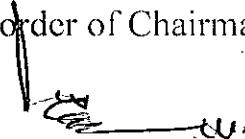


FORM OF ORDER SHEET

Court of _____

Case No.- _____ 1871 /2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	20/12/2022	<p>The appeal of Dr. Sahib Gul presented today by Mr. Adnan khan Yousafzai Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____, Notices be issued to appellant and his counsel for the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No:.....1871...../2022

Dr. Sahib Gul

Vs.

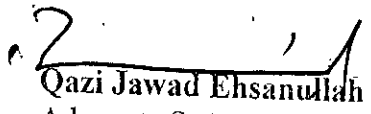
Government of Khyber Pakhtunkhwa and others

INDEX

S.No	Description of Documents	Annex	Page
1	Service Appeal with Affidavit		1-5
2	Suspension Application with Affidavit		6-7
3	Memo of the Parties		8
4	Copy of CV	A	9-10
	Copy of Promotion Order dated 20.05.2022	A1	11-13
5	Copy of Transfer Order dated 19.08.2022.	B	14
6	Copy of Transfer Order dated 19.09.2022	B1	15
7	Copy of Writ Petition and Order dated 22.09.2022	C & D	16-27
8	Copy of Representation dated 20.09.2022	E	28
9	Copy of Memo of Appeal and Order dated 05.10.2022	F & F1	29-38
10	Copy of Khyber Pakhtunkhwa Govt. Servant Conduct Rules, 1987	G	39-50
11	Vakatlanama in original.		51


Appellant

Through


Qazi Jawad Ehsanullah
Advocate Supreme Court

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No.: 1871 /2022

Dr. Sahib Gul

Managing Cadre (BPS-20)
House No. 3-C Irrigation Officer Colony, Warsak Road, Peshawar

..... **Appellant**

Versus

1. **Government of Khyber Pakhtunkhwa**
Through Chief Secretary
Civil Secretariat Peshawar
2. **Secretary to the Government of Khyber Pakhtunkhwa**
Health Department
Civil Secretariat Peshawar
3. **Section OFFICER (E-V)**
Government of Khyber Pakhtunkhwa Health Department
Civil Secretariat Peshawar
4. **Director General Health Services**
Directorate General of Health
Government of Khyber Pakhtunkhwa, Peshawar
4. **Dr. Saeed Gul**
Principal Post Graduate Paramedical Institute
Peshawar

..... **Respondents**

SERVICE APPEAL under section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, read with other enabling rules of posting transfer against the impugned order No. SOH (E-V)/4-4/2022/3871-81 dated 19.09.2022 passed by the (Respondent No.3) against which a departmental appeal/review petition was filed before the competent authority but the same has not been decided within the stipulated period.

Respectfully Sheweth;

1. That appellat before your honor has the privilege of being citizen of the Islamic Republic of Pakistan. He hails from the province of Khyber Pakhtunkhwa, and by profession he is a doctor. Presently, the appellat is serving as provincial Civil servant in BPS-20 in the Management Cadre of the Health Department. He has earned his promotion in the BPS-20 few months back, and was lastly posted as Director General of the Provincial Health Academy, Peshawar vide order SOH (E-V)/4-4/2022/3216-29 dated 19:08.2022.
(Copy of CV as Annexure-A, Promotion Order dated 20.05.2022 is annexure A1 and transfer order dated 19.08.2022 is herewith marked as Annexure-B).
2. That appellat has got unblemished and spotless track record of service to his credit. His service tenure spreads over a period of more than three decades in the provincial civil service. The impugned order on the face of it tempts to malign and stigmatized the appellat and that too without issuing him any prior notice or show cause and without providing him any opportunity of hearing.
3. That just after transfer, dated 19/8/2022, the appellat has received another Notification of his transfer bearing No. SOH (E-V)/4-4/2022/3871-81 dated 19.09.2022, whereby he has been directed to report back to Directorate General of Khyber Pakhtunkhwa and on his place the private Respondent No. 6 has been assigned the duty of look after charge of the post in question.
(Copy of transfer order dated 19.09.2022 is herewith marked as Annexure-B1).
4. That the appellat filed a writ petition before the honorable Peshawar High Court, Peshawar on 20.09.2022 against the impugned transfer order which vide order dated: 22.09.2022 has been dismissed being hit under Article 212 (2) Constitution of Pakistan, 1973. (Copy of Writ Petition as Annexure-C & order as Annexure-D)

5. That appellant has filed a representation/review petition/departmental appeal before the competent authority which has been registered as diary No. 8085 dated 20.09.2022, however, even after passage of stipulated period of 90 days, the competent authority has not answered the departmental appeal/representation/ review petition, hence this appeal. (Copy of Representation ~~to Provincial Govt. KPK as Annexure-E~~)
6. That needless to state that, earlier appellant did submit an appeal before this august Tribunal on 05.10.2022, this appeal was however, returned to appellant for having been filed before the expiry of 90 days of filing of departmental representation. The appellant was also permitted to file a fresh appeal after maturity of cause of action. (Copy of Order and Memo of Appeal are herewith marked as Annexure-F and F1).
7. That feeling aggrieved therefrom and having been left with no other alternate, adequate and equally efficacious remedy, the appellant seeks the kind indulgence of this august Tribunal for cancellation of impugned transfer order *inter alia*:

Grounds

- A. The impugned transfer/posting order dated 19.09.2022 transferring the appellant from the post of Director General Health Service Academy is illegal, without lawful authority and against the rules, therefore, not tenable in the eyes of law.
- B. That order impugned herein clearly gives to understand that same has been passed on no other considerations but political one, and just to appease someone. The impugned order states that as if the appellant has passed someone alleged derogatory / defamatory remarks against the Former Prime Minister of Pakistan and it is on those grounds that appellant has rather has been penalized without following due process of law.
- C. That the appellant has been condemned unheard as no inquiry, investigation has been conducted prior to the issuance of the order impugn herein.
- D. That impugned order also refers to Rule 25, 28 and 34-A of the Khyber Pakhtunkhwa Government Servants (Conduct Rules, 1987) which reliance and reference is totally misplaced and misconceived. Given the contents and nature of false allegations leveled against the appellant none of these Rules are attracted and so the impugned order is not sustainable in law on this score alone.
- E. Besides, the impugned order is also liable to be set-aside because it has been passed at the back of the appellant and is clearly *mala fide*, arbitrary, whimsical and based upon political and extraneous consideration than relevant.

- F. That had it been just a routine order of posting and transfer, the appellant would not have been bothered but because the same carries false allegations and it manifestly smokes and recoils *mala fide*, therefore, the appellant is compelled to approach this august Tribunal, and the appeal is perfectly maintainable in the given circumstances of the case.
- G. That case in hand is one where a civil servant is being harassed and humiliated for political point scoring only, and thus it is the fundamental guarantees of the appellant as envisaged in Art. 3, 4, 9, 10-A, 14, 25 and 37 which have been clearly breached by the official respondents while passing the impugned order. The indulgence of this august Tribunal is thus all the more necessary and indispensable
- H. Any other legal ground that may be raised at the time of hearing of this appeal with the kind leave of the august Tribunal.

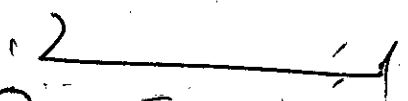
PRAYERS:

It is, therefore, most respectfully prayed that on acceptance of this appeal this august Tribunal may be pleased to;


- i) *Set aside the impugned order* No. SOH (E-V)/4-4/2022/3871-81 dated 19.09.2022 by declaring the same as arbitrary, whimsical, *mala fide* and based upon sinister political designs, and
- ii) The respondents may be restrained not to take any adverse action against the appellant till the final disposal of the appeal.
- iii) *Grant* any other relief considered just and appropriate in the given circumstances of the case.

Through


Appellant


Qazi Jawad Ehsanullah
& (ASC)

Adnan Khan Yousafzai
Advocates High Court,
Peshawar .


Waqar Khan
A.S. High Court

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No:...../2022


Dr. Sahib Gul

Vs.

Government of Khyber Pakhtunkhwa and others

Affidavit

I, Dr. Sahib Gul S/o Juma Gul R/o House No. C-3 Irrigation Officer Colony, Kababyan Warsak Road, Peshawar (Health Department BPS-20 Management Cadre), do hereby declare and affirm on oath as that the contents of the enclosed Appeal are true and correct to the best of my knowledge and belief. That nothing has been concealed from the court, which it is necessary to disclose.


Deponent
Dr. Sahib Gul
CNIC No. 17301-1240509-5
Cell No. 0333-9207988

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**PESHAWAR**

C.M No.:...../2022

In

Service Appeal No.:...../2022.

Dr. Sahib Gul

Vs.

Government of Khyber Pakhtunkhwa and others**APPLICATION for suspension of the impugned order dated
19.09.2022, till the final decision of instant appeal.****Respectfully Sheweth:**

1. That the titled appeal is being filed before this Honourable Tribunal in which no date of hearing has yet been fixed.
2. That the applicant/appellant has a prima facie case in his favour and he is sanguine of its success.
3. That the balance of convenience also lies in favour of the applicant/ appellant.
4. That if the impugned orders are not suspended, the applicant/ appellant will suffer an irreparable loss.

It is, therefore, prayed that by accepting this application, the impugned order dated 19.09.2022 may please be suspended and maintenance of status quo be ordered, till the final decision of instant appeal.

Through

Applicant/Appellant

Qazi Jawad Ehsanullah
(ASC)

Adnan Khan Yousafzai
Advocates High Court,
Peshawar/.

Waqas Khan
Adv, High Court

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**PESHAWAR**


C.M No.:...../2022

In

Service Appeal No.:...../2022

Dr. Sahib Gul*Vs.***Government of Khyber Pakhtunkhwa and others**-----
Affidavit

I, Dr. Sahib Gul S/o Juma Gul R/o House No. C-3 Irrigation Officer Colony, Kababyan Warsak Road, Peshawar (Health Department BPS-20 Management Cadre), do hereby declare and affirm on oath as that the contents of the enclosed Application are true and correct to the best of my knowledge and belief. That nothing has been concealed from the court, which it is necessary to disclose.


Deponent
Dr. Sahib Gul**CNIC No. 17301-1240509-5****Cell No. 0333-9207988**

8

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No:...../2022

Dr. Sahib Gul

Vs.

Government of Khyber Pakhtunkhwa and others

MEMO OF PARTIES

APPELLANT

Dr. Sahib Gul

Managing Cadre (BPS-20)

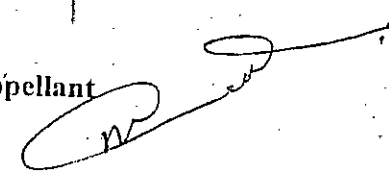
House No. 3-C Irrigation Officer Colony, Warsak Road, Peshawar

RESPONDENTS

1. **Government of Khyber Pakhtunkhwa**
Through Chief Secretary
Civil Secretariat Peshawar
2. **Secretary to the Government of Khyber Pakhtunkhwa**
Health Department
Civil Secretariat Peshawar
3. **Section OFFICER (E-V)**
Government of Khyber Pakhtunkhwa Health Department
Civil Secretariat Peshawar
4. **Director General Health Services**
Directorate General of Health
Government of Khyber Pakhtunkhwa, Peshawar
4. **Dr. Saeed Gul**
Principal Post Graduate Paramedical Institute
Peshawar

Through

Appellant


Muhammad Anwar
Advocate High Court.

