

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 5202/2021

BEFORE: **MR. KALIM ARSHAD KHAN** ... **CHAIRMAN**
 MISS. FAREEHA PAUL ... **MEMBER(E)**

**Mr. Azmatullah Khan, Chief Clinical Technician Pharmacy (BPS-16) (Rtd),
R/O at Green City Sheikh Yousaf Road, District D.I.Khan.**

...(*Appellant*)

Versus

1. **The Government of Khyber Pakhtunkhwa through Secretary Health Department, Peshawar.**
2. **The Director General, Health Services, Khyber Pakhtunkhwa Peshawar.**
3. **District Health Officer, District Tank.**
4. **District Accounts Officer, District Tank.**
5. **District Accounts Officer, Dera Ismail Khan.**
6. **Deputy District Health Officer, Sub-Division Jandola, District Tank.**
7. **Deputy District Health Officer Sub-Division, Darazinda, District Dera Ismail Khan.**

...(*Respondents*)

Mr. Afrasiab Khan Wazir
Advocate

For appellant

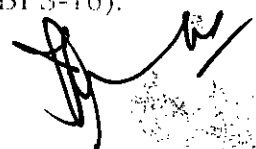
Mr. Muhammad Rasheed
Deputy District Attorney

For respondents

Date of Institution.....19.05.2021
Date of Hearing..... 27.04.2022
Date of Decision..... 14.07.2022.

JUDGMENT

FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the retirement order dated 08.03.2021, whereby the appellant was retired from service as Dispenser (BPS-12) instead of Chief Clinical Technician Pharmacy (BPS-16).



2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant had been appointed as Dispenser in the respondent department on 25.05.1981. During service, he was promoted from the Senior Clinical Technician (BPS-14) to the post of Chief Clinical Technician Pharmacy (BPS-16) w.e.f 25.10.2017 and vide office order dated 26.12.2017 his services were placed at the disposal of Agency Surgeon, FR D.I.Khan. Respondent No. 7 was reluctant to adjust the appellant as Chief Clinical Technician Pharmacy (BPS-16) and wrote a letter to Director Health Services (FATA) that there was no vacant post of Chief Clinical Technician Pharmacy (BPS-16) to adjust the appellant and sought advice regarding his posting. The Director Health Services (FATA) Peshawar vide letter dated 03.04.2018 advised him to adjust the appellant in accordance with approved service structure of Paramedics but even then the appellant was not adjusted against the post of Chief Clinical Technician Pharmacy (BPS-16). Feeling aggrieved, the appellant filed Writ Petition No. 459-D/2018 before the Hon'ble Peshawar High Court, D.I.Khan Bench which was allowed vide judgment dated 08.10.2018 with the direction to respondent No. 7 to implement the order of the Director Health Services (FATA) Peshawar. In the meanwhile on competition of qualified service, vide order dated 08.03.2019, respondent No. 6 issued retirement order of the appellant as Dispenser (BPS-12) instead of Chief Clinical Technician (BPS-16). Feeling aggrieved from the order dated 08.03.2019, the appellant preferred Writ Petition No. 1105- D/2019 and vide order dated 12.01.2021, the Writ Petition was treated as representation/appeal and sent to respondent No. 2 for decision in accordance with law preferably within thirty days. The departmental appeal/representation was not responded by the respondents; hence the present appeal.


3. On receipt of the appeal and its admission to full hearing, the respondents were put on notice for submission of written reply/comments but despite numerous opportunities they could not submit reply/comments. On 11.01.2022, on the request of

learned Additional Advocate General last opportunity was granted to the respondents to furnish reply/comments on or before 27.04.2022, failing which their right to submit reply/comments was deemed to be struck off. Even then they did not submit their reply/comments. We have heard the learned counsel for the appellant as well as the Deputy District Attorney for the respondents and perused the case file with connected documents minutely and thoroughly.

4. Learned counsel for the appellant contended that the appellant had not been treated in accordance with law and rules. The appellant was already promoted to the post of Chief Clinical Technician Pharmacy (BPS-16) and then retiring him on the post of Dispenser (BPS-12) was blatant violation of law and rules and that the appellant was deliberately deprived from vested right of promotion on the post of Chief Clinical Technician.

5. Learned Deputy District Attorney, on the other hand, contended that there was no vacant post of Chief Clinical Technician Pharmacy (BPS-16) under the Agency Surgeon, FR D.I.Khan against which the appellant could be adjusted. He was adjusted against the vacant post of Dispenser (BPS-12) and he was rightly retired against the said post.

6. It is not disputed that the appellant was promoted from the post of Senior Clinical Technician (BPS-14) to Chief Clinical Technician (BPS-16). It was for the respondent department to adjust him against available vacant post in BPS-16 but he could not be adjusted despite clear directions by the Director Health Services (FATA) vide his letter dated 03.04.2018 and Hon'able Peshawar High Court vide judgment dated 08.10.2018 in Writ Petition No. 459-D/2018. The contention of respondents that there was no post for adjustment of the appellant against a grade 16 post that is why he was adjusted against a lower grade post, is totally untenable as to how and why promotion was made when there was no post of grade 16. In the meanwhile, the



appellant attained the age of superannuation and vide order dated 08.03.2019, and he was retired from service from the post of Dispenser (BPS-12), instead of his actual grade to which he was admittedly promoted before his retirement, therefore, this act of the respondents was against the law and rules.

7. In view of above, the appeal is accepted and respondents are directed to consider the promotion of appellant as Chief Clinical Technician (BPS-16) with effect from 25.10.2017, with all back benefits and amend the retirement order in the light of his promotion order and retire him from the post of Chief Clinical Technician (BPS-16) w.e.f. the date of superannuation, with all pensionary benefits. Parties are left to bear their own costs. Consign.

8. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 14th day of July, 2022.*



(KALIM ARSHAD KHAN)
Chairman



(FARIEHA PAUL)
Member (E)

Service Appeal No. 5202/2021

Mr. Afrasiab Khan Wazir, Advocate for the appellant present. Mr. Muhammad Rasheed, Deputy District Attorney for the respondents present. Arguments heard and record perused.

