

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 337/2020

Date of Institution ... 14.01.2020

Date of Decision ... 15.12.2021

Mst. Jamsheda Bibi, Lady Health Visitor (LHV), Sub-Division Hassan Khel,
Peshawar. ... (Appellant)

VERSUS

The Director Health Services (Merged Area), Merged Area Secretariat, Warsak
Road, Peshawar and two others. ... (Respondents)

Muhammad Maaz Madni,
Advocate

... For Appellant

Kabirullah Khattak,
Additional Advocate General

... For respondents

SALAH-UD-DIN
ATIQ-UR-REHMAN WAZIR

...
...

CHAIRMAN
MEMBER (EXECUTIVE)

JUDGMENT

ATIQ-UR-REHMAN WAZIR MEMBER (E):-

Brief facts of the

case are that the appellant was initially appointed as Lady Health Visitor (LHV) by Agency Surgeon Kurram vides order dated 29-06-2013. The appellant was transferred from Kurram to FR Peshawar vide order dated 18-07-2014 and she started performing her duty in FR Peshawar. In the meanwhile, her salary was stopped in March 2018 by declaring that appointment of the appellant as illegal, but after verification, her salary was released, but since July 2019 her salary was again stopped, against which the appellant filed departmental appeal dated 02-10-2019, which was not responded, hence the instant service appeal with prayers that monthly salaries of the appellant since March 2019 may be released alongwith arrears @ of running basic pay withheld since March 2018 till date with

all consequential benefits and any other remedy deemed fit may also be awarded in favor of the appellant.

02. Learned counsel for the appellant has contended that act of the respondents by not releasing the monthly salary of the appellant @ of running basic pay stopped since March, 2018 is against law, rule and norms of natural justice, hence not tenable in the eye of law; that the appellant has not been treated in accordance with law, as such the respondents violated Article-4 and 25 of the Constitution; that the respondents acted in arbitrary manner, while not addressing the issue of the appellant in accordance with law; that act of the respondents is discriminatory as other colleagues who were appointed with the appellant in the same merit list have been transferred to their home districts and are regularly receiving their monthly salary according to their current running basic pay scale of health department; that since 2014 the appellant is treated as a regular employee but all of a sudden, salary of the appellant was converted into fix pay, which is against law and rule, as such the appellant is punished for the faults of others; that under Article-38(e) of the Constitution, State is under obligation to reduce disparity in the income and earning of the individuals including persons in various services of Pakistan, but conversely, miseries of the appellant have been enhanced, which is against law, rule and norms of natural justice.

03. Learned Additional Advocate General for the respondents has contended that the appellant was transferred from Kurram to FR Peshawar on her own request, but due to non availability of regular post of LHV, the appellant was adjusted against ADP post; that salary of the appellant was stopped due to non-availability of funds and upon availability of funds, salary of the appellant from 01-07-2019 to 30-06-2020 has been released; that upon availability of regular post, the appellant will be adjusted against a regular post and issue of her salary will be resolved once for all.

04. We have heard learned counsel for the parties and have perused the record.

05. Record reveals that the appellant was appointed as LHV vide order dated 29-06-2013 against a regular post after observing all the codal formalities. The appellant was transferred from Ex- Kurram agency now Tribal District Kurram to Ex-FR Peshawar now District Peshawar vide order dated 18-07-2014 and her services were placed at the disposal of Agency Surgeon FR Peshawar and as per report of agency surgeon vide his letter dated 16-07-2014, a regular post of LHV was shown as vacant under his supervision, but upon arrival, the appellant was adjusted against an ADP post, which naturally was a post on fixed pay. Record would reveal that the appellant though a regular employees, started receiving salary on fixed rate for years and ultimately the funds under the said ADP scheme exhausted in 2018-19, so salary of the appellant was stopped for almost one year and after availability of funds, such salary was released. The respondents have admitted the fact that due to non availability of regular post, the appellant was adjusted against an ADP post, due to which her salaries were stopped twice but were released upon availability of funds. Funny part of the story is that after her adjustment against an ADP post, the respondents in due course, started considering the appellant as employee of the project and for which her salary was stopped and clarification were sought from agency surgeon Kurram, who in response had clarified that the appellant is a regular employee, where salary of the appellant was released. We have observed that the appellant has not been treated in accordance with law and being a regular LHV, she received monthly salary on fixed pay for longer time, which however was not warranted. Respondents were required to adjust her against a regular post, instead of ADP post.