DR. SAHIB GUL

Name Sahib Gul
Father's Name Haji Juma Gul Khan
Domicile Kohistan
Cadre Member of Services BPS-20(Management Group)
Marital Status Married
Religion Islam
Present & Permanent Address House No. 3-C, Irrigation Officers Colony, Kababyan, Warsak Road, Peshawar
Telephone No. Office:091-9211802
Mob: 0333-9207988
email Address mnchkg@gmail.com
rhdghskp@gmail.com

Annexure

(A)

(9)

PROFESSIONAL PROFILE:

General:

I am Public Health Specialist, with a working experience of 27 Years in Health Department Khyber Pakhtunkhwa. My experience ranges from Primary, Secondary and Tertiary Health Care, Project management, Coordination, Monitoring, evaluation and implementation of Government policies and matters relating to HR Management, Administration, Finance, Planning and Procurement.

COMPUTERS SKILLS:

MS Excel, MS Word, MS Power Point.

LANGUAGES:

English, Urdu and Pashto

EDUCATION QUALIFICATION:

Institution	Subject/Discipline	Date	Degree/Certificate
Khyber Medical College	Bachelor of Surgery and Bachelor of Medicine	1990	M.B.B.S
Peshawar University	Public Administration	1995	DPA
Peshawar University	Health Planning and Management	1996	DHPM
Al Khair University	MBA Health Planning and Management	2000	MBA, HP & M

Attested
ATTESTED

Employment History



10

- > Director General Provincial Health Services Academy and Allied Discipline KP (19th August 2022 till date)
- > Additional Director General Admin Directorate General Health Services KP (26th June to 18th August 2022)
- > Director MCH, Health Directorate KP. (Since Aug, 25 June 2022)
- > Director Integrated Health Project, (January 2019 to August 2019)
- > Director MNCH, Health Department, (2011 to December 2018)
- > Addl District Health Officer Buner (2017-2018)
- > Director A & E, Lady Reading Hospital, (2008-2010)
- > Trainee in Orthopedic PGMI Lahore, (2003-2007)
- > Planning and Monitoring /Procurement officer, Healthcare/Women Health Project (1999-2003)
- > Senior Planning Officer, Health department, (1998-1999)
- > Deputy Director Afghan Refugees (UNHCR) (1997-1998)
- > Procurement Officer 1st Family Health Project (World Bank) (March 1993-1997)

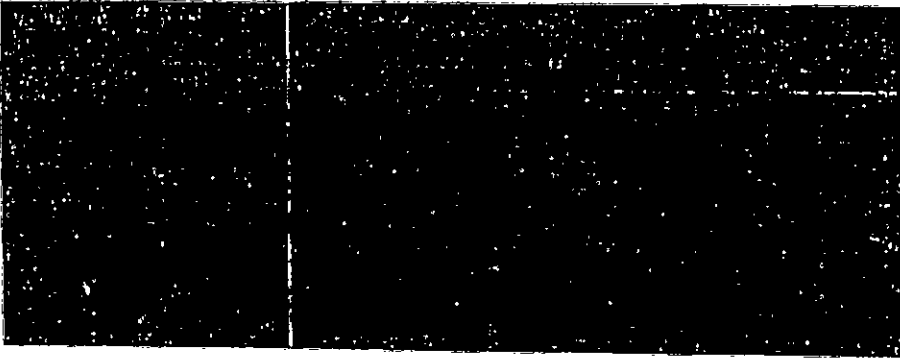
COURSES and TRAININGS

- Mandatory Management Course Training in National Institute of Public Administration Peshawar (02 Months for BPS 17-BPS 18, 03 Months for BPS 18-BPS 19, 04 Months for BPS 19-BPS 20)
- Government Financial Rules (GFR) Audit and Accounts Academy Peshawar 1994
- Procurement Rules
- Human Resource Development/ Market Analysis
- PC-1 Preparation
- Hospital Management and Administration
- Integrated Child Survival Training Management of EPI/Diarrhea/ARI/Nutrition and IPC
- ToT workshop of National Program for FP and PHC
- Workshop on Hormonal Contraceptive techniques
- Advance Trauma Life Support Program
- Situation Analysis and Management (03 Months Training)
- Audit and Accounting course (03 Months Course)

Attested
ATTESTED

REFERENCES:

Name	Designation	Department	Contact Details
Professor Dr Hafeez	Ex VC KMU and CEO LRH	Health Department	0301-8588888 hafizullah.mohammad@gmail.com
Professor Dr Samad Khan	Ex- CEO LRH	Health Department	0333-9111393 abdussamadkhan@hotmail.com
Mr Mushtaq Jadoon	Ex Secretary Health	Health Department	0300-8594036 mmjadun@gmail.com
Mr Masood Younas	Ex Secretary Finance	Finance Department	0301-8322941 younas.masood66@gmail.com



A-1

Annexure



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar the 20th May, 2022

NOTIFICATION

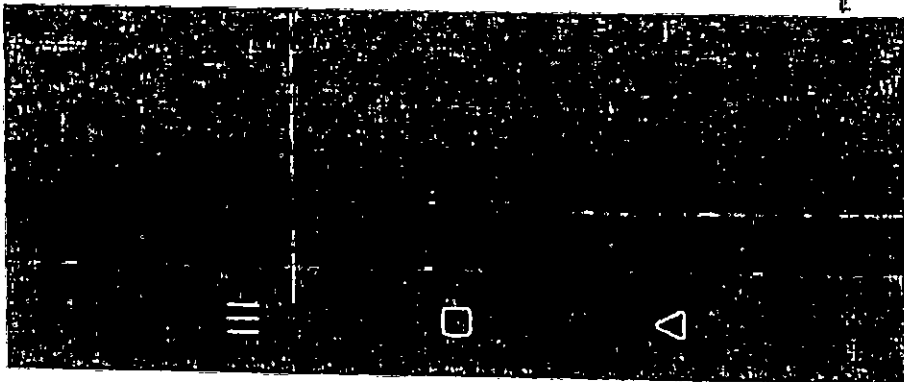
NO. SOH(E-V)/4-4/2022 Consequent upon promotion to the post of Member of Service (BS-20) vide this Department's Notification No. SOH(E-V)/4-4/2022/1607-1618 dated 19.04.2022, the following posting/ transfer of doctors are hereby ordered for actualization of their promotion, with immediate effect, in the best public interest:-

S.No.	NAME OF DOCTORS	FROM	TO
FOR ACTUALIZATION UPON PROMOTION IN BS-20			
1.	Dr. Mansoor Ali Management Cadre (BS-20)	Director Provincial Health Services Academy Peshawar (M&E)	Regional Health Services (Hazara) Abbottabad against the vacant post
2.	Dr. Shaheen Afridi Management Cadre (BS-20)	Director Health Services Khyber Pakhtunkhwa	Director General Health Services Khyber Pakhtunkhwa against the already occupied post
3.	Dr. Fakhr-e-Alam Management Cadre (BS-20)	Medical Superintendent, DHQ Hospital, Daggar Buner	Medical Superintendent, DHQ Hospital, Daggar Buner against the newly upgraded post
4.	Dr. Ubaid Hussain Management Cadre (BS-20)	Medical Superintendent, Sarhad Hospital for Psychiatric Diseases Peshawar	Medical Superintendent, Sarhad Hospital for Psychiatric Diseases Peshawar against the newly upgraded post
5.	Dr. Tariq Mahmood Management Cadre (BS-20)	Waiting for posting	Medical Superintendent, DHQ Hospital, Swabi by relieving Dr. Sarfaj Ali from look after charge of the post

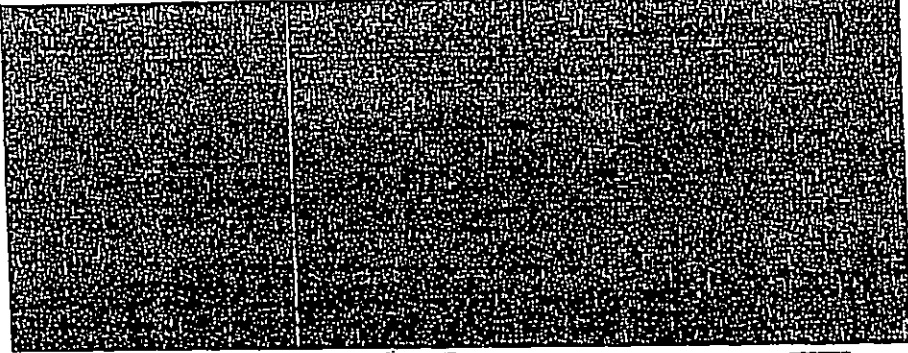
Attested

ATTESTED

Scanned with CamScanner



(12)

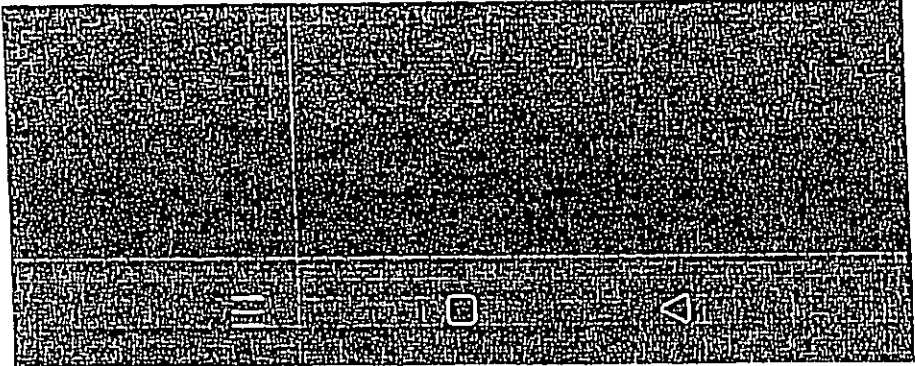


21.	Dr. Sakhir Gul, Management Cadre (BS-20)	Director (MCH), Directorate General Health Services, Khyber Pakhtunkhwa	Additional Director General (Admin), Directorate General Health Services, Khyber Pakhtunkhwa against the newly created post
22.	Dr. Haseem Khan Afridi, Management Cadre (BS-20)	Medical Superintendent, Cat-D Hospital, Badkher Peshawar	Medical Superintendent, Cat-D Hospital, Badkher Peshawar against the newly upgraded post
23.	Dr. Muhammad Afsar Anwar, Management Cadre (BS-20)	Director (Admin), Provincial Health Services Academy Peshawar	District Health Officer, Buner by relieving Dr. Fakhr-e-Alam from Additional charge of the post of DH, Buner
24.	Dr. Fazal Housa, Management Cadre (BS-20)	District Health Officer, Kohat	District Health Officer, Kohat against the already occupied post
25.	Dr. Shams Ur Rehman, Management Cadre (BS-20)	Project Director, Blood Transfusion, Peshawar	He will actualize his promotion as District Health Officer, Charsadda for one day and then be posted as Project Director, Blood Transfusion Peshawar
26.	Dr. Abdu Gul, Management Cadre (BS-20)	District Health Officer, Lakki Marwat	District Health Officer, Lakki Marwat against the already occupied post
27.	Dr. Adnan Taj, Management Cadre (BS-20)	Director (Curative), Directorate General Health Services, Khyber Pakhtunkhwa	Regional Director General Health Services (Control) Peshawar by relieving Dr. Ikram Ullah Khan, Chief HSRU from additional charge of the post
28.	Dr. Jawad Habib Khan, Management Cadre (BS-20)	Chief Executive Officer, Blood Transfusion Authority Khyber Pakhtunkhwa	He will actualize his promotion as District Health Officer, Peshawar for one day and then resume the charge of already occupied post as Chief Executive Officer, Blood Transfusion Authority, Khyber Pakhtunkhwa

Handwritten signature/initials

Handwritten signature: Affend

ATTESTED



Image

Text

13



ADJUSTMENT/ SUBSTITUTION			
29.	Dr. Daud Khan, Management Cadre (BS-19)	Medical Superintendent, DHQ Hospital, Timergara Dlr (Lower)	Deputy Medical Superintendent, DHQ Hospital, Timergara Dlr (Lower) against the vacant post
30.	Dr. Waseem Ahmad, General Cadre (BS-19)	District Health Officer, Baitagram	Deputy District Health Officer, Manshra against the vacant post
31.	Dr. Ubaid Ur Rehman, Management Cadre (BS-20)	Regional Director General (South Region), Pakhtunkhwa	Chief Medical Officer (BS-20), Emergency Satellite Hospital, Nahaq Peshawar against the vacant post

Note: Dr. Muhammad Shoab DHO Nowshera, Dr. Nasir Hassan Afridi MS DHQ Hospital KDA Kohat, Dr. Farhad Khan DHO Charsadda and Dr. Muhammad Idrees DHO Peshawar are hereby relieved from their existing charges/ posts and adjusted against the posts of Principal Medical Officer (BS-19) at DHQ Hospital, Nowshera, KDA Kohat, THQ Hospital Shabqadar and Cat-D Hospital Badsher Peshawar respectively, for one day only and then they will resume charges against their original posts.

