


26.07.2022

Appellant present through counsel.

Naseer Ud Din Shah, learned Assistant Advocate General for respondents present.

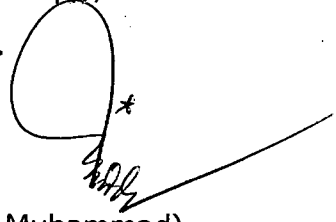
File to come up alongwith connected Service Appeal No.424/2022 titled "Mst. Sadia Vs. Government of Khyber Pakhtunkhwa" on 28.09.2022 before S.B.


(Rozina Rehman)
Member (J)

28.09.2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Saeed Muhammad, Litigation Officer and Mr. Safiullah, Focal Person for the respondents present.

Reply/comments on behalf of respondents No. 1 & 2 submitted which are placed on file. Copy of the same is handed over to learned counsel for the appellant. Reply/comments on behalf of respondent No. 3 are still awaited. Representative of the respondent requested for time to submit reply/comments. Adjourned. To come up for reply/comments on behalf of respondent No. 3 on 02.12.2022 before S.B.


(Mian Muhammad)
Member (E)

07.04.2022


Counsel for the appellant present. Preliminary arguments heard.

Learned counsel for the appellant argued that the appellant was appointed as JCT (Pharmacy) (BS-12) on recommendations of Departmental Selection Committee vide office order dated 31.12.2019. On a complaint received in the respondent-department, an enquiry was conducted against DHO North for 71 illegal appointments in Tribal District of North Waziristan. As a result thereof pay of the appellant was initially stopped verbally and cancelled/withdrawn his appointment order vide impugned order dated 06.08.2021 but communicated to the appellant on 23.11.2021. He preferred departmental appeal on 25.11.2021 which was not decided within the stipulated statutory period, hence, the instant service appeal was filed on 25.03.2022.

The appeal is admitted to regular hearing subject 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 09.06.2022 before S.B.

Rs-400/-
Appellant Deposited
Security & Process Fee

Official
13/4/22



(Mian Muhammad)
Member(E)

09.06.2022

Junior to counsel for the appellant present.

Muhammad Riaz Khan Paindakheil learned Assistant Advocate General alongwith Muhammad Usman Assistant for respondents present.

File to come up alongwith connected Service Appeal No.424/2022 titled Mst. Sadia Vs. Government of Khyber Pakhtunkhwa on 26.07.2022 before S.B.



(Rozina Rehman)
Member (J)

14.04.2021

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

Points raised need consideration. Instant 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, notice be issued to respondents for submission of written reply/comments. To come up for reply/comments on 09.06.2022 before S.B.

Rs. 500/-
Appellant Deposited
Security & Process Fee

A. M. Hash
12/5/22

(Rozina Rehman)
Member (J)

09.06.2022

Junior to counsel for the appellant present.

Muhammad Riaz Khan Paindakheil learned Assistant Advocate General alongwith Muhammad Usman Assistant for respondents present.

File to come up alongwith connected Service Appeal No.424/2022 titled Mst. Sadia Vs. Government of Khyber Pakhtunkhwa on 26.07.2022 before S.B.




(Rozina Rehman)
Member (J)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. - 7804/2021


| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|---|
| 1 | 2 | 3 |
| 1- | 30/11/2021 | <p>The appeal of Mr. Safi Ullah resubmitted today by Mr. Bashir Khan Wazir Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> |
| 2- | | <p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put there on <u>17/01/22</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> |
| | 17.01.2022 | <p>Learned counsel for the appellant present and requested for adjournment on the ground that he has not prepared the brief. Request acceded to. To come up for preliminary hearing on 04.02.2022 before S:B.</p> <p style="text-align: right;">(Mian Muhammad Member (E)</p> |
| | 04.02.2022 | <p>Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 14.04.2022 for the same as before.</p> <p style="text-align: right;"> Reader</p> |

The appeal of Saleem Ullah, JCT Pharmacy (BPS-120), North Waziristan received today i.e. on 16.11.2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1. Appeal has not been flagged/marked with annexure marks.
2. Address of the appellant is incomplete.
3. Copy of Impugned Order dated 06/08/2021 mentioned in the heading of the appeal is not attached with the appeal.
4. Annexures of the appeal may be attested.
5. Affidavit is not attested by the Oath Commissioner.
6. Certificate be given to the effect that appellant has not been filed any service appeal earlier on the subject matter before this Tribunal.

No. 2278 /S.T,

Dt. 16/11/2021


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Bashir Khan Wazir Adv. Pesh.

As per objection NO 3 the salaries of the Appellant were verbally stopped by the DHO since 1st June 2021 against which the departmental Appeal was filed and the order dated 06-8-2021 has been issued later on the basis of which salaries of the colleagues of the Appellant has also been stopped, therefore this order was not issued against the Appellant, the Rest of objections are also removed


Re submitted again

Counsel



Date 25-11-21

Reply to the objection NO3 the date mentioned and the heading of Prayer to not issued against the appellant and the Salaries of the appellant was verbally stopped therefore the departmental appeal was filed against the verbal order and appellant aggrieved from the 1st June 2021 Order, hence the 1st page was been replaced with corrected the same.


Advocate
29-11-21

BEFORE THE HONORABLE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA PESHAWAR

Service Appeal No 7803 /2021

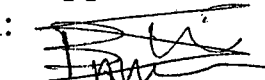
Saleem Ullah.....Appellant
VERSUS
Director General Health Services & others ...Respondents

I N D E X

| S NO | DESCRIPTION OF DOCUMENTS | ANNEX | PAGES |
|------|---|------------|--------|
| 1. | Service Appeal | - | 1-4 |
| 2. | Affidavit | - | 5 |
| 3. | Application for Suspension | - | 6-7 |
| 4. | Affidavit | | 8 |
| 5. | Copy of Appointment Order | A | 9 |
| 6. | Copy of the Medical and Arrival report | B | 10-11 |
| 7. | Copy of Writ Petition and Judgment | "C" | 12--22 |
| 8. | copy of the Order dated 05.05.2020 | "D" | 23 |
| 9. | Copy of Departmental Appeal | "E" | 24 |
| 10. | Wakalat Nama | | 25 |


Appellant

Through:


(BASHIR KHAN WAZIR)
Advocate,
High Court, Peshawar

Dated:-10.11.2021

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

Service Appeal No _____/2021

Saleem Ullah, JCT Pharmacy (BPS-12), North Waziristan.

.....Appellant

V E R S U S

1. Director General Health Services, Khyber Pakhtunkhwa, Peshawar
2. District Health Officer, District North Waziristan.
3. Secretary Health, Govt of Khyber Pakhtunkhwa, Peshawar.

