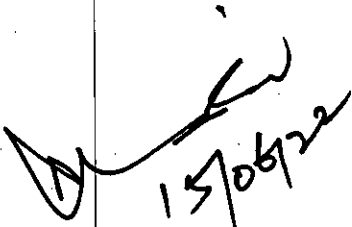


S.No.	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	15 th June, 2022	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> <u>PESHAWAR.</u></p> <p style="text-align: center;">Service Appeal No. 916/2022</p> <p>Dr. Zarqa Nasrullah Jan, Chief Dental Surgeon (BS-20), Government Naseerullah Khan Babar Memorial Hospital, Peshawar, under transfer to DHQ Hospital, Charsadda. ... (Appellant)</p> <p style="text-align: center;"><u>Versus</u></p> <ol style="list-style-type: none"> 1. The Government of Khyber Pakhtunkhwa through Chief Secretary Government of Khyber Pakhtunkhwa Peshawar. 2. The Secretary Health Department, Khyber Pakhtunkhwa, Peshawar. 3. The Director General Health Services Department, Khyber Pakhtunkhwa Peshawar. <p style="text-align: right;">... (Respondents)</p> <p style="text-align: center;"><u>ORDER</u></p> <p><u>KALIM ARSHAD KHAN CHAIRMAN:-</u> Learned Counsel for the appellant present and has been heard.</p> <ol style="list-style-type: none"> 2. The heading of the appeal is framed is as under:- <p style="text-align: center;"><i>“Service appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the impugned notification dated 24.01.2022 whereby upon promotion of the appellant to the post of Chief Dental Surgeon (BS-20) has been posted at DHQ, Hospital Charsadda in utter violation of Clause-XI of the Transfer/Posting Policy and against no action taken on the departmental appeal of the appellant within the statutory period of ninety days.”</i></p> 03. The prayer in the appeal is as under:- <p style="text-align: center;"><i>“That on acceptance of the instant appeal the impugned notification dated 24.01.2022 may very kindly modified/rectified to the extent of posting of the appellant by directing the respondents to retain the appellant at Naseerullah Khan Babar Memorial Hospital, Peshawar. Any other remedy which this august Service Tribunal deems fit that may also be awarded in favor of the appellant.”</i></p> 4. When we peruse the impugned order/notification dated 24.01.2022 annexed as annexure-F, it would reveal that it is a promotion notification

and not that of a transfer. The learned counsel urged that vide application dated 25.11.2021, the appellant had requested that there was only one sanctioned post of Chief Dental Surgeon (BS-20) in district Peshawar which was laying vacant at the Government Naseerullah Babar Memorial Hospital, Kohat Road Peshawar. That she requested that till the case of her promotion was finalized, the said post might be kept vacant so that she could be posted against the said post adding that she was domiciled in Peshawar and being a female Doctor she was having some domestic issues, therefore, had a due right to be posted against the vacant post.

5. There is a letter bearing endorsement No. 22699-700/E.I dated 23.12.2021 sent to the Secretary to Government of Khyber Pakhtunkhwa Health Department by the Directorate General Health Services, Khyber Pakhtunkhwa Peshawar wherein, while making reference to the appellant of the appellant, it was stated that she was already performing duty in the Government Naseerullah Babar Memorial Hospital and a post of Chief Dental Surgeon (BS-20) was lying vacant there, so no person should be posted there for the reason that she was a female doctor and was domiciled in Peshawar besides dependant old age mother of 88 years; that one Dr. Tariq Farooq Nawaz junior to her was promoted to the post of Chief Dental Surgeon (BS-20) and was posted against the said post which was incorrect, illegal, unlawful and worst example of discrimination, victimization, nepotism, favoritism and misuse of the vested powers under the law. That she requested that the said order might be withdrawn/cancelled/set aside and she might be posted against the said post. It is also stated in the letter that Dr. Tariq Farooq Nawaz had been promoted to the post of Chief Dental Surgeon (BS-20) and had been posted in the Government Naseerullah Khan Babar Memorial Hospital, Kohat Road Peshawar vide notification No. SOHG (E-V)/3-3/2021/228 dated 09.12.2021. The record reveals that on promotion to the post of

 15/06/22

Chief Dental Surgeon (BS-20), the appellant was transferred from Government Naseerullah Khan Babar Memorial Hospital Peshawar to the DHQ, Charsadda for actualization of promotion. This order of transfer has nowhere been mentioned in the factual part of the appeal rather in the ground this has been alleged to be wrong against law facts etc. There is no departmental appeal filed by the appellant against the transfer order dated 12.04.2022 as no such fact has been disclosed in the appeal nor any such departmental representation is found placed on the file. Instead the appellant filed writ petition No. 1551-P/2022 before the Hon'ble Peshawar High Court, wherein the order dated 12.04.2022 was challenged. The writ petition was dismissed by the Hon'ble Peshawar High Court, Peshawar on 27.04.2022 in the following manner:-

2. After arguing the case at some length, at second thought, learned counsel for petitioner stated that he would not press this petition anymore and the petitioner would be satisfied if the respondent No.1 is directed to decide her appeal dated 15.02.2022 appearing at page-13 of the petition in accordance with law and rules on the subject within a reasonable time.

3. In view of the above, this writ petition is dismissed, however, the respondent No.1 is directed to decide the petitioner's appeal within a fortnight.

6. In the above order of the Hon'ble Peshawar High Court too, there is no reference of any departmental appeal filed against the order dated 12.04.2022 rather there is reference of the same in the appeal of the appellant dated 15.02.2022.

7. Be that as it may, as aforesaid, the instant appeal is against impugned notification dated 24.01.2022 which is regarding promotion while prayer made in the appeal is regarding modification, rectification or order dated 24.01.2022 to the extent of posting of the appellant whereas there was no posting made vide order dated 24.01.2022. Therefore, this appeal is mis- conceived and not well-founded. It is thus dismissed in

W. J. J. J.
15/06/22

limine. The appellant is at liberty to challenge the transfer order dated 12.04.2022 which, if challenged will be decided on its own facts, circumstances and merits as well as in accordance with law. Consign.

8. *Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal this 15th day of June, 2022.*




(KALIM ARSHAD KHAN)
Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 916/2022


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	15/06/2022	<p>The appeal of Dr. Zarqa Nasrullah Jan 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 style="text-align: right;"> REGISTRAR </p>
2-		<p>This case is entrusted to Single Bench at Peshawar for preliminary hearing to be put there on _____. Notices be issued to appellant and his counsel for the date fixed.</p> <p style="text-align: right;">CHAIRMAN</p>

The appeal of Dr. Zarqa Nasrullah Jan Chief Dental Surgeon received today i.e. on 09.06.2022 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

Copy of impugned order dated 24.01.2022 mentioned in the heading of the appeal is not attached with the appeal which may be placed on it.