SECRETARY HEALTH

GOVERNMENT OF KHYBER PAKHTUNKHWA

No. 1059-1106 Endst. of even No. & Date

Copy forwarded to:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. Director General, Provincial Health Services Academy Peshawar.
4. All concerned Regional Director Generals, Khyber Pakhtunkhwa.
5. All concerned Additional Director Generals, Khyber Pakhtunkhwa.
6. Project Director, Integrated Health Project, Peshawar.
7. All concerned Deputy Commissioners in Khyber Pakhtunkhwa.
8. Chief Executive Officer, Blood Transfusion Authority, Peshawar.
9. Manager, Blood Transfusion Centre, Peshawar.
10. All concerned District Health Officers in Khyber Pakhtunkhwa.
11. All concerned District Accounts Officers in Khyber Pakhtunkhwa.
12. All concerned Medical Superintendents in Khyber Pakhtunkhwa.
13. All concerned Principals under the PHSA network.
14. Deputy Director (IT), Health Department, with the direction to upload the notification on official website.
15. PS to Minister for Health Department, Khyber Pakhtunkhwa.
16. PS to Secretary Health Department, Khyber Pakhtunkhwa.
17. All concerned doctors.
18. Personal files of all the concerned doctors.

SECTION OFFICER (E-V)

20/5/22

Attested
ATTESTED

Scanned with CamScanner



Rotate



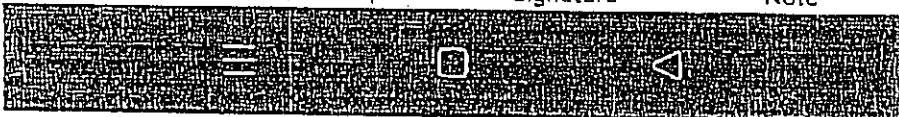
Markup



Signature



Note





HEALTH DEPARTMENT

Annexure (8)

Dated: Peshawar the 19th August, 2022

NOTIFICATION

14

NO.SOH(E-V)/4-4/2022

The following posting/ transfer of doctors are hereby ordered with immediate effect and in the best public interest:-

S.NO.	NAME OF DOCTORS	FROM	TO
1.	Dr. Fahim Hussain, Management Cadre (BS-20)	Director General, Provincial Health Services Academy Peshawar	Additional Director General (Admin), Directorate General Health Services, Khyber Pakhtunkhwa. Vice S.No.02
2.	Dr. Sahib Gul, Management Cadre (BS-20)	Additional Director General (Admin), Directorate General Health Services, Khyber Pakhtunkhwa	Director General, Provincial Health Services Academy Peshawar. Vice S.No.01

**SECRETARY TO GOVT: OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

No. 3216-3229, Notification of even No. & dated:

Copies forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director General Health Services. Khyber Pakhtunkhwa.
3. Director General, Provincial Health Services Academy Peshawar.
4. CSO to Chief Secretary, Khyber Pakhtunkhwa.
5. All District Health Officers, Khyber Pakhtunkhwa.
6. All Medical Superintendents, Khyber Pakhtunkhwa.
7. All Principals, Nursing/ Paramedical Institutes, Khyber Pakhtunkhwa.
8. PS to Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
9. PS to Minister for Health, Khyber Pakhtunkhwa.
10. PS to Secretary Health Department Khyber Pakhtunkhwa.
11. Deputy Director (IT), Health Department, Peshawar.
12. Doctors concerned.
13. Personal files of the concerned doctors.

SECTION OFFICER (E.V)

Attested
ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Annexure (15)

Dated: Peshawar the 19th September, 2022

NOTIFICATION

NO.SOH (E-V)/4-4/2022

Whereas, Dr. Sahib Gul was posted as Director General, Provincial Health Services Academy Peshawar w.e.f 19.08.2022 on the eve of his promotion to the post of Management Cadre (BS-20).

And whereas, it was noticed that, Dr. Sahib Gul shared messages of derogatory and defamatory nature against the former Prime Minister of Pakistan and his family by using his personal number (+92 333 920 7988).

And whereas, he transmitted messages in a WhatsApp group titled "Management Cadre Association" vilifying the former Prime Minister of Pakistan over religious affiliations.

Now whereas, the above acts of omission & commission by Dr. Sahib Gul, Director General, Provincial Health Services Academy Peshawar comes under the violation of Rules- 25, 28 and 34(A) of the Khyber Pakhtunkhwa Government Servants (Conduct Rules), 1987 and the instructions issued by Establishment Department, Government of Khyber Pakhtunkhwa from time to time. Therefore, consequent upon approval of the Competent Authority (Chief Minister Khyber Pakhtunkhwa), the following posting/ transfer of doctors are hereby ordered with immediate effect, in the best public interest:-

S.NO.	NAME OF DOCTORS	FROM	TO
1.	Dr. Sahib Gul, Management Cadre (BS-20)	Director General (BS-20), Provincial Health Services Academy Peshawar	Report to Directorate General Health Services, Khyber Pakhtunkhwa, Peshawar
2.	Dr. Saeed Gul, Management Cadre (BS-20)	Principal (BS-20), Postgraduate Paramedical Institute Peshawar	Assigned look after charge of the post Director General, Provincial Health Services Academy Peshawar in addition to his own duties till further orders

SECRETARY TO GOVT: OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

No. 3221-91 /Notification of even No. & dated:

Copies forwarded to the:-

1. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
2. Accountant General, Khyber Pakhtunkhwa Peshawar.
3. CSO to Chief Secretary, Government of Khyber Pakhtunkhwa.
4. Director General Health Services, Khyber Pakhtunkhwa.
5. Director General, Provincial Health Services Academy Peshawar.
6. Principal, Postgraduate Paramedical Institute, Peshawar.
7. PS to Secretary Health Department Khyber Pakhtunkhwa.
8. Deputy Director (IT), Health Department, Peshawar.
9. Doctors concerned
10. Personal files of the doctors concerned.

A
Attested
ATTESTED

19-09-22

(NADIR NAZAR)
SECTION OFFICER (E-V)

Amx - "C"

16



IN THE PESHAWAR HIGH COURT, PESHAWAR

3557A

Writ Petition No. _____/2022

Dr. Sahib Gul

Managing Cadre (BPS-20)

House No. 3-C Irrigation Officer Colony, Warsak Road, Peshawar

.....Petitioner

Versus

1. **Government of Khyber Pakhtunkhwa**
Through Chief Secretary
Civil Secretariat Peshawar
2. **Secretary to the Government of Khyber Pakhtunkhwa**
Health Department
Civil Secretariat Peshawar
3. **Section OFFICER (E-V)**
Government of Khyber Pakhtunkhwa Health Department
Civil Secretariat Peshawar
4. **Director General Health Services**
Directorate General of Health
Government of Khyber Pakhtunkhwa, Peshawar
4. **Dr. Saeed Gul**
Principal Post Graduate Paramedical Institute
Peshawar

.....Respondents

FILED TODAY

Deputy Registrar

20 SEP 2022

ATTESTED
EXPLAINED
Peshawar High Court

 Writ petition under Article 199 of the Constitution of the Islamic Republic of Pakistan,
 1973

Respectfully sheweth;

1. That petitioner before your honor has the privilege of being citizen of the Islamic Republic of Pakistan. He hails from the province of Khyber Pakhtunkhwa, and by profession he is a doctor. Presently, the petitioner is serving as provincial Civil servant in BPS-20 in the Management Cadre of the Health Department. He has earned his promotion in the BPS-20 few months back, and was lastly posted as Director General of the Provincial Health Academy, Peshawar *vide* order SOH (E-V)/4-4/2022/3216-29 dated 19.08.2022.
2. That just yesterday, the petitioner has received another Notification of his transfer bearing No. SOH (E-V)/4-4/2022/3871-81 dated 19.09.2022, whereby he has been directed to report back to Directorate General of Khyber Pakhtunkhwa and on his place the private Respondent No. 6 has been assigned the look after charge of the post in question.
3. That feeling aggrieved there from and having been left with no other alternate, adequate and equally efficacious remedy, the petitioner seeks the kind indulgence of this august court *inter alia* on the following grounds:

Grounds

- A. The impugned transfer/posting order dated 19.09.2022 transferring the petitioner from the post of Director General Health Service Academy is just not an ordinary transfer order as evident from its unique contents.
- B. Said order clearly gives to understand that same has been passed on no other considerations but political one, and just to appease someone. The impugned order states that as if the petitioner has passed someone alleged derogatory / defamatory remarks against the Former Prime Minister of Pakistan and it is on those grounds that petitioner has rather has been penalized without following due process of law.

FILED BY DAY
 Deputy Registrar
 20 SEP 2022

ATTESTED
 EXAMINER
 Peshawar High Court

- C. That impugned order also refers to Rule 25, 28 and 34-A of the Khyber Pakhtunkhwa Government Servants (Conduct Rules, 1987) which reliance and reference is totally misplaced and misconceived. Given the contents and nature of false allegations leveled against the petitioner none of these Rules are attracted and so the impugned order is not sustainable in law on this score alone.
- D. That petitioner has got unblemished and spotless track record of service to his credit. His service tenure spreads over a period of more than three decades in the provincial civil service. The impugned order on the face of it tempts to malign and stigmatized the petitioner and that too without issuing him any prior notice or show cause and without providing him any opportunity of hearing.
- E. Besides, the impugned order is also liable to be set-aside because it has been passed at the back of the petitioner and is clearly *mala fide*, arbitrary, whimsical and based upon political and extraneous consideration than relevant.
- F. That had it been just a routine order of posting and transfer, the petitioner would not have been bothered but because the same carries false allegations and it manifestly smokes and recoils *mala fide*, therefore, the petitioner is compelled to approach this august court, and the writ petition is perfectly maintainable in the given circumstances of the case. Reliance is placed on the case of *Anita Turab* reported by the title of '*Syed Mahmood Akhtar Naqvi and others vs. Federation of Pakistan and others*'¹.
- G. That case in hand is one where a civil servant is being harassed and humiliated for political point scoring only. and thus it is the fundamental guarantees of the petitioner as envisaged in Art. 3, 4, 9, 10-A, 14, 25 and 37 which have been clearly breached by the official respondents while passing the impugned order. The indulgence of this august court is thus all the more necessary and indispensable and the writ petition is not hit by the barring clauses of Art. 212 of the Constitution of Pakistan.
- H. Any other legal ground that may be raised at the time of hearing of this petition with the kind leave of the august court.


