

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No.1162/2016

Date of Institution ... 10.11.2016
Date of Decision ... 22.11.2022

Mr. Ilyas Masih, Junior Clerk, Director General Health Services Peshawar.

... (Appellant)

VERSUS

The Secretary Health, Khyber Pakhtunkhwa, Peshawar and two others.

... (Respondents)

Taimoor Ali Khan,
Advocate

... For appellant.

Muhammad Jan,
District Attorney

... For respondents.

Mrs. Rozina Rehman

... Member (J)

Miss Fareeha Paul

... Member (E)

JUDGMENT

ROZINA REHMAN, MEMBER (J): The appellant has invoked the jurisdiction of this Tribunal through above titled appeal with the prayer as copied below:

“That on acceptance of this appeal the respondents may be directed to consider the appellant for promotion to the post of Office Assistant from the date when his juniors were promoted i.e 15.04.2009, with all back benefits”.

2. Brief facts of the case are that appellant joined the department as Junior Clerk on 17.03.1981 and promoted to the post of Senior Clerk on 22.11.1992. Appellant was at serial No. 3 in the seniority list of 2009, Departmental Promotion Committee was held on 09.04.2009 to consider



the promotion cases of the Senior Clerks to the post of Office Assistants. On the basis of that Departmental Promotion Committee Juniors to the appellant were promoted on 15.04.2009, while promotion case of the appellant was deferred due to an inquiry pending against him. The inquiry proceedings ended in favour of the appellant. He, therefore, requested for promotion time and again but respondents were not willing to consider him for his due right of promotion. He filed departmental appeal which was not responded to, hence the present service appeal.

3. We have heard Taimoor Ali Khan, Advocate learned counsel for the appellant and Muhammad Jan learned District Attorney for respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Taimoor Ali Khan Advocate, learned counsel for the appellant argued that promotion order dated 15.04.2009 whereby juniors were promoted by ignoring the appellant was against the law, rules and norms of natural justice, therefore, not tenable in the eyes of law; that appellant was senior and he was at serial No. 3, but he was deferred due to an inquiry pending against him but according to rules, after clearance from the inquiry, appellant was having the right to be promoted from the date when his juniors were promoted. He further submitted that appellant was exonerated from all charges and there was no ground to deprive him from his promotion but even then he was kept deprived from his legal right, which act of the respondents was against the norms of justice, fair play and promotion policy of the government. Lastly, he submitted that the appellant died during pendency of the appeal and his legal heirs attended




the Tribunal and submitted list of legal heirs, therefore, instant appeal might be accepted, keeping in view the hardships of his legal heirs.

5. Conversely, learned District Attorney submitted that the case of the appellant was placed before DPC but his name was deferred due to his involvement in embezzlement case and that he was responsible for missing diet register. He submitted that after compliance of all codal formalities, appellant was treated in accordance with law and rules.

6. From the record it is evident that the appellant (Ilyas Masih) had filed appeal No. 1162 on 10.11.2016. As per death registration certificate available on file, he died on 19.12.2020. His legal heirs submitted an application for impleadment of legal heirs in the instant case. The application is allowed and all the legal heirs stand impleaded in the panel of respondents with red ink. Admittedly appellant was appointed as Junior Clerk. He was promoted to the post of Senior Clerk on 22.11.1992. Final seniority list of Senior Clerks of sub cadre of Health Services corrected upto March, 2009 shows the name of the appellant Ilyas Masih at serial No. 3. This fact in respect of seniority of appellant is not disputed. The meeting of DPC was held on 09.04.2009 to consider the promotion cases of Senior Clerks (BPS-09) to the post of Office Assistants (BPS-14). Dilawar Khan who was at serial No. 1 of the seniority list alongwith others who were junior to appellant were promoted. Appellant alongwith three others were deferred and the reason in respect of the appellant was his involvement in embezzlement case. It is also not denied that an inquiry was pending against the appellant. The inquiry report is available on file vide which appellant was not held

responsible for non-production of record including diet register. After exonerating from the charges of embezzlement, he filed departmental appeal for his promotion which was not responded to. Another meeting of the DPC was held in the office of DGHS on 07.10.2013 and the appellant was once again deferred as his ACRs were not completed. Another meeting of DPC was held on 21.12.2017 and appellant was promoted. Now the claim of the appellant is that he is entitled to promotion from the date when his juniors were promoted. When the appellant was deferred for the first time due to an inquiry in the year 2009, he was not directed to submit his complete ACRs, which were later on made a cause of his deferment. Deferment is neither a punishment nor a final order; as and when the reasons for deferment ceases to exist, the employee is to be promoted from the date when his juniors were promoted.


7. As per Explanation to Rule-17 of the Khyber Pakhtunkhwa Civil Servants (APT) Rules, 1989, if a junior person in a lower post is promoted to a higher post by superseding a senior person and subsequently that senior person is also promoted the person promoted first shall rank senior to the person promoted subsequently; provided that junior person shall not be deemed to have superseded a senior person if the case of the senior person is deferred for the time being for want of certain information or for incompleteness of record or for any other reason not attributing to his fault or demerit. In the instant case, the present appellant was promoted but with immediate effect.

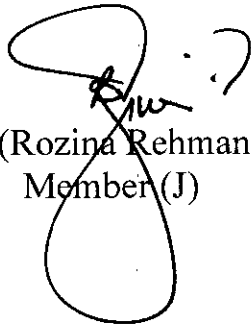


8. In the absence of any solid reason and convincing response by the respondents, the claim of the appellant is bonafide and just and he is held entitled for promotion to the post of Office Assistant (BPS-16) w.e.f 15.04.2009 i.e. the date his juniors were promoted. With the observations herein-above, the appeal in hand is hereby disposed of. File be consigned to the record room.

ANNOUNCED

22.11.2022


(Fareeha Paul)
Member (E)


(Rozina Rehman)
Member (J)

ORDER
22.11.2022

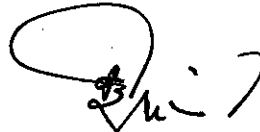
Appellant present through counsel.

Naseer Ud Din Shah learned Assistant Advocate General for respondents present. Arguments heard. Record perused.

Vide our detailed judgment of today of this Tribunal place on file, instant service appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
22.11.2022


(Fareeha Paul)
Member (E)


(Rozina Rehman)
Member (J)

28.06.2022

Learned counsel for the appellant present. Mr. Farhan Khan Assistant alongwith Mr. Naseer Ud Din Shah, Assistant Advocate General for respondents present.

Request for adjournment was made on behalf of learned counsel for the appellant as he has not made preparation of the case. Adjourned. To come up for arguments on 13.09.2022 before the D.B.



(Rozina Rehman)
Member (J)

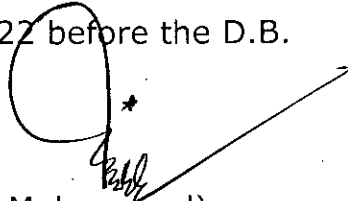


(Salah Ud Din)
Member (J)

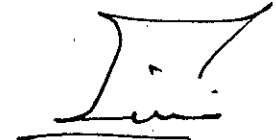
13.09.2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Learned counsel for the appellant sought adjournment on the ground that he has not prepared the brief of the instant appeal. Adjourned. To come up for arguments on 16.11.2022 before the D.B.



(Mian Muhammad)
Member (Executive)



(Salah-Ud-Din)
Member (Judicial)

16.11.2022

Counsel for the appellant present.

Muhammad Jan, District Attorney for respondents present.

Arguments heard. To come up for order on 22.11.2022 before D.B.



(Fareeha Paul)
Member (E)



(Rozina Rehman)
Member (J)

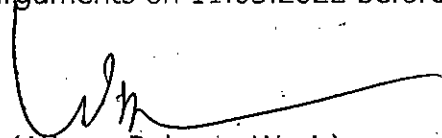
SCANNED
KPST
Peshawar

1162/2016

03.01.2022

Counsel for the appellant, Mr. Asif Masood Ali Shah,
DDA for the respondents present.

Learned counsel for the appellant seeks adjournment
for preparation. Request accorded. To come up for
arguments on 11.03.2022 before the D.B.


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


Chairman

11-3-22

*Due to Retirement of the Hon.ble
Chairman the case is adjourned to come
up for the same as before on 28-6-22*

*Asif Masood Ali Shah
Relator*

AS

The Bureau of Prisons is
in the case of [illegible]
[illegible] of the [illegible]

[illegible]
[illegible]
[illegible]

07.01.2021

Counsel for the appellant present. Learned Addl: AG for respondents present.

Learned counsel for the appellant seeks adjournment. Adjournment granted. Adjourned to 30.03.2021 before D.B.

(Mian Muhammad)
Member(E)

(Rozina Rehman)
Member(J)

30.03.2021

Due to non availability of the concerned D.B, the case is adjourned to 17.05.2021 for the same.

Reader

17.5-2021

Due to COVID-19, the case is adjourned to 8-9-2021 for the same.

*Muhammad
Ali
28/7/21*

20.08.2021

Due to summer vacations, case is adjourned to 28.09.2021 for the same as before.

READER

28-9-2021

Due to non availability of the concerned DB the case is adjourned to 3-01-22.

Reader

18.08.2020

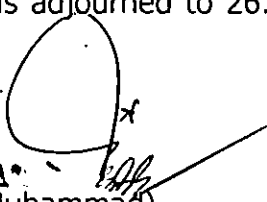
Due to summer vacations, the case is adjourned to 20.10.2020 for the same.


Reader

20.10.2020

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

The Bar is observing general strike today, therefore, the matter is adjourned to 26.11.2020 for hearing before the D.B.


(Mian Muhammad)
Member


Chairman

26.11.2020

Counsel for the appellant and Zara Tajwar, DDA alongwith Saleem Javed, Law Officer for the respondents present.

Learned DDA requests for time to prepare the brief and obtained fresh instructions from the respondents. Adjourned to 07.01.2021 for hearing before the D.B.


(Mian Muhammad)
Member(E)


Chairman

24.02.2020

Learned counsel for the appellant present. Mr. Riaz Khan Paindakheil learned Assistant Advocate General alongwith Salim Javid Litigation Officer present and submitted additional documents. Copy of the same given to learned counsel for the appellant. Adjournment requested. Adjourn. To come up for arguments on 13.03.2020 before D.B.


Member

Member

13.03.2020

Appellant in person and Mr. Zia Ullah learned Deputy District Attorney present. Appellant seeks adjournment as his counsel is not available. Adjourn. To come up for arguments on 27.04.2020 before D.B.


Member

Member

27.04.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 18.08.2020 before D.B.


Reader

13.6.2019

The Bench is incomplete, therefore, the case is adjourn for arguments on 15.08.2019 before D.B.

15-8-19

The Bench is complete
There for case is adjourned to 19-10-19
Reader
Reader

10.10.2019

Due to official tour of Hon'ble Members to Camp Court Swat, the instant matter is adjourned to 23.12.2019 for the same.

Reader

23.12.2019

Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney alongwith Saleem Javid Litigation Officer present. Representative of the respondent department seeks time to furnish documents in compliance with order sheet dated 24.04.2019. Adjourn. To come up for record/arguments on 24.02.2020 before D.B.

Member

Member

07.02.2019

Appellant, alongwith his counsel present. Mr. Ziaullah, Deputy District Attorney for the respondents present. Learned counsel for the appellant requested for short adjournment. Adjourned to 08.02.2019 for arguments before D.B.



(AHMAD HASSAN)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

08.02.2019

Counsel for the appellant present. Mr. Muhammad Riaz, Asst: AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. Case to come up for arguments on 24.04.2019 before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

24.04.2019

Mr. Taimur Ali Khan, Advocate for appellant and Mr. Ziaullah, DDA for the respondents present.

