

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. 7827/2021

Date of institution 01.12.2021

Dr. Jehangir Afridi, Senior Medical Officer (BPS-18), Presently serving as
Medical Superintendent Cat-D Hospital, Dogra Bara Khyber, District
Khyber.

VERSUS

The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber
Pakhtunkhwa Civil Secretariat, Peshawar and three others.

ORDER

12.10.2022

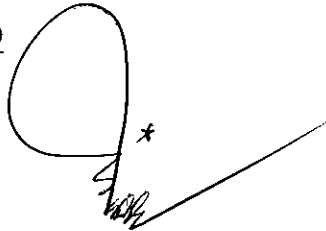
Learned counsel for the appellant present. Mr. Muhammad Jan,
District Attorney for official respondents No. 1 to 3 present.

Learned counsel for the appellant stated at the bar that during
pendency of the instant appeal, the department has issued another order,
therefore, on the direction of appellant, he wants to withdraw the instant
appeal with the permission to file fresh appeal, if so required. In this respect,
he also submitted an application, which is placed on file.


In view of the above, the appeal in hand is dismissed as withdrawn.
Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

12.10.2022



(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

Before the K.P. Service Tribunal, Peshawar.

Dr. Jahangir vs Health Dept
Appeal No: 7827/21

Application for withdrawal of
the title appeal with the
permission to file fresh if so
required.

Respectfully Shown:

① That the title appeal is pending adjudication
before this Hon'ble court which is fixed
for today i.e. 12/10/2022.

② That during pendency of this appeal
another order has been issued by the
department hence want to withdraw
the instant appeal

It is therefore requested that
the titled appeal be withdrawn with
the permission to file fresh if so required.

Dated: 12/10/22

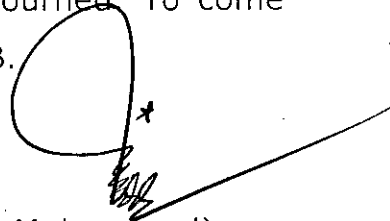
Applicant/Appellant
Through

Noor Muhammad Khattak

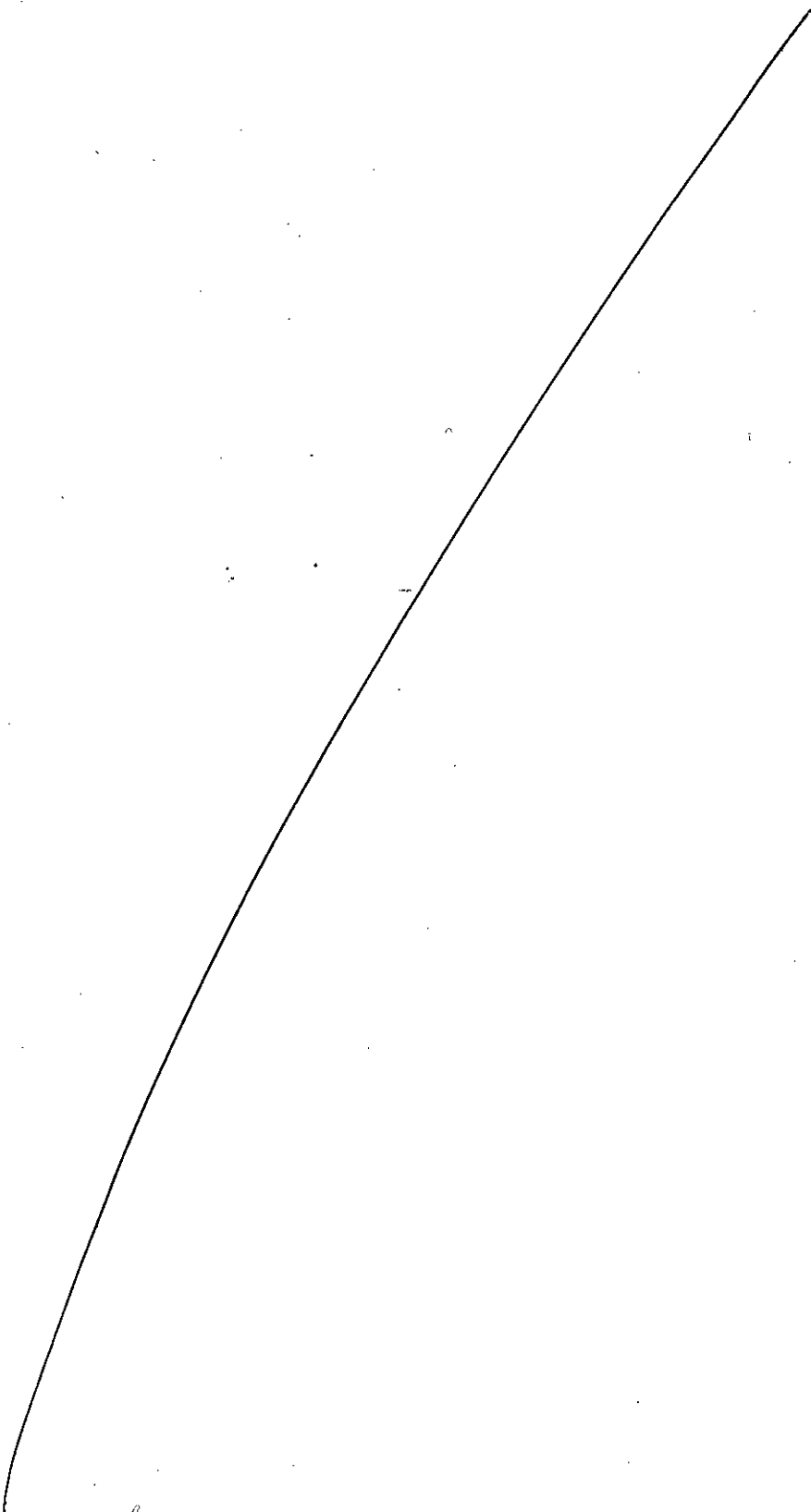
19.09.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for official respondents No. 1 to 3 present.