No. 1641 /S.T,


Dt. 09/6 /2022


REGISTRAR OW
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Noor Muhammad Khattk Adv.

R. 18/6

Re submitted Attos Compliance


15/6/2022

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

CASE TITLE: *Dr. Zargha Nasrullah/IS Health Deptt.*

S#	CONTENTS	YES	NO
1	This Appeal has been presented by: <i>Noor Mohammed Chatterjee</i>	✓	
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 Mohammed Chatterjee*

Signature: _____

Dated: _____

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. 916 /2022

DR. ZARQA NASRULLAH JAN V/S HEALTH DEPTT:

I N D E X

S.NO	DOCUMENTS	ANNEXURE	PAGE
1	Memo of appeal	1-4
2	Affidavit	5
3	Stay application	6
4	CNIC	A	7
5	Seniority list & application along with letters	B & C	8-11
6	Notification & letter	D	12
7	Departmental appeal	E	13
8	Impugned notification	F	14-14/A
9	Memo of Writ petition & COC petition	G	15-19
10	Judgment dated 27.4.2022	H	20-21
11	Transfer posting policy	I	22-24
12	vakalatnama	25

Dated: 09 /06./2022

APPELLANT

Through:


NOOR MOHAMMAD KHATTAK
ADVOCATE
0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL WRIT NO. 916 /2022

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 224

Date 09-6-2022

Dr. Zarqa Nasrullah Jan, Chief Dental Surgeon (BPS-20),
Government Naseerullah Khan Babar Memorial Hospital, Peshawar,
Under transfer to DHQ Hospital, Charsadda.

..... **APPELLANT**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director General Health Services Department, Khyber Pakhtunkhwa, Peshawar.

..... **RESPONDENTS**

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION DATED 24.1.2022 WHEREBY UPON PROMOTION OF THE APPELLANT TO THE POST OF CHIEF DENTAL SURGEON (BPS-20) HAS BEEN POSTED AT DHQ HOSPITAL CHARASADDA IN UTTER VIOLATION OF CLAUSE XI OF THE TRANSFER/POSTING POLICY AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

THAT ON ACCEPTANCE OF THE INSTANT APPEAL THE IMPUGNED NOTIFICATION DATED 24.1.2022 MAY VERY KINDLY MODIFIED/RECTIFIED TO THE EXTENT OF POSTING OF THE APPELLANT BY DIRECTING THE RESPONDENTS TO RETAIN THE APPELLANT AT NASEERULLAH KHAN BABAR MEMORIAL HOSPITAL, PESHAWAR. ANY OTHER REMEDY WHICH THIS AUGUST SERVICE TRIBUNAL DEEMS FIT THAT MAY ALSO BE AWARDED IN FAVOR OF THE PETITI

/SHEWETH:

Brief facts giving rise to the instant service appeal are as under:-

- 1- That the appellant is the employee of respondent Department and is serving the respondent Department as Chief Dental Surgeon (BPS-20).

Filed to Registrar
09/06/2022
Re-submitted to Registrar
15/6/2022

2- That right from appointment till date the appellant has served the respondent department quite efficiently and up to the entire satisfaction of her superiors.

3- That it is pertinent to mention here that the appellant is at the verge of retirement and is going to be retired from service on superannuation basis i.e. w.e.f. 25.4.2023.

Copy of the CNIC is attached as annexure **A.**

4- That appellant while performing his duty at Naseerullah Jan Hospital, Peshawar as Principal Dental Surgeon (BPS-19) and being in the promotion zone filed an application/Departmental appeal for retention of her posting in the ibid Hospital as one post of Chief Dental Surgeon is/was vacant. That on the ibid application proper correspondence have been made between the respondents. Copies of the Seniority list and application along with letters are attached as annexure **B and C.**

5- That upon promotion of the appellant to the post of Chief Dental Surgeon (BPS-20) vide Notification dated 24.1.2022 the respondent No.3 posted the appellant at DHQ Hospital Charsadda instead of retaining her at Naseerullah Khan Babar Hospital, Peshawar. Copies of the Notification and letter are attached as annexure **D.**

6- That it is pertinent to mention that in the said proposal list of the appellant colleague namely Dr. Akhtar Nawaz who is also at the verge of retirement and is going to be retired on 30.8.2023 has been facilitated by posted at the same station in which he served in BPS-19. **Copy of the proposal list is already attached.**

7- That appellant feeling aggrieved from the impugned Notifications dated 24.1.2022 filed Department appeal before the respondent No.1 but no reply has been received so far. Copy of the Departmental Appeal is attached as annexure **E.**

8- That unfortunately in the meanwhile vide impugned Notification dated 12.4.2022 the appellant has been transferred/posted at DHQ Hospital, Charsadda instead of at Government Naseerullah Khan Hospital, Peshawar.

Copy of impugned Notification is attached as annexure **F.**

9- That the appellant after being feeling aggrieved from the inaction of the department and having no other remedy but to prefer a writ petition in the Hon'able Peshawar High court Peshawar for seeking direction to dispose the departmental appeal of the appellant in light of the posting/transfer policy of the Provincial Government.

Copy of the writ petition is attached as annexure..... **G.**

10- That while disposing of the writ petition of the present appellant, the Hon'able Peshawar High Court has passed orders in the terms "In view of above, the writ petition is dismissed, however, the respondent No1 is directed to decide the petitioner's Departmental appeal within a fortnight.

Copy of the judgment dated 27-04-2022 is attached as annexure.....H

11- That the appellant after getting attested copy of the judgment dated 27-04-2022 filed the same before the Respondents department but till date no response has been received to the appellant after passage of considerable time period.

12- That being highly aggrieved from the inaction of the respondent department, the appellant filed the instant appeal in this Hon'able Tribunal on the following grounds amongst the others.

GROUND:

A- That the impugned Notifications dated 24.1.2022 and 12.4.2022 issued by the respondents is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be modified/rectified to the extent of petitioner.

B- That appellant has not been treated in accordance with law and rules by the respondent department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

C- That the appellant is going to be retired on 25.4.2023 on superannuation basis and as such the impugned Notification dated 12.4.2022 is not tenable and liable to be set aside.

D- That the impugned Notifications dated 24.1.2022 and 12.4.2022 to the extent of posting is also violative of Clause-I and Clause-XI of transfer/posting policy of Provincial Government. Copy of the transfer/posting policy is attached as annexure I.

E- That the impugned Notifications dated 24.1.2022 and 12.4.2022 to the extent of posting of the appellant has been issued by the respondent No.2 in arbitrary and malafide manner, therefore, the same is not tenable in the eye of law and liable to be modified to the extent of petitioner.

