

4.8.22

Due to summer vacation the case is adjourned to 3-10-22 for the same as before.



03.10.2022

Appellant in person present. Mr. Muhammad Jan, District Attorney for the respondents present.

File to come up alongwith connected Service Appeal bearing No. 405/2018 titled "Irshad Ali Versus Director General Health Services, Khyber Pakhtunkhwa, Peshawar and two others" on 04.10.2022 before the D.B at Camp Court Swat.



(Rozina Rehman)
Member (Judicial)
Camp Court Swat

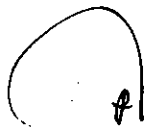


(Salah-Ud-Din)
Member (Judicial)
Camp Court Swat

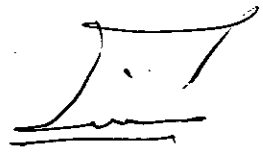
04.10.2022

Appellant alongwith his counsel present. Dr. Mujeeb-ur-Rehman, Deputy DHO alongwith Mr. Muhammad Jan, District Attorney for the respondents present.

File to come up alongwith connected Service Appeal bearing No.405/2018 titled "Irshad Ali Versus Director General Health Services, Khyber Pakhtunkhwa, Peshawar and two others" on 07.11.2022 before the D.B at Camp Court Swat.



(Rozina Rehman)
Member (Judicial)
Camp Court Swat



(Salah-Ud-Din)
Member (Judicial)
Camp Court Swat

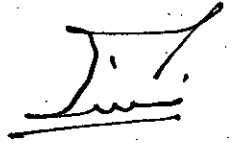
12.05.2022

Appellant in person present. Dr. Muneeb-ur-Rehman, Litigation Officer and Mr. Ahmad Jan, Junior Clerk alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Appellant requested for adjournment on the ground that his counsel is busy in the august Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 08.06.2022 before the D.B at Camp Court Swat.



(Mian Muhammad)
Member (E)
Camp Court Swat

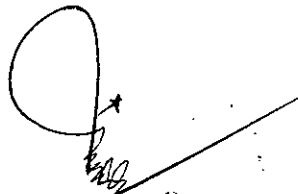


(Salah-ud-Din)
Member (J)
Camp Court Swat

8th June, 2022

None for the appellant present. Mr. Kabirullah Khattak, Addl: AG for respondents present.

Counsel are on strike. To come up for arguments on 06.07.2022 before the D.B at camp court Swat.



(Mian Muhammad)
Member(E)



(Kalim Arshad Khan)
Chairman
Camp Court Swat

06.07.2022

Appellant present through counsel.

Noor Zaman Khattak, learned District Attorney for respondents present.

File to come up alongwith connected Service Appeal No.405/2018 titled "Irshad Ali Vs. Government of Khyber Pakhtunkhwa" on 04.08.2022 before D.B at Camp Court, Swat.



(Fareeha Paul)
Member (E)
Camp Court, Swat

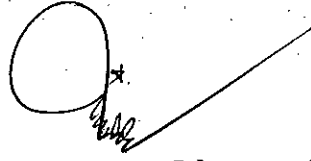


(Rozina Rehman)
Member (J)
Camp Court, Swat

1st April, 2022

Counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

Former requests for adjournment in order to properly assist the court. Adjourned. To come up for arguments on 18.04.2022 before the D.B.



(MIAN MUHAMMAD)
Member (E)

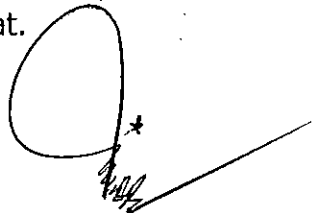


(KALIM ARSHAD KHAN)
Chairman

18.04.2022

Appellant in person present. Mr. Naseer-Ud-Din Shah, Assistant Advocate General for the respondents present.

File to come up alongwith connected Service Appeal No.405/2018 titled Irshad Ali Versus Government, before D.B on 12.05.2022 at Camp Court, Swat.



(Mian Muhammad)
Member (E)

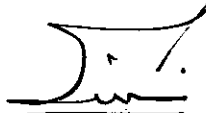


Chairman

21.10.2021

Counsel for the appellant and Mr. Javaidullah, Asstt. AG for the respondents present.

After having heard the arguments at certain length, it was found that the appeal is not documented with copy of the reinstatement/impugned order of the appellant against which departmental appeal was filed. The respondents have also not annexed such order with their comments. Let the respondents produce copy of the impugned order and service book of the appellant on next date. Case to come up on 28.01.2022 for arguments before the D.B.

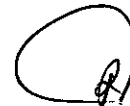

(Salah-ud-Din)
Member(J)


Chairman

28.01.2022

Appellant in person present. Dr. Bilal, Medical Officer and Mr. Ahmad Jan, Junior Clerk alongwith Mr. Noor Zaman Khattak, District Attorney for the respondents present.

Appellant requested for adjournment on the ground that his counsel is busy in the august Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 01.04.2022 before the D.B.


(Rozina Rehman)
Member (J)



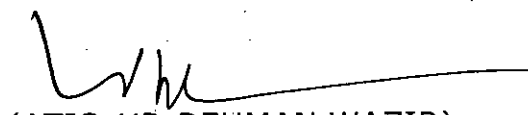

(Salah-ud-Din)
Member (J)

01.04.2021

Appellant present with counsel.

Kabirullah Khattak, Additional Advocate General for respondents present.

A request was made for adjournment. Therefore, the case is adjourned to 12-7-2021 for arguments before D.B.



(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)



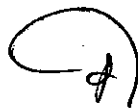
(ROZINA REHMAN)
MEMBER (JUDICIAL)

12.07.2021

Appellant in person present.

Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Appellant requested for adjournment on the ground that his counsel is busy before Hon'ble Peshawar High Court, Peshawar. Adjourned. To come up for arguments before the D.B on 21.10.2021.



(ROZINA REHMAN)
MEMBER (JUDICIAL)


CHAIRMAN

29.04.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 06.08.2020 before D.B.



Reader

06.08.2020

Due to summer vacation case to come up for the same on 26.10.2020 before D.B.

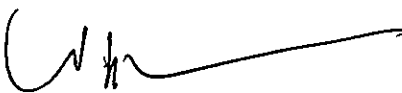


Reader

26.10.2020

Junior to counsel for the appellant and Addl. AG for the respondents present.

The Bar is observing general strike, therefore, the matter is adjourned to 30.12.2020 for hearing before the D.B.



(Atiq-ur-Rehman Wazir)
Member



Chairman

30.12.2020

Due to summer vacation, case is adjourned to 01.04.2021 for the same as before.



Reader

13.11.2019

Junior to counsel for the appellant present. Mr. Riaz Khan Paindakheil learned Assistant Advocate General present. Junior to counsel for the appellant seeks adjournment as senior learned counsel is not available. Adjourn. To come up for arguments on 15.01.2020 before D.B.


Member


Member

15.01.2020

Appellant absent. Learned counsel for the appellant absent. Due to general strike of the Bar on the call of Khyber Pakhtunkhwa Bar Council, the case is adjourned. To come up for arguments on 13.03.2020 before D.B. Appellant be put to notice for the date fixed.