Prayers:

It is, therefore, most respectfully prayed that on acceptance of this writ petition this august court may be pleased to;




- i) *Issue* an appropriate writ in the matter by setting aside the impugned order No. No. SOH (E-V)/4-4/2022/3871-81 dated 19.09.2022 by declaring the same as arbitrary, whimsical, *mala fide* and based upon sinister political designs, and
- ii) *Grant* any other relief considered just and appropriate in the given circumstances of the case.

Through


Petitioner

 Qazi Jawad Ehsanullah
 Advocate Supreme Court of Pakistan

Interim Relief:

It is further prayed that pending final decision of the subject case, the august court may be pleased to suspend the operation of the impugned transfer / posting order dated 19.09.2022.


Counsel

CERTIFIED that no such case / writ petition had earlier been filed by the petitioner against the orders impugned herein in any court of law in Pakistan.


Counsel

List of Books:

1. Constitution of the Islamic Republic of Pakistan, 1973
2. Khyber Pakhtunkhwa Civil Servant Act, 1973
3. Khyber Pakhtunkhwa Government Servants (Conduct) Rules, 1987
3. Case law shall be produced at the time of hearing.


Counsel

FILED TODAY
 Deputy Registrar
 20 SEP 2022

ATTESTED
 EXAMINER
 Peshawar High Court

20

IN THE PESHAWAR HIGH COURT PESHAWAR

WP 3557-P/2022

3

Dr. Sahib Gul

Vs.

Government of Khyber Pakhtunkhwa and others

Affidavit

AFFIDAVIT OF Dr. Sahib Gul S/o Juma Gul R/o House No. C-3 Irrigation Officer Colony, Kababyan Warsak Road, Peshawar (Health Department BPS-20 Management Cadre), do hereby declare and affirm on oath as that the contents of the enclosed Writ Petition are true and correct to the best of my knowledge and belief. That nothing has been concealed from the court, which it is necessary to disclose.

Deponent

Dr. Sahib Gul

CNIC No. 17301-1240509-5

Cell No. 0333-9207988

Identified by

Muhammad Waqas
Advocate High Court

FILED TODAY
Deputy Registrar
20 SEP 2022

18646
Certified that the above was verified on solemn affirmation before me in office, this 20 day of Sep 2022 by Dr. Sahib Gul s/o Juma Gul Peshawar who was identified by M. Waqas who is personally known to me.
Commissioner
Peshawar
20/09/22

TO BE FILED
28 SEP 2022

Annex-D

21



IN THE PESHAWAR HIGH COURT,
PESHAWAR,
[Judicial Department]

Writ Petition No.3557-P of 2022

Dr. Sahib Gul,
Managing Cadre BPS.20,
House NO.3-C Irrigation Officer Colony,
Warsak Road, Peshawar.

Petitioner (s)

VERSUS

Government of Khyber Pakhtunkhwa,
Through Chief Secretary, Peshawar and others.

Respondent (s)

For Petitioner (s) :- Oazi Jawad Ehsanullah, ASC.
For Respondent (s) :- M/S Shumail Ahmed Butt, Advocate General &
Arshad Ahmad, Addl. Advocate General.
Date of hearing: 22.09.2022

JUDGMENT

ROOH-UL-AMIN KHAN, J:- By invoking the constitutional jurisdiction of this Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 ("Constitution"), Dr. Sahib Gul, the petitioner, seeks issuance of an appropriate writ to the effect that order No.SOH (E-V)4-4/2022/3871-81 dated 19.09.2022 (*to be referred hereinafter as the impugned order*), issued by respondent No.2, be declared as arbitrary, whimsical, based on *mala fide* and sinister political designs, therefore, be set-aside.

2. As per averments made in the writ petition, petitioner is a doctor by profession and is serving Provincial Civil Servant in BPS.20 in the Management Cadre of the Health Department. After earning promotion in BPS-20 few months back, the petitioner was lastly posted as Director General (DG) Provincial Health Academy,

Rooh-ul-Amin

Attorney General
Peshawar High Court

22

2

Peshawar vide order No.SOH (E-V/4-4/2022/3216-29 dated 19.08.2022, however, through the impugned order dated 19.09.2022, he is directed to report back to Directorate General Khyber Pakhtunkhwa and at his place respondent No.6 has been assigned the duty to look after charge of the post in question, hence, this writ petition.

3. On 21.09.2022, the instant petition came up for hearing. Mr. Shumail Ahmad Butt, the worthy Advocate-General present in the court in a different matter was put on notice, who requested for time to consult the relevant quarter and to bring record of the case. His request was acceded to and the case was posted for today i.e. 22.09.2022.

4. Today when the case was taken up for hearing, the worthy Advocate General raised a preliminary objection regarding maintainability of the instant writ petition on the ground that the petitioner being a civil servant cannot invoke the constitutional jurisdiction of this court under Article 199 of the Constitutions as the impugned order pertains to terms and conditions of a civil servant. He contended in light of the law settled by the august Supreme Court, in cases of Miss Rukhsana Ijaz vs. Secretary, Education, Punjab & others (1997 SCMR 167); Ayyaz Anjum vs. Government of Punjab, Housing and Physical Planning Department through Secretary and others (1997 SCMR 169); Râfique Ahmad Chaudhry vs. Ahmad Nawaz Malik & others (1997 SCMR 170); Secretary Education NWFP, Peshawar and 2 others vs. Mustamir Khan & another (2005 SCMR 17) and

Shumail Ahmad Butt

ATTESTED
EXAMINER
Peshawar High Court

23

Peer Muhammad vs. Government of Baluchistan through Chief Secretary & others (2007 SCMR 54), transfer and posting being related to the terms and conditions of service of a civil servant can be raised only before the Departmental Authority and then before the Service Tribunal. The writ jurisdiction of this Court under Article 199 of the Constitution in such like matters is specifically barred under Article 212 (2) of the Constitution.

5. Conversely, learned for the petitioner argued that impugned order is not an ordinary transfer order as is manifest from its unique contents which clearly depicts that the same has been passed on mere political consideration to appease someone and stigmatize the petitioner who has unblemished service trace record. He contended that through the impugned order the petitioner has been penalized on mere allegation of derogatory/defamatory remarks against the Former Prime Minister of Pakistan without following due process of law and providing him an opportunity of hearing. He lastly, contended that had the impugned order been just a routine order of posting and transfer, the petitioner would not have been bothered to knock the door of this court but as the impugned order carries false allegations and manifestly smokes and recoil *mala fide*, therefore, in such like situation, this court has got the jurisdiction to interference in to the matter. In support of his arguments, he placed reliance on the judgments of the august apex court rendered in case titled, "Contempt proceedings against Chief Secretary Sindh and others in the matter of Criminal Original Petition No.89 of 2011" 2013 SCMR 1752, "Syed Mahmood

Learned Sindh

ATTESTED
EXAMINED
Peshawar High Court

24

Akhtar Naqvi and others Vs Federation of Pakistan and others: (2013 SCMR 195) and "Ali Azhar Khan Baloch and others Vs Province of Sindh and others" (2015 SCMR 456).

6. We have heard the arguments of learned counsel for the parties and perused the record with their able assistance.

7. It appears from the averments of the writ petition that petitioner himself admits that he is a civil/government servant within the meaning of Khyber Pakhtunkhwa Civil Servants Act, 1973. The impugned order of his transfer purely related to the terms and conditions of his service. Under Section 10 of the Civil Servant Act, 1973, a civil servant can be transferred anywhere through the Province, however, if the civil servant complains violation of the transfer/posting policy or alleging mala fide or political victimization, the forum established under the Khyber Pakhtunkhwa Services Tribunal Act, 1974 is the proper forum for adjudication of such issues. Alleging mala fide, political victimization, violation of transfer/posting Policy can be considered by the Service Tribunal established under Article 1212 of the Constitution. There are number of judgments of the Hon'ble Supreme Court wherein it has been ruled that in the matters pertaining to the terms and conditions of service of a civil servant, the Services Tribunal established under article 212 of the Constitution have the exclusive jurisdiction. In case titled, "Peer Muhammad Vs Government of Balochistan through Chief Secretary and others" (2007 SCMR 54), the august Supreme Court has held that:-

Asad Sami

ATTESTED
CHIEF CLERK
Peshawar High Court

"It is well-settled by now that question of posting of a Government servant squarely falls within the jurisdictional domain of the Competent Authority subject to law and rules made thereunder. The question of posting/transfer relates to terms and conditions of a Government servant and Service Tribunal would have exclusive jurisdiction to dilate upon and decide such matter and constitutional jurisdiction cannot be invoked to get such controversies resolved. *We have also adverted to the question of mala fides which according to the learned Advocate Supreme Court could have been dilated upon in constitutional jurisdiction which is not correct because the provisions as contained in Article 212 of the Constitution of Islamic Republic of Pakistan oust jurisdiction of all other courts and orders of the departmental authorities even though without jurisdiction or mala fide can be challenged only before the Service Tribunal and jurisdiction of civil court including High court is specifically ousted. The plea of mala fide does not confer upon High court jurisdiction to act in the matter in view of the Constitutional ouster as contained in Article 212 of the Constitution of Islamic Republic of Pakistan and learned Service Tribunal has fully jurisdiction to interfere in such like matter.*" (Bold supplied for emphasis).

8. Same view has been reiterated by the Hon'ble Supreme Court in its judgment rendered in Civil Review Petition No.193 of 2013 etc , titled, "Ali Azhar Khan Baloch and others vs Province of Sindh and others" (2015 SCMR 456), in the following words:-

ATTESTED
EXAMINER
Peshawar High Court

26

"Article 212 of the Constitution ousts the jurisdiction of High courts and civil courts in respect of the matters pertaining to terms and conditions of civil servants. In other words, the provisions of Article 212 do not confer a concurrent jurisdiction to civil Courts, High Courts and Tribunals. The ouster contemplated under the said Article is a Constitutional command and, therefore, of necessity restricts the jurisdiction of civil courts and High Courts on the subject, which squarely falls within the exclusive domain of Tribunal."

9. The Hon'ble Supreme Court, in its recent judgment rendered in case titled, "Chief Secretary Government of Punjab, Lahore and others vs Ms. Shamim Usman" (2021 SCMR 1390), has once again followed the same view in these words:-

"The High court had no jurisdiction to entertain any proceedings in respect of terms and conditions of service of a civil servant which could be adjudicated upon the by the Service Tribunal. The High court as a constitutional court should always be mindful of the jurisdictional exclusion contained under Article 212 of the Constitution. Any transgression of such constitutional limitation would render the order of the High court void and illegal." (Bold and underlines supplied emphasis).

Noted down

10. Section 4 of the Khyber Pakhtunkhwa Services Tribunal, 1974 provides that any order affecting, in any manner, the terms and conditions of a civil servant can be challenged before the Service Tribunal. The grounds agitated by the petitioners in the

ATTESTED
EXAMINER
Peshawar High Court

27

writ petition as well as advanced by his counsel during arguments with full force can be well agitated and appreciated in the Service Tribunal and will be dealt with in accordance with law.