During the course of arguments it transpired that the minutes/record pertaining to DPCs for considering the promotion cases of Senior Clerks (BPS-09) to the post of Office Assistant (BPS-14) held after 09.04.2009 till 04.01.2018 shall be necessary in order to ascertain the deferment of appellant or otherwise from promotion subsequent to the meeting dated 09.04.2009.

The respondents, therefore, shall produce the entire record as noted above on next date of hearing positively. Adjourned to 13.06.2019 for arguments before the D.B.


Member


Chairman

26.11.2018

Appellant absent. Learned counsel for the appellant present. Mr. Riaz Painsdakhle learned Assistant Advocate General present and stated that oral information from the department is that the appellant has been ~~proceeded~~ Learned counsel for the appellant requested for adjournment. Adjourn. To come up for further proceeding tomorrow i.e. on 27.11.2018 before D.B.


Member

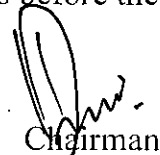

Member

27.11.2018

Junior counsel for the appellant and Mr. Muhammad Riaz Painsdakhel, Assistant A.G for the respondents present. ~~Written~~ submitted to the written reply of the respondents submitted.

The former requests for adjournment on the ground that learned senior counsel for the appellant is appearing before the august Supreme Court of Pakistan today. Adjourned to 15.01.2019 for arguments before the D.B.


Member


Chairman

15.01.2019

Appellant in person present. Mr. Riaz Ahmad Painsdakhel, Assistant AG for the respondents present. Appellant requested for adjournment on the ground that his counsel is busy before the Hon,ble Peshawar High Court. Adjourned. To come up for arguments on 07.02.2019 before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

24.07.2018

Junior to counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 28.08.2018 before D.B


Member


Member

28.08.2018

Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 09.10.2018 before D.B.


(Ahmad Hassan)
Member


(Muhammad Amin Khan Kundi)
Member

09.10.2018

Junior to counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney for the respondents present. Junior to counsel for the appellant seeks adjournment as his senior counsel is not in attendance. Adjourned. To come up for arguments on 26.11.2018 before D.B.



Member

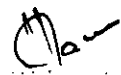

Member

Service Appeal No. 1162/2016

01.02.2018


Appellant in person and Mr. Ziaullah, Deputy District Attorney for the respondents present. Due to general strike of the Bar, learned counsel for the appellant is not available today hence, adjourned. To come up for arguments on 16.03.2018 before D.B.


(Muhammad Amin Khan Kundi)
Member (J)


(Muhammad Hamid Mughal)
Member (J)

16.03.2018

Appellant absent. Learned counsel for the appellant is also absent. However, junior to senior counsel for the appellant present and seeks adjournment. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Amjid Ali, Assistant and Mr. Jaffar Shah, Assistant for the respondents present. Adjourned. To come up for arguments on 09.05.2018 before D.B.


(Muhammad Amin Khan Kundi)
Member


(Muhammad Hamid Mughal)
Member

09.05.2018

The Tribunal is defunct due to retirement of Hon'ble Chairman. Therefore, the case is adjourned. To come on 24.07.2018


READER

04.05.2017

Counsel for the appellant and Mr. Muhammad Jan, Government Pleader for the respondents present. Learned counsel for the appellant submitted rejoinder which is placed on file. To come up for arguments on 28.07.2017 before D.B.



(Gul Zeb Khan)
Member



(Ahmad Hassan)
Member

28.07.2017

Learned counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. Adjournment granted. To come up arguments on 07.12.2017 before D.B.



(Gul Zeb Khan)
Member



(Muhammad Hamid Mughal)
Member

07.12.2017

Junior counsel for the appellant present. Mr. Muhammad Jan, Deputy District Attorney for the respondents also present. Junior counsel for the appellant requested for adjournment on the ground that learned senior counsel for the appellant is not available today. Adjourned. To come up for arguments on 01.02.2018 before D.B.



(Ahmad Hassan)
Member (E)



(Muhammad Amin Khan Kundi)
Member (J)

06.02.2017

Clerk to counsel for the appellant and Addl: AG for respondents present. Written reply not submitted. Requested for adjournment. To come up for written reply/comments on 20.02.2017 before S.B.


(ASHFAQUE TAJ)

20.02.2017

Counsel for the appellant and Addl: AG for respondents present. Written reply not submitted. Requested for adjournment. Last opportunity granted. To come up for written reply/comments on 28.03.2017 before S.B.


(MUHAMMAD AMIR NAZIR)
MEMBER

28.03.2017

Counsel for the appellant and Mr. Yar Gul, Assistant alongwith Addl: AG for the respondents present. Written reply submitted. To come up for rejoinder and arguments on 04.05.2017 before D.B.


(AHMAD HASSAN)
MEMBER

06.12.2016

SCANNED
KPST
Peshawar

Counsel for the appellant present. Preliminary arguments heard and case file perused. Through the instant appeal, the appellant has impugned order dated 15.04.2009 vide which the appellant was denied promotion due to his pending inquiry. Later on the appellant was exonerated from the inquiry by the inquiry committee hence, the appellant filed departmental appeal on 11.07.2016 to consider the appellant for promotion from the date when his junior colleagues were promoted, but the same was not responded within statutory period, hence the instant service appeal.

Appellant Deposited
Security & Process Fee

Since the matter required further consideration of this Tribunal therefore, the same is admitted for regular hearing, subject to deposit of security and process fee within 10 days. Notices be issued to the respondents for written reply/comments for 16.01.2017 before S.B.

Member

16.01.2017



Counsel for appellant and Muhammad Adeel Butt, Additional AG for respondents present. Written reply by respondents not submitted. Learned Additional AG requested for adjournment on behalf of respondents. Adjourned. To come up for written reply/comments on 06.02.2017 before S.B.


(ASHFAQUE TAJ)
MEMBER

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1162 /2016


S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	18/11/2016	<p>The appeal of Mr. Ilyas Masih resubmitted today by Mr. Muhammad Asif Yousafzai Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>6-12-16</u>.</p> <p style="text-align: right;"> MEMBER</p>

The appeal of Mr. Ilyas Masih Senior Clerk DGHS Office Peshawar received today i.e. on 10.11.2016 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- In the memo of appeal many places have been left blank which may be filled up.
- 2- Copies of first appointment and promotion orders mentioned in para-1 of the memo of appeal are not attached with the appeal which may be placed on it.
- 3- Annexure-C of the appeal is missing.
- 4- Annexures of the appeal may be attested.
- 5- Annexures of the appeal may be flagged.
- 6- Five more copies/sets of the appeal along with Annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1879/S.T.

Dt. 10/11/2016


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr.M. Asif Yousafzai Adv. Pesh.

Respected Sir:

- 1- Removed
- 2- Removed
- 3- Removed
- 4- Removed
- 5- Removed
- 6- Removed

Resubmitted


BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 1162 /2016

Ilyas Masih

V/S

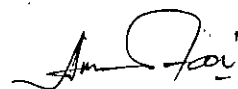
Health Department.

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3.	Copy of promotion order	B	8-11
4.	Copy of Notification	C	12-13
5.	Copy of seniority list	D	14-18
6.	Copy of DPC meeting	E	19-20
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Appellant

Through:


(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT


(TAIMUR ALI KHAN),

&

(S. NOMAN ALI BUKHRI)
ADVOCATES, PESHAWAR.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. _____/2016

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1168

Dated 10-11-2016

Mr. Ilyas Masih, Senior Clerk,
DGHS Office Peshawar.

APPELLANT

VERSUS

1. The Secretary Health Govt: of Khyber Pakhtunkhwa, Peshawar.
2. The Director General Health Services Khyber Pakhtunkhwa, Peshawar.
3. The Secretary Finance Deptt: KPK Peshawar.

RESPONDENTS

.....

APPEAL UNDER SECTION-4 OF THE KPK SERVICE TRIBUNAL ACT 1974 FOR DIRECTING THE RESPONDENTS TO CONSIDER THE APPELLANT FOR PROMOTION TO THE POST OF OFFICE ASSISTANT FROM THE DATE WHEN HIS JUNIORS WERE PROMOTED (15.04.2009) AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

.....

THAT ON ACCEPTANCE OF THIS APPEAL, THE RESPONDENTS MAY BE DIRECTED TO CONSIDER THE APPELLANT FOR PROMOTION TO THE POST OF OFFICE ASSISTANT FROM THE DATE WHEN HIS JUNIORS WERE PROMOTED (15.04.2009) WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

.....

Filed to-day

Registrar
10/11/16

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant joined the respondent department as junior clerk on 17.3.1981 and promoted to the post of Senior Clerk on 22.11.1992. The appellant has more 23 years of service with good record through out at his credit. Copy of Appointment Order of junior clerk and senior clerk are attached as Annexure-A&B).
2. That the Government of KPK has fixed 100% quota for ~~subordinate~~ promotion to post of Office Assistant on the basis of seniority-cum-fitness vide notification dated 22.6.1983. (Copy of Notification is attached as Annexure-C)
3. That the appellant was at S.No. 3 of seniority list of 2009 and DPC was held on 9.4.2009 to consider the promotion cases of Senior Clerks to the post of Office Assistants. (Copy seniority list and DPC meeting are attached as Annexure-D&E).
4. That on the basis of that DPC, many juniors from the appellant were promoted to the post of Office Assistant vide order dated 15.4.2009, while the promotion case of the appellant was deferred due to inquiry pending against the appellant. (Copy of order dated 15.4.2009 is attached as Annexure-F)
5. That the inquiry proceeding was ended in the favour of the appellant and the appellant was cleared from all the charges by the inquiry committee. (Copy of inquiry report is attached as annexure-G)
6. That the respondents were requested time and again for promotion but the respondents are not willing to consider the appellant for his due right of promotion. Thus finally appellant filed departmental appeal for his claim on 12.7.2016, but the department has not responded within the statutory period of ninety days. (Copy of departmental appeal is attached as Annexure-H)
7. That now the appellant wants to file service appeal on following grounds amongst the others.

GROUNDS:

- A) That the promotion order dated 15.4.2009 whereby the juniors were promoted by ignoring the appellant and not taking action on the departmental appeal of the appellant within the statutory period of 90 days is against the law, rules norms of justice and material on record, therefore not tenable.
- B) That the appellant was senior and at S.No.3 in the seniority list whereas the private respondents were at serial No.5 to Serial No. 18 of the seniority list, which proves that the appellant was not promoted despite being senior.
- C) That the appellant was deferred due to inquiry was pending against the appellant, but according to rules and Superior Courts Judgment after clearance from the inquiry, the appellant is having the right to be promoted from the date when juniors were promoted.
- D) That the appellant was exonerated in the inquiry proceeding and there remain no ground to deprive the appellant from his promotion from his due date.
- E) That the appellant has been kept deprived from his legal right of promotion which is not tenable under the norms of justice and fair play and promotion policy of the Govt.
- F) That depriving the appellant from his legal right of promotion from the date when his juniors were promoted will suffer a lot the appellant, both in promotion chances as well as in monetary benefits in the shape of pension and other gratuities.
- G) That the appellant has not been treated in accordance with law and rules.
- H) That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

Appellant
Ilyas Masih

Through:

(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT
(TAIMUR ALI KHAN),
&
(S. NOMAN ALI BUKHRI)
ADVOCATES, PESHAWAR.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. _____/2016 |

Ilyas Masih

V/S

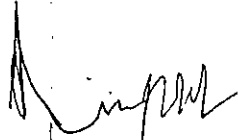
Health Department.