Member


Member

13.03.2020

Appellant in person present. Mr. Zia Ullah learned Deputy District Attorney present. Appellant seeks adjournment as his counsel is not available. Adjourn. To come up for arguments on 29.04.2020 before D.B.


Member


Member

14.05.2019

Learned counsel for the appellant present. Written reply not submitted. Jafar Ali Assistant (for respondent No.1) and Hazrat Shah Superintendent (for respondent No.3) absent. Notice be issued to respondents as well as to the absent representatives with direction to furnish written reply/comments. Adjourn. To come up for written reply/comments on 01.07.2019 before S.B.



Member

01.07.2019

Junior to counsel for the appellant present. Mr. Kabirullah Khattak learned Additional Advocate General alongwith M/S Saleem Superintendent for the respondents present. Representative of the respondent department seeks time to furnish written reply/comments. Adjourned. To come up for written reply/comments on 27.08.2019 before S.B.

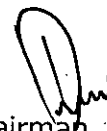


Member

27.08.2019

Junior to counsel for the appellant and Addl. AG alongwith Dr. Jamal Nasir, Coordinator for the respondents present.

Parawise comments on behalf of respondents submitted. The appeal is assigned to D.B for arguments on 13.11.2019. The appellant may submit rejoinder within a fortnight, if so advised.



Chairman

21.01.2019 No one present on behalf of appellant. Security and process fee not deposited. To come up on 22.02.2019 before S.B.


Member

22.02.2019 Clerk to counsel for appellant present and requested for time to deposit security and process fee. Request accepted with direction to deposit security and process fee within 3 days, thereafter, notices be issued to the respondents for written reply/comments. Adjourn. To come up for written reply/comments on 09.04.2019 before S.B


Appellant Deposited
Security & Process Fee


Member

09.04.2019 Counsel for the appellant and Addl. AG on behalf of the respondents present.

Learned AAG requests for time to procure reply of the respondents. The respondents shall positively submit the requisite reply/comments on next date of hearing.

Adjourned to 14.05.2019 before S.B.


Chairman

02.10.2018

Appellant in person present and made a request for adjournment. Adjourned. To come up for preliminary hearing on 16.10.2018 before S.B.


(Muhammad Amin Khan Kundi)
Member

16.10.2018

Counsel for the appellant present and seeks adjournment. Granted. Case to come up for preliminary hearing on 29.11.2018 before S.B.


(Ahmad Hassan)
Member

29.11.2018

Learned counsel for the appellant present. Preliminary arguments heard.

The appellant (Ward Ordarli) has filed the present service appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, for back benefits on the ground that the appellant was appointed as Class-IV employee vide order dated 22.07.2014, however on 24.07.2014 his appointment order was cancelled; that the service appeal of the appellant for his reinstatement was allowed and resultantly the appellant was reinstated but the respondent department refused to give back benefits.

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 written reply/comments. To come up for written reply comments on 21.01.2019 before S.B.


Member

27.04.2018

Appellant with counsel present. The Tribunal is non-functional due to retirement of our Hon'ble Chairman. Therefore, the case is adjourned. To come up for same on 26.06.2018.



Reader

26.06.2018

Clerk of the counsel for appellant present and requested for adjournment on the ground that learned counsel for the appellant is not available today. Adjourned. To come up for preliminary hearing on 20.07.2018 before S.B.

§



(Muhammad Amin Khan Kundi)

20.07.2018

None for the appellant present. Adjourned. To come up for preliminary hearing on 08.08.2018 before S.B.

Member



(Ahmad Hassan)
Member

08.08.2018

Learned Counsel for the appellant present and seeks adjournment. Adjourned. To come up of preliminary hearing on 02.10.2018 before S.B



(Muhammad Amin Kundi)
Member

Form-A
FORM OF ORDERSHEET

Court of _____

Case No. 402/2018


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	21/03/2018	<p>The appeal of Mr. Hidayat Ullah resubmitted today by Mr. Arbab Yasir Arafat Khan 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;"><i>[Signature]</i> REGISTRAR</p>
2	21/02/18	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>02/04/18</u>.</p> <p><i>[Signature]</i> MEMBER</p>
	02.04.2018	<p>Due to general strike of the bar, the case is adjourned. To come up for preliminary hearing on 27.04.2018 before S.B</p> <p style="text-align: right;"><i>[Signature]</i> Member</p>

The appeal of Mr. Hidayatullah son of Nasarullah Class-IV Ward Orderly THQ Hospital Sammar Bagh received today i.e. on 26.02.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal is not signed by the appellant.
- ② Copy of impugned order dated 05.10.2016 mentioned in the heading of the appeal is not attached with the appeal which may be placed on it.
- 3- Annexures-A, B and C of the appeal are illegible which may be replaced by legible/better one.

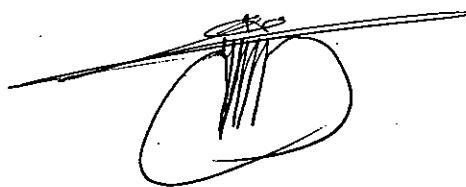
No. 409 /S.T,

Dt. 27/02 /2018


REGISTRAR 27/2/18
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Arbab Yasir Arfat Khan Adv.Pesh.

Note: All the objections are removed and submitted again to service tribunal.



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

In Ref
Service Appeal No. 402/2018

Hidayat Ullah

VERSUS

*The Director General Health Services, Khyber Pakhtunkhwa,
Peshawar and 2 others*

INDEX

S.No.	Description of documents	Annexure	Pages
1.	Grounds of Appeal with affidavit		1-4
2.	Addresses of the parties		5
	Copy of appointment order dated 22/07 2014	"A"	6-7
3.	Copy of cancellation order dated 24/07/2014	"B"	8
	Copy of departmental appeal	"C"	
5.	Copy of Judgment dated 05/10/2016	"E"	9
6.	Copy of DG Health order dated 06/09/2017	"D"	13
7.	Wakalat Nama		In original

Dated 24/02/2018

[Signature]
Appellant

Through

[Signature]
Arbab Yasir Arfat Khan
Advocates, High Court,
Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

In Ref
Service Appeal No. 402 / 2018

Hidayat Ullah S/o Nasarullah Class-IV Employee (Ward Ordarli), THQ hospital Samar Bagh, R/o Village Sabar shah, P.O & Tehsil Samarbagh District Lower Dir. (Appellant).

Khyber Pakhtunkhwa Service Tribunal

Diary No. 272

Dated 26-2-2018

VERSUS

- ✓ 1) The Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
- ✓ 2) District Health Officer, District Dir.
- ✓ 3) Secretary Health Government Of Khyber Pakhtunkhwa, Peshawar.....(Respondents).

APPEAL UNDER SECTION 4, SERVICE TRIBUNAL ACT, 1976

1). AGAINST THE IMPUGNED ORDER OF REINSTATEMENT DATED 05/10/2016 TO THE EXTENT OF NOT ALLOWING / AWARDDING BACK BENEFITS FROM 24/07/2014 TO 0510/2016 TO THE APPELLANT.

