

18.05.2022

Petitioner in person present. Mr. Asif Masood, Deputy District Attorney alongwith Mr. Tehmas Ayub, SO (V) and Safiullah, Focal Person for respondents present.

Representative of the respondents submitted copy of notification No. SOH(E-V0/4-4/2022 dated 18.05.2022 wherein he stated that grievance of the petitioner has been redressed. Copy of order is handed over to the petitioner. The petitioner does not want to pursue the case further being satisfied. Disposed of accordingly. Consign.

*Pronounced in open court in Abbottabad and given under my hand and seal of the Tribunal this 18<sup>th</sup> day of May, 2022.*



(Kalim Arshad Khan)  
Chairman  
Camp Court Abbottabad

20.04.2022

Petitioner alongwith junior of his counsel present. Mr. Safiullah, Focal Person alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Learned Additional Advocate General stated at the bar that implementation report shall be produced before the Tribunal on 25.04.2022, therefore, to come up for implementation report on 25.04.2022 before the S.B at Principal Seat Peshawar. The petition is fixed at Principal Seat Peshawar upon request of both the sides as the Tour of Camp Court Abbottabad for this month is up to 22.04.2022.



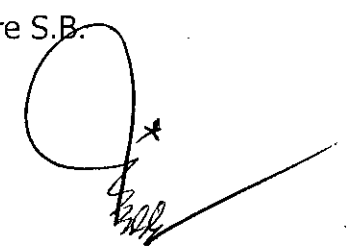
(Salah-Ud-Din)  
Member (J)  
Camp Court Abbottabad

25.04.2022

None for the petitioner present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Safiullah, Focal Person for respondents present.

Notices be issued to the petitioner and his counsel. To come up for further proceedings on 08.07.2022 before S.B.

*[Faint handwritten notes in Urdu, likely a draft or commentary, partially obscured by the signature area.]*

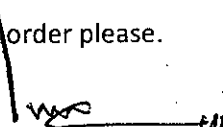


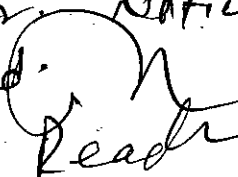


(MIAN MUHAMMAD)  
MEMBER(E)

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Execution Petition No. \_\_\_\_\_ 383 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	17.12.2021	<p>The execution petition of Dr. Shahzad Ali Khan submitted today by Mr. Junaid Anwar Khan Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This execution petition be put up before touring S. Bench at A.Abad on <u>19/01/21</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	19.01.2022	<p>Petitioner alongwith his counsel present. Notices be issued to the respondents for submission of implementation report on 14.03.2022 before the S.B at Camp Court Abbottabad.</p> <p style="text-align: right;"> (Salah-ud-Din) Member (J) Camp Court A/Abad</p> <p style="text-align: center;"><i>Due to retirement of the Honble Chairman the case is adjourned to come up for the same on 20-4-2022. Notice to the parties be issued.</i></p> <p style="text-align: right;"> Reader</p>

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

*Execution petition no. 383/2021*

CM No. \_\_\_\_\_/2021

IN

Service Appeal No.7294/2021

Dr. Shahzad Ali Khan son of Muhammad Farid Swati, resident of  
Farid Bagh, Mandian, P.O Kotkay, Tehsil & District, Mansehra.

...APPELLANT

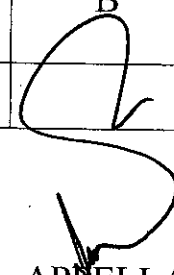
**VERSUS**

Government of Khyber Pakhtunkhwa, through Chief Secretary,  
Khyber Pakhtunkhwa Peshawar & others.

...RESPONDENTS

**IMPLEMENTATION APPLICATION**

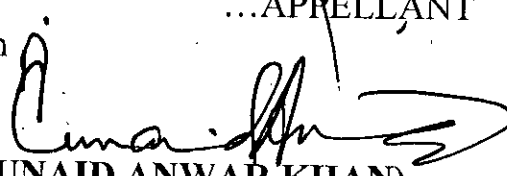
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...APPELLANT

Dated: 13.12.2021

Through

  
(JUNAID ANWAR KHAN)  
Advocate High Court, Mansehra

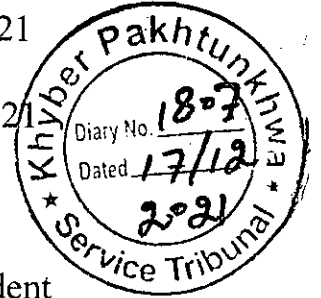
**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL, PESHAWAR**

*Execution petition no. 383/2021*

CM No. \_\_\_\_\_/2021

IN

Service Appeal No. 7294/2021



Dr. Shahzad Ali Khan son of Muhammad Farid Swati, resident of Farid Bagh, Mandian, P.O Kotkay, Tehsil & District, Mansehra.

