

25.10.2022

Appellant present through counsel.

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

Reply not submitted. Learned AAG requested for time to submit reply. Last opportunity is granted. To come up for reply/comments on 23.11.2022 before S.B at Camp Court, D.I Khan.



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

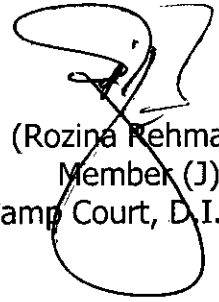
24.05.2022

Appellant present through counsel. Preliminary arguments heard. Record perused.

Points raised need consideration. The appeal is admitted for 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 the respondents for submission of reply/comments. To come up for reply/comments on 27.07.2022 before S.B at Camp Court, D.I.Khan.

Rs-500/-
Appellant Deposited
Security & Process Fee

A. H. Hashmi
202/6/22



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

27/07/2022

Due to Summer Vacation

Come up 28/09/2022.

Reader

28.09.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present and sought time for submission of reply/comments. Adjourned. To come up for submission of reply/comments on 25.10.2022 before the S.B at Camp Court D.I.Khan.




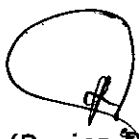


(Salah-Ud-Din)
Member (J)
Camp Court D.I.Khan

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 7946 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	29/12/2021	<p>The appeal of Mr. Ghulam Fareed presented today by Mr. Anwar Awan Advocate, may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	29.03.2022	<p>This case is entrusted to touring S. Bench at D.I. Khan for preliminary hearing to be put up there on <u>29.03.2022</u></p> <p style="text-align: right;"> CHAIRMAN</p>
23.05.2022		<p>Counsel for the appellant seeks some time to assist the court. Adjourned. To come up for preliminary hearing on 23.05.2022 before S.B at camp court, D.I.Khan.</p> <p style="text-align: right;"> CHAIRMAN, Camp Court, D.I.Khan</p>
		<p>Junior to counsel for appellant present with a request for adjournment as senior counsel for appellant is busy before Hon'ble Peshawar High Court; granted. To come up for preliminary hearing on 24.05.2022 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>

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CHECK LIST

Case Title: Chhayan Farseed VS Govt of KPK etc

S#	CONTENTS	YES	NO
1	This Appeal has been presented by: <u>M. Anwar Awan ASE</u>		
2	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	✓	
3	Whether appeal is within time?	✓	
4	Whether the enactment under which the appeal is filed mentioned?	✓	
5	Whether the enactment under which the appeal is filed is correct?	✓	
6	Whether affidavit is appended?	✓	
7	Whether affidavit is duly attested by competent Oath Commissioner?	✓	
8	Whether appeal/annexures are properly paged?	✓	
9	Whether certificate regarding filing any earlier appeal on the subject, furnished?	✓	
10	Whether annexures are legible?	✓	
11	Whether annexures are attested?	✓	
12	Whether copies of annexures are readable/clear?	✓	
13	Whether copy of appeal is delivered to AC/DAC?	✓	
14	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	✓	
15	Whether numbers of referred cases given are correct?	✓	
16	Whether appeal contains cutting/overwriting?	✓	No
17	Whether list of books has been provided at the end of the appeal?	✓	
18	Whether case relate to this court?	✓	
19	Whether requisite number of spare copies attached?	✓	
20	Whether complete spare copy is filed in separate file cover?	✓	
21	Whether addresses of parties given are complete?	✓	
22	Whether index filed?	✓	
23	Whether index is correct?	✓	
24	Whether Security and Process Fee deposited? On	✓	
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On	✓	
26	Whether copies of comments/reply/rejoinder submitted? On	✓	
27	Whether copies of comments/reply/rejoinder provided to opposite party? On		

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name:

M. Anwar Awan ASE

Signature:

Anwar

Dated:

27/12/2021

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

Appeal no. 7946 of 2021.

Ghulam Fareed **VERSUS** Govt; Of KPK and others

INDEX

No.	Particulars	Annexure	Pages
1	Writ		1-3
2	Copy Of Appointment Order Dated;01-11-2004.	A	4
3	Copy of Certificate.	B	5
4	Copy of Order dated; 09-08-2008.	C	6
4	Copy of Application.	D	7-8
5	Copy of Appeal and Postal Receipts.	E	9-10
6	Wakalat Nama	F	11

Your Humble Petitioner

Ghulam Fareed

Ghulam Fareed
Through Counsel

Dated; 25-12-2021.

Muhammad Anwar Awan

Muhammad Anwar Awan

Advocate of Supreme Court.

- 1 -

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

Appeal no..... of 2021.

Ghulam Farced Chowkidar BHU Gandhi Umer Khan District D.I.Khan.

