

12.11.2021

Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Learned counsel for the appellant requested for adjournment that he has not made preparation for arguments. Adjourned. To come up for arguments before the D.B on 06.12.2021. In the meanwhile, the operation of the impugned order shall remain suspended, if not acted upon earlier.



(Atiq Ur Rehman Wazir)
Member (E)

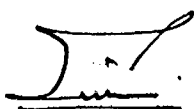


(Salah-ud-Din)
Member (J)

06.12.2021

Counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG alongwith Ibrahim Khan, Deputy Secretary, Ziaullah Deputy Secretary and Safiullah, Focal Person for the respondents present.

Vide our detailed judgment of today in connected Service Appeal No. 16578/2021, titled "Manzoor Ahmad Vs. The Chief Secretary, Khyber Pakhtunkhwa Peshawar and others", this appeal is accepted as prayed for. Consequently, the impugned order is set aside and respondents are directed not to transfer the appellants from the post of Drug Inspector. Parties are left to bear their own costs. File be consigned to record room after completion.



(Salah-ud-Din)
Member(J)



Chairman


ANNOUNCED

06.12.2021

10.09.2021

Clerk of counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Clerk of counsel for the appellant stated that learned counsel for the appellant is unable to attend the Tribunal today due to strike of Lawyers. Adjourned To come up for arguments before the D.B. on 15.10.2021. In the meanwhile, the operation of the impugned order shall remain suspended, if not acted upon earlier.


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



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

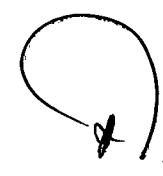
15.10.2021

Appellant present through counsel.

Asif Masood Ali Shah, learned Deputy District Attorney for respondents present.


Request for adjournment was made on behalf of learned D.D.A; granted by way of last chance. To come up for arguments on 12.11.2021 before D.B.

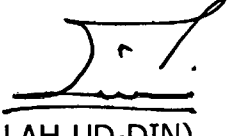

(Atiq-Ur-Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

29.07.2021

Appellant alongwith his counsel Mr. Bilal Ahmad Kakaizai, Advocate, for the appellant present. Mr. Zia Ullah Deputy Secretary (Litigation) and Mr. Safiullah Jan Focal Person alongwith Mr. Muhammad Rasheed, Deputy District Attorney for the respondents present and submitted Parawise comments on behalf of the respondents No. 2 & 3, copy of which handed over to learned counsel for the appellant. Learned counsel for the appellant sought time for submission of rejoinder. Adjourned. To come up for rejoinder as well as arguments before the D.B on 26.08.2021.

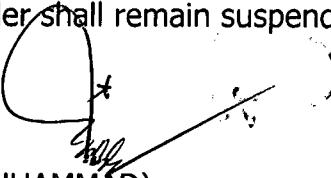

(ATTIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

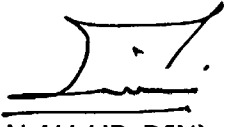

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

26.08 .2021

Mr. Naveed Akhtar, Advocate, for the appellant present and submitted fresh Wakalatnama which is placed on file. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Ziaullah, Deputy Secretary (Litigation) for respondents present.

Learned counsel for the appellant sought time for submission of rejoinder. Adjourned. Last opportunity is given. To come up for submission of rejoinder as well as arguments before the D.B on 10.09.2021. In the meanwhile, the operation of the impugned order shall remain suspended, if not acted upon earlier.


(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

23.06.2021

Appellant with counsel present.

Mr. Muhammad Adeel Butt, learned Additional Advocate General alongwith Mr. Safiullah, Focal Person for respondents present.

Learned AAG seeks adjournment with the request for submission of written reply on the next date. Request is accorded with the direction to file written reply within 10 days in office failing which the right of filing of written reply shall be deemed as struck off. To come up for arguments on 02.07.2021 before D.B.


(Rozina Rehman)
Member(J)


Chairman

02.07.2021

Appellant present through counsel.

Muhammad Adeel Butt learned Additional Advocate General for respondents present.

File to come up alongwith Service Appeal No.1559/2021 on 29.07.2021 before D.B.


(Rozina Rehman)
Member(J)


Chairman

02.06.2021

Counsel for the appellant present. Preliminary arguments heard.

In term of normal procedure, the appeal appears to be time barred but in view of Section 30 of the Khyber Pakhtunkhwa Epidemic Control and Emergency Relief Act, 2020, the limitation period provided under any law shall remain frozen. This appeal having been filed after promulgation of the said Act, is not affected by bar of limitation. Points raised need consideration. The appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days of the receipt of notices positively. If the written reply/comments are not submitted within the stipulated time, the office is directed to submit the file with a report of non-compliance. File to come up for arguments on 23.06.2021 before the D.B.

Appellant Deposited
Security & Process Fee

Alongwith the appeal there is an application for interim relief. Notice of the application be also issued to the respondents. In the meanwhile the operation of impugned order shall remain suspended, if not acted upon already.




Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 4821 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	14/04/2021	<p>The appeal of Mr. Aminul Haq presented by Mr. Bilal Ahmad Kakaizai 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>2-</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>02-6-2021</u></p> <p style="text-align: right;"> CHAIRMAN (for completion) (ex post facto).</p>

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. _____ / 2021.

AMIN UL HAQ VS Government of Khyber Pakhtunkhwa etc.

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Wakalat Nama		NIL

Appellant
Through,


BILAL AHMAD KAKAIZAI

(Advocate, Peshawar)

213, Sunehri Masjid Road,

Peshawar Cantt.

0300-9020098

①

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

4821

Service Appeal No. _____ / 2021.

**Khyber Pakhtunkhwa
Service Tribunal**

4868

Diary No. _____

Dated 14/4/2021

AMIN UL HAQ,
S/o Abdul Haq,
R/O Tangi, Nusratzai, Mohallah Usman Khel, District Charsadda
Presently posted as:
Drug Inspector, Drug Testing Laboratory, Peshawar.

..... Petitioner

VERSUS

1. GOVERNMENT OF KHYBER PAKHTUNKHWA,
Through Chief Secretary,
Civil Secretariat, Peshawar.
 2. SECRETARY HEALTH,
Government of Khyber Pakhtunkhwa,
Health Department, Civil Secretariat, Peshawar.
 3. DIRECTOR GENERAL, HEALTH SERVICES,
Government of Khyber Pakhtunkhwa, Khyber Road, Peshawar.
 4. DIRECTOR GENERAL, DRUG CONTROL & PHARMACY SERVICES,
Government of Khyber Pakhtunkhwa, Khyber Road, Peshawar.
- Respondents

Filed to-day

W. A. W.
Registrar
14/4/2021

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST IMPUGNED NOTIFICATION DATED 06.10.2020 WHEREBY APPELLANT HAS BEEN TRANSFERRED FROM THE POST OF DRUG INSPECTOR (BPS-18), DRUG TESTING LABORATORY, PESHAWAR TO THE POST OF SENIOR PHARMACIST (BPS-18), SERVICES HOSPITAL, PESHAWAR AGAINST THE MANDATE OF POSTING / TRANSFER POLICY OF PROVINCIAL GOVERNMENT, AGAINST THE JUDGMENT OF HONORABLE PESHAWAR HIGH COURT, PESHAWAR AS WELL AS AGAINST THE LAW, MOREOVER THE DEPARTMENTAL APPEAL FILED AGAINST THE SUBJECT IMPUGNED NOTIFICATION HAS ALSO NOT YET BEEN RESPONDED / DECIDED, DESPITE THE LAPSE OF STATUTORY PERIOD.

PRAYER: That on acceptance of this service Appeal, Impugned Notification dated 06.10.2020 may please be declared as illegal and unlawful to the extent of Appellant as the same amounts to change of cadre from one post to another, with such other relief as may deem fit in the circumstances of the case may also be granted.

Respectfully Sheweth,

Short facts, giving rise to present Service Appeal, are as under:

1. That the Petitioner was appointed as Drug Inspector (BS-17) through Khyber Pakhtunkhwa Public Service Commission after fulfilling all the requisite criteria in Health Department vide Notification dated 27.05.2009, copy of the Appointment Notification dated 27.05.2009 is attached as Annexure A.

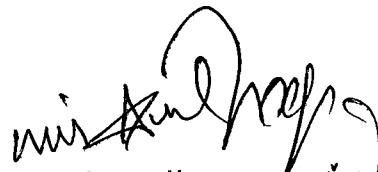
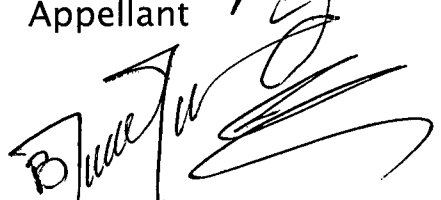
2. That, lastly Appellant was serving as Drug Inspector (BPS-18), Drug Testing Laboratory, Peshawar. Vide Impugned Notification dated 06.10.2020, the Appellant was transferred to the post of Senior Pharmacist (BPS-18), Services Hospital, Peshawar against the post of other cadre, copy of the Impugned Notification is attached as Annexure B.
3. That, feeling aggrieved from the Impugned Notification, the Appellant served / submitted his Departmental Appeal which remained un-responded / undecided, copy of the Departmental Appeal is attached as Annexure C.
4. That, thereafter Appellant approached the Honorable Peshawar High Court, Peshawar in Writ Petition No. 5267-P / 2020, which was decided 02.04.2021 as not maintainable due to bar contained in the Article 212 of the Constitution of Islamic Republic of Pakistan, 1973, copy of the Writ Petition and Order / Judgment dated 02.04.2021 is attached as Annexure D.
5. That, after Dismissal of Writ Petition by the Honorable Peshawar High Court, Peshawar, the Appellant came to know about the pendency of Service Appeal of one Mr. Manzoor Ahmad, (Drug Inspector), in which this Honorable Tribunal has already suspended the Impugned Notification dated 06.10.2020, copy of the Order in Service Appeal No. 16578 / 2021 dated 18.01.2021 is attached as Annexure E, hence this Service Appeal on the following amongst other grounds:

GROUNDING:

- A. That, the Impugned Notification is illegal, unlawful, void and ineffective.
- B. That, the same is against the principles of Natural Justice, also.
- C. That, Appellant has not been treated in accordance with law and policy governing the subject i.e. Khyber Pakhtunkhwa Transfer / Posting Policy.
- D. That, Impugned Notification has been issued / passed by the Respondents in arbitrary and fanciful manner without adopting the law / procedure.
- E. That, the Impugned Notification is contemptuous in nature as the Honorable Peshawar High Court, Peshawar has already declared merging of three distinct cadres as illegal and unlawful in writ jurisdiction vide Order dated 11.03.2020, copy of the Order dated 11.03.2020 is attached as Annexure F.
- F. That, as per the Judgment of Honorable Peshawar High Court, Peshawar in which merging of three cadres of Drug Inspector, Pharmacists and Chemist and Drug Analyst were declared illegal. The issuance of Impugned Notification in post Judgment scenario is not only contemptuous but is also against the spirit of trichotomy of powers as mentioned in the Constitution of Islamic Republic of Pakistan, 1973.
- G. That, despite the clear cut Judgment of Honorable Peshawar High Court, Peshawar, the issuance of Impugned Notification was not warranted by law.

- H. That, Impugned Notification is based on discrimination, favoritism hence the same should be considered as bad example and bad administrative action, which is not only against the Judgment of Constitutional Forum but is also against the norms of justice, equity and fair play.
- I. That, Appellant could not be forcibly posted against a post which does not belongs to his cadre, even otherwise in case of acceptance of Impugned Notification, the Appellant will also lose his seniority in his original cadre.
- J. That, Impugned Notification is against the mandate of Posting / Transfer Policy issued / promulgated by the Government of Khyber Pakhtunkhwa.
- K. That appellant seeks permission to advance other grounds and proofs at the time of hearing. .

It is therefore, most humbly prayed that the Service Appeal of the Appellant, may please be accepted as prayed for.


Appellant
Through,

BILAL AHMAD KAKAIZAI
(Advocate, Peshawar)

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BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

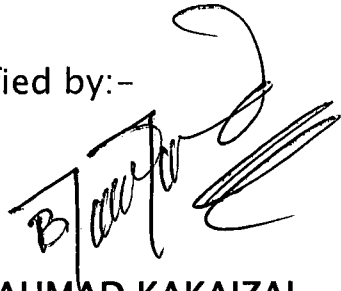
Service Appeal No. _____ / 2021.

AMIN UL HAQ VS Government of Khyber Pakhtunkhwa etc.

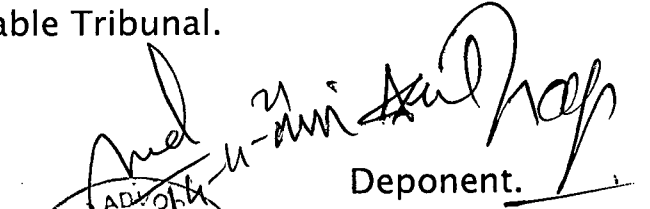
AFFIDAVIT

I, AMIN UL HAQ, S/o Abdul Haq, R/O Tangi, Nusratzai, Mohallah Usman Khel, District Charsadda, Presently posted as Drug Inspector, Drug Testing Laboratory, Peshawar, Appellant do hereby on oath affirm and declare that the contents of the Service Appeal are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honourable Tribunal.

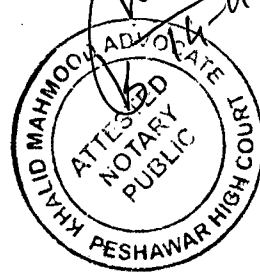
Identified by:-



BILAL AHMAD KAKAIZAI
(Advocate, Peshawar)



Deponent. _____



BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. _____ / 2021.

AMIN UL HAQ VS Government of Khyber Pakhtunkhwa etc.

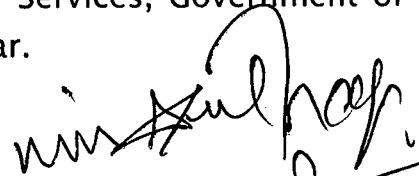
ADDRESSES OF PARTIES.

APPELLANT:

AMIN UL HAQ, S/o Abdul Haq, R/O Tangi, Nusratzai, Mohallah Usman Khel, District Charsadda, Presently posted as Drug Inspector, Drug Testing Laboratory, Peshawar.