Filed to-day
Registrar
27/2/18

2). AGAINST THE INACTION OF THE RESPONDENT NO. 1 WHEREBY THE APPEAL OF THE APPELLANT HAS NOT BEEN ADMITTED ON 06/09/2017.

Re-submitted to day and filed.
Registrar
24/3/18

Prayer in Appeal:

On acceptance of this appeal the respondents may kindly be directed to give/ issued back benefits/ service benefits to the appellant by modifying the reinstatement order dated 05/10/2016, any other remedy/relief available in the circumstances of the case may also kindly be granted to the appellant.

Respectfully Sheweth:

The appellant humbly submits as under:

- 1) *That the appellant is appointed as Class IV employee vide order dated 22/07/2014 and in pursuance of said order appellant resumed their duty. (Copy of order is attached as Annexure "A").*
- 2) *That later on said appointment order was cancelled vide order 24/07/2014 on account of non-observation of codal formalities of appointment of the appellant. (Copy of order is attached as annexure "B").*
- 3) *That been aggrieved the appellant submit departmental appeal on 24/07/2014 which was rejected on vide order dated 17/02/2015. ~~(Copy of departmental appeal is attached as annexure "C").~~*
- 4) *That the appellant submit service appeal before the August KPK, Service Tribunal at swat for his reinstatement which has been allowed, the appellant as prayer for on 05/10/2016. (Copy of order is attached as annexure "D").*
- 5) *That in pursuance of judgment dated 05/10/2016 the appellant is reinstated but the local authorities refused to give back benefits to appellant in the light of order Director General Health on dated 06/09/2017. (Copy of order is attached as annexure "E").*
- 6) *That feeling aggrieved by the above impugned notifications/order the appellant filed the instant appeal on the following amongst other grounds:*

Grounds:

- A) *That the act and omission of the respondent /department is illegal, unconstitutional, without jurisdiction, without lawful authority against facts and materials on the record therefore, need the interference of this Hon'ble Tribunal.*

- B) *That the act and omission of the department is not only factually incorrect and legally untenable but also is against the principles of natural justice.*
- C) *That the KPK, Service Tribunal reinstated the appellant as prayer for in the instant appeal but the respondents are given remedy that is reinstatement while not given second remedy i.e back benefits which is again the natural justice.*
- D) *That at the time of the impugned notification /order the long service period of the appellant has been ignored due to which the appellant has not only sustained loss but has also been deprived of his legal right of pay of the back benefits of appellant.*
- E) *That the appellant has performed duties, efficiently honestly and without giving any chance of complaint to his superior which fact also goes in his favor and there is no law which permit the respondents to deprive him from the service benefits.*
- F) *That the appellant is /was a Government / Civil Servant and legal and constitutional guarantee is available to him to be dealt with in accordance with law he however, has not been treated as such.*
- G) *That the act and omission of the department is not effective on the right of the appellant and the same has caused gross miscarriage of justice to the appellant.*


H) That the respondents have failed to apply their independent/administrative mind to the matter and therefore have reached to an erroneous conclusion which is not sustainable in the eye of law.

It is, therefore, humbly prayed that on acceptance of this appeal the respondents may kindly be directed to issue back benefits to the appellant from 24/07/2014 to 05/10/2016 any other remedy /relief available in the circumstances of the case may also kindly be granted to the appellant.

Dated 24/02/2018


Appellant

Through

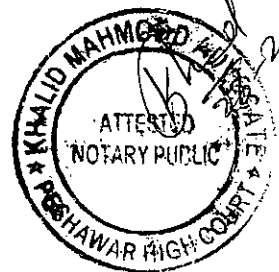

Arbab Yasir Arfat Khan
Advocates, High Court,
Peshawar.

Affidavit.

I, Hidayat Ullah S/o Nasarullah R/o Village sabar Shah, P.O Tehsil Samar Bagh District Dir Lower, do hereby solemnly affirm and declare on oath that the contents of this appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

15301-1937796-1


DEPONENT



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

In Ref
Service Appeal No. ____ / 2018

Hidayat Ullah

VERSUS

*The Director General Health Services, Khyber Pakhtunkhwa,
Peshawar and 2 others*

ADDRESSES OF THE PARTIES

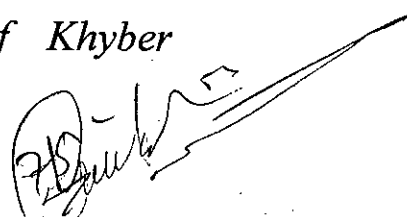
Appellant;

*Hidayat Ullah S/o Nasarullah Class-IV
Employee (Ward Ordarli), THQ hospital
Samar Bagh, R/o Village Sabar shah, P.O &
Tehsil Samarbagh District Lowar Dir.*

Respondents;

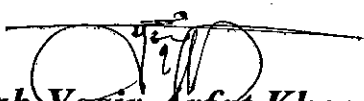
- *The Director General Health Services, Khyber Pakhtunkhwa, Peshawar.*
- *District Health Officer, District Dir.*
- *Secretary Health Government Of Khyber Pakhtunkhwa, Peshawar*

Dated 24/02/2018



Appellant

Through



***Arbab Yasir Arfat Khan
Advocates, High Court,
Peshawar.***

Better Copy No.

OFFICE OF THE DISTRICT HEALTH OFFICER
LOWER DIR AT TIMERGARA

OFFICE ORDER

A Committee consisting on the following members is hereby constituted for the selection/appointment of newly created posts of Class-IV at THQ Hospital Samarbagh Dir Lower. The Committee members are requested to attend the meeting in the office of the undersigned on dated 23/07/2014 at 10.30 AM for the purpose.

- | | |
|---|----------|
| 1. Dr. Muhammad Rehman (Sharieen) DHQ Lower Dir. | Chairman |
| 2. Medical Superintendent DHQ Hospital Timergara. | Member |
| 3. Dr. Irshad Ali Team Leader (Merlin) Dir Lower. | Member |

Sd/-x-x-x-x-x-x

District Health Officer
Lower Dir

No. 8528 _____ / Dated Timergara the 22/07/2014

Copy to:-

1. Medical Superintendent DHQ Hospital Timergara.
2. Team Leader (Merlin) Dir Lower at Timergara.
3. Candidates concerned.

For information & necessary action please.

District Health Officer
Lower Dir

Amexura

(B)

(7)

OFFICE OF THE DISTRICT HEALTH OFFICER
LOWER DIR AT TIMERGARA.

