

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. 553/2019

BEFORE: **KALIM ARSHAD KHAN --- CHAIRMAN**
 FAREEHA PAUL --- MEMBER(E)

Nisar Ahmad (Senior Medical Officer), DHQ, Hospital Wana.
.....(*Appellant*)

VERSUS

1. **The Government of Khyber Pakhtunkhwa**, through Chief Secretary Civil Secretariat, Peshawar.
 2. **The Secretary Health Khyber Pakhtunkhwa**, Khyber Road, Peshawar.
 3. **Director General**, Health Services, Khyber Pakhtunkhwa Peshawar
 4. **Director Health Services**, Tribal Districts.
 5. **Dr Rahim Nawaz**, District Surgeon South Waziristan.
 6. **Deputy Commissioner**, South Waziristan.
-(*Respondents*)

Present:

Younas Aman,
Advocate

--- For Appellant.

Muhammad Riaz Khan Paindakhel,
Assistant Advocate General

--- For respondents.

Date of Institution.....30.04.2019
Date of Hearing.....20.06.2022
Date of Decision20.06.2022

JUDGMENT

KALIM ARSHAD KHAN, CHAIRMAN:- The service appeal has been instituted under Section-4 read with other enabling provisions of the Khyber Pakhtunkhwa Service Tribunal Act 1974, against the impugned order dated 15.01.2019 issued by respondent No.2 whereby transfer order No. SOH(E-V)7-666/2018 dated 11.12.2018 was cancelled/withdrawn through order No.518-24 dated 15.01.2019.

02. Brief facts as per memorandum of appeal are that the appellant was posted as District Surgeon South Waziristan Tribal District vide

notification bearing No. SOH(E-V)7-666/2018 Dated 11.12.2018; that after taking over the charge as District Surgeon South Waziristan Tribal District, the appellant started performing his official duties, punctually, efficiently devotedly and honestly; that vide letter No. 3044-46/DHS/ADMN dated 31.12.2018, the Directorate of Health Services merged area secretariat, the appellant was directed to attend meeting alongwith all relevant documents on 04.01.2019 at Emergency Operation Center (EOC) Merged Areas. In the letter No. 59-60/S-32 dated 04.01.2019, addressed to the Secretary Health, Khyber Pakhtunkhwa and Director Health Services, Merged Areas Secretariat, Peshawar, the Deputy Commissioner, South Waziristan Tribal District complained that the appellant had not been performing duty in polio campaigns in the district. In pursuance to the said letter, the notification dated 11.12.2018 was withdrawn vide impugned order dated 15.01.2019. Resultantly, the appellant was reverted to DHQ Hospital Wana albeit as punishment.

03. Feeling aggrieved, the appellant filed departmental appeal on 22.01.2019 which was not responded within the statutory period of ninety days, hence, the instant service appeal file in this Tribunal on 30.04.2019.

04. Notices were issued to the respondents who submitted written replies/comments and contested the appeal.

05. We have heard learned counsel for the appellant and Deputy District Attorney and perused the case file with connected documents thoroughly.

06. Learned counsel for the appellant submitted that the respondents had not treated appellant in accordance with law, rules, policy on the subject, had acted in violation of article-4 of the Constitution of Islamic

Al
29/06/22

Republic of Pakistan, 1973 and unlawfully issued the impugned order which was unjust, unfair, and, hence, not sustainable in the eyes of law. He further argued that the impugned transfer order of the appellant within a span of one month without any justified reason and legal exigency was unlawful. He requested that on acceptance of appeal, the impugned order dated 15.1.2019 might kindly be set aside he concluded.

07. Learned Assistant Advocate General on the other hand submitted that the appellant left his duty station for the meeting on 31.12.2018 but without intimation as well as prior permission of the Deputy Commissioner, District South Waziristan. He further submitted that the appellant had been treated in accordance with law and rules. As per Section-10 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, every civil servant was to serve anywhere in the province.

08. The appellant has taken the stance that he had to attend the meeting in the Directorate of Health Services Merged Area Secretariat Warsak Road Peshawar on 04.01.2009 for which he was asked vide letter No No. 3044-46/DHS/ADMN dated 31.12.2018. That vide order No. 08-13 dated 01.01.2019 he had deputed Dr. Sadiq, MS Category-D Hospital Toi Khula to look-after his routine duties as Acting District Surgeon and Dr. Hamid Ullah to look polio campaign related matter till his arrival. He has also tried to draw the attention of the Tribunal to the minutes of the meeting showing his attendance on the subject meeting on 03.01.2019 but the complaint of Deputy Commissioner, South Waziristan was with respect to absence of the appellant in a meeting on 31.12.2018 on which date the appellant seems to be at the station and had not attended the meeting. In the departmental representation the appellant has not uttered a single word regarding his absence on 31.12.2018 from the meeting and other

DL
20/08/22

allegations contained in the complaint of the D.C South Waziristan, the Administrative Head of the District. He has also said nothing about leaving the station without any intimation or permission of his high ups. In the circumstances coupled with the fact that it is a prerogative of the authority to post an employee under the authority at any station under Section-10 of the Khyber Pakhtunkhwa Civil Servants Act, 1973. No case has been made out by the appellant, therefore, this appeal has no merit and is dismissed.

09. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 20th day of June, 2022.*



(KALIM ARSHAD KAHN)
CHAIRMAN



(FAREEHA PAUL)
MEMBER(E)


ORDER

20th June, 2022 . Counsel for the appellant present. Syed Naseer Ud Din,
Assistant Advocate General for respondents present.

2. Vide our detailed judgement of today placed on file (containing 11 pages), therefore, this appeal has no merit and is dismissed. Costs shall follow the event. Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 20th day of June, 2022.*


(KALIM ARSHAD KHAN)
CHAIRMAN.


(FAREEHA PAUL)
MEMBER(E)

16.03.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 20.6.2022. for the same as before.



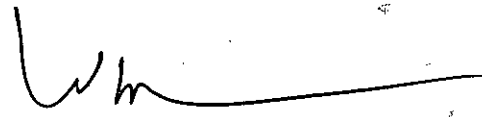
Reader.

30.11.2021

Counsel for appellant present.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Today, case was fixed for submission of reply and arguments on application submitted on 08.06.2021 by the appellant seeking impleadment of Deputy Commissioner, South Waziristan in the panel of respondents. However, the same was not objected to, hence, stands accepted. Necessary entry be made in the relevant register as well as in the memo of appeal with red ink. Notice be issued to the newly impleaded respondent for submission of comments within 10 days in office. To come up for arguments on 16.03.2022 before D.B.



(Atiq ur Rehman Wazir)
Member (E)




(Rozina Rehman)
Member (J)

6.2021

Appellant present through counsel.

Riaz Khan Paindakheil learned Assistant Advocate General for respondents present.

An application for impleadment of Deputy Commissioner South Waziristan in the panel of respondents was submitted. To come up for reply and arguments on the application on 11.08.2021 before D.B.



(Rozina Rehman)
Member (J)



Chairman

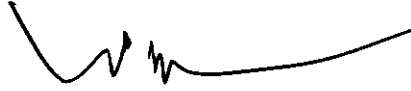
*Due to non availability of DIB
to come up for the same on 30/11/24*

05.01.2021


Counsel for appellant present.

Riaz Khan Paindakhel Assistant Advocate General for respondents present.

Former requests for adjournment as he has not prepared the brief. Adjourned. To come up for arguments on 15.04.2021 before D.B.