.....
APPLICATION FOR CONDONATION
OF DELAY, IF ANY, IN FILING THE INSTANT APPEAL

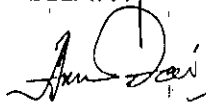
RESPECTFULLY SHEWETH:

1. That the instant appeal is filed by appellant before this Honourable Tribunal in which no date has been fixed.
2. That the appellant submitted his departmental appeal on 12.7.2016 and waited for statutory period of ninety days but the department did not respond in statutory period of ninety days.
3. That the august Supreme Court of Pakistan has held that decision on merit should be encouraged rather than knocking-out the litigants on technicalities including limitation. Therefore, appeal needs to be decided on merit (2003, PLD (SC) 724.
4. That though the appellant has filed the instant appeal in time , but if delay occurred in calculating the period, that is condonable under the principles of justice and fair play.

It is therefore most humbly prayed that the instant appeal may be decided on merit by condoning the delay, if any, to meet the ends of justice.


APPELLANT

THROUGH:


(M. ASIF YOUSAFZAI)

ADVOCATE SUPREME COURT


(TAIMUR ALI KHAN),

&

(S. NOMAN ALI BUKHRI)

ADVOCATES, PESHAWAR.

AFFIDAVIT:

It is affirmed and declared that the contents of the above application are true and correct to the best of my knowledge and belief.


Deponent

Dated Peshawar 12/3/81
From: The Medical Superintendent,
Civil Hospital, Peshawar.
To: Mr. Ilyas,
son of Said Masih Moh:Kalu
Ramdas Bazar Peshawar City.

A (7)

Subject; APPOINTMENT OF JUNIOR CLERK.
Memo: 1

Reference your interview dated 12/3/1981.

I am pleased to offer you a Post of Junior Clerk in N.P.S. No.5 viz 290-10-350/12-470 plus usual allowances as admissible under the Rules. Subject to the following conditions.

- 1- That You are Medical Fit.
- 2- That you are domiciled of N.W.F.P.
- 3- That you will require to serve any where in NWFP.
- 4- Your services will be purely on temporary basis and can be terminated at any time without assigning any reasons. If you wish to resign from Service you will require to give one month notice or surrender one month pay in lieu thereof.
- 5- You will govern by all Rules and regulation pertaining to your category.

If you accept the offer on the above mentioned condition you are directed to report to the undersigned for duty within one week. If you failed in joining your duty within the specified period the offer will be considered as withdrawn.

soh
Medical Superintendent,
Civil Hospital, Peshawar.

No. 957 / 1

Copy forwarded to the Director Health Services, N.W.F.P., Peshawar for information with reference to his No. 6198 dated 23-2-81.

The particulars of the above candidates is as under:

- 1- Name:- Ilyas son of Said Masih.
 - 2- Date of Birth:- 19/6/1961.
 - 3- Educational Qualification....Matric (Second Division).
 - 4- Address:- Moh:Kalu Ramdas Bazar Peshawar City.
- 2- Copy to accountant for information and n/action.

Han
Medical Superintendent,
Civil Hospital, Peshawar.

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B (8)

HEALTH DIRECTORATE NWFP PESHAWAR.

OFFICE ORDER.

Consequent upon the approval accorded by the Departmental Promotion Committee in its Meeting held on 19.10.1992 at 10.00AM, The following Junior Clerks of the Sub: Offices are hereby promoted to the post of Senior Clerk with immediate effect:.

1. Mr. Ghulam Mohammad ✓
Ag: Surgeon Office,
Bajaur.
2. Mr. Faiz ur Rehman, RH
DHO Office, Peshawar.
3. Mr. Hidayat Shah, RH
DHO Office, Peshawar.
4. Mr. Amir Hussain. ✓
DHO Office Chitral.
5. Mr. Noor Sattar ul Mulka ✓
DHO Office, Chitral.
6. Mr. Fazale Ahad. ✓
MS DHQ: Hosp: Mardan.
7. Mr. Mohammad Riaz. ✓
MS DHQ: Hosp: Mansehra.
8. Mohammad Javed. ✓
DHO Office, Abbottabad.
9. Zauq Akhtar. ✓
DHO Office, Mansehra.
10. Mr. Pervez Gul. ✓
DHO Office, A.Abad.
11. Mr. Sami ul Haq. ✓
DHO Office, Swat.
12. Mr. Mohammad Waris. ✓
L.RH. Peshawar.
13. Anwar S-hah. ✓
LRH Peshawar.
14. Mr. Ilyas Masih. ✓
MS CH. Peshawar.
15. Mr. Nazir Mohammad. ✓
DHO Office, Mardan.
16. Mr. Qaiser Sultan. ✓
MS. DHQ: Hosp: Mansehra.
17. Mr. Habib ur Rehman. ✓
DHO Office, Peshawar.
18. Mr. Habib Ullah. ✓
LRH Peshawar.
19. Mr. Ijaz Hussain. ✓
DHQ: Hosp: DIKHAN.

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SECRET

- 20. Mr. Mohammad Nazir Shah.
DHQ: Hosp: Kohat.
- 21. Mr. Sadiq Jamil.
T.B.C. Abbottabad.
- 22. Mr. S-hah Jehan.
DHO Office, DIKhan.
- 23. Mr. Nadir Khan.
DHO Office Dir. at Timergarah.
- 24. Mr. Mohammad Usman.
Para Medical Institute
Swat.
- 25. Mr. Mohammad Asif.
DHO Office, Mansehra. ✓
- 26. Mr. Tarif Gul.
DHQ : Hosp: Kohat.
- 27. Mr. Jamalud Din.
DHO Office Chitral.
- 28. Mr. Amir Safdar.
Ag: Surgeon Office,
Mohmand at Ghallanai.
- 29. Mr. Rehman Shah,
DHQ: Hosp: Mardan.
- 30. Mr. Mohammad Nawaz.
Ag: Surgeon Office, Bajaur. ✓
- 31. Mr. Mohammad Rafiq.
DHQ: Hosp: A. Abad.
- 32. Mr. Subhan Ullah.
Ag: Surgeon Office, Landikotal.
- 33. Mr. Faiz Ullah.
M.S.D. Peshawar.

Accordingly the following posting and transfer of the Senior Clerks are hereby ordered in the public interest:-

SL: NO.	NAME.	FROM	TO	REMARKS.
1.	Mr. Ghulam Mohammad.	Ag: Surgeon Office, Bajaur.	Ag: Surgeon Bajaur.	Against the vacant pos
2.	Mr. Faiz ur Rehman.	DHO Office, Peshawar.	Hayat-Abad Medical Complex Peshawar.	"
3.	Mr. Hidayat Shah.	DHO Peshawar.	Hayatabad Med: Complex, Peshawar.	"
4.	Mr. Amir Hussain.	DHO Office, Chitral.	MS DHQ: Hosp: Chitral.	

Mr. Fazale Ahad.	DHQ: Hosp: Mardan.	DHQ : Hosp: Swabi.	"
Mr. Mohammad Riaz.	DHQ: Hosp: Mansehra.	DHO Office Kohistan.	"
Mr. Mohammad Javed.	DHO Office, A. Abad.	DHO Office, A. Abad.	"
Mr. Zauq Akhtar.	DHO Office, Mansehra.	ADHO Office, Mansehra.	"
Mr. Pervez Gul.	DHO Office, A. Abad.	ADHO Office, A. Abad.	"
Mr. Sami Ul Haq.	DHO Office, Swat.	DHO Office, Swat.	"
Mr. Mohammad Waris.	LRH Peshawar.	D. DH. S. Office, Swat.	"
Mr. Anwar S-hah.	LRH Peshawar.	M. S. Office, Landikotal.	"
Mr. Ilyas Masih.	C. H. Peshawar.	D. DHS Office, A. Abad.	"
Mr. Nazir Mohammad.	DHO Office, Mardan.	DHO Office, Mardan.	Vice Mr. Ghufuran Ullah Promoted as Asstt. and Transferred. Against the vacant post.
Mr. Qaiser Sultan.	DHQ: Hosp: Mansehra.	Mentle Hosp; Dhodial.	"
Mr. Habib ur Rehman.	DHO Office, Peshawar.	DHO Office, Kohat.	"
Mr. Habib Ullah.	LRH Pesh:	DDHS Office, Kohat.	"
Mr. Ijaz Hussain.	DHQ: Hosp: DIKHAN.	D. T. B. C. Officer, DIKHAN.	Vice Rehmt Ullah S/C transferred.
Mr. Mohd Nazir Shah.	DHQ: Hosp: Kohat.	DHO Office, Kohat.	Against the vacant post.
Mr. Sadiq Jamil.	DTBC A. ABAD.	DDHS Office, Abbottabad.	"
Mr. Shah Jehan.	DHO Office, DIKHAN.	Ag: Surgeon Office, Wana (S.W.)	"
Mr. Nadir Khan.	DHO Office, Dir Timergarah.	Saidu Group of Hosp: S. S. Swat.	"
Mr. Mohammad Usman.	Para Med: Institute Swat.	Para Med: Inst: Swat.	"
Mr. Mohammad Asif.	DHO Office, Mansehra.	DHO Office, Kohistan.	"
Mr. Tarif Gul.	DHQ: hosp: Kohat.	DHO Office, Karak.	"

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- 27. Jamal ud Din. DHO OFFICE, Chitral. DTO Office, Mansehra. Against the Vacant post.
- 28. Amir Safdar. Ag: Surgeon Office Mohmand at Ghallanai. DHO Office, Charsadda.
- 29. Mr. Rehmat Shah. DHQ: Hosp: Mardan. DHO Office, Swabi. Vice Mr. Zubair Shah Transferred.
- 30. Mr. Zubair Shah. DHO Office, Swabi. Ag: Surgeon Office Khyber at Landikotal. Against the vacant post.
- 31. Mr. Mohammad Nawaz. Ag: Surgeon DDHS Office, Office, Bajaur. Swat.
- 32. Mrr. Mohammad Rafiq. DHQ Hosp: A. Abad. DDHS Office, A. Abad.
- 33. Mr. Subhan Ullah. Ag: Surgeon Office Khyber at Landikotal. Ag: Surgeon Office Khyber at Landikotal.
- 34. Mr. Faiz Ullah. M.S.D. Pesh: DHO Office, Charsadda.
- 35. Mr. Rehmat Ullah. D.T.B.C. Office DIKHAN. DHO Office, Bannu. Vice Mr. Sadia Chishti Promoted as Asstt.

The Departmental Promotion Committee dropped the names of the following Junior Clerks for promotion to the post of S/Clerks due to their indifferent records of service/A.C.Rs.

1. Mr. Nazad Ali S-hah. DHQ: Hosp: Bannu.
2. Mr. Nisar Mohammad. E/C DHQ: Hosp: Swabi.
3. Mr. Aftab Ali S-hah. DHO Office, Peshawar.

The Departmental Promotion Committee deferred the case of Mr. Shahid Hussain attached to Office of DHO ~~Office~~ A. Abad due to an Anti-Corruption case pending against him ~~the court~~.

Sd/-
DIRECTOR HEALTH SERVICES
N.W.F. PROVINCE, PESHAWAR

NO. 8339-81 /ADMN: DATED PESHAWAR THE 22/11/1992

- Copy forwarded to the:-
1. All Divisional Director Health Services in NWFP.
 2. Administrator, Hayatabad Medical Complex Peshawar.
 3. Agency Surgeon Bajaur at khar.
 4. DHO Office Peshawar.
 5. DHO Chitral.
 6. MS DHQ: Hosp: Chitral.

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S/Rules Sub-Cadre

GOVERNMENT OF N.W.F.P.
HEALTH & SOCIAL WELFARE DEPARTMENT.

C 12/80

NOTIFICATION

Dated Peshawar the 22nd June, 1983.

No. SO(11)/1-6/83. In pursuance of the provisions contained in sub-rule (2) of rule 3 of the North West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1975, the Health and Social Welfare Department, in consultation with the Services & General Administration Department and Finance Department, hereby lays down the method of recruitment, qualifications and other conditions specified in column 3 to 5 of the Appendix to this Notification which shall be applicable to the posts of Ministerial Service (Sub-Cadre) in the Health Department specified in column 2 of the said Appendix.