.....Respondents

**SERVICE APPEAL UNDER SECTION 4 OF KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974
AGAINST THE IMPUGNED ORDER, WHEREBY THE
SALARIES OF THE APPELLANT WAS STOPPED
SINCE 1ST JUNE 2021 AND DESPITE OF THE
MANDATORY PERIOD EXPIRED OF
DEPARTMENTAL APPEAL THE RESPONDENT DID
NOT RELEASE THE SALARIES OF THE
APPELLANT.**

Prayer in Appeal:

On acceptance of the instant Appeal, the Impugned Orders when initially the salaries of the Appellant was stopped/withheld since 1st June 2021 verbally stopped / withheld, the Appellant got the knowledge after 1st July, the impugned order and withholding of salary of the Appellant may kindly be set aside and consequently the outstanding salaries of the Appellant may kindly be released, till date.

Respectfully Sheweth:-

The Appellant humbly submits as under:-

1. That the Appellant is peaceful and law abiding citizen of Pakistan and is entitled for all the rights guaranteed by the Constitution of Islamic Republic of Pakistan, 1973..
2. That the Appellant being competent and having the meritorious qualification was appointed as Junior Clinical Technician (JCT) BPS-12 on the recommendation of Departmental Selection Committee.

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(Copy of Appointment Order is attached as annexure A)

3. That after his appointment the Appellant got Medical as well as assumed the charge of the subject post and was continuously performing his duty with great zeal and zest, therefore he was being paid salaries as per his duty. **(Copy of the Medical and Arrival report are attached as annexure B)**
4. That the Appellant was being appointed in the Erstwhile FATA and he was posted at DHO Office North Waziristan and the salaries of the employees of Erstwhile FATA was in manual position, meanwhile due to the Operation Zarb e Azab, the inhabitant of North Waziristan were badly affected, consequently the people of the locality migrated to different districts and the Govt offices were also badly affected.
5. That after the rehabilitation of the District North Waziristan the salaries of the number of employees were stopped on the reasons of non-computerization. The salary of the Appellant was also stopped / withhold and the Appellant time and again submitted his Appeal before the competent authority but lastly when the Appellant along with his other colleagues were got helpless, thereafter the Appellant along with his other colleagues have filed a Writ Petition No. 7299/2019 at Peshawar High Court Peshawar, in which Interim Relief was granted and the case was sent to the Peshawar High Court Bannu Bench being in the Jurisdiction of the Circuit Bench, whereby the Writ Petition was modified as WP No. 1308-B/2019. The Comments were called which was received to the Peshawar High Court Bannu Bench and, after hearing both the parties, the Writ Petition of the Appellant along with other colleagues was allowed with the directions to the Respondents to release the salaries of the Appellant along with his other colleagues from date of stoppage. **(Copy of Writ Petition and Judgment is attached as annexure C)**
6. That the office of Respondent No 2 being the competent authority issued an office order No 2306-9 on dated 05.05.2020, vide which the salaries of the Appellant along with his other colleagues have been released. **(copy of the Order dated 05.05.2020 is attached as annexure D)**

- 7. That since then the Appellant is performing his duty with great zeal and zest on his subject post and after almost one year the salaries of the Appellant once again stopped by the Respondent No 2 verbally without having any plausible reasons, the Appellant salary is stopped /withheld from the 1st June 2021 till date and in this respect the Appellant was got the knowledge when he checked his salary in Bank in the month of July, thereafter the Appellant submitted his Appeal before the Competent Authority, but without fruitful result. **(Copy of Departmental Appeal is attached as annexure E)**
- 8. That the Appellant time and again visited to the office of Respondents and also requested to decide his departmental Appeal, but despite of the mandatory period of his departmental Appeal no order whatsoever has been passed by the Respondents.
- 9. That feeling aggrieved from the act of Respondents, having no other adequate and efficacious remedy, approaches this Honourable Tribunal on the following grounds inter-alia:-

GROUNDS:-

- A) That the Appellant is peaceful and law abiding citizen of Islamic Republic of Pakistan and is fully entitled to all the basic and fundamental rights as enshrined in the fundamental law of the state, interpreted and guaranteed by the law of the land.
- B) That the acts of the Respondents of not following the same criteria which has been safeguarded by the law and rules and guidelines provided by the apex courts that when the employee serving on respective post the competent authority should have in retaliation to delivered remuneration to the employee as accordance his service, while in the instant case the respondents have not yet been considered the case of the Appellant, is illegal, unlawful, unnatural, ab-initio, null and void in the eye of law, hence liable to be declared so.
- C) That the fundamental rights of the Appellant has blatantly violated by the Respondents and the Appellant has been discriminated and has been denied his due rights under the Constitution of Islamic Republic of Pakistan, 1973.
- D) That the Appellants is appointed according to rules and on adopted procedure but the respondents and after his appointments he has never ever given an opportunity of any complaint to the respondents and performed his

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duties with full devotions, the Appellants being eligible for releasing of outstanding salaries which was illegally been retained by the respondents is illegal and violation of natural justice, because of the fundamental rights/entitlement of the Appellants has been denied to them by the Respondents.

- E) That according to the articles 23 & 24 (1) of the constitution of Pakistan the property of every citizens of the Pakistan have been protected and no one could be deprived from their due rights and property, hence the entire due salaries being the fundamental right of the Appellants and the respondents is liable to be directed for releasing of the entire due salaries of the Appellants.
- F) That once the Appellants was duly appointed/posted and was allowed to join the service, after thorough verifications entries was also made in his service books, since then he is performing his duties, and after having performed his duties, he is certainly entitled to be paid his salaries, but all of sudden the respondents have been stopped the salaries of the Appellants, these acts of the respondents are illegal unlawful and liable to be declared so.
- G) That any other ground not raised here specifically may graciously be allowed to be raised at the time of arguments.

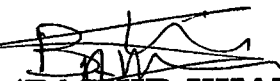
PRAYER:-

It is, therefore, most humbly prayed that, On acceptance of the instant Appeal, the Impugned Orders when initially the salaries of the Appellant was stopped/withheld since 1st June 2021 verbally stopped / withheld, the Appellant got the knowledge after 1st July, the impugned order and withholding of salary of the Appellant may kindly be set aside and consequently the outstanding salaries of the Appellant may kindly be released, till date.

Any other relief, not specifically asked for may also graciously be extended in favour of the Appellant in the circumstances of the case.


Appellant

Through:


(BASHIR KHAN WAZIR)
Advocate,
High Court, Peshawar

Dated:- 10.11.2021

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

Service Appeal No _____/2021

Saleem Ullah.....Appellant
VERSUS

Director General Health Services & others ...Respondents

AFFIDAVIT

I, Saleem ullah, Dispenser (BPS-12), North Waziristan, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.


