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)

Form- A

FORM OF ORDER SHEET

Court of		
Case No.	367	/2022
Case NO.		/ 2022

	Case No	/2022
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	11/03/2022	The appeal of 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.
2-		This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put there on $8-4-2a2$? CHAIRMAN CHAIRMAN
	8/4/2022	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. CHAIRMAN
	06.06.2022	Junior to counsel for the appellant present. 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. (Rozina Rehman) Member (J)

Paiwa Khan

The appeal submitted by Mr. Noor Muhammad Khattak Advocate today i.e. on 09.02.2022 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 dated 14.07.2021 against which appellant made departmental appeal 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. 405 /S.T,
Dt. 11 2 /2022

REGISTRAR

SERVICE TRIBUŃAL

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 = Page U/A.

Re-Submitted abter Pamplitian.

8/3/22

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 322 /2022

PAIOW KHANA

V/S

HEALTH DEPTT:

INDEX

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4	Medical certificate	В	7
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7	Pay slip	E	11
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9	Wakalat Nama	2 2 3 4 5 2 4 4 4 4 5 5	13

Dated: _____.2022

APPELLANT

Through:

NOOR MOHAMMAD KHATTAK

ADVØCATE 0345#9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

1		
APPEAL NO	/2022	
1		APPELLANT
VERSUS		•
General Health Ser	vices, Khyber	Pakhtunkhwa
•		ah. SPONDENTS
	VERSUS General Health Serealth Officer, Tribal Description	Lady Health Worker, District Miranshah VERSUS General Health Services, Khyber ealth Officer, Tribal District Miransh

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 01-07-2012 I.E FROM THE DATE OF REGULARIZATION 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 01-07-2012 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:

- That the appellant was initially appointed as Lady Health Worker on contractual basis in the respondent Department w.e.f 02-03-2000. Copy of appointment order is attached as annexure
- 3- That the appellant started performing her services with zeal and zest and up to the entire satisfaction of her superiors.

- 4- That the appellant was regularized vide order dated 23-06-2021 in pursuance of the Judgment of the Hon'ble Supreme Court and Peshawar High Court. And in light of office order dated 23-06-2021 the appellant was regularized w.e.f from 01-07-2012. Copy of office order dated 23-06-2021 is annexed as annexure.
- That unfortunately the salaries of the appellant have been 5w.e.f 01-07-2012 i.e., from the date 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 bills attached are pav of the annexure.....E.
- 6- 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.

GROUNDS:

- 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 her duties and the inaction of the respondents by not releasing her 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

PAIOW KHÂNA

THROUGH:

NOOR MOHAMMAD KHATTAK

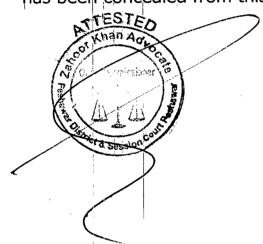
HAIØER ALI ADVOCATES, PESHAWAR

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

SERVI	CE APPEAL NO	/2022
PAIWO KHANA	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 ORDER

APPIONTMENT ORDER FOR LADY HEALTH WORKER UNDER NATIONAL SUBJECT: PROGRAMME FOR FAMILY PLANNING AND PRIMARY HEALTH CARE

On the recommendation of selection committee Miss Paiow Khana W/O/D/O Maida Zar Khan of Village Ghazlami Tehsil Dattakhel & P/O Boya is hereby appointed as Lady Health Worker (LHW) at Civil Hospital Boya w.e.f. 02/03/2000 following terms and condition.

1. The appointment will be purely on contract basis.

2. The appointment will be initially for one year. However it is extendable

subject to satisfactory performance.

3. After selection, she well be trained for duration of 15 months, in the first 03 months, she will attend training at the health center for 05 days a week, while during the next 12 months, and will attend the training session at the health center in the 4th week of every month.

4. She will be paid Rs. 50/- per day during initial three of training and

subsequently she will be given a stipend of Rs. 1600/Pm.

