

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



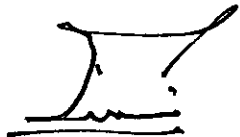
(Kalim Arshad Khan)
Chairman
Camp Court, D.I Khan

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 rely/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

27/07/2022

Due to Summer vacation

came up 28/08/2022

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.

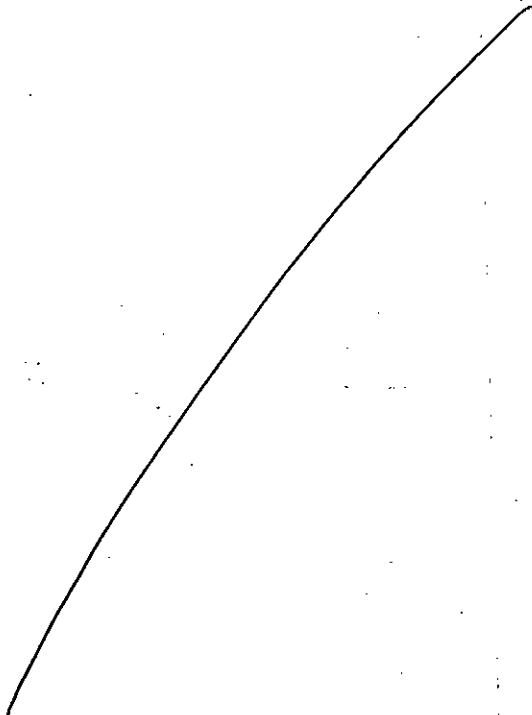
In case the last chance as given above is not availed, the next adjournment shall be subject to prior payment of cost of Rs. 5000/- to the appellant failing which the case shall be fixed before D.B for arguments without reply/comments deeming the same as waived off by the respondents.



Chairman
Camp Court, D.I.Khan

25.01.2022 *Pour is cancelled, therefore, case is adjourned to 26-8-22 for the same as before.*

if all
Reader.

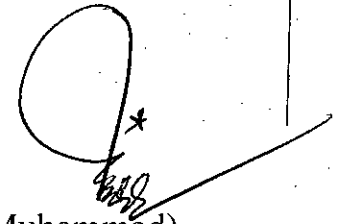


24.03.2021

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

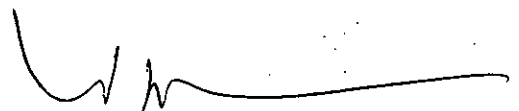
22.12.2020 Due to Covid-19, the case is adjourned for the same on 22.01.2021 for the same as before.

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.



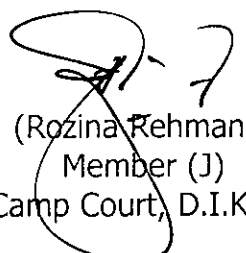


(Atiq ur Rehman Wazir)
Member (E)
Camp Court, D.I Khan

Form- A

FORM OF ORDER SHEET

Court of _____
Case No.- 4285 /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. Muhammad shoaib 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</p>
2-	14-9-20	<p>This case is entrusted to Touring Bench 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>

Appellate
Security & Process Fee
30/9/20

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. 4289 /2020

Nasibullah

.....APPELLANT

VERSUS

Govt. of KPK and others

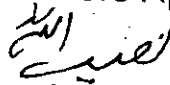
.....RESPONDENTS

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2	Copy of Advertisement	A	8
3	Copies of Appointment Order & Corrigendum	B & C	9-10
4	Copy of Order dated 21-01-2020	D	11
5	Copy of Grounds of W.P and Order dated 03-02-2020	E & F	12-18
6	Copy of Office order dated 09-03-2020	G	19
7	Copy of Office order dated 10-03-2020	H	20
8	Vakalatnama	-----	21

