

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
	16.09.2015	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> <u>PESHAWAR.</u></p> <p style="text-align: center;">APPEAL NO.356/2013</p> <p>(Dr. Naseer Ahmad-vs- Govt. of Khyber Pakhtunkhwa through Secretary Health, Health Department Civil Secretariat, Peshawar and others).</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>ABDUL LATIF, MEMBER:</u></p> <p>Counsel for the appellant (M/S Qaiser Ali Khan and Zahir Ali Shah, Advocates) and Mr. Sarzameen, Lecturer alongwith Mr. Ziaullah, GP for respondents present.</p> <p>2. The instant appeal has been filed under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act-1974 against the order of respondent No.1 dated 28<sup>th</sup> November, 2010 vide which the appellant had been removed from service.</p> <p>3. Brief facts giving rise to the instant appeal are that the appellant was appointed as Medical Officer (BPS-17) through NWFP Public Service Commission on 14.04.1992. He was then appointed as Assistant Professor (BPS-18) on 23.05.2003 on officiating basis followed by permanent appointment through NWFP Public Service Commission on 22.08.2006. During his posting in Saidu Medical College, Saidu Sharif Swat the law and order situation in the area deteriorated so much so that the Taliban took over the charge of Swat area and subsequently the Army had to come</p>

in and the people of Swat were sent to other areas as IDPs. That in Swat so many lawyers, Doctors and other Government Servants were maltreated, abducted and killed by the terrorists. That the appellant received threats of dire consequences and death and was directed by Taliban authorities to quit the area. The appellant informed his high-ups regarding the matter and wrote several letters for the grant of leave to save his life. That the appellant got trauma treatment in Karachi as IDP and also proceeded abroad for some time but with information to his superior Officers who never replied and never came to his help needless to mention here that the appellant had served for more than 18 years and had more than 500 days Earned Leave to his credit on his balance. That when the appellant reported back in 1<sup>st</sup> week of November of 2012 to respondent No.3 he was told that he had been removed from service vide impugned order dated 28.11.2010. That the appellant was never served at his postal address nor was he ever called by the respondent-department. He was also not provided any opportunity of hearing. There is nobody who even contacted him on telephone while he was on bed in Karachi and when he proceeded abroad. He filed departmental appeal which was not responded, hence the present appeal.

DF-L

4. Learned counsel for the appellant argued that during militancy in Swat many lawyers, Doctor and other government Servant were maltreated, abducted and killed by the terrorists. That the appellant received threats of dire consequences and death and was directed by Taliban to quit the area. The appellant informed his high-ups regarding the matter and wrote several letters for grant of leave to save his life. That the appellant was attacked and was about to be abducted, was fired at where he managed to save his life by hiding in the forest of the area. The said matter

was reported to the high-ups where-after appellant got trauma treatment in Karachi. He then proceeded abroad with information to his superior Officers without any response there from. He further argued that on his report back in 1<sup>st</sup> week of November 2012 to respondent No.3 he was told that he had been removed from service. The appellant filed representation against the order of his removal on 9<sup>th</sup> November of 2012 which had never been replied, hence the instant appeal before the Service Tribunal. He further argued that appellant had not been treated in accordance with law and had been condemned unheard and law relating to removal of Government Servant from service had not been followed by the respondents. He further argued that in latest judgment of the august Supreme Court of Pakistan dismissal from service through the Removal from Service (Special Powers) Ordinance 2000 was condemned and it was held that procedure under Civil Servant Act, 1973 and Civil Servant Efficiency and Disciplinary Rules 1973 shall apply in cases where major penalty was to be awarded. The appellant could have been compulsorily retired from service instead of his removal. He further contended that the appellant had more than 500 days of earned leave and his period of absence could have been considered as leave without pay. He prayed that the penalty was too harsh and severe and prayed that the impugned order of removal from service dated 28.11.2010 may be set aside and appellant may be reinstated in service.

5. The learned Government Pleader resisted the appeal and stated that the appellant tried to conceal facts from the Hon'able Tribunal as the plea of the appellant regarding threats from Talibaan was incorrect. In fact the appellant was absent from duty w.e.f 06.03.2010 when law and order situation had become normal and almost all IDP's had returned to their

homes. That the appellant willfully absented from duty and even proceeded abroad without sanction of leave and without permission/NOC of the Provincial Government and mere information to his superior Officers did not serve the purpose. He further argued that proper procedure under the rules was followed but the appellant failed to respond to the notice dated 05.08.2010 published in the Daily Mashriq therefore there was no option before the Provincial Government except to proceed against him under the law/rules. Learned GP further argued that the appeal of the appellant to the departmental authority was badly time barred and under the various judgments of the superior Courts such service appeal before the Service Tribunal was incompetent and not maintainable. He prayed that the appeal being devoid of any merits may be dismissed. He relied on 2011 PLC (C.S) 990, 2003 SCMR 1102, 2011 SCMR 1429, 2011 SCMR 676, 2009 SCMR 1435, 2013 SCMR 911 and 2012 SCMR 195.

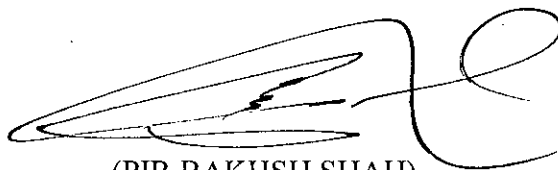
Q.F.I.

6. Arguments of the learned counsels for the parties heard at length and record perused with their assistance.

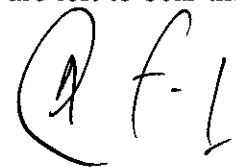
7. From perusal of the record it transpired that the appellant absented himself from duties from 06.03.2010 to 1<sup>st</sup> week of November, 2012 when there was complete normalcy in Swat and the plea taken by the appellant that the absence was beyond his control seems baseless and unfounded. He could not substantiate his statement of approaching the competent authority for his absence from duty nor he could produce any evidence in support of permission/NOC from the Provincial Government for proceeding abroad. It is also crystal clear from the record that he failed to approach in time his departmental authority against the order of his removal from service dated 28.11.2010. Thus besides being devoid of

merits his appeal before departmental authorities was badly time barred.

The appeal in hand before the Service Tribunal being not competent and devoid of any merits is dismissed accordingly. Parties are left to bear their own costs. File be consigned to the record.



(PIR BAKHSH SHAH)  
MEMBER



(ABDUL LATIF)  
MEMBER

ANNOUNCED

16.09.2015

31.07.2015

Counsel for the appellant (M/S Qaiser Ali Khan, & Zahir Ali Shah, Advocates) and Mr. Ziaullah, GP with Sarzameen, Lecturer for the respondents present. Arguments heard. To come up for order on 18-8-2015

  
MEMBER

  
MEMBER

18.08.2015

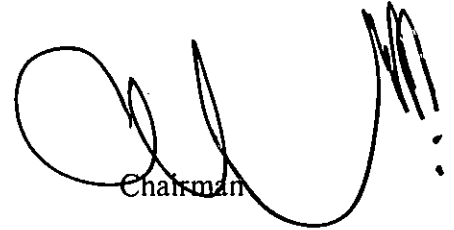
Appellant in person and Mr. Sarzameen, Lecturer alongwith Mr. Ziaullah, GP for respondents present. The learned Member (Executive) is on official tour to Abbottabad therefore, order could not be announced. To come up for order on 16-09-2015.

  
Member

4-

21.3.2014

Counsel for the appellant and Mr. Sarzamin Khan, Lecturer Saidu Medical College, Swat on behalf of respondents with AAG present. Rejoinder has already been filed alongwith application for early hearing, but the learned AAG stated that he has not yet received copy of the rejoinder, therefore, he could not prepare the case for arguments. A copy of the rejoinder be provided to the learned AAG for arguments on 12.8.2014.

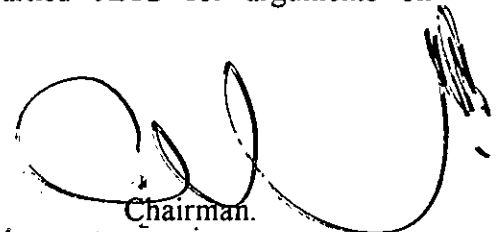


Chairman

12-

12.08.2014

Mr. Pir Muhammad Khan, attorney for the appellant, on behalf of the appellant with counsel for the appellant and Mr. Sirzamin Khan, Lecturer, Saidu Medical College, Swat on behalf of respondents present. Power of attorney as well as fresh Wakalat Nama on behalf of the appellant received. The learned AAG stated that he has not yet received copy of the rejoinder. Copy of the rejoinder be provided to the learned AAG for arguments on 28.1.2015.



Chairman

13

28.01.2015

Counsel for the appellant and Mr. Sarzamin Khan, Lecturer on behalf of respondents alongwith learned Addl: AG present. Copy of rejoinder is handed over to the learned Addl: AG. Due to incomplete Bench arguments not heard. To come up for final hearing/arguments before D.B on 31.07.2015.



Chairman

21-5-2013

counsel for the appellant and Sarzamin Khan, Lecturer, on behalf of respondents present. The worthy chair is in law. To come up for written reply / comment on 16-8-2013.

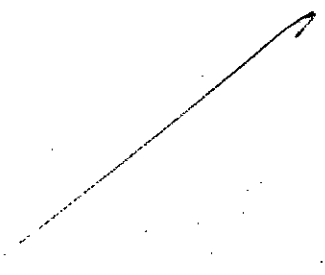
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9-

16.8.2013

Counsel for the appellant (Mr. Muhammad Farooq Afridi, Advocate), M/S Sheharyar, Assistant for respondents No.1 & 2 and Sarzamin Khan, Lecturer for respondent No.3 with. Mr. Usman Ghani, Sr.G.P present. Written reply/comments on behalf of respondents received. The written reply does not bear signature of respondent No.2 i.e. Chief Secretary, Govt. of KPK, but the learned Sr.GP stated that Secretary Health (Respondent No.1) has also signed the written reply on behalf of the Chief Secretary under Rules of Business. A copy of the written reply is handed over to the learned counsel for the appellant for rejoinder on 26.12.2013.

*Handwritten signature*  
Chairman



10-

26.12.2013

Counsel for the appellant (Mr. Muhammad Farooq Afridi, Advocate) and Mr. Sarzamin Khan, Lecturer Saidu Medical College, Saidu Sharif Swat on behalf of respondent No. 3 with Mr. Usman Ghani, Sr. GP for the respondents present. Rejoinder has not been received, and request for further time made on behalf of the appellant. To come up for rejoinder on 21.3.2014.

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Chairman



Appeal No. 356/2013,  
Dr. Nuseer Ahmad

7. 4.4.2013

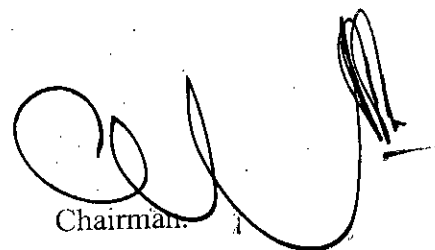
Counsel for the appellant present and heard. Contended that the appellant has not been treated in accordance with law. He was removed from service vide order dated 28.11.2010. The appellant preferred a departmental appeal on 29.11.2012 but with no response. Hence, the instant appeal. The learned counsel for the appellant further argued that the appellant has been removed from service vide the impugned order without fulfilling the legal requirements, as no inquiry was conducted against the appellant. A show cause notice was issued to the appellant to which he replied and denied all the allegations and that the impugned order of removal has not been signed by the competent authority. Points raised need consideration. The appeal is admitted to regular hearing, but subject to all legal objections including limitation. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, notice be issued to the respondents. Counsel for the appellant has also submitted application for the grant of interim relief and application for condonation of delay. Copies of applications also be sent to the respondents. Case adjourned to 21.5.2013 for submission of written reply on main appeal as well as reply/arguments on applications.

Appellant deposited  
Security & Process fee  
Rs 150/- Bank receipt is  
attached with file  
JAN

  
Member.

8. 4.4.2013

This case be put before the Final Bench I for  
further proceedings.

  
Chairman.

4.


5.3.2013

Junior to counsel for the appellant present and requested for adjournment. Case adjourned to 12.3.2013 for preliminary hearing.

  
Member

5. 12-3-2013.

Appellant with counsel present  
Request for adjournment. To come  
up for P.H. on 21-3-2013.

  
Member

6.

21-3-2013



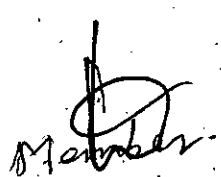
Junior to counsel for the appellant  
Present. Due to general strike of lawyers,  
the case is adjourned to 4.4.2013 for P.H.

  
Member

Form- A  
FORM OF ORDER SHEET

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

Case No. 356/2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	11/02/2013	<p>The appeal of Dr. Naseer Ahmad presented today by Mian Mohibullah Kakakhel Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	19-2-2013	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>4-3-2013</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
3.	4-3-2013	<p>Appellant Present and requested for adjournment. Case adjourned to 5-3-13 for P.H.</p> <p style="text-align: right;"> Member</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

IN RE:

Service Appeal No.

356 / of 2013

Dr. Naseer Ahmad ...

...

...

Appellant

VERSUS

Government of Khyber Pakhtunkhwa and others ...

Respondents

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Appellant

Through:

**Mian Muhibullah Kakakhel**

Senior Advocate

Supreme Court of Pakistan

And

Muhammad Farooq Afridi

Advocate 36-C, 2<sup>nd</sup> Floor

Cantonment Plaza Saddar Road

Peshawar Cantt

Cell # 0333-9167424

Dated: // .02.2013

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

Service Appeal No.

356 / of 2013

Dr. Naseer Ahmad son of Hazrat Biland,  
resident of House No.37, Street No.4 Danishabad,  
Akbar Town, Near Peshawar University, Peshawar...

Appellant

VERSUS

1. Government of Khyber Pakhtunkhwa through  
Secretary Health, Health Department,  
Civil Secretariat, Peshawar.
2. Chief Secretary Khyber Pakhtunkhwa  
Civil Secretariat, Peshawar.
3. Principal Saidu Medical College  
Saidu Sharif, Swat... ..

Respondents

APPEAL UNDER SECTION 4 OF KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974  
AGAINST THE ORDER OF RESPONDENT NO.1  
DATED 28<sup>TH</sup> NOVEMBER 2010 VIDE WHICH THE  
APPELLANT HAS BEEN REMOVED FROM  
SERVICE.

Respectfully Sheweth:

1. That the appellant did his MBBS from Khyber Medical College Peshawar in 1987 followed by a Diploma in Anesthesia in 1997 and FCPS in 2005. (Copy of his CV is attached as annexure 'A' for a further reference to his Biodata which may be read as part of this appeal).
2. That the appellant was appointed as Medical Officer BS-17 through NWFP Public Service Commission as Medical Officer on 14.4.1992.

(Copy of the order of appointment dated 14.4.1992 is attached as annexure 'B').

3. That the appellant was appointed as District Specialist Anesthesia BS-18 on 18.8.2000, again through NWFP Public Service Commission. (Copy of the order dated 18.8.2000 is attached as annexure 'C').
4. That the appellant was appointed as Assistant Professor BPS-18 on 23rd May 2003 on Officiating Basis followed by permanent appointment through NWFP Public Service Commission on 22.8.2006. (Copies of the orders dated 23.5.2003 and 22.8.2006 are attached as annexures 'D' & 'E').
5. That during his posting in Saidu Medical College Saidu Sharif Swat the law and order situation in the area deteriorated so much so that the Taliban took over the charge of Swat area and subsequently the Army had to come in and the people of Swat were sent to other areas as IDPs.
6. That in Swat so many lawyers, Doctors and other respectables were maltreated, abducted and killed by the terrorists.
7. That the appellant received threats of dire consequences and death and was directed by Taliban authorities to quit the area. The appellant informed his high-ups regarding the matter and wrote several letters for the grant of leave to save his life. (Copies of the applications are attached as annexures 'F' & 'G').
8. That subsequently the appellant received threat culminating into an actual act where he was followed and was about to be abducted when he saved his life in the forest of the area and reached on foot in about 3 months time. He was fired at but saved, the matter was reported to the high-ups. The appellant lost all his sense due to his helplessness as nobody came to his aid or rescue, he ~~after~~ went underground and informed the high-ups accordingly. He filed an application again for leave of any kind but to his lamentations no reply was received.

9. That the appellant was at time of becoming a refugee from Swat serving as Head of the Anesthesia Department in Saidu Medical College, Saidu Sharif Swat.
10. That the appellant got trauma treatment in Karachi as IDP and also proceeded abroad for some time but with information to his superior officers who never replied and never came to his help needless to mention here that the appellant has served for more than 18 years and has more than 500 days Earned Leave to his credit on his balance.
11. That even if the absence period was to be converted into Earned Leave the appellant has sufficient Earned Leave to make good the absence period. The appellant also could have been awarded Leave without Pay.
12. That when the appellant reported back in 1<sup>st</sup> Week of November 2012 to respondent No.3 he was told that he had been removed from service vide the impugned order. The appellant filed a Representation immediately against the order of removal on 9<sup>th</sup> November 2012 which has never been replied hence this service appeal. (Copies of the Leave applications, order dated 28.11.2010 and Representation are attached as annexures 'H', 'I' & 'J').
13. That the appellant has not been treated in accordance with law, he has not only been condemned unheard but is a victim of arbitrariness and callousness of the Provincial Government.
14. That the appellant was never served at his postal address nor was he ever called by the respondents. He was also not provided any opportunity of hearing. There is nobody who even contacted him on telephone while he was on bed in Karachi and when he proceeded abroad.
15. That the law relating to the removal of Government employees from service has not been followed in the case of the appellant.



16. That it has been settled by now that the removal from service (Special Powers) Ordinance 2000 is a draconic law and the punishment therein were set aside by the Superior Courts.
17. That in the latest judgment of the Honourable Supreme Court of Pakistan the dismissal from service through the Ordinance was condemned and it was held that the procedure under Civil Servants Act 1973 and Civil Servants Efficiency and Disciplinary Rule 1973 shall apply in cases where the major penalty is to be imposed.
18. That the respondents were also duty bound to look into the fact that the appellant had good about 20 years service to his credit which service is pensionable and even if a major penalty was to be awarded that come at best be, in the circumstances as compulsory retirement and not removal from service.
19. That in any case the penalty imposed is too harsh and severe.
20. That in the circumstances mentioned above when the appellant has more than 500 days of Earned Leave and that rules relating to grant of Leave without Pay is also exist the penalty imposed is liable to be struck down.
21. That in case of the appellant the law, rules and the judgments of the Superior Courts were not followed.
21. That there is dearth of Anesthesia Specialists in Health Department and hundreds of posts on Anesthesia site are vacant in the Provincial Government and Institutional Hospitals and the Government gives incentives to Doctors to give Anesthesia Training to adopt Anesthesia Field. The field of Anesthesia has been adopted by the appellant because of his liking for it otherwise generally the Doctors do not opt for Anesthesia Specialization as there is less income involved compared to other Specialties. The appellant made himself available to the respondents and being experienced hand Specialist the respondents should have placed him as Assistant Professor in his own seat which is



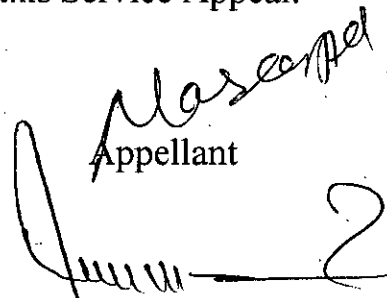
lying vacant alongwith another seat lying vacant in the same Institute. A post of Associate Professor and an Assistant Professor are also lying vacant.

