

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 1974/2019

Date of Institution ... 20.12.2019

Date of Decision ... 02.09.2020

Muhammad Siraj S/O Muhammad Akbar J/C Services Hospital
Peshawar R/O Warsak Road Patwar Payan Peshawar.

... (Appellant)

VERSUS

Director General Health Services Khyber Pakhtunkhwa, Directorate
of General Health Services Peshawar and two other respondents.

... (Respondents)

MR. ZAHIDULLAH ZAHID,
Advocate

--- For appellant.

MR. RIAZ AHMAD PAINDAKHEIL,
Assistant Advocate General

--- For respondents.

MUHAMMAD JAMAL KHAN
MIAN MUHAMMAD

--- **MEMBER (Judicial)**
--- **MEMBER (Executive)**

JUDGMENT:

MUHAMMAD JAMAL KHAN, MEMBER:- By virtue of the instant appeal submitted under Section 4 of the Khyber Pakhtunkhwa Services Tribunal Act, 1974, office order dated 18.11.2019 passed by the Director General Health Services, Khyber Pakhtunkhwa, Peshawar, has been called in question.

2. That being a bonafide resident of Peshawar, he is rendering his job as a Junior Clerk in the Health Department of the Province and at the moment he is posted at Services Hospital, Peshawar, vide office order dated 03.12.2018. It was after a very short span of time and in derogation of the Transfer Posting Policy and due to

extraneous political pressure, victimization and ill will malafidely that he was transferred to Gujju Khan, Medical College, Swabi, vide office order dated 18.11.2019. He sought his remedy from the august Peshawar High Court, Peshawar, by movement of Writ Petition bearing No. 6523/2019 nonetheless, he was directed to approach this Hon'ble Tribunal vide order dated 05.12.2019. According to the appellant the transfer so made is premature forcing him to move departmental appeal to the competent authority vide his appeal dated 25.11.2019 which was turned down on the basis of order dated 18.12.2019 necessitating, the filing of instant service appeal.

3. Respondents were noticed and in compliance thereof they attended the court through their legally authorized representative as well as through the Assistant Advocate General, controverting the averments of appellant by raising of various legal and factual objections in their respective reply, such as cause of action, locus standi and exertion of pressure on respondents.

4. We have listened arguments of the learned counsel for appellant and also adverted to the arguments addressed by the learned Assistant Advocate General, and were able to go through the record on file with their valuable assistance in view of which our findings are being recorded in the following paras.

5. Before embarking on the venture of adjudicating the issues involved it is deemed appropriate to have a record of a gist of arguments put forward by the respective counsel and being responded by the Assistant Advocate General. The main stress of the arguments of the learned counsel was that the transfer of appellant was made without completion of his tenure at the given place in utter derogation and contravention of the Posting Transfer Policy as promulgated by the Provincial Government of Khyber Pakhtunkhwa. It was due to extraneous political pressure with a malafide intention that his transfer was made warranting no

justification or urgency thus violating his valuable rights. No reason whatsoever has been put forth as regards the public interest although it was incumbent upon the respondents to have proved this factum beyond any shadow of doubt. The learned counsel placed reliance on 2014 PLC (C.S) 999, 2014 PLC (C.S) 1045 and 2018 PLC (C.S) 50.

6. Conversely, the learned Assistant Advocate General submitted that by virtue of Section-10 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, a civil servant is bound to serve anywhere in the province. He argued that appellant has made concealment of certain material facts worth noticeable as he has not disclosed the date of his appointment and the period of twelve years he served continuously at the last place of posting which must have been unfolded in the rejoinder but nothing of the sort was done. As regards the affidavit he submitted that the deponents are the kith and kins or the persons of his conversance having no evidential value. That legally a civil servant is not allowed to be posted to the place of his choice.

7. It is reflected on the surface of the record on file that the appellant remained posted lastly at DHO Office, Peshawar, where from he was posted to the Services Hospital, Peshawar, by virtue of the order dated 03.12.2018 passed by the Director General Health Service, Khyber Pakhtunkhwa, Peshawar, who stands as respondent No. 1. Nevertheless, in a span of few months he was transferred from the Services Hospital, Peshawar, to Gujju Khan, Medical College, Swabi. No urgency or justification has been highlighted which necessitated the premature transfer of appellant nor any clue as to the public interest has been revealed or disclosed to be an obvious rationale behind the making of the impugned order which has been single handedly passed to the exclusion of any other official of the same rank and file.

8. According to the tenets of the Provincial Government Transfer and Posting Policy a civil servant when posted shall remain there at least for two years unless and until his transfer is warranted by certain exigencies, urgencies or in the greater public interest which of course must be the paramount guiding principles for the subject purpose following it in its letter and spirit which is the clear dictates and mandate of the law and the constitution. Any derogation, violation or any deviation from the cannon of laws would give rise to a right in favour of the affected civil servant who has plenary rights to have recourse to the Tribunal for the redressal of his grievance. When the mandate of law is transgressed in that eventuality the whole burden of proof, that it was passed within the prescribed limits of law, shifts to the respondents which they have failed to discharge. A civil servant can render his services only when he is provided with ample opportunity of deliverance and above all be treated across the board without any sort of discrimination. If civil servants are not treated at par with their own colleagues it would definitely have a negative impact on their moral inevitable affecting their performance.

9. Furthermore, it is incumbent upon the authority rather mandatory to prove the very basis of the order so made with a bonafide intention, for amelioration of the interest of society at large lest the order so made would tantamount to have been passed due to extraneous circumstances by exertion of pressure and in this regard political involvement could not be ruled out which can undo the whole fabric and structure of the entities and establishments. The Hon'ble apex court of the homeland has held in categorical terms such a transfer with disfavor, an excerpt from the valuable judgment here under would not be out of context in this regard. Reliance in this regard is placed on 2014 PLC (C.S) 1045.

"All sorts of transfer orders were sought to be justified in the name of "public interest", without comprehending the implications thereof---Expression "public interest" denoted that it was the supreme interest of the public that was to be factored into at the time of passing such orders---Roving inquiry was not required to find out "public interest"---Public interest" was to be discernible from a mere reading of the order in question---High Court observed that time had come when Government departments were sounded not to invoke the overworked cliché of "public interest" to justify their illegal, unlawful and motivated orders passed at the behest of the influential persons--- Superior Courts had invariably viewed with disfavor the postings and transfers of public servants every few months--- Constitutional petition was allowed".

10. In another judgment the apex court out rightly held that transfer of a civil servant by illegal recommendation and interference by the minister was void and unlawful, reliance in this regard is placed on 2018 PLC (C.S) Note 50.

11. While dilating upon the issue of affidavits submitted by certain deponents either having relation or have acquaintance with the appellant could not be excluded from consideration unless and until a strong rebuttable evidence of un-impeached character is produced. It was also held by the Hon'ble apex court of the Azad Jammu and Kashmir that when some facts were alleged and supported by an affidavit, if, there was no rebuttal from the other side by filing counter affidavit, same would be deemed admitted reliance in this regard is placed on 2014 PLC (C.S) 999.

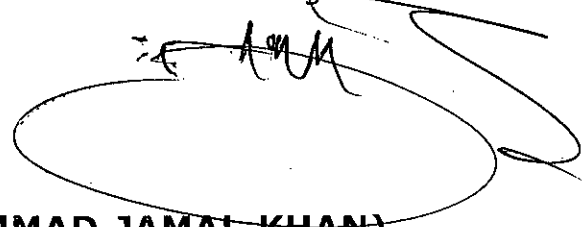
12. While resorting to the issue of continuously remaining posted at the same station for a period of twelve years in this regard a break up in the streak has happened when he has been posted from DHO Office, Peshawar to Services Hospital, Peshawar by virtue of General Posting order bearing No. 10311-1044/personnel

dated 03.11.2018 passed by the competent authority, therefore, he did not remain continuously posted at a subject place.

13. For what has been discussed above we accept the instant appeal by setting-aside the impugned order dated 18.11.2019. Accordingly, in consequence thereof appellant shall remain posted at his previous place till completion of his tenure as mandated by the law where after his case has to be dealt with in accordance with law. Parties are left to bear their own costs. File be consigned to the record room.

