

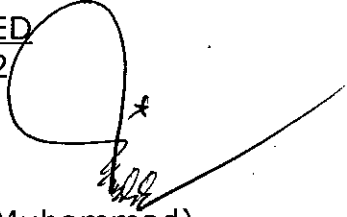
Service Appeal No. 545/2019


O R D E R
28.04.2022

Learned counsel for the appellant present. Mr. Safiullah, Focal Person alongwith Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, placed on file of Service Appeal bearing No. 541/2019 titled "Dr. Mustafa Versus Government of Khyber Pakhtunkhwa through Chief Secretary and four others", the appeal in hand stands dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
28.04.2022


(Mian Muhammad)
Member (Executive)


(Salah-ud-Din)
Member (Judicial)

25.04.2022


Proper D.B is not available, therefore, case to come up for proper D.B on 27.04.2022.



READER

27.04.2022

Syed Noman Ali Bukhari, Advocate for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Syed Noman Ali Bukhari, Advocate stated at the bar that as Mr. Malik Akhtar Ali, Advocate is co-counsel in the instant appeal and he was under the impression that the same will be argued by the said counsel, however the said counsel has informed him that he is unable to appear before the Tribunal today due to illness. Syed Noman Ali Bukhari, Advocate requested that an adjournment may be granted so as to enable him to argue the instant appeal. Adjourned. To come up for arguments on 28.04.2022 before the D.B.


(Mian Muhammad)
Member (E)



(Salah-ud-Din)
Member (J)

20.10.2021

Counsel for the appellant present.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 31.01.2022 before D.B.



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



(Rozina Rehman)
Member (J)

31.01.2022

Learned counsel for the appellant present. Mr. Naseer ud Din Shah Assistant Advocate General for the respondents present.

File to come up alongwith connected Service Appeal bearing No.541/2019 titled Dr. Mustafa Vs. Government of Khyber Pakhtunkhwa on 31.03.2022 before the D.B.



(Rozina Rehman)
Member (J)

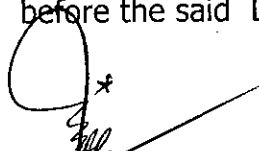


(Salah-Ud-Din)
Member (J)

31.03.2022

Counsel for the appellant and Mr. Muhammad Adeel Addl. A.G for the respondents present.

Learned AAG states that similar nature of appeals have been decided by a Bench comprising of Mr. Salah-ud-Din, learned Member (Judicial) and Mr. Mian Muhammad, learned Member(Executive). Therefore, this appeal is also placed before the said Bench. To come up for arguments on 25.04.2022 before the said D.B.



(Mian Muhammad)
Member(Executive)



Chairman

12.4.21

Due to COVID 19, The case
is adjourned to 28.7.21 for the same



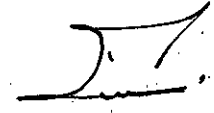
28.07.2021

Clerk of counsel for the appellant present. Mr. Javed Ullah
Assistant Advocate General for the respondents present.

Clerk of counsel for the appellant stated that learned
counsel for the appellant is unable to attend the Tribunal today
due to strike of Lawyers. Adjourned. To come up for arguments
before the D.B. on 20.09.2021.



(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

20.09.2021

Counsel for the appellant and Mr. Javaidullah, DDA for
the respondents present.

Learned counsel for the appellant seeks adjournment
for preparation and assistance. Request is accorded. To
come up for arguments on 20.10.2021 before the D.B.



(Rozina Rehman)
Member(Judicial)



Chairman

10.09.2020

Counsel for the appellant and Addl. AG alongwith Hazrat Shah, S.O for the respondents present.

The respondents have not furnished reply/comments despite last opportunity granted to them on previous date of hearing. The matter is, therefore, posted to D.B for arguments on 17.11.2020.

Chairman



17.11.2020

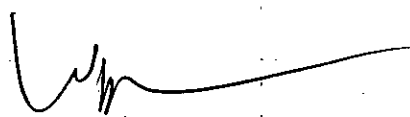
Counsel for appellant present.