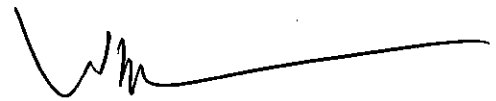
06. In circumstance, the instant appeal is accepted. The appellant is held entitled to her adjustment against regular post of LHV as well as to monthly

salary of a regular post. Respondents are directed to calculate the shortfall in her salaries due to payment of fixed pay and to reimburse the amount to the appellant immediately. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
15.12.2021



(SALAH-UD-DIN)
MEMBER (J)



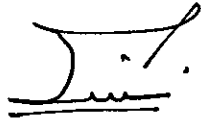
(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

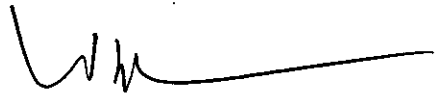
ORDER
15.12.2021

Mr. Muhammad Maaz Madni, Advocate for the appellant present.
Mr. Kabirullah Khattak, Additional Advocate General for respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the instant appeal is accepted. The appellant is held entitled to her adjustment against regular post of LHV as well as to monthly salary of a regular post. Respondents are directed to calculate the shortfall in her salaries due to payment of fixed pay and to reimburse the amount to the appellant immediately. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
15.12.2021

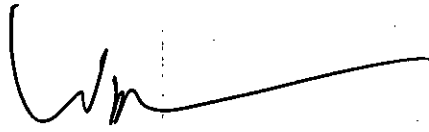

(SALAH-UD-DIN)
MEMBER (J)


(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

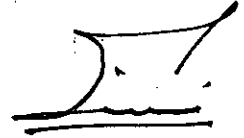
26.07.2021

Mr. Muhammad Maaz Madni, Advocate, for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Learned counsel for the appellant sought time for submission of rejoinder. Adjourned. To come up for rejoinder as well as arguments before the D.B on 14.10.2021.



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



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

14.10.2021

Appellant in person present.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Former made a request for adjournment as her counsel is not available today; granted. Adjourned. To come up for arguments on 15.12.2021 before D.B.



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



(Rozina Rehman)
Member (J)

24.11.2020

Junior counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General and Miss. Saima Raza, ADEO, for the respondents are also present.

Written reply on behalf of respondents No. 1 & 2 has already been submitted while written reply on behalf of respondent No. 3 is not submitted so far. Learned Additional AG request for further time to contact the respondent No. 3 and furnish written reply/comments on the next date of hearing. Last chance is given to respondent No. 3 for submission of written reply/comments. Adjourned to 13.01.2021 on which date file to come up for written reply/comments on behalf of respondent No. 3 before S.B.

(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

13.01.2021

Counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents is also present.

Written reply on behalf of respondents No. 1 to 2 has already been submitted. Neither written reply on behalf of respondent No. 3 is submitted nor any representative on his behalf is present, therefore, he is proceeded against ex-parte. File to come up for rejoinder and arguments on 08.04.2021 before D.B.

(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

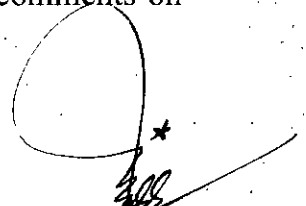
08.04.2021

Due to demise of Chairman, case is adjourned to 26-7-21 for the same as before

Resden

25.06.2020

Junior to counsel for the appellant present. Addl: AG for respondents present. Written reply not submitted. Learned AAG seeks time. To come up for written reply/comments on 12.08.2020 before S.B.



MEMBER

12.08.2020

Junior to counsel for the appellant and Addl. AG alongwith Danyal Ahmad, Store Keeper for respondents No. 1 & 2 present. Nemo for respondent No. 3.

Representative of respondents No. 1 & 2 has furnished reply/comments on behalf of the said respondents. Fresh notice be issued to respondent No. 3 for submission of written reply/comments on 01.10.2020 before S.B.



Chairman

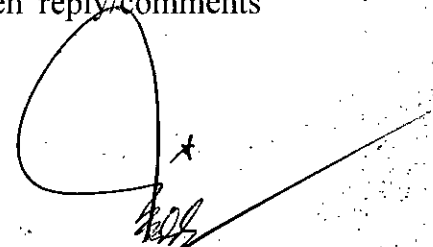
01.10.2020

Counsel for the appellant present.

Mr. Kabirullah, Khattak, Additional Advocate General for respondents present.

Written reply on behalf of the respondent No.3 not submitted. Learned AAG sought time to contact the respondent No.3 for submission of written reply/comments. Time is allowed.

Adjourned to 24.11.2020 for written reply/comments of respondent No.3 before S.B.



(Mian Muhammad)
Member (E)

12.02.2020

Learned counsel for the appellant present. Preliminary arguments heard.

The appellant has filed the present service appeal for the release of her monthly salaries allegedly stopped since March 2019.

Submission made by learned counsel for the appellant need consideration. The present service appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to the respondents for reply/comments. To come up for written reply/comments on 02.04.2020 before S.B.

Appellant Deposited
Security & Process Fee
12/2


Member

02.04.2020

Due to public holiday on account of COVID-19, the case is adjourned for the same on 25.06.2020 before S.B.