2. Vide our detailed judgement of today containing 04 pages, we have arrived at the conclusion that the appeal is accepted and respondents are directed to consider the promotion of appellant as Chief Clinical Technician (BPS-16) w.e.f 25.10.2017, with all back benefits and amend the retirement order in the light of his promotion order and retire him from the post of Chief Clinical Technician (BPS-16) w.e.f. the date of superannuation, with all pensionery benefits. Parties are left to bear their own costs. Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 14th day of July, 2022.*



(KALIM ARSHAD KHAN)
Chairman



(FAREEHA PAUL)
Member (E)

27th April, 2022

Mr. Afrasiab Khan Wazir, Advocate for the appellant present. Mr. Muhammad Rasheed, Deputy District Attorney for the respondents present.

Arguments heard. To come up for order 12.05.2022 before D.B.



(Fareeha Paul)
Member (E)



Chairman

ORDER
13.05.2022

Deleted for reconstitution of Bench. To come up for order on 26.05.2022.

Reader

26th May, 2022

None for the appellant present. Mr. Muhammad Rashid, Deputy District Attorney for respondents present.

To come up for order on 20.06.2022 before D.B.



(Fareeha Paul)
Member(E)



(Kalim Arshad Khan)
Chairman

20th June, 2022

Counsel for the appellant present. Mr. Muhammad Rasheed DDA for the respondents present.

Because of other multifarious engagement we could not record the judgment. To come up on 29.07.2022 for order.



(Fareeha Paul)
Member(E)



(Kalim Arshad Khan)
Chairman

Stipulated period passed reply not submitted.

15.09.2021

Learned Addl, A.G be reminded about the omission and for submission of reply/comments within extended time of 10 days.


Chairman


08.12.2021

Counsel for the appellant present. Mr. Muhammad Adeel, Addl: AG alongwith Mr. Jafar Ali, Assistant for respondents present.

Written reply/comments not submitted. Representative of the respondents seeks time for submission of written reply/comments. The requested is acceded to. To come up for written reply/comments on 11.01.2022 before S.B.


(MIAN MUHAMMAD)
MEMBER (E)

11.01.2022


Learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG for respondents present.

Reply/comments on behalf of respondents are still awaited. Learned Additional Advocate General sought time for submission of reply/comments. Last opportunity is granted to respondents to furnish reply/comments on or before next date, failing which their right to submit reply/comments shall be deemed as struck off by virtue of this order. To come up for arguments before the D.B on 27.04.2022.


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

29.07.2021

Counsel for the appellant present. Preliminary arguments heard.

Points raised need consideration. The appeal is admitted for regular hearing, subject to all just and legal objections including objection of limitation. 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 after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 08.12.2021 before the D.B.

Appellant Deposited
Security & Process Fee

9/8/21

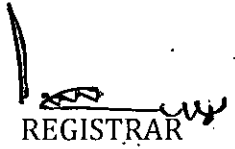


Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. - _____ /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	19/05/2021	<p>The appeal of Mr. Azmatullah Khan presented today by Mr. Afrasiab Khan Wazir Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench Peshawar. Notices, be issued to the appellant/counsel for preliminary hearing to be put up there on <u>29/07/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2021

AZMATULLAH KHAN

VS

HEALTH DEPTT:

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6.	Judgment dated 08.10.2018	E	13-17.
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APPELLANT

AZMATULLAH KHAN

THROUGH:


AFRASIAB KHAN WAZIR
ADVOCATE

OFFICE:

Flat No.4, 2ND Floor,
Juma khan plaza near
FATA Secretariat, Warsak road
Peshawar City. Mobile No. 0312-9888752

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

**Khyber Pakhtunkhwa
Service Tribunal**

APPEAL NO. 5202 / 2021

Diary No. 5248

Dated 19/5/2021

Mr. Azmatullah Khan, Chief Clinical Technician Pharmacy (BPS-16) (Rtd:),
R/O at Green City Sheikh Yousaf road, District Dera Ismail Khan.

.....**APPELLANT.**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa Through Secretary Health Services Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director General, Health Services Department, Khyber Pakhtunkhwa, District Peshawar.
- 3- District Health officer, District Tank.
- 4- District Accounts Officer, District Tank.
- 5- District Account Officer, Dera Ismail Khan.
- 6- Deputy District Health Officer Sub-Division Jandola, District Tank.
- 7- Deputy District Health Officer Sub-Division Darazinda, District Dera Ismail Khan.

.....**RESPONDENTS.**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT-1974, AGAINST THE IMPUGNED RETIREMENT ORDER DATED 08.03.2019 WHEREBY THE APPELLANT HAS BEEN RETIRED FROM SERVICE AS DESPENSER (BPS-12) INSTEAD OF CHIEF CLINICAL TECHNICIAN PHARMACY (BPS-16) AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal of the appellant the impugned order dated 08.03.2019 may very kindly be set aside and the respondents may please be directed to consider the promotion of the appellant w.e.f 25.10.2017 with all back benefits with further direction to the respondents to issue retirement order to the appellant as Chief Clinical Technician Pharmacy (BPS-16) with all pensionary benefits. Any other remedy which August Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Filed to-day
19/5/2021
Registrar