Zara Tajwar learned Deputy District Attorney for respondents present.

A request for adjournment was made. Request is acceded. To come up for arguments on 01.02.2021 before D.B.

(Atiq ur Rehman Wazir)
Member (E)

(Rozina Rehman)
Member (J)



01.02.2021

Due to COVID-19, the case is adjourned to 12.04.2021 for the same.

Reader



06.03.2020

Counsel for the appellant present. Mr. Kabirullah Khattak learned Additional AG alongwith Saleem Javed Litigation Officer for respondent No. 1 to 4 and Sajid Superintendent for respondent No.5 present. Written reply not submitted. Representatives of respondent No. 1 to 5 seeks time to furnish written reply/comments. Adjourned. To come up for written reply/comments on 15.04.2020 before S.B.


(Hussain Shah)
Member

15.04.2020

Due to public holiday on account of COVID-19, the case is adjourned to 09.07.2020 for the same. To come up for the same as before S.B.



Reader

09.07.2020

Counsel for the appellant present.

Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Hazrat Shah Superintendent, for the respondents present.

Written reply on behalf of respondents is still awaited. Again, a request was made for adjournment in order to furnish written reply/comments. Last opportunity is granted. To come up for written reply/comments on 10.09.2020 before S.B.


Member (J)

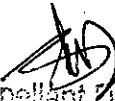
545/19

12.09.2019

Counsel for the appellant present.

Learned counsel states that security and process fee as required on 11.07.2019 could not be deposited due to unavoidable circumstances and submitted an application for extension of time to deposit the same.

Application is allowed. The appellant is required to deposit the requisite fee within further three working days. Thereafter, notices be issued to the respondents for submission of written reply/comments on 25.11.2019 before S.B.


Appellant Requested
Security & Process Fee

Chairman 

25.11.2019

Junior to counsel for the appellant and Addl. AG alongwith Amjad Ali, Assistant and Muhammad Sajid, Superintendent for the respondents present.

Representatives of the respondents seek time to furnish the reply/comments. Adjourned to 07.01.2020 on which date the requisite reply/comments shall positively be submitted.

Chairman 

07.01.2020

Counsel for the appellant and Addl. AG alongwith Sher Baz, SO for the respondents present.


Representative of the respondents seeks time to furnish reply/comments. Adjourned to 06.03.2020 on which date the requisite reply/comments shall positively be furnished.

Chairman 

Service
Before The Tribunal after Petition
Appeal No $\frac{545}{2009}$
Dr. Balkrishna Zeda Vs - Govt of K.P.K. Petete.

Sir,
That the Appeal is admitted
for full hearing with the direction to
deposit the requisite Security Amount
& process fee.

I may please be allowed to
deposit the requisite fees.


Appellant
through Counsel.

Dated $\frac{15}{12}$ 2009

11.07.2019

Counsel for the appellant present.

8/24/19

Contends that the appellant was appointed initially on contract basis on 23.11.1995. Subsequently through notification dated 17.10.2017 his service was regularized but with effect from 01.07.2001. In the said manner the intervening period between 24.11.1995 and 01.07.2001 was not counted towards the service benefits in favour of the appellant. Further contends that it has been settled by now that the period of service put in on adhoc or contract basis is to be reckoned for the purpose of seniority and other benefits upon subsequent regularization of a civil servant. Relies on judgment reported as 2018-SCMR-380.


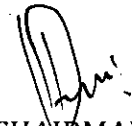

In view of the arguments of learned counsel instant appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 12.09.2019 before S.B.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. _____ 545/2019 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	29/04/2019	<p>The appeal of Dr. Bakhtzada resubmitted today by Malik Akhtar Ali Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 29/4/19</p>
2-	30/04/19	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>12/06/19</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	12.06.2019	<p>Notice be issued to appellant/counsel for rehearing in limine on 11.07.2019 before S.B.</p> <p style="text-align: right;"> Chairman</p>

The appeal of Dr. Bakht Zada received today i.e. on 03.04.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Index of the appeal may be prepared according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- Address of the appellant is incomplete which may be completed according to the Khyber

JPA

11.07.2019

Counsel for the appellant present.

