

27.07.2022

Counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Faheem Khan, Assistant for official respondents present.

File to come up alongwith connected Service Appeal No. 259/2022 titled "Atta Ullah Khan Vs Government of Khyber Pakhtunkhwa" on 28.09.2022 before S.B.



(Fareeha Paul)
Member (E)

28.09.2022

Junior of learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Laiq Shah, Focal Person for the respondents present and requested for time to submit reply/comments. Last opportunity is granted. Adjourned. To come up for reply/comments as well as preliminary hearing on 02.12.2022 before S.B.







(Mian Muhammad)
Member (E)

Form- A
FORM OF ORDER SHEET

Court of _____

Case No.- 345 /2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	10/03/2022	<p>The appeal resubmitted today by Mr. Noor Mohammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put there on <u>8-4-2022</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	8/4/2022	<p>Counsel for the appellant present and requested for adjournment. Request accepted. Last chance is given. To come up for preliminary hearing on 6/6/2022 before S.B.</p> <p style="text-align: right;"> CHAIRMAN</p>
	06.06.2022	<p>Junior to counsel for the appellant present.</p> <p>File to come up alongwith connected Service Appeal No.259/2022 titled Attaullah Khan Vs. Government of Khyber Pakhtunkhwa on 27.07.2022 before S.B.</p> <p style="text-align: right;"> (Rozina Rehman) Member (J)</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. 357 /2022

MR. ZUHAIB

V/S

HEALTH DEPTT:

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Dated: ____/03.2022

APPELLANT

Through:

NOOR MOHAMMAD KHATTAK

ADVOCATE

0345-9383141

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. _____/2022

Mr. Zuhaib, Chowkidar (BPS-3),
Type-D Hospital, District Khyber.

..... **APPELLANT**

VERSUS

- 1- The Director General Health Services Khyber Pakhtunkhwa, Peshawar.
 - 2- The District Health Officer, District Khyber.
 - 3- The District Account Officer, District Khyber.
- **RESPONDENTS**

SERVICE APPEAL UNDER SECTION-4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED INACTION OF THE RESPONDENTS BY NOT RELEASING THE MONTHLY SALARIES OF THE APPELLANT W.E.F. 1.11.2019 TILL DATE AND AGAINST NOT DECIDING THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the respondents may kindly be directed to release the monthly salaries of the appellant w.e.f. 1-11-2019 till date. Any other remedy which this August Tribunal deems fit that may also be awarded in favour of the appellant.

R. SHEWETH:

ON FACTS:

- 1- That the appellant is a law abiding citizen, peaceful and permanent resident of District Khyber. Copy of CNIC is attached as **Annexure** **A.**
- 2- That the respondent department advertised various post for which the appellant applied for the post of Chowkidar (BPS-3) mentioned at serial No. 10 in the ibid advertisement. Copies of advertisement and application are attached as annexure **B.**
- 3- That after proper recondition of the Selection Committee the appellant was appointed as Chowkidar (BPS-3) at Type-D Hospital Jamrud District Khyber vide order dated 30.10.2019.

Copy of the appointment order is annexed as annexure C.

- 4- That in response to appointment the appellant was medically examined by the concerned Medical Officer and issued Medical Certificate to appellant. Copy of the Medical Certificate is attached as annexure D.
- 5- That the appellant made his arrival report to Respondent No. 2 vide dated 30-10-2019 and the respondent department prepared the Service Book of the appellant. Copies of the arrival report and service book are attached as annexure...E.
- 6- That it is important to mention here that appellant started performing his duties quite efficiently and to the entire satisfaction of his superior but unfortunately the respondents stopped/withheld the salaries of the appellant w.e.f. 1-11-2019 without any reason and clear justification. That feeling aggrieved the appellant time and again visited the concerned quarter for the release of his salaries but of no avail.
- 7- That finally the appellant submitted Departmental appeal before the respondent No.1 but no reply has been received so far. Copy of the Departmental appeal is attached as annexure F.
- 8- That feeling aggrieved from the inaction of the respondents by not releasing the salaries, the appellant preferred the instant service appeal on the following grounds amongst the others.

GROUND:

- A- That the impugned inaction of the respondents by not releasing the salaries of the appellant with effect from 1-11-2019 till date is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That the appellant has not been treated by the concerned authority in accordance with law and rules and as such the authority violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the appellant is still performing his duties and the inaction of the respondents by not releasing his salaries is amounting to forced labour which is the blatant violation of the Article 11 of the Constitution of Pakistan, 1973.

