

10.10.2022

Appellant alongwith his counsel present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for official respondents No. 1 to 4 present.

Learned counsel for the appellant requested for adjournment on the ground that he has not gone through the record. Adjourned. To come up for arguments before the D.B on 06.12.2022.

(Mian Muhammad)
Member (E)

(Salah-Ud-Din)
Member (J)

06.12.2022

Counsel for the appellant present.

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

Learned counsel for the appellant requested for withdrawal of the instant service appeal on the ground that the grievances of the appellant have been redressed. In this regard, his signature was obtained on the margin of the order sheet.

In view of the above, instant service appeal is hereby dismissed as withdrawn. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
06.12.2022

(Mian Muhammad)
Member (E)

(Rozina Rehman)
Member (J)

As per instructions of my client, the grievances of the Appellant has been resolved and is no more interested in pursuing the instant service appeal. Hence the may be withdrawn.
Counsel for Appellant

14.12.2021

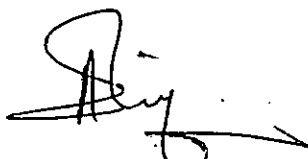
Appellant in person present. Mr. Noor Zaman Khattak, District Attorney alongwith Mr. Safiullah, Focal Person for respondents present.

Written reply/comments alongwith cost of Rs. 3000/- has been submitted by the official respondents. A copy of the written reply/comments alongwith cost of Rs. 3000/- is handed over to the appellant, receipt thereof is placed on file. Adjourned. To come up for arguments on 28.03.2022 before D.B.


(MIAN MUHAMMAD)
MEMBER (E)

28-3-2022

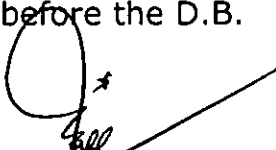
Proper DB not available the case is adjourned to come up for the same as before on 4-7-2022



Reader

04.07.2022

Junior of learned counsel the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for official respondents No. 1 to 4 present.

Junior of learned counsel for the appellant requested that an adjournment may be granted for submission of rejoinder. Adjourned. To come up for rejoinder as well as arguments on 04.08.2022 before the D.B.


(Mian Muhammad)
Member (E)


(Salah-ud-Din)
Member (J)

4-8-2022

Proper DB not available the case is adjourned to 10-10-2022


Reader



P.S

28.07.2021

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

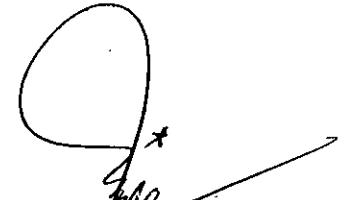


Chairman

30.11.2021

Appellant in person present. Mr. Muhammad Adeel Butt, Addl: AG for respondents present.

Written reply/comments not submitted despite cost of Rs. 3000/- vide order sheet dated 11.03.2021. Learned AAG requested for further time. Request is acceded to but as a last chance as well as on payment of cost of Rs. 3000 which shall be borne by respondents from their pocket. To come up for written reply/comments on 31.01.2022 before S.B.



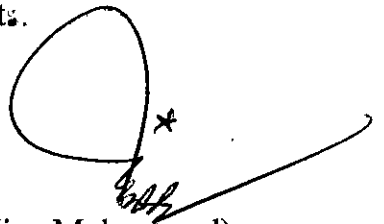
(MIAN MUHAMMAD)
MEMBER (E)

11.03.2021

Appellant in person present. Addl: AG alongwith Mr. Nisar Khan, Litigation Assistant for official respondents and private respondent No. 5 in person present.

Written reply on behalf of private respondent No.5 submitted which is placed on file. Representative of official respondents did not submit written reply/comments despite cost of Rs. 1000/-. Requested for further adjournment. Adjournment granted subject to further payment of cost of Rs. 3000/- which shall be borne by respondents from their own pockets.

Adjourned to 20.05.2021 before S.B.


(Mian Muhammad)
Member (E)

20.05.2021

Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 07.07.2021 for the same as before.