Contends that the appellant was appointed initially on contract basis on 24.11.1995. Subsequently, through notification dated 17.10.2017, his service was regularized but with effect from 01.07.2001. In the said manner, the intervening period between 24.11.1995 and 01.07.2001 was not counted towards the service benefits in favour of the appellant. Further contends that it has been settled by now that the period of service put in on adhoc or contract basis is to be reckoned for the purpose of seniority and other benefits upon subsequent regularization of a civil servant. Relied on judgment reported as 2018-SCMR-380.

In view of the arguments of learned counsel instant appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 12.09.2019 before S.B.

Chairman

1999/11/3
11/3
3

Objections no. 3, 7, 8, 9 and 11 are still stands, therefore, the present appeal is returned to the counsel for the appellant for completion and resubmission within 15 days.

Registrar

NO. 778 /S.T

dt. 19-4-2019

Resubmitted after completion. Appointment order
Regularization Order. Departmental appeal.
High Court Judgment - 7 copies placed on file
The sole question involved in appeal that
whether contract period be considered for seniority
or NDT. As the Appellant has
retain of copy of Departmental
appeal. But recording time
Shows that Departmental Appeal.

Registrar

29/4/2019

The appeal of Dr. Bakht Zada received today i.e. on 03.04.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Index of the appeal may be prepared according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- Address of the appellant is incomplete which may be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 3- In the memo of appeal places have been left blank which may be filled up.
- 4- Annexures of the appeal may be attested.
- 5- Appeal has not been flagged/marked with annexures' marks.
- ~~6- In the memo of appeal places have been left blank which may be filled up.~~
- 6- Copies of Writ Petition and order passed on writ petition mentioned in para-5 of the memo of appeal are not attached with the appeal which may be placed on it.
- 7- Order dated 17.10. 2017 is incomplete which may be completed.
- 8- Copy of impugned order and departmental appeal against it are not attached with the appeal which may be placed on it.
- 9- Annexures of the appeal are illegible which may be replaced by legible/better one.
- 10- Appeal containing overwriting is not acceptable-Fair appeal be filed.
- 11- Seven more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 588 /S.T.

Dt. 5/4 /2019

REGISTRAR

SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Malik Akhtar Ali Adv. Mardan.

Resubmitted after completion
Repeat appeal on 12-12-2018. Appeal Refuse this
Honorable Court on 3-4-2019. Appeal with in
time - Appeal was appointed on 21-11-1995 on
Contract Basis Regularized on 1-7-2019. Intending
Pension was awarded for Seniority

Malik Akhtar Ali
18/4/2019

BEFORE THE PROVINCIAL SERVICE TRIBUNAL PESHAWAR

Appeal No. 545 /2018

Dr. Bakht Zada

Versus

Govt. of KPK Health Department

INDEX

S. No.	Description	Annex	Page Number
1	Ground of Appeal		1-3.
2	Appointment Order	A	4
3	Regularization Notification	'B'	5-6.
4	Department Appeal	C	7
5	Wakalatnama		8

Deponent

Bakht Zada

Dr. Bakht Zada

Identified by

Malak Akhtar Ali Khan

Malak Akhtar Ali Khan Advocate
Mardan

BEFORE THE PROVINCIAL SERVICE TRIBUNAL PESHAWAR

Appeal No. 545 /2019

Dr. Bakht Zada Demonstrator /smo
Swat Medical College Swat

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 515

Dated 03/4/2019

Versus

1. Govt. of KPK through Chief Secretary.
2. Secretary to Govt. of KPK, Health Department Khyber Pakhtunkhwa, Peshawar.
3. Secretary of Govt. of KPK, Law & Parliamentary Affairs Department Civil Secretariat Peshawar.
4. Secretary of Govt. of KPK, Establishment Department Civil Secretariat Peshawar.
5. Secretary to Finance Department KPK, Civil Secretariat Peshawar.

