

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.


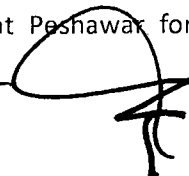

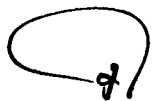

(Fareeha Paul)
Member (E)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. - 344 /2022

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|--|
| 1 | 2 | 3 |
| 1- | 10/03/2022 | <p>The appeal 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 style="text-align: right;"> REGISTRAR</p> <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 style="text-align: right;"> CHAIRMAN</p> |
| | 8/4/2022 | <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 Sb.</p> <p style="text-align: right;"> CHAIRMAN</p> |
| | 06.06.2022 | <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 style="text-align: right;"> (Rozina Rehman) Member (J)</p> |

Wajid A. Khattak

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. 375 /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 D page 9/A.
Resubmitted after completion.*



**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
CHECK LIST**

Case Title: **Wajid Madin** V/S

Health

DEPTT:

| S# | CONTENTS | YES | NO |
|----|--|-----|----|
| 1 | This Appeal has been presented by: NOOR MOHAMMAD KHATTAK | ✓ | |
| 2 | Whether Counsel/Appellant/Respondent/Deponents have signed the requisite documents? | ✓ | |
| 3 | Whether appeal is within time? | ✓ | |
| 4 | Whether the enactment under which the appeal is filed mentioned? | ✓ | |
| 5 | Whether the enactment under which the appeal is filed is correct? | ✓ | |
| 6 | Whether affidavit is appended? | ✓ | |
| 7 | Whether affidavit is duly attested by competent Oath Commissioner? | ✓ | |
| 8 | Whether appeal/annexures are properly paged? | ✓ | |
| 9 | Whether certificate regarding filing any earlier appeal on the subject, furnished? | x | ✓ |
| 10 | Whether annexures are legible? | ✓ | |
| 11 | Whether annexures are attested? | ✓ | |
| 12 | Whether copies of annexures are readable/clear? | ✓ | |
| 13 | Whether copy of appeal is delivered to AG/DAG? | ✓ | |
| 14 | Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents? | ✓ | |
| 15 | Whether numbers of referred cases given are correct? | ✓ | |
| 16 | Whether appeal contains cutting/overwriting? | x | ✓ |
| 17 | Whether list of books has been provided at the end of the appeal? | ✓ | |
| 18 | Whether case relate to this court? | ✓ | |
| 19 | Whether requisite number of spare copies attached? | ✓ | |
| 20 | Whether complete spare copy is filed in separate file cover? | ✓ | |
| 21 | Whether addresses of parties given are complete? | ✓ | |
| 22 | Whether index filed? | ✓ | |
| 23 | Whether index is correct? | ✓ | |
| 24 | Whether Security and Process Fee deposited? On | | |
| 25 | Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On | | |
| 26 | Whether copies of comments/reply/rejoinder submitted? On | | |
| 27 | Whether copies of comments/reply/rejoinder provided to opposite party? On | | |

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name: **NOOR MOHAMMAD KHATTAK**

Signature: _____

Dated: _____

2022

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. 272 /2022

WAJID MODIN

V/S

HEALTH DEPTT:

I N D E X

| S.N | DOCUMENTS | ANNEXURE | PAGE |
|------------|-------------------------------------|-----------------|-------------|
| 1 | Memo of appeal | | 1 - 3 |
| 2 | Affidavit | | 4 |
| 3 | Appointment order dt: 12.10.2020 | A | 5 |
| 4 | Medical certificate | B | 6 |
| 5 | Arrival report | C | 7 |
| 6 | Pay slip | D | 8-9 |
| 7 | Departmental appeal | E | 10 |
| 8 | Wakalat Nama | | 11 |

Dated: _____ .2022

APPELLANT

Through:

NOOR MOHAMMAD KHATTAK
ADVOCATE
0345/9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. _____/2022

Mr Wajid Modin, Sweeper,
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 12-10-2020. 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

Wajid Modin

WAJID MODIN

THROUGH:

Noor Mohammad Khattak
NOOR MOHAMMAD KHATTAK

Haider Ali

HAIDER ALI

ADVOCATES, PESHAWAR

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. _____ / 2022

WAJID MODIN

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.



[Handwritten Signature]
DEPONENT

CERTIFICATE:

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

[Handwritten Signature]
CERTIFICATION

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

ANNEXURE A

OBJECT ORDER:

As recommended by the Manager Employment, Exchange Branch office, Mr. Waheed Maslin S/O Lajpota Khan of Village Darpa Khet Tehsil and P/O Miranshah is here by appointed as a Sweeper in BPS-03 (9610-390-21310), against the Existing vacant post of DHO OFFICE, North Waziristan Tribal District, plus usual allowances as admissible under the rules 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 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. His Salaries will be released after the verification of their CNIC, Domicile certificate and Clarence/character certificate.
7. He will not be entitled for any TA/DA for joining the service.
8. If he accept the above terms and condition they have to report for duty within 15 days of the receipt of this offer at DHO Office, otherwise the order will be considered as cancelled.

Sd:xxxxxxxxx
(Dr. Akram Ullah)
District Health Officer
North Waziristan Tribal District

No 146-49 /Apptt:

dated 12/10/2020.

