

**Execution Petition 38/2019**


20<sup>th</sup> June, 2022

Learned counsel for the petitioner and learned Addl: AG have already been heard on the previous date.

02. Vide judgment dated 04.05.2017 passed in appeal No. 97/2015, the impugned order dated 13.05.2014 was set aside and the appellant was directed to be reinstated in service. The respondents were directed to conduct de-novo enquiry strictly in accordance with the rules and conclude the same within a period of 60 days from the date of receipt of the judgment. Payment of back benefits was subject to the final outcome of the final inquiry. It was further ordered that in case the respondents had failed to conduct and conclude the enquiry within the stipulated period then it would be deemed that the appellant had been reinstated in service and in such eventuality the period, during which he remained out of service, would be considered as leave of the kind due.

03. In compliance with the judgment of the Tribunal, the appellant was reinstated in service vide notification No. SOE(H-II/10-25/2016 dated 14.07.2017, however, the petitioner submitted an application for implementation of the judgment in letter and spirit. When confronted with the situation as to what else was to be done in the case so that the petitioner was satisfied with the judgment was fully implemented, the learned counsel referred to another notification No. SOE(H-II/10-25/2018: dated 27.08.2018 and pointed out that the petitioner was to be reinstated from the date of judgment and not with immediate effect. Moreover, he submitted that the order regarding leave was also not properly made.

04. As to the both of the objections of the learned counsel for the petitioner, the respondents have placed on record a notification No. SOH(E-II)/4-1/2021 dated 29.10.2021 wherein calculation and leave period from the date of absence till 27.08.2018 was made having regard to the relevant rules and entitlement of the petitioner to the leave so the order of the



Tribunal seems to have been completely implemented. Wherein grant of leave w.e.f the date of absence shows grant of back benefits from the said date and calculation of leaves also seems to be in compliance with the judgment. If the petitioner is aggrieved of the notification dated 29.10.2021, he may recourse to the remedy of any available to him under the law. Disposed of accordingly. Consign.

05. *Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal this 20<sup>th</sup> day of June, 2022.*

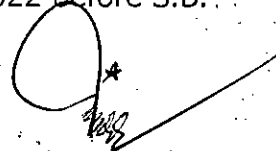


(Kalim Arshad Khan)  
Chairman

20.05.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG alongwith Mr. Safiullah, Focal Person for the respondents present.


Learned AAG requested for short adjournment and committed at the Bar that complete implementation report will be submitted on the next date. Request is acceded to but as a last chance; Whereafter coercive measures shall invariably be initiated against the respondents at fault on the ground that copy of the order sheet dated 04.04.2022 has already been sent to the respondents through Registrar Service Tribunal. To come up for further proceedings on 16.06.2022 before S.B.

  
(Mian Muhammad)  
Member.(E)

16<sup>th</sup> June, 2022

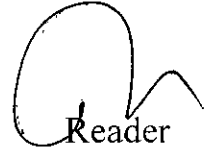
Counsel for the petitioner present. Mr. Kabirullah Khattak, Addl: AG for respondents present.

Arguments heard. To come up for order on 20.06.2022 before S.B.

  
(Kalim Arshad Khan)  
Chairman

17.02.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 14.04.2022 for the same as before.



Reader

14<sup>th</sup> April, 2022

Petitioner in person present. Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

On 05.01.2022, the respondents were directed to make sure the production of leave account and implementation report on 17.02.2022 but the same have not been produced even today. The respondents shall appear in person alongwith leave account and implementation report on the date fixed. Case is adjourned to 20.05.2022 before S.B.




Chairman

17.11.2021

Petitioner alongwith his counsel present. Mr. Kabirullah, Addl: AG alongwith Mr. Muhammad Tufail, SO for respondents present.


Representative of the respondents submitted copy of notification dated 29.10.2021 which is placed on file. A copy of the same is also handed over to the petitioner. To come up for further proceedings on 05.01.2022 before S.B.

  
(Mian Muhammad)  
Member(E)

05.01.2022

Petitioner with counsel and Mr. Kabirullah Khattak, Addl. AG alongwith Safiullah, Focal Person for the respondents present.

As per record, the appellant was reinstated in service by this Tribunal vide judgment dated 04.05.2017 while notification in respect of his back benefits was issued on 29.10.2021. No proper notification was issued in respect of his reinstatement just after the decision of this Tribunal and he was reinstated after a long period after repeated requests by the petitioner. The notification dated 29.10.2021 is silent in respect of salary package of the appellant when he was reinstated on 04.05.2017 till the time when his reinstatement notification was issued by the department. Similarly, proper leave account was not produced in order to calculate the period during which he remained out of service and which was treated as leave of the kind due. The representative of the respondents is strictly directed to make sure the production of leave account and implementation report on 17.02.20232 before S.B.

  
(Rozina Rehman)  
Member (J)

04.10.2021

Petitioner alongwith his counsel Mr. Fazal Shah Mohmand, Advocate, present. Mr. Ziaullah, Deputy Secretary (Litigation), Mr. Safiullah, Section Officer (II) and Mr. Ijaz Raheem, Section Officer alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Although copy of notification dated 01.03.2021 issued by Secretary Health Khyber Pakhtunkhwa is available on the record, however it is the contention of the learned counsel for the petitioner that the same has not been issued by complying the judgment dated 04.05.2017 in letter and spirit.

Mr. Ijaz Raheem, Section Officer stated at the bar that the matter shall be reconsidered and proper order in light of judgment dated 04.05.2017 will be positively passed. Adjourned. To come up for submission of proper implementation report before the S.B on 02.11.2021.



(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

02.11.2021

Junior to counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG alongwith Safiullah, Litigation Officer for the respondents present.

It has been informed by learned AAG on getting information from the representative that an appropriate notification is ready and awaiting the signature of the concerned Authority which will be produced on next date. To come up for production of the implementation report on 17.11.2021 before the S.B.



Chairman

12.07.2021

Junior to counsel for the petitioner and Mr. Muhammad Riaz Khan Paindakhel, Asstt. AG for the respondents present.

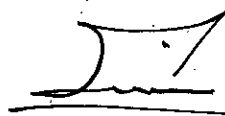
Learned counsel for the petitioner is busy before the August Supreme Court of Pakistan today. Copy of Final Cause List placed on file. Learned AAG is required to ensure attendance of Section Officer (E-II) and payment of cost on next date. Case to come up on 25.08.2021 before S.B.

  
Chairman

25.08.2021

Miss. Rabia Muzafar, Advocate, for the petitioner present and submitted objections regarding Notification dated 01.03.2021, copy of which handed over to learned Additional Advocate General.

Mr. Ziaullah, Deputy Secretary (Litigation) alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present and stated at the bar that Section Officer (E-II) is unable to appear before the Tribunal due to illness. Adjourned. To come up for personal appearance of Section Officer (E-II) and payment of cost of Rs. 2000/- as well as arguments before the S.B on 04.10.2021.

  
(SALAH-UD-DIN)  
MEMBER (J)

18.03.2021

Petitioner in person and Addl: AG alongwith Mr. Ziaullah, Deputy Secretary (Litigation) and Habib Ullah, SO for respondents present.

Copy of notification dated 01.03.2021 was produced where-under ex-post-facto<sup>sanction</sup> has been accorded to the grant of Extra Ordinary Leave (without pay) w.e.f. 14.05.2014 to 27.08.2018 in respect of the petitioner. A copy of the same was also handed over to the petitioner for objection and arguments if so. SO(E-II) of Health Department despite specific directions given to him on last date of hearing i.e. 20.01.2021, did not appear in person as a result of which punitive action is initiated against the official. A cost of Rs. 2000/- is therefore, imposed on the said officer with further direction to ensure his presence on the next date.

Adjourned to 26.05.2021 for further proceedings  
abefore S.B.

  
(Mian Muhammad)  
Member (E)

26.05.2021

Counsel for the petitioner and Mr. Kabirullah Khattak, Addl. AG alongwith Habibullah, Law Officer for the respondents present.

Learned counsel for the petitioner seeks time for objection and arguments if any, in respect of letter dated 01.03.2021 produced by the respondents on 18.03.2021. Granted. Section Officer(E-II) even today is not in attendance in compliance with the order dated 18.03.2021. Learned AAG after consultation with the departmental representative assured about his attendance and payment of cost on next date. Adjourned to 12.07.2021 for further proceedings before S.B.

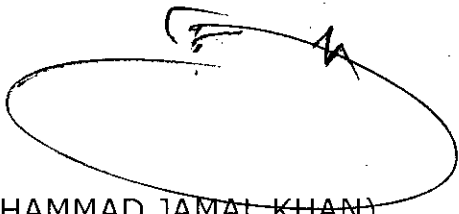
  
Chairman



06.01.2021

Petitioner is present in person. Mr. Noor Zaman Khattak, District Attorney and Mr. Ziaullah, Law Officer, on behalf of respondent No. 2, are also present.

As regard implementation of the judgment of this Tribunal, the representative of respondent No. 2 submitted that the issue/matter is in process at the office of Section Officer-II and is likely to be implemented in the near future. Respondents are directed to put in concerted efforts in giving effect to that part of the judgment of this Tribunal which has not been implemented so far, in its letter and spirit by submitting implementation report on 20.01.2021 before S.B.



(MUHAMMAD JAMAL KHAN)  
MEMBER (JUDICIAL)


20.01.2021

Petitioner present in person.

Kabir Ullah Khattak learned Additional Advocate General alongwith Nisar Ahmad, Monitoring Assistant for respondents present.

Representative of respondents produced different documents. As per these documents submitted today, D.G Health Services KP was requested to intimate Service History, Leave History and Fresh Leave Admissibility in respect of the present petitioner in order to process the case for approval. Last chance is given and in the meanwhile, Section Officer (E-II) of the Secretary Health Department be noticed for personal appearance and a responsible officer be summoned from the Office of D.G Health Services K.P to attend the Tribunal, and to submit proper implementation report.

Adjourned to 18.03.2021 before S.B.



(Rozina Rehman)  
Member (J)

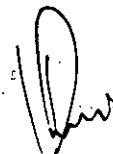
EP 38/2019

28.09.2020

Petitioner with counsel and Addl. AG for the respondents present.

No representative of respondents is before the Tribunal today, therefore, the proceedings are to be adjourned. The respondents shall, on the next date, apprise this Tribunal regarding the progress, if any, made in the case of petitioner after 27.08.2018 towards implementation of the judgment.

Adjourned to 18.11.2020 before S.B.



Chairman

18.11.2020

Counsel for petitioner and Addl; AG for respondents present.

Once again no representative of respondents is before the Tribunal today. In the circumstances, there remains no option but to take punitive action against defaulter official(s). Office is, therefore, required to issue notice to respondent No.2 for 06.01.2021 before S.B, on which date the respondents shall ensure their representation and also apprise the Tribunal regarding progress, if any, made in the case of petitioner towards implementation of the judgment.



Chairman

25.02.2020

Appellant in person present. Mr. Kabirullah Khattak learned Additional AG alongwith Mr. Hazrat Shah Superintendent for the respondents present.

Representative of the Secretary Health Department (respondent No.2) submitted copy of summary dated 20.02.2020 sent to the Chief Secretary Khyber Pakhtunkhwa for approval. He requested for adjournment to submit implementation report. Adjourned to 06.04.2020 before S.B.

  
(Hussain Shah)  
Member

06.04.2020

Due to public holiday on account of COVID-19, the case is adjourned to 29.06.2020 for the same. To come up for the same as before S.B.