OFFICE ORDER

The appointment order of the following Ward Orderly BPS-02 & Chowkidar BPS-01 against the newly create posts at THQ Hospital, Samarbagh District Dir Lower issued vide this office order No. 853 dated 23/07/2014 is hereby Cancelled with immediate effect *due to lack of need formalities.*

S.No	Name of Candidates with address	Name of Post
1	Mr. Sirajul Mulk S/O Sharaf Mulk Village Kumbat Tehsil Samarbagh Dir Lower.	Ward Orderly BPS-02
2	Mr. Faighul Din S/O Mr. Haidi Durr Village P/O & Tehsil Samarbagh Dir Lower.	Ward Orderly BPS-02
3	Mr. Nisar Mohammad S/O Mohammad Wahid Village Shapana Kasai Tehsil Samarbagh Dir Lower.	Ward Orderly BPS-02
4	Muhammad Yasir S/O Jan Shahzada Village P/O & Tehsil Samarbagh Dir Lower.	Ward Orderly BPS-02
5	Mr. Arshad Ali S/O Mr. Muhammada Jan Village P/O & Tehsil Samarbagh Dir Lower.	Ward Orderly BPS-02
6	Mr. Akbar Khan S/O Mr. Hakim Khan Village P/O & Tehsil Samarbagh Dir Lower.	Ward Orderly BPS-02
7	Mr. Hidayatullah Khan s/O Mr. Nasrullah Khan Village P/O & Tehsil Samarbagh Dir Lower.	Ward Orderly BPS-02
8	Mr. Fazal Akbar S/O Mr. Fazal Rauf Village P/O & Tehsil Samarbagh Dir Lower.	Ward Orderly BPS-02
9	Mr. Samiur Rehman S/O Mr. Khalilur Rehman Village P/O & Tehsil Samarbagh Dir Lower.	Ward Orderly BPS-02
10	Mr. Ikramullah S/O Abdul Ghafoor Village P/O & Tehsil Samarbagh Dir Lower.	Chowkidar BPS-01

Sd/-
District Health Officer
Lower Dir

No. 361-14 Dated Timergara the 24/07/2014.

- 1. The District Account Officer Lower Dir
- 2. The Medical Officer Incharge THQ Hospital Samarbagh.
- 3. The Team Leader (Merlin) Dir Lower.
- 4. The Deputy Technical (Merlin) Dir Lower.
- 5. The Accounts Clerk of this office.
- 6. The Officials concerned.

District Health Officer
Lower Dir

(Signature)

(Signature)

Better Copy No.8

**OFFICE OF THE DISTRICT HEALTH OFFICER
LOWER DIR AT TIMERGARA**

OFFICE ORDER

The appointment order of the following Ward Order BPS-02 & Chowkidar BPS-01 against the newly created posts at THQ Hospital Samarbagh District Dir Lower issued vide this office order No...8536-41 dated 23/07/2014 is hereby cancelled with immediate effect...*because of lack of codal formalities.*

S.No.	Name of Petitioners	Name of Post
1	Mr. Sirajul Mulk S/O Shajaul Mulk Village Kambat Tehsil Samarbagh Dir Lower	Ward Orderly.BPS-02
2	Mr. Fakhrud Din S/O Mr. P.O. & Tehsil Samarbagh Dir Lower	Ward Orderly BPS-02
3	Mr. Nisar Muhammad S/O Muhammad Wahid Village Shapano Kasai Tehsil Samarbagh Dir Lower	Ward Orderly BPS-02
4	Muhammad Yasir S/O Jan Shahzada Village P/O & Tehsil Samarbagh Dir Lower	Ward Orderly BPS-02
5	Mr. Arshad Ali S/O Mr. Muhammad Jan Village P/O & Tehsil Samarbagh Dir Lower	Ward Orderly BPS-02
6	Mr. Akbar Khan S/O Mr. Hakim Khan Village P/O & Tehsil Samarbagh Dir Lower	Ward Orderly BPS-02
7	Mr. Hidayatullah Khan S/O Mr. Nasrullah Khan Village P/O & Tehsil Samarbagh Dir Lower	Ward Orderly BPS-02
8	Mr. Fazal Akbar S/O Fazal Rauf Village P/O & Tehsil Samarbagh Dir Lower	Ward Orderly BPS-02
9	Mr. Samiur Rehman S/O Mr. Khalilur Rehman Village P/O & Tehsil Samarbagh Dir Lower	Ward Orderly BPS-02
10	Mr. Ikramullah S/O Abdul Ghafoor Village & Tehsil Samarbagh Dir Lower	Chowkidar BPS-01

Sd/-x-x-x
District Health Officer
Lower Dir

No...8761/2014 Dated Timergara the 24/07/2014

Copy Forwarded to:-

1. The District Account Officer Lower Dir.
2. The Medical Officer Incharge THQ Hospital Samarbagh.
3. Team Leader (Merlin) Dir Lower at Timergara.
4. The Deputy Technical (Merlin) Dir Lower.
5. The Account Clerk of this office.
6. The Officials concerned.

District Health Officer
Lower Dir

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 167 /2015K.W.P. Provincial
Service TribunalDiary No. 166
Dated 02-03-2015

Arshid Ali S/o Muhammad Jan

Ex-Ward Orderly, THQH Samarbagh, District Dir Lower.....Appellant

VERSUS

1. The Director General
Health Services, Khyber Pakhtunkhwa,
Peshawar2. The District Health Officer,
District Dir Lower.

.....Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED OFFICE ORDER DATED 24.07.2014 ISSUED BY RESPONDENT NO.2, WHEREBY THE APPOINTMENT ORDER OF THE APPELLANT WAS UNLAWFULLY CANCELED AGAINST WHICH APPELLANT PREFERRED A DEPARTMENTAL APPEAL TO RESPONDENT NO.1 ON 06.08.2014 BUT THE SAME WAS REJECTED VIDE IMPUGNED ORDER COMMUNICATED THROUGH LETTER DATED 17.02.2015.

PRAYER:

On acceptance of the instant appeal, the impugned office order dated 24.07.2014 issued by Respondent No.2 and the impugned appellate order issued by Respondent No.1 dated 17.02.2015 may graciously be set aside by reinstating the appellant into service with all back benefits.

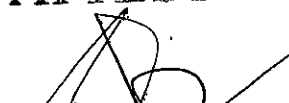
Respectfully Sheweth,

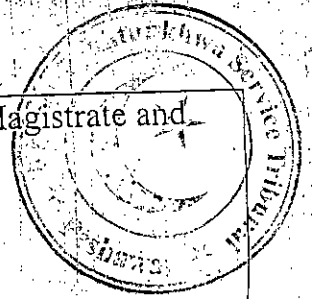
Facts giving rise to the present appeal are as under:-

That appellant is the permanent resident of District Dir Lower and has obtained B.A. qualification (Credentials Annex:-A) and is registered with

Filed to-day
Registrar
4/3/15

ATTESTED


Registrar
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar



S.No.
of
proceed
ings

Date of
Order or
proceedings.

Order or other proceedings with signature of Judge or Magistrate and
that of parties where necessary.

1

2

3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

CAMP COURT SWAT

1. Appeal No. 167/2015 Arshid Ali,
2. Appeal No. 168/2015, Siraj-ul-Mulk,
3. Appeal No. 169/2015, Muhammad Yasir,
4. Appeal No. 170/2015, Ikramullah,
5. Appeal No. 171/2015, Fakhr-ud-Din,
6. Appeal No. 172/2015, Hidayatullah Khan,
7. Appeal No. 173/2015, Akbar Khan,
8. Appeal No. 174/2015, Nisar Muhammad and
9. Appeal No. 175/2015, Sami-ur-Rahman
Vs. Director General Health Services, Khyber Pakhtunkhwa,
Peshawar and another.