Learned Member (Judicial) Mr. Salah-ud-Din is on leave, therefore, arguments could not be heard. Adjourned To come up for arguments on 12.10.2022 before the D.B.



(Mian Muhammad)
Member (Executive)




19.07.2022

Appellant with counsel present.

Kabir Ullah Khattak, learned Additional Advocate General for respondents present.

Former made a request for adjournment in order to prepare the brief. Adjourned. To come up for arguments on 28.07.2022 before D.B.



(Fareeha Paul)
Member(E)



(Rozina Rehman)
Member (J)

28th July, 2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Safiullah, Focal Person for respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not prepared the case. To come up for arguments on 19.09.2022 before the D.B. P.P given to the parties.


(Salah Ud Din)
Member(Judicial)


(Kalim Arshad Khan)
Chairman.


30.05.2022


Appellate with appeal present.

Asif Masood Ali Shah, learned Deputy District Attorney
for respondents present for reply/preliminary hearing

~~Community Probation Services~~

Former made a request for adjournment in order to
prepare the brief. Adjourned. To come up for arguments on
10.06.2022 before D.B.


(Fareeha Paul)
Member(E)


(Rozina Rehman)
Member (J)
Camp Court, ~~2022~~

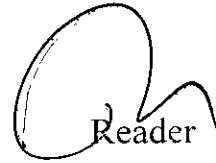
10.06.2022 Bench is incomplete,
therefore, case is adjourned
to 19.07.2022 for the same
as before


Reader.

Appeal No. 7827/21

17.02.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 08.03.2022 for the same as before.


Reader

08.03.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 14.04.2022 for the same as before.


Reader.

14/4/2022

Counsel for the appellant. Mr. Naseer ud Din, Assistant AG for the respondents present. Written reply has not been furnished. The right of respondents to submit written reply is struck off. To come up for arguments on 30.05.2022 before D.B.




CHAIRMAN

11.01.2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG for respondents present.

Reply/comments on behalf of respondent are still awaited. Learned Additional Advocate General sought time for submission of reply/comments. Last opportunity is granted to respondent to furnish reply/comments on or before next date, failing which their right to submit reply/comments shall be deemed as struck off by virtue of this order. To come up for arguments before the D.B on 01.02.2022. Operation of the impugned notification dated 23.08.2021 and 31.08.2021 is suspended if already not acted upon till next date.


(Atiq-Ur-Rehman Wazir)
Member (E)


7

01.02.2022

Appellant in person present. Mr. Muhammad Adeel But, Addl. AG for respondents present. None present on behalf of private respondents No. 4.

Reply/comments on behalf of official respondents as well as private respondent No. 4 are still awaited. Learned Additional Advocate General on behalf of official respondents No. 1 to 3 sought time for submission of reply/comments. Notice be issued to private respondent No. 4 for submission of reply/comments. Granted. To come up for reply/comments before the S.B on 17.02.2022. Operation of the impugned notification dated 23.08.2021 and 31.08.2021 are suspended if already not acted upon till next date.

D


(Atiq-Ur-Rehman Wazir)
Member (E)

17.12.2021

Counsel for the appellant present. Preliminary arguments heard.

Learned counsel for the appellant stated that the appellant is aggrieved of the notifications dated 23.08.2021 and 31.08.2021. The appellant was posted as Senior Medical Officer (BS-18) at THQ Hospital Dogra Picket Khyber since 29.07.2020 and without having completed his normal tenure of two years he was transferred/relieved and private respondent No.4 being junior Medical Officer (BS-17) was posted as MS Category-D Hospital Bara, District Khyber vide notification dated 23.08.2021. The appellant was again disturbed and transferred but this time directed to place his services at the disposal of DG Health Services vide impugned notification dated 31.08.2021. The appellant submitted departmental appeal on 10.09.2021 and having found no remedy approached the Service Tribunal, through the instant service appeal on 01.12.2021. It was further contended that the appellant has been transferred pre-maturely in violation of clause (i) and (iv) of the provincial Government's posting/transfer policy as well as Article-4 and 25 of the Constitution.

The appeal is admitted for regular hearing Notification 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 11.01.2022 before S.B.