  
Reader

29.06.2020

The Worthy Chairman is on leave, therefore, the case is adjourned. To come up on 13.08.2020 before S.B.

  
Reader

13.08.2020

Petitioner alongwith counsel present. Nemo for the respondents.

On 29.06.2020, the matter was posted for today through Reader note, therefore, notices be issued to the respondents for the next date of hearing. To come up for Implementation report/further proceedings on 28.09.2020 before S.B.

  
Chairman

16.12.2019

Counsel for the appellant and Addl. AG alongwith Sher Baz Khan, S.O for the respondents present.

It is a sorry state of affair that despite issuance of notification dated 27.08.2018, whereby, the petitioner was reinstated into service, the extension of back benefits in his favour in accordance with the judgment under implementation has not been resolved till date.

The representative of respondents No. 2 & 3 once again requests for further time to obtain the opinion of Establishment Department towards regularization of broken period of service of petitioner.


Be that as it may, the implementation of judgment is responsibility of respondents No. 2 & 3 and any correspondence undertaken by them with other departments regarding the issue cannot be pressed into service for delay. The respondents are, therefore, required to positively submit the requisite implementation report on next date of hearing. Failing which punitive action would be initiated against the defaulting official(s).

Adjourned to 27.01.2020 before S.B.

  
Chairman

27.01.2020

Petitioner absent. Learned counsel for the appellant absent. Sher Baz Khan S.O representative of respondent department present and seeks adjournment to furnish the requisite implementation report. Adjourn. To come up for implementation report on 25.02.2020 before S.B. Petitioner be put to notice for the date fixed.

  
Member

14.10.2019

Petitioner with counsel present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Hazrat Shah, Supdt: for respondents present. It is regretted that respondent no.2 referred the case of the appellant to the Establishment Department for advice vide letter dated 07.01.2019 followed by reminders dated 03.08.2019 and 10.10.2019 but positive outcome is still awaited. Respondent no.2 is directed to ensure that required advice is procured from the said department failing which law will take its course. To come up for further proceedings on 12.11.2019 before S.B.



Member

12.11.2019

Counsel for the petitioner and Addl. AG alongwith Sher Baz Khan, S.O for the respondents present.

Representative of respondent No. 2 states that the case for final implementation of judgment under execution has been prepared and sent to the Establishment Department Khyber Pakhtunkhwa for onward submission to respondent No. 1/Chief Secretary Khyber Pakhtunkhwa. The Establishment Department, in turn, had required certain documents pertaining to the service record of petitioner which have been supplied. As such, he requests for further time to submit implementation report.

Adjourned to 16.12.2019 on which date the needful shall positively be done.



Chairman

27.06.2019

Petitioner in person present. Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Hazrat Shah Superintendent present and stated that the case of the petitioner is in process with SOII namely Muhammad Hamid. Adjournment requested. Adjourn. To come up for implementation report on 21.08.2019 before S.B. Muhammad Hamid SO-II be also put to notice for the date fixed to furnish report regarding progress in the case of petitioner.

  
Member

21.08.2019

Petitioner in person and Mr. Kabirullah Khattak, Additional AG for the respondents present. Petitioner requested for adjournment on the ground that his counsel is not available today. Adjourned to 18.09.2019 for implementation report/further proceeding before S.B.

  
(Muhammad Amin Khan Kundi)  
Member

18.09.2019

Counsel for the petitioner and Addl. AG alongwith Hazrat Shah, Superintendent for the respondents present.

Representative of the respondents has produced copy of letter dated 03.08.2019 addressed to Secretary Establishment Department, Government of Khyber Pakhtunkhwa Peshawar wherein the Health Department has taken up the matter of regularization of broken period of service of petitioner and has requested for expedited the same.

In view of the development instant matter is adjourned to 14.10.2019 for submission of implementation report.

  
Chairman

09.04.2019

Petitioner in person and Addl. AG alongwith Hazrat Shah, Superintendent for the respondents present.

Representative of respondents requests for time to submit implementation report. Adjourned to 13.05.2019 before S.B.



Chairman

13.05.2019

Learned counsel for the petitioner and Mr. Usman Ghani learned District Attorney present. Representative of respondents absent.. Learned counsel for the appellant stated that though the petitioner has been reinstated in service but his out of service period has not been treated as leave of the kind due hence judgment of this Tribunal was partially complied with vide order dated 27.08.2018. Respondent No.3 be put to notice to furnish implementation report. Adjourn. To come up for further proceedings/implementation report on 27.06.2019 before S.B.

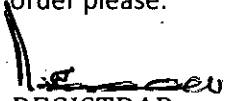




Member

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Execution Petition No. 38/2019

| S.No.      | Date of order proceedings | Order or other proceedings with signature of judge   |
|------------|---------------------------|--|
| 1          | 2                         | 3  |
| 1          | 29.1.2019                 | <p style="text-align: center;">The execution petition of Dr. Muhammad Ayub submitted by Mr. Fazal Shah Mohmand Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"><br/>REGISTRAR 29/1/19</p> |
| 2-         |                           | <p style="text-align: center;">This execution petition be put up before S. Bench on <u>4-3-19</u>.</p> <p style="text-align: right;"><br/>CHAIRMAN</p>  |
| 04.03.2019 |                           | <p style="text-align: center;">Petitioner in person present. Notice be issued to the respondents for implementation report for 09.04.2019 before S.B.</p> <p style="text-align: right;"><br/>(MUHAMMAD AMIN KHAN KUNDI)<br/>MEMBER</p>                                      |



**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR.**

Implementation Petition No 38 /2019

In

Service Appeal No 97/2015

Dr Muhammad Ayub.....Applicant/Appellant.

**V E R S U S**

Chief Secretary and Others.....Respondents

**I N D E X**

| S.No | Description of documents   | Annexure | Pages |
|------|--|----------|-------|
| 1.   | implementation Petition with Affidavit                                       |          | 1-3   |
| 2.   | Copy of the Order and Judgment dated 04-05-2017                              | A        | 3--6  |
| 3.   | Copy of Notification dated 14-07-2017  | B        | 7     |
| 4.   | Copy of Order dated 29-05-2018 passed in Implementation Petition No 221/2017 | C        | 8-11  |
| 5.   | Copy of Notification dated 27-08-2018 and arrival report                     | D        | 12-14 |
| 6.   | Wakalat Nama   |          | 15    |

Dated:-18-01-2019

  
Applicant/Petitioner

Through

  
Fazal Shah Mohmand

Advocate Supreme Court

**OFFICE:-** Cantonment Plaza Flat 3/B Khyber Bazar Peshawar Cell # 0301 8804841

**Email:-** fazalshahmohmand@gmail.com

- 1 -

**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR.**

Implementation Petition No 38 /2019

**Khyber Pakhtukhwa  
Service Tribunal**

In

Diary No. 148

Service Appeal No 97/2015

Dated 29-1-2019

Dr Muhammad Ayub, Medical Officer, DHQ Hospital Haripur

.....Applicant/Appellant.

**V E R S U S**

1. Chief Secretary, Govt. of KPK Civil Secretariat Peshawar.
- ✓ 2. Secretary, Health Department, Govt. of KPK Civil Secretariat Peshawar.
3. Director General, Govt. of KPK Civil Secretariat Peshawar.

.....Respondents

**PETITION FOR THE IMPLEMENTATION OF  
ORDER/JUDGMENT DATED 04-05-2017 PASSEDBY  
THIS HONORABLE TRIBUNAL IN THE ABOVE TITLED  
SERVICE APPEAL.**

**Respectfully Submitted:-**

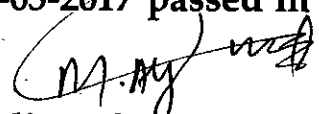
1. That the applicant/appellant earlier filed Service Appeal No 97/2015 for his reinstatement in service which was accepted vide Order and Judgment dated 04-05-2017. (Copy of the Order and Judgment is enclosed as Annexure A).
2. That the applicant/appellant time and again approached respondents for the implementation of the Order and Judgment dated 04-05-2017 of this honorable Tribunal but of no uses and the appellant was reinstated in service for the purpose of denovo inquiry vide Notification dated 14-07-2017. (Copy of Notification dated 14-07-2017 is enclosed as Annexure B).
3. That even then departmental action was initiated beyond the ratio of the mentioned judgment, where after the petitioner filed Execution Petition No 221/2017 which was disposed of vide order dated 29-05-2018, holding that any action on part of respondent department beyond the ration of that judgment would be of no

legal effect. (Copy of Order dated 29-05-2018 is enclosed as Annexure C).

4. That finally, the petitioner was reinstated in service vide Notification dated 27-08-2018 with immediate effect instead of 04-05-2017 and posted to DHQ Hospital Haripur and treating the period during which the appellant remained out of service as leave of the kind due. (Copy of Notification dated 27-08-2018 and arrival report is enclosed as Annexure D).
5. That thereafter the applicant/appellant approached time and again for the implementation of the Order and Judgment dated 04-05-2017 but of no use.
6. That the respondents have are not ready to implement the Order and Judgment of this honorable Tribunal dated 04-05-2017 in its true spirit for no legal and valid reasons, this act of the respondents is unlawful, unconstitutional and goes against the Orders and Judgment dated 04-05-2017 of this honorable Tribunal.

It is therefore prayed, that on acceptance of this Application/Petition, respondents may kindly be directed to implement the Order and Judgment of this honorable Tribunal dated 04-05-2017 passed in Service Appeal No 97/2015.

Dated:-18-01-2019

  
Applicant/Petitioner

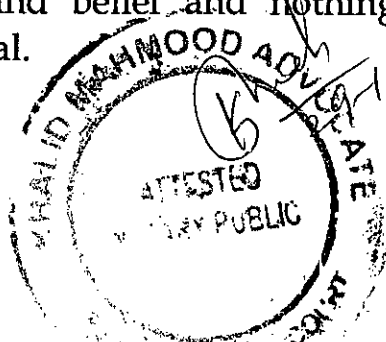
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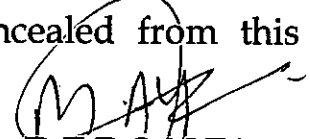
  
Fazal Shah Mohmand

Advocate Supreme Court

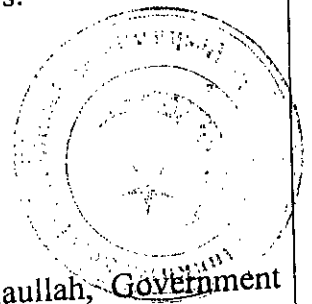
**AFFIDAVIT**

I, Dr Muhammad Ayub, Medical Officer, DHQ Hospital Haripur, do hereby solemnly affirm and declare on oath that the contents of the accompanying Implementation Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.



