

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. 363 /2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	11/03/2022	<p>The appeal of resubmitted today by Mr. Noor Mohammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</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 6/6/022 before S.B.</p> <p> CHAIRMAN</p>
		<p>Junior 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>

Asman Ullah

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. 350 /S.T,


Dt. 11/02 /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. c

Page 8/A.

Re-submitted after completion.

 28/22

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. 270 /2022

ASMAN ULLAH

V/S

HEALTH DEPTT:

INDEX

S/N	DOCUMENTS	ANNEXURE	PAGE
1	Memo of appeal	1 - 3
2	Affidavit	4
3	Appointment order dt: 09.03.2021	A	5
4	Arrival report	B	6
5	Pay slips	C	7-8
6	Departmental appeal	D	9
7	Wakalat Nama	10

Dated: _____ .2022

APPELLANT

Through:

NOOR MOHAMMAD KHATTAK
ADVOCATE

0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. _____/2022

Mr Asmanullah, Chowkidar,
DHO Office, NWTD.

..... **APPELLANT**

VERSUS

- 1- The Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
- 2- The District Health Officer, Tribal District 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 I.E FROM THE DATE OF REGULARIZATION OF SERVICE TILL DATE AND AGAINST NOT DECIDING THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the respondents may kindly be directed to release the monthly salaries of the appellant w.e.f 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 09-03-2021. 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 arrival report is annexed as annexure..... **B.**
- 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 i.e., from the date of regularization till date without any legal justification against which the appellant has submitted applications time and again. Copies of the pay bill are attached as annexure..... **C.**
- 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 **D.**

GROUND:

- A- That the impugned inaction of the respondents by not releasing the salaries of the appellant since regularization is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That the appellant has not been treated by the concerned authority in accordance with law and rules and as such the authority violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the appellant is still performing his duties and the inaction of the respondents by not releasing his 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
Asmanullah
ASMANULLAH

THROUGH:

NOOR MOHAMMAD KHATTAK

Haider Ali
HAIDER ALI
ADVOCATES, PESHAWAR

4

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. _____/2022

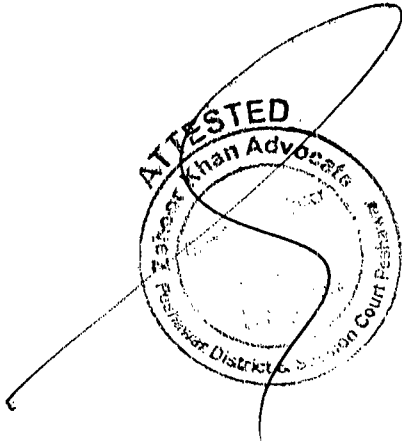
ASMAN ULLAH

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.




DEPONENT

CERTIFICATE:

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


CERTIFICATION

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

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

Email: agency Surgeonwa2019@gmail.com

OFFICE ORDER:

On the recommendation of Departmental Selection committee, Mr. Asman Ullah S/O Gul Munir resident of village Khati Kala & P/O Miranshah, NWTD is hereby appointed as Chowkidar in BPS-04 9610-390-21310) plus usual allowances as admissible under the rules against the existing vacant post at Office Miranshah, 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.
- 3- He shall be bound to serve for at least 3 years in North Waziristan Tribal District Miranshah.
- 4- 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.
- 5- 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.
- 6- He will have to serve anywhere in North Waziristan Tribal District.
- 7- Salaries should be released after the verification of all the documents by the concerned Board/Faculty etc.
- 8- He will not be entitled for any TA/DA for joining the service.
- 9- If he accepts the above terms and condition he have to report for duty to the **DHO Office Miranshah** within 15 days of the receipt of this offer, otherwise the order will be considered as cancelled.

Sd:XXXXXXXXXXXXXX

(Dr. Ikram Ullah)

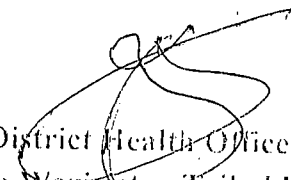
District Health Officer

North Waziristan Tribal District

No 8586-901 app:

dated: the 09/03/2021

- 1- Director Health Services Merged Areas Peshawar for information please.
- 2- Deputy Commissioner North Waziristan Tribal District North Wazirsitan.
- 3- District Account officer Tribal District North Waziristan Miranshah.
- 4- Accounts/Pay Bill Clerk of this office.
- 5- Official concerned.


District Health Officer
North Waziristan Tribal District

ANNEX B

6

To,

The District Health Officer,
North Waziristan TD Miranshah.

Subject: Arrival Report.

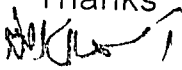
R/Sir,

In compliance with your good office order bearing endstt: NWTD
office order No. 8586-90 /Apptt:
dated 09/103 /2021.

