


17.11.2022

Nemo for the appellant. Security and process have also not been deposited by the appellant.

Previous date was changed on Reader Note, therefore, notices be issued to appellant through registered post to deposit security fee within seven days. Out district respondents be summoned through TCS, the expenses of which also be deposited by the appellant within seven days. After submission of requisite security fee as well as expenses of TCS by the appellant, notices be issued to the respondents for submission of written reply/comments on 16.12.2022 before the S.B at Camp Court Abbottabad.


(Salah-Ud-Din)
Member (J)
Camp Court Abbottabad

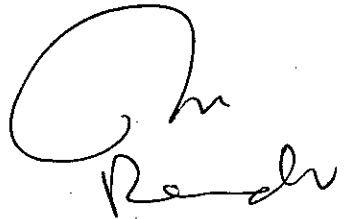
19.01.2022

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

Points raised need consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of reply/comments. To come up for reply/comments on 20.04.2022 before S.B at Camp Court, Abbottabad.


(Rozina Rehman)
Member (J)
Camp Court, A/Abad

Due to non availability of DB
to come up for the same is before
on 17-11-2022.


Rozina

22.05.2021

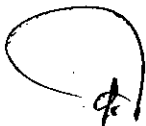
Due to cancellation of tour, Bench is not available. Therefore, case is adjourned to 28.09.2021 for the same as before.


Reader

28.09.2021

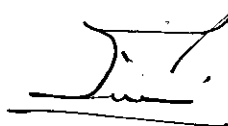
Nemo for appellant.

Preceding date was adjourned on a Reader's note, therefore, appellant/counsel be put on notice for 21 / 12 / 2021 for preliminary hearing, before S.B at Camp Court, Abbottabad.


(Rozina Rehman)
Member (J)
Camp Court, A/Abad

21.12.2021

Clerk of learned counsel for the appellant present and stated that learned counsel for the appellant is unable to attend the Tribunal today due to strike of Lawyers. Adjourned. To come up for preliminary hearing on 19.01.2022 before the S.B. at Camp Court Abbottabad.


(Salah-Ud-Din)
Member (J)
Camp Court Abbottabad



Form- A

FORM OF ORDER SHEET

Court of _____

Case No.-

16443 /2020

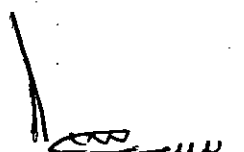
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	31/12/2020	<p>The appeal of Mr. Amjid Ali Khan resubmitted today by Mr. Waqar Orakzai Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR,</p> <p>This case is entrusted to touring S. Bench at A.Abad for preliminary hearing to be put up there on <u>20-05-2021</u></p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Dr. Amjad Ali Khan r/o Band Phugwarian Tehsil and District A.Abad received today i.e. on 14.12.2020 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- ① Copy of appointment order mentioned in para-2 of the memo of appeal is not attached with the appeal which may be placed on it.
- 2- Copy of charge assumption report mentioned in par-7 of the memo of appeal is not attached with the appeal which may be placed on it.
- 3- Copy of impugned order and departmental appeal against it are not attached with the appeal which may be placed on it.
- 4- Annexures of the appeal may be page marked according to the index of the appeal
- 5- Appeal has not been marked with annexures mark.
- 6- Copy of order dated 28.8.2018 of the appeal is illegible which may be replaced by legible/better one.
- ⑦ Seven more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

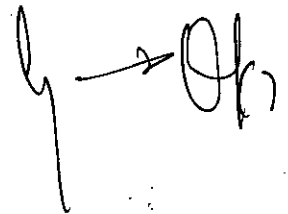
No. 4050 /S.T,

Dt. 15/12 /2020


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Waqar Orakzai Adv.
High Court Abbottabad.