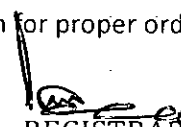
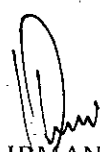

Reader

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 337/2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	14/01/2020	<p>The appeal of Mst. Jamsheda Bibi presented today by Mr. Muhammad Maaz Madni Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 14/01/2020</p>
2-	15/01/20	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>12/02/2020</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL No. 337 /2020

JAMSHEDA BIBI

VS

DHS (MERGED AREA)
& OTHERS

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APPELLANT

THROUGH:

MUHAMMAD MAAZ MADNI 14/9/2020
Advocate,

HIGH COURT, PESHAWAR

0333-9313113, 0314-9965666

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL No. 337 /2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 352

Dated 14/01/2020

MST. JAMSHEDA BIBI, Lady Health Visitor (LHV),
Sub-Division Hassan Khel, Peshawar.

..... Appellant

VERSUS

- 1- THE DIRECTOR HEALTH SERVICES (Merged Area),
Merged Area Secretariat, Warsak Road, Peshawar.
- 2- THE DEPUTY DISTRICT HEALTH OFFICER,
Sub-Division Hassan Khel, Peshawar,
Tawas Khan Colony near Allama Iqbal Public School,
Ring Road, Peshawar
- 3- THE DISTRICT ACCOUNTS OFFICER,
Sub-Division Hassan Khel, Peshawar.

..... Respondents

APPEAL UNDER SECTION-4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST
THE INACTION OF THE RESPONDENT BY NOT RELEASING
THE MONTHLY SALARY OF THE APPELLANT STOPPED SINCE
MARCH 2019 ALONG WITH ARREARS (@ of Running Basic
Pay with held since March 2018) AND AGAINST NOT TAKING
ACTION ON THE DEPARTMENTAL APPEAL DATED 02-10-
2019 OF THE APPELLANT WITHIN THE STATUTORY PERIOD
OF NINETY DAYS

PRAYER:

Filed to-day
Registrar
14/01/2020

That on acceptance of this appeal the respondents may be directed to release the monthly salary of the appellant stopped since March 2019 along with arrears @ of running Basic Pay with held since March 2018 till date with all consequential back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

RESPECTFULLY SHEWETH:

FACTS:

- 1- That, appellant was initially appointed as Lady Health Visitor (BPS-09) now (BPS-12) by Agency Surgeon Kurram vide order dated 29-06-2013 after proper recommendation of the Departmental Selection Committee and fulfilling all the codal formalities required for the post.

Copy of the order & merit list is attached as
ANNEXURE A&B.

2- That the appellant submitted his arrival and charge report before the competent authority and started performing his duty quite efficiently, whole heartedly and upto the entire satisfaction of his high ups.

3- That appellant applied for her transfer from District Kurram to FR Peshawar and accordingly NOC was issued from the office of respondent no. 2 that a post is vacant in BHU Akbar Kali Sub-Division Hassan Khel Peshawar hence the appellant was transferred from District Kurram to Sub-Division Peshawar vide order dated 18-07-2014.

Copy of NOC & Order dated 18-07-2014 is attached as ANNEXURE C&D.

4- That the appellant took over the charge by submitted arrival report dated 21-07-2014 in Hassan Khel Sub-Division Peshawar and since then the appellant is performing her duty at sub-division Hassan Khel Peshawar regularly at the assigned stations as per the orders of her high ups.

Copy of Arrival Report dated 21.07.2014 is attached as ANNEXURE E.

5- That astonishingly the salary of the appellant was stopped by respondent no. 2 in March 2018 by declaring that the appointment of the appellant is illegal and in this respect verification was also sort out from District Surgeon District Kurram which responded verified vide letter dated 06-04-2018.

Copy of the Letter dated 06-04-2018 is attached as ANNEXURE F.

6- That after satisfactory verification of the entire requirement the respondents released the monthly salary of the appellant in July 2019 for 12 months stopped since March 2018 at the rate of Fixed Pay of amounting to Rs. 30,000/- per month instead of Running Basic Pay without assigning any reason.

7- That, since July 2019 the monthly salary of the appellant was again stopped by the respondents without any plausible reason. That the appellant feeling aggrieved from the inaction of the respondents filed Departmental Appeal dated 02-10-2019 for the release of her salaries and arrears @ of Running Basic Pay Scale which was not responded within the statutory period of 90 Days.

Copy of the Departmental Appeal is attached as ANNEXURE G.

8- That appellant feeling highly aggrieved and having no other remedy filed the instant appeal on the following grounds amongst the others.

