

Sr. No.	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	06.04.2015	<p data-bbox="630 463 1396 544" style="text-align: center;"><b>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.</b></p> <p data-bbox="630 584 1429 705" style="text-align: center;">Service Appeal No. 710/2012, Raheem Khan Vursus The Govt. of Khyber Pakhtunkhwa through Secretary Health Department, Peshawar etc.</p> <p data-bbox="773 771 961 806" style="text-align: center;"><u>JUDGMENT</u></p> <p data-bbox="630 851 1510 1053"> <u>PIR BAKHSH SHAH, MEMBER.-</u> Appellant with counsel (Mr. Khalid Rahman, Advocate) and Mr. Muhammad Jan, GP with Yar Gul, Supdt. for the respondents present. </p> <p data-bbox="630 1139 1510 1658"> 2. This appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, filed by Mr. Raheem Khan, Appellant against the impugned order dated 07.1.2013 vide which he was transferred from Khyber Medical College, Peshawar to the office of Executive District Officer (Health), Kohat and further that his departmental representation dated 11.1.2013 was also not responded. </p> <p data-bbox="630 1733 1292 1774"> 3. Arguments heard and record perused. </p> <p data-bbox="630 1849 1510 2368"> 4. The learned counsel for the appellant submitted that the appellant belongs to District Mardan and was performing as Dispenser in Khyber Medical College, Peshawar. That in contravention of the posting/transfer policy, he was transferred vide impugned order dated 7.1.2013 to EDO(Health) office, Kohat on the post of Dispenser. He further submitted that being a district cadre post, his transfer out of district was illegal, </p>

hence on acceptance of the appeal, the impugned order may be set aside and suitable relief be granted to the appellant.

5. The learned Government Pleader resisted this appeal by stating that the appellant had remained in KMC Peshawar almost for the last 11 years and his transfer from Peshawar was over due. He further submitted that the appellant belongs to District Mardan but had no objection while posted at Peshawar but when he was transferred to Kohat so he raised the objection of the district cadre. He further stated that this appeal has become infructuous as the appellant has further been transferred from EDO (Health) office, Kohat to District Nowshera and adjusted as PHC Technician (MP) vide order dated 21.3.2014 where he is happy and on which post he also remained for almost one year.

6. We have heard the arguments of the learned counsel for the parties and perused the record with their assistance.

7. It is evident that after Kohat, the appellant has further been transferred to District Nowshera vide order dated 21.03.2014 which order has not been questioned by the appellant before any forum. So far his transfer through the impugned order is concerned, it is evident that the impugned order is no more in the field and the present appeal has become infructuous. Hence, this Tribunal is not in favour of interference in the impugned order as no malafide, ill-will or political motivation is involved for the transfer of the appellant.

The transfer of the appellant in the circumstances of the case, seems to be not in conflict with the posting/transfer policy of the government.

8. In view of the above, the appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
06.4.2015

  
(ABDUL LATIF)  
MEMBER

  
(PIR BAKHSH SHAH)  
MEMBER

18.12.2014

Appellant in person 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 6.03.2015.



READER

06.3.2015

Appellant with counsel and Mr. Muhammad Jan, GP for the respondents present. The learned Member-II of the Bench has been deputed to conduct interview in the KPK Public Service Commission, therefore, arguments could not be heard. To come up for arguments on 06.4.2015.



MEMBER

17.1.2014

Appellant in person and Mr. Muhammad Bilal, Assistant Provost for respondent No. 3 with Mr. Muhammad Jan, GP for the respondents present. Rejoinder received and copy handed over to the learned GP. Appellant submitted before the court that his ~~salary~~ has not been released so far despite the fact that he is serving in Khyber Medical College, Peshawar and the respondents were directed by this Tribunal vide order dated 01.01.2014. Respondents are strictly directed to release salary of the appellant forthwith. To come up for arguments on 23.6.2014.

MEMBER

MEMBER

23.6.2014

Appellant with counsel and Mr. Muhammad Jan, GP with Muhammad Bilal, Assistant Provost and Sheryar, Assistant for the respondents present. Learned executive Member is on official tour to D.I.Khan, therefore, arguments could not be heard. The appellant submitted before the court that his salary has not been released so far. Respondents are once again directed to release salary of the appellant forthwith. To come up for arguments on 21.10.2014.

MEMBER

21.10.2014

Petitioner in person and Mr. Muhammad Adeel Butt, AAG with Yar Gul, Assistant and Sheryar, Assistant for the respondents present. Appellant submitted before the court that his salary has not been released till date despite clear directions of this Tribunal. The respondents are once again directed to resolve the issue of monthly salary of the appellant. Respondent No. 1 (Director General, Health Services) may also be summoned to attend the Tribunal personally. To come up for further proceedings/arguments on 18.12.2014.

MEMBER

710/2013

25.11.2013

Appellant with counsel and Mr. Muhammad Adeel Butt, AAG present. None is available on behalf of the respondents, despite the fact that on previous date, Mr. Bilal, Statistician and Mr. Muhammad Shoaib, Advocate/ Legal Advisor for the respondents were present. Fresh notices be issued to the respondents by way of last chance. To come up for written reply on 1.1.2014. In case the respondents failed to file written reply on the date fixed, no other chance will be given to them and they will be placed ex-parte.

MEMBER

MEMBER

01.01.2014.

Appellant with counsel, Mr. Muhammad Adeel Butt, AAG with Sher Yar, Assistant and Yar Gul Assistant for respondents No. 1 and 2 present and reply filed. Mr. Ghulam Shoaib Jally, Advocate/Legal Advisor for respondent No. 3 present and reply filed. Copies handed over to counsel for the appellant. To come up for rejoinder on 25.2.2014. Appellant also submitted an application for release of his salary. Notice of application should also be given to the respondents for reply/arguments on the date fixed.

MEMBER

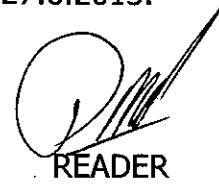
25.2.2014

Appellant in person and GP Muhammad Jan, with Bilal Assistant Provost and Yar Gul, Assistant and Sheryar, Assistant for the respondents present. Appellant requested for time to file rejoinder. To come up for rejoinder on 17.4.2014.

MEMBER

29.05.2013.

Appellant in person present. Notices have not been issued. In pursuance of promulgation of Khyber Pakhtunkhwa Service Tribunal (Amendment) Ordinance 2013, the Tribunal is incomplete. To come up for the same on 27.6.2013.

  
READER

27.6.2013

Counsel for the appellant and Mr. Muhammad Jan, GP for the respondents present. In pursuance of promulgation of Khyber Pakhtunkhwa Service Tribunal (Amendment) Ordinance 2013, the Tribunal is incomplete. To come up for the same on 18.9.2013.

18.9.2013

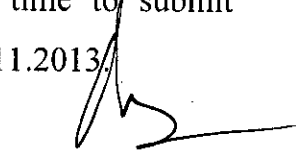
Appellant with counsel and Mr. Usman J Ghani, SGP present. The appeal has been admitted to regular hearing on 14.5.2013 but notices have not been issued till date despite the fact that process fee and security has been deposited. Moharrir is directed to issue notices to the respondents positively. To come up for written reply on main appeal as well as reply/arguments on application on 31.10.2013.

  
MEMBER

31.10.2013

Appellant with counsel, Mr. Bilal, Statistation with Mr. Muhammad Jan, GP for official respondents present. Mr. Ghulam Shoaib, Advocate present and submitted Wakalat Nama on behalf of private respondent No.3 and requested for time to submit written reply. To come up for written reply on 25.11.2013.

  
Member

  
Member.

Appeal No. 710/2013.  
Mr. Rahim Khan.

4. 14.5.2013

Counsel for the appellant present and heard. Contended that the appellant was appointed as Dispenser in the year 1978. He was then appointed as Medical Technician in the year 1983 and was allowed selection grade (BPS-11) in the year 1985. On 1.12.1997 the appellant was also granted move-over to BPS-12 and further granted move-over to BPS-13 vide order dated 10.2.2000. In the year 2006, the new Paramedics Structure was notified vide Notification dated 25.8.2006 where-under, the posts in BPS-13 to 14 in all specialties were up-graded/re-designated as Senior Technicians (BPS-14). However, the appellant was not up-graded and instead he was again upgraded to BPS-12 vide order dated 14.7.2011. Vide Notification dated 7.1.2013, the appellant was again upgraded to BPS-12 and was transferred from KMC Peshawar to the office of DHO Kohat. The appellant preferred a departmental appeal on 11.1.2013 but with no response. Points raised need consideration. Counsel for the appellant further contended that the post of appellant being district cadre and therefore, no transfer order can be issued to a far situated district. Points raised need consideration. The appeal is admitted to regular hearing, subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, notices be issued to the respondents. Counsel for the appellant has also submitted an application for suspending the operation of the impugned Notification dated 7.1.2013. Copy of application also be sent to the respondents. Case adjourned to 27.6.2013 for submission of written reply on main appeal and reply/arguments on application on 29.5.2013.

Appellant deposited  
Process fee & Security  
Rs. 180/- Bank Receipt  
attached with file.

Member

5. 14.5.2013

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

Chair



7.5.2013


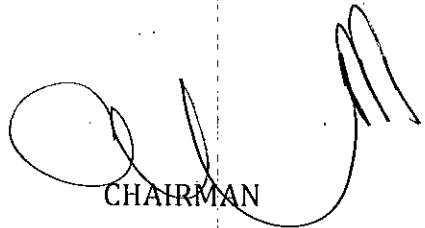
Appellant present. The learned Member is on leave,  
the case is therefore, adjourned to 14.5.2013 for  
preliminary hearing.

  
Reader...

Form- A  
FORM OF ORDER SHEET

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

Case No. 710/2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	19/04/2013	<p>The appeal of Mr. Raheem Khan presented today by Mr. Khaled Rehman 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	23-4-2013	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>7-5-2013</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 710 /2013

Raheem Khan

.....Appellant

Versus

The Govt. of KPK and  
others

.....Respondents

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Memo of Service Appeal			1-4
2.	Stay Application with Affidavit			5-6
3.	Extracts from Service Book		A	0-7
4.	Extracts from Service Book		B	0-8
5.	Notification	25.08.2006	C	0-9
6.	Extracts from Service Book		D	0-10
7.	Impugned Notification	07.01.2013	E	11-12
8.	Departmental Representation		F	0-13
9.	Wakalat Nama			

Through

Appellant

  
Khaled Rahman  
Advocate, Peshawar

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

Dated: 19 / 04/ 2013

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 710 12013

Raheem Khan,  
Medical Technician,  
Khyber Medical College, Peshawar.....Appellant.

B.W.F. Peshawar  
800  
19-4-13

Versus

1. The Govt. of Khyber Pakhtunkhwa  
through Secretary Health,  
Civil Secretariat, Peshawar
2. The Director General,  
Health Services, Khyber Pakhtunkhwa,  
Peshawar.
3. The Principal,  
Khyber Medical College,  
Peshawar. ....Respondents

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**SERVICE APPEAL UNDER SECTION 4 OF THE  
KHYBER PAKHTUNKHWA SERVICE  
TRIBUNALS ACT, 1974 AGAINST THE  
IMPUGNED NOTIFICATION DATED 07.01.2013  
TO THE EXTENT OF TRANSFER OF THE  
APPELLANT FROM KHYBER MEDICAL  
COLLEGE, PESHAWAR TO THE OFFICE OF  
THE DISTRICT HEALTH OFFICER, KOHAT  
AGAINST WHICH APPELLANT PREFERRED A  
DEPARTMENTAL REPRESENTATION TO  
RESPONDENT NO.2 ON 11.01.2013 BUT THE  
SAME SOLICITED NO RESPONSE WITHIN THE  
STATUTORY PERIOD OF 90 DAYS.**

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Filed to file  
19-4-13

**PRAYER:**

On acceptance of the instant appeal, the impugned Notification dated 07.01.2013 to the extent of the transfer of the appellant from Khyber Medical College, Peshawar to the office of the District Health Officer, Kohat may graciously be set aside by allowing the appellant to remain posted at Khyber Medical College, Peshawar and further to consider the appellant for promotion to BPS-14.

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

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Respectfully Sheweth,

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

1. That appellant was appointed as Dispenser way back in 1978 and was posted at the office of the District Health Officer, Mardan. He was later on, appointed against the post of Medical Technician (BPS-9) in the year 1983 and was allowed Selection Grade (BPS-11) in the year 1985.
2. That on 01.12.1997 appellant was moved over to BPS-12 vide entry at Page No.21 of the Service Book (Extracts from Service Book *Annex:-A*) and subsequently he was further moved-over to BPS-13 vide order dated 16.02.2000 vide entry at Page No. 25 of the Service Book (Extracts from Service Book *Annex:-B*).
3. That in the year 2006, the new Paramedics Structure was notified by the Government vide

Notification dated 25.08.2006 (*Annex:-C*) whereunder posts in BPS-13 to 14 in all specialties were upgraded/re-designated as Senior Technicians (BPS-14). However, appellant was not granted the requisite upgradation and instead he was again upgraded to BPS-12 vide order dated 14.07.2011 duly endorsed on the Service Book (Extracts from Service Book *Annex:-D*).

4. That vide impugned Notification dated 07.01.2013 (*Annex:-E*) appellant was once again upgraded BPS-12 and on such upgradation he was transferred from Khyber Medical College, Peshawar to office of the District Health Officer, Kohat.
5. That appellant being aggrieved of his transfer order preferred a departmental Representation (*Annex:-F*) to Respondent No.2 on 11.01.2013 but the same has not been decided 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 issued the impugned transfer order, which is unjust, unfair and hence not sustainable in the eye of law.

- B. That as a matter of routine, the adjustments/transfers after the general promotion/upgradation are made due to want of vacancies but in the case in hand, appellant is already serving in BPS-12 against a vacant post at Khyber Medical College, Peshawar which is still lying vacant, therefore, the impugned transfer order is illegal, without lawful authority and hence not sustainable.
- C. That the impugned transfer order is also in violation of the transfer/posting policy nor the same is in the public interest nor in exigency of service, therefore, the same being unwarranted is liable to be set aside.
- D. That the posts from BPS-1 to 15 have been declared as District Cadres in the Health Department and therefore, no transfer order can be issued to a far situated district except the home district or in the event of non-availability of vacancy in the home district to an adjoining district.
- E. That other grounds will be added at the time of arguments.

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

Through

Appellant

  
Khaled Rahman,  
Advocate, Peshawar.

Dated: 19 / 04/ 2013

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR****Service Appeal No. \_\_\_\_\_/2013**

Raheem Khan.....Applicant.

Versus

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

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**Application for suspending the operation of the impugned Notification dated 07.01.2013 to the extent of the transfer of the appellant from Khyber Medical College, Peshawar to the office of the District Health Officer, Kohat till the final disposal of the instant appeal.**

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Respectfully Sheweth,

1. That the above titled service appeal is being filed today which is yet to be fixed for hearing.
2. That the facts alleged and grounds taken in the body of main appeal may kindly be as an integral part of this application, which make out an excellent prima facie case in favour of the appellant.
3. That the balance of convenience also lies in favour of appellant and in case the impugned Notification is not suspended the appellant will suffer irreparable loss.

It is, therefore, humbly prayed that on acceptance of this application, the operation of the impugned



Notification dated 07.01.2013 may graciously be suspended till the final disposal of the appeal.

Through

Applicant  
*[Handwritten Signature]*  
Khaled Bahman,  
Advocate, Peshawar.