All the objections have been cleared.

by → 

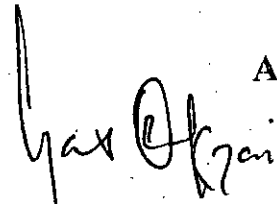
Service Appeal

16443/20

Index

S.no	Description	Page#	Annexure
1.	Service Appeal on behalf of Appellant along with Affidavit & Certificate		
2.	Copy of Notification dated 24-07-2020		A
3.	Copy of SMB Letter		B
4.	Copy of Letter No 2759-62/E-1		C
5.	Copy of the Charge Assumption report Vide Letter No. 5073-76/Estb		D
6.	Copy of Notifications Ex post Sanction of regularization		E-1,E-2,E-3
7.	Copy of Letter is attached as Annexure F		F
8.	Copy of Departmental Appeal		G
7.	Wakalatnama		

Through



Appellant

Dated: _____/2020

Waqar Orakzai
Advocate High Court, Abbottabad

1
BEFORE THE CHAIRMAN KPK SERVICE TRIBUNAL
PESHAWAR

Service Appeal No _____/2020

Dr Amjad Ali Khan R/O Banda Phugwarian Tehsil & District Abbottabad.

...Appellant

Versus

1. Govt of KPK, through Secretary Health Services Peshawar.
2. Director General Health Services KPK Peshawar.
3. Medical Superintendent DHQ Hospital Abbottabad.
4. Accountant General, Khyber Pakhtunkhwa.
5. District Accounts Officer, Abbottabad.

...Respondents

**SERVICE APPEAL UNDER SECTION 4 OF KPK
SERVICE TRIBUNAL ACT, 1974 FOR DECLARATION
TO THE EFFECT THAT THE APPELLANT HAS BEEN
RETIRED FROM SERVICE ON 28-08-2018 VIDE
RETIREMENT NOTIFICATION NO. SOH(E-V)1-
116/2008 THAT DURING THE SERVICE THE
APPELLANT APPLIED FOR MEDICAL LEAVE WITH
EFFECT FROM 04-04-2007 TO 04-10-2007 WHICH WAS
DULY SANCTIONED VIDE ORDER DATED 18-08-2014
.SUBSEQUENTLY, AFTER AVAILING MEDICAL**

LEAVE ARRIVAL OF THE APPELLANT WAS NOT ACCEPTED AS THE LEAVE WAS NOT SANCTIONED AND THE APPELLANT WAS NOT PAID SALARY FROM 04-10-2007 TO 31-12-2009 EVEN THOUGH THE APPELLANT RESUMED HIS DUTIES AT DHQ HOSPITAL ABBOTTABAD AS SENIOR MEDICAL OFFICER, ENT.

THEREAFTER, THE INTERVENING PERIOD FROM 18-05-2014 TO 13-09-2014 WAS NOT REGULARIZED. THAT THE SALARY OF THE APPELLANT FOR THE ABOVE MENTIONED PERIOD IS NOT PAID TO HIM BY THE RESPONDENT DEPARTMENT. THAT THE APPELLANT WAS FORCEFULLY RETIRED ON 28-08-2018 ALTHOUGH HIS PERIOD OF SUPERANNUATION IS 10-02-2022. WHICH IS DISCRIMINATORY, PERVERSE AND AGAINST THE SETTLED PRINCIPLE OF LAW AND JUSTICE. THAT THE APPELLANT IS ENTITLED FOR PAYMENT OF SALARY FOR THE PERIOD 04-04-2007 TO 31-12-2009.

PRAYER:-

ON ACCEPTANCE OF INSTANT SERVICE APPEAL OF THE APPELLANT, THE RESPONDENTS' DEPARTMENT MAY GRACIOUSLY BE DIRECTED TO

:-

- 10
- i. **REMIT SALARY OF SANCTIONED LEAVE PERIOD WITH EFFECT FROM 04-04-2007 TO 04-10-2007 AND 04-10-2007 TO 31-12-2009.**
 - ii. **REGULARIZE THE PERIOD WITH EFFECT FROM 18-05-2014 TO 13-09-2014.**
 - iii. **COUNT PAY AND PERIOD OF THE SAID LEAVE TOWARDS CALCULATION OF PENSION/COMMUTATION OF THE APPELLANT.**
 - iv. **ISSUE REVISED RETIREMENT ORDER OF THE APPELLANT. AND ALL THE BENEFITS INCIDENTAL THERETO I.E IN TERMS OF PAY AND PROMOTION ETC MAY ALSO BE GRANTED TO THE APPELLANT. ANY OTHER RELIEF WHICH THIS HONOURABLE COURT DEEM APPROPRIATE MAY ALSO BE GRANTED TO THE APPELLANT**
-

Respectfully Sheweth !!