22. That the impugned order is malafide and politically motivated as well.
23. That the previous Governor Khyber Pakhtunkhwa had directed the respondents to keep seat of the appellant vacant and to give him post when he makes himself available.

It is, therefore, respectfully prayed that on acceptance of this Service Appeal the impugned order of removal from service passed against the appellant on 28<sup>th</sup> November 2010 may be set aside and the appellant be reinstated in service.

Any other order deemed appropriate in the circumstances of the case may also be passed. The appellant may be allowed to put forward any other argument/document at the time of hearing of this Service Appeal.

Through:

  
Appellant

Mian Muhibullah Kakakhel  
Senior Advocate  
Supreme Court of Pakistan

And

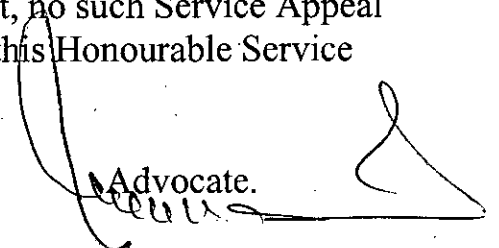


Muhammad Farooq Afridi  
Advocate, Peshawar.

Dated: 11.02.2013

CERTIFICATE:

Certified that on the instructions of my client, no such Service Appeal on behalf of the appellant has earlier been filed in this Honourable Service Tribunal on the subject matter.

  
Advocate.

6

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

IN RE:

Service Appeal No. \_\_\_\_\_ / of 2013

Dr. Naseer Ahmad ... .. Appellant

VERSUS

Government of Khyber Pakhtunkhwa and others ... Respondents

AFFIDAVIT

I, Dr. Naseer Ahmad son of Hazrat Biland, resident of House No.37, Street No.4 Danishabad, Akbar Town, Near Peshawar University Peshawar, do hereby solemnly affirm and declare that the contents of the accompanying Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

*Naseer Ahmad*  
Deponent

IDENTIFIED BY:

*Mian Muhibullah Kakakhel*  
Mian Muhibullah Kakakhel  
Advocate, Peshawar.





BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

IN RE:

Service Appeal No. \_\_\_\_\_ / of 2013

Dr. Naseer Ahmad ... .. Appellant

VERSUS

Government of Khyber Pakhtunkhwa and others ... Respondents


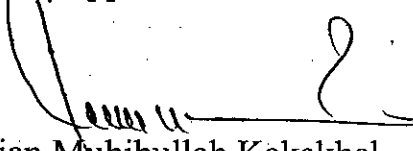
MEMO OF ADDRESSES

Dr. Naseer Ahmad son of Hazrat Biland,  
resident of House No.37, Street No.4 Danishabad,  
Akbar Town, Near Peshawar University, Peshawar... Appellant

VERSUS

1. Government of Khyber Pakhtunkhwa through  
Secretary Health, Health Department,  
Civil Secretariat, Peshawar.
2. Chief Secretary Khyber Pakhtunkhwa  
Civil Secretariat, Peshawar.
3. Principal Saidu Medical College  
Saidu Sharif, Swat... .. Respondents

Through:

  
Appellant  
  
Mian Muhibullah Kakakhel  
Advocate, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

C.M. No. \_\_\_\_\_ / of 2013

IN RE:

Service Appeal No. \_\_\_\_\_ / of 2013

Dr. Naseer Ahmad ... .. Appellant

VERSUS

Government of Khyber Pakhtunkhwa and others ... Respondents



APPLICATION FOR INTERIM RELIEF  
BY WAY OF THE SUSPENSION OF  
THE IMPUGNED NOTIFICATION.

Respectfully Sheweth:

1. That the applicant has filed the accompanying Service Appeal before this Honourable Tribunal today in which no date of hearing has as yet been fixed.
2. That the grounds of the Service Appeal form an integral part of this application and may be read as such.
3. That the applicant has a good prima facie case and is hopeful of its success.
4. That balance of convenience is in favour of the applicant and in case the interim relief prayed for is not granted the applicant will suffer irreparable loss.
5. That the impugned order being patently illegal is liable to be set aside.
6. That the post of the applicant is still lying vacant in Saidu Medical College Saidu Sharif Swat.

It is, therefore, respectfully prayed that on acceptance of this application the operation of the impugned notification may kindly be suspended till final decision of the main Service Appeal.

Through:

  
Applicant  
  
Mian Muhibullah Kakakhel  
Senior Advocate  
Supreme Court of Pakistan.  
Peshawar.

Dated: 11.02.2013



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

C.M. No. \_\_\_\_\_ / of 2013

IN RE:

Service Appeal No. \_\_\_\_\_ / of 2013

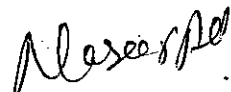
Dr. Naseer Ahmad ... .. Appellant

VERSUS

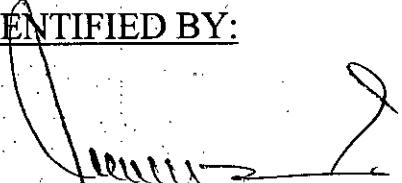
Government of Khyber Pakhtunkhwa and others ... Respondents

AFFIDAVIT

I, Dr. Naseer Ahmad son of Hazrat Biland, resident of House No.37, Street No.4 Danishabad, Akbar Town, Near Peshawar University Peshawar, do hereby solemnly affirm and declare that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

  
Deponent

IDENTIFIED BY:

  
Mian Muhibullah Kakakhel  
Advocate, Peshawar.



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

C.M. No. \_\_\_\_\_ / of 2013

IN RE:  
Service Appeal No. \_\_\_\_\_ / of 2013

Dr. Naseer Ahmad ... .. Appellant

VERSUS

Government of Khyber Pakhtunkhwa and others ... Respondents

APPLICATION FOR CONDONATION OF DELAY

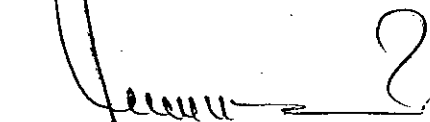
Respectfully Sheweth:

1. That the applicant has filed the accompanying Service Appeal before this Honourable Tribunal in which no date of hearing has as yet been fixed.
2. That for the detailed circumstances mentioned in the memo of appeal a case for condonation of delay is made out.
3. That the appeal seems to be time barred by about more than 2 years.
4. That the delay in filing of appeal occurred because the appellant was prevented from reaching the law enforcing authorities as well as his high-ups by Taliban Leaders.
5. That it will be in the interest of justice to condone the delay.

It is, therefore, respectfully prayed that on acceptance of this application the delay in filing the instant service appeal may kindly be condoned.

  
Applicant

Through:

  
Mian Muhibullah Kakakhel  
Senior Advocate  
Supreme Court of Pakistan  
Peshawar.

Dated: 11.02.2013



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

C.M. No. \_\_\_\_\_ / of 2013

IN RE:  
Service Appeal No. \_\_\_\_\_ / of 2013

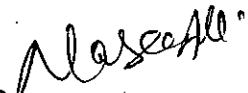
Dr. Naseer Ahmad ... .. Appellant

VERSUS

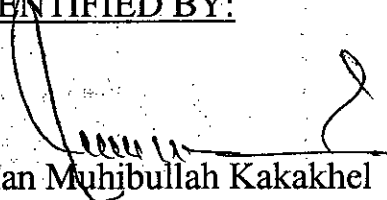
Government of Khyber Pakhtunkhwa and others ... Respondents

AFFIDAVIT

I, Dr. Naseer Ahmad son of Hazrat Biland, resident of House No.37, Street No.4 Danishabad, Akbar Town, Near Peshawar University Peshawar, do hereby solemnly affirm and declare that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

  
Deponent

IDENTIFIED BY:

  
Mian Muhibullah Kakakhel  
Advocate, Peshawar.

12

Annex A

# RESUME

**Name:** Naseer Ahmad

## Qualifications:

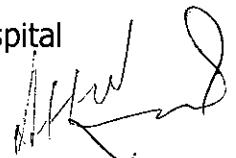
- **MBBS:** [Bachelor of Medicine, Bachelor of Science] 1982 – 1987: Khyber Medical College Peshawar.
- **DA:** [Diploma of Anesthesia] 1997: University of Peshawar, Pakistan
- **FCPS:** [Fellow of College of Physicians and Surgeons of Pakistan] (Anesthesiology) 2005: College of Physicians & Surgeons of Pakistan.

## Professional Registration:

- Registered with **Pakistan Medical & Dental Council** (Registration Number 4106-N)
- **Fellow College of Physicians and Surgeons of Pakistan** (ANS-05-6807)

## Previous Appointment:

1. **Assistant Professor, Department of Anesthesiology**, Saidu Medical College, Swat and Consultant Anesthetist, Saidu Teaching Hospital, Swat, Pakistan (25<sup>th</sup> May 2003 till February 2010)
2. **District Specialist of Anesthesia**, Saidu Teaching Hospital Swat, Pakistan (Dec 2001 - May 2003)
3. **Specialist Anesthesia**, Hayatabad Medical Complex Peshawar, Pakistan (Aug 2000 – Dec 2000)
4. **Medical Officer Anesthesia**, Hayatabad Medical Complex Peshawar, Pakistan (Jul 1996 – Aug 2000)
5. **Medical Officer Anesthesia**, Lady Reading Hospital Peshawar, Pakistan. (Oct 1995 - Jul 1996)
6. **Trainee Medical Officer**, D.A Khyber Teaching Hospital Peshawar, Pakistan. (Jan 1994 - Dec 1994)
7. **Medical Officer**, Basic Health Unit, Bakhshali, Mardan (April 1992 – Dec 1993)
8. **Medical Officer UNHCR For Afghan Refugees**. (May 1989 - March 1992)
9. **House Officer (Resident Officer) Surgery**, Lady Reading Hospital Peshawar, Pakistan. (September 1988 – March 1989)
10. **House Officer (Resident Officer) Medicine**, Lady Reading Hospital Peshawar, Pakistan. (February 1988 – September 1988)





## **Clinical Experience:**

I did my one year house job in Post Graduate Medical Institute Lady Reading Hospital Peshawar. It has more than 1000 beds for a wide range of medical and surgical facilities with full Radiological and laboratory services.

My six months house job in General Medicine was based at a 44 bedded medical unit. The clinical staff consisted of a Professor, Associate Professor, Assistant Professor and a senior Registrar. I attended two out patient clinics per week and was on call twice a week for emergency admissions. There was on average 10-15 acute admissions on an emergency day and the spectrum included malaria, typhoid fever, tuberculosis, pneumonia, PUO, gastroenteritis, GI bleeds, meningitis, hepatitis, CVA and blood disorders. I also managed acute emergencies like shock, acute abdomen, hypertensive crisis, diabetic ketoacidosis, and acute poisoning.

I acquired skill of I.V. cannulation, nasogastric intubation, catheterization, lumbar puncture, pleural aspiration, ascetic fluid tap, bone marrow aspiration and C.V.P line insertion

My other 6 months house job house job in General surgery was based at 44 bedded surgical unit. There were 2 out patient clinics, 2 major operation days and 1 minor operation day per week. Again I was on call twice a week.

During my house job I learnt basic surgical skills and performed many minor procedures including dressing and debridements, abscess drainage, excision of cysts, lymph node biopsy, removal of in-growing toenail etc.

I performed a number of operations under supervision such as prostatectomy, appendectomy, haemorrhoidectomy and herniorrhaphy. I also assisted most of the major operations including cholecystectomy, pylolithotomy, thyroidectomy, GI resection and asastomosis, prostectomy.

Both the house jobs were full time and residential.

## **EXPERIENCE AS MEDICAL OFFICER:**

I was in charge of a basic health unit, which gave health cover to nearly 200,000 people of all ages. It was basically concerned with preventive medicine. I used to treat patients with every kind of disease and used to refer them if needed.

## **EXPERIENCE IN ANESTHESIOLOGY:**

I gained my initial experience in Anesthesiology Khyber Teaching Hospital Peshawar. It was a 1000 bedded hospital with all sorts of surgical disciplines including general surgery, gynae/Obs, orthopedic, ENT, ophthalmology, neuro-surgery and ICU.

During my 3-year training at Postgraduate Medical Institute, Hayatabad Medical Complex (PGMI-HMC) Peshawar Pakistan for FCPS, my anaesthesiological skills got more refined in its cutting edge professional environment. HMC is an 800 bedded tertiary care hospital, situated in the provincial metropolis. It has

facilities for CT scan, MRI scan, ECHO and all other high tech investigations. The regional center of the college of physicians and Surgeons of Pakistan is also housed here.

A professor headed the Anesthesia Unit of the HMC, and the staff included Associate Professor, Assistant Professor, senior registrar, trainee medical officers and house officers. The department had facility of ventilators, pulse oximeters, capnograph, gas analyzer, perfusion pumps, cardiac monitors, arterial line monitors. There was an 8 bedded general ICU.

Procedures that I routinely performed included general anesthesia/regional anesthesia for general surgery, neuro-surgery, gynaecology/obs, orthopedic, pediatric, ENT, ophthalmology, plastic surgery, cardio-vascular

I got special training in epidural anesthesia. Since I was already trained in most of these procedures; I used to supervise the training of junior trainee medical officers and house officers as well.

Now for the last more than 3 years I am working as consultant anesthesiologist at Saidu Teaching Hospital, Swat. It is a 500-bedded hospital. It is the only Tertiary referral hospital in the wide and thickly populated Northern areas of the country. It has a vast catchments area and all the complicated cases are referred here.

### **TEACHING EXPERIENCE:**

For the last five years I have been teaching Anesthesiology to the fourth year medical students of Saidu Medical College Swat. Teaching includes classroom lectures and clinical teaching in the operation theatres.

### **PUBLICATIONS:**

1. Co. Author of *Tearless Haemorrhoidectomy: An experience of Haemorrhoidectomy Using Caudal Anesthesia in District Swat* in Journal of Postgraduate Medical Institute, Lady Reading Hospital Peshawar, Pakistan, 2004 Vol. 18 no.3.
2. Principal Author of *Epidural Analgesia May Treat a Patient of Sciatica Without Surgery* in Journal of Saidu Medical College Swat.vol 1

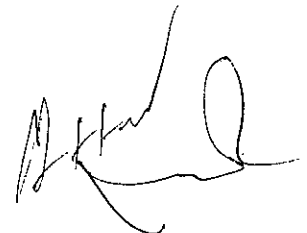
### **Hobbies:**

I like traveling and have been to many famous and interesting places of the world. The cities I have been to include Dubai, India, Saudi Arabia, London, Kuala Lumpur, Istanbul, Cairo, Milan, Barcelona and Bangkok.

### **References:**

- **Prof. Gohar Ali**

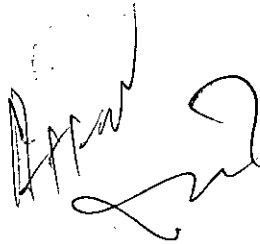
Professor & Head of Anesthesiology, Post Graduate Medical Institute



15

Tel: +92 333 9383812

➤ **Prof. Tariq Safi Neurosurgeon**

A handwritten signature in black ink, appearing to read 'Tariq Safi', is located in the center of the page. The signature is written in a cursive style with a large, stylized flourish at the end.

NOTIFICATION.

No. S.O.H. IV89/70. On the recommendation of the N W F P.S.C. the Governor, North-West Frontier Province is pleased to appoint the following candidates as Medical Officer (BS-17) in the Health Department on the usual terms and conditions on regular basis with immediate effect:-

SR: Name of Doctor with Father's  
NO: Name.

1. Dr Zakauallah Khan S/O Ama Khan.
2. Dr Muhammad Naeem Khan S/O Raza Khan.
3. Dr Qaisar Inayat S/O Hafiz Inayat.
4. Dr Waqar Ahmad S/O Rafiq Ahmad.
5. Dr Amanullah S/O Sobat Khan.
6. Dr Naseemul Haq S/O Shamsul Haq.
7. Dr Muhammad Ilyas Saddiqui S/O Khawaja M. Rafiq.
8. Dr Iqbal Muhammad S/O Sher Mohammad.
9. Dr Naseer Ahmad S/O Hazrat Biland.
10. Dr Sajjad Ahmad S/O Aminul Haq.
11. Dr Ihsanul Haque S/O Aminul Haq.
12. Dr Ikramullah Khalil S/O H. Sharif.
13. Dr Liaqat Ali Shah S/O Rehmat Gul.
14. Dr Muhammad Salim S/O Ghulam Muhammad (Passed Part I)
15. Dr Abdul Ghafoor S/O Abdul Hameed.
16. Dr Gul Manshah S/O Sanab Gul.
17. Dr Imran Haq Pasha S/O M. Hafiz Qureshi.
18. Dr Khalid Iqbal S/O Abdul Ali.
19. Dr Liaqat Ali S/O Haji Mirghazan Khan.
20. Dr Jehanzeb Khan S/O Ihsanullah Khan.
21. Dr Muhammad Ismail Khan S/O Sherif Khan.
22. Dr Asgharullah Khan S/O Saeedullah Khan.
23. Dr Javed Iqbal S/O M. Akram Khan.
24. Dr Jamil Anwar S/O Muhammad Hashim.
25. Dr Muhammad Numan Khan S/O M. Yousaf Khan.
26. Dr Kiramatullah Khan S/O Nesrullah.
27. Dr Musarat Ali S/O Hashmat Ali.
28. Dr Sheikh Muhammad Khalid S/O Sh. Safi ur Rehman.
29. Dr Zar Sher S/O Nowsher.
30. Dr Falak Naz S/O Muhammad Sharif.
31. Dr Faqirullah S/O Misri Khan.
32. Blank....
33. Dr Fazli Maula S/O Abdullah Jan.
34. Dr Syed Jaffar Hussain S/O S.M. Sharif.
35. Dr Miraj Khan S/O Sher Muhammad Khan.
36. Dr Ali Gohar Khan S/O Badshah Khan.
37. Dr Rehan Yousaf S/O Fazli Karim.
38. Dr Mujeebur Rehman S/O Obaidur Rehman.
39. Dr Rizwanullah S/O Muhammad Ali.
40. Dr Bashir Hussain S/O Farman Ali Shah.
41. Dr Muhammad Saleem S/O Muhammad Asghar.
42. Dr Shaukat Sohail S/O Fazal Karim.
43. Dr Sahibzade Taimur Yaqub S/O S.M. Yaqub.
44. Dr Mushtaq Ahmad S/O Fida Mohammad.
45. Dr Muhammad Siyar S/O Abdul Wadood Khan.
46. Dr Inshallah Khan S/O Muzaffar Khan.
47. Dr M. Riiazul Din Ghorri S/O Alaf Din.
48. Dr Umar Kaftab S/O Sher Afzal.
49. Dr Muhammad Arif S/O Tor Khan.
50. Dr Muhammad Iqbal S/O Talib Din.

