


30.06.2022


Petitioner alongwith counsel present. Mr. Kabir Ullah Khattak, Additional Advocate General for respondents present.

Learned counsel for the petitioner stated that the grievance of the petitioner has been redressed and wants to withdraw the instant petition. In this respect, an application was also submitted which is placed on file.

In view of the above, instant Execution Petition stands disposed of being fully satisfied. File be consigned to the record room

ANNOUNCED
30.06.2022.


(Faraha Paul)
Member (E)


30/6/2022
YAS Ahmed

To,

The Member
Service Tribunal Pesh KPK,

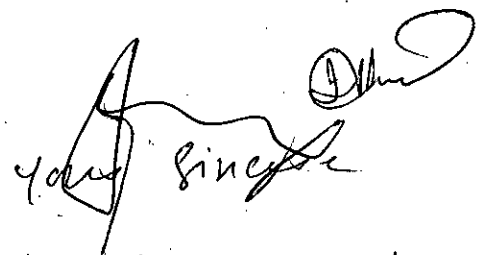
Subject: Withdrawal COE

My madam,

I have humble submission
to the honourable Service
Tribunal KPK that our Co-venants
have been removed & solved.

It is therefore requested
that our Appeal maybe
withdrawn.

Thanks


Dr. Jaz Ahmed

Date 30/06/22

20.12.2021

Petitioner alongwith his counsel present.

Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Dr. Waleed Litigation Officer for respondents present.

Former made a request for adjournment on the ground that he has not gone through the record. Adjourned. To come up for implementation report on 02.03.2022 before S.B


Chairman

23-2022

Due to retirement of the Hon^{ble} Chairman the case is adjourned to come up for the same as before on 26-5-2022
Dr. Reader

26.05.2022

None for the petitioner present. Mr. Kabirullah Khattak, Addl. AG for the respondents present.

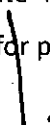


Notices be issued to the petitioner as well as his counsel. To come up for further proceeding before S.B on 30.06.2022. Original appeal also be requisitioned.



Kalim Arshad Khan
Chairman

Form- A
FORM OF ORDER SHEET

Court of _____
Execution Petition No. 203 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	27.09.2021	<p style="text-align: center;">The execution petition of Mr. Ijaz Ahmad submitted today by Mr. Mohammad Farooq Malik, 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> <p style="text-align: center;">This execution petition be put up before S. Bench at Peshawar on <u>02/11/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
2-	02.11.2021	<p style="text-align: center;">Junior to counsel for the petitioner present.</p> <p style="text-align: center;">Notices be issued to the respondents. To come up for implementation report on 20.12.2021 before the S.B.</p> <p style="text-align: right;"> Chairman</p>


2D

The Implementation application of Dr. Ijaz Ahmad son of Shams Khan r/o Mohallah Sulai Topi District Swabi received today by post on 06.09.2021 is incomplete on the following scores which is returned to the counsel for the applicant for completion and resubmission within 15 days.

- 1- Approved file cover is not used.
- 2- One copy/set of the application along with annexures i.e. complete in all respect may also be submitted with the application.

No. 1783 /S.T,

Dt. 07/09 /2021


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Muhammad Farooq Malik Adv. Pesh.

Note:

Re-submitted after completion
The file - Plz put in the
court.



①

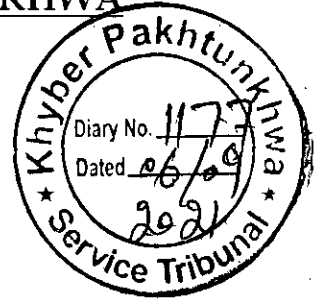
BEFORE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

C.M

In

Service Appeal No.11124/2020

EP NO 203/21



Dr. Ijaz Ahmad S/o Shams Khan R/o Mohallah Sulai Topi,
District Swabi.....Appellant

VERSUS

1. Government of Khyber Pukhtunkhwa through Secretary,
Health Civil Secretariat, Peshawar.
2. Director General Health Services Judicial Complex Peshawar
3. DHO Swabi

.....Respondents

IMPLEMENTATION PETITION OF ORDER DATED
10-06-2021 PASSED BY THIS HON'BLE TRIBUNAL IN
SERVICE APPEAL NO. 11124/2020

Respectfully Sheweth

1. That the above titled appeal is pending adjudication before this hon'able court which was admitted to full hearing by this hon'able tribunal and now it is fixed for 02.11.2021 .
2. That this hon'able tribunal was gracious enough to pass the order on ad- interim relief in favor of applicant on 10-06-2021 whereby official respondents were directed to pay the

current as well as outstanding/ arrears salaries of the applicant. (Copy of order dated 10.06.2021 is attached as Annexure-A)