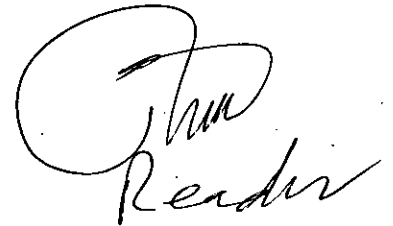
(Atiq-Ur-Rehman Wazir)
Member (E)



(Rozina Rehman)
Member (J)

15-04-2021

Due to demise of the worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 08-06-21



Reader

24.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 10.06.2020 before D.B.


Reader

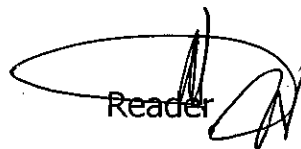
10.06.2020

Bench is incomplete as one learned Member (J) is on leave. Therefore, the case is adjourned. To come up for the same on 24.08.2020 before D.B.


Reader

24.08.2020


Due to summer vacation case to come up for the same on 28.10.2020 before D.B.


Reader

28.10.2020

Junior to counsel for the appellant and Zara Tajwar, DDA for the respondents present.

The Bar is observing general strike, therefore, the matter is adjourned to 05.01.2021 for hearing before the D.B.


(Atiq-ur-Rehman Wazir)
Member


Chairman

29.10.2019

Appellant in person present. Private respondent No.5 present and seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on 03.12.2019 before S.B.



Member

03.12.2019

Counsel for the appellant and Danyal Ahmad, Store Keeper for respondents No. 1 to 4 present who already furnished the requisite reply/comments.

Fresh notice be issued to respondent No. 5 for submission of reply/comments by way of last chance on 15.01.2020 before S.B.



Chairman

15.01.2020

Junior to counsel for the appellant and Addl. AG for the respondents present. Nemo. on behalf of respondent No. 5.

Parawise comments on behalf of respondents No. 1, 2, 3 & 4 have already been furnished. Respondent No. 5 has not furnished reply/comments despite last opportunity. The appeal is assigned to D.B for arguments on 25.03.2020. The appellant may furnish rejoinder within one month, if so advised.



Chairman

04.09.2019

Counsel for the appellant and Mr. Usman Ghani District Attorney alongwith Shah Nawaz Litigation Clerk for the official respondents present.

Learned counsel for the appellant furnished spare set of appeal alongwith annexures as required on 10.07.2019. Fresh notices be issued to respondent No. 5 alongwith copy of appeal. Representative of official respondents also requests for ^{the for} submission of written reply. To come up for requisite reply/comments ^{on} 02.10.2019 before S.B.

Chairman 

02.10.2019

Junior to counsel for the appellant present. Addl: AG alongwith Mr. Shah Nawaz, Litigation Clerk for respondents present.

Representative of the respondents No. 1 to 4 submitted reply, which is placed on file. Notice be issued to respondent No.5 for submission of written reply/comments.

To come up for written reply/comments of respondent no.5 on ~~02~~ ²⁹ 10.2019 before ^S S.B.

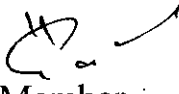
Chairman 

26.06.2019

Learned counsel for the appellant present. Mr. Kabir Ullah Khattak learned Additional Advocate General present.

Application for impleadment of Dr. Rahim Nawaz District Surgeon South Waziristan as respondent in the present service appeal available on file. Learned counsel for the appellant stated that Dr. Rahim Nawaz is a necessary party to the present service appeal for the reason that he was transferred/posted in place of appellant.

In view of the submission made by the learned counsel for the appellant the application for impleadment of Dr. Rahim Nawaz as respondent No.5 in the present service appeal, is accepted. Dr. Rahim Nawaz is impleaded as respondent No.5 in the present Service Appeal. Respondents including the newly added respondent No.5 be put to notice for reply on the date fixed as 10.07.2019 before S.B.


Member

10.07.2019

Counsel for the appellant and Addl: AG for respondents present.

Representatives of the respondents no. 1 to 4 not ~~represented~~ today, therefore, notice be issued to them for submission of written reply/comments. Learned counsel for the appellant is directed to submit spare set of the instant service appeal, thereafter notice be issued to respondent no.5 for submission of written reply/comments.

Adjourned to 04.09.2019 before S.B.


Chairman

11.06.2019

Counsel for the appellant present.

Learned counsel for the appellant argued that the appellant was transferred and posted as District Surgeon South Waziristan Tribal District on 11.12.2018 through notification by the competent authority, however, in pursuance to the letter sent on 04.01.2019 by the Deputy Commissioner South Waziristan Tribal District to the Secretary Health and Director Health Service the notification dated 11.12.2018 was withdrawn. Resultantly, the appellant was reverted to DHQ Hospital Wana albeit as punishment. He added that no civil servant can be transferred as a punishment from the place of his posting. Besides, the impugned transfer order was also against the transfer/posting policy of Provincial Government. Relied on 2012 PLC(C.S) 187 and PLD 2013-Supreme Court-195.

The appeal in hand is admitted for regular hearing in view of submissions of learned counsel and available record. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 26.06.2019 before S.B.

The appeal is accompanied by an application for suspension of operation of impugned order dated 15.01.2019. Notice of application be also given to the respondents for the date fixed.

Appellant Deposited
Security & Process Fee



20/6/19


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. _____ 553/2019 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	30/04/2019	<p>The appeal of Mr. Nisar Ahmad presented today by Mr. Younas Aman 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 30/4/19</p>
2-	02/05/19	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>11/06/19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

**BEFORE THE HONOURABLE
SERVICE TRIBUNAL, KP PESHAWAR**

Service Appeal No. 553 /2019

Nisar Ahmad

(Appellant)

V E R S U S

Government of Khyber Pakhtunkhwa through Chief Secretary etc.

(Respondents)

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4	Copy of letter and relevant documents	B	9-19
5	Copy of letter dated 04.01.2019 (DC letter)	C	20
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Appellant

Through



**Younas Aman
& Sahibzada Muhammad Riaz**
Advocates High Court,
Peshawar

Dated: 29.04.2019

**BEFORE THE HONOURABLE
SERVICE TRIBUNAL, KP PESHAWAR**

Service Appeal No. 553 /2019

Nisar Ahmad (Senior Medical Officer)
DHQ Hospital Wana

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 682

Dated 30/4/2019

(Appellant)

V E R S U S

- 1) Government of Khyber Pakhtunkhwa through Chief Secretary,
Civil Secretariat, Peshawar
- 2) Secretary Health, KP Khyber Road, Peshawar
- 3) Director General, Health Services, KP Peshawar
- 4) Director Health Services, Tribal Districts
- 5) *order 24/4/19* Dr Rahim Nawaz, District Surgeon South Waziristan
(Respondents)

6- Deputy Commissioner South Waziristan

Filed to-day
Registrar
30/4/19

Appeal Under Section 4 read with other enabling provisions of the Khyber Pakhtunkhwa Service Tribunal Act 1974, against the impugned order dated 15.01.2019 issued by respondent No. 2 whereby transfer order No. SOH(E-V)7-666/2018 dated 11.12.2018 was cancelled / withdrawn through Order No. 518-24 dated 15.01.2019

Prayer:

On acceptance of the instant appeal, the impugned order No. 518-24 dated 15.01.2019 of the respondent

No. 2 may kindly be set aside and order No. SOH(E-V) 7-666/2018 dated 11.12.2018 may kindly be restored.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:

- 1) That the appellant has been serving as District Surgeon South Waziristan Tribal District, as he was transferred to the said post vide Notification bearing No. SOH(E-V)7-666/2018 dated 11.12.2018. (Copy of order dated 11.12.2018 is attached as Annexure A)
- 2) That after taking over the charge as District Surgeon South Waziristan tribal district, appellant started to perform his official duties, punctually, efficiently, devotedly and honestly.
- 3) That in the meanwhile the directorate of Health Services merged area secretariat issued direction to the appellant to attend meeting at the directorate along with all relevant documents on 31.12.2019. (Copy of letter and relevant documents attached as Annexure B)
- 4) That the most important facts is that the Deputy Commissioner South Waziristan tribal district send a letter dated 04.01.2019 No. 5960 to the Secretary Health Peshawar and the Director Health Service merged area Peshawar while complaining the absence and recommendation of appellant replacement. (Copy of letter dated 04.01.2019 is attached as Annexure C)

- 5) That after sending the above Deputy Commissioner South Waziristan letter tribal district just after a month of his posting as District Surgeon south Waziristan tribal district the notification dated 11.12.2018 (Annexure A) stood withdrawn by the worthy Secretary to Govt. Health Department, KP Peshawar and the said order was circulated by director Health Services, tribal districts, vide Order No. 518/24/Distt/FATA/Admin dt 15.01.2019. (Copy of order dated 15.01.2019 is attached as Annexure D)
- 6) That the appellant being aggrieved of the withdrawal of notification dated 11.12.2018 vide ibid office order dated 15.01.2019 preferred departmental representation on 22.01.2019, but in vain as no speaking order was passed by the concern authority on the above appeal and now preferring the present appeal to please cancel the withdrawal office order on the following grounds. (Copy of departmental appeal is attached as annexure E)

GROUNDS

- a) That the respondent have not treated appellant in accordance with law, rules, policy on subject, and acted in violation of article 4 of the Constitution of Islamic Republic of Pakistan 1973 and unlawfully issued the impugned order which is unjust, unfair, and hence not sustainable in the eyes of law.
- b) That the transfer of appellant with in the span of one month without any justified reason and legal exigency is unlawful.

- c) That the impugned withdrawal order is against the policy invoke of the provincial government.
- d) That the appellant was posted at DHQ Hospital (Wana) vide office order dated 04.05.2004 and thereafter he served there for more than 14 years, and thereafter, appellant was transferred and posted as District Surgeon in South Waziristan tribal district, vide notification dated 11.12.2018 duly circulated by section officer, nevertheless, withdrawal order, issued after one month of the transfer, bears the endorsement of director health service, tribal districts, which makes it clear that the withdrawal order was issued in haste for the benefit of blue eyed cherish at the behest of political influence, as such withdrawal order is having no sanctity.
- e) That rapid transfer of the appellant is the violation of the hon'ble Supreme Court of Pakistan,^{judgment} reported as (2013 PLD SC 195) which judgment was communicated to all the administrative departments for compliance does impugned office order dated 15.01.2019 amounts contempt of the ibid judgment of hon'ble Supreme Court of Pakistan.
- f) That the transfer order in question is not in the interest of public service, rather the same is in the interest of a specific person.
- g) That the withdrawal order is premature and on the letter of deputy commissioner which is against the law and facts, unjust and unfair, furthermore the appellant has

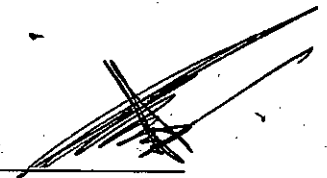
been transferred before completion of the statutory period provided under the law nor the respondents has advanced any justified reason of transfer of the appellant.

- h) That the appellant would like to offer some other grounds during the course of arguments.

It is, therefore, humbly requested that on acceptance of appeal, the impugned order No. 518-24 dated 15.01.2019 of the respondent No. 2 may kindly be set aside and order No. SOH(E-V) 7-666/2018 dated 11.12.2018 may kindly be restored.

Appellant

Through

Younas Aman
Sahibzada Muhammad Riaz
Advocate High Court,
Peshawar

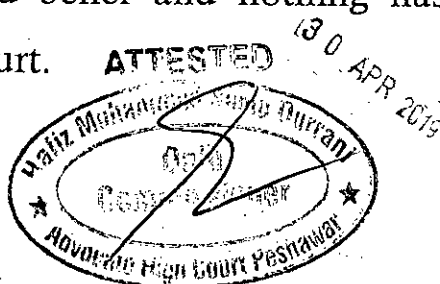
Dated: 29.04.2019

Note: No such service appeal on the same subject matter has earlier been filed before this honourable court.

ADVOCATE

AFFIDAVIT

I, Jahangir Khan S/o Bahadur Khan R/o Mirzagan Charsadda do hereby solemnly affirm and declare on Oath that the contents of instant "Service Appeal" are true and correct to the best of my knowledge and belief and nothing has been concealed from this honourable court.




DEPONENT

**BEFORE THE HONOURABLE
SERVICE TRIBUNAL, KP PESHAWAR**

Service Appeal No. _____/2019

Nisar Ahmad

(Appellant)

V E R S U S

Government of Khyber Pakhtunkhwa through Chief Secretary etc.

(Respondents)

**Application for suspension of operation of
impugned order dated 15.01.2019 till the
disposal of this appeal.**

Respectfully Sheweth,


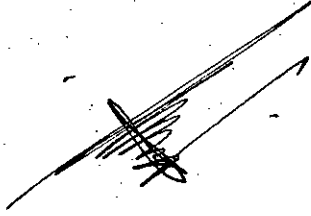
- 1). That the appellant filed above mentioned appeal along with this application before this august Service Tribunal in which no date has been fixed so far.
- 2) That all the three ingredients necessary for the stay is in favour of the appellant.
- 3) That the transfer of the appellant is against the transfer policy of the government of Khyber Pakhtunkhwa and the impugned transfer orders are also not issued in the public interest nor exigencies of public service.

- 4) That the grounds of main appeal is also be considered as integral part of this application.

It is, therefore, humbly prayed that on acceptance of this application the impugned order may kindly be suspended till final disposal of the main appeal.

Appellant


Through

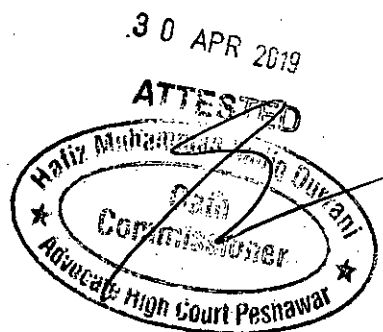


Younas Aman
& Sahibzada Muhammad Riaz
 Advocates High Court,
 Peshawar

Dated: 29.04.2019

AFFIDAVIT

I, Jahangir Khan S/o Bahadur Khan R/o Mirzagan Charsadda do hereby solemnly affirm and declare on Oath that the contents of instant application are true and correct to the best of my knowledge and belief and nothing has been concealed from this honourable court.