F- That in a similar nature case a colleague of appellant has been retained in the Naseerullah Khan Hospital while the appellant being comes in the definition of 'similarly placed person' has been scapegoat which is absolute discrimination and liable to be reprimand-able.

- G- That the impugned notifications dated 24.1.2022 and 12.4.2022 to the extent of transfer/posting of the appellant has not been issued in the public interest nor exigencies of public service, therefore the same is not tenable and liable to be set aside.
- H- That the impugned notifications dated 24.1.2022 and 12.4.2022 is based on discrimination, favoritism and nepotism hence not tenable and liable to be set aside.
- I- That the posting/transfer policy of the Provincial Government of Khyber Pakhtunkhwa is crystal clear on the subject matter and clause-XI of the policy is very much relevant in the case of the appellant.
- J- That 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.

APELLANT

Zarqa Nasrullah
ZARQA NASRULLAH JAN

THROUGH:

Noor Mohammad Khattak
**NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT**

Kamran Khan
KAMRAN KHAN

K & Gul
KHANZAD GUL ADVOCATES

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. _____/2022

DR. ZARQA NASRULLAH JAN VS HEALTH DEPTT:

AFFIDAVIT

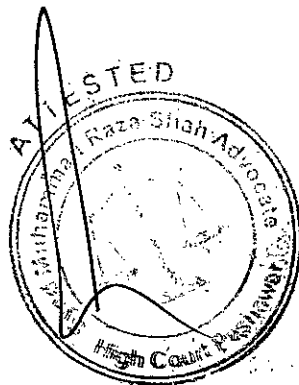
Stated on oath that the contents of the accompanying service appeal are correct to best of my knowledge and belief and nothing has been concealed from this Honorable Service Tribunal.

Zarqa Nasrullah
DEPONENT

CERTIFICATE:

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

[Signature]
CERTIFICATION



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

APPEAL No. _____/2022

DR. ZARQA NASRULLAH JAN

V/S

HEALTH DEPTT:

**APPLICATION FOR SUSPENSION OF THE IMPUGNED
NOTIFICATION DATED 24-01-2022**

R/SHEWETH:

- 1- That the above title service appeal has been filed by the appellant in which no date has so far been fixed.
- 2- That the appellant filed the above titled appeal against the impugned transfer order dated 24-01-2022 whereby upon the promotion of the appellant to the post of Chief Dental Surgeon (BPS-20) has been transfer to DHQ Hospital Charsadda.
- 3- That the appellant/petitioner has not yet relinquished the charge of his post.
- 4- That the impugned transfer order dated 24-01-2022 has been issued in utter violation of the Posting/Transfer Policy.
- 5- That all the ingredients required for the grant of stay is in favour of present appellant.

It is therefore humbly prayed that on acceptance of the instant application, the operation on the impugned transfer order dated 24-01-2022 may very kindly be suspended till final disposal of the above mentioned service appeal.

Dated: 08-06-2022

Applicant

Zarqa Nasrullah Jan
Dr. Zarqa Nasrullah Jan

Through:

[Signature]
NOOR MOHAMMAD KHATTAK,
Advocate Supreme Court

A - (7)

CNIC Verification

Card Status: Verified

Name: Zarqa Nasrullah
زرقا نصر الله

Father Name: Nasrullah Jan
نصر الله جان

Gender: Female

Country of Stay: Pakistan

Citizen Number: 17301-2972652-8

DOB: 26-04-1963

Issue Date: 09-10-2015

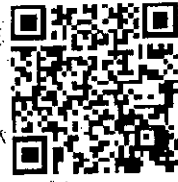
Date of Expiry: 09-10-2025

Card Type: Smart CNIC

Old NIC: 13663050669

Present Address: L/2، بشار، فیز 3 حیات آباد، مکان نمبر 5، سیکٹر

Permanent Address: L/2، بشار، فیز 3 حیات آباد، مکان نمبر 5، سیکٹر



25/4/2023

ATTN

FINAL SENIORITY LIST OF PRINCIPAL DENTAL SURGEON BPS-19
ON GENERAL CADRE (JANUARY-2021)

19

19

S.NO	NAME/QUALIFICATION	D.O.B/ DCM/CILE	DATE ENTRY IN SERVICE 6-17	BPS-18	BPS-19	RECRUITMENT	PLACE OF POSTING
1	DR. AKHTAR NAWAZ KHAN S/O MOHAMMAD DIN / BDS	31.06.1963 ABBOTABAD	13.03.1988	11.08.2009	14/11/2017	PROMOTION	PHO Bana Harana Khan District Harana
2	DR. MOHAMMAD TAHIR S/O MALIK MEHRABAN	02.02.1962 DI KHAN	12.04.1989	13.06.2009	14/11/2017	PROMOTION	DHOH DI KHAN
3	DR. ZARQA NASRULLAH JAN D/O NASRULLAH JAN	26.04.1963 PESHAWAR	12.04.1989	13.06.2009	14/11/2017	PROMOTION	GNBKM Hospital Peshawar
4	DR. TAHIR FAROOQ NAWAZ S/O SHAH NAWAZ	27.10.1963 FR BANNU	12/4/1989	13.06.2009	14/11/2017	PROMOTION	Cat-D Hospital Badaber Peshawar
5	DR. RIZWAN ULLAH S/O MOHAMMAD ZAMAN / BDS	18.03.1962 MARDAN	16.01.1990	13.06.2009	25/09/2017	PROMOTION	RHC Kheshti Nowshera
6	DR. MOHAMMAD WALI S/O FAIZ ULLAH KHAN / BDS	05.06.1963 / FR PESHAWAR	02.04.1991	22.05.2015	10.10.2019	PROMOTION	DHOH Hangu

B-8

19

19

19

B-

Legible copy

**SENIORITY LIST OF PRINCIPAL AT DENTAL SURGEON (BPS-19)
ON GENERAL CADRE (JANUARY-2021)**

S.NO.	NAME OF QUALIFICATION	D.O.B/ DOMICILE	DATE/ENTRY/ SERVICE B-17	BPS-18	BPS-19	RECRUITMENT	PLACE OF POSTING
1	DR. AKHTAR NAWAZ KHAN S/O MOHAMMAD DIN/ BDS	1.08.1963 Abbottabad	13.04.1988	11.08.2000	Bps-19	PROMOTION	District Haripur
2	DR. MOHAMMAD TAHIR S/O MLAIK MEHRABAN	02.02.1962 D.I.khan	12.04.1989	13.06.2009	14/11/2017	PROMOTION	DHQH D.I.Khan
3	DR. ZAROSH NASRULLAH JAN D?O NASRULLAH JAN	26.04.1963 Peshawar	12.04.1989	13.06.2000	14/11/2017	PROMOTION	Cnbkm hospital peshawar
4	DR. TAHIR FAROOQ NAWAZ S/O SHAH NAWAZ	27.10.1963 FR Bannu	12.04.1989	13.06.2000	14/11/2017	PROMOTION	Cat-D Hospital Badaber Peshawar
5	DR. RIZWAN ULLAH S/O MOHAMMAD ZAMAN /BDS	18.03.1963/ FR Peshawar	16.01.1990	13.06.2000	25.09.2017	PROMOTION	RHC Keshki Nowshera
6	DR. MUHAMMAD WALI S?O FAIZ. ULLAH KHAN/BDS	05.06.1963/ FR Peshawar	02.04.1991	22.05.2018	10.10.2019	PROMOTION	DHQH Hangu

To

The Honorable Secretary Health,
Govt: of Khyber Pakhtunkhwa, Peshawar.

