

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 6344/2020

Date of institution 03.07.2020

Dr. Mujeeb Ur Rehman District Health Officer (DHO) Chitral Lower
R/O House No.155-C, Mohallah Roshan Chiragh Dera Ismail Khan.

VERSUS

Government of Khyber Pakhtunkhwa, Peshawar through Chief
Secretary, Civil Secretariat, Peshawar and two others.

ORDER
28.06.2022

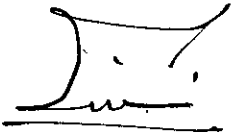
Mr. Zeeshan Khalil, Advocate, for the appellant present. Mr.
Riaz Khan Paindakheil, Assistant Advocate General for the
respondents present.

Learned counsel for the appellant stated at the bar that the
grievance of the appellant has been redressed, therefore, he wants
to withdraw the instant service appeal. In this respect, written
endorsement of learned counsel for the appellant obtained at margin
of order sheet.


In view of the above, the appeal in hand stands dismissed as
withdrawn. Parties are left to bear their own costs. File be consigned
to the record room.

ANNOUNCED
28.06.2022


(ROZINA REHMAN)
MEMBER (JUDICIAL)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

The grievance of has been redressed, i request for the
withdrawal of the instant appeal.

Zeeshan Khalil advocate


05.11.2021 Counsel for appellant present.

Javid Ullah, learned Assistant Advocate General for respondents present.

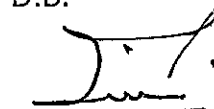
Former made a request for adjournment. Request is accorded. To come up for arguments on 07.12.2021 before D.B.


(Rozina Rehman)
Member (J)


Chairman

10.12.2021 Counsel for the appellant (Mohibullah Tarichvi, Advocate) and Mr. Muhammad Ade Butt, Addl. AG for the respondents present.

During the course of arguments, it is deemed expedient to direct the respondent department to produce the copy of the proposal worked out for transfer of the appellant for consideration of the competent authority. Case to come up on 09.03.2022 before the D.B.


(Salah-ud-Din)
Member(J)


Chairman

9-3-22

*Due to Retirement of the Honble
Chairman the case is adjourned to
come up for the same as before on
28-6-22*

*Shah
Raza*

30.08.2021

Nemo for appellant. Mr. Muhammad Usman, Senior Clerk alongwith. Muhammad Adeel Butt, Additional Advocate General for the respondents present and submitted para-wise comments on behalf of respondents, which are placed on file.

Previous date was changed on Reader Note, therefore, notice for prosecution of the appeal be issued to the appellant as well as his counsel and to come up for arguments before the D.B on 21.09.21.

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

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

21.09.2021

Mr. Azhar Ali, Associate of learned counsel for the appellant and Asif Masood Ali, DDA for the respondents present.

Request on behalf of learned counsel for the appellant for adjournment is made due to his illness. Request is accorded. To come up for arguments on 05.11.2021 before the D.B.

(Rozina Rehman)
Member (Judicial)

Chairman

Handwritten notes:
D.B. in the name of the appellant
Chairman the case of respondent
Name of the appellant
D.B. - 22

D.B. - 22

10.2.21

13.11.2020

Appellant is present in person. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Hazrat Shah, Section Officer, for the respondents are also present.

Representative of the respondents once again seeks time to submit reply. On the preceding date, last chance was given but till today, reply was not submitted. As such, the appeal is posted to D.B for arguments on 03.12.2020.

(Muhammad Jamal Khan)
Member (Judicial)

03.12.2020

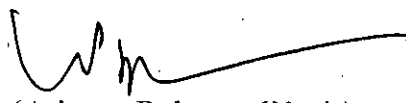
Due to COVID-19, the case is adjourned to 04.03.2021 for the same as before.

Reader

04.03.2021

Junior to counsel for the appellant and Abdur Rasheed, DDA alongwith Asad, Asstt. for the respondents present.

Due to general strike on the call of Khyber Pakhtunkhwa Bar Council, the matter is adjourned to 07.04.2021 for hearing before the D.B.


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


Chairman

07.04.2021

Due to demise of the learned Chairman, the Tribunal is defunct, therefore, case is adjourned to 10/5/2021 for the same as before.

10-5-21

Due to COVID-19, the case is adjourned to 30-9-2021 for the same.

Reader

6344/20

30.09.2020

Counsel for the appellant and Addl. AG alongwith Amjad Ali, Assistant and Saleem Javed, Litigation Officer for the respondents present.

Representatives of the respondents No. 2 one again seek time to submit the jreply/comments. It is a case involving transfer of appellant while the respondents had sought adjournment on the previous occasion as well.

The proceedings are adjourned to 26.10.2020 but as last chance for the same.

Chairman

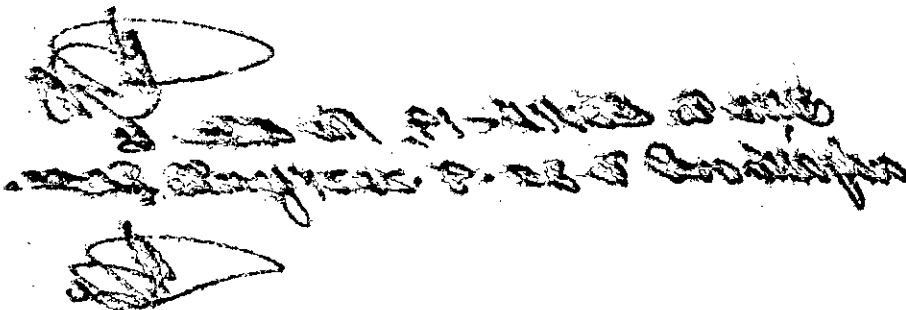
26.10.2020

Appellant present in person.

Kabir Ullah Khattak learned Additional Advocate General alongwith Dr. Salim Javid Litigation Officer for respondents present.

Representative of respondents once again seeks time to submit reply. On the preceding date, last chance was given but till today, reply was not submitted. As such, the respondents are burdened with cost of Rs.1000/- to be paid on the next date. Proceedings are adjourned to 13.11.2020 for submission of reply/comments, before S.B.

(Rozina Rehman)
Member (J)

2 09


22.07.2020.

Junior counsel for the appellant is present and submitted an application for depositing security and process fee.

Application is accepted. The appellant is allowed to deposit the security and process fee within three working days from today. After the requisite deposit notices be issued to the respondents for submission of reply/comments on 19.08.2020 before S.B.

(MUHAMMAD JAMAL KHAN)
MEMBER

19.08.2020

Appellant in person present. Addl: AG for respondents present. Mr. Muhibullah Tarichvi, Advocate submitted Wakalatnama on behalf of the appellant.

Notices to the respondents have not been issued. Office is directed to issue notices to the respondents for submission of written reply/comments.

Adjourned to 11.09.2020 before S.B.

(Mian Muhammad)
Member(E)

11.09.2020

Appellant in person and Addl. AG alongwith Amjid Assistant for the respondents present.

Learned Addl. AG seeks time to submit reply/comments. To come up for written reply/comments on 30.09.2020 before S.B.

Chairman

16.07.2020

Counsel for the appellant and Addl: AG for respondents present. Preliminary arguments heard and case file perused. The appellant is serving as DHO, Chitral Lower since 30.08.2019. That vide impugned order dated 18.03.2020 the appellant was transferred from DHO, Chitral Lower to Directorate General Health Services, Khyber Pakhtunkhwa Peshawar without any reason(s). Against the impugned order, the appellant preferred departmental appeal on 01.04.2020 which was not responded within the statutory period of ninety days, hence, the instant service appeal on 03.07.2020. Learned counsel for the appellant further argued that how two posts can be assigned to a single officer and that too on "Acting Charge Basis" and in "Own pay and Scale". Moreover, the impugned order is illegal and unlawful. The impugned transfer order is premature as the appellant has not completed his normal tenure and as such should be set aside.

