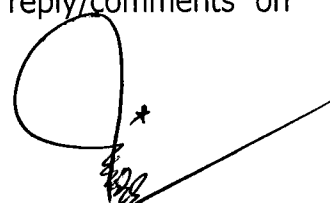


07.04.2022

Counsel for the appellant present. Preliminary arguments heard.

Learned counsel for the appellant argued that the appellant was appointed as Dai (BS-4) on recommendations of Departmental Selection Committee vide office order dated 02.07.2020. On a complaint received in the respondent-department, an enquiry was conducted against DHO North for 71 illegal appointments in Tribal District of North Waziristan. As a result thereof pay of the appellant was initially stopped verbally and cancelled/withdrawn her appointment order vide impugned order dated 06.08.2021 but communicated to the appellant on 23.11.2021. She preferred departmental appeal on 25.11.2021 which was not decided within the stipulated statutory period, hence, the instant service appeal was filed on 25.03.2022.

The appeal is admitted to regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to respondents for submission of reply/comments. To come up for reply/comments on 09.06.2022 before S.B.



(Mian Muhammad)
Member(E)

09.06.2022

Junior to counsel for the appellant present.

Muhammad Riaz Khan Paindakheil learned Assistant Advocate General alongwith Muhammad Usman Assistant for respondents present.

File to come up alongwith connected Service Appeal No.424/2022 titled Mst. Sadia Vs. Government of Khyber Pakhtunkhwa on 26.07.2022 before S.B.


(Rozina Rehman)
Member (J)

Rs-400/-
Appellant Deposition
Security & Process Fee


H. M. Riaz
13/4/22

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 425/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	25/03/2022	<p>The appeal of Mst. Kalsoom presented today by Mr. Bashir Khan Wazir 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 up there on _____.</p> <p style="text-align: right;">CHAIRMAN</p>

The appeal of Mr. Islam Ullah, Lab Tech Pathology, DHO Office North Waziristan received today i.e. on 25.03.2022 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- ∴ Counsel for the appellant have impugned the order dated 06-08-2021 wherein appointment have been withdrawn/cancelled of those employees who were appointed during the period of Dr. Hamid Ullah and Dr. Israr Ullah Haq , Ex-DHO (s) North Waziristan while appellant is appointed by Dr. Jehan Mir Khan meaning thereby that there is no impugned cancellation order in respect of present appellant, proper impugned be placed on file.

No. 782 /S.T,

Dt. 30-3- /2022


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Bashir Khan Wazir Adv. Peshawar.

objection Removed.

In response of objection No:1, it is submitted that through the impugned order date: 06-08-2021, was issued by the Respondent No:2, in the light of an inquiry, where by the services of the employees appointed during the tenure of Dr. ISRAR-UL-HAQ and Dr. HAMEED ULLAH, through the appointment of appellant was not issued by the above mentioned Doctors. However the Respondent No:2 with malafide intention, considered the appellant being dismissed from service in the light of impugned order, while stopped salaries of the appellant.



05-04-2022

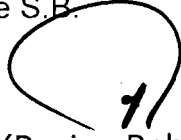
05.04.2022

26.07.2022

Appellant present through counsel.

Naseer Ud Din Shah, learned Assistant Advocate General for respondents present.

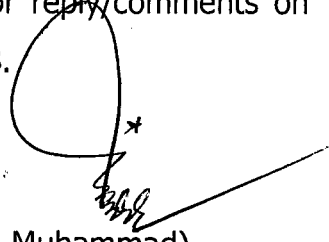
File to come up alongwith connected Service Appeal No.424/2022 titled "Mst. Sadia Vs. Government of Khyber Pakhtunkhwa" on 28.09.2022 before S.B.


(Rozina Rehman)
Member (J)

28.09.2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Saeed Muhammad, Litigation Officer and Mr. Safiullah, Focal Person for the respondents present.

Reply/comments on behalf of respondents No. 1 & 2 submitted which are placed on file. Copy of the same is handed over to learned counsel for the appellant. Reply/comments on behalf of respondent No. 3 are still awaited. Representative of the respondent requested for time to submit reply/comments. Adjourned. To come up for reply/comments on behalf of respondent No. 3 on 02.12.2022 before S.B.


(Mian Muhammad)
Member (E)

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

Service Appeal No. 525 /2022

Islamullah S/O Haji Salay, Laby: Tech: (BPS-09), DHO office North
Waziristan.....(Appellant)

Versus

Government of Khyber Pakhtunkhwa through Secretary to Govt: of KP Health
Department Peshawar and Others.....(Respondents)

INDEX

S.#	Particulars	Annexure	Page
1	Para-wise Comments.		1-3
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4	Authority letter.		6

Respondent No. 2.

