

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

26<sup>th</sup> 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



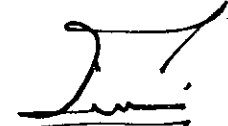
(Kalim Arshad Khan)  
Chairman  
Camp Court, D.I Khan

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

come 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

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

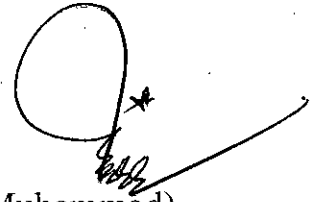
<sup>1</sup>  
Reader.

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 24.06.2021 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.

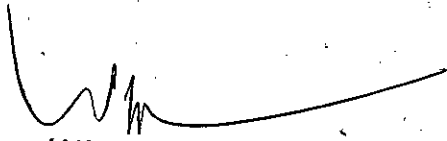
READER

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.


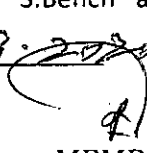
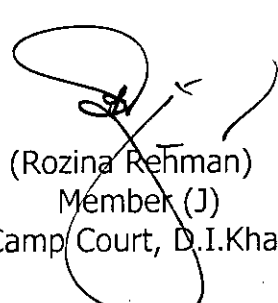
  
(Atiq ur Rehman Wazir)  
Member (E)  
Camp Court, D.I Khan


Form- A

FORM OF ORDER SHEET

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

Case No.- 4284 /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. Javed 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 11/15/2020.</p>
2-	14-9-20	<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 & Process Fee  
  
30/9/20

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**

**PESHAWAR.**

Appeal No. 4290 /2020

Zafar Ali

.....APPELLANT

**VERSUS**

Govt. of KPK and others

.....RESPONDENTS

**INDEX**

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1	Grounds of appeal	-----	1-6
2	Copy of Advertisement	A	7
3	Copy of Appointment Order	B	8
4	Copy of Order dated 21-01-2020	C	9
5	Copy of Grounds of W.P and Order dated 03-02-2020	D & E	10-18
7	Vakalatnama	-----	19

Dated: 9/05/2020

Humble Appellant

*Zafar Ali*  
Zafar Ali

Through Counsel

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

- 1 -

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**

**PESHAWAR.**

Appeal No. U290 /2020

Zafar Ali son of Mital Khan (X-Ray 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**

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**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. Umar Hayyat 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. Copies of advertisement, appointment Order are enclosed as **Mark-A to B** respectively.
  
- II. That Mr. Umar Hayyat and others filed their separate service appeals before this Honourable Tribunal against their termination orders. The appeals of Mr. Umar Hayyat 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. Umar Hayyat 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. Umar Hayyat 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. Umar Hayyat 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. Umar Hayyat 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

Zafar Ali  
Zafar Ali

Through Counsel

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

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

Appeal No. \_\_\_\_\_/2020

Zafar Ali .....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 Jafar*

**Identified by Counsel**

*Zafar Ali*  
**Deponent**

*Rashid*  
**HAYAT ALI RUKTI**  
DISTRICT BAR DISTRICT (ANK)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**

**PESHAWAR.**

Appeal No. \_\_\_\_\_/2020

Zafar Ali .....APPELLANT

**VERSUS**

Govt. of KPK and others .....RESPONDENTS

**ADDRESSES OF THE PARTIES**

Zafar Ali son of Mital Khan (X-Ray 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: 7/05/2020

Humble Appellant

Zafar Ali  
Zafar Ali

Through Counsel

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

1/3 Annexure 'A'

P

P

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کمر شمار	عام سال	تعمیراتی قیمت	کمر کی مدت	روزانہ کرایہ
1	ایکسٹریمن 11-7	بیماروں کی طبیعت اور سب سے	30x18 سال	سطح ایک
(2)	سٹور ریز 11-7	بیماروں کی طبیعت اور سب سے	30x18 سال	سطح ایک
3	کمر 11-6	بیماروں کی طبیعت اور سب سے	30x18 سال	سطح ایک
4	کمر 11-6	بیماروں کی طبیعت اور سب سے	30x18 سال	سطح ایک
5	دارل دروز 11-1	بیماروں کی طبیعت اور سب سے	30x18 سال	سطح ایک
6	سورج (ٹاکنس) 11-3	بیماروں کی طبیعت اور سب سے	30x18 سال	سطح ایک

نوٹ: درختوں کی سادہ کاغذ پر بریل اور ہسپتال کے اجراء اور ڈاکوں کی اشاعت کے 15 دن کے اندر دفتر پر اپنی ہائیڈرو کاپیوں سے سہولت دینا۔ اس کے علاوہ ڈاکوں اور ڈاکوں کی فراہمی کی سہولت دینا۔ اس کے علاوہ ڈاکوں اور ڈاکوں کی فراہمی کی سہولت دینا۔

کمر کی قیمتوں کی وضاحت  
 11-7-6  
 درختوں کی قیمتوں کی وضاحت

www.moh.gov.pk

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OFFICE OF THE MEDICAL SUPRINTENDENT DHQ HOSPITAL TANK

No. 4456

Dated 08/08/2016

*Amendment B*

OFFICE ORDER

Consequent upon the recommendation of the Departmental Selection Committee, Mr. Zafar Ali s/o Mital Khan R/o District Tank is hereby appointed as "X-Ray Attendant" 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. His appointment in the Health Department is purely on temporary basis.
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.