Points urged need consideration. Service appeal is admitted subject to all legal objections. Appellant is directed to deposit security and process fee within 10 days. To come up for arguments on 03.08.2020 before D.B.

Alongwith the appeal, an application for suspension of the impugned order dated 18.03.2020 has also been filed. Notice of this application be also issued for the date fixed.


(MAIN MUHAMMAD)
MEMBER

16.07.2020

Counsel for the appellant and Addl: AG for respondents present. Preliminary arguments heard and case file perused. The appellant is serving as DHO, Chitral Lower since 30.08.2019. That vide impugned order dated 18.03.2020 the appellant was transferred from DHO, Chitral Lower to Director^{ate} General Health Services, Khyber Pakhtunkhwa Peshawar without any reason(s). Against the impugned order, the appellant preferred departmental appeal on 01.04.2020 which was not responded within the statutory period of ninety days, hence, the instant service appeal on 03.07.2020. Learned counsel for the appellant further argued that how two posts can be assigned to a single officer and that too on "Acting Charge Basis" and in "Own pay and Scale". Moreover, the impugned order is illegal and unlawful. The impugned transfer order is premature as the appellant has not completed his normal tenure and as such should be set aside.

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(MAIN MUHAMMAD)
MEMBER

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 6344 /2020

1S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	03/07/2020	<p>The appeal of Dr. Mujeeb-ur-Rehman presented today by Mr. Saifullah Khalil 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 for preliminary hearing to be put up there on <u>16/07/2020</u>.</p> <p style="text-align: right;">CHAIRMAN</p> <p><i>(Handwritten signature and scribbles)</i></p>

BEFORE THE HONOURABLE SERVICES TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Services Appeal No. 6344 /2020

DR. MUJEEB UR REHMAN


VERSUS

Govt of Khyber Pakhtunkhwa etc.

SERVICE APPEAL

INDEX

S. No	Description	Annexure	Pages
1.	Grounds of appeal, Affidavit		1 to 5
2.	Application, Affidavit		6 to 8
3.	Addresses of parties		9
4.	Copy of Transfer order	A	10
5.	Copy of the order dated: 18/03/2020	B	11, 12
6.	Copy of the Departmental appeal	C	13, 14
7.	Copy of DC Notification	D	15
8.	Wakalat Nama		


Appellant

Through


SAIF ULLAH KHALIL (SENIOR

Advocate, High court Peshawar

Cell #

0300 5941431

Office Address: -

Judicial complex Peshawar

(1)

BEFORE THE HONORUABLE SERVICES TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

SERVICES APPEAL NO. 6344 /2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 6028

Dated 03-07-2020

DR. MUJEEB UR REHMAN DISTRICT HEALTH OFFICER (DHO)
CHITRAL LOWER R/O HOUSE NO. 155-C, MOHALLAH
ROSHAN CHIRAGH DERA ISMAIL KHAN.

... APPELLANT

VERSUS

1. Government of Khyber Pakhtunkhwa, Peshawar through Chief Secretary, Civil Secretariat, Peshawar.
2. Secretary Health, Govt: Khyber Pakhtunkhwa, Khyber Road Peshawar.
3. Director General Health Services, FATA Secretariat Warsak road Peshawar.

... RESPONDENTS

APPEAL UNDER SECTION 4 OF THE KP
SERVICES TRIBUNAL ACT 1974, AGAINST
THE ORIGINAL ORDER DATED 18/03/2020,
THROUGH WHICH THE APPELLANT IS
TRANSFERRED FROM DISTRICT CHITRAL
LOWER TO THE DIRECTORARTE HEALTH
DEPARTMETN KP PESHAWAR AND
AGAINST THE APPELLATE ORDER IF ANY
OR PASSED DURING THE PENDENCY OF
THIS APPEAL.

PRAYER:

ON ACCEPTANCE OF THIS APPEAL BOTH
THE IMPUGNED ORDERS MENTIONED
ABOVE MAY VERY KINDLY BE SET ASIDE
AND THE APPELLANT BE DIRECTED TO BE
ALLOWED TO CONTINUE HIS DUTIES AS
DISTRICT HEALTH OFFICER, CHITRAL
LOWER ALONGWITH OTHER RELIEF DEEM
PROPER AND APPROPRIATE BY THIS
HONOURABLE TRIBUNAL.

RESPECTFULLY SHEWETH,

The appellant submit as under:-

1. That the appellant is a Doctor by profession, serving the Respondent Department in BS-19 and performing his

Filed to-day
Registrar
3/7/2020

(2)

duties as District Health Officer (DHO) Chitral Lower since his transfer from 30-08-2019 (Copy of Transfer order is attached as annexure "A").

2. That after his transfer to the present post, the appellant is performing his duties to the entire satisfaction of his seniors and also to the local community and till date there is no complaint against him.
3. That due to excellent performance of the appellant and his staff members, the recent pandemic Covid-19 situations were controlled to the great instant by the appellant and his staff members from which the entire community and worthy Deputy Commissioner Chitral are fully satisfied.
4. That suddenly without any complaint, the appellant was informed by the respondents about his illegal and unlawful transfer from the present post vide order dated: 18/03/2020, communicated to the appellant as 01/04/2020 to leave the charge as to report to the Director General Health Service KP Peshawar with no reason (Copy of the order dated: 18/03/2020 is attached as annexure "B").
5. That acting charge of my post is illegally and unlawfully assigned to another acting DHO of District Chitral Upper who is directed to perform duty on both stations.
6. That the above order of the respondent on its face reading cannot be acted upon in the best interest of the public at large as the DHO upper Chitral cannot perform duty at both stations, who himself is on acting charge and there is a distance of around 4 to 5 hours, which is not practically possible.
7. That against the above illegal and unlawful orders dated: 18/03/2020, the appellant filed a departmental appeal against the same on 01/04/2020 on which respondents remained mum and did not reply the same (Copy of the Departmental appeal is attached annexure "C").

8. That presently the appellant filed the instant appeal against both the impugned orders mentioned above before this honorable Tribunal on the following grounds interalia:-

GROUNDS:-

- A. That both the impugned orders dated: 18/03/2020 and the appellate orders if any, are against the law and facts, *Corum Non Judice*, hence, liable to be struck down.
- B. That the appellant is transferred through the impugned order without assigning any reason, which cannot be treated in the best interest of the public as such liable to be set aside.
- C. That there is no complaint or adverse ACR against the appellant, which can become the base of the impugned order.
- D. That transfer of the appellant from the present post through the impugned order, is not only illegal and unlawful and also premature.
- E. That the other DHO from District Chitral Upper is himself on acting charge, therefore, as per law one person cannot be vested on the same time with two acting charges of two different Districts which will create sufficient problems for the general public.
- F. That the worthy Deputy Commissioner who is the head of the District is also not consulted nor has given any consent in respect of my transfer vide the impugned order who also requested the respondents for cancellation of the impugned order with the request that the appellant be allowed to continue his duty on the present post due to administrative reason and the recent pandemic situations (Copy of DC Notification is attached as annexure "D").
- G. That due to recent pandemic situations, the appellant cannot be transferred in such a hasty manner with such an order for which no summary was put up or sent to the competent authority as such the impugned orders are liable to be set aside.

