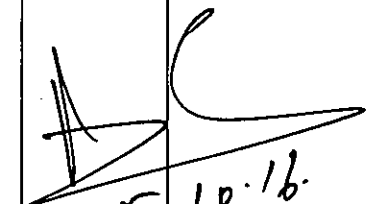


S.No. of proceedings	Date of Order or proceedings.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	05.10.2016	<p align="center"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></p> <p align="center"><u>CAMP COURT SWAT</u></p> <ol style="list-style-type: none"> 1. Appeal No. 571/2013, Mst Rahmat Pass, 2. Appeal No. 572/2013, Mst. Amina (Sherlyn Benella) 3. Appeal No. 573/2013, Mst. Basroon Bibi, 4. Appeal No. 574/2013, Mst. Rukhsana Bibi, 5. Appeal No. 575/2013, Mst. Farzana Bacha, 6. Appeal No. 576/2013 Mst. Hameeda Gul, and 7. Appeal No. 577/2013, Mst. Gohri Begum <p align="center">Vs. Secretary Government of Khyber Pakhtunkhwa, Health Department, Peshawar and 2 others.</p> <p align="center"><u>JUDGMENT</u></p> <p align="center"><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-</u></p> <p>Counsel for the appellants and Mr. Muhammad Zubair, Senior Government Pleader alongwith Mr. Amjad Ali, Assistant for respondents present.</p> <ol style="list-style-type: none"> 2. This judgment shall dispose of the instant service appeal No. 571/2013 as well as connected service appeals No. 572/2013 to 577/2013 as identical questions of facts and law are involved therein. 3. Brief facts of the case of the appellants are that they were serving as Female Charge Nurses on contract basis and later on appointed through Public Service Commission vide order dated 31.05.2008. Other Charge Nurses serving on contract basis agitated the issue of regularization of their services before the August Peshawar High Court, Peshawar wherein they were granted the relief vide


05.10.16

judgment dated 14.1.2010 in Writ Petitions No. 1662/2007, 1160/2008 and 1166/2008 where-against appeals before the August Supreme Court of Pakistan were dismissed on 15.03.2011.

4. One Pir Ma'ab Shah preferred service appeal No. 1815/2011 before this Tribunal which was also allowed by this Tribunal vide judgment dated 03.12.2015 which judgment has gained finality.

5. Learned counsel for the appellant argued that the appellants are similarly placed employees and may be treated accordingly and as laid down by this Tribunal in its judgment dated 03.12.2015.

6. Learned Senior Government Pleader did not raise any objection and argued that observations of this Tribunal recorded in para- 7 of the said judgment dated 03.12.2015 passed in Service Appeal No. 1815/2011 are to be taken into account.

7. In the light of the afore-sated position we accept all the appeals and direct the case of the appellants be considered in accordance with observations and directions of this Tribunal in Service Appeal No. 1815/2011 titled "Pir Ma'ab Shah Versus Executive District Officer (Health) Batagram and others". No order as to costs. File be consigned to the record room.



(Abdul Latif)
Member


(Muhammad Azim Khan Afridi)

05.10.16
Chairman
Camp Court, Swat.

ANNOUNCED
05.10.2016

06.06.2016

None for the appellant present. Mr. Muhammad Zubair Sr.OP for the respondents present. Counsel for the appellant is not in attendance due to strike of the bar. Adjourned for final hearing before D.B on 05.10.2016 at camp court, Swat.


Member


Chairman
Camp Court, Swat.

5.10.2015

[Handwritten signature]
5/10/15

None present for appellant. M/S Yar Gul, Senior Clerk and Raza Khan, Senior Clerk alongwith Mr. Muhammad Zubair, Sr. GP for respondents present. Written reply submitted. Cost of Rs. 1000/- paid to the Reader of the Court. Since the appellant or his counsel is not in attendance as such it is directed that the Reader shall keep the said cost in safe custody and pay it to the appellant or his counsel on appearance/next date of hearing. The appeal is assigned to D.B for rejoinder and final hearing for 11.01.2016 at Camp Court Swat.

[Handwritten signature]
Chairman
Camp Court Swat

11.01.2016

None present for the appellant. Mr. Raza Khan, Senior Clerk alongwith Mr. Muhammad Zubair, Sr,GP for respondents present. Reader informed the Tribunal that counsel for the appellant has contacted him on cell phone with a request for adjournment. To come up for rejoinder and final hearing before D.B on 05.04.2016 at Camp Court Swat.

[Handwritten signature]
Member

[Handwritten signature]
Chairman
Camp Court Swat

05.04.2016

Appellant in person and Mr. Amir Qadir, GP for respondents present. Due to non-availability of D.B arguments could not be heard. To come up for final hearing before D.B on 06.06.2016 at Camp Court, Swat.

[Handwritten signature]
Chairman
Camp court, Swat.

571/13

14.04.2015

Agent of counsel for the appellant and Addl: A. G for respondents present. Written reply not submitted. Requested for adjournment. Last opportunity granted. The appeal pertains to territorial limits of Malakand Division and as such to be heard at Swat. To come up for written reply/comments on 1.6.2015 at Camp Court Swat.


Chairman

1.6.2015

None present for appellant. Representatives of the respondents also not in attendance. Mr. Anwar-ul-Haq, G.P present. Written reply not submitted despite last opportunity. Last opportunity extended for written reply to 3.8.2015 before S.B at camp court Swat. Since the cases were heard at Peshawar till the previous date of hearing as such notices be given to both the parties for the date fixed.


Chairman
Camp Court Swat

3.8.2015

Appellant in person and Mr. Raza Khan, Senior Clerk alongwith Mr. Muhammad Zubair, Sr.G.P for respondents present. Written reply not submitted despite last opportunity. Another opportunity is extended to the respondents subject to payment of cost of Rs. 1000/- which the respondents shall bear from their own pockets. To come up for written reply/comments and payment of cost on 5.10.2015 before S.B at Camp Court Swat.


Chairman
Camp Court Swat

27.10.2014

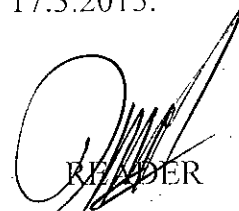
Clerk to counsel for the appellant and Mr. Muhammad Jan, GP with Sheryar and Yar Gul, Assistants for the respondents No. 1 & 2 present and requested for further time. They are also directed to contact respondent No. 3. To come up for written reply positively on 31.12.2014.



MEMBER

31.12.2014

Clerk to counsel for the appellant, and Mr. Muhammad Adeel Butt, AAG with Sheryar, and Yar Gul, Assistants for the respondents present. The Tribunal is incomplete. To come up for the same on 17.3.2015.



MEMBER

17.3.2015

Clerk of counsel for the appellant and Mr. Muhammad Jan, GP with Sheryar, Assistant for the respondents present. Representative of the respondents requested for further time to be granted for submission of written reply. To come up for the same on 14.4.2015.



MEMBER

3.2.2014

Counsel for the appellant and Mr. Muhammad Adeel Butt, AAG with Gul Yar, Assistant for respondent No. 2 present and requested for adjournment. None is available on behalf of respondents No. 1 and 3. Fresh notices be issued to them. To come up for written reply on 24.4.2014.

24.4.2014

~~MEMBER~~ to counsel for the appellant ~~MEMBER~~ Muhammad Jan, GP with Sheryar, Assistant for all the respondents present and requested for further time. To come up for written reply on 6.8.2014.

~~MEMBER~~

~~MEMBER~~

06.08.2014

Counsel for the appellant, AAG with Sheryar and Yar Gul, Assistants for respondents No. 1 & 2 present and requested for further time. None is available on behalf of respondent No. 3. Fresh notice be issued to him. To come up for written reply on 27.10.2014.

MEMBER

Appeal No. 571/2013
Mst. Rehmat pass.

21.08.2013

Appellant with counsel present and heard on preliminary.

Contended that the appellant has not been treated in accordance with the law/rules. He further contended that other appeals against the same impugned order titled Pir Maab Shah vs EDU Battagram and others in Service appeal No. 1815/13 have already been admitted to full hearing. The cited cases/appeals have already been admitted and pending before the Final Bench-II which has been fixed on 03.09.2012 for hearing, therefore, the instant appeal being similar and identical be clubbed with the mentioned service appeals. On the same analogy the instant appeal is also admitted for regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, notice be issued to the respondents. Case adjourned to 02.12.2013 for submission of written reply.



Member.

2.12.2013

Counsel for the appellant and Mr. Muhammad Adeel Butt, AAG present. None is available on behalf of the respondents. Fresh notices be issued to them. To come up for written reply on 3.2.2014.



MEMBER

Appellant deposited
Process fee of Security
Rs. 1860/- Bank Receipt
attached with file
(in A. No. 571/2013)

6

3.
17.5.2013

Munshi to Counsel for the appellant present. In pursuance of the Khyber Pakhtunkhwa Service Tribunal (Amendment) Ordinance, 2013 (Khyber Pakhtunkhwa Order No. II of 2013), the case is adjourned on note Reader for proceeding as before on 18.6.2013.


Reader.

4.
18.6.2013

Munshi to Counsel for the appellant present. In pursuance of the Khyber Pakhtunkhwa Service Tribunal (Amendment) Ordinance 2013, (Khyber Pakhtunkhwa ord. II of 2013), the case is adjourned on note Reader for proceedings as before on 19.8.2013.


Reader

5.
19.08.2013



Counsel for the appellant present and stated that case of similar has already been admitted on 30.12.2011 in service appeal No.1815/2011 titled Pir Maab Shah and requested that the instant appeal may also be admitted to regular hearing. The above mentioned service appeal may be requisitioned for preliminary hearing on 21.08.2013.


Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 571/2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	26/03/2013	<p>The appeal of Mst. Rehmat Pass presented today by Mr. Khaled Rahman 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	1-4-2013.	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>17-5-2013</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 571 /2013

Mst. Rehmat Pass
.....Appellant

Versus

The Govt. of KPK and
others
.....Respondents

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Memo of Service Appeal			1-7
2.	Advertisement		A	
3.	Appointment order	16.08.2004	B	
4.	Extracts from Service Book		C	
5.	Regularization Act, 2005		D	
6.	Letter	10.08.2005	E	
7.	Letter	20.09.2006	F	
8.	Regularization Order	19.04.2007	G	
9.	Fresh appointment order	31.05.2008	H	
10.	Judgment of Peshawar High Court	14.01.2010	I	
11.	Judgment of the Hon'ble Supreme Court of Pakistan	15.03.2011	J	
12.	Another Judgment of the Hon'ble Supreme Court	31.12.2010	K	
13.	Order of back benefits		L	
14.	Departmental Representation		M	
15.	Wakalat Nama			

Through

Appellant


Khaled Rahman
Advocate, Peshawar

9-B, Haroon Mansion,
Khyber Bazar, Peshawar.
Cell # 0345-9337312

Dated: 25 / 03/ 2013

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 571 /2013

Mst. Rehmat Pass
Charge Nurse, DHQ Hospital,
Daggar, Buner.Appellant

B.W.F. Peshawar
Case No. 586
26-3-2013

Versus

1. The Secretary,
Govt. of Khyber Pakhtunkhwa,
Health Department, Civil Secretariat,
Peshawar.
2. The Director General,
Health Services, Khyber Pakhtunkhwa,
Peshawar.
3. The District Health Officer,
District Buner..... Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 FOR REGULARIZATION OF THE SERVICES OF THE APPELLANT W.E.F. 16.08.2004 TILL HER REGULAR APPOINTMENT ON THE BASIS OF EQUALITY AND EQUAL PROTECTION OF LAW IN THE LIGHT OF THE JUDGMENT RENDERED BY THE AUGUST PESHAWAR HIGH COURT, PESHAWAR IN WRIT PETITION NO.1662/2007, 1166/2008 & 1160/2008 DECIDED ON 14.01.2010 AND UPHELD BY THE AUGUST SUPREME COURT OF PAKISTAN VIDE C.P.170-P TO 172-P & 668-P OF 2010 FOR WHICH APPELLANT FILED A DEPARTMENTAL REPRESENTATION BEFORE

26/3/13

**RESPONDENT NO.1 BUT THE SAME WAS NOT
DISPOSED OF WITHIN STATUTORY PERIOD OF
90 DAYS.**

PRAYER:

On acceptance of the instant appeal, the services of the appellant may graciously be regularized w.e.f. 16.08.2004 till her regular appointment in the light of the Judgments delivered by the august Peshawar High Court, Peshawar cited above with all back benefits.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. That in the year 2004 the then Executive District Officer, Health, District Daggar, Buner floated an advertisement (*Annex:-A*) through Press, inviting applications for Charge Nurses. Appellant being qualified in terms of advertisement applied for the same and after going through selection process, the Departmental Selection Committee recommended her and finally she was appointed as Charge Nurse (BPS-14) by the then Executive District Officer (Health), Dagar, Buner on the approval of the then DCO vide order dated 16.08.2004 (*Annex:-B*). It will not be out of context to mention that vide letter dated 15.01.2002 issued by the Govt. all the Provincial Cadre Posts in BPS-15 & below of the Health Department were converted into District

Cadres.