APPENDIX

Sl. No.	Nomenclature of the post with Grade	Minimum qualifications for initial recruitment	Age limit for initial recruitment	Method of Recruitment
1	Accountant (Grade-16)	Graduate from a recognized University with at least 5 years experience in Accounts or qualified S.A.S.	21 to 35 years	By initial recruitment or by transfer.
2	Superintendent (Grade-16)			

By promotion on the basis of seniority-cum-fitness from amongst Statistical Assistants/Assistants/Auditors/Senior/Senior Store Keepers Grade-11 of subordinate offices of the Health Directorate with at least five years service as such.

Note: A common seniority-list of eligible officials will be maintained for the purpose of promotion to the post of Superintendent.

3. Assistant/Senior Store Keeper (Grade-11)
By promotion from amongst Senior Clerks/Store Keeper Grade-6 with at least three years service as such.
By initial recruitment.
4. Statistical Assistant (Grade-11).
Degree from a recognized University with mathematics or statistics as one of the subject.
20 to 25 years.
By initial recruitment.
5. Senior Clerk/Store-Keeper (Grade-6)
By promotion on the basis of seniority-cum-fitness from amongst Junior Clerk/Store Keeper (Grade-5) with at least 2 years service as such.
By initial recruitment.
6. Junior Clerk/Store Keeper (Grade-5)
a) Matriculation from recognized Board, and
18 to 25 years
By initial recruitment.
b) A speed of 25 words per minute in typing.

By promotion on the basis of seniority-cum-fitness from amongst stenotypists with at least three years service as such, or if no suitable stenotypist is available for promotion then by initial recruitment.

18 to 25 years

By initial recruitment.

a) Matriculation from a recognized Board; and

b) A speed of 100 words per minute in shorthand in English and 40 words per minute in typing.

a) Matriculation from a recognized Board; and

b) A speed of 80 words per minute in shorthand in English and 35 words per minute in typing.

By initial recruitment.

18 to 25 years

By initial recruitment.

18 to 45 years

Middle pass

Preferably literate.

7. Stenographer (Grade-12)

8. Stenotypist (Grade-8)

9. Restorer (Grade-2)

10. Naib Qasid (Grade-1)

D (16)

DIRECTORATE GENERAL HEALTH
SERVICES, NWFP, PESHAWAR.

NO 2621 /PERSONNEL.

DATED 02 /07/09.

To,

1. MS Govt LRH, Peshawar.
2. MS KTH. HMC Peshawar.
3. MS P/Services Hospital Peshawar.
4. Govt: Drugs Analyst Food Labty: Peshawar.
5. DHS (TATA) NWFP Peshawar.
6. Dean PGMI/ HMC Peshawar.
7. Principal BMC Bannu.
8. MS Khalifa Gul Nawaz Hospital Bannu.
9. MS MIMM Teaching Hospital D.I. Khan.
10. All Principals of Health Institutions, NWFP.
11. All Agency Surgeons in NWFP.
12. All MS AHQ Hospital in NWFP.
13. MS SGT Hospital Swat (14) Incharge MCC Peshawar.
14. Incharge of Branches DGHS, NWFP, Peshawar
15. MS DHQ Teaching Hospital D.I. Khan.

Subject: FINAL SENIORITY LIST OF SENIOR CLERKS OF SUB CADRE
CORRECTED UPTO MARCH 2009.

Attention:

Final Seniority list of Senior Clerks of Sub-cadre of Health Services
NWFP corrected upto March 2009 serving under your control is sent herewith for their
information.

The same may please be brought to the notes of all concerned.

FOR DIRECTOR GENERAL HEALTH
SERVICES, NWFP, PESHAWAR.

NO 2621 /PERSONNEL.

✓ Copy with a copy of seniority list is forwarded to the Secretary to Govt: of NWFP
Health Department Peshawar for information.

FOR DIRECTOR GENERAL HEALTH
SERVICES, NWFP, PESHAWAR

**FINAL SENIORITY LIST OF SENIOR CLERKS OF SUB-DIVISION
OF HEALTH SERVICES IN NWFP CORRECTED UP TO MARCH 2019**

Name of Official	Date of appointment as J/Clerk	Date of promotion as S/Clerk	Place of posting	Date of Birth /Domicle	Date of Retirement
Dilawar Khan	25.11.1958	30.03.1989	LHQ JTL EL Khan	25.08.1949 D.J.Khan	24.08.2009
Basharat Ahmad	13.12.1976	01.05.1990	KTH Peshawar	29.2.1956/ Peshawar	28.2.2016
Ilyas Maseh	17.03.1981	22.11.1992	PHSA NWFP Peshawar	19.06.1961 Peshawar	18.06.2021
Muhammed Nawaz	13.12.1998	22.11.1992	A.S Rajawar Agency	08.07.1957 Balawat	07.07.2017
Subhanullah	08.02.1982	22.11.1992	A.S Khyber Agency	18.04.1960 Khyber Ag	17.02.2020
Faizullah	16.02.1982	22.11.1992	FGHS Office	12.12.1962 Peshawar	11.12.2022
Irshad Khalid	06.02.1985	31.03.1994	FGML Peshawar	18.9.63/ 02.01.1958	09.06.2025
Hassan Gul	01.03.1976	26.09.1994	KCD Peshawar	Peshawar	01.01.2018
Zahid Hussain	02.01.1979	26.09.1994	KANC Peshawar	01.12.1951/Pesh	30.11.2017
Gulab Khan	02.01.1979	26.09.1994	KANC Peshawar	29.05.1959/LANK	28.05.2019
Muhsin Khan	03.01.1979	26.09.1994	KANC Peshawar	01.04.1957 Peshawar	31.03.2017
Muhammad Akber	08.06.1980	26.09.1994	KANC Peshawar	08.02.1957 Peshawar	07.02.2017
Muhammad	04.12.1981	26.09.1994	KANC Peshawar	13.03.1961 Peshawar	13.06.2021
Muhammad	27.09.1983	26.09.1994	KANC Peshawar	20.04.1960 Peshawar	16.04.2020
Iqbal Ahmad	01.11.1982	26.09.1994	KANC Peshawar	07.09.1953 Peshawar	01.02.2018

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16	Bahadur Khan	16.3.1982	26.09.1994	MMMC Mardan	30.6.1981/ Mardan	19.6.2021
17	Khalid Dad Khan	11.10.1982	26.9.1994	DHQ (Teaching) Hospital Bannu	01.3.1963/Bannu	23.2.2022
18	Munir Ahmad Gul	19.10.1982	26.09.1994	DHS FATA Peshawar	22.03.1960 Peshawar	21.03.2020
19	Bakhtawar Shah	30.11.1982	26.09.1994	A.S. Mehmood Agency	07.02.1964 Mehranpur Ag.	06.02.2024
20	Ghulam Mustafa	01.12.1982	26.09.1994	KNMC, Peshawar	20.12.1957 Peshawar	19.12.2017
21	Shakirullah	11.12.1982	26.09.1994	P/S H. Peshawar	10.04.1960 Peshawar	09.04.2020
22	Safi ur Rehman	09.03.1983	26.09.1994	AS FR Bannu Lala Mardan	05.01.1962 Bannu	04.01.2022
23	Fayaz Jan	20.12.1979	30.6.2000	A.H.Q.H Miranshah Giris Campus Peshawar	15.05.1958/NWFA 01.01.1961 Charsadda	14.05.2018
24	Mir Wali Khan	16.04.1983	30.05.2000	KNMC, Peshawar	22.09.1962 Peshawar	21.09.2023
25	Bramullah	25.08.1985	30.05.2000	A.S. Khyber Agency	07.10.1964 Khyber Ag.	06.10.2024
26	Khalid Jan	10.10.1983	30.05.2000	A.S. Khyber Agency	18.10.1965 Khyber Ag.	11.10.2025
27	Muhammad Nawaz	13.10.1983	30.05.2000	A.H.Q.H Wana Bannu	06.07.1963 Bannu	05.07.2019
28	Haq Nawaz	01.12.1983	30.05.2000	S.G.T.H. Swat Bannu	01.01.1964/Swat 01.10.1962 Peshawar	31.12.2022
29	Muhammad Ali	01.12.1983	30.05.2000	HMCC Peshawar	01.10.1962 Peshawar	30.10.2022
30	Hashim uli	01.01.1984	30.05.2000	HMCC Peshawar	01.10.1962 Peshawar	30.10.2022

(Signature)
01/10/2024

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31	Asif Jan	28.03.1984	30.05.2000	KCD, Peshawar	01.04.1965 Peshawar	31.03.2025
32	Munad Ali	09.05.1984	30.05.2000	LRH, Peshawar	02.06.1964 Mardan	01.06.2024
33	Aminullah Jan	13.05.1984	30.05.2000	DTL Peshawar	02.01.1962 Peshawar	01.01.2022
34	Arifullah	15.05.1984	30.05.2000	KNMC, Peshawar	01.03.1957 Peshawar	28.02.2017
35	Bakht Bhand	01.05.1984	30.05.2000	S.G.T.H, Swat	10.01.1965 Swat	09.01.2025
36	Sher M. Jan	01.12.1984	30.05.2000	A.S. Khyber Agency	05.05.1961 NWVA	04.05.2021
37	Muhammad Ayub	10.02.1985	30.05.2000	SNAC, Swat	10.03.1965 Swat	05.03.2026
38	Khan Raza	11.02.1985	30.05.2000	LRH Peshawar	01.08.1962 Peshawar	31.07.2022
39	Maz Ali	03.03.1985	30.05.2000	KNMC, Peshawar	15.2.1965/Pesh.	14.02.2023
40	Muhammad Rafiq	18.03.1985	30.05.2000	Saidu Teaching Hospital, Swat	1.1.1965 Swat	31.12.2025
41	Nurahammad Quresh	18.03.1985	30.05.2000	A.S. Mohmand Agency	01.01.1966 Mardan	31.12.2026
42	S. Amjad Ali	07.05.1985	30.05.2000	DGHS, Office Peshawar	30.03.1966 Charsadda	29.03.2026
43	Ali Haider	08.06.1985	30.05.2000	MCC Peshawar	10.10.1965 Peshawar	09.10.2025
44	S. Shabir Hussain	17.08.1985	30.05.2000	AHOH		