- Dr Naseerud Din Mian S/O Zamiruddin.
52. Dr Islamud Din S/O Sher Jan.
53. Dr Muhammad Riaz S/O Wasal Khan.
54. Dr Javed Nawab S/O Sher Nawab.
55. Dr Safeer Zaman S/O Gul Shah Zaman.
56. Dr Saeedur Rehman S/O Ghulam Rasool Khan.
57. Dr Avez Mehmood S/O Minhajul Haque.
58. Dr Jehangir Khan S/O Khachan.
59. Dr Rasool Ghulam S/O Faqir Ghulam.
60. Dr Sultan Muhammad S/O Hikmat Shah.
61. Dr Janshed Ali S/O Yousaf Hussain.
62. Dr Abdul Hadi S/O Muhammad Yousaf.
63. Dr Musarat Hussain S/O Hussain Gul.
64. Dr Hidayatullah Khan S/O Sail Khan.
65. Dr Nasir Khan S/O Faqir Muhammad Khan.
66. Dr Hidayatullah Khan S/O Bashir Gul Khan.
67. Dr Mohammad Arif Khan S/O Musa Khan.
68. Dr Ahmad Junaid S/O Kamal Badshah.
69. Dr Nadir Khan S/O Roshan Din.
70. Dr Zahir Shah S/O Pir Badshah.
71. Dr Janil Badshah S/O Yar Badshah.
72. Dr Abdul Qadoos Khan S/O Malik Nadeem Gul.
73. Dr Abdul Haque S/O Muhammad Saeed.
74. Dr Farmanullah S/O Gul Nawaz Khan.
75. Dr Z-kir Mehmood S/O Latif Khan.

2. their appointment as Medical Officers (BS-17) in the Health Department Government of N W F P the following postings/transfers are by ordered with immediate effect in the public interest:-

SR NO:	Name	From	To	Remarks.
1.	Dr Zakaullah Khan	Ist Apptt: (PSC).	BHU Manakhel (Nowshera).	Against the vacant post.
2.	Dr Muhammad Naeem Khan.	-do-	BHU Batara Payeen (Kohistan).	-do-
3.	Dr Qaisar Inayat.	-do-	CD Misri Banda (Nowshera).	-do-
4.	Dr Waqar Ahmad.	-do-	NHC Batagram (Charsadda).	-do-
5.	Dr Amanullah	-do-	BHU Kalkot (Dir).	-do-
6.	Dr Nascemul Haq.	-do-	BHU Akhoun Dheri (Charsadda).	-do-
7.	Dr Muhammad Ilyas	-do-	BHU Mahdand (Charsadda).	-do-
8.	Dr Iqbal Muhammad.	-do-	BHU Phari Kati Khel (Nowshera).	-do-
9.	Dr Naseer Ahmad.	-do-	BHU Bakhshali (Mardan).	-do-
10.	Dr Sajjad Ahmad.	-do-	BHU Qalandi (Dir).	-do-

Professor Dr Mohammad Kabir,  
Secretary Health.

Endst of Even No&Date:

Copy forwarded for information and necessary action to:-

- 1) The Director Health Services, N W F P Peshawar.
- 2) The Accountant General, N W F P Peshawar.
- 3) The Secretary, NWFP Public Service Commission, Peshawar.
- 4) The Manager Govt: Printing Press for publication in the next gazettee.
- 5) All District Accounts Officers/Agency Accounts Officers in N W F P.
- 6) All the Doctor concerned.
- 7) PS to Minister for Health, NWFP.
- 8) PS to Secretary Health.

*Sher Mohammad Marwat*  
14/11/92  
(Sher Mohammad Marwat),  
Section Officer IV Health Department.

*Atkhan*

OFFICE ORDER.

In pursuance of Govt: of NWFP Health Deptt:  
Notification No. SOI(H)3-5/83, dated 2.8.2000 on his 1st  
appointment as District Specialist Anaesthesia (EPS-18)  
on regular basis through NWFP Public Service Commission  
Dr. Masoor Ahmad S/O Hazrat Biland MO HMC Peshawar (working as  
TMO PGMI Peshawar) is hereby transferred and posted as  
Anaesthetist (EPS-18) in HMC Peshawar against the vacant post  
of Anaesthetist (EPS-18) in the interest of public service  
with immediate effect.

Annex C

SD/-RXX  
DIRECTOR GENERAL HEALTH  
SERVICES, NWFP, PESHAWAR.

No. 16828-33 / E.I. DATED PESH: 21/8/2000

Copy forwarded to the :-

01. Secretary Health NWFP, Peshawar.
02. M.S HMC Peshawar.
03. Dean PGMI Peshawar.
04. AG, NWFP, Peshawar.
05. Doctor concerned.
06. AE-IV, DCHS Office.

for information and necessary action.

*pl. gal*  
DIRECTOR GENERAL HEALTH  
SERVICES, NWFP, PESHAWAR.

7/8/8

*Atte*  
*[Signature]*

Dated Peshawar the 23<sup>rd</sup> May. 03.

Annex D

**NOTIFICATION:-**

NO.SO(E)H-IV/4-1/2003. The Provincial Government is pleased to order the appointment of faculty at Saidu Medical College, Swat as per policy of the Provincial Government in the recent discussion with the Chief Minister. The following doctors are transferred to Saidu Medical College, Swat in their own pay & scale and re-designated as follows:-

S. No	Name of doctors	DPS	Present Post	Proposed Posting
1.	Dr. Ismail	18	SMO SGTH Swat	SR Surgery SGTH Swat.
2.	Dr. Manzoor Ali	18	Surgeon SGTH Swat	AP Surgery SMC Swat
3.	Dr. Sikandar Khan	18	Medical Specialist THQH Matta	AP Medicine against the vacant post of Associate Professor Medicine
4.	Dr. Naseer Ahmed	18	District Anaesthetic SGTH Swat.	AP Anesthesia SMC Swat.
5.	Dr. Naveed Irfan	18	SMO (Acting Consultant) Govt. Mental Hospital Dadar.	AP Psychiatry SMC Swat.
6.	Dr. Tajamul Khan	18	S.R. Ophthalmology A.T.H. Abbottabad	Assistant Professor Ophthalmology SMC Swat.
7.	Dr. Mohammad Akbar	18	Assistant Professor Surgery AMC Abbottabad.	Associate Professor Surgery S.M.C. Swat.

SECRETARY HEALTH

Endst. Of even No. & date.

Copy forwarded to the:-

1. DG Health Services, NWFP, Peshawar.
2. Chief Executive, ATII, Abbottabad.
3. Principal, A.M.C. Abbottabad.
4. Principal, SMC Swat.
5. Incharge SGTH, Swat.
6. MS Govt. Mental Hospital, Dadar, Mansehra.
7. The DAO Mansehra/ Swat
8. The Doctors concerned.

SEIT  
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30/5/03

Handwritten signature  
30/5/03

(MUHAMMAD TAYYAB)  
SECTION OFFICER (ESTB)





21

Annex E

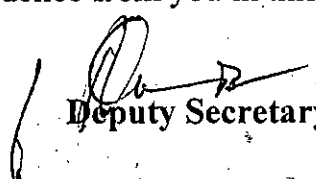
NWFP Public Service Commission,  
Scouts Building, Sector P-I Phase-IV,  
Behind Hayat Abad Police Station.  
No. NWFP/PSC/SRD 42040  
Dated 1/2/06

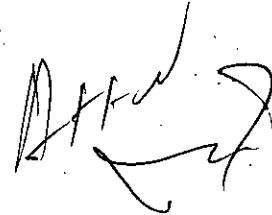
To

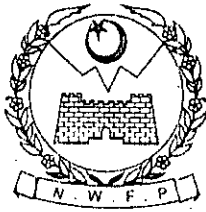
Dr Naseer Ahmad S/O Hazrat Biland,  
C/O Dr Habiba, Shifa Medical Centre,  
Opp: Central Hospital Saidu Sharif, Swat.

**Subject: - ASSISTANT PROFESSOR ANAESTHESIA (BPS-18) IN SMC/GMC  
(ADVT: NO. 04/2006)**

The Commission has recommended you to the Government for appointment, but please do not treat this as a letter of appointment for which Government is the final authority. The Commission cannot entertain any correspondence from you in this regard.

  
Deputy Secretary-II





22

3676

Annex F

CHIEF MINISTER'S SECRETARIAT  
N-W.F.P.

No.SO-II/CMS/NWFP/1-1/2009  
Dated Peshawar, the 24<sup>th</sup> Aug: 2009

122477

To

The Secretary to Govt: of NWFP,  
Health Department,  
Peshawar.

Subject:- LONG LEAVE

Dear Sir,

I am directed to forward herewith a copy of self contained application of Dr. Umme Habiba. Associate Professor Gynae and Dr. Naseer Ahmad Assistant Professor Anesthesia Saidu Medical College, Swat on the subject noted above and to state that leave may be granted as per entitlement as desired by the Honorable Chief Minister, NWFP.

Encl: as above.

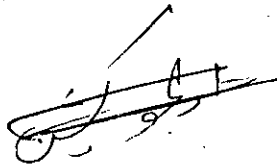
Yours faithfully

(AMIR MUHAMMAD)  
SECTION OFFICER-II

Copy to:-

1. Principal Secretary to Chief Minister, NWFP.
2. PS to Chief Minister, NWFP (Camp Office Mardan).

  
SECTION OFFICER-II



Health



23

January 12, 2009

To the Secretary,  
Health Department,  
NWFP, Pakistan

Amma G

Subject: Long leave (365 days without pay)

**Reason: Threat to life**

Sir,

With due respect it is to bring to your notice that due to the deteriorating law and order situation I can no longer stay in Swat. I survived the initial one and half year despite the risks in that area but now I have gotten direct threats to my life from an unknown source. It is no longer prudent to stay in Swat and continue my routine duties. I have to leave even my house and my very well established practice.

I am serving in the health department for the past sixteen years and have never availed any long leave. I am entitled to long leave for the above mentioned period. Therefore I may kindly be granted these leaves on humanitarians' grounds to safeguard mine and my family's lives. I will resume my duties as soon as the situation is back to normal.

Thank you

*Naseer*

Dr. Naseer Ahmad  
Assistant Professor  
Dept of Anaesthesia  
Saidu Medical College  
Swat

*Amma G*

24

Honorable,  
Chief Minister,  
Khyber Pakhtunkhwa.

Subject: Long leave (365-days without pay)

Reason: **Threat to life.**

Sir,

With due respect it is to bring to your notice that due to the deteriorating law and order situation I can no longer stay in Swat. I survived the initial one and half year despite the risks in that area but now I have gotten directly threats to my life from an unknown source. It is no longer prudent to stay in Swat and continue my routine duties. I have to leave even my house and my very well established practice.

I am serving in the health department for the past sixteen years and have never availed any long leave. I am entitled to long leave for the above mentioned period. Therefore I may kindly be granted these leaves on humanitarians, grounds to safeguard mine and my family's lives. I will resume my duties as soon as the situation is back to normal.

Thank you

Dr. Naseer Ahmad  
Assistant Professor,  
Department of Anesthesia,  
Saidu Medical College Swat



APPLICATION FOR LEAVE

25

Notes:-Item 1 to 9 must be filled in by all applicants. Item 12 applies only in the case of Government servants of B.P.S. 16 and above.

- 1. Name of applicant. DR. NASEER AHMAD *Admat H*
- 2. Leave Rules applicable. REVISED LEAVE RULE-1981
- 3. Post held. ASSISTANT PROFESSOR ANAESTHESIA
- 4. Department or Office. Health / SMC SWAT
- 5. Pay.
- 6. House Rent Allowance/Conveyance Allowance or other compensatory allowance drawn in the present post.
- 7. (a) Nature on leave applied for.
- (b) Period of leave in days. 365 days (1 yr)
- (c) Date of commencement. 1st Feb 09
- 8. Particular Rule/Rules under which leave is admissible.
- 9. (a) Date of return from last leave.
- (b) Nature of leave.
- (c) Period of leave in days.

Date..... Signature of applicant *Naseer*

- 10. Remarks recommendation of the Controlling Officer.
- 11. Certified that leave applied for is admissible under Rule ..... and necessary conditions are fulfilled.

Date *14/1/09* Signature Designation.

- 12. Report of Audit Officer. *Certified that the applc of Dr. Naseer Ahmad is entitled to the revised leave*
- Date *14/1/09* Signature Designation.

- 13. Orders of the sanctioning authority certifying that on the expiry of leave the applicant is likely to hold same post carrying the compensatory being drawn by him.
- Date..... Signature Designation.

No. 204/P.F.SMC Dated:-14/01/2009.

Forwarded to DAO Swat

*Principal*  
PRINCIPAL  
Saidu Medical College  
Saidu Sharif (Swat)  
14-1-2009

GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT

Dated Peshawar the 28<sup>th</sup> Nov, 2010

(26)  
Annex 'I'

**NOTIFICATION**

**No. SOH-1/2-58/09** WHEREAS Dr. Naseer Ahmad, Assistant Professor Anaesthesia (BS-18), Saidu Medical College, Swat remained absent from duty w.e.f., 6/3/2010 till date.

2. AND WHEREAS notices were issued to him in the newspapers under the relevant rules asking him to resume duty.

3. AND WHEREAS the accused doctor nor reported for duty neither replied to the show cause notices.

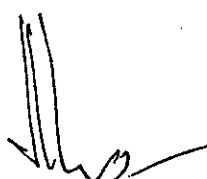
4. AND WHEREAS his period of absence from duty from 6/3/2010 to the issuance of removal from service order shall be treated as unauthorized absence from duty without pay.

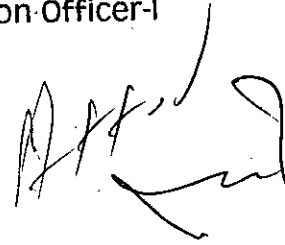
4. NOW THEREFORE, in exercise of powers conferred under Khyber Pakhtunkhwa, Govt. Servants Removal from Service (Special Powers) Ordinance 2000, the Competent Authority is pleased to impose major penalty of **"Removal from service"** on Dr. Naseer Ahmad, Assistant Professor Anaesthesia (BS-18), Saidu Medical College, Swat with immediate effect.

SECRETARY HEALTH,  
KHYBER PAKHTUNKHWA

**Endst No and date even**

1. ✓ <sup>ce</sup> Chief Executive, Saidu Group of Teaching Hospitals Swat.
2. ✓ Principal, Saidu Medical College, Swat.
3. Distt. Accounts Officer, Swat,
4. Computer Programmer, Health Department.
5. P.S to Secretary Health, Khyber Pakhtunkhwa.
6. Doctor concerned.
7. Personal file of the doctor concerned.

  
(Maqbool Khan Khattaki)  
Section-Officer-I



To: The Honourable Governor NWFP  
Governors' Secretariat,  
PESHAWAR

27  
Annex J

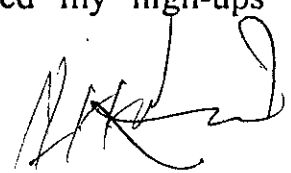
Subject: DEPARTMENTAL APPEAL

Respected Sir,

I have the honour to submit as under:-

Respectfully Sheweth:

1. That I did my MBBS from Khyber Medical College Peshawar in 1987 followed by a Diploma in Anesthesia in 1997 and FCPS in 2005. (Copy of my CV is attached as annexure 'A' for a further reference to my Biodata which may be read as part of this appeal).
2. That I was appointed as Medical Officer BS-17 through NWFP Public Service Commission as Medical Officer on 14.4.1992. (Copy of the order of appointment dated 14.4.1992 is attached as annexure 'B').
3. That I was appointed as District Specialist Anesthesia BS-18 on 18.8.2000, again through NWFP Public Service Commission. (Copy of the order dated 18.8.2000 is attached as annexure 'C').
4. That I was appointed as Assistant Professor BPS-18 on 23rd May 2003 on Officiating Basis followed by permanent appointment through NWFP Public Service Commission on 22.8.2006. (Copies of the orders dated 23.5.2003 and 22.8.2006 are attached as annexures 'D' & 'E').
5. That during my posting in Saidu Medical College Saidu Sharif Swat the law and order situation in the area deteriorated so much so that the Taliban took over the charge of Swat area and subsequently the Army had to come in and the people of Swat were sent to other areas as IDPs.
6. That in Swat so many lawyers, Doctors and other respectables were maltreated abducted and killed by the terrorists.
7. That I received threats of dire consequences and death and was directed by Taliban authorities to quit the area. I informed my high-ups



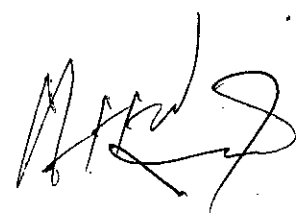
regarding the matter and wrote several letters for the grant of leave to save my life. (Copies of the applications are attached as annexures 'F' & 'G').

- 8. That subsequently I received threat culminating into an actual act where I was followed and was about to be abducted when saved my life in the forest of the area and reached on foot in about 3 months time. I was fired at but saved; the matter was reported to the high-ups. I lost all my sense due to my helplessness as nobody came to my aid or rescue, I after went underground and informed the high-ups accordingly. I filed an application again for leave of any kind but to my lamentations no reply was received.
- 9. That I was at the time of become a refugee from Swat serving as Head of the Anesthesia Department in Saidu Medical College, Saidu Sharif Swat.
- 10. That I got trauma treatment in Karachi as IDP and also proceeded abroad for some time but with information to my superior officers who never replied and never came to my help needless to mention here that I have served for more than 14 years and have more than 500 days Earned Leave to my credit on my balance.
- 11. That even if the absence period was to be converted into Earned Leave I have sufficient Earned Leave to make good the absence period. IS also could have been awarded Leave without Pay.
- 12. That when I reported back in 1<sup>st</sup> Week of November 2012 to respondent No.3 I was told that I had been removed from service vide the impugned order. I filed a Representation immediately against the order of removal on 9<sup>th</sup> November 2012 which has never been replied, hence this service appeal. (Copies of the Leave applications and order dated 28.11.2010 are attached as annexures 'H' & 'I').

*Appal 2*



13. That I have not been treated in accordance with law, I have not only been condemned unheard but I am a victim of arbitrariness and callousness of the Provincial Government.
14. That I was never served at my postal address nor was I ever called by the respondents. I was also not provided any opportunity of hearing. There is nobody who even contacted me on telephone while I was on bed in Karachi and when I proceeded abroad.
15. That the law relating to the removal of Government employees from service has not been followed in my case.
16. That it has been settled by now that the removal from service (Special Powers) Ordinance 2000 is a draconic law and the punishment therein were set aside by the Superior Courts.
17. That in the latest judgment of the Honourable Supreme Court of Pakistan the dismissal from service through the Ordinance was condemned and it was held that the procedure under Civil Servants Act 1973 and Civil Servants Efficiency and Disciplinary Rule 1973 shall apply in cases where the major penalty is to be imposed.
18. That the concerned authority was also duty bound to look into the fact that the I had good about 20 years service to my credit which service is pensionable and even if a major penalty was to be awarded that come at best be, in the circumstances as compulsory retirement and not removal from service.
19. That in any case the penalty imposed is too harsh and severe.
20. That in the circumstances mentioned above when I have more than 500 days of Earned Leave and that rules relating to grant of Leave without Pay is also exist the penalty imposed is liable to be struck down.
21. That in my case the law, rules and the judgments of the Superior Courts were not followed.