VERSUS

1. Government of KPK through secretary Health Peshawar.
2. Director General Health Services Khyber Pukhtunkhwa, Peshawar.
3. District Officer Health D.I.Khan.

**APPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNAL
ACT AGAINST NON- PROMOTION OF APPELLANT AND
ALSO AGAINST RULES FOR PROMOTION OF DEPARTMENT.**

Anwar
That the brief facts of the case are as under:

1. That the Appellant was appointed as Chowkidar vide order Dated; 01-11-2004. Copy of appointment order is Annexure A.
2. That Appellant during his service completed is EPI Training and now having Certificate. Copy of Certificate is Annexure B.
3. That the Appellant being Qualified was Adjusted/Awarded additional duty at BHU Gandhi Umer Khan as EPI Technician vide order Dated; 09-08-2008. The Appellant perform his duty to the best of his abilities and with Utmost satisfaction of his high-ups. Copy of Order Dated; 09-08-2008 is Annexure C.

4. That Petitioner through different Application applied for his promotion/appointment on vacant post of EPI Technician but respondents are reluctant to promote/adjust/appoint the Appellant on the post of EPI Technician. Copy of Application is Annexure D.
5. That Appellant feeling aggrieved, filed Departmental Appeal against the refusal of Respondent on 25-09-2021 but not decided by the Competent Authority. Copy of Appeal and Postal Receipt is Annexure E.
6. That feeling aggrieved from above said action appellant is constrained to approaches this honorable court on the following amongst other:-

GROUND: _

Answer

1. That the act and deeds of Respondent, not awarding his due promotion as EPI Technician, despite the fact that he was senior most and eligible person amount to sheer refusal of Appellant Rights.
2. That the Appellant is serving in the Department since 2007 and also having EPI Technician Certificate, is entitled for promotion. The refusal of the Respondent regarding non availability of promotion rules, is discriminatory and Fundamental Rights of Appellant. The Respondents already appointed/ adjusted Class IV Employees on the post of EPI Technician.
3. That the rules framed by the Department regarding promotion of Employees are Discriminatory, against the Fundamental Rights guaranteed in the Constitution of Islamic Republic Of Pakistan.

4. That Appellant is adjusted by the Respondent as EPI Technician as an additional duty at BHU Gandhi Umer Khan. The Appellant is performing his duty without any deficiency on his part.

In wake of above submissions, it is respectfully prayed that on acceptance of instant appeal, the Appellant may kindly be promoted/ adjusted / appointed on the post of EPI Technician since 2008. The Respondent may kindly be further directed to frame the relevant rules for promotion of Class IV employees as EPI Technician.

YOUR HUMBLE APPELLANT

M. F.

Ghulam Fareed
Through Counsel

Dated; 25-12-2021.

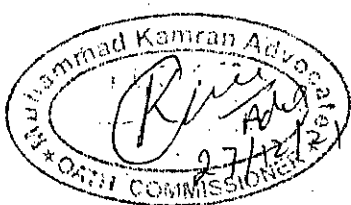
Anwar Adv

Mohammad Anwar Awan
Advocate Supreme Court

AFFIDAVIT

Ghulam Fareed, do hereby solemnly affirm and declare on OATH that the contents of the same are true and correct to the best of my knowledge and belief and that nothing has been concealed from this honorable court.

M. F.
Deponent.



A-4-

OFFICE OF THE
EXECUTIVE DISTRICT OFFICER
HEALTH DERA ISMAIL KHAN

No. 1001 /Estab: DATED
DIKhan 11/11/2008


To
Mr. Ghulam Farid S/O Muhammad Waqar Akhsh
R/O W.I.T. to Gandi Umer Khan DIKhan.

Subj: OFFER OF APPOINTMENT

Memo: As approval accorded by the District Coordination Officer, DIKhan.
The Govt. hereby offers you a post of Chowkidar against the existing vacancy at BHU Gandi Umer Khan in BPS 01 vice 1870/- plus usual allowances as admissible under the rules and subject to revision time-to-time on the following terms and conditions:-

- 1- Your appointment in Health Department is purely on temporary basis and your services are liable to be terminated at any time without giving notice or assigning reasons of the facts that may belong to a person other than one to whom you are recruited.
- 2- You have to join duty at your own expenses 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 relating to leave, F.A. Medical charges as may be issued by the Govt. from time-to-time for the category of Govt. servant to which you may belong.
- 4- If you accept tender on the above conditions you shall report to In-charge BHU Gandi Umer Khan for duty within seven days of the receipt of this letter.

5- You will report Medical Fitness Certificate from Medical Superintendent, District Headquarter Hospital, Dera Ismail Khan.