DEPONENT

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

Service Appeal No _____/2021

**Saleem Ullah.....Appellant
VERSUS**

Director General Health Services & others ...Respondents

**APPLICATION FOR SUSPENSION OF THE
IMPUGNED Verbal ORDER, WHEREBY THE
SALARIES OF THE APPELLANT WAS
STOPPED SINCE 1ST JUNE 2021 AND IN THE
LIGHT OF SAID ORDER THE SALARIES OF
THE APPELLANT HAS BEEN STOPPED /
WITHHELD AND CONSEQUENTLY THE
CURRENT SALARY OF THE APPELLANT MAY
KINDLY BE ORDERED TO RELEASED, TILL
THE FINAL DECISION OF THE SERVICE
APPEAL.**

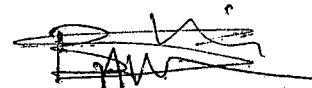
Respectfully Sheweth:

1. That the above noted Service Appeal is being filed before this hon'ble court, in which no date of hearing has yet been fixed.
2. That the Appellant has got a good prima facie case in their favour, and is sanguine about its success.
3. That the balance of convenience also lies in favour of the Appellant.
4. That if the Impugned Order dated 25.06.2021 is not suspended, the Appellant would suffer extreme irreparable loss.
5. That the facts and grounds of the Appeal may kindly be read as an integral part of this application.

It is, therefore, respectfully prayed that on acceptance of this application, the relief as prayed for in the heading of the Application may kindly be allowed in favour of the Appellant, till the final decision of the case.


Appellant

Through:



(BASHIR KHAN WAZIR)

Advocate,

High Court, Peshawar

Dated:- 10.11.2021

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

Service Appeal No _____/2021

**Saleem Ullah.....Appellant
VERSUS**

Director General Health Services & others ...Respondents

AFFIDAVIT

I, Saleem ullah, Dispenser (BPS-12), North Waziristan, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.


DEPONENT

OFFICE OF THE AGENCY SURGOEN
NORTH WAZIRISTAN MIRANSHAH.
PHONE & FAX: 0928-300788.

OFFICE ORDER:

On the recommendation of Departmental Selection committee. Mr. Salimullah S/O Bilawar Khan resident of village Dawer Tappi Tehsil & P/O Miranshah NWA is hereby appointed as a JCT (Pharmacy) in BPS-09 (6200-380-17,000) with all allowances as admissible under the rules against the existing vacant post at Civil Dispensary Awal Khan Kot Tappi North Waziristan Agency in the best interest of public services with immediate effect.

His appointment shall be subjected on the following terms and conditions.

- 1- He is declared medically fit for this job.
- 2- His appointment will be purely on contract /temporary basis for a period of one year and will be renewed on his satisfactory performance.
- 3- He will be governed by such rules and order issued by the Government from time to time for the category of staff to which he belongs.
- 4- If he wished to resign the services a prior notice of 30 days will be submitted, otherwise one month pay should be deposited in Government treasury through challan.
- 5- His pay will be released after the verification of all the documents from the required Board /Faculty according to the Government rules.
- 6- He will not be entitled for any TA/DA for joining the service.
- 7- If he accepts the above terms and condition he will have to report for duty to the Incharge Civil Dispensary Awal Khan Kot Tappi within 15 days of the receipt of this offer. otherwise the order will be considered as cancelled.

Sd:XXXXXXXXXXXXXX
(Dr. Jehan Mir Khan)
Agency Surgeon
North Waziristan Miranshah

No. 2691 / App: dated: Miranshah the: 01/12/2013.

Copy forwarded to the:-

1. Agency Account officer North Waziristan Miranshah.
2. Accounts/Pay Bill Clerk of this office.
3. Incharge Civil Dispensary Awal Khan Kot Tappi.
4. Official concerned.

For information and necessary action.


Agency Surgeon
North Waziristan Miranshah

To

The Agency Surgeon,
North Waziristan Agency Miranshah.

"B"

D

Subject: Arrival Report.

R/Sir,

In compliance with the Agency Surgeon NWA office order
No. 2691-83 IA dated 01/10/2013.

I have the honour to submit herewith my arrival report for duty as a

(S. Khan) BPS-9 today on 02/10/2013 FN.

Dated:

Thanks

Yours Obediently,

Satish Kumar
Sgt
S. Khan
CD A. Wal Khan Bt
Tappi

MEDICAL CERTIFICATE

Name of Official Mr Salimullah (D)

Caste or race Muslim

Father's Name Bikawar Khan

Residence village Dand, Tappi Taluk
Dist. North Waziristan Agency

Date of Birth 2-06-1954

Exact height by measurement 5-5

Personal Mark of Identification Nil

Signature of the Official [Signature]

Signature of head of Office [Signature]

report for duty today on 02/11/19

Seal of Office [Seal]

I do hereby certify that I have examined Mr./M^{rs}. Salimullah

Candidate for employment in the Office of the Health Deptt.

And can not discover that he/She had any disease communicable or other constitutional effect join or bodily infirmity except N.P.

I do not consider this as disqualification for employment in this office of the Health Deptt. his/her age according to his own statement 19

Years and by appearance about 18 years.



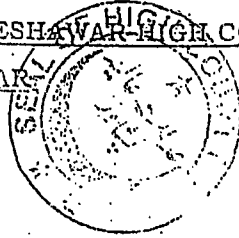
LEFT HAND THUMB AND FINGER
IMPRESSION

[Signature]

Agency Surgeon
North Waziristan Agency

BEFORE THE HONOURABLE PESHAWAR HIGH COURT

PESHAWAR



ATTESTED

EXAMINER
Peshawar High Court

Writ Petition No 7299 of 2019

1. ✓ Nisar Ahmad S/o Muhammad Subhan R/o House No 419 Street No 10, Phase-VII Hayatabad Peshawar.
2. ✓ Noor Shahideen S/o Reshmeen Gul R/o House No 188 Street No 9, F-1 Phase-6 Hayatabad Peshawar
3. ✓ Saif ud Din S/o Awal Khan R/o Canal Road, Khalil Street University Town Peshawar.
4. ✓ Muhammad Firdous S/o Bazid Khan R/o Village Hasu Khel, Tehsil & P.O Meer Ali North Waziristan Agency.
5. ✓ Khalida Zia D/o Samad Shah R/o Village Khadi Tehsil & P.O Meer Ali North Waziristan Agency.
6. ✓ Saleem Ullah S/o Bilawal Khan R/o Village Dawar Tappi Tehsil & P.O Meeran Shah North Waziristan.
7. ✓ Najeeb Ullah S/o Konawas Khan R/o Hamzoni Ali Khel Tehsil & P.O Miranshah North Waziristan.
8. Miss Noreen Naz D/o Naimat Ullah R/o Village Hasukhel Tehsil & P.O Mirali North Waziristan.
9. ✓ Nasir ud Din S/o Awal Khan R/o Village Palangzai Bora Khel Tehsil & P.O Miranshah North Waziristan.
10. ✓ Zia ud Din S/o Rehmat Ullah R/o Village Eidak Tehsil Mirali North Waziristan.
11. ✓ Islam Ullah S/o Haji Saley R/o Village Eidak Tehsil Mir Ali North Waziristan.
12. ✓ Mujahid Shah S/o Muhammad Usman R/o Village Mubarak Shahi Tehsil Mirali North Waziristan.
13. ✓ Gul Nasib S/o Wali Subhan R/o village Eidak Tehsil Mir Ali North Waziristan.