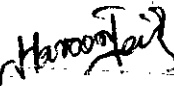
Dated: 9 /05/2020

Humble Appellant



Nasibullah

Through Counsel



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

- 1 -

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. 4289/2020

Nasibullah son of Rehmatullah (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. Sami ullah 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 08-08-2016 against the vacant post, however, in para No. 7 of the appointment order, it was mentioned that "In case of decision of Service Tribunal in favour of terminated employees, his service will be liable for termination without any notice". Thereafter, the respondent issued the Corrigendum on 15/08/2016 vide which he withdrew the para No. 7 "In case of decision of Service Tribunal in favour of terminated employees, his service will be liable for termination without any notice". Copies of advertisement, appointment Order and corrigendum are enclosed as **Mark-A to C** respectively.
- II. That Mr. Sami ullah and others filed their separate service appeals before this Honourable Tribunal against their termination orders. The appeals of Mr. Sami ullah 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. Sami ullah 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-D**.
- 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. Sami ullah 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-E & F** 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. Sami ullah 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. Moreover, during pendency of departmental appeal / representation, the respondent No. 4 issued the office order No. 812-20 dated 09-03-2020 regarding adjustment of present

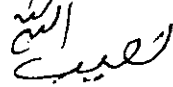
appellant but on the following date he withdrew the same. Copies of office orders are enclosed as **Mark-G & H** respectively.

4. That there is no fault on behalf of present appellant while the respondent No. 4 issued the impugned office order as Mr. Samiullah 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.

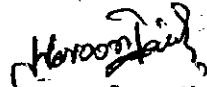
Dated: 9/05/2020

Humble Appellant



Nasibullah

Through Counsel



Haroon Jamil

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

- 6 -

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. _____/2020

Nasibullah

.....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.

Haroon Khan

Identified by Counsel

Nasibullah

Deponent

9-5-2020

Rashid

HAYAT ULLAH BURKI
Advocate
Oath Commissioner
District Bar District (TANK).

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. _____/2020

NasibullahAPPELLANT

VERSUS

Govt. of KPK and othersRESPONDENTS

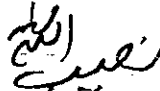

ADDRESSES OF THE PARTIES

Nasibullah son of Rehmatullah (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

Nasibullah
Through Counsel

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

1137

Annexure 'A'

ذرائع آمدنی کی تفصیلات					
ذرائع آمدنی کی تفصیلات					
ذریعہ	مہر کی عدد	تفصیلی تفصیلات	نام آسانی	کیمبر نمبر	
مستحق ہیک	30418 سال	میٹرک بھرتی کی حکومتی ادارے سے 2 ماہ کی سٹریٹنڈ اپلڈ	ایگزٹیشن B-7	1	
مستحق ہیک	30418 سال	میٹرک بھرتی کے ایف ایف ایف	سٹورڈ کیمبر B-7	2	
مستحق ہیک	30418 سال	میٹرک بھرتی کے ایف ایف ایف	پلمبر B-6	3	
مستحق ہیک	30418 سال	متعلقہ ایف ایف ایف کے ایف ایف ایف	کارپنٹر B-6	4	
مستحق ہیک	40418 سال	خواہی	دارو داروئی B	5	
مستحق ہیک	40418 سال	خواہی (کریکٹ)	سوچر (ٹاکسٹ) B-3	6	

شرکتہ ذرائع آمدنی سادہ کاغذ پر ہر ماہ کی آمدنی اسناد اور قومی شناختی کارڈ کی کاپی کے اشاعت کے 15 دن کے اندر دفتر
پر اپنی ہائی جانچیں۔ دہرے سے سوسپل ہونے والی روزانہ کی ذرائع آمدنی زیر غور نہیں لائی جائیں گی۔ سرکاری ملازمین اسے کھانا
قرض سے ذرائع آمدنی ارسال کریں۔ صرف شہادت لیا امیدواروں کو غور کیے لایا جائے گا۔ ٹیسٹ مائٹروں کیلئے کوئی
نی اے ایف ایف ایف نہیں دیا جائے گا۔ گورنمنٹ ورکر کے مطابق 2% کو سٹورڈ ورنڈ فراہم کیے گئے ہیں۔ ٹیسٹ مائٹروں
مورہ 23/07/2016 کو نئی ایف ایف ایف ہسپتال ہیک میں ہوگا۔ ذمہ دہی کو اختیار حاصل ہے کہ جو چاہتے ہیں
آسانی کو پرہیز کرنے یا کسی دستہ کی آسانی کی قیمت پندرہ روپے کے کاسٹ حاصل ہوگا۔