An application for suspension of impugned order dated 23.08.2021 and 31.08.2021 is also submitted with the memorandum of appeal. Operation of the impugned notification dated 23.08.2021 and 31.08.2021 is suspended if already not acted upon till next date.

(Mian Muhammad)
Member(E)

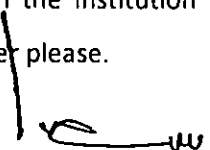

Appellant's Request
Security Process Fee
27/12/21

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 7827 /2021 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	03/12/2021	<p>The appeal of Dr. Jehangir Afridi resubmitted today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put there on <u>17/12/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>


The appeal of Dr. Jehangir Afridi SMO presently MS Cat-D Hospital Dogra Bara Khyber received today i.e. on 01.12.2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

Annexures A, D and H of the appeal are illegible which may be replaced by legible/better one.


No. 2375 /S.T,

Dt. 02/12 /2021

Noor Muhammad Khattak Adv.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

*Re-submitted after doing
needful*


03/12/2021

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

Case Title: **DR JEHANGIR**

V/S

HEALTH DEPTT:

S#	CONTENTS	YES	NO
1	This Appeal has been presented by: NOOR MOHAMMAD KHATTAK	✓	
2	Whether Counsel/Appellant/Respondent/Deponents have signed the requisite documents?	✓	
3	Whether appeal is within time?	✓	
4	Whether the enactment under which the appeal is filed mentioned?	✓	
5	Whether the enactment under which the appeal is filed is correct?	✓	
6	Whether affidavit is appended?	✓	
7	Whether affidavit is duly attested by competent Oath Commissioner?	✓	
8	Whether appeal/annexures are properly paged?	✓	
9	Whether certificate regarding filing any earlier appeal on the subject, furnished?	x	✓
10	Whether annexures are legible?	✓	
11	Whether annexures are attested?	✓	
12	Whether copies of annexures are readable/clear?	✓	
13	Whether copy of appeal is delivered to AG/DAG?	✓	
14	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	✓	
15	Whether numbers of referred cases given are correct?	✓	
16	Whether appeal contains cutting/overwriting?	x	✓
17	Whether list of books has been provided at the end of the appeal?	✓	
18	Whether case relate to this court?	✓	
19	Whether requisite number of spare copies attached?	✓	
20	Whether complete spare copy is filed in separate file cover?	✓	
21	Whether addresses of parties given are complete?	✓	
22	Whether index filed?	✓	
23	Whether index is correct?	✓	
24	Whether Security and Process Fee deposited? On _____		
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____		
26	Whether copies of comments/reply/rejoinder submitted? On _____		
27	Whether copies of comments/reply/rejoinder provided to opposite party? On _____		

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name:

NOOR MOHAMMAD KHATTAK

Signature:

Dated:

2021

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. 7827 /2021

DR JEHANGIR AFRIDI

V/S

HEALTH DEPTT:

I N D E X

S.N	DOCUMENTS	ANNEXURE	PAGE
1	Memo of appeal	1-3
2	Affidavit	4
3	Stay application	5
4	Notification	A	6
5	Impugned notifications	B & C	7-8
6	Departmental appeal	D	9
7	Transfer/posting policy	E	10-12
8	Certificate	F	13
9	CNICs	G	14-15
10	Nikahnama	H	16
12	Wakalat Nama	17

Dated: _____11.2021

APPELLANT

Through:

NOOR MOHAMMAD KHATTAK
ADVOCATE
0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 7827 /2021

Diary No. 7953

Dr. Jehangir Afridi, Senior Medical Officer (BPS-18),
Presently serving as Medical Superintendent Cat-D Hospital,
Dogra Bara Khyber, District Khyber

Dated 01-12-2021

..... **APPELLANT**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa Civil Secretariat, Peshawar.
- 2- The Secretary, Government of Khyber Pakhtunkhwa Health Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
- 4- Dr. Alamgir Khan, Medical Officer (BPS-17), attached to DHQ Hospital Landikotal, District Khyber..

..... **RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATIONS DATED 23-08-2021 AND 31.8.2021 WHEREBY THE APPELLANT HAS BEN TRANSFERRED PREMATURELY AND IN VIOLATION OF SPOUSE POLICY AND AGAINST NOT TAKING ANY ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD

PRAYERS:

That on acceptance of this appeal the impugned transfer Notifications dated 23.8.2021 and 31-08-2021 may very kindly be set aside and the respondents may kindly be directed not to transfer the appellant from the post of Medical Superintendent THQ Hospital Dogra Picket Bara, District Khyber till completion of his normal tenure. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

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

- 1- That appellant is the employee of the respondent Department and is serving the respondent Department as

Filed 31/12/21
Registrar
Re-submitted to day and filed.
Registrar 3/12/21

Senior Medical Officer (BPS-18) quite efficiently and up to the entire satisfaction of his superiors.