(4)

- H. That the impugned transfer order clearly shows malafide on the part of the respondents to accommodate their own blue eye chip on the instant seat.
- I. That the instant impugned transfer orders of the appellant is biased and based on political influence, hence liable to be struck down.
- J. That the appellant is still performing his duty on the present post and has not left the charge vide instructions of DC Chitral and in the best interest of Public at large.
- K. That other points and grounds will be raised, taken and discussed at the time of arguments.

It is therefore, most humbly prayed that on acceptance of this appeal both the impugned orders mentioned above may very kindly be set aside and the appellant be directed to be allowed to continue his duties as District Health Officer, Chitral Lower alongwith other relief deem proper and appropriate by this honorable Tribunal.

Dated: 3/07/2020

Through


Appellant

SAIF ULLAH KHALIL (SR)
&
ZEESHAN KHALIL 
Advocates High Court Peshawar

CERTIFICATE:

Certified that no such like appeal has earlier been filed before this Honorable Court.


Advocate

LIST OF BOOKS:-

1. Civil Servant Act,
2. KP Service Tribunal Act-1973.
3. Any other book as per need.

(5)

BEFORE THE HONOURABLE SERVICES TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Services Appeal No. _____/2020


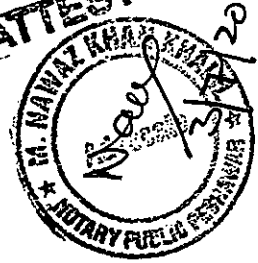
DR. MUJEEB UR REHMAN

VERSUS

Govt of Khyber Pakhtunkhwa etc.

AFFIDAVIT

I, DR. MUJEEB UR REHMAN DISTRICT HEALTH OFFICER (DHO) CHITRAL LOWER R/O HOUSE NO. 155-C, MOHALLAH ROSHAN CHIRAGH DERA ISMAIL KHAN, do hereby solemnly affirm and declare on oath that the contents of the instant appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.


Deponent
ATTESTED

21/12/20

Identified by:


SAIF ULLAH KHALIL (SR),

Advocate, High Court Peshawar

(6)

BEFORE THE HONOURABLE SERVICES TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Services Appeal No. _____/2020

DR. MUJEEB UR REHMAN

VERSUS

Govt of Khyber Pakhtunkhwa etc.

APPLICATION FOR SUSPENSION OF THE
IMPUGNED ORDER DATED: 18/03/2020
AND THE APPELLATE ORDER IF ANY TILL
THE DECISION OF THE APPEAL.

Respectfully Sheweth:-

The appellant submit as under:-


- 1. That the above titled appeal is going to file before this Honorable Tribunal in which no regular date has yet been fixed.*
- 2. That the appeal is prima facie with balance of convenience and if the impugned order is not suspended, the appellant will suffer irreparable loss.*
- 3. That the impugned order is not only against the law and facts but also premature based as political influence, hence liable to be suspended.*
- 4. That the appellant is still performing his duty on the present post and has not left the charge.*

(7)

5. That the grounds and contents of the appeal may very kindly be considered and deemed as the integral part of the instant appeal.

It is therefore, most humbly prayed that on acceptance of this appeal, the impugned order dated: 18/03/2020 and appellate order may very kindly be suspended till the decision of this appeal.

Dated: 03/07/2020


Appellant

Through


SAIF ULLAH KHALIL (SENIOR)

Advocate High court Peshawar

(8)

BEFORE THE HONOURABLE SERVICES TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Services Appeal No. _____/2020

DR. MUJEEB UR REHMAN

VERSUS

Govt of Khyber Pakhtunkhwa etc.

AFFIDAVIT

I, DR. MUJEEB UR REHMAN DISTRICT HEALTH OFFICER (DHO) CHITRAL LOWER R/O HOUSE NO. 155-C, MOHALLAH ROSHAN CHIRAGH DERA ISMAIL KHAN, do hereby solemnly affirm and declare on oath that the contents of the instant application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.


Deponent

Identified by:



SAIF ULLAH KHALIL (SR),

Advocate, High Court Peshawar



(9)

BEFORE THE HONOURABLE SERVICES TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Services Appeal No. _____/2020

DR. MUJEEB UR REHMAN

VERSUS

Govt of Khyber Pakhtunkhwa etc.

ADDRESSES OF PARTIES

ADDRESS OF APPELLANT:

**DR. MUJEEB UR REHMAN DISTRICT HEALTH OFFICER (DHO)
CHITRAL LOWER R/O HOUSE NO. 155-C, MOHALLAH
ROSHAN CHIRAGH DERA ISMAIL KHAN.**

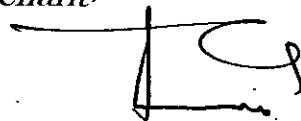
ADDRESSES OF RESPONDENTS:

1. *Government of Khyber Pakhtunkhwa, Peshawar through Chief Secretary, Civil Secretariat, Peshawar.*
2. *Secretary Health, Govt: Khyber Pakhtunkhwa, Khyber Road Peshawar.*
3. *Director General Health Services, FATA Secretariat Warsak road Peshawar.*



Appellant

Through



SAIF ULLAH KHALIL (SENIOR)

Advocate, High court Peshawar

(10)

Annex "A"

Annex A

GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated: Peshawar August 27, 2007

NOTIFICATION

NO. SOH(E-V) 1-214/2007

The competent authority has been pleased to issue posting/transfer order of the following Doctors with immediate effect in the interest of Public

S.No.	Name of Doctor	From	To	Remarks
1	Dr. Akbar Shah (BS-12) Management Cadre	Attached to KTH Hospital Peshawar	MS DHQ Hospital Chitral	against the vacant post of BS-20 in the above and scale
2	Dr. Mubeen Rahman (BS-13)	Attached to DHQ Office D. Khan	District Health Officer Chitral	

SECRETARY HEALTH
Govt. of Khyber Pakhtunkhwa

Encl. No. & Date Even

Copy to:-

1. Accountant General Khyber Pakhtunkhwa, Peshawar
2. Director General, Health Services, Khyber Pakhtunkhwa
3. District Health Officer, Chitral
4. District Accounts Officer, Chitral
5. MS DHQ Hospital, Chitral
6. PS to Secretary Health Department
7. Computer Programmer, Health Department
8. DHIS Cell, DGHS Office, Peshawar
9. Doctor concerned.

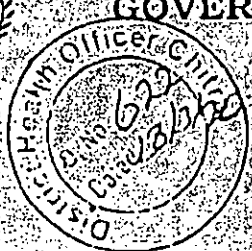
RAZAL UR RAHIM
SECTION OFFICER (E-V)

ATTEST

[Handwritten Signature]

Attested
[Handwritten Signature]

(12) (11) Annex "B"



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

No. 108/A/Health/2-65/2020
Dated Peshawar, the 18/03/2020

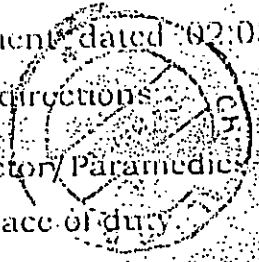
19
Chitral

1. All District Health Officers, Khyber Pakhtunkhwa
2. All Medical Superintendents, Khyber Pakhtunkhwa
3. Hospital/ Medical Directors, MTIs, Khyber Pakhtunkhwa
4. Chief Executive, Saidu Group of Teaching Hospital, Swat
5. Chief Executive, Bacha Khan Medical Complex, Swat

Subject: DIRECTIVES

I am directed to refer to subject noted above and to state that in wake of CoronaVirus Disease (COVID-19) and Health Emergency declared by the Health Department dated 02/03/2020, the Competent Authority has issued the following directions:

1. No Doctor/Paramedics and other staff shall leave their office/place of duty.
2. The staff be discouraged to visit other offices.
3. Unnecessary and routine correspondence may be stopped till further orders.