www.dhybepakhlunkhwa.gov.pk

ذرائع آمدنی کی تفصیلات
11-07-2016



OFFICE OF THE MEDICAL SUPRINTENDENT DHQ HOSPITAL TANK

No. 4112

Dated 08/08/2016

Annexure B

P-9

OFFICE ORDER

Consequent upon the recommendation of Departmental Selection committee, Mr. Naseebullah S/o Rehmatullah R/o District Tank is hereby appointed as "Ward Orderly" B-04 (8280-370-19380) 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. His appointment in the Health Department is purely on temporary basis.
2. He has to join duty at his own expenses.
3. In case he wishes to resign at any time, one month notice will be essential or in lieu thereof one month pay shall be forfeited.
4. He 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 servant to which he belong.
5. His appointment will be subject to provision of Medical Fitness Certificate.
6. He will be on probation period as per Govt. rules.
7. In case of decision of Service Tribunal in favour of terminated employees, his services will be liable for termination without any notice.
8. If he accept the terms and condition his is directed to report for duty to undersigned.

MEDICAL SUPRINTENDENT

DHQ HOSPITAL, TANK

Dated 08/08/2016

No. _____

Copy to the:-

1. Director General Health Services, Khyber Pakhtunkhwa, Peshawar
2. District Accounts Officer Tank
3. Accountant DHQ Hospital Tank

MEDICAL SUPRINTENDENT
DHQ HOSPITAL, TANK



OFFICE OF THE MEDICAL SUPRINTENDENT DHQ HOSPITAL TANK

No. _____

Dated ____/____/2016

CORIGENDUM

Amendure 'e' P-10

In the partial modification of this office appointments orders bearing No. 4404,4408,4412,4416 & 4420 dated 08/08/2016, Para-7 "In case of decision of Service Tribunal in favour of terminated employees, his services will be liable for termination without any notice", is hereby withdrawn with immediate, as it is mentioned due to clerical mistake.

**MEDICAL SUPRINTENDENT
DHQ HOSPITAL, TANK**

No. *4589-98*

Dated *15/8/2016*

Copy to the:-

1. Director General Health Services, Khyber Pakhtunkhwa, Peshawar
2. District Accounts Officer Tank
3. Accountant DHQ Hospital Tank
4. All Concerned.

M. S. Sidani
**MEDICAL SUPRINTENDENT
DHQ HOSPITAL, TANK**

Annexure 'D'

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. Naseeb 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. Melrban	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. Rameez Khan	Sweeper (B-3)	Mr. Muhammad Ali	Sweeper (B-3)
17	Mr. Shoaib Khan	Chowkidar (B-3)	Mr. Wahaed Khan	Chowkidar (B-3)

No 266-72

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.

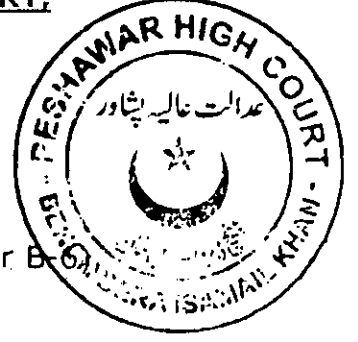
MEDICAL SUPERINTENDENT
DHQ HOSPITAL TANK

MEDICAL SUPERINTENDENT
DHQ HOSPITAL TANK

Amroodure 'E' P-12-

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 Muhamniad 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 Haider (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.