- 2- That vide Notification dated 29-7-2021 the appellant was posted against the vacant post of Incharge/MS THQ Hspita Dogra Picket Khyber (BPS-18) District Khyber. That in response the appellant took over the charge of the said post and started his duty quite efficiently and up to the entire satisfaction of his superiors. Copy of the Notification is attached as annexure **A.**
- 3- That astonishingly vide impugned Notifications dated 23.8.2021 the appellant was prematurely transferred from the post of MS THQ Hospital, Picket Bara, Khyber and the private respondent No.4 was transferred in place of the appellant. So much so vide impugned Notification dated 31.8.2021 the services of the appellant were placed on the disposal of the respondent No.3 without any reason and clear justification. Copies of the Impugned Notifications are attached as annexure **B & C.**
- 4- That, feeling aggrieved from the inaction of the respondent the appellant filed Departmental Appeal dated 13.9.2021 against the impugned Notifications dated 23.8.2021 and 31-08-2021 which was properly allotted with diary number but was not responded within the stipulated period. Copy of the Departmental Appeal is attached as annexure **D.**
- 5- That appellant having no other remedy but to file the instant appeal on the following grounds amongst the others.

GROUND:

- A- That the impugned transfer Notifications dated 23.8.2021 and 31-08-2021 are against the law, facts, norms of natural justice and materials on the record hence not tenable and is liable to be set aside.
- B- That appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the respondents acted in arbitrary and malafide manner by issuing the impugned Notifications dated 23.8.2021 and 31.8.2021.
- D- That the transfer Notification dated 23-08-2021 is prematurely issued by the respondents as the appellant has not yet completed his normal tenure on the post in question

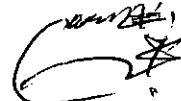
which is against clause-IV and IX of the Posting Transfer Policy of 2009. Copy of the Policy is attached as annexure **E.**

- E-** That the impugned Notifications dated 23.8.2021 and 31-08-2021 is against the Spouse Policy as well as Article 35 of the Constitution of Pakistan as wife of the appellant is working in THQ Hospital Picket Bara, District Khyber as WMO (BPS-17). Copies of the certificate, CNIC's and nikahnama are attached as annexure **F, G & H.**
- F-** That the impugned Notification has not been issued in the public interest nor exigencies of the public service, therefore not tenable and liable to be set aside.
- G-** That appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

Dated: 30-11-2021

APPELLANT



DR. JEHANGIR AFRIDI

THROUGH:

NOOR MOHAMMAD KHATTAK
ADVOCATE, PESHAWAR



4

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. _____/2021

Dr JEHANGIR AFRIDI

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.



DEPONENT

CERTIFICATE:

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

CERTIFICATION

5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2021

DR. JEHANGIR AFRIDI V/S HEALTH DEPTT:

APPLICATION FOR SUSPENSION OF OPERATION OF
THE IMPUGNED NOTIFICATIONS DATED 23.8.2021
AND 31-08-2021 TILL THE DISPOSAL OF THE ABOVE
MENTIONED APPEAL

R/SHEWETH:

- 1- That the above mentioned appeal along with this application has been filed the appellant before this august service Tribunal in which no date has been fixed so far.
- 2- That appellant filed the above mentioned appeal against the impugned Notifications dated 23.8.2021 and 31-08-2021.
- 3- That all the three ingredients necessary for the stay is in favor of the appellant.
- 4- That the impugned Notifications dated 23.8.2021 and 31-08-2021 had been issued by the respondents in utter disregard of law and prevailing Rules.

It is therefore, most humbly prayed that on acceptance of this application the impugned Notifications dated 23.8.2021 and 31-08-2021 may very kindly be suspended till the disposal of the above mentioned appeal.

Dated: 30-11-2021

APPLICANT



DR. JEHANGIR AFRIDI

THROUGH:

NOOR MOHAMMAD KHATTAK
ADVOCATE



DIRECTORATE OF HEALTH SERVICES

Government of Khyber Pakhtunkhwa, Health Department

Dated Peshawar the 29th July 2020

NOTIFICATION

NO.SOH(HD)/E-V/4-4/2020 The competent authority has been pleased to transfer Dr, Jehangir Afridi, Senior Medical Officer (BS-18) THQ Hospital Dogra Picket Khyber and post him as Incharge/MS THQ Hospital Dogra Picket Khyber, in the best public interest and with immediate effect.

Secretary Health
Government Khyber Pakhtunkhwa

Endst;Of even No.& Date

Copy to the;

1. accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director Health Services, Khyber Pakhtunkhwa Peshawar.
3. Director Health Services, Merged Area Peshawar.
4. Deputy Commissioner, Khyber.
5. District Health Officer, Khyber.
6. Incharge/MS, THQ Hospital, Dogra Picket Khyber.
7. DAO, Khyber.
8. Deputy Director (IT),Health Department, with the direction to upload the Notification on official website.
9. Ps to Minster for Health Department, Khyber Pakhtunkhw.
- 10.Ps to Secretary Health Department, Khyber Pakhtunkhwa.
- 11.Doctor Concerned.

Muhammad Irfan Usman
Section Officer(E-V)

DIRECTORATE OF HESSENTIAL SERVICES



**Government of Khyber Pakhtunkhwa
Health Department**

NOTIFICATION

NO. S01110) 0-0 6 6, 2020

Officer (BS-18) THQ Hospital Dogra

THQ Hospital Dogra Picket Khyber.

with immediate effect.