That the facts forming the background of the instant service appeal are appended below.

1. That, the appellant was serving as Senior Medical Officer in DHQ Hospital Abbottabad, and has rendered 31 years of service in the respondent department.

2. That, the appellant was performing his duties with due diligence to the entire satisfaction of the patients as well as the administration of the respondent's department since 31-12-1987. That the petitioner was transferred and posted as ENT specialist at DHQH, Abbottabad vide Notification Dated 24th July 2006. **Copy of Notification is attached as Annexure A.**

3. That the appellant applied for premature retirement in the year 2007 on Medical grounds but the Standing Medical Board at Peshawar, recommended the Appellant six months leave for his treatment. That after the expiry of the said period, reassessment of the appellant was never done by the medical board constituted by the respondent Department. **Copy of SMB Peshawar is attached as Annexure B .**

4. That the appellant after elapsing the leave period resumed his duties in DHQ Hospital Abbottabad. However, the arrival of the appellant was not accepted on the ground of non-availability of leave sanction order. That after resumption of charge the appellant approached the District Accounts Officer Abbottabad for release of his salary w-e-f 04-04-2007 TO 04-10-2007 AND 04-10-2007 TO 31-12-2009, but he was verbally informed by the DAO, that his salary could not be released, unless the medical leave of the Appellant as recommended by the SMB is duly sanctioned by the competent authority.

5. That the Appellant submitted an application before Respondent No 2, to release his Salary w-e-f 04-04-2007 to 04-10-2007 and 04-10-2007 TO 31-12-2009.
6. That following this Respondent No1 ordered for inquiry vide letter No.2759-62/E-1 Dated 24-01-2012, Copy Letter No.2759-62/E-1 Dated 24-01-2012 is **attached as Annexure C**. That in pursuance of the said letter inquiry was conducted but no inquiry report was handed over to the appellant.
7. That the Appellant also served between period w-e-f 18-05-2014 to 15-12-2014 in the respondents' department and they were supposed to give him the salary of the said period which they are denying, even though the Appellant performed his duties during the same period as an SMO at DHQ Hospital. **Copy of the Charge Assumption report Vide Letter No. 5073-76/Estb: Dated 24/12/2014 is attached as Annexure D.**
8. That the respondent No .2 vide notification No.SOH (E-V)1-116/2007 Dated 18-09-2014, Notification No. SOH (E-V01-116/2007 Dated 18-09-2014, was accorded ex-post sanction of regularization of pay with effect from 4-4-2007to 04-10-2007 and 4-10-2007 to 31-12-2009 . **Copy of Notifications is attached as Annexure E-1, E-2.** That, ex-post sanction of extra ordinary leave (without) pay was also accorded to the Appellant vide notification No.SOH(E-V)1-116/2007 Dated 18-09-2014. **Copy of notification is attached as Annexure E-3.**

9. That the appellant served the department with zeal and zest and to the best of his abilities. That the Respondent vide letter No.SOH[E-V]1-116/2008 dated 28-08-2018 sanctioned encashment in lieu of 365 days of LPR and was retired from service under section 13 of the Khyber Pakhtunkhuwa Civil Servants Act 1973 with effect from 02-08-2018. Although, the date of superannuation of the appellant was 10-02-2022.

10. That the appellant started shuttling in the offices for rectification of anomalies. Besides, applications of the appellant were not entertained and especially respondent no 3 paid no heed and payment of salary to the appellant for the period of sanctioned leave is still held up.

11. That feeling aggrieved, the appellant submitted an application for release of his salary **Copy of Letter is attached as Annexure F** and subsequently, filed departmental appeal to respondent no 2 on 21-09-2020 which is yet to be replied by respondent no.2. Therefore, the instant service appeal is filed inter alia on the following grounds. **Copy of Departmental Appeal is attached as Annexure G.**

Grounds:

- a) That although leave cannot be claimed as a matter of right but when a period of leave is duly by the competent authority and payment of salary becomes fundamental right of an employee.