2. That in pursuance of the order *ibid*, appellant assumed the charge of her duties at DHQ Hospital Daggar, Buner after submitting her Arrival Report and since then started performing her duties to the entire satisfaction of high-ups. Moreover, Respondents also maintained her Service Book (*Annex:-C*) wherein necessary entries were also entered from time to time and she was also allowed all the facilities and privileges as admissible to other regular employees.
3. That in the year 2002 the Government had introduced a Contract Policy and hence all the appointment thereafter were made under the same Policy similarly the appellant was also appointed under the same Contract Policy and it was specifically mentioned in the appointment order that the appointments of appellant would be governed under the same Contract Policy. It will not be out of context to mention that neither in the advertisement nor in the appointment order there is mention of the fact that the post against which appellant was appointment was a project post.
4. That in the year 2005 the Govt. decided to grant regularization to all those employees who were appointed under the Contract Policy of 2002 and in this respect the Provincial Assembly passed an Act i.e. the NWFP Civil Servants (Amendment) Act, 2005 (hereinafter referred to as Act-IX of 2005) (*Annex:-D*) whereby Section-19 of the NWFP

Civil Servants Act, 1973 was substituted and accordingly all those employees who were appointed in the prescribed manner on or after the 1st July, 2001 till the commencement of the Act were declared to be regular civil servants for all intents and purposes except the Pension & Gratuity and copy of the letter dated 10.08.2005 (*Annex:-E*) issued by the Govt. Thus under the Act all the employees selected and appointed on Contract basis stood automatically regularized by operation of law. Since by then the District Coordination Officer was the competent authority, therefore, the Executive District Officer, Buner vide letter dated 20.09.2006 (*Annex:-F*) referred the regularization cases of appellant and others to the then District Coordination Officer, Buner, who after fulfilling all the codal formalities regularized the services of the appellant and others vide office order dated 19.04.2007 (*Annex:-G*).

5. That since the date of her appointment, appellant had regularly performed her services to the entire satisfaction of her superiors, however, after regularization, the appellant was told that her appointment was under the ADP Scheme and that appellant should appear before the Public Service Commission for the post. In the meanwhile the posts were advertised by the Public Service Commission and thus appellant was compelled to apply for the same and after undergoing the selection process, she was recommended and appointed as Charge Nurse vide order dated 31.05.2008 (*Annex:-H*) and immediately on

termination of the services of the appellant, she assumed the charge of the post at DHQ Hospital Daggar, Buner).

6. That in identical case under similar circumstances, the Male/Female Nurses of District Dir Lower and Malakand who were also terminated under the same ground of Project employment and who were similarly appointed the way back in the 2003 & 2004 alongwith the appellant approached the august Peshawar High Court, Peshawar in *Writ petition No.1662/2007, 1166/2008 & 1160/2008* which were allowed vide Judgment dated **14.01.2010 (Annex:-I)** on the strength of similar other Judgment in Writ petition No.475/2006 titled "*Miss Shagufta Sayed...Vs... The Govt. of NWFP and others*" decided on 11.07.2007 and the same was subsequently upheld by the august Supreme Court of Pakistan vide **C.P.170-P to 172-P & 668-P of 2010** decided on 15.03.2011 (**Annex:-J**) and similarly another Judgment was also passed by the Hon'ble Supreme Court of Pakistan in C.P.No.326-P/2009 on 31.12.2010 (**Annex:-K**) on the same subject matter.
7. That accordingly all the terminated Male/Female Nurses were not only reinstated into service but also declared regular employees under the Act IX of 2005 and they were also allowed back benefits by the Department as would be evident from the order dated 10-9-12 (**Annex:-L**). As the case of appellant was identical in nature, therefore, she on coming to know about the decision immediately

preferred a departmental Representation (**Annex:-M**) to Respondent No.1 but the same was not disposed of within the statutory period of 90 days, hence this appeal inter-alia on the following grounds:-

Grounds:

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully refused to regularize the services of the appellant, which is unjust, unfair and hence not sustainable in the eye of law.

- B. That appellant was unaware of the Judgments aforesaid and just now she came to know about the same. As the case of appellant is identical on all fours with that of other employees of the Department working in similar manner who were granted relief by the august Peshawar High Court, Peshawar therefore, appellant is also entitled to the same relief under the principle of consistency and equality as laid down in the case of "*Hameed Akhtar Niazi...Vs...The Secretary, Establishment Division, Govt. of Pakistan and others*" reported in 1996 SCMR 1185 and *Tara Chand and others...Vs...Karachi Water and Sewerage Board, Karachi and others*" reported in 2005 SCMR 499 and another Judgment reported in 2009 SCMR 1.

C. That to be treated in accordance with law is the inalienable right of every citizen and similarly all are entitled to equal protection of law under the Constitution of Islamic Republic of Pakistan, 1973, therefore, appellant is entitled for regularization of her services alongside those who were regularize alongwith back benefits by the Respondents under the Judgment of the Hon'ble Peshawar High Court, Peshawar and Supreme Court of Pakistan.

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

Through


Appellant


Khaled Rahman,
Advocate, Peshawar.

Dated: 25 / 03/ 2013

ANNEX A'
8

اسامیاں خالی ہیں

انٹرویو کی تاریخ	تالیفیت	تعداد	تعداد کا سٹیل	نمبر
16/6/04	میٹرک متعلقہ ڈیپارٹمنٹ	66	14	30 سے 18

شرائط: ہائپر ٹیور ایڈوانسڈ ہسپتال ڈیپارٹمنٹ میں ملازمت کے ساتھ ڈیپارٹمنٹ ڈاکٹر بوٹھری میں 10/6/2004 آٹھ بجے تک پہنچ جانی چاہئیں بعد میں درخواستیں وصول نہیں کی جائیں گی تیسری نوٹیفکیشن کنٹریکٹ کی بنیاد پر ہوگی منتخب افراد کو ادارے کے تمام قواعد و ضوابط کی پابندی کرنا ہوگی وہ امیدوار جنہوں نے مارچ 2004ء میں ٹریننگ بورڈ کا امتحان (سال چہارم) کو پاس کیا ہے اس سے تازہ ترین امتحان میں پاس ہونے کی صورت میں ہی جانشین امیدواروں کی اسناد کی تصدیق متعلقہ ادارے سے کروائی جائے گی جملہ اسناد والے امیدواروں کے خلاف قانونی کارروائی کی جائے گی جس سے امتحان اور ملازمت کی صورت میں شرکت کرنے والے امیدواروں کوئی اسے۔ ذی اسے نہیں دیا جائے گا مطلقاً ہائپر کے رہائشی امیدواروں کو ترجیح دی جائے گی مگر ہائپر میں ملازمت کی بنیاد پر ہونے والے انٹرویو میں 9:00 (نو) بجے سے شروع ہوگا۔

ڈاکٹر فضل عظیم میڈیکل سپرنٹنڈنٹ ڈیپارٹمنٹ ڈیپارٹمنٹ ڈاکٹر ہسپتال بوٹھری

INF(SW)119

Handwritten signature

ATTESTED
RECEIVED

10

- iv. Either party can terminate the contract on two months notice or two months salary in lieu thereof.
- v. You will be provided equal opportunities for local training.
- vi. You will be provided same facilities under Benevolent Fund as admissible to the Government Servants at the rates to be prescribed by the Government.
- vii. You will avail the benefit of Contributory Provident Fund through 5% contribution of minimum of your pay and 5% contribution to be made by the government.
- viii. You will not contribute to GPF and shall not be entitled for Pension and Gratuity benefits.

If the above offer of appointment on contract basis is acceptable to you on the above terms and conditions, you are advised to report to Medical Superintendent District Headquarter Hospital Daggar for duty, after medical examination from the concerned Medical Superintendent.

DISTRICT COORDINATION OFFICER,
BUNER.

4360-69
No. /2/13/Acctt./EA,

Copy forwarded to: -

1. The Assistant Coordination Officer, Buner.
2. The Executive District Officer, Health, Buner.
3. The Medical Superintendent DHQ Hospital Daggar, Buner with the request to verify academic Degrees/testimonials of the officials from S.No. 1 & 18 from the concerned Boards/Universities under intimation to this office.
4. The District Accounts Officer Buner, for necessary action.
5. The Officials concerned for compliance. C/o MS DHQ Hospital Daggar.

ATTESTED

DISTRICT COORDINATION OFFICER,
BUNER.

Office of the Medical Superintendent DHQ Hospital Daggar Buner.

E/No. 854-72/PP

Dated 17/8/2004.

Copy endorsed to the above Names S. No. 6 Miss Husna Javed D/O Kamran Javed District Swat for information and immediate effect.

Medical Superintendent,
DHQ Hospital Daggar,
District Buner.

SERVICE BOOK

11

ANNEX C

132
25

OF

Mr. RAHMAT PASS D/O DAWA KHAN
Address: Village chupriyal Teh matta Distt Swat

ATTESTED

Price : Rs. 20.00

Printed by: Stationery & Printing Department, N.-W.F.P., Peshawar.

(For use in Police Department only)

Heirs:---

- 1.
- 2.
- 3.

12

Verification Roll No. dated received back.

Left Thumb-Impression

Qualifications	Date	Qualifications	Date
English	SSC from Saadi Sharif Swat 1999 Roll No 772	First Arts	
Pushto	obtained 527/850	B.L. or B.A. 1st division	
Urdu	FA from Saadi Sharif Swat 2880m 2001 Roll 230398	Pleadership Examination	
Plan-Drawing	obtained 655/1100-	Training School Final Examination	
Finger Print	BA from university of Peshawar Roll 80908011	Other Qualifications:--	
Drill Instructing	obtained 297/580		2003-
Court Duties	final Nursing examination from Nursing board Peshawar	passed	
Reserve Duties	Midwifery examination from Nursing board Peshawar	passed	

N.B.— Line to be drawn under the qualification possessed.

ATTESTED

13

Note: - The entries in this page should be renewed or re-attested at least every five years and the Signature to lines 9 and 10 should be dated.

1. Name: RAHMAT PASS

2. Race AFGHAN

3. Residence village Chuprial (Matta) Swat.
Mallah Said Abad

4. Father's name and residence
Dawa Khan


5. Date of birth by Christian areas nearly as can be ascertained
(2-4-1982) 2 APRIL 82


6. Exact height by measurement.
(5-4 feet) - 5' 4" نيسه


7. Personal marks for Identification
Nil

8. Left hand thumb and Finger Impression of (non-Gazetted) Officer.

Little Finger 

Ring Finger 

Middle Finger 

Fore Finger 

Thumb 

ATTESTED

9. Signature of Government Servant
Rahmat

10. Signature and Designation of the Head of the Office, or other Attesting Officer.
Medical Superintendent
Distt. Head Quarter Hospital
Dawal Buner

72

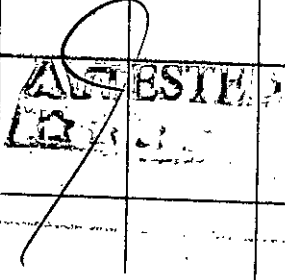
0398.