GROUNDS:

- A- That act of the respondent by not releasing the monthly salary of the appellant @ of Running Basic Pay stopped since March 2018 is against the Law, Rule, Facts and material available on record and norms of natural justice hence not tenable in the eye of Law and needs interference of this Honourable Tribunal.
- B- That appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the appellant has been deprived from her due right of the non-payment of monthly salary w.e.f. March 2018 at the rate of running Basic pay Scale hence the appellant has been penalized for no fault on her part.
- D- That the respondents acted in arbitrary and malafide manner while not releasing the monthly salary of the appellant w.e.f. March 2018 at the rate of Running Basic Pay.
- E- That the act and action of the respondents is discriminatory as other colleagues who were appointed with the appellant in the same merit list have been transferred to their home districts and are regularly receiving their monthly according to the current running Basic Pay Scale of the Health Department.
- F- That act of the respondents by not releasing the monthly salary of the appellant @ of her Running Basic Pay is nothing but just to harass the appellant and to benefit their blue eyed persons.
- G- That, since from the date of appointment and transferring to Sub-Division Hassan Khel Peshawar in 2014 the appellant is treated as regular employee but salary of the appellant was converted into Fixed Pay which is against the Law & Rules available on the subject matter and as such the appellant is punished for the fault of others.
- H- That, appellant has been paid for quite considerable period i.e. till March 2018 on the running Basic Pay Scale of the appellant but all of a sudden when the salary was illegally and without assigning any plausible reason has been stopped in March 2018 and where after when the salary for 12 months was released in July 2019 the appellant was paid an

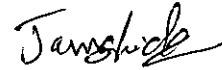
amount calculated @ Fixed Pay of Rs. 30,000/- per month which is against the Law and Natural Justice.

- I- That, the appellant is regularly performing her duty at the assigned station in sub-division Hassan Khel Peshawar since taking over the charge on 21-07-2014 and not releasing the monthly salary of the appellant amounts to Force Labour.
- J- That under Article 38(e) of the Constitution of Pakistan 1973 state is bound to reduce disparity in the income and earning of the individuals including persons in the various services of Pakistan.
- K- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

Dated 14-01-2020

APPELLANT



JAMSHEDA BIBI

Through:


MUHAMMAD MAAZ MADNI

Advocate,

High Court, Peshawar

14/1/2020

5

ANNEXURE-A

OFFICE OF THE AGENCY SURGEON KURRAM PARACHINAR.

OFFICE ORDER.

As recommended by the departmental selection committee held on 21/05/2013, Mrs Jamshida Bibi D/O Bacha Gul of District Bunir is hereby appointed as, (LHV) in BPS, 9 (6200-380-17600), plus usual allowances as admissible under the rules against the vacant post in any BHU in Kurram Agency.

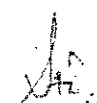
TERMS AND CONDITIONS.

1. She will be medically fit for Govt: service.
2. Her service is purely on Temporary basis & liable to be terminated without any notice/reason.
3. She will be governed by all such rules and orders issued by the Govt: from time to time for the post for which she is originally recruited.
4. If she wishes to resign from service, she will give one month notice in advance or in lieu thereof one month salary has to be deposited in to Govt: treasury.
5. The Appointment should be declared null and void and penalty will be imposed in accordance with the prevalent law if the documents are proved tempered or bogus.
6. If she accepts this offer, she should report to ASMP PPHI Kurram Parachinar for further posting in any BHU in Kurram Agency with in fifteen days of the receipt of this letter, otherwise the offer will be treated as cancelled.

S/d x x x x x
Agency Surgeon Kurram,
Parachinar.

NO. _____ /Apptt: dated, Parachinar the 20-6 /2013.

- Copy forwarded to:-
1. The Agency Account Officer Kurram at Parachinar.
 2. ASM PPHI Kurram Parachinar.
 3. Mrs. Jamshida Bibi D/O Bacha Gul of District Bunir.
 4. Account /Service Book Clerk of this office.
- for information and necessary action


Agency Surgeon Kurram,
Parachinar.

ATTESTED
to be true copy
Advocate

LIST OF SELECTED CANDIDATES RECOMMENDED FOR APPOINTMENT AS LIIV.

S.NO	Name with Father Name	Domicile	Qualification				Experience	Interview	Total Mark	Remarks
			Metric	FA	BA	MA				
1	Shabina D/O Hanif Khan	Kurram	53	-	8	-	-	7	68	To Produce Certificate
2	Shabana Amin Gul D/O Amin Gul	-do-	53	-	8	-	-	4	65	To Produce Certificate
3	Sharafat D/O Ahmad Jan	Malakand	53	6	-	-	-	6	65	To produce registration
4 ✓	Nazibat Rani D/O Zarin Khan	Bunir	53	6	-	-	-	5	64	-
5	Salim D/O Ahmad Jan	Malakand	53	6	-	-	-	5	64	To produce registration
6 ✓	Shakira D/O Fazal Wadood	Bunir	42	6	-	-	4	5	57	-
7 ✓	Shazia Bibi D/O Abdul Latif	Bunir	42	6	-	-	-	6	54	-
8	Jamshida Gul D/O Bacha Gul	Bunir	42	-	-	-	-	6	48	To Produce Certificate
9 ✓	Zakia Bibi D/O Zarin Khan	-do-	42	-	-	-	-	4	46	-

The appointment will be made against the vacant posts from the above merit list subject to provision of qualification certificate.