**...APPELLANT**

**VERSUS**

1. Government of Khyber Pakhtunkhwa, through Chief Secretary, Khyber Pakhtunkhwa Peshawar.
- ✓ 2. Government of Khyber Pakhtunkhwa, through Secretary Health Peshawar.
- ✓ 3. Chief Minister, Khyber Pakhtunkhwa Peshawar.
- ✓ 4. Minister Health Department, Khyber Pakhtunkhwa, Peshawar.
5. Section Officer (E-V), Government Khyber Pakhtunkhwa, Peshawar.
- ✓ 6. Director General, Health Services, Khyber Pakhtunkhwa, Peshawar.
7. Deputy Director (IT) Health Department, Peshawar.
- ✓ 8. District Health Officer, Mansehra.
9. Dr. Muhammad Tariq Management Cadre, Deputy District Health officer, Buner.

**...RESPONDENTS/**

**APPLICTION** AGAINST THE RESPONDENTS FOR  
IMPLEMENTATION OF ORDER/ JUDGMENT  
DATED 09.11.2021 PASSED BY THIS  
HONOURABLE TRIBUNAL IN SERVICE APPEAL  
NO.7294/2021 IN ITS TRUE LETTER AND SPIRIT.

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Respectfully Sheweth: -

1. That the appellant has filed the above mentioned service appeal before this Honourable Tribunal.  
*(Copy of the service appeal is annexed as Annexure "A").*
  
2. That the above mentioned service appeal was listed before this Honourable Tribunal on 09.11.2021 and this Honourable Tribunal vide its order/ judgment dated 09.11.2021 allowed the service appeal as prayed for and directed the respondents No.1 and 2 to do further needful to bring the position in place as per accepted prayer of the appellant. *(Attested Copy of the order/ judgment dated 09.11.2021 is annexed as Annexure "B").*

3. That after getting the attested copy of the above mentioned order/ judgment, the appellant visited the offices of the respondents and placed the attested copy of the order before them and the copy of the said order was also officially communicated to the respondents by the office for compliance but the respondents are showing reluctance to implement the said judgment, rather, they have clearly refused to act upon the judgment/ order of this Honourable Tribunal and till now the matter is pending with the respondents without any legal and valid justification lingering on the matter.
4. That this Honourable Tribunal has clearly directed the respondents to do the needful and to implement the judgment/ order of this Honourable Tribunal in its true letter and spirit but after the lapse of considerable time, respondents have badly failed to implement the said judgment/ directions in its true letter and spirit.
5. That the appellant having no other remedy except to file the instant application against the

respondents for implementation of the judgment of this Honourable Tribunal, inter-alia, on the following grounds:-

**GROUND:-**

- a. That in view of the judgment/ order passed by this Honourable Tribunal, respondents are/ were under constitutional and legal obligation to obey/ implement the judgment in its true letter and spirit because this Honourable Tribunal has clearly directed the respondents to implement the order but by not implementing the same or not giving any plausible reason in this regard, such conduct of the respondents is highly condemnable.
- b. That for the ends of justice, it is mandatory, rather obligatory upon the respondents to implement the judgment of this Honourable Tribunal in its letter and spirit as the respondents were left



with no other legal option except to implement the directions given in the said judgment but they have badly failed to comply with the direction despite lapse of considerable time.

c. That the appellant time and again visited the offices of the respondents to do the needful keeping in view the directions issued by the Honourable Tribunal who initially made lame excuses and later on straightway refused to obey/ implement the judgment of this Honourable Tribunal.

d. That no contrary order is available against the passage of the order of the appellant by any higher forum and the judgment of this Honourable Tribunal is still in field, therefore, no reason rests with the respondents to refuse the implementation of the judgment of this Honourable Tribunal in favour of the appellant.

It is, therefore, most humbly prayed that on acceptance of the instant application, the respondents may please be strictly ordered/ directed to implement the order/ judgment dated 09.11.2021 passed by this Honourable Tribunal in its true letter and spirit.

...APPELLANT

Through

Dated: 13.12.2021

  
(JUNAID ANWAR KHAN)  
Advocate High Court, Mansehra

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

CM No. \_\_\_\_\_/2021

IN

Service Appeal No.7294/2021

Dr. Shahzad Ali Khan son of Muhammad Farid Swati, resident of Farid Bagh, Mandian, P.O Kotkay, Tehsil & District, Mansehra.