2011

3-

Peshawar

Shawar

1 Name of post	2 Whether substantive or officiating and whether permanent or temporary	3 If Officiating, state (i) Substantive appointment, or (ii) whether service courts for pension under Art. 371 C.S.R.	4 Pay in substantive post	5 Additional Pay for Officiating	6 Other emolument falling under the term "Pay"	7 Date of Appointment	8 Signature of Government Servant
Rahmat Pass. # Female Charge Nurse Bps-14 = 3100-240-		10300/-				23 ⁸ / ₀₄ 18 ⁸ / ₄	14 f.n. Khalid
pay @ Rs. 3100 / PM 2004							
Bps-14 3565-275-11815				Pay Fixation on 1-7-03 Existing Pay in GPO 14 on 1-7-05 Rs. 3700 Rs. Pay Fixed in GPO 14 on 11-7-05 3565			
pay @ Rs. 3565 / PM 1-7-05							
A							
pay @ Rs. 3840 / PM 1-12-05							
A							
pay @ Rs. 4115 / PM 1-12-06							
							

9
Signature of the officer testing of attestation columns

30-6

Dist: H

B
Med
Dist: I

30

Med
Dist: I

30

Me
Dist:

16

1 Name of post	2 Whether substantive or officiating and whether permanent or temporary	3 If Officiating, state (i) Substantive appointment, or (ii) whether service courts for pension under Art. 371 C.S.R.	4 Pay in substantive post	5 Additional Pay for Officiating	6 Other emolument falling under the term "Pay"	7 Date of Appointment	Signature of Government Servant	Signature of the officiating attest column
Charge Nurse, DHO (Hospital) Dagger on Contract			4115/-					
<p>Pay fixed in the revised BPS-14 (Rs. 4100-375-13550) vide Govt. Notification No. FD(PRC)-1/2007 Dated 20-7-2007 w.e.f 1-7-2007</p>								
<p>Pay on 30-6-07 in existing Rs. 4115/- pay fixed on 1-7-07 Revised Rs. 4730/-</p>								
<p>Medical Superintendent, DHO (Hospital) Dagger on Contract</p>								
<p>Pay @ Rs. 5045/- P.M on 1-12-07</p>								
<p>ATTESTED</p>								

17

8 Signature of Government Servant	9 Signature and designation of the head of the office or other attesting officer in columns 1 to 8	10 Date of termination of appointment	11 Reason of termination (such as promotion, transfer, dismissal, etc.)	12 Signature of the head of the office or other attesting officer	13 Leave		14 Signature of the head of the office or other attesting officer	15 Reference to any recorded punishment or censure, or reward or praise of the Government Servant
					Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government		
						Period		
						Allowed BPs - 16 Due to upgradation of BPs - from 14 to 16 with effect from 11/9/2007 vide instructions No. SOB/HD/1-1/2006-2007 Dated 11-4-2007. Issued from the Secty. Health Dept. of NWFP. <i>Basawan</i>		
	A/c No. 2592 Mission Commercial Bank Ltd, Daggan Branch. Code No. 0318						<i>Medical Superintendent, Daggan Buner</i> Services in the Capacity of C/N, BPS-14 Verified upto 10/4/2007.	
							<i>Medical Superintendent, Daggan Buner</i> Service verified w-e-t 11-4-07 to 30-11-07	
		30-11-07			A/Incr em Allowed on 1-12-2007		<i>Medical Superintendent, Daggan Buner</i>	
					ATTESTED		<i>Medical Superintendent, Daggan Buner</i>	
								Extension for the year 2007-08, vide Govt. of NWFP Health Deptt order no. 7-22/SPO-II/Health/JP&D/2007-08/Nurses Dated 7-1-2008

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8	9	10	11	12	13		14	15								
Signature of Government Servant		Signature and position of the head of the office or other attesting officer in columns 1 to 8		Date of termination of appointment		Reason of termination (such as promotion, transfer, dismissal, etc.)		Signature of the head of the office or other attesting officer		Leave		Signature of the head of the office or other attesting officer		Reference to any recorded punishment or censure, or reward or praise of the Government Servant		
										Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government					
										Period		Government to which debitable				

ATTESTED

T 471
2/6 Approved and Allowed
w.e.f. 1/08 to 31/5/08
Detail Rs: 15060/-
DHO

T 662
18/6 w.e.f. 1/08 to 5/6/08
Total Rs: 15060/-
DHO

leave without pay.

(2) The Inter se seniority of the Civil Servants under this Act shall be determined by the Government, according to the service rules in vogue.

1.7.2001 — 23.7.2005

North-West Frontier Province
Civil Servants (Amendment) Act, 2005

(N.W.F.P. Act No. IX of 2005)

An Act further to amend the North-West Frontier Province Civil Servants Act, 1973

[Gazette of N.W.F.P., Extraordinary, Page No. 202-203, 23rd July, 2005]

No. PA/NWFP/Legis:1/2005/20440.—The North-West Frontier Province Civil Servants (Amendment) Bill, 2005 having been passed by the Provincial Assembly of North-West Frontier Province on the 5th July, 2005 and assented to by the Governor of the North-West Frontier Province on 12th July, 2005 is hereby published as an Act of the Provincial Legislature of the North-West Frontier Province.

Preamble.—WHEREAS It is expedient further to amend the North-West Frontier Province Civil Servant Act, 1973 (N.W.F.P. Act No. XVIII of 1973), for the purpose hereinafter appearing;

It is hereby enacted as follows:—

1 Short title and commencement.—(1) This Act may be called the North-West Frontier Province Civil Servants (Amendment) Act, 2005.

2 Amendment of section 19 of N.W.F.P. Act No. XVIII of 1973.— In the North West Frontier Province Civil Servants Act, 1973 (N.W.F.P. Act No. XVIII of 1973), for section 19 the following shall be substituted, namely:

19. Pension and gratuity.—(1) On retirement from service, a civil servant appointed on regular basis in the prescribed manner before the commencement of the North West Frontier Province Civil Servants (Amendment) Act, 2005 (hereinafter referred to as the said Act), shall be entitled to received such pension or gratuity as are admissible to him under the West Pakistan Civil Service Pension Rules:

Provided that in the event of the death of such a civil servant, whether before or after retirement, his family shall be entitled to receive such pension, or gratuity or both, as admissible under the said rules.

(2) A person though selected for appointment in the prescribed manner to service or post on or after the 1st day of July, 2001, till the commencement of the said Act but appointment on contract basis, shall, with effect from the commencement of the said Act

ATTESTED

P-17 (20)

(Regularization of Services)

131

be deemed to have been appointed on a regular basis. All such persons and the persons appointed on regular basis to a service or post in the prescribed manner after the commencement of the said Act shall, for all intents and purposes be civil servant, except for the purpose of pension or gratuity. Such a Civil servant shall, in lieu of pension and gratuity, be entitled to receive such amount contributed by him towards the Contributory Provident Fund, along with the contributions made by Government to his account in the said fund, in the prescribed manner:

Provided that in the event of death of such a civil servant, whether before or after retirement his family shall be entitled to receive the said amount, if it has already not been received by such deceased civil servant.

(3) No pension to a civil servant, who is otherwise entitled to it, shall be admissible to him, if he is dismissed or removed from service for reasons of discipline, but Government may sanction compassionate allowance to such a civil servant, not exceeding two-third of the pension or gratuity which would have been admissible to him had he been invalidated from service on the date of such dismissal or removal.

Provided that a civil servant referred to in sub-section (2), in case of such dismissal or removal, may, in addition to his own contributions to the Contributory Provident Fund, be allowed, on account of such compassionate allowance, a sum not exceeding two-third of Government contributions in his account.

(4) If the determination of the amount of pension or gratuity admissible to a civil servant is delayed beyond one month of the date of his retirement or death, he or his family, as the case may be, shall be paid provisionally such anticipatory pension or gratuity as may be determined by the prescribed authority, according to the length of service of the civil servant which qualified for pension or gratuity; and any over payment on such provisional payment shall be adjusted against the amount of pension or gratuity finally determined as payable to such civil servant or his family.

ACCEPTED

حکومت صوبہ سرحد

سٹیبلشمنٹ اینڈ ایڈمنسٹریشن ڈیپارٹمنٹ

(ریگولیشن ونگ)

ANNEX F

21

مورخہ پشاور ۱۰ اگست ۲۰۰۵ء

بہر افسر صوبہ (ای اینڈ ایف ڈی) ۱۳/۱۲/۲۰۰۵ء

بخدمت

- ۱۔ تمام انتظامی و مقدماتی حکومت صوبہ سرحد
- ۲۔ تمام برائے گورنر صوبہ سرحد
- ۳۔ تمام برائے وزیر اعلیٰ صوبہ سرحد
- ۴۔ معتمد صوبائی اسمبلی سکریٹریٹ
- ۵۔ تمام ڈسٹرکٹ و سیشن جج صوبہ سرحد
- ۶۔ رجسٹرار پشاور ہائی کورٹ پشاور
- ۷۔ معتمد پبلک سروس کمیشن صوبہ سرحد
- ۸۔ رجسٹرار سرورسز ٹرانزپورٹ پشاور
- ۹۔ اکاؤنٹ جنرل صوبہ سرحد پشاور
- ۱۰۔ تمام سربراہان ملحقہ نکلہ جات صوبہ سرحد
- ۱۱۔ تمام سربراہان خود مختار / نیم خود مختار ادارہ جات صوبہ سرحد
- ۱۲۔ تمام شاہی رابطہ افسران و مختاران سیاسی صوبہ سرحد

شمال مغربی سرحدی صوبہ کی سول ملازمین بحرحہ ۱۹۷۳ء ترمیم ایکٹ ۲۰۰۵ء کا نفاذ

عنوان :-

صوبائی کابینہ نے سال ۲۰۰۱-۰۲ء کا بجٹ منظور کرتے ہوئے فیصلہ کیا کہ آئندہ تمام بقاعدہ آسامیوں پر تعیناتی بہ راجہ کنٹریکٹ کی جائے گی۔ تاکہ پیش کی مدتیں بڑھتے اخراجات سے چھٹکارا پایا جائے۔ واضح رہے کہ پراجیکٹ پوسٹوں، تھوڑے عرصے والے آسامیوں، اتفاقی مصارف (Contingent paid staff) سے نکلنے والے اخراجات، فراڈ و بارہ تعیناتی اور کمیشن کے ذریعے زیر التوا آسامیوں پر تعیناتی پہلے بھی بذریعہ کنٹریکٹ کی جاتی تھی اور آئندہ بھی جاری رہے گی۔ یکم جولائی ۲۰۰۵ء سے قبل کنٹریکٹ پر تعیناتی پبلک سروس کمیشن کے دائرہ اختیار میں نہیں تھی۔ پبلک سروس کمیشن کے دائرہ میں ترمیم کے ذریعے انہیں یہ اختیار دیا گیا۔

ATTESTED
UNTESTED

۱۱

محکمہ خزانہ صوبہ سرحد نے بحوالہ مراسلہ نمبر FD/(SOSR-II)12-1/2002 مورخہ ۲۶ اکتوبر ۲۰۰۲ء کو سرحدی حکومت میں تمام باقاعدہ آسامیوں کو پوز کرنے کیلئے کنٹریکٹ پالیسی جاری کی۔ کنٹریکٹ پالیسی کا مقصد باقاعدہ آسامیوں کی بحالی کا بینہ کی منظوری ہے۔ سول سروس ایکٹ نمبر ۱۹۷۳ء کی سیکشن ۱۹ میں ترمیم کی منظوری دی گئی۔ ترمیم ایکٹ ۱۹۷۳ء کی کاپی منسلک ہے۔ مذکورہ ترمیم کے مطابق کیم جوائنٹ ۲۰۰۲ء سے لیکر اس قانون کے نافذ ہونے تک مجوزہ طریقہ کار کے مطابق مجاز فورم کی سفارشات پر وہ تمام افراد جو باقاعدہ منظور شدہ آسامیوں پر تمام قانونی لوازمات پوری کرنے کے بعد کنٹریکٹ پر تعینات کیے گئے تھے سول سروس قاعدہ کیے جائیں گے۔ اور وہ تمام مراعات کے حقدار ہونگے جو کہ سول سروس ایکٹ میں پہلے سے موجود ہیں۔ اسوائے پیش کیے گئے یہ افراد پیش کی بجائے شراکتی کفایت شعاری فنڈ (CP FUND) کے حقدار ہونگے جس کے لیے متعلقہ ملازم اور حکومت دونوں بحساب دس فیصد ادائیگی کریں گے۔