C- (9)
Dairy No. /
Date. /

Subject: -

REQUEST FOR RETENTION IN GOVT: NASEERULLAH KHAN BABAR
MEMORIAL HOSPITAL KOHAT ROAD PESHAWAR.

Health Department
NASEERULLAH KHAN BABAR

Dear Sir,

It is stated that I have been working as Principal Dental Surgeon (BPS-19) in Govt: Naseerullah Khan Babar Memorial Hospital Kohat Road Peshawar.

A promotion case of Principal Dental Surgeon (BS-19) to the post of Chief Dental Surgeon (BPS-20) has been sent to Establishment Department by the Govt: of Health Department Khyber Pakhtunkhwa for PSB and it is expected that it will be finalized soon.

The solely and only one sanctioned post of Chief Dental Surgeon (BPS-20) in District Peshawar is lying vacant at Govt: Naseerullah Khan Babar Memorial Hospital Kohat Road Peshawar.

It is humbly requested that till the case of my promotion is finalized, the said post may please be kept vacant so that on my promotion to BS-20, I can be posted against the said post. It is also pertinent to mention that having Peshawar domicile, being a female doctor, having some domestic issues and as I am at S#-3 in the seniority list, it is my due right to be posted against this vacant post.

I shall be very grateful for your kind favour.

Thanks

Yours Truly,

Dated: - 25/11/2021.

Zarqa Nasrullah

(Dr. Zarqa Nasrullah Jan)
Principal Dental Surgeon (BS-19)
Govt: Naseerullah Khan Babar Memorial
Hospital Kohat Road Peshawar

Chief Dental Surgeon
BPS-20

ATTACHED



OFFICE OF THE MEDICAL SUPERINTENDENT

NASEERULLAH KHAN BABAR MEMORIAL HOSPITAL KOHAT ROAD PESHAWAR

Email: gnkbmhospital@gmail.com

Fax: 091-2324611s

Tele: 091- 9212742



(10)



No. 10998-99/NKBMH

Dated: 17/12/2021


To,

The Director General Health Services,
Khyber Pakhtunkhwa, Peshawar.

Subject: APPEAL:

R/Sir,

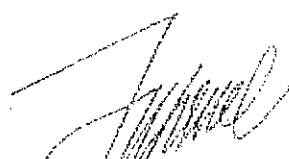
I have the honour to submit herewith an application in R/o Dr. Zarqa Nasrullah Jan
Principal Dental Surgeon BPS-19 being self explanatory for favour of further necessary **action**,
please.


MEDICAL SUPERINTENDENT
NKBMH, Peshawar.

No. 10998-99/NKBMH

Copy to:

01. PS to Secretary Health, Government of Khyber Pakhtunkhwa.


MEDICAL SUPERINTENDENT
NKBMH, Peshawar.

ATTACHED

DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR

All communications Should be Addressed to the Director General Health Services Peshawar
& not to any official by name. (Office Ph / 091 - 9210269, Fax / 091- 9210230)



No. 22699-700 /E.I

Dated: 23 /12/2021

To

The Secretary Govt. of Khyber Pakhtunkhwa
Health Department.

Attention Section officer E-V

Subject: - APPEAL

Kindly enclosed herewith a copy of M.S Govt: Naseerullah Khan Babar Memorial Hospital Kohat Road Peshawar letter No. 10998-99/NKBMH dated 17.12.2021 along with appeal & its enclosure in respect of Dr. Zarqa Nasrullah Jan Principal Dental Surgeon BS-19 attached to Govt: Naseerullah Khan Babar Memorial Hospital Kohat Road Peshawar which is self-explanatory, for favour of further necessary action.

She is working in Govt: Naseerullah Babar Memorial Hospital as Principal Dental Surgeon (BS-19) since June-2019. She has been promoted to the post of Chief Dental Surgeon BS-20 during December, 2021 but Notification of her promotion is yet to be issued by the Govt:

She stated in her appeal that she is already performing her duties in Govt: Naseerullah Khan Babar Memorial Hospital, and a post of Chief Dental Surgeon BPS-20 is lying vacant there, so no person shall be posted there for the reason that she is a female doctor and having domicile of District Peshawar and dependent old age mother aged about 88-years. She further stated that it came into her knowledge that one Dr. Tahir Farooq Nawaz who is junior to that of her has been promoted to the post of CDS BPS-20 and posted against the said post. She stated that the posting of Dr. Tahir Farooq Nawaz is incorrect, illegal, unlawful and worst example of discrimination, victimization, nepotism, favoritism and misuse of the vested powers under the law.

She has requested that the said order may be withdrawn/ cancelled/set-aside on the grounds mentioned therein in her appeal and she may be posted against the said post.

In this regard it is stated that Dr. Tahir Farooq Nawaz has recently been promoted to the post of Chief Dental Surgeon BS-20 and has been posted in Govt: Naseerullah Babar Memorial Hospital Kohat Road Peshawar vide Notification No. SOH (E-V)/3-3/2021/228 dated 09.12.2021.

In the light of above further orders of the competent authority may please be conveyed.


DIRECTOR (HRM) D.G.H.S.
KHYBER PAKHTUNKHWA PESHAWAR

Cc:-

M.S Govt: Naseerullah Khan Babar Memorial Hospital Kohat Road Peshawar for information

DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR

All communications should be addressed to the Director General Health Services Peshawar & not to any official by name - Office Ph (091-9210289, Fax (091-9210230)



No. 1911

IE.I

Dated: 31/01/2022

To,

The Secretary to Govt. of Khyber Pakhtunkhwa,
Health Department Peshawar.

D-(12)

Attention: - (Section officer-V)

Subject: - PROMOTION OF PRINCIPAL DENTAL SURGEONS (BS-19) TO THE POST OF CHIEF DENTAL SURGEONS (BS-20) IN THE PROVINCIAL HEALTH DEPARTMENT

Kindly reference your letter No. SOH/E-V/2-2&3-3/2022/Proposal dated 26.01.2022 on the subject noted above to subject and to submit the following proposal of newly promotee chief Dental Surgeon (BS-20) for further necessary action as desired please.