Dated: \_\_\_\_\_ / 04/ 2013

Affidavit

I, Raheem Khan, Medical Technician, Khyber Medical College, Peshawar, do hereby affirm and declare on oath that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

*[Handwritten Signature]*  
Deponent

ATTESTED  
JAVED M. BANGASH  
Advocate High Court  
NOTARY PUBLIC  
Dist Court Peshawar  
4/13

ANNEX A<sup>2</sup>  
7

7 Date of appointment	8 Signature of Government servant	9 Signature and designation of the head of the office or other attesting officer in attestation of columns 7 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 Allocation of periods of leave on average pay up to four months for which leave salary is debitable to another Government Government-Period to which debitable	14 Signature of the head of the office or other attesting officer	Reference to any recorded punishment for censure, or reward or praise of the Government servant
01/12/96 F.N			30/12/96 (AN)	Annual Increment Allowance		From 01.12.95 To 30.11.96		
24/10/97 (D.M)				Transferred to B44 Serd cheera vide DHO Swat orders No. 18610-13/ dated 23/10/97.				
01/12/97 (M)			30/11/97 (M)	Granted move over from BPS-11 to BPS-12 vide Director General Health Services Peshawar order No. 3293-573/DSHSCA-15/ dated 05/6/98 w.e.f. 01-12-97.				Service Verified From 01/12/1996 to 30/11/1997

*N. S. D.*  
MEDICAL OFFICER  
I/C  
District Hospital

*N. S. D.*  
MEDICAL OFFICER  
I/C  
District Hospital

*N. S. D.*  
MEDICAL OFFICER  
I/C  
District Hospital

*N. S. D.*  
District Health Officer  
SW/B I

*N. S. D.*  
District Health Officer  
SW/B I

*N. S. D.*  
District Health Officer  
SW/B I

*N. S. D.*  
District Health Officer  
SW/B I

211  
6/11/98  
Decision, DSS, 11/11/97  
order of adjustment  
of pay on a/c of  
move over from BPS  
11-12 w.e.f. 1/12/97 - 30/11/97  
as per order

ATTESTED

(3520-3765)

(35507-3660)

Dist. Accounts Officer  
SW/B I  
18/09/98

A

ANNEX "B"



(For use in police and other similar Departments)

RECORD OF POSTINGS

No. of District Order

No. of District Order	No. of District Order	Date	District and post	No. of District Order	Date
			<p>+ Granted order from BPS no 12 to BPS no 13 w.e.f 11/12/2001 vide O/O no 3755-57/0140 dated 16/2/2001</p> <p>Asstt. Distt: Health Officer Mardan.</p>		
		30/11/2001	<p>Asstt. Distt: Health Officer Mardan.</p>		
		11/12/2001	<p>Asstt. Distt: Health Officer Mardan.</p>		
		22/10/2001	<p>Pay as per Revised Pay Scale vide Govt. No. P.P. No. FOC(PLC) 1-1/2001 dt. 22/10/2001</p>		
		30/11/2001	<p>Pay as per Revised Pay Scale vide Govt. No. P.P. No. FOC(PLC) 1-1/2001 dt. 22/10/2001</p>		
		11/12/2001	<p>Asstt. Distt: Health Officer Mardan.</p>		
		11/12/2001	<p>Asstt. Distt: Health Officer Mardan.</p>		
		30/11/2002	<p>Asstt. Distt: Health Officer Mardan.</p>		

Simon Verified  
 dt. 11/12/2001  
 30/11/2001

A. J. Allowed

Simon Verified  
 dt. 11/12/2001  
 30/11/2002

**ATTESTED**

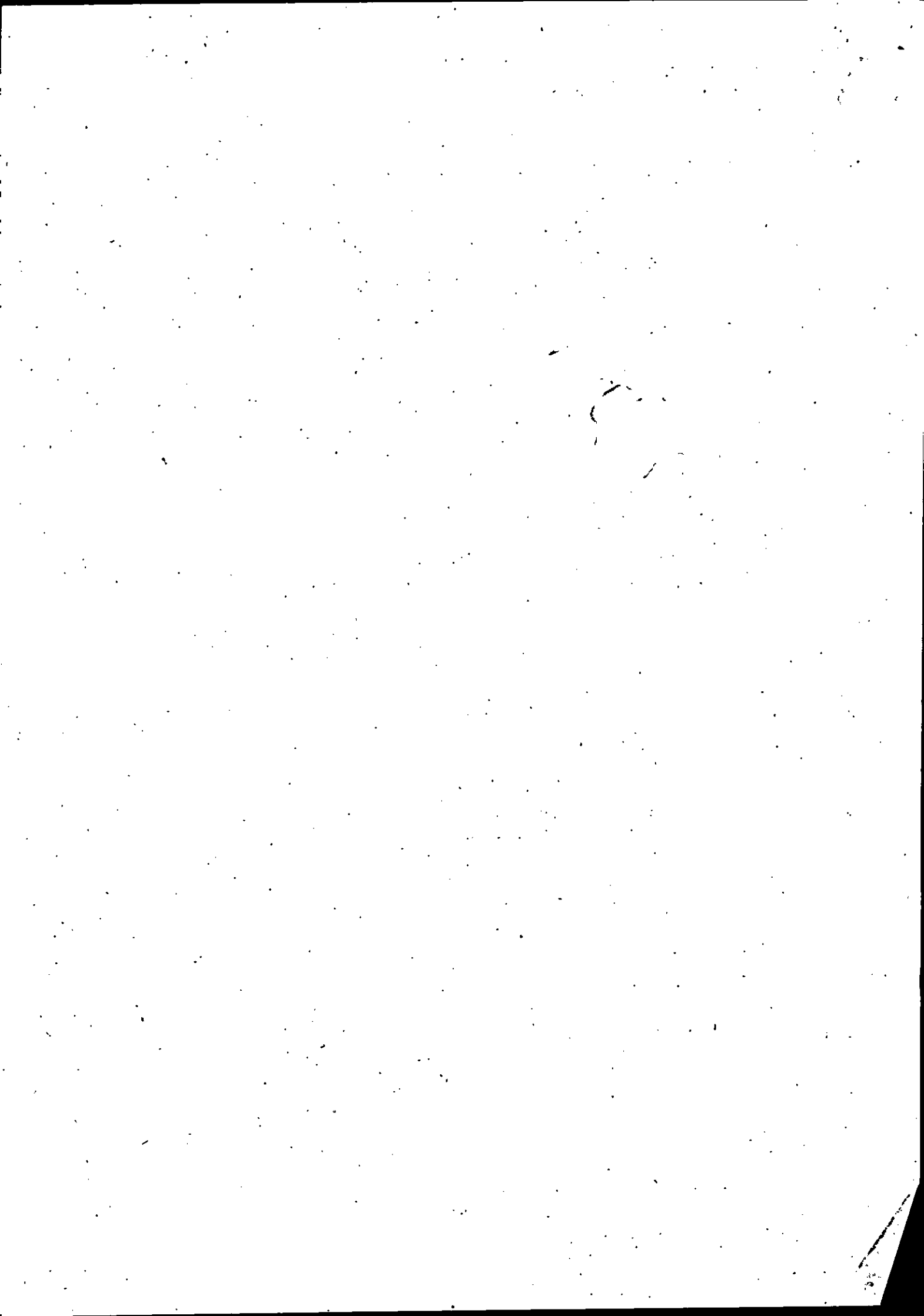
Deputy District Officer Mardan.

Deputy District Officer Mardan.

Deputy District Officer

12/12/2001

12/12/2002



GOVERNMENT OF NWFP  
HEALTH DEPARTMENT

Dated Peshawar the 25<sup>th</sup> August, 2006

NOTIFICATION

NO SOH-III /8-60/05 (Paramedics). In supersession of this Department's Notification of even number dated 10<sup>th</sup> May 2006 and in pursuance of the decision taken by the Provincial Cabinet in its meeting held on 27<sup>th</sup> December 2005, the Competent Authority is pleased to approve eight stage Paramedics Services Structure of NWFP as follows:-

- (1) The existing 57 different categories of Paramedics at annex A are restructured into 14 cadres as annexure B.
- (2) In all the aforesaid cadres/specialties, the posts in various pay scales shall be integrated/categorized and re-designated as under:-

S.No	Existing Posts	Re-designation
i)	Posts in BPS-5 to BPS-9 in all specialties	Junior Technicians (BPS-9)
ii)	Posts in BPS-10 to BPS-12 in all specialties	Technicians (BPS-12)
iii)	Posts in BPS-13 to BPS-14 in all specialties	Senior Technicians (BPS-14)
iv)	Posts in BPS-15 to BPS-16 in all specialties	Chief Technicians (BPS-16)
v)	Posts in BPS-17 in all specialties	Technologist (BPS-17)
vi)	Posts in BPS-18 in all specialties	Senior Technologist (BPS-18)
vii)	Posts in BPS-19 in all specialties	Chief Technologist (BPS-19)
viii)	Posts in BPS-20 in all specialties	Principal Technologists (BPS-20)

The words "clinical" shall be mentioned with the categories of posts meant for Paramedics working in the hospitals and "Primary Health Care" with the paramedics working in the field along with mention of specific specialty (e.g. Junior Clinical Technician (Radiology) and Junior Primary Health Care Technician (Multi purpose)).

- (3) The number of Posts in BPS-9, BPS-12, BPS-14, BPS-16, BPS-17, BPS-18, BPS-19 and BPS-20, in the service shall be worked out according to the following proportionate ratio:-

S.No.	BPS	Percentage
a)	Post in BPS-9	80%
b)	Post in BPS-12	12%
c)	Post in BPS-14	3.5%
d)	Post in BPS-16	2.5%
e)	Post in BPS-17	1.86%
f)	Post in BPS-18	0.09%
g)	Post in BPS-19	0.04%
h)	Post in BPS-20	0.01%

ATTESTED

9

ANNEX C

C

10

Annex D<sup>2</sup>

9	10	11	12	13		14	15
Signature and designation of the Head of the office or other attesting officer in attestation of column 1 to 8	Date of termination or appointment	Reason of termination (such as promotion, transfer, dismissal etc.)	Signature of the head of the office or other Attesting officer	Nature and duration of leave taken	Allocation of period of leave of average pay up to four months (or earned leave not exceeding 120 days) to which leave salary is debitible to another Government.	Signature of the Head of the office or other attesting Officer	Reference to any recorded punishment or censure, reward or praised of the Government servants
	تاریخ انتقال ملازمت	وجوہات انتقال ملازمت ترقی جوارہ یا برطرفی	دستخط افسر مجاز	رضعت کی نوبت د معیار	ہمارا نمبر کی رضعت کے کے اوسے نمبر کا نہیں  Period Government to which debitible گورنمنٹ رہنمہ ادا ہوئی	دستخط افسر مجاز	سزایا جڑیا فیر مناسب کارکردگی کا ریکارڈ

No- 504-111/8-60905 (Parame dic)

In supersession of this department's  
Notification of even number dt-15/5/2006  
and in pursuance of the decision taken  
by the professional Provincial Council in  
its meeting held on 27th December  
2005 the competent authority is pleased  
to approve eight eight Paramedic Services  
Structure of Bhyler Pathankhwa.

Post in BPS-10 BPS-12 Dedesignated  
as Technician BPS-12

See serial in revised BPS-12 vide FD  
No: 10. FD (MC) 1-7/2001 dt. 14/7/2001.

2008  
OFFICE OF THE ACCOUNTANT GENERAL

PAY BAND 114857-13655 BASIC

OF RS 114857-310-13655 (12)

AT RS. 114857  
With Next Promotion, etc.

*[Signature]*  
Accountant General

Pay Fixation Party N.W.F.P.

Resident Asstt. Director (Audit)  
Khyber Teaching Hospital  
Peshawar.

15/05/11  
15/05/11  
15/05/11  
15/05/11  
15/05/11

ATTESTED

D



DIRECTORATE GENERAL HEALTH SERVICES, KHYBER PAKHTUNKHWA, PESHAWAR

OFFICE ORDER

Consequent upon approval accorded by the competent authority the following Jr. PHC Tech: (Multi-Purpose) BS-09 have been upgraded to the post of PHC Tech: (Multi-Purpose) BS-12 vide Govt. of Khyber Pakhtunkhwa, Health Department Notification No. SOH-III/8-60/2005(Paramedics) dated 11.05.2012.

11

ANNEXURE-12  
21/11/2012

S.No.	Name	Place of Present Posting
1.	Mrs. Jehan Bibi D.O Taj Muhammad	EDO (H) Charsadda
2.	Badrul Rehman S/O Muhammad Jamal	AS Mohmand
3.	Muhammad Najjullah S/O Sultanat Shah	EDO (H) Chitral
4.	Husnullah S/O Amir Khadiq	EDO (H) Dir Lower
5.	Malik Sher S/O Malik Ghulam Sarwar	EDO (H) D.I.Khan
6.	Azizur Rehman S/O Bahadar Khan	EDO (H) Dir Lower
7.	Allah Nawaz S/O Shah Nawaz	EDO (H) Hangu
8.	Saeed Karim S/O Karim	EDO (H) Peshawar
9.	Israrul Din S/O Hayat Karim	EDO (H) Peshawar
10.	Rafiq Khan S/O Wazir Gul	KMC Peshawar
11.	Miss Parvez Bibi D.O Taj Muhammad	EDO (H) Peshawar
12.	Altaf Hussain S/O Taj Muhammad	EDO (H) Shangla
13.	Khaista Ishaq S/O Amiran Said	EDO (H) Dir Lower
14.	Jam Mir S/O Amanullah Khan	FR D.I.Khan / Tank
15.	Anwar Hayat D/O Fozal Hamid	FR I/ Marwat
16.	Muhammad Niaz S/O Muhammad Zaman	EDO (H) Munshehra
17.	Muhammad Sadiq S/O Mehmood Khan	EDO (H) D.I.Khan
18.	Fazal Dad Nadeem S/O Matila Dad	EDO (H) D.I.Khan
19.	Irfan Masih S/O Inayat Masih	BHU Saleh Khan Peshawar
20.	Muhammad Nazir S/O Fazli Rashid	EDO (H) Dir Lower
21.	Zainullah S/O Amanullah	EDO (H) Mardan
22.	Munoomur Rashid S/O Abdul Wahab	EDO (H) Munshehra
23.	Said Zada S/O Niaz Mir	AS FR Peshawar
24.	Said Rahim Gul S/O Gul Muhammad	EDO (H) Malakand
25.	Miss Mukhtiar Shabeen	EDO (H) Nowshera
26.	Mian Firasat Shah S/O Mian Abdur Rahim	EDO (H) Nowshera
27.	Ishrat Ara D/O Shamshur Rahman	EDO (H) Nowshera

On their upgradation to the post of PHC Tech: (MP) BS-12, the following posting/ transfer adjustment are hereby ordered to be operative from 11.05.2012, the date of upgradation:-