۳۔ وہ تمام ملازمین جو باقاعدہ سول سروس تعینات ہیں وہ بدستور پیش کیے گئے۔ اور تمام کنٹریکٹ ملازمین جو کہ مجاز فورم کی سفارشات یا مجوزہ طریقہ کار کے مطابق بھرتی نہیں ہوئے یا پراجیکٹ پوسٹوں، عارضی آسامیوں یا اتفاقی مصارف سے کنسڈرڈ تھوڑے پر تعینات افراد جو کنٹریکٹ کی بنیاد پر تعینات کیے گئے تھے وہ بدستور کنٹریکٹ ملازمین رہیں گے اور ان کی ملازمت کے شرائط و قواعد وہی ہونگے جنکی بنیاد پر انکی بھرتی کی گئی تھی۔ واضح رہے کہ مجاز فورم سے مراد وہ بائی بلیک سروس کمیشن اور حکامانہ چناؤ کمیٹیاں ہیں۔ جنکے ذریعے تعیناتی کی سفارشات کی جاتی ہیں۔ جو آسامیاں بلیک سروس کمیشن کے دائرہ اختیار میں آتی ہیں ان کے لیے بلیک سروس کمیشن ہی مجاز فورم ہے۔ اور جو آسامیاں بلیک سروس کمیشن کے دائرہ اختیار میں نہیں آتی ہیں ان کے لئے حکامانہ چناؤ کمیٹیاں مجاز فورم ہیں۔ بشرطیکہ دیگر تمام لوازمات کو ملحوظ خاطر رکھا گیا ہو۔

۴۔ مندرجہ بالا قانون کے نفاذ کے بعد آئندہ تمام باقاعدہ منظور شدہ آسامیوں پر مجوزہ طریقہ کار کے مطابق اور مجاز فورم کی سفارشات پر باقاعدہ بھرتی بحیثیت سول سروس کی جائیں گے۔ تاہم پیشکش ملازمت (Offer of appointment) میں یہ واضح طور پر لکھا جائے گا کہ یہ افراد پیش کی بجائے حکومت کے مقرر کردہ شراکتی کفایت شعاری فنڈ کے حقدار ہوں گے۔ لہذا تمام محکمہ جات کو ہدایت کی جاتی ہے کہ کیم جوائنٹ ۲۰۰۲ء سے لیکر مندرجہ بالا قانون کے نفاذ تک باقاعدہ آسامیوں پر مجاز فورم کی سفارشات اور مجوزہ طریقہ کار کے ذریعے بھرتی کیے گئے کنٹریکٹ ملازمین کی ریگولر ایشن کیلئے متعلقہ مجاز حکامانہ سے منظوری حاصل کی جائے۔ خواہ وہ جات میں اس بات کی تصدیق کی جائے کہ مذکورہ آسامی ایک باقاعدہ آسامی ہے۔ اور اس پر بھرتی مجوزہ طریقہ کار اور مجاز فورم کی سفارشات پر تمام قانونی تقاضا پورے کرنے کے بعد لائی گئی تھی۔

مندرجہ بالا ہدایات پر عمل درآمد کی درخواست کی جاتی ہے۔ اس خط کی موصولی کی تصدیق کی جاتی ہے۔

۱۵

محمد بہاولون
(محمد ہمایون)
مفتد خصوصی (ضوابط)

22

نقل برائے اطلاع:-

- ۱- حساب دار عمومی سوہیہ سرحد
- ۲- تمام ضلعی و انجمن انسران حساب زاری سوہیہ سرحد
- ۳- ذاتی مفتد برائے وزیر اعلیٰ سوہیہ سرحد
- ۴- ذاتی مفتد برائے گورنر سوہیہ سرحد
- ۵- ذاتی مفتد برائے مفتد اعلیٰ سوہیہ سرحد
- ۶- ذاتی مفتد برائے سیکرٹری سوہیہ سرحد
- ۷- تمام ذاتی مفتدین برائے صوبائی وزراء

حسین شاہ
(حسین شاہ)
مفتد (ضوابط)

نقل برائے اطلاع:-

نقل برائے اطلاع:-

- ۱- تمام اضالی مفتدین راناب مفتدین محکمہ سٹیبلشمنٹ اور ایڈمنسٹریشن سوہیہ سرحد پشاور
- ۲- ناظم سٹاف ٹریننگ انسٹیٹیوٹ میٹروپولیٹن لنڈ بلڈنگ پشاور صدر
- ۳- تمام سیکشن انسران راناب محکمہ سٹیبلشمنٹ اور ایڈمنسٹریشن سوہیہ سرحد پشاور
- ۴- ذاتی مفتد برائے مفتد محکمہ سٹیبلشمنٹ سوہیہ سرحد پشاور
- ۵- مفتد مفتد میٹروپولیٹن لنڈ سٹیبلشمنٹ اور ایڈمنسٹریشن سوہیہ سرحد پشاور
- ۶- مفتد سب ناننگ محکمہ سٹیبلشمنٹ اور ایڈمنسٹریشن سوہیہ سرحد پشاور

محمد فاضل
(ستار محمد فقیر)
انفرمیٹ (ضوابط ۶)

ATTESTED

ATTESTED

ANNEX F (23)

No. 5087-89 /R-20 (Regularization of Service) Dated 20/9/2006

From:- The Executive Distt: Officer (Health) Buner at Swabi.

To:- The Distt: Coordination Officer Buner.

Subject:- OFFICE ORDER/REGULARIZATION OF SERVICE.

Sir,

In continuation of this office letter No. 4113-15/P-20 (Regul: of Serv:) dated 23/8/2006, on the subject noted above.

I have the honour to submit herewith a list of Nursing Staff attached to DHQ; Hosp: Daggar, duly signed by the Medical Supdt: DHQ; Hosp: Daggar Buner, for regularization of their services, for favour of information and further necessary action please.

EXECUTIVE DISTT: OFFICER
HEALTH BUNER AT SWABI

No. /R-20 (Regul: of Servi:)

Rate dx

Copy forwarded to:-

1. The Director General Health Services NWFP, Peshawar for information and withn ref: to his No. 19642/P-111/LE dated 18/7/2006.

2. The Medical Supdt: DHQ; Hosp: Daggar Buner for information with ref: to his No. Nil dated Nil.

EXECUTIVE DISTT: OFFICER
HEALTH BUNER AT SWABI

ACCEPTED

F

OFFICE OF THE DISTRICT COORDINATION OFFICER, BUNER.

No. _____ /Estt:/8(H),

Dated Daggar the 16/04 /2007.

24

OFFICE ORDER.

ANNEX 9

In pursuance of the Government of NWFP E&A Department Circular letter No.SO-VI/E&AD/1-13/2005, dated 10/8/2003, the services of the following Nursing staff of Health Department Buner are hereby regularized w.e.f. the date as noted against each. Their services will be governed under Govt: of NWFP Civil Servant Act 1973 except with the special provision of C.P.Fund instead of pension in the Govt: of NWFP E&A letter mentioned above:-

S.NO	Name of Official	Designation with BPS.	Services regularized with effect from.
1	Mohammd Imran	Male Nurse(BPS-14)	17/8/2004.
2	Fazli Raziq	-do-	-do-
3	Sher Dali Khan	-do-	-do-
4	Umer Farooq	-do-	-do-
5	Miraj Khan	-do-	-do-
6	Zamir Khan	-do-	-do-
7	Anwar Zaib	-do-	-do-
8	Abdul Jalil	-do-	-do-
9	Irsha Dullah	-do-	-do-
10	Raj Muhammad	-do-	-do-
11	Sahib Zaman	-do-	-do-
12	Mula Dad	-do-	-do-
13	Hamidur Raziq	-do-	-do-
14	Akhtar Jehan	Female Nurse(BPS 14)	18/08/2004
15	Basroon	-do-	-do-
16	Amina(Shelyn Benal)	-do-	17/08/2004
17	Farhana Naz	-do-	23/08/2004
18	Rokhsana Bibi	-do-	-do-
19	Husna Jamal	-do-	18/08/2004
20	Govhari Begum	-do-	17/08/2004
21	Riffat	-do-	30/08/2004
22	Rahmat Pass	-do-	18/08/2004
23	Zaibun Nisa	-do-	28/08/2004
24	Farzana	-do-	20/08/2006/2008/04
25	Gul Zarina ✓ <i>Zarina</i>	-do-	06/09/2004
26	Nizakat	-do-	23/08/2004
27	Fauzia	-do-	20/08/2004
28	Musarrat	-do-	18/08/2004
29	Shahana Gul ✓ <i>Shahana</i>	-do-	28/08/2004
30	Farzana Bacha	-do-	30/08/2004
31	Basreen	-do-	17-12-2005
32	Bushra Begum ✓ <i>Shir Dali Khan</i>	-do-	16/08/2004

on strength of PHD Hospital

ATTESTED

DISTRICT COORDINATION OFFICER,
BUNER.

No. _____ /Estt:/8(H),

Copy forwarded to:-

- The Executive District Officer, Health, Buner, with reference to his letters No.7094-96/R-20(Reg: of Services), dated 8/12/2006 and No.1427/R-20(Reg: of Service), dated 3/03/2007, with the directions to regularize the services of the staff in BPS-10 and below under the rules being competent authority.
- The Medical Superintendent DHQ Hospital Daggar.
- The District Accounts Officer, Buner.
- Officials concerned.

DISTRICT COORDINATION OFFICER,
BUNER.

M. J. I. 10/09/07

25
ANNEX H

DIRECTORATE GENERAL HEALTH SERVICES, NWFP, PESHAWAR.

OFFICE ORDER.

On the recommendation of NWFP Public Service Commission the following Nurses are hereby appointed as Charge Nurses in BPS-16 i.e. Rs.5050- 390- 16750, plus usual allowances as admissible under the rules, on regular basis and posted against the vacant post in the Hospitals mentioned against their names :-

S.No.	Name	Place of Posting	Remarks
01	Hosna Jamal D/O Kareem Dad	DHQ Hospital, (Buner)	Dagger Against the vacant post
02	Rahmat Pass D/O Dawa-Khan	DHQ Hospital, (Buner)	Dagger Against the vacant post
03	Basroon D/O Muhammad Sher	DHQ Hospital, (Buner)	Dagger Against the vacant post
04	Umme Habiba D/O Behroz	DHQ Hospital, (Buner)	Dagger Against the vacant post
05	Akhtar Jehan D/O Muhammad Shah	DHQ Hospital, (Buner)	Dagger Against the vacant post
06	Sherlyn Benalla D/O Benalla	DHQ Hospital, (Buner)	Dagger Against the vacant post
07	Basreen D/O Ahmad Sher	DHQ Hospital, (Buner)	Dagger Against the vacant post
08	Sadaqat Begum Mohabat Khan	DHQ Hospital, (Buner)	Dagger Against the vacant post
09	Shabeen Begum D/O Hazrat Mir	DHQ Hospital, (Buner)	Dagger Against the vacant post
10	Amina D/O Mir Rehman	DHQ Hospital, (Buner)	Dagger Against the vacant post
11	Saudia Wali D/O Wali Muhammad	DHQ Hospital, (Buner)	Dagger Against the vacant post

Their appointment in the Health Department, Govt. of NWFP will be Subject to the following terms and conditions:-

01. They will be on probation initially for a period of two years extendable for a further period not exceeding one year.
02. Their Services can be dispensed with during the probation period, if their work and conduct found unsatisfactory.
03. Their appointment will be subject to medical fitness and verification of character and antecedents/Educational qualification etc.
04. They will not be entitled to any TA/DA for medical examination and joining the first appointment.
05. They will be governed by such Rules and orders as may be issued by the Government for the category of Government Servant to which they belong.