Reader

07.07.2021

Junior to counsel for the appellant and Mr. Kabirullah Khattak, Addl. AG for the official respondents present. Private respondent No. 5 present and submitted reply.

Learned AAG seeks further time to submit reply/comments of official respondents. He is required to contact the official respondents and submit reply/comments in office within 10 days, positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments on 30.11.2021 before the D.B.

Stipulated period has passed and reply has not been submitted.


Chairman

28.12.2020

Appellant is present in person. Mr. Asif Masood Ali Shah, Deputy District Attorney, on behalf of official respondents No. 1 to 4 and private respondent No. 5, are also present.

Written reply on behalf of official respondents as well as private respondent not submitted. Learned Deputy District Attorney as well as private respondent requested for further time for filing of written reply/comments. Time is allowed but as a last chance. File to come up for written reply/comments on 18.01.2021 before S.B.

(MUHAMMAD JAMAL KHAN)
MEMBER

18.01.2021

Appellant present through counsel.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Written reply of respondents is still awaited. Representative of respondents is not in attendance, therefore, case is adjourned on the request of learned A.A.G but on cost of Rs.1000/-. To come up for written reply/comments on 11.03.2021 before S.B.


(Rozina Rehman)
Member (J)

30.09.2020

Appellant in person and Addl. AG alongwith Amjad Ali, Assistant for official respondents counsel for private respondent No. 5 present.

Respondents need time to furnish reply/comments. Adjourned to 24.11.2020 on which date the requisite reply/comments shall positively be furnished

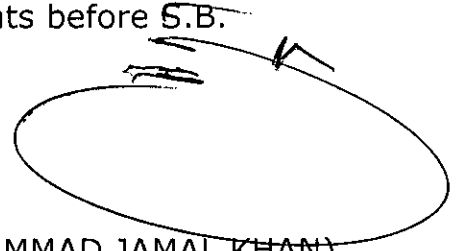


Chairman

24.11.2020

Appellant is present in person. Mr. Kabirullah Khattak, Additional Advocate General on behalf of official respondents No. 1 to 4 and counsel for private respondent No. 5, are also present.

Written reply on behalf of respondents not submitted. Learned Additional Advocate General requests for further time to contact the official respondents and furnish written reply/comments on the next date of hearing. Learned counsel for private respondent No. 5 is also seeking time for submission of written reply/comments. Adjourned to 28.12.2020 on which date file to come up for written reply/comments before S.B.



(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)


1957/2020

10.08.2020

Junior to counsel for the appellant and counsel for impleaded respondent No. 5 present. Notices have not been issued to the respondents No. 1 to 4 due to non-deposit of security and process fee as required on 27.07.2020.

Former states that security and process fee have not been deposited inadvertently and submitted an application for extension of time to deposit the same.

Security and process fee shall be deposited within three working days from today. Thereafter notices be issued to respondents No. 1 to 4. To come up for written reply/ comments on 03.09.2020 before S.B.



Chairman

03.09.2020

Counsel for the appellant present. Impleaded respondent No. 5 in person present.

The appellant has submitted an application for permission to deposit security and process fee. The record shows that on 10.08.2020 the time for its deposit was extended but the requisite deposit could not be made.

The application in hand is though allowed but as last chance. The appellant shall deposit the requisite process fee and security within three working days. Thereafter, notices be issued to respondents No. 1 to 4. To come up for written reply/ comments on 30.09.2020 before S.B.



Chairman

Appellant Deposited
Security & Process Fee

03/9/20

27.07.2020

Mr. Saifullah Muhib Kakakheil, Advocate, for the appellant, is present. Mr. Sajjad Hussain, Advocate, for applicant Dr. Haroon, is also present. Reply to application submitted. Preliminary arguments on the main appeal as well as arguments on application for impleadment heard and record perused.

2. This single order is going to dispose of two matters/issues with respect to preliminary hearing of the instant lis/appeal as well as the issue with regard to impleadment of Dr. Haroon Medical Officer, DHQ Hospital Landikotal.

