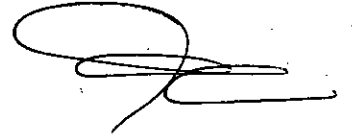


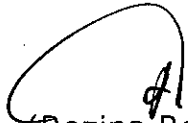
4-8-2022 Due to Samsonar Vacation the case is adjourned to 3-10-22 for the same.



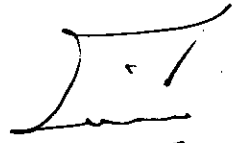
03.10.2022

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

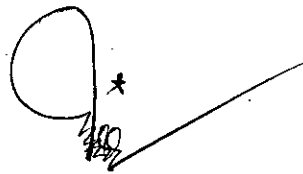


(Salah-ud-Din)  
Member (J)  
Camp Court Swat

8<sup>th</sup> 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

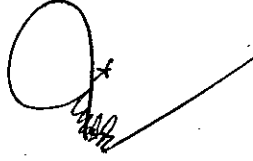


(Rozina Rehman)  
Member (J)  
Camp Court, Swat

1<sup>st</sup> 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)

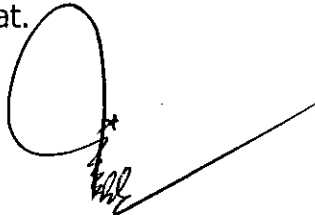


**(KALIM ARSHAD KHAN)**  
Chairman

18.04.2022

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

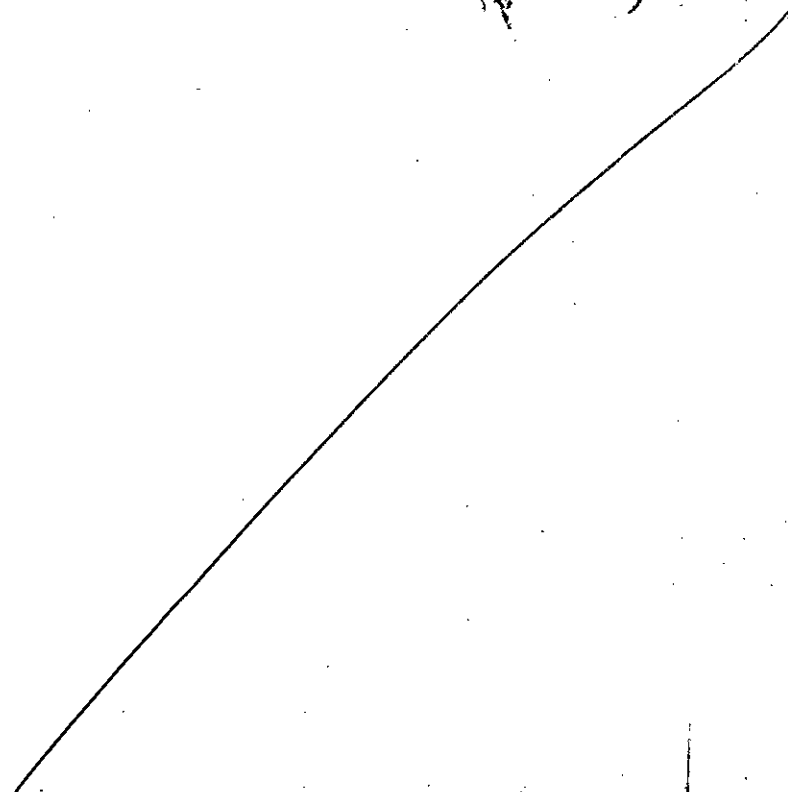
File to come up alongwith connected Service Appeal No.405/2018 titled Irshad Ali Versus Government, before D.B on 12.05.2022 at Camp Court, Swat.



**(Mian Muhammad)**  
Member (E)



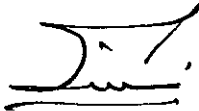
Chairman



21.10.2021

Counsel for the appellant and Mr. Javidullah, 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.



