


18.08.2022

Petitioner alongwith his counsel Mr. Noor Muhammad Khattak, Advocate for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Safiullah, Focal Person for the respondents present.

02. Representative of the respondent department submitted copy of the Notification NO.SOH(E-V)/2-2/2022 dated 26.05.2022 whereby the appellant after having promoted to the post of Principal Medical Officer (BS-19) on 01.12.2021, has been transferred from the office of DHO Khyber to Type-D Hospital Badhber Peshawar against the vacant post. Learned counsel for the appellant while arguing the case in preliminary hearing on 17.12.2021 concealed the fact that the appellant had already been promoted from BS-18 to BS-19 as Principal Medical Officer on 01.12.2021. Representative of the department apprised the court and stated at the Bar that the appellnat has been promoted to BS-19 and who has not actualized his promotion on the basis of his earlier transfer orders suspended by the Service Tribunal on 17.12.2021, taking undue advantage and shelter of the order of Service Tribunal dated 17.12.2021.

03. In view of the above factual position, the order dated 17.12.2021 becomes irrelevant and unsustainable as fresh cause of action has emanated on the face of Notification dated 26.05.2022. The execution petition No. 353/2022 therefore stands disposed of. Consign.

04. Pronounced in open court at Peshawar and given under my hand and seal of the Tribunal this 18th of August 2022.


(Mian Muhammad)
Member (E)



Government of Khyber Pakhtunkhwa
Health Department

Dated Peshawar the 26th May, 2022

NOTIFICATION

NO. SOH(E-V)/2-2/2022

Consequent upon promotion to the post of Principal Medical Officer (BS-19) vide this Department's Notification No. SOH(E-V)/2-2/2021/226 dated 01.12.2021, the following posting/ transfer of doctors are hereby ordered for actualization of their promotion, with immediate effect, in the best public interest:-

S/No	Name of Doctors	From	To
1.	Dr. Muhammad Umar Farooq, Principal Medical Officer (BS-19)	On deputation to NIH, Islamabad	DHQ Hospital, Haripur against the vacant post
2.	Dr. Muhammad Uzair, Principal Medical Officer (BS-19)	Saidu Group of Teaching Hospital, Swat	Saidu Group of Teaching Hospital, Swat against the vacant post
3.	Dr. Qasim Asad Tahir Kheli, Principal Medical Officer (BS-19)	Attached to DHO, Haripur	DHQ Hospital, Haripur against the vacant post
4.	Dr. Inamullah Khan, Principal Medical Officer (BS-19)	DHQ Hospital, Miranshah, North Waziristan	DHQ Hospital, Karak for the purpose of retirement and other pensionary benefits.
5.	Dr. Noor Hanan, Principal Medical Officer (BS-19)	DHQ Hospital, Bannu	Type-D Hospital Kakki, Bannu against the vacant post
6.	Dr. Ahmad Noor, Principal Medical Officer (BS-19)	Attached to DHO Wana, South Waziristan	DHQ Hospital, Tank against the vacant post
7.	Dr. Javed Iqbal, Principal Medical Officer (BS-19)	MS, DHQ Hospital, Mardan	He will actualize his promotion against the post of Principal Medical Officer (BS-19) at DHQ Hospital, Mardan for one day and then will resume the already occupied post of MS, DHQ Hospital, Mardan
8.	Dr. Zainul Abidin, Principal Medical Officer (BS-19)	DHQ Hospital Wana, South Waziristan	DHQ Hospital Wana, South Waziristan against the vacant post
9.	Dr. Jehangir Khan Afridi, Principal Medical Officer (BS-19)	Attached to DHO, Khyber	Type-D Hospital Badhber, Peshawar against the vacant post