Farhan Khan

(Farhan Khan)
Section Officer (General)

Endst: No. & date even:

Copy forwarded to the:

1. PS to Secretary, Health Department
2. PS to Special Secretary, Health Department
3. PA to Additional Secretary, Health Department.
4. PA to Dy. Secretary (Admn), Health Department.

Farhan Khan

ATTESTED

Section Officer (General)

M. A. Baloch

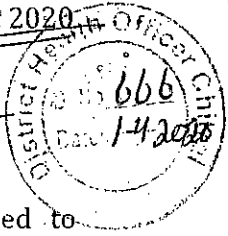
Attested
[Signature]



(12)
Government of Khyber Pakhtunkhwa
Health Department

Dated Peshawar the 18th March, 2020

L.No. 500
Date 20/4/2020
Secretary Health



NOTIFICATION

NO. SOH(HD)/E-V/4-4/2020

The competent authority is pleased to transfer Dr. Mujeeb Ur Rehman (BS-18) District Health Officer, Chitral (Lower) and direct him to report to Directorate General Health Services, Khyber Pakhtunkhwa Peshawar, in the best of public interest, with immediate effect.

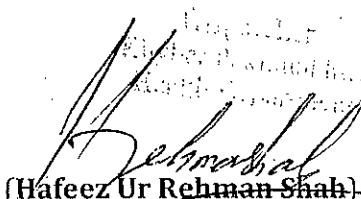
Consequent upon the above, the charge of the post of District Health Officer, Chitral (Lower) is hereby assigned to DHO Chitral (Upper) in addition to his own duties, till further order.

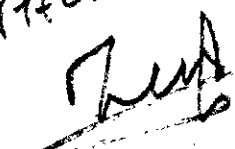
Secretary Health,
Government of Khyber Pakhtunkhwa

Endst. Of even No. & Date.

Copy to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. District Health Officer, Chitral (Upper).
4. District Health Officer, Chitral (Lower).
5. DAOs, Chitral (Upper & Lower).
6. Deputy Director (IT), Health Department, with the direction to upload the notification on official website.
7. PS to Minister for Health Department, Khyber Pakhtunkhwa.
8. PS to Secretary Health Department, Khyber Pakhtunkhwa.
9. Doctors concerned.
10. Personal files of the doctors concerned.


(Hafeez Ur Rehman Shah)
Section Officer (E-V)

Attested


(13)

Annex "C"

To

THE CHIEF SECRETARY

KHYBERPAKHTUNKHWA, PESHAWAR

Subject: Departmental representation against the order No.SOH(HD)E-V/4-4/2020 dated 18 March 2020(received on 1st April 2020)through which I have been transferred from the post of District Health Officer Chitral (Lower).

Prayer

On acceptance of his departmental representation the order dated 18/03/2020 may kindly be set aside and the appellant may kindly be retained on post of District Health Officer Chitral(Lower).

Respectfully Sheweth,

The appellant submit as under

1. That the appellant is serving as District Health Officer Chitral(Lower) since 30.8.2020.
2. That the appellant has been performing his duties diligently and carrying out his managerial duties in the best way. Keeping in view that the appellant is holder of Master of Public Health (PHSA) and specialization degree in Infectious diseases from University of Paris V(France).
3. That Government of KHYBERPAKHTUNKHWA declared emergency throughout the province in wake of corona virus epidemic.
4. Keeping in view the prevailing health emergency appellant is well qualified and was performing his duties in best manner to provide quality health services in District Chitral(Lower). It may also be verified that District Chitral (Lower) remained corona free during my leadership.
5. That no allegation of any sort was pending against the appellant officially.
6. That appellant was appointed as District Health Officer Chitral on 30.8.2019 and as such has not completed his tenure.

*Respected
Sir*

(14)

7. That no District Health Officer Chitral(Lower) has been appointed/transferred against me who may run District Chitral(Lower)effectively under Emergency situation. Similarly I have not been transferred against any post.
8. That the appellant feels that on relinquishing the charge the emergency health measures taken forpopulation of District Chitral (Lower) would be adversely suffered and corona virus epidemic may surface in District Chitral (Lower).

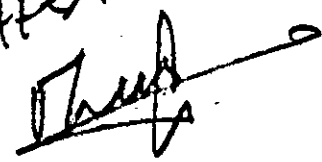
It is therefore requested that the afore-mentioned order may be set aside and appellant may be allowed to continue work as District Health Officer Chitral (Lower).

Dated: 1 April,2020


Yours obediently

Encl: 8 copies

Dr Mujeebur Rehman
District Health Officer Chitral (Lower)

Attested


← DC Chitral

Officer, Chitral (Lower) is hereby assigned to DHO Chitral (Upper) in addition to his own duties, till further order.

Secretary Health
Government of Khyber Pakhtunkhwa

(15)

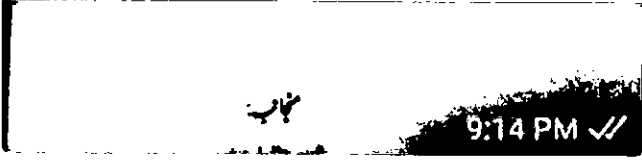
Annex
D

Endst. Of even No. & Date.

Copy to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. District Health Officer, Chitral (Upper).
4. District Health Officer, Chitral (Lower).
5. DAOs, Chitral (Upper & Lower).
6. Deputy Director (IT), Health Department, with the direction to upload the notification on official website.
7. PS to Minister for Health Department, Khyber Pakhtunkhwa.
8. PS to Secretary Health Department, Khyber Pakhtunkhwa.
9. Doctors concerned.
10. Personal files of the doctors concerned.

9:08 AM



TODAY



Government of Khyber Pakhtunkhwa
Health Department

Issued Peshawar the 14th March, 2023

NOTIFICATION

S.O. SCHEMATA/K-214-A/7823 The competent authority is pleased to transfer Mr. Mujib Ur Rehman (MS-10) District Health Officer, Chitral (Lower) and direct him to report to Director General Health Services, Khyber Pakhtunkhwa Peshawar, in the best of public interest, with immediate effect.

Consequent upon the above, the charge of the post of District Health Officer, Chitral (Lower) is hereby assigned to DHO Chitral (Upper) in addition to his own duties, till further order.

Secretary Health
Government of Khyber Pakhtunkhwa

Endst. Of even No. & Date.

Copy to:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. District Health Officer, Chitral (Upper).
4. District Health Officer, Chitral (Lower).
5. DAOs, Chitral (Upper & Lower).
6. Deputy Director (IT), Health Department, with the direction to upload the

MPA Wazirzada sb is also in this favour.