5. She will have to work in this Programme for at least one year after completion of training for which she well have to give surely bond at the time of joining training on stamp paper of Rs. 50/- . If she wishes to resign within this period, she will have to deposit the whole amount of salary which she has received during training and service until acceptance of resignation.

6. On expiry of surety bond period, if she wishes to resign, she will serve

one months notice or will deposit one month's in lieu of notice.

7. The post is non transferable and the services will be terminated if the

LHW move out of her area of appointment.

- 8. She will be required to establish a health house in her residence and maintain it according to the requirement of the Programme. She will work closely with the local community and establish a local health committee and a women group with the assistance of the field Supervisor and Health Center staff.
- 9. She will ensure her presence during the field visits of supervisors and will arrange home visit for them.
- 10. She will be required to open the bank account in the branch of bank nearest to the training Center. The branch will be identified by the district PIU. Her salary will be disbursed through this bank.
- 11. She will keep a proper record of supply and receipt from the health Centre and will also maintain a proper record of consumption of the supplies and will provide this to the health Centre every month at the time of receiving new supplies.
- 12. She will maintain a proper record of the money being earned through the sale of contraceptives (condoms and pills), she will be required to submit the details of money every month to the Health Center. If she is found guilty of wrong reporting or selling the contraceptives to the un authorized persons or shops, her service will be terminated along with other disciplinary action including the recovery of the amount involved.



She will submit a monthly report of her activities on

prescribed from the Health Center regularly.

14. She will be entitled for 20 days casual leave in a year. However there will be no leave during training, and if she abstain herself un authorisedly, her services will be terminated. She will be required to take the sanction of leave from the health Centre.

15. She will be entitled for 20 days maternity leave at one time which will Commence 10 days before the delivery date until 10 days after the delivery. After this, she will resume her duties from her health house and then start field visits not later than one month from the date of delivery.

16.TA/DA will not be admissible on account of attending training or

undertaking any field visit.

17. If at any time, it is established that she has given wrong information on her qualification, age, place of residence and other criteria, her services will be terminated with out any notice and the amount spend on her

training and salary will be recovered.

18. Her services will not be governed under the Civil Servants Act: 1973, but under the terms and condition of this contract and any other terms that may be communicated to her from time to time. She will be bound to follow these terms which will not be challengeable at any forum including courts.

19. Her services can be terminated at any time without assigning any reasons

or notice,

20 If she accepts the offer on the above terms and conditions, she is Directed to report for training at Civil Hospital Boya on 02/03/2000. Failing which the offer will stand cancelled.

> Sd/ xxxxxxxxxxxxx AGENCY SURGEON, N. W. A. **MIRAN SHAH**

No <u>727-31</u> / NP-NWA/ Appoit: Dated: Miranshah the <u>1</u>/03/2000

Copy to:

1. National Coordinator, National Programme for Family Planning and Primary Health Care, 14.D, Feroaze Centre, West Blue Area. Islamabad.

2. Provincial Programme Coordinator, National Programme for Family Planning and Primary Health Care, Street No. 6 Abshar Colony off the Warsak Road Peshawar.

3. District Coordinator, National Programme for FP & PHC.

4. The Accountant.

5. Official Concerned.

AGENCY CU MIRAN, SHAH



N.W.F.P Med No.4		GS&PD-NWF	2-2715-2000 P Or I	
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بخدمت جناب ایجنسی سرجن صاحب نارته وزیرستان ایجنسی میران شاه مضمون: مضمون: مضمون:

ANNEXURE C-8

جناب عالى!

