

28.09.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Respondents have failed to submit their written reply/comments even today despite numerous opportunities give to the respondents, therefore, the right of respondents for submission of reply/comments stands struck off. Adjourned. To come up for arguments on 26.10.2022 before the D.B at Camp Court D.I.Khan.



(Salah-Ud-Din)
Member (J)
Camp Court D.I.Khan

26th Oct 2022.

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

Lawyers are on strike today. To come up for arguments on 23.11.2022 before D.B at Camp Court, D.I Khan. P.P given to the respondents.



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



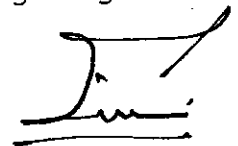
(Kalim Arshad Khan)
Chairman
Camp Court, D.I Khan

26.05.2022

Nemo for the appellant. Dr. Fakhar Zaman, DMS alongwith Mr. Farhaj Sikandar, District Attorney for the respondents present and sought further time for submission of reply/comments.

Previous date was changed on Reader Note, therefore, last chance is given to the respondents for submission of reply/comments. In case the last chance as given is not availed, the next adjournment shall be subject to prior payment of cost of Rs. 5000/- to the appellant, failing which the case shall be fixed before D.B for arguments without reply/comments deeming the same as waived off by the respondents. Adjourned. To come up for submission of written reply/comments on 27.07.2022 before the S.B at Camp Court D.I.Khan.

Notice for prosecution of the appeal also be issued to the appellant as well as his counsel through registered post for the date fixed.



(Salah-Ud-Din)
Member (J)
Camp Court D.I.Khan

27/7/22

Due to Summer vacation

Came up 28/9/22

Reader

23.11.2021

Counsel for the appellant and Mr. Muhammad Rasheed, DDA alongwith Dr. Fakhar Zaman, District Specialist and Adeel, Sub-Accountant for the respondents present.

Written reply/comments of the respondents are still awaited. Last opportunity is granted to the respondents to submit written reply/comments on next date. Case to come up on 25.01.2022 before S.B at camp court, D.I.Khan.

In case the last chance as given above is not availed, the next adjournment shall be subject to prior payment of cost of Rs. 5000/- to the appellant failing which the case shall be fixed before D.B for arguments without reply/comments deeming the same as waived off by the respondents.


Chairman
Camp Court, D.I.Khan

25.01.2022

Power is cancelled, therefore, case is adjourned to 26-5-22 for the same as before

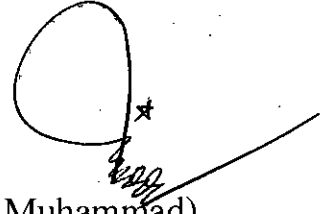

Reader

24.03.2021

Counsel for the appellant present. Mr. Asif Masood, DDA
for respondents present.

Neither representative of the respondents is present nor
their written reply/comments have been submitted, therefore,
notices be issued to them for submission of written
reply/comments on the next date of hearing by way of last
chance.

Adjourned to 21.06.2021 before S.B at camp court
D.I.Khan.



(Mian Muhammad)
Member(E)
Camp Court D.I.Khan

21.06.2021

Due to COVID-19, case is adjourned to 25.10.2021 for
the same as before.




Reader

25.10.2021

Appellant present through counsel.

Asif Masood Ali Shah learned Deputy District Attorney
for official respondents present.

Written reply on behalf of respondents is still awaited.
Preceding date was adjourned on a Reader's note,
therefore, notice be issued to respondents by way of last
chance to submit reply/comments. To come up for written
reply/comments on 23.11.2021 before S.B at Camp Court,
D.I.Khan.



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

23.11.2020

Counsel for appellant and Mr. Muhammad Jan, learned DDA for respondents present.

Written reply/comments on behalf of respondents was not submitted. Learned DDA is required to contact the respondents and facilitate the submission of reply/comments.

Adjourned to 22.12.2020 before S.B at Camp Court, D.I.Khan.



(Atiq-Ur-Rehman Wazir)
Member (E)
Camp Court, D.I.Khan

22.12.2020

Due to Covid-19, the case is adjourned for the same on 22.01.2021 for the same as before.

READER

22.02.2021

Counsel for the appellant present.

Noor Zaman Khattak learned District Attorney for respondents present.

Written reply/comments on behalf of respondents is still awaited. Notice be issued to respondents for submission of written reply/comments. To come up for written reply/comments on 24.03.2021 before S.B at Camp Court, D.I Khan.



