2018, 29.11.2018, 05.12.2018, 28.11.2018, 16.10.2018, 22.01.2019, 12.02.2019, 11.01.2019, 14.03.2019, 02.04.2019, 18.12.2018, 19.06.2019, 30.10.2019, 14.11.2019, of the Peshawar High Court, Peshawar, Abbottabad Bench, D.I. Khan Bench, Bannu Bench & Mingora Bench passed in W.P.1924/2013, W.P.2066-P/2013, W.P.2289-P/2013, W.P.390-P/2012, W.P.1931-P/13, W.P.3029-P/2014, W.P.196-P/2015, W.P.1495-P/2015, W.P.1941-P/2015, W.P.3412-P/2015, W.P.1540-P/2013, W.P.767-P/2016, W.P.382-A/2014, W.P.3451-P/2012, W.P.439-D/2013, W.P.439-D/2013, W.P.440-D/2013, W.P.3288/2016, W.P.3474-P/2016, W.P.977-B/2016, W.P.1088-P/2015, W.P.3958-P/2014, W.P.1298-P/2017, W.P.287-M/2013, W.P.176-B/2017, W.P.37-P/2017, W.P.38-P/2017, W.P.4733-P/2016, W.P.1800/2017, W.P.1600-P/2016, W.P.2234-P/2017, W.P.4801-P/2017, W.P.2643-P/2012, W.P.77/2010, W.P.462-P/2017, W.P.686-P/2012, W.P.320/2009, W.P.451-P/2017, W.P.1008-P/2017, W.P.4645-P/2016, W.P.665-D/2017, W.P.3139-P/2017, W.P.786-A/2016, W.P.787-A/2016, W.P.678-A/2017, W.P.1109-A/2016, W.P.449-P/2015, W.P.1674-P/2016, W.P.120-M/2015, W.P.4490-P/2016, W.P.866-A/2018, W.P.3372-P/2014, W.P.1786-P/2013, W.P.2361-P/2014, W.P.691-P/2018, W.P.5212-P/2017, W.P.3108-P/2018, W.P.1015-A/2018, W.P.3289-P/2017, W.P.1673-P/2018, W.P.5445-P/2018, W.P.9M/2017, W.P.818-B/2017, W.P.3766-P/2014, W.P.4062-P/2015, W.P.4063-P/2015, W.P.4064-P/2015, W.P.4110-P/2015, W.P.4165-P/2015, W.P.4206-P/2015, W.P.836-D/2017, W.R.2498-P/2012, W.P.4869-P/2017, W.P.6347-P/2018, W.P.4272-P/2017, W.P.6462-P/2018, W.P.2223-P/2017, W.P.4039-P/2018, Rev.P.260-P/2018 in W.P.1673-P/2018, W.P.-2394P/2019, W.P.-2484P/2019, W.P.-2535P/2019, W.P.-2558P/2019, W.P.-2560P/2019, W.P.-2589P/2019, W.P.-2684P/2019, W.P.-2828P/2019, W.P.-4671P/2019, W.P.-5064P/2019)

Govt. of KPK through Secretary Higher Education Archives & Libraries Department, Peshawar etc. In C.As. 228, 234 & 267/2020

Govt. of KPK through Chief Secretary, Peshawar etc. In C.As. 229, 230, 236, 238, 244, 245, 251, 255, 256, 257, 258, 263, 266, 273, 274, 276, 283, 286, 287, 301, 303, 305, 306, 91-P to 100-P/2020

Deputy Director, Finance & Administration FATA through Additional Chief Secretary, FATA Peshawar etc. In C.A. 231/2020

Director, Human Resource Development, Peshawar etc. In C.A. 232/2020

ATTESTED

Senior Court Associate
Supreme Court of Pakistan
Islamabad

31

Additional Chief Secretary FATA, FATA Secretariat, Warsak Road, Peshawar etc.	In C.As. 233, 261, 262, 264, 279, 281, 290, 291, 292, 293, 294, 295, 296, 297 & 299/2020
Secretary, Government of KPK Agriculture, Livestock & Dairy Development Cooperatives & Fisheries, Peshawar etc.	In C.A. 235/2020
Govt. of KPK through Secretary Health, Peshawar etc.	In C.As. 237, 241, 242, 243, 247, 248, 252, 253, 254, 265, 269, 270, 271, 277, 280, 284, 300 & 302/2020
Govt. of KPK through Secretary Public Health Engineering Peshawar	In C.A. 239/2020
Govt. of KPK through Secretary Industries, Commerce & Technical Education, Manpower Training Department, Peshawar etc.	In C.As. 240, 259 & 272/2020
Govt. of KPK through Secretary Agriculture, Livestock & Cooperative Department, Peshawar etc.	In C.As. 246, 249, 282, 285 & 289/2020
District Officer (DO) On-Farm Water Management, Dir Lower etc.	In C.A. 250/2020
Govt. of KPK through Secretary Higher Education, Peshawar etc.	In C.A. 260/2020
Govt. of KPK through Secretary Administration Department, Peshawar etc.	In C.A. 268/2020
Deputy Commissioner, Upper Dir etc.	In C.A. 275/2020
Directorate of Livestock & Dairy Development FATA through its Director, FATA Secretariat, Peshawar etc.	In C.A. 278/2020
Govt. of KPK through Secretary Energy & Power Peshawar etc.	In C.A. 288/2020
Govt. of KPK through Secretary Elementary & Secondary Education Peshawar etc.	In C.A. 298/2020
Secretary Health Service, FATA Secretariat Warsak Road, Peshawar etc.	In C.A. 304/2020

...Appellant(s)

