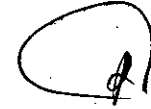


24.10.2022

Appellant present through representative.

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

Bench is incomplete and lawyers are on strike, therefore, case is adjourned to 26.10.2022 for arguments before D.B at Camp Court, D.I.Khan.



(Rozina Rehman)  
Member (J)  
Camp Court, D.I.Khan

26<sup>th</sup> Oct 2022

Appellant None for the appellant present. Mr. Kabir Ullah Khattak, Additional Advocate General for respondents present.

Cost of Rs.10000/- imposed vide order dated 26.09.2022 was deposited by the appellant. Lawyers are on strike. To come up for arguments on 24.11.2022 before D.B at Camp Court, D.I Khan. P.P given to the parties.



(Rozina Rehman)  
Member (J)  
Camp Court, D.I Khan



(Kalim Arshad Khan)  
Chairman  
Camp Court, D.I Khan

26<sup>th</sup> Sept 2022

1. Learned counsel for the appellant present and heard.

2. This application is for restoration of appeal dismissed in default vide order dated 22.06.2018. It appears that on 14.03.2018, the matter was fixed before the Tribunal at camp court D.I.Khan and was adjourned to 24.04.2018 on the request of learned counsel for the appellant, where-after the Tribunal became dysfunctional because of retirement of Chairman and on the appointment of the new Chairman the matter was fixed for 21.06.2018. The original file shows that no notice was given to the appellant or his counsel for the date fixed that is for 21.06.2018. On 21.06.2018, neither the appellant nor his counsel put appearance before the Tribunal and the Tribunal adjourned it to 22.06.2018 observing that the matter was of 2014 but no notice was issued to the appellant nor his counsel. On 22.06.2018 the appeal was dismissed in default due to non-appearance of the appellant and his counsel. It is contended by the petitioner that he was never informed about the date fixed (21.06.2018) nor the adjourned date (22.06.2018) which fact finds support from the record. Even then the petitioner cannot be absolved as he was also bound to pursue his cause and for the purpose he ought to have inquired about the status of his appeal or the dates to be fixed but he did not, therefore, to secure the ends of justice, this application is allowed but on payment of Rs.10000/- as cost to be paid to the other side. The appeal stands restored to its original number. The appellant is given last chance to argue this appeal failing which the appeal will be decided on the available record without the arguments. To come up for arguments on 24.10.2022 before D.B at camp court D.I.Khan.

3. *Pronounced in open court in D.I.Khan and given under my hand and seal of the Tribunal on this 26th day of Sept, 2022.*



(Kalim Arshad Khan)  
Chairman  
Camp Court D.I.Khan

30<sup>th</sup> June 2022

Counsel for the appellant present.

Learned counsel for the appellant submits that he has not prepared the case. Last opportunity is granted to the learned counsel for the petitioner to argue this petition on 22.08.2022 positively failing which it will be decided on the available record without arguments before S.B at camp court D.I.Khan.



(Kalim Arshad Khan)  
Chairman  
Camp Court D.I.Khan

22/8/2022

Due to summer vacation to come up for the same as before on 26-9-2022



21.10.21

Due to COVID-19, the case is adjourned to 25.10.21 for same as before.

Implementations not submitted to the petitioner/... for attendance as respondents for submission of implementation report.

Adjourned to 11.00.2021 before S.B at Camp Court D.I.Khan.

25.10.2021

Nemo for the parties.

Mr. Muhammad Rasheed, Deputy District Attorney for respondents present.

Previous date was changed on Reader Note, therefore, both the parties be put on notice for 14.12.2021 before S.B at Camp Court, D.I. Khan.

Camp Court D.I.Khan

(ATIQU-UR-REHMAN WAZIR) MEMBER (EXECUTIVE) CAMP COUR D.I KHAN

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14.12.2021

None present on behalf of the petitioner as well as respondents. Fresh notices be issued to them. Case to come up for reply/arguments on restoration application on 21.02.2022 before S.B at Camp Court, D.I.Khan.

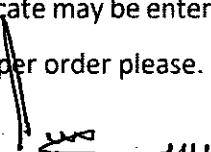

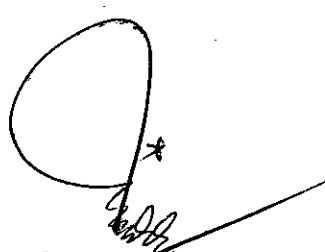
Chairman Camp Court, D.I.Khan

Due to retirement of the Hon'ble Chairmen to come up for the same as before on 30/6/2022

## FORM OF ORDER SHEET

Court of \_\_\_\_\_

Restoration Application No. 45 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	02.02.2021	<p>The Restoration Application submitted by Mr. Muhammad Jamil through Mr. Muhammad Idrees Khan Advocate may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2		<p>This Restoration Application be put up before Touring Bench at D.I. Khan on <u>24.3.2021</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	24.03.2021	<p>Nemo for the petitioner present. Mr. Muhammad Rashid, DDA for respondents present.</p> <p>Notices be issued to the petitioner/counsel for attendance as well as to the respondents for submission of written reply/comments on application for restoration of appeal.</p> <p>Adjourned to 21.06.2021 before S.B at camp court D.I.Khan.</p> <p style="text-align: right;"> (Mian Muhammad) Member(E) Camp Court D.I.Khan</p>

**Before the Worthy Services Tribunal, Khyber  
Pakhtunkhwa, Peshawar.**

In Misc Petition no. \_\_\_\_\_/2021

**Muhammad Jamil Versus Govt of Khyber Pakhtunkhwa, etc**

**INDEX**

S.No	Description of Documents	Annexure	Page
1.	Grounds of Petition along with application for condonation and affidavit		1-7
2.	Attested copy of Memo of Service Appeal	I	8-14
3.	Copy of reply by the respondents	II	15-22
4.	Copy of Rejoinder	III	23-25
5.	Copy Order sheets of the proceedings	IV	26-31
6.	Respective Order Sheets and Impugned Order.	V	32-33
7.	Fresh Wakalatnama		34

January 31, 2021

Your Humble Petitioner

  
Muhammad Jameel

Through Counsel

  
MUHAMMAD IDREES  
Advocate High Court,  
Dera Ismail Khan.

**Before the Worthy Services Tribunal, Khyber**

**Pakhtunkhwa, Peshawar** Khyber Pakhtunkhwa  
Service Tribunal

Misc Petition NO. 45 /2021  
In S.A No. 948/2014 decided on. 22.06.2018

Diary No. 162  
Dated 2/02/2021

**Muhammad Jamil** s/o Muhammad Ibrahim, R/O Zafar Abad colony,  
near Gali Farooqia Masjid, Dera Ismail Khan. 1

**Presently**, Naib Qasid at DHQT Hospital, Dera Ismail Khan.

.....**Petitioner**

**Versus**

1. **Government of Khyber Pakhtunkhwa**, through chief secretary Peshawar.
2. **Secretary Health Services**, Khyber Pakhtunkhwa, Peshawar.
3. **Secretary Establishment and administration** department, Khyber Pakhtunkhwa, Peshawar.
4. **Director General Health Services**, Khyber Pakhtunkhwa, Peshawar.
5. **Medical Superintendent** DHQT Hospital, Dera Ismail Khan.

.....**Respondents**

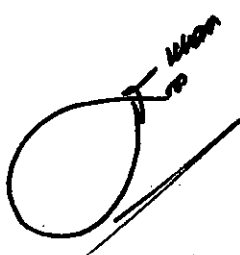
6. **District Accounts Officer**, Dera Ismail Khan.

..... **Performa Respondent**

**Petition under Rule 19 (3) of Services Tribunal Rules, 1974, for Restoration of Appeal no. 948/2014 titled, "Muhmmad Jamil V/S Government of KPK etc", which was dismissed in default vide Order dated. 22.06.2018, Passed by the Learned Chairman of this Worthy Tribunal, due to default in appearance by the petitioner/appellant or his Counsel.**

Petitioner amongst other grounds respectfully submits as under,

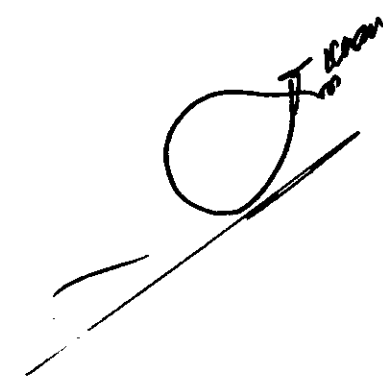
1. That service appeal titled "**Muhmmad Jamil V/S Government of KPK etc**" was filed before this learned Tribunal, which was admitted for regular hearing, and after completion of all codal formalities, respondents were called to submit their comments/reply, who submitted their respective replies, and case was fixed for arguments on main appeal after submission of rejoinder by the petitioner/appellant before Learned Division Bench of this Worthy Tribunal. Copies of appeal, written replies, and rejoinder alongwith



respective order sheets of this Worthy Tribunal are annexed to the petition in hand as annexures I to IV.

2. That on 14.03.2018 case was adjourned on request of the petitioner's/appellant's counsel for 24.04.2018, but due the appeal was put up before one of the Learned Members on 25.05.2018, who further ordered to fix the cited appeal for 21.06.2018.
3. That on 21.06.2018, the cited appeal was fixed before the Learned Division Bench, but due to non-service of the petitioner/appellant of his counsel, the case was adjourned to 22.06.2018.
4. That on 22.06.2018, once again due to the non-service of the petitioner/appellant or his counsel, impugned order was passed, vide which appeal of the petitioner was dismissed in default. Attested copies of the respective order sheets alongwith impugned order are annexed as annexure V to the petition in hand.
5. That in the mean while the petitioner was unaware of the impugned order dated. 22.06.2018, but on 21.01.2018, he came to know regarding the impugned order, and applied for its copies on 22.01.2021, and after receiving attested copies of the impugned order, promptly approached this Worthy Tribunal on following **Groundsand cause,**

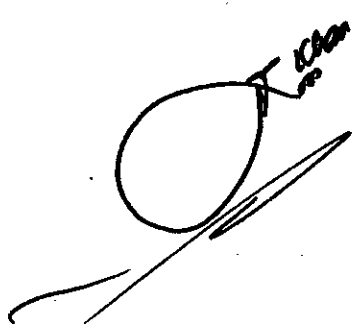
- i. That impugned order has been passed inadvertently without confirmation of the knowledge of the petitioner regarding the date of hearing of his appeal before the Learned Division Bench of this Worthy Tribunal, which is reflected from the Order sheets of 25.05.2018, 21 & 22.06.2018.
- ii. That neither the appellant, nor his counsel was in knowledge of the date of hearing of the appeal of the petitioner, which was fixed for 21.06.2018, as no physical service has been made for such information.
- iii. That besides the appeal of the petitioner was previously fixed for hearing on 24.04.2018, but

A handwritten signature in black ink, appearing to be 'J. Khan', is written over a diagonal line that extends from the bottom left towards the center of the page.



due to the retirement of the Learned Chairman, the Worthy Tribunal was non-functional, and Camp Court was adjourned for the Tour of Dera Ismail Khan, which was also not communicated to the petitioner or his counsel, and the case was fixed for 21.06.2018 without any formal communication to the petitioner/appellant, which has resulted in impugned order.