3. That after passing of the above mentioned order , applicant produced attested copy of the same order to secretary health along with DHO concerned through respective application which was duly received vide dairy No. 9506 (22.06.2020) and 710 (21.06.2020).(Copies of applications are attached as Annexure-B)
4. That despite passing of specific time official respondents totally ignored to honored the order of this Hon.able Tribunal so under compelling circumstances the instant implementation petition is filed being before this Hon'able Tribunal /court

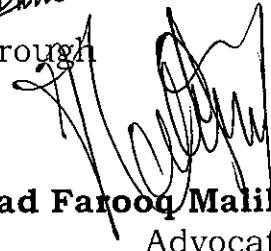
It is, therefore, prayed that on acceptance of instant petition official respondents may graciously be directed to pay current as well as arrears /outstanding salaries of the applicant as directed by this hon'able tribunal vide order dated 10.06.2021

Or

Secondly any other order deem it appropriated on the circumstances of the case may graciously be passed against the de-languish official in favor of applicant.

Applicant


Through


Mohammad Farooq Malik,
Advocate
High Court Peshawar.

3

BEFORE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

Service Appeal No. _____/2020

Dr. Ijaz Ahmad.....Petitioner

VERSUS

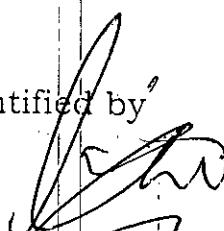
Government of Khyber Pakhtunkhwa and others.....Respondents

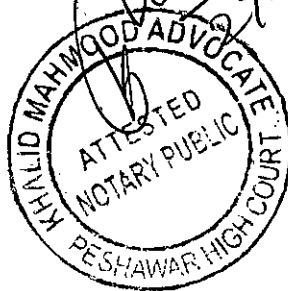
AFFIDAVIT

I, Dr. Ijaz Ahmad S/o Shams Khan R/o Mohallah Sulai Topi, District Swabi do hereby solemnly declare that the accompanying **Application/petition** is true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Deponent

Identified by


Muhammad Farooq Malik,
Advocate.



NIC#

16202-9349770-9

03101299910

BEFORE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 11124 /2020

Diary No. 8293

Date 7/8/2020

Dr. Ijaz Ahmad S/o Shams Khan R/o Mohallah Sulai Topi,
District Swabi.....Appellant

VERSUS

1. Government of Khyber Pukhtunkhwa through Secretary,
Health Civil Secretariat, Peshawar.
2. Director General Health Services Judicial Complex Peshawar
3. DHO Swabi

.....Respondents

APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT 1974 AGAINST THE
IMPUGNED ORDER DATED 06.03.2020 PASSED BY THE
RESPONDENTS WHEREBY APPELLANT ALONGWITH
OTHER DOCTORS HAVE BEEN DISMISSED FROM

Filed to-day 7/8/2020 Registrar
7/8/2020
Respectfully Sheweth

1. That the Appellant is being qualified Doctor who did his
MBBS from Liaoning Medical College China during the year

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal

② ⑤

2007 to 2013. (Copies of Educational Qualification and Degree issued by University is attached as Annexure-A)

2. That as a matter of fact the above mentioned College is internationally recognized with WHO and hence it has also been recognized by PMDC. (Copy of Eligibility Certificate issued by PMDC is attached as Annexure-B)
3. That the Appellant was initially appointed on the recommendation of Departmental Selection Committee vide Notification dated 12-01-2017 as Medical Officer (BPS-17) on Adhoc basis for period of 1 year. (Copy of Notification Dated 12-01-2017 at Serial No. 136 of above mentioned Notification is attached as Annexure-C)
4. That thereafter after fulfilling all the codal formalities appellant was transferred and posted in Rural Health Center at Yar Hussain Swabi vide order dated 18-01-2017. (Copy of posting Order dated 18-01-2017 is attached as Annexure D)
5. That thereafter KP Government promulgated the KP Regulations of Service Act 2017 whereby appellant alongwith other colleagues were regularized vide notification dated 4th June 2017 and appellant was placed at Serial No.27. (Copy of notification dated 4th June 2017 is attached as Annexure-E)



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6. That thereafter Appellant received impugned letter dated 06-03-2020 under subject "Disciplinary proceedings against MO (BPS-17) on account of false PMDC registration" and consequently appellant was stopped from performing official duty and salary of appellant was also stopped. (Copy of impugned letter dated 06-03-2020 is attached as Annexure F)
7. That the Appellant feeling aggrieved from above mentioned impugned letter filed Departmental Appeal before Competent Authority narrating true facts but that is not decided till date.. (Copy of Representation/Appeal is Annexure -G)
8. It is pertinent to mention here that Competent Authority i.e Secretary Health subsequently issued letter dated 26-03-2018 in pursuance to Writ Petition No. 687-P/2017 whereby DHO concerned were directed to release salaries of the other similarly placed Doctors concerned with the condition of submission of affidavit that they will refund salaries if their PMDC Registration were found fake / false. (Copy of Letter Dated 26-03-2018 is attached as Annexure-H)