ATTESTED

Senior Court Associate
Supreme Court of Pakistan
Islamabad

32

VERSUS

Sher Ali etc.	In C.A. 228/2020
Mst. Mehrun Nissa etc.	In C.A. 229/2020
Mst. Nahita Adil etc.	In C.A. 230/2020
Dr. Lal Marjan & another	In C.A. 231/2020
Sher Aman	In C.A. 232/2020
Sher Farooq	In C.A. 233/2020
Qismat Gul etc.	In C.A. 234/2020
Barkat Ali etc.	In C.A. 235/2020
Lal Rehman etc.	In C.A. 236/2020
Dr. Asadullah etc.	In C.A. 237/2020
Syeda Humaira Sultana etc.	In C.A. 238/2020
Abdul Manan etc.	In C.A. 239/2020
Shahzad Iqbal etc.	In C.A. 240/2020
Muqadar Shah etc.	In C.A. 241/2020
Nazeerullah etc.	In C.A. 242/2020
Muhammad Farooq and another	In C.A. 243/2020
Naeem Khan etc.	In C.A. 244/2020
Dr. Muhammad Ishraq etc.	In C.A. 245/2020
Zain ul Abedin etc.	In C.A. 246/2020
Kamran Khan etc.	In C.A. 247/2020
Jawad Ali etc.	In C.A. 248/2020
Saeed ul Hassan etc.	In C.A. 249/2020
Shahzada	In C.A. 250/2020
Sher Bahadar etc.	In C.A. 251/2020
Inamullah etc.	In C.A. 252/2020
Fazal Rabbi etc.	In C.A. 253/2020
Shafiq ur Rehman etc.	In C.A. 254/2020
Muhammad Imran Hamayun Khan	In C.A. 255/2020
Muhammad Waris Khan	In C.A. 256/2020
Muhammad Yasir Jamshed etc.	In C.A. 257/2020
Muhammad Younas etc.	In C.A. 258/2020
Rehmat Gul etc.	In C.A. 259/2020
Umar Muhammad Farooq etc.	In C.A. 260/2020
Bilal Ahmed and another	In C.A. 261/2020
Gul Wali Shah etc.	In C.A. 262/2020
Salih Shah & another	In C.A. 263/2020
Riaz & another	In C.A. 264/2020
Samiullah etc.	In C.A. 265/2020
Irshad Hussain etc.	In C.A. 266/2020
Muhammad Asif Mehmood	In C.A. 267/2020
Liaqat Ali	In C.A. 268/2020
Nisar Ahmad	In C.A. 269/2020
Reema Bibi	In C.A. 270/2020
Babar Sultan	In C.A. 271/2020
Muhammad Asif & another	In C.A. 272/2020
Muhammad Irfan & another	In C.A. 273/2020
Ijaz Ali Shah etc.	In C.A. 274/2020
Mst. Nusrat Begum	In C.A. 275/2020
Muhammad Iqbal etc.	In C.A. 276/2020
Mumtaz Hussain & another	In C.A. 277/2020
Dr. Sajjad ur Rehman	In C.A. 278/2020
Farzan Ullah etc.	In C.A. 279/2020
Ishfaq Bacha	In C.A. 280/2020
Zaher Ud Din	In C.A. 281/2020
Syed Muhammad Iqbal etc.	In C.A. 282/2020

ATTESTED

Senior Court Associate
Supreme Court of Pakistan
Islamabad

33

Muhammad Nawaz etc.	In C.A. 283/2020
Raheel Zeb etc.	In C.A. 284/2020
Iltaf	In C.A. 285/2020
Saida Rehman	In C.A. 286/2020
Muhammad Tahir Afridi	In C.A. 287/2020
Irshad Ahmad etc.	In C.A. 288/2020
Matiullah	In C.A. 289/2020
Ijaz Hussain & another	In C.A. 290/2020
Alipur Khan	In C.A. 291/2020
Qimat Khan	In C.A. 292/2020
Sher Alam etc.	In C.A. 293/2020
Naikdar Khan	In C.A. 294/2020
Yousaf Khan etc.	In C.A. 295/2020
Wali Khan	In C.A. 296/2020
Saifur Khan & another	In C.A. 297/2020
Mrs. Nayyar Nazir Zaidi	In C.A. 298/2020
Nazir Gul etc.	In C.A. 299/2020
Nadeem Ahmad etc.	In C.A. 300/2020
Muhammad Arif	In C.A. 301/2020
Faizan Rashid & another	In C.A. 302/2020
Sonia Nawab etc.	In C.A. 303/2020
Muhammad Zada & another	In C.A. 304/2020
Naik Amal Shah etc.	In C.A. 305/2020
Mst. Saeeda Rehman	In C.A. 306/2020
Khan Zeb and others	In C.A. 91-P/2020
Mushtaq and others	In C.A. 92-P/2020
Zulfiqar Ahmad and others	In C.A. 93-P/2020
HC Muhammad Ashraf and others	In C.A. 94-P/2020
HC Muhammad Ramzan and others	In C.A. 95-P/2020
HC Khewa Din and others	In C.A. 96-P/2020
Munir Khan and others	In C.A. 97-P/2020
HC Shireen Khan and others	In C.A. 98-P/2020
Dauod Jan and others	In C.A. 99-P/2020
Gul Khan and others	In C.A. 100-P/2020

...Respondent(s)

IN ATTENDANCE:**CIVIL APPEAL NOS. 248, 252, 253, 254, 265, 269, 270, 271, 277, 280, 284 & 302 OF 2020 (CATEGORY-I)**

For the Appellants: Barrister Qasim Wadood, Addl. A.G. KP
Mr. Atif Ali Khan, Addl. A.G. KP
(In all cases)

For the Respondents: Mr. Muhammad Shoaib Shaheen, ASC
Syed Rifaqat Hussain Shah, AOR
(For respondents 1-3, 5, 6, 8-25 in CA 248/2020)

Nemo
(For respondents 4, 7, 26 in CA 248/2020)

Mr. Mukhtar Ahmed Muneri, ASC
(For respondents 1, 3, 7, 8, 11, 13, 14, 16, 19-21 in CA 252/2020, for respondents 3, 6, 7, 18, 19 in CA 265/2020, and for respondent 2 in CA 284/2020)

ATTESTED

Senior Court Associate
Supreme Court of Pakistan
Islamabad

34

Mr. Rehman Ullah, ASC

(For respondents 4, 5, 15, 18 in CA 252/2020 & for respondent NO. 2 in CA 253/2020 and respondent 1 in CA 254/2020)

Nemo

(For respondent 1 in CA 253 & 284/2020, for respondents in CA 277/2020, for respondents in CA 302/2020 and for remaining respondents in CA 252/2020, & CA 265/2020, CA 269, 271 & 270/2020)

Mr. Altaf Ahmed, ASC

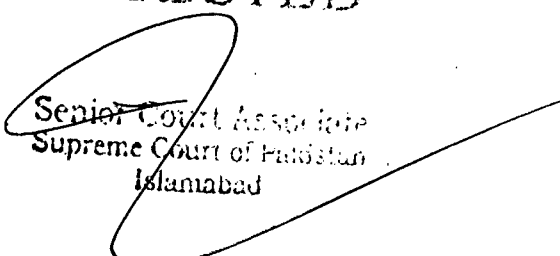
(For respondents 5, 8, 25, 27, 31 in CA 265/2020)

Mr. Muhammad Siddique, ASC

(For respondents 1-2, 8-13 in CA 269/2020 and for respondents 1, 3-7, 9 in CA 271/2020)

Mr. Nasir Mehmood, ASC

(For respondents 1-12 in CA 280/2020)

CIVIL APPEAL NOS. 276, 305, 91-P TO 100-P/2020
(CATEGORY-II)**For the Appellants:****Mr. Zahid Yousaf Qureshi, Addl. A.G. KPK**
Barrister Qasim Wadood, Addl. A.G. KPK
(In all cases)**For the Respondents:****Mr. Aftab Alam Yasir, ASC**
Syed Rifaqat Hussain Shah, AOR
(For respondents 1-6, 8-11, 13, 14, 17, 19, 21-24, 28-31, 33-36, 41-48, 50-56, 58-62, 68, 69, 71-74, 7-80, 85, 87-88 in CA 305/2020 and for respondents 1-84 in CA 276/2020)**Khan Zeb in person for all respondents**
(In CAs 91-P to 100-P/2020)**CIVIL APPEAL NOS. 268 & 288/2020**
(CATEGORY-III)**For the Appellants:****Mr. Shumail Ahmed Butt, A.G. KPK**
Mr. Atif Ali Khan, Addl. A.G. KPK
Barrister Qasim Wadood, Addl. A.G. KPK
(In all cases)**For the Respondents:****In person**
(In CP 268/2020)**For the Respondents:****Mr. Muhammad Ijaz Khan Sabi, ASC**
(For respondents 1-9, 11-36 in CA 288/2020)**IN ALL REMAINING CASES****For the Appellants:****Mr. Shumail Ahmed Butt, A.G. KPK**
Barrister Qasim Wadood, Addl. A.G. KPK
Mr. Atif Ali Khan, Addl. A.G. KPK
Mr. Zahid Yousaf Quresi, Addl. A.G. KPK**ATTESTED**
Senior Court Associate
Supreme Court of Pakistan
Islamabad