RESPONDENTS:

1. Government of Khyber Pakhtunkhwa, Through Chief Secretary, Civil Secretariat, Peshawar.
2. Secretary Health, Government of Khyber Pakhtunkhwa, Health Department, Civil Secretariat, Peshawar.
3. Director General, Health Services, Government of Khyber Pakhtunkhwa, Khyber Road, Peshawar.
4. Director General, Drug Control & Pharmacy Services, Government of Khyber Pakhtunkhwa, Khyber Road, Peshawar.



Appellant

Through,


BILAL AHMAD KAKAIZAI
(Advocate, Peshawar)

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. _____ / 2021.

AMIN UL HAQ VS Government of Khyber Pakhtunkhwa etc.

APPLICATION FOR INTERIM RELIEF TO THE EXTENT THAT IMPUGNED NOTIFICATION DATED 06.10.2020 MAY PLEASE BE SUSPENDED AS BEING SUSPENDED IN SERVICE APPEAL NO. 16578 / 2021 VIDE ORDER DATED 18.01.2021, TILL THE DISPOSAL OF MAIN APPEAL.

Respectfully Sheweth,

1. That, the subject mentioned Appeal has been filed by the Appellant / Applicant in which no date has yet been fixed.
2. That, the contents of the main Appeal may please be read as integral part of this Application.
3. That, from the perusal of Impugned Order, it is crystal clear that the act of the Respondents is pregnant with malafides.
4. That, the promotion / seniority of the Appellant will suffer if THE Impugned Notification is acted upon.

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5. That, the Applicant / Appellant has got prima facie case in his favour, moreover balance of convenience also lies in his favour.
6. That, Applicant / Appellant will suffer irreparable loss if Interim Relief is not granted as being granted to other incumbents regarding the same Notification and same subject matter.

It is, therefore, requested that till the disposal of main Appeal the Notification dated 06.10.2020 may please be suspended to the extent of Appellant / Applicant, till the decision of main Appeal.

Mir Asad Haq
Appellant / Applicant

Through:

Bilal Ahmad Kakaizai
BILAL AHMAD KAKAIZAI
(Advocate, Peshawar)

AFFIDAVIT

I, AMIN UL HAQ, S/o Abdul Haq, R/O Tangi, Nusratzai, Mohallah Usman Khel, District Charsadda, Presently posted as Drug Inspector, Drug Testing Laboratory, Peshawar, Appellant do hereby on oath affirm and declare that the contents of the Application are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honourable Tribunal.



Deponent

Mir Asad Haq

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. _____ / 2021.

AMIN UL HAQ VS Government of Khyber Pakhtunkhwa etc.

APPLICATION FOR CONDONATION OF DELAY.

Respectfully Sheweth,

Application, on behalf of the Applicant / Appellant, is as under:

1. That, the accompanied Service Appeal has been filed today in which no date has yet been fixed.
2. That, inadvertently, Appellant / Applicant approached the wrong forum i.e. Honorable Peshawar High Court, Peshawar.
3. That, the Honorable Peshawar High Court, Peshawar did not decide / dismiss the Writ Petition on merits rather the same was dismissed on the analogy of Article 212 of the Constitution of Islamic Republic of Pakistan, 1973, hence Article 14 of the Limitation Act, 1908 is attracted.
4. That, Applicant / Appellant approached the Honorable Peshawar High Court, Peshawar in good faith and under bonafide believe

with the view that his Writ Petition should be accepted however the same was dismissed due to availability of this Honorable Tribunal.

5. That, even otherwise, due to present declared pandemic / epidemic, the Government of Khyber Pakhtunkhwa has freeze the limitation to approach any forum provided under any law as per section 30 of Khyber Pakhtunkhwa Epidemic Control and Emergency Relief Act, 2020, relevant provision of law is reproduced for the convenience of the Tribunal, as under:

30. Period of limitation under various laws. ---

Notwithstanding anything contained in the Limitation Act, 1908 (Act No. IX of 1908) or any other law prescribing limitation for initiating any legal proceedings, the limitation period provided under various laws shall remain frozen from 1st March 2020 till the culmination of the emergency period and the proceedings so filed before any court or tribunal during or immediately upon cessation of such emergency period, shall not be time barred on account of any delay for the aforesaid period.

6. That, even otherwise the Superior Courts had time and again held that matters be decided on merits rather than on technicalities.
7. That, the contents of the main Service Appeal may please be read as integral part of instant Application.

8. That, delay is not intentional nor malafide rather the same is due to pendency of Writ Petition before the Peshawar High Court, Peshawar.

It is, therefore, requested that on acceptance of subject Application the delay, if any, be condoned.

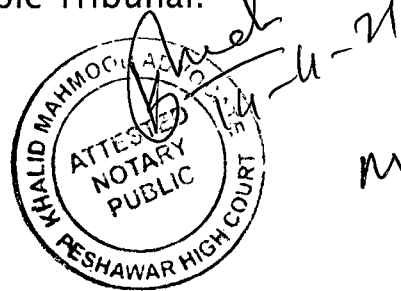
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Applicant/ Appellant

Through:

[Handwritten Signature]
BILAL AHMAD KAKAIZAI
(Advocate, Peshawar)

AFFIDAVIT

I, AMIN UL HAQ, S/o Abdul Haq, R/O Tangi, Nusratzai, Mohallah Usman Khel, District Charsadda, Presently posted as Drug Inspector, Drug Testing Laboratory, Peshawar, Appellant do hereby on oath affirm and declare that the contents of the Application are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honourable Tribunal.



[Handwritten Signature]
Deponent



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GOVERNMENT OF NWFP
HEALTH DEPARTMENT

Dated the Peshawar. 27th May 2009

NOTIFICATION.

No. SOH-III/2-58/2007(DI). The Competent Authority on the recommendation of NWFP Public Service Commission has been pleased to appoint the following candidates as Drug Inspectors (BPS-17) on regular basis with immediate effect:-

S.No.	Name with Father's Name	Address.
1.	Mr. Abdul Hafeez s/o Waliullah.	Drug Center Bus Stop, Lakki Marwat.
2.	Mr. Aminul Haq s/o Abdul Haq	Mohallah Usman-e- Khel, Tehsil Tangi Nusratzai District Charsadda, NWFP.
3.	Mr. Nazir Ahmad s/o Fazal Ghani.	Village and P.O.Box Bandai, Tehsil and District Swat NWFP.
4.	Mr. Zakir Shah s/o Haji Hussain Muhammad	Mohallah Parachgan, Bannu Chowk, Thal District Hangu.
5.	Mr. Toseef Muhammad s/o Pir Muhammad.	Village and P.O.Box Bahali Via Qalandarabad Tehsil and District Mansehra.
6.	Mr. Shamsur Rehman s/o Muhammad Miskeen.	Village Bajna Bala P.O.Shergarh Tehsil Oghi District Mansehra.

2. Their services will be governed under the NWFP Civil Servants Act 1973 as amended vide Civil Servants (Amendment) Act, 2005 and rules made there under and other relevant laws and rules.

3. Consequent upon their appointment as Drug Inspectors (BPS-17), they are hereby posted in the districts as noted against their names:-

S.No	Name	Present Status	Place of Posting	Remarks
1.	Mr. Abdul Hafeez	1 st Appointment	Drug Inspector District Swabi.	Against the vacant post.
2.	Mr. Aminul Haq	1 st Appointment	Drug Inspector District Malakand	-do-
3.	Mr. Nazir Ahmad	1 st Appointment	Drug Inspector District Upper Dir	-do-
4.	Mr. Zakir Shah	1 st Appointment	Drug Inspector District Hangu	-do-
5.	Mr. Toseef Muhammad	1 st Appointment	Drug Inspector District Abbottabad	-do-
6.	Mr. Shamsur Rehman	1 st Appointment	Drug Inspector District Battagram.	-do-

4. They are directed to assume charge within 30 days in their respective place of posting after the issuance of this notification, failing which, their appointment shall be treated as cancelled.

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SECRETARY HEALTH

Continued-----

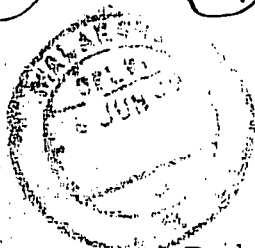
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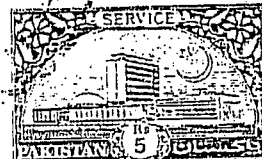
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Copy forwarded to:

1. Accountant General NWFP.
2. Director General Health Services NWFP, Peshawar, for information.
3. The Chairman Drug Court NWFP, Peshawar.
4. The Incharge, Government Drug Testing Laboratory, NWFP, Peshawar.
5. EDO (Health) Swabi, Malakand, Upper Dir, Hangu, Abbottabad and Battagram.
6. Director Recruitment, NWFP, Public Service Commission Peshawar w/r to his letter No. NWFP/PSC/SR-IV/08250 dated 10.02.2009 for information.
7. The Deputy Secretary (Drug), Health Department, NWFP.
8. The District Account Officers, Swabi, Malakand, Upper Dir, Hangu, Abbottabad and Battagram.
9. P.S to Secretary Health, NWFP.
10. The Manager Printing Press NWFP, Peshawar with the request to publish the notification in official gazette.
11. Programmer Health Department NWFP.
12. The Officers concerned.

GOVERNMENT OF NORTH WEST FRONTIER PROVINCE
 HEALTH DEPARTMENT
 PESHAWAR



Section Officer-(H-III)

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ATTESTED

15 B

HEALTH DEPARTMENT

Dated the Peshawar 05th October, 2020

15

Ann - B

NOTIFICATION

No. SQH-11/10.1/2020. The Competent Authority is pleased to order following postings/transfers of Officers with immediate effect in the public interest.

S.No	Name & Designation	From	To
1.	Mr. Anwar ul Haq, Senior Pharmacist (BS-18)	Services Hospital, Peshawar	Deputy Director/Section Pharmacist (BS-17), DG, DC & PS against the vacant post.
2.	Mr. Arif Hussain, Analyst (BS-19)	Drug Testing Laboratory, Peshawar	Senior Pharmacist (BS-18), Services Hospital, Peshawar vice Sr. No. 1.
3.	Miss. Naila Bashir, Senior Pharmacist (BS-18)	Govt. M.C. DG, DC & PS	Analyst - Drug Testing Laboratory, Peshawar vice Sr. No. 2.
4.	Mr. Fazle Haq, Pharmacist (BS-17)	Drugs Testing Laboratory, Peshawar	DG, DC & PS against the vacant post of Pharmacist/D.I./Chemist (BS-17).
5.	Mr. Fayyaz Alam, Pharmacist (BS-17)	Ministry Ameer Shah Memorial Hospital, Peshawar	DG, DC & PS against the vacant post of Pharmacist/D.I./Chemist (BS-17).
6.	Mr. Mishah Ullah Jan, Pharmacist (BS-17)	Rachia Khan Medical Complex, Swabi	Drug Inspector (BS-17), Mardan vice Sr. No. 17.
7.	Mr. Amin ul Haq, Sr. Drug Inspector (BS-18)	District Mardan	Senior Pharmacist (BS-18), KDA Hospital, Kohat against the vacant post.
8.	Mr. Abdur Rauf, Pharmacist (BS-17)	DHQ Hospital, Mardan	Drug Inspector (BS-17), Mardan vice Sr. No. 9.
9.	Mr. Shehzada Mustafa, Drug Inspector (BS-17)	District Mardan	Pharmacist (BS-17), DHQ Hospital, Mardan vice Sr. No. 8.
10.	Mr. Niamatullah, Pharmacist (BS-17)	DHQ Hospital, Dir Lower	Drug Inspector (BS-17), Swat against the vacant post.
11.	Mr. Zia Ullah, Drug Inspector (BS-17)	Dir Lower	Pharmacist (BS-17), DHQ Hospital, Dir Lower vice Sr. No. 10.
12.	Mr. Rohullah, Drug Inspector (BS-17)	District Gharsadda	Assistant Director (BS-17), DG, DC & PS against the vacant post.
13.	Mr. Imran Bhatti, Drug Inspector (BS-17)	District Dir Lower	Drug Inspector (BS-17), Lakki Mawal vice Sr. No.

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GOVT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Annexure B


Dated the Peshawar 6th October, 2020

NOTIFICATION:

No. SOH-II/10-4/2020. The Competent Authority is pleased to order following postings / transfers of officers with immediate effect in the public interest.

S. No.	Name & Designation	From	To
1.	Mr. Inam ul haq Senior Pharmacist (BS-18)	Services Hospital Peshawar	Deputy Director / Senior Pharmacist (BS-18), DG, DC & PS Against the vacant post
2.	Mr. Arif Hussain, Analyst (BS-18)	Drugs Testing Laboratory Peshawar	Sr. Pharmacist (BS-18) Services Hospital, Peshawar Vice Sr. No. 01
3.	Miss Naila Basher, Senior Pharmacist (BS-18)	Services Hospital Peshawar	Deputy Director / Senior Pharmacist (BS-18), DG, DC & PS Against the vacant post
4.	Mr. Faize Haq Pharmacist (BS-18)	Services Hospital Peshawar	Deputy Director / Senior Pharmacist (BS-18), DG, DC & PS Against the vacant post
5.	Mr. Fawad Alam Pharmacist (BS-17)	Services Hospital Peshawar	Deputy Director / Senior Pharmacist (BS-18), DG, DC & PS Against the vacant post
6.	Mr. Misbah Ullah Jan, Pharmacist (BS-17)	Services Hospital Peshawar	Deputy Director / Senior Pharmacist (BS-18), DG, DC & PS Against the vacant post
7.	Mr. Amin Ul Haq Sr Dug Inspector (BS-18)	Drugs Testing Laboratory Peshawar	Sr. Pharmacist (BS-18) Services Hospital, Peshawar Vice Sr. No. 01
8.	Mr. Abdur Rauf Pharmacist (BS-17)	Drugs Testing Laboratory Peshawar	Sr. Pharmacist (BS-18) Services Hospital, Peshawar Vice Sr. No. 01
9.	Mr. Shehzad Mustafa Drug Inspector (BS-18)	Drugs Testing Laboratory Peshawar	Sr. Pharmacist (BS-18) Services Hospital, Peshawar Vice Sr. No. 01
10.	Mr. Naimatullah Pharmacist (BS-17)	Drugs Testing Laboratory Peshawar	Sr. Pharmacist (BS-18) Services Hospital, Peshawar Vice Sr. No. 01
11.	Mr. Zia Ullah, Drug Inspector (BS-18)	Drugs Testing Laboratory Peshawar	Sr. Pharmacist (BS-18) Services Hospital, Peshawar Vice Sr. No. 01
12.	Mr. Rohullah drug Inspect (BS-17)	Drugs Testing Laboratory Peshawar	Sr. Pharmacist (BS-18) Services Hospital, Peshawar Vice Sr. No. 01
13.	Mr. Imran Burki Drug Inspector (BS-17)	Drugs Testing Laboratory Peshawar	Sr. Pharmacist (BS-18) Services Hospital, Peshawar Vice Sr. No. 01

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Better Copy 

Deputy Inspector (BS-17)
M. M. Azam, Ph.D.,
Drug Inspector (BS-17)

District Peshawar
District Swabi

16

Drug Inspector (BS-17) /
Khanwara, Peshawar
Pharmacist (BS-17), WDA
Kohat, against the vacant
post
Pharmacist (BS-17), District
Swabi against the vacant post

Secretary to Govt. of Khyber Pakhtunkhwa
Health Department

End of every No and Date.

