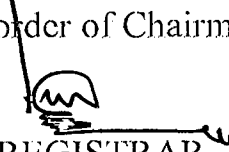


FORM OF ORDER SHEET

Court of _____

Case No. - 1615/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	11/11/2022	<p>The appeal of Mr. Zahid Ali presented today by Mr. Javed Iqbal Gulbela Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____.</p> <p>Notices be issued to appellant and his counsel for the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.**

A No 1615/2022
Zahid Ali

VERSUS

LRH & Others

INDEX

S#	Description of Documents	Annex	Pages
1.	Appeal		1-4
2.	Affidavit		5
3.	Application for suspension of impugned order		6
3.	Copy of impugned Transfer Order No. 22661-69/HR-IV Dated: 12-09-2022	"A"	7
4.	Copy of application & impugned order	"B" -"C"	8-9
8.	Copy of order dated 31-10-2022	"D"	10-12

Dated: 08/11/2022

Javed Iqbal Gulbela
Advocate, Supreme Court
Pakistan,

Saghir iqbal Gulbela,
Advocate, High Court
Peshawar.

&
Hamza Durrani
Advocate, Peshawar.

①

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

In Service Appeal No. 1615/2022

Zahid Ali S/o Muhammad Gul, Dish washer (Civil Servant) at lady
Reading hospital, MTI, Peshawar

.....Appellant

VERSUS

1. Secretary, Health Department, Govt. of Khyber Pakhtunkhwa, at
Civil Secretariat, Peshawar.
2. Director General Health Services Khyber Pakhtunkhwa, Peshawar.
3. Lady Reading Hospital MTI, Peshawar Through Hospital Director
Hospital Director LRH.
4. Director Finance LRH MTI, Peshawar.

..... Respondents

**APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL 1974, AGAINST THE IMPUGNED
OFFICE ORDER NO. 22661-69/HR-IV DATED: 12-09-2022 &
REGRETTED ORDER OF THE OFFICE OF DIRECTOR HUMAN
RESOURCE, WHEREBY THE DEPARTMENTAL APPEAL OF THE
APPELLANT HAS BEEN TURNDOWN AGAINST THE IMPUGNED
RELIEVED ORDER NO. 22661-69/HR-IV-DATED: 12-09-2022,
OF THE 'OFFICE OF THE HOSPITAL DIRECTOR, LADY
READING HOSPITAL MTI, PESHAWAR, WHEREBY THE
APPELLANT HAS BEEN RELIEVED FROM LADY READING
HOSPITAL MTI, PESHAWAR TO THE OFFICE OF DIRECTOR
GENERAL HEALTH SERVICES KHYBER PAKHTUNKHWA
PESHAWAR, IN A CLASSICAL, CURSORY AND WHIMSICAL
MANNER. HENCE THE INSTANT APPEAL.**

Respectfully Sheweth,

1. **That** the Appellant is a naturally born bona-fide citizen of
Islamic Republic of Pakistan and hails from a respectable family
of a locality.
2. That after going through the mandatorily required criteria, the
Appellant got onto the rolls of the Respondent Department
years back in 1998 and since then the appellant working and
performing his duties in LRH.