  
DEPONENT

| Sr. No | Date of order/ proceedings | Order or other proceedings with signature of Judge or Magistrate   |
|--------|----------------------------|--|
| 1      | 2                          | 3  |
|        | 04.05.2017                 | <p align="center"><b><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR</u></b></p> <p align="center">Appeal No. 97/2015</p> <p align="center">Dr. Muhammad Ayub Versus Govt. of Khyber Pakhtunkhwa through Chief Secretary KPK and others.</p> <p align="center"><b><u>JUDGMENT</u></b></p> <p align="center"><b><u>AHMAD HASSAN, MEMBER:-</u></b></p> <p align="center">Counsel for the appellant and Mr. Ziaullah, <b>Government</b></p> <p>Pleader for the respondents present.</p> <p>2. Dr. Muhammad Ayub, hereinafter referred to as the appellant has preferred the instant service appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 13.05.2014, whereby the appellant has been awarded major punishment of removal from service, against which departmental appeal dated 20.05.2014, was regretted vide order dated 05.01.2015 communicated to the appellant on 13.01.2015.</p> <p>3. Brief facts of the case are that the appellant was appointed as Medical Officer BPS-17 on 09.12.1991. While in service he applied for deputation to Saudi Arabia and was granted vide letter dated 08.09.2005. He was getting extension in deputation on yearly basis, Last extension expired on 31.10.2009 vide Notification dated 17.02.2009. He submitted an application for</p> |



Attended  
R/S

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ATTENDED

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Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

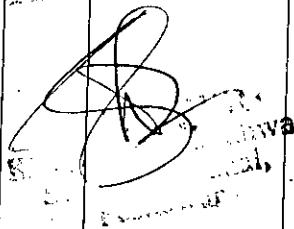
(12) - 4 -

one year extension w.e.f 01.11.2009 to 01.11.2010 on 20.10.2009. Request for extension was turned down by the respondents. He failed to resume duty in time so, disciplinary proceedings were initiated against him and upon conclusion major penalty of removal from service was imposed vide order dated 13.05.2014. He submitted departmental appeal on 20.05.2014, which was rejected on 05.01.2015 hence, the instant service appeal.

4. Learned counsel for the appellant argued that deputation period was going to expire on 31.10.2009, but he submitted an application for extension on 20.10.2009 which was subsequently turned down by the respondents. However, appellant was not informed about the fate of his application so, he continued to serve abroad. On 08.07.2010 nine months after the submission of his application for extension in deputation abroad he came to know that his request was not acceded by the respondents. He came back and submitted arrival report but posting order was not issued by the respondents. On account of misconduct disciplinary proceedings were initiated against him and major penalty of removal from service was imposed on him. The inquiry officer recommended imposition of minor penalty on the appellant. Minor Penalty of Stoppage of three annual increments was incorporated in the show cause notice served on the appellant, but while issuing impugned order dated 13.05.2014 major penalty of removal from service was imposed without issuing show cause notice for enhancement of penalty. Hence, removal order is a void ab-initio and not sustainable in the eyes of law.

Attested  


ATTESTED

  
 ...

(13)

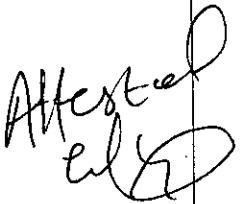
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5. Learned Government Pleader argued that though his request for extension was not honored by respondents and he was duly informed but despite that he failed to resume duty. Upon his arrival for duty on 12.07.2010, he was given a temporary posting in DHO, Hospital Abbottabad but he failed to join duty. Appellant was found guilty of misconduct and inquiry was conducted in the mode and manner prescribed in the rules and thereafter major penalty was imposed on him. Appeal being devoid of any merits be dismissed.

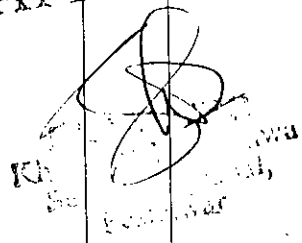
6. Arguments heard and record perused.

7. Having gone through the record it transpired that the inquiry officer recommended that minor penalty given in the rules be imposed on the appellant. Thereafter a show cause notice was served on the appellant wherein minor penalty of stoppage of three annual increments was proposed. However, vide impugned order dated 13.05.2014 major penalty of removal from service was imposed on the appellant in violation of Efficiency and Disciplinary Rules, 2011. Before imposition of major penalty a fresh show cause notice for enhancement the punishment was required to be served on the appellant, but was not done in this case hence, aforementioned impugned order is void ab-initio. As such opportunity of fair trial was not provided to the appellant, and was condemned unheard.

8. We are constrained to accept the instant service appeal and

Attested  


ATTESTED

  
 K...  
 ...

19 - 6 -

Set-aside the impugned order dated 13.05.2014 and reinstate the appellant in service. The respondents are directed to conduct de-novo inquiry strictly in accordance with the rules and conclude the same within the period of 60 days from the date of receipt of this judgment. Payment of back benefits shall be subject to the final outcome of the final inquiry. In case the respondents failed to conduct and conclude the inquiry within the stipulated period then it shall be deemed that the appellant has been reinstated in service and in such eventuality the period during which he remained out of service shall then be treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.

~~6/9/14~~

~~2014/17~~

Certified true copy

*[Signature]*  
 Kaye  
 Secy  
 Peshawar

*[Signature]*  
 (AHMAD HASSAN)  
 MEMBER

*[Signature]*  
 (GUL ZEB KHAN)  
 MEMBER

**ANNOUNCED**  
 04.05.2017

Date of Deposition ..... 24/11/17  
 Number of Words ..... 1680  
 Copying Fee ..... 10  
 Urgent ..... 2  
 Total ..... 12  
 Name of Copy .....  
 Date of Copy ..... 24/11/17  
 Date of Deposition ..... 24/11/17

*[Signature]*  
*[Signature]*

GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT

Dated Peshawar, the July 14, 2017.

NOTIFICATION

No.SOE(H-II/10-25/2016:

Whereas, Dr. Muhammad Ayub remained continuously absent from duty w.c.f. 01.11.2009 to 11.07.2010.

AND whereas, on arrival from absence, he was posted in DHQ Hospital Abbottabad, but he did not join duty and disobeyed the orders of the Government;

AND Whereas, an enquiry was conducted whereby the charges of unauthorized absence and non-compliance of the Govt. orders proved correct against him;

AND whereas, he was proceeded against under E&D Rules, 2011 and an opportunity of personal hearing was granted to him;

AND Whereas, he did not appear for personal hearing and resultantly ex parte decision was taken against him and was removed from service;

AND whereas, he filed appeal in the Service Tribunal against the aforementioned penalty and the service Tribunal vide Judgment dated 04.05.2017 ordered that he may be reinstated into service for the purpose of de novo inquiry;

Now therefore, in pursuance of the judgment dated 04.05.2017 of Khyber Pakhtunkhwa Service Tribunal in appeal No.97/2015; the competent authority is pleased to reinstate Dr. Muhammad Ayub Ex-Medical Officer, BS-17 with immediate effect for the purpose of denovo enquiry only.

Consequent upon the above, his services are placed at the disposal of DHO Abbottabad for the purpose of denovo enquiry.

SECRETARY HEALTH  
KHYBER PAKHTUNKHWA

Endst. of even No. & Date.

Copy to the:

1. Director General, Health Services, Khyber Pakhtunkhwa.
2. Deputy Director (IT), Health Department.
3. DHO Abbottabad.
4. DAO Abbottabad.
5. PS to Secretary Health.
6. PA to Deputy Secretary-I, Health Department.
7. Doctor concerned with the direction to appear before the enquiry

Attended  
ent



②-8-C



**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR.**

Khyber Pakhtunkhwa Service Tribunal

Implementation Petition No 221 /2017.

Diary No. 1000

In Service Appeal No <sup>97</sup>~~79~~/2015

Dated 24/11/2017

Dr Muhammad Ayub Medical Officer S/O Muhammad Yousaf  
R/O Street No 6 Officers Colony Mansehra Road Abbottabad.

.....Applicant/Appellant.

**V E R S U S**

1. Chief Secretay Govt. of KPK Peshawar.
2. Secretary Health Department, Govt. of KPK Peshawar.
3. Director General Health Services, Govt. of KPK Peshawar.

.....Respondents

**PETITION FOR THE IMPLEMENTATION OF ORDER/JUDGMENT DATED 04-05-2017 PASSED BY THIS HONORABLE TRIBUNAL IN THE ABOVE TITLED SERVICE APPEAL.**

**Respectfully Submitted:-**

1. That the applicant/appellant filed Service Appeal No <sup>97</sup>~~79~~/2015 for his reinstatement in service which was accepted vide Order and Judgment dated 04-05-2017 and respondents were directed to conduct denovo inquiry strictly in accordance with rules and conclude the same within a period of 60 days from the date of receipt of judgment. Payment of back benefits shall be subject to the final outcome of final inquiry. In case respondents failed to conduct and conclude the inquiry within the stipulated period then it shall be presumed that the appellant has been reinstated in service and in such eventuality the period during which the appellant remained out of service shall

**ATTESTED**

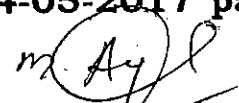

*[Signature]*  
COMMISSIONER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

**then be treated as leave of the kind due. (Copy of the Order and Judgment is enclosed as Annexure A).**

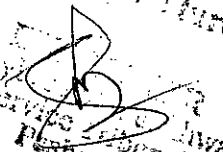
- 2. That the applicant/appellant after obtaining the copy of judgment approached respondents for his reinstatement on 16-05-2017, similarly judgment was also sent to the respondents vide No 1324/ST dated 16-05-2017 and the same was received by the respondents vide No 1489 dated 16-05-2017. **(Copies of documents are enclosed as Annexure B).**
- 3. That in spite of the above mentioned order, respondents are not implementing the order and Judgment of this honorable Tribunal, and are not ready to honor the same and reinstate the appellant.
- 4. That even as per the judgment respondents have also failed to conduct and conclude the denovo inquiry within the stipulated period, as such the appellant is reinstated as per the judgment of this honorable Tribunal, as they have now issued show cause notice to the applicant/appellant in violation of the judgment.
- 5. That the respondents have are not ready to implement the above mentioned Order and Judgment of this honorable Tribunal for no legal and valid reasons, this act of the respondents is unlawful, unconstitutional and goes against the Orders and Judgment dated 04-05-2017 of this honorable Tribunal.

**It is therefore prayed, that on acceptance of this Application/Petition, respondents may kindly be directed to implement the Order and Judgment of this honorable Tribunal dated 04-05-2017 passed in Service Appeal No 79/2015.**

**Dated:-24-11-2017**


  
**Applicant/Appellant**  
**Through**   
**Fazal Shah Mohmand**  
**Advocate Peshawar.**

Date of Receipt ..... 25/1/15  
 No. of ..... 800  
 Cost of ..... 6-00  
 Urgent ..... 2-  
 Total ..... 8-  
 Name of .....  
 Date of ..... 25/1/15  
 Date of ..... 25/2/15

**Certified to be true copy**  
  
 Officer  
 Service Tribunal,  
 Peshawar

01.02.2018

Clerk to counsel for the petitioner and Mr. Usman Ghani, District Attorney for respondents present. Clerk to counsel for the petitioner seeks adjournment as his counsel is not available due to general strike of the Bar. Adjourned. To come up for further proceedings on 13.02.2018 before S.B.


  
(Ahmad Hassan)  
Member(E)

13.02.2018

Petitioner with counsel present. Mr. Kabirullah Khattak, Additional AG for the respondents also present. The service appeal of the petitioner was accepted by this Tribunal vide detailed judgment dated 04.05.2017 with the direction to the respondent-department to conduct de-novo inquiry within a period of 60 days from the date of receipt of this judgment otherwise, the appellant will be deemed to have been reinstated in service. Learned counsel for the petitioner contended that the said de-novo inquiry has not been conducted within the stipulated period and the respondents are now going to conduct de-novo inquiry after the said period in violation of the court order. Record in this regard was requisitioned from the department on 17.01.2018 but the department has not produced the record of de-novo inquiry therefore, the department is again directed to produce the said record of the de-novo inquiry so as to ascertain as to whether the de-novo inquiry has been initiated within stipulated period or otherwise. To come up for such record and implementation report on 01.03.2018 before S.B. In the meanwhile the proceeding of de-novo inquiry is suspended till the date fixed.

