


18th Oct., 2022

Counsel for the appellant present and seeks adjournment in order to prepare the brief. Adjourned. To come up for preliminary hearing on 15.11.2022 before S.B at camp court, Abbottabad.


(Fareeha Paul)
Member(E)


15th Nov 2022

Appellant in person present.

**SCANNED
KPST
Peshawar**

Appellant seeks adjournment on the ground that his counsel is not available today. Adjourned but as a last chance. To come up for preliminary hearing on 14.12.2022 before S.B at camp court Abbottabad.


**SCANNED
KPST
Peshawar**


(Kalim Arshad Khan)
Chairman
Camp Court Abbottabad

14.12.2022

Lawyers are on strike. To come up for preliminary hearing on 23.02.2023 before the S.B at Camp Court Abbottabad.

**SCANNED
KPST
Peshawar**





(Salah-Ud-Din)
Member (J)
Camp Court Abbottabad

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. - 668/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge		
1	2	3		
1-	09/05/2022	<p>The appeal of Mr. Wasiq Khan presented today by Syed Noman Ali Bukhari 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</p> <p>2-</p>	24-5-22 Noted JK 26/5/22	<p>This case is entrusted to Single Bench at Peshawar for preliminary hearing to be put there on <u>15-6-22</u>. Notices be issued to appellant and his counsel for the date fixed.</p> <p style="text-align: right;"> CHAIRMAN</p> <p>15th June, 2022</p> <p>Counsel for the appellant present.</p> <p>This matter pertains to Haripur and be fixed before camp court Abbottabad on <u>16/08/2022</u> for preliminary hearing before S.B.</p> <p style="text-align: right;"> (Kalim Arshad Khan) Chairman</p>

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
CHECK LIST**

CASE TITLE: _____

V/S _____

S#	CONTENTS	YES	NO
1	This Appeal has been presented by:	✓	
2	Whether Counsel/Appellant/Respondent/Deponents have signed the requisite documents?	✓	
3	Whether appeal is within time?	✓	
4	Whether the enactment under which the appeal is filed mentioned?	✓	
5	Whether the enactment under which the appeal is filed is correct?	✓	
6	Whether affidavit is appended?	✓	
7	Whether affidavit is duly attested by competent Oath Commissioner?	✓	
8	Whether appeal/annexures are properly paged?	✓	
9	Whether certificate regarding filing any earlier appeal on the subject, furnished?	x	✓
10	Whether annexures are legible?	✓	
11	Whether annexures are attested?	✓	
12	Whether copies of annexures are readable/clear?	✓	
13	Whether copy of appeal is delivered to AG/DAG?	✓	
14	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	✓	
15	Whether numbers of referred cases given are correct?	✓	
16	Whether appeal contains cutting/overwriting?	x	✓
17	Whether list of books has been provided at the end of the appeal?	✓	
18	Whether case relate to this court?	✓	
19	Whether requisite number of spare copies attached?	✓	
20	Whether complete spare copy is filed in separate file cover?	✓	
21	Whether addresses of parties given are complete?	✓	
22	Whether index filed?	✓	
23	Whether index is correct?	✓	
24	Whether Security and Process Fee deposited? On _____		
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____		
26	Whether copies of comments/reply/rejoinder submitted? On _____		
27	Whether copies of comments/reply/rejoinder provided to opposite party? On _____		

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name: _____

Noman Ali

Signature: _____

Noman Ali

Dated: _____

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 668/2022

**SCANNED
KPST
Peshawar**

Wasiq Khan

V/S

Govt Of KP

INDEX


S.NO.	Documents	Annexure	Page No.
1.	Memo of appeal	-----	01-09
2.	Copy of letters	---A---	10-12
3.	Copy of typing test result	---B---	13-15
4.	Copy of minutes of the meeting	---C---	16-17
5.	Copy of promotion order	---D---	18
6.	Copy of posting order	---E---	19
7.	Copy of attendance register	---F---	20-28
8.	Copy of High court order	---G---	29-30
9.	Copy of letter	---H---	31
10.	Copy of high court order	---I---	32-34
11.	Copy of Impugned order	---J---	35-36
12.	Copy of departmental appeal	---K---	37-42
13.	Vakalat nama	-----	43


APPELLANT

Wasiq Khan

THROUGH


(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT,


(UZMA SYED)
ADVOCATE HIGH COURT.

&

(SHAHKAR KHAN YOUSAFZAI)
ADVOCATE PESHAWAR

①

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. _____/2022

Wasiq Khan son Muhammad Abbas, resident of village Pandak, Tehsil and District Haripur, presently ward orderly Ex-Junior Clerk at DHQ, Hospital, Haripur.

.....APPELLANT

VERSUS

1. Government of Khyber Pakhtunkhwa through Health Khyber Pakhtunkhwa, Peshawar.
2. D.G Health, Directorate of Health Services, Khyber Pakhtunkhwa Peshawar.
3. Medical Superintendent DHQ, Hospital, Haripur

.....RESPONDENTS

SERVICE APPEAL UNDER SECTION 4 OF THE KP SERVICE TRIBUNAL ACT, 1974, AGAINST THE ORDER DATED 11.11.2021 RECEIVED TO THE APPELLANT ON 20.12.2021 WHEREBY THE APPELLANT WAS REVERTED TO THEIR POST OF WARD ORDERLY BPS-4 FROM JUNIOR CLERK ILLEGALLY AND AGAINST NOT DECIDING DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN STATUTORY PERIOD OF 90 DAYS.