Secretary (H)

Government of Khyber Pakhtunkhwa

Under Order No. S01110) 0-0 6 6, 2020

- 1. Assistant General, Khyber Pakhtunkhwa, Peshawar
- 2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar
- 3. Director Health Services, Merged Area, Peshawar
- 4. District Commissioner, Khyber
- 5. District Health Officer, Khyber
- 6. Officer (BS-18) Hospital Dogra Picket Khyber.
- 7. Deputy Director (H), Health Department, with the direction to upload the notification on official website
- 8. Joint Minister for Health Department, Khyber Pakhtunkhwa
- 9. Secretary Health Department, Khyber Pakhtunkhwa
- 10. Others concerned.

Muhammad Iqbal Khan
Secretary (H)

ANNEXURE B

7



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar the August 23, 2021

NOTIFICATION

NO. SOH (E-V)2-2/2021.

The Competent Authority is pleased to transfer Dr. Alamgir Khan, Medical Officer (BS-17) attached to DHQ Landikotal, Khyber and post him as Medical Superintendent, Cat-D Hospital Dogra Bara, District Khyber in his own pay & scale, with immediate effect, in the best public interest.

Consequent upon the above, Dr. Jehangir Khan, Senior Medical Officer (BS-18) is hereby relieved from the look after charge of the post of Medical Superintendent of the said Hospital.

Secretary Health
Government of Khyber Pakhtunkhwa

Endst. of even No. & Date.

Copy to the:-

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

(Latif-Ur-Rehman)
SECTION OFFICER (E-V)



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar the August 31, 2021

NOTIFICATION

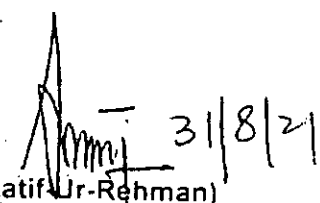
NO. SOH (E-V)2-2/2021. The Competent Authority is pleased to transfer Dr. Jehangir Khan, Senior Medical Officer (BS-18) attached to Cat-D Hospital Dogra Bara, District Khyber and place his services at the disposal of Directorat General Health Services, Khyber Pakhtunkhwa, Peshawar, with immediate effect, in the best public interest.

Secretary Health
Government of Khyber Pakhtunkhwa

Endst. of even No. & Date.

Copy to the -

- 1 Accountant General, Khyber Pakhtunkhwa, Peshawar
- 2 Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. District Health Officer, Khyber.
4. District Accounts Officer, Khyber.
- 5 Medical Superintendent, Cat-D Hospital Dogra Bara, District Khyber.
- 6 Assistant Director (IT), Health Department, with the direction to upload the notification on official website.
- 7 PS to Minister for Health Department, Khyber Pakhtunkhwa
8. PS to Secretary Health Department, Khyber Pakhtunkhwa.
9. Doctor concerned
10. Personal file of the doctor concerned.


(Latif Jr-Rehman)
SECTION OFFICER (E-V)

To

Diary No372
Dated 13/9/2021

The Honorable Chief Secretary,
Government of Khyber Pakhtunkhwa,

Subject: APPEAL FOR CANCELLATION OF IMPUGNED TRANSFER ORDER

Respected Sir,

The profound respect it is please stated that I was transferred and posted as senior Medical Officer(BPS-18) Incharge THQ Hospital Dogra Picket Khyber vide Government of Khyber Pakhtunkhwa, Health Department Notification No SOH (HD)/E V/4 4/2020 dated 29th July 2020(Annexure I) now after rendering services for 33 months in the above said THQ Hospital as Incharge, I have been prematurely transferred from the above post without completing the 02 years tenure by placing my services at the disposal of directorate General, Health Services Khyber Pakhtunkhwa Government of Khyber Pakhtunkhwa Health Department impugned Notification No, SOH(E-V)2-2/2021dated 31th August 2021 (Annex-II)

Sir, it is pertinent to brought into your kind notice that I have been transferred due to the political interference of Honorable MNA, Mr Muhaamad Iqbal in the official business/affairs of THQ Hospital Dogra,Picket Khyber which is on the record.

Keeping in view the above, it is requested that the above impugned transfer may kindly be cancelled and I may be retained at THQ, Bara in the best interest of public Service please.

Encl:2

10-09-2021

Dr, Jahangir Khan SMO
THQ Hospital Dogra Picket Bara

To
To

Diary No372
Dated 13/9/2021
Dated 13/9/2021

The Honorable Chief Secretary,
Government of Khyber Pakhtunkhwa,
Government of Khyber Pakhtunkhwa,
Subject: APPEAL FOR CANCELLATION OF IMPUGNED TRANSFER ORDER

Subject: APPEAL FOR CANCELLATION OF IMPUGNED TRANSFER ORDER

Respected Sir, The profound respect it is please stated that I was transferred and posted as senior Medical Officer(BPS-18)-Incharge THQ Hospital Dogra Picket Khyber vide Government of Khyber Pakhtunkhwa, Health Department Notification No SOH (HD)/E V/4 4/2020 dated 29th July 2020 (Annexure I) after being transferred for 33 months as senior Medical Officer (BPS-18) Incharge THQ Hospital Dogra Picket Khyber vide Government of Khyber Pakhtunkhwa Health Department Notification No SOH (HD)/E V/4 4/2020 dated 29th July 2020 (Annexure I) in the service of Khyber Pakhtunkhwa Government of Khyber Pakhtunkhwa Health Department. Impugned Notification No, SOH(E)V/2/2/2021 dated 3rd August 2021 (Annexure II) the 02 years tenure by placing my services at the hospital at Dogra, Picket Khyber, Khyber Pakhtunkhwa Government of Khyber Pakhtunkhwa Health Department. Impugned Notification No SOH(E)V/2/2/2021 dated 3rd August 2021 (Annexure II) is against the 02 years tenure of the hospital at Dogra, Picket Khyber which is on the record.