11. We have gone through the case law referred and relied upon by learned counsel for the petitioner and are firm in our view to hold that the same does not favour and support the case of the petitioner.

12. An adequate and efficacious remedy available to the petitioner under the law in the form of filing service/departmental appeal and then Service Tribunal for redressal of his grievance, this constitutional petition is not maintainable.

13. For the reasons discussed above, in view of the bar contained in Article 212 (2) of the Constitution, this writ petition being not maintainable is hereby dismissed, however, the petitioner would be at liberty to approach the proper forum if he so desire.

Announced:
22.09.2022
M. Sraaj Afridi CS

Roshan Sami
Senior Puisne Judge

Roshan Sami
JUDGE

51443

Date of Presentation of Application	24.9.22
Number of Pages	12
Stamp Fee	48
Date of Preparation of Copy	28.9.22
Date of Delivery of Copy	28.9.22
By	Jam Roshan

**By Mr. Justice Roshan Sami Hon'ble Senior Puisne Judge;
And Hon'ble Mr. Justice SM Attique Shah**

EXAMINER
Sindh High Court, Postbox 10
Karachi-74200
Authorised Under Article 177 of
The Constitution of Sindh, 1973

28-SEP-2022

Annex-E

PS TO SECRETARY HEALTH
Letter No - 8085
Dated - 20/09/2022

To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Health Department.

Subject:

REVIEW PETITION AGAINST THE HEALTH DEPARTMENT NOTIFICATION NO. SOH(E-V)/4-4/2022 DATED 19-09-2022

28

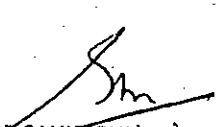
Dear Sir,

With due respect, it is stated that the Govt. of Khyber Pakhtunkhwa Health Department through the above quoted notification leveled various allegations in Speak Form Order against the petitioner and imposed the penalty of "Transfer/OSD" without any justification and any legal procedure. Therefore, the following grounds are advanced against the impugned Notification:

- i. The Health Department has leveled various allegations through the impugned notification which are totally baseless. The Department has not conducted any fact-finding or formal inquiry to probe into the matter and find out the ground realities.
- ii. The impugned notification is violation of the Khyber Pakhtunkhwa Govt. Servant (E & D) Rules 2011. Rule-3 of the rules ibid enumerates the list of minor and major penalties. However, there is no provision of "posting/Transfer" to be imposed as a penalty. Therefore, transfer may not be made as a penalty.
- iii. As per common procedure of the Govt. a charge sheet or show-cause notice is served upon a Govt. servant prior to imposition of any sort of penalty. However, the Health Department has not issued any such charge sheet.
- iv. In terms of Rule-15 of the (E & D) Rules 2011, the Govt. affords an opportunity of personal hearing prior to imposition of any penalty. However, the Govt. has not afforded any such opportunity to petitioner.
- v. The petitioner belongs to the Health Management Cadre in BS-20 and required to be posted against any managerial position of the cadre in BS-20. Contrarily, the petitioner has been directed to report to the DGHS KP, which is against Health Management Cadre Rules 2008.
- vi. The petitioner was promoted to BS-20 on 19-05-2022 and posted as ADG (Admn) on 20-05-2022. However, the petitioner was transferred from there on 19-08-2022 which was premature vide notification at (F/A)
- vii. The petitioner has been posted as DG PHSA on 19-08-2022 and has not completed the normal tenure of service against the existing position. However, the petitioner has made a rolling stone by the Health Department and transferred once again and made him OSD officer.(F/B)
- viii. The petitioner is law abiding citizen of Pakistan and cannot imagine vilifying the dignity of the Ex.Prime Minister of Pakistan through social media.
- ix. The petitioner has been blamed for violating Rule-25 of the Conduct Rules 1987 which refer to the embarrassing the Provincial or Federal Govt. However, the fact is that the petitioner has not committed any such action to embarrass the Provincial or Federal Govt.
- x. The petitioner has also been blamed for violating Rule-28 of the Conduct Rules 1987 which refer to the propagation of sectarian creeds. However, the petitioner has not committed to harm the creed of the public.
- xi. The petitioner has further blamed for violating rule-34 of the Conduct Rules 1987 which refer to the use of political influence. However, the petitioner has not used any such political influences

Keeping in view of the above grounds, it is humbly prayed that the impugned notification may be withdrawn and the allegations, leveled against the petitioner, may be declared as baseless please.

Yours faithfully


(DR SAHIB GUL)
DG PHSA, PESHAWAR.

F 29

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No:...../2022

Dr. Sahib Gul

Vs.

Government of Khyber Pakhtunkhwa and others

INDEX

S.No	Description of Documents	Annex	Page
1	Service Appeal with Affidavit		1-5
2	Suspension Application with Affidavit		6-7
3	Memo of the Parties		8
4	Copy of CV	A	9-10
	Copy of Promotion Order dated 20.05.2022	A1	11-13
5	Copy of Transfer Order dated 19.08.2022	B	14
6	Copy of Transfer Order dated 19.09.2022	B1	15
7	Copy of Writ Petition and Order dated 22.09.2022	C & D	16-27
8	Copy of Representation and Posting/Transfer Policy of Provincial Govt. Khyber Pakhtunkhwa	E & E1	28-32
9	Copy of Khyber Pakhtunkhwa Govt. Servant Conduct Rules, 1987	F	33-44
10	Vakatlanama in original.		45

Appellant

Through



Muhammad Anwar
Advocate High Court

30

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No:...../2022

Dr. Sahib Gul

Managing Cadre (BPS-20)

House No. 3-C Irrigation Officer Colony, Warsak Road, Peshawar

..... **Appellant**

Versus

1. **Government of Khyber Pakhtunkhwa**
Through Chief Secretary
Civil Secretariat Peshawar
2. **Secretary to the Government of Khyber Pakhtunkhwa**
Health Department
Civil Secretariat Peshawar
3. **Section OFFICER (E-V)**
Government of Khyber Pakhtunkhwa Health Department
Civil Secretariat Peshawar
4. **Director General Health Services**
Directorate General of Health
Government of Khyber Pakhtunkhwa, Peshawar
4. **Dr. Saced Gul**
Principal Post Graduate Paramedical Institute
Peshawar

..... **Respondents**

SERVICE APPEAL under section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, read with other enabling rules of posting transfer against the impugned order No. SOH (E-V)/4-4/2022/3871-81 dated 19.09.2022 passed by the (Respondent No.3) against which a departmental appeal/review petition was filed before the competent authority but the same has not been decided within the stipulated period.

Respectfully Sheweth;

1. That appellant before your honor has the privilege of being citizen of the Islamic Republic of Pakistan. He hails from the province of Khyber Pakhtunkhwa, and by profession he is a doctor. Presently, the appellant is serving as provincial Civil servant in BPS-20 in the Management Cadre of the Health Department. He has earned his promotion in the BPS-20 few months back, and was lastly posted as Director General of the Provincial Health Academy, Peshawar *vide* order SOH (E-V)/4-4/2022/3216-29 dated 19.08.2022.
(Copy of CV as Annexure-A, Promotion Order dated 20.05.2022 is annexure A1 and transfer order dated 19.08.2022 is herewith marked as Annexure-B).
2. That appellant has got unblemished and spotless track record of service to his credit. His service tenure spreads over a period of more than three decades in the provincial civil service. The impugned order on the face of it tempts to malign and stigmatized the appellant and that too without issuing him any prior notice or show cause and without providing him any opportunity of hearing.
3. That just after transfer, dated 19/8/2022, the appellant has received another Notification of his transfer bearing No. SOH (E-V)/4-4/2022/3871-81 dated 19.09.2022, whereby he has been directed to report back to Directorate General of Khyber Pakhtunkhwa and on his place the private Respondent No. 6 has been assigned the duty of look after charge of the post in question.
(Copy of transfer order dated 19.09.2022 is herewith marked as Annexure-B1).
4. That the appellant filed a writ petition before the honorable Peshawar High Court, Peshawar on 20.09.2022 against the impugned transfer order which *vide* order dated: 22.09.2022 has been dismissed being hit under Article 212 (2) Constitution of Pakistan, 1973. (Copy of Writ Petition as Annexure-C & order as Annexure-D)

5. That appellant has filed a representation/review petition/departmental appeal before the competent authority which has been registered as diary No. 8085 dated 20.09.2022, however, even after passage of stipulated period as per policy, the competent authority purposively not deciding the departmental appeal/representation/review petition. (Copy of Representation and Posting/Transfer Policy of Provincial Govt. KPK as Annexure-E and E1)
6. That feeling aggrieved therefrom and having been left with no other alternate, adequate and equally efficacious remedy, the appellant seeks the kind indulgence of this august court for cancellation of impugned transfer order *inter alia*:

Grounds

- A. The impugned transfer/posting order dated 19.09.2022 transferring the appellant from the post of Director General Health Service Academy is illegal, without lawful authority and against the rules, therefore, not tenable in the eyes of law.
- B. That order impugned herein clearly gives to understand that same has been passed on no other considerations but political one, and just to appease someone. The impugned order states that as if the appellant has passed someone alleged derogatory / defamatory remarks against the Former Prime Minister of Pakistan and it is on those grounds that appellant has rather has been penalized without following due process of law. That the appellant has been condemned unheard as no inquiry, investigation has been conducted prior to the issuance of the order impugn herein.
- C. That impugned order also refers to Rule 25, 28 and 34-A of the Khyber Pakhtunkhwa Government Servants (Conduct Rules, 1987) which reliance and reference is totally misplaced and misconceived. Given the contents and nature of false allegations leveled against the appellant none of these Rules are attracted and so the impugned order is not sustainable in law on this score alone.
- D. Besides, the impugned order is also liable to be set-aside because it has been passed at the back of the appellant and is clearly *mala fide*, arbitrary, whimsical and based upon political and extraneous consideration than relevant.

- E. That had it been just a routine order of posting and transfer, the appellant would not have been bothered but because the same carries false allegations and it manifestly smokes and recoils *mala fide*, therefore, the appellant is compelled to approach this august court, and the appeal is perfectly maintainable in the given circumstances of the case.
- F. That case in hand is one where a civil servant is being harassed and humiliated for political point scoring only, and thus it is the fundamental guarantees of the appellant as envisaged in Art. 3, 4, 9, 10-A, 14, 25 and 37 which have been clearly breached by the official respondents while passing the impugned order. The indulgence of this august court is thus all the more necessary and indispensable
- G. Any other legal ground that may be raised at the time of hearing of this petition with the kind leave of the august court.

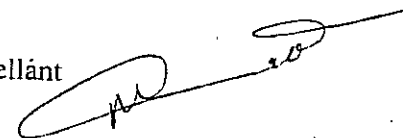
PRAYERS:

It is, therefore, most respectfully prayed that on acceptance of this appeal this august court may be pleased to;

- i) *Set aside the impugned order* No. SOH (E-V)/4-4/2022/3871-81 dated 19.09.2022 by declaring the same as arbitrary, whimsical, *mala fide* and based upon sinister political designs, and
- ii) The respondents may be restrained not to take any adverse action against the appellant till the final disposal of the appeal.
- iii) *Grant* any other relief considered just and appropriate in the given circumstances of the case.