DHO North Waziristan

①

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

Service Appeal No. 525 /2022

Islamullah S/O Haji Salay, Laby: Tech: (BPS-09), DHO office North
Waziristan.....(Appellant)

Versus

1. Director General Health Services, Khyber Pakhtunkhwa Peshawar.
2. District Health Officer, District North Waziristan Miranshah.
.....(Respondents)

Joint Para-wise comments on behalf of respondents No. 1 & 2.

Preliminary objections.

1. That the appellant has got neither cause of action nor did locus standi to file the instant appeal, as he has filed no departmental Appeal.
2. That the appellant has filed the instant appeal just to pressurize the respondents.
3. That the instant appeal is against the prevailing Law and Rules.
4. That the appeal is not maintainable in its present form and also in the present circumstances of the issue.
5. That the appellant has filed the instant appeal with mala-fide intention, hence liable to be dismissed.
6. That the appellant has not come to the Honorable Tribunal with clean hands.
7. That the Honorable Tribunal has no jurisdiction to adjudicate upon the matter.
8. That the instant appeal is bad for mis-joinder of unnecessary and non-joinder of necessary parties.
9. That the appeal is badly barred by law and limitation.
10. That the appellant is not "AGGRIEVED" person within the meaning of Article 199 of the Constitution of Pakistan by producing fake, bogus and fabricated appointment order.

Respectfully Sheweth:-

1. Pertains to record and Para No.1 needs no comments.

- 2. Incorrect:- No advertisement has been published. The appointment order is bogus / fabricated and signed by an officer, who was not DHO on the date of issuance of order.
- 3. Incorrect:- Neither advertisement was published nor any selection was made.
- 4. Incorrect and misleading as replied in preceding Paras.
- 5. Incorrect:- Appointment order of the appellant along with his other colleagues has been cancelled / withdrawn by the answering respondent No. 2 in the light of inquiry report of Provincial Inspection Team Khyber Pakhtunkhwa vide Notification No. SOH(E-V)4-4/2021/Inquiry Report dated 22/04/2021 (Annex-A). The letter for release of salary dated 05.07.2021 has been issued with malafide intension by the then DHO just to extend legal favor to the appellant and other illegal appointees.
- 6. Incorrect:- Salary of the appellant was stopped due to cancellation of his fake appointment order as explained in preceding Para. As far as the complaint is concerned, that pertained to order 71 employees and it is very strange that salary of the appellant was stopped w.e.f. 2013, but he approached the Honorable Court in 2019. Furthermore, if relief was given by Peshawar High Court, Peshawar, then why the appellant has filed this appeal, instead of going for a COC in Peshawar High Court, Peshawar.
- 7. Incorrect and misleading as replied in preceding Para-6 above.
- 8. Incorrect:- That no Departmental appeal of the appellant has been received till date.
- 9. Incorrect:- The appellant had never been appointed lawfully and his fake appointment order was cancelled as explained in preceding Paras.
- 10. Needs no reply.

ON GROUNDS:-

- A) That Ground A needs no comments.
- B) Incorrect:- That after conducting a proper inquiry and probed the illegalities in the recruitment, thus all the letters has been issued in accordance with law.
- C) Incorrect:- That proper inquiry was conducted by Provincial Inspection Team Khyber Pakhtunkhwa and appointment order of the Appellant was declared illegal and thereafter issued all the letters in accordance with law and rules.

3

D) Incorrect, misleading as already explained in preceding Paras.

E) Incorrect:- Neither fundamental rights of the Appellant has been violated nor treated him in discriminated manner, because all the orders / letters has been issued on the probed / recommendation of Provincial Inspection Team Khyber Pakhtunkhwa.

F) Incorrect:- The answering Respondents being the competent authorities have the power to issue orders at any stage on probed / recommendation of inquiry committee.

G) The answering respondents also seek prior permission of this Honorable Tribunal to adduce additional grounds at the time of arguments.

Keeping in view of the above, the honorable Service Tribunal is humbly prayed that present Service Appeal of the appellant may kindly graciously be dismissed.

Shahen Afendi
Director General Health Services
Khyber Pakhtunkhwa Peshawar.
Respondent No. 01

[Signature]
District Health Officer
North Waziristan Miranshah.
Respondent No. 02

P-9

Annexure - A

4

MINISTRY OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

NO SOH(E-VI)-4/2021 Inquiry Report
Dated Peshawar the April 22nd, 2021

4136
277914

To: The Director General Health Services,
Khyber Pakhtunkhwa,
Peshawar

Subject: REQUEST FOR INQUIRY AGAINST DHO NORTH WAZIRISTAN

Dear Sir, I am directed to refer to the subject noted above and state that the Establishment & Admin Department (Regulation Wing) has submitted Inquiry Report of Khyber Pakhtunkhwa Provincial Inspection Team regarding illegal appointment/regularization made by Dr. Hameedullah, Ex-DHO North Waziristan. The following recommendations may be implemented:-

1. Cancel/ withdraw all the irregular adjustments/ regularizations and appointment of the employees during the tenure of Dr. Hameedullah and Dr. Israr ul Haq, Ex-DHO, North Waziristan as indicated in the inquiry report.
2. The credentials/ antecedents of all the employees working under the administrative control of DHO, North Waziristan may be verified from the concerned Boards/ Universities/ Faculties under the prevailing rules.
3. The clerical staff working in the office of DHO, North Waziristan were found involved in concealment of the office record for their vested interest, therefore, they may be transferred out of District of North Waziristan and must never be posted in North Waziristan in future.