- iv. That through impugned order the petitioner/appellant has been condemned unheard, which is against the dictum of natural justice as APEX Courts and spirit of legislation has encouraged the decisions of the cases on merits rather to be decided on the basis of technicalities.
- v. That petitioner belongs to a far flung district of the Province of KP, and also belongs to a poor family, while valuable rights of the petitioner are there in the cited appeal, and in case the application/petition was not accepted, the petitioner will suffer irreparable loss in his service career.
- vi. That after the date of knowledge i.e 21.01.2021, the petition in hand in well with in time, while for the period of delay, a separate application for its condonation is annexed to the petition in hand, with grounds of condonation mentioned there in.
- vii. That petitioner/appellant has no other remedy, but to approach this earned forum, as his last hope and opportunity, while this Learned Tribunal may have a sympathetic attitude towards petitioner's rights to be dealt as in accordance with law.
- viii. That petitioner has unconditional faith in this Learned and Worthy Tribunal for redressal of his grievances and while this Worthy Tribunal has ample Powers to give an opportunity to the



A handwritten signature in black ink, appearing to read 'T. Khan', is written over a large, loopy scribble. The scribble consists of several overlapping loops and lines, possibly representing a stylized signature or a mark.

petitioner/appellant for adjudication of his valuable rights.

In wake of the submissions made above, it is humbly prayed that, through acceptance of petition in hand, appeal cited in the head of the petition titled "**Muhammad Jamil V/S Government of KPK etc.**" may graciously be restored and be fixed for regular hearing.

January 31, 2021

Yours Humble Petitioner

**Muhammad Jamil**

Through Counsel

**Muhammad Idrees Khan**  
Advocate High Court.

**Books Referred:-**

1. Services Tribunal Act, 1973
2. Services Tribunal Rules, 1974
3. Civil Procedure Code, 1908

**Verification:-**

I, Muhammad Jamil, (Petitioner), do solemnly affirm and verify that the contents of the petition are true, and nothing has been concealed.

Yours Humble Petitioner

**Muhammad Jamil**

**Before the Worthy Services Tribunal, Khyber  
Pakhtunkhwa, Peshawar.**

MiscApp: NO. \_\_\_\_\_/2021  
In Misc Petition no. \_\_\_\_\_/2021

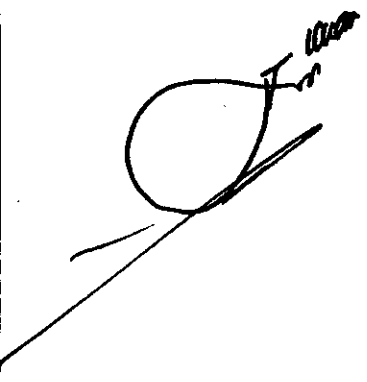
5

**Muhammad Jamil Versus Govt of Khyber Pakhtunkhwa, etc**

**Miscellaneous Application U/S 5 of limitation act  
1908, R/W section 151 of Civil Procedure Code, 1908  
for Condonation of delay occurred for restoration of  
service appeal titled "Muhammad Jamil v/s Govt of  
KPK etc"**

Applicant/petitioner respectfully submits as under,

1. That application in hand is being filed alongwith main restoration petition, and be considered as part and parcel of each other.
2. That applicant/petitioner has good prima facie case, as valuable rights of the petitioner are pending in main service appeal which was dismissed in default due to non-appearance of the applicant or his counsel.
3. That the delay occurred in filling restoration petition was inadvertent, and was neither caused will full, nor due to any deliberate omission of the applicant/petitioner.
4. That neither the applicant/petitioner nor his counsel were aware of the fact that the case/appeal was fixed for 21.06.2018, and that earlier the case was adjourned due to non-functionality of this worthy Tribunal, and afterwards, as no physical service was made after the Worthy Services Tribunal became Functional. While the Learned DB has inadvertently pronounced the impugned order, which is evident from the Order sheet of 21.06.2018, wherein no observation regarding the service of the applicant/petitioner or his counsel was made. which



may likely cause damage and make suffer the petitioner's valuable rights.

5. That applicant after getting the knowledge of the impugned order, has not delayed even for a day, and after getting attested copies of the impugned order, has approached this Learned Court without any further delay.
6. That as the main service appeal of the petitioner/appellant was dismissed due to technical and mis-understandable circumstances; the time limitation will not govern against the applicant/petitioner, and is condonable if any.
7. Further, as the applicant/petitioner belongs to the medical field, which is under emergency conditions for the last one and half year, and the employees of the department has fought against the pandemic beside any consideration of their own lives, and hence faced mental and psychological constraints, which is also an undeliberate and un-will full cause of delay in information regarding impugned order, and is condonable in that situation.

In wake of the submissions made above, it is humbly prayed that, through acceptance of application in hand, delay occurred in filling petition for restoration of main service appeal titled "Muhammad Jameel v/s Govt of KPK", may graciously be condoned.

January 31, 2021

Yours Humble Petitioner

**Muhammad Jamil**

Through Counsel

**Muhammad Idrees Khan**  
Advocate High Court.

7

**Before the Worthy Services Tribunal, Khyber  
Pakhtunkhwa, Peshawar.**

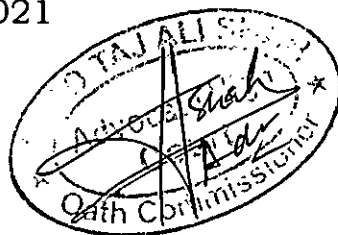
In Misc App: NO. \_\_\_\_\_/2021

**Muhammad Jamil Versus Govt of Khyber Pakhtunkhwa, etc**

**AFFIDAVIT:-**

I, Muhammad Jamil, (Applicant/Petitioner), do solemnly affirm and declare on oath that the contents of the application are true and correct to the best of my knowledge and belief, and nothing has been concealed.

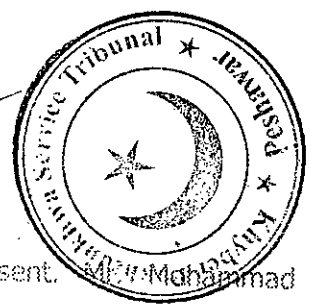
January 31, 2021



*[Signature]*  
Deponent

CNIC No. 12101-5121907-9





A. No. 948/2014  
Mr. Jameel vs Govt

21.06.2018

Neither appellant nor his counsel present. Mr. Muhammad Jamshaid, CCT on behalf of the respondents alongwith Mr. Usman Ghani District Attorney for the respondents present. Being an old case pertains to the year, 2014, adjourned for tomorrow i.e. 22.06.2018 for arguments at camp court, D.I.Khan.

Member

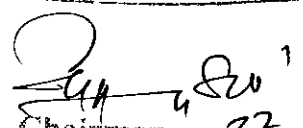
  
Chairman  
Camp Court, D.I.Khan

22.06.2018

Neither the appellant nor his counsel present. Mr. Muhammad Jamshaid, CCT for the respondents present.

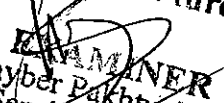
Case was called time and again till last hours of the court but none appeared on behalf of the appellant. On previous date too, none was present on his behalf. This conduct of the appellant clearly manifests that he is not interested to pursue the case. As such, the Tribunal is left with no option but to dismiss the appeal in hand in default. File be consigned to the record room.



  
Chairman 22.6.2018  
Camp court, D.I.Khan

ANNOUNCED  
22.06.2018

Certified to be true copy

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Application 22/06/21

Number of Words 3200

Copying Fee 34/-

Urgent 4/-

Total 28/-

Name of Copyist \_\_\_\_\_

Date of Completion of Copy 22/06/21

Date of Delivery of Copy 22/06/21

21.06.2018

Neither appellant nor his counsel present. Mr. Mohammad Jamshaid, CCT on behalf of the respondents alongwith Mr. Usman Ghani District Attorney for the respondents present. Being an old case pertains to the year, 2014, adjourned for tomorrow i.e. . 22.06.2018 for arguments at camp court, D.I.Khan.

Member

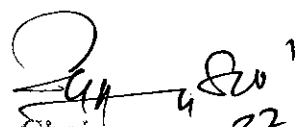
  
Chairman  
Camp Court, D.I.Khan

22.06.2018

Neither the appellant nor his counsel present. Mr. Mr. Muhammad Jamshaid, CCT for the respondents present.

Case was called time and again till last hours of the court but none appeared on behalf of the appellant. On previous date too, none was present on his behalf. This conduct of the appellant clearly manifests that he is not interested to pursue the case. As such, the Tribunal is left with no option but to dismiss the appeal in hand in default. File be consigned to the record room.





  
Chairman  
Camp court, D.I.Khan

ANNOUNCED  
22.06.2018

19.02.2018

Appellant in person present. Mr. Usman Ghani, District Attorney alongwith Mr. Muhammad Jamshid, Chief Clinical Technician for the respondents also present. Appellant requested for adjournment on the ground that his counsel is not available today. Member copy of the instant appeal is also not available on record despite direction in previous order sheet dated 24.01.2018. Appellant is again directed to provide Member copy of the instant appeal on or before the next date of hearing. Adjourned. To come up for arguments on 14.03.2018 before D.B at Camp Court D.I.Khan.


  
(Ahmad Hassan)  
Member  
Camp Court D.I.Khan

  
(Muhammad Amin Khan Kundi)  
Member  
Camp Court D.I.Khan

14.03.2018

Counsel for the appellant and Addl. AG alongwith Muhammad Jamshed, CCT for the respondents present. Counsel for the appellant requested for adjournment. To come up for arguments on 24.4.2018 before the D.B at camp court, D.I.Khan.

  
Member

  
Chairman  
Camp court, D.I.Khan

25.05.2018

Due to retirement of the worthy Chairman, the Tribunal is non-functional. To come up for the same on 21-6-18. Notices be issued to the parties accordingly.


  
Member



23.01.2018


Appellant in person and Mr. Farhaj Sikandar, Deputy District Attorney alongwith Mr. Samiullah, Junior Clerk for respondents. Arguments could not be heard due to general strike of the Bar. Adjourned. To come up for arguments on 24.01.2018 before D.B at camp court D.I.Khan.


  
(AHMAD HASSAN)  
Member

  
(M.AMIN KHAN KUND)  
Member  
Camp Court D.I.Khan

24.01.2018

Appellant in person present. Mr. Usman Ghani, District Attorney for the respondents also present. Appellant submitted rejoinder and requested for adjournment for arguments on the ground that his counsel is not available today. Member copy of the instant appeal is also not available on record. Appellant is directed to provide Member copy of the instant appeal on or before the next date of hearing. Adjourned. To come up for arguments on 19.02.2018 before D.B at Camp Court D.I.Khan.

  
(Ahmad Hassan)  
Member  
Camp Court D.I.Khan

  
(Muhammad Amin Khan Kundi)  
Member  
Camp Court D.I.Khan

27.09.2017

None present on behalf of appellant. Mr. Farhaj Sikandar, District Attorney alongwith Muhammad Jamshid, Chief Technician for respondents present.

To come up for *Rejoinder & Argument* on 27.12.2017 before D.B at Camp Court D.I.Khan.

Member  
(Judicial)

Camp Court D.I.Khan

27.12.2017

Learned counsel for the appellant present. Mr. Farhaj Sikandar, District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for rejoinder and arguments on 28.12.2017 before D.B at Camp Court D.I.Khan.

(Muhammad Amin Khan Kundi)  
Member  
Camp Court D.I. Khan

(Muhammad Hamid Mughal)  
Member  
Camp Court D.I.Khan

28.12.2017

Appellant and his counsel is absent. Mr. Farhaj Sikandar, District Attorney alongwith Mr. Muhammad Jamshed, Chief Clinical Technician for the respondents present. Notice be issued to appellant and his counsel for arguments for 23.01.2018 before D.B at Camp Court D.I.Khan.