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



(ROZINA REHMAN)  
MEMBER (JUDICIAL)

12.07.2021

Appellant in person present.

Mr. Kabirulah 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.

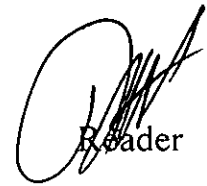


(ROZINA REHMAN)  
MEMBER (JUDICIAL)

  
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 submitted application for adjournment. 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.

*Handwritten note*

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(Muhammad Amin Khan Kundi)  
Member

*Handwritten date*

20.07.2018

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

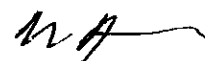
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(Ahmad Hassan)  
Member

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. 403/2018


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	<p>21/03/2018</p> <p style="text-align: right;">H/M</p>	<p>The appeal of Mr. Muhammad Ysir 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;">             REGISTRAR         </p>
2-	<p>21/03/18.</p> <p style="text-align: center;">P</p> <p>02.04.2018</p> <p style="text-align: right;">H/M</p>	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>02/04/18.</u></p> <p style="text-align: right;">             MEMBER         </p> <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;">             Member         </p>

The appeal of Mr. Muhammad Yasir son Jan Shahzada 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. 412 /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  
~~obj~~ removed,



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

In Ref  
Service Appeal No. 403/2018

*Muhammad Yasir*

**VERSUS**

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


**INDEX**

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

Dated 24/02/2018

  
Appellant

Through

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

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

In Ref  
Service Appeal No. 403/2018

*Muhammad Yasir S/o Jan Shehzada 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

**VERSUS**

Diary No. 2173  
Dated 26-2-2018

- 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, 1974**

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

Filed to-day  
*[Signature]*  
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.**

**Prayer in Appeal:**

Re-submitted to-day  
and filed.  
*[Signature]*  
Registrar  
27/2/18

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 appellatant humbly submits as under:*

- 1) *That the appellatant is appointed as Class IV employee vide order dated 22/07/2014 and in pursuance of said order appellatant 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 appellatant. (Copy of order is attached as annexure "B").*
- 3) *That been aggrieved the appellatant 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 appellatant submit service appeal before the August KPK, Service Tribunal at swat for his reinstatement which has been allowed, the appellatant 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 appellatant is reinstated but the local authorities refused to give back benefits to appellatant 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 appellatant 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.*

(4)

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

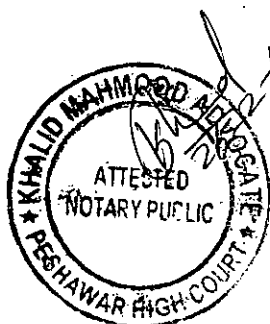
Through



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

**Affidavit.**

I, Muhammad Yasir S/o Jan Shehzada 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.



**DEPONENT**



15303-6717866-3

5

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

In Ref  
Service Appeal No. \_\_\_\_ / 2018

*Muhammad Yasir*

**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.*

Annexure (A)

(B)

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 Samabagh 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.

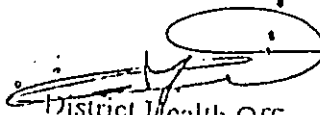
- |    |  |           |
|----|--|-----------|
| 1. | Dr. Mohammad Rehman (Shaheer) DHQ Lower Dir.   | Chairman. |
| 2. | Medical Superintendent DHQ Hospital Timergara. | Member.   |
| 3. | Dr. Irshad Ali Team Leader (Merlin) Dir Lower. | Member.   |

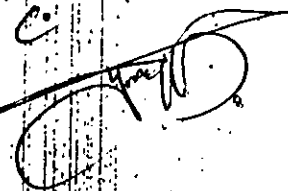
Sd/-x-x-x-x-x-x  
District Health Officer  
Lower Dir.

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.