Copy of this order to the

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director General, Health Services, Khyber Pakhtunkhwa, Peshawar.
3. Director General, Drug Control & Pharmacy Services, Khyber Pakhtunkhwa, Peshawar.
4. District Drug Testing Laboratory, Hayatabad, Peshawar.
5. Medical Superintendent, Services Hospital, Peshawar.
6. Medical Superintendent, Maulvi Ameer Shah Memorial Hospital, Peshawar.
7. Medical Superintendent, DHQ Hospital, concerned.
8. Hospital Director, HRMC, Swabi.
9. District Health Officer, concerned.
10. District Accounts Officer, concerned.
11. The Deputy Director (I.P) Health Department.
12. PS to Minister Health, Khyber Pakhtunkhwa.
13. PS to Secretary Health, Khyber Pakhtunkhwa.
14. PA to Deputy Secretary (Drugs) Health Department.
15. Officers concerned.

(Signature)
06/8/20
(Latif ur Rehman)
SECTION OFFICER-III

ATTEST

ATTACHED TO BS
TH

14.	Mr. Ibrar Khan. Drug Inspector (BS-17)	District Lakki Marwat	Drug Inspector (BS-17) Karak Vice Sr. No. 15
15.	Mr. Muhammad Nadeem Drug Inspector (BS-17)	District Karak	Drug Inspector (BS-17) Karak Vice Sr. No. 15
16.	Mr. Manzoor Khattak Drug Inspector (Bs-17)	District Peshawar	Pharmacist (BS-17) KDA Kohat against the vacant post
17.	Mr. Shoaib. Drug Inspector (BS-17)	District Mardan	Pharmacist (Bs-17) KDA BKMC, Swabi against the vacant post

Secretary to Govtof Khyber Pakhtunkhwa
Health Department

Endst of even No and date:

Copy forwarded to the: -

1. The Accountant General Khyber Pakhtunkhwa Peshawar
2. Director General, Health Services, Khyber Pakhtunkhwa Peshawar.
3. Director General, Drug Control & Pharmacy Services Khyber Pakhtunkhwa Peshawar.
4. Incharge, Drug Testing Laboratory Hayatabad Peshawar.
5. Medical Superintendent Services Hospital Peshawar.
6. Medical Superintendent Moulvi Ammeer Shah Memorial Hospital, Peshawar.
7. Medical Superintendent DHQ Hospital concerned.
8. Hospital Director BKMC Swabi.
9. District Health Officer concerned.
10. District accounts officers concerned.
11. The Deputy Director (IT) health department
12. PS to Minister health Khyber Pakhtunkhwa Peshawar.
13. PS to Secretary Health Khyber Pakhtunkhwa Peshawar.
14. PA to Deputy Secretary Drugs health Department
15. Officers concerned.

Sd/-
(Latif ur Rehman)
Section Officer-III

ATTESTED

(17)

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To,

The Worthy Chief Secretary,
Khyber Pakhtunkhwa Peshawar.

L.No. 7185
Date 13-10-20
Secretary Health

THROUGH PROPER CHANNEL

Subject: APPEAL FOR CANCELLATION OF POSTING/TRANSFER ORDER OF MR. AMIN UL HAQ SENIOR DRUG INSPETOR (BPS. 18) DISTRICT MARDAN TO THE CROSS CADRE POST AS A PHAMACIST.

Respected Sir,

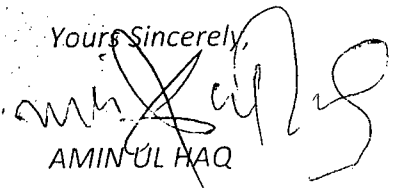
Consequent upon to the fresh appointment of the undersigned as a Provincial Drug Inspector (BPS-17) Malakand by Health Department on the recommendation of Public Service Commission Khyber Pakhtunkhwa since 28th May, 2009 and subsequently to the subject cited above.

- 1) That the Health Department Khyber Pakhtunkhwa declared the different cadres posts of Drug Inspectors, Hospital Pharmacists and Government as a pool posts for the purpose of Posting/Transfer on the basis of possessing same qualification vide Notification No. SOH(III)/10-4/2017/DCPSth on 8th September, 2017. (Copy of Merger Notification attached as Annexure "A").
- 2) That having being aggrieved from the aforementioned notification, the main Stake Holders of the merged cadre i.e Drug Inspectors filed a Writ Petition before the Honorable High Court Peshawar.
- 3) That the said notification was declared impugned and was set aside/dismissed by Honorable Court Peshawar on 11th March 2020.
- 4) That according to the Judgment of Honorable High Court Peshawar, the purpose of Posting/Transfer in to the different cadres of the Officers does not exist and is against the judgment in the matter concerned. (Copy of Judgment attached as Annexure "B").
- 5) That the undersigned has served in the different stations, hard terrain & far flung hilly areas of the province in the limited resources.
- 6) That the sudden Posting/Transfer vide Notification No.SOH-III/10-4/2020 dated 06th October, 2020 without any justified reasons to the cross cadre is quietly discouraging and against the Principles of natural justice as well as also hits the judgment of the Honorable High Court Peshawar. (Copy of Notification attached as Annexure "C")

Keeping in view entire of the above, it is therefore humbly requested the aforesaid Posting/Transfer in respect of undersigned might have issued in the ignorance of the Honorable High Court Peshawar may kindly be cancelled/withdrawn in the interest of justice of natural justice and oblige please.

Dated: 12/10/2020

Yours Sincerely,


AMIN UL HAQ

(Senior Drug Inspector)

District Mardan.


ATTESTED

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(18)

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BEFORE THE HON'BLE PESHAWAR HIGH COURT, PESHAWAR



W.P. No. _____/2020

Amin Ul Haq S/O Abdul Haq R/O Tangi, Nusratzai, Mohallah Usman
e Khel, District Charsadda

..... *Petitioner*

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary
2. Chief Secretary to Government of Khyber Pakhtunkhwa
3. Secretary to Government of Khyber Pakhtunkhwa, Health
Department
4. Director General Health, Government of Khyber Pakhtunkhwa

..... *Respondents*

**WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF
PAKISTAN, 1973.**

Respectfully Sheweth:

ATTESTED
EXAMINER
Peshawar High Court

1. That the Petitioner was appointed as drug inspector (BS-17) by the KP Public Service Commission after full filling all the requisite criteria in health department and notified vide notification No. SOH-III/2-58/2007(DI), Dated: 27/05/2009.

(Copy of the notification Dated: 27/05/2009 is annexed herewith as annexure "A")

2. That the Petitioner was transferred and posted as drug inspector to the various districts of Khyber Pakhtun khwa and thereafter transferred as Senior Drug Inspector (BS-18) to district Mardan on

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acting charge vide notification no. SOH-III/10-4/2019 (NAZIR AHMAD etc), Dated: 30/10/2019.

(Copy of the notification Dated: 30/10/2019 is annexed herewith as annexure "B")

3. That the Respondent No. 1 after the recommendation of the Standing Service Rules Committee (SSRC) merged the three cadres of drug inspector, pharmacists and chemist and drug analyst into single cadre vide Notification SOH(III)/HD/10-4/2017/DCP Dated: 08/09/2017.
4. That the said Notification SOH (III)/HD/10-4/2017/DCP Dated: 08/09/2017 was impugned/challenged in Writ jurisdiction before Hon'ble Peshawar high court, Peshawar.
5. That the division bench of Peshawar high court, Peshawar vide order dated: 11/03/2020 allowed the writ of the petitioner and the impugned Notification therein SOH (III)/HD/10-4/2017/DCP Dated: 08/09/2017 was set aside for the reason that the said Standing Service Rules Committee (SSRC) so constituted was not in accordance to the Notification No. SOR.VI (E&AD) 2-69/2003, dated: 29/01/2003.

(Copy of the judgement dated: 11/03/2020 is annexed herewith as annexure "C")

6. That in violation of the above said judgement of the Hon'ble Peshawar high court, Peshawar dated: 11/03/2020, the respondent No. 3 transferred the Petitioner from the Post of Senior Drug Inspector District Mardan to Senior Pharmacist KDA Hospital Kohat, vide impugned Notification herein NO. SOH-III/10-4/2020, dated: 06/10/2020.

(Copy of the notification dated: 06/10/2020 is annexed herewith as annexure "D")

7. That the petitioner approached the respondents to withdraw the impugned notification in the light of the Judgement of Hon'ble Peshawar high court, Peshawar dated: 11/03/2020, whereby the single cadre declaration was set aside, but the respondents delayed the matter on one pretext and other, hence the instant writ petition.



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8. That felling aggrieved from the impugned Notification dated: 06/10/2020 of the Respondent No. 3, the petitioner is invoking constitutional jurisdiction of this Hon'ble court on the following grounds inter alia:

GROUND:

- A. That the impugned Notification Dated: 06/10/2020 is illegal and ineffective upon the rights of the petitioner, therefore liable to be set aside.
- B. That the impugned Notification Dated: 06/10/2020 is without any lawful authority and of no legal effect.
- C. That the Respondent No. 3 could not appreciate the fact that the merger of the three cadres into single cadre has already been declared illegal and void ab-initio by the Hon'ble Peshawar high court, Peshawar and in such circumstances the impugned transfer notification is wrong and illegal.
- D. That the Respondent could not appreciate the fact that after the set aside of the single cadre declaration by the Hon'ble Peshawar High Court, Peshawar the bifurcation of three different cadres, as previously, are in field.
- E. That the Respondents could not appreciate the fact that no fresh Standing Services Rule Committee (SSRC) was formulated in accordance to law and the previous rules are still in field according to which the impugned transfer order is illegal.
- F. That any other ground not raised herein may kindly be allowed to be raised at time of arguments with the prior permission of this Hon'ble court.

ATTESTED
EXAMINER
Peshawar High Court

It is, therefore, humbly prayed that the impugned Notification herein NO. SOH-III/10-4/2020, dated: 06/10/2020 of Respondent No. 3 may kindly be declared null and void.

Any other relief which this august Court deems proper may kindly be awarded to meet the ends of justice.

INTERIM RELIEF:

By way of interim relief, the operation of the impugned Notification NO. SOH-III/10-4/2020, Dated: 06/10/2020 may kindly be suspended, till the final decision of the instant writ petition.

PETITIONER

Through

Dated: /11/2020

INAYAT UR REHMAN

&

Saqib Rehman

SAQIB REHMAN

**ADVOCATES HIGH COURT,
PESHAWAR**

CERTIFICATE:

Certified on instructions of my client that no writ petition has previously been moved to this Hon'ble Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 regarding the instant matter in issue.

Saqib Rehman

ADVOCATE

LIST OF BOOKS:

1. Constitution of Islamic Republic of Pakistan, 1973
2. Any other law books according to need.

ATTESTED
EXAMINER
Peshawar High Court

Saqib Rehman

ADVOCATE

JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
(JUDICIAL DEPARTMENT)

(Handwritten initials)

WP No. 5267-P/2020

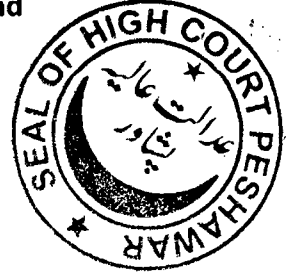
Aminul Haq vs. Govt. of KP through Chief Secretary and others.

JUDGMENT.

Date of hearing: 02.04.2021

Petitioner (s): By Mr. Saqib Rehman, Advocate.

Respondent (s): By Mr. Rab Nawaz Khan, AAG, along with Ziaullah Deputy Secretary (Litigation), Safiullah Focal Person, Asif Superintendent & Shah Baz Superintendent Secretary Health Office.



SYED ARSHAD ALI, J:- Petitioner, Amin-ul-Haq, through the instant constitutional petition, has approached this Court for the following relief:-

"It is, therefore, humbly prayed that the impugned Notification herein No. SOH-III/10-4/2020, dated 06.10.2020 of respondent No.3 may kindly be declared null and void.

Any other relief which this august Court deems proper may kindly be awarded to meet the ends of justice".

2. In essence, it is the case of present petitioner that he was posted as Senior Drug Inspector (BPS-18) in District Mardan on acting charge basis vide Notification dated 30.10.2019, however, vide impugned Notification dated 06.10.2020, he was transferred and posted as Senior Pharmacist KDA Hospital Kohat, which is violation of the judgment of this Court dated 11.03.2020 rendered in WP No. 4378-P/2017; hence, the instant petition.

ATTESTED

EXAMINER
Peshawar High Court

23

3. Arguments heard and record perused.

4. Admittedly, the petitioner is a civil servant and his grievance relates to enforcement of 'terms and conditions' of service, the appropriate remedy for seeking his redressal, would surely be the Services Tribunal.

5. This Court is barred under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973 to take cognizance of any matter relating to enforcement of 'terms and conditions' of service of a civil servant. The Apex Court in Ali Azhar Khan Baloch's case (2015 SCMR 456), has very clearly laid down that the issue relating to enforcement of 'terms and conditions' of service cannot be entertained by a High Court either in its constitutional jurisdiction or in its original civil jurisdiction being barred under Article 212 of the Constitution.