35

For the Respondents: Mr. Khalid Rehman, ASC
 Mr. Muhammad Shoaib Shaheen, ASC
 Mr. Afnan Karim Kundi, ASC
 Mr. Abdul Qayum Qureshi, ASC
 Hafiz S.A. Rehman, Sr. ASC
 Mr. Saleem Ullah Ranazai, ASC
 Mr. Nasir Mehmood, ASC
 Mr. Muhammad Asif Yousafzai, ASC
 Barrister Adnan Khan, ASC
 Mr. Waseem ud Din Khattak, ASC
 Mr. Muzamil Khan, ASC
 Mr. Altaf Ahmed, ASC
 Mr. Muhammad Anwar Khan, ASC
 Mr. Muhammad Munir Paracha, ASC
 Mr. Asad Jan, ASC

Official respondents: Mr. Asif Khan, LO, HED Department, KP
 Mr. Nadeem Akhtar, DS Litigation HED
 Department, KP
 Ms. Irum Shaheen, Deputy Director, HED
 KPK
 Mr. Lajbar Khan, SDO, PHE
 Mr. Ziaullah, LO Health Department, KP
 Mr. Muhammad Saeed, Dy. Director, PSC
 Mr. Asif Ali, Dy Secretary, E&P
 Department
 Ms. Sheema Ayb, AD(L) PEDO
 Mr. Ghazab Taj, AD Chief Settlement,
 FATA

Date of Hearing: 21.10.2020

...
ORDER

GULZAR AHMED, CJ.-

**CIVIL APPEAL NOS. 248, 252, 253, 254, 265, 269, 270, 271,
 277, 280, 284 & 302 OF 2020**

We have heard learned counsel for the parties and have also gone through the record of the case. For reasons to be recorded later, all these appeals are allowed and the impugned judgments are set aside.

CIVIL APPEAL NOS. 276, 305, 91-P to 100-P/2020

2. By consent of the learned counsel for the parties, the impugned judgments dated 21.06.2018, 19.06.2019 & 14.11.2019 are set aside and Writ Petition Nos. 4490-P/2016, 4039-P/2018, 2394-P/2019, 2484-P/2019, 2535-P/2019, 2558-P/2019, 2560-P/2019, 2589-P/2019, 2684-P/2019, 2828-P/2019, 4671-P/2019

ATTESTED

Senior Court Associate
 Supreme Court of Pakistan
 Islamabad

& 5064-P/2019 are dismissed. The respondents shall, however, avail remedy pursuant to call up letters if and when cause of action arises to them and at the same time the appellant shall consider the letters and take appropriate measures regarding the respondents in accordance with law. The appeals are allowed in terms noted above.

CIVIL APPEAL NO. 288/2020

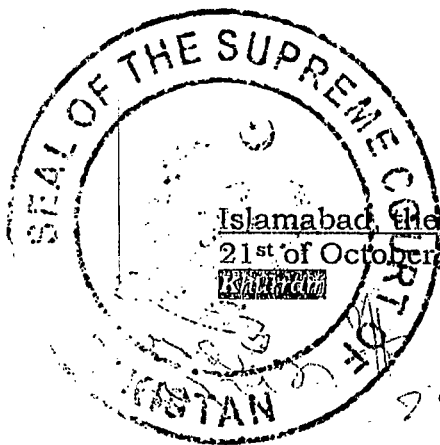
3. At the outset, learned counsel for the respondents admits that the High Court in the impugned judgment dated 16.10.2018 has wrongly relied upon the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018. He contends that this very law was not applicable to the case of the respondents as they were governed by statute namely Pakhtunkhwa Energy Development Organization Act, 1993 and the rules framed thereunder. In this view of the submission made by the learned counsel for the respondents, the impugned judgment is set aside and the matter is remanded to the High Court for deciding Writ Petition No. 09-M/2017 of the respondents afresh in accordance with law. The appeal in the above terms stands allowed.

CIVIL APPEAL NO. 268/2020

4. Respondent seeks time to engage a counsel. Adjourned to a date after two weeks.

REMAINING CASES

5. Rest of the appeals are adjourned for a date after two weeks.



Sd/-HCJ

Sd/-J

Sd/-J

certified to be True Copy

Senior Court Associate
Supreme Court of Pakistan
Islamabad

GR No: 16147/20 Civil/Criminal
Date of Production: 27-10-20
No of Words: 2100
No of Pages: 21
Requisition Fee: 5-00
Copy Fee In: 13-02
Court Fee Stamp: 18-02
Date of Completion: 29-10-20
Date of Delivery of Report: 02/11/2020
Compared by: S R H Subudh

Power of Attorney.BEFORE THE HONORABLE PESHAWAR HIGH COURT, PESHAWAR.

Suit
Application
Appeal
Case
Execution
Writ Petition

No. _____ -P / 2021

Sami Ullah

Plaintiffs
Applicants
Appellants
Petitioner
D/H

VERSUS

Govt: of KP & others

Defendants
Opponents
Respondents
J/D

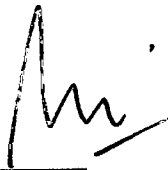
I/We do hereby appoint **Mr. Mukhtar Ahmad Maneri, Advocate Supreme Court of Pakistan & Mr. Amaad Nasir Kundi, Advocate High Court,** to appear and act for me/us in the above mentioned proceedings and to conduct, prosecute and/or defend and/or compromise the same and any other proceedings that may arise out of or be connected with the same, with full power and authority to sign all necessary pleadings, petitions, applications papers and documents, to pay all proper fees and costs, to file and withdraw all documents and to apply for and receive payment of all moneys that may be or become due and payable to me/us during the course or after the completion or conclusion of the said proceedings, and to settle, compromise or to withdraw the said proceedings.

ALREADY TODAY
Notary Registrar
09 AUG 2021


Signature

Received on 09.08.2021 from Petitioner

Accepted.



