

06.12.2021

Counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG alongwith Ibrahim Khan, Deputy Secretary, Ziaullah Deputy Secretary and Safiullah, Focal Person for the respondents present.

Vide our detailed judgment of today in connected Service Appeal No. 16578/2021, titled "Manzoor Ahmad Vs. The Chief Secretary, Khyber Pakhtunkhwa Peshawar and others", this appeal is accepted as prayed for. Consequently, the impugned order is set aside and respondents are directed not to transfer the appellants from the post of Drug Inspector. Parties are left to bear their own costs. File be consigned to record room after completion.



(Salah-ud-Din)
Member(J)



Chairman


ANNOUNCED
06.12.2021


15.10.2021

Appellant present through counsel.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Request for adjournment was made on behalf of learned A.A.G; granted by way of last chance. To come up for arguments on 12.11.2021 before D.B. Interim injunctive relief shall remain intact till the date fixed.



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



(Rozina Rehman)
Member (J)

12.11.2021

Mr. Kamran Khan. Advocate, junior of learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is unable to appear before the Tribunal today due to illness. Adjourned. To come up for arguments before the D.B on 06.12.2021. Interim injunctive relief shall remain intact till the date fixed.


(Atiq Ur Rehman Wazir)
Member (E)


(Salah-ud-Din)
Member (J)

26.08.2021

Mr. Noor Muhammad Khattak, Advocate, for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Ziaullah, Deputy Secretary (Litigation) for respondents present.

Learned counsel for the appellant sought adjournment on the ground that as connected appeals have been adjourned for 10.09.2021, therefore, the same may also be fixed alongwith the said appeals. Adjourned. Last opportunity is given. To come up for arguments before the D.B on 10.09.2021. Interim Injunctive relief shall remain intact till next date.

(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

10.09.2021

Clerk of counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Clerk of counsel for the appellant stated that learned counsel for the appellant is unable to attend the Tribunal today due to strike of Lawyers. Adjourned To come up for arguments before the D.B. on 15.10.2021. Interim injuctive relief shall remain intact till the date fixed

(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

~~15.10.2021~~

~~Appellant present through counsel
Kabirullah Khattak learned Additional Advocate General
for respondents present.~~

~~Request for adjournment was made on behalf of learned
A.A.G; granted by way of last chance. To come up for arguments
on 15.10.2021 before D.B.~~

(Atiq Ur Rehman Wazir)
Member (E)


(Salah-ud-Din)
member (J)

02.07.2021

Appellant present through counsel.

Muhammad Adeel Butt learned Additional Advocate General for respondents present.

File to come up alongwith Service Appeal No.1559/2021 on 29.07.2021 before D.B.



(Rozina Rehman)
Member(J)



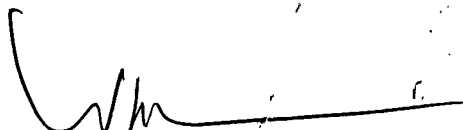
Chairman

29.07.2021

Appellant alongwith his counsel Mr. Noor Muhammad Khattak, Advocate, present. Mr. Zia Ullah Deputy Secretary (Litigation) alongwith Mr. Javed Ullah, Assistant Advocate General for the respondents present.

Learned counsel for the appellant submitted rejoinder, which is placed on file. Copy of the same is handed over to the learned Assistant Advocate General.

Learned counsel for the appellant sought adjournment for arguments. Adjourned. To come up for the argument before the D.B on 26.08.2021.



(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

07.06.2021

Junior to counsel for the petitioner and Mr. Kabirullah Khattak, Addl. AG alongwith Nisar Ahmad, Monitoring Assistant for respondents No. 1 to 3 present.

Reply/comments of the said respondents submitted. Placed on file. To come up for rejoinder and arguments on 21.06.2021. The restraint order dated 04.02.2021 shall remain operative till next date.



(Rozina Rehman)
Member(J)

21.06.2021

Appellant present through counsel.

Javid Ullah learned Assistant A.G alongwith Zia Ullah Law Officer (for respondent No.2) present.

Written reply/comments by the respondents was submitted on previous date and case was adjourned for rejoinder and arguments for today followed by interim injunctive relief. The learned counsel for appellant seeks time for rejoinder. Last Opportunity is given for submission of rejoinder within 5 days in office, failing which, consequences shall followed. To come up for arguments on 02.07.2021 before D.B. Interim injunctive relief shall remain intact till next date.



(Rozina Rehman)
Member(J)



Chairman

16.03.2021


Due to tour of Camp Court Abbottabad and shortage of Members at Principal Bench Peshawar, the case is adjourned to 02.04.2021 before S.B.


Reader

02.04.2021

Junior to counsel for the appellant and Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Nisar, Monitoring Officer for the respondents present.

Written reply on behalf of respondents not submitted. Representative of the department sought time to furnish written reply/comments. Adjourned to 20.04.2021 on which date file to come up for written reply/comments before S.B. In the meanwhile, the operation of notification dated 06.10.2020 shall remain suspended to the extent of appellant and till next date of hearing.


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

20.04.2021

Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 20.05.2021 for the same as before.


Reader

20.05.2021

Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 07.06.2021 for the same as before.


Reader

Appeal No. 923/2021
Shoaib Khan vs Govt

04.02.2021

Counsel for the appellant present.

On the strength of admitting note dated 18.01.2021 in appeal No. 16579/2021, instant appeal is admitted for regular hearing as apparently issue involved in both the cases is of similar nature. Appellant is required to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments on 22.02.2021 before S.B.

An application for suspension of operation of impugned notification also accompanied ^s to the appeal. Notice of the same be given to the respondents. In the meanwhile, the operation of notification dated 06.10.2020 shall remain suspended to the extent of appellant and till next date of hearing.

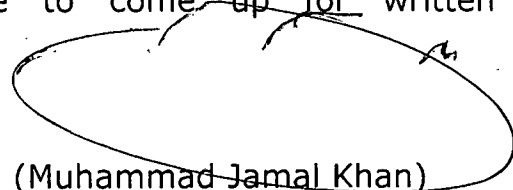
Appellant Deposited
Security & Process Fee


Chairman

22.02.2021

Appellant is present in person. Mr. Kabirullah Khattak, Additional Advocate General for official respondents No. 1 to 3, is also present. None present on behalf of private respondent No. 4 nor written reply on his behalf is submitted, therefore, he is proceeded against ex-parte.

Neither written reply on behalf of official respondents submitted nor any representative on their behalf is present, therefore, learned Additional Advocate General is directed to contact the official respondents and furnish written reply/comments on the next date of hearing. Adjourned to 16.03.2021 on which date file to come up for written reply/comments before S.B.

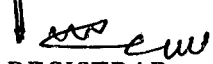


(Muhammad Jamal Khan)
Member

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 923 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	02/02/2021	<p>The appeal of Mr. Muhammad Shoaib Khan presented 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 for preliminary hearing to be put up there on <u>04/02/2021</u></p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. _____/2020

MUHAMMAD SHOAIB KHAN VS HEALTH DEPTT

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1	Memo of appeal	1- 3.
2	Stay application	4.
3	Appointment order	A	5.
4	Notification dated 25.10.2017	B	6- 7.
5	Impugned notification dated 06.10.2020	C	8- 9.
6	Departmental appeal	D	10- 13.
7	Service Rules	E	14- 15.
8	Transfer Policy	F	16- 18.
11	vakalatnama	19.

APPELLANT

THROUGH:
NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Appeal No. 923 /2021

Diary No. 2299

Dated 02/02/2021

Mr. Muhammad Shoaib Khan, Drugs Inspector (BPS-17),
District Mardan, under transfer to the post of Pharmacist (BPS-17),
BKMC, District Swabi.

VERSUS

- chiefs*
- 1- The Secretary, Khyber Pakhtunkhwa, Peshawar.
 - 2- The Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.
 - 3- The Director General Drug Control & Pharmacy Services, Khyber Pakhtunkhwa, Peshawar.
 - 4- *Mushah Ullah Jan Pharmacist (BS-17), BKMC, District Swabi.* **RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION DATED 06.10.2020 WHEREBY THE APPELLANT HAS BEEN TRANSFERRED FROM THE POST OF THE DRUG INSPECTOR (BPS-17), DISTRICT MARDAN TO THE POST OF PHARMACIST (BPS-17), BKMC, DISTRICT SWABI IN UTTER VIOLATION OF TRANSFER/POSTING POLICY AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PARYER:

That on acceptance of this impugned notification dated 06.10.2020 may very kindly be set aside to the extent of appellant and the respondents may very kindly be directed not to transfer the appellant from the post of Drug Inspector (BPS-17), District Mardan. 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 appel are as under:-

- 1- That appellant is the employee of respondent department and is appointed as Drug Inspector (BPS-17) through proper recommendation of the Khyber Pakhtunkhwa Public Service commission vide order dated 10.10.2017 and since then till date the

Filed to-day
Registrar
21/2/2021

appellant is performing his duty quite efficiently and up to the entire satisfaction of his superiors. Copy of the appointment order is attached as annexure.....**A.**

2- That lastly the appellant was posted/transferred as Drugs Inspector (BPS-17) at, District Mardan vide notification dated 25.10.2017 but unfortunately before completion of his normal tenure the respondents vide impugned notification dated 06.10.2020 transferred/posted the appellant against the cross/wrong post of the Pharmacist (BPS-17) at BKMC, District Swabi. Copies of the Notification and impugned notification are attached as annexure.....**B & C.**

3- That the appellant feeling aggrieved from the impugned notification dated 06.10.2020 preferred departmental appeal to the appellant authority which has not been replied so far. Copy of the departmental appeal *and Stay order case attached as***D.**

4- That it is pertinent to mention here that the appellant has its own service rules framed by the respondent department vide dated 09.04.2006 whereby the cadre of the appellant is completely different from that of service rules assigned for pharmacist. Copy of the service rules is attached as annexure.....**E.**

5- That the appellant feeling aggrieved and having no other remedy but to file this appeal on the following grounds amongst others.

GROUND:

A- That the impugned notification dated 06.10.2020 is against the law, facts, norms of natural justice and material on the record, hence not tenable and liable to be set aside to the extent of the appellant and private respondent.

B- That the appellant has not been treated by the respondents 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 impugned notification dated 06.10.2020 has been issued by the respondent No.2 in arbitrary and malafide manner, hence not tenable and liable to be set aside to the extent of appellant and private respondent No.5.

D- That the impugned notification dated 06.10.2020 is based on discrimination, favoritism and nepotism, hence not tenable in the eye of law.

E- That the impugned notification dated 06.10.2020 has neither been in the best interest of public service nor in exigencies of service, hence not tenable and liable to be set aside.

F- That vide impugned notification dated 06.10.2020 the appellant has been transferred against the wrong cadre/post of the Pharmacist (BPs-17), therefore the same is not tenable and liable to be set aside.

G- That the impugned notification dated 06.10.2020 is violating Clause-1 and IV of the transfer/posting policy of the Government of Khyber Pakhtunkhwa. Copy of the transfer/posting policy is attached as annexure.....**F**

H- That the appellant seeks permission to advance other grounds and proof at the time of hearing.

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

Dated: 02.02.2021


APPELLANT

MUHAMMAD SHOAIB KHAN

THROUGH:


NOOR MUHAMMAD KHATTAK

&

AFRASIAB KHAN WAZIR

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. _____/2021

MUHAMMAD SHOAIB KHAN

VS

HEALTH DEPTT

APPLICATION FOR SUSPENSION OF OPERATION OF THE
IMPUGNED NOTIFICATION DATED 06.10.2020 TILL THE
FINAL 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 the appellant filed the above mentioned appeal against the impugned notification dated 06.10.2020 whereby the appellant has been transferred from the post of Drug Inspector (BPS-17), District Mardan against the wrong cadre/post of pharmacist (BPS-17) BKMC, District Swabi.
- 3- That all the three ingredient necessary for the stay is in favor of the appellant.
- 4- That the impugned order dated 06.10.2020 had been issued by the respondent in utter disregard of law and prevailing rules.

It is therefore, most humbly prayed that on acceptance this application the operation of the impugned notification dated 06.10.2020 to the extent of appellant may very kindly be suspended till the disposal of the above mentioned service appeal.


APPLICANT

MUHAMMAD SHOAIB KHAN

THROUGH:


NOOR MUHAMMAD KHATTAK
ADVOCATE

Annexure A

GOVT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENTDated the Peshawar 10th October 2017NOTIFICATION

No. SDH-III/7-262/2017, On the recommendation of Khyber Pakhtunkhwa Public Service Commission the Competent Authority is pleased to appoint the following Drug Inspectors (BS-17) on regular basis with immediate effect:

S. No.	Name with Father's name	Domicile / Zone
1.	Muhammad Shakeel Nawaz S/o Muhammad Nawaz	Mansehra
2.	Sajid Noor S/o Khafiq Noor	L/Marwat.
3.	Muhammad Waqas Salilm S/o Sardar Muhammad Salilm Abid	Abbottabad /s
4.	Rooh Ullah S/o Khasta Khan	Bajaur Agency / 1
5.	Naamut S/o Humer Saed	UDA Mansehra /3
6.	Muhammad Sajid S/o Iqbal Hussain	Mardan / 2
7.	Imran ul Haq S/o Umar Muhammad	Dir Upper /3
8.	Muhammad Salim S/o Muhammad Azim	Lakki marwat / 1
9.	Yakha Khan S/o Fazle Akbar	Mardan /2
10.	Sabaht Zehra Qasmi D/o Hussin Nazir Qasmi	Haripur/5
11.	Khushal Khan S/o Habib Nazir Khan	Moh: Agy/1
12.	Muhammad Shoaib Khan S/o Sarzamin Khan.	Mardan/2
13.	Zia ur Rehman S/o Muhammad Siddique	Charsadda/2
14.	Muhammad Hamidullah S/o Bahedar Said	Dir Lower / 3
15.	Manzoor Ahmad S/o Muhammad Saddique	Karak /4

2. Their services shall be governed under Khyber Pakhtunkhwa civil Servants Act, 1973, as amended vide Civil Servants (Amendment) Act, 2005 and rules made there under and other relevant laws and rules.
3. The above mentioned officers shall remain on probation for a period one year, extendable to anchor one year in terms of Rule 15 of Khyber Pakhtunkhwa Appointment, Promotion & Transfer) Rules, 1989,
4. They are directed to assume charge within 30 days after the issuance of this notification failing which their appointment shall be treated as cancelled.