45. Muhammad Aftab 1.9.1985 30.6.2000

AS W/46-18.5.1966
W/45

17.5.2026

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47	Nisar Ahmad	01.10.1985	25.08.2001	A.S, Mohmand Agency	09.10.1964 Peshawar	08.10.2024
47	Arshad Ali	09.10.1985	25.08.2001	LRH, Peshawar	15.04.1965 Peshawar	14.04.2025
48	Muhammed Rafi	20.10.1985	25.08.2001	A.S, Miran Shah	01.03.1965 Karak	28.02.2025
49	Abdul Quddus	01.11.1985	25.08.2001	MNM THD.I.Khan	05.06.1966 D.I.Khan	04.06.2026
50	Firdaus Khan	18.12.1985	25.08.2001	KMC, Peshawar	01.04.1966 Peshawar	31.03.2026
51	Zahidullah	16.01.1986	25.08.2001	A.S. Aurakzai Ag.	24.04.1955 Karak	23.04.2015
52	Tariq Sultan	09.02.1985	24.01.2002	LRH, Peshawar	03.04.1960 Mardan	02.04.2020
53	Muhammed Zaman	01.10.1985	24.01.2002	S.G.T.H, Swat	04.04.1961 Swat	03.04.2021
54	Daud Jan	24.11.1985	24.01.2002	KTH, Peshawar	02.05.1966 Charsadda	01.05.2026
55	Mushtaq Bhatti	18.01.1986	24.01.2002	AHQH, Miran Shah	24.04.1955 D.I.Khan	23.04.2015
56	Sanjullah	26.01.1986	24.01.2002	SMC, Swat	02.03.1963 Swat	01.03.2023
57	Muhammed Rauf	24.02.1986	10.02.2004	A.S, Wana Agency	01.09.1967 D.I. Khan	31.08.2027
58	Esse Khan	22.03.1986	10.02.2004	DGHS Office	08.06.1951 Peshawar	07.06.2011
59	Muhammed Saalim	08.09.1986	10.02.2004	LRH, Peshawar	02.03.1968 Peshawar	01.03.2028
60	Ammanullah	20.09.1986	10.02.2004	F Lab, Peshawar	05.01.1966 Peshawar	04.01.2026
61	Said Nazim	17.04.1979	22.09.2006	A.S. Kuram Agency	08.12.1958 Kuram	07.12.2018
62	Qasim Khan	10.10.1980	22.09.2006	KMC, Peshawar	02.02.1952 Peshawar	01.02.2012
63	Shamsul Haque	01.10.1983	22.09.2006	KTH, Peshawar	25.02.1953 Peshawar	24.02.2013
64	Riaz Anwar	01.05.1986	22.09.2006	GMC, D.I.Khan	13.01.1963 NWA	12.01.2023
65	Burhanuddin	19.10.1986	22.09.2006	KMC, Peshawar	12.12.1965 Peshawar	11.12.2025
66	Abdul Kabir	20.11.1986	22.09.2006	A.S, Malakand	15.06.1965 Malakand	15.06.2025
67	Musa Khan	17.12.1986	22.09.2006	LRH, Peshawar	11.12.1968 Peshawar	10.12.2028
68	Inayat Ali	27.12.1986	22.09.2006	DGHS, Office Peshawar	05.12.1965 Peshawar	05.12.2025
69	Ashfaqullah	02.04.1987	22.09.2006	DGHS, Office Peshawar	02.04.1955 Charsadda	01.04.2026
70	Muhammed Amer	02.08.1987	07.02.2007	HMC, Peshawar	29.02.1968 Peshawar	28.02.2028
71	Inayatullah	1.7.1987	7.2.2007	SGTH Hosp, Swat	30.4.68 Swat	30.4.2028

FOR DIRECTOR GENERAL HEALTH SERVICES NWFP, PESHAWAR

E (19)

DIRECTORATE GENERAL HEALTH
SERVICES, NWFP, PESHAWAR.

MINUTES OF THE MEETING

A meeting of the Departmental Promotion Committee was held in the Office of DG Health Services NWFP Peshawar on 09/04/2009 at 10.00 (AM) to consider the promotion cases of Senior Clerks (BPS-09) to the post of Office Assistant (BPS-14).

The following Officers attended the meeting :-

1. DR. FAZAL MEHMOOD
Director General Health,
Services NWFP Peshawar. CHAIRMAN
2. DR. ABDULWAHEED BURKI
Director (Administration)
DGHS NWFP Peshawar. MEMBER
3. MR. MAQBOOL KHAN KHATTAK
Section Officer (H-III),
Govt. of NWFP Health Department. MEMBER

The committee examined the record of the concerned Senior Clerks (BPS-09) for promotion to the post of Office Assistant (BPS-14), respectively.

The committee has recommended/cleared the following senior most Senior Clerks (BPS-09) to the post of Office Assistant (BPS-14) in accordance to the seniority with immediate effect:-

S.No.	Name of Official	Seniority position	Present Place of posting
1	Dilwar Khan ✓	01	DHQ Teaching Hospital, DI Khan
2	Subhanullah	05	A/S Khyber Agency
3	Faizullah	06	DGHS Office
4	Irshad Khaliq	07	PGMI/HMC Peshawar.
5	Hassan Gul	08	KCD Peshawa
6	Zahid Hussain	09	KMC Peshawar
7	GulabKhan	10	KMC Peshawar
8	Mushtaq Khan	11	KMC Peshawar
9	Noor Akbar	12	KMC Peshawar.
10	Nasrullah	13	KMC Peshawar
11	Muhammad Parvaiz	14	KMC Peshawar
12	Ibrar Ahmad	15	PHS Peshawar
13	Khaliq Dad Khan	16	DHQ Teaching Hospital, Bannu
14	Mumtaz Ahmad Gul	17	PHSA, Peshawar.

The following Officials are deferred from promotion as per detail below:-

S.NO.	NAME OF OFFICIAL	SENIORITY POSITION	PRESENT PLACE OF POSTING	REMARKS
1	Basharat Ahmad	02	KTH Peshawar	Foregone promotion.
2	Ilyas Masih	03	PHSA Peshawar	Involved in embezzlement case.
3	Muhammad Nawaz	04	AS Bajaur Agency	Foregone promotion.
4	Layar Jan	22	AHQH: Miranshah	ACRs not completed.

[Handwritten signature]

(DR. S. ABDUL WAHID SHAH)
DIRECTOR(ADMN)
DGHS NWFP, PESHAWAR

[Handwritten signature]

(MR. MAQBOOL KHAN)
SECTION OFFICER (H-III)
GOVT. OF NWFP HEALTH DEPTT;

[Handwritten signature]
(DR. FAZAL MEHMOOD)
DIRECTOR GENERAL HEALTH
SERVICES, NWFP, PESHAWAR.

F (2)

DIRECTORATE GENERAL HEALTH
SERVICES NWFP PESHAWAR.

OFFICE ORDER

On the recommendation of Departmental Promotion Committee, the following Senior Clerks (BPS-09) of Health Services (Sub-cadre) is hereby promoted to the post of Office Assistant (BPS-14) with immediate effect:-

S.No.	Name of Official	Present Place of posting
1	Dilwar Khan	DHQ Teaching Hospital, DI Khan
2	Subhanullah	A/S Khyber Agency
3	Faizullah	DGHS Office
4	Irshad Khaliq	PGMI/HMC Peshawar.
5	Hassan Gul	KCD Peshawa
6	Zahid Hussain	KMC Peshawar
7	GulabKhan	KMC Peshawar
8	Mushtaq Khan	KMC Peshawar
9	Noor Akbar	KMC Peshawar.
10	Nasrullah	KMC Peshawar
11	Muhammad Parvaiz	KMC Peshawar
12	Ibrar Ahmad	PHS Peshawar
13	Khaliq Dad Khan	DHQ Teaching Hospital, Bannu
14	Mumtaz Ahmad Gul	PHSA, Peshawar.
15	Bakhtawar Shah	A/S Mohmand Agency
16	Ghulam Mustaf	KMC Peshawar
17	Shakirullah	P/S Hospital, Peshwar.
18	Safi-ur-Rahman	AS FR Bannu/Lakki Marwat

On their promotion to the post of Office Assistant (BPS-14), the following transfer and posting are hereby ordered with immediate effect:-

S.No.	Name of Official	From	To	Remarks
1	Dilwar Khan	DHQ Teaching Hospital, DI Khan	DHQ Teaching Hospital DI Khan	Against the vacant post.
2	Subhanullah	A/S Khyber Agency	AHQ Hospital, Landikotal, Khyber Agency.	-do-
3	Faizullah	DGHS Office	PHSA NWFP	-do-
4	Irshad Khaliq	PGMI/HMC Peshawar	PGMI/HMC, Peshawar.	-do-
5	Hassan Gul	KCD Peshawar	BMC Bannu	-do-
6	Zahid Hussain	KMC Peshawar	KMC, Peshawar.	-do-
7	Gulab Khan	KMC Peshawa	KMC Peshawar	-do-
8	Mushtaq Khan	KMC Peshawar	BMC, Bannu.	-do-
9	Noor Akbar	KMC Peshawar	BMC, Bannu	-do-
10	Nasrullah	KMC Peshawar	KMC, Peshawar.	-do-
11	Muhammad Parvaiz	KMC Peshawar.	AS Kurram Parachinar.	-do-
12	Ibrar Ahmad	PHS Peshawar.	BMC Bannu	-do-
13	Khaliq Dad Khan	DHQT Hosp: Bannu	BMC, Bannu	-do-
14	Mumtaz Ahmad Gul	PHSA, Peshawar	BMC Bannu	-do-
15	Bakhtawar Shah	A/S Mohmand Agency	Office of EDO Health Charsadda	-do-
16	Ghulam Mustafa	KMC Peshawatr	KGMC, Peshawar.	-do-
17	Shakirullah	Police & Services Hospital Peshawar	Food Laboratory, NWFP, Peshawar.	-do-
18	Safi-ur-Rahman	AS FR Bannu/Lakki Marwat	Office of the EDO Health Lakki Marwat	-do-

N.B:- Arrival/Departure reports should be furnished to this Directorate immediately, for record.

15/4/17

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Sd/-XXXXXXXXXX
DIRECTOR GENERAL HEALTH
SERVICES NWFP PESHAWAR.

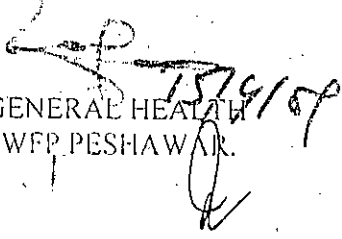
No. 2887-108 /Personnel,

Dated:- 15 /04/2009.

Copy forwarded to the :-

1. Principal, KMC Peshawar.
2. DHS (FATA) NWFP Peshawar.
3. Director, PHSA Peshawar.
4. Principal, KCD Peshawar.
5. Dean, PGMI/HMC Peshawar.
6. MS DHQ Teaching Hospital, Bannu.
7. MS DHQ Teaching Hospital, DI Khan.
8. Principal, BMC Bannu.
9. A/S FR Bannu/Lakki Marwat.
10. MS Police/Services Hospital, Peshawar.
11. Principal, PHS Nishtar Abad, Peshawar.
12. Manager, Provl. TB Control, DGHS NWFP Peshawar.
13. A/S Mohmand Agency.
14. A/S Khyber Agency.
15. Accountant, DGHS NWFP Peshawar.
16. MS AHQ Hospital, Landi Kotal.
17. A/S Kurram Agency.
18. EDO(H) Charsadda.
19. Principal, Khyber Girls Medical College, Peshawar.
20. Incharge, Food Laboratory, Peshawar.
21. EDO(H) Lakki Marwat.

For information and necessary action.


FOR DIRECTOR GENERAL HEALTH
SERVICES NWFP PESHAWAR.

G 3

DISCIPLINARY ACTION AGAINST MR. ILYAS MASIH

Reference: DGHS letter No. 7078-82/Personnel dated 08/08/2009, disciplinary action was initiated against Mr. Ilyas Masih, senior clerk attached to Provincial Health Services Academy (PHSA) Peshawar, while serving in Sarhad Hospital for Psychiatry Diseases (SHPD), Peshawar.

To scrutinize the conduct of Mr. Ilyas Masih, the following enquiry committee was constituted under section - 5 of the NWFP- Removal from services (Special Power) ordinance 2000.

1. Dr. Ali Ahmad Provincial Programme Manager DHIS Cell, KPK.
2. Dr. Zia ul Hasnain Deputy Director (PH), DGHS, KPK

Statement of Allegations:

- a) Missing of Diet Register as mentioned in Draft Para 15 (1994-97)
- b) Misconduct

Purpose of inquiry:

- e. To scrutinize the conduct of Mr. Ilyas Masih with reference to the above mentioned allegations.

Background:

At Sarhad Hospital for Psychiatry Diseases (SHPD), Peshawar, a routine audit was carried out by an audit party for the period 1994-97, where in it was observed that most of the relevant record was not shown to the audit party leading to the audit observations and hence recovery was ordered from officers/officials responsible by DAC & PAC. In this context three inquiries at different levels were conducted where in recovery was recommended from staff responsible at different percentages.