ADVOCATE



ADVOCATES

Mukhtar Ahmad Maneri & Associates

Advocates & Legal Consultants

CNIC # 16202-0997383-9

BC-11-1744

Office # 2, 2nd Floor, Juma Khan Plaza, Near Directorate of Health, Govt: of KPK, Opposite Super Gas CNG, Warsak Road,
Peshawar. Tele: 091-5200710. Mob: 0333-215-6006. Email: mukhtaradvocate@yahoo.com

IN THE PESHAWAR HIGH COURT, PESHAWAR.
OBJECTION SLIP

No: 3865

Sami Ullah V/S Govt of KP

10 Copies of annexures are not legible. 4 to 7

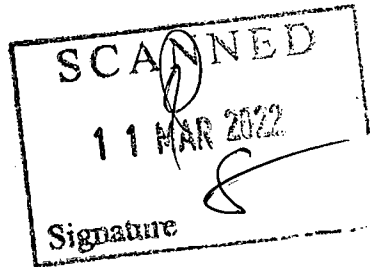

READER

Returned with above mentioned objections for removal to be re-submitted on or before _____

01 February 2022


Deputy Registrar/ Incharge
Peshawar High Court, Peshawa

- objection removed & re-submitted today.



15

BEFORE THE HONOURABLE PESHAWAR HIGH COURT PESHAWAR.

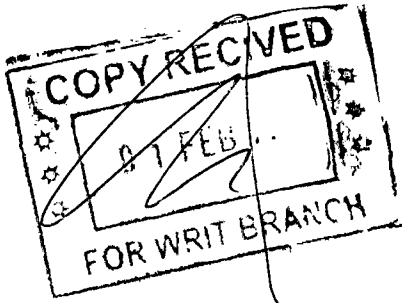
Writ petition No.3396-P/2021

Mr. Sami Ullah..... Petitioner

VS

Government of Khyber Pakhtunkhwa Respondents

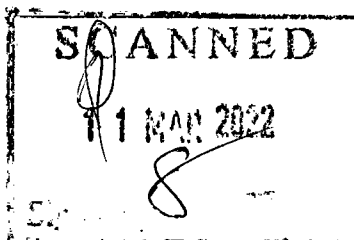
S.No.	Description of Documents	Annex	Pages
1	Para wise Comments on behalf of respondents		1-2
2	Affidavit		3
3	Honorable Supreme Court Judgement	1	4-10
4	Peshawar High Court Judgement	2	11-17
9	Authority Letter		18



Respondent No. 2
District Health Officer
District Peshawar

FILED TODAY
Deputy Registrar
01 FEB 2022

RE-FILED TODAY
Deputy Registrar
10 MAR 2022



①

BEFORE THE HONOURABLE PESHAWAR HIGH COURT PESHAWAR.

Writ petition No.3396-P/2021

Mr. Sami Ullah..... Petitioner

VS

Government of Khyber Pakhtunkhwa Respondents

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS.

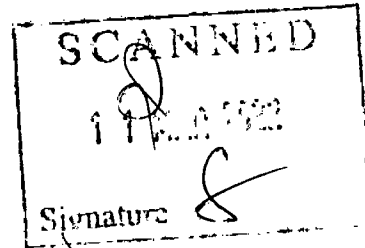
Respectfully Sheweth,

Preliminary objections;

- i. That petitioner has neither cause of action nor locus standi.
- ii. That petitioner has not come to the hon'able Court with clean hands.
- iii. The petitioner is just pressurizing the respondents for an unlawful action.
- iv. That the petitioner has concealed the actual position and facts from this Hon'able Court.
- v. That the petition is not maintainable in its present form also in present circumstances.

FACTS:

1. Para 1 is correct.
2. Para 2 is correct.
3. Para 3 is correct.
4. Petitioner is treated according to the law. Apex Honorable Supreme court decided to set aside the decision Honorable Peshawar High court as annexure 1.
5. Petitioner neither withdrawn name from writ petition nor he provide affidavit to respondent 2 for elucidate his position. This point raise contradiction why petitioner was not withdrawn his name from W.P. No. 1008-P/2017 as annexure 2.
6. As discussed in para 5. Petitioner not clarified his position.
7. Petitioner termination is order done by respondent 2 according in the light of Honorable August Supreme Court of Pakistan.
8. It is pertinent to mention that Honorable High Court Peshawar judgement dated is 14-03-2018 of W.P # 1008-P/2017. While petitioner appointed on 07-07-2017 vide letter # 8541-44/DHO-NSR. Even after imminently one year of service petitioner did not withdraw his name from W.P 1008-P/2017.
9. As discussed in Para 8.



FILED TODAY
Deputy Registrar
01 FEB 2022

3 2022
District Health Officer
Peshawar

2

10. Petitioner even did not submit any statement to clarify about his position till the Honorable August Court of Pakistan.

GROUNDS:

- A. Respondent 2 take action according in the light of August Court of Pakistan as annexure 1.
- B. Para b is correct.
- C. As earlier discussed, petitioner is terminated according to the respective direction of apex Court of Pakistan.
- D. Petitioner name has not removed from writ petition 1008-P/2017 nor from the C.A # 265/2020. Hence, termination order had been issued.
- E. As discussed above in para d. Petition had in contradictive position to avail the benefits of W.P 1008-P/2017 judgement OR class-IV Mali appointment without benefits.
- F. Petitioner did not elucidate his position whether to take class IV appointment OR not.
- G. Respondent 2 is law following officer nothing has been concealed from this Honorable Court.

It is therefore humbly prayed that writ petition may kindly be dismissed with cost.

FILED TODAY
Deputy Registrar
01 FEB 2022

Respondent No. 2
District Health Officer
Nowshera
Nowshera

IN THE PESHAWAR HIGH COURT PESHAWAR

Para wise comments in

WP No. 3396-P/2021

Sami Ullah..... PETITIONER



VERSUS

Government of Khyber Pakhtunkhwa Respondents


AFFIDAVIT

Dr. Muhammad Fahad S/O Muhammad Amjid Riaz MO DHO Office Nowshera do hereby solemnly affirm and declare that the Para-wise comments on behalf of Respondent No. 02 (District Health Officer Nowshera) is true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

Identified by

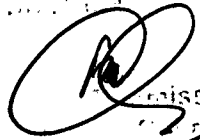
for 
Additional Advocate General
Khyber Pakhtunkhwa
Peshawar 

Deponent


Dr. Muhammad Fahad
ID: 17301-4761553-3
0323-9696789

FILED TODAY

Deputy Registrar
01 FEB 2022

2186
I have stated that the above was verified on solemnly
oath before me on this 01
Feb 2022 at m. Fahad
m. Amjid Riaz Nowshera
AAG

Commissioner
Nowshera
01/02/2022

(4)