S. No.	Name of Chief Dental Surgeon	From	To	Remarks
1.	Dr. Akhtar Nawaz S/O Muhammad Din (newly Promotee to BPS-20) <u>Domicile Haripur</u>	Attached to DHO Haripur	DHQ Hospital Haripur	Against the vacant post of Chief Dental Surgeon (BS-20)
2.	Dr. Muhammad Tahir S/O Malik Mehraban (newly promotee to BPS-20) <u>Domicile D.I Khan</u>	DHQ Teaching Hospital (MTI) D.I Khan	DHQ Hospital Nowshera	Against the vacant post of Chief Dental Surgeon (BS-20) (He is going to attain the age of superannuation on 01.02.2022)
3.	Dr. Zarqa Nasrullah Jan D/O Nasrullah Jan (newly promotee to BPS-20) <u>Domicile Peshawar</u>	Naseerullah Khan Babar Memorial Hospital Kohat Road Peshawar	DHQ Hospital Charsadda	Against the vacant post of Chief Dental Surgeon (BS-20)
4.	Dr. Rizwanullah S/O Muhammad Zaman (newly promotee to BPS-20) <u>Domicile Mardan</u>	RHC Kheshki District Nowshera	DHQ Hospital Mardan	Against the vacant post of Chief Dental Surgeon (BS-20)
5.	Dr. Muhammad Wali S/O Faizullah (newly promotee to BPS-20) <u>Domicile F.R Peshawar</u>	Shaheed Farid Khan (DHQ) Hospital Hangu	SGTH Swat	Against the vacant post of Chief Dental Surgeon (BS-20)

DIRECTOR (HRM) D.G.H.S.
KHYBER PAKHTUNKHWA PESHAWAR

Legible copy

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**DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR**

No. 1911 /E.1 Dated 31/01/2022

To,

The Secretary to Govt. of Khyber Pakhtunkhwa
Health Department, Peshawar

Attention: (Section Officer-V)

Subject: **PROMOTION OF PRINCIPAL DENTAL SURGEONS (BS-19)
TO THE POST OF CHIEF DENTAL SURGEONS (BS-20) IN THE
PORNVICAL HEALTH DEPARTMENT**

Kindly reference your letter No. SOH/E-V/2-2&3-3/20222/Proposal dated 26.01.2022 on the subject noted above to subject and to submit the following proposal of newly promotee Chief Dental Surgeon (BS-20) for further necessary action as desired please.

S.No.	Name of Chief Dental Surgeon	From	To	Remarks
1	Dr. Akhtar Nawaz S/o Muhammad Din (newly Promotee to BPS-20) <u>Domicile Haripur</u>	Attached to DHO Haripur	DHQ Hospital Haripur	Against the vacant post of Chief Dental Surgeon (BS-200)
2	Dr. Muhammad Tahir S/o Malik Mehraban (newly promote to BPS-20) <u>Domicile D.I.Khan</u>	DHQ Teaching Hospital (MTI) D.I.Khan	DHQ Hospital Nowshera	Against the vacant post of Chief Dental Surgeon (BS-20) (He is going to attain the age of superannuation on 01.02.2022)
3	Dr. Zarqa Nasrullah Jan D/o Nasrullah Jan (newly promotee to BPS-20) <u>Domicile Peshawar</u>	Naseerullah Khan Babar Memorial Hospital Kohat Road Peshawar	DHQ Hospital Charsadda	Against the vacant post of Chief Dental Surgeon (BS-20)
4	Dr. Rizwanullah S/o Muhammad Zaman (newly promotee to BPS-20) <u>Domicile Mardan</u>	RHC Kheski District Nowshera	DHQ Hospital Mardan	Against the vacant Post of Chief Dental Surgeon (BS-20)
5	Dr. Muhammad Wali S/o Faizullah (newly promotee to BPS-20) <u>Domicile F.R Peshawar</u>	Saheeh Farid Khan (DHQ) Hospital Hangu	SGTH Swat	Against the vacant post of Chief Dental Surgeon (BS-20)

Sd/-

DIRECTOR (HRM) D.G.H.S
KHYBER PAKHTUNKHWA, PESHAWAR

[Handwritten signature]

E - (13)

To

The Honorable
Chief Secretary
Government of Khyber Pakhtunkhwa
Peshawar.

Subject:- PROMOTION OF DR. TAHIR FAROOQ NAWAZ AND POSTING OF DR. TAHIR FAROOQ NAWAZ AGAINST THE VACANT POST OF CHIEF DENTAL SURGEON BS-20 TO THE GOVERNMENT NASEERULLAH KHAN BABAR MEMORIAL HOSPITAL PESHAWAR. ISSUED BY THE SECRETARY HEALTH, GOVERNMENT OF KHYBER PAKHTUNKHWA.

Respectfully Stated:-

1. That I am performing my duties as Principal Dental Surgeon (BPS-19) at the Government Naseerullah Khan Babar Memorial Hospital Peshawar since in the month of June-2019.
2. It is also stated that my retirement is due in April 2023 where as the present Dr. Tahir Nawaz Farooq Posted in Government Naseerullah Babar Memorial Hospital is to be retired in 2023.

Respected Sir,

It is also stated that having a Peshawar domicile and a female I may please be posted / transferred to Naseer Ullah Babar Hospital (BS-20) against the Government Policy that before retirement they are posted at their home station to complete their post retirement affairs.

Yours Obediently,

Zarqa Nasrullah

Dated: 15/02/2022

Dr. Zarqa Nasrullah Jan
(Principal Dental Surgeon (BS-20)
Govt. Naseerullah Khan Babar
Memorial
Hospital Kohat Road Peshawar.

[Signature]



Government of Khyber Pakhtunkhwa
Health Department

F-14

Dated Peshawar the January 24, 2022

NOTIFICATION

NO. SOH(E-V)/3-3/2022/2411 The Competent Authority on the recommendations of Provincial Selection Board, in its meeting held on 02.12.2021, is pleased to promote the following Principal Dental Surgeons (BS-19) to the post of Chief Dental Surgeons (BS-20) on regular basis, with immediate effect:-

S.NO	NAME OF DOCTOR
1.	Dr. Akhtar Nawaz Khan
2.	Dr. Muhammad Tahir
3.	Dr. Zarqa Nasrullah Jan
4.	Dr. Rizwankullah
5.	Dr. Muhammad Wali

2. The Officers promotion will remain on probation for a period of one year in terms of Section 6(2) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-15(1) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.

3. The posting/ transfer notifications in respect of the above named officers will be issued later on.

SECRETARY HEALTH
GOVERNMENT OF KHYBER PAKHTUNKHWA

Endst. Of even No. & Date.