I am, further directed to state that the above mentioned recommendations may be implemented under intimation to this Department, please.

Yours faithfully,
(Signature)
(Latif Ur Rehman)
SECTION OFFICER (E-V)

E-1
(Signature)

IMPORTANT/URGENT
OFFICE OF THE DIRECTORATE GENERAL HEALTH KPK PESHAWAR

Dated: 26/05/2021

Copy of the above is forwarded to the:-

1. Deputy Director Paramedics DGHS Office Khyber Pakhtunkhwa, Peshawar.
2. AD/In-charge (Personnel Section) DGHS KP, Office.
3. The District Health officer North Waziristan Merged District at Miranshah.

For information and immediate necessary action.

(Signature)
ADDL: DIRECTOR GENERAL (HRM) HEALTH SERVICES KHYBER PAKHTUNKHWA PESHAWAR

Secretary to Govt: of Khyber Pakhtunkhwa Health Department for inform

(Signature)

(Signature)
District Health Officer,
Tribal District North Waziristan
Miranshah

(Signature)

(Signature)

(5)

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 525 /2022

Islamullah S/O Haji Salay, Laby: Tech: (BPS-09), DHO office North
Waziristan.....(Appellant)


Versus

Government of Khyber Pakhtunkhwa through Secretary to Govt: of KP Health
Department Peshawar and Others.....(Respondents)

AFFIDAVIT.

I Mr.Syed Muhammad Litigation Assistant do affirm &
declare on oath on behalf of the respondents that the contents of the Para wise
comments are true and correct to the best of my knowledge and belief and nothing
has been kept secret from this honourable Court.

Deponent



Name: Syed Muhammad.

Designation: - Litigation Assistant.

CNIC #: 21506-4089120-5

Mob:0333-1901113

Attested

Oath Commissioner
Advocate High Court



(Handwritten signature)

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

Tel: (0928) 300788 FAX: (0928) 311662 Email: agencyurgeonwtd2019@gmail.com

No. _____

/Litigation/Court Case, Dated Miranshah the _____ /08/2022.

AUTHORITY LETTER.

Mr. Syed Muhammad Litigation Assistant attached to this office is hereby fully authorized to attend the Khyber Pakhtunkhwa Service Tribunal Peshawar on behalf of the undersigned as representative of Health Department North Waziristan Tribal District in Service Appeal No. 525 /2022.

N.B:- TA/DA will be paid by this office as per Government rules.

SD/x x x
District Health Officer,
North Waziristan Tribal District.

No. 7592-93 /Litigation/Court Case,
Copy forwarded to:-

1. The Additional Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar.
2. Mr. Syed Muhammad Litigation Assistant of this office.

(Handwritten signature)
District Health Officer,
North Waziristan Tribal District.

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

Service Appeal No. 525 /2022

Islamullah.....Appellant

VERSUS

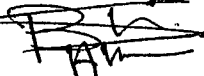
Director General Health Services & others ...Respondents

I N D E X

S NO	DESCRIPTION OF DOCUMENTS	ANNEX	PAGES
1.	Service Appeal	-	1-4
2.	Affidavit	-	5
3.	Application for Suspension	-	6
4.	Affidavit	-	7
5.	Copy of the Appointment Order	A	8
6.	Copies of the Order and Complaint	B	9-10
7.	Copy of letter dated 26.08.2020	"C"	11
8.	Copy of the order dated 05.08.2021	"D"	12
9.	Copy of the Impugned Order dated 06.08.2021	"E"	13
10.	Copy of Departmental Appeal along with receipts	"F"	14-15
11.	Wakalat Nama		16


Appellant

Through:



(BASHIR KHAN WAZIR)

Advocate,
High Court, Peshawar

Dated:- 24.03.2022

①

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

Service Appeal No _____/2022

Islamullah S/o Haji Salay, Laboratory Tech Pathology (BPS-09), DHO Office
North Waziristan