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

MR. JUSTICE GULZAR AHMED, HCJ
MR. JUSTICE FAISAL ARAB
MR. JUSTICE IJAZ UL AHSAN

CIVIL APPEAL NOS. 228 TO 306 & 91-P TO 100-P OF 2020

(Against the judgments dated 18.02.2014, 26.06.2014, 26.09.2017, 23.11.2017, 14.10.2014, 17.02.2015, 29.09.2015, 07.10.2015, 12.11.2015, 08.02.2016, 04.02.2016, 09.02.2016, 27.09.2016, 06.09.2016, 20.10.2016, 13.10.2015, 11.01.2017, 02.02.2017, 17.05.2017, 12.04.2017, 04.10.2017, 22.11.2017, 20.11.2017, 23.11.2017, 22.1.2017, 05.12.2017, 25.10.2017, 30.11.2017, 11.01.2017, 17.01.2018, 14.03.2018, 01.03.2018, 17.04.2018, 04.04.2018, 10.04.2018, 15.05.2018, 05.10.2017, 17.07.2018, 04.04.2018, 21.06.2018, 04.09.2018, 11.10.2018, 01.11.2018, 08.11.2018, 14.11.2018, 29.11.2018, 05.12.2018, 28.11.2018, 16.10.2018, 22.01.2019, 12.02.2019, 11.01.2019, 14.03.2019, 02.04.2019, 18.12.2018, 19.06.2019, 30.10.2019, 14.11.2019, of the Peshawar High Court, Peshawar, Abbottabad Bench, D.I. Khan Bench, Bannu Bench & Mingora Bench passed in W.P.1924/2013, W.P.2066-P/2013, W.P.2289-P/2013, W.P.390-P/2012, W.P.1931-P/13, W.P.3029-P/2014, W.P.196-P/2015, W.P.1495-P/2015, W.P.1941-P/2015, W.P.3412-P/2015, W.P.1540-P/2013, W.P.767-P/2016, W.P.382-A/2014, W.P.3451-P/2012, W.P.439-D/2013, W.P.439-D/2013, W.P.440-D/2013, W.P.3288/2016, W.P.3474-P/2016, W.P.977-B/2016, W.P.1088-P/2015, W.P.3958-P/2014, W.P.1298-P/2017, W.P.287-M/2013, W.P.176-B/2017, W.P.37-P/2017, W.P.38-P/2017, W.P.4733-P/2016, W.P.1800/2017, W.P.1600-P/2016, W.P.2234-P/2017, W.P.4801-P/2017, W.P.2643-P/2012, W.P.77/2010, W.P.462-P/2017, W.P.686-P/2012, W.P.320/2009, W.P.451-P/2017, W.P.1008-P/2017, W.P.4645-P/2016, W.P.665-D/2017, W.P.3139-P/2017, W.P.786-A/2016, W.P.787-A/2016, W.P.678-A/2017, W.P.1109-A/2016, W.P.449-P/2015, W.P.1674-P/2016, W.P.120-M/2015, W.P.4490-P/2016, W.P.866-A/2018, W.P.3372-P/2014, W.P.1786-P/2013, W.P.2361-P/2014, W.P.691-P/2018, W.P.5212-P/2017, W.P.3108-P/2018, W.P.1015-A/2018, W.P.3289-P/2017, W.P.1673-P/2018, W.P.5445-P/2018, W.P.9M/2017, W.P.818-B/2017, W.P.3766-P/2014, W.P.4062-P/2015, W.P.4063-I/2015, W.P.4064-P/2015, W.P.4110-P/2015, W.P.4165-P/2015, W.P.4206-P/2015, W.P.836-D/2017, W.P.2498-P/2012, W.P.4869-P/2017, W.P.6347-P/2018, W.P.4272-P/2017, W.P.6462-P/2018, W.P.2223-P/2017, W.P.4039-P/2018, Rev.P.260-P/2018 in W.P.1673-P/2018, W.P.-2394P/2019, W.P.-2484P/2019, W.P.-2535P/2019, W.P.-2558P/2019, W.P.-2560P/2019, W.P.-2589P/2019, W.P.-2684P/2019, W.P.-2828P/2019, W.P.-4671P/2019, W.P.-5064P/2019)

Govt. of KPK through Secretary Higher Education Archives & Libraries Department, Peshawar etc. In C.As. 228, 234 & 267/2020

Govt. of KPK through Chief Secretary, Peshawar etc. In C.As. 229, 230, 236, 238, 244, 245, 251, 255, 256, 257, 258, 263, 266, 273, 274, 276, 283, 286, 287, 301, 303, 305, 306, 91-P to 100-P/2020

Deputy Director, Finance & Administration FATA through Additional Chief Secretary, FATA Peshawar etc. In C.A. 231/2020

Director, Human Resource Development, Peshawar etc. In C.A. 232/2020

ATTESTED

Senior Court Associate
Supreme Court of Pakistan
Islamabad

37
2020/10/10

- Additional Chief Secretary FATA, FATA Secretariat, Warsak Road, Peshawar etc. In C.As. 233, 261, 262, 264, 279, 281, 290, 291, 292, 293, 294, 295, 296, 297 & 299/2020
- Secretary, Government of KPK Agriculture, Livestock & Dairy Development Cooperatives & Fisheries, Peshawar etc. In C.A. 235/2020
- Govt. of KPK through Secretary Health, Peshawar etc. In C.As. 237, 241, 242, 243, 247, 248, 252, 253, 254, 265, 269, 270, 271, 277, 280, 284, 300 & 302/2020
- Govt. of KPK through Secretary Public Health Engineering Peshawar In C.A. 239/2020
- Govt. of KPK through Secretary Industries, Commerce & Technical Education, Manpower Training Department, Peshawar etc. In C.As. 240, 259 & 272/2020
- Govt. of KPK through Secretary Agriculture, Livestock & Cooperative Department, Peshawar etc. In C.As. 246, 249, 282, 285 & 289/2020
- District Officer (DO) On-Farm Water Management, Dir Lower etc. In C.A. 250/2020
- Govt. of KPK through Secretary Higher Education, Peshawar etc. In C.A. 260/2020
- Govt. of KPK through Secretary Administration Department, Peshawar etc. In C.A. 268/2020
- Deputy Commissioner, Upper Dir etc. In C.A. 275/2020
- Directorate of Livestock & Dairy Development FATA through its Director, FATA Secretariat, Peshawar etc. In C.A. 278/2020
- Govt. of KPK through Secretary Energy & Power Peshawar etc. In C.A. 288/2020
- Govt. of KPK through Secretary Elementary & Secondary Education Peshawar etc. In C.A. 298/2020
- Secretary Health Service, FATA Secretariat Warsak Road, Peshawar etc. In C.A. 304/2020

...Appellant(s)