DDA Admn: DHS

Medical Suptd:
AHQH PCR

Addl: Agency Surgeon,
L/Central Kurram

ASM PPHI
Kurram.

Representative PPHI
Kurram.

Dr. Mueen Begum,
Gynecologist AHQH PCR.

Agency Surgeon Kurram,
Parachinar.

to be
ADVOCATE
ATTES
TED

ANNEXURE - B

6

(7)

ANNEXURE-C

AGENCY SURGEON FR PESHAWAR

Flat # A-4, A-5 Malice Plaza Kohat Road Peshawar (Opposite Gulshan-e-Rehman Colony) Telephone No.091-2322466

No 1240 /AS/FR/Pesh/Admin: dated Peshawar the 16/07/2014

To,

The Director Health Services FATA
Warsak Road Peshawar

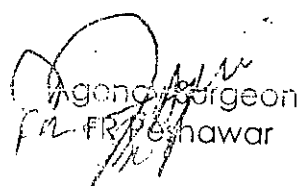
Subject: - REQUEST FOR TRANSFER

Sir,

Reference your letter No 11698-99/DHS/FATA/Admin dated
13/06/2014.

I have the honour to state that one Mrs. Jamsheda LHV to attached Kurram Agency requesting for transfer, as this office has no objection on her transfer to FR, Peshawar. Furthermore it stated that one post is laying vacant at BHU Gul Akber Kali FR, Peshawar the post vacated by Naseem Akhter LHV.

Report is submitted to proceed further in the matter please.


Agency Surgeon
FR Peshawar

ATTESTED
to be
Advocate
Copy

DIRECTORATE OF HEALTH SERVICES FATA
FATA SECRETARIAT WARSAK ROAD PESHAWAR.

8

OFFICE ORDER

Annex-D,

Mst. Jamsheda LHV attached to Agency Surgeon Kurram at Parachinar is hereby transferred and placed her services at the disposal of Agency Surgeon FR Peshawar for further posting against the vacant post in the interest of public service with immediate effect.

Sd/-----

Director Health Services
FATA, Peshawar

No. _____/DHS/FATA/Admn Dated: 10³ / 07 / 2014

Copy forwarded to the:-

- 1- Agency Surgeons Kurram & FR Peshawar.
- 2- Agency Accounts Officer Kurram at Parachinar.
- 3- AGPR Sub Office Peshawar.
- 4 LHV concerned.

[Signature]
Director Health Services
FATA, Peshawar

ATTES-ED
to be true copy
Advocate

10,
The Agency Surgeon

(11)

F.R. Peshwani

ANNEXURE - E

Subject - Annual Report

To,

Reference DHS FATA Letter No
14179-85/DHS/1. /Admin dated
18-07-2014.

Therefore I submit my Annual
Report for duty on
dated 21-07-2014.

So please accept my Annual
Report.

Thanks

Date 21-07-2014

Yours, Obediently,

Accepted
21.7/14

an 17 1.1.14 1 HV

12

ANNEXURE - F

Dated Parachinar dt 6 04 2011


The Agency Surgeon,
Kurram at Parachinar.

The Director Health Services,
FATA, Peshawar.

VERIFICATION OF APPOINTMENT ORDER IN RESPECT OF
MST: JAMSHIDA LTV.

Reference your letter No. 7155 DHS FATA ADMIN dated 22 03 2011.

I have the honor to state that appointment order in respect of MST: Jamshida
received with your letter under reference is returned herewith duly verified.


Agency Surgeon
Kurram Parachinar

Copy to FR Surgeon FR Peshawar for information

Agency Surgeon
Kurram Parachinar

ATTACHED
to be copy
Ad/2011

BETTER COPY OF PAGE:

12

No.: 1032

dated: 06-04-2018

From:

The Agency Surgeon,
Kurram at Parachinar

To

The Director health Services,
FATA Peshawar

Subject:

VERIFICATION OF APPOINTMENT ORDER IN RESPECT OF
MST: JAMSHEDA LHV

Mem: -

Reference your letter nO. 7135/DHS/FATa/Admin dated
22/03/2018.

I have the honour to state that appointment order in respect of
Mst. Jamsheda received with your letter under reference is returned
herewith duly verified.

Agency Surgeon,
Kurram Parachinar

No. _____/-

Copy to FR Surgeon FR Peshawar for information.