Copy to the:-

1. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
2. Principal Secretary to Governor, Khyber Pakhtunkhwa.
3. Secretary to Government of Khyber Pakhtunkhwa, Establishment Department.
4. Accountant General, Khyber Pakhtunkhwa, Peshawar.
5. PSO to Chief Secretary, Khyber Pakhtunkhwa.
6. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
7. Director General, Provincial Health Services Academy Peshawar.
8. Section Officer (PSB), Establishment Department.
9. Deputy Director (IT), Health Department.
10. PS to Minister for Health Department, Khyber Pakhtunkhwa.
11. PS to Secretary Health Department, Khyber Pakhtunkhwa.
12. PS to Special Secretary Health, Khyber Pakhtunkhwa.
13. All concerned doctors.

ATTESTED

24/1/2022.
(TEHMAS AYYUB)
SECTION OFFICER (E-V)



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

14/A

Dated: Peshawar the 12th April, 2022

NOTIFICATION

NO.SOH (E-V)/3-3/2022

Upon promotion to the post of Chief Dental Surgeon (BS-20) in Health Department on regular basis vide Health Department's Notification No. SOH(E-V)/3-3/2022/291 dated 24.01.2022, the following posting/ transfer of doctors are hereby ordered for actualization of their promotion with immediate effect, in the best public interest:-

S.NO.	NAME OF DOCTORS	FROM	TO
1.	Dr. Akhtar Nawaz, Chief Dental Surgeon (BS-20)	Attached to DHO office Haripur	DHQ Hospital Haripur against the vacant post
2.	Dr. Muhammad Tahir, Chief Dental Surgeon (BS-20)	DHQ Teaching Hospital, MTI/ D.I Khan	DHQ Hospital Nowshera against the vacant post
3.	Dr. Zarqa Nasrullah Jan, Chief Dental Surgeon (BS-20)	Government Naseer Ullah Khan Babar Memorial Hospital Peshawar	DHQ Hospital Charsadda against the vacant post
4.	Dr. Rizwanullah, Chief Dental Surgeon (BS-20)	RHC Kheski, Nowshera	DHQ Hospital, Mardan against the vacant post
5.	Dr. Muhammad Wali, Chief Dental Surgeon (BS-20)	Shaheed Farid Khan DHQ Hospital, Hangu	Saidu Group of Teaching Hospital, Swat against the vacant post

**SECRETARY TO GOVT: OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

No. 1504-1503 / Notification of even No. & dated:

Copies forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director General Health Services. Khyber Pakhtunkhwa.
3. All concerned DHOs, Khyber Pakhtunkhwa.
4. All concerned Medical Superintendents, Khyber Pakhtunkhwa.
5. All concerned District Accounts Officer, Khyber Pakhtunkhwa.
6. PS to Secretary Health Department Khyber Pakhtunkhwa
7. Deputy Director (IT), Health Department, Peshawar.
8. All concerned doctor.
9. Personal files of the concerned doctors.

(Tehmas Ayyub)
SECTION OFFICER (E-V)

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

Ch-15

WRIT PETITION NO. _____/2022

Dr. Zarqa Nasrullah Jan, Chief Dental Surgeon (BPS-20),
Government Naseerullah Khan Babar Memorial Hospital, Peshawar,
Under transfer to DHQ Hospital, Charsadda.

..... **PETITIONER**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director General Health Services Department, Khyber Pakhtunkhwa, Peshawar.

..... **RESPONDENTS**

**WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF PAKISTAN 1973 AMENDED UP
TO DATE**

**R/SHEWETH:
ON FACTS:**

**Brief facts giving rise to the present writ petition
are as under:-**

- 1- That petitioner is the employee of respondent Department and is serving the respondent Department as Chief Dental Surgeon (BPS-20). That right from appointment till date the petitioner has served the respondent department quite efficiently and up to the entire satisfaction of her superiors.
- 2- That it is pertinent to mention here that petitioner is at the verge of retirement and is going to be retired from service on superannuation basis i.e. w.e.f. 25.4.2023. Copy of the CNIC is attached as annexure **A.**
- 3- That petitioner while performing his duty at Naseerullah Jan Hospital, Peshawar as Principal Dental Surgeon (BPS-19) and being in the promotion zone filed an application/ Departmental appeal for retention of her posting in the ibid Hospital as one post of Chief Dental Surgeon is/was vacant. That on the ibid application proper correspondence have been made between the respondents. Copies of the Seniority list and application along with letters are attached as annexure **B and C.**

ATTACHED

4- That upon promotion of the petitioner to the post of Chief Dental Surgeon (BPS-20) vide letter dated 31.1.2022 the respondent No.3 sent proposal of posting of the petitioner to respondent No.2 whereby the proposed station of posting of the petitioner has been shown as DHQ Hospital Charsadda instead of Naseerullah Khan Hospital, Peshawar. That on the said proposal the petitioner visited the office of respondents for her posting at Naseerullah Khan Hospital, Peshawar on the basis of being at the verge of retirement but of no avail. Copy of the letter is attached as annexure **D.**

5- That it is pertinent to mention that in the said proposal list of the petitioner colleague namely Dr. Akhtar Nawaz who is also at the verge of retirement and is going to be retired on 30.8.2023 has been facilitated by posted at the same station in which he served in BPS-19. **Copy of the proposal list is already attached.**

6- That unfortunately vide impugned Notification dated 12.4.2022 the petitioner transferred/posted at DHQ Hospital, Charsadda instead of at Government Naseerullah Khan Hospital, Peshawar. That petitioner feeling aggrieved from the impugned Notification dated 12.4.2022 filed Department appeal before the respondent No.1 but no reply has been received so far. Copies of the impugned Notification and Departmental appeal are attached as annexure **E and F.**

7- That the petitioner having no other remedy but to prefer the instant writ petition on the following grounds amongst the others.

GROUNDS:

A- That the impugned Notification dated 12.4..2022 issued by the respondents is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside to the extent of petitioner.

B- That petitioner has not been treated in accordance with law and rules by the respondent department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

C- That petitioner is going to be retired on 25.4.2023 on superannuation basis and as such the impugned Notification dated 12.4.2022 is not tenable and liable to be set aside.

D- That the impugned Notification dated 12.4.2022 is also violative of Clause-I and Clause-XI of transfer/posting policy of Provincial Government. Copy of the transfer/posting policy is attached as annexure **G.**

ATTACHED

E- That the impugned Notification dated 12.4.2022 has been issued by the respondent No.2 in arbitrary and malafide manner, therefore, the same is not tenable in the eye of law and liable to be struck down to the extent of petitioner.

F- That the impugned notification dated 12.4.2022 has not been issued in the public interest nor exigencies of public service, therefore the same is not tenable and liable to be set aside.

