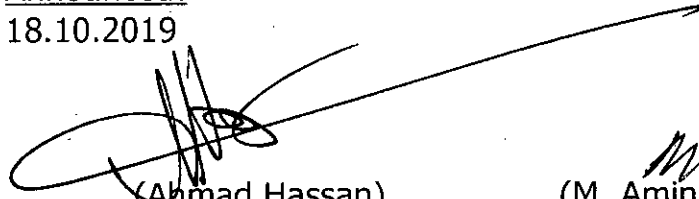


18.10.2019

Counsels for the appellant present. Mr. Usman Ghani, District Attorney alongwith Mr. Shah Nawaz, Clerk for respondents present. The appellant had also filed service appeal no. 526/2016, which was decided through our detailed judgment on 18.10.2019. As such the present service appeal has become infructuous and is accordingly dismissed. File be consigned to the record room.

Announced:

18.10.2019



(Ahmad Hassan)
Member



(M. Amin Khan Kundi)
Member

05.07.2019

Counsel for the appellant present. Mr. Muhammad Jan, DDA for respondents present. Counsel for the appellant seeks adjournment as his co-counsel is not available today. Adjourned. Case to come up for arguments on 23.08.2019 before D.B.



(Ahmad Hassan)
Member



(M. Amin Khan Kundi)
Member

23.08.2019

Appellant alongwith his counsel and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Shah Nawaz, Litigation Officer for the respondents present. Representative of the department submitted photocopy of inquiry record, which is placed on record. Learned Additional AG requested for adjournment. Adjourned to 12.09.2019 for arguments before D.B.



(Hussain Shah)
Member



(M. Amin Khan Kundi)
Member

12.09.2019

Junior counsel for the appellant and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Shah Nawaz, Clerk for the respondents present. Junior counsel for the appellant requested for adjournment on the ground that learned senior counsel for the appellant is not available today. The appeal pertains to the year 2014, therefore, last chance is granted to learned counsel for the appellant for arguments. Adjourned to 18.10.2019 for arguments before D.B.



(Ahmad Hassan)
Member



(M. Amin Khan Kundi)
Member

27.03.2019

Appellant in person and Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Shah Nawaz, Litigation Officer for the respondents present. To come up for arguments alongwith connected Service Appeal No. 526/2016 on 26.04.2019 before D.B.


(HUSSAIN SHAH)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

26.04.2019

Due to general strike of the bar, the case is adjourned. To come up arguments on 17.05.2019 before D.B.


Member


Member

17.05.2019

Counsel for the appellant and Mr. Muhammad Jan, DDA alongwith Shah Nawaz, Litigation Assistant for the respondents present.

Due to demise of his father, learned Member of the Bench (Mr. Hussain Shah) is on leave. Adjourned to 24.06.2019 for arguments before the D.B.


Chairman

24.06.2019

Learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 05.07.2019 before D.B.


Member



Member


09.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 18.12.2018.


Reader

18.12.2018 Junior counsel for the appellant Mr. Taimur Ali, Advocate present. Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Junior counsel for the appellant requested for adjournment on the ground that learned senior counsel for the appellant is busy in the Hon'ble Peshawar High Court. Adjourned. To come up for arguments on 01.02.2019 before D.B.


(Hussain Shah)
Member


(Muhammad Amin Khan Kundi)
Member

01.2.2019

Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Shah Nawaz, Litigation Clerk for the respondents present.

The representative of respondents requests for further time to produce the record required through order dated 31.08.2018. Adjourned to 27.03.2019 before the D.B.

The availability of requisite record shall be ensured at least three days before the date of hearing and the same be deposited with learned District Attorney.


Member


Chairman

30.08.2018

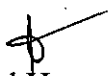
Appellant with counsel present. Mr. Riaz Ahmad Paindakhel, Assistant AG for the respondents present and requested for adjournment. Adjourned. To come up for arguments on tomorrow i.e 31.08.2018 before D.B.


(Ahmad Hassan)
Member


(Muhammad Amin Khan Kundi)
Member

31.08.2018


Counsel for the appellant and Mr. Riaz Ahmad Paindakhel, Assistant AG for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 01.10.2018 before D.B.



(Ahmad Hassan)
Member


(Muhammad Amin Khan Kundi)
Member

01.10.2018

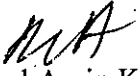
Junior to counsel appellant and Mr. Riaz Ahmed Paindakhel learned Assistant Advocate General alongwith Mr. Hazrat Shah Superintendent for the respondent present. Junior to counsel for the appellant seeks adjournment on the ground that his senior is not available today. Adjourned. To come up for arguments on 09.11.2018 before D.B.



(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

13.06.2018

Junior to counsel for the appellant and Mr. Zia Ullah, learned Deputy District Attorney present. Junior to counsel for the appellant seeks adjournment as senior counsel is not in attendance. Adjourned. To come up for arguments on 09.07.2018 before D.B.


(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

09.07.2018

Learned counsel for the appellant and Mr. Muhammad Jan, Learned Deputy District Attorney present. Arguments heard. To come up for order on 13.07.2018 before D.B.

09.07.2018

~~Learned counsel for the appellant and Mr. Zia Ullah, learned Deputy District Attorney present. Junior to counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 13.07.2018 before D.B.~~

13.07.2018


Appellant present. Mr. Muhammad Jan, Learned Deputy District Attorney present. Some points need further consideration. To come up for arguments on 09.08.2018 before D.B.

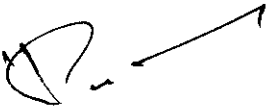
~~(Ahmad Hassan)~~
~~Member~~
(Ahmad Hassan)
Member

~~(Muhammad Hamid Mughal)~~
~~Member~~
(Muhammad Hamid Mughal)
Member

09.08.2018

Junior to counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Junior to counsel for the appellant seeks adjournment as senior counsel is not in attendance. Adjourned. To come up for arguments on 30.08.2018 before D.B.