- +
- b) That the appellant applied for grant of leave for the period of 04-04-2007 to 04-10-2007 on medical grounds. That the standing Medical Board recommended six months leave for treatment of the Appellant. Hence, the department is bound to make payment on account of leave period of six months
- c) That the Appellant after the expiry of leave period took charge and thereafter, served as Senior Medical officer at DHQ hospital Abbottabad.
- d) That salary of sanctioned leave is to be paid to the appellant as per laws. The Appellant is eligible/ entitled for leave salary with effect from 04-04-2007 to 04-10-2007 and 04-10-2007 to 31-12-2009. It is further submitted that leave salary is sanctioned by the competent authority out of leave credit account. Hence, leave period is to be debited from leave account of the appellant. Therefore, the payment of salary against the sanctioned leave is not a state bounty but it is the right accrued to the appellant as per provision of service law.
- e) That when law prescribes something which is to be done in a particular manner that must be done in that manner and not otherwise. Therefore, as per service law, salary of the Appellant cannot be withheld once it is sanctioned. That stoppage non-

payment of the salary to Appellant amounts to breach of his fundamental right.

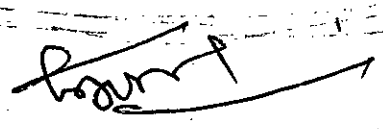
- f) That the respondents' department has led the appellant to the place which is utterly unknown to the principle of jurisprudence, natural justice, good governance and fair-play.
- g) That the matter relates to the terms and conditions of service, therefore as per Article 212 of the Constitution of Islamic Republic of Pakistan 1973, this Honourable Tribunal has got Jurisdiction to entertain the instant service appeal.
- h) That there is no other prompt and efficacious remedy available other than the jurisdiction of this honourable tribunal.
- i) That other legal and factual points shall be urged at the time of argument with the permission of the court

PRAYER:-

On acceptance of instant service appeal of the appellant, the respondents' department may graciously be directed to:-

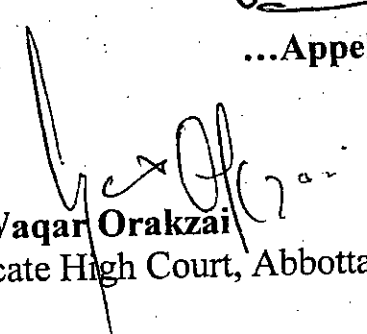
- i. Remit salary of sanctioned leave period with effect from 04-04-2007 to 04-10-2007 and 04-10-2007 to 31-12-2009.
- ii. Regularize the period with effect from 18-05-2014 to 13-09-2014.

- iii. Count pay and period of the said leave towards calculation of pension/commutation of the appellant.
- iv. Issue revised retirement order of the appellant. And all the benefits incidental thereto i.e in terms of pay and promotion etc may also be granted to the appellant. Any other relief which this Honourable court deem appropriate may also be granted to the appellant.



...Appellant

Through

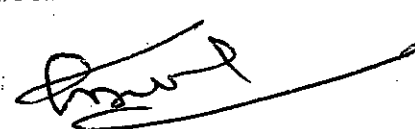


Waqar Orakzai
Advocate High Court, Abbottabad

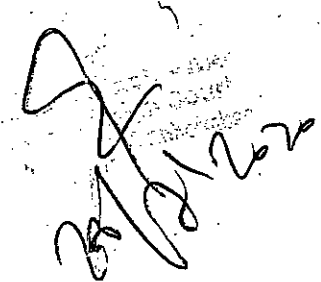
Dated: ____/2020

VERIFICATION :-

Verified on oath that the contents of foregoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this honourable Court.



Appellant



THE CHAIRMAN SERVICE TRIBUNAL, KHYBER

PAKHTUNKHUWA, PESHWAR

Service Appeal. No. _____/2020

Dr Amjad Ali Khan R/O Banda Phugwarian Tehsil & District Abbottabad.

...APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhuwa, Through Secretary Health Services Department,
Peshawar and others.

...RESPONDENT

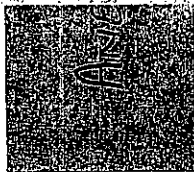
SERVICE APPEAL

AFFIDAVIT

I, Dr Amjad Ali Khan R/O Banda Phugwarian Tehsil & District Abbottabad
, do hereby solemnly affirm and declare that the contents of foregoing appeal are
true and correct to the best of my knowledge and belief and nothing has been
concealed therein from this Honourable Court.