  
(Muhammad Amin Khan Kundi)  
Member

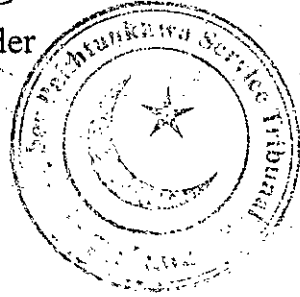
**ATTESTED**

  
K. I. Khan  
Government of Sindh  
Petitioner

10.05.2018

The Tribunal is non-functional due to retirement of our Hon'ble Chairman. Therefore, the case is adjourned. To come up for same on 29.05.2018.

  
Reader



29.05.2018

Learned counsel for the petitioner and learned Additional Advocate General present.


Arguments heard. File perused.


The appellant has preferred the present execution petition for implementation/order dated 04.05.2017 passed in service appeal No.97/15.

Admittedly the appellant has been reinstated in service as a result of the judgment passed in service appeal mentioned above. So far as the issue of denovo inquiry is concerned the respondent department is also bound in that regard with the decision of this Tribunal in that very judgment hence any action on the part of respondent department beyond the ratio of that judgment would be of no legal effect. With these observations the present execution petition is consigned to the record room leaving the parties to bear their own costs.

  
Member

Certified to be true copy

  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

|                                     |  |
|-------------------------------------|--|
| Date of Presentation of Application | 25/5/18  |
| Number of Pages                     | 1600   |
| Copying Fee                         | 10-00  |
| Stamp                               | 25   |
| Total                               | 12   |
| Name of Applicant                   |  |
| Date of Filing                      | 25/5/18  |
| Date of Payment of Fee              | 25/5/18  |



- 12 -

D

GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT

Dated Peshawar, the August 27, 2018

**NOTIFICATION**

**No. SOE(H-II/10-25/2013):** WHEREAS, Dr. Muhammad Ayub s/o Muhammad Yousaf was appointed as Medical Officer, BS-17 on 11.12.91 through Public Service Commission on regular basis;

AND WHEREAS, he was proceeded against under E&D Rules 2011 on account of wilfull absence from duty w.e.f. 01.11.2009 to 11.07.2010 and after due procedure, the major penalty of removal from service was imposed upon him on 13.05.2014;

AND whereas, he filed appeal in the Service Tribunal against the aforementioned penalty and the service Tribunal vide Judgment dated 04.05.2017 ordered that he may be reinstated into service for the purpose of de-novo enquiry;

AND WHEREAS, in pursuance of the judgment dated 04.05.2017 of Khyber Pakhtunkhwa Service Tribunal in appeal No.97/2015, the competent authority reinstated Dr. Muhammad Ayub Ex-Medical Officer, BS-17 on 14.07.2017 for the purpose of denovo enquiry only;

AND WHEREAS, this Department conducted denovo enquiry against him in pursuance of the judgment dated 04.05.2017 of the Service Tribunal Peshawar which was completed on 31.08.2017 and show cause notice was issued to him on 21.11.2017 after case was moved to Chief Secretary Khyber Pakhtunkhwa for signature of show cause notice;

AND WHEREAS, the doctor concerned preferred an execution petition No.221/2017 on 24.11.2017 before the Service Tribunal Khyber Pakhtunkhwa for implementation of order dated 04.05.2017 passed in Service appeal No.97/2015;

AND WHEREAS, the Service Tribunal Khyber Pakhtunkhwa on 29.05.2018 ordered that "admittedly the appellant has been reinstated into service as a result of the judgment passed in Service Appeal mentioned above. So far as the issue of Denovo inquiry is concerned, the respondent Department is also bound in that regard with the decision of this Tribunal in that very judgment, hence any action on the part of respondent Department beyond the ratio of that judgment would be of no legal effect. With these observations, the present execution petition is consigned to the record room leaving the parties to bear their own costs".

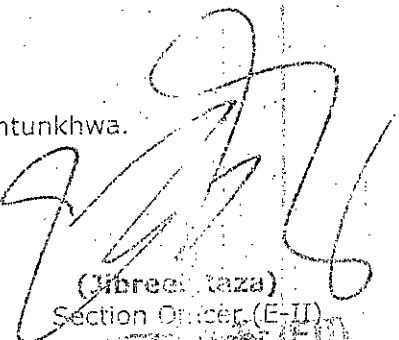
NOW THEREFORE, in pursuance of above judgment of the Service Tribunal Khyber Pakhtunkhwa, the competent authority is pleased to reinstate Dr. Muhammad Ayub s/o Muhammad Yousaf, Medical Officer, BS-17 into service with immediate effect.

**SECRETARY HEALTH  
KHYBER PAKHTUNKHWA**

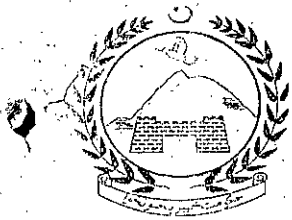
**Endst. of even No. & Date.**

Copy to the:

1. Accountant General Khyber Pakhtunkhwa.
2. Director General, Health Services, Khyber Pakhtunkhwa.
3. PS to Secretary Health, Khyber Pakhtunkhwa.
4. PS to Special Secretary, Health Department.
5. Doctor concerned.

  
(Jibreel Taza)  
Section Officer (E-II)  
Section Officer (E-I)  
Govt. of Khyber Pakhtunkhwa  
Health Department

Attested  

-13-

**GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT**

Dated Peshawar the 27<sup>th</sup> August, 2018

**NOTIFICATION**

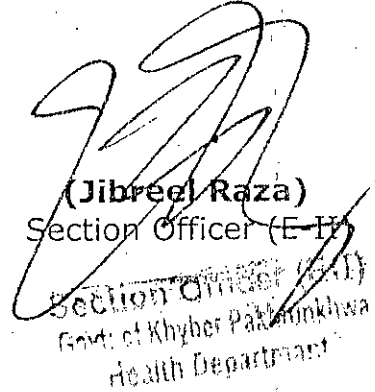
**No.SO(E)H-II/4-1/2018.** Dr. Muhammad Ayub s/o Muhammad Yousaf, Medical Officer, BS-17, waiting for posting, is hereby posted in DHQ Hospital Haripur against the vacant post of Medical Officer, BS-17 with immediate effect in the public interest.

**SECRETARY HEALTH  
KHYBER PAKHTUNKHWA**

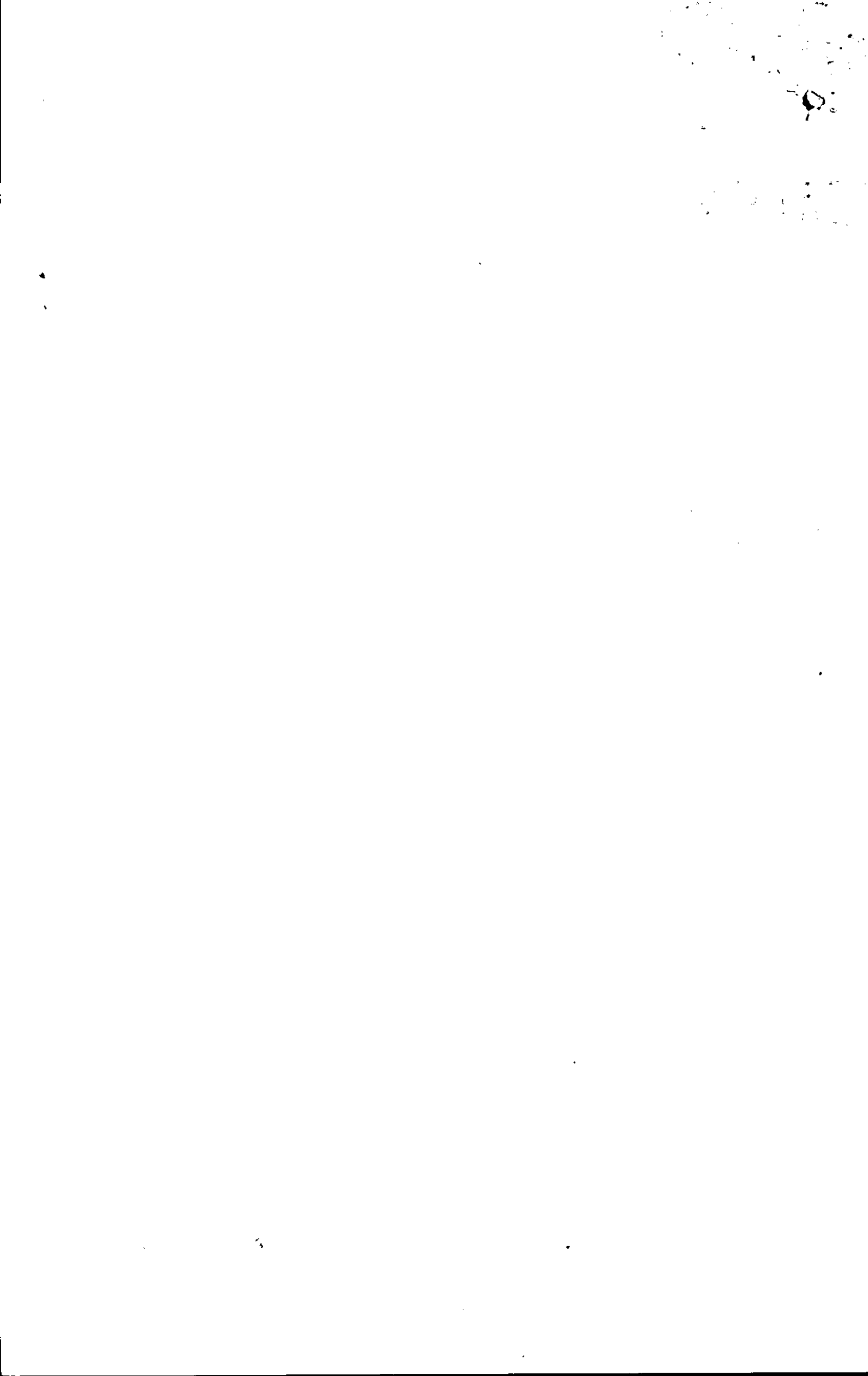
**Endst. of even No. & Date.**

Copy to the:

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director General, Health Services, Khyber Pakhtunkhwa.
3. MS DHQ Hospital Haripur.
4. DHO, Haripur.
5. DAO, Haripur.
6. PS to Secretary Health, Khyber Pakhtunkhwa.
7. PS to Special Secretary, Health Department.
8. Doctor concerned.

  
(Jibreel Raza)  
Section Officer (E-II)  
Section Officer (E-II)  
Govt. of Khyber Pakhtunkhwa  
Health Department

Attested  

To

The Medical Superintendent  
DHQ Hospital Heripur

Sub. Arrival Report

Sir

It is requested  
to you that with reference to  
order no SO(E)H-11/4-1/2018

I hereby submit my arrival  
Report to day on 28/8/2018  
forenoon. Please accept my  
Report.

Attested  
UP

Arrival accepted,  
Full  
28/8/18

Thank  
Yours obediently  
(M Ajil)  
Dr. Mohd Ayub  
Medical Officer

Dated 28/8/2018



- 15 -

**WAKALAT NAMA**

IN THE COURT OF Res Senior Tribunal Peshawar

Dr. M. Ayub

VERSUS

Chief  
Secretary

Accused/  
Petitioner/  
Appellant/  
Plaintiff.

Respondent/  
Defendant/  
Complainant

FIR No. .... Dated: ..... Police Station: .....  
Charge U/s .....