**...APPELLANT**

**VERSUS**

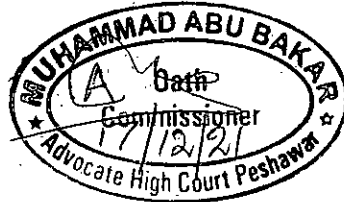
Government of Khyber Pakhtunkhwa, through Chief Secretary, Khyber Pakhtunkhwa Peshawar & others.

**...RESPONDENTS**

**IMPLEMENTATION APPLICATION**

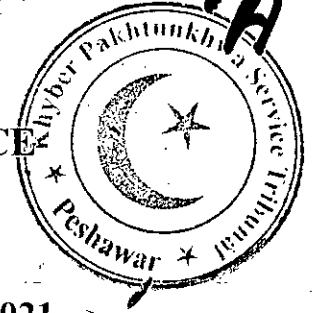
**AFFIDAVIT**

I, Dr. Shahzad Ali Khan son of Muhammad Farid Swati, resident of Farid Bagh, Mandian, P.O Kotkay, Tehsil & District, Mansehra, do hereby solemnly affirm and declare on oath that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Tribunal.



**DEPONENT**

8  
Annexure  
A



BEFORE THE HONOURABLE SERVICE  
TRIBUNAL, KPK PESHAWAR

DAIRY NO. 20726  
DATE 29-11-21  
HEALTH DEPARTMENT

7294  
Service Appeal No.        of 2021

Dr. Shahzad Ali Khan son of Muhammad  
Fareed Swati resident of Fareed Bagh  
Mandian, post Office Kotkay, Tehsil and  
District Mansehra .....APPELLANT

Khyber Pakhtunkhwa  
Service Tribunal

Dairy No. 7503

Dated 27-8-2021

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. Government of Khyber Pakhtunkhwa through Secretary Health, Peshawar.
3. Chief Minister, Khyber Pakhtunkhwa, Peshawar.
4. Minister Health Department, Khyber Pakhtunkhwa, Peshawar.
5. Section Officer (E-v), Government of Khyber Pakhtunkhwa, Peshawar.
6. Director General, Health Services, Khyber Pakhtunkhwa, Peshawar.
7. Deputy Director (IT), Health Department, Peshawar.
8. District Health Officer, Mansehra.
9. Dr. Muhammad Tariq, Management Cadre, Deputy District Health Officer, Buner.  
.....RESPONDENTS.

Re-submitted on day 8  
and filed.

Registrar


ATTESTED  
  
Registrar  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

SERVICE APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, 1974, READ WITH CLAUSE XIV OF POSTING TRANSFER POLICY AGAINST THE AGAINST THE IMPUGNED PREMATURE TRANSFER AND POLITICALLY MOTIVATED IMPUGNED NOTIFICATION BEARING NO.SOH(E-V)/4-4/2021 DATED 09.07.2021 WHEREBY THE APPELLANT WAS ORDERED TO BE TRANSFERRED FROM MEDICAL SUPERINTENDENT KING ABDULLAH TEACHING HOSPITAL, MANSEHRA TO DEPUTY DISTRICT HEALTH OFFICER, MANSEHRA AND ALSO AGAINST NOT DECIDING THE APPEAL OF THE APPELLANT WITHIN 15 DAYS AS PROVIDED UNDER CLAUSE XIV OF THE POSTING TRANSFER POLICY.

PRAYER: -

On acceptance of the instant service appeal, the impugned notification bearing No.SOH(E-V)/4-4/2021 dated 09.07.2021 whereby the appellant was ordered to be transferred from Medical Superintendent King Abdullah Teaching Hospital, Mansehra to Deputy District Health Officer, Mansehra may please be set aside and the appellant may please be restored to its previous position i.e. Medical Superintendent King Abdullah Teaching Hospital, Mansehra or any other relief as this Honourable Tribunal deems fit and appropriate

**ATTESTED**

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

in the circumstances of the case, may also be issued/passed.

Respectfully Sheweth!

1. That, the appellant is bonafide resident of Fareed Bagh Mandian Kotkay, Tehsil and District Mansehra.

*(Copy of the CNIC of the appellant is annexed as annexure "A").*

2. That, the appellant is a qualified Doctor and is performing his duties in the Management Cadre of the respondents' department.

*(Copies of the educational testimonials of the appellant alongwith service record are annexed as annexure "B" & "C").*

3. That, the appellant was initially inducted in the Health Department, Government of Khyber Pakhtunkhwa who was later on transferred and lastly posted as Medical Superintendent, King Abdullah Teaching Hospital, Mansehra vide notification bearing No.SOH(HD)/E-V/4-4/2020 dated 18.03.2020.

*(Copy of the notification is annexed as annexure "D").*

4. That, the appellant is performing his duties with great zeal and zest and never remained negligent in performance of his assigned duties.
5. That, the appellant is serving at King Abdullah Teaching Hospital, Mansehra from the last one year and four months whereas the tenure of the appellant is still incomplete because as per the service terms and conditions, at least tenure at any station is 03 years.
6. That, as per law, terms and conditions, the appellant cannot be transferred prior to completion of his tenure but very astonishingly, the appellant has illegally and unlawfully been transferred by the competent authority vide notification dated 09.07.2021.

*(Copy of the impugned notification is annexed as annexure "E").*

7. That, the appellant being aggrieved from the impugned notification, submitted departmental appeals before the respondents but the same

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before the respondents but the same have not been adhered to by the respondents.

*(Copies of the departmental appeals are annexed as annexure "F").*

8. That, the appellant time and again visited the offices of the respondents for the cancellation of the impugned notification and for the decision of departmental appeals but in vain rather the respondents are bent upon to take charge from the appellant hence the appellant being aggrieved from the impugned notification seeks the gracious



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indulgence of this Honourable Tribunal by way of instant appeal, inter alia, on the following grounds:-

### GROUNDS

- a. That, impugned notification bearing No.SOH(E-V)/4-4/2021 dated 09.07.2021 whereby the appellant was ordered to be transferred from Medical Superintendent King Abdullah Teaching Hospital, Mansehra to Deputy District Health Officer, Mansehra and non-deciding the fate of the departmental appeal filed by the appellant are wrong, illegal, against the law and facts, arbitrary, fanciful, perverse, against the relevant law, rules and regulations, politically motivated, based on malafide, against the fundamental rights of the appellant hence being unconstitutional, liable to be struck down.
- b. That, relevant law, rules and regulations have blatantly bypassed/ violated by the respondents and the

relevant law, rules and regulations have never been taken into consideration by the respondents and thus the notification so passed by the respondents have no legal sanctity in the eyes of law.

- c. That, no solid, valid, concrete or confidence inspiring reasons/justification has been given by the competent authority while transferring the appellant from King Abdullah Teaching Hospital, Mansehra.
- d. That, it is also worth mentioning here that the Hospital Management Board of King Abdullah Teaching Hospital, Mansehra through minutes of the meeting dated 22.05.2014 held that in future transfer/posting on key positions of the Hospital may be done in consultation with the Management Board/Partner but in the instant case neither any consultation has been done by the competent authority nor any other legal procedure has been adopted by the competent authority while

transferring the services of the appellant.

*(Copy of the minutes of the meeting are annexed as annexure "H").*

- e. That, the appellant has politically been victimized by the competent authority as all the process/proceedings have been carried out at the back of the appellant mere on the behest of the political figures of the area whereas the appellant has not been afforded opportunity of being heard hence all the proceedings are against the settled principle of natural justice.
- f. That, relevant law, rules and regulations and even the decision of the Management Board has completely been bypassed by the competent authority while carrying out the impugned proceedings regarding transfer of the appellant.
- g. That, it is also worthy to note that the transfer order of the appellant was communicated to the Minister for the Health Department, Khyber

Pakhtunkhwa which shakens the veracity/genuineness of the impugned order and speaks loudly that the transfer was made on the basis of pure political motivation and there is clear cut malafide on the part of the department/political figures.

- h. That, it is well settled by now that the political figures have nothing to do with the transfer/posting of the civil servants whereas in the instant case, the competent authority while making himself pawn in the hands of the political figures, issued the impugned notification regarding transfer of the appellant which has no legal sanctity in the eyes of law.
- i. That, the competent authority failed to exercise its powers in accordance with the relevant law, rules and regulations rather travelled beyond the powers so vested in it under the law.
- j. That, the appellant has unblemished service career as the appellant is performing his duties with great zeal and zest and never remained

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negligent in performance of his assigned duties. Similarly, neither any departmental nor any public complaint is available against the appellant.

