

27.07.2022

Counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Faheem Khan, Assistant for official respondents present.

File to come up alongwith connected Service Appeal No. 259/2022 titled "Atta Ullah Khan Vs Government of Khyber Pakhtunkhwa" on 28.09.2022 before S.B.



(Fareeha Paul)
Member (E)





f

25.09.2022

Form- A
FORM OF ORDER SHEET

Court of _____

Case No.- 352 /2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	10/03/2022	<p>The appeal resubmitted today by Mr. Noor Mohammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p>
2-	8/4/2022	<p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put there on <u>8-4-2022</u></p> <p> CHAIRMAN</p>
	06.06.2022	<p>Counsel for the appellant present and requested for adjournment. Request accepted. Last chance is given. To come up for preliminary hearing on 6/6/2022 before S.B.</p> <p> CHAIRMAN</p>
		<p>Juniosr to counsel for the appellant present.</p> <p>File to come up alongwith connected Service Appeal No.259/2022 titled Attaullah Khan Vs. Government of Khyber Pakhtunkhwa on 27.07.2022 before S.B.</p> <p> (Rozina Rehman) Member (J)</p>


Mr. Suni

The appeal submitted by Mr. Noor Muhammad Khattak Advocate today i.e. on 08.02.2022 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of impugned order is not attached with the appeal which may be placed on it.
- 2- Copy of departmental is not attached with the spare copies which may be placed on it.

No. 346 /S.T,

Dt. 11/02 /2022


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.


Mr. Noor Muhammad Khattak Adv. Pesh.

The impugned order dated 14-07-2021 was not provided to the appellant rather the monthly salary of the appellant has been stopped against which the appellant filed Department Appeal, which has already been placed on file.

Re-Submitted after doing needful.



*Impugned Order dt 14-7-2021
was attached as annexure D
Page 2/A.*

 28/2/22

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. 240 /2022

MUHAMMAD SAADIQ

V/S

HEALTH DEPTT:

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Dated: _____ .2022

APPELLANT

Through:

NOOR MOHAMMAD KHATTAK
ADVOCATE
0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. _____/2022

Mr Muhammad Sadiq, MP Malaria,
DHO Office, NWTD.

..... **APPELLANT**

VERSUS

- 1- The Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
- 2- The District Health Officer, Tribal District Miranshah.

..... **RESPONDENTS**

SERVICE APPEAL UNDER SECTION-4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED INACTION OF THE RESPONDENTS BY NOT RELEASING THE MONTHLY SALARIES OF THE APPELLANT WITH EFFECT FROM 01-07-2021 I.E FROM THE DATE OF APPOINTMENT OF SERVICE TILL DATE AND AGAINST NOT DECIDING THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the respondents may kindly be directed to release the monthly salaries of the appellant w.e.f 01-07-2021 till date with all consequential benefits. Any other remedy which this August Tribunal deems fit that may also be awarded in favour of the appellant.

R. SHEWETH:

ON FACTS:

- 1- That the appellant was initially appointed as MP Malaria in the respondent Department w.e.f 23-06-2021. Copy of appointment order is attached as annexure **A.**
- 2- That after appointment the appellant was medically examined and declared fit by the concerned authority and after being fit the appellant submitted his arrival report to the concerned office. Copy of medical certificate and arrival report is annexed as annexure..... **B&C.**
- 3- That the appellant started performing his services with zeal and zest and up to the entire satisfaction of his superiors.