(Muhammad Amin Khan Kundi)  
Member  
Camp Court D.I. Khan

(Muhammad Hamid Mughal)  
Member  
Camp Court D.I.Khan

948/2014

27.12.2016

Appellant in person and Mr. Hajji Rehman Khattak, Senior Auditor alongwith Mr. Farhaj Sikandar, Government Pleader for the respondents present. Written reply by respondents No. 1 to 5 have already submitted their written reply. Written reply by respondent No. 6 not submitted and representative of respondent No. 6 requested for further time for filing of written reply. To come up for written reply/comments on behalf of respondent No. 6 on 29.03.2017 before S.B at Camp Court D.I.Khan.

  
ASHFAQUE TAW  
MEMBER  
Camp Court D.I.Khan

29.3.17

*Since Taw is hereby cancelled, therefore, the case is adjourned for the date on 27.9.17.*



*29.3.17*

*Appellant in person present and Mr. Hajji Rehman Khattak, Senior Auditor, Government Pleader for the respondents present. Written reply by respondents No. 1 to 5 have already submitted their written reply. Written reply by respondent No. 6 not submitted and representative of respondent No. 6 requested for further time for filing of written reply. To come up for written reply/comments on behalf of respondent No. 6 on 29.03.2017 before S.B at Camp Court D.I.Khan.*

Member  
(Judicial)  
Camp Court D.I.Khan

29.3.2016

Clerk of counsel for the appellant and Mr. Muhammad Jam, CLT for respondents No. 1 to 5 present and reply filed. Fresh notice be issued to respondent No. 6 through registered post. To come up for written reply of respondent No. 6 on 30.8.16 at camp court, D.I.Khan. The appellant may also file rejoinder to the written reply of respondents No. 1 to 5 on the date fixed.

MEMBER

Camp court, D.I.Khan

30.08.2016

Clerk to counsel for the appellant and Mr. Muhammad Jamshaid, C.L.T alongwith Mr. Farhaj Sikandar, GP for respondents present. Fresh Notice be issued to respondent No.6. To come up for written reply of respondent No.6 on 27.12.2016 before S.B at camp court D.I Khan.

Member  
Camp court D.I. Khan

949/14

31.3.2015

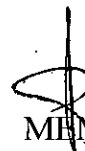
Counsel for the appellant and Minhaj Sikander GP with Dr Kiramatullah SMO for the respondents present. Counsel for the appellant submitted, that the appellant was duly and properly appointed as JCT but that order was withdrawn by the Subsequent MS. That this practice has happened two times. That despite lapse of statutory period of departmental appeal no response has been given. Points raised at the Bar need consideration. This appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, notice be issue to the respondents. To come up for written reply on 26.5.15



MEMBER  
Camp Court, D.I.Khan

26.05.2015

None is available on behalf of the appellant. Security and process fee have not been deposited. Notices be issued to appellant and his counsel. To come up for further proceedings on 27.10.2015.



MEMBER  
Camp court, D.I.Khan

27.10.2015

Counsel for the appellant and Mr. Farhaj Sikandar, GP with Muhammad Jamshed Technologist for the respondents present. Counsel for the appellant requested for time to deposit security and process fee. Security and process fee be deposited within 7 days. Case to come up for written reply at camp court, D.I.Khan on 28-12-15.



MEMBER  
Camp court, D.I.Khan



**OFFICE OF THE MEDICAL SUPERINTENDENT**  
**DISTRICT HEAD QUARTER TEACHING HOSPITAL DIKHAN**

No. 1864 / PF/G-2  
Phone No.0966-9280201

Dated 30/3 /2015  
Fax No.0966-9280446

**Authority Letter**

Dr.Kiramtullah Senior Medical Officer BPS-18 attached to DHQ Teaching Hospital DIKhan is hereby authorized to attend the Service Tribunal Court Bench DIKhan in appeal No.949/2014 case title Muhammad Ikram Vs Govt: of KPK on behalf of the undersigned on 30.03.2015.

*Kasim Shah*  
**Medical Superintendent**  
**DHQ Teaching Hospital DIKhan**

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 948/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	14/07/2014	<p>The appeal of Mr. Muhammad Jameel presented today by Mr. Muhammad Idrees Khan Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p>
2	16-10-14	<p>This case is entrusted to Touring Bench D.I.Khan for preliminary hearing to be put up there on <u>28-10-14</u></p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>
3	28-10-14	<p>No one is present on behalf of appellant. Notice be issued to appellant/counsel for preliminary hearing on 27-1-2015 at Camp Court, D.I.Khan</p> <p style="text-align: right;"><i>[Signature]</i> Registrar Camp Court, D.I.K.</p>
4	27-1-2015	<p>Appellant with counsel present and heard. The L/counsel argued that appellant has not been treated in accordance with Law &amp; rules. He was awarded major punishment without observing codal formalities.</p> <p>Pre-admission notices be issued to respondents and G.P. for further preliminary hearing on 30-3-15 at Camp Court, D.I.K.</p> <p style="text-align: right;"><i>[Signature]</i> Member Camp Court, D.I.K.</p>

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

S.T.A No. 948 / 2014

Muhammad Jameel **VERSUS** Govt. of KPK etc

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Dated: 04-07-2014

Appellant  
**Muhammad Jameel**

Through Counsel

**Muhammad Idrees Khan**  
Advocate High Court



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

S.T.A No. 948 / 2014

Muhammad Jameel S/o Muhammad Ibrahim R/o Zafarabad colony near Gali Farooqiya Masjid, Dera Ismail Khan.  
Presently Naib Qasid at D.H.Q.T Hospital D.I.Khan.

.....Appellant

**VERSUS**

1. Govt. of Khyber Pakhtunkhwa Through Chief Secretary Peshawar.
2. Secretary Health Khyber Pakhtunkhwa Peshawar.
3. Secretary Establishment and Administration department, Khyber Pakhtunkhwa, Peshawar.
4. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
5. Medical Superintendent D.H.Q Teaching Hospital Dera Ismail Khan.

.....Respondents

6. District Accounts Officer Dera Ismail Khan.

..... Proforma Respondent

*u/s 4 of Services Tribunal act 1974*

**SERVICE APPEAL AGAINST ORDER OF MEDICAL SUPERINTENDENT D.H.Q TEACHING HOSPITAL D.I.KHAN NO. 6889 DATED 17-12-2013 VIDE WHICH ORDER OF APPOINTMENT THROUGH PROMOTION DATED 08-07-2013 THROUGH RECOMMENDATION OF DEPARTMENTAL SELECTION COMMITTEE, BY MEDICAL SUPERINTENDENT (PREDECESSOR) D.H.Q.T HOSPITAL D.I.KHAN WAS WITHDRAWN AND THE APPELLANT WAS AWARDED WITH MAJOR PENALTY OF REDUCTION TO THE LOWER POST.**

**Prayer:-**

*6/2/14*  
**By declaring office order No. 6899 dated 17-12-2013 as without lawful authority and by setting aside the impugned order, appellant may graciously be reinstated in his original position as JCT (PATHOLOGY), BPS-09 with all back benefits ..... alongwith interim relief of suspension of the impugned order till the disposal of appeal in hand and by directing respondent authorities to release his benefits/salary of his original position of BPS-09.**

Appellant alongwith other grounds respectfully submits as under,

That appellant promoted/appointed as JCT (PATHOLOGY), BPS-09 by Medical Superintendent at D.H.Q.T Hospital D.I.Khan vide office order bearing No. 18-21 dated 03-01-2011 on acceptance of application dated 24-12-2010 from Naib Qasid BPS-02 to BPS-09 and was reverted back by the next Medical Superintendent Mr. Khalid Aziz Baloch vide office order bearing No. 9557-70/A-4 Dated 09-12-2011 and the position was re-advertized vide advertisement dated 14-05-2013 and once again the appellant was appointed/promoted vide office order bearing No. 4417-20 dated 06-07-2013 to the post cited above on the recommendation of D.S.C, D.H.Q.T Hospital D.I.Khan dated 06-07-2013 which was once again upheld and withdrawn by the upcoming Medical Superintendent vide impugned order dated 17-12-2013 against which departmental appeal was filed to Director General Health Services dated 26-12-2013 on which a non speaking decision was received on 19-02-2014 and once again the matter was referred to Secretary Health Services Govt. of Khyber Pakhtunkhwa on 22-02-2014 which was communicated through memo dated 21-03-2014 to respondent No. 05 for comments and reply and once again on 12 May 2014 for comments reply within 03 days after which no reply/decision had ever been served upon the appellant for his departmental appeal, by which feeling aggrieved appellant approached this Honourable Forum inter alia on following grounds.

**Grounds:-**

1. That sole ground agitated for adverse decision against appellant quoted in impugned order are self made and baseless and are an outcome of malafide motives of the

respondent No. 5, which is evident from the fact that while passing the impugned order on 17-12-2013, the position was already re-advertised by the then Medical Superintendent which is itself an Act of grave irregularity which was also enquired by Respondent No. 2 through office memo dated 21-03-2014, but respondent No. 5 remained mum up-till now, which reveals omission on the respondent No. 5 end.

2. That the appellant was rightly appointed through promotion after completion of all codal legal formalities and petitioner was rightly recommended by Departmental Selection/Promotion Committee for appointment through promotion which is evident from the record, but respondent No. 5 acting waywardly (سینہ زوری), attempted an illegal and unjustifiable act, suffering the appellant's valuable rights just for the satisfaction of his allured temptation.
3. That respondent No. 5 has wrongly proceeded with the appellant, alleging "misconduct" on the appellant, is above the prudent mind (فہم سے بالا تر), beside if assumed something wrong, may be reported to a competent authority, and if the competent authority had ever delegated any powers to respondent No. 5 the matter may be preceded as the case may be.
4. That no ground for proceeding against appellant had ever existed but the appellant is awarded with major penalty/punishment for nothing, hence practice cited above is not likely to be appreciated but likely to be discouraged.
5. That respondent No. 5 while alleging non performance of codal formalities for appointment through promotion, had himself not performed/adopted legal procedure laid down in E & D Rules 2011, while proceeding against the appellant, and hence is accountable for his own illegal conduct.
6. That in this way while proceedings illegally without adopting lawful procedure against the appellant, respondent No. 5 has

committed grave irregularity, which is excess in use of powers, which are liable to be set aside.

7. That appellant counsel may be provided with an opportunity to raise additional grounds during the course of arguments.

Dated: 04-07-2014

Appellant   
**Muhammad Jameel**

Through Counsel

  
**Muhammad Idrees Khan**  
Advocate High Court

**AFFIDAVIT**

I, Muhammad Jameel S/o Muhammad Ibrahim, do hereby solemnly affirm and declare on oath that the contents of the appeal are true and correct to the best of my knowledge and belief, and nothing has been concealed.

  
**Deponent**

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

S.T.A No. \_\_\_\_\_ / 2014

Muhammad Jameel **VERSUS** Govt. of KPK etc

**APPLICATION FOR SUSPENSION OF operation of THE**  
**IMPUGNED order DATED 17-12-2013 BY RESPONDENT NO. 5**  
**TILL THE DISPOSAL OF APPEAL IN HAND.**

Respectfully Sir,

1. That instant application is moved alongwith the main appeal and be considered as part and parcel of it.
2. That appellatant has good prima facie case and balance of convenience tilts on the appellatant side.
3. That there is likelihood of success of the appellatant and if the impugned order is not been suspended appellatant may suffer irreparable loss.