PRAYER

ON ACCEPTANCE OF THE INSTANT SERVICE APPEAL THE ORDER DATED 11.11.2021 MAY BE SET-ASIDE AND THE APPELLANT MAY BE RESTORE TO HIS POST OF JUNIOR CLERK BPS-11 WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY

OTHER RELIEF WHICH THIS HONORABLE
TRIBUNAL DEEMS FIT AND PROPER IN THE
CIRCUMSTANCES OF THE CASE MAY ALSO BE
GRANTED TO THE APPELLANT.

Respectfully Sheweth:

- 1) That the present Appellant has been appointed as Ward Orderly Attendant BPS-04 in the respondents Department vide order No. 5229-5233/Appointment DHQ Haripur, dated 20-07-2017.
- 2) That the Appellant has served the Department with zeal and zest and has left no stone unturned.
- 3) That on 15-06-2020 the respondent No. 3 issued a letter wherein the respondent No. 3 directed all Class-IV Staff who was appointed before 2018 to submit their academic/professional documents within 02 days to proceed the appointment/ promotion against the receive quota. **Copy of letter is annexed as annexure-A.**
- 4) That the Appellant has submitted the documents as required by respondent No. 3 and thereof they were called for typing test and interviews held by the respondent Department.
- 5) That accordingly to the written test result issued by the education Department, the present Appellant along with one Noman Zeb were recommended for Departmental Selection Committee recommended the Appellant for appointment while a candidate namely Noman Zeb was placed on waiting list. **Copy of typing result and minutes of the meeting is ANNEXED as B & C).**

- 6) That in the light of recommendation of Departmental Selection Committee, the respondent No. 3 vide office order No. 4965-68/MS/DHQ (H) dated 26-06-2020 promoted Appellant to the post of Junior Clerk BPS-11. **Copy of the office order dated 26-06-2020 is annexed as-D.**
- 7) That since promotion order dated 26-06-2020 the Appellant was serving against their place of posting and regularly performed their duties. **Copy of posting order dated 29-06-2020 and attendance register is annexed as-E & F.**
- 8) That in the meanwhile one Rustam Mehmood filed Writ Petition No. 795-A/2020 before this Honourable Court against the above said promotions order, which was dismissed by this Honorable court vide order dated 02-09-2020. **Copy of the judgment dated 02-09-2020 passed by Honorable High court is annexed as- G.**
- 9) That thereafter respondent issued letter No. 3041/ Personnel dated 17-11-2020 directing the respondent No. 3 to cancel the process of promotion and also directed the respondent No. 3 to reinitiate the promotion process without giving any notice to the appellant which is illegal against the law and rules. That the appellant filed writ petition against the said letter but the writ petition was finally dismissed for want of jurisdiction under Article 212, an advice was given to approach proper forum. **Copy of letter dated 17-11-2020 and high court order is annexed as Annexure "H & I".**
- 10) That in meanwhile the department reverted the appellant to the post of Ward orderly Bps-4 vide order dated 11.11.2021 received to the appellant on 20.12.2021 without any opportunity of hearing, and in violation of basic principal of "Audi Alterum partum". The appellant Faced with the above said situation the Appellant filed departmental appeal which was not decided within statutory period of 90 days hence present appeal inter-alia on the following grounds. **Copy of the impugned order and departmental appeal is attached as annexure-J & K.**

GROUNDS:

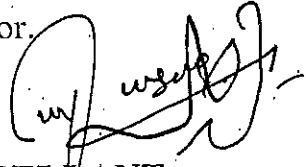
- A) That the impugned letter dated 11.11.2021 received to the appellant on 20.12.2021 is illegal, unlawful, result of illegal exercise of powers, arbitrary and liable to be set aside.
- B) That the letter dated 11.11.2021 received to the appellant on 20.12.2021 is against the law, rules and policy on the subject, hence the same is not maintainable and is liable to be set aside.
- C) That the Departmental Selection Committee has rightly been conducted the whole process of promotion and the Appellant who were succeeded in written test as well as interview are recommended by the Departmental Committee for promotion. On the said recommendations, the respondent issued promotion order of the Appellant. Therefore, the order dated 11.11.2021 received to the appellant on 20.12.2021 is not tenable in the eye of law, thus liable to be set-aside.
- D) That the impugned order is clear violation of supreme court judgment that charge sheet and statement of allegation not only be issued but shall be communicated to the person by before imposing major punishment to the accused.
- E) That neither the appellant was associated with the enquiry proceedings nor has any statement of witnesses been recorded in the presence of appellant. Even a chance of cross examination was also not provided to the appellant which is violation of norms of justice.
- F) That it is the maxim of the law (audi alteram peltrum) that no one should be unheard, and the impugned order is also passed in violation of article of 10-A OF the constitution of Pakistan which told us about the fair trial which was denied to the appellant.

- G) That the impugned order is against the articles 2A , 4, and 25 , of the constitution of Pakistan 1973.
- H) That whole process was conducted as per prescribed rules, policy and the Govt and no irregularly or illegality was found in whole promotion process, even then, the Writ Petition filed by one Rustam Mehmood was also dismissed by this Honourable High Court, therefore, the observations of respondent upon the said matter and illegal and are liable to be set aside.
- I) That, the impugned act of respondents is a worst example of discrimination and misuse of powers/authority.
- J) That the respondents has not treated Appellant in accordance with law, rules and policy on the subject and acted in violation of Article-4 of the Constitution of the Islamic Republic of Pakistan in 1973 and unlawfully refused to appoint the Appellant which is unjust, illegal and hence not sustainable in the eye of law.
- K) That the appellant has been condemned unheard and no prior chance of defenses or hearing was provided to the appellant while issuing order dated 11.11.2021 received to the appellant on 20.12.2021.
- L) That the appellant has been condemned unheard in violation of Article 10-A of the Constitution of Islamic republic of Pakistan and in violation of maxim "Audi Alterum Partum" and has not been treated according to law and rules. That according to reported judgment cited as *2019 CLC 1750* stated that Audi Alterum Partum" shall be read as part and parcel of the every statute. The same principle held in the Superior Court judgments cited as *2016 SCMR 943, 2010 SCMR 1554 and 2020 PLC(cs) 67.*
- M) That the appellant have not been treated in accordance with law hence the appellant right secured and guaranteed under the law are badly violated.