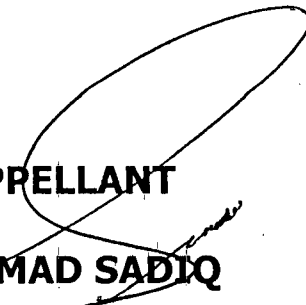
- 4- That unfortunately the salaries of the appellant have been stopped w.e.f 01-07-2021 i.e., from the date of regularization till date without any legal justification against which the appellant has submitted applications time and again. That it is very pertinent to mention the pay bills have been passed after regularization of the appellant but till date the said bills have not been released to the appellant. Copies of the pay bills are attached as annexure.....**D.**
- 5- That feeling aggrieved from the inaction of the respondents by not releasing the salaries, the appellant filed Departmental appeal but no reply has been received so far. Hence the instant appeal on the following grounds amongst the others. Copy of the Departmental appeal is attached as annexure **F.**

GROUND:



- A- That the impugned inaction of the respondents by not releasing the salaries of the appellant since regularization is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That the appellant has not been treated by the concerned authority in accordance with law and rules and as such the authority violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the appellant is still performing his duties and the inaction of the respondents by not releasing his salaries is amounting to forced labour which is the blatant violation of the Article 11 of the Constitution of Pakistan, 1973.
- D- That the respondents discriminated the appellant by not releasing the monthly salaries of the appellant.
- E- That the inaction of the respondents by not releasing the monthly salaries of the appellant is against the norms of natural justice.
- F- That the inaction of the respondents by not releasing the monthly salaries of the appellant is arbitrary and malafide.
- G- That the inaction of the respondents by not releasing monthly salaries of the appellant w.e.f. regularization till date is against section 17 of the Civil Servant Act, 1973.
- H- That appellant seeks permission and advance other grounds and proofs at the time of hearing.

It is therefore most humbly prayed that the appeal of the appellant may kindly be accepted as prayed for.

Dated: ____ . ____ . 2022


APPELLANT
MUHAMMAD SADIQ

THROUGH:


NOOR MOHAMMAD KHATTAK
&

HAIDER ALI
ADVOCATES, PESHAWAR

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

SERVICE APPEAL NO. _____/2022

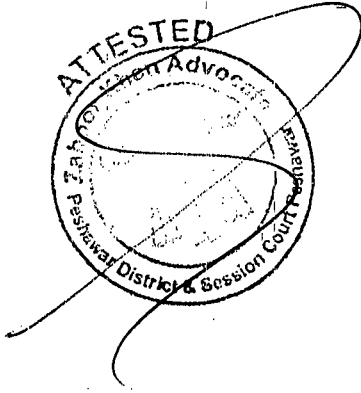
MUHAMMAD SADIQ

VS

HEALTH DEPTT:

AFFIDAVIT

Stated on oath that the contents of the accompanying service appeal are correct to best of my knowledge and belief and nothing has been concealed from this Honorable Service Tribunal.



DEPONENT

CERTIFICATE:

Certify that no earlier service appeal has been filed by the appellant in the instant matter before this Honorable Service Tribunal.

CERTIFICATION

OFFICE OF THE DISTRICT HEALTH OFFICER
NORTH WAZIRISTAN TRIBAL DISTRICT AT MIRANSHAH

Tel: (0928) 300788 FAX: (0928) 311662

Email: agency surgeon nwa2018@gmail.com

OFFICE ORDER:

On the recommendation of the departmental selection committee the following individuals are here by appointed against the newly created vacant posts mentioned against each in basic pay scale noted against their names, plus usual allowances as admissible under the rules.

Name	F/Name	Address	Designation	Pay scale
Asif Nawaz	Noor Nawaz Khan	Hamzoni Alikhel NWTD	MP Malaria Supervisor BPS-12	(13320-960-42120)
Muhammad Sadiq	Shahid Nawaz	District Bannu	-do-	(13320-960-42120)
Rasool Gul	Hayat Gul	NWTD	-do-	(13320-960-42120)
Wasiqullah	Sher Ajam Khan	NWTD	MP Pharmacy BPS-12	(13320-960-42120)
Asif Ur Rehman	Shams Rehman Ur	NWTD	-do-	(13320-960-42120)
Aftabullah	Muhammad Rafiq	Land Syed Abad NWTD	MP Malaria Supervisor BPS-12	(13320-960-42120)

There appointment shall be on the following terms and conditions.