8:58 AM ✓✓

Ok..don't relinquish charge




9:11 AM

OK thanks Sir

9:12 AM ✓✓

Type a message



50733			
ایڈوکیٹ: سیف اللہ خلیل			
بار کونسل ایسوسی ایشن نمبر: RC - 10-7499			
رابطہ نمبر: 0312-5941491	پشاور بار ایسوسی ایشن، خیبر پختونخواہ		

بعدالت جناب: سر سید ایبٹ آباد

مخاطب: ایبٹ آباد	دعویٰ: ایبٹ
ڈاکٹر مجیب الرحمن	علت نمبر:
بنام	مورخہ:
حکومت و منسبہ	جرم:
	تھانہ:

بابت تحریر آگے

ڈاکٹر مجیب الرحمن صدر ایبٹ آباد

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دی کارروائی متعلقہ
 آن مقام شادور کے لئے بعد از اس کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کمال اختیار ہوگا، نیز وکیل صاحب کو
 راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلاف 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 کی طرف 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
 کارروائی 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 جانبہ التوائے 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
 المرقوم:

3-7

DESHAWAR BAR ASSOCIATION
 KHYBER PAKHTUNKHWA

مقام شادور کے لیے منظور ہے۔

بعدالت جناب سر سید محمد رسول P.O. کالج بعد

والله بحسب الرحمن ميار مکتوبت

درخواست براد جمعیت Security و غیره

ما بیا کماله مسائل اسٹیٹ کتب و غیره

1- تمہیں اسٹیٹ کتب خانہ آئی آر جی آر کے لیے لکھنا ہے

2- تمہیں اسٹیٹ کتب خانہ آئی آر جی آر کے لیے لکھنا ہے

3- تمہیں اسٹیٹ کتب خانہ آئی آر جی آر کے لیے لکھنا ہے

لکھنا اور غور کرنا ہے

3-8-2020

محمد رسول اسٹیٹ کتب خانہ آئی آر جی آر کے لیے لکھنا ہے

Better Copy of
Annex "A"

GOVERNMENT OF KHYBER PUKHTUNKHWA
HEALTH DEPARTMENT

NOTIFICATION

NO, SOH (E-V) 1-214/2007

The competent authority has been pleased to issue posting / transfer order of the following Doctors with immediate effect in the best interest of public.

S.No	Name of Doctors	From	To	Remarks
1	Dr.Akber Shah (BS-19) Management cadre	Attach to KTH Hospital Peshawar	MS DHQ Hospital Chitral	Against the vacant post of BS-20 in his own pay and scale
2	Dr.Mujeeb-Ur-Rehman (BS-19)	Attach to DHO office D.I Khan		

SECRETARY HEALTH

GOVT. OF KHYBER PUKHTUNKHWA

Attested
[Signature]



**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

Dated Peshawar the 11th Jan 2020

NOTIFICATION

NO. 114-1/PT/PHO/CHITRAL. The competent authority has been pleased to issue the following notification under the Public Health (Management) Ordinance, 1974, in pursuance of the powers conferred upon the Government of Khyber Pakhtunkhwa by the Provincial Health Ordinance, 1974, and the Provincial Health (Management) Ordinance, 1974, in relation to the public health of the Province of Chitral.

SD/-
SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

- 1. The notification is forwarded to the
 1. Secretary General, Khyber Pakhtunkhwa, Peshawar
 2. Secretary General, Health Services, Khyber Pakhtunkhwa, Peshawar
 3. District Health Officer, District Chitral, Upper
 4. District Health Officer, District Chitral, Lower
 5. District Health Officer, District Chitral
 6. District Health Officer, District Chitral

(Signature)
(MUSHAMMAD IRFAN USMAN)
SECTION OFFICER-V
HEALTH DEPARTMENT

(Handwritten mark)

Government of Kerala
Health Department

Dated

Notification

20H(E-1)/1997

Competent authority has been
posting of Dr. [Name] to
- Malappuram District

of Health

order for the purpose

Joint

order of the Government

in this order

(82-91) Part

10

to the effect of

Health Department

Government of Khyber Pakhtunkhwa (Peshawar)
Health Department

Dated Peshawar the 14th June 2020

Notification

SOH(E-V)4-4/PT/DHO/CHITRAL - - - - The

competent authority has been pleased to order posting of Dr. Shahzada Mohammad Haider Ul-Malik (Management Cadre BS-19) adjusted against the post of Deputy District Health Officer, Chitral for the purpose of pay against the vacant post of District Health Officer (BS-20) in his own pay & scale in the best of public interest & with immediate effect.

SD/-

Secretary to Govt. of KP
Health Department.

Health Department

Government of Kerala

Notification

20H(E-V)-N-11PT/DHO/CHITRAL - - - - -

Competent authority has been pleased to order posting of Dr. Shajida Mohammed (Senior M.L. - Mulla (Management Order B2-19) selected against the post of Deputy District Health Officer - Chitral for the purpose of pay against the vacant post of District Health Officer (B2-20) in his own pay scale in the post of public interest with immediate effect.

21/-

Secretary to Govt. of K.P.

Health Department

WAKALATNAMA

IN The KPK - Service Tribunal Peshawar.

Dr. Muzeeb ur Rahman

(Petitioner)
(Plaintiff)
(Applicant)
(Complainant)
(Decree Holder)

VERSUS

Govt of KPK and others

(Respondent)
(Defendant)
(Accused)
(Judgment Debtor)

Case No: 6344/2020

I/We, Appellant do hereby appoint and constitute **MUHIBULLAH TARICHVI** High Court, Peshawar, to appear, Plead, act, compromise, withdraw or refer to arbitration to me/ us as my/ our Counsel in the above noted matter, without any liability for their default and with the authority to engage/ appoint any other Advocate/ Counsel at my/ our matter.

Attested & Accepted

M. Tarichi

MUHIBULLAH TARICHVI

Advocate, High Court, Peshawar.
Office Chitral Law Chamber
Municipal Building, Naz Cinema
Road, Chowk Yadgar, Peshawar
Mobile: 0345-3434235

CLIENT/S

Govt of KPK

12101-0956130-1

BEFORE THE COURT OF HONOURABLE SERVICE TRIBUNAL

KPK PESHAWAR

C.M No. _____/2020

IN

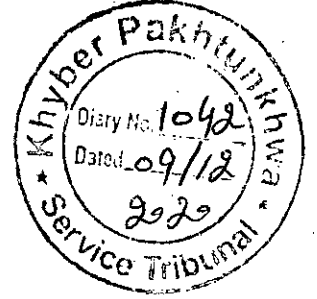
Services Appeal No. 6344/2020

Dr. Mujeeb Ur Rehman

Put up to the court with
relevant appeal.

VERSUS

Govt of KPK & Others



Handwritten notes and signatures:
Reference to the court
Khyber Pakhtunkhwa
Service Tribunal
9/12/2020

Leadw

**APPLICATION FOR EARLY HEARING OF THE ABOVE
TITLED SERVICE APPEAL.**

Respectfully Submitted;

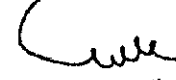
- 1- That the petitioner has filed the above titled Services Appeal which is fixed for 04/03/2021, before this Honourable Court.
- 2- That the date fixed is a long date and the matter is one of urgent nature.
- 3- That the date fixed was given due to camp courts duty which has been canceled due to Covid-19, emergency, hence the instant appeal needs to be fixed for any earlier date so that the grievance of

petitioner/appellant may be redressed
furthermore the situation of the appellant is that
the department is not accepting his arrival due to
which the condition of the appellant is hand to
mouth.

*It is, therefore, most humbly prayed
that on acceptance of this petition the
services appeal may kindly be accelerated
to an early date. Any other remedy /relief
available in the circumstances of the case
may also kindly be granted to the applicant
/ petitioner.*

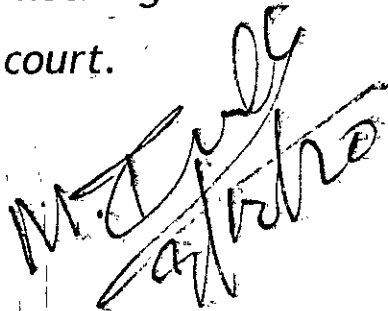
Dated 09/12/2020


Applicant / petitioner

Through 
Saif Ullah Khalil (Senior)
Peshawar High Court,
Peshawar.