.....Appellant

VERSUS

1. Director General Health Services, Khyber Pakhtunkhwa, Peshawar
2. District Health Officer, District North Waziristan.

.....Respondents

**SERVICE APPEAL UNDER SECTION 4 OF KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST
THE IMPUGNED ORDER DATED 06.08.2021, VIDE OFFICE
ORDER NO 13024/DHO NWTB WHICH WAS RECEIVED TO
THE APPELLANT ON 23.11.2021, ISSUED BY THE
RESPONDENT NO 2 WHEREBY THE APPOINTMENT OF THE
APPELLANT HAS BEEN CONSIDERED CANCEL /
WITHDRAWN AND CONSEQUENTLY THE SALARIES OF THE
APPELLANT HAS BEEN STOPPED / WITHHOLD AGAINST
WHICH THE DEPARTMENTAL APPEAL VIDE DATED
25.11.2021 FILED, BUT INSPITE OF THE COMPLETION OF
MANDATORY PERIOD OF THE DEPARTMENTAL APPEAL,
NO ORDER HAS BEEN PASSED.**

Prayer in Appeal:

On acceptance of the instant Appeal, the Impugned Orders when initially the salaries of the Appellant was stopped/withheld since 1st August 2021 verbally and later on a written impugned Order No. 13024/DHO NWTB dated 06.08.2021, which was communicated to the Appellant on 23.11.2021, issued by the Respondent No 2 on the basis of which the Appointment of the Appellant being considered cancelled / withdrawn, the impugned order dated 06.08.2021 and withholding of salaries of the Appellant may kindly be set aside and consequently the Appellant may kindly be reinstated / restored into his service with all back benefits.

Respectfully Sheweth:-

The Appellant humbly submits as under:-

1. That the Appellant is peaceful and law abiding citizen of Pakistan and is entitled for all the rights guaranteed by the Constitution of Islamic Republic of Pakistan, 1973..
2. That briefly stated the fact relevant for the purpose of this Appeal are that, the Respondents had advertised number of posts, which were laying vacant in District Health Office, North Waziristan, the Appellant was being qualified and eligible candidate applied for the post as per his qualifications.
3. That after fulfillment of all codal formalities, as the vacant posts were advertised and invited applications from the eligible and suitable Applicants, the Appellant accordingly submitted his Application as well as his academic qualifications and as per the prevailing SOPs of the provincial Government for making

inductions in respect of the subject posts, the process for selection was initiated by verification of the degrees of the candidates who applied for these posts. In this respect a property selection Committee was constituted. The Committee so constituted duly interviewed the candidates and after following the process of law/ rules, the successful candidates were issued the Appointment letters. **(Copy of the Appointment Order is attached as annexure A)**

4. That whenever the competent authority as well as the Selection Committee have been appointed the Appellant on his respective posts, after adopting all the codal formalities, meanwhile the political figure as Minister for Relief and Rehabilitation MR. Iqbal Khan Wazir while using his good office forwarded a letter with the subject **"Complaint against illegal appointments made by DHO North Waziristan without fulfilling of codal formalities / bogus diploma holders"**, and directed the District Account Officer District North Waziristan to stop the salaries of 71 Appointees in the DHO North Waziristan Office and it was alleged that their appointments have been made without compliance of codal formalities and the appointees are holding bogus degrees vide letter dated 20.02.2020, the District Account Officer has been requested for the investigation of the matter in question and further the pay and allowances of the Appellant has been requested to be stopped till the finalization of the complaint filed by the Minister Concerned. **(Copies of the Order and Complaint are attached as annexure B)**
5. That some of the aggrieved employees approaches the Hon'ble Peshawar High Court Bannu Bench, whereby the salaries those employees have been ordered to be released forthwith, thereafter the political person as mentioned above Minister for Relief and Rehabilitation again interfered in the same matter, while issued another letter from his letter head to the Minister of Health, whereby he has requested for interference in the official work and the Minister of Health has been compelled to constitute another inquiry on the subject matter vide letter dated 26.08.2020. **(Copy of letter dated 26.08.2020 is attached as annexure C)**
6. That the Respondent No 2 without keeping in view the above mentioned record once again stopped the salaries of the Appellant on the personal grudges with the collusion of Minister concerned, thereafter the Appellant along with others preferred a combined Appeal to the Respondent No 2 which was forwarded through his endorsement letter dated 05.07.2021 to the Respondent No 1, accordingly the Respondent No 1 accepted the Appeal of the Appellant vide letter dated 05.08.2021 and realized that the case of the Appellant does not fall in the capacity of the letter mentioned above and the Respondent No 2 was directed to implement the judgment of the Hon'ble Peshawar high Court Bannu Bench, vide which the salaries of the Appellant was ordered to be release. **(Copy of the order dated 05.08.2021 is attached as annexure D)**
7. That it is pertinent to mention here that as per the above mentioned direction issued by the Respondent No 1, the Respondent No 2 is bound to act accordance with the directions

issued by Respondent No 1, but he despite of the clear cut directions issued by the Respondent No 1 refused to implement the same and issued the impugned order dated 06.08.2021, which was even not communicated to the Appellant and the Appellant was kept unaware about the said letter, thereafter when the Appellant insisted for release of his salaries the Respondent No 2 while given the impugned order to the Appellant on 23.11.2021. **(Copy of the Impugned Order dated 06.08.2021 is attached as annexure E)**