- k. That, it is an inalienable right of the appellant to enjoy the protection of law and to be treated in accordance with law, rules and regulations but such right of the appellant has been infringed in a sheer malafide manner.
- l. That, the impugned transfer order 09.07.2021 has neither been in the best interest of public service nor in exigencies of service, hence, not tenable and liable to be set aside.
- m. That, the impugned transfer order dated 09.07.2021 is nothing but to harass the appellant and to accommodate their blue eyed person.
- n. That, the impugned transfer order dated 09.07.2021 is violative of clause-I, IV and XIII of the transfer/posting policy of the Government of Khyber Pakhtunkhwa as the

- o. That, the powers or jurisdiction are vested in authority to exercise it justly, fairly, honestly, judiciously and in accordance with law, rules and regulations but the respondents have transgressed upon their powers while dealing with the matter in hand.
- p. That according to posting transfer policy, normal tenure for posting is 2 years, but the appellant transferred order was passed before completion of normal tenure, which is total violation of Govt: posting transfer policy. Thus the impugned transfer order is liable to be set-aside on this score alone. **Copy of posting transfer Policy is attached as Annexure-H.**
- p. That in the special circumstances of the case and due to urgency in the instant appeal being transfer matter the appeal of the appellant may be heard in the light of posting policy and order dated 02.08.2021 of this Tribunal in appeal no.5338/2021. **Copy of order is attached as annexure-I.**

.....PRAYER.....


**It is, therefore, most humbly** prayed that on acceptance of the instant service appeal, the impugned notification bearing No.SOH(E-V)/4-4/2021 dated 09.07.2021 whereby the appellant was ordered to be transferred from Medical Superintendent King Abdullah Teaching Hospital, Mansehra to Deputy District Health Officer, Mansehra may please be set aside and the appellant may please be restored to its previous position i.e. Medical Superintendent King Abdullah Teaching Hospital, Mansehra or any other relief as this Honourable Tribunal deems fit and appropriate

in the circumstances of the case,  
may also be issued/passed.

Dated 25.08.2021

Dr. Shahzad Ali Khan  
.....Appellant

Through

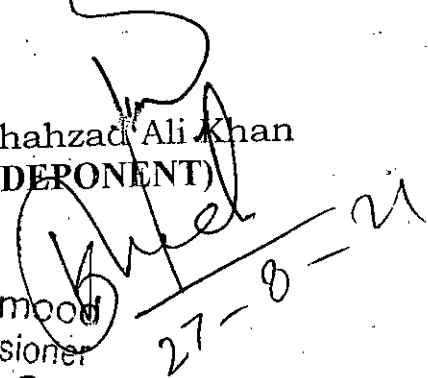
  
JUNAID ANWAR KHAN,  
Advocate High Court  
Mansehra.

**AFFIDAVIT**

I, Dr. Shahzad Ali Khan son of  
Muhammad Fareed Swati resident of  
Fareed Bagh Mandian, post Office  
Kotkay, Tehsil and District Mansehra,  
appellant, do hereby solemnly affirm and  
declare on oath that the contents of the  
foregoing Writ Petition are true and  
correct and nothing has been concealed  
from this Honourable Court.

Dated 25.08.2021

Dr. Shahzad Ali Khan  
(DEPONENT)

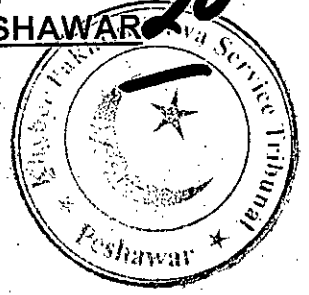
  
Khalid Mahmood  
Oath Commissioner  
Peshawar High Court

27-8-21

Annexure "B" 20

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No.7294/2021



Date of Institution ... 27.08.2021  
Date of Decision ... 09.11.2021

Dr. Shahzad Ali Khan son of Muhammad Fareed Swati resident of Fareed Bagh Mandian, post Office Kotkay, Tehsil & District Mansehra.

(Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar and eight others.

(Respondents)

Junaid Anwar,  
Advocate

For appellant.

Muhammad Rasheed,  
Deputy District Attorney

For respondents.

Ahmad Sultan Tareen  
Rozina Rehman

Chairman  
Member (J)

JUDGMENT

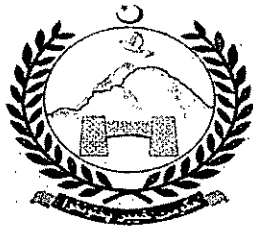
Rozina Rehman, Member(J): Brief facts of the case are that appellant is a qualified Doctor and is performing duties in the Management Cadre of the respondents' Department. He was posted as Medical Superintendent, King Abdullah Teaching Hospital Mansehra. He was performing his duties, when in the meanwhile he was transferred vide Notification dated 09.07.2021. Being aggrieved from the impugned notification, he submitted departmental appeal but to no avail, hence, the present service appeal.