6. In view of the above, this Writ Petition being not maintainable is hereby dismissed.

ANNOUNCED.
Dated: 02.04.2021

JUDGE

JUDGE

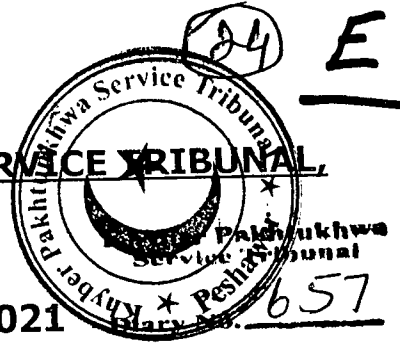
No. 32923
 Date of Presentation of Application 8/4/2021
 No of Pages 10-9
 Copying fee _____
 Total 40/-
 Date of Preparation of Copy 8/4/2021
 Date of Delivery of Copy 8/4/2021
 Received By [Signature]

JUDGE
[Signature]
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EXAMINER
Peshawar High Court, Peshawar
Authorised under Article 8.7 of
The Governance Shahadat Order 1984

08 APR 2021

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR



APPEAL NO. 16578 /2021

Dated 11/1/2021

Mr. Manzoor Ahmad, Drug Inspector (BPS-17),
District Peshawar, under transfer to the post of Pharmacist (BS-17),
DHQ Hospital KDA, Kohat **APPELLANT**

VERSUS

- 1- The Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director General Drug Control & Pharmacy Services, Khyber Pakhtunkhwa, Peshawar.

..... **RESPONDENTS**

APEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION DATED 06.10.2020 WHEREBY THE APPELLANT HAS BEEN TRANSFERRED FROM THE POST OF DRUG INSPECTOR (BPS-18), DISTRICT PESHAWAR TO THE POST OF PHARMACIST (BS-17), DHQ HOSPITAL KDA, KOHAT IN UTTER VIOLATION OF TRANSFER/POSTING POLICY AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF

Filed to-day
NINETY DAYS

Registrar
PRAYER:

That on acceptance of this appeal the impugned Notification dated 06.10.2020 may very kindly be set aside to the extent of appellant and the respondents may kindly be directed not transfer the appellant from the post of Drug Inspector (BS-17), District Peshawar. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

R/SHEWETH:

ON FACTS:

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

- 1- That appellant is the employee of respondent Department and is appointed as Drug Inspector (BPS-17) through proper

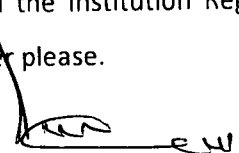

(85)

Form- A

FORM OF ORDER SHEET

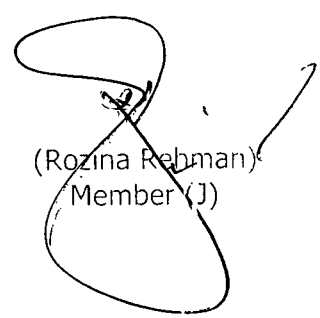
Court of _____

Case No.- 16578 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	11/01/2021	<p>The appeal of Mr. Manzoor Ahmad presented today by Mr. Noor Muhammad Khattak 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-	18.01.2021	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>18/01/2021</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	18.01.2021	<p>Appellant present through counsel. Preliminary arguments heard. File perused.</p> <p>Points raised need consideration. Admitted to 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 respondents for written reply/comments. To come up for written reply/comments on 03.02.2021 before S.B.</p> <p>Annexed with the memo of appeal is an application for interim relief. Notice of the said application be issued to the respondents. In the meanwhile, the operation of impugned order shall remain suspended, if not acted upon earlier.</p>

Date of Presentation of Application 3-2-21
 of Words 800
 Page Fee 10
 Stamps 14
 Appellant's Security 14
 Completion of Copy 3-2-21
 Delivery of Copy 3-2-21
 Security Deposited 18/1/21
 Process Fee

Certified to be true copy
EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar


 (Rozina Rehman)
 Member (J)

⑩ Ann - F

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JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
(JUDICIAL DEPARTMENT)

WP No. 4378-P/2017

S.M. Assad Halimi and others

Vs

Chief Secretary to Govt. of KP and others

JUDGMENT.

Date of hearing: 11.03.2020

Petitioner (s): G. Mrs. Rabat Latif Afridi - Advocate & Counsel
(for Petitioner)

Respondent (s): G. No. F High District D.D.

WAQAR AHMAD SETH, CJ:- Petitioners,

through the instant Writ Petition, seeks issuance of an
appropriate writ with the following prayer:-

*"In view of the aforesaid submissions, it is
humbly prayed that an appropriate writ may
kindly be issued in favour of the petitioners
in the following terms:-*

- i. Declare that the impugned notification No. SOH(III)/HD/10-4/2017/DCPS is void ab initio, therefore the respondents may kindly be directed to withdraw the impugned notification as well as the posting/transfers orders made in pursuant to the impugned notification may kindly be withdrawn.
- ii. To reconsider the matter in light of the logic, rationale and requirements of the rules/relevant law in the matter.
- iii. The proportionate ratio of higher posts of B-18, B-19 and B-20 in the Drug Inspector cadre may be

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equated to that of Drug Analysts and Pharmacists cadres as indicated in para-5 (table-2) above of the petitioner.

- iv. Direction be issued to respondents that in case the merger is required to be carried out, it be done in a rationale manner as per the prevailing procedure and renamed the so merged cadre with a new name and joint seniority of the employees of the so merged cadres be caused with reference to their respective dates of appointment or promotion to a particular post/grade. No cadre so merged should be dying cadre as this method is not applicable in the instant case.
- v. Grant any other relief which is deemed appropriate by this Hon'ble Court in the circumstances of the case".

2. Brief facts of the case are that the petitioners have been inducted in service of the Health Department through Khyber Pakhtunkhwa Public Service Commission as Drug Inspectors (BPS-17). According to the petitioners, Drug Inspectors, Pharmacists and Chemists and Drug Analysts are working in the Health Department Government of Khyber Pakhtunkhwa in separate cadres having same basic qualifications but with different job descriptions. The Provincial Government under the Agenda to improve the human resources management and to

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minimizing the transfer and posting problems face by the Health Department in other sub-cadres having minimum choice, proposed the merging of three cadres of Drug Inspectors, Pharmacists and Chemists and Drug Analysts and for this purpose, a meeting of "Standing Service Rules Committee" was held on 26.12.2016 wherein it was proposed to combine the three cadres into one as per structure given in para-ii of the minutes of the meeting and as such, the respondents have issued the impugned Notification No. SOH(III)/HD/10-4/2017/DCPS dated 08.09.2017, which reads as under:-

"Consequent to the recommendations of the SSRC and to improve the human resource management, the Chief Minister Khyber Pakhtunkhwa is pleased to approve the following arrangements for Pharmacists, Drug Inspectors, Chemists & Drug Analysts cadres of Health Department Khyber Pakhtunkhwa.

- 1) *These cadres are declared dying cadres with the existing incumbents to continue under the existing service rules, seniority and promotion prospects which shall stand protected for each cadre within their own lines of hierarchy till last incumbent is in service.*
- 2) *For the new recruitment at the initial stage, since basic qualifications of the above mentioned cadres are the same, therefore, all the three cadres are*

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SSRC
committee
meeting held
20/12/2016

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hereby merged into a single cadre for which rules shall be framed as per procedures.

3) All the three cadres are hereby declared as pool posts for posting/transfer only".

3. Aggrieved from the aforesaid Notification, the petitioners have filed the instant Writ Petition.

4. Respondents have furnished their comments and opposed the writ of petitioners.

5. Arguments heard and record perused.

6. Admittedly, the impugned notification of merger of three cadres of Drug Inspectors, Pharmacists

and Chemists and Drug Analysts have been issued on

the recommendation of Standing Service Rules

Committee ("SSRC") but while perusing minutes of the Committee, so constituted, the persons, who had

attended the meeting, are not in accordance with the

Notification No. SOR.VI(E&AD)2-69/2003 dated 29th

January, 2005 produced by the learned counsel for the

petitioners during the course of hearing, placed on file,

vide which, the Committee would comprising of

Administrative Secretary concerned (Chairman),

SSR
Composition

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[Signature]

[Signature]
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Additional Secretary (Regulation) E&A Department,
Additional Secretary (Regulation) Finance Department,
Additional Secretary Law Department, Head of the
attached Department concerned and Deputy Secretary
(Admn) of the Department concerned (Members); so,
keeping in view the above fact, the impugned
notification issued by the respondents is illegal, void ab-
initio and the same, is, thus, liable to be set aside.

7. In view of the above, the Writ Petition is
allowed and the impugned Notification No.
SOH(III)/HD/10-4/2017/DCPS dated 08.09.2017, is set
aside.

ANNOUNCED.
Dated: 11.03.2020


Chief Justice





Judge

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قیمت 50 روپے	54550			
ایڈویکیٹ: بلال اکبر کاکیزئی		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل ایسوسی ایشن نمبر: 1062-11-5C				
رابطہ نمبر: 0300-9020098				
KPK Service Tribunal Peshawar				

منجانب: Appellant	دعویٰ:
Amin-ol-Haar	علت نمبر:
بنام	مورخہ:
	جرم:
Gout of KPK etc	تھانہ:
بابت تحریر آگہ	

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ

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

المترقوم:

مقام _____ کے لیے منظور ہے۔

قیمت
50 روپے

94739



ایڈوکیٹ: توہید احمد

بار کونسل / ایسوسی ایشن نمبر: 10-7400

رابطہ نمبر: 0300-9596181

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: سر جسٹس ایف ایچ بیگٹا صدر محترمہ کورٹ آف ایپل

منجانب:	دعویٰ: <u>رسول / عد / 4821</u>
	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

باعت تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ

آن مقام کیس نمبر 4821 میں توہید احمد صاحب کو موسٹر ایڈووکیٹ مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقریر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست ازہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یک طرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار کو کوئی کو اپنے ہمراہ یا اپنے ساتھ لے کر اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور ان کا سزاخستہ پر داخستہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جائزہ اتوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المقوم: رسول

کے لیے منظور ہے۔
توہید احمد

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

"B"

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

SB

No.

Appeal No..... 4221 of 20 21

..... Amin ul Haq Appellant/Petitioner

Versus

..... Govt. KPK Chief Secy Peshawar Respondent

Respondent No..... 4

Regd

Notice to: —

Director ~~of~~ General Drug Control & Pharmacy Services Govt. of 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..... 23/6/2021 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..... 8th

Day of..... June 20 21

[Signature]
 Registrar

Khyber Pakhtunkhwa Service Tribunal,
 Peshawar.

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

"B"

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

No.

Appeal No. 4821 of 20 21

Amin ul Haq Appellant/Petitioner

Versus

Govt. of KPK through Chief Secy Peshawar. Respondent

Respondent No. 1

Notice to: —

Govt. of KPK through Chief Secretary
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 23/6/2021 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.

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

Given under my hand and the seal of this Court, at Peshawar this 23/6/21

Day of June 20 21

[Handwritten signature]

[Handwritten signature]
Registrar

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

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

"B"

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

S.B

No.

Appeal No. 4821 of 2021

Aminul Haq Appellant/Petitioner

Versus

Govt. CF RPR through Chief Secy Respondent

Respondent No. 2

Notice to: —

Secretary Health Govt. CF RPR
Health Deptt. 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 23/6/2021 at 8.00 A.M. If you wish to urge anything against the appellent/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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

Copy of appeal is attached. Copy of appeal has already been sent to you vide this

office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this 8th.....

Day of June 2021

Amir
17/06/2021

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, P
PESHAWAR.

No.

4821

21

Appeal No. of 20

Amin ul Haq

Appellant/Petitioner

Court: ~~CP~~ KPK (Chief Secy Peshawar)

Respondent

Respondent No.

Director General Health Services.

Notice to: —

Court: CF 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..... 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.

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Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated..... 8th

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

Day of.....20

14/6/2021

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.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 4821/2021

Mr. Amin Ul Haq s/o Abdul Haq, Senior Drug Inspector (BPS-18) District Mardan

VERUS

Chief Secretary Khyber Pakhtunkhwa and OTHERS

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DEPONENT

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 4821 /2021

Mr. Amin-Ul-Haq S/O Abdul Haq, Drug Inspector (BPS-17), District Mardan,
under transfer to the post of Senior Pharmacist (BPS-18), KDA Kohat

..... Appellant

Versus

1. Govt. of KP through Chief Secretary, Khyber Pakhtunkhwa, Peshawar
2. The Secretary Health Department, Khyber Pakhtunkhwa, Peshawar
3. The Director General Health Services, Khyber Pakhtunkhwa Peshawar.
4. The Director General Drug Control & Pharmacy Services, Khyber Pakhtunkhwa, Peshawar.

..... Respondent

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

RESPECTFULLY SHEWETH

PRELIMINARY OBJECTIONS: -

1. That the Appellant has got neither cause of action nor locus standi to file the instant 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.
5. That the Appellant has filed the instant Appeal with mala-fide intention hence liable to be dismissed.
6. That the Appeal is badly time barred.
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. The impugned transfer Notification has been issued in accordance with Section 10 of the Civil Servant Act 1973.

ON FACTS:

1. Correct to the extent that the appellant is an employee of Health Department selected through Khyber Pakhtunkhwa Public Service Commission but the performance is questioned on the basis of his monthly progress report compiled on the basis of set indicators, besides facing inquiries. In pursuance of the inquiries against the petitioner the services of the petitioner is suspended under rule-6 of Khyber Pakhtunkhwa E&D rules 2011 and directed by the competent authority to report to Director General Drug Control & Pharmacy Services Khyber Pakhtunkhwa with immediate effect.

2. Incorrect and misleading hence denied, the impugned notification has been issued on dated 06/10/2020 in accordance with law, as per Section 10 of the Khyber Pakhtunkhwa Civil Servant Act 1973, it is upon the discretion of competent authority to transfer a civil servant at anytime even outside of the province.

3. Incorrect. The appellant has been transferred within the same directorate under section 10 of Khyber Pakhtunkhwa Civil Servants Act 1973. Even if he would have been transferred in ex-cadre, the same is also covered under the second proviso of the Act ibid which provides as under;

"A civil servant may be posted even outside his service or cadre provided terms and conditions of his services would not be affected".

No terms and conditions of his services have been violated as per dictum laid down by Supreme Court of Pakistan in judgment reported as 2017 SCMR 798. It has clearly mentioned that the competent authority may transfer any civil servant anywhere in exigency of services.