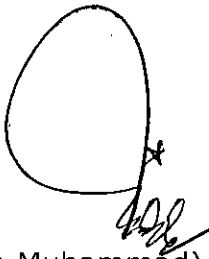
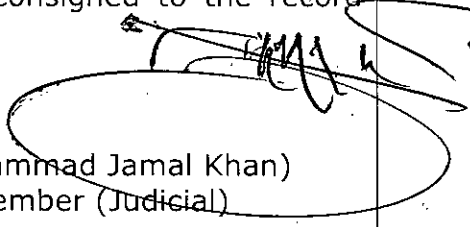


(MIAN MUHAMMAD)
Member (Executive)



(MUHAMMAD JAMAL KHAN)
Member (Judicial)

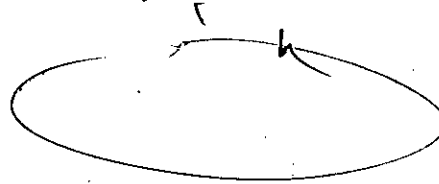
ANNOUNCED
02.09.2020

S.No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	02.09.2020	<p><u>Present.</u></p> <p>Mr. Zahidullah Zahid ... For appellant Advocate</p> <p>Mr. Riaz Ahmad Paindakheil, Assistant Advocate General ... For respondents</p> <p>Vide our detailed judgment, we accept the instant appeal by setting-aside the impugned order dated 18.11.2019. Accordingly, in consequence thereof appellant shall remain posted at his previous place till completion of his tenure as mandated by the law where after his case has to be dealt with in accordance with law. Parties are left to bear their own costs. File be consigned to the record room.</p> <p> (Mian Muhammad) Member (Executive)</p> <p> (Muhammad Jamal Khan) Member (Judicial)</p> <p><u>ANNOUNCED</u> 02.09.2020</p>

29.07.2020

Counsel for the appellant and Mr. Usman Ghani, District Attorney.

Former seeks adjournment due to non-availability of his learned counsel. Adjourned to 02.09.2020 for hearing before the D.B.

A handwritten signature in black ink, appearing to be "Muhammad Jamal Khan", is written inside a hand-drawn oval. There are some small marks above the signature, possibly indicating a correction or a specific part of the name.

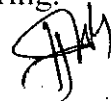
(Muhammad Jamal Khan)
Member

A handwritten signature in black ink, appearing to be "Usman Ghani", is written in a stylized, cursive manner.

Chairman

16.03.2020

Appellant in person present. Mr. Kabirullah Khattak learned Addl. AG for the respondents present. Written reply not submitted. Fresh notice be issued to the respondents for submission of written reply/comments. Another last opportunity is granted. To come up for written reply/comments on 01.04.2020 before S.B. The restraint order passed on 31.12.2019 shall remain operative till the next date of hearing.



Member

01.04.2020

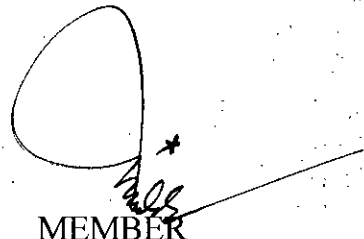
Due to public holiday on account of COVID-19, the case is adjourned to 24.06.2020 for the same. To come up for the same as before S.B.



Reader

24.06.2020

Appellant in person present. Addl:AG alongwith Mr. Amjad Ali, Assistant for respondents present. Written reply submitted which is placed on file. To come up for arguments on 16.07.2020 before D.B. The restraint order passed on 31.12.2019 shall remain operative till the next date of hearing.

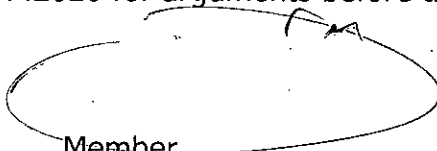


MEMBER

10.07.2020

Appellant in person and Mr. Muhammad Riaz Khan Painsdakhel, Asstt. AG alongwith Salim Javed Litigation Officer for the respondents present.

Former requests for adjournment as his learned counsel is engaged before the Honourable High Court today. Adjourned to 29.07.2020 for arguments before the D.B.



Member



Chairman

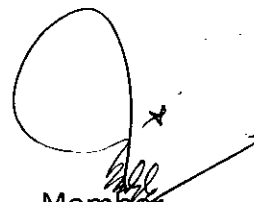
12.02.2020

Appellant in person and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Jaffar Ali, Assistant for the respondents present. Written reply on behalf of respondents not submitted. Representative of the department requested for further time. Last chance is given to the respondents for filing of written reply/comments. To come up for written reply/comments on 28.02.2020 before S.B. The restraint order passed on 31.12.2019 shall remain operative till the next date of hearing.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

28.02.2020

Appellant in person present. Addl: AG alongwith Mr. Saleem Javed, Assistant Litigation for respondents present. Written reply/comments not submitted. Representative of the respondents seeks further time to submit written reply/comments. Last opportunity extended with strict direction to submit written reply on the next date of hearing. Adjourned. To come up for written reply/comments on 16.03.2020 before S.B. The restraint order passed on 31.12.2019 shall remain operative till the next date of hearing.


Member

S.A No. 1974/2019


17.01.2020 Appellant in person and Addl. AG for the respondents present.

Despite issuance of notices for hearing today, the respondents are not represented by any authorized representative. Learned AAG, however, undertakes to obtain the reply/comments from respondents on next date of hearing. Adjourned to 31.01.2020. The restraint order passed on previous date shall remain operative till next date of hearing.

Chairman 

31.01.2020 Appellant in person present. Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present.

Learned AAG requests for time to obtain reply/comments from the respondent. Adjourned. To come up for written reply/comments on 12.02.2020 before S.B. The restraint order passed on 31.12.2019 shall remain operative till the next date of hearing


(Hussain Shah)
Member

31.12.2019

Appellant with counsel present.

Contends that on 03.12.2018 the appellant was transferred from DHO office Peshawar to serve as Junior Clerk in Services Hospital Peshawar. Without having regard to the transfer/posting policy of Provincial Government the appellant was again transferred on 18.11.2019 to Gajju Khan Medical College, Swabi. It is also the argument of learned counsel that the impugned transfer of appellant was politically motivated and under pressure from a public office holder. In that respect the affidavits executed by at least four person have been annexed. Besides, 2014-PLC(C.S) 999 has also been relied upon.

In view of the available record and arguments of learned counsel, instant appeal is admitted to regular hearing subject to all just exceptions. 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 17.01.2020 before S.B.

Alongwith the appeal there is an application for suspension of impugned transfer order dated 18.11.2019. Notice of the application be also given to respondents for the date fixed. Till next date the operation of impugned order shall remain suspended, if not already complied with.

Appellant Deposited
Security & Process Fee

31/12

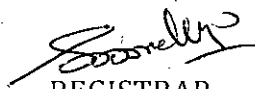

Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 1974/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	20/12/2019	<p>The appeal of Mr. Muhammad Siraj presented today by Mr. Zahidullah Zahid Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>31/12/19</u></p> <p> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No 1974 /2019

Muhammad Siraj

V E R S U S

Director General Health Services Khyber Pakhtunkhwa &
Others

I N D E X

S.No	Description of documents	Annexure	Pages
1.	Appeal with affidavit		1-4
2.	Application for stay		5-6
3.	Addresses of the parties		
4.	Copy of office order dated 03-12-2018	A	7-9
5.	Copy of impugn transfer Order dated 18-11-2019	B	10-
6.	Copy of High Court Order dated 5-12-2019	C	11-12
7.	Copy of Departmental Appeal	D	13-14
8.	Copy regret order dated	E	15
9.	Copies of Affidavits	F	17-20
10.	Wakalat Nama		

Dated:-20-12-2019

Through


Appellant


ZAHIDULLAH ZAHID
Advocate High Court

**OFFICE: - FF-853, Deans Trade Center Peshawar
Cantt. Cell:03229113699**

Email:-zahidzniii@gmail.com

-/-

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No 1974 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 2080

20/12/2019

Muhammad Siraj S/O Muhammad Akbar J/C Services
Hospital Peshawar R/O Warsak Road PatwarPayan Peshawar.

.....**appellant**

V E R S U S

1. Director General Health Services Khyber Pakhtunkhwa,
Directorate of General Health Services Peshawar.
2. Secretary Health Khyber Pakhtunkhwa, Civil Secretariat
Peshawar.
3. Govt. of Khyber Pakhtunkhwa through Secretary Health
Khyber Pakhtunkhwa, Civil Secretariat Peshawar

.....**Respondents**

APPEAL UNDER SECTION 4 OF THE SERVICE
TRIBUNAL ACT AGAINST THE OFFICE ORDER
DATED 18/11/2019 VIDE WHICH THE
APPELLANT HAS BEEN WRONGLY, MALAFIDLEY
AND ILLEGALLY TRANSFERED BY THE DENT OF
POLITICAL PRESSURE, ILL WILL AND
VICTAMIZATION.

Filed to day
Registrar
20/12/19

Prayer in appeal:-

On the acceptance of this appeal, the impugned
Office Order issued vide Endst. No 12815-19
dated 18-11-2019 being malafide in law and
facts, illegal, unlawful, discriminatory, without
lawful authority and in violation of posting
transfer policy be set aside and the appellant
may graciously be let to serve and perform his

duty at the current post/place i.e services hospital Peshawar, with any additional relief, available and favorable to the appellant in the best interest of justice.

Respectfully Submitted:-

1. That petitioner is the permanent resident of Peshawar who is working as Junior Clerk in Health Department Khyber Pakhtunkhwa at Peshawar.

2. That the petitioner is currently posted at Services Hospital Peshawar vide office order dated 03/12/2018, hence is serving as J/C therein.

(Copy of office order attached as annex A)

3. That after a very short span of time and in violation of transfer posting policy and by the dent of political pressure, victimization, ill well and malafide the Petitioner has been transferred to Gajju Khan Medical College Swabi vide office order dated 18.11.2019.