- N) That according to Federal Shariyat court Judgment cited as *PLD 1989 FSC 39* the show cause notice is must before taking any adverse action, non-issuance of show cause notice is against the injunction of Islam. Hence the impugned order is liable to be set-aside.
- O) That the show cause is the demand of natural justice and also necessary for fair trial and also necessary in light of injunction of Quran and Sunnah but show cause was not given to the appellant. So, fair trail denied to the appellant which is also violation of Article 10-A of the constitution. Further it is added that according to reported judgment cited as *1997 PLD page 617* stated that every action against natural justice treated to be void and unlawful. Hence impugned order is liable to be set-aside. The natural justice should be considered as part and parcel of every statute according to superior court judgment cited as *2017 PLD 173 and 1990 PLC cs 727.*
- P) That no show cause notice was issued before taking adverse action which is violation of rule *Rule-5(a) Read with Rules -7* in case inquiry was not necessary and *Rule-14(b) of the E&D Rules 2011*, in case where regular inquiry is necessary. Which were totally ignored before taking adverse action. The same principle held in the Superior Court judgments cited as *1987 SCMR 1562, 2019 PLC cs 811, 2008 PLC cs 921 and 209 SCMR 605.* Further it is added that inquiry report was also not provided to the appellant which was also violation of *Rule 14(c) of the E&D rules 2011*, so the impugned order was passed in violation of law and rules and norms of justice. The same principle held in the Superior Court judgments cited as *1981 PLD SC 176 and 1987 SCMR 1562.*
- Q) That the other points shall be agitated at the time of arguments with the permission of this Honourable Tribunal.

7

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

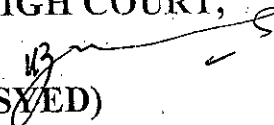


APPELLANT

Wasiq Khan

THROUGH


(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT,


(UZMA SYED)
ADVOCATE HIGH COURT.

&

(SHAHKAR KHAN YOUSAFZAI)
ADVOCATE PESHAWAR

8

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____/2022

Wasiq Khan

V/S

Govt Of KP


CERTIFICATE:

It is certified that no other service appeal earlier has been filed between the present parties in this Tribunal, except the present one.


DEPONENT

LIT OF BOOKS:

1. Constitution of the Islamic Republic of Pakistan, 1973.
2. The ESTA CODE.
3. Any other case law as per need.


(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH TRIBUNAL

9

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____/2022

Wasiq Khan

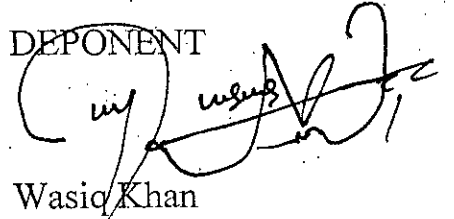
V/S

Govt Of KP

AFFIDAVIT

I, Wasiq Khan , (Appellant) do hereby affirm that the contents of this service appeal are true and correct, and nothing has been concealed from this honorable Tribunal.

DEPONENT



Wasiq Khan



Annexure ~~(A)~~ (B) (C)

DHQ TEACHING HOSPITAL HARIPUR

Ph # 0995-351016, Fax # 0995-351017

Email: hrp7008@gmail.com

No. 4717

/MS/DHQ (H)

Dated: Haripur the 15 /06/2020

To,

All Class-IV Staff
DHQ Hospital / Trauma Centre
Haripur.

Subject:

SUBMISSION OF ACADEMIC / PROFESSIONAL QUALIFICATION
DOCUMENTS.

Memo:

All class-iv staff who was appointed before 2018 is hereby directed to submit their academic / professional documents if any in the office of undersigned within two days positively to proceed the appointment / promotion against the reserve quota.

MEDICAL SUPERINTENDENT
DHQ HOSPITAL HARIPUR



DHQ TEACHING HOSPITAL HARIPUR
Ph # 0995-351016, Fax # 0995-351017
Email: hrp7008@gmail.com

No. 4840 /MS/DHQ (H)

Dated: Haripur the 22/06/2020

To,


The District Education Officer (Male),
Haripur.

Subject: WRITTEN TEST.

Sir,

It is stated that this office maid promotion of Class-IV staff of DHQ Hospital Haripur to the post of junior Clerk.

In this connection you are requested to conduct the computer Typing test of said Class-IV amongst attached list in any of your school computer lab with under the supervision of IT Computer teachers. Your cooperation will be highly appreciated.


MEDICAL SUPERINTENDENT
DHQ HOSPITAL HARIPUR



OFFICE OF THE DISTRICT EDUCATION OFFICER (M)

HARIPUR

Ph. No. 0995-920150, 920151, 920152

Email: deomaleirp@yahoo.com



No: 3761-62 /F. No.1/Typing Test/G.B

Dated Haripur the 23 /06/2020.

To,

The Medical Superintendent,
District Head Quarter Hospital Haripur.

Subject: **WRITTEN TEST FOR THE POST OF JUNIOR CLERK.**

Memo: -

Reference to your office letter No.4840/MS/DHQ Haripur dated 22-06-2020 on the subject cited above.

I am directed that the following committee has been constituted for taking practical written test of the candidates of your department (list attached along with your letter) for the post of Junior Clerk in your Department on 24-06-2020 at GHSS No.1 Haripur at 05:00PM.