10.	Dr. Jehangir, Principal Medical Officer (BS-19)	Attached to DHO, Swat	Saidu Group of Teaching Hospital, Swat against the vacant post
11.	Dr. M. Arshad Hussain, Principal Medical Officer (BS-19)	KMC, Peshawar	DHQ Hospital, Charsadda against the vacant post
12.	Dr. Afzal Hussain, Principal Medical Officer (BS-19)	Govt. Naseerullah Khan Babar Memorial Hospital, Peshawar	Govt. Naseerullah Khan Babar Memorial Hospital, Peshawar against the vacant post
13.	Dr. Wali Muhammad, Principal Medical Officer (BS-19)	DHQ Hospital, Charsadda	DHQ Hospital, Charsadda against the vacant post
14.	Dr. Ashfaq Ali, Principal Medical Officer (BS-19)	HMC, Peshawar	Cat-D Hospital Garah Tajik, Peshawar against the vacant post
15.	Dr. Mumtaz Muhammad, Principal Medical Officer (BS-19)	PGMI, Peshawar	Emergency Satellite Hospital Nahaqi, Peshawar against the vacant post
16.	Dr. Faridullah, Principal Medical Officer (BS-19)	DHQ Hospital, Lakki Marwat	DHQ Hospital, Lakki Marwat against the vacant post
17.	Dr. Qazi Ijaz Ahmad, Principal Medical Officer (BS-19)	Attached to DHO, Mansehra	King Abdullah Teaching Hospital, Mansehra against the vacant post

**SECRETARY HEALTH
GOVERNMENT OF KHYBER PAKHTUNKHWA**

No. 1238-1248 / Endst of even No. & Date.

Copy to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. All concerned DHOs/ MSs, Khyber Pakhtunkhwa.
4. All concerned District Accounts Officers, Khyber Pakhtunkhwa.
5. Deputy Director (IT), Health Department.
6. PS to Minister for Health Department, Khyber Pakhtunkhwa.
7. PS to Secretary (E&A/B&D) Health Department, Khyber Pakhtunkhwa.
8. PS to Special Secretary Health, Khyber Pakhtunkhwa.
9. All concerned doctors.
10. Personal file of the all concerned doctors.

(TEHMAS AYYUB)
SECTION OFFICER (E-V)

26/5/2022

GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Subject: REQUEST FOR IMPLEMENTATION OF HONOURABLE SERVICE TRIBUNAL PESHAWAR ORDER DATED 27.12.2021 E.P NO. 353/2022 IN APPEAL NO. 7827/2021 IN RESPECT OF DR. JEHANGIR AFRIDI, SMO VERSUS GOVT. OF KHYBER PAKHTUNKHWA

1
The Section Officer (Lit-II), Health Department has submitted Judgment of Hon'ble Service Tribunal, Peshawar in respect of Dr. Jehangir Khan Afridi, Principal Medical Officer (BS-19) regarding transfer from the post of Incharge/ Medical Superintendent, THQ Hospital Dogra Picket Bara, District Khyber to Directorate General Health Services, Khyber Pakhtunkhwa, Peshawar vide (PUC).

2
Furthermore, the doctor concerned was working as Incharge/ MS, THQ Hospital Dogra Picket Bara, District Khyber from where he was relieved from the said post and then directed to DGHS Peshawar vide this Department's Notifications dated 23.08.2021 & 31.08.2021 vide (F/A & F/B). In this regard the doctor concerned approached to Khyber Pakhtunkhwa Service Tribunal, Peshawar for cancellation of his transfer order from the post of Incharge/ MS, THQ Hospital Dogra Picket Bara, District Khyber and report to Directorate General Health Services, Khyber Pakhtunkhwa, where the Khyber Pakhtunkhwa Service Tribunal, Peshawar has passed the judgment on dated 17.12.2021 "*Operation of the impugned notification dated 23.08.2021 and 31.08.2021 is suspended*". Later on he was promoted to the post of Principal Medical Officer (BS-19) & subsequently posted at Type-D Hospital Badhber, Peshawar against the vacant post for actualization of his promotion vide this Department's Notification dated 26.05.2022 (F/C), but the doctor concerned has not yet actualized his promotion.