(Copy of Order dated 18-11-2019 as annex B)

4. That in order to seek constitutional remedy the appellant approached August High Court Peshawar vide writ petition No.6523/19 however the appellant was directed to approach this Hon'ble Tribunal vide order dated 05/12/2019.

(Copy attached as annex C)

5. That since the transfer order of the petitioner is illegal, unlawful against the Govt. transfer and posting Policy, hence being premature and based on political pressure and victimization a departmental appeal was preferred before the competent appellate authority vide departmental appeal dated 25/11/2019.

6. That vide order dated 18/12/2019 the departmental appeal of the appellant was turned down.

(Copy attached as annex D)

7. That feeling aggrieved of both the orders mentioned above the instant appeal is hereby preferred on the following grounds amongst others:

GROUND:

- A. That the impugned transfer Order is illegal, unconstitutional, without lawful authority and of no legal effect.
- B. That the impugned transfer Order is based on malafide and is against the transfer posting policy of the Government.
- C. That the impugned transfer Order is the outcome of political activism and favoritism, hence bear no legal effect and force of law therefore as such is liable to be struck down.
(Copies of affidavits submitted before August High Court are attached as annex E)
- D. That there are no allegations/complaints against the petitioner and the petitioner is performing his duties with utmost devotion.
- E. That the fundamental rights of the petitioner guaranteed in the Constitution are badly violated which cannot be snatched in violation of law and rules on the subject.
- F. That the impugned transfer order is not sustainable and liable to be set aside as is held by apex courts in the precedents mentioned below. **Reliance is placed on**

1. 2018 PLC (CS) Note 50
2. 2009 PLC (CS) 44 Lahore
3. 2014 PLC (CS) 1045
4. 2008 SCMR 948

G. That the appellant seeks the permission of this Honorable Tribunal for further/additional grounds at the time of arguments.

It is therefore prayed that the appeal of the appellant may kindly be accepted, as prayed for.

Any other relief not specifically asked for and deemed appropriate in the circumstances of the case, may also be granted in favor of the appellant.

Appellant

Dated:-20/12/2019

Through

ZAHIDULLAH ZAHID
Advocate High Court

A F F I D A V I T

I, Muhammad Siraj S/O Muhammad Akbar J/C Services Hospital Peshawar R/O Warsak Road PatwarPayan Peshawar, as per instructions of my client, do hereby solemnly affirm and declare on oath that the contents of this **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable court.

DEPONENT

ATTESTED
GA Daraz Khan
Oath Commissioner
12
High Court Peshawar

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Service Tribunal No _____/2019

Muhammad Siraj

V E R S U S

Director General Health Services Khyber Pakhtunkhwa &
Others

APPLICATION FOR SUSPENSION OF THE
IMPUGN TRANSFER ORDER DATED
18/11/2019 BY WAY OF MAINTAINING
STATUS QUO TILL THE PENDING
DECISION OF THE INSTANT APPEAL

Respectfully Submitted:-

1. That the instant appeal is being filed today in this Hon'ble Court wherein no date of hearing is fixed as yet.
2. That contents and grounds of the appeal may kindly be considered as integral part and parcel of the instant application.
3. That the appellant has been illegally transferred in transgression of rules and the policy thereunder, hence seeks status quo till pending decision of the appeal in hand.
4. That the appellant has a premaficie case as transfer of the appellant is based on political pressure and victimization in violation of law and transfer and posting policy.

5. That if the impugn transfer order is not suspended by way of maintaining status quo the appeal would become infructuous.

It is therefore prayed that on acceptance of this application the impugn transfer order may kindly be suspended by way of maintaining status quo till pending decision of the appeal.

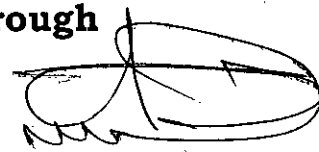
Any other relief not specifically asked for and deemed appropriate in the circumstances of the case, may also be granted in favor of the appellant.



Appellant

Dated:-20/12/2019

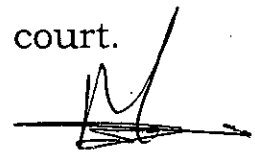
Through



**ZAHIDULLAH ZAHID
Advocate High Court**

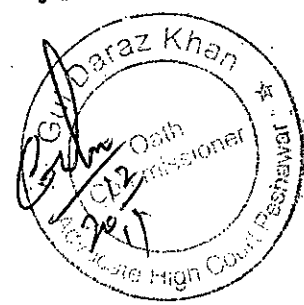
AFFIDAVIT

I, Muhammad Siraj S/O Muhammad Akbar J/C Services Hospital Peshawar R/O Warsak Road PatwarPayan Peshawar, as per instructions of my client, do hereby solemnly affirm and declare on oath that the contents of this **APPLICATION** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable court.



DEPONENT

ATTESTED



DIRECTORATE GENERAL HEALTH SERVICES

KHYBER PAKHTUNKHWA PESHAWAR



-7-

OFFICE ORDER

The following posting/ transfer of Store Keepers/ JCT Pharmacy/ Jr. PHC Tech/ Ministerial Staff are hereby ordered in the interest of public service with immediate effect:-

S.No	Name of Officials	From	To	Remarks
01	Nad e Ali Store Keeper	Typ-D Hospital S.N. Khan Haripur	DHO Office Haripur	Vice S.No.02
02	Muhammad-Majid Store Keeper	DHO Office Haripur	Type-D Hospital Khanpur Haripur	Vice S.No.03
03	Qamar Ayaz Store Keeper	Type-D Hospital Khanpur Haripur	Typ-D Hospital S.N. Khan Haripur	Vice S.No.01
04	Niaz Muhammad CT Radiology/ Store Keeper	DHO Office Haripur	DHQ Hospital Haripur	MS should relieve his substitute
05	Ashraf Iqbal Store Keeper CT/ Pharmacy Store Keeper	DHQ Hospital Haripur	DHO Haripur	DHO should relieve his substitute
06	Rasool Shah PHC Tech./ Store Keeper	DHO Office Kohistan	Original cadre post	DHO should post another Pharmacy Tech: as Store Keeper
07	Noor Jamal PHC Tech./ Store Keeper	W & C Hospital Karak	DHQ Hospital Karak	Vice S.No.09
08	Shahab Ali Store Keeper	W & C Hospital Karak	DHQ Hospital Karak	Vice S.No.10
09	Shoukat Alam CT Pharmacy/ Store Keeper	DHQ Hospital Karak	W & C Hospital Karak	Vice S.No.07
10	Younas Naveed Store Keeper	DHQ Hospital Karak	W & C Hospital Karak	Vice S.No.08
11	Kiramat Ullah Store Keeper	Cat: D Hospital Talash Dir Lower	DHQ Hospital Timergara	Vice S.No.16
12	Rafiullah Store Keeper Store Keeper	Cat: D Hospital Munda Dir Lower	THQ Hospital Chakdara Dir Lower	Vice S.No.14
13	Salah Ud Din Store Keeper	THQ Hospital Samar Bagh Dir Lower	Cat: D Hospital Lal Killa Dir Lower	Vice S.No.15
14	Sheraz Khan Store Keeper	THQ Hospital Chakdara Dir Lower	DHQ Hospital Dir Lower	Vice S.No.17
15	Ashfaq Ahmad Store Keeper	Cat: D Hospital Lal Killa Dir Lower	DHQ Hospital Timergara	Vice S.No.18
16	Tawab Khan Store Keeper	DHQ Hospital Timergara	Cat: D Hospital Talash Dir Lower	Vice S.No.11
17	Miraj UD Din Store Keeper	DHQ Hospital Timergara	Cat: D Hospital Munda Dir Lower	Vice S.No.12
18	Ijaz Hussain Store Keeper	DHQ Hospital Timergara	THQ Hospital Samar Bagh Dir Lower	Vice S.No.13
19	Muhammad Awais Store Keeper	DHQ Hospital Kohat	W & C Hospital/ LMH Kohat	Vice S.No.20
20	Shah Noor CT Pharmacy/ Store Keeper	W & C Hospital/ LMH Kohat	At the disposal of DHQ Hospital Kohat	MS should relieve his substitute
21	Muhammad Javed Store Keeper	Type-D Hospital Panyala DIKhan	Type-D Hospital Paroa DIKhan	Vice S.No.22
22	Muhammad Rafiq Store Keeper	Type-D Hospital Paroa DIKhan	Type-D Hospital Panyala DIKhan	Vice S.No.21
23	Sheikh Khalid Store Keeper	DHQ Hospital D.I Khan	THQ Hospital Pahar Pur DIKhan	Against the vacant post
24	Muhammad Arif Store Keeper	DHQ Hospital Tank	DHO Tank	DHO should relieve his substitute
25	Amjad Khan Store Keeper	DHQ Hospital Tank	DHO Tank	DHO should relieve his substitute
26	Arshad Ahmad Chief MT/ Store Keeper	DHO Charsadda	DHQ Hospital Charsadda	MS should relieve his substitute
27	Muhammad Mikail Store Keeper	DHO Charsadda	THQ Hospital Shabqadar	Vice S.No.28
28	Tufail Ahmad Store Keeper	THQ Hospital Shabqadar	RHC Jamalabad Charsadda	Vice S.No.29
29	Jamshed Ahmad Store Keeper	RHC Jamal Abad Charsadda	THQ Hospital Shabqadar Charsada	Vice S.No.30