 DEPONENT





GOVERNMENT OF KHYBER PAKHTUNKHWA

HEALTH DEPARTMENT

Dated Peshawar the 11th December 2018NOTIFICATIONNO.SOH(E-V)7-666/2018

The Competent Authority is pleased to order posting/transfer of the following doctors with immediate effect in the public interest:-

S#	Name of doctor	From	TO
1.	Dr. Nisar Ahmad (BS-18)	Attached to Hospital Wana	DHO District Surgeon South Waziristan Tribal District
2.	Dr. Rahim Nawaz (BS-18)	District Surgeon South Waziristan	Medical Superintendent DHQ Hospital Wana

SECRETARY HEALTH
Govt. of Khyber Pakhtunkhwa

Endst. No. & Date Even

Copy to the:-

1. Accountant General Khyber Pakhtunkhwa, Peshawar
2. Director General, Health Services, Khyber Pakhtunkhwa
3. Director Health Services Tribal Districts.
4. District Surgeon Wana South Waziristan.
5. Medical Superintendent DHQ Hospital Wana.
6. District Accounts Officer Wana
7. PS to Minister Health Khyber Pakhtunkhwa.
8. PS to Secretary Health Department.
9. Computer Programmer Health Department
10. DHIS Cell DGHS Office, Peshawar.
11. Doctor concerned.

Attested to be true
copy

(MUHAMMAD NAZAKAT)
SECTION OFFICER (E-V)

(9) ANNEX B⁶

DIRECTORATE OF HEALTH SERVICES

MERGED AREA SECRETARIAT WARSAK ROAD PESHAWAR

PH # 091-9210212 FAX # 091-9212110

NO. 30411/18 /DHS/ADMIN

DATED: 31/12/2018

To

1. All Agency Surgeons in Tribal Districts.
2. All Medical Superintendents in Tribal Districts.
3. All Deputy DHOs in Sub Divisions.

Subject: **MEETING**

The Secretary to Government of Khyber Pakhtunkhwa Peshawar, Health Department has desired to have a meeting with all Agency Surgeons, Medical Superintendents of Tribal Districts and Deputy District Health Officers of Sub Divisions to have healthy discussion on the present day scenario on emergence of Tribal Districts apart from review of sub units.

It would be more pendent to come fully prepared, so that queries be satisfied on the spot.

You are directed to attend the meeting on 04-01-2019 at Emergency Operation Center (EOC) Merged Areas at 9:00 AM, positively.

Agenda of the meeting attached.

Salimullah
Director Health Services,
Tribal Districts, Peshawar.

No. _____ /DHS/Admin

Copy to the:-

1. Secretary to Government of Khyber Pakhtunkhwa Peshawar, Health Department.
2. Director General Health Services Khyber Pakhtunkhwa Peshawar.

Director Health Services,
Tribal Districts, Peshawar

*Attached to be true
copy*

(10)

AGENDA OF THE MEETING

1. District/DHQ Profile on Power Point-- the profile must cover all the aspects including Vertical Programs and Humanitarian Partners interventions etc.
2. Achievements made in 2018.
3. Constraints / Challenges.
4. Way forward.

NOTE: 10 minutes for presentation and 10 minutes for discussion.

SEQUENCE:

1. District Bajaur.
2. District Mohmand.
3. District Khyber.
4. District Orakzai.
5. District Kurram (Lower & Central Kurram).
6. District Kurram (Upper Kurram).
7. District North Waziristan.
8. District South Waziristan.
9. Sub Division Peshawar.
10. Sub Division Kohat.
11. Sub Division Lakki.
12. Sub Division Bannu.
13. Sub Division Tank.
14. Sub Division D.I.Khan.

Attested to be true copy
[Signature]

(11)



DIRECTORATE OF HEALTH SERVICES

Tribal Districts, Warsak Road, Peshawar

Phone #: 091-9210212

Fax #: 091-9212110

No: DHS/FATA/Dev/1-1/2018-19 Dated 28/12/2018

To

1. Programme Managers/Focal Persons DHS, Tribal Districts.
2. Medical Superintendents of AHQ Hospitals in Tribal Districts.
3. Agency Surgeons in Tribal Districts
4. Deputy DHOs Sub Divisions (Ex FR Surgeons)

Subject: - ANNUAL REVIEW OF ADP 2017-18 & 1st QUARTER
REVIEW OF ADP 2018-19 (MERGED AREA)

Enclosed please find herewith letter of the Research Officer (P&D) Planning and Development, Department letter No. Secy/P&D/FS/Review/2018-19 dated 24-12-2018 on the subject noted above.


You are all directed to complete the overall physical progress against the indicators and current year target of the scheme in PMRS system well before the meeting which is scheduled to be held on Thursday the 3rd January 2019.


Director Health Services
DHS, Tribal Districts

Copy to

1. Deputy Director Dev, DHS, Tribal Districts

Director Health Services
DHS, Tribal Districts.

Attested to be true
copy 



(12)

OFFICE OF THE DISTRICT SURGEON
DISTRICT SOUTH WAZIRISTAN WANA

OFFICE ORDER

The undersigned is hereby proceeding to attend "1st Quarter Annual review of ADP 2018-19 on 03-01-2018" communicated vide Director Health Services merged areas vide letter No. DHS/FATA/Dev1-1/2018-19 dated 28-12-2018, and also to attend a "Meeting with Honorable Secretary Health KPK Peshawar on 04-01-2019" at EOC Merged areas Peshawar as communicated vide Director Health Services Merged areas letter No.3044-46/DHS/ADMN dated 31-12-2018.

Dr. Sadiq MS Cat.D Hospital Toi Khula will look after my routine duties as acting District Surgeon and Dr. Hamid ullah will look after Polio campaign related matters on my behalf till my arrival.

Sd/-
District Surgeon
District South Waziristan

No. 08-13

/ Dated Wana the

01/01/2019

Copy forwarded to the: -

1. Director Health Services FATA, Peshawar.
2. Deputy Commissioner South Waziristan, Tank.
3. HQ IGFC (S) JSC Wana.
4. Assistant Commissioner South Waziristan Wana.
5. Dr. Sadiq MS Cat. D Hospital Toi Khula.
6. Dr. Hamid ullah FSMO EPI Wana.

*Alerted to be done
copy*

Dr. Burici
District Surgeon
District South Waziristan

(13)



DIRECTORATE OF HEALTH SERVICES, MERGED AREAS
WARSAK ROAD, PESHAWAR.

Phone No.: 091-9212910,
No: DHS/MAs /Dev/1-1/2018-19,

Fax: 091-9212110.
Dated: 15-01-2019

To

All Sub Offices
In Merged areas Districts/Sub Divisions

Subject:

MINUTES OF THE JOINT MEETING OF ANNUAL REVIEW OF ADP 2017-18 & 1ST QUARTER REVIEW OF ADP 2018-19 (MERGED AREAS) HELD ON 3-1-2019.

Enclosed please find herewith a copy of the letter received from Research Officer (P&D) Merged Areas Sectt: along with its enclosure upon the subject noted above for information and necessary action, please.

Deputy Director (Dev)
DHS, Merged Areas, Peshawar

Copy to:
Research Officer (P&D) Merged Areas Sectt:
PA to DHS, Merged Areas, Peshawar

Attached to be
true copy

Deputy Director (Dev)
DHS, Merged Areas, Peshawar



(14)
PLANNING AND DEVELOPMENT DEPARTMENT
MERGED AREAS SECRETARIAT
WARSAK ROAD, PESHAWAR

No. Secy/P&D/FS/Review/2018-19-10110/E Dated: 9.1.2019

To

1. The Secretary, P&D Department, Khyber Pakhtunkhwa, Peshawar.
2. All the Deputy Commissioners (Merged Areas).
3. All the heads of line Departments/Directorates (KP and Merged Areas).
4. The Chief Executive Officer, TESCO, Peshawar.
5. The Chief Executive, FDA, Peshawar.

SUBJECT: MINUTES OF THE JOINT MEETING OF ANNUAL REVIEW OF ADP 2017-18 & 1ST QUARTER REVIEW OF ADP 2018-19 (MERGED AREAS) HELD ON 3.1.2019

Sir,

I am directed to enclose herewith a copy of minutes of the subject meeting held on 3.1.2019 for information and further necessary action please.