3
The post of Incharge/ MS, THQ Hospital Dogra Picket Bara, District Khyber falls to General Cadre (BS-18) while the incumbent Dr. Jehangir Khan Afridi belongs to General Cadre (BS-19). Hence, the posts of BS-19 are not available at District Khyber. So, therefore we cannot adjust the doctor concerned being a Principal Medical Officer (BS-19).

PTO

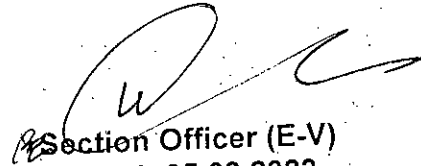
FDP

4

5

In view of the above, it is submitted that, if agreed, we may issue directions to the doctor concerned to immediately resume his duty at Cat-D Hospital Badhber, Peshawar without any further delay.

Submitted for perusal/ appropriate orders, please.

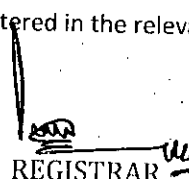



Section Officer (E-V)
Dated: 05.08.2022

Deputy Secretary (Estab)

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 353/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	16.06.2022	<p>The execution petition of Dr. Jahangir Afridi submitted today by Mr. Noor Muhammad Khattak Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p> REGISTRAR</p>
2-	<u>22.6.22</u>	<p>This execution petition be put up before Single Bench at Peshawar on <u>28.6.2022</u>. Original file be requisitioned. AAG has noted the next date. The respondents be issued notices to submit compliance/implementation report on the date fixed.</p> <p> CHAIRMAN</p>
	28.06.2022	<p>Learned Counsel for the petitioner present. Mr. Kabir Ullah Khattak, Additional Advocate General present.</p> <p>Notices be issued to the respondents for submission of implementation report. To come up for implementation on 18.08.2022 before S.B.</p> <p> (Fareeha Paul) Member (E)</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. 353 /2022
In
Appeal No.7827/2021

DR. JEHANGIR AFRIDI VS HEALTH & OTHERS

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APPLICANT

THROUGH:
NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. 353 /2022

In

Appeal No. 7827/2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 313

Dated 16/6/2022

Dr. Jehangir Afridi, Senior Medical Officer(BPS18) Presently serving
as Medical Superintendent Cat-D Hospital Dogra Bara, District
Khyber

..... **PETITIONER**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
- 2- The Secretary to Government of Khyber Pakhtunkhwa, Health Department, Peshawar.
- 3- The Director General Helth Services, Khyber Pakhtunkhwa, Peshawar.
- 4- Dr. Alamgir Khan, Medical Officer (BPS-17) attached to DHQ Hospital Landikotal, District Khyber.

..... **RESPONDENTS**

IMPLEMENTATION PETITION FOR DIRECTING THE
RESPONDENTS TO OBEY THE ORDER DATED 17-
12-2021 IN LETTER AND SPIRIT

R/SHEWETH:

- 1- That the petitioner filed service appeal bearing No. 7827/2021 before this august Service Tribunal against the impugned Notifications dated 23-08-2021 and 31-8-2021 regarding posting/transfer of the petitioner.
- 2- That the appeal of the Petitioner was heard and interim relief was granted by suspending the operation of the impugned Notifications dated 23.8.2021 and 31.8.2021 vide order sheet dated 17-12-2021 in the terms "operation of the impugned notifications dated 23-08-2021 and 31-08-2021 is suspended, if already not acted upon till next date. Copy of the order sheet dated 17-12-2022 is attached as annexure **A.**
- 3- That after obtaining copy of the judgment dated 17-12-2021 the petitioner submitted the order mentioned above for its implementation to the Department concerned but the respondents are not willing to obey the order/judgment dated 17-12-2021 in letter and spirit. So

much so the respondents have recently stopped/withheld the salaries of the petitioner.

- 4- That the petitioner has no any other remedy but to file this implementation petition.

It is therefore, most humbly prayed that the respondents may be directed to implement the order/ judgment dated 17-12-2021 in letter and spirit. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the petitioner.