ATTESTED

Senior Court Associate
Supreme Court of Pakistan
Islamabad

3-229
District Health Officer
Nowshera

VERSUS

Sher Ali etc.	In C.A. 228/2020
Mst. Mehrun Nissa etc.	In C.A. 229/2020
Mst. Nahita Adil etc.	In C.A. 230/2020
Dr. Lal Marjan & another	In C.A. 231/2020
Sher Aman	In C.A. 232/2020
Sher Farooq	In C.A. 233/2020
Qismat Gul etc.	In C.A. 234/2020
Barkat Ali etc.	In C.A. 235/2020
Lal Rehman etc.	In C.A. 236/2020
Dr. Asadullah etc.	In C.A. 237/2020
Syeda Humaira Sultana etc.	In C.A. 238/2020
Abdul Manan etc.	In C.A. 239/2020
Shahzad Iqbal etc.	In C.A. 240/2020
Muqadar Shah etc.	In C.A. 241/2020
Nazeerullah etc.	In C.A. 242/2020
Muhammad Farooq and another	In C.A. 243/2020
Naeem Khan etc.	In C.A. 244/2020
Dr. Muhammad Ishraq etc.	In C.A. 245/2020
Zain ul Abedin etc.	In C.A. 246/2020
Kamran Khan etc.	In C.A. 247/2020
Jawad Ali etc.	In C.A. 248/2020
Saeed ul Hassan etc.	In C.A. 249/2020
Shahzada	In C.A. 250/2020
Sher Bahadar etc.	In C.A. 251/2020
Inamullah etc.	In C.A. 252/2020
Fazal Rabbi etc.	In C.A. 253/2020
Shafiq ur Rehman etc.	In C.A. 254/2020
Muhammad Inran Hamayun Khan	In C.A. 255/2020
Muhammad Waris Khan	In C.A. 256/2020
Muhammad Yasir Jamshed etc.	In C.A. 257/2020
Muhammad Younas etc.	In C.A. 258/2020
Rehmat Gul etc.	In C.A. 259/2020
Umar Muhammad Farooq etc.	In C.A. 260/2020
Bilal Ahmed and another	In C.A. 261/2020
Gul Wali Shah etc.	In C.A. 262/2020
Salih Shah & another	In C.A. 263/2020
Riaz & another	In C.A. 264/2020
Samiullah etc.	In C.A. 265/2020
Irshad Hussain etc.	In C.A. 266/2020
Muhammad Asif Mehmood	In C.A. 267/2020
Liaqat Ali	In C.A. 268/2020
Nisar Ahrnad	In C.A. 269/2020
Reema Bibi	In C.A. 270/2020
Babar Sultan	In C.A. 271/2020
Muhammad Asif & another	In C.A. 272/2020
Muhammad Irfan & another	In C.A. 273/2020
Ijaz Ali Shah etc.	In C.A. 274/2020
Mst. Nusrat Begum	In C.A. 275/2020
Muhammad Iqbal etc.	In C.A. 276/2020
Mumtaz Hussain & another	In C.A. 277/2020
Dr. Sajjad ur Rehman	In C.A. 278/2020
Farzan Ullah etc.	In C.A. 279/2020
Ishfaq Bacha	In C.A. 280/2020
Zaher Ud Din	In C.A. 281/2020
Syed Muhammad Iqbal etc.	In C.A. 282/2020

ATTESTED

Senior Court Associate
Supreme Court of Pakistan
Islamabad

2020
2020
2020

7

Muhammad Nawaz etc.	In C.A. 283/2020
Raheel Zeb etc.	In C.A. 284/2020
Iltaf	In C.A. 285/2020
Saida Rehman	In C.A. 286/2020
Muhammad Tahir Afridi	In C.A. 287/2020
Irshad Ahmad etc.	In C.A. 288/2020
Matiullah	In C.A. 289/2020
Ijaz Hussain & another	In C.A. 290/2020
Alipur Khan	In C.A. 291/2020
Qimat Khan	In C.A. 292/2020
Sher Alam etc.	In C.A. 293/2020
Naikdar Khan	In C.A. 294/2020
Yousaf Khan etc.	In C.A. 295/2020
Wali Khan	In C.A. 296/2020
Saifur Khan & another	In C.A. 297/2020
Mrs. Nayyar Nazir Zaidi	In C.A. 298/2020
Nazir Gul etc.	In C.A. 299/2020
Nadeem Ahmad etc.	In C.A. 300/2020
Muhammad Arif	In C.A. 301/2020
Faizan Rashid & another	In C.A. 302/2020
Sonia Nawab etc.	In C.A. 303/2020
Muhammad Zada & another	In C.A. 304/2020
Naik Amal Shah etc.	In C.A. 305/2020
Mst. Saceda Rehman	In C.A. 306/2020
Khan Zeb and others	In C.A. 91-P/2020
Mushtaq and others	In C.A. 92-P/2020
Zulfiqar Ahmad and others	In C.A. 93-P/2020
HC Muhammad Ashraf and others	In C.A. 94-P/2020
HC Muhammad Ramzan and others	In C.A. 95-P/2020
HC Khewa Din and others	In C.A. 96-P/2020
Munir Khan and others	In C.A. 97-P/2020
HC Shireen Khan and others	In C.A. 98-P/2020
Dauod Jan and others	In C.A. 99-P/2020
Gul Khan and others	In C.A. 100-P/2020

... Respondent(s)

IN ATTENDANCE:

CIVIL APPEAL NOS. 248, 252, 253, 254, 265, 269, 270, 271, 277, 280, 284 & 302 OF 2020 (CATEGORY-I)

For the Appellants: Barrister Qasim Wadood, Addl. A.G. KP
Mr. Atif Ali Khan, Addl. A.G. KP
(In all cases)

For the Respondents: Mr. Muhammad Shoaib Shaheen, ASC
Syed Rifaqat Hussain Shah, AOR
(For respondents 1-3, 5, 6, 8-25 in CA 248/2020)

Nemo
(For respondents 4, 7, 26 in CA 248/2020)

Mr. Mukhtar Ahmed Muneri, ASC
(For respondents 1, 3, 7, 8, 11, 13, 14, 16, 19-21 in CA 252/2020, for respondents 3, 6, 7, 18, 19 in CA 265/2020, and for respondent 2 in CA 284/2020)

APTESTED

Senior Court Associate

3-029
District Health Officer
Nowshera

8

Mr. Rehman Ullah, ASC
(For respondents 4, 5, 15, 18 in CA 252/2020 & for
respondent NO. 2 in CA 253/2020 and respondent 1
in CA 254/2020)

Nemo
(For respondent 1 in CA 253 & 254/2020, for
respondents in CA 277/2020, for respondents in CA
302/2020 and for remaining respondents in CA
252/2020, & CA 265/2020, CA 269, 271 &
270/2020)

Mr. Altaf Ahmed, ASC
(For respondents 5, 8, 25, 27, 31 in CA 265/2020)

Mr. Muhammad Siddique, ASC
(For respondents 1-2, 8-13 in CA 269/2020 and for
respondents 1, 3-7, 9 in CA 271/2020)

Mr. Nasir Mehmood, ASC
(For respondents 1-12 in CA 280/2020)

CIVIL APPEAL NOS. 276, 305, 91-P to 100-P/2020
(CATEGORY-II)

For the Appellants: Mr. Zahid Yousaf Qureshi, Addl. A.G. KPK
Barrister Qasim Wadood, Addl. A.G. KPK
(In all cases)

For the Respondents: Mr. Aftab Alam Yasir, ASC
Syed Rifaqat Hussain Shah, AOR
(For respondents 1-6, 8-11, 13, 14, 17, 19, 21-24, 28-
31, 33-36, 41-48, 50-56, 58-62, 68, 69, 71-74, 7-80,
85, 87-88 in CA 305/2020 and for respondents 1-84
in CA 276/2020)

Khan Zeb in person for all respondents
(in CAs 91-P to 100-P/2020)