I have the honour to submit herewith my arrival report for duty as a
chowkidar BPS 04 at
DHO office NWTD, today on
10/103 /2021, FN.

Dated: 10/103 /2021.

District Health Officer
NWTD Miranshah

Thanks

Yours Obediently,
Asmanullah
Chowkidar B-03
DHO office NWTD.

~~Signature~~

OFFICE OF THE DISTRICT HEALTH OFFICE

ANNEX

C

7

DDO CODE - MW6006

CASH CENTER--

EMPLOYEE CNIC NUMBER

DOB (DD/MM/YYYY)

21806-3287443-3

01-01-1988

DATE OF ENTRY OF GOVT SERVICE (DD/MM/YYYY) DESIGNATION

BPS DOMICILE

01-03-2021

Chaukidas

03

NWTD

EMPLOYEE NAME

HUSBAND/FATHER NAME

Asman Ullah

Gul Mumtaz

PERMANENT ADDRESS

RELIGION NATIONALITY

VILLAGE: Khatikela Tehsil Miranshah

ISLAM

PAKISTANI

PAYMENT ALLOWANCE

Wage Type	Code No	Description	Regular	ADJ W.E.FROM
0001	A01151	PAY		
1000	A01202	HRA		
1210	A01203	CON:ALLOW		
1507	A01207	WA		
1516	A01208	DA		
1917	A01217	MA		
1528	A01233	UAA		
2151	A0121T	AR15%2013		
0000	0000	AR10%2015		
		AR10%2016		
		AR10%2017		
		AR10%2018		
GROSS TOTAL				

DEDUCTIONS		
CODE	DESCRIPTION	AMOUNT
3300	GP FUND	
3710	B/FUND	
3704	G/INSURANCE	
	RBDC	
TOTAL DEDUCTION		

[Signature]
 DISTRICT ACCOUNT OFFICER
 TRIBAL DISTRICT MIRAN SHAH
 District Account Officer
 Miran District, Miranshah

[Signature]
 DISTRICT HEALTH OFFICER
 TRIBAL DISTRICT MIRAN SHAH
 DISTRICT HEALTH OFFICER
 NWTD MIRAN SHAH

~~ATTACHED~~

8

Miran Shah-N.w.

S#:1509

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

Pers #: 00971718 Buckle:

Name: ASMAN ULLAH
CHOWKIDAR

NIN:
GPF #:
Old #:

CNIC No.2150652874433

GPF Interest Applied

03 Active Temporary

MW6006 -

PAYS AND ALLOWANCES:

2247-Adhoc Relief All 2018 10%

961.00

2264-Adhoc Relief All 2019 10%

961.00

Gross Pay and Allowances

19,295.00

DEDUCTIONS:

GPF Balance 770.00

Subrc:

Total Deductions

1,730.00

17,565.00

D.O.B

01.01.1988

I.F.P Quota:

ALLIED BANK LIMITED PREEDY GATE BANNU

00 Years 03 Months 001 Days

0010079212230018

~~ATTACHED~~

8/A

BETTER COPY PAGE #

DIRECTOR GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR

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

No Accounts Miranshah Dated the 14.07.2021

To,

The District Accounts Officer
North Waziristan TD Miranshah

SUBJECT, AUTHORITY/ PROCESSING OF ACCOUNT MATTERS /BILLS

Dear Sir.

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

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

There-fore only Mr Saeed ullah Accounts/ Head Clerk of this office is hereby authorized to deal all kind of Account matters/ correspondence of this office on behalf of the Undersigned with your good office. and subsequently no other persons are allowed to touch any account matters and that this office will not be responsible w.e.f 10. 07. 2021 and onwards

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

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

DISTRICT HEALTH OFFICER
NORTH WAZIRISTAN TD MIRANSHAH

Endst No. 12572-73
Copy forwarded to the

Dated : 14.07.2021

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

DISTRICT HEALTHN OEFICER
NORTH WAZIRISTAN TD MIRANSHAH

ATTESTED

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 09/03/2021 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. 971718 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.

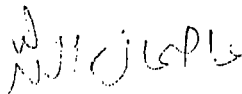
It is therefore, requested, in your kind honor to please direct the DHO Concerned to release our salaries from the date of stoppage i.e June 2021, along with remaining salaries and onward please.

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

Dated: 18/10/2021.

Thank

Your obediently,



Asmanullah

Chowkidar BPS-03.

DHO Office NWTD

~~RECEIVED~~

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO: _____ OF 2022

ASMAN ULLAH _____ (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

HEALTH _____ (RESPONDENT)
(DEFENDANT)

I/We Asman 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

Handwritten signature

CLIENTS

ACCEPTED

NOOR MUHAMMAD KHATTAK

UMER FAROOQ MOHMAND

KAMRAN KHAN

SAID KHAN

HAIDER ALI

&

KHANZAD GUL

ADVOCATES