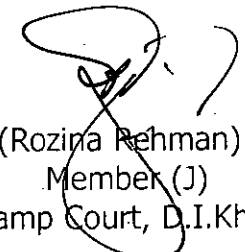


(Atiq ur Rehman Wazir)
Member (E)
Camp Court, D.I Khan

Form- A

FORM OF ORDER SHEET

Court of _____
Case No.- 4287 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	11/05/2020	<p>The appeal of Mr. Saleem Khan presented today by Malik Haroon Jamil Advocate, may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR <u>11/5/2020</u></p>
2-	<u>14.9.20</u>	<p>This case is entrusted to Touring S.Bench at D.I.Khan for preliminary hearing to be put up on <u>24.9.2020</u></p> <p style="text-align: right;"> MEMBER</p>
	24.09.2020	<p>Counsel for appellant present. Preliminary arguments heard. File perused.</p> <p>Points raised need consideration. Admitted to regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to respondents for written reply/comments. To come up for written reply/comments on 23.11.2020 before S.B at Camp Court, D.I.Khan.</p> <p style="text-align: right;"> (Rozina Rehman) Member (J) Camp Court, D.I.Khan</p>

Appellant Deposited Security Access Fee
30/9/20

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. 4287 /2020

Muhammad Saleem Khan

.....APPELLANT

VERSUS

Govt. of KPK and others

.....RESPONDENTS

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Dated: 9/05/2020

Humble Appellant

M. Saleem
Muhammad Saleem Khan

Through Counsel

Haroon Jamil
Haroon Jamil
Advocate High Court,
District Courts, D.I.Khan.

- 1 -

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. 4287/2020

Muhammad Saleem Khan son of Muhammad Jamil Khan (Ward Attendant B-4), DHQ Hospital, Tank.

.....**APPELLANT**

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.
2. Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.
3. Director General, Health Services Department, Khyber Pakhtunkhwa, Peshawar.
4. Medical Superintendent, DHQ Hospital, Tank.
5. District Account Officer, Tank.

.....**RESPONDENTS**

**APPEAL UNDER SECTION 4 OF KHYBER
PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974**

PRAYER; On acceptance of this Appeal the impugned office order No. 266-72 dated 21/01/2020 issued by respondent No. 4 may kindly be declared null & void, void-ab-initio, ultra-virus and based on malafide and by directing official respondents to continue the salaries of the appellant and to allow the appellant to make his attendance through Biometric and to allow the appellant for performing his official duty on the grounds appearing hereinafter;

OR

GRANT any other relief considered just and appropriate under the given circumstances of the case.

Respectfully sheweth;

- I. That the brief facts of the case are that Mr. Gulfam Hussain was appointed in the year 2012-2013 in DHQ Hospital Tank as Ward Orderly but later-on he alongwith others had terminated from the service in the year 2016. After-that, the said posts were properly advertised and the present appellant also applied for said post for appointment. After observing all the codal formalities, the present appellant was appointed by Selection Committee through appointment order dated 30-08-2016 against the vacant post. Copies of advertisement, appointment Order are enclosed as Mark-A to B respectively.

- II. That Mr. Gulfam Hussain and others filed their separate service appeals before this Honourable Tribunal against their termination orders. The appeals of Mr. Gulfam Hussain and others were allowed and they filed the execution petitions before this Honourable Tribunal for implementation of their reinstatement orders. In the meanwhile, the respondent No. 4 issued the impugned order dated 21-01-2020 vide which he re-instated Mr. Gulfam Hussain and others against the posts of present appellant and others while ordered that the salaries and Biometric attendance of the appellant have been stopped with immediate effect. Copy of impugned order is enclosed as Mark-C.

- III. That the present appellant was appointed after observing all the codal formalities as the said post was advertised and the appellant was appointed against the vacant subject post. Mr. Gulfam Hussain and others neither challenged the appointment order of present appellant nor present appellant was impleaded as party to the service appeals. Now, the respondent No. 4 with malafide intention issued the impugned office order and restrained the present appellant from performing the duty and from attendance through Biometric, while the salaries of the appellant have also been stopped. Being aggrieved, the present appellant alongwith others filed the W.P No. 134-D/2020 before Honourable Peshawar High Court Dera Ismail Khan Bench and the same was fixed for hearing on 03-02-2020, the Honourable Bench treated the writ petition of the present appellant & others as appeal / representation and sent

to respondent No. 3 with the direction to decide the same in accordance with law. But till date the respondent No. 3 has not decided the appeal / representation of the appellant. Copies of grounds of writ petition (Appeal / Representation) and order dated 03-02-2020 are enclosed as **Mark-D & E** respectively.

Thus being aggrieved, the appellant is filling the instant appeal for redressal of his grievances, inter alia, on the following grounds;

GROUND:

1. That the impugned office order dated 21-01-2020 issued by respondent No. 4 is totally against the law, without lawful authority, arbitrary and ultra-virus. Hence, liable to be cancelled.
2. That the respondents advertised the subject post and the present appellant properly applied for his appointment. Thereafter, the respondents performing all the codal formalities and the Selection Committee appointed the present appellant against the vacant subject post on regular basis. Thus, the present appellant was legally appointed and the respondents have got no authority to order regarding stoppage of salaries & Biometric attendance of the present appellant without any fault of the appellant.
3. That the present appellant was not made party to the service appeals by Mr. Gulfam Hussain and others. Moreover, the appointment order of the appellant was not challenged in the service appeals field by them. Hence, the impugned office order is untenable.
4. That there is no fault on behalf of present appellant while the respondent No. 4 issued the impugned office order as Mr. Gulfam Hussain and others were terminated by official respondents and thereafter, the present appellant was appointed through proper procedure. Thus, the present appellant was bonafide appointee against the vacant subject post and the official respondents have got no authority to stop the salary and Biometric attendance of appellant.