PETITIONER



DR. JEHANGIR AFRIDI

THROUGH:

**NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT**



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. _____/2022

In

Appeal No.7827/2021

DR. JEHANGIR AFRIDI VS HEALTH DEPTT: & OTHERS

AFFIDAVIT

I Dr. Jehangir Afridi, Senior Medical Officer(BPS18) Presently serving as Medical Superintendent Cat-D Hospital Dogra Bara, District Khyber. do hereby solemnly affirm that the contents of this **Implementation Petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



DEPONENT

DR. JEHANGIR AFRIDI



A-4



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

APPEAL NO. 7827 /2021

Diary No. 7953

Dr. Jehangir Afridi, Senior Medical Officer (BPS-18),
Presently serving as Medical Superintendent Cat-D Hospital,
Dogra Bara Khyber, District Khyber

APPELLANT

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa Civil Secretariat, Peshawar.
- 2- The Secretary, Government of Khyber Pakhtunkhwa Health Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
- 4- Dr. Alamgir Khan, Medical Officer (BPS-17), attached to DHQ Hospital Landikotal, District Khyber..

RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATIONS DATED 23-08-2021 AND 31.8.2021 WHEREBY THE APPELLANT HAS BEN TRANSFERRED PREMATURELY AND IN VIOLATION OF SPOUSE POLICY AND AGAINST NOT TAKING ANY ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD.

PRAYERS:

That on acceptance of this appeal the impugned transfer Notifications dated 23.8.2021 and 31-08-2021 may very kindly be set aside and the respondents may kindly be directed not to transfer the appellant from the post of Medical Superintendent THQ Hospital Dogra Picket Bara, District Khyber till completion of his normal tenure. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:-