ATTESTED
to be true copy
Advocate

Agency Surgeon,
Kurram Parachinar

خدمت جناب ڈائریکٹر صوبہ آف فاٹا ڈسٹرکٹ سٹریٹجی ڈیپارٹمنٹ
جناب عالی السلام علیکم

ANNEXURE - G

انتہائی ادب سے عرض ہے کہ

فروغی سب ڈولٹرن حسن خیل میں رہور L.H.V اپنی ڈیوٹی سرانجام کا رہی ہے۔ فروغی
کی پوری 2013-6-29 کو کورم ایجنسی میں پھوٹی بعد ازاں جولائی 2014ء کو سب ڈولٹرن حسن
خیل (پشاور FR) تبادلہ ہوا۔

جناب عالی! فروغی کی تنخواہیں شروع سے صحیح مل رہی تھی۔ مگر سابقہ سرچن کے دور میں

تنخواہ بند کر دی گئی۔ فنڈ کی کمی اور تمام پہلوؤں مثلاً کہ انکوائری کا لکھا گیا اس دوران

کئی دفعہ تمام کاغذات جمع کئے گئے۔ مارچ 2018ء سے تنخواہ بند تھی جو کہ یکم جولائی 2019ء

کو 2 ماہ کے تنخواہیں بحال ہوئی۔ اس سے پہلے 14 مئی کو ڈائریکٹر پہلوئے تمام سیرامیکل

کی انکوائری اور فزیکل ویری فیکشن ہوئی جس میں تمام انکوائری افسران نے فروغی کو

کہا کہ آپ ریگولر سیر تنخواہ وراثت ڈی پی پی میں قلمبند ڈالا گیا۔

جناب عالی! کورم ایجنسی میں جو پیپر میڈیکل فروغی کے ساتھ پوری ہوئے تھے۔ ان دور

کو HPA ریگولر الاؤنس بحال ہوئے مگر فروغی ابھی تک اپنے ان حقوق سے محروم ہے۔

فروغی نے کئی دفعہ پہلے ہی HPA ریگولر الاؤنس کے دفتر کھانڈ میں درخواستیں جمع کئے

اور سابقہ سرچن آفیس میں بھی درخواست دی مگر تاحال مسئلہ حل نہ ہو سکا

فروغی نے ریگولر الاؤنس کے دفتر میں درخواست دی تو قبول سرچن مہربان کہ اپنی ریگولر الاؤنس

لیٹرے آؤ سب مسئلہ حل ہو جائے گا

جناب عالی! آپ مہربان سے گزارش کی جاتی ہے کہ فروغی کے درخواستی پتھر پر نوڈر ماکر

فروغی کے آؤ ڈی پی پی مسئلہ جس کی وجہ سے 8 ماہ کی تنخواہیں بھی نہیں ملتی تھیں اور

مناقصہ ریگولر الاؤنس + HPA الاؤنس بحال کی جائے۔

فروغی کی متعلقہ کاغذات درخواستی پتھر پر منسلک منسلک سے

الغالی

مگر سٹر 3033

2-10-19

2 HV 0333 9891096

سر ڈولٹرن حسن خیل

ATTACHED
05

(14)

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. _____ OF 2020

Jamsheda Bibi(APPELLANT)

VERSUS

DHS (Merged Area) & other(RESPONDENTS)

I/We Jamsheda BIBI
do hereby appoint and constitute **Muhammad Maaz Madni** Advocate High 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 cost. 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.

Dated: 14/01/2020

CLIENT(S)

Jamsheda
(Jamsheda Bibi)

ACCEPTED

MUHAMMAD MAAZ MADNI
ADVOCATE
HIGH COURT, PESHAWAR
(BC-11-1460)
17101-9263898-1

OFFICE:

Flat No.3, Upper Floor, Islamia Club Building, Khyber Bazar,
Peshawar City. Phone: 091-2211391
Mobile No.0345-9090737, 0333-9313113

BEFORE THE SERVICES TRIBUNAL

KHYBER PAKHTUNKHWA, PESHAWAR

APPEAL NO. 337 / 2020

Mst. Jamsheda LHV

----- Appellant

VERSES

Director Health Services, Merged Areas and others----- Respondents

Reply / comments on behalf of the Respondents No. 1 & 2

Respected Sheweth

Preliminary objections

1. That the appellant has got no locus standi to file the instant appeal.
2. That the appellant has not come to this Honorable Court with clean hands.
3. That the appellant has got no cause of action to file the instant appeal.

FACTS

1. Correct.
2. Correct.
3. Correct to the extent transfer from District Kurram to Sub Division Hassan Khel Peshawar on her own request, but due to un-availability of regular post of LHV, the appellant was adjusted against ADP post, for that she submitted arrival report for duty on 21.07.2014.
4. Incorrect, as per report of the Deputy DHO Sub Division Hassan Khel Peshawar, the performance of the appellant was not satisfactory and often remained absent from her legitimate duties even from Polio vaccination (National Cause). In this regards, explanations were called and deduction of salary was also made due to absence from National Cause, attached at **Annex-A & B.**
5. Correct.
6. Correct. As far as stoppage of salary is concerned, to it is due to unavailability of ADP funds.
7. Correct. However, after release of ADP funds, the salary of the appellant from **01.07.2019 to 30.06.2020 has been released.**
8. Incorrect, as stated in above para, the appellant has no right to file the instant appeal.