بخوالہ جناب اپ کے دفتر سے جاری کردہ عرق نمبر آلم کا مالہ کے دفتر سے باری کردہ عرق نمبر آلم کا میں ایل ، ایکی ، ڈیلیو، برائے بیشنل پروگرام بحرتی ہوئی بوں۔ موں۔ اب جناب کہ خضور میں ڈیوٹی دینے کے لئے عاضری رپورٹ دینا چاہتی ہوں۔ لہذا اپ صاحبان کے در پار میں درخواست کرتی ہوں۔ کہ میرا عاضری رپورٹ کو قبول فرما کیں۔ شکریہ

02/03/2000 2000

العارض

اپ کی تابعدار <u>Pariou Khana</u> ایل، ایجی، ڈبلیو، بیشنل پروگرالم برائے جاندنی منصوبہ بندی نارتھ وزیرستان ایجنسی



OFFICE OF THE DISTRICT HEALTH OFFICER TRIBAL DISTRICT AT MIRANSHAH

Email:agencysurgeonnwa2019@gmail.com Tel: (0928) 300788 FAX: (0928) 311662 <u>%%%%%%%%%%%%%%%%%%%%%%%%%%%%</u>

In light of Honorable Supreme Court of Pakistan under write Petition No.15 of 2012 & CRL, MISC, Application No.506 of 2012 in H.R.C No.16360 of 2009 and Const. Petitions No.36 of 2012 and CRL. ORIG. Petition No.73 of 2012 in H.R.C No.16360 of No.2009 dated 07/03/2013 and Directorate Health Services FATA letter No.25464-72/DHS/ADMIN/NP dated 05/11/2018. The following LHWs/LHSs and drivers working in National Programme for FP, NP & PHC of North Waziristan District, are hereby regularized w.e.f 1/7/2012 and adjusted against the vacant posts of Dai BPS-05. Their salaries are released against the vacant post of Dai BPS-05 till the creation of their position codes from finance department, KP. As and when the position code are created from finance department KPK for the following LHWs / LHSs and drivers to the office of undersigned their outstanding salaries w. e. f 1/07/2012 and onward will be release accordingly on their own position code in the larger interest of public

d onward will be release accordingly	y on then	OWII position	
d bnward will be release according ing old pending issues to avoid mor	e issue ple	ease.	
No Name of LHWs/LHS/Drivers			
	50	Miss Gulalai	. •
	51	Miss Rogheen	. •
	52	Miss Azma Tahir	
- In Dibi	53	Miss Rahmeena	
	54	Miss Shahkila Bibi	
	55	Miss Ayesha	
1111 1211	56	Miss Bibi Amna	l
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	58	Miss Khowza Bibi	1
- I he Zahoor	59	Miss Jahanara	1
- NAnrmara	60	Miss Fatma Bibi	4
11 Miss Sangin Marmara	61	Miss Bibi Gula	4
12 Miss Razmeena	62	Miss Khalima Bibi	4
13 Miss Paiow Khana	63	Miss Bibi Rahmana	4
14 Miss khana Mira	64	Miss Noor Zeba	
15 Miss Miranshta	65	Miss Uzma Zia	
16 Miss Gul Faraza	66	Miss Sakina Sami	<u>, </u>
17 Miss Rakhati Bibi	67	Miss Fatima Bibi	<u></u>
18 Miss Pezwanda Bibi	68	Miss Marageen	<u>.</u>
19 Miss Razia Bibi	69	Miss Samrina Bibi	
20 Miss Gul Ghita	70	- 11 Oilei	
21 Miss Madai	$-\frac{70}{71}$. 011:	
22 Miss Rafata Bibi	$ + \frac{71}{72}$		•
23 Miss Madina Bibi	73		
24 Miss Fatma			
25 Miss Gul Khubana	\rac{7}{7}		
26 Miss Saleema Bibi			
27 Miss Bobrasia Bibi		7 Miss Saifa	
28 Miss Shakila Bibi			
29 Miss Raghina			
30 Miss Laweda		79 Miss Irana	