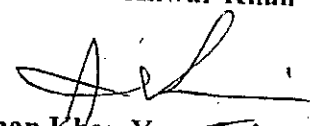
Through

Appellant



Muhammad Anwar Khan

&



Adnan Khan Yousafzai
Advocates High Court,
Peshawar/.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No:...../2022

Dr. Sahib Gul

vs.

Government of Khyber Pakhtunkhwa and others

Affidavit

I, Dr. Sahib Gul S/o Juma-Gul R/o House No. C-3 Irrigation Officer Colony, Kababyan Warsak Road, Peshawar (Health Department BPS-20 Management Cadre), do hereby declare and affirm on oath as that the contents of the enclosed Appeal are true and correct to the best of my knowledge and belief. That nothing has been concealed from the court, which it is necessary to disclose.



[Signature]
Deponent
Dr. Sahib Gul
CNIC No. 17301-1240509-5
Cell No. 0333-9207988

35

6.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

C.M No.:...../2022

In

Service Appeal No:...../2022.

Dr. Sahib Gul

Vs.

Government of Khyber Pakhtunkhwa and others

**APPLICATION for suspension of the impugned order dated
19.09.2022, till the final decision of instant appeal.**

Respectfully Sheweth:

1. That the titled appeal is being filed before this Honourable Tribunal in which no date of hearing has yet been fixed.
2. That the applicant/appellant has a prima facie case in his favour and he is sanguine of its success.
3. That the balance of convenience also lies in favour of the applicant/ appellant.
4. That if the impugned orders are not suspended, the applicant/ appellant will suffer an irreparable loss.

It is, therefore, prayed that by accepting this application, the impugned order dated 19.09.2022 may please be suspended and maintenance of status quo be ordered, till the final decision of instant appeal.

Through

Applicant/Appellant

Muhammad Anwar Khan

&

Adnan Khan Yousafzai
Advocates High Court,
Peshawar/.

36

7.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

C.M No:...../2022

In

Service Appeal No:...../2022

Dr. Sahib Gul

Vs.

Government of Khyber Pakhtunkhwa and others

Affidavit

I, Dr. Sahib Gul S/o Juma Gul R/o House No. C-3 Irrigation Officer Colony, Kababyan Warsak Road, Peshawar (Health Department BPS-20 Management Cadre), do hereby declare and affirm on oath as that the contents of the enclosed Application are true and correct to the best of my knowledge and belief. That nothing has been concealed from the court, which it is necessary to disclose.



Deponent

Dr. Sahib Gul

CNIC No. 17301-1240509-5

Cell No. 0333-9207988

18

37

8

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No:...../2022

Dr. Sahib Gul

Vs.

Government of Khyber Pakhtunkhwa and others

MEMO OF PARTIES

APPELLANT

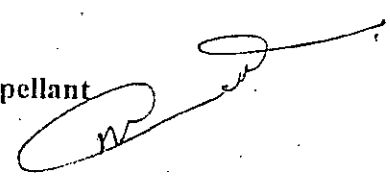
Dr. Sahib Gul
Managing Cadre (BPS-20)
House No. 3-C Irrigation Officer Colony, Warsak Road, Peshawar

RESPONDENTS

1. **Government of Khyber Pakhtunkhwa**
Through Chief Secretary
Civil Secretariat Peshawar
2. **Secretary to the Government of Khyber Pakhtunkhwa**
Health Department
Civil Secretariat Peshawar
3. **Section OFFICER (E-V)**
Government of Khyber Pakhtunkhwa Health Department
Civil Secretariat Peshawar
4. **Director General Health Services**
Directorate General of Health
Government of Khyber Pakhtunkhwa, Peshawar
4. **Dr. Saeed Gul**
Principal Post Graduate Paramedical Institute
Peshawar

Through

Appellant



Muhammad Anwar
Advocate High Court.

This is an appeal filed by Dr. Sahib Gul today on 05/10/2022 against the order dated 19.09.2022 against which he preferred/made departmental appeal/representation on 20.09.2022 the period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, which is premature as laid down in an authority report as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellant/Counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action.

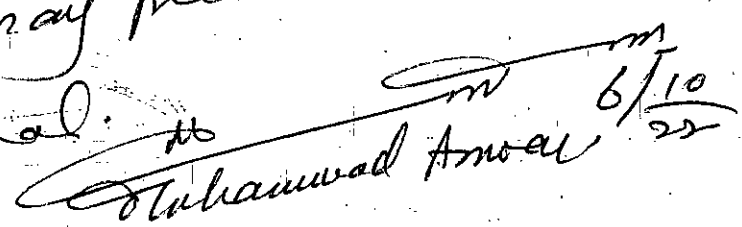
No. 2740 /ST,

DL 05/10/2022.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Muhammad Anwar Adv. Pesh.

Resubmitted with the request that the authenticity/judgment mentioned in the note is not relevant to the facts of the instant case as in the instant case representation has been made against the transfer order of the appellant for which the Department is bound to decide the representation within 15 days as obvious from clause (xiv) of the posting transfer policy under section 10 of the Civil Servant Act 1973. It is requested that the case may please be put up to the Hon'ble Tribunal.


Muhammad Anwar 6/10/22

(Registrar PPK Service Tribunal)

Authority letter signed by the members of family where any one member of family is authorized/ nominated to receive payments.

For permanent incapacitation,

Police FIR supported by Medical Report. In case of FATA, Report of Agency Surgeon verified by Political Agent.

Provided that the affected civil servants, as defined above, serving in the jurisdiction of FATA will be paid out of funds provided by Federal Government to FATA.

4. Procedure / Responsibility,

The District Coordination Officer/Political Agent shall be responsible to initiate the cases of compensations and forward a complete case to the Finance Department and Establishment Department through the Administrative Department concerned, within a week time of the incident positively. The Finance Department and Establishment Department shall finalize the case of compensation within two weeks and shall issue the cheque which shall be delivered to the affected family in the fourth week of the incident through the DCO / PA of the district/Agency concerned.

(Authority letter No.SORVI(E&AD)1-10/2009, dated 1st October, 2009)

Chapter No. IV

Conduct Rules

Statutory Provision regarding Conduct.

Section 15 of NWFP Civil Servants Act, 1973.

Conduct:- The conduct of a civil servant regulated by rules made, or instructions issued; by Government or a prescribed authority, whether generally or in respect of a specified group or class of civil servants.

Khyber Pakhtunkhwa Government Servants (Conduct) Rules, 1987

[Gazette of Khyber Pakhtunkhwa, Extraordinary, Page No. 1365-1381, 10th February 1988]

No. SROII (S&GAD) 5(2)/79.---In exercise of the powers conferred by section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, (Khyber Pakhtunkhwa, Act XVIII of 1973) the Governor of the Khyber Pakhtunkhwa is pleased to make the following rules, namely:--

1. **Short title and commencement.**---(1) These rules may be called the Khyber Pakhtunkhwa Government Servants (Conduct) Rules, 1987.

(2) They shall come into force at once.

2. **Extent of application.**---These rules apply to every person, whether on duty or on leave within or without the Khyber Pakhtunkhwa serving in connection with the affairs of the Khyber Pakhtunkhwa, including the employees of the Provincial Government deputed to serve under the Federal Government or with a statutory Corporation or with a non-Government employer, but excluding:--

- (a) members of an All-Pakistan Service serving in connection with the affairs of the Province;
- (b) employees of the Federal Government or other authority deputed temporarily to serve under the Provincial Government; and
- (c) holders of such posts in connection with the affairs of the Province of North-West Frontier as the Provincial Government may, by a notification in the official Gazette, specify in this behalf.

3. **Definitions.**---(1) In these rules, unless there is anything repugnant in the subject or context:--

- (a) "Government" or "Provincial Government" means the Government of the Khyber Pakhtunkhwa;
- (b) "Government Servant" means a person to whom these rules apply;
- (c) "member of a Government Servant's family" includes:--
 - (i) his wife, children and step children, parents, sisters and minor brothers, residing with and wholly dependent upon the Government Servant; and
 - (ii) any other relative of the Government servant or his wife when residing with and wholly dependent upon him; but does not include a wife legally separated from the Government servant or a child or step-child who is no longer in any way dependent upon him, of whose custody the Government servant has been deprived by law;

(d) "Province" means the Khyber Pakhtunkhwa.

(2) Reference to a wife in clause (c) of sub-rule (i) shall be construed as reference to the husband where the Government servant is a woman.

4. **Repeal.**---The West Pakistan Government Servants (Conduct) Rules, 1966, are hereby repealed, but such repeal shall not affect anything duly done or suffered under those rules.

- (d) "Province" means the ⁸[Khyber Pakhtunkhwa].
- (2) Reference to a wife in clause (c) sub-rule (i) shall be construed as reference to the husband where the Government servant is a woman.

4. Repeal:- The West Pakistan Government Servants (Conduct) Rules, 1966, are hereby repealed, but such repeal shall not affect anything duly done or suffered under those rules.

⁹4A No Government Servant shall-

- (a) accept or obtain or agree to accept or attempt to obtain from any person for himself or for any other person, any gratification (other than legal remuneration) as a motive or reward such as is mentioned in section 161 of the Pakistan Penal Code; or
- (b) do or forbear to do any official act or show or forbear to show, in the exercise of his official functions, favour or disfavour to any person or render or attempt to render any service or disservice to any person, in violation or contravention of any provision of any law for the time being in force, or of rules made under Article 119 or 139 of the Constitution of the Islamic Republic of Pakistan, or the ¹⁰[Khyber Pakhtunkhwa] Civil Servants Act, 1973 or any other law for the time being in force, including the ¹¹[Khyber Pakhtunkhwa] Government Rules of Business, 1985 in a manner which may appear to facilitate acceptance or obtaining or agreeing to accept or attempting to obtain from any person for himself or for any other person any gratification, whatsoever, other than the legal remuneration, as a motive or reward; or
- (c) accept or obtain or agree to accept or attempt to obtain for himself or for any other person, any valuable thing without consideration or for a consideration which he knows to be inadequate, from any person whom he knows to have been, or to be likely to be, concerned in any proceedings or business transacted or about to be transacted by him, or having any connection with the official functions of himself or of any Government servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned; or
- (d) misappropriate, dishonestly or fraudulently, or otherwise convert for his own use or for the use of any other person any property entrusted to him or under his control as a Government servant or willfully allow any other person to do so; or
- (e) obtain, by corrupt, dishonest, improper or illegal means, or seek for himself or for any other person, any property, valuable thing, pecuniary advantage or undue favour; or
- (f) possess, directly or through his dependents or benamidars, any movable or immovable property or pecuniary resources, disproportionate to his known sources of income, which he cannot reasonably account for".

⁸ Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

⁹ Rule 4A inserted by Notification No. SOR. II(S&GAD)5(2)/79(C), dated 27.1.1997.

¹⁰ Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

¹¹ Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

Attested
ATTESTED

- (g) ¹²shall attend such functions and meetings in which Islamic moral values are not regarded or which are in violation of such values like functions of music and dancing by women etc.

5. **Gift:-** (1) Save as otherwise provided in this rule, no Government servant shall, except with the previous sanction of Government, accept or permit any member of his family to accept, from any person any gift the receipt of which will place him under any form of official obligation to the donor. If the offer of a gift cannot be refused without causing undue offence, it may be accepted and delivered to Government for decision as to its disposal.

(2) If any question arises whether receipt of a gift places a Government servant under any form of official obligation to the donor, the decision of Government thereon shall be final.

(3) If any gift, is offered by the head of representative of a foreign State, the Government servant concerned should attempt to avoid acceptance of such a gift, if he can do so without offending the donor. If, however, he cannot do so, he shall accept the gift and shall report its receipt to Government for orders as to its disposal.