JUDGMENT

MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-


05.10.2016

Counsel for the appellants and Mr. Muhammad Zubair, Senior
Government Pleader for respondents present.

~~2~~ This judgment shall dispose of the instant service appeal No.
167/2015 as well as connected service appeals No. 168/2015 to
175/2015 as identical questions of facts and law are involved therein.

3. Brief facts of the case of the appellants are that they were
appointed as Class-IV employees vide office order dated 22.07.2014. In
pursuance of the appointment orders appellants resumed their duties but
vide impugned orders dated 24.07.2014 the said appointment orders
were cancelled on account of non-observance of codal formalities
constraining the appellant to prefer departmental appeals on 06.08.2014

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

which were rejected vide orders dated 17.2.2015 and hence the instant service appeals on 02.03.2015.

4. Learned counsel for the appellants has argued that the appellants were appointed as Class-IV employees in the prescribed manners as their names were requisitioned from the Employment Exchange and the said appointment orders were passed by the competent authority after considering the recommendations of the Departmental Selection Committee. That the impugned orders were passed without affording any opportunity of hearing to the appellants.

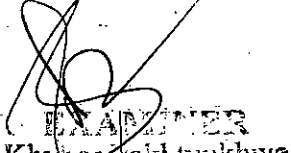
5. Learned counsel for the appellant has placed reliance on case-law reported as 2004-SCMR-468 (Supreme Court of Pakistan) and 2003-SCMR-1126 (Supreme Court of Pakistan).

6. Learned Senior Government Pleader has argued that the appointment orders were made by violating the settled procedure for such appointments and as such the same were rightly withdrawn. Regarding show cause notice he argued that no such notice was issued to the appellants.

7. We have heard arguments of learned counsel for the parties and perused the record.

8. It is a well settled proposition of law that no one is to be condemned unheard. The August Supreme Court of Pakistan has also ruled in the judgments referred to above and relied on by the learned counsel for the appellants that opportunity of hearing would be a pre-requisite before passing such orders. In view of the afore-stated

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

circumstances we are constrained to set aside the impugned orders referred to above and reinstate the appellants in service with directions to the respondents that in case they intend to proceed against the appellants on any ground including non-observance of codal formalities during process of their appointments then the appellants be afforded opportunity of hearing in the mode and manners prescribed by rules and there-after pass any order deem appropriate. All the appeals are accepted in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

Ed/- Mr. Azim Khan Afridi
Chairman
Commissioners

Ed/-

05.10.2016

Certified to be true copy

[Signature]
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

Date of Presentation of Application 19-3-18
 Number of Words 1600
 Copying Fee 10
 Urgent _____
 Total 10
 Name of Copyist [Signature]
 Date of Completion of Copy 20-3-18
 Date of Delivery of Copy 20-3-18

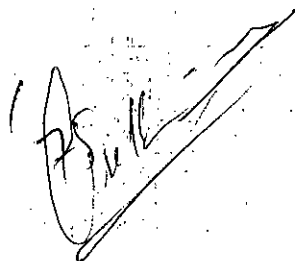
Secretary health Govt of KP


From: 1) Mr. Hidayat Ullah Khan Class IV Employee THQ Hospital Samar Bagh Dir lower

Subject: Appeal against the decision of D G Health Dated 06-09-2017 refusing
Back benefits to the appellant.

Respectfully Shewth

1. That appellant is appointed as class iv employee vide order dated 22-07-2014 and in pursuance of said order appellant resumed their duty (Copy of order is attached as annexure A)
2. That later on said appointed order was canceled vide order dated 24-07-2014 on account of non-observation of codal formalities (copy of order dated 24-07-2014 is attached as annexure B)
3. That from said cancellation order dated 24-07-2014 appellant filed departmental appeal which was rejected vide orders dated 17-02-2015 (Copy of order 17-02-2015 is attached as annexure C)
4. That after the rejection of departmental appeal appellant filed appeal against cancellation order dated 24-07-2014 and appellant order dated 17-02-2015 before honorable service tribunal KP with the prayer "On Acceptance of the instant appeal the impugned office order dated 24-07-2014 issued by respondent No.2 (Distinet Health Officer Dir Lower) and the impugned appellant order issued by Respondent No.1 (Director General Health services KP) Dated 17-02-2015 may graciously be set aside by reinstating the appellant into service with all back benefits (Copy of appeal is attached as annexure D)
5. That Honorable service tribunal KP on 05-10-2016 Decided appeals infavour of appellant and accepted the prayer as mentioned above (Copy of Judgment order is attached as annexure E)
6. That in the pursuance of judgment dated 05-10-2016 appellant is reinstated but the local authorities refused back benefits to appellant in light of order decision D G Health dated 06-09-2017. Therefore this appeal on the following grounds (Copy of the order dated 06-09-2017 is attached as annexure F)



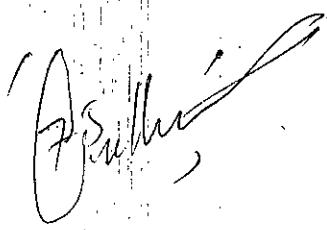
e.f.c


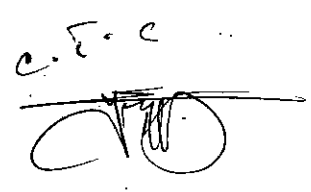
- That the order /decision of D G Health is not in line of judgment of Honorable service tribunal dated 05-10-2016.
- ii. That the service Tribunal declared cancelation order dated 24-07-2014 and Appellate order Dated 17-02-2015 against law.
- iii. That the appellatant claimed two remedies through appeal from service Tribunal KP i-e Reinstatement and back benefits as mentioned in pare 4 Of this appeal. And Said Tribunal accepted appeals of appealant i-e. Both remedies as claimed by appealant is allowed by service Tribunal.
- iv. That in the Said judgment of service Tribunal never stated that Appealant are not entitled to back benefits
- v. That appealant is serving as class IV employee on basic of Appointment order dated 22-07-2017 and there is no order or judgment Which deprive appealant from back benefits from their appointment.

It is therefore Requested that
 Decision of D G Health dated
 06- 09-2017 may be set aside and
 Back benefits are allowed to appealant

Appellant

1) Mr. Hidayat Ullah Khan Class IV Employee THQ Hospital Samar Bagh Dir lower



C.E.C


DIRECTORATE GENERAL HEALTH SERVICES KHYBER PAKHTUN KHWA PESHAWAR

E-Mail: dgshs@peshawar.gov.pk office Ph# 091 9210269 Exchange# 091-9210187, 9210196 Fax # 091-9210230
No. 14035 -/Personnel/W.O/634 Dated: 6/08/2017

To: The District Health Officer
Lower Dir.