T.H.S. FATA

245
10-1-19

9/1/2019
(Khalid Hassah)
Research Officer (P&D)

Copy alongwith minutes of the subject meeting is forwarded to the following:

1. All the Administrative Secretaries of Khyber Pakhtunkhwa, Peshawar
2. All Secretaries, Merged Areas Secretariat, Peshawar.
3. All Sector Incharge(s), P&DD, Merged Areas Secretariat, Peshawar, for necessary action please.
4. PS to Additional Chief Secretary (Merged Areas).
5. PS to Additional Chief Secretary, P&D Department, Khyber Pakhtunkhwa, Peshawar.

Research Officer (P&D)

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SUBJECT: MINUTES OF THE JOINT MEETING OF ANNUAL REVIEW OF ADP 2017-18 & 1ST QUARTER REVIEW ADP 2018-19 (MERGED AREAS) HELD ON 3.1.2019

The meeting on the subject matter was held on 3.1.2018 under the chairmanship of the Secretary, Finance Department on behalf of Additional Chief Secretary, Merged Areas Secretariat. The meeting was attended by Heads/representatives of the attached Departments/Directorates and District Administration (Merged Areas). List of Participants is attached.


2. The meeting was started with recitation from the few verses of Holy Quran. The Chair welcomed the participants. As directed by the Chair, detailed presentation was given on the annual review of ADP 2017-18 and subsequently on the 1st quarter review of ADP 2018-19 (Merged Areas).

A. Annual Review of FATA ADP 2017-18

3. During discussion, releases during 2017-18, financial utilization, approval progress, completion of schemes fully funded during the year 2017-18 were debated in length. While discussing, utilization position, the Chair observed that the difference in the utilization reported by the departments and the one given in the PIFRA system should have to be matched. Therefore, the departments must ensure full uploading of their expenditure against each scheme to avoid the difference in both reports.

4. Similarly, the chair also showed concern over low utilization of Rs.19813.765 million against the released amount of Rs.20478.500 million, resultantly the un-utilized amount of Rs.664.735 million (3.2%) is reported as lapsed. It was informed that most of the lapsed amount is due to non honouring of the cheques issued for different schemes under various sectors.

5. The approval progress and completion of schemes fully funded were also discussed. In case of approval, out 444 schemes, only 303 schemes were approved, leaving 141 schemes as un-approved. The main reason for lesser approval of schemes was reported as banned by the Election Commission of Pakistan during the year and merger of FATA, because of which no FDWP could be held due to instructions by Planning Commission.

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6. The Chair enquired about submission of PC-IV of the completed schemes. However, no single department responded for submission of PC-IV of any completed schemes. The Chair observed that a scheme can be considered as completed only once its PC-IV has been prepared and submitted to all concerned. Hence, in this situation, it cannot be assessed as how much schemes are actually completed.

7. A total of 22 Non-ADP schemes were reported as agreed during 2017-18 of which 13 has been approved last year and reflected in ADP 2018-19 for the balance amount against the approved cost. The chair directed that the practice of Non-ADP schemes should be discouraged and focus should be made on the schemes already budgeted in the ADP, as non-ADP schemes resulted in distortion of planned budgeting.

8. It was also observed that the expenditure under Capital head of Education, Health schemes, etc reported by the department concerned and by W&S Department did not tallied, which showed that there is either lack of coordination between the concerned departments or lack of seriousness for reporting correct utilization position. As a result of discussion, the chair advised that expenditure under capital head is the prerogative of Works & Services Department, hence, W&S Department has to ensure timely submission of the actual expenditure to all concerned.

9. After threadbare discussion, the following decisions were taken with the direction to abide by the targets time given for respective information:

- i) The Chair directed that the departments concerned and Works & Services Department should have close liaison and submit the updated utilization position of their sectors/schemes duly reconciled and uploaded on the PIFRA system.
- ii) The Departments concerned must ensure regular reconciliation of expenditure of each scheme with the ones uploaded on the PIFRA system to avoid any difference in utilization position.
- iii) In case of overall lapsed amount of Rs.664.735 million against the released amount, each department was directed to give its scheme-wise detail of their respective sector by giving the name of the scheme, with amount and date of releases, amount and date of cheques issued, date of depositing cheques in the

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Bank and amount lapsed with reasons/remarks of non honouring of cheques by the State Bank.

- iv) In order to ensure smooth distribution of funds as planned in ADP, non-ADP schemes should be discouraged during the year.
- v) The departments must ensure that physical progress should also be given while submitting progress review for any review meeting.
- vi) The departments should ensure building capacity to streamline and ensure submission of PC-Is on the PCFMS system.
- vii) The departments should to streamline and ensure submission of review progress report on the PMRS system.
- viii) PC-IV of the completed schemes should be prepared and submitted to all concerned on priority, as well as submission of SNE of completed schemes for approval on case to case basis.

B. First Quarter Review of Merged Areas ADP 2018-19

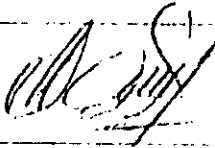
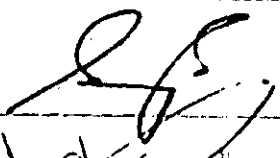

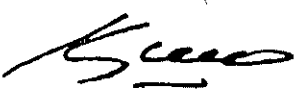
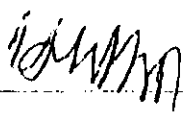

10. While discussing the progress of 1st Quarter Review of ADP 2018-19, the chair showed his great concern over the low utilization (overall 57%) of the released funds under various sectors. He sensitized the Departments and District Administration concerned that lack of interest in utilizing the available amount leads to irreversible repercussion in the form of withholding releases for the next quarter by the Federal Govt for poor progress against the ADP releases. The chair also showed his dis-satisfaction on non-submission of PC-Is/DCEs of un-approved schemes of ADP 2018-19.


11. It was informed to the house that that an amount of Rs.245 million have been released in 1st quarter to the Education sector's pay oriented schemes (including 02 Cadet Colleges of S.W District), on the pressing demand of Directorate of Education (Merged Areas), however, only Rs.3.492 million utilization has so far been utilized till date. The representative of Education department explained that a case for time extension of these schemes have been taken up with the Secretary Education, Khyber Pakhtunkhwa and response from them awaited, therefore, funds could not be utilized till date. The chair directed the Department to expedite the case and ensure utilization within a week time.

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S. No	Name of Officer	Department/Directorate/ Organization & Contact Number	Signature
14.	Asim	Asst C/O M/O/mand	
15.	Baqir Ahmad	AC TSD Tank	
16.	Mahmood Ahmad	ADC Banjar	
17.	Dr. Yousaf	Distt Surgeon New	
18.	Sahar Manzoor	Dy: Director L&P	
19.	Javedullah	Dir. L&P. MDS	
20.	Abbas Khan	Add Dir (P/M)	
21.	Dr. Nisar Ahmad	Dist. Surgeon SW	
22.	Abdul Shaffar	Director Irrigation SW	
23.	Mirajuddin	Consultant R&D	
24.	Ashfaq Ahmad	DS Finance - II	
25.	S. Imtiaz Ali Shah	Director M&E	
26.	Khalid Iqbal	DC Orakzai	
27.	Basir Ullah Muzant	D.C. D Khan.	
28.	Muhammad Newaz	Dir Sports	

Attested to be true copy

S.#	Name of Officer	Department/Directorate/ Organization & Contact Number	Signature
59	Syed (Samar) Ahmed	Miss. Dir (P) (S) Agric. Dept	
60	Shayan Jamra	ACTSD Datta Adam Khel	
61	Muhammad Nisar Khan	XEN Highways SWTD	
62	SHAIKHA KHAN	XEN Highways SWTD	
63	Khalid Hassan	RO (P&D)	
64	Aamir Basha	Dist. Chief (PTO)	
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Attested to be true
copy 

(20)

ANNEX "C"

FAX MESSAGE

No. 59-60 /S-32

Dated Tank the 4 January, 2019.