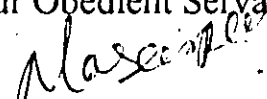
21. That there is dearth of Anesthesia Specialists in Health Department and hundreds of posts on Anesthesia site are vacant in the Provincial Government and Institutional Hospitals and the Government gives incentives to Doctors to give Anesthesia Training to adopt Anesthesia Field. The field of Anesthesia has been adopted by me because of my liking for it otherwise generally the Doctors do not opt for Anesthesia Specialization as there is less income involved compared to other Specialties. I made himself available to the respondents and being experienced hand Specialist the respondents should have placed me as Assistant Professor on my own seat which is lying vacant alongwith another seat lying vacant in the same Institute. A post of Associate Professor and Assistant Professor are also lying vacant.

22. That the impugned order is malafide and politically motivated as well.

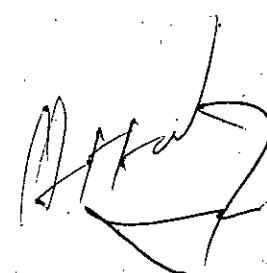
It is, therefore, respectfully prayed that on acceptance of this Departmental Appeal the impugned order of removal from service passed against me on 28<sup>th</sup> November 2010 may be set aside and I may very graciously be reinstated in service.

Dated:

Your Obedient Servant;

  
(Dr. Naseer Ahmad)  
son of Hazrat Biland  
r/o H # 37 St # 4  
Danishabad Akbar Town  
Near Peshawar University  
Peshawar.

9/11/2012



31

From:- Dr. Naseer.Ahmad  
Saidu Medical College  
Saidu Sharif Swat

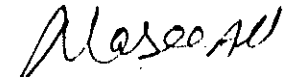
To: The Secretary Health Services  
Health Department  
Government of NWFP Peshawar.

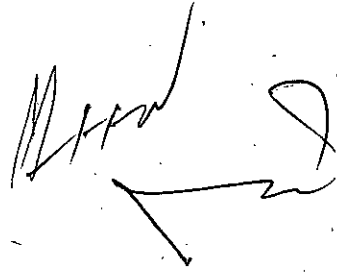
Sir,

I have the honour to submit that I am hiding myself from some unknown persons who followed me a few days back and are still in search of me. Please inform the police and Military Authority accordingly.

Dated: 3/12/2012

Yours Faithfully

  
(Dr. Naseer Ahmad)



32

From:- Dr. Naseer Ahmad  
Saidu Medical College  
Saidu Sharif Swat

To: The Area Commander  
Military Authority at  
Saidu Sharif Swat.

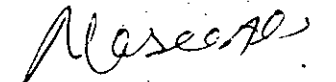
Sir,

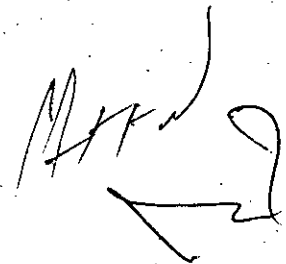
I have the honour to submit that I am hiding myself from some unknown persons who followed me a few days back and are still in search of me. Please inform the police and Military Authority under your command accordingly.

Dated:

9/11/2010

Yours Faithfully

  
(Dr. Naseer Ahmad)



33

From:- Dr. Naseer Ahmad  
Saidu Medical College  
Saidu Sharif Swat

To: The Principal  
Saidu Medical College  
Saidu Sharif Swat

Sir,

I have the honour to submit that I am hiding myself from some unknown persons who followed me a few days back and are still in search of me. Please inform the police and Military Authority accordingly.

Dated: 10/05/2012

Yours Faithfully

*Naseer Ahmad*  
(Dr. Naseer Ahmad)

*Attal*

VAKALATNAMA

IN THE PESHAWAR HIGH COURT, PESHAWAR

KPK Service Tribunal

Criminal/ Civil /Appeal/Writ Petition No. \_\_\_\_\_/20\_\_\_\_\_

Dr. Naseer Ahmad Appellant(s)

Petitioner(s)

VERSUS

Court of KPK & others Respondent(s)

I/We the Appellant

the Appellant(s) Petitioner(s) Respondent(s) in the above Suit/Appeal/Petition/ Reference do hereby appoint and retain Mian Muhibullah Kakakhel Sr. Advocate, Supreme Court of Pakistan, to act and appear for me/us in the above Suit/Appeal/ Writ Petition/Reference and on my/our behalf to conduct and prosecute (or defend) the same and all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein and Applications for REVIEW to file and obtain return of documents, and to deposit and receive money on my/our behalf in the said Suit/Appeal/Writ Petition/Reference and in Application for Revenue, and to represent me/us and to take all necessary steps on my/our behalf in the above matter. I/we agree to ratify all acts done by the aforesaid Advocate in pursuance of this Authority.

Dated this the 11 day of Feb 2012

Museer  
Appellant (s)/petitioner(s)/Respondent(s)/Caveator

Accepted

Mian Muhibullah Kakakhel

Senior Advocate

Supreme Court of Pakistan

Muhammed Farooq Afridi  
Advocate, Peshawar

Kakakhel Law Associates (Advocates & Legal Consultants) 36-C, 2<sup>nd</sup> Floor, Cantonment Plaza, Saddar Road, Peshawar Cantt, Khyber Pakhtunkhwa, Peshawar.

Ph: 091-5250412, Cell: 0333-9167424 Email: [info@kakakhellaw.com](mailto:info@kakakhellaw.com)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No.356/2013

Dr.Naseer Ahmad

Appellant

Versus

- 1- Government of Khyber Pakhtunkhwa through Secretary Health, Health Department Peshawar.
- 2- Chief Secretary Khyber Pakhtukhwa Civil Secretariat, Peshawar.
- 3- Principal Saidu Medical College, Saidu Sharif Swat.

Respondents

Written reply on behalf of the Respondents

Respectfully sheweth:

Preliminary objections

- 1- That the appellant has no locus standi or cause of action to file the instant appeal.
- 2- The appellant has not come to the court with clean hands.
- 3- The appeal does not contain full and complete disclosure of facts.
- 4- The appeal is deficient on technical grounds.
- 5- That the appeal is not maintainable and also time barred.

FACTS

Para(1): Needs no comments as it pertains to the record.

Para(2): Needs no comments as it pertains to the record.

Para(3): Needs no comments as it pertains to the record.

Para(4): Correct to the extent that the appellant was appointed as Assistant Professor Anaesthesia/ re designated as stop gap arrangement in his own pay and scale vide Notification No.SO(E)H-IV/4-1/2003 dated 23-05-2003 (Annex A) and later on regular basis vide Notification No.SOH-I/2-58/07 dated 22-09-2007 (Annex B).

Para(5) Correct that the law and order in the area deteriorated and considerable portion of the area became IDPs. However, the period under which the appellant remained absent, there was complete peace and all the Departments were smoothly functioning.

**Cont: Page -02**


- Para(6): Needs no comments.
- Para(7) Plea of the appellant regarding threats from Taliban is incorrect and denied because the appellant is absent from duty w.e.f 6-03-2010 the date when complete law and order situation had been established in the area. There was peace on the date i.e 6-03-2010, and almost all IDPs had returned to their homes.
- Para(8) As in Para 7 above.
- Para(9) As per Office order No.5179-83 dated 7-11-2009, Dr.Naseeer Ahmad was allowed to work as Head of Anaesthesia when he submitted arrival on 27-10-2009 after becoming absent from 10-10-2009 to 26-10-2009 (Annex - C )
- Para-10 Baseless hence denied. The appellant willfully absented himself from duties. In fact the date from which he became absent the Public life was normal, there was peace, Government writ established and all the Government departments were functioning as usual. Moreover, under the relevant rules, a Government servant is bound not to proceed abroad without permission/NOC, mere information does not serve the purpose.
- Para-11 Misconceived hence denied.
- Para- 12 In reply to Para No.12, it is submitted that as per statement of the appellant in the Para, he reported back in Ist week of November- 2012 ( after willfully becoming absent from duties w.e.f 6-03-2010 ) whereas his services had already been terminated as per rules vide Notification dated 28-11-2010 ( Annex -D) Moreover, the above paras especially Para 10 & 13 of the reply are self explanatory on the subject.
- Para 13. Baseless hence denied. The appellant did not respond to the notice dated 5-08-2010 published in the Daily Mashriq ( Annex E). In fact the appellant did not act according to the norms of a civil service, willfully absented himself for considerable period , therefore, the Provincial Govt: had no option except to proceed against him under the relevant rules.
- Para- 14 Baseless hence denied. It is submitted that he was directed to resume duty through publication in Daily Mashriq, but the appellant neither resumed duty nor any plausible reason has been given for absence. So he was given proper opportunity and all the codal formalities have been completed before the order of removal. ( Publication is attached).



- Para-15 Baseless hence denied. All the codal formalities have been completed by the Respondents.
- Para-16 Incorrect hence denied. The Respondents acted as per provision of prevailing law and the entire formalities have been completed.
- Para - 17 Incorrect. As in Para-16.
- Para 18 Incorrect. The major penalty has been imposed as per rules.
- Para-19 Incorrect. The penalty has been accorded as per rules.
- Para-20 Baseless hence denied. The appellant has been treated in accordance with law.
- Para-21 Incorrect. The law, rules and judgments of superior courts have been followed in the case of appellant.
- Para-21 In reply to Para-21, it is submitted that as far as his appointment as an Assistant Professor and Associate Professor are concerned, clear rules are present that regular appointment is made by the Health Department Government of Khyber Pakhtunkhwa after recommendation by the Public Service Commission.
- Para-22 Baseless hence denied. The order so passed is in consonance with the provision of law and there is no malafide or political motivation.
- Para-23 The Government has to follow its policy and relevant rules.

It is therefore respectfully prayed, that the appeal being baseless, having no grounds may kindly be dismissed with costs.

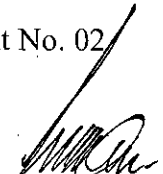
1- Secretary to Government of Khyber Pakhtunkhwa  
Health Department Peshawar.

  
Respondent - No.1

2- Chief Secretary Government of Khyber Pakhtunkhwa  
Peshawar.

Respondent No. 02

3- Principal Saidu Medical College, Saidu Sharif Swat

  
Respondent No.03  
PRINCIPAL  
SAIDU MEDICAL COLLEGE  
SAIDU SHARIF SWAT.

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No.356/2013

Dr.Naseer Ahmad

Appellant

Versus

- 1- Government of Khyber Pakhtunkhwa through Secretary Health, Health Department Peshawar.
- 2- Chief Secretary Khyber Pakhtunkhwa Civil Secretariat, Peshawar.
- 3- Principal Saidu Medical College, Saidu Sharif Swat.

Respondents

**Written reply on behalf of the Respondents on application for condonation of delay**

Respectfully Sheweth :

- Para- 1 Needs no comments
- Para- 2 Incorrect. The appeal is badly time barred and no plausible reasons has been given for condonation.
- Para- 3 The appeal is time barred and is liable to be dismissed.
- Para- 4 In correct and baseless. As elaborated in Para-10,12,13 and 14 of the reply on the main appeal, the appellant willfully absented himself from duty w.e.f 6-03-2010, the date when there was complete peace and Govt: writ established in the area.
- Para - 5 In correct. It is submitted that law aid the deligent and not the indolent. The appellant slept over his appeal, hence liable to be dismissed on this score alone.

In view of the above facts, it is requested that the application being baseless, based on malafide having no grounds may kindly be dismissed with costs please.

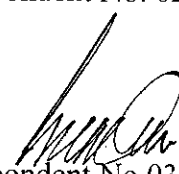
1- Secretary to Government of Khyber Pakhtunkhwa  
Health Department Peshawar.

  
Respondent – No.1

2- Chief Secretary Government of Khyber Pakhtunkhwa  
Peshawar.

Respondent No. 02

3- Principal Saidu Medical College, Saidu Sharif Swat

  
Respondent No.03  
PRINCIPAL  
SAIDU MEDICAL COLLEGE  
SAIDU SHARIF SWAT.

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No.356/2013

Dr.Naseer Ahmad

Appellant

Versus

- 1- Government of Khyber Pakhtunkhwa through Secretary Health, Health Department Peshawar.
- 2- Chief Secretary Khyber Pakhtukhwa Civil Secretariat, Peshawar.
- 3- Principal Saidu Medical College, Saidu Sharif Swat.

Respondents


**Written reply on behalf of the Respondents on application for interim relief.**

Respectfully Sheweth :

- Para -1 Needs no comments
- Para-2 Needs no comments
- Para-3 Incorrect. The appellant has no prima facie case in his favour.
- Para-4 Incorrect. Balance of convenience does not lie in favour of applicant. He willfully absented himself for considerable time and did not respond to the notice published in the daily Newspaper. If the interim relief is granted, the Respondents will suffer irreparable loss.
- Para-5 Incorrect. The removal order of the applicant has been issued as per rules.
- Para-6 Under the prevailing rules, recruitment against the post is made by the competent authority on recommendation of the Public Service Commission.

In view of the above, it is requested that the application being baseless, having no grounds may kindly be dismissed with costs please.

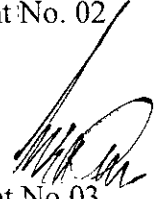
1- Secretary to Government of Khyber Pakhtunkhwa  
Health Department Peshawar.

  
Respondent - No.1

2- Chief Secretary Government of Khyber Pakhtunkhwa  
Peshawar.

Respondent No. 02

3- Principal Saidu Medical College, Saidu Sharif Swat

  
Respondent No.03  
**PRINCIPAL**  
SAIDU MEDICAL COLLEGE  
SAIDU SHARIF SWAT.

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No.356/2013

Dr.Naseer Ahmad

Appellant


Versus

- 1- Government of Khyber Pakhtunkhwa through Secretary Health, Health Department Peshawar.
- 2- Chief Secretary Khyber Pakhtukhwa Civil Secretariat, Peshawar.
- 3- Principal Saidu Medical College, Saidu Sharif Swat.

**AFFIDAVIT**

We the respondents noted below do hereby solemnly affirm and declare that the contents of the accompanying parawise comments / reply on appeal, application for interim relief and application for condonation of delay are true and correct to the best of our knowledge and belief and nothing has been concealed from this Honourable court.

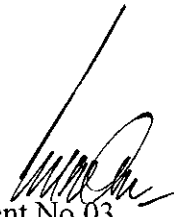
- 1- Secretary to Government of Khyber Pakhtunkhwa Health Department Peshawar.

  
Respondent – No.1

- 2- Chief Secretary Government of Khyber Pakhtunkhwa Peshawar.

Respondent No. 02

- 3- Principal Saidu Medical College, Saidu Sharif Swat

  
Respondent No.03  
PRINCIPAL  
SAIDU MEDICAL COLLEGE  
SAIDU SHARIF SWAT.

Dated Peshawar the 23th May 2003

**NOTIFICATION**

No. SO(E)H-IV/4-1/2003. The Provincial Government is pleased to order the appointment of faculty at Saidu Medical College, Swat as per Provincial Government in the recent discussion with the Chief Minister. The following doctors are transferred to Saidu Medical College, in their own pay and re-designated as follow:-

S. No	Name of Doctors	BPS	Present Post	Proposed posting
01	Dr. Muhammad Ismail	18	SMO SGTH Swat	S.R Surgery SGTH Swat
02	Dr. Manzoor Ali	18	Surgeon SGTH, Swat	A.P Surgery SMC, Swat
03	Dr. Sikandar Khan	18	Medical Specialist THQ Hospital, Matla	AP Medicine against the post of Associate Professor Medicine
04	Dr. Naseer Ahmad	18	District Anaesthetic SGTH Swat	AP Anesthesia SMC, Swat.
05	Dr. Naveed Irfan	18	SMO (Acting Consultant Govt; Mental Hospital Dadar	Assistant Professor Psychiatry SMC, Swat
06	Dr. Tajamul Khan	18	S.R Ophthalmology ATH, Abbottabad	Assistant Professor Ophthalmology SMC. Swat
07	Dr. Mohammad Akbar	18	Assistant Professor Surgery A.M.C Abbottabad	Associate Professor Surgery S.M.C. Swat

SECRETARY HEALTH

Endst; of Even No & date.

Copy forwarded to the:-

- 1- DG Health Services, NWFP, Peshawar.
- 2- Chief Executive ATH, Abbottabad.
- 3- Principal AMC, Abbottabad.
- 4- Principal SMC, Swat. etc

Sd/- Section Officer (Estb:)

Annex "B"

GOVERNMENT OF NWFP  
HEALTH DEPARTMENT

Dated Pesh: the 22<sup>nd</sup> Sept; 2007

NOTIFICATION

No.SOH-I/2-58/07 The Competent Authority, on the recommendations of NWFP Public Service Commission has been pleased to appoint Dr. Naseer Ahmad Distt: Anaesthetist (temporary Assistant Professor Anaesthesia SMC Swat) as Assistant Professor Anaesthesia (BS-18) on regular basis and to post him at Saidu Medical College Swat with immediate effect in the public interest.

2. He is directed to assume charge within **30 days** after the issuance of this notification failing which his appointment shall be treated as cancelled.

**SECRETARY HEALTH**

Endst No and date even

- C.C
- 1. Principal Gomal Medical College DIKhan.
- 2. Principal Saidu Medical College Swat.
- 3. Chief Executive DHQTH DIKhan/SGTH Swat.
- 4. Distt: Accounts Officer, Swat.
- 5. Director Recruitment, NWFP, Public Service Commission, Scouts Building Sector P-I, Phase-IV, Behind Hayatabad, Peshawar.
- 6. Director Information NWFP, Peshawar.
- 7. P.S to Minister Health, NWFP
- 8. P.S to Secretary Health, NWFP.
- 9. P.As to Addl. Secretaries/Deputy Secretaries, Health Dept.
- 10. Computer Programmer Health Department, NWFP.
- 11. Doctor concerned.
- 12. Personal file of the doctor concerned.

Government of N.W.F.P.  
Health Department  
Distt. Peshawar  
PESHAWAR

*Samin Jan*  
**(SAMIN JAN)**  
**SECTION OFFICER-I**

OFFICE OF THE CHIEF EXECUTIVE/PRINCIPAL STH/SMC, SWAT

No. 5455-57/SMC/PF Dated 08/10/2007.

Copy forwarded to the:-

- 1:- Medical Superintendent STH, Saidu Sharif Swat.
- 2:- Dr. Naseer Ahmad Assistant Professor Anaesthesia STH/SMC
- 3:- Accounts Officer, SMC, Swat.  
for information.

*M.A.*  
6/10/07

*6. Stab*  
*M.A.*  
*6/10/07*

1

Annex "C"

SAIDU MEDICAL COLLEGE  
SAIDU SHARIF SWAT.

Dated. 07/11/2009

OFFICE ORDER

Consequent upon the arrival of Dr.Naseer Ahmad Assistant Professor Anesthesia Saidu Medical College, Swat on 27-10-2009, he is allowed to work as Head of Anaesthesia. However, this office order bearing No. 4715-21/SMC/PF dated 6-10-2009 is hereby withdrawn.

Sd/-x-x—x  
PRINCIPAL  
SAIDU MEDICAL COLLEGE  
SAIDU SHARIF SWAT.