(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

09.07.2018

Learned counsel for the appellant and Mr. Muhammad Jan, Learned Deputy District Attorney present. Arguments heard. To come up for order on 13.07.2018 before D.B.

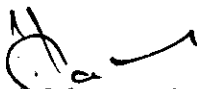

(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

13.07.2018

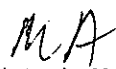
Appellant present. Mr. Muhammad Jan, Learned Deputy District Attorney present. Some points need further consideration. To come up for further proceedings/arguments on 09.08.2018 before D.B.



(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

09.08.2018

Junior to counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate present. Junior to counsel for the appellant seeks adjournment as senior counsel is not in attendance. Adjourned. To come up for arguments on 30.08.2018 before D.B


(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member


23.05.2018


Counsel for the appellant and Mr. Ziaullah, DDA alongwith Mr. Hazrat Shah, Supdt for respondents present. Arguments could not be heard due to incomplete bench. Adjourned. To come up for arguments on 13.06.2018 before D.B.


(Muhammad Amin Kundi)
Member

13.06.2018

Junior to counsel for the appellant and Mr. Zia Ullah, learned Deputy District Attorney present. Junior to counsel for the appellant seeks adjournment as senior counsel is not in attendance. Adjourned. To come up for arguments on 09.07.2018 before D.B.


(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

~~09.07.2018~~

~~Learned counsel for the appellant and Mr. Zia Ullah, learned Deputy District Attorney present. Junior to counsel for the appellant seeks adjournment as senior counsel is not in attendance. Adjourned. To come up for arguments on 10.07.2018 before D.B.~~

~~(Muhammad Amin Kundi)
Member~~

~~(Muhammad Hamid Mughal)
Member~~

18.01.2018


Clerk of the counsel for appellant present. Mr. Muhammad Jan, DDA for the respondents present. Clerk of the counsel for appellant seeks adjournment as his senior counsel is not available today. Adjourn. To come up for arguments on 21.03.2018 before D.B.


(Gul Zeb Khan)
Member (E)


(Muhammad Hamid Mughal)
Member (J)

21.03.2018


Appellant absent. Learned counsel for the appellant is also absent. However, clerk of the counsel for appellant present and seeks adjournment. Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Adjourned. To come up for arguments on 18.05.2018 before D.B.



(Muhammad Amin Khan Kundi)
Member


(Muhammad Hamid Mughal)
Member

18.05.2018

Learned counsel for the appellant and Mr. Muhammad Jan, Learned Deputy District Attorney present. Adjournment requested. Adjourn. To come up for final arguments alongwith another service appeal bearing No.526/2016 of the appellant on 23.05.2018 before D.B.


(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

527/2014

13.07.2017

Counsel for the appellant and Asstt. AG for the respondents present. Counsel for the appellant seeks adjourned. Adjourned. To come up for arguments on the point of jurisdiction alongwith similar appeals on 17.08.2017 before the Larger Bench.

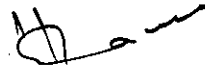

Member


Chairman

17.08.2017

Counsel for the appellant present. Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 09.11.2017 before D.B.

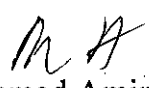

(Muhammad Amin Khan Kundi)
Member (J)


(Muhammad Hamid Mughal)
Member (J)

09.11.2017

Clerk of the counsel for appellant present. Mr. Usman Ghani, District Attorney for the respondents also present. Clerk of the counsel for appellant requested for adjournment on the ground that learned counsel for the appellant is not available today. Adjourned. To come up for arguments on 18.01.2018 before D.B.

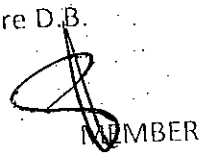

(Gul Zeb Khan)
Member


(Muhammad Amin Khan Kundi)
Member

14.07.2016

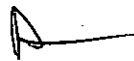
Counsel for the appellant and Mr. Amjad Ali, Assistant
alongwith Mr. Muhammad Jan, GP for respondents present.
Learned counsel for the appellant requested for adjournment.
Adjourned for arguments to 24.11.16 before D.B.


MEMBER


MEMBER

24.11.2016

Counsel for the appellant and Mr. Muhammad Jan, GP
for respondents present. Counsel for the appellant requested
for adjournment. Request accepted. To come up for
arguments on 13.3.2017.



(ABDUL LATIF)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

13.03.2017

Mr. Taimur Khan, junior counsel for appellant and Mr. Kabirullah
Khattak, Assistant AG for respondents present. Junior counsel for
appellant requested for adjournment as senior counsel is not in attendance
today. Adjournment granted. To come up for arguments on 13.07.2017
before D.B.


(~~M. Ashfaq TAJ~~)
MEMBER


(ASHFAQUE TAJ)
MEMBER

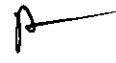
02.02.2016

Counsel for the appellant and Mr. Asif Khan, Naib Qasid alongwith Mr. Ziaullah, GP for respondents present. The learned member (Executive) is on official tour to Swat. Therefore, the case is adjourned to 8.4.16 for arguments.


MEMBER

08.04.2016


Clerk to counsel for the appellant and Mr. Amjad Ali, Assistant alongwith Mr. Muhammad Jan, GP for respondents present. Clerk to counsel for the appellant requested for adjournment. To come up for arguments on 01.06.2016.


Member


Member

01.06.2016

Junior to counsel for the appellant and Mr. Amjad Ali, Assistant alongwith Mr. Ziaullah, GP for respondents present. Junior to counsel for the appellant requested for adjournment. Adjourned for arguments on ~~1/7~~ 2016.