3. The issue and controversy before this august Tribunal is to look at as to whether by effecting transfer of the appellant from DHQ Hospital District Khyber to DHQ Hospital District Mohmand, is against the spouse policy as promulgated by the Government of the Khyber Pakhtunkhwa or else the transfer of appellant was made while adhering to the tenets and cannons of rules laid therein. The Tribunal has to look at the question in context of the rules and regulations involved alongwith allied matters.

4. Another issue involved and put forth before the Tribunal is as to whether any right of the appellant persist when his successor virtually assumes the charge of that very post purportedly falling vacant, these issues require serious thoughts and proper adjudication, therefore, the appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 10.08.2020.

5. It was contended by the learned counsel for appellant that the applicant who has filed application for impleadment have assumed the charge of the post in consequence of the vacancy of the post. That prior to the institution of instant appeal, appellant has moved Writ Petition in the Hon'ble Peshawar High Court, Peshawar, whereby the impugned order was suspended till then no further stay has been granted by the Service Tribunal nor the applicant has been impleaded in that very Writ Petition nor in the instant appeal despite the fact of being an affectee civil servant.

6. On the other hand, learned counsel for the appellant submitted that the stay granted earlier by the Hon'ble Peshawar


High court, has not been vacated nor this Service Tribunal, has made any order with regard to its vacation, he submitted, that a civil servant before approaching the Service Tribunal has to make a departmental appeal to the competent authority and in case of its rejection he can agitate the matter before this forum.

7. The perusal of record would reveal that the appellant Dr. Amir Gul working as Medical Officer, DHQ Hospital District Khyber, has challenged the vires of notification dated 01.11.2019 passed by the competent authority on the strength of which the services of the appellant were placed at the disposal of DHQ Hospital District Mohmand for further posting and order dated 11.02.2020 by dent of which appellant has challenged transfer order made from DHQ Hospital Khyber to DHQ Hospital Mohmand, reportedly the applicant has made arrival to Directorate Health Service of Merged Area at Warsak Road on 11.02.2020 against the vacant post on account of transfer of the appellant. Since the spread of COVID-19 he rendered duties in the Quick Response Team DHQ Hospital Landikotal District Khyber by virtue of order bearing No. 1900-09DHO/Khyber/COVID-19 dated 29.03.2020. In the event of assumption of charge applicant is direct affectee of the transfer orders so challenged in the instant appeal therefore, not impleading him, being a necessary party, would definitely jeopardize his respective rights, the very appeal and the rights involved could not be effectively adjudicated unless and until applicant is impleaded, his impleadment application is therefore, accepted he is impleaded in the column of respondents, order to his effect be made on the surface of appeal with red ink as well as in the relevant register.


(MUHAMMAD JAMAL KHAN)
MEMBER

26.06.2020

Counsel for the appellant present. Mr. Sajjad Hussain Shinwari, Advocate moved an application for impleadment on behalf of Mr. Haroon which is placed on file. Let pre-admission notice be issued to the respondents to assist the Tribunal. Adjourned. To come up for reply/arguments on application as well as preliminary hearing on 09.07.2020 before S.B.


MEMBER

09.07.2020

Syeda Uzma Advocate on behalf of learned counsel for the appellant and Mr. Usman Ghni, District Attorney on pre-admission notice present. Counsel for applicant (Dr. Haroon) also present.

Former has submitted reply regarding the impleadment application of Dr. Haroon which is placed on record.

As learned counsel for the appellant is indisposed today, therefore, the matter is adjourned to 27.07.2020 before S.B.


Chairman

FORM OF ORDER SHEET

Court of _____

Case No.-

1957/2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	17/03/2020	<p>The appeal of Mr. Dr. Ameer Gul resubmitted today by Mr. Arifullah Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR 17/3/2020</p>
2-	19/03/20	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>01/04/2020</u></p> <p style="text-align: right;">MA MEMBER</p>
	01.04.2020	<p>Due to public holiday on account of COVID-19, the case is adjourned for the same on 25.06.2020 before S.B.</p> <p style="text-align: right;"><i>[Signature]</i> Reader</p>