ATTESTED
[Signature]
EXAMINOR
Peshawar High Court Bench,
Dera Ismail Khan

- P-13
14. Sohail Jazbi son of Sadiq Maseeh (Sweeper B-3), DHQ Hospital, Tank.
 15. Muhammad Shoalb 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. Nalmatullah 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.

ATTESTED
EXAMINOR
Peshawar High Court Bench
Dera Ismail Khan

- P-14
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 Hussian 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 Ali son of Gulzaman resident of village Safdar Ali 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.

ATTESTED
EXAMINOR
Deshawar High Court Bench,
Dera Ismail Khan

Respectfully Sheweth:

- 4. P-15

- 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

WP No.134-D of 2020 (Grounds)

ATTENDED
06-02-2020
EXAMINER
Peshawar High Court Bench
Dr. Iqbal 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;

GROUNDS:

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- P-17-

authority to stop the salary and Biometric attendance of petitioners.

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 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 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 malafide and by directing official respondents to continue the salaries of the petitioners and to allow the petitioners to make their attendance through

ATTESTED
21-02-2020
EXAMINOR
Peshawar High Court Bench
Dera Ismail Khan

-7
P-18-

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

Mussam Barkhsh

Through Counsel

Haroon Jamil

Malik Haroon Jamil &

Syed Abd Hussain Sherazi

Syed Abd Hussain Sherazi
Advocates High Court

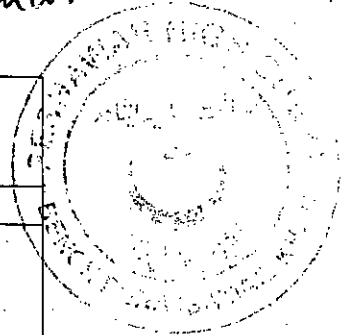
Dated: 23/01/2020

ATTESTED
[Signature]
20-02-2020
EXAMINOR
Peshawar High Court Bench,
Dera Ismail Khan

PESHAWAR HIGH COURT, D.I.KHAN BENCH

FORM OF ORDER SHEET

Ameed F P 19



Date of order or proceedings	Order or other proceedings with signature of Judge(s).
(1)	(2)
03.02.2020.	<p><u>W.P. No.134-D/2020 with 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. ATTIQUE 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>

Amir

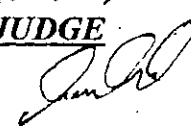
ATTESTED
26-02-20
EXAMINOR
Peshawar High Court Bench
D.I. Khan

P-18-

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.

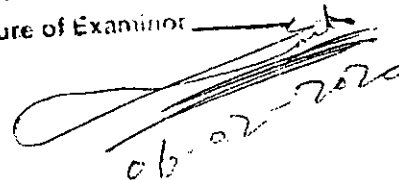
Announced.
Dt: 03.02.2020.
Kifayat/*

19/02/2020
JUDGE

JUDGE

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

412



G.R.No. _____
Application Received on 04-02-2020
Copying Fee deposited Rs _____
No of Papers 09
Copying Fee 04
Urgent Fee _____
Total Fee 360
Copy ready for delivery 06-02-2020
Copy delivered on 06-02-2020
Signature of Examiner 

Certified to be true Copy
06-02-2020
EXAMINOR
Peshawar High Court Bench D I Khan
Authorized Under Section 97 of
Qanoon-a-Shahadat-1919

06-02-2020

OFFICE OF THE MEDICAL SUPERINTENDENT DHQ HOSPITAL DISTRICT TANK

Amendment 'G' P19

OFFICE ORDER:

With reference Assistant Director Local Govt: & RDD / Secretary DDAC / MPA.PK-94 Tank letter No. 04 / ADLG/Secy DDAC Dated 27-02-2020 (Photocopy attached), the following staff are hereby adjusted against the vacant at DHQ Hospital Tank (mentioned against each) with effect from 01-01-2020.