Annex

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30.	Umair Jan Store Keeper	THQ Hospital Shabqadar Charsada	DHO Office Charsadda	
31.	Syed Sajjad Ali Shah Store Keeper	THQ Hospital Tangi Charsadda	DHQ Hospital Charsadda	Vice S.No.32
32.	Gul Shad Tech: Store Keeper	DHQ Hospital Charsadda	DHO Charsadda	DHO should relieve his substitute
33.	Arshad Dispenser/ Store Keeper	DHQ Hospital Charsadda	THQ Hospital Tangi Charsadda	DHO should relieve his substitute
34.	Sardar Ali Store Keeper	DHO Office Shangla	Cat: D Hospital Besham Shangla	Vice S.No. 35
35.	Umar Gul Store Keefer	Cat: D Hospital Besham Shangla	THQ Hospital Puran Shangla	Vice S.No. 36
36.	Sher Alam Store Keeper	THQ Hospital Puran Shangla	DHO Office Shangla	Vice S.No. 34
37.	Ajmal Khan Dispenser/ Store Keeper	DHQ Hospital Shangla	at the disposal of DHO Shangla	DHO should relieve his substitute
38.	Mispaal Islam Store Keeper	DHO Office Chitral	At the disposal of MS DHQ Hospital Chitral	MS should relieve his substitute
39.	Muhammad Naji Ullah C PHC Tech: Store Keeper	DHO Office Chitral	At the disposal of MS DHQ Hospital Chitral	MS should relieve his substitute
40.	Muhammad iqbal Store keeper	DHQ Hospital Batkhela	DHO Malakand	DHO should relieve his substitute
41.	Kifayat Ullah Store Keeper	DHQ Hospital Batkhela	DHO Malakand	DHO should relieve his substitute
42.	Fayaz Khan Store Keeper	DHO Office Swat	W & C Hospital Rajjar Charsadda	Against the vacant post
43.	Umair Habib CT Pharmacy/ Store Keeper	DHO Office Swat	SGTH Swat	MS should relieve his substitute
44.	Bashir Ahmad MT/ Store Keeper	DHO Office Swat	SGTH Swat	MS should relieve his substitute
45.	Haider Ali Store Keeper	CH Kalam Swat	CH Madyan Swat	Vice S.No.46
46.	Zia UR Rahman Store Keeper	CH Madyan Swat	CH Kalam Swat	Vice S.No.45
47.	Shafiq Ur Rhamn Store Keeper	CH Kabal Swat	DTCO Swat	Vice S.No.48
48.	Sadiq Ali Store Keeper	DTCO Swat	CH Kabal Swat	Vice S.No.47
49.	Kausar Wahab Store Keeper	King Abdullah Teaching Hospital Mansehra	DHO Mansehra	DHO should relieve his substitute
50.	Khan Zada CT Pharmacy/ Store Keeper	DHQ Hospital Batatgram	DHO Battagram	DHO should relieve his substitute
51.	Sardar Store keeper	DHO Swabi	BKMC Swabi	Against the vacant post
52.	Alam Gul CT Pharmacy/ Store Keeper	DHO Office Hangu	DHQ Hospital Hangu	MS should relieve his substitute
53.	Hidayat Ur Rahman CT Pharmacy/ Store Keeper	DHO Office Abbottabad	BBS Teaching Hospital Abbottabad	Vice S.No.54
54.	Muhammad IRshad CT Pharmacy	BBS Teaching Hsopital Abbottabad	DHO Office Abbottabad	Vice S.No.53
55.	Abdul Latif CT Pharmacy/ Store Keeper	BBS Teaching Hospital Abbottabad	DHO Abbottabad	DHO should relieve his substitute
56.	Mir Zaman Shah CT Pharmacy/ Store Keeper	BBS Teaching Hsopital Abbottabad	DHO Abbottabad	DHO should relieve his substitute
57.	Asif Jani Store Keeper	DHO Office Lakki Marwat	DHQ Hospital Lakki Marwat	Vice S.No.62
58.	Javed Khan Store Keeper	DHO Office Lakki marwat	Cat: C Hospital Lakki Marwat	Vice S.No.59
59.	Asif IQbal Store Keeper	Cat: C Hospital Lakki Marwat	Cat: D Hospital Lakki Marwat	Vice S.No.60
60.	Muhammad Ismail Store Keeper	Cat: D Hospital Tajori Lakki Marwat	Cat: C Hospital Lakki Marwat	Vice S.No.61

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63.	Awal Shah Store Keeper	Cat: C Hospital Lakki Marwat	DHQ Hospital Lakki Marwat	Vice S.No.63
64.	Muhammad Sabir Store Keeper	DHQ Hospital-Lakki Marwat	DHO Office Lakki Marwat	Vice S.No.57
63.	Nasim Store Keeper	DHQ Hospital Lakki Marwat	DHO Office Lakki Marwat	Vice S.No.58
64.	Nazir Khan Store Keeper	TDH Shahbaz Garhi Mardan	TDH Lund Khwar Mardan	Vice S.No.65
65.	Noor Ul Azeem Store Keeper	TDH Lund Khwar Mardan	TDH Shahbaz Garhi Mardan	Vice S.No.64
66.	Moeen Akhtar Store Keeper	TDH Toru Mardan	THQ Hospital Takht Bhai Mardan	Vice S.No.67
67.	Muhammad Shahid Store Keeper	THQ Hospital Takht Bhai Mardan	TDH Toru Mardan	Vice S.No.66
68.	Muhammad Israr Junior Clerk	Services Hospital Peshawar	DHO Office Peshawar	Vice S. No.69
69.	Siraj Khan Junior Clerk	DHO Office Peshawar	Services Hospital Peshawar	Vice S. No.68
70.	Zia Ujjah Mashwani Junior Clerk	Roll Back Malaria Peshawar	At the disposal of DHO Kohat	Against the vacant post of Senior Clerk in his own pay scale
71.	Gohar Ali Store Keeper	DHO Office Peshawar	Moulvi Ameer Shah Memorial Hospital Peshawar	Vice S.No.72
72.	Junaid Habib Store Keeper	Moulvi Ameer Shah Memorial Hospital Peshawar	DHO Office Peshawar	Vice S.No.71
73.	Muzamil Shah Store Keeper	Cat: D Hospital Mattani Peshawar	Govt: NKBMH Peshawar	Vice S.No.74
74.	Nouman Wahid Store Keeper	Cat: D Hospital Gara Tajik Peshawar	Govt: NKBMH Peshawar	Vice S.No.73
75.	Malik Muhammad Usman Store Keeper	Govt: NKBMH Peshawar	Cat: D Hospital Mattani Peshawar	Vice S.No.76
76.	Mazhar Latif Store Keeper	Govt: NKBMH Peshawar	Cat: D Hospital Gara Tajik Peshawar	Vice S.No.75

Nb: Arrival/ Departure reports should be submitted to this Directorate for record.

Sd/xxxxxxxx

DIRECTOR GENERAL HEALTH
SERVICES, K.P.K, PESHAWAR.
Dated 03/11/2018.

Handwritten signature

No. 10311-1441 Personnel

Copy forwarded to the:-

1. P.S to Minister for Health Khyber Pakhtunkhwa Peshawar.
2. P.S to Secretary to Govt: of KP Health Department Peshawar.
3. DHO Peshawar, Charsadda, Lakki Marwat, Mardan, Swabi, Bannu, Haripur, Abbottabad, Kohistan, Upper Dir, Lower Dir, Mansehra, Karak, Shangla, Kohat, Dikhan, Chitral, Buner, Swat, Hangu, Battagram
4. MS DHQ Hospital Charsadda, Lakki Marwat, Mardan, Swabi, Bannu, Karak, Haripur. Upper Dir, Lower Dir, Shangla, Kohat, Dikhan, Chitral, Batkhela, Hangu
5. MS BKMC Swabi, Upper Dir, Lower Dir,
6. MS Govt: Naseerullah Khan Babar Memorial Hospital Peshawar.
7. MS Services Hospital Peshawar.
8. MS King Abdullah Teaching Hospital Mansehra.
9. MS BBS Teaching Hospital Abbottbad.
10. MS Saidu Group of Teaching Hospital Swat.
11. MS Nawaz Sharif Kidney Hospital Swat.
12. HD DHO/MTI Bannu. KGN/MTI Bannu.
13. Incharge Malaria Control Program Peshawar.
14. PA to DGHS, Khyber Pakhtunkhwa Peshawar.
15. Officials concerned.

For information and necessary action.

DIRECTOR GENERAL HEALTH
SERVICES, K.P PESHAWAR

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⑦

**DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR**



E-Mail Address: nw.fpdgbs@yahoo.com Office Ph# 091-9210269 Exchange# 091-9210187, 9210196 Fax # 091-9210230

OFFICE ORDER.