(3)

- D- That the respondents discriminated the appellant by not releasing the monthly salaries of the appellant.
- E- That the inaction of the respondents by not releasing the monthly salaries of the appellant is against the norms of natural justice.
- F- That the inaction of the respondents by not releasing the monthly salaries of the appellant is arbitrary and malafide.
- G- That appellant seeks permission and advance other grounds and proofs at the time of hearing.

It is therefore most humbly prayed that the appeal of the appellant may kindly be accepted as prayed for.

Dated: 7-03-2022

APPELLANT

Zohaib
Zuhaib

THROUGH:

N
NOOR MOHAMMAD KHATTAK

Fard
UMAR FARDOQ MOHMAND

&

K
KAMRAN KHAN

ADVOCATES, PESHAWAR

4

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. _____/2022

ZUHAIB

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.



Zuhaib
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

ANNEX .. A

(5)

قائم نامہ پاکستان
قائم نامہ کارڈ
21202-2528717-1
محمد یوسف بن محمد یونس
قائم نامہ کارڈ

شمارتہ: 21202-2528717-1
قائم نامہ نمبر: Y757DZ
قائم نامہ کارڈ

محمد یوسف بن محمد یونس
قائم نامہ کارڈ
05/03/2019
05/03/2029

اللہ ہی کیلئے ہیں مشرق و مغرب

DAILY MASIRIQ PESTAWAR

پشاور روزنامہ سید تاج میر شاہ

سلسلہ اشاعت کے 52 سال

پشاور اور اسلام آباد سے ایک وقت شائع ہونے والا کثیر الاشاعت قومی اخبار

ABC CERTIFIED

شمارہ 132 ہفتہ 07 شعبان 1440ھ 13 اپریل 2019ء 30 چیت قیمت 20 روپے جلد 52

ANNEX B (6)

**OFFICE OF THE AGENCY SURGEON
KHYBER AT JAMRUD
JOB OPPORTUNITY**

Applications are invited from Khyber District /merged areas and KPK domicile for the filling of following posts at the strength of health institutions Khyber District.

S No	Position	BPS	Qualification & Experience	Max Age Limit
1.	Clinical Technician (Radiology)	BPS-12	1. Matric with Science 2. X-Ray Diploma from Medical Faculty KPeshawar.	18-30 years
2.	Clinical Technician (ECG)	BPS-12	1. Matric with Science 2. ECG Diploma from Medical Faculty KPeshawar.	18-30 years
3.	Clinical Technician (Sterilization)	BPS-12	1. Matric with Science 2. Sterilization Diploma from Medical Faculty KPeshawar.	18-30 years
4.	Pharmacy Technician (ADP)	Fixed Pay	1. Matric with Science 2. Pharmacy Diploma from Medical Faculty KPeshawar.	18-30 years
5.	Clinical Technician (Blood Bank)	BPS-12	1. Matric with Science 2. Blood Bank Diploma from Medical Faculty KPeshawar.	18-30 years
6.	Clinical Technician (Pathology) (ADP)	Fixed Pay	1. Matric with Science 2. Laboratory Diploma from Medical Faculty KPeshawar.	13-30 years
7.	Multi Purpose Technician	BPS-12	1. Matric with Science 2. Relevant Diploma.	18-30 years
8.	EPI Technician ADP CHCs	Fixed Pay	1. Matric with Science 2. EPI Certificate.	18-30 years
9.	Dai	BPS-4	1. Literate will be preferred. 2. Dai Certificate	18-45 years
10.	Chowkidar	BPS-3	Literate will be preferred.	18-45 years
11.	Laundry man	BRS-3	Literate will be preferred.	18-45 years
12.	Sweeper	BPS-3	Literate will be preferred.	18-45 years

Terms and Conditions:

- All the applications should be addressed to the Agency Surgeon Khyber at Jamrud.
- Applications with complete CV and attested documents with mobile numbers should reach to the office of undersigned within fifteen (15) days of the publication of this advertisement.
- In-service candidates must apply through proper channel & NOC will be required at the time of interview.
- Incomplete applications will not be entertained.
- Only short-listed candidates will be called for test/interview.
- Preference will be given to the local candidates.
- No TA/DA will be admissible.
- The selection of candidates will be purely on merit.
- Relaxation of age is admissible as per rules.
- Candidates should be eligible in all respect.
- Candidates will be responsible for wrong information and late submission of application.
- Candidates will produce original documents at the time of interview.
- The undersigned will have right to cancel the all posts interview as well as one post interview.