5. That the impugned office order was issued by respondent No. 4 without affording any opportunity of hearing to present appellant, hence on this score alone the impugned office order is liable to be cancelled.
6. That the impugned office order is totally against the Civil Servants Rules and policy. Hence, the official respondents violated the rules.
7. That the appellant is the victim of unlawful and illegal act of the respondents and such a malafide act on the part of respondents is against the law and rules, without jurisdiction and lawful authority, against the natural justice, misuse of official powers and is the outcome of victimization known by the respondents and it has caused an immense mental torture and agony to the appellant.
8. That the counsel for the appellant may kindly be allowed to raise the additional grounds at the time of arguments.
9. That the appeal is being filed within the statutory period prescribed in section 4 of The KPK Service Tribunals Act, 1974.

It is, therefore, prayed that on acceptance of this appeal this court may be pleased to pass orders as prayed for in the heading of this appeal.

Dated: 9/05/2020

Humble Appellant
M. Saleem
Muhammad Saleem Khan
Through Counsel
Haroon Jamil
Haroon Jamil
Advocate High Court,
District Courts, D.I.Khan.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. _____/2020

Muhammad Saleem Khan

.....APPELLANT

VERSUS

Govt. of KPK and others

.....RESPONDENTS

AFFIDAVIT

I, the appellant, do hereby solemnly affirm and declare on oath that all the para-wise contents of the appeal are true and correct to the best of my knowledge and belief; and that nothing has been deliberately concealed or kept secret from this Honourable Court.



Identified by Counsel

M. Saleem
Deponent

9-5-2020

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. _____/2020

Muhammad Saleem KhanAPPELLANT

VERSUS

Govt. of KPK and othersRESPONDENTS

ADDRESSES OF THE PARTIES

Muhammad Saleem Khan son of Muhammad Jamil Khan (Ward Attendant B-4), DHQ Hospital, Tank.

.....APPELLANT

-
1. Government of Khyber Pakhtunkhwa through Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.
 2. Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.
 3. Director General, Health Services Department, Khyber Pakhtunkhwa, Peshawar.
 4. Medical Superintendent, DHQ Hospital, Tank.
 5. District Account Officer, Tank.

.....RESPONDENTS

Dated: 9/05/2020

Humble Appellant

M. Saleem
Muhammad Saleem Khan

Through Counsel

Haroon Jamil
Haroon Jamil
Advocate High Court,
District Courts, D.I.Khan.



OFFICE OF THE MEDICAL SUPERINTENDENT DHQ HOSPITAL TANK

No. _____

Dated ____/08/2016

To be replaced by even number and date

Ameyye (B) / 85

OFFICE ORDER

Consequent upon, Mr. Muhammad Saleem Khan S/o Muhammad Jameel Khan R/o Village Shahbaz, Tehsil & District Tank is hereby appointed as "Ward Orderly" B-04 against the vacant post at DHQ Hospital Tank plus usual allowances as admissible under the rules and subject to revision from time to time on the following terms and conditions according to the Government Police.

1. You have to join duty at your own expenses.
2. In case you wish to resign at any time, one month notice will be essential or in lieu thereof one month pay shall be forfeited.
3. You will be governed by such rules and orders related to TA, leave and MRC etc as may be issued by the Govt. from time to time for the category of Government servant to which you belong.
4. Your appointment will be subject to provision of Medical Fitness Certificate.
5. You will be on probation Period for Two years.
6. If you accept the terms and condition you are directed to report for duty to undersigned within 15 days positively, otherwise the order will be cancelled automatically.

MEDICAL SUPERINTENDENT
DHQ HOSPITAL, TANK

Dated 30/08/2016

No. 4548-501

Copy to the:-

1. Director General Health Services, Khyber Pakhtunkhwa, Peshawar
2. Deputy Commissioner, Tank
3. District Accounts Officer Tank
4. Accountant DHQ Hospital Tank
5. Candidate concerned.