ATTESTED

06. They shall for all intents and purposes be Civil Servant, except for the purpose of Pension and Gratuity. In lieu of the same they will be entitled to receive Contributory provided Fund. For the said fund 10% contribution will be made by the provincial Govt. and 10% by the Civil Servant concerned in the prescribed manner. Provided further that in the event of death of the Civil Servant whether before or after retirement, their family shall be entitled to receive the said amount if it has already not been received by concerned deceased Civil Servant.
07. They are liable to serve any where in the NWFP/FATA.
08. They will complete normal tenures at their places of 1st posting.
09. They will submit an under taking on judicial stamp paper that the documents submitted are genuine and not fake. Moreover they have not been dismissed from service by any Govt. or semi Govt. organization.
10. If they wish to resign from Service they shall resign in writing by giving prior notice of one month OR deposit one month pay in lieu of one month advance notice, in the Government treasury. However they will continue to serve the Govt. till their resignation is accepted by the competent authority.

If the above terms and conditions are acceptable to them they should report in the institutions mentioned against their names for duty within (14) days of receipt of this order.

Sd/-
DIRECTOR GENERAL HEALTH
SERVICES, NWFP, PESHAWAR.

No. 15963-84 /E.H. Dated Pesh. The 31-05-2008.
Copy forwarded to the:-

01. Secretary to Govt. of NWFP Health Department Peshawar letter No. SOH-III/2-107(Nurses), dated 22.05.2008.
02. Secretary NWFP, Public Service Commission, Peshawar for information.
03. Executive District Officer (Health), Buner.
04. Medical Supdt. DIQ Hospital, Dagger (Buner).
05. District Accounts Officer, Buner.
06. Charge Nurses concerned.
07. DA-concerned; DGHS NWFP Peshawar
For information and n/action.

DR. SAJIDA SHAIKH,
DIRECTOR GENERAL HEALTH
SERVICES, NWFP, PESHAWAR.

7/31/08

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT
PESHAWAR
JUDICIAL DEPARTMENT

P-37
26

W.P. No. 1662 of 2007 *Amber!*

JUDGEMENT

Date of hearing 14-1-2010

Appellants (Inayat-ul-Haq etc) by Mr. Abdul Aziz, Afridi and Wahid

Respondents (F.O.O etc) by Mr. Dost Muhammad, Advocate

ABDUL AZIZ KUNDI.J. - Vide our
detailed judgment in W.P.No.1662/2007
(Inayat-ul-Haq etc.. Vs.. The Secretary,
Government of NWFP, Health Department,
Peshawar), this writ petition is allowed.

Dt. 14.1.2010.

sdl - Dost Muhammad Khan

sdl - Abdul Aziz Kundi - J

Please Issue

*Addl. Registrar J
97/1/10*

M. Gul

CERTIFIED TO BE TRUE COPY

[Signature]
Peshawar Court Peshawar.
Authorized Under Section 75 Acts Order

31-3-10

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PESHAWAR

(27)

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT
PESHAWAR
JUDICIAL DEPARTMENT

W.P. No. 1662 of 2007

JUDGEMENT

Date of hearing 14-1-2010

Appellants (Inayat-ul-Haq etc) by Abdul Latif Afzali Advocate

Respondents (E.D.O etc) by Nasim Rashid A.A. Advocate

ABDUL AZIZ KUNDI, J.- This judgment

shall also dispose of W.P. No. 1166/2008

(Inayat-ul-Haq and 24 others. Vs.

Government of NWFP through Secretary

Health and others).

2. Pursuant to an advertisement for the posts of Male and Charge Nurses, issued by Executive District Officer (Health) Dir Lower, Timergara. Inayat-ul-Haq and 24 other petitioners applied for the said posts and after due process of test and interview, they were appointed as such through orders issued by Executive District Officer (Health), Dir Lower at Timergara, which orders are available on the file of the writ petition. The appointment orders would show that petitioners were initially appointed on contract basis for 2

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EXAMINER
Peshawar High Court

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period of three years for DHO Hospital,
upgraded to category "A" Hospital, Timergara
(non-transferable). These appointments were
made in May, 2003.

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3. While the petitioners were still working as contract employees, when the Government of NWFP through NWFP, Civil Servants (Amendment) Act, 2005 (IX of 2005) substituted the original section 19 of the said Act by the following new section:-

"19. Pension and gratuity.-(1) On retirement from service, a civil servant appointed on regular basis in the prescribed manner before the commencement of the North-West Frontier Province Civil Servants (Amendment) Act, 2005 (hereinafter referred to as the said Act), shall be entitled to receive such pension or gratuity as are admissible to him under the West Pakistan Civil Service Pension Rules:

Provided that in the event of death of such a civil servant, whether before or after retirement, his family shall be entitled to receive such pension, or gratuity, or both as admissible under the said rules.

(2) A person though selected for appointment in the prescribed manner to a service or post on or after the 1st day of July, 2001, till the commencement of the said Act, but appointed on contract basis, shall, with effect from the commencement of the said Act, be deemed to have been appointed on regular basis. All such persons and the persons appointed on regular basis to a service or post in the prescribed manner after the commencement of the said Act shall, for all intents and purposes be civil servant except for the purpose of pension or gratuity. Such a civil servant shall, in lieu of pension and gratuity, be entitled to receive such amount contributed by

ATTESTED
M. J. S. /

ATTESTED
Secretary

Fund, alongwith the contributions made by Government to his account, in the said Fund, in the prescribed manner.

Provided that in the event of death of such a civil servant, whether before or after retirement, his family shall be entitled to receive the said amount, if it has already not been received by such deceased civil servant.

(3) No Pension to a civil servant, who is otherwise entitled to it, shall be admissible to him if he is dismissed or removed from service for reasons of discipline, but Government may sanction compassionate allowance to such civil servants, not exceeding two third of the pension or gratuity which would have been admissible to him had he been invalided from service on the date of such dismissal or removal.

Provided that a civil servant referred to in sub-section (2), in case of such dismissal or removal, may, in addition to his own contributions to the Contributory Provident Fund, be allowed, on account of such compassionate allowance, a sum not exceeding two third of Government contributions in his account.

(4) If the determination of the amount of pension or gratuity admissible to a civil servant is delayed beyond one month of the date of his retirement or death, he or his family, as the case may be, shall be paid provisionally such anticipatory pension or gratuity as may be determined by the prescribed authority, according to the length of service of the civil servant which qualified for pension or gratuity and any over payment on such provisional payment shall be adjusted against the amount of pension or gratuity finally determined as payable to such civil servant or his family.

4. Under the newly substituted sub-section (2) of Section 19, a person appointed in

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Fund, alongwith the contributions made by Government to his account in the said Fund, in the prescribed manner.

Provided that in the event of death of such a civil servant, whether before or after retirement, his family shall be entitled to receive the said amount, if it has already not been received by such deceased civil servant.

(3) No pension to a civil servant, who is otherwise entitled to it, shall be admissible to him if he is dismissed or removed from service for reasons of discipline, but Government may sanction compassionate allowance to such civil servants, not exceeding two-third of the pension or gratuity which would have been admissible to him had he been invalided from service on the date of such dismissal or removal.

Provided that a civil servant referred to in sub-section (2), in case of such dismissal or removal, may, in addition to his own contributions to the Contributory Provident Fund, be allowed on account of such compassionate allowance, a sum not exceeding two-third of Government contributions in his account.

ATTESTED

(4) If the determination of the amount of pension or gratuity admissible to a civil servant is delayed beyond one month of the date of his retirement or death, he or his family, as the case may be, shall be paid provisionally such anticipatory pension or gratuity as may be determined by the prescribed authority, according to the length of service of the civil servant which qualified for pension or gratuity and any over payment on such provisional payment shall be adjusted against the amount of pension or gratuity finally determined as payable to such civil servant or his family.

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4. Under the newly substituted sub-section (2) of section 10...

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the prescribed manner to a service or post on or after the first day of July, 2001 till the commencement of the said Act but appointed on contract basis was declared to have been appointed on regular basis.

5. Petitioners' grievance is that instead of issuance of their regularization orders or treating them as regular employees of the department, the respondents advertised various posts of Male and Charge Nurses including the posts held by them through various newspapers and accordingly they feeling aggrieved filed the present writ petition, where they claimed that under the said amendment they like all other employees of the Provincial government have become regular employees and their posts cannot be advertised or refilled.

6. The writ petition came up for hearing on 24.09.2007 and was admitted to full hearing on the said date. As an interim relief it was ordered that no final order with regard to the recommendations for appointment of any candidate pertaining to posts already occupied by the petitioners shall be made.

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Writ Petition

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EXAMINER
Peshawar High Court

ATTESTED

7. Notwithstanding the pendency of the said writ petition and the orders passed on 24.9.2007, respondents started making appointments on the same posts occupied by petitioners both through transfers and fresh appointments and ultimately vide order dated 26.06.2008 terminated the services of the petitioners on the pretext of being project employees. This compelled the petitioners to file yet another W.P.No.1166/2008, which was admitted to full hearing on 13.10.2008 and meanwhile impugned orders were suspended.

8. Petitioners' case is that on no point of time the official respondents treated them as employees of a project or under the ADP Scheme; that the posts were advertised on contract basis and so were they appointed on contract and thus with the promulgation of N.W.F.P., Civil Servants (Amendment) Act, 2005 (Act IX of 2005) they like other employees of other departments of the Provincial Government of N.W.F.P. automatically became regular employees and that the subsequent actions of the respondents and ultimate termination of the petitioners was an act based on mala fide.

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EXAMINER
Peshawar High Court

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9. There is no denial of the fact that petitioners are appointees after the target date of 1st July, 2001 on contract basis and were in active service when the amendment aforesaid was brought in the relevant law.

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10. In somewhat similar circumstances this Court has vide judgment dated 11/7/2007 passed in writ petition No.1731/2006 titled "Ms.Shagufta Syed and three others Vs. Government of N.W.F.P. and three others" exhaustively dealt with this proposition and issued writs. The said judgment has been consistently followed and there is no reason to deviate from the same.

11. Consequently, both W.Ps. No.1662/2007 and 1166/2008 are allowed, the impugned actions and orders of the respondents are declared to be without lawful authority and jurisdiction. Petitioners are declared to be entitled to regularization and be accordingly deemed as regular employees on their respective posts strictly in terms of sub-section 2 of section 19 of N.W.F.P. Civil Servants Act, 1973 (as it was amended vide Act IX of 2005). Parties to bear their own costs.

REGISTERED

Dt. 14.1.2010. sd/ Dost Muhammad Khan J

sd/ Abdul Aziz Khan J

CERTIFIED TO BE TRUE COPY J

[Signature] 28-1-2010

Peshawar
Authorized Officer

M. Gul

27/1/10

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Add. Registrar

103 Dec 11 2009

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR



W.P.No. 1160 /2008

Raj Muhammad & 12 others.....Petitioners

Versus

Executive District Officers (Health)
District Buner & 4 others.....Respondents

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

Sheweth,

- No 299/10
1. That in response to an advertisement dated 25th May, 2004 (Annexure-A), appearing in daily Auj, the petitioners applied against the subject posts of Male Nurses (BPS-14).
 2. That, after passing the required test and interview, the petitioners were appointed against the said posts on contract basis in District Headquarter Hospital, Daygar vide office order dated 16.08.2004. (Annexure-B).
 3. That a letter dated 20.09.2006 (Annexure-C) addressed to respondent No.2, the respondent No. 1 made information for

ATTESTED
EXAMINER
Peshawar High Court

9-37

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JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT
PESHAWAR
JUDICIAL DEPARTMENT

W.P. No. 1160 of 2008

JUDGEMENT

35

Date of hearing 14-1-2010
Appellant/s (Raj Muhammad etc) by Mr. M. Isha Khan Advocate
Respondent/s (F.D.O etc) by Mr. Baisar Rashid A.A.C.

ISSUED

ABDUL AZIZ KUNDLI, J. Pursuant to an advertisement appearing in Daily "Aaj" Peshawar dated 25.5.2004, the petitioners Raj Muhammad and 12 others being eligible applied for the post of Nurses and after due process of test and interview, they were appointed as Male Nurses (BPS-14) vide orders dated 16.8.2004, issued by District Co-ordination Officer, Buner (respondent No.2). Their appointment was on contract basis initially for a period of three years and liable to automatic termination. However, in case the job is required to be continued, a fresh contract was to be executed.

M. Isha Khan

2. Later on the case of the petitioners was considered for regularization of their service and ultimately DCO Buner vide his order dated 19.04.2007 pursuant to

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EXAMINER
Peshawar High Court

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Government of NWFP E&A Department
Circular letter No.SO-VI/E&AD/1-13/2005
dated 10.8.2003, regularized the services of
the petitioners with effect from 17.8.2004.