GROUNDS

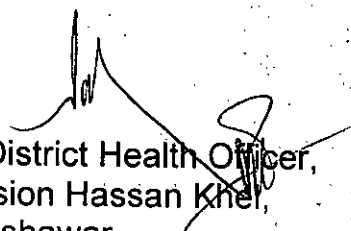
- A- Incorrect. After transfer from District Kurram to Sub Division Hassan Khel Peshawar on her own request, the salary of the appellant was released from ADP post due to unavailability of regular post of LHV and received salary from 2014 upto 2019. Now after release of ADP funds, the appellant received salary from **01.07.2019 to 30.06.2020**.
- B- Incorrect as stated above.
- C- Incorrect, as stated in Para - A above.
- D- Incorrect, as stated in Para - A above.
- E- Pertain to record. However, as stated in Para-A above.
- F- Incorrect, as stated in Para-A above.
- G- Correct to the extent of release of salary on fixed pay because the appellant was transferred from District Kurram to Sub Division Hassan Khel Peshawar on ADP post due to unavailability of regular post of LHV.
- H- Incorrect as stated in Para-A & G above.
- I- Incorrect, in light of attached documents, the performance of the appellant is not satisfactory; however, her salary has now been released.
- J- Correct.
- K- The Department will also raise other grounds at the time of arguments.

In light of the above, it is humbly prayed that the appeal has no legal footing; therefore, it may please be dismissed.



Director Health Services,
Merged Areas Peshawar.

Respondent No. 1



Deputy District Health Officer,
Sub Division Hassan Khel,
Peshawar.

Respondent No. 2.

No 524-76 AS/ADMIN/FR/PESH
Dated Peshawar the 17 /07/2019

To, All Staff CHC Akbar Hussain

Subject:- **EXPLANATION**

During my surprise visit to CHC Akbar Hussain on dated 10/7/2019 you have been found absent from your duties without any prior notice to the Deputy District Health Office Sub Division Hassan Khel.

You are hereby directed to explain your position within three days positively in case of failure unsatisfactory reply strict disciplinary action will be taken against all of you.

Note: Two (02) Days salary has been deducted.

Deputy District Health Officer
Sub Division Hassan Khel Peshawar

C.C

1. The Director Health Services Merged Area Peshawar.
2. The Officials Concerned.

Deputy District Health Officer
Sub Division Hassan Khel Peshawar

No 1009-11 AS/ADMIN/FR/PESH
Dated Peshawar the 15 /07/2019

To,

The Addl., AGPR Sub Office
Peshawar

Subject:- **EXPLANATION/DEDUCTION FROM SALARIES**

As reported by the UCMO on the day of Routine vaccination of BCG the following staff were absent from duty.

Therefore the undersigned is requested the hounarable AGPR to kindly deduct 5 days salary from the account of pay to the Govt Treasury please.

Also the undersigned warned the employees to be careful in future otherwise strict disciplinary action will be taken against them under the E&D Rules which leads to be removed from services.

The employees' names and deduted amount amount against each are as under.

S.No	Name	Designation & Facility Name	Monthly Pay	Deducted amount of 5 days.
1.	Shehnaz Tariq	LHV CHC Soorpan	31500	5250/-
2.	Tasleem Bibi	LHV CHC Said Azam Kalay	31500	5250/-
3.	Jamsheda Gul	LHV CHC Akbar Hussain	31500	5250/-

Deputy District Health Officer
Sub Division Hassan Khel Peshawar

C.C

1. The Director Health Services Merged Area Peshawar for information please.
2. The Officials Concerned.

Deputy District Health Officer
Sub Division Hassan Khel Peshawar

B

OFFICE OF THE DEPUTY DISTRICT HEALTH OFFICER SUB
DIVISION HASSAN KHEL PESHAWAR

Tawas Khan Colony near Allama Iqbal public school ring road Peshawar

No. 5072-60 /DDHO:Account

Dated: 10/02/2020

To:

All Staff of CHC Akbar Hussain except Haji Gul (MT)

Subject: **EXPLANATION**

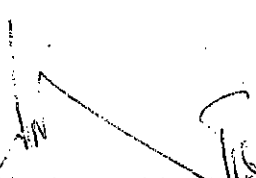
As per the report of IMU on dated 08/02/2020, the above mentioned staff of CHC Akbar Hussain were found absent.

Therefore it is hereby directed to explain your position within three days positively; in case of failure strict disciplinary action will be initiated against all of you under E&D rules.

Deputy District Health Officer
Sub Division Hassan Khel Peshawar

Copy Forward to the:

1. Director Health Service Merged Area Peshawar
2. Assistant Commissioner Sub Division Hassan Khel Peshawar for information please
3. IMU Health Khyber Pakhtunkhwa


Deputy District Health Officer
Sub Division Hassan Khel Peshawar

B

**OFFICE OF THE DEPUTY DISTRICT HEALTH OFFICER SUB
DIVISION HASSAN KHEL PESHAWAR**

Tawas Khan Colony near Allama iqbal public school ring road Peshawar

NOTIFICATION/WARNING:

Vide this office letter/Notification no 974-76 AS/ADMIN/FR/PESH dated 17/07/2020, no 1009-11 AS/ADMIN/FR/PESH dated 19/07/2020 and 3058-60 DDHO/Account dated 10/02/2020. In the light of above notices/Explanations you MST: Jamshaida Bibi (LHV) attached to CHC Akbar Hussain, still failed to submit the replies of explanations.