[Signature]
Advocate
28/7/2020

[Signature]
DEPONENT



P-11

Annex - A

GOVERNMENT OF NWFP
HEALTH DEPARTMENT

Dated Pesh: the 24th July 2006.

NOTIFICATION

No. SOH-1/3-2/06 Dr. Amjad Ali Khan, SMO BS-18 (Qualified ENT Specialist), Ayub Teaching Hospital, Abbottabad is hereby transferred and posted as ENT Specialist at DHQH, Abbottabad against the vacant post in his own pay scale with immediate effect in the public interest.

SECRETARY HEALTH

Endst No and date even
C.C

1. Director General Health Services, NWFP, Peshawar.
2. Chief Executive, Ayub Medical Institutions, Abbottabad.
3. Medical Supdt, DHQH, Abbottabad.
4. Distt Account Officer, Abbottabad.
5. Section Officer-II, Health Department, NWFP.
6. P.S to Minister Health, NWFP.
7. P.S to Secretary Health, NWFP.
8. Personal file of the doctor concerned.

Rashid Khan Paidakhed
(RASHID KHAN PAINDAKHED)
SECTION OFFICER-I

M.S. Chief Executive Office
By No. 6363 Date 27-7-06
Distribution

30/7/06 CE

287
25
26/7/06

Zia
Pl inform the
Chief Engineer
A. Concerned
27/7/06

WAQAR ORAKZAI
Advocate
Distt Courts Abbottabad

R 12

**OFFICE OF THE CHAIRMAN, STANDING MEDICAL BOARD/MEDICAL SUPERINTENDENT
POLICE/SERVICES HOSPITAL, PESHAWAR**

The Standing Medical Board comprising the following members assembled in the office of the Medical Superintendent Police/Services, Hospital, Peshawar to examine, Dr. Anjad Ali Khan ENT Specialist(SMO) DHQ Hospital Abbottabad.

In view of opinion ~~received~~ from ENT Specialist/ Pulmonologist. The Standing Medical Board recommends Six months leave for treatment and to be re-assessed by a Medical Board constituted by competent authority for that purpose.

STATION PESHAWAR:-
DATED: -04/04/2007.

(DR. CAPT. MUHAMMAD SALIM)
CHAIRMAN,
STANDING MEDICAL BOARD
MEDICAL SUPERINTENDENT
POLICE/SERVICES HOSPITAL,
PESHAWAR.

Daud

(DR. MAHOOD UL HAQ)
OPHTHALOMOLOGIST
POLICE/SERVICES HOSPITAL,
PESHAWAR.. MEMBER.....

(DR. HIDAYAT UR REHMAN)
PHYSICIAN
POLICE/SERVICE HOSPITAL,
PESHAWAR.. MEMBER.....

Imtiaz

(DR. UMAR AYUB KHAN)
SECRETARY
STANDING MEDICAL BOARD
POLICE/SERVICES HOSPITAL,
PESHAWAR.

Waqar Drazai
Advocate
DHQ Abbottabad
WAQAR DRAZAI



Annex-13C

DIRECTORATE GENERAL HEALTH SERVICES KHYBER PAKHTUNKHWA PESHAWAR

All communications should be addressed to The Director General Health Services Peshawar and not to any officials by name.
Office: 091-9210269 Exchange: 091-9210182, 091-9210196 Fax: 091-9210230



P-13

OFFICE ORDER

Dr. Zafeer Hussain EDO (Health) Abbottabad is hereby appointed as an Enquiry Officer to conduct inquiry into claim of Dr. Amjad Ali Khan SMO BBSTH Abbottabad regarding release of his salary w.e.f. 04.10.2007 and also determine as to whether he was present and performing duty regularly during the period in question.

The enquiry officer should probe and investigate into the matter and submit his report along with his recommendations within 10-days positively.

Sd/-x.x.x.x.x.
Director General Health,
Services Khyber Pakhtunkhwa.

Dated: 24/01/2012.