District Health Officer
Mirali

WP/299 2019 Nisar Ahmad vs Govt full USN 91 PG

ATTESTED

EXAMINER
Peshawar High Court

Scanned with CamScanner

Miss Bushra Noreen D/o palol Khan R/o village Asad Khel
tehsil Dossali North Waziristan.

- 15. Safi Ullah Khan S/o Naqeeb Ullah Khan R/o canal Road,
Opp Al-badar Hospital University Town, Peshawar.
- 16. Barkat Ullah Khan S/o Asmat Ullah Khan R/o Gulberg No
1, Peshawar Cant Saddar.
- 17. Mehboob Alam S/o Marwat Khan R/o Fazal Haq Malwana.
Suranni Bannu.
- 18. Waseema Tahir W/o Imran Khaliq R/o Village Eidak Tehsil
Mir Ali North Waziristan.
- 19. Mst Hafsa W/o Bakhtali Khan R/o Village Hamzoni
Patikhel Tehsil Miranshah North Waziristan.
- 20. Salim Ullah S/o Abdul Quadeer R/o Village Haider Khel
Tehsil Mirsali District North Waziristan.
- 21. Muhammad Iddress S/o Muhammad Khan r/o District
Lalaki Marwat.
- 22. Rashid Ullah S/o Sher Qader R/o Village Darpa Khel Tehsil
Miranshah North Waziristan.
- 23. Ameer Ullah S/o Peer Muhammad Khan R/o District North
Waziristan

[Signature]
Petitioners

V E R S U S

- 1. Government of Khyber Pakhtunkhwa Through director
Health Services Merged areas, Khyber Pakhtunkhwa
Peshawar.
- 2. District Health Officer, District North Waziristan.
- 3. District Account officer, District North Waziristan.

..... Respondents

WRIT PETITION UNDER ARTICLE 199
OF THE CONSTITUTION OF ISLAMIC
REPUBLIC OF PAKISTAN, 1973 AS
AMENDED UP TO DATE

ATTESTED
EXAMINER
Peshawar High Court



Dist. ...
Ming ...
[Signature]

... with ...

14

PESHAWAR HIGH COURT, PESHAWAR.

ORDER SHEET

| Date of Order/ Proceedings | Order or other Proceedings with Signature of Judge. |
|-------------------------------|--|
| 03/01/2020 | <p><u>WP No. 7299-P/2019</u></p> <p><u>Present:</u> Mr. Bashir Khan Wazir, Advocate, for the petitioners.</p> <p>====</p> <p>Comments be called from respondents so as to reach this Court within fortnight.</p> <p><u>Interim Relief</u></p> <p>Notice for a short date. In the meanwhile, the respondents are directed to release salaries of the petitioners immediately, if they perform their duties.</p> <p style="text-align: right;"><u>Chief Justice</u>  Judge</p> <p>No. <u>20540</u></p> <p>Date of Presentation of Application <u>04/11/2020</u></p> <p>No of Pages <u>10-7</u></p> <p>Copying fee <u>70</u></p> <p>Total</p> <p>Date of Preparation of Copy <u>06/11/2020</u></p> <p>Date of Delivery of copy <u>06/11/2020</u></p> <p>Received By: <u>[Signature]</u></p> <p style="text-align: right;">  CERTIFIED TO BE TRUE COPY EXAMINER Peshawar High Court, Peshawar Authorized Under Article 117 of the Constitution of Pakistan 06 JAN 2020 </p> |


 Deputy Registrar
 Peshawar High Court
 Peshawar

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
BANNU BENCH.

(Judicial Department)

W.P No.1308-B of 2019.

Nisar Ahmad & others
Vs
Govt. of Khyber Pakhtunkhwa
and others

JUDGMENT

Date of hearing :- 26-02-2020

Petitioner by: Mr. Bashir Khan Wazir advocate.

Respondent by: Mr. Shahid Hameed Qureshi Addl: A.G.

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SAHIBZADA ASADULLAH, J.- Through the instant Writ
Petition filed under Article 199 of the Constitution of Islamic
Republic of Pakistan, 1973, the petitioners Nisar Ahmad and
others have invoked the Constitutional Jurisdiction of this
Court, praying that:-

*"It is therefore, most humbly prayed that
on acceptance of this Writ Petition an
appropriate Writ may please be issued
declaring that petitioners have been validly
appointed on their respective vacant posts,
the petitioners are still working against the
said posts with no complaint whatsoever,*

ATTESTED
EXCISE
Peshawar High Court
Bannu Bench

the respondents reluctant from release of the due salaries of the petitioners since April 2015 till now, the acts and conduct in respect of withholding of salaries of the petitioners, is illegal, unlawful, without lawful authority and of no legal effect, the same is liable to be struck down, the petitioners are also entitled their due and order to be released the entire outstanding salaries of the petitioners and further they may be restrained from do so in future.

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Any other relief, not specifically asked for may also graciously be extended in favour of the petitioner in the circumstances of the case.

2. Briefly stated the facts giving rise to the instant writ Petition are that the petitioners were appointed by the respondents in 2013; that later on they applied against the vacant posts and after fulfillment of codal formalities, they were appointed on their respective posts by the competent authority in the office of Agency Surgeon North Waziristan and after fulfillment of codal formalities, they were performing their duties at their respective posts without having any complaints whatsoever; that the petitioners have served the respondents department for about seven years and are still performing duties but the respondents stopped the salaries of the petitioners since 2015 without giving any

ATTESTED:
[Signature]
Baitun Noor

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cogent reasons, despite the fact that the nature of the posts of the petitioners are permanent nature; that the petitioners filed an appeal before the respondents for releasing their salaries but of no avail, hence the instant Writ Petition.

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3. In pursuance of order of this court, comments were submitted by respondents No.1,2 & 3 wherein they have categorically stated that they have no objection on release of their salaries however, the petitioners were intimated to open their Bank Accounts for release of their salaries but up-till now they had not opened the said account and as per the guidelines and directives of the Government of Khyber Pakhtunkhwa without online Banking System the salaries of the employees will not disbursed.

4. Considering the arguments and perusing the record made available, it is observed that the petitioners were appointed in Health Department after observing all codal formalities in the Office of Agency Surgeon North Waziristan in 2013 and since their appointment, they are performing duties on their respective posts efficiently and they were being paid salaries upto March, 2015, however, abruptly, the respondents, without any reason stopped the onward salaries of petitioners. It is sad to note that while the spirit of the fundamental rights was to protect the property of

ATTESTED
[Signature]
[Name]
[Title]

every citizens of Pakistan and no one could be deprived from their due rights, the incompetence and ineptness of the respondents to withhold the salaries of petitioners resulted in its failure. In addition to above, the respondents in their comments raised the objection that as per direction issued by the Government regarding online banking system, the petitioners were intimated to open their bank accounts but they had not opened the same is not a valid ground for the reason that any employee performing any kind of duty is entitled to be treated in accordance with law and equity so that he gets his remuneration for the work done. Grant of salary is not bounty of the State but one of the basic fundamental rights.