No. 5179-83 /SMC/PF

Copy forwarded to the:-

- 1- Chief Executive Saidu Teaching Hospital, Swat.
- 2- Medical Superintendent Teaching Hospital, Swat.
- 3- Accounts Officer, SMC, Swat.
- 4- Dr.Naseer Ahmad Assistant Professor Head of Anaesthesia Department SMC, Swat
- 5- Dr.Muhammad Shuaib Assistant Professor Anaesthesia Deptt: SMC,Swat.

PRINCIPAL  
SAIDU MEDICAL COLLEGE  
SAIDU SHARIF SWAT.

7/11/09  
7/11

GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT

Annex "D"

Dated Peshawar the 28<sup>th</sup> Nov, 2010

**NOTIFICATION**

**No.SOH-I/2-58/09** WHEREAS Dr. Naseer Ahmad, Assistant Professor Anaesthesia (BS-18), Saidu Medical College, Swat remained absent from duty w.e.f., 6/3/2010 till date.

2. AND WHEREAS notices were issued to him in the newspapers under the relevant rules asking him to resume duty.

3. AND WHEREAS the accused doctor nor reported for duty neither replied to the show cause notices.

4. AND WHEREAS his period of absence from duty from 6/3/2010 to the issuance of removal from service order shall be treated as unauthorized absence from duty without pay.

4. NOW THEREFORE, in exercise of powers conferred under Khyber Pakhtunkhwa, Govt. Servants Removal from Service (Special Powers) Ordinance 2000, the Competent Authority is pleased to impose major penalty of "**Removal from service**" on Dr. Naseer ahmad, Assistant Professor Anaesthesia (BS-18), Saidu Medical College, Swat with immediate effect.

SECRETARY HEALTH,  
KHYBER PAKHTUNKHWA

**Endst No and date even**

1. ✓ C.E Chief Executive, Saidu Group of Teaching Hospitals Swat.
2. ✓ Principal, Saidu Medical College, Swat.
3. Distt. Accounts Officer, Swat;
4. Computer Programmer, Health Department.
5. P.S to Secretary Health, Khyber Pakhtunkhwa.
6. Doctor concerned.
7. Personal file of the doctor concerned.

(Maqbool Khan Khattaki)  
Section Officer-I



**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR**

CM No. \_\_\_\_\_/2013

In Re:

Appeal No. 336/2013

~~107/~~  
~~31/12/13~~

Dr. Naseer Ahmad .....Appellant

Versus

Govt. of KPK through Secretary Health etc, .....Respondents

Notice  
to the  
opposite  
side with  
copy of  
Rejoinder  
to be  
filed  
fixed  
8/1/14

**APPLICATION FOR EARLY FIXATION OF APPEAL**

1. That the above mentioned service appeal is pending adjudication before this Honourable Service Tribunal and is fixed for 21-03-2014.
2. That the appellant is a doctor by profession and he has been dismissed from service illegally. His service was the only source of his income and now the matter of bread and butter is involved.
3. That the appellant has got a family and since his dismissal the whole family is facing economical and financial problems. Besides he has got children and all of his family/children are studying on self finance basis and are dependant on the appellant.
4. That the rejoinder has been attached with the instant application, the copy of which may also be sent to the respondents, hence, the main appeal may be fixed for arguments. (Copy of Rejoinder is Attached as Ann: R/I)
5. That because of the arbitrary and regime of Iftikhar Muhammad Chaudhry the so-called Chief Justice this Tribunal did not function for a long and the pendency of the case is playing hill with the appellant of the cases as a result is availing to any appellant.

A.D.G.  
rejoinder  
submitted  
7/1/14  
Mansoor

6. That the Chief Justice Iftikhar Muhammad Chaudhry left the post leaving anarchy behind him and he used to shout as politicians and the appellant is suffering because of his misdeeds.

7. That the suo-moto jobs taken upon themselves by the flee/run away Chief Justice could only be clean by providing more member to the Tribunal.

8. That the maternal uncle of the appellant and the counsel for the appellant has no choice but to fight with each other.

9. That the given date is too long and it shall be in the interest of justice to accelerate the date in the above mentioned service appeal by fixing it for a short date.

It is therefore respectfully prayed that on acceptance of this Application, the above mentioned appeal may kindly be fixed on an early date for arguments in the interest of justice.

The notice of the date fixed may also be sent to the appellant as he has lost all the hopes of getting justice under Iftikhar Muhammad Chaudhry and Co. including his Core Commanders i.e., Provincial Chief Justices.

*Naseer Akbar*  
Appellant

Through

*Mian Muhibullah Kakakhel*  
**Mian Muhibullah Kakakhel**  
Senior Advocate  
Supreme Court of Pakistan

*Muhammad Farooq Afridi*  
**Muhammad Farooq Afridi**  
Advocate High Court  
Peshawar

Dated: 30.12.2013

**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR**

CM No. \_\_\_\_/2013

In Re:

Appeal No. 336/2013

Dr. Naseer Ahmad .....Appellant

Versus

Govt. of KPK through Secretary Health etc, .....Respondents

**AFFIDAVIT**

I, Dr. Naseer Ahmad S/o Hazrat Biland R/o House No. 37, Street no. 4  
Danishabad near University of Peshawar, do hereby solemnly affirm and  
declare that the contents of the accompanying **Application** are true and correct to  
the best of my knowledge and belief and nothing has been concealed from this  
Hon'able Court.



*Naseer Ahmad*  
DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.

Service Appeal No.356/2013.

Dr. Naseer Ahmed . . . . . V/s . . . . . Government.

REGINDER ON BEHALF OF THE APPELLANT.

RESPECTFULLY SHEWETH :-

The Parawise are misreading and incorrect.

The corresponding paragraphs of the Service Appeal are proper facts for the decision of the Appeal.

It is therefore, respectfully prayed that the Appeal may be accepted.

AFFIDAVIT.

I Dr. Naseer Ahmad son of Hazrat Biland, resident of House No.37 Street No.4 Danishmand, Akbar Town, Near Peshawar, do hereby solemnly affirm and declare that the contents of the accompanying Service Appeal are true and to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

*Naseer Ahmad*  
Deponent

Dated :- 26/12/2013.

N.I.C. No. 17301-1325173-7



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

CM.NO. \_\_\_\_\_/2014

In Re:

Appeal No. 356/2013 ?

Dr. Naseer Ahmad

.....Appellant

**VERSUS**

Govt: of KPK through Secretary Health etc .....Respondents

**APPLICATION FOR EARLY FIXATION OF APPEAL**

Respectfully Scheweth:

The Petitioner very earnestly craves permission to submit through the instant application as follows:

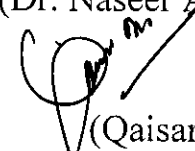
1. That the above mentioned service appeal is pending before this Hon'able Service Tribunal and is fixed for 28-01-2015 i.e after long two years of the filing of the Petition. ?
2. That the appellant is a Doctor by profession and has been illegally removed from service based on malafide and his only source of income, bread and butter was the service, which has been snatched. The whole family is suffering from the agonies of the unemployment.
3. That three copies of the rejoinder has already been submitted which may be sent to the Respondents and the main appeal may kindly be fixed for early date for arguments.
4. That given date is far way due to which the appellant and his family is suffering tremendously.

It is, therefore, respectfully prayed that on acceptance of this application, the title mentioned case may be fixed for an early date for arguments in the interest of justice.

Dated: 22-10-2014

Appellant  
(Dr. Naseer Ahmad)

Through:

  
(Qaisar Ali)  
Advocate High Court  
Qaisar law Associates,  
Flat No.7, 1<sup>st</sup> Floor,  
Tasnim Plaza, Near Jan's Bakers,  
6-Saddar Road, Peshawar Cantt

*Handwritten notes:*  
872  
22/10/14  
Appeal is already fixed for arguments on 28-01-2015.  
Please for early the right will be considered after suffering by tribunal.  
28/10/14

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

CM.NO. \_\_\_\_\_/2014

In Re:

Appeal No. 356/2013

Dr.Naseer Ahmad

.....Appellant

**VERSUS**

Govt: of KPK through Secretary Health etc .....Respondents

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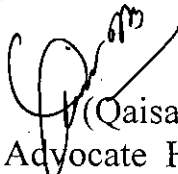
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**BEFORE THE KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL, PESHAWAR**

CM.NO. \_\_\_\_\_/2014

In Re:

Appeal No. 356/2013

Dr.Naseer Ahmad .....Appellant

**VERSUS**

Govt: of KPK through Secretary Health etc .....Respondents

**APPLICATION FOR EARLY FIXATION OF APPEAL**

Respectfully Scheweth:

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1. That the above mentioned service appeal is pending before this Hon'able Service Tribunal and is fixed for 28-01-2015 i.e after long two years of the filing of the Petition.
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3. That three copies of the rejoinder has already been submitted which may be sent to the Respondents and the main appeal may kindly be fixed for early date for arguments.
4. That given date is far way due to which the appellant and his family is suffering tremendously.

It is, therefore, respectfully prayed that on acceptance of this application, the title mentioned case may be fixed for an early date for arguments in the interest of justice.

Appellant  
(Dr. Naseer Ahmad)

Dated: 22-10-2014

Through: (Qaisar Ali)  
Advocate High Court  
Qaisar law Associates,  
Flat No.7, 1<sup>st</sup> Floor,  
Tasnim Plaza, Near Jan's Bakers,  
6-Saddar Road, Peshawar Cantt

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 356 of 2013

Dr.Naseer Ahmad Son of Hazrat Biland, House No.37, Street  
No.4, Danishabad, Akbar Town, Near Peshawar University,  
Peshawar .....Appellant

**VERSUS**

1. The Government of Khyber Pakhtunkhwa through  
Secretary Health to Govt: of Khyber Pakhtunkhwa,  
Health Department, Civil Secretariat, Peshawar.
2. The Chief Secretary to Government of Khyber Pakhtunkhwa,  
Civil Secretariat, Peshawar.
3. The Secretary to Govt: of Khyber Pakhtunkhwa,  
Establishment Department, Civil Secretariat,  
Peshawar.
4. The Chief Executive,  
Saidu Group of Hospitals, Saidu Sharif Swat.
5. The Principal, Saidu Medical College,  
Saidu Sharif, Swat. ....Respondents

**REVISED REJOINDER TO WRITTEN REPLY ON BEHALF OF THE PETITIONER**

*Respectfully Sheweth:*

**REJOINDER TO PRELIMINARY OBJECTIONS:**

Rejoinder in response to written reply of the Respondents is submitted as  
below:

1. That cause of action arose due to illegal Removal from service of the  
Petitioner by the Respondents vide impugned Notification No.SOH-1/2-  
58/09 dated 28-11-2010.The impugned Notification is illegal, malafide,  
capricious and apart from other irregularities it was issued on Sunday i.e  
holiday on 28-11-2010. The Respondents have come to this court with dirty  
hands. In order 112(g) of the Qanun-e-Shahadat Order, 1984, it is very  
clearly mentioned that the court will take judicial notice of Public Festivals,  
fasts and holidays. The issuance of impugned notification on a holiday and  
without observing the codal formalities shows illegality, high handedness,  
malafide arbitrariness and fabrication by the issuing authority.

(Copy of Dismissal Order dated 28-11-2010 is attached as **Annex-A**).

2. As above in Para-1.



3. That the appeal is well detailed and nothing has been concealed and all the facts and circumstances have been disclosed.
4. As above in Para 3.
5. That appeal is well in time as and when the appellant came to know about the impugned order of Removal from service, departmental petition and the present appeal were filed before this Hon'able Service Tribunal which are well in time.
6. That the Respondents without issuing any show cause under Khyber Pakhtunkhwa Removal from Service Ordinance 2000, and without initiating any statutory proceedings and without appointing any Inquiry Committee and without conducting any enquiry as required under Section 3 of the NWFP Removal from Service (Special Powers Ordinance) removed the appellant from service, which is totally illegal and malafide. The impugned notification is totally defective and illegal as
  - i. Khyber Pakhtunkhwa Government Servants Removal from Service (special Powers) Ordinance 2000, has not been extended to Swat (A Provincially Administered Tribal Area) as required under Article 247 of the Constitution of Islamic Republic of Pakistan.
  - ii. A notice only in "Daily Mashriq" was published (It was required two widely circulated dailies) and it was specifically mentioned in the notice:

**"Disciplinary proceeding will be initiated against you which may lead to Removal from Service under "Removal from Service Special Powers Ordinance 2000"**

But no proceedings were initiated as notified above and directly without any show cause, without any proceedings and without Enquiry the appellant was removed from service, moreover proper/correct law has not been quoted. The appellant was removed from service inspite of the fact that the Chief Minister had already order for leave of the Appellant (Annex-C).

(Notice in the Daily Mashriq dated 05-08-2010 is **Annex-B**)  
(Order of granting leave by the Chief Minister **Annex-C**)

- iii. During the period of notice and proceedings there were:-
  - a. Gigantic and Devastating floods especially in Swat & generally in the Pakistan.
  - b. Extreme acts of terrorism and even during the period of notice in the "Daily Mashriq" and Appellant's Removal from Service in Malakand/Swat, Malala Yousafzai and her class fellows were shot on 9-10-2012. Dr. Farooq the first Vice Chancellor of Malakand University was shot dead on 2-10-2010, an Army General Ziaullah Niazi was martyred on 26-7-2012 in Salarzai on 18-09-2012, two Policemen were killed in mine blast in the area on 30-9-2012, a Police man was killed in upper Dir and one may quote many many more incidents of terrorism in swat during the period. Therefore, the Respondents'

claim that in 2010, there was peace and no terrorism in Swat is totally wrong and false.

- c. The Authority i.e the Chief Minister had already ordered for leave of the appellant and during this leave order, impugned Removal from Service Order (**Annex-A**) was illegally passed on holiday.

(Letter of CM's Sectt on 24-08-2009 for grant of leave is attached as **Annex-C**).

**REJOINDER TO FACTS:**

1. "No comments" of the Respondents means admission. That the Respondents have admitted contents of my extraordinary, shining unblemished record in my CV.
2. The claim of the of the Respondent is vehemently denied as during the year 2010 also Swat and all Malakand Division was under the extreme wave of terrorism and devastated by the worst recorded floods. A few incident of acts of terrorism are quoted as below:-
  - i. Gigantic and Devastating floods especially in Swat & generally in the Pakistan.
  - ii. Extreme wave of terrorism and even during the period of notice in the "Daily Mashriq" and my Removal from Service in Malakand/Swat, Malala Yousafzai and her class fellow were shot on 9-10-2012. Dr.Farooq first Vice Chancellor of Malakand University was shot dead on 2-10-2010, an Army General Ziaullah Niazi was martyred on 26-7-2012 in Salarzai on 18-09-2012, two Policemen were killed in mine blast in dir on 30-9-2012, a Police man was killed in upper Dir and one may quote many many more incidents of terrorism in swat during the period. so the Respondents claim that in 2010, there was no terrorism in Swat is totally wrong and false.
  - iii. Many many more examples of terrorism in Swat i.e Malakand division may further be quoted. The claim of appellant regarding smooth functioning and peace in Swat is totally denied.
3. No comments tantamount that the Respondents admits claim of the appellant regarding abduction, killing and mal treatment of many lawyers doctors and other respectables of the area as mentioned in the preceding paragraphs.
4. The comments are as in Para 6 above. The Reply of the Respondents is totally incorrect, false and baseless. The terrorism is still there and whoever is targeted cannot escape, while residing in Swat and Khyber Pakhtunkhwa and even in the whole country. The authorities have also been informed regarding the said threats on which the Respondents have given neither any reply nor any comments.

(Letters to Authorities Regarding Life Threats to Appellant are **Annexed-C,CI, E, F, G and H**)

5. As in Para 7 above.
6. How could appellant work when the terrorism was on peak in the whole region and his life and family was under threat and there are many many examples of targeted killing by the terrorists as narrated in the preceding

paras. Moreover, the Executive Authority of the Province i.e Chief Minister had already ordered for grant leave (Annex-C)

7. That as mentioned above, the appellant and his family was targeted and any person who is targeted by the terrorists cannot escape anywhere in the country. The appellant verbally and in writing informed the authorities regarding threats to his life and family (Annexs-C, Cl, E, F, G & H), but no reply was given. The appellant applied for ex-Pakistan leave (Annexs-C, Cl, E, F & J) to save his life but no response was made and in such type of situation there was no way but to go to Karachi and then run to abroad to save life, which is the top priority and is not against any law or ethics. However, the Chief Minister, NWFP; who is the Chief Executive and the Competent authority ordered for grant of leave (Annex-C), but surprisingly inspite of this order of the Chief Minister, appellant was removed from Service, which is illegal, whimsical, capricious and without any authority.
8. That the Denial of the Respondents is totally baseless, the appellant informed his high ups about threat to his life and applied for leave to which no response was made (Annexs-C, Cl, E, F, G, H & I). However, the reply is as of para 7 and 10 above.
9. That reply of the Respondents is totally false, it was not a willful absence rather under threat to lives of the appellant and to his family. The appellant applied for leave (Annexs-C, Cl, E, F, G & H) but no reply/compliance was received on behalf of the Respondents and in the circumstances lives were also very precious. However when the situation became a bit normal the appellant reported for duty. Moreover the Chief Minister had already order for grant of leave (Annex-C).
10. That the available documentary evidence reflect, the notice was allegedly published only in one local Newspaper i.e the "Daily Mashriq" dated 05-08-2010 (Annex-B) and it was during the high devastating floods when the newspapers were not in the approach of all, especially when it was published in only one Local Newspaper and was not delivered in Karachi, where applicant was admitted.
  - ii. The notice was under "Removal from Service Special powers Ordinance 2000" and the actual law is "NWFP Removal From Service (Special Powers) Ordinance 2000. Moreover, through 18<sup>th</sup> amendment Bill on 15-04-2010 name of the Province from NWFP was changed to Khyber Pakhtunkhwa and similarly all laws, but in the advertisement law has also been mentioned of NWFP. As the proper law has not been quoted, therefore the proceedings becomes abinitio infructuous
  - iii. In the impugned notice it is mentioned "Disciplinary action will be initiated against you" But strangely no disciplinary action/proceedings were initiated. The legal proceeding under NWFP Removal from Service (Special Powers) Ordinance 2000, were never initiated. Neither any show cause was issued to initiate proceedings. As mentioned in the impugned advertisement that disciplinary action

will be initiated and no show cause was issued. All it is against the doctrine of Audi Alteram Partem (i.e opportunity of being heard)

- iv. That the Law of NWFP Removal From Service (Special Powers) Ordinance 2000 has not been extended to Swat ( Provincial Administered Tribal Areas) as required under Article 247 of the Constitution of Islamic Republic of Pakistan. Therefore the impugned law is not applied to the appellant serving in Swat. Therefore, all the proceedings if any and Removal from service is without any law and authority.
14. That as replied in para 10 above. Moreover when the appellant was admitted/bed ridden and under treatment in Karachi Hospital and neither any notice was served on him nor any proceedings under NWFP Removal from Service (special powers) Ordinance 2000 were initiated and not a single codal formality was fulfilled/adopted. The Notice published in Daily Mashriq (**Annex-B**) was for initiation of disciplinary proceedings under the said law, which were never initiated.
15. That as explained in Para 13 & 14 above no proceedings under the NWFP Removal from Service (special powers) Ordinance 2000 were initiated as notified in the impugned notice published in one local daily only.
16.
  - i. That no codal formality has been fulfilled. Neither any show cause notice nor any enquiry was conducted as required in the last para of Section 3 of the NWFP Removal from Service (Special Powers) Ordinance 2000.
  - ii. That as required under Section 3(2)(a) and 3(2)(b) , appellant was neither informed of the action proposed (i.e Removal from Service) nor opportunity of being heard was provided).
  - iii. That as required under Section 5(1)(b) of the NWFP Removal From Service (Special Powers) Ordinance 2000, Charges and Statement of Allegations were never provided to the appellant. The enquiry is the base of statement of Allegations and Charge Sheet, but as no enquiry was conducted, therefore charge sheet and statement of allegations were not served. A notice with ambiguous language and that too in one News Paper dated 05-08-2010 was published during the period of devastating floods, when the News Papers could not be circulated, makes the whole proceedings false especially when impugned notification of Removal from Service Order is dated 28-11-2010, which Sunday i.e holiday. All it shows malafide, high handedness, vindication and concocted proceedings.
  - iv. That the appellant after receiving life threats from unknown persons informed in writing also, the Secretary Health, NWFP, the Arrea Commander of the Army in Swat and even the Chief Minister (**Annex-D, E, F, G & H**). The Appellant submitted applications to the Secretary Health and the Chief Minister for long leave ( 365 days (Without pay) with the explanation that the Appellant is directly receiving threats of life (**Annex- D & E**). The Minister, NWFP, vide No.SO-II(CMS)NWFP/1-1/2009 dated 24-08-2009 ordered to grant

leave as per entitlement. As per report on the leave proforma **(Annex-C)**, the Appellant was entitled for leave. As the Chief Minister is the Chief Executive of the Government, his this order of granting leave by all definitions is considered as leave, but it was not communicated to the Appellant by the Respondents, which is lapse on behalf of the Respondents/Administration and malafide also. In the presence of leave sanctioned, the Administrative Head/Chief Minister of the Government, the impugned order of dismissal from services is totally illegal, abinitio void and without any legal authority.