No. 2759-62 /E-I (Dr. Amjad Ali SMO)

Copy forwarded to the:-

- Secretary Govt. of Khyber Pakhtunkhwa Health Department for information.
- Dr. Zafeer Ahmad EDO (Health) Abbottabad for information & necessary action. A copy of MS BBSTH Abbottabad letter No. 4254 dated 13.12.2011 along with their enclosure is enclosed for perusal please.
- MS BBTH Abbottabad for information.
- AE-II DGHS.

W. Zafar
23/01/2012

ASSISTANT DIRECTOR (P-1),
Directorate General Health,
Services Khyber Pakhtunkhwa.

WAQAR ORAKZAI
Advocate
Dist. Courts Abbottabad

*Asst. Dir. Gen. H.S.
under signature
for n/s*

*office sup. of the matter
the establishment
n/s*

OFFICE OF THE MEDICAL SUPERINTENDENT
BBS TEACHING HOSPITAL ABBOTABAD.

No. _____ /Estab: dated / /2014.

To

Section Office (V)
Govt of Khyber Pakhtunkhwa Health Department
Peshawar.

Subject CHARGE ASSUMPTION REPORT

Memo:-

Reference Govt of Khyber Pakhtunkhwa Health Department Peshawar Notification No. SO(E)V/1-116/2007 dated 15-12-2014; enclose please find herewith charge assumption report with effect from 23-12-2014 F/N in respect of Dr. Amjad Ali Khan SMO BS-18 adjusted against the post of District Specialist.

It is further stated that intervening period of the officer concerned with effect from 18-05-2014 to 13-09-2014 was requested for regularization vide this office No. 3822/Accounts dated 18-09-2014 (copy attached). Action on the subject request has not yet been communicated to this end. Now you are once again requested that the period effect from 18-05-2014 to 22-12-2014 may be regularized.

Case is submitted for your information and further necessary action please.


Medical Superintendent
BBS Teaching Hospital
Abbottabad.

No. 5073-76 /Estab: dated 24/12 2014.

Copy to:-

- Director General Health Services, Khyber Pakhtunkhwa Peshawar.
- District Comptroller of Accounts Abbottabad.
- Accounts Section BBS Teaching Hospital Abbottabad.
- Dr. Amjad Ali Khan SMO BS-18 for information with the directive to report incharge ENT Unit for further assignment.


WAQAR ORAKZAI
Advocate
Distt. Courts Abbottabad


Medical Superintendent
BBS Teaching Hospital
Abbottabad.

2 P-16
TO BE SUBSTITUTED THE SAME NUMBER AND DATE. E-2



**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

Dated Peshawar the 18th August, 2014

NOTIFICATION

NO. SOH(E-V)1-116/2007 Ex-post-facto Sanction of regularization of pay is hereby accorded with effect from 4.10.2007 to 31.12.2009 in respect of Dr.Amjad Ali Khan (BS-18) BBS Teaching Hospital Abbottabad.

**SECRETARY HEALTH
Govt. of Khyber Pakhtunkhwa**

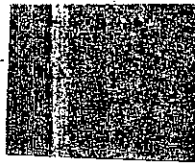
Endst. of even No. & Date

Copy to the:-

1. Director General, Health Services, Peshawar.
2. District Health Officer Abbottabad
3. MS BBS Teaching Hospital Abbottabad
4. District Accounts Officer Abbottabad.
5. P.S to Secretary Health.
6. Computer Programmer Health Department.
7. Doctor concerned.


WAQAR ORAKZAI
Advocate
Distt. Courts Abbottabad


SECTION OFFICER (E-V)



P-15

ANNEXURE E-1

TO BE SUBSTITUTE BEARING THE SAME NUMBER AND DATE.



**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

Dated Peshawar the 18th August, 2014

NOTIFICATION

NO. SOH(E-V)1-116/2007 Ex-post-facto Sanction of 180-days Medical leave is hereby accorded with effect from 04-04-2007 to 04-10-2007 in respect of Dr. Amjad Ali Khan (BS-18) BBS Teaching Hospital Abbottabad.

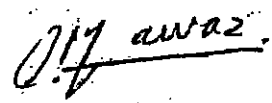
**SECRETARY HEALTH.
Govt. of Khyber Pakhtunkhwa**

Endst. of even No. & Date

Copy to the:-

1. Director General, Health Services, Peshawar.
2. District Health Officer Abbottabad
3. MS BBS Teaching Hospital Abbottabad
4. District Accounts Officer Abbottabad.
5. P.S to Secretary Health.
6. Computer Programmer Health Department.
7. Doctor concerned.