4. Correct to the extent of filing of writ petition, however it is added that the said writ petition was filed in the essence that transfer of petitioner is violation of the judgment of honorable Peshawar High Court dated 11.03.2020, rendered in writ petition No. 4678-P/2017, pertinent to mention here that the above mentioned petition was filed against the notification of merger cadre which is questioned only on the basis of proxy membership of Section Officers/Deputy Secretaries of attending SSRC instead its notified members is now a base for the instant appeal by the appellant but he has concealed that a CoC on similar ground has been dismissed by a bench headed by Honorable Chief Justice Peshawar High Court, Peshawar (**Annex-I**) directing that there is no such bar on posting/transfer imposed in the earlier judgment which is now based for this appeal. Besides, a lot of work has been done thereafter issuing the merger notification by Health Department to carry forward the idea of merger of cadre resulted in the establishment of separate Directorate duly approved by Provincial Cabinet(**Annex-II**) bringing the three sister cadre under one Directorate and accordingly amendment in the KP Rules of business, 1985(**Annex-III**) made specifying the Directorate of Drug Control and Pharmacy Services as separate attached department of Health Department under the Director General who will be an officer of the joint cadre.

The Notification (**Annex-IV**) on the basis of which appeal is filed, was issued way back in 2017 where after in the last three years a lot of work has been done on the basis of merged cadre and posting transfer ordered significantly in Drug Testing Lab to issue a test report after testing sample for prosecution purpose and that report has a legal mandate and it is apprehended if these transfer are reversed, hundreds of drug cases which are under trial in Drug Court will be in fructuous on the basis of test report issued by the one transferred to DTL from other sister cadre.

(4)

Furthermore the Service Rules does not carry any kind of assignment to a cadre but it specifies the method of recruitment and promotion prospects which is otherwise protected after the merging of cadre. Although transfer is not a punishment but to make such like people punctual, subservient to the public and to overcome the deficiency of efficient of hardworking officer to post right person on right place, the three cadres i.e hospital pharmacist, drug inspector and analyst having same basic qualification as required for induction through Public Service Commission, were merged to obviate the stagnancy in the cadre. By doing so any drug inspector or an analyst at DTL (who are the cadre of the 04 to 05 persons) can be transferred making them liable to work in hospital under the close supervision of hospital administration and vice versa. Those who are transferred from hospital to work in the field as drug inspector are tremendously working, removing the bottlenecks and highlighting a lot of mal-practices previously done by their predecessor who have been sacked from field duty. In other similar cases, the drug inspectors who are sacked are under probe at Provincial Inspection Team and other fora.

5. Correct to the extent of filing of appeal by one Mr. Manzoor Ahmad Drug Inspector, which pending before this honorable tribunal and the suspension of impugned notification dated 06.10.2020, is subject to "If not acted upon".

Grounds:

- A. Incorrect. The impugned Notification is based on law Rules principles of Natural Justice and in accordance with dictum laid by Supreme court in various judgment. As per 2020 PLCCS 1207 Supreme Court,

Place of Service Prerogatives of employer...Government servant was required to serve anywhere his employer wanted him to serve; it was not a choice or prerogative of the employee to claim a right to serve at a place that he chose to serve.

Similarly in another judgment reported as 2004 PLC (CS) 705S.C. It has been laid down that civil servant could not claim posting at a particular station or at the place of his choice. Competent authority, under S 9 of the Punjab civil servant Act 1974, was empowered to transfer any civil servant from one place to other at any time in exigencies of service or on administrative ground.

B. Explain in Para-A.

C. Incorrect. there is no mala fide on the part of respondents towards the appellant. The respondent issued the transfer Notification in accordance with law in the public interest.

D. Already explained in Para-C above.

E. Incorrect. The appellant has been transferred within his cadre within the same directorate under section 10 of Khyber Pakhtunkhwa Civil Servants Act 1973. Even if he would have been transferred in ex-cadre, the same is also covered under the second proviso of the ibidi Act which provides as under; **“A civil servant may be posted even outside his service or cadre provided terms and conditions of his services would not be affected”.**

Furthermore, the replying respondent even cannot think to violate the judgment of any court or to issue any notification which is contemptuous in nature.

F. Incorrect and misleading hence denied the detailed reply has already been furnished in para-4 of the facts.

G. Already explained in preceding paras.


H. Incorrect and misleading the notification issued and accordance with law and no discrimination for favoritism has been made by the replying respondents detailed reply has been given in preceding paras.


I. Incorrect hence denied detailed reply has been given in preceding paras especially in para-4 of the facts.

J. Incorrect detailed reply has been given in preceding paras.

K. Para K is legal needs no comments; however, the replying respondent also seeks the same permission from this honorable tribunal. (6)

It is therefore requested that the Appeal of the Appellant may kindly be dismissed with cost to enhance the service delivery and to safeguard the public interest at large.


Secretary Health Department
Khyber Pakhtunkhwa
Respondent No-2


Director General Drug Control
& Pharmacy Services,
Khyber Pakhtunkhwa
Respondent No-4

Filed 1

7

IN THE PESHAWAR HIGH COURT,
PESHAWAR,
JUDICIAL DEPARTMENT

COC No. 276-P/2020 in W.P No. 4378-P/2017.

SM Asad Halimi..... Petitioner.

Versus.

Syed Imtiaz Hussain Respondents.

For petitioner:- Mr. Asad Jan Durani
Advocate.

For respondents:- Mr. Muhammad Riaz Khan, AAG.

Date of hearing: 16.06.2020



J U D G M E N T

MUHAMMAD NAEEM ANWAR, J.- Through the instant petition the petitioner has asked for initiating contempt of court proceedings against the respondents for non-compliance of direction of this court issued in the judgment rendered in W.P No. 4378/2017 on 11.03.2020.

2 Learned counsel for the petitioner submitted that this court in the judgment rendered in writ petition No. 4378-P/2017 has declared the notification bearing No. SOH (II)/HD/10-4/2017/DCPS dated 08.09.2017 as void *ab initio*, against the law and illegal, however, the respondents without considering the specific direction of this court has issued notification bearing No. SOH-II/7-262/2020 dated 30.04.2020, as such, they are liable to be proceeded under the Contempt of Court Act, 2003.

EXAMINED
Peshawar High Court

3. We have heard learned counsel for the petitioner and perused the record.

4. Perusal of the record would reveal that in the writ petition No. 4378-P/2017, notification dated 29.01.2005 was challenged as the same was issued against the Standing Services Rules Committee (SSRC). The operative part of the judgment is reproduced as under:-

" Admittedly, the impugned notification of merger of three cadres of Drug Inspectors, Pharmacists and Chemists and Drug Analysts have been issued on the recommendation of Standing Service Rules Committee (SSRC) but while perusing minutes of the Committee, so constituted, the persons, who had attended the meeting, are not in accordance with the notification NO. SOR. VI(E & AD) 2-69/2003 dated 29th January, 2005 produced by the learned counsel for the petitioners during the course of hearing, placed on file, vide which, the Committee would comprising of Administrative Secretary concerned (Chairman), Additional Secretary (Regulation) E & A Department, Additional Secretary (Regulation) Finance Department, Additional Secretary Law Department, Head of the attached Department concerned and Deputy Secretary (Admn) of the Department concerned (Members); so, keeping in view the above fact, the impugned notification

EXAMINED
P. Shewar High Court

(9)

issued by the respondents is illegal, void ab initio and the same is, thus, liable to be set aside.

Whereas after decision of the said writ petition, the respondents have issued notification dated 30.04.2020, whereby the petitioner No.1 was transferred and posted against the vacant post as Chief Pharmacist (BPS-19) at DHQ hospital, KDA Kohat, petitioner No.2 as Chief Pharmacist (BS-19) at Govt Naseerullah Khan Babar Memorial Hospital, Peshawar, and petitioner No. 3 as Chief Pharmacist (PS-19) at Services hospital, Peshawar, regarding which no such direction has ever been issued by this court, insofar as the matter regarding notification dated 29.01.2005 is concerned, the same has already been declared as void ab initio. The petitioners may challenge the notification vide which certain posting and transfers were made through separate petition before appropriate forum, if they so desired.

5. In this view of the matter, this petition is dismissed being not maintainable.

Announced
16.06.2020.
'M. Zafar PS'

CHIEF JUSTICE

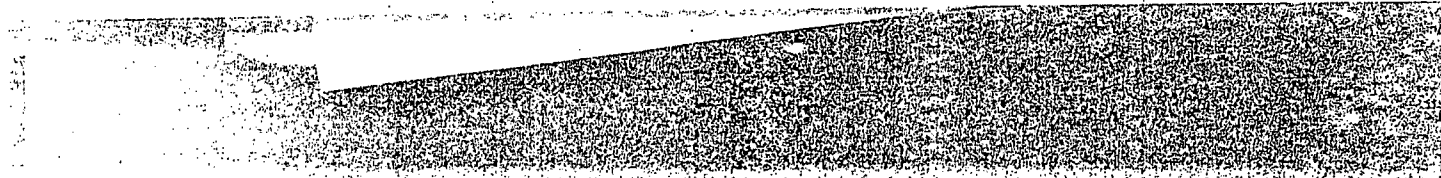
JUDGE

(DB: Hon'able Mr. Justice Waqar Ahmad Seth, HCJ & Hon'able Mr. Justice Muhammad Naem Anwar)

32301

No. _____
Date of Presentation of Application 16/6/20
No of Pages 1
Copying fee 300
Date of Preparation of Copy 23/6/20
Date of Delivery of copy 23/6/20
Received By [Signature]

VERIFIED TO BE TRUE COPY
23 JUN 2020





GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT AND ADMN: DEPARTMENT
(CABINET WING)
No.SOC(E&AD)9-2/2018
Dated Peshawar the 1st October, 2018.

52

Area II
10

The Secretary to Govt. of Khyber Pakhtunkhwa,
Health Department

**SUBJECT: DECISION OF MEETING OF THE PROVINCIAL CABINET DATED
27.09.2018.**

Dear Sir,

I am directed to forward herewith the following decision of the meeting of Provincial Cabinet held on 27.09.2018 under the chairmanship of Chief Minister, Khyber Pakhtunkhwa for implementation.

**ITEM NO. 01
ESTABLISHMENT OF DIRECTORATE OF DRUG CONTROL & PHARMACY
SERVICES, HEALTH DEPARTMENT**

Decision of the Cabinet:

Acting Secretary Health Department briefed the Cabinet about the salient features of the item. During the course of discussion the Hon'able Chief Minister referred to the observations made by Finance Department as well as Establishment Department as reflected in the summary on the subject.

The Secretary Finance, while supporting the proposal pointed out that the Establishment of Directorate of Drug Control only involves creation of one post, having no financial implications. Minister Health also spoke on the occasion. After detailed discussion, the Cabinet approved the item.

Implementing Department: Health Department

2. I am to request that an implementation report of the Cabinet decision as required under Rule 25 (2) of the Khyber Pakhtunkhwa Government Rules of Business, 1985 may kindly be furnished on top priority basis to the Cabinet Section, Administration Department.

Yours faithfully,

Imran Khan
SECTION OFFICER (CABINET)

GOVT. OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMIN. DEPARTMENT
(REGULATION WING)

Dated Peshawar, the 20th November, 2018

Amr/CI

NOTIFICATION

No. SU (GEM)/A&AD/2-10/2018 In exercise of the powers conferred by Article 139 of the Constitution of the Islamic Republic of Pakistan, the Government of Khyber Pakhtunkhwa is pleased to direct that in the Khyber Pakhtunkhwa Government Rules of 1995, the following further amendments shall be made, namely:

AMENDMENTS

1. In Schedule-I, against serial No. 3, in Columns 3 and 4, the existing entries shall be renumbered as clause (a) and thereafter the following new entries shall be added, namely:

1.	2.	3.	4.
1.	Health Department	(a) Directorate General Health Services. (b) Directorate General of Drugs Control and Pharmacy Services.	(a) Director General Health Services. (b) Director General, Drugs Control and Pharmacy Services.

CHIEF SECRETARY,
GOVT. OF KHYBER PAKHTUNKHWA

Endst: No. & Date Even

1. All Administrative Secretaries, Khyber Pakhtunkhwa.
2. Principal Secretary to Governor, Khyber Pakhtunkhwa.
3. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
4. All Heads of Attached Departments, Khyber Pakhtunkhwa.
5. Director Information, Khyber Pakhtunkhwa.
6. All Divisional Commissioners/Deputy Commissioners in Khyber Pakhtunkhwa.
7. Accountant General, Khyber Pakhtunkhwa.
8. Registrar Peshawar High Court, Peshawar.
9. Registrar Service Tribunal, Khyber Pakhtunkhwa, Peshawar.
10. Secretary Public Service Commission, Khyber Pakhtunkhwa, Peshawar.
11. All PSs to Provincial Ministers/Advisors/Special Assistants in Khyber Pakhtunkhwa.
12. PS to Chief Secretary, Khyber Pakhtunkhwa.
13. Controller, Government Printing Press Peshawar.

(Dr. Irum Shabeen)
SECTION OFFICER (O&M)



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar the 5th September 2017

38

12
Amir V

NOTIFICATION:

No: SOH (III)/HD/10-3/2017/OCPS: Consequent to the recommendations of the SSRC and to improve the human resource management, the Chief Minister Khyber Pakhtunkhwa is pleased to approve the following arrangements for Pharmacists, Drug Inspectors, Chemists & Drug Analysts cadres of Health Department Khyber Pakhtunkhwa.

- 1) These cadres are declared dying cadres with the existing incumbents to continue under the existing service rules, seniority and promotion prospects which shall stand protected for each cadre within their own lines of hierarchy till last incumbent is in service.
- 2) For the new recruitment at the initial stage, since basic qualifications of the above mentioned cadres are the same, therefore all the three cadres are hereby merged into a single cadre for which rules shall be framed as per procedures.
- 3) All the three cadres are hereby declared as pool posts for posing/transfer only

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

OFFICE OF THE DG HEALTH SERVICES KHYBER PAKHTUNKHWA PESHAWAR

No. 15574-631/E-I

Dated Peshawar the 29/09/2017.

Copy of the above is forwarded to the:

1. All District Health Officers in Khyber Pakhtunkhwa.
2. All Medical Superintendents DHQ Hospitals in Khyber Pakhtunkhwa.
3. All Medical Superintendents Teaching Hospitals in Khyber Pakhtunkhwa.
4. All Hospital Directors MTL in Khyber Pakhtunkhwa.
5. Senior Govt. Analyst Provincial Drug Testing Laboratory Phase-V, Hayatabad Peshawar.
6. Govt. Analyst Food Testing Laboratory Peshawar.
7. DHS FATA Peshawar.
8. Chief Drug Inspector DGHS, Khyber Pakhtunkhwa Peshawar

For information and necessary action.