Sir, Keeping in view the above, it is requested that the above impugned transfer may kindly be cancelled and I may be retained at THQ, Bara in the best interest of public service please.

Encl:2 Keeping in view the above, it is requested that the above impugned transfer may kindly be cancelled and I may be retained at THQ, Bara in the best interest of public Service please.

Dr, Jahangir Khan SMO
THQ Hospital Dogra Picket Bara

Encl:2

10-09-2021

Dr, Jahangir Khan SMO
THQ Hospital Dogra Picket Bara



May 19
13/7/2011

OFFICE OF THE DIRECTOR GENERAL,
HEALTH SERVICES, KHYBER PAKHTUNKHWA
APPEAL FOR CANCELLATION OF IMPUGNED TRANSFER ORDER

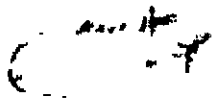
With profound respect it is please stated that I was transferred and posted to
THQ Hospital Dogra Picket Khyber Pakhtunkhwa Government of Khyber
Pakhtunkhwa Health Department Notification No. SOH (HD)/VI/2010 dated 13/7/2010
(Annex B) for rendering services for 11 months in the above said THQ Hospital to discharge the
responsibilities transferred from the above post without completing the 02 year tenure by 13/7/2010
as per the order of the Director General, Health Services, Khyber Pakhtunkhwa Government
of Khyber Pakhtunkhwa Health Department impugned Notification No. SOH (HD)/VI/2010 dated 13/7/2010
(Annex B)

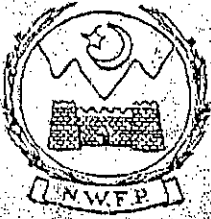
It is pertinent to brought into your kind notice that I have been transferred due to the
transfer of Honorable MNA, Mr. Muhammad Iqbal in the official business / affairs of THQ
Hospital Dogra, Picket Khyber which is on the record.

Keeping in view the above, it is requested that the above impugned transfer may
kindly be cancelled and I may be retained at THQ, Bara in the best interest of public service please.

Encl 2

10/09/2011


Dr. Jahangir Khan SMO
THQ hospital Dogra Picket Bara



**GOVERNMENT OF NWFP
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT
(Regulation Wing)**

POSTING / TRANSFER POLICY OF THE PROVINCIAL GOVERNMENT.

- i) All the posting/transfers shall be strictly in public interest and shall not be abused/misused to victimize the Government servants
- ii) All Government servants are prohibited to exert political, Administrative or any other pressures upon the posting/transfer authorities for seeking posing/transfers of their choice and against the public interest.
- iii) All contract Government employees appointed against specific posts, can not be posted against any other post.
- iv) The normal tenure of posting shall be three years subject to the condition that for the officers/officials posted in unattractive areas the tenure shall be two years and for the hard areas the tenure shall be one year. The unattractive and hard areas will be notified by the Government.
- v) { }
- vi) While making postings/transfer from settled areas to FATA and vice-versa, specific approval of Governor, NWFP needs to be obtained

²While making postings/transfers of officers/officials up to BS-17, from settled areas to FATA and vice-versa approval of the Chief Secretary NWFP needs to be obtained. Whereas, in case of posting/transfer of officers in BS-18 and above, from settled areas to FATA and vice versa, specific approval of the Governor NWFP shall be obtained.
- vi (a) All Officers/officials selected against Zone-I/FATA quota in the Provincial Services should compulsorily serve in FATA for atleast eighteen months in each grade. This should start from senior most scales/grades downwards in each scale/grade of each cadre.
- vii) Officers may be posted on executive/administrative posts in the Districts of their domicile except District Coordination Officers (D.C.Os) and DPOs/Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at a place where the Police Station (Thaana) of his area/residence is situated.
- viii) No posting/transfers of the officer's/officials on detailment basis shall be made.
- ix) Regarding the posting of husband/wife, both in Provincial services, efforts where possible would be made to post such persons at one station subject to the public interest.
- x) All the posting/transferring authorities may facilitate the posting/transfer of the unmarried female government Servants at the station of the residence of their parents.

Para-1(v) regarding months of March and July for posting/transfer and authorities for relaxation of ban deleted vide letter No: SOR-VI (E&AD) 1-4/2008/Vol-VI, dated 3-6-2008.

Consequently authorities competent under the NWFP Government Rules of Business, 1985, District Government Rules of Business 2001, Posting/Transfer Policy and other rules for the time being in force, allowed to make posting/transfer subject to observance of the policy and rules.