Subject: OPENION OF COURT JUDGEMENT REGARDING REINSTATMENT OF
HEALTH DEPARTMENT EMPLOYEES.

Memo:

I am directed refer to your letter No. 6161/S.B dated 10.07.2017 on the subject noted above and to state that in the instane case the Judgement is very clear, the appeals of the appellants were accepted on the terms mentioned in para-8 of the judgment.

It was no where mentioned in the judgement that the appellant are entitled for any back benefits.

[Signature]
DIRECTOR (HRM)
DIRECTORATE GENERAL HEALTH
SERVICES, K.P.K PESHAWAR. *[Date: 05/08/17]*

[Signature] *[Signature]*

Mr. USHUR NAZIM Dir Lower

District Health Officer
Dir Lower at Timera.

No. 6161/S.B /Dated. 10/07/2017.

Phone No. 0945-9250098.

To,

The Director General Health Services
Khyber Pakhtunkhwa Peshawar.Subject:- OPENION ON COURT JUDGEMNT REGARDING REINSTATMENT OF
HEALTH DEPARTMENT EMPLOYEES.

Memo:-

With reference to Judgment of worthy Khyber Pakhtunkhwa Service Tribunal in response to Service Appeal No. 167/2015 dated 05-10-2016, 09 number of Class-IV employees were reinstated into service from the date of their appointment with all back benefits, by the office of the undersigned vide office order No. 897-901, dated 27-01-2017.

Their salary bills were sent to District Accounts Office Dir Lower claiming the above mentioned status of issuing their salaries from the date of their appointment. The District Accounts Office released the current salaries but refused to entertained the back benefits thus returning all the 09 No. cases stating that "*Departmental reinstatement order is incorrect due to the fact that there is no mention of back benefits in the court decision*".

While reading the court decision, office of the undersigned considers it appropriate to provide the said employees with reinstatement and all back benefits as it is mentioned in the court decision that "*we are constrained to set aside the impugned orders referred to above and reinstate the appellants in service.....*" and "*..... all appeals are accepted in the above terms*".

Since the employees are repeatedly requesting this office and the elected representative are also putting hard for the needful in the aforementioned matter.

It is therefore, requested to your office to kindly guide office of the undersigned on the said matter enabling this office to proceed further accordingly.

A prompt reply in this regard is requested, please.

Encl:

- Court decision of worthy KP Service Tribunal.
- Office order of DHO office Dir Lower.
- Returned Remarks of DAO Dir Lower.

[Signature]
District Health Officer,
Dir Lower at Timergara.

No. _____

Copy forwarded for information to:-

1. P.S to Secretary to Govt: of Khyber Pakhtunkhwa Health Department Peshawar.
2. Examiner Khyber Pakhtunkhwa Service Tribunal Peshawar.
3. Deputy Commissioner Dir Lower.
4. District Nazim Dir Lower.
5. District Accounts Officer Dir Lower.

[Signature]
District Health Officer,
Dir Lower at Timergara.

[Signature]

16

9

Retard:-

The attached E-M (8) on S/Books with the remarks that Departmental re-instatement order is incorrect due to the fact that there is no mention of teacher benefits in the Court Decision.

23/2/2014

Re-submitted with the remarks that:-

- Pay may be active only.
- The current salaries of 09 Nos. officials may kindly be released, keeping the decision regarding back benefit pending until proper guidance from concerned quarter.

Dist. Health Officer

C.T.C

[Signature]



[Signature]

حکومت پاکستان
قومی شناختی کارڈ
15301-1937796-1

نام: بیدایت اللہ خان
جنس: مرد
والد کا نام: نصر اللہ خان
شناختی علامت: کوئی نہیں
تاریخ پیدائش: 03/03/1978

علی ارشد حلیم
ڈسٹریکٹ انسپکٹر جنرل

دستخط مال کارڈ







شناختی نمبر: 15301-1937796-1
فائدہ نمبر: TN2R31

موجودہ پتہ: صابر شاہ روڈ کمانڈ شراپ، تحصیل شراپ، ضلع کوٹلوہ
مستقبل پتہ: شراپ، تحصیل جنڈول، ضلع کوٹلوہ

تاریخ اجراء: 02/03/2009
تاریخ منسوخ: 31/01/2019
کھشہ کارڈ شدہ پر قریبی لیٹر بلیس میں ڈال دیں

10878200200
قومی شناختی نمبر


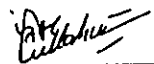

[Handwritten signature]


ع.ت.ع
[Handwritten signature]






HIDAYATULLAH KHAN
Blood Group: B +ve

Father's Name: Nasrullah Khan


  
Holder's Signature

 Village: Samar Bagh, P.O & Tehsil
Samar Bagh District Dir Lower

 +92 306 8050001
 +92 846 600000

 **WARD ORDERLY**

1. This Card is not transferable
2. This Card is to be submitted
to the Hospital Administration
or Health Department Dir (L)

2.2.2




50



28880

ایڈوکیٹ:

بار کونسل ایسوسی ایشن نمبر: 1452-11-BC

رابطہ نمبر: 0315-8324302

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: سپرویزر اینجینئر

Appellant	مجاناب:
	دعویٰ:
	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

باعت تحریر آتکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کا دعویٰ متعلقہ
آن مقام کیلئے اور کے درمیان سے کو وکیل مقرر
کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو
راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز
دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا
دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے
باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 26/02/2018

المقام: واہ شد

مقام: کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔

Accepted

"B"

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

No.

Appeal No. 408 of 2018

Mr. H. Ahmad Khan

Appellant/Petitioner

Versus

Director General Health Services

Respondent

Respondent No. 1

Notice to:

Director General Health Services
H.P.K. Peshawar

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 9-4-2019 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....14th.....

Day of.....March.....2018

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
quote Case No. While making any correspondence.

“B”

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

No.

Appeal No..... 1102 of 2018

[Signature] Appellant/Petitioner

Versus

[Signature] Respondent

Respondent No..... 2

Notice to:

West Punjab High Court, D.F. 1/2

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on..... 11/11/18 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing **4 copies** of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you ~~vide this~~ office Notice No..... dated.....

Given under my hand and the seal of this Court, at Peshawar this..... 11/11/18

Day of..... 11/11/18 20 18

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

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

No.

Appeal No. 11301 of 20 18

Mrs. Hameedullah Khan Appellant/Petitioner

Versus

Secretary Health Deptt. K.P.K. Respondent

Respondent No. 3

Notice to:

Secretary Health Deptt. K.P.K.
Peshawar

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 9-4-2019 at 8.00 A.M. If you wish to urge anything against the appellants/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this 11/4

Day of March 20 18

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

“B”

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

No.

Appeal No. 402

of 2018
Class IV
Appellant/Petitioner
Director Health Services
Peshawar
Dist. and Gen.
Versus
Respondent

Respondent No. 1

Notice to:

Director Health Services
Peshawar

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 17-2-19 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....
Day of June, 20 19.

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

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

No.