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

- 1- That initially the appellant was appointed as Dispenser in the respondent department and since appointment the appellant had performed his duties quiet efficiently and up to the entire satisfaction of his superiors. Copy of the Appointment Order dated 25.05.81 is attached as annexure.....**A.**
- 2- That during service the appellant was promoted from the Senior Clinical Technician (BPS-14) to the post of Chief Clinical Technician Pharmacy (BPS16) from the date of 25.10.2017 wherein the appellant service was placed at the disposal of the Respondent No.7 after submitting arrival report by the appellant. Copy of the ~~order~~ order dated 26.12.2017, arrival report dated ~~10.01.2018~~ are attached as annexure.....**B & C.**
- 3- That after that the respondent No.7 was reluctant to adjust the appellant as Chief Clinical Technician Pharmacy (BPS-16) and in this way the respondent No.7 asked for advice from the then director Health regarding posting of the appellant vide office order dated 22.03.2018 and in response respondent No.7 was directed vide order dated 03.04.2018 to adjust the appellant in accordance with approved service structure of the paramedics. Copy of the office Order dated 22.03.2018 & order dated 03.04.2018 is attached as annexure.....**D.**
- 4- That even after the aforementioned direction by the then Director Health, but the respondent No.7 wasn't adjusting the appellant on the post of Chief Clinical Technician Pharmacy (BPS-16). That the appellant feeling aggrieved from inaction of the respondents filed Writ Petition No.459-D/2018 Before the Honorable Peshawar High Court, Dera Ismail Khan Bench which was allowed vide Judgment dated 08.10.2018 with the direction to Respondent No.7 to implement the order of the then Director health. Copy of the Judgment dated 08.10.2018 is attached as annexure.....**E.**
- 5- That above all, the appellant time and again requested the respondent No.7 for implementation of the aforementioned Judgment of the Peshawar high Court Dera Ismail Khan Bench but it went in vain and astonishingly the Respondent No.6 issued retirement order of the appellant as Dispenser (BPS-12) vide order dated 08.03.2019 instead issuing retirement order on the post of Chief Clinical Technician Pharmacy (BPS-16) to which the appellant was already promoted and deliberately deprived the appellant from the benefits

of promotion by the respondents. Copy of the Retirement Order dated 08.03.2019 is attached as annexure.....**F.**

6- That the appellant feeling aggrieved from the impugned retirement order dated 08.03.2019 issued by the respondents, preferred Writ Petition No.1105-D/2019 which is allowed vide order dated 12.01.2021, whose operative part is reproduced as:- ***In View of the Above, this Writ Petition is treated as Representation/appeal and sent to the respondent No.2 for decision in accordance with law. It will be highly appreciated if the same is decided within a period of 30 days.*** And till dated the departmental appeal/representation has not been responded by the respondents so far. Copy of the Order dated 12.01.2021 is attached as annexure.....**G.**

7- That the appellant further feeling aggrieved and having no other remedy but to file this appeal on the following grounds amongst other.

ON GROUNDS:

A- That the issuance of impugned order dated 08.03.2019 by the respondents while not considering the promotion of the appellant to the post of Chief Clinical Technician Pharmacy (BPS-16) w.e.f 25.10.2017 and also not retiring the appellant on the same post is against the law, facts, norms of natural justice and material on record hence the impugned order dated 08.03.2019 is liable to be set aside.

B- That the appellant has not been treated by the respondents in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

C- That the respondents acted sheer arbitrarily with malafide by issuing impugned order dated 08.03.2019 while not considering the appellant's promotion to post of Chief Clinical Technician Pharmacy (BPS-16) w.e.f 25.10.2017 and also not retiring the appellant on same the post of Chief Clinical Technician Pharmacy (BPS-16).

D- That the respondents acted in discriminatory manner by issuing the impugned order dated 08.03.2019 whereby the appellant has been retired as Dispenser (BPS-12) instead on the post of Chief Clinical Technician Pharmacy (BPS-16) is against the norms of nature justice.

- E- That the appellant was already promoted to the post of Chief Clinical Technician Pharmacy (BPS-16) and then retiring the appellant on the post of Dispenser (BPS-12) is blatant violation of law and rules by the respondents.
- F- That the issuance of the impugned order dated 08.03.2019 by the respondents while not considering the promotion of the appellant to the post of Chief Clinical technician Pharmacy (BPS-16) and not retiring the appellant on same post is against law and rules thus impugned order dated 08.03.2019 is liable to be set aside.
- G- That the action and inaction of the respondents is clear violation of article 38(e) of the Islamic Republic of Pakistan by depriving the appellant from the pensionary benefits on the post of Chief Clinical Technician Pharmacy (BPS-16).
- H- That the action and inaction of the respondents by deliberately depriving the appellant from the vested right of promotion on the post of Chief Clinical Technician Pharmacy (BPS-16) and its pensionary benefits, is against the prevailing law and rules thus the impugned order dated 08.03.2019 is liable to be set aside.
- I- That the appellant seeks permission to advance any other ground and proof at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may very kindly be accepted as prayed for.

Dated: 19-5-2021

APPELLANT

Azmatullah Khan
AZMATULLAH KHAN

THROUGH:

Afrasiab Khan Wazir
AFRASIAB KHAN WAZIR
ADVOCATE

Better Copy- ~~2~~ A - (5)

4916/E-4

Dated 25.5.81

Com.: The District Health Officer
Dera Ismail Khan.

Azmatullah S/O Mohibullah khan
C/O Hayatullah khan Medical Officer Hospital Dikhan.

Subject- OFFER OF APPOINTMENT

Reference to your letter on 26.04.81

Your are hereby appointed as Dispenser against the existing
vacancy of Civil Dispensary (M) on the notional pay scale
No5/290-10-350/12-470 plus usual allowance as admissible under the
rules, and on the averment from time to time.

District Health officer
Dera Ismail khan

ATTESTED

A-115 (5)

25/5/81

4916

1E-4

From:-

The District Medical Officer,
Dera Ismail Khan.

To

Commandant, 10th Mountain Battalion
C/o Hyderabad Khasa Hospital of 10th Mountain Battalion
Dera Ismail Khan

Subject:-
Memorandum:

OFFER OF APPOINTMENT

Reference is made to your letter on 26/4/81

You are hereby appointed and appointed as Medical Officer
against the existing vacancy of Medical Officer (B) in 10th Mountain Battalion

in the National Pay Scale No. 5 of 290-10-30/12-470
plus usual allowances as stipulated in the rules, and to hold office for the Government from time to time.

Your appointment is on a temporary basis and your services are to be rendered for a period of one year without giving any notice in writing. It is further stated that you may belong to a reserved category.

You have to deposit your salary for the first month in advance. You wish to resign at any time during the period of your appointment. You shall be liable to pay the Government one month's pay as a penalty for such resignation.