Added vide Urdu circular letter No. SOR-VI(E&AD)1-4/2003, dated 21-09-2004

11

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

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

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

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

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

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

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

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

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

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

.....

All concerned are requested to ensure that tenures of the concerned officers/officials are invariably mentioned in summaries submitted to the Competent Authorities for Posting/Transfer.

{Authority: Letter No: SOR-VI/E&AD/1-4/2003 dated 24-6-2003}.

.....

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

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

THQ HOSPITAL, DOGRA
BARA, DISTRICT KHYBER

No. 330 SMO/IC

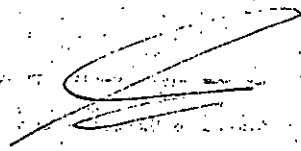
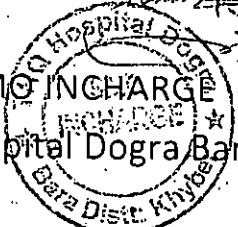
Date: 29 /11/2021

SERVICE CERTIFICATE.

It is certified that Dr. Lubna Rasool attached to THQ Hospital Dogra picket Bara, is working as SWMO under control of the undersigned from 2017 till date.

She is hardworking, obedient and Punctual to her duty.

SMO INCHARGE
THQ Hospital Dogra Bara
Bara Dist. Khyber



The Govt of K.P. Pakistan

Marriage Registration Certificate

CRMS No. M173040-140011

Form No. 9822589789

دلہن کے کوائف

نام: لبتی جہانگیر

شناختی کارڈ: 17201-70942900

والد کا نام: عبدالرشید

شناختی کارڈ: 17201-70942900

عمر: 29 سال

ازواج: عبدالرشید

پتہ: محلہ اعوان صاحب

ضلع: بہاولپور، تحصیل: بہاولپور

دولہا کے کوائف

نام: جہانگیر خان

شناختی کارڈ: 17102-842114043

والد کا نام: عبدالرشید

شناختی کارڈ: 17102-842114043

عمر: 42 سال 50 ماہ 50 دن 50

ازواج: عبدالرشید

پتہ: گاؤں تھکال مارا محلہ حاجی صاحب

ضلع: بہاولپور

تاریخ: 23-3-07

مقام: اعوان صاحب

شناختی کارڈ: 17301-13067705

تاریخ: 8-1-2014

تاریخ: 8-1-2024

ANNEX H



GOVERNMENT OF PUNJAB
MINISTRY OF HEALTH AND FAMILY WELFARE
PUNJAB, PAKISTAN

MARRIAGE REGISTRATION CERTIFICATE

173011306705

173011306705

Particulars of Bride

NAME: SOBNA JAHANGIR
CNIC: 1730284214043
FATHER NAME: ABDUL HASOOL
AGE: 28 Y 00 M 00 D
MARRITAL STATUS: VIRGIN
ADDRESS:

Particulars of Groom

NAME: JAHANGIR KHAN
CNIC: 1730284214043
FATHER NAME: SAID BASHAH
AGE: 28 Y 00 M 00 D
MARRITAL STATUS: VIRGIN
ADDRESS:

MUNAWAN JABI KHAN ABAD TEH NOWSHERA DIST VILLAGE MOH HAJI KHAN TENKAL BALA TEH PESHAWAR DIST PESHAWAR

Date of Marriage: 23-3-2014
Marriage Solemnized by Name: FAZAL RAHEEM
Marriage Solemnized by CNIC: 173011306705
Date of Entry: 8-1-2014
Date of Issuance: 8-1-2014

Secretary
Union Council Tenkal Payyan
Peshawar

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO: _____ OF 2021

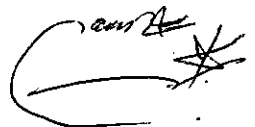
Dr. Jehangir Khan (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Health Deptt.: (RESPONDENT)
(DEFENDANT)

I/We Dr. Jehangir Khan
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. ____/____/2021.



CLIENTS


ACCEPTED

NOOR MUHAMMAD KHATTAK


KAMRAN KHAN


SAID KHAN


HAIDER ALI

&
KHANZAD GUL
ADVOCATES

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

SERVICE APPEAL NO. 7827/2021

Diary No. 901
Dated 03/08/2022
Appellant

Dr. Jehangir Afridi

Versus

Government of Khyber Pakhtunkhwa & others **Respondents**

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S. No.	Description	Annexure	Pages No.
1	Comments		1-2
2	Affidavit		3

Place on relevant appeal.

A ^m
3/8/22

Muharrir

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA

SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 7827 OF 2021

Dr. Jehangir Afridi.....Appellant

Versus

Govt. of Khyber Pakhtunkhwa and others.....Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 TO 3

Respectfully Sheweth:

Preliminary Objections:-

1. That the appellant has got neither cause of action nor locus standi to file the instant 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 this Honorable Tribunal with clean hands.
7. That the appeal is barred by law and limitation.
8. That the Honorable Tribunal has no Jurisdiction to adjudicate upon the matter.
9. That the instant appeal is bad for mis-joinder of unnecessary and non-joinder of necessary parties.