KNOW ALL to whom these presents shall come that I the undersigned appoint:

*Fazal Shah Mohmand Advocate Supreme Court of Pakistan,*  
(herein after called the advocate) to be the Advocate for the Appellant in the above mentioned case, to do all the following acts, deeds and things or any of them, that is to say:

- 1) To act and plead in the above mentioned case in this court or any other Court in which the same may be tried or heard in the first instance or in appeal or review or execution or in any other stage of its progress until its final decision.
- 2) To sign, verify and present pleadings, appeals, cross - objections, petitions for execution, review, revision, withdrawal, compromise or other petition or affidavits or other documents as shall be deemed necessary or advisable for the prosecution of said case in all its stages.
- 3) To withdraw or compromise in the said case or submit to arbitration any difference or dispute that shall arise touching or in any manner relating to the said case.
- 4) To receive money and grant receipts therefore and to do all other acts and things which may be necessary to be done for the progress and the course of the prosecution of the said case.
- 5) To engage any other Legal practitioner authorizing him to exercise the power and authorities hereby conferred on the Advocate whenever he may think fit to do so.


AND I hereby agree to ratify whatever the Advocate or his substitute shall do in the promises.

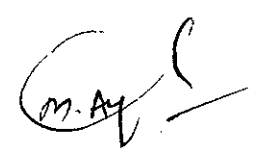
AND I hereby agree not to hold the Advocate or its substitute responsible for the result of the said case and in consequence of his absence from the court when the said case is called up for hearing

AND I hereby that in the event of the whole or any part of the fee agreed by me to be paid to the Advocate remaining unpaid, He shall be entitled to withdraw from the prosecution of the said case until the same is paid.

IN WITNESS WHEREOF I hereunto set my hand to these presents the contents of which have been explained to and understood by me, this \_\_\_\_\_ day of \_\_\_\_\_ 201\_\_\_\_\_

Accepted By

  
*Fazal Shah Mohmand,*  
Advocate Supreme Court of Pakistan

  
Signature/ thumb impression  
of party / parties.

*Dr Mohd Ayub*  
*Sp Mohd Yousaf*

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1171 /ST

Dated 4-7- / 2019

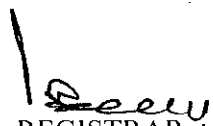
To

The Section Officer-II,  
Health Services Department,  
Government of Khyber Pakhtunkhwa,  
Peshawar.

SUBJECT: - ORDER IN EXECUTION PETITION NO. 38/2019, DR. MUHAMMAD AYUB.

I am directed to forward herewith a certified copy of order dated 27.06.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.



GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT

**Reminder-I**  
**Court matter**

No. SO (E) H-II/4-1/2019/Dr. M. Ayub  
Dated Peshawar, the 03<sup>rd</sup> August 2019

To

The Secretary to Govt. Khyber Pakhtunkhwa,  
Establishment Department.

Subject: **REGULARIZATION OF BROKEN PERIOD W.E.F. 14.05.2014  
TO 27.08.2018**

Dear Sir,

I am directed to refer to this Department letter of even number dated 07.01.2019 (copy enclosed) on the subject noted above and to state that the reply of regularization of broken period w.e.f. 14.05.2014 to 27.08.2018 in respect of Dr. Muhammad Ayub, MO, BS-17 attached to DHO Shangla is still awaited which may kindly be expedited as the Khyber Pakhtunkhwa Services Tribunal has asked for regularization of his absence period, please.

Encl: As Above.

Endst: No. & Date Even

Copy to the:

1. Section Officer (Lit-II), Health Department w/r to his letter No.SOH(Lit-II)1-1/2017/ABT dated 17.08.2019 with the request that views of Establishment Department regarding broken period (copies attached).
2. PS to Secretary Health, Khyber Pakhtunkhwa
3. PA to Deputy Secretary (Amin), Health Department.

Yours faithfully,

  
(Hamid Iqbal)

Section Officer (E-II)

  
Section Officer (E-II)



GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT

No: SO (E) H-II/4-1/2019/Dr. M. Ayub  
Dated Peshawar, the 07<sup>th</sup> January 2019

To

The Secretary to Govt. Khyber Pakhtunkhwa,  
Establishment Department.

Subject: **REGULARIZATION OF BROKEN PERIOD W.E.F. 14.05.2014  
TO 27.08.2018**

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith a copy of Additional Director (HRM), Khyber Pakhtunkhwa letter No.17120-21/E-I(M-312) dated 07.11.2018 in respect of Dr. Muhammad Ayub, Medical Officer BS-17 wherein requesting of his gap period between removal from service and re-instatement w.e.f. 14.05.2014 to 27.08.2018 may be treated as period on duty.

2. Dr. Muhammad Ayub Medical Officer, BS-17 was removed from service on account of his absence from duty w.e.f. 01.11.2009 vide this Department's Notification dated 13.05.2014.

3. In pursuance of Judgment of Service Tribunal Khyber Pakhtunkhwa, the doctor concerned was re-instated for the purpose of Denovo enquiry vide Notification dated 14.07.2017 (Annex-I) and his services were placed at the disposal of DHO Abbottabad for the purpose of Denovo enquiry on 18.07.2017. After conduction of Enquiry against the doctor concerned in light of service Tribunal decision, he was re-instated into service on 27.08.2018 (Annex-II) and requesting for the gap period w.e.f. 14.05.2014 to 27.08.2018 may be regularized.

4. In light of the above, it is therefore, requested that views/comments may kindly be furnished to this Department to process the case further.

Yours faithfully,

Encl: As Above.

  
(Hamid Iqbal)  
Section Officer (E-II)

Encl: No. & Date Even

Copy to the:

1. PS to Secretary Health, Khyber Pakhtunkhwa
2. PA to Deputy Secretary (Amin), Health Department.

  
Section Officer (E-II)



GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT

**Reminder-II**  
**Court matter**

No. SO (E) H-II/4-1/2019/Dr. M. Ayub  
Dated Peshawar, the 10<sup>th</sup> October 2019

To

The Secretary to Govt. Khyber Pakhtunkhwa,  
Establishment Department.

Attention: Section Officer (R-II)


Subject: **REGULARIZATION OF BROKEN PERIOD W.E.F. 14.05.2014  
TO 27.08.2018**

Dear Sir,

I am directed to refer to this Department letters of even number dated 07.01.2019, 03.08.2019 (copies enclosed) on the subject noted above and to state that the reply of regularization of broken period w.e.f. 14.05.2014 to 27.08.2018 in respect of Dr. Muhammad Ayub, MO, BS-17 attached to DHO Shangla is still awaited which may kindly be expedited as the Khyber Pakhtunkhwa Services Tribunal has asked for regularization of his absence period, please.

Encl: As Above.

Yours faithfully,

  
(Hamid Iqbal)  
Section Officer (E-II)

Endst: No. & Date Even

Copy to the:

1. Section Officer (Lit-II), Health Department w/r to his letter No.SOH(Lit-II)1-1/2017/ABT dated 24.09.2019 with the information that views of Establishment Department regarding broken period (copies attached).
2. PS to Secretary Health, Khyber Pakhtunkhwa
3. PA to Deputy Secretary (Amin), Health Department.

  
Section Officer (E-II)



GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT

**Reminder-II**  
**Court matter**

No. SO (E) H-II/4-1/2019/Dr. M. Ayub  
Dated Peshawar, the 10<sup>th</sup> October 2019

To

The Secretary to Govt. Khyber Pakhtunkhwa,  
Establishment Department:

Attention: Section Officer (R-II)

Subject: **REGULARIZATION OF BROKEN PERIOD W.E.F. 14.05.2014  
TO 27.08.2018**

Dear Sir,

I am directed to refer to this Department letters of even number dated 07.01.2019, 03.08.2019 (copies enclosed) on the subject noted above and to state that the reply of regularization of broken period w.e.f. 14.05.2014 to 27.08.2018 in respect of Dr. Muhammad Ayub, MO, BS-17 attached to DHO Shangla is still awaited which may kindly be expedited as the Khyber Pakhtunkhwa Services Tribunal has asked for regularization of his absence period, please.


Encl: As Above.

Endst: No. & Date Even

Copy to the:

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2. PS to Secretary Health, Khyber Pakhtunkhwa
3. PA to Deputy Secretary (Amin), Health Department.

Yours faithfully,

  
(Hamid Iqbal)  
Section Officer (E-II)

  
Section Officer (E-II)



GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT

**Reminder-II**  
**Court matter**

No. SO (E) H-II/4-1/2019/Dr. M. Ayub  
Dated Peshawar, the 10<sup>th</sup> October 2019

To

The Secretary to Govt. Khyber Pakhtunkhwa,  
Establishment Department.

Attention: Section Officer (R-II)

Subject: **REGULARIZATION OF BROKEN PERIOD W.E.F. 14.05.2014  
TO 27.08.2018**

Dear Sir,

I am directed to refer to this Department letters of even number dated 07.01.2019, 03.08.2019 (copies enclosed) on the subject noted above and to state that the reply of regularization of broken period w.e.f. 14.05.2014 to 27.08.2018 in respect of Dr. Muhammad Ayub, MO, BS-17 attached to DHO Shangla is still awaited which may kindly be expedited as the Khyber Pakhtunkhwa Services Tribunal has asked for regularization of his absence period, please.

Yours faithfully,

Encl: As Above.

  
**(Hamid Iqbal)**  
Section Officer (E-II)

Endst: No. & Date Even

Copy to the:

1. Section Officer (Lit-II), Health Department w/r to his letter No.SOH(Lit-II)1-1/2017/ABT dated 24.09.2019 with the information that views of Establishment Department regarding broken period (copies attached).
2. PS to Secretary Health, Khyber Pakhtunkhwa
3. PA to Deputy Secretary (Amin), Health Department.

  
Section Officer (E-II)



GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT

**Court Matter**

No. SO (E) H-II/4-1/2019/Dr. M. Ayub  
Dated Peshawar, the 20<sup>th</sup> November 2019

To

The Secretary to Govt. Khyber Pakhtunkhwa,  
Establishment Department.

Subject: **REGULARIZATION OF BROKEN PERIOD W.E.F. 14.05.2014  
TO 27.08.2018**

Dear Sir,

I am directed to refer to your letter No.SOR-II(E&AD)1-6/0 dated 15.11.2019 on the subject noted above and to enclose herewith copy of approved Note for Chief Secretary Khyber Pakhtunkhwa wherein the competent authority has desired the Note for Chief Secretary Khyber Pakhtunkhwa and recommendation of the minor penalty by the inquiry committee in respect of Dr. Muhammad Ayub, Medical Officer, BS-17 attached to DHO Shangla as desired, please.

Yours faithfully,

Encl: As Above.

*[Handwritten signature]*  
27/11/19

*[Handwritten signature]*  
20/11/2019  
Section Officer (E-II)

Endst: No. & Date Even

Copy to the:

1. Section Officer (Lit-II), Health Department
2. PS to Secretary Health, Khyber Pakhtunkhwa
3. PA to Deputy Secretary (Amin), Health Department.

*[Handwritten signature]*  
20/11/2019  
Section Officer (E-II)



**Reference Para 1- 6 of the Note:**

17. This Department conducted denovo enquiry against the doctor concerned in pursuance of the judgment dated 04.05.2017 of the Service Tribunal Peshawar which was completed on 31.08.2017 and show cause notice was issued to him on 21.11.2017. The doctor concerned preferred an execution petition No.221/2017 on 24.11.2017 before the service appeal No.97/2015.