- 8. That thereafter the Appellant filed Departmental Appeal, wherein statutory period had been elapsed and no order whatsoever has been issued. **(Copy of Departmental Appeal along with receipts are attached as annexure F)**
- 9. That inspite of the clear cut direction of the competent authority as Respondent No 1, the Respondent No 2 having personal grudges and for ulterior motives not following the order of the Respondent No 1 and due to which the salaries of the Appellant is being stopped without any lawful authority.
- 10. That feeling aggrieved from the act of Respondents, having no other adequate and efficacious remedy, approaches this Honourable Tribunal on the following grounds inter-alia:-

GROUND:-

- A) That the Appellant is peaceful and law abiding citizen of Islamic Republic of Pakistan and is fully entitled to all the basic and fundamental rights as enshrined in the fundamental law of the state, interpreted and guaranteed by the law of the land.
- B) That even the impugned Order has been issued without given personal hearing opportunity to the Appellant, the same act of the Authority is illegal, unlawful and without lawful authority.
- C) That no show cause notice was issued to the Appellant and due to the malaifde intention of the Respondent NO 2 the impugned order was issued just to deprive the Appellant from his valuable service.
- D) That the acts of the Respondents of not following the same criteria which has been safeguarded by the law and rules and guidelines provided by the apex courts that when the employee serving on respective posts the competent authority should have in retaliation to delivered remuneration to the employee as accordance his service, while in the instant case the respondents have not yet been considered the case of the Appellantss, is illegal, unlawful, unnatural, ab-initio, null and void in the eye of law, hence liable to be declared so.
- E) That the fundamental rights of the Appellants has blatantly violated by the Respondents and the Appellants has been discriminated and has been denied his due rights under the Constitution of Islamic Republic of Pakistan, 1973.
- F) That the Appellants is appointed according to rules and on adopted procedure but the respondents and after his appointments he has never ever given an opportunity of any complaint to the respondents and performed his duties with full devotions, the Appellants being eligible for releasing of outstanding salaries which was illegally been retained by the respondents is illegal and violation of natural justice, because of

the fundamental rights/entitlement of the Appellants has been denied to them by the Respondents.

- G) That according to the articles 23 & 24 (1) of the constitution of Pakistan the property of every citizens of the Pakistan have been protected and no one could be deprived from their due rights and property, hence the entire due salaries being the fundamental right of the Appellants and the respondents is liable to be directed for releasing of the entire due salaries of the Appellants.
- H) That once the Appellants was duly appointed/posted and was allowed to join the service, after thorough verifications entries was also made in his service books, since then he is performing his duties, and after having performed his duties, he is certainly entitled to be paid his salaries, but all of sudden the respondents have been stopped the salaries of the Appellants, these acts of the respondents are illegal unlawful and liable to be declared so.
- I) That any other ground not raised here specifically may graciously be allowed to be raised at the time of arguments.

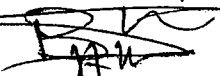
PRAYER:-

It is, therefore, most humbly prayed that, On acceptance of the instant Appeal, the Impugned Orders when initially the salaries of the Appellant was stopped/withheld since 1st August 2021 verbally and later on a written impugned Order No. 13024/DHO NWTD dated 06.08.2021, which was communicated to the Appellant on 23.11.2021, issued by the Respondent No 2 on the basis of which the Appointment of the Appellant being considered cancelled / withdrawn, the impugned order dated 06.08.2021 and withholding of salaries of the Appellant may kindly be set aside and consequently the Appellant may kindly be reinstated / restored into his service with all back benefits.

Any other relief, not specifically asked for may also graciously be extended in favour of the Appellant in the circumstances of the case.


Appellant

Through:



(BASHIR KHAN WAZIR)
Advocate,
High Court, Peshawar

Dated:- 24.03.2022

CERTIFICATE:

It is certified that no such like Appeal has earlier been filed before this Hon'ble Tribunal.