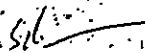

EXECUTIVE DISTRICT OFFICER
(HEALTH) DERA ISMAIL KHAN


No. _____ /Estab: _____

Copy forwarded to the:-

1. District Coordination Officer, DIKhan.
2. In-charge BHU Gandi Umer Khan.
3. District Health Officer Dera Ismail Khan.
4. Estab. Clerk of this office.
5. Accounts Clerk of this office.

For information and necessary action.


EXECUTIVE DISTRICT OFFICER
(HEALTH) DERA ISMAIL KHAN

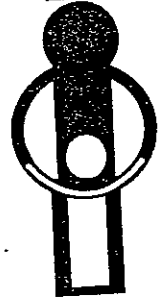

M. Anwar Awan
Advocate Supreme Court
D.I.Khan

B-5-

**EXPANDED PROGRAMME ON IMMUNIZATION
NWFP, PESHAWAR.**

Date: 13.9.2007

No. _____



**DEPARTMENT OF HEALTH
Government of NWFP (Pakistan)**

ROLL NO: 27

MARKS: 50

EPI TRAINING CERTIFICATE

This is to Certify that Mr./ Mrs. GHULAM FARID S/o, D/o, W/o MUHAMMED BAKASH

resident of _____ D.I. KHAN

P.O. G.P.O Tehsil DRABIN District D.I. KHAN

Has successfully completed EPI Training, From 1.7.2006 to 1.7.2007

at EPI Centre EHU MUSA ZAI SHARIF at his own cost and risk.

Prepared by: _____

(Signature)
**DEPUTY DIRECTOR
EXPANDED PROGRAMME ON IMMUNIZATION
NWFP, PESHAWAR.**

MOMIN
AWAZI
Advocate Supreme Court
Peshawar

C-6-

Executive District Officer
Health Dera Ismail Khan

No: 5429-37/08/08

Dated: 09-08-08

Office Order:-

The following adjustment/transfer of EPI Technician is hereby
recommended in the interest of public service.

S.No	Name	From	To	Remarks
1	Tufail Hussain	UC Kotla Saidan	Dera Jatt- II	
2	Ubaidullah	Dera Jatt-II	Dera Jatt-I	
3	Farhan abbas	Dera Jatt-I	District TB Control Center DIKhan	
4	Muhammad Aamir Chishti	CD Dinpur	Kotla Saidan Out Reach	
5	Haji Abdul Karim	RHC Paroa	BHU Mahara	
6	Ghulam Farid	---	BHU Gandi Umar Khan	Additional Duty

Arrival/Departure report should be submitted accordingly.

Executive District Officer
Health Dera Ismail Khan

Cc:

- District TB Control Officer DIKhan.
- Coordinator EPI DIKhan.
- Incharge CD Dinpur.
- Incharge BHU Mahara.
- Incharge BHU Gandi Umar Khan.
- Incharge RHC Paroa.
- Official Concern.
- EPI Clerk.
- Establishment Clerk.

Received Advt. order
of Ghulam Farid as a additional
EPI on the dated 15/08/08

Executive District Officer
Health Dera Ismail Khan

M. Anwar Awan
Advocate Supreme Court
D.I.Khan

D-7-

بخدمت جناب ڈائریکٹر صاحب مفتی محمود ہسپتال ، ڈیرہ اسماعیل خان

جناب عالی!

یہ کہ من سائل چئر مین میڈیکل بورڈ کے زیر سایہ اپنی ڈیوٹی سر انجام دے رہا ہے۔ سائل بطور چوکیدار مورخہ 01/11/2004 کو بھرتی ہوا تھا۔ من سائل کے پاس EPI Training Certificate بھی موجود ہے اور بمطابق آفس آڈر مورخہ 09/08/2008 بمقام BHU ، گنڈی عمر خان میں بطور EPI Technician اپنی ڈیوٹی سر انجام دے رہا ہے۔ لیکن من سائل کو بمطابق قانون EPI Technician پر ترقی نہیں دی جا رہی۔ جو کہ کلاس 04 ملازمین کے مخصوص کوٹہ پر عمل درآمد نہیں کیا جا رہا اور تمام خالی آسامیاں پر جدید بھرتیاں کی جا رہی ہے۔ من سائل نے EPI Technician پر پہلے بھی درخواست گزاری تھی جس پر غیر قانونی بھرتیاں ہو گئیں

لہذا استدعا ہے کہ بمطابق قانون من سائل کو EPI Technician کی

پوسٹ پر ترقی دی جاوے۔

مورخہ 15/09/2019

M. Anwar
M. ANWAR AWAN
Advocate Supreme Court
D. I. Khan

غلام فرید ولد محمد بخش (سائل)

- 8 -

بخدمت جناب چیئر مین میڈیکل بورڈ ف گورنر، ڈیرہ اسماعیل خان

جناب عالی!