From:

The Deputy Commissioner,
South Waziristan Tribal District.

To:

- 1) The Secretary Health,
Khyber Pakhtunkhwa, Peshawar.
- 2) The Director Health Services,
Merged Areas Secretariat, Peshawar.

Subject:

ABSENCE OF DR. NISAR BURKI DISTRICT SURGEON, SOUTH WAZIRISTAN TRIBAL DISTRICT.

Memo:

It is submitted that on 31.12.2018, a meeting was held with District Surgeon, South Waziristan Tribal District at Wana, wherein, he was strictly directed to give proper attention and priority to Polio Campaigns in the District in order to achieve maximum results (already reported in DSR vide No.5763-64/S dated 31.12.2018). Case Response Polio Campaign has been started in SWTD since yesterday but the District Surgeon is absent from the District since last few days without any information to this administration:

It is sorry to say that the District Surgeon, being the most important pillar of Health Services specially, Polio Campaigns being a "National Emergency" has such kind of irresponsible attitude even warned beforehand.

In view of the above, it is requested that the services of Dr. Nisar Burki, District Surgeon, SWTD are no more required in this District and, therefore, may please be replaced with some willing/competent officer in the larger public interest. It is further suggested that strict disciplinary action may be initiated against the officer under the rules, please.

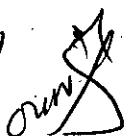

DEPUTY COMMISSIONER,
South Waziristan Tribal District

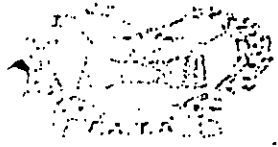
No. 61-66 /S-32

Copy forwarded to the :

- 1) Chief Secretary, Khyber Pakhtunkhwa, Peshawar
- 2) Secretary Law & Order, Merged Areas Secretariat, Peshawar
- 3) Commissioner, DIKhan Division, D.I.Khan.
- 4) EOC, Khyber Pakhtunkhwa
- 5) EOC, Tribal Districts, Khyber Pakhtunkhwa.
- 6) PS to Additional Chief Secretary, Merged Areas Secretariat, Peshawar.


DEPUTY COMMISSIONER,
South Waziristan Tribal District

Attested to be
true copy




DIRECTORATE OF HEALTH SERVICES

MERGED AREAS WARSAK ROAD PESHAWAR

No. _____ /DHS/FATA/Admn. dated _____

(21)

Phone# 091-9210108
FAX# 091-9210212

ANNEX D

OFFICE ORDER:-

The competent authority is pleased to withdraw Notification vide SO (F-A) 7-666/2018 Dated 11-12-2018 in the interest of public service.

Consequent upon above Dr. Nisar Burki, Senior Medical Officer (BPS-18) is hereby directed to report to his original place of posting at DHQ Hospital Wana, while Dr. Raheem Nawaz (BPS-18) will retain the post of District Surgeon Merged area South Waziristan.

SD

Secretary to Government

Health Department, Khyber Pakhtunkhwa, Peshawar

No. 518-34 /DHS/FATA/Admn. dated 15/01/2019

Copy forwarded for information and necessary action to the:

1. Minister Health, Khyber Pakhtunkhwa, Peshawar.
2. Secretary to Government Health Department, Khyber Pakhtunkhwa, Peshawar.
3. District Surgeon Merged area South Waziristan..
4. Medical Superintendent DHQ Hospital Wana/ Merged area South Waziristan.
5. District Accounts officer, merged area South Waziristan.
6. Doctors concern.

Abdul
Director Health Services
Tribal Districts, Peshawar

*Attested to be
true COPY*

ANNEX E

To: The Honourable Chief Secretary,
Government of Khyber Pakhtunkhwa,
Peshawar.

Through Proper Channel.

Subject: REPRESENTATION AGAINST OFFICE ORDER ISSUED BY THE
SECRETARY, HEALTH DEPARTMENT, KHYBER
PAKHTUNKHWA, CIRCULATED BY DIRECTOR HEALTH
SERVICES, TRIBAL DISTRICTS, VIDE No.518-
24/DHSA/FATA/ADMN DATED 15.01.2019

Respected Sir,

The applicant humbly submits as under:

1. That the applicant has been serving as District Surgeon South Waziristan Tribal District, as he was transferred to the said post vide Notification bearing No.SOH(E-V)7-666/2018 dated 11.12.2018. Copy enclosed for ready reference.
2. That after taking over the charge as District Surgeon South Waziristan Tribal District, applicant started to perform his official duties efficiently, devotedly and honestly. However, in the meanwhile, just after a month of his posting as District Surgeon South Waziristan Tribal District, the Notification dated 11.12.2018 stood withdrawn by the worthy Secretary to Govt. Health Department, Khyber Pakhtunkhwa, Peshawar, and the said office order was circulated by the Director Health Services, Tribal Districts, vide No.518-24/DHS/FATA/Admn dated 15.1.2019.
3. That the applicant being aggrieved of the withdrawal of notification dated 11.12.2018 vide ibid Office Order dated 15.01.2019 is

Alleged
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preferring the present representation/appeal to please cancel the withdrawal order on the following grounds, amongst others:

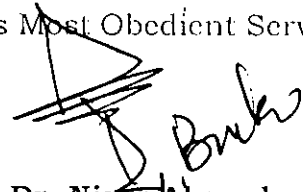
- a. That the transfer of applicant within the span of one month, without any justified reason and legal exigency is unlawful.
- b. That the impugned withdrawal order is against the policy in vogue of the provincial government.
- c. That the applicant was posted at DHIQ Hospital Wana vide office order dated 04.05.2004 and thereafter he served there for more than 14 years; and thereafter, applicant was transferred and posted as District Surgeon South Waziristan Tribal District vide Notification dated 11.12.2018 duly circulated by the Section Officer. Nevertheless, withdrawal order, issued after one month of the transfer, bears the endorsement of Director Health Services, Tribal Districts, which makes it clear that the withdrawal order was issued in haste for the benefit of blue-eyed-cherish at the behest of political influence. As such, withdrawal order is having no sanctity.
- d. That rapid transfer of the applicant is in violation of the verdict of Honourable Supreme Court of Pakistan reported as **2013 PLD SC 195**, which Judgment was communicated to all the administrative departments for compliance. Thus, impugned office order dated 15.01.2019 amounts contempt of the ibid Judgment of Honourable Supreme Court of Pakistan.
- e. That the transfer order in question is not in the interest of public service rather the same is in the interest of a specific person.



(24)

In view of the foregoing submissions, the applicant most humbly requests your kind honour to please cancel the office order dated 15.01.2019 and thereby the Notification dated 11.12.2018 may graciously be restored.

Yours Most Obedient Servant



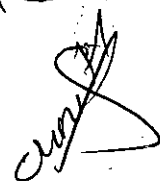
Dt. 22.01.2019.