18. The Service Tribunal Khyber Pakhtunkhwa on 29.05.2018 ordered that "admittedly the appellant has been reinstated into service as a result of the judgment passed in Service Appeal mentioned above. So far as the issue of Denovo inquiry is concerned, the respondent Department is also bound in that regard with the decision of this Tribunal in that very judgment, hence any action on the part of respondent Department beyond the ratio of that judgment would be of no legal effect. With these observations, the present execution petition is consigned to the record room leaving the parties to bear their own costs **(Annex-VIII)**.

19. In pursuance of above judgment of the Service Tribunal Khyber Pakhtunkhwa, the competent authority was pleased to reinstate Dr. Muhammad Ayub s/o Muhammad Yousaf, Medical Officer, BS-17 into service with immediate effect vide this Department Notification dated 27.08.2018 **(Annex-IX)** and subsequently he was posted at DHQ Hospital Haripur against the vacant post of MO, BS-17 vide this Department Notification dated 27.08.2018 **(Annex-X)**.

20. The Director General Health Services Khyber Pakhtunkhwa forwarded MS, DHQ Hospital letter along with an application alongwith its enclosure in respect of Dr. Muhammad Ayub, MO, BS-17 wherein requesting for regularization of his gap period (undecided period) between removal from service and re-instatement w.e.f. 14.05.2014 to 27.08.2018 **(Annex-XI)**. Moreover, the doctor concerned filed an execution petition No.38/2019 in service appeal No.97/2015 wherein the Honourable Court ordered dated 14.10.2019. Petitioner with counsel present, Mr. Kabirullah Khattak, Addl: AG

alongwith Mr. Hazrat Shah, Supdt. for respondents present. It is regretted that respondent No.02 referred the case of the appellant to the Establishment Department for advice vide letter dated 07.01.2019 followed by reminders dated 03.08.2019 and 10.10.2019 but positive outcome is still awaited. Respondent No.02 is directed to ensure that required advice is procured from the said department failing which law will take its course. To come up for further proceedings on 12.11.2019 before S.B vide **(Annex-XII)**.

21. This Department asked views/guidance from Establishment Department vide letter dated 07.01.2019 **(Annex-XIII)**. In response to this Department letter, Establishment Department stated to submit Note for Chief Secretary Khyber Pakhtunkhwa for ex-post approval **(Annex-XIV)**.

22. In light of the above and in pursuance of advise of the Establishment Department and execution petition No.38/2019 in service appeal No.97/2015, of Khyber Pakhtunkhwa Service Tribunal, Peshawar, ex-post facto sanction for the gap period w.e.f. 14.05.2014 to 27.08.2018 for regularization according to the number of leaves in his credit while the rest may be regularized as Extra Ordinary Leave without pay in respect of Dr. Muhammad Ayub, MO, BS-17 attached to DHQ Hospital Haripur subject to the leave due from the quarter concerned.

23. The Chief Secretary, Khyber Pakhtunkhwa is requested to approve the proposal contained in Para-22 above, please.

Chief Secretary,  
Khyber Pakhtunkhwa

  
(Muhammad Yahya Akhunzada)  
SECRETARY HEALTH

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 3842-44 /ST

Dated 05/10/2020


To

1. The Chief Secretary,  
Government of Khyber Pakhtunkhwa,  
Peshawar.
2. Director General Health Services,  
Government of Khyber Pakhtunkhwa,  
Peshawar.
3. Secretary Health Department,  
Government of Khyber Pakhtunkhwa,  
Peshawar.

SUBJECT: - ORDER IN EXECUTION PETITION NO. 38/2019 DR. MUHAMMAD AYUB.

I am directed to forward herewith a certified copy of order dated 28.09.2020 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 3934 /ST Dated 30 /11/2020

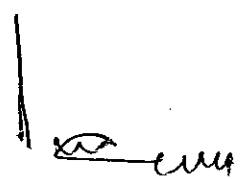
To

The Secretary Health Department,  
Government of Khyber Pakhtunkhwa,  
Peshawar.

SUBJECT: - ORDER IN EXECUTION PETITION NO. 38/2019, DR. MUHAMMAD AYUB.

I am directed to forward herewith a certified copy of order dated 18.11.2020 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

No. 185 /ST

Dated 27/01 / 2021


To

The Secretary Health Department,  
Government of Khyber Pakhtunkhwa,  
Peshawar.

SUBJECT: - **ORDER IN APPEAL NO. 38/2019, DR. MUHAMMAD AYUB.**

I am directed to forward herewith a certified copy of order dated 20.01.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.



GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT

No. SO (E), H-II/10-25/2021  
Dated, 18<sup>th</sup> January, 2021

To

The Director General Health Services,  
Khyber Pakhtunkhwa, Peshawar

Subject:

**AN EXECUTION PETITION NO. 38/2019 IN SERVICE APPEAL NO. 97/2015 DR. MOHAMMAD AYUB VERSUS GOVT. OF KHYBER PAKHTUNKHWA HEALTH DEPARTMENT.**

Dear Sir,

I am directed to refer to the subject noted above and to state that this department is in the process of implementing service tribunal judgment dated 04.06.2018 in service appeal No. 97/15.

In view of the above, it is requested to intimate Service History, Leave History since appointment and Fresh Leave Admissibility (duly countersigned by the District Account Office concerned) in respect of Dr. Muhammad Ayub, Medical Officer (BS-17), attached to DHO Office Abbottabad (now attached to DHQ Hospital Haripur) may be furnished to this department by today positively being **court matter may be treated as top priority**, enabling this department to process the same for approval of the Competent Authority

Encl: As above:

18.01.2021  
Section Officer (E-II)

Endst: No. & Date Even

Copy to the:

1. Registrar, Service Tribunal, Peshawar.
2. PS to Secretary Health, Khyber Pakhtunkhwa.
3. PS to Special Secretary (E&A / B&D), Health Department.
4. PA to Additional Secretary (E&A / B&D), Health Department.

Section Officer (E-II)

**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal.  
Peshawar



GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT

No. 470  
Date 13.7.15  
Secretary Health  
Diary No 77  
08/07/15

NOTE FOR CHIEF SECRETARY

Subject:- DENOVO ENQUIRY AGAINST DR MUHAMMAD AYUB (BPS-17) EX MEDICAL OFFICER UNDER TRANSFER TO DHQ HOSPITAL ABBOTTABD

Dr Muhammad Ayub, the then Medical Officer (BPS-17) under transfer to DHQ Hospital Abbottabad continuously absented himself w.e.f. 01.11.2009 to 11-07-2010 without permission of the authority. On arrival from absence, his posting order was issued for DHQ Hospital for duty but he did not join his duty and disobeyed the orders of Government. However, an enquiry was conducted through Mr. Muhammad Asif, PCS, SG, BS-18, the then District Officer (F&P) Haripur. The inquiry officer submitted his report wherein, charges of unauthorized leave and non compliance of the Govt. Orders proved correct against him (**Annex-I**). The report was submitted to Chief Secretary, Khyber Pakhtunkhwa. Accordingly, Show cause notice was served upon the accused. A chance of personal hearing was granted but doctor concerned did not appear before competent authority, resultantly, Chief Secretary, Khyber Pakhtunkhwa, imposed a major penalty of "removal from Service" upon the doctor concerned.

2. Dr Muhammad Ayub filed an appeal in the Khyber Pakhtunkhwa Service Tribunal against the aforementioned penalty. The Service Tribunal vide judgment no. 97/2015 dated 04.05.2017 ordered that (**Annex- II**):-

"We are constrained to accept the instant service appeal, and set-aside the impugned order dated 13-05-2014 and reinstate the appellant in service. The respondents are directed to conduct de-novo enquiry in accordance with the rules and conclude the same within the period of 60 days from the date of receipt of this judgment. Payment of back benefits shall be subject to the final outcome of the final inquiry. In case the respondents failed to conduct the conclude the inquiry within the stipulated period then it shall be deemed that the appellant has been reinstate in service and in such eventuality the period during which he remained out of service shall then be treated as leave of the kind due. Parties are left to bear their own costs."

3. The case came under discussion in the meeting of the Scrutiny Committee of Law Department held on 20-06-2017 and was declared as unfit case for filing CPLA in the apex Court (**Annex-III**).

4. In view of the above, the Health Department proposes that:-

- (b). On reinstatement, disciplinary proceedings under rule 5(1) (b) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 (Annex-IV) may be initiated against Dr. Muhammad Ayub (BPS-17) Ex-Medical Officer (BS-17).
- (c). Enquiry Committee comprising the following officers may be nominated for conducting formal enquiry:-

- I. Dr. Aqeel Jan Bangash, MS DHQ Hospital Abbottabad  
II. Dr. Shoukat Sohail, Principal, Para Medical Institute, Abbottabad.

5. The Chief Secretary, Khyber Pakhtunkhwa is requested to approve the proposal contained in Para-4 above and sign the Charge Sheet /Statement of Allegation in respect of Dr. Muhammad Ayub Medical Officer, BS-17 (Annex-V & VI).

*Muhammad Abid Majeed*  
(Muhammad Abid Majeed)  
Secretary Health

Chief Secretary,  
Khyber Pakhtunkhwa

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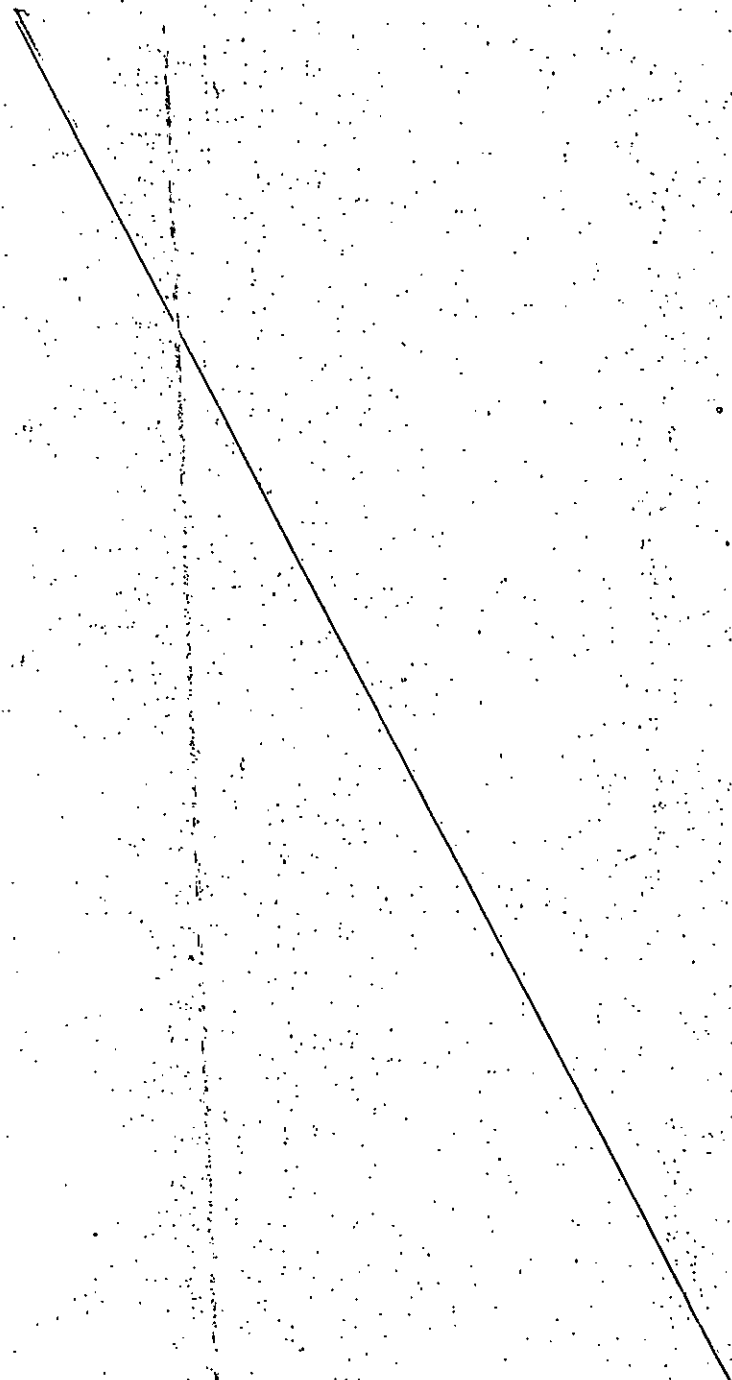


by  
13/7/2017

Please examine.