-10- Amex "A"
"B"

As approved by the competent authority, Muhammad Siraj Junior Clerk attached to services Hospital Peshawar is hereby transferred and posted at Gajju Khan Medical College Swabi against the vacant post of Junior Clerk with immediate effect in the interest of public service.

NB:- Arrival / Departure report should be submitted to this Directorate for record.

SD/-----

DIRECTOR GENERAL HEALTH
SERVICES, K.P.K PESHAWAR.

No 12875-18 /Personnel

Dated 18 /11/2019.

Copy forwarded to the:-

1. Principal/Chief Executive Gajju Khan Medical College/BKMC Swabi.
2. Medical Superintendent Services Hospital Peshawar.
3. Accountant General Khyber Pakhtunkhwa Peshawar.
4. District Accounts Officer Swabi.
5. Official concerned.

For information and necessary action.

DIRECTOR (Administration)
DIRECTORATE GENERAL HEALTH
SERVICES, K.P PESHAWAR.

18/11/2019.

ATTENDED
to bring the Copy
Admission



-11-11CV

PESHAWAR HIGH COURT, PESHAWAR
FORM OF ORDER SHEET

Date of Order or Proceedings	Order of other Proceedings with Signature of Judge.
1	2
05.12.2019	<p><u>W. P No.6523-P/2019 with IR ()</u></p> <p>Present: Mr. Zahid Ullah Zahid, Advocate, for the Petitioner.</p> <p>****</p> <p><u>LAL JAN KHATTAK:</u> - This petition is directed against the order dated 18.11.2019 whereby the petitioner, a Junior Clerk, has been transferred from Services Hospital Peshawar to Gajju Khan Medical College, Swabi.</p> <p>2. Learned counsel for the petitioner was heard and available record gone through.</p> <p>3. Perusal of the case record would show that admittedly the petitioner is a Civil Servant while posting and transfer is one of the terms & conditions of Service and if a Civil Servant is aggrieved by any breach of the terms & conditions of his service then he can apply to the Services Tribunal established by the Govt for the redressal of his grievance and on no count, he can approach this court through a writ petition in view of the bar contained in Article 212 of the Constitution of the Islamic Republic of Pakistan, 1973.</p> <p>4. For what has been discussed above, we dismiss this petition for its being not maintainable before this court</p>

Gain

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to [Signature] copy
Advocate

	<p>leaving the petitioner at liberty to approach the proper forum for the remedy available to him under the law.</p> <p style="text-align: right;">  JUDGE  JUDGE </p>
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**Haji Ahmad, Sr. S. Stone* (DB) Hon'ble Mr. Justice Lal Jan Khattak,
Hon'ble Mr. Justice Abdul Shakoor*

ATTESTED
to give copy
Advocate

To

The Director General Health,
Khyber Pakhtunkhwa, Peshawar.

L.No. 9995
Date 28/11/19
Secretary Health

SUBJECT:-

DEPARTMENTAL APPEAL AGAINST THE OFFICE ORDER NO.12815-19, DATED 18/11/2019 VIDE WHICH THE APPELLANT BEEN ILLEGALLY TRANSFERRED TO OUT OF DISTRICT MALAFIDELY DUE TO POLITICAL PRESSURE AND VICTIMIZATION.

Respected Sir,

It is, very humbly submitted as under:

1. That the appellant is working as junior clerk in the health department.
2. That vide office Order No.10311-144, dated 03/12/2018 the appellant was transferred and posted at Services Hospital Peshawar.(Copy attached)
3. That within a span of only 10 months the appellant has been transferred to Gajjo Khan Medial College Swabi vide office order date 18/11/2019, the said post is still vacant and no one has been posted there on till yet. (Copy of the orders is attached)
4. That the impugn order of transfer of the appellant is illegal, unlawful without due authority based on misuse of power and authority, malafide, political pressure and victimization therefore, needs to be struck down on the following grounds amongst others.

Grounds:

- A. That the impugn order is illegal, unlawful and without lawful authority.

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28/11/19

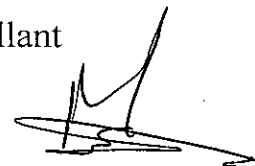
DS/II
29/11
SO-III
29/11/19

- B. That the impugned order is against the transfer posting policy of the government hence is premature.
- C. That the impugned office order is based on malafide and political victimization as the same has been made on the illegal instructions of the deputy speaker Provincial Assembly whose dictates does not hold any legal ground.
- D. That the appellant has a spotless career and there is no complaint against him event then he has been penalized for political activism and favoritism.
- E. That office order impugned herein is discriminatory in nature hence is against the fundamental rights of the appellant.
- F. That the way and the manner the impugned order has been passed speaks volume about the ill will and the malafide therein, hence needs to be struck down.

It is, therefore, most graciously prayed that on acceptance of this Appeal the impugned order may kindly be withdrawn/struck down being illegal and premature and the appellant be allowed to serve on the post he is working on.

Dated: 28/11/2019

Appellant



Mr. Muhammad Siraj
J/C Services Hospital
Peshawar.

CC to:

1. Sectary Health KPK, Civil Secretariat Peshawar.

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to be true copy
Advocate



DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR

"E"
-15-

E-Mail Address: nwfdghs@yahoo.com Office Ph# 091-9210269 Exchange# 091-9210187, 9210196 Fax # 091-9210230
No. 13954 /Personnel Dated: 18/12/2019

To,

Mr. Muhammad Siraj Junior Clerk
Services Hospital Peshawar.

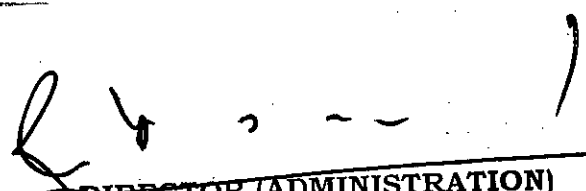
Subject:

DEPARTMENTAL APPEAL AGAINST THE OFFICE ORDER DATED 18.11.2019 VIDE WHICH THE APPELLANT HAS BEEN ILLEGALLY TRANSFERRED TO OUT OF DISTRICT MALA-FIDELY DUE TO POLITICAL PRESSURE AND VICTIMIZATION.

Memo:

I am directed to refer to your appeal dated 25.11.2019 on the subject noted above.

Your appeal for cancellation of your transfer order is considered by the competent authority, but it is regretted.


DIRECTOR (ADMINISTRATION)
DIRECTORATE GENERAL HEALTH
SERVICES, K.P PESHAWAR.

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to be true copy
Advocate



**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

-16-

No. SOH-III/1-1/2019(Muhammad Siraj)
Dated the Peshawar 5th December, 2019

To

The Director General Health Services,
Khyber Pakhtunkhwa, Peshawar.

**SUBJECT: DEPARTMENTAL APPEAL AGAINST THE OFFICE ORDER NO. 12815-19,
DATED 18/11/2029 VIDE WHICH THE APPELLANT BEEN ILLEGALLY
TRANSFERRED TO OUT OF DISTRICT MALAFIDELY DUE TO POLITICAL
PRESSURE AND VICTIMIZATION.**

I am directed to refer to the subject noted above and to enclose herewith a copy of self-explanatory departmental appeal submitted by Mr. Muhammad Siraj J/C Services Hospital Peshawar, address to DGHS and endorsed to Health Department for further necessary action, please.

Ecnl: As above.

Endst: even no & date.