APPEAL U/S SECTION-4 OF THE SERVICE TRIBUNAL ACT 1974 AGAINST THE DECISION OF RESPONDENTS NO.1-4 WHEREBY THEY HAD NOT CONSIDERED THE CONTRACT PERIOD OF PETITIONER SERVICES W.E.F 1995 TO 2001 WHEREBY THEIR CONTRACT PERIOD ABOUT 5/6 YEARS WERE NOT CONSIDER FOR SENIORITY MOVE OVER IN VIOLATION OF THE JUDGMENT OF HONORABLE SUPREME COURT AS LAID DOWN IN 2008 SCMR PAGE-380.

Filed to-day

Registrar

3/4/19

FACTS:

1. That the appellants No.1 were appointed on contract basis in the Health Department under supervision of Respondent No.1 Medical Officer BPS-17 in the year 21-11-1995
2. That the appointment on contract basis as stop gap arrangement.
3. That in Govt. of KPK Civil Secretariat Amendment Act 2013. The appellants were regularization W.E.F 01.07.2001.
4. That the intervening period w.e.f 21-11-1995 upto 01.07.2001 were not considered for seniority, more over. To the next grade etc.

Re-submitted to -day
and filed.

Registrar

29/9/19

5. That the appellants filed W.P No.35/8/2017 before Peshawar High Court Peshawar, whereby appellants were directed to approach service tribunal for their grievances, which may kindly be considered as department appeal.
6. That the appellants in directions of Honourable Peshawar High Court filed. This appeal on the following grounds inter alia grounds:
 1. That the acts of respondent No.1 is illegal, against wrong & clear violation of authoritative judgment of Honorable Supreme Court needs to strick down.
 2. That respondents No.1 while the intervening period of appellants w.e.f 21-11-1985 till 01.07.2001 for the purpose of seniority is unjustified, illegal as there was no break in their services no adverse remarks. As the appellants were performing the similar duty, same responsibility, same obligation no difference in their duties, responsibility obligation to that of regular employee. Doctors duly appointed by competent authority. Such ignorance of intervening period is not permissible in the eye of law reliance be placed PLD 1970 Queta 15.
 3. That in view of 2014 SMR 1289 seniority will be reckoned from the initial appointment.
 4. That in view of 2018 SMR 380 that any civil servant works on temporary adhoc contract basis for 10 years in BPS-17 shall be entitled to be promoted to BPS-18. Meaning thereby contract period shall be considered from seniority, moreover etc. but respondents No.1 rais ignored such authoritative judgment of apex court has committed gross illegalities.
 5. That the judgments of Apex court is binding on all organ of the country and are under legal obligation to follow the verdict of Apex court.
 6. That the Appellants seeks leave of this court Honorable Tribunal to agitate further grounds als.

It is therefore humbly prayed that on acceptance of this appeal, this Honorable Tribunal may be kindly considered the intervening period w.e.f 1985 till 2001 for the purpose seniority move over along with back benefits otherwise the junior most will become senior to the appellants.

Appellant: Bazada

Through

Dr. Bakht Zada
Malak Akhtar Ali Khan Advocate
Mardan.

AFFIDAVIT

Dr. Bakht Zada Demonstrator SMO, SMC S.W.P. for the appellant do hereby declare on oath that the contents of this review petition are correct and nothing has been concealed from this Honorable Court.

Deponent Bazada

Dr. Bakht Zada
Oath Commissioner
Fazal Ghafoor
Advocate
Distt. Court's Mardan

Amir A
(u)

Amir A

DIRECTORATE GENERAL HEALTH SERVICES, NWFP, PESHAWAR.

NO. _____ /E-I,

DATED: _____ /1995.

To,

Dr. Bahit Zada S/o
Amir Muhammad

SUBJECT: - OFFER OF APPOINTMENT ON CONTRACT BASIS.

MEMORANDUM: -

Reference your application on the above subject for the post of Medical Officer/ Women Medical Officer/ Dental Surgeon.