Posting / Transfer of the above mentioned Drug Inspectors will be issued later on



A no. B
6

GOVT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT.

Dated the Peshawar 25th October, 2017

NOTIFICATION.

No. SOH-III/7-262/2017, In pursuance of Health Department Notification No. SOH-III/7-262/2017 & SOH-III/2-58/2017 dated 10.10.2017, the following Drug Inspectors (BS-17) are hereby posted against the posts as indicated against their names with immediate effect in the public interest:

S.No	Name with Father's Name	Domicile/Zone	Place of Posting
1.	Muhammad Shakeel Nawaz S/o Muhammad Nawaz	Manshehra/5.	Against the vacant post of Drug Inspector BS-17 at District Abbottabad
2.	Sajid Noor S/o Khalid Noor	L/Marwat/4.	Against the vacant post of Drug Inspector BS-17 at District Bannu.
3.	Muhammad Waqas Salim S/o Sardar Muhammad Salim Abid.	Abbottabad/5	Against the vacant post of Drug Inspector BS-17 at District Manshehra
4.	Rooh Ullah S/o Khasla Khan	Bajaur Agency/1	Against the vacant post of Drug Inspector BS-17 at District Charsadda.
5.	Naamut Saed S/o Huner Saed	UDA Manshehra/3	Against the vacant post of Drug Inspector BS-17 at District Battagram.
6.	Muhammad Sajid S/o Iqbal Hussain	Mardan/2	Against the vacant post of Drug Inspector BS-17 at Nowshera
7.	Imran ul Haq S/o Umar Muhammad	Dir Upper/3	Against the vacant post of Drug Inspector BS-17 at District Swat.
8.	Muhammad Salim S/o Muhammad Azim	Lakki Marwat/4	Against the vacant post of Drug Inspector BS-17 at District Karak.
9.	Yahya Khan S/o Fazle Akbar	Mardan/2	Against the vacant post of Drug Inspector BS-17 at District Peshawar.
10.	Sabahat Zehra Qasmi D/o Hussain Nazir Qasmi.	Haripur/5	Against the vacant post of Micro-Biologist BS-17 at DTL Hayatabad, Peshawar.
11.	Khushal Khan S/o Habib Nazir Khan	Moh: Agy/1	Against the vacant post of Drug Inspector BS-17 at District Chitral.
12.	Muhammad Shoaib Khan S/o Sarzamin Khan.	Mardan/2	Against the vacant post of Drug Inspector BS-17 at District Mardan

**GOVT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

Dated the Peshawar 25th October, 2017

NOTIFICATION :

No. SOH-III/7-262/2017. In pursuance of Health Department Notification No. SOH-III/7-262/2017 & SOH-III/2-58/2017 dated 10.10.2017, the following Drug Inspectors (BS-17) are hereby posted against the posts as indicated against their names with immediate effect in the public interest.

S. No.	Name with Father's Name	Domicile / zone	Place of Posting
1.	Muhammad Shakeel nawaz S/o Muhammad Nawaz	Mansehra /5	Against the vacant post of Drug Inspector BS-17 at District Abbottabad
2.	Sajid Noor S/o Khaliq Noor	L/Marwat / 4	Against the vacant of Drug Inspector Bs-17 at District Bannu
3.	Muhammad Waqas Salim S/o Sardar Muhammad Salim Abid	Abbottabad/5	Against the vacant of Drug Inspector Bs-17 at District Mansehra
4.	Rooh Ullah S/o Khasta Khan	Bajaur Agency/1	Against the vacant of Drug Inspector Bs-17 at District Charsadda
5.	Naamut Saed S/o Huner Saed	UDA/ Mansehra/3	Against the vacant of Drug Inspector Bs-17 at District Battagram
6.	Muhammad Sajid S/o Iqbal Hussain	Mardan/2	Against the vacant of Drug Inspector Bs-17 at District at Nowshera
7.	Imran ul Haq S/o Umar Muhammad	Dir Upper /3	Against the vacant of Drug Inspector Bs-17 at District at District Swat
8.	Muhammad Salim S/o Muhammad Azim	Lakki Marwat / 4	Against the vacant of Drug Inspector Bs-17 at District at Karak
9.	Yahya Khan S/o Fazle Akbar	Mardan / 2	Against the vacant of Drug Inspector Bs-17 at District at Peshawar
10.	Sabahat Zehra D/o Hussain Nazir Qasimi	Haripur/5	Against the vacant of Drug Inspector Bs-17 at District at Against the vacant of Drug Inspector Bs-17 at DIL Hayatabad Peshawar
11.	Khushal Khan S/o Habib nazir Khan	Moh Agy/1	Against the vacant of Drug Inspector Bs-17 at District at Chitral
12.	Muhammad shoaib Khan S/o Sarzamin Khan	Mardan 2	Against the vacant of Drug Inspector Bs-17 at District Mardan

7

13.	Zio Ur Rehman S/o Muhammad Siddique	Charsadda/2	Against the vacant post of Drug Inspector BS-17 at District Buner.
14.	Muhammad Hamdullah S/o Bahadar Said	Dir Lower/3	Against the vacant post of Drug Inspector BS-17 at District Dir Upper.
15.	Manzoor Ahmad S/o Muhammad Saddique	Karak/4	Against the vacant post of Drug Inspector BS-17 at District Peshawar.
16.	Shazma Gohar D/o Sayed Gohar	Swabi/2	Against the vacant post of Bio- Chemist BS-17, DTL, Hayatabad Peshawar.

3. The above mentioned officers shall remain on probation for a period of one year, extendable to another one year in terms of Rule 15 of Khyber Pakhtunkhwa (Appointment, Promotion & Transfer) Rules 1989

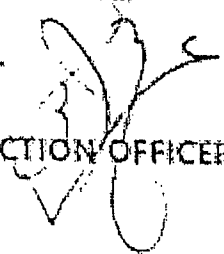
4. The above mentioned officers are hereby directed to assume charge within 15-days in the above mentioned stations/institutions after the issuance of this notification failing which their appointment shall be treated as cancelled.

Secretary to Govt. of Khyber Pakhtunkhwa
Health Department

Encl. even No and Date.

Copy forwarded to:

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Director General, Health Services, Khyber Pakhtunkhwa.
3. The In-charge, DTL, Hayatabad, Peshawar.
4. District Health Officers, mentioned above.
5. District Accounts Officers, mentioned above.
6. PSO to Chief Secretary, Khyber Pakhtunkhwa.
7. PS Secretary Health, Khyber Pakhtunkhwa.
8. PA to Additional Secretary (E) Health, Khyber Pakhtunkhwa.
9. PA to Deputy Secretary (Drugs) Health, Khyber Pakhtunkhwa.
10. Deputy Director (I.T) Health, Khyber Pakhtunkhwa.
11. Officers concerned.


SECTION OFFICER-III

25-X-2017



13.	Zia ur Rehman S/o Muhammad Saddique	Charsadda2	Against the vacant of Drug Inspector Bs-17 at District Buner
14.	Muhammad Hamidullah S/o Bahadar Said	Dir Lower / 3	Against the vacant of Drug Inspector Bs-17 at District Dir Upper
15.	Manzoor Ahmad S/o Muhammad Saddique	Karak/4	Against the vacant of Drug Inspector Bs-17 at District Peshawar
16.	Shazma gohar D/o Sayed Goar	Swabi2	Against the vacant of Drug Inspector Bs-17 DTL Hayatabad Peshawar

3. The above mentioned officers shall remain on probation for a period of one year, extendable to another one year in terms of Rule 15 of Khyber Pakhtunkhwa (Appointment, Promotion & Transfer) Rules, 1969.
4. The above mentioned officers are hereby directed to assume charge within 15 days in the above mentioned stations / institutions after the issuance of the notification failing which their appointment shall be treated as cancelled.

**Secretary to Govt of Khyber Pakhtunkhwa
Health Department**

Endst even No and Date:





GOVT. OF PUNJAB
HEALTH DEPARTMENT

Dated: 05 October 2020

NOTIFICATION

No. SO/11/50/17/2020. The Government hereby directs the following postings/transfers of Officers with immediate effect in the public interest.

S.No.	Name & Designation	From	To
1	Mr. Iqbal Hussain, Senior Pharmacist (BS-18)	Services Hospital, Peshawar	Deputy Director/Senior Pharmacist (BS-18) DG/DC & PS against the vacant post.
2	Mr. Iqbal Hussain, Analyst (BS-19)	District Hospital Laboratory, Peshawar	Sr. Pharmacist (BS-18), Services Hospital, Peshawar. Vice Sr. No. 1.
3	Miss Naila Bashir, Senior Pharmacist (BS-18)	Govt. MCO, DG/DC & PS	Analyst, District Hospital Laboratory, Peshawar. Vice Sr. No. 2.
4	Mr. Fazle Haq, Pharmacist (BS-17)	District Hospital Laboratory, Peshawar	DC, DC & PS against the vacant post of Pharmacist/DI/Chemist (BS-17).
5	Mr. Fawad Alam, Pharmacist (BS-17)	Moultvi Ameer, Shar Mohd. Hospital, Peshawar	DC, DC & PS against the vacant post of Pharmacist/DI/Chemist (BS-17).
6	Mr. M. Shahid Ullah, Pharmacist (BS-17)	Bachchan, Madani Complex, Swabi	Drug Inspector (BS-17) Mardan. Vice Sr. No. 17.
7	Mr. Amin Ullah, Sr. Drug Inspector (BS-18)	District Mardan	Senior Pharmacist (BS-18) BPA Hospital, Mardan against the vacant post.
8	Mr. M. Madhur, Pharmacist (BS-17)	District Mardan	Drug Inspector (BS-17) Mardan. Vice Sr. No. 17.
9	Mr. S. Shabaz, Drug Inspector (BS-17)	District Mardan	Pharmacist (BS-17) DHO Hospital, Mardan. Vice Sr. No. 8.
10	Mr. N. N. N. Pharmacist (BS-17)	District Mardan	Drug Inspector (BS-17) Swabi against the vacant post.
11	Mr. Z. Ullah, Drug Inspector (BS-17)	District Peshawar	Pharmacist (BS-17) DHO Hospital, D.T. Tower, (G.S. No. 10).
12	Mr. R. R. R. Pharmacist (BS-17)	District Mardan	Assistant Director (BS-17) DG, DC & PS against the vacant post.
13	Mr. M. M. M. Drug Inspector (BS-17)	District Mardan	Drug Inspector (BS-17) Mardan. Vice Sr. No. 17.

P.R.

Handwritten signature

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Annexure B

GOVT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated the Peshawar 06th October, 2020

NOTIFICATION:

No. SOH-III/10-4/2020. The Competent Authority is pleased to order following postings / transfers of officers with immediate effect in the public interest.

S. No.	Name & Designation	From	To
1.	Mr. Inam ul haq Senior Pharmacist (BS-18)	Services Hospital Peshawar	Deputy Director / Senior Pharmacist (Bs-18), DG, DC & PS Against the vacant post
2.	Mr. Arif Hussain, Analyst (BS-18)	Drugs Testing Laboratory Peshawar	Sr. Pharmacist (BS-18) Services Hospital, Peshawar Vice Sr. No. 01
3.	Miss Naila Basher, Senior Pharmacist (BS-18)	Services Hospital Peshawar	Deputy Director / Senior Pharmacist (Bs-18), DG, DC & PS Against the vacant post
4.	Mr. Falze Haq Pharmacist (BS-18)	Services Hospital Peshawar	Deputy Director / Senior Pharmacist (Bs-18), DG, DC & PS Against the vacant post
5.	Mr. Fawad Alam Pharmacist (BS-17)	Services Hospital Peshawar	Deputy Director / Senior Pharmacist (Bs-18), DG, DC & PS Against the vacant post
6.	Mr. Misbah Ullah Jan, Pharmacist (BS-17)	Services Hospital Peshawar	Deputy Director / Senior Pharmacist (Bs-18), DG, DC & PS Against the vacant post
7.	Mr. Amin Ul Haq Sr. Dug Inspector (Bs-18)	Drugs Testing Laboratory Peshawar	Sr. Pharmacist (BS-18) Services Hospital, Peshawar Vice Sr. No. 01
8.	Mr. Abdur Rauf Pharmacist (BS-17)	Drugs Testing Laboratory Peshawar	Sr. Pharmacist (BS-18) Services Hospital, Peshawar Vice Sr. No. 01
9.	Mr. Shehzad Mustafa Drug Inspector (Bs-18)	Drugs Testing Laboratory Peshawar	Sr. Pharmacist (BS-18) Services Hospital, Peshawar Vice Sr. No. 01
10.	Mr. Naimatullah Pharmacist (BS-17)	Drugs Testing Laboratory Peshawar	Sr. Pharmacist (BS-18) Services Hospital, Peshawar Vice Sr. No. 01
11.	Mr. Zia Ullah, Drug Inspector (Bs-18)	Drugs Testing Laboratory Peshawar	Sr. Pharmacist (BS-18) Services Hospital, Peshawar Vice Sr. No. 01
12.	Mr. Rohullah drug Inspect (BS-17)	Drugs Testing Laboratory Peshawar	Sr. Pharmacist (BS-18) Services Hospital, Peshawar Vice Sr. No. 01
13.	Mr. Imran Burki Drug Inspector (Bs-17)	Drugs Testing Laboratory Peshawar	Sr. Pharmacist (BS-18) Services Hospital, Peshawar Vice Sr. No. 01