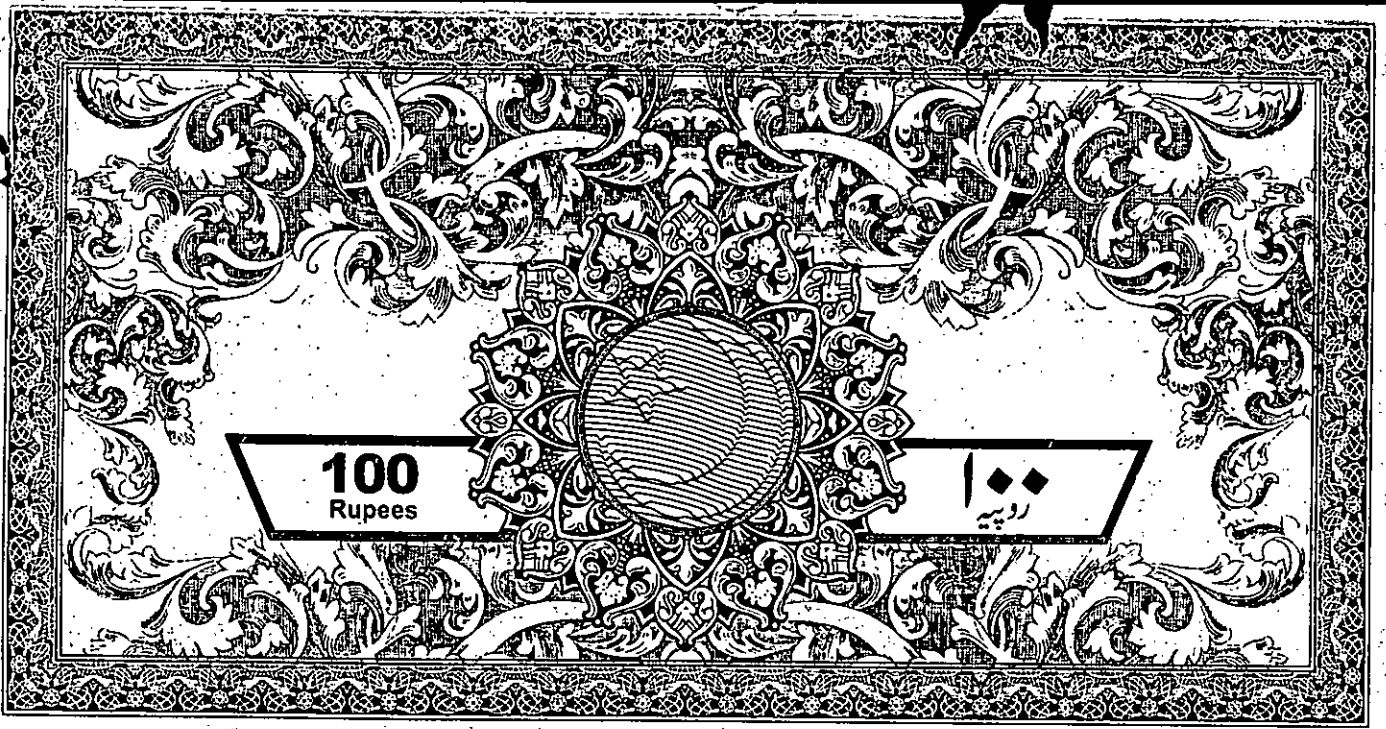
Copy forwarded to the PS to Secretary Health, Khyber Pakhtunkhwa.

Section Officer E-III

Section Officer E-III

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Advocate



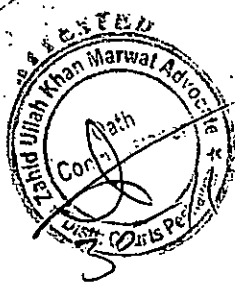
-17- Annex
"F"

بیان حلفی

مکتبہ محمد فیضان ولد ہاشم علی سکند: پیر بالا در سک روڈ تحصیل و ضلع پشاور کا ہوں دریں وقت بقائمی درست ہوش و ہواس بلا جبر و اکراہ و ترغیب غیرے مقرر بدیں طور ہوں کہ مسکھی محمد سراج ولد حاجی محمد اکبر (مرحوم) سکند پٹوار پایان تحصیل و ضلع پشاور جو کہ سرور ہسپتال پشاور میں بطور جو جیمر کلرک تعینات ہے۔ اور جو من حالف کا قریبی دوست ہے۔ چونکہ محمد سراج مذکور کو ڈپٹی سپیکر صوبائی اسمبلی جناب محمود جان خان صاحب نے سیاسی مخالفت اور ذاتی عناد اور عداوت کی بناء پر ضلع صوابی ٹرانسفر کیا ہے اسلئے من حالف ہمراہ محمد سراج مذکور مورخہ 23/11/2019 کو ڈپٹی سپیکر صاحب کے پاس بطور جرگہ گئے اور من حالف کے سامنے محمد سراج مذکور نے ڈپٹی سپیکر صاحب کے پاؤں پکڑ کر بہت منت سماجت کی کہ اسکی مخالفت نہ کرے مگر سپیکر صاحب گویا ہوئے کہ میں نے آپ کو ٹرانسفر کیا ہے اور آپ کو ہر صورت میں یہاں سے جانا ہوگا۔

لہذا یہ چند سطور بردے بیان حلفی تحریر کر دیئے ہیں تاکہ سند رہے۔ اور بوقت ضرورت کام آئے۔

الف



گواہ نمبر 2: اختر علی ولد جمنے خان
سکند: سفید سنگ تحصیل و ضلع پشاور
شناختی کارڈ نمبر: 1-1524743-17301

افتر علی

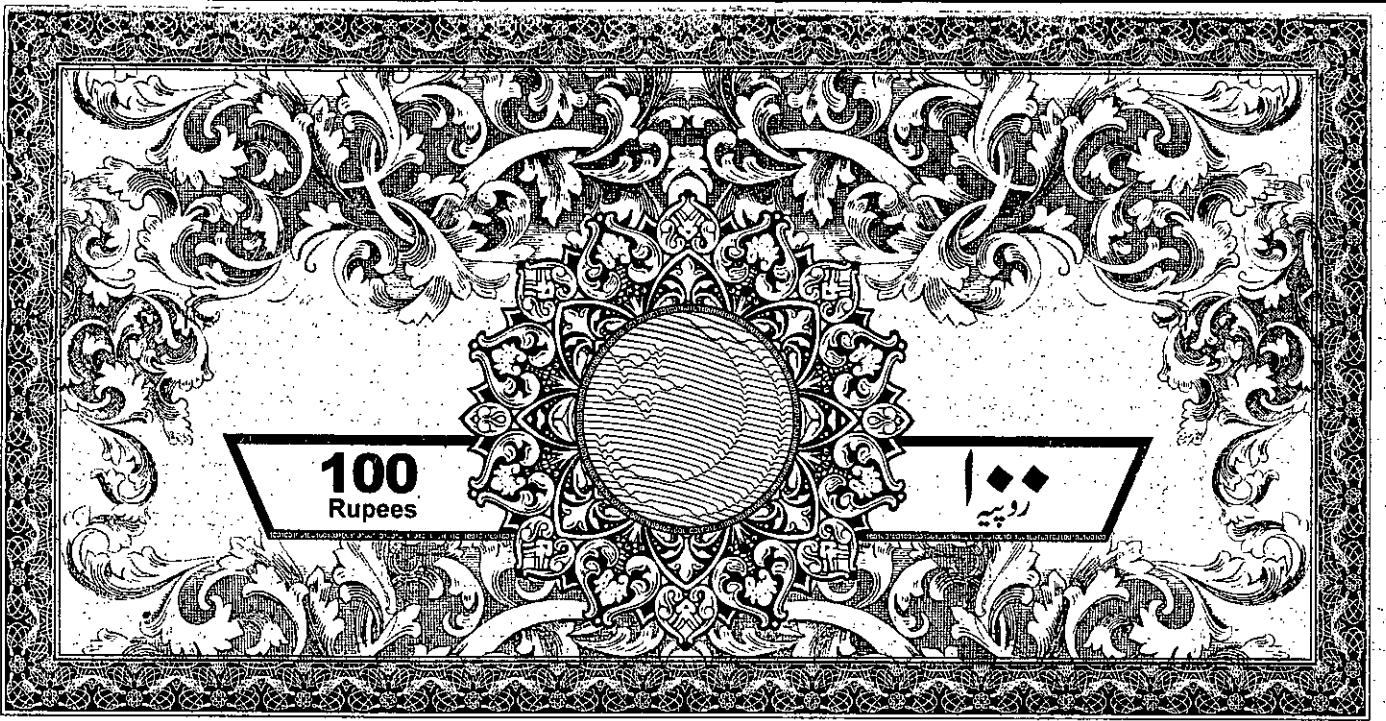
ATTACHED

محمد فیضان ولد ہاشم علی
سکند: پیر بالا در سک روڈ تحصیل و ضلع پشاور
شناختی کارڈ: 9-8614563-17301

محمد فیضان

گواہ نمبر 1: جلال خان ولد نور محمد
سکند: زرگی پشاور
شناختی کارڈ: 9-0496080-17301

جلال خان



-18-

بیان حلفی

مذکورہ جلال خان ولد نور محمد سکندر کی پشاور کا ہوں دریں وقت بقائمی درست ہوش و ہواس بلا جبر و اکراہ و ترغیب غیرے مقرر بدیں طور ہوں کہ سہمی محمد سراج ولد حاجی محمد اکبر (مرحوم) سکندر پنوار پایان تحصیل و ضلع پشاور جو کہ سرور سہ ہسپتال پشاور میں بطور جو نیر کلرک تعینات ہے۔ اور جو من حالف کا قریبی دوست ہے۔ چونکہ محمد سراج مذکور کو ڈپٹی سپیکر صوبائی اسمبلی جناب محمود جان خان صاحب نے سیاسی مخالفت اور ذاتی عناد اور عداوت کی بناء پر ضلع صوبائی ٹرانسفر کیا ہے اسلئے من حالف ہمراہ محمد سراج مذکور مورخہ 23/11/2019 کو ڈپٹی سپیکر صاحب کے پاس بطور جرگہ گئے اور من حالف کے سامنے محمد سراج مذکور نے ڈپٹی سپیکر صاحب کے پاؤں پکڑ کر بہت منت سماجت کی کہ اسکی مخالفت نہ کرے مگر سپیکر صاحب گویا ہوئے کہ میں نے آپ کو ٹرانسفر کیا ہے اور آپ کو ہر صورت میں یہاں سے جانا ہوگا۔