One of the statements of allegations against Mr. Ilyas Masih is that, "As per report from the MS SHPD Peshawar and according to the inquiry report conducted by Dr. Mohammad Tariq SMO SHPD Peshawar, Mr. Rast Baz Khan AD (Accounts) DGHS office and Enquiry Committee consisting of Dr. Khizar Hayat, Dr. Mohammad Zaheen DD PHSA and Mr. Hamid Hussain A/C MNCH, Mr. Ilyas Masih is responsible for missing of Diet Register as mentioned in Para 15".

Procedure of Inquiry:

Inquiry was conducted at SHPD, Peshawar on 16.01.2010. During the inquiry following documents and statements were taken in account.

1. Statement of Mr. Ilyas Masih - Annexure - 1
2. Statement of Mr. Kifayatullah Senior Clerk SHPD Peshawar vetted by MS SHPD along with eight number annexures (A-H) - Annexure - 2
3. Inquiry report conducted by Dr. Mohammad Tariq SMO SHPD Peshawar - Annexure - 3

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- 4. Inquiry report conducted by Mr. Rast Baz Khan AD (Accounts) DGHS office, Peshawar - Annexure - 4
- 5. Inquiry report conducted by Dr. Khizar Hayat, Dr. Mohammad Zaheen DD PHSA and Mr. Hamid Hussain A/O MNCH - Annexure - 5

Mr. Ilyas Masih was given full opportunity of hearing.

Findings & Observations:

1. After seeing the statement of Mr. Ilyas Masih and the reports of previous inquiries it has been noted that audit Para 15 was for the period 1994-97 (i.e up to 30.06/1997), while Mr. Ilyas Masih was posted to SHPD Peshawar as senior clerk after June 1997 (29.07, 1997) so for audit para 15, Missing of Diet Register, Mr Ilyas Masih is not supposed to be held responsible. The inquiry report as per Annexure - 4, page-2, paragraph-3 shows that Draft Para 15 i.e Missing of Diet Register, is under consideration with Inter Departmental Committee headed by Ex MPA Mr. Khalil Abbas. More over the inquiry committee has fixed responsibilities on the following officers/officials:
 - I. Dr. Mohammad Yousaf Ex MS SHPD
 - II. Mr. Khan Raziq the then J/Clerk
 - III. Mr. Mahfooz Shah the then S/Clerk
2. The same inquiry committee at Page-3, Paragraph-1, made the above mentioned staff responsible for non production of record to the audit party as well as to the DAC despite the fact that they were posted there for long time. The committee recommended to take Disciplinary action on account of Misconduct and to recover the amount from them as per directives of PAC.
3. Similarly, in the inquiry report as per Annexure - 5, it has been mentioned in FINDINGS at page-3, para-4, that most of the record has been recovered by the inquiry committee with help of hospital administration & support staff and has been kept in custody of Mr. Kifayatullah under lock & key for audit in future.
4. The same inquiry committee at page-4, para-5, has made Mr. Khan Raziq the then J/clerk mainly responsible person for all these activities i.e non production of record & misappropriation of record, as he has dealt the accounts during the period of 1994-97.
5. The inquiry committee in their RECOMMENDATIONS page-4, para-2, recommended five staff members of the hospital for recovery including Mr. Ilyas Masih who were present in the hospital at that particular period. The name of Mr. Ilyas Masih was taken back by the inquiry committee in a letter addressed to DGHS by the chairman of the inquiry committee vide No. Nil dated 06/06/2009 in response to DGHS office letter No. 4535/Personnel dated 01/06/2009, mentioning that "the name of Mr. Ilyas Masih was typed erroneously at paragraph-2 of recommendations. Actually he was proposed only for disciplinary action to be taken against him and was included in paragraph-5 of recommendations"
6. In paragraph-5 of Recommendations, the inquiry committee recommended Disciplinary Action against following staff members:

605 257

- I. Dr. Pervaiz Akbar
- II. Mr. Mahfooz Badshah
- III. Mr. Ilyas Masih
- IV. Mr. Khan Raziq

the then MS
Sr/Clerk
Sr/Clerk
Jr/Clerk

But the disciplinary action was initiated by your good well office only against Mr. Ilyas Masih and not other three which seems to be in justice with him.

7. The responsibility fixing on Mr. Ilyas Masih for Missing of Diet Register is not understood. The reason being Draft Para 15, Missing of Diet Register pertains to the year 1994-97 (up to 30/06/1997) while Mr Ilyas Masih was posted to the hospital on 29/07/1997 so what was the interest of Mr Ilyas Masih to misplace the register. Similarly all other records were not handed over to him as per his written statement otherwise he would have definitely provided to the audit party.


RECOMMENDATIONS:

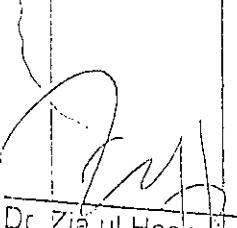
The statement of allegations i.e:

- I. Missing of Diet Register as mentioned in Draft Para 15 (1994-97)
 - II. Misconduct
- could not be proved against Mr. Ilyas Masih as per his statement and other relevant record including the previous inquiry reports conducted at different times by high level officers of the department.

At the time of audit he, being the senior ministerial staff, he was supposed to provide all the record to the audit party but again Mr. Khan Raziq, the main culprit was posted over there and he being mainly responsible for all misappropriation was not willing to hand over the record to any one else, so how Mr. Ilyas Masih could be held responsible for non production of the record including Diet Register.

Report submitted for further necessary action.


Dr. Ali Ahmad
Provincial Programme Manager
DHIS Cell, Health Department


Dr. Zia ul Hasnain
Deputy Director Public Health
Health Directorate, Peshawar

To:-

The Secretary Health
Government of Khyber Puktunkhawa
Peshawar.

~~Secretary Health~~
H/26

Subject:- APPEAL FOR ALLOWING MY DUE RIGHT OF PROMOTION.

Respected sir,

I have the honor to submit herewith that I was due for promotion in 2009 but I has not been promoted to the post of Office Assistant. I had not been informed in writing the cause of deferring from promotion, any how I came to know through reliable source that due to missing of diet register. The enquiry committee conducted by the two senior Officer of health department They cleared me the charges level against.(copy enclosed).

The then Director General Health Services has recorded, the remarks **that the request of the applicant is genuine, if an individual is not found guilty of charges and proved against him he can not be deffered from promotion by inciting enquiry against him(copy enclosed).**

I moved another appeal to DGHS bearing No.24016 dated 13.8.2015. wherein I also requested for promotion but no written response was given to me due to which I am highly depressed and working under my juniors whose are more than one hundred.

The Esta code 2000 vol-I serial No.8 promotion of an officer to the higher post during the pendency of disciplinary proceedings which is crystal clear in Para 2, due to which enquiry I was deferred has already cleared me.

The Revised Esta code 2011 page 58 para (b) However CEI is not applicable to civil servant in BPS-16 and below in promotion case

Therefore it is humbly requested your honor that my appeal may please be reconsidered as per facts explained above and I may please promoted to the post of office assistant since 25.4.2009 alongwith all back benefit as I am working as senior clerk for the last 24 years. I hope that I will get justice from your honor.

Thanks.

Yours Obediently

Mr. Ilyas Masih
Senior Clerk
DGHS Office Peshawar.

Dated 11th July, 2016

Dairy No 13526
Date 12/07/06

BEFORE THE SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 1162/2016.

Mr. Ilyas Masih.....Appellant

Versus

1. Govt. of Khyber Pakhtunkhwa, Health Department and others.. Defendants

PARAWISE COMMENTS OF THE RESPONDENTS NO. 1, 2 & 3

PRELIMINARY OBJECTIONS:

1. That the appeal is incompetent and not maintainable in its present form.
2. That the appellant has neither a cause of action nor locus standi.
3. That the appellant has been estopped by his own conduct to file the appeal.
4. That the appellant has not come to the Tribunal with clean hands.
5. That the appeal is time barred.

Respectfully Sheweth:

PARAWISE COMMENTS:

Facts:

01. Pertains to record.
02. Correct.
03. His case was placed before the Department Promotion Committee, but his name was differed due to his involvement in an Embezzlement case.
04. As explained in Para-03 above.
05. Incorrect. The enquiry committee mentioned in the enquiry report that the appellant is responsible for missing of Diet Register. (Annex A).
06. Incorrect as explained in Para-05 above.
07. That the appellant has got no cause of action to file instant appeal.

Grounds:

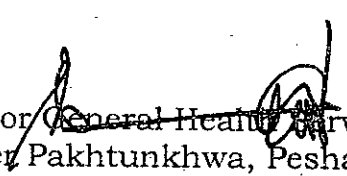
- A. Incorrect, as explained in Para-03 above.
- B. Incorrect, as explained in Para-03 above.
- C. Incorrect, already explained in Para-05 above.
- D. Incorrect, as explained in Para-5 above.
- E. Incorrect, as explained in Para-03 and Para-5 above.
- F. Incorrect, as explained in Para-03 and Para-5 above.
- G. Incorrect, the appellant has been treated in accordance with law and rules.

H. That the respondent seeks permission to raise additional grounds at the time of arguments.

It is requested that the appeal may be dismissed with cost.

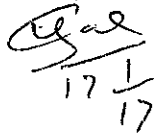


Secretary to Govt. of Khyber Pakhtunkhwa,
Health Department, Peshawar.
Respondent No. 1

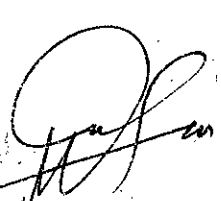


Director General Health Services,
Khyber Pakhtunkhwa, Peshawar.

Respondent No. 2



17/1/17



Secretary
Finance Department,
Khyber Pakhtunkhwa, Peshawar.

Respondent No. 3

DISCIPLINARY ACTION AGAINST MR. ILYAS MASIH

93

Reference: DGHS letter No. 7078-82/Personnel dated 08/08/2009, disciplinary action was initiated against Mr. Ilyas Masih, senior clerk attached to Provincial Health Services Academy (PHSA) Peshawar, while serving in Sarhad Hospital for Psychiatry Diseases (SHPD), Peshawar.

To scrutinize the conduct of Mr. Ilyas Masih, the following enquiry committee was constituted under section - 5 of the NWFP- Removal from services (Special Power) ordinance 2000.

1. Dr. Ali Ahmad Provincial Programme Manager DHIS Cell, KPK.
2. Dr. Zia ul Hasnain Deputy Director (PH), DGHS, KPK

Statement of Allegations:

- a) Missing of Diet Register as mentioned in Draft Para 15 (1994-97)
- b) Misconduct

Purpose of inquiry:

To scrutinize the conduct of Mr. Ilyas Masih with reference to the above mentioned allegations.

Background:

At Sarhad Hospital for Psychiatry Diseases (SHPD), Peshawar, a routine audit was carried out by an audit party for the period 1994-97, where in it was observed that most of the relevant record was not shown to the audit party leading to the audit observations and hence recovery was ordered from officers/officials responsible by DAC & PAC. In this context three inquiries at different levels were conducted where in recovery was recommended from staff responsible at different percentages.

One of the statements of allegations against Mr. Ilyas Masih is that, "As per report from the MS SHPD Peshawar and according to the inquiry report conducted by Dr. Mohammad Tariq SMO SHPD Peshawar, Mr. Rast Baz Khan AD (Accounts) DGHS office and Enquiry Committee consisting of Dr. Khizer Hayat, Dr. Mohammad Zaheen DD PHSA and Mr. Hamid Hussain A/O MNCH, Mr. Ilyas Masih is responsible for missing of Diet Register as mentioned in Para 15".