1. Muhammad Zaheer SST (IT) GHS Central Jail Haripur.
2. Ismail Khan SST (IT) GHSS Rehana Haripur.
3. Zahoor Ellahi Computer Operator O/O DEO (M) Haripur.
4. Imran Ayub Computer Operator O/O DEO (M) Haripur.
5. Muhammad Yasir Assistant O/O the SDEO (M) Haripur.


Note:

Committee are directed that SOPs for Covid-19 may be observed strictly No candidates without mask allow to sit in test and social distance observed.

.....sd/...
District Education Officer (M)
Haripur

Even No. & Date

Copy of the above is forwarded to the Principal GCMHSS No.1 Haripur with the request please arrange the necessary arrangements in this regard be made in your computer Lab and observe the SOPs of Covid-19 also.


Assistant District Education Officer
Establishment Haripur

Annexure B



OFFICE OF THE DISTRICT EDUCATION OFFICER (M)

HARIPUR

Ph. No. 0995-920150, 920151, 920152

Email: deomalehrp@yahoo.com



No: 3779 /F. No.1/Typing Test/G. B

Dated Haripur the 25 /06/2020.

To,

The Medical Superintendent,
District Head Quarter Hospital Haripur.

Subject: TYPING TEST RESULT.

Memo: -

Reference to your office letter No.4840/MS/DHQ Haripur dated 22-06-2020 on the subject cited above.

I am directed that the committee constituted vide this office letter No 3761-62/GB/F.No 1 Dated 23/06/2020 for taking Typing test of the candidates of your department for the promotion to the post of Junior Clerk in your Department held on 24-06-2020 at GHSS No.1 Haripur at 05:00PM, the final result of typing test is sent herewith for further necessary action.

Encl:

1. Award list of Showing result.
2. Test report of candidate's through typing master software.

[Signature]
25/6/2020
Asst: District Education Officer (M)
Haripur

*Received
Rajeev's
25/06/2020*



18

OFFICE OF THE DISTRICT EDUCATION OFFICER MALE
HARIPUR

Statement showing Result of Typing Test Held on 24-06-2020 at GCMHSS No.1's Lab for Promotion of CIV's DHQ Hospital, Haripur.

Sr No.	Name	Father's Name	Typing Test Result (WPM)	Position	Remarks
01	Amjid Ali	Maqbool Ur Rehman	0		
02	Muhammad Imran Khan	Abdur Rehman	3		
03	Zubair Ahmed	Dost Muhammad	3		
04	Chan Zeb	Ghulam Rabbani			Absent
05	Naheed Akhter	Abdul Razzaq	6		
06	Imran Khan	Akhtar Zaman			Absent
07	Awais Mehmood	Khalid Mehmood	7		
08	Sajid Malik	Sadiq Malik	0		
09	Rustam Mehmood	Ashgar Khan	3		
10	Jawad Ahmad	Muhammad Irshad	6		
11	Mohammad Ayaz	Sarfaraz	11		
12	Wasiq khan	Muhammad Abbas	47	2 nd	
13	Hatim Khan	Munsif Khan	0		
14	Muhammad Shoaib	Abdur Rehman			Absent
15	Sheroz Noor	Noor Elahi			Absent
16	Labib Zan	Gul Jan	57	1 st	
17	Nasir Mehmood	Muhammad Nazik			Absent
18	Arsalan Nazir Bhatti	Nazir Ahmed			Absent

18

18

19	Amer Murad	Murad	4		
20	Nouman Zeb	Jahanzeb	42	3 th	
21	Muhammad Ali	Muhammad Khursheed	7		
22	Mussadiq Ilyas	Muhammad Ilyas	0		
23	Khawar Chan Muhammad	Chan Muhammad			Absent
24	Waqar Khalid	Khalid Mehmood			Absent
25	Abdul Salam	Fazal Ur Rehman	3		
26	Abbas Khan	Muhammad Khawal			Absent
27	Ibrar Khan	Sakhi Sultan	0		
28	Farrakh Rizwan Qureshi	Rizwan Qureshi	39	4 th	
29	Binyamin	Muhammad Younas	7		

Testing Authority Committee Members:

1. Muhammad Zaheer, SST (IT) GHS C.Jail

2. Ismail Khan SST (IT) GHSS Rehana Haripur

3. Zahoor Elahi Computer Operator O/O DEO(M) Haripur

4. Imran, Ayub Computer Operator O/O DEO(M) Haripur

5. Yasir Mushtaq Khan Assistant O/O SDEO(M) Haripur

17

18

S.No	Name	F/Name	Qualification	D/O 1 st Appointment	Remarks
01	Labib Zaman	Ghulam Jan	B.A +BIT	24.7.2017	Eligible
02	Wasiq Khan	Muhammad Abbas	B.A	24.7.2017	Eligible
03	Farakh Zaman Qureshi <i>Rizwan</i>	Rizwan Qureshi	B.A	24.07.2017	Eligible
04	Noman Zeb	Jehanzeb	F.A	24.7.2017	Eligible

DECISION.

In the light of documents, written test and policy all the members unanimously approved/recommended the following Class-IV employees for the promotion against the vacant post of Junior Clerk BPS-11. Being chairman MS DHQ Hospital will be issue the promotion orders to the following candidates.

S.No	Name	F/Name	Qualification	D/O 1 st Appointment	Remarks
01	Labib Zaman	Ghulam Jan	B.A +BIT	24.7.2017	Recommended
02	Wasiq Khan	Muhammad Abbas	B.A	24.7.2017	Recommended
03	Farakh Zaman Qureshi <i>Rizwan</i>	Rizwan Qureshi	B.A	24.07.2017	Recommended
04	Noman Zeb	Jehanzeb	F.A	24.7.2017	On waiting

The meeting ended with the vote of thanks.

Medical Superintendent DHQ Hospital Haripur.