M. Saleem Khan
MEDICAL SUPERINTENDENT
DHQ HOSPITAL, TANK

P-9-

30:2 Tank
Pers #: 00019435 Buckle:
Name: MUHAMMAD SALEEM
WARD ORDERLI
CHIC No. 1220167604265
GPF Interest Applied
03 Active Permanent

P Sec: 001 Month: February 2017
TK7006 -MS District Head Quarte
MS DISTRICT HEAD QUARTER
NTN:
GPF #:
Old #:

PAYS AND ALLOWANCES:		TK7006	-
0001-Basic Pay		8,040.00	
1000-House Rent Allowance		942.00	
1210-Convay Allowance 2005		1,785.00	
1300-Medical Allowance		1,500.00	
1973-Adhoc Allowance 2010@ 50%		1,570.00	
2146-15% Adhoc Relief All-2013		300.00	
2199-Adhoc Relief Allow @10%		130.00	
2211-Adhoc Relief All 2014 10%		804.00	
5002-Adjustment House Rent		5,550.00	
Gross Pay and Allowances		99,073.00	

GPF Balance 1,292.00 Subrc: 646.00

Total Deductions 646.00
98,427.00

D.O.B 17.11.1979 LFP Quota:
00 Years 06 Months 022 Days BANK AL-HABIB LIMIT Tank Branch
0081-001583-01-4

MEDICAL CERTIFICATE

16 P-10

Name of Official: Mr. Muhammad Saleem Khan
 Caste or Race: Muslim
 Father's Name: Muhammad Ghulam Khan
 Residence: Wazir Khan Sharada p/o Rawal Dist. Tank.
 Date of Birth: 12/1/1929 / N.I.C. Number: 12-201-67-6042-5
 Height: 5' 8"
 Personal marks of Identification: None
 Signature of the Official: [Signature]
 Signature of: _____
 Head of Office: _____

Seal of Office

[Signature]
 MEDICAL SUPERINTENDENT
 Q.H.Q. HOSPITAL TANK

I do hereby certify that I have examined Mr. Muhammad Saleem Khan
 A candidate for employment in the Office of
 the P.S. Wazir Khan Tank.
 And can not discover that he has any disease communicable or other constitutional affection or bodily
 infirmity except None I do not consider this as disqualification for employment
 in the office of the P.S. Wazir Khan Tank.
 His age according to his own statement 37 year and by appearance about
35 years.

EMPLOYED UPON AND FINDER
EMPLOYMENTS

[Signature]
 Medical Superintendent
 Q.H.Q. Hospital Tank

Dated 31/8/16

31/8/16

Amirul C⁷ P-11-

OFFICE OF THE MEDICAL SUPERINTENDENT DHQ HOSPITAL DISTRICT TANK

OFFICE ORDER REGARDING RE-INSTATEMENT OF THE 17 EMPLOYEES

With the reference Honourable Services Tribunal Khyber Pakhtunkhwa Peshawar (D.I.Khan Bench) decision on 25-10-2017 and reference Govt. of Khyber Pakhtunkhwa Health Department No. SOH (Lit-II) 13-4045/2016 dated 22-1-2018 and with the reference Director General Health Services letter no. 13316-17 dated 03-12-2019, with the direction to implement the judgment of the Honourable Services Tribunal Khyber Pakhtunkhwa (D.I.Khan Bench).

In the view of the above directions the following seventeen employees have been re-instated on their designated posts as mentioned below:-

Furthermore, The salaries and Biometric Attendance of the employees already working on these posts have been stopped with the immediate effect in the best public interest.

S #	Working Employees	Designation/BPS	Re-instated Employees	Designation/BPS
1	Mr. M. Inam	Electrician (B-7)	Mr. Wajid Munir	Electrician (B-7)
2	Mr. Iqbal Saeed	Plumber (B-7)	Mr. Fazal Nadeem	Plumber (B-7)
3	Mr. Hussain Bakhsh	Carpenter (B-6)	Mr. Shaukat Khan	Carpenter (B-6)
4	Mr. Sadam Hussain	Ward Orderly (B-4)	Mr. Naimat Ullah W/O	Ward Orderly (B-4)
5	Mr. Javeed Khan	Ward Orderly (B-4)	Mr. Irfan Ullah	Ward Orderly (B-4)
6	Mr. Touseef Ahmad	Ward Orderly (B-4)	Mr. Hidayat Ullah	Ward Orderly (B-4)
7	Mr. Naseeh Ullah	Ward Orderly (B-4)	Mr. Sami Ullah	Ward Orderly (B-4)
8	Mr. Ihsan Ullah	Ward Orderly (B-4)	Mr. Asmat Ullah	Ward Orderly (B-4)
9	Mr. Shabir Khan	Ward Orderly (B-4)	Mr. Mehrban	Ward Orderly (B-4)
10	Mr. Mujeeb ur Rehman	Ward Orderly (B-4)	Mr. Waris Khan	Ward Orderly (B-4)
11	Mr. Saleem Nawaz	Ward Orderly (B-4)	Mr. Muhammad Waqas	Ward Orderly (B-4)
12	Mr. Abdul Karim	Ward Orderly (B-4)	Mr. Munir Khan	Ward Orderly (B-4)
13	Mr. Muhammad Saleem	Ward Orderly (B-4)	Mr. Gulfam Hussain	Ward Orderly (B-4)
14	Mr. Zafar Ali	X-Ray Attendant (B-4)	Mr. Umar Hayat	X-Ray Attendant (B-4)
15	Mr. Sohail Khan	Sweeper (B-3)	Mr. Imran Khan	Sweeper (B-3)
16	Mr. Raméez Khan	Sweeper (B-3)	Mr. Muhammad Ali	Sweeper (B-3)
17	Mr. Shoaib Khan	Chowkidar (B-3)	Mr. Waheed Khan	Chowkidar (B-3)

**MEDICAL SUPERINTENDENT
DHQ HOSPITAL TANK**

No 266-72 / Dated Tank the 21/11 /2020.