3. That since induction into service and getting onto the rolls of this extremely humane and prestigious Department, the Appellant has remained the most pragmatic, devoted, and dutiful fellow, who never left any stone unturned in performance of his duties and importing any responsibility that has been entrusted to the appellant.
4. That being highly professional and pragmatic towards the responsibilities bestowed upon the shoulders of the Appellant and because of his whetted professional skills, there have never been any sort of soot or soot-age upon his long career, which fact is reflected from Appellant Service record, which sans any complaint or adverse or even advisory remarks mentioned or ever communicated to the Appellant.
5. That it was in this backdrop that while the Appellant was serving his duties on his post of Dishwasher (Civil Servant)', in the Lady Reading Hospital MTI, Peshawar that the Respondent No.04 relieved from LRH MTI and his services are hereby placed at the disposal of Director General Health Services KPK,PESHAWR, vide impugned Transfer Order No. 22661-69/HR-IV-Dated: 12-09-2022, OF THE 'Office of The Hospital Director, Lady Reading Hospital MTI, Peshawar. **(Copy of impugned Transfer Order No. 22661-69/HR-IV Dated: 12-09-2022 as annexure "A")**
6. That feeling aggrieved the Appellant moved departmental application for setting aside **Impugned Relieved Order No. 22661-69/HR-IV Dated: 12-09-2022** to Respondents, but his prayer was turn down, which is not only illegal and unlawful but is also against the right of the Appellant recognized, protected, and guaranteed by the law of land. **(Copy of departmental appeal dated 14-09-2022 & Impugned regretted Order as Annexure "B & C")**
7. That it is also important to mentioned here that initially the appellant approached before Hon'ble MTI appellant Tribunal but after a legal discussion, the instant appeal disposed with the observations that the appellant approach to proper forum for the redressal of their grievance. **(Copy of Hon'ble MTI Appellate Tribunal Order dated 30-10-2022 is annexed as annexure "D")**

8. That feeling aggrieved and having no other remedy available elsewhere, the Appellant approaches this Hon'ble Tribunal for setting aside 'the **impugned Transfer Order No. 22661-69/HR-IV Dated: 12-09-2022** and Impugned regretted order upon the following grounds, inter-alia.

GROUND:

- A.** That the impugned Transfer & Posting Order is wrong, illegal, unwarranted, and hence not tenable in the eyes of law.
- B.** That the Appellant has already been a post in respondent department and he was working from year 1998 but the respondents malafidely illegally and unlawfully transferred the Appellant from lady reading hospital Peshawar , to director general health services Peshawar which is not warranted under the law.
- C.** That the impugned Transfer & Posting is thoroughly in derogation to the principles as laid down and enumerated in the Transfer & Posting Policy.
- D.** That the Appellant has been transferred without any rim or reason. So, if the appellant has been transfer without any reason and DGHS has categorically replied that there is no post with him where against the appellant could be posted then if appellant and his services are not required by LRH then it is not only the appellant who has to be transferred and relived from LRH, then LRH also surrender and transfer his post as well to the DGHS.
- E.** That the impugned transfer order is also against the normal tenure Policy, which under the law is not allowed.
- F.** That by transferring the Appellant, the Petitioner has virtually been penalized for no wrong done and have been simply kicked out from Lady Reading Hospital to Director General Health Services Khyber Pakhtunkhwa, Peshawar.
- G.** That from every angle, the impugned Transfer & Posting Order is wrong, illegal, unlawful and is liable to be set-aside.
- H.** That any other ground not raised here may graciously be allowed at the time of arguments.

(4)

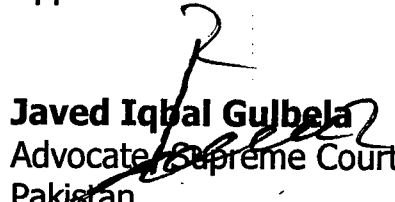
It is, therefore, most humbly prayed that on acceptance of the instant Service Appeal, the impugned Relieved Order No. 22661-69/HR-IV Dated: 12-09-2022, of Hospital Director and Impugned Order of the office Director Human Resources, Lady Reading Hospital MTI, Peshawar' may kindly be set-aside, and by doing so the appellant may graciously be allowed to perform his duties at LRH MTI, Peshawar.

Any other relief not specifically asked for may also graciously be extended in favor of the Appellant in the circumstances of the case.

Dated: 08/11/2022.

Appellant

Through


Javed Iqbal Gulbela
Advocate, Supreme Court
Pakistan,
&
Hamza Durrani
Advocate, Peshawar.

NOTE:

No such like appeal for the same appellant , upon the same subject matter has earlier been filed by me, prior to the instant one, before this Hon'ble Tribunal.


Advocate

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BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR

In S.A No-_____/2022

Zahid Ali

VERSUS

Govt of Khyber Pakhtunkhwa & Others

AFFIDAVIT

I, **Zahid Ali S/o Muhammad Gul (Dish Washer) R/o Mohalla Sheikh Abad Nesata Tehsil & District Charsadda**, do hereby solemnly affirm and declare on oath that the contents of the instant Service Appeal is correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

زاید علی DEPONENT

CNIC:17101-5115400-3

CELL: 0302-5595228

Identified by:

Javed Iqbal Gulbela
Advocate, Supreme Court of
Pakistan

(6)

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

Zahid Ali

VERSUS

LRH & Others

C.M No # _____/2022

In

S.A _____/2022

**APPLICATION FOR SUSPENSION OF THE IMPUGNED OFFICE
ORDER NO.22661-69/HR-IV DATED 12-09-2022**

RESPECTFULLY SHEWETH,

1. That the applicant/appellant is filling the accompanying appeal, the contents of which may graciously be considered as integral part & parcel of the instant service appeal.
2. That prima facie case exists in favor of the appellant.
3. That if the impugned notification as mentioned above is not suspended the appellant will suffer irreparable loss.
4. That balance of convenience is also lies in favor of the appellant and his quite sanguine of his success.
5. That in the given circumstances the suspension of operation of the impugned notifications are indispensable.

It is therefore, most humbly prayed that on acceptance of the instant application, operation of the impugned notification for as mentioned above may kindly be suspended till the final disposal of the accompanying appeal.

Any other relief not specifically asked for may also graciously be extended in favor of the applicant in the circumstances of the case.

Dated : 8/11/2022

Appellant

Through
Javed Iqbal Gurbela

&

Hamza Durrani
Advocate

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Annex A

7



**LADY READING HOSPITAL
MEDICAL TEACHING INSTITUTION, PESHAWAR**

ID: 7-0959

OFFICE ORDER

Mr. Zahid Ali S/o Muhammad Gul, Dish Washer (Civil Servent) is hereby relieved from Lady Reading Hospital MTI and his services are hereby placed at the disposal of Director General Health Services, Khyber Pakhtunkhwa, Peshawar with immediate effect for further posting.

He is hereby directed to submit clearance certificate from all concerned sections of LRH.

Sd/-xxxx

Hospital Director

Lady Reading Hospital MTI,
Peshawar.

No. 22661 /HR-IV

Dated. 12/09 /2022

Copy forwarded to:

1. Director General Health Services, Khyber Pukhtunkhwa Peshawar
2. Director Human Resources LRH-MTI
3. Director Finance LRH-MTI
4. Manager Housekeeping, LRH-MTI
5. Provost LRH-MTI
6. Dealing officer
7. HRMIS
8. Incharge Recruitment Cell, LRH-MTI
9. Mr. Zahid Ali S/o Muhammad Gul, Dish Washer, LRH-MTI

JAVED IQBAL GULBELA
Advocate
Supreme Court of Pakistan
(ASC-5317)

Hospital Director

Lady Reading Hospital MTI,
Peshawar.

Human Resources Department, LRH-MTI, Peshawar
Tel. 091-9212216 Exch. 9211430-34 Ext. 1200, 1201, 1221

خدمت جناب HD صاحب آئی ٹی ڈیٹا سینٹر

شوالیہ۔ درخواست برائے براہ جواز غیر قانونی سفر آڈر فراہم کرنے 22661-69/HR IV واپس لینا
جناب عالی۔

موردہ کی گزارش کی جاتی ہے کہ مسائل کو مورخ 13 ستمبر 2022ء کو فراہم کردہ
موصول ہوا ہے۔ جس میں ہدایت جاری تھی جو کہ ڈائریکٹریٹ میں اپنی حاضری و حور
پیش کر لی۔ مسائل 1998 R-14 نامی پوسٹ ڈسٹریکٹ میں جاری ہیں۔
جس میں غیر قانونی سفر کے سلسلے میں ملوث نہیں ہے۔ مسائل اپنی ڈیوٹی ایماندارانہ طور
پر ادا کر رہے ہیں۔

لہذا آپ صاحبان کی خدمت میں درخواست عرض کی جاتی ہے کہ براہ جواز غیر قانونی
فراہم آڈر نمبر 22661-69/HR IV واپس لینا کے متعلق
مقررہ آڈر نمبر