No 13696/12
Copy forwarded to
Sr. Drug Inspector OHG Office
Mardan for information

DEPUTY DIRECTOR (HRM)
DGHS, KPK PESHAWAR
29/9/17

Principal Health Officer
Mardan



GOVERNMENT OF THE PUNJAB
PRIMARY & SECONDARY HEALTHCARE
DEPARTMENT

13

Gated Lahore, the 18th, February 2021

Ames V

CROSS

No. SO/Pharmacy/Promotion/DDC/17-18/2021. In pursuance of this Department's Notification No. SO/Cont-102-1/2019 dated 03.02.2021 and upon their promotion to the rank of Deputy Drugs Controller / Secretary, District Quality Control Board (BS-18) the following officers are hereby transferred and posted against the posts mentioned against their names in order:-

Sr.	Name & Father Name	Current place of posting	New place of posting, upon promotion
1	Mr. Ghayur Abbas s/o Muhammad Saqib	Pharmacist (BS-17), c/o Chief Drugs Controller, Punjab, Lahore.	As Deputy Drug Controller (BS-18), c/o Chief Drugs Controller, Punjab, Lahore vice Mr. Raheem Sultan, transferred.
2	Mr. Muhammad Jawad Bhatti, c/o Saqib Ahmad Bhatti	Pharmacist (BS-17), Jinnah Hospital, Lahore.	As Deputy Drug Controller (BS-19), DHQ Hospital Okara city, against a vacant post.
3	Mr. Muhammad Shahzad Saleem s/o Muhammad Saleem Bhatti.	Pharmacist (BS-17), THQ Hospital, Sialkot, District Sargodha.	As Deputy Drug Controller (BS-18), DHQ Hospital, Khushab, against a vacant post.
4	Mr. Ijaz Ahmed s/o Ali Ahmad	Pharmacist (BS-17), Allied Hospital, Faisalabad.	As Deputy Drug Controller (BS-18), Tehsil Shorkot, District Jhang, against a vacant post.
5	Mrs. Roohi Fazal c/o Malik Fazal Hussain	Pharmacist (BS-17), Jinnah Hospital, Lahore.	As Deputy Drug Controller (BS-18) in Provincial Quality Control Board, Lahore, vice Mrs. Gulroza Tahir, DDC (BS-18/QPS), transferred.
6	Mrs. Sabiha Nazir c/o Nazir Ahmad	Pharmacist (BS-17), Mayo Hospital, Lahore.	Her services are placed at the disposal of SHC&ME Department for further posting against a vacant post of DDC (BS-18).
7	Mrs. Mona Aslam c/o Muhammad Aslam	Pharmacist (BS-17), Mayo Hospital, Lahore.	Her services are placed at the disposal of SHC&ME Department for further posting against a vacant post of DDC (BS-18).
8	Mrs. Raafiq Akhtar c/o Anwar Hussain Randhawa	Pharmacist (BS-17), Allied Hospital, Faisalabad.	As Secretary, District Quality Control Board (BS-18), Faisalabad vice Mrs. Sohish Murza, transferred.
9	Mrs. Karwal Javed c/o Javed Iqbal	Pharmacist (BS-17), Mayo Hospital, Lahore.	Deputy Drug Controller (BS-18) in District Headquarter Hospital, Kasur, vice Mr.

(12)
14

10	Mrs. Aamra Qureshi d/o Ghulam Nabi	Pharmacist (BS-17) Children Hospital, Lahore	Her services are placed at the disposal of SHC&ME Department for further posting against a vacant post of DDC (BS-18).
11	Mr. Muhammad Fiaz d/o Ghulam Rasool	Pharmacist (BS-17), Aziz Bhatti Shahood Teaching Hospital, Gujrat.	Deputy Drug Controller (BS-18), Tawal Kallar Syedan, District Anwarulphal, against a vacant post.
12	Mrs. Sadia Arshad d/o Rana Asghar Ali Khan	Pharmacist (BS-17), Mayo Hospital, Lahore.	Her services are placed at the disposal of SHC&ME Department for further posting against a vacant post of DDC (BS-18).
13	Mrs. Samrana Ejaz d/o Ijaz Rasool	Pharmacist (BS-17), Punjab Institute of Cardiology, Lahore.	Her services are placed at the disposal of SHC&ME Department for further posting against a vacant post of DDC (BS-18).
14	Mr. Amjad Farooq d/o Manzoor Hussain	Pharmacist (BS-17), Sheikh Zayed Hospital, Rahim Yar Khan	His services are placed at the disposal of SHC&ME Department for further posting against a vacant post of DDC (BS-18).
15	Mrs. Nida Saleem d/o Muhammad Saleem	Pharmacist (BS-17), Mayo Hospital, Lahore	Her services are placed at the disposal of SHC&ME Department for further posting against a vacant post of DDC (BS-18).
16	Mrs. Rabia Hamid Ullah Khan d/o Hamid Ullah Khan	Pharmacist (BS-17), Mayo Hospital, Lahore	Her services are placed at the disposal of SHC&ME Department for further posting against a vacant post of DDC (BS-18).
17	Mrs. Komal Khalid Khan d/o Dr. Khalid Saif Ullah Khan	Pharmacist (BS-17), Jinnah Hospital, Lahore	As Deputy Drugs Controller (BS-18) in Provincial Quality Control Board, Lahore vice Mr. Aftab Iqbal, DDC (BS-18/OPS), transferred.
18	Mrs. Sadia Saikat d/o Shafiq Ahmad	Pharmacist (BS-17), Jinnah Hospital, Lahore	Her services are placed at the disposal of SHC&ME Department for further posting against a vacant post of DDC (BS-18).
19	Mr. Muhammad Tayyab d/o Basim Ahmad	Punjab Institute of Mental Health, Lahore	His services are placed at the disposal of SHC&ME Department for further posting against a vacant post of DDC (BS-18).
20	Mr. Salamet Ali d/o Miraj Din	Deputy Drug Controller (BS-18/OPS), Arsoop Town, Gujranwala.	He is allowed to continue against the post of Deputy Drug Controller (BS-18), Arsoop Town, Gujranwala already occupied by him.
21	Muhammad Farukh Saleem d/o M. Ahmad Ijaz	Pharmacist (BS-17), S.M.H. Bahawalpur.	His services are placed at the disposal of SHC&ME Department for further posting against a vacant post of DDC (BS-18).

(14)
15

21	Mrs. Farida Akbar s/o Muhammad Akbar	Deputy Drug Controller (BS-16) General Hospital, District Rawalpindi	As Deputy Drug Controller, District Hospital Rawalpindi, against a vacant post of BS-16, Rawalpindi, Punjab, transferred.
22	Mrs. Saima Masood s/o Muhammad Masood	Pharmacist (BS-17) Pharmacy Hospital, District Rawalpindi	At the disposal of SHCSME Department for further posting against a vacant post of DDC (BS-16)
23	Mrs. Nazam Hussain s/o Akhtar Hussain	Deputy Drug Controller (BS-16) (D/OPS), District Hospital, Muzaffargarh	She is allowed to continue against the post of Deputy Drug Controller (BS-16), District Hospital, Muzaffargarh, against a vacant post of DDC.
24	Mrs. Hameed Saleem s/o Muhammad Nadeem Saleem	Pharmacist (BS-17), FSCM, Lahore	Her services are placed at the disposal of SHCSME Department for further posting against a vacant post of DDC (BS-16)
25	Mrs. Muhammad Shaukat s/o Muhammad Sadiq	Deputy Drug Controller (BS-16) (D/OPS), District Hospital, District Sargodha	Her services are placed at the disposal of SHCSME Department for further posting against a vacant post of DDC (BS-16)
26	Mrs. Qurrat ul Ain s/o Late Mr. Mubt	Pharmacist (BS-17), Lady Wahidullah Hospital, Lahore	As Deputy Drug Controller (BS-16), DDC Hospital, Shahjahanpur, s/o Mrs. Maria Fatima, transferred.
27	Mrs. Muhammad Akbar s/o Late Mr. Akbar Ali	Pharmacist (BS-17), at the disposal of Director General Health Services, Punjab, Lahore.	As Deputy Drug Controller (BS-16), DDC Hospital, Gujranwala, against a vacant post.
28	Mrs. Sumera Masood s/o Dr. Muhammad Masood	Pharmacist (BS-17), Drug Testing Laboratory, Lahore.	Her services are placed at the disposal of SHCSME Department for further posting against a vacant post of DDC (BS-16).
29	Mrs. Bani Yaseen s/o Sheikh Muhammad Yaseen.	Pharmacist (BS-17), Sir Ganga Ram Hospital, Lahore.	Her services are placed at the disposal of SHCSME Department for further posting against a vacant post of DDC (BS-16).
30	Mrs. Nazam Akhtar Bhatti s/o Bashir Ahmed.	Punjab Institute of Neuro Sciences, Lahore.	As Deputy Drug Controller (BS-16) in Provincial Quality Control Board, Lahore against a vacant post.
31	Mrs. Farzana Akbar s/o Asghar Nawaz Khan.	Pharmacist (BS-17), Services Hospital, Lahore	Her services are placed at the disposal of SHCSME Department for further posting against a vacant post of DDC (BS-16).
32	Mrs. Muhammad Shakil Wali s/o Rana Wali ud Din	Pharmacist (BS-17), THO Hospital, Mankera, District Shakhar	As Deputy Drug Controller (BS-16), DDC Hospital Shakhar, against a vacant post.
33	Mrs. Azeefa Tahira s/o Khalid Ahmed.	Secretary, DDCS (BS-16) (D/OPS), Gujranwala	She is allowed to continue against the post of Secretary, DDCS (BS-16), Gujranwala

35	Mr. Muhammad Asif s/o Abdul Shakir	Deputy Secretary (Power Supply) (BS-17) (W/O) Department	As Deputy Drug Controller (BS-18) Sindh State Council Board, Karachi. His services are transferred.
36	Mrs. Amin Farah Meer s/o Sir Meer Muhammad	Secretary Hospital, Lahore	Her services are placed at the disposal of SHC&ME Department for further posting against a vacant post of DDC (BS-18)
37	Mrs. Muhammad Zahir s/o Muhammad Saad Khan	DC Hospital Ferozshah, Bahawal	Deputy Drug Controller (BS-18) SHC&ME Hospital, Ferozshah, against a vacant post
38	Mr. Mansur Ahmad s/o Raza Muhammad	Deputy Drug Controller (BS-18) (W/O) (S), Tehsil Faisal Jinnah, Attock.	He is offered for continuation against the post of Deputy Drug Controller (BS-18), Tehsil Jinnah, Attock already occupied by him
39	Mr. Asim Raza Baber s/o Faris Muhammad Javed	Pharmacist (BS-17) Mayo Hospital, Lahore	As Deputy Drug Controller (BS-18), District Bahawalpur, against a vacant post.
40	Mrs. Amin Saad s/o Muhammad Fakhro Saad	Pharmacist (BS-17), DDC Teaching Hospital Faisalabad	Her services are placed at the disposal of SHC&ME Department for further posting against a vacant post of DDC (BS-18)
41	Mr. Zeshan Haidar Karim s/o Syed Saeed Hussain Saad	Drug Inspector (BS-17), Tehsil Lahore, District Okara	As Deputy Drug Controller (BS-18), Tehsil Sahiwal, District Faisalabad against a vacant post.
42	Mrs. Nadia Ilyas s/o Muhammad Ilyas Siddiqui	Pharmacist (BS-17), Mayo Hospital, Lahore	Her services are placed at the disposal of SHC&ME Department for further posting against a vacant post of DDC (BS-18)
43	Mrs. Aina Azzam s/o Azzam Hayyat Tariq	Lady Alchiron Hospital Lahore	Her services are placed at the disposal of SHC&ME Department for further posting against a vacant post of DDC (BS-18)
44	Mr. Muhammad Shafiq Zahir Rana s/o Rana Z. I. Zahir	Pharmacist (BS-17), Services Hospital, Lahore	His services are placed at the disposal of SHC&ME Department for further posting against a vacant post of DDC (BS-18)
45	Rae Sajid Ishaq	Deputy Drug Controller (BS-18) (W/O) S, Tehsil Khanpur, District R.Y.M Khan	In partial modification of this department's order No.50(Pharmacy)Promotion-DDC/2021 dated 09.02.2021 (Sr. No.1), he is transferred and posted as Deputy Drug Controller (BS-18), Tehsil Hasilpur, District Bahawalpur, against a vacant post vac.f. 09.02.2021.
46	Mrs. Taryaba Aslam	Secretary, District Quality Control Board (BS-18) (W/O) S.	In partial modification of this department's order No.50(Pharmacy)Promotion-

	Ghawwalnagar	DDC/2021 dated 02.05.2021 is allowed to continue against the post of Secretary, District Quality Control Board (BS-18), Ghawwalnagar currently occupied by her.
27	Mr. Syed Ahmad Masood Gilani s/o Syed Sajjad Hussain Gilani	Deputy Drug Controller (BS-18/OPS), Nishlar Town, Lahore As Deputy Drugs Controller / Deputy Director (Pharmacy), s/o Director General, Health Services, Punjab, Lahore, vice Mr. Moinuddin, transferred.
28	Mr. Muhammad Awaiz Younas s/o Younas Chaudhary	Pharmacist (BS-17), Aziz Bhatti Sheheed Teaching Hospital, Gujrat His services are placed at the disposal of SHC&ME Department for further posting against a vacant post of DDC (BS-18).