Copy to the:-

1. Director General Health Services, Khyber Pakhtunkhwa Peshawar.
2. Deputy Commissioner, Tank
3. Registrar Khyber Pakhtunkhwa Services Tribunal Peshawar (D.I.Khan Bench)
4. SO (Lit-II) Govt: of Khyber Pakhtunkhwa Health Department Peshawar.
5. DAO Tank
6. Accountant DHQ Hospital Tank.
7. All officials concerned.

**MEDICAL SUPERINTENDENT
DHQ HOSPITAL TANK**

Amended C.D. P-12-1-

BEFORE THE HONOURABLE PESHAWAR HIGH COURT,
DERA ISMAIL KHAN BENCH



Writ Petition No. _____ of 2020

1. Hussain Bakhsh son of Mula Bakhsh (Carpenter B-6),
DHQ Hospital, Tank
2. Saddam Hussain son of Abdul Aziz (Ward Attendant
B-4), DHQ Hospital, Tank.
3. Javed Khan son of Muhammad Ramzan (Ward
Attendant B-4), DHQ Hospital, Tank.
4. Muhammad Inam son of Ghulam Ahmed (Electrician
B-7), DHQ Hospital, Tank.
5. Iqbal Saeed son Ghulam Halder (Plumber B-6), DHQ
Hospital, Tank.
6. Touseef Ahmed son of Muhammad Jamil Khan (Ward
Attendant B-4), DHQ Hospital, Tank.
7. Naseebullah son of Rehmatullah (Ward Attendant B-
4), DHQ Hospital, Tank.
8. Shabir son of Mir Afzal (Ward Attendant B-4), DHQ
Hospital, Tank.
9. Mujeeb-ur-Rehman son of Umar Gul Khan (Ward
Attendant B-4), DHQ Hospital, Tank.
10. Saleem Nawaz son of Gul Nawaz (Ward Attendant B-
4), DHQ Hospital, Tank.
11. Abdul Kareem son of Asal Khan (Ward Attendant B-
4), DHQ Hospital, Tank.
12. Muhammad Saleem Khan son of Muhammad Jamil
(Ward Attendant B-4), DHQ Hospital, Tank.
13. Zafar Ali son of Mital Khan (X-Ray Attendant B-4),
DHQ Hospital, Tank.

WP No.134-D of 2020 (Grounds)

ATTESTED
EXAMINER
Peshawar High Court Bench,
Dera Ismail Khan

14. Sohail Jazbi son of Sadiq Maseeh (Sweeper B-3), DHQ Hospital, Tank.
15. Muhammad Shoaib Khan son of Mutiullah (Chowkidar B-4), DHQ Hospital, Tank.

(Petitioners)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.
2. Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.
3. Director General, Health Services Department, Khyber Pakhtunkhwa, Peshawar.
4. Medical Superintendent, DHQ Hospital, Tank.
5. District Account Officer, Tank.
6. Wajid Munir son of Muhammad Arshad resident of Muhallah Qasaban, Tank.
7. Fazal Nadeem son of Abdul Hameed resident of Gara Shahbaz, Tank.
8. Shoukat Khan son of Haibat Khan resident of village Noorang, Tank.
9. Naimatullah son of Saadullah resident of Oudal, Tank.
10. Irfanullah son of Attaullah resident of Gul Imam, Tank.
11. Hidayatullah son of Naeem Khan resident of village Abizar, Tank.
12. Samiullah son of Abdul Rehman resident of village Sheran, Tank.
13. Asmatullah son of Abdul Rauf resident of AMaKhel, Tank.
14. Meharban son of Abdul Karim resident of village Chhena, Tank.

15. Waris Khan son of Abdullah Jan resident of Gara Mithu, Tank.
16. Muhammad Waqas son of Ghulam Hussain resident of Muhallah Qaziyanwala, Tank.
17. Munir Khan son of Abdul Jalil resident of Sabirabad, Tank.
18. Gulfam Hussain son of Manzoor Hussain resident of Ranwal, Tank.
19. Umar Hayat son of SHahjehan resident of SHahalam, Tank.
20. Imran Khan son of Qadir Khan resident of Maghzai, Tank.
21. Muhammad All son of Gulzaman resident of village Safdar All Shah, Tank.
22. Waheed Khan

(Respondents)

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

PRAYER:-

On acceptance / issuance of this Writ Petition the impugned office order No. 266-72 dated 21/01/2020 issued by respondent No. 4 may kindly be declared null & void, void-ab-initio, ultra-virus and based on malafide and by directing official respondents to continue the salaries of the petitioners and to allow the petitioners to make their attendance through Biometric and to allow the petitioners for performing their official duty of any other remedy may being deem fit by this Honourable Court in the interest of the petitioners.

