

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.



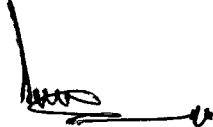



(Fareeha Paul)
Member (E)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 371/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	11/03/2022	<p>The appeal 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-		<p>This case is entrusted to Single Bench at Peshawar for preliminary hearing to be put there on <u>08-04-2022</u>.</p> <p> CHAIRMAN</p>
3-	08/04/2022	<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>
	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> (Rozina Rehman) Member (J)</p>

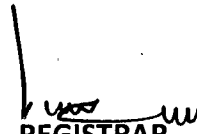
Abridged

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.
- 3- Memorandum of appeal may be got signed by the counsel.

No. 333 /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 8/A.*

Re-submitted after completion.

 28/22

Objection no. 2 still stands, Hence the appeal is returned to counsel for the appellant to complete and resubmit same within 15 days.

No 180

Dated 28-2-2022

A. M.
Assistant Registrar

Re. submitted after completion.

7/3/22

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. 316 /2022

ABID 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 Abidullah, Malaria Supervisor,
Civil Hospital Boya, Tehsil Dattakhel, NWA

..... **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 01-05-2015 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 01-05-2015 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 Laboratory Technician on contractual basis in the respondent Department w.e.f 11-04-2013. 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 11-04-2013 i.e., from the date of regularization 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 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

ABIDULLAH

THROUGH:

NOOR MOHAMMAD KHATTAK

&

HAIDER ALI

ADVOCATES, PESHAWAR

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. _____/2022

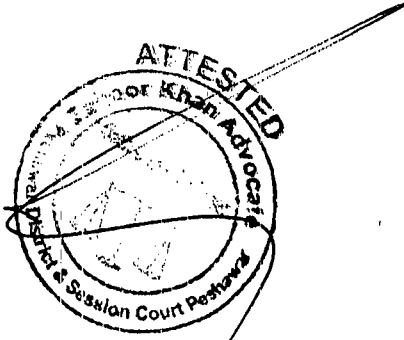
ABID ULLAH

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 AGENCY SURGOEN
NORTH WAZIRISTAN MIRANSHAH.
PHONE & FAX: 0928-300788.

ANNEXURE

(A)

(S)

OFFICE ORDER:

On the recommendation of Departmental Selection committee, Mr. Abidullah S/O Muhammad Noor Din resident of NWA Tehsil & P/O Miranshah is hereby appointed as a Laboratory Technician (Pathology) in BPS-09 (6200-380-17600) plus usual allowances as admissible under the rules against the existing vacant post at Civil Hospital Boya Tehsil Dattakhel North Waziristan Agency under the control of the undersigned in the best interest of public services with immediate effect.

His appointment shall be subjected on the following terms and conditions.

- 1- He is declared medically fit for this job.
- 2- His appointment will be purely on contract /temporary basis and are liable to be terminated at any time without assigning any notice/reasons.
- 3- He will be governed by such rules and order issued by the Government from time to time for the category of staff to which he belongs.
- 4- If he wished 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- His pay will be released after the verification of all the documents from the required Board /Faculty according to the Government rules.
- 6- He will not be entitled for any TA/DA for joining the service.
- 7- If he accepts the above terms and condition he will have to report for duty to the Superintendent Malaria Section within 15 days of the receipt of this offer, otherwise the order will be considered as cancelled.


Sd:xxxxxxxxxxxxxx
Agency Surgeon
North Waziristan Miranshah

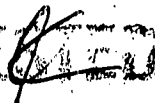
No 1403-06 /App: dated: Miranshah the: 11/104 /2013.

Copy forwarded to the:-

1. Agency Account officer North Waziristan Miranshah.
2. Accounts/Pay Bill Clerk of this office.
3. MO Incharge Civil Hospital Boya.
4. Official concerned.

For information and necessary action.


Agency Surgeon
North Waziristan Miranshah

ATTESTED 

N.W.F.P Med No.4

GS&PD-NWFP-27IS-2000 P of 100-29-7-98--- (16)

MEDICAL CERTIFICATE

Name of Official Mr. Abidullah
 Caste or race Mullia
 Father's Name Muhammad Noor Din
 Residence village NWA Tehsil of P/O Miran Shali NWA
 Date of Birth 13/04/1983
 Exact height by measurement 5-5
 Personal Mark of Identification Nil
 Signature of the Official [Signature]
 Signature of head of Office [Signature]

Report for duty today

12/04/2013

[Signature]
 Seal of Office Agency North Waziristan

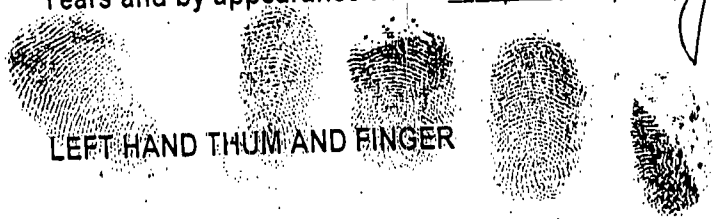
I do hereby certify that I have examined Mr./Miss. Abidullah

Candidate for employment in the Office of the Health Dept

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 Dept his/her age according to his own statement 30

Years and by appearance about thirty years.