17. That in para 16 above it has been proved that not a single codal formality has been observed/fulfilled.
18. That in the circumstances as mentioned above in the preceding paras and especially in paras 13, 14, 15 and 16 above the Penalty leveled through the impugned order is totally illegal, personal whimsical, capricious, malafide and based on high handedness.
19. As in paras 13, 16 & 18 above.
20. As in paras 13, 16 and 18 above.
21. As in paras 13, 16 and 18 above.
- 22 & 23:- That the impugned Order is whimsical, capricious, malafide and based on high handedness because:
  - i. It has been passed on 28-11-2010 when there was Sunday a holiday.
  - ii. The only so called notice with ambiguous language published allegedly in "Daily Mashriq Peshawar" dated 05-08-2010, when there were devastating floods and the News papers could not be circulated and the appellant was admitted/bed-ridden in a Karachi Hospital and circulation of the said paper is mostly concentrated in the Province of Khyber Pakhtunkhwa.
  - iii. No opportunity of being heard was provided as required Under Section 3(2)(a) and 3(2)(b) of the NWFP Removal of Service (Special Powers) ordinance 2000. The Appellant was condemned unheard and no enquiry was conducted.
  - iv. As required Under Section 3 of the Removal from Service (Special Powers) Ordinance 2000, neither any enquiry has been conducted nor any Enquiry Officer/Enquiry Committee was constituted.
  - v. As required under Section 5(1)(b) ibid neither Statement of Allegations nor Charge Sheet was served because enquiry as required by the Statute was never conducted.
  - vi. The authorities were time and again informed regarding threats from terrorists against life of the appellant and his family **(Annex-C, CI, F, G & H)**, therefore, applied for leave but no reply was given by the Respondent in spite of grant of leave by the Chief Minister, NWFP **(Annex-C)**.
  - vii. The Chief Minister NWFP, who is the top legal Authority and executive Head of the Government ordered for grant of leave to the Appellant **(Annex-C)**. Therefore the impugned Order of removal from

Service is unlawful, Malafide, arbitrary, Capricious and unjust and against the natural justice.

23. The absence of the appellant was not willfully as mentioned in the so called notice, published only in "Daily Mashriq" dated 05-08-2010 (**Annex-B**) during gigantic and devastating floods, but the absence was under threat and coercion and threats to the life of the appellant and his family.

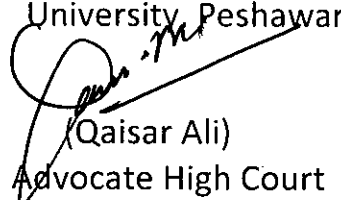
Keeping in view the above facts and proved illegalities, irregularities, high handedness and vindication of the Respondents, it is prayed that on acceptance of this Service Appeal, the impugned order of Removal from service passed against the Appellant vide No.SOH-1/2-58/09 dated 28-11-2010 may be Set Aside/Vacated/Annulled and the Appellant may please be reinstated in service with back benefits and costs or any other order deemed appropriate remedy in the circumstances of the case may also be passed in favour of the Appellant.

Yours obediently,

(Dr.Naseer Ahmad)

Son of Hazrat Biland, House No.37, Street  
No.4 Danishabad, Akbar Town, Near Peshawar  
University, Peshawar

Through:



(Qaisar Ali)

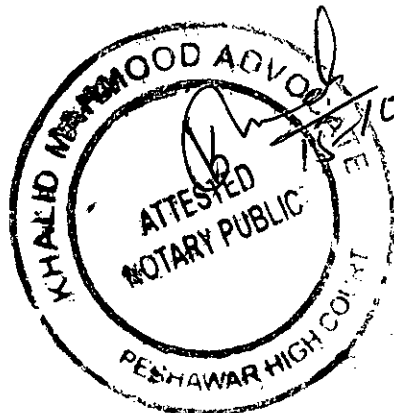
Advocate High Court

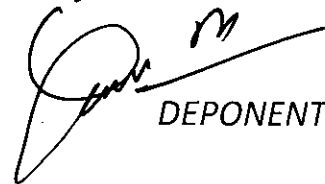
Qaisar Law Associates,

Flat No.7, 1<sup>st</sup> Floor, Tasnim Plaza, Near Jan's  
Bakers, 6-saddar Road, Peshawar Cantt

**AFFIDAVIT**

*I, do hereby solemnly affirm on oath that the contents of this  
Petition/Rejoinder as above are true and correct as per information and nothing  
therein is false.*



  
DEPONENT

Amna: A

GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT

Dated Peshawar the 28<sup>th</sup> Nov; 2010

26

Amna: A

**NOTIFICATION**

**No.SOH-1/2-58/09** WHEREAS Dr. Naseer Ahmad, Assistant Professor Anaesthesia (BS-18), Saidu Medical College, Swat remained absent from duty w.e.f., 6/3/2010 till date.

2. AND WHEREAS notices were issued to him in the newspapers under the relevant rules asking him to resume duty.

3. AND WHEREAS the accused doctor nor reported for duty neither replied to the show cause notices.

4. AND WHEREAS his period of absence from duty from 6/3/2010 to the issuance of removal from service order shall be treated as unauthorized absence from duty without pay.


4. NOW THEREFORE, in exercise of powers conferred under Khyber Pakhtunkhwa, Govt. Servants Removal from Service (Special Powers) Ordinance 2000, the Competent Authority is pleased to impose major penalty of "**Removal from service**" on Dr. Naseer Ahmad, Assistant Professor Anaesthesia (BS-18), Saidu Medical College, Swat with immediate effect.

SECRETARY HEALTH,  
KHYBER PAKHTUNKHWA

**Endst No and date even**

C.C

1. Chief Executive, Saidu Group of Teaching Hospitals Swat.
2. Principal, Saidu Medical College, Swat.
3. Distt. Accounts Officer, Swat,
4. Computer Programmer, Health Department.
5. P.S to Secretary Health, Khyber Pakhtunkhwa.
6. Doctor concerned.
7. Personal file of the doctor concerned.



(Maqbool Khan Khattaki)  
Section Officer-I

Daily - [unclear]

Dated 5/03/2010

(4)..... 5 اکتوبر 2010ء

بخت بھائی، بختی بھائی ایس  
پرنسپل سائڈو میڈیکل کالج

میں سائڈو میڈیکل کالج میں تقسیم کر دیے

تفصیلاً لکھ کر ارسال کیا گیا ہے جس پر سائڈو میڈیکل کالج میں  
میں ہجرت کرنے کے لئے اپنی اپنی پرزورنگ کرنی چاہئے  
کے تحت میں اپنی اپنی میں سائڈو میڈیکل کالج میں  
سائڈو میڈیکل کالج میں ہجرت کرنے کے لئے اپنی اپنی  
میں ہجرت کرنے کے لئے اپنی اپنی میں سائڈو میڈیکل کالج میں

میں ہجرت کرنے کے لئے اپنی اپنی میں سائڈو میڈیکل کالج میں  
میں ہجرت کرنے کے لئے اپنی اپنی میں سائڈو میڈیکل کالج میں  
میں ہجرت کرنے کے لئے اپنی اپنی میں سائڈو میڈیکل کالج میں  
میں ہجرت کرنے کے لئے اپنی اپنی میں سائڈو میڈیکل کالج میں

**SAIDU MEDICAL COLLEGE  
SAIDU SHARIF SWAT  
ABSENCE NOTICE**

You Dr. Naseer Ahmad, Assistant Professor, Anaesthesia, Saidu Medical College, /Saidu Teaching Hospital, Saidu Sharif Swat are willfully absent from duty since 6-03-2010 without any information.

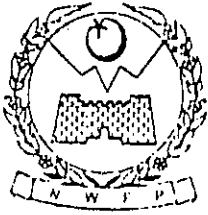
Therefore, you are finally directed through press to resume your duty within 15 days after publishing this notice and explain the reason of your absence. If you failed to resume duty within stipulated period, disciplinary action will be initiated against you which may lead to Removal from services under "Removal from Service Special powers ordinance 2000".

INF(SW)207

**PRINCIPAL  
SAIDU MEDICAL COLLEGE  
SAIDU SHARIF SWAT**



Annex: C



22

3676

Amir E

CHIEF MINISTER'S SECRETARIAT  
N-W.F.P.

No. SO-II/CMS/NWFP/1-1/2009  
Dated Peshawar, the 24<sup>th</sup> Aug: 2009

122477

To

The Secretary to Govt: of NWFP,  
Health Department,  
Peshawar

Subject:- LONG LEAVE

Dear Sir,

I am directed to forward herewith a copy of self contained application of Dr. Umme Habiba Associate Professor Gynae and Dr. Naseer Ahmad Assistant Professor Anesthesia Saidu Medical College, Swat on the subject noted above and to state that leave may be granted as per entitlement as desired by the Honorable Chief Minister, NWFP.


Encl: as above.

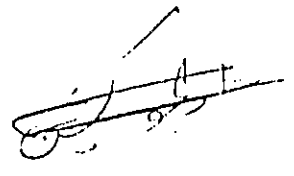
Yours faithfully

(AMIR MUHAMMAD)  
SECTION OFFICER-II

Copy to:-

1. Principal Secretary to Chief Minister, NWFP.
2. PS to Chief Minister, NWFP (Camp Office Mardan).

  
SECTION OFFICER-II

  
Health

APPLICATION FOR LEAVE

25

Notes:- Item 1 to 9 must be filled in by all applicants. Item 12 applies only in the case of Government servants of B.P.S. 16 and above.

- 1. Name of applicant. DR. NASEER AHMAD
- 2. Leave Rules applicable. REVISED LEAVE RULE-1981
- 3. Post held. ASSISTANT PROFESSOR ANAESTHESIA
- 4. Department or Office. Health / SMC SWAT
- 5. Pay.
- 6. House Rent Allowance/Conveyance Allowance or other compensatory allowance drawn in the present post.
- 7. (a) Nature of leave applied for.
- (b) Period of leave in days. 365 days (1 Yr)
- (c) Date of commencement. 1st Feb 09 - 31-02-2010
- 8. Particular Rule/Rules under which leave is admissible.
- 9. (a) Date of return from last leave.
- (b) Nature of leave.
- (c) Period of leave in days.

Naseer  
Signature of applicant

- 10. Remarks recommendation of the Controlling Officer.
- 11. Certified that leave applied for is admissible under Rule ..... and necessary conditions are fulfilled.

Naseer Ahmad  
Date 14/1/09  
Signature  
Designation.

- 12. Report of Audit Officer.  
The application for revised leave
- Date 1st Feb 1981.  
Signature  
Designation.

- 13. Orders of the sanctioning authority certifying that on the expiry of leave the applicant is likely to find same post carrying the compensatory being drawn by him.
- Signature  
Designation.

No. 204/P.F.S.M.C dated: 14/01/2009

Forwarded to D.A.O Swat

14-1-2009  
PRINCIPAL  
Swat Medical College  
Swat, Swat (Swat)

Annex: D

23

January 12, 2009

To the Secretary,  
Health Department,  
NWFP, Pakistan

Amir (37)

Subject: Long leave (365 days without pay)

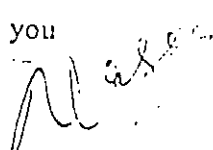
**Reason: Threat to life**

Sir,

With due respect it is to bring to your notice that due to the deteriorating law and order situation I can no longer stay in Swat. I survived the initial one and half year despite the risks in that area but now I have gotten direct threats to my life from an unknown source. It is no longer prudent to stay in Swat and continue my routine duties. I have to leave even my house and my very well established practice.

I am serving in the health department for the past sixteen years and have never availed any long leave. I am entitled to long leave for the above mentioned period. Therefore I may kindly be granted these leaves on humanitarians' grounds to safeguard mine and my family's lives. I will resume my duties as soon as the situation is back to normal.

Thank you

  
Dr. Naseer Ahmad  
Assistant Professor  
Dept of Anaesthesia  
Saidu Medical College  
Swat

(31)

Annex F

From:- Dr. Naseer Ahmad  
Saidu Medical College  
Saidu Sharif Swat

To: The Secretary Health Services  
Health Department  
Government of NWFP Peshawar.

Sir,

I have the honour to submit that I am hiding myself from some unknown persons who followed me a few days back and are still in search of me. Please inform the police and Military Authority accordingly.

Dated: 3/12/2022

Yours Faithfully

*Naseer Ahmad*  
(Dr. Naseer Ahmad)

Annex H

33

From:- Dr. Naseer Ahmad  
Saidu Medical College  
Saidu Sharif Swat

To: The Principal ✓  
Saidu Medical College  
Saidu Sharif Swat

Sir,

I have the honour to submit that I am hiding myself from some unknown persons who followed me a few days back and are still in search of me. Please inform the police and Military Authority accordingly.

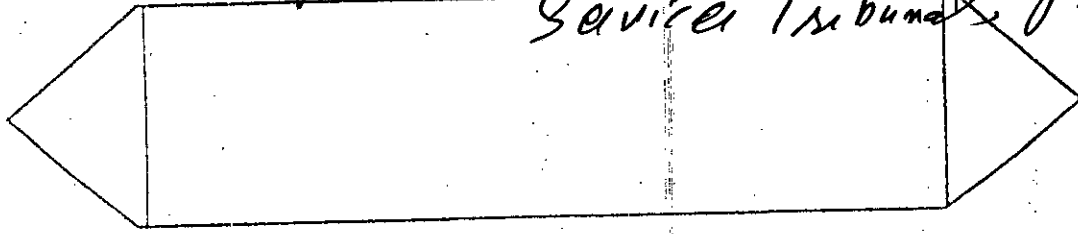
Unsigned 28/11/2010

Dated: 10/05/2012

Yours Faithfully

*Naseer Ahmad*  
(Dr. Naseer Ahmad)

بدرالتیما  
Khyber Pakhtunkhwa Service Tribunal, Peshawar



2ء مخائب

بنام

Dr. Naseer Ahmad  
Govt of Khyber Pakhtunkhwa

موزعہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکہ

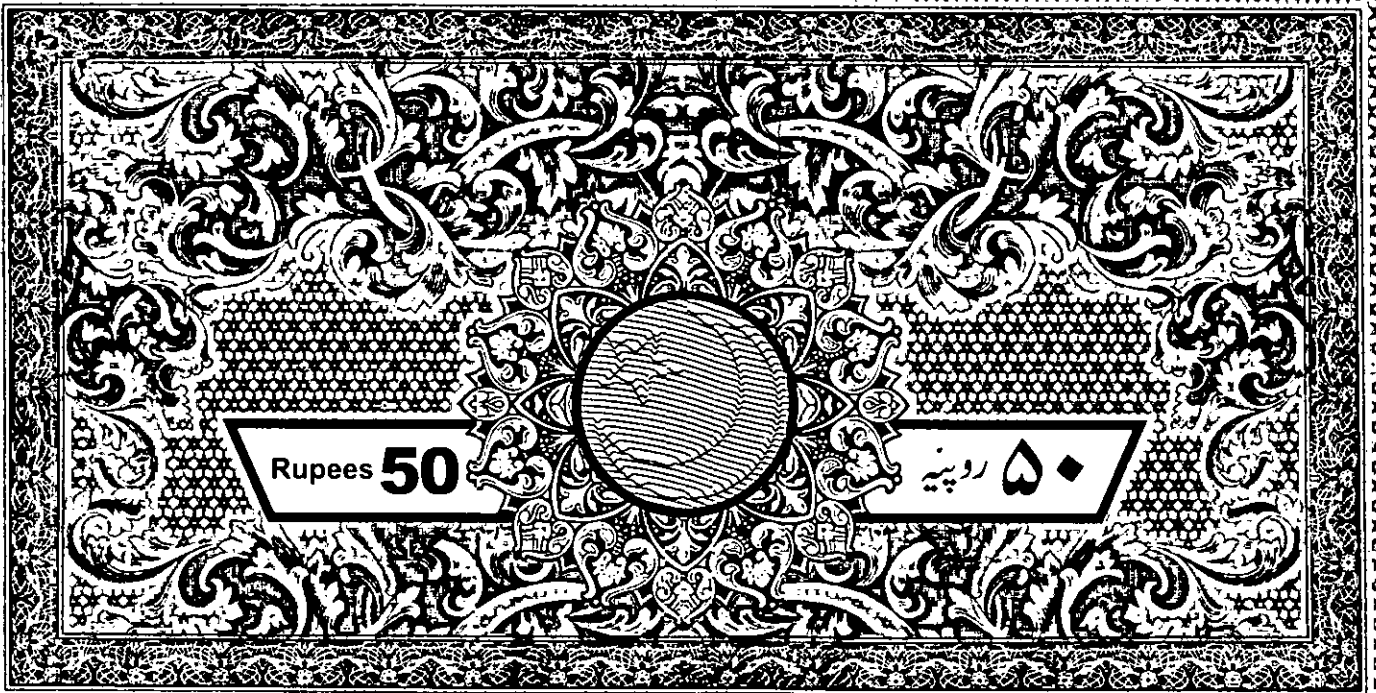
مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ

آن مقام سید مصطفیٰ علی کیلئے سید مصطفیٰ علی

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کمال اختیار دیا گیا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یک طرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائے التوائے مقدمہ کے سبب سے دہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا ادکالت نامہ لکھ دیا کہ سندر ہے۔