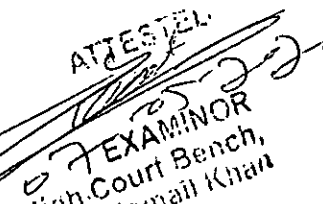
WP No.134-D of 2020 (Grounds)

ATTESTED
07 EXAMINOR
Peshawar High Court Bench,
Date: 15/01/2020

Respectfully Sheweth:

- I. That the addresses of the parties are given above are correct and sufficient for the purpose of service.
- II. That the brief facts of the case are that the respondents No. 6 to 22 were appointed in the year 2012-2013 DHQ Hospital Tank but later-on they were terminated from the service in the year 2016. After-that, the said posts were properly advertised and the present petitioners also applied for said post for appointment. After observing all the codal formalities, the present petitioners were appointed by Selection Committee through separate appointment orders against the vacant posts. Copies of Appointment Orders of Petitioners alongwith Advertisement alongwith other relevant documents are enclosed as Mark-A.
- III. That the respondents No. 6 to 22 filed their separate service appeals before the Honourable KPK Service Tribunals against their termination orders. The appeals of the respondents No. 6 to 22 were allowed and they filed the execution petitions before Honourable KPK Service Tribunals for implementation of their reinstatement orders and the said execution petitions are pending. Meanwhile, the respondent No. 4 issued the impugned order dated 21-01-2020 vide which he re-instated the respondents No. 6 to 22 against the posts of present petitioners while ordered that the salaries and Biometric attendance of the petitioners have been stopped with immediate effect. Copy of impugned order is enclosed as Mark-B.
- IV. That the present petitioners were appointed after observing all the codal formalities as the said posts were advertised and the petitioners were appointed against the vacant subject posts. The respondents No. 6 to 22 neither challenged the appointment orders of present petitioners nor present petitioners were impleaded as party to the service appeals. Now, the respondent No. 4 with malafide intention issued the impugned office order and restrained the present

Handwritten mark

ATTESTED

 EXAMINOR
 Dera Ismail Khan

5. P-16-

petitioners from performing the duty and from attendance through Biometric, while the salaries of the petitioners have also been stopped. Thus being aggrieved, and having no other alternative remedy but to invoke the constitutional jurisdiction of this Honourable Court for redressal of their grievances, inter alia, on the following grounds;

GROUND:

1. That the impugned office order dated 21-01-2020 issued by respondent No. 4 is totally against the law, without lawful authority, arbitrary and ultra virus. Hence, liable to be cancelled.
2. That the official respondents advertised the subject posts and the present petitioners properly applied for their appointment. Thereafter, the official respondents performing all the codal formalities, and the Selection Committee appointed the present petitioners against the vacant subject posts on regular basis. Thus, the present petitioners were legally appointed and the official respondents have got no authority to order regarding stoppage of salaries & Biometric attendance of the present petitioners without any fault of the petitioners.
3. That the present petitioners were not made party to the service appeals by respondents No. 6 to 22. Moreover, the appointment orders of the petitioners were not challenged in the service appeals field by respondents No. 6 to 22. Hence, the impugned office order is untenable.
4. That there is no fault on behalf of present petitioners while the respondent No. 4 issued the impugned office order as the respondents No. 6 to 22 were terminated by official respondents and thereafter, the present petitioners were appointed through proper procedure. Thus, the present petitioners are bonafide appointees against the vacant subject posts and the official respondents have got no

6. authority to stop the salary and Biometric attendance of petitioners. P-17-

5. That the impugned office order was issued by respondent No. 4 without affording any opportunity of hearing to present petitioners, hence on this score alone the impugned office order is liable to be cancelled.
6. That the impugned office order is totally against the Civil Servants Rules and policy. Hence, the official respondents violated the rules.
7. That the Constitution of Islamic Republic of Pakistan, 1973 protected the rights of every citizen and provides the equality amongst the citizen, but the respondents clearly violated the fundamental right of the petitioners protected by the Constitution of Islamic Republic of Pakistan.
8. That the petitioners are the victim of unlawful and illegal act of the respondents and such a mala fide act on the part of respondents is against the law and rules, without jurisdiction and lawful authority, against the natural justice, misuse of official powers and is the outcome of victimization known by the respondents and it has caused an immense mental torture and agony to the petitioners.
9. That the counsel for the petitioner may kindly be allowed to raise the additional grounds at the time of arguments.

In wake of the above submissions, it is humbly prayed that on acceptance / issuance of this Writ Petition the impugned office order No. 266-72 dated 21/01/2020 issued by respondent No. 4 may kindly be declared null & void, void-ab-initio, ultra-virus and based on mala fide and by directing official respondents to continue the salaries of the petitioners and to allow the petitioners to make their attendance through

WP No.134-D of 2020 (Grounds)

ATTESTED
07-05-2020
EXAMINOR
Peshawar High Court Bench,
Dera Ismail Khan

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Biometric and to allow the petitioners for performing their official duty of any other remedy may being deem fit by this Honourable Court in the interest of the petitioners.