Procedure of Inquiry:

Inquiry was conducted at SHPD, Peshawar on 16.01.2010. During the inquiry following documents and statements were taken in account

1. Statement of Mr. Ilyas Masih - Annexure - 1
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Mr. Ilyas Masih was given full opportunity of hearing.

Findings & Observations:

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- 1. After seeing the statement of Mr. Ilyas Masih and the reports of previous inquiries it has been noted that audit Para 15 was for the period 1994-97 (i.e up to 30.06/1997), while Mr. Ilyas Masih was posted to SHPD Peshawar as senior clerk after June 1997 (29.07, 1997) so for audit para 15, Missing of Diet Register, Mr Ilyas Masih is not supposed to be held responsible. The inquiry report as per Annexure - 4, page-2, paragraph-3 shows that Draft Para 15 i.e Missing of Diet Register, is under consideration with Inter Departmental Committee headed by Ex MPA Mr. Khalil Abbas. More over the inquiry committee has fixed responsibilities on the following officers/officials:

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the then MS
Sr/Clerk
Sr/Clerk
Jr/Clerk

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But the disciplinary action was initiated by your good well office only against Mr. Ilyas Masih and not other three which seems to be in justice with him. The responsibility fixing on Mr. Ilyas Masih for Missing of Diet Register is not understood. The reason being Draft Para 15, Missing of Diet Register pertains to the year 1994-97 (up to 30/06/1997) while Mr. Ilyas Masih was posted to the hospital on 29/07/1997 so what was the interest of Mr. Ilyas Masih to misplace the register. Similarly all other records were not handed over to him as per his written statement otherwise he would have definitely provided to the audit party.

RECOMMENDATIONS:

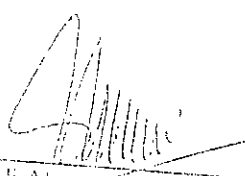
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- II. Misconduct

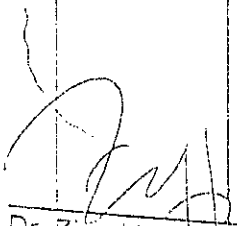
could not be proved against Mr. Ilyas Masih as per his statement and other relevant record including the previous inquiry reports conducted at different times by high level officers of the department.

At the time of audit he, being the senior ministerial staff, he was supposed to provide all the record to the audit party but again Mr. Khan Raziq, the main culprit was posted over there and he being mainly responsible for all misappropriation was not willing to hand over the record to any one else, so how Mr. Ilyas Masih could be held responsible for non production of the record including Diet Register.

Report submitted for further necessary action.



Dr. Ali Ahmad
Provincial Programme Manager
DHIS Cell, Health Department



Dr. Zia ul Hashain
Deputy Director Public Health
Health Directorate, Peshawar

To:-

The Secretary Health
Government of Khyber Puktunkhawa
Peshawar.

~~Handwritten scribble~~
H-26

Subject:- APPEAL FOR ALLOWING MY DUE RIGHT OF PROMOTION.

Respected sir,

I have the honor to submit herewith that I was due for promotion in 2009 but I has not been promoted to the post of Office Assistant. I had not been informed in writing the cause of deferring from promotion, any how I came to know through reliable source that due to missing of diet register. The enquiry committee conducted by the two senior Officer of health department. They cleared me the charges level against (copy enclosed).

The (then Director General Health Services has recorded the remarks **that the request of the applicant is genuine, if an individual is not found guilty of charges and proved against him he can not be deffered from promotion by inciting enquiry against him (copy enclosed).**

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The Esta code 2000 vol-I serial No.8 promotion of an officer to the higher post during the pendency of disciplinary proceedings which is crystal clear in Para 2, due to which enquiry I was deferred has already cleared me.

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Therefore it is humbly requested your honor that my appeal may please be reconsidered as per facts explained above and I may please promoted to the post of office assistant since 25.4.2009 alongwith all back benefit as I am working as senior clerk for the last 24 years. I hope that I will get justice from your honor.

Thanks.

Yours Obediently

Mr. Ilyas Masih
Senior Clerk
DGHS Office Peshawar.

Dated 11th July, 2016

Dang No 13526
Date 12/07/016

Page 3 of 3

7/11

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VAKALAT NAMA

NO. _____/20

IN THE COURT OF Sesvice Tribunal Peshawar

Ilyas Masih. (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

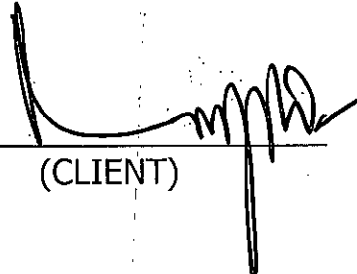
Health Dept. (Respondent)
(Defendant)

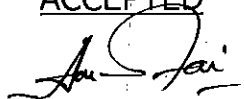
I/We, Ilyas Masih


Do hereby appoint and constitute **M. Asif Yousafzai, Advocate Supreme Court Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20


(CLIENT)

ACCEPTED

M. ASIF YOUSAFZAI
Advocate Supreme Court
Peshawar.

& 
TAIMUR ALI KHAN
Advocate High Court

OFFICE:

Room # FR-8, 4th Floor,
Bilour Plaza, Peshawar,
Cantt: Peshawar
Cell: (0333-9103240)

①

BEFORE THE SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 1162/2016.

Mr. Ilyas Masih.....Appellant

Versus

1. Govt. of Khyber Pakhtunkhwa, Health Department and others.. Defendants

PARAWISE COMMENTS OF THE RESPONDENTS : NO. 1, 2 & 3

PRELIMINARY OBJECTIONS:

1. That the appeal is incompetent and not maintainable in its present form.
2. That the appellant has neither a cause of action nor locus standi.
3. That the appellant has been estopped by his own conduct to file the appeal.
4. That the appellant has not come to the Tribunal with clean hands.
5. That the appeal is time barred.

Respectfully Sheweth:

PARAWISE COMMENTS:

Facts:

01. Pertains to record.
02. Correct.
03. His case was placed before the Department Promotion Committee, but his name was differed due to his involvement in an Embezzlement case.
04. As explained in Para-03 above.
05. Incorrect. The enquiry committee mentioned in the enquiry report that the appellant is responsible for missing of Diet Register. (Annex A).
06. Incorrect as explained in Para-05 above.
07. That the appellant has got no cause of action to file instant appeal.

Grounds:

- A. Incorrect, as explained in Para-03 above.
- B. Incorrect, as explained in Para-03 above.
- C. Incorrect, already explained in Para-05 above.
- D. Incorrect, as explained in Para-5 above.
- E. Incorrect, as explained in Para-03 and Para-5 above.
- F. Incorrect, as explained in Para-03 and Para-5 above.
- G. Incorrect, the appellant has been treated in accordance with law and rules.

①

VAKALAT NAMA

NO. _____/20

IN THE COURT OF Service Tribunal Peshawar

Ilyas Masih. (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

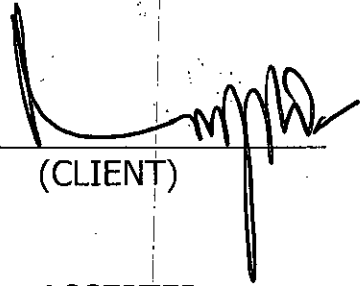
Health Dept. (Respondent)
(Defendant)

I/We, Ilyas Masih

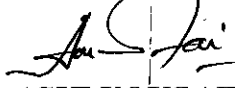
Do hereby appoint and constitute **M. Asif Yousafzai, Advocate Supreme Court Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.


I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20


(CLIENT)

ACCEPTED


M. ASIF YOUSAFZAI
Advocate Supreme Court
Peshawar.

& 
TAIMUR ALI KHAN
Advocate High Court

OFFICE:

Room # FR-8, 4th Floor,
Bilour Plaza, Peshawar,
Cantt: Peshawar
Cell: (0333-9103240)

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 1162/2016

Mr. Ilyas Masih

VS

Govt of KPK etc,

.....
REJOINDER ON BEHALF OF APPELLANT
.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

- (1-5) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

- 1 Para-1 of the appeal was admitted correct by the respondent's department as record is already in the custody of the respondents.
- 2 Admitted correct by the respondent hence needs no comment.
- 3 Incorrect. While Para-3 of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, appellant was exonerated from all the charges. According to the rule, the official against whom inquiry is pending or any other deficiency is there, due to which the official promotion was differed, so whenever the deficiency is ceased, the official become eligible for promotion and DPC is to be conducted as soon as possible for promotion of that official. So the appellant is entitled for promotion.

- 4 Incorrect. While Para-4 of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, as explained in above para-3 of the rejoinder.
- 5 Incorrect. While Para-5 of the appeal is correct as mentioned in the main appeal of the appellant.
- 6 Incorrect while para-6 of the appeal is correct as mentioned in the main appeal of the appellant.
- 7 Incorrect. Moreover Para-7 of the appeal is correct as mentioned in the main appeal of the appellant. The appellant has good cause of action and appeal of the appellant is liable to be accepted.

GROUND:

- A) Incorrect. While Para-A of grounds of the appeal is correct. Moreover, impugned order promotion order and not taken any action on the departmental appeal is against the law, facts and norms of justice.
- B) Incorrect. While Para-B of grounds of the appeal is correct as mention in the main appeal of the appellant.
- C) Incorrect. While Para-C of grounds of the appeal is correct as mention in the main appeal of the appellant.
- D) Incorrect. While Para-D of grounds of the appeal is correct as mention in the main appeal of the appellant.
- E) Incorrect. While Para-E of grounds of the appeal is correct as mention in the main appeal of the appellant.
- F) Incorrect. While Para-F of grounds of the appeal is correct as mention in the main appeal of the appellant.
- G) Incorrect. While Para-G of grounds of the appeal is correct as mention in the main appeal of the appellant.
- H) Legal

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

APPELLANT

Through:

M. Asif Yousafzai
(M. ASIF YOUSAFZAI)
& *Noman Ali Bukhari*
SYED NOMAN ALI BUKHARI
ADVOCATES PESHAWAR.

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder and appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from Hon'able tribunal.

H. K.
DEPONENT

ATTESTE

**Oath Commissioner
Zahoor Khan Advocate
Distt: Court Peshawar**

04 MAY 2017

1

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 1162/2016

Ilyas Masih

VERSUS

Health Deptt etc.

**APPLICATION FOR IMPLEADMENT
OF LEGAL HEIR IN THE INSTANT APPEAL.**

RESPECTFULLY SHEWETH:

1. That the above mentioned appeal is pending before this august Tribunal.
2. That the appellant has been died during the pendency of appeal.
Copy of death certificated is attached as Annexure-R1
3. That the appellants has left behind his widow and four daughters as legal heir. **Copy of the CNIC & Form-B is attached as Annexure- R2 & R3.**
4. That the valuable rights of pensionary benefits involved in the appeal, therefore, it would be just to implead the wife of the appellant:
 1. Margret Ilyas (Widow).
 2. Sara Tabasum (Daughter).
 3. Mahrukh Ilyas (Daughter).
 4. Amarah Ilyas (Daughter).
 5. Muskan Ilyas (Daughter).


It is, therefore, humbly prayed that the applicants may kindly be impleaded as legal heir of the appellant in the instant appeal.

2

Applicants


Margret Hyas etc.

Through:


(M. ASIF YOUSAFZAD)
ADVOCATE SUPREME COURT,
OF PAKISTAN.


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,

AFFIDAVIT:

It is affirmed on oath that the contents of application are true and correct and nothing has been concealed from Hon'able Tribunal.



Deponent



3

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR.

SERVICE APPEAL No. 1162/2016

Ilyas Masih

V/S

Health Deptt

.....