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17. Mr. Mansoor Khan, District Karakoram (BS-17)	18. Mr. Manzoor Khatik, District Karakoram (BS-17)	19. Mr. Shoukat, District Karakoram (BS-17)
20. Mr. Muhammad Saleem, District Karakoram (BS-17)	21. Mr. Manzoor Khatik, District Karakoram (BS-17)	22. Mr. Shoukat, District Karakoram (BS-17)

Secretary to Govt. of Khyber Pakhtunkhwa Health Department

List of copy No and Date

Copy forwarded to the

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar
2. Director General, Health Services, Khyber Pakhtunkhwa, Peshawar
3. Director General, Drug Control & Pharmacy Services, Khyber Pakhtunkhwa, Peshawar
4. In-charge Drug Testing Laboratory, Hayatabad, Peshawar
5. Medical Superintendent, Services Hospital, Peshawar
6. Medical Superintendent, Moulvi Ahmad Shah Memorial Hospital, Peshawar
7. Medical Superintendent, DHO Hospital, concerned
8. Hospital Director, BKMC Swabi
9. District Health Officer, concerned
10. District Accounts Officer, concerned
11. The Deputy Director, Health Department
12. PS to Director Health, Khyber Pakhtunkhwa
13. PS to Secretary Health, Khyber Pakhtunkhwa
14. PA to Deputy Secretary Health, Health Department
15. Officers concerned

(Signature)
 26/11/22
 SECTION OFFICER-III

9

14.	Mr. Ibrar Khan, Drug Inspector (BS-17)	District Lakki Marwat	Drug Inspector (BS-17) Karak Vice Sr. No. 15
15.	Mr. Muhammad Nadeem Drug Inspector (BS-17)	District Karak	Drug Inspector (BS-17) Karak Vice Sr. No. 15
16.	Mr. Manzoor Khattak Drug Inspector (Bs-17)	District Peshawar	Pharmacist (BS-17) KDA Kohat against the vacant post
17.	Mr. Shoaib, Drug Inspector (BS-17)	District Mardan	Pharmacist (Bs-17) KDA BKMC, Swabi against the vacant post

Secretary to Govtof Khyber Pakhtunkhwa
Health Department

Endst of even No and date:

Copy forwarded to the: -

1. The Accountant General Khyber Pakhtunkhwa Peshawar
2. Director General, Health Services, Khyber Pakhtunkhwa Peshawar.
3. Director General, Drug Control & Pharmacy Services Khyber Pakhtunkhwa Peshawar.
4. Incharge, Drug Testing Laboratory Hayatabad Peshawar.
5. Medical Superintendent Services Hospital Peshawar.
6. Medical Superintendent Moulvi Ammeer Shah Memorial Hospital, Peshawar.
7. Medical Superintendent DHQ Hospital concerned.
8. Hospital Director BKMC Swabi.
9. District Health Officer concerned.
10. District accounts officers concerned.
11. The Deputy Director (IT) health department
12. PS to Minister health Khyber Pakhtunkhwa Peshawar.
13. PS to Secretary Health Khyber Pakhtunkhwa Peshawar.
14. PA to Deputy Secretary Drugs health Department
15. Officers concerned.

Sd/-
(Latif ur Rehman)
Section Officer-III

[Handwritten signature]

6/10/20

BEFORE THE HONORABLE CHIEF SECRETARY KHYBER PAKHTUNKHWA

D-(10)

SUBJECT : APPEAL FOR CANCELLATION OF POSTING/TRANSFER ORDER OF Mr. MUHAMMAD SHOAB KHAN DRUG INSPECTOR MARDAN AS HOSPITAL PHARMACIST

Respected Sir,

Respected sir, the undersigned is pleased to divert your kind attention to the subject cited matter, with following submissions:

- That I was recruited as drug inspector by the health department in 2017.
- That a meeting of standing service rules committee was held on **26-12-2016** in health department which reached to a conclusion culminated in the form of a notification issued on **08th September 2017**. (Annexure-1)
- That in this notification of 08th September 2017 the Health Department Khyber Pakhtunkhwa notified the cadre amalgamation of different cadres that is Drug Inspectors, Pharmacists and Govt. analyst on the basis of having same basic qualification and declared the said three cadres as dying cadres with existing incumbents to continue under the existing service rules, seniority and promotion prospects.
- That having being aggrieved of this impugned notification of amalgamation the drugs inspectors filed a writ petition No. **4378-P/2017** before the honorable high court of Peshawar.
- That the honorable Peshawar high court allowed the said petition and declared the impugned notification of amalgamation as illegal, void ab-initio and hence set it aside. (Annexure-2)
- One of the main purposes of this impugned notification of amalgamation was to carry out posting of officers across the cadres.


Owing to above facts, it is vivid that cross cadres transfers are not a rule but an exception which is why this whole exercise of carrying out meeting of SSRC to merge three cadres was carried out. Had cross cadre transfers been so simple, it would surely have not needed the health department to merge these three cadres. Respected sir, it is very unfortunate that

APPROVED

(11)

despite the decision of honorable Peshawar high court in which the august court declared the merger/impugned notification as illegal and set it aside, the health department still is carrying out cross cadre transfers of officers, which not only has rendered the undersigned devoid of his basic right but at the same time can potentially hamper the service delivery of concerned quarters.

In view of what has been stated above, it is thus very humbly requested that the posting/transfer order issued may please be revoked/cancelled/withdrawn in the interest of fairness & equity.


MUHAMMAD SHOAIB KHAN

Provincial Drug Inspector
Mardan.

RECEIVED

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

APPEAL NO. 16579 /2021

Khyber Pakhtunkhwa Service Tribunal

Diary No. 601

Dated 11/1/2021

Mr. Zia Ullah, Drug Inspector (BPS-17),
O/O the Drug Inspector, Drug Control Unit, Timargara, District Dir Lower
under transfer to the post of Hospital Pharmacist (BS-17), District Head
Quarter Hospital, Temargara, District Dir Lower.

.....**APPELLANT**

VERSUS

- 1- The Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary to Government of Khyber Pakhtunkhwa Health Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director General Drug Control & Pharmacy Services, Khyber Pakhtunkhwa, Peshawar.

.....**RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION DATED 06.10.2020 WHEREBY THE APPELLANT HAS BEEN TRANSFERRED FROM THE POST OF DRUG INSPECTOR (BPS-17), DRUG CONTROL UNIT, TEMARGARA, DISTRICT DIR LOWER TO THE POST OF HOSPITAL PHARMACIST (BS-17), DISTRICT HEAD QUARTER HOSPITAL, TEMARGARA, DISTRICT DIR LOWER IN UTTER VIOLATION OF TRANSFER/POSTING POLICY AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY

Filed to-day 11/1/2021 **DAYS.**

Registrar
11/1/2021

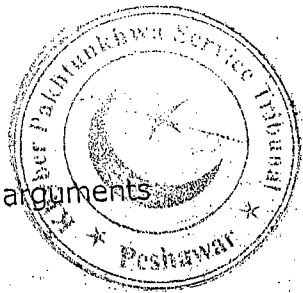
PRAYER:

That on acceptance of this appeal the impugned Notification dated 06.10.2020 may very kindly be set aside to the extent of appellant and the respondents may kindly be directed not transfer the appellant from the post of Drug Control Unit, Temargara, District Dir Lower. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:
ON FACTS:

Certified to be true copy
EXAMINER
Khyber Pakhtunkhwa Service Tribunal, Peshawar

(13)



18.01.2021

Appellant present through counsel. Preliminary arguments heard. File perused.

At the very outset, counsel for appellant submitted an application seeking impleadment of one Naimat Ullah in the panel of respondents which is accepted and Naimat Ullah is impleaded as respondent No.4 in the panel of respondents. Necessary entries be made in the relevant register as well as in the memo of appeal.

Points raised need consideration. Admitted to regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to respondents for written reply/comments. To come up for written reply/comments on 03.02.2021 before S.B.

Annexed with the memo of appeal is an application for interim relief. Notice of the said application be issued to the respondents. In the meanwhile, the operation of impugned order shall remain suspended, if not acted upon earlier.

Date of Presentation of Application 22/1/21

Number of Words 800

Copying Fee 10/-

Urgent 5/-

Total 15/-

Name of Copyist _____

Date of Completion of Copy 22/1/21

Date of Delivery of Copy 22/1/21

(Signature)
(Rozina Rehman)
Member (J)

Certified to be true copy
(Signature)
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

APPEALED

**GOVERNMENT OF NWFP
HEALTH DEPARTMENT**

Date of Issue: 12 April, 2008

14

NOTIFICATION

1. In pursuance of the provisions contained in sub-rule (2) of rule 3 of the North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1959, and in supersession of all provisions in force on this behalf, the Health Department, in consultation with the Establishment Department and Finance Department, hereby lays down the method of recruitment, qualifications and other conditions specified in column 3 to 5 of the Appendix to this Notification, which shall be applicable to the posts specified in column 2 of the said Appendix.

APPENDIX

1	2	3	4	5
No.	Name of post	Minimum qualification for by initial recruitment	Age limit for initial recruitment	Method of recruitment
	Chief Drug Inspector			By promotion, on the basis of seniority-cum-fitness, from amongst the Divisional Drug Inspectors with 12 years service in SPS.
	Drug Inspector	1) Degree in Pharmacy from a recognized university and 2) two year experience in the drug administration, or in a hospital or pharmacy.	21-35 years	By initial recruitment.

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SECRETARY TO HEALTH

[Handwritten signature]
 Assistant Director (Health)
 Director General Health
 Director General Health Services
 Govt. of NWFP
 Health Department

[Handwritten signature]
 Assistant Director (Health)
 Director General Health Services
 Govt. of NWFP
 Health Department

[Handwritten signature]
 Assistant Director (Health)
 Director General Health Services
 Govt. of NWFP
 Health Department

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ATTACHED

NOTIFICATION

No: SOH (III) / 10-4/05 (GDI) in pursuance of the provision contained in sub rule (2) of rule 3 of the North-West Frontier Province Civil Servant (Appointment, Promotion and Transfer) Rules 1989 and in supersession of all provisions notification on this behalf the Health Department in consultation with the Establishment Department and Finance Department, hereby lays down the method of recruitment qualification and other conditions specified in column 3 to 5 of the appendix to this Notification which shall be applicable to the posts specified in column 2 of the said Appendix.

S. No	Nomenclature	Minimum Qualification	Age Limit for Initial Recruitment	Method of Recruitment
1	Chief Drug Inspector	--	--	By promotion on the basis of seniority cum-fitness from amongst the Divisional Drug Inspector with 12 years service in BPS 17 and above
2	Division Drug Inspector	--	--	By promotion on the basis of Seniority-cum-Fitness from amongst the Drug Inspectors in BPS 17 with 3 year service
3	Drug Inspector	1) Degree in Pharmacy from a recognized university and 2) One year experience in manufacturing sales testing or analysis of drugs or in the drug administration or in a hospital pharmacy	21 - 35 years	By Initial Recruitment

HEALTH DEPARTMENT
GOVERNMENT OF NWFP
Dated Peshawar the 9th April 2006

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Annex E
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SECRETARY HEALTH

ATTN:

ED

No. & Date Given

- 1) The Accountant General, NWFP, Peshawar.
- 2) The Secretary to Govt. of NWFP, Establishment Department.
- 3) The Secretary to Govt. of NWFP, Finance Department.
- 4) The Secretary to Govt. of NWFP, Law Department.
- 5) The Chairman, NWFP, Public Service Commission.
- 6) Director General Health Services, NWFP, Peshawar.
- 7) The Director, Provincial Health Services Academy, NWFP, Peshawar.
- 8) All Chief Executives of Teaching Hospitals/Hospitals in NWFP.
- 9) The Manager, Govt. Printing Press, Peshawar, with the request to notify the Service Rules in the next issue of Govt. Gazette and to request that 20 copies of the Gazette in which the notification is published may kindly be supplied to this Department for official use.
- 10) The Section Officer (General), Health Department.
- 11) PS to Secretary Health.

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[Signature]
 ASSISTANT SECRETARY
 Section Officer (General)

[Signature]
 Assistant Director (P-1)
 Director General Health
 Services - Khyber Pakhtunkhwa

[Signature]
 Assistant Director (P-1)
 Director General Health
 Services - Khyber Pakhtunkhwa

[Signature]
 Assistant Director (P-1)
 Director General Health
 Services - Khyber Pakhtunkhwa

[Signature]
 SECTION OFFICER III
 Govt. of Khyber Pakhtunkhwa
 Health Department

[Signature]

[Signature]
 ATTEST

(18)

ANNOTED

Encl: No and date Even

Copy to :

1. The Accountant General NWFP, Peshawar
2. The Secretary to Govt of NWFP, Establishment Department
3. The Secretary to Govt of NWFP, Finance Department
4. The Secretary to Govt of NWFP, Law Department
5. The Chairman NWFP Public Service Commission.
6. Director General Health services, NWFP Peshawar.
7. The director Provincial Health services academy NWFP Peshawar
8. All Chief executives of Hospital in NWFP
9. The Manager Govt Printing Press Peshawar with the request to notify the service rule in the existence of Govt Gazetteer and to request that 20 copies of the in which the notification is published may kindly be supplied to this Department for official use.
10. The Section officer (General) Health Department
11. PS to Secretary Health.