Your Humble Petitioners

Hassam Barkh

Through Counsel

Dated: 23/01/2020

Hassam Barkh
2
Malik Haroon Jamil &

M. Syed Sherazi
Syed Abid Hussain Sherazi
Advocates High Court

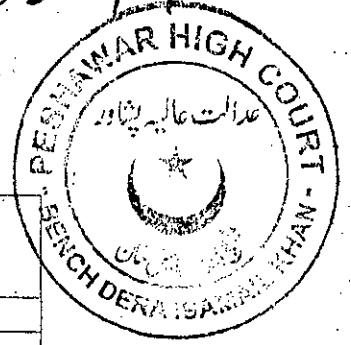
ATTESTED
[Signature]
23-01-2020
EXAMINOR
Peshawar High Court Bench,
Dera Ismail Khan

Annexure - E -

P-19-

PESHAWAR HIGH COURT, D.J.KHAN BENCH

FORM OF ORDER SHEET



Date of order or proceedings (1)	Order or other proceedings with signature of Judge(s). (2)
03.02.2020.	<p><u>W.P. No.134-D/2020 with</u> <u>C.M. Nos.104 & 116-D/2020.</u></p> <p><u>Present:-</u> Syed Abid Hussain Sherazi & Malik Haroon Jamil, Advocates for the petitioners.</p> <p>Mr. Adnan Ali, Asstt. A.G. for official respondents (on Court Notice). ***</p> <p><u>S.M. ATTIOUE SHAH, J.-</u> Through the instant petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, petitioners Hussain Bakhsh and 14 others have prayed for issuance of an appropriate writ declaring the office order No.266-72 dated 21.01.2020, issued by respondent No.4, as illegal and without jurisdiction with further direction to the respondents to allow the petitioners to make their attendance through biometric and to perform their duties.</p> <p>2. After arguing the case at some length, the learned counsel for the petitioner stated at the bar that the petitioners would be satisfied if the present writ petition is treated as an appeal/representation and referred to the competent authority i.e. respondent No.3 for its decision strictly in accordance with law after</p>

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EXAMINOR
Peshawar High Court Bench,
Dera Ismail Khan

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providing the petitioners due opportunity of hearing.

3. In view of the above and the case law reported as Muhammad Ilyas Khan Patwari Vs. District Officer Revenue and Estate Officer, Peshawar and another (PLJ 2008 Peshawar 75), Muhammad Javaid and others Vs. F.O.P. and others (2015 PLC (C.S.) 309), Muhammad Sikandar Vs. District Collector/DCO Rajanpur and 2 others (2016 PLC (C.S.) 306) and Muhammad Irshad Vs. Secretary, Local Government and Rural Development, Lahore and 2 others (2009 PLC (C.S.) 747), the present writ petition is treated as appeal/representation and sent to respondent No.3 with the direction to decide the same in accordance with law after providing due opportunity of hearing to the petitioners, however, it would be highly appreciated if the same is decided within thirty days. Petitioners are directed to appear before respondent No.3 on 19.02.2020 at 1100 hours.

Announced.
Dt: 03.02.2020.
 Kifayat/*

12/1/2020
JUDGE

JUDGE


(D.B)
 Hon'ble Mr. Justice S.M. Attique Shah
 Hon'ble Mr. Justice Sahibzada Asadullah

Office
 4/2

Certified to be true copy
 07-05-2020
 EXAMINER
 High Court Bench District
 Authorized Under Section 11 of
 Qadriabad

1780

G.R.No. _____
 Application received on 07-05-2020
 Copying Fee Deposited Rs _____
 No of Papers 09 Page
 Copying Fee 04
 Urgent Fee 36/-
 Total Fee _____
 Copy ready for delivery 07-05-2020
 Copy delivered on 07-05-2020
 Signature of Examiner _____


 07-05-2020

HAROON JAMIL

Advocate
No: 16-628

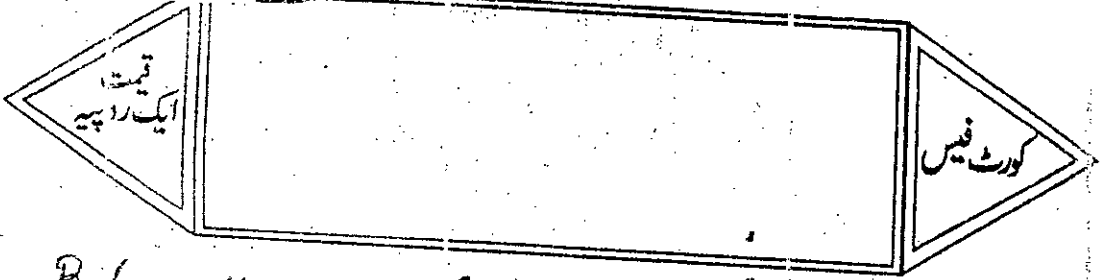
Date of issue: July 2019
Valid upto: July 2022