DEPONENT

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

Service Appeal No _____/2022

**Islamullah.....Appellant
VERSUS**

Director General Health Services & others ...Respondents

AFFIDAVIT

I, Islamullah S/o Haji Salay, Laboratory Tech Pathology (BPS-09), DHO Office North Waziristan, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

H.
Humaira Rehman Advocate
Deputy Commissioner
Endst. No. 8370-75

Islamullah
DEPONENT

24-03-2022

(5)

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

Service Appeal No _____/2022

Islamullah.....Appellant

VERSUS

Director General Health Services & others ...Respondents

**APPLICATION FOR SUSPENSION OF THE IMPUGNED
ORDER DATED 06.08.2021, ON THE BASIS OF
WHICH THE SALARIES OF THE APPELLANT WAS
STOPPED AND CONSEQUENTLY THE CURRENT
SALARY OF THE APPELLANT MAY KINDLY BE
ORDERED TO RELEASED, TILL THE FINAL
DECISION OF THE SERVICE APPEAL.**

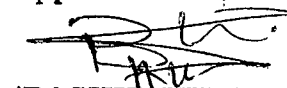
Respectfully Sheweth:

1. That the above noted Service Appeal is being filed before this hon'ble court, in which no date of hearing has yet been fixed.
2. That the Appellant has got a good prima facie case in their favour, and is sanguine about its success.
3. That the balance of convenience also lies in favour of the Appellant.
4. That if the Impugned Order dated 06.08.2021 is not suspended, the Appellant would suffer extreme irreparable loss.
5. That the facts and grounds of the Appeal may kindly be read as an integral part of this application.

It is, therefore, respectfully prayed that on acceptance of this application, the relief as prayed for in the heading of the Application may kindly be allowed in favour of the Appellant, till the final decision of the case


Appellant

Through:


(BASHIR KHAN WAZIR)
Advocate,
High Court, Peshawar

Dated:- 24.03.2022

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

Service Appeal No _____/2022

**Islamullah.....Appellant
VERSUS
Director General Health Services & others ...Respondents**

AFFIDAVIT

I, Islamullah S/o Haji Salay, Laboratory Tech Pathology (BPS-09), DHO Office North Waziristan, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

H
Sumaira Rehman Advocate
Oath Commissioner
Encl: No. 3370-75

[Signature]
DEPONENT

2403-2022

OFFICE OF THE AGENCY SURGOEN

NORTH WAZIRISTAN MIRANSHAH.

PHONE & FAX: 0928-300788.

OFFICE ORDER:

On the recommendation of Departmental Selection committee, Mr. Islamullah S/O Haji Saley resident of village Eidak Tehsil Mirali & P/O Eidak NWA 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 Bichi Tehsil Mirali North Waziristan Agency 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 for a period of one year and will be renewed on his satisfactory performance 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 MO/Incharge Civil Hospital Bichi Tehsil Mirali within 15 days of the receipt of this offer, otherwise the order will be considered as cancelled.

Sd:xxxxxxxxxxxxxx

(Dr. Jehan Mir Khan)

Agency Surgeon

North Waziristan Miranshah

No 2676-78 /App: dated: Miranshah the: 01 /10 /2013.

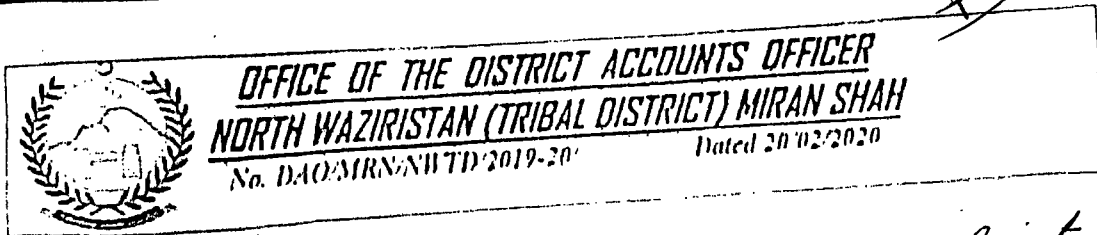
Copy forwarded to the:-

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

For information and necessary action.

Agency Surgeon

North Waziristan Miranshah



OFFICE OF THE DISTRICT ACCOUNTS OFFICER
NORTH WAZIRISTAN (TRIBAL DISTRICT) MIRAN SHAH
No. DAO/MRN/NWTD/2019-20 Dated 20/02/2020

B

9

To,

*complaint and
list of the employees*

The District Health Officer
NWTD Miran Shah.

**SUBJECT:- COMPLAINT AGAINST ILLEGAL APPOINTMENT MADE BY
DHO NORTH WAZIRISTAN WITHOUT FULFILLING CODAL
FORMALITIES/BOGUS DIPLOMA HOLDER.**

Memo,

Please refer to the letter issued by Mr. Muhammad Iqbal Khan Wazir, Minister for Relief (DDAC) chairman/Member Provincial Assembly PK 111 vide No. DDAC /MPA-PK111/2020/Health/dated 17/02/2020 on the subject cited above.

In this connection it is requested that the matter may be investigated at your end and computer change profarma may send to this office for stoppage of pay & Allowance of the employees as per list attached till the complaint to be set a side.