Appeal No. 402 of 20 18

Mr. Husein Juttullah s/o Mr. Husein Juttullah C.S.S-14
Appellant/Petitioner
Government Health Services, K.P.S.
Respondent

Respondent No. 1

Notice to:


Mr. Jaffer Ali s/o Mr. Jaffer Ali
Government Health Services, K.P.S.

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 1-7-2019 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this 13th Day of Aug, 20 18.


Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

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

No.

Appeal No. 402 of 2018,

Mr. Hadayatullah Khan, Musallah Chak
Appellant/Petitioner

Employee (Medical Officer) THQ Hospital Sumar Badk
Versus
D.S. Health Services Pvt. Ltd. Respondent

Respondent No. 202

Notice to: - Distt Health Officer,
Distt Dir Lower

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 7-7-2019 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No. dated.....

Given under my hand and the seal of this Court, at Peshawar this 13th.....

Day of June, 2019.

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

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

No.

Appeal No. 109 of 2019

*Mr. Hafeezullah Khan, Hospital Class-10,
Peshawar*
Appellant/Petitioner
vs
D.S. Health Services, Peshawar
Respondent
Respondent No. 1

Notice to: *Mr. Jafar Ali, Director
General Health Services, Peshawar.*

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that, the said appeal/petition is fixed for hearing before the Tribunal *on 17-7-2019 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner, you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No. dated

Given under my hand and the seal of this Court, at Peshawar this 13th

Day of June, 2019

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Notes: 1. * The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. while making any correspondence.

"B"

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

No.

Appeal No. 405 of 2019

[Handwritten Name] Appellant/Petitioner

Versus

[Handwritten Name] Respondent

Respondent No.

Notice to: [Handwritten Name]

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 1-7-2019 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No. dated

Given under my hand and the seal of this Court, at Peshawar this 13/11

Day of thurs, 20

[Handwritten Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

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

No.

Appeal No. 402 of 20 18.

M. Hidayatullah Appellant/Petitioner Class-10
En ypla y east Versus HTB Respondent Lower Div

Respondent No. 3

Notice to: Mr. Hidayatullah
Secondary

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 7-2-2019 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this 13/2/2019
Day of 11/11/0 2019.

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

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

No.

Appeal No. 409 of 2018.

Mrs. Hidayatullah / Nusrat Khan Appellant/Petitioner
(Ward 72/2018) vs Director Health Services, Peshawar Respondent
Dr. Lodin

Respondent No. 3

Notice to: - Secretary Health, Govt of KP,
Peshawar

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 7-8-2019 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....13th

Day of.....June.....20 19

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

67

**IN THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL, PESHAWAR**

In Ref
Service Appeal No. 402,/2018,

Hidayat Ullah

.....Appellant

Versus

Govt: of Khyber Pakhtunkhwa through DGHS & Others.....Respondents.

**PARAWISE COMMENTS ON BEHALF OF DISTRICT HEALTH OFFICER DIR
LOWER (RESPONDANT NO. 2 & OTHERS)**

INDEX

Serial No.	Particular	Annexure	Page No.
01	Para-Wise comments	01-02
02	Affidavit	03
03	Court Judgment	03-06


District Health Officer
Dir Lower at Timergara

District Health Officer
Dir Lower at Timergara

69

IN THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL, PESHAWAR

In Ref
Service Appeal No. 402/2018

Hidayat Ullah.....Appellant

Versus

Govt: of Khyber Pakhtunkhwa through DGHS & Others.....Respondents.

PARAWISE COMMENTS ON BEHALF OF DISTRICT HEALTH OFFICER DIR
LOWER (RESPONDANT NO. 2 & OTHERS)

Respectfully Sheweth
Preliminary Objections

1. that the appellant has got no cause of action to file instant appeal
2. that the instant appeal is bad for misjoinder and non joinder of parties.
3. That the appellant has not come to this honorable tribunal with clear hands.
4. That the appeal is barred by Law.

The Respondent humbly submitted as under:-

1. True as per record.
2. True as per record.
3. True as per record.
4. True in its contents.
5. True to the extent that in pursuance to the Judgment dated 05-10-2016, the appellant were reinstated as according to the Judgment of Honourable Khyber Pakhtunkhwa Service Tribunal announce on 05-10-2016 in the instant appeal. But It stands beyond the facts that local authority including respondent No. 2 refuse to give back benefits to the appellant as in the judgment of the honorable Khyber Pakhtunkhwa Service Tribunal, it was never mentioned to give back benefits to the appellants. It is pertinent to mention that the initial appointment order No. 8536-41 dated 23-07-2014 was hereby cancelled because of lack of codal formalities on the very next day, with in a time span of 24 hours vide office order No. 8561-64, dated 24-07-2014. The appellant neither submitted any arrival for the duty nor joined the job during this period. It is important to apprise the honorable court that none of the appellant have performed any duty under the control of office of the undersigned, until their reinstatement vide office order No.897-901, dated 27-01-2017 as in compliance with the honorable Khyber Pakhtunkhwa Service Tribunal Peshawar Service Appeal No. 167-175/2015, dated 05-10-2016.
6. The appellant ^{has} got no cause of action to file the instant service appeal

GROUND

- a. As described in Para-No. 5 of facts. The Department has always been working in its legal frame, constitutional vicinity, authorized jurisdiction, lawful authority and materials on the record as in compliance with the decision of the honorable Service Tribunal.
- b. Incorrect the act and omission of the Department has been in line with the spirit of the decision of the Honourble Service Tribunal.
- c. Incorrect; The Department as in line with the Judgment of Service Tribunal has reinstated the appellant as prayer for the instant appeal but the appellants have never been performed any duty nor have submitted arrival for the duty and the honorable Tribunal has also not mentioned it anywhere to give them back benefits just for nothing, which is a waste of Govt exchequer.
- D. False in its content that there has been no service period it all on behalf of the appellant and they were even unable to submit the arrival reports for their duties.
- E. False as per the available record of the Department. As expressed earlier none of them has performed any duty in the statement of claiming that they have performed duty efficiently and honestly is just misleading of this honorable Tribunal.
- F. **INCORRECT:** The appellant was never a Govt: Servant until the judgment of this honorable Tribunal as announced on 05-10-2016 and after that the appellant have been treated in accordance with the law.
- G. Act and omission of the Department is always been effective on the right of the appellant and their stand no question of causing gross miscarriage of justice to the appellant.
- H. The respondents have been efficient in applying their administrative roll to the matter and have been in line with the judgment of the honorable Tribunal with no erroneous conclusion as stated by the appellant.

Prayer

In view of the above explanation and factual position being brought to the eyes of this honorable Tribunal, it is humbly prayed that on acceptance of these para-wise comments the instant ^{Services} Appeal being devoid of merits may be dismissed with cost.