[Signature]

District Health Officer Haripur

Dr. Muhammad Haroon DMS

[Signature]

Dr. Waseem Ahmad PMO

[Signature]

Malik Rab Nawaz Computer Operator

[Signature]

Feroz Khan Senior Clerk.

[Signature]

[Signature]
Medical Superintendent,
DHQ Hospital Haripur

Cc:

1. Director General Health Services KPK Peshawar for information
2. All Member of Department Selection Committee for information.



Annexure
DHQ TEACHING HOSPITAL HARIPUR
Ph # 0995-351016, Fax # 0995-351017
Email: hrp7008@gmail.com

No. 4965-68/MS/DHQ (H)

Dated: Haripur the 26/06/2020

OFFICE ORDER.

On the recommendation of Departmental Selection committee held on 26.06.2020, the following Class-IV employees of this Hospital are hereby promoted to the post of Junior Clerk BPS-11 with immediate effect.

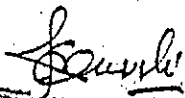
S.No	Name	F/Name	Designation
01	Labib Zaman	Ghulam Jan	Ward Attendant
02	Wasiq Khan	Muhammad Abbas	Ward Attendant
03	Farakh Rizwan Qureshi	Rizwan Qureshi	Ward Attendant

Note:- Arrival report should be submitted to the undersigned office.

Medical Superintendent,
DHQ Hospital Haripur.

Cc:-

1. Director General Health Services KPK Peshawar.
2. District Accounts Officer Haripur for information and n/a.
3. Accounts Section office of the undersigned for n/a
4. Official concerned for compliance.


Medical Superintendent,
DHQ Hospital Haripur.



A ~~XXXXXX~~ E
9

(15)
(27)

**OFFICE OF THE MEDICAL SUPERINTENDENT
DHQ TEACHING HOSPITAL HARIPUR**

Ph:No. 0995-351016, Fax No.0995-351017

OFFICE ORDER

The following new promoted Junior Clerk are hereby directed to report for duty at station noted against each with immediate effect in the best public interest.

S.No.	Name and Designation	Place of duty
1	Mr. Wasiq Khan (Junior Clerk)	Trauma Centre Haripur
2	Mr. Labib Zaman (Junior Clerk)	Data Entry Operator (Corona correspondence)
3	Mr. Farrukh Qureshi (Junior Clerk)	Medicine Store

Sd/-xxxxxx
MEDICAL SUPERINTENDENT
DHQ HOSPITAL HARIPUR

No. 4984-86 /Estt: Office Order Dated Haripur the 29/06/2020.

Copy forwarded to the: -

1. DMSs DHQ Hospital Haripur.
2. DMS Trauma Centre Haripur.
3. Officials concerned for immediate compliance.


MEDICAL SUPERINTENDENT
DHQ HOSPITAL HARIPUR

m

Daily Attendance Register of the 1st

for the month

Serial No. NAME Father's Name Rank 1 2 3 4 5 6 7 8 9 10 11

1	Mink R...																			
2	...																			
3	...																			
4	...																			
5	...																			
6	...																			
7	...																			
8	...																			
9	...																			
10	...																			
11	...																			
12	...																			
13	...																			
14	...																			
15	...																			
16	...																			
17	...																			
18	...																			
19	...																			

Daily Attendance Register of the for 19

Ser. No.	NAME	Father's Name	Rank	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20		
1	Mahesh Kumar																								
2	Yash K.																								
3	Yash Singh																								
4	Yash Singh																								
5	Yash Singh																								
6	Yash Singh																								
7	Yash Singh																								
8	Yash Singh																								
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20	Yash Singh																								

24

Daily Attendance Register of the

for the month of July - 2014

Serial No.	NAME	Father's Name	Rank	Date												Total	Remarks
				1	2	3	4	5	6	7	8	9	10	11	12		
1	M. L. K. ...																
2	...																
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31	...																

Daily Attendance Register of the

for the month of October 2021

Serial No.	NAME	Father's Name	Rank	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
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Total	No. of Days	Present	Absent	Excused
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1	Muhammad Ali Khan																	
2	Yasin Khan																	
3	Yasir Khan																	
4	Muhammad Ali Khan																	
5	Zainab Khan																	
6	Muhammad Ali Khan (DNU)																	
7	Fahim Khan																	
8	Kamran Khan																	
9	Muhammad Ali Khan																	
10	Muhammad Ali Khan																	
11	Muhammad Ali Khan																	
12	Muhammad Ali Khan																	
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31	Muhammad Ali Khan																	

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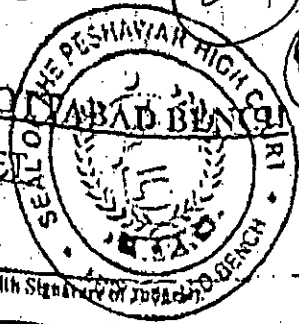
Daily Attendance Register of the

for the month of NOV-2021

Serial No.	NAME	Father's Name	Rank	Date												Total	No. of Days	Remarks
				1	2	3	4	5	6	7	8	9	10	11	12			
1	Muhammad Ali Khan		CO															
2	Yasir Khan																	
3	Yasir Khan																	
4	Muhammad Ali																	
5	Zameer Khan	U. P. Khan																
6	Fazal Khan																	
7	Fazal Khan																	
8	Fazal Khan																	
9	Muhammad Ali																	
10	Muhammad Ali																	
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16	Muhammad Ali																	
17	Muhammad Ali																	
18	Muhammad Ali																	

Annexure G 29

PESHAWAR HIGH COURT, ABBOTTABAD BENCH
ORDER SHEET



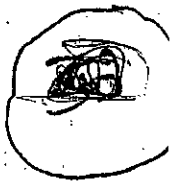
[Handwritten scribbles and signatures]