2. It is also pertinent to mention that as per the verbal directions of the worthy Minister that before processing fresh appointment/recruitment of any kind and of any department prior permission may be obtained from the Minister concerned.

[Signature]
District Accounts Officer
NW (Tribal District) Miran Shah

ATC-

Copy forwarded to:

1. The Accounts officer (C&M) O/O the Accountant General Khyber Pakhtunkhwa Peshawar with the request to guide this office for appropriate action in the subject case please.
2. The Deputy Commissioner NWTD Miran Shah for information and necessary action please.

[Signature]
District Accounts Officer

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MUHAMMAD IQBAL KHAN WAZIR
(DDAC) CHAIRMAN/MEMBER
PROVINCIAL ASSEMBLY PK-111

No. DDAC/MPA-PK-111/2020/Health
Dated: The Peshawar February 17, 2020

Subject: COMPLAINT AGAINST ILLEGAL APPOINTMENTS MADE BY DHQ NORTH WAZIRISTAN
WITHOUT FULFILLING CODAL FORMALITIES/BOGUS DIPLOMA HOLDER

My Dear

Hope this letter of mine will find you in the best of your health.

I would like to say that District Health Officer, North Waziristan recently made illegal appointments of bogus degree holders on taking bribe and without fulfilling of codal formalities.

In view of this above, the salaries of 71 appointees (list attached) may be stopped till their valid reports are furnished.

(Muhammad Iqbal Wazir)

District Accounts Officer,
District North Waziristan

CC:-

1. Deputy Commissioner, North Waziristan with the request to look into the matter personally
2. DHQ North Waziristan

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MINISTER FOR HEALTH
DEPARTMENT OF HEALTH

48

Date: 11/11/2011
Dated: 11/11/2011

ADNOBAL WAZIR

Subject: **REQUEST FOR INQUIRY**

My Dear,

Hope this letter of mine will find you in the best of your health.

I would like to enclose herewith a letter addressed to your good self with regard to conduct inquiry against DHO North for 71 illegal appointments in Tribal District North Waziristan (appointees list attached). It is also mention here that Mr. Amjad Salim Junior Clerk is also involved in all these illegal activities and in taking bribe from these appointees.

It is also pointed out that the present DHO North Waziristan again made illegal appointments in Tribal District North Waziristan (copies attached).

In view of the above, it is requested to kindly direct the quarter concerned to conduct inquiry against DHO North Waziristan on top priority basis, please.

Yours Sincerely,

SOV

Mr. Taimoor Saleem Khan Jhagra,
Minister for Health, Khyber Pakhtunkhwa.

[Handwritten signatures and notes]
AS/Bsh
eng
28/11/2011

Copy forwarded for similar action to:-

- 1. The Secretary Health, Govt. of Khyber Pakhtunkhwa.
- 2. The Director General Health, Khyber Pakhtunkhwa.
- 3. The Director Merged Area Health, Khyber Pakhtunkhwa.
- 4. The Director Anti-corruption, Khyber Pakhtunkhwa.

[Handwritten signature]

ADDRESS 2ND FLOOR MINISTERS BLOCK CIVIL SECRETARIAT PESHAWAR
KHYBER PAKHTUNKHWA PH-21000

(12)

D

Handwritten initials and marks in circles.



**DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA, PESHAWAR.**

Office Ph# 091 - 9210269 Exchange# 091 - 9210187, 091 - 9210196. Fax #091 - 9210230
All communications should be addressed to the Director General Health Services Peshawar and not to
any official by name.

No 11804 /EV

Dated 5/8/2021

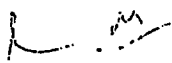
To

District Health Officer
North Waziristan (Disst: Miranshah)

Subject:

**REQUEST FOR IMPLEMENTATION OF THE HONORABLE PESHAWAR HIGH
COURT BANNU BENCH DECISION UNDER WP NO.270- OF 2020 DATED
18.01.2021 YASIR IQBAL ETC VS GOVT OF KHYBER PAKHTUNKHWA ETC.**

Kindly reference to your letter No.11134-35 /Court Case dated 05.07.2021
on the subject noted above and to direct to implement the decision of the Honorable
Court, under intimation to this Directorate.


Director General Health Services,
Khyber Pakhtunkhwa, Peshawar.

AME
Handwritten initials and marks.

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**OFFICE OF THE DISTRICT HEALTH OFFICER
TRIBAL DISTRICT AT MIRANSHAH**

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

Email: agency Surgeon nwa2018@gmail.com

No. 13024 /DHO NWTD

Dated:

06 / 08 / 2021

To

The Director General Health Services
KP, Peshawar

Subject:

REQUEST FOR INQUIRY AGAINST DHO NORTH WAZIRISTAN.