Respondent No. 1

**Director General Health Services
Khyber Pakhtunkhwa Peshawar**

Respondent No. 2

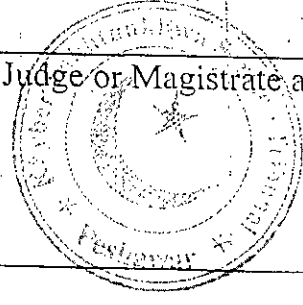
**District Health Officer,
Dir Lower at Timergara.**

**District Health Officer
Dir Lower at Timergara**

Respondent No. 3

**Secretary to Govt: of
Khyber Pakhtunkhwa
Govt: of Khyber Pakhtunkhwa
Health Department**

ed	Date of Order or proceedings.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
----	-------------------------------	---



2

3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT SWAT

1. Appeal No. 167/2015 Arshid Ali,
 2. Appeal No. 168/2015, Siraj-ul-Mulk,
 3. Appeal No. 169/2015, Muhammad Yasir,
 4. Appeal No. 170/2015, Ikramullah,
 5. Appeal No. 171/2015, Fakhr-ud-Din,
 6. Appeal No. 172/2015, Hidayatullah Khan,
 7. Appeal No. 173/2015, Akbar Khan,
 8. Appeal No. 174/2015, Nisar Muhammad and
 9. Appeal No. 175/2015, Sami-ur-Rahman
- Vs. Director General Health Services, Khyber Pakhtunkhwa, Peshawar and another.

JUDGMENT

MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-

Counsel for the appellants and Mr. Muhammad Zubair, Senior Government Pleader for respondents present.

This judgment shall dispose of the instant service appeal No. 167/2015 as well as connected service appeals No. 168/2015 to 175/2015 as identical questions of facts and law are involved therein.

3. Brief facts of the case of the appellants are that they were appointed as Class-IV employees vide office order dated 22.07.2014. In pursuance of the appointment orders appellants resumed their duties but vide impugned orders dated 24.07.2014 the said appointment orders were cancelled on account of non-observance of codal formalities constraining the appellant to prefer departmental appeals on 06.08.2014

05.10.2016

which were rejected vide orders dated 17.2.2015 and hence the instant service appeals on 02.03.2015.

4. Learned counsel for the appellants has argued that the appellants were appointed as Class-IV employees in the prescribed manners as their names were requisitioned from the Employment Exchange and the said appointment orders were passed by the competent authority after considering the recommendations of the Departmental Selection Committee. That the impugned orders were passed without affording any opportunity of hearing to the appellants.

5. Learned counsel for the appellant has placed reliance on case-law reported as 2004-SCMR-468 (Supreme Court of Pakistan) and 2003-SCMR-1126 (Supreme Court of Pakistan).

6. Learned Senior Government Pleader has argued that the appointment orders were made by violating the settled procedure for such appointments and as such the same were rightly withdrawn. Regarding show cause notice he argued that no such notice was issued to the appellants.

7. We have heard arguments of learned counsel for the parties and perused the record.

8. It is a well settled proposition of law that no one is to be condemned unheard. The August Supreme Court of Pakistan has also ruled in the judgments referred to above and relied on by the learned counsel for the appellants that opportunity of hearing would be a prerequisite before passing such orders. In view of the afore-stated

APPROVED
[Signature]
[Stamp]

circumstances we are constrained to set aside the impugned orders referred to above and reinstate the appellants in service with directions to the respondents that in case they intend to proceed against the appellants on any ground including non-observance of codal formalities during process of their appointments then the appellants be afforded opportunity of hearing in the mode and manners prescribed by rules and there-after pass any order deem appropriate. All the appeals are accepted in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

Sd/- M. Azim Khan Afridi,
Chairman

Sd/- Abdul Latif,
Member

Certified to be a true copy
 [Stamp of the Commission]

Announced

05.10.2016

Date of Receipt: 10-10-2016
 Number of Copies: 1600
 Copying Fee: 10/-
 Urgent: _____
 Total: 10/-
 Name of Copier: [Signature]
 Date of Copying: 14-10-2016
 Date of Delivery: 14-10-2016

P-6 1 78

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

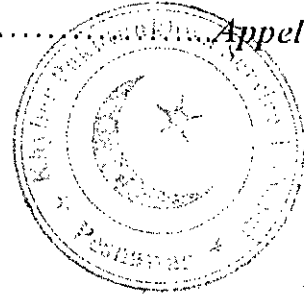
Service Appeal No. 167 /2015

K.P.S.T. Provincial
Service Tribunal
Diary No. 166
Dated 02-03-2015

Arshid Ali S/o Muhammad Jan
Ex-Ward Orderly, THQH Samarbagh, District Dir Lower.....

Appellant

VERSUS



1. The Director General
Health Services, Khyber Pakhtunkhwa,
Peshawar
2. The District Health Officer,
District Dir Lower.

.....Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED OFFICE ORDER DATED 24.07.2014 ISSUED BY RESPONDENT NO.2, WHEREBY THE APPOINTMENT ORDER OF THE APPELLANT WAS UNLAWFULLY CANCELED AGAINST WHICH APPELLANT PREFERRED A DEPARTMENTAL APPEAL TO RESPONDENT NO.1 ON 06.08.2014 BUT THE SAME WAS REJECTED VIDE IMPUGNED ORDER COMMUNICATED THROUGH LETTER DATED 17.02.2015.

PRAYER:

On acceptance of the instant appeal, the impugned office order dated 24.07.2014 issued by Respondent No.2 and the impugned appellate order issued by Respondent No.1 dated 17.02.2015 may graciously be set aside by reinstating the appellant into service with all back benefits.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

That appellant is the permanent resident of District Dir Lower and has obtained B.A qualification (Credentials Annex:-A) and is registered with

Filed to day
Registrar
2/3/15

REGISTERED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

“A”

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

D.B

No.

APPEAL No. 402 of 20 18

Hidayat ulla h

Apellant/Petitioner

Versus

Lead

The Director General Health Peshawar

RESPONDENT(S)

Notice to Appellant/Petitioner

Hidayat ulla h s/o Masacullah
Class-IV Employee (ward old ord.) THQ
Hospital Samab Bagh R/O village Sabas Shah P.O & Tehs
Samabagh Distt: Lower Dir.

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal

on 13/3/2020 at 9: 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.

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

OFFICE OF THE DISTRICT HEALTH OFFICER
LOWER DIR AT TIMERGARA.

OFFICE ORDER.


A Committee consisting on the following members is hereby constituted for the selection/appointment of newly created posts of Class-IV at THQ Hospital Samaebagh Dir Lower. The Committee members are requested to attend the meeting in the office of the undersigned on dated 23/07/2014 AT 10.30 AM for the purpose.

- 1. Dr. Mohammad Rehman (Shaheen) DHQ Lower Dir. Chairman.
- 2. Medical Superintendent DHQ Hospital Timergara. Member.
- 3. Dr: Irshad Ali Team Leader (Merlin) Dir Lower. Member.

Sd/-x-x-x-x-x-x
District Health Officer
Lower Dir.

No. 8528 / Dated Timergara the 23 /07/2014.

- Copy to :-
- 1. Medical Superintendent DHQ Hospital Timergara.
 - 2. Team Leader (Merlin) Dir Lower at Timergara.
 - 3. Candidates concerned.
- For information & necessary action please.


District Health Officer
Lower Dir.