Member


Member

04.12.2014

No one is present on behalf of the appellant. Mr. Muhammad Adeel Butt, AAG for the respondents present. The Tribunal is incomplete. To come up for written reply/comments on 24.03.2015.


Reader

6 24.03.2015

None present for appellant. Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 30.6.2015 before S.B.


Chairman


7 30.06.2015

None present for appellant. Mr. Muhammad Maaz Madni, Assistant Litigation Officer alongwith Addl: A.G for respondents present. Written reply submitted by respondent No. 3. The learned Addl: A.G rely on the same on behalf of all the respondents. The appeal is assigned to D.B for rejoinder and final hearing for 24.11.2015.


Chairman

24.11.2015

Counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. Arguments could not be heard due to learned Member (Judicial) is on official tour to D.I. Khan. Therefore, the case is adjourned to 2/2/16 for arguments


Member

Appeal No. 527/2014
Mr. Nisur Khan.

3.

14.05.2014

Counsel for the appellant present. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. Against the impugned order dated 21.11.2013, he filed departmental appeal on 18.12.2013, which has not been responded within the statutory period of 90 days, hence the present appeal on 14.04.2014. Points raised at the Bar 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 filed an application for suspension of the impugned order dated 21.11.2013. Notice of application should also be issued to the respondents for reply/arguments. To come up for written reply/comments on main appeal as well as reply/arguments on application on 07.08.2014.

Appellant Deposited
Security & Process Fee
220/- Bank
Receipt is Attached with File.

MNS
20-5-14

[Signature]
Member

4.

14.05.2014

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

[Signature]
Chairman

07.08.2014



Counsel for the appellant present. Respondents are absent despite their service through registered post. However, Mr. Ziaullah, GP is present on behalf of the respondents and would be contacting them for written reply/comments on 4.12.2014.

[Signature]
Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 527/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	14/04/2014	<p>The appeal of Mr. Nisar Khan presented today by Mr. M. Asif Youafzai 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	17-4-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>14-5-2014</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p style="text-align: center;">↑</p>

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 527/2014.

Nisar Khan.

VS

ACS FATA etc.

INDEX.

S.NO	DOCUMENTS	ANNEXURE	PAGE
1-	Memo of appeal.	---	1 - 4
2-	Stay application.	---	5 - 6
3-	Order 28.5.2012	A	7
4-	Order 15.12.2012	B	8
5-	Order 10.3.2013	C	9
6-	Order 21.11.2013	D	10 - 11
7-	Appeal.	E	12
8-	Vakalat nama	---	13.

APPELLANT

THROUGH:


M.ASIF YOUSAFZAI

ADVOCATE

& 
TAIMUR ALI KHAN

ADVOCATE.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.APPEAL NO. 527/2014.

Nisar Khan, Senior Clerk,
Office of Agency Surgeon,
Khyber Agency at Jamrud.....Appellant.

KPK SERVICE TRIBUNAL PESHAWAR
Case No. 557
Dated 14-4-2014

VERSUS

- 1- The Addl: Chief Secretary, FATA Secretariat Warsak Road Peshawar.
- 2- The Secretary Social Sectors, FATA Secretariat Warsak Road Peshawar.
- 3- The Director Health Services FATA, FATA Secretariat Warsak Road Peshawar.
- 4- The Agency Surgeon, Mohmand Agency at Ghalanai.
- 5- The Agency Surgeon Khyber Agency at Jamrud.

.....Respondents.

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS PESHAWAR AGAINST THE ORDER DATED. 21.11.2013 WHEREBY THE PENALTY OF BAN OF POSTING IN MOHMAND AGNECY FOR 10 YEARS AND RECOVERY OF UN-SHOWN AMOUNT HAS BEEN IMPOSED UPON THE APPELLANT AND AGAINST NOT TAKING ANY ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN STATUTORY PERIOD OF NINETY DAYS.

KPK SERVICE TRIBUNAL PESHAWAR
[Signature]
14/4/14

PRAYER:

That on acceptance of this appeal the order dated. 21.11.2013 may be set aside being passed in violation of law and rules and also at the back of appellant without giving a chance of defense to appellant. Any other remedy which this august Tribunal deems fit that may also be awarded in favour of appellant.

R.SHEWETH.

- 1- That the appellant is the employee of respondent's Deptt: and has been serving as senior clerk now a days.
- 2- That while performing duties in Mohmand Agency the appellant was placed at the disposal of D.G Health Peshawar for further posting on 28.5.2012 but soon on 15.12.2012 the above mentioned order dated. 28.5.2012 was cancelled/ withdrawn in the public interests. Copies of orders are attached as Annexure – A & B.
- 3- That on 10.3.2013 the appellant was transferred to Khyber Agency and as such the appellant is performing his duties in Khyber Agency. Copy of order is attached as Annexure – C.
- 4- That all of sudden the appellant was served with an order dated. 21.11.2013 in which the penalty of ban on posting of appellant in Mohmand Agency for 10 years and recovery of unshown amount was imposed on appellant. Copy of order is attached as Annexure – D.

- 5- That the appellant filed departmental appeal on 18.12.2013 against the above mentioned penalty order and waited for ninety days but no reply has been received by the appellant so far. Hence the present appeal on the following grounds amongst the others. Copy of appeal is attached as Annexure – E.

GROUND:

- A- That the order dated. 21.11.2013 and not taking any action on the appeal of appellant within statutory period is against the law, facts, norms of justice and material on record, therefore not tenable at all.
- B- That the appellant has been condemned unheard because no charge sheet, statement of allegations, show cause notice or personal hearing was given to appellant.
- C- That even no regular inquiry has been conducted nor any statement is recorded in presence of appellant enabling the appellant to cross examine the record or witnesses, though the word " inquiry" is mentioned in the impugned order.
- D- That even no proper law has been mentioned regarding the imposition of penalty as to under which law the action was taken or order is passed.
- E- That the penalty of ban on posting in Mohmand Agency is unwarranted in the law because such penalty is not existed in penalties list. Thus such ban is total violation of law and rules.