المرقوم 14/9/2022

القارم

ذیل علی علی نواز بس بون

آجیاتالہیہ ذیل علی ولد محمد علی ڈسٹریکٹ آئی ٹی ڈیٹا سینٹر

کافی برائے اطلاع

مناب ڈائریکٹریٹ میں سرور سے فراہم ہوگا

11421
14/9/2021

JAVED IQBAL GUI BELA
Advocate
Supreme Court of Pakistan
(ASC# 5317)



Amu C
9

LADY READING HOSPITAL.
MEDICAL TEACHING INSTITUTION, PESHAWAR

No. _____/HR-IV
Dated. ____/____/2022

To

Mr. Zahid Ali,
Dish Washer (ID 7-0959)
LRH-MTI,

Subject: APPLICATION FOR TRANSFER/RELIEVE

Your request dated 14-09-2022 for the above subject is regretted by the competent authority.

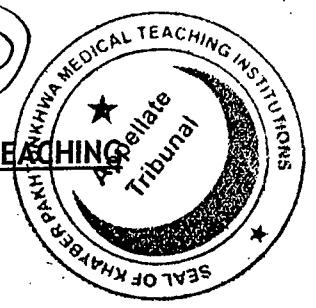
Director Human Resources
LRH Medical Teaching Institution,
Peshawar.

JAVED IQBAL GILBELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)

Human Resources Department, LRH-MTI, Peshawar
Tel. 091-9212216 Exch. 9211430-34 Ext. 1200, 1201, 1221

Annex 4 D

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BEFORE THE HON'BLE KHYBER PAKHTUNKHWA MEDICAL TEACHING INSTITUTION TRIBUNAL, PESHAWAR

MTI-A No
In S.A. 102 /2022

Zahid ali S/o Muhammad Gul (dish washer) at lady Reading hospital,
MTI,
Peshawar

.....Appellant

Versus

1. Secretary, Health Department govt of kpk at Civil Secretariat, Peshawar.
2. Director General Health Services Khyber Pakhtunkhwa, Peshawar.
3. Lady Reading Hospital MTI, Peshawar Through Hospital Director.
4. Hospital Director LRH.
5. Director Finance LRH MTI, Peshawar.

.....Respondents

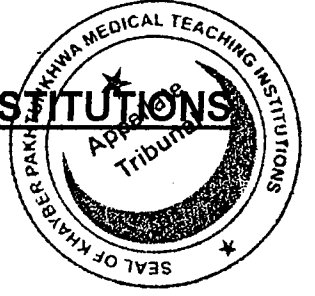
Appeal Under Section 16-A of 'The Khyber Pakhtunkhwa Medical Teaching Institutions Reforms Act, 2015', against the impugned Office Order No. 22661-69/HR-IV Dated: 12-09-2022

Respectfully Sheweth,

1. That the Appellant is a naturally born bona-fide citizen of Islamic Republic of Pakistan and hails from a respectable family of District Peshawar.
2. That after going through the mandatorily required criteria, the Appellant got onto the rolls of the Respondent Department years back and since then the appellant working and performing his duties in LRH.
3. That since induction into service and getting onto the rolls of this extremely humane and prestigious Department, the Appellant has remained the most pragmatic, devoted and dutiful fellow, who never left any stone unturned in performance of his duties and importing any responsibility that has been entrusted to the Petitioner.