3. It appears that some correspondence took place between the official respondents and a stand was taken that the petitioners have been appointed against a scheme "Improvement and Standardisation of DHQ Hospital, Daggar, Buner" and it was proposed that the petitioners be adjusted against the newly approved posts.

4. Notwithstanding the fact that the petitioners were regular employees of the department, respondent No.3 i.e. Director General (Health) NWFP, Peshawar, vide his letter dated 7.7.2008 directed that the employees appointed against the post created under ADP scheme stand automatically terminated on completion of the scheme and on receipt of this letter Medical Supdt: DHQ Hospital, Buner i.e. respondent No.5 treated this as a termination letter of the petitioners and accordingly he endorsed the same to the petitioners for their information and compliance.

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EXAMINER
N.W.F.P. HIGH COURT

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5. This forced the petitioners to approach this court through this writ petition and as an interim relief the following relief was prayed for :-

"Graciously, the respondents may be restrained from filling the vacancies till final disposal of the writ petition."

6. The writ petition was taken up for hearing on 30.7.2008, and while ordering clubbing of the same with W.P.No.1662/2007, status quo was ordered to be maintained.

7. In their comments, respondents 1 and 2 have taken the plea that the petitioners had been appointed under the ADP Scheme posts and since the D.G. Health Services had directed termination of services of those appointed against the said posts, therefore petitioners were endorsed the said directions for information and compliance.

8. While the petitioners were still working as contract employees, when the Government of NWFP through NWFP, Civil Servants (Amendment) Act, 2005 (IX of 2005) substituted the original section 19 of the said Act by the following new section:-

"19. Pension and gratuity.-(1) On retirement from service, a civil servant appointed on regular basis in the prescribed manner before the commencement of the North-West

Mirza

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EXAMINER
Northwest High Court

Frontier Province Civil Servants (Amendment) Act, 2005 (hereinafter referred to as the said Act), shall be entitled to receive such pension or gratuity as are admissible to him under the West Pakistan Civil Service Pension Rules:

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Provided that in the event of death of such a civil servant, whether before or after retirement, his family shall be entitled to receive such pension, or gratuity, or both as admissible under the said rules.

(2) A person though selected for appointment in the prescribed manner to a service or post on or after the 1st day of July, 2001, till the commencement of the said Act, but appointed on contract basis, shall, with effect from the commencement of the said Act, be deemed to have been appointed on regular basis. All such persons and the persons appointed on regular basis to a service or post in the prescribed manner after the commencement of the said Act shall, for all intents and purposes be civil servant except for the purpose of pension or gratuity. Such a civil servant shall, in lieu of pension and gratuity, be entitled to receive such amount contributed by him towards the Contributory Provident Fund, alongwith the contributions made by Government to his account in the said Fund, in the prescribed manner.

Provided that in the event of death of such a civil servant, whether before or after retirement, his family shall be entitled to receive the said amount, if it has already not been received by such deceased civil servant.

Mirza

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(3) No pension to a civil servant who is otherwise entitled to it, shall be admissible to him if he is dismissed or removed from service for reasons of discipline, but Government may sanction compassionate allowance to such civil servants, not exceeding two-third of the pension or gratuity which would have been admissible to him had he been

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EXAMINER

Mahmood Ali Khan

invalidated from service on the date of such dismissal or removal.

Provided that a civil servant referred to in sub-section (2), in case of such dismissal or removal, may, in addition to his own contributions to the Contributory Provident Fund, be allowed, on account of such compassionate allowance, a sum not exceeding two-third of Government contributions in his account.

(4) If the determination of the amount of pension or gratuity admissible to a civil servant is delayed beyond one month of the date of his retirement or death, he or his family, as the case may be, shall be paid provisionally such anticipatory pension or gratuity as may be determined by the prescribed authority, according to the length of service of the civil servant which qualified for pension or gratuity and any over payment on such provisional payment shall be adjusted against the amount of pension or gratuity finally determined as payable to such civil servant or his family."

9. Petitioners' case is that on no point of time the official respondents treated them as employees of a project or under the ADP Scheme; that the posts were advertised on contract basis and so were they appointed on contract and then vide order dated 19.4.2007 regularized with effect from 17.08.2004 and were since then holding regular posts and treated as such; that even if the said orders are taken out of consideration, then with the promulgation of N.W.F.P., Civil Servants (Amendment) Act, 2005 (Act IX of 2005) they

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BY
M. S. S.

Page

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like other employees of other departments of the Provincial Government of N.W.F.P. automatically became regular employees and that the subsequent actions of the respondents and ultimate termination of the petitioners was an act based on malafide, without lawful authority and jurisdiction.

10. There is no denial of the fact that petitioners are appointees after the target date of 1st July, 2001 on contract basis and were in active service when the amendment aforestated was brought in the relevant law.

11. In somewhat similar circumstances this Court has vide judgment dated 11/7/2007 passed in writ petition No.1731/2006 titled "Ms. Shagufta Syed and three others Vs. Government of N.W.F.P. and three others" exhaustively dealt with this proposition and issued writs. The said judgment has been consistently followed and there is no reason to deviate from the same.

12. Consequently, this W.P. No.1160 of 2008 is allowed, the impugned actions and orders of the respondents are declared to be without lawful authority and jurisdiction. Petitioners are declared to be regular employees on their respective posts both

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EXAMINER
Peshawar High Court

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under the orders issued by competent authority and in terms of sub-section 2 of section 19 of N.W.F.P. Civil Servants Act, 1973 (as it was amended vide Act IX of 2005). Parties to bear their own costs.

Dt. 14.1.2010.

sdt- Dost Muhammed Khan
sdt- Abdul Aziz Kundi - 0

Filed
22/1

CERTIFIED TO BE TRUE COPY

Examiner
Peshwar High Court Peshwar
Authorized Under Section 76 Aids Order

"M. Gul"

22-1-11
Please Recd

Adil K...
28/1

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No. 10347
Date of Presentation of Application 22-1-11
No of Pages 3
Copying Fee
Urgent Fee
Total 16.00
Date of Preparation of Copy 22-1-11
Date of Delivery of Copy 22-1-11
Received By

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

69
42

Present:

MR. JUSTICE NASIR-UL-MULK
MR. JUSTICE AMIR HANI MUSLIM

CIVIL PETITION NOS. 170-P TO 172-P AND 668-P OF 2010
(on appeal from the judgments of Peshawar High Court dated 14.01.2010
passed in W.P. No. 1160/08, 1062/07, 1166 of 2008, and dated
27.05.2010 passed in W.P. No. 1800 of 2010)

Government of NWFP (now KPK)
through Secretary Health & others

(in all cases)
... Petitioners

VERSUS

Raj Mohammad & others
Inayatul Haq & others
Fouzia Khan

(in CP 170-P/10)
(in CP 171-P & 172-P/10)
(in CP 668-P/10)
... Respondents

For the Petitioners: Mr. Lal Jan Khattak, AAG, KPK.

For the Respondents: Mr. Esa Khan, ASC.

Date of Hearing: 15.03.2011

JUDGMENT

NASIR-UL-MULK, J.- The Government of Khyber
Pakhtunkhwa has called into question the judgment of Peshawar
High Court, Peshawar dated 14.01.2010 whereby the Writ Petitions of
the respondents were allowed and the order dated 07.07.2008, which
resulted in their removal from service on the ground that all those
employees who had been appointed under the ADP Scheme stood
automatically terminated on completion of the project/scheme.
Whatever may be the consequences of office order dated 10.01.2007,
it cannot affect the Respondents, whose services were regularized

without reference to any project or scheme. This Court in MUSRAT v. THE GOVERNMENT OF NWFP AND OTHERS (CIVIL
PETITION NO. 326-P OF 2009) decided on 31.12.2010 had in

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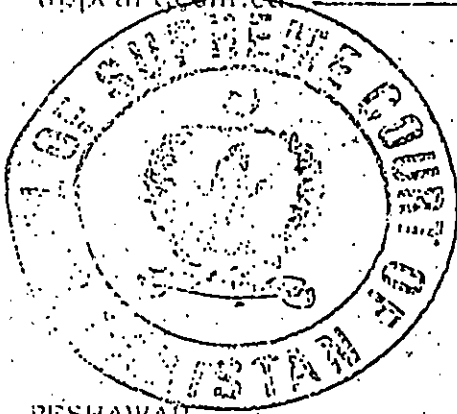
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Registrar
Court of Pakistan
Peshawar

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similar circumstances set aside termination of an employee of the Health Department.

2. This petition fails and therefore dismissed and leave to appeal declined



PESHAWAR
15th March, 2011

Mudassar/
17/3/11

Sd/- Nasir-ul-Mulk
Sd/- Amir Hani Muslim

Certified to be true copy
Assistant Registrar
Supreme Court of Pakistan
Peshawar

G.R. No.	339-P/2011
Date of presentation	29/03/2011
No of Writs	600
No. of Fees	800
Requisition	500
Copy	372
Court Fee	972
Date of court	31-03-2011
Date of decision	2/4/2011 (2/4/2011)
Compared by	Copy
Received by M.	Ajmal Khan AM
Total Amount	
Advanced Fee	
Balance	

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IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

44

PRESENT
MR. JUSTICE NASIR-UL-MULK
MR. JUSTICE TARIQ PARVEZ

ANN & K

CIVIL PETITION NO. 326-P OF 2009
(On appeal from the judgment of the
N.W.F.P. (now K.P.K.) Service Tribunal,
dated 20.4.2009 passed in Appeal No. 1337
of 2008)

Miss Nusrat

Petitioner

Versus

The Government of N.W.F.P. through Chief Secretary,
Peshawar and others

Respondents

For the Petitioner:

Mr. Wiqar Ahmed Seth, ASC
Mr. Mir Adam Khan, AOR

For the Respondents:

Mr. Lal Jan Khattak, Addl. A. G. K.P.K. with
Mr. Jabbar Shah, D.C.O and
Dr. Fida Muhammad, Dy. E.D.O. Health.

Date of Hearing:

31st December, 2010 ✓

JUDGMENT

NASIR-UL-MULK, J.- In response to an advertisement published in the newspaper on behalf of the Executive District Officer, Health, Swabi, inviting applications for the vacant posts of Charge Nurses (BPS-14) on contract basis, in accordance with the Contract Policy 2002, the petitioner was one of a number of other applicants who applied for it. The petitioner, along with 27 others, was selected on the recommendations of the selection committee, duly approved and signed by the District Coordination Officer, Swabi (the competent authority) and was appointed by office order dated 08.2.2005. In the

ATTESTED

Assistant Registrar
Supreme Court of Pakistan
Peshawar

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Act, 1973 as amended by the Civil Servants Amendment Act, 2005.

For the sake of facility, the same is reproduced as under:-

“A person though selected for appointment in the prescribed manner to a service or post on or after the 1st day of July, 2001, till the commencement of the said Act, but appointment on contract basis, shall, with effect from the commencement of the said Act, be deemed to have been appointed on a regular basis. All such persons and the persons appointed on regular basis to a service or post in the prescribed manner after the commencement of the said Act shall, for all intents and purposes be civil servant, except for the purpose of pension or gratuity. Such a Civil servant shall, in lieu of pension and gratuity, be entitled to receive such amount contributed by him towards the Contributory Provident Fund, along with the contributions made by government to his account in the said, in the prescribed manner.”

It will be seen that the above provision has been made expressly for those government employees employed on contract basis, provided their selection was made after the 1st July, 2001 and in the prescribed manner. This provision was incorporated to grant the status of civil servants to those employees in the service of Provincial or the Local Government appointed on contract basis under policy of the Government to make appointments on contract only. It is not disputed that the petitioner's appointment was on contract basis and that she was appointed after the 1st July, 2001 before the amendment. The only issue that was debated before us was whether the petitioner was selected in the prescribed manners. According to the Service Tribunal, the prescribed manner was selection through the Public Service Commission. This is disputed by the learned counsel for the petitioner,

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the Court of Pakis
Peshawar

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light of general up-gradation of the post of Charge Nurse, the petitioner was up-graded from BPS-14 to BPS-16. By the office order issued by the Medical Superintendent, District Headquarter Hospital, Swabi, with reference to the letter dated 30.6.2008, issued by the Director General, Health Services, N.W.F.P. Peshawar, the petitioner along with 10 other Nurses were relieved from their services. Against the termination of her services, the petitioner filed appeal before the Provincial Service Tribunal. The appeal was dismissed by the impugned judgment dated 20.4.2009 on the ground that the petitioner was a contract employee and that she had not being employed in the prescribed manner, that is through the Public Service Commission.