G- That the impugned notification dated 12.4.2022 is based on discrimination, favoritism and nepotism hence not tenable and liable to be set aside.

H- That petitioner seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that on acceptance of this writ petition the impugned Notification dated 12.4.2022 may very kindly be set aside to the extent of petitioner posting and the respondents may kindly be directed to posted the petitioner against the vacant post of Chief Dental Surgeon (BPS-20) at Government Naseerullah Khan Hospital, Peshawar till her retirement in light of clause XI of the transfer/posting policy of the provincial Government. Any other remedy which this august service Tribunal deems fit that may also be awarded in favor of the petitioner.

INTERIM RELIEF: That the operation of the impugned Notification dated 12.4.2022 may very kindly be suspended to the extent of petitioner till the final disposal of the instant writ petition.

PETITIONER
Zarqa Nasrullah
ZARQA NASRULLAH JAN

THROUGH:
NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT
(0345-9383141)

VERIFICATION:

It is verified that no other earlier writ petition was filed between the parties

DEPOSITION

LIST OF BOOKS:

1. Constitution of Pakistan.
2. Services Laws Books.
3. Any other Case law as per need.

[Handwritten marks and signatures]

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

COC NO. _____/2022

IN

WRIT PETITION NO. 1554-P/2022

DR. ZARQA NASRULLAH JAN, Chief Dental Surgeon (BPS-20),
Government Nasrullah Khan Babar Memorial Hospital, Peshawar
Under transfer to DHQ Hospital, Charsadda.

..... **PETITIONER**

VERSUS

- 1- Dr. Shahzad Bangash, Chief Secretary Khyber Pakhtunkhwa, Peshawar
- 2- Mr. Tahir Orakzai, Secretary Health Khyber Pakhtunkhwa Peshawar.
- 3- Dr. Shaheen Afridi Director General Health Services Khyber Pakhtunkhwa Peshawar.

..... **RESPONDENTS**

APPLICATION UNDER ARTICLE- 204 OF THE CONSTITUTION OF THE ISLAMIC REPUBLIC OF PAKISTAN, 1973 READ WITH SECTION 3 & 4 OF THE CONTEMPT OF COURT ORDINANCE, 2004 FOR INITIATING CONTEMPT OF COURT PROCEEDINGS AGAINST THE RESPONDENTS/CONTEMNORS

RESPECTFULLY SHEWETH:

- 1- That the applicant/petitioner had filed writ petition No. 1554-P/2022 before this Honorable Court for seeking direction to dispose of the Departmental Appeal of the petitioner in light of Clause-XI of the transfer/posting policy of the Provincial Government.
- 2- That the case for fixed for preliminary arguments on 27-04-2022 and after hearing the case was dismissed but with the direction respondent NO. 1 the operative part is as:

"In view of the above, this writ petition is dismissed, however, the respondent No. 1 is directed to decide the petitioner's appeal within a fortnight. Copy of the judgment dated 27-04-2022 is attached as annexure

..... **A.**

✶

- 3- That petitioner after getting the attested copy of the judgment filed the judgment dated 27-04-2022 before the respondents/contemnors but no response has been received to the petitioner after passage of more than 08 months.
- 4- That the acts and actions of the Respondents/Contemnors squarely fall within the ambit of the Contempt of Court and as such they are liable to be proceeded for the Contempt and for the punishment under the law.
- 5- That the respondents/contemnors continue to disregard the judgment, and knowingly transgresses the constitution, intentionally inflict mental torment, financial loss, and attribute to the deteriorated health of the petitioner, by persistently hindering and delaying the applicant/petitioner.

It is therefore, humbly prayed that on acceptance of this application, the Contempt of Court proceedings may graciously be initiated against the Respondents/Contemnors and may be punished accordingly.

APPLICANT/ PETITIONER

Zarqa Nasrullah

DR. ZARQA NASRULLAH JAN

Through:

Noor Mohammad Khattak

NOOR MOHAMMAD KHATTAK

Advocates,
Supreme Court,

VERIFICATION:

It is certified that the instant CoC is the 1ST CoC on the subject matter and no other such like Contempt of Court petition is pending between the parties.

ADVOCATE

[Handwritten marks and signatures]

H-0 (20)

PESHAWAR HIGH COURT, PESHAWAR

**FORM 'A'
FORM OF ORDER SHEET**



Date of order.	Order or other proceedings with the order of the Judge
27.04.2022	<p><u>W.P No. 1554-P of 2022 with I.R.</u></p> <p>Present: Mr. Noor Muhammad Khattak, Advocate for petitioner.</p> <p><u>LAL JAN KHATTAK, J.-</u> Through the instant petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner seeks the following relief: -</p> <p><i>"That on acceptance of this writ petition the impugned notification dated 12.04.2022 may very kindly be set aside to the extent of petitioner posting and the respondents may kindly be directed to post the petitioner against the vacant post of Chief Dental Surgeon (BPS-20) at Government Naseerullah Khan Hospital, Peshawar till her retirement in light of Clause XI of the transfer/posting policy of the Provincial Government. Any other remedy which this august Court deems fit that may also be awarded in favor of the petitioner"</i></p> <p>2. After arguing the case at some length, at second thought, learned counsel for petitioner stated that he would not press this petition anymore and the petitioner would be satisfied if the respondent No.1 is directed to decide her appeal dated 15.02.2022 appearing at page 13 of the petition in accordance</p>

Green

ATTESTED
EXAMINER
Peshawar High Court

ATA

(21)

with law and rules on the subject within a reasonable time.

3. In view of above, this writ petition is dismissed, however, the respondent No.1 is directed to decide the petitioner's appeal within a fortnight.

Announced:
27.04.2022.

L. Jan
JUDGE

JUDGE

Sattar

CERTIFIED TO BE TRUE COPY

EXAMINED
By *M. Iqbal* (Signature)
16 MAY 2022

16 MAY 2022

No. 36903
Date of Presentation of Application 16/5/2022
No. of Pages 6-8
Copying Fee 241-
Total 241-
Date of Preparation of Copy 16/5/2022
Date of Delivery of Copy 16/5/2022
Received By Amir

ANNEXURE

Posting - Transfer Policy - updated till 10 Jan, 2009



GOVERNMENT OF NWFP ESTABLISHMENT & ADMINISTRATION DEPARTMENT (Regulation Wing)

I-22

POSTING / TRANSFER POLICY OF THE PROVINCIAL GOVERNMENT.