(SP)

(7)

9. That the Appellant being aggrieved from above said impugned letter files instant appeal before this Hon'ble Court, inter alia, on the following grounds:-

GROUNDS

- a. That appellant alongwith his other colleagues were appointed as Adhoc Employees after fulfilling all the codal formalities / verification etc but issuing impugned letter is somehow confused by way it was passed in posthaste manner without conducting proper inquiries.
- b. That no right of audience was given to the appellant and impugned dismissal letter was issued without affording proper inquiry, show cause notice, personal hearing etc so on this score alone impugned order dated 06-03-2020 is liable to be rectified.
- c. That impugned order is being passed against the Appellant by the authority by abusing and misusing its powers just to victimize the Appellant.
- d. That the appellant case is at par with his other colleagues who have been given salaries in pursuance of officer letter dated 26-03-2018 hence appellant has also been discriminated in purview of Article 4 & 25 of Constitution of Islamic Republic of Pakistan.

- e. That the impugned action/orders/decision are without lawful authority, illegal, void ab-intio, malafide, with ulterior motive and of no legal effect.
- f. That the impugned order against Appellant smacks arbitrariness, deviation from the normal procedure of law and even for disclosing no reason for passing impugned order without any legal justification.
- g. That the impugned order against the Appellant on the face of record is void, unlawful and violative of Rule-21(2) r/w schedule-V of Rules of Business Khyber Pakhtunkhwa 1974.
- h. That the respondents particularly Respondent No.1 has not acted in accordance with law in view of Article-4 of the constitution of Pakistan 1973 of r/w section 24-A of the General Clauses Act 1897 and thus the impugned order passed is without merit and unsustainable in the eyes of law.

It is, therefore, prayed that on acceptance of instant appeal the impugned order dated 06.03.2020 may graciously be declared null and void, without lawful

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authority, illegal and ineffective, upon the rights of the appellant.

Secondly on acceptance of instant appeal Respondents may be directed to restore appellant to his previous positional with all back benefits.

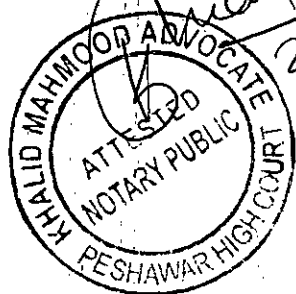
[Handwritten signature]
M. Farooq Malik

INTERIM RELIEF:

By way of interim relief, the Pending final decision on main appeal, respondents may graciously be directed to released the salary of the appellant forthwith.

Appellant

through



[Handwritten signature]
27-8-2017

Mohammad Farooq Malik,
Advocate
High Court Peshawar.

11124/2020
10.06.2021

Counsel for the appellant and Mr. Muhammad Adeel Butt, Addl. AG alongwith Habibullah, S.O (Litigation) for the respondents present.

Despite last chance given on 10.03.2021, reply has not been filed even today. Learned counsel referred to Paragraph-8 of the facts read with Ground-D in the Memorandum of appeal with the request for release of salary of the appellant. There is a reference to the direction of Secretary Health Department Khyber Pakhtunkhwa issued by letter dated 26.03.2018 in pursuance to Writ Petition No. 687-P/2017 with the condition of submission of affidavit by the appellant to refund the salaries if withdrawn under court orders. The said letter is available on file as Annexure-H which was addressed to all the District Health Officers and Medical Superintendents Khyber Pakhtunkhwa. As far as the impugned order is concerned, the same in its particular account of falsehood of PMDC registration requires proof and rebuttal. The request for interim relief as discussed before is accorded. The respondents in their respective domain shall ensure the release of salary of the appellant with arrear of the salaries so far not paid after issuing of the impugned order. The respondents although did not avail the last chance for submission of the written reply but they are again given a last chance to submit the reply in office within 10 days, positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments on 02.11.2021 before the D.B

Certified to be true copy
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Registration of Application 11/6/2021
Number of Pages 800
Copies Made 10
Cost 4
Total 14
Name of C. [Signature]
Date of Completion of Copy 14/6/2021

[Signature]
Chairman

To

~~(11)~~ (11)

The Secretary
Health Deptt Peshawar KPR. 9506
22.6

Subject: Release of Salary with Arrears

Respected Sir,

I have the honour to request
you that I had lodged an Appeal
No. 11124/2020 in Service Tribunal
Khyber Paktankhwa against the impugned
order dated 6.3.2020.