ON FACTS:

1. Pertains to record.
2. Pertains to record.
3. The appellant has been transferred in the public interest. Moreover, he has already been promoted to the post of PMO (BPS-19) while the post of Medical Superintendent / Incharge THQ Hospital Dogra Picket Khyber is (BPS-18) post.

4. Pertains to record.
5. The appeal is barred by law and not maintainable.

ON GROUNDS:

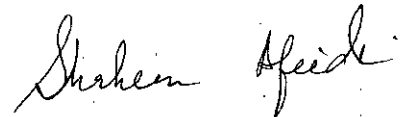
- A. Incorrect. The appellant has been transferred as per law
- B. As in preceding para, however, the respondents have not violated any article of the constitution of Islamic Republic of Pakistan, 1973.
- C. Incorrect. The answering respondents not acted in arbitrary and malafide manner by issuing his transferred order dated 23/08/2021.
- D. Incorrect. The appellant has been transferred in the public interest which is not against Clause – IV and IX of the Posting / Transfer Policy 2009.
- E. The appellant has been promoted to the post of PMO (BPS-19) and there is no post of BPS-19 in THQ Hospital Dogra Picket Khyber.
- F. Detailed reply has already been furnished in Para-D & E.
- G. Answering respondent also seeks prior permission of this Honorable Tribunal to adduce additional grounds at the time of arguments.

PRAAYER:

It is, therefore, humbly prayed that on acceptance of the comments, the instant appeal of the appellant may very graciously be dismissed with costs.



Secretary to Govt. of Khyber
Pakhtunkhwa Health Department
Respondent No. 01 & 02



Director General Health Services
Khyber Pakhtunkhwa
Respondent No. 03

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

SERVICE APPEAL NO. 7827/2021


Dr. Jehangir AfridiAppellant

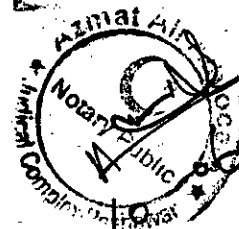
Versus

Government of Khyber Pakhtunkhwa & othersRespondents.

Affidavit

I, Dr. Rizwanullah Khan (Director Litigation) office of the Director General Health Services, Khyber Pakhtunkhwa, Peshawar, under the directions of the Competent Authority, do hereby solemnly affirm that the contents of the parawise Comments on behalf of Respondent are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'able Court.

ATTESTED 
Deponent

 22

18.08.2022

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

02. Representative of the respondent department submitted copy of the Notification NO.SOH(E-V)/2-2/2022 dated 26.05.2022 whereby the appellant after having promoted to the post of Principal Medical Officer (BS-19) on 01.12.2021, has been transferred from the office of DHO Khyber to Type-D Hospital Badhber Peshawar against the vacant post. Learned counsel for the appellant while arguing the case in preliminary hearing on 17.12.2021 concealed the fact that the appellant had already been promoted from BS-18 to BS-19 as Principal Medical Officer on 01.12.2021. Representative of the department apprised the court and stated at the Bar that the appellant has been promoted to BS-19 and who has not actualized his promotion on the basis of his earlier transfer orders suspended by the Service Tribunal on 17.12.2021, taking undue advantage and shelter of the order of Service Tribunal dated 17.02.2021.

03. In view of the above factual position, the order dated 17.12.2021 becomes irrelevant and unsustainable as fresh cause of action has emanated on the face of Notification dated 26.05.2022. The execution petition No. 353/2022 therefore stands disposed of. Consign.

04. Pronounced in open court at Peshawar and given under my hand and seal of the Tribunal this 18th of July, 2022.

(Mian Muhammad)
Member (E)

is required for admissibility of deputation allowance. Moreover, Managing Director SIDB Peshawar in his report dated 27.07.2018 has admitted the drawl of Special Allowance by the appellant as irregularly drawn and being recoverable. The appellant has been treated according to law and rules. All codal formalities have been fulfilled by the respondent-department before passing the impugned order dated 08.10.2018.

CONCLUSION:

06. The arguments of learned counsel for the appellant that leave earned and deputation allowance had already been drawn by predecessors of the appellant, does not hold ground because a bad precedent cannot be quoted as evidence. Regarding the stance on drawl of Special Allowance in SIDB, the arguments is defeated on the ground that in SIDB (Being an autonomous body), he could not draw (Special Allowance) which is admissible against certain posts in the Secretariat. Moreover, Managing Director SIDB Peshawar in his report dated 27.07.2018 has admitted the drawl of Special Allowance by the appellant as irregularly drawn and being recoverable. Learned counsel for the appellant when confronted on the point that he had drawn Deputation Allowance as he was posted in SIDB on deputation basis, could not produce the order of his posting on deputation basis. Equally important is the point that terms and conditions of deputation between barrowing and landing department were not settled down as required under the deputation policy of the Provincial Government. The plea taken by the learned counsel for the appellant regarding admissibility of 365 days leave encashment, is not agreed on the ground that leave account of a civil servant is properly maintained and based on that account the appellant is entitled to the encashment of remaining 231 days duly calculated by the parent department. Based on the arguments and perusal of the