WAQAR ORAKZAI
Advocate
Distt. Courts Abbottabad

Fot 
SECTION OFFICER (E-V)

3

P 17

TO BE SUBSTITUTE THE SAME NUMBER AND DATE.

E-3



**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

Dated Peshawar the 18th August, 2014

NOTIFICATION

NO. SOH(E-V)1-116/2007 Ex-post-facto Sanction of Extra ordinary leave (without pay) is hereby accorded with effect from 01-01-2010 to 17-05-2014 in respect of Dr.Amjad Ali Khan (BS-18) BBS Teaching Hospital Abbottabad.

**SECRETARY HEALTH
Govt. of Khyber Pakhtunkhwa**

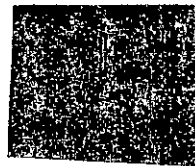
Endst. of even No. & Date

Copy to the:-

1. Director General, Health Services, Peshawar.
2. District Health Officer Abbottabad
3. MS BBS Teaching Hospital Abbottabad
4. District Accounts Officer Abbottabad.
5. P.S to Secretary Health.
6. Computer Programmer Health Department.
7. Doctor concerned.


WAQAR ORAKZAI
Advocate
Distt. Courts Abbottabad


SECTION OFFICER (E-V)



P-18

ANNEXURE F

Director General
Health Services
Govt. of K.P.K
Health Directorate
Peshawar.

SUBJECT: RELEASE OF SALARY W.E.F. 04.10.2007

Respected Sir,

With reference to the above subject I draw your attention to the following facts on the subject matter and request your goodself to decide this problem once for all.

1. That I am regular employee of K.P.K, Health Department as Medical Officer BPS-17 (Public Service Commission Selectee) w.e.l.31.12.1987, promoted as SMO BPS-18 vide notification No.SOH-IV/6-1/93 dated Pesh. Sept.18-1997. After passing my FCPS-I posted as TMO in Ayub Teaching Hospital, Abbottabad, and lately posted as SMO/ENT specialist after qualifying MCPS and FCPS vide letter No.SOH-1/3-2/03 dated. Pesh.24/07/2006 (copy attached as Annexure-A).
2. That in the meantime I applied for premature retirement on medical grounds but the SMB (Standing Medical Board) Peshawar, recommended me six months leave for treatment and reassessment by the medical board to be constituted by the competent authority (copy attached as Annexure-B). The leave recommended by SMB from 04.04.2007 to 03.10.2007 has neither been rejected nor sanctioned by the competent authority so far.
3. However on the recommendation of SMB, I proceeded on 180 days medical leave on 04.04.2007 and on expiry of this leave I joined back my duties in DHQ Hospital Abbottabad on 04.10.2007. Since then till todate I have been continuously performing my duty as SMO (ENT Specialist) and designated Assistant Professor ENT in the same teaching hospital.
4. After joining my duties on 04.10.2007, I contacted the then administration as well as DAO Abbottabad for release of salary but I was informed verbally by DAO, that my salary cannot be released even for duty period unless my medical leave as recommended by the SMB is sanctioned. Since then I am continuously stressing for release of salary and sanction of medical leave but nothing is heard so far.
5. On 01.12.2011, I applied to the Secretary Health, K.P.K through proper channel in this connection and the Secretary Health asked the DG Health Service K.P.K to conduct enquiry on urgent basis. An enquiry officer was appointed vide letter No.2759-62/E-1(Dr. Amjad Ali Khan) dated 24.02.2012 (Copy attached as Annexure-C) but nothing is heard so far and I am suffering both financially and mentally for 07 years. It is pointed out with regret that had my leave for six month from 04.04.2007 to 03.10.2007 been sanctioned as recommended by the SMB and had the enquiry conducted/ concluded there would have been no problem for stopping my salary and other consequential problems.
6. The plea taken by the Medical Superintendent, Benazir Bhutto Shaheed Teaching Hospital Abbottabad vide letter No]4255 date 13.12.2011, that I am employee of Women Medical College is also not correct. As a matter of fact being employee of KPK Health Department in DHQ Hospital and having postgraduate degree I was only designated as Assistant Professor ENT on the basis of provision in Public Private Partnership agreement between Women Medical College and Govt. of K.P.K (NWFP) vide copy annexed as Annexure D & F.