Name	From	To	Domestic	Remarks
Mrs. Jehan Bibi D.O Taj Muhammad	EDO (H) Charsadda	EDO (H) Nowshera	Nowshera	Against the vacant post
Badrul Rehman S/O Muhammad Jamal	AS Mohmand	AS Mohmand	Mohmand	-do-
Muhammad Najjullah S/O Sultanat Shah	EDO (H) Chitral	EDO (H) Chitral	Chitral	-do-
Husnullah S/O Amir Khadiq	EDO (H) Dir Lower	EDO (H) Dir Lower	Dir	-do-
Malik Sher S/O Malik Ghulam Sarwar	EDO (H) D.I.Khan	EDO (H) D.I.Khan	D.I.Khan	-do-
Azizur Rehman S/O Bahadar Khan	EDO (H) Dir Lower	EDO (H) Dir Upper	Dir	-do-
Allah Nawaz S/O Shah Nawaz	EDO (H) Hangu	EDO (H) Hangu	Hangu	-do-
Saeed Karim S/O Karim	EDO (H) Peshawar	HMC Peshawar	Peshawar	-do-
Israrul Din S/O Hayat Karim	EDO (H) Peshawar	EDO (H) Kohat	Peshawar	-do-
Rafiq Khan S/O Wazir Gul	KMC Peshawar	EDO (H) Kohat	Peshawar	-do-
Miss Parvez Bibi D.O Taj Muhammad	EDO (H) Peshawar	EDO (H) Kohat	Peshawar	-do-
Altaf Hussain S/O Taj Muhammad	EDO (H) Shangla	EDO (H) Shangla	Shangla	-do-
Khaista Ishaq S/O Amiran Said	EDO (H) Dir Lower	EDO (H) Dir Upper	Dir	-do-
Jam Mir S/O Amanullah Khan	FR D.I.Khan / Tank	AS FR Tank/ D.I.Khan	Tank	-do-
Anwar Hayat D/O Fozal Hamid	AS FR I/ Marwat	AS FR I/ Marwat	Marwat	-do-
Muhammad Niaz S/O Muhammad Zaman	EDO (H) Munshehra	EDO (H) Battagram	Munshehra	-do-
Muhammad Sadiq S/O Mehmood Khan	EDO (H) D.I.Khan	EDO (H) D.I.Khan	D.I.Khan	-do-
Fazal Dad Nadeem S/O Matila Dad	EDO (H) D.I.Khan	EDO (H) D.I.Khan	D.I.Khan	-do-
Irfan Masih S/O Inayat Masih	EDO (H) Peshawar	EDO (H) D.I.Khan	D.I.Khan	-do-
Muhammad Nazir S/O Fazli Rashid	EDO (H) Dir Lower	EDO (H) Kohat	Peshawar	-do-
Zainullah S/O Amanullah	EDO (H) Mardan	EDO (H) Dir Upper	Dir	-do-
Munoomur Rashid S/O Abdul Wahab	EDO (H) Munshehra	EDO (H) Charsadda	Mardan	-do-
Said Zada S/O Niaz Mir	AS FR Peshawar	AS FR Peshawar	FR Peshawar	-do-
Said Rahim Gul S/O Gul Muhammad	EDO (H) Malakand	EDO (H) Malakand	Malakand	-do-
Miss Mukhtiar Shabeen	EDO (H) Nowshera	EDO (H) Nowshera	Peshawar	-do-
Mian Firasat Shah S/O Mian Abdur Rahim	EDO (H) Nowshera	EDO (H) Kohat	Nowshera	-do-
Ishrat Ara S/O Shamshur Rahman	EDO (H) Nowshera	EDO (H) Charsadda	Nowshera	-do-

ATTESTED

Sd/xxxxxxx  
Director General Health Services,  
Khyber Pakhtunkhwa, Peshawar

(E)

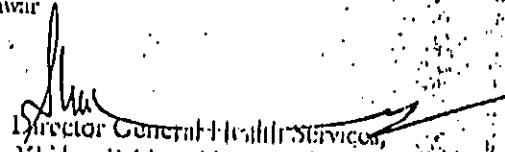
988-1143 /AE-VII

Dated Peshawar the 27/11/2012

Copy forwarded to the:-

1. The Secretary to Govt of Khyber Pakhtunkhwa, Health Department Peshawar.
2. The DHS FATA, Khyber Pakhtunkhwa, Peshawar.
3. The Director Provincial Health Services Academy, Khyber Pakhtunkhwa, Peshawar.
4. Medical Superintendents, KITI, LRH, HMC Peshawar.
5. Director IKD, HMC Peshawar
6. The All Principals of Medical Colleges in Khyber Pakhtunkhwa
7. Medical Superintendent, Maulvi Ameer Shah Memorial Hospital Peshawar.
8. The All Executive District Officers (Health) in Khyber Pakhtunkhwa, Province.
9. The Medical Superintendents, DHQ/AHQ Hospitals in Khyber Pakhtunkhwa/FATA.
10. All the Medical Superintendents, AHQH in FATA,
11. Medical Superintendent, City Hospital Kohat Road, Peshawar.
12. Medical Superintendent, Police/ Services Hospital Peshawar.
13. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
14. The All District Accounts Officers in Khyber Pakhtunkhwa, Province.
15. The all Agency Surgeons in FATA/FRs Khyber Pakhtunkhwa.
16. The all Agency Accounts Officers in FATA/FRs Khyber Pakhtunkhwa.
17. I/C Gynecologist, Govt Maternity Hospital Peshawar
18. Muhammad Jamil, Assistant Director (I-II) DGHS Office Peshawar.
19. Incharge, Paramedics Promotion Cell DGHS Office Peshawar.
20. Officials concerned.
21. Personal Files.
22. P.A to DGHS, Khyber Pakhtunkhwa, Peshawar.
23. P.A to Director (Administration) DGHS Office Peshawar.
24. P.A to Deputy Director (Personnel) DGHS Office Peshawar.
25. President, Provincial Association of Paramedics, Govt LRH Peshawar

For information and necessary action.

  
Director General Health Services,  
Khyber Pakhtunkhwa, Peshawar.

27/11/2012

TESTED



To

The Director General  
Health Services  
Khyber Pakhtunkhwa

13

Through proper Channel

ANNEX F

Subject: CANCELLATION OF TRANSFER ORDER

R/Sir,

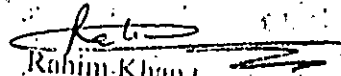
I have the honor to state that I am working in health department since 1978 during this time I was promoted three time to BPS-12

- 1) I was promoted to BPS- 12 in 1997
- 2) For the second time I was promoted to BPS-12 under the Secretary Health Notification No SOH-111/8-60/05( Para Medics)
- 3) For the third time I was again Transfer and promoted to BPS-12 under the Health services order No 988-1143/AE/VII dated 07/01/2013
- 4) Presently I am working in grade—12 in KMC

With all these grievances and facts I requested to cancel my transfer order for which I will be thank full to you

07/11/2013

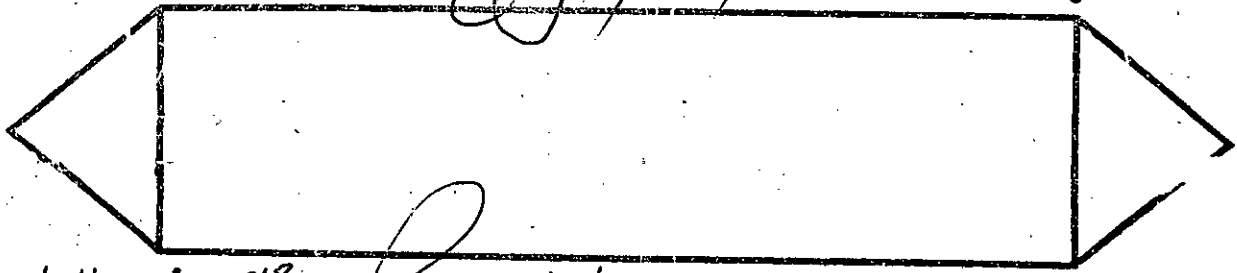
Yours Obediently

  
Rahim Khan  
Medical Technician  
KMC Peshawar.

**ATTESTED**

F

# بعدالت



سہولت کار  
2013ء منجانب ایس ایس آر  
رکھن پنہام حکومت

مورخہ  
مقدمہ  
دعویٰ  
جرم

## باعث تحریر آئندہ

مقدمہ مندرجہ عنوان پر بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ  
آن مقام کیلئے 130 کی نئی نئی اور وکالت  
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوفہ کہ مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخ  
نیز وائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
کے کل یا جزوی کاروائی 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 اختیارات حاصل ہوں گے اور اس کا ساختہ  
پرواختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ و ہرجا نہ 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

الرقوم

واہ

کے لئے منظور ہے۔

بمقام

Handwritten signature and scribbles at the bottom of the page.



**KHYBER MEDICAL COLLEGE, PESHAWAR, PAKISTAN**  
**OFFICE OF THE PRINCIPAL & DEAN**

Phone: 9216212-9216206-10  
Fax No: 9216213

WAKALATNAMA

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

Mr. Rahim Khan

Appeal No. 710 of 2013

Versus:

Respondent: Secretary to Govt. of Khyber Pakhtunkhwa, Health Department  
Peshawar.

Principal KMC, Peshawar.

By this, power-of-attorney, Principal KMC, the said Respondent No. 3  
in the above case do hereby constitute and appoint GHULAM SHOAIB JALLY and Hamad

Yousafzai - **ADVOCATES** as my attorney for me/us in my/us name and on my behalf to appear, plead, give statement, verify, administer oath, file comments, written statement, reply and do all lawful acts and things in connection with the said case on my behalf or with the execution of any decree or order passed in the case in my favour/against which I/we shall be entitled or permitted to do myself, and, in particular, shall be entitled to withdraw or compromise the case or refer it to arbitration or to agree to abide by the special oath of any person and to withdraw and receive documents and money from the Court or the opposite party and to sign proper receipts and discharges for the same and to engage and appoint any other pleader or pay him as his fee irrespective of my success or failure in case, provided that if the case is heard at any place other than the usual place of sitting of the court the pleader shall not bound to attend except on my agreeing to pay him a special fee to be settled between us.

PRINCIPAL  
KHYBER MEDICAL COLLEGE,  
PESHAWAR

Accepted  
GHULAM SHOAIB JALLY  
ADVOCATE

**BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

**Raheem Khan**

**versus**

**The Government of Khyber Pukhtunkhawa**

**PARAWISE COMMENTS ON BEHALF OF RESPONDENT No.3**

**PRELIMINARY OBJECTIONS.**

1. That the appellant has no cause of action to file the instant appeal.
2. That the appellant has no locus standi to approach this honorable court.
3. That the appellant has not come to this honorable court with clean hands.
4. That the appellant has filed the instant appeal with ulterior motives to compel and the respondents.

**ON MERITS**

1. Para No.1 needs no comments.
2. Para No.2 is not related to answering respondent No.3.
3. Para No.3 is not related to answering respondent No.3. However, fixation of pay is the prerogative of the office of Account General Khyber Pakhtunkhawa Peshawar. The letter has also endorsed to Principal KMC Peshawar as per budget book 2012-13 there is no post of Medical Technician in the Khyber Medical College. The transfer order made by respondent No.2 / Director General Health; the establishment Section KMC may relieve the appellant and immediately the account section shall stop his pay and recover the over payment through challan and LPC may be issued to the appellant accordingly.
4. In reply to para No.4 it is submitted that as far as the contention of appellant to extend of transfer is concerned is correct. The appellant was transferred as Medical Technician from EDO (H) Mardan and Posted at KMC, Peshawar

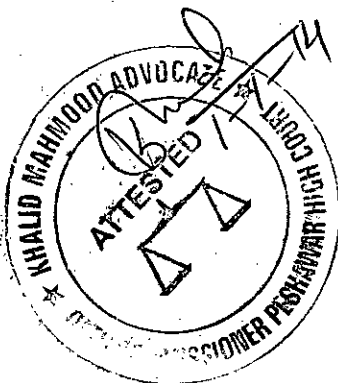
against the vacant post of Medical Technician in the interest of public service in Pathology Department through office order No.8323-26/E-III dated 31-03-2004.

5. Para No.5 is not related to answering respondent No.3 however the appellant was transferred by the respondent No.1 and 2 vide order No.988-143/AE.VII dated 07-01-2011.

**ON GROUNDS.**

- A. Ground A of the appeal is misconceived. The appellant has been treated in accordance with law and rules applicable to the matter.
- B. In reply to Ground B it is stated that the appellant was never adjusted against the post of Medical Technician. The same was transferred from EDO (H) Mardan to KMC vide Director General Health No. 8323-26/E-III/MT dated 31-03-2004 as Medical Technician. While as per budget allocation there is no post of Medical Technician seat is available in the KMC and due to non availability of said post there is no adjustment order issued for the said purpose.
- C. Ground C of the appeal is strongly objected. The transfer order is made in accordance with law and in the best public interest. The appellant is a Civil Servant and is under control of respondent No.1 and 2 and such like orders are usually issued by Director Health being competent authority.
- D. Ground D and E of the appeal is incorrect. The word "District Cadres" and "District" has not been defined in the Service NWFP Civil Servant Act 1973 nor in NWFP Service Tribunal Act 1974 therefore the appellant cannot restrict himself to the home district.

In view of above mentioned submission the appeal may be dismissed



Respondent No.3

Through

Ghulam Shoaib Jally  
Advocate  
Supreme Court of Pakistan

**AFFIDAVIT**

It is hereby verified and affirmed that the contents of the above comments are true and correct to the best of my knowledge and belief. The same have been taken from the record. Nothing has been concealed or kept secret from this Hon'ble Tribunal.

*For Principal KMC*

**BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

*cefy*

**Raheem Khan**

**versus**

**The Government of Khyber Pukhtunkhawa**

**PARAWISE COMMENTS ON BEHALF OF RESPONDENT No.3**

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**ON MERITS**

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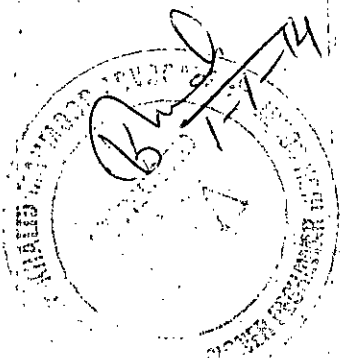
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5. Para No.5 is not related to answering respondent No.3 however the appellant was transferred by the respondent No.1 and 2 vide order No.988-143/AE.VII dated 07-01-2011.

**ON GROUNDS.**

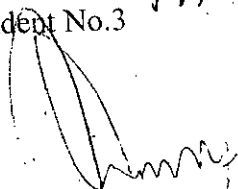
- A. Ground A of the appeal is misconceived. The appellant has been treated in accordance with law and rules applicable to the matter.
- B. In reply to Ground B it is stated that the appellant was never adjusted against the post of Medical Technician. The same was transferred from EDO (H) Mardan to KMC vide Director General Health No. 8323-26/E-III/MT dated 31-03-2004 as Medical Technician. While as per budget allocation there is no post of Medical Technician seat is available in the KMC and due to non availability of said post there is no adjustment order issued for the said purpose.
- C. Ground C of the appeal is strongly objected. The transfer order is made in accordance with law and in the best public interest. The appellant is a Civil Servant and is under control of respondent No.1 and 2 and such like orders are usually issued by Director Health being competent authority.
- D. Ground D and E of the appeal is incorrect. The word "District Cadres" and "District" has not been defined in the Service NWFP Civil Servant Act 1973 nor in NWFP Service Tribunal Act 1974 therefore the appellant cannot restrict himself to the home district.

In view of above mentioned submission the appeal may be dismissed



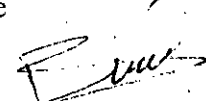
Respondent No.3

Through

*25 for Principal KMC*  
  
**Ghulam Shoaib Jally**  
Advocate  
Supreme Court of Pakistan

**AFFIDAVIT**

It is hereby verified and affirmed that the contents of the above comments are true and correct to the best of my knowledge and belief. The same have been taken from the record. Nothing has been concealed or kept secret from this Hon'ble Tribunal.

*25 for Principal KMC*  


**BEFORE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.**

**Service Appeal No.710/2013.**

Mr. Raheem Khan Medical Technician.....**Appellant.**

**Versus.**

Secretary Health, Civil Secretariat & others.....**Respondents.**

**Parawise comments on behalf of respondents No. 01 & 02.**

**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 present appeal is barred by law.
4. That the present appeal is bad for misjoinder and non joinder of parties.
5. That the present appeal is bad in its present form, hence not maintainable and liable to be dismissed.
6. That the appellant has not come to the Court with clean hands.
7. That the appeal is time barred.