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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

While 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-I(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

- 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.

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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 options 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.

AD 10-1-2003

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO: _____ OF 2020

M. Shoab Khan

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

C Health Dept

(RESPONDENT)
(DEFENDANT)

I/We M. Shoab Khan

Do hereby appoint and constitute **NOOR MOHAMMAD 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. ____/____/2020



CLIENT


ACCEPTED

NOOR MOHAMMAD KHATTAK

(BC-10-0853)

15401-0705985-5


KAMRAN KHAN


&
AFRASIYAB WAZIR
ADVOCATES

OFFICE:

Flat No.4, 2ND Floor,
Juma khan plaza near
FATA Secretariat, Warsak road
Peshawar City. Mobile No. 0345-9383141

"B"

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.**

SR

No.

Appeal No.....923..... of 20 21

Muhammad Shoaib Khan Appellant/Petitioner

Versus

Regd The Secy Health KPK Peshawar Respondent

Respondent No.....3.....

Notice to:

The Director General Drug control & Pharmacy Services KPK Peshawar.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal on.....22/2/2021.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this

office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....2/2.....

Day of.....Feb.....20 21

Registrar,

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

“B”

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR. SB

No.

Appeal No. 923 of 20 21

Muhammad Shoaib Khan Appellant/Petitioner

Versus

The Reg. Health Officer Peshawar Respondent

Respondent No. 4

Regd

Notice to: —

Misbah ul Latif Jam Pharmacist (BPS-17)
BKMC Distt Swabi

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal on 22/2/2021 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this

office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this 8th

Day of Feb 20 21

[Signature]
Registrar,

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

S.B

No.

Appeal No. 923 of 20 21

M. Shoaib Khan Appellant/Petitioner

Versus

Chief Sarg KPK Peshawar Respondent
 Respondent No. 1

Notice to:

The Court of KPK Chief Secretary Peshawar

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal on 22/2/2021 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No. dated~~

Given under my hand and the seal of this Court, at Peshawar this 8/15

Day of Feb 20 21

[Signature]
 BRANCH
 SECRETARY
 15/02

[Signature]
 Registrar,
 Khyber Pakhtunkhwa Service Tribunal
 Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
 2. Always quote Case No. While making any correspondence.

"B"

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.**

No.

Appeal No. 923 of 20 21

Muhammad Shoab Khan Appellant/Petitioner

The Secy Health Deptt Peshawar Respondent

Respondent No. 2

The Secretary Health Deptt KPDK Peshawar

Notice to:

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal on 22/2/21 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which is the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purposes of this appeal/petition.

Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide office Notice No.....dated.....~~

Given under my hand and the seal of this Court, at Peshawar this 21

Day of Feb 20 21

S
18/2/21



Registrar,
Khyber Pakhtunkhwa Service
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

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

SERVICE APPEAL NO. 923/2021

Muhammad Shoaib Khan.....Petitioner

Versus

Government of Khyber Pakhtunkhwa & othersRespondents

Index

S. No.	Description	Annexure	Pages No.
1	Signed Comments		1-5
2	Judgment in COC 276-P/2021 in WP 4378-P/2017	I	6-8
3	Cabinet letter dated 01/10/2018	II	9
4	Notification dated 20/11/2018	III	10
5	Notification dated 08/09/2017	IV	11
6	Order Punjab Govt. dated 18/02/2021	V	12-17

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

SERVICE APPEAL NO.923/2021

Muhammad Shoaib Khan.....Appellant

Versus

Govt. of Khyber Pakhtunkhwa Health Department and others.....Respondent

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

Respectfully Sheweth: That the respondents submitted as under:-

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.
5. That the Appellant has filed the instant Appeal with mala-fide intention hence liable to be dismissed.
6. That the Appeal is badly time barred.
7. That the Honorable Tribunal has no Jurisdiction to adjudicate upon the matter.
8. That the instant appeal is bad for mis-joinder of unnecessary and non-joinder of necessary parties.
9. The impugned transfer Notification has been issued in accordance with Section 10 of the Civil Servant Act 1973.

ON FACTS:

1. Correct to the extent that the appellant is an employee of Health Department selected through Khyber Pakhtunkhwa Public Service Commission but the performance is questioned on the basis of his monthly progress report compiled on the basis of set indicators, besides facing inquiries.
2. Incorrect the appellant has already completed his normal tenure of two years as he was posted vide notification dated 25/10/2017 and the impugned notification has been issued on dated 06/10/2020 even otherwise as per Section 10 of the Khyber Pakhtunkhwa Civil Servant Act 1973 it is upon the discretion of competent authority to transfer a civil servant at anytime even outside of the province.
3. Incorrect. The appellant has been transferred within the same directorate under section 10 of Khyber Pakhtunkhwa Civil Servants Act 1973. Even if he would have been transferred in ex-cadre, the same is also covered under the second proviso of the Act ibid which provides as under;

“A civil servant may be posted even outside his service or cadre provided terms and conditions of his services would not be affected”.

No terms and conditions of his services have been violated as per dictum laid down by Supreme Court of Pakistan in judgment reported as 2017 SCMR 798. It has clearly mentioned that the competent authority may transfer any civil servant anywhere in exigency of services.

4. The Service Rules does not carry any kind of assignment to a cadre but it specifies the method of recruitment and promotion prospects which is otherwise protected after the merging of cadre. Although transfer is not a punishment but to make such like people punctual, subservient to the public and to overcome the deficiency of efficient of hardworking officer to post right

person on right place, the three cadres i.e hospital pharmacist, drug inspector and analyst having same basic qualification as required for induction through Public Service Commission, were merged to obviate the stagnancy in the cadre. By doing so any drug inspector or an analyst at DTL (who are the cadre of the 04 to 05 persons) can be transferred making them liable to work in hospital under the close supervision of hospital administration and vice versa. Those who are transferred from hospital to work in the field as drug inspector are tremendously working, removing the bottlenecks and highlighting a lot of mal-practices previously done by their predecessor who have been sacked from field duty. In other similar cases, the drug inspectors who are sacked are under probe at Provincial Inspection Team and other fora.

With the notification of merger cadre which is questioned only on the basis of proxy membership of Section Officers/Deputy Secretaries of attending SSRC instead its notified members is now a base for the instant appeal by the appellant but he has concealed that a CoC on similar ground has been dismissed by a bench headed by Honorable Chief Justice Peshawar High Court, Peshawar (**Annex-I**) directing that there is no such bar on posting/transfer imposed in the earlier judgment which is now based for this appeal. Besides, a lot of work has been done thereafter issuing the merger notification by Health Department to carry forward the idea of merger of cadre resulted in the establishment of separate Directorate duly approved by Provincial Cabinet(**Annex-II**) bringing the three sister cadre under one Directorate and accordingly amendment in the KP Rules of business, 1985(**Annex-III**) made specifying the Directorate of Drug Control and Pharmacy Services as separate attached department of Health Department under the Director General who will be an officer of the joint cadre.

The Notification (**Annex-IV**) on the basis of which appeal is filed, was issued way back in 2017 where after in the last three years a lot of work has been done on the basis of merged cadre and posting transfer ordered significantly in Drug Testing Lab to issue a test report after testing sample for prosecution purpose and that report has a legal mandate and it is apprehended if these transfer are reversed, hundreds of drug cases which are under trial in Drug Court will be in fructuous on the basis of test report issued by the one transferred to DTL from other sister cadre.

5. Incorrect, moreover the appellant is not an aggrieved person within the meaning of Civil Servant act, 1973.

Grounds:

- A. Incorrect. The impugned Notification is based on law Rules principles of Natural Justice and in accordance with dictum laid by Supreme court in various judgment. As per 2020 PLCCS 1207 Supreme Court,

PLACE of service ...Prerogatives of employer...Government servant was required to serve any where his employer wanted him to serve; it was not a choice or prerogative of the employee to claim a right to serve at a place that he chose to serve.

Similarly in another judgment reported as 2004 PLC (CS) 705S.C. It has been laid down that civil servant could not claim posting at a particular station or at the place of his choice. Competent authority, under S 9 of the Punjab civil servant Act 1974, was empowered to transfer any civil servant from one place to other at anytime in exigencies of service or on administrative ground.

- B. Explain in Para-A.
- C. Incorrect .there is no mala fide on the part of respondents towards the appellant. The appellant issued the transfer Notification in accordance with law in the public interest.
- D. Explained Para-C.
- E. It is in the fitness of things to post a right person at a right place to achieve good governance and enhance public service delivery whereas the appellant drastically failed to work efficiently in the field duty as drug inspector in curbing the menace of spurious drugs, action against illegal

pharmacy, data of drug sale licensing and other contravention as reported by the directorate of drugs therefore he has been sacked from filed duty to put in place in hospital to work under close supervision of hospital administration. It is not a novel practice but the same is being practiced in the province of Punjab also. A Notification of Govt. of Punjab carrying such transfer is also attached (**Annex-V**).



F. Incorrect. The appellant has been transferred within his cadre within the same directorate under section 10 of Khyber Pakhtunkhwa Civil Servants Act 1973. Even if he would have been transferred in ex-cadre, the same is also covered under the second proviso of the ibid Act which provides as under;

“A civil servant may be posted even outside his service or cadre provided terms and conditions of his services would not be affected”.

G. Already explained in preceding paras.

H. Incorrect. The Notification issued on observance of all relevant rules/policy while the term prematurely transfer used by the appellant is clarified by the judgment reported as 2004 PLC (CS) 705S.C. It has been laid down that civil servant could not claim posting at a particular station or at the place of his choice. Competent Authority was empowered to transfer any civil servant from one place to other at anytime in exigencies of service or on administrative ground.

It is therefore requested that the Appeal of the Appellant may kindly be dismissed with cost to avoid stagnancy amongst the merged cadre notified to enhance the service delivery and to safeguard the public interest at large.

 Secretary Health Department Khyber Pakhtunkhwa Respondent No-2	 Director General Drug Control & Pharmacy Services, Khyber Pakhtunkhwa Respondent No-3
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Area 1 (6)

IN THE PESHAWAR HIGH COURT,
PESHAWAR,
JUDICIAL DEPARTMENT

COC No. 276-P/2020 in W.P No. 4378-P/2017.

SM Asad Halimi..... Petitioner.

Versus.

Syed Imtiaz Hussain Respondents.



For petitioner:- Mr. Asad Jan Durani
Advocate.

For respondents:- Mr. Muhammad Riaz Khan. AAG.

Date of hearing: 16.06.2020

JUDGMENT

MUHAMMAD NAEEM ANWAR, J.- Through the instant petition the petitioner has asked for initiating contempt of court proceedings against the respondents for non-compliance of direction of this court issued in the judgment rendered in W.P No. 4378/2017 on 11.03.2020.

2. Learned counsel for the petitioner submitted that this court in the judgment rendered in writ petition No. 4378-P/2017 has declared the notification bearing No. SOH (III)/HD/10-4/2017/DCPS dated 08.09.2017 as void *ab initio*, against the law and illegal, however, the respondents without considering the specific direction of this court has issued notification bearing No. SOH-III/7-262/2020 dated 30.04.2020, as such, they are liable to be proceeded under the Contempt of Court Act, 2003.

ATTESTED
EXAMINER
Peshawar High Court

3. We have heard learned counsel for the petitioner and perused the record.

4. Perusal of the record would reveal that in the writ petition No. 4378-P/2017, notification dated 29.01.2005 was challenged as the same was issued against the Standing Services Rules Committee (SSRC). The operative part of the judgment is reproduced as under:-

[Handwritten mark]

“ Admittedly, the impugned notification of merger of three cadres of Drug Inspectors, Pharmacists and Chemists and Drug Analysts have been issued on the recommendation of Standing Service Rules Committee (SSRC) but while perusing minutes of the Committee, so constituted, the persons, who had attended the meeting, are not in accordance with the notification NO. SOR. VI(E & AD) 2-69/2003 dated 29th January, 2005 produced by the learned counsel for the petitioners during the course of hearing, placed on file, vide which, the Committee would comprising of Administrative Secretary concerned (Chairman), Additional Secretary (Regulation) E & A Department, Additional Secretary (Regulation) Finance Department, Additional Secretary Law Department, Head of the attached Department concerned and Deputy Secretary (Admn) of the Department concerned (Members); so, keeping in view the above fact, the impugned notification

[Signature]
ATTORNEY
EXAMINER
Peshawar High Court

issued by the respondents is illegal, void ab initio and the same is, thus, liable to be set aside.

Whereas after decision of the said writ petition, the respondents have issued notification dated 30.04.2020, whereby the petitioner No.1 was transferred and posted against the vacant post as Chief Pharmacist (BPS-19) at DIQ hospital, KDA Kohat, petitioner No.2 as Chief Pharmacist (BS-19) at Govt Naseerullah Khan Babar Memorial Hospital, Peshawar, and petitioner No. 3 as Chief Pharmacist (PS-19) at Services hospital, Peshawar, regarding which no such direction has ever been issued by this court, insofar as the matter regarding notification dated 29.01.2005 is concerned, the same has already been declared as void ab initio. The petitioners may challenge the notification vide which certain posting and transfers were made through separate petition before appropriate forum, if they so desired.