You will be required to report for duty on the day of your appointment.

You will be required to report for duty on the day of your appointment to Dera Ismail Khan, District Hospital, Dera Ismail Khan. Any absence from duty without the sanction of the Government of Pakistan, Dera Ismail Khan, will be treated as absence and you may be liable to disciplinary action.

If you accept the offer of appointment on the above conditions, you should report to the Commandant, 10th Mountain Battalion, Dera Ismail Khan.

Your duty within seven days of the date of the offer of appointment. If you do not report for duty within the specified period, the offer will be deemed to have been withdrawn.

You will be required to report for duty on the day of your appointment to the Medical Officer, Dera Ismail Khan.

[Signature]
District Medical Officer,
Dera Ismail Khan.

Copy forwarded to
Commandant, 10th Mountain Battalion
Dera Ismail Khan
Account Clerk,
Satti Clerk,
Dera Ismail Khan

[Signature]

Annexure A-5
7 6

DIRECTORATE OF HEALTH SERVICES FATA

FATA SECRETARIAT WARSAK ROAD PESHAWAR

OFFICE ORDER

Consequent upon their Promotion from Senior Clinical Technicians (BPS-14) to Chief Clinical Technician (Pharmacy) BPS-16 and Senior PHC Technicians (MP) BPS-14 to Chief PHC Technicians (MP) BPS-16 and arrival in this Directorate in compliance of the Director General Health Services Khyber Pakhtunkhwa Peshawar vide office order No.15946-17046/E.V, dated 25/10/2017 and office order No.16446-545/E.V, dated 25/10/2017, the following Chief Clinical Technicians (Pharmacy) BPS-16, and Chief PHC Technician (MP) BPS-16, are hereby placed at the disposal of Agency Surgeons/FRs/Medical Superintendents for further posting with effect from their arrival in this Directorate mentioned against each.

S.No	Name	Designation	Place of Posting	Arrival Report
1	Azmatullah Khan	Chief Clinical Technician Pharmacy	A.S FR DIK	24/11/2017
2	Mrs. Salmā Akhtar	Chief (PHC Technician)	A.S FR DIK	05/12/2017
3	Abdul Wadood	Chief Clinical Technician Pharmacy	Adl: AS Sadda	29/11/2017
4	Mohammad Iqbal	Chief Clinical Technician (Pathology)	MS Bajaur	07/12/2017
5	Sadaqat Begum	Chief (PHC Technician)	A.S FR Pesh:	30/11/2017
6	Mr. Akhtar Gul	Chief Clinical Tech: (Anesthesia)	M.S Bajaur	30/11/2017

N.B Arrival/departure report should be submitted to this directorate for record.

No. 24166-91

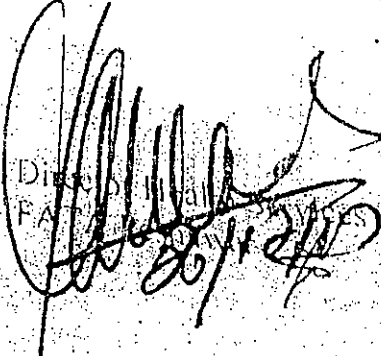
/DHS/ FATA/Paramedics

Sd/XXXXX
 Director Health Services
 FATA Peshawar.

dated 26/12/2017

Copy forwarded to :-

- Secretary to the Govt. Khyber Pakhtunkhwa Health Department Peshawar
- Director General Health Services Khyber Pakhtunkhwa Peshawar for information with reference to his No.16446-545/E.V dated 25/10/2017.
- Medical Superintendent AHQ: Hospital Bajaur, Adl: Agency Surgeon Sadda Kurram, M.S.N.W.
- Agency/District Accounts Officer Kurram Bajaur, Miranshah N.W.A D.I. Khan and AGPR Sub Office Peshawar
- Officials concerned for information and necessary action


 Director Health Services
 FATA Peshawar
 26/12/17

ATTACHED

Better Copy- ~~MS~~ C-7

**Agency Surgeon,
FR D.I.Khan.**

Subject: Arrival Report:

R/Sir,

On my appointment as Chief Clinical technician Pharmacy (BPS-16) Director General Health Services KPK Vide office order dated No.16946-17046/Ev, dated, 25.10.2017 and office order No.16446-54/Ev, order dated 25.10.2017 and No.24166-19/DHS/FATA/Paramedics, dated 26.10.2017. I Azmatullah S/O Mohibullah submitted my arrival report in this office, today on 10.01.2018.

Yours Obediently

Azmatullah
Chief Clinical Technician
Pharmacy.

ATTESTED

C-7

10/20/08

Pharmacy

Pharmacy

... Pharmacy ...
... and No 24168 ...
dated 20/12/08 ...
submitted my annual report ...
20/12/08

Yours obediently
A 24168
A2matullah
Chief clinical Technician
Pharmacy.

A 24168

**OFFICE OF THE F.R. SURGEON
F.R DERA ISMAIL KHAN.**



No. 680 /

Dated 22/03/2018.

To

The Director Health Services
FATA Peshawar.

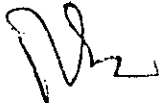
Subject:-
R/Sir,

POSTING OF CHIEF PHC TECHNICIAN.

Kindly refer to your office order No. 24166-91/DHS/FATA/Paramedics dated 26/12/2017 on the subject cited above, I have the honour to state that one Mr. Azmatullah Khan Chief Clinical Technician (Pharmacy) BPS-16 was posted at the disposal of FR Surgeon FR DIKhan for further posting in FR DIKhan.

It is pointed out for your kind information that at present there is no any vacant post of Chief Clinical Technician Pharmacy BPS-16 is available to adjust the above named Official.

It is therefore, requested to kindly advise this office regarding posting of Mr. Azmatullah Khan Chief Clinical Technician Pharmacy.


F.R. Surgeon
FR DIKhan.

Cc:-

Mr. Azmatullah Khan Chief Clinical Technician Pharmacy for information.