In view of submission made above, it is , humbly prayed that on acceptance of instant application operation of the impugned order may be suspended till disposal of the main appeal in hand.

Dated: 04-07-2014

Appellant  
**Muhammad Jameel**

Through Counsel

**Muhammad Idrees Khan**  
Advocate High Court

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

S.T.A No. \_\_\_\_\_ / 2014

Muhammad Jameel **VERSUS** Govt. of KPK etc

**AFFIDAVIT**

I, Muhammad Jameel S/o Muhammad Ibrahim, do hereby solemnly affirm and declare on oath that the contents of the application are true and correct to the best of my knowledge and belief, and nothing has been concealed.

  
**Deponent**

## Office of the Medical Superintendent

DHQ Teaching Hospital DIKhan

No. 607/13Dated 17 / 12 / 2013

To

Mr. Muhammad Jamil,  
JCT (Pathology), BPS-09 DHQTH DIKhan.

(7)

Subject: ILLEGAL APPOINTMENTS.

On going through the findings of the case, material on records and other connected papers including your written defense, personal hearing, I am satisfied that you have committed the act of "Misconduct" in terms of clause I (VI) of Rule 2 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, on the basis of following among other grounds.

As your appointment orders were issued, without performing codal formalities worth the name, even the constituted Departmental selection committee was found fake in the light of written statements of committee members, in violation of observations made by Honorable Peshawar High Court in his decision dated 25/04/2013, ban imposed, without prior formal approval of Director General Health Services and against the standing directives of the Divisional Commissioner DIKhan.

By the reason of above, you have rendered yourself liable to Major Penalty specified in Rule 4 of KPK Govt Servants (E & D) Rules 2011.

In exercise of powers, conferred upon me as competent authority in light of above referred rules, I do hereby impose major penalty of "Reduction to a lower post" and consequently your appointment/adjustment orders issued vide No.4417-20 dated 06.07.2013 are here by withdrawn and you are reverted to the previously held post from the date of its issuance, being void ab initio and repugnant to the Government rules and regulations, in the best interest of institution.

Medical Superintendent  
DHQ Teaching Hospital DIKhan

No. 607/13

A copy of the above is forwarded to:

1. The Commissioner DIKhan Division DIKhan.
2. The Director General Health Services Khyber Pakhtunkhwa Peshawar.
3. The Chief Executive DHQTH DIKhan.
4. Deputy Commissioner DIKhan.
5. District Accounts Officer DIKhan.
6. DMS Admn, DHQTH DIKhan.
7. Accounts Officer MS Office.
8. Esstt/ Accounts Clerk.

Medical Superintendent  
DHQ Teaching Hospital DIKhan

Amir M 40

Ph# 0966 9280201/ Fax # 0966 9280446/DIK

# Office of the Medical Superintendent

DHQ Teaching Hospital DIKhan

No. 3965 /

Dated 20 / 08 /2013

(8)

## SHOW CAUSE NOTICE

Name Mr. Muhammad Jamil S/O Mr. Muhammad Ibrahim R/O DHQ Teaching Hospital, Tehsil and District Dera Ismail Khan.

Whereas, the outgoing Medical Superintendent DHQ Teaching Hospital DIKhan just before his departure, he issued an order bearing No. 4417-20/PF dated 06.07.2013 appointing you as JCT Pathology BPS-09 with out adopting the procedure for recruitment in accordance with the provision of the Khyber Pakhtunkhwa Civil Servants appointment, promotion and transfer rules and had acted an exercised authority not vesting in him thus the order issued are void abinitio and thus not sustainable, you are directed to Show Cause why the order as referred to above should not be resigned.

Your reply should reach with in a period of 07 days from the issuance of the order, failing which, it should be presumed that you have no answer to reply.

Medical Superintendent/ Competent Authority  
DHQ Teaching Hospital DIKhan

Amir M  
20/08



Office of the  
Medical Superintendent  
DHO Teaching Hospital  
Dikhan.

No: 148/PF  
Dated 25/07/2013

9

To

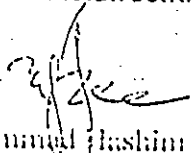
The District Accounts Officer  
Dera Ismail Khan.

Subject:

Illegal Appointments

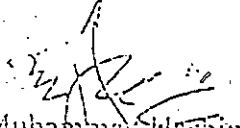
Memo.

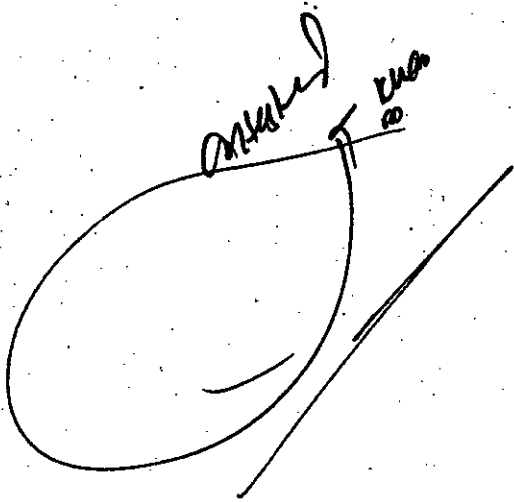
The Ex.MS (Dr.Khalid Aziz Baloch) made illegal appointments without observing codal formalities and without approval of the competent authority. It is therefore requested that the claims of illegally appointed persons may not be admitted ~~to~~ ~~admitted~~ till the finalization of its enquiry which is in process on the direction of higher authorities.

  
Dr. Muhammad Hashim  
Medical Superintendent  
DHO Teaching Hospital  
Dikhan

No: 149 - 80 - 1  
A copy is forwarded to:-

- 1-The Commissioner, Dikhan Divn. Dikhan.
- 2-The Deputy Commissioner /Health Vigilance Committee Dikhan  
for information and with the request to please direct the DAO Dikhan for not admitting the claims of illegal appointed person.

  
Dr. Muhammad Hashim  
Medical Superintendent  
DHO Teaching Hospital  
Dikhan.

  
Anwarul  
T. M. S.

To,

The Secretary,  
Health Service  
Government Khyber Pakhtunkhwa  
Peshawar.

(10)

**SUBJECT: APPEAL FOR RESTORATION OF SERVICE AND  
PAYMENT OF SALARIES (BPS-9)**

I was appointed as J.C.T (Pathology) by the former Medical superintendant (MS) after following the codal formalities. The former Medical Superintendent being a grade 20 officer was competent enough to appoint me by the Departmental rules.

The present Medical Superintendent Dr. Mohammad Hashim Khan issued orders of stoppage of my monthly salaries (BPS-09) and show cause notice without following the procedures of Efficiency a Disciplinary Rules 2011 and without having lawful authority. I filed in a writ petition No. 397-D/2013 in Peshawar High Court D.I.Khan Bench, please find Photocopy of my Writ Petition in Peshawar High Court D.I.Khan Bench which explains the situation and grounds for doing so.

The Honorable Bench of Peshawar High Court has directed the District Account Officer for payment of the salaries (BPS-09).

Thus the Honorable Court has accepted the fact that I have performed my duties, the present Medical Superintendent has not proved my act of misconduct if any. Moreover he not followed the procedure. Which could lead to my termination from service.

Considering the above facts it is prayed that my service may be restored and I may be paid my salary (BPS-09). I should be allowed to continue my service. I hope you will be kind enough to do justice as Peshawar High Court Bench has done.

I reserve my legal right to go to Khyber Pakhtunkhwa Service Tribunal to get Justice. In mean time the Medical Superintendent shall be directed not to appoint other person on vacancy on which petitioner is working

Note: An appeal was submitted before the Honourable Director General Health Services K.P.K dated 26/12/2013 which was later on accepted vide letter No. 1058/E-V dated 19/02/2014 in which the Medical Superintendent D.H.Q Hospital Dera Ismail Khan was directed through letter No. 457/PF dated 23/01/2014 on the subject note and to state to Act as per Rules & orders / decision of the Court. But the Medical Superintendent not follow the rules and orders. Copy attached herewith.

Dated: 22/02/2014

*Handwritten signature and initials*

Yours sincerely

*Handwritten signature*  
**MUHAMMAD JAMIL (J.C.T)**  
D.H.Q Teaching Hospital  
Dera Ismail Khan.

MEMORANDUM



(10)

GOVT. OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT  
No. SCH-III/10-4/2014 (Muhammad Ikram & Others)  
Dated the Peshawar 12<sup>th</sup> May, 2014

The Medical Superintendent,  
CHP Hospital D.I Khan.

SUBJECT: APPEAL FOR RESTORATION OF SERVICE AND PAYMENT OF SALARIES (BS-09).

I am directed to refer to this department letter of even number dated: 21-05-2014 on the subject noted above and to state that the requisite information is still awaited which may be expedited to this department which in three days positively.

List of even no & date.

Copy forwarded to:-

1. The Director General Health Services, Khyber Pakhtunkhwa Peshawar for information.
2. PS to Secretary Health, Khyber Pakhtunkhwa.

(Wajid Ali Khan)  
Section Officer-III

Section Officer-III

*attested*

FROM :

FRX NO. :

Jan. 01 1999 12:05PM P1



GOVT. OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT  
No. SOH-III/10-4/2014 (Muhammad Ikram & Others)  
Dated the Peshawar 21<sup>st</sup> March, 2014

19

To

The Medical Superintendent,  
DHQ, Hospital D.I Khan.

**SUBJECT: APPEAL FOR RESTORATION OF SERVICE AND APYMENT OF SALARIES (BS-09).**

I am directed to enclose herewith copies of combine appeals and other enclosures received from Muhammad Ikram (JCT) D.H.Q Teaching Hospital, Dera Ismail Khan and others and to state that to clarify the following points to this department within a week time to proceed further in matter.

- i) On whose direction the enquiry was started. The posts re-advertised on 16-06-2013 while show cause notice served to the appellants on 20-08-2013 and major penalty imposed in December, 2013.
- ii) If the selection committee was fake; why you has replied to Director General Health Services that said appointments (wrongly wrote as promotion) were made by the then Ex-MS DHQ Khalid Aziz Baloch.
- iii) Whether any disciplinary action has been initiated/taken against the appointing authority.

Encl: As above.

Indst: of even no & date.

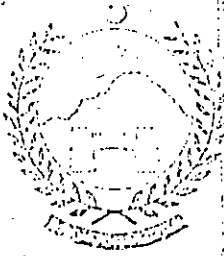
Copy forwarded to:-

The Director General Health Services, Khyber Pakhtunkhwa Peshawar for information.

(Wajid Ali Khan)  
Section Officer-III

Section Officer-III

*Handwritten signature and initials*  
*Wajid Ali Khan*  
*21/3/14*



(13)

DIRECTORATE GENERAL HEALTH SERVICES  
KHYBER PAKHTUN KHW A PESHAWAR.

Head Office: Peshawar, Khyber Pakhtunkhwa, Pakistan. Office Ph# 091-9210200 Fax# 091-9210200  
E-mail: dg@peshawar.gov.pk

NO. 1058 /E-V,

Dated: 19/2/2014

To

The Medical Superintendent,  
DHO Teaching Hospital D.I Khan.

Subject: - APPEAL FOR RESTORATION OF SERVICE AND PAYMENT OF SALARIES.

Dear Sir,

I am directed to refer to your letter No. 457 PF dated 23.01.2014, on the subject noted above and to state to act as per rules and Orders / Decision of the Court.