*M. A. Indar*  
MEDICAL SUPRINTENDENT  
DHQ HOSPITAL, TANK

Dated \_\_\_\_/\_\_\_\_/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

Amendure 'c' P- 8

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. 133-16-17 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. Shaikat 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. San-i 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. Rameez Khan	Sweeper (B-3)	Mr. Muhammad Ali	Sweeper (B-3)
17	Mr. Shoaib Khan	Chowkidar (B-3)	Mr. Wahaed Khan	Chowkidar (B-3)

MEDICAL SUPERINTENDENT  
DHQ HOSPITAL TANK

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

Copy to the:-

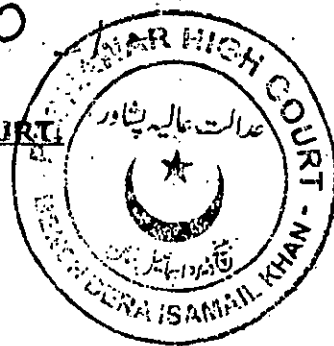
1. Director General Health Services, Khyber Pakhtunkhwa Peshawar.
2. Deputy Commissioner, Tank
3. Registrar Khyber Pakhtunkhwa Services Tribunal Peshawar (D.I.Khan Bench)
4. SO (Lit-II) Govt. of Khyber Pakhtunkhwa Health Department Peshawar.
5. DAO Tank
6. Accountant DHQ Hospital Tank.
7. All officials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

MEDICAL SUPERINTENDENT  
DHQ HOSPITAL TANK



*Amezure (D)* *P-10*

**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 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.

WP No.134-D of 2020 (Grounds)

*ATTESTED*  
*09/05/2020*  
**EXAMINOR**  
Peshawar High Court Bench,  
Dera Ismail Khan

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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 Halbat 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.

ATTESTED  
08-05-2020  
EXAMINOR  
Peshawar High Court Bench,  
Dera Ismail Khan

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 All son of Gulzaman resident of village Safdar Ali Shah, Tank.
22. Waheed Khan

(Respondents)

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

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**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  
09/05/20  
EXAMINOR  
Peshawar High Court Bench,  
Dera Ismail Khan

P-13

4.

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

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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

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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

WP No.134-D of 2020 (Grounds)

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7:

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

*Hussain Bhatti*

Through Counsel

*Malik Haroon Jamil*

Malik Haroon Jamil &

*Syed Abid Hussain Sherazi*  
Syed Abid Hussain Sherazi  
Advocates High Court

Dated: 23/01/2020

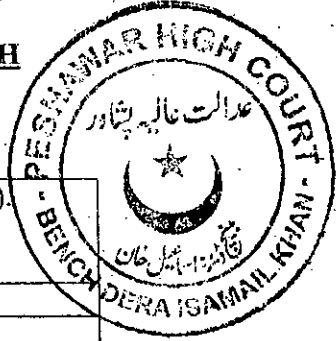
ATTESTED  
*[Signature]*  
EXAMINOR  
Peshawar High Court Bench,  
Dera Ismail Khan

Annex E

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PESHAWAR HIGH COURT, D.I.KHAN BENCH

FORM OF ORDER SHEET



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 &amp; 116-D/2020.</u></p> <p><b>Present:-</b> Syed Abid Hussain Sherazi &amp; 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>

*[Handwritten signature]*


ATTESTED  
*[Signature]*  
EXAMINOR  
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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/\*

18/11/09  
JUDGE  
  
JUDGE

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

*Efficient*  
  
 4/2

Certified to be true copy  
 EXAMINER  
 Peshawar High Court Bench D.I.K  
 Authorized Under Section  
 Qanoon-e-Shahadat-1934

1792  
 G.R.No. \_\_\_\_\_  
 Application Received on 09-05-2020  
 Copying Fee requested Rs. \_\_\_\_\_  
 No. of Pages 09 pages  
 Copying Fee 04  
 Urgent Fee \_\_\_\_\_  
 Total Fee 36/-  
 Copy ready for delivery 09-05-2020  
 Copy delivered on 09-05-2020  
 Signature of Examiner \_\_\_\_\_  
09-05-2020