S. No	Name	Designation	Adjusted on the post
1.	Mr. Nasib Ullah	Ward Orderly	Lab: Attendant
2.	Mr. Javed Khan	Ward Orderly	Ward Orderly
3.	Mr. Tousif Ahmed	Ward Orderly	Ward Orderly
4.	Mr. Shabir Khan	Ward Orderly	Chowkidar
5.	Mr. Sohail Jazbi	Sweeper	Sweeper (As Minority Quota)

XXXXSDXXXX
MEDICAL SUPERINTENDENT
DHQ HOSPITAL TANK

No: 812 - 20 / Dated 09/03/2020.

Copy to the: -

1. Director General Health Services Khyber Pakhtunkhwa Peshawar.
2. District Accounts Officer, Tank with the request to start the pay of above mentioned surplus staff against the vacant posts at DHQ Hospital Tank against each.
3. Accountant of this office with the direction for necessary action.
4. Mr. Nasib Ullah W/O.
5. Mr. Javed Khan W/O.
6. Mr. Tousif Ahmed W/O.
7. Mr. Shabir Khan W/O.
8. Mr. Sohail Jazbi Sweeper.
9. Office File for record.


MEDICAL SUPERINTENDENT
DHQ HOSPITAL TANK

OFFICE OF THE MEDICAL SUPERINTENDENT DHQ HOSPITAL DISTRICT TANK

No _____ /

, Dated ____ / ____ / 2020.

Ammeurve H²

P20

OFFICE ORDER:

With the reference notification No. E&A (Health)/2-5/2020 dated 9/3/2020 (copy attached ready reference)

Due to this, This office order bearing No. 812-20 Dated 09-03-2020 is hereby cancelled with immediate effect in the best public interest.

XXXXSDXXXX

MEDICAL SUPERINTENDENT
DHQ HOSPITAL TANK

No 848-56 / Dated Tank the 10 / 03 / 2020.

Copy to the: -

1. Director General Health Services, Khyber Pakhtunkhwa Peshawar.
2. District Accounts Officer, Tank.
3. Accountant of this office with the direction for necessary action.
4. Mr. Nasib Ullah W/O
5. Mr. Javed Khan W/O
6. Mr. Tousif Ahmad W/O
7. Mr. shabir Khan W/O
8. Mr. Sohail Jazbi Sweeper
9. Office File for record.

[Signature]
MEDICAL SUPERINTENDENT
DHQ HOSPITAL TANK

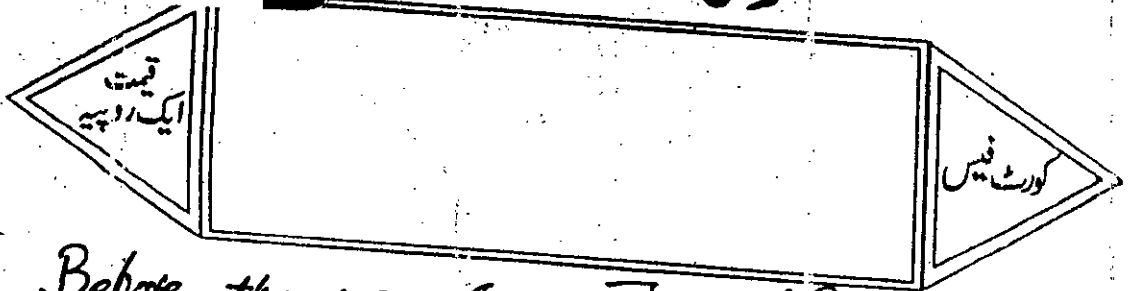
HAROON JAMIL

Advocate
bc-16-628
Date of issue: July 2019
Valid upto: July 2022



Secretary
KP Bar Council

وکالت نامہ



بعدالت جناب Naseebullah منجانب Govt. of KPK and others
Naseebullah بنام

دعویٰ یا جرم
تفصیل دعویٰ یا جرم
Appeal

باعث تحریر آنکہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف واسطے بیرونی وجوہات سے برائے پیشی یا تصفیہ مقدمہ مقام D.O-I-II کیلئے
Malik Haroon Jamil Advocate H.C