5. In this view of the matter, this petition is dismissed being not maintainable.

Announced
16.06.2020.
M.Zafar PS

CHIEF JUSTICE

JUDGE

(DB: Hon'able Mr. Justice Waqar Ahmad Seth, HCJ & Hon'able Mr. Justice Muhammad Naeem Anwar)

No. 32301
Date of Presentation of Application 23/6/20
No of Pages 3
Copying fee 300
Total 300
Date of Preparation of Copy 23/6/20
Date of Delivery of copy 23/6/20
Received By [Signature]

CERTIFIED TO BE TRUE COPY

Examiner
Peshawar High Court, Peshawar
Authorised Under Article 177 of
the Constitution of Pakistan

23 JUN 2020



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT AND ADMN: DEPARTMENT
(CABINET WING)
No.SOC(E&AD)9-2/2018
Dated Peshawar the 1st October, 2018.

52

Amir

9

To,

The Secretary to Govt. of Khyber Pakhtunkhwa,
Health Department

SUBJECT: DECISION OF MEETING OF THE PROVINCIAL CABINET DATED 27.09.2018.

Dear Sir,

I am directed to forward herewith the following decision of the meeting of Provincial Cabinet held on 27.09.2018 under the chairmanship of Chief Minister, Khyber Pakhtunkhwa for implementation.

ITEM NO. 01
ESTABLISHMENT OF DIRECTORATE OF DRUG CONTROL & PHARMACY SERVICES, HEALTH DEPARTMENT

Decision of the Cabinet:

Acting Secretary Health Department briefed the Cabinet about the salient features of the item. During the course of discussion the Hon'able Chief Minister referred to the observations made by Finance Department as well as Establishment Department as reflected in the summary on the subject.

The Secretary Finance, while supporting the proposal pointed out that the Establishment of Directorate of Drug Control only involves creation of one post, having no financial implications. Minister Health also spoke on the occasion. After detailed discussion, the Cabinet approved the item.

Implementing Department: Health Department

2. I am to request that an implementation report of the Cabinet decision as required under Rule 25 (2) of the Khyber Pakhtunkhwa Government Rules of Business, 1985 may kindly be furnished on top priority basis to the Cabinet Section, Administration Department.

Yours faithfully,

Amir Khan
SECTION OFFICER (CABINET)



GOVT. OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMN. DEPARTMENT
(REGULATION WING)

Dated Peshawar, the 20th November, 2018

Amir Ali

10

NOTIFICATION

No. SO (O&M)/E&AD/2-10/2018 In exercise of the powers conferred by Article 139 of the Constitution of the Islamic Republic of Pakistan, the Government of Khyber Pakhtunkhwa is pleased to direct that in the Khyber Pakhtunkhwa Government Rules of Business, 1985, the following further amendments shall be made, namely:

AMENDMENTS

1. In Schedule-I, against serial No. II, in Columns 3 and 4, the existing entries shall be renumbered as clause (a) and thereafter the following new entries shall be added, namely:

1.	2.	3.	4.
"B" Health Department		(a) Directorate General Health Services. (b) Directorate General of Drugs Control and Pharmacy Services.	(a) Director General, Health Services. (b) Director General, Drugs Control and Pharmacy Services.

CHIEF SECRETARY,
GOVT. OF KHYBER PAKHTUNKHWA

Endst: No. & Date Even

1. All Administrative Secretaries, Khyber Pakhtunkhwa,
2. Principal Secretary to Governor, Khyber Pakhtunkhwa
3. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
4. All Heads of Attached Departments, Khyber Pakhtunkhwa.
5. Director Information, Khyber Pakhtunkhwa.
6. All Divisional Commissioners/Deputy Commissioners in Khyber Pakhtunkhwa
7. Accountant General, Khyber Pakhtunkhwa.
8. Registrar Peshawar High Court, Peshawar.
9. Registrar Service Tribunal, Khyber Pakhtunkhwa, Peshawar.
10. Secretary Public Service Commission, Khyber Pakhtunkhwa, Peshawar.
11. All PSs to Provincial Ministers/Advisors/Special Assistants to Khyber Pakhtunkhwa.
12. PS to Chief Secretary, Khyber Pakhtunkhwa.
13. Controller, Government Printing Press Peshawar.

Dr. Irum Shaheen
(Dr. Irum Shaheen)
SECTION OFFICER (O&M)

Handwritten notes and signatures at the bottom of the page.



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar the 9th September 2017

NOTIFICATION:

No: SOH (III)/HD/10-4/2017/DCPS: Consequent to the recommendations of the SSRC and to improve the human resource management, the Chief Minister Khyber Pakhtunkhwa is pleased to approve the following arrangements for Pharmacists, Drug Inspectors, Chemists & Drug Analysts cadres of Health Department Khyber Pakhtunkhwa.

- 1) These cadres are declared dying cadres with the existing incumbents to continue under the existing service rules, seniority and promotion prospects which shall stand protected for each cadre within their own lines of hierarchy till last incumbent is in service.
- 2) For the new recruitment at the initial stage, since basic qualifications of the above mentioned cadres are the same, therefore all the three cadres are hereby merged into a single cadre for which rules shall be framed as per procedures.
- 3) All the three cadres are hereby declared as pool posts for posing/transfer only

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

OFFICE OF THE DG HEALTH SERVICES KHYBER PAKHTUNKHWA PESHAWAR

No. 18574-634/E-I

Dated Peshawar the 29/09/2017.

Copy of the above is forwarded to the:

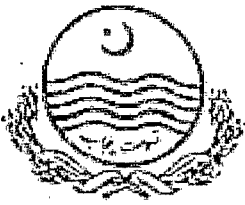
1. All District Health Officers in Khyber Pakhtunkhwa.
2. All Medical Superintendents DHQ Hospitals in Khyber Pakhtunkhwa.
3. All Medical Superintendents Teaching Hospitals in Khyber Pakhtunkhwa.
4. All Hospital Directors MTI in Khyber Pakhtunkhwa.
5. Senior Govt. Analyst Provincial Drug Testing Laboratory Phase-V Hayatabad Peshawar.
6. Govt. Analyst Food Testing Laboratory Peshawar.
7. DHS FATA Peshawar.
8. Chief Drug Inspector DGHS, Khyber Pakhtunkhwa Peshawar

For information and necessary action.

No 13696 MOHO Dated 13/10/2017
Copy forwarded to
Sr. Drug Inspector BHO Office
Mardan for information

[Signature]
DEPUTY DIRECTOR (HRM)
DGHS, KPK PESHAWAR

[Signature]
District Health Officer
Mardan



GOVERNMENT OF THE PUNJAB
PRIMARY & SECONDARY HEALTHCARE
DEPARTMENT

12

Dated Lahore, the 18th, February 2021

Amir V

ORDER

No. SO(Pharmacy)Promotion/DDC(17-18)/2021. In pursuance of this Department's Notification No. SO(Cont-1)2-1/2018 dated 05.02.2021 and upon their promotion to the rank of Deputy Drugs Controller / Secretary, District Quality Control Board (BS-18), the following officers are hereby transferred and posted against the posts mentioned against their names as under:-

Sr	Name & Father Name	Current place of posting	New place of posting, upon promotion
1	Mr. Ghayur Abbas s/o Muhammadi Sadiq	Pharmacist (BS-17), c/o Chief Drugs Controller, Punjab, Lahore.	As Deputy Drug Controller (BS-18), c/o Chief Drugs Controller, Punjab, Lahore vice Ms. Ruben Sultana, transferred.
2	Mr. Muhammad Jawad Bhatti s/o Dastgir Ahmad Bhatti	Pharmacist (BS-17), Jinnah Hospital, Lahore.	As Deputy Drugs Controller (BS-18), DHQ Hospital Okara city, against a vacant post.
3	Mr. Muhammad Shahzad Saleem s/o Muhammad Saleem Bhatti.	Pharmacist (BS-17), THQ Hospital, Shehpur, District, Sargodha.	As Deputy Drugs Controller (BS-18), DHQ Hospital, Khushab, against a vacant post.
4	Mr. Ijaz Ahmed s/o Ali Ahmed	Pharmacist (BS-17), Allied Hospital, Faisalabad.	As Deputy Drug Controller (BS-18), Tehsil Shorkot, District Jhang, against a vacant post.
5	Mst. Roohi Fazal d/o Malik Fazal Hussain	Pharmacist (BS-17), Jinnah Hospital, Lahore.	As Deputy Drugs Controller (BS-18) in Provincial Quality Control Board, Lahore, vice Mst. Gulroiz Tahir, DDC(BS-18/OPS), transferred.
6	Mst. Sadia Nazir d/o Nazir Ahmed	Pharmacist (BS-17), Mayo Hospital, Lahore.	Her services are placed at the disposal of SHC&ME Department for further posting against a vacant post of DDC (BS-18).
7	Mst. Maria Aslam d/o Muhammad Aslam	Pharmacist (BS-17), Mayo Hospital, Lahore	Her services are placed at the disposal of SHC&ME Department for further posting against a vacant post of DDC (BS-18).
8	Mst. Rubina Akhter d/o Ansar Hussain Randhawa	Pharmacist (BS-17), Allied Hospital, Faisalabad.	As Secretary, District Quality Control Board (BS-18), Faisalabad vice Mst. Sehrish Murfaa, transferred.
9	Mst. Kanwal Javed d/o Javed Iqbal	Pharmacist (BS-17), Mayo Hospital, Lahore.	Deputy Drugs Controller (BS-18) in District Headquarter Hospital, Kasur, vice Mr.

			Muhammad Tahir Khan, DDC, transferred.
10	Mst. Aamna Qureshi d/o Ghulam Nabi	Pharmacist (BS-17) Children Hospital, Lahore	Her services are placed at the disposal of SHC&ME Department for further posting against a vacant post of DDC (BS-18).
11	Mr. Muhammad Fiaz s/o Ghulam Rasool	Pharmacist (BS-17), Aziz Bhatti Shaheed Teaching Hospital, Gujrat.	Deputy Drug Controller (BS-18), Tehsil Kallar Syedan, District Rawalpindi, against a vacant post.
12	Mst. Sadia Arshad d/o Rana Arshad Ali Khan	Pharmacist (BS-17), Mayo Hospital, Lahore.	Her services are placed at the disposal of SHC&ME Department for further posting against a vacant post of DDC (BS-18).
13	Mst. Samrana Ejaz d/o Ijaz Rasool.	Pharmacist (BS-17), Punjab Institute of Cardiology, Lahore.	Her services are placed at the disposal of SHC&ME Department for further posting against a vacant post of DDC (BS-18).
14	Mr. Anjad Farooq s/o Manzoor Hussain	Pharmacist (BS-17), Sheikh Zayed Hospital, Rahim Yar Khan.	His services are placed at the disposal of SHC&ME Department for further posting against a vacant post of DDC (BS-18).
15	Mst. Nida Saleem d/o Muhammad Saleem	Pharmacist (BS-17), Mayo Hospital, Lahore	Her services are placed at the disposal of SHC&ME Department for further posting against a vacant post of DDC (BS-18).
16	Mst. Rabia Hamid Ullah Khan d/o Hamid Ullah Khan	Pharmacist (BS-17), Mayo Hospital, Lahore	Her services are placed at the disposal of SHC&ME Department for further posting against a vacant post of DDC (BS-18).
17	Mst. Komal Khalid Khan d/o Dr. Khalid Saif Ullah Khan	Pharmacist (BS-17), Jinnah Hospital, Lahore	As Deputy Drugs Controller (BS-18) in Provincial Quality Control Board, Lahore vice Mr. Aif Iqbal, DDC(BS-18/OPS), transferred.
18	Mst. Sadia Shakeel d/o Shakeel Ahmad	Pharmacist (BS-17), Jinnah Hospital, Lahore	Her services are placed at the disposal of SHC&ME Department for further posting against a vacant post of DDC (BS-18).
19	Mr. Muhammad Tayyab s/o Bashir Ahmad	Punjab Institute of Mental Health, Lahore	His services are placed at the disposal of SHC&ME Department for further posting against a vacant post of DDC (BS-18).
20	Mr. Salamet Ali s/o Miraj Din	Deputy Drug Controller (BS-18/OPS), Arcoo Town, Gujranwala.	He is allowed to continue against the post of Deputy Drug Controller (BS-18), Arcoo Town, Gujranwala already occupied by him.
21	Muhammad Farukh Saleem s/o M. Ahmed Ijaz	Pharmacist (BS-17), B.V.H. Bahawalpur.	His services are placed at the disposal of SHC&ME Department for further posting against a vacant post of DDC (BS-18).