31/	Miss Maryam	80	Miss Somira Sagib
32	Miss Sardara	81	Miss Rooh Afzada
33	Miss Abida	82	Miss Hassina
. 34	Miss Farhana	83	Miss Saima
35	Miss Nazish faroog	84	Miss Safara Bibi
36	Miss Sabit Gula	85	Miss Nasreen Bibi
37	Miss Faryal Rashid	86	Miss Baghza Mina
38	Miss Jehana	87	Miss Salma Bibi
39	Miss Javeria Waheed	88	Miss Rafia Bibi
40	Miss Rishma	89	Miss Ayesha
41	Miss Zibu Nisa	90	Miss Shakila
42	Miss Marya Bibi	91	Miss Nasima Bibi
43	Miss Zalikha Bibi	92	Miss Sadia Bibi
44	Joharullah Driver	93	Ahmar Ali Khan Driver
45	Ilyaz Ud Din Driver	94	Fasihud Din Driver
46	Madia	95	Rabia
47	Khadya 🖎	96	Mehrun Nisa
48	Wali Darad	97	Zaib Un Nisa

Sd/XXX District Health Officer North Waziristan Tribal District

No. 12 - 8-11 /Release/LHWs/LHSs/DHO/NWTD dated Miranshah 23 /06 /2021. Copy forwarded to:-

1. The PS to Secretary Health KPK for information please.

2. The PS to Secretary Finance department Khyber Pakhtunkhwa Peshawar with the request to create position code on regular side under DDO code MW 6006.

3. The PS to Director General Health Services KPK Peshawar for information please

4. The District Account Officer NWTD for information with the request to release their current salaries against the vacant posts of Dai BPS-05 till the creation of their posts / position codes from finance department KP, of the above concerned LHWs/LHSs and drivers please.

5. Officials concerned.

District Health Officer North Waziristan Tribal District

CNIC# 0 Date of Apptt: 02 1<u>2000.</u> Date of Birth F/Name Morida Zar Klan. iow Mang. Designation: LHW. Grade: Cash Center 110 NWTD GP Fund A/C No_ Department: <u>Health Department</u>. DD Code: MW6006. B.Pay Scale _ Religion: Islam Charlames NWTD Permanent Add

Code	Pay & All:	Regular 1/7/2021	Adj for 1/7/2012 to 30/6/2021	
0001	AO1151	19760	1122135	
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	AR 15% (2011)	0	1855	
	AR 20 % (2012)	0	41844	
2151	AO121TAR15% (2013)	309	51912	
	AR 10% (2014)	0	14702	
	AR10% (2015)	209	22363	
	AR10% (2016)	1069	63930	
	AR 10% (2017)	1976	91348	
2211	AR-10%	1876	31892	
	(2018)			
2224	AR-10%	1876	47424	
:	(2019)			
2247	AR-10%	1876	0	
;. '.	(2021)			
G:To	tol '	27281	2203044/-	

dertificates

- 1. Certified that the CNICOTO by NDRA has been verified and found correct.
- 2. Certified that the entire projection mentioned above are correct and service Book attached with protorm is original and has been in the up to date by the concerned officer.
- 3. Certified that the employ mentioned above regular in attendance and has not been preceded abroad Pakistan.

strict Account Officer

District Health Officer WHITEHALL FICER RIBAL DISTRICT MIRAN SHAH

BETTER COPY PAGE #

DIRECTOR GENERAL HEALTH SERVICES KHYBER PAKHTUNKHWA PESHAWAR

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

No

Accounts

Miranshah

Dated

the 14.07.2021

To,

The District Accounts Officer
North Waziristan TD Miranshah

SUBJECT.

AUTHORITY/ PROCESSING OF ACCOUNT MATTERS / BILLS

Dear Sir.

Please refer to the subject noted above and to state that, the undersigned has assumed charge as DHO North Waziristan TD Miranshah on 10. 07. 2021. however unauthorized persons are active and wondering in the District Accounts Office NW TD for processing of bills / direct induction signed by un-authorized persons which is an unlawful act.

Further-more all Source-I/Source-II / signed by the then DHOs may not be entertained and Ought to be returned for verification and countersignature of the undersigned.