2. The case came up for hearing on 29.12.2010 and notices were issued to the respondents in view of the following submissions made by the learned counsel for the petitioner:-

"It is alleged that the petitioner having been appointed on 14.2.2005, in BPS-14 and subsequently up graded to BPS-16 on 11.4.2007, though on contract basis, had stood regularized as Civil Servant on the basis of Civil Servants (Amendment) Act, 2005 promulgated on 23.7.2005, whereby, section 19 of the Civil Servants Act was amended. That, having become regular Civil Servant, she could not have been relieved/removed on 30.6.2008. The points deserve consideration. Notice to the respondents be issued for a date to be fixed by the office."

The moot question in this case is, therefore, whether the petitioner's services stood regularized under Section 19(2) of the Civil Servants

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Assistant Registrar
Supreme Court of Pakistan

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who submitted that the post to which the petitioner was appointed was a District Cadre Post and according to the Rules then in force, the competent authority, who was empowered to make appointments in scales 11-15, was the District Coordination Officer, which is also reflected in the petitioner's letter of appointment. In this context, the learned counsel referred to the N.W.F.P. District Government Rules of Business, 2001. Mr. Lal Jan Khattak, learned Additional Advocate General, referred to letter dated 30.6.2008 by the Director General Health Services N.W.F.P. in pursuance whereof the petitioner's services were terminated and took the stand that the petitioner was appointed under the Annual Development Programme Scheme and was relieved from her services upon completion of the said scheme. He, however, produced a notification dated 15.1.2002 categorizing the petitioner's post at the relevant time as a District Cadre Post.

3. The reliance of the Additional Advocate General on the letter dated 30.6.2008 is misplaced. Neither the advertisement dated 26.10.2003 issued by the Executive District Officer Health, Swabi, inviting applications for the post, nor the appointment order dated 08.2.2005 states that the posts in question were under the Annual Development Programme Scheme. The terms and conditions of the petitioner's employment were to be regulated in accordance with the terms of the advertisement and the appointment order. The advertisement and the appointment order clearly shows that the post to which the petitioner was appointed, was of District Cadre. This is now

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Assistant Registrar
Supreme Court of Pakistan
Peshawar

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[Signature]

confirmed by the notification dated 15.1.2002 produced by the learned Additional Advocate General.

4. The Service Tribunal had held that since the appellant was not selected by the Public Service Commission, the selection was not in the prescribed manner. However, Section 7 of the N.W.F.P. Public Service Commission Ordinance, 1978, which describes the functions of the Commission expressly, excludes from the purview of the Commission recruitments in PBS-11 to 15 for the district cadre posts. On the other hand Rule 6(b) of the N.W.F.P. District Government Rules of Business, 2001 empowers the District Coordination Officer to appoint officer/officials in BPS-1 to BPS-15. The order of appointment of the petitioner was expressly issued with the approval of the District Coordination Officer, Swabi. Thus, the petitioner was appointed in the prescribed manner under the law prevailing at the time of her appointment. The petitioner fulfills the requirements of Section 19(2) of the Civil Servants Act, having been selected and appointed in the 'prescribed manner'. The Tribunal had fallen into error by holding that the prescribed manner was selection through the Public Service Commission.

5. In view of the above, the petitioner's services stood regularized under Section 19(2) of the Civil Servants Act as she fulfills all the conditions stipulated therein. The petition is, therefore, converted into appeal and allowed. The petitioner's services shall be deemed to have been regularized as civil servant under the said statutory provision. Consequently, the impugned judgment of the

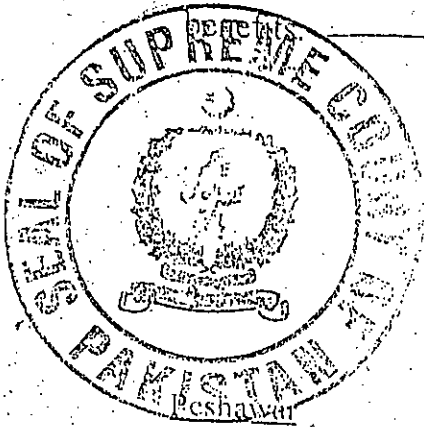
ATTESTED

ATTESTED

Assistant Registrar
Supreme Court of Pakistan
Peshawar.

99

Service Tribunal and the order of the petitioner's removal from service dated 30.6.2008 are set aside. She is reinstated in service with all back



December 31, 2010
Shirazi/*

Shirazi

sd/- Nasir-ul-Mulk, J
sd/- Tariq Parvez, J

Certified to be true copy

Assistant Registrar
Supreme Court of Pakistan
Peshawar

"NOT APPROVED FOR REPORTING"

ATTESTED

G.R. No. 05-P/2011
 Date of presentation of Application
 Application 01-01-2011
 No of Words 18
 No of Folios 18
 Requisition Fee 5.00
 Copying Fee 11.16
 Court Fee stamps 16.16
 Date of completion 15-01-2011
 Date of Delivery 17-01-2011
 Composed by Copy
 Received by M. I. Adam
 Total Amount
 Advance Fee
 Balance



**DIRECTORATE
GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR**

50
ANNEX L

All communications should be addressed to the Director General Health Services Peshawar and not to any official by name.

E-Mail Address: nwfdghs@yahoo.com
Office Ph#: 091-9210269
Exchange#: 091-9210187, 9210190
Fax #: 091-9210230

OFFICE ORDER.

In Pursuance of Peshawar High Court Peshawar order dated 30/11/2011 in COC No. 234/2011 in COC No. 109 of 2010 in Writ Petition No 1160/2008, the following Male Nurses whose services have already been regularized in light of judgment of Peshwar High Court Peshwar dated 14/01/2010 and Supreme Court of Pakistan Judgment dated 15/03/2011, under sub Section-2 of Section 19 of Khyber Pakhtunkhwa Civil Servant Act 1973 (as amended vide Act IX of 2005); vide this Directorate office order bearing Endst; No 22241-47/E-II dated 06/09/2010 and No.1102-12/E.II dated 10-01.2012 are hereby allowed back benefits w.e.f 23/07/2005.

Subsequently the period mentioned against their names in column 04 to column 05 below is hereby treated as period on duty :-

S.No	Names	Place of Posting	From	To
01	Raj Mohammad S/O Amir Akbar Khan	DHQH Daggar Bunner	01.07.2008	13.09.2010
02	Muhammad Imran S/O Shah Zada	DHQH Daggar Bunner	01.07.2008	13.09.2010
03	Fazal Raziq S/O Hazrat Said	DHQH Daggar Bunner	01.07.2008	13.09.2010
04	Sher Dali Khan S/O Umar Dad	DHQH Daggar Bunner	01.07.2008	13.09.2010
05	Zamir Khan S/O Samar Khan	DHQH Daggar Bunner	01.07.2008	13.09.2010
06	Abdul Jalil S/O Amir Mohammad Khan	DHQH Daggar Bunner	01.07.2008	13.09.2010
07	Hameed ur Raziq S/O Mohammad Rasool Khan	DHQH Daggar Bunner	01.07.2008	13.09.2010
08	Mula Dad S/O Noor Said	DHQH Daggar Bunner	01.07.2008	13.09.2010
09	Umer Farooq S/O Ghulam Ahmad	DHQH Daggar Bunner	01.07.2008	13.09.2010
10	Irshadullah S/O Ihsanullah	DHQH Daggar Bunner	01.07.2008	13.09.2010
11	Merraj Khan S/O Amreen Khan	DHQH Daggar Bunner	01.07.2008	13.09.2010
12	Sahib Zaman S/O Noor Wahid	DHQH Daggar Bunner	01.07.2008	13.09.2010
13	Anwar Zaib S/O Amroz Khan	DHQH Daggar Bunner	01.07.2008	13.09.2010

ATTESTED

Sd/-
DIRECTOR GENERAL HEALTH
SERVICES KPK PESHAWAR

L

(51)

No. 24986-92 /E-II

Dated Pesh. The 12/09/2012.

Copy forwarded to the :-

1. Secretary to Govt. of Khyber Pakhtunkhwa Health Department, Khyber Pakhtunkhwa Peshawar with reference to the letter No. SOHIII/3-5/2012 (Raj Mohammad) dated 04/07/2012.
2. Addl: Registrar Peshawar High Court Peshawar with reference to the letter No. 15829/Judl: dated 10/12/2011.
3. EDO (Health), Buner.
4. Medical Supdt: DHO Hospital Duggar (Dunster).
5. DAO, Buner.
6. DA-concerned, DGHS office Peshawar.
7. P/files.

For information and necessary action please.


DIRECTOR GENERAL HEALTH
SERVICES, KHYBER PAKHTUNKHWA
PESHAWAR

7
10/19/12


TESTED

To

The Secretary,
Govt. of Khyber Pakhtunkhwa,
Health Department, Civil Secretariat,
Peshawar.

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ANNEX M

Subject: Departmental Representation for regularization of the services of the appellant w.e.f. 16.08.2004 till 31.05.2008 on the basis of equality and equal protection of law in the light of the Judgment rendered by the august Peshawar High Court, Peshawar in Writ petition No.1662/2007, 1166/2008 & 1160/2008 decided on 14.01.2010 and upheld by the august Supreme Court of Pakistan vide C.P.170-P to 172-P & 668-P of 2010.

Respected Sir,

I have the honour to submit the departmental Representation for your favourable consideration on the following facts and grounds:

1. That in the year 2004 the Executive District Officer, Health, District Daggar, Buner floated an advertisement through Press, inviting applications for Charge Nurses. Appellant being qualified in terms of advertisement applied for the same and after going through selection process, the Departmental Selection Committee recommended her and finally she was appointed as Charge Nurse (BPS-14) by Executive District Officer (Health), Dagar, Buner on the approval of the DCO vide order dated 16.08.2004. It will not be out of context to mention that vide letter dated 15.01.2002 issued by the Govt. all the Provincial Cadre Posts in BPS-15 & below of the Health Department were converted into District Cadres.
2. That in pursuance of the order *ibid*, appellant assumed the charge of her duties at DHQ Hospital Daggar, Buner after submitting her Arrival Report and since then started performing her duties to the entire satisfaction of high-ups. Moreover, Respondents also maintained her Service Book wherein necessary entries were also entered from time to time and she was also allowed all the facilities and privileges as admissible to other regular employees.
3. That in the year 2002 the Government had introduced a Contract Policy and hence all the appointment thereafter were made under the same Policy similarly the appellant was also

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appointed under the same Contract Policy and it was specifically mentioned in the appointment order that the appointments of appellant would be governed under the same Contract Policy. It will not be out of context to mention that neither in the advertisement nor in the appointment order there is mention of the fact that the post against which appellant was appointment was a project post.