Secretary
KP Bar Council

وکالت نامہ

P-21



بعدالت جناب Before the KPK Service Tribunal Peshawar

مخانب Applicant

M. Saleem Khan بنام Court, of KPK and other

دعوی یا جرم

Appeal

تفصیل دعوی یا جرم

باعث تحریر آنکہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف واسطے پیروی و جوابدہی برائے پیشی یا تصفیہ مقدمہ بمقام Malik Haroon Jamil Advocate H.C

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے، کہ میں ہر پیشی پر خود بذریعہ اختیار خاص رو برو عدالت، باضر ہوتا رہوں گا۔ اور ہر وقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دیکر حاضر عدالت کروا گا، اگر پیشی پر منظر حاضر نہ ہوں اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے برخلاف ہو گیا۔ تو صاحب موصوف اسکے کسی طرح ذمہ دار نہ ہوں گے، نیز وکیل صاحب موصوف صدر مقام پشوری کے علاوہ کسی جگہ یا پشوری کے اوقات سے پہلے یا پیچھے یا بعد از تظیل پیروی کرنے کے ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پشوری کے علاوہ کسی جگہ یا پشوری کے اوقات سے پہلے یا پیچھے یا بعد از تظیل پیروی کرنے کے ذمہ دار نہ ہوں گے۔ اور مقدمہ صدر پشوری کے علاوہ اور جگہ نہایت ہونے یا بعد از تظیل یا پشوری کے اوقات کے آگے پیچھے پیش ہونے پر منظر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا عائد واپس کرنے کے بھی موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پر داخلہ صاحب موصوف مل کر دو ذات خود منظور و قبول ہوگا۔ اور صاحب موصوف کو مرضی دعوی، یا جواب دعوی یا درخواست اجراء کے ذمہ دار و نظر دانی اٹھائی گرائی اور ہر قسم درخواست پر دخل و تصرف نہ کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ذمہ داری کرنے اور ہر قسم کاروبار قبول کرنے اور سیدہ دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور اس پر پٹاشی یا رضی نامہ و فیصلہ بر حلف کرنے، اقبال دعوی کا بھی اختیار ہوگا۔ اور بصورت مقرر ہونے تاریخ پیش مقدمہ مذکورہ میران از پشوری صدر پشوری مقدمہ مذکورہ نظر دانی داخل و گرائی و برآمدگی مقدمہ یا منسوخی ذمہ داری یا طرف یا درخواست حکم انتہائی یا قریبی یا گرفتاری قبل از فیصلہ اجراء کے ذمہ داری بھی صاحب موصوف کو شرط داخلگی علیحدہ عائد نہ ہونے کا اختیار ہوگا اور تمام ساختہ پر داخلہ صاحب موصوف مل کر دو ذات خود منظور و قبول ہوگا۔ اور بصورت ضرورت، صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکورہ اسکے کسی جزو کی کاروائی یا بصورت درخواست نظر دانی یا گرائی یا دیگر معاملہ مقدمہ مذکورہ کی دوسرے وکیل یا ایڈووکیٹ کو اپنے بجائے یا اپنے ہمراہ مقرر کریں۔ اور ایسے بشیر قانون کو بھی ہر امر میں وہی اور ایسے اختیارات حاصل ہوں گے، جیسے صاحب موصوف کو حاصل ہیں، اور دوران مقدمہ میں جو کچھ ہر جائزہ التوا ہو چکا، وہ صاحب موصوف کا حق ہوگا۔ مگر صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا۔ تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

مورثہ 9 May 2019

لہذا وکالت نامہ لکھ دیا ہے۔ تاکہ سند ہے

مضمون وکالت نامہ سن لیا ہے۔ اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

Attested & Accepted

Haroon Jamil

العبد Muhammad Saleem Khan S/o Muhammad Jamil Khan R/O Gora Shohbaz Dist Tank
العبد M. Saleem

"A"

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

Recd
No.

TB DILC

APPEAL No. 4287 of 20 20

Mohammad Saleem Khan

Appellant/Petitioner

Versus

Through Secy. Health

RESPONDENT(S)

Notice to Appellant/Petitioner: Mohammad Saleem Khan S/O
Mohammad Jamil Khan Ward Attendant
DHO Hospital Tank

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 27-7-22 at 8.00 AM.

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

at camp Court

DI Khan.



Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

"A"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

JUDICIAL COMPLEX (OLD), KHYBER ROAD;
PESHAWAR.

Recd

TB DIC

No.

1287

20

APPEAL No..... of 20

Mohammad Saleem Khan

Appellant/Petitioner

Versus

Through Secy. Health

RESPONDENT(S)

Notice to Appellant/Petitioner

Mohammad Saleem Khan S/O
Mohammad Jamil Khan Ward Attendant
DHQ Hospital Tank

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 21-7-22 at 8:00 AM

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

at camp court

DI Khan.

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.