9

5. By now it has been settled that, if appointment order was made against established procedure, appointing authority would be responsible for committing irregular appointments and as the petitioners were performing their duties then their salary cannot be stopped only for the reason that they had not opened their bank account, as there exists no provision of stoppage of salary in service laws, hence, they are entitled for the same. If the employee is made to work without payment of salary it would be against the injunctions of Islam, which envisages payment of wages before sweat of toil is dried up. This act would also be

ATTESTED
 REGISTRAR
 Peshawar High Court
 Hannu Bench

violative of the principles of policy contained in Chapter 2 part-II of the constitution and also Article 3 of the Constitution, which cast duty on the state to eliminate all forms of exploitation.

6. In view of above situation, illegality, malafide of respondents/ department is palpable on the record. The pay of petitioners cannot be stopped in presence of the appointment order, charge report, performance of duties, which facts have not denied by the respondents. In similar nature case titled "Mujeebur Rehman and 24 others Vs Province of Sindh through Secretary Education, Education Department, Government of Sindh and 3 others" (2012 PLC (C.S) 708, it was held:

9

"We could not understand as to how a person in service can be stopped salary on the ground that he has been unauthorizedly appointed and he is also allowed to work. As long as a person after appointment is working in the Department, his salary cannot be stopped. Law provides procedure for removal of a civil servant which the government should follow. We in the given circumstances, direct the respondents and the Finance

ATTESTED
Peshawar High Court
Dungra Bench

department to release the salaries of the petitioners forthwith and they will continue to get their salaries as long as they are not removed from the Department in accordance with law. We may observe that such instruction of the finance department to withhold salaries of the petitioner, without their removal from service in accordance with law, is contrary to the Civil Servants law. We in future, if confronted with such an eventuality would take action against the finance department. Non-compliance of any of the directives of this Court will expose the concerned official to contempt proceedings. Compliance to be made within 15 days."

7. For the foregoing reasons and deriving guidance from the superior Courts, we accept this writ petition and declare impugned act of the respondents regarding stoppage of pay/salaries void ab initio and direct the respondents to release salary of petitioners forthwith from the date of stoppage of their pay/salaries. Besides, the petitioners are directed to open their bank Accounts forthwith.

Announced
DI.26.02.2020
Hasnain
Sd/ Justice Ms. Musarrat Hilali, J
Sd/ Mr. Justice Sahibzada Asadullah, J

CERTIFIED TO BE TRUE COPY

(D.B)
Hon'ble Mr. Justice Musarrat Hilali
Hon'ble Mr. Justice Sahibzada Asadullah

Weshawa
Authorized Signatory of
Law Commission of Sindh Ordinance 1934

16/04/2020

20

BEFORE THE PESHAWAR HIGH COURT, BANNU BENCH

C.M No. _____ of 2020

In

WP No. 1308/2019

Nisar Ahmad & othersPetitioners
VERSUS
Govt of KPK & othersRespondents

APPLICATION FOR IMPLEADMENT OF
APPLICANTS BEING IMPORTANT AND
NECESSARY PARTY IN THE NOTED
WRIT PETITION IN THE PANEL OF
PETITIONERS.

Respectfully Sheweth:

The Applicants humbly submits as under:-

1. That the above mentioned case is pending adjudication before this Hon'ble Court which is fixed for 26.02.2020.
2. That the names of the Applicants which are necessary parties and are liable to be impleaded are as under:-
 - i. Nazir Ullah S/o Nawab Khan R/o District North Waziristan
 - ii. Ahmad Ali S/o Habib Khan R/o district North Waziristan.
 - iii. Nizam ud Din Qureshi S/o Noorza Khan Qureshi R/o District North Waziristan
 - iv. Siraj ud Din Qureshi S/o Noora Khan Qureshi R/o District North Waziristan
 - v. Zakir Ullah S/o Khan Nawaz R/o District North Waziristan
 - vi. Muhammad Yaseen S/o Afsar Khan r/o District North Waziristan
 - vii. Nasir Iqbal S/o Ayub Khan R/o District North Waziristan
 - viii. Wasih ur Rehman S/o Gul Zaman R/o District North Waziristan
 - ix. Mst Safia Naz D/o Minhaj ud Din R/o District North Waziristan

frank

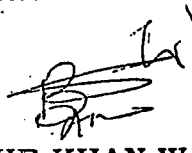
3

- 3. That the Applicants are appointing in the Respondents Department on their respective posts and are performing their duties zeal and zest. (Copies of Appointment Letters are attached as annexure A)
- 4. That it is well settled and equitable principles of law for just and proper decision of the instant case, the necessary parties who have intentionally not been made party.
- 5. That if the Application for impleadment is not allowed the Applicants would suffer extreme irreparable loss.
- 6. That there is no bar in such like application and the necessary parties may be made party as in the panel of Petitioners.
- 7. That any other ground will be raised at the time of arguments with prior permission of this Hon'ble Court.

It is, therefore, most respectfully prayed that on acceptance of this application, the above noted parties may kindly be impleaded as important and necessary party in the panel of Petitioner for just and proper decision of the present cases.

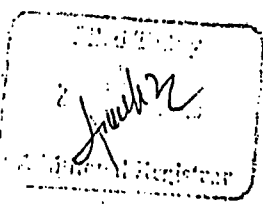
Petitioners

Through



BASHIR KHAN WAZIR
 Advocate, High Court
 Peshawar

Date: 18.02.2020



OFFICE ORDER

In compliance of Honorable Peshawar High Court Bannu Bench Judgment No. WP No.1308-B of 2019, and endorsement by the Director Health Services Merged Areas, Peshawar letter No. 8405/DHS-MAs/Lit dated 20-04-2020. The salaries of following staff are hereby released from the date of stoppage of their salaries in the best interest of Justice.