(4) Government servants are prohibited from receiving gift of any kind for their persons or for members of their families from diplomats, consulars and other foreign Government representatives or their employees who are stationed in Pakistan. If, however, due to very exceptional reasons, a gift cannot be refused, it should invariably be deposited in the S&GAD.

(5) Government servants, except those drawing pay in basic pay scale 1 to 4, are prohibited from accepting cash awards offered by the visiting foreign dignitaries. In case, however, if it becomes impossible to refuse without causing offence to the visiting dignitary, the amount may be accepted and immediately deposited in the Treasury under the proper head of account.

(6) A Government servant may accept gifts offered abroad or within Pakistan by institutions or official dignitaries of foreign Government of comparable or higher level;

Provided that the value of the gift in each case does not exceed one thousand rupees. A Government servant desirous of retaining a gift worth more than one thousand rupees, can retain it on payment of the difference as evaluated under sub-rule (7). In any other case, the gift may be offered for sale.

(7) For the purpose of sub-rule(6), the value of the gift shall be assessed by the S&GAD in consultation with the Finance Department and shall be allowed to be retained by the recipient, if it does not exceed one thousand rupees. Where the value of the gift exceeds one thousand rupees, the recipient may be allowed to retain the gift, if he so desires, on payment of a sum worked out in the following manner:-

- (a) Where the value of the gift exceeds one thousand rupees but does not exceed five thousand rupees, twenty-five percent of the value of the gift in excess of one thousand rupees; or

¹² New clause (g) added vide Notification No.SOR-VI/E&AD/2-16/2003 dated 28th June, 2004.

Affected
TESTED

42

~~36~~

~~36~~

- (b) Where the value of the gift exceeds five thousand rupees, twenty five percent of so much of the value as exceeds one thousand rupees but does not exceed five thousand rupees plus fifteen percent of so much of the value as exceeds five thousand rupees.

(8) The responsibility for reporting the receipt of a gift shall devolve on the individual recipient. All gifts received by a Government servant, irrespective of their prices or value, must be reported to the S&GAD. However, the responsibility for reporting to the S&GAD the receipt of gifts, including the names of recipients, from foreign dignitaries or delegations, either during their visits to Pakistan or during the visits of Pakistani dignitaries or delegations abroad, shall lie with the Chief of Protocol or his representative in the former case, and with the Ambassador concerned in the latter case. In the case of foreign delegations or visiting dignitaries with whom the Chief of Protocol is not associated, the Ministry/Department sponsoring the visit shall be responsible to supply the details of gifts, if received, and the list of recipients to the S&GAD.

6. Acceptance of foreign awards:-No Government servant shall, except with the approval of the Governor of ¹³[Khyber Pakhtunkhwa], accept a foreign award, title or decoration.

Explanation:- For the purpose of this rule, the expression "approval of the Governor" means prior approval in ordinary cases and ex-post facto approval in special cases where sufficient time is not available for obtaining prior approval.

7. Public demonstration in honour of Government servants or raising of funds by them:-(1) No Government servant shall encourage meetings to be held in his honour or presentation of addresses of which the main purpose is to praise him;

Provided that the Head of Pakistan Mission Abroad, while so posted, may attend a public meeting or entertainment held in his honour.

(2) No Government servant shall take part in raising funds, except:-

- (a) for any public or charitable purposes, with the previous permission of his next higher officer; or
- (b) for a charitable object connected with the name of a Government servant or person recently quitted Government service with the previous permission of the Government;

Provided that Government servants belonging to the Provincial Police Service or Excise and Taxation Service shall not be granted any such permission.

8. Gifts to Medical Officer:-Subject to the departmental rules in this behalf, a medical officer may accept any gift of moderate value offered in good faith by any person or body of persons in recognition of his professional services.

¹³ Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

A
Attested
ATTESTED

9. **Subscriptions:**-No Government servant shall, except with the previous sanction of Government, ask for or accept or in any way participate in the raising of any subscription or other pecuniary assistance in pursuance of any object whatsoever.

10. **Lending and Borrowing:**-(1) No Government servant shall lend money to, or borrow money from, or place himself under any pecuniary obligation to, any person within the local limits of his authority or any person with whom he has any official dealings:

Provided that a Government servant may:-

- (i) deal in the ordinary course of business with a joint stock company, bank or a firm of standing or the House Building Finance Corporation; and
- (ii) accept a purely temporary loan of small amount, free of interest, from a personal friend or the operation of a credit account with a bonofide tradesman.

(2) When a Government servant is appointed or transferred to a post of such a nature that a person from whom he has borrowed money or to whom he has otherwise placed himself under pecuniary obligation will be subject to his official authority, or will reside, possess immovable property, or carry on business, within the local limits of such authority, the Government servant shall forth-with declare the circumstances, when he is a Gazzetted Officer, to Government through the usual channel, and where he is a Non-Gazzetted Government Servant, to the head of his office.

(3) This rule, in so far as it may be construed to relate to loans given to or taken from Co-operative Societies registered under the Cooperative Societies Act, 1927, or under any law for the time being in force relating to the registration of Cooperative Societies, by the Government servants shall be subject to any general or special restrictions or relaxation made or permitted by Government.

11. **Buying and selling of valuable property, movable and immovable:**-¹⁴[Rule-11 omitted]

12. **Declaration of property:**-(1) Every Government servant shall, at the time of entering Government service, make a declaration to Government, through the usual channel, of all immovable and movable properties including shares, certificates, securities, insurance policies, cash and jewelry having a total value of Rs.50,000/- (Fifty thousand rupees) or more belonging to or held by him or a member of his family and such declaration shall-

- (a) state the district within which the property is situated;
- (b) show separately individual items of jewelry exceeding Rs.50,000/- (Fifty thousand rupees) in value; and
- (c) give such further information as Government may, by general or special order, require.

¹⁵(2) Every Government servant shall submit to Government, through usual channel, an annual declaration of income, assets and expenses for the financial year, ending on 30th June,

¹⁴ Rule-11 omitted vide Notification No.SOR-VI/E&AD/2-16/2003 dated 7th March, 2005.

¹⁵ Sub-rule 2 substituted vide Notification No.SOR-VI/E&AD/2-16/2003 dated 7th March, 2005.

Arrested
ARRESTED

showing any increase or decrease of property as shown in the declaration under sub-rule(1) or the last annual return, as the case may be." and

¹⁶(3) Declaration of Assets Proforma shall be opened in the concerned section each year and entered into the relevant database.

13. ¹⁷Disclosures of assets, immovable and liquid:- A Government servant shall disclose all his assets, immovable as well as liquid and expenses during any period in the specified form, when required to do so by Government.

14. Speculation and Investment:- (1) No Government servant shall speculate in investments. For the purpose of this sub-rule the habitual purchase and sale of security of notoriously fluctuating value shall be deemed to be speculation in investments:

(2) No Government servant shall make, or permit any member of his family to make, any investment likely to embarrass or influence him in the discharge of his official duties.

(3) No Government servant shall make any investment the value of which is likely to be affected by some even of which information is available to him as a Government servant and is not equally available to the general public.

(4) If any question arises whether a security or an investment is of the nature referred to in any of the foregoing sub-rules, the decision of Government thereon shall be final

15. Promotion and management of companies, etc:- No Government servant shall, except with the previous sanction of Government take part in the promotion, registration or management of any bank or company:

Provided that a Government servant may, subject to the provisions of any general or special order of Government, take part in the promotion, registration or management of a Co-operative Society registered under any law for the time being in force for the purpose.

16. Private trade, employment or work:- (1) No Government servant shall, except with the previous sanction of the Government, engage in any trade or undertake any employment or work, other than his official duties:

Provided that he may, without such sanction, undertake honorary work of a religious, social or charitable nature or occasional work of a literary or artistic character, subject to the condition that his official duties do not thereby suffer and that the occupation or undertaking does not conflict or is not inconsistent with his position or obligations as a Government servant but he shall not undertake or shall discontinue such work if so directed by Government. A Government servant who has any doubt about the propriety of undertaking any particular work should refer the matter for the orders of Government:

Provided further that non-gazetted Government servant may, without such sanction, undertake a small enterprise which absorbs family labour and where he does so shall file details of the enterprise alongwith the declaration of assets.

¹⁶ New sub-rule 3 added vide Notification No.SOR-VI/E&AD/2-16/2003 dated 7th March, 2005.
¹⁷ Rule 13"substituted by Notification No.SOR/II(S&GAD)5(2) 79, dated 9.6.1996).

Attested
 ATTESTED

48
7

39

17

(2) Notwithstanding anything contained in sub-rule(1), no Government servant shall associate himself with any private trust, foundation or similar other institution which is not sponsored by Government.

(3) This rule does not apply to sports activities and memberships of recreation clubs.

17. No Government servant shall live beyond his means, etc:- No Government servant shall live beyond his means or indulge in ostentation on occasions of marriage or other ceremonies.

18. Subletting of residential accommodation allotted by Government:- No Government servant shall, except with the prior permission of the Head of the Department, sublet residential accommodation or any portion thereof allotted to him by Government.

19. Insolvency and habitual indebtedness:- (1) A Government servant shall avoid habitual indebtedness. If a Government servant is adjudged or declared insolvent or if the whole of that portion of his salary which is liable to attachment is frequently attached for debt has been continuously so attached for a period of two years, or is attached for a sum which in ordinary circumstances, he cannot repay within a period of two years, he shall be presumed to have contravened these rules unless he proves that the insolvency or indebtedness is the result of circumstances which, with the exercise of ordinary diligence, he could not have foreseen or over which he had no control and was not due to extravagant or dissipated habits.

(2) A Government servant who applied to be or is adjudged or declared insolvent shall forthwith report his insolvency to the Head of the Office or Department or to the Secretary to the Administrative Department, as the case may be, in which he is employed.

20. Report by Government servant in case of his involvement in a criminal case:- If a Government servant is involved as an accused in a criminal case, he shall bring the fact of such involvement or conviction, as the case may be, to the notice of the Head of the Office or Department immediately or, if he is arrested and released on bail, soon after such release.

21. Unauthorized communication of official documents or information:- No Government servant shall, except in accordance with any special or general order of Government, communicate directly or indirectly any official information or the contents of any official document to a Government servant not authorized to receive it, or to a non-official person, or to the press.

22. Approach to Members of the Assemblies:- No Government servant shall, directly or indirectly approach any member of the National Assembly or a Provincial Assembly or any other non-official person to intervene on his behalf in any matter.

23. Management, etc. of Newspapers or Periodicals:- No Government servant shall except with the previous sanction of Government, own wholly or in part, or conduct or participate in the editing or management of any newspaper or other periodical publication.

24. Radio-Broadcast and communications to the Press:- No Government servant shall, except with the previous sanction of Government, or any other authority empowered by it in this behalf, or in bona fide discharge of his duties, participate in a radio broadcast or television programme or contribute any article or write any letter, either anonymously or in his own name or in the name of any other person to any newspaper or periodical:

Attested
ATTESTED

46
8

40



Provided that such sanction shall generally be granted if such broadcast or television programme or such contribution or letter is not, or may not be considered likely to jeopardize the integrity of the Government servant, the security of Pakistan or friendly relations with foreign states or to fend public order, decency or morality, or tantamount to contempt of court, defamation or incitement to an offence:

Provided further that no such sanction shall be required if such broadcast or television programme or such contribution or letter is of a purely literary, artistic or scientific character.