**Agency Surgeon
Khyber District at Jamrud**

خدمتِ حجاب انجمن نسوانِ امیر مہرور
جناب لعلی (7)

بحوالہ ایہ صاحبان کا اشتہار مشرقِ اصحابِ تہانج
13⁴/₂₀₁₉

خوشی کی جاتی ہے کہ آپ صاحبان نے امیر ساری
ہو کر اس کی حالی پڑی ہے جو کہ خیر خواہی کے ذریعہ
میں مگر تندرست اور ایسے ہی صاحبان پر پورا ہے
اس لیے کہ اس کی جاتی ہے کہ خیر خواہی کو اس
ہو کر اس کی حالی اس پر کھری اور فروخت
کا موقع ہے

عین وارثی ہوگی
تاریخ 15⁴/₂₀₁₉

العارفین

Zahid
اپنے کا نام لکھنا زویب ولد شفیع الرحمان مہرور

ANNEX C

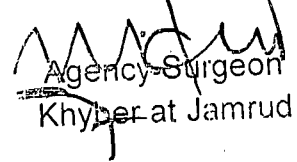
8

**OFFICE OF THE AGENCY SURGEON KHYBER
DISTRICT AT JAMRUD**

OFFICE ORDER

As per recommendation of the Selection Committee Mr. Zuhaib S/O Shafi ur Rehman village Kuki Khel Jamrud Khyber District is hereby appointed as Chowkidar (BPS-3) (9610-390-21310) at Type-D Hospital Jamrud Khyber District, with the following terms and conditions:-

1. He is declared medically fit for this job.
2. He shall be bound to serve anywhere in Khyber District.
3. He shall not include in any trade / business and any other activity what so ever has been declared prohibited for the Govt Servants in Civil Servant Act 1973.
4. If he wishes to resign the service, a prior notice of 60 days will be Submitted or pay of 60 days should be deposited in lieu of resignation in Govt Treasury.
5. The offer shall be automatically held cancelled, if he fail to join the duty within 15 days of receipt of this order.


Agency Surgeon
Khyber at Jamrud

Dated 30/10/2019

No: 5058-62 IAS/Khy

Copy forwarded to the:-

1. Director Health Services merged areas.
2. Deputy Commissioner Khyber District.
3. District Accounts Officer Khyber District.
4. SMO Incharge Type-D Hospital Jamrud.
5. Official concerned

Agency Surgeon
Khyber at Jamrud



ANNEX D

9

MEDICAL CERTIFICATE

Name of Official Zubair
 Caste or Race Afghan (Muslim)
 Father's Name Shafi-Ur-Rohman
 Residence Kotli Khar Jamrud Khyber District
 Date of Birth 25-7-1998 exact height by measurement 5-10
 Personal Mark of Identification NIL
 Signature of the official Zubair

Seal of Office

[Handwritten Signature]
 DISTRICT HEALTH OFFICER
 KHYBER AT JAMRUD

I do hereby certify that I have examined Mr. _____

Candidate for employment in the office of the Health Dept.

and cannot discover that he had any disease communicable or other

constitutional affection or bodily infirmity except NIL

I do not consider this as disqualification for employment in the office of the

Health Dept. His age according to School Certificate / NIC is 21 years

and by appearance about Twenty one (21) years.

LEFT HAND THUMB AND FINGER



[Handwritten Signature]
 DISTRICT HEALTH OFFICER
 District Health Officer
 Khyber at Jamrud

ANNEX - E

10

حکومت ہما، حکومتی سرپرستوں کے لئے

صواب الی

Arrival Report

گواکٹر جیسی سرپرستوں کے لئے 5058-67/AS/AM تاریخ 30/10/2019

قادی جھروور اسپتال میں ڈیوٹی کے لئے

حکومت ہما کوکٹر Arrival Report پیش کرتا ہوں

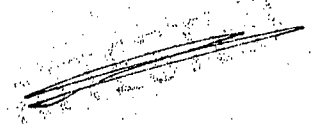
عین لوزیشن

تاریخ 30/10/2019

الحق، حق

Zohale

اس کا نام لیا، زویب، کوکٹر، صبر



11

SERVICE BOOK

OF

Mr.