Copy forwarded to the:

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


District Health Officer,
North Waziristan Tribal District

ATTESTED

FORM NO. 2

US 171-11WFP-2719-2000 P of 100-297-80-110

MEDICAL CERTIFICATE

ANNEXURE

B

Name of Official Wajid Modin
 Caste or race Muslim
 Father's Name Liqadar Khan
 Residence Darwar Darpa Khel Tehsil
Miran Shah
 Date of Birth 15-06-1996
 Exact height by measurement 5-6
 Personal Mark of Identification NIL
 Signature of the Official Wajid Modin
 Signature of head of Office _____

6

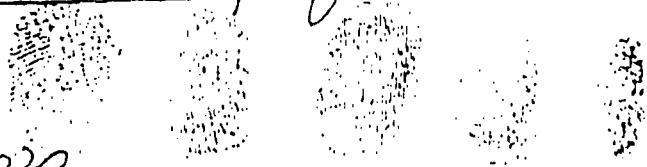
Seal of Office



I do hereby certify that I have examined Mr./Miss. Wajid Modin
 Candidate for employment in the Office of the Health department
 And can not discover that he/She had any disease communicable or other constitutional effect join or
 bodily infirmity except -NIL

I do not consider this as disqualification for employment in this office of the
Health department his/her age according to his own statement 25
 Years and by appearance about Twenty-five years.

LEFT HAND THUMB AND FINGER IMPRESSION 1011012020



11

~~ANNEXURE~~

ANNEXURE

The District Health Officer,
North Waziristan TD Miranshah.

C

7

Subject: Arrival Report.

R/Sir,

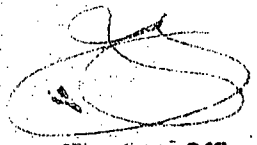
In compliance with your good office order bearing endstt: NWTD
office order No. 146-49 /Apptt:
dated 12/10/2020.

I have the honour to submit herewith my arrival report for duty as a

Sweeper BPS 03 at
DHO Office NWTD today on
13/12/2020, FN.

Dated: 13/12/2020.

Seen
C


District Health Officer
NWTD Miranshah

Thanks

Yours Obediently,

Wajid Modin
Sweeper - 3
DHO Miranshah.



EMPLOYEE MASTER FILE CREATION FORM

FORM PAY 001

OFFICE OF THE DISTRICT HEALTH OFFICE

DDO CODE MW6006 CASH CENTER--

EMPLOYEE CNIC NUMBER

21506-4260793-3

DOB (DD/MM/YYYY)

15-06-1996

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

01-03-2021

DESIGNATION

Sweeper

BPS

03

DOMICILE

NWTD

EMPLOYEE NAME

Wajid Modin

HUSBAND/FATHER NAME

Loiqadar Khan

PERMANENT ADDRESS

Tehsil and P/O Miranshah

RELIGION

ISLAM

NATIONALITY

PAKISTANI

PAYMENT ALLOWANCE

| Wage Type | Code No | Description | Regular | ADJ W.E.FROM |
|-------------|---------|-------------|---------|--------------|
| 0001 | Ao1151 | PAY | 1961 | |
| 1000 | AO1202 | HRA | 1458 | |
| 1210 | AO1203 | CON:ALLOW | 1785 | |
| 1567 | AO1207 | WA | 150 | |
| 1516 | AO1208 | DA | 150 | |
| 1947 | AO1217 | MA | 1500 | |
| 1528 | AO1233 | UAA | 1000 | |
| 2151 | AO121T | AR15%2013 | 260 | |
| 0000 | 0000 | AR10%2015 | 168 | |
| | | AR10%2016 | 828 | |
| | | AR10%2017 | 196 | |
| | | AR10%2018 | 196 | |
| GROSS TOTAL | | | 19179/- | |

80853290

8180232

(971707)

Ac = 1308627841008820

B/code = 0957

MCB

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

Cancelled/debited

vide DHA letter

Nos. 146/1654 dt

11/6/21

CERTIFICATES

1. Certified that the CNIC issued by NDRA has been verified and found correct.
2. Certified that the entire particular mentioned above are correct and service Book attached with proforma is original and has been signed up to date by the concerned officer.
3. Certified that the employee mentioned above regular in attendance and has not been preceded abroad Pakistan.

District Accounts Officer
District Accounts Officer
TRIBAL DISTRICT MIRAN SHAH

District Health Officer
District Health Officer
TRIBAL DISTRICT MIRAN SHAH

ATTACHED

(B)

ANNEXURE

9

Miran Shah-N.W.

S#:1489

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

Pers #: 00971707 Buckle:
Name: WAJID MODIN
SWEEPER
CNIC No.2150642607933
GPF Interest AppPied
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
15.06.1996
00 Years 03 Months 001 Days

LFP Quota:
MCB BANK LIMITED UNIVERSITY TOWN
1008820

~~ATTACHED~~

9/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 HEALTH OFFICER
NORTH WAZIRISTAN TD MIRANSHAH

ATTACHED

ANNEXURE

E

10

To,

The Director General Health Services,
Khyber Pakhtunkhwa Peshawar.

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 Sweeper BPS-03, since 12/10/2020 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. 971707 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,



Wajid Modin

Sweeper BPS-03.

DHO Office NWTD



VAKALATNAMA

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR**

APPEAL NO: _____ OF 2022

Wajid Madin _____ (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

HEALTH _____ (RESPONDENT)
(DEFENDANT)

I/We *Wajid Madin*

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

Wajid Madin

CLIENTS

ACCEPTED

NOOR MUHAMMAD KHATTAK

UMER FAROOQ MOHMAND

KAMRAN KHAN

SAID KHAN

HAIDER ALI

&

**KHANZAD GUL
ADVOCATES**