**FACTS:-**

1. Correct but the selection grade is not permanent promotion, actually his original scale is BPS-09.
2. He was moved over to BPS-12 and 13, which is also not promotion as he had reached to the maximum of his basic pay scale.
3. He was in BPS-09 and upgraded in BPS-12 in light of the approved service structure of paramedics notified by the Government vide No. SOH-III/8-60/05 dated 09.05.2012.
4. He has been upgraded from BPS-09 to BPS-12 in light of the Govt. of KPK Health Department SOH-III/8-60/05 (Paramedics) dated 09.05.2013, and posted to kohat against the vacant post being a provincial Govt Employee. (Annex-A)
5. The reply to his appeal has already been given to the principal KMC Peshawar vide this Directorate letter No. 6667/AE-VI dated 14.03.2013.


**GROUND:-**

- A. In correct, in light of para-05 above.
- B. In correct. He is working in KMC Peshawar in BPS-09 and due to non-availability of vacant post of BPS-12 over there, he has been transferred to Kohat on his up-gradation to BPS-12.



- C. In correct. He has been transferred to District Kohat against the vacant post in light of posting/transfer policy of the govt.
- D. In correct. All the posts falls under control of the Provincial Health Department.
- E. The Respondent will advance added Grounds at the time of arguments.

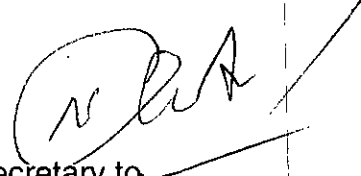
It is, therefore, requested that the appeal may graciously be dismissed with cost.

  
Director General Health Services,  
Khyber Pakhtunkhwa, Peshawar.

(Respondent No.02)





  
Secretary to  
Government of Khyber Pakhtunkhwa  
Health Department, Peshawar.

(Respondent No.01).



GOVT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT  
Dated the Peshawar 09 May, 2012.

9/05/2012

C/Heb.

BS-17

of  
be...

NOTIFICATION.

No. SOH-III/S-60/05 (Paramedics) The Competent Authority is pleased to withdraw this Department Notification of even No. Dated 25-08-2006 and restore this Department Notification of even No. Dated 10-05-2006 with immediate effect with the following additions:-

- i) Initially the one time up-gradation/Promotion is to be implemented upto BPS-17.
- ii) A joint seniority is to be developed in BPS-17. Based on the final joint seniority list of BPS-17 further promotion to BPS-18, BPS-19 and BPS-20 will be carried out on the basis of seniority-cum-fitness from BPS-17 to BPS-18, from BPS-18 to BPS-19 and BPS-19 to BPS-20 on step by step basis.
- iii) Those who have been recruited after May, 2006 they will be placed at bottom of the seniority list of their respective cadre/service. However, an anomaly committee will look into all such anomalies arising in the course of implementation of the one time up-gradation/Promotion exercise.
- iv) The senior post BPS-18 to BPS-20 will be filled in accordance with the prescribed manner as laid down in the existing approved Service Rules.
- v) The revival of Notification Dated 10-5-2006 will have no retrospective effect and one time up-gradation/Promotion will be with immediate effect as laid down in the promotion policy of the Provincial Government.

Secretary to Govt. of Khyber Pakhtunkhwa  
Health Department

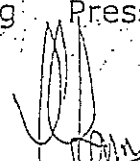
Endorsement No. & date as above.

Copy forwarded to the:-

1. The Additional Chief Secretary (FATA) Khyber Pakhtunkhwa.
2. The Secretary to Governor, Khyber Pakhtunkhwa.
3. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.

\*

4. The Secretary FATA, Governor's Secretariat Peshawar.
5. All Administrative Secretaries to Govt of Khyber Pakhtunkhwa.
6. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
7. The Director General, Health Services, Khyber Pakhtunkhwa.
8. The Inspector General of Prisons, Khyber Pakhtunkhwa.
9. The Director General, Social Security, Khyber Pakhtunkhwa.
10. The Director, PHSA, Khyber Pakhtunkhwa.
11. The Chief HSRRU.
12. The Chief Planning Officer Health Department.
13. Director Health Services FATA, Peshawar.
14. All Chief Executives of Teaching Hospitals in Khyber Pakhtunkhwa.
15. All Medical Superintendents of DHQ Hospitals in Khyber Pakhtunkhwa.
16. All Executive District Officers (Health) of Khyber Pakhtunkhwa.
17. The Director of Information, Khyber Pakhtunkhwa.
18. All Agency Surgeons/MS of FATA.
19. All Principals of Medical Colleges in Khyber Pakhtunkhwa.
20. The Dean, P.G.M.I, Peshawar.
21. All District Accounts Officers in Khyber Pakhtunkhwa.
22. All Agency Accounts Officers in Khyber Pakhtunkhwa.
23. The Section Officer (Budget) Health Department.
24. PS to Chief Secretary Khyber Pakhtunkhwa.
25. PS to Minister for Health, Khyber Pakhtunkhwa.
26. President, Provincial Paramedical Association, Khyber Pakhtunkhwa, Peshawar.
27. The Manager Govt. Printing Press, Khyber Pakhtunkhwa.

 09/5/2012

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**DIRECTORATE GENERAL HEALTH SERVICES  
KHYBER PAKHTUN KHWA PESHAWAR.**

Mail Address: [dgshs@yaho.com](mailto:dgshs@yaho.com) Office Ph# 091-9210269 Exchange# 091-9210187, 9210196 Fax # 091 9210230

NO. 6667 /AE-VI,

Dated. 14/03 /2013

IMMEDIATE.

To

The Principal,  
KMC, Peshawar.

Subject: - APPLICATION FOR CANCELLATION OF TRANSFER ORDER.

Dear Sir,

I am directed to refer to the subject noted above and to enclose an application in respect of Mr. Rahim Khan PHC Technician (MP) received through the Minister for Health Khyber Pakhtunkhwa which is self explanatory for furnishing your comments report regarding his promotion / upgradation in BP-12 without approval of this Directorate.

ASSISTANT DIRECTOR (P III)  
DGHS, KHYBER PAKHTUN KHWA  
PESHAWAR

13/3/2013

Enclosure

vacant post of BPS-12 over

→ BPS:12

**BEFORE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.**

**Service Appeal No.710/2013.**

Mr. Raheem Khan Medical Technician.....**Appellant.**

**Versus.**

Secretary Health, Civil Secretariat & others.....**Respondents.**

**Parawise comments on behalf of respondents No. 01 & 02.**

**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 present appeal is barred by law.
4. That the present appeal is bad for misjoinder and non joinder of parties.
5. That the present appeal is bad in its present form, hence not maintainable and liable to be dismissed.
6. That the appellant has not come to the Court with clean hands.
7. That the appeal is time barred.

**FACTS:-**

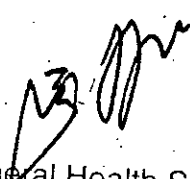
1. Correct but the selection grade is not permanent promotion, actually his original scale is BPS-09.
2. He was moved over to BPS-12 and 13, which is also not promotion as he had reached to the maximum of his basic pay scale.
3. He was in BPS-09 and upgraded in BPS-12 in light of the approved service structure of paramedics notified by the Government vide No. SOH-III/8-60/05 dated 09.05.2012.
4. He has been upgraded from BPS-09 to BPS-12 in light of the Govt. of KPK Health Department SOH-III/8-60/05 (Paramedics) dated 09.05.2013, and posted to kohat against the vacant post being a provincial Govt Employee. (Annex-A)
5. The reply to his appeal has already been given to the principal KMC Peshawar vide this Directorate letter No. 6667/AE-VI dated 14.03.2013.

**GROUND:-**

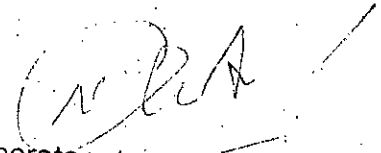
- A. In correct, in light of para-05 above.
- B. In correct. He is working in KMC Peshawar in BPS-09 and due to non-availability of vacant post of BPS-12 over there, he has been transferred to Kohat on his up-gradation to BPS-12.

- C. In correct. He has been transferred to District Kohat against the vacant post in light of posting/transfer policy of the govt.
- D. In correct: All the posts falls under control of the Provincial Health Department.
- E. The Respondent will advance added Grounds at the time of arguments.

It is, therefore, requested that the appeal may graciously be dismissed with cost.

  
Director General Health Services,  
Khyber Pakhtunkhwa, Peshawar.  
(Respondent No.02)

For

  
Secretary to  
Government of Khyber Pakhtunkhwa  
Health Department, Peshawar.  
(Respondent No.01).

GOVT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT  
Dated the Peshawar 09 May, 2012.

C.Met.  
BS-17  
of  
Secretary

9/05/2012

NOTIFICATION.

No. SOH-III/S-60/05 (Paramedics) The Competent Authority is pleased to withdraw this Department Notification of even No. Dated 25-08-2006 and restore this Department Notification of even No. Dated 10-05-2006 with immediate effect with the following additions:-

- i) Initially the one time up-gradation/Promotion is to be implemented upto BPS-17.
- ii) A joint seniority is to be developed in BPS-17. Based on the final joint seniority list of BPS-17 further promotion to BPS-18, BPS-19 and BPS-20 will be carried out on the basis of seniority-cum-fitness from BPS-17 to BPS-18, from BPS-18 to BPS-19 and BPS-19 to BPS-20 on step by step basis.
- iii) Those who have been recruited after May, 2006 they will be placed at bottom of the seniority list of their respective cadre/service. However, an anomaly committee will look into all such anomalies arising in the course of implementation of the one time up-gradation/Promotion exercise.
- iv) The senior post BPS-18 to BPS-20 will be filled in accordance with the prescribed manner as laid down in the existing approved Service Rules.
- v) The revival of Notification Dated 10-5-2006 will have no retrospective effect and one time up-gradation/Promotion will be with immediate effect as laid down in the promotion policy of the Provincial Government.

Secretary to Govt. of Khyber Pakhtunkhwa  
Health Department


Endorsement No. & date as above.

Copy forwarded to the:-

1. The Additional Chief Secretary (FATA) Khyber Pakhtunkhwa.
2. The Secretary to Governor, Khyber Pakhtunkhwa.
3. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.

\*

4. The Secretary FATA, Governor's Secretariat Peshawar.
5. All Administrative Secretaries to Govt of Khyber Pakhtunkhwa.
6. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
7. The Director General, Health Services, Khyber Pakhtunkhwa.
8. The Inspector General of Prisons, Khyber Pakhtunkhwa.
9. The Director General, Social Security, Khyber Pakhtunkhwa.
10. The Director, PHSA, Khyber Pakhtunkhwa.
11. The Chief HSRRU.
12. The Chief Planning Officer Health Department.
13. Director Health Services FATA, Peshawar.
14. All Chief Executives of Teaching Hospitals in Khyber Pakhtunkhwa.
15. All Medical Superintendents of DHQ Hospitals in Khyber Pakhtunkhwa.
16. All Executive District Officers (Health) of Khyber Pakhtunkhwa.
17. The Director of Information, Khyber Pakhtunkhwa.
18. All Agency Surgeons/MS of FATA.
19. All Principals of Medical Colleges in Khyber Pakhtunkhwa.
20. The Dean, P.G.M.I, Peshawar.
21. All District Accounts Officers in Khyber Pakhtunkhwa.
22. All Agency Accounts Officers in Khyber Pakhtunkhwa.
23. The Section Officer (Budget) Health Department.
24. PS to Chief Secretary Khyber Pakhtunkhwa.
25. PS to Minister for Health, Khyber Pakhtunkhwa.
26. President, Provincial Paramedical Association, Khyber Pakhtunkhwa, Peshawar.
27. The Manager Govt. Printing Press, Khyber Pakhtunkhwa.

  
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**DIRECTORATE GENERAL HEALTH SERVICES  
KHYBER PAKHTUN KHWA PESHAWAR.**

Web Address: <http://dghs.gov.pk> Office Ph# 091-9210269 Exchange# 091-9210187, 5210196 Fax# 091 9210236

NO. 6667 /AE-VI,

Dated. 14/03 /2013

IMMEDIATE.

To

The Principal,  
KMC, Peshawar.

Subject: - APPLICATION FOR CANCELLATION OF TRANSFER ORDER.

Dear Sir,

I am directed to refer to the subject noted above and to enclose an application in respect of Mr. Rahim Khan PIC Technician (MP) received through the Minister for Health Khyber Pakhtunkhwa which is self explanatory for furnishing your comments report regarding his promotion / upgradation in BP-12 without approval of this Directorate.

ASSISTANT DIRECTOR (P III)  
DGHS, KHYBER PAKHTUN KHWA  
PESHAWAR

13/3/2013

Enclosure

vacant post of BPS-12 over more...

4 BPS:12

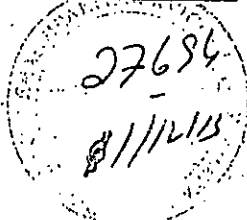
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OFFICE OF THE DISTRICT HEALTH OFFICER, KOHAT.

No 3014 /E.10  
Dated 5 /12/2013.

Phone # (0922) 9260364  
Fax # (0922) 9260364



To,

The Director General, Health Services,  
K.P, Peshawar.

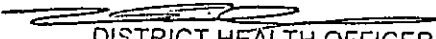
Subject: OFFICE ORDER/APPLICATION FOR CANCELLATION OF  
TRANSFER ORDER.

Dear Sir,

In continuation to this office letter No. 1670/E.10, dated 05/07/2013, on the subject noted above:

I have the honour to state that there is no vacant post of PHC Technician (MP) (BS.12) to adjust Mr. Rahim Khan, PHC Technician (MP) (BS.12).

In this connection also refer to this office letter No. 711/E.10, dated 13/02/2013.

  
DISTRICT HEALTH OFFICER  
KOHAT

No 3015-16 /E.10, Dated Kohat the 5 /12/2013.

Copy forwarded to:-

1. Principal, Khyber Medical College, Peshawar.
2. Mr. Rahim Khan, PHC Technician (MP).

Kifayat Ahmad  
[Signature]

with

PI p.v detail  
[Signature]

  
DISTRICT HEALTH OFFICER  
KOHAT

Put up the copy to  
Director  
[Signature]

9.12.13

[Signature]  
11/12

Before the provincial Service Tribunal Peshawar

Raheem Khan

vs

Allowed  
current  
Salary Govt. and  
DG Health etc.

Application for directing Respts to release of Salary

01.01.18

Respectfully sheweth;

1. That the titled appeal is scheduled for hearing today.
2. That appellat has been transferred from KMC to DHO Kohat and the on appeal, this honourable court pass status quo order.
3. That some transfer the salary of appellat has been withheld without any lawful justification.

It is, therefore, humbly prayed that Respts be directed to release Salaries of appellat.

Appellant

Through

Counsel

**BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

**Raheem Khan**

**versus**

**The Government of Khyber Pukhtunkhawa**

**IMPROVED COMMENTS ON BEHALF OF RESPONDENT No.3**

**Comments were duly filed in the instant case earlier, however, certain new facts have been revealed from examination of the record hence improved comments are being submitted**

**PRELIMINARY OBJECTIONS.**

1. That the appellant has no cause of action to file the instant appeal.
2. That the appellant has no locus standi to approach this honorable court.
3. That the appellant has not come to this honorable court with clean hands.
4. That the appellant has filed the instant appeal with ulterior motives to presurise the respondents.