There-fore only Mr Saeed ullah Accounts/ Head Clerk of this office is hereby authorized to deal all kind of Account matters/ correspondence of this office on behalf of the Undersigned with your good office. and subsequently no other persons are allowed to touch any account matters and that this office will not be responsible w.e.f 10.07. 2021 and onwards

You are further requested that all correspondence! Accounts matters of the undersigned may be kept secret from all un-related/ unauthorized persons in the best public interest.

Your co-operation in this regard will be highly appreciated.

DISTRICT HEALTH OFFICER
NORTH WAZIRISTAN TO MIRANSHAH

Endst No. 12572-73
Copy forwarded to the

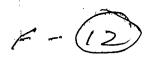
Dated: 14.07.2021

- 1- Director General Health Services KPK Peshawar.
- 2- Deputy Commissioner NW TO Miranshah.

DISTRICT HEALTN OEFICER
NORTH WAZIRISTAN TD MIRANSHAH







The Director General Health Services, Khyber Pakhtunkhwa Peshawar.

Subject: DEPARTMENTAL APPEAL UNDER SECTION 22 OF THE CIVIL SERVANT ACT AGAINST THE ORDER ISSUED

BY DR HAFIZUL AH DHO NWTD VIDE LETTER NO.12571/Accounts & 12572-73 DATED 14/07/2021
WHICH THE SALARIES OF US HAS BEEN STOPPED / WITHHELD ILLEGALLY SINCE THE
REGULARIZATION PERIOD W.E.F 1/07/2012 UP TO DATE.

Dear Sir,

With due respect it is stated that I am performing my duty as a Lady Health Worker BPS-05 in NP,FP & PHC programme since 02.03.2000 up to date continuously / regularly under the control of the District Health Officer North Waziristan Tribal District Miranshah with great zeal and zest. My pay & allowances are stopped by the ex- Agency Surgeon now a days called DHO due to non-computerization and bank account. After that I had submitted application to the DHO NWTD with the request to release my salaries from the date of stoppage. He has accepted my request and adjusted me against the vacant post of dai BPS-05 for the purpose of pay and allowances till the creation of position codes. (copy of office order / adjustment order is attached as Annex-A). My salaries are released by the EX-DHO NWTD in the month of March 2021, against the vacant post of KDai BPS-05, till the creation of position codes from finance department. (copy of bills is attached Annex-B). Now my pay & allowances is again stopped by one Dr.Hafizullah DHO NWTD, illegally without any reasons. He has draft letter to District Account officer with the request to returned all the salary bills i.e source-I & Il signed by the then DHO to DHO office for proper counter signature and verification. (Copy of impugned letter is attached Annex-C). Now the DHO is not in position to attest the bill nor noted any observation on my bills.

It is therefore, requested, in your kind honor to please release my salaries from the date of regularization / stoppage i.e 1/7/2012 up to date please.

I will be very thankful to your this kind act.

Dated: 14/10/2021.

Thanks

Your obediently,

Miss: PAIOW KHANA

LHW BPS-05

Office of the NP,FP&PHC NWTD.

ATTESTED

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL NO:	OF 2022
PAIOW KHANA	(APPELLANT) (PLAINTIFF) (PETITIONER)
VE	RSUS
HEALTH	(RESPONDENT) (DEFENDANT)
Do hereby appoint and content of the KHATTAK Advocate, Pest compromise, withdraw or remy/our Counsel/Advocate without any liability for his congage/appoint any other Advive authorize the said Advive.	onstitute NOOR MUHAMMAD hawar to appear, plead, act, afer to arbitration for me/us as in the above noted matter, default and with the authority to dvocate Counsel on my/our cost. To coate to deposit, withdraw and I sums and amounts payable or tin the above noted matter.
Dated/2022	
	با شر CLIENTS
	ACCEPTED NOOR MUHAMMAD KHATTAK UMER FAROOO MOHMAND KAMRAN KHAN SAID KHAN
	Haute Al

KHANZAD GUL