25. Publication of information and public speeches capable of embarrassing Government:-(1) No Government servant shall, in any document, published or any public utterance, radio broadcast or television programme, or in any other manner make any statement of fact or opinion which is capable of embarrassing the Federal or any Provincial Government.

Provided that technical staff may publish research papers on technical subjects, if such papers do not express views on political issues or on Government Policy and do not include any information of a classified nature.

(2) Where a Government servant submits the draft of a literary, artistic or scientific article or book for obtaining previous sanction for its publication, he shall be informed within three months of his doing so whether he has or has not such sanction: and if no communication is issued to him within that period, he shall be entitled to presume that the sanction asked for has been granted.

26. Evidence before Committees:-(1) No Government servant shall give evidence before a public committee except with the previous sanction of Government.

(2) No Government servant giving such evidence shall criticize the policy nor decision of the Federal or any Provincial Government.

(3) This rule shall not apply to evidence given before statutory committees which has powers to compel attendance and the giving of answers, nor to evidence given in judicial inquiries.

27. Taking part in politics and elections:-(1) No Government servant shall take part in, subscribe in aid of, or assist in any way, any political movement in Pakistan or relating to the affairs of Pakistan.

(2) No Government servant shall permit any person dependent on him for maintenance or under his care or control to take part in, or in any way assist, any movement directly or indirectly, to be subversive to Government as by law established in Pakistan.

(3) No Government servant shall canvass or otherwise interfere or use his influence in connection with or take part in any election to a legislative body, whether in Pakistan or elsewhere:

Provided that a Government servant who is qualified to vote at such election may exercise his right to vote; but if he does so, he shall give no indication of the manner in which he proposes to vote or has voted.

Attested
ATTESTED

97

(Handwritten mark)

(Handwritten mark)

(4) No Government servant shall allow any member of his family dependent on him to indulge in any political activity, including forming a political association and being its member, or to act in a manner in which he himself is not permitted by sub-rule(3) to act.

(5) A Government servant who issues an address to electors or in any other manner publicly announces himself or allows himself to be publicly announced as a candidate or prospective candidate for election to a legislative body shall be deemed for the purpose of sub-rule(3) to have taken part in an election to such body.

(6) The provisions of sub-rule(3) and (5) shall, so far as may be, apply to elections to local authorities or bodies, save in respect of Government servants required or permitted by or under any law or order of Government, for the time being in force, to be candidates at such election.

(7) If any question arises whether any movement or activity falls within the scope of this rule, the decision of Government thereon shall be final.

28. Propagation of Sectarian Creeds, etc:- No Government servant shall propagate such sectarian creeds or take part in such sectarian controversies or indulge in such sectarian partiality and favouritism as are likely to affect his integrity in the discharge of his duties or to embarrass the administration or create feelings of discontent or displeasure amongst the Government servants in particular and amongst the people in general.

29. Government servants not to express views against the ideology of Pakistan:- No Government servant shall express views detrimental to the ideology or integrity of Pakistan.

30. Nepotism, favouritism and victimization, etc:- No Government servant shall indulge in provincialism, parochialism, nepotism, favouritism, victimization or willful abuse of office.

31. Vindication by Government servants of their public acts or character:- (1) A Government servant shall not, without the previous sanction of Government have recourse to any Court or to the press for the vindication of his public acts or character from defamatory attacks. When Government grants sanction to a Government servant to have recourse to a court, Government will ordinarily bear the cost of the proceedings, but may leave the Government servant to institute them at his own expense. In the latter case, if he obtains a decision in his favour, Government may reimburse him to the extent of the whole or any part of the cost.

(2) Nothing in this rule limits or otherwise affects the right of a Government servant to vindicate his private acts or character.

32. Membership of service Association:- (1) No Government servant shall be a member, representative or office bearer of any association representing or purporting to represent Government servants, unless such association satisfies the following conditions, namely:-

- (a) Membership of the Association and its office bearers shall consist of persons in one and the same "functional unit" and if there is no such functional unit, it may be formed by persons borne on a specific single cadre in or under a Department;
- (b) Office-bearers of the Association shall be elected from amongst members of the Association actually serving. Persons who have retired or have been dismissed or removed from service shall cease to be members of such Association;

A. H. H. H.
ATTESTER

- (c) The Association shall neither affiliate nor associate with any other body or Association belonging to any other cadre;
- (d) The Association shall confine its representations to matters of general interest of Government servants whom it represents and shall not involve itself in individual cases of its members. Also the office bearers and members of the Association shall not participate in the activities of the Association at the cost of their official duties;
- (e) The Association shall not engage in any activity or pursue a course of action which its members are individually prohibited to engage in or pursue under these rules or the instructions issued by Government, from time to time, concerning conduct of Government servant and service discipline;
- (f) The Association shall not, in respect of any election to legislative body, or to a local authority or body, whether in Pakistan or elsewhere-
- (i) pay or contribute towards any expenses incurred in connection with the candidature for such election.
 - (ii) support in any manner the candidature of any person for such election; or
 - (iii) undertake or assist in the registration of a candidate for such election;
- (g) The Association, shall not-
- (i) issue or maintain any periodical publication except in accordance with any general or special order of Government; and
 - (ii) publish, except with the previous sanction of Government, any representation on behalf of its members, whether in the press or otherwise;
- (h) The Association shall get its bye-laws or rules approved by the Appointing Authority, who may at any time require any modification therein or propose rules or bye-laws, in a particular manner; and
- (i) the Association shall submit annual statement of its accounts and lists of its members and office bearers to the Appointing Authority. Such statement and lists shall be submitted before 1st September every year;
 - (ii) the Association shall not represent or purport to represent Government servants unless it is recognized by the competent authority;
 - (iii) the appointing authority in respect of a cadre shall be the authority competent to recognize the Association of that cadre;

Provided that where the cadre consists of higher and lower grades, the authority competent to recognize the Association shall be the appointing authority in respect of the highest post in the cadre;

Q
Attested
ATTESTER



- (iv) a Government servant who deals with the Association of a particular cadre and is also member of that cadre shall not become office bearer of such Association nor shall he take part in any activity of the Association.
- (v) Government in its discretion may withdraw recognition of an Association, if in its opinion, such Association has violated any of the conditions of recognition.

33. **Restriction on acceptance of membership of certain association:-** No Government servant shall accept membership of any association or organization whose aims and objects, nature of activities and memberships are not publicly known.

34. **Use of political or other influence:-** No Government servant shall bring or attempt to bring political or other outside influence directly or indirectly, to bear on Government or any Government servant in support of any claim arising in connection with his employment as such.

35. **Approaching Foreign Mission and Aid-Giving Agencies:-** (1) No Government servant shall approach, directly or indirectly a Foreign Mission in Pakistan or any foreign aid-giving agency in Pakistan or abroad to secure for himself invitations to visit a foreign country or to elicit offers of training facilities abroad.

- (2) Government servants should exercise great caution and restraint in the matter of social contacts with members of foreign missions working in Pakistan. They should also avoid casual remarks and observations on official matters in social gathering where foreigners are present.
- (3) Officials of the level of Additional Secretary and below should not receive officials of foreign missions, except with the express permission of the Secretary.
- (4) Government Servants are prohibited from contacting or making direct approaches to foreign missions in Pakistan in connection with their private business. All such approaches should be made through proper channel i.e through Chief of Protocol of the Ministry of Foreign Affairs.
- (5) Invitations extended by Foreign Missions on the occasions of their National days to officers below the status of Secretaries may be accepted after obtaining permission from the Chief Secretary.
- (6) The participation of officers below the status of Secretary in private functions arranged by foreign diplomats should generally be discouraged. Secretaries and officers of equivalent status, will, however, do so with prior approval of the Chief Secretary.
- (7) Repeated and frequent attendance by officers at private functions held by the same foreign diplomat must be avoided.
- (8) As a general rule, only those officers who come into official contact with the foreign diplomat concerned should accept invitations.

36. **Delegation of powers:-** Government may, by general or special order, delegate to any officer or authority subordinate to it all or any of its powers under these rules and may, by such

J. H. Habib
ATTESTER

So

(74)

()

order, prescribe the channel through which reports shall be made to Government and the officers the receipt by whom such reports shall be regarded as receipts of the reports by Government within the meaning of these rules.

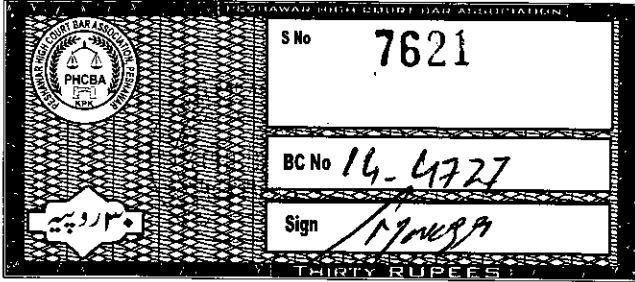
37. Rules not to be in derogation of any law etc:-Nothing in these rules shall derogate from the provisions of any law, or of any order of any competent authority, for the time being in force, relating to the conduct of Government servants.

*James
H. H. H.*

ATTESTED

وکالت نامہ

Before the *Khyber Pakhtunkhwa Service Tribunal*, Peshawar
 بعدالت پشاور ہائی کورٹ پشاور



مورثہ
 مقدمہ
 دعویٰ
 جرم

.....
Service Appeal

Petitioner/Applicant *منجانب 2022*
Govt-KPK نام

Dr. Sahib Gul

v/s
 باعث تحرے آنکہ
Govt of KPK

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطہ پیروی و جواب دہی وکل کاروائی، متعلقہ
Qazi Jawad Elsanullah (BSC)
 آن مقام *Revenue*
 مقرر کر کے اقرار کیا جاتا ہے۔ کہ وکیل موصوف کو مقدمہ کی کل کاروائی کا مکمل اختیار حاصل ہوگا
 نیز وکیل صاحب کو عرضی دعویٰ داخل کرنے، جواب دعویٰ، اپیل، نظر ثانی کا بھی اختیار حاصل ہو
 گا نیز وکیل صاحب بصورت ڈگری برخلاف من اختیار دہندہ اپیل، نگرانی، نظر ثانی از عدالت ابتداء
 تا عدالت انتہا یعنی سپریم کورٹ آف پاکستان دائر کر سکتا ہے وکیل موصوف بصورت *Revenue* پیروی
 کاروائی یکطرفہ یا ڈگری یکطرفہ کیخلاف درخواست دائر کر سکتا ہے اور وکیل موصوف میری جانب
 سے مقدمہ میں بصورت ڈگری چیک یا نقد روپیہ کی شکل میں وصولی کر سکے گا اور مزید یہ کہ وکیل
 موصوف مقدمہ متذکرہ کی کل یا جزوی کاروائی کیلئے اپنی بجائے دیگر وکیل بھی اپنے *Revenue* مقرر کر سکتا
 ہے جس کو بھی وہ جملہ اختیار حاصل ہونگے جو کہ وکیل موصوف کو حاصل ہیں مجھے اس صورت میں
 تمام ساختہ پر داختم منظور و قبول ہوگا لہذا میں نے وکالت نامہ ہذا تحریر کر کے اس پر دستخط انشان

Accepted
Muhammad Ali
Attorney

انگشت ثبت کر دیا ہے تاکہ سند رہے۔
Accepted Party
 20
Qazi Jawad Elsanullah
 مقام

ڈاکٹر صاحب گل طرف سے
 CNM4 17301-1246569-5