F.R. Surgeon
FR DIKhan

ATTESTED



Directorate of Health Services

FATA Secretariat, Warsak Road, Peshawar

Phone #: 091-9210212 Fax #: 091-9212110 /

No: 7691 DHS/FATA/ paramedic

Dated 3/04/2018

To,

✓ FR Surgeon D I Khan

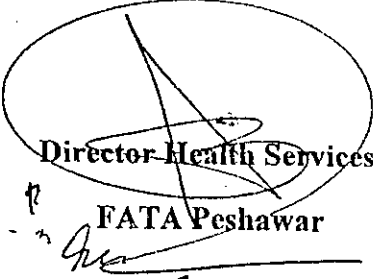
Subject: POSTING OF CHIEF PHC TECHNICIAN / MCH

Reference to your letter No. 680 dated: 22/03/2018 on the subject noted.

Enclosed please find herewith the following documents

1. Notification No.FS/SO(H)/SSD/1-8/2016/Gen dated,4/2/2016 and SAFRAN Division letter No.F-3(3)-TA/2014 dated,8/12/2015.
2. Distribution plan of sanctioned posts regarding paramedic's up-gradation and change of nomenclature in line with approved service structure of paramedics. You are directed to implement the same letter with immediate effect.

Enclosed: as above


Director Health Services
FATA Peshawar
3/4/18

ATTESTED

FATA SECRETARIAT
 (SOCIAL SECTORS DEPARTMENT)
WARSAK ROAD PESHAWAR

Dated Peshawar the 4th February, 2016

NOTIFICATION

No.FS/SO/(H)/SSD/1-8/2016/Gen/ :- In pursuance of approval of the Federal Government conveyed vide SAFRON Division letter No. F.3(3)-TA/2014 dated 08.12.2015 and Finance Division, Islamabad O.M. No. 1(35)R-1/2015-878 dated 04.12.2015, the competent authority is pleased to approve "Eight stage Paramedics Service Structure" for the sanctioned posts of FATA, appearing in regular budget under Demand No 97, FATA for the year 2015-16.

- 1) The existing 24 different categories of Paramedics, as mentioned in Annexure-A to this Notification, are restructured into 12 cadres, as per Annexure-B.
- 2) All the cadre/specialties, as well as the posts in various pay scales, shall be integrated/categorized with fresh nomenclature as under:-

S#	Existing posts	Re-structured posts
1	Posts in BPS-5 to BPS-9 in all specialties	Junior Technicians (BPS-9)
2	Posts in BPS-10 to BPS-12 in all specialties	Technicians (BPS-12)
3	Posts in BPS-13 to BPS-14 in all specialties	Senior Technicians (BPS-14)
4	Posts in BPS-15 to BPS-16 in all specialties	Chief Technicians (BPS-16)
5	Posts in BPS-17 in all specialties	Technologist (BPS-17)
6	Posts in BPS-18 in all specialties	Senior Technologist (BPS-18)
7	Posts in BPS-19 in all specialties	Chief Technologist (BPS-19)
8	Posts in BPS-20 in all specialties	Principal Technologists (BPS-20)

The words "Clinical" shall be mentioned with the categories of posts, meant for Paramedics working in the hospitals and "Primary Health Care", with the Paramedics working in the field alongwith mention of specific specialty (e.g) Junior Clinical Technician (Radiology) and Junior Primary Health Care Technician (Multi-Purpose).

- 3) The number of Posts in BPS-20, BPS-19, BPS-18, BPS-17, BPS-16, BPS-14, BPS 12 and BPS-09 shall be according to the proportionate ratio, as under:-

ATTESTED

S#	BPS	Percentages	No. of Posts
1	Posts in BPS-9	80%	2218
2	Posts in BPS-12	12%	333
3	Posts in BPS-14	3.5%	97
4	Posts in BPS-16	2.5%	69
5	Posts in BPS-17	1.86%	52
6	Posts in BPS-18	0.09%	2
7	Posts in BPS-19	0.04%	1
8	Posts in BPS-20	0.01%	0
		Total	2772

However, additional posts shall be created for any of the left over personnels of Paramedics cadre (if any). Moreover, subsequent creation of posts in any of the 12 Paramedics cadres in any scale shall also be included in the aforesaid proportionate ratio of posts in the 8 tiers formula. The proportionate ratio of posts in BPS-12 and above shall be modified accordingly, as and when new creation of posts are made in BPS-9 in each of the 12 cadres subsequently.

- 4) Seniority of the incumbents of the posts in the 12 cadres, so merged shall be caused on the basis of scale-wise seniority, as well as date of regular appointment in the pay scale, e.g. in joint seniority list of BPS-12, (the officials already in BPS-12 will be placed on the top of the list and the officials in the lower pay scales shall be accordingly placed step-by-step in the list, invariably keeping intact the interse-seniority of the incumbents in the same pay scales).
- 5) In the first instance, the higher posts in the re-structured 12 paramedics cadres, as per annexure "C", shall be filled in by way of promotion, as one time exercise, where after the service rules, duly prescribed at Annexure "D", shall be followed in subsequent promotion/initial recruitment.
- 6) Promotions in the posts in BPS-18, BPS-19 and BPS-20 shall be made on the basis of joint seniority. The joint seniority list of all the 12 cadres shall be caused at BPS-17 level, keeping in view, the principles laid down in section 8 of the Khyber Pakhtunkhwa, Civil Servants Act, 1973, read with Rules-17 of the Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.
- 7) The aforesaid Paramedics service structure into 12 cadres shall also be applicable muttatis mutandis to the paramedics, working in FATA/FRs and employees working in all autonomous, semi-autonomous and corporate bodies.
- 8) There shall be a council of paramedics to be notified separately.
- 9) The approved implementation committee and anomaly committee shall also be notified separately.

ATTESTED

- 12
- 9) The approved implementation committee and anomaly committee shall also be notified separately.
 - 10) This eight stage Paramedics Service Structure will replace all existing categories, cadres, structures and nomenclatures, and will replace all such cadres/categories rules and regulations etc, which are contrary to the approved Paramedics Service Structure. New posts in all type of Health Delivery System will be created in future in accordance with the framework of this service structure. Any new specialties will be added in the framework of approved paramedic's service structure.