- F- That the appellant has not been dealt according to law and rules and the impugned order is an arbitrary order passed against the appellant at the back of appellant.
- G- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

APPELLANT


NISAR KHAN

THROUGH:


M.ASIF YOUSAFZAI

ADVOCATE

& 
TAIMUR ALI KHAN

ADVOCATE.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. _____/2014.

Nisar Khan.

VS

ACS FATA etc.

APPLICATION FOR SUSPENDING THE OPERATION OF ORDER DATED.
21.11.2013 TILL THE DISPOSAL OF MAIN APPEAL.

R.SHEWETH.

- 1- That the appellant has filed an appeal along with this application in which no date is fixed so far.
- 2- That all the three ingredients are in favour of appellant.
- 3- That the impugned order has been passed in total violation of law, rules and norms of justice.
- 4- That the main grounds of appeal may also be considered as integral part of this application.
- 5- That if the impugned order dated. 21.11.2013 is not suspended then the appellant will suffer from irreparable loss especially in the society.

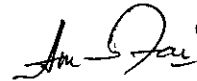
It is therefore most humbly prayed that the operation of order dated. 21.11.2013 may be suspended till the disposal of main appeal. Any other remedy which this august Tribunal deems fit that may also be awarded in favour of appellant.

APPELLANT



NISAR KHAN

THROUGH:



M.ASIF YOUSAFZAI

ADVOCATE

&

TAIMUR ALI KHAN

ADVOCATE.

AFFIDAVIT

It is affirmed on Oath that the contents of this application are true and correct.



DEPONENT

B

A
=

(7)

FATA SECRETARIAT
(SOCIAL SECTORS DEPARTMENT)
WARSAK ROAD, PESHAWAR.

OFFICE ORDER

The services of the following ministerial staff attached to Health department FATA are hereby placed at the disposal of Director General Health Services Khyber Pakhtunkhwa Peshawar with immediate effect in the best interest of public.

1. Mr, Nisar Khan Senior Clerk attached to Agency Surgeon Mohmand.
2. Mr, Muhammad Ullah office Assistant attached to DHS FATA Peshawar.
3. Mr, Saeed Ullah Senior Clerk attached to Agency Surgeon N.W Agency Miranshah.

Secretary
Social Sector Department FATA.

No: SO (SSD)/DHS/SO(H) 171-78

dated 28/5/2012.

CC:

1. Secretary Government of Khyber Pakhtunkhwa, Health Department Peshawar.
2. Director General Health services Khyber Pakhtunkhwa.
3. Director Health services FATA secretariat, Peshawar.
4. AGPR Section officer Peshawar.
5. Agency Surgeon Mohmand & N.W Agency Miranshah.
6. Agency Accounts Officer Mohmand & N.W Agency.
7. PS to Secretary Social sector Department FATA Secretariat, Peshawar.
8. Official concerned.

Section Officer (H)

OFFICE OF THE DIRECTOR HEALTH SERVICES FATA PESHAWAR.

No. 8806-15/DHS/FATA

dated 29-5-2012

Cc:-

1. Director General Health Services Khyber Pakhtunkhwa Peshawar.
- Deputy Director Admn Health Directorate FATA.
- Agency Surgeon Mohmand at Ghallanai.
- Agency Surgeon N.W Agency.
- Agency Office Peshawar.
6. Agency Accounts Officer Mohmand at Gaallanai.
7. Agency Accounts Officer N.W Agency.
8. Accountant Health Directorate FATA.
9. Official Concerned for strict compliance.

Director Health
Services, FATA Peshawar

OFFICE OF THE AGENCY SURGEON MOHMAND AGENCY AT GHALLANAI.

No. 1997-2000 /ASM

dated Ghallanai the 26 / 07 / 2012

1. Director Health Services FATA Peshawar with his letter cited above.
2. Political Agent Mohmand at Ghallanai.
3. Agency Accounts Officer Mohmand at Ghallanai.
4. Mr, Nisar Khan Senior Clerk/Head Clerk is hereby relieved off his duty (due to late receiving of transfer order to undersigned) and direct to report to Director General Health services Khyber Pakhtunkhwa Peshawar for further posting with immediate effect.

Agency Surgeon
Mohmand Agency

ATTESTED

B
⑧

FATA SECRETARIAT
(SOCIAL SECTORS DEPARTMENT)
WARSAK ROAD, PESHAWAR.

No. FS/SO(H)/SSD/2012/1323-24
Dated 18/12/2012

OFFICE ORDER

The transfer order in respect of Mr. Nisar Khan Head Clerk issued vide this office order No. SO(SSD)/DHS/SO(H) 171-78 dated 28-05-2012 is hereby canceled /withdrawn with immediate effect and remain attached with the office of the Agency Surgeon as head clerk /Accountant in the best interest of public.

-----Sd-----
Secretary (SSD)
FATA Secretariat, Peshawar

Copy to the :-

1. Director General Health Khyber Pakhtunkhwa
2. DHS, FATA for information and further necessary action, please
3. PS to Secretary SSD, FATA Secretariat.
4. Agency Surgeon Mohmand Agency also directed to handed over the complete charge of account and others
5. AGPR Peshawar
6. Agency Account office Mohmand Agency
7. Official concerned.


18/12/12
Section Officer (H)
FATA Secretariat, Peshawar

ATTESTED


DIRECTORATE OF HEALTH SERVICES FATA

FATA SECRETARIAT WARSAK ROAD PESHAWAR.

OFFICE ORDER:

As approved by the competent authority, Mr. Nisar Khan, Senior Clerk attached to this Directorate is hereby posted against the vacant post of Senior Clerk in the office of Agency Surgeon Khyber at Jamrud in the interest of public service with immediate effect.