C. T. C.  




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 (Shameen) 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  
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

(7)

Amiruzee B

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 created posts at HHQ Hospital, Samarbagh District Dir Lower is cancelled by this office order No. 85 dated 23/07/2014 is hereby cancelled with immediate effect. *lack of Podal formalities.*

S.No	Name of Candidates with address.	Name of Post.
1	Mr. Sirajul Mulk S/O Shaukat Mulk Village Kumbat Tehsil Samarbagh Dir Lower	Ward Orderly BPS-02
2	Mr. Faizul Din S/O Mr. Alaud Din Village P/O & Tehsil Samarbagh Dir Lower	Ward Orderly BPS-02
3	Mr. Nisar Mohammad S/O Mohammad 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. 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. 85/2014 Dated Timergara the 23/07/2014.

- Copy forwarded to -
- The District Account Officer Lower Dir.
  - The Medical Officer incharge HHQ Hospital Samarbagh
  - The Team Leader (Merlin) Dir Lower.
  - The Deputy Technical (Merlin) Dir Lower
  - The Accounts Clerk of this office.
  - The Officials concerned.

*[Signature]*  
District Health Officer  
Lower Dir.

*[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 Afii 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. 9761/64 / 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

9

Annexure - (C)

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 167 /2015

K.W.F. Province  
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,

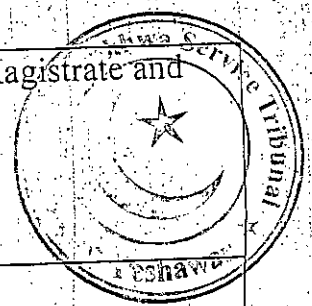
Facts giving rise to the present appeal are as under:-

*Filed to day*  
*Registrar*  
*4/3/15*  
That appellant is the permanent resident of District Dir Lower and has obtained B.A. qualification (Credentials Annex:-A) and is registered with

ATTESTED


*[Signature]*  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar





S.No. of proceedings	Date of Order or proceedings.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	05.10.2016	<p align="center"><b>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</b></p> <p align="center"><b>CAMP COURT SWAT</b></p> <ol style="list-style-type: none"> <li>1. Appeal No. 167/2015 Arshid Ali,</li> <li>2. Appeal No. 168/2015, Siraj-ul-Mulk,</li> <li>3. Appeal No. 169/2015, Muhammad Yasir,</li> <li>4. Appeal No. 170/2015, Ikramullah,</li> <li>5. Appeal No. 171/2015, Fakhr-ud-Din,</li> <li>6. Appeal No. 172/2015, Hidayatullah Khan,</li> <li>7. Appeal No. 173/2015, Akbar Khan,</li> <li>8. Appeal No. 174/2015, Nisar Muhammad and</li> <li>9. Appeal No. 175/2015, Sami-ur-Rahman</li> </ol> <p align="center">Vs. Director General Health Services, Khyber Pakhtunkhwa, Peshawar and another.</p> <p align="center"><b>JUDGMENT</b></p> <p align="center"><b><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-</u></b></p> <p>Counsel for the appellants and Mr. Muhammad Zubair, Senior Government Pleader for respondents present.</p> <p><del>2.</del> 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.</p> <p>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</p>

**ATTESTED**

  
**CHAIRMAN**  
 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.

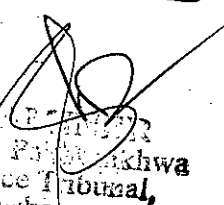
5. Learned counsel for the appellant has placed reliance on case-law reported as 2004-SCMR-468 (Supreme Court of Pakistan) and 2003-SCMR-1126 (Supreme Court of Pakistan).

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**

  
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.

*Sd/- M. Azim Khan Afridi,*  
*Chairman*  
*Appellate Court Swat*

05.10.2016

*Sd/-*

**Certified to be true copy**  
 E. A. KHAN  
 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

To

Annexure ~ D

13

Secretary health Govt of KP

From 1) Mr. Muhammad Yasar 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 24-07-2017 is attached as annexure B)
3. That from said cancellation order dated 24-07-2017 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 (Distinct 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)

M. Y. S.

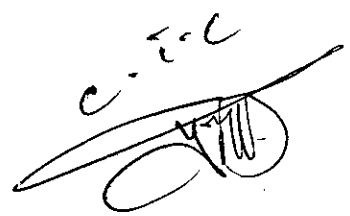
e. f. c  
C. Y. S.