ASSISTANT DIRECTOR (P-III)  
DGHS, KHYBER PAKHTUNKHWA  
PESHAWAR

*[Handwritten signature]*  
19/2/14

How Khamid Khan

*[Large handwritten signature]*  
*[Handwritten initials]*



(14)

DIRECTORATE GENERAL HEALTH SERVICES  
KHYBER PAKHTUN KHYA PESHAWAR.

Min. Address: gds@kpk.gov.pk Office Phn: 091 3210700 Exchange: 091 3210192 230196 Fax: 091 3210196

NO 226 IE-V. Dated 16/1/2013

The Medical Superintendent,  
DHQ Teaching Hospital D.I Khan.

Subject: - APPEAL FOR RESTORATION OF SERVICE AND PAYMENT OF SALARIES

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith an application alongwith decision of Peshawar High Court Peshawar in r/o of Mohammad Ikram JCT (EEG) BPS-09 which is self explanatory and offer your detailed comments in the matter immediately.

*[Signature]*  
ASSISTANT DIRECTOR (III)  
DGHS, KHYBER PAKHTUNKHWA  
PESHAWAR

*[Signature]*  
16/1/13

*attested*  
*[Signature]*

To,

The Director General  
Health Service  
Government Khyber Pakhtunkhwa  
Peshawar.

(15)

**SUBJECT:**

**APPEAL FOR RESTORATION OF SERVICE AND  
PAYMENT OF SALARIES.**

I was promoted as J.C.T (Pathology) by the former Medical Superintendent (MS) after following the codal formalities. The former Medical Superintendent being a grade 20 officer was competent enough to promote me.

The present Medical Superintendent Dr. Mohammad Hashim Khan issued orders of stoppage of my monthly salaries and show cause notice without following the procedures of Efficiency and Disciplinary Rules 2011 and without having lawful authority. I filed in a writ petition No. 397-D/2013 in Peshawar High Court D.I.Khan Bench, please find Photocopy of my Writ Petition in Peshawar High Court D.I.Khan Bench which explains the situation and grounds for doing so.

The Honorable Bench of Peshawar High Court has directed the District Account Officer for payment of the salaries from the period of my promotion i.e 06/07/2013 till now.

Thus the Honorable Court has accepted the fact that I have performed my duties, the present Medical Superintendent has not proved my act of misconduct if any. Moreover he not followed the procedure. Which could lead to my termination from service.

Considering the above facts it is prayed that my service may be restored and I may be paid my salary. I should be allowed to continue my service. I hope you will be kind enough to do justice as Peshawar High Court Bench has done.

I reserve my legal right to go to Khyber Pakhtunkhwa Service Tribunal to get Justice. In mean time the Medical Superintendent shall be directed not to appoint other person on vacancy on which petitioner is working.

Dated: 26/12/2013

Yours sincerely

**MUHAMMAD JAMIL (J.C.T)**  
**D.H.Q Teaching Hospital**  
**Dera Ismail Khan.**

**COPY FORWARDED TO:-**

1. Secretary Health Government of Khyber Pakhtunkhwa.

Office of the Medical Superintendent  
DHQ Teaching Hospital DIKhan

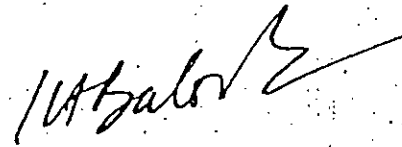
(16)

No. \_\_\_\_\_ /

Dated 6 / 7 / 2013

OFFICE ORDER

Consequent upon the appeal made by Mr. Muhammad Jamil S/O Muhammad Ibrahim and going through the record. Mr. Muhammad Jamil qualifies for the post of JCT Pathology considering his fresh application dated 16.05.2013 and after approval of the Departmental Selection Committee. Mr. Muhammad Jamil is hereby appointed as JCT Pathology BPS-09 with immediate effect.

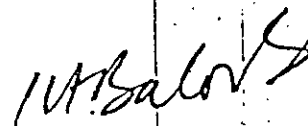


Medical Superintendent  
DHQ Teaching Hospital, DIKhan.

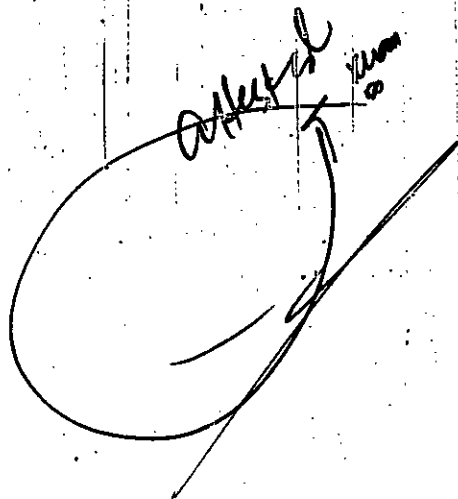
No. 4417-20 /

Copy forwarded to:-

1. The Director General Health Services Khyber Pakhtunkhwa Peshawar.
2. The District Accounts Officer DIKhan.
3. Accounts Section MS Office DHQTH DIKhan.
4. Official concerned.



Medical Superintendent  
DHQ Teaching Hospital, DIKhan.





Ommlx - V

(17)

OFFICE OF THE MEDICAL SUPERINTENDENT D.H.Q TEACHING HOSPITAL DERA ISMAIL KHAN.

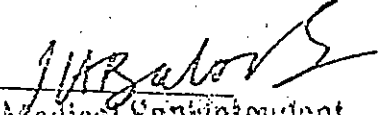
SUBJECT:- DEPARTMENTAL SELECTION COMMITTEE MEETING FOR CONSIDERATION OF CANDIDATES FOR APPOINTMENT / RECRUITMENT / PROMOTING / POSTING OF DIFFERENT POSTS IN TEACHING HOSPITAL, DERA ISMAIL KHAN.

Meeting of Departmental Selection committee was held in the office of M.S, District Head Quarter Teaching Hospital D.I.Khan on 02/07/2013 for filling the vacant posts of Para Medics, JCTs BPS-09.

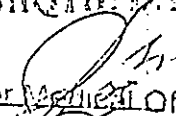
The committee considered for recommended for promotion and appointment of JCTs in BPS-09 against the vacant posts at DHQ Teaching Hospital D.I.Khan being suitable candidate for the said post.

- 1. Mr. Mohammad Ikram (JCT, EEG)
- 2. Mr. Mohammad Jamil (JCT, Pathology)
- 3. Mr. Mohammad Younis (JCT, Pharmacy)

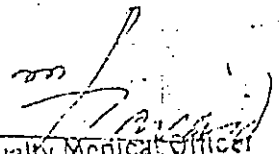
Dr. Khalid Aziz Baloch  
MS, DHQT, Hospital DIK.

Chairman   
Medical Superintendent  
DHQTH: D.I.Khan

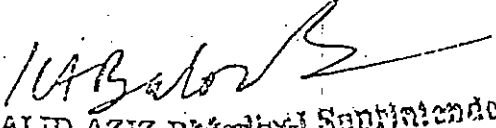
Dr. Khan Shah  
District Radiologist  
DHQT, Hospital DIK.

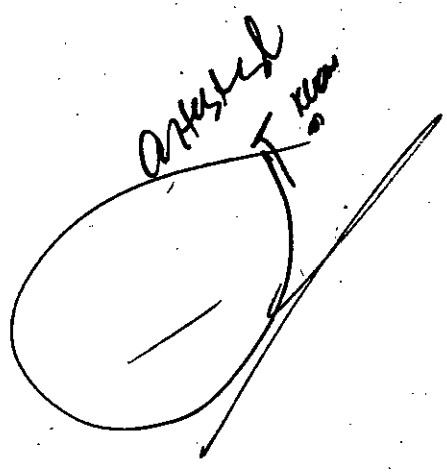
Member   
Senior Medical Officer  
D.H.Q Teaching Hospital,  
D.I.Khan

Dr. Malik Akhtar Javed  
SMO, DHQT, Hospital DIK.

Member   
Casualty Medical Officer  
D.H.Q. Teaching Hospital  
D.I.Khan

Dated: 02/07/2013

  
Dr. KHALID AZIZ BALOCH, Superintendent  
MS. DHQ, Teaching Hospital D.I.Khan.  
DIKhan.



OFFICE OF THE MEDICAL SUPERINTENDENT D.H.Q TEACHING  
HOSPITAL DERA ISMAIL KHAN.

18

Departmental selection committee is hereby considered for the purpose of recruitment / appointment and promotion of the staff for DHQ, Teaching Hospital D.I.Khan.

Dr. Khalid Aziz Baloch  
MS, DHQT, Hospital DIK.

Chairman [Signature]  
Medical Superintendent  
D.H.Q. Teaching Hospital  
D.I.Khan

Dr. Khan Shah  
District Radiologist  
DHQT, Hospital DIK.

Member [Signature]  
Sub-Inspector  
D.I.Khan

Dr. Malik Akhtar Javed  
SMO, DHQT, Hospital DIK.

Member [Signature]  
Casualty Medical Officer  
D.H.Q. Teaching Hospital  
D.I.Khan

Dated: 4/5/2013

[Signature]  
Medical Superintendent  
Dr. KHALID AZIZ BALOCH / D.I.Khan  
MS. DHQ, Teaching Hospital  
DIKhan.

[Signature]  
[Signature]

ক্রমিক সংখ্যা	নাম	পেশা	বয়স	শিক্ষণ	বর্তমান স্বাস্থ্য
01	মুহম্মদ হোসেন (মুহম্মদ)	কৃষক	40	প্রাইমারি	স্বাস্থ্য ভাল
02	মুহম্মদ হোসেন (E.E.G)	কৃষক	60	প্রাইমারি	স্বাস্থ্য ভাল
03	মুহম্মদ হোসেন (মুহম্মদ)	কৃষক	60	প্রাইমারি	স্বাস্থ্য ভাল
04	মুহম্মদ হোসেন (মুহম্মদ)	কৃষক	60	প্রাইমারি	স্বাস্থ্য ভাল
05	মুহম্মদ হোসেন (মুহম্মদ)	কৃষক	60	প্রাইমারি	স্বাস্থ্য ভাল
06	মুহম্মদ হোসেন (মুহম্মদ)	কৃষক	60	প্রাইমারি	স্বাস্থ্য ভাল
07	মুহম্মদ হোসেন (মুহম্মদ)	কৃষক	60	প্রাইমারি	স্বাস্থ্য ভাল
08	মুহম্মদ হোসেন (মুহম্মদ)	কৃষক	60	প্রাইমারি	স্বাস্থ্য ভাল
09	মুহম্মদ হোসেন (মুহম্মদ)	কৃষক	60	প্রাইমারি	স্বাস্থ্য ভাল

এই তালিকাটিতে ১৫ জনের নাম রয়েছে। এদের মধ্যে ১০ জনের স্বাস্থ্য ভাল এবং ৫ জনের স্বাস্থ্য খারাপ। এদের মধ্যে ১০ জনের বয়স ৪০ থেকে ৬০ বছর এবং ৫ জনের বয়স ৬০ থেকে ৭০ বছর। এদের মধ্যে ১০ জনের শিক্ষণ প্রাইমারি এবং ৫ জনের শিক্ষণ উচ্চ। এদের মধ্যে ১০ জনের পেশা কৃষক এবং ৫ জনের পেশা অন্যান্য।