.....sd.....

Director Health Services,
FATA, Peshawar.

No. 63/4-19 /DHS/FATA/Admin
Copy to the:

Date: 10/3 /2013 ✓

1. Secretary Social Sectors Department FATA.
2. Agency Surgeon Mohmand at Ghallanai.
3. Agency Surgeon Khyber at Jamrud.
4. Agency Account Officer Mohmand at Ghallanai.
5. Agency Account Officer Khyber at Jamrud.
6. Official concerned.

For information and further necessary action.

Director Health Services,
FATA, Peshawar.

ATTESTED

D

(10)

DIRECTORATE OF HEALTH SERVICES FATA
FATA SECRETARIAT WARSAK ROAD PESHAWAR.

OFFICE ORDER

On the recommendation of the inquiry committee, the competent authority has been pleased to impose ban for the period of Ten Years for posting of Dr. Muhammad Daud Khan Ex-Agency Surgeon Mohmand and Mr. Nisar Khan Ex-Senior Clerk, in Mohmand Agency with recovery of the misappropriated Govt: money to be calculated by the Agency Surgeon Mohmand from the officer/official concerned and to be deposited into Govt: treasury.

The competent authority has further been pleased to pay the genuine pending rent of CHCs, if any, to the concerned owners after proper verification by the Agency Surgeon.

.....Sd.....

Director Health Services,
FATA, Peshawar.

NO. 18957-64/DHS/FATA/Admn Dated 2/11/2013

Copy forwarded to the:-

1. Political Agent Mohmand Agency.
 2. Deputy Director (Admn) DHS FATA.
 3. Agency Surgeon Mohmand Agency.
 4. Agency Accounts Officer Mohmand at Ghallanai.
 5. PS to Secretary Social Sectors FATA w/r to his letter FS/SO/(H)/SSD/1-9/2013/1648-50 dated 23.10.2013
 6. Officer/Official concerned.
- For information and necessary action.

Munir
2/11/13
Director Health Services,
FATA, Peshawar.

ATTESTED

✱

(11)

FATA SECRETARIAT

(SOCIAL SECTORS DEPARTMENT)

WARSAK ROAD, PESHAWAR

No. FS/SO/(H)/SSD/1-9/2013/ 1648-50

Dated: 23 /10/2013

To

✓
The Director Health Services, (FATA),
FATA Secretariat
Peshawar.

Subject: -

**INQUIRY REPORT ABOUT THE IRREGULARITIES IN THE OFFICE
OF AGENCY SURGEON, MOHMAND AGENCY.**

I am directed to refer to the subject noted above and to state that on the recommendation of the inquiry committee the competent authority has been pleased to impose ban for the period of **(TEN YEARS)** for posting of the following Officer / Officials in Mohmand Agency:-

- 1- Dr. Dawood Khan Ex-Agency Surgeon, Mohmand Agency.
- 2- Mr. Nisar Khan, Ex-Senior Clerk, presently working in the office of Agency Surgeon, Khyber Agency.

It is stated that misappropriated Govt: money which is to be calculated by the present Agency Surgeon, may be recovered from the Dr. Dawood Khan, Ex-Agency Surgeon, may not be given any administrative position with DDO power in Mohmand Agency and Mr. Nisar Khan, Ex-Senior Clerk, through Political Administration to be deposited into Govt: Treasury under relevant heads of accounts. The genuine pending rent of CHCs if any may also be paid to the concerned owners after proper verification by the Agency Surgeon. **(Copy of**

It is further stated that Mr. Lutf-Ur-Rehman Senior Clerk of the office of Agency Surgeon, may be transferred from his present position to anywhere in FATA.

It is therefore, requested that action may be taken against the above Officer / Officials under intimation to this Deptt: please.

↑

↑

Khalid Khan
(Khalid Khan)
Section Officer, (Health)

Even No & date.

Copy forwarded to:

- 1- PS to Additional Chief Sec (A).
- 2- PS to Secretary Social Sectors Deptt: (FATA).

ATTESTED

/

(Khalid Khan)

117

(12)

Received on 18-12-2013
[Signature]

To

The Honourable Additional Chief Secretary (FATA),
Government of Khyber Pakhtunkhwa,
FATA Secretariat, Peshawar.

Subject: **DEPARTMENTAL APPEAL AGAINST THE ODER DTED 21.11.2013 WHEREBY BAN OF 10 YEARS ON POSTING OF THE APPELLANT IN MOHMAND AGENCY ALONG-WITH RECOVERY NOT YET BEEN CALCULATED HAS BEEN IMPOSED UPON THE APPELLANT.**

Sir,

Most profoundly, it is submitted that while the appellant was performing the duty as Senior Clerk in the office of Agency Surgeon. Mohmand Agency has been served with the above titled order.

The appellant was astonished to see the order mentioned in the subject because neither any charge sheet and statement of allegations has been served upon the appellant, nor show cause notice has been given to the appellant. Even the appellant has also made an application on 3.12.2012 for provision of charge sheet, enquiry report and other relevant documents, but despite that application no required documents have been provided to the appellant so far. and the matter has been kept secret till date.

As the order dated 21.11.2013 is a penalty order which has been passed without following proper legal and codal procedure and amounts to condemnation unheard. So much so the ban of posting for 10 years is also unwarranted in the law because such penalty is not provided in the relevant E&D Rules.

It is, therefore, most humbly requested that on acceptance of this appeal, the order mentioned in the subject of this appeal may be set aside and my posting in Mohmand Agency may kindly be retained and the recovery order may also be set aside which has been passed in total violation of law and rules.

Sincerely Yours

[Signature]
Nisar Khan, 18-12-13
Ex-Senior Clerk/Head Clerk,
O/O Agency Surgeon,
Mohmand at Ghalani.