1. The Competent authority is hereby appoint you as Medical Officer/ Women Medical Officer/ Dental Surgeon in the Health Department, Govt. of NWFP, on contract basis in E-17 for a period of one year or till the availability of Public Service Commission selectee/ return of original incumbent from leave/deputation whichever is earlier, on the terms and conditions laid down in the attached Agreement Deed. You shall be posted to B.M. Guli Begh Distt. Swat. This contract appointment is not transferable.
2. This contract appointment is subject to your physical fitness for which you will appear before the Medical Board constituted by the Government.
3. If you accept the offer of appointment on contract basis as a Medical Officer/Women Medical Officer/Dental Surgeon, the attached Agreement Deed should be filled in duly signed by you and should report at your own expense.
4. If you fail to report for duty at the station specified in para-3 above, within Ten (10) days, the offer of appointment on contract basis will be deemed to have been withdrawn automatically and no further correspondence shall be entertained in this respect.

*Notice in A/P
1 day file
[Signature]*

(DR. AEMAT KHAN AFRIDI)
DIRECTOR GENERAL HEALTH SERVICES, NWFP, PESHAWAR.

NO. 27552-55 /E-I, Dated Peshawar, the 21/11/1995.

Copy forwarded to the :-

1. Secretary to Govt. of NWFP, Health Deptt. Peshawar for information with reference to his letter No. SO(H/IV/3-18/93, dated 16th Nov. 1995.
2. Medical Supdt: _____ for information & n/action.
3. Divisional Director Health Services Malakand
4. District Health Officer/Agency Surgeon Swat
5. Accountant General, NWFP, Peshawar.
6. District/Agency Accounts Officer Swat for information and n/action please.

(DR. AEMAT KHAN AFRIDI)
DIRECTOR GENERAL HEALTH SERVICES, NWFP, PESHAWAR.

KHUSHDIL

[Handwritten signatures and notes]

Amme B^{no}

(A)

(S)

Ammed
UNM/AS/2017



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar the 17th October 2017

NOTIFICATION

NO. SO/EIH-III/3-18/2016: In pursuance of Judgment of Peshawar High Court Peshawar dated 18-11-2008 in Writ Petition No. 1510 of 2007 read with sub section 2 of Section 2 of the Khyber Pakhtunkhwa Civil Servant (Amendment) Act, 2005 (Khyber Pakhtunkhwa Act no IX of 2005) and provision under sub section 4 of section 19 of Civil Servant (Amendment) Act 2013 coupled with the regularization order of appellants and similarly placed w-e-f 2005, the services of following doctors (appellants as well as similarly placed) are hereby regularized with effect from dates as mentioned against each:

S. #	Name of Doctor	D.O.B / Domicile	Date of Initial Appointment on contract basis	Date of Regularization under Act 2005
1	Dr. Bakht Zada S/O Gul Muhammad, MBBS	01.01.1959 / Swat	23.11.1995	01-07-2001
2	Dr. Dawa Khan S/O Sadehah Khan MBBS	01.09.1951 / Swat	23.11.1995	01-07-2001
3	Dr. Haroon Nasir Khattak S/O Rab Nawaz MBBS	Karak / 1.3.1966	23.11.1995	01-07-2001
4	Dr. Yousaf Khan S/O Said Rehman MBBS	Mardan / 14.3.1968	23.11.1995	01-07-2001
5	Dr. Riaz Ahmed S/O Rehmatullah MBBS	Mohmand / 15.8.1951	23.11.1995	01-07-2001
6	Dr. Alamgir Khan S/O Darwesh Khan, MBBS	16.04.1962 / Mohmand A	23.11.1995	01-07-2001
7	Dr. Muhammad Ajmal Khan S/O Zarin Khan MBBS	Mohmand ag / 10.04.67	23.11.1995	01-07-2001
8	Dr. Fazal Rehman S/O Muhammad Amir Khan, MBBS/MPH	28.04.1966 / Mohmand Agency	23.11.1995	01-07-2001
9	Dr. Mustafa S/O Behramand, MD	01.03.1951 / Swat	24.11.1995	01-07-2001