এই তালিকাটিতে ১৫ জনের নাম রয়েছে। এদের মধ্যে ১০ জনের স্বাস্থ্য ভাল এবং ৫ জনের স্বাস্থ্য খারাপ। এদের মধ্যে ১০ জনের বয়স ৪০ থেকে ৬০ বছর এবং ৫ জনের বয়স ৬০ থেকে ৭০ বছর। এদের মধ্যে ১০ জনের শিক্ষণ প্রাইমারি এবং ৫ জনের শিক্ষণ উচ্চ। এদের মধ্যে ১০ জনের পেশা কৃষক এবং ৫ জনের পেশা অন্যান্য।

১৫ জনের তালিকা  
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۱۲۔ عوامی مسائل کو اچھا کر کے دالانے تاکہ ترمیم ہو سکے

# طریقہ کار

پانچویں ۱۴ مئی ۲۰۱۳ء ۰۲ مئی ۱۴۳۴ھ ۴۵ آیت ۱۵۵۱ شمارہ نمبر ۳۳

Amir J  
 1/17  
 20

Attested  
 Jari ul Salawat  
 Advocate

مجموعہ رسائل و رسائل کے ناموں کی فہرست

ردیف	موضوع	تعداد	ملاحظات
01	مجموعہ رسائل (۱۹۷۰ء تا ۱۹۷۹ء)	۵۹	
02	مجموعہ رسائل (۱۹۸۰ء تا ۱۹۸۹ء)	۵۵	
03	مجموعہ رسائل (۱۹۹۰ء تا ۱۹۹۹ء)	۵۵	
04	مجموعہ رسائل (۲۰۰۰ء تا ۲۰۰۹ء)	۵۵	
05	مجموعہ رسائل (۲۰۱۰ء تا ۲۰۱۹ء)	۵۵	
06	مجموعہ رسائل (۲۰۲۰ء تا ۲۰۲۹ء)	۵۵	
07	مجموعہ رسائل (۲۰۳۰ء تا ۲۰۳۹ء)	۵۵	
08	مجموعہ رسائل (۲۰۴۰ء تا ۲۰۴۹ء)	۵۵	
09	مجموعہ رسائل (۲۰۵۰ء تا ۲۰۵۹ء)	۵۵	

مجموعہ رسائل کے ناموں کی فہرست

Attested

Attested

(800/13)



(21)

شماره 43 | 2013 | 1434 | 261

(تقدیر و این)

دوباره در این باره

29/5/13 ←

دوستان عزیز من این نامه را به شما می‌نویسم تا بدانید که من در این باره چه کاری انجام داده‌ام. امیدوارم که این نامه برای شما مفید باشد. با احترام و مهر، [نام و نام خانوادگی]

امید  
[Signature]

983

Annexure E

Pf# 0966-9280201/Tax#0966-9280146/DIK

Office of the Medical Superintendent  
DHQ Teaching Hospital DIKhan

No: \_\_\_\_\_

22

Dated 02 / 05 / 2013

To

The Director Information  
Khyber Pakhtunkhwa  
Peshawar.

Subject: ADVERTISEMENT

Memo:

Enclosed please find herewith 10 copies in Urdu and English regarding Advertisement of appointment in DHQ Teaching Hospital DIKhan for your information and making necessary arrangement for its publication in News Papers.

Dated: 02.05.2013

Encls: 10 copies in Urdu  
10 copies in English

*(Signature)*

Dr. Khalid Aziz Baloch  
Medical Superintendent  
DHQ Teaching Hospital, DIKhan.

Attested  
Jawid Baloch  
Advocate

*(Signature)*

انور احمد عی

2013/05/07 (23)

Office of the Medical Superintendent  
DHO Teaching Hospital Dikhan

No 2947 / Dated: 07/5/2013

(23)

To: The Director Information  
Khyber Pakhtunkhwa  
Peshawar

Attached  
Samiy Baloch  
A.D.O-c-2

Subject: ADVERTISEMENT

Memo:

Enclosed please find herewith 10 copies in Urdu and English regarding advertisement of appointment in DHO Teaching Hospital Dikhan for your information and making necessary arrangement for its publication in News Papers.

Encls: 10 copies Urdu  
10 copies English

Dr. Khalid Aziz Baloch  
Medical Superintendent  
DHO Teaching Hospital Dikhan

Attached  
A.D.O-c-2  
A.D.O-c-2

~~Annexure E~~ (29)

درج ذیل مطالبہ ہیں

~~...~~  
 ... کے ساتھ ضروری ہے۔

نمبر	تاریخ	امری تیلی	تاریخ
01	...	...	...
02	...	...	...
03	...	...	...
04	...	...	...
05	...	...	...
06	...	...	...
07	...	...	...
08	...	...	...
09	...	...	...

...

...

...

Dr. Khalid ...  
 ڈاکٹر خالد عزیز بلوچ

Attest  
 Javed Baloch  
 Advocate

02.05.2013

...



(25) (34)


**OFFICE OF THE MEDICAL SUPERINTENDENT**  
**DHQ TEACHING HOSPITAL D.I.KHAN**

Office Order:

Being properly qualified for the post, Mr. Muhammad Jamil S/O Muhammad Ibrahim already working as Naib Qasid in BPS- 02 at this hospital is hereby appointed/adjusted under departmental rights, as Junior Clinical Technician (Pathology) BPS-09 against the vacant post on regular contract basis under the control of this office plus usual allowances as admissible under the rules and subject to revision time to time according to Govt. policy.

His appointment will be subject to following terms and conditions:

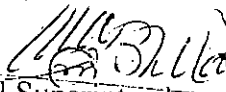
1. He is domiciled in Khyber Pakhtunkhawa.
2. He is declared medically fit for Government service.
3. He will not be entitled to any TA/DA for medical examination and joining the first appointment.
4. He is liable to service anywhere in Khyber Pakhtunkhawa.
5. He will be governed by such rules and regulation and orders as may be issued by the Government servants to which he belongs.
6. If he wishes to resign at any time he will submit prior notice of one month and will continue to service the Government till the acceptance of his resignation by the competent authority.
7. His appointment in the Health Department is purely on temporary basis and his services can be terminated at any time without any reason or notice being assigned at any time irrespective of facts that his holding the post other than to which he is originally recruited.
8. The appointment will be subject to production of Medical Fitness Certificate.

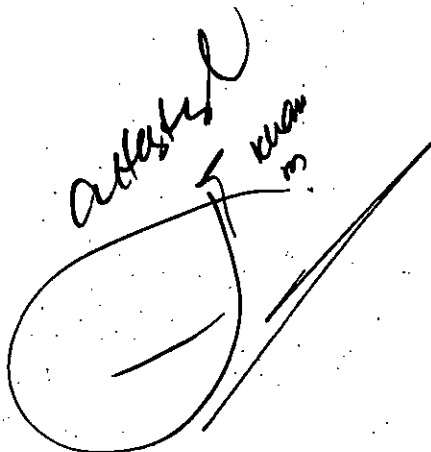
  
Dr. Misal Khan Bhitanni  
Medical Superintendent  
DHQ Teaching Hospital D.I.Khan

No. 18-21 / Estab: Dated 3/1/2011

Acopy is forwarded to the:-

1. Director General Health Services, Khyber Pakhtunkhawa, Peshawar.
  2. District Accounts Officer, D.I.Khan
  3. Mr. Muhammad Jamil S/O Muhammad Ibrahim for compliance with respect to his request vide his application dated 24/12/2010
  4. Estab clerk of this office
- For information and necessary action.

  
Medical Superintendent  
DHQ Teaching Hospital D.I.Khan

  
attested  
J. Khan  
13

Amex - VII

(26)

Office of the Medical Superintendent  
DHQ Teaching Hospital DIKhan

No. \_\_\_\_\_/

Dated 9 / 1 / 2 / 2011

To

The Director  
General Health Services,  
Khyber Pakhtunkhwa Peshawar.

Subject: IRREGULAR APPOINTMENTS/ ADJUSTMENTS.

Sir,

Please refer to your office letter No. 26122-78/E-V, Dated 10.11.2011 received in this office on 01.12.2011 and in the light of Audit Para No. 51 (2010-2011) observed by the Audit Party.

In light of the directives in your letter mentioned above, a thorough investigation has been made in the matter and irregularities regarding appointments/ adjustments have been observed as per list attached.

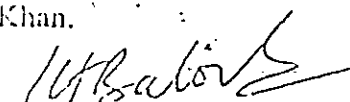
All irregular adjustments and all irregular appointments made during the period of Dr. Misal Khan Bhattani, Ex- Medical Superintendent are hereby cancelled in the interest of public. The list of irregular adjustments and irregular appointments are annexed as A&B.

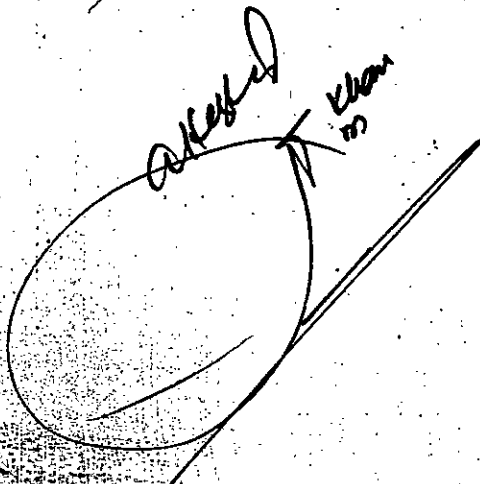
Dr. Khalid Aziz Baloch  
Medical Superintendent  
DHQ Teaching Hospital, DIKhan.

No. 9557-70A4

Copy forwarded to:-

1. F.S to Secretary Govt of Khyber Pakhtunkhwa Health Department Peshawar.
2. District Accounts Officer DIKhan.
3. Accounts Officer MS Office DHQTH DIKhan.
4. Officials concerned.

  
Dr. Khalid Aziz Baloch  
Medical Superintendent  
DHQ Teaching Hospital, DIKhan.





10	11	12	13		14	15	
Signature and designation of the Head of the office or other Attesting Officer in attestation of columns 1 to 8	Date of termination or appointment	Reason of termination (such as promotion, transfer dismissal etc)	Signature of the Head of the office of other attesting Officer	LEAVE		Signature of the head of the office or other Attesting officer	Reference to any recorded punishment or censure, or reward or praised of the Government servant
				Allocation of periods of leave on average pay upto four months (or earned leave not exceeding 120 days) to which leave salary is debitale to another Government	Name and duration of leave taken		
دستخط افسر مجاز	تاریخ انقطاع ملازمت	وجہات انقطاع ملازمت ترقی - تبادلہ یا برطرفی	دستخط افسر مجاز	رضعت کی نوعیت و معیار	چار ماہ تک کی رضعت کے لئے اوسط تنخواہ کا تعین	دستخط افسر مجاز	سزایا جزایا غیر مناسب کارکردگی کارپکارڈ
				Period	Govt. to which debitale		
				عرصہ	گورنمنٹ جسے رقم ادا ہوگی		

Reward to the original Post of N/Gazetted  
in the light of Honourable High Court Bench  
at Dikhan Letter No. *alt*  
MS DHO TH Dikhan Letter No. *alt*

*NAB*  
Medical Superintendent  
D.H.O Teaching Hospital  
Dera Ismail Khan

*Amir Khan*  
*2013*

Appointed/Ad Justement of Junior  
Clinical Tech. Pathology  
BPS-09 vide MS DHO Teaching  
Hospital order No= 4417-20

Dated: 06-07-2013  
Judgment of Honour  
all High Court personal  
Bench 7014 vide order signed  
Dated 02/09/2013 photostatic  
copy attached

*NAB*  
Medical Superintendent  
D.H.O Teaching Hospital  
Dera Ismail Khan

~~Amix - IX~~

38

(ایگزیشن 18 اگست)

ذرائع کاروبار

ذرائع کاروبار: یہ ذرائع کاروبار کے حاملین کو ملا کر ان کے لئے ملازمت فراہم کرنے کے مقاصد سے جاری کی گئی ہے۔ اس کے تحت ملازمت فراہم کرنے والے افراد کو ملازمت فراہم کرنے کے لئے درخواستیں جمع کروانی چاہئیں۔

نمبر	نام آگاہی	مقام	تاریخ	تاریخ
1	پریزنٹیشن ٹیم (آئی بی)	18-30	09	ایضاً
2	پریزنٹیشن ٹیم (آئی بی)	ایضاً	09	ایضاً
3	پریزنٹیشن ٹیم (کوآپ)	ایضاً	09	ایضاً
4	پریزنٹیشن ٹیم (کوآپ)	ایضاً	09	ایضاً
5	پریزنٹیشن ٹیم (کوآپ)	ایضاً	09	ایضاً
6	پریزنٹیشن ٹیم (کوآپ)	ایضاً	09	ایضاً
7	پریزنٹیشن ٹیم (کوآپ)	ایضاً	09	ایضاً
8	پریزنٹیشن ٹیم (Ophthalmology) (Otorhinology)	ایضاً	09	ایضاً
9	پریزنٹیشن ٹیم	ایضاً	09	ایضاً
10	آئی بی	ایضاً	08	ایضاً
11	پریزنٹیشن ٹیم	ایضاً	07	ایضاً
12	پریزنٹیشن ٹیم	ایضاً	02	ایضاً
13	پریزنٹیشن ٹیم	ایضاً	01	ایضاً

شرائط: (1) درخواستیں، دستاویزی مواد اور ملازمت کے لئے ضروری دیگر دستاویزی مواد 2013-2014ء کے لئے جمع کروانی چاہئے۔ (2) ملازمت فراہم کرنے والے افراد کو ملازمت فراہم کرنے کے لئے درخواستیں جمع کروانی چاہئیں۔ (3) ملازمت فراہم کرنے والے افراد کو ملازمت فراہم کرنے کے لئے درخواستیں جمع کروانی چاہئیں۔ (4) ملازمت فراہم کرنے والے افراد کو ملازمت فراہم کرنے کے لئے درخواستیں جمع کروانی چاہئیں۔ (5) ملازمت فراہم کرنے والے افراد کو ملازمت فراہم کرنے کے لئے درخواستیں جمع کروانی چاہئیں۔ (6) ملازمت فراہم کرنے والے افراد کو ملازمت فراہم کرنے کے لئے درخواستیں جمع کروانی چاہئیں۔ (7) ملازمت فراہم کرنے والے افراد کو ملازمت فراہم کرنے کے لئے درخواستیں جمع کروانی چاہئیں۔

ذرائع کاروبار

ایگزیشن 18 اگست

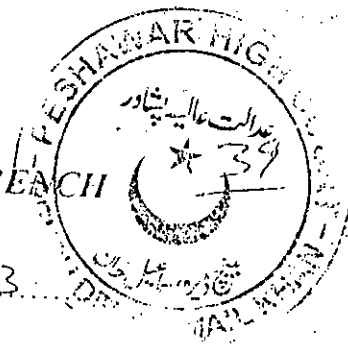
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ایگزیشن 18 اگست

Alleged  
Daw

JUDGMENT SHEET  
PESHAWAR HIGH COURT D.I. KHAN BENCH  
JUDICIAL DEPARTMENT



Amex-X

(29)

wf No. 397-D of 2013  
Date of hearing 19-9-2013

Appellant / petitioner (Muhammad Yousif Akhbar) by  
Mrs. Shaukat Hayat Khan Khakwani & Tariq Aziz Baloch -  
Respondent (Govt. of K.P.K. (Others)) by Advocate  
Mr. Saadullah Khan Shamim AAS

LAL JAN KHATTAK J. - Vide our detailed judgment  
in writ petition No.393 of 2013, this writ petition No.397  
alongwith its CM No.423 of 2013 is disposed of  
accordingly.

ANNOUNCED  
19.9.2013.

*[Signature]*  
JUDGE

*[Signature]*  
JUDGE

ef/cv  
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20/9

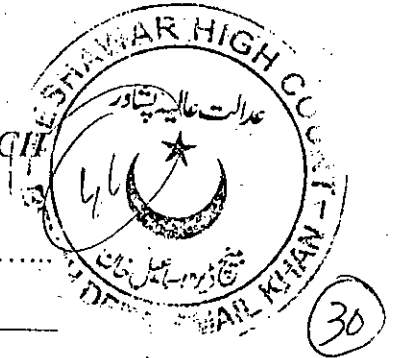
ATTESTED:

EXAMINOR  
Peshawar High Court  
D.I. Khan Bench

*[Signature]*  
10/3/14

*attested*  
*[Signature]*

JUDGMENT SHEET  
PESHAWAR HIGH COURT D.I.KHAN BENCH  
JUDICIAL DEPARTMENT



WP No. 393-D of 2013

Date of hearing 19-9-2013

Appellant / petitioner (Muhammad Ramzan & others) by  
M/S Shaukat Hayat Khan Khakwani & Tanzeem Agiz Baloch  
Respondent (Govt of P.K. & others) by  
Mw. Samanullah Khan Shamim A.A.P.  
Advocates

LAL JAN KHATTAK J.- Our this judgment in writ petition No. 393 of 2013 shall also decide writ petition No. 397 of 2013, COC petitions Nos. 428, 429 and 433 of 2013 as all the matters in the petitions are common.

2. Petitioners in both the writ petitions were appointed as Ward Orderly, Junior Clerk, House Keeper, JCT Pharmacy, JCT Pathology and JCT, EEG, respectively at District Head Quarters Teaching Hospital D.I.Khan through their separate appointment orders issued on various dates.

3. On 20.8.2013 Medical Superintendent of the hospital, i.e. the respondent No.3, issued a show cause notice to all the petitioners as to why their appointment orders should not be withdrawn. These show cause notices have been impugned by the petitioners through the instant writ petitions.

4. Learned counsel for the petitioners contended that the petitioners were duly appointed by a

Gyan

ATTESTED

EXAMINOR  
Peshawar High Court  
10/3/14

competent authority after a due process of law and the show cause notices issued to them by the respondent No.3 have no legal backing and are based on mala fide intention in order to terminate services of the petitioners to create posts for appointments of the beloved ones. He argued that to this effect the respondent No.3 has issued advertisement in the newspapers. The learned counsel concluded his arguments by submitting that issuance of the show cause notices be declared as null and void.

5. As against the above, learned Additional Advocate General submitted at the bar that appointments of all the petitioners were not in accordance with law and policy on the subject of the Government. However, he submitted that no action contrary to law and procedure will be taken against the petitioners.

6. We have heard learned counsels for the parties and perused the available record of the case.

7. To enjoy the protection of law and to be treated in accordance with law is the inalienable right of every citizen, wherever he may be in Pakistan. No action of any nature is allowed to be taken against anyone by anyone except in accordance with law. This is the grundnorm of our Constitution. If the appointments of the petitioners are not in accordance with rules and policy of the Government then the Government or the authority

ATTESTED

EXAMINER  
Peshawar  
10/3/11

10/3/11

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concerned can proceed with the matter but in accordance with law and not in derogation of law.

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8. On the touchstone of the above if the respondents intend to take any action against the petitioners then the proposed action must be in accordance with law and rules on the subject and not otherwise as obedience to the Constitution and law is the inviolable obligation of every citizen wherever he may be.

9. In view of the above we are not in agreement with the learned counsel for the petitioners to declare the show cause notices issued to the petitioners by the respondent No.3 as illegal and unlawful. However, the respondents must perform their duties strictly in accordance with law and rules on the subject and should not act to the detriments of the petitioners while proceeding against them except in due course of law.

With the above observations, the petitions are disposed of.

ANNOUNCED  
19.9.2013.

*[Signature]*  
JUDGE

*[Signature]*  
JUDGE

ATTESTED

EXAMINED  
Kashwanor High  
Ali Khan

*[Handwritten notes]*  
26/9

*[Signature]*  
10/3/19



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

**Service Appeal No.948/2014**

Muhammad Jamil..... Appellant

Versus

Govt.of KPK etc ..... Respondents

Para wise comments on behalf of Respondents No.1,2,3,4 and 5

**Preliminary Objections:**

1. The appellant has got no course of action and laws stands to file the instant appeal.
2. That the appellant is estopped by his own conduct to the file this appeal.
3. That the appeal is not maintainable and incompetent in the eyes of law.
4. That the appeal is bad misjoinder/non-joinder of necessary parties.
5. That the appeal is badly time barred.
6. That the appellant has cancelled the relevant facts from the honorable tribunal.
7. That the appellant has not come to this tribunal with clean hands and has not according to the relevant facts.
8. That the honorable tribunal has no jurisdiction to entertain the instant appeal in its present form.

**Brief Fact:**

1. Incorrect. Facts of the case are that the appellant was initially appointed on the post of Class-IV on 01.06.2011 by the then Medical Superintendent. Later on in the year 2013 the post of JCT fell vacant in this Hospital, which was filled by the outgoing MS Dr

*Khalid Aziz one day before his retirement in an unceremonious haste. It is incorrect that the post was properly advertised, in fact no advertisement was made in any well circulated Newspaper. A fake edition of local daily not read by the public was shown issued which is evident from the statements of committee members.*

*The Appellant was shown appointed in BPS-09 on promotion from the post Class-IV through so called departmental committee. According to rule an employee of Class-IV could not be promoted to the post of JCT because both the cadres are separate and post of JCT could only be filled through initial appointment. Moreover the process of appointment was also bogus, because the Committee members, have disowned their signature upon the recommendation referred by the appellant in his appeal on (Anex-5) and shown denial about the committee and its proceedings in writing. The written statement of so called Committee Members is attached on Annexure-A.*

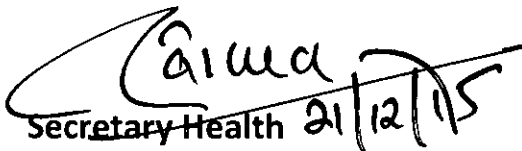
- 2. Incorrect. The department selection committee was fake/ bogus as evident from the statements of committee members.*
- 3. Incorrect. Respondent No.5 was competent authority to pass the order.*
- 4. Incorrect. Respondent No.5 was quite competent to award such like punishment.*
- 5. Incorrect. Proper procedure was adopted .Proper show cause notice was issued and thereafter the Order was passed. The*


validity of the Show cause Notice was upheld by Honorable High Court circuit Bench in its order dated 19.09.2013 in W.P No.393-D/2013 attached an Annexure-X, Page-30 of the instant appeal.


6. Incorrect. The appellant being an employee of this Hospital in Class-IV Cadre could not be legally promoted against the post of JCT of separate Cadre. Moreover his appointment was made secretly fraudulently without observing the codal formalities i.e. Advertisement, tests, and interview. It is pertinent to mention that a detail Departmental Enquiry was conducted into the matter wherein all the appointments were termed illegal. The copy of the Enquiry Report is attached as Annexure-B. As such illegal order of the appellant was rightly recalled by the competent authority.