- 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 appealant 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. Muhammad Yasar Class IV Employee THQ Hospital Samar Bagh Dir lower

**DIRECTORATE GENERAL HEALTH SERVICES  
KHYBER PAKHTUN KHWA PESHAWAR**

E-Mail: [dg@kpk.gov.pk](mailto:dg@kpk.gov.pk) Office Ph# 091 9 10269 Exchanges: 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 appellarit are entitled for any back benefits.

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

*[Signature]*

*[Signature]*

District Health Officer  
Dir Lower at Timor



19

حکومت پاکستان  
 قومی شناختی کارڈ  
 15303-6717886-3  
 محمد علی ارشد حلیم  
 تاریخ اجراء: 10/03/1992  
 دستخط: محمد علی ارشد حلیم  
 دستخط: محمد علی ارشد حلیم

15303-6717886-3  
 T68W-IV  
 تاریخ اجراء: 13/04/2012  
 تاریخ منقوع: 13/04/2022  
 محمد علی ارشد حلیم  
 دستخط: محمد علی ارشد حلیم

*Handwritten signature*

C.T.C  
*Handwritten signature*

50	 	28882
ایڈوکیٹ:	پشاور بار ایسوسی ایشن، خیبر پختونخواہ	
بار کونسل ایسوسی ایشن نمبر: bc-11-1452		
رابطہ نمبر: 0315-83243		

بجرات جناب: Before KRR. Service Tribunal, Permawar

مخانب: Appellant	دعوی: Appeal
محترمہ بنام D. G Health	علت: /
	مورخہ: /
	جرم: /
	تھانہ: /

**باعت تحریر آتکہ**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ آن مقام پشاور کیلئے اربعہ چیمبرس مسزات سہیل اور سہیل کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعوی اقبال دعوی 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 کارروائی 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: \_\_\_\_\_

مقام: \_\_\_\_\_ کے لیے منظور ہے۔ Accepted

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

Accepted

محترمہ سہیل و سہیل چیمبرس مسزات سہیل اور سہیل کے لیے منظور ہے۔



“B”

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

No.

Appeal No. 403 of 2018

Muhammad Aslam Appellant/Petitioner

Versus

D. E. Health Services Respondent

Respondent No. 1

Notice to: Director General Health Services  
Khyber Pakhtunkhwa

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 9-1-2019 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 14/1/18

Day of Monday 2018

[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. 1103 of 2018

M. J. Khan Appellant/Petitioner

Versus

Khyber Pakhtunkhwa Service Tribunal Respondent

Respondent No. 1


Notice to: - Copy of appeal is attached

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 9-1-2019 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

  
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. 602 of 2016

Muhammad Yousaf Appellant/Petitioner

Versus

Dr. H. H. Khan, K.P.S. Respondent

Respondent No. 3

Notice to:

Secretary, H. H. Khan, K.P.S.  
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 9-1-2019 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 11/1/19

Day of 11/Jan/19 2019

[Signature]  
1803

[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. 1112 of 20 18

Appellant/Petitioner

Versus

Respondent

Respondent No. 1

Notice to: Mr. Health Officer, 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 1-7-2018 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 12/7 .....

Day of JULY, 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. 403 of 20 18.

M. Muhammad Naveed / Jun Shad Raza  
Appellant/Petitioner  
Class-IV, For play of professional (and or dental) / HQ Hospital  
Versus  
D. S. Health Services Pesh  
Respondent Sunil Bhai  
Respondent No. 2

Notice to:

District Health Officer,  
Dair 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 17-2-2019 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<sup>th</sup>

Day of June 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. 403 of 2018

M. Muhammad Iqbal S/O Mr. Shehzad  
Appellant/Petitioner

Class-10, Ex-Gratia (Health) Ordinance, THQ Hospital  
D.G. Health Services, Peshawar  
Respondent

Respondent No. I Lower Dir

Notice to: Director General Health Services  
14/12/18

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 15-7-2019 at 8.00 A.M. If you wish to urge anything against the appellent/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 13/6.....