| S# | Name | Designation with BPS |
|----|----------------------|------------------------------|
| 1 | Mr. Najeebullah | Junior EPI Technician BPS-12 |
| 2 | Mr. Nasirud Din | Junior EPI Technician BPS-12 |
| 3 | Mr. Saif U Din | Junior EPI Technician BPS-12 |
| 4 | Mr. Nisar Ahmad | JCT (Pharmacy) BPS-12 |
| 5 | Mr. Zia Ud Din | Laboratory Assistant BPS-12 |
| 6 | Mr. Islamullah | Junior EPI Technician BPS-12 |
| 7 | Mr. Mujahid Shah | JCT (Pharmacy) BPS-12 |
| 8 | Mr. Noor Shahid Din | Junior EPI Technician BPS-12 |
| 9 | Mr. Gul Nasib | Junior EPI Technician BPS-12 |
| 10 | Mr. Salimullah | JCT (Pharmacy) BPS-12 |
| 11 | Mr. Muhammad Firdoos | JCT (Pharmacy) BPS-12 |
| 12 | Miss. Nooreen Naz | LHV |
| 13 | Mst. Bushra Nooreen | LHV |
| 14 | Mr. Salimullah | JCT (Pharmacy) BPS-12 |
| 15 | Mst. Khalida Zia | LHV |
| 16 | Mst. Wasima Tahir | LHV |
| 17 | Mst. Hafsa | LHV |
| 18 | Mr. Rashidullah | JCT (Pharmacy) BPS-12 |
| 19 | Ameerullah | JCT (Pharmacy) BPS-12 |
| 20 | Muhammad Idress | JCT (Pharmacy) BPS-12 |
| 21 | Nazirullah | Malaria Supervisor |
| 22 | Saliullah Khan | JCT (Pharmacy) BPS |
| 23 | Barkatullah Khan | JCT (Pharmacy) BPS |
| 24 | Mehboob Alam | JCT (Pharmacy) BPS |

NB: Necessary entry may be made in their service book for record.

Sd/xxx
District Health Officer

North Waziristan Tribal District

No. 2306-9 / Adjustment/release Dated Miranshah the 5/5 2020.

Copy forwarded for information and further necessary action to the:

1. District Account Officer NWD with the request to release the salaries of the above officials from the date of stoppage of their salaries in the best interest of Justice.
2. Director General Health Services KPK.
3. Director Health Services Merged Areas Peshawar w/r caption letter above please.
4. Register Peshawar High Court Bannu Bench for information please.

District Health Officer
North Waziristan Tribal District

E
29

To

Director General Health Services Khyber Pakhtunkhwa Peshawar

Subject: DEPARTMENTAL APPEAL UNDER SECTION 22 OF THE CIVIL SERVANT ACT AGAINST THE LETTER OF DISTRICT HEALTH OFFICER NORTH WAZIRISTAN TRIBAL DISTRICT TO DIRECTOR GENERAL HEALTH SERVICES DATED 06/08/2021 ON THE BASIS OF WHICH THE SALARIES OF THE APPELLANT HAS BEEN STOPPED/WITHHELD ILLEGALLY SINCE 1ST JUNE 2021.

RESPECTED SIR,

The Appellant submit as under:-

With due respect it is stated that, I am performing my duties as Jct. Pharm BPS-12 under the district health officer (DHO) District North Waziristan I was appointed after fulfillment of all coddle formalities, since my appointment performing my duties with full devotion and great zeal and zest.

That I and along with other employees have been appointed in the light of proper advertisement and after assumption of charge on the subject posts my along with other employees' salaries were stopped by the District Account Officer North Waziristan, due to the active involvement of Minister for relief Mr. Muhammad Iqbal Wazir, who belongs to the same area, thereafter, we approached to the Peshawar High Court Bannu Bench in writ Petition and challenged the illegal acts of the concerned, which was accepted and the concerned quarters have been directed to release salaries of the appellant along with other colleagues.

Now once again on the request and active connivance of the Minister Mr. Muhammad Iqbal Wazir constitute an enquiry without associated to the appellant the office order issued by the secretary Health mentioned in the heading of appeal has been endorsed by the DG health and on the basis of which the salaries of the appellant along with other more than 400 employees have been stopped since 1st June 2021 illegally without any justifications, just to cover up the request and illegal letter issued by the Minister concerned, therefore, the appellant aggrieved from the illegal stoppage of salaries and letter of the secretary and DG Health and the Same has been done on the directions of political figures, therefore, the impugned order dated 22/04/2021 endorsed by the DG health on the dated 06/05/2021 and the same order implemented by DHO North Waziristan dated 06/08/2021, on the basis of which the salary of the appellant has been stopped by the DHO North Waziristan since 1st June 2021 being illegal, unlawful, without lawful authority and liable to be set aside.

It is, therefore, most humbly prayed that on the acceptance of this appeal basic office order dated 22/04/2021 and consequently the order dated 06/05/2021 and letter to DG health by DHO North Waziristan dated 06/08/2021 and stoppage of salaries since 1st June 2021 may very kindly be cancelled and the current as well as outstanding salaries of the appellant may kindly be released.

I shall be very thankful to you.

Dated:- 10/8 /2021

Appellant

Name: Salimullah

Father Name: _____

Designation along with post: Jct. Pharm

Contact: 0334-5452109

24A

OFFICE OF THE DISTRICT HEALTH OFFICER
TRIBAL DISTRICT AT MIRANSHAH

Tel: (0928) 300788 FAX: (0928) 311662

Email: agency_surgeon_nwa2018@gmail.com

No. 13024 /DHO NWTD

Dated

06 / 08 / 2021

To


The Director General Health Services
KP, Peshawar

Subject:

REQUEST FOR INQUIRY AGAINST DHO NORTH WAZIRISTAN.

R/Sir,

In compliance to your office endorsement No.7047-50/E.I dated 06/05/2021 in response to Secretary Health Office Letter No. SOH (E-V) 4/20201/Inquiry Report dated Peshawar the April 22nd, 2021, the undersigned is pleased to cancel/withdraw all the irregular adjustment/regularization and appointment of the employees during the tenure of Dr. Hamid Ullah and Dr. Iqbal Ul Haq EX-DHO North Waziristan as indicated in the inquiry report with immediate effect.


District Health Officer
Tribal District Miranshah
Dated the: 06/08/2021

No. _____ /DHO NWTD

Copy forwarded to the:

1. Deputy Commissioner Tribal District Miranshah.
2. PA to Secretary Health KP, Peshawar.
3. HQ-7 Dive Camp Area Miranshah.
4. All Officials Concerned.

~~District Health Officer
Tribal District Miranshah~~

24A

| | | | | | |
|--|--|---|---|--|-------------------|
| Acct / Coupon | | Consignment Note No. | | Sales Tax Invoice | |
| | | 470 9758894 | | Org. | Dest. |
| Call: 111-123 456 GST NO. 12-00-9808-002-73 | Mode of Payment | | Insured | | Dimension |
| | <input checked="" type="checkbox"/> Coupon <input type="checkbox"/> FOC <input type="checkbox"/> COD <input type="checkbox"/> Account <input type="checkbox"/> Cash | | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | | L(cm) W(cm) H(cm) |
| From (Shipper) | | To (Consignee) | | Weight | |
| V.H. O. Union | | Salem Union | | 0.5 1 | |
| Office | | J.C. Pharmacy | | | |
| Phone | | Phone | | Service Type | |
| | | 65215905 | | <input type="checkbox"/> Overnight <input type="checkbox"/> Holiday <input type="checkbox"/> Extra Sp. <input checked="" type="checkbox"/> Same Day <input checked="" type="checkbox"/> Second Day | |
| Shipper's Signature | | E-mail | | Service Charges | |
| [Signature] | | P.C. Health | | Weight Handling Other GST | |
| I warrant that I have read the terms and conditions on the reverse of this consignment note and that all details given herein are true and correct. I further declare that the contents of this consignment do not contain any lethal, the execution of this consignment note is proof of the evidence of the conclusion of contract between shippers & TCS (PVT) LTD. | | DESCRIPTION | | PICKUP INFORMATION | |
| Shipper's Copy AS PER P.A. ACT 1988, TCS WILL NOT CARRY LETTERPOST CARDS. | | Description Courier Code Date Time | | Insured Premium TOTAL | |
| | | 10/1/11 | | 350 | |