Zubair

S/o

Shafi ur Rehman

Designation

Amir Kidar

Department

Type-D Hospital Yamrud

RS: 751

Note: The entries on this page should be renewed or re-attested at least every five years and the Signature to lines 9 and 10 should be dated.

Name: Zahid

Race: Afghan (Muslim)

Residence: Kulli Kbel Jambud Ellybor District

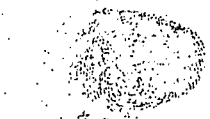

Father's name and residence: Shafi-ur-Roman



Date of birth by Christian era as nearly as can be ascertained: 25-7-1998


Exact height by measurement: 5-10

Personal marks for identification: NIL

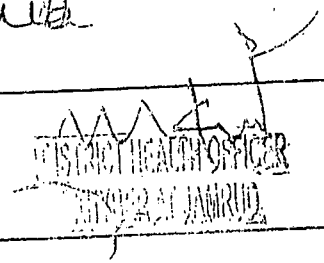
Left hand thumb and Finger impression of (Non-Gazetted) officer:

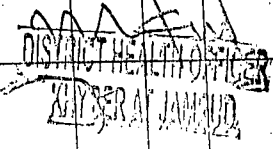
Little Finger:  Ring Finger: 

Middle Finger:  Fore Finger: 

Thumb: 

Signature of Government Servant: Zahid

Signature and designation of the Head of the office, or other Attesting Officer. 
DISTRICT HEALTH OFFICER
JAMBUD

9 Name and Designation of the office attesting officer (Installation of posts 1 to 8)	10 Date of termination or appointment	11 Reason of termination (such as promotion, transfer, dismissal, etc.)	12 Signature of the head of the office or other attesting officer	13 Leave		14 Signature of the head of the office or other attesting officer.	15 Reference to any recorded punishment or censure, or reward or praise of the Government Servant
				Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitible to another Government		
<p>Appointed as a Rowkidar Bk-3 (9610-390-21310) at Type-D Hospital, Jammud Wagon District vide this Office letter No. 5058-62/AS/MS dated 30-10-2019.</p>							
							

14

4

1	2	3	4	5	6	7	8	9
Name of Post	Substantive Whether substan- tive or officiating and whether permanent or temporary.	If officiating, state (i) substantive appointment, or (ii) Whether service counts for pension under Art. 371 C.S.R.	Pay in substantive post	Additional pay for officiating	Other emolument falling under the term "pay"	Date of Appointment	Signature of Government servant	and Designation of the offic- iating official Testation of items 1 to 3
<i>Chawki dar BPL-3</i> <i>9610-390-21310</i>					<i>Rs-9610/-PM</i>		<i>Zehar</i>	<i>d</i>

~~_____~~

ANNEX .. F ..

15

To,

Director General Health Services,
Peshawar.

DEPARTMENTAL APPEAL AGAINST RELEASE OF SALARIES.

SIR,

With utmost respect it is stated that I was appointed as chowkidar BPS-03 at Type D Hospital, Distt: Khyber. dt: 30.10.2019. In response i submitted arrival report on dt: 30.10.2019. It is pertinent to mention that the concern authority also prepared my service book and the entries regarding my appointment and arrival have been recorded in the ibid service book.

That unfortunately right from my appointment till date my salaries have not been issued/released by the respondents despite of the fact that I am regularly performing my duties.

It is therefore, humbly requested that my salaries w.e.f 01.11.2019 till date be released and oblige.

Dated: 25.11.2021

~~_____~~

Zuhaib

Zohaib

Chowkidar (BPS-03)
Type-D Hospital, Khyber Distt.

~~_____~~

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO: _____ OF 2022

Mr Zuhair (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Health Deptt. (RESPONDENT)
(DEFENDANT)

I/We Mr Zuhair
Do hereby appoint and constitute **NOOR MUHAMMAD KHATTAK Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.
Dated. ____/____/2022

Zuhair
CLIENTS

ACCEPTED

[Signature]
NOOR MUHAMMAD KHATTAK
[Signature]
UMER FAROOQ MOHMAND
[Signature]
KAMRAN KHAN
[Signature]
SAID KHAN
[Signature]
MOHAMMAD MAAZ MADNI
&

[Signature]
HAIDER ALI
[Signature]
KHANZAD GUL

ADVOCATES