یہ کہ من سائل آپ کے زیر سایہ اپنی ڈیوٹی سرانجام دے رہا ہے۔ سائل بطور چوکیدار مورخہ 01/11/2004 کو بھرتی ہوا تھا۔ من سائل کے پاس EPI Training Certificate بھی موجود ہے اور بمطابق آفس آڈر مورخہ 09/08/2008 بمقام BHU، گنڈی عمر خان میں بطور EPI Technician اپنی ڈیوٹی سرانجام دے رہا ہے۔ لیکن من سائل کو بمطابق قانون EPI Technician پر ترقی نہیں دی جا رہی۔ جو کہ کلاس 04 ملازمین کے مخصوص کوٹہ پر عمل درآمد نہیں کیا جا رہا اور تمام خالی آسامیاں پر جدید بھرتیاں کی جا رہی ہے۔ من سائل نے EPI Technician پر پہلے بھی درخواست گزاری تھی جس پر غیر قانونی بھرتیاں ہو گئیں جبکہ ایک درخواست ڈائریکٹر صاحب مفتی محمود ہسپتال بھی گزاری ہے جس پر تا حال کوئی بھرتی نہیں ہوئی۔

لہذا گزارش ہے کہ بمطابق قانون من سائل کو EPI Technician کی پوسٹ پر ترقی دی جاوے۔

مورخہ 05/10/2019

غلام فرید ولد محمد بخش
(سائل)

AWAZ
AWAZ
Supreme Court
Islamabad

E-9-

Director General,

Health Services Govt: Of Khyber Pakhtunkhwa,

Peshawar.

SUBJECT;- THROUGH PROPER CHANEL

Respected Sir

That the appellant was appointed as Chowkidar vide order Dated; 01-11-2004. During service, Appellant got EPI training on 13-09-2007. After completion of my EPI training, the Appellant awarded additional duty at BHU Gandhi Umer Khan as EPI technician vide order Dated; 09-08-2008. The Appellant perform his duties as EPI technician at BHU Gandhi Umer Khan till 04-02-2017. The Appellant has 9 years' experience as EPI technician but the Department is not promoting the Appellant on the post of EPI technician while the Appellant has requisite qualification for the post. The rules framed by the promotion of employees are discriminatory, against the fundamental rights guaranteed in the Constitution of Islamic Republic of Pakistan. The Department is promoting their blue-eyed class IV employees as EPI technician but ignoring the Appellant without any reason which is discrimination among employees the Department and also sheer the violation of fundamental rights of Appellant.

In wake of above submission, it is respectfully prayed that

M. Anwar Awan
Advocate Supreme Court
D.I. Khan

- 11 -

VAKALATNAMA

BEFORE THE COURT OF KPK Service Tribunal Camp D.

Ghulam Fareed

VERSUS

Govt of KPK etc

TITLE

Appeal

I/WE

Appellant

The Above Named

Ghulam Fareed

hereby appoint

MUHAMMAD ANWAR AWAN ADVOCATE SUPREME COURT,

in the above Captioned Cases to all or any of the following Acts Deeds & Things.

- ✓ To Appear, Act & Plead for Me/Us in the above mentioned cases in this Court/Tribunal in which the same may be tried or heard or any other proceedings out of our connected therewith.
- ✓ To Sign, Verify, File OR Withdraw all proceedings, Petitions, Appeals, Affidavits, Applications for Compromise OR Withdrawals OR for the Submission of Arbitration of the said case OR any other Documents may be Deemed Necessary OR Advisable by them by the Conduct, Prosecution OR Defense of the above case at all its stages.
- ✓ To Receive Payments, Issue receipts for all moneys that may be OR become Due & Payable to us during the course on Conclusion of the Proceedings.
- ✓ To do all other Acts & Things, Which may be Deemed Necessary OR Advisable during the course of Proceedings.

AND HEREBY AGREE:

- To Ratify Whatever Advocates may do the Proceedings.
- Not to Hold the Advantages Responsibilities if the said case be proceed Ex-parte OR Dismissed in Default in Consequence of their Absence from the Court when it is called for Hearing.
- That the Advocates shall be entitled to withdraw from the Prosecution of the said case if the Whole or any part of the Agreed Fee Remain Un-Paid.
- That Advccates may be Permitted to argue any other point at the time of Arguments.

In Witness Whereof I/We have signed this Vakalatnama here under the Contents of which have been Read/Explained to Me/Us which is fully understood by Me/Us.

Dated: _____

Accepted By:

Muhammad Anwar Awan

Ghulam Fareed --- Appca.

MP (S)

**MUHAMMAD ANWAR AWAN
ADVOCATE SUPREME COURT
03339962231**