**ON MERITS**

1. Para No.1 needs no comments.
2. Para No.2 is not related to answering respondent No.3.
3. Para No.3 is not related to answering respondent No.3. However, fixation of pay is the prerogative of the office of Account General Khyber Pakhtunkhawa Peshawar. The appellant was transferred to KMC vide dated 06.05.04 made by respondent No.2 / Director General Health. His arrival was accepted on 08.05.2004 by Principal KMC and was posted at pathology department.
4. In reply to para 4 , it is submitted that vide order dated 22.11.12, the petitioner was posted from the post at Kohat as Primary Health Care Technician ( PHC Tec) . Subsequently the appellant was relieved of his duties vide Office Order dated 07.04.13.

Pertinent to mention that there is no post of PHC Tech at KMC, however due to the interim relief granted by this Hon'ble Tribunal, the plaintiff is still working as Medical Technician at KMC.

5. Para No.5 is not related to answering respondent No.3 however the appellant is respondent No.1 and 2 vide order No.988-143/AE.VII

ON

is misconceived. The appellant has been treated in accordance with law and rules applicable to the matter.

B. In reply to Ground B it is stated that the appellant was never adjusted against the post of Medical Technician. The same was transferred from EDO (H) Mardan to KMC vide Director General Health No. 8323-26/E-III/MT dated 31-03-2004 as Medical Technician.

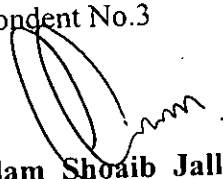
C. Ground C of the appeal is strongly objected. The transfer order is made in accordance with law and in the best public interest. The appellant is a Civil Servant and is under control of respondent No.1 and 2 and such like orders are usually issued by Director Health being competent authority.

D. Ground D and E of the appeal is incorrect. The word "District Cadres" and "District" has not been defined in the Service NWFP Civil Servant Act 1973 nor in NWFP Service Tribunal Act 1974 therefore the appellant cannot restrict himself to the home district.

In view of above mentioned submission the appeal may be dismissed

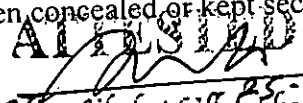
Respondent No.3

Through

  
**Ghulam Shoaib Jally**  
Advocate  
Supreme Court of Pakistan

**AFFIDAVIT**

It is hereby verified and affirmed that the contents of the above comments are true and correct to the best of my knowledge and belief. The same have been taken from the record. Nothing has been concealed or kept secret from this Hon'ble Tribunal.

  
**Mian Sibghat Ullah Shah**  
Advocate  
Notary Public/Oath Commissioner  
High Court Peshawar

**BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

**Raheem Khan**

**versus**

**The Government of Khyber Pukhtunkhawa**

**PARAWISE COMMENTS ON BEHALF OF RESPONDENT No.3**

**PRELIMINARY OBJECTIONS.**

1. That the appellant has no cause of action to file the instant appeal.
2. That the appellant has no locus standi to approach this honorable court.
3. That the appellant has not come to this honorable court with clean hands.
4. That the appellant has filed the instant appeal with ulterior motives to compel and the respondents.

**ON MERITS**

1. Para No.1 needs no comments.
2. Para No.2 is not related to answering respondent No.3.
3. Para No.3 is not related to answering respondent No.3. However, fixation of pay is the prerogative of the office of Account General Khyber Pakhtunkhawa Peshawar. The letter has also endorsed to Principal KMC Peshawar as per budget book 2012-13 there is no post of Medical Technician in the Khyber Medical College. The transfer order made by respondent No.2 / Director General Health; the establishment Section KMC may relieve the appellant and immediately the account section shall stop his pay and recover the over payment through challan and LPC may be issued to the appellant accordingly.
4. In reply to para No.4 it is submitted that as far as the contention of appellant to extend of transfer is concerned is correct. The appellant was transferred as Medical Technician from EDO (H) Mardan and Posted at KMC, Peshawar

*Fi Cul*

*1.1.014*

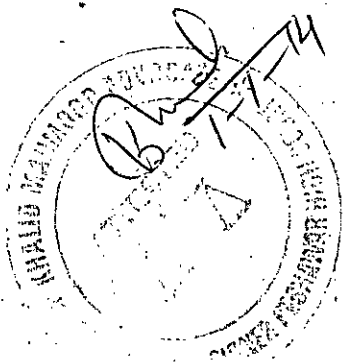
against the vacant post of Medical Technician in the interest of public service in Pathology Department through office order No.8323-26/E-III dated 31-03-2004.

5. Para No.5 is not related to answering respondent No.3 however the appellant was transferred by the respondent No.1 and 2 vide order No.988-143/AE.VII dated 07-01-2011.

**ON GROUNDS.**

- A. Ground A of the appeal is misconceived. The appellant has been treated in accordance with law and rules applicable to the matter.
- B. In reply to Ground B it is stated that the appellant was never adjusted against the post of Medical Technician. The same was transferred from EDO (H) Mardan to KMC vide Director General Health No. 8323-26/E-III/MT dated 31-03-2004 as Medical Technician. While as per budget allocation there is no post of Medical Technician seat is available in the KMC and due to non availability of said post there is no adjustment order issued for the said purpose.
- C. Ground C of the appeal is strongly objected. The transfer order is made in accordance with law and in the best public interest. The appellant is a Civil Servant and is under control of respondent No.1 and 2 and such like orders are usually issued by Director Health being competent authority.
- D. Ground D and E of the appeal is incorrect. The word "District Cadres" and "District" has not been defined in the Service NWFP Civil Servant Act 1973 nor in NWFP Service Tribunal Act 1974 therefore the appellant cannot restrict himself to the home district.

In view of above mentioned submission the appeal may be dismissed



Respondent No.3

Through

*[Signature]*  
Ghulam Shoaib Jally  
Advocate  
Supreme Court of Pakistan

**AFFIDAVIT**

It is hereby verified and affirmed that the contents of the above comments are true and correct to the best of my knowledge and belief. The same have been taken from the record. Nothing has been concealed or kept secret from this Hon'ble Tribunal.

*[Signature]*  
Principal KMC

1678  
3-4-2004  
DIRECTORATE GENERAL HEALTH  
SERVICES, NWFP, PESHAWAR.

OFFICE ORDER.

Mr. Ashia Khan Medical Technician is hereby transferred from EDC(H) Mardan and posted at KMC, Peshawar against the vacant post of Medical Technician in the interest of public service with immediate effect.

NB: - Arrival/Departure reports should be submitted to this Directorate for record.

SD/-  
~~XXXXXXXXXXXXXX~~  
D DIRECTOR GENERAL HEALTH  
SERVICES, NWFP, PESHAWAR.

NO. 8323-26 /E.H.H/MF DATED PESH: THE 31/3/2004.  
Copy to the:-

- 01: EDC(H) Mardan.
- 02: Principal KMC, Peshawar.
- 03: Computer Operator.
- 04: B. A. concerned.

For information and n/action.

  
DR. MUHAMMAD IQBAL AFRIDI  
FOR DIRECTOR GENERAL HEALTH  
SERVICES, NWFP, PESHAWAR.

ISHAQ KHAN.  
31.3.2004

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**KHYBER MEDICAL COLLEGE, PESHAWAR**

No. 4521 /Estt/KMC  
To

Dated 01 / 6 / 2013

The Director General Health Services,  
Khyber Pakhtunkhwa, Peshawar.

Subject: **APPLICATION FOR CANCELLATION OF TRANSFER ORDER**

Memo:

Please refer to your letter No. 12830/AE-VI dated 13-05-2013 on the subject noted above.

In this connection, it is to inform that necessary entry for allowing of BPS-12 to Mr. Rahim Khan, PHC Technician (MP) was carried out by Accounts officer of this institution and he was asked to furnish comments to this effect.


On the other hand the official concerned was relieved of his duties for report to his new assignment of his duties vide office order No. 3131-35/Estt/KMC dated 17-04-2013 (copy enclosed as Annex-A).

Accounts officer of KMC also furnish his comments which is enclosed as Annex-B.

Encl: (as above)

No. 4521-24 /Estt/KMC  
Copy to:

1. P.S to Secretary Health, Govt. of Khyber Pakhtunkhwa, Peshawar.
2. The Chief Executive KTH/KMC/KCD, Peshawar.
3. The Director Finance KTH/KMC/KCD, Peshawar.

  
PRINCIPAL  
KHYBER MEDICAL COLLEGE  
PESHAWAR  
*P<sub>2</sub>*

  
PRINCIPAL  
KHYBER MEDICAL COLLEGE  
PESHAWAR  
*P<sub>2</sub>*

**KHYBER MEDICAL COLLEGE, PESHAWAR****OFFICE ORDER**

In pursuance of Director General Health Services Khyber Pakhtunkhwa office order No. 988-1143/AE-VII dated: 07-01-2013, and subsequent letter No. 6667/AE-VI dated: 14-03-2013, Mr. Rahim Khan, PHC Technician (Multi purpose) KMC is hereby relieved of his duties with immediate effect for report at new assignments.



PRINCIPAL  
KHYBER MEDICAL COLLEGE,  
PESHAWAR



Dated: 17/4/2013

No. 3131-35 /Est/KMC

Copy to:

1. The Director General Health Services Khyber Pakhtunkhwa, Peshawar.
2. The Head Department of Pathology KMC, Peshawar.
3. The Executive District Officer Kohat.
4. The Accounts Officer, KMC, Peshawar for information and with the direction to stop his pay and recovered over payment through challan as per rules and necessary last pay certificate may be issued to the official concerned accordingly.
5. The official concerned.



PRINCIPAL  
KHYBER MEDICAL COLLEGE,  
PESHAWAR



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR****Service Appeal No. 710 /2013**

Rahim Khan.....Applicant

Versus

The Govt. and others.....Respondents

---

**REJOINDER ON BEHALF OF APPELLANT IN  
RESPONSE TO REPLY FILED BY RESPONDENT  
NO.3.**

---

Respectfully Sheweth,

**Preliminary Objections:**

Preliminary objections raised by answering respondent are erroneous and frivolous, the detailed replies thereof are as under:-

I&II. That valuable rights of the appellant have been infringed through the impugned order(s) which have been challenged through the instant appeal under the law, therefore, appellant has got a strong cause of action and for that matter locus standi to file the instant appeal.

I&V. That the appeal is competent and maintainable in its present form and shape.

III&IV. That appellant has approached the Hon'ble Tribunal with a bonafide claim inas much as he has been transferred in violation of the law.

**Facts:**

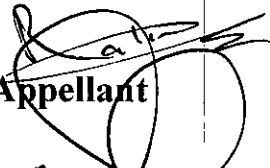

- 1&2. Being not replied hence admitted.
3. Misconceived hence denied. As a matter of fact as per the Notification dated 25.08.2006 (annexure-C page 9 of the appeal) posts in BPS 5 to 9 in all specialties were re-designated and placed in BPS-9 while posts in BPS 9 to 12 were re-designated and placed in BPS-12. Similarly posts in BPS 13 to 14 were re-designated and placed in BPS-14. Since at the relevant time, appellant was in BPS-13, therefore, on the restoration of the Notification dated 10.05.2006, appellant was required to be placed in BPS-14 but instead appellant was again notified/reverted to BPS-12 vide impugned Notification dated 22.11.2012 (annexure-E page 11 of the appeal) and consequently transferred.
4. Misconceived. Moreover, the availability of the post of Medical Technician has been admitted by the answering Respondent.
5. Being not replied hence admitted.

**Grounds:**

- A. Incorrect. Appellant has been treated in violation of the law.
- B. Incorrect. The reply has already been offered in the paras referred to hereinabove.
- C-D. Incorrect hence denied.

It is, therefore, humbly prayed that the reply of answering Respondent No.3 may graciously be rejected and the appeal as prayed for may graciously be accepted with costs.

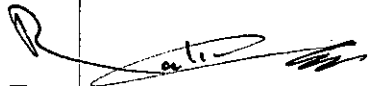
Through

  
Appellant  
  
Khaled Rahman  
Advocate, Peshawar

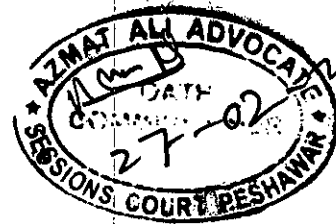
Dated: \_\_\_\_\_ / 02/ 2014

Affidavit

I, Rahim Khan, Medical Technician, Khyber Medical College, Peshawar, do hereby affirm and declare on oath that the contents of this rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

  
Deponent

**ATTESTED**



Service Appeal No. 710 /2013

Rahim Khan.....Applicant

Versus

The Govt. and others.....Respondents

---

REJOINDER ON BEHALF OF APPELLANT IN  
RESPONSE TO REPLY FILED BY RESPONDENT  
NO.3.

---

Respectfully Sheweth,

**Preliminary Objections:**

Preliminary objections raised by answering respondent are erroneous and frivolous, the detailed replies thereof are as under:-

I&II. That valuable rights of the appellant have been infringed through the impugned order(s) which have been challenged through the instant appeal under the law, therefore, appellant has got a strong cause of action and for that matter locus standi to file the instant appeal.

I&V. That the appeal is competent and maintainable in its present form and shape.

III&IV. That appellant has approached the Hon'ble Tribunal with a bonafide claim inas much as he has been transferred in violation of the law.

**Facts:**

- 1&2. Being not replied hence admitted.
3. Misconceived hence denied. As a matter of fact as per the Notification dated 25.08.2006 (annexure-C page 9 of the appeal) posts in BPS 5 to 9 in all specialties were re-designated and placed in BPS-9 while posts in BPS 9 to 12 were re-designated and placed in BPS-12. Similarly posts in BPS 13 to 14 were re-designated and placed in BPS-14. Since at the relevant time, appellant was in BPS-13, therefore, on the restoration of the Notification dated 10.05.2006, appellant was required to be placed in BPS-14 but instead appellant was again notified/reverted to BPS-12 vide impugned Notification dated 22.11.2012 (annexure-E page 11 of the appeal) and consequently transferred.
4. Misconceived. Moreover, the availability of the post of Medical Technician has been admitted by the answering Respondent.
5. Being not replied hence admitted.

**Grounds:**

- A. Incorrect. Appellant has been treated in violation of the law.
- B. Incorrect. The reply has already been offered in the paras referred to hereinabove.
- C-D. Incorrect hence denied.

It is, therefore, humbly prayed that the reply of answering Respondent No.3 may graciously be rejected and the appeal as prayed for may graciously be accepted with costs.

Through

*[Signature]*  
Appellant  
Khalid Rahman  
Advocate, Peshawar

Dated: \_\_\_\_\_ / 02/ 2014

Affidavit

I, Rahim Khan, Medical Technician, Khyber Medical College, Peshawar, do hereby affirm and declare on oath that the contents of this rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

*[Signature]*  
Deponent

**ATTESTED**





BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 710 /2013

Rahim Khan.....Applicant

Versus

The Govt. and others.....Respondents

---

**REJOINDER ON BEHALF OF APPELLANT IN  
RESPONSE TO REPLY FILED BY RESPONDENT  
NO.3.**

---

Respectfully Sheweth,

**Preliminary Objections:**

Preliminary objections raised by answering respondent are erroneous and frivolous, the detailed replies thereof are as under:-

I&II. That valuable rights of the appellant have been infringed through the impugned order(s) which have been challenged through the instant appeal under the law, therefore, appellant has got a strong cause of action and for that matter locus standi to file the instant appeal.

I&V. That the appeal is competent and maintainable in its present form and shape.

III&IV. That appellant has approached the Hon'ble Tribunal with a bonafide claim inas much as he has been transferred in violation of the law.

**Facts:**

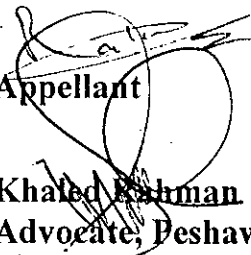
- 1&2. Being not replied hence admitted.
3. Misconceived hence denied. As a matter of fact as per the Notification dated 25.08.2006 (annexure-C page 9 of the appeal) posts in BPS 5 to 9 in all specialties were re-designated and placed in BPS-9 while posts in BPS 9 to 12 were re-designated and placed in BPS-12. Similarly posts in BPS 13 to 14 were re-designated and placed in BPS-14. Since at the relevant time, appellant was in BPS-13, therefore, on the restoration of the Notification dated 10.05.2006, appellant was required to be placed in BPS-14 but instead appellant was again notified/reverted to BPS-12 vide impugned Notification dated 22.11.2012 (annexure-E page 11 of the appeal) and consequently transferred.
4. Misconceived. Moreover, the availability of the post of Medical Technician has been admitted by the answering Respondent.
5. Being not replied hence admitted.

**Grounds:**

- A. Incorrect. Appellant has been treated in violation of the law.
- B. Incorrect. The reply has already been offered in the paras referred to hereinabove.
- C-D. Incorrect hence denied.

It is, therefore, humbly prayed that the reply of answering Respondent No.3 may graciously be rejected and the appeal as prayed for may graciously be accepted with costs.

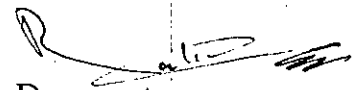
Through

  
Appellant  
Khaled Rahman  
Advocate, Peshawar

Dated: \_\_\_\_\_ / 02/2014

Affidavit

I, Rahim Khan, Medical Technician, Khyber Medical College, Peshawar, do hereby affirm and declare on oath that the contents of this rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

  
Deponent

**ATTESTED**

  
AZMAT ALI ADVOCATE  
SESSIONS COURT PESHAWAR  
27-02-14

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR****Service Appeal No. 710 /2013**

Rahim Khan.....Applicant

Versus

The Govt. and others.....Respondents

---

**REJOINDER ON BEHALF OF APPELLANT IN  
RESPONSE TO REPLY FILED BY  
RESPONDENTS NO.1&2.**

---

Respectfully Sheweth,

**Preliminary Objections:**

Preliminary objections raised by answering respondents are erroneous and frivolous, the detailed replies thereof are as under:-

- I&V. That the appeal is competent and maintainable in its present form and shape.
- II. That valuable rights of the appellant have been infringed through the impugned order(s) which have been challenged through the instant appeal under the law, therefore, appellant has got a strong cause of action and for that matter locus standi to file the instant appeal.
- III & VII. That the appeal is within time.
- IV. That all necessary and proper parties have been arrayed as Respondents in the instant appeal, hence

the question of mis-joinder and non-joinder is misconceived.

- VI. That appellant has approached the Hon'ble Tribunal with a bonafide claim inas much as he has been transferred in violation of the law.

**Facts:**

- 1&2. Being admitted as correct needs no further clarification.
3. Misconceived hence denied. As a matter of fact as per the Notification dated 25.08.2006 (annexure-C page 9 of the appeal) posts in BPS 5 to 9 in all specialties were re-designated and placed in BPS-9 while posts in BPS 9 to 12 were re-designated and placed in BPS-12. Similarly posts in BPS 13 to 14 were re-designated and placed in BPS-14. Since at the relevant time, appellant was in BPS-13, therefore, on the restoration of the Notification dated 10.05.2006, appellant was required to be placed in BPS-14 but instead appellant was again notified/reverted to BPS-12 vide impugned Notification dated 22.11.2012 (annexure-E page 11 of the appeal) and consequently transferred.
4. Misconceived. Explanation has already been offered in para No.3 *ibid*. However, the transfer of the appellant to District Kohat was illegal. Moreover, the post at KMC from which appellant was transferred is still lying vacant whereas there is there is no vacant post at District Kohat as is event from letter (*Annex:-Rj/1*).
5. Being not replied hence admitted.

**Grounds:**

- A. Being not replied hence admitted.
- B. Incorrect. Appellant was working in BPS-12 at KMC, Peshawar.
- C. Misconceived hence denied.
- D. Incorrect. As per the Govt. Policy (*Annex:-Rj/2*) posts in BPS 1 to 15 are District Cadre.
- E. Incorrect hence denied. The appellant is B.Sc (Hons) in Pathology which is equivalent to M.Sc. and besides is the senior-most employee of the Department.

It is, therefore, humbly prayed that the reply of answering Respondents No.1&2 may graciously be rejected and the appeal as prayed for may graciously be accepted with costs.

Through

Appellant

Khaled Rahman  
Advocate, Peshawar

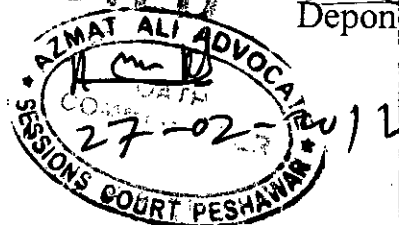
Dated: \_\_\_\_\_ / 02/ 2014

**Affidavit**

I, Rahim Khan, Medical Technician, Khyber Medical College, Peshawar, do hereby affirm and declare on oath that the contents of this rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

ATTESTED

Deponent

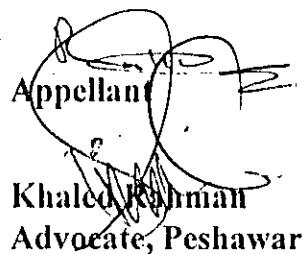


Grounds:

- A. Being not replied hence admitted.
- B. Incorrect. Appellant was working in BPS-12 at KMC, Peshawar.
- C. Misconceived hence denied.
- D. Incorrect. As per the Goyt. Policy (*Annex:-Rj/2*) posts in BPS 1 to 15 are District Cadre.
- E. Incorrect hence denied. The appellant is B.Sc (Hons) in Pathology which is equivalent to M.Sc. and besides is the senior-most employee of the Department.

It is, therefore, humbly prayed that the reply of answering Respondents No.1&2 may graciously be rejected and the appeal as prayed for may graciously be accepted with costs.

Through

Appellant  
  
 Khaled Rahman  
 Advocate, Peshawar

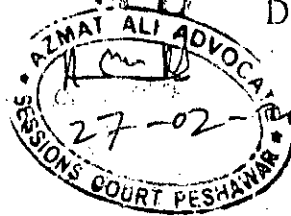
Dated: \_\_\_\_\_ / 02/ 2014

Affidavit

I, Rahim Khan, Medical Technician, Khyber Medical College, Peshawar, do hereby affirm and declare on oath that the contents of this rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

ATTESTED

Deponent



the question of mis-joinder and non-joinder is misconceived.

- VI. That appellant has approached the Hon'ble Tribunal with a bonafide claim inas much as he has been transferred in violation of the law.

Facts:

- 1&2. Being admitted as correct needs no further clarification.
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5. Being not replied hence admitted.



Service Appeal No. 710/2013

Rahim Khan.....Applicant

Versus

The Govt. and others.....Respondents

---

REJOINDER ON BEHALF OF APPELLANT IN  
RESPONSE TO REPLY FILED BY  
RESPONDENTS NO.1&2.

---

Respectfully Sheweth,

**Preliminary Objections:**

Preliminary objections raised by answering respondents are erroneous and frivolous, the detailed replies thereof are as under:-

I&V. That the appeal is competent and maintainable in its present form and shape.

II. That valuable rights of the appellant have been infringed through the impugned order(s) which have been challenged through the instant appeal under the law, therefore, appellant has got a strong cause of action and for that matter locus standi to file the instant appeal.

III & VII. That the appeal is within time.

IV. That all necessary and proper parties have been arrayed as Respondents in the instant appeal, hence

4 RO/1

OFFICE OF THE DISTRICT HEALTH OFFICER, KOHAT.

No 3014 /E.10  
Dated 5 /12/2013.

Phone # (0922) 9260364  
Fax # (0922) 9260364

To,

The Director General, Health Services,  
K.P, Peshawar.

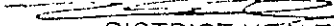
Subject: OFFICE ORDER/APPLICATION FOR CANCELLATION OF  
TRANSFER ORDER.

Dear Sir,

In continuation to this office letter No. 1670/E.10, dated 05/07/2013, on  
the subject noted above.

I have the honour to state that there is no vacant post of PHC  
Technician (MP) (BS.12) to adjust Mr. Rahim Khan, PHC Technician (MP) (BS.12).

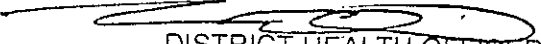
In this connection also refer to this office letter No. 711/E.10, dated  
13/02/2013.

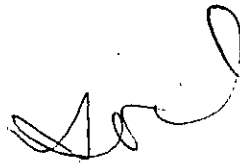
  
DISTRICT HEALTH OFFICER  
KOHAT

No 3015-16 /E.10, Dated Kohat the 5 /12/2013.

Copy forwarded to:-

1. Principal, Khyber Medical College, Peshawar.
2. Mr. Rahim Khan, PHC Technician (MP).

  
DISTRICT HEALTH OFFICER  
KOHAT





6

Annex B

R/2

5

GOVERNMENT OF NWFP,  
ESTABLISHMENT & ADMIN. DEPARTMENT  
(REGULATION WING)

Dated Peshawar, the 15<sup>th</sup> January, 2002.

**NOTIFICATION.**

No.SOR.II(E&AD)I(20)/98.V.III. The Governor, NWFP is pleased to convert Provincial Cadre Posts in BS-15 and below of the Provincial Health Department into the District Cadres with immediate effect on the following terms and conditions:-

- a) Permanent transfer to the Districts will be made on domicile and seniority basis.
- b) In case of the personnel of that particular district being more than the sanctioned strength, the deployment will be on the basis of seniority and the junior most over-flow will be posted temporarily to the adjacent districts till such time vacancy occurs in the District of their domicile.
- c) All such employees of the above status working in FATA but belonging to settled districts will be adjusted as per their seniority in the cadre and the over-flow will continue working in FATA till such time a vacancy occurs in their districts of domicile.
- d) The domicile of the female officials will be counted under the wedlock policy and such employees will be given one time, irreversible choice to opt for the districts of their spouse or their own. In case of spouse being a Government Employee and his transfer to another district, inter-district transfers of the female officials will be allowed subject to availability of vacancy in the desired district.
- e) The tertiary hospitals will be allowed to opt once for retention of staff of their choice which, in light of the autonomy rules, would be absorbed in their service. It will be incumbent upon the tertiary hospitals and Provincial Institutions who return such employees to carry out all subsequent recruitment at the Provincial level in line with the zonal allocation policy of the Provincial Government.
- f) Subsequent to the permanent transfer of all BS-15 and below staff to the districts, further inter-district transfers and service matters, including appointments, shall be made by the District Government in light of the "District Government Rules of Business, 2001".
- g) All cases of transfer from one district to another will be decided and ordered upon by the Director-General Health Services, albeit with the prior consultation of the Districts concerned.

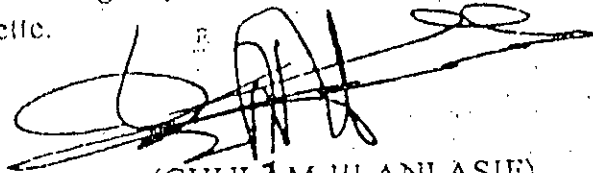
Secretary

SECRETARY TO GOVT. OF NWFP  
ESTABLISHMENT DEPARTMENT

ENDST; NO.SOR.II(E&AD)1(20)/93/VOL.III, Dated Peshawar, the 15<sup>th</sup> January, 200...

Copy forwarded for information to:

1. All Administrative Secretaries to Govt. of NWFP.
2. The Secretary to Governor, NWFP.
3. The Director-General, Health Services, NWFP, Peshawar.
4. The Director, Health, FATA, NWFP, Peshawar.
5. All District Coordination Officers/Political Agents in NWFP.
6. All Executive District Officers (Health) in NWFP.
7. The Registrar, Peshawar High Court, Peshawar.
8. The Secretary, NWFP Public Service Commission, Peshawar.
9. The Director, Anti-Corruption Establishment, NWFP, Peshawar.
10. The Registrar, NWFP Service Tribunal, Peshawar.
11. All Chief Executives of Autonomous Medical Institutions in NWFP (Lady Reading Hospital, Khyber Teaching Hospital, Hayatabad Medical Complex Peshawar and Ayub Hospital Complex Abbottabad).
12. Headquarters 11 Corps, Peshawar Cantt.
13. The Manger, Govt. Stationary and Printing Department, Peshawar for publication in the next official gazette.

  
(GHULAM JILANI ASIF)  
DEPUTY SECRETARY (REG.I)

Grounds:

- A. Being not replied hence admitted.
- B. Incorrect. Appellant was working in BPS-12 at KMC, Peshawar.
- C. Misconceived hence denied.
- D. Incorrect. As per the Govt. Policy (*Annex:-Rj/2*) posts in BPS 1 to 15 are District Cadre.
- E. Incorrect hence denied. The appellant is B.Sc (Hons) in Pathology which is equivalent to M.Sc. and besides is the senior-most employee of the Department.

It is, therefore, humbly prayed that the reply of answering Respondents No.1&2 may graciously be rejected and the appeal as prayed for may graciously be accepted with costs.

Through

Appellant

Khaleel Rahman  
Advocate, Peshawar

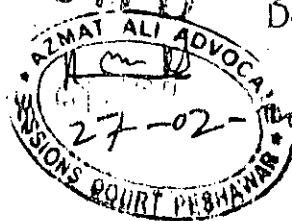
Dated: \_\_\_\_\_ / 02/ 2014

Affidavit

I, Rahim Khan, Medical Technician, Khyber Medical College, Peshawar, do hereby affirm and declare on oath that the contents of this rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

ATTESTED

Deponent



the question of mis-joinder and non-joinder is misconceived.

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**Facts:**

- 1&2. Being admitted as correct needs no further clarification.
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 710/2013

Rahim Khan.....Applicant

Versus

The Govt. and others.....Respondents

---

**REJOINDER ON BEHALF OF APPELLANT IN  
RESPONSE TO REPLY FILED BY  
RESPONDENTS NO.1&2.**

---

Respectfully Sheweth,

**Preliminary Objections:**

Preliminary objections raised by answering respondents are erroneous and frivolous, the detailed replies thereof are as under:-

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- II. That valuable rights of the appellant have been infringed through the impugned order(s) which have been challenged through the instant appeal under the law, therefore, appellant has got a strong cause of action and for that matter locus standi to file the instant appeal.
- III & VII. That the appeal is within time.
- IV. That all necessary and proper parties have been arrayed as Respondents in the instant appeal, hence

4 R/S/1

OFFICE OF THE DISTRICT HEALTH OFFICER, KOHAT.

No 3014 /E.10  
Dated 5 /12/2013.

Phone # (0922) 9260364  
Fax # (0922) 9260364

To,

The Director General, Health Services,  
K.P, Peshawar.

Subject: OFFICE ORDER/APPLICATION FOR CANCELLATION OF  
TRANSFER ORDER.

Dear Sir,

In continuation to this office letter No. 1670/E.10, dated 05/07/2013, on the subject noted above.

I have the honour to state that there is no vacant post of PHC Technician (MP) (BS.12) to adjust Mr. Rahim Khan, PHC Technician (MP) (BS.12).

In this connection also refer to this office letter No. 711/E.10, dated 13/02/2013.

  
DISTRICT HEALTH OFFICER

M KOHAT

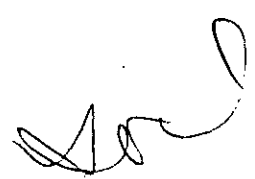
No 3015-16 /E.10, Dated Kohat the 5 /12/2013.

Copy forwarded to:-

1. Principal, Khyber Medical College, Peshawar.
2. Mr. Rahim Khan, PHC Technician (MP).

  
DISTRICT HEALTH OFFICER

M KOHAT







6  
 Annex B  
 GOVERNMENT OF NWFP,  
 ESTABLISHMENT & ADMIN. DEPARTMENT  
 (REGULATION WING)

Dated Peshawar, the 15<sup>th</sup> January, 2002. R/2

5  
**NOTIFICATION.**

No.SOR.II(E&AD)I(20)/98.V.III. The Governor, NWFP, is pleased to convert Provincial Cadre Posts in BS-15 and below of the Provincial Health Department into the District Cadres with immediate effect on the following terms and conditions:-

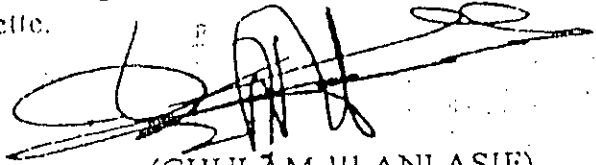
- a) Permanent transfer to the Districts will be made on domicile and seniority basis.
- b) In case of the personnel of that particular district being more than the sanctioned strength, the deployment will be on the basis of seniority and the junior most over-flow will be posted temporarily to the adjacent districts till such time vacancy occurs in the District of their domicile.
- c) All such employees of the above status working in FATA but belonging to settled districts will be adjusted as per their seniority in the cadre and the over-flow will continue working in FATA till such time a vacancy occurs in their districts of domicile.
- d) The domicile of the female officials will be counted under the wedlock policy and such employees will be given one time, irreversible choice to opt for the districts of their spouse or their own. In case of spouse being a Government Employee and his transfer to another district, inter-district transfers of the female officials will be allowed subject to availability of vacancy in the desired district.
- e) The tertiary hospitals will be allowed to opt once for retention of staff of their choice which, in light of the autonomy rules, would be absorbed in their service. It will be incumbent upon the tertiary hospitals and Provincial Institutions who return such employees to carry out all subsequent recruitment at the Provincial level in line with the zonal allocation policy of the Provincial Government.
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- g) All cases of transfer from one district to another will be decided and ordered upon by the Director-General Health Services, albeit with the prior consultation of the Districts concerned.

AK  
 SECRETARY TO GOVT. OF NWFP  
 ESTABLISHMENT DEPARTMENT

ENDST; NO.SOR.II(E&AD)I(20)/98/VOL.III, Dated Peshawar, the 15<sup>th</sup> January, 200.

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2. The Secretary to Governor, NWFP.
3. The Director-General, Health Services, NWFP, Peshawar.
4. The Director, Health, FATA, NWFP, Peshawar.
5. All District Coordination Officers/Political Agents in NWFP.
6. All Executive District Officers (Health) in NWFP.
7. The Registrar, Peshawar High Court, Peshawar.
8. The Secretary, NWFP Public Service Commission, Peshawar.
9. The Director, Anti-Corruption Establishment, NWFP, Peshawar.
10. The Registrar, NWFP Service Tribunal, Peshawar.
11. All Chief Executives of Autonomous Medical Institutions in NWFP (Lady Reading Hospital, Khyber Teaching Hospital, Hayatabad Medical Complex Peshawar and Ayub Hospital Complex Abbottabad).
12. Headquarters 11 Corps, Peshawar Cantt.
13. The Manger, Govt. Stationary and Printing Department, Peshawar for publication in the next official gazette.



(GHULAM JILANI ASIF)  
DEPUTY SECRETARY (REG.I)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 710 /2013

375  
13/5/14

Rahim Khan.....Applicant/Appellant.

Versus

The Govt. and others.....Respondents

Application for suspending the operation of the office order dated 21.03.2014 whereby inspite of the pendency of the titled appeal the appellant was transferred to District Nowshehra.

Put up to the Court with relevant appeal

Respectfully Sheweth,

Reader concerned, 13/5/14

1. That the above titled service appeal is pending before the Hon'ble Tribunal fixed for 23.06.2014.

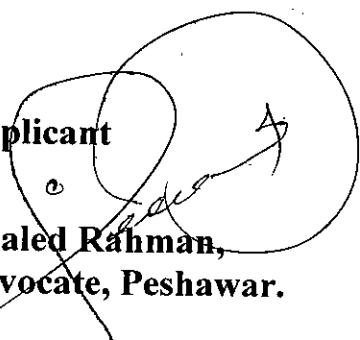
Notice be issued for 13.05.14

2. That the instant appeal is against the transfer order which is now fixed for final arguments. Inspite of the pendency of appeal, vide order dated 21.03.2014 (Annex:-A) appellant has been transferred to District Nowshehra while surprisingly the copy of the order has been forwarded to the Registrar of the Hon'ble Tribunal.

3. That the vacancy of the appellant at KMC Peshawar is still lying vacant while another vacancy at Peshawar at District Peshawar is also vacant to which Mst. Khurshid Bano PHC has been transferred.

- 4. That the salary of applicant has been withheld ever since the impugned transfer order dated 11.01.2013 for the release of which this Hon'ble Tribunal passed appropriate orders twice but invain.
- 5. That the facts alleged and grounds taken in the body of main appeal may kindly be as an integral part of this application, which make out an excellent prima facie case in favour of the appellant.
- 6. That the balance of convenience also lies in favour of appellant and in case the order dated 21.03.2014 is not suspended the appellant will suffer irreparable loss.

It is, therefore, humbly prayed that on acceptance of this application, the operation of the order dated 21.03.2014 may graciously be suspended till the final disposal of the appeal.

**Applicant**  
 Through  
  
**Khaled Rahman,**  
**Advocate, Peshawar.**

**Dated:** 13 / 05 / 2014

**Affidavit**

I, Rahim Khan, Metical Technician KMC, Peshawar, do hereby affirm and declare on oath that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

Deponent



  
**RAHIM KHAN**

**KHYBER MEDICAL COLLEGE, PESHAWAR**

No. 1689 /Estt/KMC  
To

Dated: 24/2 2015

The Director General Health Services,  
Khyber Pakhtunkhwa,  
Peshawar.

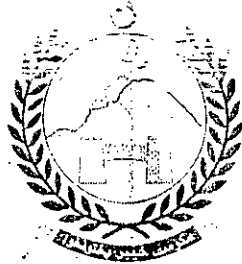
Subject: - **VACANT POST OF BS-12**

Memo:

Reference your letter No. 881-89/E-V dated 11-02-2015 on the subject noted above.

In this regard it is stated that a vacant post of BPS:12 was available during the period from 01-04-2013 to 06-04-2014 for the purpose of withdrawal of pay.

*gassab*  
PRINCIPAL  
KHYBER MEDICAL COLLEGE  
PESHAWAR



277

**DIRECTORATE GENERAL HEALTH SERVICES  
KHYBER PAKHTUN KHWA PESHAWAR.**

Email Address: [rwmdghs@yahoo.com](mailto:rwmdghs@yahoo.com) Office Ph# 091-9210269 Exchange# 091-9210187, 9210196 Fax # 091-9210230

**OFFICE ORDER**

In partial modification of this Directorate office order bearing endst. No. 988-11-13/AF-VII dated 07.-1.2013 Mr. Rahim Khan PHC Technician (MP) BS-12 under transfer from KMC Peshawar to District Kohat is hereby adjusted under control of DHO Nowshera against the vacant post of PHC Technician (MP) BS-12 (caused vacant due to transfer of Mst. Khurshid Banu PHC Technician (MP) BS-12 to District Peshawar) in the interest of public service.

NB: -Arrival / Departure reports should be submitted to this Directorate for record.

Sd/xxxxxx  
DIRECTOR GENERAL HEALTH  
SERVICES KHYBER PAKHTUN KHWA  
PESHAWAR

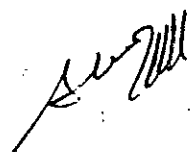
No. 2559-67 /E-V

Dated. 21 / 3 /2014

Copy forwarded to the:-

01. Principal KMC Peshawar.
02. Registrar KPK Service Tribunal Peshawar.
03. DHO, Kohat.
04. DHO Nowshera.
05. SD (Lit.) DGHS KPK, Peshawar w/ to his letter No. 521/AD(Lit.) dt:28/6/2014.
06. DHO, Kohat.
07. DAO, Nowshera.
08. Official concerned.
09. DA Concerned.

For information and necessary action.

  
ASSISTANT DIRECTOR (P-III)  
DGHS, KHYBER PAKHTUNKHWA  
PESHAWAR





**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Service Appeal No. 710 /2013**

374  
13/5/14

Rahim Khan.....Applicant/Appellant.

Versus

The Govt. and others.....Respondents

**APPLICATION FOR EARLY HEARING OF THE TITLED APPEAL.**

*Put up to the Court with relevant appeal.  
Reader concerned, 13/5/14*

Respectfully Sheweth,

1. That the above titled service appeal is pending before the Hon'ble Tribunal fixed for 23.06.2014.

2. That the salary of the appellant has been withheld ever since the filing of the instant appeal for the release of which this Hon'ble Tribunal vide order dated 17.04.2014 passed appropriate order but till date the same has not been released.

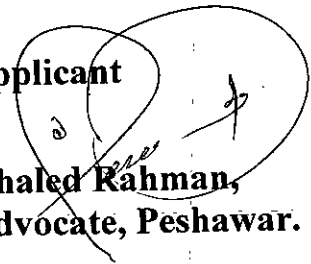
*Notice be issued for date fixed for date of hearing in Rept. No 23. 13/05/14*

3. That the date fixed is too far whereas the acceleration of the date is necessary for the purpose of the directing the respondents to release the salary.

That due to the reasons mentioned above, it is in the interest of justice that the titled appeal be accelerated for an earlier date.

It is, therefore, humbly prayed that on acceptance of this application, the date in the instant appeal may kindly be accelerated.

Through

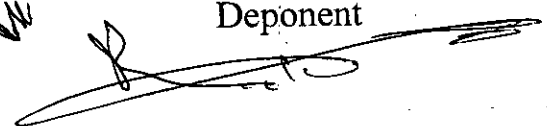
Applicant  
  
Khaled Rahman,  
Advocate, Peshawar.


Dated: 13/05/2014

Affidavit

I, Rahim Khan, Metical Technician KMC, Peshawar, do hereby affirm and declare on oath that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

Deponent



ATTESTED  
  
SHAMSHEER ADVOCATE  
Notary Public  
Date: 5/5/14  
District Court Peshawar



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

No. 1526 /ST,

Dated 24-10/2014

To:

The Director General,  
Health Services Khyber Pakhtunkhwa,  
Peshawar.


Subject:- APPEAL NO. 710/2013, RAHEEM KHAN VERSUS SECRETARY  
HEALTH DEPARTMENT, KPK PESHAWAR ETC.

I am directed to say that the above mentioned service appeal was fixed before the Final Bench-II on 21.10.2014. On the same date, the learned Member has passed the following order, which is sent for further necessary action:-

"Appellant in person and Mr. Muhammad Adeel Butt, AAG with Yar Gul, Assistant and Sheryar, Assistant for the respondents present. Appellant submitted before the court that his salary has not been released till date despite clear directions of this Tribunal. The respondents are once again directed to resolve the issue of monthly salary of the appellant. Respondent No. 1 (Director General, Health Services) may also be summoned to attend the Tribunal personally. To come up for further proceedings/arguments on 18.12.2014."

Sd/- Member.

o/c

  
REGISTRAR,  
KPK SERVICE TRIBUNAL,  
PESHAWAR.



(PART-III)  
**(PATHOLOGY)**

17	1.	Junior Clinical Technician (Pathology) BPS-9	SSC with Science from recognized board and certificate from NWFP Medical Faculty / recognized institution in relevant field	_____	18-35 years	By initial recruitment
18	2.	Clinical Technician (Pathology) BPS-12	50% by initial recruitment with Diploma in relevant field from Medical Faculty OR Recognize Institution	50% by promotion from amongst Junior Clinical Technicians relevant field on basis of seniority cum fitness with 5 years service as such	18-38 years	50% by initial recruitment 50% by promotion
19	3.	Senior Clinical Technician (Pathology) BPS-14	_____	100% by promotion from amongst clinical technician BPS-12 in relevant field on seniority cum fitness with 4 years service as such	_____	By promotion
20	4.	Chief Clinical Technician (Pathology) BPS-16	_____	100% by promotion from amongst clinical technician BPS-14 in relevant field on seniority cum fitness with 4 years service as such	_____	By promotion
21	5.	Clinical Technologist (Pathology) BPS-17	50% by initial recruitment with Bachelor Degree in relevant field from Medical Faculty OR Recognize Institution	50% by promotion from amongst Chief Clinical Technicians BPS-16 in relevant field on basis of seniority cum fitness with 5 years service as such	18-40 years	50% by initial recruitment 50% by promotion
22	6.	Senior Clinical Technologist (Pathology) BPS-18	50% by initial recruitment with Master Degree in relevant field from Recognize Institution / MPhil/ MSc	50% by promotion from amongst Clinical Technologist BPS-17 on basis of seniority cum fitness with 7 years service as such	18-45 years	50% by initial recruitment 50% by promotion
23	7.	Chief Clinical Technologist (Pathology) BPS-19	_____	100% by promotion from amongst Senior Clinical Technologist BPS-18 on basis of seniority cum fitness with 7 years service as such	_____	By promotion
24	8.	Principal Clinical Technologist (Pathology) BPS-20	_____	100% by promotion from amongst Chief Clinical Technologist BPS-19 on basis of seniority cum fitness with 7 years service as such	_____	By promotion

(PART-IV)  
**(OPHTHALMOLOGY/OTORHINOLOGY)**

S. No.	Nomenclature of the Post	Minimum qualification for appointment by initial recruitment or by transfer	Minimum qualification for appointment by promotion	Age limit	Method of recruitment
25	1. Junior Clinical Technician (Ophthalmology/OTR) BPS-9	SSC with Science from recognized board and certificate from NWFP Medical Faculty / recognized institution in relevant field	_____	18-25 years	By initial recruitment
26	2. Clinical Technician (Ophthalmology/OTR) BPS-12	50% by initial recruitment with Diploma in relevant field from Medical Faculty OR Recognize Institution	50% by promotion from amongst Junior Clinical Technicians relevant field on basis of seniority cum fitness with 5 years service as such	18-38 years	50% by initial recruitment 50% by promotion

34

**BEFORE THE PESHAWAR HIGH COURT PESHAWAR**

W.P. No. 1445



Rahim Khan S/o Wazir Gul, Medical Technician Khyber Medical College  
Peshawar.....Petitioner

**VERSUS**

1. Govt of N.W.F.P through Secretary Health N.W.F.P.
2. Director General Health Services N.W.F.P Peshawar.
3. Director Provincial Health Services Academy Budani Road Duran Pur  
Peshawar.
4. Principal Postgraduate Paramedical Institute, Lady Reading Hospital  
Peshawar.....Respondents

*Writ petition under Article 199 of the constitution of Pakistan, 1973 for declaration to the effect that the refusal of admission to petitioner in the Postgraduate Paramedical Institute Peshawar for degree-course in Health Laboratory Technology is without lawful authority and hence of no legal effect, the respondents be directed to admit the petitioner in the institute against degree-course for laboratory health technology.*

FILED TODAY

Asst: Registrar

15 AUG 2005

*[Handwritten signatures and dates]*  
22/08/05

ATTESTED

EXAMINER  
Peshawar High Court

1926

JUDGMENT SHEET  
IN THE PESHAWAR HIGH COURT, PESHAWAR.  
JUDICIAL DEPARTMENT

W.P. NO. 1445 OF 2005

JUDGMENT

Date of hearing 12/9/06

(2)

Applicant/Petitioner (Rahim Khan) by Mr. Khalid Rahman Adv.

Respondent (Govt. of N.W.F.P. etc), Mr. Mohammad Ayaz Khan,  
JAG for Respects. No. 1 to 3. Dy. Badim Javed Gandapur,  
R-No-3 also Present. Mr. Bakhsh Mehtab Adv. for R-No. 4.

RAJ MUHAMMADKHAN, J.- Rahim Khan, Medical Technician

Khyber Medical College, Peshawar has sought for declaration to the effect that the refusal of admission to him by the Principal of the Post Graduate Paramedical Institute, Lady Reading Hospital, Peshawar (Respondent No.4) is without lawful authority and so of no legal effect and thus has prayed for the required admission.

2- Explaining his case, it is stated that the petitioner was initially appointed as Dispenser with the respondents in 1978 and afterwards obtained certificate of Medical Technician due to which he was redesignated as Medical Technician with effect from 1.2.1987 and served as such for 28 years in various Basic Health Units and Rural Health Centers throughout the Province. Subsequently, in pursuance of an advertisement appeared on 15.9.2004 in Daily Mashriq inviting applications for admission in Government Paramedical Institutes, N.W.F.P. for diplomas and degrees in various technologies for the session 2005-2006 both from fresh candidates and from in-service staff, he also applied for the course in the said Institute for Health Laboratory Technology. However, to his bad-luck, he was not selected for the course albeit he was eligible for the course having had secured 70 points out of

ALTESTEL

EXAMINER  
Peshawar High Court

100. He alleged that some other candidates though did not merit and eligible, were selected for admission in the Institute. He further alleged that the respondents had admitted various candidates against various course and degrees on the recommendations/directions of the Chief Minister of NWFP and other Ministers although these candidates were either below merit or were not eligible at all as per formula laid down in the prospectus. When all his efforts to get admission failed, he was to knock the doors of this Court through the instant writ petition, as according to him, he was not treated by the respondents in accordance with the provisions of Article 4 of the Constitution of the Islamic Republic of Pakistan.

3- In the first instance, we obtained comments of the concerned Principal, Post Graduate Paramedical Institute, Lady Reading Hospital, Peshawar (Respondent No.4) wherein it was contended that the petitioner had no diploma in the concerned discipline which was the basic requirement for the course in question as provided in para-4 at page-4 of the prospectus for the in-service candidates and for this reason, he was not eligible for admission. That he had scored 51 points and not 70. The allegation of the petitioner that certain candidates were admitted on the recommendations/directions of the high-ups of the Government of NWFP despite their non-eligibility to admission, was conceded by the respondent No.4 with explanation that their selection for admission was made by competent authority as a special case but unlike them, the petitioner did not apply to the competent authority. It was added that two semesters out of four have been completed for the current session of the same course and one first semester examination had already been conducted and its result declared. Moreover, advertisement for the next session 2006-2007 was already notified through press media for degree and diploma level courses at the Institutes.

ARJESTEL  
EXAMINER  
Peshawar High Court

(4)

4- During hearing of the case on 12/9/2006, it transpired and conceded as well by the respondent No.4 who appeared in person that after the formal selection of eligible candidates for various courses, certain others though were not eligible, below merit and non-diploma holders were selected for admission among whom two happened having had also applied for the same course as the petitioner. This depicted not only a grave type of mal administration on the part of the concerned authorities but also meted out discrimination to the petitioner for his simple fault of his having not applied to the so called competent authority for his admission. It was yet to be known as to who was or could be a competent authority under the rules to allow such admission. We would have taken serious note of the phenomena but since having regard to the stranger candidates to save them from being adversely affected and to the voluntary commitment of the Principal (Respondent No.4) to accommodate the petitioner for admission as a special case in the coming session for the required course, we did not want to further dwell upon the matter except with the direction to the respondents to get the petitioner admitted in the required course as a special case in the coming session as committed at the bar. This petition stands disposed of accordingly.

*3d. Shah Jehan 10/5*  
*Mr. Raj Ahmad 10/5*

Announced  
 12/9/2006.

2733  
 25/8/06  
 Date of Presentation of Application  
 No of Pages  
 Copying Fee  
 Urgent Fee  
 Total  
 Date of Preparation Copy  
 Date of Delivery of Copy  
 Received by

OFFICE OF THE CHIEF CLERK  
 25/8/06

Service Structure

10/11/95  
SOR/11/1-1/2006-07/PHSA  
dt. 05/12/2012

Upgradation: (ref. 11/5/2012)

Posting: KMC Psk - EDU(H) Kolahala

Appl for cancellation of above posting

Fwd to Principal KMC Psk.

BY: ASST Director (PTD) DGHS Kp Bshawan  
vide NO 6567/KE-VI dt. 14/03/2013

✓ Appl for Promotion from Jwat to Principal  
(along with encls) KMC Psk BY Chief Executive  
dt. 5/4/12 KTH/KMC Bshawan

Vide NO. 18495/KTH/E-1 dt. 25/8/2011

↓ Principal KMC Psk Jwat Appl for Promotion  
to Ch Executive KTH/KMC Psk vide  
NO 2330/Estt/KMC dt. 10/4/2012

Comments endorsed there upon -

Svc Rules - 100% posts of Senior  
of Paramedics health technicians BPS-14 may  
be filled from the Clinical Techs  
BPS-12

1st (M/over) to BPS-12 (M/over) dt. 11/9/95

2nd (M/over) vide see health notification

3rd (M/over) SOR - 11/8-60/07 (Park Medicals) dt.

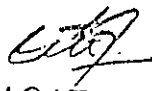
4th (M/over) vide Health Services Order NO  
998-1143/AF/107 dt. 07/1/2013



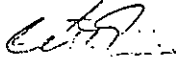
DEPARTMENT OF PATHOLOGY

OFFICE ORDER

Mr. Rahim Khan, PHC Technician (Multipurpose) KMC, is hereby relieved of his duties from Pathology Department with immediate effect by DG Health services, KPK vide letter No.988-1143/AE-V11 dated 7/1/2013 and letter No. 6667/AE-VII and subsequent order of Principal KMC vide letter No. 3331-35/Estt/KMC. He is no more at the strength of Pathology Department.

  
PROF.DR. LIAQAT ALI  
Head Department of Pathology  
Khyber Medical College,  
Peshawar.

Copy to:  
Principal Khyber Medical College Peshawar.  
Mr. Rahim Khan (PHC Technician)

  
PROF.DR. LIAQAT ALI  
Head Department of Pathology  
Khyber Medical College,  
Peshawar

Provisional Seniority List of Chief Clinical Technician (Pathology) BPS-16 in the Health Department, Khyber Pakhtunkhwa, as stood on 01.02.2011

S#	Name	Old Nomenclature with BPS	Date of Joining into Govt. Service	Place of Present Posting	Date of Birth/ Domicile	Date of Retirement
1	Sayyar Muhammad S/O Saifur Rehman	a. Lab Asstt: BS 05 b. Sr. Head L/Asst BS 06 c. Lab: Tech: BS 09 d. Chief Lab Tech BS 16	a. 01.01.1978 b. c. 20.10.1984 d. 25.11.1990	DHQB Mardan	15.07.1956 Charsadda	14.07.2016
2	Muhammad Mursalin S/O Muhammad Ibrahim	a. Lab Asstt: BS 05 b. Sr. Head L/Asst BS 06 c. Lab: Tech: BS 09 d. Chief Lab Tech BS 16	a. b. c. 14.10.1976 d. 12.01.1991	KTH Peshawar	02.03.1957 Peshawar	01.03.2017
3	Syed Fazal Shah	Ch: Clinical Tech: B 16	14.01.1996	DHQB Charsadda	15.05.1955 Peshawar	14.05.2015
4	Muhammad Zulfiqar	Ch: Clinical Tech: B 16	14.01.1996 ✓	HMC Peshawar	25.12.1963 Karak	24.12.2023
5	Ghulam Rabbani	Ch: Clinical Tech: B 16	09.01.1996	SGTH Swat	15.02.1954 Chitral	14.02.2014
6	Muhammad Tariq	Ch: Clinical Tech: B 16	17.09.1996	DHQB Mardan	17.04.1955 Mardan	16.04.2015
7	Amanul Haq	Ch: Clinical Tech: B 16	17.09.1996	KTH Peshawar	21.04.1956 Peshawar	20.04.2016
8	Riaz Khan	Ch: Clinical Tech: B 16	17.09.1996	LRH Peshawar	22.05.1956	21.05.2016
9	Gul Hakim	Ch: Clinical Tech: B 16	17.09.1996	AHQH Bajuar	15.03.1958 Bajuar Agy	14.03.2018
10	Abdul Latif	Ch: Clinical Tech: B 16	17.09.1996	KTH Peshawar	01.06.1959 Peshawar	31.05.2019
11	Raj Wali	Ch: Clinical Tech: B 16	17.09.1996	LRH Peshawar	01.01.1957 Charsadda	31.12.2016
12	<del>Mehboobur Rehman S/O Faizur Rehman</del>	a. Lab Asstt: BS 05 b. Sr. Head L/Asst BS 06 c. Lab: Tech: BS 09 d. Chief Lab Tech BS 16	a. 12.12.1978 b. c. 24.01.1984 d. 21.11.2003	KMC Peshawar	15.10.1955 Peshawar	14.10.2015

BPS II III  
→ 5-16-17



GOVERNMENT OF NWFP  
HEALTH DEPARTMENT

Dated Peshawar the 25<sup>th</sup> August, 2006

NOTIFICATION

NO SOH-III /8-60/05 (Paramedics). In supersession of this Department's Notification of even number dated 10<sup>th</sup> May 2006 and in pursuance of the decision taken by the Provincial Cabinet in its meeting held on 27<sup>th</sup> December 2005, the Competent Authority is pleased to approve eight stage Paramedics Services Structure of NWFP as follows:-

- (1) The existing 57 different categories of Paramedics at annex A are restructured into 14 cadres as annexure B.
- (2) In all the aforesaid cadres/specialties, the posts in various pay scales shall be integrated/categorized and re-designated as under:-

S.No	Existing Posts	Re-designation
i)	Posts in BPS-5 to BPS-9 in all specialties	Junior Technicians (BPS-9)
ii)	Posts in BPS-10 to BPS-12 in all specialties	Technicians (BPS-12)
iii)	Posts in BPS-13 to BPS-14 in all specialties	Senior Technicians (BPS-14)
iv)	Posts in BPS-15 to BPS-16 in all specialties	Chief Technicians (BPS-16)
v)	Posts in BPS-17 in all specialties	Technologist (BPS-17)
vi)	Posts in BPS-18 in all specialties	Senior Technologist (BPS-18)
vii)	Posts in BPS-19 in all specialties	Chief Technologist (BPS-19)
viii)	Posts in BPS-20 in all specialties	Principal Technologists (BPS-20)

The words "clinical" shall be mentioned with the categories of posts meant for Paramedics working in the hospitals and "Primary Health Care" with the paramedics working in the field along with mention of specific specialty (e.g. Junior Clinical Technician (Radiology) and Junior Primary Health Care Technician (Multi purpose)).

- (3) The number of Posts in BPS-9, BPS-12, BPS-14, BPS-16, BPS-17, BPS-18, BPS-19 and BPS-20, in the service shall be worked out according to the following proportionate ratio:-

S.No.	BPS	Percentage
a)	Post in BPS-9	80%
b)	Post in BPS-12	12%
c)	Post in BPS-14	3.5%
d)	Post in BPS-16	2.5%
e)	Post in BPS-17	1.86%
f)	Post in BPS-18	0.09%
g)	Post in BPS-19	0.04%
h)	Post in BPS-20	0.01%

- (4) Seniority of the incumbents of the posts in the 14 cadres so merged shall be caused on the basis of scale wise seniority as well as date of regular appointment in the pay scale. (e.g. in joint seniority list of BPS-12, the officials already in BPS-12 will be senior and the officials in the lower pay scales shall be accordingly placed step by step in the list, invariably keeping intact the inter-sc-seniority of the incumbents in the same pay scales).
- (5) Promotions to the posts in DPS-18, 19 and BPS 20 shall be made on the basis of joint seniority list. The joint seniority list of all the 14 cadres shall be caused at BPS-17 level, keeping in view, the principles laid down in section 8 of the NWFP Civil Servants Act, 1973 and Rule-17 of the NWFP Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.
- (6) This eight stage Paramedics Service Structure will replace all existing categories, cadres, structures and nomenclatures and will cancel all such cadres/categories rules and regulations etc, which are in contravention to the approved Paramedics Service Structure.
- (7) The following four Cadres declared as dying cadre by the Provincial Cabinet vide its decision dated 22.06.2000 will be replaced with the following new cadres:-

Existing Nomenclature	New Nomenclature
Dispenser/Compounders/Dressors	Pharmacy Technician
Malaria Technician	Primary Health Care(Multipurpose)
EPI Technician	-do-
Sanitation Technician	-do-

- a) The Health Department should devise job description and distribution plan of the above four cadres.
- b) The post so vacated by the incumbent of the above four cadres will be filled in after its fresh approval from Finance Department.

sd/xxx  
(ABDUS SAMAD KHAN)  
SECRETARY HEALTH

ENDST: NO.KC/FD/SO(FR)/7-3/2001

Dated Peshawar, 25.08.2006

Copy forwarded for information and necessary action to:-

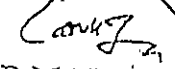
- 1) The Accountant General, NWFP, Peshawar.
- 2) All District/Agency Accounts Officer in NWFP.

sd/xxx  
(ABDUS SAMAD KHAN)  
SECTION OFFICER(FR)  
FINANCE DEPARTMENT

Endorsement No. & date as above.

Copy forwarded to:

1. The Additional Chief Secretary (FATA), Civil Secretariat FATA, Peshawar.
2. The Secretary to Governor, NWFP.
3. The Secretary to Chief Minister, NWFP.
4. The Secretary to FATA, Governor's Secreterate, (Peshawar).
5. The Secretary to Govt of NWFP, Finance Deptt for information
6. All Administrative Secretaries to Govt of NWFP.
7. The Accountant General, NWFP, Peshawar.
8. The Director General, Health Services, NWFP.
9. The Inspector General of Prisons, NWFP.
10. The Director General, Social Security, NWFP.
11. The Director, PHSA, NWFP.
12. Dr. Mahmood Alam, Chairman, Paramedics Service Structure Committee, PHSA, NWFP.
13. The Chief HSRU.
14. The Chief Planning Officer Health Department.
15. Director Health Services FATA, (Peshawar) to ensure reflection of the up-gradation/ re-designation of posts in the budget book 2007-2008.
16. All Chief Executives of Teaching Hospitals in NWFP.
17. All Medical Superintendents of DIHQ Hospital in NWFP.
18. All Executive District Officers (Health) of NWFP.
19. The Director of Information, NWFP.
20. All Agency Surgeons/MS of FATA.
21. The Principal KMC/KCD, Peshawar; AMC Abbott Abad, Saidu Medical College Swat & Gomal Medical College D.I.Khan.
22. The Dean, P.G.M.I, Peshawar.
23. All District Accounts Officers in NWFP.
24. All Agency Accounts Officers in FATA.
25. The Budget Officer-VI Finance Deptt; to ensure reflection of the up-gradation/ re-designation of posts in the budget book 2007-2008.
26. The Section Officer (Budget) Health Department.
27. PS to Chief Secretary NWFP.
28. PS to Secretary Establishment, E&A Department NWFP.
29. PS to Minister for Health, NWFP.
30. President, Provincial Paramedical Association, NWFP, Peshawar.
31. The Manager Govt. Printing Press, NWFP.

  
(SALAMZEB MALIK)  
SECTION OFFICER - III