ACSD NO. 13168 NS/SSD
Dt: 18-12-2013.

ATTESTED
[Signature]

VAKALAT NAMA

13

NO. _____/20

IN THE COURT OF Service Tribunal Peshawar

Nisar Khan (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Health Dept. (Respondent)
(Defendant)

I/We Nisar Khan (Appellant)

Do hereby appoint and constitute **M.Asif Yousafzai, 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 costs.

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. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20

[Signature]
(CLIENT)

ACCEPTED

[Signature]
M. ASIF YOUSAFZAI
Advocate

M. ASIF YOUSAFZAI
Advocate High Court,
Peshawar.

[Signature]
Taimur Khan

OFFICE:
Room No.1, Upper Floor,
Islamia Club Building,
Khyber Bazar Peshawar.
Ph.091-2211391-
0333-9103240

BEFORE THE SERVICES TRIBUNAL
KHYBER PAKHTUNKHWA, PESHAWAR

Appeal No. 527/2014

Mr. Nisar Khan Senior Clerk

..... Appellant

Versus

ACS (FATA) & Others

..... Respondents

Para wise ~~comments~~ comments on behalf of respondent No. 3.

Preliminary objections

1. That the appellant has no cause of action/locus standi to file the present appeal.
2. That the appellant is estopped by his own conduct to file the instant appeal.
3. That this Honourable Service Tribunal has got no jurisdiction to entertain the instant appeal.
4. That the instant appeal is bad for mis joinder & non-joinder of parties.
5. That the present appeal is barred by law.
6. That the appeal is not maintainable in its present form.
7. That the present appeal is bad in its present form, hence not maintainable and liable to be dismissed

Respectfully Sheweth;

1. Correct, to the extent of official record.
2. Correct, but it is due to the letter received from Director General Health Services Khyber Pakhtunkhwa on 05-06-2012 the transfer order was cancelled. (Copy attached as **Annexure-A**)
3. Correct.
4. Incorrect, it was not all at a sudden certain allegations were made against appellant, proper inquiry was conducted in which all the allegation were proved against the appellant. (Copy attached as **Annexure-B**)
5. Correct to the extent the Departmental Appeal was not disposed of within stipulated time as allegation were proved against the appellant

(2)

and the appellant had still not paid the embezzled amount. (Copy attached as **Annexure-C**)

ON GROUNDS

- A. Incorrect, the appellant was dealt with in accordance with law, facts and with material record.
- B. Incorrect, all the codal formalities were fulfilled. (Copy attached as **Annexure-D**)
- C. Incorrect. Proper Inquiry was conducted in which the appellant was properly heard and was given chance of defense.
- D. Incorrect, but it was an inquiry conducted by Political Agent Mohmand who requested to expel the appellant out of Agency.
- E. Incorrect, as stated above in Pare-D.
- F. Incorrect, the appellant was properly heard and the impugned order is according to Law.
- G. Incorrect.

It is therefore most humbly prayed that the appeal in hand is devoid of merits/legal footing, may be dismissed with cost.


29/6/15

Director Health Services,
FATA Peshawar.
(Respondent No. 03)



3

DIRECTORATE GENERAL HEALTH SERVICES, GOVT. OF KHYBER PAKHTUNKHWA, PESHAWAR. NO. 4019 / PERSONNEL DATED 05 / 05 / 2012.

To,

The DHS (FATA) Khyber Pakhtunkhwa Peshawar.

Subject: OFFICE ORDER, Memo:

Reference your office order bearing Enclst: No. CS06-15/DHS/FATA dated 29.05.2012, on the subject noted.

Your are informed that this Directorate has got neither reserved pool for such workers nor the employees upto BPS-15 can be transferred from FATA as per instructions of the Establishment Department Government of Khyber Pakhtunkhwa.

DIRECTOR GENERAL HEALTH SERVICES, K.P.K. PESHAWAR.

Put up pl

Major S.M. Ali Shah

DM

5/6

A

05/12

attested

[Signature]

ASA/02

4.6.12



29/5
④

FATA SECRETARIAT
(SOCIAL SECTORS DEPARTMENT)
WARSAK ROAD PESHAWAR

OFFICE ORDER

The services of the following ministerial staff attached to Health Department FATA are hereby placed at the disposal of Director General Health Services, Khyber Pakhtunkhwa Peshawar with immediate effect in the best interest of public.

1. Mr. Nisar Khan, Senior Clerk attached to Agency Surgeon Mohmand at Ghallani.
2. Mr. Muhammadullah, Office Assistant attached to DHS, FATA Peshawar.
3. Mr. Saeedulah, Senior Clerk attached to Agency Surgeon N.W. Agency Miranshah.

Secretary Social Sectors Department
FATA.

No. SO (SSD)/DHS/SO(H) 171-72 Dated: 28 / 5 / 2012

Copy to the:-

1. Secretary to Govt: Khyber Pakhtunkhwa Health Department Peshawar
2. Director General Health Services, Khyber Pakhtunkhwa Peshawar.
3. Director Health Services, FATA Peshawar.
4. AGPR Sub Office Peshawar.
5. Agency Surgeon Mohmand & N.W. Agency Miranshah.
6. Agency Accounts Officers Mohmand & N.W. Agency.
7. PS to Secretary Social Sectors FATA Peshawar.
8. Officials concerned

Section Officer
Social Sectors (Health)

28/5
D.D.A
ADA

28/5

attested
VR

(5) (S) ~~PAKISTAN~~
DIRECTORATE GENERAL HEALTH
SERVICES, GOVT: OF KHYBER
PAKHTUNKHWA PESHAWAR.
No. 4019/PERSONNEL
DATED 05/06/2012.

To,
The DHS (FATA)
Khyber Pakhtunkhwa Peshawar.