7. The respondents may also be allowed to advance additional arguments.

It is therefore, most humbly prayed that on acceptance of this para wise comments the appeal being devoid of legal footings and merits may graciously be dismissed with cost.

  
Secretary Health 21/12/15  
Government of Khyber Pakhtunkhwa  
Peshawar (Respondent No.1 and 2)

  
Secretary Establishment and  
Administration Department  
Khyber Pakhtunkhwa  
Peshawar (Respondent No.3)

  
Director General Health Services  
Khyber Pakhtunkhwa Peshawar  
(Respondent No.4)

  
Medical Superintendent  
DHQ Teaching Hospital  
DIKhan (Respondent No.5)

21/12/15

PH# 0966-9280201/ Fax # 0966-9280446/DIK

# Office of the Medical Superintendent

DHQ Teaching Hospital DIKhan

No. 6825Dated 17 / 12 / 2013

## BRIEF FACTS OF THE CASE / GROUNDS FOR DISCIPLINARY PROCEEDINGS

1. I resumed the charge as Medical Superintendent DHQ Teaching Hospital DIKhan on 20.07.2013.

2. A written complaint regarding illegal appointments made by Ex-Medical Superintendent Dr.Khalid Aziz Baloch was placed before me, which was received from Deputy Commissioner Office DIKhan bearing office letter No.387/PS dated: 16.07.2013 (Annexure-A Page. 6)

After going through the contents of complaint, I directed the concerned staff of my office to put up the relevant file and service documents of newly appointed personnel. It came to my utter surprise that nothing to this effect was present in the records of office, Establishment Clerk shown ignorance and told verbally that all the record has been taken away by Ex-MS Dr.Khalid Aziz Baloch with himself. However after great efforts, it was obtained.

3. After perusal of the relevant records and service documents, I was convinced to proceed against the new appointees under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules-2011.

4. Being a competent authority in light of sub rule 17 (i) of rule 2 of Rule ibid, I issued show-cause notices to accused officials under rule 7 of (E&D) Rules-2011 (Annexure-B. Page.7-15).

5. The accused officials challenged the authority of undersigned and show cause notices issued to them in the Peshawar High Court circuit Bench DIKhan. Their appeal was decided by Honorable Court on 19.09.2013, with following observations. " In view of the above we are not in agreement with the learned

counsel for the petitioners to declare the show cause notices issued to the petitioners by respondent No.03 as illegal and unlawful. However the respondent must perform their duties strictly in accordance with law and rules on the subject and should not act to the detriment, of petitioners, while proceedings against them except in due course of law" with the above observations, the petition are disposed (Annexure-C, Page 16-18).

6. The reply submitted by accused officials, in response of "Show-cause Notices" are worth perusal where the accused officials were supposed to provide some documentary proof in self defense. While they have threatened to fill writ petition against show cause notices. However they badly failed to produce some convincing material in their defense (Annexure-D, Page 19-25).
7. Under the Rule 7(d) of the E&D Rules 2011, opportunity of personal hearing was afforded to all accused officials, prior to taking any action. All the accused officials appeared before the undersigned for personal hearing on 9/10/2013 at DHQ Teaching Hospital Dikhan (Annexure-E, Page 26-34).  
However in personal hearing no one out of accused officials came forward with any documentary or oral plea to convince the competent authority regarding legality of their appointments and adjustments. But all of them requested exoneration of charges on humanitarian grounds.
8. Following points were noted when going through the relevant records, accused officials replies to show cause notices and their personal hearing detail and other relevant papers, written and oral evidences which rendered the accused officials liable to initiate Disciplinary proceedings against them.
1. The appointments has been made in the period of Ban imposed by Provincial Government contained in letter bearing No.1736-38/Acctt: dated 21-05-2013 and No.134-36 from Additional Assistant Commissioner dated 29-05-2013 received to this office, when Ex MS Dr. Khalid Aziz Baloch was in

chair and the Ex MS DHQTH DIKhan has responded to the above refer letter in affirmative (Annexure-F, Page 35-37).

II. In light of Government of Khyber Pakhtunkhwa Civil Servants appointments, promotions, transfer Rules 1989, it was bounden duty of appointing authority, i.e. Ex MS to adhere to the Rules/laid down procedure for making new / fresh recruitment, i.e. Advertisement in three national News papers, Preparation of Merit list, Constitution of selection committee and conduction of Test / Interview and recording minutes of selection committee etc.

(a) Advertisement: In light of APT rule 1989, the vacancies shall be advertised in at least three leading National News Paper (one English two Urdu). Specifying therein the prescribed qualification, Numbers of Posts, Quota for Disable persons, experience and other academic / technical requirements, age limit etc, as provided in relevant recruitment rules. But in this case advertisement was made only in one local News paper, therefore it was defective advertisement in light of Rules ibid.

(b) Preparation of merit list has been ignored in the case in hand.

(c) Constitution of Departmental Selection Committee: It is a vital pre-requisite for fresh recruitment, but in this case a so-called / fictitious Departmental Selection Committee has been constituted, having no official member and date. while it will be interesting to note that the member of the said fictitious Selection committee Dr.Malik Akhtar Javed BPS-18 and Dr.Khan Shah District Radiologist BPS-18 shown total ignorance regarding interview and appointments, which is a great dishonesty, tantamount to misconduct on the part of Ex- MS Dr.Khalid Aziz Baloch and needs attention of higher authorities of Health Department to proceed against him for this irregularity and misconduct (Annexure-G, Page 38).

(d) Conduction of test and interview is considered, "soul of the procedure" for recruitment but unfortunately it has been totally ignored in the case in hand. Written denial by two members of Departmental Selection Committee regarding test / interview has shaken the very foundation of the case.

(e) It is worth mentioning that two promotees and one fresh appointee were even not eligible in terms of their qualification to post they are employed. As the foot notes of certificates submitted by Muhammad Jamil JCT (Pathology) and Muhammad Ikram EEG Technician clearly indicates that these certificates / diploma are not equal one issued by Government Institution or private institution affiliated with Medical Faculty while Muhammad Shahid name fresh appointee as house keeper is simple FA not having F.Sc (Home Economics), a pre-requisite for the said post, which shows the appointing authority utter disregard towards Government Rules and Regulations (Annexure-H, Page 39-45).

(f) Appointing authority keen interest in appointments especially when he was on the verge of retirement speaks volumes of his integrity.

(g) Close perusal of in-service candidate's service books show that it was no one but present appointing authority, who made entry into the Service books of accused officials to the effect that "Reverted to their posts by Honorable Peshawar High Court Dikhan Bench in decision announced on 25-04-2013.

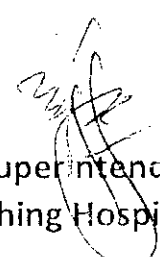
In spite of these entries, he once again dared and promoted the same personnel with same qualifications, once he himself has demoted to lower posts and validated by Honorable High Court in his decision dated 25-04-2013, which show his utter disregards towards the decision of the Court and has rendered him for contempt of Court proceedings. As Peshawar High Court Circuit Bench Dikhan, has observed in his decision dated 25-04-2013 in case of accused promotees and new appointees stating that "However the same per se speaks volume for the

mode and manner in which posts were simply doled out to the blue eyed with-out performing any codal formalities worth the name". No advertisement in any local daily is available whereby applications were invited. If this is the how the people at the helm of affaires take liberty with process of recruitment then God be with them. The manner in which merit is being flouted is resulting into the deterioration of such important as the respondent Hospital before us. We deprecate such practice on the part of authorities that be and direct them to refrain from such like illegal practice in future" (Annexure-I, Page 46-50).

In view of above observations, the appointing authority should have refrained from such dirty practice in best interest of Hospital like sensitive institution but unfortunately he went one step forward of his predecessor and made appointments after tailoring a concocted story to mislead the public and accommodate his blue eyed personnel belonging to one-specific area of DIKhan.

In view of the above given facts and circumstance, I am the firm opinion that appointing authority and appointees / accused officials have rendered themselves liable for strict disciplinary action on basis of in- subordination and misconduct.

Being a competent authority in light of Sub rule 1(f)(i) of Rule 2, Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, I hereby impose major penalty of "reduction to lower posts" on three in-service accused officials i.e. Muhammad Younas JCT(Pharmacy), Muhammad Jamil JCT(Pathology) and Muhammad Ikram EEG Technician, while "Removal from Service" on the fresh appointees /accused officials (List attached) being void ab initio and repugnant to standing rules & regulation for new appointment and recommends strict disciplinary action against the appointing authority i.e. Ex- MS Dr.Khalid Aziz Baloch, so that in future no one can dare to violate the government Rules and regulations for their personal interest or deviate from the direction of Courts of law.

  
 Medical Superintendent  
 DHO Teaching Hospital U.Khan



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

In Service Appeal No. 948/2014

Mohammad Jameel **VERSUS** Govt; of K.P.K etc

**REJOINDER ON COMMENTS FILED BY  
RESPONDENTS NO. 1 TO 5.**

**Respectfully Sir,**

Appellant submits rejoinder as under:-

**On Preliminary Objections:-**

**Para-(1 to 8)** All the objections are made in order to build an objection story and are made without any further explanation, having no force as having no further proof of objections concerned hence denied. Furthermore, appellant has a genuine case falls Under Rule(3)(a) of Part-1 of Khyber Pakhtunkhwa Civil Servants (Appointment, Transfer and Promotion Rules 1989), where in all the ingredients of appointment of appellant through promotion are present, being fulfilled, as prescribed Under Rule-7(1) of Part-II of

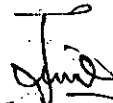
KPK Civil Servants (Appointment, Promotion & Transfer) Rules 1989, while respondent authorities has exaggerated in exercise of administrative powers conferred upon them under the Statute, while issuing impugned order which is without any law-full authority, and is without jurisdiction.

**ON FACTS:**

- 1.** Brief facts:- All the facts narrated are further proved from record already annexed to the appeal, while respondents reply to the para is based upon presumptions and surmises having no legal value or force, while on the other hand cited Annexure "A" is self admission of violation of statutory rules before passing impugned order.
- 2.** Para is above prudent mind, as how an upcoming M.S declares proceeding of his predecessor as bogus, and under what authority he declares the same, as he can only claim being complainant, while the rest cane be done by the competent authority. Hence, strongly condemned.
- 3.** Statute is clear regarding concerned para, referred here Rule 2(I) of KPK E & D Rules 2011, and Rule 4 (3) of KPK Civil Servants (Appointment, Transfer and Promotion) Rules 1989. Hence denied.

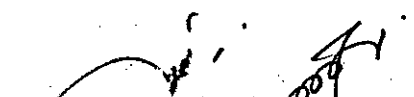
4. Punishment can be awarded in case of any misconduct by the Government servants, but here in the case, no misconduct has ever been committed by the appellant. Hence strongly condemned.
5. Procedure for impugned proceeding is laid down in statute through KPK E & D Rules 2011, where in Rule-5 of Rules ibid is quite clear and violated.
6. Para No. 6 is based upon presumptions having no legal sanctity, and is among a bundle of allegations by an upcoming Medical Superintendent upon his predecessor, and are baseless.

Your Humble Appellant



**Mohammad Jameel**

Dated: 24/01/2018



**MOHAMMAD IDREES**  
Advocate High Court  
Dera Ismail Khan

24/01/18

**VERIFICATION:-**

I verified on \_\_\_\_\_ oath that all the contents of the rejoinder are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Tribunal Court.



**Mohammad Jameel**