لہذا یہ چند سطور بروئے بیان حلفی تحریر کر دیئے ہیں تاکہ سند رہے۔ اور بوقت ضرورت کام آئے۔

الف



گواہ نمبر 2: راحت علی ولد حاجی ہمیش گل
سکنہ: سکندہ گاؤں لکڑی در سکہ روڈ تحصیل و ضلع پشاور
شناختی کارڈ نمبر: 17301-1324179-5

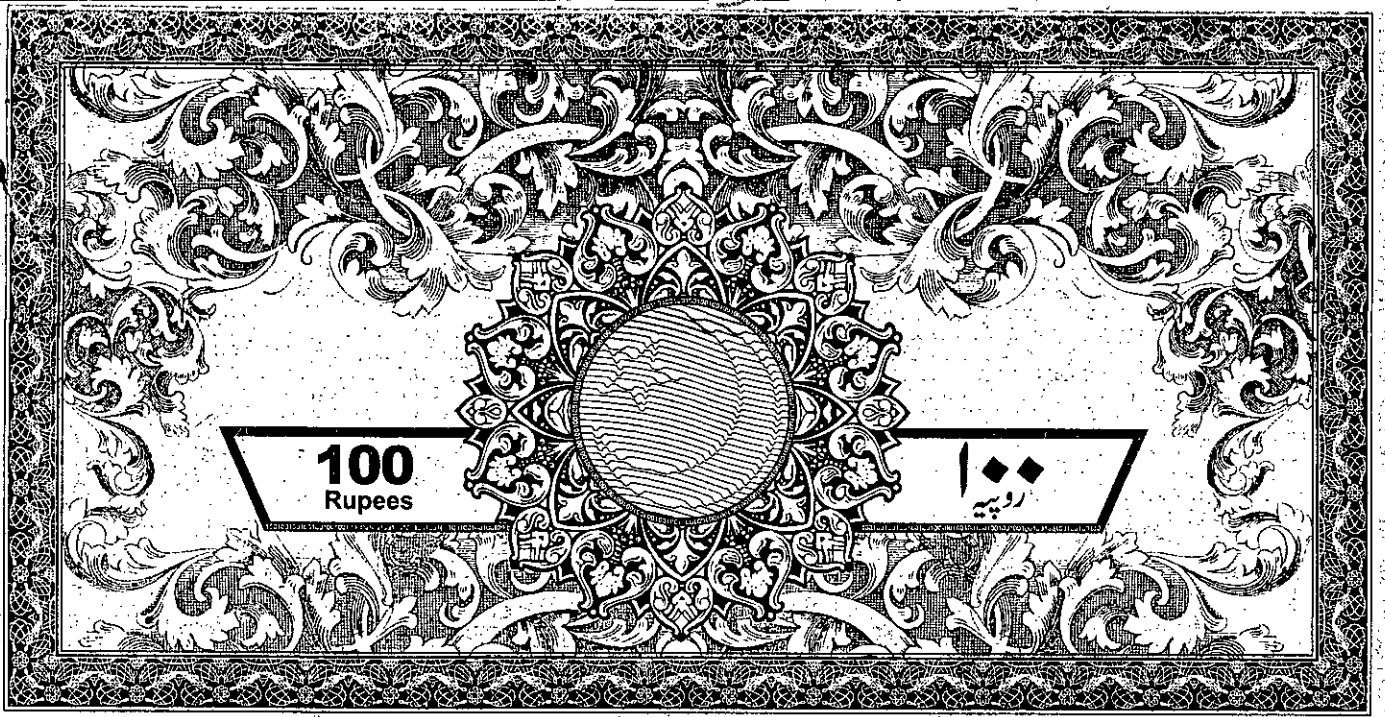
17301-0496080-9-9 شناختی کارڈ

گواہ نمبر 1: اختر علی ولد محسن خان
سکنہ: پنوار پایان پشاور

17301-3786857-7-7 شناختی کارڈ نمبر

ATTACHED

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- 19 -

بیان حلفی

منکہ راحت علی ولد حاجی ہمیش گل سکنہ گاؤں لکڑی ورسک روڈ تحصیل و ضلع پشاور کا ہوں دریں وقت بقائمی درست ہوش و ہواس بلا جبر و اکراہ و ترغیب غیرے مقرر بدیں طور ہوں کہ مسی محمد سراج ولد حاجی محمد اکبر (مرحوم) سکنہ پٹوار پائیان تحصیل و ضلع پشاور جو کہ سردسر ہسپتال پشاور میں بطور جوئیئر کلرک تعینات ہے۔ اور جو من حالف کا قریبی دوست ہے۔ چونکہ محمد سراج مذکور کو ڈپٹی سپیکر صوبائی اسمبلی جناب محمود جان خان صاحب نے سیاسی مخالفت اور ذاتی عناد اور عداوت کی بناء پر ضلع صوابی ٹرانسفر کیا ہے اسلئے من حالف ہمراہ محمد سراج مذکور مورثہ 23/11/2019 کو ڈپٹی سپیکر صاحب کے پاس بطور جرمہ گئے اور من حالف کے سامنے محمد سراج مذکور نے ڈپٹی سپیکر صاحب کے پاؤں پکڑ کر بہت مت سماجت کی کہ اسکی مخالفت نہ کرے مگر سپیکر صاحب گویا ہوئے کہ میں نے آپ کو ٹرانسفر کیا ہے اور آپ کو ہر صورت میں یہاں سے جانا ہوگا۔

لہذا یہ چند طور بروئے بیان حلفی تحریر کر دیئے ہیں تاکہ سند رہے۔ اور بوقت ضرورت کام آئے۔

الف

30-11-19

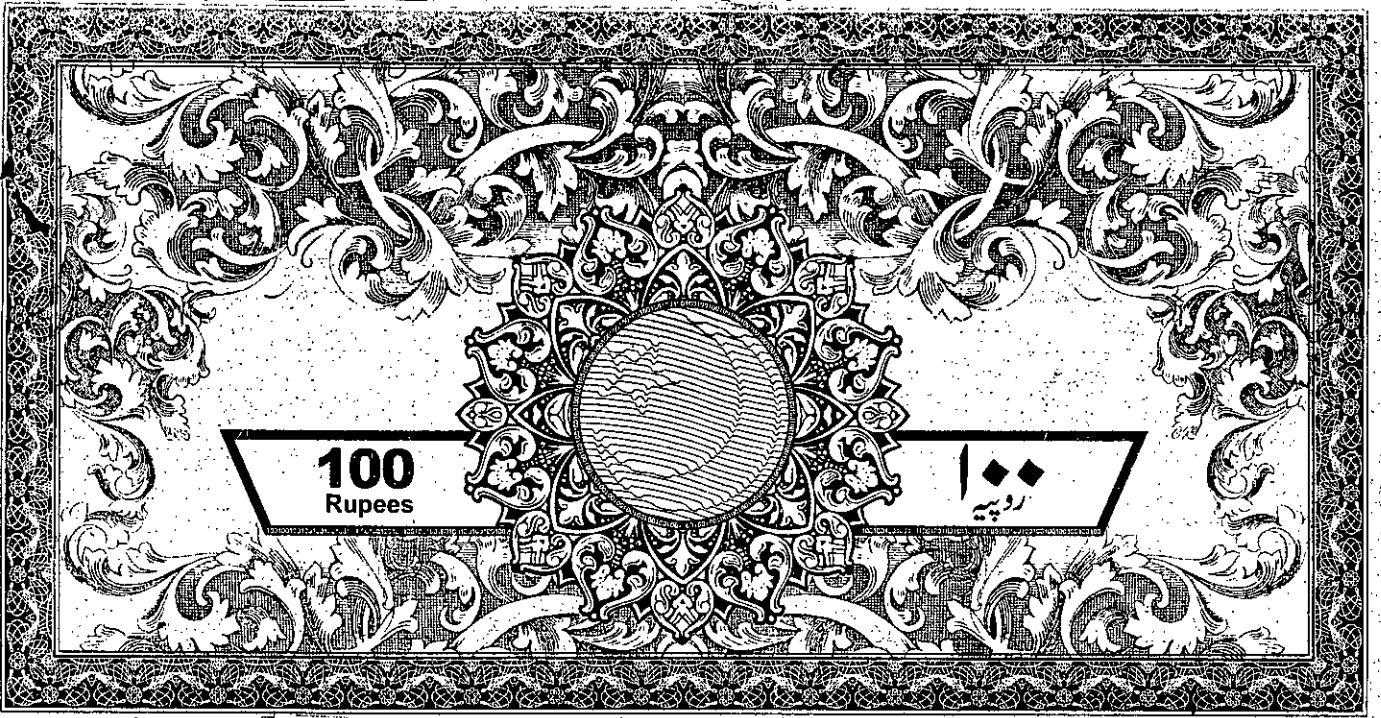
گواہ نمبر 2: اختر علی ولد جمنے خان
سکنہ: سفید سنگ تحصیل و ضلع پشاور
شناختی کارڈ نمبر: 17301-1524743-1