Subject: **OFFICE ORDER**
Memo:

Reference your office order bearing Endst: No. 8806-
16/DHS/FATA dated 29.05.2012, on the subject noted.

You are informed that this Directorate has got neither
reserved pool for such workers nor the employees upto BPS-15 cannot be
transferred from FATA as per instructions of the Establishment
Department Government of Khyber Pakhtunkhwa.

xxSdxx
DIRECTOR GENERAL HEALTH
SERVICE, K.P.K PESHAWAR.

Attested
VB

6

CONFIDENTIAL

INQUIRY REPORT ABOUT THE IRREGULARITIES IN THE OFFICE OF AGENCY SURGEON MOHMAND AGENCY

An inquiry committee comprising the following members was constituted to inquire in to the complaints by the owners of rented CHC buildings and Agency Surgeon Mohmand Agency.

1. Dr. Sartaj Khan, Program Manager TBCP FATA
2. Dr. Muhammad Tahir, Program Manager Malaria Control Program FATA
3. Dr. Alamgir Khan, M&E Officer MNCH Program FATA

SCOPE OF THE INQUIRY:

1. Allegations about the ex-head clerk Mr. Nisar Khan for drawl of pay and non disbursement to the staff. Pay of LHV Ms. Nelofer has not been paid from February 2006 to September 2006, January 2007 to Sept 2007 and January 2009 to April 2010.
2. Withdrawal of cheque from Government Treasury amounting to Rs. 3760216/- in February 2013 out of which Rs. 1260216/- has been allegedly not paid to the owners of rented buildings of CHCs and other heads of accounts i.e. Government Electricity Bill, Office Stationary and POL etc.
3. Shifting of Government assets including one Motorcycle, two deep freezers, one Generator and one stabilizer to his home and not returned to the office.
4. None handing over of the office charge to the office superintendent after his transfer by keeping his office locked along with record on dated 14-2-2013.

INQUIRY PROCEEDINGS

1. Statements of Dr. Dawood Khan, Agency Surgeon Mohmand Agency, Dr. Muhammad Riaz Ex--Agency Surgeon Mohmand Agency, Dr. Jehangir Khan Ex- MS AHQ Hospital Ghallanai, Mr. Nisar Khan Ex Senior Clerk/accountant, Mr. Lutf Ur Rehman Head clerk, Mr. Abdul Wadood Junior Clerk, Mr. Muhammad Nisar Store Keeper Mohmand Agency and Nelofer LHV Agency Surgeon Office Mohmand were recorded and were cross examined. (Annex-A,B,C,D,E,F,G,H)
Nelofer LHV avoided the inquiry proceedings when cross examined by the committee for her places of posting during 33 months for which she was claiming none payment of salaries
2. Statements of 10 building owners of rented CHCs 44 & (13 after 30-06-2010) were recorded on oath along with submission of photocopies of CNICs. (Annex-I)
3. Statements of 05 health employees regarding none payment of salaries were recorded. (Annex-J)
4. The Agency accounts office was visited and one cheque No. K204069 dated: 07-02-2013 amounting to Rs. 3760216/- was verified from the account officer Mohmand Agency in respect of Agency Surgeon Mohmand. (Annex-K)
5. Relevant record, cash book and other documents available in the office of Agency Surgeon Mohmand were thoroughly checked.
6. The main stores of Agency Surgeon Mohmand were checked physically by the committee in presence of Agency Surgeon and store keeper. *Muhammad*

- 7
7. Relevant budget releases of regular/developmental budget from DHS Office FATA were collected from the concerned sections and checked thoroughly. (Annex-L)
 8. Sufficient time was given to the Officers/Officials under inquiry in their defense if any.

OBSERVATIONS

1. None payment of salaries to the staff, it was observed that most of the staff remained absent from their duties and their salaries were drawn and not/partially paid to the concerned staff including Nelofer LHV. An inquiry has already been conducted by the political administration Mohmand Agency. On the recommendation charge sheets has been sent to the provincial Health Department KPK through FATA Secretariat against Dr. Dawood Khan Agency Surgeon Mohmand Agency and Mr. Nisar Khan Ex-Senior Clerk/Accountant Mohmand.

2. After checking the Cash book of the Agency Surgeon Office Mohmand Agency a sum of Rs. 3760216/- has been entered on Page No. 130 of the receipt side of the cash book without any signature by the accountant and agency Surgeon. On page No. 131 of the cash book (payment side) an amount of Rs. 860000/- has been shown as disbursed without any signature of accountant and Agency Surgeon. The committee observed that the whole amount Rs. 3760216/- has been withdrawn from the Government Treasury but not disbursed as evident from the cash book, findings of office record produced by Mr. Lutf Ur Rehman Head clerk and Fazal-e-Khaliq Junior Clerk Agency Surgeon Office Mohmand Agency. (Annex-M)

A clearance certificate issued by Dr. Dawood Khan Agency Surgeon to Mr. Nisar Khan Head Clerk without any official No and date (Annex-N) was totally denied by Dr. Dawood Khan.

A cross cheque dated: 26-08-2009 amounting to (Rs. 107000/-) from Mr. Nisar Khan, being deposited in to the personal account of Dr. Muhammad Riaz Ex-Agency Surgeon was not proved to the committee whether it was official or personal amount.

Financial benefits in terms MRC etc has been drawn and disbursed among the Agency Surgeon and his office staff irregularly as evident from the cash book pages No. 148 and 149, and statement of Mr. Lutf Ur Rehman Head Clerk and Fazal Khaliq Junior Clerk.

Mr. Nisar Khan Senior Clerk was previously downgraded to the position of junior clerk after inquiry and imposition of major penalty by the inquiry Officer after similar complaints in 2006.