CHIEF SECRETARY

SECRETARY ESTABLISHMENT



No. 3/86  
Date 13/7/17

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06. Note for Chief Secretary Khyber Pakhtunkhwa regarding de novo enquiry against Dr. Muhammad Ayub, ex-Medical Officer (BS-17) under transfer to DHQ Hospital Abbottabad has been examined.

07. On the findings of inquiry report (Annex-I) the competent authority imposed the major penalty of "removal from service" upon Dr. Muhammad Ayub. Dr. Muhammad Ayub preferred an appeal in the Khyber Pakhtunkhwa Service Tribunal and the Tribunal on 04-05-2017 ordered that: "We are constrained to accept the instant service appeal and set aside the impugned orders dated 13.05.2014 and reinstate the appellant in service. Respondents are directed to conduct de novo enquiry in accordance with the rules and conclude the same within the period of 60 days from the date of receipt of this judgment. Payment of back benefits shall be subject to the final outcome of the final inquiry. In case the Respondents failed to conduct the conclude inquiry within the stipulated period then it shall be deemed that the appellant has been reinstated in service and in such eventuality the period during which he remained out of service shall than be treated as leave of the kind due" (Annex-II). Scrutiny Committee of Law Department declared the case unfit for filing CPLA in the Apex Court (Annex-III).

08. Health Department has proposed de-novo enquiry may be initiated against the doctor concerned and he may be reinstated into service in pursuance of court judgment.

09. Establishment Department is of the view that Law Department has declared the case unfit for filing of CPLA in the Apex Court with the consensus of Health Department (Annex-III). However, it is observed that Registrar, KPK Service Tribunal Peshawar has communicated the copy of judgment to Health Department on 16.05.2017 (Annex-II).

10. The following panel of officers is proposed for appointing of inquiry officer/committee:

PAS/PMS/PCS /OFFICERS

- i. ✓ Capt. ® Aurangzeb Haider (PAS, BS-18) Deputy Commissioner Abbottabd
- ii. Muhammad Akbar Khan, (PMS BS-18) DO (F&P) Haripur,

PROFESSIONAL/TECHNICAL

- i. ✓ Dr. Aqeel Jan Bangash MS DHQ Hospital Abbottasbad.
- ii. Dr. Shoukat Sohail, Principal Paramedical Institute, Abbottabad.

11. Chief Secretary Khyber Pakhtunkhwa, being competent authority, may approve the proposal contained in Para-4 and sign the charge sheet/statement of allegations (Annex-V, VI) and appoint an enquiry officer/enquiry committee from the above panel by indicating the name (s) in the space left blank in the statement of allegations (Annex-VI).

(Dr. Syed Akhtar Hussain Shah)  
Secretary Establishment  
July 13, 2017

Chief Secretary  
Khyber Pakhtunkhwa

Ali Iqbal  
13/7/2017  
CHIEF SECRETARY  
Govt. Of Khyber Pakhtunkhwa

SECRETARY HEALTH

3186  
13-7-17  
2/64  
13/7/17

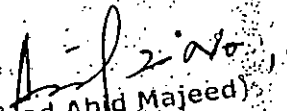
Reference Para 10-11 of the Note:

12. Capt. (R) Aurangzeb Haider PAS BS-18 Deputy Commissioner Abbottabad and Dr. Aqeel Jan Bangash, Medical Superintendent, DHQ Hospital Abbottabad were nominated as enquiry officers to conduct de novo enquiry under Service Tribunal Judgement in Appeal No.97/2015 in respect of the above mentioned doctor regarding wilful absence w.e.01.11.2009 to 11.07.2010 and misconduct.

13. The enquiry committee has submitted its enquiry report along with recommendations (Annex-VII). The enquiry report consists of background, charge sheet, proceedings, findings and recommendations. Following are the relevant recommendations of the enquiry committee:

- i. The period after 31.01.2009 should be treated as Extra Ordinary Leave (Ex-Pakistan).
  - ii. Doctor is found to be guilty of misconduct (initial enquiry findings clause III & VIII) beyond any doubt to which he should be awarded minor penalty at 4 (a) of Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline Rules), 2011.
14. In terms of sub Rule-1(a) of Rule 5 Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline Rules), 2011, the competent authority may proceed against the accused by issuing a show cause under Rule-7.

15. Chief Secretary, Khyber Pakhtunkhwa is requested to sign the Show Cause Notice Annex-VIII with the request to indicate a suitable penalty from list of Penalties mentioned at Annex-IX in the blank space of the Show Cause Notice to be served upon the accused doctor.

  
(Muhammad Abid Majeed)  
Secretary Health

Secretary Establishment,  
Khyber Pakhtunkhwa

Chief Secretary,  
Khyber Pakhtunkhwa

PS/Secy (E) & AD  
Date 2.11.17  
Secretary Health

PS/Secy (E) & AD  
Date 3/11/17

W.P.P

16. Chief Secretary, Khyber Pakhtunkhwa is requested to sign the Show Cause Notice (Annex-VIII) with the request to indicate a suitable penalty from list of penalties mentioned at Annex-IX in the blank space of the Show Cause Notice to be served upon the accused doctor.

Chief Secretary Khyber Pakhtunkhwa

(Arshad Majeed)  
Secretary Establishment  
November 15, 2017

18/11/17  
Chief Secretary  
Govt. of Khyber Pakhtunkhwa

Secy Health

18/11/17

ASG

mya

R-11

20/11/17

P.O. / Secy (E) & AD  
D.A.C.S. Khyber Pakhtunkhwa  
No. 51/16  
Date 16/11/17  
Slip No. 9/6  
Dated 15/11/17

**Reference Para 1-16 of the Note:**

17. This Department conducted denovo enquiry against the doctor concerned in pursuance of the judgment dated 04.05.2017 of the Service Tribunal Peshawar which was completed on 31.08.2017 and show cause notice was issued to him on 21.11.2017. The doctor concerned preferred an execution petition No.221/2017 on 24.11.2017 before the service appeal No.97/2015.

18. The Service Tribunal Khyber Pakhtunkhwa on 29.05.2018 ordered that "admittedly the appellant has been reinstated into service as a result of the judgment passed in Service Appeal mentioned above. So far as the issue of Denovo inquiry is concerned, the respondent Department is also bound in that regard with the decision of this Tribunal in that very judgment, hence any action on the part of respondent Department beyond the ratio of that judgment would be of no legal effect. With these observations, the present execution petition is consigned to the record room leaving the parties to bear their own costs **(Annex-VIII)**.

19. In pursuance of above judgment of the Service Tribunal Khyber Pakhtunkhwa, the competent authority was pleased to reinstate Dr. Muhammad Ayub s/o Muhammad Yousaf, Medical Officer, BS-17 into service with immediate effect vide this Department Notification dated 27.08.2018 **(Annex-IX)** and subsequently he was posted at DHQ Hospital Haripur against the vacant post of MO, BS-17 vide this Department Notification dated 27.08.2018 **(Annex-X)**.

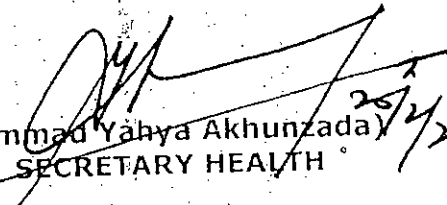
20. The Director General Health Services Khyber Pakhtunkhwa forwarded MS, DHQ Hospital letter along with an application alongwith its enclosure in respect of Dr. Muhammad Ayub, MO, BS-17 wherein requesting for regularization of his gap period (undecided period) between removal from service and re-instatement w.e.f. 14.05.2014 to 27.08.2018 **(Annex-XI)**. Moreover, the doctor concerned filed an execution petition No.38/2019 in service appeal No.97/2015, wherein the Honourable Court ordered dated 14.10.2019 "Petitioner with counsel present, Mr. Kabirullah Khattak, Addl: AG

alongwith Mr. Hazrat Shah, Supdt: for respondents present. It is regretted that respondent No.02 referred the case of the appellant to the Establishment Department for advice vide letter dated 07.01.2019 followed by reminders dated 03.08.2019 and 10.10.2019 but positive outcome is still awaited. Respondent No.02 is directed to ensure that required advice is procured from the said department failing which law will take its course. To come up for further proceedings on 12.11.2019 before S.B vide **(Annex-XII)**.

21. This Department asked views/guidance from Establishment Department vide letter dated 07.01.2019 **(Annex-XIII)**. In response to this Department letter, Establishment Department stated to submit Note for Chief Secretary Khyber Pakhtunkhwa for ex-post approval **(Annex-XIV)**.

22. In light of the above and in pursuance of advise of the Establishment Department and execution petition No.38/2019 in service appeal No.97/2015, of Khyber Pakhtunkhwa Service Tribunal, Peshawar, ex-post facto sanction for the gap period w.e.f. 14.05.2014 to 27.08.2018 for regularization according to the number of leaves in his credit while the rest may be regularized as Extra Ordinary Leave without pay in respect of Dr. Muhammad Ayub, MO, BS-17 attached to DHQ Hospital Haripur subject to the leave due from the quarter concerned.

23. The Chief Secretary, Khyber Pakhtunkhwa is requested to approve the proposal contained in Para-22 above, please.

  
(Muhammad Yahya Akhunzada)  
SECRETARY HEALTH

Chief Secretary,  
Khyber Pakhtunkhwa



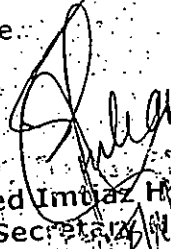
GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT

HD-16-74-00775

REFERENCE FROM PARA 32-35 OF THE NOTE

36. Reply to the observations of Establishment Department has already been given vide Para 28-30 of the instant note. Besides, Khyber Pakhtunkhwa Service Tribunal, Khyber Pakhtunkhwa is pressing hard for implementation of its Judgment dated 04.05.2017 in Service Appeal No. 97/2015 and is re-fixed for hearing as last chance to the Respondents on 20.01.2021.

37. In view of the above, it is kindly requested to allow placement of the proposal at Para 22 of the Note for approval / appropriate orders of the Chief Secretary, Khyber Pakhtunkhwa, Please.

  
(Syed Imtiaz Hussain Shah)  
Secretary Health

Chief Secretary Govt. of Khyber Pakhtunkhwa,



**GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT**

Dated: 01<sup>st</sup> March, 2021

**NOTIFICATION**

**No.SO(E)H-II/1-1/2021:** Ex-post facto sanction is hereby accorded to the grant of Extra Ordinary Leave (without pay) w.e.f 14.05.2014 to 27.08.2018 in respect of Dr. Muhammad Ayub, Medical Officer (BS-17), attached to DHQ Hospital Haripur.