CIVIL APPEAL NOS. 268 & 288/2020
(CATEGORY-III)

For the Appellants: Mr. Shumail Ahmed Butt, A.G. KPK
Mr. Atif Ali Khan, Addl. A.G. KPK
Barrister Qasim Wadood, Addl. A.G. KPK
(In all cases)

For the Respondents: In person
(In CP 268/2020)

For the Respondents: Mr. Muhammad Ijaz Khan Sabi, ASC
(For respondents 1-9, 11-36 in CA 288/2020)

IN ALL REMAINING CASES

For the Appellants: Mr. Shumail Ahmed Butt, A.G. KPK
Barrister Qasim Wadood, Addl. A.G. KPK
Mr. Atif Ali Khan, Addl. A.G. KPK
Mr. Zahid Yousaf Qureshi, Addl. A.G. KPK

ATTESTED

Senior Court Registrar
Supreme Court of Pakistan
(Islamabad)

3 0000
District Health Officer,
Nowshera

9

For the Respondents: Mr. Khalid Rehman, ASC
 Mr. Muhammad Shoaib Shaheen, ASC
 Mr. Afnan Karim Kundi, ASC
 Mr. Abdul Qayum Qureshi, ASC
 Hafiz S.A. Rehman, Sr. ASC
 Mr. Saleem Ullah Ranazai, ASC
 Mr. Nasir Mehmood, ASC
 Mr. Muhammad Asif Yousafzai, ASC
 Barrister Adnan Khan, ASC
 Mr. Waseem ud Din Khattak, ASC
 Mr. Muzamil Khan, ASC
 Mr. Altaf Ahmed, ASC
 Mr. Muhammad Anwar Khan, ASC
 Mr. Muhammad Munir Paracha, ASC
 Mr. Asad Jan, ASC

Official respondents: Mr. Asif Khan, LO, HED Department, KP
 Mr. Nadeem Akhtar, DS Litigation HED
 Department, KP
 Ms. Irum Shaheen, Deputy Director, HED
 KPK
 Mr. Lajbar Khan, SDO, PHE
 Mr. Ziaullah, LO Health Department, KP
 Mr. Muhammad Saeed, Dy. Director, PSC
 Mr. Asif Ali, Dy Secretary, E&P
 Department
 Ms. Sheema Ayb, AD(L) PEDO
 Mr. Ghazab Taj, AD Chief Settlement,
 FATA

Date of Hearing: 21.10.2020

...
ORDER

GULZAR AHMED, CJ.-

CIVIL APPEAL NOS. 248, 252, 253, 254, 265, 269, 270, 271,
 277, 280, 284 & 302 OF 2020

We have heard learned counsel for the parties and have also gone through the record of the case. For reasons to be recorded later, all these appeals are allowed and the impugned judgments are set aside.

CIVIL APPEAL NOS. 276, 305, 91-P to 100-P/2020

2. By consent of the learned counsel for the parties, the impugned judgments dated 21.06.2018, 19.06.2019 & 14.11.2019 are set aside and Writ Petition Nos. 4490-P/2016, 4039-P/2018, 2394-P/2019, 2484-P/2019, 2535-P/2019, 2558-P/2019, 2560-P/2019, 2589-P/2019, 2684-P/2019, 2828-P/2019, 4671-P/2019

ATTESTED

Senior Court Assistant
 Supreme Court of Pakistan
 Islamabad

3 0079
 District Health Offices
 Nowshera

& 5064-P/2019 are dismissed. The respondents shall, however, avail remedy pursuant to call up letters if and when cause of action arises to them and at the same time the appellant shall consider the letters and take appropriate measures regarding the respondents in accordance with law. The appeals are allowed in terms noted above.

CIVIL APPEAL NO. 288/2020

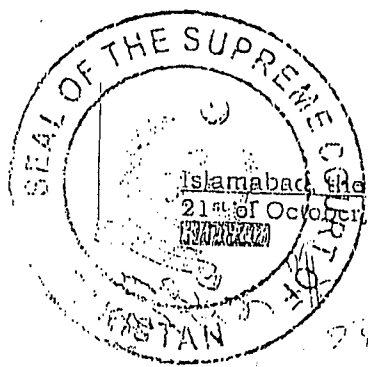
3. At the outset, learned counsel for the respondents admits that the High Court in the impugned judgment dated 16.10.2018 has wrongly relied upon the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018. He contends that this very law was not applicable to the case of the respondents as they were governed by statute namely Pakhtunkhwa Energy Development Organization Act, 1993 and the rules framed thereunder. In this view of the submission made by the learned counsel for the respondents, the impugned judgment is set aside and the matter is remanded to the High Court for deciding Writ Petition No. 09-M/2017 of the respondents afresh in accordance with law. The appeal in the above terms stands allowed.

CIVIL APPEAL NO. 268/2020

4. Respondent seeks time to engage a counsel. Adjourned to a date after two weeks.

REMAINING CASES

5. Rest of the appeals are adjourned for a date after two weeks.



Handwritten notes: 28/10 24/10

Sd/-HCJ
Sd/-J
Sd/-J

Certified to be True Copy

Senior Court Associate
Supreme Court of Pakistan
Islamabad

2020
District Health Officer
Nowshera

IN THE PESHAWAR HIGH COURT, PESHAWAR



V.P No. 1008-f /2017

Sami Ullah S/o Abdul Ghaffar, Behishti, BHU, Saleh Khan, District Nowshera

Shakir Ullah S/o Pervez Khan, Chokidar, BHU, Saleh Khan, District Nowshera

Mst. Zeenat Bibi W/o Zafeer Gul, Dai, BHU, Banda Mallahan District Nowshera

Mudassir Khan S/o Akbar Husain, Chowkidar, BHU Salekh Khana District Nowshera

..... Petitioners

Government of Khyber Pakhtunkhwa, through Secretary Health, Civil Secretariat, Peshawar

2. The Director General Health Department, Khyber Road, Peshawar
3. District Health Officer, District Nowshera
4. District Support Manager (PPHI), DS & M, *Nowshera* Khyber Pakhtunkhwa

..... Respondents

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

ATTESTED
EXAMINER
Peshawar High Court
16 MAR 2017

PRAYER-IN-WRIT-PETITION

On acceptance of this Writ Petition, an appropriate writ may please be issued declaring the petitioners were fit and eligible having the required qualification and experience gone through all the rigors

FILED TODAY
Deputy Registrar
04 MAR 2017

[Handwritten Signature]
District Health Officer
Nowshera

District Health Officer

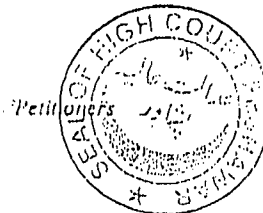
IN THE PESHAWAR HIGH COURT
PESHAWAR
Judicial Department

Writ Petition # 1008-P/2017
With C.Ms. No.93-P/2017 and 291-P/2018

Sami Ullah and others.