المرقوم Peshawar 14 ماہ الستمبر 2014

بمقام Qaisar Ali  
(Qaisar Ali)  
Advocate High court



Rupees 50

۵۰ روپیہ

## عدالت جناب پبلک سروس ٹریبونل خیبر پختونخوا ایشاور

### مختیار نامہ خاص

منکہ نصیر احمد ولد حضرت بلند خان سکند کالج کالونی سید و شریف تحصیل ضلع سوات کا ہوں۔ دریں وقت باقی ہوش و حواس خستہ بلا جبر و اکراہ کے ما مقرر ہوئے کہ من مدعی ایک عدسروس ایبل بعنوان نصیر احمد بنام حکومت دائر شدہ ہے۔ جس میں من مقرر بوجہ ذاتی مسرو فیات اپنی جانب سے کسی پیر محمد خان ولد مقدر شاہ سکند اکبر ٹاؤن دانش آباد ڈاکخانہ سکندری پور ڈیپٹارٹ کو اپنا مختیار خاص مقرر کر کے اختیار دیتا ہوں کہ وہ من مقرر کی جانب سے مقدمہ کی پیروی کرے۔ وکیل مقرر کرے۔ دعویٰ داخل کرے۔ جواب دعویٰ دیوے۔ درخواست دیوے۔ جواب درخواست دیوے۔ مقدمہ میں سرسبزی کی درخواست دیوے۔ درخواست منسوخی کی طرف ڈگری دیوے۔ نیز ہر قسم درخواست و جواب درخواست دیوے۔ بیان حلفی دیوے۔ گواہان پیش کرے۔ شہادت دیوے۔ مقدمہ واپس لے ایبل، نگرانی، نظر ثانی کرے۔ راضی نامہ کرے۔ عدالت ابتدائی تا عدالت عظمیٰ سپریم کورٹ آف پاکستان پیش ہووے۔ جملہ مراتب انجام کردہ مختار موصوف مثل من مقرر قبول و منظور ہوگا۔ لہذا مختار نامہ ہذا برائے پیروی مقدمہ رو برو گواہان حاشیہ سنداً تحریر ہے۔

المرقوم:- 04-03-2013

اخ تیار گروہندہ

پیر محمد خان ولد مقدر شاہ

شناختی کارڈ نمبر 5-1405374-17301

گواہ شدہ (2)

سلیمان خان ولد محمد اسماعیل

سکند قند آباد کاشال پشاور

شناختی کارڈ نمبر: 3-7002357-17301

اخ تیار دھندہ

نصیر احمد ولد حضرت بلند خان

شناختی کارڈ نمبر 7-1325173-17301

گواہ شدہ (1)

محمد انور خان ایڈوکیٹ

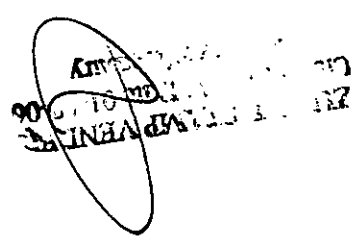
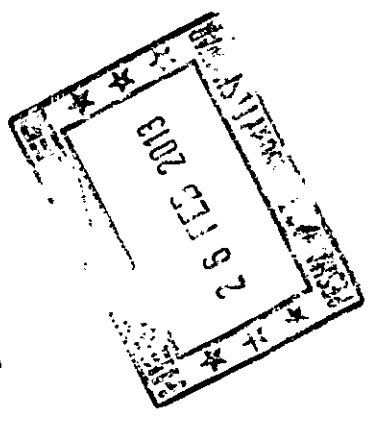
سکند پشاور

شناختی کارڈ نمبر: 3-5859248-17301

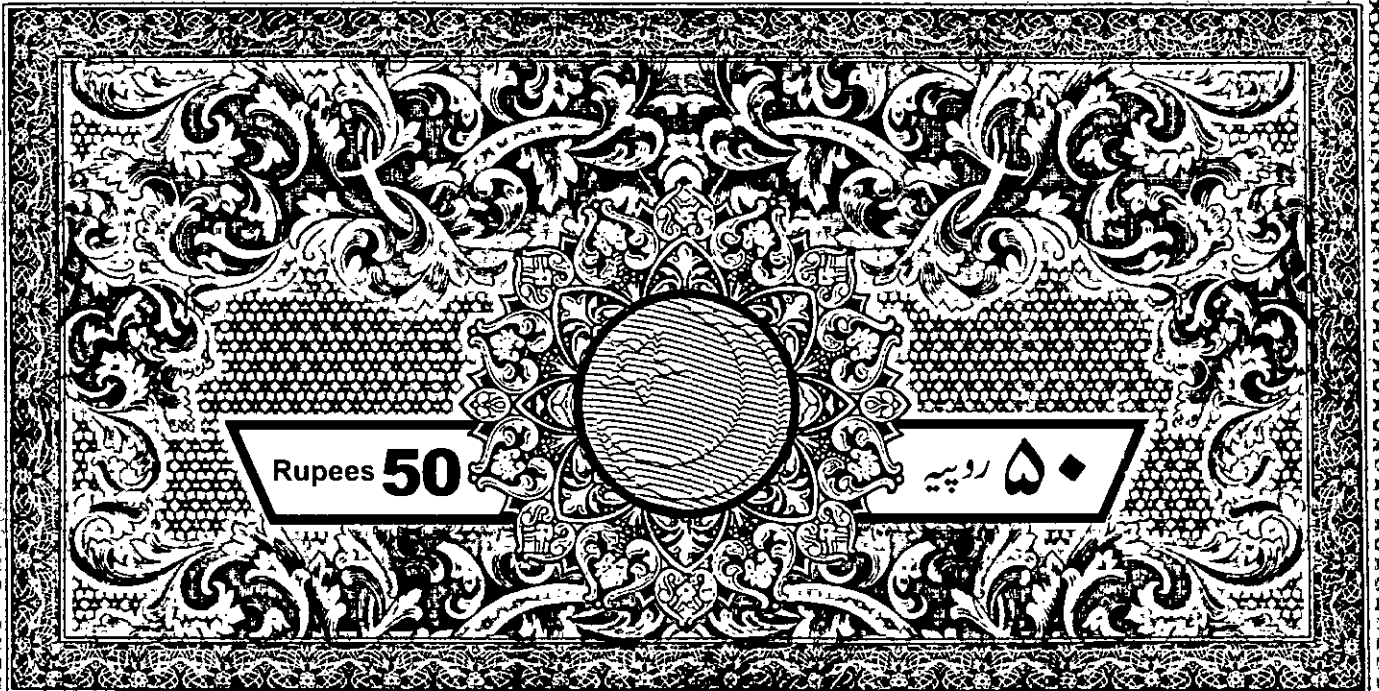


مصدر رشاہ بہانہ عینی رزم کابل  
دوم صدر احمد و ہ حضرت بلال خان بختیور میر محمد

4  $\frac{3}{13}$







Rupees 50

۵۰ روپیہ

بعدالت جناب بیلک سروس ٹریبونل خیبر پختونخوا پشاور

مختیار نامہ خاص

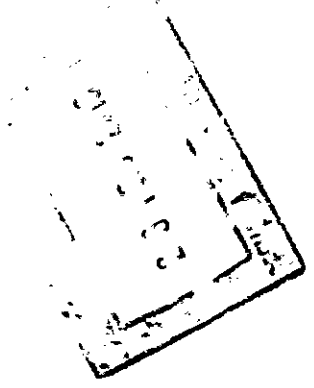
نصیر احمد ..... بنام ..... حکومت



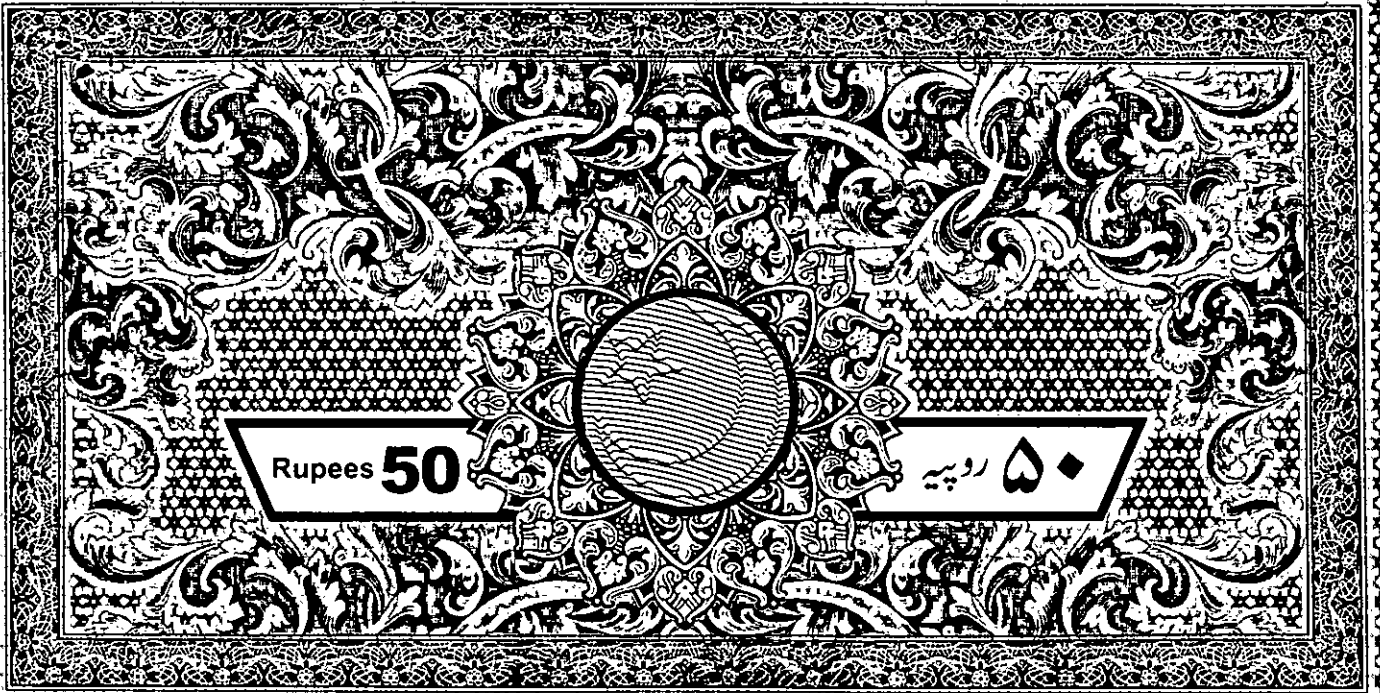
*(Handwritten signature/initials)*

*(Vertical handwritten text on the right margin, likely a signature or note)*

بہارے مختیارانہ مہر  
محمد مصدق شاہ  
محمد عمیر  
محمد بنجی  
لالہ فوزیہ  
حضرت  
مصطفیٰ احمد  
۴ ۳/۱۱



Handwritten signature or initials.



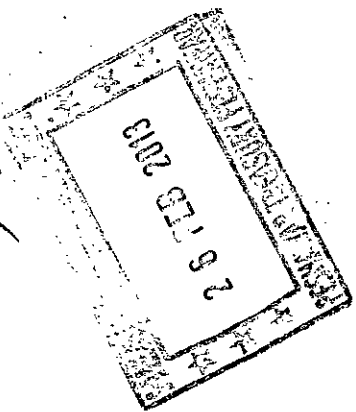
بعدالت جناب پبلک سروس ٹریبونل خیبر پختونخوا ایشاور

مختیار نامہ خاص

نصیر احمد ..... بنام ..... حکومت

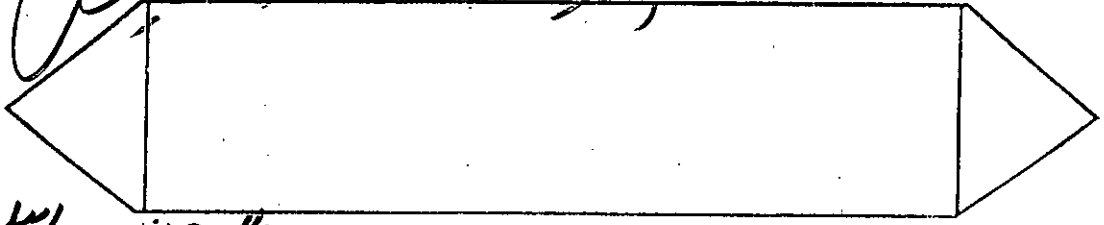


مختصان من قبل  
شاه بهاء الدين  
مير محمد ولد مصقر  
لال خان بھٹی  
مصروف مصقر  
4-3/11



RECEIVED  
FEDERAL BUREAU OF INVESTIGATION  
U.S. DEPARTMENT OF JUSTICE

بعد الت فیہ تخیلی قوا سہرو میں اسٹریٹل کسٹیاں



2014ء پنجاب  
بنام  
مکومت

تصدیق

سہرو میں اسٹریٹل

باعث تحریر آئیکہ

موزعہ  
مقدمہ  
دعویٰ  
جرم

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کارروائی متعلقہ  
آن مقام کسٹیاں کیلئے تصدیق کے لئے

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلاف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخ  
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیار است حاصل ہوں گے اور اس کا ساختہ  
پر واختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائے التوائے مقدمہ کے سبب سے ہوگا۔  
کوئی تاریخ پیشی۔ تمام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
مذکور کریں۔ لہذا وکالت نامہ لکھدیا کہ سند ہے۔

12/8/2014

المرقوم \_\_\_\_\_ ماہ \_\_\_\_\_ 20

تصدیق کی قوت حاصل ایوانہ

کے لئے منظور ہے۔

کسٹیاں

بمقام

Attested and accepted

\_\_\_\_\_

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

CM.NO. \_\_\_\_\_/2014

In Re:

Appeal No. 386/2013

58  
04-09-2015

Dr.Naseer Ahmad

.....Appellant

**VERSUS**

Govt: of KPK through Secretary Health etc .....Respondents

**APPLICATION FOR EARLY FIXATION OF APPEAL**

Respectfully Scheweth:

The Petitioner very earnestly craves permission submit through instant application as follows:

1. That the above mentioned service appeal is pending before this Hon'able Service Tribunal and is fixed for 31-07-2015 i.e after long two years of the filing of the Petition.

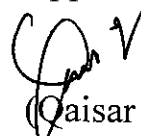
2. That the appellant is a Doctor by profession and has been illegally dismissed from service based on malafide and his only source of income, bread and butter was the service, which has been terminated. The whole family is suffering from the anxiety of the unemployment.

3. That three copies of the rejoinder has already been submitted which may be sent to the Respondents and the main appeal may kindly be fixed for early date for arguments.

4. That given date is far way due to which the appellant and his family is suffering tremendously.

It is, therefore, respectfully prayed that on acceptance of this application, the title mentioned case may be fixed on early date for arguments in the interest of justice.

Appellant



(Qaisar Ali)

Through:

Qaisar law Associates,  
Flat No.7, 1<sup>st</sup> Floor,

Tasnim Plaza, Near Jan's Bakers,  
6-Saddar Road, Peshawar Cantt

*Recd & passed  
To be heard  
on the date  
fixed to  
23.02.15*

Rejoinder

①

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 356 of 2013

Dr.Naseer Ahmad Son of Hazrat Biland, House No.37, Street  
No.4, Danishabad, Akbar Town, Near Peshawar University,  
Peshawar .....Appellant

**VERSUS**

1. The Government of Khyber Pakhtunkhwa through  
Secretary Health to Govt: of Khyber Pakhtunkhwa,  
Health Department, Civil Secretariat, Peshawar.
2. The Chief Secretary to Government of Khyber Pakhtunkhwa,  
Civil Secretariat, Peshawar.
3. The Secretary to Govt: of Khyber Pakhtunkhwa,  
Establishment Department, Civil Secretariat,  
Peshawar.
4. The Chief Executive,  
Saidu Group of Hospitals, Saidu Sharif Swat.
5. The Principal, Saidu Medical College,  
Saidu Sharif, Swat. ....Respondents

**REVISED REJOINDER TO WRITTEN REPLY ON BEHALF OF THE PETITIONER**

*Respectfully Sheweth:*

**REJOINDER TO PRELIMINARY OBJECTIONS:**

Rejoinder in response to written reply of the Respondents is submitted as  
below:

1. That cause of action arose due to illegal Removal from service of the  
Petitioner by the Respondents vide impugned Notification No.SOH-1/2-  
58/09 dated 28-11-2010.The impugned Notification is illegal, malafide,  
capricious and apart from other irregularities it was issued on Sunday i.e  
holiday on 28-11-2010. The Respondents have come to this court with dirty  
hands. In order 112(g) of the Qanun-e-Shahadat Order, 1984, it is very  
clearly mentioned that the court will take judicial notice of Public Festivals,  
fasts and holidays. The issuance of impugned notification on a holiday and  
without observing the codal formalities shows illegality, high handedness,  
malafide arbitrariness and fabrication by the issuing authority.

(Copy of Dismissal Order dated 28-11-2010 is attached as Annex-A).

2. As above in Para-1.

3. That the appeal is well detailed and nothing has been concealed and all the facts and circumstances have been disclosed.
4. As above in Para 3.
5. That appeal is well in time as and when the appellant came to know about the impugned order of Removal from service, departmental petition and the present appeal were filed before this Hon'able Service Tribunal which are well in time.
6. That the Respondents without issuing any show cause under Khyber Pakhtunkhwa Removal from Service Ordinance 2000, and without initiating any statutory proceedings and without appointing any Inquiry Committee and without conducting any enquiry as required under Section 3 of the NWFP Removal from Service (Special Powers Ordinance) removed the appellant from service, which is totally illegal and malafide. The impugned notification is totally defective and illegal as
  - i. Khyber Pakhtunkhwa Government Servants Removal from Service (special Powers) Ordinance 2000, has not been extended to Swat (A Provincially Administered Tribal Area) as required under Article 247 of the Constitution of Islamic Republic of Pakistan.
  - ii. A notice only in "Daily Mashriq" was published (It was required two widely circulated dailies) and it was specifically mentioned in the notice:  
**"Disciplinary proceeding will be initiated against you which may lead to Removal from Service under "Removal from Service Special Powers Ordinance 2000"**

But no proceedings were initiated as notified above and directly without any show cause, without any proceedings and without Enquiry the appellant was removed from service, moreover proper/correct law has not been quoted. The appellant was removed from service in spite of the fact that the Chief Minister had already order for leave of the Appellant (Annex-C).

(Notice in the Daily Mashriq dated 05-08-2010 is Annex-B)  
(Order of granting leave by the Chief Minister Annex-C)

- iii. During the period of notice and proceedings there were:-
  - a. Gigantic and Devastating floods especially in Swat & generally in the Pakistan.
  - b. Extreme acts of terrorism and even during the period of notice in the "Daily Mashriq" and Appellant's Removal from Service in Malakand/Swat, Malala Yousafzai and her class fellows were shot on 9-10-2012. Dr. Farooq the first Vice Chancellor of Malakand University was shot dead on 2-10-2010, an Army General Ziaullah Niazi was martyred on 26-7-2012 in Salarzai on 18-09-2012, two Policemen were killed in mine blast in the area on 30-9-2012, a Police man was killed in upper Dir and one may quote many many more incidents of terrorism in swat during the period. Therefore, the Respondents'

+ s. jat G. Hajar



claim that in 2010, there was peace and no terrorism in Swat is totally wrong and false.