3. The assets of the Agency Surgeon office Mohmand allegedly taken away by Mr. Nisar Khan Ex- Head Clerk have not been returned to the office.
4. Charge of the office of Agency Surgeon Mohmand has not been properly handed over to the Mr. Lutf Ur Rehman Head Clerk as the office was unlocked by a committee and available incomplete record was handed over to head clerk. The where about of other important record pertaining to accounts etc is still unknown.
5. It was generally observed by the committee that whole " Health Management System" both administrative and financial is not in line with prescribed rules and regulations since long and no remedial measures were taken by the concerned authorities including Agency Health Management team. *muhammad nisar*

9

RECOMMENDATIONS

1. Misappropriated Government money which is to be calculated by the present Agency Surgeon may be recovered from the Dr. Dawood Khan Ex- Agency Surgeon Mohmand (DDO) and Mr. Nisar Khan Senior Clerk (accountant) through Political Administration and to be deposited in to government treasury under relevant heads of accounts. The genuine pending rent of CHCs if any may be paid to the concerned owners after proper verification by the Agency Surgeon.
Dr. Dawood Khan being incompetent may not be given any administrative position with (DDO) power and may not be posted on any position in Mohmand Agency for at least 10 years in addition to disciplinary action under E&D rules.
It is also recommended that Mr. Nisar Khan Senior Clerk may not be given any position involving financial/administrative matters and may not be posted in Mohmand Agency for at least 10 years in addition to disciplinary action under E&D rules.
2. Present Agency Surgeon Mohmand Agency may be directed to stream line the Administrative and Financial matters with the support from the FATA Secretariat and Political Administration Mohmand Agency and implement the recommendations of the different inquiry committees on the Agency Health Management Team Mohmand Agency.
3. Disciplinary action may be initiated under E&D rules against Mr. Abdul Wadood Junior Clerk (transferred to Agency Surgeon Office FR Peshawar) also involved in account matters.
4. Mr. Lutf Ur Rehman Senior Clerk being not fit for the post of head clerk/accountant may be transferred from his present position.
5. Special audit of the accounts of Agency Surgeon Office Mohmand for the last five years may be carried out by Director Audit Federal Government Sub Office Peshawar. Report is submitted for information and persual please.

OK 23/10

Inquiry Committee

AMU EW
 Dr. Alamgir Khan
 M&E Officer MNCH FATA

M. T. S.
 Dr. Muhammad Tahir
 P.M Malariā Control Program FATA

Attested
[Signature]
 17/6/15

[Signature]
 Dr. Sartaj Khan
 Program Manager TBSP FATA

No. 12995 /M

(10)

Dated Ghallanai the. 1 / 12 / 2014

From : Political Agent,
Mohmand Agency.

To : Secretary,
Law and Order Department,
FATA Secretariat, Peshawar.

Subject : Application for Recovery of Misappropriated Amount.
Memorandum:

Reference Law and Order Department, FATA Secretariat, Peshawar letter No.FS/L&O/22/2583 dated 26.08.2014, on the subject noted above.

An application in respect of owners of Community Health Centers (CHCs) at Mohmand Agency was received from Law and Order Department, FATA Secretariat, Peshawar stating therein that the Ex-Agency Surgeon alongwith Ex-Accountant Mohmand Agency embezzled the rent of 44 numbers CHCs in Mohmand Agency. They further stated that recommendation of inquiry committee vide Director Health Services (FATA), Peshawar order No.J8957/DHS/FATA/Admin: dated 21.11.2013 that the rent of CHCs misappropriated by the Ex-Agency Surgeon and Accountant namely Dr. Dawood and Mr. Nisar Khan Senior Clerk may be calculated by the Agency Surgeon Mohmand Agency and recovered from the aforementioned officer / official and deposited into Government treasury for payment genuine pending rent of CHCs to concerned owners.

The under reference letter alongwith its enclosures was sent to Agency Surgeon Mohmand Agency to do the needful who furnished his report vide his letter No.4080-81/ASM dated 11.11.2014 (copy enclosed for ready reference) and calculated the misappropriated amount Rs.15988800/- (Rupees fifteen million, nine lac eighty eight thousand and eight hundred) only.

It is however worth added that Dr. Dawood Ex-Agency Surgeon and Mr. Nisar Khan Senior Clerk are no more on strength of this Agency, so that misappropriated amount can be recovered from them.

In view of above, it is requested that quarters concerned may please be directed to recover the embezzled amount from officer / official concerned at the earliest and be deposited at the relevant head of account in order to disburse the same amongst the owners of CHCs in Mohmand Agency. An early action in this regard is solicited please.

Political Agent
Mohmand Agency

Copy to:-

1. Additional Chief Secretary (FATA), Peshawar.
2. Secretary to Governor, Khyber Pakhtunkhwa, Peshawar.
3. Secretary AI&C Department, FATA Secretariat, Peshawar.
4. Secretary Social Sectors Department, FATA Secretariat, Peshawar.
5. Commissioner Peshawar Division Peshawar.
6. Director Health Services (FATA), Peshawar.
Agency Surgeon Mohmand Agency.
8. Assistant Political Agent, Upper Mohmand Subdivision

Political Agent
Mohmand Agency

amir

MB



DIRECTORATE HEALTH SERVICES FATA

FATA SECRETARIAT, WARSAK ROAD PESHAWAR

Phone: 091-9210212

Fax: 091-9212110

No. 16299

/DHS/FATA/ACC

Dated: 2 / 18 / 2017


To

The Agency Surgeon,
Mohmand at Ghalanai.

Subject: - APPLICATION FOR SECURE OF RECORD.

Reference to your letter No.3236/ASM dated 31-07-2017 on the subject noted above.

You are hereby directed to keep the Office record from 2005 to 2009 and October 2011 to Feb: 2013 in safe custody for further proceedings.


Director Health Services
FATA, Peshawar Services
FATA, Peshawar