Director General
Health Department
Government of Khyber Pakhtunkhwa

6

Amir
8/4/2008

16

656	Dr. Muhammad Fayaz s/o Muhammad Aziz	Swat	15.04.1973	09.03.2005	08.03.2005
657	Dr. Jehanzeb s/o Abdul Samad Jan MBBS	Diraly	2.12.1973	08.02.2005	08.02.2005
658	Dr. Adil Khan s/o Fazi Sabhan MBBS	Charsadda	22.12.1978	08.03.2005	08.03.2005
659	Dr. Ayub Khan s/o Ismail Khan MBBS	Charsadda	25.02.1979	09.03.2005	08.03.2005
670	Dr. Farhana s/o Hassan Ahmad MBBS	Diraly	07.08.1978	08.03.2005	08.03.2005
671	Dr. Muhammad Zubair s/o Muhammad Bashir MD	Swat	11.04.1976	08.03.2005	09.03.2005
672	Dr. Aziz Muhammad s/o Khalid Muhammad MD	Dir(L)	15.3.1977	08.03.2005	08.03.2005
673	Dr. Mushafiq Ahmad s/o Badshahul Muq MD	Dir (L)	24.10.1978	08.03.2005	08.03.2005
674	Dr. Farhat Wahid s/o Khana C/o MD	Dir	11.02.1977	08.03.2005	08.03.2005
675	Dr. Nazamud Din s/o Qalandar Khan MBBS	Dir(L)	19.3.1971	08.03.2005	08.03.2005
676	Dr. Umar Hakeem s/o Abdul Karim Khan MBBS	Bajaur	28.4.1971	08.03.2005	08.03.2005
677	Dr. Nisar Ahmad s/o Amir Muhammad MD	Dir(L)	1.2.1971	08.03.2005	08.03.2005
678	Dr. Sher Muhammad s/o Sakhi Murad MBBS	NYA Agency	08.08.1976	08.03.2005	08.03.2005
679	Dr. Naeemullah s/o Abdullah MBBS	Swat	01.02.1981	08.03.2005	08.03.2005
680	Dr. Akhtar Ali s/o Sarfaraz Khan MBBS	Swat	25.10.1977	08.03.2005	08.03.2005

Secretary
Govt. of Khyber Pakhtunkhwa
Health Department

Note: Any omission/error will be rectified after verification

SECRETARY HEALTH

Endt No of even and date.

1. Registrar, Peshawar High Court Peshawar
2. Accountant General, Khyber Pakhtunkhwa
3. Director General Health Services, Khyber Pakhtunkhwa
4. PSO to Chief Secretary, Khyber Pakhtunkhwa
5. Coordinator PMRU, O/O Chief Secretary, Khyber Pakhtunkhwa
6. All District Health Officers in Khyber Pakhtunkhwa

P.T.O

7

Handwritten signature/initials



**DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR**

All communications should be addressed to the Director General Health Services Peshawar and not to any official by name E-Mail Address K.P.Kdghs@yahoo.com Office # 091-9210269 Exchange # 091-9210187, 9210196 Fax # 091-9210230
NO 251-52 E-I(B-16) Dated: 07/01/2019

To

Anne 'e'

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

Subject: **DEPARTMENTAL APPEAL/REPRESENTATION.**
Dear Sir,

I have the honour to enclose herewith a copy of letter No. 6839-40/SMC/PF dated 17.12.2018 from Chief Executive SGTH/SMC Swat alongwith self explanatory application of Dr. Bakht Zada Demonstrator/SMO (BPS-18) requesting for counting his intervening period of contract for seniority and other benefit, for favour of further necessary action.

It is stated that Dr. Bakht Zada Demonstrator/SMO (BPS-18) SMC Swat was initially appointed as MO (BPS-17) on contract basis w.e from 23.11.1995. His contract service have been regularized w.e from 01.07.2001 under Khyber Pakhtunkhwa Civil Servant (Amended) Act 2005.