Furthermore, you are regularly absent from your duties. It is hereby once again directed to explain your position within three days positively; in case of failure strict disciplinary action will be initiated against you under E&D rules.

Sdxxxxx

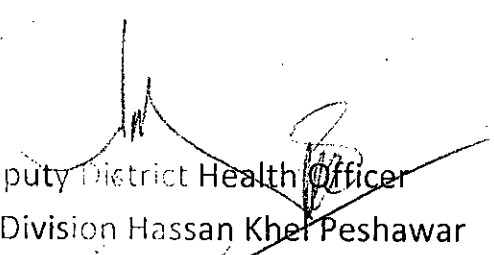
Deputy District Health Officer
Sub Division Hassan Khel Peshawar

No. 3091-92 /DDHO/ADMIN/PESH

Dated: 12/03/2020

Copy to the:

1. Director Health Service Merged Area Peshawar
2. Official Concerned


Deputy District Health Officer
Sub Division Hassan Khel Peshawar

50196334 JAMSHIDA BIRI
Father Name: null
PAYMENTS

Prev Pers No:
Date Of Birth: 04.04.1985
AMOUNT DEDUCTIONS

Desig: LHO
Date Of Appointment: 12.07.2013
AMOUNT

(00104310) Grade: 12 NTH:
CHIC: 1510192613686
LOAN/FUND

Buckle No.:

Gazetted/Non-Gazet

PRINCIPAL

REPAID

BALANCE

ADW
Aziz ur Rahman
17801-
0748559 Husband
30/05/2020 03339698947

Accounts Office CG PA Peshawar
PAYROLL REGISTER
For the month of May, 2020

Page : 455
Date : 28

DDO : PR218 HEALTH
0042 Fixed Pay / Salary 33,000.00
5050 Adj Fixed Pay / Salary 330,000.00

Payroll Section : 009 Payroll 9

PAYMENTS
Branch Code 363,000.00

DEDUCTIONS
Payment through DDO 0.00

NET PAY

363,000.00 01.05.2020 51
Agent No:



OFFICE OF THE DEPUTY DISTRICT HEALTH OFFICER
SUB-DIVISION HASSAN KHEL PESHAWAR

Tawas Khan Colony, House # 2, Shinwari House, Ring Road Peshawar

No 3234 /DDHO/Admin/Hassan Khel Peshawar:

Dated: 7/12/2020

To

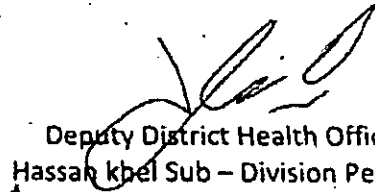
The District Health Officer
Kurram Tribal District, KP.

Subject: STATUS OF MS. JAMSHEDA (LHV)

Sir,

Refer to the subject noted above and to state that Ms Jamsheda Bibi (LHV) working under the control of the undersigned at CHC Akbar Hussain. Kindly clarify the status of the above mentioned official (LHV) that whether her job was on contract basis or on regularized.

Your cooperation will be highly appreciated.


Deputy District Health Officer
Hassan khel Sub - Division Peshawar

DISTRICT HEALTH OFFICER, KURRAM
Punjab and F. No. 0924/210487

(41) Dated Peshawar Dt. 11/01/2020

The Deputy District Health Officer,
Harmandi Lal sub-Division, Peshawar

STATUS OF MS. JAMSHIDA (L112)

Reference your letter No. 3234/CDHO/Admin/Hazro Khe/Peshawar, dated
09/12/2020 on the subject cited above.

It is submitted for your information that Ms. Jamshida Eibi Lady Health Visitor was
appointed on regular basis and not on contract, vide this office order No. 2146-49/Appt. dated
29/07/2019.


District Health Officer,
Tribal District Kurram

OFFICE OF THE DEPUTY DISTRICT HEALTH OFFICER
SUB DIVISION HASSAN THE DISTRICT

RECEIPT STATEMENT

Omrah
✓

Jambola ^P 1. Bacha gul 33447
6721

Jambola Bibi - LHV 15101- 0330
9261368-6 9498947 Jarif



0th July 2021

DEPUTY DISTRICT HEALTH OFFICER
SUB DIVISION HASSAN THE DISTRICT



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 154 /ST

Dated: 24/01 /2022

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281.
Fax:- 091-9213262


To

The Deputy District Health Officer,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: JUDGMENT IN APPEAL NO. 337/2020 MST. JAMSHEDA BIBI.

I am directed to forward herewith a certified copy of Judgement dated 15.12.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR