

27.07.2022

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

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



(Fareeha Paul)
Member (E)

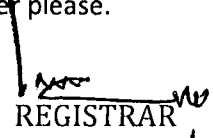

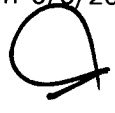



Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 295/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	02/03/2022	<p>The appeal of Miss. Rabia resubmitted today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p>
2-	8/4/2022	<p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put there on <u>8-4-2022</u></p> <p> CHAIRMAN</p>
	06.06.2022	<p>Counsel for the appellant present and requested for adjournment. Request accepted. Last chance is given. To come up for preliminary hearing on 6/6/2022 before S.B.</p> <p> CHAIRMAN</p>
		<p>Juniosr to counsel for the appellant present.</p> <p>File to come up alongwith connected Service Appeal No.259/2022 titled Attaullah Khan Vs. Government of Khyber Pakhtunkhwa on 27.07.2022 before S.B.</p> <p> (Rozina Rehman) Member (J)</p>


Rifat ul Haq

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

- 1- Copy of impugned order dated 14.07.2021 against which appellant made departmental appeal is not attached with the appeal which may be placed on it.
- 2- Copy of departmental is not attached with the spare copies which may be placed on it.

No. 399 /S.T,

Dt. 11/2 /2022


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Noor Muhammad Khattak Adv. Pesh.

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

Re-Submitted after doing needful.




Impugned order dt-14-7-2021

was Attached as Annexure. D

Page 9/A.

Re-submitted after completion.

 28/2/22

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. 266 /2022

RIFAT ULLAH

V/S

HEALTH DEPTT:

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Dated: _____ .2022

APPELLANT

Through:

NOOR MOHAMMAD KHATTAK

ADVOCATE

0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. _____/2022

Mr. Rifatullah, Chowkidar,
DHO Office, NWTD.

..... **APPELLANT**

VERSUS

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

..... **RESPONDENTS**

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

PRAYER:

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

R. SHEWETH:

ON FACTS:

- 1- That the appellant was initially appointed as Chowkidar in the respondent Department w.e.f 01-03-2021. Copy of appointment order is attached as annexure **A.**
- 2- That after appointment the appellant was medically examined and declared fit by the concerned authority and after being fit the appellant submitted his arrival report to the concerned office. Copy of medical certificate and arrival report is annexed as annexure..... **B&C.**
- 3- That the appellant started performing his services with zeal and zest and up to the entire satisfaction of his superiors.

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

GROUND:

- A- That the impugned inaction of the respondents by not releasing the salaries of the appellant since June 2021 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That the appellant has not been treated by the concerned authority in accordance with law and rules and as such the authority violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the appellant is still performing his duties and the inaction of the respondents by not releasing her salaries is amounting to forced labour which is the blatant violation of the Article 11 of the Constitution of Pakistan, 1973.
- D- That the respondents discriminated the appellant by not releasing the monthly salaries of the appellant.
- E- That the inaction of the respondents by not releasing the monthly salaries of the appellant is against the norms of natural justice.
- F- That the inaction of the respondents by not releasing the monthly salaries of the appellant is arbitrary and malafide.
- G- That the inaction of the respondents by not releasing monthly salaries of the appellant w.e.f. regularization till date is against section 17 of the Civil Servant Act, 1973.
- H- That appellant seeks permission and advance other grounds and proofs at the time of hearing.

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

Dated: _____. _____. 2022

APPELLANT

رفیق
RIFATULLAH

THROUGH:

NOOR MOHAMMAD KHATTAK

&

Haider Ali
HAIDER ALI

ADVOCATES, PESHAWAR

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. _____/2022

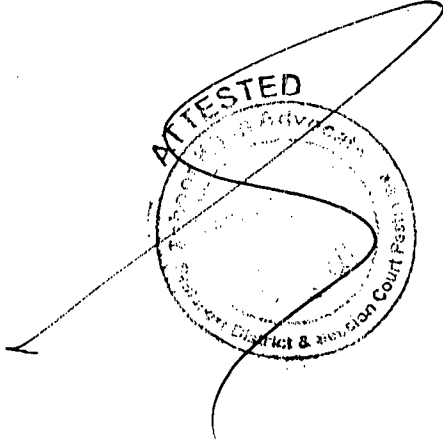
RIFAT ULLAH

VS

HEALTH DEPTT:

AFFIDAVIT

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



2/1/2022
DEPONENT

CERTIFICATE:

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

CERTIFICATION
[Signature]

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

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

Email:agencyurgeonwa2018@gmail.com

OFFICE ORDER:

ANNEXURE

A-5

On the recommendation of Departmental Selection committee. Mt. Rifatullah S/O Sher Aslam resident of village Hakim Khel Tehsil & P/O Mirali NWTB is hereby appointed as a Chowkidar in BPS-3 (9610-390-21310) plus usual allowances as admissible under the rules against the newly created vacant post under the control of the undersigned at North Waziristan Tribal District in the best interest of public services with immediate effect.

His appointment shall be on the following terms and conditions.

- 1- He is declared medically fit for this job.
- 2- His appointment shall be for a permanent basis from the date of his joining in service.
- 2- He shall be bound to serve for at least 3 years in North Waziristan TD.
- 3- He shall not indulge in any trade, business and any other activity what so ever which has been declared prohibited for the Government Servants in Civil Servant Act: 1973.
- 4- If he wishes to resign the services a prior notice of 30 days will be submitted, otherwise one month pay should be deposited in Government treasury through challan.
- 5- He will have to serve anywhere in North Waziristan Tribal District.
- 6- Salaries should be released after the verification of his CNIC, domicile certificate and clearance /character certificate.
- 7- He will not be entitled for any TA/DA for joining the service.
- 8- If he accepts the above terms and condition he have to report for duty to the undersigned with in 15 days of the receipt of this offer, otherwise the order will be considered as cancelled.

Sd:xxxxxxxxxxxxxx

(Dr. Ikramullah)

District Health Officer

NWTB Miranshah

dated 01/10/2021.

No. 281-37 /Apptt:

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

District Health Officer

~~XXXXXXXXXXXXXXXXXXXX~~

Medical Certificate

ANNEXURE

B-16

Name of official: Rifat ullah
 Caster Race Islam
 Father Name Shey Islam
 Residence Hakim Khel Tehsil Mirali
 Date of birth 05-01-2001
 Exact Height by measurement 5-6
 Personal marks of identification Nil
 Signature of the official _____
 Head office _____

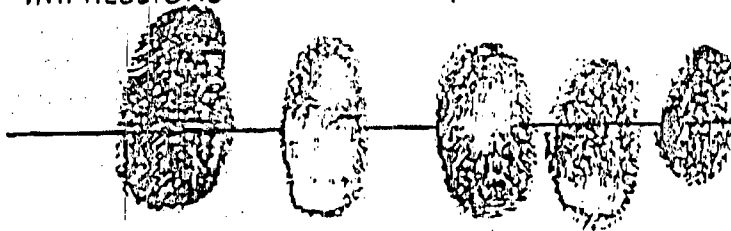
Seal of office

I do hereby certified that I have examined Rifat ullah a candidate for employment in the office of the Health and cannot discover that He had any disease communicable or other constitutional affection or bodily infirmity except Nil

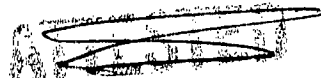
I do no consider this as disqualification for employment in the office Health

His age according to her own statement 20 year and by appearance about 20 year.

LEFT HAND THUMB AND FINGER IMPRESSIONS



Medical Superintendent
 Type C Hospital Mir Ali,
 Incharge Medical Officer
 Type C Hospital Mirali
 NWTD



To,

ANNEXURE

C-(7)

The District Health Officer,
North Waziristan TD Miranshah.

Subject: Arrival Report.

R/Sir,

In compliance with your good office order bearing endstt: NWTD
office order No. 234-37 /Apptt:
dated 01/103 /2021.

I have the honour to submit herewith my arrival report for duty as a
chowkidar BPS 03 at
DHO office NWTD today on
03/103 /2021, FN.

Dated: 03/103 /2021.

Thanks

Abdus

Yours Obediently,

Rifatullah
chowkidar
DHO office NWTD.

[Signature]
District Health Officer
NWTD Miranshah

~~ANNEXURE~~

(B)

ANNEXURE

D-8

Miran Shah-N.W.

S#: 1485

P Sec: 001 Month: May 2021
MW6006 -DHO Health North wazirista
DHO HEALTH NORTH WAZIRIST

Pers #: 00971705 Buckle:
Name: RIFFAT ULLAH
 CHOWKIDAR
CNIC No. 2150548100971
GPF Interest Applied
 03 Active Temporary

NTN:
GPF #:
Old #:

PAYS AND ALLOWANCES:	MW6006	-
0001-Basic Pay		9,610.00
1000-House Rent Allowance		1,413.00
1210-Convey Allowance 2005		1,785.00
1300-Medical Allowance		1,500.00
1516-Dress/ uniform Allowance		150.00
1528-Unattractive Area Allow		1,000.00
1567-washing Allowance		150.00
2211-Adhoc Relief All 2016 10%		804.00
2224-Adhoc Relief All 2017 10%		961.00
Gross Pay and Allowances		19,295.00

DEDUCTIONS:		
GPF Balance	770.00	Subrc: 770.00
3501-Benevolent Fund		600.00
4004-R. Benefits & Death Comp:		300.00

Total Deductions 1,670.00

17,625.00

D.O:B 05.01.2001 LFP Quota:
00 Years 03 Months 001 Days ALLIED BANK LIMITED MIR ALI BRANCH
0010079824610018

~~ALLIED~~

INVESTMENT BANK

OFFICE OF THE DISTRICT HEALTH OFFICER

DDO CODE -

CASH CENTER -

EMPLOYER'S NAME

DOB (DD/MM/YYYY)

21505-4810097-1

05-01-2001

DATE OF EMPLOYMENT (DD/MM/YYYY)

DESIGNATION

BPS

DOMICILE

01/03/2021

Chowkidar

03

NWTD

EMPLOYEE'S NAME

HUSBAND/FATHER NAME

Riyatullah

Sheer Islam

PERMANENT ADDRESS

RELIGION

NATIONALITY

Hakim Khel Tehsil Mirali

ISLAM

PAKISTANI

PAYMENT DETAILS

Wage Type	Description	Regular	ADJ W.E.FROM
0001	PAY	9610	
1000	GRA	1458	
1210	CON:ALLOW	1785	Branch Code 1259
1567	WA	150	Account No 79824610018
1516		150	
1947	WA	1500	
1528	WA	1000	
2151	AR:15%2013	260	ABL Mir Ali
0000	AR:10%2015	168	(81065993)
	AR:10%2016	928	
	AR:10%2017	961	
	AR:10%2018	961	
GROSS		19179/-	

DEDUCTIONS		
CODE	DESCRIPTION	AMOUNT
3300	GP FUND	830
3710	B/FUND	120
3704	G/INSURANCE	50
	RBDC	450
TOTAL DEDUCTION		1450/-

CERTIFICATION

1. Certified by NDRA has been verified and found correct.
2. Certified by NDRA that the particulars mentioned above are correct and service book attached with proforma has been filled up to date by the concerned officer.
3. Certified by NDRA that the employee mentioned above regular in attendance and has not been preceded abroad.

[Signature]
 District Account Officer
 North Waziristan TD Miranshah

[Signature]
 DISTRICT HEALTH OFFICER

ATTESTED

To,

The Director General Health Services,
Khyber Pakhtunkhwa Peshawar.

ANNEXURE

E-10

Subject: DEPARTMENTAL APPEAL UNDER SECTION 22 OF THE CIVIL SERVANT ACT AGAINST THE ORDER ISSUED BY DR HAFIZULLAH DHO NWTD VIDE LETTER NO.12571/Accounts & 12572-73 DATED 14/07/2021 WHICH THE SALARIES OF U/s HAS BEEN STOPPED / WITHHELD ILLEGALLY.

Dear Sir,

With due respect it is stated that I am performing my duty as a Chowkidar BPS-03, since 01/03/2021 up to date continuously / regularly under the control of the District Health Officer North Waziristan Tribal District Miranshah with great zeal and zest. My salaries are released by the EX-DHO NWTD in the month of May 2021. Personal No. 971705 is allotted to me. Proper my salaries bill is signed by ex-DHO and further submitted to District Account Office NWTD for released and signature. The District Account Officer concerned signed my pay bill. The DAO concerned handed over my pay bill to concerned auditor for punching in SAP System. (copy of pay bill & pay slip is attached **Annex-A&B**). Now my pay & allowances is again stopped by Dr.Hafizullah DHO NWTD, illegally without any reasons .He has draft letter to District Account officer with the request to return all the salaries bills i.e source-I & II signed by the then DHO to the office of current DHO for proper counter signature and verification. (Copy of impugned letter dated 14/07/2021 is attached **Annex-C**). Now the DHO Concerned is not in position to attest my salary bill nor noted any observation on my bill.

It is therefore, requested, in your kind honor to please direct the DHO Concerned to release our salaries from the date of stoppage i.e June 2021, along with remaining salaries and onward please.

I will be very thankful to you for your this kind act.

Dated: 18/10/2021.

Thank

Your obediently,

رفیق اللہ

Rifatullah

Chowkidar BPS-03.

DHO Office NWTD

~~ATTACHED~~

VAKALATNAMA

11

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO: _____ OF 2022

RIFAT ULLAH _____ (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

HEALTH _____ (RESPONDENT)
(DEFENDANT)

I/We Rifat ullah

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

Dated. ____/____/2022

By Sir,
CLIENTS

ACCEPTED

NOOR MUHAMMAD KHATTAK

UMER FAROOQ MOHMAND

KAMRAN KHAN

SAID KHAN

HAIDER ALI

&
KHANZAD GUL