WAZIR ORANGE
Advocate
Distt. Courts Abbottabad

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It is added that beside myself there are 9-10 other regular employees of Health Department working in DHQ (BBS Teaching Hospital) who have been designated as Assistant Professor, Associate Professor and Professors and they are getting salary from Health Department alongwith teaching allowance from WMC, therefore, on the basis of my teaching designation I can neither be excluded or relieved from my regular service of Health Department nor my salary can be stopped. Sir, I know that no government servant can become employee to any other department/ agency/ autonomous body, without proper relieving, resigning or posting on deputation etc. No such event has ever occurred in my case and nothing is on record. On the other hand all the DHQ Hospital record is a witness of performing my duties regularly in DHQ Hospital. As regards performing duties in Women Medical College, all the regular staff of DHQ Hospital are performing additional duties in Women Medical College as it is a teaching hospital and are getting allowance.

7. Furthermore Sir, with reference to Govt. of K.P.I. notification no SOH(E-V)1-116/2007/Dr.Amjad Ali Khan dated 27.12.2013, and your directorate No.914/E-1 dated 13.01.2014, the reply of Medical Superintendent vide letter No.349 dated 27.01.2014 (showing my absence) is contrary to the facts given above and your office order No.35238-265 dt.16.12.2013 wherein I have been shown SMO, DHQ Hospital Abbottabad and directed to report for training at PHSA for my promotion in BPS-19 (copy at Annexure-E). How can a grade 18 officer leave his job without any relieving order. If I am declared absent, then there must be absence report or show cause notice, which infact does not exist.

Please sir, it is once again prayed that the matter may kindly be probed in the light of facts, and solve the dilemma of misinterpretation of facts by the Medical Superintendent, at your level and regularize my service, enabling me to draw my salary.

Thanking you in anticipation.



Dr. Amjad Ali Khan
SMO/ ENT Specialist
B.B.S Teaching Hospital
Abbottabad.

Copy to MS. BBS. Hospital Abbottabad.



WAQAR ORAKZAI
Advocate
Dist. Courts Abbottabad

TO DIRECTOR GENERAL HEALTH SERVICES KPK

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SUBJECT: DEPARTMENTAL APPEAL

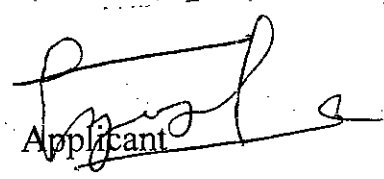
That I served as Senior Medical Officer in DHQ Hospital Abbottabad, and has rendered 31 years of service in the respondent department. I was initially appointed in service on 31-12-1987. That during my service I applied for premature retirement in year 2007 on medical grounds and as a result I was given 6 months leave for my treatment. That after the leave period I resumed my duties at DHQ Hospital Abbottabad. However, my arrival was not accepted on ground on non-sanction of non-availability of leave sanction order. That afterwards, I approached the District Accounts Officer Abbottabad for release of my salary from 04-04-2007 and 04-10-2007 to 31-12-2009 but my plea for the release of salary was rejected. That I submitted an application on 01-12-2011 to Secretary Health Services, for release for Salary w-e-f 04-04-2007 to 04-10-2007 and 04-10-2007 TO 31-12-2009. That following this Secretary Health Services ordered for inquiry vide letter No.2759-62/E-1 Dated 24-01-2012. That in pursuance of the said letter inquiry was conducted but no inquiry report was handed over to the appellant. That the

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Appellant also served between period w-e-f 18-05-2014 to 15-12-2014 in the respondents' department and they were supposed to give me the salary of the said period which they are denying, even though I performed his duties during the same period as an SMO at DHQ Hospital. That I, served the department with best of my abilities. That Secretary Health Services accorded ex post facto sanction regularization of my pay for the above mentioned period but still progress is done yet.

It is most humbly submitted that my salary for the above sanctioned period be remitted and my pay be counted from the said period towards calculation of my pension/commutation.

21-09-2020


Applicant