- c. The Authority i.e the Chief Minister had already ordered for leave of the appellant and during this leave order, impugned Removal from Service Order (**Annex-A**) was illegally passed on holiday.

(Letter of CM's Sectt on 24-08-2009 for grant of leave is attached as **Annex-C**).

**REJOINDER TO FACTS:**

1. "No comments" of the Respondents means admission. That the Respondents have admitted contents of my extraordinary, shining unblemished record in my CV.
2. The claim of the of the Respondent is vehemently denied as during the year 2010 also Swat and all Malakand Division was under the extreme wave of terrorism and devastated by the worst recorded floods. A few incident of acts of terrorism are quoted as below:-
  - i. Gigantic and Devastating floods especially in Swat & generally in the Pakistan.
  - ii. Extreme wave of terrorism and even during the period of notice in the "Daily Mashriq" and my Removal from Service in Malakand/Swat, Malala Yousafzai and her class fellow were shot on 9-10-2012. Dr.Farooq first Vice Chancellor of Malakand University was shot dead on 2-10-2010, an Army General Ziaullah Niazi was martyred on 26-7-2012 in Salarzai on 18-09-2012, two Policemen were killed in mine blast in dir on 30-9-2012, a Police man was killed in upper Dir and one may quote many many more incidents of terrorism in swat during the period. so the Respondents claim that in 2010, there was no terrorism in Swat is totally wrong and false.
  - iii. Many many more examples of terrorism in Swat i.e Malakand division may further be quoted. The claim of appellant regarding smooth functioning and peace in Swat is totally denied.
3. No comments tantamount that the Respondents admits claim of the appellant regarding abduction, killing and mal treatment of many lawyers doctors and other respectables of the area as mentioned in the preceding paragraphs.
4. The comments are as in Para 6 above. The Reply of the Respondents is totally incorrect, false and baseless. The terrorism is still there and whoever is targeted cannot escape, while residing in Swat and Khyber Pakhtunkhwa and even in the whole country. The authorities have also been informed regarding the said threats on which the Respondents have given neither any reply nor any comments.

(Letters to Authorities Regarding Life Threats to Appellant are **Annexed-C, CI, E, F, G and H**)

5. As in Para 7 above.
6. How could appellant work when the terrorism was on peak in the whole region and his life and family was under threat and there are many many examples of targeted killing by the terrorists as narrated in the preceding

paras. Moreover, the Executive Authority of the Province i.e Chief Minister had already ordered for grant leave (Annex-C)

7. That as mentioned above, the appellant and his family was targeted and any person who is targeted by the terrorists cannot escape anywhere in the country. The appellant verbally and in writing informed the authorities regarding threats to his life and family (Annexs-C, CI, E, F, G & H), but no reply was given. The appellant applied for ex-Pakistan leave (Annexs-C, CI, E, F & J) to save his life but no response was made and in such type of situation there was no way but to go to Karachi and then run to abroad to save life, which is the top priority and is not against any law or ethics. However, the Chief Minister, NWFP; who is the Chief Executive and the Competent authority ordered for grant of leave (Annex-C), but surprisingly inspite of this order of the Chief Minister, appellant was removed from Service, which is illegal, whimsical, capricious and without any authority.

8. That the Denial of the Respondents is totally baseless, the appellant informed his high ups about threat to his life and applied for leave to which no response was made (Annexs-C, CI, E, F, G, H & J). However, the reply is as of para 7 and 10 above.

9. That reply of the Respondents is totally false, it was not a willful absence rather under threat to lives of the appellant and to his family. The appellant applied for leave (Annexs-C, CI, E, F, G & H) but no reply/compliance was received on behalf of the Respondents and in the circumstances lives were also very precious. However when the situation became a bit normal the appellant reported for duty. Moreover the Chief Minister had already order for grant of leave (Annex-C).

10. That the available documentary evidence reflect, the notice was allegedly published only in one local Newspaper i.e the "Daily Mashriq" dated 05-08-2010 (Annex-B) and it was during the high devastating floods when the newspapers were not in the approach of all, especially when it was published in only one Local Newspaper and was not delivered in Karachi, where applicant was admitted.

ii. The notice was under "Removal from Service Special powers Ordinance 2000" and the actual law is "NWFP Removal From Service (Special Powers) Ordinance 2000. Moreover, through 18<sup>th</sup> amendment Bill on 15-04-2010 name of the Province from NWFP was changed to Khyber Pakhtunkhwa and similarly all laws, but in the advertisement law has also been mentioned of NWFP. As the proper law has not been quoted, therefore the proceedings becomes abinitio infractuus

iii. In the impugned notice it is mentioned "Disciplinary action will be initiated against you" But strangely no disciplinary action/proceedings were initiated. The legal proceeding under NWFP Removal from Service (Special Powers) Ordinance 2000, were never initiated. Neither any show cause was issued to initiate proceedings. As mentioned in the impugned advertisement that disciplinary action

will be initiated and no show cause was issued. All it is against the doctrine of Audi Alteram Partum (i.e opportunity of being heard)

- iv. That the Law of NWFP Removal From Service (Special Powers) Ordinance 2000 has not been extended to Swat ( Provincial Administered Tribal Areas) as required under Article 247 of the Constitution of Islamic Republic of Pakistan. Therefore the impugned law is not applied to the appellant serving in Swat. Therefore, all the proceedings if any and Removal from service is without any law and authority.
- 14. That as replied in para 10 above. Moreover when the appellant was admitted/bed ridden and under treatment in Karachi Hospital and neither any notice was served on him nor any proceedings under NWFP Removal from Service (special powers) Ordinance 2000 were initiated and not a single codal formality was fulfilled/adopted. The Notice published in Daily Mashriq (**Annex-B**) was for initiation of disciplinary proceedings under the said law, which were never initiated.
- 15. That as explained in Para 13 & 14 above no proceedings under the NWFP Removal from Service (special powers) Ordinance 2000 were initiated as notified in the impugned notice published in one local daily only.
- 16.
  - i. That no codal formality has been fulfilled. Neither any show cause notice nor any enquiry was conducted as required in the last para of Section 3 of the NWFP Removal from Service (Special Powers) Ordinance 2000.
  - ii. That as required under Section 3(2)(a) and 3(2)(b) , appellant was neither informed of the action proposed (i.e Removal from Service) nor opportunity of being heard was provided).
  - iii. That as required under Section 5(1)(b) of the NWFP Removal From Service (Special Powers) Ordinance 2000, Charges and Statement of Allegations were never provided to the appellant. The enquiry is the base of statement of Allegations and Charge Sheet, but as no enquiry was conducted, therefore charge sheet and statement of allegations were not served. A notice with ambiguous language and that too in one News Paper dated 05-08-2010 was published during the period of devastating floods, when the News Papers could not be circulated, makes the whole proceedings false especially when impugned notification of Removal from Service Order is dated 28-11-2010, which Sunday i.e holiday. All it shows malafide, high handedness, vindication and concocted proceedings.
  - iv. That the appellant after receiving life threats from unknown persons informed in writing also, the Secretary Health, NWFP, the Arrea Commander of the Army in Swat and even the Chief Minister (**Annexs-D, E, F, G & H**). The Appellant submitted applications to the Secretary Health and the Chief Minister for long leave ( 365 days (Without pay) with the explanation that the Appellant is directly receiving threats of life (**Annexs- D & E**). The <sup>Chief</sup> Minister, NWFP, vide No.SO-II(CMS)NWFP/1-1/2009 dated 24-08-2009 ordered to grant

leave as per entitlement. As per report on the leave proforma **(Annex-C)**, the Appellant was entitled for leave. As the Chief Minister is the Chief Executive of the Government, his this order of granting leave by all definitions is considered as leave, but it was not communicated to the Appellant by the Respondents, which is lapse on behalf of the Respondents/Administration and malafide also. In the presence of leave sanctioned, the Administrative Head/Chief Minister of the Government, the impugned order of dismissal from services is totally illegal, abinitio void and without any legal authority.

- 17. That in para 16 above it has been proved that not a single codal formality has been observed/fulfilled.
- 18. That in the circumstances as mentioned above in the preceding paras and especially in paras 13, 14, 15 and 16 above the Penalty leveled through the impugned order is totally illegal, personal whimsical, capricious, malafide and based on high handedness.
- 19. As in paras 13, 16 & 18 above.
- 20. As in paras 13, 16 and 18 above.
- 21. As in paras 13, 16 and 18 above.

22 & 23:- That the impugned Order is whimsical, capricious, malafide and based on high handedness because:

- ✓ i. It has been passed on 28-11-2010 when there was Sunday a holiday.
- ✓ ii. The only so called notice with ambiguous language published allegedly in "Daily Mashriq Peshawar" dated 05-08-2010, when there were devastating floods and the News papers could not be circulated and the appellant was admitted/bed-ridden in a Karachi Hospital and circulation of the said paper is mostly concentrated in the Province of Khyber Pakhtunkhwa.
- ✓ iii. No opportunity of being heard was provided as required Under Section 3(2)(a) and 3(2)(b) of the NWFP Removal of Service (Special Powers) ordinance 2000. The Appellant was condemned unheard and no enquiry was conducted.
- ✓ iv. As required Under Section 3 of the Removal from Service (Special Powers) Ordinance 2000, neither any enquiry has been conducted nor any Enquiry Officer/Enquiry Committee was constituted.
- ✓ v. As required under Section 5(1)(b) ibid neither Statement of Allegations nor Charge Sheet was served because enquiry as required by the Statute was never conducted.
- ✓ vi. The authorities were time and again informed regarding threats from terrorists against life of the appellant and his family **(Annex-C, CI, F, G & H)**, therefore, applied for leave but no reply was given by the Respondent in spite of grant of leave by the Chief Minister, NWFP **(Annex-C)**.
- ✓ vii. The Chief Minister NWFP, who is the top legal Authority and executive Head of the Government ordered for grant of leave to the Appellant **(Annex-C)**. Therefore the impugned Order of removal from

*Cartilage Article 24*

10

Amir A

GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT

Date received: 28 Nov 2010

Amir A (2)

NOTIFICATION

WHEREAS Dr. Naseer Ahmad, Assistant Professor Anesthesiology, Saidu Medical College, Swat, remained absent from duty w.e.f. 28/11/2010.

AND WHEREAS notices were issued to him in the absence of the relevant rules asking him to resume duty.

AND WHEREAS the accused doctor not reported for duty as mentioned in the above notices.

AND WHEREAS his period of absence from duty from 28/11/2010 to the issuance of removal from service order shall be treated as unauthorized absence from duty without pay.

NOW THEREFORE, in exercise of powers conferred under the provisions of the said rules, the Competent Authority is pleased to impose major penalty of "removal from service" on Dr. Naseer Ahmad, Assistant Professor Anesthesiology (82-181, Saidu Medical College, Swat with immediate effect.

SECRETARY HEALTH,  
KHYBER PAKHTUNKHWA

End of page and date even

- 1. Chief Executive, Saidu Group of Teaching Hospitals Swat.
- 2. Principal, Saidu Medical College, Swat.
- 3. Distt. Accounts Officer, Swat.
- 4. Computer Programmer, Health Department.
- 5. P.S. to Secretary Health, Khyber Pakhtunkhwa.
- 6. Doctor concerned.
- 7. Personal file of the doctor concerned.

Section Officer-I  
(Mansoor Khan Khattak)

(9) Amna B

~~Amna B~~

Daily Masnoon

Dated 5/10/2010

(4) ..... 5 اکتوبر 2010

مختہ ہائی سٹیٹس ہائی اسکول  
پرنسپل صاحبہ کے نام

میں لکھی اشیا مقررہ قسم کر دیے

میں لکھی اشیا مقررہ قسم کر دیے

ذیل لکھی اشیا مقررہ قسم کر دیے  
میں لکھی اشیا مقررہ قسم کر دیے  
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**SAIDU MEDICAL COLLEGE  
SAIDU SHARIF SWAT  
ABSENCE NOTICE**

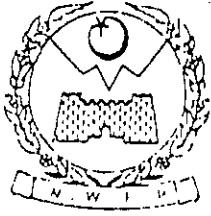
You Dr. Naseer Ahmad, Assistant Professor, Anaesthesia, Saidu Medical College, /Saidu Teaching Hospital, Saidu Sharif Swat are willfully absent from duty since 6-03-2010 without any information.

Therefore, you are finally directed through press to resume your duty within 15 days after publishing this notice and explain the reason of your absence. If you failed to resume duty within stipulated period, disciplinary action will be initiated against you which may lead to Removal from services under " Removal from Service Special powers ordinance 2000".

INF(SW)207

**PRINCIPAL  
SAIDU MEDICAL COLLEGE  
SAIDU SHARIF SWAT**

9  
10



CHIEF MINISTER'S SECRETARIAT  
N-W.F.P.

No. SO-II/CMS/NWFP/1-1/2009  
Dated Peshawar, the 24<sup>th</sup> Aug: 2009

To

The Secretary to Govt: of NWFP,  
Health Department,  
Peshawar.

Subject:- LONG LEAVE

Dear Sir,

I am directed to forward herewith a copy of self contained application of Dr. Umme Habiba Associate Professor Gynae and Dr. Naseer Ahmad Assistant Professor Anesthesia Saidu Medical College, Swat on the subject noted above and to state that leave may be granted as per entitlement as desired by the Honorable Chief Minister, NWFP.

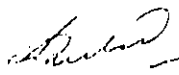
Encl: as above.

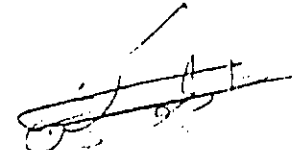
Yours faithfully

(AMIR MUHAMMAD)  
SECTION OFFICER-II

Copy to:-

1. Principal Secretary to Chief Minister, NWFP.
2. PS to Chief Minister, NWFP (Camp Office Mardan).

  
SECTION OFFICER-II

  
Health

(10)

Annex: C

(22)

3676

~~Amir F~~

122477

APPLICATION FOR LEAVE

25

Notes:- Item 1 to 9 must be filled in by all applicants. Item 12 applies only in the case of Government servants of B.P.S. 16 and above.

- 1. Name of applicant. DR: NASEER AHMAD
- 2. Leave Rules applicable. REVISED LEAVE RULE-1981
- 3. Post held. ASSISTANT PROFESSOR ANAESTHESIA
- 4. Department or Office. Health / SMC SWAT
- 5. Pay.
- 6. House Rent Allowance/Conveyance Allowance or other compensatory allowance drawn in the present post.
- 7. (a) Nature of leave applied for.
- (b). Period of leave in days. 365 days (1 year)
- (c) Date of commencement. 14/01/09 - 31-01-2010
- 8. Particular Rule/Rules under which leave is admissible.
- 9. (a) Date of return from last leave.
- (b) Nature of leave.
- (c) Period of leave in days.

2/11

Date..... Signature of applicant. *Naseer*

- 10. Remarks recommendation of the Controlling Officer.
- 11. Certified that leave applied for is admissible under Rule ..... and necessary conditions are fulfilled.

Date..... Signature..... Designation.....

- 12. Report of Audit officer: *Certified that the application is valid and approved*
- Date..... Signature..... Designation.....

- 13. Orders of the sanctioning authority certifying that on the expiry of leave the applicant is likely to be promoted to post carrying the compensatory being drawn by him.
- Date..... Signature..... Designation.....

No. 204/P.F.S.W. Dated: 14/01/2009

Forwarded to D.A.O Swat

Principal, Saidu Medical College Saidu Sharif (Swat) 14-1-2009



19

Annex: I

23

January 12, 2009

To the Secretary,  
Health Department,  
NWFP, Pakistan

Ammt

Subject: Long leave (165 days without pay)

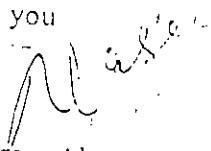
Reason: Threat to life

Sir,

With due respect it is to bring to your notice that due to the deteriorating law and order situation I can no longer stay in Swat. I survived the initial one and half year despite the risks in that area but now I have gotten direct threats to my life from an unknown source. It is no longer prudent to stay in Swat and continue my routine duties. I have to leave even my house and my very well established practice.

I am serving in the health department for the past sixteen years and have never availed any long leave. I am entitled to long leave for the above mentioned period. Therefore I may kindly be granted these leaves on humanitarians' grounds to safeguard mine and my family's lives. I will resume my duties as soon as the situation is back to normal.

Thank you

  
Dr. Naseer Ahmad  
Assistant Professor  
Dept of Anaesthesia  
Saidu Medical College  
Swat

13

A. Ahmad E

24

Honorable,  
Chief Minister,  
Khyber PakhtunKhwa.

Subject: Long leave (365-days without pay)

Reason: Threat to life.

Sir,

With due respect it is to bring to your notice that due to the deteriorating law and order situation I can no longer stay in Swat. I survived the initial one and half year despite the risks in that area but now I have gotten directly threats to my life from an unknown source. It is no longer prudent to stay in Swat and continue my routine duties. I have to leave even my house and my very well established practice.

I am serving in the health department for the past sixteen years and have never availed any long leave. I am entitled to long leave for the above mentioned period. Therefore I may kindly be granted these leaves on humanitarian grounds to safeguard mine and my family's lives. I will resume my duties as soon as the situation is back to normal.

Thank you

Dr. Naseer Ahmad  
Assistant Professor,  
Department of Anesthesia,  
Saïdu Medical College Swat

(31) (14)

Annex: F

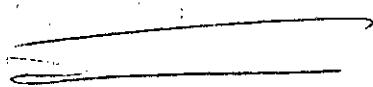
From:- Dr. Naseer Ahmad  
Saidu Medical College  
Saidu Sharif Swat

To: The Secretary Health Services  
Health Department  
Government of NWFP Peshawar.

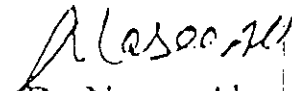
Sir,

I have the honour to submit that I am hiding myself from some unknown persons who followed me a few days back and are still in search of me. Please inform the police and Military Authority accordingly.

Dated: 3/12/2012



Yours Faithfully

  
(Dr. Naseer Ahmad)

Annex 4

(15)

Annex 4

(32)

From:- Dr. Naseer Ahmad  
Saidu Medical College  
Saidu Sharif Swat

To: The Area Commander  
Military Authority at  
Saidu Sharif Swat.

Sir,

I have the honour to submit that I am hiding myself from some unknown persons who followed me a few days back and are still in search of me. Please inform the police and Military Authority under your command accordingly.

Dated: 9/11/2010

Yours Faithfully

*Naseer Ahmad*  
(Dr. Naseer Ahmad)

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Annex H

33

From:- Dr. Naseer Ahmad  
Saidu Medical College  
Saidu Sharif Swat

To: The Principal  
Saidu Medical College  
Saidu Sharif Swat

Sir,

I have the honour to submit that I am hiding myself from some unknown persons who followed me a few days back and are still in search of me. Please inform the police and Military Authority accordingly.

unsigned 28/11/2010

Dated: 10/05/2012

Yours Faithfully

*Naseer Ahmad*  
(Dr. Naseer Ahmad)

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

No. 1481 /ST

Dated 28 / 9 / 2015

To

The Secretary,  
Hea.th,  
Peshawar.

Subject: - Judgement

I am directed to forward herewith certified copy of Judgement dated 16.9.2015 passed by this Tribunal on subject for,strict compliance.

Encl. As above



REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.