- 1-They are declared medically fit for this job.
- 2-Their appointment shall be for a permanent basis from the date of his joining in service.
- 3-They shall not indulge in any trade, business and any other activity what so ever which has been declared prohibited for the Government Servants in Civil Servant Act: 1973.
- 4-If they wish to resign the services a prior notice of 30 days will be submitted, otherwise one month pay should be deposited in Government treasury through challan.
- 5-They will have to serve anywhere in North Waziristan Tribal District.
- 9-Their Salaries will be released after the verification of their CNIC, Domicile certificate and Clarence/character certificate.
- 7-They will not be entitled for any TA/DA for joining the service.
- 8-If they accept the above terms and condition they have to report for duty to the undersigned within 15 days of the receipt of this offer, otherwise the order will be considered as cancelled.

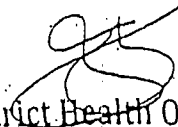
Sd:xxxxxxx

District Health Officer,
North Waziristan Tribal District.

No/1964-67 Apptt: dated 23/06/2021.

Copy forwarded to the:

1. Deputy Commissioner North Waziristan Tribal District
2. District Account officer Tribal District North Waziristan Miranshah.
3. Accounts/Pay Bill Clerk of this office.
4. Officials concerned.


District Health Officer,
North Waziristan Tribal District.

~~ATTACHED~~

B - 6

N.W.F.P | Med No.4

GS&PD-NWFP-27IS-2000 P of 100-29-7-98--- (16)

MEDICAL CERTIFICATE

Name of Official Muhamma d Sadik
Caste or race Muslim
Father's Name Shahid Nawaz
Residence District Bannu

Date of Birth 23-03-2000
Exact height by measurement 3-4
Personal Mark of Identification Nil

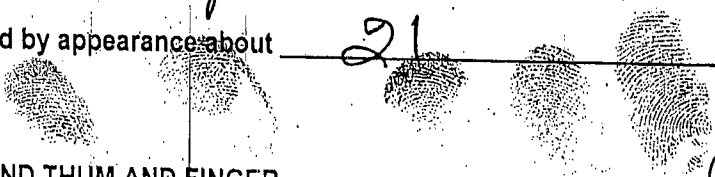
Signature of the Official _____
Signature of head of Office _____

Report for duty today on Report for duty to duty on 25th 6/2021
Seal of Office

I do hereby certify that I have examined Mr. /Miss. Muhammad Sadik
Candidate for employment in the Office of the Health Deptt.
And can not discover that he/She had any disease communicable or other constitutional effect join or bodily infirmity except Nil

I do not consider this as disqualification for employment in this office of the Health Deptt. his/her age according to his own statement 21 Years and by appearance about 21 years.

LEFT HAND THUMB AND FINGER IMPRESSION 28/06/2021



[Signature]

Incharge Type - C Hospital
Mirali NWTD

~~RECEIVED~~

C-7

To,

The District Health Officer,
North Waziristan TD Miranshah.

Subject: Arrival Report.

R/Sir,

In compliance with your good office order bearing endstt: NWTD
office order No. 11964-67 /Apptt:
dated 23/06/2021.

I have the honour to submit herewith my arrival report for duty as a
MP Malaria Supervisor BPS-12, at
DHO office NWTD today on
25/06/2021, FN.

Dated: 25/06/2021.

Thanks

Yours Obediently,

Muhammad Sadiq

Sp Shalid Nawaz

MP Malaria Sup:

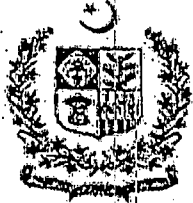
B-12

DHO office NWTD.

District Health Officer
NWTD Miranshah

~~ATTACHED~~

D - 8



Employee Master File Creation Form

FORM: PAY01

OFFICE OF THE AGENCY 1 DHO Office, NWTD.