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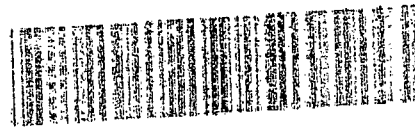
3 The following Pharmacists / Drug Inspectors (BS-17)/Deputy Drugs Controllers (BS-18) are hereby transferred, on administrative grounds and posted as under, with immediate effect:-

Ser. No.	Name with actual designation	Current place of posting	New place of posting, upon promotion
1	Ms. Rabia Sultana, Pharmacist / Drug Inspector (BS-17)	Deputy Drug Controller (BS-18/OPS), s/o Chief Drugs Controller, Punjab, Lahore	As Pharmacist (BS-17), s/o Chief Drugs Controller, Punjab, Lahore vice Mr. Ghayyur Abbas, transferred.
2	Mst. Gulraiz Tariq, (Pharmacist / Drug Inspector (BS-17)	Deputy Drug Controller (BS-18/OPS) in Provincial Quality Control Board, Lahore	Her services are placed at the disposal of SHC&ME Department for further posting.
3	Mst. Zaki Arshad (Pharmacist / Drug Inspectors (BS-17)	Deputy Drug Controller (BS-18/OPS), PQCB, Lahore.	Her services are placed at the disposal of SHC&ME Department for further posting.
4	Mr. Alta ul Mustafa Pharmacist / Drug Inspector (BS-17)	Secretary, District Quality Control Board (BS-18/OPS), M.B.Din	Deputy Drug Controller (BS-18/OPS), DHQ Hospital, Hafizabad, against a vacant.
5	Mr. Aftab Ahmad, (Pharmacist (BS-17)	Deputy Drug Controller (BS-18/OPS) in Provincial Quality Control Board, Lahore.	Drug Inspector (BS-17), Tehsil Lalian, District Chiniot, vice Mr. Zeeshan Haider Kazmi transferred.
6	Mr. Mohammed Tahir Khan, (DDC/BS-18)	Deputy Drug Controller (BS-18), DHQ Hospital Kasur	He is directed to report back to this department i.e. P&SH Department, s/o further orders
7	Mrs. Maria Rafiqat (Pharmacist (BS-17)	Deputy Drug Controller (BS-18/OPS), DHQ Hospital, Sheikhupura	Her services are placed at the disposal of SHC&ME Department for further posting.
8	Mst. Saharab Munaza, (Pharmacist (BS-17)	Secretary, District Quality Control Board (BS-18/OPS), M.B.Din	Her services are placed at the disposal of SHC&ME Department for further posting.

	<p>9. Mr. Mohsin Ali (Pharmacist/BS-17)</p>	<p>Deputy Drugs Controller (BS-18/GPS) o/c Director General, Health Services, Punjab, Lahore.</p>	<p>At the request of SHC&ME Department for better equipment against a vacant post of Pharmacist (BS-17).</p>
<p>10.</p>	<p>Malik Muhammad Irfan Mustafa, Pharmacist (BS-17)</p>	<p>Pharmacist, THQ Hospital, Karnal Pacca, District Lodiana</p>	<p>At the request of Director General Health Services, Punjab, Lahore for better equipment.</p>

4. All the above named officers who have been promoted to BS-18 are hereby directed to join their new place of posting within fifteen (15) days of issuance of these orders, failing which it shall be presumed that they have refused to accept their promotion and on such refusal they shall stand superseded, as per Promotion Policy, 2010. The effect of such a supersession shall be for three years and they shall be considered for promotion after three years under the Policy itself.

SECRETARY
PRIMARY & SECONDARY HEALTHCARE
DEPARTMENT



ESR-217909

Number & Date Even

A copy is forwarded for information and necessary action to the:

1. Accountant General, Punjab, Lahore.
2. Secretary, SHC&ME Department.
3. Director General, Health Services, Punjab, Lahore.
4. Chief Drugs Controller, Punjab, Lahore.
5. Secretary, Provincial Quality Control Board, Lahore.
6. All Directors of DTLs in Punjab.
7. CEOs of the DHAs, concerned.
8. District Accounts Officers concerned.
9. Medical Superintendents of the Hospital concerned.
10. Section Officer (AMP-I), Specialized Healthcare & Medical Education Department.
11. Section Officer (Confidential-I), P&SHD.
12. PS to Secretary, P&SH Department.
13. PS to Special Secretary / Additional Secretary (Admin), P&SH Department.
14. PA to Deputy Secretary (General), P&SH Department.
15. Project Director (HISDU), P&SH Department.
16. Officer concerned.
17. Personal File

3
18-02-21
Muhammad Sajjad Haider
SECTION OFFICER (PHARMACY)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 4821 /2021

Mr. Amin-Ui-Haq S/O Abdul Haq, Drug Inspector (BPS-17), District Mardan,
under transfer to the post of Senior Pharmacist (BPS-18), KDA Kohat
..... Appellant

Versus

1. Govt. of KP through Chief Secretary, Khyber Pakhtunkhwa, Peshawar
2. The Secretary Health Department, Khyber Pakhtunkhwa, Peshawar
3. The Director General Health Services, Khyber Pakhtunkhwa Peshawar.
4. The Director General Drug Control & Pharmacy Services, Khyber Pakhtunkhwa, Peshawar.

..... Respondent

AFFIDAVIT/ VERIFICATION

I Safiullah Focal Person Directorate General Drug Control & Pharmacy Services, Khyber Pakhtunkhwa, under the direction/ instruction of competent authority DG DC&PS, do hereby solemnly affirm that the contents of the signed para wise comments on behalf of respondents are true & correct to the best of my knowledge & belief & nothing has been deliberately concealed from this honorable court/ tribunal.

Deponent

Identified by
Advocate General office
Additional Advocate General
Khyber Pakhtunkhwa
Service Tribunal Peshawar

Amerth, e.c.,

7

DISCIPLINARY ACTION

I, Dr. Kazim Niaz, Chief Secretary, Khyber Pakhtunkhwa, as the Competent Authority, am of the opinion that Mr. Amin Ul Haq, Senior Drug Inspector BS-18, currently posted as Senior Pharmacist KDA Hospital District Kohat, has rendered himself liable to be proceeded against, as he committed the following Acts/ Omissions within the meaning of Rule-3 of the Khyber Pakhtunkhwa Civil Servants (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

- A. No Register/File was maintained for inspection of Medical Stores/Distributors.
- B. No record of sealing of medical stores was available.
- C. No samples were failed in his tenure showing least or no interest in searching market / area of jurisdiction .
- D. No attendance record was found available.
- E. No record of NOCs issued to applicants of Distt. Mardan who applied for getting Drug Licenses in other districts/provinces.
- F. Licensing record was lying in dilapidated condition with no tracking system without fulfilling legal formalities.
- G. No NOC was obtained from Khyber Pakhtunkhwa Pharmacy Council for the grant or renewal of Drug Sale licenses to ascertain authenticity of qualified persons resulted in spreading of fake licenses in the district.
- H. Form-8 (application form) of your tenure was not properly filled. Presence of Qualified Person (QP) was not assured by you, at the time of issuing DSL whereby in certain cases, picked randomly, the QP was unaware of his license at district Mardan.
- I. Seized medicines/court property and its record was in bad condition, not identifiable without any record maintained.
- J. The stock of medicines, seized during your inspection for its exhibition before Drug Court/PQCB was dumped haphazardly without any record to indicate from which facility it was drawn and with how much quantity.
- K. No record of taking over/handing over of charge including court cases or cases under investigation were found available.
- L. Market sampling of drugs for checking its quality was negligible.
- M. His performance in the implementation of the Drug laws/rules, was poor.
- N. Statement of Dr. Noor Islam is on record that he took one Lac twenty thousand rupees (Rs. 120,000) through his private tout namely, Mr. Rashid (a chemist operating shop at tehsil Takht bhai) for granting Drug Sale license.
- O. A subsequent report highlighting issuance of illegal/fake drug sale licenses by him besides licenses on multiple premises under the name of same qualified person in gross violation of the Drug law & Rules.
- P. A number of cases reported wherein fake licenses have been surfaced whereby the proprietors had paid huge amount of corruption either directly to the drug inspector under inquiry or through agents as per their written statements/under taking .

Received 26/07/21

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL PESHAWAR**

In re,

Service Appeal No. 4821/2021

Mr. Amin Ul Haq


VERSUS

Chief Secretary, Khyber Pakhtunkhwa and others

INDEX

S.No.	Description of documents.	Annexure	Pages.
1.	Stay application		1-3
2.	Affidavit		4
3.	Copy of the order dated 14.01.2021	A	5
4.	Copy of the suspension order	B	6
5.	Copy of the Statement of allegations and reply	C	7-9
6.	Copy of the letter dated 02.02.2021	D	10-12

Applicant / Appellant
Through


Bilal Ahmad Kakaizai
Advocate High Court

①

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL PESHAWAR**

In re,

Service Appeal No. 4821/2021



Mr. Amin Ul Haq

VERSUS

Chief Secretary, Khyber Pakhtunkhwa and others

put up to the monthly chair with relevant appeal.

23/8/2021

Ready

**APPLICATION FOR SUSPENDING THE
INQUIRY PROCEEDINGS AND RELEASE OF
THE SALARY OF THE APPLICANT**

Respectfully Sheweth,

1. That the above titled service appeal is pending adjudication before this Hon'ble Tribunal, and is fixed for hearing on 26-08-2021.
2. That the above titled appeal was heard in preliminary on 02.06.2021 and the impugned notification was suspended.
3. That it is note worthy that the impugned notification at earlier been suspended on 11.01.2021 by this Hon'ble Tribunal in case of another aggrieved officer namely Manzoor Ahmad as well.
4. That comments were filed wherein no plausible reason was furnished in support of the impugned notification except that inquiry was pending against the applicant/ appellant. It is note worthy that until filling of the comments the applicant was not associated with any inquiry what so ever.
5. That soon after the impugned notification was challenged before this Hon'ble Tribunal and in the High Court by the aggrieved civil servants, the respondents started torturing the applicant/ appellant by initiating false proceedings on frivolous charges, suspension order and stoppage of salary.
6. That first the salary of the applicant/ appellant was stopped vide order dated 14.01.2021 and the applicant/ appellant is

- performing duties without any remunerations since then. (Copy of the order dated 14.01.2021 is attached as annexure "A")
7. That likewise the applicant was suspended from service on 06.05.2021. (Copy of the suspension order is attached as annexure "B")
 8. That finally the applicant/ appellant was summoned by an inquiry officer on 26.07.2021 and was handed over in unsigned statement of allegations issued by the worthy respondent No. 1 which was duly answered. (Copy of the Statement of allegations and reply are attached as annexure "C")
 9. That the harassment of the applicant/ appellant did not end here. The applicant / appellant was again summoned by the inquiry officer on 03.08.2021 and was handed over a letter dated 02.02.2021 written by Mr. Abdul Raof a BPS- 17 Pharmacist now posted as Drug Inspector at Mardan and beneficiary of the impugned notification for reply. (Copy of the letter dated 02.02.2021 is attached as annexure "D")
 10. That the whole issue in the instant and connected appeals revolves around the question whether the officers of one cadre can be posted against the posts meant for the other cadre when already such merger has been declared ultra vires by the Hon'ble Peshawar High Court. In such scenario the proceedings initiated at the initiative of a junior Ex. Cadre Officer speak of nothing else than gross malafides against the applicant / appellant.
 11. That all these measures are meant to torture the applicant /appellant and to compel him into withdrawal from seeking his lawful rights before this Hon'ble Tribunal.
 12. That ironically instead of adhering to the lawful process and respect to the order of this Hon'ble Tribunal the applicant/ appellant is being subjected to mental tortures, monetary losses and ridicule in utter violation of the law.

13. That there is no reason to stop the salary of the applicant /appellant for more than eight months except to compel him to withdraw from his right to seek justice.
14. That even the suspension period has crossed the statutory period and the same has not been extended hence liable to be set at naught.
15. That all these actions have been taken in violation of the interim order of this Hon'ble Tribunal and amount to commission of contempt of the judicial sanctity of this Hon'ble Tribunal.
16. That the subsequent proceedings amount to creating hurdles in the way of justice by this Hon'ble Tribunal.

It is, therefore, humbly prayed that on acceptance of this application

- i. The inquiry proceedings against the applicant / appellant may kindly be suspended till final disposal of the above titled appeal.
- ii. The salary of the applicant / appellant may kindly be released by setting aside the order dated 14.01.2021.
- iii. The applicant /appellant may kindly be allowed to assume his duties as Senior Drug Inspector at Mardan in terms of the interim order dated 02.06.2021 of this Hon'ble Tribunal by suspending the suspension order dated 06.05.2021.
- iv. Any other order deemed proper and appropriate by this Hon'ble Tribunal may kindly be passed as well.

Applicant /Appellant
Through

Bilal Ahmad Kakaizai
Advocate High Court

4

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL PESHAWAR**

In re,

Service Appeal No. 4821/2021

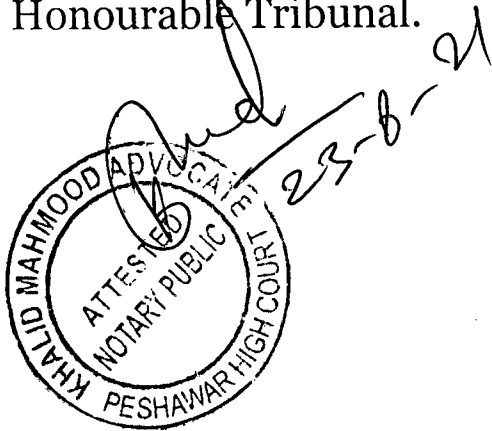
Mr. Amin Ul Haq

VERSUS

Chief Secretary, Khyber Pakhtunkhwa and others

AFFIDAVIT

I, Amin Ul Haq S/o Abdul Hap R/o Tangi, Nusratzai, Muhalla Usman Khel, District Charsadda,, do hereby solemnly affirm and declare on oath that the contents of the instant implementation Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.




Deponent

17102 2668408-7

03004114988

03005922109



Aminul Haq (5)

DIRECTORATE GENERAL DRUG CONTROL & PHARMACY SERVICES

All communication should be addressed to the Director General Drugs & Pharmacy Services.
DG. Office Ph: +92-91-9222824 & Fax: +92-91-9211702

No. 28-31 /DG DC & PS

Dated: 14/10/2021

To

The District Account Officer
Mardan.

Subject: STOPAGE OF PAY (MR. AMIN UL HAQ DRUG INSPECTOR)
DISTRICT MARDAN.

Mr. Amin ul Haq Senior Drug Inspector Mardan was transferred to KDA Hospital Kohat as senior Pharmacist against the vacant post vide Government of Khyber Pakhtunkhwa Health Department Notification NO.SOH-III/10-4/2020 dated 06th October 2020 but still yet the Officer concerned not reported to his place of duty.

It is further stated that his salary as Drug Inspector Mardan immediately be stopped.