افتر علی

راحت علی ولد حاجی ہمیش گل
سکنہ: سکنہ گاؤں لکڑی ورسک روڈ تحصیل و ضلع پشاور
شناختی کارڈ: 17301-1324179-5

گواہ نمبر 1: جلال جان ولد زور محمد
سکنہ: ریگی پشاور
شناختی کارڈ نمبر: 17301-0496080-9

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بیان حلفی

منکہ اختر علی ولد چینی خان (مرحوم) سکنہ سفید سنگ تحصیل و ضلع پشاور کا ہوں دریں وقت بقائمی درست ہوش و ہواس بلا جبر و اکراہ و ترغیب غیرے مقرر بدیں طور ہوں کہ مسی محمد سراج ولد حاجی محمد اکبر (مرحوم) سکنہ پٹوار پایان تحصیل و ضلع پشاور جو کہ سرور سہ ہسپتال پشاور میں بطور جوئیر کلرک تعینات ہے۔ اور جو من حالف کا قریبی دوست ہے۔ چونکہ محمد سراج مذکور کو ڈپٹی سپیکر صوبائی اسمبلی جناب محمود جان خان صاحب نے سیاسی مخالفت اور ذاتی عناد اور عداوت کی بناء پر ضلع صوابی ٹرانسفر کیا ہے اسلئے من حالف ہمراہ محمد سراج مذکور مورخہ 23/11/2019 کو ڈپٹی سپیکر صاحب کے پاس بطور جرگہ گئے اور من حالف کے سامنے محمد سراج مذکور نے ڈپٹی سپیکر صاحب کے پاؤں پکڑ کر بہت منت سماجت کی کہ اسکی مخالفت نہ کرے مگر سپیکر صاحب گویا ہوئے کہ میں نے آپ کو ٹرانسفر کیا ہے اور آپ کو ہر صورت میں یہاں سے جانا ہوگا۔ لہذا یہ چند سطور بروئے بیان حلفی تحریر کر دیئے ہیں تاکہ سند رہے۔ اور بوقت ضرورت کام آئے۔

الف



گواہ نمبر 2: محمد فیضان ولد ہاشم علی
سکنہ: پیر بالا اور سک روڈ تحصیل و ضلع پشاور
شناختی کارڈ نمبر: 9-17301-9614563

اختر علی ولد چینی خان (مرحوم)
سکنہ: سفید سنگ تحصیل و ضلع پشاور
شناختی کارڈ: 1-17301-1524743
اختر علی

گواہ نمبر 1: راحت علی ولد حاجی ہمیش گل
سکنہ: سکنہ گاؤں لکڑی در سک روڈ تحصیل و ضلع پشاور
شناختی کارڈ: 5-17301-1324179

ATTACHED

to

To

-21-

~~As a note~~

B/d

The Secretary Health, Khyber Pakhtunkhwa,
Civil secretariat Peshawar.

**Subject: Departmental Appeal against the office order dated
18/11/2019 vide which the appellant has been
illegally transferred to out of District mala-fidely
due to political pressure and victimization.**

=====

It is very humbly submitted as under:

1. That the appellant is working as junior clerk in the health department.
2. That vide office order dated 03/12/2018 the appellant was transferred and posted at Services Hospital Peshawar.

(Copy attached)

3. That within a span of only 10 months the appellant has now been transferred to Gajjo Khan Medical College Swabi vide office order dated 18/11/2019.

(Copy attached)

4. That the impugned order of transfer of the appellant is illegal, unlawful without due authority based on misuse of power and authority, malafide, political pressure and victimization therefore needs to be struckdown on the following grounds amongst others:

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GROUNDS:

1. That the impugned order is illegal, unlawful and without lawful authority.
2. That the impugned order is against the transfer posting policy of the Government hence is premature.
3. That the impugned office order is based on malafide and political victimization as the same has been made on the illegal instructions of the deputy Speaker Provincial Assembly whose dictates does not hold any legal ground.
4. That the appellant has a spotless career and there is no complaint against him even then he has been penalized for political activism and favoritism.
5. That office order impugned herein is discriminatory in nature hence is against the fundamental rights of the appellant.
6. That the way and the manner the impugned order has been passed speaks volume about the ill will and the malafide therein, hence needs to be struck down.

It is therefore most graciously prayed that on the acceptance of this appeal the impugned order may kindly be withdrawn/struckdown being illegal and premature and the appellant be allowed to serve on the post he is working on.




APPELLANT
Mr. Muhammad Siraj
J/C Services Hospital Peshawar.

Date: 25/11/2019

Cc to:

1. Director General Health Khyber Pakhtunkhwa.

ATTACHED
10/11/2019
ADMISSION

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ایڈوکیٹ: <u>والد اللہ زالدی</u>	بار کونسل ایسوسی ایشن نمبر:	پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
رابطہ نمبر:	بعدالت جناب: <u>سید سید کریم</u> KP لیسٹ ص			

مخاطب: <u>ایڈوائس</u>	دعوی:
<u>محمد سراج بنام ڈی۔ جی ویکٹری</u>	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:
باعت تحریر آتکہ	

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دی کارروائی متعلقہ
آن مقام لیسٹ کیلئے زالدی اللہ زالدی لیسٹ ویکٹری مقرر
کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کمال اختیار ہوگا، نیز وکیل صاحب کو
راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز
دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا
دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا جملے سے
باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند لیسٹ
المرقوم: 18-12-4
العبد گواہ شد العبد سید مقام لیسٹ کے لیے منظور ہے۔

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

SERVICE APPEAL NO. 1974 OF 2019

Muhammad Siraj.....Appellant

Versus

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

Respectfully Sheweth:

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

Preliminary Objections:-

1. That the Appellant has got neither cause of action nor locus standi to file the instant Appeal.
2. That the Appellant has filed the instant appeal just to pressurize the respondents.
3. That the instant Appeal is against the prevailing Law and Rules.
4. That the Appeal is not maintainable in its present form and also in the present circumstances of the issue.
5. That the Appellant has filed the instant Appeal with mala-fide intention hence liable to be dismissed.
6. That the Appellant has not come to the Tribunal with clean hands.
7. That the Appeal is time barred.
8. That the Honorable Tribunal has no Jurisdiction to adjudicate upon the matter.
9. That the instant Appeal is bad for mis-joinder and non-joinder of the necessary parties.
10. That the Appellant is estopped by his own conduct to bring instant Appeal.

ON FACTS:

1. Para No 1 pertains to record, hence no comments.
2. Para No 2 pertains to record, hence no comments.

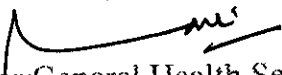
3. In reply to Para No 3 it is submitted that the Appellant has been transferred to Gajju Khan Medical College Swabi on need basis as every Govt. Servant is bound to serve anywhere in Khyber Pakhtunkhwa where his service are required.
4. Para No. pertains to record, hence no comments.
5. Para No. 5 is incorrect. The Appellant was transferred under Civil Servant Act 1973 Chapter-II (4) and he has to serve anywhere in the Province. Furthermore, Section (10) of the Act *ibid* is crystal clear on the matter of posting/transfer of Civil Servant, therefore the transfer order is in accordance with law and rules.
6. In reply to Para No. 6 it is submitted that his Departmental Appeal has been regretted by the Competent Authority.
7. Para No 7 no comments.

ON GROUNDS:


- A. In reply to Para-A it is submitted that the Appellant has been transferred to Gajju Khan Medical College Swabi on need basis as every Govt. Servant are bound to serve anywhere in Khyber Pakhtunkhwa where his service are required.
- B. Para-B is incorrect. The Appellant has served in Service Hospital Peshawar since 2003 to 2014 as well as from 2018 to 2019 (total period is 12 years).
- C. In reply to Para-C it is submitted that the Appellant has been transferred to Gajju Khan Medical College Swabi on need basis as every Govt. Servant are bound to serve anywhere in Khyber Pakhtunkhwa where his service are required.
- D. Para-D as in preceding para.
- E. Para-E as in Para-A above.
- F. Para-F no comments.
- G. Para-G needs no reply being legal.

PRAYER:

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


Director General Health Services,
Khyber Pakhtunkhwa.
Respondent No. 01

ADC (Muj)


Secretary Health Khyber Pakhtunkhwa
Respondent No. 02

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 26567 /ST

Dated 10 /09 /2020

To

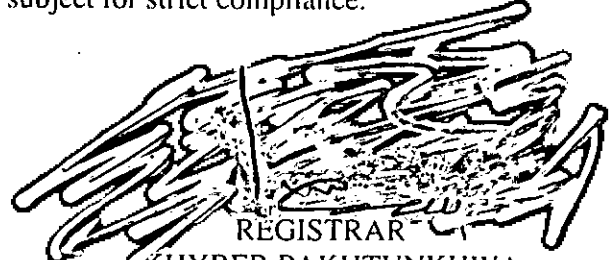
The Director General Health Services,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: -

JUDGMENT IN APPEAL NO. 1974/2019, MR. MUHAMMAD SIRAJ.

I am directed to forward herewith a certified copy of Judgement dated 02.09.2020 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.