35	Mr. Muhammad Tariq s/o Anwar Ghaffar	Deputy Secretary (Finance) Control (BS-17/CP-3, F-20) Department	Mr. Tariq Tariq (BS-10) is hereby transferred to the post of Deputy Secretary (Finance) Control (BS-17/CP-3, F-20) Lahore Department.	Mr. Tariq Tariq (BS-10) is hereby transferred to the post of Deputy Secretary (Finance) Control (BS-17/CP-3, F-20) Lahore Department.
36	Ms. Rashida Parveen s/o Sh. Noor Muhammad	Services (Liaison) Lahore	The services are placed at the disposal of the Government for further posting against a vacant post of DDC (BS-10) at Faisalabad.	The services are placed at the disposal of the Government for further posting against a vacant post of DDC (BS-10) at Faisalabad.
37	Mr. Muhammad Zubair Butt s/o Muhammad Saad Butt	TDI (Liaison) Lahore	Mr. Muhammad Zubair Butt (BS-10/CP-3, F-20) is hereby transferred to the post of TDI (Liaison) Lahore.	Mr. Muhammad Zubair Butt (BS-10/CP-3, F-20) is hereby transferred to the post of TDI (Liaison) Lahore.
38	Ms. Khadija s/o Faraz Muhammad	Deputy Drugs Controller (BS-10/CP-3, F-20) Lahore	Ms. Khadija s/o Faraz (BS-10/CP-3, F-20) is hereby transferred to the post of Deputy Drugs Controller (BS-10/CP-3, F-20) Lahore.	Ms. Khadija s/o Faraz (BS-10/CP-3, F-20) is hereby transferred to the post of Deputy Drugs Controller (BS-10/CP-3, F-20) Lahore.
39	Mr. Amir Raza Baber s/o Fahim Muhammad Javed	Pharmacist (BS-17) Mayo Hospital, Lahore	Mr. Amir Raza Baber s/o (BS-17) Mayo Hospital, Lahore is hereby transferred to the post of Pharmacist (BS-17) Mayo Hospital, Lahore.	Mr. Amir Raza Baber s/o (BS-17) Mayo Hospital, Lahore is hereby transferred to the post of Pharmacist (BS-17) Mayo Hospital, Lahore.
40	Ms. Anis Saeed s/o Muhammad Parwez	Pharmacist (BS-17) DHO Teaching Hospital Faisalabad	Ms. Anis Saeed s/o (BS-17) DHO Teaching Hospital Faisalabad is hereby transferred to the post of Pharmacist (BS-17) DHO Teaching Hospital Faisalabad.	Ms. Anis Saeed s/o (BS-17) DHO Teaching Hospital Faisalabad is hereby transferred to the post of Pharmacist (BS-17) DHO Teaching Hospital Faisalabad.
41	Mr. Zeshan Hader Kazam s/o Syed Saad Hussain	Drug Inspector (BS-17) Tahsil Faisalabad, District Faisalabad	Mr. Zeshan Hader Kazam (BS-17) Tahsil Faisalabad, District Faisalabad is hereby transferred to the post of Drug Inspector (BS-17) Tahsil Faisalabad, District Faisalabad.	Mr. Zeshan Hader Kazam (BS-17) Tahsil Faisalabad, District Faisalabad is hereby transferred to the post of Drug Inspector (BS-17) Tahsil Faisalabad, District Faisalabad.
42	Ms. Nadia Nyes s/o Muhammad Nyes Siddiqui	Pharmacist (BS-17) Mayo Hospital, Lahore	Ms. Nadia Nyes s/o (BS-17) Mayo Hospital, Lahore is hereby transferred to the post of Pharmacist (BS-17) Mayo Hospital, Lahore.	Ms. Nadia Nyes s/o (BS-17) Mayo Hospital, Lahore is hereby transferred to the post of Pharmacist (BS-17) Mayo Hospital, Lahore.
43	Ms. Anwar s/o Anwar Hayat Tariq	Lady Abidien Hospital Lahore	Ms. Anwar s/o Anwar (BS-10/CP-3, F-20) is hereby transferred to the post of Lady Abidien Hospital Lahore.	Ms. Anwar s/o Anwar (BS-10/CP-3, F-20) is hereby transferred to the post of Lady Abidien Hospital Lahore.
44	Mr. Muhammad Shahid Zafar s/o Rana Z.U. Zafar	Pharmacist (BS-17) Services Hospital, Lahore	Mr. Muhammad Shahid (BS-17) Services Hospital, Lahore is hereby transferred to the post of Pharmacist (BS-17) Services Hospital, Lahore.	Mr. Muhammad Shahid (BS-17) Services Hospital, Lahore is hereby transferred to the post of Pharmacist (BS-17) Services Hospital, Lahore.
45	Ms. Saad Ishaq	Deputy Drugs Controller (BS-10/CP-3, F-20) Tahsil Khanpur, District R. Khan	Ms. Saad Ishaq (BS-10/CP-3, F-20) is hereby transferred to the post of Deputy Drugs Controller (BS-10/CP-3, F-20) Tahsil Khanpur, District R. Khan.	Ms. Saad Ishaq (BS-10/CP-3, F-20) is hereby transferred to the post of Deputy Drugs Controller (BS-10/CP-3, F-20) Tahsil Khanpur, District R. Khan.
46	Ms. Tayyaba Ashim	Secretary, District Quilty Control Board (BS-10/CP-3, F-20)	Ms. Tayyaba Ashim (BS-10/CP-3, F-20) is hereby transferred to the post of Secretary, District Quilty Control Board (BS-10/CP-3, F-20).	Ms. Tayyaba Ashim (BS-10/CP-3, F-20) is hereby transferred to the post of Secretary, District Quilty Control Board (BS-10/CP-3, F-20).

		Bahawalnagar	DDC/2021 dated 09.02.2021 (Sr. No.2), she is allowed to continue against the post of Secretary, District Quality Control Board (BS-18), Bahawalnagar already occupied by her.
47	Mr. Syed Ahmed Nazeer Gilani s/o Syed Sajjad Hussain Gilani	Deputy Drug Controller (BS-18/OPS), Nishtar Town, Lahore	As Deputy Drugs Controller / Deputy Director (Pharmacy), c/o Director General, Health Services, Punjab, Lahore, vice Mr. Mansin Ali, transferred.
48	Mr. Muhammad Aweis Younas s/o Younas Chaudhery	Pharmacist (BS-17), Aziz Bhatti Shaheed Teaching Hospital, Gujrat	His services are placed at the disposal of SHC&ME Department for further posting against a vacant post of DDC (BS-18).

3. The following Pharmacist / Drug Inspectors (BS-17)/Deputy Drugs Controllers (BS-18) are hereby transferred, on administrative grounds and posted as under, with immediate effect:-

Ser. No.	Name with actual designation	Current place of posting	Now place of posting, upon promotion
1.	Ms. Rabaa Sultana, Pharmacist / Drug Inspector (BS-17)	Deputy Drug Controller (BS-18/OPS), c/o Chief Drugs Controller, Punjab, Lahore	As Pharmacist (BS-17), c/o Chief Drugs Controller, Punjab, Lahore vice Mr. Ghayyur Abbas, transferred.
2.	Mst. Gulraiz Tahir, (Pharmacist / Drug Inspector (BS-17)	Deputy Drugs Controller (BS-18/OPS) in Provincial Quality Control Board, Lahore	Her services are placed at the disposal of SHC&ME Department for further posting.
3.	Mst. Zaki Arshad (Pharmacist / Drug Inspectors (BS-17)	Deputy Drugs Controller (BS-18/OPS), PQCB, Lahore.	Her services are placed at the disposal of SHC&ME Department for further posting.
4.	Mr. Ala ul Mustafa Pharmacist / Drug Inspector (BS-17)	Secretary, District Quality Control Board (BS-18/OPS), M.B.Din	Deputy Drugs Controller (BS-18/OPS), DHQ Hospital, Hafizabad, against a vacant.
5.	Mr. Afif Iqbal Arshad, (Pharmacist (BS-17)	Deputy Drug Controller (BS-18/OPS) in Provincial Quality Control Board, Lahore.	Drug Inspector (BS-17), Tehsil Lalian, District Chiniot, vice Mr. Zaoshan Haider Kazmi transferred.
6.	Mr. Muhammad Tahir Khan, (DDC/BS-18)	Deputy Drug Controller (BS-18), DHQ Hospital Kasur	He is directed to report back to this department i.e. P&SH Department, (a) further orders
7.	Mst. Maria Rafique (Pharmacist /BS-17)	Deputy Drug Controller (BS-18/OPS), DHQ Hospital, Sheekhupura	Her services are placed at the disposal of SHC&ME Department for further posting.
8.	Mst. Sehrish Murtaza, (Pharmacist /BS-17)	Secretary, District Quality Control Board (BS-18/OPS), M.B.Din	Her services are placed at the disposal of SHC&ME Department for further posting.

9.	Mr. Mohsin Ali (Pharmacist /BS-17)	Deputy Drugs Controller (BS-18/OPS) o/o Director General, Health Services, Punjab, Lahore.	At the disposal of SHC&ME Department for further equipment against a vacant post of Pharmacist BS-17.
10.	Malk Muhammad Irfan Mustafa, Pharmacist (BS-17)	Pharmacist, THQ Hospital, Kahror Pacca, District Lodhran	At the disposal of Deputy Secretary Health Services, Punjab, Lahore for further equipment.

4. All the above named officers who have been promoted to BS-18 are hereby directed to join their new place of posting within fifteen (15) days of issuance of these orders, failing which it shall be presumed that they have refused to accept their promotion and on such refusal they shall stand superseded, as per *Provisional Policy, 2010*. The effect of such a supersession shall be for three years and they shall be considered for promotion after three years under the Policy ibid.

**SECRETARY
PRIMARY & SECONDARY HEALTHCARE
DEPARTMENT**



ESR-217909

Number & Date Even

A copy is forwarded for information and necessary action to the:

1. Accountant General, Punjab, Lahore.
2. Secretary, SHC&ME Department.
3. Director General, Health Services, Punjab, Lahore.
4. Chief Drugs Controller, Punjab, Lahore.
5. Secretary, Provincial Quality Control Board, Lahore.
6. All Directors of DTLs in Punjab.
7. CEOs of the DHAs, concerned.
8. District Accounts Officers concerned.
9. Medical Superintendents of the Hospital concerned.
10. Section Officer (AHP-I), Specialized Healthcare & Medical Education Department.
11. Section Officer (Confidential-I), P&SHD.
12. PS to Secretary, P&SH Department.
13. PS to Special Secretary /Additional Secretary (Admn), P&SH Department.
14. PA to Deputy Secretary (General), P&SH Department.
15. Project Director (HISDU), P&SH Department.
16. Officer concerned.
17. Personal File


 18.02.21
**Muhammad Sajjad Haider
SECTION OFFICER (PHARMACY)**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO.923/2021

MUHAMMAD SHOAIB KHAN

VERSUS

GOVT. OF KP & OTHERS

REJOINDER ON BEHALF OF THE APPELLANT IN
RESPONSE TO THE REPLY OF THE RESPONDENTS

R/SHEWETH:

Preliminary Objections from 1 to 9:

All the preliminary objections raised by the respondents are incorrect, baseless and not in accordance with law & Rules rather the respondents are stopped due to their own conduct to raise any objection at this stage of the appeal.

ON FACTS:

- 1- Incorrect and not replied accordingly. That the appellant is a competent and committed employee of the respondent Department. That right from appointment till date he is serving the respondent Department quite efficiently and up to the entire satisfaction of his superiors. So for the allegation of poor performance and unwilling worker is concern in this regard the appellant did not received any show cause notice nor explanation from the competent authority the appellant committed any illegality or irregularity during his entire service.
- 2- Incorrect and not replied accordingly. In fact the impugned transfer Notification dated 6.10.2020 was issued by the respondents in light of the merger Notification dated 8.9.2017 which was declared by the august Peshawar High Court as Void ab anitio/illegal from the very beginning through judgment dated 11.3.2020, therefore in light of the ibid scenario the impugned transfer Notification dated 6.10.2020 is having no legal force. Copies of the Notification dated 8.9.2017 and Judgment of the PHC are attached as annexure
..... **R and R1.**
- 3- Incorrect and not replied accordingly. That section-10 of the Civil servant Act, 1973 has been further regulated by the Transfer/posting policy of the Provincial Government where in clause it has been specifically elaborated that "all the

posting/transfers shall be strictly in the public interest and shall not be abused/misused to victimize the Government Servants" as per clause XIII " considering posting/transfer proposals all the concern authorities shall keep in mind the following (a) to ensure the posting of proper persons on proper posts the PER's/ACR's, 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", therefore in light of the ibid clauses of the transfer/posting policy the impugned Notification dated 6.10.2020 is not tenable and liable to be set aside. Copies of the record are attached as annexure R3.

4- Incorrect and not replied accordingly hence denied.

5- Incorrect and not replied accordingly hence denied.

ON GROUNDS:


From A to H:

All the grounds of main appeal of the appellant are correct and in accordance with law and rules and that of the respondents are incorrect and baseless and having no force of law. That the appellant is serving the respondent Department quite efficiently and up to the entire satisfaction of his superiors. Moreover the transfer/posting Notification issued by the respondents in pursuance of the annulled Notification dated 8.9.2017 is not in accordance with law and rules, therefore the same is not tenable and liable to be set aside. That the impugned Notification dated 6.10.2020 is issued by the respondents on malafide and arbitrary basis therefore the same is not tenable and liable to be set aside. That the said Notification is also violative of clauses I and XIII of the transfer/posting policy of the provincial Government.

?

It is therefore most humbly prayed that on acceptance of this rejoinder the appeal of the appellant may please be accepted as prayed for.

APPELLANT


Muhammad Shoaib Khan

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar the 8th September, 2017

NOTIFICATION:

No: SOH (III)/HD/10-4/2017/DCPS: Consequent to the recommendations of the SSRC and to improve the human resource management, the Chief Minister Khyber Pakhtunkhwa is pleased to approve the following arrangements for Pharmacists, Drug Inspectors, Chemists & Drug Analysis cadres of Health Department Khyber Pakhtunkhwa.

- 1) These cadres are declared dying cadres with the existing incumbents to continue under the existing service rules, seniority and promotion prospects which shall stand protected for each cadre within their own lines of hierarchy till last incumbent is in service.
- 2) For the new recruitment at the initial stage, since basic qualifications of the above mentioned cadres are the same, therefore all the three cadres are hereby merged into a single cadre for which rules shall be framed as per procedures.
- 3) All the three cadres are hereby declared as pool posts for posting/transfer only.