**ATTESTED**

**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

We have heard Junaid Anwar Advocate learned counsel for appellant and Muhammad Rasheed learned Deputy District Attorney





**GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT**

Dated: Peshawar the 25<sup>th</sup> April, 2022

**NOTIFICATION**

**NO.SOH (E-V)/4-4/2022**

Dr. Shehzad Ali Khan, Member of Service (BS-19) waiting for posting is hereby adjusted against the vacant post of Principal Medical Officer (BS-19) at King Abdullah Teaching Hospital Mansehra against the vacant post of PMO (BS-19) for the purpose of drawing of pay & allowances.

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

**No. 1737-1746 / Notification of even No. & dated:**

Copies forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director General Health Services. Khyber Pakhtunkhwa.
3. MS, King Abdullah Teaching Hospital, Mansehra.
4. District Accounts Officer, Mansehra.
5. PS to Secretary Health Department Khyber Pakhtunkhwa
6. Deputy Director (IT), Health Department, Peshawar.
7. Doctor concerned.
8. Personal file of the doctor concerned.

*(Signature)*  
**(Tehmas Ayyub)**  
SECTION OFFICER (E-V)

25/4/2022

*o/e*

for the respondents and have gone through the record and the proceedings of the case in minute particulars.

3. Junaid Anwar Advocate, learned counsel for appellant submitted that impugned Notification dated 09.07.2021 whereby the appellant was transferred from the post of Medical Superintendent King Abdullah Teaching Hospital Mansehra to the post of Deputy District Health Officer is wrong, illegal, arbitrary and against the relevant law and rules being politically motivated and against the fundamental rights of the appellant. He submitted that relevant law and rules were blatantly bypassed by the respondents and relevant rules and regulations were not taken into consideration by the respondents. He contended that no solid and confidence inspiring reasons were given by the competent authority while transferring the appellant. He submitted that the appellant has been politically victimized by the competent authority as all the proceedings were carried out at the back of the appellant mere on behest of the political figures of the area and that the appellant was not afforded any opportunity of personal hearing, hence, all the proceedings are against the settled principles of natural justice. Lastly, he submitted that the transfer order of the appellant was communicated to the Minister for Health Department which has shaken the veracity of the impugned order and speaks loudly that the transfer was made on the basis of political motivation. He, therefore, requested that the impugned notification may kindly be set aside and the appellant may be restored to his previous position.

ATTESTED


4. Conversely, learned D.D.A submitted that according to Section-10 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, a civil servant has to serve anywhere and he is not entitled to be posted in

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal

accordance with his whims & wishes. He contended that the appellant failed to manage even a single bed for COVID-19 affected. No centralized Oxygen was available despite ample funds available in H.M.B and he was directed time and again by the higher authority to award the work for Oxygen gas piping on top priority basis. That the officer never participated in daily online meetings which shows inefficiency and lack of interest towards his responsibilities. He submitted that due to poor performance of the appellant, during Health Emergency due to COVID-19, he was not allowed by the competent authority to serve against the key position in the hospital at the cost of public health and it is the power of the competent authority to transfer a civil servant even before completion of his normal tenure under the Khyber Pakhtunkhwa Civil Servants Act, 1973.

5. Perusal of record would reveal that appellant was transferred and posted as Medical Superintendent, King Abdullah Teaching Hospital Mansehra vide Notification dated 18<sup>th</sup> March, 2020. It was on 9<sup>th</sup> July, 2021 when he was transferred from King Abdullah Teaching Hospital Mansehra to the post of Deputy District Health Officer, Mansehra. Principles of posting and transfer are based upon the criteria that it is within the domain of Government to utilize services of a civil servant anywhere it deemed fit in public interest. Even according to Civil Servants Act, 1973, right of posting vests in the exclusive jurisdiction of the competent authority and the said posting cannot be challenged unless it is against the law and rules or malafide. Section-10 of the Act also stipulates that every civil servant shall be liable to serve anywhere within or outside the province in any post under the Federal Government or in Provincial Government or local authority or a corporation or bodies setup or established by any

ATTESTED

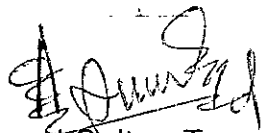
  
 Key Minister  
 Khyber Pakhtunkhwa  
 Services Tribunal  
 Peshawar

such Government. In the instant case, the appellant was transferred vide Notification dated 9<sup>th</sup> July, 2021 but no convincing reasons have been given by the authority in the impugned notification. According to transfer posting policy, normal tenure for posting is two years but the appellant was transferred before completion of normal tenure which is total violation of the Government Transfer/Posting Policy. Moreover, having the clue from the events brought into our notice through an interlocutory applications by the appellant complaining about the mistreatment of him to oust him from the office for accommodation of co-transferee in his place despite suspension of the impugned order, we cannot be oblivious of the hot pursuit of the respondents ridden with some hidden agenda. When the respondents after suspension of the impugned order did not wait for disposal of the appeal, in their pursuit against the appellant, their bias in dealing with him has become evident, which in particular circumstances of the case is not indicative of any public interest in transfer of the appellant.