Date of Order of Proceedings	Order or other Proceedings with Signature of Judge
1	2
02.09.2020	<p><u>W.P. No. 795-A-2020</u></p> <p>Present: Mr. Ashfaq Haider, Advocate, for the petitioner.</p> <p>Raja Muhammad Zubair, AAG alongwith Muhammad Bashir CT Technologist for the respondents.</p> <p>*****</p> <p><u>MOHAMMAD JBRAHIM KHAN, J.</u> Through this petition filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner has impugned the promotion order No.4965-68MS/DHO(H, dated 26.06.2020 issued by respondent No.3 in respect of respondents No.3 to 5.</p> <p>2. Admittedly, the petitioner is a civil servant and the dispute relates to the terms and conditions of service, therefore in view of embargo placed by Article 212(2) of the Constitution of Islamic Republic of Pakistan, 1973, this Court lacks jurisdiction to adjudicate upon the matter.</p> <p>3. In view of the above, this petition is</p>

Certified to be True Copy
EXAMINER
04 SEP 2020
[Signature]
Authority: Under Sec 75 of Ord.

[Handwritten mark]

30



dismissed, being not maintainable. However, the
petitioners shall be at liberty to seek their relief before the
appropriate forum, if so advised.

Announced.
Dt. 02.09.2020.

[Signature] JUDGE

[Signature] JUDGE

Certified to be True Copy
EXAMINER
04 SEP 2020
Peshawar High Court Ald-Bench
Authorized Under Sec: 75 Evd Ordns.

Annexure H

31

OFFICE OF THE MEDICAL SUPERINTENDENT

**DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR**

E-Mail Address: nwfpdghs@yahoo.com office PH# 091-9210269 Exchange# 091-9210187, 9210196 Fax # 091-9210230
No. _____ / Personnel Dated: ____ / ____ / 2020

To,

The Medical Superintendent
DHQ Teaching Hospital Haripur.

Subject: APPLICATION / PROMOTION OF CLASS-IV EMPLOYEES.
Memo:

Reference to your letter No. 8586 dated 28.10.2020 on the subject noted above.

As there are a lot of procedural deficiency which is question mark on transparency therefore, the process should be cancelled and it should be re initiated as per Government policy under intimation to this Directorate.


DIRECTOR GENERAL HEALTH
SERVICES, K.P PESHAWAR

06/11/2020

Annex - I

Case No. of

Date of Order of Proceedings

Order or other Proceedings with Signatures of the Court

23.02.2021.

CM No. 131-A/2021 In WP No. 1480-A/2021

Present: Mr. Sajid ur Rehman Khan, Advocate, Petitioners.
Raja Muhammad Zubair, AAG with Dr. Raza Turabi MS, DHQ, Haripur.

MOHAMMAD IBRAHIM KHAN, J. Present.

In the application, petitioners seek release of their salaries, which are pending for the last 5/6 months.

Learned counsel for petitioners stated at the bar that petitioner are working as Junior Clerks as per promotion orders, however, they are not being paid their salaries for last 5/6 months due to which they are facing hardship.

In view of the contents of application coupled with submission of learned counsel for petitioners as well as learned AAG, this CM is allowed. Respondent/department is directed to release the monthly salaries of the petitioners, till further order.

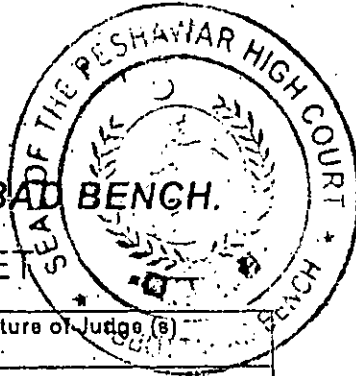
JUDGE

JUDGE

Copy
21
Bench
Orders

PESHAWAR HIGH COURT, ABBOTTABAD BENCH.

FORM OF ORDER SHEET



Date of Order of Proceedings.	Order or other Proceedings with Signature of Judge (s)
1	2
26.10.2021	<p data-bbox="521 675 824 712"><u>W.P.No. 1450-A/2020.</u></p> <p data-bbox="521 730 1289 804">Present: Mr. Muhammad Ilyas Khan, Advocate, for the petitioners.</p> <p data-bbox="699 842 1289 954">Raja Muhammad Zubair, AAG alongwith Muhammad Shah Nawaz, Record Keeper, DHQ Haripur. ***</p> <p data-bbox="545 1054 1321 1702"><u>MOHAMMAD IBRAHIM KHAN, J.</u>- By means of filing the instant petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioners (three in number) have prayed for issuance of declaration to the effect that the impugned letter bearing No. 3041/PERSONNEL dated 17.11.2020 be set at naught whereby their promotion process has been cancelled by the respondents.</p> <p data-bbox="581 1751 1343 2150">2. Admittedly, the petitioners are civil servants and the dispute relates to the terms and conditions of service, therefore, in view of the embargo placed by Article 212 (2) of the Constitution of Islamic Republic of Pakistan, 1973, this court lacks jurisdiction to adjudicate upon the same.</p> <p data-bbox="597 2187 1343 2225">3. In view of the above, this petition is dismissed being</p>

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EXAMINER
29 OCT 2021
Peshawar High Court Adl. Bench
Authorized Under Sec: 75 Evid Ordns.

110

34

without jurisdiction, leaving the petitioner at liberty to move to the proper forum for redressal of their grievance.

JUDGE

JUDGE

Certified to be True Copy
EXAMINER
28 OCT 2021
Peshawar High Court Atd. Bench
Authorized Under Sec: 75 Evid Ordns.

Self. CS.