- i) All the posting/transfers shall be strictly in public interest and shall not be abused/misused to victimize the Government servants
- ii) All Government servants are prohibited to exert political, Administrative or any other pressures upon the posting/transfer authorities for seeking posing/transfers of their choice and against the public interest.
- iii) All contract Government employees appointed against specific posts, can not be posted against any other post.
- iv) The normal tenure of posting shall be three years subject to the condition that for the officers/officials posted in unattractive areas the tenure shall be two years and for the hard areas the tenure shall be one year. The unattractive and hard areas will be notified by the Government.
- v) While making postings/transfer from settled areas to FATA and vice-versa, specific approval of Governor, NWFP needs to be obtained
- vi) While making postings/transfers of officers/officials up to BS-17, from settled areas to FATA and vice-versa approval of the Chief Secretary NWFP needs to be obtained. Whereas, in case of posting/transfer of officers in BS-18 and above, from settled areas to FATA and vice-versa, specific approval of the Governor NWFP shall be obtained.
- vi (a) All Officers/officials selected against Zone-I/FATA quota in the Provincial Services should compulsorily serve in FATA for atleast eighteen months in each grade. This should start from senior most scales/grades downwards in each scale/grade of each cadre.
- vii) Officers may be posted on executive/administrative posts in the Districts of their domicile except District Coordination Officers (D.C.Os) and DPOs/Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at a place where the Police Station (Thaana) of his area/residence is situated.
- viii) No posting/transfers of the officer's/officials on detailment basis shall be made.
- ix) Regarding the posting of husband/wife, both in Provincial services, efforts where possible would be made to post such persons at one station subject to the public interest.
- x) All the posting/transferring authorities may facilitate the posting/transfer of the unmarried female government Servants at the station of the residence of their parents.

ATTESTER

to be true and
advocate

Para-1(v) regarding months of March and July for posting/transfer and authorities for relaxation of ban deleted vide letter No: SOR-VI (E&AD) 1-4/2008/Vol-VI, dated 3-6-2008. Consequently authorities competent under the NWFP Government Rules of Business, 1985, District Government Rules of Business 2001, Posting/Transfer Policy and other rules for the time being in force, allowed to make posting/transfer subject to observance of the policy and rules. Added vide Urdu circular letter No. SOR-VI(E&AD)1-4/2003, dated 21-09-2004

- xi) Officers/officials except DCOs and DPOs/SPs who are due to retire within one year may be posted on their option on posts in the Districts of their domicile and be allowed to serve there till the retirement
 DCOs and DPOs who are due to retire in the near future may also be posted in the District of their domicile subject to the condition that such posting would be against non-administrative posts of equivalent scales;
- xii) In terms of Rule-17(1) and (2) read with Schedule-III of the NWFP Government Rules of Business 1985, transfer of officers shown in column 1 of the following table shall be made by the authorities shown against each officer in column 2 thereof:

Outside the Secretariat		
1.	Officers of the all Pakistan Unified Group i.e. DMG, PSR including Provincial Police Officers in BPS-18 and above.	Chief Secretary in consultation with Establishment Department and Department concerned with the approval of the Chief Minister.
2.	Other officers in BPS-17 and above to be posted against scheduled posts, or posts normally held by the APUG, PCS(EG) and PCS(SG).	-do-
3.	Heads of Attached Departments and other Officers in B-19 & above in all the Departments.	-do-
In the Secretariat		
1.	Secretaries	Chief Secretary with the approval of the Chief Minister.
2.	Other Officers of and above the rank of Section Officers: a) Within the Same Department b) Within the Secretariat from one Department to another.	Secretary of the Department concerned. Chief secretary/Secretary Establishment.
3.	Officials up to the rank of Superintendent: a) Within the same Department b) To and from an Attached Department c) Within the Secretariat from one Department to another	Secretary of the Department concerned. Secretary of the Dept in consultation with Head of Attached Department concerned. Secretary (Establishment)

xiii) While considering posting/transfer proposals all the concerned authorities shall keep in mind the following:

- a) To ensure the posting of proper persons on proper posts, the Performance Evaluation Report/annual confidential reports, past and present record of service, performance on post held presently and in the past and general reputation with focus on the integrity of the concerned officers/officials be considered.
- b) Tenure on present post shall also be taken into consideration and the posting/transfers shall be in the best public interest.

xiv) Government servants including District Govt. employees feeling aggrieved due to the orders of posting/transfer authorities may seek remedy from the next higher authority / the appointing authority as the case may be through an appeal to be submitted within seven days of the receipt of such orders. Such appeal shall be disposed of within fifteen days. The option of appeal against posting/ transfer orders could be exercised only in the following cases.

- i) Pre-mature posing/transfer or posting transfer in violation of the provisions of this policy.
- ii) Serious and grave personal (humanitarian) grounds.

2. To streamline the postings/transfers in the District Government and to remove any irritant/confusions in this regard the provision of Rule 25 of the North West Frontier Province District Government Rules of Business, 2001 read with schedule - IV thereof is referred. As per schedule-IV the posting/transferring authorities for the officers/officials shown against each are as under:-

S. No.	Officers	Authority
1.	Posting of District Coordination Officer and Executive District Officer in a District.	Provincial Government.
2.	Posting of District Police Officer.	Provincial Government
3.	Other Officers in BPS-17 and above posted in the District.	Provincial Government
4.	Official in BPS-16 and below	Executive District Officer in consultation with District Coordination Officer.

3. As per Rule 25(2) of the Rules mentioned above the District Coordination Department shall consult the Government if it is proposed to:

- a) Transfer the holder of a tenure post before the completion of his tenure or extend the period of his tenure.
- b) Require an officer to hold charge of more than one post for a period exceeding two months.

4. I am further directed to request that the above noted policy may be strictly observed /implemented.

.....

All concerned are requested to ensure that tenures of the concerned officers/officials are invariably mentioned in summaries submitted to the Competent Authorities for Posting/Transfer.
{Authority: Letter No. SOR-VI/E&AD/1-4/2003 dated 24-6-2003}

.....

It has been decided by the Provincial Government that posting/transfer orders of all the officers up to BS-19 except Heads of Attached Departments irrespective of grades will be notified by the concerned Administrative Departments with prior approval of the Competent Authority obtained on the Summary. The Notifications/orders should be issued as per specimen given below for guidance.

All posting/transfer orders of BS-20 and above and Heads of Attached Departments (HAD) shall be issued by the Establishment Department and the Administrative Departments shall send approved Summaries to E&A Department for issuance of Notifications.

ATTESTED

[Handwritten signature]

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO: _____ OF 2022

Dr. Zargha Nasrullah Jan (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Health Deptt. (RESPONDENT)
(DEFENDANT)

I/We Dr. Zargha Nasrullah Jan
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. 09 / 06 / 2022

Zargha Nasrullah

CLIENTS

ACCEPTED

NOOR MUHAMMAD KHATTAK

KAMRAN KHAN

UMAR FAROOQ MOHMAND

HAIDER ALI

**&
KHANZAD GUL
ADVOCATES**