[Signature]
14/10/2021

DIRECTOR GENERAL
DRUG CONCTROL & PHARMACY SERVICES
Khyber Pakhtunkhwa Peshawar.

Cc:

1. Medical Superintendent KDA Hospital Kohat
2. Drug Inspector Mardan
3. P.S to Secretary Health Khyber Pakhtunkhwa
4. Mr. Amin ul Haq Senior Pharmacist (Mardan) with the direction to report to his new place of posting i.e. KDA Hospital Kohat immediately.

Annex to B-7

6



**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

Dated Peshawar, the 06th May, 2021

NOTIFICATION.

SO(H-III)7-262/2021. WHEREAS Health Department constituted the Committee vide Notification of even number, dated 24th June, 2020 to conduct the comprehensive audit of various districts including District Mardan for the purpose to evaluate the performance of Drug Inspectors and to unearth the reported discrepancies/mal practices/complaints that were poured in indicating lack of Drug Sale Licensing's data, NOCs issued to other districts, data of seized stock, pending cases for submission in the Provincial Quality Control Board and the Drug Court and data of FIRs in their respective Districts.

AND WHEREAS the Audit Report surfaced corrupt practices committed during the tenure of Mr. Amin ul Haq, the Drug Inspector District Mardan.

AND WHEREAS the Provincial Inspection Team, Khyber Pakhtunkhwa has also conducted an inquiry where besides other corrupt practices, the chance of bribe has been proved.

AND WHEREAS there is likelihood of distorting the record under inquiry that may affect the inquiry proceedings.

AND WHEREAS the Competent Authority has ordered for conduction of Formal Inquiry under Efficiency & Disciplinary (E&D) Rules, 2011.

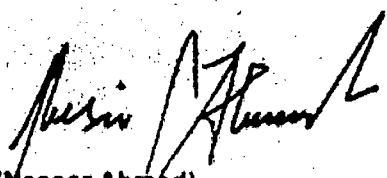
NOW THEREFORE the Competent Authority (Chief Secretary Khyber Pakhtunkhwa) has been pleased to suspend the services of Mr. Amin Ul Haq under Rule-6 of Khyber Pakhtunkhwa Efficiency & Disciplinary (E&D) Rules, 2011 and is directed to report to Directorate General Drug Control & Pharmacy Services, Khyber Pakhtunkhwa with immediate effect.

Secretary to Govt. of Khyber Pakhtunkhwa
Health Department

Endst even No & date.

A copy is forwarded to:-

1. PSO to Chief Secretary, Khyber Pakhtunkhwa.
2. PS to Minister for Health, Khyber Pakhtunkhwa.
3. The Director General Drug Control & Pharmacy Services, Khyber Pakhtunkhwa.
4. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
5. District Account Officer, Mardan.
6. District Account Officer, Kohat.
7. PS to Secretary Health, Khyber Pakhtunkhwa, Peshawar.
8. PS to Special Secretary Health (E&A), Khyber Pakhtunkhwa, Peshawar.
9. Deputy Director (I.T), Health Department.
10. Officer concerned.


(Naseer Ahmad)
SECTION OFFICER-III

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**WRITTEN STATEMENT OF AMIN UL HAQ, SENIOR DRUG
INSPECTOR (BPS-18), CURRENTLY IN DIRECTORATE GENERAL,
DRUG CONTROL AND PHARMACY SERVICES, KHYBER
PAKHTUNKHWA, PESHAWAR.**

1- The undersigned recruited/appointed as Drug Inspector in BPS-17 through KPSC and post in various Districts of Khyber Pakhtunkhwa. In 2019 through PSB promoted in BPS-18 and posted as Senior Drug Inspector (BPS-18), Mardan. Para wise reply of the copy of charge sheet provided by the inquiry committee dated 26th July, 2021 are as under please:-

A. The undersigned after carrying over inspection regularly forwarded Daily Activity Reports of Drug control along with pictorial evidence with DG DC&PS in their official whatsapp group created for the said purpose.

B. The Sealing Memo sheet used during sealing of premises under - Section 18 (h), which is a part of case file and counter file is regularly being delivered to sealing premises in charge on spot. **A copy of Sealing Memo is attached (Annex-I)** for information, please.

C. The undersigned is responsible for to take and send for test or analysis if necessary, samples of any drug which he has reason to suspect is being manufactured, sold, stocked or exhibited for sale in contravention of any of the provisions of the Drug Act. Declaring failed or passed is the duty of govt Analyst.

D. The undersigned regularly attended the office but neither previously nor presently there was any practice of maintenance of register for attendance of officers was available. Once the undersigned after posting inquired about the register for which I have been told that according to Secretariat Manual of Instructions for attendance, BPS-17 and above are exempted.

E. Proper record has been maintained for NOCs issued during my tenure (**Photo copies attached as Annex-II**).

F. No proper racks were available in the office for storage of record. The undersigned after posting prepared proper racks for record keeping which can be verified. However, the undersigned may not be held responsible for the dilapidated condition of old record as it was not properly maintained by the then officers / officials. Moreover, due to shortage of space the record was previously dumped in a room of EPI which was even not allotted to the office. Resultantly, the old record is in dilapidated condition.

G. No legal provisions to obtain NOC from KP Pharmacy Council is available therefore, the charge regarding obtaining NOC is denied and the undersigned may not be held responsible for this.

H. Totally denied this charge, as initial step of License is Form-8 which is basically an application which is filled by the Qualified Person. Issuing of Drug Sale License is subject to field inspections carried out by the drug Inspector to inspect / verify the information provided in form-8 by the Qualified Persons and is subject to proper approval. Therefore, it is a vague expression without any solid footings.

I. Totally denied, the under signed not received a single complaint from Drug Court or PQCB that the case property is missing or not presented in a proceedings or in a trial. Moreover, all the record of seized medicine of my tenure is available and is in identifiable condition. Copy of the PQCB Register of Issues attached **As Annex-III** for ready reference.

J. Denied. All the record of medicine seized in my tenure is available on form-6 (Attached as **Annex-IV**) and it clearly shows the facility from which it was drawn and clearly indicates the quantity seized. However, as early mentioned due to non availability of space, the record prior to the tenure of the undersigned has not been properly maintained.

K. Nothing was handed over to me due to the fact that the Post of Senior Drug Inspector (BS-18) was lying vacant at the time of arrival of the undersigned.

L. Charge denied. Regular inspections have been carried out by the undersigned and suspected drugs has been entered on form-5 and forwarded for checking its quality and the quantity of samples as required by the Drug Testing Laboratory are sent for testing. However as

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earlier mentioned, declaring failed or passed is the duty of govt. Analyst. Copies of Form-5 (attached as **Annex-V**) for ready reference, please.

M. Charge denied. I during my entire tenure, being the law enforcing agent worked with honesty and with punctuality. It is a proof of my statement that not even a single explanation has been called by any authority during my tenure.

N. Charge denied. It is totally a baseless charge neither I received any money and nor I have any tout. During my entire career I have worked with my entire devotion, punctuality and honesty towards fulfilling my assigned duties. Written statement of Mr. Rasheed is also attached as **Annex-VI** which proves that the allegation is baseless.

O. It is denied, no such case has been found during my entire tenure. Infact Hospital Pharmacist Community is against the drug Inspectors. We the drug inspectors have challenged the amalgamation of three cadres i.e. pharmacist, government analyst and Drug Inspector in which the Peshawar High Court set aside the amalgamation notification and resultantly the other two cadres became against the drug inspector cadre and trying to embarrassed them in eyes of Provincial Govt, through different techniques. As conflict of interest of three cadres involved, the said allegation may be set aside as it has no concrete weight and baseless. Moreover, no such reports have been provided to the undersigned to enable to clarify my position.

P. My cadre was changed from Drug Inspector to Hospital Pharmacist due to which I lodged a complaint in the KP Service Tribunal in which the Service tribunal granted stay. Due to the said stay, employees of the other two cadres started to work against the undersigned. As earlier stated I have worked with honesty in my entire service and totally deny the charge of issuing fake licenses. Even though it has been mentioned in the allegation that proprietors had paid huge amount but no proof of such corruption was provided. Therefore, the allegation is baseless. In fact such tactics have been adopted to defame the undersigned and nothing else. Written statement of Mr. Rasheed proves the allegation wrong. Hence the undersigned is being charged with unseen crime and decision on hear say, which based on presumption and assumption. Therefore, I being innocent totally deny the charge. Moreover, the undersigned pay due attention towards issuing licenses during my entire tenure and proper record was maintained. I visited the Drug Control Secretariat office Mardan regarding the verification of record of the list of 29 fake licenses provided by the inquiry committee. Even though no co-operation was extended to the undersigned during my visit but fortunately one proprietor of M/S United Medicos was present at that time that have provided me a copy of his license bearing No. 571/RS dated Nil (Copy attached as **Annex-VII**). The said license was issued by the undersigned and the holder of the license was a qualified person and can be verified. It is also an evident that all these licenses are not fake. Even then if the committee requires verification of licenses, then it is requested that the copies of under question licenses may be provided to the undersigned for verification. In addition, it has been mentioned on the page provided that the said 29 licenses have been issued by three drug inspectors i.e. Amin Ul Haq, Tayyab and Shoaib as explained by Mr. Abdur Rauf Drug Inspector. This person is basically Hospital Pharmacist but his cadre was changed as drug inspector. As earlier requested weightage may not be given to his statement due to the fact that there is conflict of interest involved as explained in the reply to allegation at Para-O. It is also explained that the undersigned was kept unaware about the in process of inspection carried out by the Provincial Inspector Team and no one has bothered to call/ interview me therefore the report is totally one sided. It is also added that No signed /legal charge sheet has been provided so far which proves that the overall process was completed one sided.

2- It is, therefore, requested to consider the above facts and proof provided by the undersigned and humbly requested to exonerate me from the baseless allegations leveled against me.


AMINUL HAQ
SENIOR DRUGS INSPECTOR

Amirul - Dy

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OFFICE OF THE CHIEF DRUG INSPECTOR
ROOM NO.13, 14 DISTRICT SECRETARIAT MARDAN

NO. 628 /PD-AR/MRD

Dated Mardan, the 02/02 /2021

From:

The Provincial Drug Inspector
District Secretariat Mardan.

To

The Director General Drug Control &
Pharmacy Services Khyber Pakhtunkhwa
Peshawar.

Subject: MISAPPROPRIATION IN ISSUANCE OF DRUG SALE LICENSES

Respected Sir,

I have the honor to submit that:

During course of inspections of medical stores in district Mardan by undersigned the following medical stores were checked with different time interval and days and found that licenses which were issued by predecessor inspectors of drugs were illegal/without fulfilling the legal requirements under the drugs laws and rules/fake, doubling and tripling of qualified person in same district which are as under;

S.NO	License No.	Type Form	Premises/ Medicose	Proprietor	Qualified	Issued by Predecessor SDI
01	617/RS	9,11	IHSAN	SAJJAD ALI	FAZLE KHALIQ	AMIN UL HAQ Same person has been issued three licenses at S.NO. 01, 02 & 03.
02	279/RS	9,11	SHER ALAM	SHER ALAM	SHAJAR KHAN	AMIN UL HAQ
03	703/RS	9,11	IKRAM	MUHAMMAD IKRAM	FAZLE KHALIQ	AMIN UL HAQ
04	981/RS	9,11	CH ✓	ISHAQ MUHAMMAD	FAZLE RABI	AMIN UL HAQ
05	707/RS	9,11	SHAHID	SHAHID KHAN	QAJEERKHA N	AMIN UL HAQ
06	678/RS	9,11	COMMUNITY PHARMACY	MEHDI ALI	SAJJAD ALI KHAN	AMIN UL HAQ

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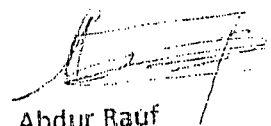
07	433/RS	9,11 to DISTRIBU TION	HOTI DISTRIBUTION		MUHAMMAD ASHRAF	AMIN UL HAQ
08	623/RS	9,11	MEDICINE POINT	IFKIKHAR ALI	MUHAMMAD ZAHID	AMIN UL HAQ
09	87/RS	9,11	AYAAN	MUHAMMA D. TAYYEB	ALI GAUHAR	AMIN UL HAQ
10	614/RS	9,11	ABDUL QAYYUM	SYED UL IBRAR SHAH	SHAJAR KHAN	AMIN UL HAQ
11	677/RS	9,11	KHAN		NAIMAT ULLAH	AMIN UL HAQ
12	508/WS	10,11	KHALILUR REHMAN		HUSSAIN SHAH	AMIN UL HAQ
13	571/RS	9,11	UNITED	AMIR KAMAL	FAQIR GUL	AMIN UL HAQ
14	704/RS	9,11	SUFYAN	YOUSAF SHAH	ALTAF HUSSAIN	AMIN UL HAQ
15	729/RS	9,11	GLOBAL	HAYAT KHAN	SAIF ULLAH	AMIN UL HAQ
16	202/RS	9,11	SHAHAB	UMAR KHITAB	UMAR KHITAB	AMIN UL HAQ
17	102/RS	9,11	TAKHAT BHAI VETERINARY	AMAL KHAN	KHAN AFSAR KHAN	AMIN UL HAQ
18	326/RS	9,11	ZAMAN	AHAD ZAMAN	JANAS KHAN	AMIN UL HAQ
19	492/RS	9,11	M-JEHANGIR	SHER ALAM KHAN	NIZAM UDDIN	AMIN UL HAQ

The undersigned issued show cause notices to the above medical store owners to explain their position regarding violating of the drug laws and rules framed there under. During investigation, some of the proprietor of the medical stores confessed that they don't even know the qualified persons rather these licenses are issued by the concern drug inspectors of district Mardan. It was also instructed to the proprietors /owners to appear the qualified person along with original documents, but they failed to do so.

Furthermore, for verification of record of these licenses from the clerk of the drug control office Mardan and he declared that no record of these medical store licenses are present in the office not in official register. After completing my investigation I had referred the cases to the chairman PQCB for taking legal action as per law.

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The complete detail of these fake illegal /without adopting the legal requirements to issuing licenses and without record in the office of Drug control Mardan is forwarding for information, perusal and further necessary action please.



Abdur Rauf
Provincial Inspector of Drugs
District Mardan.

Endst: No. & date even.

Copy to:

1. The Chairman Provincial Quality Control Board Khyber Pakhtunkhwa Peshawar.

Rec'd from
Inventory Committee
Date 03/08/21