28

بعدالت سرور سنٹر لائبریری

BC 09-2053
MOB 0333-9732415

الحق سبحان
مسلم اللہ بنام مخلوقات

موزخہ
مقدمہ
دعوی
جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ
آن مقام لندن کیلئے لندن 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 ثالثہ فیصلہ برحلف دینے جواب دہی اور اقبال دعویٰ اور
لے صورت ڈگری کرنے اجراء اور صولی چیک درو پیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
ذرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از لے صورت ضرورت مقدمہ مذکور
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لیا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ
پر واضحہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ درجہ جانا التزامے مقدمہ کے سبب سے وہ ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سنڈر ہے۔

Accepted by

10
11
20

داد العبد

کے لئے منظور ہے۔

مسلم اللہ

بمقام

"B"

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

No.

Appeal No.....7803 to 7812..... of 20²¹.

Regd

.....Saleemullah.....Appellant/Petitioner

Versus

.....Distt: Health k p k.....Respondent

Respondent No.....2.....

Notice to:

- Distt: Health officers, Distt: North
 Waziristan.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa 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.....9/6/2022.....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.....12.15.....

Day of.....May.....20²²

(For Reply)



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.

8.3

No.

Appeal No. 7803 to 7812 of 20 21

Saleem Ullah & (9) Others Appellant/Petitioner

Versus

D.G. Health Pesh. Respondent

Respondent No. 1

Notice to:

Director General Health Services, KPK
Peshawar.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa 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 9/6/2022 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 12th

Day of May 20 22

(For Reply)

[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, S.B
PESHAWAR.

No.

7803 to 7812 21
Appeal No. of 20
Saleemullah & Others Appellant/Petitioner

D.G. Health K.P. Pesh. Versus Respondent

Secretary Health, Govt, of KPK Respondent No. 3

Notice to: —

Peshawar.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa 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 11/05/22 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..... 12th

Day of..... 20 22

(For Reply)

18/5/22

[Signature]

Registrar, CU

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.

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 7803 /2021

Saleem Ullah, JCT Pharmacy (BPS-12), North Waziristan.....(Appellant)

Versus

Through Secretary Health & others.....Respondents

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| 4 | Authority letter. | | 6 |

Respondent No. 2.

DHO North Waziristan

(1)

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 7803 /2021

Saleem Ullah, JCT Pharmacy (BPS-12), North Waziristan.....(Appellant)

Versus

Through Secretary Health & others.....Respondents

Joint Para-wise comments on behalf of respondents No. 1, 2

Preliminary objections.

1. That the appellant has got neither cause of action nor did locus standi to file the instant appeal, as he has filed no departmental Appeal.
2. That the appellant has filed the instant appeal just to pressurize the respondents.
3. That the instant appeal is against the prevailing Law and Rules.
4. That the appeal is not maintainable in its present form and also in the present circumstances of the issue.
5. That the appellant has filed the instant appeal with mala-fide intention, hence liable to be dismissed.
6. That the appellant has not come to the Honorable Tribunal with clean hands.
7. That the Honorable Tribunal has no jurisdiction to adjudicate upon the matter.
8. That the instant appeal is bad for mis-joinder of unnecessary and non-joinder of necessary parties.
9. That the appeal is badly barred by law and limitation.
10. That the appellant is not "AGGRIEVED" person within the meaning of Article 199 of the Constitution of Pakistan by producing fake, bogus and fabricated appointment order.

ON FACTS:

1. Pertains to record and Para No.1 needs no comments.
2. Incorrect. The appellant has never appeared for test/interview and never selected on any post under the control of answering respondents. The

appointment order already annexed with the appeal as annexure-A is totally bogus and fabricated. The same has been issued in 2013, while no advertisement or recruitment was made in 2013 by Agency Surgeon / DHO North Waziristan.

- 3. Incorrect. The appellant was neither selected nor has given arrival report in 2013. Moreover, the Medical Fitness Certificate attached with the appeal as annexure-B is issued by the Incompetent Authority. The claim of the appellant regarding receiving of salaries is also baseless. No salary to the appellant was paid during the period from 2013 to 2019.
- 4. Incorrect & baseless. Name of the appellant was not found in the manual monthly pay bills of 2013 to 2019. Moreover, payroll of the DAO (District Accounts Office) North Waziristan was computerized in 2015. The appellant should produce documentary proof to the effect that he was regularly paid from 2013 to 2019.
- 5. Misleading. Salary of the appellant was not started in 2013, so the question of stoppage does not arise. When the appellant was not employee of the Department, how can he send an appeal? Moreover, it is very strange that salary of the appellant was stopped w.e.f. 2013, but he approached the Honorable Court in 2019. Furthermore, if relief was given by Peshawar High Court, Peshawar, then why the appellant has filed this appeal, instead of going for a COC in Peshawar High Court, Peshawar.
- 6. Incorrect. Appointment order of the appellant along with his other colleagues has been cancelled / withdrawn by the answering respondent No. 2 in the light of inquiry report of Provincial Inspection Team Khyber Pakhtunkhwa vide Notification No. SOH(E-V)4-4/2021/Inquiry Report dated 22/04/2021 (**Annex-A**). The letter for release of salary annexed as Annexure-D with the appeal has been issued with malafide intension by the then DHO just to extend legal favor to the appellant and other illegal appointees.
- 7. Illegal appointment orders of the appellant and others were cancelled in the light of Notification at Annex-A and their salaries were stopped.
- 8. No Departmental Appeal received from the appellant so far.
- 9. Needs no reply.

ON GROUNDS:

- A. That Ground A needs no comments.
- B. Incorrect. That after conducting proper inquiry and probed the illegalities in the recruitment, all the appointment letters have been cancelled in accordance with law.
- C. Incorrect. Proper inquiry was conducted by Provincial Inspection Team Khyber Pakhtunkhwa and appointment order of the Appellant was declared illegal and thereafter cancelled.
- D. Incorrect, misleading as already explained in preceding Paras.
- E. Incorrect:- Neither fundamental rights of the Appellant have been violated nor treated him in discriminatory manner, because all cancellation orders

/ letters have been issued on recommendation of Provincial Inspection Team Khyber Pakhtunkhwa.