Service Tribunal Accepted my Appeal
and granted me an Interim relief
and passed an order to release
my Salary with Arrears of the salaries
so far not paid after issuing of
the impugned order. (Copy attached).

It is therefore, most humbly prayed
that according to the decision of the
Service Tribunal, kindly release my
Salary with Arrears.

Thanks

Yours

Dr. Jaz Ahmad
Dutt Swabi

The DHO Swabi,

Subject:

Release of Salary with Arrears

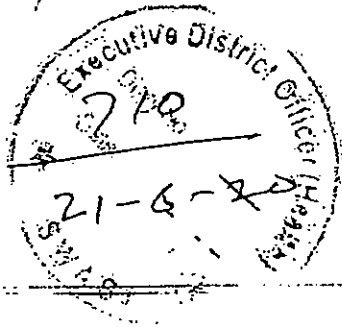
Respected Sir:

I have the honour to request you that I had lodged an Appeal No. 11124/2020 in Service Tribunal Khyber Pakhtunkhwa against the Impugned order dated 6.3.2020.

Service Tribunal accepted my Appeal and granted me an interim relief and passed an order to release my salary with

arrears for the period 6.3.2020 to the date of the Impugned order (copy attached).

It is therefore, most humbly prayed that according to the decision of the Service Tribunal Khyber Pakhtunkhwa kindly release my salary with Arrears.



Yours faithfully,
M. Ijaz Ahmad
DHO Swabi

وکالت نامہ

بعدالت کتاب سروس گریجویٹ جی ایچ ایس اور
ڈائریٹری انچارج احمد پھام گورنمنٹ آف ۱۹۲۸

منجانب

دعویٰ التزم

باعث تحریر آنکے

مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے پیردی وجوہات ہی بمقام

محمد خاریق ملک ایڈووکیٹ ہائی کورٹ کہ بدین شرط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص

رو برو عدالت حاضر ہوتا ہوں گا۔ اور وقت بکالانے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دیکر حاضر عدالت کرونگا اگر پیشی پر سن
منظہر حاضر نہ ہوں اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور میرے برخلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ
ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام کچہری کے کسی اور جگہ یا کچہری کے مقررہ اوقات سے پہلے یا پیچھے یا بزور تسطیل پیردی
کرنے کے ذمہ دار نہ ہوں گے۔ اگر مقدمہ علاوہ صدر مقام کچہری کے کسی اور جگہ سماعت ہونے یا بزور تسطیل یا کچہری کے اوقات سے پہلے
آگے پیچھے پیش ہونے پر سن منظور کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی منافع کے ادا کرنے یا مختار نامہ واپس
کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساخت پر ادخات صاحب موصوف متعلق کردہ ذات خود منظور قبول ہوگا۔ اور
صاحب موصوف کو عرضی دعویٰ و جواب دعویٰ اور درخواست اجراء ڈگری و نظر ثانی اپیل و ٹرانسفر ہر قسم کی درخواست پر دستخط و تصدیق
کرنے کا بھی اختیار ہوگا۔ اور کسی قلم یا ڈگری کے اجراء کرنے اور ہر قسم کارروائی وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے
بیان دینے اور سیرد ثالثی و راضی نامہ کو ایصال برخلاف کرنے، اقبال دعویٰ دینے کا بھی اختیار ہوگا۔ اور بصورت اپیل و برآمدگی مقدمہ یا
منسوخ ڈگری یا کٹرفرڈ درخواست حکم امتناعی یا ترقی یا گرفتاری نکل ازا اجراء ڈگری بھی موصوف کو بشرط ادا ہوگی علیحدہ مختار نامہ پیردی کا
اختیار ہوگا۔ اور بصورت ضرورت صلہ جب موصوف کو بھی اختیار ہوگا یا مقدمہ مذکورہ یا اس کے کسی جزو کی کارروائی کے واسطے یا بصورت
اپیل، اپیل کے واسطے کسی دوسرے وکیل یا بیرٹر کو بجائے اپنے یا اپنے امراء مقرر کریں۔ اور اپنے مشیر قانون کو ہر امر میں دی اور ویسے
ہی اختیارات حاصل ہوں گے۔ جیسے کہ صاحب موصوف کو حاصل ہیں اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑے گا۔ وہ صاحب
موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری نئیس تاریخ پیشی سے پہلے ادا نہ کر دے گا تو صاحب موصوف کو پورا اختیار ہوگا کہ
مقدمہ کی پیردی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا یہ مختار نامہ لکھ دیا کہ
سند ہے مورخہ 27/8/2024 مسنون مختار نامہ کر لیا ہے اور اچھی طرح چھپ لیا ہے اور منظور ہے۔

ATTESTED & ACCEPTED:

M. Farooq
Adv High Court
Punjab