Sd/-
SECRETARY (SSD), FATA

Copy forwarded for information and necessary action.

1. Additional Chief Secretary FATA.
2. Secretary to Govt. of Khyber Pakhtunkhwa Health Department w/r to his Notification No. SOH-III/8-60/05 (Paramedics) dated 10th May 2006.
3. Secretary to Governor, Khyber Pakhtunkhwa.
4. Secretary Finance FATA Secretariat Peshawar
5. Secretary Social Sectors Department FATA Secretariat, Peshawar
6. Director General Health Services Khyber Pakhtunkhwa.
7. Director Health Services, FATA Secretariat, Peshawar
8. Political Agents in FATA.
9. AGPR Sub Office Peshawar.
10. District Accounts Officers/Agency Accounts Officer in FATA
11. Medical Superintendents in AHQs in FATA.
12. Agency/FR Surgeons in FATA.

(JEHANGIR AZAM)
Section Officer (Health)

Endst: No. SO (FATA-D)FD/TS/4-1/31/2012 (paramedics)

Dated Peshawar 04.02.2016

- 1) The Additional Accountant General, Pakistan Revenues, Peshawar
- 2) District Accounts Officers/Agency Accounts Officer in FATA

(MUHAMMAD NAIB DIN)
Section Officer (Admn)
Finance Department, FATA

DIRECTORATE OF HEALTH SERVICES FATA, PESHAWAR
No. 1410-31B /DHS/FATA/Admn Date. 18/02/2016

Copy is forwarded to the:-

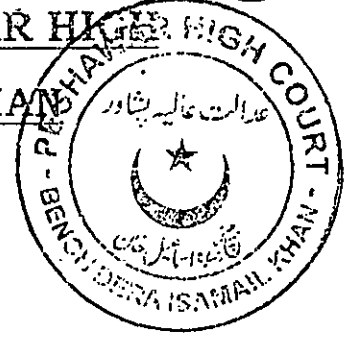
1. Secretary to Govt. of Khyber Pakhtunkhwa Peshawar Health Department.
2. Director General Health Services Khyber Pakhtunkhwa Peshawar.
3. Deputy Director (Admn) DHS FATA.
4. AGPR Sub Office Peshawar.
5. All Agency Surgeons in FATA/FRs.
6. All Medical Superintendents AHQs in FATA.
7. All Agency / District Accounts Officers in FATA/FRs.
8. PS to Secretary SSD, FATA Secretariat.
9. PS to Secretary Finance Department FATA Secretariat.
10. Budge and SNE sections DHS FATA.
11. Mr. Noor Madad Khan Dawar, President Paramedics Association FATA.

For information and further necessary action.

ATTACHED

BEFORE THE HONORABLE PESHAWAR HIGH COURT

COURT BENCH DERA ISMAIL KHAN



Writ Petition No 459 of 2018

Azmat Ullah Khan son of Mohib Ullah, presently residing at Green City,
Sheikh Yousaf Road Dera Ismail Khan.

Petitioner

Versus

1. Government of Pakistan through Director Health Services FATA,
FATA Secretariat, Warsak Road, Peshawar.
2. FR Surgeon, FR Dera Ismail Khan, Diyal Road Dera Ismail Khan
(Ph No - 0966852908)

Respondents

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

PRAYER

ON ACCEPTANCE OF INSTANT WRIT PETITION, THIS HONORABLE
COURT MAY BE PLEASED TO DIRECT THE RESPONDENT NO 2 TO
ADJUST THE PETITIONER IN HEALTH SERVICES FR DERA ISMAIL
KHAN IN COMPLIANCE OF OFFICE ORDER No: 24166-
91/DHS/FATA/PARAMEDICS DATED 26.12.2017 ISSUED BY
RESPONDENT NO 1;

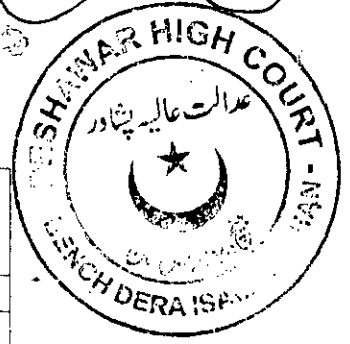
ANY OTHER RELIEF DEEMED FIT AND PROPER IN THE
CIRCUMSTANCES OF THE CASE.

Note:- Addresses given above shall suffice the object of service

ATTACHED

ALISTED
25-02-18
EXAMINOR
Peshawar High Court
C.I. Khan Bench

FORM OF ORDER SHEET



Date of order or proceedings (1)	Order or other proceedings with signature of Judge(s). (2)
08.10.2018	<p><u>W.P. No.459-D/2018.</u></p> <p><u>Present:-</u> Mr. Umar Farooq Bhattani, Advocate for the petitioner.</p> <p>Mr. Adnan Ali, Asstt: A.G. for the respondents.</p> <p style="text-align: center;">***</p> <p><u>SHAKEEL AHMAD, J.-</u> Through instant constitutional petition, filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner Azmat Ullah Khan seeks issuance of direction to the respondent No.2 to adjust him in Health Services FR Dera Ismail Khan in compliance of office order No.24166-91/DHS/FATA/Paramedics dated 26.12.2017, issued by respondent No.1.</p> <p>2. Facts, in brief, are that the petitioner being permanent employee of Health Services FATA was promoted as Chief Clinical Technician Pharmacy (BPS-16) and in compliance therewith, when the petitioner submitted arrival report, the respondent No.1, vide impugned office order</p>

ATTESTED
 25-10-2018
 EXAMINOR
 Peshawar High Court
 D.I.Khan Bench

ATTESTED

dated 26.12.2017, placed his service at the disposal of respondent No.2, for reason that no vacant post was available in FR D.I.Khan, which constrained him to file the instant constitutional petition.

3. It is argued by the learned counsel for the petitioner that vide office order dated 26.12.2017, the petitioner was promoted from the post of Senior Clinical Technician (BPS-14) to Chief Clinical Technician Pharmacy (BPS-16) and his services were placed at the disposal of the Agency Surgeon FR, D.I.Khan by Director Health Services FATA, however, the respondent No.1 refused to accept his arrival report and sought clarification from the Director Health Services FATA, who vide letter dated 03.4.2018, asked him to implement the directives of the SAFRAN Division contained in letter dated 08.12.2015, and notification dated 04.02.2016.

4. The learned Asstt: A.G. appearing on behalf of the respondents, stated at the bar that he has got no objection if the respondents are directed to adjust the petitioner within sixty days.

5. Arguments heard and record perused.

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ATTESTED
25/12/17
EXAMINER
Reshwar Hujar
D.I.Khan Branch

ATTESTED

6. The admitted facts of the case are that consequent upon the promotion of the petitioner from Senior Clinical Technician (BPS-14) to Chief Clinical Technician Pharmacy (BPS-16), his services were placed at the disposal of Agency Surgeon, FRs/Medical Superintendent for further posting vide office order dated 26.12.2017, in pursuance thereof, he submitted his arrival report, however, instead of taking his arrival report, the Agency Surgeon FR, D.I.Khan wrote a letter to the Director Health Services dated 22.3.2018, and sought advice for posting of the petitioner as Chief Clinical Technician Pharmacy (BPS-16), on the ground that there existed no vacant post of Senior Clinical Technician (BPS-14) as Chief Clinical Technician Pharmacy (BPS-16), to adjust him, in response thereof, the respondent No.1 directed the respondent No.2/Agency Surgeon FR, D.I.Khan to implement the notification dated 04.02.2016, and letter dated 08.12.2015, issued by the SAFRAN Division in line with the approved service structure of the Paramedics.

7. In view of the above, the writ

ATTESTED




2-5-2019
EXAMINOR
Jeshawar High Court
D.I.Khan Branch

petition is disposed of with the direction to the respondent No.2 to adjust the petitioner in line with the approved service structure of the Paramedics, as advised by the Director Health Services FATA, Peshawar in letter dated 03.4.2018, within a period of sixty days from the date of receipt of this order.

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B

Announced.
Dt: 08.10.2018.
Kifayat/*


JUDGE


JUDGE

(D.B) Hon'ble Justice Ijaz Anwar
Hon'ble Justice Shakeel Ahmad

Officer
Jaw
11/14

G.R.No. 933
Application Received on 22-02-19
Copying Fee deposited Rs. 2750
No. of Papers 04
Copying Fee 04
Urgent Fee 288
Total Fee 282
Copy ready on delivery 25-02-19
Copy delivered on 25-02-19
Signature of Examiner [Signature]
25-02-19

Certified to be True Copy
25-02-19
EXAMINOR
Peshawar High Court Bench D I Khan
Authorized Under Section 5 of
Qanoon-e-Shariat 1979

ATTESTED

Signature - (18)
18

OFFICE OF THE FR SURGEON FR TANK

RETIREMENT ORDER: -

It is hereby certified that Mr. Azmat Ullah S/O Mr. Mohib Ullah is working as Dispenser at CD Misry Khan Koroon, FR Tank. The said employ have qualified his service and has been retired. Sanction is hereby accorded in respect of Mr. Azmat Ullah, Dispenser (BPS-12) at CD Misry Khan Koroon due retirement on 14-01-2019 on completion of service. He is allowed to proceed on retirement on his own request.

He is also allowed leave encashment for 365 days credit on his leave account.

Signature
FR SURGEON FR TANK

No: - 102-06

Dated: - 28/3/2019

Copy to: -

1. The District Account Officer, Tank.
2. The Account Clerk.
3. The H/Clerk for record.
4. Official Concerned.

Signature
FR SURGEON FR TANK

ATTESTED

Writ Petition No. _____ -D/ 2019



Azmatullah Khan son of Mohibullah Khan r/o presently residing at Green City Sheikh Yousaf Road, Dera Ismail Khan

.....Petitioner

Versus

1. Govt. of Khyber Pakhtunkhwa through Secretary Health Services Department, KPK. Peshawar.
2. Director General, Health Services Department, Khyber Pakhtunkhwa Peshawar.
3. Director Health Services Department, Merged Districts FATA Secretariat Peshawar.
4. District Health Officer Tank.
5. District Accounts Officer, Tank.
6. District Accounts Officer, Dera Ismail Khan.
7. Deputy District Health Officer Sub-Division Jandola, District Tank. (previously F.R Surgeon, F.R Tank.)
8. Deputy District Health Officer Sub-Division Darazinda, District Dera Ismail Khan. (previously F.R Surgeon, F.R Dera Ismail Khan.)

.....Respondents

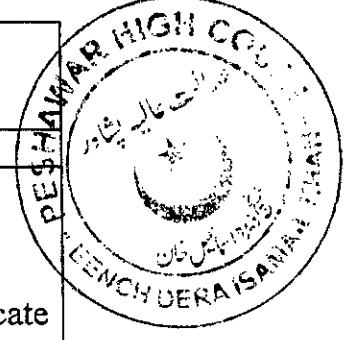
**WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF
PAKISTAN 1973.**

ATTESTED
EXAMINOR
Peshawar High Court Bench,
Dera Ismail Khan
22/4/19

IN THE PESHAWAR HIGH COURT, D.I.KHAN BENCH

FORM OF ORDER SHEET

Date of order or proceedings	Order or other proceedings with signature of Judge(s).
(1)	(2)
12.01.2021	<p><u>W.P.No.1105-D/2019.</u></p> <p><u>Present:-</u> Mr. Umar Farooq Betani, Advocate for petitioner. ***</p> <p>SAHIBZADA ASADULLAH, J.- Through the instant petition filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner has prayed for the following relief:-</p> <p>“a. To direct the respondents to promote the petitioner as Chief Clinical Technician Pharmacy (BPS-16) from the date of his promotion vide promotion order No.16946-17046/EV dated 25.10.2017 as proforma promotion.</p> <p>b. By directing the respondents to grant pension, gratuity, insurance, GP Fund and other allowances to the petitioner according to the promoted post of Chief Clinical Technician Pharmacy (BPS-16).”</p> <p>2. After arguing the case at certain length, the learned counsel for the petitioner, on second thought, stated at the bar that he would be satisfied if the present writ petition is treated as representation/appeal and sent to respondent No.2</p>



ATTESTED

EXAMINOR,
Peshawar High Court Bench,
Dera Ismail Khan

22/4/2021

217

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for decision as early as possible.