DDO Code
MW 6006

(Cash Center)
[] [] [] []

Employee CNIC Number
11101-1528016-1

DOB (DD/MM/YYYY)
20-03-2000

Date of entry into Govt service (DD/MM/YYYY)
23-06-2021

Designation
MP Malaria

BPS
12

Domicile
Bannu

Employee Name
MUHAMMAD-SADEEQ

Father/Husband Name
SHAHID-NAWAZ

PERMANENT ADDRESS
District Bannu

Religion
ISLAM

Nationality
Pakistani

Pay and Allowances w.e.f 7/2021 to 24/6/2021 (08 days)

Wage type	Code no	Description	Amount	Amount	Amount	Amount	Amount	Amount
0001	A01151	PAY	13320		1776			
0000	0000	PP	-		-			
1000	A01202	HRA	1961		522			
1210	A01203	Con:Allow	2856		761			
1567	A01207	WA HPA	15000		4000			
1516	A01208	DA	-		-			
1833	A0120D	Intge:Allow	-		-			
1947	A01217	MA	1500		400			
1528	A01233	UAA	1500		400			
1970	A0121X	AR 50% (2010)	-		-			
1948	A0121A	AR 15% (2011)	-		-			
2118	A0121M	AR 20% (2012)	-		-			
2151	A0121T	AR 15% (2013)	-		-			
0000	A0121Z	AR 10% (2014)	-		-			
0000	0000	AR 10% (2015)	1101		293			
		AR 10% (2016)	1332		355			
		AR 10% (2017)	1332		355			
		AR 10% (2018)	1332		355			
		AR 10% (2019)	1332		355			
GROSS TOTAL			42566		8972			

DEDUCTIONS		
CODE	Description	Amount
3300	GF Fund	2220
3710	B/Fund	-
3704	G/Insurance	-
4004	RBDL	600
Total Deduction		2820

CERTIFICATES

- 1 certified that the CNIC issued by NDRA has been verified and found correct
- 2 Certifies that all the particular mentioned above are correct and the service Book attached with the proforma is original and has been signed up-to date by the concerned Officer.
- 3 Certified that the employee mentioned above regular in attendance and has not been proceeded abroad, Pakistan

[Handwritten Signature]

To

The Director Health Services
Khyber Pakhtunkhwa,
Peshawar.

E - (9)

Subject: **DEPARTMENTAL APPEAL AGAINST THE INACTION OF
THE RESPONDENT BY NOT RELEASING SALARIES OF
THE APPELLANT FROM THE DATE OF JOINING SERVICE
I.E 23-06-2021 TILL DATE**

Respected Sir,

It is humbly stated that I was appointed as MP Malaria Supervisor (BPS-12) in office of District Health Officer North Waziristan Tribal District vide Endorsement No,1964-67/Aptt. Dated 23-06-2021. That in compliance with the aforementioned order after appearance before the Incharge Type-C Hospital Mirali NWTD , I submitted arrival report to the District Health Officer North Waziristan TD Miransha and since then I performing duties devotedly and with the entire satisfaction of superiors. That astonishingly salary of the appellant though prepared and signed by the DHO NWTD having a certificate that the employee has regular attendance but withheld for the reasons not known/conveyed to the appellant. That nonpayment of salary to an employee is against law, norms of justice and morality. That this Islamic Welfare State is under obligation to help the needy and destitute in the hours of woes being provided in the Maqasade Shari'a .

In view of above, it is humbly requested that on acceptance of this departmental appeal, salaries of the appellant for the period from the date of joining service i.e 23/06/2021 till date may kindly be released enabling me to feed and clothe family members as I have no other source of income for sustenance .

Thanking you in anticipation.

Dated: - 18.01.2022

OBEDIENTLY YOUR'S

MUHAMMAD SADIQ
MP MALARIA SUPERVISOR(BPS-12)
OFFICE OF DHO NWTD

ATTACHED

VAKALATNAMA

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO: _____ OF 2022.


MUHAMMAD SADIQ _____ (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS






HEALTH _____ (RESPONDENT)
(DEFENDANT)

I/We M. Sadiq
Do hereby appoint and constitute **NOOR MUHAMMAD KHATTAK Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2022



CLIENTS

ACCEPTED

NOOR MUHAMMAD KHATTAK

UMER FAROOQ MOHMAND

KAMRAN KHAN

SAID KHAN

HAIDER ALI
&
KHANZAD GUL
ADVOCATES