It is therefore requested that necessary order of the Govt. may please be conveyed in the matter.

Handwritten signature
ADDL: DIRECTOR GENERAL (HRM)
DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR

CC:
Chief Executive SGTH/SMC Swat for information w/r to his letter referred above.

IZHAR KHAN
January, 2019

Handwritten notes and signatures:
S.M.C.
O-S
Jm
WA
[Signature]

petitioners were regularized from 2001. According to the petitioners, respondent No.4 is trying to prepare seniority list, in which, their intervening period in between 1995 to 2001 has been ignored for seniority purpose, which will result the junior most will become senior to them although their services are without break. Moreover, the act of respondent No.4 is based on discrimination as Dr. Muhammad Iqbal was appointed on regular basis w.e.f. date of his initial appointment; hence, feeling aggrieved, the petitioner has filed the instant Writ Petition.

3. Arguments heard and record perused.

4. Admittedly, the grievance of petitioners relates to '*terms and conditions*' of their service, the appropriate remedy for seeking their redressal, would surely be the Services Tribunal.

5. This Court is barred under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973 to take cognizance of any matter relating to '*terms and conditions*' of service of a civil servant. The Apex Court in Ali Azhar Khan

Baloch's case (2015 SCMR 456), has again laid down that

ATTESTED
EXAMINER
Peshawar High Court
JAN 2019

(8)

the issue relating to the 'terms and conditions' of service cannot be entertained by a High Court either in its constitutional jurisdiction or in its original civil jurisdiction being barred under Article 212 of the Constitution.

6. In view of the above, this Writ Petition being not maintainable is hereby dismissed. However, the petitioners may approach the Services Tribunal for redressal of their grievance.

ANNOUNCED.
Dated: 30.10.2018

Chief Justice

CL
Page

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CERTIFIED TO BE TRUE COPY

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Peshawar High Court, Peshawar
Authorized Under Article 5.7 of
The Qanun-e-Shahadat Order 1986

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بعدالت صوبائی سروس ٹریبونل لاہور

کورٹ فیس

مورخہ: 20 منجانب اسلم

مقدمہ: ڈاکٹر محبت زادہ بنام: صوبائی عہدہ حاملہ

دعویٰ: رسل

جرم:

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی ر متعلقہ آن مقام لاہور سے لے کے مندرجہ علی خان اور اولاد مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرانے اجراء اور وصولی چیک روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زراس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یک طرفہ یا اپیل کی برآمد ہوگی اور منسوخ دائر کرنے کی اپیل نگرانی، نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مذکور کے عمل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اسکا ساختہ برداشت منظور و قبول ہوگا اور دوران مقدمہ میں جو خرچہ دہر جانہ التوائے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیرونی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

المرقوم _____ ماہ _____ 20

الع بد گواہ شادہ الع بد

بمقام: کے لئے منظور ہے۔

Handwritten signature

Handwritten signature

VAKALATNAMA

NO. _____ /20

IN THE COURT OF KP Justice Faizul, Reshawan

Dr. Balcht Zada

Appellant
Petitioner
Plaintiff

VERSUS

Govt of KP

Respondent (s)
Defendants (s)

I/WE Dr. Balcht Zada

do hereby appoint and constitute the **SYED NOMAN ALI BUKHARI Advocate High Court** for the aforesaid Appellant(s), Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party to commence and prosecute / to appear and defend this action / appeal / petition / reference on my / our behalf and all proceedings that may be taken in respect of any application connected with the same including proceeding in taxation and application for review, to draw and deposit money, to file and take documents, to accept the process of the court, to appoint and instruct council, to represent the aforesaid Appellant, Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party agree(s) ratify all the acts done by the aforesaid.

DATE _____ /20

[Signature]
(CLIENT)

ACCEPTED

[Signature]
SYED NOMAN ALI BUKHARI
ADVOCATE HIGH COURT