SECRETARY TO GOVT: OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Endst. of even number & date:

Copy forwarded for information to:

1. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa
2. PSO to Chief Secretary, Khyber Pakhtunkhwa
3. Secretary Public Service Commission, Khyber Pakhtunkhwa
4. Manager Govt. Printing Press, Khyber Pakhtunkhwa with the request to publish in the official Gazette.
5. Director General Health Services, Khyber Pakhtunkhwa.
6. All DHOs in Khyber Pakhtunkhwa
7. Incharge MMC, DGHS, Khyber Pakhtunkhwa, Peshawar
8. PS to Secretary Establishment, Khyber Pakhtunkhwa.
9. PS to Secretary Law, Khyber Pakhtunkhwa.
10. PS to Secretary Health, Khyber Pakhtunkhwa.
11. PA to Deputy Secretary (Drugs), Health Department

SECTION OFFICER (E-III)

BEFORE THE HON'BLE PESHAWAR HIGH COURT PESHAWAR



Writ Petition No. _____ -P/ 2017
(Against merging of cadres)

ANNEXURE R/1

1. S. M. Assad Halimi S/O Syed Tanzeemul Haq Halimi.
 2. Rehmat Gul S/O Sher Ahmad.
 3. Akbar Jan S/O Muzafar.
 4. Dil Naweaz S/O Sarfaraz Khan.
 5. S. Wilayat Shah S/O S. Kiramat Shah.
 6. Muhammad Yunus Khattak S/O Fakhr-uz- Zaman.
 7. Muhammad Tayyab Abbas S/O Faqir Muhammad.
 8. Aurangzeb Khan S/O Sher Bahadar.
 9. Imran Ullah Khan S/O Hakim Shah.
 10. Mehtab Afsar S/O Khan Afsar.
 11. Abdul Hafeez S/O Waliullah.
 12. Zakir Shah S/O Haji Husain Muhammad.
 13. Nazir Ahmad S/O Fazal Ghani.
 14. Toseef Muhammad S/O Pir Muhammad.
 15. Aminul Haq S/O Abdul Haq.
 16. Zial Ul Haq S/O Abdul Hai.
 17. Ibrar Khan S/O Dil Nawaz.
 18. Muhammad Zeeshan S/O Muhammad Aslam.
 19. Ziaullah S/O Zamin Gul.
 20. Ameer Zeb S/O Jehanzeb.
 21. S.Aqib Ali S/O S. Shujaat Hussain Shah.
 22. Gohar Ali S/O Musafar Khan.
 23. Saif Ullah S/O Sahib Zada Gran.
 24. Imran Khan Barki S/O Haibat Khan Barki.
 25. Haider Ali S/O Akhtar Ali.
 - ~~26.~~ Waheed Murad S/O Shan Ul Mulk.
 27. Muhammad Irfan Wazir S/O Matiullah.
 28. Naeem Khan S/O Nisar Khan.
 29. Tariq Ali S/O Muhammad.
 30. Shehzada Mustafa Anwar S/O Mukamil Shah
- All are Drug Inspectors Health Department, KPK.

..... Petitioners

VERSUS

1. Chief Secretary to the Government of Khyber Pakhtunkhwa
Civil Secretariat, Peshawar
2. Chairman,
Khyber Pakhtunkhwa, Public Service Commission,
Peshawar.

ATTESTED
EXAMINER
Peshawar High Court

5

3. Secretary to Government of Khyber Pakhtunkhwa,
Health Department, Civil Secretariat, Peshawar. (2)
4. Secretary to Govt. of Khyber Pakhtunkhwa,
Establishment Department, Civil Secretariat, Peshawar.
5. Secretary to Government of Khyber Pakhtunkhwa,
Finance Department, Civil Secretariat, Peshawar.
6. Principal Secretary to Chief Minister,
Khyber Pakhtunkhwa, Chief Minister House, Peshawar.
7. Secretary to Govt. of Khyber Pakhtunkhwa,
Law Department, Civil Secretariat, Peshawar.
8. Director General,
Health Department, Civil Secretariat, Khyber Road, Peshawar.

..... Respondents.

**WRIT PETITION UNDER ARTICLE-199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN,
1973 AGAINST THE NOTIFICATION NO.SOH-(III)/HD/10-
4/2017DCPS DATED 8.9.2017 THEREBY MERGING
THREE CADRES OF DRUG INSPECTORS, PHAMACISTS
AND DRUG ANALYST OF HEALTH DEPARTMENT.**

Respectfully Shweth:-

- 1) That the petitioners have been inducted in service of the Health Department through Khyber Pakhtunkhwa Public Service Commission as Drug Inspectors (B-17) on the dates noted against each.
- 2) That four amongst the petitioners were firstly promoted to the posts of Senior Drug Inspectors (B-18); and then to the posts of Chief Drug Inspectors (B-19); on the dates given against their names, whereas three amongst them were promoted to the ranks of Senior Drug Inspectors (B-18) on the mentioned dates in annexure "A" against their names and still in B-18 and 24 petitioners are in B-17.
- 3) That in the health department of Khyber Pakhtunkhwa, the Drug Inspectors, Pharmacists and Chemists and Drug Analysts are working in separate cadres having the same basic qualifications (Bachelor in Pharmacy) with different job descriptions as well as expertise in accordance to their respective fields and duties for initial recruitment. The

ATTESTED
EXAMINER
Peshawar High Court

employees of one cadre does not possess the requisite experience required for the other cadre. The cadre wise details of Post were given in Table No. 1.

- 4) That the provincial government under the agenda to improve the human resources management and to minimizing the transfer and posting problems faced by the Health department in other sub-cadres having minimum choice, proposed the merging of three cadres of Drug Inspectors, Pharmacists and Chemists and Drug Analysts; and for this purpose, constituted a six members " **Standing Service Rules Committee**" (hereinafter to be called as "SSRC"), comprising of one of the stake-holder (In-charge Drug Testing Laboratory namely Mr. Abid Hayat) from the merging Cadre (Pharmacists). The SSRC committee composition is clear from the minutes of the meeting held on 26.12.2016.
- 5) That the Health department proposed to combine the three cadres into one as per structure given in para (ii) of the minutes of meeting held 26.12.2016 under the Chairmanship of Secretary Health (Muhammad Abid Majeed); and SSRC inter-alia raised certain observations in para (iii) to (v), which were as under:-
- iii) *It is important to note that there are employees in these cadres who have stakes in the respective cadres as far as their career progression is concerned in terms of their length of services, seniority etc. Therefore, unification of cadre in Toto will affect the seniority of employees. To resolve this, these cadres may be declared as dying cadres with protection to initial structure till the last employee of each cadre passes out.*
- iv) *The Health Department may administratively take approval of the competent authority for declaring the three cadres post as pool post for the purpose of posting/transfer.*
- v) *Health Department may also obtain views/concurrence of Khyber Pakhtunkhwa Public Service Commission in accordance with the laid down rules/policy.*
- vi) *The Administrative department may also obtain views of Finance Department preferably through a summary en-route to competent authority.*
- 6) That the Cadres wise strength of the posts in the Pharmacists Cadre is 24 have 4 posts in B-20, 4 posts in B-19, 4 posts in B-18 and 12 posts in B-17, while the Analysts of Drug Testing Laboratory have total 7 cadre posts amongst which in B-20 one, B-19 one, B-18 two and only three in B-17.

ATTESTED
EXAMINER
Peshawar High Court

- 7) That the comparative position of posts gradation in these three cadres are summed up as under:- (4)

Table-1

S #	Name of cadre	B-20	B-19	B-18	B-17	Total
1.	Drug Analysts in Drug Testing Laboratory	1	1	2	3	7
2.	Pharmacists.	4	4	4	12	24
3.	Drug Inspectors.	-	8	8	22	31

As may be perused from the above comparative position of posts hierarchy, the cadre of the petitioners i.e. Drug Inspectors have been subjected to step motherly attitude in that in the ratio of posts on the basis of total strength three cadres are entitled for the posts in different grades as under:-

Table-2

S #	Name of cadre	B-20	B-19	B-18	B-17	Total
1.	Drug Analysts in Drug Testing Laboratory	1	1	2	3	7
2.	Pharmacists.	4	4	4	12	24
3.	Drug Inspectors.	6	8	8	22	44

- 8) That the Respondents without removing the observations raised by the SSRC and observing codal formalities issued the impugned Notification No. SOH(III)HD/10-4/2017/DCPS dated: 08.09.2017 of merger of three cadres. The petitioners having no other efficacious remedy to get redressal of their grievance, comes to this Hon'ble Court under its constitutional jurisdiction to impugn the acts of respondents on the following grounds amongst others:-

G R O U N D S

- A. That the impugned notification is based on the minutes of SSRC which is a Coram non judice in cases of merger of service cadres, therefore the proceedings and recommendations of the SSRC have no binding force and can be made basis for the merger of cedres.
- B. That the proper Coram for the impugned issue is the Provincial Cabinet which would consider the case after proper examination of the matter by the Health Department, Establishment Department, Finance Department and Law Department at secretariat level in

ATTESTED
EXAMINER
 Peshawar High Court

consultation with the Director General Health Services and without taking into confidence the actual stakeholders of the merging cadres was an exercise without jurisdiction and against the principles of justice.

- C. That no new name/nomenclature has been proposed for the merged cadres. If at all the three cadres so merged will be the dying cadres, than what would be the name of the cadre remained alive after the funeral ceremony of the dying cadres? It is a big sign of interrogation which has not been answered in the impugned notification or by the so called SSRC.
- D. That the job description of the three cadres are quite distinct from each other despite the fact that the basic qualification is the same, but experience and field of functioning are distinct according to their specific field, experience in a specific filed and specific training. No other justification except sameness of basic qualification has been given; Basic qualification of lecturers, PCS/PMS officers/ and many other posts are Master degree but their functions and job descriptions are quite different from each other which cannot justify for merger. Similar is the case of instant three cadres which have been merged together.
- E. That all the three cadres of Drug Inspectors, Pharmacists and Drug Analysts have their distinct job descriptions and specialized task with specific experience, therefore, the merger of the three cadres is void ab intio, not practically possible and implementable. Therefore, the recommendations of SSRC and the impugned Notification are against the principles of merger regarding different cadres.
- F. That all the above three cadres have their separate notified rules (**Annexure-B**) and hierarchal ladders for upward elevation and most of them have selected their respective cadres opting for distinct life/service career of their choice according to their aptitude, inclination and family circumstances and by merging of cadres into one will open way for posting/transfer horizontally which will adversely affect their entire life edifice built for their household/children career, for example, the Drug Analyst would have selected this career due to being a local post without botheration of posting/transfer from one station to others and as such shifting of residences, educational institutions of children and so on which must naturally inflict a negative impact on his planned and dreamed life style for himself and his family members. He would have missed many good chances of higher position outside the locality of his choice whereas under para-3 of the

ATTESTED
EXAMINER
 Pesbawar High Court

(3)

(6)

impugned notification, he would be subjected to be posted outside even to a far flung area which will be detrimental to his life career and futuristic plan of his children up-liftment. Thus a clear violation of Article 2A, 9, 38 of the Constitution.

- G. That in the impugned notification, the merger has been made in a very unfamiliar, naval and somewhat illegal way in that in merger of two or three cadres, no cadre so integrated is declared as dying cadre as the cadres so integrated are always restructured with a new name with settled hierarchical ladder and the incumbents of the posts in the cadres so merged are placed in common/joint seniority list with reference to their respective dates of appointment/promotion to the posts in their previous cadres.
- H. That the approving authority of merger/integration of certain service cadres or disintegration of a cadre into different sub-cadres is the CABINET not the SSRC. The Standing Service Rules Committee (SSRC) is only meant for framing of recruitment rules for posts to the prescribe qualifications, experience, age limit and method of appointment only in terms of rule 3(2) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Posting and Transfer) Rules, 1989 (**Annexure-C**).
- I. The SSRC is too lower forum particularly in the instant case, which was also not properly constituted (**Annexure-D**). The Finance Department have a very important role, and Finance Department was represented by a Superintendent who is not competent to participate in SSRC as a member. Similarly the Establishment Department has also been represented by a Section Officer (B-17) and no representation from the Law Department (as required under the Rule 5 & 12 of the Government Rules of Business 1972 & 1985). The Administrative Department has been represented by Deputy Secretary (Drugs) who is a Pharmacist and Mr. Abid Hayat who is also a pharmacist. Both these officers are the stakeholders being members of one cadre amongst the three merging cadres. Their participation in SSRC is highly objectionable in absence of the members of other two other cadres. Besides this whole process has been carried out for adjustment of some favorites against some lucrative posts.

ATTESTED
EXAMINER
Peshawar High Court

That the respondent failed to get concurrence of Khyber Pakhtunkhwa Public Service Commission. It appears that either concurrence of the Public Service Commission has not been obtained in the matter as proposed by the so called SSRC in clause-V of its minutes; or that

commission, if concurred; the Commission has also not examined/scrutinized the case in the clearest perspective. It appears that the entire episode was two men play and used their personal influence, and therefore the matter has not been scrutinized and perused not according to the laid down norms/procedural formalities required for such like cases, thus all recommendation and orders, notifications made were colorful exercise of jurisdiction not so vested.