کو حسب ذیل شرائط پر وکیل مقرر کیا گیا۔ کہ میں ہر پیشی پر خود بذریعہ اختیار خاص رو بروعدالت حاضر ہوتا ہوں گا۔ اور ہر وقت پکارے جانے مقدمہ وکیل صاحب
موصوف کو اطلاع دیکر حاضر عدالت کروں گا، اگر پیشی پر منظر حاضر نہ ہوں اور مقدمہ میری غیر ماہرگی کی وجہ سے کسی طور پر میرے برخلاف ہو گیا۔ تو صاحب موصوف
انکے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام بکھری کے علاوہ کسی جگہ یا بکھری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل بیرونی کرنے کے
ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام بکھری کے علاوہ کسی جگہ یا بکھری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل بیرونی کرنے کے ذمہ دار نہ
ہوں گے۔ اور مقدمہ صدر بکھری کے بارہ اور جگہ سمیت ہونے یا بروز تعطیل یا بکھری 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 عاقبت واپس کرنے کے بھی موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پر داخل صاحب موصوف حمل کردہ
ذات خود منظور و قبول ہوگا۔ اور صاحب موصوف کو عرض دہنی، یا جواب دہنی یا درخواست اجراء، یا آرگنٹیشن مقدمہ مذکورہ میں ان از بکھری صدر بیرونی مقدمہ مذکورہ نظر ثانی و اپیل دہنی اور آڈیٹ
میں بھی اختیار ہوگا۔ اور کسی قسم یا ڈگری کرانے اور ہر قسم کارروائی وصول کرنے اور صید وینے اور دائر کرنے اور ہر قسم کے بیان دینے اور اس پر چاشنی یا راضی اور فیصلہ پر
مقدمہ یا منسوخی ڈگری یا طرف یا درخواست ہم انتہائی یا ترقی یا گرفتاری قبل از فیصلہ اجراء سے ڈگری بھی صاحب موصوف کو بشرط ادا سنگل علیحدہ عدالت بیرونی کا اختیار ہوگا
اور تمام ساختہ پر داخل کردہ ذات خود منظور و قبول ہوگا۔ اور بصورت ضرورت، صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکورہ یا اسکے کسی جزو
کی کارروائی یا بصورت درخواست نظر و اپیل یا گرفتاری 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 ویسے اختیارات حاصل ہوں گے، جیسے صاحب موصوف کو حاصل ہیں، اور دوران مقدمہ میں جو کچھ ہر جائز التواء ہو گیا، 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 بیرونی نہ کریں اور اسکی
صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

لہذا وکالت نامہ لکھ دیا ہے۔ تاکہ سند ہے۔ مورخہ 9 May 2019

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

العبد Naseebullah S/o Rehmatullah R/o Dist Tank
العبد
العبد

Attested & Accepted
[Signature]

"A"

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

Recd
No. /

TB DIK

APPEAL No. 4289 of 20 20

Nasib Ullah

Appellant/Petitioner

Versus

Through Secy: Health Pesh


RESPONDENT(S)

Notice to Appellant/Petitioner: Naseeb Ullah S/O
Rehmat Ullah 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 A.M.

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 court
D.I.K


Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

"A"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

Recd
No.

TB DIK

APPEAL No. 4289 of 20 20

Nasib Ullah

Appellant/Petitioner

Versus

Through Sery Health Pesh

RESPONDENT(S)

Notice to Appellant/Petitioner Naseeb Ullah S/O

Rehmat Ullah 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
DIK

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.