**APPLICATION FOR FIXING THE INSTANT APPEAL
OF AN EARLY DATE OF HEARING INSTEAD
OF 08.09.2021.**

.....


RESPECTFULLY SHEWETH:

1. That the appellant has filed the instant appeal for promotion and is an argument stage.
2. That the appellant during pendency of instant appeal has died and the legal heirs want to pursue his case and in this respect they also filed impleadment application before this Honorable Tribunal.
3. That the next date in the instant appeal is fixed 08.09.2021 which is a too long and the legal heirs has financial problem.
4. That it will be in the interest of justice to fix the instant appeal on any early date instead of 08.09.2021.

It is, therefore, most humbly prayed that on acceptance of this application that the instant appeal may kindly be fixed on any early date of hearing instead of 08.09.2021. Any other remedy which this august Tribunal deems fit and appropriate that may also be awarded in favour of the appellant.

APPLICANT

THROUGH:


(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT
OF PAKISTAN.


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT.

4

AFFIDAVIT:

It is affirmed and declared that the contents of the above Application are true and correct to the best of my knowledge and belief and nothing has been concealed from the hon'able Tribunal.



DEPONENT

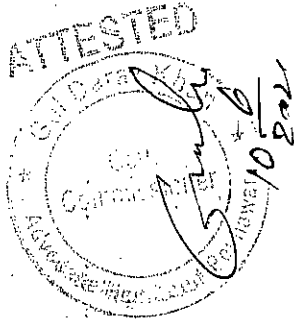


Photo from M.Asif Yousafzai

5

R-I

From: mohammad yousafzai (masifyousafzai@yahoo.com)

To: masifyousafzai@yahoo.com

Date: Monday, 17 May 2021, 6:16 pm GMT+5

حکومت پاکستان خیبر پختون خواہ
Government of Pakistan Khyber Pakhtoon kh
اندرون وفات سرٹیفکیٹ

Death Registration Certificate

Form No: W11602523
دفتر رجسٹریشن، وزیر آباد

Tracking Id: S0098510036163
RMS No: D500985-20-10769
ILD/M REG #:

Decesed Person's Details اس شخص کے بارے میں

Name: ILYAS TORASUM
Nationality: Pakistani
CNIC No: 17301-8313426-7
Date of Birth: 19-June-1961
Gender: Male Religion: CHRISTIANITY
Age: 59
Date of Death: 19-December-2020
Date of Burial/Last rite: 19-December-2020
Place of Death: HOME
Cause of Death: Natural Nature of Death: Normal
Buried/Last rite at: WAZIR BAGH

Parental Information والدین کے بارے میں

Father's Name: SAID MASIH
CNIC No:
Mother's Name: TAJ BIL
CNIC No:

Address پتہ

Address: PESHAWAR, Mohalla MISSION HOSPITAL,
City PESHAWAR,
Tehsil: PESHAWAR
District: PESHAWAR

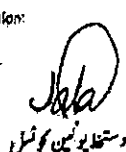
Applicant's Details اپنی معلومات



Name: MARGRAT ILYAS
CNIC No: 17301-8010500-0
Relation with Deceased: HUSBAND

Information of Burial/Last rite by دفن یا آخری رسوائی کی معلومات

Name: MARGRAT ILYAS
CNIC No: 17301-8010500-0
Relation with Deceased: WIFE
Entry Date: 24-December-2020
Issue Date: 24-December-2020
Entry Status: Normal

Additional Information:


دستخط اپنی معلومات
دفتر رجسٹریشن

The Certificate can be verified at <https://crms.nadra.gov.pk/verify>

SECRETARY
Neighbourhood Council No.89
Civil Quarters Nauthia Qadeem
Peshawar

Photo from M.Asif Yousafzai

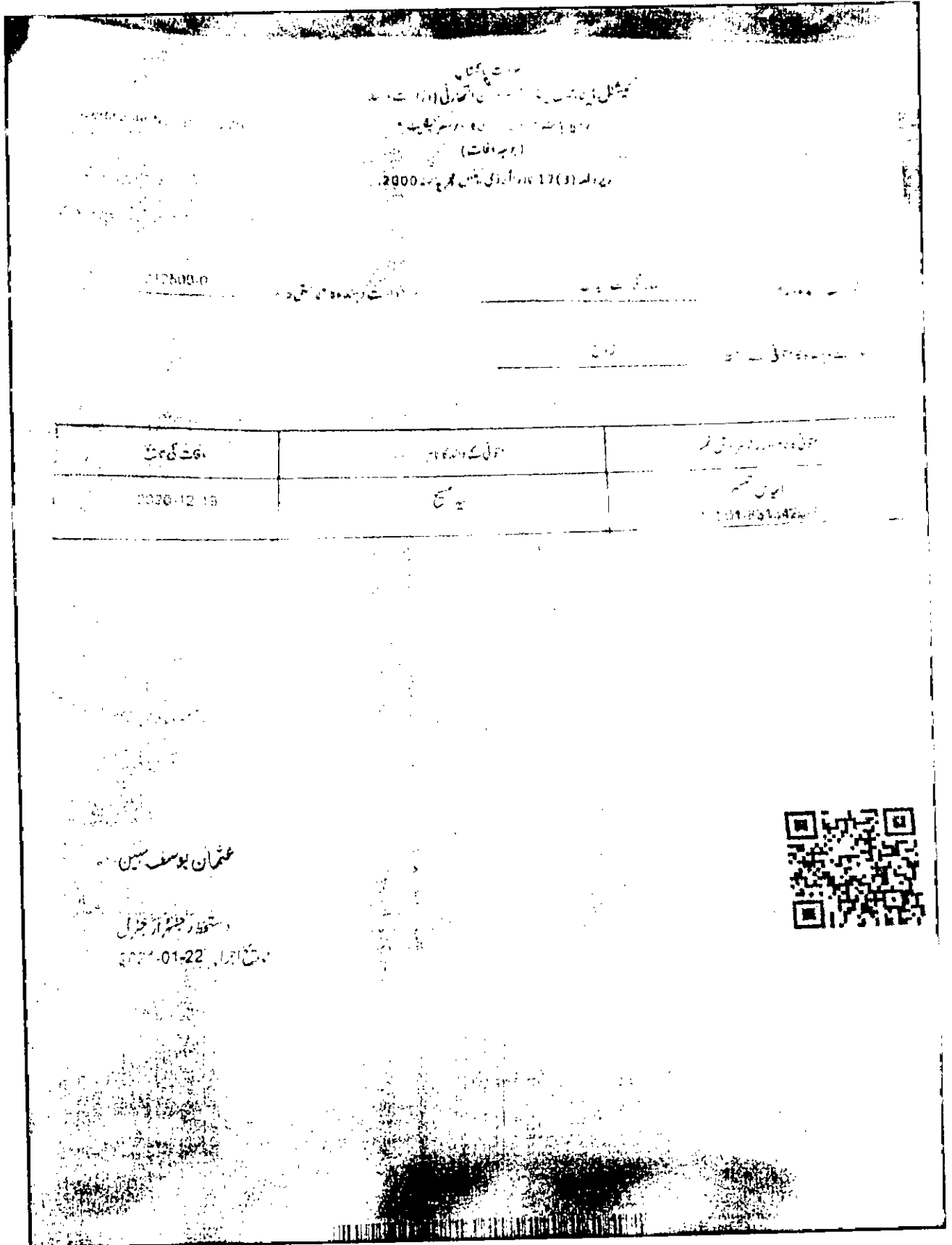
6

R-2

From: mohammad yousafzai (masifyousafzai@yahoo.com)

To: masifyousafzai@yahoo.com

Date: Monday, 17 May 2021, 6:16 pm GMT+5



R-3 (7)

PAKISTAN National Identity Card
ISLAMIC REPUBLIC OF PAKISTAN

Name: **Margrat Ilyas**





Husband's Name: **Ilyas Ilyas**

Gender: **F** Country of Stay: **Pakistan**

Identity Number: **17302-8010500-0** Date of Birth: **20.04.1969**

Date of Issue: **23.05.2017** Date of Expiry: **23.05.2027**


Holder's Signature



7A

17301-8010500-0

رجسٹرڈ ایسوسی ایٹس ہسپتال ڈگری کارپوریشن، پٹنار



مجلس ہسپتال ڈگری کارپوریشن، پٹنار، ڈگری ڈاکٹر شاہ

قون، پٹنار

Muhammad Y. Memon
Registrar General of Pakistan

101801148103
128-88-007032

گمشدہ کارڈ ملنے پر قریبی لیو ایکس میں ڈال دیں

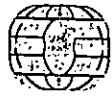
8



PAKISTAN National Identity Card

ISLAMIC REPUBLIC OF PAKISTAN

Name
Sara Tabassum



Father Name
Ilyas Tabassum



Gender: F Country of Stay: Pakistan

Identity Number: 173017341466-0 Date of Birth: 23.11.1997

Date of Issue: 18.04.2019 Date of Expiry: 18.04.2029

Sara
Holder's Signature

پاکستان کی حکومت

9



PAKISTAN National Identity Card

ISLAMIC REPUBLIC OF PAKISTAN

Name: **Mahrugh Ilyas**



Father's Name: **Ilyas Iqbal**
Ilyas Iqbal



Gender: **F** Country of Stay: **Pakistan**

Identity Number: **1730190166478** Date of Birth: **25-08-1995**

Date of Issue: **13-05-2017** Date of Expiry: **13-05-2027**

Mahrugh


Holder's Signature

51201

51201

90

17301-9016647-8



سٹیٹ بینک آف پاکستان، کارڈنگ، چناب
سٹیٹ بینک آف پاکستان، کارڈنگ، چناب
سٹیٹ بینک آف پاکستان، کارڈنگ، چناب

Uman & Memon
Registrar General of Pakistan

101801146859

گمشدہ کارڈ ملنے پر قریبی لیو بکس میں ڈال دیں

10



17301-902814748

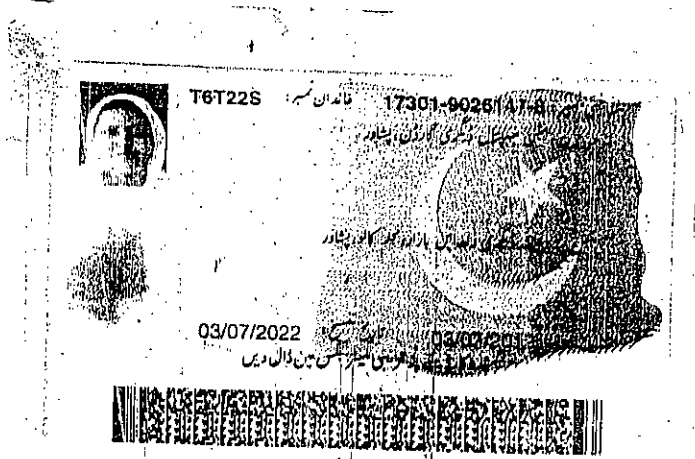
محمد رفیق

گورنر

محمد رفیق

گورنر

10 (A)





PAKISTAN National Identity Card

ISLAMIC REPUBLIC OF PAKISTAN

Name
Muskan Ilyas

Father's Name
Ilyas Ibbastin

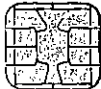
Gender / Country of Stay
F / Pakistan

Identity Number / Date of Birth
173017207416-0 / 23.12.2001

Date of Issue / Date of Expiry
17.05.2017 / 17.05.2027



Holder's Signature



Under 18 until 23.12.2019

1251

11

11 (A)

17301-7247416-0

سینٹرل ڈگری کالج، پشاور

سینٹرل ڈگری کالج، پشاور

101801146858

Registrar General of Pakistan

گمشدہ کارڈ ملنے پر قریبی لیز بکس میں ڈال دیں
Issued Vide Section 9(5) of NADRA Ordinance VIII of 2000