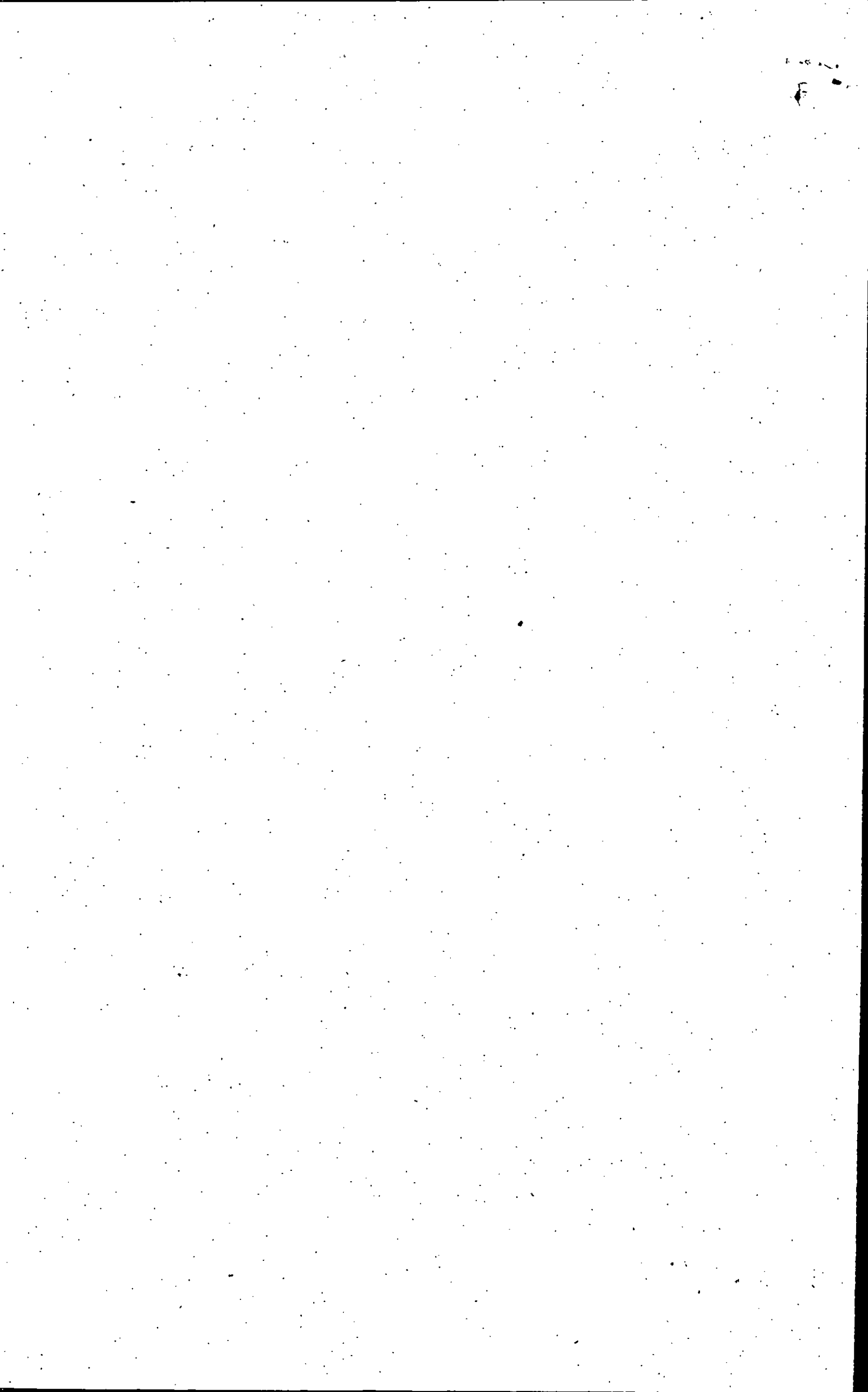
Filed to day
Registrar

Resubmitted to
Registrar 3/12/21

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

That appellant is the employee of the respondent Department and is serving the respondent Department as



17.12.2021

S



Counsel for the appellant present. Preliminary arguments heard.

Learned counsel for the appellant stated that the appellant is aggrieved of the notifications dated 23.08.2021 and 31.08.2021. The appellant was posted as Senior Medical Officer (BS-18) at THQ Hospital Dogra Picket Khyber since 29.07.2020 and without having completed his normal tenure of two years he was transferred/relieved and private respondent No.4 being junior Medical Officer (BS-17) was posted as MS Category-D Hospital Bara, District Khyber vide notification dated 23.08.2021. The appellant was again disturbed and transferred but this time directed to place his services at the disposal of DG Health Services vide impugned notification dated 31.08.2021. The appellant submitted departmental appeal on 10.09.2021 and having found no remedy approached the Service Tribunal, through the instant service appeal on 01.12.2021. It was further contended that the appellant has been transferred pre-maturely in violation of clause (i) and (iv) of the provincial Government's posting/transfer policy as well as Article-4 and 25 of the Constitution.

The appeal is admitted for regular hearing Notification to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to respondents for submission of reply/comments. To come up for reply/comments on 11.01.2022 before S.B.

Appellant Deposited Security Process Fee
27/12/21

An application for suspension of impugned order dated 23.08.2021 and 31.08.2021 is also submitted with the memorandum of appeal. Operation of the impugned notification dated 23.08.2021 and 31.08.2021 is suspended if already not acted upon till next date.

(Mian Muhammad)
Member(E)

Date of Presentation of Application 15/12/21
 Number of Words 800
 Copying Fee 10/-
 Urgent 4/-
 Total 14/-
 Name of Copyist _____
 Date of Completion of Copy 15/12/21
 Date of Delivery of Copy 15/12/21

Certified to be true copy
E. B. JINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

VAKALATNAMA

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

APPEAL NO: _____ OF 2022

Dr. Jehangis Atsidi

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Health Deptt.

(RESPONDENT)
(DEFENDANT)

I/We Dr. Jehangis Atsidi

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2022



CLIENT

ACCEPTED

NOOR MOHAMMAD KHATTAK

KAMRAN KHAN

&

UMAR FAROOQ

MUHAMMAD MAAZ MADNI

**HAIDER KHAN
ADVOCATES**

OFFICE:

Flat No.(TF) 291-292 3rd floor
Deans trade centre Peshawar cantt:
Mobile No. 0334-5277323