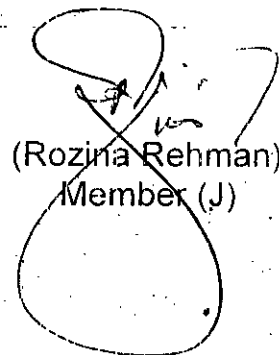
6. For what has been discussed above, this appeal is allowed as prayed for with direction to the respondents No.1 & 2 to do further needful to bring the position in place as per accepted prayer of the appellant. There is no order as to costs. File be consigned to the record room.

ANNOUNCED.

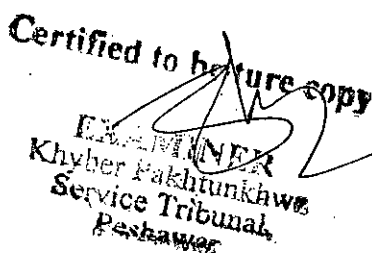
09.11.2021



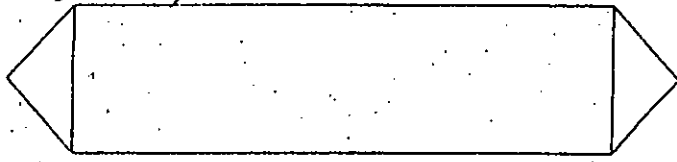
(Ahmad Sultan Tareen)  
Chairman



(Rozina Rehman)  
Member (J)

Certified to be true copy  
  
 KHYBER PAKHTUNKHWA  
 Service Tribunal  
 Peshawar

# بعدالت مات سروسز ٹریبونل پٹنہ



مورخہ

مقدمہ

دعویٰ

جرم

2 جناب

ڈاکٹر شکیلہ علی کا نام موصول ہوا ہے

## باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

آن مقام پٹنہ کے لیے جنید مورخان ایڈووکیٹ

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یک طرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پرداخت منظور قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب یا بند ہوں گے کہ پیروی مذکور کریں۔ لہذا کالت نامہ لکھ دیا کہ سندر ہے۔

2021

ماہ دسمبر

16

المرقوم

Attest

Accountant

العہدہ گواہ

کے لئے منظور ہے۔

پٹنہ

مقام



# Government of Khyber Pakhtunkhwa, Health Department

Dated Peshawar the 18<sup>th</sup> May, 2022

## **NOTIFICATION**

**NO. SOH(E-V)/4-4/2022**

In pursuance to the Khyber Pakhtunkhwa, Services Tribunal judgement dated 09.11.2021, this department's notification of even No. dated 09.07.2021 regarding transfer and posting of Dr. Shahzad Ali Khan, Member of Service (BS-19) from the post of Medical Superintendent, King Abdullah Teaching Hospital Mansehra to Deputy District Health Officer, Mansehra, is hereby withdrawn and posted as Medical Superintendent of the said hospital, subject to the final outcome of the CPLA and inquiry, with immediate effect in the best public interest.

Consequent upon the above, Dr. Muhammad Tariq (BS-19), Medical Superintendent, King Abdullah Teaching Hospital Mansehra is hereby directed to report to Directorate General Health Services, Khyber Pakhtunkhwa, Peshawar.

**SECRETARY HEALTH  
GOVERNMENT OF KHYBER PAKHTUNKHWA**

**Endst. No. 1021-32**

Copy to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. Deputy Commissioner, Mansehra.
4. District Health Officer, Mansehra.
5. MS, King Abdullah Teaching Hospital, Mansehra.
6. District Accounts Officer, Mansehra.
7. Deputy Director (IT), Health Department, with the direction to upload the notification on official website.
8. PS to Minister for Health Department, Khyber Pakhtunkhwa.
9. PS to Secretary Health Department, Khyber Pakhtunkhwa.
10. Doctor concerned.
11. Personal file of the doctor concerned.