Hon'ble Mr. Justice Mohammad Ibrahim Khan
Hon'ble Mr. Justice Sukeef Ahmad

Annex - B



OFFICE OF THE MEDICAL SUPERINTENDENT
DISTRICT HEAD QUARTER HOSPITAL HARIPUR
Ph #0995-351016, Fax #0995-351017
Email: hqp7008@gmail.com

No. 121 /Dt: _____ Dated 12 / 11 / 2021

OFFICE ORDER

In compliance to judgment of Honorable Peshawar High Court Abbottabad Bench COC No. 144 A/2021 to COC No. 708 A/2021 to WP No. 111 A/2020 dated 26.10.2021, and upon the direction of Director General Health Services Khyber Pakhtunkhwa Peshawar vide order No. 4551/Personnel dated 27.10.2021.

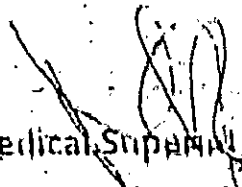
The following staff of this office are hereby reverted to their original position i.e. Ward Orderly BPS 4 with immediate effect.

1. Wasiq Khan S/O Muhammad Abbas
2. Labib Zaman S/O Ghulam Jan
3. Farrukh Rizwan Qureshi S/O Rizwan Qureshi

Medical Superintendent,
DHQ Hospital Haripur.

Cc;

1. The Registrar Peshawar High Court Abbottabad Bench for information please with reference No quoted above
2. The Director General Health Services Khyber Pakhtunkhwa Peshawar for information please.
3. DMS DHQ Hospital Haripur.
4. Supervisor Class-IV for information with the direction to depute the above noted official against their original position.
5. Official concerned for compliance.
6. Accounts Section Office of the undersigned for necessary action please.


Medical Superintendent,
DHQ Hospital Haripur

Dr. Saiful & Bilal ICU	8557-58	
Dr. Akbar Shae Dentist	8353-54	
Dr. Husaini 1546		
Fazriah Rizwan	7471	
Indira Khan Dr. Saiaa	7471	
Naseem - DMS	8405-06	
Dr. Masru Dental Surgeon	8457-39	
Dr. Wahidi Khan Pathologist	8437-39	
A. Nisae	8434-36	
Saba Rafique BR	8417-48	
Bernish Afsoo	7579-80	
Store Keeper Arafat	1543 1544	
Dr. Ashraf DENT	1542	

TO,

Annexure K (37)

Secretary to Govt: of KP
Health Deptt, KP Peshawar.

THROUGH: PROPER CHANNEL.

**DEPARTMENTAL APPEAL AGAINST THE ORDER
DATED 11.11.2021 RECEIVED TO THE APPELLANT
ON 20.12.2021 WHEREBY THE APPELLANT WAS
REVERTED TO THEIR POST OF WARD ORDERLY
BPS-4 FROM JUNIOR CLERK ILLEGALLY.**

PRAYER

**ON ACCEPTANCE OF THE INSTANT
DEPARTMENTAL APPEAL THE ORDER DATED
11.11.2021 MAY BE SET-ASIDE AND THE APPELLANT
MAY BE RESTORE TO HIS POST OF JUNIOR CLERK
BPS-11 WITH ALL BACK AND CONSEQUENTIAL
BENIFITS.**

Respectfully Sheweth:

- 1) That the present Appellant has been appointed as Ward Orderly Attendant BPS-04 in the respondents Department vide order No. 5229-5233/Appointment DHQ Haripur, dated 20-07-2017. Copy of order dated 20-07-2017 is annexed as Annexure-A).
- 2) That the Appellant has served the Department with zeal and zest and has left no stone unturned.
- 3) That on 15-06-2020 the respondent No. 3 issued a letter wherein the respondent No. 3 directed all Class-IV Staff who was appointed before 2018 to submit their

Date 18-1-22

academic/professional documents within 02 days to proceed the appointment/ promotion against the receive quota. **Copy is annexed.**

- 4) That the Appellant has submitted the documents as required by respondent No. 3 and thereof they were called for typing test and interviews held by the respondent Department.
- 5) That accordingly to the written test result issued by the education Department, the present Appellant along with one Noman Zeb were recommended for Departmental Selection Committee recommended the Appellant for appointment while a candidate namely Noman Zeb was placed on waiting list. **Copy of minutes of the meeting IS ANNEXED).**
- 6) That in the light of recommendation of Departmental Selection Committee, the respondent No. 3 vide office order No. 4965-68/MS/DHQ (H) dated 26-06-2020 promoted Appellant to the post of Junior Clerk BPS-11. **Copy of the office order dated 26-06-2020 is annexed.**
- 7) That since promotion order dated 26-06-2020 the Appellant is serving against their place of posting and regularly performing their duties. **Copy of posting order dated 29-06-2020 is annexed .**
- 8) That in the meanwhile one Rustam Mehmood filed Writ Petition No. 795-A/2020 before this Honourable Court against the above said promotions order, which was dismissed by this Honorable court vide order dated 02-09-2020. **Copies of the Writ Petition and order dated 02-09-2020 passed by this Honorable court are annexed.**
- 9) That the appellant regularly performing his duties against the post of junior clerk but the respondent was not releasing salaries of the appellant. The appellant feeling aggrieved filed departmental appeal jointly but in vain, thereafter, appellant filed writ in Peshawar High Court Peshawar and despite the direction of Hon'able Peshawar High court.

Peshawar, the salaried was not released for the ost of junior clerk but final the writ petition was dismissed for want of jurisdiction under Article 212, an advice was given to approach proper forum. **Copy of departmental appeal ,high Court order and High court Final Order is attached.**

- 10) That now the department reverted the appellant to the post of Ward orderly Bps-4 vide order dated 11.11.2021 received to the appellant on 20.12.2021 without any opportunity of hearing, and in violation of basic principal of "Audi Alterum partum". the appellant Faced with the above said situation the Appellant filling this departmental appeal inter-alia on the following grounds.