ADVOCATE GENERAL COURT

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HAROON JAMIL

Advocate

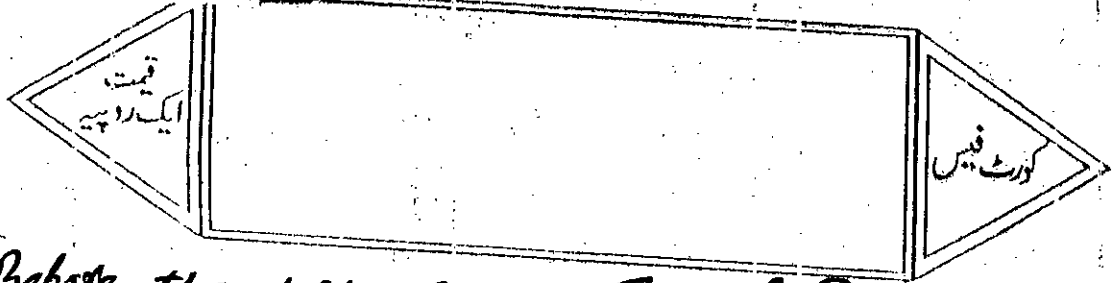
bc-16-6283

Date of issue: July 2019

Valid upto: July 2022



# وکالت نامہ



Before the KPK Service Tribunal <sup>بندرانگ پشاور</sup>

Zafar Ali <sup>مخانب</sup> Zafar Ali  
 Govt. of KPK and others <sup>مخانب</sup>

دعویٰ یا جرم

Appeal

تفصیل دعویٰ یا جرم

باعث تحریر آنکہ

دیو

مقدمہ مندرجہ بالا عنوان میں اپنی طرف واسطے بیرونی وجود ابدانی برائے پیشی یا تصفیہ مقدمہ مقام

Malik Haroon Jamil Advocate H.C

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے، کہ میں برقی پر خود بذریعہ اختیار خاص رو برو عدالت حاضر ہوں گا۔ اور ہر وقت پکارے جانے مقدمہ وکیل صاحب موسوف کو اطلاع دیکر حاضر عدالت کروں گا، اگر پیشی پر منظر حاضر نہ ہوں۔ اور مقدمہ میری غیر حاضری کی نتیجے سے کسی طور پر میرے برخلاف ہو گیا۔ تو صاحب موسوف اسکے کسی طرح ذمہ دار نہ ہوں گے، نیز وکیل صاحب موسوف صدر مقام پشوری کے علاوہ کسی جگہ یا پشوری کے اوقات سے پہلے یا پچیس یا بروز تھیل پشوری کرنے کے ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موسوف صدر مقام پشوری کے علاوہ کسی جگہ یا پشوری کے اوقات سے پہلے یا پچیس یا بروز تھیل پشوری کرنے کے ذمہ دار نہ ہوں گے۔ اور مقدمہ صدر مقام پشوری کے علاوہ اور جگہ سمیت ہونے یا بروز تھیل یا پشوری کے اوقات سے پہلے یا پچیس ہونے پر منظر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا جمانہ واپس کرنے کے کسی مسوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پروائل صاحب موسوف مل کر وہ ذات خود منظور و قبول ہوگا۔ اور صاحب موسوف کو برقی دعویٰ یا جواب دعویٰ یا درخواست اجراء کی نظر ہونی اہل گمرانی و جرم درخواست پر اعتماد و تمسک کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کرنے اور جرم کا وہیہ وصول کرنے اور سیدہ دینے اور وائل کرنے اور جرم کے بیان دینے اور اس پر ہائی پارسی اور فیصلہ بر مقدمہ یا منسوی ڈگری یا طرف یا درخواست حکم انتہائی یا قرنی یا قرنی مل از فیصلہ اجراء کی بھی صاحب موسوف کو بشرط ادا جسکی علیحدہ بیان پشوری کا اختیار ہوگا اور تمام ساختہ پروائل صاحب موسوف کو خود منظور و قبول ہوگا۔ اور اس وقت ضرورت صاحب موسوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکورہ یا اسکے کسی جزو کی کارروائی یا اس وقت درخواست نظر ہونی اہل گمرانی یا دیگر معاملہ مقدمہ مذکورہ کسی دوسرے وکیل یا پشوری کے جہانے یا اپنے ساتھ مقرر کریں۔ اور ایسے مشیر قانون کو بھی ہر امر میں وہی اور ایسے اختیارات حاصل ہوں گے، جیسے صاحب موسوف کو حاصل ہیں، اور دوران مقدمہ میں جو حکم ہر جگہ اتواء ہو گیا، وہ صاحب موسوف کا حق ہوگا۔ مگر صاحب موسوف کو پشوری میں تاریخ پیشی سے پہلے ادا نہ کروں گا۔ تو صاحب موسوف کو پشوری کا اختیار ہوگا کہ وہ مقدمہ کی بیرونی نہ کریں اور اسکی صورت میں میرا کوئی مطالبہ کسی حکم صاحب موسوف کے برخلاف نہیں ہوگا۔

2020 May 9

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

Zafar Ali s/o Mital (son)  
R/o Dist Tanc

Attested & Accepted