  
18/5/2022  
**(TEHMAS AYYUB)  
SECTION OFFICER**

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

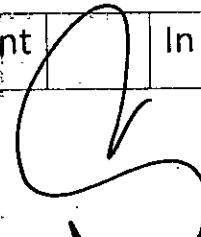
PROFORMA FOR EARLY HEARING

FORM 'A'

To be filled by the Counsel/Applicant

Case Number	Execution Petition no 383/2021			
Case Title	Dr. Shahzad Ali Khan v/s Govt.			
Date of Institution	17-12-21.			
Bench	SB <input checked="" type="checkbox"/>		DB	
Case Status	Fresh		Pending	
Stage	Notice <input checked="" type="checkbox"/>		Reply	Argument
Urgency to clearly stated.	urgent nature/Transfer matter.			
Nature of the relief sought.				
Next date of hearing	08-07-2022.			
Alleged Target Date				
Counsel for	Petitioner		Respondent	In person <input checked="" type="checkbox"/>

Signature of counsel/party

  
26/04/2022

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

PROFORMA FOR EARLY HEARING

FORM 'B'

Inst#

Early Hearing \_\_\_\_\_ -p/2022.

In case No. Execution <sup>petition</sup> 383--p/2021

Dr. Shahzad Atiq Khan Vs Govt of KPK.

Presented by in person. on behalf of in person. Entered in the relevant register.

Put up alongwith main case 383/2021

REGISTRAR

Last date fixed	<u>20-4-2022.</u>
Reason(S) for last adjournment, if any by the Branch Incharge.	
Date(s) fixed in the similar matter by the Branch Incharge	
Available dates Readers/Assistant Registrar branch	

Assistant Registrar

REGISTRAR



BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR.

Put up to the court with  
relevant Executive Petition

C.M.No. \_\_\_\_\_/2022

IN

Execution Petition No.383/2021

26/4/2022

Dr.Shahzad Ali Khan ..... Petitioner

Versus

Govt. of KP through Chief Secretary & others..Respondents

APPLICATION FOR EARLY FIXATION OF  
THE IMPLEMENTATION APPLICATION  
REFERRED ABOVE.

*Respectfully Sheweth;*

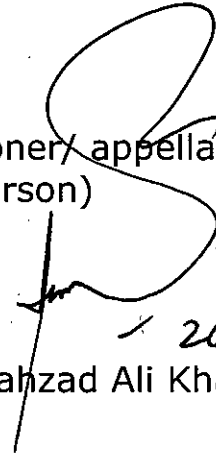
- 1) That the above noted petition is pending before this Hon'ble Tribunal and next date of hearing is fixed for 08.07.2022.
- 2) That the service appeal of the petitioner/ appellant has been decided on 09.11.2021 but till date the respondents are reluctant to implement the same.
- 3) That the titled petition was fixed on 20.04.2022 before the Abbottabad Bench and the same was communicated to us that the next date of hearing is today i.e. on 26.04.2022 when we reached the bench, were told that the hearing has been done on 25.04.2022 instead of 26.04.2022.

- 4) That the next date of hearing has been fixed for 08.07.2022 and petitioner has been marked absent on 25.04.2022
- 5) That in the light of the above said facts and circumstances the case may be kindly be fixed to an early date as the delay tantamounts to unprecedented loss to the petitioner.

It is, therefore, requested that an early date of hearing may kindly be fixed in the above noted implementation petition.

Petitioner/ appellant  
(In person)

Dr. Shahzad Ali Khan

  
26/04/2022

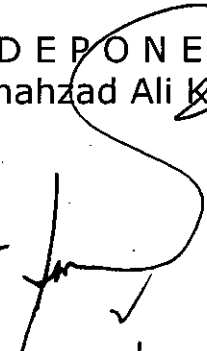
**AFFIDAVIT**

I, do hereby affirm and declare on oath that the contents of the accompanying **Application** are true and correct and nothing has been concealed from this Hon'ble Court.

DEPONENT  
Dr. Shahzad Ali Khan

**ATTESTED**



  
26/04/2022

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR.

C.M.No. \_\_\_\_\_/2022  
IN  
Execution Petition No.383/2021

Dr.Shahzad Ali Khan ..... Petitioner

Versus

Govt. of KP through Chief Secretary & others..Respondents

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THE IMPLEMENTATION APPLICATION  
REFERRED ABOVE.

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(In person)

Dr. Shahzad Ali Khan

26/04/2022

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**ATTESTED**

DEPONENT  
Dr. Shahzad Ali Khan



26/04/2022

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR.

C.M.No. \_\_\_\_\_/2022  
IN  
Execution Petition No.383/2021

Dr.Shahzad Ali Khan ..... Petitioner

Versus

Govt. of KP through Chief Secretary & others..Respondents

APPLICATION FOR EARLY FIXATION OF  
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DEPONENT  
Dr. Shahzad Ali Khan



26/04/2022