Versus

*Govt of Khyber Pakhtunkhwa through,
Secretary Health, Peshawar and others.*



Respondents

For Petitioners :-
For Respondents :-

Mr. Zartaj Awar, Advocate.
Mr. Muhammad Riaz Khan, A.G.

Date of hearing: 14.03.2018

JUDGMENT

ROOH-UL-AMIN KHAN, J:- Through C.Ms. No.93-P of 2017 and 291-P of 2018, applicants named in the applications, seek their impleadment as petitioners in the main writ petition on the ground of having similar grievance against the respondents as that of the petitioners in the writ petition. The applications are supported by an affidavit. No prejudice would be caused to the case of either party, therefore, the applications are allowed and the applicants in both the applications be arrayed as petitioners in the main writ petition. The office shall make the necessary entry in the memorandum of writ petition and relevant Register.

2. By invoking the constitutional jurisdiction of this Court under Article 199 of the Constitution of Islamic

CERTIFIED TRUE COPY
[Signature]
14.03.2018

2009
[Handwritten marks]

Republic of Pakistan, 1973, (the Constitution), the petitioners seek issuance of the following writ:-

"To direct declare the act of respondents with regard to termination of the petitioners from service as illegal, unlawful and without lawful authority and to direct the respondents to re-instate the petitioners in service and regularized their service.

Any other remedy deem appropriate by this Court, if not specifically asked for."

3. The petitioners, serving in various Basic Health Units (BHUs) of the Province of Khyber Pakhtunkhwa against different posts, seek regularization of their service on the basis of similarly placed employees as well as in light of judgment dated 09.01.2018, rendered by this Court in Writ Petition No.440-P/2017. In essence, their grievance is that on the recommendation of the duly constituted Selection Committee and acceptance of the offer of appointment by the Khyber Pakhtunkhwa People's Primary Healthcare Initiative (PPHI) District Support Unit (DSU), they were appointed in various BHUs of the Province on contract basis and the contract was extended from time to time but when they requested for regularization of their service, the respondents-department terminated their service. Petitioners alleged that the sole reason of their termination from service and refusal of regularization is that the respondents want to compensate

ATTESTED
CLERK
HONORABLE COURT
2018

2
0909
[Signature]
[Signature]

(109)

their blue eyes, thus, the act of the respondents being in flagrant violation of the law and merit policy is liable to be declared as illegal and unlawful. They prayed that since other similarly placed employees of the same department, have already been regularized, therefore, on the principle of a like to be treated alike, they may also be dealt with the same treatment.

4. Respondents have filed their comments, wherein they have denied the stance of the petitioners by asserting that the petitioners were working in a Non-Governmental Organization (NGO) under Sarhad Rural Support Program (SRSP), therefore, they being not civil servants, could not claim regularization.

5. Having heard the arguments of learned counsel for the parties, the controversy agitated in the instant writ petition has already been dealt with by this Court in its judgment dated 08.03.2017, rendered in Writ Petition No. 2050-P/2016, titled, "Dr. Arab Khan etc Vs Govt of KPK through Secretary Health KPK, Peshawar and others" followed by judgment dated 09.01.2018, passed Writ Petition No.440-P/2017, titled, "Shah Zulf Vs Govt of Khyber Pakhtunkhwa through Secretary Health, Peshawar and others". For the sake of convenience, the operative part of the judgment dated 09.01.2018 is reproduced below:-

ATTY
2017
2018
[Handwritten signature and text]

15

"During the course of arguments learned counsel for the petitioner produced an attested copy of a judgment of this Court dated 08.03.2017, rendered in various writ petitions and placed in Writ Petition No. 2050-P/2016, titled, "Dr. Arab Khan etc Vs Govt of KPK through Secretary Health KPK, Peshawar and others" and contended that through the judgment (supra), this Court while deciding the writ petitions of the petitioners/ Class-IV employees, Medical Technicians, Bahasties, Sweepers and doctors, appointed under the SRSP, have cancelled their termination orders, issued by the respondents and have ordered regularization of their services. He requested that the case of the petitioner, being at par with the petitioners of the aforesaid writ petitions, is entitled, to the same treatment.

When learned AAG was confronted with the judgment (supra), he could not wriggle out of the situation.

In this view of the matter, we, while following the ratio of judgment of this Court passed in Writ Petition No.2050-P/2016 decided on 08.03.2017, allow this writ petition, with the direction to the respondents to reinstate the petitioner in service from the date of his termination and issued a proper order of his regularization against the post of Chowkidar."

6. Learned counsel for the petitioners draw the attention of this Court to the judgment of the august apex Court dated 22.02.2017, rendered in Civil Appeal No.1870 to 1872 of 2016, whereby the appeals filed by the Provincial Government against the judgment of this Court

ATTESTED
J. MIMMER
Deputy Registrar
2017

2 09 09
Deputy Registrar

has been dismissed and the regularization order of other colleagues of the petitioners, has been upheld. Operative part of the judgment (supra) is reproduced, which read as under:-

"Pursuant to advertisement dated 07.06.2007, respondents were appointed on contract for one year on 01.08.2007. Contract was extended from time to time. Consequent upon promulgation of NWFP (now KPK) Employees (Regularization of Service Act, 2009) many contract employees were regularized. Respondents who were denied such entitlement filed writ petitions, subject matter of instant appeals, on the strength of earlier judgments rendered in writ petitions, as mentioned in Para 4 of the impugned judgment, were allowed.

I Heard the arguments of the learned counsel for appellants. He was not able to point out any factual or legal infirmity in the judgment of the learned Tribunal, we do not find any merit in these appeal which are accordingly dismissed."

7. The case of the present petitioners being exactly similar with that of the petitioners of the above writ petitions, thus, we see no reason to form a view different from the one already expressed by this Court in the judgments (supra) as we are fortified by the principles laid down by the Hon'ble Supreme Court in of Hameed Akhtar Niaz (1996 SCMR 1185) and case titled, "Government of

2 2229
District Health Officer
Nowshera

Punjab through Secretary Education Civil Secretariat
Lahore and others Vs Sameena Parveen and other (2009
SCMR 01). Following the ratio of judgments (supra), this
writ petition is also allowed and the respondents are
directed to reinstate the petitioners in service from the date
of their termination and issued a proper order of their
regularization against their respective posts.

Announced:
14.03.2018

Sindh Ahsan P.S.

Ed/2

DD of Mr. Justice Raoh-ul-Amin Khan and Mr. Justice, Aramullah Khan.



CERTIFIED COPY
02 MAY 2018

1899R
Date of Birth
No of Dep
Copies
Regent
Date
Date
Received: *Shah bag*

2 0009
District Health Officer
Newsheera



OFFICE OF THE DISTRICT HEALTH OFFICER NOWSHERA
Phone & Fax: 0923-580759 E-Mail: nowshera.edoh@gmail.com

AUTHORITY LETTER

Dr. Muhammad Fahad Medical Officer BPS-17 of this office is hereby authorized to submit para wise comments in writ petition No. 3396-P/2021 in the case of Samiullah and others on behalf of the undersigned, for further proceeding

3/2009
District Health Officer
Nowshera