4. That in the year 2005 the Govt. decided to grant regularization to all those employees who were appointed under the Contract Policy of 2002 and in this respect the Provincial Assembly passed an Act i.e. the NWFP Civil Servants (Amendment) Act, 2005 (hereinafter referred to as Act-IX of 2005) whereby Section-19 of the NWFP Civil Servants Act, 1973 was substituted and accordingly all those employees who were appointed in the prescribed manner on or after the 1st July, 2001 till the commencement of the Act were declared to be regular civil servants for all intents and purposes except the Pension & Gratuity and copy of the letter dated 10.08.2005 issued by the Govt. Thus under the Act all the employees selected and appointed on Contract basis stood automatically regularized by operation of law. Since by then the District Coordination Officer was the competent authority, therefore, the Executive District Officer, Buner vide letter dated 20.09.2006 referred the regularization cases of appellant and others to the District Coordination Officer, Buner, who after fulfilling all the formalities regularized the services of the appellant and others vide office order dated 19.04.2007.
5. That since the date of her appointment, appellant had regularly performed her services to the entire satisfaction of her superiors, however, after regularization, the appellant was told that her appointment was under the ADP Scheme and that appellant should appear before the Public Service Commission for the post. In the meanwhile the posts were advertised by the Public Service Commission and thus appellant was compelled to apply for the same and after undergoing the selection process, she was recommended and appointed as Charge Nurse vide order dated 31.05.2008 and immediately on termination of the services of the appellant, she assumed the charge of the post at DHQ Hospital Daggar, Buner.
6. That in identical case under similar circumstances, the Male/Female Nurses of District Dir Lower and Malakand who were also terminated under the same ground of Project employment and who were similarly appointed the way back in the 2003 & 2004 alongwith the appellant approached the august Peshawar High Court, Peshawar in *Writ petition No.1662/2007, 1166/2008 & 1160/2008* which were allowed vide Judgment

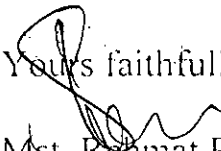
ATTESTED

dated 14.01.2010 on the strength of similar other Judgment in Writ petition No.475/2006 titled "*Miss Shagufta Sayed...Vs... The Govt. of NWFP and others*" decided on 11.07.2007 and the same was subsequently upheld by the august Supreme Court of Pakistan vide C.P.170-P to 172-P & 668-P of 2010 decided on 15.03.2011.

- 7. That accordingly all the terminated Male/Female Nurses were not only reinstated into service but also declared regular employees under the Act IX of 2005 and they were also allowed back benefits by the Department. As the case of appellant was identical in nature, therefore, she is also entitled to the same relief under the rule of consistency and equality.
- 8. That appellant was unaware of the Judgments aforesaid and just now she came to know about the same. As the case of appellant is identical on all fours with that of other employees of the Department working in similar manner who were granted relief by the august Peshawar High Court, Peshawar therefore, appellant is also entitled to the same relief under the principle of consistency and equality as laid down in the case of "*Hameed Akhtar Niazi...Vs...The Secretary, Establishment Division, Govt. of Pakistan and others* reported in 1996 SCMR 1185 and *Tara Chand and others...Vs...Karachi Water and Sewerage Board, Karachi and others*" reported in 2005 SCMR 499 and another Judgment reported in 2009 SCMR 1.

It is, therefore, requested that on acceptance of this departmental Representation, the services of the appellant may graciously be regularized w.e.f. 16.08.2004 till 31.05.2008 in the light of the Judgments delivered by the august Peshawar High Court, Peshawar cited above with all back benefits.

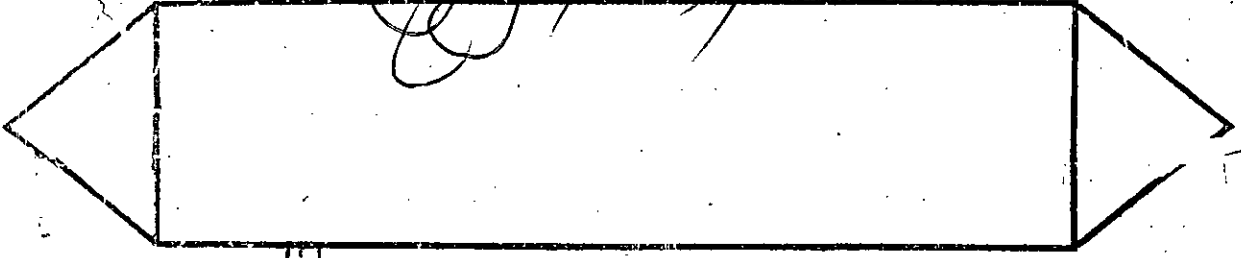
Yours faithfully


Mst. Rehmat Pass
Charge Nurse, DHQ Hospital,
Daggar, Buner.

Dated: _____/11/2012


ATTESTED


بعدالت سرویس ٹریسٹ



رہنما کے نام پر
مکتوب

مورخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کارروائی متعلقہ
آن مقام کیلئے حالتہ گمان اور اس کے
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوفہ کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
ذرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ 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 با اختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکورہ کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

20

ماہ

المرقوم

واہ

کے لئے منظور ہے۔

بمقام

BEFORE SERVICE TRIBUNAL PESHAWAR

Appeal NO. 571/2013. 577/2013

Mst. Rehmat Pass Charge Nurse DHQ Hospital, Dagger

.....Appellant.

Versus

1. The Government of Khyber Pakhtunkhwa and others
.....Respondents.

Para wise comments on behalf of respondent No.3

Respectfully Sheweth.

Preliminary Objections:-

1. That the appeal is incompetent and not maintainable in its present form .
2. That the appellant has neither cause of action nor locus standi.
3. That the appellant has no cause of action .
4. That the appellant has not come to the court with clean hands.
5. That the appeal is time barred.

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District Health Office
District Buner

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ON FACTS.

1. During the year 2004 the medical supdt. DHQ Hospital Dagger Buner advertised the post of charge nurse on contract basis. Accordingly on the recommendation of the District Selection Board the appellant was appointed as Charge Nurse BPS.14 on contract basis in the DHQ Hospital Dagger by the DCO Buner, under contract policy 2002.
2. Incorrect. The appellant was appointed on contract basis as mentioned in her appointment order.
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In the light of the above it is prayed that the appeal of the appellant may be dismissed please.

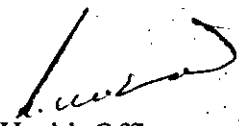
Medical Superintendent DHQ
Hospital Dagger Buner

Medical Superintendent
Distt: Head Quarters
Dagger Buner

District Health Officer
District Buner .
(RESPONDENT NO.3)

AFFIDAVIT

I Mr.Raza Khan Senior Clerk BPS-14 attached to the office of the District Health Officer District Buner hereby solemnly affirm & state on oath that the whole contents of these comments are true & correct to the best of my knowledge & belief and nothing has been concealed from this august court.



District Health Officer
District Buner

BEFORE SERVICE TRIBUNAL PESHAWAR

Appeal NO. 571/2013. 577/2013

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Versus

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District Buner

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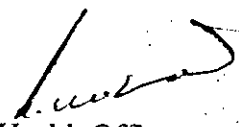
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Dist: Head Quarter
Dagger Buner

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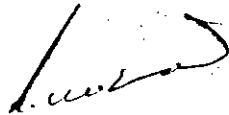
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District Health Officer
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1. That the appeal is incompetent and not maintainable in its present form .
2. That the appellant has neither cause of action nor locus standi.
3. That the appellant has no cause of action .
4. That the appellant has not come to the court with clean hands.
5. That the appeal is time barred.

ON FACTS.

1. During the year 2004 the medical supdt. DHQ Hospital Dagger Buner advertised the post of charge nurse on contract basis. Accordingly on the recommendation of the District Selection Board the appellant was appointed as Charge Nurse BPS.14 on contract basis in the DHQ Hospital Dagger by the DCO Buner, under contract policy 2002.
2. Incorrect. The appellant was appointed on contract basis as mentioned in her appointment order.
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5. As in para 03 above .
6. Para 6 pertains to judgment of Apex court hence no comments.
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Grounds.

- A. Incorrect. The appellant has been treated according to rules and policy of the Government. Being appointed against the post of ADP Scheme. The services of the appellant was not regularized under Civil servant amendment Act 2005.
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In the light of the above it is prayed that the appeal of the appellant may be dismissed please.

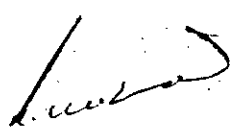
Medical Superintendent DHQ
Hospital, Dagger Buner

Medical Superintendent
Distt: Head Quarter
Dagger Buner

District Health Officer
District Buner .
(RESPONDENT NO.3)

AFFIDAVIT

I Mr.Raza Khan Senior Clerk BPS-14 attached to the office of the District Health Officer District Buner hereby solemnly affirm & state on oath that the whole contents of these comments are true & correct to the best of my knowledge & belief and nothing has been concealed from this august court.


District Health Officer
District Buner

BEFORE SERVICE TRIBUNAL PESHAWAR

Appeal NO. 571/2013. 577/2013

Mst. Rehmat Pass Charge Nurse DHQ Hospital, Dagger

.....Appellant.

Versus

1. The Government of Khyber Pakhtunkhwa and others
.....Respondents.

Para wise comments on behalf of respondent No.3

Respectfully Sheweth.

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District Health Office
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Mst. Rehmat Pass Charge Nurse DHQ Hospital, Dagger 577/2013 Appellant.

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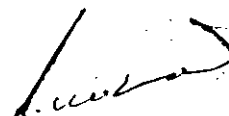
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Distt: Head Quarters
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District Buner

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.....Appellant.

Versus

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.....Respondents.

Para wise comments on behalf of respondent No.3

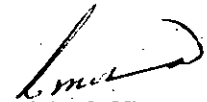
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District Buner

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Versus

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Medical Superintendent DHQ
Hospital Dagger Buner

Medical Superintendent
District Head Quarters
Dagger Buner

District Health Officer
District Buner .
(RESPONDENT NO.3)

AFFIDAVIT

I Mr.Raza Khan Senior Clerk BPS-14 attached to the office of the District Health Officer District Buner hereby solemnly affirm & state on oath that the whole contents of these comments are true & correct to the best of my knowledge & belief and nothing has been concealed from this august court.


District Health Officer
District Buner

In THE COURT OF Service Tribunal Judge
Camp Court at GulKada District Court Swat

APPEAL NO 157 / 2016.

written reply / written Statement on
behalf of Respondant NO 3

Respectfully Submitted,

Respectfully It is submitted on behalf
of The Respondant NO 3. That I Respondant
NO 3 relied on The written reply / written Statement
which was submitted by the official respondent
by The department in APPEAL NO 157 / 2016

Prayer.

It is therefore humbly prayed that
by the acceptance of this written
reply / written statements may be placed
grant in the favour of Respondant
NO 3. and to set the APPEAL in
favour of the Respondant

Date 5 / 16

Applicant /
Respondant
3
BARKER ALI

In THE Court of Senior Tribunal Judge
Camp Court at Gul Kade District Court
SWAT.

Appeal no 157 / 2016.

Written reply / written statement
on behalf of Respondent No 3

Respectfully Submitted.

Respectfully It is submitted on behalf
of Respondent No 3 that Respondent No
3 relied on the written reply which
was submitted by the ~~appellant~~ Respondent
by the department in appeal no 157/2016

Payer

It is therefore humbly prayed that by
the acceptance of this written reply
may be paid grant in the favour
of Respondent No 3

Date 6 / 16 / 16

Petitioner /
Respondent No
3
BARRAT ALI

In THE Court of Senior Tribunal Judge
Camp Court at GulKade District Court
SWAT.

APPEAL NO 157 / 2016

Written reply / written statement
on behalf of Respondent NO 3

Respectfully Submitted.

Respectfully It is submitted on behalf
of Respondent NO 3 that 1 Respondent NO
3 relied on the written reply which
was submitted by the affected respondent
by the department in appeal no 157/2016

Prayer

It is therefore humbly prayed that by
the acceptance of this written reply
may be pleased grant in the favour
of Respondent NO 3.

Date 6 / 16 / 16

Petitioner /
Respondent NO
3
Bhatti Ali

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1703 /ST


Dated 13 / 10 / 2016

To The Secretary Health,
Peshawar.

Subject: - **JUDGMENT**

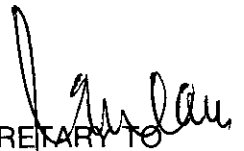
I am directed to forward herewith a certified copy of Judgement dated 5.10.2016 passed by this Tribunal on the above subject for strict compliance.

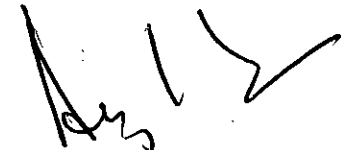
Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

C. Incorrect. The case of the appellant is not similar with those referred in the para.
She has been treated according to law and rules on the subject.

In the light of above it is prayed that the appeal of the appellant may be
dismissed please.


SECRETARY TO
GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT, PESHAWAR.
(RESPONDENT NO.1)


DIRECTORATE GENERAL HEALTH
SERVICES KHYBER PAKHTUNKHWA
PESHAWAR.
(RESPONDENT NO.2)

KS/3/14