- F. Incorrect:- The answering Respondents being the competent authorities have the power to issue orders at any stage on the recommendation of inquiry committee according to law.
- G. The answering respondents also seek prior permission of this Honorable Tribunal to adduce additional grounds at the time of arguments.

PRAYER:

It is therefore humbly prayed that on acceptance of the comments, the instant appeal of the appellant may very graciously be dismissed with costs.

Shahen Afridi
 Director General Health Services
 Khyber Pakhtunkhwa Peshawar.
 Respondent No. 01

[Signature]
 District Health Officer
 North Waziristan, Miranshah.
 Respondent No. 02



ANNEXED

P=9

(14)



MINISTRY OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

NO SOH(E-V)-4/2021 Inquiry Report
Dated Peshawar the April 22nd, 2021

To: The Director General Health Services,
Khyber Pakhtunkhwa,
Peshawar

4136
277414

Subject: **REQUEST FOR INQUIRY AGAINST DHO NORTH WAZIRISTAN**

Dear Sir,
I am directed to refer to the subject noted above and state that the Establishment & Admin Department (Regulation Wing) has submitted Inquiry Report of Khyber Pakhtunkhwa Provincial Inspection Team regarding illegal appointment/regularization made by Dr. Hameedullah, Ex-DHO North Waziristan. The following recommendations may be implemented:-

1. Cancel/ withdraw all the irregular adjustments/ regularizations and appointment of the employees during the tenure of Dr. Hameedullah and Dr. Israr ul Haq, Ex-DHO, North Waziristan as indicated in the inquiry report.
2. The credentials/ antecedents of all the employees working under the administrative control of DHO, North Waziristan may be verified from the concerned Boards/ Universities/ Faculties under the prevailing rules.
3. The clerical staff working in the office of DHO, North Waziristan were found involved in concealment of the office record for their vested interest, therefore, they may be transferred out of District of North Waziristan and must never be posted in North Waziristan in future.

I am, further directed to state that the above mentioned recommendations may be implemented under intimation to this Department, please.

Yours faithfully,

(Latif Ur Rehman)
SECTION OFFICER (E-V)

E.I
of

IMPORTANT/URGENT

OFFICE OF THE DIRECTORATE GENERAL HEALTH KPK PESHAWAR

No. 7047-50/E.I

Dated: 26/05/2021

Copy of the above is forwarded to the:-

1. Deputy Director Paramedics DGHS Office Khyber Pakhtunkhwa, Peshawar.
2. AD/In-charge (Personnel Section) DGHS KP, Office.
3. The District Health officer North Waziristan Merged District at Miranshah.

For information and immediate necessary action.

ADDL: DIRECTOR GENERAL (HRM) HEALTH SERVICES KHYBER PAKHTUNKHWA PESHAWAR

Attested

cc:- Secretary to Govt: of Khyber Pakhtunkhwa Health Department for inform

[Handwritten signature]

Attested

District Health Officer
Tribal District North Waziristan
Miranshah

District Health Officer,
Tribal District North Waziristan
Miranshah

(5) (16)

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

Service Appeal No. 7803 /2021

Saleem Ullah JCT Pharmacy (BPS-12), North Waziristan.....(Appellant)

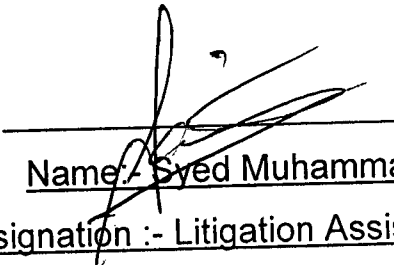
Versus

Government of Khyber Pakhtunkhwa through Secretary to Govt: of KP Health
Department Peshawar and Others.....(Respondents)

AFFIDAVIT.

I Mr.Syed Muhammad Litigation Assistant do affirm &
declare on oath on behalf of the respondents that the contents of the Para wise
comments are true and correct to the best of my knowledge and belief and nothing
has been kept secret from this honourable Court.

Deponent


Name:- Syed Muhammad.
Designation :- Litigation Assistant.
CNIC #. 21506-4089120-5
Mob:0333-1901113

Attested


Oath Commissioner
Advocate High Court



28/7/21

6

**OFFICE OF THE DISTRICT HEALTH OFFICER
NORTH WAZIRISTAN TRIBAL DISTRICT MIRANSHAH.**

Tel: (0928) 300788 FAX: (0928) 311662

Email: agency Surgeon nwt2019@gmail.com

No. _____

/Litigation/Court Case, Dated Miranshah the 05/08/2022.

AUTHORITY LETTER.

Mr. Syed Muhammad Litigation Assistant attached to this office is hereby fully authorized to attend the Khyber Pakhtunkhwa Service Tribunal Peshawar on behalf of the undersigned as representative of Health Department North Waziristan Tribal District in Service Appeal No. 7803 /2021.

N.B:- TA/DA will be paid by this office as per Government rules.

**SD/x x x
District Health Officer,
North Waziristan Tribal District.**

No. 7201-2 /Litigation/Court Case,
Copy forwarded to:-

1. The Additional Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar.
2. Mr. Syed Muhammad Litigation Assistant of this office.

**District Health Officer,
North Waziristan Tribal District.**

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 7803 /2021

Saleem Ullah JCT Pharmacy (BPS-12), North Waziristan.....(Appellant)

Versus

Government of Khyber Pakhtunkhwa through Secretary to Govt: of KP Health Department Peshawar and Others.....(Respondents)

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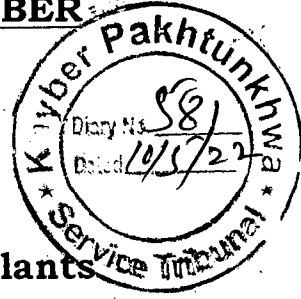
Respondent No. 3.

DHO North Waziristan

*Vetted in the light of S.A.No.7811/2021 do follow
the same instructions being identical matter.*

Den

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



Service Appeal No 7803/2021

Saleem Ullah & others.....Appellants

V E R S U S

DG Health Services & others Respondents

**APPLICATION FOR ALLOWING THE
APPELLANT TO SUBMIT PROCESS SECURITY
FEE IN THE ABOVE TITLED SERVICE
APPEALS**

Respectfully Sheweth:

- Put up to the worthy chairman with relevant appeal.*
- 10/5/22*
1. That the above titled Service Appeal along with other connected Appeal were filed before this Hon'ble Court, which is fixed for hearing 07.06.2022.
 2. That at the time of filing of Appeals the Appellants were not submitted Process Security Fee, hence the instant Application is being filed for allowing the Appellants to submit Process Security Fee in the above titled Service Appeals.

It is, therefore, most humbly prayed that on acceptance of this Application, the Appellants may kindly be allowed to submit process security fee in the above titled Service Appeal.

Dated: 10.05.2022

Through

Appellants

BASHIR KHAN WAZIR
Advocate, Peshawar