Affidavit:

I, Mujeeb Ur Rehman S/o Abdur Rehman R/o Roshan
Chiragh Street D.I Khan, do hereby solemnly affirm
and declare on oath that the contents of this petition
are true and correct to the best of my knowledge and
belief and nothing has been concealed from this
honourable court.


Mujeeb Ur Rehman


Deponent

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

SERVICE APPEAL NO. 6344/2020

Dr. Mujeeb ur Rehman.....Appellant

Versus

Government of Khyber Pakhtunkhwa & othersRespondents

Index

S. No.	Description	Annexure	Pages No.
1	Comments		1-3
2	Notification dated 18/03/2020	A	4
3	Notification dated 20/08/2020	B	5
4	Charge Report	C	6-7
5	Judgment dated 14/04/2020 in Writ Petition No. 2301-P/2020 titled Dr. Mujeeb ur Rehman	D	8-9

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 6344 OF 2020

Dr. Mujeeb-ur-Rehman.....Appellant

Versus

Govt. of Khyber Pakhtunkhwa and others.....Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

Respectfully Sheweth:

Preliminary Objections:-

1. That the appellant has got neither cause of action nor did 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 and also in the present circumstances of the issue.
5. That the appellant has filed the instant Appeal with mala-fide intention hence liable to be dismissed.
6. That the appellant has not come to the Tribunal with clean hands.
7. That the appeal is time barred.
8. That the Honorable Tribunal has no Jurisdiction to adjudicate upon the matter.
9. That the instant appeal is bad for mis-joinder of unnecessary and non-joinder of the necessary parties.

ON FACTS:

1. Pertains to record.
2. Pertains to record.
3. Pertains to record.
4. Incorrect. The transfer order of the appellant was issued in accordance with Para-10 of Civil Servant Act, 1973 says that:

“Every civil servant shall be liable to serve anywhere within or outside Pakistan, in any equivalent or higher post under the Federal Government, or any Provincial Government, or local authority, or a corporation or body set up or established by any such Government”.

5. Incorrect. Assigning of additional charge to an officer is not illegal and not unlawful.
6. Incorrect. Taking of duties from the employees is the responsibility of the department whereas obeying of an order is the responsibility of the employee. Moreover, it is stated that after the impugned order dated 18/03/2020 (Annex-

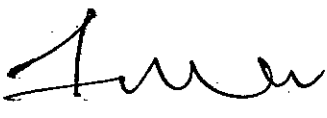
- 4), the competent authority issued posting order dated 20/08/2020 (Annex-B) of the appellant. The appellant accordingly submit his charge report (Annex-C).
7. Pertains to record, as respondent No. 2 has not yet received his departmental appeal. Moreover, it is submitted that the appellant filed Writ Petition No. 2301-P/2020 before the Honorable Peshawar High Court, Peshawar which was dismissed vide order dated 14/04/2020 (Annex-D).
 8. Incorrect. The impugned order dated 18/03/2020 was issued in accordance with Civil Servant Act, 1973, therefore, the appellant has no right to file the instant appeal.

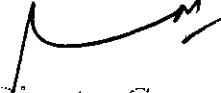
ON GROUNDS:

- A. Incorrect. The impugned order dated 18/03/2020 was issued by the competent authority in accordance with Civil Servant Act, 1973 and in the best interest of public service.
- B. Incorrect, as in preceding para.
- C. Pertains to record. However, the impugned order was issued by the competent authority in accordance with Civil Servant Act, 1973 and in the best interest of public service.
- D. Reply has already been furnished in preceding paras.
- E. Incorrect. Taking duties from the employees is the responsibility of the department and not the headache of the appellant.
- F. Pertains to record. However, as per law, the appellant should have obeyed the order of the competent authority.
- G. Incorrect. As already explained in preceding paras.
- H. Incorrect. As explained in Para-A.
- I. Incorrect. The impugned transfer order was issued by the competent authority in accordance with Civil Servant Act, 1973 and in the best interest of public service and not on political influence.
- J. The impugned order was issued by the competent authority in accordance with Civil Servant Act, 1973 and in the best interest of public service. Therefore, the appellant is illegally performing as District Health Officer. Furthermore, Deputy Commissioner is not the competent authority to instruct the DHO to carry-on his duties after his transfer.
- K. The respondents will also raise and discuss other points at the time of arguments.

PRAYER:

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


Secretary, Health Department,
Khyber Pakhtunkhwa, Peshawar.
Respondent No. 01 & 02


Director General Health Services,
Khyber Pakhtunkhwa, Peshawar.
Respondent No. 03
DD(HR)

Annex (A)



Government of Khyber Pakhtunkhwa
Health Department

Dated Peshawar the 18th March, 2020

NOTIFICATION

NO. SOH(HD)/E-V/4-4/2020

The competent authority is pleased to transfer Dr. Mujeeb Ur Rehman (BS-18) District Health Officer, Chitral (Lower) and direct him to report to Directorate General Health Services, Khyber Pakhtunkhwa Peshawar, in the best of public interest, with immediate effect.

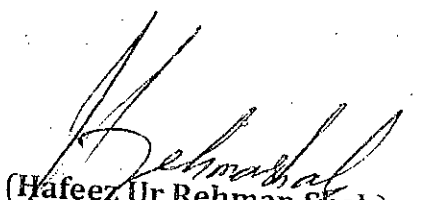
Consequent upon the above, the charge of the post of District Health Officer, Chitral (Lower) is hereby assigned to DHO Chitral (Upper) in addition to his own duties, till further order.

Secretary Health
Government of Khyber Pakhtunkhwa

Endst. Of even No. & Date.

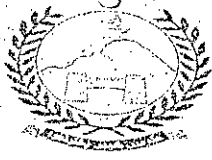
Copy to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. District Health Officer, Chitral (Upper).
4. District Health Officer, Chitral (Lower).
5. DAOs, Chitral (Upper & Lower).
6. Deputy Director (IT), Health Department, with the direction to upload the notification on official website.
7. PS to Minister for Health Department, Khyber Pakhtunkhwa.
8. PS to Secretary Health Department, Khyber Pakhtunkhwa.
9. Doctors concerned.
10. Personal files of the doctors concerned.


(Hafeez Ur Rehman Shah)
Section Officer (E-V)

GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Annexure - B



Government of Khyber Pakhtunkhwa,
Health Department

Date: 25/8/20 Dated: Peshawar the 20th August, 2020

NOTIFICATION

NO. SOH(HD)/E-V/3-2/2020

The competent authority has been pleased to post Dr. Mujeeb ur Rehman, Principal Medical Officer, (BS-19, waiting for posting) at THQ Hospital Kulachi D.I.Khan against the vacant post of Principal Medical Officer, (BS-19), in the best public interest and with immediate effect.

Secretary Health
Government of Khyber Pakhtunkhwa

Endst. Of even No. & Date.

Copy to the:

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. District Health Officer D.I.Khan.
4. DAO D.I.Khan.
5. Deputy Director (IT), Health Department, with the direction to upload the notification on official website.
6. PS to Minister for Health Department, Khyber Pakhtunkhwa.
7. PS to Secretary Health Department, Khyber Pakhtunkhwa.
8. Doctor concerned.

(Muhammad Irfan Usman)
Section Officer (E-V)

Section Officer (EV)
Health Department
Khyber Pakhtunkhwa

(Annexure - C)

OFFICE OF THE DISTRICT HEALTH OFFICER

E-1

1161

1161

15812

04/05/21

REGISTERED

Directorate General Health Services
Khyber Pakhtunkhwa

1161

To
Secretary to Government of Khyber Pakhtunkhwa
Health Department Peshawar

Subject: Charge Report

Sir,

In compliance with Government of Khyber Pakhtunkhwa Health Department Peshawar Notification No. SOH(HD)/E-V/2-2/2020 dated 20-8-2020 and District Health officer D.I.Khan order No 6094-96/PF dated 19-4-2021. I have hereby assumed my charge as PMO-BS 19 in DHO office D.I.Khan w.e.f 01.4.2021 (FN). Copy of Charge Report in original is attached herewith.