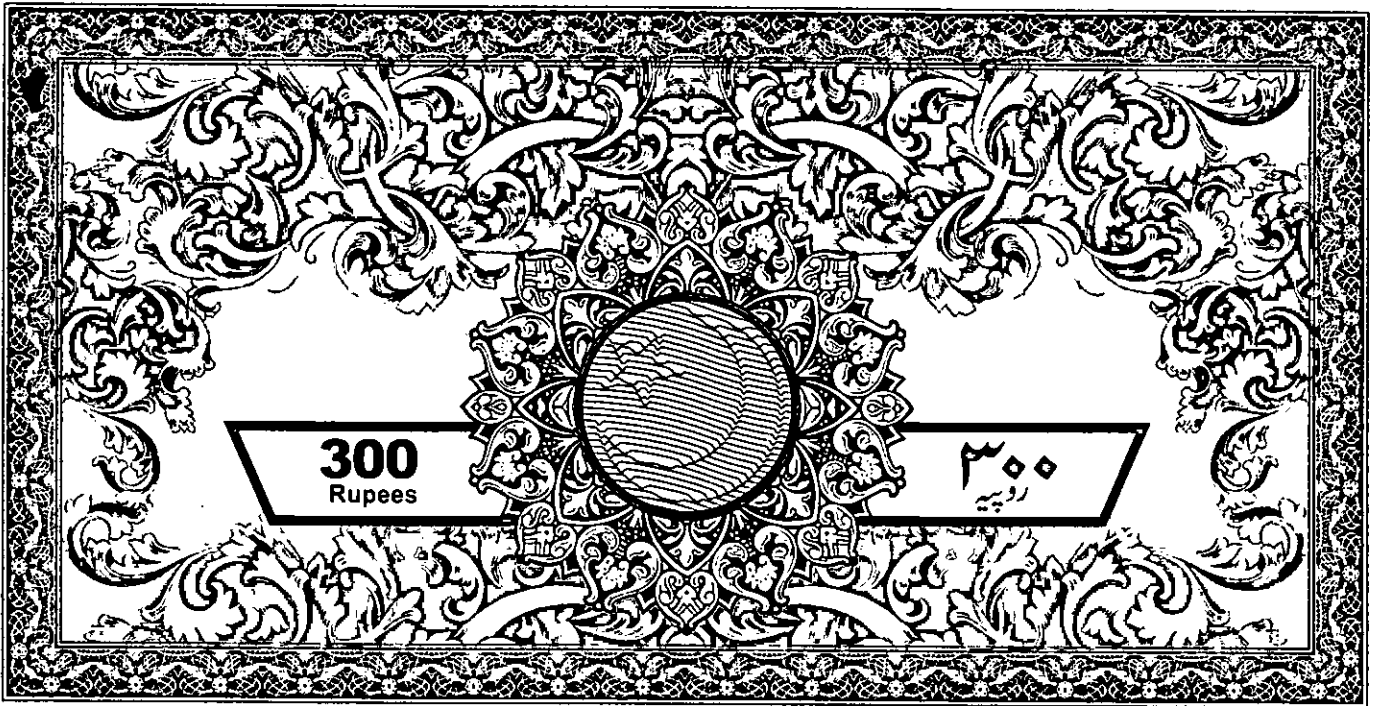
Dr. Nisar Ahmad
District Surgeon
Tribal District South Waziristan.

Affidavit:

I, the applicant, do hereby solemnly affirm and declare on oath that all the Para wise contents of this Departmental Appeal are true and correct to the best of my knowledge, information and belief and nothing has been deliberately concealed.

Deponent

Attested to be true
copy




مختیار نامہ خاص برائے پیروی مقدمہ

منکہ مسی نثار احمد ولد شیراز خان سکنہ شامی روڈ، کینٹ، مکان نمبر 6، محلہ ڈیفنس کالونی، ڈیرہ اسماعیل خان کاہوں۔ دریں وقت بقائمی ہوش و حواس خمسہ و بلا جبر و اکراہ غیرے مقرر ہوں بدیں وجہ کہ ایک مقدمہ بعنوان **نثار احمد بنام حکومت وغیرہ** جو کہ **بعد الت جناب سروس ٹریبونل پشاور** دائر ہونے جا رہا ہے۔ من مقرر بوجہ سرکاری ملازمت مقدمہ مذکورہ بالا کی پیروی اصالتاً کرنے سے قاصر ہوں اس لئے اپنی جانب سے مسی **جہانگیر خان** ولد بہادر خان سکنہ مرزاگان، تحصیل و ضلع چارسدہ کو مختیار خاص مقرر کر کے اختیارات کلی دیتا ہوں کہ مختیار خاص موصوف اپیل ہذا کی پیروی کرے، ہر قسم بیان تحریری و زبانی دیوے، بیان حلفی و تصدیق دیوے، بغرض پیروی مقدمہ و کلاء کا تقرر کرے، درخواست دیوے، اپیل کرے، اپیل در اپیل، نگرانی و نظر ثانی کرے، میری جانب سے دعویٰ جواب دعویٰ، عرضی دعویٰ، اقبال دعویٰ، فیصلہ ثالثی، دستبردار نامہ کرے، ضروریات گواہان دیوے، شہادت قلمبند کرے، دیگر کوئی درخواست برائے ترمیم دیوے، تقرر ثالثان کرے، بغرض پیروی مقدمات از عدالت سروس ٹریبونل پشاور، ابتدائی تا عدالت عالیہ و عظمیٰ تک میں مختیار خاص موصوف ہر قسم و جملہ کاروائی تحریری و زبانی سر انجام دیوے، من مقرر کو منظور و قبول ہوگا۔ لہذا مختیار نامہ خاص سنداً تحریر ہے۔

المرقوم: 29.04.2019
0 APR 2019

Attested on the
verification
of marginal witness

Signature

العبد

جہانگیر خان (اختیار گرنندہ)

شناختی کارڈ نمبر: 17101-0379448-9



گواہ شد *Signature*

گواہ شد *Signature*

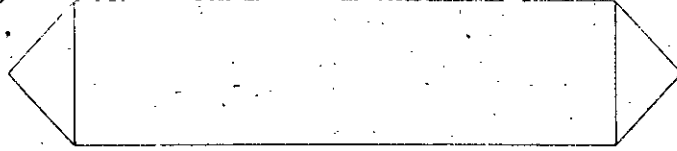
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Bunqi
العبد

شناختی کارڈ نمبر: 17101-9555273-9

شناختی کارڈ نمبر: 17201-4171304-3

نثار احمد (اختیار گرنندہ)
17301-9132704-5
Signature
Ahmad

بعدالت سند میں تراجمیوں کے لئے درخواستیں



2 پنجاب ایڈووکیٹس
سٹار احمد بنام حکومت وغیرہ

موردہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام لکھنؤ کیلئے کونسل آف انڈیا میں داخلہ شدہ محمد علی احمد صاحب کی طرف سے
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظرتانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت
مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے
اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانبہ التوائے مقدمہ کے
سبب سے وہ ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں
گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھدیا کہ سند ہے۔

المرقوم 29 ماہ 2019

Accepted
Attested

Accepted
Attested

**BEFORE THE HON'BLE
SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA**

Niar Ahmad _____

V E R S U S

Govt. of KPK through Secretary Health etc. _____

**Application for impleadment of Deputy
Commissioner South Waziristan Tribal
District in the panel of respondents.**

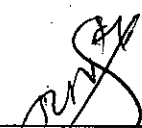
Respectfully Sheweth,

- 1) That the above titled service appeal is pending adjudication before this hon'ble tribunal which is fixed for today i.e. 08.06.2021.
- 2) That during the course of arguments this hon'ble tribunal observed that the Deputy Commissioner of South Waziristan Tribal District is a necessary party and the impleadment of the same is necessary for the just decision of the case.
- 3) That there is no legal impediment in the way of justice for impleadment of Deputy commissioner in the panel of respondents

It is, therefore, most humbly prayed that on acceptance of the instant application the Deputy Commissioner South Waziristan Tribal District may kindly be impleaded as necessary party in the panel of respondents for the ends of justice.