GROUNDS:

- A) That the impugned letter dated 11.11.2021 received to the appellant on 20.12.2021 is illegal, unlawful, result of illegal exercise of powers, arbitrary and liable to be set aside.
- B) That the letter dated 11.11.2021 received to the appellant on 20.12.2021 is against the law, rules and policy on the subject, hence the same is not maintainable and is liable to be set aside.
- C) That the Departmental Selection Committee has rightly been conducted the whole process of promotion and the Appellant who were succeeded in written test as well as interview are recommended by the Departmental Committee for promotion. On the said recommendations, the respondent issued promotion order of the Appellant. Therefore, the order dated 11.11.2021 received to the appellant on 20.12.2021 is not tenable in the eye of law, thus liable to be set-aside.
- D) That the impugned order is clear volition of supreme court judgment that charge sheet and statement of

allegation not only be issued but shall be communicated to the person by before imposing major punishment to the accused.

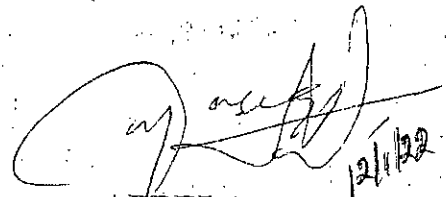
- E) That neither the appellant was associated with the enquiry proceedings nor has any statement of witnesses been recorded in the presence of appellant. Even a chance of cross examination was also not provided to the appellant which is violation of norms of justice.
- F) That it is the maxim of the law (audi alteram partem) that no one should be unheard, and the impugned order is also passed in violation of article of 10-A OF the constitution of Pakistan which told us about the fair trial which was denied to the appellant.
- G) That the impugned order is against the articles 2A , 4, and 25 , of the constitution of Pakistan 1973.
- H) That whole process was conducted as per prescribed rules, policy and the Govt and no irregularly or illegality was found in whole promotion process, even then, the Writ Petition filed by one Rustam Mehmood was also dismissed by this Honourable High Court, therefore, the observations of respondent upon the said matter and illegal and are liable to be set aside.
- I) That, the impugned act of respondents is a worst example of discrimination and misuse of powers/authority.
- J) That the respondents has not treated Appellant in accordance with law, rules and policy on the subject and acted in violation of Article-4 of the Constitution of the Islamic Republic of Pakistan in 1973 and unlawfully refused to appoint the Appellant which is unjust, illegal and hence not sustainable in the eye of law.
- K) That not paying the monthly salaries to the appellant for the post of junior clerk despite that the appellant was on the strength of the Department and regularly performed

his duties against the post of junior clerk, is against the law, facts, norms of justice, therefore, not tenable.

- L) That the appellant has been condemned unheard and no prior chance of defenses or hearing was provided to the appellant while issuing order dated 11.11.2021 received to the appellant on 20.12.2021.
- M) That the appellant has been condemned unheard in violation of Article 10-A of the Constitution of Islamic republic of Pakistan and in violation of maxim "Audi Alterum Partum" and has not been treated according to law and rules. That according to reported judgment cited as *2019 CLC 1750* stated that Audi Alterum Partum" shall be read as part and parcel of the every statute. The same principle held in the Superior Court judgments cited as *2016 SCMR 943, 2010 SCMR 1554 and 2020 PLC(cs) 67.*
- N) That the appellant have not been treated in accordance with law hence the appellant right secured and guaranteed under the law are badly violated.
- O) That according to Federal Shariyat court Judgment cited as *PLD 1989 FSC 39* the show cause notice is must before taking any adverse action, non-issuance of show cause notice is against the injunction of Islam. Hence the impugned order is liable to be set-aside.
- P) That the show cause is the demand of natural justice and also necessary for fair trial and also necessary in light of injunction of Quran and Sunnah but show cause was not given to the appellant. So, fair trail denied to the appellant which is also violation of Article 10-A of the constitution. Further it is added that according to reported judgment cited as *1997 PLD page 617* stated that every action against natural justice treated to be void and unlawful. Hence impugned order is liable to be set-aside. The natural justice should be considered as part and parcel of every statute according to superior court judgment cited as *2017 PLD 173 and 1990 PLC cs 727.*

Q) That no show cause notice was issued before taking adverse action which is violation of rule **Rule-5(a) Read with Rules -7** in case inquiry was not necessary and **Rule-14(b) of the E&D Rules 2011**, in case where regular inquiry is necessary. Which were totally ignored before taking adverse action. The same principle held in the Superior Court judgments cited as 1987 SCMR 1562, 2019 PLC cs 811, 2008 PLC cs 921 and 209 SCMR 605. Further it is added that inquiry report was also not provided to the appellant which was also violation of **Rule 14(c) of the E&D rules 2011**, so the impugned order was passed in violation of law and rules and norms of justice. The same principle held in the Superior Court judgments cited as 1981 PLD SC 176 and 1987 SCMR 1562.

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



APPELLANT

wasiq/lehars
DHQ Hospital Haripur

VAKALATNAMA

NO. _____ /20

IN THE COURT OF KP Seruta Tribunal, Reston

Waqar Khan

Appellant
Petitioner
Plaintiff

VERSUS

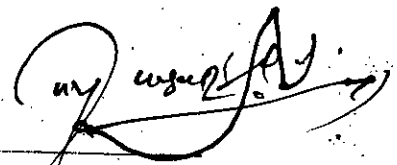
Health Dept

Respondent (s)
Defendants (s)

I/WE Waqar Khan

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


DATE _____ /20



(CLIENT)

ACCEPTED


SYED NOMAN ALI BUKHARI
ADVOCATE HIGH COURT


UZMA SYED

Advocate High Court