**SECRETARY HEALTH  
KHYBER PAKHTUNKHWA**

**Endst. of even No. & Date.**

Copy to the:

1. Registrar, Service Tribunal Khyber Pakhtunkhwa, Peshawar
2. Accountant General Khyber Pakhtunkhwa.
3. Director General, Health Services, Khyber Pakhtunkhwa.
4. MS DHQ Hospital Haripur.
5. District Account Officer Haripur.
6. PS to Secretary Health, Khyber Pakhtunkhwa.
7. PA to Special Secretary Health (Estab), Khyber Pakhtunkhwa.
8. PA to Additional Secretary (E&A / B&D), Health Department.
9. PA to Deputy Secretary (Estab), Health Department.
10. Assistant Director (IT), Health Department, Peshawar.
11. Doctor concerned.
12. Master file.

**Section Officer (E-II)**

**Section Officer (E-II)  
Govt of Khyber Pakhtunkhwa  
Health Department.**



# SUPREME COURT OF PAKISTAN, ISLAMABAD

## FINAL CAUSE LIST 27 of 2021

From 12-Jul-2021 To 16-Jul-2021, at 9:00 AM

For fixation and result of cases, please visit [www.supremecourt.gov.pk](http://www.supremecourt.gov.pk)

The following cases are fixed for hearing before the Court at Islamabad during the week commencing 12-Jul-2021 at 9:00 AM or soon thereafter as may be convenient to the Court.

- (i) No application for adjournment through fax/email will be placed before the Court. If any counsel is unable to appear for any reason, the Advocate-on-Record will be required to argue the case.
- (ii) No adjournment on any ground will be granted.

### BENCH - I

MR. JUSTICE GULZAR AHMED, HCJ  
MR. JUSTICE IJAZ UL AHSAN

Monday, 12-Jul-2021

|        |  |  |  |                                     |
|--------|--|--|--|-------------------------------------|
| 1      | C.A.1441/2019<br>(Labour Cases / Others)<br>(Payment of wages)<br>(S.J.)<br>(C.O.)                         | Khurram Mustafa v. Mehtab Ahmed Khan & another   | Syed Rifaqat Hussain Shah, AOR (Enrl#239)<br>Kh. Muhammad Arif, ASC (Enrl#3526)<br>R - Notice  | (Rwp)<br>(Rwp)                      |
| 2      | C.A.1496/2019<br>(Service)<br>(Against regularization of service and pension benefits)<br>(S.J.)<br>(C.O.) | Ministry of Finance thr. its Secretary, Islamabad v. Syed Afroz Akhtar Rizvi & others    | Deputy Attorney General for Pakistan<br>Mr. M. S. Khattak, AOR (Enrl#178)<br>R - Notice<br>Syeda B. H. Shah, AOR (Enrl#253)<br>Mr. Muhammad Ramzan Khan, ASQ (Enrl#4884)                                 | (Rwp)<br>(Rwp)                      |
| 3      | C.P.2614-L/2018<br>(Service)<br>(S.J.)<br>(Ch.O.)<br>(Video Link)  | Khalid Mahmood v. Superintendent of Police CRO & Computerization, Lahore, etc            | Mr. Shaukat Ali Mahr, AOR (Enrl#224)<br>Malik Matee Ullah, ASC (Enrl#4738)<br>Additional Advocate General Punjab<br>Mr. Faiz-ur-Rehman, AOR (Enrl#183)   | (Lhr)<br>(Lhr)<br>(Lhr)             |
| 4      | C.P.739-P/2019<br>(Service / Promotion)<br>(S.J.)<br>(C.O.)  | Govt. of Khyber Pakhtunkhwa through Chief Secretary, Peshawar & others v. Fazli Ghufuran | Advocate General, Khyber Pakhtunkhwa<br>Mian Saadullah Jandoli, AOR (Enrl#241)<br>Mr. Anis Muhammad Shahzad, AOR (Enrl#267)<br>Mr. Fazal Shah, ASC (Enrl#4555)<br>Mian Saadullah Jandoli, AOR (Enrl#241) | (Pesh)<br>(Rwp)<br>(Pesh)<br>(Pesh) |
| and(2) | C.M.A.1640-P/2019 IN<br>C.P.739-P/2019<br>(Stay)   | Govt. of K.P. through Chief Secretary, Peshawar & others v. Fazli Ghufuran               |  |                                     |
| 5      | C.P.2134/2019<br>(Writ Petition / Service)<br>(Appointment)<br>(D.B.)                                      | Khurram Mehtab v. The University of Haripur thr. its Registrar & others                  | Syed Rifaqat Hussain Shah, AOR (Enrl#239)  | (Rwp)                               |
| and(2) | C.P.2135/2019<br>(Writ Petition / Service)<br>(Appointment)<br>(D.B.)<br>(Ch.O.)                           | Khurram Mehtab v. The University of Haripur thr. its Registrar & others                  | Syed Rifaqat Hussain Shah, AOR (Enrl#239)  | (Rwp)                               |
| 6      | C.P.9-P/2020<br>(Service / Promotion)<br>(D.B.)<br>(Ch.O.)   | Govt. of K.P. through Chief Secretary, Peshawar and others v. Muhammad Riaz              | Advocate General, Khyber Pakhtunkhwa<br>Mian Saadullah Jandoli, AOR (Enrl#241)   | (Pesh)                              |

Tuesday, 13-Jul-2021



GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT

Dated: 29<sup>th</sup> October, 2021

**NOTIFICATION**

**No.SO(H-E-II)/4-1/2021:** WHEREAS, under the Khyber Pakhtunkhwa Services Tribunal execution petition No. 38/2019 in service appeal No. 97/2015, the gap period in respect of Dr. Muhammad Ayub, Medical Officer (BS-17) w.e.f. 14.05.2014 to 27.08.2018 for Leave in credit as well as EOL (without pay).

WHEREAS, the doctor concerned proceeded abroad w.e.f. 08.09.2005 to 30.10.2009.

WHEREAS, Health Department, Government of Khyber Pakhtunkhwa notified the gap period in respect of the said doctor w.e.f. 14.05.2014 to 27.08.2018 vide Health Department notification No. SO(E)H-II/1-1/2021 dated 01.03.2021 as EOL (without pay).

AND WHEREAS, the Honorable Service Tribunal, Peshawar observed that the notification dated 01.03.2021 was neither in accordance with the Judgment of the Service Tribunal, Peshawar nor the summary for Chief Minister, Khyber Pakhtunkhwa.

NOW THEREFORE, the gap period in respect of Dr. Muhammad Ayub, Medical Officer (BS-17) attached to DHQ Hospital Haripur may be considered as follows:-

- i. The period w.e.f. 14.05.2014 to 05.05.2015 is allowed as Leave with full pay as per leave in credit; and
- ii. The period w.e.f. 06.05.2015 to 27.08.2018 is allowed as Extra Ordinary Leave (without pay).

SECRETARY HEALTH  
KHYBER PAKHTUNKHWA

**Endst. No. & date even**

Copy to the:

1. Registrar, Service Tribunal, Khyber Pakhtunkhwa, Peshawar.
2. Accountant General, Khyber Pakhtunkhwa, Peshawar.
3. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
4. MS, DHQ Hospital, Haripur.
5. District Account Officer, Haripur.
6. PS to Secretary Health, Khyber Pakhtunkhwa.
7. PA to Deputy Secretary (Litigation), Health Department.
8. Doctor concerned.
9. Master file.

(Latif ur Rehman)  
Section Officer (E-II)

12/11  
3:10 PM



GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT

Dated: 01<sup>st</sup> March, 2021

NOTIFICATION

No.SO(E)H-II/1-1/2021: Ex-post facto sanction is hereby accorded to the grant of Extra Ordinary Leave (without pay) w.e.f 14.05.2014 to 27.08.2018 in respect of Dr. Muhammad Ayub, Medical Officer (BS-17), attached to DHQ Hospital Haripur.

SECRETARY HEALTH  
KHYBER PAKHTUNKHWA

Endst. of even No. & Date.

Copy to the:

1. Registrar, Service Tribunal Khyber Pakhtunkhwa, Peshawar
2. Accountant General Khyber Pakhtunkhwa.
3. Director General, Health Services, Khyber Pakhtunkhwa.
4. MS DHQ Hospital Haripur.
5. District Account Officer Haripur.
6. PS to Secretary Health, Khyber Pakhtunkhwa.
7. PA to Special Secretary Health (Estab), Khyber Pakhtunkhwa.
8. PA to Additional Secretary (E&A / B&D), Health Department.
9. PA to Deputy Secretary (Estab), Health Department.
10. Assistant Director (IT), Health Department, Peshawar.
11. Doctor concerned.
12. Master file.

Section Officer (E-II)

Government of Khyber Pakhtunkhwa  
Health Department

*[Handwritten signature]*

To,

Registrar  
Service Tribunal, Peshawar.

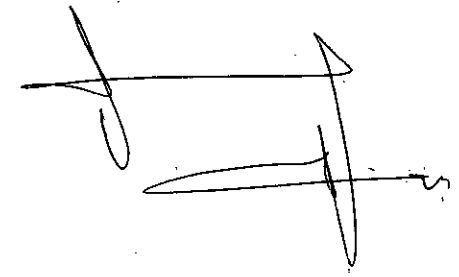
Sub:- Meeting at Law Deptt Regarding  
Atiq-ur-Rehman Case.

With due respect it is brought in your  
kind honour that today i.e 05-01-2022, a  
Meeting has been conducted at Law department  
regarding final implementation of in atiq-ur-Rehman  
Case in which upto next wednesday meeting  
will also be conducted regarding the said  
Case for final ~~execution~~ implementation  
and ~~file~~

Place on file

9

Wasim Ullah Wazir  
Section Incharge



Date: 05-01-2022

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

Implementation Petition No 38/2019

In

Service Appeal No 97/2015.

Dr Muhammad Ayub.....Petitioner/Appellant.

**V E R S U S**

Govt & Others.....Respondents

**COUNTER AFFIDAVIT/OBJECTIONS REGARDING NOTIFICATION DATED 01.03.2021 ON BEHALF OF THE PETITIONER / APPELLANT.**

That the said Notification/letter dated 01.03.2021 is totally irrelevant and not in consonance with the judgment under implementation, regarding which para No. 8 is very much clear as according to the Judgment of this Honorable Tribunal the period during which the appellant remained out of service shall be treat as leave of the kind due. Furthermore the judgment under implementation was passed on 04.05.2017 while the appellant was reinstated on 27.08.2018, thus he was deprived of the salary/benefits of about 15 months without any commission or omission on his part.

It is therefore requested that respondents be directed to implement the judgment of this Honorable Tribunal in its True letter and spirit.

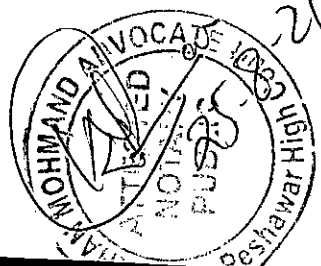
Dated:-25-08-2021

*Ayub*  
Petitioner/Appellant  
Through

*Fazal Shah Mohmand*  
FAZAL SHAH MOHMAND  
ADVOCATE,  
SUPREME COURT OF PAKISTAN.

**AFFIDAVIT**

I, Dr Muhammad Ayub, (the Petitioner/appellant), do hereby solemnly affirm and declare on oath that the contents of this **Counter Affidavit/Objection** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.



*Ayub*  
DEPONENT