Petitioner

Through



Younas Aman
Advocate High Court,
Peshawar

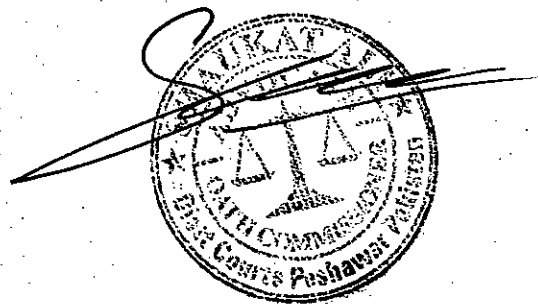
Dated: 08.06.2021

AFFIDAVIT

As per instruction of my client, it is stated that the contents of the instant Impleadment Application are true and correct to the best of my knowledge and belief and nothing has been concealed or misstated therein.

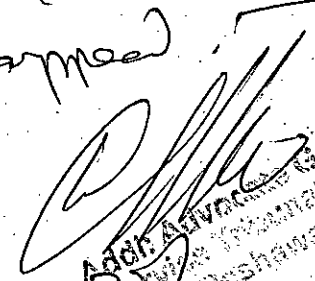

ADVOCATE

ATTESTED



08 JUN 2021

This office no objection to implead D.C concern in the instant appeal.


Addl. Advocate General
Balochistan (General) K.P.K
Peshawar
11/21

BEFORE THE SERVICES TRIBUNAL
KHYBER PAKHTUNKHWA, PESHAWAR

APPEAL NO. 553 / 2019

Nisar Ahmad, Senior Medical Officer
DHQ Hospital Wana

.....Petitioner

Versus

Govt: of Khyber Pakhtunkhwa and others Respondents

Para wise comments on behalf of respondents No. 1, 2, 3 & 4

Respectfully Sheweth;

Preliminary objections

1. That the appellant has got no locus standi to file the instant appeal.
2. That the appellant has not come to this Honorable Court with clean hands and concealed the factual position of his service.
3. That the appellant has got no cause of action to file the instant appeal.
4. That, the appellant is not an "AGGRIEVED" person within the meaning of Article 199 of the Constitution of Pakistan.

ON FACTS:

1. Correct.
2. Correct.
3. Correct to the extent of meeting at Directorate level on 31.12.2018 but it is pertinent to mention here that the appellant left his duty station for the said meeting without intimation as well as prior permission of the Deputy Commissioner, District South Waziristan.
4. Correct to the extent of letter dated 04.01.2019 at **Annex-A**. As per the attached letter, the Deputy Commissioner, District South Waziristan scheduled a meeting with the District Surgeon (Appellant) on 31.12.2018 regarding polio campaign but the appellant did not attend the said meeting on due date. Due to his irresponsive attitude to the National Cause (Polio), the Deputy Commissioner, requested the Health Department for his replacement.
5. Correct to the extent of withdrawal order dated 15.01.2019 as per direction of Secretary Health, Govt: of Khyber Pakhtunkhwa. The appellant did not attend the meeting on 31.12.2018 regarding a National Cause (Polio) and left his duty station without intimation as well as prior permission of the Deputy Commissioner, hence, as per request, the said withdrawal order was issued.

6. Incorrect, this Directorate has not yet received his departmental appeal. The appellant is not aggrieved and has no right to file the instant appeal in light of the above statement / brief.

GROUND

- A. Incorrect, there is no violation because the appellant did not attend an important meeting on 31.12.2018 regarding Polio campaign and left his duty station without intimation as well as prior permission of the Deputy Commissioner, South Waziristan.
- B. Incorrect, the appellant has been replaced as per remarks and request of Deputy Commissioner, South Waziristan.
- C. Incorrect, as stated above.
- D. Correct to the extent of Notification dated 11.12.2018 but there is no violation as well as political influence in issuing of withdrawal order.
- E. Incorrect, no violation has been made. The appellant was transferred as per remarks and request of Deputy Commissioner, District South Waziristan.
- F. Incorrect, the withdrawal order was issued in the interest of public service as the appellant has irresponsive attitude to the National Cause (Polio) as per remarks of the Deputy Commissioner District South Waziristan.
- G. Incorrect, as stated above.
- H. No comments.

In light of the above, it is, therefore, requested that the appeal may please be dismissed.



Director General Health Services,
Khyber Pakhtunkhwa Peshawar.

Respondent No. 3



Director Health Services,
Merged Areas, Peshawar

Respondent No. 4



Secretary Health,
Govt. of Khyber Pakhtunkhwa Peshawar.

For Respondent No. 1 & 2

A

FAX MESSAGE

No. 59-60 /S-32

Dated Tank the 4 January, 2019.

From:

The Deputy Commissioner,
South Waziristan Tribal District.

To:

- 1) The Secretary Health,
Khyber Pakhtunkhwa, Peshawar.
- 2) The Director Health Services,
Merged Areas Secretariat, Peshawar.

Subject:

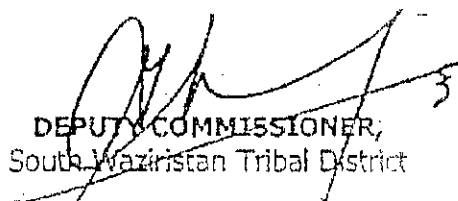
ABSENCE OF DR. NISAR BURKI DISTRICT SURGEON, SOUTH WAZIRISTAN TRIBAL DISTRICT.

Memo:

It is submitted that on 31.12.2018, a meeting was held with District Surgeon, South Waziristan Tribal District at Wana, wherein, he was strictly directed to give proper attention and priority to Polio Campaigns in the District in order to achieve maximum results (already reported in DSR vide No.5763-64/S dated 31.12.2018). Case Response Polio Campaign has been started in SWTD since yesterday but the District Surgeon is absent from the District since last few days without any information to this administration.

It is sorry to say that the District Surgeon, being the most important pillar of Health Services specially, Polio Campaigns being a "National Emergency" has such kind of irresponsive attitude even warned beforehand.

In view of the above, it is requested that the services of Dr. Nisar Burki, District Surgeon, SWTD are no more required in this District and, therefore, may please be replaced with some willing/competent officer in the larger public interest. It is further suggested that strict disciplinary action may be initiated against the officer under the rules, please.


DEPUTY COMMISSIONER,
South Waziristan Tribal District

No. 61-66 /S-32

Copy forwarded to the :

*D. Fatter (H)
merged
areas*

- 1) Chief Secretary, Khyber Pakhtunkhwa, Peshawar
- 2) Secretary Law & Order, Merged Areas Secretariat, Peshawar
- 3) Commissioner, DI Khan Division, D.I. Khan.
- 4) EOC, Khyber Pakhtunkhwa
- 5) EOC, Tribal Districts, Khyber Pakhtunkhwa.
- 6) PS to Additional Chief Secretary, Merged Areas Secretariat, Peshawar.