Day of Jun, 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. 403 of 20 18

*Mr. P. Khan vs. Mr. S. Khan*  
Appellant/Petitioner

(Versus)

*Mr. S. Khan*  
Respondent

Respondent No. ....

Notice to:

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 17-7-2018 at 8.00 A.M. If you wish to urge anything against the appelland/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.

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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 17/7 .....

Day of 17/7 .....

*[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. 403 of 20 18

Mrs. Muhammad Yousaf Appellant/Petitioner  
Class-IV, Employee (General) of District Hospital  
D.S. Health Services Pesh. Respondent

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 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 June, 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.



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

In Ref  
Service Appeal No. 403,/2018,

Muhammad Yasir

.....Appellant

**Versus**

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

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

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District Health Officer  
Dir Lower at Timergara

District Health Officer  
Dir Lower at Timergara

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

In Ref  
Service Appeal No. 403/2018

A-1

Muhammad Yasir.....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 <sup>has</sup> got no cause of action to file the instant service appeal

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**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 <sup>Services</sup> writ Appeal being devoid of merits may be dismissed with cost.

Respondent No. 1

**Director General Health Services  
Khyber Pakhtunkhwa Peshawar**

Respondent No. 2

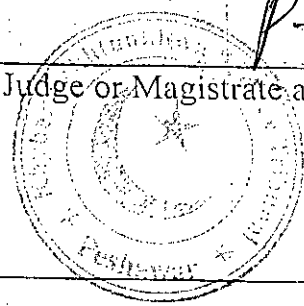
**District Health Officer,  
Dir Lower at Timergara.**

**District Health Officer  
Dir Lower at Timergara**

Respondent No. 3

**Secretary Health  
Govt. of Khyber Pakhtunkhwa  
Khyber Pakhtunkhwa  
Health Department**

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ed	Date of Order or proceedings.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
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	2	3
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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.

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

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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

RECEIVED  
SCMR  
17/03/2015


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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 Abidi,*  
Chairman

*Sd/- Saad Latif,*  
Member

certified to be a true copy  


Announced

05.10.2016

Date of Receipt ..... 10-10-2016  
 Number of Copies ..... 1600  
 Copying Fee ..... 10/-  
 Urgent .....  
 Total ..... 10/-  
 Name of Copyist ..... *[Signature]*  
 Date of Copying ..... 14-10-2016  
 Date of Delivery ..... 14-10-2016

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

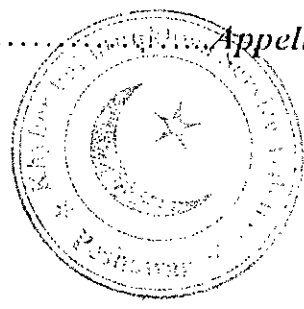
Service Appeal No. 167 /2015

K.W.P. 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

Office to day  
Registered  
4/3/15

REGISTERED  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Before the service Tribunal KPK Permana

Muhammad Lahir vs Health department

Application for Adjournment

Respectfully Shewaili

① That the above titled Appeal is pending adjudication before this August Tribunal and fixed for today.

② That the counsel of Appellant is ill and not in attendance for today.

It is therefore most humbly prayed that an adjournment of this Application in above titled appeal

may kindly be adjourned

Appellant

Muhyk

Advocate



"A"

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

No.

APPEAL No. 403 of 20 18

Muhammed Yasin

Appellant/Petitioner

*Recd.*  
Versus

The Director General Health Peshawar

RESPONDENT(S)

Notice to Appellant/Petitioner

Muhammed Yasin S/o Jan Shehzaed

Class-IV Employee (ward order) THQ Hospital Samab-

Bagh RO village Sabab Shah P.O & Tehsil SamabBagh 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 9:00 AM

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



Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.