Dated: 3/5/2021

Yours obediently

Enclosed:

- 1. Copy of charge Report (in original)
- 2. DHO D.I.Khan order dated 19/4/21
- 3. Notification dated.20/8/20.

Dr. Mujeeb ur Rehman
PMO-BS 19
DHO office D.I.Khan.

CC: Director General Health Services KPK Peshawar.

Handwritten initials/signature at the bottom of the page.


CERTIFICATE OF TRANSFER OF CHARGE.

1. Certified that we have on the fore/afternoon of this day respectively hand over and received charge of the **Principal Medical Officer (BS-19)** at **DHO Office DIKhan** Vide Government of Khyber Pakhtunkhwa Health Department Notification No. **SOH (HD)/E-V/2-2/2020**, dated: **20/08/2020**.

2. Particulars of cash and important-secret and confidential documents handed over are noted on the reverse: -

Signature of relieved _____
Government Servant: _____
Designation: _____

Station: **DHO Office DIKhan**

Signature of relieving 
Government Servant: **Dr. Mujeeb Ur Rehman**
Designation: **PMO, BPS-19**

Dated: **01/04/2021 (F.N)**

(1)

(Annexure - D)

IN THE HON'BLE PESHAWAR HIGH COURT, PESHAWAR.

W.P. No. 2301/2020

Dr. Mujeeb ur Rehman, District Health Officer (DHO),
Chitral Lower, R/o House No. 155-C, Mohallah Roshan
Chiragh, Dera Ismail Khan.....(Petitioner)

V E R S U S

1. Government of Khyber Pakhtunkhwa, through Chief Secretary, Civil Secretariat, Peshawar.
2. Secretary Health, Government of Khyber Pakhtunkhwa, Khyber Road, Peshawar.
3. Director General Health Services, FATA Secretariat, Warsak Road, Peshawar.....(Respondents)

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

Respectfully Submitted:

Petitioner submits as under:

1. That petitioner is Doctor by profession in BS-19 Holding MPH Degree awarded by PHSA was performing his duty as District Health Officer (DHO) Chitral Lower since 30/08/2019. (Copy of Notification No. SHO (E-V) 1-214/2007 dated 27/08/2019 is attached as annexure "A").

PESHAWAR HIGH COURT PESHAWAR

FORM "A"

FORM OF ORDER SHEET

<i>Serial No. of Order or Proceedings</i>	<i>Date of Order or Proceedings</i>	<i>Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary</i>
1	2	3
	14.4.2020	<p><u>Writ Petition No. 2301-P/2020:</u></p> <p>Present:</p> <p>Mr. Muhib Ullah Tarichvi, advocate for petitioner.</p> <p>*****</p> <p><u>ROOH-UL-AMIN KHAN, J.-</u> Petitioner, Dr. Mujeeb Ur Rehman, District Health Officer (DHO), through the instant petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, seeks cancellation of his transfer order dated 18.3.2020, whereby he has been transferred to Directorate General Health Services, Khyber Pakhtunkhwa.</p> <p>2. Having heard the arguments of learned counsel for petitioner, perusal of record reveals that admittedly the petitioner is a civil servant, whereas transfer of a civil servant is not only an incident of service but also falls in terms and condition enumerated in Chapter-II of the Civil Servants Act, 1973, wherein jurisdiction of this Court is expressly barred under Article 212</p>

ATTENDANCE CERTIFICATE

It is certify that Mr. MUSMAN Govt of Khyber Pakhtunkwa, DGHS office Peshawar has attended the Honorable Khyber Pakhtunkwa Service Tribunal Peshawar on 30/8/21 in connection with Service Appeal(s) No. 6344/20 Dr. Mujeeb-ur-Rehman Mukhtar ADI No. 996/19 versus Govt. of Pakhtunkwa and others.

Services Tribunal Khyber Pakhtunkwa Peshawar



Announced on:
14th of April, 2020

Time:

being not maintainable stands dismissed in
Resultantly, the instant petition

Pakistan, 1973.

of the Constitution of Islamic Republic of

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 6344/2020

Dr. Mujeeb ur Rehman.....Appellant

Versus

Government of Khyber Pakhtunkhwa & others Respondents

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S. No.	Description	Annexure	Pages No.
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4	Charge Report	C	6-7
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BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 6344 OF 2020

D. Mujeeb-ur-Rehman.....Appellant

Versus

Govt. of Khyber Pakhtunkhwa and others.....Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

Respectfully Sheweth:

Preliminary Objections:-

1. That the appellant has got neither cause of action nor did 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 and also in the present circumstances of the issue.
5. That the appellant has filed the instant Appeal with mala-fide intention hence liable to be dismissed.
6. That the appellant has not come to the Tribunal with clean hands.
7. That the appeal is time barred.
8. That the Honorable Tribunal has no Jurisdiction to adjudicate upon the matter.
9. That the instant appeal is bad for mis-joinder of unnecessary and non-joinder of the necessary parties.

ON FACTS:

1. Pertains to record.
2. Pertains to record.
3. Pertains to record.
4. Incorrect. The transfer order of the appellant was issued in accordance with Para-10 of Civil Servant Act, 1973 says that:
"Every civil servant shall be liable to be transferred to any post anywhere within or outside Pakistan, in any equivalent or higher post under the Federal Government, or any Provincial Government, or local authority, or a corporation or body set up or established by any such Government",
5. Incorrect. Assigning of additional charge to an officer is not illegal and not unlawful.
6. Incorrect. Taking of duties from the employees is the responsibility of the department whereas obeying of an order is the responsibility of the employee. Moreover, it is stated that after the impugned order dated 18/03/2020 (Annex-

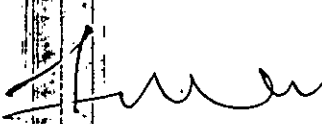
- 4) the competent authority issued posting order dated 20/08/2020 (Annex-B) of the appellant. The appellant accordingly submit his charge report (Annex-C)
7. Pertains to record, as respondent No. 2 has not yet received his departmental appeal. Moreover, it is submitted that the appellant filed Writ Petition No. 2301-P/2020 before the Honorable Peshawar High Court, Peshawar which was dismissed vide order dated 14/04/2020 (Annex-D).
8. Incorrect. The impugned order dated 18/03/2020 was issued in accordance with Civil Servant Act, 1973, therefore, the appellant has no right to file the instant appeal.


ON GROUNDS:

- A. Incorrect. The impugned order dated 18/03/2020 was issued by the competent authority in accordance with Civil Servant Act, 1973 and in the best interest of public service.
- B. Incorrect, as in preceding para.
- C. Pertains to record. However, the impugned order was issued by the competent authority in accordance with Civil Servant Act, 1973 and in the best interest of public service.
- D. Reply has already been furnished in preceding paras.
- E. Incorrect. Taking duties from the employees is the responsibility of the department and not the headache of the appellant.
- F. Pertains to record. However, as per law, the appellant should have obeyed the order of the competent authority.
- G. Incorrect. As already explained in preceding paras.
- H. Incorrect. As explained in Para-A.
- I. Incorrect. The impugned transfer order was issued by the competent authority in accordance with Civil Servant Act, 1973 and in the best interest of public service and not on political influence.
- J. The impugned order was issued by the competent authority in accordance with Civil Servant Act, 1973 and in the best interest of public service. Therefore, the appellant is illegally performing as District Health Officer. Furthermore, Deputy Commissioner is not the competent authority to instruct the DHO to carry on his duties after his transfer.
- K. The respondents will also raise and discuss other points at the time of arguments.