- K. That prior to merger of the three cadres into one; the Administrative Department had not work out modalities with regard to issue of seniority of different employees, nor has assigned any Nomenclature to the new cadre nor been proposed. The last employee in the cadre of Drug Inspector will be retired in 2049, and till then the new merger policy shall not affect their applicable service rules as per recommendations and impugned notification, which made redundant the application of policy in near future except the transfer and posting of the employee intra cadre, thus the new merger policy will not be fruitful as proposed by the respondent/health department, but disturb the already applicable rules and seniority, and affect the performance of the employees only.
- L. That the respondents with mala fide intentions, ignored the observations and summary was moved without rectification of these observations. The summary was again turned down with the same observations (**Annexure E**) but it was got approved from the Authority without fulfilling all the stipulated conditions for merging of cadres.
- M. That the summary submitted enrooted gone through the Finance Department as required under sub para-VI of the minutes whereon that Department had furnished their no objection as there are no financial implications involved in the matter, therefore that Department has no role to play. This gesture of the Finance Department is absolutely wrong in that the posts of Assistant Drug Controller (B-17), Deputy Drug Controller (B-18), Additional Drug Controller (B-19) and Drug controller (B-20) are non-existed and these posts as proposed in the minutes of the SSRC in column-2 of the table wherein the posts of the three cadres have been tagged will require creation and these will have huge financial implications. As such that Department stopped by their own conduct.
- N. That the petitioner may kindly be allowed to raised any other ground during the course of arguments in circumstances of the case.

ATTESTED
EXAMINER
Peshawar High Court

11

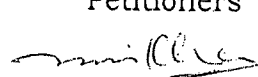
3

In view of the aforesaid submissions, it is humbly prayed that an appropriate writ may kindly be issued in favour of the petitioners in the following terms:-

- i. Declare that the impugned notification No. SOH(III)/HD/10-4/2017/DCPS is void ab initio, therefore the respondents may kindly be directed to withdraw the impugned notification as well as the posting/transfers orders made in pursuant to the impugned notification may kindly be withdrawn;
- ii. To reconsider the matter in light of the logic, rationale and requirements of the rules/relevant law in the matter.
- iii. The proportionate ratio of higher posts of B-18, B-19 and B-20 in the Drug Inspector cadre may be equated to that of Drug Analysts and Pharmacists cadres as indicated in para-5 (table-2) above of the petition.
- iv. Direction be issued to respondents that in case the merger is required to be carried out, it be done in a rationale manner as per the prevailing procedure and renamed the so merged cadre with a new name and joint seniority of the employees of the so merged cadres be caused with reference to their respective dates of appointment or promotion to a particular post /grade. No cadre so merged should be dying cadre as this method is not applicable in the instant case.
- v. Grant any other relief which is deemed appropriate by this Hon'ble Court in the circumstances of the case.

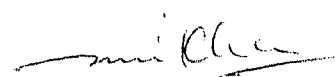
Interim Relief:-

The Notification No. SOH(III)/HD/10-4/2017/DCPS dated: 08.09.2017 regarding the merger of the cadres may kindly be suspended till the decision of the instant writ petition.

Through  Petitioner's
Counsel(s)

List of Books:-

- i. Constitution of Pakistan, 1973
- ii. Government Rules of Business, 1972 & 1985
- iii. Any other book according to need.


Counsel

NOTE:-

- i. That no other writ petition is filed on the subject matter by the petitioners in this Hon'ble Court.

ATTESTED

EXAMINER
Peshawar High Court

Counsel

12

JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
(JUDICIAL DEPARTMENT)

WP No. 4378-P/2017

S.M. Assad Halimi and others

Vs

Chief Secretary to Govt. of KP and others



JUDGMENT.

Date of hearing: 11.03.2020

Petitioner (s): By: Mrs. Rabia Latif Afridi - Advocate & Counsel
Lehan Rahmani.

Respondent (s): By: Mr. F. Hif. Di Khan B.S.

WAQAR AHMAD SETH, CJ:- Petitioners,

through the instant Writ Petition, seeks issuance of an
appropriate writ with the following prayer:-

"In view of the aforesaid submissions, it is humbly prayed that an appropriate writ may kindly be issued in favour of the petitioners in the following terms:-

- i. *Declare that the impugned notification No. SOH(III)/HD/10-4/2017/DCPS is void ab initio, therefore the respondents may kindly be directed to withdraw the impugned notification as well as the posting/transfers orders made in pursuant to the impugned notification may kindly be withdrawn.*
- ii. *To reconsider the matter in light of the logic, rationale and requirements of the rules/relevant law in the matter.*
- iii. *The proportionate ratio of higher posts of B-18, B-19 and B-20 in the Drug Inspector cadre may be*

ATTESTED

EXAMINER
Peshawar High Court

equated to that of Drug Analysts and Pharmacists cadres as indicated in para-5 (table-2) above of the petitioner.

- iv. Direction be issued to respondents that in case the merger is required to be carried out, it be done in a rationale manner as per the prevailing procedure and renamed the so merged cadre with a new name and joint seniority of the employees of the so merged cadres be caused with reference to their respective dates of appointment or promotion to a particular post/grade. No cadre so merged should be dying cadre as this method is not applicable in the instant case.*
- v. Grant any other relief which is deemed appropriate by this Hon'ble Court in the circumstances of the case".*

2. Brief facts of the case are that the petitioners have been inducted in service of the Health Department through Khyber Pakhtunkhwa Public Service Commission as Drug Inspectors (BPS-17). According to the petitioners, Drug Inspectors, Pharmacists and Chemists and Drug Analysts are working in the Health Department Government of Khyber Pakhtunkhwa in separate cadres having same basic qualifications but with different job descriptions. The Provincial Government under the Agenda to improve the human resources management and to

ATTESTED

EXAMINER
Peshawar High Court

minimizing the transfer and posting problems face by the Health Department in other sub-cadres having minimum choice, proposed the merging of three cadres of Drug Inspectors, Pharmacists and Chemists and Drug Analysts and for this purpose, a meeting of "Standing Service Rules Committee" was held on 26.12.2016 wherein it was proposed to combine the three cadres into one as per structure given in para-ii of the minutes of the meeting and as such, the respondents have issued the impugned Notification No. SOH(III)/HD/10-4/2017/DCPS dated 08.09.2017, which reads as under:-

"Consequent to the recommendations of the SSRC and to improve the human resource management, the Chief Minister Khyber Pakhtunkhwa is pleased to approve the following arrangements for Pharmacists, Drug Inspectors, Chemists & Drug Analysts cadres of Health Department Khyber Pakhtunkhwa.

- 1) *These cadres are declared dying cadres with the existing incumbents to continue under the existing service rules, seniority and promotion prospects which shall stand protected for each cadre within their own lines of hierarchy till last incumbent is in service.*
- 2) *For the new recruitment at the initial stage, since basic qualifications of the above mentioned cadres are the same, therefore, all the three cadres are*

ATTESTED
EXAMINER
Peshawar High Court

Read Para 30 of this Judgment of SHC
CPA attached on this Judgment.

15

IN THE HIGH COURT OF SINDH AT KARACHI.

1-8-2013

Presented on

CP D-No. 3206 /2013


Deputy Registrar (Writ)

Zakir Hussain S/o Muhammad Hashim Samoo
R/o A-16, Al-Mustafa Phase-II, Qasimabad,
Hyderabad.....Petitioner

VERSUS

1. Province of Sindh
through Chief Secretary Sindh
at Karachi,
2. Secretary Health,
Government of Sindh,
at Karachi
3. Mrs. Sahar Afshan,
Divisional Drug Inspector, presently posted
at Hyderabad. Respondents

**CONSTITUTION PETITION UNDER ARTICLE 199
OF THE CONSTITUTION OF ISLAMIC REPUBLIC
OF PAKISTAN 1973**

That petitioner above named respectfully submits as under:-

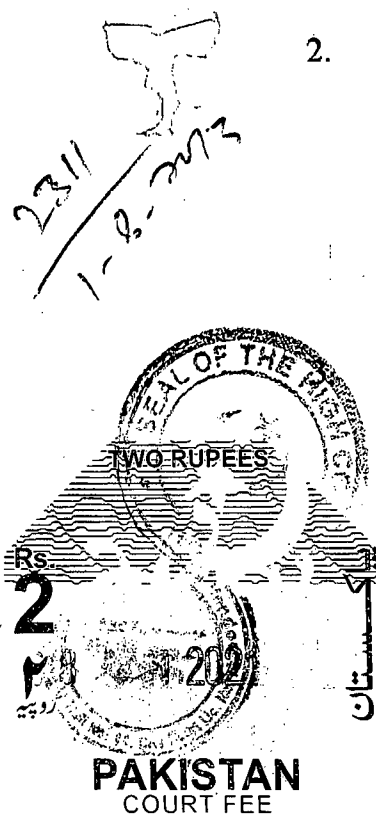
1. That the petitioner is law abiding citizen of Pakistan.
2. That the petitioner is a Drug Inspector and is working as District Drug Inspector at District Tando Allahyar.

*Copy of the Notification dated 23/7/2013
is enclosed herewith and marked as
annexure A.*

That prior to the notification dated 23-07-2013 the petitioner was posted at Provisional Drug Inspector at District Hyderabad, vide Notification dated 7/12/2012.

*Copy of the Notification dated 07/12/2012 is
enclosed herewith and marked as annexure B.*

That the respondent No.3 was initially appointed as Pharmacists in BPS-17 as the post of Pharmacists was upgraded/re-designated to post of Senior Pharmacists in BPS-18 vide notification dated 24/2/2011, as



such the respondent No.3 was promoted to the post of BS-18 Senior Pharmacists.

Copy of notification dated 24/2/2011 is attached herewith and marked as annexure C

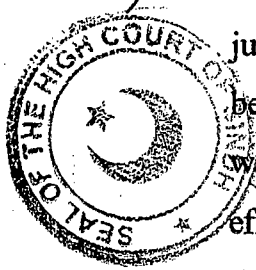
- 5. That the respondent No.2 vide notification dated 24/1/1984 specified criteria for method of appointment/qualification/age and other conditions for the post of Drug Inspector and Junior Pharmacists and other course in the Health Department.

Copy of notification dated 24/1/1984 is enclosed herewith and marked as annexure-D

- 6. That the Health department issued/communicated letter to the Medical Superintendents wherein specified the job description of Pharmacists working in the Civil Hospitals and other major Hospitals in Sindh, whereby the Pharmacists were assigned their job descriptions.

Copy of Job description of Pharmacists are attached and marked as annexure-E

- 7. That on 15-03-2013 the respondent No.2 in utter disregard of the judgment of the Honourable Supreme Court issued Notification bearing No.NO SOCI(H)S-32/2007, whereby the respondent No.3 was/is absorbed/inducted as Drug Inspector BS-18 with immediate effect, which is not only against the judgment of the Honourable Supreme Court of Pakistan but also is against the fundamental rights guaranteed by Constitution.



Copy of the notification dated 15/3/2013 is attached herewith and marked as annexure-F

Hence this petition with the following prayers:

PRAYER:

It is therefore prayed that this Honourable Court may be pleased to:

- a). Declare that the notification dated 15-03-2013 is illegal, void ab initio and has no legal force.

17

- b). Direct the respondent No.1 and 2 to withdraw the notification dated 15-03-2013 whereby the respondent No.3 was/is absorbed/inducted as Drug Inspector BS-18.
- c). Declare that the holding of office by respondent No.3 as Drug Inspector is without legal justification and is against the provisions of law and the fundamental rights guaranteed by the Constitution.
- d). Suspend the operation of notification dated 15-03-2013 whereby the respondent No.3 has been absorbed/inducted as Drug Inspector till the final disposal of the instant petition.
- e). Any other relief this Honourable Court may deem fit and proper in the circumstances of the case.

Karachi
Dated 31-07-2013

Sh. Hussain
Petitioner

Waqar

ADVOCATE FOR THE PETITIONER



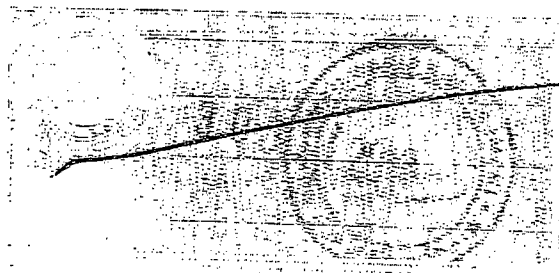
VERIFICATION

I, Zakir Hussain S/o Muhammad Hashim Samoo Muslim, adult R/o A-16, Al-Mustafa Phase-II, Qasimabad, Hyderabad, do hereby state on oath that whatever stated above is true and correct to the best of my knowledge and belief.

Sh

ASSISTANT REGISTRAR-IV
AFFIDAVIT & IDENTITY BRANCH
HIGH COURT OF SINDH

Sh. Hussain
DEPONENT



To be attached with Affidavit as last Page

7
18

IN THE HIGH COURT OF SINDH AT KARACHI

Const. P. No: D- of 2013

Zakir Hussain

PETITIONER

VERSUS

Pro. of Sindh & ors

RESPONDENT

AFFIDAVIT IN SUPPORT OF VERIFICATION OF PETITION

Mr. Zakir Hussain Son of Muhammad Hashim Samoo, resident of House No.A-16 Al Mustafa Phase II Qasimabad Hyderabad., affirmed on oath before me at Karachi on this 31-JUL-2013 in the 'Identity Section' of this court.

Photograph of Deponent



Signature of Deponent

Zakir Hussain

CNIC: 41306-7067092-9

Cell No. 0300-3028075



Sh

ASSISTANT REGISTRAR-IV
AFFIDAVIT & IDENTITY BRANCH
HIGH COURT OF SINDH

Original CNIC verified by Bar Code Reader

Photo taken at I.S.

Biometric Attendance done at I.S.

Video recording done at I.S.

CNIC verified through NADRA

Finger Prints verified through NADRA



Electronic Finger Print taken at I.S.

COMMISSIONER FOR TAKING AFFIDAVIT

Tag ID: 31071339475

No. of Affidavit : 1/4

Cost received : Rs. 30

Printed on: 31-JUL-2013 at 12:13 pm