IMPRESSION 12/04/2013

[Signature]

[Signature]
 Agency Surgeon,
 North Waziristan Agency

To,

ANNEXURE

C

7

The Agency Surgeon,
North Waziristan Agency Miranshah.

Subject: Arrival Report.

R/Sir,

In compliance with the Agency Surgeon, NWA office order
No. 1403-06 /App: dated 11 / 04 / 2013.


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


Laboratory Technician BPS-09 today on
12/4/2013 FN.

Dated: 12/4/2013

Thanks

Accepted


Agency Surgeon
North Waziristan Agency
S/S


Yours Obediently,

Abidullah
Lab. Tech.
Agency Surgeon
Office NWA


ACCEPTED

CNIC# 2150644801019

Date of Birth 13/4/1983 Date of Appt: 11/4/2023

Name Abidullah F/Name Muhammad Noor Din

Grade 19 Designation Laboratory Tech:

GP Fund A/C No Cash Center

Department: Health Department DD Code: MW6006

B. Pay Scale 19080/2

Religion: Islam

Permanent Add:

Code	Deduction	
3012	GP Fund	2220
3501	BF	600
4004	R&B	600
	Total:	3420

Code	Pay & All:	Regular 1-7-2021	Adj for 1/4/2015 to 31/7/2020
0001	AO1151	19080	1183925
	Pay		
1000	AO1202	1961	128940
	HRA		
1210	Convene	2856	209496
	Allowance		
1300	MA	1500	117,900
1528	UAA	1500	117,900
2209	HPA	10000	680,000
2151	AO121TAR15% (2013)	329	--
	AR10%(2015)	243	26,828
	AR10% (2016)	1274	82,410
2211	AR-10%	1908	91,140
	NEW		
2224	AR-10%	1908	91,140
	NEW		
2247	AR-10%	1908	91,140
	NEW		
G:Total		44467	0
Ded:		3420	0
Net Total		41047	2,820,819

Signature of Employee _____

1. Certified that the Employee mentioned above is regular attendance and have not been proceeded abroad Pakistan.
2. All the particulars mentioned above are correct and the service book attached with the proforma is original and has been signed upto date by the DDO Concerned.
3. Certified that CNIC issued by NADARA has been verified and found correct.

Entered/Checked By _____

District Account Officer
NWTD Miranshah.

Signature & Seale _____

District Health Officer
NWTD Miranshah

ATTACHED

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

ATTACHED

The Director General Health Services,
Khyber Pakhtunkhwa Peshawar.

9

ANNEXURE E

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 Malaria Supervisor BPS-12, since 11/04/2013 up to date continuously / regularly under the control of the District Health Officer North Waziristan Tribal District Miranshah with great zeal and zest. My pay & allowances are stopped by the ex-District Health Officer due to non-computerization and opening of bank account in the month of May 2015. (copy of letter dated dated 04/12/2020 is Annex-A).

After that I had submitted application to the DHO concerned NWTD with the request to release my salaries from the date of stoppage. My salaries are released by the EX-DHO NWTD in the month of March 2021. Proper 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 is attached Annex-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 returned all the salaries bills i.e source-I & II signed by the then DHO to the office of DHO for proper counter signature and verification. (Copy of impugned letter dated 14/07/2021 is attached Annex-C). Now nor the DHO Concerned attested 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 regularization / stoppage i.e 01/05/2015 up to date please.

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

Dated: 18 / 10 / 2021.

Thanks

Your obediently,

Mr.Abidullah

Laboratory Technician BPS-12.

DHO Office NWTD

ATTACHED

VAKALATNAMA

10

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO: _____ OF 2022

ABID ULLAH _____ (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

HEALTH _____ (RESPONDENT)
(DEFENDANT)

I/We Abid 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

A

CLIENTS

ACCEPTED

NOOR MUHAMMAD KHATTAK

UMER FAROOQ MOHMAND

KAMRAN KHAN

SAID KHAN

HAIDER ALI

&
KHANZAD GUL
ADVOCATES