ATTESTED
R 1 NOV 2022
(EXAMINER)
Appellate Tribunal K.P (MTI) Peshawar

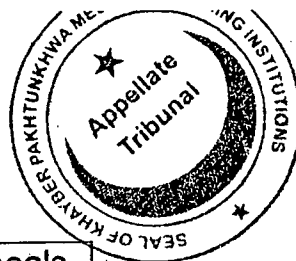
14 NOV 2022
H

KHYBER PAKHTUNKHWA MEDICAL TEACHING INSTITUTIONS**APPELLATE TRIBUNAL****ORDER SHEET**

<u>Date of hearing</u>	Proceedings of the Tribunal
31.10.2022	<p><u>MTI A # 102/2022 with C.M. No.188/2022</u></p> <p>Present: Mr.Hamza Durrani, advocate, for the appellant.</p> <p>_____</p> <p><u>NISAR HUSSAIN KHAN, CHAIRMAN:-</u> Our this single order, shall dispose of three identical appeals, being Nos. 102/2022, 103/2022 and 105/2022, as the law points as well as the facts involved in all the appeals, are common.</p> <p>2. Learned counsel for the appellants contended that though appellants have been relieved from the MTI LRH, Peshawar, being civil servants, to report to their parent department but the Director General, Health Service, KP, Peshawar, parent department, is not accepting their arrival report on the ground that they have no such posts to adjust them.</p> <p>3, After thorough discussion on the legal questions, learned counsel for the appellants submitted at the bar that the appellants would submit arrival report in written form before the parent department and in case of denial, they would approach the proper forum for the redressal of their grievance and in view of this legal position, he does not want to press these appeals.</p>



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4. In the circumstances, all the three appeals, mentioned above, stand disposed of with the above observations.

CHAIRMAN
MEMBER

No. 382

ATTESTED
01 NOV 2022
(EXAMINER)
Appellate Tribunal, K.P (MT) Peshawar

Date of Presentation of Application 1 Nov 2022
 No of Pages 4
 Copying fee 4x20
 Total 80
 Date of Presentation of Copy 1 Nov 2022
 Date of Delivery of Copy 1 Nov 2022
 Received by *[Signature]*

وکالت نامہ

بعدالت: جناب سروس ٹریڈنگس پرائیویٹ لمیٹڈ

فریڈ علی بنام حکومت وکٹری

منجانب ایڈوائس دعویٰ سروس ایس

تاریخ 10-11-2022

باعث تحریر آنکہ مقدمہ مندرجہ بالا عنوان اپنی طرف سے واسطے پیروی و جوابدہی

بمقام کے لئے جاوید اقبال گل بیلہ ایڈووکیٹ سپریم کورٹ آف پاکستان

کو بدیں شرط وکیل مقرر کیا ہے۔ کہ میں ہر پیشی کا کو دیا بزرگیہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر دالت کروں گا، اگر پیشی پر من مظہر حاضر نہ ہوا اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے برخلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہونگے۔ نیز وکیل صاحب موصوف صدر مقام پکھری کی کسی اور جگہ یا پکھری کے مقررہ اوقات سے پہلے یا پچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہونگے۔ اگر مقدمہ علاوہ صدر مقام پکھری کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا پکھری کے اوقات کے آگے پچھے پیش ہونے پر من مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختار نہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہونگے۔ مجھے کوکل پرداختہ صاحب موصوف مثل کردہ ذات خود منظور و قبول ہوگا۔ اور صاحب کو عرضی دعویٰ و جواب دعویٰ اور درخواست جرائے ڈگری و نظر ثانی اپیل و گمرانی ہر قسم کی درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرانے اور ہر قسم کے روپیہ وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور سپروٹاشی و راضی نامہ فیصلہ پر خلاف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا۔ اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یا کطرفہ درخواست حکم انتہائی یا ترقی یا گرفتاری قبل از اجراء ڈگری بھی موصوف کو بشرط ادا کیگی علیحدہ مختار نہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا یا مقدمہ مذکورہ یا اس کے کسی جزو کی کاروائی کے واسطے یا بصورت اپیل، اپیل کے واسطے دوسرے وکیل یا بیرسٹر کو بجائے اپنے یا اپنے ہمراہ مقرر کریں اور ایسے مشیر قانون کے ہر امر دہی اور ویسے ہی اختیارات حاصل ہونگے جیسے کے صاحب موصوف کو حاصل ہیں۔ اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑے گا۔ اور صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا مختار نامہ لکھ دیا کہ سند رہے۔

مورخہ 10-11-2022 مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

Accepted and
Accepted by

Signature