PRAYER:

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


Secretary, Health Department,
Khyber Pakhtunkhwa, Peshawar.
Respondent No. 01 & 02


Director General Health Services,
Khyber Pakhtunkhwa, Peshawar.
Respondent No. 03
DD(HR)

Annex (A)



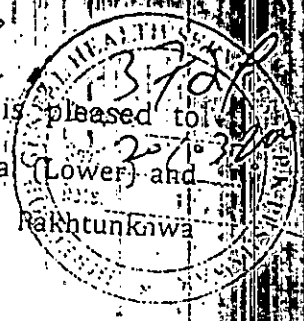
Government of Khyber Pakhtunkhwa
Health Department

Dated Peshawar the 18th March, 2020

NOTIFICATION

NO. SOH(HD)/E-V/4-4/2020

The competent authority is pleased to transfer Dr. Mujeeb-Ur Rehman (BS-18) District Health Officer, Chitral (Lower) and direct him to report to Directorate General Health Services, Khyber Pakhtunkhwa Peshawar, in the best of public interest, with immediate effect.



Consequent upon the above, the charge of the post of District Health Officer, Chitral (Lower) is hereby assigned to DHO Chitral (Lower) in addition to his own duties, till further order.

Secretary Health
Government of Khyber Pakhtunkhwa

Endst. (of even No. & Date.

Copy to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. District Health Officer, Chitral (Upper).
4. District Health Officer, Chitral (Lower).
5. DAOs, Chitral (Upper & Lower).
6. Deputy Director (IT), Health Department, with the direction to upload the notification on official website.
7. PS to Minister for Health Department, Khyber Pakhtunkhwa.
8. PS to Secretary Health Department, Khyber Pakhtunkhwa.
9. Doctors concerned.
10. Personal files of the doctors concerned.

(Hafeez Ur Rehman Shah)
Section Officer (E-V)

GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Annexure - B

Government of Khyber Pakhtunkhwa
Health Department

Date: 25/8/20 Dated Peshawar the 20th August, 2020

NOTIFICATION

NO. SOH(HD)/E-V/7-2/2020

The competent authority has been pleased to post Dr. Mujeeb ur Rehman, Principal Medical Officer, (BS-19; waiting for posting) at THQ Hospital Kulachi D.I.Khan against the vacant post of Principal Medical Officer, (BS-19), in the best public interest with immediate effect.

Secretary Health
Government of Khyber Pakhtunkhwa

Endst. Of even No. & Date.

Copy to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. District Health Officer D.I.Khan.
4. DAO D.I.Khan.
5. Deputy Director (IT), Health Department, with the direction to upload the notification on official website.
6. PS to Minister for Health Department, Khyber Pakhtunkhwa.
7. PS to Secretary Health Department, Khyber Pakhtunkhwa.
8. Doctor concerned.

(Muhammad Irfan Usman)
Section Officer (E-V)

Section Officer (E-V)
Health Department
Khyber Pakhtunkhwa

OFFICE OF THE DISTRICT HEALTH OFFICER

(Annexure - 2)

E1

1161

158/2
04/05/21

(Signature)

REGISTERED

Directorate General Health Services
Pakhtunkhwa

To

Secretary to Government of Khyber Pakhtunkhwa

Health Department: Peshawar

Subject: Charge Report

SI

In compliance with Government of Khyber Pakhtunkhwa Health Department Peshawar Notification No. SOH(HD)/E-V/2-2/2020 dated 20-8-2020 and District Health officer D.I.Khan order No 6094-96/PF dated 19-4-2021. I have hereby assumed my charge as PMO-BS 19 in DHO office D.I.Khan w.e.f 01/4/2021 (FN). Copy of Charge Report in original is attached herewith.

Dated: 3/5/2021

Yours obediently

Enclosed:

1. Copy of charge Report (in original)
2. DHO D.I.Khan order dated 19/4/21
3. Notification dated.20/8/20.

(Signature)

Dr.Mujeeb ur Rehman

PMO-BS 19

DHO office D.I.Khan.

CC: Director General Health Services KPK Peshawar.

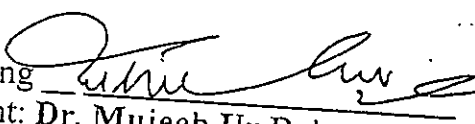
(Signature)

CERTIFICATE OF TRANSFER OF CHARGE.

1. Certified that we have on the fore/afternoon of this day respectively hand over and received charge of the Principal Medical Officer (BS-19) at DHO Office DIKhan Vide Government of Khyber Pakhtunkhwa Health Department Notification No: SOH (HD)/E-V/2-2/2020, dated: 20/08/2020.
2. Particulars of cash and important secret and confidential documents handed over are noted on the reverse: -

Signature of relieved _____
Government Servant: _____
Designation: _____

Station: DHO Office DIKhan

Signature of relieving 
Government Servant: Dr. Mujeeb Ur Rehman
Designation: PMO, BPS-19

Dated: 01/04/2021 (F.N)

(1) (Annexure - D)

IN THE HON'BLE PESHAWAR HIGH COURT, PESHAWAR

W.P. No. 230/2020

Dr. Mujeeb ur, Rehman, District Health Officer (DHO),
Chitral Lower, R/o House No. 155-C, Mohallah Roshan
Chiragh, Dera Ismail Khan..... (Petitioner)

V E R S U S

Government of Khyber Pakhtunkhwa, through Chief
Secretary, Civil Secretariat, Peshawar.

Secretary Health, Government of Khyber Pakhtunkhwa,
Khyber Road, Peshawar.

Director General Health Services, JTA Secretariat, Wazir
Road, Peshawar..... (Respondents)

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

Respectfully Submitted:

Petitioner submits as under:

1. That petitioner is Doctor by profession in BS-19
Holding MPH Degree awarded by PHSA was
performing his duty as District Health Officer (DHO)
Chitral Lower since 30/08/2019. (Copy of
Notification No. SHO (E-V) 1-214/2007 dated
27/08/2019 is attached as annexure "A").

PESHAWAR HIGH COURT PESHAWAR
FORM "A"
FORM OF ORDER SHEET

Serial No. of Order or Proceedings	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary
1	2	3
	14.4.2020	<p><u>Writ Petition No. 2301-P/2020.</u></p> <p>Present:</p> <p style="padding-left: 40px;">Mr. Muhib Ullah Tarichi, advocate for petitioner.</p> <p style="text-align: center;">*****</p> <p><u>ROOH-UL-AMIN KHAN, J.-</u> Petitioner, Dr. Mujeeb Ur Rehman, District Health Officer (DHO), through the instant petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, seeks cancellation of his transfer order dated 18.3.2020, whereby he has been transferred to Directorate General Health Services, Khyber Pakhtunkhwa.</p> <p>2. Having heard the arguments of learned counsel for petitioner, perusal of record reveals that admittedly the petitioner is a civil servant, whereas transfer of a civil servant is not only an incident of service but also falls in terms and condition enumerated in Chapter-II of the Civil Servants Act, 1973, wherein jurisdiction of this Court is expressly barred under Article 212.</p>

of the Constitution of Islamic Republic of Pakistan, 1973.

3. Resultant of the instant petition being not maintainable stands dismissed in limine.

Announced on;
14th of April, 2020

[Signature]
JUDGE

[Signature]
JUDGE