3. In view of the above, this writ petition is treated as representation/appeal and sent to respondent No.2 for decision in accordance with law. It will be highly appreciated if the same is decided within a period of 30 days.

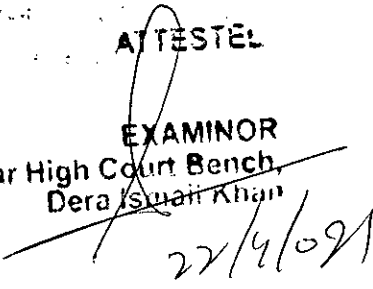
Announced.
Dt: 12.01.2021.

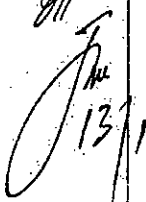

JUDGE

JUDGE

ATTESTED

EXAMINOR
Washawar High Court Bench,
Dera Ismail Khan


22/4/091

Office

13/1

Imran/

(D.B)

Hon'ble Mr. Justice Abdul Shakoore
Hon'ble Mr. Justice Sahibzada Asadullah

2228
C.R.No. _____
Application received on 21-4-091
Copying Fee deposited Rs. 7
No of Papers 03 pages
Copying Fee _____ 46
Urgent Fee 7
Total Fee _____ 121
Copy ready for delivery 22-4-091
Copy delivered on 22-4-091
Signature of Examiner [Signature]
22/4/091

Certified to be true Copy
[Signature]
EXAMINOR
Peshawar High Court Bench D I Khan
Authorized Under Section 97
Qadri-ul-Hasnain
22/4/091

22

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

_____ OF 2021

AZMATULLAH KHAN

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Health Department

(RESPONDENT)
(DEFENDANT)

I/We AZMATULLAH KHAN

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

Dated. ____/____/2021

A. CHILLY

CLIENT

ACCEPTED
AFRASIAB KHAN WAZIR
ADVOCATE

OFFICE:
Flat No.4, 2nd Floor,
Juma Khan Plaza, Near FATA Secretariat,
Warsak Road, Peshawar.
Mobile No.0312-9888752

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 5202/2021

BEFORE: **MR. KALIM ARSHAD KHAN** ... **CHAIRMAN**
 MISS. FAREEHA PAUL ... **MEMBER(E)**

**Mr. Azmatullah Khan, Chief Clinical Technician Pharmacy (BPS-16) (Rtd:),
R/O at Green City Sheikh Yousaf Road, District D.I.Khan.**

...(*Appellant*)

Versus

1. **The Government of Khyber Pakhtunkhwa through Secretary. Health Department, Peshawar.**
2. **The Director General, Health Services, Khyber Pakhtunkhwa Peshawar.**
3. **District Health Officer, District Tank.**
4. **District Accounts Officer, District Tank.**
5. **District Accounts Officer, Dera Ismail Khan.**
6. **Deputy District Health Officer, Sub-Divison Jandola, District Tank.**
7. **Deputy District Health Officer Sub-Division, Darazinda, District Dera Ismail Khan.**

...(*Respondents*)

Mr. Afrasiab Khan Wazir
Advocate

...

For appellant

Mr. Muhammad Rasheed
Deputy District Attorney

...

For respondents

Date of Institution.....19.05.2021
Date of Hearing..... 27.04.2022
Date of Decision..... 14.07.2022

JUDGMENT

FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the retirement order dated 08.03.2021, whereby the appellant was retired from service as Dispenser (BPS-12) instead of Chief Clinical Technician Pharmacy (BPS-16).

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant had been appointed as Dispenser in the respondent department on 25.05.1981. During service, he was promoted from the Senior Clinical Technician (BPS-14) to the post of Chief Clinical Technician Pharmacy (BPS-16) w.e.f 25.10.2017 and vide office order dated 26.12.2017 his services were placed at the disposal of Agency Surgeon, FR D.I.Khan. Respondent No. 7 was reluctant to adjust the appellant as Chief Clinical Technician Pharmacy (BPS-16) and wrote a letter to Director Health Services (FATA) that there was no vacant post of Chief Clinical Technician Pharmacy (BPS-16) to adjust the appellant and sought advice regarding his posting. The Director Health Services (FATA) Peshawar vide letter dated 03.04.2018 advised him to adjust the appellant in accordance with approved service structure of Paramedics but even then the appellant was not adjusted against the post of Chief Clinical Technician Pharmacy (BPS-16). Feeling aggrieved, the appellant filed Writ Petition No. 459-D/2018 before the Hon'ble Peshawar High Court, D.I.Khan Bench which was allowed vide judgment dated 08.10.2018 with the direction to respondent No. 7 to implement the order of the Director Health Services (FATA) Peshawar. In the meanwhile on competition of qualified service, vide order dated 08.03.2019, respondent No. 6 issued retirement order of the appellant as Dispenser (BPS-12) instead of Chief Clinical Technician (BPS-16). Feeling aggrieved from the order dated 08.03.2019, the appellant preferred Writ Petition No. 1105- D/2019 and vide order dated 12.01.2021, the Writ Petition was treated as representation/appeal and sent to respondent No. 2 for decision in accordance with law preferably within thirty days. The departmental appeal/representation was not responded by the respondents; hence the present appeal.

3. On receipt of the appeal and its admission to full hearing, the respondents were put on notice for submission of written reply/comments but despite numerous opportunities they could not submit reply/comments. On 11.01.2022, on the request of