R/Sir,

In compliance to your office endorsement No.7047-50/E.I dated 06/05/2021 in response to Secretary Health Office Letter No. SOH (E-V) 4/20201/Inquiry Report dated Peshawar the April 22nd, 2021, the undersigned is pleased to cancel/withdraw all the irregular adjustment/regularization and appointment of the employees during the tenure of Dr.Hamid Ullah and Dr.Israr Ul Haq EX-DHO North Waziristan as indicated in the inquiry report with immediate effect.

[Signature]
District Health Officer
Tribal District Miranshah
Dated the: 06/08/2021

No. _____ /DHO NWTD

Copy forwarded to the:

1. Deputy Commissioner Tribal District Miranshah.
2. PA to Secretary Health KP, Peshawar.
3. HQ-7 Dive Camp Area Miranshah.
4. All Officials Concerned.

The inquiry was conducted against 71 employees.

Attn
[Signature]
District Health Officer
Tribal District Miranshah

To,

Director General
Health Services
Khyber Pakhtunkhwa
Peshawar

Subject: APPEAL FOR RELEASE OF SALARIES STOPPED/WITHHELD SINCE AUGUST 2021 DESPITE OF THE FACT THAT I PERFORMING MY DUTY TILL DATE AND AGAINST THE ORDER DATED 06.08.2021 IS BEING INTIMATED AND RECEIVED THE SAME FROM THE OFFICE OF DHO NWTD ON DATED 23.11.2021.

Respected Sir,

I have been appointed in the office DHO NWTD by the competent authority after fulfillment of all codal formalities and working as EPI. B.S. 12 in District North Waziristan Agency, Miran Shah, since my appointment I performing my duties with full devotion and great zeal and zest.

That I have been appointed under the proper advertisement and after appointment I assume the charge of the subject post, the present District Health Officer without issuance of any show cause notice, initially stopped my salaries since August 2021, in spite of the fact that I was working and still I am working on the subject post, but my salaries have been stopped / withheld, I visited to the office of DHO and asked about my salaries, he replied that the salaries will be released soon after I along with my other colleagues when disregarded by the DHO intimated the matter to your good office, in response of your good office the DHO was directed to release of the Appellant along with other colleagues.

The concerned DHO even then neither released the salaries nor he has in position to release the same and lastly the order dated 06.08.2021 was handed over to the Appellant which was duly received on 23.11.2021, therefore I preferred this Appeal that neither the same order has been issued after fulfilling prerequisite requirements nor any intimation in respect of the said order has been given to me.

It is therefore on acceptance of this Appeal, the entire salaries of the Appellant may kindly be order to release w.e.f withholding and the order dated 06.08.2021 may kindly be set aside.

Yours Sincerely

Dated: 25.11.2021

EPI. Tech.



TRUST A LEADER TO DELIVER

15

Sales Tax Invoice

Acct / Coupon		Consignment Note No.			Org.	Dest.
		470 9872713				PEW
Call: 111-123-456 GST NO. 12-00-9808-002-73	Mode of Payment	Insured	Dimension		Wt. (kgs)	Pcs.
	<input type="checkbox"/> Coupon <input type="checkbox"/> FOC <input type="checkbox"/> COD <input type="checkbox"/> Account <input type="checkbox"/> Cash	<input type="checkbox"/> Yes <input type="checkbox"/> No.	L(cm)	W(cm)	H(cm)	0.5
From (Shipper)	To (Consignee)			Service Type		
Union office	Islamulla			<input type="checkbox"/> Overnight <input type="checkbox"/> Holiday		
PHOTOGRAPH	EPI			<input type="checkbox"/> Extra Sp. <input type="checkbox"/> Same Day		
Phone	Phone D. G. Heald			<input type="checkbox"/> Second Day		
<small>I warrant that I have read the terms and conditions on the reverse of this consignment note and that all details given herein are true and correct. I further declare that the contents of this consignment do not contain any letter. The execution of this consignment note is prima facie evidence of the conclusion of contract between shipper & TCS (PVT) LTD.</small> Shipper's Signature: <i>[Signature]</i>	Description			Service Charges		
	PICKUP INFORMATION			Weight		
	Courier Code	Date	Time	Handling		
				Other		
				GST		
AS PER P.O. ACT 1988. TCS WILL NOT CARRY LETTER/POST CARD			Insurance Premium		TOTAL	
					56	

Any suggestions / complaints about service may be mailed to PO Box # 2942, Kharoti-76400

بعد الت سندس ٹریبیونل کو پی رٹ

B.C No 09-205
۸۸۰۰۳۳۳ ۹۷۳۲۸۱۵

۲۰۲۲ء منجانب
بنام

موزخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آئیکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام پیشہ کیلئے لبسہ جان دزیرا سٹریٹ
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لیا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
پر داخستہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکورہ کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

اسلام اللہ

المرقوم 24 مارچ 2022

واہ العیب

بمقام کے لئے منظور ہے۔